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FILED

SID J. WHITE

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CLERK SUPREME COURT.

By _____
Chief Deputy Clerk

September 30, 1992

The Honorable Sid J. White
Clerk, Supreme Court of Florida
Tallahassee, FL 32399-1927

Dear Mr. White:

The following are my comments concerning the Supreme Court Case # 74,538, styled AMENDMENTS TO RULES REGULATING THE FLORIDA BAR-1-3.1(a) AND RULES OF JUDICIAL ADMINISTRATION-2.065 (LEGAL AID).

1. I believe that the following would be a better statement of 4-6.1 PRO BONO PUBLICO SERVICE:

Each member of The Florida Bar in good standing, as part of that lawyer's professional responsibility, should render pro bono public interest legal service as provided in these rules.

My reason for believing this is I fail to see why we should emphasize providing legal services to the poor as being the highest in priority in public interest legal service. Is not it more important to provide legal service to a medical service team that is working on a cure for a lethal disease? As a matter of syntax, since the Joint Commission has included legal service to the poor as being "pro bono public interest legal service", it does not have to be separately stated.

2. I believe 4-6.2 PRO BONO LEGAL SERVICE TO THE POOR should be revised as follows:

(a) Discharge of Professional Responsibility to Provide Pro Bono Legal Service to the Poor, (Bold Print). Professional responsibility to provide pro bono legal service to the poor may be discharged by:

(1) No change

(i) handling without charge or expectation of receiving a fee for civil matters for persons in households with income a lawyer in good faith determines is at or below 125% of the federal poverty standard, as adjusted annually (such persons being referred to as "the poor" in this rule and the pro bono plan); or

(ii) handling without charge or expectation of receiving a fee for criminal matters for the poor in which there is no constitutional obligation to provide funds for representation.

(iii) provide free legal services to charitable, religious, civic and educational organizations the

mission and activities or which are designed predominately to address the needs of the poor or free legal services to other charitable, religious, civic and educational organizations in matters which are designed predominately to address the needs of the poor ; or

(2) No Change

(b) (Bold print, first sentence) No Change

(c) (Bold print, first sentence) No Change

(d) (Bold print, first sentence) change (4) to read:

if the lawyer volunteered to provide pro bono legal service to the poor through an organized program affiliated with the Florida Voluntary Pro Bono Attorney Plan, whether the lawyer's services were under-utilized or not utilized.

My reason for suggesting revising (a) is that I do not think that providing free legal help to the poor should be a basic category, as previously stated. It should be one of the public interest categories. As a matter of fact, I do not think that the poor should be a general category we provide help for. It should be those who are poor because of disability, including but not limited to lack of education, discrimination or other valid reasons, but not to those who do not WANT to work.

My reason for adding "for" in front of "civil matters" and "criminal matters" in (i) and (ii) is a matter of grammar.

My reason for adding "a lawyer in good faith determines is" in (i) is that the Comment states that "For lawyers providing pro bono legal service on their own, * * * a good faith determination * * * is sufficient". If that is the standard, and as my comments, infra, state, the predominate method of providing free legal help to the poor will be on the lawyer's own choice of client, then we should state it.

My reason for changing "such persons" and "poor persons" to "the poor" in (ii) and (iii) is that is the nomenclature the Commission has established in (i).

My reason for revising (4) is that there is, from my experience, a sufficient call by the deserving poor for legal help, in my experience. If a lawyer is in an area where that is not so, then the reporting requirement is important. Otherwise, I do not see its value. A more significant delivery of legal services is generated by a lawyer, not a government committee.

Sincerely,



Bertram Shapero