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Amendments to Rules of Judicial Administration

MR. CHIEF JUSTICE

GOOD MORNING, AND WELCOME TO THE ORAL ARGUMENT CALENDAR FOR THIS THURSDAY, APRIL 4, AT THE FLORIDA SUPREME COURT. WE ARE PARTICULARLY PLEASED TO HAVE THE LEGAL RESEARCH CLASS OF PROFESSOR LEVINE, FROM TALLAHASSEE COMMUNITY COLLEGE WITH US THIS MORNING, FOR THIS ORAL ARGUMENT. THE FIRST CASE THAT WE HAVE FOR CONSIDERATION THIS MORNING IS AN AMENDMENT TO THE FLORIDA RULES OF JUDICIAL ADMINISTRATION, AND I THINK MR. RAGGENSDORF, YOU ARE GOING TO PROCEED.

YES. MAY IT PLEASE THE COURT. APPEARING HERE FOR THE RULES OF JUDICIAL ADMINISTRATION, JUDGE McNEIL. WITH ME IS THE CURRENT CHAIR AND THE LAST OR MOST-IMMEDIATE PAST-CHAIR, JUDGE CHARLES KHAN. I WOULD LIKE TO RESERVE FIVE MINUTES FOR REBUTTAL OF ANY ISSUES THAT MAY BE APPROPRIATE. THERE ARE SEVERAL ISSUES THIS MORNING, AND I THINK THEY CENTER ON HOW WE CAN COLLECTIVELY BEST IMPROVE THE JUDICIAL SYSTEM, BY CAUSING THAT SYSTEM TO CORRECTLY AND APPROPRIATELY ADDRESS THE MOST IMPORTANT CASES THAT IT HAS BEFORE IT AND AS DIRECTED BY THIS COURT, SPECIFICALLY TO ADDRESS AND HANDLE, APPROPRIATELY, CASES INVOLVING THE INTERESTS OF CHILDREN. THE RULES OF JUDICIAL ADMINISTRATION COMMITTEE HAS HAD THIS MATTER DEVELOPING BEFORE IT FOR, NOW, FOUR YEARS, AT LEAST, IF NOT MORE, AND WHAT WE HAVE COME UP WITH TO PRESENT TO THIS COURT, TODAY, IS A SYSTEM THAT WE THINK ADDRESSES THE NEEDS OF THE SYSTEM AND ADDRESSES WHAT WE HOPE WERE THE COURT'S DIRECTIVES. WE HAVE TRIED TO CREATE A SYSTEM THAT, FIRST OF ALL, PROVIDES TO THE SYSTEM, TO THE JUDGES, TO THE PARTICIPANTS, INFORMATION CONCERNING THE STATUS OF CASES. INFORMATION CONCERNING WHETHER A CASE IS A PRIORITY CASE, AS THAT MATTER MAY BE DETERMINED. SECONDLY, ONCE THE INFORMATION IS DISSEMINATED TO THE COURT, PARTICULARLY THE TRIAL COURT AS WELL AS THE PARTICIPANTS, THE GENERAL TONE, CONSISTENTLY FROM THIS COMMITTEE, FROM THE FIRST DAY, IS TO LEAVE THE ULTIMATE DECISION AS TO HOW, NOW, THAT CASE SHOULD BE HANDLED, TO THE ABLE AND LEARNED DISCRETION OF THE TRIAL JUDGE TO WHOM THE MATTER HAS BEEN COMMITTED AND THEN, FINALLY, TO CREATE, AND THIS IS A RELATIVELY SMALL POINT BUT FINALLY, TO CREATE SOME SYSTEM OR PROCEDURE, WHEREBY, IF THERE IS AN ABERRANT CASE, WHERE A PRIORITY HAS NOT BEEN APPROPRIATELY HANDLED BY THE TRIAL COURT, THAT THERE IS SOME NOT QUITE INFORMAL BUT SOMETHING LESS THAN A FULL-BLOWN APPEAL THAT DELAYS THE MATTER STILL FURTHER, SOME PROCEDURE THAT ALLOWS THAT ABERRANT OR UNUSUAL DECISION BY THE TRIAL JUDGE, TO BE EITHER CORRECTED OR AFFIRMED, IF YOU WILL. BUT, AGAIN, THE EMPHASIS OF THE COMMITTEE, AND I THINK IT HAS BEEN THE UNANIMOUS EMPHASIS OF THE RULES OF JUDICIAL ADMINISTRATION COMMITTEE, PLACES THE DECISION ON THESE MATTERS IN THE DISCRETION OF THE TRIAL JUDGE. BRIEFLY, THE HISTORY OF THIS MATTER IS THIS, AND I WILL TRY TO BE VERY QUICK. RULE 2.052 WAS PRESENTED TO THIS COURT AND APPROVED, BACK IN 1996. IT CAME OUT OF A FEDERAL STATE SET OF GUIDELINES THAT HELPED JUDGES DECIDE HOW LAWYERS SHOULD BE ABLE TO RESOLVE THE CONFLICTS WHEN A SINGLE LAWYER IS TOLD TO BE IN TWO PLACES. AND THE RULES OF JUDICIAL ADMINISTRATION COMMITTEE TOOK THOSE GUIDELINES AND MADE THEM RULE 2.052-A AND THEREAFTER, AND I THINK IT WAS A BETTER SYSTEM. IT WASN'T PERFECT BUT IT WAS A BETTER SYSTEM, AND THEN CANDIDLY THE GOOD MR. KREIDLER SHOWED UP AND BEGAN TO RAISE THE ISSUE THAT EXPANDED INTO THE MULTIPLE ISSUES NOW BEFORE YOU. I DON'T AGREE WITH ALL OF HIS SUGGESTIONS, BUT NOBODY CAN QUARREL WITH HIS DOGGED AND PERSISTENT MANNER IN BRINGING THIS TO THE COURT PARTICULARLY WITH DPR CASES --

WITH WITH CASES INVOLVING FAMILY AND CHILDREN.

THERE IS STILL CONCERN WITH THE FIRST AMENDMENT THAT AN ATTORNEY WHO IS SUPPOSED TO BE IN TWO DIFFERENT COURTROOMS, WHAT DOES THE JUDGE DO ABOUT WHAT TAKES PRIORITY, BECAUSE WE STILL HAVE IT SAYS CRIMINAL CASES SHOULD PREVAIL OVER CIVIL CASES AND JURY TRIALS OVER NONJURY TRIALS, AND THEN YOU HAVE ADDED SUBSECTION 5, BUT IT REALLY SAYS THAT PARTICULAR ATTENTION SHALL BE GIVEN TO ALL JUVENILE DEPENDENCY AND DETERMINE NATION CASES, BUT IT DOESN'T SAY THAT THOSE -- AND DETERMINATION CASES, BUT IT DOESN'T SAY THAT THOSE CASES HAVE PRIORITY OVER CIVIL OR NONJURY CASES, SO THE JUDGE WOULD STILL SAY I HAVE GOT A JURY TRIAL HERE AND I HAVE GOT A NONJURY TRIAL UNDER PPR. UNDER THESE GUIDELINES, I WILL GIVE PRIORITY TO THE JURY TRIAL. WOULDN'T THAT BE WHAT YOU WOULD READ FROM THAT AMENDMENT?

