



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**PIMA COUNTY v. STATE OF ARIZONA
CV-21-0213-PR
252 Ariz. 63 (App. 2021)**

PARTIES:

Petitioners: Pima County and Tucson Unified School District No. 1

Respondents: State of Arizona, Arizona Department of Revenue, Arizona State Board of Education, and the Arizona Superintendent of Public Instruction

FACTS:

In 1980, Arizona voters amended the Arizona Constitution to cap the amount of ad valorem taxes on residential property in any tax year at one percent of the property's full cash value (the "1% Limit"). Ariz. Const. art. 9, § 18(1). In 1981, the legislature enacted a statutory scheme for implementing the amendment, which included passage of A.R.S. § 15-972. Subsection E of this statute implements the 1% Limit in a way that effectively avoids depriving any single local taxing authority of any revenue:

Before levying taxes for school purposes, the board of supervisors shall determine whether the total primary property taxes to be levied for all taxing jurisdictions on each parcel of residential property, in lieu of this subsection, violate article IX, section 18, Constitution of Arizona. For those properties that qualify for property tax exemptions pursuant to article IX, sections 2, 2.1 and 2.2, Constitution of Arizona, eligibility for the credit is determined on the basis of the limited property value that corresponds to the taxable assessed value after reduction for the applicable exemption. If the board of supervisors determines that such a situation exists, the board shall apply a credit against the primary property taxes due from each such parcel in the amount in excess of article IX, section 18, Constitution of Arizona. Such excess amounts shall also be additional state aid for education for the school district or districts in which the parcel of property is located.

The statutory scheme for implementing the amendment also includes definitions for "primary" and "secondary" taxes. "Primary property taxes" are defined as "all ad valorem taxes except for secondary property taxes." A.R.S. § 15-101(20). "Secondary property taxes" are defined as "ad valorem taxes used to pay the principal of and the interest and redemption charges on any bonded indebtedness or other lawful long-term obligation issued or incurred for a specific purpose by a school district or a community college district and amounts levied pursuant to an election to exceed a budget, expenditure or tax limitation."

Title 15 also creates a Revenue Control Limit, codified at A.R.S. § 15-947. The Revenue Control Limit is calculated according to a statutorily-prescribed formula, and provides county

taxing authorities with an upper limit on revenue to fund general school district expenses.

In 1978, the U.S. District Court for the District of Arizona held that TUSD had operated a segregated school system in violation of federal law, and TUSD became subject to a desegregation order. In 1983, the Arizona State Legislature enacted a funding provision, A.R.S. § 15-910(G), specifically allowing school districts operating under court orders to generate additional tax revenues beyond the Revenue Control Limit to pay for desegregation activities.

In 2018, the Arizona legislature amended A.R.S. § 15-910(G)-(I), changing all mentions of “primary property tax” to either “property tax” or “secondary property tax.” 2018 Ariz. Sess. Laws, ch. 283, § 2 (2d Reg. Sess.) (S.B. 1529). The legislature also added a new subsection (L), specifying that subsections (G) through (K) only apply if the districts use revenues from secondary property taxes rather than primary property taxes to pay for desegregation expenses.

TUSD adopted a budget for the 2018-19 fiscal year that included \$63,711,047 for desegregation order expenses under § 15-910(G). In accordance with § 15-910(I), TUSD submitted that budget to the Pima County Superintendent of Schools, who then submitted TUSD's primary and secondary property tax levies and rates to the county board of supervisors.

Pima County, in turn, totaled all 2018-19 ad valorem taxes levied by the various taxing jurisdictions for parcels within TUSD's boundaries and concluded that taxes to be collected exceeded the constitutional one percent cap by \$8,113,188.62. The county reduced its tax collection from residential property owners by that amount and included that sum in its report of state aid calculations as “additional state aid for education” pursuant to § 15-972(E). But the Department of Revenue determined that under A.R.S. § 15-910(L), the \$63,711,047 in desegregation expenses did not qualify as “additional state aid for education” pursuant to A.R.S. § 15-972(E) because such credit may only be applied “against the primary property taxes due” from property owners. The Department of Revenue did not include the excess desegregation expenses in the state aid calculations it presented to the State Board of Education. Accordingly, the State provided no such financial aid to TUSD or Pima County for the 2018-19 fiscal year.

TUSD and Pima County sued the State seeking payment of the disputed \$8,113,188.62 amount. On cross-motions for summary judgment, the tax court ruled for TUSD and Pima County, concluding that the only way to read § 15-972 in a manner consistent with the constitution was to read it to include any tax subject to the 1% Limit in the calculation, regardless of the label applied by the legislature in A.R.S. § 15-910(L). It reasoned that read in this manner, the tax levy for desegregation expenses must be included in the calculation of taxes subject to the 1% Limit under A.R.S. § 15-972(E) and “shall be additional state aid for education,” which is paid by the State as provided in § 15-973(B).

The State appealed, and the court of appeals reversed the ruling of the tax court and remanded, directing the tax court to enter judgment in favor of the State. The court of appeals concluded that the amendments to A.R.S. § 15-910 eliminated the State's obligation under A.R.S. § 15-972(E) to reimburse TUSD for desegregation expenses as additional state aid for education.

ISSUE:

TUSD's tax levy for desegregation expenses is subject to the Arizona Constitution's 1% Limit on residential property taxes. A.R.S. § 15-972(E) requires Arizona counties to credit homeowners for all taxes in excess of that 1% Limit and reduce the school district levy by that amount, and then requires that "[s]uch excess amounts shall also be additional state aid for education for the school district." Can the State avoid its statutory obligation to reimburse those "excess amounts" of the homeowners' credits by declaring amounts levied for a discrete part of the school district's budget to be a "secondary property tax," even though it is subject to the 1% Limit?

STATUTE:

A.R.S. § 15-972(E) provides:

Before levying taxes for school purposes, the board of supervisors shall determine whether the total primary property taxes to be levied for all taxing jurisdictions on each parcel of residential property, in lieu of this subsection, violate article IX, section 18, Constitution of Arizona. For those properties that qualify for property tax exemptions pursuant to article IX, sections 2, 2.1 and 2.2, Constitution of Arizona, eligibility for the credit is determined on the basis of the limited property value that corresponds to the taxable assessed value after reduction for the applicable exemption. If the board of supervisors determines that such a situation exists, the board shall apply a credit against the primary property taxes due from each such parcel in the amount in excess of article IX, section 18, Constitution of Arizona. Such excess amounts shall also be additional state aid for education for the school district or districts in which the parcel of property is located.

A.R.S. § 15-910(L) provides:

Beginning in fiscal year 2018-2019, subsections G through K of this section apply only if the governing board uses revenues from secondary property taxes rather than primary property taxes to fund expenses of complying with or continuing to implement activities that were required or allowed by a court order of desegregation or administrative agreement with the United States department of education office for civil rights directed toward remediating alleged or proven racial discrimination that are specifically exempt in whole or in part from the revenue control limit and district additional assistance. Secondary property taxes levied pursuant to this subsection do not require voter approval, but shall be separately delineated on a property owner's property tax statement.

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