

O/A 6-2-88

IN THE SUPREME COURT OF FLORIDA

FILED
MAY 18 1988
CLERK OF THE COURT
By: [Signature]

In Re:
AMENDMENTS TO THE FLORIDA
RULES OF JUVENILE PROCEDURE

Case No. 72,105

RESPONSE OF THE DEPARTMENT OF HEALTH & REHABILITATIVE SERVICES

The Juvenile Rules Committee of the Florida Bar has proposed changes to the Rules of Juvenile Procedure. The Department of Health and Rehabilitative Services offers the following comments for this Court's consideration.

Rule 8.710 Detention petition, hearing, and order - The Committee proposes that HRS counselors be specifically authorized to appear at the detention hearing without counsel if the only issue at the hearing is the continued detention of the child in shelter.

Rule 8.720 Dependency Petitions - Paragraph (5) is added which requires the clerk to forward dependency petitions filed by nonlawyers to be reviewed by the State Attorney.

Rule 8.800 Post Disposition relief - Paragraph (e) would specifically authorize HRS counselors to appear at review hearings if the parties agree to continue an existing plan or performance agreement.

This Court in The Florida Bar Re: Advisory Opinion HRS Nonlawyer Counselor, 518 So.2d 1270 (1988) examined the functions performed by HRS counselors in dependency cases. The Court

specifically authorized current practices to continue, at least until it receives a report from its Ad Hoc Committee. The Ad Hoc Committee was appointed in April and has its first meeting scheduled for May 13, 1988. A report is due to the Court on December 1, 1988.

The Court has already considered these issues and has chosen to study the matter more carefully through its Ad Hoc Committee.

If these proposed rule changes are read to limit current practice, e.g. the worker could not appear at the detention hearing if there were issues beyond continued placement in shelter, or the State Attorney could reject HRS dependency petitions then such a Rule would frustrate this Court's decision in the HRS Nonlawyer Counselor case and would undermine the work of its specially appointed committee. The Court has appointed a well qualified committee to advise it in these matters. To change the Rules at this juncture, other than to specifically authorize current practice, would frustrate the purpose of the Committee.

In substance, the department agrees that counselors should be specifically authorized in the Rules to perform their functions. We do not agree, however, with the limitations imposed by the proposed Rules.

It may be that the Ad Hoc Committee advises that this or similar Rules be adopted. However, the Court should postpone consideration of these changes until it receives the report from its Ad Hoc Committee.

Based on the foregoing, the Department of Health and Rehabilitative Services respectfully requests that this Court postpone consideration of changes to Rules 8.710, 8.720 and 8.800, Rules of Juvenile Procedure.

Respectfully submitted this 13th day of May, 1988.

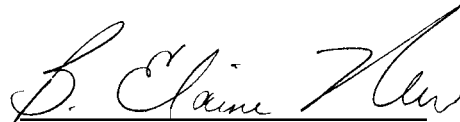


B. ELAINE NEW
Assistant General Counsel
Department of Health and
Rehabilitative Services
1323 Winewood Boulevard
Tallahassee, Fla. 32399-0700
(904) 488-2381

FLORIDA BAR #354651

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been sent by U. S. Mail this 13th day of May, 1988 to: John F. Harkness, Executive Director, The Florida Bar, Tallahassee, Florida 32301-8226 and Daniel P. Dawson, Chairman, The Florida Bar Juvenile Court Rules Committee, 1800 East Michigan Street, Orlando, Florida 32806.



B. Elaine New
Attorney