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**Inquiry Concerning a Judge: Gregory P. Holder  
SC03-1171**

THE MARSHAL: P LEASE R IS E . LAD IES AND GENTLEMEN, T HE F LORIDA SUPREME COURT. P LEASE B E SEA TED.

CHIE F J USTICE: THE N EX T CASE THAT T HE COURT I S G OI NG TO HEAR T HIS M ORNI NG I S INQ UIRY C ON CERN IN G J UDGE GRE GO RY HOL DER. ARE T HE P ARTI ES R EADY ? A LL R IG HT . M R. WEI NSTEIN , THANK Y OU .

MAY I T PLE AS E THE COU RT , MY N AME I S D AV ID W EINS TEIN AND WITH MY CO- COUN SE L I R EPRESENT J UDGE G RE GORY P . H OLDE R W HO IS A C IR CUIT COU RT JUDGE.

CHIEF JUSTICE: SPEAK U P A LITTL E BIT.

H E I S A C IR CUIT COU RT J UDGE IN THE 13T H J UD IC IA L C IRCUIT . THIS IS A VERY I MP ORTA NT CASE, YOUR HONOR, N OT JUS T TO JUDGE HOL DE R BUT T O T HE MEN AND WOMEN WHO S ER VE O N B ENCHES ALL A RO UND T HE S TATE .

JUSTICE: C OU LD W E G O INT O, I'VE GOT A R EA L D IR EC T QUE STIO N .

CHIEF JUS TICE: JUDGE WELLS, AS YOU CAN SEE , IS NOT HERE.HE IS R ECUS ED ON THI S C AS E .

TH AN K YOU , YOUR HON OR.

JUSTICE: I R EA LL Y T HINK WE NEED T O REA LL Y G O D IRECTL Y T O , A ND I T HINK I T IS A P OL IC Y ISS UE , B ECAU SE E VERY T IME WE HAV E A JQC P ROCE EDIN G, I T I S I N C ONNECTIO N W ITH T HE P OSSIBILITY OF SOME KIND O F S ANCTIO N, N O Q UESTION A BOUT T HAT. SO I T I S REA LL Y THE F IRST E LEMENT T HAT W E H AVE BEE N LOOKING T O AND TAL KING ABO UT , AND T HAT I S W ITH REG AR D T O W HETHER I T NEE DS T O B E S OMET HI NG, S OME U NDER LY IN G CON DUCT THA T R ELATES T O P ER FO RM ANCE O F D UTIE S , O R M OT IV E B ECAUSE YOU A RE REALLY ARGUING M OT IV E IS WHAT YOU ARE A RGUI NG H ER E. T HIS I S M AY BE A L ITTL E C LOSER T HA N S OME S ITUA TION S . Y OU KNO W , W E COULD H AV E SOME V ERY U GL Y C RIMI NA L KIN DS OF T HINGS GOI NG O N , AND I N THA T P ROCE EDING SOM E T HING S C OME U P THAT M AY BE ARE L ES S T HA N A TTRACT IVE BUT A J UDGE B E A CQUI TTED AND S TILL R ES UL T I N S OME JQC A CT IVIT Y. C LEARLY , T HA T WO UL D N OT B E T HE U NDER LY IN G C ON DUCT W OU LD N OT B E R ELATED T O YOU R O FFICIAL D UTIES . S O I'M W ON DE RING W HETH ER J UDIC IA L O FFICERS M AY B E DIF FERENT B ECAUSE T HE P RO CEEDING IS ALW AY S J QC O RIENTE D A ND T HOSE C ASES W E LOOK AT S OMETIM ES ARE C RIMI NA L PROCEEDINGS OR SOMETHING ELSE , S O I R EA LL Y W OULD LIK E T O GO H EA DL ONG INTO THIS POLIC Y KIND O F THING AND WHERE WE A RE GOING WITH THIS.

I U NDER STAND T HE QUEST IO N , J USTICE L EWIS . WHAT WE ARE TALKING ABOUT HERE AND WE COULDN'T AGR EE WITH THE COURT MORE, I S P RONG O NE O F T HE T HORN BE R T EST AND PRO NG ONE R EQ UIRE S T HAT A S UFFI CIE N T NEXUS E XIST B ETWEEN THE P ERFORM ANCE OF O FFICIAL DUT Y AND THE LIT IGAT IO N , AND T HE Q UESTIO N FOR T HE COU RT TOD AY IS H OW CLOSE T HA T N EXUS S HOULD B E , W HA T I S THE NEXUS R EQUIRE MENT IN THE C ON TEXT OF A J QC P RO CE EDIN G AND W HETHER JUDGE H OL DE R H AS S ATISFIED T HE R EQ UI SITE N EXUS U NDER T HE FAC TS O F THI S CA SE. BOTH ARE TRUE HER E. F IRST OF A LL , W ITH RES PECT TO Y

OUR QUESTION DIRECTLY, YOUR HONOR, AS TO WHETHER OR NOT THAT SHOULD BE DIFFERENT SOMEHOW WITH RESPECT TO A JUDGE PROCEEDING CLEARLY YES.

JUSTICE: IT SHOULD BE? YOU THINK IT SHOULD BE?

BECAUSE WHEN A JUDGE PROSECUTION BEGINS, THE JUDGE IS NECESSARILY DETERMINED THAT THE REISSUANCE BETWEEN THE UNDERLYING CONDUCT, BE IT PUBLIC CONDUCT OR PRIVATE CONDUCT AND THE JUDGE'S ABILITY TO SERVE. THAT IF THE CHARGES ARE PROSECUTED AND THE JUDGE IS CONVICTED THAT THE JUDGE CAN BE REMOVED FROM OFFICE EITHER TEMPORARILY OR PERMANENTLY.

CHIEF JUSTICE: I HAVE A BASIC QUESTION BEFORE WE GET TO THE TESTS THAT HAVE BEEN ARGUED BY BOTH SIDES IS WHETHER JUDGE PROCEEDINGS WHICH ARE GOVERNED BY THE CONSTITUTION AND WHETHER THE HARNER CASE AND THE CONSTITUTION PROVISIONS SPECIFICALLY ALLOW FOR COSTS, WHETHER BY EXCLUDING ANY PROVISION FOR ATTORNEY'S FEES, WHETHER THE REISSUANCE CONSTITUTIONAL PROHIBITION AGAINST ALL OWNING ATTORNEY'S FEES IN THE JUDGE PROCEEDINGS.

WE CERTAINLY DO NOT BELIEVE THAT THE OMISSION OF ATTORNEY'S FEES FROM THE OMISSION IS AN INDICIA OF THE INTENTION TO EXCLUDE ATTORNEY FEES FROM RECOVERABILITY. THE COMMON LAW RIGHT WELL RECOGNIZED IN FLORIDA FOR MANY, MANY YEARS.

CHIEF JUSTICE: BUT NEVER HAS IT BEEN RECOGNIZED IN CONNECTION WITH JUDGE PROCEEDINGS. THIS IS A CASE OF FIRST IMPRESSIONS IN THIS REGARD.

CHIEF JUSTICE: THE OTHER PRELIMINARY QUESTION I HAVE AND THIS COURT GETS INVOLVED AT LEAST THE OFFICE OF STATE COURT ADMINISTRATOR WHEN JUDGES ARE SUED AND THEY ARE DEFINITELY IN THE IRRESPECTABLE CAPACITIES, AND THE ATTORNEY GENERAL CANNOT REPRESENT THE M, AND MAKING A DECISION AS TO WHETHER IT IS IN THE PUBLIC INTEREST TO HAVE THAT JUDGE REPRESENTED, AND IT IS NOT A PREVAILING PARTY SITUATION. IT IS A RIGHT TO HAVE, BECAUSE YOU ARE PERFORMING YOUR OFFICIAL DUTIES, TO HAVE AN ATTORNEY. YOU'RE NOT SUGGESTING IN THIS SITUATION THAT ANY TIME A JUDGE IS CHARGED OR ARE YOU, WITH MISCONDUCT BECAUSE THE MISCONDUCT MUST NECESSARILY BE CONNECTED WITH THE OFFICIAL DUTIES THAT THE JUDGE HAS A RIGHT TO HAVE HIS OR HER ATTORNEY FEES PAID BY THE STATE?

I'M SUGGESTING THAT THIS COURT HAS TWO ALTERNATIVES WITH RESPECT TO PROHIBITION OF THE THORNBERRY CASE AND TO PUT THIS IN CONTEXT.

CHIEF JUSTICE: WELL, CAN YOU ANSWER THAT?

WE THINK, YOUR HONOR, THAT THE BETTER RULE FOR THIS COURT TO ADOPT WOULD BE THAT WE NEVER THE JUDGE CHARGES CONDUCT WHICH AS PART AND PARCEL OF THE CHARGES THE JUDGE ALL EGES THAT THE UNDERLYING CONDUCT, WHETHER PUBLIC OR PRIVATE, RENDERS THE JUDGE UNFIT TO SERVE, THAT THE REQUISITE BETWEEN HIS OR HER PERFORMANCE OF OFFICIAL DUTIES AND THE LITIGATION IS MET. NECESSARILY.

