

**APPENDIX E:**  
**Cited Excerpts of Clerk's Transcript**

**3 CT 609–611**

APPENDIX E

## PENALTY TRIAL -- FACTORS FOR CONSIDERATION

Requested by People	Requested by Defendant	Requested by	
Given as Requested	Given as Modified	Given on Court's Motion	
Refused			
Withdrawn			Judge

Print Date: 12/1988

## 8.85 - 1 of 3

In determining which penalty is to be imposed on [REDACTED] defendant, you shall consider all of the evidence which has been received during any part of the trial of this case, [REDACTED] [REDACTED]. You shall consider, take into account and be guided by the following factors, if applicable:

- (a) The circumstances of the crime of which the defendant was convicted in the present proceeding and the existence of any special circumstance[s] found to be true.
- (b) The presence or absence of criminal activity by the defendant, other than the crime[s] for which the defendant has been tried in the present proceedings, which involved the use or attempted use of force or violence or the express or implied threat to use force or violence.
- (c) The presence or absence of any prior felony conviction, other than the crimes for which the defendant has been tried in the present proceedings.
- (d) Whether or not the offense was committed while the defendant was under the influence of extreme mental or emotional disturbance.
- (e) Whether or not the victim was a participant in the defendant's

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## 8.85 - 2 of 3

homicidal conduct or consented to the homicidal act.

- (f) Whether or not the offense was committed under circumstances which the defendant reasonably believed to be a moral justification or extenuation for his conduct.
- (g) Whether or not the defendant acted under extreme duress or under the substantial domination of another person.

(h) Whether or not at the time of the offense the capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was impaired as a result of mental disease or defect or the effects of intoxication.

- (i) The age of the defendant at the time of the crime.
- (j) Whether or not the defendant was an accomplice to the offense and his participation in the commission of the offense was relatively minor.
- (k) Any other circumstance which extenuates the gravity of the crime even though it is not a legal excuse for the crime [and any sympathetic or other aspect of the defendant's character or record [that the defendant offers] as a basis for a sentence less than death, whether or not related to

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**8.85 - 3 of 3**

the offense for which he is on trial. You must disregard any jury instruction given to you in the guilt or innocence phase of this trial which conflicts with this principle].

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**3 CT 628–360**

APPENDIX E

## PENALTY TRIAL -- CONCLUDING INSTRUCTION

Requested by People	Requested by Defendant	Requested by	
Given as Requested	Given as Modified	Given on Court's Motion	
Refused			
Withdrawn			Judge

Print Date: 5/1989

## 8.88 - 1 of 3

It is now your duty to determine which of the two penalties, death or confinement in the state prison for life without possibility of parole, shall be imposed on [the] defendant.

After having heard all of the evidence, and after having heard and considered the arguments of counsel, you shall consider, take into account and be guided by the applicable factors of aggravating and mitigating circumstances upon which you have been instructed.

An aggravating factor is any fact, condition or event attending the commission of a crime which increases its guilt or enormity, or adds to its injurious consequences which is above and beyond the elements of the crime itself. A mitigating circumstance is any fact, condition or event which as such, does not constitute a justification or excuse for the crime in question, but may be considered as an extenuating circumstance in determining the appropriateness of the death penalty.

The weighing of aggravating and mitigating circumstances does not mean a mere mechanical counting of factors on each side of an imaginary scale, or the arbitrary assignment of weights to any of them. You are free to assign whatever moral or sympathetic value you deem

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## PENALTY TRIAL -- CONCLUDING INSTRUCTION

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appropriate to each and all of the various factors you are permitted to consider. In weighing the various circumstances you determine under the relevant evidence which penalty is justified and appropriate by considering the totality of the aggravating circumstances with the totality of the mitigating circumstances. To return a judgment of death, each of you must be persuaded that the aggravating circumstances are so substantial in comparison with the mitigating circumstances that it warrants death instead of life without parole.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

You shall now retire and select one of your number to act as foreperson, who will preside over your deliberations. In order to make a determination as to the penalty, all twelve jurors must agree.

Any verdict that you reach must be dated and signed by your foreperson on a form that will be provided and then you shall return with it

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**8.88 - 3 of 3**

to this courtroom.

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**3 CT 772**

APPENDIX E

REPORT - INDETERMINATE SENTENCE,  
OR OTHER SENTENCE CHOICE

<input checked="" type="checkbox"/> SUPERIOR	<input type="checkbox"/> MUNICIPAL	<input type="checkbox"/> JUSTICE	COURT OF CALIFORNIA, COUNTY OF <u>SACRAMENTO</u>
COURT (D.)		BRANCH OR JUDICIAL DISTRICT: <u>5 3 4 0 0 0 0</u>	

PEOPLE OF THE STATE OF CALIFORNIA versus		DEFENDANT: CHARLES EDWARD CASE AKA:	<input checked="" type="checkbox"/> PRESENT <input type="checkbox"/> NOT PRESENT	CASE NUMBER (S)
				93FO5175-A -B -C -D -E
REPORT OF:	<input checked="" type="checkbox"/> DEATH SENTENCE <input type="checkbox"/> INDETERMINATE SENTENCE <input type="checkbox"/> OTHER SENTENCE CHOICE	AMENDED REPORT	<input type="checkbox"/>	

