

Minutes
Supreme Court Advisory Committee on Rules of Civil Procedure
Alan L. Sullivan Presiding

November 15, 1995

Member Present

Judge Ronald Boyce
Glenn Hanni
Karlynn Hinmann
Tom Karrenberg
Terry Kogan
Perrin Love
Virginia Smith
James Soper
Judge Anne Stirba
Alan Sullivan
John Young

Staff Present

Ron Gibson
Timothy M. Shea

Guests

James Beadles
Christine Soltis
Lisa Watts-Baskin
David Yocom

Mr. Sullivan advised the committee that the purpose of this special meeting is to discuss rule amendments that are part of a package with legislation proposed by the Attorney General. The Supreme Court has requested the committee give the AG's request top priority. The legislation and rules govern the substance and procedure, respectively, of petitions for post-conviction relief.

Ms. Soltis reviewed the purpose and provisions of the proposed legislation. The legislation is intended to govern only petitions that challenge a conviction or sentence. The legislation does not govern abuse of discretion, terms of confinement, or traditional habeas petitions.

The committee discussed the separation of procedure and substance. The committee discussed possible objections to the legislation on state constitutional grounds. The committee discussed the proposed grounds for relief.

Rule 65B(a). Mr. Sullivan noted that there needs to be an amendment to Rule 65B(a) to conform that paragraph to the proposed new 65C, the repeal of 65B(b), and the renumbered subsections of 65B.

Rule 65B(e). The AG no longer wants further amendments to 65B(e) other than expressly to make it applicable to review of the Board of Pardons and Parole. The committee adopted the amendment proposed by Mr. Beadles.

Rule 65C. The committee proposed further amendment of Rule 65C noted accurately and precisely by the recorder on a copy of the proposed rule and not in these minutes.

Mr. Shea will prepare a redraft of the proposed 65C that incorporates the changes agreed to by the committee. At the next committee meeting, we will invite practitioners in this area to review proposed Rule 65C.

The next meeting of the committee is December 6.