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**Christopher Offord v. State of Florida**

**SC05-1611**

THE NEXT CASE ON OUR  
CALENDAR THIS MORNING IS OFORD  
vs. THE STATE.

MR. MARSHAL , ARE THE  
LEGISLATIVE SPOUSES HERE  
YET?

ARE THEY HERE?

THEY ARE HERE.

AND ALSO WE WOULD LIKE TO  
WELCOME TO THE COURT THIS  
MORNING LEGISLATIVE SPOUSE  
WHOSE ARE VISITING WITH US.  
WE WELCOME YOU TO THE  
FLORIDA SUPREME COURT.

MISS RAVINIS FORD, MISS KING,  
MISS POSEY, AND MISS BENNETT,  
WE'RE GLAD YOU'RE HERE AND  
WE THANK YOU FOR ATTENDING.  
OKAY LET'S MOVE TO THE NEXT  
CASE.

-- YOU TOLD ME THEY WERE  
HERE.

>> THANK YOU YOUR HONOR.  
NADA CAREY REPRESENTING  
MR. OFFORD.

HE WAS CONVICTED  
FIRST-DEGREE MURDER OF TAINA  
NOSER.

HE PLED GUILT IN THE CASE.  
THERE'S A PENALTY PHASE  
PROCEEDING.

OUR ONLY ISSUE THAT WE RAISE  
IS THE PROPORTION TPHALITY  
OF THE DEATH SENTENCE.

>> LET ME ASK IF YOU AT THE  
OUTSET AS YOU SAY THERE'S  
ONLY ONE ISSUE.

WE'RE NOT STRAYING FROM  
ISSUE TO ISSUE.

ONE OF THE POINTS THAT YOU  
MAKE IN YOUR BRIEF IS THAT  
THE TRIAL COURT DID FIND THE  
STATUTORY MITIGATION  
INVOLVED WITH THE MENTAL

HEALTH ISSUES.

AND YOU RELY ON THAT HEAVILY  
IN TERMS OF ARGUING ABOUT  
EXTENSIVE MITIGATION WITH  
REFERENCE TO AN ANALYSIS OF  
THE MOST AGGRAVATED, YOU  
KNOW AT LEAST MITIGATED KIND  
OF ANALYSIS AND PROPORTIONALITY  
REVIEW.

BUT IT STREAKS ME THAT IN  
THE SENTENCING ORDER HERE,  
ALTHOUGH THE TRIAL JUDGE DID  
FIND THAT MITIGATION THAT  
THE TRIAL COURT THEN ENDED  
UP REALLY GIVING THAT RATHER  
RESTRICTED WEIGHT BECAUSE OF  
ITS FINDING THAT SHE REALLY  
COULDN'T CONCLUDE THAT THE  
MENTAL HEALTH MITIGATION HAD  
MUCH RELEVANCY TO THE  
COMMISSION OF THIS CRIME,  
THAT IS THAT TERMS OF  
LOOKING AT THE MENTAL HEALTH  
HISTORY AND THEN LOOKING AT  
THE DEFENDANT STATEMENTS AND  
ASSERTIONS ABOUT THE  
COMMISSION OF THE CRIME THAT  
INCLUDING STATEMENTS  
THAT -- WELL I'VE BEEN ABLE  
TO FOOL THE MENTAL HEALTH  
EXPERTS.

SO I'M CONCERNED THAT YOU  
DON'T ADDRESS THAT HEAD ON,  
THAT IS THAT I'M ASKING YOU  
TO DO IT NOW.

THAT IS THAT, YES IT'S TRUE  
THAT THE JUDGE MADE THOSE  
FINDING WITH REFERENCE TO  
MITIGATION.

BUT THEN THE JUDGE SAID, BUT  
I'VE REALLY -- HASN'T BEEN  
DEMONSTRATED TO ME THAT  
THESE MENTAL HEALTH  
CONDITIONS REALLY DO  
MITIGATE IN THIS PARTICULAR  
INSTANCE.

SO HELP ME WITH THAT.

AND THEN HELPING ME WITH IT  
WHAT I WAS LOOKING FOR AND I  
DON'T SEE HERE WITH ANY  
CITATIONS TO THE EXPERT'S  
TESTIMONY TYING TOGETHER THE  
SCHIZOPHRENIC OR THE OTHER  
DIAGNOSES THAT GO WAY BACK

OF SORT OF SAYING  
ENVISIONING WITH CONDITIONS  
LIKE THIS DEFENDANT HAS AN  
EPISODE LIKE THIS IS  
EXPLAINED.  
BECAUSE OF THE DISEASE.  
I DON'T SEE THAT IN  
THE -- AT LEAST POINTED OUT  
IN THE BRIEF.  
SO HELP ME.  
OKAY.  
I CERTAINLY WILL, YOUR  
HONOR.  
I THINK THAT I READ THE  
SENTENCING ORDER A LITTLE  
BIT DIFFERENT THAN YOU DO.  
THE JUDGE APPARENTLY DID  
MAKE A NOTE OF SOME OF THE  
DEFENDANT'S STATEMENTS WHICH  
I WOULD POINT OUT WHERE  
THINGS HE SAID AT THE  
SPENCER HEARING.  
HE DID MAKE A NOTE OF THOSE  
THINGS BUT NONETHELESS SHE  
FOUND BOTH OF THE MENTAL  
MITIGATING CIRCUMSTANCES.  
EXTREME EMOTIONAL  
DISTURBANCE AT THE TIME OF  
THE CRIME, WHICH IS JUST  
SHORT OF INSANITY.  
AND THAT HE IS CAPACITY TO  
APPRECIATE THE CONDUCT TO  
THE LAW AT THE TIME OF THE  
MURDER WAS SUBSTANTIALLY  
IMPAIRED.  
SHE FOUND BOTH OF THE MENTAL  
MITIGATING CIRCUMSTANCES  
EXTREME.  
PLUS SUBSTANTIAL IMPAIRMENT.  
>> BUT I WANT TO JUST  
FOLLOW-UP ON WHAT JUSTICE  
ANSTEAD STATED.  
AND ARRIVE READ THE  
SENTENCING ORDER AND THE  
TESTIMONY.  
THIS IS A VERY UNIQUE CASE.  
I APPRECIATE THE COURT  
FOCUSED ON WHAT THE CRITICAL  
ISSUE.  
YOU'VE GOT A SITUATION  
THAT'S UNCONROVERTED FROM  
THE TIME HE WAS FIVE OR SIX  
YEARS OLD.  
AND SERIOUS MENTAL ILLNESS.

