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State of Florida vs Timothy Meeks

THE FINAL CASE ON THE COURT'S CALENDAR THIS MORNING IS STATE VERSUS MEEKS. MS. MEGGS.

MAY IT PLEASE THE COURT. -- MS. MEGGS.

MAY IT PLEASE THE COURT. MY NAME IS PATRICIA -- IS TRICIA MEGGS, AND I REPRESENT THE STATE OF FLORIDA IN LEON COUNTY. MR. MEEKS COMMIT ADD CRIME, WITH A PRIOR PLEA AGREEMENT. THE COURT MADE FINDINGS THAT IT WAS THE SUBSTACKS OF THE VIOLATION OF HIS -- THE SUBSTANTIAL OF THE VIOLATION OF HIS -- THE SUBSTANCE OF THE VIOLATION OF HIS PROBATION. SUBSEQUENTLYLY THE TRIAL COURT SENTENCED HIM TO TWO YEARS OF PROBATION. HE APPEALED TO THE DISTRICT COURT OF APPEALS, AND THEY FOUND THAT HE SHOULD ONLY BE SENTENCED TO SIX YEARS, AND THE COURT FOUND CAN A YOUTHFUL OFFENDER BE SENTENCED FOR VIOLATION, WHEN THE ACTS OF VIOLATION DO NOT CONSTITUTE A SEPARATE CRIME. THE STATE WOULD ARGUE, FIRST, THAT, AFTER THE FIRST VIOLATION, MR. MEEKS WAS NO LONGER A YOUTHFUL OFFENDER, AND THAT IS VERY EVIDENT, THAT THE TRIAL COURT WAS SENTENCING HIM AS AN ADULT. THE PROSECUTOR STATED THE DETERMINES OF -- THE TERMS OF THE PLEA AGREEMENT, AND SHE SAID THAT ONCE HE IS FOUND TO HAVE A SUBSTANTIVE VIOLATION, HE WILL BE IN ADULT COURT. HE WILL O LONGER BE A YOUTHFUL OFFENDER.

DID THE TRIAL COURT TREAT THAT IN HIS OPINION?

THE TRIAL COURT TREATED IT, IN HIS OPINION, BUT THE DISTRICT COURT DID NOT, IN ITS OPINION.

BUT THAT WAS RAISED?

THAT WAS ARGUED IN THE BRIEF AND IN ORAL ARGUMENT, BEFORE THE DISTRICT COURT. THE PROSECUTOR SAID, IF HE VIOLATES, HE IS LOOKING AT 12 TO 27 YEARS. THAT IS THE REASON WE ARE GIVING HIM, YOU KNOW, COMMUNITY CONTROL. THAT WAS THE AGREEMENT THAT WAS DISCUSSED, AMONGST ATTORNEYS, AND AT NO TIME DID MR. MEEKS SAY, LOOK, I WANT TO RETAIN MY YOUTHFUL OFFENDER STATUS. THE TRIAL COURT TOLD HIM DO YOU UNDERSTAND THE MAXIMUM PENALTY WHICH CAN BE IMPOSEED IS 30 YEARS IN THE STATE PENTINGS YEAR.

AT THE TIME OF -- IN THE STATE PEN TENSION AREA.

> AT THE TIME THAT HE WAS ON PROBATION, WAS HE ON PROBATION FOR THE SUBSEQUENT OFFENSE THAT HE WAS --

HE WAS ADMITTING THE SUBSTANTIVE VIOLATION, NOT THE OFFENSE, AND I THINK THAT WAS A TRESPASS AFTER WARNING.

BUT IS THE QUESTION, BECAUSE THAT IS SORT -- THAT QUESTION IS NOT THE CERTIFIED QUESTION, WHICH IS WHAT WAS THE 1996 PROCEEDING, DID THE TRIAL COURT THAT SENTENCED HIM TO THE TEN YEARS, WAS IT THE SAME TRIAL JUDGE THAT WAS THE TRIAL JUDGE THAT TOOK THE PLEA COLLOQUY, BACK IN '96?

I BELIEVE IT WAS, BUT I WOULD HAVE TO LOOK.

IS OUR RECORD CLEAR ABOUT THAT HE WAS BEING SENTENCED AS AN ADULT, OR IS THAT A DISPUTED FACT THAT NEEDS TO BE CLARIFIED?

IN 1997, ON -- AFTER THE SECOND VIOLATION, THE VIOLATION OF COMMUNITY CONTROL, THE SECOND VIOLATION, HE WAS -- THERE THE JUDGMENT AND SENTENCE CLEARLY INDICATES HE WAS NOT SENTENCED AS A YOUTHFUL OFFENDER. THEY HAVE A BOX WHERE YOU CAN CHECK OFF IS HE A YOUTHFUL OFFENDER, AND IT WAS NOT CHECKED OFF, BUT EVEN IN THE TRIAL COURT, AT THE FIRST VIOLATION, SAID THE PUNISHMENT, THE MAXIMUM PENALTY IS 30 YEARS.

WHAT ARE THE SENTENCING DOCUMENTS SHOWING, UP TO 1996? WAS THE YOUTHFUL OFFENDER BOX CHECKED OR NOT?

THE JUDGMENT AND SENTENCE, AND AFTER THE FIRST VIOLATION, DOES NOT INCLUDE THAT PAGE WHERE THE YOUTHFUL OFFENDER SENTENCE BOX IS, SO THEY DID NOT INCLUDE THAT PAGE, TO CHECK IT OFF, AND HE DID NOT, IN WRITING, ANYWHERE INDICATE THAT IT WAS YOUTHFUL OFFENDER SENTENCE, SO THAT WOULD BE OUR FIRST ARGUMENT, IS THIS WAS AN ADULT SENTENCE, SO HE WAS NO LONGER UNDER THE YOUTHFUL OFFENDER STATUTE, SO WHEN HE VIOLATED THE SECOND TIME, HE WOULD BE SENTENCED AS AN ADULT, AND THE SIX-YEAR LIMITATION WOULD --

WOULD THE CERTIFIED QUESTION, THEN, BE MOOT?

WELL, I THINK IT IS STILL AN IMPORTANT LEGAL ISSUE FOR THIS COURT TO DECIDE, TO DEFINE THE TERMS OF SUBSTANTIVE AND TECHNICAL VIOLATIONS.

BUT IT WOULD BE MOOT, AS FAR AS THIS PARTICULAR CASE IS CONCERNED. CORRECT?

