



Eighth Judicial Circuit of Florida

FILED
CLERK OF COURT
MAR 05 2002
CLERK, SUPREME COURT
BY

Chambers of
STAN R. MORRIS
Chief Judge

Alachua County Courthouse
201 East University Avenue
Gainesville, Florida 32601
(352) 374-3640 / SUNCOM 651-3640
FAX (352) 381-0127
E-MAIL: sgt@circuit8.org

Stacy Thackrey
Judicial Assistant

February 26, 2002

Chief Justice Charles T. Wells
The Supreme Court of Florida
Supreme Court Building
500 South Duval Street
Tallahassee, FL 32399-1925

IN RE: SUPREME COURT COMMITTEE ON POST CONVICTION
RELIEF IN CAPITAL CASES

Dear Chief Justice Wells:

In accord with the previous orders of the Court, the Committee on Post Conviction Relief in Capital Cases respectfully submits proposed Florida Rule of Criminal Procedure 3.851(h) that addresses the procedures to be followed in capital cases after a death warrant is signed by the Governor.

In sequence, the proposal addresses the assignment of judges immediately upon the issuance of the warrant; directs immediate attention to advancement of the matter on the trial court's calendar; directs expedited court action to meet the time limits of the warrant; limits stays; creates discretion to determine venue by the circumstances of the case; and treats post-warrant motions as successive motions subject to the requirements of the previous subsection of the rule. It addresses the presence of the defendant in person or electronically at any evidentiary hearing or hearing involving change of counsel; directs expedited case management; encourages advanced court reporting technology and expeditious transcription of proceedings; directs expedited electronic transmission of trial court orders to the court and counsel; and directs the clerk of court to immediately deliver the record to the Court without awaiting a notice of appeal.

This proposal was submitted to the Criminal Procedures Rules Committee by Judge O.H. Eaton, Jr., at the January 2002 meeting. The Rules Committee suggested one minor change which has been included in section 3.851(h)(9) of the proposed rule. The change was to include counsel of record as recipients of the electronic transmission on the final order.

The Court previously requested consideration of judicial assignments in capital cases in general. The committee has discussed the matter and given preliminary consideration to

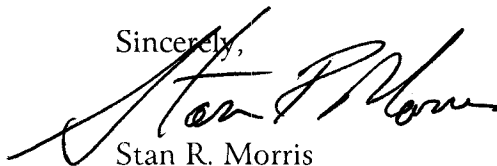
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assignment to a small cadre of trial judges on a statewide basis based upon groupings of cases by geographic divisions matching the District Courts of Appeal. As you know, five of our seven members of the committee are also members of the Trial Court Budget Committee. The committee is mindful that the increasing need for judicial resources in the difficult environment of capital cases is a paramount judicial concern, but it must be measured in the context of the overall mission of the judicial branch. Given the ongoing in-depth study of the branch by the Trial Court Budget Committee, the Performance and Accountability Committee of the Judicial Management Counsel and the various budget exercises being conducted by the Office of State Court Administration upon request of other branches, the committee respectfully submits that any suggested assignment plan would be premature at this time. Careful thought must be given to how any marked change in the assignment of these cases will fit into the overall plan to carry the branch into the new reality of the Article V funding shift.

With this in mind, the committee requests a delay in reporting on the of capital cases to trial judges until at least June 1, 2002. It will be most difficult to recommend a focused assignment of trial judges to these matters alone without the reasonable expectation that the void created by their absences from other duties would be filled by new judges, not simply by increasing the workload on other judges whose workloads already justify the Court's prior and recent certification of additional needs.

As always, the committee will respond to the Court's directive. We hope you find our proposed subsection (h) meets with your approval. We also hope our request to withhold consideration of the assignment issue is found to be reasonable and prudent.

Sincerely,



Stan R. Morris
Circuit Judge

SRM/sgt

CC: John Hogenmuller, Esquire
Committee Members:

Honorable Philip J. Padovano
Honorable O. H. Eaton, Jr.
Honorable Joseph P. Farina
Honorable John P. Kuder

Honorable Belvin Perry, Jr.
Honorable Susan F. Schaeffer
Honorable Stan Blake