

# 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](http://deathpenaltyblog.com) and Florida Capital Resource Center ([floridacapitalresourcecenter.org](http://floridacapitalresourcecenter.org)), and can be reached at [terry@lenamonlaw.com](mailto:terry@lenamonlaw.com).

## QEEG Brain Mapping Evidence and Mitigation in South Florida's Grady Nelson Trial

POSTED ON DECEMBER 7, 2010 BY **TERRY LENAMON**

Last week, the jury returned its recommendation in the Grady Nelson trial, after spending only one hour deliberating whether or not they would vote for the death penalty. They did not.

### A Horrific Tragedy in 2005

Grady Nelson, 53, did not get a death sentence, instead he will serve life behind bars without parole. This, even though at first glance some would have argued the death penalty was a slam-dunk: after all, Grady Nelson was found guilty of stabbing his wife, Angelina Martinez, 61 times along with stabbing her two young children -- aged 11 and 9.

It was also acknowledged that Grady Nelson previously sexually assaulted these two kids, and that the killing happened on the morning that he was released from jail for having sexual relations with his wife's 11-year-old mentally disabled daughter. Nelson was discovered by police at their home, still holding a knife, while his wife lay with a knife in her head and her two children also stabbed but thankfully, still alive.

Clearly, the mitigation case during the penalty phase would

have to be very, very powerful in order to suggest that the jury should return something other than the death penalty -- because the prosecution was fighting hard for capital punishment.

**One big difference in this case: the admission of QEEG brain mapping evidence.**

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.

During the four week trial, it was argued in mitigation that not only was Nelson sexually abused as a child and abandoned by his mother, he also became addicted to cocaine and was brain damaged.

Over the prosecution's "junk science" objections, and despite the testimony of their expert witness against allowing QEEG brain mapping to be admitted into evidence for the jury's consideration, Florida 11th Circuit Court Judge Jacqueline Hogan-Scola granted the defense request to allow the jury to consider the results of Nelson's quantitative EEG ("QEEG") brain map, revealing Nelson's involuntarily predisposition to impulsiveness and violence.

"QEEG brain mapping is the future," Lenamon explained after Judge Hogan-Scola sentenced Nelson to life without parole. "QEEG technology will have a huge impact around the country in a wide variety of legal cases - civil and criminal - as well as in all kinds of medical issues."

Florida's Grady Nelson trial is a turning point for capital murder cases across the country and may provide support for QEEG admissibility in a wide variety of lawsuits where brain function is an issue. In the past, some judges have found QEEG testing to be insufficiently reliable to be admitted as scientific evidence, and the prosecution fought hard against its use in the Nelson considerations.

However, after hearing Lenamon's arguments and the testimony of 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, Judge Hogan–Scola found QEEG meets the legal prerequisites for reliability under Frye and Daubert standards.

“[E]verything I have heard, the methodologies are sound, the techniques are sound, the science is sound,” ruled Judge Hogan–Scola in the October 6, 2010, hearing on the admissibility of QEEG evidence in Cause No. F05–00846 in the Circuit Court of the 11th Judicial Circuit, in and for Miami–Dade County, Florida, styled State of Florida v. Grady Nelson.

“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.”

As explained by Dr. Thatcher in his October 2010 testimony, QEEG brain mapping is a computer analysis of around 20 channels of simultaneous EEG recording under controlled conditions including 3–dimensional source imaging. Today, there are over 50 companies selling QEEG products in the marketplace, including Applied Neuroscience, Incorporated, whose NeuroGuide Deluxe™ has been tested as reliable.