

IN THE SUPREME COURT OF FLORIDA

Tallahassee, Florida

CASE NO. SC 06-736

RE:)
)
THE FLORIDA BAR)
PETITION TO AMEND)
RULES REGULATING)
THE FLORIDA BAR)
_____ /

**JEFOUND AND SCOTT RESPONSE
TO FLORIDA BAR PETITION TO AMEND THE RULES**

Judicial Equality Foundation, Incorporated, a Florida non-profit corporation, (“jefound”) and William Sumner Scott, a citizen of Florida and member of the Florida Bar, (“Scott”), submit their Comments to the Petition of the Florida Bar to Amend the Rules Regulating the Florida Bar filed on April 26, 2006 at the above case number; the Court is also asked to consider these comments out of time as applicable to Rules changes at case numbers SC 06-140; SC 06-150; SC 06-159; SC 06-169; SC 06-344; and SC 06-397 and to consider comments contained herein applicable to Rules changes omitted from the Bar requests that should be included, as follows:

INTRODUCTION

The Judicial Branch of Government is under funded and its members are poorly educated. These conditions prevent the delivery of justice to the

public. In support of this position, see the Response to the American Bar Association Petition filed with the United States Department of Education for Renewal of its Right to Accredite Law Schools attached as Exhibit 1 and the specific trial transcripts and circumstances of the exoneration of 23 persons formerly convicted of capital offenses in Florida incorporated herein by reference.

Until Florida implements reforms to insure the proper funding of its Judicial Branch, delivery of a quality education to its lawyers, and adopts rules and procedures that insure delivery of justice to the public, it should immediately interrupt the application of the death penalty.

In regard to the overall need to reform the Florida Rules and procedures to provide justice to the public, the rules regarding the discipline of attorneys must be reformed as follows:

1. Rule 1-12.2 Procedures for Review of Proposed Amendments

Bar Explanation: New rule, which sets forth a court conference and dialogue process – rather than a case or controversy format – as a component of the procedures to amend the Rules Regulating The Florida Bar.

RESPONSE:

Opportunity for public comment can be stifled by informal procedures – certainly to allow the public to comment by letter should be encouraged. But this rule change allows the possibility of closed, no record, proceedings in the administration of the Bar. All comments must be on the record, posted to the Court docket and available for inspection.

2. Rule 3-7.6 Procedures Before a Referee

Explanation: Within subdivision (n), adds new subdivision (3) to state that the referee prepares the record with the assistance with bar counsel, certifies that the record is complete, serves a copy of the index on the respondent and the bar, and files the record with the court; adds new subdivision (4) to confirm that the respondent and bar may seek to supplement the record or have items removed via appropriate motion to the referee within 15 days of service of the index, and to provide for review of any denial of such motion.

RESPONSE:

This Rule is prejudicial to the Respondent. The Bar is permitted to put the fact of the Complaint on record with the Clerk. The Clerk then posts the case and the filing of the Complaint on the docket, including on the internet. The fact the Respondent puts forth a vigorous defense is not presented on the record with the Supreme Court Clerk or the internet but only with the Referee. The Respondent's reputation is damaged while the case proceeds. The adversity suffered by the Respondent is aggravated by the verbal presentations by Bar Counsel to anyone who asks of the status of the case. All cases must be confidential until the Supreme Court finds the attorney guilty. Until that time, the Respondent should enjoy a presumption of innocence. Of course, on emergency petition to the Supreme Court, the remedies available to the Bar for egregious lawyer misconduct would remain in tact.

In regard to this comment, once a case is terminated in favor of the Respondent, all record on the docket, particularly the internet, must be removed or, in the alternative, listed for precedent value merely as Bar v Doe, etc. No published record of the dismissed proceeding should continue to leave the impression that the lawyer committed an infraction.

3. Comment to Rules Not Suggested for Change.

Inadequate protections before the grievance committees- The Rules must be amended to require the Bar to present a specific complaint that contains the facts to support each Rule alleged to have been violated in substantially the form to be filed with the Court to the Grievance Committee and the Respondent. The Respondent is thereafter to be afforded the opportunity to

present his or her case to the Grievance Committee before the determination by the Committee of probable cause.

At the present time, the Bar is permitted to present a general statement of wrongs to the grievance committee without a copy of the exact Compliant it proposes to file to either the Committee or the Respondent. The probable cause finding is issued in general terms with no specifics as to each of the alleged Rules violated.

The Respondent is unable to prepare an answer to the Complaint within the narrow parameters permitted by the Rules because of inadequate notice of the acts that support each alleged rule violation. The Respondent has no opportunity to obtain a finding of no probable cause by the grievance committee because of the general nature of the Bar allegations to the committee.

Referee is not independent.

RESPONSE:

The Bar customarily provides ratings for judges in Florida. The disciplinary function must be separated from the Bar to remove an apparent conflict of interest. No elected judge may serve as a referee.

CONCLUSION

The review and comments submitted by the Bar were from a Committee of Members that refused to consider protections of the Respondent while the case is in progress. Respondents now must suffer the smear of their reputations by false accusations from the Bar.

Through the selective use of the plea bargain system and a fact finder who is a member of the Bar beholdng to the Bar for recommendation for re-

election, attorneys falsely accused are forced to accept settlements they would otherwise reject.

The emphasis of Bar disciplinary proceedings must be to punish lawyers who breach the public trust in office. The disciplinary budget should be spent on judicial watch and lawyer surveillance to prevent and punish conduct that damages the delivery of justice and public image of the profession.

Judges and lawyers must be charged with the responsibility to look for how to improve the Judicial Branch of Government.



William Sumner Scott, J.D.

Respectfully submitted,




William Sumner Scott, J.D.
Executive Director
940 NE 79th Street, Suite A
Miami, FL 33138

(305) 754-3603
Facsimile (305) 754-2668
wss@jefound.org

CERTIFICATE OF TYPE SIZE AND STYLE


The undersigned certifies that these comments are prepared in 14 point Times New Roman Regular type.



William Sumner Scott, J.D.

CERTIFICATE OF SERVICE

On this 8th day of May, 2006, the undersigned certifies that a copy of the above Comments of jefound.org and Scott was filed with the Clerk and a copy served upon John F. Harkness, Jr., Esquire, Executive Director, Florida Bar, 651 East Jefferson Street, Tallahassee, Florida 32399-2300.



William Sumner Scott, J.D.
Executive Director
Judicial Equality Foundation, Inc.
940 NE 79th Street, Suite A
Miami, FL 33138

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