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**In re: Amendments to the Rules of Juvenile Procedure: Judicial Waiver of Parental Notification
Docket Number: SC05-950**

MARSHAL: PLEASE RISE . HEAR YE.HEAR YE.HEAR YE.THE SUPREME COURT OF THEGREAT STATE OF FLORIDA IS NOW IN SESSION. GOD SAVE THE UNITED STATES , THIS GREAT STATE OF FLORIDAAND THIS HONORABLE COURT. LADIES AND GENTLEMEN, THE FLORIDA SPRECHBLINGT PLEASEBE SEATED. -- THE FLORIDA SUPREME COURT.PLEASE BE SEATED.

CHIEF JUSTICE: GOOD MORNING , LADIES ANDGENTLEMEN, AND WELCOME TO THE FLORIDA SUPREME COURT. I UNDERSTAND THAT WE HAVE SOME VE RY SPEC IAL GUESTS THIS MORNING , OBSERVING O RAL ARGUMENT, AND THAT IS THE STUDENTS F ROM THE SE VEN RIVERS CHRISTIAN SCHOOL , THE SEVENTH GRADE CLASS LED BY THEIR TEACHER MR . CHU CK WOODS AND S OME OF THE PARENTS OF THE CHILDREN. WE ARE V ERY , VERY PLE ASED THAT YOU CAN JOIN US TOD AY , AND LISTEN TO SOME O F THE ARGUMENTS THIS MOR NING . WE WILL CALL THE FIRST CASE IN RE THE AMENDMENTS TO THE RULES OF JUVENILE PROCED URE , AND AS I UNDERSTAND IT , W E HAVE GOT TH REE PEOPLE THAT WILL B E DIVIDING T IME , AND MR . ABRAMOWITZ , YOU ARE APPEARING FOR THE JU VENILE RULES COMMITTEE.

THANK YOU , YOUR HONO R. MAY IT PLEASE THE COURT. MY NAME IS A LAN ABRAMOWITZ , THE CHAIR SPEA KING ON BEHALF THE JUVENILE COURT R ULES COMMITTEE. I APPRECIATE THE REQUEST FORCOMMENT FROM THE COMMITTEE , AND WE INITIALLY M ADE F OUR COMMENTS. WE LATER, A FTER IMPLEMENTATION OF THE LAW, REDUCED IT TO THREE COMMENTS, SO I WILL BE FOC USING ON THREE COMMENTS. THE FIRST COMMENT ADDRESSES IN THE COMMEN TS, THE IS SUE -- THE ISSUANCE OF THE ORDER. THE ISSU ANCE OF THE O RDERDEALT WITH THE , IN RULE 8.820- D.3 , W HERE IT SAYS --

YO U ARE CLAI MING IF THE 48 HO URS PAS SES AND A JUD GE HASN'T GR ANTED OR D ENIED A MOTION OR PETITION, THAT IT SHOULD BE A NO TICE INSTEADOF AN ORDER?

I THINK THAT IS THE I SSUETHAT WE NEED CLARITY ON, BECAUSE IF THE 48 HOURS PASSED AND THE COURT DETERMINES THAT IT IS AN ADMINISTERIAL ACT , T HAT T HECLERK CAN ISSUE THE ORDER , AND JUDGE DE MMERS , THE CHIEF JUDGE OF THE SIXTH CIRCUIT, FILED A COMMENT , AL SO, AND DISCUSSED AT LENGTH THAT ISSUE AND WH Y IT IS IMPORTANT THAT, AT THAT POINT THE CL ERK ISSUE AN ORDER , AND HE ALSO HAD PROPOSED LANGUAGE. IF THE JUDGE HAS NOT ORDER ED WITHIN 48 HOURS , WHAT I S GOING TO CAUSE HIM TO ISSUE AN ORDER AT THAT TIME?

JUSTICE: DO YOU AGREE WITH THAT?

I THINK IT IS PROBABLY IN THE BEST IN TEREST OF CHILDREN TO GO AHEAD WITHIN THE 48 HOUR S AND THE STATUTORY TIME FR AME HAS RAN, IT THAT THE CLERK CAN ISSUE THAT.

