

### **532.075 Review of death sentence by Supreme Court.**

- (1) Whenever the death penalty is imposed for a capital offense, and upon the judgment becoming final in the Circuit Court, the sentence shall be reviewed on the record by the Supreme Court. The circuit clerk, within ten (10) days after receiving the transcript, shall transmit the entire record and transcript to the Supreme Court together with a notice prepared by the clerk and a report prepared by the trial judge. The notice shall set forth the title docket number of the case, the name of the defendant and the name and address of his attorney, a narrative statement of the judgment, the offense, and the punishment prescribed. The report shall be in the form of a standard questionnaire prepared and supplied by the Supreme Court.
- (2) The Supreme Court shall consider the punishment as well as any errors enumerated by way of appeal.
- (3) With regard to the sentence, the court shall determine:
  - (a) Whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor, and
  - (b) Whether the evidence supports the jury's or judge's finding of statutory aggravating circumstances as enumerated in KRS 532.025(2), and
  - (c) Whether the sentence of death is excessive or disproportionate to the penalty imposed in similar cases, considering both the crime and the defendant.
- (4) Both the defendant and the Commonwealth shall have the right to submit briefs within the time provided by the court, and to present oral argument to the court.
- (5) The court shall include in its decision a reference to those similar cases which it took into consideration. In addition to its authority regarding correction of errors, the court, with regard to review of death sentences, shall be authorized to:
  - (a) Affirm the sentence of death; or
  - (b) Set the sentence aside and remand the case for resentencing by the trial judge based on the record and argument of counsel. The records of those similar cases referred to by the Supreme Court in its decision, and the extracts prepared as hereinafter provided for, shall be provided to the resentencing judge for his consideration.
- (6) The Chief Justice shall assign to an administrative assistant who is an attorney the following duties:
  - (a) To accumulate the records of all felony offenses in which the death penalty was imposed after January 1, 1970, or such earlier date as the court may deem appropriate.
  - (b) To provide the court with whatever extracted information it desires with respect thereto, including but not limited to a synopsis or brief of the facts in the record concerning the crime and the defendant.
  - (c) To compile such data as are deemed by the Chief Justice to be appropriate and relevant to the statutory questions concerning the validity of the sentence.
- (7) The administrative office of the courts shall provide such staff, services, and data as are necessary to proper consideration of any matter relating to the imposition of the

death penalty in any case.

- (8) The sentence review shall be in addition to the direct appeal, if taken, and the review and appeal shall be consolidated. The court shall render its decision on legal errors enumerated, the factual substantiation of the verdict, and the validity of the sentence.

**Effective:** December 22, 1976

**History:** Created 1976 (1st Extra. Sess.) Ky. Acts ch. 15, sec. 6, effective December 22, 1976.