AS FAR AS THIS DEFENDANT. BUT I THINK IT IS AN IMPORTANT ISSUE THAT NEEDS TO BE DEFINED AS WHAT IS A SUBSTANTIVE VIOLATION AND A TECHNICAL VIOLATION. IN THE STATUTE --

BEFORE WE MOVE ON TO THAT, LET ME, STILL, ABOUT THIS 1996 PROCEEDING, I KNOW, UNDER THE HABITUAL OFFENDER STATUTE, IF YOU DON'T HABITUALIZE THEM INITIALLY, AND THEY VIOLATE PROBATION OR COMMUNITY CONTROL, YOU CAN'T HABITUALIZE THEM ON THE VIOLATION. IS THERE ANY PRINCIPLE LIKE THAT THAT IS APPLICABLE TO YOUTHFUL OFFENDER? I MEAN, YOU GET A YOUTHFUL OFFENDER SENTENCE, AND PART OF IT IS THE PROBATION. CAN YOU, THEN, WHEN YOU VIOLATE PROBATION, MAKE IT AN ADULT SENTENCE?

WELL, THE STATUTE SAYS IF THEY COMMIT A SUBSTANTIVE VIOLATION, THEY MAY BE SENTENCED FOR A PERIOD LONGER THAN THE OFFENSE FOR WHICH THEY ARE COMMITTED, AND A YOUTHFUL OFFENDER SENTENCE IS A SENTENCING ENHANCEMENT. A YOUTHFUL OFFENDER STATUTE, IF YOU LOOK AT THE STATUTE, IT MOSTLY PROVIDES FOR YOUR PLACE IN PRISON, LIKE IN A SEPARATE, YOU KNOW, NOT WITH THE ADULT PRISONERS, BUT THEY HAVE THEIR OWN INSTITUTIONS AND AVAILABILITY OF PROGRAMS IN THE SIX-YEAR LIMITATION, SO IT IS, REALLY, KIND OF DIFFERENT FROM THE HABITUAL OFFENDER SENTENCING, WHICH IS A SENTENCING ENHANCEMENT.

BUT YOU ARE SAYING THAT, WITH THE POST-1990 LAW, THAT THE JUDGE, IN 1996, BECAUSE THAT WAS A SEPARATE CRIMINAL VIOLATION, HAD DISCRETION TO SENTENCE HIM AS AN ADULT OR THE DISCRETION TO CONTINUE HIM ON, AS A YOUTHFUL OFFENDER, CORRECT?

CORRECT.

SO I GUESS WE, STILL, GO BACK TO THE QUESTION IS AS TO WHETHER IS IT CLEAR IN THE RECORD THAT HE WAS BEING SENTENCED, IN 1996, AS AN ADULT, AS OPPOSED TO HIS CONTINUATION OF THE YOUTHFUL OFFENDERS ACT -- STATUTE. IF IT IS NOT CLEAR, THEN WE HAVE A DOUBT AS TO

THE YOUTHFUL OFFENDER AND WHETHER THE YOUTHFUL OFFENDER STATUS WILL CONTINUE?

THERE IS NOTHING TO INDICATE WHETHER THEY WERE CONTINUING THE YOUTHFUL OFFENDER STATUTE. THE JUDGE SAID IF HE COMMITS A VIOLATION, HE WILL BE IN ADULT COURT, NO MORE YOUTHFUL OFFEND OFFENDER. THE CASE LAW IS YOU CAN SENTENCE TO MORE THAN SIX YEARS, ONCE A CASE IS TRIED, AND THE MAXIMUM SENTENCE, IS 30 YEARS, NOT SIX YEARS, AND THE JUDGE SPECIFICALLY SAID I FIND THAT THIS IS A NEW VIOLATION, BY COMMITTING THE OFFENSE, SO EVERYTHING IN THE RECORD INDICATES THAT IT WAS ADULT SENTENCE, BUT MOVING ALONG TO THE CERTIFIED, THE QUESTION ABOUT A SUBSTANTIVE VIOLATION, THE YOUTHFUL OFFENDER STATUTE SAYS, IF THEY COMMIT A SUBSTANTIVE VIOLATION, THEN YOU CAN GO TO THE STATUTORY MAXIMUM SENTENCE. IT DOESN'T SAY IF THERE IS A -- IF THEY COMMIT A NEW CRIME WHILE UNDER SUPERVISION, SO I THINK THE TERM SUBSTANTIVE VIOLATION INCLUDES MORE THAN JUST NEW CRIMES, NEW OFFENSES COMMITTED. A SUBSTANTIVE VIOLATION WOULD DEFEAT THE PURPOSE OF THE SUPERVISION. PROBATION AND COMMUNITY CONTROL ARE PRIVILEGES THAT YOU HAVE CERTAIN SUPERVISORY REQUIREMENTS, AND A SUBSTANTIVE VIOLATION WOULD DEFEAT THE PURPOSE OF THAT.

THERE WAS A PLEA COLLOQUY IN NOVEMBER OF 1996. ISN'T IT CLEAR, FROM THAT COLLOQUY, THAT HE IS BEING SENSED AS AN ADULT? -- SENTENCED AS AN ADULT, IF YOU READ THAT IN TOTALITY?

YES, JUDGE, I THINK IT IS CLEAR THAT HE IS BEING SENTENCED AS AN ADULT, IN 1996, AND THAT THERE FOR HE WAS NO LONGER UNDER THE YOUTHFUL OFFENDER STATUTE, SO THAT HE COULD BE SENTENCED TO ANYTHING UP TO THE STATUTORY MAX.

WITHOUT THAT COLLOQUY, WOULD IT BE CLEAR?

WELL, I GUESS YOU WOULD HAVE TO LOOK AT THE RECORDS.

NOTHING ELSE.

THERE IS --

TO SHOW THAT HE WAS BEING --

NO, SIR, BUT THIS IS A VERY LIMITED RECORD, BUT YOU HAVE TO LOOK AT THE WORDS OF THE COURT, AND, YOU KNOW, CONDITIONS, AFTER A VIOLATION OF PROBATION, YOU HAVE TO REIMPOSE, YOU HAVE TO RESENTS, IF YOU ARE REVOKING PROBATION AT THE RESENTS, AND YOU HAVE TO IMPOSE THE CONDITION, UPON RESENTENCING, THE NEW CONDITION. THE OLD ONES DON'T AUTOMATICALLY ROLLOVER.

