



**ARIZONA SUPREME COURT  
ORAL ARGUMENT CASE SUMMARY**



**STATE OF ARIZONA v. MICHAEL JONATHON CARLSON  
CR-12-0406-AP**

**PARTIES:**

*Appellant:* Michael Jonathon Carlson

*Appellee:* State of Arizona

**FACTS:**

This automatic appeal arises from Defendant/Appellant Michael Jonathon Carlson's convictions and resulting sentences for two counts of first-degree murder and two counts of kidnapping.

Kenneth A. and Rebecca L. lived in a trailer on rural land. In April or May 2009, Carlson moved into the area. Rebecca and Kenneth went missing around May 25, 2009. Several weeks later, Carlson was arrested based on an unrelated warrant and confessed to murdering Kenneth and Rebecca. The victims' remains were found burned and buried in several pits near their trailer.

The jury found Carlson guilty of two counts of felony murder and two counts of kidnapping. It also found three aggravators: Carlson had been previously convicted of other serious offenses, A.R.S. § 13-752(F)(2); the murders were committed while Carlson was on authorized release from prison, *id.* § (F)(7); and Carlson committed multiple murders, *id.* § (F)(8). The jury then found insufficient mitigation to warrant leniency, and the trial court sentenced Carlson to two consecutive 21-year sentences for the two kidnappings and to death for each of the two murders.

**ISSUES:**

1. Did the trial court err when it found a sufficient *corpus delicti* for all of the crimes charged and admitted Carlson's incriminating statements related to kidnapping?
2. Did the jury base its verdicts on a theory of accomplice liability, and if so, was there sufficient evidence to support the jury's verdict; did the trial court err by failing to provide accomplice liability instructions; and could Carlson be convicted as an accomplice to felony murder?
3. Did the trial court abuse its discretion when it precluded expert testimony related to Carlson's propensity to confess falsely?

4. Did the trial court abuse its discretion when it denied Carlson's request for a lost or destroyed evidence instruction?
5. Was there error in the finding that Carlson's contemporaneous kidnapping convictions and his prior conviction for aggravated robbery in Texas qualified as prior serious offenses that could be used to aggravate his sentences?
6. Did the prosecutor improperly argue non-alleged aggravating circumstances; was it proper for the prosecutor to invite the jury to consider the circumstances of the crime when determining whether the mitigating factors warranted leniency; and did the trial court err by giving a jury instruction that invited jurors to consider the circumstances of the crime?
7. Did the trial court abuse its discretion by admitting victim impact evidence that related to Carlson's potential sentences?
8. Did the trial court abuse its discretion by hearing Carlson's motions for a new trial and sentencing Carlson after Carlson filed a pro se motion for a new judge for cause?
9. Did the trial court err by denying Carlson's request to provide the jury with a verdict form that lists which mitigating factors the jurors found?
10. Is A.R.S. § 13-756(A) constitutional, and did the jury abuse its discretion by finding insufficient mitigation to warrant leniency?
11. Did the trial court err by imposing consecutive sentences for the kidnapping convictions when those convictions also served as the predicate crimes for the felony murder convictions?

*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, nor is it part of any brief, memorandum, or other pleading filed in this case.*