DIAGNOSEABLE THAT WILL  
CONTINUE THROUGH OUT HIS  
ADULT LIFE.

HE WAS IN AND OUT OF MENTAL  
AND CRIMINAL INSTITUTIONS.  
SO WHAT IS MISSING IN ORDER  
TO MAKE THIS ALMOST LIKE A  
SLAM DUNK AS FAR AS  
PERSONALITY IS THAT THE  
EXPERT THEY ENCANT'ED THIS  
HISTORY, BUT THEY THEMSELVES  
DIDN'T EXPLAIN HOW THIS  
HORRENDOUS CRIME WHERE HE  
TOLD HIS WIFE THAT WAS THE  
PRODUCT OF HIS MENTAL  
ILLNESS.

ALTHOUGH I AGREE WITH YOU  
THAT THE JUDGE FOUND THESE  
IN TERMS OF -- BUT THEN SHE  
ALSO FOUND THAT THIS ONING A  
GRAY SRAEUTOR OUTWEIGHTED --  
THISING A GRAY SRAEUTOR  
OUTRIGHTED WHAT CAN YOU  
POINT TO IN THE RECORD THAT  
TIES IT TOGETHER AND MAYBE  
BY SAYING THIS WE'RE  
HERE -- WILL SAY POST  
CONVICTION RELIEF --  
[INAUDIBLE]

>> TIE IT TOGETHER.

THEY CAN PROBABLY TIE IT  
TOGETHER.

IS I TIED TO ERGT -- TOGETHER  
BY ANYBODY.

>> IT'S NOT.

IN SHORT, THERE REALLY  
WASN'T A PSYCHIATRIC EXPERT  
TESTIMONY IN THIS CASE AT  
THE PENALTY PHASE.

THE TWO EXPERTS ONE OF THEM  
WAS A PSYCHOLOGIST AND SHE  
ONLY SUMMARIZED THE  
DOCUMENTED MENTAL HEALTH  
HISTORY.

THERE WAS NO EXPERT WHO  
DESCRIBED THE MENTAL  
ILLNESSES OR INFORMED THE  
JURY OF EXACTLY HOW THEY  
RELATED TO THE CRIME.

WE DON'T HAVE THAT.

THERE'S A STACK OF RECORDS  
THIS BIG ALSO DOCUMENTING --

>> THEY ARE NOT IN EVIDENCE  
WHICH -- THIS COURT JUST FOR

THIS FUTURE FOR EVERYONE  
WE -- THIS IS VERY DIFFERENT  
THAN WHEN YOU HAVE AN EXPERT  
AFTER THE FACT DIAGNOSING  
MENTAL ILLNESS AND THERE'S  
NO RECORD.

HERE YOU HAVE A LIFE HISTORY  
OF IT.

I REALIZE YOU'RE THE  
APPELLANT LAWYER AND WE  
CAN'T CORRECT THAT.  
IS BUT SO YOU ARE BEING  
CANDID ABOUT THE FACT THAT  
NO IT'S NOT LINKED UP.  
SO REALLY THE SENTENCING  
JUDGE WAS ALMOST GENEROUS IN  
FINDING THE STATUTORY  
MITIGATORS.

>> DESPITE THE FACT THAT  
THERE WAS NO EXPERT, I THINK  
THE EVIDENCE WAS NONETHELESS  
VERY COMPELLING.

MR. OFFORD COMES TO FLORIDA.  
HE HAS THIS LONG HISTORY.  
HE IS ADMITTED TO  
PSYCHIATRIC WARD IN PANAMA  
CITY FOUR TIMES BEFORE HE  
COMMITS THIS CRIME DURING A  
PERIOD OF FOUR MONTHS.  
THE LAST TIME WAS THREE  
WEEKS BEFORE HE COMMITTED  
THE CRIME.

HE HAS GOT DIAGNOSE CEASE  
SINCE THE AGE OF 6, REALLY  
OF SCHIZOPHRENIA.  
A DISORDER WHICH IS A MENTAL  
ILLNESS.

REALITY -- LACK OF REALITY  
BASE MENTAL ILLNESS.  
BIPOLAR WHICH IS SEVERE MOOD  
DISORDER AND VARIOUS  
PERSONALITY DISORDERS THAT  
LAST -- HIS LAST ADMISSION  
TO THE HOSPITAL THREE WEEKS  
BEFORE THE CRIME HE TOLD THE  
PEOPLE AT THE HOSPITAL HE  
WAS HAVING HOMICIDAL  
TENDENCY.

HE HAD HISTORY OF AWEDTORY  
HALLUCINATION AND  
SUICIDAL --

>> THE TROUBLE WE'RE HAVING  
WITH THIS THAT YOU'RE MAKING  
THE CASE FOR THAT.

IN MUCH A WAY WE SEE RECORDS  
FOR MENTAL HEALTH EXPERTS DO  
EXACTLY THAT.

BUT I'M READING THE  
SENTENCING ORDER.

AND THE TRIAL COURT REJECTS  
THAT.

THE TRIAL COURT IN THE FIRST  
MENTAL HEALTH MIT GOTOR AND  
I -- HIT GATER AND I LET  
STATE BUT SAID A CAREFUL  
REVIEW OF THE MENTAL HEALTH  
TREATMENT SHOWS THAT THE  
PSYCHIATRIC WHO TREATED HIM  
IN A FOUR-MONTH PERIOD  
BEFORE THE MURDER STATED  
THAT HIS DIAGNOSIS OF  
SCHIZOPHRENIA WAS BY HISTORY  
ONLY.

AND AOEPL SEEMED TO SUGGEST  
THIS PRIMARY -- AND SEEMED  
TO SUGGEST THAT HIS PRIMARY  
PROBLEM WAS SUBSTANCE ABUSE.  
THE DEFENDANT DID THE STAFF  
THAT HE WANTED TO  
HIS -- KILL HIS WIFE AND HE  
WAS TIRED OF HER CONTACTING  
HIM AT THE TIME OF THE  
OFFENSE HE WAS NOT UNDER THE  
INFLUENCE OF ALCOHOL OR  
DRUGS.

