

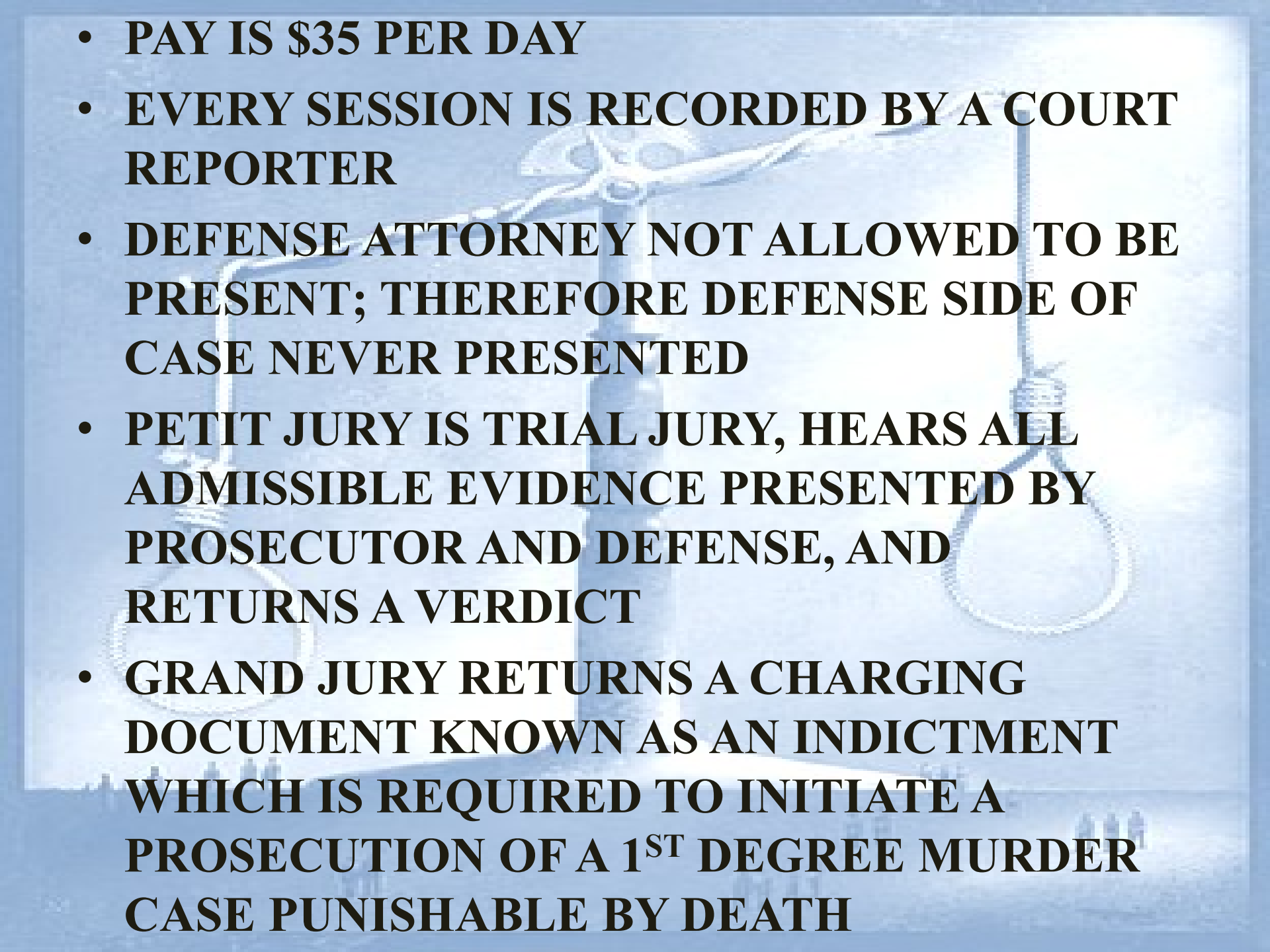


**VIII. DEATH PENALTY
CONSIDERATIONS**

**PRESENTED BY:
JUDGE MARK A. SPEISER**

I GRAND JURY

- **AN INVESTIGATIVE AND ACCUSATORY PANEL SUPERVISED BY CIRCUIT COURT**
- **ELIGIBLE CITIZENS OF THE JUDICIAL CIRCUIT ARE RANDOMLY SUMMONED AND SELECTED**
- **GRAND JURORS MUST BE AT LEAST 18 YEARS OF AGE AND PANEL CONSISTS OF NO FEWER THAN 15 NOR MORE THAN 21 PERSONS**
- **TERM OF DUTY IS 6 MONTHS AND MAY BE EXTENDED UP TO 90 DAYS**

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- **PAY IS \$35 PER DAY**
 - **EVERY SESSION IS RECORDED BY A COURT REPORTER**
 - **DEFENSE ATTORNEY NOT ALLOWED TO BE PRESENT; THEREFORE DEFENSE SIDE OF CASE NEVER PRESENTED**
 - **PETIT JURY IS TRIAL JURY, HEARS ALL ADMISSIBLE EVIDENCE PRESENTED BY PROSECUTOR AND DEFENSE, AND RETURNS A VERDICT**
 - **GRAND JURY RETURNS A CHARGING DOCUMENT KNOWN AS AN INDICTMENT WHICH IS REQUIRED TO INITIATE A PROSECUTION OF A 1ST DEGREE MURDER CASE PUNISHABLE BY DEATH**

II. GUILT PHASE

- **12 JURORS AND 4 ALTERNATES**
- **DEATH QUALIFYING THE JURY**
 - **MISGIVINGS ABOUT RECOMMENDING DEATH PENALTY**
 - **WITHERSPOON V. ILLINOIS**
 - **391 U.S. 510 (1968)**
- **UNANIMOUS VERDICT**

