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Crimes

Crimes; felony murder accomplice—removal of death penalty

NEV. REV. STAT. §200.033 (amended).

AB 15 (Committee on Judiciary); 1983 STAT. Ch 110

(Effective April 2, 1983)

Existing law specifies homicides punishable as murder in the first degree¹. The law further provides for mandatory imposition of the death penalty in any first degree murder conviction when an aggravating circumstance² is found and no mitigating factors³ outweigh that circumstance.⁴ Felony murder is specified as an aggravating circumstance.⁵

Prior law permitted application of the felony murder aggravating circumstance to any accomplice in the felony, since criminal liability under the felony murder rule attached to accomplices as well as to those who actually committed the killing.⁶ The United States Supreme Court, however, recently held in *Enmund v. Florida*⁷ that imposition of the death penalty is cruel and unusual punishment, violative of the eighth and fourteenth Amendments, when imposed on a person who does not kill, attempt to kill, or intend to kill, but who merely aids and abets a felony resulting in murder.⁸ In accordance with the *Enmund* decision, Chapter 110 restricts application of the felony murder aggravating circumstance to persons who (1) killed, or attempted to kill the person murdered, or who (2) knew or had reason to know that life would be taken or that lethal force would be used.⁹

1. NEV. REV. STAT. §200.030(1).

2. See *id.* §200.033 (amended by 1983 Nev. Stat. c. 110, §1, at 286)(enumeration of aggravating circumstances).

3. See *id.* §200.035 (enumeration of mitigating circumstances).

4. *Id.* §200.030(4)(a).

5. *Id.* §200.0334(4)(amended by 1983 Nev. Stat. c. 110, §1(4), at 286).

6. 1981 Nev. Stat. c. 274, §1, at 521 (amending NEV. REV. STAT. §200.033(4)); *State v. Beck*, 42 Nev. 209, 213, 147 P. 714, 715 (1918).

7. *Id.* 102 S. Ct. 3368 (1982).

8. *Id.* at 3369, 3376-77 (1982).

9. NEV. REV. STAT. §200.033(4) (amended by 1983 Nev. Stat. c. 110, §1(4), at 286).