

IN THE SUPREME COURT OF FLORIDA

Case Number SC14-1055

IN RE: AMENDMENTS TO THE
FLORIDA RULES FOR CERTIFICATION
AND REGULATION OF SPOKEN LANGUAGE
COURT INTERPRETERS

COMMENTS OF THE SEVENTEENTH JUDICIAL
CIRCUIT TRIAL COURT ADMINISTRATOR

Kathleen R. Pugh, Trial Court Administrator for the Seventeenth Judicial Circuit, files her comments to the proposed amendments to the Florida Rules for Certification and Regulation of Spoken Language Court Interpreters as filed by the Court Interpreter Certification Board (Board). As the Seventeenth Judicial Circuit and Broward County Court judges are required to construe the new proposed rules with all other rules of procedure, *see Syndicate Properties v. Hotel Floridian Co.*, 94 Fla. 899, 114 So. 441 (1927); *Bryan v. State*, 94 Fla. 909, 114 So. 773 (1927), Ms. Pugh is concerned that an undue burden will be placed upon court administration staff, judges, and the circuit's budget for interpreters.

Florida Rule of Judicial Administration 2.560 sets forth the requirements for the appointment of an interpreter for criminal, delinquency, and other proceedings. Although rule 2.560 does not define the term proceeding, the plain reading of the

rule and its historical application is that only proceedings before a judge or quasi judicial officer, excluding special magistrates, require the court to appoint an interpreter. The definition of court proceeding as proposed in Florida Rule for Certification and Regulation of Spoken Language Court Interpreters 14.100(g) appears to expand the court's inquiry and responsibility regarding the appointment of an interpreter to all judges, general magistrates, special magistrates,¹ and hearing officers. Thus, if the proposed rules are approved by the court, their implementation will have a drastic impact on trial courts and budgets.

The Board will argue the petition does state the proposed rules:

- are not expanding interpreter services but merely the standards for interpreters, Petition page 7;
- that depositions and civil matters would still have privately retained interpreters, Petition page 8; and
- that rule 2.560 governs the courts requirements to provide interpreters, *Id.*

The problem is that the petition does not govern the plain meaning of the words in the proposed rules. Rule 2.560 must be construed in light of the new

¹ Traditionally judges in the civil, family, or probate divisions appoint special magistrates for limited purposes who are paid by private litigants. The rule as proposed appears to shift the burden to the courts to appoint interpreters for special magistrate proceedings.

proposed rule 14.100(g). Therefore at all hearings the judges, general magistrates, special magistrates, and hearing officers must determine:

1. if a defendant or litigant is non-English speaking (rule 2.560(a), rule 2.560 (b));
2. if a victim (rule 2.560(a)) or witness is non-English speaking (rule 2.560(c)); and
3. appoint an interpreter in compliance with Title VI of the Civil Rights Act of 1964² (rule 2.560(d)).

If a defendant, litigant, witness, or victim is non-English speaking the court must appoint an interpreter based upon the common understanding of the words used in rule 2.560 and rule 14.100.

Ms. Pugh is concerned that if the proposed rules are approved, she will be required to assign either staff or contract interpreters to court proceedings and court-related proceedings based upon requests of attorneys or litigants, or attend court hearings to justify why she is not required to provide interpreters for court or court-related proceedings based upon the Board's position that rule 2.560 is not impacted. The Seventeenth Judicial Circuit and Broward County estimate their

² This comment will not detail the requirements of the Title VI of the Civil Rights Act of 1964 or the Department of Justice's position with regard to the provision of court interpreters by the courts for court proceedings or court-related proceedings.

open and pending cases requiring judicial activities are: civil at 126,751,³ criminal at 40,625, and juvenile at 3,791 as of June 2014 for a total of 171,167 cases.

