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**Inquiry Concerning a Judge: John Renke III  
Docket Number: SC03-1846**

HEAR YE.

HEAR YE.

HEAR YE.

THE SUPREME COURT OF THE GREAT  
STATE OF FLORIDA IS NOW IN  
SESSION.

ALL WHO HAVE CAUSE TO PLEA,  
DRAW NEAR, GIVE ATTENTION AND  
YOU SHALL BE HEARD.

GOD SAVE THESE UNITED STATES,  
THE GREAT STATE OF FLORIDA AND  
THIS HONORABLE COURT.

LADIES AND GENTLEMEN, THE  
FLORIDA SUPREME COURT.

PLEASE BE SEATED.

CHIEF JUSTICE: GOOD MORNING

LADIES AND GENTLEMEN.

WELCOME TO THE FLORIDA SUPREME  
COURT.

THE FIRST CASE ON THIS  
MORNING'S DOCKET IS AN INQUIRY  
CONCERNING JUDGE RENKE.

MR. TOZIAN, YOU MAY PROCEED.

GOOD MORNING.

MAY IT PLEASE THE COURT.

SCOTT TOZIAN AND MY PARTNER  
GWEN HINKLE ARE HERE AND HAVE  
THE PRIVILEGE OF REPRESENTING  
JUDGE RENKE IN THESE  
PROCEEDINGS.

AS THE PANEL FOUND, JUDGE RENKE  
HAD A VALID EXPECTATION OF THE  
PAYMENTS RECEIVED FROM HIS  
FATHER BUT THE PAYMENT WAS MADE  
PREMATURELY AND THEREBY WAS  
RENDERED IMPROPER.

MOST RESPECTFULLY, WE BELIEVE  
THAT THE PANEL CONFUSED WHEN  
THE FIRM COULD ACCESS THESE  
DRIFTWOOD FUNDS AS THEY WERE  
REFERRED TO AND WHEN THE  
EMPLOYER COULD PAY JUDGE RENKE  
FUNDS THAT WERE DESIGNATED FROM  
THERE.

IF YOU RECALL FROM THE RECORD,

IN THE YEAR 2000, JUDGE RENKE HAD WORKED FOR HIS PHATER FOR A PERIOD OF FIVE OR SIX YEARS AND HIS AVERAGE INCOME WAS \$20 A YEAR, SOMETIMES SIGNIFICANTLY LOWER THAN THAT, AND HE HAD DISCUSSION WITH HIS FATHER AT THAT TIME THAT HE WAS GOING TO SEEK OTHER EMPLOYMENT.

HE HAD BEEN INTERVIEWING FOR OTHER EMPLOYMENT, AND HIS FATHER AT THAT TIME RECOGNIZED THAT HIS SON HADN'T BEEN PAID VERY WELL OVER THE FIVE OR SIX YEARS AND AGREED TO PAY HIM HALF OF SOME FEES THAT THEY KNEW THEY WERE GOING TO BE ABLE TO ACCESS FROM THESE DRIFTWOOD CASES.

IN FACT THE FUNDS HAD ALREADY BEEN DESIGNATED IN 1998 AS TO WHAT THEY WERE GOING TO RECEIVE AND THEY CONTINUED TO ACCRUE INTEREST AS IT WENT ALONG, SO THEY KNEW ALREADY THEY HAD FEES PROBABLY APPROACHING \$200,000.

CAN WE TAKE IT BY YOUR ADDRESSING THIS ISSUE AT THE OUTSET THAT, IT IS YOUR EVALUATION THAT THIS IS THE MOST SERIOUS CHARGE INVOLVED? I DON'T THINK YOU CAN NECESSARILY CONCLUDE.

THAT I CONSIDER ALL OF THEM SERIOUS.

LET ME SPEAK TO THAT. MY MAJOR CONCERN IS THE PURPOSE OF THIS ELECTION TO ALLOW THE PEOPLE TO FAIRLY JUDGE THE QUALITY, THE CAPABILITY, AND THE CHARACTER OF THE CANDIDATES AVAILABLE TO THEM, TO DISCERN WHO WILL BE THE BEST JUDGE OF THE PEOPLE. AND IT SEEMS HERE OBVIOUS THAT THERE WERE GROSS MISREPRESENTATIONS AND MISCHARACTERIZATIONS, NOT ONLY OF YOUR CLIENT'S EXPERIENCE AND ABILITY BUT, ALSO, MISCHARACTERIZATION OF HIS OPPONENT'S, AND IN A JUDICIAL RACE OF ANY, THAT SEEMS TO BE THE MOST PROBLEMATIC TO ME,

BECAUSE THAT IS ALL YOU CAN  
REALLY TALK ABOUT.

SURE.

AND I WOULD AGREE WITH YOU,  
IF THE RECORD SUPPORTED THAT.

JUSTICE: WELL, HE IS TALKING  
ABOUT HIMSELF, WHO HAS MANY  
YEARS OF BROAD CIVIL TRIAL  
EXPERIENCE IN THE COURTROOM, BY  
AN ATTORNEY APPOINTED BY OUR  
COURTS TO REPRESENT CHILDREN,  
BY AN APPOINTMENT TO PROTECT  
JUDICIOUS EXPERIENCE AS A  
HEARING OFFICER TO PROTECT  
VITAL NATURAL RESOURCES.

NONE OF THOSE INCIDENTS WERE  
FOUND TO BE IMPROPER, OTHER THAN  
THE BROAD CIVIL TRIAL  
EXPERIENCE.

REAL JUDICIAL EXPERIENCE WAS --

JUSTICE: IN CONTEXT, WHAT HE  
IS SAYING IS IF YOU LOOK AT ME  
AND IF YOU LOOK AT MY OPPONENT,  
THERE IS NO COMPARISON, AS FAR  
AS ABILITY AND EXPERIENCE AS A  
TRIAL ATTORNEY.

I THINK THE MESSAGE MOST  
RESPECTFULLY WAS THAT HE HAD A  
MUCH BROADER CIVIL TRIAL  
EXPERIENCE, WHICH IN FACT WAS  
BORNE OUT BY THE RECORD.

MR. MANSFIELD'S TESTIMONY IN  
THE TRIAL WAS THAT HE HAD TRIED  
A BUNCH OF CRIMINAL CASES  
BEFORE HE WENT INTO PRIVATE  
PRACTICE IN '91, A BUNCH OF  
JURY TRIALS AS A PROSECUTOR,  
AND THERE WAS NO TESTIMONY THAT  
HE EVER HAD A JURY TRIAL AFTER  
THAT.

CHIEF JUSTICE: BUT THIS  
ISSUE --

JUSTICE: WE ARE NOT TRYING  
MANSFIELD HERE.

I UNDERSTAND.

CHIEF JUSTICE: I AM VERY  
CONCERNED WITH THE ISSUE ABOUT  
THE LOAN THROUGH HIS FATHER OR  
THE MISREPRESENTATIONS OF HIS  
EXPERIENCE.

I AM VERY CONCERNED ABOUT THE  
MISREPRESENTATION ABOUT THE,  
HIS TRIAL EXPERIENCE.  
HE SAYS, AND THIS IS, I GUESS,

IN THE, HIS OWN STATEMENT ABOUT HIMSELF, I HAVE ALMOST EIGHT YEARS OF EXPERIENCE HANDLING COMPLEX CIVIL TRIALS IN MANY AREAS.

THAT WAS JUST BLATANTLY FALSE.

WE ADMITTED IN THE ANSWER --

CHIEF JUSTICE: I COULDN'T FIND A LAWYER THAT HAD LESS CIVIL TRIAL EXPERIENCE AT THAT TIME.

MANSFIELD, HIS OPPONENT.

CHIEF JUSTICE: WE ARE NOT TRYING MR. MANSFIELD.

I UNDERSTAND THAT, BUT HIS STATEMENTS IN THE PRESS, YOU HAVE TO UNDERSTAND THE CONTEXT IN WHICH THEY OCCURRED.

MR. MANSFIELD, IT WAS IN THE PAPER AND PART OF THE RECORD, THE NEWSPAPER SAYS MANSFIELD FIRES THE FIRST SALVO.

HE SAYS MY OPPONENT HAS NO EXPERIENCE AND I HAVE ALL OF THIS GREAT CIVIL AND CRIMINAL TRIAL EXPERIENCE.