CHIEF JUSTICE: WELL, THEN IF THAT'S THE CASE THEN IT WOULD NOT BE PREVAILING PARTY. IT WOULD NOT MATTER WHETHER THE JUDGE - - WHY ARE YOU MAKING IN YOUR BRIEF SUCH AN ARGUMENT ABOUT HOW THIS WHOLE COMPLAINT CAME ABOUT BECAUSE OF HIS INTERFERENCE WITH AN ONGOING INVESTIGATION OR ATTEMPT TO DISCREDIT HIM? IT WOULDN'T MATTER UNDER THAT SCENARIO, IT WOULD JUST BE THAT A JUDGE SHOULD HAVE THE NIFTY THATS WHAT THEY THOUGHT REQUESTED THE STATE TO PROVIDE THEM

WIT H A N ATT ORNEY.

RIGHT. I T W OU LD NOT MAT TE R WHA T T HE M OTIV E O F THE A CCUS ATIO N W AS , P ROVIDED THAT T HE J UD GE W AS C HARG ED WITH SOM ETHING THAT R EFLECTED O N U NFIT NESS T O SER VE A ND I MP ORTANT LY , YOUR H ONORS , T HA T THA T J UD GE U LTIM AT ELY PRE VAIL ED AND A S WE S TA TE D .

CHIE F JUSTICE: I W ANT T O M AK E S UR E YOU G ET BAC K.

JUSTI CE: I THINK YOU A RE T YING I T I N.

AND PUT T HIS I N PRO PE R C ONTE XT AS W E S AID I N O UR BRIEFS BAS ED U PO N OUR RESEARC H FIRST OF A LL THI S IS THE FIRST C ASE O F THI S NATURE EVER T O C OM E B EF OR E THIS COURT, AND , T WO , I T H AS B EEN A T L EA ST 2 0 Y EARS S IN CE THE L AS T TIM E A J UD GE P REVAILED I N A J QC P ROCEEDIN G.

CHIEF JUSTICE: BUT YOU JUST SAID IT DID N' T M AT TER IF THEY PRE VA IL ED .

I M ISUN DERS TO OD YOU R Q UESTIO N T HE N C HI EF JUS TI CE. I BELIEVE I T DOE S M AT TE R UNDER THE T HORN BE R TES T THA T T HE J UDGE M US T P RE VAIL .

CHIE F J USTICE: W HY ? I F I T COM ES O UT O F T HE ONL Y R EASON A J UD GE CAN B E C HARGED . L ET'S SAY THI S IS A SITUATION WHERE T HERE WAS AN A CCUS ATION THAT THEY HAD IMP ROPER EX- PART E C OMMUNI CA TIONS ABO UT A N O NGOING CAS E CLE AR LY U NDER O FFICIAL D UT IES UNDER T HE D OCTRINE I T DOE SN 'T M ATTER THE WAY I READ T HI S DOC TR I N E W HETHER Y OU H AV E P RE VA ILED O R N OT T HE I DE A I S T HA T Y OU A RE O N L Y B EING C HA RGED B EC AUSE OF Y OU R CON NE CTIO N W ITH Y OUR O FF IC IA L D UT IES.

I U N D E R S T A N D T H E Q U E S T I O N . I A M N O T S U R E I ' M A W A R E O F A D E C I S I O N U N D E R T H E T H O R N B E R D O C T R I N E , H O W E V E R , W H E R E S O M E O N E H A S S U C C E S S F U L L Y R E C O V E R E D F E E S U N L E S S T H E Y P R E V A I L . I T J U S T H A S N O T C E R T A I N L Y I T I S P O S S I B L E W E ' V E M I S S E D A C A S E B U T N O N E O F T H E O N E S T H A T I A M A W A R E O F , Y O U R H O N O R S , I S A C A S E W H E R E A J U D G E H A S N O T P R E V A I L E D .

JUS TICE : B U T I T D O E S L O O K L I K E S U R V E Y I N G T H E L A W I N T R Y I N G T O L O O K A T T H E S E T H E R E A R E A F E W W I L D C A R D S O U T T H E R E B U T I N M O S T I N S T A N C E S I T H A S B E E N W H E R E S O M E T H I N G A R I S I N G O U T O F A V O T E O N A C I T Y C O U N C I L O R S O M E T H I N G L I K E T H A T , T H A T T H E R E I S W E T A L K A B O U T N O T O N L Y A N E X U S B U T I M E A N I T I S R E A L L Y D I R E C T L Y T H E Y D I D S O M E T H I N G I N T H E I R O F F I C E A N D S O M E B O D Y G O T A N G R Y A B O U T I T , A N D T H E Y T R I E D T O G E T T H E M O U T O F O F F I C E .

R IGH T .

J U S T I C E : S O T H A T ' S W H E R E I ' M N O T S U R E T H A T W E H A V E , I ' M T R Y I N G T O S E E W H E R E W E G E T O U R H A N D S A R O U N D T H I S T H I N G .

I T H I N K T H A T ' S T H E H E A R T O F T H E Q U E S T I O N , J U D G E , A N D I N E I T H E R S I T U A T I O N W H E T H E R O R N O T F O R E X A M P L E T H E C H A R G E D C O N D U C T I S T H A T A J U D G E F I X E D A C A S E O R H A D A N I M P R O P E R E X - P A R T E C O M M U N I C A T I O N O R S O M E T H I N G T H A T W O U L D B E D E N O M I N A T E D A S O F F I C I A L C O N D U C T O R W H E T H E R O N T H E O T H E R H A N D T H E A L L E G A T I O N I S T H A T A J U D G E H A S A N A L C O H O L O R D R U G O R S O M E O T H E R K I N D O F A P R O B L E M , W H I C H T H E J Q C D E C I D E S T O E X E R C I S E I T S J U R I S D I C T I O N A N D A S S E R T T H A T W H A T E V E R T H E C O N D U C T I S R E N D E R S A J U D G E U N F I T , T H E N W H A T ' S A T I S S U E W I T H T H E L I T I G A T I O N I S E X A C T L Y T H E S A M E A N D T H A T I S S U E I S W H E T H E R O R N O T T H A T J U D G E I S F I T T O S E R V E T H E P E O P L E O F H I S O R H E R - - .

J U S T I C E : I T I S N O T S E E K I N G R E M O V A L F R O M O F F I C E , J U S T S E E K I N G P U B L I C R E P R I M A N D O R S U S P E N S I O N B U T N O T R E M O V A L F R O M O F F I C E ?

I D O N ' T T H I N K , J U S T I C E C A N T E R O , T H A T T H A T M A K E S A D I F F E R E N C E . I T H I N K T H E P R I N C I P L E T H A T H A S T O B E V I N D I C A T E D H E R E I S T H A T T H E J Q C I S E X E R C I S I N G I T S J U R I S D I C T I O N B E C A U S E I T B E L I E V E S T H A T C O N D U C T A D V E R S E L Y A F F E C T S T H E J U D G E ' S A B I L I T Y T O S E R V E .

J U S T I C E : S O Y O U R P O S I T I O N I S T H A T A J U D G E S H O U L D B E R E I M B U R S E D F O R A T T O R N E Y S F E E S W H E N E V E R T H E J Q C I N S T I T U T E S A N Y P R O C E E D I N G S P E R I O D ?

A N D T H A T J U D G E P R E V A I L S A N D I F T H A T I S N ' T T H E L A W T H A T W H A T T H E M E S S A G E W E A R E U N F O R T U N A T E L Y S E N D I N G I S T H A T S O M E O N E W H O A C C U S E S A J U D G E A N D A F F E C T S W H E T H E R O R N O T T H A T J U D G E H A S A P O S S I B I L I T Y O F R E I M B U R S E M E N T B Y W H I C H A L L E G A T I O N , W H I C H F A L S E A L L E G A T I O N T H E Y M I G H T M A K E , A N D S O I F S O M E O N E -- .

J U S T I C E : B U T T H E J Q C C O N D U C T S S O M E P R E L I M I N A R Y I N V E S T I G A T I O N B E F O R E T H E Y F I N D P R O B A B L E C A U S E . S O M E B O D Y C A N ' T J U S T A C C U S E S O M E B O D Y O F G E T T I N G A R R E S T E D F O R D U I , A N D T H E N T H E J Q C A U T O M A T I C A L L Y I N S T I T U T E S P R O C E E D I N G S . T H E J Q C C O N D U C T S A N I N V E S T I G A T I O N F I R S T .

T H E J Q C C O N D U C T S A P R O B A B L E C A U S E I N V E S T I G A T I O N . O B V I O U S L Y I ' M N O T I N A P O S I T I O N T O S P E A K W H A T H A P P E N S B E H I N D C L O S E D D O O R S A N D H O W F A R T H A T I S , B U T I W O U L D S U G G E S T T W O T H I N G S W I T H R E S P E C T T O T H I S D O C T R I N E R E S P E C T F U L L Y . O N T H E O N E H A N D , E L I M I N A T E ! ! I N G T H E D I S T I N C T I O N B E T W E E N P U B L I C A N D P R I V A T E C O N D U C T E L I M I N A T E S T H E P O S S I B I L I T Y T H A T S O M E O N E W I L L S E E K T O R E M O V E A J U D G E I N A C O N T R O V E R S I A L C A S E B Y S I M P L Y M A K I N G A S W A S I N T H I S C A S E A N O N Y M O U S A C C U S A T I O N T H R O U G H A N U N S I G N E D N O T E A N D A P L A I N M A N I L A E N V E L O P E S L I P P E D U N D E R T H E D O O R K N O W I N G A S L O N G A S T H E A L L E G A T I O N I S O F P U R P O R T E D L Y P R I V A T E C O N D U C T T H A T J U D G E H A S N O R I G H T T O A T T O R N E Y S F E E S .