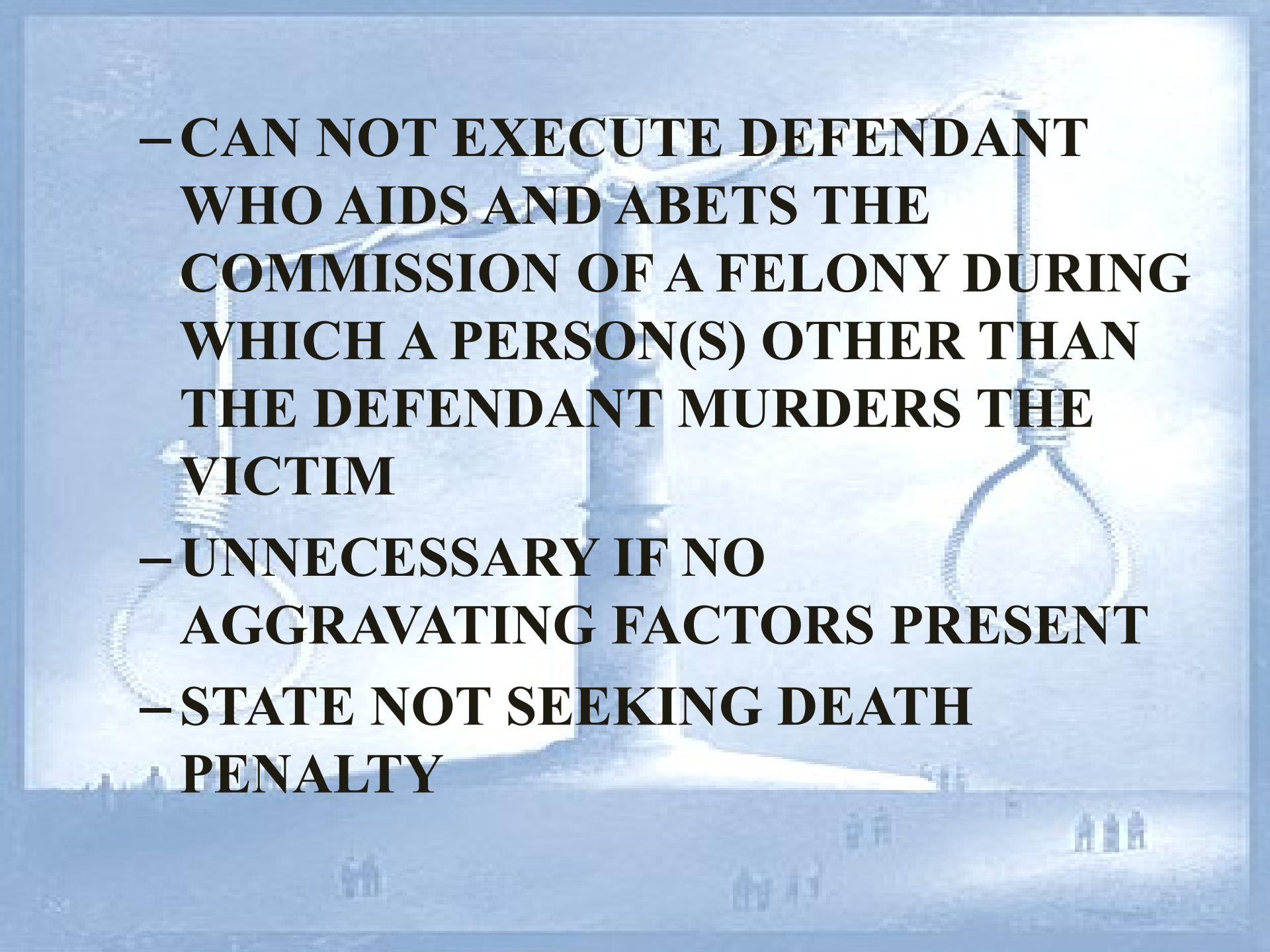
III. PENALTY PHASE

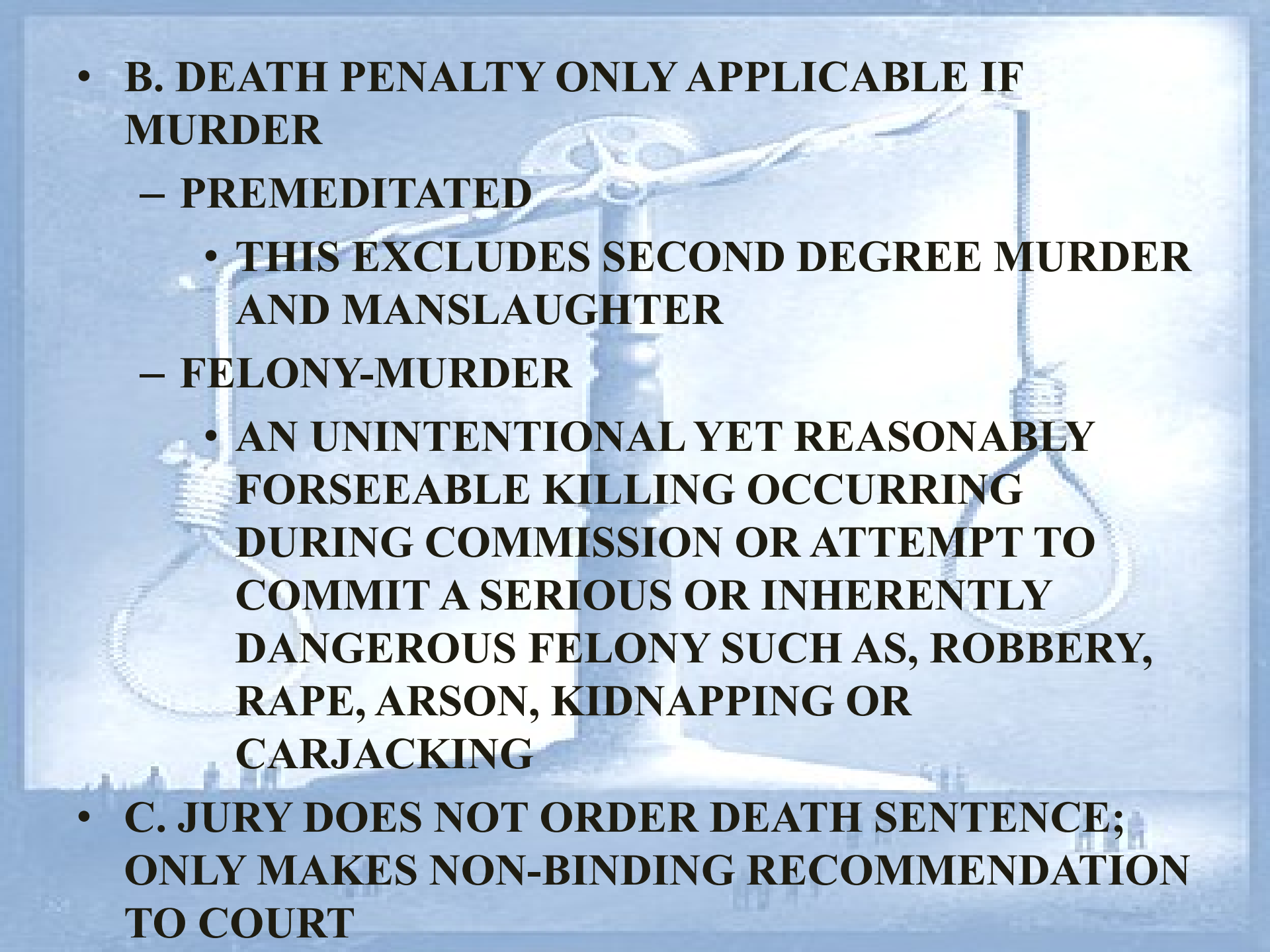
- **A. UNNECESSARY IF DEFENDANT IS OR YOUNGER WHEN MURDER COMMITTED**

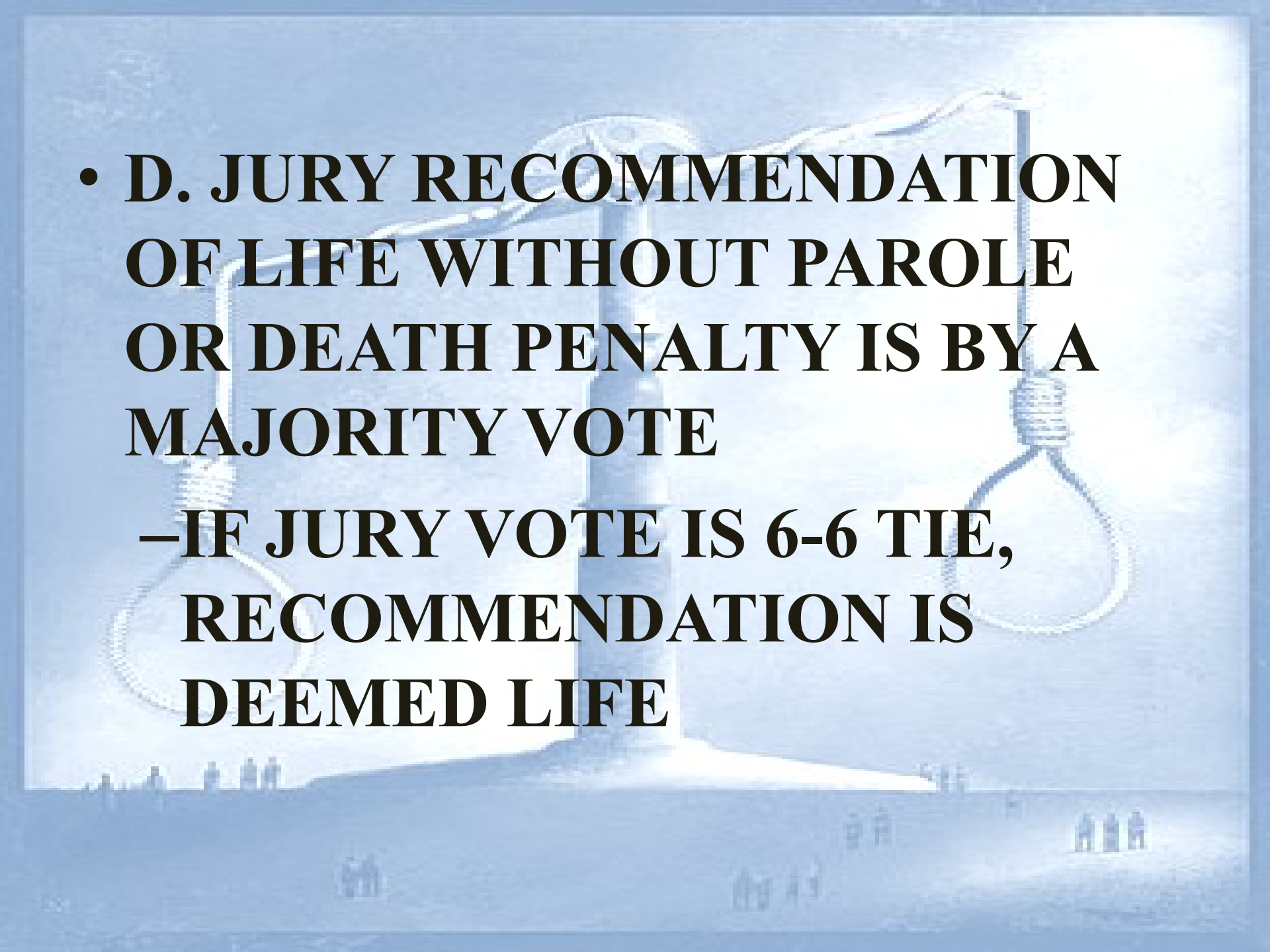
–CRUEL AND UNUSUAL PUNISHMENT

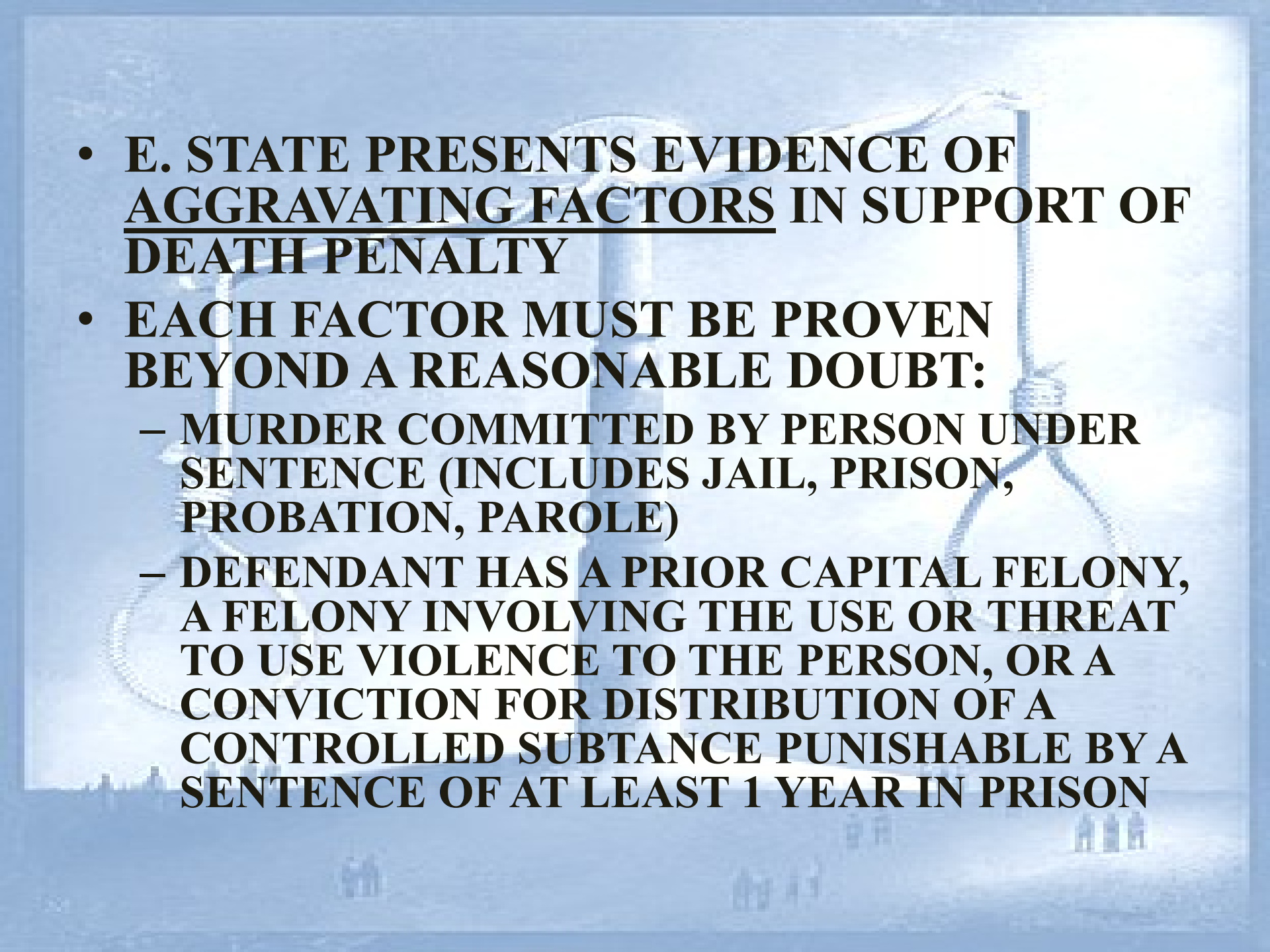
- **8TH AMENDMENT**