HE HAD WORKED ALL DAY.  
AND ONLY DRANK TWO OR THREE  
BEERS AT A BAR.

BOTH HE AND HIS WIFE WERE IN  
GOOD MOODS.

AND THERE WAS NO PARTICULAR  
TRIGGER TO EXPLAIN HIS  
SUDDEN URGE TO KILL HER.

NOR HIS EXCESSIVE BRUTALITY  
IN CARRYING OUT THE ACT.

THEREFORE, THIS FACTOR IS  
GIVEN ONLY SOME WEIGHT.

AND THEN THE JUDGE IN THE  
SECOND MENTAL MITIGATOR  
ESSENTIALLY DOES THE SAME  
THING AND CONCLUDES THAT WZ  
THE STPHEPBS THE DEFENDANT  
ALSO STATED THAT HE DIDN'T  
THINK HE WAS CRAZY AT ALL.

THE COURT THEREFORE GRANTS  
MODERATE WEIGHT TO THIS  
FACTOR.

IN OTHER WORDS THE COURT THE

WAY I READ THIS THE COURT IS REJECTING THE VERY ARGUMENT THAT YOU IN A VERY PERSUASIVE WAY YOU KNOW ARE ATTEMPTING TO MAKE BUT THE PROBLEM IS WE HAVE NO EXPERT WITNESS THAT SAYS HIS DENIAL, FOR INSTANCE OF BEING CRAZY OR ALL THIS OTHER THINGS ARE CLASSIC SYMPTOMS OR WHATEVER OF THIS.

SO WHERE WOULD WE LOOK IN ORDER TO SAY THE TRIAL COURT IS WRONG IN REALLY GIVING VERY SLIGHT WEIGHT TO THESE MITIGATORS.

I THINK YOU HAVE TO LOOK THE SAME PLACE I LOOKED.

FIRST OF ALL BY HISTORY ONLY, I'M NOT SURE WHAT THE TRIAL JUDGE MEANS BY THAT.

I THINK I UNDERSTAND WHAT THE TRIAL JUDGE MEANS.

IT SAYS THAT THE PATIENT IS NOT DEMONSTRATING ANY OF THIS AND THAT THE DOCTOR IS ONLY FINDING IT BECAUSE IT'S A HISTORY.

>> OKAY.

I AGREE AN EXPERT WOULD HAVE BEEN NICE.

HOWEVER, I THINK THE HISTORY IS COMPELLING AND PERHAPS THAT'S WHY THE DEFENSE LAWYER CHOSE TO PUT THE HISTORY ON.

THIS KID WAS IN MENTAL INSTITUTIONS WHEN HE WAS 6 YEARS OLD.

WHEN DID HE START LINGERING WHEN DID HE START FAKING HIS ILL 6?

9?

13?

WHEN HE HEARD VOICES AT 17?

THIS IS DOCUMENTED.

THIS IS DOCUMENTED BY JILL RAWLIN AND HER LIST.

IT'S ALL IN THERE.

WE HAVE A SUMMARY OF IT.

WE DON'T HAVE THE PRECISE SEMI -- TESTIMONY TO EXPLAIN IT.

I THINK THE HISTORY OF THE

MENTAL ILLNESS IS COMPELLING ENOUGH AND.

>> AND IT IS COMPELLING THIS -- THIS IS A A TOUGH DIFFICULT CASE.

WHATEVER REASON THE DEFENDANT TOOK THE STAND ON BEHALF IN THE SPENCER HEARING BASICALLY TO DO HIMSELF IN.

I MIGHT SAY THAT USUALLY WE HAVE DEFENDANT THAT ARE TRYING TO SAY THEY ARE MENTALLY ILL AND HE'S NOT. HE TAKES THE STAND AND SAYS, I'M NOT MENTALLY ILL. I'VE BEEN FAKING.

-- I'VE BEEN FAKING IT FOR ALL THESE YEARS.

I FIND THAT PROBABLY TO BE A QUESTIONABLE VALIDITY BUT THE JUDGE WHO WAS THERE ACCEPTS THOSE WORD, WHICH IS -- I TOLD THE POLICE -- [INAUDIBLE]

THAT WASN'T TRUE. I'M TELLING YOU I DIDN'T HAVE.

>> HOW DO WE GET AROUND THOSE CREDIBILITY DETERMINATIONS ABOUT I THINK THAT WITHOUT THOSE DEFENDANT TAKING THE STAND IT WOULD BE -- ONCE THE DEFENDANT -- TOOK -- NOT THE STAND, TOOK THE STAND BUT IN THE SPENCER HERE -- HEARING, HOW DOES THE JUDGE IGNORE AND MAKE A DECISION THAT HE SAYS REALLY THIS IS WHAT HE SAYS.

WHAT HE DID WAS THE PRODUCT OF EXACTLY A PRODUCT OF DID.

>> HE DIDN'T DENY HAVING AWEDTORY HALLUCINATION. HE SIMPLY DIDN'T MENTION THEM.

HE WAS ASKED SPECIFICALLY. HE BASICALLY ANSWERED THE QUESTIONS THAT HE WAS ASKED. HE SAID HE WANTED TO DIE, I THINK THREE TIMES, THAT HE DESERVED TO DIE.

