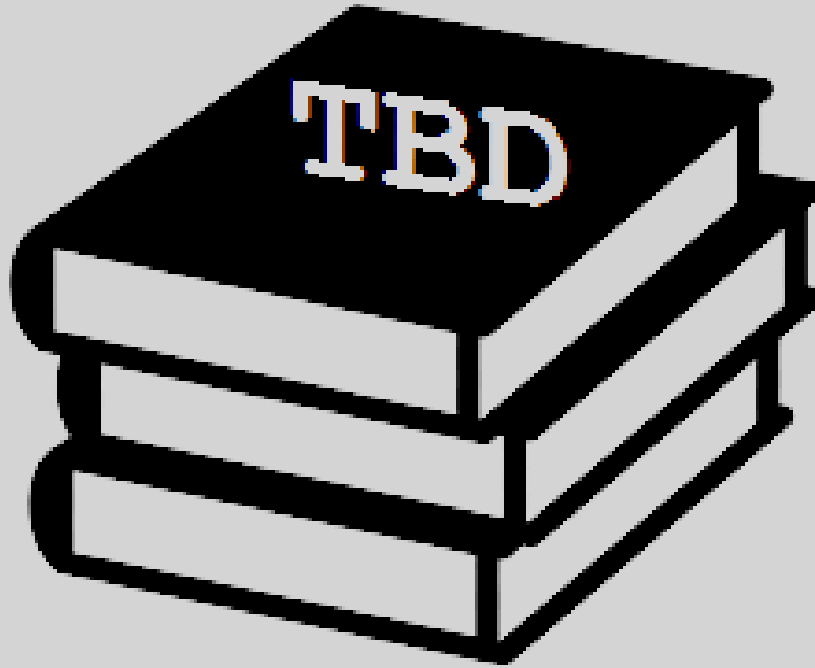


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**IN THE SUPREME COURT OF FLORIDA
CASE NO. SC13-1213**

**TAVARES J. WRIGHT,
Appellant/Petitioner**

CAPITAL POSTCONVICTION CASE

v.

**STATE OF FLORIDA,
Appellee/Respondent.**

**APPELLANT’S MOTION FOR REHEARING AND FOR
CLARIFICATION**

Tavares J. Wright, Appellant/Petitioner, by counsel, pursuant to Fla. R. App. P. 9.330, moves for rehearing, clarification, or for such other relief as this Court may deem proper, and states:

In an opinion issued on March 16, 2017, this Court considered Mr. Wright’s appeal from an order denying his initial motion to vacate his convictions and sentences under Fla. R. Crim. P. 3.851, as well as his renewed motion to determine intellectual disability pursuant to Fla. R. Crim. P. 3.203. *Wright v. State*, 213 So. 3d 881 (Fla. 2017) (“*Wright I*”). On October 16, 2017, the United States Supreme Court granted certiorari, vacated this Court’s decision in *Wright I* and remanded to this Court for full consideration in light of *Moore v. Texas*, 137 S. Ct. 1039 (2017). *Wright v. Florida*, 138 S. Ct. 360 (2017). On September 27, 2018, this Court issued

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an opinion reaffirming the denial of Mr. Wright’s intellectual disability claim. *Wright v. State*, 2018 WL 4656661 (Fla. 2018) (“*Wright II*”). The new opinion, however, was silent as to the six claims regarding the denial of his 3.851 motion. Mr. Wright seeks clarification regarding the status of these claims.

Furthermore, the resolution of Mr. Wright’s intellectual disability claim in the September 27, 2018 opinion must be read in concert with the previous, now-vacated opinion. In several instances, this Court relied on the analysis it conducted in *Wright I* and concluded that the previous decision “was supported by competent, substantial evidence, which [the Court] thoroughly detailed.” *Wright II* at *9. Furthermore, in at least one instance, there is a factual discrepancy between the two opinions. Compare *Wright I* (explaining that although Dr. Kasper testified that Mr. Wright no longer demonstrates deficits in social skills, “[t]he first ABAS-II administration indicated that Wright had deficits in both social skills and conceptual skills” and that Dr. Kasper testified that “Wright only met the statutory criteria for intellectual disability with regard to the conceptual skills sub-component of the adaptive skills prong”), with *Wright II* at *6 (“Both experts testified at the renewed ID determination hearing- including Wright’s own expert- that Wright has no deficits in the social and practical domains that rise to the level of an ID determination.”).

Thus, it is unclear whether the previous opinion has been reinstated, or whether it remains vacated, in light of this Court's opinion on remand.

