

**Exhibit One**

**Ninth Circuit Memorandum Decision**

FILED

MAY 27 2022

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DANIEL ALEXANDER RODRIGUEZ,

Petitioner-Appellant,

v.

STEPHEN MORRIS; ATTORNEY  
GENERAL FOR THE STATE OF  
ARIZONA,

Respondents-Appellees.

No. 21-16024

D.C. No. 2:19-cv-04957-GMS

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Arizona  
G. Murray Snow, Chief District Judge, Presiding

Argued and Submitted March 8, 2022  
Phoenix, Arizona

Before: PAEZ, CLIFTON, and WATFORD, Circuit Judges.

Daniel A. Rodriguez appeals the district court's denial of his petition for a writ of habeas corpus filed under 28 U.S.C. § 2254. The narrow certified issue on appeal is whether Rodriguez's ineffective assistance of appellate counsel ("IAAC")

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

claim qualifies as cause to excuse the procedural default of his prosecutorial misconduct claim.<sup>1</sup> We have jurisdiction under 28 U.S.C. §§ 1291 and 2253. We affirm.

Rodriguez was convicted by a jury in Arizona state court of various felonies in connection with his role in two shootings during a dispute with his girlfriend. On direct appeal, his counsel declined to raise the issue of prosecutorial misconduct in favor of a Fourth Amendment issue. After the appeal was unsuccessful, Rodriguez filed a habeas petition in state court raising ineffective assistance of trial counsel, trial judge abuse of discretion, prosecutorial misconduct, and IAAC. The state trial court denied habeas relief, in part because Rodriguez had waived his prosecutorial misconduct claim by failing to raise it on direct appeal and because any deficient performance on the part of defense counsel did not prejudice Rodriguez. The Arizona Court of Appeals granted review but denied relief in a short summary order, and the Arizona Supreme Court denied review altogether.

Under Arizona law, the failure to raise an issue that could have been raised on direct appeal is a procedural bar to habeas review on the merits. *State v. Petty*,

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<sup>1</sup> Rodriguez's Opening Brief presents uncertified issues outside the scope of the district court's Certificate of Appealability ("COA"). We decline to expand the COA to reach those issues. *See* 28 U.S.C. § 2253(c)(2).

238 P.3d 637, 640 (Ariz. Ct. App. 2010) (citing Ariz. R. Crim. P. 32.2(a)). Here, then, Rodriguez’s failure to raise prosecutorial misconduct on direct appeal means the issue was procedurally defaulted. *See Coleman v. Thompson*, 501 U.S. 722, 729–30 (1991); *Lee v. Davis*, 328 F.3d 896, 899–900 (7th Cir. 2003). Rodriguez is therefore only entitled to federal habeas review on the merits of his prosecutorial misconduct claim if he shows that the procedural default is excused by cause and prejudice. *See Atwood v. Ryan*, 870 F.3d 1033, 1059 (9th Cir. 2017).

Rodriguez argues that his IAAC claim based on appellate counsel’s failure to raise prosecutorial misconduct on direct appeal constitutes cause to excuse the default of the prosecutorial misconduct claim. *See Murray v. Carrier*, 477 U.S. 478, 488 (1986). We analyze Rodriguez’s IAAC claim in the cause-and-prejudice context de novo.<sup>2</sup> *Visciotti v. Martel*, 862 F.3d 749, 769 (9th Cir. 2016).

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<sup>2</sup> We need not reach the question of whether Rodriguez’s IAAC claim establishes an independent substantive basis for habeas relief because that question is outside the scope of the COA. In any event, because we conclude that appellate counsel’s performance was not constitutionally ineffective, it follows that we would not disturb the state habeas court’s adjudication of that claim on the merits. *See* 28 U.S.C. § 2254(d) (barring relitigation of any claim “adjudicated on the merits” in state court unless the decision was contrary to or involved an unreasonable application of clearly established federal law, or was based on an unreasonable determination of the facts in light of the evidence presented); *Harrington v. Richter*, 562 U.S. 86, 99 (2011) (a claim not dismissed for procedural reasons is presumed to be decided on the merits).

