

# MITIGATING CIRCUMSTANCES

## **Mitigating Circumstances**

- If present, these circumstances do not entirely free the actor from criminal liability but serve only to reduce the penalty.
- It has two types:
  - **PRIVILEGED MITIGATING**
  - **ORDINARY MITIGATING**

## **A. INCOMPLETE JUSTIFICATION OR EXEMPTION**

- A majority, but not all, elements of justifying and exempting circumstances are present

### **Incomplete Self-Defense, Defense of Relatives and Strangers**

- 0. Unlawful Aggression - should always be present to be appreciated as a mitigating circumstance.
  - a. Ordinary mitigating circumstance - if only unlawful aggression is present.
  - b. Privileged mitigating circumstance - if two of the three requisites are present

## **Art. 69. Penalty to be imposed when the crime committed is not wholly excusable.**

- A penalty lower by one or two degrees than that prescribed by law shall be imposed if the deed is not wholly excusable by reason of the lack of some of the conditions required to justify the same or to exempt from criminal liability in the several cases mentioned in Article 11 and 12, provided that the majority of such conditions be present. The courts shall impose the penalty in the period which may be deemed proper, in view of the number and nature of the conditions of exemption present or lacking.

## **B. UNDER 18 OR OVER 70 YEARS OLD (CONDITIONAL MINORITY)**

- Offender is above fifteen but below eighteen years of age.
- **BASIS:** Diminution of intelligence

## **What Age to Consider?**

- 0. In determining whether the penalty should be lowered – the age of the offender at the time of the commission of the crime

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**Tennessee**



## **Mitigating Circumstances:**

*Criminal Law: Made easy for students, bar examinees & practitioners* Abelardo C. Estrada, 2008      **The Death Penalty** Louis J. Palmer, 1998-01-01 Examines and explains the laws of capital punishment as they exist in the United States as of 1998 focusing primarily on issues that are resolved after a defendant has been convicted of a capital crime      **The Death Penalty in the United States** Louis J. Palmer, Jr., 2013-10-17 The death penalty landscape has changed considerably since the 1998 first edition of this book For example six states that had the death penalty Connecticut Illinois Maryland New Jersey New Mexico and New York no longer impose the punishment Some of the changes set out in this second edition involve discussions of all of the significant cases decided by the United States Supreme Court after 1998 including *Roper v Simmons* 543 U S 551 2005 *Atkins v Virginia* 536 U S 304 2002 *Schriro v Smith* 126 S Ct 7 2005 *Harbison v Bell* 129 S Ct 1481 2009 *Holmes v South Carolina* 126 S Ct 1727 2006 *Kansas v Marsh* 126 S Ct 2516 2006 *Ring v Arizona* 536 U S 584 2002 *Sattazahn v Pennsylvania* 537 U S 101 2003 This new edition includes 13 new chapters They cover such topics as capital felon s defense team habeas corpus coram nobis and section 1983 proceedings the Innocence protection act and post conviction DNA testing challenging the death sentence under racial justice acts inhabited American territories and the costs of capital punishment      *Encyclopedia of Capital Punishment in the United States, 2d ed.* Louis J. Palmer, Jr., 2008-08-06 This updated encyclopedia provides ready information on all aspects of capital punishment in America It details virtually every capital punishment decision rendered by the United States Supreme Court through 2006 including more than 40 cases decided since publication of the first edition Entries are also provided for each Supreme Court Justice who has ever rendered a capital punishment opinion Entries on jurisdictions cite present day death penalty laws and judicial structure state by state with synopses of common and unique features Also included are entries on significant U S capital prosecutions legal principles and procedures in capital cases organizations that support and oppose capital punishment capital punishment s impact on persons of African Asian Hispanic and Native American descent on women and on foreign nationals and the methods of execution Essential facts are also provided on capital punishment in more than 200 other nations A wealth of statistical data is found throughout      *Mitigating Circumstances* Nancy Taylor Rosenberg, 1993 After an intruder invades the home of Assistant District Attorney Lily Forrester Lily finds that her life is spinning out of control and turmoil in both her professional and private lives comes to a boil      Confirmation Hearings on Federal Appointments United States. Congress. Senate. Committee on the Judiciary, 2013      Mitigating Circumstances Brian D. Baker, 2017-06-09 *Mitigating Circumstances* is a compilation of real life detective stories that highlight the grace of God in the lives of criminal offenders Told in the first person *Mitigating Circumstances* describes how the professional life of an experienced private detective changed dramatically when Jesus became the Lord of his life A gritty often discouraging occupation morphed into a ministry and these stories are the fruit of this ministry These stories are meant to encourage readers that God can heal even the most hardened

hopeless offender     **The American and English Annotated Cases** ,1915     Annotated Cases, American and English  
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