Supreme Court of Florida

THURSDAY, JANUARY 18, 2018

CASE NO.: SC17-1611

IN RE: AMENDMENTS TO THE FLORIDA RULES OF JUDICIAL ADMINISTRATION - NEW RULE 2.570

The Court has determined that the Board of Governors of the Florida Bar (Board) does not have authority, under Florida Rule of Judicial Administration 2.140 (Amending Rules of Court), to propose new rule 2.570 (Parental Leave), which was rejected by the Rules of Judicial Administration Committee (RJA Committee).

Rule 2.140 provides the procedures for amending rules of practice and procedure. Under rule 2.140(a)(3), The Florida Bar is required to appoint a rules committee to oversee each body of procedural rules. The only entities authorized to propose procedural rule changes directly to the Court, under rule 2.140, are the rules committees appointed by the Bar. See Fla. R. Jud. Admin. 2.140(b) (schedule for regular-cycle proposals by rules committees), (e) (out-of-cycle proposals by rules committee), and (f) (committee proposals in response to requests by Court). There is no provision in the rule that authorizes the Board of Governors to unilaterally propose a procedural rule to the Court, especially one like proposed new rule 2.570 that has been rejected by the RJA Committee.

The Board's authority, under rule 2.140, is limited to (1) receiving copies of minutes reflecting the status of and committee action on rules proposals; (2) considering and voting to recommend to the Court the acceptance, rejection, or amendment of a rules committee's proposals; (3) receiving rejected rules proposals from proponents; and (4) concurring with or rejecting a rules committee's determination that a proposal warrants an out-of-cycle submission. See Fla. R. Jud. Admin. 2.140 (a)(5), (b)(3), (c), (e). While, under rule 2.140(c), the proponent of a rule proposal that was rejected by a rules committee may submit the rejected

proposal to the Board, that subdivision does not authorize the Board to then file a report with the Court proposing the rejected rule change. In contrast, Rule Regulating the Florida Bar 1-12.1(f) expressly gives the Board authority to propose to the Court amendments to the Rules Regulating the Florida Bar. See also In re Rules of Court: Procedure for Consideration of Proposals Concerning Practice and Procedure, 276 So. 2d 467 (1972) (specifically authorizing the Board of Governors to make recommendations to the Court on proposals concerning practice and procedure); In re Fla. Rules of Jud. Admin., 389 So. 2d 202 (Fla. 1980) (creating current Bar-appointed rules committee system for amending court rules, now found in rule 2.140, and stating that procedure supersedes the procedure that authorized the Board to propose procedural rule changes to the Court).

Significantly, as relevant here, rule 2.140(g)(2) makes clear that amendments to the Rules of Judicial Administration are the province of the RJA Committee. That rule specifically provides that Rules of Judicial Administration, other than the several identified rules that concern court administration found in Parts II and III of that body of rules, which the Court amends without referral to or proposal from the RJA Committee, must be referred to or proposed by the RJA Committee, as provided in rule 2.140. See In re Amends. to Rules Regulating Fla. Bar and Rules of Jud. Admin.—Multijurisdictional Practice of Law, 991 So. 2d 842, 843 (Fla. 2008) (recognizing that amendments to the Rules of Judicial Administration are in the "province of the Rules of Judicial Administration Committee" and only amending those rules after the Board and RJA Committee filed a joint proposal). Supreme Court Internal Operating Procedure II(G)(3) (Rules of Practice and Procedure), on which the Board also relies, cannot be read as a grant of authority concerning procedural rule changes beyond that provided in rule 2.140. See Introduction to Supreme Court Manual of Internal Operating Procedures (stating purpose of Manual is, among other things, to "codify established practices and traditions" and that codification "neither supplants any of

the Florida rules of court procedure nor creates any substantive or procedural rights").

Accordingly, the "Report of the Florida Bar Board of Governors" proposing new rule 2.570 is hereby dismissed as unauthorized; and this case is closed.

NO MOTION FOR REHEARING OR REINSTATEMENT WILL BE ENTERTAINED.

LABARGA, C.J., and PARIENTE, LEWIS, QUINCE, CANADY, POLSTON, and LAWSON, JJ., concur.

A True Copy
Test:

John A. Tomasino
Clerk, Supreme Court

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