



**ARIZONA SUPREME COURT  
ORAL ARGUMENT CASE SUMMARY**



**ROBERTO TORRES et al v. JAI DINING SERVICES  
CV-20-0294-PR  
250 Ariz. 147 (App. 2020)**

**PARTIES:**

*Petitioners:* Roberto Torres, Orlenda Guillen, Hernan Gastelum Rosas, and Maria Suarez

*Respondent:* JAI Dining Services, Inc.

**FACTS:**

On November 7, 2015, following a twelve-hour shift at his warehouse job and a stop at a family wedding reception, Cesar Aguilera Villanueva went with a group of friends and relatives to Jaguar's, a strip club owned by JAI. Villanueva drank a twenty-four-ounce container of beer on the way to the club, but did not appear visibly intoxicated when he arrived at Jaguar's at approximately 11:20 p.m. Villanueva drank six or seven beers total at Jaguar's before getting into a verbal altercation with a bouncer. Jaguar's employees told Villanueva to leave the club, and he was physically escorted out the door around 2:20 a.m. Villanueva left the parking lot driving his pickup truck.

Villanueva next drove to his brother's house, approximately fifteen minutes away, where he drank an energy drink and hung out for a while to "sober up." At approximately 4:00 a.m., a friend drove Villanueva, Villanueva's sister, Villanueva's girlfriend, Leticia, and Leticia's friend Wendy to Villanueva's home. The group arrived at the house – which Villanueva shared with his sister and parents – and Villanueva fell asleep. Leticia then woke Villanueva up and asked him to drive Wendy home. Wendy drove Villanueva's truck to her house, about 45 minutes away – while Villanueva and Leticia slept in the truck.

After dropping off Wendy, Villanueva began to drive his truck home. At 5:14 a.m., while traveling at about 86 miles per hour, Villanueva crashed his truck into the back of a Honda Civic that was stopped at a red light. The impact of the crash killed the car's occupants, Guadalupe Gastelum Suarez and Jesus O. Torres Guillen. Roughly two hours after the crash, Villanueva's blood alcohol content was approximately .078 or .079. Villanueva was arrested at the scene, convicted of two counts of manslaughter, and sentenced to serve fourteen years in prison.

On November 2, 2016, the victims' relatives (Petitioners) sued Villanueva and JAI, asserting a negligence claim against Villanueva and common law negligence, dram shop

liability, and statutory negligence per se against JAI.

A nine-day jury trial was held in late February, early March 2019. At the close of evidence, JAI moved for judgment as a matter of law under Rule 50(a), Ariz. R. Civ. P., on the claims of negligence and dram shop liability, arguing that the proximate cause and duty elements of negligence could not be met. JAI argued that Villanueva's decision to drive again after stopping at his house and falling asleep was an intervening and superseding cause of the accident, negating any negligence on JAI's part. The superior court denied the Rule 50 motion.

On March 6, 2019, the jury reached its unanimous verdict on liability, finding in favor of Petitioners on the claims for negligence, common law negligence, and dram shop liability, but finding in favor of JAI on the claim for negligence per se. The jury awarded \$2 million in compensatory damages to Petitioners, with fault apportioned sixty percent to Villanueva and forty percent to JAI.

JAI appealed, arguing that it should not be held liable because Villanueva's being awakened and his decision to drive again after previously arriving safely home was an intervening, superseding cause that cut off JAI's liability. The court of appeals agreed with JAI's argument and concluded that the superior court should have directed judgment in JAI's favor based on a lack of proximate causation. In its opinion, the court of appeals reasoned that Villanueva unquestionably reached a "place of repose" – his own home – and that "the risk caused by an intoxicated driver (Villanueva), who has safely reached his residence, gone to bed, and fallen asleep, with no known compelling reason to leave, cannot reasonably be said to fall within the risk created by Jaguar's act of serving him too much alcohol." Concluding that Villanueva's independent decision to leave his home and drive was an intervening and superseding cause that broke the chain of causation and relieved JAI of liability, the court of appeals reversed the portion of the judgment against JAI and remanded the matter for the superior court to enter judgment in JAI's favor and in Petitioners' favor only as to Villanueva.

#### **ISSUE:**

In dram-shop cases, is a bar not liable under the intervening/superseding cause defense if an overserved patron simply makes it to a "place of repose," even if the patron remained impaired and unable to drive safely after a brief sojourn at that so-called "place of repose?"

*This Summary was prepared by the Arizona Supreme Court Staff Attorneys' Office solely for educational purposes. It should not be considered official commentary by the Court or any member thereof or part of any brief, memorandum, or other pleading filed in this case.*