I WOULD HOPE NOT, BECAUSE WHAT WE TRIED TO DO IS THERE WERE SOME PEOPLE WHO READ THE INITIAL SET OF RULES AS BEING A SET OF PRIORITIES. FIRST YOU LOOK AT RULE ONE AND THEN RULE TWO. WE HAVE TAKEN THAT OUT AND TRIED TO CALL THEM GUIDELINES AND SAY YOU NEED TO CONSIDER ALL OF THESE MATTERS, AND THE FACT OF THE MATTER IS, IF YOU EVER DID GET A JUDGE, AND I REALIZE THIS IS A RULE ABOUT LAWYER CONFLICT NOT DOCKET CONTROL, BUT IF YOU HAD A JUDGE WHO HAD A CRIMINAL MATTER, A LAWYER WITH A CRIMINAL MATTER AND A TPR MATTER BEFORE HIM OR HER, WHAT THE COMMITTEE SAYS IS THAT THE JUDGE WHO HAS GOT ALL OF THE CIRCUMSTANCES, NEEDS TO LOOK AT ALL OF THE SET OF CIRCUMSTANCES.

BUT AS A PRACTICAL MATTER, WE KNOW THAT WHEN THERE ARE TWO DIFFERENT CASES GOING ON, TWO DIFFERENT COURTS, NO ONE IS GOING TO APPEAL THESE QUESTIONS ABOUT WE ARE GOING TO CONTINUE THIS OR NOT.

I AGREE.

SO WE HAVE GOT TO MAKE SURE THAT WHAT ARE CALLED THE PRIORITY GUIDELINES ARE CLEAR TO THE JUDGES, AND WHAT I RECALL FROM THE LAST TIME THIS WAS UP HERE WAS THAT THERE WERE PROBLEMS, AT LEAST IN CERTAIN PARTS OF THE STATE, WHERE JUDGES WOULD SAY I AM READING THESE GUIDELINES AS TELLING ME THAT CRIMINAL TAKES PRIORITY OVER CIVIL AND JURY OVER NONJURY, AND I GUESS I JUST AM CONCERNED, BECAUSE I DON'T SEE THAT THIS AMENDMENT, YOU KNOW, AND I UNDERSTAND NOT WANTING TO TAKE AND RANK EVERY CASE AND GIVE A, YOU KNOW, A CHECKLIST, REALLY TELLS THE JUDGE, YES, THAT MR. KREIDLER IS IN A JURY TRIAL OR HE HAS GOT A TPR, THAT THE TPR HAS GOT TO TAKE PRIORITY.

THE INITIAL VAGUENESS IS NOT THE THRUST I HAVE GOTTEN FROM THE COMMENT ORZO THE RULES. THE THE COMMENT -- THE COMMENTERS ON THE RULES. THE COMMENTERS SAY WE WANT TPR IN OUR SITUATION, AND WE CATAGORICALLY REJECT THE CONCEPT IN ANY PARTICULAR CASE, AND IF IT IS STILL VAGUE. IF A JUDGE MIGHT STILL READ THIS AND SAY PRIORITIES ARE FIFTH AND WE WON'T HE HAVE BOENAU-AND WE WON'T -- AND WE WON'T EVEN GET TO THOSE, IF IS THERE A JURY CASE, IF, IN FACT, THAT IS THE PROBLEM. THE RULE WAS ALWAYS ANECDOTAL, AS IT IS. THERE HAS BEEN NO GROUND SWELL OF REPORTS ANYWHERE, THAT JUDGES ARE CONSISTENTLY MISUNDERSTANDING THE RULE. WE HAVE TRIED TO MAKE IT MORE CLEAR, WITH OUR AMENDMENTS TO THAT, BUT I DON'T HONESTLY BELIEVE THAT THERE IS A MASSIVE MISUNDERSTANDING AND AN APPLICATION OF --

WOULD YOU ELABORATE FURTHER ON THAT.

SORRY?

WOULD YOU ELABORATE FURTHER ON YOUR LAST COMMENT. THAT IS I AM INTERESTED IN KNOWING, FOR INSTANCE, JUST HOW WIDESPREAD THE PROBLEM IS OUT THERE. AS YOU SAY,

THIS IS LIMITED TO THE LAWYER'S CONFLICT.

THIS PARTICULAR RULE.

THIS PARTICULAR RULE IN DIFFERENT COURTROOMS. I WOULD IMAGINE THAT AN OUTSIDER WOULD LOOK AT IT AND SAY, WELL, GEE, HOW MANY TIMES DOES THAT KIND OF SITUATION ARISE, WHERE THE SAME LAWYER HAS TWO CONFLICTING CASES AND TWO DIFFERENT COURTROOMS. WAS THE COMMITTEE ABLE TO GET A HANDLE ON JUST HOW, YOU KNOW, WHETHER THERE IS A SUBSTANTIAL PROBLEM OUT THERE, OR WAS THERE AN ATTEMPT MADE TO DO THAT? SO THAT WE CAN EVALUATE THE SERIOUSNESS OF THE ISSUE.

ATTEMPT WAS MADE, BY GOING, BOTH, TO OSCA, TO THE STATE COURT ADMINISTRATORS OFFICE, TO THE VARIOUS SECTIONS OF THE BAR. WE FOUND NO DATA RECORDED OR COLLECTED ANYWHERE. WE GOT NO MASSIVE INPUT FROM COURTS, JUDGES, LAWYERS THAT SAID THIS IS HAPPENING EVERYWHERE. IT IS HAM PANT. HAS IT HAPPENED? -- IT IS RAMPANT. HAS IT HAPPENED? YES. THAT IS WHAT GOT MR. KREIDLER'S REPORT OF A PARTICULAR LAWYER --

EVEN, AS I RECALL, IN UNCONTESTED DETERMINATION CASES INITIALLY, IN A SENSE, THOUGH, THAT IS A DIFFERENT OR IT CAN BE WHAT IS THE CONCLUSION THAT YOUR COMMITTEE REACHED, AS TO THE EXISTENCE OF A PROBLEM OR THE DEPARTMENT OF THE PROBLEM? HOW WOULD YOU CHARACTERIZE THAT?

I THINK I WOULD CHARACTERIZE IT AS A PROBLEM THAT IS NOT WIDESPREAD. TO THE TENINGTS THAT IT IS PRESENT -- TO THE EXTENT THAT IT IS PRESENT, AND I MAY BE WRONG. WHEN YOU HAVE NO DATA, IT MAY BE SIMPLY ABSENT OR MAY NOT BE IN EXISTENCE AT ALL. IT MAY BE INELUSABLE, BUT WE HAVE A PROBLEM WITH DETERMINING CASES WHERE JUDGES ARE UNIFORMLY MISS APPLYING THESE GUIDELINES. IF IF, IN FACT, THAT IS THE CASE I THINK YOUR HONOR'S -- -- I THINK YOUR HONOR'S OPINION TWO YEARS AGO, WE TRIED, THIS RULE DOES ALLOW A REVIEW TO THE CHIEF JUDGE, IF A TRAFFIC COURSE CASE IS ALLOWED TO GO FORWARD, WHEN A TPR CASE LANGUISHES. WE HAVEEST, NOW, ADDED A SPECIFIC RULE PARALLEL TO THE APPELLATE RULE, THAT SAYS JUDGES TRIAL JUDGES, YOU HAVE A DUTY TO ADDRESS PRIORITY CASES, SO HE PUT IT SQUARELY IN FRONT OF THOSE JUDGES, AND THAT IS 2.050, AND THEN IN 2.085, WHERE WE ADDRESS THE TRIAL JUDGE AND SAID WHAT IS YOUR DUTY? WE HAVE SAID, AT THE VERY OUTSET YOUR JOB IS TO IDENTIFY THOSE CASES THAT ARE PRIORITY CASES, PARTICULARLY WITH CHILDREN.