To establish cause, Rodriguez must show that he was deprived of his constitutional right to effective counsel in violation of the Sixth Amendment. *Id.* To do that, Rodriguez must first have presented IAAC as an independent claim in state court. *Edwards v. Carpenter*, 529 U.S. 446, 452–53 (2000). Because he raised the claim in his state habeas petition, he satisfies that threshold inquiry. He next must establish that his appellate counsel’s performance was ineffective under *Strickland v. Washington*, 466 U.S. 668 (1984). Counsel is ineffective under *Strickland* if the lawyer’s performance was objectively unreasonable and “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Id.* at 694. The “mere fact that counsel failed to recognize the factual or legal basis for a claim, or failed to raise the claim despite recognizing it, does not constitute cause for a procedural default.” *Carrier*, 477 U.S. at 486; *see also Moorman v. Ryan*, 628 F.3d 1102, 1106–07 (9th Cir. 2010).

Because we conclude that Rodriguez was not prejudiced by counsel’s failure to raise prosecutorial misconduct on direct appeal, we need not decide whether counsel’s performance was deficient. *See Jackson v. Calderon*, 211 F.3d 1148, 1155 n.3 (9th Cir. 2000). We conclude that Rodriguez was not prejudiced because there is not a “reasonable probability” that the outcome of his direct appeal would

have been different had counsel raised prosecutorial misconduct. *Cf. Strickland*, 466 U.S. at 694.

To warrant reversal for prosecutorial misconduct under Arizona law, “the conduct must have been so pronounced and persistent that it permeated the entire trial and probably affected the outcome.” *State v. Bolton*, 896 P.2d 830, 847 (Ariz. 1995). Arizona courts consider whether the prosecutor’s actions were “reasonably likely to have affected the jury’s verdict, thereby denying [the] defendant a fair trial.” *Id.* (citation omitted). Courts review the “cumulative misconduct” to decide whether the “total effect” rendered the trial unfair. *State v. Hulsey*, 408 P.3d 408, 429 (Ariz. 2018).

We are not convinced that there is a reasonable probability that an Arizona court would have ordered a new trial based on the prosecutor’s conduct here. First, the state habeas court expressly rejected Rodriguez’s claim of ineffective assistance of trial counsel for failing to object to certain misconduct, finding that any deficient performance did not prejudice Rodriguez’s defense or render different trial results than would have been achieved through competent performance. If an Arizona court was unwilling to order a new trial based on trial counsel’s failure to object to misconduct, we see no reason to conclude that the

same court would have done so based on appellate counsel's failure to raise the same misconduct on appeal.

Second, much of the alleged misconduct was waived for lack of contemporaneous objection at trial such that it could only be overcome on appeal by a showing of fundamental error. *State v. Hughes*, 969 P.2d 1184, 1197 (Ariz. 1998) (en banc). We cannot conclude that the waived misconduct constituted fundamental error. *See id.*

Third, we do not conclude that an Arizona court would have found that the instances of misconduct were "so pronounced and persistent" to have "permeated the entire trial and probably affected the outcome." *Bolton*, 896 P.2d at 847. The most serious allegation in our view is that the prosecutor implied that the threatening text messages were recovered on Rodriguez's phone, when in fact they were not. Although we acknowledge that the prosecutor mischaracterized the source of the threatening text messages to corroborate other witness testimony, the record contains other evidence linking Rodriguez to those messages and connecting him to the shootings. In our view, the evidence regarding the text messages was cumulative of other properly presented evidence. Our conclusion is bolstered by the state habeas court's conclusion that any deficient performance by trial counsel would not have rendered different results at trial. Even accepting—as

the district court below did—that the prosecutor engaged in some “instances of misconduct or near misconduct, altogether it was not so prolonged or pronounced that it affected the fairness of trial.” *Hulsey*, 408 P.3d at 429–30.

