

## State v. Arias

Decided Sep 1, 2022

1 CA-CR 22-0064 PRPC

09-01-2022

STATE OF ARIZONA, Respondent, v.  
JONATHAN ANDREW ARIAS, Petitioner.

Maricopa County Attorney's Office, Phoenix By  
Julie A. Done, Ellen Dahl Counsel for Respondent  
Maricopa County Public Defender's Office,  
Phoenix By Kevin D. Heade, Eleanor Knowles,  
Emily Wolkowicz Counsel for Petitioner  
Coppersmith Brockelman PLC, Phoenix By Scott  
M. Bennett, Andrew T. Fox Counsel for Amicus  
Curiae Arizona Justice Project and Juvenile Law  
Center

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GASS, VICE CHIEF JUDGE

Not for Publication - Rule 111(c), Rules of the  
Arizona Supreme Court

Petition for Review from the Superior Court in  
Maricopa County No. CR1999-012663-002 The  
Honorable Patricia A. Starr, Judge

Maricopa County Attorney's Office, Phoenix

By Julie A. Done, Ellen Dahl

Counsel for Respondent

Maricopa County Public Defender's Office,  
Phoenix

By Kevin D. Heade, Eleanor Knowles, Emily  
Wolkowicz

Counsel for Petitioner

Coppersmith Brockelman PLC, Phoenix

By Scott M. Bennett, Andrew T. Fox

Counsel for Amicus Curiae Arizona Justice  
2 Project and Juvenile Law Center \*2

Vice Chief Judge David B. Gass delivered the  
decision of the court, in which Presiding Judge  
Paul J. McMurdie and Judge Angela K. Paton  
joined.

### MEMORANDUM DECISION

GASS, VICE CHIEF JUDGE

¶1 Jonathan Andrew Arias petitions for review of  
the superior court's summary dismissal of his  
petition for post-conviction relief. We grant  
review and relief.

¶2 In 2001, Arias pled guilty to two counts of  
first-degree murder for offenses he committed  
when he was 16 years old. The superior court  
imposed two consecutive terms of natural life in  
prison without the possibility of release.

¶3 Following the United States Supreme Court  
opinion in *Miller v. Alabama*, 567 U.S. 460  
(2012), Arias challenged the constitutionality of  
his natural life sentences through post-conviction  
relief. The superior court summarily dismissed the  
proceeding, finding *Miller* did not apply to Arias's  
natural life sentences because they were not  
mandatory and the sentencing judge considered  
his age as a mitigating factor. This court granted  
review of the dismissal but denied relief. *See State*  
*v. Arias*, 1 CA-CR 13-0548 PRPC, 2015 WL  
2453175, at \*1, ¶ 1 (Ariz. App. May 21, 2015)  
(mem. decision), *vacated sub nom. Arias v.*  
*Arizona*, 137 S.Ct. 370 (2016).

¶4 The United States Supreme Court vacated this court's decision and remanded for reconsideration based on its opinion in *Montgomery v. Louisiana*, 577 U.S. 190 (2016) declaring *Miller* retroactive. See *Arias v. Arizona*, 137 S.Ct. 370. On remand, this court requested supplemental briefing on the Arizona Supreme Court's opinion in *State v. Valencia*, 241 Ariz. 206 (2016), which set forth the standard in Arizona for resentencing under *Miller* and *Montgomery*. The State waived further briefing and stipulated the matter should be remanded to the superior court for resentencing. This court accepted the stipulation, granted relief, and remanded for resentencing.

¶5 Before Arias was resentenced, the United States Supreme Court issued *Jones v. Mississippi*, 141 S.Ct. 1307 (2021). Based on Jones, the State moved to withdraw its stipulation to resentencing, vacate \*3 resentencing, and dismiss the post-conviction relief proceeding. The superior court granted the motion and summarily dismissed Arias's petition for post-conviction relief. In doing so, the superior court found *Jones* disavowed the

*Valencia* court's application of *Miller* and *Montgomery*, the legal basis for the State's stipulation had changed, and the current law no longer required resentencing. Arias timely petitioned for review.

¶6 This court recently held *Jones* neither modified nor implicitly overruled the *Valencia* court's application of *Miller* and *Montgomery*. *State v. Wagner*, 253 Ariz. 201, 205, ¶¶ 20-21 (App. 2022). Because the procedural background and circumstances of *Wagner* closely parallel those here, that opinion is dispositive of this case. The State, therefore, remains bound by its previous stipulation to resentencing. See *Pulliam v. Pulliam*, 139 Ariz. 343, 345 (App. 1984) ("parties are bound by their stipulation unless relieved therefrom by the court").

¶7 We vacate the superior court's dismissal of Arias's petition for post-conviction relief and remand for resentencing in accordance with *Miller* and *Montgomery*.

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