HAS YOUR COMMITTEE CONSIDERED USING LANGUAGE THAT IS MORE SIMILAR TO THE APPELLATE RULE, BECAUSE THE APPELLATE RULE REALLY MAKES IT CLEAR THAT THE TERMINATION OF PARENTAL RIGHTS, THOSE TYPES OF CASES HAVE PRIORITY, AND I AM NOT SURE THAT THIS RULE IS THAT CLEAR, THAT THESE CASES SHOULD BE GIVEN PRIORITY.

I AM GOING TO DO SOMETHING I DON'T FREQUENTLY DO IN FRONT OF A COURT OR AN APPELLATE COURT, AND THAT IS PLEAD IGNORANCE, BECAUSE I WAS SPEAKING WITH JUDGE KRUZON NOT MORE THAN THREE MINUTES AGO, TO SAY THAT I WANTED TO COMPARE THE LANGUAGE OF 9.146-G, WITH WHAT WE CREATED IN 2.050-G, AND JUSTICE QUINCE, I THOUGHT THAT WE HAD TRIED TO REINVENT AS FEW WHEELS AS POSSIBLE AND TRACK, AS CLOSE TO THE SAME LANGUAGE THERE AS IN 9.146-G, SO THAT WE DIDN'T HAVE DIFFERENT STANDARDS IN THE TRIAL COURT VERSUS THE APPELLATE COURT AND IF WE HAVE FAILED, THEN THAT IS, THEN WE HAVE MISSED AN OPPORTUNITY, HOWEVER SMALL, TO DEFINE THE PROBLEM SIMILARLY IN ALL COURTS.

BUT IT WAS THE INTENT OF THE COMMITTEE THAT IT HAVE SIMILAR --

ABSOLUTELY CORRECT. IN OTHER WORDS, WE INTENDED TO PLACE, BEFORE THE TRIAL JUDGES IN 2.050-G, AND THE APPELLATE JUDGES IN 9.146-G, THE SAME IDENTITY OF PRIORITIZATION AND THE SAME EMPHASIS, IF YOU WILL, GIVEN TO CASES INVOLVING CHILDREN AND TERMINATION OF

PARENTAL RIGHTS.

WHERE IS PRIORITY DEFINED? TALKING ABOUT PRIORITY CASES.

PRIORITY CASES. WE DEFINE THEM, IN 2.050-D. -- 2.050-G. IT SAYS THOSE CASES THAT ARE ASSIGNED A PRIORITY STATUS OR ASSIGNED AN EXPEDITED SCHEDULE, BY ESTABLISHED RULE OF PROCEDURE CASE LAW OR OTHERWISE.

HOW WOULD YOU KNOW THAT TPR JUVENILE DEPENDENCY CASES ARE CASES THAT ARE PENDING
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TWO-WAYS. A JUDGE KNOWS WHAT CASES HIS OR HER DIVISION HAS, IN TERMS OF PRIORITY, OR WHEN THE JUDGE FIRST OBTAINED A CASE UNDER 2.085, HE OR SHE IS REQUIRED, BY INITIAL DOCKET CONTROL, TO BE TOLD AND IDENTIFY WHAT THOSE CASES ARE, AND, THREE, A LITIGANT IS ENTITLED BUT NOT REQUIRED, UNDER 2.085, TO CREATE A NOTICE AND SERVE IT ON THE TRIAL JUDGE AND PARTIES. DEAR COURT. THIS IS TO NOTIFY YOU THAT THIS CASE RECENTLY ASSIGNED TO YOUR DIVISION, IS A PRIORITY CASE, UNDER STATUTE, RULE OR WHATEVER, AND THEREBY CREATING THAT DATA BASE THAT, NOW, THE TRIAL JUDGE CAN NO LONGER SAY, O I DIDN'T KNOW THIS WAS A -- THAT, OWE, I DIDN'T KNOW THIS WAS A PRIORITY CASE, TO -- THAT I DIDN'T KNOW THIS WAS A PRIORITY CASE, AND IS REQUIRED UNDER 2.050-C, TO ASSIGN THE CASE.

UNDER 2.9850-C, GIVING PRIORITY TO THE JUDGE BETWEEN THAT AND THE CASE ALREADY ESTABLISHED. YOU WOULD PREFER TO LEAVE IT WITH THE JIM, TO DO IT UP FRONT, BUT -- WITH THE JUDGE, TO DO IT UP FRONT, BUT IF IT BOILS DOWN TO AN OPTION BETWEEN THESE TWO, WHICH IS PREFERABLE?

YOU MEAN CATEGORY ONE, CATEGORY TWO, CATEGORY THREE?

RIGHT. CRIMINAL CIVIL CASES, AS OPPOSED TO C, WHERE THE LAWYER HAS TO NOTIFY THE JUDGE THAT THIS IS A PRIORITY CASE.

WELL, I THINK MR. KREIDLER IS A GOOD EXAMPLE. IF HE, AS AN ADD HAVE CAT, SAYS -- AS AN ADVOCATE, SAYS I HAVE GOT A CASE, WHETHER IT IS CLAIM IN COURT UNDER A STATUTE OR WHATEVER, I THINK THERE IS NOBODY BETTER THAN THE LITIGANT'S COUNSEL TO PRESENT THAT MATTER TO THE COURT, AND IT IS THE COMMITTEE'S CONSISTENT CONSISTENTLY-EXPRESSED VIEW THAT WE -- I DON'T WANT TO SAY ADAMANTLY OPPOSED, BECAUSE WHATEVER THE COURT THINKS IS BEST IS BEST. WE ARE STRONGLY AGAINST ANY SYSTEM THAT RANKS ANY CASE BEFORE A PARTICULAR CASE FOR ALL PURPOSES.

BUT IT IS OPPOSED TO THE GROUNDS THAT IT PLACES THE CHIEF JUDGE IN THE POSITION OF BEING A RESPONDENT. HOW DO YOU RESPOND TO THAT?

THE CHIEF JUDGE, JUDGES, MADE ONE OBJECTION, AND THAT WAS THAT IN A SITUATION WHERE PRIORITY CASE HAS NOT BEEN GIVEN THE PRIORITY EFFECT THAT A LITIGANT WANTS, THEN WHAT WE CALLED, A MOTION FOR REVIEW CAN BE FILED WITH THE CHIEF JUDGE, TO ASK THAT JUDGE TO DO SOMETHING. THE OBJECTION WAS, AS I RECALL, A, THERE IS NO PROCEDURE GIVEN. WHAT RULES AND PROCEDURES ARE TO BE FOLLOWED, AND WE DID THAT DELIBERATELY, BECAUSE THAT PROCESS WAS INTENDED TO BE, IF YOU WILL, SOMEWHAT INFORMAL. B, THEY SAID, WELL, WE HAVE GOT THAT AUTHORITY ANYWAY. YES, YOU PROBABLY DO HAVE YOUR AUTHORITY TO CONTROL THE DOCKETS OF YOUR OTHER JUDGES, BUT LET'S TELL THE LITIGANTS IN A RULE, THAT THEY CAN GO TO THE CHIEF JUDGE. I KNOW AS A LAWYER, I AM FRIGHTENED TO GO TO THE CHIEF JUDGE, UNLESS I KNOW DARNED WELL I HAVE GOT THE RIGHT TO GO THERE AND THEN FINALLY, THEY SAID THAT THE RESPONDENT, THAT THE TRIAL JUDGE MIGHT BE A RESPONDENT. I DON'T KNOW WHERE THAT REAL CONCERN COMES FROM, BECAUSE THE ONLY ISSUE WAS TO PLACE THIS MATTER OF APPARENTLY INAPPROPRIATE PRIORITY DECISION, BEFORE

A CHIEF JUDGE. IT WAS TO GIVE SOME RELIEF TO THE ABERRANT CASE, IF THERE IS SOME JUDGE OUT THERE IN LIGHT OF ALL OF THIS, WHO SAYS GO TRY YOUR TRAFFIC COURT CASE. WE ARE NOT GOING TO TRY THIS TPR CASE. WE ARE GOING TO GIVE THAT LITIGANT AN APPROPRIATE VEHICLE TO GO TO SOMEBODY AND SAY, CHIEF JUDGE SMITH, LOOK AT THIS. THIS IS NOT RIGHT. AND THAT IS ALL WE TRIED TO DO. I DON'T THINK THERE IS A REAL SERIOUS RISK THAT A TRIAL COURT JUDGE IS GOING TO BECOME A RESPONDENT. MR. CHIEF JUSTICE

YOU ARE IN YOUR REBUTTAL.

