

SUPREME COURT OF FLORIDA

Amendment to the Florida Family Law Rules of Procedure

845 So. 2d 174 (Fla. 2003) · Decided May 1, 2003

SUMMARY

The Florida Supreme Court approves emergency amendments to Florida Family Law Rule of Procedure 12.610 concerning injunctions for protection against domestic and repeat violence. The amendments clarify hearing requirements, judicial rulings on safety-related issues, mediation procedures, and permissible case-management assistance by court staff. The amendments became effective immediately, with the accompanying commentary provided for explanation and guidance but not adopted as an official part of the rules.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Chief Justice Anstead; Justice Wells; Justice Pariente; Justice Lewis; Justice Quince; Justice Cantero; Justice Bell
JURISDICTION	Florida
DECIDED	May 1, 2003
DISPOSITION	approved
PROCEDURAL POSTURE	The Family Court Steering Committee petitioned the Supreme Court of Florida for emergency amendments to Florida Family Law Rule of Procedure 12.610 governing injunctions for protection against domestic and repeat violence.
PRECEDENTIAL VALUE	Published Supreme Court of Florida opinion adopting amendments to a statewide procedural rule; the adopted rule text is binding.
PARTIES	Family Court Steering Committee

TOPICS

- domestic violence
- family law procedure
- mediation
- service of process
- child custody

PRACTICE AREAS

- Family law
- Domestic violence
- Civil procedure
- Court rulemaking

QUESTIONS PRESENTED

1. Whether Florida Family Law Rule of Procedure 12.610 should be amended on an emergency basis to establish statewide procedures for domestic- and repeat-violence injunction proceedings.
2. Whether court staff may assist with case management in domestic-violence injunction proceedings without usurping the judge's adjudicative responsibilities.
3. What safeguards must govern judicial findings, mediation, and relief in final domestic-violence injunction proceedings.

HOLDINGS

1. The court approved and adopted the proposed amendments to Florida Family Law Rule of Procedure 12.610, including the language agreed upon in the mediated agreement, effective immediately.
2. Court staff may assist with case management by separately interviewing the parties to identify and clarify their positions and presenting that information to the court with a proposed order, but the judge must remain actively and integrally involved in deciding the allegations and whether an injunction will issue.
3. Before referring parties to mediation, the court must determine whether domestic violence occurred or whether imminent danger of domestic violence exists and, if an injunction will issue, must rule on contact, residence, temporary custody, visitation, temporary child support, temporary spousal support, and other necessary protective relief.

KEY QUOTATIONS

“We conclude that the proposed amendments to rule 12.610 serve the goals of preserving the integrity of domestic violence proceedings and the safety of the victims of domestic violence by ensuring that a judge is actively involved in reaching a final determination in the case, while affording courts the flexibility of utilizing court staff to assist in processing these cases in an efficient manner.” (at 178)

“Utilizing court personnel will conserve judicial resources and at the same time, it will be the judge who ultimately considers the allegations raised and determines whether or not an injunction will issue.” (at 179)

FACTUAL BACKGROUND

The petition arose from the increasing statewide volume of civil domestic-violence and repeat-violence filings and concerns about the safety and due-process implications of processing those cases. The proposed rule amendments addressed hearings, judicial findings, mediation, service, and the permissible use of court staff in case management. The court relied on the need for active judicial oversight while recognizing that trained court personnel could assist judges with case processing.

PROCEDURAL HISTORY

The proposed amendments were published for comment, and several judges and organizations opposed aspects concerning court staff assistance in processing domestic-violence injunction petitions. Before oral argument, the committee and opposing representatives reached a mediated agreement concerning the disputed language. The Supreme Court approved and adopted the amendments, effective immediately.

DISPOSITION

approved

CASES CITED

- In re Report of the Family Court Steering Committee, 794 So. 2d 518 (Fla. 2001)
- Weiland v. State, 732 So. 2d 1044 (Fla. 1999)

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