

SUPREME COURT OF FLORIDA

Amendments to Florida Rule of Criminal Procedure 3.851(h)

828 So. 2d 999 (Fla. 2002) · Decided September 19, 2002

SUMMARY

The Florida Supreme Court adopts amendments to Florida Rule of Criminal Procedure 3.851(h), governing post-conviction proceedings after a death warrant is signed. The opinion addresses judicial assignment, expedited scheduling, hearing location, successive motions, case management, transcription, preparation of orders, and transmission of the record. The court adopts the proposed amendments with modifications, including deletion of provisions concerning stays of execution and electronic presence of the defendant.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Per Curiam; Anstead, C.J.; Shaw, J.; Wells, J.; Pariente, J.; Lewis, J.; Quince, J.; Harding, Senior Justice
JURISDICTION	Florida
DECIDED	September 19, 2002
DISPOSITION	approved
PROCEDURAL POSTURE	The Supreme Court Committee on Post-conviction Relief in Capital Cases and the Florida Bar Criminal Procedure Rules Committee proposed amendments to Florida Rule of Criminal Procedure 3.851(h), governing capital post-conviction proceedings after issuance of a death warrant. The proposals were published for comment, written comments were received, and representatives of the interested parties presented oral argument. The Supreme Court adopted the amendments with specified modifications.
PRECEDENTIAL VALUE	Published Florida Supreme Court rulemaking opinion adopting amendments to a statewide criminal procedure rule; binding to the extent it construes the court’s jurisdiction and circuit-court authority to stay execution.
PARTIES	Supreme Court Committee on Post-conviction Relief in Capital Cases, Florida Bar Criminal Procedure Rules Committee

TOPICS

state post-conviction relief

post-conviction relief

criminal procedure

appellate procedure

competency to be executed

PRACTICE AREAS

Criminal procedure

Capital post-conviction litigation

Appellate procedure

QUESTIONS PRESENTED

1. Whether the Supreme Court of Florida should adopt proposed amendments to Florida Rule of Criminal Procedure 3.851(h) governing post-conviction proceedings after a death warrant is signed.
2. Whether the proposed provision limiting or describing circuit-court authority to stay execution should be included in the rule.
3. Whether the rule should expressly authorize electronic presence of the defendant when the defendant's presence is otherwise required.
4. How proceedings after issuance of a death warrant should be expedited and administered.

HOLDINGS

1. The Supreme Court of Florida adopted the proposed amendments to rule 3.851(h), with the modifications described in the opinion and minor editorial changes, effective immediately.
2. The court declined to include in rule 3.851(h) the proposed language stating that a stay of execution should be granted only under specified logistical or unavoidable circumstances. Circuit courts retain authority under their all-writs power to enter a stay when the stay application is filed with a post-conviction motion or itself shows grounds on which the defendant might be entitled to post-conviction relief.
3. After a death warrant is signed, the proceedings must be expedited: the case must be assigned promptly to a qualified capital-case judge, given precedence over other cases, heard expeditiously without the ordinary rule 3.851 time limitations, conducted at a location selected by the trial judge, and administered under the rule's requirements for successive motions, case management, reporting, orders, and immediate record transmission.

KEY QUOTATIONS

"our case law is clear that circuit courts have jurisdiction, under their all writs power, to enter a stay of execution where the application for stay is filed with a motion for postconviction relief or where the application for stay itself shows grounds under which the defendant might be entitled to postconviction relief." (1001)

"This subdivision is meant to provide the trial judge with the flexibility to travel with the case as necessary and to hold hearings in the most appropriate and convenient location." (1002)

"Accordingly, we adopt the proposed amendments with the modifications discussed above and with other minor editorial changes." (1003)

FACTUAL BACKGROUND

The opinion concerns the administrative and procedural requirements applicable to capital post-conviction proceedings after a death warrant has been signed. The proposed rule addressed the compressed time available before execution and appellate review, including assignment of a qualified judge, expedited proceedings, determination of hearing location, treatment of motions as successive, case management, transcription, preparation of orders, and transmission of the record. The court modified the proposal by deleting provisions concerning circuit-court stays of execution and the defendant's express authorization to appear electronically, among other changes.

PROCEDURAL HISTORY

The court had previously adopted comprehensive amendments to rule 3.851 but requested that the committees develop procedures for proceedings after a death warrant is signed. The committees submitted proposed amendments addressing judicial assignment, scheduling, hearing location, successive motions, case management, reporting, orders, and record transmission. After considering the proposals, comments, and oral argument, the court adopted the amendments with deletions, renumbering, and other modifications, effective immediately.

DISPOSITION

approved

CASES CITED

- Amendments to Florida Rules of Criminal Procedure 3.851, 3.852 & 3.993, 797 So. 2d 1213 (Fla. 2001)
- State ex rel. Russell v. Schaeffer, 467 So. 2d 698 (Fla. 1985)
- Brady v. Maryland, 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963)
- Giglio v. United States, 405 U.S. 150, 92 S. Ct. 763, 31 L. Ed. 2d 104 (1972)
- Scott v. Dugger, 604 So. 2d 465 (Fla. 1992)
- Jones v. State, 591 So. 2d 911 (Fla. 1991)
- Richardson v. State, 546 So. 2d 1037 (Fla. 1989)
- Huff v. State, 622 So. 2d 982 (Fla. 1993)
- Amendments to Florida Rules of Criminal Procedure 3.851, 3.852 and 3.993, 772 So. 2d 488 (Fla. 2000)