M.R. 3140

IN THE
SUPREME COURT
OF
THE STATE OF ILLINOIS

Filed June 29, 2012.

By way of an order entered April 26, 2012, the Court amended Supreme Court Rule 402, effective July 1, 2012. Justice Burke, joined by Justice Freeman, concurs in part and dissents in part from entry of that order, as follows.

JUSTICE BURKE, concurring in part and dissenting in part:

The court's amendments to Supreme Court Rule 402, effective July 1, 2012, formally authorize a judge to participate in plea discussions upon the request of a defendant and following proper admonishments. While I am in agreement with this change as a general matter, I am concerned that the amendments do not include an explicit allowance for a defendant's participation in the plea conference.

The Rule 402 conference is intended to be an open negotiating process, where all relevant information regarding the defendant will be discussed. The majority of these conferences, however, will involve a public defender, who simply cannot possess the level of personal information known to the individual defendant. The defendant will always have relevant information to bring to the conference and should be able to do so.

The admonishments contained in the amendments should include a statement that the defendant has the right to be present and to speak during the plea conference. Because this provision is not included in the amendments, I respectfully dissent.

JUSTICE FREEMAN joins in this partial concurrence and partial dissent.