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# 18 U.S. Code § 3592

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## Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified

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**(a) Mitigating Factors.**— In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider any mitigating factor, including the following:

**(1) Impaired capacity.**—

The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

**(2) Duress.**—

The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

**(3) Minor participation.**—

The defendant is punishable as a principal in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

**(4) Equally culpable defendants.**—

Another defendant or defendants, equally culpable in the crime, will not be punished by death.

**(5) No prior criminal record.**—

The defendant did not have a significant prior history of other criminal conduct.

**(6) Disturbance.**—

The defendant committed the offense under severe mental or emotional disturbance.

**(7) Victim's consent.**—

The victim consented to the criminal conduct that resulted in the victim's death.

**(8) Other factors.**—

Other factors in the defendant's background, record, or character or any other circumstance of the offense that mitigate against imposition of the death sentence.

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