

May 22, 2000

Certified Mail # 100 127 435

The Honorable Thomas D. Hall
Clerk, Supreme Court of Florida
Supreme Court Building
500 South Duval Street
Tallahassee, FL 32399-1900

RE: RULES OF CRIMINAL PROCEDURE - AMENDMENTS
Case No. SC96646, April 14, 2000

Dear Mr. Hall:

The following comment is submitted with regard to the above referenced as it relates to the amendments to Rule of Criminal Procedure 3.852, Capital Postconviction Public Records Production.

Proposed Rule 3.852 (o), Destruction of Records Repository Records, states that, "Sixty days after a capital case is carried out, after a defendant is released from incarceration following the granting of a pardon or reversal of the sentence, or after a defendant has been resentenced to a term of years, the attorney general shall provide written notification of this occurrence to the secretary of state with service in accord with subdivision (c)(1). After the expiration of the 60 days, the secretary of state may then destroy the copies of the records held by the records repository that pertain to that case, unless an objection to the destruction is filed in the trial court and served upon the secretary of state and in accord with subdivision (c)(1). If no objection has been served within the 60-day period, the records may then be destroyed. If an objection is served, the records shall not be destroyed until a final disposition of the objection."

It is suggested that the same destruction time period be applicable to the copies of "confidential or exempt" records which shall be delivered to the clerk of the court in the county in which the capital case was tried as stated throughout Rule 3.852.

Possible language to reflect this applicability follows with suggestions in bold. "Rule 3.852 (o), Destruction of Records Repository Records **and Confidential or Exempt Records**. Sixty days after

a capital case is carried out, after a defendant is released from incarceration following the granting of a pardon or reversal of the sentence, or after a defendant has been resentenced to a term of years, the attorney general shall provide written notification of this occurrence to the secretary of state and **clerk of the court in the county in which the capital case was tried** with service in accord with subdivision (c)(1). After the expiration of the 60 days, the secretary of state may then destroy the copies of the records held by the records repository that pertain to that case **and the clerk of the court in the county in which the capital case was tried may destroy the copies of the confidential or exempt records that pertain to that case**, unless an objection to the destruction is filed in the trial court and served upon the secretary of state and in accord with subdivision (c)(1). If no objection has been served within the 60-day period, the records may then be destroyed. If an objection is served, the records shall not be destroyed until a final disposition of the objection."

Sincerely,

Harvey Ruvin
Clerk

cc: Honorable Joseph P. Farina
Chief Judge, Eleventh Judicial Circuit

Antonio Gonzalez, Esq.
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State Attorney

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