



**ARIZONA SUPREME COURT  
ORAL ARGUMENT CASE SUMMARY**



**STATE OF ARIZONA v. JAMES ERIN McKINNEY  
CR-93-0362-AP**

**PARTIES:**

*Appellant:* James Erin McKinney

*Appellee:* State of Arizona

**FACTS:**

In late February and early March of 1991, James Erin McKinney and his brother, Michael Hedlund, embarked upon a spree of residential burglaries in Chandler. After hearing from a friend that Christine Mertens was believed to keep thousands of dollars in an orange juice container in her refrigerator, McKinney decided to burglarize the house and indicated that he would kill anyone inside. McKinney and Hedlund broke into Mertens's house on the night of March 9th. Inside the house, they beat Mertens and stabbed her several times before holding her down on the floor and shooting her in the back of the head. The brothers ransacked the house and stole \$120.

Two weeks later, on March 22, McKinney and Hedlund entered the home of Jim McClain, from whom Hedlund had purchased a car some months earlier. The brothers shot the sixty-five-year-old man in the back of the head while he slept in his bed. They then stole a pocket watch, three handguns and McClain's car, which they drove into a pond.

McKinney and Hedlund were arrested in April 1991 after trying to sell Hedlund's sawed-off .22 rifle and the three guns they stole from McClain to McKinney's cousin. McKinney was tried and convicted of two counts of first degree murder. The trial court judge found two aggravating circumstances for each murder. During the sentencing hearing, McKinney presented mitigating evidence in the form of testimony from family members who recounted McKinney's abusive childhood, which included severe and frequent beatings, emotional abuse, neglect, and being locked outside in extreme temperatures. The defense also presented testimony from a psychologist who evaluated McKinney and diagnosed him with post-traumatic stress disorder ("PTSD") resulting from his traumatic childhood.

After considering all the aggravating and mitigating circumstances, the judge found that the mitigation was not sufficiently substantial to warrant leniency and sentenced McKinney to death as to both murders. In 1996, this Court affirmed McKinney's convictions and sentences upon independent review. *State v. McKinney*, 185 Ariz. 567, 587 (1996). The federal district court later denied McKinney's petition for a writ of habeas corpus, *McKinney v. Ryan*, 2009 WL 2432738 (2009), and a three-judge panel of the Ninth Circuit Court of Appeals affirmed the district court's decision. *McKinney v. Ryan*, 730 F.3d 903 (9th Cir. 2013). However, the Ninth Circuit subsequently withdrew its earlier panel decision and ordered a rehearing before the entire court.

*McKinney v. Ryan*, 745 F.3d 963 (9th Cir. 2014).

In a six to five decision, the Ninth Circuit determined that this Court had unconstitutionally required a “causal nexus” between McKinney’s PTSD and the murders. *McKinney v. Ryan*, 813 F.3d 798, 802–803 (9th Cir. 2015) (en banc). The Ninth Circuit has returned the case to this Court to correct the error by considering all of McKinney’s mitigation evidence and determining anew whether his death sentence is justified. *Id.* at 823–23.

**ISSUE:**

Whether the totality of the mitigating circumstances, including McKinney’s PTSD and difficult childhood, is sufficiently substantial to call for leniency in his sentences.

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