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NEXT CASE ON THE COURT'S CALENDAR, AMENDMENTS TO THE RULES OF CRIMINAL PROCEDURE.

MR. WELLS, ARE YOU READY TO PROCEED?

YES, YOUR HONOR. MAY IT PLEASE THE COURT. MY NAME IS ROBERT WILLS. I AM THE IMMEDIATE PAST CHAIR OF THE CRIMINAL RULES COMMITTEE. I AM JOINED BY GERALD LATIMER, OUR NEW CHAIR OF THE CRIMINAL RULES COMMITTEE. I, ALSO, SERVE AS CHIEF ASSISTANT PUBLIC DEFENDNER BROWARD COUNTY, AND I WANT TO THANK THE COURT FOR THIS OPPORTUNITY TO BE HERE TODAY. IT IS, INDEED, A VERY HIGH PERSONAL HONOR FOR ME TO APPEAR IN THIS COURT. THE CRIMINAL PROCEDURE RULES COMMITTEE IS HERE, TODAY, PETITIONING THIS COURT TO AMEND TWO RULES OF CRIMINAL PROCEDURE. RULES 3.670 AND RULES 3.700. OUR COMMITTEE BELIEVES THAT THESE ARE EMERGENCY MATTERS. OUR COMMITTEE BELIEVES THAT BOTH OF THESE PROPOSALS ARE PART OF A PACKAGE THAT SHOULD BE ADOPTED TOGETHER. OUR COMMITTEE OFFERS THESE PARTICULAR RULES, PRIMARILY WE BELIEVE THESE ARE CONSISTENT WITH WHAT THE COURT IS GOING TO BE HERING LATER TODAY, FROM THE SPECIAL COMMITTEE REGARDING THE CRIMINAL APPEALS REFORM ACT. WE BELIEVE THAT THESE AMENDMENTS WILL PROMOTE JUDICIAL ECONOMY, AND WE BELIEVE THAT THESE PROPOSALS WILL PLACE --

WHAT ABOUT THE CLERK'S RESPONSE, HERE, THAT, AS TO WHO IS GOING TO PAY FOR THIS, SPEAKING OF JUDICIAL ECONOMY, AND THE CONCERN THAT THE SERVICE IS NOT GOING TO, IN A HIGH NUMBER OF INSTANCES, GOING TO BE RELIABLE, BECAUSE OF THE FACT THAT THE DEFENDANTS ARE NO LONGER WHERE THEY WERE?

THE -- IN RESPONSE TO THAT, JUSTICE, FIRST OF ALL, REGARDING WHERE THE DEFENDANTS ARE LOCATED, IT IS VERY SIMPLE MATTER, FROM OUR POSTURE, AND WE DISCUSSED THIS AT GREAT LENGTH, TO FIND OUT AN ADDRESS, AT THE TIME OF SENTENCING, FOR THOSE PEOPLE THAT ARE NOT IN CUSTODY. FOR THOSE CITIZENS THAT ARE IN CUSTODY, WE BELIEVE THAT THE CITIZEN SHOULD BE ABLE TO ASCERTAIN WHERE THEY ARE, TO SERVE THEM WITH THESE PARTICULAR DOCUMENTS. THE PART -- I THINK -- THAT YOU ARE GETTING AT IS OUR REQUIREMENT THAT, WITHIN 15 DAYS, THE DEFENDANT AND DEFENSE COUNSEL AND COUNSEL FOR THE STATE BE SERVED A COPY OF THE JUDGMENT SENTENCE, AND THIS ORIGINATED OUT OF A LETTER FROM JUSTICE WARNER TO THE COURT, THAT WAS REFERRED TO US, WHERE JUSTICE WARNER, FROM THE FOURTH DISTRICT, SAID THAT SHE WAS SHOCKED THAT THERE WAS NO SUCH RULE. WHEN WE STUDIED IT, WE WERE, ALSO, SHOCKED, AND I UNDERSTAND THE ARGUMENTS, BUT WE BELIEVE THAT THIS COURT AND THE APPELLATE COURTS IN FLORIDA ARE HAVING TO SPEND TOO MUCH TIME ON UNNECESSARY MATTERS THAT CAN BE CORRECTED AT THE TRIAL LEVEL.

WELL, DOES THIS REALLY -- LET'S JUST GO BACK TO THAT. ONE OF THE THINGS THAT THE CRIMINAL APPEALS FORMAT COMMITTEE IS WORKING ON NOW, ON A PROJECT BASIS, IS TO HAVE THE SENTENCING FORMS GENERATED AT THE TIME OF SENTENCING, SO THAT THE DOCUMENTS ARE ABLE TO BE REVIEWED BY THE PUBLIC DEFENDER, BY THE DEFENDANT, BY THE ASSISTANT STATE ATTORNEY AT THAT TIME. THAT, REALLY, FROM EVERYONE'S POINT OF VIEW, IS THE PREFERABLE SYSTEM. RIGHT? I MEAN THAT WOULD ELIMINATE ANY CASES WHERE THERE IS DEVIATIONS FROM ORAL PRONOUNCEMENTS, WRITTEN JUDGMENT, ORAL PRONOUNCEMENT, BECAUSE THIS RULE DOESN'T TAKE CARE OF A SITUATION, SUCH AS WE HAVE IN DADE COUNTY, APPARENTLY, WHERE IT TAKES THEM SIX WEEKS TO HAVE A WRITTEN JUDGMENT ENTERED.

JUSTICE PARIENTE, OUR COMMITTEE AGREES, TOTALLY, WITH YOU, BUT WE, ALSO, AS A REFLECTION OF THE ENTIRE CRIMINAL JUSTICE SYSTEM PRACTICE, RECOGNIZE THAT, TO DO THAT TODAY, ON THE 6th OF OCTOBER, 1999, IS UNREALISTIC IN FLORIDA.

IN PASCO COUNTY, I WAS SORT OF TAKEN BY THAT, THE COMMENT OF THAT CLERK, WHO IS ALREADY, APPARENTLY, IN PASCO COUNTY, ALL FELONY COURT DOCUMENTS ARE GENERATED BY COMPUTENER THE COURTROOM, SO FOR THEM, THIS WOULD BE A REDUNDANT REQUIREMENT. AT THE VERY LEAST, WE WOULD WANT TO MAKE SURE THAT WE WOULD SAY THAT, IF THE DOCUMENTS ARE DELIVERED ON THE DAY OF SENTENCING, THAT THERE IS NOT ADDITIONAL REQUIREMENTS TO MAIL THEM WITHIN 15 DAYS.

