

Supreme Court of Florida

COPY

No. 87,058

IN RE: FLORIDA RULE OF
JUDICIAL ADMINISTRATION 2.072

[June 27, 1996]

PER CURIAM.

On February 8, 1996, this Court proposed on its own motion new Florida Rule of Judicial Administration 2.072, governing possession of court records. The proposed rule would prohibit anyone other than judges and authorized court employees from removing court records from a clerk's office absent an order of the chief judge or chief justice. We have jurisdiction pursuant to article V, section 2(a), of the Florida Constitution.

Notice of the proposed rule was published in The Florida Bar News, and comments have been received from interested parties,

including the Rules of Judicial Administration Committee of the Florida Bar. The comments received were varied. A number of clerks of courts wrote in favor of the proposed rule, expressing concern over problems in the past with lost or late-returned files. A number of other individuals expressed that the new rule would create problems in certain circuits. For example, in some circuits, attorneys are required to check out files and personally bring them to hearings or other court proceedings. In response to those concerns, we note that the proposed rule is not intended to restrict a court from allowing attorneys to check out files when necessary. Unlike pro se litigants, attorneys are officers of the court who are subject to discipline. In crafting this rule, we envisioned that the chief judge of a circuit could issue orders to allow attorneys and other authorized persons to check out files when necessary for the efficient operation of the circuit. We note that this could be accomplished by the chief judge's issuing a general order to cover this situation.

To clarify our intent, we adopt the rule as proposed but include commentary to emphasize that, although the removal of court files from the clerk's office is generally prohibited, the chief judge or chief justice has the authority to enter general administrative orders to allow the removal of court files for particular purposes.

We hereby adopt the proposed rule, which reads as follows:

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.

Commentary

1996 Adoption. This rule was written as a result of the problems being encountered in the removal of files from clerks' offices. While the purpose of the rule is to discourage the removal of court files, it is not intended to prohibit chief judges or the chief justice from issuing for good cause a general order providing that attorneys or authorized individuals may be allowed to check out files on a routine basis to assist in the administrative efficiency of a court. We note that section 28.13, Florida Statutes (1995), similarly prohibits the removal of files from clerks' offices.

Accordingly, Florida Rule of Administrative Procedure 2.072 is adopted as set forth above and shall take effect immediately upon the filing of this opinion.

It is so ordered.

KOGAN, C.J., and OVERTON, SHAW, GRIMES, HARDING, WELLS and ANSTEAD, JJ., concur.

Original Proceeding - Florida Rules of Judicial Administration

John F. Harkness, Jr., Executive Director, The Florida Bar, Tallahassee, Florida; Honorable Manuel Menendez, Jr., Circuit Judge, Chair, Rules of Judicial Committee, Tampa, Florida; and other interested parties,

Responding