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PRELIMINARY STATEMENT

Citations to the record in this Brief will be the record in possession of this Court, and shall be cited as "ROA" followed by its page number.

Capital Collateral Regional-Middle shall be referred to as "CCRC."

The lower tribunal / Judge Philip Federico shall both be referred to as "Judge Federico."

In this Brief, Appellant invokes this Courts jurisdiction to review the ruling of Judge Federico under the de novo standard; and also invokes this Court's authority as Supervisor and Head of the Florida Bar and all lawyers licensed by the Florida Bar, to take action to immediately remove Adrienne Joy Shepherd from the CCRC and order the executive director of the Commission on Capital Cases to permanently disqualify her from the CCRC, and the Capital Collateral registry per F.S. §27.7002(7).

STATEMENT REGARDING ORAL ARGUMENT

The Appellant respectfully submits that oral argument is not only absolutely necessary, it is required in this case. This state, and CCRC Adrienne Shepherd, wish to hide from the citizens the abuses and disregard for the laws of this state that the heads of CCRC-M and Adrienne Shepherd have committed.

For this Court to properly address the issues, and make sure this process is transparent to the citizens, oral argument is required. The seriousness of CCRC's violations of State Laws, and betrayal of the public trust, need to be heard in open court in the interests of justice and transparency.

STATEMENT OF CASE AND FACTS

This Court's opinion as to the procedural history can be found in *Wall v. State*, 238 So. 3d 127 (Fla. 2018). Appellant, while stating this Court's determinations of some "Facts" are disputed by Appellant, Appellant refers this Court to Wall as to procedural history. Herein, Appellant will only address the case and Facts from the point this Court issued its Mandate in Wall and Capital Collateral Regional Counsel-Middle (CCRC) was appointed by this Court for post-conviction.

On March 29, 2018, a "Notice of Appearance of Post-Conviction Capital Collateral Counsel" was filed with this Court as well as Judge Philip Federico (who was assigned by the lower tribunal). Counsel was: Raheela Ahmed (Lead Counsel), Maria Perinetti (First Chair Counsel), and Lisa Bort (Second Chair Counsel). - App. A -

Appellant had many productive meetings, phone calls, and correspondence with Ms. Ahmed. Ms. Ahmed knew Appellant's objectives, respected them, and pursued those objectives. Ms. Ahmed directed the other lawyers and staff to gather further evidence as to Appellant's objectives, and to pursue those objectives.

On June 18, 2018, a "Motion To Withdraw Counsel" was filed with Judge Federico, in accordance with Fl. R. Jud. Admin.

2.505, requesting to withdraw First Chair Lead Counsel, Ms. Ahmed because she was resigning from CCRC on June 30, 2018. The Motion further requested Ms. Ahmed be replaced (as First Chair Lead Counsel), by Adrienne Shepherd. - App. B -

On June 28, 2018 Judge Federico issued an order, granting the Motion, stating "[P]ursuant to Florida Rule of Judicial Administration 2.505. Attorney Ahmed avers that, as of June 30, 2018, she will no longer be employed by [CCRC-M]... Attorney Raheela Ahmed is withdrawn as co-counsel of record and Attorney Adrienne Joy Shepherd is substituted as co-counsel of record.

- App. C -

Judge Federico failed in his duty to verify that substitute counsel was qualified to represent Appellant prior to appointing Ms. Shepherd. A simple check of the Florida Bar website by Judge Federico would have shown Ms. Shepherd was NOT "death qualified" under either Fla. R. Crim. P. 3.112 and ESPECIALLY unqualified under F.S. §27.704(1), which states CCRC Counsel "MUST": "not less than 3 years' experience in the practice of criminal law; and, prior to employment, must have participated in at least Five Felony Jury trials, Five Felony Appeals, or Five capital post-conviction evidentiary hearings or any combination of at least five of such proceedings." A simple check of the Florida Bar website shows Adrienne Joy Shepherd was admitted to the Bar on May 1, 2017 - 1 Year prior to being assigned as "co-counsel"

(First Chair Lead Counsel) by Judge Federico on June 18, 2018.

Ms. Shepherd is fresh out of law school, a 1 year Bar Member, and is lead First Chair Counsel ordering a team of other more seasoned, and qualified, CCRC counsel and investigators in Appellant's case. Appellant has attached Ms. Shepherd's Member Profile from the Florida Bar. - App. D -

Once Ms. Shepherd was assigned, she ordered the investigators assigned to Appellant to cease gathering evidence and pursuing Appellant's objectives, and ordered Appellant's Second and Third Chair Counsel - Ms. Perinetti and Ms. Bort respectively - to cease preparing and pursuing Appellant's objectives. Due to her inexperience as a lawyer, Ms. Shepherd proceeded to run roughshod over Appellant and co-counsel.

On January 11, 2019 a "NOTICE OF APPEARANCE and Substitution of Counsel" was filed by Ms. Shepherd, in violation of Fl. R. Jud. Adm. 2.505(e),(f). Being untrained and unqualified, Ms. Shepherd failed to file a proper Motion; failed to cite reasons for substitution; and it was done without a court order all of which are required by law. Ms. Shepherd illegally replaced Maria Perinetti with Ann Mirialakis without authorization or leave of Judge Federico.

Judge Federico never issued an order appointing Ann Mirialakis or terminating Maria Perinetti, as required under Fl.

R. Jud. Adm. 2.505(e), (f). - App. E -

On May 29, 2019 another illegal "NOTICE OF APPEARANCE And Substitution of Counsel" was filed by Ms. Shepherd, also in violation of Fl. R. Jud. Adm. 2.505 (e), (f). Again no proper motion was filed, no reasons provided, and was done without a court order. Ms. Shepherd now replaced newly appointed Ann Mirialakis with Ali Shakoor without authorization or leave of Judge Federico.

Judge Federico, once again, never issued an order appointing Ali Shakoor or terminating Ann Mirialakis, as required per Fl. R. Jud. Adm. 2.505 (e), (f). - App. F -

On July 16, 2019 Appellant filed a "Motion To Monitor And Remove Counsel Pursuant to §27.711(12)Findings, and if denied, 3.851(i) Motion To Dismiss All Counsel and Post-Conviction Proceedings." [ROA 3-14].

On August 2, 2019 a Status Check Hearing was held between Judge Federico, the State, and CCRC. Appellant was not present. During this hearing Judge Federico attempted to, without knowing any facts, taint and manipulate the record with false information regarding Appellant's §27.711(12) Motion, and at the end of the hearing furthered his disdain for the Appellant by telling the Clerk of Court when asked what type of hearing was being held, "A Fun hearing. You can't put down Fun hearing?"

[ROA 61-81].

On August 23, 2019 a hearing was held. Judge Federico denied defendant a hearing on his §27.711(12) Motion, which would be called a "Nelson hearing" (Nelson v. State, 274 So. 2d 256 (4th DCA, 1973)). Judge Federico then went on to say Appellant had no right to a hearing under §27.711 (12); that he was not going to follow §27.711(12) and that the only reason he had Appellant present in court was to hold a hearing under Rule 3.851(i).

Due to Judge Federico's abuse of discretion and violating §27.711 (12) in total, Appellant proceeded with 3.851(i) in order to dismiss all CCRC counsel and be granted pro se status so that Pro se Appellant could appeal this abuse to this Court. Therefore, Appellant was granted pro se status by Judge Federico Appellant dismissed CCRC and all post-conviction proceedings pursuant to 3.851(i); and Judge Federico verbally granted both. [ROA 82-174 then, on September 18, 2019 Judge Federico put these orders and findings in writing [ROA 175-273]

On September 17, 2019, a now Pro se Appellant, filed a "Notice of Appeal To The Florida Supreme Court." It should be noted that the Record On Appeal, being improperly used in this case, was transmitted by the Clerk of the lower court with Pro se Appellant's Notice of Appeal regarding Judge Federico's "Final Order," and was not sent with the CCRC appeal. - App. G -

On September 24, 2019 Appellant's Notice of Appeal was certified to this Court by the lower tribunal, yet the Clerk of this Court did not docket the appeal or assign a case number. - App. G -

On October 8, 2019 the lower tribunal again attempted to certify Appellant's appeal to this Court, this time with the entire Record on Appeal attached to the Notice of Appeal. Again this Court's Clerk failed to docket the appeal or assign a case number. - App. G -

On October 10, 2019 CCRC's Appeal under Rule 3.851(i)(8) was received by this Court, and was immediately docketed and assigned a case number. This Court's Clerk then illegally proceeded to consolidate Appellant's Appeal of a "Final Order" with CCRC's Appeal under "Rule 3.851(i)(8)." - App. H -

On November 21, 2019 Appellant filed his "Motion To Sever Appeals" with this Court. At the time Appellant writes this, this Court has not issued a ruling on this Motion. - App. I - The pending case of Gaskin v. State, case # SC19-1097, before this Court, has great import in the *Pro se* rights denied Appellant in the lower tribunal, as well as currently in Appellant's Appeal being ignored and mishandled by this Court's Clerk. - App. I, H -

I. Appellant was denied qualified and effective assistance of counsel which forced Appellant to enact the "nuclear option" of enacting Rule 3.851(i) in order to obtain review by this Court, as no proper legal remedy exists in Florida Law for Appellant to appeal "Final Orders;"

Appellant was court ordered assigned "ineffective counsel" not qualified to represent Appellant - Adrienne Shepherd - who was exactly one (1) year out of law school. - App. D -. This was also done contrary to the laws of Florida, and Appellant's rights under the Constitutions of the United States and Florida. Please see "Issue II" For Argument in this Brief.

Since it is clear, on the face of the record, that Ms. Shepherd isn't qualified to represent Appellant, the issues here are: why Judge Federico refused to obey F.s. §27.711(12) and "receive and evaluate allegations that are made regarding the performance of assigned counsel;" why Judge Federico did not hold a Nelson hearing - which is recognized as the proper vehicle to do that; why Florida Law denies Appellant the ability to proceed *Pro se* as relief after being denied Due Process and effective Counsel, or to be able to appeal *Pro se* to this Court for review of these issues. Because Appellant was put in a position of having ALL his liberty, Due Process, and Access to the Courts denied by a combination of abuse of judicial discretion and constitutionally questionable Florida laws, Appellant was not given any choice but to enact Fl. R. Crim. P.

3.851(i). Appellant's decision to enact Rule 3.851(i) and dismiss all counsel and all post-conviction appeals, was no more willing and without coercion than having a "gun" held to his head and being told "Jump into the Frying pan, or into the Fire." This was NOT "Voluntary."

Judge Federico held the "gun" to Appellant's head - with the help of Florida's questionable Rules regarding capital defendant's being denied *Pro se* rights in State post-conviction proceedings under Rule 3.851 - by refusing to hold a Nelson hearing in order to "receive and evaluate allegations" regarding CCRC, per F.S. §27.711(12). Judge Federico made clear during the proceedings, where he refused to either "receive and evaluate" or to make a record of Appellant's "allegations" (i.e., a Nelson hearing) to provide a "complete record" for this Court to review; that he would not "receive" Appellant's allegations; and further that no court in Florida has ever interpreted §27.711(12) as indicating a Nelson hearing:

THE COURT: [Y]ou are not entitled under that statute number to a Nelson hearing. So what you're telling me is the basis for a Nelson hearing, but there is no such thing as a Nelson hearing on the Appellate level. That's not what section (12) means. It's never been interpreted to indicate that and there is nothing to suggest you're entitled to a Nelson hearing on the Appellate level. [ROA 89-90].

Everything in this assertion of Judge Federico is completely false. In fact, this Court in several cases has

directed Nelson hearings be held when Appellant's have filed complaints under §27.711(12). Further, almost every Circuit Court in this State has held Nelson hearings when Appellant's file allegations against CCRC under §27.711(12). As evidence, Appellant has attached an order on a Nelson hearing held in the Seventh Circuit Court in *State v. Richard England* (Mr. England provided this copy to Appellant). Mr. England has had more than this one Nelson hearing under §27.711(12); and Appellant can provide a dozen more of these from a dozen other death penalty cases where Nelson hearings were held pursuant to §27.711(12) - as explained in the attached exemplar order - however, this Court already knows there are records of hundreds of Nelson hearings held under §27.711(12), so that would be completely superfluous. Mr. England's attached order simply serves as an exemplar, and to evidence that Judge Federico's contention that §27.711(12) has "never been interpreted to indicate that" a hearing (call it "Nelson" or otherwise) is required or necessary to "receive and evaluate" "allegations" against collateral counsel. - App. J -

After Judge Federico said the foregoing to Appellant, he then asked the State for comment. The following then occurred:

[STATE] : [B] ecause there's no ineffective assistance of post-conviction counsel, there is no right to a Nelson hearing because it's pretty much that's the same thing. The basis for a Nelson hearing is ineffective, but post-conviction counsel can't be ineffective. There's no Nelson hearing.

[APPELLANT] : That doesn't sound [insane] ?

[STATE]: So the - - if a defendant wants to get rid of their counsel, their avenue of doing that is through Subsection (i). [3.851(i)].

THE COURT: Right.

[STATE]: And the - - that procedure. The consequence of that is that that is a procedure that both gets rid of counsel and waives post-conviction.

THE COURT: Correct.

[ROA 90-91].

The State's contention is False, and Judge Federico's agreement with it is error. A Nelson hearing is held for two reasons: 1) To allow the defendant the ability to have his / her allegations heard by the Court so the court can "receive and evaluate" the allegations against counsel, and 2) To have a full record of the allegations and the court's reasoning for findings, so this Court has a full record to review. This is EXACTLY why this Court ruled as it did in Nelson for situations such as Appellant's. Since there was no Nelson hearing, this Court has been denied a full record to review. Had Judge Federico held a Nelson hearing, Appellant would have presented the evidence that Ms. Shepherd was illegally employed by CCRC, was only 1 year out of law school, and that Judge Federico appointed ineffective counsel that was unqualified and contrary to the laws of the State of Florida. If the hearing was held, Judge Federico would have immediately removed Ms. Shepherd and

we wouldn't be here wasting this Court's time.

Appellant would take a moment here to point out that the areas in F.S. §27 which gives CCRC "unqualified immunity" is unconstitutional. As the State stated "there's no ineffective assistance of post-conviction counsel . . . post-conviction counsel can't be ineffective," to which Appellant interjected "that doesn't sound insane?" It IS insane. "Absolute power corrupts absolutely," and by giving CCRC and its lawyers "absolute immunity" allows them to break laws (as in Appellant's case), abuse clients, and as the State said "can't be ineffective." It is clear Ms. Shepherd is "ineffective" because she is unqualified under Florida law to represent ANY capital defendants, specifically post-conviction capital defendants, and Appellant's case should be troubling and a wake-up call that this "immunity" of post-conviction counsel from ever being "ineffective" is unconstitutional as it denies Due Process of Appellant's to get relief. Appellant asks this Court to take a very hard look at this. As Appellant exemplified to Judge Federico at the hearing:

"[T]he way that the law has been changed in 3.851, they have *Carte blanche* to do what the hell they want and I can't do nothing about it... this [is] the only state that has that where you can't get rid of your lawyers. She [Shepherd] can come over here and punch me in the face and by law you can't do nothing about it because she doesn't have conflict. She punched me in the

face. There's nothing you can do, right? You can't get rid of her. I can't get rid of her. How is that constitutional? It's not.

THE COURT: I would agree.."

[ROA 143].

Appellant's example of being assaulted by CCRC in open court may be extreme, however, under current Florida Law, the Judge cannot remove that counsel. That's why Appellant repeated that the "absolute immunity" of CCRC under Florida Law "is insane." Because, basically, CCRC-M and First year college graduate Ms. Shepherd, punched Appellant, this Court, and the Florida Legislature "in the Face" by disregarding every law regarding CCRC Counsel qualifications under §27.704(1). But they assume this Court, the Legislature and Appellant can't touch them because they have "absolute immunity" from being "ineffective."

The other half of the "gun" held to Appellant's head forcing him to "choose" the "Frying pan" (unqualified and abusive Ms. Shepherd) or "the Fire" (dismissing that counsel which is coupled with dismissing all post-conviction appeals), are the questionable Florida laws that deny Appellants in Capital post-conviction proceedings the protection of *pro se*, in these situations.

Appellant is aware this Court is currently hearing this

issue in Gaskin v. State, case # SC19-1097, as to whether this Court should reconsider from Gordon v. State, 75 So. 3d 200 (Fla. 2011). However, Appellant believes Gaskin doesn't encompass or address *pro se* at the lower Court proceedings. Which is the issue at bar. Gordon only dealt with this Court.

In post-conviction Capital proceedings, capital defendant's have no "right" to proceed *Pro se* under Fl. R. Crim. P. 3.851(b)(6) which states: "A defendant sentenced to death may not represent himself or herself in a capital post-conviction proceeding in State Court." In comparison, defendants not sentenced to death ARE given their right to be *pro se* during post-conviction proceedings under Rule 3.850. By giving non-capital defendants *Pro se* rights, while denying these same *Pro se* rights to capital defendants, creates a "suspect class," and violates the Constitution of the United States and Florida.

Further, Rule 3.851(b)(6), after denying *Pro se* rights to capital defendants, added the following in 2015: "The only bases [sic] for a defendant to seek to dismiss post-conviction counsel in State Court shall be pursuant to statute due to actual conflict or subdivision (i) of this rule."

In plain language: The only - ONLY - way to dismiss CCRC is "actual conflict" as described in F.S. §27.703 (1), "An actual conflict of interest exists when an attorney actively represents conflicting interests." "Conflicting interests" is limited by

Florida Law to mean CCRC represents either a co-defendant or someone who is a witness against you. That's it. The second half states if no "actual" conflict exists, the ONLY option is "subsection (i)" - 3.851(i) - which is: In order to remove CCRC you must also dismiss ALL post-conviction appeals for all time. The rule states simply: You are enslaved to CCRC unless they represent someone in your case, and if you don't like it file subsection (i) and die. Again, 3.851(b)(6) regarding CCRC was added in 2015.

So Appellant was left with only two options (Frying pan or Fire) by the "gun" held to his head by Judge Federico (refusing to adhere to §27.711(12) / Nelson hearing) AND the constitutionally questionable denial of *pro se* rights by Florida laws: Go through the entire post-conviction process in not only Florida but Federal Courts with counsel who is one year out of school and unqualified, and who is abusing Appellant and denying Appellant his Constitutional rights to access to the courts; OR dismiss that "ineffective counsel" (who, paradoxically, by ridiculous Florida laws, can NEVER be "ineffective") but must also choose to be executed faster (i.e., dismiss all post-conviction appeals forever). That is truly unconstitutional on its face. The thing available to alleviate this "Catch-22" IS the protection of Pro se rights.

Appellant was denied effective counsel; then Appellant was

denied Due Process via a Nelson hearing which every other court in this State conducts; then State laws denies him the ability to proceed *pro se* when all other rights to effective counsel and Due Process were denied; then Judge Federico held this "gun" to Appellant's head and said choose this illegal ineffective counsel I enslave you to OR dismiss her and all your appeals forever and die.

Because Appellant, like the pending Gaskin, had no right or ability under Florida law to appeal to this Court *pro se* while enslaved to CCRC, Appellant could not appeal the "Final Order" of Judge Federico denying Appellant §27.711(12) and a Nelson hearing, while proceeding with his post-conviction while awaiting relief by this Court.

The only "loophole" Appellant could find in order to have this Court review the actions of Judge Federico—because Ms. Shepherd would deny access to this Court due to the fact she would never file against herself for Appellant—was to enact 3.851(i) which dismisses CCRC and grants Appellant Pro se status. Because the courts have established that once a defendant is granted *Pro se* status by court order, that defendant REMAINS PRO SE through ALL proceedings until or unless: The defendant's *pro se* status is rescinded by court order; the defendant relinquishes his *pro se* status; or the defendant retains counsel. Since Appellant was granted *pro se*

status on August 23, 2019 by Judge Federico, and CCRC was discharged: No Court order has ever been issued rescinding *pro se* status; and Appellant has not relinquished those *pro se* rights; and Appellant has no counsel. Further evidence that Appellant is recognized as *Pro se* through this Appellate process is Judge Federico accepting and ruling on Appellant's motions as to their merit after this Court accepted jurisdiction (See: ROA in case #SC19-1838), and the fact the Clerk of Court attempted twice to file Appellant's *Pro se* Notice of Appeal to this Court (the second of which the ROA used in this CCRC appeal was attached to Appellant's Notice of Appeal, not this appeal). The lower tribunal recognizes Appellant REMAINS *Pro se*, yet this Court is acting like he is not. Unlike Gaskin, Appellant is currently Pro se, filed a separate appeal under "Final Order Appeal" Fl. R. App. P. 9.140 and 9.030(a)(1)(A) - App. G - and *Pro se* Appellant is seeking recognition by this Court as to this simple truth. - App. I -

It is clear by the transcript of the 3.851(i) hearing that Appellant chose only to enact 3.851(i) because this State has "set the deck" against Appellant denying Due Process, effective counsel, and the "failsafe" against the State and system abuse-*Pro se* status. The enacting of 3.851(i) was the ONLY option available to Appellant in order for Appellant to invoke this Courts jurisdiction to review this. Literally, all avenues to

this Court have been closed by Gordon and other such Florida Rules, statutes and case law, as well as CCRC / Ms. Shepherd.

Appellant has attached as - App. K - the Brief by CCRC-M (Appellant's CCRC also) James Driscoll, Jr., Litigation and Training Director of CCRC-M, in the currently pending Gaskin case. Being that Mr. Driscoll, Jr. is the litigation and training director at Appellant's CCRC, he is not only aware of what is going on in Appellant's case, he seems to address Ms. Shepherd's behavior via violating Appellant's right to control the objectives of his case, which the U.S. Supreme Court addressed in McCoy v. Louisiana, 200 L. Ed. 2d 821 (2018), and Ms. Shepherd's blocking Appellant's "access to the courts" and Appellant's "right to be heard by the court." Mr. Driscoll, on pages 16-17 of his brief - App. K - that:

"By not hearing from a pro se filer, this Court essentially allows assigned counsel to close the courthouse doors. Post-conviction counsel is both unsuited for this role and has no legitimate authority to preclude consideration of a claim."

Appellant would adopt, in total, Mr. Driscoll's brief as an extension of Appellant's arguments regarding pro se status for capital defendants, but would extend these arguments to cover Pro se at the lower tribunal. As Appellant evidenced multiple times in the ROA, Ms. Shepherd actively denied Appellant "access

to the court" and denied Appellant's "objective" - his plea deal and his death sentence as part of that deal. Usually defendants and CCRC's "objective" is the same: Get the death penalty removed. In Appellant's case he has 10 years, and his *pro se* Supplemental Brief in Wall to this Court, making his "objectives" very clear. Ms. Shepherd denied Appellant's Constitutional rights by refusing Appellant's objectives and forcing her own objectives on Appellant. The U.S. Supreme Court ruled in McCoy this is "structural error." This Court will note that at no time did Ms. Shepherd deny that she was following her own objectives against the Constitutional rights of Appellant, nor did she deny yelling at Appellant in front of two CCRC counsel and an investigator, "I am going to follow MY objectives, and there is nothing you can do about it!" There are multiple witnesses to this and DOZENS of other abusive actions to Appellant by Ms. Shepherd. This should not shock nor surprise this Court, as Ms. Shepherd is inexperienced, very young, and is incapable of handling the stress and burden of Appellant's case, but even worse she is First Chair or Lead Chair in more than 8-10 other death penalty post-conviction CCRC cases. She's 1 Year out of law school, then assigned as Lead Chair or First Chair in Appellant's case as well as several more. That is scary, and by law she can NEVER be "ineffective" even when she gets her other clients executed due to her being out of her

depth and inexperienced in her field! CCRC's "absolute immunity" from ever being "ineffective" is unconstitutional. Only God is perfect, yet Florida law says CCRC is equal to God. No other official in this State or the entire United States, including the jurists on this Court, have laws in place stating they are perfect and can never be "ineffective". Yet CCRC does. Appellant's case proves "the emperor isn't wearing any clothes," i.e., putting to the lie that CCRC "can never be ineffective" and that the Florida laws that provide that are unconstitutional, and lead directly to abuse of that power by CCRC as evidenced by Appellant's case. No one is infallible or have laws stating they are, and no one is above the law, and yet Florida gave that to CCRC.

As stated herein, Ms. Shepherd represents numerous other post-conviction defendants, such as Dontae Morris. As this Court is aware, Mr. Morris' case is extremely serious and complex with multiple murders. All these defendants cases handled by incompetent and unqualified Ms. Shepherd: Every single one will have their cases reversed either by this Court or the Federal Courts. Each defendant, after all their appeals are "Final," simply have to file a Motion stating they were denied their constitutional rights because the State of Florida assigned a First Year college graduate to defend them in violation of Florida's own laws. Every single person whose case Ms. Shepherd

is assigned to right now will be granted all new post-conviction proceedings. So much for the "Finality" of proceedings. Appellant has already spread the word to the inmates on death row about Ms. Shepherd, and this Court can be sure it will be used by every one of them -years from now - to get new post-conviction proceedings. Oddly, that may be exactly why CCRC hired her and assigned her to these cases, knowing they could get every single person new proceedings years from now.

This court should take notice that Appellant requested that CCRC / Ms. Shepherd appeal Judge Federico's "Final Order" denying Appellant a Nelson hearing and refusing to "receive and evaluate" per §27.711(12). Appellant requested CCRC to present this appeal of a Final Order, in person on September 13, 2019, and then again via telephone on September 17, 2019. Ms. Shepherd refused to file the appeal, attempting to deny access to this Court. This type of violation of Appellant's constitutional rights by abusive counsel who REFUSES to represent Appellant, is why *Pro se* rights exist. Appellant cannot seek remedy from this Court or any other Court when he cannot even speak because his own counsel gags him in order for that counsel to prevent Appellant exposing the counsel's behavior. Counsel's "self-preservation" becomes tantamount to counsel, and she is sacrificing Appellant. As explained by CCRC's Mr. Driscoll in

his brief in Gaskin pending before this Court: Because Appellant is denied *Pro se* rights "this Court essentially allow[ed] [Ms. Shepherd] to close the courthouse doors." What Ms. Shepherd did by refusing to appeal the "Final Order," and what she also did via refusing to pursue Appellant's objectives per the U.S. Supreme Court decision in McCoy at the lower tribunal, she put to truth Mr. Driscoll's contention. It's not a legal theory or possibility, it's a fact and actuality.

Appellant has preserved the *pro se* argument for appeal by raising it at the lower tribunal. See: ROA 998-99.

Appellant would also adopt the U.S. Supreme Court's findings in Martel v. Clair, 565 U.S. 648, 182 L. Ed. 2d 135 (2012). Appellant preserved review by raising it at the lower tribunal. SEE: ROA 94-96.

The Supreme Court made it clear that the State Attorney of California's argument that post-conviction appellants can only replace collateral counsel "when the lawyer lacks the requisite statutory qualifications, has a conflict of interest, or has completely abandoned the client." California's laws on replacing collateral counsel, based on their argument, are exactly the same as Florida's. The Supreme Court found these rules inappropriate.

The Supreme Court stated, "Courts should employ the same

'interests of justice' that applies in non-capital cases," id. 139. The Supreme Court further stated the obvious, "[T]he Court cannot conclude that Congress silently prescribed a substitution standard that would make it more difficult for those facing capital punishment to substitute counsel," id. 140, and 146 which adds, "Adopting a more stringent test than §3006A's would deprive capital defendant's of a tool they formerly had, and defendant's facing lesser penalties still have, to handle serious representational problems."

If this Court would contend Martel applies only to the Federal Courts, Appellant would point out that the Supreme Court ruled that "the interests of justice" standard found in 18 U.S.C. §3006A will apply to substituting collateral counsel. Since the CCRC is directed to receive Federal funding under 18 U.S.C. §3006A while representing Appellant in Federal Courts, per F.S. §27.702(3)(a), means CCRC is subject to U.S.C. §3006A rules, and Martel. There is a serious disconnect where once Federal proceedings start Appellant can replace CCRC "in the interests of justice," but in State proceedings Appellant get less rights.

The reasoning of the Supreme Court would apply to Florida in not only replacing counsel, but also rights to proceed *pro se* in post-conviction proceedings. Whereas substituting counsel for non-capital defendants has a low bar, substituting CCRC counsel

is almost impossible because the can "never be ineffective". As to *Pro se* rights, non-capital defendants are *Pro se* and may retain counsel if they wish, under Rule 3.850. Whereas capital defendants can NEVER be *pro se* and are enslaved to the State via CCRC. What this Court may see as CCRC being forced on capital defendants as "More Due Process," a freeborn American like Appellant—who is a Constitutionalist—sees as slavery and as tyranny to and by "the State." This is Appellants life, and this is Appellants case. However, this State says Appellant's life and his case are "the States" (CCRC) to manipulate and do with as they please while they file things in Appellant's name and use Appellant's name as if Appellant agreed to it. Appellant demands his "access to the courts," and if Appellant is denied that access by CCRC—which he is—AND Florida denies him any ability to seek redress to substitute counsel; then Appellant demands *Pro se* rights. Currently ALL these are denied Appellant under Florida laws, which denies ACTUAL APPELLANT any "due process" or "access to the courts" and his "right to be heard and seek redress." This is completely unconstitutional.

II. Judge Federico abused his discretion: when he failed to verify counsel he assigned was qualified under §27.704(1); when he failed to and refused to "receive and evaluate" under §27.711(12) performance of that unqualified counsel; and refusing to hold a Nelson hearing which is the proper vehicle to "receive and evaluate" and to provide a complete record for this Court to review.

Judge Federico replaced Lead Chair Counsel, Raheela Ahmed, with Adrienne Shepherd. - App. C - Judge Federico failed to insure Ms. Shepherd was "death qualified" under either §27.704(1) or Rule 3.112.

Judge Federico then refused to follow §27.711(12) and "receive and evaluate allegations that are made regarding the performance of assigned counsel," and refused to conduct a Nelson hearing which the Courts of this State have recognized as the proper vehicle when an Appellant files a §27.711(12) Motion, or submits allegations against CCRC informally via letter.

Judge Federico, while refusing to receive or evaluate Appellant's allegations against Ms. Shepherd, and replace her with counsel who is actually qualified, has allowed Ms. Shepherd to play "musical chairs" with co-counsel by replacing co-counsel at will and in violation of law.

This is very simple: Adrienne Shepherd is NOT qualified under Florida laws to represent Appellant. Further, Ms. Shepherd is not even qualified to even be employed by CCRC as counsel. Even more so, she is not allowed to argue before this Court. And

yet, somehow, this supposedly impossible situation is exposed now before this Court.

Fl. Stat. §27.704(1) states as to the requirements to be counsel at CCRC:

"A full time assistant capital collateral counsel... must be a member in good standing of the Florida Bar, with not less than 3 years' experience in the practice of criminal law [.] "

Ms. Shepherd graduated Florida State University College of Law in 2016, and admitted to the Florida Bar May 1, 2017. - App. D - Exactly 1 year after becoming a lawyer, Ms. Shepherd was assigned to Appellant's case -as Lead Counsel no less-by Judge Federico on June 28, 2018. Because the law states NO LESS THAN 3 YEARS EXPERIENCE IN THE PRACTICE OF LAW, as the LEAST of requirements, Ms. Shepherd is already "ineffective counsel" on the face of the record. She is unqualified to represent Appellant as counsel at all, let alone as LEAD Counsel.

The 3 year requirement is just the beginning of the qualifications to the CCRC co-counsel. The Statute goes on to require, in addition to 3 years practicing law, Further legal qualifications:

"And, prior to employment, must have participated in at least Five Felony Jury trials, Five Felony Appeals, or Five Capital post-conviction evidentiary hearings or any combination of at least Five of such proceedings."

The key wording here is "prior to employment." This means CCRC cannot even hire someone who has not completed these Five legal proceedings. Is this Court expected to believe Ms. Shepherd completed these five proceedings in less than a year "prior to employment" at CCRC? Of course not. Therefore, CCRC illegally employed Ms. Shepherd prior to her participating in at least Five Felony trials / appeals, Five capital post-conviction evidentiary hearings, or any combination of five of these. Her employment at CCRC is illegal to begin with, the only exemption is being employed as "clerical" or "support personnel," which she was not. She is Lead Counsel in multiple death cases!

The violation of the "3 years" of practicing law, in and of itself, is automatically "ineffective counsel" Appellant is not burdened with providing anything more. Ms. Shepherd, as evidenced by her actions, abuse, unprofessional behavior, and violations of Bar ethics rules in regards to Appellant, shows why these qualifications exist. They are to protect capital defendants from "unseasoned" and "unqualified" attorneys who are not only inexperienced in all aspects of death penalty laws and rules, but do not know how to treat and behave with their clients, or how to work in concert with other attorneys on a case. Ms. Shepherd, since her very first day assigned to Appellant, has exhibited to both Appellant and the other First

Chair co-counsel that have been assigned to Appellant, that she is not able to perform as a lawyer in a capital case.

Judge Federico clearly was "asleep at the wheel." Not only did he court order the assignment of Ms. Shepherd, who was unqualified, he also permitted illegal motions filed by Ms. Shepherd to replace First Chair Counsel - twice - in violation of Fl. R. Jud. Admin. 2.505(e)(f).

Judge Federico would not allow Appellant to replace Ms. Shepherd, or even hold a hearing on it, because CCRC counsel - once assigned - cannot be removed or replaced by other CCRC counsel except by Court Order under 2.505(e)(f). No exceptions. Just like Appellant cannot switch one CCRC lawyer for another, CCRC is not permitted to exchange CCRC lawyers. Yet where the law has been applied to Appellant with great gusto by Judge Federico, he has refused to enforce the laws on Ms. Shepherd.

