

IN THE SUPREME COURT OF FLORIDA

CASE NO.:

IN RE: AMENDMENTS TO THE
 FLORIDA RULES OF TRAFFIC COURT

**REPORT OF THE FLORIDA BAR
TRAFFIC COURT RULES COMMITTEE**

Brian L. Tannebaum, Chair of the Traffic Court Rules Committee, and John F. Harkness, Jr., Executive Director of The Florida Bar, file this biennial rules report with the Supreme Court of Florida under *Fla. R. Jud. Admin.* 2.130(c). This is a matter within the exclusive jurisdiction of this court under Article V, Section 2 of the Florida Constitution.

The Traffic Court Rules Committee has met on a regularly scheduled basis and through the work of the full committee, has approved and made recommendations for changes to the Florida Rules of Traffic Court as shown below and on the attached table of contents. The Florida Bar Board of Governors has duly considered the Traffic Court Rules Committee's proposed rule changes and has approved them as indicated by the board vote included on the table of contents. The table of contents is followed by a presentation of each proposed rule change in the two-column format requested by the court.

The committee recommends:

1. editorial amendments to Rules 6.100, 6.190, 6.200, 6.500, and 6.580 to add titles to major rule subdivisions and otherwise conform to the Supreme Court's Rules of Procedure Style Guide;
2. the adoption of a new Rule 6.292 to clarify the effect of a withheld adjudication in the criminal offense context. The new rule would create a corollary to Rule 6.560 (regarding withheld adjudications in the context of traffic infractions). Judge Peyton B. Hyslop (a member of the Traffic Court Rules Committee) introduced proposed Rule 6.292 at the October 2002 board meeting of the Conference of County Court Judges of Florida, and by letter of November 18, 2002, informed Bar President Tod Aronovitz that the board had approved the

recommended rule. The Traffic Court Rules Committee heard one dissenting view, expressed by committee member Leslie Hess, who voiced concern that the committee was writing a rule of procedure to override *Raulerson v. State*, 763 So. 2d 285 (Fla. 2000). Committee members Judge Hyslop and Albert Quirantes disagreed, stating that the *Raulerson* case as well as *State v. Keirn*, 720 So. 2d 1085 (Fla. 4th DCA 1998), left openings for the proposed rule. The committee's vote for adoption of the rule (27-1-0) reflects the sole dissent by Mr. Hess.

The Traffic Court Rules Committee believes that the proposed rule changes are non-controversial in nature, and respectfully requests that the court adopt these proposed changes to the Florida Traffic Court Rules.

Respectfully submitted,

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Florida Bar No. 123390

RULE 6.100. TRAFFIC VIOLATIONS BUREAU

(a) **Establishment and Function.** A traffic violations bureau shall be established in each county court by administrative order of the chief judge of the circuit in which the county court is located. The function of the bureau shall be to accept appearances, waivers of non-criminal hearings, admissions, payment of civil penalties for traffic infractions not requiring a mandatory hearing, and nolo contendere pleas ~~under~~^{pursuant to} the authority of section 318.14(9) and (10), Florida Statutes. ~~If~~^{Where} any person's sentence for a criminal traffic offense or penalty for a traffic infraction requiring a mandatory hearing or a traffic infraction in which~~where~~ the person elects to appear before an official includes the payment of a fine or civil penalty, payment may be made before the bureau. The bureau may also accept appearances, waivers of hearings, admissions, and payment of civil penalties as provided in section 318.18, Florida Statutes, in traffic infraction cases in which~~where~~ the driver originally elected, but was not required, to appear before an official prior to the date of the hearing. The bureau shall act under the direction and control of the judges of the court.

(b) **Civil Penalty Schedule; Payment and Accounting.** The court shall post in the place where civil penalties are to be paid in the violations bureau the schedule of the amount of the civil penalty as provided in section 318.18, Florida Statutes. All fines, civil penalties, and costs shall be paid to, receipted by, and accounted for by the violations bureau or proper authority in accordance with these rules.

(c) **Statistical Reports.** All cases processed in the violations bureau shall be numbered, tabulated, and reported for identification and statistical purposes. In any statistical reports required by law, the number of cases disposed of by the violations bureau shall be listed separately from those disposed of in open court.

