

criminal enterprise of which the offense was a part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm, as defined in section 921 of this title, to threaten, intimidate, assault, or injure a person.

“(5) DISTRIBUTION TO PERSONS UNDER TWENTY-ONE.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 418 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

“(6) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 419 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

“(7) USING MINORS IN TRAFFICKING.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 420 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

“(8) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant.

Page 51, line 7, strike “, in the case” and all that follows through “the jury” in line 14, and insert “an aggravating factor required to be considered under section 3592 is found to exist, the jury”.

It was decided in the affirmative Yays 340 Nays 87 Answered present 1

33.14 [Roll No. 108] AYES—340

- Abercrombie Buyer Dornan
Ackerman Byrne Dreier
Allard Callahan Duncan
Andrews (NJ) Calvert Dunn
Andrews (TX) Camp Durbin
Applegate Canady Edwards (TX)
Archer Cantwell Ehlers
Armev Cardin Emerson
Bacchus (FL) Carr English
Bachus (AL) Castle Everrett
Baesler Chapman Ewing
Baker (CA) Clement Faleomavaega
Baker (LA) Clinger (AS)
Ballenger Coble Fawell
Barcia Coleman Fazio
Barlow Collins (GA) Fields (TX)
Barrett (NE) Combest Fingerhut
Bartlett Condit Ford (TN)
Barton Cooper Fowler
Bateman Coppersmith Franks (CT)
Beilenson Costello Franks (NJ)
Bentley Cox Frost
Bereuter Cramer Gallegly
Berman Crane Gekas
Bevill Crapo Gephardt
Bilbray Cunningham Geren
Bilirakis Danner Gibbons
Bishop Darden Gilchrist
Bliley de la Garza Gillmor
Blute de Lugo (VI) Gilman
Boehlert Deal Gingrich
Boehner DeFazio Glickman
Bonilla DeLauro Goodlatte
Borski DeLay Gordon
Boucher Derrick Goss
Brewster Deutsch Grams
Brooks Diaz-Balart Green
Browder Dickey Greenwood
Brown (FL) Dicks Gunderson
Bryant Dingell Hall (OH)
Bunning Dooley Hall (TX)
Burton Doolittle Hamilton

- Hancock Matsui Rowland
Hansen Mazzoli Royce
Harman McCandless Sangmeister
Hastert McCloskey Santorum
Hayes McCollum Sarpalius
Hefley McCreery Sawyer
Hefner McCurdy Saxton
Herger McDade Schaefer
Hoagland McHale Schenk
Hobson McHugh Schiff
Hochbrueckner McInnis Schroeder
Hoke McKeon Schumer
Holden McMillan Sensenbrenner
Horn Meehan Shaw
Houghton Menendez Shays
Hoyer Meyers Shepherd
Huffington Mica Shuster
Hunter Michel Siskis
Hutchinson Miller (FL) Skaggs
Hutto Minge Skeen
Hyde Moakley Skelton
Inglis Molinari Slattery
Inhofe Mollohan Slaughter
Inslee Montgomery Smith (IA)
Istook Moorhead Smith (MI)
Johnson (CT) Moran Smith (OR)
Johnson (GA) Morella Smith (TX)
Johnson (SD) Murtha
Johnson, E.B. Myers Solomon
Johnson, Sam Neal (MA) Spence
Johnston Neal (NC) Spratt
Kanjorski Nussle Stearns
Kaptur Ortiz Stenholm
Kasich Orton Strickland
Kennedy Oxley Stump
Kennelly Packard Stupak
Kim Pallone Sundquist
King Parker Sweet
Kingston Pastor Swift
Klecicka Paxon Talent
Klein Payne (VA) Tanner
Klink Penny Tauzin
Klug Peterson (FL) Taylor (MS)
Knollenberg Peterson (MN) Taylor (NC)
Kolbe Petri Tejada
Kreidler Pickett Thomas (CA)
Kyl Pickle Thomas (WY)
LaFalce Pombo Thornton
Lambert Pomeroy Thurman
Lancaster Porter
Lantos Portman
LaRocco Poshard
Laughlin Price (NC)
Lazio Pryce (OH)
Leach Quillen
Lehman Quinn
Levin Rahall
Levy Ramstad
Lewis (CA) Ravenel
Lewis (FL) Regula
Lightfoot Reynolds
Linder Richardson
Lipinski Ridge
Livingston Roberts
Lloyd Roemer
Long Rogers
Machtley Rohrabacher
Mann Romero-Barcelo
Manton (PR)
Manzullo Ros-Lehtinen
Margolis-Rose
Mezvinsky Rostenkowski
Martinez Roth