IN FACT HE HAD NO CIVIL TRIAL EXPERIENCE.

SO IN RESPONSE --

CHIEF JUSTICE: MAYBE YOU CAN TALK ABOUT WHAT THE OTHER OPPONENT DIDN'T HAVE BUT WE ARE TALKING HERE ABOUT WHAT HE REPRESENTED TO THE PUBLIC THAT HE HAD, IN TERMS OF EXPERIENCE. WHAT WAS HIS EXPERIENCE OVER EIGHT YEARS AS A LAWYER?

HIS EXPERIENCE WAS IN ASSISTING HIS FATHER WORKING UP CIVIL TRIALS IN CIVIL LITIGATION ARENA.

CHIEF JUSTICE: HE HANDLED SOME CIVIL TRIALS IN SMALL CLAIMS.

THAT IS TRUE, BUT TO GET --

JUSTICE: THIS IS BORNE OUT NOT ONLY BY THE REFERENCE TO THE TRIAL EXPERIENCE OR WHATEVER, BUT IF WE LOOK AT THE INCOME FIGURES HERE, THEY REALLY SUBSTANTIATE THE FACT THAT HE COULD NOT POSSIBLY HAVE BEEN DOING SUBSTANTIAL TRIALS OR OTHER RESPONSIBLE WORK,

BECAUSE THE INCOME THAT HE IS RECEIVING DURING THIS TIME, IS INCOME THAT IT LOOKS LIKE SOMEBODY WORKING, A LAW STUDENT PART-TIME DURING THAT PERIOD OF TIME.

WELL, --

JUSTICE: NOW, HOW MUCH OF THAT IS ACTUALLY THIS FAMILY RELATIONSHIP AND HOW MUCH OF THAT, REALLY, DOES REFLECT THE FACT THAT HE DOESN'T HAVE SUBSTANTIAL RESPONSIBILITY OR EXPERIENCE IN THAT FIRM?

I THINK THE RECORD REFLECTS THAT IT WAS ALL A FUNCTION OF HOW HIS FATHER RAN THE LAW FIRM, IN TERMS OF HIS INCOME. THE INCOME IS WOEFUL.

I MEAN, IT IS MEAGER, BUT THE TESTIMONY WAS, FROM EVERYBODY WHO TESTIFIED IN THE CASE, INCLUDING MR. GUREN, WAS THAT, JUDGE RENKE WAS PHYSICALLY THERE, WORKING MANY MORE HOURS THAN HIS FATHER, WHO WAS THERE AN AVERAGE OF 6-TO-12 HOURS A WEEK AND MR. GUREN, WHO WAS THERE AN AVERAGE OF FIVE HOURS A DAY.

HE WAS THE PERSON THERE WORK CONSISTENTLY.

I CAN'T ANSWER WHY HIS FATHER PAID HIM SO POORLY.

MR. TOZIAN, THE THING THAT IS BOTHERING ME ABOUT THIS ARGUMENT IS THAT IT SEEMS TO ME THAT THERE ARE A SERIES OF THINGS, THE PICTURE THAT PORTRAYED HIM AS THE CHAIR OF THE BOARD.

THE QUESTIONABLE FINANCING OF THE CAMPAIGN, AND THESE OTHER MATTERS THAT ARE RELATED HERE, AND I WAS UNDER THE IMPRESSION AT ONE POINT HERE, THAT JUDGE RENKE, REALLY, OWNED UP TO THE FACT THAT THESE THINGS WERE NOT RIGHT, AND THAT HE WAS REALLY WANTING TO SAY THAT I RECOGNIZE THAT, BUT THAT THE ARGUMENT HERE WAS THAT HE HAS DONE A GOOD JOB SINCE HE HAS BEEN THERE AND HOW ARE WE GOING TO

WEIGH THAT, BUT NOW IF THIS IS A CASE IN WHICH WE ARE GOING TO JUDGE WHETHER WHAT HE DID WAS RIGHT OR WRONG, IT SEEMS TO ME THAT IS AN ENTIRELY DIFFERENT MATTER, AND I HAVE GOT A CONSIDERABLE QUESTION ABOUT THAT.

ABOUT WHETHER OR NOT HE HAS OWNED UP TO IT, SIR?

ABOUT WHETHER THESE THINGS WERE RIGHT OR WRONG.

I THOUGHT THERE WAS SOMEWHAT OF A TACIT ADMISSION THAT THEY WERE WRONG.

WHAT JUDGE RENKE TESTIFIED TO WAS THAT HE DID NOT INTEND TO MISLEAD ANYONE WITH THE SLOGAN "JUDGE OUR VALUES".

HE DIDN'T INTEND TO MISLEAD ANYONE, BUT HE ADMITS THAT SOMEONE READING THAT COULD THINK HE IS A POSSIBLE INCUMBENT.

HE DIDN'T THINK THIS WAS FALSE STATEMENT.

HE THOUGHT THAT WHAT IT SAID WAS I WOULD BE A JUDGE WITH THESE VALUES.

JUSTICE: THAT IS A DISENGENUOUS POSITION, BECAUSE LOOKING AT THAT OBJECTIVELY, ONE HAS TO COME TO THE CONCLUSION THAT IN A CAMPAIGN, IT MADE THE PUBLIC TO BELIEVE THAT HE IS THE INCUMBENT.

IF THAT IS HIS POSITION THAT HE IS CLINGING TO, THEN IT SEEMS TO ME THAT MY EVALUATION HAS GOT TO BE ON A DIFFERENT PLAIN. WOULD YOU LIKE ME TO RESPOND TO THAT?

JUSTICE: YES.

AGAIN, THE TESTIMONY HERE WAS, THIS WAS DONE AT A TIME IN THE CAMPAIGN WHEN THINGS WERE GOING VERY QUICKLY. HE LOOKED AT IT AND IT NEVER DAWNED ON HIM THAT THAT SUGGESTED INCUMBENCY.

I THINK THAT IS THE WORD THAT THE PANEL USED, IMPLIED INCUMBENCY.

BUT THAT THAT COULD BE THE

INTERPRETATION.

THAT GOES TO THE LIEBER  
STANDARD THAT ACTUAL MALICE IS  
REQUIRED.

JUSTICE: IT SEEMS TO ME THAT  
ONE OF THESE THINGS MAY BE  
INADVERTENT, BUT YOU NOT ONLY  
HAVE A BROCHURE THAT INDICATES  
OR YOU CAN IMPLY THAT HE WAS  
THE INCUMBENT.

THEN YOU HAVE ANOTHER PIECE OF CAMPAIGN LITERATURE  
THAT SAYS HE WAS AT THE  
CLEARWATER FIRE DEPARTMENT, AND  
THEN ANOTHER PIECE OF CAMPAIGN  
LIT YOUR THAT IMPLIES SOMETHING  
ELSE.

I CAN SEE ONE INADVERTENT PIECE  
OF CAMPAIGN LITERATURE, BUT THIS  
WAS A SERIES OF THINGS, SO IT  
APPEARS TO ME THAT WE HAVE A  
PROBLEM HERE WITH THE HONESTY  
WITH THESE CAMPAIGN PIECES OF  
LITERATURE.

I THINK THAT, WHEN YOU SAY  
THAT THESE THINGS IMPLY CERTAIN  
THINGS, THE COROLLARY TO  
THAT IS THERE IS A SECOND  
INTERPRETATION.

WAS HE THE CHAIR OF THE  
SOUTHEAST FLORIDA WATER  
MANAGEMENT DISTRICT?

ABSOLUTELY NOT.

HOW DID HE GETS ASSIGNED  
WITH JOHN RENKE THE CHAIR?  
BECAUSE HE CHAIRED TWO  
SUBCOMMITTEES AND THAT NAME TAG  
WAS PUT IN FRONT OF HIS NAME

WHEN HE WAS CHAIRING THE  
COASTAL RIVER BASIN BOARD AND  
THE GOVERNING BOARD MEETINGS.  
IT WAS A TRUE PHOTO OF WHEN HE  
SERVED IN THOSE CAPACITIES.

