

~~(2)~~ (3) THE TERM "LAW ENFORCEMENT OFFICER" HAS THE MEANING GIVEN IN SECTION 727 OF ARTICLE 27. HOWEVER, AS USED IN SUBSECTION (D), THE TERM ALSO INCLUDES (I) AN OFFICER SERVING IN A PROBATIONARY STATUS, (II) A PAROLE AND PROBATION OFFICER, AND (III) A LAW ENFORCEMENT OFFICER OF A JURISDICTION OUTSIDE OF MARYLAND.

(F) IF THE COURT OR JURY DOES NOT FIND, BEYOND A REASONABLE DOUBT, THAT ONE OR MORE OF THESE AGGRAVATING CIRCUMSTANCES EXIST, IT SHALL STATE THAT CONCLUSION IN WRITING, AND THE SENTENCE SHALL BE IMPRISONMENT FOR LIFE.

(G) IF THE COURT OR JURY FINDS, BEYOND A REASONABLE DOUBT, THAT ONE OR MORE OF THESE AGGRAVATING CIRCUMSTANCES EXIST, IT SHALL THEN CONSIDER WHETHER, BASED UPON A PREPONDERANCE OF THE EVIDENCE, ANY OF THE FOLLOWING MITIGATING CIRCUMSTANCES EXIST:

(1) THE DEFENDANT HAS NOT PREVIOUSLY (I) BEEN FOUND GUILTY OF A CRIME OF VIOLENCE; (II) ENTERED A PLEA OF GUILTY OR NOLO CONTENDERE TO A CHARGE OF A CRIME OF VIOLENCE; OR (III) HAD A JUDGMENT OF PROBATION ON STAY OF ENTRY OF JUDGMENT ENTERED ON A CHARGE OF A CRIME OF VIOLENCE. AS USED IN THIS PARAGRAPH, "CRIME OF VIOLENCE" MEANS ABDUCTION, ARSON, ESCAPE, KIDNAPPING, MANSLAUGHTER, EXCEPT INVOLUNTARY MANSLAUGHTER, MAYHEM, MURDER, ROBBERY, OR RAPE OR SEXUAL OFFENSE IN THE FIRST OR SECOND DEGREE, OR AN ATTEMPT TO COMMIT ANY OF THESE OFFENSES, OR THE USE OF A HANDGUN IN THE COMMISSION OF A FELONY OR ANOTHER CRIME OF VIOLENCE.

(2) THE VICTIM WAS A PARTICIPANT IN THE DEFENDANT'S CONDUCT OR CONSENTED TO THE ACT WHICH CAUSED THE VICTIM'S DEATH.

~~(3) THE DEFENDANT WAS AN ACCOMPLICE IN THE MURDER WHICH WAS COMMITTED BY ANOTHER PERSON AND HIS PARTICIPATION WAS RELATIVELY MINOR.~~

~~(4)~~ (3) THE DEFENDANT ACTED UNDER SUBSTANTIAL DURESS, DOMINATION OR PROVOCATION OF ANOTHER PERSON, BUT NOT SO SUBSTANTIAL AS TO CONSTITUTE A COMPLETE DEFENSE TO THE PROSECUTION.

~~(5)~~ (4) THE MURDER WAS COMMITTED WHILE THE CAPACITY OF THE DEFENDANT TO APPRECIATE THE CRIMINALITY OF HIS CONDUCT OR TO CONFORM HIS CONDUCT TO THE REQUIREMENTS OF LAW WAS SUBSTANTIALLY IMPAIRED AS A RESULT OF MENTAL INCAPACITY, MENTAL DISORDER, EMOTIONAL DISTURBANCE, OR INTOXICATION.

~~(6)~~ (5) THE YOUTHFUL AGE OF THE DEFENDANT AT THE TIME OF THE CRIME.

~~(7)~~ (6) THE ACT OF THE DEFENDANT WAS NOT THE SOLE PROXIMATE CAUSE OF THE VICTIM'S DEATH.