

Supreme Court of Florida

No. SC07-460

IN RE: AMENDMENTS TO THE RULES REGULATING THE FLORIDA BAR—RULE 3-7.2.

[April 5, 2007]

PER CURIAM.

After considering proposals from The Florida Bar and a comment filed by a member of the public, this Court adopted amendments to Rule Regulating the Florida Bar 3-7.2 (procedures upon criminal or professional misconduct). See In re Amendments to the Rules Regulating the Fla. Bar—Rules 3-5.2 & 3-7.2, 933 So. 2d 498 (Fla. 2006). Since adopting the amendments to rule 3-7.2, the Court has considered the impact the rule has on referees and court dockets. We have jurisdiction, see art. V, § 15, Fla. Const., and we hereby modify the rule.

The current rule requires a referee to hold a hearing on sanctions and file a report with this Court within thirty days of assignment. In practice, this has proven to be too short a time period, requiring numerous extensions. Thus, the Court modifies the rule to increase this period to ninety days.

Accordingly, the Court adopts the amendments to the Rules Regulating the Florida Bar as set forth in the appendix to this opinion. Deletions are indicated by struck-through type, and new language is indicated by underscoring. The amendments shall become effective immediately upon the release of this opinion.

However, because the amendment has not been published for comment, interested persons shall have until July 5, 2007, in which to file comments with the Court on the change from thirty days to ninety days. An original and nine paper copies of all comments must be filed with the Court, with a certificate of service verifying that a copy has been served on John F. Harkness, Jr., Executive Director, The Florida Bar, 651 East Jefferson Street, Tallahassee, Florida 32399-2300, as well as a separate request for oral argument if the person filing the comment wishes to participate in oral argument, which may be scheduled in this case. The Florida Bar has until July 25, 2007, to file a response to any comments filed with the Court. Electronic copies of all comments also must be filed in accordance with the Court's administrative order In re Mandatory Submission of Electronic Copies of Documents, Fla. Admin. Order No. AOSC04-84 (Sept. 13, 2004).

It is so ordered.

LEWIS, C.J., and WELLS, ANSTEAD, PARIENTE, QUINCE, CANTERO, and BELL, JJ., concur.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION, AND IF FILED, DETERMINED.

Original Proceeding – The Florida Bar Rules

John F. Harkness, Jr., Executive Director, and John Anthony Boggs, Director,
Attorney Consumer Assistant Program, Tallahassee, Florida, Henry M. Coxe, III,
President, Jacksonville, Florida, and Franciso R. Angones, President-Elect, The
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for Petitioner

APPENDIX

RULE 3-7.2 PROCEDURES UPON CRIMINAL OR PROFESSIONAL MISCONDUCT; DISCIPLINE UPON DETERMINATION OR JUDGMENT OF GUILT OF CRIMINAL MISCONDUCT

(a) Definitions. [No change.]

(b) Determination or Judgment of Guilt, Admissibility; Proof of Guilt.
[No change.]

(c) Notice of Institution of Felony Criminal Charges. [No change.]

(d) Notice of Determination or Judgment of Guilt of Felony Charges.
[No change.]

(e) Notice by Members of Determination or Judgment of Guilt of All Criminal Charges. [No change.]

(f) Suspension by Judgment of Guilt (Felonies). [No change.]

(g) Petition to Modify or Terminate Suspension. [No change.]

(h) Appointment of Referee. [No change.]

(1) Hearing on Petition to Terminate or Modify Suspension. [No change.]

(2) Hearing on Sanctions. In addition to conducting a hearing on a petition to terminate or modify a suspension entered under this rule, the referee shall also hear argument concerning the appropriate sanction to be imposed and file a report and recommendation with the supreme court in the same manner and form as provided in rule 3-7.6(m) of these rules. The hearing shall be held and a report and recommendation shall be filed with the supreme court within ~~30~~ 90 days of assignment as referee.

The respondent may challenge the imposition of a sanction only on the grounds of mistaken identity or whether the conduct involved constitutes a felony under applicable law. The respondent may present relevant character evidence and relevant matters of mitigation regarding the proper sanction to be imposed. The respondent may not contest the findings of guilt in the criminal proceedings. A respondent who entered a plea in the criminal proceedings may be allowed to

explain the circumstances concerning the entry of the plea for purposes of mitigation.

The report and recommendations of the referee may be reviewed in the same manner as provided in rule 3-7.7 of these rules.

(i) Appeal of Conviction. [No change.]

(j) Expunction. [No change.]

(k) Waiver of Time Limits. [No change.]

(l) Professional Misconduct in Foreign Jurisdiction. [No change.]