



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**STANLEY GRIFFIS v. PINAL COUNTY AND PHOENIX
NEWSPAPERS, INC.
2 CA-CV 2006-0052; CV-06-0312-PR**

PARTIES AND COUNSEL:

Petitioner: David J. Bodney, Peter Kozinets, and Chris Moeser, of Steptoe & Johnson LLP, represent Phoenix Newspapers, Inc.

Respondent Stanley Griffis: Timothy Berg, Janice Proctor-Murphy, and Theresa Dwyer, of Fennemore Craig, represent Griffis.

Respondent Pinal County: Chris M. Roll and Allen C. McVey, of the Pinal County Attorney's Office, represent Pinal County

FACTS:

Stanley Griffis served as Pinal County Manager for 16 years, earning a salary of \$167,668 in 2005, administering a \$246 million budget and managing 2,100 employees. In 2005, the County Sheriff's Office began an investigation after learning that Griffis had purchased \$21,000 in "sniper" rifles and related equipment with Sheriff's Posse funds.

On September 26, 2005, the County Board of Supervisors authorized an investigation into Griffis's expenditures. On December 2, 2005, after all but one of the sniper rifles were seized from Griffis's home, the Board placed Griffis on administrative leave. On January 11, 2006, the Board hired former Maricopa County Attorney Rick Romley to lead a criminal and civil investigation into Griffis's alleged abuses of office.

In December 2005, Phoenix Newspapers, Inc. (PNI) submitted a public records request to the county for access to all of Griffis's county e-mail messages from October 1 to December 2, 2005. The county reviewed Griffis's e-mails, releasing about 700 of them. The county initially withheld those e-mails it considered personal, and identified 10 categories of information it had redacted or withheld, including "personal e-mails." PNI disagreed with all but three of the county's designated categories and indicated it would sue if all e-mails were not released.

In response, the county decided to release the messages, except for privileged and personally identifiable information. On January 24, 2006, the county notified Griffis of its intent to disclose the records and gave Griffis a "courtesy" copy. The county's cover letter informed Griffis that the messages "may include information of a personal nature," and that unless ordered otherwise, it would release the records to PNI on February 3, 2006.

On February 2, 2006, Griffis filed suit in Pinal County Superior Court and obtained a preliminary injunction that blocked release of 120 e-mail messages that he asserted were “personal.” PNI moved to intervene and dissolve the injunction, and the county joined PNI’s motion. On February 14, 2006, the superior court ordered Griffis to produce a log of the withheld e-mail messages. On February 22, 2006, Griffis sent a redacted log to PNI, and released 30 additional e-mail messages.

On March 7, 2006, the superior court heard argument and determined that the e-mails are presumptively “public records or other matters” and placed the burden on Griffis to show that they should be protected. “Even public records can be protected, but private records have to establish some expectation of privacy which outweighs the right of the public to know what private matters are being involved or being engaged in on public time with public funds.”

The superior court found insufficient Griffis’s generalized assertions that his “privacy” or “reputation” were at stake, and offered to conduct an *in camera* review of the e-mails. Griffis declined this invitation and the court simply ordered that all of the subject e-mails be disclosed after redaction of certain personally identifiable information. Griffis timely appealed.

In a published opinion, the court of appeals held that with the exception of one e-mail message dated November 7, 2005, Griffis’s e-mail messages did not qualify as “public records or other matters” under the Public Records Law. The court considered the transitory nature of e-mail and found it analogous to a telephone call. The court questioned whether the “Public Records Law was meant to apply to purely personal e-mails.” The court assumed that the subject e-mail messages were “personal,” thus having no relation to the official duties of the county manager.

The court of appeals also cited cases from other jurisdictions that did not recognize personal e-mails as public records. *See State v. Clearwater*, 863 So.2d 149, 151 (Fla. 2003); *cf. Denver Publ’g Co. v. Board of County Comm’rs*, 121 P.3d 190, 199, 203 (Colo. 2005); *Tiberino v. Spokane County*, 13 P.3d 1104, 1108, 1110 (Wash.Ct.App. 2000).

ISSUE PRESENTED FOR REVIEW:

“Can a former Pinal County Manager unilaterally declare 90 County-owned email records that he created and received on County computers, while he was under investigation for alleged abuse of office, “personal” and thereby wholly avoid disclosure or *in camera* review under the Public Records Law?”

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