



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**MARICOPA CTY. SHERIFF'S OFFICE v. MARICOPA CTY.
EMPLOYEE MERIT SYSTEM COMM'N and DANIEL JUAREZ,
CV-04-0046-PR**

PARTIES/COUNSEL:

Petitioner: Maricopa County Sheriff's Office ("MCSO"), represented by Deputy Maricopa County Attorney Mary C. Cronin.

Respondent: Daniel Juarez, represented by Martin A. Bihn and Donna M. McDaniel, Bihn & McDaniel, P.L.C. and Loyd C. Tate, Law Office of Loyd C. Tate.

FACTS:

Detention Officer Juarez, a sixteen year MCSO veteran, escorted two arrested men to a transport van with Deputy Johnson. Both detainees were in restraints, and they were cuffed to one another. On the way to the van, the detainees had some words in Spanish with Juarez. Johnson opened the outer van door and unlocked the inner cage. The first man entered, but the second, Arias, resisted. Juarez told him to get in several times, and then pushed him in. Arias kicked Juarez's leg. Juarez climbed into the van, and both detainees yelled at him. Juarez swung his fist at Arias, but Johnson restrained him and told him to "chill out." Juarez broke free and started swinging again. He hit Arias with a closed fist, 4 or 5 times. Arias was not noticeably injured. After delivering his charges, Juarez reported the incident in full to his superiors.

After internal investigation, the MCSO fired Juarez on June 21, 2001, saying he was incompetent and neglected his duty. He appealed to the Maricopa County Employee Merit System Commission. It heard evidence and unanimously modified the dismissal to a fifteen-day suspension. It specifically found that the dismissal was "shocking to a sense of fairness, disproportionate to the actual infraction, if any, and arbitrary and capricious under a reasonable view of the events and employment record of Juarez." The superior court affirmed.

ISSUES:

"1. Did the Court of Appeals improperly defer to the Commission rather than the Sheriff's Office?

"2. Is dismissal of a deputy for intentionally striking a handcuffed detainee so disproportionate as to be shocking to one's sense of fairness?

“3. Did the Commission improperly substitute its judgment for the Sheriff’s on the appropriate punishment for Juarez?”

DEFINITIONS:

abuse of discretion

act that may be within a court or agency’s power, but which is taken unreasonably, in disregard for the facts and circumstances

Administrative Review Act

Arizona statutory scheme designed for the appeal of administrative law decisions from agencies or commissions to superior court, acting as an appeals court. Found in Arizona Revised Statutes (“A.R.S.”) section 12-901 and the sections that follow it.

arbitrary and capricious

without factual support; lacking grounds to impose discipline

classified

civil service protected employee. A classified employee who successfully has completed an initial probationary period then has a right to continued employment unless terminated according to set procedures, including notice and an opportunity to be heard both before and after termination.

dismissal

firing; also “termination”

disproportionate

in this context, discipline that is not appropriate for the offense, even if the accused employee has actually done it.

Merit System Commission

independent administrative board that hears and decides appeals from county classified service employees who have been suspended, demoted or dismissed.

progressive discipline

policy favoring more lenient discipline for first offenses, and greater discipline each time the employee engages in misconduct.

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