



**ARIZONA SUPREME COURT  
ORAL ARGUMENT CASE SUMMARY**

**CASE SUMMARY  
GILBERT NAVARRO GALAZ v. TERRY L. STEWART**

**CV-03-0180-PR**

**Parties & Counsel:**

The Director of the Arizona Department of Corrections (formerly Terry L. Stewart, now Dora B. Schiro) is represented by Assistant Attorney General Susanna Pineda. Gilbert Navarro Galaz is represented by Thomas J. Dennis, Deputy Legal Advocate.

**Issue:**

“Did the court of appeals err in deciding that the Board of Executive Clemency had the power to grant Galaz parole eligibility while commuting his sentence when the sentencing statute precluded this?”

**Facts:**

Mr. Galaz was convicted of two counts of aggravated assault, committed while on release from confinement. On March 18, 1987, he was sentenced to two concurrent life terms for dangerous and repetitive offenses. Pursuant to the version of A.R.S. ' 13-604.02 in effect at that time, he was not eligible for parole or other release until he had served a minimum of 25 years.

In 1994, the legislature enacted the Disproportionality Review Act, 1994 Ariz. Sess. Laws ch. 365, ' 1, to remedy the disparity between sentences imposed before the 1994 amendments to the sentencing statutes and those imposed after. Pursuant to the act, in 1995, the Board of Executive Clemency commuted Mr. Galaz' life sentences to 19.75 years each.<sup>1</sup>

The Department of Corrections takes the position that, pursuant to former A.R.S. ' 13-604.02, Mr. Galaz will have to serve every day of the 19.75 years (“flat time”) and is not eligible for parole or early release credits. Mr. Galaz filed a petition for writ of habeas corpus arguing that he is eligible for parole and early release credits (“soft time”). The superior court denied the petition. On appeal, the Court of Appeals “vacate[d] the trial court’s ruling that Galaz’s commuted sentence was subject to flat-time provisions and instruct[ed] Galaz to file a petition” with the Board of Executive Clemency asking “the Board to make a recommendation to the Governor as to whether his commuted sentence should be subject to soft, hard, or flat time.” The Department of Corrections filed a Petition for Review by the Arizona Supreme Court.

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<sup>1</sup> The Governor purportedly rejected the Board’s recommendation of commutation, but pursuant to McDonald v. Thomas, 202 Ariz. 35 (2002), that rejection was not effective. On April 18, 2002, the Board issued a declaration that Mr. Galaz’ sentences are commuted.

*This Summary was prepared by the Arizona Supreme Court Staff Attorney-s Office solely for educational purposes. It should not be considered official commentary by the court or any member thereof or part of any brief, memorandum or other pleading filed in this case.*