JUSTICE: IT SAYS SOUTHWEST  
FLORIDA WATER MANAGEMENT.  
THE BIG BANNER OF THE DISTRICT,  
HIM UNDER IT AND THE CHAIR.  
THAT IS EXACTLY HOW SWIFT  
MUD SETS UP THEIR MEETING ROOM.  
THAT PICTURE WAS TAKEN EXACTLY  
HOW --

BUT OBJECTIVELY REASONABLY,  
ANYBODY LOOKING AT THAT WOULD  
ASSUME THAT HE IS THE CHAIR OF  
THE DISTRICT.

WELL, AS THE PANEL NOTED THE TEXT OF THE BROCHURE POINTED OUT THAT HE WAS APPOINTED BY THE GOVERNOR TO THE GOVERNING BOARD, AND SO IT CLARIFIED THAT.

NOW, I UNDERSTAND IN KINSEY, THERE IS THIS CONCEPT THAT THEY SHOULDN'T BE REQUIRED TO READ THE SMALL PRINT, BUT IN KINSEY IT WAS NEWSPAPERS ARTICLES LAID ON TOP OF ONE ANOTHER, ACTUALLY A GRAPHIC AND NOT PART OF THE BROCHURE, ITSELF.

I DON'T THINK THE KINSEY STANDARD OUGHT TO BE APPLIED. I THINK THE DOCKERY STANDARD THAT WE CITED FROM THE SECOND DISTRICT COURT OF APPEALS IS THE DOCUMENT HAS TO BE READ IN ITS ENTIRE CONTENT HAS TO BE APPLIED TO THAT.

CHIEF JUSTICE: JUSTICE CANTERO HAS QUESTION.

I DON'T KNOW IF IT WAS THE SOUTHWEST WATER MANAGEMENT DISTRICT ONE OR THE OR THE ONE WITH THE FIRE FIGHTERS, BUT I THOUGHT HE ADMITTED THAT THAT WAS MISLEADING.

JUSTICE CANTERO, HE CONCEDED THAT THE POINTS BEING MADE BY THE JQC WERE VALID OBSERVATIONS.

YES.

IF YOU LOOK AT THIS, SOMEBODY COULD HAVE LOOKED AT THAT AND THOUGHT HE GOT ENDORSEMENT OF THE FIRE FIGHTERS OR HE WAS THE CHAIR OF SWIFT MUD BUT THAT WASN'T HIS INTENTION, WHEN IN A MAD RUSH TO RUN FOR JUDGE THEY PUT THIS TOGETHER.

HE CONCEDED THAT HE AGREED THAT PEOPLE CAN SEE IT THAT WAY AND THAT GOES BACK TO WEAVER, WHEN THEY TALK ABOUT --

JUSTICE: TO MAKE IT CLEAR, I THINK AT THE HEARING IT WAS SAID THAT IT WAS NOT HIS INTENT IN CREATING THE AD, BUT HE ADMITS IT COULD BE MISLEADING.

IT WAS NOT HIS INTENT BUT HE UNDERSTANDS, IN IT BEING POINTED OUT TO HIM THAT THIS COULD BE A MISINTERPRETATION, AND IN FACT THAT IS WHEN HE APOLOGIZED TO EVERYBODY IN PASCO COUNTY.

HE APOLOGIZED AND SAID IF I RAN AGAIN, I WOULD PUT MY NAME OUT AND NOTHING ELSE.

WHICH IF YOU READ THE WEAVER CASE, THERE IS NO WAY FOR FREE SPEECH TO EXIST IF YOU HAVE A STRICT ACCOUNTABILITY FOR EVERYTHING SAID, ERRONEOUS STATEMENTS AND TRUE STATEMENTS DEEMED TO BE MISLEADING.

CAN WE GO BACK AND ADDRESS THAT, AND I WANT TO MAKE SURE I UNDERSTAND YOUR ARGUMENT ON THE MONEY.

IT IS MY UNDERSTANDING FROM THE RECORD THAT THE MONEY HAD BEEN PLACED IN A TRUST ACCOUNT, HAD IT NOT?

IN A SEPARATE INTEREST-BEARING ACCOUNT. WAS IT IN A TRUST ACCOUNT?

YES, SIR.

IT COULD NOT BE RELEASED.

AND DID THE MONEY COME FROM THAT ACCOUNT OR FROM SEPARATE FUNDS?

SEPARATE FUNDS.

SO THAT MONEY STAYED WHERE IT WAS?

THE OBLIGATION TO THE OTHER SIDE WAS NOT IN ANY WAY INFRINGED UPON.

ABSOLUTELY NOT.

JUSTICE: THOSE PROCEEDS, WAS THERE SOME KIND OF LOAN TRANSACTION THAT CAME ABOUT OR WHAT EXACTLY HAPPENED TO OBTAIN THE LUMP SUM TO MAKE THAT PAYMENT?

HOW DID HIS FATHER OBTAIN THE APARTMENTS THAT HE PAID TO HIM?

JUSTICE: YES, SIR.

I DON'T THINK IT CAME OUT IN THE RECORD.

I THINK HIS FATHER PAID HIM OUT OF HIS SEPARATE FUNDS.

JUSTICE: SO THAT IS NOT  
DISPUTE?

IT IS NOT IN DISPUTE.

JUST TO BE CLEAR ON THIS, ONCE  
HIS FATHER TOLD HIM I HIM GOING  
TO GIVE YOU A PORTION OF THESE  
FUNDS TO MAKE UP FOR THESE  
MEAGER YEARS OF PAYMENT, HE  
COULD HAVE PAID HIM RIGHT THEN  
IN 1998.

CHIEF JUSTICE: WE HAVE GOT  
TO LOOK AT THE RECORD AND I  
GUESS WE ARE REWEIGHING THE  
FINDINGS, SO AGAIN WE ARE CLEAR  
IN 1995 HE MAKES \$10,000,  
\$16,000 IN 1996, 18,000,  
15,000, 11,000, 12,000, 35,000,  
AND THEN COINCIDENTALLY IN THE  
YEAR HE IS RUNNING FOR JUDGE HE  
GETS PAID \$141,016.

I DON'T THINK IT IS A  
COINCIDENCE.

I THINK HIS FATHER QUITE  
HONESTLY THE WAY THE TESTIMONY  
CAME OUT AND THE PANEL  
RECOGNIZED THIS, HIS FATHER  
DIDN'T WANT TO PAY HIM WHAT HE  
OWED HIM UNTIL HE ABSOLUTELY  
HAD TO.

CHIEF JUSTICE: MAYBE HIS  
FATHER DECIDED, SINCE HE WASN'T  
A VERY GOOD LAWYER, MIGHT AS  
WELL PAY THE MONEY SO HE COULD  
BECOME A JUDGE.

I DON'T THINK THE RECORD  
SUPPORTED THAT MOST  
RESPECTFULLY.

CHIEF JUSTICE: WHAT DID THE  
JQC FIND?

WHAT WERE THE FINDINGS?

THAT IT WAS LOAN?

HE DIDN'T HAVE A REASONABLE  
EXPECTATION OF PAYMENT OF THE  
MONIES.

CHIEF JUSTICE: THEY CALLED  
THIS A LOAN OF THE MONEY?

I DON'T THINK THE TIMING  
COINCIDED THAT IT  
WAS A LOAN.

AND THAT IS WHY THE FLORIDA BAR  
SAID AN EMPLOYER HAS THE  
DISCRETION TO PAY HIS EMPLOYEE  
WHEN HE WANTS TO PAY HIM AND IN  
THIS CASE THE CASE HAD

PROCEEDED TO THE POINT WHERE ABSOLUTE SETTLEMENT AND AND IMPROVEMENT OF THE SETTLEMENT WAS A FOREGONE CONCLUSION TO MR. RENKE AND SO HE PAID HIM THE FUNDS.

WASN'T THERE AN INDICATION IN THE RECORD THAT HIS PORTION OF THAT SETTLEMENT WAS SUPPOSED TO BE 20 PERCENT AS OPPOSED TO WHAT WE HAVE HERE, WHICH LOOKS TO BE A MUCH GREATER PERCENTAGE.

THIS IS A MUCH GREATER PERCENTAGE, AND NO, MA'AM. WHAT HAPPENED WAS, EARLY ON HE WAS PAYING HIM \$9.

EVENTUALLY WENT TO \$11 AND HE AGREED TO PAY HIM 20 PERCENT OF CERTAIN SETTLEMENTS OVER 10,000 DOLLARS.

