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CIVIL RIGHTS GROUP OUTRAGED OVER ARIZONA “GUILTY UNTIL YOU CAN PROVE YOURSELF INNOCENT” POLICY

Washington, D.C. | April 13, 2018—Concerned about the erosion of constitutional protections for the rights of the accused, the National Association for Rational Sexual Offense Laws (NARSOL) has filed an amicus curiae brief in the United States Court of Appeals for the Ninth Circuit in support of Stephen Edward May, whose conviction for child molestation in an Arizona case has been set aside by a federal court. NARSOL’s interest in May’s case rests on the Arizona statute defining the offense of child molestation to require the accused to prove that any contact with an underage child did not result from a sexual interest or motivation.

The law, which was upheld by the Arizona Supreme Court in *State v. Holle*, 240 Ariz. 300, 379 P.3d 197 (2016), essentially requires an accused to prove that he is not guilty of the crime, rather than preserving the traditional presumption in American law that the individual is presumed innocent until proven guilty.

NARSOL’s involvement is prompted by the real threat that the Arizona approach to shifting the burden of proof from the prosecution to the defense will spread to other states if the Ninth Circuit rules against May on the fundamental issue of proper assignment of the burden of proof in criminal cases to the state.

Distinguished Professor of Law J. Thomas Sullivan, NARSOL’s attorney in its *May* amicus brief, said, “The danger in shifting the burden of proof to an accused to disprove guilt or prove innocence is heightened in the context of sex offense prosecutions. The consequences of an improper conviction of an innocent person are staggering, including imprisonment, a lifetime of stigma and public shaming, as well as lifetime or extended periods of registration and restrictions on personal freedom. Any compromise of the guarantee of due process is most unfair and dangerous in sexual offense prosecutions.”

Brenda Jones, NARSOL’S Executive Director, agrees, saying, “We have seen case after case that further erodes the constitutional rights of the accused in dealing with sexual offense cases. Where will this stop? Innocent until proven guilty is one of the most cherished and universally held of all our protections. The rights of every American citizen are in jeopardy if this travesty is not corrected, and corrected immediately.

“Too many legislators seem blind to the dangers inherent in taking this path. When it comes to punishment for those charged with sexual crimes, they seem to feel that there are no limits. They need to know that NARSOL is watching, and we will be watching.”

NARSOL trusts that the justices of the 9th Circuit are watching also and that they will affirm this most basic of all rights. NARSOL has thus far been joined by the Arizona Attorneys for Criminal Justice and the Arizona Civil Liberties Union in supporting Stephen May before the 9th Circuit.

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NATIONAL ASSOCIATION FOR RATIONAL SEXUAL OFFENSE LAWS

Fighting to restore dignity & constitutional rights to millions.

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