



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**STATE OF ARIZONA v. SHAD DANIEL ARMSTRONG
CR-06-0443 AP**

PARTIES AND COUNSEL:

Appellant: Shad Daniel Armstrong is represented by Harriette P. Levitt

Appellee: The State of Arizona is represented by Kent Cattani, Chief Counsel, and Donna J. Lam, Assistant Attorney General, Capital Litigation Section of the Arizona Attorney General's Office

FACTS:

In 1996, Shad Armstrong lived in Oklahoma with his girlfriend Russette Medina. Farrah Armstrong, Armstrong's sister, also lived with the couple. Armstrong and Farrah burglarized a home in Texas. Armstrong soon realized that the Oklahoma authorities were looking for him, so he fled to Tucson with Medina and Farrah.

In Tucson, Farrah met Frank Williams. They became romantically involved and moved into an apartment together. Armstrong and Medina could not afford rent, so they, along with their children, moved in with Williams and Farrah.

Tensions increased in the apartment. Medina and Armstrong frequently clashed and Farrah was upset with Armstrong because of an unpaid cable bill. In early 1998, Armstrong left the apartment and moved in with David Doogan, a friend he had met at a previous job. They lived in a trailer-home in Three Points, Arizona. Not long after, Medina and the children left Tucson to join Armstrong in Three Points.

Meanwhile, Farrah and Williams visited Farrah's parents in Oklahoma. They shared their plans to move to Oklahoma and get married. Farrah discussed with her parents her need to resolve her outstanding legal problems. After returning to Tucson in early February, Farrah told Medina about her plans to return to Oklahoma and turn herself over to authorities. She also told Medina that in order to get more favorable treatment she planned to tell the Oklahoma authorities where Armstrong was located.

Medina told Armstrong about his sister's plans. He became angry and worried that he would go to prison and that he and Medina would lose custody of their children. Shortly after, Armstrong discussed Farrah's plans with Doogan and the pair started plotting to kill Farrah and Williams.

Armstrong and Doogan arranged to bury the bodies on the property in Three Points. Several days before the killings, Doogan and Armstrong dug a grave near the trailer.

During the afternoon of February 19, Armstrong called Farrah and asked her to come to Three Points because he had money for the unpaid cable bill. He also asked her to bring Williams because they needed help with Doogan's car. Armstrong had Medina and the children go to a different trailer so the children would not see Farrah arrive. To prepare for the killing, Doogan and

Armstrong hung some sheets on the walls and gathered some plastic bags and a blanket to cover the bodies.

Near dusk, Farrah and Williams drove up to the property, Doogan opened the front door, and Armstrong hid behind it, holding a shotgun. As Farrah and Williams walked up the steps to come into the home, Doogan waved Armstrong off. Armstrong put down the gun and greeted his sister and Williams. Eventually everyone was in the living room. As Doogan talked with Farrah and Williams, Armstrong walked back down the hall. He returned to the living room with the shotgun and approached Williams. As Williams started to rise, Armstrong shot him in the chest. Armstrong turned toward Farrah and shot her twice, first in the chest and then in the head. He then shot Williams in the head.

Doogan and Armstrong then disposed of the bodies. Armstrong removed Farrah's jewelry and went through Williams's pockets. They covered their heads with the plastic bags, apparently to conceal odors, and wrapped the blanket around the bodies. Once they dragged the bodies outside, they pushed them into the hole. By that time, Medina came back to the main trailer and soon all of them got in a truck and left Three Points for Williams and Farrah's apartment.

On the Sunday after the killings, Doogan's neighbor called, asking Doogan if he knew where Armstrong was. Doogan, following Armstrong's directions, said that Armstrong had left for Michigan. Armstrong immediately prepared to leave town.

Armstrong, Medina, and the children spent several months in Los Angeles before moving to Odessa, Texas. While in Odessa, an episode of America's Most Wanted about Armstrong and Medina aired. Several days later, nearly a year after the killings, authorities arrested Medina and Armstrong in Texas.

In 2000, a jury convicted Armstrong of two counts of first degree murder and a count of conspiracy to commit murder. At the trial, Doogan testified extensively as a witness for the State. The trial judge sentenced him to death using a procedure later held unconstitutional in *Ring v. Arizona*, 536 U.S. 584 (2002). This Court affirmed the convictions, but vacated the sentences and remanded Armstrong's case for a new sentencing trial.

In 2006, a new jury found one aggravating factor proven beyond a reasonable doubt: Armstrong committed multiple homicides during the commission of the offense. Doogan refused to testify at the resentencing trial, so the transcript of his earlier testimony was read to the jury. At the penalty phase, Armstrong presented evidence about his troubled childhood, bipolar disorder, past compassionate acts, and history of good behavior while incarcerated. After the penalty phase, the jury concluded that the mitigation was not sufficiently substantial to call for leniency and Armstrong should be sentenced to death for each the murder.

ISSUES:

Armstrong raises nine issues on appeal. Additionally, the Court performs an independent review of the aggravating and mitigating factors, as well as the propriety of the death sentence, pursuant to A.R.S. § 13-703.04 (Supp. 2007).

1. Did the court commit reversible error when it failed to first comply with A.R.S. §§ 13-703.02 and 13-703.03?

2. Did the court commit reversible error in allowing the State to read into evidence the entire transcript of the direct examination of David Doogan's trial testimony?
3. Did the court commit reversible error in holding that the State was permitted to introduce any and all evidence from the first jury trial at the sentencing trial?
4. Did the trial court commit reversible error in allowing Frank Williams's mother to make a victim impact statement at the conclusion of the penalty phase of the trial?
5. Did the limitation on appellant's right of allocution deprive him of his constitutional right to due process?
6. Did the court improperly preclude the defense from introducing mercy as a mitigating factor?
7. Did the court commit reversible error in failing to provide a specific mitigation verdict to the jury?
8. Was the evidence insufficient to establish the F(8) aggravator?
9. Is the Arizona death penalty statute is unconstitutional?

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