

In the Florida Supreme Court
SC2023-0803

In Re: Proposed Amendment to Florida Rule of Criminal Procedure 3.116

Analysis on Proposed Amendment to Fla. R. Crim. P. 3.116

“The defendant or the defendant’s counsel must waive the defendant’s physical attendance at the pretrial conference . . .”

Under this proposal, a state attorney’s motion to use communication technology for a non-evidentiary proceeding scheduled for 30 minutes or less could result in the mandatory waiver of a defendant’s physical attendance. A defendant has a constitutional right to be heard in person: “In all criminal prosecutions the accused . . . shall have the right . . . to be heard in person, by counsel or both[.]” Fla. Const. Art. 1, § 16(a).

Even a probationer has a right to be heard in person: “The probationer is entitled to written notice of the claimed violations of his probation; disclosure of the evidence against him; **an opportunity to be heard in person[.]**” [Emphasis added.] *Black v. Romano*, 471 U.S. 606, 612 (1985).

Certificate of Service. Under Fla. R. Gen. Prac. & Jud. Admin. 2.516(f), I certify that on July 6, 2023, this document has been sent to everyone listed on the E-Portal service list.

Attorney’s Signature. Under Fla. R. Gen. Prac. & Jud. Admin. 2.515(a), I sign this document.

/s/ George Pavlidakey

George Pavlidakey

Florida Bar Number: 117886

100 South Belcher Road, Post Office Box 6638

Clearwater, Pinellas County, Florida 33765

Phone: 727-415-3436

gpavlida@law.stetson.edu