



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



SAMMANTHA ALLEN, JOHN MICHAEL ALLEN

v.

**HON. TERESA A. SANDERS /STATE OF ARIZONA,
CR-16-0234-PR**

PARTIES:

Petitioner/Real Party in Interest: State of Arizona

Respondents: Sammantha Allen, John Michael Allen

FACTS:

Sammantha Allen and her husband John Allen were indicted for murder and child abuse after Sammantha's 10-year-old niece died while in the Allens' care in 2011. A grand jury found probable cause for the charges. *See* Arizona Rule of Criminal Procedure 12.1(d)(4) (requiring grand jury "to return an indictment only if they are convinced that there is probable cause to believe that an offense has been committed and that the person under investigation committed it"); *see also State v. Baumann*, 125 Ariz. 404, 408 (1980) (citing Rule 12.1(d)(4) and A.R.S. § 21-413).

The State filed a Notice of Intent to Seek the Death Penalty and alleged aggravating circumstances including the "(F)(2) factor." *See* A.R.S. § 13-751(F)(2) (prior "serious offense"); A.R.S. § 13-751(J) ("serious offense" is "[a]ny dangerous crime against children"); *see generally* A.R.S. § 13-751(F) (listing circumstances that make the crime eligible for a harsher penalty, and requiring a consideration of the listed factors "in determining whether to impose a sentence of death"). Specifically, (F)(2) was based on the child abuse offenses charged at the same time.

The superior court held a hearing pursuant to *Chronis v. Steinle*, 220 Ariz. 559 (2009) and Arizona Rule of Criminal Procedure 13.5(c) to determine probable cause for the alleged aggravators. The Allens argued that *Sanchez v. Ainley*, 234 Ariz. 250 (2014), requires the court to independently determine whether there is probable cause for the child abuse offenses to find probable cause for (F)(2).

After reviewing the grand jury transcript and considering the testimony and arguments, the superior court determined there was probable cause for (F)(2). The court said *Sanchez* was "inapplicable" here because: the court held a *Chronis* hearing; unlike *Sanchez*, the grand jury here did not determine whether there was probable cause for the aggravators, but only that there was probable cause for the child abuse charges; and *Sanchez* does not require the court to re-determine probable cause for the conviction underlying the (F)(2) aggravator.

The Allens filed a petition for special action in the Arizona Court of Appeals. The court

accepted discretionary review and granted relief to the Allens. The majority opinion determined the superior court gave “conclusive effect” to the grand jury’s determination of probable cause for the child abuse offenses. The court of appeals concluded that because the superior court did not independently determine there was probable cause for the (F)(2) aggravator, it violated *Sanchez* and effectively denied the Allens a *Chronis* hearing on (F)(2). The dissenting opinion thought the superior court complied with *Sanchez* and committed no error.

ISSUE:

Petitioner State of Arizona frames the issue as:

“Whether a defendant’s constitutional right to a jury determination of all factors that might result in a death-eligible sentence is satisfied where:

- defendant is accorded a hearing under [Arizona Rule of Criminal Procedure] 13.5(c)/*Chronis*,
- a trial court independently finds probable cause that one or more aggravating circumstances exist, and
- aggravating circumstances are only presented to a jury after defendant has been convicted of the underlying offense beyond a reasonable doubt.”

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.