**RULE 6.190. PROCEDURE ON FAILURE TO APPEAR; WARRANT;
NOTICE**

(a) **Issuance of Warrants.** The court may direct the issuance of a warrant for the arrest of any resident of this state, or any non-resident upon whom process may be served in this state, who fails to appear and answer a criminal traffic complaint or summons lawfully served upon such person and against whom a complaint or information has been filed. The warrant shall be directed to all law enforcement officers, state, county, and municipal, in the state and may be executed in any county in this state.

(b) **Warrant Not Issued or Served; Disposition of Case.** If a warrant is not issued or is not served within 30 days after issuance, the court may place the case in an inactive file or file of cases disposed of and shall report only bond forfeiture cases and cases finally adjudicated to the driver license issuing authority of the ~~d~~Department of Highway Safety and Motor Vehicles. For all other purposes, including final disposition reports, the cases shall be reported as disposed of, subject to being reopened if thereafter the defendant appears or is apprehended.

(c) **Nonresident of State; Failure to Appear or Answer Summons.** If a defendant is not a resident of this state and fails to appear or answer a traffic complaint, the clerk of the court or the court shall mail notice to the defendant at the address stated in the complaint and to the ~~d~~Department. The ~~d~~Department shall send notice to the license issuing agency in the defendant's home state. If the defendant fails to appear or answer within 30 days after the mailing of notice, the court shall place the case in an inactive file or file of cases disposed of, subject to being reopened if thereafter the defendant appears or answers or a warrant is issued and served.

(d) **Forfeiture of Bail.** The waiting period imposed herein shall not affect any proceedings for forfeiture of bail.

RULE 6.200. PLEAS AND AFFIDAVITS OF DEFENSE

(a) **Record of Pleas.** All pleas entered in open court shall be recorded by an official court reporter or electronic means, unless the defendant signs a written waiver of this right.

(b) **Written Pleas of Guilty or Nolo Contendere.** Subject to the approval of the court, written pleas of guilty or nolo contendere may be entered in criminal traffic offenses not designated felonies under the laws of the state, and sentence imposed thereon.

(c) **Nonresident of County; Affidavit of Defense.** Any person charged with the commission of a criminal traffic offense who is not a resident of or domiciled in a county where the alleged offense took place may, at the discretion of the court, file a written statement setting forth facts justifying the filing of an affidavit of defense or file an affidavit of defense directly, if practicable, upon posting a reasonable bond set by the court.

RULE 6.292. CONVICTION OF CRIMINAL TRAFFIC OFFENSE

An admission or determination that a defendant has committed a criminal traffic offense shall constitute a conviction as that term is used in chapter 322, Florida Statutes, unless adjudication is withheld by an official in those cases in which withholding of adjudication is not otherwise prohibited by statute or rule of procedure. In any case in which adjudication is withheld, collections of assessments under section 943.25, Florida Statutes, shall be allowed.

**RULE 6.500. PRONOUNCEMENT AND ENTRY OF PENALTY;
PENALIZING OFFICIAL**

(a) **Entry of Penalty.** The final disposition of every case shall be entered in the minutes in courts in which minutes are kept, and shall be docketed in courts which do not maintain minutes.

(b) **Pronouncement of Penalty; Obligations of Penalizing Official.** In those cases ~~in which~~ where it is necessary that the penalty be pronounced by an official other than the official who presided at the hearing, or accepted an admission, the penalizing official shall not impose a penalty without first becoming acquainted with what transpired at the hearing or the facts concerning the admission and the infraction.

RULE 6.580. COMPLETION OF DRIVER SCHOOL; CONDITIONS

(a) **Approval by Chief Judge.** All driver schools selected by the chief judge of the circuit shall establish the conditions for the successful completion of the driver course. The conditions shall be submitted in writing for approval of the chief judge.

(b) **Failure to Meet Conditions; Reporting.** Any failure to meet the conditions for successful completion of the course shall be reported to the official having jurisdiction of the case or the clerk or traffic violations bureau if designated by the official ofby the school.

Proposed Rule

Reasons for Change

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Committee Notes

2003 Amendment. This rule clarifies the effect of a withheld adjudication in the criminal offense context, creating a corollary to Rule 6.560, which applies in the traffic infraction context.

To clarify the effect of a withheld adjudication in the criminal offense context and make the rule for criminal offenses comport with Rule 6.560 governing the effect of a withheld adjudication in the traffic infraction context.

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