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SID J. WHITE

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CLERK, SUPREME COURT
By _____
Chief Deputy Clerk

Eighth Judicial Circuit of Florida

Samuel Patterson Stafford, Esq.
Judicial Hearing Officer

December 7, 1994

Honorable Sid J. White
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84,390

RE: Rule 4-8(h); Review Comments; Circuit Judicial Hearing Officer

For the past five (5) years, I have served as the Eighth Circuit's Judicial Hearing Officer. Although I have been a member of the Florida Bar for over seventeen years, it was only during the past five (5) years, while addressing paternity establishment, child support/benefit modification, and enforcement of child support orders, that I realized how important it is for all professions and occupations to fully pay their child support obligations.

Having served a term on the Eighth Judicial Circuit's Grievance Committee, I take strong exception with those Bar members who maintain that the current Bar rules already allow for the disciplining of attorneys who do not pay child support. On the contrary, we need a clear, explicit rule that specifically links willful refusal to pay a child support obligation, with official misconduct.

In this age when the Bar and all members of our profession are strenuously endeavoring to project a positive image, we should avoid even the appearance of being treated differently. To do otherwise will only harden resentment in a public, who already feels that lawyers are an exclusive, privileged few, operating under a different "set of rules".

Having personally addressed in excess of nineteen (19) thousand paternity establishment, modification, child support enforcement cases, the proposed new rule [Rule 4-8.4(h)] will not abuse members of the Bar. Furthermore, unless we (the Bar/profession) take control of this important public policy issue, and address it in a forthright and consistent mode, the Legislature or Executive Branch will surely enforce and impose more onerous restrictions on our profession.

Please seriously consider adopting the rule and accompanying

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comments. I invite you to stress and highlight that subsection (h) of the new Rule will be called upon only after all other available remedies for child support collection have been exhausted. Furthermore, please specify in the comments section that the new Rule covers domestic (Florida), and out-of-state (URESAs) child support obligations, as well as arrearage (balance payments on unpaid child support and unreimbursed public assistance) payments. This clarification is important since my experience has been that because professionals tend to migrate to other states where employment opportunities are better, they sometimes "forget" or do not diligently address child support and arrearage payments ordered by an out-of-state court of competent jurisdiction.

I am enclosing a photocopy of my resume and a brief description of the current Circuit Judicial Hearing Officer Program, to underscore my expertise/knowledge/experience, in the substantive area addressed by the new Rule. Thank you for the opportunity to comment on this important new Rule.

Sincerely yours,



Samuel Patterson Stafford, Esq.
Judicial Hearing Officer

SPS/mbb
Enclosures
cc: President Bill Blews

Some General Information About The Judicial Hearing Office Program

The Judicial Hearing Office for the Eighth Judicial Circuit began operating in December 1989. Growing out of the foresight and efforts of the Bench and Court Administrator's Office, it was created to increase the efficient operation of the courts. Efforts to establish the Judicial Hearing Officer Program were formulated by former Chief Circuit Judge Chester B. Chance, and continue under the current Chief Circuit Judge. Judge Chance realized that through the use of Florida Rules of Civil Procedure 1.491, as well as proven line authority, via Administrative Orders from the Florida Supreme Court and subsequent Eighth Circuit administrative orders, some of the rapidly increasing Family Division/Child Support cases could be significantly reduced.

In late December 1989, the first circuit-wide Judicial Hearing Officer was hired by the Circuit Bench to address circuit civil Family Law Division matters, focusing more narrowly in the Title IV-D, and Non IV-D Child Support Enforcement area. The Judicial Hearing Office for the Eighth Judicial Circuit continues to be responsible for hearing cases involving three major circuit civil areas. The first is Establishment, that is the taking of evidence, etc., associated with the creation of or the establishment of paternity. The second deals with Modifications, more customarily increasing or modifying presently or preexisting child support orders. And thirdly, Enforcement or making sure there is compliance with final judgements of divorce, child support, etc. Enforcement is accomplished through the use of civil contempt powers.