JU STICE: WHO WOULDAL - - WHO WOULD AL ERT THE CLERK TO THE NEED ?

JUSTICE: DO YOU AGREE WITH JUDGE SDEEMER'S PROPOSED LANGUA GE?

I CAN'T SPEAK FOR THE COMMITTEE BUT I THINK IT IS PROBABLY GOOD LANGUAGE. I WOULD PROBABLY STRIKE THE LAST COUPLE OF WO RDS I N ACCORDANCE WITH THE RULES OF JUVENILE PROCEDURE. HE SAYS IF THE COURT FAI LS TO RULE WITHIN A 48 -HOUR PERIOD AND AN EXTENSION HAS NOT BEEN REQUESTED BY THE MINOR , THE PETITION SHALL BE DEEMED GRANTED BY OPERATIONOF LAW , AS SOON AS PRACTICALLY POSSIBLE , THE CLERK OF COURT S

HALL ISSUE A NOTICE OF GRANTING OF PETITION BY OPERATION OF LAW. I BELIEVE THAT THAT WOULD PROBABLY MAKE IT GO SMOOTHER. WHAT WOULD HAPPEN IS THEY WOULD SHOW THE PETITION AND THE TIME IT WAS FILED AND THE 48 HOURS HAS GONE BY AND NO MOTION TO CONTINUE OR EXTENSION HAS GONE BY AND AT THAT POINT THE CLERK COULD DO THE ADMINISTRIAL JOB OF ISSUING THE ORDER.

JUSTICE: HOW IS THE CLERK APPROPRIATELY ADVISED THAT THE 48 HOURS HAS PASSED? IS THE CLERK SUPPOSED TO KEEP AND REST OF THE TIME THAT IS PASSING ON EACH -- KEEP ABEAST OF THE -- KEEP ABEAST OF THE TIME THAT IS PASSING AND WHAT WOULD DO IT WITH THE CLERK?

THE PETITIONER OR THEIR ATTORNEY, IF THEY ARE REPRESENTED, BUT THE 48 HOURS HAS PASSED, AND I THINK YOU SEE THAT IN THE FIRST DISTRICT COURT OF OPINION, IN RE AF, 9707 SO.2D 254, WHERE THEY TALK ABOUT THE OPINION AND DIRECT SAYING WITHIN 48 HOURS THE CLERK IS DIRECTED TO PLACE A COURT TO PLACE A CERTIFICATE TO THE PACT IN -- TO THE FACT IN THE FILE.

JUSTICE: WHAT HAPPENS IF THE 48 HOURS ENDS AT 3:00 A.M. IN THE MORNING?

I THINK IT WOULD PROBABLY NOT BE FILED AT THREE O'CLOCK.

IT MAY BE FILED ON THURSDAY AFTERNOON AT FIVE O'CLOCK, AND THAT WOULD MEAN 48 HOURS WOULD RUN ON SATURDAY EVENING.

I THINK THAT THEY WOULD DO THE BEST THAT THEY COULD, AND THE CHIEF JUDGE WOULD COME UP WITH A PROCESS TO DO IT THAT WAY OR THE FIRST, I THINK THE WORD WE USED WAS THE, AS SOON AS PRACTICALLY POSSIBLE. I THINK THAT IS WHAT THE LANGUAGE THAT CHIEF JUSTICE DIEMERS USED, AND I THINK THAT WOULD BE APPROPRIATE.

CHIEF JUSTICE: THE WAY THE RULE CURRENTLY OPERATES, IT REALLY DOESN'T, AS YOU HAVE POINTED OUT, IF THE JUDGE HASN'T RULED TO SAY THAT THE JUDGE HAD ENTERED AN ORDER, IT SEEMS THAT IT IS COUNTERINTUITIVE, SO THIS WAY IT WOULD BE THE CLERK, BUT WE WOULD MAKE CLEAR THAT IT WOULD BE AS SOON AS PRACTICALLY POSSIBLE, AND THAT IT WOULD REALLY BE IN THE NOTES, THE RESPONSIBILITY OF THE PETITIONER OR THE PETITIONER'S ATTORNEY, TO NOTIFY THE CLERK. IS THAT CORRECT?