In summary, Rodriguez has not shown that his appellate counsel was constitutionally ineffective under *Strickland*. The district court therefore properly held that Rodriguez did not establish cause and prejudice necessary to excuse the procedural default of the prosecutorial misconduct claim. That claim is therefore not entitled to federal habeas review on the merits.

**AFFIRMED.**



**Exhibit Two**

**Ninth Circuit Docket Sheet  
Doc. 43 - Denial of Rehearing**

**PACER fee: Exempt CJA [Change](#)**

**General Docket  
United States Court of Appeals for the Ninth Circuit**

<b>Court of Appeals Docket #:</b> 21-16024 <b>Nature of Suit:</b> 3530 Habeas Corpus Daniel Rodriguez v. Stephen Morris, et al <b>Appeal From:</b> U.S. District Court for Arizona, Phoenix <b>Fee Status:</b> IFP	<b>Docketed:</b> 06/15/2021 <b>Termed:</b> 05/27/2022
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**Case Type Information:**

- 1) prisoner
- 2) state
- 3) 2254 habeas corpus

**Originating Court Information:****District:** 0970-2 : [2:19-cv-04957-GMS](#)**Trial Judge:** G. Murray Snow, Chief District Judge**Date Filed:** 08/13/2019**Date Order/Judgment:**

05/18/2021

**Date Order/Judgment EOD:**

05/18/2021

**Date NOA Filed:**

06/14/2021

**Date Rec'd COA:**

06/14/2021

**Prior Cases:**

None

**Current Cases:**

None

DANIEL ALEXANDER RODRIGUEZ (-: 242516)  
 Petitioner - Appellant,

Donna Lee Elm, AT  
 Direct: 602-299-7022  
 Email: donnaelm1014@gmail.com  
 [COR LD NTC CJA Appointment]  
 Law Practice of Donna Elm  
 1465 W. Wagon Wheel Rd.  
 Cottonwood, AZ 86326

v.

STEPHEN MORRIS  
 Respondent - Appellee,

David Ernest Ahl, Assistant Attorney General  
 Direct: 602-542-8591  
 Email: david.ahl@azag.gov  
 [COR NTC Asst State Atty Gen]  
 Arizona Attorney General's Office  
 2005 N Central Avenue  
 Phoenix, AZ 85004

ATTORNEY GENERAL FOR THE STATE OF ARIZONA

David Ernest Ahl, Assistant Attorney General

Respondent - Appellee,

Direct: 602-542-8591  
[COR NTC Asst State Atty Gen]  
(see above)

DANIEL ALEXANDER RODRIGUEZ,

Petitioner - Appellant,

v.

STEPHEN MORRIS; ATTORNEY GENERAL FOR THE STATE OF ARIZONA,

Respondents - Appellees.