I THINK HE WANTS THE DEATH

PENALTY AND A -- I AGREE  
WITH YOU.  
YOU HAVE THIS HISTORY FROM  
AGE 6.  
HE'S BASICALLY BEEN  
INSTITUTIONALIZED IN AND OUT  
OF MENTAL HOSPITALS HIS  
WHOLE LIFE.  
HE SAID TO THE UPBL SKWR,  
NO, I'M NOT CRAZY AT ALL.  
I JUST DON'T THINK THAT'S OF  
ANY HAVE A I WILL I KWREUD.  
>> YOU DON'T THINK SO BUT  
THE JUDGE BOUGHT THAT.  
AND WE'RE HERE IN TERMS OF  
THE WEIGHT THAT THE JUDGE  
GIVES TO THE STATUTORY  
MITIGATORS FOR VIEWING THOSE  
FINDING BASED ON COMPETENCE  
OF SUBSTANTIAL EVIDENCE.  
HOW TO WE -- HOW DO WE SAY,  
NO THE JUDGE WAS WRONG WHEN  
SHE SAID THAT HE -- WHATEVER  
IT WAS.  
HOW DO WE SECOND GUESS THOSE  
FINDING?  
I'M ASKING YOU THAT.  
JUST IN TERMS OF OUR  
CASELOAD.  
I WOULD SAY THE JUDGE DID  
FIND HE WAS UNDER EXTREME  
DISTURBANCE AT THE TIME.  
SHE REJECTED CCC FOR THE  
SAME REASON, BY THE STATE  
ARGUED SHOULD BE INSTRUCTED.  
SHE REJECTED THAT FOR THE  
SAME REASON.  
AND SHE FOUND IMPAIRED  
CAPACITY.  
SUBSTANTIALLY IMPAIRED  
CAPACITY.  
SO YOU KNOW I THINK YOU HAVE  
TO LOOK AT THOSE.  
WHEN YOU COMPARE WITH CASE  
WITH OTHER CASES.  
>> IT SEEMS TO ME THE WHOLE  
ARGUMENT HERE HAS BEEN  
REALLY NOT FOCUSED ON  
PROPORTION TPHALITY.  
BECAUSE IN A PROPORTIONALITY  
WE REALLY HAVE TO ACCEPT  
WHAT THE TRIAL JUDGE FOUND.  
THEN LOOK AT HOW IT IS  
PROPORTIONATE.

TO THE OTHER CASES.

DON'T WE?

HOW -- IT SEEMS TO ME THIS ARGUMENT GOES TO THE BACK DOOR THAT TRIES TO SET ASIDE WHAT THE TRIAL JUDGE DID AS OPPOSED TO -- AND I THOUGHT THAT THE WHOLE ISSUE THAT YOU RAISED WAS THE PROPORTION TPHALITY.

THE TRIAL JUDGE FOUND THE MENTAL MITIGATOR.

IN OTHER CASES WHERE THEY WERE FOUND I DON'T KNOW WHETHER THEY WERE SOME WEIGHT.

MODERATE WAIT.

SHE DIDN'T GIVE THEM LITTLE WEIGHT OR VERY LITTLE WEIGHT.

SHE GAVE THEM SOME WEIGHT AND MODERATE WEIGHT.

I DON'T KNOW WHAT THOSE WORDS MEAN.

I DON'T KNOW A JUDGE HAS GIVEN A MENTAL MITIGATOR GREAT WEIGHT.

>> WHAT DO YOU CONSIDER TO BE THE STATE'S -- THE HARDEST CASE FOR YOU TO OVERCOM AS FAR AS PROPORTIONALITY.

>> I FRANK I WILL DON'T THINK THERE'S A SINGLE CASE THAT'S EVEN CLOSE TO THIS ONE IN THE STATE CITED THREE OTHER CASES BLACKWOOD, BUTLER AND ARDONO THAT WERE SINGLE AGGRAVATOR CASES WHERE THE SINGLE AGGRAVATOR WAS HHC.

THOSE ARE THE CLOSEST.

BUT IN THOSE CASES THERE WASN'T ANY AMOUNT OF MITIGATION LIKE YOU HAVE HERE.

THERE WAS NO LONG DOCUMENTED HISTORY OF SEVERE MENTAL ILLNESS, NONE OF THE MENTAL MITIGATORS WERE FOUND IN THOSE CASES.

EXCEPT CARDONA IN THAT CASE THE CASE FOUND BOTH OF THE MEANT MITIGATOR.

THE DEFENDANT'S COCAINE USE.  
THAT WAS THE CASE YOU DON'T  
RECALL.

>> THE CHILD WHO WAS  
TORTURED AND ABUSED.  
I THINK WAS THE PRIMARY  
REASON IN MY READING OF THE  
CASE THAT THE COURT AFFIRMED  
THE DEATH SENTENCE IN THAT  
CASE.

THOSE ARE THE ONLY THREE  
CASES WHERE THERE'S ONE  
AGGRAVATOR ANDING A GRATE  
SURVEYOR IS HHC.

ON -- ON THE OTHER HAND  
THERE'S A LONG LIST OF CASES  
ROBERTSON, KRAMER, SEGERT  
WHERE THERE'S HHC AND SOME  
OTHER AGGRAVATEORS IN SOME  
OF THOSE CASES AND THERE'S  
MITIGATION WHERE THE COURT  
HAS REDUCED THE SENTENCE TO  
LIFE.

I THINK THIS CASE FALLS  
SQUARELY INTO THAT ONE.  
DESPITE THE FACT THAT WE  
DIDN'T HAVE AN EXPERT  
TESTIFY.

>> IS IT YOUR POSITION THAT  
THE COURT FINDS BOTH  
STATUTORY MENTAL HEALTH  
MITIGATEORS AND THERE'S ONLY  
ONE AGGRAVATOR THAT  
ESSENTIALLY HAS A MATTER OF  
LAW.

THAT'S NO PROPORTIONAL.

>> NO.

NO.

I THINK IT'S THE TOTALITY OF  
THE CIRCUMSTANCE.

I THINK YOU HAVE TO LOOK AT  
THE WHOLE -- ALL OF THE  
MITIGATION AND I THINK  
YOU'VE GOT TO LOOK TT -- AT  
THE AGGRAVATION IN TERMS OF  
THE FACTS HERE IN THE JUDGE  
SAID THERE'S NO EXPLANATION  
FOR THIS CRIME.

THE EXPLANATION IS, GOSH  
WHEN IT'S A PSYCHOTIC RAGE  
YOU WALK IN THE KITCHEN IT'S  
LIKE I NEED TO KILL HER.  
THE VOICES TOLD HIM OR THE  
IDEA WAS PLANTED IN HIS HEAD

AND HE COULDN'T RESIST IT  
AND HE JUST DID IT.  
HE SAID HIMSELF HE -- THEY  
THAT GREAT EVENING THEN ALL  
OF A SUDDEN.

>> IN THE LONG HISTORY  
THEY -- IS THERE ANY HISTORY  
IN THE LONG RECORD OF  
REACTING OUT THAT WAY BY  
EMPLOYMENT, INSTITUTIONS HE  
WAS IN OR OTHERWISE.  
THAT SHOWED HE WOULD BREAK  
AND BACK OUT VIOLENTLY?

