Amendments to Florida Rules of Judicial Administration

THE LAST CASE ON THE DOCKET THIS MORNING IS THE AMENDMENTS TO THE FLORIDA RULES OF JUDICIAL ADMINISTRATION. MR. WEBSTER.

GOOD MORNING.

GOOD MORNING. MAY IT PLEASE THE COURT. MY NAME IS PETER WEBSTER, AND I AM HERE THIS MORNING IN MY CAPACITY AS CHAIR OF THE FLORIDA BAR RULES OF JUDICIAL ADMINISTRATION COMMITTEE. IN RESPONSE TO THE COURT'S NOTICE SETTING OUR PROPOSED AMENDMENTS FOR ORAL ARGUMENT. THE PROPOSED AMENDMENTS ARE CONTAINED IN OUR REPORT. THEY ARE, I THINK, RELATIVELY STRAIGHTFORWARD, AND I WOULD HAVE THOUGHT, RELATIVELY NONCONTROVERSIAL. THE REASONS WHY THEY ARE BEING PROPOSED ARE CONTAINED IN MY REPORT, AND WHILE I WILL ANSWER ANY QUESTIONS THAT YOU MIGHT HAVE, WHAT I PROPOSE TO DO, IF YOU HAVE NO QUESTIONS, TO RESERVE MY REMAINING TIME TO RESPOND TO ANYONE WHO IS HERE TO SPEAK ON THE COMMENTS.

CHIEF JUSTICE: OKAY. ALL RIGHT.

I HAVE A QUESTION WITH REGARD TO JUDGE WEBSTER. THE, I GUESS IT IS 2.071-D. IT DEALS WITH THE REMOVING OF THE PARTY'S CONSENT WITH REGARD TO TESTIMONY, COMMUNICATION EQUIPMENT, THAT PARTICULAR CHANGE. I WAS WONDERING WHY IT WOULD NOT BE BEST TO LEAVE THIS KIND OF CONCEPT TO THE RULES OF THE PARTICULAR KINDS OF PROCEEDINGS, AND THAT WE NEEDED TO HAVE, ONCE WE REMOVE THE "WITHOUT THE PARTY'S CONSENT", AND NOT HAVE THEM ADDRESS THIS, AS OPPOSED TO JUST APPLICABLE ACROSS THE BOARD?

WELL, I PRESUME YOUR QUESTION IS REALLY AIMED AT THE QUESTION OF JUVENILE DELINQUENCY PROCEEDINGS.

THAT AND ANY OTHERS.

WHICH WAS THE ISSUE THAT WAS RAISED IN ONE OF THE COMMENTS. FIRST OF ALL, THIS PROVISION HAS ALWAYS BEEN APPLICABLE TO ALL TYPES OF PROCEEDINGS, EXCEPT FOR THE FACT THAT, AS IT NOW READS, IT REQUIRES THE CONSENT OF ALL PARTIES.

RIGHT AND THAT IS WHAT IS BEING REMOVED.

IT IS BEING REMOVED, AND IT IS BEING REMOVED BECAUSE IT WAS THE CONSENSUS OF THE COMMITTEE THAT JUDGES, IN THE EXERCISE OF THEIR SOUND DISCRETION OUGHT TO BE THE ONES MAKING THAT DECISION, ON A CASE-BY-CASE BASIS, SUBJECT, OF COURSE, TO IN CRIMINAL CASES AND IN JUVENILE DELINQUENCY AND SOME DEPENDENCY CASES, TO THE CONFRONTATION RIGHTS OF THE PARTIES. AS EXPLAINED IN THE RULE, WHICH SAYS THAT, IT IS SUBJECT TO THE PROVISIONS THAT FOLLOW. ONE OF WHICH, WHICH IS ALREADY IN THE PRESENT RULE, PROVIDES THAT THE RULE CAN'T BE USED, UNLESS IN THOSE TYPES OF CASES WHERE A CONFRONTATION RIGHT CONSTITUTIONAL DIMENSION APPLIES. THAT RIGHT IS EXPRESSLY WAIVED. THE THEORY BEHIND THIS WAS THAT WE NEED TO TRUST TRIAL JUDGES IN THE EXERCISE OF THEIR SOUND DISCRETION AS WE DO IN MANY, MANY TYPES OF CASES, TO DECIDE IN WHAT TYPES OF SITUATIONS IT IS MORE APPROPRIATE TO PERMIT TESTIMONY BY COMMUNICATIONS DEVICES. I CAN THINK OF SITUATIONS IN DEPENDENCY CASES, WHERE IT WOULD BE MORE APPROPRIATE TO

DO THAT IN MANY CASES. CLEARLY, IN FAMILY LAW CASES, IT ARISES ALL THE TIME, THE MOST COMMON EXAMPLE IN FAMILY LAW CASES IN LOST CHILD SUPPORT ENFORCEMENT, AND THE WAY THE RULE IS BEING USED NOW, AS JUDGE LINDERMAN POINTED OUT IN HIS LETTER TO THE COMMITTEE REQUESTING THE CHANGE, ON BEHALF OF THE FAMILY LAW RULES COMMITTEE, THE WAY THE RULE IS BEING USED NOW, IS AS A CLUB BY PARTIES IN, AGAIN, THE MOST OBVIOUS EXAMPLE, CHILD SUPPORT ENFORCEMENT CASES, WHO BELIEVE THAT, IF THEY CAN FORCE THE ONLY GEE TO -- THE OBLIGEE TO TRAVEL A GREAT DISTANCE IN ORDER TO RECOVER HIS OR HER CHILD SUPPORT, IN MANY CASES, THE OBLIGEE WILL NOT COME AND THE CASE WILL BE DISMISSED.

