

## I.

WHETHER CIRCUIT COURT JUDGE WARREN JOHNSON SHOULD HAVE DISQUALIFIED OR RECUSED HIMSELF FROM ANY FURTHER PROCEEDINGS IN STATE'S CASE AGAINST ELIJAH PAGE FOLLOWING THE COURT'S SENTENCING DETERMINATION IN THE CASE OF CO-DEFENDANT BRILEY PIPER.

## II.

WHETHER THE TRIAL COURT'S FAILURE TO GIVE MEANINGFUL CONSIDERATION TO THE MITIGATION EVIDENCE, AND ERRONEOUS INTREPRETATION OF MITIGATION EVIDENCE, DEPRIVED PAGE OF THE INDIVIDUALIZED SENTENCING HEARING GUARANTEED BY THE FOURTEENTH AND EIGHTH AMENDMENTS TO THE UNITED STATES CONSTITUTION.

## III.

WHETHER PAGE'S DEATH SENTENCE IS PROPORTIONATE IN COMPARISON TO THE LIFE SENTENCE IMPOSED ON CO-DEFENDANT DARRELL HOADLEY.

## IV.

THE STATUTORY SCHEME IN SDCL 23A-27A-1 FOR DEFINING AGGRAVATING FACTORS FAILS TO SUFFICIENTLY LIMIT THE CLASS OF PERSONS WHO MAY BE DEEMED ELIGIBLE FOR THE DEATH PENALTY.

## V.

THE TRIAL COURT ERRED IN UTILIZING A VAGUE AND OVER BROAD AGGRAVATING FACTOR WHEN DETERMINING THAT PAGE WAS ELIGIBLE FOR THE DEATH SENTENCE.

## VI.

INSUFFICIENT EVIDENCE EXISTS IN THE RECORD FROM WHICH THE TRIAL COURT COULD REASONABLY FIND THAT STATE MET ITS BURDEN OF PROOF BASED ON THE AGGRAVATING FACTORS DEFINED IN SDCL 23A-27A-1(3), (6) AND (9).

## VII.

WHETHER THE SELECTIVE APPLICATION BY PROSECUTORS AND COURTS OF SOUTH DAKOTA'S MANDATORY CAPITAL SENTENCING PROCEDURES IS UNCONSTITUTIONAL.

## VIII.

WHETHER APPELLANT'S DEATH SENTENCE WAS UNCONSTITUTIONALLY IMPOSED BECAUSE THE INDICTMENT FAILED TO ALLEGE ANY AGGRAVATING CIRCUMSTANCES AND BECAUSE THE TRIAL COURT, NOT A JURY, MADE THE FACTUAL FINDINGS THAT AGGRAVATING CIRCUMSTANCES EXISTED.

## IX.

WHETHER THE SENTENCE OF DEATH IS EXCESSIVE OR DISPROPORTIONATE TO THE PENALTY IMPOSED IN SIMILAR CASES CONSIDERING BOTH THE CRIME AND THE DEFENDANT.