



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**STATE OF ARIZONA v. SHAWN PATRICK LYNCH
CR-06-0220-AP**

PARTIES AND COUNSEL:

Petitioner: Shawn Patrick Lynch is represented by David Goldberg, Esq.

Respondent: The State of Arizona is represented by Kent E. Cattani, Chief Counsel, and Deborah A. Bigbee, Assistant Attorney General, Capital Litigation Section of the Arizona Attorney General's Office

FACTS:

Early in the morning of March 25, 2001, Shawn Patrick Lynch and Michael Sehwani visited James Panzarella at his home. Later that morning, Lynch and Sehwani used a credit card taken from James without his permission. James reported the card as stolen, and later attempts by Lynch and Sehwani to use the card were declined.

Later that same day, James was found dead in his home. He was sitting motionless on a metal chair in the kitchen with his head down and blood on his bare chest. He had been tied to the chair with a cord. His throat was slit, and blood was pooled on the tile floor beneath the chair. His house appeared to be ransacked, and phones were ripped from the wall.

The next afternoon, Lynch and Sehwani were arrested together as they were entering a truck in a motel parking lot. Inside the truck was a wallet containing credit cards and checks belonging to James, and a black sweater with James' blood on it. The black shoes worn by Lynch also had James' blood on them.

Lynch and Sehwani were indicted for first degree murder (alleged both as premeditated and felony murder), kidnapping, armed robbery, and burglary in the first degree. Their trials were severed, and Lynch's trial began first. A jury found Lynch guilty of felony murder, but did not reach a verdict on the charge of premeditated murder. During the aggravation phase of the trial, the jury found that the crime was cruel and heinous under A.R.S. § 13-751(F)(6), but did not reach a verdict on whether the crime was depraved under that same subsection. The jury also did not reach a verdict as to whether the crime was done for pecuniary gain under A.R.S. § 13-751(F)(5).

A second jury convened and reconsidered the depravity prong of the (F)(6) aggravator and the pecuniary gain (F)(5) aggravator. The jury unanimously found both, and sentenced Lynch to

death. After Lynch was sentenced, Sehwani pled guilty to felony murder and received a sentence of natural life.

ISSUES:

1. Did the trial court's finding that the defendant was competent to stand trial deprive him of his due process rights?
2. Were the limits placed on voir dire by the trial court at both trials an abuse of discretion?
3. Did the trial court's refusal to strike certain jurors for cause during voir dire violate the defendant's constitutional right to a fair and impartial jury?
4. Did the trial court abuse its discretion when it admitted certain graphic autopsy photographs into evidence?
5. Did the trial court err in refusing to instruct the jury that it could find the defendant guilty second-degree murder as a lesser included offense?
6. Did the jury instructions defining the "especially heinous, cruel or depraved" aggravating factor of A.R.S. § 13-751(F)(6) violate the defendant's constitutional rights?
7. Did the trial court err in not instructing the jury that the defendant could not be sentenced based on vicarious liability for his co-defendant's conduct?
8. Did the jury instructions improperly define the *Enmund/Tison* predicate?
9. Was the *Enmund/Tison* predicate proven beyond a reasonable doubt?
10. Were both aggravating factors proven beyond a reasonable doubt?
11. Does A.R.S. § 13-703(E) unconstitutionally shift the burden of proof for mitigating factors onto the defendant?
12. Did the trial court err in permitting retrial of the "pecuniary gain" aggravating factor and the "depraved" aggravating factor?
13. Did the trial court err in precluding evidence of future prison conditions, life imprisonment, and potential for future dangerousness?
14. Is the death sentence void because the second jury did not independently find the "cruel" and "heinous" aggravating factor prongs and the *Enmund/Tison* predicate?

15. Did the trial court err by instructing the jury that heinousness, cruelty, and depravity are three separate aggravating factors rather than a single factor under A.R.S. § 13-751(F)(6)?
16. Did the instructions to the second jury improperly create a presumption that death was the appropriate sentence?
17. Did various acts of alleged prosecutorial misconduct, either individually or collectively, violate the defendant's due process rights?
18. Should the defendant's death sentence be reduced on independent review?

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.