

THIS INFORMATION IS A SUMMARY ONLY.

IT IS NOT INTENDED TO BE A DETAILED EXPLANATION OF THE LAW. A DETAILED EXPLANATION OF THE LAW, WHICH WILL EXPLAIN ALL THE LAW THAT APPLIES TO THIS CASE, WILL BE GIVEN TO YOU AT A LATER TIME AND WILL CONTROL YOUR DELIBERATIONS, IF YOU ARE SELECTED AS A JUROR.

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1. The trial will be divided into two stages. The first stage is called the guilt/innocence stage. The second is called the sentencing stage.
2. In the first stage, before the defendant may be convicted, the jury must unanimously find, beyond a reasonable doubt, that he is guilty. If the jury finds the defendant not guilty, the trial will end and the defendant will be set free.
3. If the defendant is found guilty by the jury, the trial will proceed into the sentencing stage.
4. At the sentencing stage, before the death penalty may even be a possible sentence, the government must prove, beyond a reasonable doubt, that the defendant
  1. intentionally killed the victim;
  2. intentionally inflicted serious bodily injury that resulted in the death of the victim;
  3. intentionally participated in conduct, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, and the victim died as a direct result of the act; or
  4. intentionally and specifically engaged in conduct, knowing that the act created a grave risk of death to a person, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act.

The government may rely on evidence admitted in both stages of the trial to show this intent.

5. If, and only if, the jurors are unanimously convinced beyond a reasonable doubt that the element of intent has been proven by the government, then the jurors may proceed to consider the imposition of the death penalty.
6. The choices the jury would then have in this case would be, in effect, two: (1) life in prison without the possibility of release or parole, or (2) death by lethal injection.
7. But this choice would have to be made systematically and according to a careful procedure.
8. First, the jury will be asked whether certain “aggravating factors” are present in the evidence. An aggravating factor in this context is a set of facts that, if proven, may tend to cause a juror to believe that the death penalty is an appropriate sentence.

9. For an aggravating factor to be found by the jury to exist, the jury must unanimously agree that that factor has been proven beyond a reasonable doubt.

10. Some of the aggravating factors that the government may attempt to prove in this case include:

1. That in the commission of the offense, the defendant knowingly created a grave risk of death to one or more persons in addition to the victim of the offense;

2. That the defendant intentionally killed or attempted to kill more than one person in a single criminal episode;

3. That the defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim;

4. That the defendant committed the offense after substantial planning and premeditation to cause the death of a person;

5. That the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of something of pecuniary value.

11. If one or more of these aggravating factors are unanimously found to exist beyond a reasonable doubt, then the jury may consider some other aggravating factors, such as:

1. The impact of the crime on the victim and the victim's family;

2. The defendant's future dangerousness; and

3. Any prior acts of violence the defendant may have committed.

But each of these must also be found unanimously beyond a reasonable doubt.

12. If none of the aggravating factors set out in 10, above, are found unanimously by the jury beyond a reasonable doubt, then the death penalty is not an option and the jury will have completed its work.

13. Once the jury has considered all of the aggravating factors that the government alleges to be present in the case, and assuming it has found the existence of one or more of the factors in 10, above, unanimously and beyond a reasonable doubt, the jury will turn its attention to the "mitigating factors" the defendant alleges to be present in the case. A mitigating factor in this context is a set of facts that, if proven, may tend to cause a juror to believe that the death penalty is not an appropriate sentence.

14. For a mitigating factor to be found to exist, it is only necessary that the jurors decide that it has been proven by a preponderance of the evidence—that is, that it is more likely that it exists than that it does not. Mitigating factors do not need to be found

unanimously; instead, each juror must decide whether he believes that a particular mitigating factor was proven by a preponderance of the evidence.

15. Some of the mitigating factors the defendant may attempt to prove in this case include:

1. That the defendant's participation in the alleged killing, if he participated at all, was relatively minor;
2. That the government is not seeking the death penalty against other people that are accused of being equally responsible for the alleged killing;
3. That the defendant, if he can be said to be guilty at all, could not have reasonably foreseen that his alleged conduct in the course of the alleged killing would cause, or create a grave risk of causing, death to any person;
4. That the victim of the alleged killing consented to the conduct that resulted in this death;
5. Other factors in the defendant's background, record, or character or any circumstance of the offense that, if proven, may tend to cause a juror to believe that the death penalty would not be an appropriate sentence.

16. Upon completion of its consideration of whether certain aggravating and mitigating factors exist, the jury must then balance those factors against each other.

17. In performing this balancing, each juror must decide for himself whether the aggravating factor or factors found by the entire jury to exist beyond a reasonable doubt sufficiently outweigh any mitigating factor or factors that that individual juror has found to exist by a preponderance of the evidence, such that a sentence of death would be justified.

18. If that juror believes that no mitigating factors have been proven to him by a preponderance of the evidence, he must still consider whether the aggravating factor or factors the entire jury found beyond a reasonable doubt to exist alone is/are sufficient to justify a sentence of death.

19. Based on this consideration, the jury will be asked to assess, by a unanimous vote, a sentence of either death or life imprisonment without release or parole.