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IN THE SUPREME COURT OF FLORIDA

**IN RE: AMENDMENTS TO THE
RULES OF CIVIL PROCEDURE
FOR INVOLUNTARY COMMITMENT
OF SEXUALLY VIOLENT PREDATORS**

SC13-

PETITION OF THE CRIMINAL COURT STEERING COMMITTEE

The Supreme Court's Criminal Court Steering Committee ("Steering Committee") by and through its chair, hereby submits this petition recommending rule changes to the Rules of Civil Procedure for Involuntary Commitment of Sexually Violent Predators (the "Jimmy Ryce" rules).

Overview

On November 8, 2012, the Court sent a referral letter to both the Criminal Court Steering Committee and the Rules of Judicial Administration Committee ("RJA") asking the committees to jointly consider whether changes to the Jimmy Ryce rules of procedure are necessary to accommodate e-mail service and electronic filing in cases brought under Jimmy Ryce Proceedings. A copy of the referral letter is attached to this petition. *See* Appendix A.

The Steering Committee Process

Twelve members comprise the Steering Committee: two district court of appeal judges, six circuit court judges, one county court judge, one state attorney, one chief assistant public defender, and a criminal conflict and civil regional counsel. The

members represent a diverse group in terms of geography, circuit population, background, and experience.

To ensure proper coordination with the RJA, the Steering Committee invited RJA committee members Mr. William Vose and Mr. Robert Strain to participate in the discussions. Additionally, the Criminal Procedure Rules Committee (“CPRC”) participated in this referral and was represented by CPRC member, Mr. David Gillespie.

The Steering Committee Review

The members of the Steering Committee (and the RJA and CPRC liaisons) voted unanimously that the Jimmy Ryce rules of procedure should be amended to conform to corresponding rules of procedure governing e-mail service and electronic filing. The Steering Committee (and liaison members) identified four Jimmy Ryce rules that require amendments to effectuate this:

Recommendation One **Fla. R. Civ. P. – S.V. P. 4.030**

In order to maintain uniformity with the rules of civil procedure, *see* rule 1.030, the Steering Committee (and liaison members) voted unanimously that the word “written” be deleted and that the word “document” be substituted for the word “paper” in rule 4.030. The recommended amendment of rule 4.030 provides:

RULE 4.030. NONVERIFICATION OF PLEADINGS

Every ~~written~~ pleading or other ~~paper~~ document of a party represented by an attorney need not be verified or accompanied by an affidavit except when otherwise specifically provided by these rules or an applicable statute.

Recommendation Two
Fla. R. Civ. P. – S.V. P. 4.080

In order to maintain uniformity with the rules of criminal procedure, *see* rule 3.030 (as amended by Florida Supreme Court Opinion SC11-399), the Steering Committee (and liaison members) voted unanimously that:

- the caption of rule 4.080 reflect its application to service *and* filing;
- the caption reflect its application to pleadings, papers *and* documents;
- the word “document” be substituted for the word “paper” in rule 4.080(a);
- rule 4.080(b) be amended to conform to rule 3.030 by referencing the requirements of rule 2.516;
- subdivision (c) of rule 4.080 be replaced by a new subdivision that mirrors the language of rule 3.030(b), and references the corresponding rules of judicial administration governing filing of documents;
- new subdivision (d) be added to rule 4.080, bringing the rule into conformity with rule 3.030(c) and referencing the corresponding rule 2.430 governing retention of court records.

The recommended amendment of rule 4.080 provides:

RULE 4.080. SERVICE AND FILING OF PLEADINGS AND, PAPERS, AND DOCUMENTS

(a) Service; When Required. Unless the court otherwise orders, every pleading subsequent to the initial pleading and every other ~~paper~~ document filed in the action, except applications for a witness subpoena, shall be served on the opposing party.

(b) Service of Subsequent Pleadings Other Than Original Petition; How

Made. When service is required or permitted to be made upon a party represented by an attorney, service shall be made upon the attorney unless service upon the party is ordered by the court. Service on the attorney or party shall be ~~made by delivering a copy or mailing it to the attorney or the party, or as provided in 4.070(b)~~ as required by Fla. R. Jud. Admin. 2.516.

