

**IN THE SUPREME COURT OF FLORIDA**

**IN RE: AMENDMENTS TO THE FLORIDA RULES  
OF JUDICIAL ADMINISTRATION, THE FLORIDA  
RULES OF JUVENILE PROCEDURE, AND THE  
FLORIDA RULES OF APPELLATE PROCEDURE —  
IMPLEMENTATION OF THE COMMISSION  
ON DISTRICT COURT PERFORMANCE AND  
ACCOUNTABILITY RECOMMENDATIONS**

**CASE NO. SC08-1724**

**RESPONSE OF THE FLORIDA RULES OF  
JUDICIAL ADMINISTRATION COMMITTEE  
TO COMMENTS FILED**

Scott M. Dimond, Chair, Florida Rules of Judicial Administration Committee, and John F. Harkness, Jr., Executive Director, The Florida Bar, file this response of the Rules of Judicial Administration Committee (RJA Committee) to comments filed in the above-styled matter, as requested by the Court in its Publication Notice issued September 26, 2008.

The RJA Committee, the Appellate Court Rules Committee, and the Juvenile Court Rules Committee filed a Joint Report on July 15, 2008, containing various proposed rule amendments implementing recommendations of the Commission on District Court of Appeal Performance and Accountability (Commission) that sought to reduce delay in juvenile dependency and termination of parental rights (TPR) cases. Among the proposals advanced by the RJA Committee as part of the Joint Report was an amendment to Rule 2.535 that would add the following new subdivision:

**(i) Juvenile Dependency and Termination of Parental Rights Cases.** Transcription of hearings for appeals of orders in juvenile dependency and termination of parental rights cases should, to the extent reasonably possible, be given priority consistent with rule 2.215(g).

Rule 2.215(g) provides as follows:

**(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, 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 Florida Department of Children and Families (DCF) filed comments in this matter on November 17, 2008, in which DCF criticized proposed new subdivision (i), stating that the new language “does nothing more than parrot Rule 2.215(g),” that the language is further “watered down by the phrase, ‘to the extent reasonably possible,’” and that the term “priority” is not defined. DCF quotes from the Commission’s recommendations in asserting that the Rules of Judicial Administration should contain a specific provision that gives dependency and TPR cases “priority over the transcription of all other proceedings both in the trial and appellate court.” (Commission Report at p. 8.) The rationale for this proposal is that it would provide “court reporters with the ability to prioritize these transcripts in the face of demands for other transcripts or court appearances.” (Commission Report at p. 9.)

The RJA Committee, while recognizing the importance of reducing delay in child protection cases, proposed the language in subdivision (i) in an attempt to reconcile that language with the provisions regarding priority in both Rule 2.215(g) and Rule 2.535(h). Rule 2.215(g) addresses “cases that have been assigned a priority status or assigned an expedited disposition schedule by statute, rule of procedure, case law, or otherwise.” Rule 2.535(h)(4) provides that all circuits must develop plans that will impose reasonable restrictions on reporters “to ensure that transcript production in capital cases is given a priority.” The RJA Committee maintains that it is beyond the power of a rules committee to assign absolute priority to a specific type of proceeding, or to try to rank already established priority cases, when statutes, rules, case law, or other authority may impose differing priorities. On December 10, 2008, the RJA Committee voted 21 to 0 to reaffirm that 2.535(i) should be adopted as originally proposed.

WHEREFORE, the Committee respectfully submits this Response to the Court on December 11, 2008.

/s/ Scott M. Dimond

Scott M. Dimond

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## **CERTIFICATE OF SERVICE**

I certify that a copy of this Response was furnished on December 11, 2008, by United States Mail to:

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## **CERTIFICATE OF FONT COMPLIANCE**

I certify that this Response was prepared in compliance with the font requirements of *Fla. R. App. P. 9.210(a)(2)*.

/s/ J. Craig Shaw

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