ABSOLUTELY NOT, AND CLEARLY THIS RULE WOULD BE SATISFIED, IF THEY WERE SERVED ON DEFENSE COUNSEL AND DEFENDANT AT THE TIME OF SENTENCING, AND THE SYSTEM THAT YOU ARE TALKING ABOUT IN PASCO COUNTY IS -- WOULD BE A WONDERFUL SYSTEM. WHAT WE ARE CONCERNED ABOUT IS THE FACT THAT, TENT, THESE -- THAT, AT THE PRESENT TIME, THESE DOCUMENTS ARE NOT BEING SERVED ON DEFENDANT OR DEFENSE COUNSEL. NOW, I AM IN THE SECOND ALARMINGES PUBLIC DEFENDERS' OFFICE IN THE STATE OF FLORIDA. WE DO NOT GET COPIES OF THE JUDGMENT SENTENCE, SO THEREFORE WE DO NOT CHECK THEM. WE LEARN ABOUT A SENTENCING PROBLEM, WHEN THE DEFENDANT CONTACTS US FROM THE PRISON SYSTEM OR FROM OUTSIDE AND SAYS WOULD YOU LOOK INTO IT. WE, FIRST, HAVE TO BEGIN TO GO TO TRY TO FIND A COPY OF THE DOCUMENT. OUR COMMITTEE BELIEVES THAT, BY ADOPTING THIS PARTICULAR RULE, THAT THERE WILL BE SOME ADDITIONAL RESPONSIBILITIES PLACED ON TRIAL COUNSEL, TO CHECK THESE DOCUMENTS, AND WE BELIEVE THAT THAT WOULD BE A GOOD THING.

IS THERE SOMETHING IN BROWARD, WHERE THERE IS A -- THAT THERE IS ACTUALLY JUST SOME KIND OF LOG ENTRY? IN OTHER WORDS DO YOU GET ANYTHING WHEN YOU LEAVE THE SENTENCE --

YOU GET A DISPOSITION SLIP, WHICH MAY OR MAY NOT HAVE THE AMOUNT OF CREDIT FOR TIME SERVED. THAT IS ALWAYS AN ISSUE, AND THAT IS WHERE WE GET A LOT OF OUR MATTERS, BUT THE ACTUALLY JUDGMENT AND SENTENCE, IT IS IN THE EXCEPTIONAL CASE THAT WE WOULD EVER SEE THEM, IN OUR PUBLIC DEFENDERS OFFICE, AND OUR COMMITTEE FOUND THAT THAT IS THE SAME EXPERIENCE THROUGH MOST OF THE STUt.

TRYING TO SEPARATE SOME OF THESE ISSUES OUT, NOW, WHAT PERCENTAGE OF THESE DEFENDANTS ARE REPRESENTED BY THE PUBLIC DEFENDER?

I WOULD SAY THAT WE, PROBABLY, REPRESENT, PROBABLY, ABOUT 70%, IN OUR JUDICIAL CIRCUIT, OF THE CRIMINAL DEFENDANTS.

AND IN FELONIES?

IT IS PROBABLY A HIGHER PERCENTAGE.

AND IN FELONIES, ALL OF THESE PEOPLE ARE GOING TO HAVE COUNSEL AT THIS STAGE.

ABSOLUTELY.

AND SO WHY ISN'T IT SUFFICIENT THAT THE -- THAT RATHER THAN SERVING IT UPON COUNSEL, FOLLOW PART OF WHAT THE COMMITTEES, THAT WE ARE GOING TO HEAR JUDGE ALTENBURN'S COMMITTEE RECOMMENDATION TO REQUIRE COUNSEL TO STAY IN THE CASE PAST THIS PERIOD OF TIME AND JUST HAVE THE DOCUMENT, WHATEVER THE SENTENCING DOCUMENT SERVED ON COUNSEL?

JUSTICE WELLS, THAT WAS AN ISSUE THAT CAME UP AT OUR FULL COMMITTEE MEETING, WHERE THERE WAS AN AMENDMENT TO OUR COMMITTEE TO DELETE THE SERVICE ON DEFENDANT AND ONLY HAVE IT ON COUNSEL, AND OUR COMMITTEE REJECTED THAT PARTICULAR AMENDMENT BY A VOTE OF 26-4. THE ARGUMENTS AGAINST DOING THAT WERE THAT, ONE, THAT THE ONE PARTY

OR THE ONE PERSON WHO HAS THE MOST TO GAIN OR LOSE IN THIS SYSTEM IS THE DEFENDANT, AND BY GETTING THE DOCUMENT TO THE DEFENDANT, YOU HAVE A MUCH GREATER LIKELIHOOD THAT THE CORRECTION WILL BE BROUGHT TO THE TRIAL COURT'S ATTENTION TO CORRECT THIS MATTER AND TO ELIMINATE UNNECESSARY APPEALS. THE SECOND ISSUE IS THAT, SOMETIMES, AT THE CURRENT TIME, BEFORE -- IF THIS COURT ADOPTS THE OTHER PROPOSALS, TENT, MANY TIMES TRIAL COUNSEL HAS WITHDRAWN FROM THE CASE. WE, ALSO, BELIEVED, AND WE DISCUSSED IT AT GREAT LENGTHS, THAT FUNDAMENTAL FAIRNESS DICTATES THAT THE DEFENDANT RECEIVE A COPY OF THESE DOCUMENTS, IF, UNDER SUBSECTION B OF RULE 3.800, THERE IS A 30-DAY LIMITATION, UPON WHICH A DEFENDANT CAN CORRECT ERRONEOUS SENTENCES, AND IT WOULD ONLY BE FAIR THAT THE DEFENDANT RECEIVE A COPY OF THOSE UP FRONT.

BUT IF WE WENT TO THIS KIND OF RULE, WHAT WE ARE DOING STRIKES ME, AT FIRST BLUSH, IS WE ARE SETTING UP ANOTHER TECHNICAL RULE THAT THE DEFENDANT DOESN'T RECEIVE A PIECE OF PAPER, THEN YOU HAVE GOT ANOTHER POST CONVICTION ERROR THAT IS GOING TO BE A MATTER OF CONTEXT, WHEREAS WHEN THE STATE PROVIDES ALMOST ALL OF THESE DEFENDANTS WITH COUNSEL, IT SEEMS TO ME THAT WE HAVE TO PUT THE BURDEN ON COUNSEL TO FULFILL THAT RESPONSIBILITY AND TO -- AND THAT WE HAVE GOT TO HAVE THAT TYPE OF EXPECTATION BUILT IN HERE, THAT THAT IS GOING TO BE THE NOTICE GIVEN TO THE DEFENDANT. WE DO IN ALMOST EVERY OTHER CONTEXT.

JUSTICE WELLS, I AGREE THAT TRIAL COUNSEL NEEDS TO ACCEPT THIS RESPONSIBILITY. THE PROBLEM, WITHOUT THIS RULE, HIS TRIAL COUNSEL HAS A VERY DIFFICULT TIME, WITHIN THESE TIME PARAMETERS, TO GET THESE PARTICULAR DOCUMENTS.

I AM TALKING ABOUT, IF WE HAVE A RULE, RATHER THAN RUNNING INTO THE PROBLEM THE CLERKS RAISE, ABOUT CHASING THE DEFENDANT AND PROPER PERSON DOWN, REGARDLESS OF WHERE THAT DEFENDANT HAS ENDED UP WITHIN THIS TIME PERIOD, THAT THE BURDEN IS ON COUNSEL.

