

IN THE SUPREME COURT OF FLORIDA

**IN RE: AMENDMENTS TO FLORIDA RULE
OF JUDICIAL ADMINISTRATION 2.215**

CASE NO.

**OUT-OF CYCLE REPORT OF THE FLORIDA RULES OF
JUDICIAL ADMINISTRATION COMMITTEE**

Gary D. Fox, Chair, Florida Rules of Judicial Administration Committee (“RJAC”), and John F. Harkness, Jr., Executive Director, The Florida Bar, file this out-of-cycle report of the RJAC requesting approval of an amendment to subdivision (b)(10) of *Fla. R. Jud. Admin. 2.215*, under the authority granted by *Fla. R. Jud. Admin. 2.140*. The text of the rule as amended is attached in legislative format as Appendix A, and the amended rule in two-column format is attached as Appendix B. A background letter from The Honorable Kevin M. Emas and a Report from the “Ad Hoc Committee on Training Requirements for Handling Capital Cases” of the Florida Court Education Council (FCEC), explaining why changes to the rule are deemed necessary, are attached as Appendix C.

The proposed amendment to subdivision (b)(10) of the rule was derived from the proposal presented by the FCEC’s ad hoc committee and was approved with only minor stylistic changes by the RJAC on June 22, 2006, by a vote of 27-0. The RJAC voted 32-0 on January 18, 2007, to request that the Court consider this amendment outside of the RJAC’s regular rules cycle, for the reasons set out below. The Florida Bar Board of Governors approved the proposed amendment to subdivision (b)(10) and agreed with the RJAC’s request to present the rule out-of-cycle by a vote of 30-0 on March 30, 2007.

Rule 2.215(b)(10) provides that judges may not preside over a capital case until they have served in the felony criminal division for six months and completed the 3½-day Handling Capital Cases (“HCC”) Course. The rule also requires that judges maintain their qualification by completing a one-day Refresher Course. The HCC Course is offered in May at the College of Advanced Judicial Studies, and the Refresher Course is offered in December at the Circuit Court Winter Conference.

The proposed amendments to 2.215 are intended primarily to clarify the time requirements for taking the Refresher Course to maintain qualification to preside over capital cases.

Because of the lack of clarity in the existing rule, circuit judges have inadvertently been falling out of compliance by not taking the one-day Refresher Course on a timely basis. Once a judge falls out of compliance, the judge must re-take the entire 3½-day course to become qualified once again to preside over capital cases. This results in an unnecessary waste of time and resources, and can create a backlog of pending capital cases while the judge waits to complete the 3½-day HCC Course. It is also important to note that the College of Advanced Judicial Studies caps the number of judges who can attend the HCC Course as a result of which the course is overbooked every year. Non-compliant judges who are required to re-take the course will occupy slots that could have been given to judges who have never taken the course and who must wait at least one more year before becoming qualified to preside over a capital case. While the course cap can be exceeded, of course, the limit was created to enhance and optimize the quality of the program. Exceeding the cap tends to diminish the quality of the course and the learning experience.

The RJAC recognizes that rule 2.215 is contained in Part II of the Rules of Judicial Administration, and that amendments within that part “generally will be considered and adopted by the supreme court without reference to or proposal from the Rules of Judicial Administration Committee.” *Fla. R. Jud. Admin.* 2.140(g)(1). However, the RJAC is of the opinion that this matter should be brought to the attention of the Court via a report from the Committee, and that the sooner the clarifying language is considered and adopted, the sooner this situation can be remedied, which will ensure that judges do not fall out of compliance with the qualification requirements of the rule.

WHEREFORE, the RJAC respectfully submits this report to the Court on April 3, 2007.

/s/ Gary D. Fox
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CERTIFICATE OF COMPLIANCE

I certify that these rules were read against *West's Florida Rules of Court – State* (2007).

I certify that this report was prepared in MS Word using 14 point Times New Roman font.

/s/ J. Craig Shaw

J. Craig Shaw

Staff Liaison, Florida Rules of Judicial Administration Committee

The Florida Bar