

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

BRIAN LESLIE FINKEL — PETITIONER.

VS

RYAN THOMAS, PhD — DIRECTOR AZ
DEPT OF CORRECTIONS, REHABILITATION AND RE-ENTRY

ON MOTION TO EXTEND THE TIME TO
FILE A PETITION FOR A WRIT OF CERTIORARI

ARIZONA SUPREME COURT NO HC-25-0003
Filed 06/04/2025

BRIAN LESLIE FINKEL

INMATE # 182486

ASPC LEWIS-BALCHAY

PO Box # 70

BUCKEYE, ARIZONA 85326-0170

① BRIAN LESLIE FINKEL; PETITIONER PRO SE,
PURSUANT TO THE RULES OF THE SUPREME COURT
OF THE UNITED STATES; RULE 30 (2)(3), RESPECTFULLY
MOTIONS THIS COURT FOR AN APPLICATION TO EXTEND
THE TIME TO FILE A PETITION FOR A WRIT OF HABEAS CORPUS.

(2) PETITIONER IS A ARIZONA RESIDENT IN THE CUSTODY
OF THE AZ DEPT OF CORRECTIONS, REHABILITATION AND RE-ENTRY.
(ADCR). THE TERMS AND CONDITIONS OF HIS INCARCERATION
DO NOT ALLOW HIM INTERNET ACCESS OR THE ABILITY TO
INITIATE TELEPHONIC CONFERENCES WITHOUT APPROVAL
OF ADCR SENIOR ADMINISTRATORS.

(3) SCOTUS RULE 14, 1 (d) REQUIRES CITATIONS

(1)

OF THE OFFICER AND UNOFFICIAL REPORTS
OF THE OPINIONS AND ORDERS ENTERED IN THE
CASE BY COURTS. Id

(4) TO DATE THE PETITIONER'S ABILITY TO OBTAIN
TIMELY ACCESS TO A COPY OF HIS DOCKET DISPLAY
CONTAINING ONLY THE DOCKET NUMBER AND CASE
CAPTION FOR THE PROCEEDINGS IN THE MARICOPA
COUNTY SUPERIOR COURT, MARICOPA COUNTY, STATE OF
ARIZONA CASE # CR2001-015515 "STATE V FINE" Id
DUE TO ERRORS IN COMMUNICATION BETWEEN THE
PETITIONER AND THE OFFICE OF THE CLERK OF THE
MARICOPA SUPERIOR COURT. THE FAILURE TO COMMUNICATE

(2)

HAS BEEN CAUSED BY THE PETITIONER NOT BEING
ABLE TO INITIATE TELEPHONIC CONFERENCES WITH
THE SUPERIOR COURT CLERK'S OFFICE, SEND OR RECEIVE
E-MAILS FROM THE CLERK'S OFFICE AND THE CLERK'S
JUDICIAL COUNSEL NOT INITIATING TELEPHONIC CONFERENCES
WITH THE PETITIONER. THE PETITIONER HAS INITIATED
CORRESPONDENCE WITH THE JUDICIAL COUNSEL OF
THE MAZLOP SUPERIOR COURT CLERK IN AN ATTEMPT
TO OBTAIN AN ELECTRONIC INDEX OF THE DOCKET
IN CA2001-016515 THAT WILL ALLOW PETITIONER TO
COMPLY WITH SCOTUS RULE 14(b). COPIES OF THE
LAST TWO COMMUNICATIONS BETWEEN PETITIONER AND

THE GUARANTEE COUNSEL AND A MESSAGE FROM THE
CLERK'S GUARANTEE COUNSEL TO PETITIONER TO DEMONSTRATE
THAT THE PETITIONER HAS SHOWN DILIGENCE IN AN
ATTEMPT TO MEET THIS COURT'S RULES FOR PROPER
FILING OF A WRIT OF HABEAS CORPUS. SEE
EXHIBITS #1, #2, & #3 ATTACHED. IT TAKES
AT LEAST FIVE TO SEVEN DAYS FOR CORRESPONDENCE
BETWEEN PETITIONER AND THE CLERK'S OFFICE TO
BE RECEIVED AND RESPONSES/REPLIES FROM THE
CLERK TO PETITIONER TO BE RECEIVED BECAUSE ALL
COMMUNICATIONS ARE USPS FIRST CLASS MAIL ONLY.

(4) THE PETITIONER RESPECTFULLY REQUESTS FOR

(4)

AN EXTENSION OF TIME TO FILE A PETITION OF
WRIT OF HABEAS CORPUS OF AT LEAST SIXTY (60)
DAYS FROM THE PETITIONER'S RECEIPT OF AN
ELECTRIC DOCKET INDEX FROM THE MAJORITY
SUPERIOR COURT'S GENERAL COUNSEL, IN MSC # 022001-01-
5515.

CONCLUSION

THE MOTION FOR APPLICATION FOR EXTENSION
OF TIME SHOULD BE GRANTED.

