



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



STATE OF ARIZONA v. DAVID LEE GREEN
CR-18-0537-PR

PARTIES:

Petitioner/Appellee: State of Arizona

Respondent/Appellant: David Lee Green

FACTS:

After Green was convicted of two counts of personal possession of a narcotic drug and one count of possession of drug paraphernalia, the court sentenced him to prison.

Under A.R.S. § 13-901.01(A) and (F), a sentence of probation is mandated for people convicted of first and second offenses involving “the personal possession or use of a controlled substance or drug paraphernalia.” However, under A.R.S. § 13-901.01(H)(1) people convicted “three times of personal possession of a controlled substance or drug paraphernalia” are not eligible for mandatory probation.

Green appealed and the Arizona Court of Appeals agreed that he was entitled to mandatory probation because his past conviction for solicitation to sell a narcotic drug was not a conviction for personal possession of a controlled substance or drug paraphernalia and therefore did not count as a “strike” against him under A.R.S. § 13-901.01(H)(1).

ISSUE:

Whether solicitation to sell a narcotic drug is a “strike” under A.R.S. § 13-901.01(H)(1)?

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