As explained in the Statement of Facts, Appellant's original Lead Counsel, Raheela Ahmed, filed a proper Motion under 2.505(e)(F). - App. B - Ms. Ahmed gave reason for her withdraw and substitution as: She resigned from the CCRC. Judge Federico issued an order granting the Motion, "pursuant to Florida Rule of Judicial Administration 2.505," and withdrawing Ms. Ahmed and substituting her with Ms. Shepherd. - App. C -

Appellant had as First Chair Maria Perinetti, and Second

Chair Lisa Bort. Ms. Shepherd came in and pronounced herself as Lead Chair Counsel. Ms. Shepherd, being an unseasoned and immature lawyer, proceeded to not just ride roughshod over Appellant, but also with Ms. Perinetti. Ms. Perinetti, who is a longstanding Member of the Bar, with dozens of capital proceedings, was subjected to being bossed around by a First year law school graduate who was immature and disrespectful. Ms. Perinetti, already unhappy with the mismanagement of CCRC-M by newly appointed Asst. Chief Gerod Hooper, let Mr. Hooper know how she felt about things and was fired by CCRC. Ms. Perinetti claims she quit, however, CCRC staff claim she was fired. Regardless, one of Ms. Perinetti's complaints to Mr. Hooper was Ms. Shepherd's mistreatment and abuse of Appellant; Ms. Shepherd's inability to lead Appellant's team of counsel and investigators; and Ms. Shepherd's behavior toward Ms. Perinetti and the fact Ms. Perinetti was subjected to the indignity of being ordered around by a first year college graduate.

So Ms. Shepherd caused Ms. Perinetti to get fired because Ms. Shepherd couldn't get along with her, as well as Ms. Perinetti's complaints regarding Ms. Shepherd's unethical treatment of Appellant, caused Ms. Perinetti to argue with Asst. Chief Hooper causing her to leave CCRC.

Then Ms. Shepherd filed an illegal motion to substitute Ms. Perinetti with Ann Mirialakis. That motion was in violation of

Rule 2.505(e) and (f), and Ms. Mirialakis was never assigned to Appellant because no court order was ever given in writing, which is REQUIRED by 2.505(e), (F). - App. E -

Less than 5 months later, Ms. Mirialakis could no longer deal with Ms. Shepherd's abuse of Appellant and Ms. Shepherd's treatment of her. Ms. Mirialakis demanded to be removed from Appellant's case to CCRC Asst. Chief Hooper. Again, as with Ms. Perinetti, Ms. Mirialakis told Mr. Hooper of Ms. Shepherd's abuses of Appellant and Ms. Mirialakis, as well as the rest of Appellant's team. Instead of removing the problem - Ms. Shepherd - Mr. Hooper had Ms. Mirialakis removed. In violation of State laws, Ms. Mirialakis was removed for no valid reason. She is still employed at CCRC, and she has no conflict.

So Ms. Shepherd filed a Second Motion to substitute counsel, in violation of F.S. §27.703(1) as well as Rule 2.505(e)(f). Ms. Shepherd, NOT the Court, substituted Ms. Mirialakis with Ali Shakoor. Mr. Shakoor is NOT Appellant's counsel as there was no court order issued appointing him or removing Ms. Mirialakis, as is mandatory per Rule 2.505(e)(f). - App. F -

As all these illegal acts are happening, Judge Federico is "asleep at the wheel." When it comes to Appellant, Judge Federico is happy to make biased, disrespectful, or demeaning comments. A reading of the Record on Appeal of the hearings

Appellant was not permitted to be present at, shows at almost every single hearing Judge Federico made personal comments, that were clearly unbecoming a jurist, against Appellant in a personal way. However, Judge Federico showed NO concern about anything dealing with Ms. Shepherd. She files motions to replace counsel in violation of State Law, and Judge Federico says nothing. Ms. Shepherd being completely unqualified to represent Appellant, and one year out of law school, and he fails to protect Appellant from being assigned that counsel. As a matter of fact, Judge Federico purposefully assigns said unqualified counsel, then when motioned to correct that error via a Nelson hearing, Judge Federico refuses to hold the hearing and tells Appellant he doesn't want to hear anything about Ms. Shepherd or the other illegal counsel on Appellant's case who aren't legally counsel for Appellant.

Judge Federico was required to verify the counsel he was court ordering assigned to Appellant - Ms. Shepherd - was qualified under Rule 3.112 and specifically under CCRC Statute §27.704(1). Judge Federico was derelict in his duties by not verifying Ms. Shepherd was qualified to represent Appellant, and abused his judicial discretion by issuing a Court Order assigning unqualified counsel to lead Appellant's post-conviction proceedings in State as well as Federal Courts.

Judge Federico was further derelict in his duties by

allowing Ms. Shepherd to file two (2) consecutive illegal motions substituting counsel in violation of Fl. R. Jud. Admin. 2.505(e)(F), and abused his judicial discretion under said Rule by failing to issue an order as required by Rule; by failing to follow Florida Statute §27.703(1); and by failing to inquire into the "red flag" of replacing a newly appointed counsel with another.

Appellant would here ask this Court to incorporate the transcript of the hearing held regarding Rule 3.851(i) and denial of §27.711(12) hearing, Found at ROA 82-174, and all of Appellant's arguments contained therein, in lieu of quoting them in this Brief.

Judge Federico abused his judicial discretion by refusing to "receive and evaluate" allegations against Ms. Shepherd in accordance with F.S. §27.711(12), or to hold a hearing -Nelson or otherwise - in order to hear those allegations and create a complete record for this Court to review. Because Judge Federico exercised powers not afforded to him in order to change established procedure in the entire state, this Court has the authority to review his actions de novo. Appellant directs this Court to SEE "Issue I" of this Brief for argument.

Appellant would submit to this Court that two of the three CCRC counsel cited as "counsel of record" and who filed this

appeal under Rule 3.851(i)(8), are illegally before this Court.

As exhibited herein, and Appendix-D, Ms. Shepherd isn't legally qualified to argue or file motions before this Court. Therefore, in the interests of justice, Ms. Shepherd should be immediately removed as counsel of record and all motions, filings, and briefs be stricken from the record. Ms. Shepherd prepared these documents in order to attack Appellant to protect herself. The brief is completely a product of Ms. Shepherd, and is illegal.

As exhibited herein, and Appendix -F, Ali Shakoor isn't even assigned counsel at all. No court order exists that appointed him; no motion was ever filed with Judge Federico requesting appointment for Mr. Shakoor; no written consent was provided by Appellant for appointment; and no document was ever filed setting forth reasons for withdraw of counsel Ann Mirialakis -Appellant's ACTUAL current counsel.

Fl. R. Jud. Adm. 2.505 (e), (F) is explicit:

(e) Appearance of Attorney. An Attorney may appear in a proceeding in any of the following ways:

(2) By substitution of counsel, but only by order of court and with written consent of the client, filed with the Court.

(f) Termination of Appearance of Attorney. The appearance of an attorney for a party in a proceeding shall terminate only in one of the following ways:

(1). Withdrawal of Attorney. By order of court,
where the proceeding is continuing, upon Motion
and hearing, on notice to all parties and the
client, such motion setting forth the reasons for
withdrawal and the client's last known address,
telephone number, including area code, and e-mail
address.

(2) Substitution of Attorney By order of court, under
the procedure set forth in subdivision (e) (2) of
this rule.

[emphasis added]

The law is clear, Mr. Ali Shakoor is not, and never was, Appellant's counsel. No motion has ever been filed, and no court order has ever been issued. Further, to "substitute" counsel further requires Appellant's "written consent" which never happened. Therefore, Mr. Shakoor is illegally before this Court, Appellant has never spoken to this man, and he is not Appellant's counsel of record and never was. Therefore, in the interests of justice, Mr. Shakoor should be immediately removed from this proceeding, and every motion, filing, and brief should be stricken where his name appears as counsel for Appellant. Mr. Shakoor is illegally before this Court, is illegally presenting as counsel by court appointment (which has never happened), and Mr. Shakoor has never met or talked to Appellant while CCRC represented Appellant. This man has no idea or clue what's going on in this case, he doesn't even know Appellant!

Appellant, LEGALLY, only has one legally appointed counsel

- Lisa Bort. That's it. And the reason why is because Judge Federico has been "asleep at the wheel."

III. Appellant refutes all claims of CCRC's Adrienne Shepherd in her brief, and Appellant asserts Ms. Shepherd abused her position as Lead Counsel to use Court filings to attack Appellant.

Ms. Shepherd used her brief to attack Appellant, in total. Ms. Shepherd used the brief to attack and attempt to make Appellant look like he simply attacks his counsel, makes false claims against his counsel, et. al. This attack is disguised as a legal method of making a capital defendant look mentally disturbed in order to "help" Appellant. However, every single quote used in her brief deals with Appellant and his frustration with trial counsel. Since this Court already determined in Wall that Appellant was sane and competent by upholding the lower tribunal's findings of that; rehashing pre-trial incidents serve no legitimate legal purpose, except as attacks on Appellant's credibility with this Court vis-à-vis claims against Ms. Shepherd. Further, the pre-trial record isn't even reviewable here as this Court has already issued a ruling as to Appellant's sanity back then, in Wall. The quotes against Appellant serve to undermine Appellant with this Court. Ms. Shepherd is cloaking her abuse under the disguise of a legitimate legal issue, were there not a completely obvious "theme" (issues with counsel). As

the saying goes, "Even Stevie Wonder and Ray Charles can see it."

As evidence to support (because Ms. Shepherd also has covered that by claiming Appellant is "paranoid" with "conspiracies" of counsel working against him), Appellant is attaching, as Appendix - L, Appellant's "Motion To Strike" with it's attached exhibits A-D. Appendix -L/exhibit-A, is the original 3.851 Post-Conviction Motion before it was altered. The altered version, currently before this Court in SC19-1838, is App. L/ex. B.

In the original- App.L / ex. A - Ms. Shepherd falsifies the record, lies on the trial judge, and directly attacks Appellant outright to protect herself. So much so that counsel Lisa Bort demanded her name be removed. This Court can see Ms. Bort's name on the original - App.L - EX.A- but not on the altered version - App.L / EX. B

The most egregious lies, falsification of the record, and attacks are found on page 9 and 14 of App. L/ex. A:

[p.9] "On the first day of the hearing, the Court rescinded Wall's *pro se* status, removed Wall from the courtroom, and reappointed Brunvand and Kurpiers after Wall threatened to kill everyone in the courtroom. R/4897-4906"

Appellant invites this Court to read the record, which is

attached - App. L/ex. C - Clearly Appellant never threatens anyone "in the courtroom," let alone "threatened to kill EVERYONE."

Then there is page 14 of App. L/ex. A:

"Wall... his clearly-documented fixation and paranoia prevented him from discussing relevant facts with his attorneys;

Multiple Nelson motions reflect fixation on alleged conspiracies between his defense attorneys and everyone else;

Testified concerning conspiracies on record and trial court acknowledged that he was paranoid - ROA 6811-14"

Appellant hereby incorporates Appendix-L, "Motion To Strike" in total here, in lieu of repeating the facts contained therein such as Ms. Borts actions, as well as argument regarding Ms. Shepherd's Falsifying the certification of the 3.851 Motion in SC19-1838, violating Appellant's protections under Fl. R. Crim. P. 3.851(e)(1)(F). Appellant BEGS this Court to read Appendix-L completely.

Appellant would also bring to this Court's attention that Ms. Shepherd attempted to hide the exhibits attached to Appendix-L (original 3.851, transcript of hearing) from this Court. In Ms. Shepherd's brief in this case, she attaches as her "Appendix - H" Appellant's "Motion To Strike" WITHOUT THE

EXHIBITS, clearly not wanting to provide the evidence against herself, she provided an inaccurate and incomplete record as an appendix.

CONCLUSION

Appellant did not willingly chose to enact Rule 3.851(i).

Appellant's Lead Counsel, Adrienne Shepherd, is illegally employed by CCRC contrary to State law; is unqualified to represent Appellant and is violation of State laws; and this in and of itself is deemed "ineffective counsel."

Counsel claiming to represent Appellant as co-counsel, Ali Shakoor, is not nor ever was "appointed" by any court, and presents himself as counsel of record, contrary to State Law.

Judge Philip Federico abused his discretion by denying Appellant's due process rights; by denying Appellant qualified and effective counsel and improperly appointing said unqualified counsel-Ms. Shepherd-without verifying she was qualified and in violation of State laws.

Appellant asks this Court for review, *de novo*, of Judge Federico's "Final Order" denying Appellant F.S. §27.711(12); denying Appellant a hearing to "receive and evaluate" per that statute via Nelson; and abuse of judicial discretion.

Appellant asks this Court to recede from Gordon based on

the evidence in this Appeal.

Appellant asks this Court to exercise its authority to review laws as to constitutionality, and find Fl. R. Crim. P. 3.851(b)(6) and (i) unconstitutional, based on evidence presented herein.

Appellant asks this Court for any and all relief this Court deems appropriate based on the arguments presented herein, which may include but not limited to: Finding Appellant did not "willingly" chose to dismiss all CCRC and all post-conviction appeals; that were it not for abuse of judicial discretion denying Appellant due process and other rights Appellant would exercise his rights to post-conviction proceedings; and that Appellant was denied the "protection" of *Pro se* status leaving him no option except "proceed with unqualified counsel or die" (3.851 (i)).

Therefore, Appellant begs this Court for any and all relief he is entitled to based on what is presented herein and in the Record on Appeal, and any other Findings this Court may Find not presented herein.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, on this 21st day of January, 2020, that a true and correct copy of the foregoing brief and appendices, has been sent via U.S. Mail to: Asst. Attorney General Marilyn Beccue, 3507 E. Frontage Rd., Suite 200, Tampa, Florida 33607; and Capital Collateral Regional Counsel, 12973 N. Telecom Pkwy., Temple Terrace, Fl. 33637.

CERTIFICATE OF FONT COMPLIANCE

I HEREBY CERTIFY, that the size and style used in this brief is Courier New, Font 12, in compliance with Fl. R. App. P. 9.210(a)(2)

Respectfully submitted,



Craig Wall, Sr. #140726
Union Correctional Institution
P.O. Box 1000
Raiford, Florida 32083

APPENDIX A

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT,
IN AND FOR PINELLAS COUNTY, FLORIDA

STATE OF FLORIDA,

Plaintiff,

v.

CASE NO: CRC10-03759CFANO
POST-CONVICTION CAPITAL CASE

CRAIG ALAN WALL, SR.

Defendant.

NOTICE OF APPEARANCE
OF POST-CONVICTION CAPITAL COLLATERAL COUNSEL

Please take notice that in accordance with the Supreme Court of Florida's order appointing the Law Office of the Capital Collateral Regional Counsel-Middle Region dated Thursday, March 15, 2018, Raheela Ahmed, Assistant Capital Collateral Counsel, Maria Christine Perinetti, Assistant Capital Collateral Counsel, and Lisa Marie Bort, Assistant Capital Collateral Counsel hereby enter their appearances as counsel in the above-captioned action. The official status of counsel in the instant case should reflect the following:

JAMES VINCENT VIGGIANO, JR.
CAPITAL COLLATERAL REGIONAL COUNSEL - MIDDLE

RAHEELA AHMED
ASSISTANT CCRC
(LEAD COUNSEL)

MARIA CHRISTINE PERINETTI
ASSISTANT CCRC
(LEAD COUNSEL)

LISA MARIE BORT
ASSISTANT CCRC

Respectfully submitted

/s/ Raheela Ahmed

Raheela Ahmed

Florida Bar Number 0713457

Assistant CCRC

Email: ahmed@ccmr.state.fl.us

Secondary Email: support@ccmr.state.fl.us

/s/Maria Christine Perinetti

Maria Christine Perinetti

Florida Bar Number 0013837

Email: perinetti@ccmr.state.fl.us

Secondary Email: support@ccmr.state.fl.us

/s/ Lisa Marie Bort

Lisa Marie Bort

Florida Bar Number 119074

Email: bort@ccmr.state.fl.us

Secondary Email: support@ccmr.state.fl.us

The Law Office of the Capital Collateral

Regional Counsel - Middle Region

12973 North Telecom Parkway,

Temple Terrace, Florida 33637

Tel: (813) 558-1600

Fax: (813) 558-1601

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the PDF document of the foregoing **Notice of Appearance of Post-Conviction Capital Collateral Counsel** has been transmitted to this Court through the Florida Courts E-Filing Portal on this 29th day of March, 2018.

I HEREBY FURTHER CERTIFY that a copy of the PDF document of the foregoing has also been served upon the Clerk for the **Supreme Court of Florida**, through the Florida Courts E-Filing Portal on this 29th day of March, 2018.

I HEREBY FURTHER CERTIFY that a copy of the PDF document of the foregoing has been served via the Florida Courts E-Filing Portal to **C. Suzanne Bechard and Marilyn Muir Beccue**, Assistant Attorney General, Office of the Attorney General, **Sara Elizabeth Macks**, Assistant State Attorney, Office of the State Attorney for the Sixth Judicial Circuit, to **Bjorn E. Brunvand, Esquire**, to **Ronald James Kurpiers, II, Esquire**, to **Amanda P. Sellers, Esquire**, to **Jenna C. Finkelstein, Esquire**, to **Daniel M. Hernandez, Esquire**, to **William Brian Bennett, Esquire**, and to the **Honorable Robert Henry Dillinger** Public Defender, Office of the Public Defender for the Sixth Judicial Circuit, on this 29th day of March, 2018.

I HEREBY FURTHER CERTIFY that a copy of the foregoing has been sent via the Florida Courts E-Filing Portal and also mailed to the **Honorable Philip J. Frederico**, Circuit Court Judge, Sixth Judicial Circuit, 14250 49th Street North, Clearwater, Florida 33762, and a copy has been mailed to **Mr. Craig Wall, Sr.**, DOC# 140726, Florida State Prison, P.O. Box 800, Raiford, Florida 32083, on this 29th day of March, 2018.

Respectfully submitted

/s/ Raheela Ahmed

Raheela Ahmed

Florida Bar Number 0713457

Assistant CCRC

Email: ahmed@ccmr.state.fl.us

Secondary Email: support@ccmr.state.fl.us

/s/Maria Christine Perinetti

Maria Christine Perinetti

Florida Bar Number 0013837

Email: perinetti@ccmr.state.fl.us

Secondary Email: support@ccmr.state.fl.us

/s/ Lisa Marie Bort

Lisa Marie Bort

Florida Bar Number 119074

Email: bort@ccmr.state.fl.us

Secondary Email: support@ccmr.state.fl.us

The Law Office of the Capital Collateral

Regional Counsel - Middle Region

12973 North Telecom Parkway,

Temple Terrace, Florida 33637

Tel: (813) 558-1600

Fax: (813) 558-1601

APPENDIX B

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT,
IN AND FOR PINELLAS COUNTY, FLORIDA

STATE OF FLORIDA,

Plaintiff,

v.

CASE NO: CRC10-03759CFANO
POST-CONVICTION CAPITAL CASE

CRAIG ALAN WALL, SR.

Defendant.

MOTION TO WITHDRAW COUNSEL
[RAHEELA AHMED]

Undersigned counsel, Raheela Ahmed, has tendered her resignation from the Law Office of the Capital Collateral Regional Counsel – Middle and will no longer be counsel of record as of June 30, 2018, for the Defendant, Mr. Craig A. Wall, Sr. Mr. Wall, Sr. respectfully moves for the Court to remove Attorney Raheela Ahmed as counsel of record as of June 30, 2018, and to add Adrienne Joy Shepherd as additional counsel.

The official status of counsel for Mr. Wall in this case should now reflect as follows:

ADRIENNE JOY SHEPHERD

Florida Bar No. 1000532

Assistant Capital Collateral Regional Counsel for the Middle Region of Florida

shepherd@ccmr.state.fl.us

support@ccmr.state.fl.us

MARIA CHRISTINE PERINETTI

Florida Bar No. 013837

Assistant Capital Collateral Regional Counsel for the Middle Region of Florida

perinetti@ccmr.state.fl.us

support@ccmr.state.fl.us

LISA MARIE BORT

Florida Bar No. 0119074

Assistant Capital Collateral Regional Counsel for the Middle Region of Florida

bort@ccmr.state.fl.us

support@ccmr.state.fl.us

Respectfully submitted

/s/ Raheela Ahmed

Raheela Ahmed

Florida Bar Number 0713457

Assistant CCRC

Email: ahmed@ccmr.state.fl.us

Secondary Email: support@ccmr.state.fl.us

The Law Office of the Capital Collateral

Regional Counsel - Middle Region

12973 North Telecom Parkway,

Temple Terrace, Florida 33637

Tel: (813) 558-1600

Fax: (813) 558-1601

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the PDF document of the foregoing has been transmitted to this Court through the Florida Courts E-Filing Portal on this 18th day of June, 2018.

I HEREBY FURTHER CERTIFY that a copy of the PDF document of the foregoing has been served via the Florida Courts E-Filing Portal to **Marilyn Muir Beccue**, Assistant Attorney General, Office of the Attorney General, and to **Sara Elizabeth Macks**, Assistant State Attorney, Office of the State Attorney for the Sixth Judicial Circuit, on this 18th day of June, 2018.

I HEREBY FURTHER CERTIFY that a copy of the foregoing has been sent via the Florida Courts E-Filing Portal and electronic mail (Judicial Assistant) to the **Honorable Philip J. Federico**, Circuit Court Judge, Sixth Judicial Circuit, 14250 49th Street North, Clearwater, Florida 33762, and a copy has been mailed to **Mr. Craig Wall, Sr.**, DOC# 140726, Florida State Prison, P.O. Box 800, Raiford, Florida 32083, on this 18th day of June, 2018.

Respectfully submitted

/s/ Raheela Ahmed

Raheela Ahmed

Florida Bar Number 0713457

Assistant CCRC

Email: ahmed@ccmr.state.fl.us

Secondary Email: support@ccmr.state.fl.us

The Law Office of the Capital Collateral
Regional Counsel - Middle Region
12973 North Telecom Parkway,
Temple Terrace, Florida 33637
Tel: (813) 558-1600
Fax: (813) 558-1601

APPENDIX C

IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT OF THE STATE OF
FLORIDA IN AND FOR PINELLAS COUNTY CRIMINAL DIVISION

STATE OF FLORIDA,

v.

CRAIG ALAN WALL, SR.,
Person ID: 772985, Defendant.

CASE NO.: CRC10-03759CFASO

UCN: 52201003759XXXNO

DIVISION: M

CRIMINAL COURT RECORDS
FILED
2018 JUN 29 AM 8:30
KIM BURKE
CLERK OF CIRCUIT COURT
AND COMPTROLLER

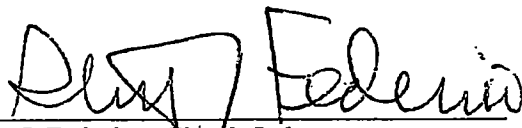
ORDER GRANTING MOTION TO WITHDRAW COUNSEL RAHEELA AHMED
DIRECTIONS TO CLERK

THIS CAUSE came before the court upon Attorney Raheella Ahmed's Motion to Withdraw Counsel, filed June 18, 2018, pursuant to Florida Rule of Judicial Administration 2.505. Attorney Ahmed avers that, as of June 30, 2018, she will no longer be employed by Capital Collateral Regional Counsel – Middle, which is representing the Defendant in this cause. She requests to withdraw as counsel and substitute Assistant Capital Collateral Regional Counsel Adrienne Joy Shepherd. Accordingly, it is

ORDERED AND ADJUDGED that the Motion to Withdraw Counsel is hereby **GRANTED**. Attorney Raheela Ahmed is withdrawn as co-counsel of record and Attorney Adrienne Joy Shepherd is substituted as co-counsel of record. Attorneys Maria Christine Perinetti and Lisa Marie Bort shall remain as co-counsel of record.

THE CLERK OF THE CIRCUIT COURT shall update the Odyssey case management system in accordance with this order.

DONE AND ORDERED in Chambers at Clearwater, Pinellas County, Florida, this 28 day of June, 2018. A true and correct copy of the foregoing has been furnished to the parties indicated below.


Philip J. Federico, Circuit Judge

cc: State Attorney / Sara Macks, ASA
Capital Collateral Regional Counsel – Middle / Adrienne Shepherd, Maria Perinetti, Lisa Bort, ACCRCs
Attorney General / Marilyn Beccue, AAG

APPENDIX D

MEMBER PROFILE

Adrienne Joy Shepherd

Member in Good Standing

Eligible to Practice Law in Florida

Bar Number:

1000532

Mail Address:

Capital Collateral Regional Counsel- Mid

12973 N Telecom Pkwy

Temple Terrace, FL 33637-0907

Office: 813-558-1634

Email:

shepherd@ccmr.state.fl.us

Personal Bar URL:

<https://www.floridabar.org/mybarprofile/1000532>

vCard:



County:

Hillsborough

Circuit:

13

Admitted:

05/01/2017

10-Year Discipline History:

None

Law School:

The Florida State University College of Law, 2016

Sections:Young Lawyers

Firm:Capital Collateral Regional Counsel- Mid

Firm Position:Government attorney

The Find a Lawyer directory is provided as a public service. The Florida Bar maintains limited basic information about lawyers licensed to practice in the state (e.g., name, address, year of birth, gender, law schools attended, admission year). However, The Florida Bar allows individual attorneys the opportunity to add personal and professional information to the directory. The lawyer is solely responsible for reviewing and updating any additional information in the directory. The lawyer's added information is not reviewed by The Bar for accuracy and The Bar makes no warranty of any kind, express or implied. The Florida Bar, its Board of Governors, employees, and agents are not responsible for the accuracy of that additional information. Publication of lawyers' contact information in this listing does not mean the lawyers have agreed to receive unsolicited communications in any form. Unauthorized use of this data may result in civil or criminal penalties. The Find a Lawyer directory is not a lawyer referral service.

APPENDIX E

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT,
IN AND FOR PINELLAS COUNTY, FLORIDA**

STATE OF FLORIDA,

Plaintiff,

v.

**CASE NO: 522010CF003759XXXXNO
SUPREME COURT NO: SC16-1221
POSTCONVICTION CAPITAL CASE**

CRAIG ALAN WALL, SR.

Defendant.

NOTICE OF APPEARANCE AND SUBSTITUTION OF COUNSEL

Please take notice that Ann Marie Mirialakis, Assistant CCRC - Middle Region, hereby enters her notice of appearance and is substituted for Maria Christine Perinetti as co-counsel in the above-captioned action. The official status of counsel in the instant case should reflect the following:

ERIC C. PINKARD
Capital Collateral Regional Counsel – Middle Region

ADRIENNE JOY SHEPHERD
Assistant CCRC

LISA MARIE BORT
Assistant CCRC

ANN MARIE MIRIALAKIS
Assistant CCRC

Respectfully submitted,

/s/ Adrienne Joy Shepherd
Adrienne Joy Shepherd
Assistant CCRC
Florida Bar Number 1000532
Email: shepherd @ccmr.state.fl.us

/s/ Lisa Marie Bort

Lisa Marie Bort

Assistant CCRC

Florida Bar Number 0119074

Email: bort@ccmr.state.fl.us

/s/ Ann Marie Mirialakis

Ann Marie Mirialakis

Assistant CCRC

Florida Bar Number 0658308

Email: mirialakis@ccmr.state.fl.us

The Law Office of the Capital Collateral

Regional Counsel - Middle Region

12973 North Telecom Parkway

Temple Terrace, Florida 33637-0907

Tel: (813) 558-1600

Fax: (813) 558-1601

Secondary Email: support@ccmr.state.fl.us

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the PDF document of the foregoing has been transmitted to this Court through the Florida Courts E-Filing Portal on this 11th day of January, 2019.

I HEREBY FURTHER CERTIFY that a copy of the PDF document of the foregoing has been served via the Florida Courts E-Filing Portal to the Judicial Assistant of the **Honorable Philip J. Federico**, Circuit Court Judge, Sixth Judicial Circuit, at plee@jud6.org, 14250 49th Street North, Clearwater, Florida 33762; to **Marilyn Muir Beccue**, Assistant Attorney General, Office of the Attorney General, at marilyn.beccue@myfloridalegal.com and capapp@myfloridalegal.com, and to **Sara Elizabeth Macks**, Assistant State Attorney, Office of the State Attorney for the Sixth Judicial Circuit, at sabappealseservice@co.pinellas.fl.us and smacks@co.pinellas.fl.us, on this 11th day of January, 2019.

I HEREBY FURTHER CERTIFY that a copy of the foregoing has been sent via U.S. mail to **Craig Wall, Sr.**, DOC # 140726, Florida State Prison, P.O. Box 800, Raiford, Florida 32083 , on this 11th day of January, 2019.

/s/ Adrienne Joy Shepherd
Adrienne Joy Shepherd
Assistant CCRC
Florida Bar Number 1000532
Email: shepherd@ccmr.state.fl.us

Law Office of the Capital Collateral
Regional Counsel - Middle Region
12973 North Telecom Parkway
Temple Terrace, Florida 33637
Telephone (813) 558-1600-0907
Fax No. (813) 558-1601

APPENDIX F

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT,
IN AND FOR PINELLAS COUNTY, FLORIDA**

STATE OF FLORIDA,

Plaintiff,

v.

**CASE NO: 522010CF003759XXXXNO
POSTCONVICTION CAPITAL CASE**

CRAIG ALAN WALL, SR.

Defendant.

NOTICE OF APPEARANCE AND SUBSTITUTION OF COUNSEL

Please take notice that Ali Shakoor, Assistant CCRC - Middle Region, hereby enters his notice of appearance and is substituted for Ann Marie Mirialakis as co-counsel in the above-captioned action. The official status of counsel in the instant case should reflect the following:

ERIC C. PINKARD
Capital Collateral Regional Counsel – Middle Region

ADRIENNE JOY SHEPHERD
Assistant CCRC

ALI SHAKOOR
Assistant CCRC

LISA MARIE BORT
Assistant CCRC

Respectfully submitted,

/s/ Adrienne Joy Shepherd
Adrienne Joy Shepherd
Assistant CCRC
Florida Bar Number 1000532
Email: shepherd@ccmr.state.fl.us
Secondary Email: support@ccmr.state.fl.us

/s/ Ali Shakoor

Ali Shakoor

Assistant CCRC

Florida Bar Number 0669830

Email: shakoor@ccmr.state.fl.us

Secondary Email: support@ccmr.state.fl.us

/s/ Lisa Marie Bort

Lisa Marie Bort

Assistant CCRC

Florida Bar Number 0119074

Email: bort@ccmr.state.fl.us

Secondary Email: support@ccmr.state.fl.us

The Law Office of the Capital Collateral

Regional Counsel - Middle Region

12973 North Telecom Parkway

Temple Terrace, Florida 33637-0907

Tel: (813) 558-1600

Fax: (813) 558-1601

Secondary Email: support@ccmr.state.fl.us

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a copy of the PDF document of the foregoing has been transmitted to this Court through the Florida Courts E-Filing Portal on this 29th day of May, 2019.

WE HEREBY FURTHER CERTIFY that a copy of the PDF document of the foregoing has been served via the Florida Courts E-Filing Portal to the Judicial Assistant of the **Honorable Philip J. Federico**, Circuit Court Judge, Sixth Judicial Circuit, 14250 49th Street North, Clearwater, Florida 33762 at plee@jud6.org; to **Marilyn Muir Beccue**, Assistant Attorney General, Office of the Attorney General, at marilyn.beccue@myfloridalegal.com and capapp@myfloridalegal.com, and to **Sara Elizabeth Macks**, Assistant State Attorney, Office of the State Attorney for the Sixth Judicial Circuit, at sa6appealservice@co.pinellas.fl.us and smacks@co.pinellas.fl.us, on this 29th day of May, 2019.

WE HEREBY FURTHER CERTIFY that a copy of the foregoing has been sent via U.S. mail to **Craig Wall, Sr.**, DOC # 140726, Union Correctional Institution, P.O. Box 1000, Raiford, FL 32083, on this 29th day of May, 2019.

Respectfully submitted,

/s/ Adrienne Joy Shepherd

Adrienne Joy Shepherd

Assistant CCRC

Florida Bar Number 1000532

Email: shepherd@ccmr.state.fl.us

Secondary Email: support@ccmr.state.fl.us

/s/ Ali Shakoor

Ali Shakoor

Assistant CCRC

Florida Bar Number 0669830

Email: shakoor@ccmr.state.fl.us

Secondary Email: support@ccmr.state.fl.us

/s/ Lisa Marie Bort

Lisa Marie Bort

Assistant CCRC

Florida Bar Number 0119074

Email: bort@ccmr.state.fl.us

Secondary Email: support@ccmr.state.fl.us

The Law Office of the Capital Collateral

Regional Counsel - Middle Region

12973 North Telecom Parkway

Temple Terrace, Florida 33637-0907

Tel: (813) 558-1600

Fax: (813) 558-1601

Secondary Email: support@ccmr.state.fl.us

APPENDIX G

KEN BURKE
CLERK OF THE CIRCUIT COURT AND COMPTROLLER,
PINELLAS COUNTY, FLORIDA
CRIMINAL COURT RECORDS

Clerk of the County Court
Recorder of Deeds
Clerk and Accountant of the Board of County Commissioners
Custodian of County Funds
County Auditor
Clerk of the Water and Navigation Control Authority

www.mypinellasderk.org
14250.49th Street North
Clearwater, FL 33762-2800
Telephone: (727) 464-7000

RECEIPT FOR RECORDS

Date Mailed:

October 9, 2019

Total Boxes Mailed

Total Envelopes Mailed

1

PLEASE SIGN AND RETURN TO:

Ken Burke
Clerk of the Circuit Court and Comptroller
Circuit Criminal Court Records Dept.
Attn: Appeals
14250 49th Street North
Clearwater, FL 33762-2800

[illegible]

☐ Office of Attorney General
Concourse Center #4
3507 Frontage Rd., Suite 200
Tampa, FL 33607

**Public Defender 10th Judicial Circuit
Polk County Courthouse
Appellate Division
255 North Broadway 3rd Floor
Bartow, FL 33830**

Mary Beth Kuenzel, Clerk
Second District Court of Appeal
811 East Main Street
Lakeland, FL 33801

Received By:

Received By:

Received By:

Date: _____

Date: _____

Date: _____

Joseph Sexton, Esquire
Office of Regional Conflict Counsel
2101 McGregor Boulevard, Suite 101
Ft. Myers, FL 33901

☐ Guardian Ad Litem Statewide Office
101 Eslinger Way Ste. 3238
Sandford, FL, 32773

X Craig Alan Wall, Sr., DC# 140726
Union Correctional Institution
~~7010 NW 228th Street~~ **PO BOX 1000**
Raiford, FL 32083

Received By:

Received By:

Received By:

Date: _____

Date: _____

Date: _____

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR PINELLAS COUNTY

NOTICE OF APPEAL TRANSMITTAL FORM

CRAIG ALAN WALL

APPELLANT

VS.

