

Supreme Court of Florida

No. SC16-330

IN RE: AMENDMENTS TO FLORIDA RULE OF JUDICIAL ADMINISTRATION 2.535.

[March 24, 2016]

PER CURIAM.

This Court, on its own motion, amends Florida Rule of Judicial Administration 2.535(i) (Court Reporting Services in Capital Cases) to ensure the accuracy of transcripts by clarifying that the rule requires the use of a live court reporter in all trials in which the state seeks the death penalty and in all capital postconviction proceedings. See Fla. R. Jud. Admin. 2.140(d). We have jurisdiction. See art. V, § 2(a), Fla. Const.

BACKGROUND

Effective January 1, 2015, the Court amended rule 2.535(i), as proposed by the Capital Postconviction Proceedings Subcommittee (Subcommittee) of the Criminal Court Steering Committee, “to prohibit the use of digital court reporting as the primary court reporting system in trials where the state seeks the death

penalty or in capital postconviction proceedings.” In re Amend. Fla. Rules of Jud. Admin.; Fla. Rules of Crim. Pro.; & Fla. Rules of App. Pro.—Capital Postconviction Rules, 148 So. 3d 1171, 1173 (Fla. 2014). In proposing the amendment, the Subcommittee’s goal was that “the circuit courts will use real-time transcription services to the extent possible.” Id. As last amended, rule 2.535(i) provides, as relevant here, that each circuit-wide plan for court reporting in all trials in which the state seeks the death penalty and in all capital postconviction proceedings must prohibit the use of digital court reporting as the primary court reporting system and must require (1) where available, the use of an approved court reporter who has the capacity to provide real-time transcription of the proceedings, and (2) if real-time transcription services are not available, the use of a computer-aided transcription qualified court reporter.

AMENDMENT

We amend rule 2.535(i) to remove the word “primary” from the phrase in the rule “must prohibit the use of digital court reporting as the primary court reporting system.” (Emphasis added.) This clarification of the rule is consistent with the Subcommittee’s and this Court’s original intent that each circuit-wide plan ensure accurate, intelligible transcripts of these important proceedings by requiring the use of a live court reporter.

Accordingly, we amend Florida Rule of Judicial Administration 2.535 as set forth in the appendix to this opinion. New language is indicated by underscoring; deletions are indicated by struck-through type. The amendment shall become effective immediately upon the release of this opinion. Because the amendments were not published for comment prior to their adoption, interested persons shall have sixty days from the date of this opinion in which to file comments with the Court.¹

It is so ordered.

LABARGA, C.J., and PARIENTE, LEWIS, QUINCE, CANADY, POLSTON,
and PERRY, JJ., concur.

1. All comments must be filed with the Court on or before May 23, 2016, with a separate request for oral argument if the person filing the comment wishes to participate in oral argument, which may be scheduled in this case. If filed by an attorney in good standing with The Florida Bar, the comment must be electronically filed via the Florida Courts E-Filing Portal in accordance with In re Electronic Filing in the Supreme Court of Florida via the Florida Courts E-Filing Portal, Fla. Admin. Order No. AOSC13-7 (Feb. 18, 2013). If filed by a nonlawyer or a lawyer not licensed to practice in Florida, the comment must be electronically filed via e-mail in accordance with In re Mandatory Submission of Electronic Copies of Documents, Fla. Admin. Order No. AOSC04-84 (Sept. 13, 2004). Electronically filed documents must be submitted in Microsoft Word 97 or higher. Any person unable to submit a comment electronically must mail or hand-deliver the originally signed comment to the Florida Supreme Court, Office of the Clerk, 500 South Duval Street, Tallahassee, Florida 32399-1927; no additional copies are required or will be accepted.

THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER THE EFFECTIVE DATE OF THESE AMENDMENTS.

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APPENDIX

RULE 2.535. COURT REPORTING

(a) – (h) [No change]

(i) **Court Reporting Services in Capital Cases.** The chief judge, after consultation with the circuit court judges in the circuit, shall enter an administrative order developing and implementing a circuit-wide plan for court reporting in all trials in which the state seeks the death penalty and in capital postconviction proceedings. The plan shall prohibit the use of digital court reporting as the ~~primary~~ court reporting system and shall require the use of all measures necessary to expedite the preparation of the transcript, including but not limited to:

(1) where available, the use of an approved court reporter who has the capacity to provide real-time transcription of the proceedings;

(2) if real-time transcription services are not available, the use of a computer-aided transcription qualified court reporter;

(3) the use of scopists, text editors, alternating court reporters, or other means to expedite the finalization of the certified transcript; and

(4) the imposition of reasonable restrictions on work assignments by employee or contract approved court reporters to ensure that transcript production in capital cases is given a priority.

(j) [No change]

Committee Note

[No change]