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## **Advisory Opinion to the Attorney General: Limiting Cruel & Inhumane Confinement of Pigs**

MR. CHIEF JUSTICE: GOOD MORNING AND WELCOME TO THE SUPREME COURT ORAL ARGUMENT CALENDAR FOR THIS MONDAY, NOVEMBER 5. THE FIRST CASE IS THE ADVISORY OPINION TO THE ATTORNEY GENERAL, LIMITING CRUEL AND INHUMANE CONFINEMENT OF PIGS DURING PREGNANCY.

YES, YOUR HONOR, THIS IS HERE FOR AN ATTORNEY GENERAL'S ADVISORY OPINION. THERE IS NO OPPOSITION TO THE AMENDMENT, AND MR. STEPHEN GRIMES WILL ARGUE FOR THE SPONSOR OF THE AMENDMENT. THANK YOU. MR. CHIEF JUSTICE: MR. GRIMES.

MAY IT PLEASE THE COURT. MY NAME IS STEPHEN GRIMES. MY CO-COUNSEL IS DAVID WOLFSON. I REPRESENT FLORIDIANS FOR HUMANE FARMS, SUPPORTED BY THE NATIONAL HUMANE SOCIETY. THE SPONSOR OF A PROPOSED CONSTITUTIONAL AMENDMENT, WHICH WOULD LIMIT THE CRUEL AND UNUSUAL TREATMENT OF PIGS DURING PREGNANCY. SOME PEOPLE HAVE SUGGESTED TO ME WELL, SHOULDN'T THIS BE A STATUTE INSTEAD OF A CONSTITUTIONAL AMENDMENT? WELL, AS A MATTER OF FACT, LEGISLATION WAS INTRODUCED IN THE LEGISLATURE TO MAKE THIS A STATUTE, AND IT DIDN'T PASS, AND SO THIS IS A PERFECT EXAMPLE OF WHY WE HAVE A CONSTITUTIONAL INITIATIVE, SO THE PEOPLE CAN DETERMINE WHETHER THEY WANT A PARTICULAR AMENDMENT, WHEN THE LEGISLATURE WILL CHOOSE NOT TO ADOPT IT. FURTHERMORE, THIS IS REALLY NOTHING NEW. THE EUROPEAN UNION HAS ALREADY TOTALLY BANNED THE USE OF TETHER TETHERS BY 2006 AND RESTRICTED THE USE OF GESTATION CRATES SEVERAL YEARS LATER.

YOU ARE REALLY GOING TO, SORT OF, THE MERITS, ARE YOU NOT?

YES. I DIDN'T WANT YOU TO THINK THIS IS SOMETHING THAT WAS OFF THE WALL.

YOU ARE IN A VERY DIFFICULT POSITION THIS MORNING, BECAUSE YOU HAVE NO OPPOSITION, AND GIVEN THAT YOU HAVE NO OPPOSITION, WOULD YOU JUST BRIEFLY RUN THROUGH THE TWO REQUIREMENTS THAT WE HAVE TO EXAMINE HERE, AND DEMONSTRATE FOR US HOW THIS PARTICULAR PROPOSED AMENDMENT MEETS THOSE TWO REQUIREMENTS.

OF COURSE THE FIRST REQUIREMENT. THANK YOU. THE FIRST REQUIREMENT IS THAT THE AMENDMENT MUST ONLY REPRESENT A SINGLE SUBJECT AND THE MATTERS DIRECTED -- DIRECTLY CONNECTED THERE WITH. I SUBMIT THAT THAT IS EXACTLY WHAT THIS AMENDMENT WOULD DO. IT IS DIRECTED TO ONLY ONE THING TO PROHIBIT THE LIMITING THE MOVEMENT OF PIG IT IS DURING PREGNANCY -- OF PIGS DURING PREGNANCY, TO THE EX-IT TENT SO THAT THE -- TO THE EXTENT SO THAT THE PIGS CAN MOVE AROUND, WHICH IS CRUEL AND UNUSUAL TREATMENT. THE ATTORNEY GENERAL HAS ACKNOWLEDGED THAT THIS IS A SINGLE SUBJECT, AND AS THE MATTER IS DIRECTLY CONNECTED THERE WITH, THE ONLY COMMENT THAT THE ATTORNEY GENERAL MADE WAS, HE SAID, WELL, WONDERED ABOUT THE FACT THAT THERE IS A REFERENCE TO SECTION 775.0824-A, QUOTE, AS AMENDED. THE REASON FOR THAT IS THE AMENDMENT PROVIDES THAT ANY PERSON WHO VIOLATES THE AMENDMENT IS GUILTY OF A FIRST-DEGREE MISDEMEANOR, AND THAT STATUTE THAT IS REFERRED TO IS A STATUTE WHICH SETS FORTH THE PENALTIES FOR THE MISDEMEANOR, SO IF THE LEGISLATURE CHANGED THE PENALTIES FOR MISDEMEANORS OF THE FIRST-DEGREE, MISDEMEANORS, OF COURSE, THE PENALTY FOR THIS WOULD BE CHANGED, TOO, AND THAT IS THE REASON WHY THE WORD "AS AMENDED" IS IN THERE.

