

ARIZONA SUPREME COURT

STATE OF ARIZONA,

Appellee,

v.

AARON BRIAN GUNCHES,

Appellant.

KAREN PRICE,

Crime Victim.

Arizona Supreme Court

No. CR-13-0282-AP

Maricopa County Superior Court

No. CR-2003-038541-001

**CRIME VICTIM'S RESPONSE
TO GUNCHES' MOTION:
WITHDRAW FROM ISSUANCE
OF DEATH WARRANT**

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Crime Victim, Karen Price, by and through undersigned counsel, respectfully submits this response in opposition to Inmate Gunches' *Motion: Withdraw for Issuance of Death Warrant*, filed January 4, 2023.

I. Background

Ms. Price's brother Ted was murdered in November 2002, just over twenty years ago. Ted was a father, a brother, and a son. Inmate Gunches callously ended Ted's life, causing Ted's loved ones more than two decades of intense emotional pain as well as a longing for an end of the criminal process. Since Ted's murder, Ms. Price and her family have endured waiting for an arrest to be made in his case, pretrial proceedings, a death penalty trial, a direct appeal that resulted in a new penalty phase, and another direct appeal in which Gunches' death sentence was upheld. *State v. Gunches*, 225 Ariz. 22 (Ariz. 2010); *State v. Gunches*, 240 Ariz. 198 (Ariz. 2016). Inmate Gunches later waived his Rule 32 and federal habeas proceedings. *Gunches Motion: Issuance of Death Warrant* at 1. Inmate Gunches claims that he volunteered to have his death sentence imposed as early as 2018. *Id.* In November of 2022, Inmate Gunches took steps to secure a warrant for his own execution so that his victims could have justice.¹ *Id.* Now, after giving Ms. Price and her family a semblance of hope that a final conclusion to the criminal case is within

¹ Inmate Gunches also wrote two letters to undersigned counsel, in October and November of 2022, claiming that he wanted to help his victims, Ted's mother and sister, receive justice and that he volunteered to be executed. He also advised that he intended to file motion seeking a warrant, which was subsequently filed.

reach, Inmate Gunches appears to have changed his mind. *Gunches Motion: Withdrawal from Issuance of Death Warrant*.

II. Argument

A. *Ms. Price has a constitutional right to a prompt and final conclusion of this case.*

Arizona's Victims' Bill of Rights (VBR) is intended to preserve and protect victims' rights to justice and due process. Ariz. Const. art. II, § 2.1(A). For these fundamental rights to be protected, a victim has a constitutional right to a "...prompt and final conclusion of the case after the conviction and sentence." Ariz. Const. art. II, § 2.1(A)(10). This express language of our VBR recognizes the harm to victims caused by undue delay. Arizona's courts are required to account for the crime victim's right to finality.

This Court has been clear that a victim's constitutional right to finality warrants protection. *Fitzgerald v. Myers*, 243 Ariz. 84, 92 (Ariz. 2017) (noting any stay ordered in a PCR matter in a capital case should be limited in duration and scope to protect victims' constitutional right to finality); *State v. Gates*, 243 Ariz. 451 (Ariz. 2018) (noting when making a post-waiver ID determination in a capital case, the trial court must consider whether ordering the evaluation would prejudice the victims by implicating their constitutional right to a speedy trial and a prompt and final conclusion of the case). Arizona's VBR gives crime victims a constitutional

right not to be continuously victimized by an unending criminal justice process. This includes not being revictimized by an offender who seemingly wants to promise finality to only, weeks later, change his mind.