AGAIN, WHEN WE DEBATED THAT WITHIN OUR COMMITTEE, JUDGES, DEFENSE BAR, PROSECUTORS, THE VOTE WAS 26-4 THAT THE PERSON THAT HAS THE MOST INTEREST IN THIS PROBLEM IS THE ONE THAT SHOULD RECEIVE COPIES OF THE DOCUMENT. OUR SUBCOMMITTEE ORIGINALLY PROPOSED THAT THIS SHOULD BE SERVED WITHIN FIVE DAYS. THEN WE HAD A SECOND SUBCOMMITTEE MEETING AND EXTENDED THE TIME TO 15, PRIMARILY BECAUSE OF THE ISSUES THAT HAVE BEEN RAISED BY THE CLERKS THAT THE COURT IS CONCERNED ABOUT. IN THE MANCINO CASE, WHICH WAS, PROBABLY, ONE OF THE ISSUES THAT -- OR ONE OF THE MATERS THAT INITIATED ALL OF THIS, THIS COURT SAID THAT, WHEN WE ARE DEALING WITH TIME SERVED MATTERS, THAT THAT CAN BE ADDRESSED IN THE ILLEGAL SENTENCE SECTION OF PARAGRAPH A OF THE RULE. BUT IN THAT OPINION, THE COURT SAID, BASICALLY, THE TRIAL COUNSEL, THE TRIAL COURTS AND COUNSEL FOR THE STATE MUST TAKE UPON THIS RESPONSIBILITY. WE BELIEVE THAT ONE OF THE WAYS TO IMPLEMENT THAT DECISION IS TO IMPLEMENT THESE PROPOSALS THAT WE HAVE BEFORE YOU TODAY.

DID I UNDERSTAND YOU TO SAY THAT OR AGREE, RATHER, THAT IF THE CRIMINAL APPEALED REFORM ACT COMMITTEE COMES UP WITH THEIR STANDARDIZED COMPUTER-GENERATED SENTENCING DOCUMENTS THAT WOULD BE SERVED AT THE TIME OF SENTENCING, THIS WOULD CURE THE PROBLEM?

WE BELIEVE THAT THE RULE IS NECESSARY, AND IF THE COMPUTER TECHNOLOGY IS IN PLACE IN EVERY JUDICIAL CIRCUIT, THEN THIS RULE WILL BE SATISFIED IN THE COURTROOM, AND THERE WILL BE NO NEED TO ACTUALLY HAVE TO GO OUT AND SERVE THESE PARTIES INDIVIDUALLY. WE BELIEVE, FROM OUR EXPERIENCE, THAT WE ARE A LONG WAYS AWAY, TODAY, FROM DOING THAT. NOW, THERE IS A TRIAL STUDY THAT IS GOING TO OCCUR, I BELIEVE, IN BREVARD COUNTY, WHICH YOU WILL PROBABLY HEAR ABOUT LATER TODAY, BUT WE ARE A LONG WAYS AWAY

FROM IMPLEMENTING THAT THROUGHOUT THE STATE.

WELL, WOULD THERE BE SOME WISDOM IN WAITING TO SEE? THIS COMMITTEE IS STUDYING IT. AND SEE -- TO SEE WHAT THEY COME UP WITH, BEFORE WE DO ANYTHING? WOULD IT BE PRECIPITOUS TO APPROVE THESE, NOW, WITH THIS COMMITTEE WORKING ON THAT?

OUR COMMITTEE VOTED 26-3 ON THE OVERALL QUESTION, IN FAVOR THAT THIS WAS AN EMERGENCY MATTER THAT SHOULD BE ADDRESSED NOW, BECAUSE OF THE LARGE VOLUME OF CASES THAT THE APPELLATE COURTS IN THIS STATE ARE DEALING WITH, TODAY, INVOLVING SENTENCE CORRECTION MATTERS THAT SHOULD BE RESOLVED BY THE TRIAL COURT.

BUT WE HAVE STRUGGLED ALONG THIS FAR WITHOUT A CALAMITY, SO THE SHORT TIME THAT THE COMMITTEE WOULD HAVE TO STUDY IT WOULD NOT BE INORDINATE, WOULD IT?

WE -- THE COMMITTEE RESPECTFULLY DISAGREES WITH THAT ARGUMENT. I CAN CERTAINLY UNDERSTAND IT, JUSTICE SHAW.

WELL, IT IS A LITTLE HARD, IN TERMS OF TRYING TO UNDERSTAND THIS ALL, IF WE ARE SITTING UP HERE, I DON'T KNOW THAT NIL OF US COULD REALLY BELIEVE THAT -- I DON'T KNOW THAT ANY OF US COULD REALLY BELIEVE THAT THE PUBLIC DEFENDERS THROUGHOUT THE STATE PUT UP WITH SOMETHING THAT, FOR THE PAST HOW MANY YEARS, DIDN'T PROVIDE FOR THEM TO RECEIVE COPIES OF THE WRITTEN JUDGMENT AND ACCEPTS, AND SO THAT -- -- AND SENTENCE, SO IN TERMS OF IT BEING AN EMERGENCY, IT BECAME AN EMERGENCY BECAUSE JUDGE WARNER POINTED IT OUT TO THIS COURT. MY QUESTION TO YOU IS SORT OF A LITTLE BIT RELATED TO WHAT JUSTICE SHAW HAS ASKED. IF WE APPROVE THE CRIMINAL APPEAL REFORM ACT'S RECOMMENDATIONS, AS TO THE CHANGES TO 3.800 (b), THEN THE TRIAL COUNSEL REQUIRES THE PUBLIC DEFENDERS TO HAVE THE OPPORTUNITY, UP UNTIL THE TIME OF THE FIRST BRIEF, TO FILE A MOTION BACK IN THE TRIAL COURT. WOULDN'T THAT, AS FAR AS SERVICE REQUIREMENT, IF WE JUST REQUIRED SERVICE ON THE COUNSEL OF RECORD, IF THERE WAS COUNSEL, WOULDN'T THAT PRETTY WELL, THEN, SOLVE THE PROBLEM? YOU DON'T HAVE THIS MAD DASH 30-DAY OR -- YOU KNOW, SITUATION. YOU WOULD HAVE UNTIL THE BRIEF. YOU WOULD HAVE AMPLE TIME TO SEND COPY TO YOUR CLIENT, AS I AM SURE YOU SEND OTHER COPIES OF OTHER DOCUMENTS TO THE CLIENT, AND WOULDN'T THAT BE, REALLY, FOR AT LEAST THE TIME BEING, AT LEAST A COMPROMISE BETWEEN THE CLERK SENDING IT TO EVERYONE? AT LEAST YOU GUYS GET COPIES OF IT?

JUSTICE PARIENTE, I UNDERSTAND THE QUESTION, AND I UNDERSTAND THE POSITION THAT THE CLERKS ARE TAKING IN THIS MATTER, BUT OUR COMMITTEE, ON THIS ISSUE, VOTED 26-4. WE BELIEVED THAT, IF YOU WANT TO GET AT THE PROBLEM, YOU NEED TO GET THESE DOCUMENTS IN THE HANDS OF THE DEFENDANT, AND I WOULD LIKE TO RESERVE FIVE MINUTES, IF I COULD.

