

SUPREME COURT OF FLORIDA

In re Amendments to the Florida Rules of Traffic Court

105 So. 3d 1267 (Fla. 2012) · Decided December 20, 2012

SUMMARY

The Florida Supreme Court revised its opinion addressing proposed amendments to the Florida Rules of Traffic Court. The Court adopted amendments to rule 6.600(b), declined to adopt proposed amendments to rules 6.600(c) and 6.340(d), and referred concerns about self-incrimination warnings to the Conference of County Court Judges and the Traffic Court Rules Committee. The adopted amendments became effective January 1, 2013.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Polston, C.J.; Pariente, J.; Lewis, J.; Quince, J.; Canady, J.; Labarga, J.; Perry, J.
JURISDICTION	Florida
DECIDED	December 20, 2012
DISPOSITION	other
PROCEDURAL POSTURE	The Florida Supreme Court reviewed proposed regular-cycle amendments to the Florida Rules of Traffic Court, received comments and a committee response, and heard oral argument before deciding which amendments to adopt.
STANDARD OF REVIEW	The court exercised its rulemaking authority under article V, section 2(a), of the Florida Constitution; no conventional appellate standard of review was applied.
PRECEDENTIAL VALUE	Published Florida Supreme Court per curiam rulemaking opinion; precedential as to the adopted amendment and the court's stated reasons for declining the proposed amendments, but not a final merits determination of the general applicability of the privilege against self-incrimination in traffic infraction proceedings.

TOPICS

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

PRACTICE AREAS

civil procedure

criminal procedure

constitutional law

traffic law

QUESTIONS PRESENTED

1. Whether the proposed amendments to Florida Rule of Traffic Court 6.600(b) should be adopted.
2. Whether the proposed amendments to Florida Rule of Traffic Court 6.600(c) should be adopted in light of newly enacted legislation amending section 318.15, Florida Statutes.
3. Whether the proposed amendment to rule 6.340(d), concerning a defendant's privilege against self-incrimination in traffic infraction proceedings, should be adopted through the rulemaking process.
4. Whether the concerns regarding inconsistent advisements of self-incrimination rights should be addressed through a model colloquy.

HOLDINGS

1. The court adopted the proposed amendments to rule 6.600(b), requiring that, when a defendant appears after notice has been sent but before the Department of Highway Safety and Motor Vehicles has suspended the driver's license, the clerk set a hearing upon the defendant's request and payment of the specified costs.
2. The court declined to adopt the proposed amendments to rule 6.600(c) because newly enacted legislation amending section 318.15, Florida Statutes, addressed the same hearing procedure and made the proposed rule amendment unnecessary.
3. The court declined to adopt the proposed amendment to rule 6.340(d) because it concerned a substantive constitutional issue—the applicability of the privilege against self-incrimination in traffic infraction proceedings—that was not appropriate for resolution through this rulemaking proceeding.
4. The court referred to the Conference of County Court Judges of Florida, working with the Traffic Court Rules Committee, the question whether a model colloquy should be adopted to inform defendants of the right not to provide testimony that may incriminate them in a pending or potential criminal case.

KEY QUOTATIONS

“The constitutional privilege against self-incrimination — found in both the Fifth Amendment to the United States Constitution and article I, section 9, of the Florida Constitution — protects an accused from being compelled to testify against himself or herself in a criminal proceeding or to otherwise provide the State with testimonial evidence.” (105 So. 3d at 1269)

“The fact that we reject the rule as proposed does not mean that the Court is not cognizant of the valid concerns expressed, especially during oral argument.” (105 So. 3d at 1270)

“Therefore, we have requested that the Conference of County Court Judges of Florida work with the Traffic Court Rules Committee to address whether a model colloquy should be adopted by a rule amendment that informs a defendant of his or her right not to provide testimony that may incriminate him or her in a pending or potential criminal case.” (105 So. 3d at 1271)

FACTUAL BACKGROUND

The Traffic Court Rules Committee proposed amendments addressing affidavits of defense or admissions, appearances after notice of failure to comply with a traffic citation, and reinstatement of suspended driver licenses. The proposed rule 6.340 amendment would have informed defendants that they could not be compelled to testify against themselves, while the proposed rule 6.600 amendments addressed hearings before or after the Department of Highway Safety and Motor Vehicles acted on a notice of noncompliance. New legislation amended section 318.15 and rendered the proposed rule 6.600(c) amendment unnecessary.

PROCEDURAL HISTORY

The Traffic Court Rules Committee submitted proposed amendments to rules 6.340, 6.600(b), and 6.600(c). The Florida Bar Board of Governors approved the proposals, and the proposals were published for comment; after republication, several commenters opposed the proposed rule 6.340 amendment. The court adopted the proposed amendments to rule 6.600(b), declined to adopt the proposed amendments to rules 6.600(c) and 6.340(d), and referred consideration of a model colloquy concerning self-incrimination to the Conference of County Court Judges and the Traffic Court Rules Committee.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand was ordered. The court referred consideration of a model self-incrimination colloquy to the Conference of County Court Judges of Florida and the Traffic Court Rules Committee.

CASES CITED

- Netbleton v. Doughtie, 373 So. 2d 667, 668 (Fla. 1979)
- State v. Cino, 931 So. 2d 164, 167 (Fla. 5th DCA 2006)
- Pennsylvania v. Muniz, 496 U.S. 582, 588, 110 S. Ct. 2638, 110 L. Ed. 2d 528 (1990)
- Lefkowitz v. Turley, 414 U.S. 70, 77, 94 S. Ct. 316, 38 L. Ed. 2d 274 (1973)
- Taubert v. State, Office of Att'y Gen., 79 So. 3d 77, 80-81 (Fla. 1st DCA 2011)
- Belniak v. McWilliams, 44 So. 3d 1282, 1284 (Fla. 2d DCA 2010)
- Hoffman v. United States, 341 U.S. 479, 486, 71 S. Ct. 814, 95 L. Ed. 1118 (1951)
- Marchetti v. United States, 390 U.S. 39, 53, 88 S. Ct. 697, 19 L. Ed. 2d 889 (1968)
- Boyle v. Buck, 858 So. 2d 391, 392 (Fla. 4th DCA 2003)
- In re Amendments to the Fla. Evidence Code, 782 So. 2d 339, 341 (Fla. 2000)
- Novak v. Snieda, 659 So. 2d 1138, 1140 (Fla. 2d DCA 1995)