



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**LANE DRAPER v. HON. GENTRY (NEZ/STATE)
CR-22-0175-PR**

PARTIES

Petitioner: Lane Draper (*Crime Victim*)

Respondent: Honorable Jo Lynn Gentry, Maricopa County Superior Court

Real Parties in Interest: Jordan Lee Nez (*Defendant*)
State of Arizona (*Plaintiff*)

FACTS

The facts were developed in a pre-trial evidentiary hearing in the superior court. Defendant is innocent until proven guilty beyond a reasonable doubt and found guilty by a jury.

This case involves Defendant's pre-trial request for GPS data from witness Lane Draper's vehicle. Lane Draper is also one of the statutory victims in this case because his brother, Grant Draper, is the murder victim. Defendant has been charged with second-degree murder, and he asserts a third-party defense.

Lane, Grant, Defendant, and another person were all at Defendant's apartment drinking alcohol. The four men planned to stay at the apartment overnight and then go to work together the next morning. Grant was murdered during the night. Lane left the apartment at about 2:00 a.m. and told police he did not return until approximately 8:30 a.m. The fourth person also left and returned to the apartment.

Defendant sought a court order to allow Defendant's expert to extract GPS data from the truck Lane was driving the night of the murder. Over Lane's objection, the superior court granted Defendant's request based on the "reasonable possibility" standard articulated by this Court in *R.S. et al. v. Thompson (Vanders)*, 251 Ariz. 111 (2021) and ordered that Lane allow Defendant's expert to extract the data and provide it to the court for redaction.

Lane filed a petition for special action in the court of appeals arguing the superior court's order violated his constitutional right to refuse a defense discovery request, right to privacy, and right to be secure against unreasonable searches and seizures under the United States and Arizona Constitutions. Lane asserted that Defendant had articulated neither a reasonable possibility nor a substantial probability that the GPS data from the truck contains information material to a potential third-party defense or necessary for effective cross examination of a witness.

After full briefing on the petition for special action, the court of appeals issued an order accepting special action jurisdiction but denying relief. Lane filed a petition for review of a special action decision of the court of appeals in this Court.

ISSUES

The Court granted review on these two rephrased issues:

1. Is the standard established in *R.S. v. Hon. Thompson* the proper standard for a discovery request compelling a crime victim to produce his personal vehicle to the defendant's attorney to search and seize his GPS data over his objection?
2. If so, has the defendant met that burden?

PERTINENT AUTHORITY

In *Vanders*, this Court held that (1) a victim may be compelled to produce privileged documents for in-camera review if the defendant shows a "reasonable possibility" that the information sought includes evidence that would be material to the defense; and (2) the reasonable possibility standard, and not substantial probability standard, applies to determine defendant's right to in-camera review of a victim's privileged mental health records. *R.S. v. Thompson in & for Cnty. of Maricopa (Vanders)*, 251 Ariz. 111 (2021).

In 1990, Arizona adopted the victims' bill of rights. As pertinent here, it provides:

Section 2.1. (A) To preserve and protect victims' rights to justice and due process, a victim of crime has a right:

...

5. To refuse an interview, deposition, or other discovery request by the defendant, the defendant's attorney, or other person acting on behalf of the defendant.

Ariz. Const. art. II, § 2.1

Arizona's private affairs clause reads, "No person shall be disturbed in his private affairs, or his home invaded, without authority of law." Ariz. Const. art. II, § 8.

The Fourth Amendment to the United States Constitution reads: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." U.S. Const. amend. IV.

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