

MITIGATING CIRCUMSTANCES

Mitigating Circumstances

- If present, these circumstances do not entirely free the actor from criminal liability but serve only to reduce the penalty.
- It has two types:
 - **PRIVILEGED MITIGATING**
 - **ORDINARY MITIGATING**

A. INCOMPLETE JUSTIFICATION OR EXEMPTION

- A majority, but not all, elements of justifying and exempting circumstances are present

Incomplete Self-Defense, Defense of Relatives and Strangers

0. Unlawful Aggression - should always be present to be appreciated as a mitigating circumstance.
 - a. Ordinary mitigating circumstance - if only unlawful aggression is present.
 - b. Privileged mitigating circumstance - if two of the three requisites are present

Art. 69. Penalty to be imposed when the crime committed is not wholly excusable.

- A penalty lower by one or two degrees than that prescribed by law shall be imposed if the deed is not wholly excusable by reason of the lack of some of the conditions required to justify the same or to exempt from criminal liability in the several cases mentioned in Article 11 and 12, provided that the majority of such conditions be present. The courts shall impose the penalty in the period which may be deemed proper, in view of the number and nature of the conditions of exemption present or lacking.

B. UNDER 18 OR OVER 70 YEARS OLD (CONDITIONAL MINORITY)

- Offender is above fifteen but below eighteen years of age.
- **BASIS:** Diminution of intelligence

What Age to Consider?

0. In determining whether the penalty should be lowered – the age of the offender at the time of the commission of the crime

Mitigating Circumstances

RJ Shavelson



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