

Twentieth Judicial Circuit Certified Civil Process Server Review Board

MINUTES OF MEETING  
April 21, 2008  
9:00 a.m.  
2072 Victoria Ave., Ft. Myers, FL 33901

In attendance:

Board Members: Lt. Kent Caldwell, Chair  
Ernie Averill, Vice-Chair  
Robert Tardif, Board Member  
Lynnette Young, Board Member  
Others: Suzanne Ederr, representative of the Chief Judge and Court Admin  
Anne Beddow, process server  
Chad Cook, process server  
Laura Cook, process server

Board Members absent: Jennifer Scott, Board Member

1. Quorum present.
2. Lt. Caldwell welcomed Lynnette Young as a new Board Member and announced that future meetings will be scheduled on Mondays, which seems to be most convenient for all Board Members.
3. Minutes of March 25, 2008 meeting were reviewed. A motion was made to accept minutes and motion was seconded. A vote was taken and the motion passed unanimously.
4. Mr. Averill advised that he is still reviewing the materials for the proposed process server training course provided by Mr. Lambley of the Collier County School Board, and will then pass the materials along to other Board Members. Lt. Caldwell advised that St. Pete College still has not provided a schedule for the refresher course.
5. Chad Cook and Laura Cook appeared to address the Board's previous finding of probable cause with regard to the complaint filed by Court Investigations. Lt. Caldwell explained the nature of the complaint. Laura Cook advised that she has re-printed the returns, signed them, and filed them with the Clerk. Ms. Cook stated that the original returns were sent back to Court Investigations in December via UPS Ground service, but for unknown reasons, Court Investigations never received them. Mr. Averill explained that the Board did not want to get involved in arbitrating disputes between process servers and their clients, but, in the case, the Board was concerned because of its own inability to contact either of the Cooks after numerous attempts. If the Cooks had responded, this matter would probably not have gone this far. Laura Cook provided updated contact information. Chad Cook confirmed that his currently listed contact information is correct. A motion was made to recommend that no further action be taken unless Court Investigations later contacts the Board, the motion was seconded and passed unanimously. Lt. Caldwell will send a letter to the Chief Judge advising of the Board's recommendation and a copy of that letter will be provided to Court Investigations.

6. Lt. Caldwell reported that, on March 28<sup>th</sup>, an anonymous call had been made to Crime Stoppers complaining about South Florida Legal Services and alleging fraud. The complainant alleged that process servers were forging names and asserted that the “lawyer’s office” needed to be investigated. Brief discussion was held and it was noted that the previous disciplinary proceedings involving Brian Johns and Janet Lowdermilk involved South Florida Legal Services, and the issue as to process servers ensuring that they sign their own return of service has already been addressed. In light of the anonymous nature of the call, no further action was taken.

7. Lt. Caldwell advised the Board of a situation involving certified process server Lawrence Mudd and reported that Mr. Mudd came into the Sheriff’s office and created a disturbance. Lt. Caldwell reported that Mr. Mudd was trying to serve process with less than 5 days notice and, when advised of this, became argumentative and was escorted from the building. Lt. Caldwell stated that he could have arrested Mr. Mudd for disorderly conduct, but did not. Lt. Caldwell submitted to the Chief Judge a letter and the letters of five witnesses describing the incident. The Chief Judge subsequently revoked Mr. Mudd’s certification. Board Member Mr. Tardif expressed concern with regard to the Chief Judge revoking Mr. Mudd’s certification without first allowing the Board to proceed with the normal disciplinary procedures. Mr. Averill joined in Mr. Tardif’s concern. Ms. Ederr, on behalf of the Chief Judge, explained that the Chief Judge was seriously alarmed by the complaint. The concern was that if Mr. Mudd had displayed the described behavior in the presence of law enforcement officers, there was a serious question as to how Mr. Mudd would behave when confronted with serving process on ordinary members of the public who might not be happy with being served. Ms. Ederr further advised that the list of Certified Civil Process Servers is the Chief Judge’s list, and it is ultimately his discretion as to who to include on his list as long as the decision is not based on discriminatory or improper reasons, and that the Administrative Order does provide that Certified Civil Process Servers serve at the pleasure of the Chief Judge. However, the Administrative Order may not be explicit enough and consideration will be made as to whether it should be amended to make it clear that the Chief Judge has ultimate discretion. Ms. Ederr further explained that this was a highly unique situation in which the behavior occurred in the presence of a law enforcement officer who also happened to be the Chairman of the Certified Civil Process Board, and that under normal circumstances the Chief would always prefer to refer the matter to the Board for review. In any event, Mr. Mudd did respond in writing to the Chief Judge and, in light of that response, the Chief Judge did refer the matter back to the Board for review and converted the revocation into a temporary revocation pending Board review and a recommendation from the Board. Mr. Tardif still expressed concern and Ms. Ederr agreed to pass this concern along to the Chief Judge. Mr. Tardif further pointed out that the way the Administrative Order is currently worded, it is difficult to fit the situation involving Mr. Mudd into any of the categories of prohibited conduct. A motion was made to make a finding of probable cause under Administrative Order 1.11, section 12(f), which allows for suspension or revocation for any other cause at the discretion of the Chief Judge. The motion was seconded. Since Lt. Caldwell is a witness, he will abstain from voting on this matter and the Vice-Chair will sign any letters. With Lt. Caldwell abstaining, a vote was taken and the motion passed with three votes. A letter will be sent advising Mr. Mudd of the finding of probable cause and notifying him of his right to respond in writing.

8. Mr. Tardif made a motion to recommend that Administrative Order 1.11 be amended to add into section 11 a provision making it a violation to engage in any other conduct whether connected to performing your duties as a process server or not reflecting negatively on the 20<sup>th</sup>

Circuit or Chief Judge and a provision making it a violation to breach any terms of the process server agreement. The motion was seconded and passed unanimously.

9. Mr. Averill advised that issues have been raised by several process servers regarding addresses posted on the website. Some of the process servers listed their home addresses on the application without realizing that those addresses would be posted on the website. It was discussed that any process server may submit a change of address to reflect a business address and the list on the website will be updated to reflect that business address. It was further discussed that the application be amended to make it clear that business addresses will be posted.

10. Next meeting is tentatively scheduled for Monday, May 19, 2008.

11. Meeting Adjourned at 10:24 a.m.