ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY

STATE OF ARIZONA v. BRAD LEE NELSON
CR-09-0343-AP

PARTIES:

Appellant: Brad Lee Nelson

Appellee: State of Arizona

FACTS:

In June 2006, Appellant Brad Lee Nelson was staying at a motel in Kingman, Arizona with his niece and nephew while their mother was in the hospital. During the morning of June 9th, Nelson went to a local Kmart and purchased a rubber mallet which was later used to beat his fourteen-year-old niece to death. His semen was found on his niece's body.

Nelson was charged with first-degree murder and child molestation. At trial, he admitted to the murder but denied it was premeditated. After the State presented its case in the guilt phase of the trial, Nelson moved for a judgment of acquittal on the child molestation charge. The trial court granted the motion. The jury found Nelson guilty of premeditated first-degree murder. The jury then found as an aggravating circumstance that Nelson was an adult at the time of the murder and the victim was under fifteen years old, A.R.S. § 13-751(F)(9). Finding no mitigating circumstances sufficiently substantial to call for leniency, the jury imposed a sentence of death.

ISSUES:

1. Was Appellant deprived of his right to a fair and impartial jury when the trial court did not question potential jurors about contact with another potential juror who had obtained information about the case from the internet?
2. Did the State present substantial evidence to prove Appellant committed premeditated first-degree murder?
3. Did the trial court err in instructing the jury on premeditation and did the prosecutor's closing argument repeat this error?
4. Did the trial court err in not providing a lesser-included instruction on manslaughter?
5. Does the (F)(9) aggravating circumstance violate the Eighth and Fourteenth Amendments?
6. Did the prosecutor commit misconduct during its penalty phase closing argument by making irrelevant and inflammatory remarks regarding uncharged aggravating circumstances and the impact of the murder on the

victim's family and other witnesses?

7. Did the jury abuse its discretion in sentencing Nelson to death and does this standard of review violate the Eighth and Fourteenth Amendments?

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