–CAN NOT EXECUTE DEFENDANT WHO IS MENTALLY RETARDED

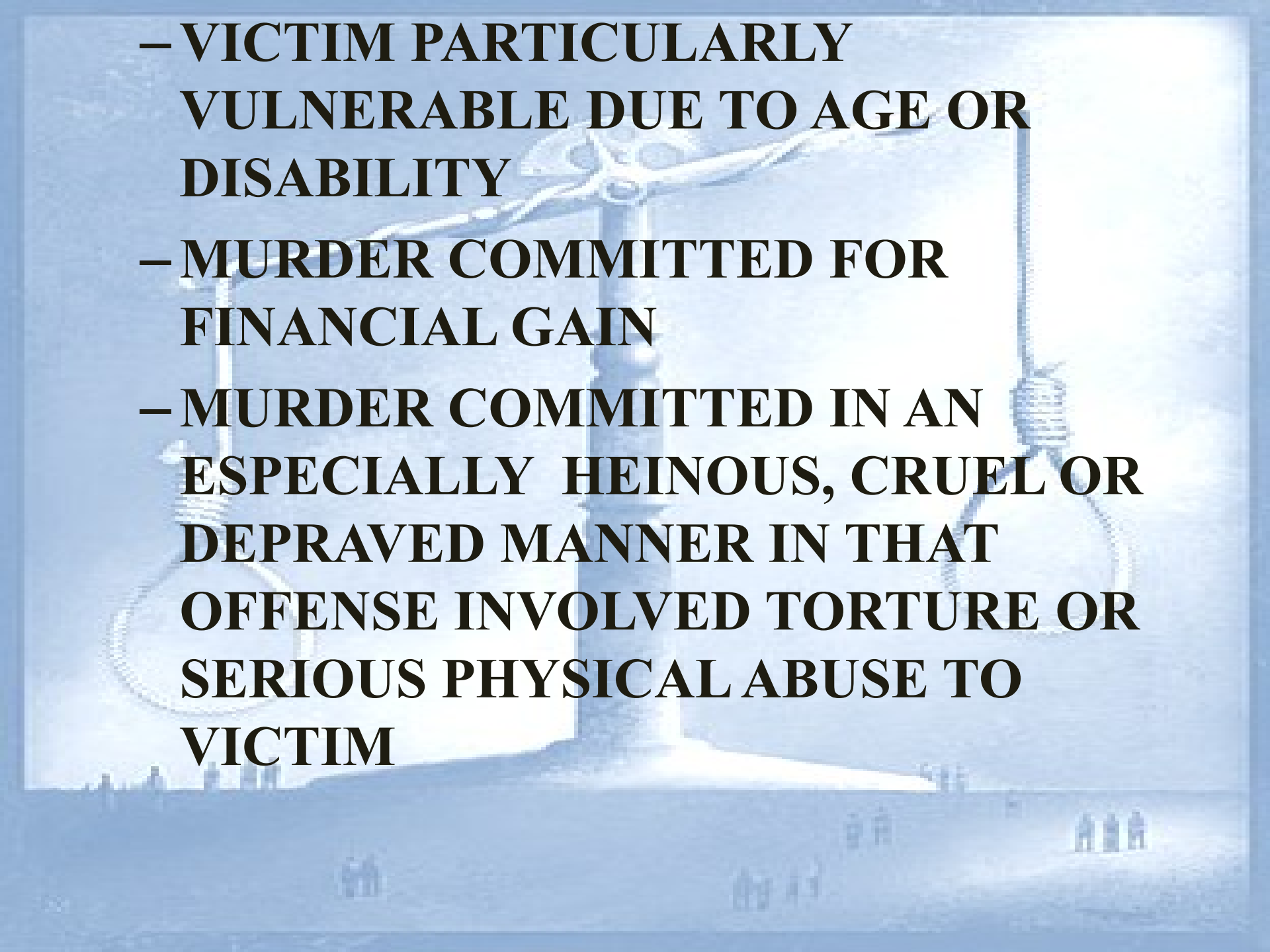
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- CAN NOT EXECUTE DEFENDANT WHO AIDS AND ABETS THE COMMISSION OF A FELONY DURING WHICH A PERSON(S) OTHER THAN THE DEFENDANT MURDERS THE VICTIM**