Moreover, despite the United States Supreme Court's direction in *Moore* that courts focus on adaptive deficits in evaluating intellectual disability, this Court's opinions regarding Mr. Wright's intellectual disability claim essentially disregard any of the adaptive deficits Mr. Wright discussed extensively in his briefs. *See Moore*, 137 S. Ct. 1050. Additionally, while this Court asserts that it relied on the credibility determination of the postconviction court, this is not a case where the postconviction court found that the testimony presented by Mr. Wright or his expert in support of his intellectual disability was not credible. *Wright II* at *9. In fact, although the postconviction court found that Mr. Wright "has not met the legal standard of being intellectually disabled under Florida Statute 921.137(1) and/or Rule 3.203(b), Fla. R. Crim. P., this Court still recommends that a proportionality review be considered by the Florida Supreme Court." SR11/1865. The postconviction court's findings that Mr. Wright was "a slow learner in school and never did well academically", and that "[h]e has been manipulated, bullied, and taken advantage of throughout his life" are supported by documentary evidence, expert testimony, and lay witness testimony, and must not be ignored by this Court. SR11/1863-64.

For the foregoing reasons, Mr. Wright respectfully requests that this Court reconsider its opinion dated September 27, 2018 and find that the post-conviction court erred in determining that Mr. Wright is not intellectually disabled and erred in the denial of his remaining claims.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true copy of the foregoing APPELLANT’S MOTION FOR REHEARING AND FOR CLARIFICATION has been emailed to Stephen D. Ake, Assistant Attorney General, at capapp@myfloridalegal.com and Stephen.Ake@myfloridalegal.com and mailed via United States Postal Service to Tavares J. Wright, DOC # H10118, Union Correctional Institution, P.O. Box 1000, Raiford, Florida 32026 on this 11th day of October, 2018.

s/ Maria Christine Perinetti
Maria Christine Perinetti
Florida Bar Number 13837

s/ Lisa Marie Bort
Lisa Marie Bort
Florida Bar Number 119074

s/ Margaret S. Russell
Margaret S. Russell
Florida Bar Number 072720

Law Office of the Capital Collateral
Regional Counsel-Middle Region
12973 North Telecom Parkway,
Temple Terrace, Florida 33637-0907
Telephone (813) 558-1600
Email: perinetti@ccmr.state.fl.us;
bort@ccmr.state.fl.us;
russell@ccmr.state.fl.us
Secondary Email: support@ccmr.state.fl.us

CERTIFICATE OF COMPLIANCE

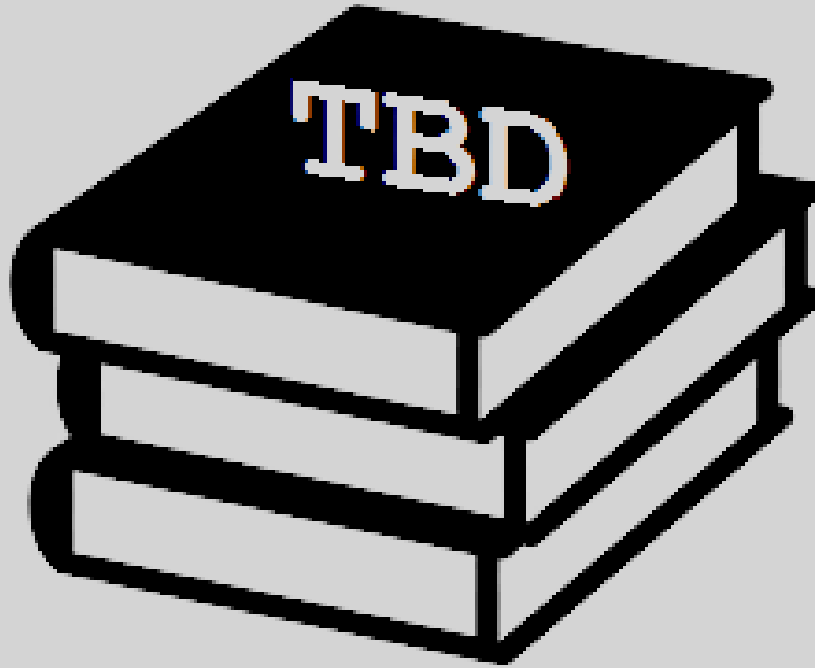
I hereby certify that a true copy of the foregoing Appellant's Motion for Rehearing was generated in Times New Roman, 14 point font, pursuant to Fla. R. App. 9.210 (a) (2).

/s/ Maria Christine Perinetti
Maria Christine Perinetti
Florida Bar No. 0013837
CAPITAL COLLATERAL REGIONAL
COUNSEL-MIDDLE REGION
12973 N. Telecom Parkway
Temple Terrace, Florida 33637-0907
(813) 558-1600
Counsel for Appellant

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