NOES—87

- Andrews (ME) Foglietta Miller (CA)
Barca Frank (MA) Mineta
Barrett (WI) Furse Mink
Becerra Gejdenson Nadler
Blackwell Gonzalez Norton (DC)
Bonior Gutierrez Oberstar
Brown (CA) Obey
Brown (OH) Hastings Olver
Clay Hilliard Owens
Clayton Hinchey Payne (NJ)
Clyburn Hoekstra Pelosi
Collins (IL) Hughes Reed
Collins (MI) Jacobs Roybal-Allard
Conyers Jefferson Rush
Coyne Kildee Sabo
Dellums Kopetski Sanders
Dixon Lewis (GA) Scott
Edwards (CA) Lowey Serrano
Engel Maloney Sharp
Eshoo Markey Smith (NJ)
Evans McDermott Stark
Farr McKinney Stokes
Fields (LA) McNulty Studds
Filner Meek Synar
Flake Mfume Thompson

- Towns Vento Waxman
Tucker Visclosky Woolsey
Underwood (GU) Waters Wynn
Velazquez Watt Yates

ANSWERED “PRESENT”—1

Goodling

NOT VOTING—9

- Fish Grandy Roukema
Ford (MI) Murphy Washington
Gallo Rangel Whitten

So the amendment was agreed to. After some further time,

33.15 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment submitted by Mr. GEKAS:

Page 48, strike line 1 through line 2.

Page 51, strike line 14 and all that follows through line 3 on page 52 and insert the following:

the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist outweigh any mitigating factors. The jury, or if there is no jury, the court shall recommend a sentence of death if it unanimously finds at least one aggravating factor and no mitigating factor or if it finds one or more aggravating factors which outweigh any mitigating factors. In any other case, it shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants. The jury shall be instructed that its recommendation concerning a sentence of death is to be based on the aggravating factor or factors and any mitigating factors which have been found, but that the final decision concerning the balance of aggravating and mitigating factors is a matter for the jury’s judgment.

Page 53, beginning in line 3, strike “or life imprisonment without possibility of release”.

It was decided in the affirmative Yays 226 Nays 198 Answered present 1

33.16 [Roll No. 109] AYES—226

- Allard Carr Fingerhut
Andrews (NJ) Castle Fowler
Applegate Chapman Franks (CT)
Archer Clement Franks (NJ)
Armev Clinger Frost
Bachus (AL) Coble Gallegly
Baker (CA) Collins (GA) Gekas
Baker (LA) Combest Geren
Ballenger Condit Gilchrist
Barcia Cooper Gillmor
Barrett (NE) Costello Gilman
Bartlett Cox Gingrich
Barton Cramer Goodlatte
Bateman Crane Gordon
Bentley Crapo Goss
Bereuter Cunningham Grams
Bevill Darden Greenwood
Bilbray Deal Gunderson
Bilirakis DeLay Hall (TX)
Bliley Deutsch Hancock
Blute Diaz-Balart Hansen
Boehlert Dickey Hastert
Boehner Dooley Hefley
Bonilla Doolittle Herger
Brewster Dornan Hobson
Browder Dreier Hoke
Bunning Duncan Holden
Burton Dunn Horn
Buyer Edwards (TX) Houghton
Byrne Emerson Huffington
Callahan Everett Hunter
Calvert Ewing Hutchinson
Camp Fawell Hyde
Canady Fields (TX) Inglis

Inhofe Meyers Schaefer Smith (IA) Thompson Volkmer
Istook Mica Schiff Smith (NJ) Thornton Waters
Johnson (CT) Michel Sensenbrenner Spratt Thurman Watt
Johnson, Sam Miller (FL) Shaw Stark Torres Wheat
Kaptur Molinari Shuster Stokes Towns Williams
Kasich Montgomery Sisisky Strickland Tucker Wilson
Kim Moorhead Skeeen Studds Underwood (GU) Wise
King Moran Skelton Stupak Unsoeld Woolsey
Kingston Morella Smith (MI) Swett Wynn
Klein Myers Smith (OR) Swift Wynn
Klink Nussle Smith (TX) Synar Visclosky
Knollenberg Orton Snow
Kolbe Oxley Solomon
Kyl Packard Spence
Lancaster Pallone Stearns
LaRocco Parker Stenholm
Lazio Paxon Stump
Leach Payne (VA) Sundquist
Lehman Peterson (MN) Talent
Levy Petri Tanner
Lewis (CA) Pombo Tauzin
Lewis (FL) Porter Taylor (MS)
Lightfoot Portman Taylor (NC)
Linder Poshard Tejada
Lipinski Pryce (OH) Thomas (CA)
Livingston Quillen Thomas (WY)
Lloyd Quinn Torikildsen
Machtley Ramstad Torricelli
Manton Ravenel Traficant
Manzullo Regula Upton
Margolies- Richardson Valentine
Mezvinsky Ridge Vucanovich
McCandless Roberts Walker
McCollum Roemer Walsh
McCrery Rogers Weldon
McCurdy Rohrabacher Wolf
McDade Ros-Lehtinen Wyden
McHale Roth Young (AK)
McHugh Rowland Young (FL)
McInnis Royce Zelfiff
McKeon Santorum Zimmer
McMillan Saxton

