

Facts of the Case:

In November, 2010 Petitioner Guy Goodman met a woman and her friends at a bar in Tempe. Later in the night, Goodman went home with the group and convinced the woman to allow him to spend the night at her house. She reluctantly allowed him to sleep on the ottoman downstairs. Several hours later, Goodman sexually assaulted the woman in her sleep. Police were called and the woman consented to a DNA test. Goodman denied sexual contact occurred.

In 2016, the DNA test was performed. The test confirmed Goodman had in fact committed the sexual assault. He admitted to “digital penetration” and was subsequently arrested. At a bail hearing, the trial court judge allowed Goodman out on a bail of \$70,000 with several restrictions (including a GPS and alcohol anklet). The state challenged the bail arguing that sexual assault was a nonbailable offense. The court of appeals reversed.

Issue of the Case:

In 2002, Arizona voters overwhelmingly passed Prop 103. The proposition amended Article 2 §22 of the Arizona Constitution which outlined nonbailable offenses. Prior to the amendment, all persons charged with crimes were bailable with three exceptions: (1) capital offenses; (2) felony offenses committed while admitted to bail for a separate felony charge; and (3) felony offenses if the person charged poses a substantial danger to any other person or the community.

Per the proposition, the list of nonbailable offenses was expanded to include: sexual assault, sexual conduct with a minor under 15, and molestation of a child. The amendment was later codified by state congress as A.R.S. §13-3961.

Arguments:

Petitioner (Goodman):

Goodman argues the amendment denying bail is unconstitutional. He relies on a 2017 Arizona Supreme Court case *Simpson v. Miller*, 241 Ariz. 341 (2017). In *Simpson*, the court held prohibitions on bail for persons charged with sexual conduct with a minor violate due process rights of the accused. He further argues that sexual assault does not inherently predict future dangerousness to the community. In the case at present, the assault occurred over 7 years ago and he has

not been charged with other crimes in that time. Goodman believes the amendment ignores that persons charged with crimes are presumed innocent. Further, the risk assessment instruments in place serve the court well and should be used in determining whether or not to bail a defendant.

Respondent (State):

The State's arguments are very straightforward. First, it argues the provisions in Article II of the Arizona Constitution and corresponding provision are constitutional. Second, the crime of sexual assault serves as a convincing proxy for dangerousness. Third, the *Simpson* holding clarified a mandatory detention law can be narrowly focused without affording the defendant an individualized determination of flight right or risk of dangerousness.