 - UNNECESSARY IF NO AGGRAVATING FACTORS PRESENT**
 - STATE NOT SEEKING DEATH PENALTY**

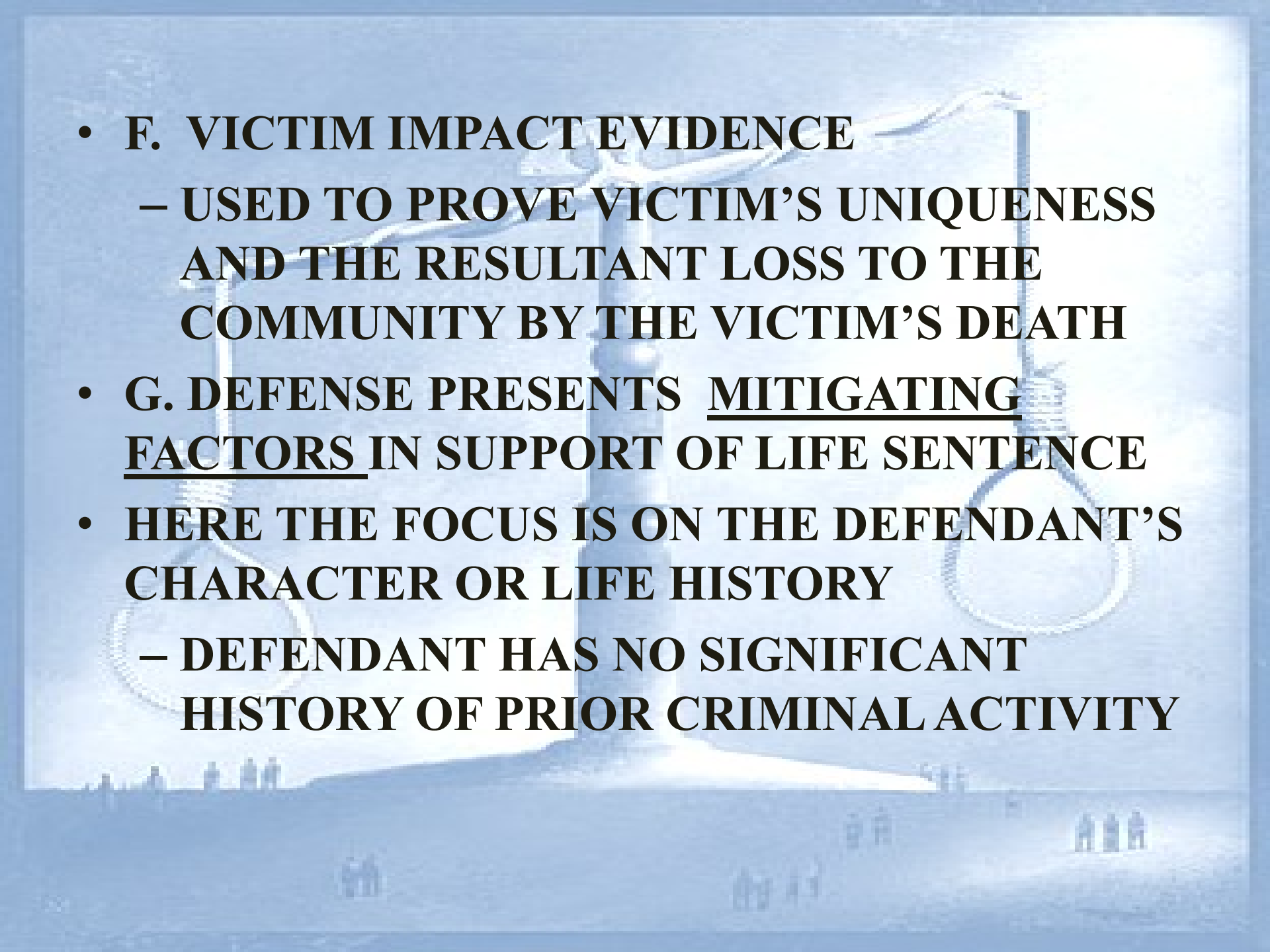
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- **B. DEATH PENALTY ONLY APPLICABLE IF MURDER**
 - **PREMEDITATED**
 - **THIS EXCLUDES SECOND DEGREE MURDER AND MANSLAUGHTER**
 - **FELONY-MURDER**
 - **AN UNINTENTIONAL YET REASONABLY FORSEEABLE KILLING OCCURRING DURING COMMISSION OR ATTEMPT TO COMMIT A SERIOUS OR INHERENTLY DANGEROUS FELONY SUCH AS, ROBBERY, RAPE, ARSON, KIDNAPPING OR CARJACKING**
 - **C. JURY DOES NOT ORDER DEATH SENTENCE; ONLY MAKES NON-BINDING RECOMMENDATION TO COURT**

