



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**STATE OF ARIZONA V. JAMES GRANVIL WALLACE
CR-09-0341-AP**

PARTIES:

Appellant: James Granvil Wallace

Appellee: State of Arizona

FACTS:

Appellant James Wallace pleaded guilty to the 1984 murders of his girlfriend and her two children, ages 16 and 12, and was sentenced to death for all three murders. After this Court affirmed the convictions and death sentences on appeal, the federal district court ultimately granted habeas corpus relief to Wallace and ordered a new sentencing trial. That retrial before a jury in 2005 again resulted in three death sentences.

On Wallace's appeal, this Court in 2008 reduced the death sentence for the murder of his girlfriend to life in prison because the evidence was insufficient to prove an aggravating circumstance as to that murder. Due to error in the jury instructions, this Court also remanded the case for a new sentencing trial with respect to the children's murders. In that 2009 trial, a new jury found as the sole aggravating circumstance that Wallace murdered both children in an especially heinous or depraved manner through the use of gratuitous violence, that his mitigation evidence was not sufficiently substantial to call for leniency, and that death was the appropriate sentence for those two murders.

In his current appeal, Wallace raises numerous issues (set forth below). He argues, among other things, that the evidence does not establish beyond a reasonable doubt that he inflicted gratuitous violence on the children victims, a prerequisite in this case to a finding of heinousness or depravity. Because the crimes were committed before August 2002, the law requires this Court to conduct independent review of the death sentences.

ISSUES:

1. Should this Court on independent review vacate Wallace's death sentences and order consecutive terms of life in prison?
2. Did the trial court err in instructing the jury on gratuitous violence?
3. Did the prosecutor's questions to the defense medical expert and corresponding closing arguments improperly shift or lessen the State's burden of proof?
4. Did the State fail to prove gratuitous violence beyond a reasonable doubt?
5. Did the trial court err by admitting evidence that Wallace possessed a handgun?

6. Did the trial court err by allowing the State, in its rebuttal to mitigation, to introduce evidence of the girlfriend's fatal injuries and Wallace's prior acts of violence?
7. Did the trial court err by failing to accept Wallace's stipulation to consecutive life sentences and failing to instruct the jury accordingly?
8. Did the trial court err by reappointing Wallace's 2005 trial counsel for the 2009 resentencing trial?
9. Did the trial court err by denying Wallace's request for an ex parte hearing to address appointment of counsel?
10. Is the record on appeal adequate for reviewing the assigned errors?
11. Did the prosecutor commit misconduct by (1) arguing the less-violent-means theory of gratuitous violence, (2) improperly arguing in support of aggravation, (3) interfering with appointment of counsel, (4) misstating the law relating to the consideration of mitigation evidence, (5) questioning a witness about an improper topic and improperly arguing during the penalty phase, and (6) conflating the victims with the State?
12. Did the trial court improperly restrict Wallace from adequately questioning prospective jurors during jury selection?
13. Did the State improperly use peremptory strikes to remove religious jurors?
14. Did the trial court err in instructing the jury on mitigation during the penalty phase?
15. Did the trial court err by failing to ensure that jurors considered mitigation evidence presented in a notebook prepared by Wallace?
16. Did the trial court err by admitting into evidence crime scene and autopsy photographs depicting the victims' injuries?
17. Did the trial court violate Wallace's Confrontation Clause rights by allowing a medical examiner to testify in reliance on the autopsy findings of a deceased medical examiner?
18. Did the trial court err by allowing Wallace to wear his prison garb and be shackled in the jury's presence?

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