Supreme Court of Florida

THURSDAY, DECEMBER 20, 2012

CASE NO.: SC11-1374

IN RE: IMPLEMENTATION OF JUDICIAL BRANCH GOVERNANCE STUDY GROUP RECOMMENDATIONS–AMENDMENTS TO THE FLORIDA RULES OF JUDICIAL ADMINISTRATION

The motions for rehearing filed by the Conference of Circuit Court Judges of Florida, the Conference of County Court Judges of Florida, and the Trial Court Chief Judges of Florida ("the Conferences and the Chief Judges") stating that the Conferences and the Chief Judges intended to file written comments in support of their motions within the sixty-day comment period provided for in the Court's February 9, 2012, opinion, In re Implementation of Judicial Branch Governance Study Group Recommendations, 37 Fla. L. Weekly S82 (Fla. Feb. 9, 2012), are treated as comments on the rule amendments adopted in this case, in accordance with the invitation in the opinion. See Fla. R. Jud. Admin. 2.140(g)(1) (providing that the Court may amend rules in Part II of the Rules of Judicial Administration at any time, with or without notice and if a change is made without notice the Court will fix a date for future consideration of the change and publish the change for comment). The Conferences' and the Chief Judges' comments have been filed and were considered by the Court along with the matters raised in the motions and the other comments filed in this case.

The Court, having considered the comments and heard oral argument, hereby grants the requests for clarification of the language in new Rule of Judicial Administration 2.205(a)(1)(B) stating that the rule "is not intended to apply to judges expressing their personal views who affirmatively make it explicitly clear that they are not speaking on behalf of the judicial branch." (Emphasis added.) In order to address concerns about the above emphasized language, the Court amends rule 2.205(a)(1)(B) as follows:

> (B) Consistent with the authority of the supreme court to establish policy, including recommending state budget and compensation priorities for the judicial branch, no judge, supreme court created committee, commission, task force, or similar group, and no conference (Conference of District Court of Appeal Judges, Conference of Circuit Court Judges, Conference of County Court Judges) is permitted to recommend state budget priorities, including compensation and benefits, to the legislative or executive branch that have not been approved by the supreme court. This subdivision is not intended to apply to judges expressing their personal views who affirmatively ~~make it explicitly clear~~ state that they are not speaking on behalf of the judicial branch.

The Florida Bar's request that new Rule of Judicial Administration 2.220(c)(3) be amended to correct numbering errors is also granted. That rule is amended as follows:

(3) Officers. Management of the conference shall be vested in the

officers of the conference and an executive committee.

(A) - (B) [No Change]

(~~D~~C) There shall be an annual meeting of the conference.

(~~E~~D) Between annual meetings of the conference, the affairs of the conference shall be managed by the executive committee.

The effective date for the eight-year term limitation for trial court chief judges in Florida Rule of Judicial Administration 2.215(c) is delayed until February 1, 2015, at 12:01 a.m., so that with terms beginning July 1, 2015, judges who have served for eight years or more are not eligible for re-election.

The remainder of the requests in the comments is denied. The Court thanks those who filed comments for their input. But, after due consideration of the matters raised, the Court has determined that no other revisions to the rules or effective dates should be made at this time.

Accordingly, Florida Rules of Judicial Administration 2.205 and 2.220 are amended as reflected in this order. New language is indicated by underscoring and deletions are indicated by struck-through type. These amendments shall become effective immediately upon the issuance of this order.

NO MOTION FOR REHEARING WILL BE ALLOWED.

POLSTON, C.J., and PARIENTE, QUINCE, LABARGA, and PERRY, JJ., concur.

PARIENTE, J., concurs with an opinion, in which QUINCE and PERRY, JJ., concur.
LEWIS, J., dissents with an opinion.
CANADY, J., concurs in part and dissents in part with an opinion.

PARIENTE, J., concurring.

