

14-449 KANSAS V. CARR, JONATHAN

DECISION BELOW: 329 P.3d 1195

LOWER COURT CASE NUMBER: 90,198

QUESTION PRESENTED:

1. Whether the Eighth Amendment requires that a capital-sentencing jury be *affirmatively instructed* that mitigating circumstances "need not be proven beyond a reasonable doubt," as the Kansas Supreme Court held here, or instead whether the Eighth Amendment is satisfied by instructions that, in context, make clear that each juror must individually assess and weigh any mitigating circumstances?
2. Whether the Confrontation Clause, as interpreted in *Crawford v. Washington*, 541 U.S. 36 (2004), and *Davis v. Washington*, 547 U.S. 813 (2006), applies to the "selection" phase of capital *sentencing* proceedings, as the Kansas Supreme Court held here, *i.e.*, after a defendant has been convicted of capital murder and proof of eligibility for the death penalty has been presented in the guilt phase subject to full confrontation, or does *not* apply to such purely sentencing evidence, as at least three Circuits have held?
3. Whether the trial court's decision not to sever the sentencing phase of the co-defendant brothers' trial here-a decision that comports with the traditional approach preferring joinder in circumstances like this-violated an Eighth Amendment right to an "individualized sentencing" determination and was not harmless in any event?

GRANTED LIMITED TO QUESTIONS 1 AND 3 PRESENTED BY THE PETITIONS.
CONSOLIDATED WITH 14-450 FOR ONE HOUR ORAL ARGUMENT.

6/29/2015

A total of one hour is allocated for oral argument in No. 14-452, and on Question 1 in Nos. 14-449 and 14-450, to be divided as follows: 30 minutes for petitioner, 20 minutes for respondents Jonathan D. Carr and Sidney J. Gleason, and 10 minutes for respondent Reginald D. Carr.

A total of one hour is allocated for oral argument on Question 2 in Nos. 14-449 and 14-450, to be divided as follows: 20 minutes for petitioner, 10 minutes for the Solicitor General, 20 minutes for respondent Reginald D. Carr, and 10 minutes for respondent Jonathan D. Carr.

CERT. GRANTED 3/30/2015