IS THIS A SELF-EXECUTING PROVISION?

YES, IT IS.

IS THAT MADE CLEAR IN THE SUMMARY, THAT THERE IS NOTHING FURTHER?

IT DOESN'T SAY. MOST SUMMARIES THAT I AM AWARE OF SAY, REQUIRES LEGISLATIVE IMPLEMENTATION OR SOMETHING ALONG THAT LINE. IT DOESN'T SAY THAT IT REQUIRES ANY IMPLEMENTATION, AND THEREFORE I WOULD, I THINK, THE AVERAGE VOTER WOULD ASSUME THAT THAT IS EXACTLY, IT DOES WHAT IT SAYS. THERE IS NOTHING FOR THE LEGISLATURE TO IMPLEMENT. IT GIVES THE DETAILS IN THE AMENDMENT, DIRECTED TO THE SINGLE SUBJECT. AS FOR THE BALLOT, TITLE AND SUMMARY, THE ATTORNEY GENERAL SAYS, AND I QUOTE, THE PURPOSE OF THIS INITIATIVE IS TO PROHIBIT THE CONFINEMENT OR TETHERING OF PREGNANT PIGS. THE BALLOT, TITLE AND SUMMARY, APPEAR TO EXPRESS THIS CHIEF PURPOSE. END OF QUOTE. OF COURSE THIS IS NECESSARY --

THE ATTORNEY GENERAL SEEMS TO HAVE SOME PROBLEM WITH THE WORD "FARM".

HE REALLY, AS I UNDERSTAND WHAT HE IS TALKING ABOUT, HE SEEMS TO WONDER WHETHER IT APPLIES TO A SINGLE PIG OR A PIT PIG, AND, OF COURSE, THE AMENDMENT SAYS, AND THE BALLOT SUMMARY SAYS A PIG, AND SO IT CLEARLY WOULD APPLY TO A SINGLE PIG, AS LONG AS IT IS ON A FARM. A FARM IS DEFINED IN THE STATUTE IN THE AMENDMENT, ITSELF, AND, OF COURSE, OBVIOUSLY, THIS IS NOT UNUSUAL. THE NET BAN HAD FIVE OR SIX DIFFERENT DEFINITIONS.

DOES IT HAVE TO BE RAISING THAT SINGLE PIG TO SLAUGHTER OR FOR FIBER OR TO TAKE TO MARKET? IF IT IS A PET PIG, WOULD THERE BE ANY DIFFERENCE?

NO. IF IT IS ON A FARM, IT WOULD BE APPLICABLE.

BUT IF I AM RAISING HIM IN MY HOME AND I AM RAISING HIM TO SELL, WOULD THAT BE, MEET THE DEFINITION OF TO SELL FOR SLAUGHTER?

ONLY ON A FARM. IT WOULD HAVE TO BE ON A FARM.

WHAT IS A DEFINITION OF A FARM REALLY?

WELL, A FARM, YOU KNOW, AS THE ATTORNEY GENERAL SAID, THE, I THINK MOST PEOPLE KNOW WHAT A FARM IS, BUT THE FARM IS DEFINED IN THE AMENDMENT, ITSELF.

A FARM MEANS THE LAND, BUILDINGS, SUPPORT FACILITIES AND OTHER PERIPHERY USED IN THE PRODUCTION OF ANIMAL FOR FOOD OR FIBER.

RIGHT. IF YOU HAD A PIG THERE, A SINGLE PIG, WHETHER IT WAS A PET PIG OR OTHERWISE, YOU COULDN'T TETHER IT SO IT COULDN'T MOVE AROUND. OF COURSE A PERSON WHO HAD A PET PIG WOULDN'T BE TETHERING THEM OR WOULDN'T BE PUTTING THEM INGESTTATION CRATES. THIS IS IN REFERENCE, OF COURSE, TO THE COMMERCIAL PRODUCTION, WHERE THEY HAVE THE SERIES OF ROWS OF GESTATION CRATES, BUT IF A PIG IS ON A FARM, IT WOULD BE APPLICABLE TO THAT PIG.

A YARD COULD NOT BE A FARM. IF A PIG IS BEING RAISED IN THE YARD, FOR SLAUGHTER, TO TAKE TO THE MARKET, IT WOULD NOT FIT IN THIS CATEGORY.

WELL, YOU WOULD HAVE TO LOOK AT THE INTERPRETATION, AS DEFINED, THE ONE THAT YOU JUST READ, OF COURSE. I GUESS THAT --

THAT DEFINITION.

LAND, BUILDINGS, SUPPORT FACILITIES OR OTHER PURPOSES USED FOR PRO -- OR APPURTENANTS USED FOR PRODUCTION OF FOOD OR FIBER. IT WOULD NOT.

