



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



TAMMIE C. BENNET et al. v. GHERAL BROWNLOW et al.,
1CA-CV03-0233 (Opinion); **CV-04-0215-PR**

Parties: Gheral and Carol Brownlow and Yavapai County are the petitioners. Tammie C. and James A. Bennett, doing business as Old Town Square Arts and Crafts Festival, are the respondents.

Counsel: Gheral and Carol Brownlow and Yavapai County are represented by Georgia A. Staton and Randall H. Warner of Jones, Skelton & Hochuli. Tammie C. and James A. Bennett are represented by Kenton D. Jones of Jones and Miller

FACTS:

In 1991, Tammie Bennett organized a weekend, for-profit arts and crafts fair to be held on the grounds of the Yavapai County Courthouse, which occupies the central block of downtown Prescott. In 1992, regulations were adopted that required anyone seeking to hold a large event on the Courthouse Plaza to obtain a permit. Thereafter, a permit was issued each year for the Festival, listing the permit holder as the “Old Town Square Arts & Crafts Festival,” and generally including Bennett’s name as well.

In exchange for a portion of the profits, the Williamson Valley Volunteer Fire Department (VFD) agreed to co-sponsor the event. In 2000, the Yavapai County Board of Supervisors approved a new ordinance that required all commercial events on the Courthouse Plaza to be sponsored by a non-profit organization recognized as such by the Internal Revenue Service, and authorizing the sponsor to designate an agent to manage the event.

In 2001, Bennet and the VFD parted ways after they could not agree on terms for the sponsorship of that year’s festival. Bennet thereafter applied for a permit with the Fraternal Order of Police (FOP) as the sponsor and Bennet as the agent. The VFD also applied for a permit to hold an arts and crafts show on the same dates. The permit was awarded to the VFD. After unsuccessfully seeking administrative remedies, Bennet filed this lawsuit, alleging various state and federal claims. On cross-motions for summary judgment, the trial court granted the County’s motion, denied Bennett’s motion, and entered judgment that included Rule 54(b) language. Bennett appealed. The appeals court reversed and remanded on her First Amendment claim, and therefore did not reach her other claims.

This court granted the Brownlows and Yavapai County’s petition for review, and ordered that the parties file supplemental briefs.

ISSUES:

(1) Whether, given the facts of this case, the Court of Appeals erred in analyzing the plaintiffs’ claim under First Amendment public forum principles.

(2) If the Court of Appeals did not err, whether a government entity that allows non-profit organizations to hold commercial events on government property is required by the First Amendment to give the same access to for-profit businesses.

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