SO WE HAVE TO GATHER, FROM THAT COLLOQUY, AS TO WHETHER OR NOT THAT IS THE SUM AND SUBSTANCE.

YES, SIR.

BUT YOU ARE ON AN ISSUE THAT THE CERTIFIED QUESTION IS ON. AS I AM UNDERSTANDING IT, NO ONE IS ARGUING THAT HE COMMITTED A SUBSTANTIAL VIOLATION THAT WAS SUFFICIENT TO REVOKE HIS COMMUNITY CONTROL. AREN'T WE, REALLY, IF YOU READ ALL OF THE APPELLATE COURT DECISIONS, WHEN THEY TALK ABOUT SUBSTANTIVE VIOLATIONS OF PROBATION, VERSUS SUBSTANTIAL OR TECHNICAL VIOLATIONS, SUBSTANTIAL VIOLATIONS, THAT THEY ARE TALKING ABOUT NEW OFFENSES, THAT THAT IS HOW THE APPELLATE COURTS HAVE INTERPRETED THE DIFFERENCE BETWEEN WHAT SUBSTANTIVE MEANS AND TECHNICAL, OR WHETHER THE DEFENDANT IS GOING TO RECEIVE THE ENHANCED PENALTY OF, NOW, BEING SENTENCED AS AN ADULT.

WELL, I DON'T THINK THERE IS A LOT OF -- I DIDN'T FIND A LOT DEALING WITH THE DEFINITION OF SUBSTANTIVE OR TECHNICAL, WHEN IT ISN'T IN THE CONTEXT OF NOT BEING A NEW OFFENSE, EXCEPT IN THE --

WHAT ABOUT THE ALLEN CASE THAT YOU HAVE RELIED UPON?

THE ALLEN CASE.

TALKING ABOUT THE ISSUE OF VIOLATION OF PROBATION OR COMMUNITY CONTROL, THAT IS SOMEONE BEING IN THEIR HOUSE, BEING A SUBSTANTIAL VIOLATION, SUFFICIENT TO REVOKE COMMUNITY CONTROL, AND THAT IS NOT WHAT WE ARE TALKING ABOUT HERE.

NO, MA'AM.

WE ARE TALKING ABOUT WHETHER HE RECEIVED A SENTENCE, YOU SAY UP TO 30 YEARS, HE COULD HAVE GOTTEN?

ACTUALLY THE TRIAL COURT MISTAKENLY SAID IT WAS A FIRST-DEGREE FELONY WHEN IT WAS, ACTUALLY, A SECOND, BUT THE STATUTE DOES NOT SAY IF THEY ARE FOUND IN VIOLATION OF A NEW OFFENSE. IT SAYS SUBSTANTIVE VIOLATION, AND I DON'T THINK THAT LIMITS IT, JUST TO A NEW OFFENSE.

WHAT ARE THE GUIDELINES THAT WE WOULD FOLLOW, FOR EXAMPLE? WE HAVE FOUR TELEPHONE CALLS THAT ARE MADE, UNDER THE CIRCUMSTANCES WE ARE DEALING WITH HERE, AT FAIRLY NORMAL TIMES OF DAY, MORNING AND SOME OF THE AFTERNOON, FIVE, FIVE-THIRTY, THOSE KINDS OF THINGS. WHAT KIND OF LINES WOULD WE DRAW? WHEN DOES IT CROSS THE LINE AND BECOME SUBSTANTIVE? DID IT AFT FIRST ONE, AFTER THE SECOND? WE ARE -- AFTER THE FIRST ONE? AFTER THE SECOND? WE ARE DEALING WITH SOMEONE WITH KIND OF AN UNUSUAL KIND OF CIRCUMSTANCE HERE, BECAUSE WE KNOW, FOR EXAMPLE, THAT, HAD THEY GONE OUT OF TOWN FOR SOME REASON AND NOT RETURNED, WE HAVE GOT AN ESCAPE KIND OF CLAUSE THAT IS BUILT INTO THE STATUTE, BUT WHERE DO WE DRAW THE LINE, AND MUST WE HAVE A LINE THAT IS VISIBLE, SO WE CAN DISCUSS THIS ISSUE INTELLIGENTLY, AS TO IS IT THREE, FOUR, FIVE TIMES? 30 MINUTES LATE? WHAT ARE WE DEALING WITH?

THE WAY WE WOULD DRAW THE LINE, THE STATE WOULD DRAW THE LINE, IS A SUBSTANTIVE VIOLATION WOULD DEFEAT THE PURPOSE OF SUPERVISION, SO THAT MOST EVERY VIOLATION WOULD BE A SUBSTANTIVE VIOLATION, UNLESS THERE IS A SHOWING THAT IT IS MERELY PROCEDURAL. A TECHNICAL VIOLATION WOULD BE IF YOU HAD TO REPORT TO THE PROBATION OFFICE AT EIGHT O'CLOCK AND YOU FAILED TO SHOW UP UNTIL NINE, OR IF YOU HAD TO MAIL IN YOUR MONTHLY REPORTS, AND THE MAIL IS NOT DELIVERED ON TIME, SO THE REPORT, YOU KNOW THERE, IS AN ATTEMPT TO COMPLY, BUT SOME PROCEDURALLY -- PROCEDURAL THING HAPPENS, WHERE TECHNICALLY HE DOES NOT COMPLY. IF THERE IS CONFUSION ABOUT POINTS.

THE COURT WOULD REVOKE COMMUNITY CONTROL. IN OTHER WORDS IF SOMEBODY, THE MAIL JUST DOESN'T GET THERE AND WE TALK ABOUT IT IN THAT SITUATION, THEN, THE DEFENDANT WOULDN'T, PROBABLY, EVEN HAVE HIS OR HER PROBATION OR COMMUNITY CONTROL DIRECTED. WHAT THIS ISSUE IS WHETHER OR NOT SOMEBODY IS GOING TO BE SENTENCED TO AN ADULT SENTENCE. WHERE ARE YOU GOING TO DRAW THE LINE AS TO WHAT IS A SUBSTANTIVE -- NOT A SUBSTANTIAL BUT A SUBSTANTIVE VIOLATION? YOU ARE SAYING ONE PHONE CALL AND THE PERSON IS NOT THERE WOULD HAVE BEEN A SUBSTANTIVE OFFENSE, SUFFICIENT TO HAVE THE PERSON SENTENCED AS ADULT, VERSUS A YOUTHFUL OFFENDER?