>> THERE'S NOTHING -- I'M  
TRYING TO REMEMBER EXACTLY  
WHEN HE WAS SIX YEARS OLD HE  
WENT AFTER HIS MOTHER WITH A  
BUTCHER KNIFE.

>> RIGHT.

I THINK THERE'S SOMETHING IN  
THERE ABOUT HIM STARTING A  
FIRE WHEN HE WAS NINE OR  
TEN.

THERE'S NO OTHER EVIDENCE OF  
VIOLENCE THAT I CAN RECALL.  
HOWEVER HE -- YOU HAVE TO  
RECALL HE'S BIN -- BEEN  
INSTITUTIONALIZED MOST OF  
HIS CHILDHOOD AND HIS  
TEENAGER YEARS.

LET ME GO BACK TO THE  
QUESTION THAT JUSTICE CAN  
STAIR -- CANTERO ASKED.  
WHAT HE ASKED YOU  
WAS -- DOES IT LOOK BASED ON  
ALL OF OUR CASE LAW THAT  
WHEN THERE'S ONLY ONE  
AGGRAVATING CIRCUMSTANCE AND  
THERE ARE STATUTORY  
MITIGATION, THAT THE DEATH  
PENALTY IS AS A MATTER OF  
LAW DISPROPORTIONATE BASED  
ON ALL OF OUR CASES.

WHAT'S WRONG WITH THAT  
AS -- FOR YOUR POINT OF VIEW  
IF WHAT HAS HAPPENED IS HAC,  
WHICH DONE IN A PARTICULARLY  
HEINOUS WAY, BUT IF THIS  
JUDGE HAS FOUND ESPECIALLY  
THE MENTAL MITIGATOR  
STATUTORY, THAT THEY WERE  
PLAYING A PART AT THE TIME  
OF THE DEFENSE AND IT IS A  
DISPROPORTIONATE --

[INAUDIBLE]

MITIGATION OUTWEIGHS THING A  
GRAY SRAEUGS BASED ON ALL OF  
THE CASES.

TELL ME, OTHERWISE, IN TERMS  
OF TRYING TO FIGURE THIS OUT,  
YOU SAY WELL ON A  
CASE-BY-CASE BASIS WE JUST  
THINK THIS ONE SHOULDN'T  
HAVE THE DEATH PENALTY AND  
THAT FOES BACK TO WHAT  
SKWREUFT BELL SAID OTHERWISE  
WE'RE ENGAGING IN THIS  
REWEIGHING OF SOLIDITY OF  
THE MENTAL HEALTH STATUTORY  
MITIGATOR.

I THINK THAT'S WORTHY TO  
ASK.

JUST PARIENTE IF THERE'S  
ONING A GRAY SRAEUTOR AND  
THEY ARE BOTH  
MENTALMENT -- MENTAL MILL  
GATOR IS THAT  
DISPROPORTIONATE AS A MATTER  
OF LAW.

I WOULDN'T ARGUE AS A MATTER  
OF LAW.

BECAUSE I DON'T KNOW WHAT  
OTHER CASES THAT WILL COME  
UP.

BUT THAT'S CONSISTENT WITH  
THE CASE LAW UP UNTIL THIS  
POINT.

I DON'T THINK THERE'S A CASE  
WHERE THERE'S ONE  
AGGRAVATEOR WHERE THE COURT  
AFFIRMED THE DEATH SENTENCE.

TYPICALLY THERE'S OTHER  
MITIGATION IN ADDITION TO  
THE MENTAL MIT TKPAEUTOR.

WHAT THE COURT HAS SAID  
REPEATEDLY IF THERE'S ONLY  
ONE AGGRAVATEOR, DEATH IS  
NOT APPROPRIATE UNLESS  
THERE'S LITTLE OR NO  
MITIGATION.

I THINK THERE'S A LONG  
OF -- LINE OF CASES WHERE  
THE COURT SAID.

I THINK ALMEDA WAS THE LAST  
CASE.

>> IS THAT -- I'M LOOKING AT  
NEITHER -- NEIBERT SAYING  
THIS INVOLVE SUBSTANTIAL

MITIGATION WE HELD  
SUBSTANTIAL MIT TPWAEUGS MAY  
MAKE THE PENALTY -- DEATH  
PENALTY INAPPROPRIATE EVEN  
WHEN THE AGGRAVATING  
CIRCUMSTANCES HAVE BEEN  
PROVED.

IS THAT THE BEST STATEMENT  
THAT YOU WOULD BE RELYING  
ON?

>> I THINK THE BEST  
STATEMENT IN ALMEDA AND I  
DON'T REMEMBER PRECISELY  
WHAT IT IS.

I THINK IT'S MORE ALONG THE  
LINES OF IF DEATH PENALTY IS  
IN -- INAPPROPRIATE WHEN  
THERE'S ONLY ONE AGGRAVATOR  
UNLESS THERE'S LITTLE OR  
NOTHING IN MITIGATION.

>> MAYBE THERE WILL BE  
ANOTHER --

>> YOU JUST SAID SOMETHING.  
AND I NEED TO GO BACK TO IT.  
I'M NOT SURE IT'S  
SIGNIFICANT OR NOT.

THAT THIS JUDGE DID NOT  
INSTRUCT THE JURY OR CCP  
BECAUSE OF HER FINDING OR  
BECAUSE OF THE TESTIMONY OF  
THE MENTALLY ILL  
INDIVIDUALS.

WELL, BASED ON --

>> WHERE IS THAT?  
IN -- IS THAT IN THE  
COLLOQUY?

>> IT'S IN THE CHARGE  
CONFERENCE RIGHT BEFORE THE  
JURY WAS INSTRUCTED.  
AND SHE FOUND THAT BASED ON  
HIS EMOTIONAL DISTURBANCE AT  
THE TIME SHE COMMITTED THE  
I'M.

SHE SAID THIS IS NOT COLD.  
THIS IS A CRIME OF RAGE.  
HE WAS OBVIOUSLY EMOTIONALLY  
DISTURB AT THE TIME.

THAT'S WHAT I WAS WONDERING  
WHY THAT HASN'T BEEN ARGUED.  
WHAT HAPPENS BETWEEN THAT  
AND SHE TESTIFIES THE  
SPENCER HERE -- HEARING  
SEEMS LIKE MAYBE SHE HAD A  
DIFFERENT VIEW OF THAT

NATURE.