DATE OF HEARING (MO) (DAY) (YR) <u>10-25-96</u>	DEPT NO <u>21</u>	JUDGE <u>JACK SAPUNOR</u>	CLERK <u>CYNTHIA KETTLER</u>
REPORTER <u>MARY CORBITT</u>	COUSALE FOR PEOPLE <u>DAVE DRULINER</u>	COUSALE FOR DEFENDANT <u>STACY BOUGH/RAYES GABLE</u>	PROBATION NO. OR PROBATION OFFICER <u>JILL ABRAMS</u>

1. DEFENDANT WAS CONVICTED OF THE COMMISSION OF THE FOLLOWING FELONIES (OR ALTERNATE FELONY/MISDEMEANORS):

ADDITIONAL COUNTS ARE LISTED ON ATTACHMENT (NUMBER OF PAGES)

COUNT	CODE	SECTION NUMBER	CRIME	SEARCHED	DATE OF CONVICTION			CONVICTED BY	SEARCHED
					MO	DAY	YEAR		
187(a)(xxx)	PC	187(a)*	MURDER 1st deg.	SEARCHED	03	08	96	J	SEARCHED
2	PC	187(a)*	MURDER 1st deg.	SEARCHED	03	08	96	J	SEARCHED

2. ENHANCEMENTS (charged and found true) TIED TO SPECIFIC COUNTS (mainly in the § 12022-series) including WEAPONS, INJURY, LARGE AMOUNTS OF CONTROLLED SUBSTANCES, BAIL STATUS, ETC.: For each count list enhancements horizontally. DO NOT LIST enhancements charged but not found true or stricken under § 1385. DO NOT LIST TIME imposed. For indeterminate terms, report enhancements and time imposed for them as detailed.

Count	Enhancement	W&L 1st	Enhancement	W&L 2nd	Enhancement	W&L 3rd	Enhancement	W&L 4th	Enhancement	W&L 5th

3. ENHANCEMENTS charged and found true FOR PRIOR CONVICTIONS OR PRIOR PRISON TERMS (mainly § 667-series) and OTHER. List all enhancements based on prior convictions or prior prison terms charged and found true. If 2 or more under the same section, repeat it for each enhancement (e.g., If 2 non-violent prior prison terms under § 667.5(b) list § 667.5(b) 2 times. DO NOT LIST enhancements not found true. Also enter here any enhancement not provided for in space 2. DO NOT LIST TIME imposed. For indeterminate terms, report enhancements and time for them as detailed.

Enhancement	W&L 1st	Enhancement	W&L 2nd	Enhancement	W&L 3rd	Enhancement	W&L 4th	Enhancement	W&L 5th
Enhancement									

4.  Defendant was sentenced TO DEATH on counts ONE & TWO.

5.  Defendant was sentenced to State Prison for an indeterminate term:

- A.  For LIFE, or a term such as 15 or 25 years to life, WITH POSSIBILITY OF PAROLE on counts \_\_\_\_\_
- B.  For LIFE WITHOUT the possibility of parole on counts \_\_\_\_\_
- C.  For other term prescribed by law on counts \_\_\_\_\_ (Life Terms are on 'A' and 'B'.)

6.  Counts \_\_\_\_\_ are alternate felony/misdemeanors and were DEEMED MISDEMEANORS.  
A term in jail  was  was not ordered.

7.  For counts \_\_\_\_\_ the defendant was placed on FELONY probation.

- A. (1)  Sentence pronounced and execution of sentence was suspended; or  
(2)  Imposition of sentence was suspended.

B. Conditions of probation included  Jail Time  Fine

8.  Other dispositions

- A.  Defendant was committed to California Youth Authority.
- B.  Proceedings suspended, and defendant was committed to California Rehabilitation Center.
- C.  Proceedings suspended, and defendant was committed as a Mentally Disordered Sex Offender.
- D.  Proceedings suspended, and defendant was committed as mentally incompetent.

\*\*SEE FORM DSL 290 FOR DETERMINATE SENTENCES AND OTHER ORDERS\*\*

NOTE 1: PURSUANT TO ARTICLE VI, SECTION 6 OF THE CALIFORNIA CONSTITUTION AND SECTION 68505 OF THE GOVERNMENT CODE, THE CHIEF JUSTICE REQUIRES THAT EACH COURT SHALL COMPLETE THIS FORM FOR EACH INDETERMINATE SENTENCE TO STATE PRISON OR SENTENCE CHOICE OTHER THAN STATE PRISON.

NOTE 2: FOR DEATH SENTENCE OR INDETERMINATE SENTENCE, ABSTRACT OF JUDGMENT MUST ALSO BE PREPARED. IT IS NOT SENT TO THE ADMINISTRATIVE OFFICE OF THE COURTS (AOC).

NOTE 3: IF DEFENDANT IS SENTENCED ON BOTH DETERMINATE AND INDETERMINATE COUNTS, FORM DSL 290 OR 290.1 MUST BE PREPARED AND SENT TO AOC AS WELL AS THIS FORM (AND ABSTRACT FOR INDETERMINATE COUNTS THAT IS NOT SENT TO AOC).

DEPUTY'S SIGNATURE

OCTOBER 25, 1996

Form Adopted by the  
Judicial Council of California  
Effective April 1, 1992

REPORT - INDETERMINATE SENTENCE  
FORM CR 291

00772

Const. Art. VI § 6

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