Respectfully submitted

Brian Leslie Finkel, DO

BRIAN LESLIE FINKEL, DO

DATE 07/14/2025

(5)

STATE OF ARIZONA,

V.

Petitioner.

FILED 06/04/2025

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On April 9, 2025, Petitioner filed a Motion for Order of Clarification ("Motion"), stating the Petitioner believes the Clerk of Court "may have inadvertently misfiled the Application for Issuance of Writ Under Jurisdiction Pursuant to Art. I, Sup. Ct. I(a)(1) as a habeas corpus proceeding when it should have been filed as an extraordinary writ." The Motion contends that the filing of Petitioner's Application "as a Habeas Corpus; instead of an extraordinary writ for mandamus, will prejudice the Petitioner, deny [] him due process and a fair proceeding before the Court."

Upon consideration,

THE COURT FINDS that Petitioner's *Application for Issuance of Writ of Under Original Jurisdiction Pursuant to Ariz. R. Sup. Ct. 1(a)(1)* fails to state a sufficient reason for seeking a writ initially from this Court instead of the superior court or other appropriate lower court. See Ariz. R. Sup. Ct. 1(b)(1); A.R.S. § 12-2101(A)(11).

Petitioner's claims must be presented initially to the superior court, and when a final decision is entered, a party may file a timely petition for review in the court of appeals. See Ariz. R. Crim. P. 32.16. After a decision by the court of appeals, Ariz. R. Crim. P. 32.16(1) allows for the filing of a timely petition for review in this Court.

Furthermore, Petitioner's claim the Court should "correct an illegal sentence pursuant to A.R.S. § 13-4037(A)" in the instant proceeding is without basis in the law. Section 13-4037(A), by its plain language applies "upon an appeal." Petitioner's convictions and concurrent and consecutive sentences were affirmed on appeal in *State v. Finkel*, 1 CA-CR 04-0046 (Ariz. App. November 21, 2006) (mem. decision). See also *State v. Finkel*, 1 CA-CR 13-0620-PRPC (Ariz. App. February 12, 2015) (mem. decision).

In that November 2006 decision, the court of appeals modified two of Petitioner's prison sentences and vacated the prison sentence on Count 10 and the term of probation on Count 48.

In the February 2015 decision, the court of appeals granted review and denied relief on Petitioner's petition for review that sought review of the summary dismissal of his petition for writ of habeas corpus. The superior court treated the petition as Petitioner's second petition for post-conviction relief. The court denied relief finding that Petitioner could have raised all the same issues on direct appeal and/or in his first post-conviction relief proceeding. See Ariz. R. Crim. P. 32.2(a), (b).

The claims that Petitioner raises in the instant *Application* are claims and arguments he could have raised on direct appeal and/or in his prior post-conviction relief proceedings.

Therefore,

IT IS ORDERED that Petitioner's *Application for Issuance of Writ of Under Original Jurisdiction Pursuant to Ariz. R. Sup. Ct. 1(a)(1)* is dismissed without prejudice to Petitioner seeking appropriate relief pursuant to Rule 32 in the superior court in the first instance. See Ariz. R. Crim. P. 32; A.R.S. §§ 13-4231 et seq.

Additionally, as the Court has previously noted, see M-24-0051, Order, dated March 4, 2025, Petitioner has, since April 2014, filed more than one hundred pleadings in the superior court. In addition, since December 2003, when Petitioner was convicted on twenty-two counts of sexual abuse following a jury trial, Petitioner, and counsel on his behalf, have initiated more than twenty appellate proceedings in the court of appeals and this Court. Many of

Petitioner's motions, notices, requests, and petitions fail to comply with the procedures and requirements of the appropriate court rules.

As recognized by the court of appeals in *Madison v. Groseth*, 230 Ariz. 8, 14 ¶ 17 (App. 2012), in such circumstances the courts may discourage vexatious litigation—including that initiated by *pro per* criminal defendants—by finding that a defendant is a vexatious litigant and determining whether to issue an appropriate pre-filing limitations order.

Therefore,

IT IS FURTHER ORDERED that upon the initiation of future proceedings, the superior court and court of appeals may in their discretion initiate proceedings to place Petitioner on notice of the court's intention to declare Petitioner a vexatious litigant and the intention to enter an appropriate order limiting future proceedings. See *Madison v. Groseth*, 230 Ariz. at 14 ¶ 17.

IT IS FURTHER ORDERED closing case number HC-25-0003 and no further filings will be accepted in this matter.

DATED this 4th day of June 2025.

/s/
CLINT BOLICK
Duty Justice

TO:

Brian L. Finkel, ADCRB 182486, Arizona State Prison, Lewis Barchev
Matthew J. Martin
Hon. Joseph W. Malke

CERTIFICATE OF SERVICE

I certify that the attached document was served upon the Clerk of the Court via First Class USPS mail and the ASPL Lewis Prison Mail Box Pursuant to Az. Crim. Pro. Rule 1.7 ON 07/16/2025. COPY MAILED TO

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