WHEN THEY GOT FURTHER ALONG AND THE JUDGE COULDN'T LIVE OFF THAT AMOUNT, HE WENT TO HIS FATHER IN 2000 AND SAID I CAN'T CUT IT ON THIS, AND THAT IS WHEN HIS FATHER SAID I AM GOING TO GIVE YOU 50 PERCENT OF DRIFTWOOD, SO HIS FATHER RECOGNIZED AND SAID SUCH.

JUSTICE: IS THERE ANYTHING OTHER THAN HIS TESTIMONY WHICH SAYS THAT?

WAS THERE ANY KIND OF WRITTEN AGREEMENT?

THERE WAS NO WRITTEN AGREEMENT.

THERE WAS THE TESTIMONY.

THERE WAS THE TESTIMONY OF THE WIFE OF JOHN RENKE II AND THE TESTIMONY OF HIS WIFE ON THAT ISSUE.

CHIEF JUSTICE: BEFORE YOU SIT DOWN, THE COURT TWICE REJECTED, BOTH FIRST A STIPULATION AND THEN A NONCONTESTED, THAT YOU WOULD NOT CONTEST THE REPORT BECAUSE OF CONCERNS THAT THE DISCIPLINE WAS NOT SERIOUS ENOUGH, SO BEFORE YOU SIT DOWN, YOU MAY WANT TO JUST TOUCH ON IT.

I WOULD LIKE TO.

THANK YOU.

CHIEF JUSTICE: THEN YOU CAN TOUCH ON IT IN REBUTTAL.

JUSTICE: WOULD YOU EXPLORE THE LEGAL STANDARD THAT YOU ARE TALKING ABOUT WITH REGARD TO THE MALICIOUS INTENT AND WHETHER WE APPLIES THAT STANDARD IN KINSEY AND HOW YOU SEE THE LAW THAT IS APPLICABLE HERE, WITH REGARD TO OUR CODE AND THIS TYPE OF CONDUCT, AS OPPOSED TO A SPONTANEOUS UTTERANCE TYPE SITUATION.

WELL, THE STANDARD AS ENUNCIATED IN WEAVER, WAS THAT THERE HAD TO BE ACTUAL MALICE.

YOU HAD TO EITHER MAKE A KNOWING FALSE STATEMENT OR A RECKLESS DISREGARD FOR THE FALSITY OF THE STATEMENT.

DID WE APPLY THAT IN KINSEY?

IT DOES NOT APPEAR TO ME THAT THE COURT DID, THOUGH THERE IS INDICATION THAT WEAVER WAS REFERENCED IN THE SUPPLEMENTAL BRIEF.

AND THERE IS NO DISCUSSION OF ACTUAL MALICE IN KINSEY.

RIGHT, SO COULD YOU DISCUSS WITH US WHAT YOUR VIEW IS WITH REGARD TO WHETHER THAT IS THE APPROACH THAT THIS COURT HAS ADOPTED.

IS IT NOT APPROACH THIS COURT HAS ADOPTED AND ARE THERE DIFFERENCES?

I THINK THERE ARE DIFFERENCES, BECAUSE CANON 7 TALKS ABOUT KNOWING MISREPRESENTATION, AND I THINK THAT IS A DIFFERENT STANDARD THAN THE ACTUAL MALICE STANDARD, AND WE ARE NOT TAKING THE POSITION THAT CANON 7 IS UNCONSTITUTIONAL.

WE THINK THAT IT IS SUSPECTABLE TO BEING APPLIED IN OVERBROAD FASHION AND IT IS BEING APPLIED IN THAT FASHION IN THIS CASE, SO THAT IS WHAT OUR POSITION IS, THAT WHEN YOU TAKE A PICTURE THAT THE TRUE DEPICTION OF THIS MAN SITTING ON A SUBBOARD AND YOU SAY WE THINK

THAT CAN BE INTERPRETED AS HIM REPRESENTING HIMSELF AS THE CHAIRMAN OF THE ENTIRE SWIFT MUD, YOU ARE SAYING WE THINK THIS TRUE PICTURE COULD BE INTERPRETED FALSELY.

THERE IS ALMOST, AND I SAY THIS RESPECTFULLY, THERE IS ALMOST A PRESUMPTION THAT A CANDIDATE WHO SAYS SOMETHING WHO COULD BE INTERPRETED IN AN UNFAIR BENEFIT TO HIM, IS MISLEADING THE PUBLIC.

CHIEF JUSTICE: BEFORE YOU SIT DOWN, I WOULD LIKE YOU TO ADDRESS THE ORIGINAL STIPULATION WHICH WAS REJECTED, WITH THE PUBLIC REPRIMAND AND A FINE AND SUSPENSION.

YES, MA'AM.

CHIEF JUSTICE: SUSPENSION OF, WHAT, 30 DAYS?

YES AND A \$20,000 FINE.

CHIEF JUSTICE: HE REJECTED THAT.

YES, HE DID.

CHIEF JUSTICE: THE SECOND TIME UP THERE WAS A PUBLIC REPRIMAND AND A FINE AND WE REJECTED THAT.

HAS THAT BEEN REJECTED?

I UNDERSTAND IT IS IN DOUBT.

CHIEF JUSTICE: I THINK YOU OUGHT TO ADDRESS WHETHER THAT IS WHY, A SANCTION GREATER THAN A PUBLIC REPRIMAND IS NOT APPROPRIATE IN THIS CASE.

FIRST OF ALL, I THINK THE JQC MUST BE GIVEN GREAT DEFERENCE IN THESE MATTERS. THEY HAD A TRIAL AND WERE ABLE TO ASSESS THE CREDIBILITY OF ALL OF THE WITNESSNESSES.

THAT IS POINT NUMBER ONE, AND POINT TWO IS THE JUDGE REMOVED FOR SIMILAR TYPE OF CONDUCT IN THE McMILLAN CASE, HE HAD AN ALL-OUT ASSAULT ON HIS OPPONENT, SAID HE WAS A PART-TIME JUDGE, SAID HE DIDN'T WORK 84 DAYS, SAID HE WAS RESPONSIBLE FOR MILLIONS OF DOLLARS NOT BEING COLLECTED FOR VICTIMS AND FOR COURT COSTS.

IT WENT ON AND ON AND THEN WHAT THE COURT SAID WAS THE MOST DISTURBING THING WAS JUDGE McMILLAN'S PARTICIPATION IN FOLLOWING A DRUNK DRIVER, CALLING THE POLICE AND THEN THE NEXT DAY MAKING HIS WAY INTO FIRST APPEARANCE, GETTING ONE OF HIS FRIENDS TO ALLOW HIM TO BE IN FIRST APPEARANCE SO THAT HE COULD SET A \$100 BOND. THAT IS THE ONLY CASE WHERE THERE HAS BEEN REMOVAL FOR CAMPAIGN ISSUES.

KINSEY WAS MUCH MORE SERIOUS IN TERMS OF THE ABSOLUTE PATTERN OF ALIGNING YOURSELF WITH LAW ENFORCEMENT.

JUSTICE: BUT JUDGE KINSEY CERTAINLY DIDN'T REPRESENT HERSELF AS BEING A WELL-VERSED OR IMPROPERLY REPRESENT HERSELF AS BEING A WELL-VERSED COMPLEX LITIGANT OR WHEN IN FACT SHE HAD NONE.

THAT IS TRUE, JUSTICE LEWIS, BUT WHAT SHE DID WAS -- SHE PANDERED.

AND THAT BROUGHT DISCREDIT ON THE ENTIRE JUDICIARY.

BUT AS FAR AS THAT CASE, DID SHE REALLY ENGAGE IN MISREPRESENTATIONS AS TO HER QUALIFICATIONS?

SHE WAS VERY QUALIFIED, WAS SHE NOT?

AND SHE WAS A GOOD JUDGE AS IS JUDGE RENKE.

JUSTICE: I DON'T THINK THAT IS A CRITERIA, THAT IS I GOT MY JOB IMPROPERLY SO NOW I CAN DO WHATEVER.

THE END JUSTIFIES THE MEANS AND I AM NOT SURE THAT WE HAVE EVER SAID THAT.

IN MY VIEW WHAT JUDGE KINSEY DID WAS MUCH MORE LIKELY TO SKEW THE ELECTION, BECAUSE WHO CAN ARGUE WITH LAW AND ORDERER?

