



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**STATE OF ARIZONA v. DALE HAUSNER
CR-09-0077-AP**

PARTIES:

Appellant: Dale Hausner

Appellee: The State of Arizona

FACTS:

In late June and early July 2006, the Phoenix Police Department concluded that a serial shooter was involved in 13 shootings in the Phoenix area. The victims generally were pedestrians or bicyclists who were alone; the shootings occurred between 10 p.m. and 3 a.m.; the weapons were .410 and .12 gauge shotguns; and a vehicle was involved that was described as a “light blue, silver, or gray-type Toyota Camry-type vehicle.” The police formed a task force that drew nationwide media attention and began to receive tips through the “Silent Witness” program.

On July 16, Ron Horton called Silent Witness and said that a friend named “Sammy” had indicated his involvement in shootings. After additional shootings in July, Horton agreed to help police track his friend, Samuel Dieteman. Horton met Dieteman on August 1 at a local bar, where Dieteman was dropped off by Dale Hausner. Police then followed Hausner who, at 1:12 a.m. on August 2, picked up Dieteman from a casino. After observing Hausner and Dieteman remove a duffel bag from the trunk and place it inside the car, police then followed them for three hours as they drove around the East Valley. Hausner’s car approached pedestrians or individuals on bicycles, slowed, then made a U-turn or went around the block. Eventually, Hausner and Dieteman returned to Hausner’s apartment.

On the evening of August 2, police arranged for an emergency wiretap for Dale Hausner’s apartment and car and placed the listening devices the next morning. In recorded conversations over the next 15 hours, Hausner and Dieteman discussed particular shootings and victims. The two were arrested at 11:55 p.m. on August 3.

Searches of Hausner’s apartment, car, and the trash outside his apartment revealed evidence including a map, bearing both Hausner’s and Dieteman’s fingerprints, of the Phoenix area with 12 dots on it, some of which were near shootings; a paper with the most recent victim’s name, date, and time of death on it; newspaper articles, clippings, and newscast recordings about the shootings; and weapons and ammunition, including two .410 shotguns and .410 shells and a .12 gauge shotgun.

Upon arrest, Hausner admitted owning shotguns and ammunition but never admitted to the

shootings. He participated in a press conference on August 7, 2006, where he denied any involvement in the shootings. Dieteman later entered a plea agreement and testified against Hausner at trial.

The State ultimately filed 88 charges against Hausner in five cases arising from random shootings and other crimes in the Phoenix area. The cases were consolidated for trial. A jury convicted Hausner of 80 offenses. Hausner waived mitigation and the jury determined that he should be sentenced to death for each of six premediated murders.

ISSUES:

1. Did the trial court improperly dismiss potential jurors 164B and 235A?
2. Were surreptitiously recorded conversations from Hausner's apartment obtained in violation of Arizona's emergency wiretap law or Article 2, § 8 of Arizona's constitution?
3. Did the trial court abuse its discretion by allowing the State to combine all counts into one trial?
4. Did sufficient evidence support convictions on Counts 8, 11, 12, and 26-28?
5. Did the trial court abuse its discretion in admitting out-of-court statements by victims Roberts, Perez, and Rodriguez?
6. Did the trial court abuse its discretion in allowing the State to present other acts evidence and refusing Hausner's request to present surrebutal?
7. Must this Court's standard of review for the aggravation phase findings take into account errors of law affecting the jury's verdicts?
8. Does the abuse of discretion standard of review imposed by A.R.S. § 13-756(A) violate the Eight Amendment or due process?
9. Did the jury abuse its discretion by finding the (F)(6) aggravator—heinous and depraved—as to victims Ortis, Carillo, Gutierrez-Cruz, and Blasnek?
10. Did the jury abuse its discretion by finding the (F)(6) aggravator—cruelty—as to victims Guterriez-Cruz and Blasnek?
11. Is the A.R.S. § 13-751(F)(13) aggravating factor facially vague? Did the trial court adequately instruct the jurors? Did the jurors abuse their discretion by finding the factor proven for the murders of Ortis, Carillo, Gutierrez-Cruz, and Blasnek?
12. Must this Court's standard of review for the penalty phase take into account errors of law?
13. Should Hausner have been allowed to waive the presentation of mitigation evidence?
14. Should Hausner's counsel have been allowed to withdraw when the trial court allowed Hausner to preclude mitigation and any argument for life?
15. Should the Court consider mitigation presented during the guilt phase?
16. Should the jury's death penalty verdicts be vacated?
17. Did the trial court erroneously sentence the non-capital counts as "multiple offenses not committed on the same occasion" under A.R.S. § 13-702.02 because the State did not allege such enhancement before trial?

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