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March 30, 2007 10:10AM

Florida Supreme Court finalizes DNA rules, rejects defenders' objection

BY ASSOCIATED PRESS

TALLAHASSEE, Fla. -- The Florida Supreme Court adopted a permanent rule Thursday on DNA testing of prison inmates and criminal defendants after turning aside an objection from public defenders at least for the time being.

The rule replaces an emergency rule the justices approved last year to conform with a new law that requires judges to ask defendants, their lawyers and prosecutors about possible DNA evidence before accepting guilty or no-contest pleas.

The Florida Public Defenders Association argued against that requirement on grounds that such an inquiry is outside the Legislature's purview, places undue burden on the defendant and would result in the waiver of a defendant's right to a valid post-conviction appeal.

The Supreme Court, though, unanimously decided in the unsigned opinion that the public defenders' objections should be addressed "in a proper case and controversy" rather than a rule-making procedure.

The justices, as they had in the emergency rule case, voted 4-3 against requiring judges also make a definitive finding on whether DNA evidence does exist in addition to asking questions about that possibility.

Justice Harry Lee Anstead wrote in a special concurring opinion that requiring a finding would bring more clarity and certainty to the plea process and reduce the need for future litigation. Justices Barbara Pariente and Peggy Quince agreed with him.

The main opinion cited a recommendation by the Criminal Procedures Rules Committee against requiring such a finding because judges would necessarily have to make one, anyway, to comply with the detailed questioning the rule says they must do.

The new law also lifted all deadlines for prison inmates to file post-conviction appeals based on DNA testing.

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BY STAFF REPORT