



**ARIZONA SUPREME COURT  
ORAL ARGUMENT CASE SUMMARY**



**STATE v. AUSTIN JAMES BONFIGLIO  
CR-12-0018-PR**

**PARTIES:**

*Petitioner:* Austin James Bonfiglio

*Respondent:* The State of Arizona

**FACTS:**

Richard “Jake” Mondeau hosted a birthday party at his residence. Up to 70 people attended the party, among them Shawn Moreno and several of his friends, including Kaelee Reddell. Alcohol was served at the party, and at some point a disagreement and verbal altercation ensued between Reddell and Mondeau. That argument resulted in a brawl in the front and back yards and many of the party guests became involved. Moreno testified at trial that he was involved in the fight, and was assaulted by three men he could not identify, who knocked him to the ground, kicking and beating him.

Upon witnessing the assault on Moreno, Reddell shouted and pushed the assailants away, allowing Moreno to escape. It was not until he escaped that Moreno realized he had been stabbed several times during the attack. Reddell accompanied Moreno to the emergency room.

As the fight broke up, Bonfiglio went into the garage of the house where Mondeau and other party guests discussed what had occurred. One guest, Christopher Habeeb, testified at trial that Bonfiglio claimed he stabbed someone during the fight. Police came to the residence and later arrested him.

The State charged Bonfiglio with one count of aggravated assault, a class 3 dangerous felony. At trial, Reddell testified that Bonfiglio was one of Moreno’s assailants, that she identified Bonfiglio in a line up the next day, but that she never saw anyone stab Moreno. Additionally, transcripts of jail calls between Bonfiglio and Mondeau were admitted into evidence. The transcripts revealed Bonfiglio’s statement that if Habeeb intended to testify, Bonfiglio would have friends “make a visit” and “slow him down.” During closing argument, the prosecutor rebutted Bonfiglio’s claim that the case relied on Habeeb’s testimony alone, stating:

You heard his telephone conversations, which is a good explanation of why there aren’t more people here to tell us about that night. You heard how hard he was trying to keep Christopher Habeeb from coming. Ladies and gentlemen he did this where he thought he could get away with it.

The jury found Bonfiglio guilty of aggravated assault. The jury also found one aggravating

factor—that he “had the ability to walk away from the confrontation.” Prior to sentencing, Bonfiglio admitted to two prior felonies committed in 2007.

At sentencing, the trial court stated as follows:

[A]t this point, you have already admitted at a trial on the priors, two prior felony convictions. The court is cognizant of the record previously made on that date, given that, the court will sentence you under a range provided by the statute for two historical priors for a class three felony under the non dangerous categories, [section] 13-702.

With that, I am cognizant of the facts that because you were on probation at the time of the offense which was also resolved at trial on the priors, that the minimum you can receive is the presumptive which is a [sic] 11.25 years.

However, as I stated, the court has considered the one aggravating factor the jury found. I have considered all of the information that has been presented and this court does find it appropriate to order that you serve a term of 13 years, a slightly aggravated term in the Department of Corrections.

Bonfiglio received 208 days of presentence incarceration credit, and he timely appealed. In an opinion filed December 6, 2011, the court of appeals affirmed Bonfiglio’s conviction and sentence. On January 13, 2012, Bonfiglio filed his petition for review in this Court. The State filed its response on February 14, 2012.

**ISSUE:**

Did the court of appeals err when it concluded that the trial court properly imposed an aggravated sentence because Appellant had two historical prior felony convictions exposing him to the maximum sentence authorized for repetitive offenders?

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