



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**STATE OF ARIZONA v. ROBERT CROMWELL
CR-03-0083-AP**

PARTIES/COUNSEL:

Defendant/Appellant Robert Cromwell, represented by James L. Logan and Consuelo M. Ohanesian from the Office of the Legal Advocate.

Plaintiff/Appellee State of Arizona, represented by Kent E. Cattani, Chief Counsel, and James P. Beene, Assistant Attorney General, Capital Litigation Section.

FACTS AS ALLEGED AT TRIAL:

Robert Cromwell met Ella Speaks as she was walking from her home to a nearby Circle K to buy transmission fluid for her car. They struck up a conversation, and eventually Ella invited Cromwell to join her and her three girls for dinner at McDonald's.

Cromwell went with Ella to her apartment after they got food, and while the girls stayed in the living room, Ella and Cromwell went to her bedroom to talk. Ella asked Cromwell to accompany her while she went to various local bars to seek employment as a bartender. He agreed. They left the girls alone in the apartment, and Ella asked her apartment manager to keep an eye on them.

Cromwell and Ella returned from the bars around 1:00 a.m., and found the girls awake. Ella told them to go to bed, and Ella and Cromwell again went to her bedroom to play cards. While they were playing cards, Ella received a phone call from a friend asking her to come to his house and help him in a situation with a mutual friend, Kim Jensen. Ella was going to wake up the girls to take them with her, but Cromwell told her he would watch them. Ella left the girls with Cromwell.

While it was still dark later that morning, Ella returned to the house with her friend Kim. Cromwell opened the door for them, and she began walking towards the bedroom so as to not disturb the girls sleeping in the living room. In the hallway on the way to the bedroom, Cromwell first attacked Kim with a pool stick, knocking her unconscious. He then turned on Ella and began to attack her. He ran out of the apartment after the pool cue broke on Ella's arm.

Ella then noticed that only two of her girls were on the bed in the living room. She quickly looked around for her oldest daughter, Stephanie, who was eleven at the time. When Ella did not see her, she chased after Cromwell in her car.

Stephanie was found on the bed in the bedroom by her two younger sisters after Ella had run from the house and awoken them. They removed a television set from atop her head, noticed she was bloody and injured, and ran to the apartment manager's apartment to have him call 9-1-1.

Stephanie suffered thirteen stab wounds to her back, blunt force trauma to her head, and severe trauma to her vaginal area. She died as a result of these injuries.

ISSUES:

Cromwell raises two challenges to his death sentence, and one challenge to his non-capital sentences. In addition to those two issues, Arizona Revised Statutes (“A.R.S.”) section 13-703.04 (Supp. 2004) requires the Arizona Supreme Court independently to reweigh the aggravating and mitigating circumstances to determine if the death penalty is appropriate. Cromwell raises the following issues on appeal:

1. Did the trial court err in denying Cromwell’s request for new counsel?
2. Is the “especially cruel, heinous, and depraved” language found in A.R.S. § 130703(F)(6) unconstitutionally vague?
3. Are Cromwell’s non-capital sentences constitutional in light of *Blakely v. Washington*?

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