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J.I.S. v. State of Florida

WE WILL CALL THE NEXT CASE OF JIS VERSUS FLORIDA. THE PARTIES ARE READY.MR. HEAD RICK . ARE YOU OKAY? ALL RI GHT . WE HAVE GOT THE FYI ON OUR MORNING INFORMATION HERE, SO IF YOU NEED ANY ASSISTANCE , LET US KNOW. YOU MAY PRO CEED .

GOOD MORNING, HONO RABLE CHIEF JUSTICE PAR IENTE AND ASSOCIATE JUSTICES. I AM THE JUVE NILE DIVISION CHIEF OF THE PUBLIC DEFENDERS OFFICE SECOND JUDICIAL CIRCUIT. WE ARE HERE TO DAY TO ESTABLISH THAT CHILD REN SHOULDN'T BE TR EATED AS L ESS THAN AD ULTS BY FLORIDA'SCOURT S YSTEM .

COULD YOU PULL THE MIKE UP SOME OR SOM ETHING. I AM HAVING PROBLEMS HERE.

MAYBE I S HOULD STAND A LITTLE CLOS ER, ALSO. MAYBE THAT WOULD HELP. THANK YOU FOR LE TTING M E KNOW THAT, JUSTICE QUI NCE.

CHIEF JUSTICE: NOW, ARE YOU ASKING FOR CREDIT FOR TIME SERVED , OR ARE YOU ASKING FOR WHAT WAS IN T HEEND OF MR . BRINKMEYER 'S BRIEF , AND THAT , I N JUDGE BATTEN'S CONCURRENCE , SAYING THAT IT WOULD BENEFIT THE DEPARTMENT OF JUVENILE JUSTICE AND EVERYONE E LSE , IF THERE COULD JUST BE PLACED ON THE COM MITMENT ORDER , THE NUMBER OF DAYS THAT THE PERSON WAS INSECURE DETENTION.

WELL, OUR FIRST POS ITION , CHIEF JUSTICE PARIE NTE, WE ARE ASKING FOR CREDIT FOR TIME SERVED , BECAUSE FRANKLYUNDER THE STATU TORY SCH EME IN FLORIDA , THERE IS A STATUTE THAT BASICA LLY SAYS FOR STARTERS , THE JUVE NILES CANNOT SERVE ANY LO NGER PERIOD OF TIME THAN ADULT S IF THEY ARE SIMILARLY --

CHIEF JUSTICE: THAT I S TRUE IF THIS IS A MISDEMEANOR, ABOUT ARE B UTWHAT WOULD BE THE TIME TH ATHE WOULD HAVE HAD TO SERVE IF HE WERE AN ADUL T?

IN THIS PARTICULAR CASE , HE DID HAVE A SECOND-DEGREE FELONY. BATTERY. IT COULD BE 15 YE ARS, SO IN HIS PARTICULAR CASE THAT, WOULDN'T MA TTER. HOWEVER, EVEN HAVING THE CREDFOYT TIME SERVED FOR HIS CASE WOULD BE HELP FUL -- CREDIT FOR TIME SERVED FOR HIS CASE WOULD HAVE BEEN HELPFUL BECAUSE FOR TREATMENT PURPOSES, I T WOULD HAVE BEEN HELPFUL FOR THE FACILITY TO KNOW HOW LONG HEWAS THERE.

CHIEF JUSTICE: HE HAD 1 07DAYS THAT HE WAS INSEC URE DETENTION.I AM GOING TO ASK THE S TATEABOUT THAT. THAT SEEMS OF G GREAT CONC ERN THAT JUVENILES ARE REMA INING INSECURE DETE NTION AND NOT BEING TREATED.

I MIGHT AD D THAT IS NOT A RARITY. I HAVE SEEN THAT HAP PEN, ALSO, WITH OTHER PEO PLE I TREAT DAY-TO-D AY.

CHIEF JUSTICE: SO ARE YOU SUGGESTING THAT , WHEN HE G ETCLOSE TO AGE 22, THAT HE WOULD HAVE TO BE, EVEN I F HE WAS BEING TREATED SUCCESSFULLY, THAT HE WOULD HAVE TO BE RELEASED 107 DAYS BEFORE HIS 2 2d BIRTHDAY? BECAUSE THAT IS WHEN WE USUALLY GET CREDIT FOR TIM E SERVED. THAT IS WHAT IT IS AND THAT IS WHY THESE ARE N'T ANALOGOUS. JUVENILE CASES ARE NOT ANALOGOUS TO ADULT CASES , BECAUSE YOU YOU ARE REALLY NOT ASKING , IF I AM NOW UNDERSTANDING IT, YOU ARE SAYING IN CASES WHERE , IF THEY DIDN'T GET THE CREDIT , THEY WOULD BE SERVING MORE THAN THE ADULT TIME, YOU MUST GIVE THEM

CREDIT. OTHERWISE, YOU UNDERS TANDTHAT THEY SHOULD BE TREATED UNTIL THEY ARE REL EASED , EITHER AT 18 OR UNDER SOME CIRCUMSTANCES , 2 1 O R 22 , IS THAT CORRECT?

I WOULD ADD THAT EVEN IT WOULD APPLY TO THE SITUATIONOF THIRD-DEGREE FELONIES.I HAVE SEEN SOME CHILDRE N THAT ARE POTENTIALLY INSTITUTIONALIZED.THEY HAVE GOTTEN USED TO BEING IN A FAC ILITY. THEY HAVE HAD PROB LEMS AT FACILITIES. THEY POTENTIALLY B UMP AGAINST THAT FIVE-YEAR MARK. I AG REE ON THE 15th YEAR , UNLESS SOMEBODY HAS COMMITTED SOMETHING , I DON'T THINK IT WOULD PROBABLY HAPPEN ON A 15-YEAR-OLD.

I AM NOT SURE I UNDERSTAND YOUR ANSWER TO THE CHIEF'S QUESTION ABOUT , UNDER YOUR THEORY , WHY YOU WOULDN'T TAKE OFF THE TIME , THEN, BEFORE AGE 22. IN OTHER WO RDS IT IS AT 100 AND WHATEVER DAYS, THEN I AM HAVING DIFFICULTY WITH THE CONSISTENCY OF YOUR ARGUMENT. I TH OUGHT YOUR ARGUMENT WAS, INDEED , WOULD REQUIRE AN AFFIRMATIVE ANSWER TO THAT. THAT IS THAT YOUR ARGUMENT THAT YOU HAVE TO G IVE CREDIT FOR THIS TIME , SINCE THE MAXIMUM IS TO AGE 22 , BUT YOU HAVE TO RED UCE THAT , BUT WE NEED TO UNDERSTAND THAT, SO THAT WE DIFFERENTIATE BETWEEN, FOR INSTANCE , THE MISDEMEANOR S , WHERE THAT I S SORT OF E ASY IN MOST INSTANCES . SO HELP US WITH WHAT YOUR ARGUMENT IS IN THIS PARTICULAR CASE , AS FAR AS WHAT CREDIT SHOULD BE GIVEN AND APPLY IT AS A MATTER OF FACT, TO THIS SE NTENCE.

