

CHAMBERS OF
CIRCUIT JUDGE
13TH JUDICIAL CIRCUIT OF FLORIDA
TAMPA, FLORIDA 33602

FILED

SID J. WHITE

MAR 18 1996

097

CLERK, SUPREME COURT

By

Chief Deputy Clerk

F. Dennis Alvarez
CHIEF JUDGE

March 14, 1996

419 PIERCE STREET
(813) 272-5022

Sid White, Clerk
Supreme Court of Florida
500 Duval Street
Tallahassee, FL 32399-1925

VIA FEDERAL EXPRESS

Re: *In Re: Florida Rule of Judicial Administration 2.072*, Case No.: 87,058

Dear Mr. White:

This letter is intended to serve as a response to the court's opinion in the above-referenced case, wherein the court proposed the adoption of the following new Rule of Judicial Administration:

RULE 2.072 POSSESSION OF COURT RECORDS

No person other than judges and authorized court employees shall remove court records as defined in rule 2.075 from the clerk's office except by order of the chief judge or chief justice upon a showing of good cause.

Adoption of the proposed rule, as written, would have a serious impact upon the disposition of cases in the circuit civil division of the Thirteenth Judicial Circuit. We currently have an administrative order that requires attorneys to secure and present the court file at uniform motion calendar ("UMC") hearings. UMC hearings allow the court to consider and rule on routine motions that otherwise might not be able to be set for several weeks. An essential component to the efficiency of our UMC is the requirement for attorneys to bring the court file to the hearings.

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Page 2

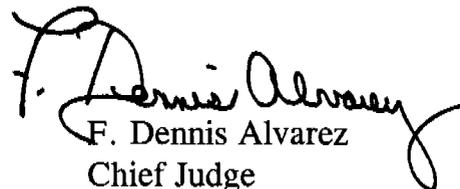
I instituted this procedure because many of the UMC hearings were resolved by counsel after scheduling the hearing but before the hearing time. When resolutions of UMC issues occurred at the last minute, valuable time was wasted by the judicial assistants and the clerk's office gathering court files for hearings that did not need to be held. Under the proposed rule, attorneys would be prohibited from checking out court files from the clerk's office to bring to the UMC hearings in the judges' chambers. The court may wish to consider a prohibition against attorneys removing court files from the courthouse, rather than the clerk's office. This would provide reasonable control of court files and still allow judges and clerks to operate their offices efficiently.

To the extent that the proposed rule is in response to complaints of discrimination by *pro se* litigants, I would concur in the Rule of Judicial Administration Committee's observation that there may be a valid reason for differential treatment of attorneys regarding the checking out of court files. The Florida Supreme Court, through The Florida Bar disciplinary procedures, has more control over the conduct of attorneys than it does over the conduct of *pro se* litigants. Such control is a legitimate reason to allow attorneys to check out court files for the limited purpose of bringing them to a court hearing and is arguably enough authority to render adoption of the proposed rule unnecessary.

If the court determines to adopt some version of the proposed rule, it may also wish to include a non-exhaustive list of factors constituting "good cause" in a commentary. Clarification from the court about the meaning of "good cause" would assist not only chief judges, but also attorneys who seek court approval for removal of court records from the clerk's office.

I appreciate the court's willingness to consider these comments in its determination as to whether to adopt the proposed rule.

Sincerely,


F. Dennis Alvarez
Chief Judge

cc: Hon. Manuel Menendez, Jr., Chair
Rules of Judicial Administration Committee