C H I E F J U S T I C E : Y O U ' R E A S S U M I N G W E ' V E A L R E A D Y A G R E E D T H A T I F T H I S W A S W H I L E T H E Y W E R E O N T H E B E N C H T H A T T H E Y W O U L D H A V E A R I G H T T O A T T O R N E Y S F E E S A N D I ' M N O T S U R E T H A T T H A T W E H A V E N O T E V E N E S T A B L I S H E D T H A T E V E N , Y O U K N O W , I ' M N O T S U R E I F J Q C C O N C E D E S T H A T B E C A U S E I T H I N K T H A T A G A I N , Y O U K N O W , I ' M M O R E S Y M P A T H E T I C T O Y O U R I D E A O F T R Y I N G T O F I G U R E O U T T H I S P U B L I C P R I V A T E I S A S L I P P E R Y S L O P E B U T , A G A I N , Y O U H A V E N ' T R E A L L Y R E S P O N D E D T O J U S T I C E C A N T E R O . Y O U S A I D A N Y O N E C A N D O T H I S , B U T T H E R E I S A N I N V E S T I G A T I V E A R M O F T H E J Q C T H A T I S T A K E S M A N Y , M A N Y C A S E S A N D D O E S N ' T T A K E T H E M P A S T T H E S T A G E O F T H E P R O B A B L E C A U S E . S O Y O U A R E N O T , A R E Y O U A S S E R T I N G B A D F A I T H O N T H E P A R T O F T H E J Q C I N P R O S E C U T I N G T H I S C A S E ?

I ' M N O T A S S E R T I N G B A D F A I T H , Y O U R H O N O R , B U T W H A T I A M A S S E R T I N G I S T H A T I N S T A T E A T T O R N E Y S O F F I C E S A N D U . S . A T T O R N E Y S O F F I C E S A C R O S S T H E S T A T E A N D A C R O S S T H E C O U N T R Y E V E R Y D A Y P R O S E C U T O R S A R E F A C E D I N T H E E X E R C I S E O F T H E I R D I S C R E T I O N W I T H A D E C I S I O N A S T O N O T J U S T W H E T H E R O R N O T C H A R G E S A R E F A C I A L L Y S U F F I C I E N T B U T W H E T H E R O R N O T T H O S E C H A R G E S C A N B E P R O V E N T O T H E V E R Y H I G H S T A N D A R D T H A T T H E Y A R E H E L D T O .

J U S T I C E : L E T M E A S K Y O U T H I S . W H A T I F S O M E B O D Y F I L E S A C O M P L A I N T W I T H T H E S T A T E A T T O R N E Y S O F F I C E A B O U T A J U D G E A N D T H E J U D G E G E T S C H A R G E D C R I M I N A L L Y W I T H S O M E T H I N G I S T H E J U D G E N O W E N T I T L E D T O A N A T T O R N E Y I N T H E C R I M I N A L P R O C E E D I N G S I N C E A C O N V I C T I O N I N T H O S E P R O C E E D I N G S C A N R E S U L T I N J Q C P R O C E E D I N G S ?

THAT IS A GOOD QUESTION, JUDGE. IT IS NOT ONE THAT IS FRA ME D BY THE ISSUE SIN T  
HI S CAS E . >> J USTI CE : W HE N W E ARE D EVEL OP IN G A R ULE AND YOU WANT US T O EXP AN  
D T HO RN BE R I T H I N K W E N E E D T O K E E P I N M I N D W H A T T H E C O N S E Q U E N C E S O F T H A T E  
X P A N S I O N W O U L D B E .

AND I U N D E R S T A N D T H A T . B Y T H E T I M E , I F Y O U L O O K A T T H I S A S A M A T R I X , P R I V A T E  
C O N D U C T , P R I V A T E L I T I G A T I O N , B A S E D U P O N T H E L A W O F T H E C O M M O N L A W O F T H E  
S T A T E O F F L O R I D A A S W E U N D E R S T A N D I T W O U L D N O T G I V E R I S E T O R E S U L T I N G A T T O R  
N E Y S F E E S .

J U S T I C E : I ' M N O T T A L K I N G A B O U T P R I V A T E L I T I G A T I O N . I ' M T A L K I N G A B O U T C R I M I N A L  
C H A R G E S . I ' M T A L K I N G A B O U T S O M E B O D Y W H O G O E S T O T H E S T A T E A T T O R N E Y S O F F I C E A  
N D G E T S S O M E B O D Y C H A R G E D W I T H D R I V I N G U N D E R T H E I N F L U E N C E O R W I T H F E L O N Y B  
A T T E R Y .

I T H I N K W H A T I S M I S S I N G F R O M T H A T S C E N A R I O , Y O U R H O N O R , I S T H E N E X U S T O O  
F F I C I A L D U T Y . T H E R E I S N O T H I N G I N T H A T S C E N A R I O I N W H I C H T H E J Q C O R A N Y B O D Y  
E L S E I S A S S E R T I N G T H A T T H A T C O N D U C T A D V E R S E L Y A F F E C T S A J U D G E ' S A B I L I T Y T O S  
E R V E A N D O U R C O N C E R N H E R E A M O N G O T H E R S I S T H A T T H E I N D E P E N D E N T J U D I C I A R Y I S  
U N D E R M I N E D B Y A P R O P O S I T I O N T H A T J U S T B Y M A K I N G A N A C C U S A T I O N T H A T S O M  
E B O D Y C A N P U T A J U D G E I N A P O S I T I O N O F E I T H E R H A V I N G T H E C H O I C E O F H A V I N G T O  
D E C I D E T O R E S I G N O R F A C E R E M O V A L .

C H I E F J U S T I C E : S O W O U L D Y O U A L S O E X T E N D I T T O T H O S E C A S E S W H E R E T H E J U D G E H I R  
E D A N A T T O R N E Y A T T H E I N I T I A L S T A G E W H E N T H E J Q C T E L L S T H E M T H A T T H E R E A R E  
C H A R G E S T H A T H A V E B E E N F I L E D A N D T H E J Q C D E C I D E S N O T T O G O F A R T H E R A N D N O T  
T O F I N D P R O B A B L E C A U S E ? W O U L D T H E R E B E A R I G H T T O A T T O R N E Y S F E E S I N T H A T C A S E ?

N O .

C H I E F J U S T I C E : W H Y N O T ?

B E C A U S E A T T H A T P O I N T T H E J Q C I S S T I L L I N V E S T I G A T I N G , E X E R C I S I N G I T S D I S C R E T I O N  
S A M E A S A P R O S E C U T O R W O U L D B E . I T I S O N L Y W E T H I N K W H E N T H E J Q C D E C I D E S T O G O  
F O R W A R D A N D N O W T H E A L L E G A T I O N B E C O M E S P U B L I C A N D T H E J U D G E I S P U T I N A G A  
I N I N T H A T P O S I T I O N . D O I D E F E N D C H A R G E S I B E L I E V E A R E M E R I T L E S S A N D R I S K F I N  
A N C I A L R U I N O R D O I , Y O U K N O W , O R D O I C A V E T O T H O S E C H A R G E S K N O W I N G I H A V E  
N O A B I L I T Y T O R E C O V E R F E E S A N D I W O U L D R E S P E C T F U L L Y S U G G E S T T H A T J U D G E S S E R V E  
T H E P E O P L E O F T H I S S T A T E A T L E V E L S O F C O M P E N S A T I O N T H A T A R E F A R B E L O W T H E P R I  
V A T E S E C T O R A N D I N M A N Y , M A N Y I N S T A N C E S I F J U D G E S A R E U N A B L E T O R E C O V E R A  
T T O R N E Y S F E E S T H E Y W I L L S I M P L Y N O T H A V E T H E W H E R E W I T H A L T O D E F E N D  
T H E M S E L V E S .

C H I E F J U S T I C E : H O W M U C H A R E T H E A T T O R N E Y S F E E S B E I N G C L A I M E D ?

T H E Y A R E I N E X C E S S O F A M I L L I O N D O L L A R S I N T H I S C A S E .

C H I E F J U S T I C E : S O F O R T H E P U R P O S E O F T H I S D I S C U S S I O N , W E A R E N O T T O C O N S I D E R  
W H E T H E R T H E A M O U N T I S R E A S O N A B L E O R N O T ?

N O , W H A T W E H A V E A S K E D I S T H A T Y O U R E F E R T H I S T O A S P E C I A L M A S T E R T O D E T E R M I  
N E R E A S O N A B I L I T Y .

J U S T I C E : I T H I N K Y O U ' V E O U T L I N E D T H E P A R A M E T E R S O F W H E R E Y O U A R E G O I N G W H E R E  
T H E R E I S A J Q C P R O C E E D I N G A N D T H E J U D I C I A L O F F I C E R P R E V A I L S , T H A T ' S R E A L L Y

WHAT YOU ARE TALKING ABOUT. YOU ARE NOT TALKING ABOUT THE CRIMINAL LITIGATION, PRIVATE, ANYTHING LIKE THAT. WOULD YOU THEN DIRECT YOUR ATTENTION TO THE CHIEF JUSTICE'S QUESTION AS TO THIS CONSTITUTIONAL PROVISION AND THE UNDERLYING POLICY? I THINK YOU HAVE SATISFIED US PRETTY MUCH AS TO WHERE THE PARAMETERS TAKE US BUT LET'S GO TO THE FUNDATION, IF YOU WOULD, PLEASE.

YES, SIR. AGAIN WITH RESPECT TO THE CONSTITUTIONAL PROHIBITION WE JUST DON'T SEE THAT THE ABSENCE OF THE ATTORNEYS FEES NECESSARILY IS AN INTRINSIC THAT A JUDGE CAN NEVER RECOVER COSTS, AND WE'VE GOT SITUATIONS WHERE THOSE TYPES OF THINGS COEXIST ELSEWHERE AMICABLY IF YOU WILL.

