



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



STATE OF ARIZONA v. ALAN MATTHEW CHAMPAGNE,
CR-17-0425-AP

PARTIES:

Appellant Alan Matthew Champagne
Appellee: State of Arizona

FACTS: This direct appeal arises from Appellant Champagne’s convictions and resulting sentences for one count each of premeditated first degree and felony murder, second degree murder, and kidnapping, and two counts of abandonment or concealment of a dead body.

A landscaper discovered a wooden box containing the decomposed remains of Philmon Tapaha and Brandi Hoffner buried in the backyard of a house formerly owned by Champagne’s mother. The State charged Champagne with two counts of first degree murder, one count of kidnapping Hoffner, and two counts of abandonment or concealment of a dead body. Evidence presented at trial demonstrated that on June 24, 2011, Champagne shot Tapaha in the head in Champagne’s living room, killing him instantly. Then, Champagne led Hoffner into his bedroom and used an electrical cord fashioned into a noose to strangle her, using a wrench to tighten the cord around her neck until she died. The jury convicted Champagne of second degree murder of Tapaha, first degree premeditated and felony murder of Hoffner, kidnapping Hoffner, and abandonment or concealment of the bodies.

The State alleged three aggravating circumstances: that (1) Champagne was previously convicted of a serious offense, A.R.S. § 13-751(F)(2); (2) Hoffner’s murder was committed in an especially cruel manner, § 13-751(F)(6); and (3) Champagne committed multiple homicides on one occasion, § 13-751(F)(8). The jury found the State proved all three aggravating factors beyond a reasonable doubt. After considering mitigation evidence, the jury found that Champagne’s proffered mitigation was not sufficiently substantial to warrant leniency and sentenced Champagne to death.

ISSUES: Arizona law requires this Court to review “all death sentences to determine whether the trier of fact abused its discretion in finding aggravating circumstances and imposing a sentence of death.” A.R.S. § 13-756(A). On appeal, Champagne raises the following issues:

1. Whether the trial court’s inadequate inquiry into the Appellant’s timely motion for new counsel and trial counsel’s admitted conflict of interest violated the Appellant’s right to conflict free counsel under the Sixth, Eighth, and Fourteenth Amendments?
2. Was it fundamental and structural error, in violation of the Appellant’s rights under the Sixth, Eighth, and Fourteenth Amendments—and the Arizona Constitution—when it repeatedly told the jury during voir dire and in the jury questionnaire that unless he was sentenced to death, the Appellant could be released in as few as 25 years with no parole supervision?

3. Was it an abuse of discretion that violated the Appellant's rights under the Fifth, Sixth, Eighth, and Fourteenth Amendments for the court to refuse to suppress incriminating statements allegedly made to an undercover officer posing as a defense investigator—an investigator who knew Appellant was the focus of this murder investigation and who admitted targeting Appellant with the intent to “circumvent” his right to counsel?
4. Did the trial court violate the Appellant's rights under the Sixth, Eighth, and Fourteenth Amendments by keeping the jury from hearing his complete statement to Det. Egea?
5. Did the trial court violate the Appellant's rights under the Sixth, Eighth, and Fourteenth Amendments when it refused to allow Appellant to confront and cross examine co-defendant Elise Garcia about her mental illness diagnoses?
6. Did the court wrongly instruct the jury in violation of the Sixth, Eighth, and Fourteenth Amendments as to an unrequested affirmative defense, prejudicing the appellant by making it seem he had admitted the murders, but was claiming intoxication as an excuse, when in fact he has always maintained his innocence in the murders?
7. Was it error that violated the Appellant's rights under the Sixth, Eighth, and Fourteenth Amendments when it allowed the state to make additional oral argument during the guilt phase when there was no impasse?
8. Did the trial court violate the Appellant's rights under the Sixth, Eighth, and Fourteenth Amendments when it refused to dismiss the A.R.S. § 13-751(F)(6) aggravating factor—and failed to strike the whole Arizona death penalty scheme—as violations of clearly established federal law? Is the (F)(6) factor unconstitutionally vague? Is the Arizona death penalty scheme generally in violation of *Furman v. Georgia*?
9. Did the trial court abuse its discretion and violate the Appellant's rights under the Sixth, Eighth, and Fourteenth Amendments to have all relevant mitigating evidence considered when it would not allow the Appellant's mother or sister to give mitigating evidence because they had invoked their Fifth Amendment privilege?
10. Did the trial court abuse its discretion and violate the Appellant's rights under the Sixth, Eighth, and Fourteenth Amendments when it allowed inappropriate, inadmissible mitigation rebuttal? For instance, should mistrial have been declared for the state eliciting rebuttal testimony that trial counsel had allegedly threatened an unwilling mitigation witness with arrest to force her to testify for the Appellant?
11. Did the trial court abuse its discretion and violate the Appellant's rights under the Sixth, Eighth, and Fourteenth Amendments when it allowed inappropriate, inadmissible victim impact evidence to prejudice the jury?

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