

SUPREME COURT OF FLORIDA

In re Amendments to the Florida Evidence Code

825 So. 2d 339 (Fla. 2002) · No. SC02-240 · Decided July 11, 2002

SUMMARY

The Supreme Court of Florida considered proposed amendments to the Florida Evidence Code arising from legislative changes enacted in 2000 and 2001. The Court adopted several amendments, including provisions concerning attorney-client privilege, questioning child witnesses, expressions of sympathy, and evidence of child molestation, but expressly stated that adoption was only to the extent the provisions were procedural. Justice Pariente dissented from adoption of the child-molestation evidence amendment, citing conflicts with existing evidence rules and precedent.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Per Curiam; Harding, J.; Wells, J.; Lewis, J.; Quince, J.; Pariente, J.; Anstead, C.J.; Shaw, J.
JURISDICTION	Florida
DECIDED	July 11, 2002
DOCKET	SC02-240
DISPOSITION	approved
PROCEDURAL POSTURE	The Supreme Court of Florida reviewed the regular-cycle report of The Florida Bar Code and Rules of Evidence Committee concerning recent legislative amendments to the Florida Evidence Code and determined which amendments to adopt as procedural rules.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Florida; binding as to the Court's procedural adoption of the specified Evidence Code amendments, but expressly not a ruling on their substantive validity.
PARTIES	The Florida Bar Code and Rules of Evidence Committee v. Responding parties and organizations identified in the opinion

TOPICS

- evidence
- appellate procedure
- attorney client privilege
- character evidence

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Supreme Court of Florida should adopt the legislative amendments to sections 90.502, 90.612(3), and 90.4026 of the Florida Evidence Code to the extent the amendments are procedural.
2. Whether the Supreme Court of Florida should adopt the amendment to section 90.404(2), concerning evidence of other acts of child molestation, to the extent the amendment is procedural despite the committee's recommendation against adoption.
3. Whether the Court should opine on the substantive validity of the amendments or challenges to chapter 2001-221, section 1, absent a true case and controversy.

HOLDINGS

1. The Court adopted chapters 2000-316, sections 1 and 2, and 2001-132, section 1, to the extent those amendments are procedural.
2. The Court adopted chapter 2001-221, section 1, amending section 90.404(2), to the extent the amendment is procedural.
3. In the absence of a true case and controversy, the Court expressed no opinion on the substance of the amendments or on the challenges raised to chapter 2001-221, section 1.

KEY QUOTATIONS

“In the absence of a true “case and controversy,” we express no opinion on the substance of the amendments or on the challenges to chapter 2001-221, section 1, that were raised in these proceedings.” (341)

“The various amendments are effective on the dates they became law.” (341)

FACTUAL BACKGROUND

The Florida Legislature enacted amendments to the Florida Evidence Code concerning attorney-client privilege, questioning of young witnesses, statements expressing sympathy, and evidence of other acts of child molestation. The Florida Bar Code and Rules of Evidence Committee reviewed the enactments and recommended that the Court adopt most of them but not the child-molestation character-evidence amendment. The Court considered the committee's report, public comments, and oral argument.

PROCEDURAL HISTORY

The Florida Bar Code and Rules of Evidence Committee submitted recommendations concerning legislative amendments enacted in chapters 2000-316, 2001-132, and 2001-221, Laws of Florida. The committee recommended adoption of the amendments in chapters 2000-316 and 2001-132, but recommended against adopting the amendment to section 90.404(2) in chapter 2001-221. After publication for comment and oral argument, the Supreme Court adopted the recommended amendments and also adopted the section 90.404(2) amendment to the extent procedural.

DISPOSITION

approved

CASES CITED

- In re Amendments to the Florida Evidence Code, 782 So. 2d 339 (Fla. 2000)
- Bryan v. State, 533 So. 2d 744 (Fla. 1988)
- Heuring v. State, 513 So. 2d 122 (Fla. 1987)
- Saffor v. State, 660 So. 2d 668, 670-71 (Fla. 1995)
- Williams v. State, 110 So. 2d 654 (Fla. 1959)

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