



**ARIZONA SUPREME COURT  
ORAL ARGUMENT CASE SUMMARY**



**STATE OF ARIZONA v. ALVIE C. KILES  
CR-06-0240-AP**

**PARTIES AND COUNSEL:**

*Appellant:* Alvie C. Kiles is represented by Paul Mattern, attorney at law.

*Appellee:* The State of Arizona is represented by Kent E. Cattani, Chief Counsel, and Amy Pignatella Cain, Assistant Attorney General, Capital Litigation Section of the Arizona Attorney General's Office.

**FACTS:**

In February of 1989, the body of Valerie Gunnell was discovered in her Yuma apartment amidst signs of a struggle. Police also found evidence that her two children, Shemaeah Gunnell, five, and LeCresha Kirklin, nine months, had been attacked in the apartment. LeCresha Kirklin's body was later found in Mexico. Shemaeah Gunnell's body was never recovered.

A grand jury in Yuma County indicted Alvie C. Kiles on charges related to the slayings, including first-degree murder charges as to all three victims. After a trial, Kiles was convicted and sentenced to death for all three murders. A superior court judge later vacated the guilt verdicts and sentences and Kiles received a new trial in 2000. A Yuma County jury convicted Kiles of five counts, including first-degree murder of all three victims.

After a subsequent transfer of the case, in 2006 a Maricopa County jury found beyond a reasonable doubt that, as to the murder of Valerie Gunnell: (1) Kiles had been previously convicted of a felony involving the use or threat of violence on another person, (2) Kiles had committed the murder in an especially heinous, cruel or depraved manner, and (3) that Kiles had been convicted of one or more other homicides committed during the commission of the offense. These findings rendered Kiles eligible for a capital sentence. A.R.S. § 13-703. The jury found similar circumstances regarding the children's slayings. The Maricopa County jury subsequently determined that Kiles should receive a capital sentence for the murder of Valerie Gunnell.

The jury did not unanimously conclude that Kiles should receive capital sentences for the deaths of the two children; Kiles does not appeal either the verdicts or the sentences he received with regard to the children's slayings. He appeals various issues relating to the verdict and sentencing for the murder of Valerie Gunnell.

**ISSUES:**

1. Was the trial court's instruction to the jury on premeditation erroneous and did it lower the State's burden of proof, mandating reversal?

2. Did the trial court mistakenly permit jurors to decide a question of law relating to intoxication and give an intoxication instruction that was incorrect?
3. Did the trial court permit jurors to consider irrelevant and gruesome photographs which were highly prejudicial thus violating Kiles' constitutional rights, including his right to a fair trial, to due process, and undermine the reliability of the verdicts under the Eighth Amendment?
4. Was Kiles denied counsel in violation of his Sixth Amendment rights?
5. Did the trial court err by admitting evidence that Kiles had previously been convicted of attempted aggravated assault in order to establish that he had been convicted of a crime involving the use or threat of violence?
6. Did the trial court err in failing to grant Kiles' motion for acquittal as a matter of law on the charge that the murder was committed in an especially cruel, heinous or depraved manner?
7. Did the trial court give a vague jury instruction on the question of whether Kiles was convicted of multiple homicides related to the murder of Valerie Gunnell?
8. Should this Court conclude in its independent review that Kiles should be given a non-capital sentence?

*This Summary was prepared by the Arizona Supreme Court Staff Attorneys' Office solely for educational purposes. It should not be considered official commentary by the Court or any member thereof or part of any brief, memorandum, or other pleading filed in this case.*