I write briefly to address the dissent of my esteemed colleague Justice Lewis. Justice Lewis clearly has strong feelings that the entire work of the Judicial

Branch Governance Study Group (Study Group) was misguided and unnecessary. He has characterized the majority's decisions as "truly whimsical" and "misdirected bad policy," among other phrases. Dissenting op. at 5, 6 (Lewis, J.). I respectfully disagree with his assessments of the Study Group's work and the amendments to the Rules of Judicial Administration that this Court has adopted.

The Study Group was established in October 2009 during the term of Chief Justice Quince, after the Court approved the long-term strategic plan for the Florida judicial branch. Chaired by now-Chief Justice Polston with Justice Labarga serving as one of its members, the Study Group engaged in thoughtful deliberation and analysis regarding ways "to strengthen the governance and policy development structures of the Florida judicial branch, improve the effective and efficient management of the branch, and enhance communication within the branch." In re: Implementation of Judicial Branch Governance Study Group Recommendations, 37 Fla. L. Weekly S82, S82 (Fla. Feb. 9, 2012).

I am certain that the Study Group's recommendations and the Court's adoption of those recommendations was not an exercise in "change for the sake of change," and, of course, I sincerely hope that the amendments will not "produce further turmoil and political maneuvering within the judicial branch." Dissenting op. at 5, 6 (Lewis, J.). To the contrary, over the past fifteen years that I have served on the Court, I have seen many examples of just the opposite—that is,

cooperation at all levels of the judiciary with a common mission to serve the citizens of this state in the administration of justice.

Lastly, as far as the decision to delay by two years the implementation of term limits for trial court chief judges, the purpose of this prospective application is to ensure an orderly transition to a new chief judge. Since the elections for chief judges are currently scheduled to take place in early 2013 for terms to commence on July 1, 2013, the two-year delayed time period allows for current chief judges to prepare to make it easier for their successors to assume leadership. Simply stated, there is nothing sinister or misguided about our decision to make this particular change prospective.

QUINCE and PERRY, JJ., concur.

LEWIS, J., dissenting.

I continue to dissent in connection with this project. Today's order on rehearing demonstrates the truly whimsical nature of this entire effort. This project was ill-conceived, ill-structured, and totally without proper parameters or full discussion by the Court prior to its ill-fated mission. Now, a lack of principle has evolved in a "delayed implementation" approach as though the bad policy decisions will improve with age as a vintage wine. To the contrary, not only is the "change for the sake of change approach" misdirected, the implementation of a bad policy does not, and should not, be predicated upon improvement with age. In a

similar manner, implementation of a good policy should not be delayed to satisfy the personal desires of a very few who, for personal benefit, oppose the policy. Nothing new has been presented to this Court on rehearing that was not previously considered by this Court, nor have we failed to consider anything presented on rehearing. The modified decision merely reflects an attempt to silence or placate the voice of some who objected, as do I, to this well intended but misdirected bad policy that will produce further turmoil and political maneuvering within the judicial branch.

CANADY, J., concurring in part and dissenting in part.

I disagree with the majority on three points.

First, I dissent from the majority's determination with respect to the rule provisions imposing term limits on the chief judges of the circuit courts and of the district courts. I would repeal the term limit provisions in Florida Rules of Judicial Administration 2.210(a)(2)(F) and 2.215(c). These provisions have been met with the expression of overwhelming opposition. And no case whatsoever has been made that these term limits are necessary or will be beneficial to the effective administration of justice in Florida.

Second, I dissent from the Court's decision not to revisit the provisions of rule 2.220(b), which relate to the Florida Conference of Circuit Judges. I would repeal the provisions of rule 2.220(b) and undertake further study of the matter in consultation with Florida's circuit court judges.

Finally, I dissent from the Court's decision not to revise rule 2.244(c)(3), which creates the Unified Compensation Committee, to provide for membership of a representative of the circuit court chief judges. The chief judges play a crucial role in the administration of the judicial branch, and their input on this committee would be very valuable.

I otherwise concur in the Court's order.

A True Copy
Test:

Thomas D. Hall
Clerk, Supreme Court

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Served:

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ALEXANDRA V. RIEMAN

JOHN F. HARKNESS, JR.