

IN THE SUPREME COURT OF FLORIDA

**IN RE: AMENDMENTS TO FLORIDA
RULE OF CRIMINAL PROCEDURE
3.130**

CASE NO. SC08-1934

**CRIMINAL PROCEDURE RULES COMMITTEE’S RESPONSE TO
COMMENTS ON PROPOSED AMENDMENT TO FLORIDA RULE
OF CRIMINAL PROCEDURE 3.130 (FIRST APPEARANCE) BY
JUDGE O.H. EATON**

The Criminal Procedure Rules Committee (CPRC), by and through its chairman, the Honorable Thomas H. Bateman III, Senior Judge, Second Judicial Circuit, files its response to Judge Eaton’s comments on Rule 3.130. The response previously filed by the CPRC to the comments of the Florida Public Defenders Association, Inc., which suggested that the rule set a court’s hours of operation, is also applicable to that part of Judge Eaton’s comment that makes the same suggestion. (The committee’s response is that this suggestion goes too far for the purpose of a rule of procedure.)

Judge Eaton’s comment also suggests that the Court review the Seminole County First Appearance Manual for informational purposes. The CPRC currently has a subcommittee assigned to review this manual, but it has not yet presented a recommendation for consideration of the full committee. Therefore, at this time, the CPRC does have any specific recommendation to make to the Court regarding the manual.

Lastly, Judge Eaton suggests that “the rules need to emphasize the priority to be given to the least restrictive conditions of release and address the standard of review in habeas actions challenging the appropriateness of conditions set by the trial courts.” Because this comment is beyond the scope of the proposed amendment and the CPRC has not considered such an amendment, the CPRC takes no position on the suggestion. If the Court wishes to pursue such an amendment, the CPRC will assign it to a subcommittee for further consideration.

Respectfully submitted on _____, 2009.

THOMAS H. BATEMAN III
Senior Judge
Chair, CPRC
Florida Bar Number 0349781
Leon County Courthouse,
c/o Trial Court Administrator
301 South Monroe Street
Tallahassee, Florida 32301
Telephone: 850-577-4401
Facsimile: 850-922-0327

JOHN F. HARKNESS, JR.
Executive Director
The Florida Bar
651 East Jefferson St.
Tallahassee, FL 32399-2300
850 561-5600
Florida Bar No. 123390

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by regular U.S. Mail to O.H. Eaton, Circuit Judge, 101 Bush Boulevard, Sanford, Florida 32773 on _____, 2009.

THOMAS H. BATEMAN III