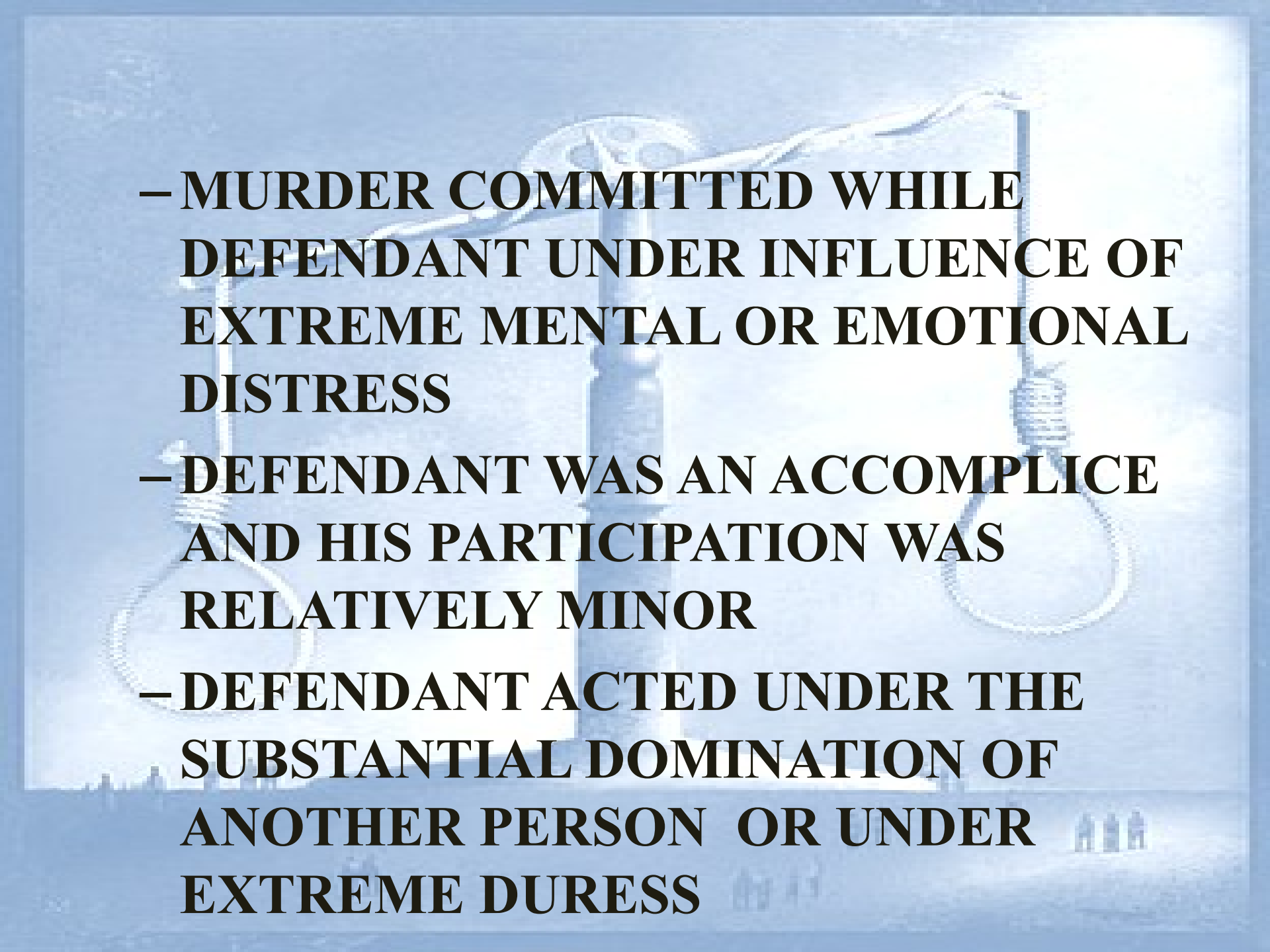
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- **D. JURY RECOMMENDATION OF LIFE WITHOUT PAROLE OR DEATH PENALTY IS BY A MAJORITY VOTE**
 - **IF JURY VOTE IS 6-6 TIE, RECOMMENDATION IS DEEMED LIFE**

