

IN SUPREME COURT OF FLORIDA

**CHRISTOPHER OFFORD,**

Appellant,

v.

Case No. **SC05-1611**

STATE OF FLORIDA,

Appellee.  
\_\_\_\_\_ /

ON APPEAL FROM THE CIRCUIT COURT  
OF THE **FOURTEENTH** JUDICIAL CIRCUIT,  
IN AND FOR **BAY** COUNTY, FLORIDA

**INITIAL BRIEF OF APPELLANT**

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**INITIAL BRIEF OF APPELLANT**

**STATEMENT OF THE CASE<sup>1</sup>**

On August 13, 2004, the Bay County Grand Jury indicted appellant, CHRISTOPHER OFFORD, for the first-degree premeditated murder of Dana Noser. I 6.

On March 23, 2005, Offord pled guilty as charged. I 42-43, II 151-168.

The penalty phase of the trial was held May 31-June 2, 2005. The jury recommended the death sentence by a vote of 12 to 0. I 66, VIII 314. On July 18, 2005, the defense submitted a sentencing memorandum,<sup>2</sup> I 70-76, and the trial court heard

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<sup>1</sup> References to the eight-volume record on appeal are designated by the volume number in Roman numerals, followed by the page number. All proceedings were before Bay County Circuit Judge Dedee Costello.

<sup>2</sup> The Defendant's Sentencing Memorandum is attached as Appendix A.

additional evidence and argument as to the sentence. III 180-207.

On August 3, 2005, the trial judge followed the jury's recommendation and imposed the death sentence, finding one aggravating circumstance: heinous, atrocious, or cruel. In mitigation, the trial court found both statutory mental mitigators: the crime was committed while the defendant was under the influence of extreme emotional disturbance (some weight) and the defendant's capacity to appreciate the criminality of his conduct or conform his conduct to the requirements of law was substantially impaired (moderate weight). The trial court also found as mitigating drug and alcohol abuse (very little weight) and marital discord (little weight).<sup>3</sup> I 116-119.<sup>4</sup>

Notice of Appeal was timely filed August 12, 2005. I 132.

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<sup>3</sup> The trial judge's sentencing order is attached as Appendix B.

<sup>4</sup> The jury was instructed on the aggravating circumstance of heinous, atrocious, or cruel, and was instructed that it could consider in mitigation any aspect of the defendant's character, record, or background, and any other circumstance of the offense.

### STATEMENT OF FACTS

In February 2004, Christopher Offord, age 29, moved to Panama City, Florida, from Texas, where he had lived most of his life in institutions. Two weeks after he arrived in Florida, Offord was admitted to the psychiatric unit at Bay Behavioral Health Center in Panama City because he was having auditory hallucinations. Offord was diagnosed with Acute Paranoid Schizophrenia and placed on anti-psychotic medication. I 84.

After he left the hospital, Offord met David and Lisa Leasher at the Value Motel and lived with them for several months. V 44. In April, Offord met Dana Noser (ASuzy<sup>®</sup>) at a bar. Four days later, they got married and Offord moved in with Suzy. VI 128, 151, I 50, 57. In June, Offord and Suzy separated. The parting was amicable, and they continued to see each other daily. VI 152.

On July 4, 2004, Offord was again admitted to Bay Behavioral. This was his fourth admission since arriving in Florida. Offord was suicidal and had been using drugs and alcohol. He was diagnosed with Schizophrenia, Alcohol Dependence, and Cocaine Dependence and placed on anti-psychotic medication. Offord left the hospital on July 7 against medical advice. I 84, 100.

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<sup>5</sup> Dana Noser also went by the name ASuzy.®



On July 31, Noser took Offord to his job washing dishes at Granny's Kitchen. She picked him up at 11 p.m., dropped him off at his apartment, and went bar hopping. She returned around 3 a.m. and woke Offord up. They went to Joe's Corner Pub, where Offord drank a few beers and shot pool. VI 134-135. According to a waitress, they seemed to be getting along, and Offord did not appear intoxicated. V 32-35.

Around 4 a.m., Offord and Noser went to the Waffle House. According to several Waffle House employees, who knew the couple from previous visits, Offord and Noser were extremely affectionate, holding hands, kissing, and staring into each other's eyes. V 37-39, 42, 84-86.

At 7 a.m. the next day, Offord showed up at the Leashers' motel room, saying he had finally killed Suzy, had hit her with a hammer, stabbed her, and broke her knees. V 47-48, 53.

David Leasher testified Offord lived with him and his wife about two months, until he married Suzy. David got Offord a job and drove him to work the three weeks Offord worked there. David and Lisa knew Offord had mental problems and was supposed to be taking medication but never saw him take it. V 44-46, 55. Offord and Suzy seemed fine together.

They moved apart because they began to annoy each other. Both wanted to be apart. V 47. Both David and Lisa had heard Chris say he was going to kill Suzy. This was three months

after they got married, between the middle and end of July. V 47, 50, 55-56, 58.

Twelve hours later after Offord told the Leashers what he had done, around 6:45 p.m., Offord walked into J Krash's Bar and told the bartender, Arthur Sencil. Sencil called the police, and Offord was arrested and taken to the police station.

