



**ARIZONA SUPREME COURT  
ORAL ARGUMENT CASE SUMMARY**



**STATE OF ARIZONA v. SHAWNTE SHUREE JONES  
CR-13-0292-PR**

**PARTIES:**

*Petitioner:* The State of Arizona

*Respondent:* Shawnte Shuree Jones (“Appellant” or “Jones”)

**FACTS:**

Jones called 911 and said her 10-month old daughter, L., had stopped breathing. At the hospital, physicians put L. on life support and a ventilator. Later L. showed no brain activity. Doctors removed the ventilator and L. died in a few days.

The medical examiner deemed the cause of death to be “blunt force head trauma,” but found seven recent head contusions (bruises) that left the medical examiner unable to say that one blow caused the death. Jones originally explained the injuries to be from an accidental fall. The examiner concluded L.’s injuries were not consistent with an accidental fall and ruled the death a homicide. Under police questioning, Appellant later admitted that she had slammed L.’s head on the floor several times.

A grand jury indicted Jones for: Count 1, child abuse, a class two felony and dangerous crime against children, for not giving nourishment and/or medical attention to L.; Count 2, child abuse, a class two felony and dangerous crime against children, for causing her head injuries; and Count 3, first-degree murder, a class one felony, for causing the death of a child during and in furtherance of child abuse alleged in Count 2. Jones waived her jury trial rights. After trial, the court convicted her on Count 1 of the lesser-included offense of reckless child abuse, a class three felony, and the other offenses as charged.

The court sentenced Jones to 3.5 years for Count 1, 17 years for Count 2, and life with the possibility of release after 35 years for Count 3. The sentences for Counts 1 and 3 were to run concurrently, followed by the Count 2 term.

The court of appeals asked the parties to address the question of whether consecutive sentences imposed on Jones under Arizona Revised Statutes section (“A.R.S. §”) 13-705(M) violated A.R.S. § 13-116’s ban on double punishment.<sup>1</sup> Section 13-116 prohibits imposing consecutive sentences for a single “act or omission which is made punishable in different ways by different sections of the laws.” That section conflicts with § 13-705(M), which mandates that other than for offenses involving child molestation or sexual abuse with only one victim, sentences imposed for

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<sup>1</sup> “[W]hen an appellate court notes the possibility of fundamental error in a criminal proceeding, it may raise the issue on its own motion and order the parties to submit supplemental briefs addressing the issue.” *State v. Curry*, 187 Ariz. 623, 627, 931 P.2d 1133, 1137 (App. 1996).

dangerous crimes against children be “consecutive to any other sentence imposed on the person at any time.” In *State v. Arnoldi*, 176 Ariz. 236, 860 P.2d 503 (App. 1993), the court of appeals held “that § 13-116 is paramount in the statutory scheme of sentencing” and the dangerous crimes against children statutes (including § 13-705(M)) “require a trial court to impose consecutive sentences, *but only in the event that those sentences do not violate § 13-116.*” 176 Ariz. at 243, 860 P.2d at 509 (emphasis added).

The court of appeals held that as to Counts 2 and 3, which were based on the same conduct, the section that specifically addresses offenses arising from the same act or conduct determines the result. It concluded that under *Arnoldi*, § 13-705(M) requires consecutive sentences *except* when § 13-116 applies. It modified the sentence on Count 2 so that Jones will serve all sentences concurrently.

#### **ISSUE:**

Appellant, Shawnte Shuree Jones, stands convicted of a dangerous crime against children (child abuse), and felony murder. Under A.R.S. § 13-705(M), any sentence imposed for a conviction for a dangerous crime against children must be consecutive to any other sentence. Did the court of appeals err by modifying Appellant’s dangerous-crimes-against-children sentence to run concurrently with the sentence for felony murder?

#### **DEFINITIONS:**

##### **Jury trial rights (the right to trial by jury):**

The Sixth Amendment to the United States Constitution provides in part, “In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury . . . and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.” (Emphasis added.)

A defendant may waive (give up) the right to trial by jury if the judge is convinced the defendant has done so intelligently, knowingly, and voluntarily.

##### **Lesser-included offense:**

A crime that shares some, but not all, of the elements of the greater criminal offense. If the factfinder (here, the court) is convinced of the elements in the lesser-included offense but has reasonable doubt about the additional element that makes the offense greater, it can convict the defendant on the lesser charge.

*This Summary was prepared by the Arizona Supreme Court Staff Attorneys’ Office solely for educational purposes. It should not be considered official commentary by the Court or any member thereof or part of any brief, memorandum, or other pleading filed in this case.*