



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**MARTIN RIVERA-LONGORIA v. HON. DAN SLAYTON
AND STATE OF ARIZONA
CV-10-0362-PR**

PARTIES:

Petitioner: State of Arizona
Respondent: Martin Rivera-Longoria
Amicus Curiae: Arizona Prosecuting Attorneys' Advisory Council

FACTS:

In September 2008, the State charged Rivera-Longoria with one count of child abuse, a class 2 felony and a dangerous crime against a child. After having disclosed just under 1,150 pages of discovery, the State made a plea offer that would have required Rivera-Longoria to serve seven years in prison. The matter was set for a change of plea in May 2009, but Rivera-Longoria did not go through with the plea.

About a month later, Rivera-Longoria asked whether the plea offer was still open. The prosecutor told him that the plea offer was still open, but that the case was going to be assigned to a new prosecutor and the plea offer might be withdrawn. At the end of August 2009, a new prosecutor took over the case, and he withdrew the plea offer. After withdrawing the plea offer, the State made additional disclosure. Eventually, the State's disclosure totaled nearly 12,000 pages.

In February 2010, Rivera-Longoria filed a motion pursuant to Ariz. R. Crim. P. 15.8 to preclude any evidence disclosed after July 29, 2009. In his motion, Rivera-Longoria argued that the plea "deadline" in his case was the date on which the State withdrew its plea offer, and that all evidence not disclosed at least 30 days from that date should be precluded. He argued that the State's position, that Rule 15.8 did not apply in this case because the State did not impose a deadline, would eviscerate the protections of the rule. The trial court denied the motion. The trial judge reasoned that Rule 15.8 did not apply in this case because the State had not established a specific plea deadline.

Rivera-Longoria filed a petition for special action challenging the denial of his motion to preclude. The court of appeals accepted jurisdiction of the petition for special action. A majority of the court held that the existence of a plea deadline is necessary to trigger the application of Rule 15.8., and that the State's withdrawal of the plea offer in this case constituted a deadline

within the meaning of Rule 15.8. The State “imposes” a “deadline” on a plea offer when it withdraws or terminates the offer, regardless of whether it specified a termination date when the plea was originally extended. In this case, the State imposed a deadline when the new prosecutor took over the case and withdrew the plea offer. It did not matter that the deadline was not announced when the plea offer was made, or that it only became known when the offer was withdrawn. All that Rule 15.8 requires is that the deadline be imposed. The court rejected the State’s argument that Rule 15.8 does not apply unless it expressly specifies a date by which a plea offer must be accepted. This interpretation would undermine the purpose of the rule. It would allow the State to withhold material discovery information and thereby thwart the defendant’s right to effective assistance of counsel in connection with the plea bargaining, with no adverse consequence. The court remanded the matter to the trial court for further proceedings consistent with Rule 15.8.

Judge Thompson dissented. Plea bargaining is a core prosecution power reserved to the executive branch of government. In Judge Thompson’s view, punishing the State for failing to disclose material information by precluding the evidence at trial is an unjustifiable usurpation of that executive power. For that reason, he would not read Rule 15.8 to allow such usurpation.

ISSUE:

The Respondent Judge did not abuse his discretion in denying the motion to preclude evidence pursuant to Arizona Rule of Criminal Procedure 15.8 because the State never imposed a plea deadline. The Court of Appeals’ decision is contrary to the clear language of the rule, creates constitutional rights where none exist, and violates the doctrine of Separation of Powers.

RULE PROVISION:

Rule 15.8, Ariz. R. Crim. P., provides:

If the prosecution has imposed a plea deadline in a case in which an indictment or information has been filed in Superior Court, but does not provide the defense with material disclosure listed in Rule 15.1(b) at least 30 days prior to the plea deadline, the court, upon motion of the defendant, shall consider the impact of the failure to provide such disclosure on the defendant’s decision to accept or reject a plea offer. If the court determines that the prosecutor’s failure to provide such disclosure materially impacted the defendant’s decision and the prosecutor declines to reinstate the lapsed plea offer, the presumptive minimum sanction shall be preclusion from admission at trial of any evidence not disclosed at least 30 days prior to the deadline.

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