THERE ARE OTHER RULES THAT HAVE BEEN ADDRESSED, BUT I THINK I HAVE TRIED TO AT LEAST TOUCH UPON THEM, AND WE CERTAINLY ASK THAT THAT THIS BODY OF RULES TO BE ENACTED AND APPROVED BY THIS COURT AS THEY STAND. THANK YOU. MR. CHIEF JUSTICE

THANK YOU. JUDGE McNEIL.

MAY IT PLEASE THE COURT. I AM RAY McNEAL. I AM CIRCUIT JUDGE, APPEARING ON BEHALF OF THE FAMILY COURT STEERING COMMITTEE. I WANT TO THANK THE RULES OF JUDICIAL COMMITTEE AND ESPECIALLY THE HARD WORK OF PAUL RAGENDORF, AND THEY HAVE DONE A HARD JOB TRYING TO ADDRESS THIS ISSUE. WE JUST HAVE A DIFFERENCE OF OPINION. HE HAVE THEN -- EVEN THOUGH IT SOUNDS LOGICAL, THESE RULES ARE NOT GOING TO CORRECT THE PROBLEM THAT THE STEERING COMMITTEE THINKS EXIST, AND THAT IS A PROBLEM --

YOU INDICATE THAT THIS IS A PRIORITY CASE, EITHER BASED ON A STATUTE OR RULE OR OTHERWISE. IF SOMEONE CAME WITH A TERMINATION OF PARENTAL RIGHTS CASE, WHAT WOULD THEY TELL THE JUDGE MAKES THIS A PRIORITY CASE? IS IT SOME CASE LAW? IS THERE -- I MEAN, DOES THIS RULE DOESN'T SEEM TO SAY THAT THIS IS A PRIORITY CASE, SO HOW WOULD YOU CONVINCING THE JUDGE THAT THIS IS A PRIORITY CASE?

I DON'T THINK THAT YOU CAN. THERE IS NO BASIS FOR -- IF A STATUTE SAYS THAT YOU, CERTAIN CASES SHOULD BE EXPEDITED, THEN MAYBE YOU CAN SAY THAT IS A PRIORITY, BUT NOWHERE DOES IT SAY THAT TPR TERMINATION OF PARENTAL RIGHTS CASES OR ANY OTHER PARTICULAR CASE, PREVAILS OVER OTHER CASES. THE ONLY THING THAT WE HAVE IS THE RULE OF JUDICIAL ADMINISTRATION, THAT SAYS CRIMINAL PREVAILS OVER CIVIL AND JURY TRIALS PREVAIL OVER NONJURY TRIALS. AND SO AS A PRACTICAL MATTER, WHAT HAPPENS, WHEN WE HAVE A CONFLICT, AND, REALLY, FROM OUR STANDPOINT, THE PROBLEM IS WHEN AN ATTORNEY HAS TO APPEAR IN TWO DIFFERENT PLACES AND HE CAN'T BE IN BOTH COURTS AT THE SAME TIME. ONE OF THOSE CASES IS A FAMILY. WHEN I SAY FAMILY, I MEAN A DOMESTIC RELATIONS, DOMESTIC VIOLENCE OR JUVENILE DEPENDENCY OR JUVENILE DELINQUENCY CASE. WHEN ONE OF THOSE CASE, AND THEY HAVE A CRIMINAL CASE, THEY ARE GOING TO COURT. WHEN THEY HAVE A CIVIL JURY TRIAL, THEY ARE GOING TO CIVIL COURT FOR THEIR JURY TRIAL.

IF THIS, DO YOU HAVE DATA? THEY COULD NOT FIND DATA TO SUPPORT YOUR POSITION, AND IS IT AS THEY SAY, ANECDOTAL, OR IS IT A WIDESPREAD, PERVASIVE PROBLEM?

FIRST, THERE IS NO DATA, AND I HAVE NO DATA TO BACK ME UP, AND ALL I KNOW IS THE REPORTS THAT I GET FROM OTHER JUDGES THAT THIS HAPPENS. THE REASON IS NOT, NO ONE DOCUMENTS IT. I GET THEM, AND ALL I DO IS SAY, OKAY, THEY HAVE GOT A CRIMINAL TRIAL. I AM NOT GOING TO CALL UP AND ARGUE WITH THE JUDGE OVER WHETHER MY CASE SHOULD HAVE PRIORITY OR HIS CASE SHOULD HAVE PRIORITY. YOU GO TAKE CARE OF YOUR CRIMINAL CASE AND YOU COME BACK, AND UNDER THIS RULE, THE PROPOSED AMENDMENT, THE SAME THING IS GOING TO HAPPEN. I CAN'T TELL YOU HOW OFTEN THIS HAPPENS OR WHERE IT HAPPENS, BUT I CALL UP JUDGE DANNY DAWSON, WITH THE COURT IMPROVEMENT COMMITTEE, AND HE BELIEVES, BASED ON REPORTS TO HIS COMMITTEE, THAT THIS IS A SIGNIFICANT PROBLEM.

WHAT YOU ARE SAYING IS IT IS NOT THAT IT HAPPENS A LOT, BUT WHEN IT HAPPENS, THE RULE

CLEARLY AS AMENDED, GIVES A CIVIL JURY CASE PRIORITY OVER NONJURY CASE, AND THERE IS NOTHING IN THESE RULES THAT SAY THAT TPR'S AND JUVENILE DEPENDENCY CASES SHOULD HAVE PRIORITY OVER A CIVIL JURY CASE, CORRECT?

ABSOLUTELY.

NOW, IN TERMS OF, THOUGH, THE ISSUE AS TO WHETHER YOU HAVE GOT A CRIMINAL CASE, YOU HAVE GOT SPEEDY TRIAL ISSUES WITH THE CRIMINAL CASE. NOW YOU ARE TALKING ABOUT THE CRIMINAL CASE HAS BEEN SET FIRST. GOING ALONG WITH TPR. IS THE FAMILY COURT STEERING COMMITTEE ADVOCATING THAT THE LAWYER WHO HAS TO BE IN TWO PLACES SHOULD BE AT THE TPR, AND WHAT WOULD HAPPEN, THEN, WITH THE CRIMINAL SPEEDY TRIAL CASE?

IF THERE IS A SPEEDY TRIAL CASE, THEN WE DON'T THINK THE TPR SHOULD PREVAIL OVER. THAT SPEEDY TRIAL IS A PRETTY DEFINITE TIME PERIOD, AND IT IS A SHORT TIME PERIOD.

