

STATEMENT OF LEGAL ISSUES

1. Was Graham was properly tried in the state courts of South Dakota for felony murder when he was extradited to the United States to face a federal premeditated murder charge?

The circuit court ruled that Graham was subject to prosecution in state court for felony murder.

Authorities:

Johnson v. Browne, 205 U.S. 309, 27 S.Ct. 539 (1907)

2. Were Arlo Looking Cloud's out of court statements to Denise Maloney that implicated Graham admissible?

The circuit court ruled that these statements were admissible.

Authorities:

SDCL 19-16-2

SDCL 19-16-32

3. Was Leonard Peltier's threatening conduct toward Aquash admissible at Graham's trial?

The circuit court ruled that this evidence was admissible.

Authorities:

Shepard v. United States, 290 U.S. 96, 54 S.Ct. 22 (1933)

SDCL 19-16-1

SDCL 19-16-7

4. Was Peltier's confession to a separate murder admissible at Graham's trial?

The circuit court ruled that this evidence was admissible.

Authorities:

Shepard v. United States, 290 U.S. 96, 54 S.Ct. 22 (1933)

5. Was there sufficient evidence to sustain a finding of guilt for felony murder?

The circuit court ruled that sufficient evidence existed.

Authorities:

State v. Rough Surface, 440 N.W.2d 746 (S.D. 1989)
SDCL 23A-22-8

6. Was Graham's life without parole sentence authorized by statute and constitutional under the Eighth Amendment?

This circuit court determined that a life without parole sentence was authorized by statute and was not cruel and unusual.

Authorities:

Brim v. South Dakota Bd. of Pardons & Paroles, 1997 SD 48, 563
N.W.2d 812
Enmund v. Florida, 458 U.S. 782, 102 S.Ct. 3368 (1982)
Whalen v. United States, 445 U.S. 684, 100 S.Ct. 1432 (1980)