JUSTICE: THE NEXT I THINK THE CHIEF WAS REFERRING TO AS WELL IS THERE ARE REAL PRACTICALITIES INVOLVED HERE AND WHETHER THE FUNDING FOR THESE THINGS IT IS NOT FUNDED WITH GENERAL REVENUE LIKE YOU CAN GO TO THE LEGISLATURE ON OTHER KINDS OF THINGS. THIS IS A PRACTICAL APPROACH AS WELL.

RIGHT.

JUSTICE: THAT ALTHOUGH IT MAY FLOW THROUGH THE STATE COURT ADMINISTRATORS, THERE IS NOT A POT OF MONEY YOU CAN KEEP GOING BACK TO OF FUND THESE THINGS. WHAT IS THE ANSWER TO THAT?

THE ANSWER IS AS WE SUGGESTED THAT THIS COURT IN THESE INSTANCES WHEN AN AWARD IS APPROPRIATE WOULD DIRECT THE OFFICE OF STATE COURT ADMINISTRATOR, OF COURSE, OPERATE UNDER THE SUPERVISION OF THIS COURT TO REQUEST THOSE FUNDS FROM THE LEGISLATURE, WHO WOULD THEN BE, I THINK, A LEGISLATIVE BRANCH.

JUSTICE: JUST LIKE A TORT CLAIM?

AS TO WHETHER OR NOT THAT THE LEGISLATURE DEEMED IT APPROPRIATE TO APPROPRIATE THOSE FUNDS.

CHIEF JUSTICE: THEY WOULD HAVE TO DECIDE WHICH IS, AGAIN, THE POLICY ISSUE THAT WE ARE LOOKING AT, AND IF IN THIS DOCTRINE FASCINATING LOOKING AT THE LUMELLO CASE IN THE CITY OF SUNRISE, HAVING BEEN DOWN HERE DURING THAT PERIOD I HAVE ACQUAINTANCE WITH THAT, IS THAT PUBLIC FUNDS MAY ONLY BE EXPENDED FOR A PUBLIC PURPOSE AND THAT'S WHERE I THINK WE GET BACK TO YOUR MUCH BROADER VIEW THAT A PUBLIC PURPOSE IS SATISFIED BECAUSE THE JUDGE HAS CHARGED THE JUDGE WITH CONDUCT THAT HAS A SUFFICIENT Nexus AND THAT'S AGAIN YOU DON'T GO FARTHER IN DETERMINING WHETHER THIS REALLY WOULD SERVE A PUBLIC PURPOSE IN A BROADER SENSE?

I WOULD RESPECTFULLY DISAGREE, JUSTICE PARTIALLY. WE THINK, WE BELIEVE STRONGLY THAT A PUBLIC PURPOSE IS SERVED BY THE EXPENDITURE OF FUNDS IN THIS CASE, BECAUSE IT PROTECTS A COUPLE OF VERY FUNDAMENTAL AND VERY IMPORTANT PRINCIPLES IN THIS STATE AND ONE IS THE INDEPENDENCE OF THE JUDICIARY. THAT A JUDGE SHOULD NOT BE TAKEN DOWN, IF YOU WILL, TAKEN OUT OF A CONTROVERSIAL CASE BASED UPON NON-A NONYMOUS ACCUSATION.

CHIEF JUSTICE: YOU KEEP GOING BACK TO THAT AS IF THE JUDGE DOESN'T HAVE A VERY, VERY CAREFUL PROCESS FOR WEEDING THROUGH THE CASES THAT HAVE NO MERIT FROM THOSE THAT APPEAR TO HAVE MERIT, AND YOU ARE ALSO FORGETTING THAT ALTHOUGH YOUR CLIENT WAS FOUND NOT TO BE CLEAR AND CONVINCING EVIDENCE, THERE ARE STATEMENTS BY THE JUDGE THAT INDICATE THEY HAD SERIOUS CONCERNS ABOUT WHETHER

THE RE , I N FA CT , H AD BEE N I MPROPR IETY . D O Y OU D EN Y THA T?

I T HINK THA T THE FIN AL O RDER CAN B E REA D A N UMBE R O F WAY S , B UT I A LS O THIN K T HAT WHEN YOU L OO K AT THE T RANSCRIP T O F T HIS - - T RANSCRIP T OF THI S TRI AL A S A WHO LE T HE EVIDE NC E WAS O VERW HELMING.

JUSTI CE: W E D ON 'T HAVE A T RANSCRIP T OF THE E NTIRE T RIAL. WE HAVE QUO TES , R EA LL Y

CHIE F JUS TICE : J US TICE BELL HAS A QUESTION AND THE N Y OU ARE V ER Y CLO SE T O OUT O F T IME.

I WAN T T O G ET O N A PARAL LEL TRACK. THE PROCESS HERE I N T HE JQC I S SIM IL AR T O THE PRO CE SSES UNDER 112 FOR ELE CT ED O FFICIALS A ND P UBLIC OFFICIALS IN OTHER W AY S WHE RE THE G OVERNOR C AN R EMOVE PEO PL E O R ARE R EFERRED TO T HE HOU SE AND THE S ENATE AND A WHO LE P ROCE SS SET I N THE RE. IN THA T C IRCU MS TA NC E , ARE A TTOR NEYS F EE S A LLOW ED T O P UBLIC O FF IC IA LS SIM IL ARLY E LECTED P UBLIC OFF IC IALS O R APP OINTED O FF IC IALS?.

I'M SOR RY , J US TI CE B EL L , I D ON 'T K NO W THE A NS WE R T O T HAT.

CHIEF J USTICE: YOU HAV E ABOUT A H ALF A MINUTE OF YOU M IGH T WAN T T O S AV E I T FOR R EBUTTAL.

THANK Y OU.

CHIEF JUSTICE: BUT YOU C AN USE I T U P.

I WILL SAV E I T FOR R EBUTTA L. T HANK Y OU .

CHIE F J USTICE: I'LL GIV E YOU ANOTHER MIN UT E .

M AY IT P LEAS E THE C OU RT , M Y NAME I S C HA RL ES P ILLA NS . I WAS S PE CIAL C OU NSEL T O T HE C OMMISS ION I N T HE INV ESTIGA TIVE H EARING B EL OW , A ND I R EP RE SE NT , O F C OURS E , T HE C OM MISS ION. T HE COURT I N A RGUI NG O R I N SET TING U P T HE O RA L ARG UM EN T I N THI S CAS E PUT PRI NCIP LE O NE B EING THE ONE THA T H E D EVOT ED H IS TIM E T O W AS S PECIFI C AUT HORITY FOR THE A WA RD O F ATT ORNEY FEE S I N THIS CASE. N OW , W HA T I R EA D I N THE BRIEF AND T HE ARG UM EN T WHICH A LB EI T P ROMP TE D B Y THE QUE STIONS FRO M P RIMA RI LY JUSTI CE L EW IS , W HA T I H EA R FROM THE RESPO ND EN T I S A MUCH B RO ADER ARG UMEN T A ND A D IFFERE NT C ON CEPT THA N THE ONE THAT WAS B RIEF ED I N THE CASE I N W HICH W E FOCUS ED P RIMARI LY ON T HE Q UESTION OF WHETHER OR NOT THESE P AR TICULAR C HARG ES AND THE I SSUE S L IT IG ATED I N THE H EARING A ROSE O UT O F - - .

JUSTI CE: I T HINK I N F AIRN ESS AS A W HOLE TO T HE ARGUMENT THAT'S R EALLY WHERE THEY WERE H EADING WITH T HIS BECAUSE T HEY K EP T T AL KING ABOUT MOTIVATION F OR IT. S O IF Y OU C OULD ADD RESS T HOSE S AME A RG UMENTS I W OU LD APPRECIATE IT IF YOU W OULD.

W HA T I W AS P OI NT I N G O UT T HAT'S N OT E XA CTLY WHE RE W E W ENT I NT O T HI S. I T HINK WHA T I H EA R A RG UE D N OW I S A MUCH B ROAD ER P RINCIPLE THA N T HE O NE THA T W AS A DD RESS ED .

CHIEF JUSTICE: DO YOU OF COURSE CONCEDING S OM ETHING THAT MIGHT NOT THE J QC M AY O R MAY NOT H AV E THE A BI LITY T O C ONCE DE , BUT T HA T T HE D OCTRINE , THE T HO RN BE R D OCTR I N E A PPLI ES TO J QC P ROCE ED I NGS? DOES THE J QC AGR EE T HA T I T DOE S?

WE DO. THE SECOND QUESTION THAT WAS ASKED OF US WAS WHETHER S OVER EIGN IMM UNIT Y OVE RRID ES.

CHIEF JUSTICE : YES BUT A BETTER QUESTION IS DOES THE CONSTITUTIONAL PROVISION THAT SETS UP THE JQC PROHIBIT OR PERMIT OR --

I THINK THAT OBVIOUSLY I HAVEN'T PUT THIS TO THE COMMISSION. I'M SIMPLY THE LAWYER IN THIS PARTICULAR CASE BUT I THINK THAT THE PRINCIPLE FIRST OF THIS CONSTITUTIONAL PROVISION DOES NOT MAKE THE PROVISION FOR IT TO BE CONSIDERED AND TO BE CONTROLLED AND WHEN YOU PUT THAT UP AGAINST THE S OVEREIGN IMM UNIT Y R UL E W HICH WAS INVOLVED WHICH WAS THE SECOND QUESTION AS TO WHETHER OR NOT THIS COURT , AND I DEAL WITH THAT IN MY BRIEF WHETHER THORNBERRY REALLY RUNS A FOUL THE S OVEREIGN IMMUNITY AND THE SEPARATION OF POWERS SUCH THAT IT REALLY IS A LONG-STANDING CONSTITUTIONAL PROVISION THAT PRECEDED THE 1968 CONSTITUTION.