Sencil, who knew Offord as a customer, testified Offord was emotionally distraught when he walked in the door. He sat Chris down, and Chris said, AI killed her.@ Sencil asked, Akilled who,@ and Chris responded, Amy ex-wife,@<sup>6</sup> then said, AI hit her in the head with a hammer, I think I broke her neck.@

Sencil asked Bill Yohe, a part-time security employee, to watch Chris while he called the police. After calling 911, Sencil got pen and paper and asked Chris what happened. Chris said he and Suzy went to Joe's Pub around 2:30 a.m., to the Waffle House around 4:30, then home. Suzy wanted to have sex, he didn't, and they argued. He taped her mouth, hit her on the head with a hammer, and stabbed her with a kitchen knife. When asked what he had been doing since then, he said, AI didn't know what to do, I cleaned up, I went to sleep,

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<sup>6</sup> Offord and Noser were still married at the time. When Offord was served with the divorce papers, he understood that to mean he was divorced. III 190.

showered, came here. I was looking for you because I knew you would know what to do.@ V 60-64.

While Sencil was calling 911, Yohe asked Chris if he was okay, and Chris said no, he just killed his wife. Yohe didn't believe him and asked how he killed her. Chris said he broke her neck and broke her knees, beat her with a hammer and stabbed her with a knife. She wanted to have sex and he didn't, and he got angry. He couldn't take it anymore and just hit her with a hammer. V 75-77.

At the police station, Detective Joe Cherry confronted Offord with his previous admissions to Sencil and Yohe, advised him of his constitutional rights, then conducted a videotaped interrogation. VI 129-130.

Offord told Detective Cherry, AI need help. I need help,@ then, AI ran out of medicine and I am schizophrenic and I just lost it. And after I did it I just left the house. I just lost it. I kept trying to wake her up.@ VI 123-124. He asked if they had found her and said he was sorry. Crying, he said, AI didn't mean to do it. I was hearing voices and going in my head and I just kept hitting her, just kept hitting her, and hitting her.@ VI 127. He said he and Dana had been three months and divorced two weeks. VI 128. When asked if he was working, he said no, AI want to work to pay my bills but I really can't because I can't concentrate and I hallucinate, you

know, how I lost jobs because of that. I can't, I can't blend in, I guess. Dr. Winner (ph) at Bay Behavioral told me, he suggested that I go

to Chattahoochee three weeks ago and I told him I didn't want to because I guess he saw something, my behavior, or what. When I was in Bay Behavioral, Suzy called like 30 times every day. He said she kept calling him and was on my nerves all the time, that she's one of those people that never shuts up. She will talk and repeat herself over and over. VI 129.

Offord said he had been to the police station before, and a police officer had taken him to Bay Behavioral. He walked to the station because he didn't know where the hospital was and he was thinking about opening up the wound he had from a previous suicide attempt. VI 131.

He said he didn't want to kill her. I kept shaking her trying to wake her up but her face was so bashed in. They got home that night, and she wanted to have sex, so they had sex, and then out of nowhere I just said, my head just went blank and I said I am going to kill her. VI 132-133. He had the duct tape in his shorts and she kept begging him to lay down, and she said it like ten times and finally I just said, you need to shut up, you know, you need to be quiet, and I'll lay down when I'm ready to lay down, you know. And I don't remember what the last thing she said, and then I just grabbed the tape and wrapped it and just started stabbing her. VI 133.

Before that, everything was okay. Suzy had picked him up from work at Granny's about 10:30, dropped him off, and said she

was going home. He went to bed. Around 3 a.m., she came and woke him up. He had given her a key in case she needed something. He was upset because she woke him up, so they went to Joe's Corner Pub together, where Offord had a few beers. Suzy was pretty toasted already, could hardly walk. Then they went to the Waffle House for breakfast. Everything was going fine. VI 134-136.

They went back to Offord's apartment and had sex. He got up and took a shower. Everything was still fine. Then she started demanding she wanted more and got real loud and I got angry. She was saying, "You can't hang, you are a sorry ass MF-er and all this stuff, and so my temper roused up, and so what I did is I went in the front room and tried to compose myself and then that's when I started hearing voices to kill her." VI 137. He went to the kitchen and got a knife and duct tape. He hid the knife in his shorts and cut off a piece of tape, which he taped to his shorts. He walked back into the bedroom and sat on the bed next to her. She kept demanding he lay down with her and saying derogatory things. He got angry and placed the tape over her mouth and muffled her with the pillow and began stabbing her with the knife. When the knife bent, he grabbed a hammer that was lying on the bedside table and struck her repeatedly. VI 138-139, 148-

151, 154. She was grabbing at him and saying she would do anything for him and trying to wrestle with him. He saw the hammer on the other side of the bed and started digging her face with it. She was telling him to stop. He started hitting her knees and stomach and thighs and AI guess I hit her neck with the hammer so hard, it just snapped, snapped her neck.@ VI 154. He wrapped her up in a blanket several hours later. He was hitting her in the legs and knees A[b]ecause I was going to cut up her body.@ VI 155.

