

Supreme Court of Florida

ORIGINAL

No. 79,615

IN RE: AMENDMENTS TO THE FLORIDA
RULES OF CRIMINAL PROCEDURE

[September 24, 1992]

PER CURIAM.

The Florida Rules of Criminal Procedure Committee petitions this Court to approve its quadrennial report of proposed changes to the Florida Rules of Criminal Procedure. We have jurisdiction pursuant to article V, section 2(a) of the Florida Constitution.

In its report, the rules committee proposes amendment to rules 3.010, 3.111, 3.125, 3.160, 3.190, 3.191, 3.200, 3.210, 3.211, 3.212, 3.213, 3.215, 3.216, 3.217, 3.219, 3.220, 3.390, 3.692 and form 3.989. Pursuant to Florida Rule of Judicial

Administration 2.130(c), the proposed amendments were submitted to The Board of Governors of The Florida Bar. The Board of Governors unanimously recommended approval. The proposed amendments were published for comment; however, no comments were filed.

At oral argument, it was pointed out that rule 3.692 and form 3.989, dealing with expungement, needed further amendment due to recent statutory amendments. It was also pointed out that the rules committee wished to submit amendments to rule 3.986, Forms Related to Judgment and Sentence. A supplemental petition containing the proposed amendments to rule 3.986 has since been filed. However, a supplemental petition containing the proposed amendments to rules 3.692 and 3.989 will not be filed until after October 1, 1992.

After reviewing the rules committee's report of proposed changes and the supplemental petition, and hearing oral argument on the matter, we approve the appended amendments to the Florida Rules of Criminal Procedure. The appended amendments include the following substantive changes as proposed by the rules committee as well as stylistic and editorial changes that are made to, among other things, ensure that the rules are gender neutral.

Rule 3.010, Scope, is amended to conform the wording of the rule to a prior order of this Court and provide consistency with other rules. Subdivision (e) of rule 3.111, Counsel to Indigents, is amended to specify the duties of defense counsel who wish to withdraw from representation after judgment and

sentence. Rule 3.125, Notice to Appear, subdivisions (k), (l), (m) and rule 3.220, Discovery, subdivisions (b)(1), (b)(2), (c)(1), (h)(1) are amended to provide the same discovery to all individuals charged with criminal violations, regardless of the nature of the charging document. Specifically the amendments provide the same quantity of discovery to those charged by a notice to appear.

The amendment to rule 3.212(c)(5)(ii) substitutes "shall" for "may" so as to require the trial court to order the administrator of the facility where an incompetent defendant has been committed to report to the court on the issues of competency when the court has reasonable grounds to believe the defendant may have regained competency to proceed or no longer meets the criteria for commitment. Subdivision (g) of rule 3.350, Peremptory Challenges, is amended to clarify that it is within a trial court's discretion to allow additional peremptory challenges. Subdivision (d) of rule 3.390, Jury Instructions, is amended to clarify its provisions. Rule 3.986, Forms Related to Judgment and Sentence, is amended to conform with various provisions of Florida Statutes. The Form for Judgment is amended to add a signature line required by section 921.241, Florida Statutes (1991). The Form for Charges, Costs, and Fees is amended to increase the amount to be paid into the Crimes Compensation Trust Fund as required by chapter 92-107, Laws of Florida. The Form for Sentencing is amended to add a checkoff paragraph imposing mandatory minimum sentence for violation of

section 775.0875, Florida Statutes (1991). Rule 3.692, Petition to Seal or Expunge, and form 3.989, Petition and Order to Expunge or Seal and Affidavit, will be amended at a later date.

New language is indicated by underscoring; deletions are indicated by struck-through type. The committee notes are offered for explanation and guidance only and are not adopted as an official part of the rules. The amendments shall become effective January 1, 1993 at 12:01 a.m.

It is so ordered.

BARKETT, C.J., and OVERTON, McDONALD, SHAW, GRIMES, KOGAN and HARDING, JJ., concur.

THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER THE EFFECTIVE DATE OF THESE RULES.

Original Proceeding - Florida Rules of Criminal Procedure

Benjamin H. Hill III, President, Tampa, Florida; Alan T. Dimond, President-elect, Miami, Florida; John F. Harkness, Jr., Executive Director, Tallahassee, Florida, of The Florida Bar; and Manuel Menendez, Jr., Chairman, Criminal Procedure Rules Committee, Tampa, Florida,

for Petitioner