



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**STATE OF ARIZONA v. WAYNE PRINCE, JR.
CR-09-0019-AP**

PARTIES:

Appellant: Wayne Benoit Prince, Jr.

Appellee: The State of Arizona

FACTS:

In March 1998, Wayne Prince, Jr. shot his wife, Christine Parker, and his thirteen-year-old step-daughter, Cassandra Parker, during a heated domestic dispute. Christine survived, but Cassandra died from her injuries. After a jury trial in 1999, Prince was convicted of one count of first-degree murder and one count of attempted murder.

The trial judge sentenced Prince to death in 2000. In 2002, however, the United States Supreme Court ruled that juries, not judges, must find the facts constituting aggravating circumstances, which are statutory factors that make a defendant eligible for the death penalty. *Ring v. Arizona*, 536 U.S. 584 (2002). Thereafter, this Court upheld Prince's convictions but, based on *Ring*, later vacated the death sentence and remanded the case to the superior court for a new sentencing proceeding on the first-degree murder conviction. *State v. Prince*, 204 Ariz. 156, 161, 61 P.3d 450, 455 (2003); *State v. Prince*, 206 Ariz. 24, 28 ¶ 15, 75 P.3d 114, 119 (2003).

On remand, a new jury found two aggravating circumstances: Prince committed the murder in an especially cruel manner, and Cassandra was under fifteen and Prince over eighteen years of age at the time of the murder. See Ariz. Rev. Stat. ("A.R.S.") § 13-751(F)(6), (F)(9). That jury, however, could not unanimously decide on a penalty and, therefore, was discharged. A second penalty jury was then impaneled pursuant to the statutory directive in A.R.S. § 13-752(K). That jury sentenced Prince to death after finding no mitigating circumstances sufficiently substantial to call for leniency. This automatic appeal followed.

ISSUES:

1. Did impaneling a second penalty phase jury under A.R.S. § 13-752(K) violate the Ex Post Facto clauses of the United States and Arizona Constitutions?
2. Is A.R.S. § 13-752(K) unconstitutionally vague because it does not set forth how a second penalty phase jury is to receive evidence of aggravating circumstances?
3. Were Prince's constitutional rights violated when the second penalty phase jury did not determine the aggravating circumstances?

4. Did the trifurcation of Prince's trial between separate guilt, aggravation, and penalty phase juries violate his constitutional rights?
5. Did the admission of Christine Parker's victim impact statement during the second penalty phase violate Prince's constitutional rights?
6. Did the prosecutor commit misconduct by (1) referring to Christine Parker's medical condition, (2) alluding to Prince's temper, (3) improperly using the term "excuse" during questioning of the psychiatric experts, and (4) arguing that Prince's mitigating circumstances lacked a nexus to the crime?
7. During the jury selection for the aggravation phase, did the trial court (1) improperly strike three jurors for cause because of their views on the death penalty and (2) improperly strike another juror for cause because of his prior out-of-state felony conviction?
8. Did the trial court violate Prince's Confrontation Clause rights by admitting a transcript of the criminalist's guilt-phase testimony at the aggravation phase?
9. Did the trial court's failure to obtain an on-the-record waiver of Prince's right to testify at the aggravation and penalty phases violate his rights?
10. Did the court's jury instructions properly narrow the "especially cruel" aggravating factor?
11. Did the trial court erroneously deny Prince's motion for a mistrial after a juror fell asleep during a portion of the aggravation phase?
12. Were the penalty phase jury instructions regarding mitigation inconsistent and confusing?
13. Should Prince's death sentence be vacated on independent review by this Court?

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.