



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**STATE OF ARIZONA v. VINCENT LEE ACCARDO
CR-08-0200-AP**

PARTIES:

Appellant: Vincent Lee Accardo

Appellee: The State of Arizona

FACTS:

In December 1997, Kenneth Cloud was shot and killed in the parking lot of the Burgers & Beers restaurant in Yuma, Arizona by an unknown assailant. Accardo became the focus of the investigation after someone identified him as matching a witness's description printed in the newspaper and the initial investigation revealed ties between Accardo and Kenneth Cloud's wife. In 1998, detectives gathered further evidence linking Accardo to Cloud's wife, but the case remained unsolved until 2003, when the Yuma Police placed wiretaps on the cellular and home telephones belonging to Cloud's wife. The numerous conversations between Accardo and Cloud's wife implicated Accardo in the murder.

Accardo was indicted for conspiracy to commit first degree murder. Following a trial that occurred in 2008, a jury found Accardo guilty and further found that he had committed the murder for pecuniary gain. The jury sentenced him to death after finding no mitigating circumstances sufficient to call for leniency.

ISSUES:

1. Did the trial court err in denying Accardo's motion to dismiss for violation of his right to a speedy trial?
2. Did the trial court abuse its discretion when it struck for cause a juror who expressed a strong belief against the death penalty but said she would follow the law?
3. Did the trial court err in finding that the State's peremptory strike of eight Hispanic jurors did not violate Accardo's equal protection rights?
4. Did the State's opening statement amount to prosecutorial misconduct requiring reversal?
5. Did the trial court err by admitting into evidence the wiretapped conversations between Accardo and Cloud's wife and other recorded statements Cloud's wife made to police?
6. Did the trial court abuse its discretion in finding that the wiretapped conversations met the wiretap necessity requirement?

7. Did the trial court abuse its discretion by precluding evidence relating to a book that allegedly belonged to Cloud's wife that may have discussed "how to murder your husband"?
8. Did the trial court abuse its discretion by precluding computer animations depicting the sequence of events before and after the murder?
9. Did the trial court permit the State to present inflammatory rebuttal evidence during the sentencing phase of the trial?
10. Was there sufficient evidence to prove beyond a reasonable doubt the "pecuniary gain" aggravating factor under A.R.S. § 13-751(F)(5)?
11. Did the jury abuse its discretion in concluding that Accardo had not presented sufficient mitigating evidence to call for leniency?

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