He watched TV after, took a shower, and looked for his wallet for several hours. VI 143. He drank a bottle of whiskey and sat next to her, trying to wake her up. After he realized she wasn't going to wake up, he started hitting her again. AEvery time I looked at her I kept hitting her with the hammer.@ VI 144-145.

He went to David and Lisa's room at Value Lodge at 8 a.m. to Afind out what to do,@ but Athey didn't believe me.@ VI 156.

Then he drove to Suzy's house to look for his wallet. He needed his wallet because he was on disability for Schizophrenia. He went home and took 20 Xanax, trying to kill himself. AI drank it with whiskey. I thought about either taking Xanax or re-cutting that (pointing to an old injury) and just bleeding to death because I figured since Suzy died,



I might as well die, too.@ He thought the Xanax would do it.

**A**I just want to die, I don't, I can't live with this.@ VI 160.

He and Suzy still saw each other every day, had sex, and she drove him everywhere he needed to go. When asked **A**how does that make you feel [that she is dead]?,@ he said, **A**I don't understand. I don't believe I did it, I never killed anybody in my life.@ VI 153. When asked **A**[h]ow did it make you feel when you were doing this?,@ he said, **A**I never felt like it before, I can't--I never had that kind of rage before.@ VI 157. Suzy had Baker-acted him twice trying to help him. He'd had thoughts of killing people before, including Suzy. He **A**had thoughts of killing her and chopping her up and putting her on the grill.@ The past couple of weeks, the thoughts had been there all the time, even when he wasn't around her. VI 157-158. He told Suzy he had thoughts of just killing people, just randomly, going down the street and killing people. He told her about his suicidal thoughts, too, and **A**taking all my Haldol.@ VI 159.

When asked how he thought he would feel tomorrow, Offord said, **A**probably kill myself.@ VI 160. He said, **A**I just want to die, I don't, I can't live with this.@ VI 161. He told Cherry **A**something was telling me to kill her,@ and **A**[t]hat's what confuses me, everything was fine.@ VI 168. **A**It was me, just like I was somebody else.@ VI 170.

After the first videotaped interview, Detective Cherry conducted a second interview, asking all the same questions. When asked what led to killing his wife, Offord said, Avoices

were telling me to kill her.@ When asked what the voices were telling him to do, he said, **A**Made sure of me putting her to death.@ VII 180. He repeated that he muffled her with the pillow, then **A**stabbed her in the forehead, her face, and the chest,@ then hit her with the hammer. VII 185. He tried to find his wallet, wrapped her in a blanket, went to the Leashers and told them what he had done, went home, watched some TV, took about 20 Xanax with some whiskey, slept four or five hours, woke up, found his wallet, and went to J Krash=s. VII 186. He moved the mattress to cover her up **A**so no one would see her.@ VII 187. When asked if he had anything to add, he said, **A**I have had a lot of mental issues. I am on Social Security disability. I believe that if those voices would not have been telling me to do that, I don=t believe I would have done it because if I was trying to, I felt like if I had done it deliberately, I wouldn=t have, you know, turned myself in like that.@ VII 193. He said every time he had thought about killing her before, it was because of the voices. When asked if he knew killing somebody was wrong, he said, **A**I wasn=t thinking clearly about that when I did it. I didn=t realize it was wrong until after I had done it.@ He wasn=t thinking about it, **A**I just, it was like it was me that did it but it was like, in my mind, it was like, it was just r[acing], I just, just lost it completely.@ VII 194-195.



Detective Cherry testified the details of Offord's confession fit the physical evidence at the scene. VII 196. The victim's body was wrapped in a blanket in the bedroom. A hammer was on the floor, blood spatter on the carpet and walls. A bent kitchen knife and several of the victim's teeth were underneath the body. Two mattresses with blood stains were leaning against the wall near the front door, consistent with a void area in the bedroom where a bed appeared to have been removed. The roll of duct tape was on a table in the bedroom. The blood-stained boxers were in the bathroom. VI 88-111.

Dr. Charles Siebert, the medical examiner, testified the cause of death was blunt head trauma. The victim had sustained multiple blunt and sharp injuries to the head, as well as extremities. She had a superficial stab wound to the chest. Wounds to the face and head could have been caused by the knife or the hammer. She sustained a minimum of thirty blows to the face and twenty-four hammer blows to her knees around the time of death. The knee injuries were unusual because they were to the inner portion of the knee and did not break the knee cap or other bones. Dr. Siebert said the victim would have experienced a high degree of pain while conscious but could have been unconscious by the third or

fourth blow. She was intoxicated by driving standards, which may have reduced the pain. VII 200-221.

Dr. Jill Rowan, a clinical psychologist, and Nancy Watson, a Licensed Clinical Social Worker, testified for the defense. Dr. Rowan testified about Offord's history of mental illness and psychiatric hospitalizations based on a review of his Texas and Florida psychiatric records.<sup>78</sup> VII 227. Watson contributed additional details about Offord's family background, gathered from Offord, his mother, and the medical records. VII 250.