BUT ISN'T THAT JUST ONE REASON THAT SPEAKS TO THE PARTICULARITY OF THE NEED IN A PARTICULAR CIRCUMSTANCES, THAT IS BEST LEFT TO BEING HANDLED WHERE THOSE ABUSES ARE OCCURRING, AS OPPOSED TO JUST CREATING A BROAD GENERAL BACKGROUND? I DON'T KNOW, WAS YOUR COMMITTEE PROVIDED WITH THE ADDITIONAL FOLLOW-UP STUDIES FROM THE DELINQUENCY? I GUESS IT WAS THE COMMITTEE OF THE COURT THAT DID THE FOLLOW-UP ON THE USE OF AUDIO VISUAL?

I AM FAMILIAR WITH THE COURT'S PRIOR OPINION.

AND ALSO THE FOLLOW-UP AFTER THAT THOUGH. WERE YOU ALL PROVIDED WITH THE FOLLOW-UP STUDY FROM ALL THAT WAS SENT OUT?

I DON'T RECALL THAT THE COMMITTEE WAS PROVIDED WITH THAT MATERIAL. ONCE AGAIN, THE RUM ALREADY -- THE RULE ALREADY APPLIES IN DELINQUENCY PROCEEDINGS. THE ONLY CHANGE WOULD BE TO PERMIT SUBJECT, AGAIN, TO CONFRONTATION RIGHTS.

BUT IT APPLIES, BUT, AGAIN, BEFORE IT HAD WITH CONSENT OF THE PARTIES. IT IS A TOTAL CHANGE.

BUT IT WOULD STILL REQUIRE THE CONSENT OF A DEFENDANT IN A DELINQUENCY CASE, BECAUSE IT INVOLVES TESTIMONY, AND OF NECESSITY, IF IT INVOLVES TESTIMONY, THE DEFENDANT, THE JUVENILE WOULD HAVE TO WAIVE HIS OR HER CONFRONTATION RIGHTS EXPRESSLY, PURSUANT TO SUBDIVISION D-4.

AM I CORRECT THAT THIS PROPOSAL ONLY APPLIES TO MOTION HEARINGS THAT ARE SET FOR, AT MOST, 15 MINUTES?

NO. NO. NO. SUBDIVISION D IS INTENDED TO PERMIT COURTS, IN THE EXERCISE OF THEIR SOUND DISCRETION TO TAKE TESTIMONY BY MEANS OF COMMUNICATION EQUIPMENT, IN ANY TYPE OF SITUATION, WHERE TESTIMONY WOULD BE INVOLVED. SUBDIVISION C, WELL, ACTUALLY, THE WAY THE RULE READS NOW, THE TRIAL COURT IS OBLIGED TO PERMIT USE OF, TO PERMIT AN APPEARANCE BY USE OF COMMUNICATIONS EQUIPMENT, IN HEARINGS, MOTION HEARINGS THAT LAST 15 MINUTES OR LESS, BUT DO NOT INVOLVE TESTIMONY. THIS WOULD, THIS PROPOSED CHANGE WOULD ALLOW THE COURT TO PERMIT TESTIMONY TO BE OFFERED BY MEANS OF COMMUNICATIONS EQUIPMENT IN ANY SITUATION.

IS, I HAVE ON A DIFFERENT RULE THAT I DON'T KNOW THAT THERE IS ANY COMMENT GOING TO BE ON, IT IS FIRST, THE RULE 2.060-B, ABOUT FORMER STAFF ATTORNEYS, LAW CLERKS, AND IN TERMS OF MAKING THAT RULE THAT NOW WILL SAY THAT THEY CANNOT REPRESENT ANYONE IN CONNECTION WITH ANY MANNER IN WHICH, MATTER IN WHICH THE ATTORNEY PARTICIPATED PERSONALLY AND SUBSTANTIALLY, IT WOULD APPEAR THAT IT WAS THE INTENT TO CONFORM THIS TO THE FLORIDA BAR RULE 4-1.12-A. ARE YOU FAMILIAR WITH THE WORDING?

I AM FAMILIAR WITH THE RULE. THAT WASN'T THE INTENT NECESSARILY.

WELL, WAS THERE, THE QUESTION IS THAT THAT RULE CONTAINS, THAT THE EXCEPTION APPLIES ACCEPT WHERE ALL PARTIES TO THE PROCEEDING CONSENT AFTER DISCLOSURE, AND IN THIS COURT, OF COURSE, WE HAVE A LOT OF STAFF, ESPECIALLY IN CAPITAL CASES, AND THIS IS WHERE ONE OF THE COMMENTS CAME UP, DO YOU SEE ANY PROBLEM WITH THAT RULE, IN CONTAINING THAT ADDITIONAL LANGUAGE?

SURE I DO.

OKAY.

THE PROBLEM, THE COMMITTEE SEES WITH THAT ADDITIONAL LANGUAGE IS IT CREATES AN APPEARANCE OF I AM PRIPT -- AN APPEARANCE OF I AM PRIOR TO. JUST AS -- OF IMPROPRIETY, JUST AS A FORMER JUDGE ANDING AS AN ADVOCATE IN WHICH HE OR SHE HAD PARTICIPATED AS A JUDGE, IT STRUCK THE COMMITTEE THAT IT WOULD CREATE THE APPEARANCE OF IMPROPRIETY TO PERMIT THE APPEARANCE TO THOSE WHO HAVE THOUGHT PROCESS OF THE JUDGES FOR WHOM THEY HAVE WORKED, TO APPEAR ON BEHALF OF ONE PARTY OR THE OTHER.