YES. YES. THE KEY THEME COMING FROM THE FIRST DCA OPINION I MENTIONED AGO IS THEY TALK ABOUT THE OBJECTIVES OF SPEED -- MENTIONED, IS THEY TALK ABOUT THE OBJECTIVES OF THE SPEED AND THE SPEED IS FINALITY. IF THE JUDGE RULED AFTER THE 48 HOURS, THE TIME HAS EXPIRED.

CHIEF JUSTICE: WHAT IS YOUR NEXT AREA A?

THE NEXT AREA IS OPENING OF A CASE, AND THIS TIES INTO THE ONE WE DECIDED TO WITHDRAW. WE HAD AN EMERGENCY MEETING TO TALK ABOUT IT SINCE THE EXECUTION ABOUT WHERE THE RULE IS IN THE JUVENILE CIVIL OR FAMILY. WHAT WE WANTED TO DO WAS ENSURE THAT ACCIDENTALLY, BECAUSE YOU HAVE IN DEPENDENCY COURTS THE NOTION OF CONFIDENTIALITY THERE, AND IT IS GOOD, BUT ALL OF A SUDDEN IF YOU SAY FILE A CASE IN THE FILE, SOMEHOW IT COULD GET CLOSE OR NEAR OR WITH DEPENDENCY FILED, AND THE CHILD MAY NOT HAVE THAT, BUT THEY MAY GIVE NOTICE TO OTHER PARTIES, PARENTS, DELINQUENCY AND DEPENDENCY, AND THIS IS JUST A SAFE GUARD TO MAKE IT VERY SPECIFIC THAT IT IS A NEW FILE IN A NEW CASE NUMBER AND MORE INSURANCES THAT WE HAVE OF THE CONFIDENTIALITY AND PRIVACY OF THE MINOR.

CHIEF JUSTICE: THE MORE CASES THAT WE MAKE BECAUSE WE ARE VERY INTERESTED IN UNIFIED

FAMILY COURT AND ALLOF THE CASES INVOLVING THE SAME FAMILY, THAT THESE CASES ARE NOT WITHIN THE SCOPE OF THAT. I THINK THAT MIGHT BE A GOOD THING TO CLARIFY.

INTERESTING THAT YOU SAY THAT. I BROU GHT THE BROW ARD SIGNIFICANT JUDGE HERE -- THE BROWARD CIRCUIT JUDGE AND ALSO THE RULES COMM ITTEE , THE ONE COMMENT , TALKINGABOUT THE FOURTH ISSUE A NDWHERE IT SHOULD B E PLACED WAS THE COMMENT THAT SOME JUDGE S THINK THE DEPE NDENCY ISSUE SHOULD NOT BE SINGLED OUT, BECAUSE THAT IS AGE CRITICAL, AND THAT IS T RUE , BECAUSE WE PUT IT I N THE FAMILY COURT AND HAVE ALWA YS TALKED ABOUT U N IFIED FAMILY COURT.

CHIEF JUSTICE: T HEPROBLEM IS , IN T ALKING ABOUT WHERE TO PUT IT AND THAT WAS PROBABLY MY DOG IN MAKING SURE IT IS CONFIDENTI AL, IS THE FACT THAT WE DON'T HAVE UNIFIED FAMILY COURT RULES. WE HAVE GOT CERT AIN RULES FOR FAMILY AND WE HAVE GOT THE JUVENILE RULES , AND MAYBE THAT IS A PROJECT IN THE FUTURE THAT CAN BE TA KEN ON, TO AC TUALY UNIFY THOSE RULES, ESPE CIALY WHERE THOSE CASES ARE , IN FACT , HAVE A UNIF ORM HE ARING .