NO, MA'AM. BUT A SUBSTANTIVE VIOLATION, I DON'T THINK YOU CAN LIMIT IT TO JUST NEW CRIMES. BUT IT HAS GOT TO BE SOMETHING THAT DEFEATS THE PURPOSE OF YOUR SUPERVISION.

IF YOU ARE ON COMMUNITY CONTROL, AND FOUR TIMES YOU ARE NOT AT YOUR RESIDENCE, IF YOU ARE NOT AT YOUR RESIDENCE, AND THAT IS THE CRITICAL COMPONENT OF COMMUNITY CONTROL IS YOU ARE CONFINED TO YOUR RESIDENCE, AND IF YOU ARE NOT THERE, THAT IS A SUBSTANTIVE VIOLATION OF THAT, BECAUSE THAT IS SUCH AN IMPORTANT COMPONENT.

BECAUSE ARE ARGUING, THEN, IS THAT THIS PERSON COULDN'T BE SENTENCED TO PRISON. THE QUESTION I AM TRYING TO GATHER IS WHETHER IT IS SIX YEARS OR TEN YEARS. ISN'T THAT WHAT WE ARE TALKING ABOUT?

IN THIS CASE IT IS WHAT IS A SUBSTANTIVE VIOLATION THAT WOULD TAKE YOU OUT --

SO THAT WE UNDERSTAND, NO ONE IS ARGUING THAT COMMUNITY CONTROL SHOULDN'T HAVE BEEN REVOKED.

NO, MA'AM.

WE ARE TALKING ABOUT WHETHER OR NOT BEING IN HIS HOUSE, ON FOUR DIFFERENT OCCASIONS, WHETHER HE IS GOING TO GET AN ADULT SENTENCE, SO HE HAS TEN YEARS, OR WHETHER THE MAX IS SIX YEARS.

IT IS WHETHER --

THAT IS PRETTY SUBSTANTIAL. CONSEQUENCE OF NOT BEING IN THE HOUSE, YOU ARE NOT ON COMMUNITY -- YOU LOSE YOUR PRIVILEGE OF BEING ON COMMUNITY CONTROL. YOU ARE, NOW, GOING TO BE SENTENCED TO PRISON. ANOTHER JUDGE WOULD HAVE THAT DISCRETION IF IT IS A SUBSTANTIVE VIOLATION. THE JUDGE DOESN'T HAVE TO SENTENCE HIM TO PRISON, BUT I THINK IF YOU ARE -- CONFINEMENT TO YOUR RESIDENCE IS SUCH A CRITICAL COMPONENT.

THE JUDGE WOULD HAVE THE DISCRETION WHETHER SIX YEARS OR TEN YEARS, TO FIND HIM IN VIOLATION OF COMMUNITY CONTROL AND SENTENCE HIM TO PRISON.

YES, MA'AM.

CORRECT?

BECAUSE IT IS A SUBSTANTIAL VIOLATION OF THE CONDITIONS OF COMMUNITY CONTROL.

YES, MA'AM.

YOU SEEM TO BE SUGGESTING THAT WE HAVE TO USE, INTERCHANGEABLY, SUBSTANTIAL AND SUBSTANTIVE. IT SEEMS TO BE WHAT YOU ARE SUGGESTING. BECAUSE WE HAVE CONDITIONS, AND I DON'T THINK ANYONE WOULD DISAGREE WITH YOUR ARGUMENT THAT, TO BE IN THAT PLACE IS TANTAMOUNT TO BEING -- OBEYING THE COURT'S ORDERS, BUT CAN WE, REALLY, USE THOSE TERMS INTERCHANGEABLY, AND I THINK THAT IS WHAT JUSTICE PARIENTE IS GETTING TO, BECAUSE IF YOU TAKE THAT APPROACH, IT SEEMS TO BE WHAT YOU ARE DOING IS USING THAT, AND HOW CAN -- HELP US UNDERSTAND HOW WE CAN DO THAT.

WELL, I THINK YOU HAVE TO LOOK AT WHAT ARE THE CRITICAL COMPONENTS OF THAT SUPERVISION. YOU KNOW, THE STATUTE, THE JUDGE, IF HE WANTS TO SENTENCE HIM TO ABOVE THE YOUTHFUL OFFENDER STATUTE, IT HAS TO BE A SUBSTANTIVE VIOLATION. IT DOES NOT SAY A NEW LAW, A NEW CRIME. IT SAYS SUBSTANTIVE, AND SO I THINK THAT EXPANDS IT FURTHER, AND WHAT ARE THE CRITICAL COMPONENTS OF THAT SUPERVISION, AND DID HE VIOLATE THAT, AND I THINK IN THIS CASE HE DID, BY FAILING TO REMAIN AT HIS RESIDENCE, SO THAT WOULD BE -- I THINK YOU HAVE TO LOOK WHAT IS CRITICAL. WHAT DEFEATS THE PURPOSE OF THAT SUPERVISION. I SEE THAT I AM OUT OF TIME, SO I WILL RESERVE THE REST FOR REBUTTAL. THANK

YOU.

THANK YOU.

DAVID GAULDIN FOR MR. MEEKS. FIRST, TO CLEAR UP ONE OF THE DISCREPANCIES, THE JUDGE THAT INITIALLY SENTENCED AND ACCEPTED THE PLEA IN 1992 WAS JUDGE GEAR I. THE JUDGE DID HANDLE THE PROBATION VIOLATION AND THE -- JUDGE GEARY. THE JUDGE THAT HANDLED THE PROBATION VIOLATION AND THE COMMUNITY CONTROL ISSUE WAS JUDGE SMITH, SO WE HAVE TWO JUDGES. SECONDLY, THE QUESTION OF WHETHER WHETHER HE IS A YOUTHFUL OFFENDER AT THE TIME THAT HE WAS SENTENCED, ONCE A YOUTHFUL OFFENDER, ALWAYS A YOUTHFUL OFFENDER, AND THAT IS CERTAINLY THE LAW WITH ARNETT, GRANTED ARNETT IS OUT OF THIS COURT, WITH A CASE THAT INTERPRETED THE PREVIOUS STATUTE, AND IN FACT IT WAS MODIFIED WHEN 914 WAS NOTIFIED. THIS IS THE FIRST TIME A SENTENCE WAS PROVIDED FOR THAT CAN BE GREATER THAN SIX YEARS. HOWEVER, WHEN YOU LOOK AT 958.14, THERE IS NOTHING IN THAT STATUTE THAT SAYS, EVEN IF YOU COMMIT A SUBSTANTIVE VIOLATION, YOU ARE TAKEN OUT OF YOUTHFUL OFFENDER STATUS.