WELL, I WILL BE HAP PY , JUSTICE ANSTEAD. I WILL ANALOGIZE THE SITUATION WHERE IN ESSENCE YOU GIVE CREDIT FOR TIM E SERVED TO PEOPLE WHO ARE SERVING LIFE SENTEN CES IN ESSENCE. WE KNOW THEY ARE GOING TO B E THERE.WE KNOW THEY ARE GOING TO BE THERE ALL THAT TIME. THEY ARE GOING TO DIE THERE , YET WE ST ILL , THE LOWER COURTS STILL GIVE CREDFOYT TIME SERVED FOR THAT. IT DOESN'T MEAN THAT SENTENCE IS REDUCED PARTICULARLY. IT JUST ME ANS IT IS THERE .

BUT WHAT IS THE REAL PURPOSE THEN? WHAT IS THE PURPOSE YOU SEE AS BEING SERVED BY GIVING SOMEONE CREDF OYT TIME SERVED , AND THEY , REALLY , IT IS NOT GOING TO REDUCE T HEIRSENTENCE ANY.

WELL, THE P U RPOSE , I SEE IT AS SEVERAL FOLD. NUMBER ON E, IN THE C ASE WHERE IT AC TUALY WOULD CAUSE THEM TO BUMP AGAINST THE STATUTORY MAXI MUM , BE IT A MISDEMEANOR OR IN THE CASE OF A THIRD- DEGREE FELONY. THAT WOULD BE NECESS ARY , JUST TO MAKE SURE THEY DON'T EXCEED THE ADULT EQUIVALENT SENTENCE, BUT EVEN IN THOSE CASES WHERE WE DON'T HAVE THAT SITUATION BEING T HECASE, IT WOULD BE VERY HELPFUL, I THINK, FOR THE FACILITY WHERE THE JUVENILE GOES, TO WHATEVER COMMITMENT FACILITY IT WAS, WHATEVER LEVEL IT WAS, TO KNOW HOW LONG THAT CHILD ACT UALLY HAS BEEN INSECURE DETENTION ELSEWHERE, FOR WHATEVER - -

SO IN THIS CASE , IT WOULD , REALLY, SERVE NO PRACTI CAL EFFECT, JUST AUTHORITIES WOULD THEN KNOW THAT HE, IN FACT, S PENT 107 DAYS INSECURE DETENTION. I MEAN, IT WOULD NOT CH ANGE THE LENGTH OF TIME THAT HE IS GOING TO ACTUALLY BE SERVING ING , COR RECT? -- SERVING, CORR ECT?

WELL, THAT IS HARD TO SAY , JUSTICE QUINCE. I AM NOT TR YING TO B E ABSTRACT ABOUT IT.IT MIGHT. I HAVE SEEN PLENTY OF TIMES WHERE JUDG ES HAVE TAKEN INTO ACCOUNT THE FACT THAT A CHILD HAS BEEN INSECURE DEFINANCIAL TE NSION -- DETENTION FOR "REQUEST X" -- FOR "X" LENGTH OF TIME.

CHIEF JUSTICE: WE ARE NOT HERE, AS WE ARE OFTEN REMINDED, JUST AS A POLICY-MAKING BO DY. WE ARE HERE TO DETERMINE, FIRST OF ALL WHETHER ANYTHING CONSTITUTIONAL HAS BEEN VIOLATED BUT THEN OTHERWISE TO DETERMINE WHAT THE LEGISLATURE, WHAT THE LEGISLATIVE SCHEME IS , AND WHAT IS THE FIRST DISTRICT'S OPINION SAID THAT THE AUTHORIZATION FOR GIVING A CRIMINAL DEFENDANT CREDIT FOR TIME SERVED , IS LEGISLATIVE

IN ORIGIN , BUT THAT NO SUCH PROVISION EXISTS FOR THE, IN CHAPTER 985 , SO TELL US , OTHER THAN THE SITUATION WHERE THEY ARE UP AGAINST THE STATUTORY MAXIMUM , AND THEREFORE IT IS NECESSARY IN ORDER TO EFFECTUATE THE OTHER LEGISLATIVE GOALS, THAT THEY NOT BE SERVING MORE THAN AN ADULT. WHAT IS THE BASIS FOR US SAYING IT MIGHT BE NICE FOR JUDGES TO NOTE IT , BUT WE CAN'T COMPEL THAT .

WELL, I THINK THE PROBLEM IS, RIGHT NOW WE HAVE CHILDREN BEING TREATED DIFFERENTLY AND DISPARATELY IN THE STATE. RIGHT NOW THE POLICY OF THE DECISION IN THE FIRST DISTRICT, WHICH I MIGHT ADD IS IN CONFLICT WITH SOME OF OTHER OTHER DECISIONS ON POLICY, BUT IT IS THE POLICY NOW IN THE FIRST DISTRICT AS A RESULT OF THIS LEGAL OPINION THAT NO CREDIT FOR TIME SERVED IS BASICALLY GIVEN , PERIOD , FOR CASES . VIRTUALLY YOU TAKE THE OTHER DISTRICT COURTS' APPEAL IN THE SECOND AND FOURTH AND THE VERY LAST THEY HAVE BEEN GIVING CREDIT FOR TIME SERVED, SO IT IS THE FACT THAT WE NEED TO HAVE CONSISTENCY IN THE STATE FOR WHAT WE ARE DOING WITH REGARDS TO CREDIT FOR TIME SERVED. YES , JUSTICE CANTERO.

I GUESS THE QUESTION IS , FOR CRIMINAL DEFENDANTS, FOR ADULTS WE HAVE A STATUTORY BASIS FOR GIVING CREDIT FOR TIME SERVED. FOR JUVENILES, WHAT IS THE STATUTORY OR CONSTITUTIONAL BASIS FOR GIVING CREDIT FOR TIME SERVED? THERE IS NO , APPARENTLY I HAVEN'T SEEN A STATUTE THAT DICTATES IT.

THERE IS NOT A SPECIFIC STATUTE FOR JUVENILES ON THAT. I WOULD SAY, GOING BACK TO THE STATUTE, I INDICATED ABOUT THE STATUTORY MAXIMUM. I THINK YOU HAVE TO INFER FROM THAT , THAT YOU HAVE TO BE KEEPING TRACK OF THAT SOMEWHERE, BECAUSE IF YOU ARE NOT, YOU ARE GOING TO HAVE SOMEONE IN THE CASE OF YOUR MISDEMEANORS OR POSSIBLY YOUR -- MISDEMEANORS OR POSSIBLY YOUR THIRD-DEGREE FELONIES , SERVING MORE THAN THE STATUTORY MAXIMUM.