>> WILT, I DON'T MEAN TO BEYOND A REASONABLE DOUBT -- I DON'T READ TORDER THAT WAY.

SHE IS PUTTING IN WHAT SHE HEARD ON BOTH SIDES OF AND SHE COMES DOWN ON FINDING THE MIT GOT GATORS EXISTED. OMIT GATORS EXISTED.

AGAIN, IF YOU JUST LOOK AT THE CASE LAW, THERE IS NO CASE THAT IS SIMILAR TO ONE WHERE THE COURT COURT HAS AFFIRMED THE DEATH SENTENCE. THIS WOULD BE AN EXCEPTIONAL CASE IF THE DEATH PENALTY WERE INFORMED HERE.

>> IF THERE'S NO MORE QUESTION I WILL SAVE MY TIME FOR REBUTTAL.

>> MR. LATHAN.

>> MAY IT PLEASE THE COURT.

I WANT TO TOUCH UPON IS -- I'M SORRY RONALD

NATHA -- LATHAN FOR THE STATE OF FLORIDA.

I WANT ON THE INFORMATION CONTAINED WITHIN THE RECORD.

THERE IS -- WE'RE REVEALING WITH SOMEWHAT MISS ROWAN PROVIDED THE VARIOUS HOSPITALIZATIONS.

THERE'S ALSO A LOT OF RECORDS AND SOME NOTATIONS FROM THE DOCTORS WHO

EVALUATED HIM PRIOR TO THIS CRIME WHEN HE WAS LIVING IN

FLORIDA AND MARCH AND IN APRIL THERE WAS A DOCTOR

GORMAN AND DR. BILLINGSLY. THEY MADE THE POINT HE WAS PARANOID BIT HISTORY.

THE MAIN POINT THEY SAID WAS A PROBLEM SEEMED TO BE HIS PROBLEM WITH SUBSTANCE ABUSE.

AND MORE SPECIFICALLY --

>> WHAT REALLY DOES THAT REALLY MEAN, THAT IF YOU PARANOID SCHIZOPHRENIC BY HISTORY.

DOES THAT MEAN THEY READ HIS RECORD AND HIS RECORDS SAY

THAT AND THEY DIDN'T PERFORM  
ANY KIND OF TEST TO VERIFY  
THIS OR THAT THEY PERFORMED  
TEST AND DID NOT VERIFY  
THIS?

I'M NOT SURE EXACTLY WHAT  
THAT KIND OF NOTATION IS  
SUPPOSED TO MEAN TO US.

>> RIGHT.

THE SENSE I GET FROM THE  
RECORD AND THERE'S NOT  
ADMITTEDLY THERE'S NOT A LOT  
FROM SAY DR. GORMAN.

WE'RE RELYING ON THE NOTES  
PROVIDED BY MISS ROWAN.

THE SENSE WE GET IS THAT HE  
HAS HAD THIS HISTORY OF  
MENTAL PROBLEMS BUT THIS HAS  
TO BE QUALIFIED BY A LOT OF  
HIS STATEMENT, STATEMENTS HE  
MADE LATER IN THE SPENCER  
HEARING WHERE ANY A LOT OF  
THE HOPIZATION --

>> COULD WE MAKE SURE WE  
UNDERSTAND WHAT THIS RECORD  
DOES REFLECT.

THE PICTURE HAS BEEN PAINTED  
AND PLEASE CORRECT IF IT IS  
WRONG.

THE PICTURE HAS BEEN PAINTED  
AND I THINK WHAT THEY ARE  
TRYING TO SAY THAT THIS IS  
NOT JUST SOME TYPE OF ANGER  
REACTION THAT'S EMOTIONAL IN  
NATURE.

BUT THIS IS A  
LONGSTANDING -- GOES BACK TO  
WHEN THIS PERSON WAS A CHILD.  
IS IT IN THE RECORD THAT  
WHILE IN TEXAS THAT HE TRIED  
TO USE A BUT -- BUCHER KNIFE  
ON HIS FAMILY MEMBERS  
STARTED FIRES AND WAS  
INSTITUTIONALIZED FOR THE  
MOST PART OF HIS WIFE  
BECAUSE OF THIS  
SCHIZOPHRENIC CONDITION.

IS THAT IN THIS RECORD?

>> IN THIS RECORD, WE DO  
HAVE MR. OFFORD HAS A LONG  
HISTORY OF MENTAL PROBLEMS.

>> THIS IS REALLY A SICK  
PERSON FROM WHAT THE RECORDS  
SEEM TO SAY.

>> HE'S A TROUBLED -- VERY TROUBLED INDIVIDUAL. IN THIS RECORD THERE'S RECORDS FROM HIS CHILDHOOD.

>> THAT'S IN HERE.

DID IT CONTINUE UP UNTIL THE TIME HE LEFT TEXAS ONLY A FEW MONTHS BEFORE THIS CRIME?

>> THE RECORD MAY NOT BE GREAT.

THERE IS SUGGESTION STAY HE DID HAVE, AGAIN, THERE'S ISSUE RELATED TO MENTAL HEALTH ISSUE RELATED TO SOME PREVIOUS HISTORY OF PERHAPS SCHIZOPHRENIA.

>> WHY TO YOU SAY PERHAPS BECAUSE THIS APPEARS TO BE YOU KNOW UNFORTUNATELY WE SEE A LOT OF CASES LIKE THIS IN RECORDS.

THIS APPEARS TO BE, PERHAPS THE MOST WELL DOCUMENTED AND SUBSTANTIATED HISTORY OF MENTAL HEALTH ILLNESS DATED ALL -- ALL THE WAY BACK TO WHEN THIS CHILD WAS BORN. VIRTUALLY, THAT WE HAVE SEEN.

IN A DEATH PENALTY KA -- CASE. THAT IS THAT UNCONTRADICTED RECORDS.

OF HIM BEING DIAGNOSED WITH THE SCHIZOPHRENIC AND OTHER ISSUES TIME AFTER TIME AFTER TIME AND AS JUSTICE LEWIS SAYS HE'S ACTUALLY BEEN INSTITUTIONALIZED FOR THESE DISEASES FOR MORE OF HIS LIFE THAN HE HAS BEEN OUT OF THE INSTITUTIONS.

