

IN THE SUPREME COURT OF FLORIDA

**IN RE: AMENDMENTS TO FLORIDA
RULES OF CRIMINAL PROCEDURE
3.851, 3.852, AND 3.993**

No. SC96646

**SUGGESTION OF POSTPONEMENT OF ORAL ARGUMENT
WITH LEAVE FOR PARTIES TO SUBMIT RESPONSES TO COMMENTS**

The Florida Public Defender Association, Inc. (the Association) respectfully suggests that this Court postpone the scheduled oral argument of June 9, 2000, in the above-captioned proceeding so that the parties may file written responses to the multitude of comments submitted to this Court. In support of this suggestion the Association avers the following:

1. This Court solicited comments due no later than June 1, 2000, from interested parties regarding proposed amendments to the rules governing postconviction proceedings in capital cases. On Monday morning, June 5, the office of the Clerk of this Court advised the Association that sixteen (16) parties filed comments, including the following:

1. Clerk of Court, 11th Judicial Circuit of Fla.
2. Fla. Prosecuting Attorney's Ass'n / 20 State Attorneys
3. FACDL
4. Clerk of Court, 13th Judicial Circuit of Fla.
5. Judicial Administration Rules Committee
6. Morris Committee
7. Solicitor General
8. Fla. Dep't of State

9. FDLE
10. CCRCs
11. Governor Jeb Bush
12. John Thrasher, Speaker, House of Rep.
13. American Bar Association
14. Attorney General
15. Criminal Procedure Rules Committee
16. FPDA

2. As of mid afternoon on Monday, June 5, the Association had received service of only about half of the comments, although the Clerk's office advised that most were expected to be posted on the Court's web site by the end of the day.

3. The veritable flood of information coming into the Court and into the hands of the interested parties just days before the oral argument (if in fact all of them are served and/or posted before the argument) will make it extremely difficult for the parties to properly prepare to address the complex issues at the oral argument as presently scheduled.

4. This Court may wish to have more time to adequately absorb all of the comments, most of which appear to oppose immediate adoption of the proposed amendments.

5. Even the Attorney General urged this Court to postpone immediate adoption of postconviction rule amendments. See Attorney General's Comments and Suggested Modifications to Proposed Amendments at 3 n.1.

6. The Association submits that it would be in the best interest of this Court, the parties, and justice, to postpone oral argument and grant the parties an opportunity to file responses to all comments filed in this proceeding. This suggestion is not made for the purpose of delay, because existing rules remain in place and control postconviction proceedings. There is no need to rush the consideration of these rules, especially given the absence of substantive and financial Legislative support, which this Court said was a necessary precondition to adopting these amendments. These rules may make the difference between life and death, and therefore should be considered with appropriate deliberation.

WHEREFORE, the Association suggests that this Court remove the above-captioned proceeding from the June 9 oral argument calendar, and that this Court order interested parties to file written responses to the Court within a reasonable time.

CERTIFICATE OF SERVICE

We certify that copies of the aforementioned has been furnished by delivery to the office of the Attorney General, The Capitol, Plaza Level, Tallahassee, Florida, and by U.S. Mail to those on the following attached list, on this _____ day of June, 2000.

Respectfully submitted,

MICHAEL J. MINERVA, NO. 092487
ASSISTANT PUBLIC DEFENDER

W.C. MCLAIN, NO. 201170
ASSISTANT PUBLIC DEFENDER

CHET KAUFMAN, NO. 814253
ASSISTANT PUBLIC DEFENDER

NANCY DANIELS
PUBLIC DEFENDER
SECOND JUDICIAL CIRCUIT
LEON COUNTY COURTHOUSE
301 SOUTH MONROE ST.
TALLAHASSEE, FL 32301
(850) 488-2458

ATTORNEYS FOR THE FLORIDA PUBLIC DEFENDER ASSOCIATION, INC.
T:\BRIEFS\966\96646suggestionToPostponeOA.wpd

CHRISTINA A. SPAULDING, No. 995420
ASSISTANT PUBLIC DEFENDER
BENNETT H. BRUMMER
PUBLIC DEFENDER
ELEVENTH JUDICIAL CIRCUIT
1320 NORTHWEST 14TH ST.
MIAMI, FL 33125
(305) 545-1958

Mr. John Anthony Boggs
The Florida Bar
650 Apalachee Parkway
Tallahassee, Florida 32399-2300

Mr. Bennett Brummer
Public Defender
Ms. Christina Spaulding
Assistant Public Defender
1320 NW 14th St., Rm. 519
Miami, FL 33125-1609

Hon. Robert Butterworth
Attorney General
Ms. Carolyn Snurkowski
Division Director
Office of the Attorney General
The Capitol, Plaza Level
Tallahassee, FL 32399-1050

Hon. Johnnie B. Byrd
Trinkle, Redman, Moody, et al.
P. O. Box TT
Plant City, Florida 33564-9040

