



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**STATE v. GERALD CASTRONOVA
CR-09-0177-PR**

PARTIES AND COUNSEL:

Petitioner: Gerald Castronova is represented by Neal W. Bassett, Phoenix.

Respondent: The State of Arizona is represented by Craig W. Soland, Assistant Attorney General

FACTS:

Gerald Castronova was convicted of theft, a class four felony. The trial court suspended his sentence, placed him on supervised probation for three years and ordered him to pay restitution in the amount of \$1,971. The trial court also ordered Castronova to pay a probation service fee of \$50 per month. In addition, the trial court imposed a \$10 probation surcharge pursuant to A.R.S. §12-114.01 (A), which provides:

. . . in addition to any other penalty assessment provided by law, a probation surcharge of ten dollars shall be levied on every fine, penalty and forfeiture imposed and collected by the superior, justice and municipal courts for criminal offenses. . . .

Castronova appealed and argued that the trial court erred in imposing the \$10 probation surcharge because no fine, penalty or forfeiture was imposed and collected in his case. The court of appeals determined that the imposition of a probation services fee in connection with the grant of probation constituted a “penalty.” As such, under the language of section 12-114.01 (A), the court of appeals found that the probation service fee was a “penalty” that is “imposed and collected” and, therefore, the surcharge under section 12-114.01 (A) was properly levied.

ISSUE:

A.R.S. §12-114.01 provides for a probation surcharge “on every fine, penalty and forfeiture. . . .” The appellant received no fine, no penalty, and no forfeiture, but the probation surcharge was imposed, and upheld by the Court of Appeals. Was the imposition of the fee illegal?

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