

The Florida Supreme Court recently adopted amendments to Florida Rule of Criminal Procedure 3.132, Pretrial Detention, proposed by the Criminal Procedure Rules Committee. See In re: Amendments to Florida Rules of Criminal Procedure 3.132, No. SC09-1135 (Fla. Sept. 17, 2009).

The Court invites all interested persons to comment on the amendments, which are reproduced in full below, as well as online at <http://www.floridasupremecourt.org/decisions/proposed.shtml>. An original and nine paper copies of all comments must be filed with the Court on or before November 16, 2009, with a certificate of service verifying that a copy has been served on the Committee Chair, Fleur J. Lobree, 1350 NW 12th Ave., Room S-539, Miami, Florida, 33136-2102, as well as a separate request for oral argument if the person filing the comment wishes to participate in oral argument, which may be scheduled in this case. The Committee Chair has until December 7, 2009, to file a response to any comments filed with the Court. Electronic copies of all comments and responses also must be filed in accordance with the Court's administrative order in In re Mandatory Submission of Electronic Copies of Documents, Fla. Admin. Order No. AOSC04-84 (Sept. 13, 2004).

IN THE SUPREME COURT OF FLORIDA

IN RE: AMENDMENTS TO FLORIDA RULE OF CRIMINAL PROCEDURE
3.132, CASE NO. SC09-1135

RULE 3.132. PRETRIAL DETENTION

(a) Motion Filed at First Appearance. A person arrested for an offense for which detention may be ordered under section 907.041, Florida Statutes, shall be taken before a judicial officer for a first appearance within 24 hours of arrest. The state may file with the judicial officer at first appearance a motion seeking pretrial detention, signed by the state attorney or an assistant, setting forth with particularity the grounds and the essential facts on which pretrial detention is sought and certifying that the state attorney has received testimony under oath supporting the grounds and the essential facts alleged in the motion. If no such motion is filed, the judicial officer may inquire whether the state intends to file a motion for pretrial detention, and if so, grant the state no more than three days to file a motion under this subdivision. Upon a showing by the state of probable cause that the defendant committed the offense and exigent circumstances, the defendant shall be detained in custody pending the filing of

~~the motion. or the motion is facially insufficient, the judicial officer shall proceed to determine the conditions of release pursuant to the provisions of rule 3.131(b). If, after inquiry, the State indicates it does not intend to file a motion for pretrial detention, or fails to establish exigent circumstances for holding defendant in custody pending the filing of the motion, or files a motion that is facially insufficient, the judicial officer shall proceed to determine the conditions of release pursuant to the provisions of rule 3.131(b).~~ If the motion for pretrial detention is facially sufficient, the judicial officer shall proceed to determine whether there is probable cause that the person committed the offense. If probable cause is found, the person may be detained in custody pending a final hearing on pretrial detention. If probable cause is established after first appearance pursuant to the provisions of rule 3.133 and the person has been released from custody, the person may be recommitted to custody pending a final hearing on pretrial detention.

(b)-(c) [No change]