



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**STATE OF ARIZONA ex rel. Andrew P. Thomas v. HON.
DOUGLAS L. RAYES/MARICOPA COUNTY SUPERIOR COURT,
Respondent; and ANTHONY JAMES REYNAGA,
Real Party in Interest, CV-06-0303-PR**

Parties and Counsel: Petitioner Anthony James Reynaga is represented by James P. Logan and Thomas J. Dennis, Office of Legal Advocate. Respondent State of Arizona is represented by David E. Wood, Deputy Maricopa County Attorney.

FACTS:

Anthony Reynaga was charged with armed robbery in one action and with theft of means of transportation in a separate action. The County Attorney mailed defense counsel a connected proposed plea agreement in both cases. Defense counsel took no action on the proposals by the stated deadline because a new legal assistant had placed the letter in the theft action file without first bringing it to counsel's attention. Six weeks later, at the trial management conference, counsel was "chagrined and humiliated" when she located the letter in her file and saw it for the first time.

The prosecutor refused to reinstate the plea offers. Subsequently, the trial court found that counsel's failure to convey the plea proposal to Reynaga was due to "excusable neglect," and, relying on *State v. Donald*, 198 Ariz. 406, 418 (App. 2000), ordered the prosecutor to "re-open the plea offer in each cause and give Reynaga time to "consider/reject the offer." Reynaga immediately signed the plea offer that had lapsed.

The trial court granted the State's request to stay the trial so it could file a petition for special action. The court of appeals, in a split decision, accepted jurisdiction of the State's petition for special action and granted relief.

Reynaga then petitioned this court for review, which was granted.

ISSUE:

Where appointed counsel failed to inform his client of the existence of a plea agreement before it expired, is an order by the trial court reinstating the plea agreement so the defendant may decide whether to accept the plea a violation of the doctrine of separation of powers?

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