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The Florida Bar v. Kayo Elwood Morgan

SC04-1438

AND CALL THE
LAST CASE THIS MORNING AS
FLORIDA BAR V MORGAN.
CHIEF JUSTICE: THE CASE OF
FLORIDA BAR VERSUS MORGAN.
GOOD MORNING.
MAY IT PLEASE THE COURT.
MY NAME IS FRED HADDAD,
REPRESENTING ATTORNEY MORGAN
WHO IS SEATED HERE IN A MATTER
WHERE THE FLORIDA BAR HAS
ISSUED A RECOMMENDATION THAT
MR. MORGAN BE SUSPENDED FROM
THE PRACTICE OF LAW FOR 91
DAYS.

CHIEF JUSTICE: I WANT TO BE
CLEAR THAT THE COURT TODAY,
ORDERED ORAL ARGUMENT.
IT, ALSO, ORDERED MR. MORGAN
TO APPEAR PERSONALLY.

YES, MA'AM.

CHIEF JUSTICE: IS HE SEATED
AT COUNSEL TABLE?

YES, MA'AM.

CHIEF JUSTICE: HE IS
AVAILABLE TO ANSWER QUESTIONS
IF WE WANT TO DIRECT QUESTIONS
TO HIM?

ABSOLUTELY.

JUSTICE: I HAVE A QUESTION.

YES, SIR.

JUSTICE: WAS CONCERNED ABOUT
MR. MORGAN COMING BEFORE THIS
COURT.

I HAVE READ THIS, THE
TRANSCRIPT THAT BRINGS US TO
HERE PRIMARILY TODAY, WHICH IS,
BEGINS THAT THE COURT SAID, MR.
MORGAN, I WANT YOU TO, MR.
MORGAN, I AM MOVING FOR A
MISTRIAL.

THE COURT, MR. MORGAN, I AM
NOT GOING TO, MR. MORGAN SAID,
DON'T TREAT ME LIKE THAT IN
FRONT OF A JURY!

THE COURT, I SUSTAIN THE
OBJECTION, AND YOU.

MR. MORGAN, NO JUDGE TREATS ME
LIKE THAT IN FRONT IN FRONT OF
A JURY, AND THEN IT GOES ON,
AND IT IS QUITE, READS AS QUITE
AN ANGRY DISCOURSE BETWEEN THE
COURT.

YES, YOUR HONOR.

JUSTICE: MR. HADDAD, AS YOU
KNOW, I HAVE READ THIS WITH
GREAT CONCERN, BECAUSE I
PRACTICED LAW IN THIS STATE AS
A TRIAL LAWYER FOR 30 YEARS
BEFORE, AND A NUMBER OF MY
COLLEAGUES AS TRIAL LAWYERS,
AND I HAVE READ THIS
TRANSCRIPT, AND AND I HAVE NOT
NOT IN MY 30 YEARS OF PRACTICE,
READ ANYTHING THAT IS AS
DISRESPECTFUL OF THE COURT, AND
SO MY QUESTION OF YOUR CLIENT,
IS, DOES HE WANT TO CONTINUE TO
PRACTICE LAW IN THIS STATE?
BECAUSE THIS KIND OF CONDUCT IS
NOT GOING TO BE ALLOWED!
AT LEAST BY THIS MEMBER OF THE
COURT.

AND SO I THINK HE NEEDS TO
EXPLAIN TO US, THROUGH YOU OR
THROUGH HIMSELF, AS TO WHETHER
HE REALLY WANTS TO PRACTICE LAW
IN THIS STATE OR NOT.

MAY I TAKE A FEW MINUTES TO
RESPOND TO THAT?

JUSTICE: YES, SIR.

I HAVE PRACTICED OVER 30
YEARS, AND MR. MORGAN STARTED
OUT WITH ME WHEN I HIRED HIM AS
LAW CLERK.

HE SINCE WENT ON HIS OWN.

MR. MORGAN IS CONSIDERED TO
BE, AS THE STATEMENTS IN
SANCTIONS HEARING PRESENT, A
VERY EFFECTIVE ADVOCATE, A VERY
EXCELLENT LAWYER WHO CAN BE
PUSHED UNFORTUNATELY, AND AT
TIMES IS INTEMPERATE.

WHAT I THINK JUSTICE WELLS, THE
RECORD DOES NOT SHOW IN THE
INTERPRETS AND SOME OF IT, IF
THE COURT WOULD REFER TO THE
APPENDIX, THAT IS ATTACHED TO
THE FLORIDA BAR, IS WHAT

PRECEDED WHAT I CAN ONLY CHARACTERIZE AS AN OUTBURST. I AM NOT GOING TO TRY TO DIMINISH IT.

JUSTICE: MR. HADDAD, MY CONCERN IS THAT THIS SYSTEM, AND I HAVE READ THE WHOLE TRANSCRIPT.

YES, SIR.

JUSTICE: THIS SYSTEM DEPENDS ON OFFICERS OF THE COURT, LAWYERS, AMONG ALL, EVERYONE ELSE IN THIS SOCIETY, RESPECTING NOT THE INDIVIDUAL BUT RESPECTING THE POSITION OF THE JUDGE!

BECAUSE YOU HAVE GOT TO RESPECT THE SYSTEM BECAUSE THAT IS WHAT THIS WHOLE THING DEPENDS UPON, AND I DON'T UNDERSTAND HOW A LAWYER THAT TAKES ON A JUDGE LIKE THIS, IS SHOWING THAT KIND OF RESPECT!

