



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



STATE v. LOUIE THOMAS MACHADO
CR-10-0242-PR

PARTIES:

Petitioner/Appellee: The State of Arizona.

Respondent/Appellant: Louie Thomas Machado.

FACTS:

On October 25, 2000, 16-year-old Rebecca R. drove herself home from a pizza party hosted by the youth group of her church. Rebecca's mother was inside the house waiting for her daughter and talking on the telephone when she heard Rebecca pull up and close the door of her car. A neighbor reported hearing a brief argument outside, in which Rebecca said she did not want to go with a man who had confronted her. Before Rebecca's mother could open the front door of the house, she heard a gunshot. Rebecca screamed and staggered toward her house, collapsing near the front porch. Her attacker ran away and fled the scene in a small, light-colored pickup truck.

Police originally suspected a classmate of Rebecca's, Jonathan H., of committing the murder. Jonathan was the boyfriend of Rebecca's best friend, Laura. Investigators, however, later shifted their focus to Machado. In addition to knowing Rebecca from school, Machado had dated Rebecca's cousin and had been friends with one of Rebecca's neighbors. The case remained unsolved for several years. In 2006, investigators from a newly formed "cold case" unit reopened the investigation, and a grand jury charged Machado with first degree murder.

The state contended at trial that Rebecca's father owed a drug debt to Machado's father, and Machado shot her accidentally in an effort to collect that debt. The state's only direct evidence supporting this particular theory were statements made by Machado's mother, Patricia, to police. She informed police that Machado had admitted these details when he told her he had killed Rebecca. Patricia also told police that Machado had told her he had killed Rebecca with an "old, antique gun," using bullets that could not be traced back to him. Although the murder weapon was never recovered, the bullet that killed Rebecca was a .32 caliber Smith & Wesson Long—a cartridge used in the early 20th century but rarely used in modern firearms.

The state also presented evidence that Machado had confessed to killing Rebecca to his girlfriend over the telephone when he was hospitalized. Other evidence established that his father owned a light-colored pickup truck. Earlier in the investigation Machado had told police he had been with Rebecca when she was shot by another person. Machado told other people differing versions of

this story, but he consistently said he had been with Rebecca when she was shot by someone else. However, those accounts were inconsistent with the physical evidence and witnesses' testimony about events on the night of the murder. Machado later retracted those statements and claimed he had never been present when Rebecca was killed. In 2006, after seeing Machado's picture on the news in connection with the murder, Rebecca's neighbor, who was also the father of Machado's friend in the neighborhood, informed police he had seen Machado walking down the street immediately after the shooting, Machado had recognized him, and Machado had said, "Hi."

Machado presented evidence at trial that Patricia had informed detectives she had fabricated Machado's alleged confession to "get even" with him for siding with his father during a contentious divorce and custody battle. Patricia's testimony at trial was consistent with that recantation. Machado's girlfriend testified she could neither hear Machado's telephonic statements to her clearly nor did she interpret his words at the time to be a confession that he had killed Rebecca. Machado also presented evidence that the witness who had identified him as being at the crime scene previously had told police he had not seen anyone leaving the scene on the night of the murder, and Machado presented expert testimony explaining how witnesses may create false memories over time.

To explain how Patricia's initial story about Machado's confession could have included accurate details about the incident, Machado presented evidence that some of those details, including the old "western-style gun" used in the murder, were circulated previously by the detective investigating the case. Machado elicited testimony that rumors and speculation about Rebecca's death were widespread, and Rebecca's mother had told police on the night of the killing that her ex-husband's drug use might somehow be behind it. Machado emphasized that no physical evidence connected him to the murder. He also elicited testimony that the truck seen leaving the murder scene had a camper shell, unlike the vehicle owned by his father.

Machado argued Jonathan was the person who had committed the crime. At trial, Machado presented evidence that Jonathan was upset with Rebecca for interfering with his relationship with his girlfriend and had threatened to kill Rebecca two weeks before her murder. Machado established that Jonathan had an "uncontrollable temper," was "very capable of violence," and had a restraining order issued against him to protect a former girlfriend. Although Jonathan had a date scheduled with Rebecca's best friend on the night of the murder, Jonathan did not show up for the date, and he gave inconsistent accounts of his whereabouts on that night. In addition to this evidence, Machado presented photographs at trial identifying Jonathan and depicting him wearing somewhat baggy clothes—a similar style of clothing an eyewitness had described the shooter wearing.

The trial court precluded Machado from presenting the following evidence: (1) Within a month after the murder, Rebecca's family had received a telephone call from a person who sounded like a "well-spoken" young, white male. That person confessed to the shooting, said he knew the family but did not expect them to remember him, gave a reason for the killing consistent with the threats Jonathan previously had made to Rebecca, referred accurately to non-public details of the crime and funeral, and apologized for the murder, which he claimed had been accidental; (2) Police obtained a search warrant for Jonathan and listed the telephone call among the grounds that gave police probable cause to suspect him; (3) In early 2000, after threatening to kill his girlfriend at that

time (Kimberly) and her family, Jonathan pointed an “older looking . . . revolver” at Kimberly and her sister outside their house, told them to get into his car, drove them across town, and dropped them off, telling them to walk home; (4) In 2005, Jonathan was convicted of assault for pointing a fake gun at his girlfriend (Deanna) and telling her he had killed before and would kill again; (5) Jonathan had access to firearms, and Rebecca’s best friend (Laura) had overheard a conversation between Jonathan and his friend, Ryan, during which they had discussed what guns they owned, and Ryan had said he had a “.32 something;” (6) Upon examining Jonathan’s school notebook in November 2000, police found an entry he had written about the “perfect murder” for a school assignment; (7) After Rebecca’s death, Jonathan put her picture in his bedroom, referred to her as an “angel” and his “higher power,” and attempted suicide; (8) Jonathan repeatedly was physically violent toward women he had been involved with romantically over the years, and, within several years of Rebecca’s murder, he put a knife to his girlfriend’s (Nicol) throat after he had been drinking; (9) In 2001, Jonathan was arrested and indicted on two counts of aggravated assault for a “road rage” incident in which he pointed a revolver at another driver and passenger.

The trial court also ruled inadmissible polygraph test results, parts of which suggested Machado did not shoot Rebecca. The court further ruled inadmissible statements Machado had made to police officers, including his comment that Rebecca had driven home in a “slug bug,” when in fact she had driven home in a Ford Escort. The court denied Machado’s specific jury instruction relating to the reliability of eyewitness identification, and the jury found him guilty of the lesser offense of second degree murder. The court sentenced him to an aggravated term of 18 years of imprisonment. Machado timely appealed, arguing that the trial court denied him his constitutional right to present a defense by excluding third-party culpability evidence under Rule 403 and the rule against hearsay.

The court of appeals reversed and remanded for further proceedings. The court found the trial court had erred in excluding significant exculpatory evidence. The court reviewed the excluded evidence “in a light most favorable to its *proponent*, maximizing its probative value and minimizing its prejudicial effect.” *State v. Castro*, 163 Ariz. 465, 473, 788 P.2d 1216, 1224 (App. 1989), quoting *United States v. Jamil*, 707 F.2d 638, 642 (2d Cir. 1983) (emphasis in *Castro*). The court reviewed the trial court’s evidentiary rulings for an abuse of discretion. The State then filed its petition for review.

ISSUE:

Did the trial court err by precluding some, but not all, of Appellant’s proffered third-party culpability evidence?

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