- 06/15/2021  [1](#)  
27 pg, 768.88 KB DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL. SEND MQ: No. The schedule is set as follows: Appellant Daniel Alexander Rodriguez opening brief due 08/13/2021. Appellees Attorney General for the State of Arizona and Stephen Morris answering brief due 09/13/2021. Appellant's optional reply brief is due 21 days after service of the answering brief. [12145132] (WL) [Entered: 06/15/2021 02:59 PM]
- 06/17/2021  2 Filed (ECF) notice of appearance of Donna Lee Elm (Law Practice of Donna Elm,1465 W. Wagon Wheel Rd., Cottonwood, AZ 86326) for Appellant Daniel Alexander Rodriguez. Substitution for Attorney Donna Lee Elm for Appellant Daniel Alexander Rodriguez. Date of service: 06/17/2021. (Party was previously proceeding with counsel.) [12147114] [21-16024] (Elm, Donna) [Entered: 06/17/2021 11:22 AM]
- 06/18/2021  3 Filed (ECF) notice of appearance of David E. Ahl (Office of the Attorney General, 2005 N. Central Avenue, Phoenix, Arizona 85004) for Appellees Attorney General for the State of Arizona and Stephen Morris. Substitution for Jim Nielsen for Appellees Attorney General for the State of Arizona and Stephen Morris and Ms. Jana Michelle Zinman for Appellees Attorney General for the State of Arizona and Stephen Morris. Date of service: 06/18/2021. (Party was previously proceeding with counsel.) [12148164] [21-16024] (Ahl, David) [Entered: 06/18/2021 02:06 PM]
- 06/21/2021  4 Attorneys Jim Nielsen and Jana Michelle Zinman in 21-16024 substituted by Attorney David Ernest Ahl in 21-16024 [12148893] (RR) [Entered: 06/21/2021 10:20 AM]
- 06/30/2021  5 Criminal Justice Act electronic voucher created. (Counsel: Donna Lee Elm for Daniel Alexander Rodriguez) [12159798] (TG) [Entered: 06/30/2021 06:24 PM]
- 08/11/2021  6 Filed (ECF) Streamlined request for extension of time to file Opening Brief by Appellant Daniel Alexander Rodriguez. New requested due date is 09/10/2021. [12198567] [21-16024] (Elm, Donna) [Entered: 08/11/2021 01:24 PM]
- 08/11/2021  7 **Streamlined request [6] by Appellant Daniel Alexander Rodriguez to extend time to file the brief is approved.Streamlined requests allow for 30 days. Amended briefing schedule: Appellant Daniel Alexander Rodriguez opening brief due 09/13/2021. Appellees Attorney General for the State of Arizona and Stephen Morris answering brief due 10/13/2021. The optional reply brief is due 21 days from the date of service of the answering brief.** [12198845] (BG) [Entered: 08/11/2021 03:08 PM]
- 09/12/2021  [8](#)  
69 pg, 648.42 KB Submitted (ECF) Opening Brief for review. Submitted by Appellant Daniel Alexander Rodriguez. Date of service: 09/12/2021. [12226053] [21-16024]--[COURT UPDATE: Attached corrected PDF of the brief. 09/15/2021 by KWG] --[COURT UPDATE: Attached re-corrected brief. 9/16/2021 by TYL] (Elm, Donna) [Entered: 09/12/2021 06:35 AM]
- 09/12/2021  9 COURT DELETED INCORRECT ENTRY. Unredacted version submitted in error (contained sensitive information). Notice about deletion sent to case participants registered for electronic filing. Correct Entry: [10]. Original Text: Submitted (ECF) excerpts of record. Submitted by Appellant Daniel Alexander Rodriguez. Date of service: 09/12/2021. [12226054] [21-16024] (Elm, Donna) [Entered: 09/12/2021 06:39 AM]
- 09/12/2021  10 COURT DELETED DUPLICATE ENTRY. Notice about deletion sent to case participants registered for electronic filing. Correct Entry: [11]. Original Text: Submitted (ECF) excerpts of record. Submitted by Appellant Daniel Alexander Rodriguez. Date of service: 09/12/2021. [12226056] [21-16024] (Elm, Donna) [Entered: 09/12/2021 09:56 AM]
- 09/12/2021  [11](#)  
2068 pg, 57.02 MB Submitted (ECF) excerpts of record. Submitted by Appellant Daniel Alexander Rodriguez. Date of service: 09/14/2021. [12228591] [21-16024]--[COURT UPDATE: Backdated to reflect original filing date.

