

# 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).

## Mental Illness and the Death Penalty – 1

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Last month, two death row inmates had their sentences changed to life without parole after authorities confirmed each suffers from severe mental illness. **In Oregon, Robert James Acremant had his sentence changed after state experts confirmed his diagnosis of paranoid schizophrenia.** (He still faces a death sentence in California on another charge.)

**In North Carolina, Isaac Stroud no longer faces capital punishment after being held to suffer from a severe mental disability** that the court found made him incapable of assisting with his own defense. (No specific psychological diagnosis was provided.)

This is not the same as being mentally challenged (“mentally retarded” is the term used in the Supreme Court precedent) – here, we are considering mental illness. But what does it mean to be “mentally ill” in regards to the death penalty? And do mentally ill Death Row inmates still get executed in America today?

**It is Unconstitutional to Execute Someone Who Is Mentally Ill – Sometimes.**

In 1986, the U.S. Supreme Court held in **Ford v. Wainwright, 477**

[U.S. 399 \(1986\)](#), a case coming out of Florida, that it would be unconstitutional to execute someone who is mentally incompetent – even if they were sane enough at the time the sentence was imposed. It is considered cruel and unusual punishment.

However, as recently as 2008, the Florida Supreme Court has held that a convicted inmate, acknowledged to suffer severe mental illness, could be executed. In *Power v. State of Florida*, 992 So.2d 218 (Fla. 2008)([read the opinion here](#)), the highest court in the state held that having mental illness doesn't automatically bring with it an Eighth Amendment shield from capital punishment.

Robert Beeler Power failed in his claim to federal constitutional protection from execution before the Florida Supreme Court as they relied upon their previous holding in *Diaz v. State*, 945 So.2d 1136 (Fla. 2006)([read the opinion here](#)), opining that the United States Supreme Court has not recognized a complete bar to execution based upon mental illness and referencing language from their *Diaz* opinion where “mental illness” was found to be merely a mitigating factor – as either a mitigating factor under the formal statute or one allowed to be considered by the court when imposing sentence. *Power*, 992 So.2d at 222.

### **The Most Common Types of Mental Illness Involved in Death Penalty Cases**

The following are the psychological diagnoses most often seen on Death Rows around the country; however, as science advances it is assumed that others will be added to this list as other disorders or conditions are recognized by the psychiatric and psychological communities. For details on what these mental illnesses involve, click on the links which will take you to the National Alliance on Mental Illness (NAMI) website:

- [Bipolar Disorder](#)
- [Borderline Personality Disorder](#)
- [Depression](#)
- [Post-Traumatic Stress Disorder](#)

- **Schizophrenia**