

IN THE SUPREME COURT OF FLORIDA

**IN RE: AMENDMENTS TO THE
FLORIDA RULES OF CRIMINAL
PROCEDURE**

CASE NO: SC12-187

**RESPONSE OF THE
CRIMINAL PROCEDURE RULES COMMITTEE**

Honorable Donald E. Scaglione, Chair, Florida Criminal Procedure Rules Committee (“Committee”), and John F. Harkness, Jr., Executive Director, The Florida Bar, file this Response to the Comments of Florida Public Defender Association under *Fla. R. Jud. Admin.* 2.140(b)(6).

Subsequent to the Court’s publication of the proposed rule amendments submitted, a comment was received from the Florida Public Defender Association (“FPDA”). In that comment the FPDA objected to the proposed elimination of rule 3.170(l), *Fla. R. Crim. P.*, because the rule “allows the prompt resolution of involuntary plea claims, and may be the only mechanism with which defendants can challenge sentences in excess of a plea agreement.” (Comment, page 1.) The Committee disagrees and does not wish to withdraw the submitted proposal.

Specifically, this matter is the result of teamwork between the Committee and the District Court of Appeal Performance and Accountability Commission through a joint postconviction workgroup. The proposed amendment was based on case law, which is quoted in the original cycle report. (*Williams v. State*, 959 So. 2d 830 (Fla. 4th DCA 2007).) The Criminal Court Steering Committee (“CCSC”), in SC11-1679, is following this same research and proposing a like deletion of subdivision (l). Subsequent to receiving the comment by the FPDA the Committee’s Subcommittee I met to discuss, review the research, and review the history of this proposed amendment. Given the case law and the like-proposed amendment filed by the CCSC, the Committee reiterates its desire to have subdivision (l) deleted; however, to keep the matter united, the Committee is not opposed to the severing of proposed rule 3.170(l) deletion from SC12-189 and joined with the same provision contained in SC11-1679.

The Criminal Procedure Rules Committee respectfully requests that the Court amend the Florida Rules of Criminal Procedure as suggested in its report.

Respectfully submitted on April 19, 2012.

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was furnished by United States mail, on April 19, 2012, to:

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