

M.R. 3140

**IN THE
SUPREME COURT
OF
THE STATE OF ILLINOIS**

Order entered December 1, 2008.

(Deleted material is struck through and new material is underscored.)

Effective immediately, Supreme Court Rules 21, 22, and 56 are amended, as follows.

Amended Rule 21

Rule 21. Circuit Court Rules and Filing of Rules; Administrative Authority; and General Orders; Filing of Rules

(a) ~~Appellate Court and Circuit Court Rules.~~ A majority of the ~~Appellate Court judges in each district and~~ a majority of the circuit judges in each circuit may adopt rules governing civil and criminal cases which are consistent with these rules and the statutes of the State, and which, so far as practicable, shall be uniform throughout the State. All rules of court shall be filed with the Administrative Director within 10 days after they are adopted.

(b) Administrative Authority. Subject to the overall authority of the Supreme Court, the chief circuit judge shall have the authority to determine, among other things, the hours of court, available leave time to which a judge is entitled, and to instruct the way in which a judge on the bench is expected to behave. In the exercise of this general administrative authority, the chief judge shall take or initiate appropriate measures to address the persistent failure of any judge to perform his or her judicial duties.

(~~b~~ c) General Orders. The chief judge of each circuit may enter general orders in the exercise of his or her general administrative authority, including orders providing for assignment of judges, general or specialized divisions, and times and places of holding court.

(e d) Proceedings to Compel Compliance With Certain Orders Entered by a Chief Circuit Judge. Any proceeding to compel a person or agency other than personnel of the circuit court to comply with an administrative order of the chief circuit judge shall be

commenced by filing a complaint and summons and shall be tried without a jury by a judge from a circuit other than the circuit in which the complaint was filed. The proceedings shall be held as in other civil cases.

~~(d) Filing of Rules. All rules of court shall be filed with the Administrative Director within 10 days after they are adopted.~~

Amended August 9, 1983, effective October 1, 1983; amended December 1, 2008, effective immediately.

Committee Comments (Revised December 1, 2008)

This rule consists of paragraphs (2), (3), and (4) of former Rule 1, which was revised effective January 1, 1964.

New paragraph (b) was adopted December 1, 2008, to clarify that a chief circuit judge's administrative role includes the authority, and the responsibility, to address the persistent failure of any judge to perform his or her judicial duties. Such failure may be due to, among other things, professional incompetence, poor case load management, or chronic absenteeism. Depending on the facts involved, the expectation is that the chief circuit judge will take or initiate appropriate action to remedy the situation. It shall be the duty of the chief judge to provide counseling, if deemed necessary or appropriate, and to report violations of the Canons to the Judicial Inquiry Board. In circumstances where there is uncertainty as to whether the conduct at issue is violative of the Canons, the chief judge shall report the conduct, with substantial particularity, to the Supreme Court.

Amended Rule 22

Rule 22. Appellate Court Organization; Administrative Authority; Appellate Court Rules

(a) Divisions—Appellate Districts.

(1) Each district of the Appellate Court shall consist of one division unless the Supreme Court provides otherwise by order. The First District shall sit in the city of Chicago. The Second District shall sit in the city of Elgin. The Third District shall sit in the city of Ottawa. The Fourth District shall sit in the city of

Springfield. The Fifth District shall sit in the city of Mount Vernon. With the approval of the chief justice of the Supreme Court, a division may sit at any place in the State. The Appellate Court in each district shall be in session throughout the year, and each division shall sit periodically as its judicial business requires. Each division shall sit in panels of three judges as hereinafter provided.

(2) Oral arguments in the appellate court will normally be held in the courthouse provided for that purpose in the appropriate city designated in subparagraph (a)(1). However, with the approval of all the parties and the chief justice, a panel of the appellate court may, on occasion, agree to set an oral argument to be held in a suitable, alternative location but outside the courthouse in which the panel would otherwise normally preside.

(b) Assignment to Divisions–Designation of Panels. The Supreme Court shall assign judges to the various divisions. The presiding judge of a division shall designate judges serving in that division to sit in panels of three. Such a three-judge panel shall constitute the division for purposes of rendering a decision in a case. The Executive Committee of the First District, upon request of a division of that district, may designate any Appellate Court judge of that district to sit in the place of a judge of the requesting division for such case or cases as may be designated in the request.

(c) Decisions. Three judges must participate in the decision of every case, and the concurrence of two shall be necessary to a decision. One judge may decide motions of course.

(d) Divisions–Presiding Judge. The judges of each division shall select one of their number to serve as presiding judge of that division for a term of one year.

(e) Executive Committee of the Appellate Court of Illinois. The presiding judges of the Second, Third, Fourth, and Fifth Districts and the members of the Executive Committee of the First District shall constitute the Executive Committee of the Appellate Court of Illinois. Meetings of the executive committee may be called by any three of its members, and meetings of the Appellate Court may be called by the executive committee.

(f) Executive Committee of the Appellate Court in the First Appellate District. There shall be an Executive Committee of the First District composed of one member of each division, which committee shall exercise general administrative authority. The executive committee shall select one of its number as chairman.

