

SUPREME COURT OF FLORIDA

In re Amendments to Fla. Rule of Jud. Admin. 2.420

68 So. 3d 228 (Fla. 2011) · No. SC10-2242 · Decided July 7, 2011

SUMMARY

The Supreme Court of Florida amended Florida Rule of Judicial Administration 2.420 to require clerks to automatically maintain presentence investigation reports and attached psychological or psychiatric evaluations as confidential. The court declined to extend automatic confidentiality to other mental health evaluations filed in criminal cases, leaving those records subject to the rule's case-by-case confidentiality procedures.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Canady, C.J.; Pariente, J.; Lewis, J.; Quince, J.; Polston, J.; Labarga, J.; Perry, J.
JURISDICTION	Florida
DECIDED	July 7, 2011
DOCKET	SC10-2242
DISPOSITION	other
PROCEDURAL POSTURE	Original rulemaking proceeding concerning amendments to Florida Rule of Judicial Administration 2.420 and its companion notice form.
PRECEDENTIAL VALUE	Published Florida Supreme Court rulemaking opinion; authoritative amendment and interpretation of Florida Rule of Judicial Administration 2.420.

TOPICS

[civil procedure](#)[criminal procedure](#)[constitutional law](#)

PRACTICE AREAS

[civil procedure](#)[criminal procedure](#)[constitutional law](#)[court records and public access](#)

QUESTIONS PRESENTED

1. Whether Rule 2.420(d)(1)(B) should be amended to require clerks to automatically maintain presentence investigation reports and attached psychological or psychiatric evaluations as confidential.

2. Whether all psychological and psychiatric evaluations and reports filed in criminal cases should be included in the category of records automatically maintained as confidential.
3. Whether application of Rule 2.420(d) should be suspended in criminal cases or clerks should be permitted to continue sealing mental-health evaluations under local administrative orders pending further legislative action.

HOLDINGS

1. Rule 2.420(d)(1)(B) must be amended to add presentence investigation reports and psychological or psychiatric evaluations attached to those reports to the records that the clerk must automatically designate and maintain as confidential.
2. Psychological or mental-health evaluations filed with the court but not included in Rule 2.420(d)(1)(B) are not automatically confidential; a party seeking confidentiality must use the case-by-case procedures in Rule 2.420(d)(3).
3. The court declined to suspend Rule 2.420(d) in criminal cases and declined to authorize clerks to continue sealing criminal-case mental-health evaluations under local administrative orders pending a judicial determination.

KEY QUOTATIONS

“We have jurisdiction[1] and amend the rule as suggested by the Florida Courts Technology Commission's Subcommittee on Access to Court Records (Access Subcommittee) to include presentence investigation reports and attached psychological and psychiatric evaluations as an additional category of records that the clerk must automatically maintain as confidential pursuant to rule 2.420(d)(1)(B) of the Rules of Judicial Administration.” (68 So. 3d at 228)

“A party seeking to maintain as confidential psychological or mental health evaluations not included in rule 2.420(d)(1)(B) must utilize the procedures set forth in rule 2.420(d)(3).” (68 So. 3d at 230)

FACTUAL BACKGROUND

The proceeding concerned public access to judicial branch records, specifically the treatment of presentence investigation reports and psychological or psychiatric evaluations filed with those reports. The court considered whether broader categories of mental-health evaluations filed in criminal cases should automatically be treated as confidential under Rule 2.420(d)(1)(B), rather than being protected only after a case-by-case judicial determination. The court concluded that the existing statutory and rule authorities supported automatic confidentiality for presentence investigation reports and evaluations attached to them, but not for all pretrial or post-trial mental-health evaluations.

PROCEDURAL HISTORY

The Supreme Court of Florida created the proceeding after determining that proposed amendments to Rule 2.420(d)(1)(B) should be considered separately from an earlier proceeding addressing privacy and court-record recommendations. The proposed amendments were published for comment. The court considered comments from the Task Force on Substance Abuse and Mental Health Issues in the Court, the Florida Public Defender

Association, and the Access Subcommittee, and adopted amendments adding presentence investigation reports and attached psychological or psychiatric evaluations to the automatically confidential categories.

DISPOSITION

other

CASES CITED

- In re Amendments to Fla. Rule of Jud. Admin. 2.420 & Fla. Rules of App. Pro., 31 So. 3d 756 (Fla. 2010)
- In re Implementation of Committee on Privacy & Court Records Recommendations, 2011 WL 2566360 (Fla. 2011)
- In re Implementation of Committee on Privacy & Court Records Recommendations, No. SC08-2443 (Fla. order filed Nov. 19, 2010)
- In re Fla. Rules of Crim. Pro., 272 So. 2d 65, 122 (Fla. 1972)