

69,931

IN THE SUPREME COURT OF FLORIDA

CASE NO. ~~69,931~~

FILED

SID J. WYKE

JUN 10 1968

CLERK SUPREME COURT

By _____
Deputy Clerk

In Re: Amendment to Florida
Rules of Criminal Procedure,
Rule 3.851.

COMMENT OF THE CRIMINAL LAW SECTION OF
THE FLORIDA BAR TO THE AMENDMENT TO
FLORIDA RULES OF CRIMINAL PROCEDURE, RULE 3.851

The Criminal Law Section of The Florida Bar submits this comment to the amendment to Florida Rules of Criminal Procedure, Rule 3.851, pursuant to this court's invitation for comments and suggestions. The Criminal Law Section requests that this court consider the views of the Criminal Law Section of The Florida Bar in evaluating this Rule, which is of substantial importance to the operation of the criminal justice system.

1. The Criminal Law Section of The Florida Bar consists of the broadest possible membership of those who have a common interest in criminal law proceedings within the State of Florida. Its membership includes prosecutors, public defenders, private practitioners, law professors, judges, and other lawyers whose daily professional lives involve the criminal justice system.

2. The Executive Council of the Criminal Law Section, which is the governing body of the Section, is well representative of criminal justice practitioners. The membership of the Executive Council is fairly divided among prosecutors, private defense lawyers, public defenders, law professors, and judges, representing all components of the criminal justice system.

3. The purposes of the Criminal Law Section are set out in the Section Bylaws, which have been approved by The Florida Bar. Those purposes include:

a. To assist the courts in establishing methods for the more certain and expeditious administration of justice in criminal trial proceedings.

b. To provide a forum for discussion and exchange of ideas leading to the improvement of individual trial abilities in criminal law proceedings.

c. To advise and recommend to the Legislature substantive changes in the law.

d. To foster a high standard of ethical conduct on the part of all members of the profession who participate in the criminal justice system.

e. To explore methods of improving the Florida penal system.

4. Consistent with these purposes, the Criminal Law Section has studied and discussed the recent amendment to Rule 3.851 of the Florida Rules of Criminal Procedure. Specifically, the Criminal Law Section has considered this court's creation of the Rule and has reviewed the materials submitted by several interested organizations commenting on said rule. After full consideration of the question, the Executive Council of the Criminal Law Section voted 18-9 in favor of requesting that this court amend Rule 3.851 to provide that nothing in that Rule may shorten the time frames set forth in Fla.R.Crim.P. 3.850. The

effect of the Section request is to permit a person sentenced to death by electrocution to have the benefit of the same time period set forth in Rule 3.850 for post-conviction relief.

5. Because of the balanced role which the Criminal Law Section has within our legal system, the Section has no vested interest in this issue, other than to promote and improve the administration of justice.

For these reasons, the Criminal Law Section of The Florida Bar requests that this court amend Rule 3.851 to provide that nothing in that Rule may shorten the time period set forth in Fla.R.Crim.P. 3.850.

Respectfully submitted,

CRIMINAL LAW SECTION
THE FLORIDA BAR



JON A. SALE
Chair, Criminal Law Section
Suite 300
700 S.E. 3rd Avenue
Fort Lauderdale, Florida 33316
Telephone: 305/524-1114



JOHN F. YETTER
Chair-Elect, Criminal Law Section
Professor of Law
Florida State University
Tallahassee, Florida 32306
Telephone: 904/644-3400

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was delivered by mail this 9TH day of June 1988 to Carolyn M. Snurkowski, Assistant Attorney General, Office of the Florida Attorney General, The Capitol, Tallahassee, Florida 32399-1050; Sharon B. Jacobs, Esq., Coconut Grove Bank Building, Suite 305, 2701 South Bayshore Drive, Miami, Florida 33133; and Larry H. Spalding, Capital Collateral Representative, 225 West Jefferson Street, Tallahassee, Florida 32301.

By: Jon A. Sale
JON A. SALE