- 09/15/2021  12 09/15/2021 by KWG]--[COURT UPDATE: Attached corrected excerpts of record. 9/16/2021 by TYL]--[COURT UPDATE: Attached corrected PDF of the index. 09/21/2021 by KWG] (Elm, Donna) [Entered: 09/14/2021 05:59 PM]
- 09/15/2021  12 COURT DELETED DUPLICATE ENTRY. Notice about deletion sent to case participants registered for electronic filing. Correct Entry: [\[8\]](#). Original Text: Submitted (ECF) Opening Brief for review. Submitted by Appellant Daniel Alexander Rodriguez. Date of service: 09/15/2021. [12229016] [21-16024] (Elm, Donna) [Entered: 09/15/2021 11:12 AM]
- 09/15/2021  [13](#) Filed clerk order: The opening brief [\[8\]](#) submitted by Daniel Alexander Rodriguez is filed. Within 7 days of the filing of this order, filer is ordered to file 6 copies of the brief in paper format, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: blue. The excerpts of record [\[11\]](#) submitted by Daniel Alexander Rodriguez are filed. Within 7 days of this order, filer is ordered to file 3 copies of the excerpts in paper format securely bound on the left side, with white covers. The paper copies shall be submitted to the principal office of the Clerk. [12229305] (KWG) [Entered: 09/15/2021 01:26 PM]  
2 pg, 96.52 KB
- 09/20/2021  [14](#) Filed (ECF) Appellant Daniel Alexander Rodriguez Motion for miscellaneous relief [To accept corrected caption of Index Volume in paper filed copies of Excerpts of Record]. Date of service: 09/20/2021. [12232584] [21-16024] (Elm, Donna) [Entered: 09/20/2021 08:34 AM]  
3 pg, 16.33 KB
- 09/27/2021  15 Received 3 paper copies of excerpts of record [\[11\]](#) in 9 volume(s) and index volume filed by Appellant Daniel Alexander Rodriguez. [12239803] (KT) [Entered: 09/27/2021 11:47 AM]
- 09/27/2021  16 Received 6 paper copies of Opening Brief [\[8\]](#) filed by Daniel Alexander Rodriguez. [12240473] (SD) [Entered: 09/27/2021 03:49 PM]
- 09/28/2021  [17](#) Filed clerk order (Deputy Clerk: TAH): The appellant's motion (Docket Entry No. [\[14\]](#)) for leave to file paper copies of the Index Volume of the Excerpts of Record that reflect the corrected caption is granted. The remaining briefing schedule is unchanged. [12241436] (WL) [Entered: 09/28/2021 11:47 AM]  
1 pg, 101.05 KB
- 10/05/2021  18 Filed (ECF) Streamlined request for extension of time to file Answering Brief by Appellees Attorney General for the State of Arizona and Stephen Morris. New requested due date is 11/12/2021. [12247329] [21-16024] (Ahl, David) [Entered: 10/05/2021 08:10 AM]
- 10/05/2021  19 **Streamlined request [\[18\]](#) by Appellees Attorney General for the State of Arizona and Stephen Morris to extend time to file the brief is approved. Amended briefing schedule: Appellees Attorney General for the State of Arizona and Stephen Morris answering brief due 11/12/2021. The optional reply brief is due 21 days from the date of service of the answering brief.** [12247996] (BG) [Entered: 10/05/2021 01:28 PM]
- 11/05/2021  [20](#) Filed (ECF) Appellees Attorney General for the State of Arizona and Stephen Morris Unopposed Motion to extend time to file Answering brief until 12/13/2021. Date of service: 11/05/2021. [12279782] [21-16024] (Ahl, David) [Entered: 11/05/2021 01:34 PM]  
4 pg, 168.55 KB
- 11/08/2021  [21](#) Filed clerk order (Deputy Clerk: th): Granting Unopposed Motion [\[20\]](#) (ECF Filing) filed by Appellees to extend time to file brief. Appellees Attorney General for the State of Arizona and Stephen Morris answering brief due 12/13/2021. The optional reply brief is due 21 days after service of the answering brief. [12280711] (TH) [Entered: 11/08/2021 09:21 AM]  
1 pg, 95.11 KB
- 12/13/2021  [22](#) Submitted (ECF) Answering Brief for review. Submitted by Appellees Attorney General for the State of Arizona and Stephen Morris. Date of service: 12/13/2021. [12313607] [21-16024] (Ahl, David) [Entered: 12/13/2021 10:03 AM]  
66 pg, 439.08 KB

