

FILED
SID J. WHITE

IN RE FLORIDA RULES OF CRIMINAL
PROCEDURE, RULE 3.851

NO. 69,931

MAR 31 1987

CLERK, SUPREME COURT

By _____
Deputy Clerk

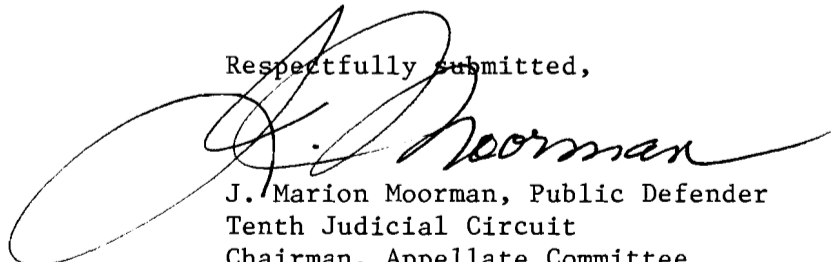
COMMENTS OF FLORIDA PUBLIC DEFENDERS ASSOCIATION

The Florida Public Defenders Association accepts the Court's invitation to comment upon the proposed rule of procedure, 3.851 RCrP. It is the Association's position that the proposed rule, creating different time periods for the filings of certain collateral matters in death cases than in other felony and non-death sentence capital cases, is violative of the protections requiring due process of law and equal protection of law. The Association opposes the implementation of the rule.

The issuance of a death warrant is entirely an executive function. Under the proposed rule it is possible that a defendant could find himself under warrant prior to the expiration of the time period allowed for seeking relief under 3.850 RCrP. This Association recognizes the need for a more orderly manner of handling collateral proceedings in the State's court. The Association must, however, oppose any rule which could have the effect of constricting the time periods for seeking relief on behalf of death sentenced individuals. The Association respectfully suggests that more study is needed. The appropriate committees of the Florida Bar should have the opportunity to study the proposed rule and provide input.

While recognizing that "death is different," the Association takes the position that the proposed rule may be violative of state and federal constitutional provisions requiring due process and equal protection of law. The Association suggests this Court allow oral argument on this matter of great importance.

Respectfully submitted,



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Tenth Judicial Circuit
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