

Supreme Court of Florida

AMENDMENT TO FLORIDA RULE OF CRIMINAL PROCEDURE 3.380(b)

No. 94,255
[December 10, 1998]

PER CURIAM.

On our own motion, we amend rule 3.380(b) of the Florida Rules of Criminal Procedure with regard to its provision requiring that a motion for judgment of acquittal be renewed at the close of all the evidence. We have jurisdiction pursuant to article V, section 2(a) of the Florida Constitution.

In this Court's opinion in Morris v. State, No. 90,427 (Fla. Dec. 10, 1998), we determined that it was unnecessary to require a defendant to renew a motion for judgment of acquittal after the defendant has presented evidence. We reasoned that once the initial motion has been made at the close of the State's case and brought to the trial court's attention, the trial court has been given an opportunity to rule on the precise issue, and therefore the initial motion should be preserved for appellate review. Consistent with this reasoning, we amend rule 3.380(b) as follows:

(b) Waiver. A motion for judgment of acquittal is not waived by subsequent introduction of evidence on behalf of the defendant; ~~but after introduction of evidence by the defendant, the motion for judgment of acquittal must be renewed at the close of all the evidence.~~ The motion must fully set forth the grounds on which it is based.

This amendment shall become effective immediately. Because of this substantial change to the rule by this Court, we direct that the amended rule be advertised in The Florida Bar News; we direct that the Criminal Procedure Rules Committee of The Florida Bar review the rule for comment; and we direct that all interested parties submit comments regarding the rule within sixty days of publication.

It is so ordered.

HARDING, C.J., and OVERTON,
SHAW, KOGAN, WELLS, ANSTEAD
and PARIENTE, JJ., concur.

THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER THE EFFECTIVE DATE OF THIS AMENDED RULE.

Original Proceeding - Florida Rules of Criminal Procedure