



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



STATE ex rel. THOMAS v. GRANVILLE, CV-05-0155-PR

PARTIES AND COUNSEL:

Petitioner: The State of Arizona is represented by Deputy County Attorney Paul J. McMurdie.

Respondent: William Baldwin, Real Party in Interest, is represented by Deputy Public Defenders Gary Bevilacqua and Joseph Stazzone.

FACTS:

A jury convicted William Baldwin of first-degree murder. The State is seeking the death penalty. The State requested that Judge Granville give the following jury instruction for sentencing: “The burden of proving the existence of mitigation *sufficiently substantial to call for leniency* is on the defendant. The defendant must prove the existence of mitigation by a preponderance of the evidence.”

(Emphasis added.) Baldwin objected to the first sentence. The trial court gave the following instruction:

“The burden of proving the existence of mitigation is on the defendant. The defendant must prove the existence of mitigation by a preponderance of the evidence.”

The court also instructed the jury:

“If, after carefully considering the evidence, you have a doubt whether the death penalty should be imposed, you should resolve that doubt in favor of a life sentence.”

The State objected to this instruction.

The State filed a special action petition in the Court of Appeals. That court declined jurisdiction. The Arizona Supreme Court granted the State’s petition for review.

ISSUES:

1. “Did the trial court abuse its discretion by failing to instruct the jury that under Arizona law once the state has proven an aggravating factor the burden is on the Defendant to prove by a preponderance of the evidence mitigation sufficiently substantial to warrant leniency?”

2. “If Arizona requires the defense to prove that a life sentence is warranted, did the trial court abuse its discretion by instructing the jury that if they had ‘a doubt’ about whether the death sentence should be imposed they were to return a life sentence?”

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