

04-1170 KANSAS V. MARSH

DECISION BELOW:102 P3d 445

LOWER COURT CASE NUMBER: 81,135

QUESTIONS PRESENTED:

Does it violate the Constitution for a state capital-sentencing statute to provide for the imposition of the death penalty when the sentencing jury determines that the mitigating and aggravating evidence is in equipoise?

CERT. GRANTED 5/31/2005

IN ADDITION TO THE QUESTION PRESENTED BY THE PETITION, THE PARTIES ARE DIRECTED TO BRIEF AND ARGUE THE FOLLOWING QUESTIONS:

“Does this Court have jurisdiction to review the judgment of the Kansas Supreme Court under 28 U.S.C. Sec. 1257, as construed by *Cox Broadcasting Corp. v. Cohn*, 420 U.S. 469 (1975)?”; “Was the Kansas Supreme Court's judgment adequately supported by a ground independent of federal law?”

ORIGINAL ARGUMENT 12/07/2005

<http://www.court.gov/arguments/term2005/04-1170.pdf>

ORDER OF 3/24/2006:

THIS CASE IS RESTORED TO THE CALENDAR FOR REARGUMENT.