Legal Opinion (S) (55-023)

Subject: Clarification of Supreme Court Rules of Procedure

Date: March 14th, 2015

Special Funding Chairmen Corey Ulloa requested a legal opinion on March 11th, 2015. Special Funding Chairmen Ulloa asked when using the term within, in reference to time frame, in statutes, does this mean prior to or in the time frame (in regards to Supreme Court Rules of Procedure)?

Supreme Court Rule of Procedure 3.1.3, Appendix D, states the following:

3.1.3. Parties must notify the Chief Justice within forty-eight hours of the commencement of trial if they will be receiving representation.

Furthermore,

Supreme Court Rule of Procedure 5.8, Appendix C, states the following:

5.8 The Supreme Court shall meet within forty-eight (48) hours after being recessed for the determination of the ruling of the case, unless a majority of the Supreme Court deems an immediate ruling appropriate.

Furthermore,

Supreme Court Rule of Procedure 1.10.4, Appendix C, states the following:

1.10.4 Should a new trial be denied, the individual who filed the request should be notified and given written reasons for the denial within five (5) business days of decision.

Furthermore,

The definition of “within” from Merriam-Webster dictionary is as follows:
- inside something and
- in someone's inner thoughts, feelings, etc.

Therefore, it is the opinion of the Attorney General that in regards to Rule of Procedure 3.1.3, Appendix D, could be reasonably interpreted to mean to be inside the 48 hours prior to the start of a trial. It also could reasonably be interpreted as 48 hours prior to the start of a trial because as you read the Rule as a whole, one could come to the reasonable conclusion that the Court is mandating the timeline is inside the issuing of the Writ of Certiorari and the 48 hours prior to trial.
In Chairmen Ulloa’s legal opinion request he cited other Supreme Court Rules of Procedure within different Appendix’s, however in the case of ERC v. Sinan, in the pre-trial motion for continuance the Supreme Court rejected the motion because the rule cited to request continuance was in Appendix C, not Appendix D (as the case was an election trial). The Supreme Court of this term set the precedence that Appendix’s do not correlate with one another, and therefore it is the opinion of the Attorney General that Appendix’s with the Supreme Court Rules of Procedure should not be compared with one another.

In addition, with regards to the question by Chairmen Ulloa, since it could be reasonable to establish two different deadlines for informing the Chief Justice on whether or not a party will receive representation, it is the opinion of the Attorney General to follow the additional Supreme Court precedence from ERC v. Sinan that representation should be given to the Chief Justice 48 prior to the onset of a trial.

Alexander Johnson
Attorney General

CC:
Special Funding Chairmen Corey Ulloa
Student Body President Jean Cocco
Student Body Vice President Rhondel Whyte
Senate President Abdool Aziz
Senate President Pro-Tempore Kristen Truong
Acting Chief Justice Daniel Shapiro
Senior Justice Lindsay Betros
SGATO Director Gary Manka