BUT THAT WOULD COME INTO PLAY WHEN YOU ARE UP AGAINST THE STATUTORY MAXIMUM, BECAUSE THAT IS THE ONLY STATUTORY PROVISION.

RIGHT, BUT AGAIN GOING BACK TO THE FACT , JUSTICE CANTERO , THAT THE SYSTEM IS , ALSO HAS , EVEN THOUGH IT HAS BECOME MORE PUNITIVE AS TIME GOES ON, THE JUVENILE JUSTICE SYSTEM, IT DOES HAVE SOME REHABILITATIVE COMPONENTS STILL IN IT. I THINK THOSE FOLKS IN THOSE DIFFERENT PROGRAMS AS A MATTER OF COURSE , NEED TO BE BEING TOLD HOW LONG THOSE CHILDREN HAVE BEEN PREVIOUSLY INSECURE DETENTION, SO THEY CAN FASHION WHATEVER TREATMENT PLAN THEY HAVE FOR THAT PERSON.

CHIEF JUSTICE: CAN'T THEY, I MEAN AGAIN, NOW WE ARE TALKING ABOUT SOMETHING, AND LISTEN, FIRST OF ALL I APPLAUD YOU FOR ADVOCATING FOR JUVENILES , AND I KNOW THAT YOU KNOW THAT MANY AT THIS COURT FEEL VERY STRONGLY ABOUT THE JUVENILE JUSTICE SYSTEM AND WHAT IS WRONG AND WHAT IS RIGHT, ABOUT THE QUESTION , MAKE SURE THAT YOU KNOW HOW LONG TREATMENT PEOPLE KNOW HOW LONG SOMEONE HAS SERVED INSECURE DETENTION , SEE MS LIKE AN ADMINISTRATIVE IS SUE WITH THE DEPARTMENT OF JUVENILE JUSTICE AND NOT SOMETHING THAT THIS COURT CAN SAY IN DICTA , IT WOULD BE NICE TO DO THIS. I DON'T SEE HOW WE CAN MANDATE THAT IT BE DONE, UNLESS IT IS A SITUATION WHERE IT IS NECESSARY, IN ORDER TO ENSURE THAT SOMEONE DOES NOT SERVE MORE THAN THE STATUTORY MAXIMUM .

WELL, IN THE ADULT SYSTEM , OBVIOUSLY, THE JUDGES , INSTEAD OF THE ADMINISTRATIVE AGENCY, i. e. THE DEPARTMENT OF CORRECTIONS , IS THE , ARE THE FOLKS. THEY ARE CHARGED WITH COMING UP WITH CREDIT FOR THAT TIME SERVED.

CHIEF JUSTICE: IF YOU DON'T KNOW , HOW MANY TIMES CREDIT FOR TIME SERVED GETS SCREWED

UP BY THE TRIAL JUDGE, BECAUSE THEY DON'T HOLD THAT INFORMATION. AT LEAST HERE, THE DEPARTMENT OF JUVENILE JUSTICE IS THE SAME ENTITY, YOU KNOW, THAT KEEPS TRACK OF TIME, SO HOPEFULLY THEY CAN, IT IS AN EASIER ADMINISTRATIVE JOB, BUT IT IS NOT EASY FOR JUDGES TO DO THIS, BECAUSE THEY HAVE GOT TO RELY ON THE DEPARTMENT OF JUVENILE JUSTICE OR, IN THE ADULT SYSTEM, ON THE DEPARTMENT OF CORRECTIONS, THE COUNTY JAIL AND EVERYONE ELSE.

WELL, I GUESS IT IS, WHAT IT IS, I THINK IT IS FRANKLY MORE THAN JUST YOU ARE SAYING IN DICTA. I THINK YOU KNOW FORTUNATELY BECAUSE IT HASN'T BEEN WRITTEN INTO STATUTE BY THE LEGISLATURE AND THE GOVERNOR, I THINK WE ARE HAVING TO BE FORCED TO, IN ESSENCE, FROM THE -- FORCED TO, IN ESSENCE, FROM THE PROVISION IN 1985 THAT SAYS A CHILD CAN'T SERVE ANY LONGER THAN AN ADULT, I THINK YOU ARE HAVING TO IN ESSENCE TO WRITE IT IN AND SAY THIS IS SOMETHING THAT HAS GOT TO BE DONE.

DON'T WE KIND OF HAVE THE CART BEFORE THE HORSE, BECAUSE WE ARE NOT TALKING ABOUT A CASE HERE WHERE A CHILD IN A HABEAS OR OTHER TYPE OF ACTION, HAS ACTUALLY BEEN REQUIRED TO SERVE GREATER THAN AN ADULT WOULD BE ALLOWED TO SERVE. IS THAT THE CASE BEFORE US?

IN THIS PARTICULAR CASE THAT IS CORRECT, JUSTICE BELL, DUE TO THE NATURE OF THE PARTICULAR CRIME THIS PERSON HAS.

SO, I MEAN, SO THIS IS NOT THE TYPE OF CASE WHERE THAT WRONG HAS OCCURRED. SO AS JUSTICE PARIENTE SAID, IT IS STILL AN ISSUE FOR THE DEPARTMENT OF JUVENILE, THE EXECUTIVE BRANCH OR THE LEGISLATIVE BRANCH TO ANSWER THE QUESTION.

I GUESS IT COULD BE LEFT THERE, BUT THE REAL PROBLEM IS THAT WE HAVE GOT THE FIRST DISTRICT COURT OF APPEALS IN ESSENCE, SAYING TO THE DEPARTMENT, THAT YOU SHOULDN'T BE GIVING CREDIT FOR TIME SERVED, SO WE HAVE GOT THIS PROBLEM, AND I HAVE HAD OTHER JUDGES SAY TO ME, YOU KNOW, THE TIME THAT PERSON HAS BEEN IN DETENTION SERVED, DOESN'T COUNT TOWARD WHAT THEY ARE SUPPOSEDLY DOING LATER ON.