STATE OF FLORIDA

APPELLEE

LOWER CASE NUMBER: 1003759CFANO

APPEAL CASE NUMBER: NOT YET ASSIGNED

CASE(S) RELATED TO APPEAL:

- ☒ The accompanying notice of appeal was filed on September 23, 2019. A certified electronic copy of the notice accompanies this form.
- ☐ The civil notice carried with it a copy of the order appealed, which is transmitted with the notice.
- ☐ The civil notice was not accompanied by a copy of the order appealed.
- ☐ The district court's filing fee has been received and will promptly be forwarded to the court by U.S. Mail.
- ☐ There is no filing fee in this type of proceeding (e.g., dependency/termination of parental rights; post conviction and habeas corpus appeals; delinquency appeals; administrative reemployment assistance appeals initiated by an employee).
- ☐ The appellant has been determined to be indigent: Included in the transmission of the notice of appeal is an order or certificate of insolvency.
- ☒ An appellate filing fee appears to be required but has not been paid.
- ☐ This is dependency/termination of parental rights case. A designation to the court reporter ☐ does or ☐ does not accompany the notice of appeal in the transmission to the district court.

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR PINELLAS COUNTY**

CASE TYPE:

- ☐ Summary post conviction appeal. An electronic bookmarked record is being transmitted to the district court's FTP server contemporaneously with the notice of appeal.
- ☐ Summary post conviction appeal. The electronic record cannot be transmitted at this time but will follow within days.
- ☐ Non summary post conviction appeal. The lower tribunal clerk HAS treated the notice of appeal as a designation to the court reporter.
- ☐ Judgment and sentence appeal.
- ☐ Juvenile delinquency appeal.
- ☐ State criminal appeal.
- ☐ Dependency/termination of parental rights appeal.
- ☐ Other civil appeal, including probate/guardianship, Ryce, Baker Act, etc.
- ☐ Administrative appeal.
- ☒ Criminal appeal of unknown case classification. A copy of the order that seems to be appealed is included in this transmission, or it is impossible to determine what order the appellant is attempting to appeal.

- ☒ Further comments that might be of value to the circuit court in determining case classification and jurisdiction are:

The appeal record involving this Notice of Appeal is being electronically transmitted to the Supreme Court contemporaneously with the certification of this Notice. This Notice was also certified to the Supreme Court on September 24 (confirmation number 96224540).

By: /s/ Charles Frye

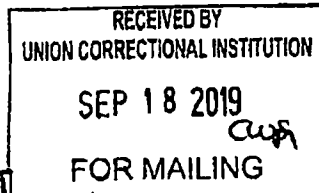
Deputy Clerk

10/08/2019

/cf

Enc.

cc: Attorney General, Tampa, FL
Craig Alan Wall, Sr.



IN THE CIRCUIT COURT
SIXTH JUDICIAL CIRCUIT
PINELLAS COUNTY, FLORIDA

STATE OF FLORIDA

V.

CASE # CRC10-03759CF

CRAIG ALAN WALL, SR.

FILED
CRIMINAL COURT
2019 SEP 23 PM 1:18
CLERK

NOTICE OF APPEAL TO THE
SUPREME COURT OF FLORIDA

COMES NOW Defendant, CRAIG ALAN WALL, SR.,
PRO SE, in accordance with Rules of Appellate
Procedure, and directs the Clerk of Court
to transfer jurisdiction of the above numbered
case to the Florida Supreme Court, along with
the record, in accordance with Appellate Rules.

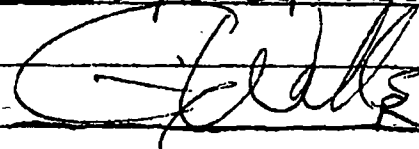
The Clerk is hereby NOTICED that NO
FURTHER FILINGS ARE PERMITTED. The Clerk
is further NOTICED that Defendant has been
granted Pro Se status by the Court and
continues to be Pro Se for appeal, therefore
the Clerk is instructed to RETURN TO SENDER
any and all attempted filings, motions,

or any other documents sent to the Clerk by Capital Collateral Regional Counsel (CCRC) as; (1) They were dismissed as counsel by Judge Philip Federico on August 23, 2019 and Defendant was made Pro Se, therefore CCRC is NOT permitted by law to file any further motions or documents in the above numbered case; (2) From the date of the filing of this Notice of Appeal, jurisdiction is automatically transferred to the Florida Supreme Court, so no further Filings are permitted; and (3) Defendant is Pro Se at this time until otherwise ordered by the Court, and therefore any documents Filed by CCRC that claim to be on "behalf of Defendant"-PRO SE DEFENDANT DOES NOT AUTHORIZE, which requires the Clerk to RETURN any such documents to CCRC UNFILED.

WHEREFORE Defendant, Pro Se,
gives NOTICE OF APPEAL to the Clerk
of Court, Pinellas County, and requests
the Clerk to transfer the record, as well
as jurisdiction, to the Florida Supreme Court.
The Clerk is also requested to accept no
further motions or filings by the parties
as none are permitted once a Notice of Appeal
is filed.

Defendant has provided two (2) copies
of this Notice in accordance with Rules of
Appellate Procedure.

Submitted on this 17th day of September, 2019.



CRAIG WALL, SR. PRO SE

COUNSEL OF RECORD

Craig Wall, Sr. #140726

Union Correctional Inst.

P.O. Box 1000

Raiford, FL. 32083

(386) 431-2000

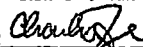
STATE OF FLORIDA-PINELLAS COUNTY

I hereby certify that the foregoing is
a true copy as the same appears among
the files and records of this court.

This 20 day of October, 2019

KEN BURKE

Clerk of Circuit Court & Comptroller

By: 
Deputy Clerk



**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR PINELLAS COUNTY**

NOTICE OF APPEAL TRANSMITTAL FORM

CRAIG ALAN WALL, SR.

APPELLANT

VS.

STATE OF FLORIDA

APPELLEE

LOWER CASE NUMBER: 1003759CFANO

APPEAL CASE NUMBER:

CASE(S) RELATED TO APPEAL:

- ☒ The accompanying notice of appeal was filed on September 23, 2019. A certified electronic copy of the notice accompanies this form.
- ☐ The civil notice carried with it a copy of the order appealed, which is transmitted with the notice.
- ☐ The civil notice was not accompanied by a copy of the order appealed.
- ☐ The district court's filing fee has been received and will promptly be forwarded to the court by U.S. Mail.
- ☐ There is no filing fee in this type of proceeding (e.g., dependency/termination of parental rights; post conviction and habeas corpus appeals; delinquency appeals; administrative reemployment assistance appeals initiated by an employee).
- ☐ The appellant has been determined to be indigent. Included in the transmission of the notice of appeal is an order or certificate of insolvency.
- ☐ An appellate filing fee appears to be required but has not been paid.
- ☐ This is dependency/termination of parental rights case. A designation to the court reporter ☐ does or ☐ does not accompany the notice of appeal in the transmission to the district court.

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR PINELLAS COUNTY**

CASE TYPE:

- ☐ Summary post conviction appeal. An electronic bookmarked record is being transmitted to the district court's FTP server contemporaneously with the notice of appeal.
- ☐ Summary post conviction appeal. The electronic record cannot be transmitted at this time but will follow within days.
- ☐ Non summary post conviction appeal. The lower tribunal clerk HAS treated the notice of appeal as a designation to the court reporter.
- ☐ Judgment and sentence appeal.
- ☐ Juvenile delinquency appeal.
- ☐ State criminal appeal.
- ☐ Dependency/termination of parental rights appeal.
- ☐ Other civil appeal, including probate/guardianship, Ryce, Baker Act, etc.
- ☐ Administrative appeal.
- ☒ Criminal appeal of unknown case classification. A copy of the order that seems to be appealed is included in this transmission, or it is impossible to determine what order the appellant is attempting to appeal.

- ☒ Further comments that might be of value to the circuit court in determining case classification and jurisdiction are:

The notice of appeal does not cite a date of the decision he is appealing nor cite a rule.

By: /s/ Susan Colton

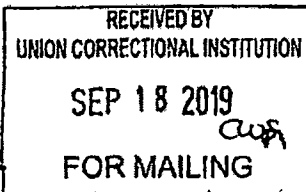
Deputy Clerk

09/24/2019

/sc

Enc.

cc: Attorney General, Tampa, FL



IN THE CIRCUIT COURT
SIXTH JUDICIAL CIRCUIT
PINELLAS COUNTY, FLORIDA

STATE OF FLORIDA

V.

CASE # CRC10-03759

CRAIG ALAN WALL, SR.

FILED
CRIMINAL COURT RECORDS
2019 SEP 23 PM 2:16

NOTICE OF APPEAL TO THE
SUPREME COURT OF FLORIDA

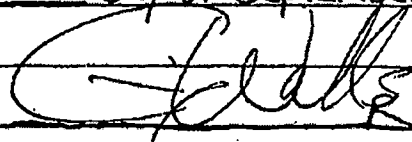
COMES NOW Defendant, CRAIG ALAN WALL, SR.,
PRO SE, in accordance with Rules of Appellate
Procedure, and directs the Clerk of Court
to transfer jurisdiction of the above numbered
case to the Florida Supreme Court, along with
the record, in accordance with Appellate Rules.
The Clerk is hereby NOTICED that NO
FURTHER FILINGS ARE PERMITTED. The Clerk
is further NOTICED that Defendant has been
granted Pro Se status by the Court and
continues to be Pro Se for appeal, therefore
the Clerk is instructed to RETURN TO SENDER
any and all attempted Filings, motions,

or any other documents sent to the Clerk by Capital Collateral Regional Counsel (CCRC) as; (1) They were dismissed as counsel by Judge Philip Federico on August 23, 2019 and Defendant was made Pro Se, therefore CCRC is NOT permitted by law to file any further motions or documents in the above numbered case; (2) From the date of the filing of this Notice of Appeal, jurisdiction is automatically transferred to the Florida Supreme Court, so no further filings are permitted; and (3) Defendant is Pro Se at this time until otherwise ordered by the Court, and therefore any documents filed by CCRC that claim to be on "behalf of Defendant"-PRO SE DEFENDANT DOES NOT AUTHORIZE, which requires the Clerk to RETURN any such documents to CCRC UNFILED.

WHEREFORE Defendant, Pro Se,
gives NOTICE OF APPEAL to the Clerk
of Court, Pinellas County, and requests
the Clerk to transfer the record, as well
as jurisdiction, to the Florida Supreme Court.
The Clerk is also requested to accept no
further motions or filings by the parties
as none are permitted once a Notice of Appeal
is filed.

Defendant has provided two (2) copies
of this Notice in accordance with Rules of
Appellate Procedure.

Submitted on this 17th day of September, 2019.



CRAIG WALL, SR. PRO SE

COUNSEL OF RECORD

Craig Wall, Sr. #140726

Union Correctional Inst.

P.O. Box 1000

Raiford, FL. 32083

(386) 431-2000



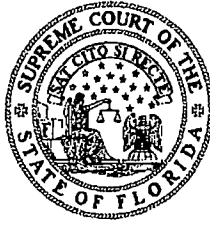
STATE OF FLORIDA-PINELLAS COUNTY

I hereby certify that the foregoing is
a true copy as the same appears among
the files and records of this court.

This 17th day of September, 2019
KIM BURKE
Clerk of Circuit Court & Comptroller

By: Susan C. Latta
Deputy Clerk

APPENDIX H



Supreme Court of Florida

Office of the Clerk
500 South Duval Street
Tallahassee, Florida 32399-1927

JOHN A. TOMASINO
CLERK
MARK CLAYTON
CHIEF DEPUTY CLERK
JULIA BREEDING
STAFF ATTORNEY

PHONE NUMBER: (850) 488-0125
www.floridasupremecourt.org

ACKNOWLEDGMENT OF NEW CASE

October 11, 2019

RE: CRAIG ALAN WALL, SR. vs. STATE OF FLORIDA

CASE NUMBER: SC19-1727

Lower Tribunal Case Number(s): 522010CF003759XXXXNO

Lower Tribunal Filing Date: 9/27/2019

The Florida Supreme Court has received the following documents reflecting a filing date of 10/10/2019:

Notice Seeking Review in the Supreme Court of Florida Pursuant to Florida Rule of Criminal Procedure 3.851(i)(8) - Filed by Discharged Counsel

Record on Appeal

Pro Se Notice of Appeal (Rec'd 09/24/2019)

The Florida Supreme Court's case number must be utilized on all pleadings and correspondence filed in this cause.

kc

cc:

SARA ELIZABETH MACKS

LISA MARIE BORT

ALI ANDREW SHAKOOR

ADRIENNE JOY SHEPHERD

CRAIG ALAN WALL SR.

HON. KEN BURKE, CLERK

HON. PHILIP JAMES FEDERICO, JUDGE

MARILYN MUIR BECCUE

APPENDIX I

IN THE SUPREME COURT OF FLORIDA

CRAIG ALAN WALL, SR.,

Appellant,

v.

CASE NO: SC19-1727

State OF Florida,

Appellee.

MOTION TO SEVER APPEALS

COMES NOW Appellant, CRAIG ALAN WALL, SR., Pro Se, and moves to sever Appellant's Pro Se appeal of a final order under FL.R.App.P. 9.140 and 9.030(a)(1)(A) from Capital Collateral Regional Counsel's (CCRC) appeal at bar that is a FL.R.Crim.P. 3.851(i)(8)(B) appeal. These two separate appeals were improperly consolidated by the Clerk of this Court without leave of the parties and requires severance, and Appellant presents the following facts in support:

1. On July 16, 2019, Appellant Filed a Pro Se "Motion To Monitor And Remove Counsel Pursuant to § 27.711(12) Findings, and if denied, 3.851(i) Motion To Dismiss All Counsel And Post-Conviction Proceedings".

2. On August 23, 2019, Appellant was brought before the lower tribunal, where the lower tribunal refused to hold a hearing, and refused to follow the Statute, regarding § 27.711(12).

3. The lower tribunal, on the same date, then proceeded to hold a hearing under FL.R.Crim.P. 3.851(i), and ultimately granted Appellant dismissal of all post-conviction proceedings as well as all CCRC representation, after conducting a Faretta hearing and granting Appellant Pro Se status (Appendix "A").

4. Since August 23, 2019, Appellant is without counsel. Under law, Appellant is Pro Se and remains Pro Se, and was Pro Se when he Filed his "Notice of Appeal" on September 17, 2019 (Appendix "B").

5. Appellant filed a Pro Se "Notice of Appeal" regarding the lower court's refusal to follow F.S. § 27.711(12); failure to "receive and evaluate allegations made regarding performance of assigned counsel" as the Statute requires by the word "shall" in the Statute; and Failure to conduct a hearing — call it a Nelson hearing or otherwise — in order to "receive and evaluate" Appellant's "allegations" (Appendix "B").

6. Said Pro Se Notice of Appeal is an appeal of the "Final Order" under FL.R. App.P. 9.030(a)(1)(A) and 9.140. However, Appellant failed to cite these on his Notice of Appeal (Appendix "C", "E").

7. On September 24, 2019, Appellant's Notice of Appeal was received by this Court's Clerk from the lower court's clerk. However, this Court's Clerk failed to process Appellant's Appeal or assign a case number. (Appendix "C").

8. On October 10, 2019, CCRC's Notice of Appeal was received by this Court's Clerk. This is seventeen (17) days after Appellant's (Appendix "D").

9. On October 8, 2019, two days before CCRC's Notice OF Appeal, the lower court resent Appellant's Pro Se Notice OF Appeal to this Court's Clerk due to this Court's Clerk failing to acknowledge Appellant's Appeal or docket it. The entire "Record On Appeal" was attached to this (Appendix "E").

10. This Court's Clerk improperly handled Appellant's Notice OF Appeal by not acknowledging it, by not docketing it, and by not assigning a case number. Then the Clerk improperly, and without leave, CONSOLIDATED Appellant's Appeal regarding a "Final Order" violating F.S. § 27.711(12) with CCRC's Appeal under 3.851(i)(8). Since it is clear that 3.851(i)(8) does not allow an Appellant to appeal (it only permits "discharged counsel" to appeal Appellant's actions), this Court's Clerk should have known Appellant's Appeal was not filed under 3.851(i)(8) (Appendix "F").

11. Appellant has filed an Appeal that cannot be consolidated with CCRC's Appeal as they are under different Rules and procedures. Appellant cannot argue the violations of § 27.711(12) within

CCRC's Appeal under 3.851(i)(8) due to the rules governing Florida Appellate Procedure, and this Court. Issues dealing with Appellant's Appeal are not permitted in CCRC's Appeal as they are not relevant and are not addressable. Therefore, this Court is denying Appellant Due Process to present his Appeal.

12. Further, by illegally consolidating Appellant's Appeal with CCRC's, and superceding it; Appellant was/is denied his right to be "Appellant" which includes the right to not only file an Initial Brief but also a Reply Brief to the State/CCRC Brief. Currently, under this usurpation of Appellant's Appeal, CCRC has "Appellant's rights" and Appellant is an "Appellee/Respondent". This violates Due Process of Appellant also.

13. The Appellee has basically made Appellant's argument for him in their "Response To Motion To Consolidate" (Appendix "G"), issue 10, states:

...CCRC does not have the authority or standing to file any pleadings on Wall's behalf in this Court but for the Initial Brief related to the

voluntariness of Wall's waiver. See Fla.R.
Crim.P. 3.851(i)(8)(B).

Appellant agrees, CCRC is not permitted to appeal the "Final Order" denying Appellant his right to F.S. §27.711(12), but also CCRC is the adversary and has refused to address these issues in their Initial Brief even though Appellant requested they do so. So even if CCRC was able to appeal the violations of §27.711(12) (which denial of said left Appellant NO CHOICE but to enact 3.851(i) to remove all CCRC counsel instead of replacing just one), they would not because it is against their self-interest. CCRC is Appellant's adversary in Appellant's Appeal, and instead this Court's Clerk has consolidated our Appeals as if we are not in adversarial positions. Which we are.

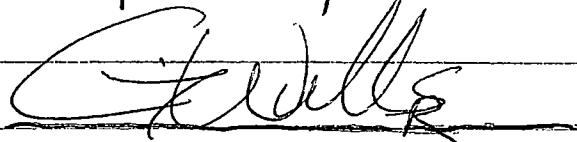
WHEREFORE Appellant moves respectfully that this Court order the Clerk to sever Appellant's Appeal from CCRC's Appeal, and to docket Appellant's Appeal as a "Final Order Appeal" under Fla.R.App.P. 9.030(a)(1)(A) and 9.140, and to order a copy of the Record On Appeal from this case transferred to the new case docket.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Foregoing has been sent by U.S. Mail to: Capital Collateral Regional Counsel, 12973 N. Telecom Parkway, Temple Terrace, FL. 33637, and Marilyn Beccue, Asst. Attorney General, 3507 E. Frontage Road, Suite 200, Tampa, FL. 33607

On this 21st of November, 2019.

Respectfully Submitted,



Craig Wall, Sr. Pro Se

CRAIG WALL, SR. #140726
Union Correctional Inst.
P.O. Box 1000
Raiford, FL. 32083

APPENDIX A

FILED
CRIMINAL COURT
CUSTOMER SERVICE

2019 SEP 19 AM 10:53

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT OF
THE STATE OF FLORIDA IN AND FOR PINELLAS COUNTY
CRIMINAL DIVISION

RECEIVED
CRIMINAL COURT
CLERK'S OFFICE

STATE OF FLORIDA,

v.

CASE NO.: CRC10-03759CFANO
UCN: 522010CF003759XXXXNO
DIVISION: M

CRAIG ALAN WALL, SR.

Person ID: 1474146, Defendant. /

**ORDER DENYING IN PART AND GRANTING IN PART DEFENDANT'S "MOTION
TO MONITOR AND REMOVE COUNSEL PURSUANT TO §27.711(2) FINDINGS
AND IF DENIED 3.851(i) MOTION TO DISMISS ALL COUNSEL AND POST-
CONVICTION PROCEEDINGS"; ORDER DISCHARGING CAPITAL
COLLATERAL REGIONAL COUNSEL; DIRECTIONS TO CLERK;
DIRECTIONS TO DISCHARGED COUNSEL**

THIS CAUSE came before the Court upon Defendant's *pro se* "Motion to Monitor and Remove Counsel Pursuant to §27.711(2) Findings and if Denied 3.851(i) Motion to Dismiss All Counsel and Post-Conviction Proceedings," filed on July 22, 2019, pursuant to Florida Rule of Criminal Procedure 3.851(i). On August 2, 2019, the Court held a status conference pursuant to Rule 3.851(c)(2), followed by a hearing on Defendant's *pro se* motion on August 23, 2019, pursuant to Rule 3.851(i)(3). Having reviewed Defendant's motion, the arguments of the parties, the record, and the applicable law, this Court finds as follows:

On February 13, 2015, Defendant pled guilty to the first-degree murder of Laura Taft ("Laura") (count one), and *nolo contendere* to the first-degree murder of Craig Wall, Jr. ("C.J.") (count two). Defendant's plea was the culmination of protracted plea negotiations, which he initiated with the State. Defendant originally offered to plead guilty to Laura's murder in exchange for a guaranteed sentence of death. The parties ultimately agreed that Defendant would plead guilty to Laura's murder and *nolo contendere* to C.J.'s murder, and the Court would impose sentence pursuant to section 921.141, Florida Statutes. On June 3, 2016, the trial court sentenced Defendant to death. His conviction and sentence were affirmed on appeal; the mandate issued on March 15, 2018. See *Wall v. State*, 238 So. 3d 127 (Fla. 2018), cert. denied sub nom. *Wall v. Florida*, 139 S. Ct. 329 (2018), reh'g denied, 139 S. Ct. 624 (2018)). On March 29, 2018, Capital Collateral Regional Counsel – Middle Region ("CCRC") filed its notice of appearance.

On June 8, 2018, August 30, 2018, November 30, 2018, February 15, 2019, and April 26, 2019, this Court held status conferences pursuant to Rule 3.851(c)(2). On July 22, 2019, Defendant

filed his *pro se* "Motion to Monitor and Remove Counsel Pursuant to §27.711(2) Findings and if Denied 3.851(i) Motion to Dismiss All Counsel and Post-Conviction Proceedings." On August 2, 2019, a status conference was held pursuant to Rule 3.851(c)(2); Defendant's *pro se* motion was discussed, and the Court scheduled a hearing on Defendant's motion for August 23, 2019. CCRC orally requested that the Court order a competency evaluation by at least two experts; however, CCRC's preliminary request was denied without prejudice to CCRC raising the issue at the motion hearing in accordance with Rule 3.851(i)(4). On August 5, 2019, CCRC filed a motion for determination of competency. The Court treated the motion as a motion for reconsideration, and on August 14, 2019, entered an order denying the motion.¹

On August 23, 2019, the Court held a hearing on Defendant's *pro se* motion. CCRCs Adrienne Shepherd, Ali Shakoor, and Lisa Bort, Assistant State Attorneys Sara Macks, Kendall Davidson, and Frank Piazza, Assistant Attorney General Marilyn Beccue, and Defendant appeared in person. The Court first considered Defendant's "Motion to Monitor and Remove Counsel Pursuant to §27.711(2)." The Court heard argument by Defendant, CCRC, and the State, and ultimately denied the motion, finding that Section 27.711(12), Florida Statutes does not provide for the equivalent of a Nelson² hearing in capital postconviction proceedings. Defendant's "Motion to Monitor and Remove Counsel Pursuant to §27.711(12) Findings" is therefore denied for the reasons articulated on the record.

Defendant's motion states that if his request to remove counsel were to be denied, then he wished proceed with his "Motion to Dismiss All Counsel and Post-Conviction Proceedings," filed pursuant to Florida Rule of Criminal Procedure 3.851(i). Defendant's motion indicates that he does not want appointed counsel to represent him in postconviction proceedings, and would opt to waive his postconviction proceedings rather than be represented by appointed counsel.³ CCRC raised a standing objection that Defendant should be evaluated for competency by two experts prior to making the final decision regarding waiving his postconviction proceedings and discharging counsel. However, after observing and interacting with Defendant, the Court concluded that nothing has changed since the guilt or penalty phases and there were no reasonable grounds to

¹ The Court's August 14, 2019 order is hereby incorporated by reference.

² Nelson v. State, 274 So. 2d 256 (Fla. 4th DCA 1973).

³ Defendant filed the instant motion prior to the expiration of his time to file his initial Motion for Postconviction Relief pursuant to Rule 3.851, and therefore no motion had been filed pursuant to that rule at the time Defendant requested to dismiss his postconviction proceedings.

believe that Defendant was not mentally competent, and denied the request for a competency evaluation for the reasons stated on the record. See Fla. R. Crim. P. 3.851(i)(4); Durocher v. Singletary, 623 So. 2d 482, 484 (Fla. 1993) (“A presumption of competence attaches from a determination of competency to stand trial.”).

Pursuant to Rule 3.851(i)(6), the Court conducted a Durocher/Faretta⁴ colloquy. Consistent with his behavior during pretrial proceedings, Defendant repeatedly interrupted the Court with unrelated tangents when the Court attempted to begin the colloquy.⁵ Notwithstanding, during the course of the proceedings, the Court warned Defendant that if he chose to waive his postconviction proceedings and discharge counsel, his postconviction proceedings would end and he would be warrant-ready. Defendant indicated that he understood that he was telling the Court to “kill him faster,” and distinguished that he would not actually be warrant ready until the conclusion of the appeal.⁶ The Court emphasized that once Defendant waived his 3.851 proceedings, they are waived for all time; that Defendant could not change his mind and have counsel reappointed to pursue postconviction relief relating to the guilt or penalty phases. Defendant indicated that he understood. The Court warned that Defendant was giving up the right to have CCRC continue investigating in order to raise claims relating to past proceedings or calling into question the appropriateness of the sentence, and Defendant responded that “that’s common sense” and that he understood. The Court warned Defendant that Rule 3.851 does not allow postconviction defendants to proceed *pro se*. When Defendant expressed concern that he is being denied the electric chair, his preferred method of execution he alleges he timely requested, the Court and CCRC explained to Defendant that pursuant to Davis, he could waive any future claims related to the guilt and penalty phases and the appropriateness of the death sentence, while retaining counsel to raise execution-related claims such as challenging the intended method of execution or that he is otherwise ineligible for execution during warrant litigation. See Davis v. State, 257 So. 3d 100 (Fla. 2018). Defendant maintained then and throughout the hearing that CCRC was not following or representing his

⁴ Faretta v. California, 422 U.S. 806 (1975).

⁵ Defendant interrupted the Court’s colloquy to express his opinion that the mandatory appeal required by Rule 3.851(i)(8)(B) is “insanity,” and that he was trying to “change the system so that the next person can get executed faster or get their rights to that execution.” Defendant responded to the Court’s questions with rhetorical questions. Defendant became agitated with CCRC’s objections and arguments relating to competency, and expressed that he had a “disregard for authority.”

⁶ Defendant made clear that he disagreed with the mandatory appeal required by Rule 3.851(i)(8)(B), because procedurally it “doesn’t make any sense” that discharged counsel is required to file an appeal that he does not wish to pursue.

"objectives," and that he did not want to pursue the exception under Davis. Defendant repeated multiple times that he did not wish for CCRC to remain on his case, and expressed that he would be filing a 1983 civil rights lawsuit and a *habeas corpus* petition. CCRC warned that dismissing his postconviction proceedings and discharging postconviction counsel would affect Defendant's ability to raise federal claims. The Court warned Defendant that CCRC had not yet filed his 3.851 motion and he therefore did not know what claims would be raised or what witnesses would be called to support the claims, and that "it would be smarter to wait and see what they file." However, Defendant insisted that he knew the claims CCRC was investigating would not be his claims and was "not gonna wait and see and drag this crap out no more." Defendant was warned that by waiving his postconviction proceedings, he was waiving the consideration of any future developments in the law that might apply retroactively, and that his waiver was for all time. Defendant responded that he would write letters to the Governor in hopes that it would result in his expeditious execution, and stated that "[t]he only right I want is the right to get my sentence and to die by electrocution . . . that's the only right they're denying me right now." Defendant maintained throughout the hearing that he did not want counsel to represent him and that he understood the consequences of the waiver.

Consistent with its oral ruling at the hearing, a transcript of which is attached to this order, the Court finds that Defendant knowingly, intelligently, and voluntarily waived his right to pursue postconviction relief and his right to appointed collateral counsel. The Court advised Defendant of his rights and warned him of the potential perils of his request. Therefore, Defendant's unequivocal requests to waive any and all postconviction proceedings and discharge counsel are granted.

Accordingly, it is

ORDERED AND ADJUDGED that Defendant's "Motion to Monitor and Remove Counsel Pursuant to §27.711(2) Findings and if Denied 3.851(i) Motion to Dismiss All Counsel and Post-Conviction Proceedings" is hereby **DENIED in part and GRANTED in part**, as is more fully set forth in the body of this order.

IT IS FURTHER ORDERED AND ADJUDGED that the **CLERK OF THE CIRCUIT COURT** shall immediately serve upon the parties and the Office of the Attorney General a copy of this order, along with a certificate of service. The Clerk shall promptly notify the undersigned when service has been completed.

IT IS FURTHER ORDERED AND ADJUDGED that Capital Collateral Regional Counsel is hereby **DISCHARGED** from representation in case number CRC10-03759CFANO, except as required by Rule 3.851(i)(8)(B).

DISCHARGED COUNSEL shall, within 10 days of the entry of this order, file with the Clerk of the Circuit Court two copies of a notice seeking review in the Supreme Court of Florida, pursuant to Rule 3.851(i)(8)(B).

DEFENDANT IS HEREBY NOTIFIED that this order is subject to automatic appellate review by the Supreme Court of Florida pursuant to Rule 3.851(i)(8).

DONE AND ORDERED in Chambers at Clearwater, Pinellas County, Florida this 18 day of September, 2019. A true and correct copy of the foregoing has been furnished to the parties indicated below.


Philip J. Federico, Circuit Judge

State v. Wall, CRC10-03759CFANO

Copies furnished to:

Sara E. Macks, Assistant State Attorney
Office of the State Attorney, Sixth Judicial Circuit,
14250 49th Street N.
Clearwater, FL 33762

Marilyn M. Beccue, Assistant Attorney General
Office of the Attorney General,
Concourse Center 4
3507 E. Frontage Rd., Suite 200
Tampa, FL 33607

Adrienne Joy Shepherd, Ali Shakoor, & Lisa Marie Bort, Assistant CCRCs
Law Office of the Capital Collateral Regional Counsel-Middle Region
12973 North Telecom Parkway
Temple Terrace, FL 33637

Craig Alan Wall, Sr., DC# 140726
Defendant
Union Correctional Institution
Post Office Box 1000
Raiford, FL 32083

APPENDIX B

RECEIVED BY
UNION CORRECTIONAL INSTITUTION
SEP 18 2019
FOR MAILING

IN THE CIRCUIT COURT
SIXTH JUDICIAL CIRCUIT
PINELLAS COUNTY, FLORIDA

STATE OF FLORIDA

v.

CASE # CRC10-03759

CRAIG ALAN WALL, SR.

FILED
CRIMINAL COURT RECORDS
2019 SEP 23 PM 2:16

NOTICE OF APPEAL TO THE
SUPREME COURT OF FLORIDA

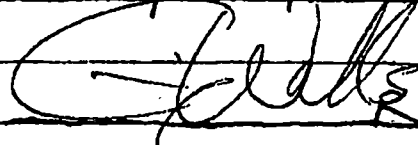
COMES NOW Defendant, CRAIG ALAN WALL, SR.,
PRO SE, in accordance with Rules of Appellate
Procedure, and directs the Clerk of Court
to transfer jurisdiction of the above numbered
case to the Florida Supreme Court, along with
the record, in accordance with Appellate Rules.
The Clerk is hereby NOTICED that NO
FURTHER FILINGS ARE PERMITTED. The Clerk
is further NOTICED that Defendant has been
granted Pro Se status by the Court and
continues to be Pro Se for appeal, therefore
the Clerk is instructed to RETURN TO SENDER
any and all attempted filings, motions,

or any other documents sent to the Clerk by Capital Collateral Regional Counsel (CCRC) as; (1) They were dismissed as counsel by Judge Philip Federico on August 23, 2019 and Defendant was made Pro Se, therefore CCRC is NOT permitted by law to file any further motions or documents in the above numbered case; (2) From the date of the filing of this Notice of Appeal, jurisdiction is automatically transferred to the Florida Supreme Court, so no further filings are permitted; and (3) Defendant is Pro Se at this time until otherwise ordered by the Court, and therefore any documents filed by CCRC that claim to be on "behalf of Defendant"-PRO SE DEFENDANT DOES NOT AUTHORIZE, which requires the Clerk to RETURN any such documents to CCRC UNFILED.

