**ICJI 1722 Jury Deliberations**

In reaching your verdict, you must first decide whether the State has proven beyond a reasonable doubt that [any of] the statutory aggravating circumstance[s] exists. [You must consider each of the alleged statutory aggravating circumstances.] Your decision that [any of the] [the] statutory aggravating circumstance exist[s] must be unanimous. If you find that the State has failed to prove the existence of [the] [any] statutory aggravating circumstance, or if you are unable to unanimously agree on that issue, then you must so indicate on the verdict form.

If the State has failed to prove the existence of [the] [a] statutory aggravating circumstance, you need not deliberate further. Merely notify the bailiff that you are done. The judge must then sentence the defendant to life in prison, and the judge must set a fixed period of imprisonment of at least ten years, during which the defendant will not be eligible for parole.

If you unanimously find that the State has proven the existence of [the] [a] statutory aggravating circumstance, then you must so indicate on the verdict form. You must also then consider whether any mitigating circumstances exist that make the imposition of the death penalty unjust.

If you find that all mitigating circumstances are sufficiently compelling to make the imposition of the death penalty unjust, or you cannot unanimously agree on that issue, then the defendant will be sentenced to life in prison without the possibility of parole. A life sentence without possibility of parole under Idaho law means that a person must spend the rest of his or her natural life in prison.

If you find that all mitigating circumstances are not sufficiently compelling to make the imposition of the death penalty unjust, then the defendant will be sentenced to death.

You must each decide for yourself whether all mitigating factors presented, when weighed against each statutory aggravating circumstance proven by the State, are sufficiently compelling to make the imposition of the death penalty unjust. You do not have to unanimously agree upon what mitigating circumstances exist. The existence of mitigating factors need not be proven beyond a reasonable doubt. You must each decide for yourself whether mitigating circumstances exist and, if so, then consider them in your individual weighing process.

Once you have reached a unanimous decision on whether all mitigating circumstances, when weighed against each aggravating circumstance, make the imposition of the death penalty unjust, or if you cannot unanimously agree on that issue, then you must indicate on the verdict form and notify the bailiff that you are done.

Comment

I.C. § 19-2515(7).

Use the applicable bracketed language.