

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2008-031021-001 DT

07/12/2012

HON. SHERRY K. STEPHENS

CLERK OF THE COURT
K. Molina
Deputy

STATE OF ARIZONA

JUAN M MARTINEZ

v.

JODI ANN ARIAS (001)

KIRK NURMI
JENNIFER L WILLMOTT

CAPITAL CASE MANAGER

MINUTE ENTRY/
RULING

Courtroom SCT, 8C

The Court has considered the defendant's Motion to Allow Jury to Consider Polygraph Results During Sentencing Phase filed May 31, 2012, the State's Response to Defendant's Motion to Allow Jury to Consider Polygraph Results During Sentencing Phase filed June 12, 2012 and the oral argument on July 12, 2012.

The defendant asserts the result of any polygraph examination she takes is admissible as mitigating evidence in the penalty phase. The Arizona Supreme Court has held such evidence inadmissible because it does not relate to "any aspect of the defendant's character, propensities or record and any of the circumstances of the offense." A.R.S. §13-751(G); *State v. Harrod*, 218 Ariz. 268, ¶¶37-46, 183 P.3d 519 (2008).

In *Harrod*, the defendant sought to present the results of a polygraph examination and make statements of innocence during the penalty phase. The Supreme Court deemed this evidence, which it characterized as residual doubt evidence, to not be mitigation because it did not relate to the circumstances of the crime. The Court stated that "because the penalty phase

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does not determine whether a defendant is guilty, the ‘circumstances of the offense’ language in §13-7[51](G) does not authorize a defendant to present residual doubt evidence. Rather this language relates to such factors, among others, as to how a defendant committed first degree murder.” 218 Ariz. at ¶43. The Court held that the defendant in *Harrod* did not have a constitutional or statutory right to present residual doubt evidence at his penalty phase proceeding and therefore the trial court properly excluded the results of a polygraph examination. *Id.* at ¶46.

Although the defendant does not explain exactly what her polygraph evidence will purport to show, the Court believes its purpose will be the same as that asserted in *Harrod* - to express her innocence of the crime. Such evidence is irrelevant in the penalty phase of a capital case.

IT IS ORDERED denying the defendant’s Motion to Allow Jury to Consider Polygraph Results During Sentencing Phase.

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>. Attorneys are encouraged to review Supreme Court Administrative Order 2011-140 to determine their mandatory participation in eFiling through AZTurboCourt.