



## ARIZONA SUPREME COURT ORAL ARGUMENT CASE SUMMARY



ARIZONA SUPREME COURT  
ADMINISTRATIVE OFFICE OF THE COURTS  
1501 West Washington - Phoenix Arizona 85007- 3231  
Public Information Office: (602)542-9665

Case: State v. Ring, CR-97-0428-AP, et al. (consolidated cases)

Parties: Timothy Ring, Andre Minnitt, Bernard Smith, Antion Jones, Danny Montano, Wayne Prince, Michael Blakely, Henry Hall, Shawn Grell, James Davolt II, Leroy Cropper, Shad Armstrong, Eugene Tucker, Kajornsak Prasertphong, Christopher Huerstel, Sherman Rutledge, Christopher Lamar, Michael Murdaugh, Brian Dann, Robert Moody, Keith Phillips, Marcus Finch, John Sansing, James Harrod, Darrel Pandeli, Scott Lehr, Arturo Canez, Aaron Hoskins, Scott Nordstrom, Appellants

State of Arizona, Appellee

Counsel: On the brief for the State: Kent Cattani, Assistant Attorney General  
Bruce Ferg, Assistant Attorney General

On the brief for Appellants: Andrew Hurwitz, John Stookey,  
Daniel Kaplan, Rudolph Gerber,  
Julie Hall

Facts: Pursuant to the Arizona Supreme Court's order, the State filed a brief addressing certain questions posed by the Court regarding the effect of Ring v. Arizona, 122 S.Ct. 2428 (2002). Appellants in 29 capital direct appeals filed an answering brief. The State filed a reply brief.

Issues:

- A. The State shall identify those cases in which it is not asserting harmless error.
- B. Whether Ring v. Arizona, 122 S. Ct. 2428 (2002), is inapplicable to any of the aggravating factors listed in A.R.S. § 13-703(G).
- C. Whether the finding of an aggravating factor can be implicit in the jury's verdict of conviction. For example, whether a finding of A.R.S. § 13-703(G)(8) or (5) is implicit in a jury verdict of guilt of multiple counts of homicide or felony murder, and if so, whether the appellant is therefore not entitled to resentencing under Ring. The brief shall identify which aggravating factor(s) in A.R.S. § 13-703(G) falls within this category.

D. Whether an appellant is entitled to resentencing under Ring if one aggravating factor was not subject to Ring or was explicitly or implicitly found by the jury, but appellant was deprived of a jury trial on others relied on by the trial court.

E. Whether an appellant is entitled to resentencing under Ring if the appellant conceded or did not challenge the aggravating factors found by the trial court. Whether an appellant is entitled to resentencing under Ring if the appellant conceded, or did not challenge, some but not all of the aggravating factors found by the trial court.

F. Whether an appellant is entitled to resentencing under Ring if the State did not argue harmless error in those cases in which the U.S. Supreme Court granted certiorari and remanded. (State v. Ring; State v. Sansing; State v. Harrod; State v. Pandeli)

G. Whether Ring explicitly or implicitly requires a jury to make Enmund/Tison findings.

H. Whether any new or amended capital sentencing statute would violate the state or federal Ex Post Facto Clause if applied to these cases.

I. Whether using a new jury (a jury other than the trial jury) to determine aggravating factors in these cases would violate the Double Jeopardy Clause.

J. Whether a sentence can be reduced to natural life if the crime was committed before A.R.S. § 13-703(A) was amended to allow a sentence of natural life.

K. Any other issue common to all or a significant number of the consolidated cases.

***This Summary was prepared by the Arizona Supreme Court Staff Attorney's Office and the Administrative Office of the Courts 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.***

Tuesday, November 19 2002