

IN THE SUPREME COURT OF FLORIDA

In Re: Amendments to Rules Regulating the Florida Bar Re: Chapter 11 Task Force,
Case No. 03-122

To The Florida Supreme Court:

My name is Andrea Ricker Wolfson and I am an Assistant State Attorney presently working in the State Attorney's Office in Miami-Dade County. I am sending these comments in objection to changes proposed to Rule 11-1.9 (c) Termination of Certification.

As you are aware, Chapter 11 in its present form allows qualified law school graduates to serve as Certified Legal Interns for twelve (12) months from the date of graduation. The proposed rule change would terminate certification if the CLI failed "any portion of the Florida bar examination". The practical impact of the existing rule is that most graduates are able to maintain their CLI status even if they fail the Florida Bar on their first try.

I graduated from Chicago-Kent College of Law in May of 2001. I took the July bar exam and started working as a post-graduate CLI in the Miami-Dade County State Attorney's Office in August 2001. Bar results were released approximately a month after I started working in the office. Fortunately, I passed the bar exam the first time; however, some of my colleagues were not so fortunate.

Nevertheless, in the interim, they received a great deal of training and experience in criminal prosecution. Our office provided extensive training to the new hires during our first year. The CLIs could do everything the attorneys did (called the daily arraignment and trial calendars, interviewed police officers and other witnesses, selected juries, tried bench and jury trials, examined and cross-examined expert witnesses, conducted bond hearings, handled evidentiary motion hearings, researched and wrote appeals from misdemeanor court, and conducted oral arguments on such appeals) and learned a great deal about criminal law, discovery rules, the rules of criminal procedure. I truly believe that all prosecutors, including those individuals who did not pass the bar the first time are the attorneys they are today, in large part, due to the invaluable experience they were able to obtain in their first year at the State Attorney's Office. They would not have had the benefit of such excellent, practical, hands-on experience if the proposed rule had been in effect when they graduated.

In addition to the impact on their legal career, application of the proposed rule would have been devastating financially. In connection with accepting the offer to work in Miami-Dade County, many new hires were required to re-locate, which included the difficult process of moving down, finding a place to live, entering into a lease agreement, searching for a roommate, and incurring all of the attendant expenses to moving into a new place. (first month's/last month's rent, security deposits for dwellings, utility deposits, etc.). For many, these expenses were on top of all of their existing debt from college and law school. If they had lost their jobs (and monthly salary) within a month of

moving to South Florida, incurring these expenses **and** starting a new job they would have been in dire straits. Notification that they had failed the bar exam was a blow in and of itself. To add to that the reality that they would not have money to buy food and pay rent would have been a tremendous burden for them. As previously stated, the fact that the present rule allowed them to keep their jobs, their salaries and allowed them to gain invaluable experience was a benefit to the office, the community and them.

In comparing the proposed rule to the existing rule governing Certified Legal Interns who are still in law school, I must make several observations. Law students have not studied for the bar, taken the bar, nor completed their law school education. Yet, the rules allow them to “practice” as if they are lawyers. If the proposed rule is changed, then what we are saying is that a law student who has taken the requisite courses and is working as a certified legal intern **while in law school** is more qualified to work in this capacity than someone who has graduated from law school, has the same training and abilities, has studied for the Bar but unfortunately failed. Most respectfully, I would submit that individuals who have graduated from law school are much more qualified than a CLI who is still in law school.

Further, I understand that there is also some concern that other applicants who fail the bar exam are not allowed to practice in court as many of my colleagues were able to do. I would submit that there is a distinct difference between post-graduate CLIs and the applicants who fail the Bar and cannot practice. Post-graduate CLIs - by virtue of the fact that they have completed clinical programs and received specialized training - are more qualified to be in court than those who have not participated in these programs. As such, their actions are not doing anything to harm the public. Furthermore, post-graduate CLIs play an essential role in our ability to prosecute County Court cases. Additionally, a change in this rule will no doubt have a crippling effect on our office’s ability to attract qualified out-of-state students if they have any feeling at all that they may lose their job within a month of relocating to South Florida.

Most of us choose to work in these offices and represent the State because of a desire to help protect society and give back to our communities. As stated in Rule 11-1.1, the “bench and bar are primarily responsible for providing competent legal services for all persons.” To me, “all persons” also includes the State of Florida. Our charging documents, our Informations and Indictments, all indicate that crimes are committed “against the peace and dignity of the State of Florida”. As prosecutors and as public servants we represent the State of Florida and its people. This state also deserves competent legal services. One way to assist in providing these competent legal services is to leave Rule 11-1.9 (c) in its present form. The result will be an office with prosecutors who are more knowledgeable and more experienced. These results will inure to the benefit of the bench, the bar and the residents of this great state. Accordingly, I ask you to not change the Rule.

Respectfully submitted,

KATHERINE FERNANDEZ RUNDLE
STATE ATTORNEY

By:

Andrea Ricker Wolfson
Assistant State Attorney
Florida Bar #0515213
E.R. Graham Building
1350 N.W. 12th Avenue
Miami, Florida 33136-2111
(305) 547-0100

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and exact copy of the above comment was served on John F. Harkness, Jr., Executive Director Of the Florida Bar, 651 E. Jefferson Street, Tallahassee, FL 32399-2300 and William P. White III, Chair, Chapter 11 Task Force, 25 North Market Street, Suite 200, Jacksonville, FL 32202-2802, and electronically submitted via e-mail on this ____ day of September, 2005.

Assistant State Attorney