The courts for which Ms. Pugh provides support at any one time can have 91 courtrooms and 10 hearing rooms requiring coverage with 11 staff and 22 contractors. Presently, Ms. Pugh is able to manage her limited resources as civil proceedings, other than Dependency, Incapacity, Baker Act, and Marchman Act, do not require she assign staff interpreters or contract interpreters, so that judges, general magistrates, and hearing officers are able to order an interpreter in advance of hearings. Because the new proposed rule 14.100 appears to expand the types of proceedings during which the court must appoint interpreters, Ms. Pugh is concerned that the existing resources will not be sufficient to allow her to provide the required support to the Seventeenth Judicial Circuit and the Broward County Courts.

Ms. Pugh is also concerned that proposed rule 14.110(h) refers to a registered court interpreter along with a certified, language skilled, and provisionally approved court interpreter in a string but there is no definition of a registered court interpreter in rule 14.100. Ms. Pugh proposes the Board consider defining a registered interpreter in proposed rule 14.100 as an individual who has

³ This does not include the three (3) probate divisions.

met the requirements of the rules and is registered with the Office of the State Courts Administrator. This change would also render rule 14.200(f) unnecessary.

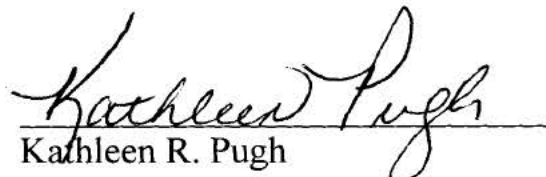
Proposed rules 14.205(a) and 14.210(a) refer to the order of preference in selecting a court interpreter. However, they do not address the situation when a private litigant fails to retain or attempt to retain a certified or language skilled interpreter for a court or court-related proceeding. Is the litigant allowed to seek after the fact approval pursuant to rule 2.560(e)(2)? Is the court or court-related proceeding voidable for failure to secure a certified or language skilled interpreter? Is the private litigant required to seek court approval pursuant to rule 2.560(e)(4) each time the same court interpreter is used for a court or court-related proceeding? The courts, attorneys, and litigants need assistance with either the Florida Rules for Certification and Regulation of Spoken Language Court Interpreters or Florida Rules of Judicial Administration in how to resolve these issues.

Ms. Pugh also suggests a change to new subdivision 14.100(c) to provide symmetry with subdivisions 14.100(b) and 14.100(d). The suggested change is:

14.100 (c) Language Skilled. A designation reserved for interpreters who have completed all requirements in accordance with these rules, but who are seeking certification in a spoken language for which there is no state-certifying examination, ~~such persons holding~~ and hold a valid certificate issued by the Office of the State Courts Administrator.

Ms. Pugh agrees with the Board that non-English speaking and limited English proficient persons interacting with the courts are entitled to competent court interpreters. She lauds the Board for its hard work in proposing the amendments to seek equality for non-English speaking and limited English proficient persons in both court and court-related proceedings. Ms. Pugh seeks to provide the court with comments regarding the impact the proposed rules, if adopted, will place upon her as Trial Court Administrator and upon the judges, general magistrates, and hearing officers she supports.

Respectfully submitted on August 15, 2014.

A handwritten signature in black ink, reading "Kathleen R. Pugh", written over a horizontal line.

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CERTIFICATES OF SERVICE AND TYPEFACE COMPLIANCE

I CERTIFY a true and correct copy of the foregoing Comments of the Seventeenth Judicial Circuit Trial Court Administrator to the Petition of the Court Interpreter Certification Board to Amend the Florida Rules for Certification and Regulation of Spoken Language Court Interpreters, was furnished by electronic mail through the Florida Courts E-Filing Portal to the following persons on August 15, 2014:

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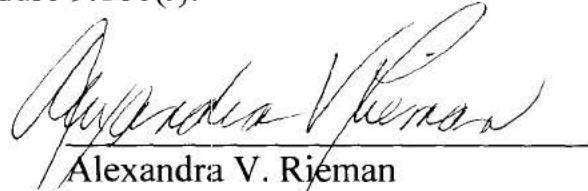
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I FURTHER CERTIFY the petition has been prepared in MS Word using Times New Roman 14-point font, which complies with the font requirements set forth in Florida Rule of Appellate Procedure 9.100(l).

A handwritten signature in black ink, appearing to read "Alexandra V. Rieman", is written over a horizontal line.

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