(g) Administrative Authority. Subject to the overall authority of the Supreme Court, the presiding judge of each district, and the

chairman of the Executive Committee in the First District, shall have the authority to determine, among other things, the hours of court, available leave time to which a judge is entitled, and to instruct the way in which a judge on the bench is expected to behave. In the exercise of this general administrative authority, the presiding judge of each judicial district and the chairman of the Executive Committee in the First District shall take or initiate appropriate measures to address the persistent failure of any judge to perform his or her judicial duties.

(h) Appellate Court Rules. A majority of the appellate court judges in each district may adopt rules governing civil and criminal cases which are consistent with these rules and the statutes of the state, and which, so far as practicable, shall be uniform throughout the state. All rules of court shall be filed with the Administrative Director within 10 days after they are adopted.

(g i) Workers' Compensation Commission Appeals. A five-judge panel of the Appellate Court will sit as the Workers' Compensation Commission division of each district of the Appellate Court. The Workers' Compensation Commission division will hear and decide all appeals involving proceedings to review orders of the Workers' Compensation Commission. The division will sit, periodically, as its judicial business requires, at any place in the State it chooses. Five judges must participate in the decisions of the Workers' Compensation Commission division, and the concurrence of three shall be necessary to a decision. If a judge designated to serve on this panel cannot participate, the alternate designated by the Supreme Court shall participate. Motions of course may be decided by one judge.

Amended effective July 1, 1971, and December 9, 1974; amended July 30, 1979, effective October 15, 1979; amended February 1, 1984, effective February 1, 1984, with Justice Moran dissenting (see *Yellow Cab Co. v. Jones* (1985), 108 Ill. 2d 330, 342); amended April 10, 1987, effective August 1, 1987; amended November 20, 1991, effective immediately; amended October 15, 2004, effective January 1, 2005; amended May 23, 2005, effective immediately; amended December 1, 2008, effective immediately.

Committee Comments (December 1, 2008)

New paragraph (g) was adopted December 1, 2008, to clarify that a presiding judge's administrative role includes the authority, and the

responsibility, to address the persistent failure of any judge to perform his or her judicial duties. Such failure may be due to, among other things, professional incompetence, poor case load management, or chronic absenteeism. Depending on the facts involved, the expectation is that the presiding judge will take or initiate appropriate action to remedy the situation. It shall be the duty of the presiding judge to provide counseling, if deemed necessary and appropriate, and to report violations of the Canons to the Judicial Inquiry Board. In circumstances where there is uncertainty as to whether the conduct at issue is violative of the Canons, the presiding judge shall report the conduct, with substantial particularity, to the Supreme Court.

Amended Rule 56

Rule 56. Temporary Assignment to Other Duties

(a) Policy. In order to promote public confidence in the integrity and impartiality of the judiciary, and taking into consideration the nature and severity of any charges against or implications of improper conduct by a judge, a chief judge of the circuit court, or the presiding judge in the appellate court, whichever the case may be, may temporarily assign a judge to restricted duties or duties other than judicial duties. A chief circuit judge, or the presiding appellate judge, whichever the case may be, shall enter a written administrative order setting out the reasons for such assignments. The reasons for such assignments may include, but need not be limited to, the following:

(1) the judge has been formally charged with the commission of a crime which involves moral turpitude or reflects adversely upon the judge's fitness to serve; or

(2) a complaint has been filed with the Courts Commission by the Judicial Inquiry Board or a judge has allegedly committed a violation of the Code of Judicial Conduct which involves fraud, ~~or~~ moral turpitude, persistent nonperformance of judicial duties or threatens irreparable injury to the public, to the judicial branch of government, or to the orderly administration of justice;

(3) a judge has been publicly implicated in conduct which, if true, would constitute impropriety or an appearance of impropriety which involves moral turpitude or threatens irreparable injury to the public, to the judicial branch of government, or to the orderly administration of justice; or

(4) There is reasonable cause to believe that a medical examination would reveal that a judge is mentally incompetent or

physically unable to perform his or her duties, whether the impairment is caused by injury, infirmity, a chemical dependency, other disease, or by any other cause whatever, and it appears that the incompetence is or may be permanent or will likely be of such duration that the judge's continued assignment to judicial duties could result in irreparable injury to the public, impede the orderly administration of justice, or bring dishonor on the judicial system. Determinations as to a judge's mental or physical ability to perform his or her duties shall be in compliance with all applicable federal and state disability laws.

(b) Form and Service of Order. The chief judge's order shall be served personally upon the judge. If the judge is unavailable or the judge's whereabouts are unknown, the order shall be served by mailing a copy of the order by ordinary mail to the judge's last known address.

(c) Petition for Return to Full Assignment. Any judge temporarily assigned pursuant to this rule may request that the chief judge vacate the order. In the alternative the judge may, at any time, petition the Supreme Court for a return to full-duty assignment. A petition filed with the Supreme Court shall be in accordance with procedures outlined in Rule 383.

Adopted November 29, 1990, effective December 1, 1990; amended December 1, 2008, effective immediately.