OKAY. BUT THAT -- THERE IS SOMETHING ABOUT THAT THAT INDICATES AN ABDICATION OF RESPONSIBILITY. AND I RECOGNIZE THAT WHAT WE ARE DEALING WERE FROM THE CLERK'S STANDPOINT, FROM THE PUBLIC DEFENDERS' STANDPOINT, IS AN ALLOCATION OF RESOURCES. I, REALLY, HIM SORT OF STUNNED TO KNOW THAT NOBODY EVER LOOKS AT THESE ORDERS IN THE PUBLIC DEFENDERS OFFICE, AND THAT WE ARE EXPECTING A DEFENDANT TO BE THE LYNCH PIN AS TO WHETHER OR NOT THIS SENTENCE WAS LEGAL. THAT TROUBLES ME.

JUSTICE HARDING, OUR RESPONSE IS THAT WE BELIEVE THAT BOTH THE DEFENDANT AND COUNSEL NEED TO HAVE COPIES OF THESE PARTICULAR DOCUMENTS. TENT COUNSEL DOESN'T EVEN GET THESE -- TENT, COUNSEL -- AT THE PRESENT TIME, COUNSEL DOESN'T EVEN GET THESE, BECAUSE OF PROVISIONS IN OUR RULE. COUNSEL DEBATED THIS, AND WE BELIEVE THAT IT IS FROM THE DEFENDANTS WHERE ALL OF THESE ISSUES ARE GENERALLY INITIATED. I WOULD LIKE TO RESERVE FOR THE REMAINDER OF MY TIME.

THANK YOU. MR. BAGGETT.

MAY THE PLEASE THE COURT. MY NAME IS FRED BAGGETT. I AM HERE, TODAY, WITH THE GENERAL COUNSEL OF THE ASSOCIATION OF COURT CLERKS, AND I THANK YOU FOR BEING ABLE TO BE HEARD ON THIS MATTER.

HAVE YOU BEEN ABLE TO HEAR THE CLERKS TO FIND OUT HOW MANY OF THE CLERKS DO WHAT THEY DO IN PASCO COUNTY, WHICH IS HAVE THE ABILITY OR THAT THEY DO -- THE ABILITY, OR THAT THEY DO, IN FACT, ENTER THE WRITTEN JUDGMENT AND THE SENTENCE ON THE DAY OF SENTENCING?

YOUR HONOR, WE HAVE NOT ACTUALLY SURVEYED INDIVIDUALLY. I CAN TELL YOU THAT A NUMBER OF CLERKS ARE DOING THAT PRACTICE NOW, AND A NUMBER OF MORE CLERKS ARE WORKING TOWARDS THAT PRACTICE.

SO IF, AT THE VERY LEAST, IF WE WERE TO DON'T THIS RULE, WE WOULD WANT TO MAKE CLEAR HAD, IN ORDER TO ALLEVIATE THE CONCERNS OF THE PASCO COUNTY CLERK THAT -- OF THE PASCO COUNTY CLERK THAT HAND DELIVERING AT THE TIME OF THE SENTENCING WOULD BE PROPER SERVICE, THAT THEY DON'T HAVE TO, AGAIN, SEND SOMETHING IN ANOTHER 15 DAYS.

YES, MA'AM.

BUT WHAT ABOUT THE PROBLEM THAT WE HAVE, I GUESS, IN DADE COUNTY, WHERE APPARENTLY, UNLESS ORDERED TO DO SO, THEN THE CLERK NEVER SENDS COPIES OF THE WRITTEN JUDGMENT AND SENTENCE? HOW CAN WE HAVE A SYSTEM THAT DOESN'T EVEN REQUIRE BASIC SERVICE OF THE MOST IMPORTANT DOCUMENT TO MANY -- MOST DEFENDANTS ON DEFENDANT'S COUNSEL?

THE ASSOCIATION AND THE CLERKS OF ITS MEMBERSHIP DO NOT OPPOSE A REQUIREMENT WHICH, BY WHICH THEY WOULD PROVIDE TO COUNSEL, BOTH PROSECUTION COUNSEL AND DEFENSE COUNSEL, COPIES OF THE JUDGMENT AND SENTENCE WITHIN A REASONABLE TIME. A COUPLE OF CAVEATS AND EXPLANATIONS OF THAT, NUMBER ONE, THE TIME PERIOD WITHIN WHICH TO SEND IT, IS THE RULE, AS PROPOSED, THAT READS WITHIN 15 DAYS OF THE REYNOLDITION OF JUDGMENT AND -- OF THE RENDITION OF THE JUDGMENT AND SENTENCE. WE WOULD HOPE THAT WOULD SPECIFY WITHIN 15 DAYS OF THE ORDER OF JUDGMENT AND EXECUTION OF SENTENCE, SINCE WE DON'T WANT TO HAVE THE INTERPRETATION OF JUDGMENT AND SENTENCE BEING RENDERED IN OPEN COURT, A DOCUMENT PREPARED, AND THEN, FOR WHATEVER REASON, A DOCUMENT SITTING IN JUDGE'S CHAMBERS FOR SOME DAYS OR, IN SOME CASES, WEEKS.

THE IDEA WAS THAT, RIGHT NOW, THERE WAS 30 DAYS THAT DEFENSE LAWYERS OR DEFENDANTS HAD TO CORRECT SENTENCES, SO IT SORT OF BECAME A LITTLE FRUSTRATING TO THOSE TRYING TO MAKE THIS PROCESS WORK, TO FIND OUT THAT HOW IS THIS GOING TO WORK, IF NO ONE WAS GETTING COPIES OF THE JUDGMENT AND SENTENCE?

INCLUDING THE CLERK.

INCLUDING THE CLERK.

YES, MA'AM.

IT STRIKES ME THAT THIS CANNOT BE THIS COMPLICATED A PROBLEM. AND I WENT TO HEARINGS FOR 29 YEARS, DATING BACK TO 1965, IN WHICH A JUDGE WOULD BE SITTING UP THERE, WITH A FORM, THAT WAS IN MULTICOPY, AND WROTE OUT WHAT WAS GOING TO BE THE ORDER AND GAVE IT TO EVERYBODY THAT WAS SITTING AROUND THERE, AND THAT WAS DONE. I CAN'T UNDERSTAND WHY THAT CAN'T BE DONE IN THIS INSTANCE.

JUSTICE WELLS, I AGREE WITH YOU ENTIRELY, AND I THINK THE CLERK WOULD, TOO. HOWEVER, THAT IS NOT NECESSARILY THE PRACTICE OF THE COURTS, PARTICULARLY WITH --

DOES THE CLERK HAVE ANY PROBLEM WITH THE FACT THAT THE CLERK CAN COME PREPARED WITH THAT KIND OF FORM AT A HEARING, ON THE SENTENCING, AND BE IN MULTICOPIES, LIKE YOU PICK UP OVER THERE AT OFFICE DEPOT, AND IT PRINTED OUT AS TO WHAT THE FORM IS GOING TO CONTAIN. THE COURT CAN SIT UP THERE, NOT WITH A COMPUTER, BUT IN LIBERTY COUNTY WITH PENCIL, AND WRITE IT OUT AND GIVE EVERYBODY SITTING AROUND THERE A COPY?