CHIEF JUSTICE: DO YOU THINK THE LAW NEEDS TO BE CLARIFIED THAT, IT IS, I MEAN, FIRST OF ALL I DON'T KNOW THAT THERE WOULD BE ANYTHING THAT WOULD, THAT A JUDGE WOULD BE WRONG IF IT WAS NOTED ON A, ON THE DISPOSITION ORDER, BUT THE LAST PART OF THE REPLY BRIEF SAYS MAKING A FINDING WOULD PROVE USEFUL IN SOME CASES AND SHOULD NOT PROFANITY THERAPEUTIC. THE SOLUTION TO THIS PROBLEM WOULD NOT RUN AFOUL OF THE RESPONDENT'S POSITION AND MAY BENEFIT PETITIONER AND MIGHT BE AN USEFUL TOOL IN HELPING THE DJJ RELEASE DATE. THAT SOUNDS TO ME LIKE VERY NICE POLICY LANGUAGE, AND MAYBE EVEN IT COULD BE THE SUBJECT OF A RULE OF JUVENILE PROCEDURE, BECAUSE NOTING THE TIME WOULD NOT BE, DOESN'T SEEM LIKE, IF ANYTHING, SUBSTANTIVE, IF WE ARE NOT MANDATING THAT THE RELEASE BE CHANGED BY THE 110 DAYS IN THIS CASE, BUT, AGAIN, I AM STILL HAVING TROUBLE WITH SAYING THIS CASE, BECAUSE WE ARE HERE ON THIS CASE AS WELL AS THE CONFLICT THAT YOU HAVE NOW SAID AS A PRACTICAL MATTER, IT WOULD NOT AFFECT THE DURATION OF HIS SENTENCE, CORRECT?

WELL, AS FAR AS IF THE SENTENCE IS TO BE HITTING THE STATUTORY MAXIMUM, THAT'S CORRECT. AS FAR AS WHAT THE PROGRAM DOES WITH THE CHILD, IF THEY DID NOT KNOW HOW LONG THE CHILD PREVIOUSLY WAS IN SECURE DETENTION, IT WOULD HAVE AN EFFECT POTENTIALLY THAT WAY, BECAUSE OF HOW THEY WOULD TREAT HIM.

CHIEF JUSTICE: NOW WE ARE GOING AROUND IN A CIRCLE, SINCE THE DEPARTMENT OF JUVENILE JUSTICE CAN'T SAY HOW LONG WAS THIS CHILD IN SECURE DETENTION?

WELL, I WOULD CERTAINLY HOPE SO. IT SHOULD BE PRETTY SIMPLE, I WOULD THINK,

CALCULATING IT IS PRETTY SIMPLE FROM WHEN THE CHILD IS TAKEN INTO CUSTODY TO WHENEVER THEY ARE RELEASED FROM CUSTODY AT VARIOUS TIMES. YOU JUST ADD UP THE VARIOUS TIMES. I THINK IT SHOULDN'T, I AGREE, YOU HAVE SAID BEFORE PEOPLE CAN FOUL UP CREDIT FOR TIME SERVED, BUT I THINK IF SOMEONE IS SITTING DOWN AND COMPARING TIME SOMEONE IS TAKEN INTO CUSTODY, IT SHOULDN'T BE ROCKETS SCIENCE TO GET THAT DONE, TO COME UP WITH A PERIOD OF TIME SOMEONE HAS BEEN IN CUSTODY.

THAT IS GOING TO IGNORE THE JUVENILE SYSTEM'S RECORDS THAT ARE AVAILABLE AND SHOW WHEN THE JUVENILE IS TAKEN INTO DETENTION OR WHATEVER, PROBABLY ARE ALSO GOING TO IGNORE SOME NOTATION BY THE TRIAL COURT JUDGE OF THE SAME FACTS, ARE THEY NOT?

WELL, THEY --

I MEAN IF THAT IS THE PRACTICAL PROBLEM, YOU ARE SAYING THAT THEY DON'T TAKE THE TIME.

WELL, JUSTICE ANSTEAD, IF THEY ARE JUST BOUND AND DETERMINED TO IGNORE IT, YOU ARE RIGHT, THAT YOU WOULD, THEN, HAVE TO RELY ON HABEAS OR SOME OTHER REMEDY TO GET THE PERSON OUT IF THEY BUMP THE STATUTORY MAXIMUM AT THAT POINT.

CHIEF JUSTICE: JUSTICE QUINCE DO YOU HAVE A QUESTION?

YES. I JUST WANT A CLEAR UNDERSTANDING OF HOW A RULING FROM THIS COURT THAT A JUVENILE WOULD BE ENTITLED TO CREDIT FOR TIME SERVED, WOULD HELP THIS DEFENDANT.

IT WOULD HELP THIS DEFENDANT KNOW THAT THE PROGRAM WASN'T ALREADY OPERATING ON THE ASSUMPTION THAT THE CHILD WAS IN CUSTODY, I BELIEVE JUSTICE PARIENTE QUOTED, 107 DAYS. IF THEY WEREN'T AWARE OF THAT, THEY WOULD NOW BE AWARE OF THAT, FOR WHATEVER PURPOSE IT WOULD HAVE WITHIN THEIR TREATMENT PROGRAM. THAT IS HOW IT WOULD HELP THAT PARTICULAR, THAT PARTICULAR CHILD. AS FAR AS BROADER, THE PROBLEM IS WE HAVE GOT THE BROADER PRINCIPLE ENTANGLED. RIGHT NOW WE HAVE GOT THE FIRST DISTRICT SAYING NO CREDIT FOR TIME SERVED. WE HAVE GOT SEVERAL OTHER DISTRICTS THAT HAVE GONE THERE IS CREDIT FOR TIME SERVED, SO WE NEED TO HAVE SOME PRACTICAL -- WE NEED TO HAVE SOME PRACTICAL --

CHIEF JUSTICE: I NEED TO REMIND YOU THAT YOU ARE IN YOUR REBUTTAL.

THANK YOU, JUSTICE PARIENTE. I WILL SAVE FOR THE NEXT ROUND.

MAY IT PLEASE THE COURT. MY NAME IS TRISHA MEGGS PATE REPRESENTING THE STATE OF FLORIDA. THE FLORIDA CONSTITUTION IN ARTICLE SECTION 15, GRANTED THE LEGISLATURE THE POWER TO CREATE THE JUVENILE JUSTICE SYSTEM, AND THE LEGISLATURE, IN DESIGNING THE SYSTEM, DESIGNED AN INDETERMINATE TREATMENT -- INDETERMINATE TREATMENT-BASED COMMITMENT, WHERE THE PROGRAM GOALS ARE GIVEN AND THE JUVENILE IS RELEASED BASED UPON HIS COMPLETION OF THE PROGRAM.