BUT DOESN'T IT REFER TO IT TAKES YOU OVER INTO, WHAT IS IT, 948?

948.061. YES. BUT 948.061 IS JUST MECHANISM BY WHICH PROBATION VIOLATIONS OR COMMUNITY CONTROL VIOLATIONS ARE HEARD BY THE COURT. IT GIVES YOU A PROCEDURE BY WHICH YOU DO THAT.

AND WE ARE LOOKING AT THE DISCUSSION, THIS PLEA DISCUSSION, AND WHAT YOU ARE SAYING IS THAT IS TOTALLY IRRELEVANT TO OUR CONSIDERATION, IS THAT IT STILL IS A YOUTHFUL OFFENDER, NOTWITHSTANDING WHAT THE JUDGE HAD SAID.

ABSOLUTELY.

NOW, IS WHAT THE JUDGE SAID INCONSISTENT WITH BEING A YOUTHFUL OFFENDER, WITH TELLING THIS YOUNG PERSON THAT, YOU KNOW, YOUR PLEA, IN THIS CASE, IS THAT YOU ARE SUBJECT TO 30 YEARS, ALTHOUGH THAT WAS IN ERROR, AT LEAST 15 YEARS' INCARCERATION, THAT IS JUST IRRELEVANT IN OUR DISCUSSION, IS WHAT YOU ARE SUGGESTING THEN.

WELL, WHAT OCCURRED AT THE PROBATION OR, EXCUSE ME, COMMUNITY CONTROL VIOLATION HEARING, WAS THE JUDGE KNEW NOTHING ABOUT 958.14. THE JUDGE WAS UNDER THE MISTAKEN PREVENTION, AT THAT TIME, THAT FOR ANY VIOLATION, HE, STILL, HAD TO SENTENCE THE INDIVIDUAL WITHIN SIX YEARS, AND THEN THE PROSECUTOR SAYS, OH, NO, JUDGE, THAT -- THE STATUTE HAS BEEN AMENDED. THAT ISN'T WHAT THE LAW IS. THEY TAKE A BREAK. THEY GO OUTSIDE. THE PROSECUTOR COMES IN, AND HE SHOWS HIM 958.14, WHICH IS THE STATUTE THAT WE ARE DEALING WITH NOW, AND THE STATUTE WHICH ALLOWS ON A SUBSTANTIVE VIOLATION, TO EXCEED THE HERE TO FORE LIMIT OF SIX YEARS, IN ORDER TO SENTENCE THE DEFENDANT. AND AT THAT POINT, THE JUDGE SAYS, WELL, MISS FREEMAN, MISS FREEMAN BEING THE PROSECUTOR, YOU HAVE TAUGHT ME SOMETHING TODAY. OBVIOUSLY THE JUDGE WAS UNFAMILIAR WITH THE PROCESS, AND HE WAS UNFAMILIAR WITH WHAT THE PARAMETERS OF THE LAW WERE, WAS, AND IT IS ALL CONTROLLED BY 958.14, AS TO WHETHER, FIRST, YOU ARE A YOUTHFUL OFFENDER, SECONDLY AS TO WHAT HAPPENS IF YOU COMMIT A SUBSTANTIVE VIOLATION, OR WHETHER YOU COMMIT, AND THERE ARE TWO OTHER TERMS IN THE STATUTE, NOT JUST ONE, A NONSUBSTANTIVE VIOLATION OR A TECHNICAL VIOLATION.

AT THE 956 HEARING, AS POINT WHERE THE JUDGE COULD HAVE GIVEN HIM TEN YEARS, BECAUSE HE HAD COMMITTED A SEPARATE OFFENSE, AND THAT WAS A SUBSTANTIVE VIOLATION?

A SUBSTANTIVE VIOLATION, BECAUSE WHAT THAT WAS WAS A TRESPASS, AT THE TIME.

SO ISN'T THAT -- WHY ISN'T IT THAT, AND I GUESS JUDGE MINER SPOKE ABOUT IT, IN HIS DISSENT, WHY ISN'T IT THAT 1996 SENTENCE DETERMINATIVE? THAT IS THAT THE INTENT OF THE JUDGE, IN THE PLEA COLLOQUY, REVEALS THAT THE INTENT WAS TO SENTENCE HIM TO TWO YEARS' COMMUNITY CONTROL AS AN ADULT?

WELL THERE, IS NOTHING IN 958.14 THAT SAYS THAT THE JUDGE CAN WAIVE THAT AT THE TIME, AND THEN IF HE REVIOLATES, HIS COMMUNITY CONTROL --

HOW DO WE KNOW -- ARE YOU -- WHAT, IN 1996, WHAT EVIDENCE DO WE HAVE THAT HE WAS SENTENCED TO THE TWO YEARS' COMMUNITY CONTROL AS A YOUTHFUL OFFENDER?

THE FACT THAT 958.14 USES THE TERM "YOUTHFUL OFFENDER" TWICE. USES THE TERM "YOUTHFUL OFFENDER" FOR WHEN YOU VIOLATE YOUR COMMUNITY CONTROL SUBSTANTIVELY, AND THAT THERE IS NOTHING IN 958.14 TO TAKE YOU OUT OF YOUTHFUL OFFENDER STATUS. WHAT 958.14 DOES, IF YOU READ IT CAREFULLY, IT TELLS YOU HOW YOU CAN SENTENCE. IT SAYS A YOUTHFUL OFFENDER MAY BE SENTENCE THE, EITHER, AND IT SAYS IF YOU COMMIT A SUBSTANTIVE VIOLATION, YOU CAN BE SENTENCED TO ANY SENTENCE ALLOWED BY LAW.

DOESN'T THAT IGNORE THE FACTS IN 948.06 AND 948.06 FINAL SENTENCE, WHICH SAYS TO IMPOSE AN UNIQUE SENTENCE, WHICH IT MIGHT HAVE ORIGINALLY IMPOSED, BEFORE PLACING THE PROBATION OR THE OFFENDER ON PROBATION?

NO. I DON'T THINK IT DOES, AND THE REASON IT DOESN'T IS BECAUSE 958.14 SPECIFICALLY TELLS YOU HOW TO SENTENCE YOUTHFUL OFFENDERS. 948.061 DOES NOT SPECIFICALLY TELL YOU HOW TO SENTENCE YOUTHFUL OFFENDERS. THAT IS OUR GENERAL PROBATION AND COMMUNITY CONTROL VIOLATION STATUTE.

