



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**STATE OF ARIZONA v. GARY WAYNE SNELLING
CR-08-0164-AP**

PARTIES:

Appellant: Gary Wayne Snelling

Appellee: The State of Arizona

FACTS: On or about July 14, 1996, Adele Curtis was killed in the upstairs bathroom of her townhouse. The medical examiner found marks on her neck consistent with a ligature and opined that Curtis had died of asphyxia by strangulation. Although physical evidence was recovered at the scene, Curtis's murder remained unsolved for several years.

In 2003, a cold case detective re-opened the investigation into Curtis's murder and submitted all evidence with potential biological value for DNA testing. A DNA profile obtained from the evidence matched Snelling's profile, which had been acquired in an unrelated matter and entered into the computer database in 1999. Further analysis revealed that Snelling's DNA profile matched blood recovered at the scene and that his DNA was likely present on an electrical cord discovered near Curtis's body. Snelling's prints were also found on receipts in the downstairs bathroom and on the sink counter in the upstairs bathroom.

Snelling was indicted for first degree murder. A jury found Snelling guilty and further found he had committed the murder in an especially cruel manner. After that jury was unable to unanimously decide on the penalty, a second jury was impaneled. Finding no mitigating circumstances sufficiently substantial to call for leniency, the second jury returned a death sentence.

ISSUES:

1. Did the trial court abuse its discretion when it admitted into evidence crime scene and autopsy photographs?
2. Did the trial court erroneously admit hearsay or violate Snelling's right to confrontation when it allowed a medical examiner who had not performed Curtis's autopsy to testify?
3. Did the jury receive proper limiting instructions to evaluate whether the murder was committed in an "especially cruel" manner?
4. Was there sufficient evidence to support the jury's finding that Curtis's murder was committed in an especially cruel manner?

5. Did the trial court give an incorrect and unconstitutional definition of especially cruel to the second jury?
6. Was the re-trial of the penalty phase unfair because the jury sentenced Snelling to death on an aggravator that was not proven beyond a reasonable doubt and that was different in kind and degree than the aggravator found by the first jury?
7. Did the trial court abuse its discretion when it precluded a mitigation witness from testifying on Snelling's behalf?
8. Did the trial court's admission of documentary evidence and testimony of prior acts during the penalty phase constitute an abuse of discretion or violate Snelling's constitutional rights?
9. Was the admission of victim impact statements unconstitutional because they interfered with the jury's ability to consider Snelling's mitigation evidence?
10. Are Arizona's death penalty statutes unconstitutional because they do not require the State to prove beyond a reasonable doubt that the mitigating circumstances are not sufficiently substantial to call for leniency?
11. Did the trial court err when it required Snelling to wear a stun belt and leg brace during the penalty phase re-trial?
12. Was Snelling denied his right to counsel when the trial court failed to determine whether he had a qualified capital defense team?
13. Did several alleged instances of prosecutorial misconduct, either individually or cumulatively, deny Snelling a fair trial?
14. Should Snelling's death sentence be vacated on independent review?

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