12/13/2021  [23](#)  
2 pg, 96.07 KB

Filed clerk order: The answering brief [\[22\]](#) submitted by Attorney General for the State of Arizona and Stephen Morris is filed. Within 7 days of the filing of this order, filer is ordered to file 6 copies of the brief in paper format, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: red. The paper copies shall be submitted to the principal office of the Clerk. [12314198] (KWG) [Entered: 12/13/2021 01:38 PM]

12/14/2021  24

This case is being considered for an upcoming oral argument calendar in Phoenix.

Please review the Phoenix sitting dates for March 2022 at [http://www.ca9.uscourts.gov/court\\_sessions](http://www.ca9.uscourts.gov/court_sessions). If you have an unavoidable conflict on any of the dates, please file [Form 32](#) **immediately** using the CM/ECF filing type **Response to Case Being Considered for Oral Argument**. Please follow the form's [instructions](#) carefully.

When setting your argument date, the court will try to work around unavoidable conflicts; the court is not able to accommodate mere scheduling preferences. You will receive notice that your case has been assigned to a calendar approximately 10 weeks before the scheduled oral argument date.

If the parties wish to discuss settlement before an argument date is set, they should jointly request referral to the mediation unit by filing a letter **immediately**, using CM/ECF (**Type of Document**: Correspondence to Court; **Subject**: request for mediation). [12315098] (MEC) [Entered: 12/14/2021 09:42 AM]

12/16/2021  25

Received 6 paper copies of Answering Brief [\[22\]](#) filed by Attorney General for the State of Arizona and Stephen Morris. [12318399] (SD) [Entered: 12/16/2021 03:26 PM]

12/26/2021  26

Notice of Oral Argument on Tuesday, March 8, 2022 - 09:30 A.M. - Ceremonial Ctrm Phoenix - Scheduled Location: Phoenix AZ.  
The hearing time is the local time zone at the scheduled hearing location.

View the Oral Argument Calendar for your case [here](#).

NOTE: Although your case is currently scheduled for oral argument, the panel may decide to submit the case on the briefs instead. See Fed. R. App. P. 34. Absent further order of the court, if the court does determine that oral argument is required in this case, you may have the option to appear in person at the Courthouse or remotely by video. Check [here](#) for updates on the status of reopening as the hearing date approaches. At this time, even when in person hearings resume, an election to appear remotely by video will not require a motion, **and any attorney wishing to appear in person must provide proof of vaccination**. The court expects and supports the fact that some attorneys and some judges will continue to appear remotely. If the panel determines that it will hold oral argument in your case, the Clerk's Office will contact you directly at least two weeks before the set argument date to review any requirements for in person appearance or to make any necessary arrangements for remote appearance.

Please note however that if you do elect to appear remotely, the court **strongly prefers** video over telephone appearance. Therefore, if you wish to appear remotely by telephone you will need to file a motion requesting permission to do so.

Be sure to review the [GUIDELINES](#) for important information about your hearing, including when to be available (30 minutes before the hearing time) and when and how to submit additional citations (filing electronically as far in advance of the hearing as possible).