CHIEF JUSTICE: BUT THEIR IDEA IS WE SAY FEES SHOULD BE AWARDED , LET'S JUST SAY WE SAY IT , WE DON'T HAVE THE POWER , SO WE PUT IT BACK TO THE LEGISLATURE AND THEN IN THAT WAY THE JQC REALLY WOULD N'T HAVE AN INTEREST IN THE LEGISLATURE SAID PREVAILING PARTIES IN A JQC PROCEEDING GET ATTORNEYS FEES , I MEAN JUST FROM A PRACTICAL POINT I MEAN WHAT'S THE DOWNSIDE TO THAT ARGUMENT? THAT IS THAT WE DON'T MAKE THE DECISION. WE MADE A DECISION THAT IS IN THE PUBLIC INTEREST . THIS IS JQC BUT IT IS REALLY UP TO THE LEGISLATURE TO DECIDE WHETHER TO PAY THE FEES. I'M NOT SURE IF THAT'S GOOD OR BAD ACTUALLY AS I SAY IT , BECAUSE , YOU KNOW , WHAT IF THEY SAY IN THIS CASE YES , IN THIS CASE NO.

WELL , SEVERAL THOUGHTS COME TO MIND. ONE IS I DON'T LIKE THE IDEA OR THE THOUGHT OF THE SECTORS BEING RETRIED IN THE LEGISLATURE ON THE QUESTION OF WHETHER OR NOT THERE SHOULD BE ENTITLEMENT OF FEES AND WHAT IS THE ROLE WITH RESPECT TO THAT. I BELIEVE IT IS THE HAFNER CASE AND THE COURT SAID COSTS SHOULD BE KEPT WITHIN REASON NOT ONLY FOR THE BENEFIT OF THE JUDGE THAT'S AN ISSUE BUT ALSO FOR THE COMMISSION , AND I JUST THINK THAT IS THE SLIPPERY SLOPE .

CHIEF JUSTICE: LET'S GO BACK TO , THOUGH , THE ISSUE ONE. HAVE YOU, AND I JUST WANT TO , OR HAS THE JQC ACCEPTED THEN OR NOT THAT THE THORNBERRY DOCTRINE WOULD APPLY TO JQC PROCEEDINGS?

WE HAD ACCEPTED THAT. THAT WAS THE POSITION IT TOOK IN THE BRIEF .

CHIEF JUSTICE: SO THEN IT SEEMS TO ME THAT THE DISTINCTION BETWEEN SOMEBODY THAT MAY BE CHARGED WITH PLAGIARISM AND AN ACTIVITY THAT IS NOT DIRECTLY RELATED TO THE OFFICIAL DUTIES BUT IS OF SUFFICIENT CONCERN THAT IT WOULD AFFECT THE ABILITY TO SERVE , VERSUS A SITUATION WHERE A JUDGE IS CHARGED WITH HAVING BEEN CHARGED WITH HAVING ENGAGED IN IMPROPER PRACTICES ON AN EX-PARTE BASIS AS WE HAD YESTERDAY WITH A JUDGE WHO HAD RELATIONSHIP WITH A WOMAN WHO WAS APPROPRIATELY BEING SERVED , HOW WOULD THAT SERVE A PUBLIC PURPOSE TO SAY , WELL , WE WILL GIVE FEES WHEN THEY ARE AND THE CONDUCT MIGHT BE WORSE, YOU KNOW , THAT IF IT IS CHARGED IN CONNECTION WITH THE DUTIES ON THE BENCH BUT IF IT IS OFF THE BENCH BUT WE STILL THINK IT IS SUFFICIENTLY CONNECTED WE ARE NOT . I'M VERY UNCOMFORTABLE WITH THAT PARADIGM , AND COULD YOU HELP ME , COULD YOU GIVE ME THE BEST ARGUMENT FOR WHY ONE WOULD ALLOW FEES AND THE OTHER WOULD NOT ?

WELL , I THINK YOU GO BACK TO THE ORIGINAL PRINCIPLE OF THORNBERRY AND THAT IS THAT IT IS THE INTEREST OF THE STATE TO PROTECT ALL OF THE PUBLIC , NOT JUST J

JUDGE S W H E N T H E Y A R E A T T A C K E D O R W H E N T H E Y H A V E T O D E F E N D T H I N G S T H E Y H A V E D O N E I N T H E I R O F F I C I A L C A P A C I T Y .

CHIEF JUSTICE: BUT THAT WOULD BE , AGAIN, I SEE T H A T D I F F E R E N T L Y . F O R E X A M P L E , W E H A D T H E J U D G E T H A T W A S A T T A C K E D V E R B A L L Y A N D W I T H T H R E A T S F O R T H E S C H I A V O C A S E , A N D J U S T L E T ' S S A Y T H A T H E H A D B E E N S U E D B Y S O M E B O D Y . N O B O D Y I S E V E R S U G G E S T I N G T H A T I F H I S C H I E F J U D G E I S C A L L E D U P T O T H E O F F I C E O F S T A T E C O U R T A D M I N I S T R A T O R T O G E T A N A T T O R N E Y T O R E P R E S E N T H I M T H A T W E W O U L D N ' T H A V E P R O V I D E D I T . W E P R O V I D E A T T O R N E Y S F O R J U D G E S S U E D I N T H E I R O F F I C I A L C A P A C I T Y A L L O F T H E T I M E W H E N I T I S C L E A R L Y T H E R E . I ' M H A V I N G T R O U B L E W I T H T A K I N G I T T O T H E N E X T S T E P T H A T W H E N T H E J U D G E I S C H A R G E D N O W W I T H A C O N T R O V E R S I A L R U L I N G , B U T W I T H M I S C O N D U C T , H O W T H A T I S S E R V I N G A P U B L I C P U R P O S E T O R E I M B U R S E A T T O R N E Y S F E E S W H E N T H E J Q C D O E S N ' T E S T A B L I S H C L E A R A N D C O N V I N C I N G E V I D E N C E B U T W H E R E T H E R E I S N O E V I D E N C E O F B A D F A I T H O N T H E P A R T O F T H E J Q C W I T H M A K I N G T H A T D I S T I N C T I O N T H A T Y O U A R E A S K I N G U S T O M A K E H E R E T H A T O N E W A S D O N E O F F T H E B E N C H A N D T H E O T H E R W A S D O N E O N T H E B E N C H .

T H A T I S T H E D I S T I N C T I O N T H A T T H O R N B E R M A K E S , A N D Y O U R H O N O R A S K E D I F T H E C O M M I S S I O N T O O K T H E P O S I T I O N T H A T T H O R N B E R A P P L I E D A N D T H E P O S I T I O N W A S I T A P P L I E D B U T I T A P P L I E D I N T H A T C I R C U M S T A N C E W H E R E T H E A C T I V I T Y I N V O L V E D T H E J U D G E ' S O F F I C I A L D U T I E S . Y O U A R E S U G G E S T I N G A B R O A D E R A P P L I C A T I O N O F T H O R N B E R W H I C H T H O R N B E R - - .

CHIEF JUSTICE: THEY ARE OFFERING IT AND I'M TH I N K I N G F R O M A P U B L I C P U R P O S E A R G U M E N T T H A T I F E E L U N C O M F O R T A B L E W I T H T H A T D I C H O T O M Y .

W H A T I W A S G O I N G T O S U G G E S T I S W H A T T H E Y A R E A S K I N G F O R I S A P U B L I C D E F E N D E R S Y S T E M F O R J U D G E S I N A S K I N G T H E J U D G E S A L T H O U G H W E A L L W I T H R E S P E C T T O T H E J U D I C I A R Y A R E T O B E P U T I N A S E P A R A T E C A T E G O R Y A P A R T A N D D I S T I N C T F R O M O T H E R P U B L I C O F F I C I A L S W H O M A Y C O M E B E F O R E T H E S P E C I A L E T H I C S C O M M I S S I O N .

CHIEF JUSTICE: I F T H E Y P R E V A I L I N A N Y O F T H O S E O T H E R S E T T I N G S , D O W E K N O W T H E L A W A S T O O T H E R O F F I C I A L S ? .

W E H A V E F O R E X A M P L E T H E C H A V E Z V E R S U S T H E C I T Y O F T A M P A W H I C H W A S A C I T Y C O U N C I L W O M A N W H O V O T E D O N A R E C L A S S I F I C A T I O N I N A Z O N I N G M A T T E R A N D T H A T W A S A N O F F I C I A L A C T , B U T T H E R E C L A S S I F I C A T I O N R E L A T E D T O H E R B U S I N E S S W H I C H W A S A R E S T A U R A N T A N D S O I T W A S F O U N D T H A T T H E V O T E W A S N O T S E R V I N G T H E P U B L I C P U R P O S E . S O T H E R E I S A N E X A M P L E O F W H E R E T H E I S S U E C A M E U P A N D T H E C E R T W A S A P P L I E D F O R .