Offord was born in Denton, Texas, on July 14, 1975, to Pam and Donnie Offord. He lived with his parents until he was about 5. At that time, they divorced, and he went to live with his biological father for a time. There were allegations his father, an alcoholic, raped and physically abused him, and he was brought back to live with his mother and stepfather. VII 250.

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<sup>7</sup> A written summary of the psychiatric records was admitted into evidence. The records themselves, comprising several hundred pages, were never introduced, so are not in evidence.

<sup>8</sup> Dr. Rowan's summary of the psychiatric records is attached as Appendix C



At eight months old, his behavior changed. He had an allergic reaction to Penicillin and his heart stopped. His grandmother, an RN, performed CPR, and he survived. According to his mother, he was an easy-going child until that occurred.

After that, he became easily agitated, he became overactive, he demanded attention, he had poor impulse control. He never got along with other children and was teased and rejected by other children. At age 5, he began pulling the skin off his fingernails. At age 6, he chased her with a butcher knife and threatened to kill her. VII 250-251.

Offord was placed in a mental hospital for the first time when he was 6 years old. VII 251. He spent 10 months at Hillside, a treatment facility in Dallas County. I 78. The following year, from 1982 to 1983, he was at Saint Theresa's Children's Home in Fort Worth, Texas. In 1984 and 1985, he was hospitalized twice at Terrell State Hospital. He was hospitalized at Terrell again in 1986, after which he was transferred to North Texas State Hospital-Wichita Falls Campus. He was now 10 years old. VII 232, 81.

At age 11, he was placed in the Texas Youth Center because he started a fire at school. I 78. When he was 13, he started heavy drug use. By 14, he was hearing voices. At 17, he was drinking very heavily, so had alcohol and substance abuse problems, along with mental illness. VII 252.

At age 18, he was admitted again to Wichita Falls State Hospital, having been transferred there from the county jail.

He was diagnosed with Impulse Control Disorder, Polysubstance Dependence (marijuana, cocaine, and speed), Alcohol Abuse, and Antisocial Personality Disorder. He was placed on Lithium. VII 232, I 78.

In December 1994, at age 19, Offord was committed to Vernon State Hospital after being found incompetent to stand trial on charges of armed robbery. He was diagnosed with Bipolar Disorder, Polysubstance Dependence, and Personality Disorder, NOS. He was given Prolixin, an anti-psychotic. VII 232.

Offord eventually was found competent and sentenced to six years in prison. In March 1999, while in prison, he was sent to the psychiatric unit because he was having urges to cut himself. He was diagnosed with Schizoaffective Disorder, Bipolar Type, Polysubstance Abuse, Antisocial Personality Disorder, and Borderline Personality Disorder. I 79.

In September 2000, one month after his release from prison, Offord was evaluated for Social Security Disability and was diagnosed with Schizoaffective Disorder, a combination of Schizophrenia and Mood Disorder; Post Traumatic Stress Disorder; Alcohol Abuse, in remission, and Borderline

Personality Disorder. Offord was now 24 years old. VII 232-233, I 79.

In October 2000, he was admitted to Wichita Falls State Hospital because he was experiencing command hallucinations telling him to harm himself. He was prescribed an anti-psychotic, Zyprexa, and Lithium, for mood stabilization. VII 233, I 80.

In 2001, Offord was admitted to Wichita Falls Hospital three more times. In January 2001, he was admitted for auditory

hallucinations. He was diagnosed with Paranoid Schizophrenia, Polysubstance Dependence, Antisocial Personality Disorder, and Borderline Personality Disorder. He was admitted again in May. The May report said he probably had entered a psychotic state because he had discontinued his prescribed medications and started using street drugs. That became a pattern: he would go to a hospital, get stable, no more voices, not suicidal, not hurting himself, then he would leave the hospital, stop taking the anti-psychotic medication, start using cocaine or marijuana or alcohol, and be readmitted. VII 233.

Dr. Rowan said it was difficult to pinpoint when Offord became mentally ill or why. According to the May 2001 report, he most likely had a biogenetic predisposition to psychiatric illness. As a child and teenager, he never had a stable home to go back to, so would regress after leaving a facility. The August 2001 report stated Offord's prognosis was poor and he was considered "institutionalized," meaning they did not believe he could function independently outside a facility or hospital. VII 234. Despite this, they did not keep him in the hospital because the law requires a person be moved to a less restrictive setting once they are stable. VII 235.

Dr. Rowan testified Offord had two dozen additional psychiatric admissions after the 2002 report noting he was institutionalized. VII 239. On January 4, 2002, he was admitted to North Texas State Hospital for the sixth time, after living in a group home for a time. On January 12, he was admitted to the All Saints Chemical Dependency Unit, and on January 30, he was admitted to Trinity Springs for three days. He was admitted to psychiatric units again in March, April, June, July (twice), August, September, and November of 2003. The March admission was because he overdosed on Lithium and Haldol. The other admissions were because of homicidal and/or suicidal ideation or because he had stopped taking his medications and was instead using street drugs, including speed, marijuana, cocaine, and alcohol. Between admissions, Offord was monitored by a treatment team from Texas Mental Health and Mental Retardation. VII 81-84.

