

Capital

[*Moore v. Texas*](#), 581 U.S. ____ (Mar. 28, 2017). Vacating and remanding in this capital case, the Court held that a Texas court was wrong to fault a lower court for using a current definition of intellectual disability and by focusing on superseded standards and non-clinical factors for determining intellectual disability. Consulting current medical diagnostic standards, a state habeas court found in 2014 that the defendant was intellectually disabled and recommended relief. The Texas Court of Criminal Appeals (CCA) rejected this recommendation and denied the defendant relief. It reasoned that the habeas court erred by using the most current standards regarding the diagnosis of intellectual disability rather than the test set out in *Ex parte Briseno*, 135 S. W. 3d 1 (Tex. Crim. App. 2004) which incorporated older medical standards and set forth “seven evidentiary factors,” later described by the Supreme Court as being unsupported by any authority, medical or judicial. The CCA determined that the *Briseno* standards “remain[ly] adequately ‘informed by the medical community’s diagnostic framework.’” Applying them, that court found that relief was not warranted. One judge dissented, arguing that *Atkins* and *Hall* require courts to consult current medical standards to determine intellectual disability and criticizing the majority for relying on manuals superseded in the medical community. The dissenting judge also questioned the legitimacy of the seven *Briseno* factors, noting that they deviate from the current medical consensus. Before the Supreme Court the issue was whether the Texas court’s “adherence to superseded medical standards and its reliance on *Briseno* comply with the Eighth Amendment and this Court’s precedents.” The Court held that it did not. It noted that although its decisions in *Atkins* and *Hall* left to the States the task of developing appropriate ways to enforce the restriction on executing intellectually disabled individuals, that determination must be informed by the medical community’s diagnostic framework. Here, the habeas court applied current medical standards in concluding that the defendant is intellectually disabled and therefore not eligible for the death penalty. The CCA, however, faulted the habeas court for disregarding the CCA’s case law and using a current definition of intellectual disability. The CCA instead “fastened its intellectual-disability determination” on a 1992 American Association on Mental Retardation manual definition adopted in *Briseno*. “By rejecting the habeas court’s application of medical guidance and clinging to the standard it laid out in *Briseno*, including the wholly nonclinical *Briseno* factors, the CCA failed adequately to inform itself of the medical community’s diagnostic framework.” (quotation omitted).