

Terry Lenamon on the Death Penalty

Sidebar with a Board Certified Expert Criminal Trial Attorney



Terence M. Lenamon is a Florida Bar certified expert in the area of criminal trial law. With over 17 years experience he has built a reputation as one of Florida's most respected criminal defense lawyers. His defense has been sought by many high-profile clients and has led him through 20 first-degree murder trials and eight death penalty cases. That experience has brought him national recognition as a go-to commentator on death penalty issues. He is the force behind both deathpenaltyblog.com and Florida Capital Resource Center (floridacapitalresourcecenter.org), and can be reached at terry@lenamonlaw.com.

Brain Mapping Evidence in Death Penalty Cases: QEEG Is Recognized

POSTED ON NOVEMBER 2, 2010 BY **TERRY LENAMON**

For my blog readers, here is the press release issued earlier this week regarding QEEG admissibility:

Highly Publicized Grady Nelson Death Penalty Trial Sets National Precedent with Florida Circuit Court Judge Hogan-Scola's Admission of QEEG Brain Mapping Evidence

Miami, Florida (PRWEB) 28 October, 2010 -- "This may be the first time in any United States criminal courtroom where QEEG analysis has been ruled admissible and respected for its ability to provide vital information on brain injury and impairment," explains Terence Lenamon, death-qualified Miami criminal defense attorney and co-counsel with David S. Markus in Grady Nelson's penalty phase trial.

On November 8, 2010, the death sentence will be at issue as the penalty phase begins in the highly-publicized trial of Grady Nelson for the first-degree murder of his wife, Angelina Martinez, who died after being stabbed over 60 times. This time, in a precedent-setting ruling by Judge Jacqueline Hogan-Scola, jurors will be able to include the results of brain mapping via a quantitative EEG ("QEEG") in their deliberations of mitigating factors balancing between a life or death sentence for Nelson.

In its simplest terms, explains testifying expert Dr. Robert W. Thatcher, a nationally known pioneer in QEEG analysis who is Board Certified by the American Board of Certification of Quantitative Electroencephalography and a principal in Applied Neuroscience, Incorporated, "...QEEG is a computer analysis of around 19 channels of simultaneous EEG recording under controlled conditions including 3-dimensional source imaging."

Otherwise known as "brain mapping," for over 20 years admission of QEEG results has been deemed largely inadmissible in state and federal courts across the country under the legal standards set by the U.S. Supreme Court under either its Frye or Daubert rulings. Historically, some judges have found QEEG testing to be insufficiently reliable to be admitted as scientific evidence.

This evidentiary impasse has continued despite QEEG's growing respect within the scientific community. Today, there are over 50 companies selling QEEG products in the marketplace. Among them, Applied Neuroscience, Incorporated sells its NeuroGuide Deluxe™ which has been tested as reliable.

On October 6, 2010, the defense motion to allow QEEG evidence presented by Dr. Thatcher as admissible to the jury deciding the sentence of convicted murderer Grady Nelson was granted. After hearing arguments from both sides, and considering the scientific evidence and expert testimony given by both sides, the court ruled that QEEG met the standards of Daubert and Frye and would be allowed.

"[E]verything I have heard, the methodologies are sound, the techniques are sound, the science is sound," ruled Judge Hogan-Scola, announcing that the QEEG evidence would be allowed when the penalty phase begins next month.

To have Judge Hogan-Scola courageously allow QEEG evidence as part of the mitigating evidence brought forward by attorney Terence Lenamon in the penalty trial of Grady Nelson is newsworthy on a national level. It is a particularly important and welcomed step in the understanding of mental capacity as it relates to the punishment of defendants in this country, particularly those facing the death penalty.

“We are understandably encouraged by the fierce dedication to justice exhibited by Judge Hogan-Scola in her ruling on QEEG,” continues Mr. Lenamon. “Having a judge with her combination of legal expertise and scientific knowledge was crucial here, and the time to recognize QEEG analysis by experts such as Dr. Thatcher as sound science is long overdue.”