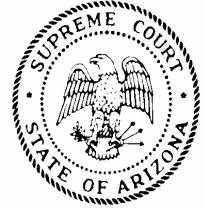




**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



State of Arizona v. Michael Joe Murdaugh
No. CR-01-0421-AP

Parties and Counsel:

Appellant: Michael Joe Murdaugh is represented by Michael S. Reeves and Michael G. Tafoya

Appellee: The State of Arizona is represented by the Arizona Attorney General's Office, by Chief Counsel of the Capital Litigation Section, Kent E. Cattani and Assistant Attorney General Dawn M. Northup

Facts:

In 1995, Appellant was living with his girlfriend and Douglas Eggert. Appellant suspected that Eggert was stealing from him and that Eggert intended to hurt certain people close to Appellant. Consequently, Appellant decided to kill Eggert. Appellant first attempted to sedate Eggert by forcing him to drink a mixture of beer and Valium. When that attempt proved unsuccessful, Appellant ordered Eggert to climb into the cross-bed toolbox on Appellant's truck. Appellant and his girlfriend drove Eggert to the Central Arizona Project Canal. At the canal, Appellant ordered Eggert out of the toolbox and directed him to get on his knees. Appellant gave a gun to his girlfriend and told her to shoot Eggert. When she refused, Appellant retrieved a nylon bat from his truck and used it to beat Eggert to death. Appellant then pushed Eggert's body into the canal where it was recovered several days later.

A few weeks after the Eggert murder, Appellant's girlfriend met David Reynolds at a gas station. When Appellant's girlfriend returned home, she told Appellant that Reynolds had propositioned her. Appellant decided to teach Reynolds a lesson. Appellant's girlfriend paged Reynolds and invited him to Appellant's home. Appellant left with a friend and instructed his girlfriend to page him as soon as Reynolds arrived.

Appellant received the page from his girlfriend and returned home to confront Reynolds. He and his friend armed themselves with a rifle and a handgun and stormed into the house. Appellant began yelling at Reynolds and ordered him to empty his pockets onto the coffee table. Appellant continued to yell at Reynolds while Appellant's girlfriend and friend went outside to take anything of value from Reynolds' van. After keeping Reynolds in the living room for several hours, Appellant decided to move him into the garage so Appellant could "figure things out." Appellant marched Reynolds from the house to his three-bay detached garage and placed him in the trunk of a car. Reynolds remained in the trunk until the following morning.

In the meantime, Appellant and his friend decided to dispose of Reynolds' van. After dumping the van, Appellant stopped for gas and picked up a third friend. The three returned to Appellant's home and went into the detached garage to inject methamphetamine. Appellant heard Reynolds knocking from inside the trunk and Reynolds told Appellant that he had to use the restroom. Appellant let Reynolds' out of the trunk. When Reynolds turned his back to urinate, Appellant used the nylon bat and a jackhammer spike to beat Reynolds to death. Appellant left Reynolds' body in the garage for the remainder of the day.

Late that night, Appellant and his friend loaded Reynolds' body into Appellant's horse trailer. Appellant then left with his horses and dogs to go camping. After he arrived at his campsite, Appellant dismembered Reynolds' body. Appellant also pulled the teeth from Reynolds' head and cut the fingerpads from his hands. Appellant took Reynolds' body into the forest and buried his torso in one grave and his head and hands in another. Back at his campsite, Appellant cut himself in the leg when he was cleaning his horse's hooves. He went to a nearby hospital for treatment and it was there that he was ultimately arrested.

Appellant pled guilty to both the Eggert murder and the Reynolds murder. The State agreed that it would not seek the death penalty for the Eggert murder but reserved the right to use that conviction as an aggravating factor in the Reynolds murder.

Before the sentencing hearing on the Reynolds murder, Appellant elected to waive mitigation. The trial judge ordered the State to present mitigation and proceeded to sentencing. The judge found the following aggravating factors: Appellant had been convicted of another offense for which a sentence of life imprisonment or death was imposable and the murder was committed in a cruel, heinous, or depraved manner. The judge did not find any statutory mitigation, but found the following seven non-statutory mitigating circumstances: 1) impairment from the use of crystal methamphetamine at the time of the offense; 2) impairment from chronic drug use; 3) personality disorder; 4) paranoid thoughts; 5) impact of the combination of drug use, personality disorder, and paranoid thoughts on mental abilities; 6) cooperation with law enforcement; 7) lack of prior criminal convictions; and 8) desire to spare his family and victim's family from trial. The court found that the proffered mitigation was insufficient to call for leniency and sentenced Appellant to death on November 26, 2001.

An automatic notice of appeal was filed for Appellant under Rule 31.2(b) of the Arizona Rules of Criminal Procedure.

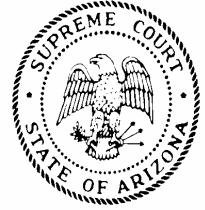
Issues:

1. Did Appellant make a knowing waiver of his Sixth Amendment right to have a jury determine his sentence?
2. Did reversible error occur when the trial judge, instead of a jury, sentenced Appellant to death under a procedure held unconstitutional in *Ring v. Arizona*, 536 U.S. 584 (2002)?

This Summary was prepared by the Arizona Supreme Court Staff Attorney's 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.