CHIEF J U S T I C E : H A V I N G R E A D A L L O F T H O S E C A S E S I ' M V E R Y U N C O M F O R T A B L E W I T H T H E D I S T I N C T I O N S T H A T A R E M A D E A N D I J U S T I U N D E R S T A N D T H E U N D E R L Y I N G P R I N C I P L E O F T H E C A S E S B U T I ' M S T I L L N O T S U R E I ' V E G O T T E N O N E W H I C H S A Y S T H A T H E R E I T W O U L D R E Q U I R E A J U D G E H O L D E R T O E S T A B L I S H T H A T T H E R E A S O N , T H E M O T I V A T I O N F O R T H E I M P R O P E R C H A R G E , W H I C H I S W H A T H E I S S A Y I N G , W A S B E C A U S E O F H I S R O L E I N T H E C O U R T H O U S E I N V E S T I G A T I O N , A N D I F T H A T ' S S O W E W O U L D H A V E T O H A V E A S E P A R A T E H E A R I N G T O E S T A B L I S H B O T H T H I N G S .

W E L L , T W O C O M M E N T S T H E R E . F I R S T I A G R E E W I T H Y O U I N R E A D I N G A L L O F T H E C A S E S I H A V E A H A R D T I M E R E C O N C I L I N G T H E R E S U L T S A N D S O M E O F T H E M A N D W E G O B E C O M E T O 1 8 9 0 I N T H E F I R S T C A S E A N D Y O U R E A D T H E M A L L O F T H E W A Y T H R O U G H A N D I T I S D I F F I C U L T T O R E C O N C I L E T H E M , B U T T H E F U N D A M E N T A L P R O B L E M W I T H J U D G E H O L D E R ' S A R G U M E N T A S I S E E I T I S H E I S F O C U S I N G O N A N I S S U E W H I C H H E R A I S E D A S M

MOTIVATION AS SORT OF LIKE A DEFENSE. THAT, TOO, IS A SLIPPERY SLOPE. WHAT OUGHT TO BE CONSIDERED IS WHAT IS THE CHARGE? WHAT WAS THE JUDGE OR ANY PUBLIC OFFICIAL CHARGED WITH TO GET A RISE OUT OF THE PUBLIC OFFICIAL'S OFFICIAL DUTIES IS THIS YOU? YOU GO BEYOND THAT AND YOU ARE OUT INTO A LAND.

CHIEF JUSTICE: LET'S SAY THAT IN THIS CASE THAT JUDGE HOLDER, WE KNOW HE WAS INVOLVED WITH THE HELPING FIND OUT ABOUT OTHER CORRUPTION, IN THE COURT HOUSE, AND LET'S SAY THAT THE EVIDENCE, THE JUDGE BECAME CONVINCED AFTER THE WHOLE HEARING THAT IT WAS A WHISTLE-BLOWER TYPE OF MOTIVATION THAT HAD LED TO IT. WHAT ABOUT THAT SITUATION? IN OTHER WORDS WHERE SOMEBODY, I MEAN THE JUDGE HAS A DUTY IF THEY KNOW OF CORRUPTION. THEY CAN'T TURN THE OTHER WAY. THEY ARE REQUIRED TO CERTAINLY TO LET THE JUDGE KNOW. NOW, MAYBE NOT THE WAY JUDGE HOLDER WAS INVOLVED WITH AN UNDERCOVER, BUT CERTAINLY THEY HAVE A -- SO WHAT IF IT WAS ESTABLISHED THAT THIS WAS PAY BACK FOR HAVING TURNED IN ANOTHER JUDGE?

WELL, WE STILL HAVE TO GO BACK TO THE BASIC ISSUE DID HE PLAGIARIZE THE PAPER. THE MOTIVE FOR BRINGING THAT TO LIGHT IS IRRELEVANT.

CHIEF JUSTICE: YOU DIDN'T ESTABLISH THAT HE DID. YOU DIDN'T ESTABLISH HE PLAGIARIZED THE PAPER.

WE DIDN'T PROVE IT BY CLEAR AND CONVINCING EVIDENCE IN ACCORDANCE TO THE FINDINGS OF THE HEARING PANEL. I THOUGHT WE PUT ON A VERY COMPELLING CIRCUMSTANTIAL EVIDENCE CASE THAT HE DID, BUT WITH ALL OF THE TECHNICAL ISSUES RAISED ABOUT THE ENTICEMENT OF THE PAPER I THINK THE PANEL WAS UNCOMFORTABLE WITH THE RESULT AND FOUND IT WAS NOT PROVEN BY CLEAR AND CONVINCING EVIDENCE. SO WE DIDN'T FIND HE DIDN'T DO IT, EITHER, IS THE POINT I'M SAYING. THEY JUST FOUND THE REWAS NOT PROOF BY CLEAR AND CONVINCING EVIDENCE BUT I DON'T THINK THAT THIS COURT OR ANY COURT SHOULD BE PUT IN THE POSITION OF WHAT IS THE MOTIVATION BEHIND THE CHARGE WHICH IS THE BASIS FOR DETERMINING WHETHER OR NOT THE CONDUCT INVOLVED IN THE JUDGE'S OFFICIAL DUTY.

JUSTICE: AS I UNDERSTAND YOUR ARGUMENT THEN, UNDER THE THORNBERG CASE, YOU LOOK AT WHETHER OR NOT THE ACTUAL ACTIONS THAT ARE BROUGHT BEFORE THE JUDGE, WHICH IN THIS CASE IS ALLEGED PLAGIARIZING. WHETHER OR NOT THAT ACTION AROSE OUT OF HIS OFFICIAL DUTY?

CORRECT.

JUSTICE: AND NOTHING ELSE. EVEN IF SOMEONE BROUGHT IT TO THE JUDGE'S ATTENTION BECAUSE OF SOME OTHER MOTIVE.

RIGHT. THE MOTIVE FOR SOMEONE BRINGING IT TO THE JUDGE'S ATTENTION SHOULD BE IRRELEVANT TO THE ISSUE OF WHETHER THE ACTS INVOLVED THE JUDGE'S DECISION.

JUSTICE: BUT HOW DOES THAT ADDRESS JUDGE HOLDER'S CONCERN HERE WHICH SEEMS TO BE THAT IF, IN FACT, SOMEONE, SAY HAS A CASE BEFORE HIM AND THE YOUNG MAN THIM TO BE ON THIS CASE, AND SO THEY BRING IT TO THE JUDGE JUST SO HE HAS TO BE REMOVED -- REMOVED FROM THIS CASE AND GO THROUGH ALL OF THIS, HOW DOES YOUR POSITION ADDRESS THAT KIND OF CONCERN?

WELL, WHEN YOU SAY BRING IT TO THE JUDGE, ONE, IT WOULD DETERMINE WHAT IS IT THAT THEY BROUGHT TO THE JUDGE.

JUS TI CE : BUT WE' RE TALKING ABOUT THE SAME ISSUE HERE, THE PLA GI AR IZ IN G.

THE PLA GI AR IZ E !!IN G , I THI NK I N THA T CAS E H E W OU LD , AND LET 'S A SSUME T HE I NF OR MATION THEN WENT FOR WARD WIT H IT , IT G OE S T HR OUGH AS I B ELIE VE J USTICE P AR IENTE HAS P OI NT ED OUT A V ER Y R IG OROU S SCR EENING P ROCE SS FOR THE I NVESTIGA TIVE P AN EL W HICH J UDGE H OL DE R D ID N' T D O I N THIS CAS E , H E HAD T HE O PPORTUNITY TO APPEAR IN THI S V ER Y C AREF UL LY S CR EE NE D B EFOR E A C HARG E IS BRO UG HT , B UT IF T HE C HARG E I S BRO UG HT AND INDEED IT I S T HE S AM E CHA RGE THAT W AS BRO UG HT I N THIS CASE T HE N O UR P OS ITIO N WOULD B E THA T H E IS G UILT Y O F I T . H E - - THE C AS E S HO UL D B E S UED O R S UFI CI EN T EVI DENCE THAT THE CASE S HOUL D B E P URSUED A ND I T IS N OT A MATTER OF THE MOTIV ATIO N OF THE PARTY, WHE TH ER THE Y W AN T T O GET T HE J UD GE R EC USED O R N OT. THAT SHOULDN'T BE A FACTOR.

JUS TICE: I S IT A T A LL ANA LOGOUS T O A S ITUA TI ON W HERE A DEFEN DANT I S A CC US ED C RIMI NALL Y AND IS A CQ UITT ED A ND I N S OME C IRCU MSTA NC ES C AN GET T HE IR A TT ORNE YS F EE S W HEN T HEY A RE A CQUI TTED ?

I D ON 'T K NO W BEC AUSE I D ON'T P RA CTIC E M UC H C RI MI NA L LAW THE CIRCUMS TANCES UNDER WHICH A CRIMINA L DEFEN DA NT CAN GET THEIR A TT ORNE YS F EE S W HEN THEY A RE A CQ UITT ED . PAR TICU LA RLY WEN T HEY H AV E P RI VATE COUNS EL OBV IO USLY THE PUBLIC D EF EN DE R S YSTE M P ROVIDE S MOST OF THO SE C ASES. I CAN'T ANS WE R Y OU R Q UESTION.

CHIEF JUSTICE: THAT WOULDNT BE UNDER THE T HORNBE R D OCTR IN E.

NO , IT WO UL D N OT B E , AND I DON'T KNO W T HE CIRCUMSTANCES UNDER WHICH T HE Y A RE REI MBUR SE D .

