

COURT SHOULD REVIEW RECORDS TO DETERMINE WHETHER TO RELEASE DOCUMENTS CONCERNING DEATH BY POTENTIAL CRIMINAL CONDUCT

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Schoeneweis v. Hamner, et. al

Ct. Appeals, Div. One, December 1, 2009

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Diamondbacks relief pitcher Scott Schoeneweis asked the trial court to stop three governmental agencies from responding to a public records request for the death certificate, autopsy reports, and investigative materials relating to the untimely death of his wife. As representative of his wife's estate, he filed an application requesting that the probate court seal the death certificate and any other documents concerning the cause of her death. The probate court heard argument and, without conducting an in camera inspection of the documents, denied the request in its entirety. Although the probate court was not unsympathetic to Petitioner's privacy concerns, it reasoned that "personal concerns do not constitute grounds to seal or redact public documents." Schoeneweis filed a special action in the court of appeals.

The court of appeals granted relief in part, and denied it in part. It held, "We hold that because significant privacy concerns may preclude release of many medical examiners' records and related documents, a court must conduct an in camera review before permitting the release of such records pursuant to the Arizona Public Records Law. When the records concern the discovery or investigation of a death caused by potential criminal conduct, privacy concerns must yield to the extent necessary to inform the public of the government's investigation of criminal conduct and its efforts to protect other victims of that conduct. We also hold that death certificates are not subject to public inspection under the Arizona Public Records Law." Here, the Sheriff's Office investigation revealed evidence that Ms. Schoeneweis had died of an overdose of cocaine and lidocaine, and that her use of cocaine might have caused harm to another person. The court noted that while the cause of Ms. Schoeneweis's death had not been made public before, and although the court was remanding the case to the trial court for an in camera review of the entire body of materials at issue, the court justified its publication of the cause of death by stating that central fact "appear[ed] clearly in the record." "We choose to reveal the fact in this Opinion to provide guidance in this and future cases, and because we hold as a matter of law that it is subject to disclosure without the need for further balancing."

The court first found that the autopsy report, investigative materials, and death certificate were all public records pursuant to A.R.S. § 39-121, and thus subject to public review under Arizona's Public Records Law. But the trial court erred in ruling them all subject to public right of inspection. Exceptions bar public review when public records are: (a) made confidential by statute; (b) public interest in disclosure is outweighed by privacy concerns; or (c) the right to disclosure is outweighed by the best interest of the state. A trial court must conduct an in camera review to determine the outcome of these balancing tests before deciding whether the records should be released to the public.