If you are the specific attorney or self-represented party who will be arguing, use the [ACKNOWLEDGMENT OF HEARING NOTICE](#) filing type in CM/ECF no later than 28 days before Tuesday, March 8, 2022. No form or other attachment is required. If you will not be arguing, do not file an acknowledgment of hearing notice.[12324660]. [21-16024] (KS) [Entered: 12/26/2021 06:11 AM]

- 12/27/2021  [27](#) Filed (ECF) Acknowledgment of hearing notice by Attorney Donna Lee Elm for Appellant Daniel Alexander Rodriguez. Hearing in Other (Phoenix) on 03/08/2022 at 09:30 A.M. (Courtroom: Ceremonial Courtroom, Phoenix Courthouse). Filer sharing argument time: No. (Argument minutes: 10) Appearance in person or by video: I wish to appear in person. Special accommodations: NO. Filer admission status: I certify that I am admitted to practice before this Court. Date of service: 12/27/2021. [12324929] [21-16024] (Elm, Donna) [Entered: 12/27/2021 10:22 AM]
- 12/28/2021  [28](#)  
3 pg, 202.1 KB Authorization for CJA attorney Donna Lee Elm for Daniel Alexander Rodriguez to travel to Phoenix to attend oral argument on 03/08/2022. See attached letter for details. [12325765] (MEC) [Entered: 12/28/2021 09:31 AM]
- 01/02/2022  [29](#)  
37 pg, 358.71 KB Submitted (ECF) Reply Brief for review. Submitted by Appellant Daniel Alexander Rodriguez. Date of service: 01/02/2022. [12328441] [21-16024] (Elm, Donna) [Entered: 01/02/2022 12:24 PM]
- 01/03/2022  [30](#)  
2 pg, 96.43 KB Filed clerk order: The reply brief [\[29\]](#) submitted by Daniel Alexander Rodriguez is filed. Within 7 days of the filing of this order, filer is ordered to file 6 copies of the brief in paper format, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: gray. The paper copies shall be submitted to the principal office of the Clerk. [12328659] (KWG) [Entered: 01/03/2022 09:07 AM]
- 01/05/2022  31 Filed (ECF) Acknowledgment of hearing notice by Attorney David Ernest Ahl for Appellees Attorney General for the State of Arizona and Stephen Morris. Hearing in Other (Sandra Day O'Connor United States Courthouse, Ceremonial Ctrm. Phoenix, 401 W. Washington St., Suite 130 SPC1, Phoenix, Arizona 85003-2118) on 03/08/2022 at 09:30 A.M. (Courtroom: Ceremonial Court Room). Filer sharing argument time: No. Appearance in person or by video: I wish to appear in person. Special accommodations: NO. Filer admission status: I certify that I am admitted to practice before this Court. Date of service: 01/05/2022. [12331551] [21-16024] (Ahl, David) [Entered: 01/05/2022 09:29 AM]
- 01/07/2022  32 Received 6 paper copies of Reply Brief [\[29\]](#) filed by Daniel Alexander Rodriguez. (Sent to panel). [12334879] (CPA) [Entered: 01/07/2022 04:07 PM]
- 01/14/2022  [33](#)  
2 pg, 13.73 KB Filed (ECF) Errata to Reply Brief ([\[29\]](#) Brief Submitted for Review (ECF Filing)). Filed by Appellant Daniel Alexander Rodriguez. Date of service: 01/14/2022. [12341303] [21-16024] (Elm, Donna) [Entered: 01/14/2022 12:14 PM]
- 02/15/2022  [34](#)  
1 pg, 33.79 KB Filed (ECF) Appellant Daniel Alexander Rodriguez citation of supplemental authorities. Date of service: 02/15/2022. [12370579] [21-16024] (Elm, Donna) [Entered: 02/15/2022 10:24 AM]
- 02/16/2022  [35](#)  
2 pg, 82.1 KB Filed (ECF) Appellant Daniel Alexander Rodriguez citation of supplemental authorities. Date of service: 02/16/2022. [12371740] [21-16024] (Elm, Donna) [Entered: 02/16/2022 10:27 AM]
- 02/23/2022  [36](#)  
2 pg, 105.64 KB Filed (ECF) Appellant Daniel Alexander Rodriguez citation of supplemental authorities. Date of service: 02/23/2022. [12377682] [21-16024] (Elm, Donna) [Entered: 02/23/2022 11:23 AM]
- 03/08/2022  37 ARGUED AND SUBMITTED TO RICHARD A. PAEZ, RICHARD R. CLIFTON and PAUL J. WATFORD. [12389093] (EJF) [Entered: 03/08/2022 11:03 AM]
- 03/08/2022  [39](#) Filed Audio recording of oral argument.



