

For Immediate Release

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## WLF URGES SUPREME COURT TO HEAR CRIME VICTIMS' RIGHTS CASE (*Lynn v. Reinstein*, No. 03-274)

The Washington Legal Foundation (WLF) filed a brief with the U.S. Supreme Court urging it to hear a case that would resolve a conflict among lower courts: whether the constitution *per se* bars a crime victim from recommending an appropriate punishment in a capital case, whether the recommendation is death or life imprisonment.

In *Lynn v. Reinstein*, the Duane Lynn's wife and another victim were shot and killed at a homeowners association meeting in Arizona. Invoking his rights under Arizona's Victims' Bill of Rights, Mr. Lynn asked the trial court that he be allowed to give an opinion as to the sentence that should be imposed on the defendant. He wanted to tell the jury that the defendant, Richard Glassel, should be sentenced to life imprisonment rather than to death. While the defendant did not object to the proffered statement, the trial court, Arizona Court of Appeals, and the Arizona Supreme Court all denied Lynn's request. In the meantime, the jury sentenced Glassel to death.

In its decision, the Arizona Supreme Court held that "the Eighth Amendment prohibits a victim from making a sentencing recommendation to the jury in a capital case." In doing so, the Court acknowledged that there is a conflict on whether the Eighth Amendment *per se* excludes victim sentencing recommendations in capital cases, a conflict spawned by the Supreme Court's decisions and language in *Booth v. Maryland*, 482 U.S. 496 (1987) and *Payne v. Tennessee*, 501 U.S. 808 (1991). While *Payne* allowed victim impact evidence in capital cases and thus, overruled *Booth* in that respect, it is unclear whether *Payne* would also allow victim sentencing recommendations.

The petition for writ of certiorari was filed by Viet Dinh, former Assistant Attorney General, and professor of law at Georgetown University Law Center, along with Steve Twist, former Attorney General of Arizona, and President of Arizona Voice for Crime Victims. WLF's clients include U.S. Senator Jon Kyl and Congressman John Shadegg of Arizona, the National Association of Victim Assistance, Parents of Murdered Children, and the Allied Educational Foundation. WLF's brief was drafted with the *pro bono* assistance of Richard Willard, formerly Assistant Attorney General in the Reagan Administration.

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