JUSTI CE : THE U NDER LY IN G C ONCE RN T HAT WE A RE H EARI NG VOICE D A ND W E REALLY NEE D T O MAK E S UR E I T I S F UL LY AIR ED I S SAY IN G I F YOU W AN T T O S ET UP A JUDGE T HE N YOU S ET H IM U P WIT H THING S THA T A RE O UTSIDE O F O FF ICIA L DUT IE S BUT IT I S R EALL Y N O DIF FERE NT THAN IF Y OU S ET T HEM U P WIT H THE Y U SE D I MPROPE R LAN GUAGE IN A C OURT RO OM. DO YOU SEE WHA T I'M SAY IN G T HOSE THAT W AN T TO A TTAC K A J UDGE THE ARG UM EN T FLO WS THAT IT R EA LLY ATT ACKS AND UNDER MI NE S T HE IND EPEN DE NC E O F THE J UD ICIA RY I F Y OU DRA W T HI S D ISTI NCTION BECAUSE THEY CAN ALWAYS S ET U P FAC TS O R F ABRI CATE A R EASO N T O I NITI AT E J QC S TU FF U ND ER A LLEGATIO NS THAT WOULD B E M ORE P ER SO NAL , DRU G C HARG ES, W HATEVE R IT IS , A ND THA T' S W HA T T HE Y SEE M TO B E VOI CING AS A P OL IC Y C ON CE RN I T HI NK I HEA R T HE CHI EF JUS TICE A LSO CON CERNED W ITH T RYIN G TO SLICE T HI S O NION I N D IFFERENT WAY S IF YOU 'VE G OT AN U ND ER LY IN G POL IC Y T HA T YOU NEE D T O ADVAN CE H OW I S I T B E S T A DV ANCE D? W HY I S I T NOT B E S T A DVAN CE D B Y THE A RG UM EN T THAT T HE O THER SIDE M AK ES ?

THAT T HE JUD GE W OULD B E E NTITLED TO REC OV ER H IS A TTORNEYS F EE S .

JUS TI CE : BAS ICALLY I N A LL J QC P RO CE EDINGS I S W HA T I T C OMES DOW N T O.

WHICH I S S OME THING O BVIO USLY T HA T W AS NOT C ONSIDE RED I N P RE PA RA TI ON O F T HE BRIEF S I N T HI S CAS E , B UT I THINK Y OU R HONOR I N THE H YPOTHE TICAL SITUATION YOU GAVE WHERE THEY ARE S ETTING UP THE JUDGE AND MAK IN G A LLEGAT IONS OF DRU GS AND T HE LIKE, TO S OME E XTEN T Y OU H AV E T O R EL Y U P O N T HE I NTEGRITY O F T HE C OM MISS IO N A ND ITS P RO CE DURE S T O WEE D OUT T HOSE KIN D O F C ASES S O T HEY N EV ER G ET T O THE P OINT W HERE I T R ES ULTS I N A F OR MA L C HARGE AND I N T HI S C AS E T WO WEE KS OF TRI AL A ND A M ILLI ON S EVEN I N ATT ORNE YS F EE S.

JUSTICE : BUT I THINK YOU WOULD AGREE THAT'S NOT AN ELEMENT OR CRITERIA INVOLVED IN THE THORNBERG DOCTRINE?

RIGHT .

CHIEF JUSTICE: BUT WHAT IF THE PLAGIARISM HERE WAS PLAGIARISM OF A PRESENTATION THAT THEY WERE MAKING AT A JUDICIAL COLLEGE? IT JUST DOESN'T SEEM THAT THAT SPLITS MAKES A LOT OF SENSE AND THEREFORE REQUIRING SOMEBODY TO GO INTO THE MOTIVATION, AND I'M NOT SURE YOU HAVE REALLY, YOU KNOW, EITHER WAY THE INDEPENDENCE OF THE JUDGE IS THREATENED BY HAVING TO DEFEND THESE CHARGES .

WELL, I THINK THE HYPOTHETICAL YOU GAVE IS VERY CLOSE TO THAT ELLISON CASE WHICH WAS A DISTRICT COURT OPINION IN WHICH THE SEWERE AWARDED IN CONNECTION WITH PLAGIARISM TYPE CHARGE WHERE IT RELATED TO THE OFFICIAL DUTIES OF THE CASE.

CHIEF JUSTICE: BUT DO YOU FEEL I GUESS I KNOW YOU ARE ADVOCATING FOR THIS BUT DO YOU REALLY FEEL AS A GAIN THE JUDGE HERE, IS ACTING IN THE PUBLIC INTEREST, DO YOU FEEL COMFORTABLE, REALLY, WITH THAT DISTINCTION?

YES.

CHIEF JUSTICE: AND TELL ME WHY.

BECAUSE I THINK, AND I AM AN ADVOCATE FOR THE JUDGE. I'M CONCERNED ABOUT, AS I INDICATED BEFORE, WHAT I WOULD CALL THE SLIPPERY SLOPE OF GOING BACK AND LOOKING AT THE MOTIVES, WHY SOMEONE BROUGHT THE CHARGE INSTEAD OF WHAT IS THE CHARGE.

CHIEF JUSTICE: I'M NOT, UNDER MY SCENARIO YOU WOULDN'T LOOK AT THE MOTIVATION. YOU WOULD LOOK AT THE FACT THAT THEY WERE REALLY JUST A PREVAILING PARTY AND THE JUDGE WAS SUFFICIENTLY CONCERNED THAT THE ACTIONS WERE ACTIONS THAT WOULD INTERFERE WITH THAT PERSON'S ABILITY TO SERVE AS A JUDGE .

AND THAT WAS THE SECOND PART OF WHAT I WAS GOING TO SAY, OR ADOPTING WHEN WHAT I CONSIDER TO BE THE VERY BROAD PUBLIC DEFENDER TYPE CONCEPT OF PUTTING THE JUDGES IN SPECIAL CATEGORY AND BEING ENTITLED TO FEES AND VIRTUALLY ANY AND EVERY CASE IN WHICH CHARGES WERE BROUGHT PARTICULARLY IF THEY ARE NOT PROVEN AND OF COURSE MANY CASES ARE RESOLVED AND THEY ARE NEVER ACTUALLY GO TO A FULL-BLOWN HEARING, BUT I DON'T THINK THAT THE COMMISSION WOULD FEEL COMFORTABLE WHEN CONFRONTED WITH THIS FULL WHAT I CALL THE BROAD PUBLIC DEFENDER-TYPE ARGUMENT OR CONSIDERATION THAT HAS BEEN GIVEN .

JUSTICE : WE STILL HAVE THE POSSIBILITY OF AN IMPEACHMENT PROCEEDING AGAINST ANY SITTING JUDGE , CORRECT?

YES, SIR.

JUSTICE : WHAT'S -- HAS ANYONE ANALYZED AND LOOKED AT THAT PROCESS IF THAT WERE ANALYZED IF THE JUDGE REFUSED TO ACT BUT THE NEXT LEGISLATURE PICKS UP AND DECIDES TO MOVE FORWARD WHAT'S THE SITUATION UNDER THOSE CIRCUMSTANCES? I'M NOT SURE THAT THESE CASES ADDRESSED ANYTHING LIKE THAT?

I DON'T BELIEVE IT DOES. I WOULD ANTICIPATE THAT IF THE JUDGE THAT WAS UNDER THE IMPEACHMENT, IF HE IS SUCCESSFULLY DEFEATED THE IMPEACHMENT AND IT AROSE

O UT O F HIS O FFIC IA L DUTIE S T HA T YOU WOU LD S EE A T HO RN BE R T YP E C ON TE NTION .

JUSTI CE : BUT AGA IN THE S AM E T HO RNBE R FIRST PRONG T HAT I T M US T B E O FFIC IA L DUTIES NOT JUST ACR OS S THE B OARD?

BECAU SE O NC E YOU S TR AY A WA Y F RO M THA T T O T HE B ROADER PUBLIC DEF ENDE R-TY PE C ONCEPT I THI NK I T I S S OMET HI NG THA T I S F AR B EYON D A NYTHIN G THA T THE COM MI SSION HAS D EALT W IT H O R I T HINK W E A CTUALL Y BRI EF ED A BOUT , EITHER, SO WE WOU LD R EQ UE ST T HAT THE MOT IO N B E DEN IE D I N T HI S CAS E. I SEE M Y T IM E I S R UN NING OUT , B E DENIE D I N T HI S CAS E B ECAUSE AND FOR A V AR IETY O F REA SONS SET FOR TH IN THE BRIEF WHICH I HAVEN'T HAD A N O PPOR TU NITY TO A DDRE SS , B UT B ECAUSE THE VER Y F UN DAME NTAL R EASON T HIS C AS E DID N OT A RISE OUT O F J UDGE H OLDE R - - .

CHIEF JUSTICE: AND I F YOU F EEL A ND WE WILL L OOK AT T HE B RIEFS, ARE Y OU A SK IN G T O S UBMIT S UPPL EMEN TA L B RIEF IN G ON THE BRO AD ER I SS UE ?

IF T HE C OU RT FEE LS I T NEEDS IT, I W OULD BE MO RE T HAN D ELIG HT ED .

CHIEF JUSTICE: IF YOU FEEL YOU HAV EN 'T A DEQU ATEL Y BEEN ABLE T O RES PO ND T O WHA T YOU SEE AS A D IFFE RE NT ARG UM ENT .

I W OULD B E H AP PY T O . F OR FURTH ER A RG UM ENT OR F UR THER B RIEF IN G ON T HI S P ARTICULA R P OINT .

CHIEF JUSTICE: I JUS T THOUGHT IF THE J QC .

