

Expanded Background Summary
People v. Douglas Oliver Kelly (S049973)

The defendant in this case is appealing his death penalty conviction. Unlike most appeals, death penalty appeals go directly to the Supreme Court, bypassing the Court of Appeal. A death penalty trial is divided into a guilt phase and a penalty phase. At the guilt phase in this case, the jury convicted the defendant of the first degree murder of 19-year old Sara Weir while he was in the course of raping and robbing her. After the penalty phase, the jury recommended the death sentence and the court imposed that sentence.

The evidence showed that defendant stabbed Sara to death with a pair of scissors in his girlfriend's apartment. Several days after the killing, defendant's girlfriend's ten-year-old son discovered the body, nude and wrapped in a blanket, under his bed. A few days before he killed Sara, defendant raped another woman in the same apartment, using the same scissors to threaten her. Later he assaulted his girlfriend in the same apartment. The prosecution also presented evidence that defendant raped three other women in previous years, some of whom he also robbed.

Defendant has raised many issues in this case. Among those likely to be discussed at oral argument are these:

A. The court permitted the prosecution, over objection by defendant, to admit evidence of some of defendant's previous rapes, including the one in the apartment with the scissors, the assault on his girl friend, and other criminal behavior shortly before the crimes. Defendant contends this evidence of other crimes was inadmissible because its only purpose was to made him look bad and was not relevant to his guilt of the charged crime. The prosecution argues the evidence was admissible to help the jury understand what happened to Sara and to show that defendant intended to rape and rob her just like he raped and robbed others.

B. At the penalty phase, the prosecution is generally allowed to present evidence regarding the victim and the impact her death had on her friends and family, so long as the evidence is not too emotional. Over defense objection, the court permitted the prosecution to show the jury a videotape that Sara's mother prepared and narrated about Sara's life. Defendant contends the videotape was too emotional to show the jury, and it would cause the jury to reach a verdict based on emotion rather than reason. The prosecution contends it was not unduly emotional and was admissible for the jury to understand who Sara was and thus to understand the seriousness of the crime.