

March 22, 2011

The Honorable Thomas D. Hall  
Clerk, Supreme Court of Florida  
Supreme Court Building  
500 South Duval Street  
Tallahassee, FL 32300-1900

IN RE: AMENDMENTS TO THE FLORIDA RULES OF APPELLATE  
PROCEDURE  
Case No. SC11-192

Dear Mr. Hall,

The following comments are submitted with regard to the above referenced as it relates to amendments to the Rules of Appellate Procedure, Rule 9.140 (Appeal Proceedings in Criminal Cases).

Proposed amendment to Rule 9.140 (f) (1) states that;

**(f) Record.**

(1) **Service.** The clerk of the lower tribunal shall prepare and serve the record prescribed by rule 9.200 within 50 days of the filing of the notice of appeal. However, the clerk shall not serve the record until all proceedings designated for transcription have been transcribed by the court

reporter(s) and filed with the clerk. If the designated transcripts have not been filed by the date required for service of the record, the clerk shall file with the appellate court, and serve on all parties and any court reporter whose transcript has not been filed, a notice explaining the reason for the delay and that the record is not being served without the transcripts. In cases where the transcripts are filed after a notice from the clerk, the clerk shall prepare and file the record within 20 days of receipt of the transcripts. An order granting an extension to the court reporter to transcribe designated proceedings shall toll the time for the clerk to serve this notice or the record on appeal.

It is suggested that the language be amended as below as the Clerk should not be the responsible party for noticing the parties who have caused the delay in Appellant proceedings. In addition, the Clerk should not have the initial time period shortened to prepare the record due to another parties delay in filing the necessary transcripts.

**f) Record.**

(1) **Service.** The clerk of the lower tribunal shall prepare and serve the record prescribed by rule 9.200 within 50 days of the filing of the notice of appeal. However, the clerk shall not serve the record until all proceedings designated for transcription have been transcribed by the court reporter(s) and filed with the clerk. If the designated transcripts

have not been filed by the date required for service of the record, the clerk shall file with the appellate court, and serve on all parties and any court reporter whose transcript has not been filed, a notice of inability to complete the record, listing the transcripts not yet received. explaining the reason for the delay and that the record is not being served without the transcripts. In cases where the transcripts are filed after a notice from the clerk, the clerk shall prepare and file the record within 20 50 days of receipt of the transcripts. An order granting an extension to the court reporter to transcribe designated proceedings shall toll the time for the clerk to serve this notice or the record on appeal.

The above suggested language change to the rule will eliminate the undue administrative and financial burden of sending notices explaining the reason for delay when the reason was not due to the Clerk's omission. The Clerk agrees that incomplete records should not be filed. Due to the large number of Appeals received, and the large number of transcripts, the time period to prepare the record should not be shortened due to another parties delay in preparing the transcripts. The increased cost of processing notices to all parties will significantly increase our postage costs. Over 90% of the Records we process have delayed transcripts. In addition, most of the Records have numerous court reporters, on average (3) three per case, that we would have to notice. Another concern we have is the storage space for all these records pending receipt of transcripts. We simply do not have the space, we use vacant desks and boxes (see attached pictures). Attached are forms we are currently using or have used in the past in our Circuit to notify the Court of delay.

Sincerely,

Harvey Ruvin  
Clerk of Courts,  
Miami-Dade County

Cc: Honorable Joel Brown  
Chief Judge, Eleventh Judicial Circuit

Luis Montaldo, Esq.  
Counsel to the Clerk

Ricky S. Sill  
Senior Deputy Clerk

**Enclosures**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been mailed by United States Postal Service to the following persons on March 22, 2011:

John Granville Crabtree  
240 Crandon Blvd., Ste. 234  
Key Biscayne, FL 33149-1624

Glen P. Gifford  
Public Defender's Office, 2<sup>nd</sup> Circuit  
301 S. Monroe St., Ste. 401  
Tallahassee, FL 32399-6502

Laura Anstead  
Florida Dept. of Financial Services  
200 E. Gaines St.  
Tallahassee, FL 32399-6502

Beth C. Weitzner  
1320 NW 14<sup>th</sup> St.  
Miami, FL 33125-1609

Harvey Ruvim, Clerk  
Circuit and County Courts

By \_\_\_\_\_  
Diane Pattavina, Chief  
Criminal Courts Division

IN THE SUPREME COURT OF FLORIDA

APPELLANT(S)

CASE NUMBER:  
LOWER TRIBUNAL NO.:

THE STATE OF FLORIDA

APPELLEE(S)

NOTICE OF INABILITY TO COMPLETE RECORD ON APPEAL

In accordance to the Rule of Appellate Procedures, Rule 9.140(f) (1), the Clerk of the Lower Tribunal shall prepare and serve the record as prescribed by Rule 9.200 within fifty (50) days of the filing of the Notice of Appeal. As of the date of this notice, the Clerk has not received the requested transcripts for: dates and is therefore, unable to forward the Record of Appeal, in compliance with the above stated Rule.

Dated: \_\_\_\_\_

Harvey Ruvin, Clerk,  
Circuit and County Courts  
Eleventh Judicial Circuit

By: \_\_\_\_\_

Deputy Clerk

IN THE 3<sup>rd</sup> DISTRICT COURT OF APPEAL

APPELLANT(S)

CASE NUMBER:  
LOWER TRIBUNAL NO.:

THE STATE OF FLORIDA

APPELLEE(S)

NOTICE OF INABILITY TO COMPLETE RECORD ON APPEAL

In accordance to the Rule of Appellate Procedures, Rule 9.140(f) (1), the Clerk of the Lower Tribunal shall prepare and serve the record as prescribed by Rule 9.200 within fifty (50) days of the filing of the Notice of Appeal. As of the date of this notice, the Clerk has not received the requested transcripts for: dates and is therefore, unable to forward the Record of Appeal, in compliance with the above stated Rule.

Dated: \_\_\_\_\_

Harvey Ruvin, Clerk,  
Circuit and County Courts  
Eleventh Judicial Circuit

By: \_\_\_\_\_

Deputy Clerk