WHEREFORE Defendant, Pro Se,
gives NOTICE OF APPEAL to the Clerk
of Court, Pinellas County, and requests
the Clerk to transfer the record, as well
as jurisdiction, to the Florida Supreme Court.
The Clerk is also requested to accept no
further motions or filings by the parties
as none are permitted once a Notice of Appeal
is filed.

Defendant has provided two (2) copies
of this Notice in accordance with Rules of
Appellate Procedure.

Submitted on this 17th day of September, 2019.



CRAIG WALL, SR. PRO SE

COUNSEL OF RECORD

Craig Wall, Sr. #140726

Union Correctional Inst.

P.O. Box 1000

Raiford, FL. 32083

(386) 431-2000

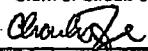
STATE OF FLORIDA-PINELLAS COUNTY

I hereby certify that the foregoing is
a true copy as the same appears among
the files and records of this court.

This 20 day of October, 2019

KEN BURKE

Clerk of Circuit Court & Comptroller

By: 
Deputy Clerk



APPENDIX C

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR PINELLAS COUNTY**

NOTICE OF APPEAL TRANSMITTAL FORM

CRAIG ALAN WALL, SR.

APPELLANT

VS.

STATE OF FLORIDA

APPELLEE

LOWER CASE NUMBER: 1003759CFANO

APPEAL CASE NUMBER:

CASE(S) RELATED TO APPEAL:

- ☒ The accompanying notice of appeal was filed on September 23, 2019. A certified electronic copy of the notice accompanies this form.
- ☐ The civil notice carried with it a copy of the order appealed, which is transmitted with the notice.
- ☐ The civil notice was not accompanied by a copy of the order appealed.
- ☐ The district court's filing fee has been received and will promptly be forwarded to the court by U.S. Mail.
- ☐ There is no filing fee in this type of proceeding (e.g., dependency/termination of parental rights; post conviction and habeas corpus appeals; delinquency appeals; administrative reemployment assistance appeals initiated by an employee).
- ☐ The appellant has been determined to be indigent. Included in the transmission of the notice of appeal is an order or certificate of insolvency.
- ☐ An appellate filing fee appears to be required but has not been paid.
- ☐ This is dependency/termination of parental rights case. A designation to the court reporter ☐ does or ☐ does not accompany the notice of appeal in the transmission to the district court.

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR PINELLAS COUNTY**

CASE TYPE:

- ☐ Summary post conviction appeal. An electronic bookmarked record is being transmitted to the district court's FTP server contemporaneously with the notice of appeal.
- ☐ Summary post conviction appeal. The electronic record cannot be transmitted at this time but will follow within days.
- ☐ Non summary post conviction appeal. The lower tribunal clerk HAS treated the notice of appeal as a designation to the court reporter.
- ☐ Judgment and sentence appeal.
- ☐ Juvenile delinquency appeal.
- ☐ State criminal appeal.
- ☐ Dependency/termination of parental rights appeal.
- ☐ Other civil appeal, including probate/guardianship, Ryce, Baker Act, etc.
- ☐ Administrative appeal.
- ☒ Criminal appeal of unknown case classification. A copy of the order that seems to be appealed is included in this transmission, or it is impossible to determine what order the appellant is attempting to appeal.
- ☒ Further comments that might be of value to the circuit court in determining case classification and jurisdiction are:

The notice of appeal does not cite a date of the decision he is appealing nor cite a rule.

By: /s/ Susan Colton

Deputy Clerk

09/24/2019

/sc

Enc.

cc: Attorney General, Tampa, FL

APPENDIX D

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT,
IN AND FOR PINELLAS COUNTY, FLORIDA

STATE OF FLORIDA,

Plaintiff,

v.

CASE NO: CRC10-03759CFANO
SUPREME COURT NO: SC16-1221
POST-CONVICTION CAPITAL CASE

CRAIG ALAN WALL, SR.,

Defendant.

**NOTICE SEEKING REVIEW IN THE SUPREME COURT OF FLORIDA PURSUANT
TO FLORIDA RULE OF CRIMINAL PROCEDURE 3.851(i)(8)**

COMES NOW, the defendant, Craig Alan Wall, Sr. ("Wall"), by and through undersigned counsel, and hereby gives notice of seeking review in the Supreme Court of Florida in accordance with Florida Rule of Criminal Procedure 3.851(i)(8)(B). The Court issued a written Order on September 18, 2019 granting the request that Wall made to dismiss counsel and post-conviction proceedings in his pro se "Motion to Monitor and Remove Counsel Pursuant to § 27.711(12) Findings and if Denied 3.851(i) Motion to Dismiss All Counsel and Post-Conviction Proceedings." The Court also discharged Capital Collateral Regional Counsel from representing Wall, except as required by Rule 3.851(i)(8)(B). *See* Attachment A.

Undersigned counsel will serve a brief within 20 days of the filing of the transcript of the hearing conducted on Wall's request to dismiss his post-conviction proceedings, unless otherwise ordered by the Supreme Court of Florida. *See* Fla. R. Crim. P. 3.851(i)(8)(A).¹

¹ "A copy of the motion, the order, and the transcript of the hearing or hearings conducted on the motion shall be forwarded to the Clerk of the Supreme Court of Florida within 30 days."

Respectfully submitted,

/s/ Adrienne Joy Shepherd

Adrienne Joy Shepherd

Assistant CCRC

Florida Bar Number 1000532

Email: shepherd@ccmr.state.fl.us

Secondary Email: support@ccmr.state.fl.us

/s/ Ali Shakoor

Ali Shakoor

Assistant CCRC

Florida Bar Number 0669830

Email: shakoor@ccmr.state.fl.us

Secondary Email: support@ccmr.state.fl.us

/s/ Lisa Marie Bort

Lisa Marie Bort

Assistant CCRC

Florida Bar Number 0119074

Email: bort@ccmr.state.fl.us

Secondary Email: support@ccmr.state.fl.us

The Law Office of the Capital Collateral

Regional Counsel - Middle Region

12973 North Telecom Parkway

Temple Terrace, Florida 33637-0907

Tel: (813) 558-1600

Fax: (813) 558-1601

Secondary Email: support@ccmr.state.fl.us

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a copy of the PDF document of the foregoing has been transmitted to this Court through the Florida Courts E-Filing Portal on this 27th day of September, 2019.

WE HEREBY FURTHER CERTIFY that a copy of the PDF document of the foregoing has been served via the Florida Courts E-Filing Portal to the Judicial Assistant of **Honorable Philip J. Federico**, Circuit Court Judge, Sixth Judicial Circuit, 14250 49th Street North, Clearwater, Florida 33762, at plee@jud6.org; to **Marilyn Muir Beccue**, Assistant Attorney General, Office of the Attorney General, at marilyn.beccue@myfloridalegal.com and capapp@myfloridalegal.com, and to **Sara Elizabeth Macks**, Assistant State Attorney, Office of the State Attorney for the Sixth Judicial Circuit, at sabappealseservice@co.pinellas.fl.us and smacks@co.pinellas.fl.us, on this 27th day of September, 2019.

WE HEREBY FURTHER CERTIFY that a copy of the foregoing has been sent via U.S. mail to **Mr. Craig Wall, Sr.**, DOC# 140726, Union Correctional Institution, P.O. Box 1000, Raiford, FL 32083 on this 27th day of September, 2019.

/s/ Adrienne Joy Shepherd
Adrienne Joy Shepherd
Florida Bar Number 1000532
Assistant CCRC
Email: shepherd@ccmr.state.fl.us
Secondary Email: support@ccmr.state.fl.us

/s/ Ali Shakoor
Ali Shakoor
Assistant CCRC
Florida Bar Number 0669830
Email: shakoor@ccmr.state.fl.us
Secondary Email: support@ccmr.state.fl.us

/s/ Lisa Marie Bort

Lisa Marie Bort

Assistant CCRC

Florida Bar Number 0119074

Email: bort@ccmr.state.fl.us

Secondary Email: support@ccmr.state.fl.us

The Law Office of the Capital Collateral

Regional Counsel - Middle Region

12973 North Telecom Parkway

Temple Terrace, Florida 33637-0907

Tel: (813) 558-1600

Fax: (813) 558-1601

Secondary Email: support@ccmr.state.fl.us

STATE OF FLORIDA-PINELLAS COUNTY

I hereby certify that the foregoing is
a true copy as the same appears among
the files and records of this court.

This 10 day of October, 2019

KEN BURKE

Clerk of Circuit Court & Comptroller

By: *Carole*

Deputy Clerk



APPENDIX E

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR PINELLAS COUNTY**

NOTICE OF APPEAL TRANSMITTAL FORM

CRAIG ALAN WALL

APPELLANT

VS.

STATE OF FLORIDA

APPELLEE

LOWER CASE NUMBER: 1003759CFANO

APPEAL CASE NUMBER: NOT YET ASSIGNED

CASE(S) RELATED TO APPEAL:

- ☒ The accompanying notice of appeal was filed on September 23, 2019. A certified electronic copy of the notice accompanies this form.
- ☐ The civil notice carried with it a copy of the order appealed, which is transmitted with the notice.
- ☐ The civil notice was not accompanied by a copy of the order appealed.
- ☐ The district court's filing fee has been received and will promptly be forwarded to the court by U.S. Mail.
- ☐ There is no filing fee in this type of proceeding (e.g., dependency/termination of parental rights; post conviction and habeas corpus appeals; delinquency appeals; administrative reemployment assistance appeals initiated by an employee).
- ☐ The appellant has been determined to be indigent. Included in the transmission of the notice of appeal is an order or certificate of insolvency.
- ☒ An appellate filing fee appears to be required but has not been paid.
- ☐ This is dependency/termination of parental rights case. A designation to the court reporter ☐ does or ☐ does not accompany the notice of appeal in the transmission to the district court.

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR PINELLAS COUNTY**

CASE TYPE:

- ☐ Summary post conviction appeal. An electronic bookmarked record is being transmitted to the district court's FTP server contemporaneously with the notice of appeal.
- ☐ Summary post conviction appeal. The electronic record cannot be transmitted at this time but will follow within days.
- ☐ Non summary post conviction appeal. The lower tribunal clerk HAS treated the notice of appeal as a designation to the court reporter.
- ☐ Judgment and sentence appeal.
- ☐ Juvenile delinquency appeal.
- ☐ State criminal appeal.
- ☐ Dependency/termination of parental rights appeal.
- ☐ Other civil appeal, including probate/guardianship, Ryce, Baker Act, etc.
- ☐ Administrative appeal.
- ☒ Criminal appeal of unknown case classification. A copy of the order that seems to be appealed is included in this transmission, or it is impossible to determine what order the appellant is attempting to appeal.

- ☒ Further comments that might be of value to the circuit court in determining case classification and jurisdiction are:

The appeal record involving this Notice of Appeal is being electronically transmitted to the Supreme Court contemporaneously with the certification of this Notice. This Notice was also certified to the Supreme Court on September 24 (confirmation number 96224540).

By: /s/ Charles Frye

Deputy Clerk

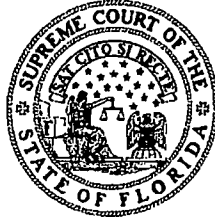
10/08/2019

/cf

Enc.

cc: Attorney General, Tampa, FL
Craig Alan Wall, Sr.

APPENDIX F



Supreme Court of Florida

Office of the Clerk
500 South Duval Street
Tallahassee, Florida 32399-1927

JOHN A. TOMASINO
CLERK
MARK CLAYTON
CHIEF DEPUTY CLERK
JULIA BREEDING
STAFF ATTORNEY

PHONE NUMBER: (850) 488-0125
www.floridasupremecourt.org

ACKNOWLEDGMENT OF NEW CASE

October 11, 2019

RE: CRAIG ALAN WALL, SR. vs. STATE OF FLORIDA

CASE NUMBER: SC19-1727

Lower Tribunal Case Number(s): 522010CF003759XXXXNO

Lower Tribunal Filing Date: 9/27/2019

The Florida Supreme Court has received the following documents reflecting a filing date of 10/10/2019:

Notice Seeking Review in the Supreme Court of Florida Pursuant to Florida Rule of Criminal Procedure 3.851(i)(8) - Filed by Discharged Counsel

Record on Appeal

Pro Se Notice of Appeal (Rec'd 09/24/2019)

The Florida Supreme Court's case number must be utilized on all pleadings and correspondence filed in this cause.

kc

cc:

SARA ELIZABETH MACKS

LISA MARIE BORT

ALI ANDREW SHAKOOR

ADRIENNE JOY SHEPHERD

CRAIG ALAN WALL SR.

HON. KEN BURKE, CLERK

HON. PHILIP JAMES FEDERICO, JUDGE

MARILYN MUIR BECCUE

APPENDIX G

IN THE SUPREME COURT OF FLORIDA

CRAIG WALL, SR.,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

Case No. SC19-1727

SC19-1838

POSTCONVICTION CAPITAL CASE

AMENDED RESPONSE TO MOTION TO CONSOLIDATE
(Amended as to Certificate of Service date)

COMES NOW APPELLEE, State of Florida, by and through the undersigned assistant attorney general, hereby responds to Appellant's Motion to Consolidate.

- 1) On July 16, 2019, Wall filed a pro se motion to discharge postconviction counsel pursuant to § 27.711(12), Fla. Stat. or dismiss postconviction proceedings and counsel pursuant to Florida Rule of Criminal Procedure 3.851(i).
- 2) The postconviction court orally granted Wall's 3.851(i) motion at an August 23, 2019, hearing where the State, CCRC, and Wall were present.
- 3) The written order granting the 3.851(i) motion and discharging counsel was entered on September 18, 2019.
- 4) Discharged counsel filed a postconviction motion in circuit court on September 26, 2019, and the State filed a Motion to Strike on October 8, 2019.

- 5) The lower court granted the State's motion to strike by order dated October 17, 2019, and Capital Collateral Regional Counsel filed a Notice of Appeal of that order on October 23, 2019.
- 6) The State does not dispute that October 9, 2019, was the date after which a postconviction motion would have been untimely.
- 7) That does not change the fact that after August 23, 2019, when the postconviction court orally granted the motion, CCRC did not represent Wall.
- 8) Even given the benefit of the doubt and using the date the written order was rendered, the filing of the motion was filed almost a week *after* counsel was discharged.
- 9) CCRC was not authorized to file the postconviction motion. Likewise, CCRC has no standing to seek review of the order striking the unauthorized pleading. See Durocher v. Singletary, 623 So. 2d 482, 485 (Fla. 1993) (stating that CCR has no standing to file pleadings on behalf of a defendant once discharged).
- 10) The State of Florida has filed a Motion to Strike the Notice of Appeal in case number SC19-1838 because CCRC does not have the authority or standing to file any pleadings on Wall's behalf in this Court but for the Initial Brief related to the voluntariness of Wall's waiver. See Fla. R.

Crim. P. 3.851(i)(8)(B).

11) This Court should not consolidate case numbers SC19-1727 (waiver) and SC19-1838 (order striking motion for postconviction relief) because the notice of appeal in case number SC19-1838 was filed by counsel who no longer represent Wall.

WHEREFORE, the State of Florida respectfully request that this Court deny the motion to consolidate.

Respectfully submitted,

ASHLEY MOODY
ATTORNEY GENERAL

/s/ Marilyn Muir Beccue
MARILYN MUIR BECCUE
Senior Assistant Attorney General
Florida Bar No. 119581
Office of the Attorney General
3507 East Frontage Road, Suite 200
Tampa, Florida 33607-7013
Telephone: (813) 287-7910
Facsimile: (813) 281-5501
marilyn.beccue@myfloridalegal.com
E-Service: capapp@myfloridalegal.com

CO-COUNSEL FOR STATE OF FLORIDA

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of November 2019, I electronically 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: Sara Macks, Assistant State Attorney, State Attorney's Office, Sixth Judicial Circuit, Post Office Box 5028, Clearwater, Florida 33758-5028 (**SA6eService@pinellascounty.org** and **smacks@co.pinellas.fl.us**); Adrienne Joy Shepherd, Lisa Marie Bort and Ali A. Shakoor, Assistant CCRC, Capital Collateral Regional Counsel - Middle Region, 12973 North Telecom Parkway, Temple Terrace, Florida 33637-0907 (**shakoor@ccmr.state.fl.us**, **shepherd@ccmr.state.fl.us**, **bort@ccmr.state.fl.us** and **support@ccmr.state.fl.us**).

/s/ Marilyn Muir Beccue
CO-COUNSEL FOR STATE OF FLORIDA

APPENDIX J

IN THE CIRCUIT COURT, SEVENTH
JUDICIAL CIRCUIT, IN AND FOR
VOLUSIA COUNTY, FLORIDA

STATE OF FLORIDA,

CASE NO: 2003-35769-CFAES

v.

RICHARD ENGLAND,

Defendant.

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ORDER

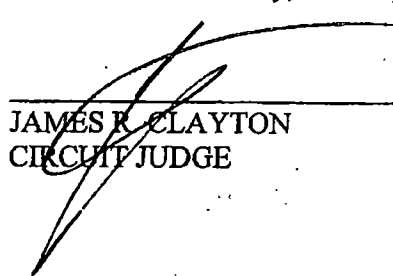
THIS MATTER came on to be heard before the Court on December 5, 2008 for a hearing on the Defendant's *pro se* "Motion to Stay Proceedings Pending Removal/Reappointment of Post Conviction Counsel." The Court having reviewed the motion, the court file, and received testimony from the Defendant and Capital Collateral Regional Counsel, finds as follows:

The Defendant has alleged that appointed-counsel, Richard E. Kiley, James Viggiano, and Andrew A. Shakoor, Assistant CCRCs, have rendered ineffective assistance based upon seven grounds. Pursuant to Florida Statutes Section 27.711(12), "[t]he court shall monitor the performance of assigned counsel to ensure that the capital defendant is receiving quality representation. The court shall also receive and evaluate allegations that are made regarding the performance of assigned counsel...." After carefully considering the Defendant's each of the claims and the responses of Mr. Kiley and Mr. Viggiano, and the State, the Court finds that the Defendant's claims lack merit, and no conflict exists between the Defendant and defense counsel. Further, the Court finds that defense counsel has not rendered ineffective assistance, and has not acted incompetently. The Defendant has not established a sufficient basis for Mr. Kiley, Mr. Viggiano and/or Mr. Shakoor to be discharged.

For the foregoing reasons, it is hereby

ORDERED AND ADJUDGED that the request for new counsel is **DENIED**.

DONE AND ORDERED in Chambers, in DeLand, Volusia County, Florida, this 15
day of December 2008.



JAMES R. CLAYTON
CIRCUIT JUDGE

cc: Rosemary Calhoun, Assistant State Attorney

Barbara C. Davis, Assistant Attorney General, 444 Seabreeze Blvd., Suite 500, Daytona
Beach, Florida.

Richard B. Kiley, Ali A. Shakoor, and James B. Viggiano Jr., Assistant CCRCs, Office of
CCRC-Middle, 3801 Corporex Park Drive, Suite 210, Tampa, Florida 33619

Richard England, DC# 115574, Union Correctional Institution, 7819 N.W. 228th Street,
Raiford, Florida 32026-4000

APPENDIX K

IN THE SUPREME COURT OF FLORIDA

CASE NO.: SC19-1097

Lower Tribunal No.: 181990CF000001AXXXXX

LOUIS B. GASKIN,
Petitioner

vs.

STATE OF FLORIDA,
Respondent.

BRIEF ADDRESSING WHETHER LOUIS B. GASKIN HAS A CONSTITUTIONAL
RIGHT TO REPRESENT HIMSELF IN POSTCONVICTION AS ORDERED BY THE
FLORIDA SUPREME COURT

/s/ James Lawrence Driscoll, Jr.
James Lawrence Driscoll, Jr.
Litigation and Training Director
Capital Collateral Regional Counsel -
Middle Region
Florida Bar No. 78840
12973 N Telecom Pkwy
Temple Terrace, FL 33637-0907
(813) 558-1600
driscoll@ccmr.state.fl.us

RECEIVED, 10/31/2019 03:06:34 PM, Clerk, Supreme Court

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PRELIMINARY STATEMENT REGARDING REFERENCES

Based on the nature of this brief, any references are explained herein or are self-explanatory.

STATEMENT REGARDING LIMITATIONS ON BRIEF

While undersigned counsel welcomes this Court's order for briefing, CCRC-M still represents Mr. Gaskin. Based on the attorney-client relationship, undersigned counsel has an ethical duty to avoid taking a position adverse to Mr. Gaskin on the issues Mr. Gaskin has presented to this Court. Undersigned counsel respectfully requests that this Court consider these matters apart from the issues that Mr. Gaskin has raised.

STATEMENT OF THE CASE

1. Procedural History

Following trial, a jury found Mr. Gaskin guilty of two counts of first-degree murder in the death of Robert Sturmfels (premeditated and felony murder); two counts of first-degree murder in the death of Georgette Sturmfels (premeditated and felony murder); one count of armed robbery of the Sturmfels; one count of burglary of the Sturmfels' home; one count of attempted first-degree murder of Joseph Rector; one count of armed robbery of the Rectors; and one count of burglary of the Rector's home. The jury found Mr. Gaskin not guilty of attempted first-degree murder of Mary Rector. (Vol. VII R. 1285 1294).

Mr. Gaskin appealed to this Court. The Court vacated the two felony murder convictions, affirmed the other convictions and sentences, "including two [remaining] sentences of death" and remanded for proceedings consistent with the Court's opinion. *Gaskin v. State*, 591 So. 2d 917, 922 (Fla. 1991), *cert. granted, judgment vacated*, 505 U.S. 1216, 112 S. Ct. 3022, 120 L. Ed. 2d 894 (1992). This Court found the error unpreserved following remand from the United States Supreme Court. *Gaskin v. State*, 615 So. 2d 679 (Fla. 1993); *cert. denied Gaskin v. Florida*, 114 S.Ct. 328(1993). This Court's mandate first issued on January 6, 1991. A second mandate issued on April 19, 1993. No proceedings consistent with this Court's opinion were held until 2014.

Mr. Gaskin sought federal relief. He was denied in the United States District Court and the United States Court of Appeals for the Eleventh Circuit.

On August 12, 2014, some 23 years after the mandate issued in *Gaskin v. State*, 591 So. 2d 917 (Fla. 1991), the lower court vacated the felony murder adjudications as ordered by this Court as the Court had mandated earlier. (PC2. R. 56-57). Mr. Gaskin had no attorney to represent him at the time that the lower court issued the order. Mr. Gaskin filed a pro se motion for rehearing. The lower court granted the State's "Motion to Strike Unauthorized Pro Se Pleading, Defendant's Motion for Rehearing" on November 18, 2014.

Mr. Gaskin filed a pro se notice of appeal, appealing to the Fifth Circuit Court of Appeals for Florida. (PC2 R. 79-80). Following receipt of an order from the circuit court, the district court dismissed the appeal, according to the Clerk of the Fifth District Court of Appeals Case Docket.

On May 6, 2015, Mr. Gaskin filed his First Successive Motion to Vacate Judgement of Conviction and Sentence, alleging that the use of both premeditated murder and felony murder as aggravating circumstances amounted to improper doubling of aggravators by the advisory panel, sentencing judge, and this Court. (PC2. 95-102). On August 6, 2015 the lower court denied the successive motion. (PC2. 133-135).

Mr. Gaskin appealed to this Court. Mr. Gaskin filed his initial brief after certiorari was granted in *Hurst v. Florida*, 136 S.Ct 616 (2016) but prior to this Court issuing an appellate decision in Mr. Gaskin's case. The reply brief was filed on January 12, 2016, the same date that the United States Supreme Court issued its opinion in *Hurst v. Florida*. This Court affirmed the lower court's denial and went on to deny relief based on *Hurst v. Florida* without briefing or oral argument. *Gaskin v. State*, 218 So. 3d 399 (Fla.), *reh'g denied*, No. SC15-1884, 2017 WL 2210388 (Fla. May 17, 2017), and *cert. denied Gaskin v. Fla.*, 138 S. Ct. 471, 199 L. Ed. 2d 362 (2017).

Justice Lewis dissented without an opinion. *Id.* at 401. Justice Pariente dissented finding that, "Even without a finding a full retroactivity, under Justice Lewis's concurring in result opinion in *Asay*, *Hurst* would apply retroactively to Gaskin under *James v. State*, 615 So. 2d 668 (Fla. 1993), because Gaskin asserted, presented, and preserved a challenge to the lack of jury factfinding in Florida's capital sentencing procedure." *Id.* at 402. Justice Pariente found that the error was not harmless. *Id.* at 403. Justice Perry dissented and would have found that *Hurst* was retroactive regardless of whether a sentence was final before *Ring*. *Id.* at 404-405.

Prior to this Court's opinion, on January 10, 2017, Mr. Gaskin filed a successive postconviction motion based on *Hurst* and *Hurst*

v. State. Once Mr. Gaskin had a properly filed motion that complied with any possible time limits, he filed a motion for the Court to relinquish jurisdiction so that he could exhaust his *Hurst* and related claims in the lower court. In the alternative, the motion asked for supplemental briefing. This Court denied this motion as moot.

Mr. Gaskin's January 10, 2017 *Hurst* related postconviction motion was denied by the lower court. Mr. Gaskin appealed the denial to this Court. On December 19, 2017, this Court required Mr. Gaskin to "show cause [], why the trial court's order should not be affirmed in light of this Court's decision *Hitchcock v. State*, SC17-445." This Court denied Mr. Gaskin appellate briefing on the *Hurst* and *Hurst* related claims the lower court denied. On February 28, 2018, this Court affirmed the lower court's denial of postconviction relief. *Gaskin v. State*, 237 So. 3d 928 (Fla. 2018).

Justice Pariente concurred because this Court's opinion in *Hitchcock v. State*, 226 So. 3d 216 (Fla. 2017), cert. denied, 138 S.Ct. 513 (2017) had become final. Nevertheless, Justice Pariente "continue[d] to adhere to the views expressed in [Justice Pariente's] dissenting opinion in *Hitchcock*." *Id.* at 929.

Mr. Gaskin filed another petition for writ of certiorari in the United States Supreme Court. The Court denied the writ. *Gaskin v. Fla.*, 139 S. Ct. 327 (2018).

Since the Petitions for Certiorari, Mr. Gaskin has filed the

instant petition in this Court as well as other pro se motions.

After this filing this Court ordered:

The state and counsel for the petitioner are hereby directed to file briefs with this Court by October 31, 2019, addressing whether Gaskin has a constitutional right to represent himself, in postconviction, such that this Court should reconsider [sic] from *Gordon v. State*, 75 So. 3d 200 (Fla. 2011). The briefs shall be simultaneously filed and limited to twenty pages. Petitioner, pro se, is allowed ten days after service of counsel's briefs to file a supplemental brief limited to five pages.

Order dated October 11, 2019.

2. *Gordon v. State*, 75 So. 3d 200 (Fla. 2011); Florida Rule of Criminal Procedure 3.851 and Florida Rules of Professional Conduct 4-1.2 and 4-3.1.

The following discussion of the case law and rules is relevant to the discussion of the issues in this brief. These sources of law interact with and, in some instances, create friction between legal rules and principles. Other authorities will be considered and added herein.

In *Gordon v. State*, 75 So. 3d 200 (Fla. 2011), this Court held that, "Based on our solemn duty to ensure that the death penalty is imposed in a fair, consistent, and reliable manner—as well as our administrative responsibility to work to minimize the delays inherent in the postconviction process—we hold that death-sentenced appellants may not appear pro se in postconviction appeals." *Id.* at 203.

In *Gordon*, the case came to this Court on an appeal from the

denial of postconviction case. *Id.* at 200. Before the initial brief, Mr. Gordon, filed a motion to discharge appellate counsel and proceed pro se. *Id.* Appellate counsel moved to withdraw from representing him. *Id.* Both motions were denied. *Id.* at 201. Mr. Gordon proceeded pro se in the court below. This Court relinquished jurisdiction to offer appointed appellate counsel to Mr. Gordon which was initially accepted before Mr. Gordon filed the motion to discharge counsel and proceed pro se. *Id.*

This Court decided "to address the issue of whether Gordon has a constitutional right to appear pro se in this appeal and, even if he does not, whether [the Court] should allow him to do so." *Id.* The Court relied on its earlier decision *Davis v. State*, 789 So. 2d 978 (Fla. 2001) finding that because there is no federal constitutional right to self-representation on direct appeal, there was no state constitutional right to self-representation as well. *Gordon* at 202. This Court,

recognize[d] [the Court's] " . . . constitutional responsibility to ensure the death penalty is administered in a fair, consistent and reliable manner, as well as having an administrative responsibility to work to minimize the delays inherent in the postconviction process." *Arbelaez v. Butterworth*, 738 So.2d 326, 326-27 (Fla.1999); see also *Fla. Dep't of Corrections v. Watts*, 800 So.2d 225, 232-33 (Fla.2001) (same) (quoting *Arbelaez*, 738 So.2d at 326-27). This

Supreme Court's "insistence that capital punishment be imposed fairly, and with reasonable consistency, or not

S.Ct. 869, 71 L.Ed.2d 1 (1982). These principles are best served in the capital postconviction appellate

context when death-sentenced appellants are represented by counsel.

Id.

With counsel, this Court went on to affirm the denial of relief based on another successor. *Gordon v. State*, 97 So. 3d 823 (Fla. 2012). Mr. Gordon filed another successor which this Court affirmed the denial in an unreported opinion. *Gordon v. State*, No. SC15-2091, 2016 WL 6462391, at *1 (Fla. Nov. 1, 2016); *cert. denied* 137 S.Ct. 2126. Following that, again with counsel, Mr. Gordon sought *Hurst* relief, which this Court affirmed the lower court's denial. *Gordon v. State*, 235 So. 3d 311 (Fla. 2018).

The Florida Rules of Criminal Procedure were subsequently amended to prohibit a capitally sentenced defendant from proceeding pro se: Florida Rule of Criminal Procedure 3.851(b)(5)-(6) states:

(5) After the filing of a notice of appearance, Capital Collateral Regional Counsel, Registry Counsel, or a private attorney shall represent the defendant in the state courts until a judge allows withdrawal or until the sentence is reversed, reduced, or carried out, regardless of whether another attorney represents the defendant in a federal court.

(6) A defendant who has been sentenced to death may not represent himself or herself in a capital postconviction proceeding in state court. The only bases for a defendant to seek to dismiss postconviction counsel in state court shall be pursuant to statute due to actual conflict or subdivision (i) of this rule.

The Rules of Professional Responsibility are also relevant and interact with these issues:

Rule 4-1.2 Scope of Representation

(a) Lawyer to Abide by Client's Decisions

A lawyer shall abide by a client's decisions concerning the objectives of representation, subject to subdivisions (c), (d), and (e), and shall consult with the client as to the means by which they are to be pursued. A lawyer shall abide by a client's decision whether to make or accept an offer of settlement of a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial, and whether the client will testify.

(b) No Endorsement of Client's Views or Activities

A lawyer's representation of a client, including representation by appointment, does not constitute an endorsement of the client's political, economic, social, or moral views or activities.

(c) Limitation of Objectives of Representation

If not prohibited by law or rule, a lawyer and client may agree to limit the objectives or scope of the representation if the limitation is reasonable under the circumstances and the client consents in writing after consultation. If the attorney and client agree to limit the scope of the representation, the lawyer shall advise the client regarding applicability of the rule prohibiting communication with a represented person.

(d) Criminal or Fraudulent Conduct

A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows or reasonably should know is criminal or fraudulent. However, a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning, or application of the law.

(e) Limitation on Lawyer's Conduct

When a lawyer knows or reasonably should know that a client expects assistance not permitted by the Rules of

Professional Conduct or by law, the lawyer shall consult with the client regarding the relevant limitations on the lawyer's conduct.

(Emphasis added.) The same rules forbid lawyers from filing pleadings that lack sufficient, bona fide legal authority:

Rule 4-3.1 Meritorious Claims and Contentions

A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis for doing so that is not frivolous, which includes a good faith argument for an extension, modification, or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration, may nevertheless so defend the proceeding as to require that every element of the case be established.

These different areas of law will be discussed throughout the argument that follows.

ARGUMENT

THIS COURT SHOULD OVERRULE OR MODIFY GORDON V. STATE TO ALLOW PRO SE FILINGS.

1. The Nature of Postconviction and the Attorney Client Relationship.

This section offers general background and should not be considered as a description of counsel's interactions with Mr. Gaskin. Nevertheless, in addressing the issues in this briefing, this Court should consider the dynamics under which the issue of pro se filings arise.

Each stage of postconviction has limited amounts of time to seek relief. Despite this lack of time, issues that are not raised

can be deemed waived. The client's input is essential to raising and developing most claims. Florida Rule of Criminal Procedure 3.851 and Florida law require that each capital defendant, unlike in a non-capital case, be represented by counsel. See Rule 3.851(b)(5)-(6). Additionally, Rule 3.851 changed in recent years to mandate discussion of the claims presented in a 3.851 motion. See Rule 3.851 (e)(1)(F) instead of having the defendant swear to the contents of the motion. Counsel, at all stages must proceed under the Rules of Professional Responsibility, detailed above.

