

THE FLORIDA BAR
CRIMINAL LAW SECTION
EXECUTIVE COUNCIL MEETING
MIAMI, FLORIDA
January 19, 2007

1. CALL TO ORDER

Chair Les Hess called the meeting to order at 10:10 AM

2. ROLL CALL

Members present: Les Hess, Ann Finnell, Stan Blake, Dedee Costello, Scott Fingerhut, Ivey Ginsberg, Jeff Harris, Susan Hugentugler, Abe Laeser, Calianne Lantz, Joseph Lewis, Sheyrl Lowenthal, Clare Luten, Martin McDonnell, Donnie Murrell, Lisa Porter, Harvey Sepler, Carolyn Snurkoski, Ken Swartz, George Tragos, Bill Vose.

Members Absent: Doug Duncan(trial), Jody Breece (trial) , Tony Musto, Phyllis Kotey(excused), Robert Dillinger, Michael Weatherby(excused), Theresa Flury , Lisa Walsh

3. MINUTES OF THE LAST MEETING

The minutes of the last meeting were approved.

4. BOARD OF GOVERNOR'S LIASON

BOG liason David Rothman made brief remarks reminding the council that Hank Coxe is president of the Bar and a criminal defense lawyer. This is a good year for our section to bring criminal law issues to the BOG.

5. TREASURER'S REPORT

Treasurer Snurkowski was in another meeting. In her absence the Chair gave an abbreviated report indicating that the written report attached to the agenda was current as of October, 2006. However, the total cash on hand needs to be reduced to reflect the \$40,000 contribution that was approved for the UF Endowment to fund P/PD.

6. REPORT OF THE CHAIR

Since the last meeting the Chair sent out three letters on behalf of the section. One letter went to Fla. Bar President Coxe announcing the section's opposition to proposed rule 3-5.4 giving judges the authority to summarily punish lawyers for misconduct. That proposed rule change was defeated. Another letter went to Ms. Elizabeth Tarbert and addressed the Council's position on proposed rule 4-3.8(e) regarding a prosecutor's ability to subpoena defense attorneys. The letter recommended the proposed rule not be resubmitted to the Supreme Court. Lastly the Chair sent a letter to the Criminal Law Certification Committee voicing concerns regarding proposed certification changes. That letter met with positive

response from Criminal Law Certification Committee and Richard Hersch, from that committee, attended the meeting later to speak.

6. P/PD FUNDING REPORT

Donnie Murrell gave a report on behalf of the P/PD funding committee. The written report was attached to the agenda. In essence the report emphasized that the Section has not been diligent in honoring its obligation to fund the Endowment created at the University of Florida to provide a secure income stream for P/PD. The committee suggested several steps to correct the problem and Murrell offered a series of motions to address perceived problems.

Murrell moved that the Section add a line item to its annual budget, in an amount to be determined by the Council, to reflect an annual contribution to the Endowment and the Treasurer be charged with the duty of transferring that amount of money to the Endowment at the end of each Section fiscal year. That motion passed without dissent.

Murrell next moved that the Chair appoint a P/PD Fund raising committee of up to five people to solicit funding for P/PD. That motion failed for lack of a second. However, after further discussion, Chair Hess appointed a committee consisting of Murrell, Ann Finnel, and Lisa Porter to take charge of fund raising for P/PD.

Murrell also moved that the Council require the P/PD Chair to provide the Executive Council with a proposed budget by the June meeting prior to each annual P/PD session. After discussion, motion carried unanimously.

Connie Stewart offered a history of P/PD and the efforts made by Gerald Bennett. She said that Jennifer Zedalis has picked up where Jerry left off. Jennifer committed to producing a list of past P/PD attendees to help raise awareness of the program.

7. CRIMINAL LAW CERTIFICATION

Richard Hersch from the Board of Legal Specialization attended and gave a report highlighting changes the BLS adopted in response to our concerns highlighted in Chair Hess's letter of 9/19/06. After hearing from Mr. Hersch the Council voted unanimously to approve the proposed changes to certification.

8. SELIG GOLDIN AWARD

Scott Fingerhut presented the nominees for this year's Selig Goldin Award. The nominees were: Bernie McCabe, Kathy Fernandez Rundle, Ted Klein, Kathleen Williams, Bill Eaton, Ray Marky, Robert Scola and Albert Kreiger.

After an initial round of balloting, speeches were made on behalf of the finalists. This year's Selig Goldin award will go to Albert Krieger, a distinguished and remarkable defense attorney from Miami.

9. JAC FUNDING

Judge Stan Blake made a statement stressing the need for funding for indigent defense cases. Abe Laeser added a description of the havoc wreaked at the trial level on his ability to prosecute cases by the lack of funding. Jeff Harris outlined the crises in funding defense lawyers for indigent conflict cases. Jeff pointed out the system has been underfunded from the beginning.

Judge Blake moved that the BOG 1) urge the immediate release of money for resolution of existing cases and 2) urge adequate funding for criminal justice in the future. The motion passed without dissent.

10. COMMUNICATIONS

Ivey Ginsberg produced the thirtieth anniversary newsletter and encouraged anyone who might want to write an article to contribute in the future. Ann Finnell gave an update on the status of our web site.

11. EDUCATION

Sheryl Rosenthal and Ken Swartz reported on the recent CLE programs presented by the Section. The Advanced Federal Practice Seminar was well attended and got good reviews from the attendees. It is expected that the program will make money. The DUI seminar was presented on the same day as our meeting and turnout was much higher than expected. Over sixty people walked into the seminar without advance notice. Connie Stewart was doing all she could to accommodate the crowd. An Advanced Evidence Seminar is planned for April in Tampa and Ben Kuehne is working on putting together a Post-Conviction Seminar in the future.

12. LEGISLATIVE COMMITTEE

Marty McConnell reported that the big issue in the legislature is going to be JAC funding and related issues. Nothing substantive has been filed as of yet that needed section attention.

13. P/PD

Claire Luten reported that P/PD is scheduled for the week of August 3-10, 2007.

14. CRIMINAL RULES COMMITTEE

Bill Vose chairs the criminal rules committee. He reported that the committee has a lot of issues going on, but the biggest one is probably the rule change on closing arguments.

15. CRIMINAL APPELLATE RULES COMMITTEE

Calianne Lantz reported on proposed rule changes to rule 3.851(i) and death volunteers.

16. ABA DEATH PENALTY REPORT

Chair placed the executive summary of the ABA Death Penalty on the agenda. The Chair was not seeking any action on the item it was simply an item of

information. Some discussion was had as to short-comings and bias of the report. General discussion was had as to what, if any, action should be taken in response to issues raised in the report. The matter ended with Chair calling for volunteers to serve on a Capital Committee.

There being no further business before the committee, the meeting was adjourned at 12:20 p.m.

Donnie Murrell
Secretary