WHAT ABOUT, THERE WAS SOME QUESTION RAISED ABOUT TRANSPORTING.

YES, THERE WAS. THE FACT IS THAT THE LIMITATION IS ONLY ON A FARM. AND TRANSPORTATION WOULD NOT BE ON A FARM. AND SO THAT REALLY WOULDN'T BE APPLICABLE. IT WOULD NOT LIMIT THE, PUTTING THE PIG IN A CRATE OR SOMETHING TO TAKE HIM TO MARKET OR SOMETHING LIKE THAT. IT -- PUTTING THE PIG IN A CRATE OR SOMETHING, TO TAKE HIM TO MARKET OR SOMETHING LIKE THAT. IT WOULD HAVE TO BE ON A FARM.

IS THIS THE EXACT WORDING --

I AM NOT CERTAIN. MY POINT WAS THIS IS WHY YOU HAVE THE CONSTITUTIONAL INITIATIVE, BECAUSE THE LEGISLATURE DIDN'T CHOOSE TO PASS THE STATUTE.

WHEN REFERRING THAT IF SOMEBODY IS TO VIOLATE THIS CONSTITUTIONAL PROVISION, IN PROSECUTING SOMEBODY ON THE PUNISHMENT, SOMEBODY WOULD JUST GO TO THE CONSTITUTION, AND THEN THEY WOULD HAVE TO LOOK AT 775.0824-A.

YES, MA'AM.

IT WAS SUBSEQUENTLY CHANGED TO AMEND THE PUNISHMENT, THE PUNISHMENT THAT WOULD BE FIXED AS OF 1999, IF THE PUNISHMENT CHANGED IN ANY WAY IN THAT STATUTE.

IT WOULD BE THE NEW PUNISHMENT AS REFLECTED BY THE LEGISLATURE, BECAUSE THAT IS WHY IT SAYS "AS AMENDED". IN OTHER WORDS, IF THE PENALTY FOR A FIRST-DEGREE MISDEMEANOR CHANGED LATER ON, THEN IT WOULD BE THAT PENALTY.

AND YOU THINK THAT IS CLEAR?

I THINK IT IS. IN ANY EVENT, IT DOESN'T GO TO THE SINGLE SUBJECT OR THE BALLOT TITLE, AS SUCH, BUT IT WOULD BE AN INTERPRETATION QUESTION THAT WOULD BE PRESENTED TO THE COURT, IF SOMEBODY CONTENDED THAT, FOR EXAMPLE, IF SOMEONE CONTENDED THAT THE PENALTY HAD BEEN RAISED AND IT IS NOT APPLICABLE TO ME, THEN THAT WOULD BE AN INTERPRETATION DOWN THE LINE.

WELL, THE SUMMARY DOESN'T PROVIDE THAT THERE ARE GOING TO BE CRIMINAL PENALTIES, DOES IT?

IT CERTAINLY WOULD IMPLY THAT BECAUSE YOU ARE PROHIBITED FROM DOING IT. OBVIOUSLY, LET'S SEE. IT DOESN'T USE THE TERM CRIMINAL PENALTIES. IT SAYS PENALTIES, AND WHAT OTHER TYPE OF PENALTIES WOULD BE THERE UNDER SUCH CIRCUMSTANCES. YOU VIOLATE SOMETHING, AND HOW ELSE ARE YOU PENALIZED, OTHER THAN BY A FIRST-DEGREE MISDEMEANOR.

YOU SAID THIS WAS IN THE LEGISLATURE AND REJECTED, OR AT LEAST IT DIDN'T GO ANYWHERE.

YES.

SO FAR AS YOU KNOW, IF THIS SHOULD PASS, FLORIDA WOULD BE THE FIRST STATE IN THE UNION TO HAVE A CONSTITUTIONAL PROVISION PROTECTING PREGNANT PIGS?

I KNOW THAT COLORADO HAS A CONSTITUTIONAL PROVISION DIRECTED TOWARD PROTECTING PIGS BUT IN A DIFFERENT MANNER. IT ISN'T TALKING ABOUT TETHERING. IT IS TALKING ABOUT ANOTHER PRACTICE. A NUMBER OF OTHER STATES HAVE PROPOSED STATUTES THAT ARE IN THE MILL. THERE IS REGULATIONS THAT ARE BEING PROPOSED AROUND THE COUNTRY. THE PRACTICE HAS BEEN CONDEMNED BEFORE THE CONGAND SUCH AS THAT, BUT COLORADO IS THE ONLY ONE I KNOW THAT HAS IT DIRECTLY RELATED IN THE CONSTITUTION, AS TO THE CRUEL TREATMENT OF PIGS. IF THERE ARE NO OTHER QUESTIONS, THEN, WE RESPECTFULLY REQUEST THAT THE COURT APPROVE THE AMENDMENT, SO THE PEOPLE CAN DECIDE WHETHER THEY WANT THIS TO BE PART OF THE CONSTITUTION. MR. CHIEF JUSTICE: THANK YOU, MR. GRIMES.