The Judicial Hearing Office was initially established to hear and address the aforementioned categories of cases, without any responsibility for case management/time standards review. Given the nature of the subject categories, volume and diverse jurisdictional locations of the cases, the bench decided that management of the case flow, etc. would be retained by them. Further, the limited authority of Rule 1.491, Florida Rules of Civil Procedure, as well as subsequent Circuit Administrative Orders concerning the JHO Program did not address or anticipate any case/time management responsibilities for the Judicial Hearing Officer Program. Some of these areas are currently under review by the Circuit Bench as well as the Court Administrator's Office. Any changes or expansion of JHO responsibility will necessitate a corresponding increase of funding for the Judicial Hearing Office.

The Judicial Hearing Office, has the ability and the authority to recommend that civil contempt be found and that an individual be sentenced to a county facility (jail) for a period not to exceed six months. The Judicial Hearing Officer presently is responsible for all six counties within the Eighth Judicial Circuit. The Judicial Hearing Officer hears child support enforcement, establishment, modification, and enforcement/contempt cases Tuesdays and Thursdays in Alachua County. Customarily the cases are heard from 9:00 A.M. until 5:00 or 5:30 P.M. on both days. In addition to dealing with circuit civil cases, the Judicial Hearing Officer is a part of the Eighth Judicial Circuit Family Law Division. He travels to the county seats in each of the six counties within the circuit several times each month to hear and address cases. The Judicial Hearing Officer and his assistant answer to a rotating panel of three circuit judges who comprise the Family Law Division, as well as to the Chief

Circuit Judge, who maintains circuit-wide administrative responsibility.

The JHO position provides the Judicial Hearing Officer with the opportunity to literally hear, decide and render recommended judgments in contested and non-contested cases in the three subject areas previously mentioned. The JHO weekly hearings result in the preparation of findings of fact, conclusion of law and recommendations on how the cases should be addressed by the Circuit Court. The JHO-work results in an immediate decision or judgement at the conclusion of the presentation of a controversy. The hearing is subsequently followed-up, usually within five to seven days, by a written document called, Report, Recommendation and Order (R-R+O). The Judicial Hearing Officer reviews, executes, and submits the R-R+O to the appropriate Circuit Judge in the Family Law Division, for their review and subsequent execution. Fortunately, each succeeding Family Law Division Bench has accepted the R-R+O's of the Judicial Hearing Officer, based on the Bench's continued confidence in the Judicial Hearing Officer's conscientiousness, experience and abilities. To date, the JHO Program has addressed in excess of twenty-five thousand (25,000) cases.

Therefore, the JHO Program is the sole, circuit-wide mechanism for judicially addressing both HRS Public Assistance Title IV-D cases where Paternity, Modification, or Enforcement is heard, as well as Non Title IV-D cases where the litigants have not or have ceased to receive public assistance from the State of Florida. The authority and power of the Judicial Hearing Office is directly associated with the Orders being ultimately reviewed and executed by an appropriate Circuit Judge. In essence, given a strong emphasis on the three areas: establishment of paternity, modification and enforcement through contempt, and the fact that hearings are held in each of the six (6) counties throughout the Eighth Judicial Circuit, this position (JHO) continues to provide an excellent experience-base for addressing and significantly reducing circuit level cases. In Alachua County alone, as many as 38 to 45 cases per day are addressed; while 25 - 35 cases per day are routinely addressed in the five (5) outlying counties. This consistent approach to these categories of cases has also served to significantly reduce the rate of repeat defendants. The elimination of recidivism provides an interesting by-product that continues to produce positive "PR" for the Bench, in addition to increasing child support collection totals.

ADDENDUM: The Judicial Hearing Office staff is comprised of two (2) county employees. The office operates under a Grant Funded Program, with 66% of the funding contributed by the Federal Government (Health and Human Services through the State of Florida's HRS office, soon to be State Department of Revenue) and the remaining 34% from the participating six (6) counties of the Eighth Judicial Circuit. The bulk of the county financial contribution comes from Alachua County which also receives two (2) full days of hearing time per week.

Samuel Patterson STAFFORD, Esq.
Circuit Judicial Hearing Officer

Revised: 6/94