

# Supreme Court of Florida

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No. 68,637

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IN RE: AMENDMENT TO RULES  
OF JUDICIAL ADMINISTRATION--  
RULES 2.040(a)(2) AND 2.050(c)

[January 5, 1987]

PER CURIAM.

The 1985 Judicial Council of Florida recommended that this Court immediately amend Judicial Administration Rules 2.040(a)(2) and 2.050(c) to provide for: (1) extending the term of service for chief judges of the district courts of appeal and the circuit courts to four years; (2) selection of the chief judges on managerial, administrative, and leadership abilities, rather than by rotation or seniority; and (3) removal of a chief judge by a two-thirds vote of the active judges in the district or circuit.

The Judicial Council, composed in part of officers of all judicial conferences, unanimously approved this recommendation. In 1985, this Court declined to implement the recommendation for chief judge election and requested comments from all circuit and district court of appeal judges. With reference to recommendation (1) regarding tenure of office, judicial opinion was split with a slight majority of circuit judges favoring a four-year term and a slight majority of district court of appeal judges opposing a four-year term. A vast majority of judges approved recommendations (2) and (3).

At this time we decline to extend a chief judge's term to four years, but agree that the rules should be amended to incorporate recommendations (2) and (3). Accordingly, rules 2.040(a)(2) and 2.050(c) are amended as set out below. New language is indicated by underscoring.

Rule 2.040. District Courts of Appeal

(a) Internal Government.

(2) Chief Judge. The chief judge shall be chosen by the judges of the court for a term commencing on July 1 of each odd-numbered year, and shall serve for a term of two years. In the event of a vacancy, a successor shall be chosen promptly to serve the balance of the unexpired term. The selection of a chief judge should be based on managerial, administrative, and leadership abilities. The chief judge may be removed by a two-thirds vote of the active judges. The chief judge shall be the administrative officer of the court, responsible for the dispatch of its business. He shall have the power to order consolidation of cases and shall assign cases to the judges for the preparation of opinions, orders, or judgments. If the chief judge is unable to discharge his duties, the judge longest in continuous service or, as between judges with equal continuous service, the one having the longest unexpired term and able to do so, shall perform the duties of chief judge pending his return to duty. Judges shall notify the chief judge of any contemplated absence from the court and the reasons therefor.

Rule 2.050. Trial Court Administration

(c) Selection. The chief judge shall be chosen by a majority of the circuit and county court judges within the circuit for a term of two years commencing on July 1 of each odd-numbered year, or if there is no majority, by the Chief Justice, for a term of two years. A chief judge may be removed as chief judge by the Supreme Court, acting as the administrative supervisory body of all courts or may be removed by a two-thirds vote of the active judges. The purpose of this rule is to fix a two-year cycle for the selection of the chief judge in each circuit. A chief judge may serve for successive terms. The selection of the chief judge should be based on managerial, administrative, and leadership abilities. If a chief judge is to be temporarily absent, he shall select an acting chief judge from among the circuit judges. If a chief judge dies, retires, fails to appoint an acting chief judge during an absence, or is unable to perform his duties, the Chief Justice of the Supreme Court shall appoint a circuit judge to act as chief judge during the absence or disability, or until a successor chief judge is elected to serve the unexpired term. When the office of chief judge is temporarily vacant pending action within the scope of this paragraph, the duties of court administration shall be performed by the circuit judge having the longest continuous service as a judge or by another circuit judge designated by him.

These rule amendments shall become effective at 12:01  
a.m., February 1, 1987.

It is so ordered.

McDONALD, C.J., ADKINS and SHAW, JJ., concur  
BARKETT, J., concurs specially with opinion  
OVERTON, J., concurs in part and dissents in part with opinion  
with which BOYD, J., concurs  
EHRlich, J., dissents

BARKETT, J., concurring specially.

Although I believe in principle that two years may be too short a time to effectively implement an administrative program in a circuit or district, I think it better to wait until the effects of the policy established today--that chief judges should possess managerial, administrative, and leadership abilities--can be measured before imposing the requirement of a longer term.

At the present time there is absolutely nothing to preclude a chief judge from serving a second term. Accordingly, there is nothing to prevent effective chief judges from continuing to implement their administrative policy and to fully utilize their management abilities during a second term. Despite the provision that chief judges may be removed, my view of human nature persuades me that it will be much easier to reelect a good chief judge for a second two-year term than to remove an inadequate one in mid-term.

OVERTON, J., concurring in part, dissenting in part.

I concur with the amendments approved by the Court; however, I would also, in accordance with the Judicial Council's recommendation, extend the tenure for chief judges to four years. The Judicial Council, which included seven former or serving chief judges, strongly believed that a two-year term was inadequate for chief judges to utilize fully their management abilities. In the Council's view, the extended term would substantially aid in efficient operation of Florida's courts. No well managed enterprise changes its chief executive officer every two years.

Original Jurisdiction - Amendment to Rules of Judicial Administration