SO IF YOU LOOK AT WHAT SHE DID AND WE ARE CONCERNED ABOUT PEOPLE GETTING THEIR POSITIONS BY AN ILL GOTTEN METHOD, I THINK JUDGE KINSEY'S METHODS

WERE MUCH WORSE, QUITE FRANKLY,  
AND AGAIN BROUGHT CREDIBILITY  
QUESTIONS ON THE ENTIRE  
JUDICIARY.

CHIEF JUSTICE: YOU ARE  
OUT OF YOUR TIME.

I WANT TO ASK ONE QUESTION.  
AFTER KINSEY THERE WAS A VERY  
CONCERTED EFFORT BY THE  
JUDICIARY AND THE FOLKS  
INVOLVED IN KINSEY TO EDUCATE  
AND PROVIDE EDUCATION TO  
JUDICIAL CANDIDATES, TO  
EXPLICITLY NOT DO THIS.

YES, SIR.

JUSTICE: AND THERE WAS A  
FIRM WARNING, AND THERE WERE  
SEMINARS THAT YOU GO TO AND  
LEARN WHAT YOU CAN AND CANNOT  
DO, IN DIRECT RESPONSE TO  
KINSEY.

THIS EVENT HAPPENED AFTER ALL  
THOSE EFFORTS WERE IN PLACE,  
DID IT OR DID IT IS NOT KNOWN?  
THIS IS A 2002 CAMPAIGN.

KINSEY WAS DECIDED MARCH 2003.  
THIS WAS DECIDED BEFORE KINSEY.

JUSTICE: SO YOU CLARIFIED TO  
ME THAT THOSE EFFORTS WERE NOT  
AVAILABLE TO MR. RENKE THEN.

YES, SIR.

THAT IS ABSOLUTELY CORRECT.

I AM OUT OF ALL OF MY TIME,  
AREN'T I?

THANK YOU.

CHIEF JUSTICE: YOU ARE  
OUT OF YOUR TIME.

THANK YOU.

MAY IT PLEASE THE COURT.

MARVIN BARKIN AND MICHAEL  
GREEN, SPECIAL COUNSEL FOR THE  
JQC.

THIS CASE TOOK THREE TRIAL DAYS  
IN CLEARWATER.

SOMETHING OVER 20 WITNESSES  
TESTIFIED IN PERSON.

THERE WERE A MULTIPLICITY OF  
EXHIBITS.

THE COMMISSION EVALUATED VERY  
CAREFULLY WHAT WAS BEFORE IT  
AND CAME BACK WITH TWO KINDS OF  
RECOMMENDATIONS, ONE ON THE  
FINDINGS.

THEY FOUND GUILTY AS CHARGED

FOR A VARIETY OF  
MISREPRESENTATIONS.  
FIVE SPECIFIC  
MISREPRESENTATIONS.  
WITH REGARD TO CAMPAIGN  
FINANCE, THEY FOUND THAT  
\$95,800, SOMEWHAT MORE IN EXCESS  
OF THE \$500 LIMIT ON CAMPAIGN  
CONTRIBUTIONS WAS DIRECT  
CONTRIBUTION BY THE FATHER TO  
THE SON FOR THE PURPOSE OF USE  
IN THE 2002 ELECTION CAMPAIGN.  
CHIEF JUSTICE: THIS IS MY  
QUESTION.

I THINK YOU HEAR FROM THE  
QUESTIONS OF THE COURT, WE ARE  
QUITE DISTRESSED BY THE  
COMBINATION OF THE CLEAR  
MISREPRESENTATIONS, AND, AGAIN,  
AS I POINTED OUT, I THINK THAT  
THE MISREPRESENTATION OF HIS  
EXPERIENCES IS KNOWING AND  
EGREGIOUS INTENTIONAL  
VIOLATION, AS WELL AS CAMPAIGN  
FINANCE.

YOU KNOW, IN KINSEY, JUSTICE  
LEWIS FELT  
THAT DISBARMENT, REMOVAL WAS  
CALLED FOR, AND I JOINED IN  
BECAUSE THE JQC HAD SAID NOT  
REMOVAL HERE.

I AM CONCERNED ABOUT THIS TREND  
THAT WE HAVE THAT WE HAVE  
JUDGES WHO GET INTO OFFICE  
WITH CAMPAIGN VIOLATIONS THAT  
ARE EXTREMELY SERIOUS  
MISREPRESENTATIONS, AND THEN  
BECAUSE THEY SERVE FOR A FEW  
YEARS AS A GOOD JUDGE, WE SAY  
THEY ARE A GOOD JUDGE.

NOW, HELP US IN TERMS OF WHERE  
IS THE BAR GOING TO BE?  
WHAT IS THE LESSON HERE THAT,  
IF WE DON'T DO SOMETHING MORE  
SERIOUS THAN A PUBLIC REPRIMAND  
AND A FINE FOR THE NEXT  
JUDICIAL CANDIDATE COMING  
ALONG, IS THIS THE SITUATION  
THAT ENDS DO JUSTIFY THE MEANS,  
BECAUSE IN THE END YOU STAY ON.  
PAY A FINE AND GET CALLED ON TO  
COME BEFORE THE SUPREME COURT  
BUT OTHERWISE, IF YOU DO A GOOD  
JOB, IT IS OKAY.

YOUR HONORS HAVE A GREAT RESPONSIBILITY, AND IT IS BY A CASE ADJUDICATION OR SETTING FORTH DISCIPLINARY STANDARDS AS IN BAR DISCIPLINARY MATTERS, SETTING OUT WHAT THE PENALTY WILL BE FOR CERTAIN TYPES OF OFFENSES.

AT THIS PLACE WHAT WE DO NOW OF COURSE, IS WE HAVE AN INVESTIGATIVE PANEL IN JQC WHICH BRINGS CHARGES.

REQUIRES DISCIPLINE, COMES OUT WITH A CONCLUSION AND RECOMMENDATION.

IN THIS PARTICULAR INSTANCE, THE INVESTIGATIVE PANEL RECOMMENDED DISCIPLINE FOR THE MISREPRESENTATIONS IN ACCORD WITH YOUR PRIOR PRECEDENT, WHICH WOULD HAVE BEEN FINE AND REPRIMAND.

IN ADDITION ASKED FOR REMOVAL WITH REGARD TO CAMPAIGN FINANCE RECOMMENDATION.

THE HEARING PANEL CHOSE TO DO SOMETHING DIFFERENT, AND AS FAR AS I AM CONCERNED TODAY, I SPEAK FOR THE JQC AS IT SPEAKS WITH ONE VOICE.

CHIEF JUSTICE: BUT THE JQC DID ASK FOR REMOVAL.

THE HEARING INVESTIGATIVE PANEL DID.

THE HEARING PANEL CHOSE NOT TO RECOMMEND THAT.

THE HEARING PANEL CONCLUDED THAT SERVICE AS A JUDGE, REMORSE, CIRCUMSTANCES OF HIS RELATIONSHIP WITH HIS FATHER.

CHIEF JUSTICE: WHAT DOES THE LAW SAY ABOUT WHETHER, IF THE HEARING PANEL WOULD BE LIKE A REFEREE, SO CLEARLY WE HAVE A GREATER RESPONSIBILITY TO LOOK AT DISCIPLINE, OUR FINDINGS AS FAR AS DISCIPLINE WOULD BE DIFFERENT FROM THE FINDINGS OF FACT.

WOULD YOU AGREE WITH THAT?

I AGREE, YOUR HONOR, THAT HISTORICALLY YOU GIVE GREAT DEFERENCE TO THE JQC'S RECOMMENDATIONS AND FINDINGS.

I THINK HISTORICALLY THERE HAS BEEN LESS DEFERENCE TO THE RECOMMENDATIONS ON DISCIPLINE THAN TO THE RECOMMENDATIONS ON GUILT ITSELF, BUT THAT, OF COURSE, IS A QUESTION ON A CASE-BY-CASE BASIS.

IN THIS PARTICULAR INSTANCE, THE FINDINGS OF THE JQC ARE STRONG.

PERHAPS IT WOULD BE USEFUL TO THE COURT TO POINT OUT WITH REGARD TO THE ARGUMENT YOU JUST HEARD, SOME OF THE SPECIFIC FINDINGS.

WITH REGARD TO MISREPRESENTATIONS, THE, ON SWIFT MUD, THE CONCLUSION WAS THAT HE HAD DELIBERATELY ATTEMPTED TO CONVEY TO VOTERS THAT HE WAS THE CHAIR.