CHIEF JUSTICE: LET ME SAY THAT WHAT MR. HEDRICK SAID, IN -- MR. HEDRICK SAID, IN TOO MANY CASES, THIS YOUNG MAN WAS IN INSECURE DETENTION, NOT A TREATMENT PROGRAM FOR 107 DAYS. PART OF IT WAS BEFORE DISPOSITION. PART OF IT WAS AFTER DISPOSITION, AND AS YOU KNOW, THE DEPARTMENT OF JUVENILE JUSTICE UNFORTUNATELY DOES NOT HAVE ENOUGH TREATMENT FACILITIES, SO HOW IS IT THERAPEUTIC AND INCONSISTENT WITH THE GOALS FOR THE DEPARTMENT OF JUVENILE JUSTICE TO BE KEEPING JUVENILES IN INSECURE DETENTION, WHEN THE JUDGE HAS ORDERED THAT THEY GET INTO A TREATMENT PROGRAM, AND HERE WE ARE TALKING ABOUT 107 DAYS. THAT IS SEVERAL MONTHS. I HAVE BEEN OVER TO THOSE DETENTION CENTERS, AND THEY ARE CERTAINLY NOT, THEY DON'T LOOK VERY REHABILITATIVE, AND I

WOULD SUSPECT THAT THEY ARE NOT INTENDED TO BE DOING THAT , SO HOW DO WE , BECAUSE THAT IS NOT THE LEGISLATIVE GOAL FOR THEM TO BE INSECURE DETENTION, SO WHY SHOULDN'T IT AT LEAST BE NOTED ON THE COMMITMENT ORDER? WHERE IS THE HARM TO ANYONE , IF IT IS NOTED, AND IN CASES WHERE THEY ARE UP AGAINST THE STATUTORY MAXIMUM, THEN , THAT WILL BE CLEAR.

WELL , NOW, THE TRIAL COURT DID IN ITS ORDER GRANTING AND DENYING IN THIS CASE, THE MOTION TO CORRECT DISPOSITION, DID NOTE THAT, AND IF THERE WAS ANY THERAPEUTIC VALUE IN THE TREATMENT THAT MET THE PROGRAM GOALS, THE DEPARTMENT WOULD NOT ICE THAT.

CHIEF JUSTICE: SO IT IS IN THIS DISPOSITION ORDER?

IN THE WRITTEN ORDER GRANTING AND IN PART , DENYING THE MOTION TO CORRECT THE DISPOSITION ORDER. AND IN THIS CASE - -

CHIEF JUSTICE: THE STATE HAS NO OPPOSITION TO WHAT JUSTICE , JUDGE BENNETT STATED, THAT IT WOULD BE A GOOD PRACTICE FOR JUDGES TO NOTE THE AMOUNT OF TIME SERVED INSECURE DETENTION?

THE STATE WOULD ONLY CAUTION THAT , IF WE DO THAT , ESPECIALLY IF IT IS NOT FROM A PERSPECTIVE , IT DOES -- PERSPECTIVE , IT DOES OPEN THE DOOR TO COUNTLESS DISPOSITION ORDERS IN THE JUVENILE SYSTEM , LIKE 3800 MOTION TO SAY GIVE CREDIT FOR TIME SERVED IS MEANINGLESS, AS IT IS IN THIS CASE.

CHIEF JUSTICE: IN PERSPECTIVE , THERE WOULDN'T BE ANY HARM IN THAT.

NOT IF YOU NOTE IT ON THE JUDGMENT SENTENCE.

THEN WHAT WOULD THEY DO ON THESE PROGRAMS IF THEY LEAST CHILD HOME FOR THE -- IF THEY RELEASE THE CHILD HOME FOR THE WEEKEND? DO THEY HAVE TO GIVE CREDIT THAT BECAUSE THE CHILD IS NOT, IS WITHOUT SUPERVISION?

I THINK THEY NOTED THAT, AND IN SOME OF THE STATUTES WITH COMMITMENT PROGRAMS , THERE CAN BE SOME RELEASE AND AS THE CHILD --

WHAT I AM SAYING IS THE PRACTICAL PROBLEM, IF IN THE TREATMENT PROGRAM, THAT THE CHILD IS RELEASED TO GO HOME FOR CHRISTMAS BREAK OR WHATEVER, WHICH IS COMMON. THEY ARE NOT ON MONITORS. THEY ARE NOT HAVING TO CALL IN A REPORT. THEY ARE RELEASED . THEN THE DEPARTMENT , IF WE MANDATE THIS, IS, THEN , GOING TO HAVE TO CALCULATE THAT AND THEN IS IT SUBTRACTED FROM THE PRIOR TIME IN DETENTION DETERMINED , THE OVER ALL LENGTH?

GIVING CREDIT FOR TIME SERVED IS GOING TO CREATE A LOT MORE ADMINISTRATIVE WORK , AND ESPECIALLY WHEN IT REALLY DOES NOT SERVE A PURPOSE FOR THE JUVENILES, BECAUSE IT DOESN'T AFFECT THEIR RELEASE DATE.

WHAT KIND OF ADMINISTRATIVE WORK WOULD IT CREATE?

JUST LIKE JUSTICE BELL WAS SAYING , CALCULATING THE DAYS WHEN THEY ARE ON ONE OFF.

CHIEF JUSTICE: WE ARE TALKING ABOUT IF SOMEBODY WAS INSECURE DETENTION FOR 107 DAYS, WHY ISN'T, AND I GUESS , I AM SURE I GOT AN ANSWER TO THE QUESTION AS TO HOW DOES THE , HOW IS THAT THERAPEUTIC , AND SHOULDN'T THERE BE SOMETHING THAT AT LEAST SAYS THAT THE DEPARTMENT OF JUVENILE JUSTICE , WHEN THIS IS HAPPENING , THIS AT LEAST SHOULD BE NOTED BY THE TRIAL JUDGE , AND THE DISPOSITION ORDER.

THAT I S SUE WASN'T E BBS PLORD IN THIS RECORD , OTHER THAN NOTED THAT THE C HILDHAD LIVED WITH THE FA MILY SINCE A TODD LER , BUT THE FAMILIAR WAS HAVING MORE TROUBLE WITH THE CHILD, A NDTHEN THE CHILD IT WILLY A T 17, WAS HAVING SEX UAL RELATIONS WITH THE FAMILY 'S 12-YEAR-OLD DAUGHTER, AND THIS RE CORD SAID THE FAMILIAR DID NOT WANT HIM IN THE HOME ANY MORE , SO -- AND THE FAMILIAR DID NOT WANT HIM IN THE HOME ANYM ORE , S O I DON'T KNOW IF THE CHILD HAD ANY OTHER PLACE TO GO. THE CHILD MAY HAVE BEEN IN DETENTION AND THE RECORD --

I WOULD AG REE THAT, I F THERE IS GOING TO BE ANY T YPE OF REQUIREMENT FOR THERE TO BE A NOTATION IN THE JUDGMENT OR SOMEWHERE , THAT IT WOULD, I T SHOULD BE THOUGHT OUT THROUGH THE RULES PROCESS.

