

Reaching A Decision On Death Penalty, Step By Step

The 12-member jury in the Komisarjevsky death-penalty case is deliberating. On each of six counts, it will go through these steps in reaching a verdict.

1. Statutory mitigating factors:

If at least one is found, death penalty cannot be imposed on that count. If none found, proceed to Step 2. These are the factors under consideration:

- a.** Impaired mental capacity or impaired ability to conform conduct to law
- b.** Defendant's participation in crime was relatively minor, although not so minor as to constitute a defense to prosecution

2. Aggravating factors (Factors vary, depending on count):

- a.** Knowingly created a grave risk to another person
(not cited in 2 of the 6 counts)
- b.** Murders committed in an especially heinous, cruel or depraved manner.

If none found, defendant sentenced to life in prison without possibility of release on that count. If at least one found, proceed to Step 3.

3. Non-statutory mitigating factors.

These are factors that, "in fairness and mercy," tend to extenuate or reduce culpability or blame. Can arise from defendant's character, background or history, or from the crime itself. The defense claims 42 such factors.

- ▶ If none found, defendant is sentenced to death.
- ▶ If at least one found, proceed to Step 4.

4. Do aggravating factors outweigh the non-statutory mitigating factors?

- ▶ If they do, defendant is sentenced to death.
- ▶ If not, the sentence is life in prison without possibility of release