After the State proceedings conclude, those who seek relief in federal court will face rules similar to those in State court when filing a federal petition for writ of habeas corpus. See Rules Governing Section 2254 Cases in the United States District Courts 2 (c)(5), 28 U.S.C. § 2254 (2012) (citing to U.S.C. § 2242). The habeas rules allow counsel to sign for the client. There is no per se rule that requires the petitioner to proceed with counsel. The habeas petition is usually filed with a motion to appoint counsel. Unlike in a non-capital case, the federal district court is required to appoint counsel. In practice, the courts seldom accept pro se filings when the party is represented by counsel; however, this is not the case with pro se filings alleging the ineffective assistance of postconviction counsel as cause and prejudice for failing to exhaust ineffective assistance of counsel claims for federal review. See *Martinez v. Ryan*, 566 U.S. 1 (2012). In such

cases, the courts have appointed independent counsel in some instances, and allowed the filings.

The United States Court of Appeals for the Eleventh Circuit recently allowed an individual to proceed pro se even though the court required former counsel to provide full briefing and oral argument. See *Barnes v. Sec'y, Dep't of Corr.*, 888 F.3d 1148, 1155 (11th Cir. 2018), cert. denied sub nom. *Barnes v. Jones*, 139 S. Ct. 945 (2019). There is nothing in the Federal Rules of Appellate Procedure or the Eleventh Circuit's Rules prohibiting pro se representation, in fact in most non-capital cases it is the norm. The Eleventh Circuit's rules make allowances for the pro se appellant.

The United States Supreme Court does not prohibit pro se filings. Counsel is unaware of any rule or procedure that governs the situation where a petitioner is represented by counsel. Based on how the Court handles most cases, the decision on counsel would not be made until after certiorari is granted, at which point the Court will usually appoint counsel and would not allow a pro se petitioner to appear for oral argument.

At all stages, the courts can exercise their inherent supervisory authority if a pro se defendant raises issues concerning the quality of representation. Most tension between a defendant and counsel does not, however, reach this point. Instead there is a lot negotiations that occur between counsel and the

defendant so that counsel can carry out the duty of zealous advocacy while fully taking into consideration the client's opinion on issues. This Court should be well aware that not all issues raised are the result of counsel's best judgment. Often times, if a client insists on an issue, well-meaning counsel will attempt to raise the client's issue within the ethical boundaries of the profession. This is how the system sometimes works. Maybe the client's issue receives relief, but it is more than likely that no relief will come, just like with most attorney driven claims. The client and the attorney move to the next court with the attorney-client relationship intact.

This method of compromise does not always work. Sometimes counsel cannot raise a claim at all for a number of reasons. First, the claim may not be supported by fact or law and no good-faith argument for a change in the law exists. See Rule of Professional Responsibility 4-1.2, 4-3.1. Nevertheless, despite counsel's attempts to explain this, a client may insist upon the raising of the claim. Most capitally sentenced defendants suffer from at least one form of judgment effecting mental illness or brain damage. Additionally, these individuals oftentimes find themselves on death row based on perceived, if not actual deficiencies of counsel. These clients may have attempted to have input during trial or direct appeal only to be rebuffed and now find themselves sentenced to death. Postconviction counsel will often have the

sins of prior counsel held against them as the client perceives this as one more attorney working against the client's interest.

Second, counsel may inform the client that an issue should not be raised because of the overall strategy that the attorney brings to the appeal or postconviction motion. Postconviction motions and appeal have page limits. While counsel should exercise the greatest restraint in abandoning claims, courts have reiterated the need for the "best advocates" to "winnow the claims." Additionally, counsel will often have to decide to pursue one claim over another because one claim requires facts that contradict the other. In sum, counsel will often make decisions based on the strength of each claim separately and all claims as a whole.

When no compromise can be achieved over which claims to go forward, the courts can be inundated with all sorts of motions seeking to remove counsel and to otherwise allow the claims that the client wants heard. The judicial resources expended on these matters would appear to exceed the cost of simply determining pro se filings. Moreover, if a client is completely denied access to the courts on a claim that the client and attorney disagree on the validity of, the whole attorney-client relationship will be at risk. There may even come a point where counsel's unwillingness to pursue a claim leads the client to waive postconviction proceedings. This puts an end to this Court's "constitutional

responsibility to ensure the death penalty is administered in a fair, consistent and reliable manner, as well as having an administrative responsibility to work to minimize the delays inherent in the postconviction process." *Gordon*, 75 So. 3d at 202 (citing *Arbelaez v. Butterworth*, 738 So. 2d 326, 326-27 (Fla. 1999)).

The Court's concern is correct; however, not allowing pro se filings has unintended consequences which frustrate this purpose.

2. There is a constitutional right to file pro se motions and represent oneself in State court on individual matters and achieving the overall goals of the system under the Constitution.

Mr. Gaskin, like all capitally sentenced individuals, has a right to represent himself on an individual matter before a state court or entirely. Moreover, beyond specific rights, the overall constitutionality of the system and fair application of the death penalty require it.

There are actually four discrete issues raised in this Court's briefing order. The first is whether a defendant such as Mr. Gaskin has a right to represent himself in an individual proceeding, either with counsel otherwise remaining on the case or not. The second is whether a defendant may file such a pleading while still being represented by counsel. A defendant like Mr. Gaskin may want the courts to determine one pleading that counsel is not willing to file and still maintain counsel. The third is

whether a defendant must abandon counsel to exercise the right to proceed pro se on a particular pleading or for a period of time. The fourth is whether an individual has a right to abandon counsel and proceed without counsel. Each is an important question, as a matter of specific right and under the premise that the death penalty system should reflect principles of fairness and overall constitutionality.

It is respectfully submitted that there is a right to proceed pro se. This should not require the would-be pro se litigant to abandon counsel and there are systemic reasons for not requiring a full abandonment of counsel to exercise this right. The Florida and United States Constitutions demand that all citizens receive due process. Florida Constitution Article I Section 17 in conformance with the United States Constitution prohibits cruel and unusual punishment. Additionally, Under the Florida Constitution, Article I, Section 13, provides,

The writ of habeas corpus shall be grantable of right, freely and without cost. It shall be returnable without delay, and shall never be suspended unless, in case of rebellion or invasion, suspension is essential to the public safety.

Under the Florida Constitution, Article I Section 9, provides,

No person shall be deprived of life, liberty or property without due process of law, or be twice put in jeopardy for the same offense, or be compelled in any criminal matter to be a witness against oneself.

Under the Florida Constitution, Article I, Section 21, provides,

The courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay.

Article V Section 3(b)(1), goes on to provide that this Court "Shall hear appeals from final judgments of trial courts imposing the death penalty" Sub-Section 9 also provides that the courts, "May, or any justice may, issue writs of habeas corpus returnable before the supreme court or any justice, a district court of appeal or any judge thereof, or any circuit judge."

There is nothing in those provisions that limit the right to due process, habeas corpus, or the right to access the courts to only those with attorneys. A defendant, though capitally sentenced, has the same right to seek relief in court as any citizen. If the drafters wanted to limit capitally sentenced defendants to proceeding only with counsel they would have said so. They did not, thus the limitations placed on pro se capital defendants were an act of judicial decision making and not derived from the Florida or United States Constitution.

While there are numerous procedures that generally allow a defendant to raise claims, the limit on pro se pleadings is more specific to individual claims. This Court should consider that if a claim cannot be raised because of a ban on pro se filings and counsel's unwillingness to file, that is the same as having no access to the courts at all. By not hearing from a pro se filer, this Court essentially allows assigned counsel to close the

courthouse doors. Postconviction counsel is both unsuited for this role and has no legitimate authority to preclude consideration of a claim.

The courts are more than capable of, and often do, dispense with claims that lack merit. This, however, comes after actual consideration of the claims. The courts also have a litany of procedural bars and the inherent authority to halt abusive filings.

With the right to proceed pro se established squarely as a matter of right, the next question is whether a defendant may do so while represented by counsel. The simple answer is that an individual should not have to choose between the right to statutorily provided counsel and the right to be heard on a claim that is important to the defendant. Moreover, because of the need for the constitutional application of the death penalty, as discussed above, the system requires counsel throughout the entirety of the postconviction process. If this Court required the abandonment of counsel for a defendant to be heard on limited claims, this would create more harm to the system and to the would-be pro se defendant than should be tolerable.

A pro se filer should not be forced to proceed through a warrant with no counsel simply because the defendant insists on being heard based on a view of the merits or, apart from that, bad decision making instigated by mental illness and impaired reasoning. The execution of an individual who falls outside the

class of individuals whom may be subjected to the death penalty delegitimizes the entire death penalty and amounts to an injustice.

Accordingly, while there should be a right to raise claims pro se, a wholesale abandonment of counsel, even in an advisory capacity on an individual claim, would create more problems that would impact the system as a whole and the uncounseled specifically.

3. A Better Way

This Court, in its rule making authority, and as the final arbiter of the constitutionality of each death sentence in Florida, should overrule *Gordon*. The undersigned respectfully submits that a defendant should be allowed to submit pro se filings, subject to the courts' ability to restrict abusive filings. Counsel, without being forced to take a position on the filing or state why the claim is not being presented through counsel, can electronically file the pro se filing, and if necessary for legibility, even retype the pro se filing. There would be no issue in the trial court from hearing argument from a pro se defendant, with standby counsel, of course. Should oral argument become necessary, the Court can also appoint separate counsel or in some instances allow current counsel to argue, similar to the practice of the United States Supreme Court.

CONCLUSION

This Court should overrule *Gordon* and rule on Mr. Gaskin's pro se pleading.

Respectfully submitted,

/s/ James Lawrence Driscoll, Jr.
James Lawrence Driscoll, Jr.
Litigation and Training Director
Capital Collateral Regional Counsel -
Middle Region
Florida Bar No. 78840
12973 N Telecom Pkwy
Temple Terrace, FL 33637-0907
(813) 558-1600
driscoll@ccmr.state.fl.us

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished using the E-Portal system which will send a copy to opposing counsel, Scott A. Browne, Senior Assistant Attorney General (scott.browne@myfloridalegal.com and capapp@myfloridalegal.com); Assistant Attorney General Lisa Martin (lisa.martin@myfloridalegal.com) and Louis B. Gaskin D.C. #751166 (Union Correctional Institution, P.O. Box 1000, Raiford, Florida 32083) on this 31st day of October, 2019.

Respectfully submitted,

/s/ James Lawrence Driscoll, Jr.
James Lawrence Driscoll, Jr.
Capital Collateral Regional Counsel -
Middle Region
Florida Bar No. 78840
12973 N Telecom Pkwy
Temple Terrace, FL 33637-0907
(813) 558-1600
driscoll@ccmr.state.fl.us

CERTIFICATE OF COMPLIANCE

I hereby certify that a true copy of the foregoing Brief was generated in Courier New, 12 point font, pursuant to Fla. R. App. P 9.210.

/s/ James Lawrence Driscoll, Jr.
James Lawrence Driscoll, Jr.
Capital Collateral Regional Counsel -
Middle Region
Florida Bar No. 78840
12973 N Telecom Pkwy
Temple Terrace, FL 33637-0907
(813) 558-1600
driscoll@ccmr.state.fl.us

APPENDIX L

CLERK:
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IN THE CIRCUIT COURT
SIXTH JUDICIAL CIRCUIT
PINELLAS COUNTY, FLORIDA

RECEIVED
UNION CORRECTIONAL INSTITUTION

OCT 14 2019

BY: [Signature]
FOR MAILING

STAFF
ATTY

STATE OF FLORIDA,

v.

CASE # CRC10-03759 CFANO

CRAIG ALAN WALL, SR.

_____ /

RECEIVED

OCT 18 2019

PHILIP J. FEDERICO
Circuit Judge

MOTION TO STRIKE
AND
MOTION TO ORDER THE CLERK OF COURT
TO CORRECT RECORD ON APPEAL

COMES NOW Defendant CRAIG ALAN WALL, SR., *pro se*, and moves this Court to Strike from the record the illegal and unauthorized filing of Capital Collateral Regional Counsel's (CCRC) 3.851 Post-conviction "Motion To Vacate Judgment and Sentence" et. al. This Court has the duty, and jurisdiction, to strike that illegal submission per Fl. R. App. P. 9.600(a) and 9.040(a), (c), (d), (e), as no hearing is necessary as this requires only a ruling based on the MERITS of this Motion to Strike unauthorized filings on the face of the record. Defendant presents the following in support:

FILED
CRIMINAL COURT RECORDS
2019 OCT 18 PM 2:24
KEN BURG
CLERK OF CIRCUIT COURT

STATEMENT OF FACTS

1. This Court held a hearing on August 23, 2019. At that hearing this Court:

(a) Conducted a *faretta* [*v. California*, 422 U.s. 806 (1975)] hearing, And made Defendant *pro se*. By law, Defendant remains *pro se* until a court revokes or removes that status, or counsel is assigned to Defendant. Since neither of these have occurred, Defendant remains *pro se*.

(b) Further at that hearing, this Court granted Defendant's *pro se* motion 3.851 (i) dismissing CCRC Counsel as well as ALL post-conviction proceedings. Therefore, as of August 23, 2019, CCRC ceased to be counsel for Defendant and were "dismissed" / "discharged" by this Court's order.

2. On Friday, September 13, 2019, CCRC Counsel Lisa Bort and Ali Shakoor visited Defendant for a very short time, simply to hand Defendant a 28 U.S.C. §2254 Federal Habeas Corpus blank form, and a draft of a 3.851 Motion being prepared by CCRC Counsel Adrienne Shepherd. (See: Exhibit-"A"). Defendant was told by Ms. Bort she would call Defendant on the following Tuesday, September 17, 2019, to discuss any questions Defendant had, since they had no time to do so during the visit.

3. On Tuesday, September 17, 2019 CCRC's Ms. Bort called Defendant. Defendant advised CCRC that he was mailing a "Notice of Appeal to the Florida Supreme Court," and that jurisdiction would no longer be with this Court, so they

would be legally barred from filing anything in the lower tribunal.

4. On Tuesday, September 17, 2019, Defendant mailed two (2) copies of his *Pro se* "Notice of Appeal to the Florida Supreme Court," which was docketed by the Clerk on September 23rd, and the Court docket further shows on September 24th "Certified copy of Notice of Appeal forwarded to SUPREME COURT, DOC # 257." At that point jurisdiction was transferred to the Florida Supreme Court. (See: Exhibit – "D").

5. On September 18, 2019, this Court signed a written order on its rulings of the August 23rd hearing, (although the Clerk has not put it on the Court docket). Said order states that CCRC is "DISCHARGED."

6. On September 26, 2019, CCRC Adrienne Shepherd filed a 3.851 Motion To Vacate, et. al. in violation of Court orders, without leave and against *pro se* Defendant's instructions, and contrary to law. (See: Exhibit "B").

7. due to the unethical and abusive nature of said motion, counsel Lisa Marie Bort removed her name from the motion. (See: Exhibit "A" and Exhibit "B").

8. In order to circumvent and violate law, specifically 3.851 (F), CCRC Adrienne Shepherd claimed she violated the REQUIREMENT of 3.851 (F) because Defendant "was unable to fully discuss the contents of this Motion because he is currently incompetent."

ARGUMENT

This is VERY simple: CCRC / Adrienne Shepherd was discharged / dismissed SPECIFICALLY to prevent this woman (Shepherd) from filing a 3.851 Motion. This was ordered verbally on August 23, 2019, and Defendant was granted *Pro se* status at that hearing—which remains unchanged. Discharge of CCRC occurred thirty-five (35) days prior to this illegal filing of a 3.851 by Ms. Shepherd.

There is no rule, statute, or case law that permits any filings of this kind once jurisdiction has been transferred to a higher appellate court. Rules dictate jurisdiction transfers at the moment a Notice of Appeal is filed by the Clerk of the Lower Tribunal. Defendant filed such a Notice on September 23, 2019 – 3days prior to the illegal filing of the 3.851 Motion by Ms. Shepherd. Therefore, it is clear that Ms. Shepherd unethically filed this Motion KNOWING this Court no longer had jurisdiction.

Ms. Shepherd's filing was an outright abuse of the Clerk of the Court, as she knew the Clerk is required to file ANYTHING it receives regardless of whether the Clerk has jurisdiction or not. That's not for the Clerk to determine, it is upon the Court to determine jurisdiction and to order the Clerk not to accept any filings. This Court failed to give such instruction to the Clerk, so the Clerk will docket anything and everything they receive until this Court instructs otherwise. Ms.

Shepherd took advantage of this Court's oversight to unethically file her illegal motion, which she knows will be forwarded to the Florida Supreme Court as part of the record. This is manipulation by Ms. Shepherd of the Clerk, and this Court because she knows it would be filed, accepted, forwarded to the Florida Supreme Court, and that this Court would be unable to do anything upon its own volition, which required *pro se* Defendant to file this Motion to Strike to allow this Court to legally correct this matter.

When Ms. Bort and Mr. Shakoor visited Defendant on September 13th to simply drop of the incompleated draft of the 3.851 Motion (Exhibit – "A"), Defendant vehemently argued that CCRC was "Fired" by Court order, and that Defendant was instructing them not to file it. Defendant also told Ms. Bort that "You are violating 3.851(F) because you are just dropping this off, and it's not complete, so you are not "discussing the contents of the Motion FULLY" with me, as the rule demands."

Ms. Bort advised Defendant that they knew I did not want them to file that, and she also stated she knew they were violating 3.851 (F) and that she was told to simply drop off the draft and leave. She advised she would call me on Tuesday (September 17th) to discuss ONLY any questions regarding how to fill-out the

blank Federal Habeas petition she also handed me.

On Tuesday, September 17, 2019, Defendant spoke to Ms. Bort by phone. Defendant, having now read the draft of the 3.851 Motion, began the phone call by angrily asking Ms. Bort how she could have her name on this 3.851 Motion, or be a part of it since it was being used by Ms. Shepherd to simply attack Defendant in order to protect Ms. Shepherd from Defendant's pending Bar Complaints and Defendant's claims against her in this Court as well as the Florida Supreme Court. Defendant explained to Ms. Bort that if you remove the cover page so you don't know who wrote it, anyone reading it would believe the State Attorney's Office wrote it to harm Defendant. Then Defendant pointed out several sections of the Motion draft which were attacks simply for the sake of harm to Defendant, as well as several falsifications of the record, and that Ms. Shepherd was relinquishing ALL of Defendant's Ineffective Assistance of Counsel (IOC) claims against trial counsel, by stating claims and Nelson hearings were based on nothing but "Paranoia" and were without any merit. Defendant told Ms. Bort that this being filed was tantamount to sabotage by Ms. Shepherd of any IOC claims Defendant has, and that Defendant was not "paranoid" and the objections, and IOC claims he made, stand.

Defendant then pointed out to Ms. Bort that Ms. Shepherd also lied on page 9 of the draft by falsifying the transcript of the April 14, 2016 *Spencer* hearing.

Ms. Shepherd, to make Defendant seem WORSE than what the record reflects, stated on page 9 of the draft (Exhibit – “A”) “Wall threatened to kill everyone in the courtroom. R/4897-4906.” Defendant told Ms. Bort that was an outright LIE, and that Defendant didn’t threaten ANYONE “in the courtroom,” let alone **“EVERYONE”** in the courtroom.” (See: Exhibit – “C”). Ms. Bort stated that she didn’t write anything in the 3.851 Motion, that Ms. Shepherd ALONE prepared the document, and that she was unaware of the contents of the Motion or that Ms. Shepherd was relinquishing the claims Defendant made of IOC against trial counsel as “paranoid”, or that Ms. Shepherd misquoted the record on purpose like that to say I “threatened to kill everyone in the Courtroom.” Ms. Bort stated she would read the Motion “more closely”, and relay to her “supervisors” what Defendant said and that Defendant again asserted they were purposefully violating 3.851 (F) bhy not discussing the contents of any completed Motion FULLY with Defendant. Ms. Bort also told Defendant that ~~if~~ his claims regarding the 3.851 Motion were true, that Ms. Bort would “never be part of something like that.”

This Court will note that Ms. Lisa Marie Bort is on the draft (Exhibit- “A”), but after verifying Defendant’s claims Ms. Bort removed her name from the filed motion (Exhibit - “B”). This Court should give GREAT significance to Ms. Bort removing her name from this unethical attack document filed, and prepared SOLELY, by Ms. Shepherd.

Defendant received, by mail, the completed and filed 3.851 by Ms. Shepherd. (Exhibit – “B”). As explained above, Ms. Bort removed her name from the document because she believes it’s inappropriate and unethical. This Court will also note the lies on page 9 were altered, but still attempted to be used to attack defendant based on selected quotes used to mislead.

The most glaring unethical and illegal act of Ms. Shepherd, was her falsifying the certification pursuant to FLA. R. CRIM. P. 3.851 (e)(1)(F) on page 31 of Exhibit – “B”. As noted herein, the only CCRC Counsel Defendant spoke to was Ms. Bort, and she removed her name from this travesty of a Motion. Further, as evidenced by the alteration of Ms. Shepherd’s lies on page 9, Defendant clearly is “competent” and affected an aspect of this filing. It was a purposeful unethical and illegal act of Adrienne Shepherd to CHOOSE to not FULLY discuss this completed motion with Defendant. Defendant has been certified “competent” by this Court on multiple occasions, and more importantly this Court found Defendant “competent” on August 23, 2019 – thirty-five (35) days before she filed this motion.

The certification violates the law, on purpose and with intent, to deprive Defendant of his rights. Since this certification is false, on the face of the record, and also based on evidence presented herein, the Motion is void for violating Bar Rule 4-1.4 as well as 3.851(e)(1)(F), knowingly and with intent.

CONCLUSION

The 3.851 Motion filed by CCRC's Adrienne Shepherd is illegal. No law or rule permits such filing, and defeats the purpose of everything Defendant did regarding his 3.851 (i) Dismissing Counsel and all post-conviction proceedings.

The 3.851 Motion is an attack on Defendant, and serves no defense objective on behalf of Defendant. It is a self-serving attack against Defendant by Adrienne Shepherd.

The 3.851 Motion is unethical, as evidenced by CCRC's Lisa Marie Bort having her name removed from it and disavowing it.

The 3.851 illegally forfeits and relinquishes Defendant's claims regarding every Ineffective Assistance of Counsel Claim Defendant made against trial counsel, which Defendant VEHEMENTLY objects to. No ethical lawyer would EVER do this, which shows the true intent of Ms. Shepherd in filing this. No defense lawyer would ever forfeit a single IOC claim, and Ms. Shepherd is forfeiting ALL of Defendant's as "paranoid." This cannot be allowed by this Court.

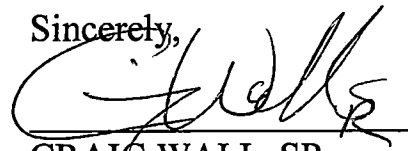
The 3.851 Motion violates this Court's orders to include: CCRC is "DISCHARGED," all post-conviction appeals are waived; Defendant is "COMPETENT"; Defendant is "*PRO SE*". The 3.851 filing is, therefore, in contempt of Court.

The certification pursuant to FLA. R. CRIM. P. 3.851 (e)(1)(F) was clearly a lie and not filed "in good faith," and contrary to the laws of Florida and in violation of Defendant's Constitutional Rights.

Therefore, this Court has a duty and obligation to protect Defendant's rights under the laws of Florida, and STRIKE the illegal, unethical, and unauthorized 3.851 "Motion to Vacate Judgment and Sentence," et. al. by Adrienne Joy Shepherd, WITH PREJUDICE.

Further, this Court has the duty to direct the Clerk of the Circuit Court to Correct the record on Appeal to the Florida Supreme Court, that said Motion was stricken WITH PREJUDICE, and that the Clerk is to file no more documents in this cause from any party involved.

Sincerely,

A handwritten signature in black ink, appearing to read "Craig Wall, Sr.", written over a horizontal line.

CRAIG WALL, SR.

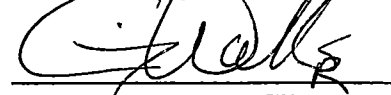
PRO SE DEFENDANT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY a true and correct copy of the foregoing and Exhibits has been sent via U.S. Mail to: Honorable Philip Federico, 14250 49th St. N., Chamber 13, Clearwater, Florida 33762; Asst. State Attorney Sara Macks, Office of the State Attorney—14250 49th St. N., Clearwater, Florida 33762; Asst. Florida Attorney General Marilyn Beccue, Office of the Florida Attorney General, 3507 E. Frontage Rd., Suite 200, Tampa, Florida 33607; and Asst. Chief CCRC Gerod Hooper, 12973 N. Telecom Pkwy., Temple Terrace, Fl. 33637.

On this 14th day of October, 2019.

Respectfully submitted,



CRAIG WALL, SR.

PRO SE DEFENDANT

Craig Wall, Sr. #140726

Union Correctional Institution

P.O. Box 1000

Raiford, Florida 32083

(386) 431-2000\

EXHIBIT- "A"

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT,
IN AND FOR PINELLAS COUNTY, FLORIDA

STATE OF FLORIDA,

Plaintiff,

v.

CASE NO: CRC10-03759CFANO
SUPREME COURT NO: SC16-1221
POSTCONVICTION CAPITAL CASE

CRAIG ALAN WALL, SR.

Defendant.

**DEFENDANT'S MOTION TO VACATE JUDGMENTS OF CONVICTION AND
SENTENCES OF DEATH PURSUANT TO FLORIDA RULE OF CRIMINAL
PROCEDURE 3.851**

ADRIENNE JOY SHEPHERD

FLORIDA BAR NUMBER 1000532

EMAIL: SHEPHERD@CCMR.STATE.FL.US

LISA MARIE BORT

FLORIDA BAR NUMBER 119074

EMAIL: BORT@CCMR.STATE.FL.US

ALI SHAKOOR

FLORIDA BAR NUMBER 0669830

EMAIL: SHAKOOR@CCMR.STATE.FL.US

LAW OFFICE OF THE CAPITAL COLLATERAL

REGIONAL COUNSEL - MIDDLE REGION

12973 NORTH TELECOM PARKWAY

TEMPLE TERRACE, FLORIDA 33637

TELEPHONE: (813) 558-1600

FAX No.: (813) 558-1601

SECONDARY EMAIL: SUPPORT@CCMR.STATE.FL.US

Craig Alan Wall, Sr. ("Wall"), defendant in the above-captioned case, by and through undersigned counsel, and pursuant to Fla. R. Crim. P. 3.851 (2018) and the Constitutions of the United States and the State of Florida, respectfully moves this Honorable Court to vacate and set aside the judgments of conviction and sentences for two counts of first-degree murder. In support of this motion, Wall respectfully submits the following:

PRELIMINARY STATEMENT

Wall is currently incarcerated at Union Correctional Institution, 25636 NE SR-16, Raiford, Florida 32083, under a sentence of death. The record on appeal will be cited as R/[page number]. All other references are self-explanatory or otherwise explained. All emphasis is supplied unless otherwise noted.

Capital Collateral Regional Counsel ("CCRC") was appointed to represent Wall in his capital collateral post-conviction proceedings on March 15, 2018. On July 16, 2019, Wall filed a pro se "Motion to Monitor and Remove Counsel Pursuant to § 27.711(12) Findings and if Denied 3.851(i) Motion to Dismiss All Counsel and Post-Conviction Proceedings." A hearing was held on the motion on August 23, 2019. At the hearing, Wall orally waived his post-conviction collateral proceedings and CCRC's representation in those proceedings. The Court orally granted Wall's waiver and discharged CCRC. CCRC is required to file an appeal of Wall's waiver to the Florida Supreme Court ("FSC") after a final order is issued on the waiver. Fla. R. Crim. P. 3.851(i)(8). The Court has not issued a final order on the waiver as of the date of the filing of this motion. The deadline for Wall to file both a Rule 3.851 motion and federal petition under 28 U.S.C § 2254 for writ of habeas corpus challenging his capital convictions and sentences is October 9, 2012. CCRC files this motion in an abundance of caution, and to preserve Wall's right to challenge his capital convictions and sentences in both state and federal collateral proceedings in the future. CCRC

requests that the Court reserve ruling on this motion, pending the FSC's disposition of the appeal of Wall's waiver of collateral post-conviction proceedings. CCRC also requests that the Court grant CCRC leave to amend this motion in the event that the FSC overturns Wall's waiver.

PROCEDURAL HISTORY

Trial Proceedings

On direct appeal, the FSC described the procedural history of Wall's case as "long" and "convoluted." *Wall v. State*, 238 So. 3d 127, 133 (Fla. 2018). This motion will set forth the history of the proceedings deemed relevant to Wall's potential collateral post-conviction claims and does not present an exhaustive explanation of the procedural history reflected in the record on appeal.

On February 25, 2010, Wall was indicted by grand jury for two counts of capital murder for the deaths of his five-week old infant son, Craig Wall, Jr. ("C.J.") and the infant's mother, Laura Taft ("Taft."). *See* Appendix A; R/110. The FSC summarized the alleged circumstances of C.J.'s and Taft's deaths as follows:

C.J.'s Death

Taft gave birth to C.J. on December 30, 2009. Wall, Taft, and C.J. all lived together, along with Taft's six-year-old son from a prior relationship, Connor, who lived with them part time. At around 7:30 a.m. on February 5, 2010, Taft left for work. About three hours later, Wall called 911 and reported that C.J. was not breathing. Paramedics arrived at around 10:45 a.m., and found that C.J. was not breathing, he was unresponsive, and cyanotic. C.J. was taken to the hospital, where doctors found bleeding in his eyes and brain, and also rib fractures. Doctors suspected that the injuries were caused by child abuse, so they reported the case to law enforcement who interviewed Wall. Detectives with the Clearwater Police Department questioned Wall about the events preceding C.J.'s death.

He indicated that Taft left their home around 7:30 a.m., and he was alone with C.J. between her departure and the paramedics' arrival. Wall claimed that when he awoke at about 10 a.m., C.J. was propped up on a pillow beside him in bed. He said that C.J. was wet and making noise like he was hungry. Then, Wall contended that he gave C.J. a bottle and left him on the couch in the living room, while he made himself breakfast. At that point, C.J. did not appear to be in crisis.

Wall told investigators that he heard C.J. cough and went back into the living room to find C.J. limp with his eyes "slitted like he was sleeping, but he wasn't." Wall started to change C.J.'s diaper and took him to the bathtub. According to Wall, C.J. was limp that entire time. Then, Wall ran cold water over C.J. to get him to respond. At one point, Wall blew into C.J.'s mouth and mucus came out of his nose. When Wall removed C.J. from the bathtub, he could hear his heart beating, but he did not detect breathing. Wall then placed C.J. on a bed and dried him off with a towel and a hair dryer set to low. Next, Wall brought C.J. back into the living room and attempted to squeeze his ribs because he did not know how to do CPR. Eventually, Wall placed C.J. on the floor and called 911.

During the interview, Wall was confronted with the fact that C.J. suffered a brain injury. Upon further questioning, Wall brought up the term "shaken baby syndrome." At various points, Wall vacillated between accepting blame for C.J.'s injuries and claiming not to know how they occurred. In fact, Wall stated, "I fu--- killed my son."¹ Wall repeatedly stated that Taft was a good mother who had not harmed C.J.

After being confronted with C.J.'s brain injury, Wall discussed a near car accident. On February 3, 2010, two days before C.J. became unresponsive, Taft was nearly involved in a car accident with C.J. in the backseat, but she was able to stop her vehicle in time. Following that incident, Taft stopped the vehicle and checked on C.J., who appeared fine. Initially, Wall acknowledged that he did not think that the near accident could have caused C.J.'s injuries, but later in the interview he began suggesting that such event was the cause. The same day as the near accident, C.J. was circumcised. Doctors told Wall not to feed C.J. for fifteen minutes after the procedure, but Wall fed him a bottle in his truck anyway. Following that, C.J. "threw up massively" in the truck. The next day, February 4—one day prior to C.J. becoming unresponsive—Wall noted that C.J. had a temperature of ninety-three degrees and that he regurgitated in his bouncy chair.

On February 5, after C.J. was taken to the hospital, Dr. Sally Smith examined him. C.J. had a hemorrhage on his brain, his pupils were dilated and unreactive, and he had retinal hemorrhages. This combination of injuries led Dr. Smith to suspect that someone physically abused C.J. Specifically, the injuries suggested "abusive head trauma," which is the result of "high-force acceleration/deceleration rotational trauma to the brain, often ... by violent shaking, but [it] can be also caused in the course of the child being swung around." C.J.'s brain was so swollen that it protruded through an opening in the dura matter, which is a thick membrane covering the surface of the brain. An autopsy later determined that the cause of death was blunt-force trauma.

According to Dr. Smith, this type of brain injury would not be caused by a vehicle stopping when it never impacted another object. She continued, "Even with an impact, extensive bilateral retinal hemorrhages are exceedingly rare in any kind of car crash, let alone one that doesn't involve an impact." Dr. Smith concluded that

an infant with C.J.'s injuries would not have been able to survive for twenty-four hours without medical attention if those injuries were caused by a car accident. In fact, Dr. Smith testified to a time frame for these injuries:

In cases like this where the baby died of these injuries, the progression to that sort of critically ill condition and impending death would occur probably within minutes of the original trauma. It might be an hour or two, but it would be quickly following injury to the brain.

