

BUY™

SELL™

SHOP™



Downloaded From
www.TextBookDiscrimination.com



SELL YOUR OWN SAMPLES

(help others get the justice that they deserve)



BUY™

SELL™

SHOP™

www.TextBookDiscrimination.com

Get **Booked Up** on Justice!

© TBD Corporation. All Rights Reserved.

IN THE SUPREME COURT OF FLORIDA

KENNETH DARCELL QUINCE,

Appellant,

v.

Case No. SC17-127

STATE OF FLORIDA,

Appellee.

_____ /

APPELLEE'S MOTION FOR CLARIFICATION

COMES NOW, APPELLEE, the State of Florida, by and through the undersigned counsel, and pursuant to Rule 9.330 Florida Rules of Appellate Procedure moves this Honorable Court for Clarification of the decision in the above-styled case, rendered on January 18, 2017, and as grounds states as follows:

In the January 18, 2017, opinion, this Court affirmed the trial court's order denying Appellant's renewed motion for a determination of intellectual disability as a bar to execution. This Court concluded that the Appellant had not demonstrated that *Hall v. Florida*, 134 S. Ct. 1986 (2014) required his IQ scores be adjusted for the Flynn effect, and that there was competent, substantial evidence in the record to support the trial court's decision not to apply the Flynn effect to adjust the Appellant's IQ scores.

The record shows that there were three intelligence tests that had been administered to the Appellant. The first WAIS test was administered to Appellant in

RECEIVED, 01/23/2018 01:53:29 PM, Clerk, Supreme Court

1980, and Appellant received a full scale score of 79. The second WAIS test was administered in 1984, and Appellant received a full scale score of 77. The last WAIS test was administered in 2006, and Appellant received a full scale score of 79. (PCR4: 547).

In rendering its opinion, this Court referred back to the three tests that had been administered to the Appellant, and correctly set forth the IQ scores: “Although the only IQ scores Quince has presented are **a 79 (obtained using the WAIS in 1980), a 77 (obtained using the WAIS-R in 1984), and a 79 (obtained using the WAIS-III in 2006 ...)**” *Quince v. State*, 2018 WL 458942, *2 (Fla. Jan. 18, 2018) (*emphasis added*).

However, later on in the continuation of the above sentence, this Court referred to the 1984 IQ test with a score of 76, rather than the actual score of 77. This Court wrote: “... he claims that when the Flynn effect is applied and the SEM is taken into account as required by Hall, his 1980 IQ score of 79 becomes a range from 65-70, his **1984 IQ score of 76** becomes a range of 70-80, and his 2006 IQ score of 79 becomes a range of 71-81.” *Quince v. State*, 2018 WL 458942, *2 (Fla. Jan. 18, 2018) (*emphasis added*).

This Court again referred to the Appellant’s IQ scores applying a score of 76 to the 1984 IQ score, rather than the actual score of 77, writing, “Dr. Oakland did not dispute the accuracy of Quince’s **unadjusted 1984 IQ score of 76** or his unadjusted 2006 IQ score of 79 and did not testify that those scores should be adjusted for the

Flynn effect.” *Quince v, State*, 2018 WL 458942, *2 (Fla. Jan. 18, 2018) (*emphasis added*).

This Court also referred to the Appellant’s IQ scores in the “Background” section of the opinion. In this section, the scores were written as 77, 79, and 77, rather than the actual scores of 79, 77, and 79. This Court wrote, “After reviewing the record and considering written memoranda from both parties, the trial court concluded that Quince failed to prove that he is intellectually disabled because none of the **three IQ scores he had presented-77, 79, and 77** fell within the SEM and Quince “was not precluded from presenting additional evidence of intellectual ability, including testimony regarding adaptive deficits.” *Quince v, State*, 2018 WL 458942, *2 (Fla. Jan. 18, 2018) (*emphasis added*).

