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STATE OF FLORIDA  
Office of the Public Defender  
TWENTIETH JUDICIAL CIRCUIT  
LEE COUNTY JUSTICE CENTER COMPLEX  
P.O. Drawer 1980  
Fort Myers, Florida 33902-1980

Telephone: 813 / 335-2911  
SUNCOM 726-2911  
FAX (813) 338-3220

DOUGLAS M. MIDGLEY  
Public Defender

**FILED**  
SID J. WHITE  
OCT 7 1994  
CLERK, SUPREME COURT  
By \_\_\_\_\_  
Chief Deputy Clerk

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Hon. Sid J. White, Clerk  
Supreme Court of Florida  
Tallahassee, Florida 32399-1925

Reference: Case No: 84273, Emergency Petition  
to Amend Florida Rule of Criminal  
Procedure 3.220

Dear Mr. White:

I write to comment upon the proposed amendment to Rule 3.220(d)(1)(A)(ii), Defendant's Obligation, which reads in part as follows:

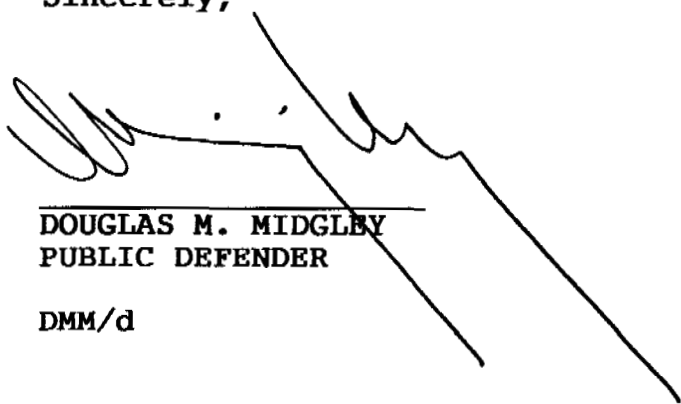
"If the defendant has elected to participate in discovery, the defendant must . . ."

As a member of the Florida Bar Criminal Procedure Rules Committee which drafted these proposed amendments to Rule 3.220, I am concerned over a lack of clarity. It is my understanding that the cited proposed rule amendment was intended to apply only in a capital case, and I am concerned that since there is no language in the portion cited to limit its effect to a capital case, our trial courts may be lead to believe it also applies in other situations. I am therefore suggesting that the Court clarify the portion I cited above, by causing it to read as follows:

"If the defendant in a capital case has elected to participate in discovery, the defendant must . . ."

Your consideration in calling this matter to the Court's attention is appreciated.

Sincerely,

  
\_\_\_\_\_  
DOUGLAS M. MIDGLEY  
PUBLIC DEFENDER

DMM/d