THE R ULES. THERE IS NO , THE LEGISLATURE DIDN'T CREATE ANY AUTHORIZATION FOR CREDIT FOR TIME SERVED , EVEN THO UGH THEY DID IN THE AD ULT SYSTEM, AND THEY GO IN LENG TH AS T O COMMITMENT AND DISPOS ITION IN THE JUVENILE SYSTEM IN CHAPTER 985 . THERE IS NO AUTHORIZATIONFOR THAT IN THE RULE, SO IT IS IN THE RULES PROC ESS .

WHAT IS THE STATE'S POSITION AS TO WHEN THE TIME COMES UP AGAINST THE STATUTORY MAXIMUM , SO TH ATYOU HAVE THE LEGISL ATIVE INTENT NOT TO SUB JECT JUVENILES TO MORE INCARCERATION THAN THE ADULT WOULD RECEIVE ?

WELL , I THI NK CREDIT FOR TIME SERVED , OUR P O SITION IS THAT, IT IS STATUTORILY BASED. IN THE ADULT SYSTEM IT IS STATUTORILY BASED . IN THE FLORIDA, THE LEGISLATURE DIDN'T AUTHORIZEIT IN JUVENILE . THERE IS NO AUTHOR ITY , STATUTORY AUTHORITY FOR G IVING JUVENILES CREDIT FOR TIME SERVED.

WHAT ABOUT THE CONF LICT THAT EX ISTS , THOU GH, IF YOU SAY THAT IN A MISDEMEANOR CASE, FOR INSTANCE, THAT THE TIME IS SIX MONTHS FOR AN ADULT , AND YOU HOLD THE JUVENILE INSECURE DETENTION FOR THR EE MONT HS, AND NOW YOU I MPOSE THE SIX-MONTH SENTENCE UNDER THE MISDEMEANOR. ARE YOU SAYING THAT THAT I S LAWFUL ?

THERE IS NO STATUTORY AUTHORITY FOR GIVING THEM CREDIT. IF THIS COURT WANT S TO CREATE --

HO W IS IT THAT W E ARE REVIEWING IT AS THE PERSON , THE JUVENILE CAN'T SERVE MORE THAN AN ADULT WOULD HAVE TO SERVE? ALL RIGHT .

THAT'S CORRECT.

NOW, IF THAT IS THE RULE , AND IF AN ADULT WAS HELD IN JAIL FOR THREE MONTHS OF THE SIX-MONTH SENTENCE, THE ADULT WOULD RECEIVE THREE MONTH'S CREDIT AND THEN SERVE ONLY PERSPECTIVELY , THEN, AN ADDITIONAL T HREEMON THS.ARE YOU SAYING THAT, IN THE JUVENILE CASE THAT THE JUVENILE CAN BE PUNISHED MORE SEVERELY THAN THE ADULT COULD?

I DON'T THINK IT IS MORE SEVERELY. IT --

NOT MORE SEVERELY TO H OLD SOMEBODY FOR NINE MON THS INSTEAD OF SIX MONTHS?

NO, SIR. WHAT I SAY IS THE JUVENILE , IF IT IS AN IN DETERMINE NATIONAL SENTENCE BASED ON THE TREATMENT PROGRAM --

I AM NOT TALKING ABOUT AN INDETERMINATE SENTENCE. THE HYPOTHETICAL I AM GIVING YOU NOW IS THE ACT UAL CASE OF A MISDEM EANOR , ALL RIGHT , WHERE THE MAXIMUM IS SIX MONTHS, AND I AM ASKING WHAT THE DEPART MENT'S POSITION IS , IF A JUVENILE IS SENTEN CED

TO THE SIX MONTHS , WHETHER OR NOT THEY WOULD BE ENTITLED TO THE THREE MONTH'S CREDIT , IF IT IS A SITUATION LIKE THAT THIS, WHERE THEY SERVED INSECURE DETENTION FOR THREE MONTHS BEFORE BEING SENTENCED. WHAT IS THE DEPARTMENT'S POSITION ON THAT ISSUE?

IF IT IS A DETERMINED SENTENCE, THE JUVENILE GETS -- CORRECT.

CREDIT .

PROBABLY THEY SHOULD GET THE CREDIT FOR TIME SERVED. IT DOES KIND OF AT WHAT TIME TRT THE -- IT DOES KIND OF THWART THE TREATMENT IF THEY ARE IN A TREATMENT PROGRAM. IT COULD THWART THAT.

TELL ME WHAT IT IS . DO THEY GET CREDIT IN THIS SITUATION OR DO THEY NOT GET CREDIT?

MOST COURTS HAVE AUTHORIZED CREDIT THAT AND IN THIS SITUATION THE DETERMINATE SENTENCE IS NOT THE INDETERMINATE SENTENCE , BECAUSE WHEN IT IS THE INDETERMINATE SENTENCE, YOU ARE MANDATING THEIR RELEASE BEFORE THEY HAVE GOT THE BENEFIT OF THE PROGRAM THAT THEY ARE IN .

ARE THEY PUT IN PROGRAMS WHEN THEY ARE CONVICTED OF MISDEMEANORS ? -- OF MISDEMEANORS? IF THEY ARE , THEN THE QUESTION IS HOW IS IT ANY DIFFERENT, IF YOU GIVE THEM CREDIT FOR TIME SERVED ON A MISDEMEANOR , VERSUS GIVING THEM TIME SERVED ON A FELONY? IF THE GOAL IS TO COMPLETE THE PROGRAM , YET THEY ARE ENTITLED TO CREDIT ON THE MISDEMEANOR AND WHETHER THEY HAVE COMPLETED THE PROGRAM OR NOT , THEY ARE GOING TO HAVE TO BE OUT, AND JUSTICE ANSTEAD 'S HYPOTHETICAL IN THREE MONTHS. WHY SHOULD THERE BE A DIFFERENT RULE FOR FELONY SITUATIONS?

I THINK IN MISDEMEANORS WE JUST HAVE LESS TIME TO HAVE THEM IN A PROGRAM. OUR TIME IS VERY LIMITED WITH THEM IN A MISDEMEANOR SITUATION IN A FELONY SITUATION, WE HAVE FIVE YEARS , 15 YEARS , YOU KNOW , 30 YEARS TO HAVE A CHILD IN A PROGRAM.

MORE TIME IN THE FELONY SITUATION.

CORRECT.

IF THE DEPARTMENT STARTS RIGHT AWAY AND GIVES THEM THE KIND OF TREATMENT THAT YOU NEEDED , SO IT SEEMS THAT IT WOULD, REALLY , BE MORE IMPORTANT TO GET THAT CREDIT FOR TIME SERVED , AND THE FELONY SITUATION .