Mr. Richard R. Greene
Mr. Gary L. Caldwell
Office of the Public Defender
Fifteenth Judicial Circuit
421 Third Street
West Palm Beach, Florida 33401-4203

Mr. Michael Pearce Dodson
2305 Forsythe Ct.
Tallahassee, FL 32308-3011

Mr. Neal A. Dupree
Mr. Todd F. Scher
CCRC, Southern Region
440 S. Andrews Avenue
Fort Lauderdale, Florida 33301-2830

Hon. O.H. Eaton, Jr.
Circuit Judge

Eighteenth Judicial Circuit
Seminole Co. Courthouse
Sanford, FL 32771

Hon. Joseph P. Farina
Chief Judge
Eleventh Judicial Circuit
Dade County Courthouse, Room 511
73 W. Flagler Street
Miami, Florida 33130

Hon. Thomas C. Feeney
Fowler, Barice & Feeney
28 West Central Boulevard
Orlando, Florida 32801-2466

Mr. Lawrence J. Fox
Ms. Elisabeth Semel
Ms. Judy Gallant
ABA Death Penalty Representation Project
50 "F" St. NW, Ste. 8250
Washington, D.C. 20001

Hon. James Gibson
Public Defender
Mr. Larry Henderson
Assistant Public Defender
112 Orange Ave., Ste. C
Daytona Beach, FL 32114

Hon. John Dudley Goodlette
Goodlette, Coleman & Johnson
4001 Tamiami Trail, N., Suite 300
Naples, Florida 34103-3591

Mr. John F. Harkness, Jr.
Mr. Jeffrey Craig Shaw
Mr. Billy Jack Hendrix
The Florida Bar
650 Apalachee Pkwy.
Tallahassee, FL 32399

Mr. Robert Augustus Harper
Mr. Steven Brian Whittington

Robert Augustus Harper Law Firm, P.A.
325 West Park Avenue
Tallahassee, Florida 32301-1413

Mr. John N. Hogenmuller
Office of the State Courts Administrator
P. O. Box 12486
Tallahassee, Florida 32317-2486

Mr. Arthur Jacobs
401 Centre St., 2nd Floor
P.O. Box 1110
Fernandina Beach, FL 32035-1110

Mr. Richard Jorandby
Public Defender
Criminal Justice Bldg.
421 Third St.
W. Palm Beach, FL 33401

Hon. Charles J. Kahn, Jr.
District Court of Appeal
First Appellate District
301 Martin Luther King, Jr., Boulevard
Tallahassee, Florida 32399-1850

Mr. Steven C. Krosschell
14020 Roosevelt Boulevard
Clearwater, Florida 33762-3804

Hon. John P. Kuder
Chief Judge
First Judicial Circuit
Judicial Building
190 Governmental Center
Pensacola, Florida 32501

Mr. Jerome C. Latimer
Chair
The Florida Bar Criminal Procedure
Rules Committee
Stetson College of Law
1401 61st St. S.
St. Petersburg, FL 33707-3246

Mr. Terence Lenamon
1000 Ponce de Leon Blvd., Ste. 208
Coral Gables, FL 33134

Hon. Elliot Metcalfe, Jr.
Public Defender
Sarasota Justice Center
2071 Ringling Blvd., 5th Floor
Sarasota, FL 34237

Hon. Marion Moorman
Mr. Paul Helm
Office of the Public Defender
Polk Co. Courthouse
P.O. Bx 9000
Bartow, FL 33831-9000

Hon. Stan R. Morris
Chairperson
Supreme Court Committee on Post-
Conviction Relief in Capital Cases
201 E. University Ave.
Gainesville, FL 32601

Mr. John W. Moser
Mr. Michael P. Reiter
CCRC, Middle Region
3801 Corporex Park Dr., Ste. 210
Tampa, FL 33619

Mr. Mark Olive
320 W. Jefferson Street
Tallahassee, Florida 32301-1608

Hon. Philip Padovano
District Court of Appeal
First Appellate District
301 Martin Luther King, Jr., Boulevard
Tallahassee, Florida 32399-1850

Hon. Belvin Perry
Chief Judge
Ninth Judicial Circuit

425 N. Orange Avenue
Orlando, Florida 32801

Mr. J. Rafael Rodriguez
6367 Bird Rd.
Miami, FL 33155

Hon. Susan Schaeffer
Chief Judge
Sixth Judicial Circuit
545 First Avenue, N., Room 417
St. Petersburg, Florida 33701

Hon. Scott J. Silverman
Circuit Judge
Eleventh Judicial Circuit
Richard E. Gerstein Justice Building
1351 N.W. 12th Street, Room 712
Miami, Florida 33125

Mr. Gregory C. Smith
Mr. Andrew Thomas
Mr. Timothy P. Schardl
CCRC, Northern Region
1533-B S. Monroe St.
Tallahassee, FL 32301

Hon. John Thrasher
Speaker of the House
4th Floor, The Capitol
Tallahassee, FL 32301

Mr. Eugene Zenobi
325 Algeria Ave.
Coral Gables, FL 33134