



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**State of Arizona v. Kevin Artice Miles
CR-16-0021-PC**

PARTIES:

Petitioner: State of Arizona

Respondent: Kevin Artice Miles

FACTS:

After trial to a jury in 1993 in the Pima County Superior Court, Kevin Miles was convicted of first degree murder, dangerous kidnapping, and dangerous armed robbery. The trial court imposed the death penalty and prison terms. The convictions and sentences were affirmed on appeal. The superior court denied Mr. Miles' initial petition for post-conviction relief. Review was denied.

Federal court proceedings took place from 2001 to March 2013, when the circuit court of appeals issued its opinion affirming the denial of habeas corpus relief. The United States Supreme Court denied the petition for writ of certiorari.

Mr. Miles filed a second petition for post-conviction relief in the Pima County Superior Court. The superior court granted relief on the following grounds:

1. Miles is granted relief based on his Rule 32.1 (h) showing that he is ineligible for the death penalty under *Tison v. Arizona*. On this basis, the Court vacates Miles' death sentence and imposes a sentence of life imprisonment.
2. In the alternative, if Miles is found to be eligible for the death penalty under *Tison*, Miles is granted relief based on his Rule 32.1(h) showing that in the weighing of the mitigation evidence and aggravating circumstances, the sentencing court would not have imposed the death penalty. On this basis, the Court vacates Miles' death sentence and the case is remanded for a new sentencing.

The Arizona Supreme Court granted the State of Arizona's Petition for Review.

ISSUES:

1. Did the PCR court err by finding that Miles demonstrated by clear-and-convincing evidence that the sentencing judge would not have found *Tison* satisfied had he heard Miles' newly-generated mental-health evidence, where the court impermissibly relied on diminished-capacity and voluntary-intoxication evidence to reach that conclusion?

2. As a matter of law, can newly-proffered mitigation ever constitute clear-and-convincing evidence that a sentencer would not have imposed the death penalty?

Definitions:

Rule 32.1(h), Arizona Rules of Criminal Procedure, provides grounds for relief when:

h. The defendant demonstrates by clear and convincing evidence that the facts underlying the claim would be sufficient to establish that no reasonable fact-finder would have found defendant guilty of the underlying offense beyond a reasonable doubt, or that the court would not have imposed the death penalty.

Ariz. R. Crim. P. 32.1(h)

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