



**ARIZONA SUPREME COURT  
ORAL ARGUMENT CASE SUMMARY**



**STATE OF ARIZONA v. CHRISTOPHER ALLEN HARGRAVE  
CR-06-0061-AP**

**PARTIES AND COUNSEL:**

*Appellant:* Christopher Allen Hargrave is represented by Karen M. Noble and Louise Stark of the Maricopa County Public Defender's Office.

*Appellee:* The State of Arizona is represented by Kent E. Cattani, Chief Counsel, and Jeffrey A. Zick, Assistant Attorney General, Capital Litigation Section of the Arizona Attorney General's Office.

**FACTS:**

Late in the evening of May 19, 2002, Christopher Allen Hargrave and Steve Boggs entered Hargrave's former workplace, a Jack in the Box in Mesa. Boggs shot three employees, Beatriz Alvarado, Kenneth Brown, and Fausto Jimenez, who were working at the time, and Hargrave also fired the murder weapon. Alvarado was shot twice in the back, but lived long enough to speak with officers before her death; Jimenez was shot three times in the back and dialed 911, but died before officers arrived; and Jimenez died within minutes after being shot. Several registers had been pried open and approximately \$200-500 was missing from the Jack in the Box.

Before the murders, Hargrave and Boggs founded the Imperial Royal Guard, a white supremacist organization. All three victims were racial minorities.

Officers arrested Hargrave while he was camped out and recovered several guns and boxes of ammunition from the campsite. Hargrave later confessed to the police that he participated in the robbery and murders.

A grand jury subsequently indicted Hargrave on three counts of first degree murder, one count of armed robbery, one count of third-degree burglary, and three counts of kidnapping. A jury found Hargrave guilty on all counts and also found that the State had proven three aggravating factors: (1) the offense was committed for pecuniary gain; (2) the murders were especially cruel or depraved; and (3) multiple homicides occurred during the commission of the offense. Hargrave made a statement to the sentencing-phase jury, but elected not to present mitigation evidence. Finding no mitigating circumstances sufficiently substantial to call for leniency, the jury determined that Hargrave should be sentenced to death for each of the murders.

## ISSUES:

Hargrave raises fourteen issues on appeal:

1. Did the admission of other bad acts evidence violate Arizona Rule of Evidence 404(b)?
2. Was the armed robbery charge erroneous and duplicitous?
3. Did the trial court err by failing to instruct the jury on the requested lesser-included offense of robbery?
4. Did the trial court err by failing to instruct the jury on the lesser-included offense of false imprisonment?
5. Is a fifteen-year sentence for non-residential burglary erroneous?
6. Was sufficient evidence presented at trial to support the “pecuniary gain” aggravating factor?
7. Was sufficient evidence presented at trial to support the “especially cruel” aggravating factor?
8. Is the “especially cruel” aggravating factor unconstitutional?
9. Were jurors improperly instructed at the aggravation phase to not consider punishment?
10. Did the trial court err when it instructed the jury about penalties applicable if the death sentence was not imposed?
11. Did the trial court improperly instruct the jury that Hargrave declined to present mitigation evidence?
12. On independent review, should this Court reverse Hargrave’s death sentence?
13. Did the trial court maintain an adequate record for appellate review?
14. Is Arizona’s method of execution by lethal injection unconstitutional?

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