



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**STATE OF ARIZONA v. LEROY CROPPER
CR-08-0116-AP**

PARTIES AND COUNSEL:

Appellant: Leroy Cropper is represented by Kerri Chamberlin of the Office of the Legal Advocate

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

FACTS:

In 1999, Leroy Cropper pled guilty to first degree murder in the 1997 stabbing death of Brent Lumley. Cropper was an inmate in Perryville Prison, where Lumley was a guard.

Cropper was sentenced to death by a Maricopa County Judge in 2000, but while his case was on review, the United States Supreme Court issued a ruling holding that juries, not judges, must find the facts constituting aggravating circumstances that expose defendants to the death penalty under Arizona law. *Ring v. Arizona*, 536 U.S. 584 (2002). Based on this Court's subsequent review of Cropper's sentencing, his case was remanded to the superior court for a new sentencing procedure. *State v. Cropper*, 206 Ariz. 153, 76 P.3d 424 (2003).

After remand, a Maricopa County jury found two aggravators: that he committed the murder while incarcerated, and that he had been convicted of another serious offense. *See* Ariz. Rev. Stat. ("A.R.S.") § 13-751(F)(2), (F)(7). That jury, however, was unable to reach a verdict as to whether the killing was especially cruel, A.R.S. § 13-751(F)(6), and unable to reach a verdict as to whether death was the appropriate sentence. A second jury was impaneled. The second jury concluded that the murder was committed in an especially cruel manner and that death was the appropriate punishment.

ISSUES:

1. Does the Ex Post Facto Clause of the United States and Arizona Constitutions bar Cropper's retrial after the first jury hung on the issue of punishment?
2. Did the prosecutor commit misconduct by misstating the law as it related to

the especially cruel aggravator, resulting in a deprivation of Cropper's Due Process rights?

3. On independent review, should the Supreme Court reduce Cropper's sentence to life imprisonment?

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