LET ME ASK YOU THE QUESTION. OUR CASES HAVE SAID AND PROPORTION TPHALITY REVIEW WE REVIEW AND WE LOOK TO SEE WHETHER THE CASE FALLS IN THE CATEGORY OF THE MOST AGGRAVATED AND LEAST MITIGATED.

ALL RIGHT.

THAT'S A PHRASE WE USE.

TIME AFTER TIME AFTER TIME.

GRANTED THAT THE FINDING OF THE AGGRAVATION OF HEINOUS

ATROCIOUS AND CRUEL, BECAUSE THIS WAS A HORRIBLE INFLICKION OF DEATH ON THIS VICTIM.

THAT, THAT PART OF THE EQUATION IS THERE WITH THIS DOCUMENTED HISTORY OF THIS DISEASE AND THE FINDING OF THE TRIAL COURT OF THE TWO STATUTORY MENTAL HEALTH MITIGATORS AND THE FINDING OF THE NONSTATUTORY MITIGATION THAT ALL GOES TO THE CHILDHOOD AND THE SAME KINDS OF ISSUES, HOW COULD WE POSSIBLY CONCLUDE THAT THIS IS ONE OF THE LEAST MITIGATED WHEN WE HAVE FOUND IN CASES WHERE THERE REALLY IS CERTAINLY MUCH LESS MITIGATION THAN THIS THAT THEY ARE NOT AT LEAST MITIGATED.

HOW COULD WE CLASSIFY THIS WITH THIS DOCUMENTED HISTORY, THIS UNDISPUTED HISTORY HERE AS LEAST MITIGATED?

I THINK WITH HAVE TO START FIRST WITH THIS RECORD.

WE HAVE TO START WITH MR. OFFORD'S OWN WORDS.

WE HAVE TO FROM HIS OWN STATEMENT AND HE SAID A LOT OF TIMES A LOT OF MY HOSPITALIZATION WHETHER IN TEXAS OR WHAT HAVE YOU WOULD BE SOMETIME I NEEDED A ROOF OVER MY HEAD.

SOMETIMES I FELT I WAS CONSUMING WAY TOO MUCH ALCOHOL.

I WAS GETTING SOCIAL SECURITY BENEFIT AND USING THE MAJORITY OF MY MONEY ON ALCOHOL SO I FELT THE NEED TO SOMETIMES I WOULD HAVE TO INSTITUTIONALIZE MY OWN SELF SOMETIMES I NEEDED A PLACE TO STAY.

AREN'T THOSE MORE CONSISTENT WITH THE DIAGNOSIS THAT HAS BEEN MADE TIME AFTER TIME AFTER TIME OF HIS MENTAL HEALTH DISEASE THAN THEY ARE

OF ANY SANE PERSON YOU KNOW  
THAT -- THAT WOULD  
ACKNOWLEDGE THAT HE'S HAD  
SOME SERIOUS ISSUES.  
AREN'T THOSE EXPLAINED BY  
THAT.

>> WOULD RESPOND ONLY TO SAY,  
THAT THERE WAS NO DOCTOR  
EVALUATED HIM WHILE HE WAS  
LIVING -- WHILE ANY OF HIS  
WHEN HE WAS ADMITTED IN  
FEBRUARY, MARCH, APRIL AND  
JULY.

NO DOCTOR WAS CALLED TO  
TESTIFY DURING THE PENALTY  
PHASE HEARING.

MOOVER DR. EDWARD TKPEUBSON.

>> WERE THE RECORDS  
SUBMITTED THERE IN PANAMA  
CITY?

>> WHAT WE HAVE FROM THE  
PRIOR -- THE JULY, APRIL,  
MARCH, FEBRUARY, WE HAVE THE  
NOTES FROM THEM.

BUT WE HAVE IN THE POST  
CRIME WE HAVE IN THE RECORD  
I BELIEVE IT'S RECORDS OF 90,  
92ND94 WE HAVE A DR. GIBSON  
WHO EVALUATED HIM I GUESS IN  
BAY COUNTY JAIL ANNEX AND  
MADE THE POINT I SUSPECT  
HE'S MELINGERING.

HE WAS GIVEN HADEROL.  
THERE WAS PSYCHOTIC  
THINKING.

THERE WAS SOME -- HE TOLD  
THE DOCTOR I FEEL THERE'S NO  
IMPROVEMENT WHATSOEVER.  
THEN THE NOTES IN THE THREE  
SEPARATE OCCASIONS IN AUGUST,  
IN SEPTEMBER AND AGAIN IN  
OCTOBER.

>> HAVEN'T WE SAID MENTAL  
HEALTH MIT ESPECIALLY  
STATUTORY MENTAL HEALTH  
MITIGATION IS REALLY THE  
MOST IMPORTANT CONCEPT OF  
MITIGATION, THAT REALLY  
SHOULD BE VIEWED AS  
SUBSTANTIAL MIT TPAEUGS.  
HAVEN'T WE SAID THAT IN CASE  
AFTER CASE?

>> WE HAVE -- THERE'S BEEN  
RECOGNITION THAT MENTAL

MITIGATION EVIDENCE  
PRESENTATION -- MENTAL  
MITIGATION EVIDENCE IS VERY  
IMPORTANT.

AND WE ALSO HAVE -- WE WERE  
AFFORDED THE OPPORTUNITY TO  
HEAR EVERYTHING FROM  
MR. OFFORD DEALING WITH HIS  
LIST OF PROBLEMS AND HISTORY  
FROM THE TRIAL COURT IN THE  
TRIAL COURT HAD AN  
OPPORTUNITY TO HEAR  
MR. OFFORD --

>> I WANT TO MAKE SURE.  
YOU'RE REFERRING TO THE  
NOTES FROM THE BAY COUNTY  
JAIL.

U H HUH.

>> AND THE JAIL DOCTOR  
SAYING -- WHAT I FIND  
REMARKABLE ABOUT WHAT'S IN  
THERE -- TRYING TO EVALUATE  
THE QUALITY OF THIS MENTAL  
HEALTH MITIGATION.

IT'S THE FIRST TIME IN  
RECORDS THAT GO BACK TO SIX  
YEARS OLD THAT SOMEONE  
SUSPECTS MALINGERING.  
ALL THROUGH HIS CHILDHOOD UP  
TO ADULthood HE'S ON SOCIAL  
SECURITY, DISABILITY FOR  
MENTAL ILLNESS.

