

IN THE SUPREME COURT OF FLORIDA

IN RE: AMENDMENTS TO THE FLORIDA
RULES OF CRIMINAL PROCEDURE –
RULE 3.191 SPEEDY TRIAL

CASE NO. SC10-1880

COMMENT PERTAINING TO TIME PERIOD
IN ADMINISTRATIVE ORDERS

Undersigned counsel has no objection to the proposed amendment to Fla. R. Crim. P. 3.191. Counsel does have a suggestion to the Court regarding how time periods should be described in the Court's administrative orders rendered pursuant to the new rule. The suggestion is that the time period be delineated in entire days, not parts of days. The two attached Supreme Court administrative orders AOSC01-44 and AOSC06-32 demonstrate that the Court has previously tolled speedy trial starting at 5:00 p.m. for one day (AOSC01-44) or have tolled speedy trial for more than one day beginning at 5:00 p.m. on one day and ending at 8:00 a.m. on another day. (AOSC06-32).

Counsel submits that this partial-day tolling of speedy trial causes confusion. For example, in AOSC01-44, the order states that speedy trial is tolled for one day, but the tolling itself takes place over two days. Because Fla. R. Crim. P. 3.040 does not make any provision for the computation of portions of a day, it could be argued that AOSC01-44 tolls speedy trial for two days despite the wording of the order which says that it is tolled for one day. Similarly, AOSC06-32 could be interpreted to toll speedy trial for three days (Tuesday, Wednesday, and Thursday) or two days (the 39 hours from 5:00 p.m. Tuesday to 8:00 a.m. Thursday) or even one day (the eight working hours included within the time period).

Counsel does not see any reason for the Court to apportion the tolling of speedy trial to a part of a day because Fla. R. Crim. P. 3.040 does not address parts of days. Counsel suggests that the Court instead toll speedy trial for entire days without listing starting and ending times.

For example, the wording in AOSC06-32 paragraph 2 would be: "...all time limits authorized by rule and statute applicable to civil (inclusive of circuit and county), family, criminal, domestic violence, probate, traffic, and small claims proceedings are tolled on Tuesday, August 29, 2006, through Thursday, August 31, 2006." With this wording, there is no question that speedy trial has been tolled for three days.

The only other suggestion that counsel would make to the Court is that the Court learn how many days courthouses are closed and then toll speedy trial for that number of days. There have been hurricanes that have caused the closure of courthouses for a couple of days, but the Court's administrative orders tolling speedy trial tolled speedy trial for approximately five or more days. This is based on counsel's recollection from about four year ago when there was many hurricanes. At the time of the closures there was no reason to make some type of a written record of this. It is only fair that speedy trial be tolled for those days in which the courts were not operating.

CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing comment has been sent by U.S. mail delivery to Robert T. Strain, Committee Chair, Capital Collateral Regional Counsel, 3801 Corporex Park Dr., Ste. 210, Tampa, FL 33619-1136 this ____ day of November, 2010.

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