I THINK THE CLERKS WOULD EMBRACE A UNIFORM SENTENCING FORM THAT THE JUDICIARY WOULD EXECUTE AT THE TIME OF SENTENCING. I THINK THE DIFFICULTY COMES IN, AND THE EXPERIENCE IS THAT THERE ARE MANY INSTANCES WHERE THE SENTENCE IS NOT A FORM SENTENCE. IT INVOLVES MORE THAN JUST CHECKING THE BOXES OR WRITING ON A LINE.

AREN'T MOST OF THOSE WRITTEN OUT ON THE FORM?

NO, SIR. I CAN'T SAY THAT THEY ARE OR NOT, BUT WE WOULD HAVE NO PROBLEM WITH THAT AT ALL. THE DIFFICULTY, HERE, ALL THE CLERK ASKS, IS GIVE ME THE DOCUMENT, EXECUTED BY THE COURT, A TIME FRAME TO PROVIDE IT TO COUNSEL FOR THE PLAINTIFF AND THE DEFENDANT. WE HAVE NO PROBLEM WITH THAT.

COULD YOU EXPLAIN WHAT -- ARE YOU SAYING THAT -- YOU SAID SOMETHING BEFORE. I JUST WANT TO MAKE SURE I UNDERSTOOD IT. YOU ARE SAYING THE CLERK DOESN'T EVER GET COPIES OF THE WRITTEN JUDGMENT OF SENTENCE?

WHAT I MEANT BY THAT WAS THERE ARE TIMES WHEN JUDGMENT AND SENTENCE ARE RENDERED IN OPEN COURT. AN ORDER OF JUDGMENT AND SENTENCE IS PREPARED, SUBMITTED TO THE COURT. IT SITS THERE. IT DOESN'T COME BACK, SOMETIMES, FOR DAYS OR WEEKS, SO FOR US, AND OUR POINT IS THAT THE POINT OF TIME, THE STARTING OF THE CLOCK FOR THE CLERK TO PROVIDE IT, UNDER WHATEVER METHOD, SHOULD BE WHEN THE CLERK GETS A COPY OF IT SIGNED.

WHEN THE CLERK GETS THE SIGNED ORDER TO FILE.

YES, SIR. BECAUSE, UNTIL THEN, THE CLERK CAN'T SEND ANYTHING OUT. IT IS THE CLERK SENDING OUT AN ORDER THAT THE CLERK WOULD ISSUE, AND THE CLERKS DEFINITELY ARE NOT IN A POSITION TO DO THAT.

UNTIL THE WRITTEN JUDGMENT IS ENTERED, WHERE, AND THE DEFENDANT HAS A STATE PRISON ACCEPTS, WHERE IS THAT DEFENDANT -- A STATE PRISON SENTENCE, WHERE IS THAT DEFENDANT LOCATED?

WE DON'T KNOW. HE COULD BE AT ANY NUMBER OF --

I THOUGHT IT WAS, UNTIL THE WRITTEN JUDGMENT GOT ENTERED, THAT THE DEFENDANT WAS NOT ABLE TO BE TRANSFERRED TO THE -- YOU KNOW, TO THE CUSTODY OF THE STATE, AND SO THAT THIS WAS AN ADDITIONAL COST FOR THE COUNTIES, EVERYDAY THAT THE WRITTEN JUDGMENT AND SENTENCE WAS NOT ENTERED. IS THAT NOT CORRECT?

THE COMMENTS YOU HAVE IN YOUR FILE, SUBMITTED BY CLERK DAVID ESCERMAN, FROM MARION COUNTY, SPEAK TO THAT POINT, WHERE HE SAYS THAT THE CLERK'S OFFICE HAS NO WAY OF KNOWING WHERE THE DEFENDANT WOULD BE LOCATED WITHIN THE 15-DAY SENTENCING EVENT. HE COULD BE AT ANY NUMBER OF RECEPTION CENTERS, IF SENTENCED TO

PRISON. THEY COULD BE ANYWHERE, IF SENTENCED TO PROBATION OR GIVEN TIME SERVED, WHICH OFTEN HAPPENS, AND MANY DEFENDANTS HAVE CHARGES PENDING IN OTHER COUNTIES OR OTHER JURISDICTIONS, WHERE THEY ARE TRANSFERRED TO FOR THOSE CHARGES.

I WAS REFERRING TO THE COST SAVING OR, AT THE TIME OF SENTENCING OR IMMEDIATELY THEREAFTER, SO THAT THE DEFENDANT IS ABLE TO BE TRANSFERRED TO THE DEPARTMENT OF CORRECTIONS.

YOUR HONOR, OUR PREFERENCE WOULD BE JUST THAT, TO ISSUE IT AT THE TIME OF SENTENCING IN OPEN COURT. HERE IT IS.

SO THE CLERKS' OFFICES ARE WILLING TO WORK IN CONJUNCTION WITH THE CRIMINAL APPEALS REFORM ACT COMMITTEE, TO MAKE SURE THAT THIS CAN HAPPEN.

NOT ONLY ARE WE WILLING TO WORK. WE ARE CURRENTLY WORKING WITH YOUR OFFICE OF THE STATE COURTS ADMINISTRATOR, IN TRYING TO DEVELOP A JUDICIAL INFORMATION SYSTEM THAT WILL PROVIDE NOT ONLY JUDICIAL ACCESS TO THE CASE, BOTH CIVIL AND CRIMINAL, BUT WE WOULD BE ABLE TO GENERATE THAT KIND OF DOCUMENT, WE WOULD HOPE.

I RECOGNIZE I AM A DINOSAUR, AND I RECOGNIZE THAT, WHEN I SAT IN CRIMINAL CASES IN THE '70s AND '80s, THAT TIMES HAVE CHANGED, BUT MY RECOLLECTION WAS THAT WE WOULD CALL THE CALENDAR, TAKE THE PLEAS, IMPOSE THE SENTENCES, THE CLERKS WOULD HAVE A PREPARED FORM FOR MOST OF THE CASES. THE TERMS OF THE PROBATION, THE TERMS OF THE ACCEPTS WERE PUT ON THAT FORM -- OF THE SENTENCE WERE PUT ON THAT FORM, AND GENERALLY THE CLERK HAD TO STAY THERE, AFTER THE COURT HAD FINISHED, TO GET ALL THOSE FORMS PREPARED, BUT I CAN REMEMBER SITTING ON THE BENCH AND SIGNING MANY OF THOSE, ON THE DAY THAT THE SENTENCE WAS IMPOSED. IT WOULD BE WONDERFUL TO BE ABLE TO HAND THOSE OUT TO THE STATE, THE DEFENSE, AND TO COUNSEL THEN, BUT IT SEEMED TO ME THAT THERE WAS, OFTENTIMES, AN EMPTY COURTROOM, WHEN THOSE WERE SIGNED, AND SO WE ARE STILL FACED WITH THE PROSPECT OF MAILING, POSSIBLY, OR SOMEBODY HAS A MAILBOX RULE, I READ IN ONE OF THE RESPONSES. I GUESS THAT WAS IN CHARLOTTE COUNTY. BUT HOW DO WE ADDRESS THE -- THAT ISSUE? I MEAN, WE ARE STILL -- EVEN IF IT IS SIGNED THAT DAY, WE, STILL, HAVE TO GET IT OUT TO THE ATTORNEY AND TO THE DEFENDANT.