JUSTICE: I AGREE WITH THE CONFIDENTIALITY CONCERN BUTI HAVE ANOTHER CONC ERN. HOW WOULD , IF YOU HAVE A CHILD WHO IS A YOUNG LA DY WHO IS BEING AB USED BY AN OLDER SI BLING O R A FATHER , STEPFATHER, WHICH IS A V ERY COMMON OCCURR ENCE , AND T HEREIS A DEPEN DENCY T YPE ACTION OR SOME CRI MINAL TYPE INVESTIGATION GOING ON , BY MOVING THIS OUT , IF YOU HAVE SOMEBODY WHO GO ES AND WAN TS TO HAVE AN ABORTION TO PROTECT THE ABUSER , HOW WOULD THIS IMPACT THAT?

I THINK IF YOU HAVE A SEPARATE CASE AND A SEPARATE FILE, IT IS REALLY GO ING TO KEEP EVER YONE AWAY FROM T HEPARENTS , IF THEIR RIG HT S HAVEN'T BEEN TERMINATED A NDTHE OTHER PARTIES AWAY FROM IT.

JUSTICE: IF WE ACCEPT T HEAMENDMENT TO THE PETITION , WHICH DOESN'T REQUIRE SPECIFICATION AS TO THE ABUSER , AND YOU KEEP IT OUT OF THE UNIF IED FAMILY COURT SYSTEM AND YOU HAVE AN ABUSER INAPPROPRIATELY INFLUENCING THE PE RSON TO GET THIS PROCEDURE , AREN'T WE FACILITATING THAT H IDING ?

WELL , I THINK THAT THE WAY THAT THE STATUT E IS N OW, THERE IS STILL THE REQUIREMENT TO RE PORT UNDERMANNED TORY BOARDING -- REPORTING LAWS AND IN T HESTATUTE AS WRIT TEN. I THINK PLA NNED PARENT HOOD MAY HAVE AN ISSUE UNDER SUBSTANTIVE OF LAW , BUT PROCEDURALLY UNDER TERMS OF THE LEGISLATURE, YOU ALSO GET THE FAMILY INVOL VED IF THERE IS A REPORT OF CHILD ABUSE , B ASED ON WHETHER THERE IS A PARENT O R CUSTODIAN ABUSED THE CHILD.

CHIEF JUSTICE: I N OTHER WORDS , THE JUDGE IS REQU IRED UNDER THE STATUTE , AS WELL AS THE LAW , GENE RALLY , BUT IF THEY SUSPECT THERE HAS BEEN CHILD ABUSE, THAT THEYHAVE GOT AN OBLI GATION TO REPORT.

YES. THE THIRD ISSUE WITH THE CALCULATION OF TIME, THIS ISSUE IN THE STATUTE CLE ARLY SAYS 48 HOURS. THE CIVIL RULES AND THE JUVENILE RULES TALK A BOUTTHE WEE KEND AND HOLI DAYS , WHERE YOU HAVE TO ACTUALLY START FROM THE NEX T DAY , AND WE WANTED TO BRING THIS TO THE COURT'S AT TENTION SO WE COULD BE VERY CLEAR THAT 48 HOURS IN THE STATUTE, I GUESS THE DECISION IS WHETHER THAT IS SUBSTA NTIVE LAW OR PROCEDURAL LAW, BECAUSE RIGHT NOW THERE I S KIND OF A FEELING IN READING THE CASES BECAUSE THEY A RENOT TALKING ABOUT THE HOLIDAYS AND WEE KENDS , IT IS 48 HOURS AND THAT IS THAT, AND I THINK THE COURT , WHAT THE RULES COMMITTEE WANTED WAS TO EN SURE CLARITY IN THAT.

JUSTICE: SO THIS GOES BACK TO, I GUESS , JUSTICE WELLS 'S QUES TION ON THEOTHER ISSUE. WHA T IS THE PETITION IS FILED ON A FRIDAY AT FIVE O'CLOCK. THE 48 HOURS RUNS THAT SUNDAY AT

FIVE O'CL OCK, S O YOU ARE BASICA LLY, YOU NEED TO TR Y TO GET A JUDGE DUR ING THE WEEKEND AND THEN IF YOU CAN'T FIND IT , THEN THE PETITION IS GRANTED?