An infant with C.J.'s injuries would not have been able to drink a bottle, and would only be able to make certain noises such as grunting or gasping for air. Thus Dr. Smith testified that it would be "highly unlikely" for a child to still be alive at 10:45 a.m. having received C.J.'s injuries prior to 7:30 a.m.

Dr. Thogmartin, Wall's witness, opined that any brain injury from the birthing process could be completely ruled out as the cause of death. Further, Dr. Thogmartin testified that while rebleeding may occur in old brain injuries, an injury would not rebleed to the extent of a chronic subdural hematoma. In Dr. Thogmartin's opinion, C.J. suffered a brain injury about one week prior to his death, but was reinjured "right around the time of death." Also, Dr. Smith noted C.J.'s rib fractures. These fractures were posterior fractures, adjacent to the spinal column, which "are highly specific for child abuse as the cause." Because infant ribs are somewhat flexible, posterior rib fractures are not caused by CPR. Instead, posterior rib fractures in infants are caused by "high force compression or distortion-type forces applied to the ribs where they end up breaking across the adjacent spinal." Dr. Thogmartin testified that these fractures were not from CPR; rather, this was a "squeeze the life out of the rabbit squeeze" most likely from an "extreme inflicted injury."

On February 6, 2010, C.J. died.

Interim Time Between C.J.'s and Taft's Deaths

Later in the day on February 6, Wall ingested sleeping pills to attempt suicide. He made an emotional suicide video where he denied harming C.J. Taft called law enforcement, after which Wall was involuntarily committed to state custody on mental health grounds and taken to Morton Plant Hospital.

On February 8, 2010, Taft filed a petition for temporary injunction against Wall, citing domestic violence as the basis for the injunction. The injunction was granted, and it was served on Wall on February 9, 2010, while he was still in the hospital. The next day, Wall was released. He sought emergency hearings on the injunction to allow him to attend C.J.'s funeral; however, the court was unable to schedule a hearing on such short notice. So, on February 14, 2010, Wall violated the injunction and attended C.J.'s funeral, where he was arrested for the violation.

While being transported to jail, Wall spoke with a fellow arrestee, Danny Welker. According to Welker, Wall told him that Taft “was lying, lying about him and that he was going to choke the life out of her when he got out of jail.” When Welker suggested that Wall was exaggerating, Wall informed him that he was not. Wall was released from custody on February 15, 2010. By then, Taft had already moved out of their shared apartment to a different residence.

Taft's Death

At about 3 a.m. on February 17, 2010, Taft's upstairs neighbor, Christopher Thompson, returned home from working the late shift. Thompson noticed a person sitting in a red vehicle. That person, a male, exited his vehicle, walked away, and then returned. Thompson continued into his apartment, and, upon lying down for bed, he heard glass shatter directly below his residence. “Within less than 10 or 15 seconds” of the glass breaking, Thompson heard the “fearful” and “distressed yelling” of a female. According to Thompson, the yelling continued for thirty to forty-five seconds. Thompson attempted to call 911 and knocked on his roommates' door to wake them up. Then he exited his front door and saw the same male he had seen earlier walking toward the same red vehicle from the apartment below. The man looked back over his shoulder and Thompson saw him face-to-face. However, the man did not stop; instead, he got into his vehicle and drove off.

Downstairs, Thompson found Taft in a seated position leaning against a wall beside the doorway. Thompson tried to speak to Taft, but he could only hear “gurgling noises from her throat.” Despite his efforts, Thompson could not tell if Taft had a pulse. By that point, Thompson's roommate was already on the phone with 911. The police arrived and took Thompson to the police station to identify the man that he saw leaving the scene. There Thompson identified Wall.

The trial court found that Wall, armed with an “assault style” knife, broke Taft's rear sliding glass door. Then, Wall confronted Taft, and he violently attacked her. The final blow, which was delivered to her left shoulder, was delivered with enough force that the knife blade separated from the handle and remained lodged inside her. The fatal wound was a stab to her torso that entered her heart. Moreover, Taft evidenced multiple defensive wounds.

Wall v. State, 238 So. 3d 127, 130–33 (Fla. 2018).

The Sixth District Pinellas County Public Defender's Office represented Wall when his case began. On May 27th, 2010, the Public Defender's Office withdrew and was replaced by Attorney William Bennett. (“Bennet”). R/141. Bennett filed his notice of appearance on June 2, 2010. R/142. On August 12, 2010, Attorney Bjorn Brunvand (“Brunvand”) was appointed as co-

counsel. R/156. The record reflects that Wall made multiple *Nelson*¹ requests to remove his various trial attorneys throughout his proceedings. The Court found each of these requests unfounded and denied them.²

On November 30, 2011, Bennett filed a “Motion to Sever Defendants And/Or Charges.” R/289-99. No hearing on the motion is apparent from the record on appeal. Bennett withdrew from the case on May 7, 2012, and Attorney Daniel Hernandez (“Hernandez”) was appointed as substitute counsel. R/378-79. On February 4, 2013, Brunvand filed a second “Motion to Sever Counts One and Two.” R/404-15. The motion to sever was denied at a February 22, 2013 hearing. R/438-515. At a May 1, 2013 hearing, Wall requested that Brunvand be removed from his case. R/622-29. The Court did not grant a *Nelson* hearing, and instead appointed Dr. Jill Poorman to evaluate Wall’s competency to potentially proceed pro se. Dr. Poorman opined that Wall was not competent to represent himself at a May 29, 2013 hearing. R/662-73

¹ *Nelson v. State*, 274 So. 2d 256 (Fla. 4th DCA 1973).

² On June 1, 2011, Wall wrote a pro se letter to the Court stating that he wanted to fire Bennett from his defense team. R/205-09. The Court held a *Nelson* hearing and denied the request on June 24, 2011. R/214-32. On May 1, 2012, the Court held a second *Nelson* hearing after Wall again requested to remove Bennett from his case. R/362-66. Bennett withdrew from the case on May 7, 2012. At a May 1, 2013 hearing, Wall requested that Brunvand be removed from his case. R/622-29. The Court did not grant a *Nelson* hearing on that request. On July 18, 2013, the Court held a third *Nelson* hearing after Wall again requested that Brunvand be removed from his case. R/708-67. The Court denied the *Nelson* request. R/757. On July 19, 2013 and August 29, 2013, Wall filed two pro se motions to dismiss counsel, requesting that both Brunvand and Hernandez be removed from his case. R/768-77; 840-50. The request was denied after the Court held a fourth *Nelson* hearing on August 29, 2013. R/804-39. On December 13, 2013, the Court held a fifth *Nelson* hearing after Wall renewed his motion to dismiss counsel. R/889-966. The Court denied the *Nelson* request. R/950-54. The Court conducted and denied a sixth *Nelson* hearing at Wall’s request on December 20, 2013. R/1146-52. Wall filed another motion to dismiss Brunvand and Hernandez at a February 7, 2014 hearing. R/1208-26. The Court held a seventh *Nelson* hearing on the motion at the February 7, 2014 hearing, and denied the request. R/1260-78. On November 24, 2014, the Court held an eighth *Nelson* hearing at Wall’s request. The *Nelson* request was denied. R/ 6746-6844.

At a December 13, 2013 hearing, the Court again appointed Dr. Poorman to evaluate Wall's competency to proceed pro se. R/950-54. Dr. Poorman opined at a December 20, 2013 hearing that Wall was now competent to proceed pro se under *Indiana v. Edwards*³. R/1122-27. The Court then conducted a *Faretta*⁴ inquiry, but determined that Wall would not proceed pro se because he refused to have Brunvand and Hernandez as standby counsel. R/1153-58; 1162-66; 1183. After another *Faretta* inquiry at a February 7, 2014 hearing, the Court allowed Wall to represent himself with Brunvand and Hernandez as standby counsel. R/1278-1311. Wall's trial was set for April 7, 2014. R/1316-17. Wall requested a continuance on the trial date, which the Court denied at a March 6, 2014 hearing. R/1388-1485. Wall relinquished his pro se status the morning of his April 7, 2014 trial, and trial counsel was granted a continuance. R/6643.

On December 9, 2014, attorney Ronald Kurpiers ("Kurpiers") filed a notice of appearance as co-counsel with Brunvand and Hernandez. R/1719. On February 13, 2015, Wall entered a plea of no contest to the charge for C.J.'s death and guilty to the charge for Taft's death. R/1927-29. As part of a unique proposed plea agreement, Wall agreed with the State that the death penalty would be an appropriate sentence. R/1927-29. Dr. Poorman opined at the February 13, 2015 plea hearing that Wall was still competent to proceed and to self-represent based on her previous evaluation of him in 2013. R/1934-39. The Court conducted a *Faretta* inquiry, and determined that Wall could conduct his penalty phase pro se with Brunvand and Kurpiers as standby counsel.⁵ R/1965-82. Wall waived a penalty phase jury, and presented minimal mitigation during his pro se penalty phase trial on February 23, 2015 and February 24, 2015.⁶

³ *Indiana v. Edwards*, 554 U.S. 164 (2008).

⁴ *Faretta v. California*, 422 U.S. 806 (1975).

⁵ The record does not reflect that Hernandez participated as standby counsel during the penalty phase, and he formally withdrew from the case on March 16, 2015. R/3313.

⁶ Wall's penalty phase trial is reported in eight volumes and can be found at R/2096-3290.

Over Wall's objection, the trial court appointed attorneys Jenna Finkelstein and Amanda Sellers as independent special counsel to investigate and present additional mitigation at the *Spencer*⁷ hearing held on April 14, 2016 and April 15, 2016.⁸ R/3293. Wall appeared pro se at the *Spencer* hearing with Brunvand and Kupiers as standby counsel. On the first day of the hearing, the Court rescinded Wall's pro se status, removed Wall from the courtroom, and reappointed Brunvand and Kurpiers after Wall threatened to kill everyone in the courtroom. R/4897-4906. On the second day of the hearing, the Court allowed Wall to return to the courtroom and resume his pro se status. R/5015-23. On June 3, 2016, the Court entered a judgment imposing a death sentence for both counts of first degree murder. R/5486-5504. This is the judgment and the sentences under attack pursuant to Fla. R. Crim. P. 3.851(e)(1)(A).

The Court found the following four aggravating circumstances and assigned the following weights:

[A]s to Taft's murder: (1) Wall's previous conviction for another capital felony or a felony involving the use or threat of violence to a person—*very great weight*; (2) the capital felony was committed while Wall was engaged in the commission of an armed burglary or burglary—*great weight*; (3) the capital felony was especially heinous, atrocious, and cruel (HAC)—*very great weight*; and (4) the capital felony was committed in a cold, calculated, and premeditated (CCP) manner without the pretense of moral or legal justification—*great weight*. As to C.J.'s murder, the trial court found the following aggravators proven beyond a reasonable doubt: (1) Wall's previous conviction for another capital felony or a felony involving the use or threat of violence to a person—*very great weight*; (2) the victim of the capital felony was less than twelve years of age (merged with the aggravated child abuse aggravator); (3) the capital felony was committed while Wall was engaged in the commission of aggravated child abuse—*great weight*; and (4) particularly vulnerable victim (PVV) because Wall stood in a position of familial or custodial authority over the victim—*very slight weight*.

Wall, 238 So. 3d at 139. The Court found the following eight mitigating circumstances and assigned the following weights:

⁷ *Spencer v. State*, 615 So. 2d 688 (Fla. 1993).

⁸ Wall's *Spencer* hearing is reported in four volumes and can be found at R/4790-5381.

[O]ne statutory mitigator established as to Taft's murder, which was afforded *moderate weight*—the capital felony was committed while Wall was under the influence of extreme mental or emotional disturbance ... [and] seven nonstatutory mitigators established, which were relevant to both murders: (1) Wall attempted to create a familial lifestyle for his family—*very slight weight*; (2) Wall is capable of cultivating interpersonal relationships—*slight weight*; (3) Wall was abused by his mother and attempted to shield his siblings from her abuse—*slight weight*; (4) Wall suffers from a mental illness and received inconsistent mental health treatment from early childhood—*some weight*; (5) Wall suffered from significant childhood trauma and abuse—*some weight*; (6) Wall's prolonged institutionalization from a young age—*slight weight*; and (7) Wall's familial pattern of mental illness—*very slight weight*.

Id. at 139-140.

Appellate Proceedings

Wall's appellate counsel raised two grounds on direct appeal: "(1) whether the trial court erred in failing to order a competency evaluation prior to accepting the plea; [and] (2) whether the trial court erred by failing to recuse itself upon a motion to disqualify." *Id.* at 140. Wall also filed a pro se supplemental appellate brief, raising, in part, the Court's denial of his motion to sever. The FSC independently considered the voluntariness of Wall's plea and the proportionality of his death sentences. *Id.* at 144-45. The FSC found that all appellate claims were meritless, Wall's plea was voluntary, and his death sentences were proportionate. *Id.* at 140-45. The FSC affirmed Wall's convictions and death-sentences. *Id.* at 146. The United States Supreme Court denied Wall's petition for a writ of certiorari on October 9, 2018.

TIMELINESS OF THIS MOTION

Wall's judgment and sentence became final on October 9, 2018, upon the denial of his petition for a writ of certiorari with the United States Supreme Court. *See id.* A motion for post-conviction relief is timely if filed within one year of the date the judgment becomes final. *See Fla. R. Crim. P. 3.851(d)(1)*. Therefore, this motion is timely if filed by October 9, 2019. Wall reserves the right to amend this document for good cause pursuant to Fla. R. Crim. P. 3.851(f)(4).

STATE AND FEDERAL CLAIMS

All claims for relief raised in this motion are asserted as claims for relief under both the State and Federal Constitutions.

PLEADING REQUIREMENTS

Fla. R. Crim. P. 3.851(e)(1) requires that any motion to vacate the judgment of conviction and sentence of death contain either a detailed allegation of the factual basis for any claim for which an evidentiary hearing is sought, or a detailed allegation as to the factual basis for any purely legal or constitutional claim for which an evidentiary hearing is not required and the reason that the claim could not have been raised on direct appeal.⁹ Fla. R. Crim. P. 3.851(e)(1)(D), (E). Aside from requiring a copy of the judgment and sentence, the Rule is permissive with regard to attachments. *See* Fla. R. Crim. P. 3.851(e)(1).

SUMMARY OF APPLICABLE LAW

Wall raises claims of ineffective assistance of counsel. The general case law for those claims will be addressed here. More specific citations will be utilized under each claim.

The United States Supreme Court has held that counsel “has a duty to bring to bear such skill and knowledge as will render the trial a reliable adversarial testing process.” *Strickland v. Washington*, 466 U.S. 668, 688 (1984). Specifically, counsel has a duty to investigate in order to make the adversarial testing process work in the particular case. *See id.* at 690. The *Strickland* two-prong analysis to show ineffective assistance of counsel is as follows:

⁹ As to those claims which could have been but were not raised on direct appeal due to alleged ineffective assistance of appellate counsel, Florida procedural law requires that claims of ineffective assistance of appellate counsel be raised in a petition for writ of habeas corpus filed simultaneously with the initial brief on appeal of the denial of this motion, if it is denied. A review of the trial court record in this case with the initial brief on direct appeal shows that there were motions and objections that were made by trial counsel but were not pursued on appeal. Such claims are cognizable in a petition for writ of habeas corpus.

First, the defendant must show that counsel's performance was deficient. This requires showing that counsel made errors so serious that counsel was not functioning as the 'counsel' guaranteed the defendant by the Sixth Amendment. Second, the defendant must show that the deficient performance prejudiced the defense. This requires showing that counsel's errors were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable.

Id. at 687. To establish deficient performance, a petitioner must demonstrate "that counsel's representation fell below an objective standard of reasonableness." *Id.* at 688. In order to show prejudice, it is not necessary to establish "that counsel's deficient conduct more likely than not altered the outcome in the case." *Id.* at 693. Instead, "[t]he defendant must show that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Id.* at 694. In light of *Hurst v. State*, 202 So. 3d 40 (Fla. 2016) and its progeny ("*Hurst*"), confidence in the outcome of the penalty phase trial is undermined when "the swaying of the vote of only one juror would have made a critical difference." *Bevel v. State*, 221 So. 3d 1168, 1182 (Fla. 2017) (quoting *Phillips v. State*, 608 So. 2d 778, 783 (Fla. 1992)). In determining prejudice, "a court hearing an ineffectiveness claim must consider the totality of the evidence before the judge or jury." *Strickland*, 466 U.S. at 695.

REQUEST FOR EVIDENTIARY HEARING

The Commentary to Fla. R. Crim. P. 3.851 states that the Rule's 2001 amendment "requires an evidentiary hearing on claims listed in an initial motion [for capital collateral relief] as requiring a factual determination." Further, claims of ineffective assistance of counsel routinely require a postconviction evidentiary hearing. Oliver requests an evidentiary hearing on Claims 1 through 9. A witness list and exhibit list will be provided at the Case Management Conference in accordance with Fla. R. Crim. P. 3.851(f)(5)(A).

CLAIM 1

WALL WAS DENIED HIS SUBSTANTIVE DUE PROCESS RIGHTS UNDER THE SIXTH, EIGHTH, AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION AND THE CORRESPONDING PROVISIONS OF THE FLORIDA CONSTITUTION BECAUSE HE WAS CONVICTED AND SENTENCED WHILE MENTALLY INCOMPETENT.

The record on appeal, Wall's mental health history as evidenced through his medical records, and a mental health expert's preliminary opinion after reviewing those records present clear and convincing evidence that raises substantial doubt that Wall was competent to proceed when he entered his pleas and then proceeded pro se during his penalty phase and *Spencer* hearing. Wall should be granted a hearing on his substantive incompetency claim, and his convictions and sentences should be subsequently vacated because he was incompetent to proceed.

The Due Process Clause of the Fourteenth Amendment prohibits the states from trying and convicting a mentally incompetent defendant. *James v. Singletary*, 957 F.2d 1562, 1569 (11th Cir. 1992). A petitioner raising a substantive claim of incompetency need not show error by any state actor. *James*, 957 F.2d at 1572. The trial of an incompetent defendant is per se prejudicial. *Id.* at 1571. When determining competency, the "test must be whether [the defendant] has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding—and whether he has a rational as well as factual understanding of the proceedings against him." *Dusky v. United States*, 362 U.S. 402, 402 (1960). A petitioner is entitled to a hearing on his substantive incompetency claim upon a presentation of "clear and convincing evidence [raising] a substantial doubt" as to his competency to stand trial. *James*, 957 F.2d at 1572. Wall was clearly incompetent during the proceedings because he suffers from a severe mental illness that rendered him incapable of reasonably consulting with his lawyers to assist in his own defense and prevented him from having a rational understanding of the proceedings against him.

Relevant factors to consider when determining competency is whether the defendant can “disclose to counsel facts pertinent to the proceedings at issue; ... manifest appropriate courtroom behavior; ... and testify relevantly.” Fla. R. Crim. P. 3.211(a)(2). A mental health expert hired by CCRC has conducted a preliminary review of Wall’s available mental health records and the record of his proceedings and opined that he exhibits severe mental illness rendering him incompetent.

-Wall was incapable of assisting in his own defense because his clearly-documented fixation and paranoia prevented him from discussing relevant facts with his attorneys:

-Multiple *Nelson* motions reflect fixation on alleged conspiracies between his defense attorneys and everyone else

-Testified concerning alleged conspiracies on record and trial court acknowledged that he was paranoid – ROA 6811-14.

-The fact that Wall was previously found competent should not preclude a re-review of that finding. Additional evidence from defense mental health expert should be considered.

CLAIM 2

**WALL WAS NOT COMPETENT TO PROCEED PRO SE AT HIS PENALTY PHASE
AND SPENCER HEARING...**

CLAIM 3

**TRIAL COUNSEL PROVIDED PREJUDICIAL INEFFECTIVE ASSISTANCE FOR
FAILING TO REQUEST AN ADDITIONAL COMPETENCY EVALUATION AFTER
WALL WAS REMOVED FROM THE COURTROOM DURING THE SPENCER
HEARING FOR ERRATIC BEHAVIOR...**

CLAIM 4

WALL MAY BE INCOMPETENT AT THE TIME OF EXECUTION, IN WHICH CASE HIS EIGHTH AMENDMENT RIGHT TO BE FREE FROM CRUEL AND UNUSUAL PUNISHMENTS WILL BE VIOLATED.

In accordance with the Eight Amendment to the United States Constitution, Fla. R. Crim. P. 3.811 and 3.812, a prisoner cannot be executed if the person "lacks the mental capacity to understand the fact of the impending execution and the reason for it." This rule was enacted in response to *Ford v. Wainwright*, 477 U.S. 399 (1986).

The undersigned acknowledges that under Florida law, a claim of incompetency to be executed cannot be asserted until a death warrant has been issued. Until the death warrant is signed, the issue is not ripe. This is established under Florida law pursuant to section 922.07, Florida Statutes, and *Martin v. Wainwright*, 497 So. 2d 872 (Fla. 1986). Likewise, the issue is not ripe under federal law until the death warrant is signed. *See Stewart v. Martinez-Villareal*, 523 U.S. 637, 643-44 (1998) (dismissing Respondent's *Ford* claim as premature, not because he had not exhausted state remedies, but because his execution was not imminent and therefore his competency to be executed could not be determined at that time); *Herrera v. Collins*, 506 U.S. 390, 405-06 (1993) (holding that the issue of sanity [for the *Ford* claim] is properly considered in proximity to the execution).

Federal law requires that in order to preserve a competency to be executed claim, the claim must be raised in the initial petition for habeas corpus, and in order to raise an issue in a federal habeas petition, the issue must be raised and exhausted in state court. Hence, Wall raises this claim now.

This claim does not require an evidentiary hearing.

CONCLUSION AND RELIEF SOUGHT

EXHIBIT- "B"

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT,
IN AND FOR PINELLAS COUNTY, FLORIDA**

STATE OF FLORIDA,

Plaintiff,

v.

**CASE NO: CRC10-03759CFANO
SUPREME COURT NO: SC16-1221
POST-CONVICTION CAPITAL CASE**

CRAIG ALAN WALL, SR.,

Defendant.

**DEFENDANT'S MOTION TO VACATE JUDGMENTS OF CONVICTION AND
SENTENCES OF DEATH PURSUANT TO FLORIDA RULE OF CRIMINAL
PROCEDURE 3.851**

ADRIENNE JOY SHEPHERD
FLORIDA BAR NUMBER 1000532
EMAIL: SHEPHERD@CCMR.STATE.FL.US

ALI SHAKOOR
FLORIDA BAR NUMBER 0669830
EMAIL: SHAKOOR@CCMR.STATE.FL.US

**LAW OFFICE OF THE CAPITAL COLLATERAL
REGIONAL COUNSEL - MIDDLE REGION
12973 NORTH TELECOM PARKWAY
TEMPLE TERRACE, FLORIDA 33637
TELEPHONE: (813) 558-1600
FAX No.: (813) 558-1601
SECONDARY EMAIL: SUPPORT@CCMR.STATE.FL.US**

Craig Alan Wall, Sr. ("Wall"), defendant in the above-captioned case, by and through undersigned counsel, and pursuant to Fla. R. Crim. P. 3.851 and the Constitutions of the United States and the State of Florida, respectfully moves this Honorable Court to vacate and set aside the judgments of conviction and sentences for two counts of first-degree murder in this case. In support of this motion, Wall respectfully submits the following:

PRELIMINARY STATEMENT

Wall is currently incarcerated at Union Correctional Institution, 25636 NE SR-16, Raiford, Florida 32083, under a sentence of death. The record on appeal will be cited as R/[page number]. All other references are self-explanatory or otherwise explained. All emphasis is supplied unless otherwise noted.

Capital Collateral Regional Counsel ("CCRC") was appointed to represent Wall in his capital collateral post-conviction proceedings on March 15, 2018. On July 16, 2019, Wall filed a pro se "Motion to Monitor and Remove Counsel Pursuant to § 27.711(12) Findings and if Denied 3.851(i) Motion to Dismiss All Counsel and Post-Conviction Proceedings." A hearing was held on the motion on August 23, 2019. At the hearing, Wall orally waived his post-conviction collateral proceedings and CCRC's representation in those proceedings. The Court granted Wall's waiver and discharged CCRC in an order rendered September 18, 2019. CCRC is required to file an appeal of Wall's waiver to the Florida Supreme Court ("FSC"). Fla. R. Crim. P. 3.851(i)(8). CCRC understands that the September 18, 2019 order discharges CCRC from representing Wall, with the exception of filing the automatic appeal under Rule 3.851(i)(8). However, CCRC files this motion in an abundance of caution, and to preserve Wall's right to challenge his capital convictions and sentences in both state and federal collateral proceedings in the future. The deadline for Wall to file both a Rule 3.851 motion and federal petition under 28 U.S.C § 2254 for writ of habeas corpus

challenging his capital convictions and sentences is October 9, 2019. CCRC files this motion to ensure that deadline is properly met. CCRC requests that the Court reserve ruling on this motion, pending the FSC's disposition of the appeal of Wall's waiver of collateral post-conviction proceedings. CCRC also requests that the Court grant CCRC leave to amend this motion to include claims requiring consultation with Wall in the event that the FSC overturns Wall's waiver and Wall is also restored to competency.

PROCEDURAL HISTORY

Trial Proceedings

On direct appeal, the FSC described the procedural history of Wall's case as "long" and "convoluted." *Wall v. State*, 238 So. 3d 127, 133 (Fla. 2018). This motion will set forth the history of the proceedings deemed relevant to Wall's potential collateral post-conviction claims and does not present an exhaustive explanation of the procedural history reflected in the record on appeal.

On February 25, 2010, Wall was indicted by grand jury for two counts of capital murder for the deaths of his five-week old infant son, Craig Wall, Jr. ("C.J.") and the infant's mother, Laura Taft ("Taft."). R/110. The FSC summarized the alleged circumstances of C.J.'s and Taft's deaths as follows:

C.J.'s Death

Taft gave birth to C.J. on December 30, 2009. Wall, Taft, and C.J. all lived together, along with Taft's six-year-old son from a prior relationship, Connor, who lived with them part time. At around 7:30 a.m. on February 5, 2010, Taft left for work. About three hours later, Wall called 911 and reported that C.J. was not breathing. Paramedics arrived at around 10:45 a.m., and found that C.J. was not breathing, he was unresponsive, and cyanotic. C.J. was taken to the hospital, where doctors found bleeding in his eyes and brain, and also rib fractures. Doctors suspected that the injuries were caused by child abuse, so they reported the case to law enforcement who interviewed Wall. Detectives with the Clearwater Police Department questioned Wall about the events preceding C.J.'s death.

He indicated that Taft left their home around 7:30 a.m., and he was alone with C.J.

between her departure and the paramedics' arrival. Wall claimed that when he awoke at about 10 a.m., C.J. was propped up on a pillow beside him in bed. He said that C.J. was wet and making noise like he was hungry. Then, Wall contended that he gave C.J. a bottle and left him on the couch in the living room, while he made himself breakfast. At that point, C.J. did not appear to be in crisis.

Wall told investigators that he heard C.J. cough and went back into the living room to find C.J. limp with his eyes "slitted like he was sleeping, but he wasn't." Wall started to change C.J.'s diaper and took him to the bathtub. According to Wall, C.J. was limp that entire time. Then, Wall ran cold water over C.J. to get him to respond. At one point, Wall blew into C.J.'s mouth and mucus came out of his nose. When Wall removed C.J. from the bathtub, he could hear his heart beating, but he did not detect breathing. Wall then placed C.J. on a bed and dried him off with a towel and a hair dryer set to low. Next, Wall brought C.J. back into the living room and attempted to squeeze his ribs because he did not know how to do CPR. Eventually, Wall placed C.J. on the floor and called 911.

During the interview, Wall was confronted with the fact that C.J. suffered a brain injury. Upon further questioning, Wall brought up the term "shaken baby syndrome." At various points, Wall vacillated between accepting blame for C.J.'s injuries and claiming not to know how they occurred. In fact, Wall stated, "I fu---- killed my son."¹ Wall repeatedly stated that Taft was a good mother who had not harmed C.J.

After being confronted with C.J.'s brain injury, Wall discussed a near car accident. On February 3, 2010, two days before C.J. became unresponsive, Taft was nearly involved in a car accident with C.J. in the backseat, but she was able to stop her vehicle in time. Following that incident, Taft stopped the vehicle and checked on C.J., who appeared fine. Initially, Wall acknowledged that he did not think that the near accident could have caused C.J.'s injuries, but later in the interview he began suggesting that such event was the cause. The same day as the near accident, C.J. was circumcised. Doctors told Wall not to feed C.J. for fifteen minutes after the procedure, but Wall fed him a bottle in his truck anyway. Following that, C.J. "threw up massively" in the truck. The next day, February 4—one day prior to C.J. becoming unresponsive—Wall noted that C.J. had a temperature of ninety-three degrees and that he regurgitated in his bouncy chair.

On February 5, after C.J. was taken to the hospital, Dr. Sally Smith examined him. C.J. had a hemorrhage on his brain, his pupils were dilated and unreactive, and he had retinal hemorrhages. This combination of injuries led Dr. Smith to suspect that someone physically abused C.J. Specifically, the injuries suggested "abusive head trauma," which is the result of "high-force acceleration/deceleration rotational trauma to the brain, often ... by violent shaking, but [it] can be also caused in the course of the child being swung around." C.J.'s brain was so swollen that it protruded through an opening in the dura matter, which is a thick membrane covering the surface of the brain. An autopsy later determined that the cause of

death was blunt-force trauma.

According to Dr. Smith, this type of brain injury would not be caused by a vehicle stopping when it never impacted another object. She continued, "Even with an impact, extensive bilateral retinal hemorrhages are exceedingly rare in any kind of car crash, let alone one that doesn't involve an impact." Dr. Smith concluded that an infant with C.J.'s injuries would not have been able to survive for twenty-four hours without medical attention if those injuries were caused by a car accident. In fact, Dr. Smith testified to a time frame for these injuries:

In cases like this where the baby died of these injuries, the progression to that sort of critically ill condition and impending death would occur probably within minutes of the original trauma. It might be an hour or two, but it would be quickly following injury to the brain.

An infant with C.J.'s injuries would not have been able to drink a bottle, and would only be able to make certain noises such as grunting or gasping for air. Thus Dr. Smith testified that it would be "highly unlikely" for a child to still be alive at 10:45 a.m. having received C.J.'s injuries prior to 7:30 a.m.

Dr. Thogmartin, Wall's witness, opined that any brain injury from the birthing process could be completely ruled out as the cause of death. Further, Dr. Thogmartin testified that while rebleeding may occur in old brain injuries, an injury would not rebleed to the extent of a chronic subdural hematoma. In Dr. Thogmartin's opinion, C.J. suffered a brain injury about one week prior to his death, but was reinjured "right around the time of death." Also, Dr. Smith noted C.J.'s rib fractures. These fractures were posterior fractures, adjacent to the spinal column, which "are highly specific for child abuse as the cause." Because infant ribs are somewhat flexible, posterior rib fractures are not caused by CPR. Instead, posterior rib fractures in infants are caused by "high force compression or distortion-type forces applied to the ribs where they end up breaking across the adjacent spinal." Dr. Thogmartin testified that these fractures were not from CPR; rather, this was a "squeeze the life out of the rabbit squeeze" most likely from an "extreme inflicted injury."

On February 6, 2010, C.J. died.

Interim Time Between C.J.'s and Taft's Deaths

Later in the day on February 6, Wall ingested sleeping pills to attempt suicide. He made an emotional suicide video where he denied harming C.J. Taft called law enforcement, after which Wall was involuntarily committed to state custody on mental health grounds and taken to Morton Plant Hospital.

On February 8, 2010, Taft filed a petition for temporary injunction against Wall,

citing domestic violence as the basis for the injunction. The injunction was granted, and it was served on Wall on February 9, 2010, while he was still in the hospital. The next day, Wall was released. He sought emergency hearings on the injunction to allow him to attend C.J.'s funeral; however, the court was unable to schedule a hearing on such short notice. So, on February 14, 2010, Wall violated the injunction and attended C.J.'s funeral, where he was arrested for the violation.

While being transported to jail, Wall spoke with a fellow arrestee, Danny Welker. According to Welker, Wall told him that Taft “was lying, lying about him and that he was going to choke the life out of her when he got out of jail.” When Welker suggested that Wall was exaggerating, Wall informed him that he was not. Wall was released from custody on February 15, 2010. By then, Taft had already moved out of their shared apartment to a different residence.

Taft's Death

At about 3 a.m. on February 17, 2010, Taft's upstairs neighbor, Christopher Thompson, returned home from working the late shift. Thompson noticed a person sitting in a red vehicle. That person, a male, exited his vehicle, walked away, and then returned. Thompson continued into his apartment, and, upon lying down for bed, he heard glass shatter directly below his residence. “Within less than 10 or 15 seconds” of the glass breaking, Thompson heard the “fearful” and “distressed yelling” of a female. According to Thompson, the yelling continued for thirty to forty-five seconds. Thompson attempted to call 911 and knocked on his roommates' door to wake them up. Then he exited his front door and saw the same male he had seen earlier walking toward the same red vehicle from the apartment below. The man looked back over his shoulder and Thompson saw him face-to-face. However, the man did not stop; instead, he got into his vehicle and drove off.

Downstairs, Thompson found Taft in a seated position leaning against a wall beside the doorway. Thompson tried to speak to Taft, but he could only hear “gurgling noises from her throat.” Despite his efforts, Thompson could not tell if Taft had a pulse. By that point, Thompson's roommate was already on the phone with 911. The police arrived and took Thompson to the police station to identify the man that he saw leaving the scene. There Thompson identified Wall.

