



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**STATE OF ARIZONA v. EFREN MEDINA
CR-10-0031-AP**

PARTIES:

Appellant: Efren Medina

Appellee: State of Arizona

FACTS:

This automatic appeal arises from Defendant Efren Medina's death sentence for the murder of Carle Hodge.

On September 30, 1993, Medina was driving with Ernest Aro and Kevin Martinez, when he spotted Carle Hodge sitting in his parked vehicle. Medina got out of the car, pulled Hodge out of his vehicle, and kicked him in the head. Aro left in Medina's car. Medina and Martinez attempted to hot-wire Hodge's car and steal the radio, but they were unsuccessful. Medina then stomped on Hodge and pulled his body into the street.

Aro returned, at which point Medina and Martinez climbed back into Medina's car. Medina's girlfriend testified that Medina told her he directed Aro to move over so Medina could drive, and that Medina drove over Hodge's body three times. A neighbor across the street who witnessed some of these events called the police.

Following a trial, a jury found Medina guilty of one count of first degree murder (premeditated murder and felony murder), one count of burglary in the third degree, and one count of aggravated robbery. The trial judge sentenced Medina to death but later vacated the sentence upon determining that Medina's attorney had provided ineffective assistance of counsel. As a result, Medina was ordered to be resentenced.

The first resentencing jury found four aggravators: Medina had prior convictions of a serious offense, A.R.S. § 13-701(F)(2); the offense was committed in an especially heinous or depraved manner, A.R.S. § 13-701(F)(6); the offense committed while Medina was on authorized release from the state department of corrections, A.R.S. § 13-701(F)(7)(a); and the victim was over 70 years old, A.R.S. § 13-701(F)(9). That jury could not, however, reach a unanimous decision concerning the appropriate penalty. The second resentencing jury returned a verdict of death, upon finding no mitigation sufficiently substantial to call for leniency.

ISSUES:

1. Whether the trial court abused its discretion when it summarily denied Medina's petition for post-conviction relief and request for a new guilt phase trial based upon an invalid search warrant and newly discovered evidence involving the lone eye witness' testimony regarding who was driving the car that killed the victim? Was evidence seized from Medina's home and vehicle without a valid search warrant introduced at his trials in violation of the Fourth Amendment?
2. Whether subjecting Medina to a second penalty phase jury trial violated the Eighth and Fourteenth Amendments?
3. Was Medina deprived of his right to a fair and impartial jury in violation of the Sixth, Eighth, and Fourteenth Amendments in the first resentencing trial when the court released approximately 57 jurors based solely upon their answers on the jury questionnaires and the stipulation of counsel?
4. Was Medina deprived of his right to a fair and impartial jury in violation of the Sixth, Eighth, and Fourteenth Amendments as a result of erroneous rulings on the State's motions to strike life-scrupled jurors for cause during both trials?
5. Did the State's peremptory strikes of three minority jurors during his first resentencing trial violate Medina's rights to equal protection under the Fourteenth Amendment?
6. Whether the autopsy report admitted at both retrials prepared by a non-testifying medical examiner was inadmissible hearsay admitted in violation of the Sixth Amendment's Confrontation Clause?
7. Was Medina deprived of his right to a fair and impartial jury during his first resentencing trial after the victim's daughter had extrajudicial contact with a deliberating juror?
8. Did use of the current version of A.R.S. § 13-752(G) to permit the State to offer "any" evidence why he should not be granted leniency for his 1992 murder conviction violate the constitutional prohibition against ex post facto legislation?
9. Was the jury instruction defining the (F)(6) aggravator in Medina's second resentencing trial vague and a violation of the Fifth, Sixth, Eighth, and Fourteenth Amendments?
10. Were the prosecutor's numerous references to Medina's lack of remorse and unproven aggravating circumstances during her closing argument fundamental error in violation of the Fifth and Fourteenth Amendments?
11. Is there mitigation sufficiently substantial to warrant a life sentence on independent review?

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