ON THE FIRE FIGHTERS, THAT HE ATTEMPTED TO CREATE IMPRESSION THAT HE HAD BEEN ENDORSED BY THE CLEARWATER FIRE FIGHTERS.

ON TRIAL, THE PANEL CHOSE SPECIFICALLY NOT TO ACCEPT THE EXPLANATION THAT JUDGE RENKE DID NOT GRASP THE DIFFERENCE BETWEEN HANDLING A COMPLEX TRIAL AND MERE LITIGATION EXPERIENCE.

IT SAID THAT HE MADE A MISREPRESENTATION, WHICH WAS IN FACT MISLEADING BECAUSE HE HAD ALMOST NO TRIAL EXPERIENCE.

JUSTICE: BUT WOULD A REMOVAL IN THIS INSTANCE, BE A, MORE THAN WE HAVE DONE IN OTHER CASES?

McMILLAN IS PROBABLY THE CLOSEST, BUT McMILLAN HAD ANOTHER INGREDIENT TO IT.

IT HAD AN EX PARTE COMMUNICATION INVOLVED IN IT. IT WOULD BE, YOUR HONOR.

AS I REMEMBER THE HISTORY OF JUDICIAL CAMPAIGN CASES, YOU HAD SEVERAL IN THE '80s.

ONE WAS A MAN NAMED KAYE. THOSE CASES WENT OFF JUST ON REPRIMAND.

AFTER, IN 1997, YOU HAD ALLEY, WHICH BEFORE THIS COURT HAD THE

EFFECT TO REJECT OR MODIFY.

JUSTICE: THAT WAS A

REPRIMAND.

MORE RECENTLY WE HAVE HAD

KINSEY.

WE HAVE HAD McMILLAN.

KINSEY WAS REPRIMAND PLUS A

\$50,000 FINE.

CAN I ASK ABOUT THAT?

THESE NUMBERS THAT WE SEE

COMING INTO, THE AMOUNTS OF

FINES, WHAT IS THE BASIS FOR

THAT?

IS THERE A FEE SCHEDULE?

YOU LOOK AT THESE THINGS AND

SAY HOW ABOUT \$75,000 OR WHERE

DOES, HOW ABOUT \$100,000?

I MUST CONFESS TO YOUR

HONOR, I BELIEVE

IT IS THE DISCRETION OF THE HEARING PANEL,

AND IN THIS CASE THEY SAID

\$95,800 IS THE APPROPRIATE FINE

BUT THEY DID NOT DO THAT THE.

IS THAT BASED ON THE SALARY?

THAT IS BASED ON THE

EXACT AMOUNT MADE BY THE FATHER

TO THE SON FOR THE PURPOSE OF

THE CAMPAIGN.

DID YOU AGREE WITH YOUR

OPPONENT THAT THE EFFORTS BY

JUDGE CONN AND HIS COMMITTEE TO

EDUCATE JUDICIAL CANDIDATES,

THAT IT DID NOT TAKE EFFECT OR

WERE NOT AVAILABLE AT THIS

TIME?

YOU ARE CERTAINLY RIGHT.

IT WAS A JANUARY 2003 DECISION

IN KINSEY.

I THINK THERE HAS BEEN AN

ONGOING EFFORT TO TRY TO

EDUCATE THE JUDICIARY AND

JUDICIAL CANDIDATES.

JUSTICE: THOSE EFFORTS WELL

PRECEDED KINSEY, DID THEY NOT?

THEY DID, INDEED.

JUSTICE: THEY HAD BEEN IN

EFFECT FOR A NUMBER OF YEARS?

THEY DID HAD, INDEED.

THERE ARE INSTANCES, A FEW OF

THEM STILL OUT THERE.

I AM SORRY TO SAY THERE ARE

INSTANCES IN WHICH THE PROSPECT

OF SERVING AS A JUDGE OVERCOMES

WHAT I AM SURE IS INTELLIGENCE

AND DISCRETION.

JUSTICE: WHAT ABOUT YOUR OPPONENT'S ARGUMENT HERE THAT McMILLAN WAS A DIFFERENT AND MORE SERIOUS CASE, IN TERMS OF OUR CONSIDERATION OF REMOVAL, BECAUSE IN McMILLAN WE NOT ONLY HAD VERY, VERY SERIOUS MISCONDUCT DURING THE CAMPAIGN, BUT IN ADDITION TO THAT, WE HAD VERY SERIOUS MISCONDUCT, ONCE THAT PERSON WENT ON THE BENCH.

I AGREE WHOLEHEARTEDLY WITH THE POSITION THAT THERE WAS SOMETHING VERY SERIOUS IN McMILLAN, THE FACTOR WHERE HE TRIED TO SIT ON AN ARRAIGNMENT ON A MAN HE HAD TURNED IN AS A DRUNK DRIVER.

THE QUESTION

I HAVE HERE FOR THE COURT AND ONE THAT I DO NOT ADVOCATE, BECAUSE I ADVOCATE THE POSITION OF THE PANEL, WHICH WAS A FINE PLUS A REPRIMAND, BUT THE QUESTION I HAVE HERE IS WHETHER THE CAMPAIGN FINANCE VIOLATION, EXCEEDING THE \$500 LIMIT, PUTTING YOURSELF IN AN AREA WHERE YOU SQUARELY COME HEAD ON WITH CAMPAIGN FINANCE LAWS, WHETHER THAT IS A FACTOR THAT IS SUFFICIENTLY SEVERE SO IT SUBSTITUTES FOR THE CURE CASE IN McMILLAN.

I DO NOT ADVOCATE THAT IT DOES BUT I SIMPLY POINT IT OUT TO YOUR HONOR BECAUSE YOUR HONOR'S QUESTION WAS IS THERE SOMETHING HERE THAT IS EQUALLY SERIOUS? AND I WOULDN'T BE HONEST IF I DIDN'T SUGGEST TO THE HEARING PANEL THAT THAT WAS TRUE BUT THE HEARING PANEL CAME OUT TO A DIFFERENT CONCLUSION.

JUSTICE: LET ME ASK YOU ABOUT THE MITIGATING FACTORS. YOU MENTIONED REMORSE. IT SEEMS LIKE JUDGE RENKE AT THE HEARING AT LEAST, CONTESTED EACH CHARGE AS TO WHETHER IT HAD BEEN ADEQUATELY PROVEN BY CLEAR AND CONVINCING EVIDENCE, SO WHERE IS THE REMORSE IF HE

CONTESTED THE CHARGES?  
IN FAIRNESS IN A NEWSPAPER  
OF INSTANCES BY HIS PLEADINGS,  
HE ADMITTED THAT HE HAD SAID  
MORE THAN HE SHOULD HAVE SAID.  
FOR EXAMPLE WITH REGARD TO  
TRIAL EXPERIENCE, HIS ANSWER  
SAID ADMITTED THAT HIS CLAIM OF  
TRIAL EXPERIENCE, HIS ATTEMPT  
TO SUBSTITUTE LITIGATION  
EXPOSURE AND TRIAL EXPERIENCE,  
WAS OVERBLOWN, OVERSTATED.  
CERTAINLY THE PANEL WHICH HEARD  
HIM AT LENGTH, HE WAS EXAMINED  
TWICE AT SOME LENGTH, THE PANEL  
CONCLUDED HE HAD SHOWN REMORSE  
AND THAT IS A FACTUAL FINDING  
OF THE PANEL.

JUSTICE: LET ME ASK YOU  
THIS, BECAUSE WHAT CONCERNS ME  
HERE IS THAT WE HAVE HAD A  
NUMBER OF CASES WHERE WE HAVE  
IMPOSED FINES ON JUDGES FOR  
THIS KIND OF CAMPAIGN ACTIVITY.  
AND YET WE CONTINUE TO HAVE  
CASES WHERE THAT IS DONE, AND  
SO WHAT IS THE MIDDLE GROUND  
HERE BETWEEN REMOVAL OF A JUDGE  
FOR THESE KINDS OF CAMPAIGN  
VIOLATIONS AND SIMPLY ALLOWING  
HIM TO PAY A FINE AND THAT IS  
THE END OF IT.

