

ARIZONA COURT OF APPEALS, DIVISION ONE

State of Arizona v. Jose G. Hernandez

State v. Hernandez, No. 1 CA-SA 25-0288 (Ariz. Ct. App. Mar. 5, 2026) · No. No. 1 CA-SA 25-0288 · Decided March 5, 2026

SUMMARY

The Arizona Court of Appeals accepted special-action jurisdiction and granted relief from a superior court ruling permitting evidence of a child victim’s prior sexual victimization under Arizona’s Rape Shield Law. The court held that “trauma” in A.R.S. § 13-1421(A)(2) refers only to physical injury and does not include emotional or psychological trauma. The court declined to decide whether the evidence could nevertheless be admissible on constitutional grounds because the superior court had not addressed that issue.

CASE DETAILS

COURT	Arizona Court of Appeals, Division One
WRITING FOR THE COURT	Daniel J. Kiley; Brian Y. Furuya; Angela K. Paton
JURISDICTION	Arizona Court of Appeals, Division One
DECIDED	March 5, 2026
DOCKET	No. 1 CA-SA 25-0288
DISPOSITION	writ_granted
PROCEDURAL POSTURE	The State petitioned for special action relief from a superior court order admitting evidence of the victim's alleged prior sexual victimization under Arizona's Rape Shield Law.
STANDARD OF REVIEW	Statutory interpretation and interpretation of court rules are reviewed de novo. The exercise of special action jurisdiction is highly discretionary.
PRECEDENTIAL VALUE	precedential
PARTIES	State of Arizona v. Jose G. Hernandez

TOPICS

- appellate procedure
- evidence
- statutory interpretation
- criminal procedure
- constitutional law

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the term "trauma" in A.R.S. § 13-1421(A)(2) includes mental or emotional trauma, or is limited to physical injury.
2. Whether evidence of the victim's alleged prior sexual victimization was admissible under the Rape Shield Law to support Hernandez's misidentification and memory defense.
3. Whether the court should decide Hernandez's alternative argument that admission was required on constitutional due-process and confrontation grounds.

HOLDINGS

1. The term "trauma" in A.R.S. § 13-1421(A)(2) means physical injury, not emotional or psychological harm.
2. Evidence that the victim suffered mental or emotional trauma from sexual victimization by other family members does not trigger A.R.S. § 13-1421(A)(2) and is inadmissible under the Rape Shield Law on the theory presented.
3. The court declined to decide in the first instance whether the evidence might be admissible on constitutional grounds despite the Rape Shield Law.

KEY QUOTATIONS

"We hold that the term "trauma" as used in Section 13- 1421(A)(2) means only physical injury, not emotional or psychological harm." (§ 25)

"Evidence that a victim has suffered emotional or psychological trauma does not, therefore, trigger Subsection (A)(2)'s exception to the Rape Shield Law, or otherwise permit inquiry into the victim's prior sexual conduct." (§ 25)

"We accept jurisdiction and grant relief." (§ 28)

FACTUAL BACKGROUND

Hernandez was charged with offenses allegedly committed against his niece, Brianna. During a forensic interview, Brianna reported that two other family members had also sexually victimized her on separate occasions. Hernandez sought to introduce that evidence to argue that her memory and identification of him were confused by the other incidents and that the other family members caused her mental or emotional trauma.

PROCEDURAL HISTORY

Hernandez was charged in Maricopa County Superior Court with multiple felonies, including molestation and attempted molestation of a child. The superior court granted Hernandez's motion under A.R.S. § 13-1421 to admit evidence that the victim had been molested or exposed to pornography by two other family members, reasoning that the evidence supported a misidentification and memory defense. The State sought special action relief, and the Arizona Court of Appeals accepted jurisdiction and granted relief.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The court granted special action relief from the superior court's order admitting the evidence. The opinion does not state additional remand instructions.

CASES CITED

- State v. Dixon, 226 Ariz. 545, 554, ¶ 47 (2011)
- Yauck v. West Town Bank & Trust, 259 Ariz. 481, 485, ¶ 12 (App. 2025)
- State v. Lee, 226 Ariz. 234, 236, ¶ 6 (App. 2011)
- Dep't of Child Safety v. Beene, 235 Ariz. 300, 303, ¶ 6 (App. 2014)
- Arpaio v. Figueroa, 229 Ariz. 444, 446, ¶ 5 (App. 2012)
- State v. Huey, 145 Ariz. 59, 62 (1985)
- Stambaugh v. Killian, 242 Ariz. 508, 509, ¶ 7 (2017)
- Huber v. Ariz. Naturopathic Physicians Med. Bd., __ Ariz. __, __, ¶ 12, 579 P.3d 1249, 1253 (App. 2025)
- DBT Yuma, L.L.C. v. Yuma Cnty. Airport Auth., 238 Ariz. 394, 396, ¶ 10 (2015)
- City of Surprise v. Ariz. Corp. Comm'n, 246 Ariz. 206, 211, ¶ 13 (2019)
- United States v. Williams, 553 U.S. 285, 294 (2008)
- In re Drummond, 257 Ariz. 15, 18, 21, ¶¶ 5, 23 (2024)
- Yates v. United States, 574 U.S. 528, 543 (2015)
- State v. Gilfillan, 196 Ariz. 396, 400-01, ¶¶ 15-16 & n.3 (App. 2000)
- People v. Abbot, 19 Wend. 192, 194-95 (N.Y. 1838)
- People v. Johnson, 39 P. 622, 623 (Cal. 1895)
- State v. Wood, 59 Ariz. 48, 52 (1942)
- Commonwealth v. Strube, 418 A.2d 365, 369 (Pa. Super. 1979)
- Commonwealth v. Manning, 328 N.E.2d 496, 501 (Mass. 1975) (Braucher, J., dissenting)
- California v. Trombetta, 467 U.S. 479, 485 (1984)
- Chambers v. Mississippi, 410 U.S. 284, 302 (1973)
- People v. Mikula, 269 N.W.2d 195, 198 (Mich. App. 1978)
- People v. Martinez, 634 P.2d 26, 30-31 (Colo. 1981)
- State v. LaClair, 433 A.2d 1326, 1329-30 (N.H. 1981)
- State ex rel. Pope v. Superior Court, 113 Ariz. 22, 29 (1976)
- State v. Oliver, 158 Ariz. 22, 27 (1988)
- State v. Castro, 163 Ariz. 465, 467, 470-71 (App. 1989)
- State v. Pogue, 1 CA-CR 20-0346, 2021 WL 3160856, at *3, ¶ 16 (Ariz. App. July 27, 2021) (mem. decision)

- State v. Lujan, 192 Ariz. 448, 450, 454, ¶¶ 2-4, 20 (1998)
- State v. Gollihar, 1 CA-CR 14-0757, 2015 WL 4760535, at *2, ¶ 12 (Ariz. App. Aug. 13, 2015) (mem. decision)
- State ex rel. Romley v. Superior Court (Roper), 172 Ariz. 232, 236 (App. 1992)
- Pima Cnty. v. State, 258 Ariz. 11, 15-16, ¶ 23 (2024)
- Welch v. Cochise Cnty. Bd. of Supervisors, 251 Ariz. 519, 523, ¶ 11 (2021)
- State v. Serrato, 259 Ariz. 493, 496, ¶ 9 (2025)
- Planned Parenthood Ariz., Inc. v. Mayes, 257 Ariz. 137, 142-43, ¶ 17 (2024)
- State v. Salazar-Mercado, 234 Ariz. 590, 592, ¶ 5 (2014)

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