



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**VICENTE SANCHEZ v. STATE OF ARIZONA
CV-13-0280-PR**

PARTIES:

Petitioner: Vicente Sanchez

*Respondent/
Real Party in Interest:* State of Arizona

FACTS:

The Yavapai County Grand Jury indicted Vicente Sanchez and three co-defendants on first-degree murder and several other crimes. Sanchez filed a motion to send the matter back to the grand jury to redetermine whether probable cause supported the charges. Before the court ruled on that motion, the State filed a notice of its intent to seek the death penalty that contained a list of aggravating circumstances that made Sanchez eligible for the death penalty.

The trial court granted Sanchez's motion for a redetermination of probable cause to support the charges. The State then presented evidence to the grand jury to show both that there existed probable cause to proceed on the charges and for the State to allege three aggravating circumstances (that Sanchez committed the offense in an especially heinous, cruel, or depraved manner; that he committed the offense to prevent a person's cooperation with law enforcement; and that he committed the offense in a cold and calculated manner without the pretense of moral or legal justification). The grand jury agreed with the State, finding probable cause to support the charges and each of the aggravating circumstances.

Back in the trial court, Sanchez filed a second motion for the grand jury to redetermine whether probable cause supported the charges. In addition to arguing the alleged flaws in the State's grand-jury presentation, Sanchez also argued that the State's act of presenting aggravating-circumstances evidence to the grand jury constituted error. He maintained that the State's conduct violated *McKaney v. Foreman (State)*, 209 Ariz. 268, 272, 100 P.3d 18, 22 (2004), where the Arizona Supreme Court decided against requiring the State to present aggravating-circumstances allegations to a grand jury, partly because doing so would improperly "expand the statutory role of the grand jury as a matter of state constitutional law." Sanchez also asserted that the State's conduct precluded his ability to elect whether or not to request a hearing under Arizona Rule of Criminal Procedure 13.5 and *Chronis v. Steinle (State ex rel. Thomas)*, 220 Ariz. 559, 208 P.3d 210 (2009), to challenge (in front of a judge) whether the State presented sufficient evidence of probable cause to justify the aggravating-circumstances allegations.

In response, the State argued that Arizona law did not prohibit the State from presenting aggravating-circumstances allegations to the grand jury, and because a grand-jury proceeding tests the same thing that a Rule 13.5/*Chronis* hearing tests—the existence of probable cause—a grand jury’s determination of aggravating circumstances is legally appropriate and eliminates the obligation to conduct another hearing to test the same thing.

The trial court agreed with the State and denied Sanchez’s motion for a redetermination of probable cause. Sanchez then filed a petition for a special action in the Arizona Court of Appeals, and in a 2–1 opinion, the intermediate appellate court upheld the trial court’s ruling.

The majority held that the State’s decision to present aggravating circumstances to the grand jury rendered a Rule 13.5/*Chronis* hearing moot because the grand jury already found probable cause for the aggravating circumstances, no state or federal law precluded the State from presenting aggravating-circumstances allegations to the grand jury, and the two proceedings (a preliminary hearing and a grand-jury proceeding) serve the same function of screening the allegations for the existence of probable cause. The dissent disagreed, arguing that the majority decision (1) allows the State to evade the compromise established through Rule 13.5 and *Chronis*, (2) violates the statutes and rules that govern the process for alleging aggravating circumstances, (3) ignores the different functions of the two proceedings, and (4) expands the grand jury’s function beyond its statutory role of determining whether probable cause exists for the actual elements of the underlying charges.

Sanchez now seeks review of the court of appeals’ opinion in the Arizona Supreme Court.

ISSUE:

Sanchez describes the issue presented as follows: “Did Respondent Judge err when she denied Petitioner’s Motion for a *Chronis* Hearing in his First Degree Capital Murder case by finding that a probable cause decision had already been made concerning the aggravating factors alleged by the State in his case when those factors were presented to the same Yavapai County grand jury that indicted him for the underlying criminal charges?”

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