~~(e) **Service by Electronic Mail.** Service by electronic mail shall be permitted if all parties or their counsel file with the clerk of the court a written agreement that such service is acceptable. The agreement shall set forth the method of service and provide e-mail addresses or facsimile numbers. The original pleadings shall be filed with the clerk with the counsel's attestation of the time of electronic service.~~

(c) Filing. All documents that are “court records” as defined in the Florida Rules of Judicial Administration must be filed with the clerk in accordance with Fla. R. Jud. Admin. 2.520 and 2.525.

(d) Deposit with the Clerk. Any paper document that is a judgment or required by statute or rule to be sworn to or notarized shall be filed and deposited with the clerk immediately thereafter. The clerk shall maintain deposited original paper documents in accordance with Fla. R. Jud. Admin. 2.430, unless otherwise ordered by the court.

Recommendation Three **Fla. R. Civ. P. – S.V. P. 4.100**

The single proposed amendment for this rule is to subdivision (c), with the words “document” and “documents” substituted for the words “paper” and “papers,”

respectively. The recommended amendment of rule 4.100 provides:

RULE 4.100. PLEADINGS AND MOTIONS

(a) – (b) [No change]

(c) Caption. Every pleading, motion, order, judgment, or other ~~paper~~ document shall have a caption containing the name of the court, the uniform case number, the name of the party on each side, and a designation identifying the party filing it and its nature or the nature of the order, as the case may be. All ~~papers~~ documents filed in the action shall be styled in such a manner as to indicate clearly the subject matter of the paper and the party requesting or obtaining relief.

Recommendation Four
Fla. R. Civ. P. – S.V. P. 4.440

The final proposed change concerns rule 4.440(a)(1). Because the Steering Committee proposes that the Florida Rules of Judicial Administration be referenced in rule 4.080, *see* Recommendation Two *supra*, the Steering Committee (and liaison members) believe it appropriate to include in rule 4.440(a)(1) a corresponding reference to the Florida Rules of Judicial Administration. No other amendment to rule 4.440 is required. The recommended amendment of rule 4.440(a)(1) provides:

RULE 4.440. RULES OF PROCEDURE AND EVIDENCE

(a) In all commitment proceedings initiated under part V, chapter 394 Florida Statutes and this rule, the following applies:

- (1) The Florida Rules of Civil Procedure and Florida Rules of Judicial Administration apply unless otherwise superseded by these rules.
- (2) –(5) [No Change]

(b) – (c) [No Change]

Review by the RJA

After the Steering Committee meeting, the RJA met to discuss these proposals. The RJA determined that no amendment to the Rules of Judicial Administration was required.

Conclusion

The Steering Committee respectfully requests that the Court amend the four Jimmy Ryce rules outlined in this petition.

This report contains the following appendices:

Appendix A: Supreme Court referral letter dated November 8, 2012.

Appendix B: Proposed amendments to Jimmy Ryce rules (4.030, 4.080, 4.100, 4.440).

Appendix C: Proposed amendments to Jimmy Ryce rules (4.030, 4.080, 4.100, 4.440) in two-column format.

Respectfully submitted,

/s/ Judge Kevin Emas

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CERTIFICATIONS

I hereby certify that this Petition has been typed using Times New Roman 14.

I hereby certify that these rules were read against *West's Florida Rules of Court – State* (2012). Note: *West's Florida Rules of Court* does not capitalize the title of each rule. This Court does, however. See *In re Florida Rules of Civil Procedure for Involuntary Commitment of Sexually Violent Predators*, 13 So. 3d 1025 (Fla. 2009).

/s/ Bart Schneider

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Petition and appendices have been furnished by e-mail to Ms. Deborah Meyer, Director of Central Staff, at meyerd@flcourts.org and to Ms. Alexandra Rieman, Chair, Rules of Judicial Administration Committee, at arieman@17thflcourts.org, this 7th day of May, 2013.

/s/ Bart Schneider

Bart Schneider
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