



**ARIZONA SUPREME COURT  
ORAL ARGUMENT CASE SUMMARY**



**JUAN and MARIBEL PICASO, individually and as surviving parents of  
BENJAMIN PICASO, Deceased v. TUCSON UNIFIED SCHOOL  
DISTRICT, CV-07-0154-PR**

**Parties and Counsel:** Petitioner Tucson Unified School District (TUSD) is represented by Richard Davis and Gary J. Cohen. Respondents Juan and Maribel Picaso, individually and as surviving parents of Benjamin Picaso, deceased, are represented by Scott E. Boehm of Copple, Boehm & Murphy.

**FACTS:**

In 2001, Juan and Maribel Picaso's 14-month-old son, Benjamin, was struck and killed by a TUSD bus in the street in front of the family home. The bus driver claimed he did not see Benjamin because the sun was in his eyes. Maribel was at home tending to her three other children when Benjamin walked out of the house, and she did not notice that he was gone.

Two months after the Picasos filed a notice of claim against the State, Juan and Maribel were charged with felony child abuse for recklessly causing or permitting Benjamin to get outside the day he died. Charges were dropped against Juan, who was not at home at the time of the incident, and Maribel later pled guilty to misdemeanor child abuse. No punishment was imposed.

The Picasos pursued a wrongful death action against TUSD, alleging that the bus driver's negligence caused Benjamin's death. The trial court found that A.R.S. § 13-807 applied and precluded Maribel from denying that she was negligent and a cause of Benjamin's death. The court also precluded the Picasos from presenting any evidence at trial explaining why Maribel had pled guilty. She had wanted to explain that she had done it to help her children by not having to ask them how the door got open.

The court instructed the jury that Maribel had negligently permitted Benjamin "to be placed in a situation where his person or health was endangered" and that this "negligence was a cause of Benjamin's death." The jury returned a verdict for TUSD. The Picasos moved for a new trial which the court denied on the ground that preclusion of any explanation evidence was proper under either § 13-807 or common law issue preclusion, and that the court's ruling also "prevented a waste of time or confusion of the issues for the jury."

The Picasos appealed. The court of appeals reversed, holding that § 13-807 was inapplicable and that Maribel was not precluded from explaining her reasons for the guilty plea.

**Question of Law Presented:**

Did the court of appeals err in finding that a new trial was required because Maribel Picaso was wrongfully prevented from denying or explaining her guilty plea?

**Legal Authority:**

A.R.S. § 13-807 provides, in pertinent part, the following:

A defendant convicted in a criminal proceeding is precluded from subsequently denying in any civil proceeding brought by the victim or this state against the criminal defendant the essential allegations of the criminal offense of which he was adjudged guilty, including judgments of guilt resulting from no contest pleas.

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