



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**MORGAN/NEFF v. HONS. DICKERSON/CARDINAL
CV-21-0198-PR
2 CA-SA 2021-0007, 2 CA-SA 2021-0019 (Opinion)**

PARTIES:

Petitioner: David M. Morgan

Respondent: The State of Arizona

Amici curiae: The Reporters Committee for Freedom of the Press; Arizona Attorney General's Office

FACTS:

In two separate criminal trials in Cochise County, the trial court used an innominate jury, or a jury publicly identified only by number but whose names are provided to the parties. The trial court permitted the public to attend jury selection and the trial in both cases. Petitioner, a local journalist, sought to intervene and access the juror names in both matters, claiming a First Amendment right of presumptive public access, but the trial court denied the requests. Petitioner then filed a special action in each case, and the court of appeals consolidated the matters and accepted special action jurisdiction.

The court of appeals ultimately denied relief. It first concluded that the trial court had authority to proceed with an innominate jury under Arizona law. Next, it held that the identity of jurors falls outside the First Amendment's right of access because the right concerns public access to courtroom proceedings, not the disclosure of certain confidential information held by the court, like juror names. Finally, the court of appeals determined that even under the U.S. Supreme Court's right of access test, which looks to whether experience and logic support presumptive public access, Petitioner did not establish that an innominate jury system violates the First Amendment. Petitioner filed a petition for review in this Court, which was granted as to the following issues:

ISSUES:

Under the First Amendment, is there a qualified right of access to the names of jurors during voir dire that creates a presumption of access to juror names, which can only be overcome by a finding of a compelling state interest on a case-by-case basis?

Does the Cochise County practice of using "innominate" juries in all cases, without first making a showing of a compelling government interest, violate the

commitment to public trials advanced by the First Amendment and the Arizona Supreme Court?

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