

Barwick murder appeal considered

Florida's high court is looking at Allred's death penalty appeal stemming from the 2007 shooting.



Alan Youngblood/Staff photographer/File

Andrew Allred is led to the podium where he is sentenced to two death sentences and five years for the 2007 shooting death of Tiffany Barwick and Michael Ruschak at the Seminole County Courthouse in Sanford, FL on Wednesday, November 19, 2008. Allred plead guilty to all the charges and refused to speak during sentencing.

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Published: Thursday, September 2, 2010 at 6:30 a.m.

Last Modified: Thursday, September 2, 2010 at 12:07 a.m.

TALLAHASSEE - The Florida Supreme Court on Wednesday heard oral arguments in the death penalty appeal for Andrew Richard Allred, the Oviedo man who gunned down ex-girlfriend and Ocala native Tiffany Barwick and her boyfriend, Michael Ruschak, at a social gathering three years ago.

Allred, 24, is on death row for the Sept. 24, 2007, murders of Barwick, 19, and Ruschak, 22. He pleaded guilty and was sentenced to death after waiving his right to a jury in the penalty phase.

Circuit Judge O.H. Eaton Jr. from Seminole County identified four aggravating factors in his order imposing the death penalty. Two of those four were raised on appeal before the justices Wednesday morning: that the murders were committed in a cold, calm, calculated and premeditated manner (CCP); and that Barwick's murder was especially heinous, atrocious or cruel (HAC).

The murders occurred shortly after Barwick, a 2006 West Port High graduate and University of Central Florida student, ended her one-year relationship with Allred and began dating his friend, fellow UCF student Ruschak.

The shootings took place while Ruschak, Barwick and several of their friends were gathered at an Oviedo home for an evening get-together. Allred, who had sent threatening text messages and instant messages to both individuals before the [events](#) of that evening, shot out a back glass sliding door of the house, then proceeded to search for his victims.

This was after he rammed his Dodge truck repeatedly into the back of Barwick's Chevy Cavalier, which was parked outside the house.

Allred found Ruschak in the kitchen and shot him four times. He broke free from Eric Roberts, one of the hosts who tried to restrain him, by shooting him in the calf, then headed to the bathroom, where Barwick was hiding in the bathtub.

He shot her six times as she was on the phone with a 911 operator.

Christopher Quarles, an assistant public defender with the 7th Circuit, has argued that the murders were spurred by rage and jealousy, rather than planned with any cold, calculated premeditation.

"Andrew's actions that day in killing Barwick and Ruschak were classic 'hot blooded murder,' " he wrote in a brief submitted to the court ahead of Wednesday's arguments. "Andrew's pent-up rage exploded that day."

But based on their comments and line of questioning toward the attorney, the justices seemed to disagree with the argument the crimes weren't thought out ahead of time, or that Allred's distraught emotional state rendered his actions beyond the realm of cold and calculated.

"The fact there is a heightened mental disturbance does not mitigate CCP," Justice Barbara J. Pariente said to Quarles. But she raised Allred's distraught state several times during the course of arguments. She told Assistant Attorney General Barbara C. Davis that she didn't feel this was "a classic cold murder," though she acknowledged the CCP standard has shifted over the years.

Justice Peggy A. Quince raised the point that Allred bypassed several other house guests once inside the home to specifically search for Ruschak and Barwick.

"This man shoots out the window, right, to get into the house," she said. "He goes right past [several other people], goes to the man in the kitchen and gets him. I don't understand why that's not cold."

Quince also brought up the fact that Allred, a high school dropout described in briefs as a social misfit, purchased a handgun several weeks before the murders. Quarles responded that it was coincidence in timing: Allred had recently celebrated his 21st birthday and reached legal age to purchase a handgun.

Prior to the murders, Allred would shoot holes in photographs of Barwick and send them to her; the day of the shootings, he sent an instant message to Ruschak, stating "if i see you again, I will kill you, and yes that is a threat." He also hacked into Barwick's computer, deleting files and accessing her savings account, according to a response brief filed by the state.

Barwick and Ruschak filed two reports with the Seminole County Sheriff's Office the day of the shootings. At the time, authorities did not take action against Allred. The murders led to the eventual passage of the state Barwick-Ruschak Act in October 2008. The law allows officers to make an immediate, warrantless arrest for alleged dating violence offenses.

"It was absolute terror," Davis characterized for the justices during her turn at the podium Wednesday, about the [events](#) of that evening. She described the dread Barwick was likely to have felt hiding in the bathtub, listening to the commotion outside.

"It was not the quickness of the death, it was what preceded it," she said.

On whether or not Barwick suffered a death that was heinous, atrocious or cruel - which formed Quarles' second objection to imposition of the death penalty - the justices immediately invoked the 911 tape, a copy of which the court had requested last week ahead of oral arguments.

Quarles argued Barwick's death was instantaneous, and that the one-minute-17-second 911 tape, in which the teen can be heard pleading for her life moments before she is shot, is too brief to suggest her death was especially cruel.

Chief Justice Charles T. Canady begged to differ. "I think most people listening to that would think that time seemed like an eternity," he said.

After the approximately hour-long session at the state's high court - the parties had 30 minutes each - Quarles told the Star-Banner he expects the justices to hand down a ruling sometime within the next six months to a year.

Allred, currently housed in the maximum security unit at Florida State Prison, apparently has tried to fire his assistant public defender and objected even to this direct appeal of his death sentence, according to Quarles' statements to the justices Wednesday.

He declined to participate in the discovery of mitigating evidence ahead of his sentencing hearing, Quarles said, and it is likely he will waive any post-conviction proceedings.

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