The trial court found that Wall, armed with an “assault style” knife, broke Taft's rear sliding glass door. Then, Wall confronted Taft, and he violently attacked her. The final blow, which was delivered to her left shoulder, was delivered with enough force that the knife blade separated from the handle and remained lodged inside her. The fatal wound was a stab to her torso that entered her heart. Moreover, Taft evidenced multiple defensive wounds.

Wall v. State, 238 So. 3d 127, 130–33 (Fla. 2018).

The Sixth District Pinellas County Public Defender's Office represented Wall when his

case began. On May 27th, 2010, the Public Defender's Office withdrew and was replaced by Attorney William Bennett. ("Bennett"). R/141. Bennett filed his notice of appearance on June 2, 2010. R/142. On August 12, 2010, Attorney Bjorn Brunvand ("Brunvand") was appointed as co-counsel. R/156. The record reflects that Wall made multiple *Nelson*¹ requests to remove his various trial attorneys throughout his proceedings. The Court held multiple hearings on these requests, found them un-founded, and denied them.²

On November 30, 2011, Bennett filed a "Motion to Sever Defendants And/Or Charges." R/289-90. No hearing on the motion is apparent from the record on appeal. Bennett withdrew from the case on May 7, 2012, and Attorney Daniel Hernandez ("Hernandez") was appointed as substitute counsel. R/378-79. On February 4, 2013, Brunvand filed a second "Motion to Sever Counts One and Two." R/404-15. The motion to sever was denied at a February 22, 2013 hearing. R/434; 515-25. At a May 1, 2013 hearing, Wall requested that Brunvand be removed from his

¹ *Nelson v. State*, 274 So. 2d 256 (Fla. 4th DCA 1973).

² On June 1, 2011, Wall wrote a pro se letter to the Court stating that he wanted to fire Bennett from his defense team. R/205-09. The Court held a *Nelson* hearing and denied the request on June 24, 2011. R/214-32. On May 1, 2012, the Court held a second *Nelson* hearing after Wall again requested to remove Bennett from his case. R/362-66. Bennett withdrew from the case on May 7, 2012. At a May 1, 2013 hearing, Wall requested that Brunvand be removed from his case. R/622-29. The Court did not grant a *Nelson* hearing on that request. R/632. On July 18, 2013, the Court held a third *Nelson* hearing after Wall again requested that Brunvand be removed from his case. R/708-67. The Court denied the *Nelson* request. R/757. On July 19, 2013 and August 29, 2013, Wall filed two pro se motions to dismiss counsel, requesting that both Brunvand and Hernandez be removed from his case. R/768-77; 840-50. The request was denied after the Court held a fourth *Nelson* hearing on August 29, 2013. R/804-39. On December 13, 2013, the Court held a fifth *Nelson* hearing after Wall renewed his motion to dismiss counsel. R/889-966. After a lengthy hearing, the Court reset the motion to dismiss counsel to December 20, 2013. R/956. The Court conducted and denied a sixth *Nelson* hearing on December 20, 2013. R/1120-52. Wall filed another motion to dismiss Brunvand and Hernandez at a February 7, 2014 hearing. R/1208-26. The Court held a seventh *Nelson* hearing on the motion at the February 7, 2014 hearing, and denied the request. R/1252-78. On November 24, 2014, the Court held an eighth *Nelson* hearing at Wall's request. R/6746-6817. The *Nelson* request was denied. R/6816-17.

case. R/622-29. The Court did not grant a *Nelson* hearing, and instead appointed Dr. Jill Poorman (“Dr. Poorman”) to evaluate Wall’s competency to potentially proceed pro se. Dr. Poorman found that Wall was not competent to represent himself in a May 10, 2013 report. Dr. Poorman later explained that she found Wall incompetent to represent himself due to his behavioral issues, hunger strikes, and uncooperative attitude towards her when she tried to see him. R/1123.

At a December 13, 2013 hearing, the Court again appointed Dr. Poorman to evaluate Wall’s competency to proceed pro se. R/950-54. Dr. Poorman opined at a December 20, 2013 hearing that Wall was now competent to proceed pro se under *Indiana v. Edwards*³. R/1122-27. The Court then conducted a *Faretta*⁴ inquiry, but determined that Wall would not proceed pro se because he refused to have Brunvand and Hernandez as standby counsel. R/1153-58; 1162-66; 1183-84. After another *Faretta* inquiry at a February 7, 2014 hearing, the Court allowed Wall to represent himself with Brunvand and Hernandez as standby counsel. R/1252; 1278-1311. Wall requested a continuance on his April 7, 2014 trial date, but the Court denied the request. R/1481-82. Wall relinquished his pro se status the morning of his April 7, 2014 trial, and trial counsel was granted a continuance. R/6640-59.

On December 9, 2014, attorney Ronald Kurpiers (“Kurpiers”) filed a notice of appearance as co-counsel with Brunvand and Hernandez. R/1719. On February 13, 2015, Wall entered a plea of no contest to the charge for C.J.’s death and guilty to the charge for Taft’s death. R/1927-29. As part of a unique proposed plea agreement, Wall agreed with the State that the death penalty would be an appropriate sentence. R/1927-29. Dr. Poorman opined at the February 13, 2015 plea hearing that Wall was still competent to proceed and to self-represent based on her recent

³ *Indiana v. Edwards*, 554 U.S. 164 (2008).

⁴ *Faretta v. California*, 422 U.S. 806 (1975).

evaluation of him on February 10, 2015. R/1934-39. The Court conducted a *Faretta* inquiry, and determined that Wall could conduct his penalty phase pro se with Brunvand and Kurpiers as standby counsel.⁵ R/1965-82. Wall waived a penalty phase jury, and presented minimal mitigation during his pro se penalty phase trial on February 23, 2015 and February 24, 2015.⁶

Over Wall's objection, the trial court appointed attorneys Jenna Finkelstein and Amanda Sellers as independent special counsel to investigate and present additional mitigation at the *Spencer*⁷ hearing held on April 14, 2016 and April 15, 2016.⁸ R/3293. Wall appeared pro se at the *Spencer* hearing with Brunvand and Kupiers as standby counsel. While returning to the courtroom after a lunch-break on the first day of the hearing, Wall stated on the record that "I hope I don't get a hold of a knife. Fuck boy slammed me in my face in the wall and all that shit when I went in there." R/4897. A "Deputy Miller" then apprised the Court that Wall had just previously refused to walk, had to be carried by several deputies into his holding cell, and had made threats while outside the courtroom. R/4899-4900. The Court then rescinded Wall's pro se status, removed Wall from the courtroom, and reappointed Brunvand and Kurpiers to represent Wall. R/4904-06. Before removing Wall, the Court stated:

You've insulted the lawyers. You've insulted the witnesses. You made threats to people just as you did when you walked into the courtroom now when you looked at me and said, "You better hope I never get my hands on a knife." ... I'm not going to endanger security personnel in the back room because you think it's – you enjoy threatening people or saying the things that you've said in regard to this.

R/4902-03. On the second day of the hearing, the Court allowed Wall to return to the courtroom and resume his pro se status. R/5015-23. On June 3, 2016, the Court entered a judgment imposing

⁵ The record does not reflect that Hernandez participated as standby counsel during the penalty phase, and he formally withdrew from the case on March 16, 2015. R/3313.

⁶ Wall's penalty phase trial is reported in eight volumes and can be found at R/2096-3290.

⁷ *Spencer v. State*, 615 So. 2d 688 (Fla. 1993).

⁸ Wall's *Spencer* hearing is reported in four volumes and can be found at R/4790-5381.

a death sentence for both counts of first degree murder. R/5505-08. This is the judgment and the sentences under attack pursuant to Fla. R. Crim. P. 3.851(e)(1)(A). *See* Attachment A.

Appellate Proceedings

Wall's appellate counsel raised two grounds on direct appeal: "(1) whether the trial court erred in failing to order a competency evaluation prior to accepting the plea; [and] (2) whether the trial court erred by failing to recuse itself upon a motion to disqualify." *Id.* at 140. Wall also filed a pro se supplemental appellate brief, raising, in part, the Court's denial of his motion to sever. The FSC independently considered the voluntariness of Wall's plea and the proportionality of his death sentences. *Id.* at 144-45. The FSC found that all appellate claims were meritless, Wall's plea was voluntary, and his death sentences were proportionate. *Id.* at 140-45. The FSC affirmed Wall's convictions and death-sentences. *Id.* at 146. The United States Supreme Court denied Wall's petition for a writ of certiorari on October 9, 2018.

TIMELINESS OF THIS MOTION

Wall's judgment and sentence became final on October 9, 2018, upon the denial of his petition for a writ of certiorari with the United States Supreme Court. A motion for post-conviction relief is timely if filed within one year of the date the judgment becomes final. *See* Fla. R. Crim. P. 3.851(d)(1). Therefore, this motion is timely if filed by October 9, 2019. Wall reserves the right to amend this document for good cause pursuant to Fla. R. Crim. P. 3.851(f)(4).

STATE AND FEDERAL CLAIMS

All claims for relief raised in this motion are asserted as claims for relief under both the State and Federal Constitutions.

PLEADING REQUIREMENTS

Fla. R. Crim. P. 3.851(e)(1) requires that any motion to vacate the judgment of conviction

and sentence of death contain either a detailed allegation of the factual basis for any claim for which an evidentiary hearing is sought, or a detailed allegation as to the factual basis for any purely legal or constitutional claim for which an evidentiary hearing is not required and the reason that the claim could not have been raised on direct appeal.⁹ Fla. R. Crim. P. 3.851(e)(1)(D), (E). Aside from requiring a copy of the judgment and sentence, the Rule is permissive with regard to attachments. *See* Fla. R. Crim. P. 3.851(e)(1).

SUMMARY OF APPLICABLE LAW

Wall raises claims of ineffective assistance of counsel. The general case law for those claims will be addressed here. More specific citations will be utilized under each claim.

The United States Supreme Court has held that counsel “has a duty to bring to bear such skill and knowledge as will render the trial a reliable adversarial testing process.” *Strickland v. Washington*, 466 U.S. 668, 688 (1984). Specifically, counsel has a duty to investigate in order to make the adversarial testing process work in the particular case. *See id.* at 690. The *Strickland* two-prong analysis to show ineffective assistance of counsel is as follows:

First, the defendant must show that counsel’s performance was deficient. This requires showing that counsel made errors so serious that counsel was not functioning as the ‘counsel’ guaranteed the defendant by the Sixth Amendment. Second, the defendant must show that the deficient performance prejudiced the defense. This requires showing that counsel’s errors were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable.

Id. at 687. To establish deficient performance, a petitioner must demonstrate “that counsel’s

⁹ As to those claims which could have been but were not raised on direct appeal due to alleged ineffective assistance of appellate counsel, Florida procedural law requires that claims of ineffective assistance of appellate counsel be raised in a petition for writ of habeas corpus filed simultaneously with the initial brief on appeal of the denial of this motion, if it is denied. A review of the trial court record in this case with the initial brief on direct appeal shows that there were motions and objections that were made by trial counsel but were not pursued on appeal. Such claims are cognizable in a petition for writ of habeas corpus.

representation fell below an objective standard of reasonableness.” *Id.* at 688. In order to show prejudice, it is not necessary to establish “that counsel’s deficient conduct more likely than not altered the outcome in the case.” *Id.* at 693. Instead, “[t]he defendant must show that there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome.” *Id.* at 694. When determining prejudice, “a court hearing an ineffectiveness claim must consider the totality of the evidence before the judge or jury.” *Id.* at 695.

REQUEST FOR EVIDENTIARY HEARING

The Commentary to Fla. R. Crim. P. 3.851 states that the Rule’s 2001 amendment “requires an evidentiary hearing on claims listed in an initial motion [for capital collateral relief] as requiring a factual determination.” Further, claims of ineffective assistance of counsel routinely require a post-conviction evidentiary hearing. Wall requests an evidentiary hearing on Claims 1 and 2. A witness list and exhibit list will be provided at the Case Management Conference in accordance with Fla. R. Crim. P. 3.851(f)(5)(A).

CLAIM 1

WALL WAS DENIED HIS SUBSTANTIVE DUE PROCESS RIGHTS UNDER THE SIXTH, EIGHTH, AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION AND THE CORRESPONDING PROVISIONS OF THE FLORIDA CONSTITUTION BECAUSE HE WAS CONVICTED AND SENTENCED WHILE MENTALLY INCOMPETENT.

The record on appeal, Wall’s history of severe mental illness as evidenced through his mental health records, and a mental health expert’s preliminary opinion after reviewing those records all present clear and convincing evidence that raises substantial doubt that Wall was competent to proceed when he entered his pleas and then proceeded pro se during his penalty phase

and *Spencer* hearing. Wall should be granted a hearing on his substantive incompetency claim, and his convictions and sentences should be subsequently vacated because he was incompetent to proceed.

As an initial matter, Wall recognizes the FSC's current case law stating that a claim of substantive incompetency should be raised on direct appeal and is procedurally barred when raised in a post-conviction motion. See *Nelson v. State*, 43 So. 3d 20, 33 (Fla. 2010); *Carroll v. State*, 815 So. 2d 601, 610 (Fla. 2002). However, Wall argues that the Court should still consider his substantive incompetency claim because he has a due process right not to be proceeded against while incompetent, and he should be able to raise a claim concerning that right at any time. The Eleventh Circuit Court of Appeals recognized that competency is fundamental to the right to due process when it carved out a procedural exception for substantive incompetency claims on federal habeas review, holding that the "*Sykes*¹⁰ procedural default rule does not ... preclude review on the merits of a postconviction incompetency claim, even if that claim is not raised on direct appeal." *Medina v. Singletary*, 59 F.3d 1095, 1107 (11th Cir. 1995) (internal citations omitted). The Eleventh Circuit has further found that a substantive incompetency claim was not procedurally barred on federal habeas review even when the FSC found the claim was barred in state post-conviction proceedings because it was not raised on direct appeal. See *Johnston v. Singletary*, 162 F.3d 630, 637 (11th Cir. 1998). The Court should follow the Eleventh Circuit's guidance and consider Wall's post-conviction substantive incompetency claim.

The Due Process Clause of the Fourteenth Amendment prohibits the states from trying and convicting a mentally incompetent defendant. *James v. Singletary*, 957 F.2d 1562, 1569 (11th Cir. 1992). A petitioner raising a substantive claim of incompetency need not show error by any state

¹⁰ *Wainwright v. Sykes*, 433 U.S. 72 (1977).

actor. *James*, 957 F.2d at 1572. The trial of an incompetent defendant is per se prejudicial. *Id.* at 1571. When determining competency, the “test must be whether [the defendant] has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding—and whether he has a rational as well as factual understanding of the proceedings against him.” *Dusky v. United States*, 362 U.S. 402, 402 (1960). A petitioner is entitled to a hearing on his substantive incompetency claim upon a presentation of “clear and convincing evidence [raising] a substantial doubt” as to his competency to stand trial. *James*, 957 F.2d at 1572. Wall was clearly incompetent during his proceedings because he suffers from a severe mental illness that rendered him incapable of reasonably consulting with his lawyers to assist in his own defense and prevented him from having a rational understanding of the proceedings against him. Wall should be granted an evidentiary hearing on his competency claims, and his convictions and sentences should be subsequently vacated because he was tried and convicted while incompetent. *James*, 957 F.2d at 1575.

Relevant factors to consider when determining competency are whether the defendant can “disclose to counsel facts pertinent to the proceedings at issue ... [and] ... manifest appropriate courtroom behavior.” Fla. R. Crim. P. 3.211(a)(2). A mental health expert hired by CCRC has conducted a preliminary review of Wall’s available mental health records and the record of his proceedings and opined that he exhibits severe mental illness rendering him incompetent. The record reflects that Wall’s severe mental illness prevented him from assisting in his own defense because it rendered him incapable of discussing relevant facts with counsel and manifesting appropriate courtroom behavior.

Wall was incapable of assisting in his own defense because his severe mental illness prevented him from discussing relevant facts with his attorneys. Wall hindered counsel’s

investigation in his case, and any relevant discussion concerning the facts for that investigation, by constantly making *Nelson* requests because his attorneys failed to allow him to control every aspect of his defense.¹¹ For example, Wall filed several pleadings complaining that his attorneys did not consult with him before every deposition they took in his case. *See* R/700-02; 768-76; 840-49. Wall even attempted to cancel the depositions of Dr. Noel Palma (“Dr. Palma”) and Dr. Sally Smith (“Dr. Smith”), two of the most important State experts concerning C.J.’s death, because his attorneys did not consult with him before scheduling the depositions. *See* R/700-02. Wall’s action clearly indicates he was unable to assist in his own defense. Despite the fact that he consistently professed his innocence of C.J.’s death, Wall attempted to prevent counsel from gathering relevant evidence from Dr. Smith, who testified that C.J.’s symptoms indicated “abusive head trauma,” and Dr. Palma, the medical examiner who found that C.J.’s cause and manner of death was “homicide” by “blunt trauma.” *See* R/2545-46; 5831.

Wall was further incapable of manifesting appropriate courtroom behavior. Despite the Court continuously warning Wall to act appropriately, the record reflects multiple instances of Wall interrupting the proceedings, using profanity, and being removed from the courtroom for his disruptive behavior. At an April 12, 2013 hearing on a defense motion to transport, the Court allowed Wall to address issues un-related to the defense motion. While discussing the denial of his motion to sever, Wall stated:

I do not appreciate this Court playing games regarding my appealing your failure to properly sever my cases. For this Court to advise me I can file an interlocutory, i.e., a certiorari by another name, your Honor was being, for lack of a more legal term, a dick.

¹¹ The record reflects that the Court conducted at least eight *Nelson* hearings at Wall’s request. *See supra* n. 2.

R/607-08. At a May 1, 2013 pre-trial hearing, Wall interrupted the Court and counsel's discussion concerning a subpoena duces tecum to demand that Brunvand be removed from his case for allegedly protecting someone who violated Wall's HIPPA and attorney-client privilege rights. R/626-30. While discussing the issue, Wall continued to interrupt the Court to the point that he was removed from the courtroom. R/634-36. At a December 20, 2013 hearing, Wall threatened to kill Colleen-Quinn Adams, a previous mitigation-specialist on his case. When the Court asked Wall if he would cooperate with another mitigation-specialist, Dr. Brooke Butler, Wall stated:

Well, you'd be better off with Ms. Butler. Because if you put Ms. Adams on, I can't verify that she'll live. Straight up. That bitch is – no. I can't even verify that she'll breathe another day, including Mr. Brunvand. Establish that. I might as well just go ahead and go all in. You can shackle me and fuckin' cuff me up until the day is long. We'll come here every day looking like fuckin' Hannibal Lecter. I don't give a fuck.

R/1167-68. The Court then removed Wall from the courtroom. R/1168. As discussed further below, the Court also had to remove Wall for a portion of his *Spencer* hearing after he made threats concerning a knife. *See infra* pp. 24.

Wall's history of severe mental illness evidenced in his mental health records, his inability to discuss relevant facts with his attorneys evidenced by his attempts to thwart their investigation into the relevant issues of his case, and his inability to manifest appropriate courtroom behavior as reflected on the record all present clear and convincing evidence that raises substantial doubt that Wall was competent to proceed when he entered his pleas and then proceeded pro se during his penalty phase and *Spencer* hearing. *James*, 957 F.2d at 1572. Wall need not show error by any state actor to raise his substantial incompetency claim. *Id.* The fact that he was convicted and sentenced while incompetent is per se prejudicial. *Id.* at 1571.

As to Claim 1, Wall requests an evidentiary hearing to present the testimony of mental health experts to establish that Wall was rendered incompetent due to severe mental illness during his proceedings. Further, an evidentiary hearing is necessary to introduce copies of mental health records documenting Wall's severe mental illness. Wall further requests that this Court vacate his convictions and sentences of death, as he was incompetent when those convictions and sentences were rendered.

CLAIM 2

TRIAL COUNSEL PROVIDED PREJUDICIAL INEFFECTIVE ASSISTANCE FOR FAILING TO RAISE THE ISSUE OF WALL'S COMPETENCY TO PROCEED AND COMPETENCY TO PROCEED PRO SE

The argument that counsel was ineffective for failing to adequately raise a defendant's competency is cognizable in a post-conviction motion. *See Demarco v. State*, 31 So. 3d 975, 976 (Fla. 2d DCA 2010). To establish deficiency under *Strickland* for failing to raise the issue of competency, a defendant must allege specific facts showing that a reasonably competent attorney would have questioned competence to proceed. *See Perez v. State*, No. 2D17-4670, 2018 WL 4517219, (Fla. 2d DCA Sept. 21, 2018); *see also Thompson v. State*, 88 So. 3d 312, 316 (Fla. 4th DCA 2012). To establish prejudice, the defendant must, as with a substantive incompetency claim, set forth clear and convincing circumstances that create a real, substantial, and legitimate doubt as to his competency. *Thompson*, 88 So. 3d at 319. The focus of the prejudice inquiry is on whether the defendant's substantive due process right not to be tried while incompetent was violated due to counsel's deficiency. *Id.* When determining competency to proceed pro se, it is permissible to insist on "representation by counsel for those competent enough to stand trial under *Dusky* but who still suffer from severe mental illness to the point where they are not competent to conduct trial proceedings by themselves. *Indiana v. Edwards*, 554 U.S. 164, 178 (2008).

Trial counsel deficiently failed to raise the issue of Wall's competency to proceed at three critical points in his proceedings- when he entered his pleas, during his penalty phase hearing, and during his *Spencer* hearing. Counsel's deficient failure to raise the issue of Wall's competency to proceed prejudiced Wall, because he was incompetent to proceed throughout the proceedings and when he was convicted and sentenced. *Strickland*, 466 U.S. 668; *Thompson*, 88 So. 3d at 319. Trial counsel further deficiently failed to raise the issue of Wall's competence to proceed pro se at two critical points in his proceedings- during his penalty phase hearing and *Spencer* hearing. Counsel's deficient failure to raise the issue of Wall's competence to proceed pro se prejudiced Wall because his severe mental illness rendered him incapable of sufficiently conducting his penalty phase and *Spencer* hearing without the assistance of counsel, and he would not have been sentenced to death if he had the assistance of counsel. *Indiana*, 554 U.S. at 178; *Strickland*, 466 U.S. 668. Wall should be granted an evidentiary hearing on his competency claims, and his convictions and sentences should be subsequently vacated because he was tried and convicted while incompetent due to trial counsel's failure. In the event the Court finds that a retrospective determination of Wall's competency is not cognizable, Wall requests that the Court grant him a new trial in the event he is restored to competency. See *Dougherty v. State*, 149 So. 3d 672, 679 (Fla. 2014); see also *Mason v. State*, 489 So. 2d 734, 737 (Fla. 1986) ("Should the trial court find, for whatever reason, that an evaluation of Mason's competency at the time of the original trial cannot be conducted in such a manner as to assure Mason due process of law, the court must so rule and grant a new trial.").

Dr. Poorman first attempted to evaluate Wall for his competency to self-represent on May 10, 2013. R/1123. She found him incompetent to self-represent due to his behavioral issues, pattern of hunger strikes, and attitude towards her during the attempted evaluation. R/1123. Dr. Poorman was later able to evaluate Wall, and opined that he was competent to represent himself at a

December 20, 2013 hearing. R/1122-27. Dr. Poorman assessed Wall under *Indiana v. Edwards* for his “appraisal of his legal defenses; his ability to plan legal strategy; his ability to question and challenge witnesses; his willingness for standby counsel; ... and his motivation for wanting to go pro se.” R/1123. Dr. Poorman found that Wall met all these criteria, with the caveat that Wall needed to control his profane language so that the Court wouldn’t admonish him and revoke his pro se status. R/1124.

Wall was still represented by counsel when he entered a plea of no contest to the charge for C.J.’s death and guilty to the charge for Taft’s death at his February 13, 2015 plea hearing. R/1927-29; 1931-32. Dr. Poorman opined at the plea hearing that Wall was competent to proceed based on her recent evaluation of him. R/1934-37. However, Dr. Poorman only explicitly discussed one of the six enumerated factors for competency under Fla. R. Crim. P. 3.211(a)(2)- Wall’s ability to appreciate the range and nature of possible penalties. Dr. Poorman explained that Wall understood he could receive a life-sentence if he went to trial, but instead wanted to receive the death penalty to spare the victims’ family going through a trial. R/1935-36. Notably, Dr. Poorman then stated that Wall had not been prescribed any psychotropic medications when she evaluated him, but Wall apprised the Court that he had recently requested Thorazine in an attempt to overdose. R/1937-38. Wall’s recent suicide attempt; his history of erratic and inappropriate behavior in the courtroom¹²; and his mental health records detailing a long history of severe mental illness should have caused trial counsel to question Wall’s competency to proceed.¹³ Trial counsel should have requested that Wall be evaluated for competency by a second doctor to ensure that he was competent to enter his pleas and to proceed to his penalty phase hearing. At the very least,

¹² See *supra* pp. 16-17.

¹³ Trial counsel had copies of Wall’s child-hood psychiatric and educational records, which indicate multiple psychiatric hospitalizations and diagnoses for severe mental illness.

trial counsel should have asked Dr. Poorman to explain if Wall met the other five enumerated factors for competency under Rule 3.211(a)(2). Instead, when asked if he had any questions for Dr. Poorman, trial counsel responded that he did not. R/1937. Dr. Poorman then reiterated her opinion that Wall was competent to proceed pro se. R/1938-39. When asked if he had any questions for Dr. Poorman, trial counsel again responded that he did not. R/1939.

Wall was allowed to self-represent during his penalty phase hearing on February 23, 2015 and February 24, 2015 with Brunvand and Kurpiers (previous trial counsel) appearing as stand-by counsel. The record reflects multiple instances of Wall's inability to meet the factors outlined for competency to proceed during his penalty phase. Wall was consistently incapable of manifesting appropriate courtroom behavior. Fla. R. Crim. P. 3.211(a)(2). During Wall's cross-examination of State witness Grace Thompson he told her "Man, you are high." when he didn't agree with her answer to his previous question. R/2350. The Court admonished Wall for his comment. R/2350-51. During Wall's cross-examination of State witness Danny Welker ("Welker"), Wall insulted Welker- calling him a "criminal", "scumbag" and "idiot." R/2359-60; 2376. The Court was forced to end the cross-examination when Wall would not stop insulting Welker, even after he had been warned not to. R/2376-77. While discussing Grace Thompson's testimony during his penalty phase closing argument, Wall went off on a tangent, stating:

Now, when the State asked [Grace Thompson] the question, she was out front and outside. She said a quote that Laura said, God, somebody help me.

Let me point out to Your Honor, I killed her, and she didn't say that. So that's lie number one. And, again, like I said, I can't question them on the stand, but I can tell you, I don't have nothing to lose. I don't give a fuck if that man pulls that gun and blows my fucking head off. I don't give a fuck, okay?

There's no reason for me to lie at this point. I didn't – she didn't say that. There was none of that crap going on. The building did shake. If you want an honest opinion, like I told Detective Ruhlin over in property and evidence, just fucking ask

me. I will tell you. They could have asked me for the past five years, and I would have gave them every piece of information they want.

I don't care. I mean, I do care, but that's the point. I don't care what my punishment is. You could take me out and put me in an iron maiden. I don't give a fuck. I don't think you could punish me enough for what I did. That's what I believe. Do you understand? I don't think there's enough punishment on Planet Earth of enough suffering for me.

R/3247-48. Wall's constant inappropriate behavior during the penalty phase should have caused standby counsel to question his competence to proceed and request that he be re-evaluated for competency.

Further, even if Wall was found to be competent to proceed during his penalty phase, he certainly was not competent to proceed pro se. The record reflects multiple instances of his inability to sufficiently question and challenge witnesses. As previously explained, Wall's cross-examination of State witness Welker was cut short because Wall could not stop insulting him. *See supra* pp. 21. Further, during Wall's direct-examination of his own witness, Dr. Jon Thogmartin, Wall elicited inculpatory testimony concerning C.J.'s death. Wall called Dr. Thogmartin to testify about abusive head trauma. R/2797-98. Wall demonstrated how he may have incorrectly attempted CPR, then asked if incorrect CPR could have cause C.J.'s posterior rib-fractures. R/2997-3003. Wall didn't appear to realize that Dr. Thogmartin's answers were inculpatory and even repeated some of the most inculpatory testimony:

A. We never see those [posterior rib-fractures] with CPR –

Q. Right.

A. – ever on adults, even elderly people. Children, those are generally a result from extreme thoracic distortion. Usually an impact or a massive compression. They're either from a blow from the rear or a massive impact from – it would be from his left side. In my opinion, probably a big impact or a big squeeze on the one side.

Q. Yeah. A squeeze, right?

A. Right, But not a CPR squeeze –

Q. I'm talking about –

A. – I'm talking about squeeze the life out of the rabbit squeeze.

Q. Right. So it's still possible that it is from what I'm telling you?

A. I would say –

Q. Squeezing hard and not knowing, you know what I'm saying, maybe in a panic?

A. Well, it would be a really, really hard injurious squeeze –

Q. Right.

A. – is the most likely source of that. I wouldn't say possible. I would say most likely it is an extreme inflicted injury –

Q. I'm not – I'm not denying that that's not what it is. What I'm saying is, is it possible that it was caused by that?

A. By what?

Q. What I demonstrated to you.

A. By CPR –

Q. Not CPR, because, obviously, like you indicated, I'm an idiot, and I clearly didn't know what the F [sic] I was doing.

R/3003-05. Wall's apparent inability to sufficiently question and challenge witnesses during the penalty phase should have caused standby counsel to question his competency to proceed pro se and request that he be re-evaluated. The fact that Brunvand and Kurpiers appeared as standby counsel during the penalty phase should not have prevented them from attempting to ensure that Wall was both competent to proceed and competent to proceed pro se.¹⁴ They should have, at any

¹⁴ The FSC recently explained that:

point during the penalty phase, argued that Wall's behavior indicated he was neither competent to proceed or proceed pro se. However, they failed to raise the issue at all.

Wall appeared pro se at the beginning of the first day of his *Spencer* hearing on April 14, 2016. Brunvand and Kurpiers again appeared as standby counsel. R/4797. While returning to the courtroom after a lunch-break, Wall stated on the record that "I hope I don't get a hold of a knife. Fuck boy slammed me in my face in the wall and all that shit when I went in there." R/4897. A "Deputy Miller" then apprised the Court that Wall had just previously refused to walk, had to be carried by several deputies into his holding cell, and had made threats while outside the courtroom. R/4899-4900. The Court then rescinded Wall's pro se status, removed Wall from the courtroom, and reappointed Brunvand and Kurpiers to represent Wall. R/4904-06. Wall was restrained in a chair in an adjoining courtroom to watch the hearing through a video screen. R/4906-07. Before removing Wall, the Court stated:

You've insulted the lawyers. You've insulted the witnesses. You made threats to people just as you did when you walked into the courtroom now when you looked at me and said, "You better hope I never get my hands on a knife." ... I'm not going to endanger security personnel in the back room because you think it's - you enjoy threatening people or saying the things that you've said in regard to this.

R/4902-03.

[t]he role of standby counsel is to assist a court in conducting orderly and timely proceedings. *Behr v. Bell*, 665 So.2d 1055, 1056 (Fla. 1996). Logically speaking, if standby counsel has a good-faith concern that a pro se defendant is incompetent to continue with self-representation, counsel should be able to present that concern to the court. We conclude that allowing standby counsel to make such a request, when it is in good faith, would facilitate orderly and timely court proceedings because it would help to prevent a potentially incompetent defendant from representing himself and then challenging his competency on appeal.

McGirth v. State, 209 So. 3d 1146, 1159 (Fla. 2017).

Brunvand and Kurpiers were deficient for failing to raise the issue of Wall's competency at this critical point in his proceedings. Once Brunvand and Kurpiers were reappointed to represent Wall, they should have immediately requested that the *Spencer* hearing be continued and Wall undergo additional evaluation and a competency hearing to determine if he was competent to proceed. Instead, the *Spencer* hearing continued while Wall was restrained in another room. A reasonably competent attorney would have questioned Wall's competency to proceed once his behavior became so erratic that the Court was forced to remove him from the courtroom during a critical stage of the proceedings against him. Further, Brunvand had been involved in Wall's case for nearly six years by the time of the *Spencer* hearing, and should have been aware of the multiple instances of his previous erratic and inappropriate behavior in the courtroom. *See supra* pp 16-17; 21-24. Kurpiers had been involved in Wall's case for at least a year by the time of the *Spencer* hearing, and also should have been aware of his previous erratic behavior. Brunvand and Kurpiers also had access to Wall's childhood mental health records, which documented a long history of severe mental illness and psychiatric hospitalizations. Wall's inability to manifest appropriate courtroom behavior and documented history of severe mental illness should have caused Brunvand and Kurpiers to question his competency to proceed at the *Spencer* hearing.

Brunvand and Kurpiers were again deficient when they failed to object to Wall resuming self-representation on the second day of the *Spencer* hearing. The fact that Wall was incompetent to proceed clearly rendered him incapable of competently conducting the *Spencer* hearing pro se. However, even if Wall is found to be competent to proceed under the *Dusky* standard, he was still not competent to proceed pro se under *Indiana v. Edwards* due to his severe mental illness. On the second day of the *Spencer* hearing, the Court brought Wall back into the courtroom and advised that he could be present if he assured there would be no further outbursts or disruptions. R/5016-

17. After some discussion, Wall was allowed to proceed and resume pro-se status. R/5022. Notably, when the Court asked if Wall would assure that they wouldn't "have a repeat of yesterday," Wall responded "Not as long as people don't talk about my dead son and fucking hit my head in the wall." R/ 5019-20. Wall was then allowed to conduct the rest of his *Spencer* hearing pro se with Brunvand and Kurpiers as standby counsel.