YOUR HONOR, I THINK THE FOLLOWING YOUR SCENARIO OF HOW IT USED TO WORK, AND AS I AM TOLD BY THE CLERKS, TODAY, PARTICULARLY IN LARGE METROPOLITAN AREAS ON FIRST APPEARANCE HEARINGS, MANY OF WHICH ARE HELD AT NIGHT, AND IT IS FOR LACK OF A BETTER WORD, WITH NO DISRESPECT, ALMOST A CIRCUS. IT IS JUST SORT OF A LINE OF PEOPLE COMING THROUGH IN FIRST APPEARANCE, AND MANY OF THEM, IF NOT A MAJORITY OF THEM, BEING SENTENCED RIGHT THERE. AND THEY COME IN. THEY ARE SENTENCED. THEY GO OUT. THE CLERK HAS NO CONTROL, NO WAY TO STOP THAT PROCESS, AND SAY, EXCUSE ME, CAN I GET YOUR ADDRESS? IF THE JUDGE COULD STOP IT AND SAY WE NEED YOUR ADDRESS FIRST, THAT IS ONE THING, BUT IN A PRACTICAL SITUATION, AND THE WAY IT IS OPERATING TODAY, AND IT IS NO ONE'S FAULT. IT IS THE FAULT OF THE VOLUME, WE HAVE, OF CASES. WE ARE LOOKING AT OVER A MILLION CRIMINAL DISPOSITIONS A YEAR.

BUT RIGHT NOW, AND UNTIL WE TRY TO CHANGE THIS AROUND, THE APPELLATE COURTS BECAME THE PLACE WHERE ERRORS WERE CORRECTED, AND IT WAS EXACTLY BECAUSE EVERYBODY ELSE HAS BEEN ABDICATEING WHAT THEY NEED TO DO. WHAT COULD BE MORE IMPORTANT TO A DEFENDANT AND TO THE SYSTEM OF JUSTICE THAN HAVING A CORRECT SENTENCE ENTERED IN EACH AND EVERY CASE?

AND WE AGREE WITH THAT. THAT IS WHY WE ARE NOT HERE OBJECTING TO PROVIDING THOSE, PROVIDING COPIES. WE REALLY AREN'T. BEYOND THE POINT OF THE COST OF THE COPIES, WE ARE NOT ARGUING THAT. THE CLERKS ARE GOING TO OBJECT SORB THAT. WHAT WE ARE -- ARE GOING

TO ABSORB THAT. WHAT WE ARE SAYING IS, ONE, WE WOULD LIKE TO SAY IT SHOULD BE WITHIN A TIME CERTAIN AFTER THE EXECUTION OF THE JUDGMENT. NUMBER TWO, IT SHOULD BE BY PROVIDING COPIES ON COUNSEL. THE SAME WAY OUR JUDICIAL SYSTEM WORKS TODAY. IN A CRIMINAL CASE, THE DEFENDANT DOESN'T GET COPIES OF MOTIONS. HIS COUNSEL GETS COPIES OF MOTIONS. THIS IS -- THAT IS THE COUNSEL'S JOB. AND THAT IS THEIR CLIENT. AND WHAT WE WOULD LIKE TO BE ABLE TO DO, AND CERTIFICATE OF SERVICE, WE ARE NOT SURE WHAT "SERVE" MEANS, EXACTLY, IN THIS CONTEXT. DOES IT MEAN THAT THE CLERK HAS A DUTY TO GO OUT AND AFFIRMATIVELY SEEK AN ADDRESS, IF HE DOESN'T HAVE IT, TRY TO FIND IT, AS IT WOULD, IF I WERE A LAWYER AND I WERE SEEKING TO SERVO ANOTHER PARTY AND KNOW THEIR ADDRESS? SO -- AND SERVE, ON ANOTHER PARTY AND ANOTHER ADDRESS? SO WE THINK, WITH THE PROCESS WE HAVE, THE CLERK, IN THE NORMAL COURSE OF EVENTS, WITHIN A GIVEN PERIOD OF TIME, COULD SIMPLY PROVIDE, BE REQUIRED, BY RULE, TO PROVIDE COPIES OF THE JUDGMENT AND SENTENCE, TO COUNSEL FOR THE DEFENDANT AND TO THE PROSECUTION. WE ARE NOT OBJECTING TO THAT. AND OUR GOAL WOULD BE THAT IS AN INTERIM, UNTIL WE CAN HAVE A FULLY AUTOMATED SYSTEM THAT CAN DO THAT ON SITE AND IN REALTIME.

HOW LONG DO YOU THINK IT WILL TAKE TO DO THAT?

TO GET A FULLY AUTOMATED SYSTEM?

RIGHT.

WE ARE MORE OPTIMISTIC THAN SOME OTHERS, I THINK, AND I THINK THAT WE ARE WORKING TOWARDS WITHIN THE NEXT TWO TO THREE YEARS HAVE AN AUTOMATED SYSTEM IN EVERY COUNTY. WE NOW HAVE AUTOMATION IN EVERY CLERK'S OFFICE. WE, NOW, ARE HEADING TOWARDS A COMPLETE CIVIL AND CRIMINAL AUTOMATED INFORMATION SYSTEM, LINKING THEM ALL TOGETHER, AND WE WOULD BE ABLE TO HAVE THAT IN THE COURTROOM.

WELL, I REALIZE THAT YOU ARE REPRESENTING THE CLERKS, BUT FROM THE POINT OF VIEW OF SORT OF PROVIDING THE CLERKS WITH THE INCENTIVE TO DEVELOP THIS SYSTEM, IF THEY KNEW THAT THEY HAD THE SYSTEM IN PLACE, THEY WOULD NOT HAVE TO WORRY ABOUT FINDING PEOPLE 10, 15 DAYS AFTERWARDS, WOULDN'T THAT, MAYBE, PROVIDE INCENTIVE TO GET THIS SYSTEM IN PLACE QUICKER?

WITH DUE RESPECT, I WOULD HAVE TO SAY NO, BECAUSE THE INCENTIVE IS THE MONEY TO DO THE SYSTEM, OVER WHICH WE DO NOT HAVE CONTROL, AND WE ARE HAVING TO CREATE THE SYSTEM. IF WE HAD THE MONEY FROM ACROSS THE STREET TO DO THE SYSTEM, TODAY, IT WOULD BE IN PLACE TODAY. AND IT IS MORE OF A MONEY ISSUE.

THIS HAS TO BE FUNDED, AT THIS POINT, BY 67 DIFFERENT COUNTY GOVERNMENTS.

COUNTIES. YES, SIR. THIS IS A BURDEN ON THE COUNTIES, AND WE WILL HAVE A COST ON THE COUNTIES. A CERTIFICATE OF SERVICE PROCESS, I AM TOLD BY THE CLERKS, IS ACTUALLY THE MOST EXPENSIVE PART OF THIS. THE CERTIFICATE OF SERVICE, THE CLERKS DON'T DO CERTIFICATES OF SERVICE, AND MY RESPONSE WAS, WELL, CAN'T YOU JUST GENERATE A FORM CERTIFICATE OF SERVICE AND FILL IT OUT?