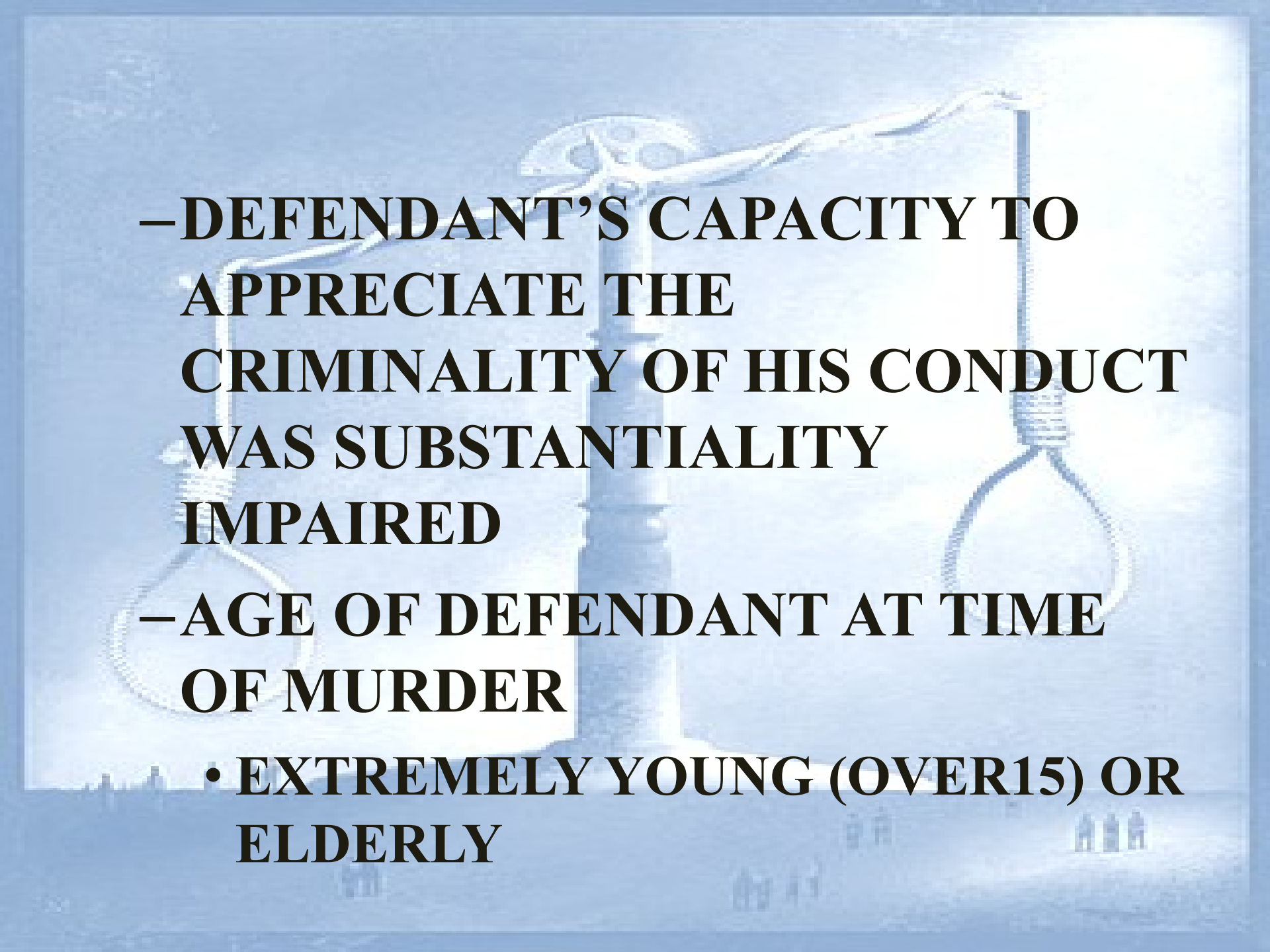
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- **E. STATE PRESENTS EVIDENCE OF AGGRAVATING FACTORS IN SUPPORT OF DEATH PENALTY**
 - **EACH FACTOR MUST BE PROVEN BEYOND A REASONABLE DOUBT:**
 - **MURDER COMMITTED BY PERSON UNDER SENTENCE (INCLUDES JAIL, PRISON, PROBATION, PAROLE)**
 - **DEFENDANT HAS A PRIOR CAPITAL FELONY, A FELONY INVOLVING THE USE OR THREAT TO USE VIOLENCE TO THE PERSON, OR A CONVICTION FOR DISTRIBUTION OF A CONTROLLED SUBSTANCE PUNISHABLE BY A SENTENCE OF AT LEAST 1 YEAR IN PRISON**

- DEFENDANT CREATED GREAT RISK NOT A MERE PROBABILITY OF DEATH TO MANY PERSONS (4 OR MORE PERSONS OTHER THAN THE VICTIM)**
- DEFENDANT USED FIREARM OR DIRECTED ANOTHER TO DO SO**
- OFFENSE INVOLVED DISTRIBUTION OF DRUGS TO PERSONS UNDER 18**
- OFFENSE INVOLVED DISTRIBUTION OF DRUGS CONTAINING POTENTIALLY LETHAL COMPONENT**
- VICTIM IS A LAW ENFORCEMENT OFFICER**

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- VICTIM PARTICULARLY VULNERABLE DUE TO AGE OR DISABILITY**
 - MURDER COMMITTED FOR FINANCIAL GAIN**
 - MURDER COMMITTED IN AN ESPECIALLY HEINOUS, CRUEL OR DEPRAVED MANNER IN THAT OFFENSE INVOLVED TORTURE OR SERIOUS PHYSICAL ABUSE TO VICTIM**

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- **F. VICTIM IMPACT EVIDENCE**
 - **USED TO PROVE VICTIM’S UNIQUENESS AND THE RESULTANT LOSS TO THE COMMUNITY BY THE VICTIM’S DEATH**
 - **G. DEFENSE PRESENTS MITIGATING FACTORS IN SUPPORT OF LIFE SENTENCE**
 - **HERE THE FOCUS IS ON THE DEFENDANT’S CHARACTER OR LIFE HISTORY**
 - **DEFENDANT HAS NO SIGNIFICANT HISTORY OF PRIOR CRIMINAL ACTIVITY**