THAT IS A VALID POINT, AND THE OTHER QUESTION, AS FAR AS WHAT THAT ATTORNEY CAN DO. RIGHT NOW IT SAYS ANY ATTORNEY DESIGNATED BY THE COURT MAY REPRESENT THE COURT OR ANY JUDGE IN THE JUDGE'S OFFICIAL CAPACITY IN ANY PROCEEDING. I THINK THERE WAS SOME COMMENTS BY THE SIXTH CIRCUIT, BY JUDGE DEMEARS, ABOUT WHETHER THAT SHOULD ALSO INCLUDE "OR ANY COURT EMPLOYEE IN THE COURT EMPLOYEE'S OFFICIAL CAPACITY." DID THE COMMITTEE CONSIDER THAT?

THE COMMITTEE DIDN'T CONSIDER IT, BECAUSE UNDER THE AMENDMENTS TO RULE 2.130 THAT THE COURT REQUESTED, AND THEN ADOPTED LAST YEAR, THE TIME DEADLINES WERE SUCH THAT IT WOULD HAVE BEEN PHYSIQUELY IMPOSSIBLE -- PHYSICALLY IMPOSSIBLE, BEGIN WHEN I RECEIVED THE COMMENT, TO HAVE TAKEN IT TO THE FULL COMMITTEE AND THEN STILL HAVE FILED THE REPORT BY THE DEADLINE ESTABLISHED. MY PERSONAL VIEWS ABOUT THAT PROPOSAL ARE THAT IT IS HIGHLY QUESTIONABLE WHETHER ATTORNEYS WHO ARE HIRED AS EMPLOYEES OF THE COURT, SHOULD THEN BE REPRESENTING OTHER EMPLOYEES BECAUSE, AGAIN, IT CREATES AN APPEARANCE OF IMPROPRIETY, AND ALSO THAT IT WOULD CREATE, I WOULD THINK, AT LEAST THE POTENTIAL FOR CONFLICTS OF INTEREST.

APPRECIATE. THAT THANKS.

WASN'T THAT WHAT GENERAL COUNSELS DO, IN CORPORATIONS AND IN DEPARTMENTS? THEY ARE EMPLOYEES OF THE DEPARTMENT BUT THEY ARE ALSO REPRESENTING EMPLOYEES OF THE DEPARTMENT OR THE DEPARTMENT, ITSELF?

I AGREE WITH THAT. I THINK THERE IS A SIGNIFICANT DISTINCTION BETWEEN LAWYERS WHO ARE EMPLOYEES OF COURTS AND LAWYERS WHO ARE EMPLOYEES OF CORPORATIONS.

I AM TALKING ABOUT, ALSO, STATE DEPARTMENTS OF THE STATE OF FLORIDA AND OTHER STATES.

WELL, YOU STILL HAVE, YOU STILL HAVE THE POTENTIAL, IT SEEMS TO ME, FOR CONFLICTS OF INTEREST ON A REGULAR BASIS. BUT THAT ASIDE, IT WAS HARD FOR ME PERSONALLY, TO COME UP WITH A SIGNIFICANT NUMBER OF SITUATIONS WHERE YOU WOULD APPROPRIATELY HAVE A COURT EMPLOYEE LAWYER REPRESENTING A COURT EMPLOYEE NONJUDGE. I JUST, I COULDN'T CONCEIVE WHAT THOSE SITUATIONS MIGHT BE.

I JUST SAY I GUESS IT COULD BE IF THE CLERK OR SOMEBODY HAD TO PRODUCE DOCUMENTS, PUBLIC RECORDS.

WELL, IN THE TRIAL COURTS, CLERKS ARE NOT EMPLOYEES OF THE COURT.

I AM SORRY. THE COURT ADMINISTRATORS HAVING TO PRODUCE SOMETHING HAVING TO DO WITH A PUBLIC RECORDS REQUEST. THAT IS SOMETHING THAT HAPPENS, I THINK, REGULARLY AT THIS COURT, WHERE OUR ATTORNEYS GET INVOLVED IN THAT, AND I AM NOT SURE THAT ANYONE HAS EVER THOUGHT THERE IS ACTUALLY A PROHIBITION IN THAT OCCURRING ANYWAY.

WELL, THE OTHER CONCERN I PERSONALLY HAVE WITH THE PROPOSAL IS THAT, GIVEN THE FINANCIAL CONSTRAINTS FACED BY THE COURT SYSTEM, IT SEEMS THAT THERE ARE FAR MORE IMPORTANT THINGS THAT LAWYER EMPLOYEES OF COURTS COULD AND SHOULD BE DOING WITH THEIR TIME, RATHER THAN REPRESENTING EMPLOYEES.

CHIEF JUSTICE: THANK YOU. GOOD MORNING.

