

SUPREME COURT OF FLORIDA

In re Amendments to Florida Rule of Judicial Administration 2.420
and the Florida Rules of Appellate Procedure

31 So. 3d 756 (Fla. 2010) · No. SC07-2050 · Decided March 18, 2010

SUMMARY

The Supreme Court of Florida adopted comprehensive amendments to Florida Rule of Judicial Administration 2.420 and related appellate rules governing public access to judicial branch records. The amendments establish procedures for identifying and segregating confidential information, sealing and unsealing records, addressing confidentiality in criminal cases, and reviewing access orders. The Court stated that the amendments were intended to balance the constitutional right of public access with the need to protect confidential court records.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Per Curiam; Quince, C.J.; Pariente, J.; Lewis, J.; Canady, J.; Polston, J.; Labarga, J.; Perry, J.
JURISDICTION	Florida
DECIDED	March 18, 2010
DOCKET	SC07-2050
DISPOSITION	approved
PROCEDURAL POSTURE	Original rulemaking proceeding in which the Supreme Court of Florida considered proposed amendments to Florida Rule of Judicial Administration 2.420 and related amendments to the Florida Rules of Appellate Procedure.
STANDARD OF REVIEW	Not applicable; original rulemaking jurisdiction.
PRECEDENTIAL VALUE	published

TOPICS

- civil procedure
- appellate procedure
- constitutional law
- criminal procedure
- appellate jurisdiction

PRACTICE AREAS

- civil procedure
- appellate procedure
- constitutional law
- criminal procedure

QUESTIONS PRESENTED

1. Whether Florida Rule of Judicial Administration 2.420 should be amended to establish procedures for identifying and segregating confidential information in court records.
2. What procedures should govern motions to determine confidentiality, seal, unseal, or review court records in noncriminal trial, criminal, and appellate proceedings.
3. Whether related amendments to the Florida Rules of Appellate Procedure should clarify the treatment and review of appellate court records and orders granting or denying access.

HOLDINGS

1. The Court adopted amendments creating definitions of confidential information and affected non-parties, requiring clerks to maintain specified categories of confidential information, requiring filers to identify certain confidential information, and providing procedures for judicial determinations of confidentiality.
2. The Court amended and renumbered the existing procedures for determining the confidentiality of noncriminal trial court records, including requirements for motions, hearings, orders, public posting, unsealing requests, expedited rulings, and sanctions for unsupported or bad-faith filings.
3. The Court adopted special procedures for criminal records involving plea agreements, substantial-assistance agreements, confidential informants, or active criminal investigative information, including temporary confidentiality, generic docket descriptions, expedited hearings and rulings, and limits on sealing orders to the period necessary and no longer than 120 days absent authorized extensions.
4. The Court adopted procedures governing motions to determine the confidentiality of appellate records and amended Florida Rule of Appellate Procedure 9.100(d) to permit review of orders denying access, granting access, or denying motions to seal, with expedited review and continued confidentiality pending resolution of a stay motion.
5. The Court's adoption of the amendments did not determine the merits of substantive arguments concerning the new procedures and did not preclude those arguments from being raised in a proper case or controversy.

KEY QUOTATIONS

“The goal of the comprehensive amendments to rule 2.420 is to balance the public's constitutional right to access to court records with the courts' responsibility to protect from public access court records that are confidential.” (31 So. 3d at 758)

“In adopting a procedure for identifying and segregating confidential information in court records, we, likewise, do not decide the adsorption issue here.” (31 So. 3d at 765)

“If filings that are subject to this subdivision are not noted on the docket, the result would be a “false docket,” by omission.” (31 So. 3d at 768)

FACTUAL BACKGROUND

The Court considered three sets of proposed amendments addressing public access to judicial branch records in the context of increasing electronic access to court files. The proposals responded to concerns that confidential

information could be exposed online and sought to establish procedures for clerks and filers to identify confidential information, for courts to determine whether records should be sealed, and for appellate courts to review access orders. The amendments also addressed special procedures for criminal records involving confidential informants, active criminal investigative information, plea agreements, and substantial-assistance agreements.

PROCEDURAL HISTORY

The Rules of Judicial Administration Committee, together with related rules committees and access-to-court-records committees, submitted proposals concerning confidential court records, sealing and unsealing procedures, criminal records, and appellate review. The Supreme Court consolidated the proposals, solicited comments, held oral arguments, revised the proposals, and adopted the amendments with minor modifications.

DISPOSITION

approved

CASES CITED

- In re Amendments to Florida Rule of Judicial Administration 2.420—Sealing of Court Records & Dockets, 954 So. 2d 16 (Fla. 2007)
- Barron v. Florida Freedom Newspapers, Inc., 531 So. 2d 113 (Fla. 1988)
- In re Amendments to Florida Rules of Judicial Administration—Public Access to Judicial Records, 608 So. 2d 472 (Fla. 1992)