IT SEEMS TO ME THAT WE HAVE A HARD TIME WHERE THE STATUTE REFERENCES ANOTHER STATUTE, PICKING AND CHOOSING WHAT PART OF THAT OTHER STATUTE WE ARE GOING TO APPLY AND WHICH PART WE ARE NT.

WITH ALL DUE RESPECT, YOU DID IT LAST WEEK, AND IN THIS CASE, THIS IS A CRIMINAL STATUTE WHICH HAS TO BE STRICTLY CONSTRUED, ICH MEANS IF THERE IS AIE, IT GOES TO THE DEFENDANT, AND IN THIS CASE, YOU HAVE A SPECIFIC STATUTE THAT, IN EFFECT, PREVAILS OVER THE GENERAL STATUTE. THE GENERAL STATUTE, 948.061, IT DOES A LOT OF THINGS, AND ITS PRIMARY PURPOSE IS TO PROCEDURALLY SET UP A PROBATION OR COMMUNITY CONTROL APPARATUS, IN ORDER TO TEST THE VIOLATION.

I AM -- I HAVE TO CONFESS TO BEING CONFUSED ABOUT WHAT YOU ARE SAYING. DID THE TRIAL JUDGE, IN EITHER 1996 OR IN THIS MOST RECENT VIOLATION, HAVE THE DISCRETION OR AUTHORITY, IN EITHER CASE, TO HAVE SENTENCED THIS DEFENDANT, AS, UNDER AN ADULT SENTENCE?

HE DIDN'T, AND THE MOST RECENT VIOLATION, BECAUSE THAT WAS NOT A SUBSTANTIVE VIOLATION, WHAT HAPPENED THERE WAS THAT --

SO DID HE HAVE THAT DISCRETION IN 1996?

HE HAD THE DISCRETION WHEN HE ORIGINALLY COMMITTED THE TRESPASS.

OKAY. SO WHY ISN'T IT THAT -- HOW DO WE KNOW THAT THAT, WHEN JUDGE SMITH SENTENCED HIM TO THE TWO YEARS' COMMUNITY CONTROL, THAT HE WASN'T SENTENCING HIM -- WASN'T SENTENCING HIM AS AN ADULT. WHAT WOULD HAVE HAD HAD TO DO? IN OTHER WORDS WHAT IS MISSING FROM THE RECORD? HELP US. THAT WOULD SHOW THAT THIS SENTENCE WAS NOT AN ADULT SENTENCE.

SPECIFICALLY JUDGE SMITH DIDN'T SAY HE WAS TAKING HIM OFF YOUTHFUL OFFENDER AND SPECIFICALLY NOT SENTENCING HIM UNDER THAT STATUTE.

DID HE STATE, IN THE RECORD, THAT I AM NOW SENTENCING YOU AS AN ADULT? WAS THERE SOME DOCUMENT THAT HAS TO BE IN THE RECORD, TO SHOW THAT THERE IS A AFFIRMATIVE ELECTION, TO SAY I AM NOW SENTENCING YOU AS AN ADULT?

WELL, REMEMBER THAT HE WAS ORIGINALLY SENTENCED AS A YOUTHFUL OFFENDER.

BUT THEN HE COMMITS A SUBSTANTIVE VIOLATION, THE TRESPASS. AT THAT POINT, JUDGE SMITH HAD THE DISCRETION TO SENTENCE HIM AS AN ADULT. CORRECT?

THAT IS -- WELL, HE HAD THE DISCRETION TO SENTENCE HIM, PURSUANT TO 958.14. THAT IS NOT THE SAME THING AS SAYING TAKING HIM OFF OF YOUTHFUL OFFENDER. WHAT 958.14 SAYS, FOR SUBSTANTIVE VIOLATION, YOU CAN SENTENCE HIM UP TO WHAT AMOUNTS TO THE STATUTORY MAXIMUM, BUT YOU KNOW THERE IS, EVEN, A DISTINCTION OF SENTENCING SOMEBODY UP TO THE STATUTORY MAXIMUM OR SENTENCING SOMEONE UP TO THE GENERAL LAW OR WHAT THE LAW PROVIDES. FOR INSTANCE, THE SENTENCING GUIDELINES, IN CERTAIN INSTANCES, ALLOW YOU TO GO BEYOND THE STATUTORY MAXIMUM, AND THAT IS CERTAINLY A DISTINCTION THAT 958.14 DOESN'T ALLOW, BECAUSE IN ITS PLAIN LANGUAGE, IT DOESN'T ALLOW T.

SO WHAT YOU ARE SAYING IS THAT SUBSTANTIVE 14 PERMITS THAT THE SENTENCE BE UP TO THE MAXIMUM AMOUNT PERMITTED BY LAW BUT DOES NOT PERMIT ONE TO BE SENTENCED AS AN ADULT. IF YOU ARE UNDER A SENTENCE OF BEING A YOUTHFUL OFFENDER, AND THAT SEEMS TO BE WHAT YOU ARE SAYINGING.

CORRECT. BECAUSE 958.14 NO LONGER SAYS YOU ARE A YOUTHFUL OFFENDER. IT JUST TELLS YOU HOW TO SENTENCE THE INDIVIDUAL, IF HE HAS COMMIT ADD SUBSTANTIVE VIOLATION OR IF HE HAS COMMITTED A TECHNICAL OR A NONSUBSTANTIVE VIOLATION, AND THERE IS NOTHING IN 958.14 THAT SAYS YOU ARE TAKEN OUT OF YOUTHFUL OFFENDER STATUS.

DO YOU AGREE THAT, FOR THE MOST RECENT VIOLATION, THAT IT WOULD BE GROUNDS TO REVOKE COMMUNITY CONTROL.

YES, BUT ONLY AS A NONTECHNICAL OR ACTUALLY AS A NONSUBSTANTIVE VIOLATION.

BUT IT WOULD BE A SUBSTANTIAL --

NO. SUBSTANTIVE. THERE ARE THREE TERMS.

I KNOW THE TERMS. I AM SAYING THAT AM NOT BEING ON HIS HOUSE ON FOUR DIFFERENT OCCASIONS WOULD BE GROUNDS TO REVOKE HIS COMMUNITY CONTROL.

YES, BUT ONLY AS A NONTECHNICAL OR NONSUBSTANTIVE VIOLATION, NOT AS A SUBSTANTIVE.