GOOD MORNING. I AM LYNN TEPER, A CIRCUIT JUDGE IN THE SIXTH JUDICIAL CIRCUIT IN DADE CITY. I AM HERE ON BEHALF OF THE STEERING COMMITTEE FOR THE FAMILIES AND CHILDREN IN THE COURTS. I WANT TO ADDRESS RIGHT AWAY, OUR CONCERNS ON THE TIME STANDARDS, THE AMENDMENT TO RULE 2.085. WE ARE ASKING THE COURT TO CONSIDER A DIFFERENT EVENT, INASMUCH AS THE TIME STANDARDS DEAL WITH THE PRESUMPTIVELY REASONABLE TIME PERIOD TO COMPLETE A CASE N A DELINQUENCY, WHICH I AM START WITH, BY THE WAY AND WE CONCUR WITH THE SEPARATION OF JUVENILE PROCEEDINGS UNDER THE TIME STANDARDS, SO THAT THERE ARE DISTINCT TIME PERIODS UNDER DELINQUENCY AS OPPOSED TO DEPENDENCY, BUT AS TO DELINQUENCY, WE SUGGEST THAT IT IS NOT THE ADJUDICATORY HEARING THAT IS THE FINAL EVENT BUT MORE AKIN TO THE DISPOSITIONAL HEARING. THAT IS THE SENTENCING HEARING IN A DELINQUENCY CASE. GRANTED, YOU MAY HAVE OTHER HEARINGS SUCH AS JUDICIAL REVIEWS, EVEN IN A DELINQUENCY CASE, BUT IT IS AS CLOSE TO THE FINAL EVENT AS YOU CAN GET, AND THAT IS WHY WE SUGGEST THAT THE TIME PERIOD BE EXTENDED, BECAUSE WE ARE NOT DEALING WITH JUST UP TO ADJUDICATORY HEARING. WE ARE TALKING ABOUT ADDING ON TIME TO PERMIT A PREDISPOSITIONAL REPORT TO BE DONE, WHICH USUALLY TAKES TWO TO THREE WEEKS, AND THAT IS WHY WE SUGGEST THE ADDITIONAL 30 DAYS. THAT IS WHY WE ARE SUGGESTING THAT. IT IS ALSO CONSISTENT, BY DOING THIS, WITH THE BALANCED RESTORETIVE JUSTICE PERSPECTIVE, IN LOOKING AT IT FROM THE VICTIM'S PERSPECTIVE, LET US NOT FORGET THAT FOR THE VICTIM THE REALITY IS FOR THEM, IT IS THE CONSEQUENCE, FOR THEM IT IS THE RESTTITUTION AND FOR THEM IT IS THE RETRIBUTION, AND THAT FOR THEM IS DISPOSITION, AND SO KEEPING THAT IN MIND AND ALSO KEEPING IN MIND THE GUIDING PRINCIPLES IN THE MODEL COURT, UNIFIED FAMILY COURT DECISION FROM THIS COURT, ARE ATTEMPT TO INVOLVE AND CONSIDER THE IMPACT UPON THE FAMILIES, TO BRING THEM THROUGH THE SYSTEM PROMPTLY. WE DON'T WANT TO JUST CONCLUDE THE CASE WITH YOU ARE GUILTY. WE WANT IT CONCLUDED WITH THIS IS WHAT YOU MUST DO TO CONCLUDE YOUR INVOLVEMENT IN THE SYSTEM, BE IT PROBATION, COMMITMENT OR OTHERWISE. THAT IS WHY WE URGE THAT CHANGE IN THE EVENT AND THE TIMING.

WHAT IS THE NORMAL TIME BETWEEN THE, I MEAN, IS THERE ANY EITHER STATUTORY OR OTHER TIME STANDARDS BETWEEN THE ADJUDICATORY HEARING AND THE DISPOSITION HEARING?

THERE IS. FOR A CHILD THAT IS NOT DETAINED THERE, IS NO TIME LIMIT. IT COULD GO ON INDEFINITELY. FOR A CHILD THAT IS DETAINED AFTER ADJUDICATION, FLORIDA STATUTE 985 REQUIRES THAT IT BE WITHIN, THEY CANNOT BE DETAINED MORE THAN 15 DAYS, SO A JUDGE HAS A CHOICE. LET'S SAY YOU HAVE AN ADJUDICATORY HEARING, AND YOU DETAIN THE CHILD. THE CHILD EITHER V HAS TO HAVE THE DISPOSITIONAL HEARING IN 15 DAYS OR THE JUDGE SAYS, FINE, DETAIN 15 DAYS AND THEN LET'S SEE HOW THE CHILD DOES NOT NEXT TWO WEEKS AT HOME, NOW THAT WE HAVE HAD SOME ATTITUDE ADJUSTMENT. AND WE HAVE ALSO HAD TIME TO GET THE BACKGROUND REPORT, AND SO A COURT MIGHT ORDINARILY SET IT IN 21-TO-30 DAYS, THOUGH THERE IS NO REQUIREMENT FOR A CHILD WHO IS NOT DETAINED, THERE IS NO

TIME STANDARD, AND NO STATUTORY AUTHORITY BY WHICH ONE MUST RESOLVE THE CASE. JUST GOOD SENSE. TO ANSWER THAT QUESTION. AS TO A CHILD DETAINED, WE ARE, WE HAVE SUGGESTED IN THIS, IN OUR COMMITTEE, THAT IT IS IMPORTANT TO CHANGE THE TIME LINES THEREFORE, FROM RIGHT NOW IT SAYS A CHILD WHO IS DETAINED MUST HAVE AN ADJUDICATORY HEARING WITHIN 21 DAYS. LET ME EXPLAIN WHY WE ARE CHANGING IT FROM ADJUDICATORY TO DISPOSITION AND CHANGE IT FROM 21-TO-36 -- FROM 21 TO 36 DAYS. THERE MAY AND LAWFUL REASON TO DETAIN A CHILD 21 DAYS. WE MUST HAVE A HEARING IN 21 DAYS. THEY ARE DETAINED. WE HAVE ADJUDICATORY HEARING, BUT NOW THAT THEY HAVE BEEN ADJUDICATED, A DIFFERENT STATUTE THAT COMES INTO PLAY THAT LETS US DETAIN THEM FOR 15 MORE DAYS, AND SINCE WE ARE CHANGING THE EVENT WE PROPOSE, FROM ADJUDICATORY TO DISPOSITION, WE TAKE THAT 21, ADD THE 15 THAT WE ARE PRESENTLY ALLOWED, AND THAT IS HOW YOU GET THE 36 DAYS, SO THAT THAT PART IS CLEAR. THE OTHER AREA --.