LIKE I SAID, I HAVE APPEARED HERE 32 YEARS AGO FOR THE FIRST TIME BEFORE THIS COURT, AND I HAVE BEEN APPEARING BEFORE NUMEROUS COURTS.

I HAVE THAT RESPECT.

HOWEVER, I ALSO PRACTICE, PRETTY MUCH SOLELY, CRIMINAL LAW.

I TRY TO TEMPER WHAT I SAY OR SAVE IT FOR OUTSIDE THE COURTROOMS, BUT THERE ARE TIMES WHEN A PERSON IS REPRESENTING AN INDIVIDUAL, AND WE HAVE CITED CASES ABOUT EFFECTIVE ADVOCACY, WHICH IS DIFFERENT THAN LEWD ADVOCACY AND I AM NOT TRYING TO SAY IT IS NOT DIFFERENT.

HOWEVER, WHEN A PERSON IS INVITED AS MR. MORGAN WAS IN THIS INSTANCE TO PRESENT A PROFFER, THEN IS TOLD TO NOT PRESENT A PROFFER, HE ASKS PROPERLY TO TAKE THE JURY OUT BECAUSE ONE CANNOT MAKE A PROFFER IN FRONT AFTER JURY.

JUSTICE: I DON'T THINK IT IS GOING TO TRY TO BE FRUITFUL TO EXCUSE THE BEHAVIOR.

LET ME ASK YOU THIS.

YOU DON'T CONTEST HERE, THE

FINDINGS OF WHAT ACTUALLY OCCURRED.

CORRECT?

NO.

DID YOU CONTEST BELOW, BEFORE THE REFEREE, THE FINDINGS OF WHAT ACTUALLY OCCURRED OR WAS THERE AN ADMISSION THAT HE ACTUALLY COMMITTED THIS CONDUCT?

WELL, JUSTICE CANTERO, I AM NOT CONDONING WHAT OCCURRED.

I THINK MR. MORGAN IN HIS CROSS-EXAMINATION BY THE BAR AS WELL AS IN HIS DEPOSITION, ADMITTED THAT HIS REMARKS WERE INTEMPERATE.

HE WENT TOO FAR AND HE WISHED HE HADN'T DONE T.

SO THE ONLY THING YOU CONSIDER CONTESTING BEFORE US IS THE DISCIPLINE, CORRECT?

WE ARE CONTESTING, AND THE ONLY REASON I BROUGHT ALL OF THESE MATTERS OUT IN THE BRIEF IS THE SANCTITY OF TWO JUDGES, THE PROSECUTOR AND LAWYERS, AS TO HIS EFFECTIVENESS AS A LAWYER, THE JUDGES CONSIDERED THE BEST JUDGES IN BROWARD COUNTY WHO TESTIFIED THAT THEY HAVE NEVER HAD AN ISSUE WITH MR. MORGAN.

JUSTICE: QUITE FRANKLY I THINK THAT IS AN AGGRAVATING FACTOR, RATHER THAN A MITIGATING FACTOR, IF SOMEBODY IS AN EFFECTIVE ADVOCATE, SHOULD KNOW BETTER THAN TO DO THIS CONDUCT, BUT BE THAT AS IT MAY, YOU ARE ONLY CONTESTING THE DISCIPLINE, CORRECT?

WE ARE CONTESTING THE DISCIPLINE, YES.

JUSTICE: IS THAT 91 DAYS?

YES.

JUSTICE: WHAT IS THE DISCIPLINE THAT YOU BELIEVE SHOULD BE IMPOSE HAD?

I THOUGHT MYSELF SOMEWHERE AROUND 30-TO-60 DAYS.

I HAVE READ WASSERMAN AND ALL OF THE CASES CITED BY THE BAR AS WELL AS THE CASES CITED WITHIN THE BAR.

IN WASSERMAN THERE WERE
INTEMPERATE REMARKS MADE TO A
JUDGE, PERHAPS NOT AS BAD AS
THIS, WHERE THE PERSON TOLD THE
CLIENT IN THE COURTROOM OR
OUTSIDE THE COURTROOM, YOU ARE
NOT GOING TO OBEY THAT JUDGE'S
ORDER.

WASSERMAN THEN CONFRONTED A
JUDICIAL ASSISTANT AND USED A
NUMBER OF 13-LETTER WORDS,
FOUR-LETTER WORDS AND
OTHER-LETTER WORDS, TO DENY
GRATE THE JUDICIAL ASSISTANT --
TO DENIGRATE JUDICIAL
ASSISTANT, BUT THE MOST
EGREGIOUS THE COURT FOUND
BEFORE A 91-DAY SUSPENSION,
BEFORE HIS FOUR PRIOR PROBLEMS
AND REPRIMANDS, WAS THAT HE
LIED.

THE OTHER ONES, HE TRIED TO
MITIGATE AND LIE AND SAY EITHER
HE DIDN'T SAY IT OR IF HE DID
SAY IT THAT SHE MISHEARD HIM
BECAUSE HE THOUGHT HE WAS HANGING UP
THE PHONE.

IF YOU GO TO KILMAN, THE
PERSON PUBLICLY ACCUSED THE
JUDGE OF TAKING BRIBES FROM THE
OPPONENT.

IN OTHER CASES, THEY FILED RICO
SUITS.

CHIEF LET ME JUST GO HERE, WE
ARE NOT DEALING WITH A ONE-TIME
OUTBURST.

