

II. MITIGATING FACTORS

Instructions: For each of the following mitigating factors, you have the option to indicate, in the space provided, the number of jurors (from 0 to 12) who have found the existence of that mitigating factor to be proven by a preponderance of the evidence. You also have the option not to make these written findings by crossing out that factor with a large "X", and then continue your deliberations in accordance with the instructions of the Court.

Any member of the jury who finds the existence of a mitigating factor may consider such a factor established in considering whether or not a sentence of death shall be imposed, regardless of the number of other jurors who concur that the factor has been established.

1. Shani Nurani Shiekh Abrar does not have a criminal record.

Number of jurors who so find: 2

2. There is evidence that at least one additional shooter directly participated in the murders of the victims, and neither he nor other persons equally culpable in the crime will be punished by death.

Number of jurors who so find: 2

3. Shani Nurani Shiekh Abrar was born into the Bantu ethnic group, a low-status caste whose members are not even considered to be Somali.

Number of jurors who so find: 2

4. From the time he was a boy, Shani Nurani Shiekh Abrar was identified on sight by others as "jareer"---someone who is an outcast, the target of threats, verbal and physical abuse, and restricted opportunities in life.

Number of jurors who so find: 1

5. The impact of Shani Nurani Shiekh Abrar's low social status was especially severe because he has lived almost his whole life in a war-torn country where government has collapsed, leaving Somalia's clan structure as the only source of social order.

Number of jurors who so find: 4

6. Shani Nurani Shiekh Abrar was abandoned by both his mother and father at a very early age.

Number of jurors who so find: X

7. Shani Nurani Shiekh Abrar's formal schooling ended at about age 8 or 9.

Number of jurors who so find: 2

8. As someone identified as Bantu in Somalia, Shani Nurani Shiekh Abrar was without many basic rights in his own country.

Number of jurors who so find: 3

9. In addition to being identified as Bantu, Shani Nurani Shiekh Abrar had no strong, protective attachment to any family group or clan.

Number of jurors who so find: X

10. Shani Nurani Shiekh Abrar has no prior history of piracy before the voyage that ended on February 22, 2011, and no prior history of violent conduct in any setting.

Number of jurors who so find: 4

11. Other defendants with greater authority in the piracy conspiracy will not be punished by death.

Number of jurors who so find: 5

12. Shani Nurani Shiekh Abrar did not finance, recruit, supervise, command or direct anyone in the piracy enterprise.

Number of jurors who so find: 4

13. Shani Nurani Shiekh Abrar's conduct did not involve substantial planning or premeditation to cause the victims' deaths.

Number of jurors who so find: 2

14. Shani Nurani Shiekh Abrar has adapted well to incarceration by:
- a. behaving appropriately in confinement since February, 2011;
 - b. helping to reduce the threat of violence by other inmates; and
 - c. seeking opportunities for productive work and learning.

Number of jurors who so find: 6

15. A lifetime of incarceration in an alien environment with no hope of release, and no hope of ever returning to his own country, culture, or family, is a harsh punishment.

Number of jurors who so find: 1

The following extra spaces are provided to write in additional mitigating factors, if any, found by any one or more jurors. If none, write "NONE." If more space is needed, write "CONTINUED" and use the reverse side of this page.

The limited amount of personal history for consideration

Number of jurors who so find: 2