	1 pg, 27.34 MB	<b>Note:</b> Video recordings of public argument calendars are available on the Court's website, at <a href="http://www.ca9.uscourts.gov/media/">http://www.ca9.uscourts.gov/media/</a> [12423369] (BJK) [Entered: 04/17/2022 11:29 AM]
04/05/2022	<input type="checkbox"/> <a href="#">38</a> 1 pg, 77.41 KB	Filed (ECF) Appellant Daniel Alexander Rodriguez Correspondence: Notice of change of address of Appellant (ADOC inmate) and Notice of Change in Appellee. Date of service: 04/05/2022 [12412834] [21-16024] (Elm, Donna) [Entered: 04/05/2022 10:36 AM]
05/27/2022	<input type="checkbox"/> <a href="#">40</a> 11 pg, 502.64 KB	FILED MEMORANDUM DISPOSITION (RICHARD A. PAEZ, RICHARD R. CLIFTON and PAUL J. WATFORD) AFFIRMED. FILED AND ENTERED JUDGMENT. [12457967] (AKM) [Entered: 05/27/2022 08:46 AM]
06/08/2022	<input type="checkbox"/> <a href="#">41</a> 30 pg, 331.87 KB	Filed (ECF) Appellant Daniel Alexander Rodriguez petition for panel rehearing (from 05/27/2022 memorandum). Date of service: 06/08/2022. [12466370] [21-16024]--[COURT UPDATE: Attached corrected petition (corrected date). 06/09/2022 by SLM] (Elm, Donna) [Entered: 06/08/2022 11:23 AM]
07/19/2022	<input type="checkbox"/> <a href="#">42</a> 3 pg, 72.31 KB	Filed (ECF) Errata to Reply Brief ( <a href="#">[41]</a> Petition for Panel Rehearing (ECF Filing), <a href="#">[41]</a> Petition for Panel Rehearing (ECF Filing) for rehearing by panel only). Filed by Appellant Daniel Alexander Rodriguez. Date of service: 07/19/2022. [12496744] [21-16024] (Elm, Donna) [Entered: 07/19/2022 04:42 AM]
07/19/2022	<input type="checkbox"/> 43	Filed text clerk order (Deputy Clerk: AF): Appellant's petition for rehearing (DE <a href="#">[41]</a> ) is denied. [12497097] (AF) [Entered: 07/19/2022 10:30 AM]
07/27/2022	<input type="checkbox"/> <a href="#">44</a> 1 pg, 94.43 KB	MANDATE ISSUED.(RAP, RRC and PJW) [12503156] (HH) [Entered: 07/27/2022 09:52 AM]
07/27/2022	<input type="checkbox"/> <a href="#">45</a> 2 pg, 79.72 KB	Filed (ECF) Appellant Daniel Alexander Rodriguez citation of supplemental authorities. Date of service: 07/27/2022. [12503312] [21-16024] (Elm, Donna) [Entered: 07/27/2022 11:29 AM]

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<b>PACER Service Center</b>			
<b>Transaction Receipt</b>			
U.S. Court of Appeals for the 9th Circuit - 09/02/2022 15:36:21			
<b>PACER Login:</b>	donnaelm	<b>Client Code:</b>	
<b>Description:</b>	Docket Report (filtered)	<b>Search Criteria:</b>	21-16024
<b>Billable Pages:</b>	5	<b>Cost:</b>	0.50
<b>Exempt Flag:</b>	Exempt	<b>Exempt Reason:</b>	Exempt CJA