WELL, THEN YOU ARE HAVING THE CHILD, SAY, RELEASED , YOU KNOW , LET'S GET THIS CHILD 107 DAYS BEFORE HE COMPLETES THE PROGRAM. DO YOU RELEASE HIM THEN BECAUSE HE SERVED THAT TIME INSECURE DETENTION BEFORE?

THIS IS MY CONCERN ABOUT THESE SITUATIONS . UNFORTUNATELY , THOSE JUVENILES THAT ARE IN A SECURE DETENTION , AS OUR MANY STUDIES SHOW , INCLUDING STUDIES THAT THIS COURT AUTHORIZED , DISPARATELY IMPACT MINORITIES . POOR PEOPLE , MANY TIMES , THE DEPENDENCY SYSTEM, AS YOU , THIS MAY HAVE BEEN THE CASE , A FOSTER PARENT , DELINQUENT IS ARRESTED , AND THE FOSTER PARENT SAYS I DON'T WANT ANYTHING TO DO WITH THIS CHILD , AND THOSE ARE THE CHILDREN THAT, UNFORTUNATELY THEY ARE PROBABLY IN MOST NEED OF HELP , THAT A RESITTING THERE INSECURE DETENTION , SO I MEAN , THEY, OBVIOUSLY THE OPTIMUM WOULD BE TO MAKE SURE THAT THESE CHILDREN GET INTO A TREATMENT PROGRAM IMMEDIATELY, BUT SHORT OF THAT, SHOULD NOT THE DEPARTMENT, AND , AGAIN , I THINK I AGREE WITH JUSTICE WELLS THAT WE ARE SITTING HERE, IF IT IS NOT A MISDEMEANOR OR THIRD-DEGREE FELONY, WITH THIS HAS TO THE RULE POWER OR THE LEGISLATIVE POWER, BUT

YOU KNOW, I WOULD HOPE THAT THE DEPARTMENT OF JUVENILE JUSTICE WOULD LOOK AT IT AND SAY WE THINK THIS IS A GOOD IDEA THAT THIS BE DONE, BECAUSE IT IS REALLY ANTI-THERAPEUTIC TO PUT SOMEBODY IN SECURE DETENTION WHO NEEDS A TREATMENT PROGRAM, AND THEN NOT ACKNOWLEDGE THAT THEY HAVE BEEN IN THAT SITUATION.

CORRECT. THE, AND THE CHILD IN THIS CASE DOESN'T LOOK LIKE HE HAD ANY PLACE TO GO. HE WAS RAISED BY THIS FAMILY FROM A TODDLER TO 17, BUT THEY DIDN'T WANT HIM BACK AFTER HE WAS HAVING SEXUAL RELATIONSHIPS WITH THEIR 12-YEAR-OLD UNDERSTANDABLY.

IT WAS THE WAIVER OF THE TIME PERIOD IN THE STATUTE THAT WAS AT THE REQUEST OF THE DEFENDANT IN PREPARATION FOR TRIAL, OR DOES THE RECORD REFLECT?

THE RECORD DOESN'T REFLECT THAT. IT WASN'T AN ISSUE.

CHIEF JUSTICE: THERE MAY HAVE BEEN TYPES THAT THE STATE IMPACTS AN AGREEMENT, SAY, FROM THE DEFENSE THAT THEY WON'T CHARGE THE DEFENDANT AS AN ADULT, IF THEY WILL WAIVE THAT STATUTORY TIME.

I AM SORRY. COULD YOU REPEAT THE QUESTION.

CHIEF JUSTICE: THAT AS A CONDITION TO NOT CHARGING THEM AS AN ADULT, THEY ESSENTIALLY REQUIRE THE DEFENDANT TO WAIVE ANY STATUTORY RIGHT, ONLY TO BE IN SECURE DETENTION FOR 21 DAYS.

I BELIEVE THAT THE STATE COULD NEGOTIATE ANY KIND, INDEPENDENT NEGOTIATION.

AS TO 935.231-D, BACK ON THE MISDEMEANOR OFFENSE, IT SAYS THAT ANY KIND OF COMMITMENT OF THE DELINQUENT CHILD TO THE DEPARTMENT MUST BE FOR AN INDETERMINATE PERIOD, AND THE TIME MAY NOT EXCEED THE MAXIMUM TIME OF IMPRISONMENT THAT AN ADULT MAY SERVE, EXCEPT THAT THE DURATION OF A MINIMUM-RISK NONRESIDENTIAL COMMITMENT FOR SECOND-DEGREE MISDEMEANOR MAY BE FOR A PERIOD NOT TO EXCEED SIX MONTHS. NOW, WHY WOULD THEY USE THE LANGUAGE "ACCEPT MAY PHONE A PERIOD NOT TO EXCEED SIX MONTHS" FOR THAT, IF WE ARE GOING TO GIVE CREDIT FOR TIME SERVED IN DETENTION?

I THINK THE LEGISLATURE, I MEAN, YOU KNOW, THEY PRINT, A LOT OF TIME DRAFTING THE COMMITMENT STATUTES AND THEY DIDN'T AUTHORIZE CREDIT FOR TIME SERVED IN THE STATUTE -- CREDIT FOR TIME SERVED IN THE STATUTE, BECAUSE THEY WANT THE JUVENILE IN THE TREATMENT PROGRAM, HOPEFULLY PROVIDING THE JUVENILE SOME TREATMENT, AND SO THEY ARE NOT AUTHORIZING CREDIT FOR TIME SERVED FOR JUVENILES.

SO TO ANSWER JUSTICE ANSTEAD'S QUESTION, IS IT YOUR READING OF THE STATUTE THAT, IF WE HAVE SOMEBODY CHARGED WITH A SECOND-DEGREE MISDEMEANOR AND THEY SERVE 30 DAYS IN DETENTION AND THEN ARE COMMITTED -- IN DETENTION AND THEN ARE COMMITTED?

THAT IS A PURE READING OF THE STATUTE, THAT THEY ARE COMMITTED.

THEY DO NOT GET THE CREDIT?

BUT IT IS FOR SIX MONTHS. MY ANSWER IS THERE IS NO STATUTORY AUTHORIZATION FOR CREDIT. THE STATE WOULD ASK THAT YOU AFFIRM THE DECISION OF THE FIRST DCA.

CHIEF JUSTICE: THANK YOU. MR. HEDRICK, REBUTTAL.

THANK YOU, CHIEF JUSTICE PARIENTE. I WANT TO TRY AND COME BACK AND HIT A FEW OF THE

POINTS THAT WERE JUST HIT BY YOU ALL IN DISCUSSION.

CHIEF JUSTICE: YOU NEED TO SPEAK UP AGAIN .

