



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**STATE OF ARIZONA v. DEREK DON CHAPPELL
CR-07-0384-AP**

PARTIES:

Petitioner: Derek Chappell

Respondent: The State of Arizona

FACTS:

On the morning of March 11, 2004, the Mesa Police Department responded to a 911 call from Kristal Shackelford that her two-year-old son, Devon, was missing. Devon's body was soon found in their apartment complex's pool, and an autopsy later confirmed that he had drowned.

Chappell, who had been engaged to Shackelford, quickly became a suspect in Devon's death because of his tumultuous relationship with Shackelford and a December 2003 incident in which Chappell choked Devon. Chappell subsequently confessed to having drowned Devon, but claimed he was carrying out Shackelford's plan to kill her son.

Chappell was indicted for first degree murder and one count of child abuse, related to the choking incident. A jury found Chappell guilty of both charges and, after finding three aggravating circumstances, sentenced him to death for the murder.

ISSUES ON APPEAL:

1. Did the trial court's admission of Chappell's statements about the murder violate the rule of *corpus delicti*, which prohibits the admission of a defendant's confession if there is no independent corroborating evidence to indicate that a crime occurred?
2. Was there sufficient evidence to prove beyond a reasonable doubt the "especially cruel" aggravator, under A.R.S. § 13-751(F)(6)?
3. Did the medical examiner's testimony that drowning was a "horrific" experience and a "10" on a scale of one to ten constitute an improper expert opinion on an ultimate issue?
4. During the aggravation phase, was it prosecutorial misconduct for the State to: (1) focus on the physiological effects of drowning; (2) elicit the medical examiner's subjective opinion about the experience of drowning; (3) repeatedly refer to the victim's age and the prior choking incident; and (4) urge jurors to consider "community" values in reaching their verdict?

5. Did the jury receive proper limiting instructions to evaluate whether the murder was committed in an “especially cruel” manner?
6. Did the trial court abuse its discretion by excluding evidence of the impact that Chappell’s execution would have on his family?
7. Did the trial court’s admonition that Chappell would be subject to cross-examination if he disputed his guilt or the facts of the case during allocution improperly limit his right to speak to the jury before sentencing?
8. Did the trial court’s admission, during the penalty phase, of other acts evidence, including Shackelford’s allegations that Chappell had injured Devon on several prior occasions, constitute an abuse of discretion or violate Chappell’s constitutional rights?
9. Did the jury receive proper instructions about Chappell’s potential eligibility for release if he was given a life sentence?
10. Did the trial court abuse its discretion by refusing to instruct jurors that they should consider the cumulative effect of Chappell’s mitigation evidence as a separate and independent mitigating factor?
11. Was the jury improperly permitted to double-count the victim’s age and Chappell’s prior conviction when weighing the aggravating and mitigating factors to determine the appropriate sentence?
12. Did the trial court abuse its discretion by refusing the jurors’ request for a written transcript of Chappell’s allocution?
13. Did the jury abuse its discretion in finding that the three aggravating factors, under A.R.S. § 13-751(F)(2), (F)(6), and (F)(9), were proven beyond a reasonable doubt?
14. Did the jury abuse its discretion in concluding that Chappell had not presented sufficient mitigating evidence to call for leniency?

ISSUE ON CROSS-APPEAL:

1. Did the trial court err by ruling that Chappell’s mitigation specialist’s notes summarizing witness statements were not subject to disclosure?

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