

IN THE SUPREME COURT OF FLORIDA

KYE S. HOFFMAN,

Petitioner,

vs.

GLENN A. HOFFMAN,

Respondent



CASE NO. 66,718

PETITIONER'S REPLY BRIEF

Walter A. Steigleman
DEWRELL, BLUE & BRANNON
Post Office Box 1510
Fort Walton Beach, FL 32549
(904) 244-9136

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THE CLERK OF CIRCUIT COURT HAS THE
DISCRETION TO DETERMINE THAT PLEADINGS
DEPOSITED AT THE CLERK'S BRANCH OFFICE
ARE NOT DEEMED FILED UNTIL THEY ARE
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ARGUMENT

THE CLERK OF CIRCUIT COURT HAS THE DISCRETION TO DETERMINE THAT PLEADINGS DEPOSITED AT THE CLERK'S BRANCH OFFICE ARE NOT DEEMED FILED UNTIL THEY ARE TRANSMITTED TO THE COURTHOUSE AT THE COUNTY SEAT.

The petitioner respectfully disagrees with the position taken by the respondent and the district court that to hold the notice of appeal to be untimely filed in this case would be "at loggerheads" with the stated legislative goal of better serving the public. The legislature specifically and expressly decided to achieve its goal by giving county commissions and circuit court clerks the authority and discretion to determine whether to expand some or all of the clerk's services beyond the county seat. The district court simply decided there is a better way to achieve the goal. Although the district court's decision was well-intentioned, the court cannot be permitted to substitute its judgment for that of the legislature.

There is nothing unreasonable, illegal or improper in this legislative grant of discretion to county commissions and court clerks. The legislature apparently decided that local governments are in a better position than the legislature to determine on an individual basis whether the county might require additional services of the clerk to meet demands of population shifts and increases. Further, the legislature may have considered that such local decisions have an impact on local taxes and should be made by considering local needs, local revenue and resources.

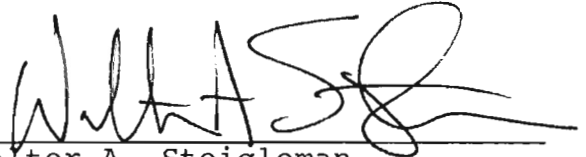
The legislature gave local governments flexibility in supplying these extra services. However, the First District Court of Appeal's order hamstrings local government by stating that the county commission and the clerk cannot establish clerk's branch offices for limited purposes. That is, the effect of the court's order is that a county commission cannot set up a clerk's branch office unless it decides to fund a full-service office, with the exception of process serving and recording. This restriction is artificial, counterproductive to the legislative goals, and it is not required by the constitution or the statutes.

Because the legislative scheme is valid it should be enforced, and the Clerk of Circuit Court for Okaloosa County, Florida, should be sustained in his decision not to set up a mechanism for clocking-in documents at the Shalimar Annex. Here, the clerk has decided to provide a public service by transporting documents to the county seat for filing at the county courthouse. This action is constitutional, it comports with the statutes, and it advances the legislative goal of better serving the public. The district court did not have the authority to invalidate this policy on the ground that the court believed it had a better idea for serving the public.

Accordingly, the order of the First District Court of Appeal should be reversed.

CONCLUSION

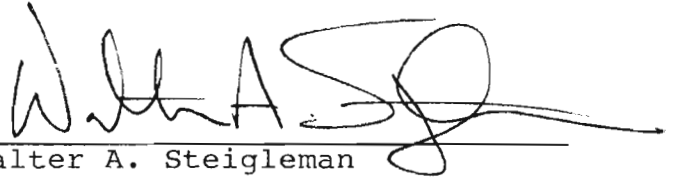
Because the notice of appeal was not filed within the time permitted under the Florida Rules of Appellate Procedure, the Petitioner requests that this Court reverse the decision of the First District Court of Appeal and order that the appeal be dismissed.

A handwritten signature in black ink, appearing to read 'Walter A. Steigleman', written over a horizontal line.

Walter A. Steigleman
DEWRELL, BLUE & BRANNON
P.O. Box 1503
Fort Walton Beach, FL 32549
(904) 244-9136
Counsel for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished to JAMES L. SCHMIDT, Esquire, Attorney for Respondent, P.O. Box 308, Fort Walton Beach, Florida 32549, by regular U.S. Mail, this 13th day of May, 1985.

A handwritten signature in black ink, appearing to read 'Walter A. Steigleman', written over a horizontal line.

Walter A. Steigleman
DEWRELL, BLUE & BRANNON
P. O. Box 1510
Ft. Walton Beach, FL 32549
(904) 244-9136
Attorney for Petitioner