HE HAD TWO PRIOR OCCASIONS OR
SIMILAR CONDUCT INVOLVING
DISRESPECTFUL CONDUCT TOWARDS
THE JUDICIARY.

ONE WAS THAT HE MADE SEVERAL INTEMPERATE AND
DEROGATORY REMARKS

TO AND ABOUT THE JUDICIARY IN
1995 AND 1996 AND THEN ALSO
WHILE APPEARING AS ATTORNEY OF
RECORD, HE MADE THE STATEMENT,
WHAT IS A JUDGE?

EDUCATE ME.

15 YEARS PRACTICING CRIMINAL.

I CAN READ.

I KNOW MORE LAW THAN YOU WILL
EVER FORGET.

TELL ME WHAT IT IS AND LET ME
ASK YOU SOMETHING, DO YOU KNOW

WHAT IT IS LIKE TO DEFEND
SOMEONE'S LIBERTY AND HAVE THE
COURT BLOW YOU OFF ENTIRELY TO
SOMEONE'S ARGUABLE DEFENSE?
THIS IS A PATTERN OF SOMEBODY,
NOT EFFECTIVE ADVOCACY, AS
JUSTICE WELLS SAYS, SEEMS TO BE
A CAREER OF BEING DISRESPECTFUL
TO MEMBERS OF THE COURT.
NOW, YOU KNOW, WE MAY BE
IRRITATING YOU RIGHT NOW, MR.
HADDAD.

I SORT OF SUSPECT THAT YOU MAY
GO OUT AND SAY SOMETHING ABOUT
US TO YOURSELF OR TO YOUR
CLIENT, BUT YOU ARE NOT GOING
TO SAY IT IN OPEN COURT.

I CAN'T IMAGINE AFTER PEER
REVIEW SO MANY TYPES IN THE
FOURTH DISTRICT, THAT I WOULD
SAY ANYTHING.

YOU HAVE GOT ME THERE.
SO I DON'T THINK THAT WOULD BE
TRUE.

I MEAN, WE HAVE ALL DONE THIS A
LONG TIME.

YOU KNOW WHAT HAPPENS.
I DON'T THINK IT IS A CAREER OF
WHAT HE HAS DONE.

IT HAS HAPPENED THREE TIMES.
I AM NOT DENYING THAT.
FIVE YEARS APART.

IT IS ALMOST AS IF EVERY FIVE
YEARS HE HAS THIS BRAIN LAPSE
OR SOMETHING.

JUSTICE: WHAT DOES IT TAKE
TO STOP IT?

THAT IS THE QUESTION.
WHAT DOES IT TAKE TO STOP THAT?

NO ONE IS ARGUING THE
GENTLEMAN'S ABILITY AS A
LAWYER, DEDICATION TO CLIENTS.
THIS IS NOT IN THAT CATEGORY,
BUT WHAT DOES IT TAKE TO REIN
IN THE ABUSIVE BEHAVIOR, IS
REALLY ALL WE ARE TALKING
ABOUT.

WHAT I SUGGESTED IN LESS
THAN 91 DAYS, IT IS MORE THAN
AN ECONOMIC FACTOR.

HE IS A SOLE PRACTITIONER.
IN 30-60 DAYS, IT IS GOING TO
DEVASTATE HIM.

WE DIDN'T GET TO, WE TESTIFIED

ABOUT HIS CHILD.

HE IS A SOLO
PARENT AND THINGS LIKE THAT,
BUT I THINK THE 60-DAY
SUSPENSION IS GOING TO
DEVASTATE AND TEACH HIM, AND I
THINK THE PUBLICITY OF THIS AS
OPPOSED TO THE OTHERS, IS
SOMETHING THAT HE IS CERTAINLY
GOING TO REMEMBER.

NO MATTER HOW IT IS, WHEN YOU
MAKE A MISTAKE AS LAWYER, WHEN
YOU MAKE A MISTAKE AS A LAWYER
IT IS EMBARRASSING TO HAVE
EVERYBODY KNOW T I KNOW A
NUMBER OF PEOPLE IN BROWARD
COUNTY ARE WATCHING THIS ON
CLOSED CIRCUIT, BECAUSE A
NUMBER OF PEOPLE KNOW MR.
MORGAN.

MR. MORGAN, WE ARE GOING TO
WATCH IT.

THAT IS EMBARRASSING RIGHT
THERE, TO HEAR JUSTICES TALK
ABOUT HIS BEHAVIOR, NO MATTER
HOW EFFECTIVE AN ADVOCATE IS,
IS DEVASTATING FOR A LAWYER.
JUSTICE: AT THIS POINT WHERE
HE HAS TWO PRIOR FINDINGS OF
THIS KIND OF BEHAVIOR, DOES IT
COME TO THE POINT WHERE, IN
ORDER TO REINSTATE HIM INTO THE
BAR, THE COURT HAS TO, AND THE
BAR NEED TO HAVE SOME COMFORT
LEVEL THAT HE HAS BEEN
REHABILITATED AND THAT HE IS
REMORSEFUL FOR HIS PRIOR
CONDUCT AND HAS DETERMINED NOT
TO PURSUE THAT ANY FURTHER.
WE HAVE BEEN SEVERAL YEARS
SINCE THIS HAPPENED.

I DON'T KNOW IF THAT IS A
MITIGATION --

JUSTICE: I GUESS THAT IS
GOING TO BE A QUESTION WHETHER
HE EVER GETS READMITTED IF HE
IS SUSPENDED.

