



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**STATE OF ARIZONA v. RANDALL WEST and PENNY WEST
CR-10-0306-PR**

PARTIES:

Petitioners: Randall West, represented by the Office of the Pima County Public Defender;
Penny West, represented by Thomas Jacobs

Respondent: State of Arizona, represented by the Office of the Pima County Attorney

FACTS:

A child died from severe head trauma while in the foster care of Randall and Penny West. The Wests were tried on charges of child abuse. The Wests each moved for a judgment of acquittal pursuant to Rule 20, Ariz. R. Crim. P., at the close of the State's case and again at the close of evidence. The trial court denied those motions. The jury convicted Randall West and Penny West on lesser included offenses. After the jury verdicts, the Wests renewed their Rule 20 motions. The trial court granted the motions and set aside the jury verdicts. The State appealed. Relying on *State ex rel. Hyder v. Superior Court*, 128 Ariz. 216 (1981), the Court of Appeals reversed the order granting the Rule 20 motions in an opinion filed June 14, 2010. The Wests filed petitions for review by the Arizona Supreme Court.

ISSUES:

“Whether the granting of a post-verdict motion for acquittal based on a mistake of law involving the allocation or admission of evidence is appropriate under Rule 20(b) of the Arizona Rules of Criminal Procedure.”

“Whether the trial court sufficiently met the standard articulated in *State ex rel. Hyder v. Superior Court*, 128 Ariz. 216, 624 P.2d 1264 (1981), when it granted the post-verdict Rule 20 motions and found that the only reasonable basis for the jury's verdict would have been improper speculation as to the content of certain phone calls reflected in phone records that were admitted over defense objection.”

“Assuming the trial court did not meet the standard in *Hyder*, whether this court should approve a less strict application of that standard, so as to allow the trial court to correct manifest, clear error, and avoid conflict with principles discussed in *State v. Mathers*, 165 Ariz. 64, 796 P.2d 866 (1990).”

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