AND THIS CREATES A CONCERN THAT I HAVE. ARE WE GOING TO BE ABLE TO SIT DOWN AND WRITE OUT, IN A RULE, ALL OF THE CONCERNS, AND WHAT ARE WE GOING TO DO, WHEN WE GET TO THE CASE THAT HAS NOT BEEN COVERED BY THE RULE? AND TO THAT EXTENT, YOU KNOW, WE HEARD AN ARGUMENT YESTERDAY, WHERE THERE WAS A REQUEST FOR US TO DRAW A BRIGHT LINE, AND I ASSUME THAT THAT IS WHAT YOU ARE WANTING US TO DO, AND WHEN WE DRAW BRIGHT LINES, WE REMOVE DISCRETION FROM TRIAL JUDGES. 23 YEARS I MANAGED A DOCKET IN THE TRIAL COURT. FOUR OF THOSE YEARS, I WAS A CHIEF JUDGE, AND YOU KNOW, I HAVE THIS CONCERN THAT WE ARE SITTING UP HERE, AND MICROMANAGING, ON A DAY-TO-DAY BASIS, HOW THE TRIAL JUDGE SHOULD EXERCISE DISCRETION. AND WE ARE DOING THAT, WITHOUT ANYTHING BUT ANECDOTAL REPORTS, AND SERIOUS THOUGH THEY MAY BE, BUT SHOULD WE, ARE WE WAGGING THE DOG BY THE TAILOR WHAT? -- BY THE TAIL, OR WHAT?

THERE ARE TWO DIFFERENT ISSUES HERE, AND FRANKLY THE MANAGEMENT OF INDIVIDUAL JUDGES' CALENDARS, I DON'T THINK IS THE PROBLEM. I DON'T THINK THAT IS WHERE THE PROBLEM IS WITH A PRIORITY STATUS THAT IS SET IN RULE 2.050-A THAT, SAYS WHEN AN ATTORNEY HAS TO BE IN TWO PLACES THEY MAY HAVE TO BE SCHEDULED FOR A TRIAL IN MARION COUNTY AND A TRIAL IN DADE COUNTY IN THE SAME WEEK OR SAME DAY, AND WE NEED A CLEAR STATEMENT OF WHICH CASE IS ENTITLED TO PRIORITY, SO THAT THAT ATTORNEY KNOWS WHERE THEY ARE GOING TO GO, AND SO THE JUDGES ARE NOT PUT INTO POSITION OF HAVING TO CALL UP AND SAY, YOU KNOW, MY CASE IS REALLY MORE IMPORTANT THAN YOURS, AND I WOULD LIKE YOU TO LET THE ATTORNEY RELEASE THE ATTORNEY, SO HE CAN COME TO MY COURT. NOW THAT BURDEN FALLS ON THE JUDGE IN THE FAMILY CASE, IN THE DEPENDENCY CASE. THEY HAVE TO CALL THE CRIMINAL JUDGE AND SAY WOULD YOU PLEASE DEFER TO ME. I WOULD LIKE TO SEE YOU REVERSE THE STATUS AND SAY THAT CASES INVOLVING CHILDREN DESERVE SOME KIND OF PRIORITY OVER CRIMINAL CASES.

BUT YOU ARE SAYING ANECDOTAL ANECDOTALLY THAT THOSE JUDGES WON'T DEFER?

I AM SAYING THAT, WELL, I AM SAYING TWO THINGS. NUMBER ONE, THE JUDGES DO NOT GENERALLY DEFER, AND NUMBER TWO, I AM SAYING THAT, OUR ATTORNEYS, AND A LOT ATTORNEYS WHO PRACTICE IN FAMILY LAW, IN THE DEPENDENCY AREA, PRACTICE IN CRIMINAL COURT AS WELL. AND THEY OVER BOOK THEMSELVES, JUST LIKE WE DO, HOPING THAT EVERYTHING IS GOING TO WORK OUT, AND IT USUALLY WORKS OUT, BUT ON FRIDAY, WHEN THE CASE DOESN'T SETTLE, THEN THEY FAX YOU A NOTICE OF CONFLICT, AND THEY GO TO COURT IN DADE COUNTY, IF THAT IS THEIR JURY TRIAL OR THEIR CRIMINAL TRIAL, AND SO THERE IS NO TIME TO REALLY NEGOTIATE WITH THE OTHER JUDGE AND SAY I HAVE GOT THIS PROBLEM. WOULD YOU DEFER TO ME?

BUT THERE IS, ALSO, ALWAYS THE PROBLEM THAT YOU ARE GOING TO RUN INTO, WHERE THERE IS SOMEBODY OUT THERE THAT IS USING WHAT YOU WRITE IN STONE IN THE RULE, TO SOME GUY,

FELLOW HAS GOT A MEDICAL MALPRACTICE CASE, AND HE HAS GOT EXPERTS COMING FROM ALL OVER THE WORLD, AND THE OTHER FELLOW DOESN'T WANT TO GO TO TRIAL, AND SO SUDDENLY HE HAS GOT SOME KIND OF PRIORITY CASE THAT HE FAXES TO THE JUDGE AND TRUMPS THAT, AND SO YOU KNOW, IT IS JUST, IT IS THE TYPE OF SITUATION, SEEMS TO ME, THAT YOU YOU HAVE TO RELY UPON THE PEOPLE THAT ARE ON THE GROUND, TO MAKE A DECISION ABOUT.

WELL, RIGHT NOW, I AGREE WITH ALL OF THAT I BELIEVE THAT THOSE PEOPLE SHOULD MAKE THE DECISION, BUT RIGHT NOW THEY ARE MAKING A DECISION, BASED ON THE PRIORITIES IN THE RULE.

TO THAT EXTENT, IS IT PRACTICE FOR YOU, AS A FAMILY COURT JUDGE, TO CALL A CRIMINAL COURT JUDGE AND SAY WE HAVE GOT A CONFLICT. HOW CAN WE WORK IT OUT?

I HAVE DONE THAT.

BUT IS THAT THE PRACTICE?

NO, SIR. I WOULD SAY THE GENERAL PRACTICE IS THAT YOU WOULD DEFER TO THE CRIMINAL CASE AUTOMATICALLY, WITHOUT TRYING TO WORK IT OUT.

WELL, NOW, ISN'T THAT A PROBLEM THAT MIGHT BE A SOLUTION TO A PROBLEM? HOW MANY JUDGES WOULD SAY I HAVE GOT THIS CASE SCHEDULED FOR THIS MORNING. COULD YOU START YOUR CRIMINAL TRIAL THAN? I MEAN, WHERE, IS THERE, WHAT ABOUT COMMUNICATION BETWEEN THE JUDGES?

I BELIEVE THAT THE COMMUNICATION SHOULD TAKE PLACE WHEN THERE IS AN OPPORTUNITY TO DO IT, BUT OVER THE YEARS, MY EXPERIENCE HAS BEEN, WHEN WE ARE DEALING EVEN IN OUR OWN COUNTY, THAT THE LIKELIHOOD THAT A JUDGE WITH A CRIMINAL CASE IS GOING TO DEFER TO SOME OTHER KIND OF CASE IS SLIM, BUT WE DO THAT, BUT WHEN THE ATTORNEY HAS TO BE IN DADE COUNTY AND MARION COUNTY AT THE SAME TIME, NORMALLY WE ARE NOT GOING TO GET ON THE TELEPHONE AND TRY TO RESOLVE THAT. AND FRANKLY, WE FIND OUT ABOUT IT TOO LATE TO TRY TO RESOLVE IT MOST OF THE TIME.