Two weeks after Offord arrived in Florida, on February 27, 2004, he was admitted to the psychiatric unit at Bay Medical Behavioral Health Center in Panama City because of auditory hallucinations. He was diagnosed with Paranoid Schizophrenia, Acute Exacerbation. He was admitted again in March, April, and July. In March, he was admitted because he was having suicidal thoughts. He had been drinking 18-20 beers a day, plus rum, vodka, or any other liquor he could

get. He was diagnosed with Paranoid Schizophrenia, Consider Schizoaffective Disorder, and Alcohol Dependence, Marijuana Abuse, and Cocaine Abuse. He was admitted for the third time in April 2004. Dr. Gorman diagnosed

Offord with Chronic Paranoid Schizophrenia, as well as Cocaine Dependence and Alcohol Abuse. I 84.

Offord's fourth admission to Bay Behavioral was on July 4, 2004, three and a half weeks before the murder.<sup>9</sup> He was suffering from alcohol abuse and crack cocaine abuse. He was depressed, hallucinating, and suicidal. He had stopped taking his medications two months earlier and was drinking a gallon of liquor almost daily. He said his wife said she wanted a divorce, and since then, I have been sinking in alcohol and cocaine. I have been opening and closing the bars. I have been having thoughts of cutting myself. He said the liquor kept him from getting agitated. The notes state Offord was delirious, could not think, keep food down, was high on whiskey and cocaine, and complained of stomach cramping, possibly from DTs. The note dated July 6 states Offord wanted a family session with his wife today so he could choke her to death. Patient agreed that today was not a good day to even look at his wife. Another note states Offord's daily goal was to stay calm, not let my wife get to me. A note from the evening shift on July 6 says Offord continued to state he did not want to see his wife and feels homicidal towards her. The doctor diagnosed him with Alcohol

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<sup>9</sup> The psychiatric records from Offord's July admission to Bay Behavioral is attached as Appendix D.

Dependence, Cocaine Dependence, and Schizophrenia, and put him on medication. Offord left the hospital July 7, against medical advice. I 100-113, VII 229, Appendix B.

Offord's jail psychiatric records also were introduced into evidence.<sup>10</sup> While in jail, Offord was evaluated by Dr. Edward Gibson, a psychiatrist. The initial psychiatric evaluation, dated August 4, 2004, states Offord was having auditory hallucinations during the interview, that he was hearing his wife's voice in his head. Offord said he was depressed because he killed his wife, that the voices told him to hurt her, and he lost control. He was mad at her because it was her fault he was still in Florida, her voice aggravated him, and she kept telling him he needed hospitalization. He cut on himself because it made him feel better. Dr. Gibson noted that although much of the cutting was superficial, Offord had two prior suicide attempts where he had cut into his antecubital fossa. Offord had to have a catheter because he had stuffed cardboard up his urethra. He was diagnosed with Paranoid Schizophrenia, Acute Exacerbation, Alcohol Abuse and Dependence, Antisocial Personality Disorder, Borderline Personality Disorder, and Mental Retardation, Mild. He was placed in a strip cell and restarted on Haldol and Cogentin. I 87-88, Appendix C.



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<sup>10</sup> The jail mental health notes are attached as Appendix E.

Offord was re-evaluated each month. Dr. Gibson initially did not think the Haldol was helping Offord and suspected malingering but he continued to prescribe Haldol. In the November report, Dr. Gibson noted Offord's symptoms had improved. He was not hearing voices as much and was not homicidal but was suicidal. By February 2005, Offord was not suicidal or homicidal and had no delusions or hallucinations. I 98, VII 228.

At the Spencer hearing, Offord testified. He said he came to Panama City on a Greyhound bus **A**to get away from my family.@ When he left Texas, he was in the care of mental health professionals. He was taking medication but did not bring any with him. He was on disability for mental impairment. He met Suzy at a bar. She knew he had a mental illness. He got married for **A**[n]o reason in particular.@ It worked for a while, then started getting bad after about three months. He thought they were divorced when this happened because the deputy came to his house and gave him some papers. III 186-190.

He had thoughts of killing her before this happened. He didn't know if the thoughts were related to drinking **A**because I was never sober.@ He drank constantly after arriving in Panama City. He went into treatment for that at least three

times. The day of the murder, they were on good terms. She picked him up from work, dropped him off at home. She came back around 3:30, stumbling drunk. He was upset that she woke him up but they were still on good terms. There were no problems at the bar, AI was drinking, I was feeling fine.@ He had drunk some whiskey earlier when he went to sleep. They ate breakfast at the Waffle House. She wanted to spend time with him at the duplex. He had to work the next day, so told her no. They argued for about five minutes, then he went and got the knife and tape. III 190-195. AShe kept arguing about cuddling and then I just did it.@ III 197. When asked why he didn't just leave or ask her to leave, he said, AShe was paying my rent, how was I going to ask her to leave.@ She owned the apartment, he was just staying there. He decided to kill her because he had been thinking about it for three weeks. He had told everyone he had thoughts of killing her, his friends at the hotel, Suzy, the doctors at Bay Behavioral. He had hurt himself many times when agitated, at least thirty times. When asked why, he said, AIt doesn't [make sense], it's not supposed to, no one understands.@ When asked why he didn't stop at some point, he said by the time he realized what he was doing, he had already stabbed her and Athen we started wrestling, you know, I just lost it. There is nothing, no explanation whatsoever for it, I just lost it. It's kind of hard to make

