



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**STATE OF ARIZONA v. VINCENT JOSEPH GUARINO
CR-13-0405-AP**

PARTIES:

Appellant: Vincent Joseph Guarino

Appellee: State of Arizona

FACTS:

This automatic appeal arises from Defendant/Appellant Vincent Joseph Guarino's convictions and resulting sentences for one count of first-degree murder, one count of misconduct involving weapons, four counts of aggravated assault, and four counts of kidnapping.

Guarino sought to murder Chad Rowe in order to secure membership in the Aryan Brotherhood, a criminal street gang. After being informed of Rowe's location, Guarino, accompanied by his brother, took a shotgun and drove to a home in North Phoenix. Guarino's brother stood at the door of the home with a knife while Guarino entered, found Rowe, and brought him out at gunpoint. The three men then got into a green truck and drove away. Rowe's body was later found in the middle of a residential street. He had been stabbed in the hand and foot and shot three times. Guarino's brother confessed to participating in the murder during a police interview and informed officers of Guarino's involvement. Guarino did not confess during police interviews, but officers later intercepted a letter written by Guarino in which he admitted murdering Chad Rowe.

The jury found Guarino guilty of all counts. It also found four aggravators: Guarino had been previously convicted of a serious offense, A.R.S. § 13-751(F)(2); Guarino committed the murder in an especially cruel manner, *id.* § (F)(6); Guarino committed the murder while on probation for a felony offense, *id.* § (F)(7)(b); and Guarino committed the murder with the intent to promote, further, assist, or join a criminal street gang, *id.* § (F)(11). The jury then found insufficient mitigation to warrant leniency, and the trial court sentenced Guarino to death for the murder and to four consecutive ten-and-a-half-year sentences for the four kidnappings, to run concurrently with four seven-and-a-half-year sentences for the four aggravated assaults and a two-and-a-half-year sentence for the misconduct involving weapons.

ISSUES:

1. Did the trial court err when it admitted the co-defendant's recorded statements during the penalty phase?
2. Did the trial court commit fundamental error when it permitted gang expert witnesses to provide opinion testimony based in part on hearsay statements of gang members?
3. Is the "especially cruel" aggravating factor unconstitutionally vague and overbroad in violation of the Eighth Amendment?
4. Did the jurors abuse their discretion when they determined that death was the appropriate sentence for Guarino's murder conviction?

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, nor is it part of any brief, memorandum, or other pleading filed in this case.