

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
IN AND FOR SARASOTA COUNTY FLORIDA

Case No. 2009-CF-

STATE OF FLORIDA,  
Plaintiff,  
vs.

Defendant.  
\_\_\_\_\_/

**WRITTEN WAIVER OF DEFENDANT'S APPEARANCE**  
**FOR ALL PRETRIAL CONFERENCES**

COMES NOW the Defendant, by and through undersigned counsel, and pursuant to Rules of Criminal Procedure 3.180(a)(3) and 3.220(p)(1) and Lynch v. State, 736 So.2d 1221 (Fla. 5th DCA 1999), files this, his written waiver of appearance, and in support thereof notes as follows:

1. That Fla.R.Crim.P. 3.180(a)(3) states that “[i]n all prosecutions for crime the defendant shall be present . . . unless waived by the defendant in writing.”
2. That Fla. R.Crim.P. 3.220(p)(1) allows the trial court to hold one or more pretrial conferences and states that “[t]he defendant shall be present unless the defendant waives this in writing.”
3. That the Fifth District Court of Appeal has noted that: "The [trial court] must follow the clear dictates of these rules and accept the written waiver of appearance proffered on behalf of the (defendant) by his counsel." Lynch, supra.
4. That the Fourth District Court of Appeal, in Stout v. State, 795 So.2d 227 (Fla. 4<sup>th</sup> DCA 2001), adopted the reasoning of the 5<sup>th</sup> District’s Lynch decision and held that the aforementioned rules of criminal procedure also applies to cases in circuit court.

5. That a “docket call” is merely a pretrial status conference to determine whether or not both sides are ready for trial and, therefore, the defendant’s presence may still be waived pursuant to the aforementioned rules. See Walters v. State, 905 So.2d 974, 977 (Fla. 1<sup>st</sup> DCA 2005) (holding that “absent a finding of good cause for requiring the presence of the defendant at a pre-trial conference . . . ***the trial court does not possess the discretion to deny a defendant the ability to waive his appearance at pre-trial proceedings***, as permitted by rules 3.180(a)(3) and 3.220(p)(1)” emphasis added).

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. mail/ hand delivery to state’s mailbox in clerk’s office/ fax/ this \_\_\_\_\_ day of \_\_\_\_\_, 2009, to the State Attorney’s Office, 2071 Ringling Blvd., Sarasota, Fl 34237.

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, **ESQ.**  
Florida Bar No.