AND THE BRAVEORAL RECORDS  
TALK GENUINELY ABOUT HIM  
HAVING SUICIDAL AND THAT HE  
IS HALLUCINATION OVER AND  
OVER.

AND SO I GUESS AND THIS IS A  
TOUGH SITUATION.

YOU'VE GOT TO AGREE UNLIKE A  
LOT OF THE DEATH CASES THAT  
WE SEE HERE WHICH MAY TALK  
ABOUT A MENTAL ILLNESS THE  
STATE HAS GOT TO AGREE THAT  
THIS ONE IS DOCUMENTED I  
GUESS THAT'S WHAT IS CAUSING  
ME CONCERN ABOUT KIND OF  
MINIMIZE IT BY SAYING  
WHATEVER HE SAID AT THE  
SPENCER HEARING DOES AWAY  
WITH A LIFETIME OF  
DOCUMENTED MENTAL ILLNESS.

>> YOU'RE HONOR, AND PLEASE  
I DON'T MEAN TO SUGGEST THAT

THIS IS AN INDIVIDUAL WHO HAS A PERFECT MENTAL HISTORY WHEN HE WAS SIX YEARS OLD HE WAS FAKING SYMPTOMS. I'M NOT TRYING TO SUGGEST THAT.

>> YOU WOULD AGREE THAT HE WAS -- FROM CHILDHOOD TO ADULTHOOD HE WAS A MENTALLY ILL INDIVIDUAL THAT COULDN'T EVEN BE CONSIDERED DISABLED BY THE FEDERAL GOVERNMENT BECAUSE OF HIS MENTAL ILLNESS.

>>DY -- HE DID RECEIVE SOCIAL SECURITY AND DISABILITY BENEFITS FROM THE STATE OF TEXAS.

THIS WAS AFTER I BELIEVE IN SEPTEMBER OF 2000 AND HE SAID -- THERE IS THIS SUGGESTION.

BUT THAT AND THAT ALONE HE SAID HE WORKED IN THE PAST. HE MENTIONED HE WORKED 8 MONTHS IN CONSTRUCTION AND HE WAS WORKING AT THE TIME OF THIS CRIME.

>> EVEN WITH THE WORKING YOU HAVE TO AGREE THAT WAS VERY INTERMITTENT.

THERE WAS NO -- THERE'S NOTHING IN THIS RECORD THAT SUGGEST THAT HE EVER HAD ANY LONG-TERM EMPLOYMENT. IS THERE?

>> THE LONGEST THAT WE HAVE IN THIS RECORD IS THE EIGHT MONTHS.

THE EIGHT MONTHS OF CONSTRUCTION WORKED THAT HE SAID HE WORKED.

>> I'M SORRY YOUR HONOR. A LOT OF TIME HE COMES TO MY ABILITY TO WORK BY HIS OWN INSISTENCE ON HE CONTINUING TO TRIFOR WHAT WOULD HAPPENED IS.

>> THAT'S WHAT I WANT TOW GET TO YOUR STATEMENT EARLIER ABOUT THAT HE MADE ON THE STAND ABOUT DRINKING AND THE DRINKING WOULD PROMPT HIM TO GO INTO THE

HOSPITAL SO HE WOULD NOT  
SPEND HIS SOCIAL SECURITY  
MONEY.

>> CORRECT.

>> WAS THERE EVER IN ANY OF  
THESE DOCUMENTS THAT THE  
DOCTORS WOULD YOU KNOW THE  
DIAGNOSIS OR THEIR TREATMENT  
OR WHATEVER NOTES THEY MAKE  
WHEN PEOPLE ARE HOSPITALIZED  
THAT ANY OF THEM EVER SAY  
THAT, THAT WAS HIS ONLY  
PROBLEM, THAT HE WAS  
DRINKING TOO MUCH?

>> WELL, WE HAVE AGAIN GOING  
WITH THE NOTE THE KNOW  
THAEUGS THAT YOU KNOW WE DO  
BELIEVE THE MAIN PROBLEM IS  
SUBSTANCE ABUSE.

BUT WE ALSO HAVE -- AND I  
BELIEVE IN RAW LYNN  
TESTIFIED THAT THE EFFECT  
WHAT WOULD HAPPEN HE WOULD  
GO INTO A MENTAL  
INSTITUTION.

WHO IS SAYING THIS?

>> MISS RAW LYNN.

THE CLINICAL PSYCHOLOGIST  
WHO WAS CALLED TO TESTIFY BY  
MR. OFFORD AND WHAT SHE  
WOULD TESTIFY TO WAS THAT  
ACCORDING TO HIS HISTORY AND  
ACCORDING TO MEDICAL RECORDS  
WHAT WOULD HAPPEN IS HE  
WOULD PERHAPS FEEL THESE  
MENTAL SYMPTOMS AGAIN OR  
SYMPTOMS OF HE WOULD GO INTO  
A MENTAL HOSPITAL.

HE WOULD TAKE MEDICATION FOR  
AT LEAST PROBLEMS.

HE WOULD FEEL BETTER AND  
RECOVER.

GO BACK ON TO THE STREET AND  
THEN HE WOULD INSTEAD OF  
CONTINUING WITH HIS MED  
TKPWAEUGS -- MEDICATION.  
THIS LITTERED THROUGHOUT THE  
RECORD.

THERE'S A NUMBER OF -- IN  
JULY OF 2003, AUGUST OF 2003,  
SEPTEMBER OF 2003, THERE'S A  
NUMBER OF INSTANCES WHEN  
HE'S IN TEXAS AND THE  
NOTATION AGAIN SAYS REFUSES

TO TAKE MEDICATION.

>> IS THAT ANOTHER SYMPTOM OF MENTAL ILLNESS THAT THE PATIENT SEEMED FINE WHILE THEY ARE INSTITUTIONALIZED AND FORCED TO TAKE THEIR MEDICATION AND THEN THEY GET BACK OUT ON THE STREETS AND THEN START DOING WHATEVER IT IS THEY WANT TO DO AND NOT TAKING THEIR MEDICATION.

>> I THINK THIS -- I THINK THIS IS A SITUATION WHERE THIS IS AN INDIVIDUAL WHO KNEW THE CONSEQUENCES OF NOT TAKING THE MEDICINE BUT CONTINUED NOT TO TAKE THEM.