IF YOU DON'T THINK THAT IT HAS
BEEN PUT A STOP TO BY NOW.

JUSTICE: HAS HE EVER TRIED
ANGER MANAGEMENT?

WE ARE TRYING TO
STRUGGLE HERE WITH HOW IS THIS
GOING TO CHANGE?

IF WE GIVE HIM A 30-DAY
SUSPENSION, TEN-DAY SUSPENSION,
WHATEVER, HOW IS IT GOING TO
CHANGE THE BEHAVIOR?

I THINK JUSTICE QUINCE, IN
ALL CANDOR, IF THE COURT WERE
TO GIVE HIM A SUSPENSION THAT
IS LIVABLE AND ORDER AS A
CONDITION OF THAT SUSPENSION,
SOME TYPE OF ANGER MANAGEMENT,
EVEN IF HE GETS REINSTATED
BEFORE THAT IS COMPLETED, AS
PROBATIONARY.

CHIEF JUSTICE: I AM GOING TO
STOP YOU BECAUSE YOU ARE IN
YOUR REBUTTAL AND HEAR FROM THE
BAR, AND MY SUGGESTION MIGHT
BE, BECAUSE THE COURT IS
STRUGGLING, THAT YOU MAY WANT
TO HAVE MR. MORGAN COME UP ON
REBUTTAL, SO WE CAN HEAR FROM
HIM WHETHER HE IS REMORSEFUL,
WHETHER HE IS TAKING STEPS TO
MAKE SURE THIS DOES NOT HAPPEN
AGAIN.

YES, MA'AM.

CHIEF JUSTICE: OKAY.

MAY IT PLEASE THE COURT.

MICHAEL SOIFER FOR THE FLORIDA
BAR.

THE REHABILITATIVE SUSPENSION
THAT WAS RECOMMENDED BITE
REFEREE IN THIS CASE IS
REASONABLE -- RECOMMENDED BY
THE REFEREE IN THIS CASE IS
REASONABLE AND WARRANTED.
IF YOU TAKE A LOOK AT THE
EGREGIOUSNESS OF THE MISCONDUCT
AND YOU FACTOR IN THE FOUR
AGGRAVATING FACTORS, THE PRIOR
DISCIPLINE WHICH THE REFEREE
FOUND WAS THE MOST SERIOUS, AS
WELL AS THE REFUSAL TO
ACKNOWLEDGE THE NATURE OF HIS
MISCONDUCT, WHICH WAS, ALSO,
SPECIFICALLY MENTIONED BY THE
REFEREE, AND IT IS INTERESTING,
BECAUSE REFEREE LUBET PRESIDED
OVER ALL THREE OF THE
DISCIPLINARY HEARINGS, AND IN
HER FIRST REPORT OF REFEREE,
SHE LISTENED TO MR. MORGAN
EXCUSE HIS MISCONDUCT THAT
FIRST TIME BY SAYING THAT HE

WAS REMORSEFUL AND BY SAYING THAT HE WAS JUST TRYING TO ZEALOUSLY REPRESENT HIS CLIENT.

AND SHE NOTED THAT, AT THE MITIGATING FACTOR IN THAT FIRST REPORT OF REFEREE, AND HE SAID IT BUT HE DIDN'T DO IT.

IT HAPPENED AGAIN, AND THAT FIRST TIME HE WAS GIVEN A PUBLIC REPRIMAND BEFORE THE BOARD OF GOVERNORS, AND YOU WOULD THINK THAT BEING PERSONALLY REPRIMANDED IN FRONT OF THE BOARD OF GOVERNORS WOULD HAVE SOME EFFECT TO MAKE HIM CHANGE HIS BEHAVIOR BUT IT DIDN'T, AND IT HAPPENED AGAIN THE SECOND TIME, AND HE WAS GIVEN A TEN-DAY SUSPENSION AND REQUIRED TO ATTEND THE FLORIDA BAR'S ETHICS SCHOOL.

AND THAT DIDN'T WORK.

AND THAT IS WHY THIS TIME WE HAVE THE THIRD INCIDENT OF THE EXACT SAME MISCONDUCT, AND THAT IS WHY A REHABILITATIVE SUSPENSION IS ABSOLUTELY WARRANTED IN THIS CASE.

AND I, WASSERMAN IS THE AUTHORITY FOR THAT, BECAUSE IN WASSERMAN YOU HAVE SIMILAR MISCONDUCT.

IN FACT I WOULD SUBMIT THAT IT IS STRIKINGLY SIMILAR IN THE WASSERMAN CASE, HE POUNDED ON THE TABLE AND HE YELLED TO THE COURT.

IN THIS CASE THE RESPONDENT YELLED TO THE COURT WHILE HE PACED BACK AND FORTH.

IN THE WASSERMAN CASE, HE VERBALIZED HIS CON TEMPT FOR THE COURT.

IN THIS CASE THE RESPONDENT CALLED THE JUDGE OBNOXIOUS.

HE REFERRED TO HIM AS JUDGE GLARE BECAUSE HE THOUGHT THE JUDGE WAS GLARING AT HIM.

HE REFUSED TO OBEY THE ORDER OF THE JUDGE TO MOVE ON WITH THE CASE.

HE REFUSED TO ACCEPT THE THE RELEVANCE OBJECTION RULING, ALTHOUGH JUDGE COLLINS HAD TO

REITERATE

IT 11 TIMES FOR THE RECORD.