The record reflects that Wall did not meet all of the criteria for self-representation Dr. Poorman testified to, because he was not able to competently question witnesses without the Court's assistance. The record reflects that the Court had to intervene to clarify witness testimony for Wall during Wall's cross-examination of independent special counsel's witness Dr. Daniel Buffington. During his direct-examination, Dr. Buffington testified that Wall was prescribed several different psychotropic medications, including "Stelazine, Cylert, Cogentin, Eskalith, Ritalin, and Mellaril, as well as some other antidepressants," starting as early as the age of five. R/5055. Dr. Buffington based his testimony on his review of Wall's childhood mental-health records. R/5036. During cross-examination, Wall attempted to undermine the credibility of Dr. Buffington's testimony concerning the medications by stating the records Dr. Buffington relied on were "Hearsay, because [Wall] could make them in an Adobe Acrobat program," and Wall's mother may have altered them in a similar fashion. R/5103-05. The following exchange occurred:

Q. Hearsay, because I could make them in an Adobe Acrobat program. I made the same exact records that you had. I made it myself. I made them on an Adobe Acrobat. I wanted to make sure that I can do it before coming in here and talking about it like a dumb ass. Take the records and wipe them all out and add whatever lines you want. Did you know that with an Adobe you could do that?

A. No, sir. I did not.

Q. There you go. So that woman could have got what you got and she could have added all that crap and even put a doctor's name on the bottom. That's what the problem with hearsay is. That's the problem with letting any record into –

The Court: The question for the doctor, I think, if I can help, Mr. Wall, is if those records are inaccurate, would that change –

The Defendant: His testimony?

The Court: – some of the conclusions that you would come up with?

The Witness: It would have to be a grand totality of inconsistent or fraudulent records because the records span his entire life.

The Court: But if all of those records or substantially all of those records were inaccurate or somehow made up, then that might affect the opinions that you've given us; is that right?

The Witness: Yes, sir. It could.

R/5103-05. The Court had to again assist Wall with his cross-examination of Dr. Buffington a few minutes later. When Wall asked Dr. Buffington how he knew the process for administering medications in the Department of Corrections, this exchange occurred:

Q. How do you know about how medications are given in the Department of Corrections or in this jail?

A. Well, there's something we call medication administration records, and then there are medical orders and nursing notes. Ideally we like to look at the compilation of all of those.

Q. Right. So you went by that?

A. Yes.

Q. But you don't know, like I said earlier when I was objecting, how they did that in here because you've never been to prison, have you?

A. That is incorrect. I've –

Q. You've been to prison?

A. Multiple times. I've –

Q. Wow, dude. You must be a real dick.

The Court: No, he's talking about in a professional capacity.

The Defendant: Yeah. I was wondering how he knows – how he's up there. I guess they hire ex-felons now to testify for us.

R/5112-13. The record clearly reflects that Wall was not competent to proceed pro se during his *Spencer* hearing because the Court had to assist him with communicating his questions to witnesses and understanding witness testimony. Further, his continued use of profanity indicated his inability to behave appropriately in a courtroom setting. Wall's incompetent cross-examination of Dr. Buffington and inappropriate behavior should have caused Brunvand and Kurpiers to question his ability to proceed pro se, and they should have objected to his continued self-representation unless he was evaluated further. However, they did not raise the issue at all.

Wall was clearly prejudiced by trial counsel's failure to raise the issue of both his competency to proceed and competency to proceed pro se during these three critical points in his proceedings. Had counsel raised competency, the Court would have postponed the proceedings and ordered a competency evaluation. Upon further evaluation, there is a reasonable probability that a mental-health expert would have found that Wall was both incompetent to proceed and incompetent to proceed pro se. The fact that Wall was previously found competent would not necessarily have precluded the Court from finding that Wall was currently incompetent. Competency is not a fixed state, and the Court certainly could have taken into account any changes in Wall's behavior since he had been found competent, including his erratic behavior at the *Spencer* hearing. *See Drope v. Missouri*, 420 U.S. 162, 181 (1975) ("Even when a defendant is competent at the commencement of his trial, a trial court must always be alert to circumstances suggesting a change that would render the accused unable to meet the standards of competence to stand trial."). The fact that the Court felt that Wall's behavior was so concerning that he could not be present during a proceeding determining if he would receive the death penalty is a clear and convincing

circumstance that creates a real, substantial, and legitimate doubt as to his competency. Wall was prejudiced because he was convicted and sentenced to death while actually incompetent to proceed. *James*, 957 F.2d at 1571 (the trial of an incompetent defendant is per se prejudicial.).

Wall was further prejudiced by trial counsel's failure to raise the issue of his competency to proceed pro se, because he would have received a life-sentence instead of death if he had adequate counsel to conduct the penalty phase and *Spencer* hearing. The record clearly reflects that Wall's severe mental illness prevented him from competently examining witnesses at his penalty phase and *Spencer* hearing because he inadvertently elicited aggravating testimony and could not question witnesses without the Court's assistance. If trial counsel had been able to present evidence and question witnesses, there is a reasonable probability that Wall would have received a life-sentence instead of death because counsel would have been able to competently question witnesses and would not have attempted to undermine the credibility of the mitigating evidence presented.

As to Claim 2, Wall requests an evidentiary hearing to present the testimony of mental health experts to establish that Wall was rendered incompetent due to severe mental illness during his proceedings, and also the testimony of trial counsel to establish that there was no reasonable trial strategy for failing to raise the issue of Wall's competency. Further, an evidentiary hearing is necessary to introduce copies of mental health records documenting Wall's severe mental illness. Wall further requests that this Court vacate his convictions and sentences of death, as he was incompetent when those convictions and sentences were rendered.

CLAIM 3

WALL MAY BE INCOMPETENT AT THE TIME OF EXECUTION, IN WHICH CASE HIS EIGHTH AMENDMENT RIGHT TO BE FREE FROM CRUEL AND UNUSUAL PUNISHMENTS WILL BE VIOLATED.

In accordance with the Eighth Amendment to the United States Constitution, a prisoner cannot be executed if the person “lacks the mental capacity to understand the fact of the impending execution and the reason for it.” Fla. R. Crim. P. 3.811(b). This rule was enacted in response to *Ford v. Wainwright*, 477 U.S. 399 (1986).

This claim could not be raised on direct appeal, because a claim of incompetency to be executed cannot be asserted until a death warrant has been issued. Until the death warrant is signed, the issue is not ripe. *See Jones v. State*, 845 So. 2d 55, 74 (Fla. 2003) (citing *Hall v. Moore*, 792 So. 2d 447, 450 (Fla. 2001)). Likewise, the issue is not ripe under federal law until the death warrant is signed. *See Stewart v. Martinez-Villareal*, 523 U.S. 637, 643-44 (1998) (dismissing Respondent’s *Ford* claim as premature, not because he failed to exhaust his state remedies, but because his execution was not imminent and therefore his competency to be executed could not be determined at that time); *Herrera v. Collins*, 506 U.S. 390, 405-06 (1993) (the issue of sanity [for the *Ford* claim] is properly considered in proximity to the execution).

Federal law requires that in order to preserve a competency to be executed claim, the claim must be raised in the initial petition for habeas corpus, and in order to raise an issue in a federal habeas petition, the issue must be raised and exhausted in state court. Hence, Wall raises this claim now.

This claim does not require an evidentiary hearing.

CONCLUSION AND RELIEF SOUGHT

Wall requests that the Court hold any proceedings and ruling on this motion in abeyance pending the FSC's disposition of the automatic appeal of Wall's Fla. R. Crim. P. 3.851(i) waiver. In the event that the FSC overturns the waiver, Wall prays for the following relief, based on his *prima facie* allegations demonstrating violation of his constitutional rights:

1. That an evidentiary hearing be scheduled so as to allow him to present support for his claims, and that such a hearing be conducted at a reasonable time;
2. That he be allowed leave to supplement this motion should new claims, facts, or legal precedent become available to counsel; that he be allowed leave to amend this motion with any claims requiring his input in the event he is restored to competency; and, on the basis of the reasons presented herein,
3. That his convictions and sentences, including his sentences of death, be vacated.

Respectfully submitted,

/s/ Adrienne Joy Shepherd

Adrienne Joy Shepherd

Assistant CCRC

Florida Bar Number 1000532

Email: shepherd@ccmr.state.fl.us

Secondary Email: support@ccmr.state.fl.us

/s/ Ali Shakoor

Ali Shakoor

Assistant CCRC

Florida Bar Number 0669830

Email: shakoor@ccmr.state.fl.us

Secondary Email: support@ccmr.state.fl.us

The Law Office of the Capital Collateral

Regional Counsel - Middle Region

12973 North Telecom Parkway

Temple Terrace, Florida 33637-0907

Tel: (813) 558-1600

Fax: (813) 558-1601

Secondary Email: support@ccmr.state.fl.us

CERTIFICATION PURSUANT TO FLA. R. CRIM. P. 3.851(e)(1)(F)

Pursuant to Fla. R. Crim. P. 3.851 (e)(1)(F), undersigned counsel certifies that counsel has made a good faith effort to discuss the contents of this motion fully with the defendant, and a full and final draft of this pleading has been mailed to Craig Alan Wall, Sr. Counsel maintains that Mr. Wall was unable to fully discuss the contents of this motion because he is currently incompetent. Undersigned counsel further certifies that counsel has complied with Rule 4-1.4 of the Rules of Professional Conduct, and that this motion is filed in good faith.

Respectfully submitted,

/s/ Adrienne Joy Shepherd

Adrienne Joy Shepherd

Assistant CCRC

Florida Bar Number 1000532

Email: shepherd@ccmr.state.fl.us

Secondary Email: support@ccmr.state.fl.us

/s/ Ali Shakoor

Ali Shakoor

Assistant CCRC

Florida Bar Number 0669830

Email: shakoor@ccmr.state.fl.us

Secondary Email: support@ccmr.state.fl.us

The Law Office of the Capital Collateral

Regional Counsel - Middle Region

12973 North Telecom Parkway

Temple Terrace, Florida 33637-0907

Tel: (813) 558-1600

Fax: (813) 558-1601

Secondary Email: support@ccmr.state.fl.us

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a copy of the PDF document of the foregoing has been transmitted to this Court through the Florida Courts E-Filing Portal on this 26th day of September, 2019.

WE HEREBY FURTHER CERTIFY that a copy of the PDF document of the foregoing has been served via the Florida Courts E-Filing Portal to the Judicial Assistant of **Honorable Philip J. Federico**, Circuit Court Judge, Sixth Judicial Circuit, 14250 49th Street North, Clearwater, Florida 33762, at plee@jud6.org; to **Marilyn Muir Beccue**, Assistant Attorney General, Office of the Attorney General, at marilyn.beccue@myfloridalegal.com and capapp@myfloridalegal.com, and to **Sara Elizabeth Macks**, Assistant State Attorney, Office of the State Attorney for the Sixth Judicial Circuit, at sabappealservice@co.pinellas.fl.us and smacks@co.pinellas.fl.us, on this 26th day of September, 2019.

WE HEREBY FURTHER CERTIFY that a copy of the foregoing has been sent via U.S. mail to the **Honorable Philip J. Federico**, Circuit Court Judge of the Sixth Judicial Circuit, at his listed address: Chamber 13, 14250 49th Street North, Clearwater, FL 33762; and **Mr. Craig Wall, Sr.**, DOC# 140726, Union Correctional Institution, P.O. Box 1000, Raiford, FL 32083 on this 26th day of September, 2019.

/s/ Adrienne Joy Shepherd
Adrienne Joy Shepherd
Florida Bar Number 1000532
Assistant CCRC
Email: shepherd@ccmr.state.fl.us
Secondary Email: support@ccmr.state.fl.us

/s/ Ali Shakoor
Ali Shakoor
Assistant CCRC
Florida Bar Number 0669830
Email: shakoor@ccmr.state.fl.us
Secondary Email: support@ccmr.state.fl.us

The Law Office of the Capital Collateral
Regional Counsel - Middle Region
12973 North Telecom Parkway
Temple Terrace, Florida 33637-0907
Tel: (813) 558-1600
Fax: (813) 558-1601
Secondary Email: support@ccmr.state.fl.us

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT,
IN AND FOR PINELLAS COUNTY, FLORIDA**

STATE OF FLORIDA,

Plaintiff,

v.

**CASE NO: CRC10-03759CFANO
SUPREME COURT NO: SC16-1221
POST-CONVICTION CAPITAL CASE**

CRAIG ALAN WALL, SR.,

Defendant.

**DEFENDANT'S MOTION TO VACATE JUDGMENTS OF CONVICTION AND
SENTENCES OF DEATH PURSUANT TO FLORIDA RULE OF CRIMINAL
PROCEDURE 3.851**

ATTACHMENT A

JUDGMENT AND SENTENCE RENDERED JUNE 3, 2016

Defendant: CRAIG ALAN WALL SR.

UCN: 522010CF003759XXXXNO
REF No.: 1003759CFANO - M

OBTs Number

SENTENCE

(as to Count 01)

The defendant, being personally before the court, accompanied by the defendant's attorneys of record, BJORN E BRUNVAND, and RONALD J, KURPIERS II, and having been adjudicated guilty, and the court having given the defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why the defendant should not be sentenced as provided by law, and no cause being shown,

It Is the Sentence Of the Court That:

The Defendant pay total statutory costs in the amount of \$650.00 , inclusive of, \$100.00 as a Costs of Prosecution assessment. These assessments are hereby imposed as liens.

The Defendant is committed to the custody of the Department of Corrections.

Unless otherwise prohibited by law, the Sheriff is authorized to release the Defendant on electronic monitoring or other sentencing programs subject to the Sheriff's discretion.

To Be Imprisoned:

The Defendant is to be imprisoned for a term of DEATH.

SPECIAL PROVISIONS

By appropriate notation, the following provisions apply to the sentence imposed:

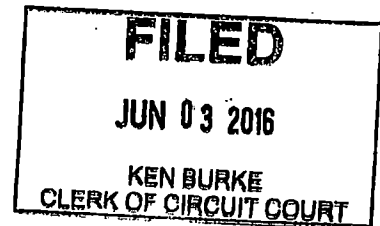
Mandatory/Minimum Provisions:

No Mandatory/Minimum provisions are imposed on this count.

Other Provisions:

No Contact Order

It is further ordered that the defendant is prohibited from having contact with the victim, directly or indirectly, including through a third person, for the duration of the sentence.



SENTENCE

(as to Count 02)

The defendant, being personally before the court, accompanied by the defendant's attorneys of record, **BJORN E BRUNVAND**, and **RONALD J, KURPIERS II**, and having been adjudicated guilty, and the court having given the defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why the defendant should not be sentenced as provided by law, and no cause being shown,

It Is the Sentence Of the Court That:

The Defendant pay total statutory costs in the amount of **\$650.00** , inclusive of, **\$100.00** as a Costs of Prosecution assessment. These assessments are concurrent with Count 1.

The Defendant is committed to the custody of the Department of Corrections.

Unless otherwise prohibited by law, the Sheriff is authorized to release the Defendant on electronic monitoring or other sentencing programs subject to the Sheriff's discretion.

To Be Imprisoned:

The Defendant is to be imprisoned for a term of **DEATH**.

SPECIAL PROVISIONS

By appropriate notation, the following provisions apply to the sentence imposed:

Mandatory/Minimum Provisions:

No Mandatory/Minimum provisions are imposed on this count.

Other Provisions:

Consecutive/Concurrent As To Other Counts	It is further ordered that the sentence imposed for this count shall run consecutive with the sentence set forth in count 1
--	--

No Contact Order	It is further ordered that the defendant is prohibited from having contact with the victim, directly or indirectly, including through a third person, for the duration of the sentence.
-------------------------	--

Defendant: CRAIG ALAN WALL SR.

UCN: 522010CF003759XXXXNO
REF No.: 1003759CFANO - M

OBTS Number

Other Provisions: (continued)

Jail Credit

It is further ordered that the defendant shall be allowed a total of 2295 Days as credit for time incarcerated before imposition of this sentence.

It is further ordered that:

Restitution is not applicable in this case.

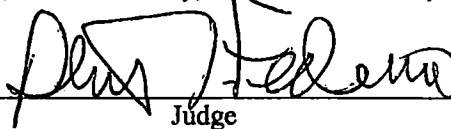
Restitution to State:

If applicable, you must make payment of any debt due and owing to the state under section 960.17 and 948.03(1)(h) Florida Statutes. The amount of such debt shall be determined by the Court at a later date upon final payment of the Crimes Compensation Trust Fund on behalf of the victim.

In the event the above sentence is to the Department of Corrections, the Sheriff of Pinellas County, Florida, is hereby ordered and directed to deliver the defendant to the Department of Corrections at the facility designated by the department together with a copy of this judgment and sentence and any other documents specified by Florida Statute.

The defendant in open court was advised of the right to appeal from this sentence by filing a notice of appeal within 30 days from this date with the clerk of the court and the defendant's right to the assistance of counsel in taking the appeal at the expense of the state on showing of indigency.

DONE AND ORDERED in open court at Clearwater, Pinellas County, Florida on **June 03, 2016.**


Judge

**CIRCUIT/COUNTY COURT, PINELLAS COUNTY, FLORIDA
CRIMINAL DIVISION**

UCN: 522010CF003759XXXNO

Case No.: 1003759CFANO

STATE OF FLORIDA

Citation No.:

VS.

Person ID: 1474146

CRAIG ALAN WALL

DOB: 03/21/1975

JUDGMENT FOR FINES AND COSTS

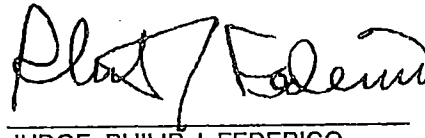
THIS COURT HAVING PREVIOUSLY ORDERED THE DEFENDANT TO PAY FINES
AND COSTS IN ACCORDANCE WITH THE PROVISIONS OF THE FLORIDA STATUTES;

IT IS ORDERED AND ADJUDICATED THAT THE STATE OF FLORIDA DOES HAVE
THE RIGHT TO RECOVER OF AND FROM THE ABOVE NAMED DEFENDANT THE
FOLLOWING FINE AND COSTS:

\$550.00	FELG BASIC FELONY GUILTY ANY DEGREE
\$100.00	FELG STATE ATTY COSTS FEL \$100
\$ 650.00	TOTAL

IT IS FURTHER ORDERED THAT THIS JUDGMENT WILL BE RECORDED BY THE
CLERK OF COURT AS A JUDGMENT LIEN IN FAVOR OF THE CLERK OF COURT, ON
BEHALF OF THE STATE OF FLORIDA, IN THE OFFICIAL RECORDS IN PINELLAS
COUNTY.

DONE AND ORDERED ON JUNE 03, 2016 IN PINELLAS COUNTY, FLORIDA.



JUDGE: PHILIP J. FEDERICO

RETURN TO CRIMINAL COURT RECORDS

EXHIBIT- "C"

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT OF
THE STATE FLORIDA, IN AND FOR PINELLAS COUNTY
CRIMINAL DIVISION
CASE NO. CRC10-03759CFANO

STATE OF FLORIDA,

Plaintiff,

vs.

VOLUME II

CRAIG ALAN WALL,

Defendant.

PROCEEDINGS: Spencer Hearing

BEFORE: THE HONORABLE PHILIP
Circuit Court Judge

DATE: April 14, 2016

PLACE: Pinellas County Justice Center
14250 49th Street North
Clearwater, Florida 33762

REPORTED BY: CHARLENE M. EANNEL, RPR
Court Reporter, Notary Public

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ORIGINAL

CC: SA, *Atty Brunner*

A-P-P-E-A-R-A-N-C-E-S

APPEARING ON BEHALF OF
THE STATE OF FLORIDA:

FRANK PIAZZA, JR., ESQUIRE
KENDALL DAVIDSON, ESQUIRE
Assistant State Attorneys
Office of Bernie McCabe, State Attorney
Pinellas County Justice Center
14250 - 49th Street North
Clearwater, Florida 33762

APPEARING ON BEHALF OF
THE DEFENDANT: CRAIG ALAN WALL

CRAIG ALAN WALL - PRO SE

STANDBY COUNSEL:
BJORN BRUNVAND, ESQUIRE
Bjorn E. Brünvand, P.A.
615 Turner Street
Clearwater, Florida 33756

RONALD J. KURPIERS, II, ESQUIRE
KURPIERS LAW FIRM, P.A.
102 W. Whiting Street, Suite 301
Tampa, Florida 33602

INDEPENDENT COUNSEL

AMANDA SELLERS, ESQUIRE
JENNA FICKELSTEIN, ESQUIRE
6344 Roosevelt Boulevard, Suite B
Clearwater, FL 33760

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P-R-O-C-E-E-D-I-N-G-S

THE COURT: We will have some things to address with Mr. Wall based on the lunch activities.

Let's bring in Mr. Wall. We have some things to address about lunch hour activities, so...

THE BAILIFF: Yes, Judge.

THE COURT: Let him have a seat again at Counsel table.

(The Defendant entered the courtroom.)

THE DEFENDANT: I hope I don't get a hold of a knife. Fuck boy slammed me in my face in the wall and all that shit when I went in there. I got this right here.

THE COURT: All right.

Bailiff, if you would stand for me and raise your right hand to be sworn in.

(Thereupon, the witness was duly sworn on oath.)

THE BAILIFF: I do, Your Honor.

THE COURT: All right.

For the record, can you state your name?

DEPUTY MILLER: Deputy Virginia Miller.

THE COURT: Were you in the holding cell when Mr. Wall was taken back there?

DEPUTY MILLER: Yes, sir.

THE COURT: Did you check on the medication

1 status as we indicated?

2 DEPUTY MILLER: Yes, we did.

3 THE COURT: All right. Can you tell us what
4 medications Mr. Wall is taking over in the jail?

5 DEPUTY MILLER: Yes.

6 THE DEFENDANT: I would object, Your Honor.
7 That's HIPAA-protected. She's not supposed to know
8 that.

9 THE COURT: Okay.

10 THE DEFENDANT: She's not supposed to overhear
11 that, either. That's jail policy.

12 THE COURT: Go ahead.

13 DEPUTY MILLER: Your Honor, he takes Ativan at
14 5:00 p.m. and 9:00 p.m. each day, and he takes an
15 acid reflux medicine upon request.

16 THE COURT: All right.

17 And he was given the Ativan last evening at 5:00
18 and 9:00?

19 DEPUTY MILLER: Yes, he was.

20 THE DEFENDANT: No, I was given a third dose.

21 THE COURT: And he's not due to take it again
22 until this evening?

23 DEPUTY MILLER: Yes, sir.

24 THE COURT: And you spoke to a nurse on the
25 floor where he's housed?

1 DEPUTY MILLER: Yes, Judge. The medical staff
2 looked it up and triple-looked it up to make sure
3 that they were accurately giving me the right
4 information.

5 THE COURT: Thank you.

6 What about -- what kind of problems did we have
7 in the holding cell, Bailiff?

8 THE DEFENDANT: Your Honor, during the lunch
9 hour --

10 THE COURT: No, I don't need to hear from you,
11 at this point, Mr. Wall.

12 THE DEFENDANT: About -- I'm saying about my
13 medication before you get into that.

14 THE COURT: I didn't ask you about last night.

15 THE DEFENDANT: Dr. Hernandez was supposed to
16 change it last night. You're acting like I'm lying.
17 I didn't lie to you. I'm saying I didn't lie to you.

18 THE COURT: Have a seat.

19 Tell us what happened in the holding cell.

20 THE DEFENDANT: We weren't in the holding cell.

21 THE COURT: All right. In the back when you
22 went to go to lunch hour.

23 DEPUTY MILLER: Judge, upon taking him back into
24 the vestibule area, I advised him that we needed to
25 put cuffs on him. Initially, he did not want that to

1 happen and stood against the wall. I advised him
2 again that that's what we need to do. He turned
3 around, allowed me to put the cuffs on him.

4 Upon me getting ready to double-lock the cuffs,
5 he chose to fall down and made the statements, "Do
6 you want to make it easy? You don't want to make it
7 easy? Fine," and fell down on the ground on his own.

8 At that point, he tried to scoot back a little
9 bit and the detention deputies put their foot on his
10 cuffs, and we made the decision that he did not want
11 to walk in there on his own. And four deputies
12 picked him up and took him inside the holding cell.

13 THE COURT: Okay. Was he cuffed during the
14 lunch hour?

15 DEPUTY MILLER: Yes, he was. And he took the
16 cuffs from behind where I initially put them and put
17 them in the front.

18 THE COURT: Any threats made?

19 DEPUTY MILLER: Yes. There were threats made,
20 Judge, but I did not hear all of them.

21 THE COURT: Did you hear any of them?

22 DEPUTY MILLER: No, Your Honor.

23 THE COURT: Okay. But that was relayed to you
24 by other deputies?

25 DEPUTY MILLER: That's correct.

1 THE COURT: Mr. Wall, I'm not sure what else
2 needs to be said, as far as this situation is
3 concerned.

4 THE DEFENDANT: What are you talking about, Your
5 Honor? I mean --

6 THE COURT: You've insulted everyone in here.
7 You --

8 THE DEFENDANT: She left out the part that she
9 said I was on red dot. Did you leave that part out,
10 Bailiff?

11 DEPUTY MILLER: About being on red dot status?

12 THE DEFENDANT: Yes, ma'am. That's the point
13 that I sat down. You said that, "They put you back
14 on red dot"?

15 DEPUTY MILLER: I did not say that.

16 THE DEFENDANT: Who said that, then? Somebody
17 said that.

18 DEPUTY MILLER: I did not --

19 THE COURT: You don't need to answer questions
20 from Mr. Wall.

21 THE DEFENDANT: Oh, I'm sorry, Your Honor.

22 I didn't do anything. I just sat down in
23 non-resistance because they told me I was on red dot
24 and I said, "For what? I didn't do anything. The
25 reason why you-all drug me over here is because I

1 didn't want to come over here for, the Court's
2 reasoning, to be a dick to the Judge."

3 And they said, you know, "Okay. That's fine."
4 But then they red-dotted me and put me back on red
5 dot, and I wasn't on red dot before I came over here.

6 THE COURT: I can only describe your behavior
7 this morning as completely unacceptable, okay?

8 THE DEFENDANT: Right.

9 THE COURT: You've insulted me, which is fine --
10 it's not fine, but I'm used to it from our
11 relationship from the period of time that you've been
12 in this division.

13 THE DEFENDANT: Right.

14 THE COURT: You've insulted the lawyers. You've
15 insulted the witnesses. You made threats to people
16 just as you did you when you walked into the
17 courtroom now when you looked at me and said, "You
18 better hope I never get my hands on a knife." That
19 behavior --

20 THE DEFENDANT: That wasn't directed towards
21 you. That was directed towards that fuck boy back
22 there that talked about my dead son.

23 THE COURT: You're done.

24 THE DEFENDANT: That's where that come from.

25 THE COURT: You're done. This is not a

1 license --

2 THE DEFENDANT: Okay. We can leave.

3 THE COURT: This is not a license to be abusive
4 to people.

5 THE DEFENDANT: What -- I didn't abuse anybody.

6 THE COURT: Okay. Well, that's fine. The
7 record will reflect the things that you said, the
8 things that people in this courtroom heard --

9 THE DEFENDANT: Right.

10 THE COURT: Professionals do not have to be
11 treated that way. You want to be a lawyer, then you
12 act like a lawyer, and you act professionally towards
13 people. Your behavior is outrageous to this point
14 and --

15 THE DEFENDANT: Right.

16 THE COURT: -- I've put up with it for four
17 hours this morning --

18 THE DEFENDANT: Right.

19 THE COURT: -- and I'm not putting up with it
20 any longer. I'm not going to endanger security
21 personnel in the back room because you think it's --
22 you enjoy threatening people or saying the things
23 that you've said in regard to this.

24 THE DEFENDANT: I didn't say anything. It's
25 under investigation right now so -- because they

1 abused me.

2 THE COURT: The last hearing, you abused the
3 court reporter when we were here.

4 THE DEFENDANT: Yeah, because she messed up the
5 record several times.

6 THE COURT: Okay.

7 THE DEFENDANT: But I'm saying the dude sat
8 there and talked about my dead son. The man slammed
9 my head into the wall and I've got an injury right
10 here. I didn't do anything physically against them
11 and you're saying that I threatened them. Who did I
12 threaten? She just said she didn't hear me threaten
13 anybody.

14 THE COURT: You have forfeited your right to
15 self-representation --

16 THE DEFENDANT: So that's --

17 THE COURT: -- based on your conduct, you've
18 forfeited your right to be in this proceeding --

19 THE DEFENDANT: Right.

20 THE COURT: -- because you continue to abuse the
21 process and you continue to interrupt --

22 THE DEFENDANT: I'll leave the court. We don't
23 need to hear anymore --

24 THE COURT: We will put you in the chair.
25 There's a chair set up, and you will be in a chair in

1 the courtroom next door and the video screen is going
2 to be on. So if you want to review or see what's
3 going on in the courtroom, you'll have every
4 opportunity to view what the --

5 THE DEFENDANT: You know this is --

6 THE COURT: -- is going on.

7 THE DEFENDANT: You know this is getting
8 reversed, right? Because you're not allowing me to
9 participate, and you took all my --

10 THE COURT: You're not allowing yourself to
11 participate --

12 THE DEFENDANT: I didn't do anything violent. I
13 didn't threaten anybody. She said she didn't hear me
14 threaten anybody.

15 THE COURT: Out.

16 THE DEFENDANT: All right. Later, dude. I'll
17 get back to you.

18 By the way, Rhonda, see you in a year, because
19 this is going to get reversed and we'll be right back
20 in here. We will be right back in here, Federico.
21 You know, abuse me all you want. You looked for a
22 reason to take my pro se status, dude. I didn't come
23 in here violent. I had no cuffs on when I walked in
24 here and I didn't do anything.

25 THE COURT: Put him in Courtroom 8 or 9,

1 whatever, or 8, whatever one's got it set up, and
2 there's a TV in there and there should be a restraint
3 chair and he'll be able to view it.

4 If, for some reason, you need to consult with
5 Mr. Wall during these proceedings, Counselors, during
6 breaks, we will be able to take you over to
7 Courtroom 8 and you can consult with him, if you need
8 to.

9 You're now representing Mr. Wall for purposes of
10 the Independent Counsel's hearing, all right?

11 MR. BRUNVAND: Yes, Judge.

12 Could I maybe briefly, since I'm now
13 representing him, just make a brief observation
14 and --

15 THE COURT: Sure.

16 MR. BRUNVAND: So Mr. Wall had requested of me
17 that if I became Counsel of record again, that I
18 prepare and file a motion to withdraw his plea. I'm
19 prepared to do it now; however, I don't think there's
20 any prejudice for me to do it -- file a written
21 motion following this hearing, but as long as it's
22 not going to be argued that I somehow forfeited any
23 of his arguments by participating in this hearing,
24 then my thought is I can go ahead and meet with him
25 once the hearing has concluded and confirm that he

EXHIBIT- "D"

IN THE CIRCUIT COURT
SIXTH JUDICIAL CIRCUIT
PINELLAS COUNTY, FLORIDA

STATE OF FLORIDA

V.

CASE # CRC10-03759CFANO

CRAIG ALAN WALL, SR.

NOTICE OF APPEAL TO THE
SUPREME COURT OF FLORIDA

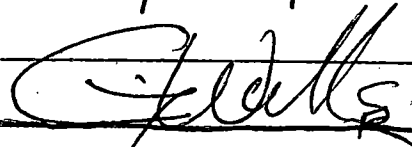
COMES NOW Defendant, CRAIG ALAN WALL, SR.,
PRO SE, in accordance with Rules of Appellate
Procedure, and directs the Clerk of Court
to transfer jurisdiction of the above numbered
case to the Florida Supreme Court, along with
the record, in accordance with Appellate Rules.
The Clerk is hereby NOTICED that NO
FURTHER FILINGS ARE PERMITTED. The Clerk
is further NOTICED that Defendant has been
granted Pro Se status by the Court and
continues to be Pro Se for appeal, therefore
the Clerk is instructed to RETURN TO SENDER
any and all attempted Filings, Motions,

or any other documents sent to the Clerk by Capital Collateral Regional Counsel (CCRC) as; (1) They were dismissed as counsel by Judge Philip Federico on August 23, 2019 and Defendant was made Pro Se, therefore CCRC is NOT permitted by law to file any further motions or documents in the above numbered case; (2) From the date of the filing of this Notice of Appeal, jurisdiction is automatically transferred to the Florida Supreme Court, so no further filings are permitted; and (3) Defendant is Pro Se at this time until otherwise ordered by the Court, and therefore any documents filed by CCRC that claim to be on "behalf of Defendant"-PRO SE DEFENDANT DOES NOT AUTHORIZE, which requires the Clerk to RETURN any such documents to CCRC UNFILED.

WHEREFORE Defendant, Pro Se,
gives NOTICE OF APPEAL to the Clerk
OF Court, Pinellas County, and requests
the Clerk to transfer the record, as well
as jurisdiction, to the Florida Supreme Court.
The Clerk is also requested to accept no
further motions or filings by the parties
as none are permitted once a Notice of Appeal
is filed.

Defendant has provided two (2) copies
of this Notice in accordance with Rules of
Appellate Procedure.

Submitted on this 17th day of September, 2019.



CRAIG WALL, SR. PRO SE

COUNSEL OF RECORD

Craig Wall, Sr. #140726

Union Correctional Inst.

P.O. Box 1000

Raiford, FL. 32083

(386) 431-2000