YOUR HONOR, THE MESSAGE THAT  
IS BEING HEARD, AND WHAT IS  
SAID UP TO NOW THAT YOU  
COULDN'T SAY LOUD ENOUGH, IS  
REMOVE WILL --

JUSTICE: ONCE YOU GET INTO  
REMOVAL, THAT ENTAILS SOMEONE  
TAKING OVER THE DOCKET AND THE  
STATE INCURRING EXPENSES FOR  
SENIOR JUDGE TO SAY TAKE OVER  
THESE DOCKETS, SO THERE HAS TO  
BE SOME OTHER WAY WE CAN HANDLE  
THOSE KINDS OF SITUATIONS.

YOUR HONOR, IN RODRIGUEZ,  
YOU APPROVED A 4-MONTH  
SUSPENSION WITHOUT PAY, WHICH  
TOGETHER WITH A FINE WAS A  
FUNCTIONAL EQUIVALENT OF WHAT  
JUDGE RODRIGUEZ HAD BEEN PAID  
WHILE SHE WAS NOT SERVING ON  
THE BENCH AND AWAITING THE  
OUTCOME OF THE CRIMINAL

PROCEEDING.

THERE HAVE BEEN OTHER INSTANCES  
IN WHICH A RECOMMENDATION HAS  
BEEN MADE TO YOU FOR A SHORT  
SUSPENSION.

IN THIS CASE, ONE OF THE THINGS  
THAT WAS, THE PROPOSED  
DISCIPLINE THAT WAS REJECTED  
WHEN YOU SENT THIS MATTER BACK  
FOR TRIAL WAS A ONE-MONTH  
SUSPENSION WITHOUT PAY.

CHIEF JUSTICE: THIS IS THE  
TROUBLE.

WHEN WE ARE DOING OUR  
DISCIPLINE CASES, WE ARE  
GOING TO A ONE-YEAR  
SUSPENSION.

IT DOESN'T  
AFFECT THE ADMINISTRATION OF  
JUSTICE.

I THINK THE DILEMMA THE COURT  
HAS BEEN IN, IS THAT THIS IDEA  
THAT SOMEONE GETS SUSPENDED  
WITHOUT PAY FOR A MONTH OR TWO,  
AGAIN, THE PROBLEM, WHETHER YOU  
GET, THEY ARE SUSPENDED WITHOUT  
PAY IS, NEVERTHELESS, IT  
AFFECTS AND INTERFERES WITH THE  
ADMINISTRATION OF JUSTICE, AND  
I GUESS THERE IS, MAYBE THE  
ANSWER IS THERE IS, EITHER IT  
IS A PUBLIC REPRIMAND PLUS A  
FINE, WHICH MAKES IT SOUND LIKE  
IF YOU PAY YOU CAN AVOID  
REMOVAL.

I GUESS WE GO BACK TO THIS CASE  
WHETHER WE ARE STILL BOUND BY  
KINSEY, THAT THAT IS THE BAR  
AND IT LETS YOU DO WORSE THAN  
KINCE.

NOW, KINSEY HAD  
MISREPRESENTATIONS.

DID KINSEY HAVE CAMPAIGN  
FINANCE VIOLATIONS?

SHE DID NOT.

KINSEY WAS A PANDERING CASE.  
WHICH SHE SAID, BASICALLY, THAT  
SHE AND THE S.W.A.T. TEAM WOULD  
TAKE CARE OF CRIMINAL JUSTICE  
IN PENSACOLA.

CHIEF JUSTICE: IT IS HARD TO  
DECIDE, AGAIN WHEN YOU ARE  
SAYING, IS IT DIVORCE PANDER OR  
IS IT DIVORCE MISREPRESENT,

SORT IT, IT IS SORT OF LIKE,  
AND, AGAIN, I HAVE ONLY HEARD  
THINGS ABOUT JUDGE RENKE ON THE  
BENCH, SO I HAVE GOT TO  
SEPARATE, AGAIN, THAT HE  
PERFORMS WELL AS A JURIST FROM  
WHAT OCCURRED UP TO THAT POINT,  
BUT THE PICTURE THAT IS PAINTED  
IS SOMEBODY THAT, IF YOU HAD TO  
TAKE ALL OF THE LAWYERS IN  
FLORIDA THAT THIS WAS LAWYER  
THAT WAS BASICALLY JUST GETTING  
BY, WHETHER HIS FATHER  
SUPPRESSED HIM OR NOT, HE WAS  
UNDER THE THEM OF HIS FATHER  
AND ESSENTIALLY FOR EIGHT  
YEARS, PERFORMED AS, MAYBE AS A  
LAW CLERK, AND THEN BECAUSE  
EITHER HE OR HIS FATHER DECIDE  
LET'S GET HIM ON THE BENCH,  
THEN MONEY IS LOANED FROM HIS  
FATHER TO GET HIM ON THE BENCH.  
BUYING ELECTION.

I GUESS THOSE COMBINATION OF  
THOSE TWO THINGS, WHAT COULD BE  
WORSE THAN THOSE TWO THINGS IS  
FOR A CAMPAIGN, DURING A  
CAMPAIGN?

YOUR HONOR, I THINK THE  
PANEL FELT SOMEWHAT THE SAME  
DILEMMA THAT YOUR HONOR IS  
EXPRESSING NOW.

AT ONE POINT IN THE PANEL'S  
FINDINGS, THEY SAID AND I  
QUOTE, BASED ON CLEAR AND  
CONVINCING EVIDENCE, THE PANEL  
CONCLUDES THAT THESE WERE  
ACTUALLY CAMPAIGN CONTRIBUTIONS  
FROM HIS FATHER.

WITHOUT THESE PAYMENTS, IT IS  
DOUBTFUL THAT JUDGE RENKE III  
COULD HAVE RUN FOR OR BEEN  
ELECTED TO HIS POSITION AND YET  
AFTER DUE CONSIDERATION THEY  
CONCLUDED THAT HE HAD SHOWN  
SUFFICIENT REMORSE AND  
DEMONSTRATED SUFFICIENT ABILITY  
AS A JUDGE.

CHIEF JUSTICE: NOW, THERE IS  
THE PROBLEM THAT WE HAVE,  
BECAUSE THE ORIGINAL NOTICE OF  
CHARGES WERE IN OCTOBER 2003,  
SOUGHT ELECTION WAS OCTOBER  
2002, I MEAN NOVEMBER 2002?

2002.

CHIEF JUSTICE: WE, AND THEN THE DISCIPLINE WAS, THE FINDINGS WERE 2004, WHICH WE REJECTED, SO THE REASON THIS CASE HAS GONE FOR TWO MORE YEARS IS BECAUSE WE REJECTED THE ORIGINAL DISCIPLINE, AND THE ORIGINAL DISCIPLINE WAS AND THAT IS THE IRONY, WAS GREATER THAN WHAT THE PANEL HAS NOW RECOMMENDED.

FUNCTIONALLY EQUIVALENT, I BELIEVE, YOUR HONOR.

CHIEF JUSTICE: THE OTHER ONE HAD A SUSPENSION.

A SUSPENSION BUT A SMALLER FINE.

CHIEF JUSTICE: SO THE IDEA THAT I HAVE, AND I GUESS THIS IS SOMETHING THAT THE JQC IS DOING, THE PROBLEM WITH SOME OF THESE CAMPAIGN VIOLATIONS IS THAT, BY THE TIME THEY GET TO US, TWO OR THREE YEARS HAVE TRANSPIRED, AND THEN THE ARGUMENT CAN BE MADE, WELL, THEY HAVEN'T DONE ANYTHING WRONG YET AS A JUDGE, SO WE OUGHT TO LET THEM STAY ON THE BENCH, AND THAT LEADS TO THIS IDEA THAT, AGAIN, JUSTICE LEWIS ELOQUENTLY EXPRESSED IN KINSEY, THAT THIS GIVES THE IMPRESSION THAT WE ARTICLE ALLOWING PEOPLE TO GET TO THEIR POSITION BY IMPROPER MEANS AND THEN REWARDING THEM.

YOUR HONOR, I AM SURE THE JQC COULD USE THE GUIDANCE OF THIS COURT, HOPEFULLY SO AS TO PUT A COLD CLOTH ON THIS KIND OF THING HAPPENING AGAIN, BUT HUMAN NATURE BEING HUMAN NATURE, ONE WONDERS.

