



**ARIZONA SUPREME COURT  
ORAL ARGUMENT CASE SUMMARY**



**ANTHONY GARCIA v. HON. MICHAEL BUTLER (STATE)  
CR-19-0298-PR**

**PARTIES:**

*Petitioner/Defendant:* Anthony Garcia (“Garcia”)

*Respondent/*

*Real Party in Interest;* The State of Arizona (“the State”)

**FACTS:**

***The Statute at Issue.*** At issue is the proper interpretation of A.R.S. § 13-4518, which provides in relevant part:

**A.** If the county attorney receives a report that determines a defendant is incompetent to stand trial, the county attorney may request that the defendant be screened to determine if the defendant may be a sexually violent person, if both:

1. The report concludes that there is no substantial probability that the defendant will regain competency within twenty-one months after the date of the original finding of incompetency.

2. The defendant is charged with or has ever been convicted of or found guilty except insane for a sexually violent offense as defined in § 36-3701.

**B.** If the court orders a screening to determine if the defendant may be a sexually violent person, both of the following apply:

1. The court shall appoint a competent professional as defined in § 36-3701 to conduct the screening and submit a report to the court and the parties within thirty days after the appointment.

2. The criminal case may not be dismissed until the competent professional's report is provided to the court and the parties and a hearing is held pursuant to subsection C of this section or the county attorney files a petition pursuant to § 36-3704.

***Proceedings in the Trial Court.*** In 2018, a grand jury indicted Garcia, who was then nineteen-years-old, for one count of sexual conduct with a minor under fifteen-years of age. Garcia’s counsel moved for a competency evaluation under Criminal Procedure Rule 11, explaining that Garcia had an extremely limited vocabulary and a limited ability to comprehend what he is told. The court granted the motion and appointed two psychologists to evaluate him. Based on the psychologists’ reports, the court later found Garcia was incompetent to stand trial and further found that he could not be restored to competency within twenty-one months.

The State then filed a request for a sexually violent person (“SVP”) screening under A.R.S. § 13-4518. The State based the request on the ground that the preconditions in Subsections (A)(1) and (2) existed—Garcia had been held incompetent and non-restorable within twenty-one months, and he had been charged with a sexually violent offense, i.e., sexual conduct with a minor under

fifteen-years-old. In response, Garcia’s counsel argued that the statute did not make screening mandatory merely if the statutory preconditions existed. Rather, counsel argued, the statute gave the court discretion to decide whether to screening was merited and counsel argued that it there were no facts to support entering such an order here.

Counsel explained that SVP is partly defined in the statute as a person having a “mental disorder that makes the person likely to engage in acts of sexual violence.” “Mental disorder,” in turn, is statutorily defined as meaning “a paraphilia, personality disorder or conduct disorder that predisposed a person to commit sexual acts to such a degree as to render the person a danger to the health and safety of others.” Counsel argued that there was no evidence that Garcia suffered from a mental disorder under that definition.

The trial court ultimately granted the State’s request, and Garcia filed a special action in the Court of Appeals challenging that ruling.

***Court of Appeals Opinion.*** The Court of Appeals accepted jurisdiction, but on a two-to-one vote, denied relief. The majority held that if the preconditions set forth in Subsection (A) of the statute were satisfied, a court had no choice but to grant the prosecutor’s request. As such, the majority held that the trial court acted properly in ordering Garcia to undergo SVP screening. The dissent disagreed, contending that nothing in the statute made the grant of a screening request mandatory and that the statute’s structure, language and purpose favored interpreting the statute as giving a court discretion to deny a request if screening was inappropriate. The dissent would have remanded the case back to the trial court to exercise its discretion whether to grant the screening request.

#### **ISSUES:**

The petitioner has asked the Supreme Court to address two issues:

- (1) Does the trial court have discretion to deny the State’s request for an SVP screening under A.R.S. § 13-4518?
- (2) Did Respondent abuse his discretion by failing to exercise discretion?

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