

SUPREME COURT OF FLORIDA

In re Amendments to Florida Rule of Appellate Procedure 9.141

1 So. 3d 168 (Fla. 2009) · Decided January 29, 2009

SUMMARY

The Florida Supreme Court amended Florida Rule of Appellate Procedure 9.141 to clarify procedures for seeking belated discretionary review or belated appeal of a district court decision. The opinion addresses filing forums, petition contents, time limits, and procedures for such petitions, and makes the amendment effective immediately.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Per Curiam; Quince, C.J.; Wells, J.; Pariente, J.; Lewis, J.; Canady, J.; Polston, J.; Anstead, Senior Justice
JURISDICTION	Florida
DECIDED	January 29, 2009
DISPOSITION	other
PROCEDURAL POSTURE	Rulemaking proceeding by the Supreme Court of Florida concerning amendments to Florida Rule of Appellate Procedure 9.141 after comments were solicited regarding an earlier sua sponte amendment.
PRECEDENTIAL VALUE	Published and precedential rulemaking opinion

TOPICS

appellate procedure post-conviction relief state post-conviction relief criminal procedure
successive petitions

PRACTICE AREAS

Florida appellate procedure criminal post-conviction procedure appellate rulemaking

QUESTIONS PRESENTED

1. Whether Florida Rule of Appellate Procedure 9.141(c) should be amended to clarify the procedures and forum for seeking belated discretionary review or belated appeal of a district court decision.
2. What filing contents, time limits, service requirements, and treatment of successive petitions should govern proceedings under amended rule 9.141(c).

HOLDINGS

1. Florida Rule of Appellate Procedure 9.141(c) is amended to expressly govern petitions seeking belated discretionary review or belated appeal of a decision of a district court of appeal.
2. Petitions seeking belated discretionary review or belated appeal of a district court of appeal decision must be filed in the Supreme Court of Florida.
3. The amended rule establishes specified two-year filing limitations, subject to defined sworn factual exceptions, and prescribes petition contents, service, amendment, successive-petition, and disposition procedures.

KEY QUOTATIONS

“we amend Florida Rule of Appellate Procedure 9.141(c) to clarify the procedure for seeking belated discretionary review or belated appeal of a district court decision.” (1 So. 3d at 169)

“The amendment shall become effective immediately upon release of this opinion.” (1 So. 3d at 169)

“Petitions seeking belated discretionary review or belated appeal of a decision of a district court of appeal shall be filed in the supreme court.” (1 So. 3d at 169)

FACTUAL BACKGROUND

The court had previously amended rule 9.141(c) to address belated discretionary review and belated appeals in the Supreme Court. Following that decision, the Florida Bar Appellate Court Rules Committee submitted comments recommending clarification of the rule and indicating that a comprehensive revision might later be proposed.

PROCEDURAL HISTORY

The Supreme Court previously amended rule 9.141(c) to include petitions seeking belated discretionary review or belated appeal in the Supreme Court. After allowing sixty days for comments, the Florida Bar Appellate Court Rules Committee submitted recommendations concerning the scope and clarity of the rule. The court adopted further amendments and made them effective immediately upon release of the opinion.

DISPOSITION

other

CASES CITED

- In re Amendments to Florida Rule of Appellate Procedure 9.14.1, 992 So. 2d 233 (Fla. 2008)
- Sims v. State, 998 So. 2d 494 (Fla. 2008)