WHAT, REALLY, ARE YOU CHANGING HERE? I AM NOT SURE I AM FOLLOWING WHY YOU WANT TO CHANGE IT TO A 36-DAYS, AS OPPOSED TO THE 21, BECAUSE WITH THE WAY IT IS PRESENTLY DONE, YOU CAN ADJUDICATE THEM AND THEN DETERMINE, AT LEAST WITHIN THAT 15-DAY PERIOD, WHAT KIND OF DISPOSITION YOU ARE GOING TO HAVE FOR THEM. SO IT SOUNDS LIKE YOU ARE SAYING THAT YOU HAVE GOT TO DO ALL OF THIS AT ONE TIME?

NO. WE ARE NOT REALLY CHANGING ANY OF THOSE TIME LINES, BUT BECAUSE WE WISH TO CHANGE THE EVENT THAT IS THAT THE EVENT IN THE TIME STANDARDS WOULD NO LONGER BE ADJUDICATORY HEARING FOR A DETAINED CHILD, THE EVENT WOULD BE DISPOSITION. IT IS THE SAME TIME PERIOD THAT ALREADY EXISTS, BUT IF WE ARE GOING TO USE THE WORD DISPOSITION AS THE FINAL EVENT, WE NEED TO REFLECT THE TRUE 36 DAYS.

SO THE ACTUAL --

CORRECT.

-- PLACEMENT OF THE CHILD IS WHAT YOU ARE TALKING B.

CORRECT. THEY EITHER MUST BE RELEASED. YOU HAVE TO ENTER DISPOSITION OR YOU HAVE TO RELEASE THEM. AS TO THE DEPENDENCY, THIS IS WHERE WE HAVE SOME AGREEMENT AND SOME DIFFERENCE WITH THE PROPOSED CHANGES. WE HAVE NO PROBLEM WITH THE 88 DAYS THAT IS PROPOSED, AND, OF COURSE, AS I INDICATED, WE AGREED THAT WE SHOULD DISTINGUISH BETWEEN DELINQUENCY AND DEPENDENCY, BUT WE ARE SUGGESTING THAT THE DISPOSITIONAL HEARING FOR A CHILD WHO IS NOT SHELTERED SHOULD BE SHORTER. THE PROPOSAL, WHICH IS GOOD IN SPIRIT, IS 180 DAYS, BUT WE ARE SUGGESTING 60 DAYS SHORTER. WE ARE SUGGESTING 120 DAYS. WE WANT TO BE IN KEEPING, OF COURSE, WITH THE FEDERAL ADOPTIONS AND SAFE FAMILIES ACT, AND IN KEEPING WITH FLORIDA STATUTE, WHICH NOW DRIVES DEPENDENCY COURTS ON A TIME LINE, GETS US TO MOVE ALONG, BECAUSE, OF COURSE THE GOAL IS PERMANENCY FOR A CHILD, AND, OF COURSE, THAT IS IN KEEPING WITH THE GUIDING PRINCIPLES OF THE MODEL FAMILY COURT, THE UNIFIED FAMILY COURT. WE ARE TRYING TO ACHIEVE PERMANENCY FOR THE CHILD. KEEP IN MIND THAT THAT MERE 60 DAYS CAN HAVE A SIGNIFICANT IMPACT. WE BELIEVE THAT, FOR A CHILD THAT IS NOT SHELTERED, LET US SAY THAT THE PARENTS ARE TRYING TO GET US OUT OF THEIR LIVES, HAVE DISPOSITION, HAVE THE CASE CONCLUDED, WHILE WE KNOW THAT DISPOSITION DOESN'T END THE COURT'S INVOLVEMENT, WE HAVE MANY OTHER MANDATORY JUDICIAL REVIEWS DOWN THE ROAD, THE SOONER WE MAKE IT PLAIN TO THIS FAMILY WHAT THEY MUST DO TO RESOLVE THE PROBLEMS IN THEIR FAMILY ON BEHALF OF THE CHILDREN, THE SOONER THEY ARE LIKELY TO ACHIEVE THEM, AND THEREFORE, BY SHORTENING IT THAT TWO MONTHS, WE HAVE A CHILD, LET'S SAY, THAT IS EIGHT MONTHS OLD, TWO MONTHS IS A QUARTER OF THAT CHILD'S LIFE. WE WANT, WE DON'T WANT TO HAVE ANY NEGATIVE IMPACT UPON BONDING OF A YOUNG CHILD. WE DON'T WANT TO HAVE A CHILD SEPARATED UNNECESSARY EARL, ESTRANGED FROM SIBLINGS -- UNNECESSARILY, ESTRANGED