YES. WE HAVE, IN OTHER CONTEXTS, THERE ARE CERTIFICATES OF SERVICE OF ORDERS DONE BY JUDICIAL ASSISTANTS AND IN OTHER CONTEXTS, BUT BUT I AM -- I CAN UNDERSTAND -- CAN'T THEY -- COULDN'T THEY USE A STAMP?

I WOULD HOPE SO. AND SERIOUSLY, AND FILL IT IN WITH WHERE IT WAS. WHAT WE WOULD LIKE TO SEE WOULD BE A STAMP THAT WOULD SAY COPIES OF THIS ORDER PROVIDED COUNSEL FOR THE DEFENSE AND PROSECUTION ON BLANK DATE. AND PUT THAT ON THERE.



BY HAND. OR BY MAIL.

YEAH.

THAT IS WHAT I WONDERED. WHAT WOULD BE THE ADDITIONAL COMES THE OF THAT, OTHER THAN -- COST OF THAT, OTHER THAN THE MAIL SOMETHING.

THAT IS REALLY THE COST THERE.

AS OPPOSED TO THE CERTIFICATION.

RIGHT. AND IF WE DON'T HAVE TO DEAL WITH TRYING TO FIND THE DEFENDANT AND SENDING EXTRA COPIES TO THE DEFENDANT, THIS BECOME AS MANAGEABLE THING, WHICH WE THINK WOULD SOLVE, WOULD GO A LONG WAYS TOWARDS, IF NOT COMPLETELY SOLVING THE PROBLEM THAT HAS BEEN RAISED. WE WANT TO BE HELPFUL IN SOLVING THIS PROBLEM.

I RECOGNIZE THAT CHARLOTTE COUNTY MIGHT NOT HAVE THE VOLUME THAT DADE COUNTY WOULD HAVE, BUT DO YOU KNOW THE SYSTEM THAT THEY HAVE, WHERE THEY HAVE A CERTIFICATE OF SERVICE AND HISTORICALLY HAND-DELIVERED COPIES OF THE JUDGMENT AND THE FORMS TO THE DEFENDANT AT THE TIME OF SENTENCE AND WITHIN THREE WORKING DAYS IS FURNISHED THE COPIES TO COUNSEL BY -- I MEAN, DO THEY HAVE A MULTIPAGE FORM THAT YOU CAN WRITE ON IT AND IT GOES ALL THE WAY THROUGH? IS THAT HOW THEY DO THAT?

I REALLY DO NOT KNOW, YOUR HONOR. I SPOKE WITH THE CLERK IN CHARLOTTE COUNTY YESTERDAY, WITH REGARDS TO HER LETTER WHICH IS ON FILE, EXPRESSING CONCERN OVER THE CERTIFICATE OF SERVICE PROCESS, NOT OVER THE PROVIDING COPIES TO COUNSEL PROCESS.

OKAY. THANK YOU VERY MUCH.

THANK YOU VERY MUCH.

THANK YOU.

MAY IT PLEASE THE COURT. I WOULD JUST LIKE TO, BRIEFLY, RESPOND TO A COUPLE OF ITEMS. FIRST OF ALL, THE REASON WHY THE COMMITTEE USED THE TERM "SERVED" PAPERS, IS THAT "SERVE" IS DEFINED, UNDER THE RULES OF CRIMINAL PROCEDURE, IN RULE 3.030, AND I WOULD LIKE TO REFRESH OR TO REFER TO SUBSECTION (b), THAT SAYS SERVICE ON AN ATTORNEY OR A PARTY SHALL BE MADE BY DELIVERING A COPY TO THE PARTY OR BY MAILING IT TO THE PARTY'S LAST KNOWN ADDRESS, OR IF NO ADDRESS IS KNOWN, BY LEAVING IT WITH THE CLERK OF THE COURT, WHO SHALL PLACE IT IN THE COURT FILE, AND YOU KNOW, THE PROCESS OF USING THE WORD "SERVICE", WE DEBATED THIS WITHIN THE COMMITTEE, WE BELIEVE THAT THIS PARTICULAR DEFINITION WOULD BE READ IN CONJUNCTION WITH THAT RULE. THE UNIFORM SENTENCING FORM THAT THE COURT REFERRED TO WOULD CLEARLY SATISFY THE PROVISIONS OF THIS RULE. IF WE COULD HAVE THAT DONE RIGHT IN THE COURTROOM, THE RULE WOULD BE SATISFIED.

DO YOU KNOW ANY REASON WHY, ASSUMING THAT IT IS GOING TO TAKE TWO OR THREE YEARS FOR THERE TO BE A COMPUTER-GENERATED SYSTEM, IN TERMS OF GETTING THE INPUT OF THE DRIM -- OF THE CRIMINAL JUDGES ON YOUR KRE, WHY THE JUDGES -- ON YOUR COMMITTEE, WHY THE JUDGES ARE NOT REALLY P ABLE TO DO THESE MULTIPART FORMS AND DO THE WRITTEN SENTENCE AT THE TIME OF ORAL PRONOUNCEMENT?

FIRST OF ALL, THEY WOULD BE IN THE BEST POSITION TO ANSWER THAT QUESTION, BUT WE HAVE, YOU KNOW, 20 JUDICIAL CIRCUITS IN FLORIDA, AND WE HAVE DIFFERENT SYSTEMS IN EACH ONE, AND I THINK THAT IS ONE OF THE PROBLEMS. I WOULD, ALSO, LIKE TO RESPOND TO ONE

OTHER ITEM.

WHAT ABOUT IN BROWARD COUNTY, THOUGH, TO ANSWER THAT QUESTION? YOU KNOW BROWARD COUNTY.

YES, I CERTAINLY DO, AND I VOLUNTEERED A COUPLE OF OUR JUDGES FOR A SPECIAL PROJECT WITH THIS COMPUTER, AND THEY SAID THEY DIDN'T WANT TO GET INVOLVED IN THAT PROJECT.

I AM NOT TALKING ABOUT COMPUTERS. I AM TALKING ABOUT A PENCIL AND A FORM AND WRITING IT OUT AND EVERYBODY ONE WHILE THEY ARE THERE. WHY IS THAT NOT PRACTICAL?

IN OUR VIEW, IT IS. WE -- THESE ARE THE OBJECTIONS THAT WE HEAR. FIRST OF ALL, THERE IS THE DELAYS IN THE TIME SERVED CREDIT. YOU HAVE CROWDED DOCKETS, AND THE TIME THAT IT TAKES IS JUST AS JUSTICE HARDING INDICATES TO ACTUALLY DO THIS. YES, THIS WILL TAKE SOME ADDITIONAL TIME, AT THE TRIAL LEVEL, TO DO THIS. THE ANSWER TO YOUR QUESTION, JUSTICE WELLS, IS THERE REALLY ISN'T A GOOD REASON.

AT SOME POINT IN TIME, YOU ARE GOING TO HAVE TO DO THAT.

