



**ARIZONA SUPREME COURT  
ORAL ARGUMENT CASE SUMMARY**

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**CR-03-0160-AP: STATE OF ARIZONA, Appellee v.  
ALBERT MARTINEZ CARREON, Appellant**

**PARTIES/COUNSEL:** The State is represented by the Arizona Attorney General's Office by Kent E. Cattani, Chief Counsel, Capital Litigation Section, and Dawn M. Northup, Assistant Attorney General, Capital Litigation Section. Albert Martinez Carreon is represented by Brent E. Graham, and Karen Noble, Deputy Public Defenders of the Maricopa County Public Defender's Office.

**FACTS:**

Albert Martinez Carreon was convicted by a jury of first-degree murder, attempted first-degree murder, burglary in the first degree, two counts of endangerment, and misconduct involving weapons. In the penalty phase of Carreon's trial, the jury found that the aggravating factors outweighed the mitigating evidence and sentenced Carreon to death. The case is before the Arizona Supreme Court on mandatory direct review.

The facts heard at trial include the following. Richard Trujillo suspected Armando Hernandez of informing on Trujillo's brother. On January 23, 2001, Hernandez was at the home of Cristina Aragon, his girlfriend. Carreon, an associate of Trujillo, and a friend of Hernandez, arrived at the door. Hernandez let him in.

Carreon used the bathroom while Aragon and Hernandez sat in the living room. When Carreon emerged, he had a pistol. He shot Hernandez in the leg. When Hernandez bent over, Carreon shot him in the back of the head. Aragon arose from her seat and Carreon shot her in the abdomen. Aragon ran toward the bedroom where her two small children slept. Carreon pursued her, shooting her in the neck and the face. Aragon collapsed and cried for help. Carreon fled, only to return a short time later, apparently drawn by Aragon's continued cries. He hit her in the head with a hard object. Aragon then played dead until Carreon left for good. When he had, Aragon's oldest son retrieved a phone and Aragon called 911.

The next day, Carreon was arrested outside Richard Trujillo's home. He had over a thousand dollars in his pockets. The murder weapon was never found.

Carreon raises the following issues on appeal.

**ISSUES:**

1. Whether retroactive application of Arizona's new death penalty statute violates the *ex post facto* clauses of the state and federal constitutions, as well as A.R.S. § 1-244.

2. Did the trial court abuse its discretion by refusing to dismiss the State's notice of aggravating factors?
3. Did the trial court abuse its discretion by excluding for cause persons who had a general objection to the death penalty?
4. Did the trial court abuse its discretion by precluding evidence of Cristina Aragon's connection to a Mexican crime family?
5. Was there sufficient evidence to sustain Carreon's convictions for endangerment?
6. Did the trial court err by commenting on a factual stipulation?
7. Was there sufficient evidence to find the serious offense aggravator under A.R.S. § 13-703.F.2?
8. Was Carreon denied a unanimous verdict on that aggravator?
9. Did the trial court allow improper evidence of that aggravator?
10. Was there sufficient evidence to find that Carreon committed the offense while on release from the Department of Corrections?
11. Was there sufficient evidence to find that Carreon knowingly created a grave risk to another?
12. Was there sufficient evidence to find that Carreon committed the offense for pecuniary gain?
13. Did the trial court abuse its discretion by refusing to permit Carreon's expert to present mitigation evidence?
14. Were the jurors improperly instructed on "impairment" as a mitigating circumstance?
15. Did the trial court improperly instruct jurors on sympathy in the aggravation and penalty phases?
16. Did the trial court misstate the law in its definition of "aggravating factor?"
17. Was the admission of victim impact statements unduly prejudicial?
18. Does A.R.S. § 13-703.05(A) violate the separation of powers doctrine?
19. Did the trial court err in ordering some of Carreon's sentences to be served consecutively?

20. Is Arizona's death penalty statute unconstitutional?

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