FROM SIBLINGS AND ESTRANGED FROM FAMILY, AND THAT IS WHY WE URGE THE SHORTER TIME PERIOD ON THE DISPOSITION IN THE DEPENDENCY, AGAIN, SEEKING PERMANENCY. THERE ARE TWO OTHER MATTERS THAT ARE NOT ADDRESSED PRESENTLY, AND ARE NOT ADDRESSED BY THE PROPOSAL ON DEPENDENCY THAT ARE KEY, KEY IN KEEPING WITH THE ADOPTIONS IN THE SAFE FAMILIES ACT AND KEY IN KEEPING WITH THE GUIDING PRINCIPLES OF THE MODEL FAMILY COURT, AND THAT IS A TIME STANDARD FOR PERMANENCY HEARING AND A TIME STANDARD FOR TERMINATION OF PARENTAL RIGHTS. WE SUGGESTION, NO, WE ARE NOT SUGGESTING ANY PARTICULAR TIME LINE. WE ARE ASKING THAT YOU REFER THOSE MATTERS TO THE COMMITTEE ON THE JUDICIAL RULES OF ADMINISTRATION, TO CONSIDER CREATING A TIME STANDARD, SO THAT THE PERMANENCY HEARING IS DEALT WITH, WITH SOME GUIDANCE AND TERMINATION OF PARENTAL RIGHTS. RIGHT NOW, THERE ARE NO GUIDELINES FOR A TERMINATION OF PARENTAL RIGHTS. YES, WE MUST HAVE AN ADJUDICATORY HEARING BEFORE WE DETERMINE THAT A CHILD IS DEPENDENT WITHIN A GIVEN TIME PERIOD, BUT ONCE WE PROPOSE A PARENTAL RIGHTS PETITION BE FILED, THERE ARE NO TIME LINES, SO SHALL WE HEAR THE CASE IN 30 DAYS? SHALL WE HEAR IT IN SIX MONTHS, SHALL WE HEAR IT IN A YEAR, AND SADLY, THE TALES OF A CHILD NEVER BEING ADOPTED, NEVER HAVING THEIR PARENTAL RIGHTS TERMINATED AND THEY LINGER IN THE SYSTEM FOR TEN YEARS, IS NOT OLD NEWS. THEY STILL LINKER FOR YEARS, BEFORE THERE IS A FINAL DETERMINATION OF PARENTAL RIGHTS THAT, WE BELIEVE, SHOULD BE CHANGED.

THAT IS NOT COVERED BY THE FEDERAL ACT?

THERE IS NOTHING COVERED IN TERMINATION OF PARENTAL RIGHTS.

ONLY THE DEPENDENT --

ADJUDICATORY HEARING ON A FINDING OF ABUSE, AND AND DONMENT OR NEGLECT -- ABANDONMENT OR NEGLECT, THERE IS A HEARING. AFTER TERMINATION OF PARENTAL RIGHTS IS FINAL, YOU HAVE 30 DAYS TO FILE A PERMANENCY PLAN, CASE PLAN.

AGAIN, IT DOESN'T HAVE TO BE, IF THE GOAL OF THE FEDERAL ACT IS THAT, FOR ALL PERMANENCY TO OCCUR WITHIN A YEAR?

CORRECT.

WOULDN'T THAT, DOESN'T THAT MEAN THAT THE TERMINATION OF PARENTAL RIGHTS NEEDS TO BE, OCCUR WITHIN THAT PERIOD?

AND THAT IS WHY I WOULD SUGGESTION THAT OUR TEAM STANDARDS NEED TO BE ENLARGED TO INCLUDE ADDRESSING PERMANENCY HEARINGS, SO IT IS CONSISTENT WITH THE ADOPTIONS AND SAFE FAMILIES ACT, SO IT IS CONSISTENT WITH STATUTE.

I MEAN, IF REFERRING IT BACK TO THE RULES OF JUDICIAL ADMINISTRATION COMMITTEE, WE ARE TALK ABOUT ANOTHER COUPLE OF YEARS. DID THE COMMITTEE, DID, YOUR COMMITTEE CONSIDER WHAT WOULD BE AN APPROPRIATE TIME STANDARD?

WE DID NOT. WE HAD VERY SHORT TURN AROUND TIME, BUT I AM SURE THAT, IF YOU REFERRED IT TO US, WE, TOO, COULD GIVE YOU OUR RECOMMENDATION AND WOULD BE HAPPY TO DO SO.

TALKING ABOUT DAYS, HOW --

THERE ARE 32 MEMBERS INCLUDING YOU, ON THE COMMITTEE.

I AM SAYING HOW MANY DAYS, WE ARE NOT TALKING ABOUT THE TIME STANDARD WOULD BE SOMETHING LIKE YEARS. YOU ARE TALKING ABOUT SIX MONTHS, NINE MONTHS AFTER?

