



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**STATE OF ARIZONA v. JULIUS JARREAU MOORE
CR-07-0164-AP**

PARTIES AND COUNSEL:

Appellant: Julius Jarreau Moore is represented by Daniel Goldberg.

Respondent: The State of Arizona is represented by Kent E. Cattani, Chief Counsel, and Lacy Stover Gard, Assistant Attorney General, Capital Litigation Section of the Arizona Attorney General's Office.

FACTS:

In the early morning hours of November 16, 1999, Sergio Mata, Guadalupe Ramos, and Delia Ramos were shot to death at the home of Mata and Delia. A fourth victim, Debra Ford, was also shot but survived the incident. Tony Brown had earlier encountered a man, whom he later identified as Moore, hiding in bushes near the side of the house. Brown said that Moore flashed a gun and asked if Brown wanted to help Moore "get" Mata. Brown declined and instead left on his bike. Moore was later seen by Sarry Ortiz, a neighbor, walking near the murder scene. Ortiz picked Moore up and drove him to his mother's house. Upon returning home, Moore told his girlfriend that he had just shot four people. On November 23, 1999, Moore was arrested for the murders.

On September 26, 2001, a jury convicted Moore of three counts of first degree murder, one count of attempted first degree murder, and one count of first degree burglary. Before Moore's scheduled sentencing in August 2002, the United States Supreme Court held that Arizona's capital sentencing scheme violated defendants' Sixth Amendment rights to a jury trial. *Arizona v. Ring*, 536 U.S. 584, 609 (2002). As a result, Moore's sentencing hearing was vacated.

In November 2004, the trial court empanelled a jury to determine Moore's sentence. The State alleged two aggravators: that Moore murdered Delia in an especially cruel manner, *see* Ariz. Rev. Stat. ("A.R.S.") § 13-703(F)(6) (Supp. 1999), and that Moore murdered multiple persons on the same occasion, *see* A.R.S. § 13-703(F)(8). The jury could not reach a verdict on the (F)(6) aggravator, but did find that the State had proved the (F)(8) aggravator beyond a reasonable doubt. Before the penalty phase concluded, the court declared a mistrial because Moore's medical expert suffered a heart attack.

In April 2007, the trial court empanelled a second sentencing jury. The trial court instructed the jury that the (F)(8) multiple homicides aggravator had been established and allowed the State to retry the (F)(6) aggravator. Again the jury failed to reach a verdict on the (F)(6) aggravator. Finding no mitigating circumstances sufficiently substantial to call for

leniency, the jury determined that Moore should be sentenced to death for the murders of Delia and Guadalupe. The jury found sufficient mitigating circumstances to warrant a sentence of life imprisonment for the murder of Mata.

ISSUES:

1. Did the trial court error in denying Moore's motion to suppress Debra Ford's pre-trial and in-court identification of the defendant?
2. Did the trial court's failure to life-qualify the guilt-phase jury violate Moore's constitutional right to a fair and impartial jury?
3. Did the trial court impermissibly dismiss jurors based on their general objections to the death penalty?
4. Did the trial court abuse its discretion by refusing to order a witness to undergo drug tests when she appeared to be under the influence of drugs during her testimony?
5. Whether Moore's burglary and felony murder convictions violate his rights to pretrial notice and proof beyond a reasonable doubt?
6. Did the jury instructions that erroneously defined the elements of premeditated murder coupled with the prosecutor's closing argument deprive Moore of his right to due process?
7. Did the jury instruction that erroneously advised the jury at which point it could consider the lesser included offense of second degree murder amount to fundamental error?
8. Did the trial court abuse its discretion in denying defense counsel's multiple motions to withdraw due to actual or potential conflicts of interest?
9. Whether the failure to accurately instruct the jury on the (F)(8) aggravator is structural error?
10. Whether the death sentence is void since neither penalty jury found the (F)(8) aggravator beyond reasonable doubt?
11. Whether subjecting Moore to sentencing before a jury that did not determine his guilt or an aggravating circumstance deprived him of his right to a trial by a fair and impartial jury and a reliable sentencing proceeding?
12. Did the trial court incorrectly limit Moore's ability to conduct meaningful voir dire or apply the incorrect standard for determining whether jurors could be fair and impartial?
13. Did the trial court error in precluding Moore's evidence and argument regarding actual innocence during the penalty phase?
14. Is A.R.S. § 13-703(E) unconstitutional because it does not require that, once a defendant proves mitigating circumstances exist, the State must prove that it is not sufficiently substantial to call for leniency?
15. On independent review, should the Supreme Court reduce Moore's sentence to life imprisonment?

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