

TENTH JUDICIAL CIRCUIT
HARDEE, HIGHLANDS AND POLK COUNTIES



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January 21, 2004

Mr. Tom Hall
Clerk of the Florida Supreme Court
500 South Duval Street
Tallahassee, FL 32399-1925

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JAN 26 P 1:52
CLERK, SUPREME COURT
BARTOW

RE: July 5, 2003 referral - Florida Rule of Judicial Administration 2.071(a); Use of
Communication Equipment

Dear Mr. Hall:

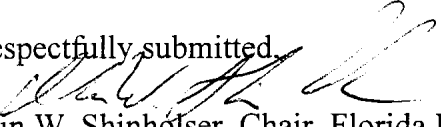
On Friday, January 16, 2004, the Florida Bar Criminal Procedure Rules Committee considered your referral dated July 5, 2003 regarding the use of communication equipment. The subcommittee considering the matter recommended the rule remain unchanged. After consideration by the full committee, the full committee adopted the report of the subcommittee and concurred that the rule should remain unchanged.

The subcommittee stated:

"... In the context of criminal cases, the Supreme Court has in Harrell v. State, 709 So. 2d 1364 (Fla. 1998), considered the matter and set forth specific requirements that must be met before the state may introduce testimony through the use of communication equipment. While there might be a circumstance where the defense wishes to present testimony via communications equipment and not implicate the right of confrontation upon which the Court in Harrell based its decision, the Subcommittee was of the view that the circumstance was typically resolved by agreement of the parties. To the extent that there might be some instances where the defense sought to introduce such testimony and could not secure the agreement of the State, this subcommittee was of the view that it happened so infrequently that it did not justify the creation of a new rule."

If you have any questions or wish additional clarification, please advise.

Respectfully submitted,


Olin W. Shinhöiser, Chair, Florida Bar
Criminal Procedure Rules Committee

cc: Stanford Solomon, Chair, Rules of Judicial Administration
Justice Kenneth Bell, Liaison to the Rules of Judicial Administration Committee
Justice Peggy Quince, Liaison to Criminal Procedure Rules Committee
Deborah J. Meyer, Central Staff Director
Gerry Rose, Florida Bar Liaison, Florida Bar Criminal Procedure Rules Committee
Craig Shaw, Florida Bar Liaison, Florida Bar Rules of Judicial Administration Committee
The Honorable Mark K Leban, Chair, Appellate Court Rules Committee
The Honorable Jennifer Drechsel Bailey, Chair, Civil Procedure Rules Committee
Mr. Jeffrey Wasserman, Chair, Family Law Rules Committee
Ms. Jennifer Parker, Chair, Juvenile Court Rules Committee
Ms. Toni F. Conetta, Chair, Probate Rules Committee
Ms. Julee Lynn Milham, Chair, Small Claims Rules Committee
Mr. Brian L. Tannebaum, Chair, Traffic Court Rules Committee