

IN THE SUPREME COURT OF FLORIDA

In re: Report of the Rules of Judicial Administration Committee on the Implementation of Case Priorities in the Trial Courts in Florida SC 01-2343

COMMENT OF THE FAMILY COURT STEERING COMMITTEE

The Rules of Judicial Administration Committee has filed its Proposals on the Implementation of Case Priorities in the Trial Courts of Florida.

The Family Court Steering Committee, at its meeting on September 7, 2000, voted (16-0-1) to recommend that priority should be given to: **contested cases involving the safety, commitment and placement of children.**

THE PROBLEM

The Report from the Rules of Judicial Administration Committee proposes to amend Rule 2.052 to add at the end of the list of priorities (or guidelines as the committee proposes to change the terminology) a new paragraph (5) as follows:

(5) Any case priority status established by statute, rule of procedure, case law, or otherwise shall be evaluated to determine the effect that resolving a calendar conflict might have on the priority case or cases. Particular attention shall be given to all juvenile dependency and termination of parental rights cases, and to cases involving families and children in need of services.

The Report from the Rules of Judicial Administration Committee does not adequately address the key issue: when an attorney is scheduled to be in two

different courtrooms at the same time, which type of proceeding should take priority? If Attorney Smith is scheduled for a termination of parental rights proceeding and is also scheduled at the same time for a traffic case, should the judge in the traffic case reset the traffic case or should the judge in the termination of parental rights case reset that case? If the two judges do not agree, what should happen?

The Rule should better clarify that cases involving children take priority over others in order to conclusively resolve disputes when schedules conflict. Decisions that impact the safety, commitment and placement of children are qualitatively different and of greater impact than most other court proceedings. In these cases, a child's life is in the balance and a short delay in a child's life is significant. The National Council of Family and Juvenile Court Judges found:

Children have a very different sense of time from adults. Short periods of time for adults seem interminable for children, and extended periods of uncertainty exacerbate childhood anxiety. When litigation proceeds at what attorneys and judges regard as a normal pace, children often perceive the proceedings as extending for vast and infinite periods.

RESOURCE GUIDELINES, IMPROVING COURT PRACTICE IN CHILD ABUSE & NEGLECT CASES at 14 (National Council of Juvenile and Family Court Judges 1995).

Similarly, any unnecessary delay in the judicial process can cause trauma to a child

and can limit the child's prospects for permanency in a safe environment. See TIMELY JUDICIAL DECISIONMAKING, Vol. 4 at 19 (American Bar Association 1999). Accordingly, the Family Court Steering Committee at its meeting on May 18, 2001, recommended by a vote of 18-3-2 that Rule of Judicial Administration 2.052 be amended to state that:

Contested cases involving the safety, commitment and placement of children should take priority over other cases except for speedy trial and capital cases.

The Family Court Steering Committee further recommended by a vote of 18-3-2 that the Supreme Court establish a hierarchy of priority cases.

The Rules of Judicial Administration Committee also recommended creation of Rule 2.050(g) Duty to Expedite Priority Cases. This proposed rule imposes the following duty upon the trial judge:

Duty to Expedite Priority Cases. Every judge has a duty to expedite priority cases to the extent reasonably possible. Priority cases are those cases that have been assigned a priority status or assigned an expedited disposition schedule by statute, rule of procedure, case law, or otherwise. Particular attention shall be given to all juvenile dependency and termination of parental rights cases, and to cases involving families and children in need of services.

The proposed rule brings priority cases to the top of a judge's docket. Something most judges do now. However, priority cases are not clearly defined by the rule or

given any relative weight against one another. As noted above, the Family Court Steering Committee recommended that the Supreme Court establish a hierarchy of priority cases and also recommended by a vote of 20-0-2 the following changes to proposed new Rule 2.050(g):

Duty to Expedite Priority Cases. Every judge has a duty to expedite priority cases to the extent reasonably possible. Priority cases are those cases that have been assigned a priority status or assigned an expedited disposition schedule by statute, rule of procedure, or case law. Where no priority has been assigned, priority shall be given to contested cases involving the safety, commitment and placement of children. ~~, or otherwise. Particular attention shall be given to all juvenile dependency and termination of parental rights cases, and to cases involving families and children in need of services.~~

The Family Court Steering Committee urges this Court to take the necessary steps to ensure that contested cases involving the safety, commitment and placement of children receive priority status in the judicial system.

Respectfully submitted,

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Certificate

I hereby certify that a true and correct copy of the COMMENTS OF THE FAMILY COURT STEERING COMMITTEE has been furnished by U.S. Mail to John F. Harkness, Jr., Executive Director, The Florida Bar, 650 Apalachee Parkway, Tallahassee, Florida 32399-2300; the Honorable Charles J. Kahn, Jr., Chair, Rules of Judicial Administration Committee, First District Court of Appeal, 301 Martin Luther King, Jr. Blvd., Tallahassee, Florida 32399-1850; Paul R. Regensdorf, Subcommittee Chair, Rules of Judicial Administration Committee, Akerman, Senterfitt & Eidson, 350 E. Las Olas Blvd., Fl. 13, Fort Lauderdale, Florida 33301-2229; Charles Canady, General Counsel to the Governor of the State of Florida, Room 209 The Capitol, Tallahassee, Florida 32399-0001; The Honorable Kathleen Kearney, Secretary, Department of Children and Families, 1317 Winewood Blvd., Tallahassee, Florida 32399-0700; The Honorable John M. Alexander, Chair, Juvenile Court Rules Committee, St. Johns County Courthouse, P. O. Box 300, St. Augustine, Florida 32085-0300; The Honorable Donald K Moran, Chair, Florida Conference of Circuit Judges, Duval County Courthouse, Room 220, 330 E. Bay St., Jacksonville, Florida 32202; The Honorable Jeffrey

Colbath, Chair, Conference of County Judges, 205 N. Dixie Hwy., West Palm Beach, Florida 33401; and Frank A. Kreidler, Esq., 1124 S. Federal Hwy., Lake Worth, Florida 22360-5244 and also certify that these comments were prepared in Times New Roman 14-point font and comply with the font requirements in Rule of Judicial Administration 9.100. Dated this _____ day of June, 2001.

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