B. *Finality is essential to victim recovery.*

Ms. Price and her family have a compelling interest in finality as it is essential to their emotional healing and recovery. The murder of a loved one causes significant psychological implications conceptualized within a post-traumatic stress disorder (“PTSD”) framework, the most consistently documented consequence of violent crime. Heidi M. Zinzow, et al., *Examining Posttraumatic Stress Symptoms in a National Sample of Homicide Survivors: Prevalence and Comparison to Other Violence Victims*, 24 J. Traum. Stress 743 (December 2011); Jim Parsons & Tiffany Bergin, *The Impact of Criminal Justice Involvement on Victims’ Mental Health*, 23 J. Traum. Stress 182 (2010); Dean G. Kilpatrick & Ron Acierno, *Mental Health Needs of Crime Victims: Epidemiology and Outcomes*, 16 J. Traum. Stress 119 (2003); Patricia A. Resick, *The Psychological Impact of Rape*, 8 J. Interpersonal Violence 223, 225 (1993). Victims of all types of violent crime can experience PTSD or various symptom clusters, but homicide survivors are twice as likely to meet the criteria for PTSD and report more symptoms of PTSD than victims of other types of trauma. Zinzow at 744. The high prevalence of PTSD in homicide survivors may be partially due to the fact that survivors are forced to cope not only with the loss of a

loved one, but also the sudden and violent nature of their death. Zinzow at 744, citing Angelyne Amick-McMullan, et al., *Family Survivors of Homicide Victims: Theoretical Perspectives and an Exploratory Study*, 2 J. Traum. Stress 21, 35 (1989). Studies also suggest a connection between initial victimization and later depression, substance abuse, panic disorder, agoraphobia, social phobia, obsessive-compulsive disorder, and even suicide. Parsons & Bergin at 182.

The criminal justice system often overlooks the effects that delayed judicial proceedings, as well as delays in the imposition of punishment, have on victims. A prolonged experience in the criminal justice system adds to the intense and painful consequences of initial victimization. *Id.* at 182-183; see also Judith Lewis Herman, *The Mental Health of Crime Victims: Impact of Legal Intervention*, 16 J. Traum. Stress 159, 159 (2003). Secondary victimization often causes more harm than the initial criminal act. Uli Orth, *Secondary Victimization of Crime Victims by Criminal Proceedings*, 15 Soc. Just. Res. 313, 321 (2002). A victim's experience with the justice system often "means the difference between a healing experience and one that exacerbates the initial trauma." Parsons & Bergin at 182. For example, one study examining the effect of offender punishment on crime victim recovery noted that most victims experienced improved recovery when there was an increased perceived punishment of the offender. Dr. Joel H. Hammer, *The Effect of Offender Punishment on Crime Victim's Recovery and Perceived Fairness (Equity) and Process Control*,

University Microfilms International 87, Ann Arbor, MI (1989).

Timely resolution is essential to victim recovery. *Id.* The emotional harm caused by a prolonged process is severe in murder cases, such as this, where more than two decades have passed without the imposition of punishment, followed by a promise of finality, and now, pulling the rug out from under the victims. Arizona, however, through the VBR and implementing statutes, seeks to minimize the traumatic impact of murder on victims by enumerating rights intended to preserve and protect victims' rights to justice and due process. Ariz. Const. Art. II, § 2.1; Gessner H. Harrison, *The Good, The Bad, and The Ugly: Arizona's Courts and the Crime Victims' Bill of Rights*, 34 Ariz. St. L.J. 531, 531–32 (2002). Most relevant here is that the VBR gives victims an express right “[t]o a speedy trial or disposition and prompt and final conclusion of the case after the conviction and sentence.” Ariz. Const. Art. II, § 2.1(A)(10).

To date, the constitutional guarantee of a “prompt and final conclusion” of this case is an unfulfilled promise to Ms. Price and her family. They deserve a life post-imposition of punishment where they are no longer thinking about Ted's murderer and wondering whether there really ever will be an end to the criminal proceedings.

III. Conclusion

For the reasons set forth above, Ms. Price respectfully requests this Court deny

Inmate Gunches' *Motion: Withdraw for Issuance of Death Warrant*. Further, Ms. Price request this Court issue the warrant, that Inmate Gunches requested when he took steps to begin this process, when it conferences the case on January 31, 2022.

RESPECTFULLY SUBMITTED this 12th day of JANUARY 2023.

By: _____/s/_____
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