I SUSPECT THAT IS PROBABLY WHAT IT WOULD BE, IF YOU ASKED ME TO STEP ASIDE FROM MY ROLE AS A REPRESENTATIVE OF THE COMMITTEE, I WOULD SUGGEST THAT WE WOULD CERTAINLY WANT TO HAVE AN OUTSIDE TIME LIMIT OF 180 DAYS. AND I, ALSO, WANTED TO ADDRESS THE CONCURRENCE THAT THE QUESTIONS RAISED AS TO THE AUDIO COMMUNICATION EQUIPMENT, WITH REGARD TO RULE 2.571 WE CERTAINLY AGREE THAT IT IS IN -- 2.071, WE CERTAINLY AGREE THAT IT IS KEEPING IN THE MODEL OF THE COURT AND THE GUIDELINES, BUT I WANT TO POINT OUT THAT THE FAMILY RULE, IT IS UP TO THE JUDGE'S DISCRETION DESPITE THE PARTIES TO THE TESTIMONY, WE HAVE 15-MINUTE HEARINGS THAT, IS A BEGIN, ALTHOUGH I UNDERSTAND IT IS NOT PRACTICED AND FOLLOWED BY MANY JUDGES AROUND THE STATE AND THAT IS COSTLY TO THE LITIGANTS BURKES IT IS A SEPARATE COMMITTEE ON TESTIMONY. IN MANY FAMILY LAW CASES, THE PARTIES DON'T HAVE MUCH MONEY TO BEGIN WITH. I MEAN, YES, SOME OF THEM HAVE A LOT OF MONEY BUT SOMETIMES THE ISSUE IS, IS THIS CHILD BEING ABUSED OR NEGLECTED? HAS THE CHILD BEEN MOLESTED BY A PARENT OR A PARAMOUR OF THE PARENT WHO IS SEEKING CUSTODY OR UNSUPERVISIONED VISITATION, AND THE ONLY PERSON THAT CAN CORRECTLY ANSWER THAT QUESTION ANY MAY BE THE PEDIATRICIAN, MAY BE THE PSYCHOLOGIST, MAYBE THE CHILD'S COUNSEL OR, AND I HAVE CASES WHERE THE PEDOPHILE EVALUATIONS ARE PAID OUT-OF-STATE, $1500 FOR EVALUATION OUT-OF-STATE TO TRY TO PROVE WHAT THEY CLAIM IS A NONEXISTING FACT, AND THEN THEY NEED $250020 BRING THE PERSON TO COURT TO TESTIFY -- $2500, TO BRING THE PERSON TO COURT TO TESTIFY. THE PEDIATRICIAN, WHO HAS HAD TO CANCEL THEIR POINTS THAT MORNING TO COME TO COURT, AND THEREFORE THEY ARE GOING TO CHARGE $2,000 OR WHATEVER IT COSTS FOR THEIR TIME, AND THE REALITY IS IT IS BEING USED AS A SWORD AGAINST EITHER THE PARTY THAT HAS THE LEAST FINANCIAL RESOURCES OR KNOWING THAT NEITHER PARTY HAS ANY FINANCIAL RESOURCES LEFT TO USE IT TO PROHIBIT THE INTRODUCTION OF THAT TESTIMONY. HOW MUCH SIMPLY LETTER -- HOW MUCH SIMPLER, IF YOU COULD HAVE THAT PEDIATRICIAN AVAILABLE IN THEIR OFFICE, WE DO IT ALL THE TIME IN DEPENDENCY SHELTER HEARINGS. WE CALL UP THE PEDIATRICIAN THAT DID THE EVALUATION LAST NIGHT, AND THEY GIVE US THE INFORMATION, IF THERE IS QUESTIONS, AND LET THEM APPEAR BY PHONE, QUESTION THEM BY PHONE.

YOU ARE SAYING, YOU SAY YOU DO IT ALL THE TIME, SO ISN'T IT ALREADY AUTHORIZED?

THAT IS IN DEPENDENCY, BECAUSE, OF COURSE, HEARSAY IS PERMITTED AND THERE IS NOT A PROHIBITION. OF COURSE EVERYBODY ALWAYS CONSENTS, IT SEEMS LIKE, IN DEPENDENCY HEARINGS, BUT IN A FAMILY LAW CASE THAT IT IS ALWAYS EMOTIONALLY DRIVEN T HAS NOTHING TO DO WITH NECESSARILY WANTING TO SEE -- DRIVEN. IT HAS NOTHING TO DO WITH NECESSARILY WANTING TO SEE SWIFT JUSTICE. IT IS FESTERING AND IS JUST ANOTHER TOOL TO USE AGAINST THE OTHER, AND IT BECOMES A FINANCIAL BURDEN ON EVERYBODY, AND IT DOESN'T HELP THE COURT.

I THOUGHT THOSE RULES, HOWEVER, WERE JUST FOR JUVENILE -- I THOUGHT THE PROPOSED RULE, HOWEVER, JUST COVERED JUVENILE CASES. YOU ARE TALKING ABOUT FAMILY CASES?

WELL, AND OF COURSE JUDGE WEBSTER CAN ADDRESS THIS. THE AV PORTION IS DISCUSSING MORE THAN THAT. IT IS DISCUSSING, UNDER, IF YOU LOOK UNDER SUBSECTION, EXCUSE ME, UNDER 2.071, UNDER SUBSECTION C, I BELIEVE IT IS, EXCUSE ME, LET ME GET TO THE RIGHT SECTION HERE, UNDER SUBSECTION C, THAT IS A 15-MINUTE HEARING. UNDER D, IT DEALS WITH TESTIMONY, AND UNDER C, THEY INSERTED THE WORD JUVENILE. JUVENILE IS NOT THE ISSUE, ALTHOUGH IT COULD BE, AND I WILL TELL YOU IT COULD BE, UNDER D. THERE WAS NO PROVISION, UNDER C, AND, AGAIN, JUDGE WEBSTER CAN ADDRESS WHY THEY CHOSE TO DO IT, BUT IT SAID ACCEPT IN CRIMINAL DELINQUENCY CASES, THAT, OF COURSE, IN FIERCE JUVENILE DELINQUENCY ONLY. BY CHANGING THE WORD TO JUVENILE, THAT WOULD EMBRACE DELINQUENCY AND DEPENDENCY. SO I SUSPECT THAT IS THE REASON FOR THAT CHANGE. ON THE 15-MINUTE HEARING. ON THE QUESTION OF TESTIMONY, IT IS ACROSS THE BOARD AS WAS REFERENCED EARLIER, AS TO FAMILY LAW, DELINQUENCY, IN ANY OF THOSE CASES, I AM HERE

ADDRESSING FAMILY LAW. THE CONCERN IS THAT IT IS BEING USED AS A SWORD TO PREVENT A JUST OUTCOME, JUST BECAUSE OF MONEY, JUST BECAUSE OF SCHEDULING.

