

## **Appendix E**

**Florida Supreme Court's Criminal Court Steering Committee  
The Honorable Kevin Emas, Chair  
March 28, 2013**

PROPOSED CHANGE	REASON FOR CHANGE
<p><b><u>RULE 3.113. MINIMUM STANDARDS FOR ATTORNEYS IN FELONY CASES</u></b>  <u>Before an attorney may participate as counsel of record in the circuit court for any adult felony case, including postconviction proceedings before the trial court, the attorney must complete a course, approved by The Florida Bar for continuing legal education credits, of at least 100 minutes and covering the legal and ethical obligations of discovery in a criminal case, including the requirements of rule 3.220, and the principles established in <i>Brady v. Maryland</i>, 373 U.S. 83 (1963) and <i>Giglio v. United States</i>, 405 U.S. 150 (1972). Added (date), effective (two years from date).</u></p> <p><b><u>Criminal Court Steering Committee Commentary</u></b></p> <p><b><u>2013 Adoption.</u></b> <u>The Supreme Court has exclusive jurisdiction under Article V, section 15 of the Florida Constitution to “[r]egulate the admission of persons to the practice of law and the discipline of persons admitted.” Implied in this grant of authority is the power to set minimum requirements for the admission to practice law, see <i>In re Florida Board of Bar Examiners</i>, 353 So. 2d 98 (Fla. 1977), as well as minimum requirements for certain kinds of specialized legal work. The Supreme Court has adopted minimum educational and experience requirements for attorneys in capital cases, see, e.g., rule 3.112, and for board certification in other specialized fields of law. The concept of a two-hour continuing legal education (CLE) requirement was proposed in the 2012 Final Report of the Florida Innocence Commission.</u></p> <p><u>The CLE requirement is not intended to establish any independent legal rights. Any</u></p>	<p>Criminal Court Steering Committee (CCSC) unanimously agrees with the report of the Florida Innocence Commission, which recommended that attorneys handling felony cases be required to complete a continuing legal education course covering the law of discovery and <i>Brady/Giglio</i>. CCSC votes (7-5) in favor of applying this requirement to attorneys handling postconviction litigation but votes (10-2) against applying it to attorneys handling criminal appeals (direct or collateral).</p> <p>CCSC recommends that this rule become effective two years from the date of the Court’s opinion. This will provide sufficient time to develop the course curriculum and to make the course available to all members of the Bar. This prospective effective date will also provide attorneys an adequate opportunity to timely comply with this requirement.</p> <p>Language of CCSC Commentary is derived substantially from existing Committee Comments to Fla. R. Crim. P. 3.112.</p>

claim of ineffective assistance of counsel will be controlled by *Strickland v. Washington*, 466 U.S. 668 (1984).

It is intended that The Florida Prosecuting Attorneys Association and The Florida Public Defender Association will develop a seminar that will be approved for CLE credit by The Florida Bar. It is also intended that attorneys will be able to electronically access that seminar, at no cost, via The Florida Bar's website, the Florida Prosecuting Attorneys Association's website, and/or the Florida Public Defender Association's website.

The rule is not intended to apply to counsel of record in direct or collateral adult felony appeals.

CCSC Commentary explains committee's intent to exclude appellate attorneys from the CLE requirement.