

(III) CARJACKING OR ARMED CARJACKING;

(IV) ESCAPE IN THE FIRST DEGREE;

(V) KIDNAPPING;

(VI) MAYHEM;

(VII) MURDER;

(VIII) RAPE IN THE FIRST OR SECOND DEGREE;

(IX) ROBBERY UNDER § 3-402 OR § 3-403 OF THIS ARTICLE;

(X) SEXUAL OFFENSE IN THE FIRST OR SECOND DEGREE;

(XI) MANSLAUGHTER OTHER THAN INVOLUNTARY  
MANSLAUGHTER;

(XII) AN ATTEMPT TO COMMIT ANY CRIME LISTED IN ITEMS (I)  
THROUGH (XI) OF THIS PARAGRAPH; OR

(XIII) THE USE OF A HANDGUN IN THE COMMISSION OF A FELONY OR  
OTHER CRIME OF VIOLENCE.

(2) IF THE COURT OR JURY FINDS BEYOND A REASONABLE DOUBT THAT  
ONE OR MORE OF THE AGGRAVATING CIRCUMSTANCES UNDER SUBSECTION (G) OF  
THIS SECTION EXIST, IT THEN SHALL CONSIDER WHETHER ANY OF THE FOLLOWING  
MITIGATING CIRCUMSTANCES EXISTS BASED ON A PREPONDERANCE OF THE  
EVIDENCE:

(I) THE DEFENDANT PREVIOUSLY HAS NOT:

1. BEEN FOUND GUILTY OF A CRIME OF VIOLENCE;
2. ENTERED A GUILTY PLEA OR A PLEA OF NOLO  
CONTENDERE TO A CHARGE OF A CRIME OF VIOLENCE; OR
3. RECEIVED PROBATION BEFORE JUDGMENT FOR A CRIME  
OF VIOLENCE;

(II) THE VICTIM WAS A PARTICIPANT IN THE CONDUCT OF THE  
DEFENDANT OR CONSENTED TO THE ACT THAT CAUSED THE VICTIM'S DEATH;

(III) THE DEFENDANT ACTED UNDER SUBSTANTIAL DURESS,  
DOMINATION, OR PROVOCATION OF ANOTHER, BUT NOT SO SUBSTANTIAL AS TO  
CONSTITUTE A COMPLETE DEFENSE TO THE PROSECUTION;

(IV) THE MURDER WAS COMMITTED WHILE THE CAPACITY OF THE  
DEFENDANT TO APPRECIATE THE CRIMINALITY OF THE DEFENDANT'S CONDUCT OR  
TO CONFORM THAT CONDUCT TO THE REQUIREMENTS OF LAW WAS SUBSTANTIALLY  
IMPAIRED DUE TO EMOTIONAL DISTURBANCE, MENTAL DISORDER, OR MENTAL  
INCAPACITY;