an explanation for murder.@ III 197-199. He pled guilty because he did it. AI killed somebody, I deserve to be dead myself. I said that from day one.@ III 200-201. When asked why he stopped taking his medication, he said, AWhen I'm drunk I feel like I don't need medication.@ III 201. He said he could Afool any doctor you put in my face,@ III 202, and was not crazy at all. III 203. After he got out of the hospital the last time, he saw Suzy everyday, and, AIt got to the point where when she talked it was getting, it was getting annoying to me, just regular conversation was getting annoying. And I just, on July 31<sup>st</sup> I just busted, I couldn't control it no more, I just lost it.@ III 203-204.

#### SUMMARY OF ARGUMENT

Offord's sentence of death is disproportionate when compared with similar capital cases in which this Court reversed the death sentence. As this Court has stated time and again, the death penalty must be limited to the most aggravated and least mitigated of first degree murders. Accordingly, this Court has upheld single-aggravator cases only where there is very little or nothing in mitigation.

In the present case, the one aggravating circumstance of heinous, atrocious, or cruel, is offset by weighty, unrebutted mitigation. Offord's mental health history is remarkable in its length and breadth. Offord spent 10 months in a mental

institution when he was only 6 years old. He spent most of his childhood after that and all of his teenage years in institutions of one kind or another. He was hearing voices at age 14 and had drug and alcohol abuse problems by age 17. Offord has been admitted to psychiatric wards in Texas and Florida more than four dozen times. He has been diagnosed with all three types of major mental illness, including Chronic Paranoid Schizophrenia, Bipolar Disorder, Borderline Personality Disorder, and Polysubstance Dependence. Offord was raped and physically abused by his father; has been diagnosed as mentally retarded; and has never been able to function in society on his own.

This is neither the most aggravated nor least mitigated of capital murders. When compared to similar cases, it is clear that equally culpable defendants have received sentences of life imprisonment. This Court should reverse Offord's death sentence and remand for imposition of a life sentence.

## ARGUMENT

### Issue

THE DEATH SENTENCE IS DISPROPORTIONATE WHEN COMPARED WITH SIMILAR CASES WHERE THE AGGRAVATING CIRCUMSTANCES ARE FEW AND THE MITIGATION, ESPECIALLY THE MENTAL MITIGATION, IS SUBSTANTIAL.

This was an unplanned, senseless murder committed by an emotionally disturbed, mentally ill person who has been in psychiatric care since the age of 6. When compared to similar cases involving the death penalty, the ultimate punishment is not warranted.

As this Court repeatedly has stated, the death penalty must be limited to the most aggravated and least mitigated of first-degree murders. See e.g., Almeida v. State, 748 So. 2d 922 (Fla. 1999)(crime must fall within the category of both the most aggravated and least mitigated of murders@); Terry v. State, 668 So. 2d 954, 965 (Fla. 1996)(AConsequently, its application is reserved only for those cases where the most aggravating and least mitigating circumstances exist@); Kramer v. State, 619 So. 2d 274, 278 (Fla. 1993)(AOur law reserves the death penalty only for the most aggravated and least mitigated murders@); State v. Dixon, 283 So. 2d 1, 7 (Fla. 1973)(death penalty is reserved for Athe most aggravated and unmitigated of most serious crimes@), cert. denied, 416 U.S. 943 (1974).

Proportionality review is not merely a comparison between the number of aggravating and mitigating circumstances. Proportionality review requires a discrete analysis of the facts, entailing a qualitative review by this Court of the underlying basis for each aggravator and mitigator rather than a quantitative analysis. @ Urbin v. State, 714 So. 2d 411, 416 (Fla. 1998)(quotations and citation omitted; emphasis in original). Proportionality analysis requires the Court to consider the totality of circumstances in a case, @ in comparison to other capital cases. See Porter v. State, 564 So. 2d 1060 (Fla. 1990), cert. denied, 498 U.S. 1110 (1991). The Court must compare similar defendants, facts, and sentences. @ Brennan v. State, 754 So. 2d 1, 10 (Fla. 1999). The standard of review is de novo. See Larkins v. State, 739 So. 2d 90 (Fla. 1999); Urbin. . . . . In the present case, one aggravating circumstance is arrayed against extensive mitigation, especially mental mitigation. This Court has affirmed death sentences supported by just one aggravating circumstance only in cases involving either nothing or very little in mitigation. @ Songer v. State, 544 So. 2d 1010, 1011 (Fla. 1989); see also Jones v. State, 705 So. 2d 1364, 1365 (Fla. 1998)(while this Court has on occasion affirmed a single-aggravator death sentence, it has done so only where there was little or nothing in mitigation @); DeAngelo v.