IF I UNDERSTOOD MR. REGENSDORF AND IN ANSWER TO SOME OF THE QUESTIONS FROM THE PANEL, THAT, REALLY, THERE WAS NO INTENT TO HAVE AN INFLEXIBLE PRIORITY OF CRIMINAL OR CIVIL TRIALS OVER, FOR INSTANCE, TIME TIME-SENSITIVE CHILDREN'S ISSUES CASES, AND SO WHAT I AM HOPING THAT I AM SEEING SOME ROOM IN HERE, AND THAT IS THAT YOU SEEM TO BE IDENTIFYING THAT, REALLY, THE RULE AS IT IS PRESENTLY WRITTEN IS TAKEN AS A STRICT BRIGHT LINE NOW AND AS EASY WAY OUT THAT, IF IT IS A JURY TRIAL, NO MATTER WHAT KIND OF JURY TRIAL OR THE CIRCUMSTANCES, OR IF IT IS A CRIMINAL MATTER, NO MATTER HOW LONG IT HAS BEEN PENDING OR WHATEVER, THAT AUTOMATICALLY THE RULE IS TAKEN AS BEING A BRIGHT-LINE RULE, AND THAT THOSE CASES HAVE PRIORITY OVERALL OTHER CASES, AND THAT THAT IS THE WAY, SO THAT THAT IS NOT FLEXIBLE, AND IT SOUNDS LIKE THE COMMITTEE, REALLY, HAD NO INTENT FOR THAT TO BE WORKING THAT WAY, THAT RATHER THEY WERE SAYING THAT THIS SHOULD BE SOMETHING WHERE, IF IT IS A TIME TIME-SENSITIVE CHILDREN'S ISSUE OR, YOU KNOW, FAMILY ISSUE, THAT SHOULD BE CONSIDERED. IF THERE ARE OTHER CIRCUMSTANCES YOU KNOW, SUCH AS ONE THAT JUSTICE WELLS DESCRIBED, YOU KNOW, WHERE THEY BROUGHT ALL THESE PEOPLE AND IT IS A ONE-TIME OPPORTUNITY, SO IS THERE SOME LANGUAGE THAT COULD BE PUT IN THE RULE THAT WOULD MAKE IT BE THE FLEXIBLE DEVICE THAT, IF I UNDERSTAND FROM MR. REGENSDORF AND THE COMMITTEE, IN OTHER WORDS ONE OF THE ISSUES WE SEEM TO BE DEBATING NOW IS NOT AN ISSUE, IF I UNDERSTAND WHAT THEY SAID, SO DO YOU THINK IF WE COULD TAKE OUT THE APPEARANCE OF THAT BRIGHT LINE PRIORITY ABOUT THE CRIMINAL AND THE CIVIL JURY, THAT THAT WOULD ALLEVIATE THE PROBLEM, TO A GREAT EXTENT?

I THINK THAT THAT WOULD START TO ADDRESS IT. THERE ARE SOME DANGERS IN THAT, TOO, BECAUSE, AND WE DIDN'T DISCUSS THIS IN THE STEERING COMMITTEE, BUT I THOUGHT, MYSELF IF I HAD TO REWRITE IT, HOW WOULD I DO IT, AND THE USE OF THE WORD "PREVAIL" IN THE RULE, WHEN YOU SAY THAT JURY TRIALS PREVAIL OVER NONJURY, WHEN YOU SAY THAT CRIMINAL PREVAILS OVER, THAT IS PRETTY STRONG LANGUAGE.

RIGHT.

SO WHAT THAT DOES IS IT FORCES THE PERSON WITH THE TPR CASE TO ALWAYS GO TO THE OTHER JUDGE AND ONLY IF THAT OTHER JUDGE WILL DEFER TO YOU IN YOUR CASE, ARE YOU ABLE TO RESOLVE THE CONFLICT, AND BECAUSE I AM HERE AS AN ADVOCATE FOR FAMILY LAW AND FOR CHILDREN, I BELIEVE THAT CHILDREN'S CASES SHOULD HAVE SOME PRIORITY IN THAT SCHEDULE, SO THAT, IF THERE, WE WOULD STILL WORK OUT CONFLICTS, AND WE WOULD STILL YIELD TO CASES WHERE --

YOU STILL AGREE THAT --

YOU COULD RE--

-- IN A CRIMINAL CASE WHERE TIME IS ABOUT TO RUN.

SURE.

STILL, OR IF IT IS ALL OF THE WITNESSES FROM ALL OVER IN THE JURY CASE, SO IT IS THAT FLEXIBILITY THAT, REALLY, NEEDS TO BE ADDRESSED, AND THEN THAT WOULD BE HELPFUL IN YOUR VIEW.

YES, SIR. INNINGS. AND YOU FOLKS HAVE, YOU ARE -- YES, SIR. I THINK SO. AND YOU FOLKS, YOU ARE ABLE TO DO. THAT AS I TOLD MR. KREIDLER, I AM THE CHAIR OF A COMMITTEE. WE HAVE MOTIONS. WE HAVE AMENDMENTS, AND WE HAVE VOTES, SO IT IS NOT THE PROCESS DESIGNED TO WORK OUT, PERHAPS, THE BEST POSSIBLE SOLUTION. WE HAVE RAISED SOME ISSUES.

IS THERE AN EDUCATION HERE, TOO, AND THAT IS THAT, AT THE CIRCUIT JUDGES' CONFERENCE AND THE COUNTY JUDGES' CONFERENCE, IN THESE MEETINGS THAT WE HAVE, EDUCATIONAL MEETINGS, IS THERE A NEED FOR THIS TO BE DISCUSSED, AND SO THAT WE END UP WITH JUDGE JUDGES FEELING LIKE, YES, THEY HAVE THE DISCRETION BUT THAT THERE IS A POLICY THAT REAL LIFE YOU KNOW, ISSUES, SUCH AS THE CHILD TIME-SENSITIVE ISSUES, WILL THAT ALLEVIATE THE PROBLEM, TOO?

I THINK THAT, I AM A FIRM BELIEVER IN JUDICIAL EDUCATION, AND I THINK THAT THE MORE JUDGES KNOW ABOUT THE PROBLEM AND THE MORE THEY KNOW ABOUT THEIR AUTHORITY AND ALTERNATES FOR RESOLVING IT, THE BETTER OFF WE ARE, BUT I DON'T THINK THAT WILL SOLVE THE PROBLEM, BUT I THINK IT WILL HELP.

JUDGE McNEAL, ARE THESE ISSUES EVER DISCUSSED IN JUDGES MEETINGS, IN THE CIRCUIT, IN YOUR CIRCUIT?

I DON'T THINK THEY HAVE EVER BEEN DISCUSSED, TO BE HONEST WITH YOU. IN MY CIRCUIT.

WELL, YOU KNOW, THAT IS A VERY GOOD PLACE FOR THIS CONVERSATION TO TAKE PLACE, AND CERTAINLY WITH THE EMPHASIS OF THE -- WITH THE INPUT OF THE CHIEF JUDGE, I THINK IT WOULD BE A GOOD IDEA FOR YOU TO DO THAT, AND MY SECOND QUESTION IS, DO WE HAVE ANY DATA THAT SHOWS THE LENGTH OF TIME? I KNOW WE GET CASES UP HERE ON TERMINATION OF PARENTAL RIGHTS, AND IT IS VERY FRUSTRATING, WHEN IT HAS BEEN A VERY LONG TIME. DO WE HAVE ANY DATA THAT SHOWS HOW LONG THESE CASES TAKE IN CIRCUITS OR STATEWIDE?

