

If a person is killed during the commission or attempted commission of a serious felony, all of those guilty of the felony offense also are guilty of murder. This is called the “felony murder rule.” Under the death penalty law, even someone who is not the actual killer may be sentenced to death if that person acted with “reckless indifference to human life,” and was a major participant in one of the felonies listed in the law, including robbery.

In this case, the jury voted to impose the death penalty upon defendant for his role in an attempted robbery that ended in the death of a young mother. As noted earlier, appeals in death penalty cases, unlike appeals in all other cases, go directly from the trial court to the state Supreme Court, bypassing the Court of Appeal.

The evidence presented to the jury showed that defendant and his companion, Funches, approached the victim as she parked her car in an apartment building garage. Her 5-year-old daughter was in the passenger seat. Defendant walked up to the driver’s door and Funches walked to the passenger door; both of them were holding guns. The victim opened her door, saw defendant, and began kicking at him. Funches fired, shattering the passenger window and hitting the victim in the head. Defendant and Funches ran away. The victim’s daughter ran to a nearby apartment. Many police responded to the resulting 911 call, and defendant was arrested in the area. His gun was found in shrubbery near the apartments.

One of defendant’s many claims on appeal is that he was wrongly forced to wear a stun belt at trial. Although it is not completely clear from the record that defendant actually wore such a belt during trial, the Supreme Court will consider whether the trial judge properly ordered him to do so, and whether the belt unfairly affected defendant when he testified.

Defendant also argues that the trial judge erred in failing to grant him a new trial, based primarily on the following claims: On the day he was found guilty, defendant was riding a jail transport bus and found himself seated in front of Torrence, the prosecution’s main witness. Torrence had been present when defendant and Funches talked about robbing someone on the day of the murder. Torrence also identified the gun found at the scene as the one defendant had carried. When defendant asked Torrence why he had lied about defendant’s role in the crime, Torrence said he had been intimidated by the police, who considered him a suspect, and by others who may have been involved. After defendant, through his counsel, brought this information to the attention of the trial judge, that judge refused to grant a new trial, noting that someone surrounded by other inmates might be expected to make such excuses, and that Torrence’s trial testimony was confirmed by other evidence.