



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



STATE v. PABLO ARCINIEGA MARTINEZ
1 CA-CR 03-0728 (Memo Dec and Opinion); **CR-04-0435-PR**

Parties/Counsel: Pablo Arciniega Martinez is represented by Deputy Public Defender Stephen Whelihan. The State is represented by Assistant Attorney General Randall Howe and Michael T. O'Toole.

FACTS:

A jury convicted Mr. Martinez of first degree murder, burglary and theft of a means of transportation. The trial court imposed a sentence of imprisonment for natural life for the murder conviction. For the burglary and theft convictions, the trial court imposed aggravated sentences of 7 years each. The court found the following aggravating factors: (1) the presence of an accomplice; (2) the use of a knife as a weapon; (3) the severe injuries and death of the victim; (4) the emotional and physical pain suffered by the victim; (5) the emotional and financial harm to the victim's family; (6) the brutal nature of the crime; (7) pecuniary gain; (8) the victim's age. The Court of Appeals affirmed the convictions in a memorandum decision. In a separate opinion, the Court of Appeals affirmed the sentences. See State v. Martinez, 100 P.3d 30 (Ariz. App. 2004). Mr. Martinez filed a petition for review of that opinion.

The Court of Appeals held that the trial court's consideration of aggravating factors in imposing the natural life sentence did not violate the holding in Blakely v. Washington, 124 S.Ct. 2531 (2004), because that sentence is authorized based solely on the jury verdict of guilty of first degree murder. Mr. Martinez does not challenge that ruling here. His petition for review challenges the Court of Appeals' holding that "a jury need not find *every* aggravator upon which a sentencing judge relies," and that there was no Blakely error regarding the aggravated sentences for the burglary and theft convictions. The Court of Appeals stated:

The aggravating factor that the victim died was implicit in the jury's verdict, since the jury found defendant guilty of first-degree murder. Because the jury found at least one aggravating factor, defendant was eligible to receive an aggravated sentence, and the trial court's weighing of additional aggravating and mitigating circumstances to determine the appropriate sentence within the aggravated range was permissible. Put another way, the jury having found the existence of one aggravating factor, its verdict expanded the sentencing range and the scope of the trial court's sentencing discretion. When one aggravating factor is authorized by the jury, *Blakely* is satisfied.

ISSUE:

"Did the sentencing comport with *Blakely v. Washington*, 124 S.Ct. 2531 (2004), where the trial judge used eight facts to increase the sentence under A.R.S. §

13-702 beyond the presumptive term, but only one of the facts was ‘submitted to the jury and proved beyond a reasonable doubt’?”

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