



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**STATE OF ARIZONA v. DIONDRA SHARRELLE HOWARD
CR-25-0211-PR**

PARTIES:

Petitioner: State of Arizona (“State”)

Respondent: Diondra Sharrelle Howard (“Howard”)

FACTS:

The State charged Howard with second-degree murder. After a seven-day trial, a jury found Howard guilty of manslaughter by sudden quarrel or heat of passion. The trial court then held an evidentiary hearing on the State’s alleged aggravating factors. After the hearing, the trial judge filed a notice of recusal. As a result, the case was reassigned to a new judge for sentencing.

The successor judge held a case status conference and a subsequent sentencing hearing. Before sentencing Howard, the judge reviewed the State’s presentence report, Howard’s psychological evaluation, Howard’s mitigation report, and letters from various people on Howard’s behalf. However, he did not review the trial transcripts. Howard appealed, arguing that the successor judge erred by not reading the trial transcripts or watching any part of the trial before sentencing.

In a split opinion, the court of appeals remanded for resentencing. The majority found that, pursuant to Rule 19.4 of the Arizona Rules of Criminal Procedure, the successor judge should have reviewed the trial transcripts before sentencing Howard. The dissent disagreed, expressing the belief that Rule 19.4 does not apply to the facts and circumstances of this case.

ISSUES:

1. Arizona Rule of Criminal Procedure 19.4 mandates that a judge who substitutes in for a judge who becomes incapacitated while “hearing or trying a criminal proceeding” must order a new trial or proceeding if he or she “believes after reviewing the record that continuing the proceeding would be unduly prejudicial.” Did the court of appeals majority err by holding this rule requires sua sponte review of trial transcripts by a substitute sentencing judge?
2. If Rule 19.4 applies here, what is the appropriate standard of review generally, and what is the appropriate standard of review in this case, when Howard did not rely on Rule 19.4 in his opening brief in the court of appeals, and the application of Rule 19.4 was first raised by the court of appeals, not any party?

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.