

## ***State v. Miles***

**Full Citation:** State v. Miles, 414 P.3d 680 (Ariz. 2018).

**Date Filed:** April 10, 2018

**Opinion's Author:** Justice Timmer

**Joined By:** Chief Justice Bales and Justice Brutinel.

*Practitioners: For quick reference, please see the "Issue" and "Holding" sections.*

**Facts:** Kevin Artice Miles ("Defendant"), Levi Jackson, and Ray Hernandez stole Patricia Baeuerlen's car. During this encounter, the three men kidnapped her and took her to the desert. While in the desert, Levi Jackson killed her. The trial court sentenced Defendant to death after a jury found him guilty of first degree felony murder, kidnapping, and armed robbery.

**Procedural History:** This case is currently before the Arizona Supreme Court. Previously, the Arizona Supreme Court conducted an independent review to determine whether Defendant was eligible for the death penalty. The court concluded he was eligible as "he was a major participant in the crimes and had shown a reckless indifference toward human life."<sup>1</sup>

Defendant initiated a request for postconviction relief ("PCR") which the trial court denied. Subsequently, Miles attempted to acquire habeas corpus relief in federal court. Defendant's attempt failed which led him to begin another PCR proceeding. Defendant asserted Arizona Rule of Criminal Procedure 32.1(h) warranted him relief, as he possessed new mitigating evidence.

Defendant presented evidence that he "suffered from 'neurochemical, neurocognitive, and neurobehavioral impairments' caused by the combined effects of cocaine withdrawal syndrome, and alcohol related neurodevelopmental disorder ('ARND')." Upon hearing this evidence, the PCR court commuted his sentence to a life sentence, as a "reasonable doubt existed whether he acted with the requisite reckless mental state."<sup>3</sup>

The Arizona Supreme Court granted review to determine (1) whether the PCR court erred in admitting the evidence and (2) whether mitigation evidence could "constitute clear and convincing evidence under Rule 32.1(h) that a sentence would not have imposed the death penalty."<sup>4</sup>

**Issue:** To receive the death penalty, the *Tison* inquiry requires a defendant to act with "reckless indifference to human life."<sup>5</sup> If the legislature has not authorized voluntary intoxication evidence or Defendant's diminished capacity to be considered for a *Tison*

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<sup>1</sup> State v. Miles, 414 P.3d 680, 682 (Ariz. 2018) (citing State v. Miles, 918 P.2d 1028, 1034–35 (Ariz.1996)).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 681 (quoting *Tison v. Arizona*, 481 U.S. 137, 158 (1987)).

inquiry, can the factfinder still consider it to determine whether Defendant acted with reckless indifference?

**Holding:** Yes, the PCR court can consider voluntary intoxication evidence and the Defendant's diminished capacity for a *Tison* inquiry.

**Disposition:** The court order commuting Defendant's sentence to a life sentence is affirmed.

**Rule:** A factfinder may consider voluntary intoxication evidence and a defendant's diminished capacity to determine whether a defendant acted with reckless indifference.

**Reasoning:**

- **Rule 32.1(h).** Rule 32.1(h) grants a defendant "relief if '[t]he defendant demonstrated by clear and convincing evidence that the facts underlying the claim would be sufficient to establish . . . that the court would not have imposed the death penalty.'"<sup>6</sup> The court is presented with the issue of how to interpret this rule.<sup>7</sup> The court decided to not resolve the "interpretation dispute", as the court affirms on a different ground.<sup>8</sup>
- ***Tison* Inquiry.** In its analysis, the court discussed the *Tison* inquiry.<sup>9</sup> The inquiry requires the factfinder to determine whether the Defendant possessed a reckless mental state.<sup>10</sup> It also requires the State to show that "the [D]efendant 'subjectively appreciated that [his] acts were likely to result in the taking of innocent life.'"<sup>11</sup> The court concluded voluntary intoxication evidence and a defendant's diminished capacity is admissible, as it is relevant to determine "whether a defendant subjectively appreciated that his acts were likely to result in another's death."<sup>12</sup>
- **Legislative Intent.** The State argued that voluntary intoxication evidence and Defendant's diminished capacity is inadmissible, as it would frustrate legislative intent.<sup>13</sup> The State pointed out that the legislature "has not authorized a diminished-capacity defense to any allegation made in the aggravation phase."<sup>14</sup> The court rejected this argument, as this issue is "not defined by legislative action but by judicial application of Eighth Amendment principles."<sup>15</sup>

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<sup>6</sup> *Id.* at 682 (quoting ARIZ. R. CRIM. P. 32.1(h) (2000)).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 683.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* (citing *State v. Forde*, 315 P.3d 1200, 1223) (Ariz. 2014)).

<sup>11</sup> *Id.* (citing *State v. Lynch*, 234 P.3d 595, 604 (Ariz. 2010)).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* at 684.

<sup>15</sup> *Id.*

- **A.R.S. section 13-503.** The State also argued A.R.S. section 13-503 prohibits a PCR court from admitting voluntary intoxication evidence.<sup>16</sup> The court applied the version of the statute in effect when Defendant committed the crime.<sup>17</sup> This version did not allow voluntary intoxication evidence to be admitted to show that actions were less criminal.<sup>18</sup> The court concluded that admitting voluntary intoxication evidence for a *Tison* inquiry did not “address whether a defendant’s acts were ‘less criminal.’”<sup>19</sup> However, the court did not address whether the current version of this statute precluded voluntary intoxication evidence.<sup>20</sup>

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<sup>16</sup> *Id.* at 685.

<sup>17</sup> *Id.* (citing *State v. Moody*, 94 P.3d 1119, 1161 (Ariz. 2004)).

<sup>18</sup> *Id.* (citing ARIZ. REV. STAT. § 13-503 (1989)).

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*