



ARIZONA SUPREME COURT ORAL ARGUMENT CASE SUMMARY



Carson v. Gentry/State
CR-24-0191-PR
consolidated with
State v. LeMaire/Carson
CR-24-0207-PR

PARTIES

CR-24-0191-PR

Petitioner: *Joel Carson*
Respondent: *Honorable Jo Lynn Gentry*
Real Party in Interest: *State of Arizona*

CR-24-0207-PR

Petitioner: *State of Arizona*
Respondent: *Honorable Kerstin LeMaire*
Real Party in Interest: *Joel McClain Carson*

FACTS

The State alleges that Carson, who has been diagnosed with schizophrenia, shot and killed a customer and attempted additional shootings at a convenience store in May 2018. Following his arrest, he was charged with first degree murder and other felonies. A court found Carson incompetent to stand trial after psychiatric evaluations and a year of treatment, and it ruled he was not restorable. In June 2022, the charges in the 2018 case were dismissed without prejudice, and Carson was sent for civil commitment evaluation.

Upon Carson's impending release from the behavioral health facility in July 2022, the State refiled the charges and added an additional felony. Initially, Carson's defense moved for new competency proceedings, but withdrew that motion, instead moving to dismiss the charges because the State did not obtain court approval to refile the charges. The superior court dismissed the charges without prejudice but granted the State's motion for approval to refile the charges.

The State again refiled the charges in a 2023 case. Carson again filed a motion to dismiss, arguing the presumption of incompetency persisted. The superior court agreed and dismissed the case without prejudice, disagreeing with the prior superior court's order granting the State permission to refile the charges, finding that the State did not present sufficient evidence that Carson's competency had improved. The State challenged the dismissal in the court of appeals by bringing a special action, arguing Carson's motion to dismiss was a lateral appeal. The court of appeals agreed with the State and vacated the superior court's order dismissing the 2023 charges.

Then Carson brought a separate special action in the court of appeals challenging the superior court's prior ruling in the 2022 case allowing the State to refile the charges. The court of appeals agreed with Carson and vacated the ruling in the 2022 case permitting the State to refile the charges, stating there was insufficient evidence to support the State's belief that Carson may have regained competency. The State also filed a special action in the court of appeals challenging a separate order in the 2023 case, which the court of appeals dismissed as moot.

The State now seeks review of both court of appeals' decisions, challenging, first, the order that effectively prohibited the State from refileing the charges based on currently available information and denied the State's request for a trial pursuant to A.R.S. § 13-4517(A)(4), and, second, the dismissal of its own special action. The case involves legal questions regarding the presumption of incompetency and the State's ability to refile charges based on Carson's release from court-ordered treatment.

ISSUES

The Court granted review as to these rephrased issues:

1. Whether the court of appeals, in *Carson v. Gentry* ("*Carson II*"), 553 P.3d 197 (Ariz. App. July 9, 2024), erred by vacating the superior court's ruling allowing the State to refile charges.

2. Whether the separate panel of the court of appeals erred by finding the State’s special action petition was mooted by *Carson II* dismissing the refiled charges.
 - a. Whether a court must have an active, legally supported criminal case pending before it to trigger the court’s authority/jurisdiction to grant a party’s petition for a trial on dangerousness under A.R.S. § 13-4517(A)(4).
 - i. If an active, legally supported criminal case is required, does CR2023-000872 qualify as such a case, considering that it would only have been active because a different panel of the court of appeals [in *Carson II*] had stayed its order that vacates the superior court’s orders allowing the State to refile charges against Carson?
If an active criminal case is required does CR2023-000872 qualify as such a case if this Court vacates *Carson II*?
 - ii. If CR2023-000872 provides a sufficient basis for a dangerousness trial, and if this Court vacates the superior court’s order in CR2023-000872 denying the State’s petition for a dangerousness trial, how would the proceedings be affected if this Court affirms *Carson II*?
 - b. Whether the State can properly rely on the superior court’s findings made on June 21, 2022, in CR2018-124276, that Carson was (1) incompetent to be tried, and (2) not restorable within 21 months, see § 13-4517(A), to support the State’s petition for a dangerousness trial when those findings have not, and apparently cannot, be made in CR2023-000872.
 - c. Whether under § 13-4517(A) and *Nowell v. Rees*, 219 Ariz. 399, 407 ¶ 27 (App. 2008), a court may consider a petition for a dangerousness trial if more than twenty-one months have elapsed from the date of the original incompetency finding when the petition is filed.
 - d. Whether A.R.S. § 13-4517(A)(4) (effective January 1, 2024) may be applied retroactively such that a court can grant a party’s request to hold a dangerousness trial based on an original finding of incompetency that predates the statute’s effective date, or whether the statute applies to a case that was filed before the statute went into effect.
3. Whether due process requires the State to obtain court approval prior to refiled charges on a defendant previously determined to be not competent to stand trial and not restorable, see *Johnson v. Hartsell in and for County of Maricopa*, 254 Ariz. 585 (App. 2023), or “[may] the [S]tate [] refile charges if post-dismissal events suggest that the defendant has regained competency,” see *Rider v. Garcia ex rel. County of Maricopa*, 233 Ariz. 315, 317 ¶ 9 (App. 2013).

A.R.S. § 13-4517. Incompetent defendants; disposition; evaluator costs

A. If the court finds that a defendant is incompetent to stand trial and 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, any party may request that the court:

...

4. If the defendant is charged with a serious offense as defined in § 13-706, order a trial to determine if the defendant is dangerous and should be involuntarily committed pursuant to § 13-4521. If the defendant is not represented by an attorney and is indigent, the court shall appoint an attorney to represent the defendant in all proceedings under § 13-4521 and any further proceedings under title 36, chapter 40.

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