State, 616 So. 2d 440 (Fla. 1993)(same); McKinney v. State,  
579 So. 2d

80, 85 (Fla. 1991)(same); Nibert v. State, 574 So. 2d 1059, 1063 (Fla. 1990)(same).<sup>11</sup> Furthermore, this Court repeatedly has held that substantial mental mitigation makes the death penalty inappropriate even when the aggravating circumstance of heinous, atrocious, or cruel has been proved. See, e.g., Robertson v. State, 699 So. 2d 1343 (Fla. 1997); Sager v. State, 699 So. 2d 619 (Fla. 1997); Voorhees v. State, 699 So. 2d 602 (Fla. 1997); Morgan v. State, 639 So. 2d 6 (Fla. 1994); Kramer v. State, 619 So. 2d 274 (Fla. 1993); Penn v. State, 574 So. 2d 1079 (Fla. 1991); Farinas v. State, 569 So. 2d 425 (Fla. 1990); Nibert. This is true especially where the heinous nature of the offense resulted from the defendant's mental illness. Miller v. State, 373 So. 2d 882, 886 (Fla. 1979); see also Huckaby v. State, 343 So. 2d 29 (Fla.)(death sentence reversed where evidence showed Huckaby's mental illness was motivating factor in commission of crime), cert. denied, 434 U.S. 920 (1977). As this Court observed in Miller,

a large number of the statutory mitigating factors reflect a legislative determination to mitigate the death penalty in favor of a life sentence for those persons whose responsibility for their violent actions has been substantially diminished as a result of mental illness, uncontrolled emotional state of mind, or drug abuse.

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<sup>11</sup> As the Court recognized in Jones, A[t]o rule otherwise on this issue would put Florida's entire capital sentencing scheme at risk. 705 So. 2d at 1366.

373 So. 2d at 886.

Application of these principles mandates a reduction of Offord's death sentence to life in prison. Offord's long history of mental illness places this case among the most mitigated of capital cases.<sup>12</sup> Moreover, the aggravated nature of the crime, as well as the motivation for the crime, were the result of Offord's mental illness not a desire or design to inflict pain.

Offord's mental health history is remarkable in its length and breadth. By age 5, he was identified as seriously disturbed and spent 10 months in a mental hospital. Since then, he has been in state care most of his life, including frequent psychiatric hospitalizations. By age 17, he was hearing voices. He required psychiatric care while in prison and was back in a psychiatric hospital within a month of his release. Since his release from prison in 2000, Offord has been admitted to psychiatric hospitals over two dozen times. Between admissions, Offord lived in halfway houses, group homes, or the care of others, while being monitored by community treatment teams.

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<sup>12</sup> The trial court found both statutory mental mitigators, extreme mental and emotional disturbance and inability to conform to the requirements of law. The trial court also found the other two mitigators requested by the defense: a long history of alcohol and substance abuse and marital

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discord.

Although Offord has received a number of different diagnoses over the years, it is uncontroverted that he suffers from all three types of major mental illness. He has been diagnosed with Chronic Paranoid Schizophrenia, Bipolar Disorder, Schizoaffective Disorder, Borderline Personality Disorder, and Antisocial Personality Disorder.<sup>13</sup> Offord has been suffering from command auditory hallucinations since he was 14 years old. He has a well-documented history of self-mutilation, suicidal ideation, and suicidal attempts, one of which left his arm permanently damaged.

Offord also has a long history of drug and alcohol abuse. At age 13, he started heavy drug use; at age 17, he was drinking heavily; and by age 18, he was diagnosed with Polysubstance Dependence (marijuana, cocaine, speed) and Alcohol Abuse.

In addition to longstanding mental illness and drug and alcohol abuse, Offord has been diagnosed with mental retardation, was physically and sexually abused by his

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<sup>13</sup> Dr. Rowan testified Offord has a well-documented history of Schizophrenia, a major mental illness that affects every aspect of a person's life. The person isn't grounded in reality, may be delusional about things, and often has hallucinations or hears voices in their head. People with schizophrenia often can't communicate well, jumping from topic to topic without logic. VII 231. Offord also was diagnosed with Bipolar Disorder, a mood disorder with drastic mood shifts from a very low, very depressed state to a manic, hyperactive state. VII 226-227.

biological father, and may have suffered brain damage when he was a baby. Due to his pattern of stopping prescribed medications, relapsing on street drugs, and subsequent reliance on mental health facilities, Offord had become institutionalized by 2001, i.e. he is unable to function independently.

Offord's sentence of death is disproportionate when compared with other cases in which this Court reversed the death sentence on proportionality grounds. See Larkins v. State, 739 So. 2d 90 (Fla. 1999); Hawk v. State, 718 So. 2d 159 (Fla. 1998); Robertson v. State, 699 So. 2d 1343 (Fla. 1997), cert denied, 522 U.S. 1136 (1998); Kramer v. State, 619 So. 2d 274 (Fla. 1993); DeAngelo v. State, 616 So. 2d 440 (Fla. 1993); Fitzpatrick v. State, 527 So. 2d 809 (Fla. 1988); Nibert v. State, 574 So. 2d 1059 (Fla. 1990).