I UNDERSTAND, BUT WHAT WAS THE MAXIMUM SENTENCE HE COULD HAVE GIVEN HIM?

SINCE HE IS SENTENCING HIM FOR A NONSUBSTANTIVE OR TECHNICAL VIOLATION, THEN THE MAXIMUM WOULD BE SIX YEARS WITH, OF COURSE, CREDIT FOR ALL TIME SERVED.

NOW, THE STATE SAYS THAT WE HAVE THIS COMMUNITY CONTROL ANIMAL THAT WE ARE DEALING WITH, AND IT HAS GOT SOME CONDITIONS, AND IT IS A SUBSTANTIVE OR SOME OTHER TYPE OF SITUATION THAT THE INDIVIDUAL COULD FIND THEMSELVES IN, AND THAT, CERTAINLY, THERE MAY BE SOME, THAT YOU DON'T FILE A PIECE OF PAPER, AND THAT IS TECHNICAL, BUT IF YOU JUST IGNORE WHAT THE CONDITIONS, YOU ARE SUPPOSED TO BE IN A CERTAIN LOCATION,

THAT IS MORE THAN JUST SOMETHING CALLED TECHNICAL, AND THAT YOU ARE VIOLATING THE GUT, THE HEART OF WHAT IT IS YOU HAVE BEEN GIVEN THE BENEFIT OF, THE COMMUNITY CONTROL. HOW DO YOU RESPOND TO THAT, THAT THERE IS SOMETHING SHORT OF A NEW STATUTE, A NEW CRIMINAL VIOLATION. YOU ARE VIOLATING THE HEART OF COMMUNITY CONTROL PROVISION. IT MAKES A LOT OF SENSE. I MEAN, WHEN YOU START LOOKING AT IT.

EXCEPT WHEN YOU LOOK AT THE CASE LAW FIRST. NO CASE, AND I AM GOING TO GET TO THE JONES CASE, WHICH IS SUPPLEMENTAL AUTHORITY BY THE STATE THERE, IS NO CASE THAT HOLDS THAT ANY NONCRIMINAL VIOLATION IS A SUBSTANTIVE VIOLATION.

I UNDERSTAND THAT. THE CASE LAW, REALLY, DOESN'T TALK ABOUT IT, BECAUSE IF THERE IS A NEW CRIMINAL VIOLATION, IT IS FOUND TO BE SUBSTANTIVE, BUT THAT WE DON'T, REALLY, HAVE ANY DEFINITIONS OF WHAT THE OTHER END OF THE SPECTRUM IS.

NO. FIRST THREE TERMS. ACTUALLY THE TERM SUBSTANTIVE IS UNIQUELY FOUND IN THE YOUTHFUL OFFENDER STATUTE. YOU DON'T SEE THAT, IN 1948.061, OR YOU DON'T SEE THAT, REALLY, IN THE CASE LAW, ABSENT DEALING WITH YOUTHFUL OFFENDER. THERE ARE THREE TERMS. THERE IS TECHNICAL HAD, THERE IS NONSUBSTANTIVE AND THERE IS SUBSTANTIVE. NOW, IF YOU SAY THIS IS NOT MERELY TECHNICAL, BECAUSE THIS IS A VIOLATION OF COMMUNITY CONTROL, AND, YES, IT GOES TO COMMUNITY CONTROL, I WILL WARRANT YOU THAT, BUT STILL IF IT IS NONSUBSTANTIVE, IT IS SUBSTANTIVE, AND THAT WOULD GIVE THE TERM MEANING, UNDER NONSUBSTANTIVE, UNDER THE STATUTE, AND YOU HAVE TO GIVE MEANING TO ALL OF THE TERMS IN THE STATUTE, AND IT WOULD CERTAINLY BE COMPETENT WITH ALL OF THE TERMS IN THE CASE LAW, WHICH HOLD THAT A CRIMINAL VIOLATION A NONSUBSTANTIVE VIOLATION.

A NONSUBSTANTIVE WOULD LEAD TO VIOLATION OF COMMUNITY CONTROL.

CERTAINLY.

IF IT IS TECHNICAL, WHICH IS JUST I MAILED SOMETHING IN LATE, THEN IT PROBABLY ISN'T GROUNDS TO REVOKE COMMUNITY CONTROL.

I SUPPOSE THAT WOULD BE UP TO THE DISCRETION OF THE JUDGE, BUT CERTAINLY IF IT IS TECHNICAL OR NONSUBSTANTIVE, YOU CAN REVOKE THE COMMUNITY CONTROL. PEOPLE GET REVOKED FOR COMMUNITY CONTROL, FOR TECHNICAL VIOLATIONS, ALL THE TIME. FAILURE TO FILE A REPORT. FAILURE TO ATTEND COUNSELING SESSIONS, ALL SORTS OF STUFF. CERTAINLY YOU CAN GET REVOKED FOR TECHNICAL VIOLATIONS. AND A YOUTHFUL OFFENDERS IS AS TO WHETHER HE HAS COMMITTED A TECHNICAL OR SUBSTANTIVE OR NONSUBSTANTIVE VIOLATION, WHICH, CLEARLY THE CASE LAW SHOWS IS A NEW CRIMINAL VIOLATION.

WHAT IS FAILURE TO REPORT?

THAT WOULD BE A TECHNICAL. CLEARLY THAT WOULD AND TECHNICAL. IN FACT, THEY WOULD ALL BE TECHNICAL --

IF YOU NEVER CAME AGAIN. YOU SHOWED UP THE FIRST MONTH OF YOUR COMMUNITY CONTROL, AND YOU DON'T EVER SHOW UP AGAIN. WHAT IS THAT?

THAT WOULD BE A TECHNICAL VIOLATION. OR IF YOU WANT TO GO FURTHER AND SAY BECAUSE THAT IS COMMUNITY CONTROL, AND THE ESSENCE OF COMMUNITY CONTROL IS SUPERVISION, YOU CAN SAY THAT IS A NONSUBSTANTIVE VIOLATION, BUT CLEARLY THE CASE LAW ALWAYS REFERS, WHEN IT REFERS TO A SUBSTANTIVE VIOLATION, AS A CRIMINAL VIOLATION.

WHAT IF YOU HAVE AN INDIVIDUAL THAT IS PLACE ODD COMMUNITY CONTROL AND THEY DECIDE THEY ARE GOING TO MOVE TO LOUISIANA AND SAY FORGET T I AM NOT GOING TO

PARTICIPATE. WHAT IS THAT?