SO YOU SUPPORT THE CHANGE.

I DO SUPPORT THE CHANGE. I DO WANT TO CAUTION YOU THAT THERE WAS A CONCERN OF THE COMMITTEE, THAT IF WE WERE, IF YOU WERE TO MAKE THIS CHANGE, AND THE USE OF THE AUDIO, THE COMMUNICATION EQUIPMENT, THAT AN UNINTENDED RESULT COULD OCCUR AND THE UNINTENDED RESULT IS THAT IT COULD IMPACT WHAT THIS COURT HAS ALREADY DETERMINED IN THE YEAR 2001, AND THAT IS THE USE OF AUDIO VISUAL EQUIPMENT IN JUVENILE DITENSION HEARINGS, UNDER RULE 8.100, AND WE JUST WANTED TO RAISE THAT ISSUE AS A CONCERN. THANK YOU VERY MUCH.

CHIEF JUSTICE: JUDGE WEBSTER.

WELL, I APPRECIATE WHAT I TAKE TO BE JUDGE TEPPER'S AGREEMENT REGARDING 2.071. WITH REGARD TO THE TIME STANDARDS, LET ME SAY FIRST THAT, THE RULES OF JUDICIAL ADMINISTRATION COMMITTEE HAS NO VESTED INTEREST IN THESE TIME STANDARDS. WHAT WE DO IS WE RELY ON THE RULES COMMITTEES THAT HAVE EXPERTISE IN THE VARIOUS AREAS, AND THE REASON THE PROPOSALS THAT ARE BEING MADE TODAY WERE INCLUDED, WAS BECAUSE THE JUVENILE COURT RULES COMMITTEE OVERWHELMINGLY PROPOSED THAT WE ADOPT THESE AMENDMENTS. I WOULD SUGGESTION TO YOU THAT, BEFORE YOU CONSIDER JUDGE TEPPER'S COMMITTEE'S PROPOSALS, YOU AT LEAST, IN A VERY MINIMUM, OBTAIN THE INPUT OF THE JUVENILE COURT RULES COMMITTEE REGARDING THE PROPOSALS, SINCE, ALTHOUGH I HAVE BEEN ABLE TO FIND OUT VERY LITTLE ABOUT EITHER THE COMPOSITION OR THE CHARGE OF THE COMMITTEE ON WHICH JUDGE TEPPER SITS, I DO KNOW THAT THE JUVENILE COURT RULES COMMITTEE OF THE FLORIDA BAR BROADLY REPRESENTS THOSE WHO DAILY TOIL IN THE VINEYARDS OF THE JUVENILE AREA. ALL OF THESE PROPOSALS ARE BEING MADE, BECAUSE THEY WERE OVERWHELMINGLY APPROVED AND SENT TO US BY THE JUVENILE COURT RULES COMMITTEE. THE COMMENT THAT WAS FILED BY JUDGE AT THER'S COMMITTEE WAS NOT SERVED ON THE CHAIR OF THE JUVENILE COURT RULES COMMITTEE. WE HAVE, AT THIS POINT, NO IDEA WHAT THAT COMMITTEE'S POSITION IS, WITH REGARD TO THESE PROPOSALS.

WAS THERE ANY CONSIDERATION BEGIN ABOUT THE, ABOUT PERMANENCY?

YOU WOULD HAVE TO ASK THE JUVENILE COURT RULES COMMITTEE.

IN OTHER WORDS YOU JUST GOT THAT.

WE DON'T HAVE EXPERTISE IN THAT AREA.

THEY GIVE YOU WHAT THIS EVENING.

PRECISELY. WE DON'T HAVE EXPERTISE IN THAT AREA. THEY DO. AS YOU KNOW, THEY EACH RULES COMMITTEE HAS A REPRESENTATIVE MEMBER ON THE RULES OF JUDICIAL ADMINISTRATION COMMITTEE. THE JUVENILE RULES COMMITTEE MEMBER WHO WAS A REPRESENTATIVE ON OUR COMMITTEE, VOTED IN FAVOR OF THESE PROPOSED AMENDMENTS, AND I WOULD SUGGEST TO YOU, AT A MINIMUM, BEFORE YOU CONSIDER ADOPTING THESE PROPOSALS, YOU GET INPUT FROM THE JUVENILE COURT RULES COMMITTEE. THANK YOU.

CHIEF JUSTICE: ALL RIGHT. THE COURT WANTS TO THANK BOTH OF YOU FOR YOUR SUBSTANTIAL PUBLIC SERVICE AND ASSISTANCE TO THE COURT ON THESE ISSUES. THE COURT WILL NOW STAND IN RECESS UNTIL NINE O'CLOCK TOMORROW MORNING.

MARSHAL: PLEASE RISE.