



**ARIZONA SUPREME COURT  
ORAL ARGUMENT CASE SUMMARY**



**STATE OF ARIZONA v. JAMES CLAYTON JOHNSON,  
CR-16-0261-AP**

**PARTIES:**

*Appellant:* James Clayton Johnson

*Appellee:* State of Arizona

**FACTS:** This direct appeal arises from Appellant James Clayton Johnson’s convictions and resulting sentences for one count each of first-degree murder, kidnapping, and burglary.

Johnson entered the Taiwan Massage on December 7, 2010. Inside, he encountered the owner, Xiaohung Fu. A struggle ensued, in which Johnson repeatedly stabbed and bound Fu, killing her.

Next door, Marvin Pearce and Terry Weathers heard the commotion. Weathers rushed next door to check on Fu. When he entered the Taiwan Massage, he found the front entrance in disarray. Weathers shouted “hello” but got no response. After a moment, Johnson exited the bathroom at the end of the hall, drying his hands. Weathers asked where Fu was. Johnson stated she had cut herself and left in an ambulance. Weathers then rushed back next door to call for help. Johnson got in his truck and sped away. When officers arrived on scene, they found Fu dead.

Johnson fled to his girlfriend’s apartment, where he washed his clothes and truck. Three days later, Johnson was arrested after he attempted to rob a Christmas tree lot.

The State alleged the following aggravating circumstances: that (1) Johnson was previously convicted of a serious offense, A.R.S. § 13-751(F)(2); (2) Johnson committed the offense in consideration for the receipt of anything of pecuniary value, § 13-751(F)(5); (3) Johnson committed the offense in an especially heinous, cruel, or depraved manner, § 13-751(F)(6); and (4) Johnson committed the offense while on release, § 13-751(F)(7)(a), and while on probation for a felony, § 13-751(F)(7)(b). The jury found the State proved the (F)(2), (F)(6), and (F)(7)(a) and (b) aggravating factors beyond a reasonable doubt. After considering mitigation evidence, the jury found that Johnson’s proffered mitigation was not sufficiently substantial to warrant leniency and sentenced Johnson to death.

**ISSUES:** Johnson raises twenty-two challenges to his death sentence. In addition to those issues, Arizona Revised Statutes (“A.R.S.”) section 13-756(A) requires the Arizona Supreme Court to review the sentencing portion of Johnson’s case to determine whether the trier of fact abused its discretion in finding aggravating circumstances and imposing a sentence of death.

Johnson raises the following issues on appeal:

1. Nearly 99% of first-degree murder cases qualify for at least one aggravator. Has Arizona complied with its constitutional obligation to legislatively narrow which first-degree murders are eligible for the death penalty?
2. Did the trial court deny Johnson's right to due process, a meaningful appeal, and effective assistance of counsel when the court denied Johnson's request for an evidentiary hearing on the *Furman v. Georgia* claim?
3. Is the especially cruel, heinous, or depraved aggravator under A.R.S. § 13-751(F)(6) unconstitutionally vague?
4. Were the trial court's instructions regarding A.R.S. § 13-751(F)(6) accurate and legally sufficient?
5. Did the trial court improperly prevent Johnson from arguing the State had not met its burden to prove the murder was committed in an especially cruel, heinous, or depraved manner when the court precluded argument on "especially"?
6. Was the evidence to support the especially cruel, heinous, or depraved aggravator sufficient?
7. Did the trial court err when it denied Johnson's motion for mistrial when *Lynch v. Arizona* changed Arizona law one day into the mitigation phase and the trial court had incorrectly instructed the jury that parole was available?
8. Was the trial court's significant impairment instruction legally accurate when it required Johnson to prove he did not know the difference between right and wrong?
9. Did the court err when it allowed the state to admit evidence and make argument regarding prison housing conditions and Johnson's exercise of his right to trial during the sentencing phase?
10. Did internally inconsistent jury instructions regarding mercy, sympathy, and the presumption of death likely cause juror confusion and a constitutionally unreliable death sentence?
11. Did the court err when it precluded execution impact evidence offered to illustrate Johnson's mitigation regarding family support and character?
12. Did the court improperly limit mitigation evidence?
13. Did the trial court err when it ordered Johnson's attorneys to turn over their attorney notes to the prosecutor and allowed the prosecutor to use the notes to cross-examination mitigation witnesses?

14. Did the trial court violate the presumption of innocence when it denied Johnson's motion to withdraw from his plea agreement in the armed robbery case on the grounds that Johnson knew he had committed murder?
15. Did the trial court improperly order Johnson to sign waivers so the prosecutor could obtain documents?
16. Did the court's rulings limiting voir dire prevent Johnson from properly screening and selecting a constitutionally adequate capital jury?
17. Did the trial court err when it denied Johnson's motion to strike three jurors for cause?
18. Did the trial court improperly deny Johnson's motion to strike Juror 6?
19. Did the court err when it gave Evidence Rule 106 preclusive effect?
20. Was Johnson's conviction tainted by prosecutorial misconduct?
21. Issues preserved for federal review.
22. Did the trial court improperly deny Johnson's motion to change counsel?

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