

IN THE COUNTY COURTS OF
BREVARD AND SEMINOLE
COUNTIES OF THE
EIGHTEENTH JUDICIAL
CIRCUIT OF FLORIDA

ADMINISTRATIVE ORDER NO.:
AMENDED 91-79-Ci

IN RE: ALL CRIMINAL DEFENDANTS IN THE COUNTY COURTS OF BREVARD
AND SEMINOLE COUNTIES, EIGHTEENTH JUDICIAL CIRCUIT,
REPRESENTED BY THE OFFICE OF THE PUBLIC DEFENDER

Pursuant to Rule 3.220(a), F.R.Cr.P., a defendant may make a written demand to participate in discovery in criminal cases, including criminal traffic offenses.

Pursuant to Rule 3.140 (n), F.R.Cr.P., a defendant may request the prosecuting attorney to furnish a Statement of Particulars when the Indictment or Information upon which the defendant is to be tried fails to inform the defendant of the particulars of the offense sufficiently to enable him to prepare his defense.

This court has been informed of an Agreement submitted by the Public Defender, James F. Russo, and the State Attorney, Norman R. Wolfinger, to eliminate the necessity of filing a written Demand for Discovery in each criminal case.

Upon filing a Notice of Discovery and Motion for Statement of Particulars with the Chief Judge of the Eighteenth Judicial Circuit, requesting compliance in all criminal cases in Brevard and Seminole County Courts, this agreement allows the Public Defender, when appointed, to participate in all discovery authorized by Rule 3.220, F.R.Cr.P., except when electing not to participate. When choosing not to participate the Public Defender shall file a "Notice of Intent Not To Participate In Discovery" with the court and the State. Further, the agreement provides that the prosecuting attorney shall furnish a Statement of Particulars without request in those cases when the Public Defender is appointed and an Indictment or Information has been filed. The State Attorney has informed this court of its concurrence in this working agreement.

It is therefore **ORDERED:**

In all Brevard and Seminole County criminal court cases where the Public Defender is appointed, except where the Public Defender

has filed a "Notice of Intent Not to Participate in Discovery, the State Attorney and Public Defender shall fully participate in discovery as provided by the Criminal Rules of Procedure. The State Attorney shall disclose and permit inspection, copying, testing, and photographing of all material provided for in Rule 3.220(b), F.R.Cr.P., within the State's possession or control within fifteen (15) days after an Information is filed or after an Answer to Demand for Discovery is filed, whichever occurs first. Should the prosecution not require the filing of an Informative, as in the case of criminal traffic offenses, the fifteen (15) day period shall commence upon arraignment of the defendant. The Public Defender will notify the State of its intent to copy all available discovery, and the State shall make the same available the next working day. Discovery materials actually obtained by a secretary for the Public Defender's office will be deemed to have been demanded and received irrespective of any written notice to the contrary.

The prosecuting attorney, pursuant to F.R.Cr.P.3.220(b)(2) and Brady v. Maryland, 373 U.S. 83 (1963), shall disclose to the Public Defender any material information within the State's possession or control which tends to negate the guilt of the accused as to the offense charged.

If, subsequent to compliance with this order, the prosecuting attorney discovers additional witnesses or material which he would have been under a duty to disclose or produce at the time of such previous compliance, he shall promptly disclose or produce such witnesses or material in the same manner as required under this order for initial discovery.

In any case where an Indictment or Information has been filed, the prosecuting attorney shall also automatically advise the Public Defender as to the time, date and place of the commission of the alleged offenses as specifically and definitely as possible as well as whether or not the State intends to prosecute the accused as an actual participant or as an aider and abettor under F.S. 777.011. If a defendant elects to participate in discovery, either through filing the appropriate notice or by participating in the discovery process outlined in this agreement, the defendant through his Public Defender shall comply with all requirement of Rule 3.220(d) F.R.Cr.P. If problems arise which cannot be satisfactorily resolved, suspension of this procedure will become effective upon the filing of written notice with this Court.

DONE and ORDERED at Melbourne County, Florida, this 5th day
of December, 1991.

JOHN ANTOON II
John Antoon II,
Chief Judge
Eighteenth Judicial
Circuit

Distribution:

All Eighteenth Judicial Circuit Judges
All Brevard County Court Judges
All Seminole County Court Judges
President of the Bar Association, Brevard County
President of the Bar Association, Seminole County
Clerk of Court - Seminole and Brevard Counties
William G. Deitz, Court Administrator
Edna Johnson, Senior Deputy Court Administrator
James F. Russo, Public Defender
Norman R. Wolfinger, State Attorney

Recorded:

Brevard County 12-12-91 OR Book 3166 Page 3827-3830
Seminole County 2-3-92 OR Book 2383 Page 1116-1119