



**ARIZONA SUPREME COURT  
ORAL ARGUMENT CASE SUMMARY**



**STATE OF ARIZONA v. DARRELL BRYANT KETCHNER  
CR-13-0158-AP**

**PARTIES:**

Appellant: Darrell Bryant Ketchner

Appellee: State of Arizona

**FACTS:**

This automatic appeal arises from Defendant Darrell Bryant Ketchner's convictions and resulting sentences for one count each of first-degree felony murder, attempted first-degree murder, first-degree burglary, and three counts of aggravated assault.

Ketchner had a long-term and tumultuous romantic relationship with J.A. J.A. had two children from a prior relationship and had three children with Ketchner. Beginning in 2008 and culminating in 2009, Ketchner's and J.A.'s relationship became increasingly volatile. In July 2009, Ketchner entered J.A.'s home, attacked her, and killed her eighteen-year-old daughter.

A jury found Ketchner guilty of all charges. The jury found the existence of three aggravating factors: Ketchner was previously convicted of a serious offense, A.R.S. § 13-751(F)(2), he committed the murder in an especially cruel manner, A.R.S. § 13-751(F)(6), and he committed the murder while in custody of or on authorized or unauthorized release, A.R.S. § 13-751(F)(7)(a). The jury sentenced Ketchner to death after finding that the mitigating evidence was not sufficiently substantial to call for leniency. Ketchner also received sentences totaling 75 years' imprisonment for the non-capital counts.

**ISSUES:**

1. Whether the admission of irrelevant and inflammatory prior bad act evidence violated Ketchner's right to a fair trial under the Fourteenth Amendment?
2. Under the current version of Rule 702, Arizona Rules of Evidence, may a cold expert witness consistent with due process under the Fourteenth Amendment offer opinions regarding domestic violence?
3. Did the trial court violate Ketchner's Sixth Amendment rights to cross examination and confrontation when it precluded him from questioning a state's witness regarding pending criminal charges that were relevant regarding her bias and motive?

4. Whether the trial court abused its discretion when it denied Ketchner's motion for mistrial after the state repeatedly elicited testimony that he was in prison on several occasions in the years prior to the murder and thereby deprived him of his right to a fair trial under the Fourteenth Amendment?
5. Is Ketchner's conviction for felony murder predicated on committing a burglary with the intent to commit murder, attempted murder or aggravated assault a violation of Due Process under the Fourteenth Amendment and was he denied his right to a unanimous verdict in violation of Due Process and the Arizona Constitution?
6. Was the use of the same fact to support Ketchner's felony murder conviction, the (F)(2) aggravating circumstance and a separate prison sentence a violation of double jeopardy and cruel and unusual punishment under the Fifth, Eighth and Fourteenth Amendments? Is ARS § 13-751(F)(2)'s contemporaneous prior conviction provision unconstitutional?
7. Did the state prove the (F)(6) aggravating circumstance beyond a reasonable doubt?
8. Does the (F)(7) aggravating circumstance apply to a defendant on pretrial release for a misdemeanor charge and if so is its use as a death qualifying fact a violation of the Eighth and Fourteenth Amendments?
9. Was the introduction of inflammatory and irrelevant victim impact evidence a violation of Ketchner's rights under the Eighth and Fourteenth Amendments?
10. Did the juror's consideration during penalty deliberations of extrinsic and false evidence that the trial court could grant Ketchner "compassionate release" if he were sentenced to life a violation of the Sixth, Eighth and Fourteenth Amendments?
11. Did the jury abuse its discretion by sentencing Ketchner to death?

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