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



State of Arizona v. Robert Joe Moody
No. CR-02-0044-AP

Parties and Counsel:

Appellant: Robert Joe Moody is represented by Frank P. Leto and Brian X. Metcalf

Appellee: The State of Arizona is represented by the Arizona Attorney General's Office, by Chief Counsel of the Capital Litigation Section Kent E. Cattani and Assistant Attorney General Donna J. Lam

Facts:

On the morning of November 15, 1993, Appellant put on his best suit, purchased a bouquet of roses, and drove to the home of his ex-girlfriend's best friend, Michelle Malone. After waiting until her husband left for work, Appellant knocked on the door, entered the home and followed Malone into the kitchen. There, he pulled a kitchen knife from his coat pocket and attacked her. Appellant brought Malone into her home office where he emptied her purse and took cash, a checkbook, and some credit cards. He then brought Malone back into the kitchen and tied her to a chair with some telephone cords that he had ripped out of the wall. After having Malone write a check for \$500, he shot her and left.

On November 20, 1993, Appellant left his Tucson townhouse and went next door to Patricia Magda's home. After they talked for a while and smoked a few cigarettes, Magda went to a hallway to show Appellant a Christmas calendar she had made. Appellant followed her and pushed her to the floor. He then bound her wrists and ankles with neckties he had brought with him. He went to the kitchen and found Magda's purse, from which he took cash and credit cards before yanking the phone cords out of the wall. Appellant went to a bank and unsuccessfully attempted to use Magda's ATM card; he returned to the home, got her correct PIN number, and successfully withdrew \$300. When he returned, he shot Magda and bludgeoned her with hedge clippers.

On December 20, 1993, Appellant broke into the Yuma, Arizona, home of his ex-sister-in-law demanding money and guns. After she gave him \$500 in cash and a \$500 check, Appellant ordered her and her two young boys to get in a closet, nailed it shut, and left in her new Chevrolet Suburban.

In the early a.m. hours of January 4, 1994, Appellant flagged down a San Marino County (California) Deputy claiming that his car was stolen by a hitchhiker he picked up on the Nevada state line. Giving a fake name and no address, he filed a police report for the stolen Suburban.

Approximately twelve hours later, Appellant appeared at a rescue mission in Santa Anna, California claiming not to know who he was. At the suggestion of the mission's director, Appellant went to the Orange County Sheriff's Department. Through fingerprint identification, the sheriff's department was able to determine that Appellant was wanted in Arizona for the murders of Michelle Malone and Patricia Magda. Appellant was arrested and extradited to Arizona.

After a conflict with counsel, Appellant was permitted to represent himself at trial for the murders of Michelle Malone and Patricia Magda. On October 26, 1995, he was convicted on both counts of murder and was sentenced to death in March, 1996. On direct appeal, this court found that Appellant was denied his right to counsel when he was forced to proceed pro se. On November 12, 1998, this court reversed Appellant's convictions and remanded the case for a new trial. *State v. Moody*, 192 Ariz. 505, 509, ¶ 24, 968 P.2d 578, 582 (1998).

Appellant was retried in May, 2001. He was again convicted of both counts of murder and an aggravation/mitigation hearing was held. After finding the prior conviction, pecuniary gain, and cruel, heinous or depraved aggravating factors, the trial court found that the proffered mitigation was insufficient to call for leniency and sentenced Appellant to death on January 28, 2002.

Automatic Notice of Appeal was filed for Appellant pursuant to Rule 31.2(b) of the Arizona Rules of Criminal Procedure.

Issues:

1. Did Appellant's retrial violate the Double Jeopardy protections of the Fifth Amendment to the United States Constitution and Article II, § 10 of the Arizona Constitution?
2. Did the trial court err in failing to dismiss the indictment because it was based in part on false evidence?
3. Was Appellant denied a fair trial because false evidence was used to defeat his claim of incompetency and insanity?
4. Was Appellant denied due process of law when the trial judge determined he was mentally competent to stand trial?
5. Did the trial court err in failing to suppress evidence that was obtained in violation of Appellant's constitutional right to counsel?
6. Did the trial court's "death qualification" of the jury deny Appellant his constitutional right to an impartial and representative jury?
7. Did the trial court deny Appellant his constitutional right to a fair trial by failing to ask his proposed voir dire questions?
8. Did improper expert testimony invade the province of the jury?
9. Did the trial court err in failing to preclude the testimony of Dr. Sullivan, one of the State's key witnesses?
10. Did the trial court's wrongful admission of evidence deprive Appellant of his constitutional right to a fair trial?
11. Did the trial court's admission of testimony from reporter David Teibel about an article

- that appeared in the Tucson Citizen Newspaper deprive Appellant of his constitutional right to a fair trial?
12. Did prosecutorial misconduct deprive Appellant of his constitutional right to a fair trial?
 13. Did the trial court's failure to instruct the jury with the correct version of A.R.S. § 13-503 about the effect of intoxication on the element of culpable mental state deprive Appellant of his constitutional right to a fair trial?
 14. Did the trial court's refusal to instruct the jury on the requirement of a voluntary act deprive Appellant of his constitutional right to a fair trial?
 15. Did the trial court's refusal to allow surrebuttal argument deprive Appellant of his constitutional right to a fair trial?
 16. Did the trial court err in instructing the jury on the consequences of a "not guilty by reason of insanity" verdict?
 17. Did reversible error occur when the trial judge, instead of the jury, sentenced Appellant under a procedure held unconstitutional in *Ring v. Arizona*, 536 U.S. 584 (2002).

This Summary was prepared by the Arizona Supreme Court Staff Attorney's 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.