

IN THE SUPREME COURT OF FLORIDA

IN RE: AMENDMENT TO  
FLORIDA RULES OF  
CRIMINAL PROCEDURE  
3.220 (DISCOVERY)

CASE NO. 73,734

RECEIVED  
SUPREME COURT  
JAN 20 1983  
C  
ph

COMMENTS OF DAVID B. HIGGINBOTTOM CONCERNING AMICUS CURIAE  
RESPONSE OF FLORIDA ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

DAVID B. HIGGINBOTTOM, commenting on the Florida Association of Defense Lawyers response to "Petition for Reconsideration and Rehearing" and "Supplemental Petition for Reconsideration and Rehearing, shows:

1). The Prosecuting Attorneys Association speaks eloquently for law enforcement.

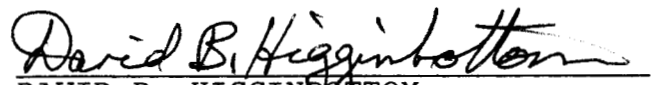
2). The Criminal Defense Lawyers Association speaks eloquently on behalf of criminal defendants.

3). I speak for the forgotten people in the justice system, the witnesses and the jurors.

4). Only by allowing witnesses to choose whether they will give their testimony at videotaped depositions or live at the trial, can we bring the Florida justice system up to date with the times during final years of the 20th century. (a) Such a system will prevent the unending harassing of witnesses by being required to testify to an investigator, and then to an assistant States Attorney, and then at one or more depositions, and then at a trial at which the witness may have to hang around for days or even weeks before being put on the stand. (b) Such a system will prevent the witness from having to be called to testify in a distant place in case of a change of venue. (c) Such a system will eliminate the necessity for a witness to appear in person at a re-trial, or, in case of the death or disability or disappearance of the witness, will prevent the testimony of that witness from being unavailable. (d) Such a system will prevent the jurors from spending endless amounts of wasted time while the motions and arguments of counsel are being heard by the judge out of the jury's presence. (e) Such a system will allow the trial judge and the counsel to study the tapes before trial and eliminate any improper questions and/or testimony and edit the

tapes accordingly. (f) Such a system will allow counsel to pinpoint, on appeal, those questions and that testimony which was allowed in or stricken by the trial judge, so that on a re-trial the errors by the trial judge can be eliminated without having to call all the witnesses, who are available, back to testify again from a memory which has grown dim with time and has possibly been subjected to intimidation, bribery, or coercion. (g) This State does not have to plow new ground in this matter, since the State of Illinois already permits the use of videotaped depositions, and I am told that no M.D. in Illinois is now ever called to testify in person at a trial, because the doctors have all learned the immeasurable advantages of having their testimony videotaped ahead of time so that they don't have to appear at trial.

I CERTIFY that copies hereof have been furnished to Arthur I. Jacobs, Esquire and Robert Augustus Harper, Jr. Esquire, by mail on this 13<sup>th</sup> day of October, 1989.

  
DAVID B. HIGGINBOTTOM  
Attorney at Law  
Post Office Box 697  
Frostproof, Florida 33843  
Florida Bar No. 035899

xc: Hon. Stan R. Morris  
Hon. Anthony C. Musto  
Hon. John F. Harkness, Jr.  
Barry A. Cohen, Esquire  
Hon. Michael E. Allen  
Hon. Janet Reno  
Peter Antonacci, Esquire  
Donald M. Middlebrooks, Esquire  
Hon. Ed Austin