

# High court upholds death sentence for Tiffany Barwick's killer

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The Florida Supreme Court on Thursday unanimously upheld Andrew Allred's first-degree murder convictions and death sentences for the 2007 slayings of Ocala native Tiffany Barwick and her boyfriend, Michael Ruschak, during a gathering in Oviedo.

The ruling comes three months after the state's high court heard oral arguments in Allred's appeal.

Allred, 24, is on death row at Florida State Prison in Starke for fatally shooting the 19-year-old Barwick — a West Port High graduate and then-University of Central Florida student — and Ruschak, 22, on Sept. 24, 2007, while the pair was in the company of friends at the house Ruschak shared with a roommate.

After shooting through a glass door to enter the home, Allred headed straight for the kitchen, where he shot Ruschak four times and then shot and injured his roommate when he tried to detain him. Allred then headed for the bathroom, where he found Barwick hiding in the bathtub while on the phone with a 911 dispatcher. He shot her six times.

He pleaded guilty, with no plea bargain, in Seminole County on April 30, 2008, and was sentenced to death by Circuit Judge O.H. Eaton Jr. on Nov. 19 that year after waiving his right to a jury in the penalty phase.

In his appeal, Allred challenged the judge's finding that both murders were cold, calculated and premeditated; that Barwick's death was heinous, atrocious and cruel; and that the trial judge erred in his assessment of mitigating factors.

The Florida Supreme Court, however, found the finding of these aggravating circumstances appropriate. In its 33-page opinion, it pointed out Allred's pensive mood the evening of the shootings, his purchase of a gun shortly before the murders, and his methodical shooting of Barwick and Ruschak while leaving most others unharmed.

It also disagreed with Allred's contention that Barwick's death, captured on a nearly two-minute 911 tape that Eaton called “horrific” and which justices heard before oral arguments, was “instantaneous.”

“Barwick had no way out that night as she listened to the gunfire, and the 911 call makes it crystal clear that she was acutely aware of her impending death when Allred finally walked into that bathroom with his gun in hand and commenced firing at her,” states the opinion.

The high court also found little reason to assign great weight to mitigating factors such as the defendant's emotional disturbance — it points to his “calm” demeanor at the time — and Allred's young age.

“Allred was twenty-one, had a high IQ, held a two-year college degree, had a high proficiency with computer technology, held a full-time job, and paid for his own car,” the opinion states.

Allred, who called police after the shootings and reported that he had killed two people, denied to law enforcement that he had gone to the home with the intent to kill the pair. He claimed he had wanted to damage Barwick's car that was parked outside because he was angered that Barwick, whom he used to date, had become romantically involved with Ruschak, his best friend.

The Florida Supreme Court's affirmation of Allred's death sentence is just one step in what is expected to become a lengthy appeals process. The state's death row defendants typically wait, on average, 13 years prior to execution.

Next for Allred likely will be a direct petition to the U.S. Supreme Court. If that is denied, the case kicks back to the trial court on motions for post-conviction relief on such various grounds as ineffective legal counsel or prosecutorial misconduct.

Those arguments then head back up the chain. If denied, defendants on death row can appeal to the federal district court, then the federal appellate court, and back up to the U.S. Supreme Court.

This cycle can repeat itself multiple times depending on the grounds for relief.

“If you take out people who voluntarily drop their appeals and are executed, and put in the ones that have litigated [their cases], 15 to 20 years is not unheard of” to sit on death row, said 5th Circuit Chief Assistant Attorney Ric Ridgway.

According to the Florida Department of Corrections, there are 393 inmates on death row.

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