Smith (IA) Thompson Volkmer
Smith (NJ) Thornton Waters
Spratt Thurman Watt
Stark Torres Wheat
Stokes Towns Williams
Strickland Tucker Wilson
Studds Underwood (GU) Wise
Stupak Unsoeld Woolsey
Swett Wynn
Swift Wynn
Synar Visclosky

NOES—257
Abercrombie Gibbons Orton
Ackerman Glickman Owens
Andrews (ME) Gonzalez Pallone
Andrews (NJ) Gordon Parker
Andrews (TX) Green Pastor
Applegate Gutierrez Payne (NJ)
Bacchus (FL) Hall (OH) Payne (VA)
Baesler Hall (TX) Pelosi
Barca Hamburg Penny
Barcia Hamilton Peterson (FL)
Barlow Harman Peterson (MN)
Barrett (WI) Hastings Pickett
Becerra Hayes Pickle
Beilenson Hefner Pomeroy
Bereuter Hinchey Poshard
Berman Hoagland Price (NC)
Bevill Hochbrueckner Rahall
Bilbray Holden Rangel
Bishop Hoyer Reed
Blackwell Hughes Reynolds
Bonior Hutto Richardson
Borski Inslee Roemer
Boucher Jacobs Romero-Barcelo
Brewster Jefferson (PR)
Brooks Johnson (GA) Rose
Browder Johnson (SD) Rostenkowski
Brown (CA) Johnson, E. B. Rowland
Brown (FL) Johnston Roybal-Allard
Brown (OH) Kanjorski Rush
Bryant Kaptur Sabo
Byrne Kennedy Sanders
Cantwell Kennelly Sangmeister
Cardin Kildee Sarpalilus
Carr Kleczka Sawyer
Chapman Klein Schenk
Clay Klink Schroeder
Clayton Kopetski Schumer
Clement Kreidler Scott
Clyburn LaFalce Serrano
Coleman Lambert Sharp
Collins (IL) Lancaster Shepherd
Collins (MI) Lantos Sisisky
Condit LaRocco Skaggs
Conyers Laughlin Skelton
Cooper Lehman Slattery
Coppersmith Levin Slaughter
Costello Lewis (GA) Smith (IA)
Coyne Lipinski Spratt
Cramer Lloyd Stark
Danner Long Stenholm
Darden Lowey Stokes
de la Garza Maloney Strickland
de Lugo (VI) Mann Studds
Deal Manton Stupak
DeFazio Margolies- Sweet
DeLauro Mezvinsky Swift
Dellums Marky Synar
Derrick Martinez Tanner
Deutsch Matsui Tauzin
Dicks Mazzoli Taylor (MS)
Dingell McCloskey Tejada
Dixon McCurdy Thompson
Dooley McDermott Thornton
Durbin McHale Thurman
Edwards (CA) McKinney Torres
Edwards (TX) McNulty Torricelli
Engel Meehan Towns
English Meek Traficant
Esho Tucker
Evans Mfume Underwood (GU)
Faleomavaega Miller (CA) Unsoeld
(AS) Mineta Valentine
Farr Minge Velazquez
Fazio Mink Vento
Fields (LA) Moakley Visclosky
Filner Mollohan Volkmer
Fingerhut Montgomery Waters
Flake Moran Watt
Foglietta Murtha Wheat
Ford (MI) Nadler Williams
Ford (TN) Neal (MA) Wilson
Frank (MA) Neal (NC) Wise
Frost Norton (DC) Woolsey
Furse Oberstar Wyden
Gejdenson Obey Wynn
Gephardt Olver Yates
Geren Ortiz