CHIEF JUSTICE: IS THIS JUDGE

BOBBY COLLINS?

JUSTICE: DID HE FIND HIM IN

CONTEMPT?

WASSERMAN DOES NOT REQUIRE

THAT.

THERE WERE TWO SEPARATE CASES.

THE MATTER INVOLVING THE

TELEPHONE CALL WITH THE

JUDICIAL ASSISTANT IS THE ONE

THAT BROUGHT HIM INTO CONTEMPT.

THE OTHER CASE WAS ENTIRELY

SEPARATE, AND THAT INVOLVED HIS

CONDUCT IN THE COURTROOM, AND

WASSERMAN WAS NOT FOUND IN

CONTEMPT IN THAT OTHER CASE

INVOLVING HIS CONDUCT IN THE

COURTROOM.

JUSTICE: THE BAR SEES THIS

AS A GRADUATED AND MEASURED

RESPONSE CASE.

THAT IS THAT SIMILAR CONDUCT,

THERE WAS A REPRIMAND, AND THEN

THE NEXT TIME THERE WAS A

SUSPENSION.

WAS IT TEN DAYS' SUSPENSION?

YES, YOUR HONOR.

JUSTICE: AND THAT A MEASURED

RESPONSE TO THE REPRESENTATIVE

CONDUCT, NOW, CALLS FOR

DEMONSTRATING REHABILITATION

AFTER A SUSPENSION.

IS THAT THE THEORY OF THE BAR?

YES, YOUR HONOR.

JUSTICE: WAS THERE ANY, IN

THIS CASE, THERE WAS A, QUITE A

FEW YEARS BETWEEN EACH

INCIDENT, CORRECT?

I BELIEVE THE FIRST INCIDENT

HAPPENED IN 1995 AND 1996.

THE SECOND INCIDENT WAS IN 2000

AND THE THIRD INCIDENT WAS IN

2003.

JUSTICE: SO MY QUESTION IS,

IS THERE ANY INDICATION IN THE

RECORD THAT THESE THINGS WERE

TRIGGERED BY ANYTHING IN

PARTICULAR?

IT SEEMS TO ME THAT, AT LEAST

SOME ARGUMENT COULD BE MADE

THAT THESE WERE REALLY ISOLATED

INCIDENTS, AND THAT THERE WAS

SOMETHING THAT TOOK PLACE THAT REALLY SORT OF TRIGGERED THIS

BEHAVIOR.

IT APPEARS THAT, WHEN THE RESPONDENT DOES NOT GET HIS WAY ON A CERTAIN RULING OF THE COURT, THIS IS HOW HE REACTS, AND IT IS, AND HE DOES NOT GIVE UP, AND HE DOES NOT RELENT, BECAUSE I GUESS HE IS JUST TRYING TO GET HIS WAY, BUT HE REDUCES HIS CONDUCT TO NAME CALLING AND VERBAL ABUSE TOWARDS THE JUDGE, WHO IS A AUTHORITY IN THE COURTROOM, AND THAT TRANSLATES ON DIRECTLY INTO DISRESPECT FOR THE VERY AUTHORITY OF THE COURT, AND THAT IS ONE OF THE FUNDAMENTAL RULES IN A SYSTEM OF LAW, BUT YET YOU MUST HAVE AUTHORITY, RESPECT FOR THE AUTHORITY OF THE COURT.

JUSTICE: IS THERE ANY COMMON THREAD TO ANY OF THESE, OTHER THAN THEY OCCUR AND THEY HAVE SIMILAR LANGUAGE?

I MEAN, ARE THESE THINGS WHERE THERE IS SOMETHING GOING ON IN A PARTICULAR TYPE OF TRIAL OR IN THE PRESENCE OF THE JURY THAT THERE IS A PERCEPTION THAT THIS IS STAINING THINGS AND SOILING THE ENTIRE JURY PROCESS?

OR IS THERE ANY KIND OF COMMON THREAD TO ANY OF THESE?

I DON'T BELIEVE THERE IS THAT COMMON THREAD, YOUR HONOR. I KNOW THAT THIS PARTICULAR INCIDENT BEGAN IN FRONT OF THE JURY.

I DO NOT BELIEVE THE OTHER TWO PRIOR INCIDENTS OCCURRED IN FRONT OF A JURY.

I WOULD SUBMIT THAT THE PRIOR MISCONDUCT IS DISTURBING HERE, BECAUSE IT IS DEMONSTRATED THAT HE IS NOT DETERRED BY THOSE EARLIER SANCTIONS.

AND HE IS NOT SHOWN THAT HE IS ABLE TO REFORM HIS CONDUCT ON

HIS OWN, AND THAT IS WHY A REHABILITATIVE SUSPENSION IS CERTAINLY WARRANTED IN THIS CASE.

THANK YOU, YOUR HONOR.

JUSTICE: YOU STILL HAVE SOME TIME LEFT.

WHAT WOULD BE THE REHAB THAT YOU WOULD SUGGEST?

THAT IS PART OF THIS RATHER THAN JUST A NEBULOUS REHAB.

I MEAN, WE HAVE GOT A PROBLEM, AND IT SEEMS TO ME THAT WE NEED TO ADDRESS IT HEAD ON RATHER THAN SIX MONTHS FROM NOW HAVE SOME WITNESSES COME IN AND SAY HE IS BETTER NOW.