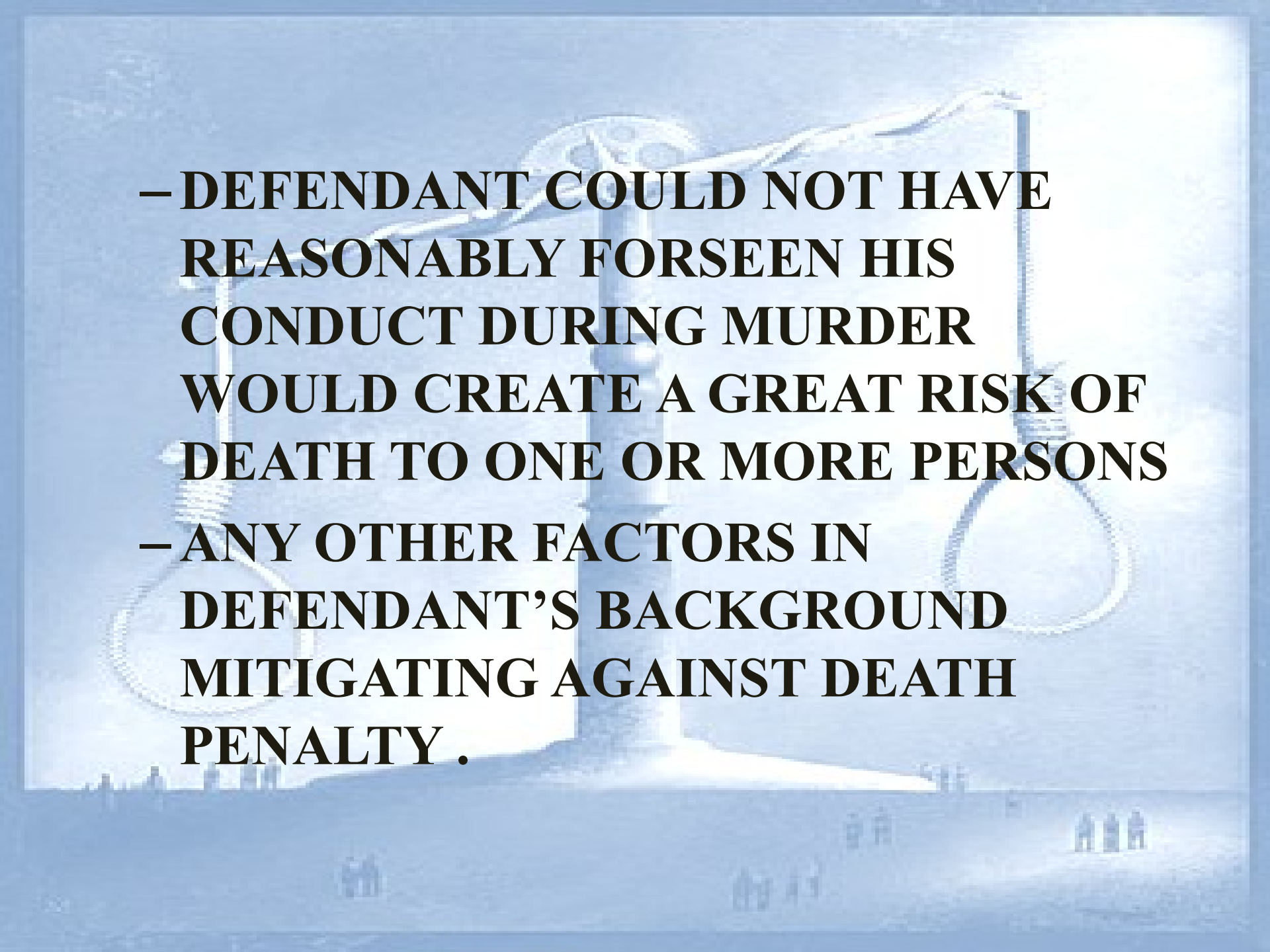
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- MURDER COMMITTED WHILE DEFENDANT UNDER INFLUENCE OF EXTREME MENTAL OR EMOTIONAL DISTRESS**
 - DEFENDANT WAS AN ACCOMPLICE AND HIS PARTICIPATION WAS RELATIVELY MINOR**
 - DEFENDANT ACTED UNDER THE SUBSTANTIAL DOMINATION OF ANOTHER PERSON OR UNDER EXTREME DURESS**



**–DEFENDANT’S CAPACITY TO
APPRECIATE THE
CRIMINALITY OF HIS CONDUCT
WAS SUBSTANTIALITY
IMPAIRED**

**–AGE OF DEFENDANT AT TIME
OF MURDER**

- EXTREMELY YOUNG (OVER 15) OR
ELDERLY**

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- DEFENDANT COULD NOT HAVE REASONABLY FORSEEN HIS CONDUCT DURING MURDER WOULD CREATE A GREAT RISK OF DEATH TO ONE OR MORE PERSONS**
 - ANY OTHER FACTORS IN DEFENDANT’S BACKGROUND MITIGATING AGAINST DEATH PENALTY .**

- **H. CLOSING ARGUMENTS**
 - STATE ARGUES FIRST
 - DEFENSE HAS LAST WORD
- **I. JURY INSTRUCTIONS**
- **J. JURY DELIBERATIONS AND RESULTING NON-BINDING ADVISORY OPINION**
- **K. SENTENCE ALTERNATIVES**
 - FOLLOW JURY'S RECOMMENDATION
 - JURY OVERRIDE





- **L. DEATH SENTENCE
REQUIRES EXTENSIVE AND
DETAILED SENTENCING
ORDER**

- **M. APPEAL
–DIRECTLY TO FLORIDA
SUPREME COURT**

A blue-tinted illustration of a balance scale. The left pan is lower and contains a gallows. The right pan is higher and also contains a gallows. The text "THE END" is written across the center of the image in a large, black, serif font.

THE END