ABSOLUTELY.

AND THE TIME TO DO IT IS NOW, WHILE EVERYBODY IS THERE, FOCUSING ON THE PROBLEM. WE CANNOT HAVE THIS IN SUCH A MASS PRODUCTION WAY THAT WE DON'T, BECAUSE WHAT WE DO IS WE END UP WITH ALL OF THESE SNARLS AT THE END.

THAT IS THE REASON WHY OUR COMMITTEE CAME FORWARD WITH THIS PROPOSAL, BECAUSE WE BELIEVE THAT THIS SYSTEM NEEDS TO GET A KICK, SO TO SPEAK, AND THAT THIS PARTICULAR RULE WOULD PROVIDE THAT PARTICULAR --

BUT THE 15 DAYS YOU PROVIDE COMES FROM THE DATE OF THE IMPOSITION OF SENTENCE.

IT DOES, AND THE REASON WE DID THAT WAS, AND I UNDERSTAND WHAT THE CLERKS WERE CONCERNED ABOUT, THE TRIAL JUDGE HOLDING ON TO IT. OUR RULE WOULD MOTIVATE THE TRIAL JUDGES TO MAKE SURE THEY GET THE PAPERWORK, YOU KNOW, TO THE CLERK, AND THAT IS THE REASON WHY WE WROTE IT THAT WAY. IN RESPONSE TO JUSTICE PARIENTE, EVERY CASEY HIM AWARE OF, THESE PEOPLE ARE SIT HAD GONE IN THE COUNTY JAIL, YOU MEAN THE JUDGMENT SENTENCE HAS BEEN DELIVERED TO THE LOCAL SHERIFF, AND SO THEY ARE ALL SITTING THERE, WAITING TO GO TO STATE PRISON, BUT THEY ARE WAITING FOR THAT JUDGMENT SENTENCE.

I GUESS THAT COMES OUT AFTER DIFFERENT PART OF THE COUNTY THOUGH. ANOTHER SHERIFF --

THE SHERIFF COULD GIVE MONEY TO THE CLERK TO SERVE THE PAPERS.

IT IS, AND POSSIBLY IT IS BETTER FOR THE SHERIFF TO GIVE THE PAPERWORK TO THE CLERK OF THE COURT, PERHAPS.

TWO QUESTIONS. ONE IS THERE IS A FORM USED OUT THERE. THE FORMS USED ARE STANDARDIZED FORMS BY THE STATE, CORRECT?

THAT'S CORRECT.

THE OTHER THING IS THERE STILL A DIFFICULTY RECOGNIZING THAT THE PUBLIC DEFENDERS OFFICE REPRESENTS 70, 75% OR MORE IN THESE SITUATIONS? IS THERE A DISCONNECT OR A DIFFICULTY THAT HASN'T BEEN WORKED OUT, YET, WITH REFERENCE TO A LAWYER ASSIGNED TO

THE CASE FOR TRIAL PURPOSES, STAYING ON THE CASE TO REVIEW THESE POTENTIAL SENTENCING ERRORS? AS OPPOSED TO THE CASE GOING TO THE APPELLATE DIVISION OR SECTION OR WHATEVER AFTERWARDS, AND THE LAWYER BEING OUT OF THE CASE? THIS HAS BEEN A CHRONIC PROBLEM, THROUGHOUT THE STATE, AND ESPECIALLY IN THE PUBLIC DEFENDERS' OFFICES, WHERE THE RESOURCES ARE SO LIMITED, AND WE HAVE THIS IMAGE OF JUST PROCESSING CASES, AS OPPOSED TO FOCUSING ON THE INDIVIDUAL CASES. IS THERE, STILL, A PROBLEM IN THAT RESPECT, AND IS THAT BEING ADDRESSED?

WE BELIEVE THAT THIS RULE WILL FORCE THAT PROBLEM TO BE DEALT WITH. WE CURRENTLY HAVE THE RESPONSIBILITY, DURING THE INITIAL STAGES OF GETTING THE RECORD ON APPEAL, ET CETERA, TO MAKE SURE THAT IS DONE, AND THE PUBLIC DEFENDERS AND PRIVATE TRIAL BAR WILL HAVE TO ADJUST ACCORDINGLY. THEY JUST CAN'T WALK AWAY FROM A SENTENCING HEARING AND FIGURE THEIR WORK IS DONE. THANK YOU.

I HAVE ONE QUESTION. WHAT IS THE DIFFICULTY IN DETERMINING, AT THE TIME OF A PLEA AND THE IMPOSITION OF ACCEPTS, THE KRED -- OF SENTENCE, THE CREDIT FOR TIME SERVED?

I REALLY DON'T KNOW THE ANSWER TO THAT, EXCEPT FOR THE FACT THAT WHAT HAPPENS IS THE COURT CLERK WILL OPEN A COURT FILE AND START ADDING, SOMETIMES ON THEIR FINGERS, SOMETIMES WITH A CALCULATOR, AND, YOU KNOW, THAT IS ONE OF THE REASONS WHY WE PROPOSE OWED THIS BE ANNOUNCED -- WE PROPOSE THIS BE ANNOUNCED IN COURT, SO THAT WE KNOW EXACTLY WHAT IT IS, BECAUSE WE CONSTANTLY GET QUESTIONS BACK, ONCE THE DEFENDANTS FIND OUT WHAT THEIR SENTENCE WAS, WHETHER TIME SERVED WAS AN ERROR OF A DAY OR SO OR NOT. ANOTHER ITEM WAS WE HEARD THAT, IF PEOPLE, IF A DEFENDANT HAD SERVED ANY PART OF A STATE PRISON SENTENCE, THERE MAY BE SOME PROBLEMS IN GETTING THE INFORMATION FROM CORRECTIONS, BUT OUR COMMITTEE BELIEVED, AS I SAID, THAT THE SYSTEM NEEDS A KICK, AND THAT IS THE REASON WHY WE MADE THESE PROPOSALS.

IF IT WAS ANNOUNCED IN OPEN COURT AND THE DEFENDANT, AT THAT TIME, DIDN'T OBJECT TO IT, WHAT WOULD BE -- WOULD THERE BE A WAIVER, THEN, OF THE JAIL CREDIT ISSUE?

WELL, NO, WE CERTAINLY WOULD NOT -- IT WOULD STILL BE AN ILLEGAL SENTENCE, WE BELIEVE, UNDER MANCINO, AND, AGAIN, WHETHER YOU ARE TALKING WHETHER SOMEONE GETS 27 OR 28 DAYS' TIME SERVED, THE LAW IS CLEAR, IN FLORIDA, THAT YOU HAVE TO GET CREDIT FOR YOUR TIME SERVED, AND IF SOMEONE DOESN'T CALCULATE IT PERSONALLY IN THEIR HEAD, IT WOULD STILL BE AN ILLEGAL SENTENCE, BUT IT CERTAINLY WOULD PUT EVERYBODY ON NOTICE IN THAT COURTROOM TO GO AND GET IN AND DEAL WITH THAT ISSUE.

THANK YOU.

THANK YOU VERY MUCH.

THANK YOU. THANK YOU, COUNSEL.