IT SEEMS TO ME THAT IF THAT IS WHAT YOU ARE SAYING, THAT THERE SHOULD BE SOME KIND OF PLAN, TO ASSIST IF THERE THIS IS A GOOD LAWYER THAT IS REPRESENTING PEOPLE WHO NEED REPRESENTATION, THAT THERE OUGHT TO BE SOME KIND OF PLAN FOR THESE TO TRY TO ADDRESS IF THERE IS SOMETHING GOING ON IN HIS LIFE OR WHATEVER.

DO YOU HAVE ANYTHING LIKE THAT OR DOES THE BAR THINK ABOUT THESE THINGS?

CERTAINLY WE DO THINK ABOUT IT.

I KNOW THAT THE SECOND TIME AROUND, HE WAS REQUIRED TO ATTEND THE ETHICS SCHOOL, AND I THINK PART OF IT HAS TO DO WITH WHAT MR. MORGAN WANTS TO DO FOR HIMSELF.

I THINK HE NEEDS TO RECOGNIZE THAT HE HAS THIS PROBLEM, AND I THINK THAT IS PART OF THE REHABILITATION PROCESS, WHEN HE COMES BACK AND REAPPLIES FOR READMISSION, THAT HE CAN DEMONSTRATE THAT HE HAS TAKEN SOME AFFIRMATIVE ACTION TO HELP HIMSELF.

CHIEF JUSTICE: THANK YOU VERY MUCH.

REBUTTAL.

YES, MA'AM.

JUSTICE: MR. MORGAN, LET ME ASK YOU THIS.

CHIEF JUSTICE: JUST SO WE
HAVE THIS FOR THE RECORD.
YOU ARE?

I AM KAYO MORGAN.

JUSTICE: LET ME ASK YOU
THIS.

DO YOU THINK WHAT YOU DID WAS
WRONG?

YES, SIR.

JUSTICE: HAVE YOU TAKEN ANY
STEPS ON YOUR OWN, SINCE AUGUST
OF 2003, TO MAKE, TO CORRECT
IT, TO DEMONSTRATE THAT YOU
ARE, THAT THIS KIND OF BEHAVIOR
BY YOU IS NOT GOING TO GO
FORWARD?

SINCE THAT ENCOUNTER WITH
JUDGE COLLINS, WHO IS A GREAT
GUY, I ONLY WORKED WITH HIM IN
THE CONTEXT OF A COUPLE OF
JUVENILE CASES.

I ONLY HAD ONE JUVENILE TRIAL
WITH HIM.

NEVER HAD A JURY TRIAL WITH THE
MAN.

HE IS A GENTLEMAN, AND HE IS
ALWAYS PLEASANT TO ME.

HE AND I GOT ALONG FAMOUSLY.

AT THAT TIME WHAT INCITED ME
AT THAT TIME WAS HE HE ANNOUNCED
TO OTHER JUDGES THAT HE WAS
GOING TO HAVE PROBLEMS WITH ME.

THAT DID UPSET ME TREMENDOUSLY,
IN THE CONTEXT OF IT AT THAT
TRIAL.

SINCE THEN, HOWEVER, I HAVE
BEEN EXTREMELY CIRCUMSPECT WITH
ALL JUDGES AS TO ANY KIND OF
INDICATIONS OR PRESENTATIONS
THAT THEY HAVE BEEN TAINTED IN
SOME FASHION TOWARDS ME, AND I
COULD SAY I AM VERY CIRCUMSPECT
HERE AFTER SINCE THE ENCOUNTER
WITH JUDGE COLLINS ABOUT THAT.
ABOUT THAT.

I HAVE NOT HAD A SINGLE
PROBLEM.

MATTER OF FACT A COUPLE OF
JUDGES, PARTICULARLY JUDGE
BACKMAN, HAS INDICATED THAT I
HAVE CALMED DOWN QUITE A BIT.

CHIEF JUSTICE: WHAT DO YOU
THINK THESE OUTBURSTS ARE DUE
TO?

DO YOU HAVE AN ANGER PROBLEM THAT YOU RECOGNIZE? AGAIN, AND, YES, I KNOW JUDGE COLLINS WELL.

I READ THIS TRANSCRIPT, AND IT REALLY WAS SHOCKING TO READ IT. WHAT IS YOUR, WHAT, WHERE DOES IT COME FROM?

WHEN I STARTED PRACTICING LAW, I WANTED TO BE A VERY VIGOROUS ADVOCATE.

I HINGE ON THAT, THAT YOU NEED TO REPRESENT A DEFENDANT. CRIMINAL DEFENDANTS ARE ALL THAT I DO, AS VIGOROUSLY AS YOU CAN AND TRY TO LEAVE NO STONE UNTURNED.

ALTHOUGH I HAVE LEFT MANY A STONE UNTURNED, I TRY NOT TO. EVERY NOW AND THEN YOU DO ENCOUNTER JUDGES WHO APPARENTLY HAVE AN AND ANIMUS TOWARDS YOURSELF, PERHAPS YOUR CLIENT OR THE NATURE OF THE CASE, AND I BELIEVE THAT YOU SHOULD TAKE A JUDGE TO TASK, IF THEY DO APPEAR TO STEP INTO THAT REALM.

I KNOW YOU NEED TO, I TRY TO DO IT IN, AS TRUNCATED A FASHION AS I CAN, FOR EXAMPLE WITH JUDGE COLLINS WHEN I SAW THE WAY HE WAS LOOKING AT ME.