AGAIN, THAT WOULD EITHER BE A TECHNICAL OR A NONSUBSTANTIVE VIOLATION, ASSUMING HE VIOLATES NO OTHER CRIMINAL LAW.

THAT WOULD BE SUBSTANTIVE.

RIGHT.

IN CONSEQUENCE, THE PERSON LOSES THEIR PRIVILEGE OF BEING ON COMMUNITY CONTROL.

THAT IS ABSOLUTELY CORRECT, AND WHATEVER THE STATUTE THAT GOVERNS, THE SENTENCING WILL ALLOW HIM TO BE SENTENCED TO, AND IN THIS CASE THE STATUTE THAT GOVERNS MR. MEEKS WAS 958.14.

BUT IT WOULD, STILL, BE A SIX-YEAR MAXIMUM.

THAT'S CORRECT.

THAT SCENARIO OF SOMEONE THAT HAS BEEN -- A CRIME THAT HAS A 30-YEAR SENTENCE, PLACED ON COMMUNITY CONTROL, THEY JUST LEAVE THE STATE AND GO OVER TO LOUISIANA AND SAY FORGET IT, THERE IS A MAXIMUM OF SIX YEARS, UNDER THAT SCENARIO.

THAT'S CORRECT. PRESUMABLY THAT IS WHY THE JUDGE DID IT INITIALLY. THE STATE FILED A NOTICE OF SUPPLEMENTAL AUTHORITY, IN A CASE CALLED JONES, AND IN JONES, THE INDIVIDUAL ORIGINALLY, I THINK, IS BEING CONVICTED OF AGGRAVATED BATTERY, AND HE SUBSEQUENTLY, THEN, WAS PLACED ON COMMUNITY CONTROL OR PROBATION, I BELIEVE, AND THEN HE SUBSEQUENTLY APPARENTLY ALLEGEDLY COMMITTED A BURGLARY AND A PETTY THEFT AND, ALSO -- AND A PETITE THEFT, AND ALSO -- A PETIT THEFT, AND ALSO A SUBSTANTIVE VIOLATION. THESE FORMED THE SUBSTANCE OF A PROBATION VIOLATION. THEN, AT THE VERY END OF THE CASE, AFTER THEY HOLD THAT FOR TWO PURPOSES, THE TWO CONVICTIONS, THE BURGLARY AND THE PETIF THEFT, ARE RE-- PETIT THEFT, ARE THEN REVERSED AND THEY HOLD ON THE CURFEW VIOLATION, AND IT IS AN ENIGMATIC FACT THAT THIS VIOLATION, ALONE, IS ENOUGH TO VIOLATE HIS PROBATION. NOW, THE FIRST PART OF THE OPINION IS INCONSISTENT WITH THE LATTER PART OF THE OPINION, WHERE, IN THE FIRST PART OF THE OPINION, THEY SAY THERE ARE TWO SUBSTANTIVE CRIMES, THE CURFEW VIOLATION AND THE CRIME, AND THEN THEY CITED A PARTICULAR CASE, AND WHEN YOU LOOK AT WILLIAMS, WHAT CAUSED THE CONFUSION, IS IN WILLIAMS, WHAT HAPPENED WAS THE DEFENDANT WAS CHARGED WITH POSSESSION OF COCAINE. HE WAS OUT IN A PUBLIC AREA AND SITTING IN A CHAIR ON A PUBLIC AREA AND THEY FOUND SOME COCAINE UNDERNEATH HIM, AND THE STATE CHARGED HIM WITH POSSESSION OF COCAINE, AND HE WENT TO TRIAL AND HE WAS ACQUITTED AT TRIAL, AND WHAT HAPPENED AT TRIAL WAS THEY SAID, FOR A SUBSTANTIVE VIOLATION, WHICH MEANT THAT CRIME, NOT A TECHNICAL VIOLATION BUT THAT CRIME, FOR A SUBSTANTIVE VIOLATION, THE FACT THAT HE WAS ACQUITTED WAS A VIOLATION, BECAUSE CLEARLY THAT IS THE CONDUCT THAT WE ARE CONCERNED WITH, AND THE VIOLATION IN WILLIAMS, WHICH I HOPE CLEARS IT UP, THE JONES CASE, WHERE IN WILLIAMS THEY HAVE WRONGLY STATED THAT A CURFEW VIOLATION IS A SUBSTANTIVE VIOLATION. THAT IS THE CASE, AND THE ALL OF THE CASE LAW THAT I HAVE REVIEWED ON THIS SUBJECT, IT INTIMATES, AS IT DOES, THAT SOMETHING OTHER THAN A CRIME COULD BE A SUBSTANTIVE VIOLATION. I SET THIS STUFF OUT, FAIRLY CLEARLY AND SUCCINCTLY IN MY BRIEF, AND I WOULD URGE YOU TO READ THAT VERY CAREFULLY. THANK YOU VERY MUCH.

REBUTTAL?

I BRIEFLY REITERATE THE FACT THAT IT DOES NOT LIMIT IT TO NEW LAW VIOLATIONS BUT DOES

USE THE TERM SUBSTANTIVE AND THEREFORE IT IMPLIES THAT THE CERTIFIED QUESTION NEEDS TO BE ANSWERED, YES, IN THE AFFIRMATIVE, THAT WHEN IT CONSTITUTES A SUBSTANTIVE VIOLATION BUT DOES NOT FORM THE BASIS OF A SEPARATE CRIME, THEN IT, STILL, YOU CAN STILL SENTENCE TO THE STATUTORY MAXIMUM, UNDER THE YOUTHFUL OFFENDER SENTENCE.

HOW WOULD YOU, THEN, DEFINE TECHNICAL VERSUS NONSUBSTANTIVE, SINCE THE STATUTE DOESN'T?

I WOULD FIND IT THE PURPOSE EVER SUPERVISION, SUBSTANTIVE.

WHAT DOES -- OF SUPERVISION, SUBCONSTANT I.

WHAT DOES NONSUBSTANTIVE MEAN?

NONSUBSTANTIVE OR TECHNICAL. I WOULD RELY ON OUR BRIEF AND ASK THAT YOU REVERSE THE FIRST DISTRICT DECISION. THANK YOU.

THANK YOU, COUNSEL. WE APPRECIATE YOUR ASSISTANCE IN THIS CASE, AND THE COURT WILL NOW BE IN RECESS. THE MARSHAL: PLEASE RISE.