In Kramer, the defendant killed the victim during a fight. The trial court found two aggravating factors: prior violent felony and that the murder was heinous, atrocious, or cruel. On appeal, this Court vacated the death sentence due to the substantial mitigating evidence: the defendant was under the influence of mental or emotional stress at the time the crime was committed; the defendant's capacity to conform his conduct to the requirements of the law was severely impaired at the time of the



crime; the defendant was a model prisoner; the defendant suffered from alcoholism and drug use. 619 So. 2d 276.

In Nibert, the defendant stabbed a companion seventeen times in the victim's home. This Court approved the aggravating circumstance of heinous, atrocious, or cruel, but nonetheless found the defendant's death sentence disproportional based upon the mitigating evidence, which included physical and psychological abuse and extreme mental and emotional disturbance and impaired capacity due to alcohol abuse. 574 So. 2d at 1059.

This Court also found evidence of mental or emotional disturbance dispositive in vacating sentences of death in DeAngelo, Fitzpatrick, and Robertson. In DeAngelo, the defendant strangled the victim manually and with a ligature. The defendant presented significant mental mitigation, including evidence he suffered from bilateral brain damage, hallucinations, delusional paranoid beliefs and mood disturbance. 616 So. 2d at 443. The trial court rejected this evidence as sufficient to establish the statutory mental mitigators but found the defendant suffered from the mental illnesses testified to by the expert. On appeal, this Court concluded the single aggravating circumstance of cold,



calculated, and premeditated did not warrant death in light of the substantial mitigation. Id. at 443-44.

In Fitzpatrick, the defendant fatally shot a police officer while holding several people hostage. The trial court found five aggravating circumstances and three mitigating circumstances, the defendant was mentally and emotionally disturbed; his capacity to conform his conduct to the requirements of the law was substantially impaired; and he suffered from a low mental age. 527 So. 2d at 810-11. The Court vacated the death sentence because compared to other cases the killing in this case resulted more from the acts of a man-child than from a hard-blooded killer. @ Id. at 812.

In Hawk, the defendant brutally beat two elderly persons. This Court reversed the sentence of death, finding the two aggravating factors, which included heinous, atrocious, or cruel, failed to outweigh copious mitigation. The Court noted Hawk started seeing a psychologist at the age of 5 and had poor impulse control even as a child. The trial court found the statutory mitigating factor of substantial impairment and several nonstatutory mitigators, including emotional disturbance, brain damage, and abusive childhood. Considering the nature and extent of both the aggravating and mitigating circumstance, the Court found life in prison the more appropriate sentence. 718 So. 2d at 163.

In Robertson, the defendant, for no apparent reason, strangled to death a young woman who he believed had befriended him. Although there were two valid aggravating circumstances (committed during a burglary and heinous, atrocious, or cruel),

this Court found the death penalty not proportionately warranted in light of the mitigation, which included Robertson's age of 19, impaired capacity at the time of the murder, abused and deprived childhood, history of mental illness, and borderline intelligence.

When the facts of the present case are compared to the preceding cases, it is clear that equally culpable defendants have received sentences of life imprisonment. Like Robertson, the present offense was an unplanned, senseless murder by an emotionally disturbed individual. Like the defendant in Robertson, Offord, for no apparent reason, killed someone who had tried to help him. Offord clearly was under the influence of his mental illness when he killed Dana Noser. See Larkins, 739 So. 2d at 95 (killing appears to have resulted from impulsive actions of a man with a history of mental illness who was easily disturbed by outside forces). This is not one of the most aggravated and least mitigated of capital crimes. See Dixon. The death penalty is not the appropriate punishment for Offord, and this Court should reverse his death sentence and remand for imposition of a sentence of life imprisonment with no possibility of parole.

**CONCLUSION**

Appellant respectfully requests this Honorable Court to vacate appellant's death sentence and remand for imposition of a life sentence.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing has been furnished By U.S. Mail to **RONALD LATHAM, JR.**, Assistant Attorney General, The Capitol, Tallahassee, Florida 32399-1050, and a copy has been mailed to appellant **CHRISTOPHER OFFORD**, #127139, Florida State Prison, 7819 NE 228<sup>th</sup> Street, Raiford, FL 32026, on this date, May 16, 2006.

**CERTIFICATE OF FONT SIZE**

I HEREBY CERTIFY THAT, pursuant to Florida Rule of Appellate Procedure 9.210, this brief is typed in Courier New 12 Point.

Respectfully submitted

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**ATTORNEY FOR APPELLANT**

IN SUPREME COURT OF FLORIDA

CHRISTOPHER OFFORD,

Appellant,

v.

Case No. SC05-1611

STATE OF FLORIDA,

Appellee.

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**APPENDIX TO INITIAL BRIEF OF APPELLANT**

**APPENDIX**

**DOCUMENT**

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|---|--|
| A | Defendant's Sentencing Memorandum                                      |
| B | Sentencing Order   |
| C | Dr. Rowan's summary of the psychiatric records                         |
| D | The psychiatric records from Offord's July admission to Bay Behavioral |
| E | The jail mental health notes   |