JUSTICE: DID YOU SAY YOU NEED TO TAKE A JUDGE TO TASK? IF A SITUATION IS PRESENTED, YOU NEED TO DRAW ISSUE WITH IT, YES, MA'AM.

JUSTICE: DON'T WE HAVE A PROCESS WHERE YOU CAN CONTACT THE JUDICIAL QUALIFICATIONS COMMISSION, IF YOU BELIEVE THAT A JUDGE IS ACTING IN A MANNER THAT IS NOT BEFITTING A JUDGE? YES, MA'AM.

THEREAFTER, IF IT IS THAT EGREGIOUS, YES, MA'AM, BUT I AM TALKING, YOUR HONOR, IN RESPECT TO IN THE CONTEXT OF A TRIAL ASSURE REPRESENTING A DEFENDANT.

JUSTICE: IT SEEMS TO ME THAT THEREIN LIES THE PROBLEM. LAWYERS HAVE GOT TO TREAT THIS SYSTEM WITH RESPECT! AND THE SYSTEM SAYS YOU ARE NOT

GOING TO TAKE THE JUDGE TO
TASK.

THE JUDGE CANNOT BE ON TRIAL,
WHETHER IT BE A CRIMINAL COURT,
A JUVENILE COURT, A CIVIL
COURT, A DOMESTIC COURT,
WHATEVER KIND OF COURT IT, YOU
CAN'T TRY THE JUDGE.

I KNOW THAT THERE IS RAMBO
LITIGATORS, AND I TRY CASES
WITH ALL SORTS OF LITIGATORS,
BUT THE FACT IS, UNTIL YOU
LEARN THAT YOU HAVE GOT TO USE
THE APPELLATE COURTS, THAT YOU
HAVE GOT TO USE THE PROPER
MEASURES, AND AS LONG AS YOU
THINK YOU ARE GOING TO TAKE THE
COURT TO, THE JUDGE TO TASK,
THEN IT SEEMS TO ME THAT IS A
PROBLEM.

I UNDERSTAND WHAT YOU ARE
SAYING, YOUR HONOR, BUT WHAT I
MEANT WAS YOU DRAW, MY POSITION
HAS ALWAYS BEEN TO,, THAT IF A
PROBLEM PRESENTS ITSELF IN THE
CONTEXT OF REPRESENT AGO
DEFENDANT IN A JURY TRIAL, THAT
YOU SHOULD DRAW ISSUE WITH IT
AND NOT JUST DANCE AROUND IT.

CHIEF JUSTICE: I GUESS WHAT
I AM NOW HEARING, I WANTED TO
KNOW IF YOU THOUGHT YOU HAD AN
ANGER PROBLEM, THAT THERE IS
THIS, I DON'T KNOW WHETHER
ANGER MANAGEMENT EVEN IS
COURSES OR COUNSELING, BUT WHAT
I AM HEARING YOU ARE SAYING IS,
NO, THIS WAS REALLY INTENTIONAL
BEHAVIOR, BECAUSE YOU FELT THAT
YOUR CLIENT WAS NOT GETTING A
FAIR SHAKE, AND YOU FELT YOU
NEEDED TO ACT THIS WAY,
IN ORDER TO GET YOUR CLIENT A
FAIR SHAKE, IS THAT WHAT I AM
HEARING?

WHICH WOULD MEAN THAT, IF THE
SITUATION AGAIN PRESENTS
ITSELF, YOU WOULD, AGAIN,
ENGAGE IN THIS TYPE OF
INAPPROPRIATE BEHAVIOR.

JUDGE, I HOPE, I TRIED TO
LET YOU KNOW THAT SINCE THE
ENCOUNTER WITH JUDGE COLLINS, I

HAVE BEEN EXTREMELY SENSITIVE TO HOW I REACT TO ANY SITUATION, HOW I PRESERVE ERROR IN THE RECORD.

THIS HAS BEEN A SERIOUS SITUATION TO ME, NOT ONLY BECAUSE I THINK I OVERSTEPPED MY RIGHTFUL BOUNDS AS AN ADVOCATE BUT BECAUSE IT HAPPENED WITH JUDGE COLLINS. THERE WAS NO REASON FOR THAT MAN TO BE PRESENTED WITH MY BEHAVIOR AT THAT TIME.

HE NEVER HURT ME.

HE NEVER WAS DISRESPECTFUL TO ME.

OR ANY CLIENT OF MINE.

EVER.

I NEVER HEARD HIM SAY A BAD WORD ABOUT MYSELF OR ANYONE ELSE.

SINCE THEN, I HAVE BEEN, I REALIZED THAT MY REACTION TO WHAT OTHER JUDGES MAY HAVE SAID, SHOULD NOT HAVE IMPUGNED IMPLIEDLY, AT LEAST, JUDGE COLLINS'S INTEGRITY AS A JUDGE.

THE MAN WAS TRYING TO DO THE RIGHT THING.

I WAS TRYING TO DO THE RIGHT THING.

I SAW HIM PRESENTING AN ANIMUS TOWARD ME THAT I LEARNED THEREAFTER, EMANATED FROM SOME OTHER JUDGES HAD SAID SOME NEGATIVE THINGS ABOUT ME, WHICH JUDGES I THOUGHT I KNEW, AND I HAD GO TO THE JQC ON ONE OF THOSE JUDGES THAT I THOUGHT HAD PRECIPITATED THIS PRESENTATION BY JUDGE COLLINS.