STEP UP TO THE MIKE . GOING BACK TO YOUR QUESTION , FIRST , CHIEF JUSTICE PARIENTE, YES , QUOTE OFTENTIMES THERE IS A AGREEMENT WHERE, IF SOMEONE , WE AGREE TO ACCEPT AN AGREEMENT TO KEEP SOME ONE IN THE JUVENILE SYSTEM. THE STATE AGREES NOT TO DIRECT-FILE AGAINST THEM, WHICH I MIGHT ADD USED TO BE THE CASE. FLORIDA WAS EQUAL OF ALL OF THE OTHER STATES IN THE UNITED STATES, IN TERMS OF HOW THEY DIRECT-FILE CHILDREN THAT MAY NOT BE THAT CASE NOW. IT USED TO BE THE CASE, THAT THEY HAVE TO REMAIN INSECURE DETENTION, AND I MIGHT ADD , THAT SECURE DETENTION , BUT THERE IS A PROVISION IN THE STATUTE. THIS PARTICULAR GENTLEMAN FOR EXAMPLE , WENT TO A LEVEL 8, HIGH-RISK FACILITY. UNDER THE STATUTE , HE IS REQUIRED TO REMAIN IN, QUOTE , DETENTION CARE. DETENTION CARE CAN BE EITHER HOME DETENTION OR SECURE DETENTION, BUT MOST OF THE TIME WHEN IT IS THIS TYPE OF CRIME , THIS TYPE OF LEVEL , THEY ARE KEPT INSECURE DETENTION. MOST JUDGES INTERPRET IT THAT WAY, SO THEY DON'T LET THEM OUT. THEY ARE NORMALLY KEPT IN THE FACILITY FOR THAT LENGTH OF TIME . NOW , OBVIOUSLY THE TIME HAS ALREADY BEEN ALLUDED TO AND SECURE DETENTION ISN'T THERAPEUTIC. WE ARE TALKING ABOUT FRANKLY AND VOLUNTARY COERCED CONFINEMENT . THEY HAVE BARBED WIRE AND STEEL BEDS, LOCKED FACILITY. THEY ARE ABOUT AS CLOSE TO A COUNTY JAIL TYPE OF SITUATION AS YOU ARE GOING TO GET HERE. NOW, FRANKLY , JUVENILES CAN AND ARE PUNISHED MORE SEVERELY THAN ADULTS. I WILL GIVE YOU A PERFECT EXAMPLE. IF SOMEONE IS IN A COUNTY JAIL SITUATION SENTENCED TO 60 DAYS FOR A SECOND-DEGREE MISDEMEANOR. KEEP IT EASY. NORMALLY IN LEON COUNTY JAIL AND I THINK IT IS THE SAME WAY WITH MOST OF THE JAILS AROUND THE STATE. FOR EVERY MONTH YOU ARE THERE , YOU GET FIVE DAYS OFF, QUOTE , GAIN TIME AND TODAY WE ARE NOT GETTING INTO THE WHOLE GAIN TIME SITUATION, OKAY, BUT SOMEONE IN AN ADULT SITUATION WILL PROBABLY END UP SERVING ABOUT 50 DAYS AFTER SENTENCE. IN JUVENILE , YOU WILL SERVE 60 DAYS. IF YOU ARE , IF YOU SERVE AN ENTIRE TIME OF THE PROGRAM, YOU WILL SERVE 60 DAYS , SO AT LEAST ALREADY , EVEN WITHOUT GETTING INTO THE WHOLE BUSINESS OF DO YOU GET CREDIT BEFORE, YOU ARE GOING TO SERVE MORE TIME THAN YOU WOULD FOR THE EQUIVALENT TIME AS AN ADULT.

DO YOU DISAGREE THAT ALL OF THE CREDIT FOR ALL OF THE GAIN TIMES, ET CETERA , ARE STATUTORY CREATURES ? THEY WEREN'T MANDATED BY THIS COURT AS A CONSTITUTIONAL MANDATE , IS THAT TRUE?

UNDER THE ADULT SETTING THAT IS TRUE. IT WAS A STATUTORY CREATURE. I THINK ONE OF THE THING THAT IS WE ARE TALK ABOUT THAT NEEDS TO HAPPEN TODAY IS, SINCE THE LEGISLATURE SO FAR HAS NOT CHOSEN TO SEE FIT TO ADDRESS THE SITUATION, SINCE WE HAVE THIS DISPARATE TREATMENT BETWEEN THE DIFFERENT DISTRICT IN FLORIDA, WE NEED SOME CERTAINTY OF THIS , AND OUR CERTAINTY IS WE GIVE THEM CREDIT FOR TIME SERVED EVERYWHERE.

THE STATUTORY BASIS FOR THAT IS?

WELL , I THINK THE STATUTORY BASIS, YOU START WITH THE MAXIMUM. THE JUVENILE CAN'T SERVE MORE THAN THE EQUIVALENT TIME AS AN ADULT. YOU CAN'T GO BEYOND THE MAXIMUM.

SO HOW WOULD YOU ANSWER THE SPECIFIC QUESTION ON THE SECOND-DEGREE MISDEMEANOR SHALL NOT , EXCEPT MAY NOT EXCEED 6 MONTHS THAT IS GREATER THAN THE ADULT SENTENCE FOR A SECOND-DEGREE MISDEMEANOR.

IN THE ADULT STATUTE , I DON'T HAVE AT MY FINGERTIPS BUT I THOUGHT IF IT TALKS ABOUT A NONCOMMITMENT SITUATION. YOU CAN CORRECT ME IF I AM WRONG, BUT I THINK THAT IS WHAT THE STATUTE TALKED ABOUT.

IT SAYS MINI MUM RISK NONRESIDENTIAL COMMITMENT.

HERE IN TALLAHASSEE LIKE THE TALLAHASSEE MARINE INSTITUTE, A RESIDENTIAL PROGRAM WHERE THEY ARE THERE DURING THE DAYTIME AND LIVE AT HOME AT NIGHT. THEY ARE NOT LIKE IN A DETENTION CENTER OR COMMITMENT FACILITY FOR THE ENTIRE TIME, SO THAT IS DISTINGUISHABLE VERSUS GOING TO A COMMITMENT PROGRAMSOMEWHERE.

CHIEF JUSTICE: WITH THAT, WE HAVE USED UP YOUR TIME.

ALL RIGHT. THANK YOU VERY MUCH, CHIEF JUSTICE AND JUSTICES.

CHIEF JUSTICE: THANK YOU, BOTH OF YOU, FOR YOUR TIME IN ORAL ARGUMENT AND THE RESPONSIVENESS TO OUR QUESTIONS. WITH THAT, WE WILL TAKE OUR MORNING RECESS OF 15 MINUTES AND RETURN FOR THE LAST CASE.

MARSHAL: PLEASE RISE.