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FILED

ED J. WHITE

IN THE SUPREME COURT OF FLORIDA

AUG 5 1987 *C*

CLERK, SUPREME COURT

By: *[Signature]*
Deputy Clerk

REQUEST FOR ADVISORY OPINION;
H.R.S. NON-LAWYER COUNSELOR.

CASE NO. ~~70,911~~
70,615

BRIEF OF AMICUS CURIAE
FLORIDA BAR JUVENILE RULES COMMITTEE

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STATEMENT OF THE FLORIDA BAR JUVENILE RULES COMMITTEE

This brief is being filed on behalf of The Florida Bar's Juvenile Court Rules Committee. The Juvenile Court Rules Committee is responsible for reviewing the Florida Rules of Juvenile Procedure and to recommend changes to this Court.

The most recent general revision to the Florida Rules of Juvenile Procedure was implemented on January 1, 1985, dividing these Rules into two parts, with Part I governing delinquency proceedings and Part II governing dependency proceedings. See Petition of the Florida Bar to Amend the Florida Rules of Juvenile Procedure, 462 So.2d 399 (Fla. 1984). In addition to separating the Juvenile Rules into two Parts, the Juvenile Rules Committee proposed substantial revisions to dependency proceedings themselves which were approved by the Florida Supreme Court. Id.

On June 11, 1987, the Juvenile Rules Committee convened its regularly scheduled meeting to review and to consider the Advisory Opinion FAO #87001 submitted by the Florida Bar Standing Committee on Unlicensed Practice of Law, dated May 27, 1987.

At this meeting, the Juvenile Rules Committee, with a quorum present, voted to support the advisory opinion and agreed with the summary stated on page 21 of the Opinion.

The Juvenile Rules Committee is in agreement that the Florida Rules of Juvenile Procedure should be considered as the

sole source of procedural authority in dependency cases as the advisory opinion concludes on page 19 of the Opinion.

The Juvenile Rules Committee discussed possible amendments to the present Juvenile Court Rules that would expand the circumstances in which an authorized agent of the Department of H.R.S. could act on behalf of the Department without the participation of legal counsel. It was decided that the Committee would have proposed amendments formulated to be considered at the next meeting.

The Juvenile Rules Committee is aware of the traditional role H.R.S. caseworkers have played in the juvenile justice system and the great flexibility accorded these caseworkers by the Court. The Committee understands and has considered the fiscal and social issues that have been raised in the Department of H.R.S.'s objections to the proposed advisory opinion.

The Juvenile Rules Committee will continue to monitor this issue and will consider recommendations for amendments to the Juvenile Rules if the best interest of the juvenile justice system requires us to do so.

CONCLUSION

The Juvenile Rules Committee recognizes the historical role of the juvenile justice system and the informality that has traditionally been attached to it. The Committee further realizes the judicial trend towards greater procedural formality


in recognition of the potential effect dependency proceedings have on the integrity of the family unit. The intent of the major changes adopted by this Court when the Juvenile Court Rules were generally revised in 1985, was to have the Florida Rules of Juvenile Procedure be the sole procedural authority governing the practice of law in juvenile court.

In sum, this Court should approve the proposed advisory opinion and, therefore, limit H.R.S. caseworker participation in the juvenile court system to those matters which are either: a) not considered the practice of law, or b) authorized by the Florida Rules of Juvenile Procedure.

If this Court wishes to allow H.R.S. caseworkers to engage in action that would normally be considered the practice of law and is not allowable under the Juvenile Court Rules, then it is requested that this Court give the Juvenile Rules Committee an opportunity to consider possible amendments to be forwarded through the normal procedure.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, DANIEL P. DAWSON, Attorney for Amicus Curiae in the above-entitled cause, do hereby certify that I have served a copy of the foregoing Brief of Amicus Curiae, Florida Bar Juvenile Rules Committee, to: B. Elaine New, Esquire, Assistant General Counsel, State of Florida, Department of Health and Rehabilitative Services, 1317 Winewood Boulevard, Tallahassee, FL, 32301; Robert M. Sondak, Esquire, Paul, Landy, Beiley, & Harper, P.A., 200 S.E. First Street, Miami, Florida, 33131; and Brent R. Taylor, Esquire, Henry George White, Esquire, Guilene Theodore, Esquire, James Dulfer, Esquire, and Christina A. Zawisza, Esquire, Florida Legal Services, Inc., 226 West Pensacola Street, Tallahassee, FL, 32301; James A. Sawyer, Jr., District VII Counsel, State of Florida, Department of Health and Rehabilitative Services, 400 West Robinson Street, Suite 911, Orlando, Florida, 32801; Joe Spicola, General Counsel, Office of the Governor, The Capitol, Tallahassee, Florida, 32301 and William D. Preston and Carolyn S. Raepple, Attorneys for Children's Home Society of Florida, Post Office Box 6526, Tallahassee, Florida, 32314 by U.S. Mail, this 5th day of August, 1987.

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