

RESOLUTION 04-03-2013

DIGEST

Civil Procedure: Require Appellate Division to Issue a Statement of Reasons

Amends Code of Civil Procedure section 77 to require that appellate division opinions contain at least a minimal statement of reasons for the decision.

RESOLUTIONS COMMITTEE RECOMMENDATION

APPROVE IN PRINCIPLE

History:

No similar resolutions found.

Reasons:

This resolution amends Code of Civil Procedure section 77 to require that appellate division opinions contain at least a minimal statement of reasons for the decision. This resolution should be approved in principle because it fosters confidence in the appellate division process and will only require minimal effort by the court to comply.

Appellate divisions hear appeals from limited civil cases as well as infraction and misdemeanor criminal matters. Under current law, there are no requirements that appellate divisions set forth reasons for their decision. This has led to a practice in many appellate divisions of issuing one word opinions simply stating “affirmed” or “reversed.” This does not inspire confidence in these appeals because the litigants have no idea how or why the appellate division reached its decision. The lack of confidence is furthered by the fact that a significant number of the appellants in these cases are self-represented and decisions without explanation tends to make these litigants believe the court did not give them due consideration because of their self-represented status.

This resolution solves the problem by prohibiting opinions that simply state “affirmed” or “reversed” and by providing that appellate decisions must to set forth at least a minimal statement of reasons. This does not significantly add a burden to the appellate divisions because these types of appeals can often be disposed of with a statement of reasons of one to three sentences, e.g., “Judgment affirmed -- substantial evidence in the form of the officer’s testimony supports the conviction of a violation of Vehicle Code section 23123, subdivision (a), use of a cell phone without a hands-free device.”

Setting forth a simple summary of reasons will not add costs to the appellate division process. The current one word decision practice in many courts already necessitates printing and mailing of the decision. A basic summary of reasons will not change that existing cost since it can also be set forth in a single page. Nor will processing time or the amount of labor be meaningfully increased because the vast majority of statements of reasons in these cases can be created as preset word processing inserts.

Related to Resolution 04-01-2013.

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Association recommends that legislation be sponsored to amend Code of Civil Procedure section 77 to read as follows:

1 § 77

2 (a) In every county and city and county, there is an appellate division of the superior
3 court consisting of three judges or, when the Chief Justice finds it necessary, four judges.
4 The Chief Justice shall assign judges to the appellate division for specified terms pursuant to
5 rules, not inconsistent with statute, adopted by the Judicial Council to promote the independence
6 and quality of each appellate division. Each judge assigned to the appellate division of a superior
7 court shall be a judge of that court, a judge of the superior court of another county, or a judge
8 retired from the superior court or a court of higher jurisdiction in this state.

9 The Chief Justice shall designate one of the judges of each appellate division as the presiding
10 judge of the division.

11 (b) In each appellate division, no more than three judges shall participate in a hearing or
12 decision. The presiding judge of the division shall designate the three judges who shall
13 participate.

14 (c) In addition to their other duties, the judges designated as members of the appellate
15 division of the superior court shall serve for the period specified in the order of designation.
16 Whenever a judge is designated to serve in the appellate division of the superior court of a
17 county other than the county in which that judge was elected or appointed as a superior court
18 judge, or if the judge is retired, in a county other than the county in which the judge resides, the
19 judge shall receive expenses for travel, board, and lodging. If the judge is out of the judge's
20 county overnight or longer, by reason of the designation, that judge shall be paid a per diem
21 allowance in lieu of expenses for board and lodging in the same amounts as are payable for those
22 purposes to justices of the Supreme Court under the rules of the California Victim Compensation
23 and Government Claims Board. In addition, a retired judge shall receive for the time so served,
24 amounts equal to that which the judge would have received if the judge had been assigned to the
25 superior court of the county.

26 (d) The concurrence of two judges of the appellate division of the superior court shall be
27 necessary to render the decision in every case in, and to transact any other business except
28 business that may be done at chambers by the presiding judge of, the division. Any judgment of
29 the Appellate Division in an appeal must contain a brief statement of the reasons for the
30 judgment. A judgment stating only "affirmed" or "reversed" is insufficient. The presiding judge
31 shall convene the appellate division when necessary. The presiding judge shall also supervise its
32 business and transact any business that may be done at chambers.

33 (e) The appellate division of the superior court has jurisdiction on appeal in all cases in
34 which an appeal may be taken to the superior court or the appellate division of the superior court
35 as provided by law, except where the appeal is a retrial in the superior court.

(Proposed new language underlined; language to be deleted stricken.)

PROPONENT: Monterey County Bar Association

STATEMENT OF REASONS

The Problem: Currently, Appellate Division decisions need only state “affirmed” or “reversed” with no other explanation necessary to render a ruling in the appeal. While these appeals don’t necessarily involve the most serious of cases, they do have a big implication for the particular parties involved, and often have great impact locally with the potential for further appellate review remote. The particular parties involved deserve more than just a cursory statement one way or the other and the local community at large demand greater legal clarity and direction to conduct its local affairs.

This Solution: As best explained in *In re Podesto* (1976) 15 Cal.3d 921, 937, a requirement of articulated reasons to support a given decision serves a number of interests. It will frequently be essential to any meaningful review of the decision. It acts as an inherent guard against the careless decision, insuring that the court analyzes the problem and recognizes the grounds for the decision. Perhaps most importantly, articulated reasons aid in preserving public confidence in the decision-making process by helping to persuade the parties and the public that decision-making is careful, reasoned and equitable.

LEGISLATIVE HISTORY

Not known

IMPACT STATEMENT

The proposed resolution does not affect any other law, statute or rule.

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