This Court correctly set forth Appellant’s various IQ scores of **79 (obtained using the WAIS in 1980), a 77 (obtained using the WAIS-R in 1984), and a 79 (obtained using the WAIS-III in 2006)** in its opinion, but subsequent recitations of his various IQ scores were incorrect, as noted herein.

As the issue presented in this opinion is currently being litigated in this Court, the opinion needs to be clear and correct for future reference.

WHEREFORE, the undersigned respectfully moves this Honorable Court for a Clarification of the decision in the above-styled case.

Respectfully submitted,

PAMELA JO BONDI
ATTORNEY GENERAL

s/ DORIS MEACHAM
DORIS MEACHAM
ASSISTANT ATTORNEY GENERAL
Florida Bar # 63265
444 Seabreeze Blvd., 5th Floor
Daytona Beach, FL 32118
(386) 238-4990
FAX-(386) 226-0457
capapp@myfloridalegal.com [and]
doris.meacham@myfloridalegal.com

CERTIFICATE OF SERVICE

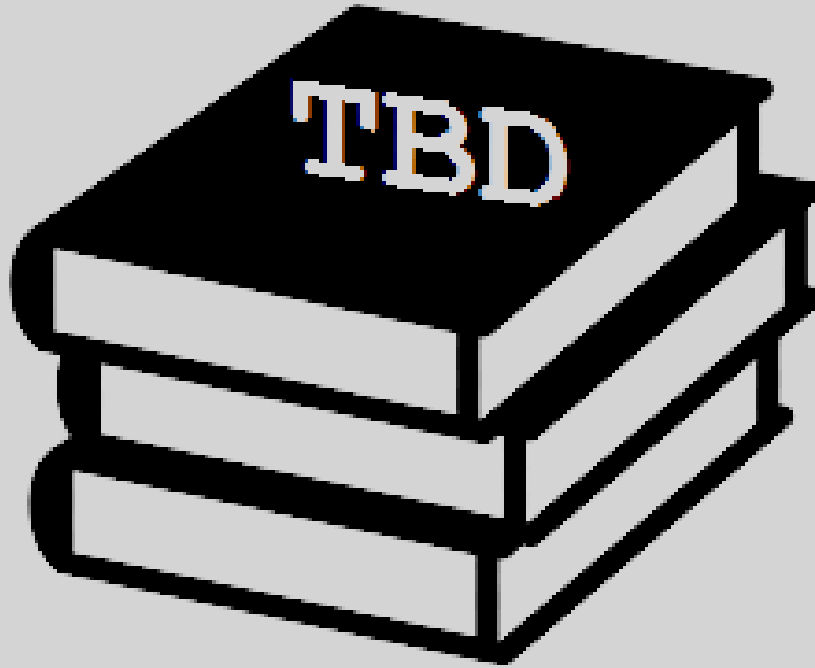
I HEREBY CERTIFY that on January 23, 2018, I filed the foregoing with the Clerk of the Court by using the E-Portal Filing System which will send a notice of electronic filing to the following: Raheela Ahmed, Assistant CCRC-Middle, ahmed@ccmr.state.fl.us; Maria Perinetti, Assistant CCRC-Middle; perinetti@ccmr.state.fl.us; and Lisa Bort-Assistant CCRC-Middle, bort@ccmr.state.fl.us and support@ccmr.state.fl.us; CCRC-Middle, 12973 N. Telecom Parkway, Temple Terrace, FL 33619, the Attorneys for Appellant.

s/ DORIS MEACHAM
DORIS MEACHAM
ASSISTANT ATTORNEY GENERAL

BUY™

SELL™

SHOP™



Downloaded From
www.TextBookDiscrimination.com



SELL YOUR OWN SAMPLES

(help others get the justice that they deserve)



BUY™

SELL™

SHOP™

www.TextBookDiscrimination.com

Get **Booked Up** on Justice!

© TBD Corporation. All Rights Reserved.