AND AS FAR AS THE MATTER IS CONCERNED, WE THINK THE FINDINGS OF THE JQC WERE CAREFULLY ARRIVED AT AND SHOULD BE THE CONCLUSION OF THE COURT.

JUSTICE: DO WE HAVE A RESISTANCE, HOWEVER, AS FAR AS WE WOULD WANT TO GO IN CONDEMNING THIS KIND OF

CONDUCT, DO WE THEN HAVE RESISTANCE ON THE OTHER SIDE FROM THE U.S. SUPREME COURT'S DECISION IN MINNESOTA VERSUS WHITE AND THE APPLICATION OF THAT DECISION IN WEAVER VERSUS BONNER.

IT SEEMS LIKE THE U.S. SUPREME COURT IS SAYING, IF YOU ARE GOING TO HAVE JUDICIAL ELECTIONS, YOU ARE GOING TO HAVE TO LIVE WITH THE CONSEQUENCES OF THEM, AND MISLEADING CAMPAIGNS ARE ONE OF THE CONSEQUENCES OF ELECTIONS. THE U.S. SUPREME COURT DID NOT GO THAT FAR.

JUSTICE SCALIA SAID THAT JUDICIAL CAMPAIGNS DO NOT HAVE TO LOOK LIKE LEGISLATIVE CAMPAIGNS.

THE POINT IN KINSEY WAS TAKEN UP AND THE POINT ON APPEAL ON CERTIORARI WAS THE WEAVER CASE. THE U.S. SUPREME COURT DENIED CERT IN 2003.

THEY HAVEN'T TAKEN CASE LIKE THIS SINCE.

I THINK CERTAINLY IT IS POSSIBLE TO SAY THAT THERE SHOULDN'T BE ANY CONTROLS BEYOND LEGISLATIVE CONTROLS ON JUDICIAL ELECTIONS BUT THEY HAVEN'T SAID THAT YET.

WEAVER WAS JUST NOT THIS ANIMAL.

WEAVER WAS AN IDIOSYNCRATIC GEORGIA CANON.

THEY WERE CERTAINLY NOT THE ABA MODEL AS THIS ONE IS, AND AS COUNSEL CONCEDES THERE, IS NO ATTACK ON VALIDITY ON CANON 7.

THE SITUATION ON THE FACTS BEFORE YOU IS EQUALLY CLEAR. MISREPRESENTATIONS WERE FALSE. IT IS NOT A QUESTION OF WALKING A CAREFUL LINE OF ACTUAL MALICE.

THESE WERE KNOWINGLY FALSE MISREPRESENTATIONS.

CHIEF JUSTICE: IN OTHER WORDS IN KINSEY, AGAIN, WE WERE TALKING ABOUT WHETHER ATTACKING YOUR OPPONENT AND SAYING THAT, I AM GOING TO BE, I AM ON THE

SIDE OF THE VICTIMS, THAT IS  
KIND OF MORE OF THAT CAMPAIGN  
RHETORIC.

THIS IS YOUR CLASSIC  
MISREPRESENTATION CASE IN ABOUT  
THREE OR FOUR DIFFERENT WAYS.  
THIS IS A CLASSIC CASE IN  
WHICH AN INEXPERIENCED YOUNG  
LAWYER IS RUNNING AGAINST AN  
EXPERIENCED TRIAL LAWYER AND  
CHOOSES TO PRETTY UP HIS RESUME  
FOR THAT PURPOSE, LEAVING THE  
PUBLIC UNINFORMED.

CHIEF JUSTICE: PRETTYING UP A RESUME IS  
DIFFERENT THAN  
MISREPRESENTATION.

I AM SURE THERE ARE YOUNG  
LAWYERS THAT HAVE HYPERBOLE,  
BUT --

I WANT TO POINT OUT THAT  
THIS IS A SITUATION WHERE THE  
PUBLIC WAS ENTITLED TO KNOW THE  
QUALIFICATIONS OF BOTH  
CANDIDATES AND THEY CERTAINLY  
DID NOT GET A FAIR STATEMENT OF  
THAT FROM THE RESPONDENT.

CHIEF JUSTICE: MR. TOKIAN,  
I AM GOING ALLOW YOU A MINUTE  
IN REBUTTAL.

HOW MUCH?

A MINUTE?

CHIEF JUSTICE: OR TWO.

I APPRECIATE IT.

CHIEF JUSTICE: BECAUSE,  
AGAIN, I THINK YOU CAN FOCUS ON  
THE DISCIPLINE ISSUE.

THIS IS OBVIOUSLY A VERY  
SERIOUS MATTER THAT THE COURT  
IS STRUGGLING WITH, AND --

I CAN SEE THAT.

CHIEF JUSTICE: WE ASK YOU AS A  
LAWYER AND AS MEMBER OF THE BAR  
AS WELL AS MR. RENKE'S  
ATTORNEY, TO HELP US WITH THIS  
CASE.

THANK YOU, AND I APPRECIATE  
THE EXTRA TIME.

WHEN YOU LOOK AT THE CAMPAIGN  
CONTRIBUTION ISSUE IN THIS  
CASE, YOU CAN'T REACH THE  
CONCLUSION THAT IT IS NEARLY AS  
BAD AS IT WAS IN PANDO, WHERE  
SHE FALSIFIED THE SOURCE OF A  
\$25,000 LOAN FROM HER MOTHER

AND OTHER LOANS FROM HER MOTHER AND STEPFATHER AND FALSIFIED HER REPORTS AND THEN ON DEPOSITION LIED ABOUT THE SOURCE OF THOSE FUNDS, AND SHE GOT A PUBLIC REPRIMAND, AND YOU COME HERE WITH SOMEBODY WHO WORKED FOR HIS FATHER FOR SEVEN YEARS.

OBVIOUSLY UNDERPAID BY ALL ACCOUNTS, THE PANEL SO FOUND, AND THE PANEL FOUND HE HAD A REASONABLE EXPECTATION TO THAT MONEY.

HOW DO YOU SQUARE THAT WITH PANDO GETTING A PUBLIC REPRIMAND, THE SAME THING WITH ROSA RODRIGUEZ.

JUSTICE: THE DIFFERENCE BETWEEN THIS CASE AND PANDO, WE HAVE IN ADDITION TO THE CAMPAIGN CONTRIBUTION, ALL OF THE OTHER THING THAT IS THE JQC HAS FOUND WERE INTENTIONAL MISREPRESENTATIONS IN CAMPAIGN LITERATURE, SO EVEN PUTTING THAT ASIDE AS IN PANDO, IT WAS ONLY PUTTING ASIDE --

I AGREE WITH THAT, AS IN JUDGE PANDO'S CASE SAYING SHE GOT A \$200,000 LOAN FROM HER BROTHER AND FALSIFIED THOSE REPORTS, BUT --

CHIEF JUSTICE: IN EACH OF THOSE CASES WE HAD INITIALLY REJECTED THE JQC FINDING AND IN PANDO, HER EXCUSE WAS HER MOTHER AND FATHER, SHE WASN'T MAKING MUCH MONEY AND THEY ALWAYS USED TO GIVE HER GIFTS, SO THERE WAS THAT SAME KIND OF ARGUMENT THAT YOU ARE MAKING, AND THIS IS THE SAME ISSUE OF PEOPLE THAT ARE BARELY GETTING BY, AS LAWYERS, ALL OF A SUDDEN A GENEROUS PARENT DECIDES TO FUND IT AND OBVIOUSLY IT IS A MISREPRESENTATION OF THE SOURCE OF THE LOAN, A CLEAR CAMPAIGN FINANCE VIOLATION.

I RESPECTFULLY DISAGREE. THE TESTIMONY IN THIS CASE WAS THAT IN '98 HIS DAD TOLD HIM HE WAS GOING TO GET A SIGNIFICANT

PORTION OF THESE FUNDS, AND THE  
MOTHER AGREED, THE FATHER  
AGREED, THE JUDGE AGREED THAT  
THIS HAD BEEN PLANNED FOR QUITE  
SOME TIME, AND I RESPECTFULLY  
IT IS QUITE DIFFERENT THAN THE  
RODRIGUEZ AND PANDO  
CIRCUMSTANCE ON THAT ISSUE.  
CHIEF JUSTICE: THANK YOU VERY MUCH.  
THANK YOU VERY MUCH.  
CHIEF JUSTICE: THE COURT