I DO KNOW THAT WE HAVE THAT DATA, BUT I DON'T KNOW WHAT THE FIGURES ARE. WE ALL KNOW THAT THE TIME CRUNCH IN DEPENDENCY CASES IS DIFFICULT. IT IS DIFFICULT ON THE PARTIES, THE ATTORNEYS, AND THE JUDGES, AND IT IS VERY, IT IS A VERY DIFFICULT DOCKET TO MANAGE. THEY ARE THE MOST IMPORTANT CASES WE HANDLE. WE HAVE TO DO THEM QUICKER THAN ANY OTHER CASES, AND THE ISSUES INVOLVING CHILDREN DESERVE SOME KIND OF SPECIAL CONSIDERATION. I WOULD LIKE TO POINT OUT, ALSO, AND I BELIEVE THAT WE, I AM A FIRM BELIEVER IN CIRCUIT MEETINGS AND COUNTY MEETINGS AND THAT WE SHOULD DISCUSS ALL OF THESE ISSUES AMONG OURSELVES, AND I BELIEVE THAT WE SHOULD DO THAT, BUT MOST OF OUR PROBLEMS, IF I HAVE A CONFLICT BETWEEN A CASE THAT I WANT TO GO TO TRIAL AND THE JUDGE THAT IS NEXT DOOR TO ME HAS A COUNTY JUDGE WITH A CRIMINAL DOCKET, I WILL JUST WALK NEXT DOOR, AND WE WILL RESOLVE THAT, ONE WAY OR ANOTHER ANOTHER. BUT A LOT OF THESE CONFLICTS ARE NOT JUST WITHIN OUR OWN COUNTY. MOST OF THEM ARISE BETWEEN CIRCUITS IN OTHER PLACES. LAWYERS HAVE A VERY BROAD PRACTICE, AND IF YOU ARE IN ANY COUNTY OR ANY PARTICULAR COUNTY IN A CIRCUIT, YOU ARE GOING TO BORDER ANOTHER CIRCUIT, AND YOU HAVE TWO DIFFERENT CIRCUITS TO DEAL WITH, SO IT IS NOT AS EASY AS SAYING, OKAY, LET'S DISCUSS THIS IN OUR JUDGES MEETING AND ARRIVE AT SOME KIND OF DECISION ABOUT WHAT TO DO LOCALLY, ALTHOUGH I WOULD AGREE WITH THAT. MR. CHIEF JUSTICE

IS MR. KREIDLER GOING TO ADDRESS? YOU ARE GOING TO DIVIDE YOUR TIME, YOU BETTER --

ONE LAST QUESTION JUST ON, DOES THE QUESTION TAKE A -- DOES THE COMMITTEE TAKE A POSITION ON THE TIME STANDARDS THAT ARE BEING PROPOSED, THAT THEY BE AMENDED TO HAVE TIME STANDARDS, REPORTED TIME STANDARDS FOR TPR IN THOSE CASES?

WE DIDN'T TAKE A POSITION ON THAT, AND I AM NOT SURE IF JUDGE DAWSON'S COMMITTEE DID, BUT THE STATUTES HAVE THE TIME STANDARDS IN THEM, AND I DON'T KNOW WHY WE WOULD NEED TO PUT THEM SOMEWHERE ELSE.

OUT THERE FOR EVERYONE TO SEE HOW THESE CASES REALLY ARE PROGRESSING, WITHOUT HAVING TO CONSOLIDATE DATA. MR. CHIEF JUSTICE

MR. KREIDLER.

MAY IT PLEASE THE COURT. MY NAME IS FRANK KREIDLER, AND I AM THE ORIGINAL PROPONENT REGARDING THE CHANGE REGARDING THE CONFLICT RULE, AND EVERYBODY HAS WORKED REAL HARD ON THIS AND I WOULD LIKE TO THANK EVERYBODY FOR THEIR WORK. REALIZING I DON'T HAVE MUCH TIME I WOULD LIKE TO GO TO THE COMMENT THAT I STILL LIKE MY CHANGE. MY INITIAL PROPOSAL IS SHORT, SIMPLE, ADDRESSES THE TPR CASES, IS EDUCATIONAL FOR THE CIRCUIT JUDGES, COUNTY JUDGES THAT ARE OUT THERE THAT ARE UNFAMILIAR WITH TPR CASES AND HOW IMPORTANT THEY ARE. TRYING TO LOOK AT THIS AS AN ADVOCATE FOR THE CHILDREN THAT ARE SPENDING THEIR CHILDHOOD IN FOSTER CARE, I THINK THIS COURT NEEDS TO DO SOMETHING TO TRY TO SPEED UP THOSE CASES. IS THIS GOING TO MAKE ALL THE CASES ZIP THROUGH THE SYSTEM? NO, IT ISN'T GOING TO MAKE ALL THE CASES ZIP THROUGH THE TPR SYSTEM, BUT IT IS A SMALL STEP IN THE RIGHT DIRECTION, AND WE WERE HERE IN 2000. JUDGE CARNEY, ON BEHALF OF DCF, THE GOVERNOR, THE JUVENILE RULES COMMITTEE, AND NOW THE CHILDREN'S COURT IMPROVEMENT COMMITTEE, ALL, ENDORSE MY CHANGE. I LIKE THE CHILDREN'S COURT IMPROVEMENT COMMITTEE'S SUGGESTION. THEY ENDORSE MY CHANGE, WITH THE EXCEPTION OF CAPITAL CASES AND SPEEDY TRIAL CRIMINAL CASES.

MR. KREIDLER, IN 2000 YOU INDICATED THAT THERE WERE PROBLEMS, THAT YOU, AS AN ATTORNEY, EXPERIENCED THESE PROBLEMS OF, BASICALLY, YOU WERE TOLD YOU HAD TO BE IN TWO PLACES THAT BECAUSE OF THE WAIT PRIORITIES WERE SET, CIVIL JURY, CRIMINAL CASES WERE ALL GIVEN PRIORITY OVER TPR. IS THAT, YOU KNOW, IN THE TWO YEARS, AND THE COURT

CERTAINLY, IN ITS OPINION, MADE SOME STRONG STATEMENTS ABOUT THE IMPORTANCE OF CHILD-SENSITIVE, TIME-SENSITIVE CASES. HAVE YOU SEEN ANY CHANGE, IN TERMS OF FOR YOU PERSONALLY, OR ANYTHING, I GUESS YOU DON'T HAVE DATA, ANECDOTALLY, OUT THERE? THAT HAS BECOME LESS OF A PROBLEM, OR IS IT STILL A PROBLEM?

IT IS MORE OF A PROBLEM. DCF, TO ITS CREDIT, IS FILING A LOT MORE OF THESE TERMINATION OF PARENTAL RIGHTS PETITIONS. THEY HAVE HIRED MORE LAWYERS AND IN MY OPINION, ARE DOING A PRETTY GOOD JOB, TRYING TO GET THESE CASES MOVING IN THE SYSTEM WHICH, THEN, PUTS THE BURDEN ON THE JUDGES, TRYING TO FREE UP THE LAWYERS AND GET THE CASES PULLED TOGETHER, AND A LOT OF THEM HAVE EXPERT WITNESSES, TOO, GET THE CASES PULLED TOGETHER F YOU ARE LOOKING AT ANECDOTAL EVIDENCE, JUDGE McNEAL SAYS THAT IT HAPPENS. HE SAYS JUDGE DAWSON SAYS THAT IT HAPPENS. THAT IS A DIFFERENT CIRCUIT. JUDGE CARNEY, WHEN SHE WAS HERE IN THE YEAR 2000, SAID THAT IT HAPPENED TO HER IN BROWARD COUNTY WHEN SHE WAS A CIRCUIT JUDGE, TRYING TO EXPEDITE THESE TPR CASES. IT IS STILL HAPPENING IN PALM BEACH COUNTY.

WELL, YOU HAVE, AND I REALIZE YOUR TIME IS OUT, AND I AM JUST GOING TO ASK YOU THIS ONE QUESTION AND SEE WHETHER OR NOT YOU CAN GIVE US ANY INFORMATION ON THIS.

YES, SIR.

