

**IN THE SUPREME COURT OF THE STATE OF FLORIDA**

IN RE: AMENDMENT TO  
FLORIDA RULE OF CRIMINAL  
PROCEDURE 3.116

Case No: SC23-0803

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**AMENDED COMMENT OF DEREK BYRD, ESQUIRE**  
**(To reflect correct Rule of Criminal Procedure ONLY)**

I am writing to urge the Court to adopt the Amendment to Florida Rule of Criminal Procedure 3.116. This Amendment is overwhelmingly recommended by the Criminal Rules Committee, of which I am a member. The issue was debated amongst judges, prosecutors, and defense attorneys.

The Amendment only applies to short non-evidentiary hearings in criminal court. For example, motions to expunge a defendant's record, motions for return of property, and misdemeanor pre-trial conferences.

The Amendment would give consistency to courts across Florida. I practice in the 12<sup>th</sup> Judicial Circuit which encompasses Sarasota, Manatee, and Desoto County. In said Circuit, judges in Sarasota County routinely use Zoom for simple non-evidentiary hearings. However, in Manatee County, almost none of the judges will allow the use of Zoom, even for the simplest five-minute hearing.

I have noticed on Zoom hearings that more victims, family members, and public observers attend the hearings. No one can dispute the fact that it is much easier for the general public to attend a court hearing remotely rather than driving downtown, finding a parking spot, and physically entering the courthouse.

It is important that the legal profession embraces technology. Remote hearings may be the only positive that we gleaned from the pandemic. Its use should be continued.

The Amendment would also save money in that JAC attorneys who are billing the State for traveling portal to portal for court appearances would now only be billing for their brief appearance on Zoom. It also reduces traffic in the courthouse and thereby reduces the strain on the Sheriff's departments to monitor the courthouse.

This Amendment would make the Criminal Rule consistent with the identical rule that is in civil proceedings. My civil colleagues rave about the efficiency of remote proceedings. I can think of no honest reason why criminal court proceedings should be different than civil court proceedings in this regard.

I urge you to accept the recommendation of the Criminal Rules Committee and adopt this common-sense Amendment.

Respectfully submitted,

*/s/ Derek Byrd*

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**CERTIFICATE OF SERVICE**

COMES NOW the undersigned attorney, and hereby certifies that the above comment has been electronically served on all parties on the e-service list on this the 8<sup>th</sup> day of August, 2023.

*/s/ Derek Byrd*

Derek Byrd, Esquire