A GA IN I'D HAV E T O CON FE R W ITH T HE COM MI SSION. I 'M O NL Y T HE IR L AW YE R A ND L AWYERS FOR THE C OMMI SS ION HAVE A DIF FE RE NT R OL E THA N R EPRESE NTING A PRI VA TE C LIEN T AND I'M N OT U P H ER E M AKING POL IC Y DEC IS IONS O R MAK ING S TATE MENT S T HA T B IN D T HE COM MI SS IO N O N FRA UD P OLICY MA TTERS. I D ON'T SEE THA T A S M Y R OLE A ND I 'M SUR E T HE Y D ON'T S EE T HAT A S M Y R OLE , E ITHE R . Y OU MIGHT A LL OW M E T EN DAY S TO FIL E I T.

CHIEF JUSTICE: THIS I S WHAT I WOULD SAY . IF WE ORDER ANYTHIN G O BVIOUSLY W E WOU LD ORD ER I T. IF YOU , I F T HE COM MI SS IO N D ECIDES THEY WANT T O FIL E SOMETHING I WOULD SUG GEST F ILIN G A M OT IO N.

YE S , A ND M AYBE I N T EN D AYS O R SO ME THING LIKE THAT. Y ES, THA T W OULD B E FIN E B UT I WOULD HAV E T O T AL K TO THE C LIEN T . I D ON'T H AV E T HE AUTHORITY TO TAKE THE POSITION.

CHIEF JUSTICE: W E'VE GOT YOU LOUD A ND C LE AR. M R. WEI NSTEIN I N R EB UTTA L.

THANK Y OU . V ERY B RIEF LY ADD RE SS T WO M AJOR P OINTS. O NE , A S TO MR. P ILLA NS ' Q UESTIO N W HE TH ER J UDGES SHOULD BE P LACED IN A S PECIAL C AT EG ORY W E S AY R ESOUND INGLY YES. T HE P RI NCIP LE S THA T M US T B E V IN D I I NDIC ATED HER E WHICH - - V IN D I NDIC ATED H ER E - - V INDIC ATED H ER E - - .

JUS TICE : BUT I T O NL Y G IVES THE A BI LITY T O PRO VIDE FOR COSTS, ASSUM IN G THA T YOU CAN GET PAS T THE CON STITUT IONAL HURDLE, I SN'T THAT REALLY A POLIC Y C HOIC E FOR THE L EG ISLA TURE T O E NA CT T HE STA TUTE I F W E A RE G OIN G T O S AY THA T J UD GE S C AN A LWAYS B E R EIMB UR SE D F OR J QC PRO CEEDIN GS FOR THE IR A TTORNEYS F EE S , I SN'T H A T SOMETHING THAT SHOULD BE FOR THE LEGISLATURE SINCE I T I S GOING TO COME OUT OF T HEIR P URSE ANYWAY?

I DON'T THINK SO, YOUR HONOR, FOR THE FOLLOWING REASON. IF YOU LOOK AT THORNBER FOR EXAMPLE WHAT THIS COURT WAS CONFRONTED WITH WAS A CLAIM FOR ATTORNEY'S FEES BY THE COUNCILMAN AT ISSUE UNDER 111.07 OF THE FLORIDA STATUTES. THE LEGISLATURE WITH RESPECT TO THE ENACTMENT OF THAT STATUTE DECIDED THAT FEES SHOULD BE RECOVERABLE IN A CIVIL ACTION. THAT WAS THE LEGISLATIVE POLICY AS TO THAT ISSUE. BUT THIS COURT, EVEN THOUGH THE REASON INDICATION FROM OUR OPINION IN THAT CASE THAT THE COUNCILMAN HAD TRAVELED UNDER THORNBER BELOW, THIS COURT LOOKED AT THE SITUATION AND SAID THE 111.07 RIGHT IS TOO NARROW HERE. THIS IS NOT A CIVIL ACTION, YOU KNOW, THAT FALLS WITHIN 111.07, BUT NONETHELESS, THE COUNCILMAN IN THORNBER SHOULD BE ALLOWED TO RECOVER PURSUANT TO A COMMON-LAW DOCTRINE SO I AM NOT TROUBLED BY THE POSITION THAT A COMMON-LAW DOCTRINE LIKE THIS SHOULD BE BROADER.

CHIEF JUSTICE: AS FAR AS HOW FAR IT WOULD GO, WHAT IF INSTEAD OF IT GOING PAST PROBABLE CAUSE AND BUT IN THE MIDDLE OF THE HEARING, THERE IS A DISCUSSION AND THE JUDGE BASICALLY THEY ARE TOLD LISTEN WE'RE GOING TO BE GOING AFTER FEES UNLESS YOU DISMISS THIS. I MEAN, WOULDN'T IT BE ALMOST, WOULDN'T IT INTERFERE WITH THE AUTHORITY OF THE JUDGE TO BE ABLE TO CONTINUE TO PROSECUTE WHAT THEY FELT WAS A VALID CLAIM?

I DON'T THINK SO, YOUR HONOR, BECAUSE NO ONE IS SUGGESTING HERE AS WE SPOKE ABOUT DURING MY INITIAL ARGUMENT THAT THE FEES BE DEDUCTED FOR EXAMPLE DOLLAR FOR DOLLAR FROM THE JUDGE'S BUDGET.

JUSTICE: IT WOULD EXCEED IT IN THIS CASE.

JUSTICE: WELL, CAN I ASK ONE QUESTION. WOULD IT MAKE ANY DIFFERENCE TO YOU IF AFTER THE PROBABLE CAUSE DETERMINATION THE JUDGE HAD REFERRED IT TO THE U.S. ATTORNEYS OFFICE BECAUSE THIS WAS ALLEGEDLY A FELONY OFFENSE, AND THE U.S. ATTORNEYS OFFICE HAD PURSUED IT AND THE SAME RESULT NOT GUILTY VERDICT? WOULD IT MAKE ANY DIFFERENCE TO YOU?

I DON'T THINK SO, YOUR HONOR. >> JUSTICE: SO THE SAME COMMON LAW CLAIM IF A CRIMINAL PROCEEDING - -

WE WOULD BE UNDER FEDERAL CRIMINAL LAW WITH RESPECT TO REIMBURSEMENT OF FEES BUT WE CERTAINLY BASED UPON A REFERRAL WOULD NOT BE TRAVELING UNDER THORNBER BUT A NEUTRAL YDIFFERENT PLAYING FIELD. TWO QUICK POINTS IN MY BRIEF REMAINING TIME.

CHIEF JUSTICE: YOU HAVE NO REMAINING TIME BUT WE'LL GIVE IT TO YOU. YOU ARE TWO AND A HALF MINUTES OVER.

I JUST WANT TO MAKE THE POINT THAT WHILE WE ADVOCATE FOR ALL OF THE REASONS, ALL OF THE CONCERNS EXPRESSED BY THE COURT THAT A BLANKET RULE IS A FAR MORE WORKABLE RULE AND BECAUSE OF ITS RARITY DOES NOT PRESENT A PROBLEM WE STRONGLY FEEL THAT THE RECORD EVIDENCE IN THIS CASE CITED IN OUR BRIEF WOULD SUPPORT A PROPOSITION THAT JUDGE HOLDE IS NONETHELESS ENTITLED TO RECOVER FEES UNDER A MORE NARROW APPLICATION OF THORNBER'S FIRST PRONG. SECONDLY AND LASTLY, UNDER JUDGE'S INTERPRETATION A JUDGE COULD BE REMOVED FOR CONDUCT THAT DOES NOT ARISE OUT OF A JUDGE WHO LLY UNCONNECTED WITH THE JUDGE'S OFFICIAL DUTIES IF THE INTERPRETATION IS CORRECT AND I WOULD SUBMIT THAT THAT IS SIMPLY UNJUST AND A BAD PUBLIC POLICY. THANK YOU SO MUCH.

CHIEF JUSTICE: THANK YOU. BEFORE YOU LEAVE I HAVE TWO THINGS I WOULD LIKE TO SAY

. O N E I S I C O M P L I M E N T B O T H C O U N S E L F O R T H E I R H I G H L Y P R O F E S S I O N A L A R G U M E N T S A N D T H E I R R E S P O N S I V E N E S S T O O U R Q U E S T I O N S . I T H I N K Y O U W E R E H E R E E A R L I E R T O D A Y W H E N W E W I T N E S S E D W H A T W E C O N S I D E R T O B E S O M E E X A M P L E S O F T H E O P P O S I T E O F P R O F E S S I O N A L I S M A N D S O F O R P E O P L E W A T C H I N G T H I S , I T I S A L W A Y S W O N D E R F U L W H E N W E H A V E A D V O C A T E S T H A T R E A L L Y D O U S P R O U D , A N D I T H I N K , I T H A N K B O T H S I D E S F O R T H A T A N D I G U E S S T H A T ' S G O O D S I N C E I T I S A J Q C P R O C E E D I N G T H A T I T B E T H A T W A Y . I A L S O W A N T T O A C K N O W L E D G E T H E L O S S , V E R Y S I G N I F I C A N T L O S S O F T O M M C D O N A L D , T H E G E N E R A L C O U N S E L . H E R E A L L Y W A S A L O N G - T I M E A D V O C A T E . H E D I D S O M E E N O R M O U S L Y W O N D E R F U L T H I N G S F O R T H E J Q C A N D A T E R R I F I C H U M A N B E I N G A N D W E A R E S O R R Y F O R H I S L O S S . T H A N K Y O U V E R Y M U C H .