AT THE LAST ORAL ARGUMENT SESSION WITH JUDGE CARNEY HERE, AND OTHERS, WE IDENTIFIED, AS A PROBLEM, WITH REFERENCE TO THIS ISSUE, THE DEVOTION IS OF ADEQUATE JUDICIAL RESOURCES IN THE CIRCUIT TO HEAR THESE CASES, AND DO YOU KNOW OR CAN YOU COMMENT ON WHETHER OR NOT THERE HAS BEEN ANY IMPROVEMENT IN THAT RESPECT, THAT IS THAT JUDGE CARNEY CANDIDLY SAID THESE CASES ARE BACKED UP BECAUSE THERE IS NOT ENOUGH JUVENILE DIVISION JUDGES THERE TO HEAR THE CASES, AND THAT IS WHY THE UNCONTESTED, YOU KNOW, WE HAVE, AND JUSTICE PARIENTE COMMENTED, WE HAVE SAID IN A NUMBER OF OPINIONS SINCE THEN, THAT WE WON'T TOLERATE THAT SITUATION CONTINUING. CAN YOU TELL US WHETHER OR NOT YOU OBSERVED THE DEVOTION OF MORE RESOURCES IN THE JUVENILE DIVISION?

YES. I CAN SPEAK TO PALM BEACH COUNTY. THEY ASSIGNED AN ADDITIONAL CIRCUIT JUDGE, AND THEY HAVE HAD TO HIRE TWO ADDITIONAL MASTERS TO TAKE THE BURDEN BE OFF SOME OF THE -- THE BURDEN OFF SOME OF THE JUDGES, AND IN PALM BEACH COUNTY IT HAS HAPPENED. MR. CHIEF JUSTICE

. I AM SORRY. YOUR TIME IS UP.

THANK YOU VERY MUCH. WE THANK YOU, FOR THE CHILDREN OF FLORIDA.

TO BE VERY BRIEF, I AM NOT AN ADVOCATE AGAINST CHILDREN. I AM TRYING TO BE AN ADD HAVE A COT FOR THE SYSTEM.

CAN YOU HELP ME WITH WHAT WAS SAID HERE, BECAUSE IT SEEMS TO ME LIKE WE ARE A LITTLE BIT LIKE SHIPS PASSING IN THE NIGHT HERE, THAT PERHAPS THE RETENTION OF THIS LANGUAGE ABOUT CRIMINAL AND CIVIL INJURIES, AND PERHAPS NOW -- CRIMINAL AND CIVIL JURIES, AND PERHAPS NOW --

I HAVE GOT TWO SUGGESTIONS. WE DON'T LIKE THE BRIGHT-LINE TEST AT ALL, BUT WE WERE NOT TRYING TO ENSHRINE JIM OVER CIVIL ALWAYS OR JURY -- ENSHRINE CRIMINAL OVER CIVIL ALWAYS OR JURL OVER NONJURY. THERE IS -- OR JURY OVER NONJURY. THERE IS NOTHING THAT WE CAN'T SAY PARAGRAPH FIVE, MOVE IT TO NUMBER ONE. MAKE IT NUMBER ONE.

YOUR INTENT AS IT WAS BEFORE, WAS TO HAVE IT IN THE TRIAL COURTS, AS IT IS AT THE

APPELLATE LEVEL. AM I CORRECT?

NO QUESTION. AND IF THE PRIORITY FACTOR IN LAWYER CONFLICT IS BEING FORGOTTEN BECAUSE YOU LOOK AT CIVIL, CRIMINAL, OR JURY, NONJURY, MOVE IT FIRST. THE IDEA WAS THAT THE JUDGE SHOULD LOOK AT ALL OF THEM. THAT IS NUMBER ONE. NUMBER TWO, THE WORDS "PREVAIL OVER". I AM NOT SURE I REALLY FOCUSED ON THAT. AGAIN, FROM OUR PERSPECTIVE THAT WAS NEVER THE INTENT. IT WAS A GUIDELINE. TAKE OUT THE WORD "PREVAIL". IT MEANS WE ARE GOING TO HAVE DIFFERENT RULES IN THE STATE/FEDERAL VERSUS THE STATE/STATE, BUT PUT IN WORDS "ARE GENERALLY PREFERRED OVER" OR SOMETHING, BECAUSE THEY ARE GENERALLY PREFERRED OVER, BUT THEY SHOULDN'T BE HELD UP BY A JUDGE IN THE CRIMINAL DIVISION SAYING, I DON'T CARE WHAT YOU HAVE GOT OVER THERE IN DOMESTIC OR FAMILY OR WHATEVER. I HAVE GOT A MISDEMEANOR. I AM GOING TO TRIAL. THAT JUDGE SHOULD KNOW THAT THAT IS NOT CHISELED IN STONE, AND, AGAIN, THE RULE IN ITS ORIGINAL FORM, SAYS IF YOU CAN'T WORK IT OUT, YOU GO TO THE PRESIDING JUDGE, AND IF IT IS THE SAME CIRCUIT, MUCH EASIER. IF IT IS DADE VERSUS SOME OTHER PLACE, DARN IT, THOSE PEOPLE ARE SUPPOSED TO BE GOOD, DISCRETIONARY, INTELLIGENT JUDGES AND KNOW HOW TO CALL THESE THINGS,, AND YOU GUYS, I AM SORRY. I SHOULDN'T CALL YOU GUYS. WHEN YOU JUDGES ARE DONE WRITING THIS OPINION, THIS IS WHAT MEAN, AND THAT IS WHAT WE ARE TRYING TO DO, GIVING SYSTEM TOOLS AS WE COULD, WITHOUT DRAWING A BRIGHT LINE. ALL TPR CASES SHOULDN'T BE FIRST. IF THAT IS THE CASE, THEN DO SOMETHING THAT SAYS ON EVERY DOCKET IT ALWAYS RISES TO THE TOP AND ALWAYS GOES NUMBER ONE, AND OF COURSE THAT CAN'T BE THE CASE, BECAUSE THERE IS ALWAYS THE POSSIBILITY OF ANOTHER TYPE OF CASE THAT TODAY BE, AN ABUSE CASE, AN INJUNCTION CASE, SOMETHING COULD BE MORE IMPORTANT. I THINK, WE ARE ON THE SAME SIDE. I MEAN WE ARE REALLY NOT FOR AND AGAINST ANYTHING. THEY ARE STRONG ADVOCATES. I JUST URGE TO YOU PUT MR. KREIDLER'S NAME IN THIS OPINION, BECAUSE HE HAS POUNDED THIS THING APPROPRIATELY TO THE END AND HE SHOULD HAVE, AND I ADMIRE ALL OF THE PEOPLE WHO HAVE COME HERE AS CHILDREN'S ADVOCATES. I AM NOT AGAINST IT. I AM TRYING TO DO, FOR THE SYSTEM, WHAT BEST ALLOWS THE WHOLE SYSTEM TO WORK. I AM NOT TRYING TO PUT ON THE MANTEL OF WE ARE A FRIEND OF THE COURT, BUT THAT IS WHAT WE TRIED TO DO AS A COMMITTEE, AND WITH THESE OTHER SUGGESTIONS, I AGREE WITH YOU 100 PERCENT, JUSTICE ANSTEAD. WE ARE NOT TRYING TO SAY 100 PERCENT THESE THINGS ALWAYS PREVAIL. WE ARE TRYING TO MAKE THEM GUIDELINES. IF THEY ARE MISREAD, PUT THEM AT THE TOP. IF YOU NEED TO CHANGE THE WORD "PREVAIL", CHANGE IT. MR. CHIEF JUSTICE

THANK YOU AND THANK YOU ALL FOR APPEARING BEFORE THIS COURT.