

IN THE SUPREME COURT OF FLORIDA

097
FILED

SID J. WHITE

AUG 31 1981

CLERK, SUPREME COURT

By _____

Chief Deputy Clerk

IN RE: AMENDMENT TO THE
FLORIDA FAMILY LAW RULES
OF PROCEDURE (SELF HELP)

CASE NO. 93,319

COMMENTS FROM THE LEGAL AID SOCIETY OF PALM BEACH COUNTY,
INC., ON PROPOSED FLORIDA FAMILY LAW RULE OF PROCEDURE 12.750

The Legal Aid Society of Palm Beach County, Inc., (LAS) is a private not-for-profit corporation which provides legal services for low income clients. LAS in conjunction with Court Administration for the Fifteenth Judicial Circuit in and for Palm Beach County, Florida, developed a Self Help Center to assist the Court in handling the overwhelming pro se population in the Family Division of Palm Beach County. The Palm Beach County Self Help Center also strives to assist all litigants proceed through the labyrinth of family law litigation. LAS in conjunction with Court Administration for the Fifteenth Judicial Circuit has developed forms and instructions in furtherance of its goals to assist the pro se family litigant and to ease the congestion cause by pro se litigants in the family courts.

The forms and instructions being used at the Self Help Center were approved by the Chief Judge of the Fifteenth Judicial Circuit; the Administrative Judge of the Family Division of the Fifteenth Judicial Circuit; and the Palm Beach County Forms Committee. The forms and instructions being used are in substantial compliance with the Supreme Court Forms although most are not identical. Many of these forms were developed prior to development of the Supreme Court Forms and have evolved due to local practice. The Self Help Center in Palm

Beach County also uses forms for which there is no Supreme Court equivalent. LAS, in light of the preceding, has the following concerns regarding Proposed Florida Family Law Rule of Procedure 12.750:

Subdivision (a) LAS has no objection to subdivision (a) as proposed and has the same concerns with regards to the Family Law Rules Committee's comments recommending the deletion of the phrase "under the auspices of the court" as does Central Florida Legal Services (CFLS). LAS would strenuously oppose a rule which would expand the definition of self help centers to include federally and state funded legal services and legal aid programs.

Subdivision (c) 1. LAS would recommend changing subdivision (c) 1. to read as follows:

provide information about available Supreme Court and locally approved forms, without providing advice.

Comment: The purpose for staffing the Self Help Centers is to provide the litigants with information and forms necessary to proceed efficiently through the clogged family court system. The pro se litigant, without the assistance of Self Help personnel will often file the wrong form for the relief sought. If the Self Help personnel are to provide meaningful assistance to both the litigant and the Court, the personnel must be able to inform the litigant of the proper form to file but not provide any further advice. Advising the litigant as to the proper form to file often results in an unavoidable recommendation as to a specific course of action. For example, a pro se litigant poses the following situation:

I was divorced in 1989, and my husband was given custody of our daughter. Since 1991, my daughter has been living with me and my husband has disappeared. The Court is still charging me with child support. I need to obtain legal custody of my daughter and I want the Court to stop charging me with child support.

Self Help personnel would be unable to assist this litigant if they could not recommend the proper form for this litigant to file. Thus, in this hypothetical if the Self Help personnel assist this litigant by directing her as to the proper form to file (in this instance a form for Modification of Custody and Child Support) a course of action has been unavoidably recommended. The alternative would be to assist the litigant in preparing and filing the wrong form. This is in direct contravention to the tenets and purposes of establishing Self Help Centers.

Subdivision (c) 3. LAS recommends subdivision (c) 3. be amended to read as follows:

upon written approval by the chief judge, provide additional forms not included in or in substantial compliance with the Supreme Court approved forms.

Comment: The forms being used by the Palm Beach County's Self Help Center are forms either the Supreme Court has not developed or were developed prior to the Supreme Court approved forms. The existing forms and directions are in substantial compliance with the Supreme Court approved forms and have been approved by the Chief Judge. Additionally, local practice dictates the forms and instructions necessary. The pro se family cases require more court supervision and are thus assigned to case managers. The procedures which the pro se litigants must follow to properly proceed with their case, are specific to Palm Beach County's pro se litigation tract.

The Chief Judge of each Circuit is best suited to determine whether a form and its instructions are appropriate. LAS understands the Committee's desire to provide uniform procedures, forms and instructions, however the compositions of the various circuits makes this impractical. The bureaucratic nightmare created by having to send proposed forms to the various committees mentioned in subdivision (c) 3. would delay usage of much needed forms. Additionally, those committees are not necessarily sensitive to local customs or constraints.

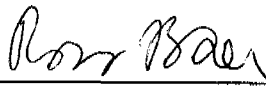
Subdivision (c) 7. LAS does not understand why Self Help personnel, charged with the duty of assisting the pro se litigant, would provide rules or citations of statutes which are inapplicable to the litigant's situation. The section should be amended to make sense or

removed.

Subdivision (d) 1. LAS would suggest that subdivision (d) 1. read as follows:
provide legal advice.

Comments: See comment to Subdivision (c) 1.

Respectfully Submitted this 31st day of August, 1998.



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CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a copy of the Foregoing Comments from the Legal Aid Society of Palm Beach County, Inc., On Proposed Florida Family Law Rule of Procedure 12.750 was provided by U.S. Mail to B. Elaine New, Esquire, Department of Legal Affairs and Education, Office of the State Courts Administrator at 500 South Duval Street, Tallahassee, Florida 32399; John F. Harkness, Jr., Executive Director, The Florida Bar, 650 Appalachian Parkway, Tallahassee, Florida 32399; Judge George Reynolds, Chair, Family Law Rules Committee of The Florida Bar, Leon County Courthouse, 301 South Monroe Street, Room 365-K, Tallahassee, Florida 32301-1803; and Karen S. McLean, Chair, Unauthorized Practice of Law Committee of The Florida Bar, P.O. Box 6025, Clearwater, Florida 34618, this 31st day of August, 1998.


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