

(h) (1) If the court or jury finds that one or more of these mitigating circumstances exist, it shall determine whether, by a preponderance of the evidence, the [mitigating] AGGRAVATING circumstances outweigh the [aggravating] MITIGATING circumstances.

(2) If it finds that the [mitigating] AGGRAVATING circumstances [do not] outweigh the [aggravating] MITIGATING circumstances, the sentence shall be death.

(3) If it finds that the [mitigating] AGGRAVATING circumstances DO NOT outweigh the [aggravating] MITIGATING circumstances, a sentence of death may not be imposed.

(i) The determination of the court or jury shall be in writing, and, if a jury, shall be unanimous and shall be signed by the foreman.

(j) The determination of the court or jury shall state, specifically:

(1) Which, if any, aggravating circumstances it finds to exist;

(2) Which, if any, mitigating circumstances it finds to exist;

(3) Whether any [mitigating] AGGRAVATING circumstances found under [subsection (g)] SUBSECTION (D) OF THIS SECTION outweigh the [aggravating] MITIGATING circumstances found under [subsection (d)] SUBSECTION (G) OF THIS SECTION;

(4) Whether the aggravating circumstances found under subsection (d) [are not outweighed by] DO NOT OUTWEIGH mitigating circumstances under subsection (g); and

(5) The sentence, determined in accordance with subsection (f) or (h).

414.

(a) Whenever the death penalty is imposed, and the judgment becomes final, the Court of Appeals shall review the sentence on the record.

(e) In addition to the consideration of any errors properly before the Court on appeal, the Court of Appeals shall consider the imposition of the death sentence. With regard to the sentence, the Court shall determine:

(1) Whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor;

(2) Whether the evidence supports the jury's or court's finding of a statutory aggravating circumstance under § 413(d);

(3) Whether the evidence supports the jury's or court's finding that the aggravating circumstances [are not outweighed by] OUTWEIGH THE mitigating circumstances; and