



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**STATE OF ARIZONA V. JOHNATHAN IAN BURNS
CR-11-0060-AP**

PARTIES:

Appellant: Johnathan Ian Burns

Appellee: State of Arizona

FACTS:

This automatic appeal arises from Defendant/Appellant Johnathan Ian Burns' conviction and resulting sentences for first-degree murder, kidnapping, sexual assault, and misconduct involving weapons.

In January 2007, Burns met the victim, Jackie Hartman, at a gas station and the two exchanged phone numbers. The two went on a date together on January 27, and Jackie was never seen again. Her body was found nearly three weeks later in a desert area near Highway 87 with two gunshot wounds to her head. DNA, ballistic, and other evidence linked Burns to the crime, and Burns' cellphone records indicated that he was in the area where the body was found on the night of the murder. On December 16, 2010, a jury convicted Burns of misconduct involving weapons, kidnapping, sexual assault, and first-degree murder.

The jury found two aggravating factors for the murder: Burns was previously convicted of a serious offense, A.R.S. § 13-751(F)(2), and the homicide was especially heinous, cruel, or depraved, A.R.S. § 13-751(F)(6). The jury sentenced Burns to death for the murder after finding that the mitigating evidence did not call for substantial leniency. Burns also received consecutive prison sentences on the remaining counts totaling 68 years.

ISSUES:

1. Did the trial court abuse its discretion by denying Burns' requests to continue the trial?
2. Did the trial court abuse its discretion by preventing defense counsel from asking prospective jurors about whether they would consider a life sentence based on specific facts in the case?

3. Did the trial court err by striking for cause three potential jurors because of their attitudes towards the death penalty?
4. Did the trial court err by denying Burns' motion to sever the charges against him?
5. Was Burns denied a unanimous verdict on his felony-murder conviction?
6. Did the trial court err by allowing the State to elicit testimony that Jackie was on her "first date" when she disappeared?
7. Did the trial court abuse its discretion by permitting testimony that Jackie had GHB in her system and instructing the jury that it could consider whether the presence of GHB rendered Jackie unable to consent to sexual intercourse?
8. Did the trial court err in permitting Burns' fiancée to testify that she was afraid of him?
9. Did the trial court abuse its discretion in admitting Burns' recorded prison phone calls?
10. Did the trial court abuse its discretion when it denied a mistrial based on testimony that the police found folding knives in Burns' home?
11. Did the trial court abuse its discretion when it admitted photographs of the victim's body into evidence?
12. Did the trial court abuse its discretion by permitting the testimony of a ballistics expert under *Frye*?
13. Did the trial court abuse its discretion by refusing to admit into evidence Burns' hearsay statements to the police?
14. Did substantial evidence support Burns' convictions for kidnapping, sexual assault, and first-degree murder?
15. Did the State's use of Burns' sexual assault and kidnapping convictions as aggravators in addition to the prison sentences for those convictions violate double jeopardy?
16. Did the trial court abuse its discretion when it precluded some of Burns' expert mitigation testimony because it was not timely disclosed?
17. Did the trial court abuse its discretion by allowing the State to impeach two defense experts' credibility?
18. Did the trial court abuse its discretion when it failed to declare a mistrial based on a juror question regarding courtroom safety?

19. Did the trial court commit fundamental error when it failed to declare a mistrial based on one juror's investigation of another juror's political contributions?
20. Was Burns entitled to sentencing on the kidnapping, sexual assault, and misconduct involving weapons convictions before the jury returned a sentence for the first-degree murder conviction?
21. Did the trial court abuse its discretion when it permitted the State to introduce evidence of Burns' gang affiliation, misconduct while incarcerated, and uncharged crimes to rebut Burns' evidence that he could be effectively managed in prison?
22. Did the court err by admitting victim impact evidence to rebut Burns' mitigation evidence?
23. Did the trial court properly instruct the jury on mitigating factors during the penalty phase of trial?
24. Did the prosecutor commit misconduct?
25. Did the trial court improperly coerce a jury verdict in the penalty phase?
26. Did the jury abuse its discretion when it sentenced Burns to death?

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.