JUSTICE: WHAT SEEMS TO BE MISSING HERE, I THINK, WHAT THE COURT IS SEARCHING FOR -- YES, SIR.

JUSTICE: -- IS FOR YOU TO STATE QUITE SINCERELY AND PASSIONATELY, THAT I HAVE RECOGNIZED THAT THIS WAS GROSSLY INAPPROPRIATE, WHAT I DID, IN ALL THREE OF THE INSTANCES THAT I HAVE BEEN BEFORE THE DISCIPLINARY PROCEEDINGS.

AND THAT I CAN ASSURE THIS COURT THAT I RECOGNIZE THAT IT WAS INAPPROPRIATE, AND THAT I AM COMMITTED THAT THIS WILL NEVER HAPPEN AGAIN, WHATEVER TREATMENT OR WHATEVER IT TAKES ON MY PART.

IS THAT FAIR, OR IS THAT -- JUDGE, I STIPULATED TO THE FIRST TWO INSTANCES WITH JUDGE SPECKLER AND JUDGE HOLMES, AND I NEVER HAD A PROBLEM WITH JUDGE HOLMES THEREAFTER. MATTER OF FACT, JUDGE HOLMES AND I GET ALONG FINE.

I AM VERY SINCERE NOT TO GET INTO THIS ENDEAVOUR AGAIN. I WILL BUILD A RECORD BUT WITH THE UTMOST PRESENTATION OF RESPECT, TO OPPOSING COUNSEL AND TO JUDGES AS WELL.

JUSTICE: DO YOU AGREE THAT THIS WAS INAPPROPRIATE IN A COURT OF LAW?

TO PRESENT MYSELF TO A JUDGE, YES, I DO.

I FEEL DEFICIENT ABOUT IT AND I HAVE ENDEAVORED TO RECTIFY THAT.

JUSTICE: MR. MORGAN, WHAT COULD WE DO THAT WOULD HELP YOU UNDERSTAND THAT YOU USE THE WORD "TAKE TO TASK" BUT IN FULLY REPRESENTING A CRIMINAL DEFENDANT THAT YOU DON'T HAVE TO DO THIS.

JUDGE, I AM SO EMBARRASSED. I AM STANDING IN FRONT OF YOU HERE NOW AND HAVING YOU ALL SAY THESE THINGS ABOUT ME, BECAUSE THE LAST THING I WANT IS TO BE DISRESPECTED BY A MEMBER OF MY PROFESSION.

I VALUE THIS PROFESSION GREATLY.

I VALUE THE DEFENSE BAR IN CRIMINAL CASES.

I DON'T DO CIVIL.

VERY AVIDLY, AND TO ME TO BE PUT IN THIS KIND OF A SITUATION DEMEANS MYSELF IN MY OWN MIND, AND I DON'T WANT THAT, EITHER, AND YOU HAVE DONE ENOUGH.

IF YOU WANT TO DO MORE.

JUSTICE: I DON'T THINK THERE IS MORE TO YOU.

IT IS MORE TO HELP.

THAT IS REALLY WHAT THIS IS ABOUT, ISN'T IT?

YES, SIR.

JUSTICE: THIS WHOLE PROCESS IS NOT JUST TO PUNISH SOMEONE.

IT IS TO HELP YOU BE A BETTER LAWYER, IT SEEMS TO ME, AND HOW CAN WE DO THAT?

I HAVE BEEN DOING IT MYSELF, JUDGE, EVER SINCE THE ENCOUNTER WITH JUDGE COLLINS.

YOU ARE NOT GOING TO HEAR ONE JUDGE ON THIS PLANET THAT IS GOING TO SAY I WAS ANYTHING BUT RESPECTFUL TO THEM.

IN FACT JUDGE GREEN WHOM I WENT TO THE JQC ON ONCE BEFORE AND I DID THAT TO PROTECT THE ASPURGENCE THAT MY CLIENT WAS GOING TO PRESENT.

I INTERCEPTED IT FROM MY CLIENT AND WROTE IT OUT IN MORE GERMANE CIRCUMSTANCES.

EVEN WORKING WITH JUDGE GREEN, HE AND I GET ALONG AND I HAVE APOLOGIZED TO HIM, AND I KNOW YOU ALL DON'T WANT TO GO OUTSIDE THE RECORD, BUT I HAVE TAKEN STEPS SUCH AS THAT TO REMEDY ANY KIND OF RIFT OR ILL PER ACCEPTS THAT IS JUDGES V I HAVE NOT SPOKEN WITH JUDGE SPECKLER.

I HAVE SHOOK HANDS WITH HIM AND SPOKEN TO HIM, AND I HAVEN'T SAID ANYTHING ELSE TO JUDGE SPECKLER.

BUT JUDGE GREEN, I APOLOGIZED TO HIM IN A SIDE BAR WITH HIM, AND AS FAR AS I KNOW, HE FELT I WAS SINCERE.

AT LEAST I WAS SINCERE.

CHIEF JUSTICE: I THINK IT WAS IMPORTANT FOR THE COURT TO HEAR FROM YOU.

WE WILL TAKE THIS CASE UNDER ADVISEMENT, AND MR. HADDAD, THANK YOU FOR COMING HERE TO REPRESENT YOUR CLIENT. THE COURT WILL BE IN RECESS

UNTIL NINE O'CLOCK TOMORROW
MORNING.
MARSHAL: PLEASE RISE.