ANSWERED "PRESENT"—1

Goodling

NOT VOTING—12

Fish Grandy Roukema
Ford (MI) Hayes Washington
Ford (TN) Murphy Waxman
Gallo Murtha Whitten

So the amendment was agreed to.
After some further time,

33.17 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the preferential motion submitted by Mr. McCOLLUM that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

It was decided in the { Yeas 170
negative } Nays 257

33.18 [Roll No. 110]

AYES—170

Allard Goodlatte Morella
Archer Goodling Myers
Army Goss Nussle
Bachus (AL) Grams Oxley
Baker (CA) Greenwood Packard
Baker (LA) Gunderson Paxon
Ballenger Hancock Petri
Barrett (NE) Hansen Pombo
Bartlett Hastert Porter
Barton Hefley Portman
Bateman Herger Pryce (OH)
Bentley Hobson Quinn
Bilirakis Hoekstra Ramstad
Bliley Hoke Ravenel
Blute Horn Regula
Boehlert Houghton Ridge
Boehner Huffington Roberts
Bonilla Hunter Rogers
Bunning Hutchinson Rohrabacher
Burton Hyde Ros-Lehtinen
Buyer Inglis Roth
Callahan Inhofe Royce
Calvert Istook Santorum
Camp Johnson (CT) Saxton
Canady Johnson, Sam Schaefer
Castle Kasich Schiff
Clinger Kim Sensenbrenner
Coble King Shaw
Collins (GA) Kingston Shays
Combest Klug Shuster
Cox Knollenberg Skeeen
Crane Kolbe Smith (MI)
Crapo Kyl Smith (NJ)
Lazio Smith (OR)
Leach Leach Smith (TX)
Levy Snow
Lewis (CA) Solomon
Lewis (FL) Spence
Lightfoot Stearns
Linder Stump
Livingston Sundquist
Machtley Talent
Manzullo Taylor (NC)
McCandless Thomas (CA)
McCollum Thomas (WY)
McCrery Torikildsen
McDade Upton
McHugh Vucanovich
McInnis Walker
McKeon Walsh
McMillan Weldon
Meyers Wolf
Mica Young (AK)
Michel Young (FL)
Miller (FL) Zelfiff
Molinaro Zimmer
Moorhead

NOES—198
Abercrombie Flake McKinney
Ackerman Foglietta McNulty
Andrews (ME) Frank (MA) Meehan
Andrews (TX) Furse Meek
Bacchus (FL) Gejdenson Menendez
Baesler Gephardt Mfume
Barca Gibbons Miller (CA)
Barlow Glickman Mineta
Barrett (WI) Gonzalez Minge
Becerra Green Mink
Beilenson Gutierrez Moakley
Berman Hall (OH) Mollohan
Bishop Hamburg Nadler
Blackwell Hamilton Neal (MA)
Bonior Harman Neal (NC)
Borski Hastings Norton (DC)
Boucher Hefner Oberstar
Brooks Hilliard Obey
Brown (CA) Olver
Brown (FL) Hoagland Ortiz
Brown (OH) Hochbrueckner Owens
Bryant Hoekstra Pastor
Cantwell Hoyer Payne (NJ)
Cardin Hughes Pelosi
Clay Hutto Penny
Clayton Inslee Peterson (FL)
Clyburn Jacobs Pickett
Coleman Jefferson Pickle
Collins (IL) Johnson (GA) Pomeroy
Collins (MI) Johnson (SD) Price (NC)
Conyers Johnson, E. B. Rahall
Coppersmith Johnston Rangel
Coyne Kanjorski Reed
Danner Kennedy Reynolds
de la Garza Kennelly Romero-Barcelo
de Lugo (VI) Kildee (PR)
DeFazio Kleczka Rose
DeLauro Klug Rostenkowski
Dellums Kopetski Roybal-Allard
Derrick Kreidler Rush
Dicks LaFalce Sabo
Dingell Lambert Sanders
Dixon Lantos Sangmeister
Durbin Laughlin Sarpalilus
Edwards (CA) Levin Sawyer
Ehlers Lewis (GA) Schenk
Engel Long Schroeder
English Lowey Schumer
Esho Maloney Scott
Evans Mann Serrano
Faleomavaega Markey Sharp
(AS) Martinez Shays
Farr Matsui Shepherd
Fazio Mazzoli Skaggs
Fields (LA) McCloskey Slattery
Filner McDermott Slaughter

NOT VOTING—10

Fish Murphy Waxman
Gallo Quillen Whitten
Grandy Roukema
Hilliard Washington

So the preferential motion was not agreed to.

After some further time,