



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**STATE OF ARIZONA v. RICHARD ALLEN REED
CR-19-0059-PR**

PARTIES:

Petitioner/Appellant: Richard Allen Reed

Respondent/Appellee: State of Arizona

FACTS:

After the Arizona Court of Appeals affirmed Reed’s conviction and sentence on direct appeal, the superior court awarded restitution to the victim. Reed appealed the restitution order to the Arizona Court of Appeals, but Reed died while the appeal was pending.

The State moved to dismiss the appeal based on A.R.S. § 13-106, which states in relevant part that the court must dismiss a pending direct appeal when a defendant dies. The statute also provides that the defendant’s conviction, sentence, restitution, fines, and assessments do not abate upon death.

The Arizona Court of Appeals declined to allow Reed’s wife to intervene or substitute on his behalf but decided Reed’s counsel had standing to challenge the constitutionality of A.R.S. § 13-106. The court dismissed the appeal after determining that (1) A.R.S. § 13-106 did not violate separation of powers and (2) was a constitutional exercise of legislative procedural rulemaking authority to advance victims’ rights under the Victims’ Bill of Rights, *see* Ariz. Const. art. 2 § 2.1.

ISSUES:

Did the lower court err by holding that § 13-106 does not violate the separation of powers?

Did the lower court err by upholding § 13-106 on the basis that “the right to an appeal” is satisfied whenever a defendant has “invoked” his right to appeal and “timely filed” a notice?

Did the lower court err by holding that the legislature enacted § 13-106 to advance specific rights of victims?

Did the lower court err by holding that the state and victims may constitutionally retain illegal fines and restitution and by denying the affected party a chance to intervene?

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