I THINK THAT IS A CHALLENGE TO DETERM INE WHETHER THE 48 HOURS , AND I AM NOT SPEA KING FOR THE JUVENILE RULES COMMITTEEABOUT WHAT IT IS BECA USE WE JUST SA ID THAT IT NEED S TO BE CLARIFIED SO EVERYON E KNOWS THE RULES OF THE G AME, BECAUSE YOU COULD GET INTO A SITUATION WHERE YOU THINK IT IS CUT OFF AND NEED S TO BE EXERCISED, S O THE 48 - -

CHIEF JUSTICE: SIN CE YOU REPRESENT THE COMMITTEE, THAT SI TUATION , WE WOULDN'T WANT SOMEONE TO, QU OTE , ABUSE THE 48 HOURS BY , AG AIN, FILING IT AT A TIME WHERE I T IS NOT PRACTICAL TO HAVE A JUDGE , ARE THESE HEARINGS BEING, ARE THEY TAKING PLACE ON WEEKENDS?

YES .

CHIEF JUSTICE: THEY ARE?

YES. IN FACT, YOU ALWAY S HAVE DEPENDENCY HEAR INGS THE NE XT DAY. THERE IS ALWAYS A JUDGE AVAILABLE FOR FIRST APPEARANCES. EVERY DEPENDENCY IS HEF ERD -- IS HEARD WITHIN 24 HOURS, IS SO FROM MY PERSPECT IVE THERE ARE HEARINGS EVERY 2 4 HOURS.A JUDGE IS AVAILABLE WEEKENDS, HOLIDAYS.

READING THIS LEGISLATIVE PROCEEDINGS, IT IS THAT 48 HOURS MEANS 48 HOU RS.

I WOULD SAY THAT THAT IS THE IMPRESSION BASED ON THE DISCUSSION, BUT OUR MAIN THEME AND THE COMMENT I WAS THOORS ED -- AUTHORIZED TO TALK ABOUT WAS TO SAY THAT CLEARLY IT NEEDS TO BE DECIDED UNEQUIVOCALLY SO W E DON'T HAVE CONF USION , AND I THINK SOME OF THOSE COMMENTS WERE, ALSO, ECH OED BY JUDGE DIEMERS, TOO, IN HIS COMMENTS.

CHIEF JUSTICE: I AM LOOKING AT TIME AND I W ANT TO MAKE SURE THAT, IN CASE THERE IS SOMETHING T HAT COMES UP THAT WE WANT THE COMMITTEE TO RESPOND TO THAT YOU HAVE A FEW MIN UTES TO DO THAT.

THE LAST COMMENT I WANT TO SAY IS THE REASON , WE WERE VERY , ALMOST, I THINKIT WAS UNANIMOUS , DID N OTHAVE IT IN THE JUVENILE RULES AND THEN THE PRACTICE STARTED AND WE STA RTED TALKING TO PRACTITION ERS AROUND THE STATE AND COURT CLERKS AND ADMINIST RATION , AND BASED ON THAT WE CA LLED AN EMERGENCY MEE TING ANDDECIDED TO WITHDRAW THAT FOURTH COMMENT.

CHIEF JUSTICE: I APPRECIATE THAT AND I AM GLAD THAT ON THE GR OUND IT IS WO RKING AS WOULD BE , THAT THAT IS THE BEST PLACE , AND , AGAIN , THE INTE NTION TO STILL SAY IT IS IN UNIF IED FAMILY COURT BUT RIGHT NOW THE WAY WE HAVE THE RULES , THEY HAVE GOT TO BE IN THE JUVENILE RULES, I G UESS. THANKS.

I APPRECIATE THE TIME.

CHIEF JUSTICE: THA NKS. APPELLATE RULES. HOW ARE WE DOING THIS?

I AM SORRY , YOUR HONO R, WE HAD AG REED THAT PLANNED PARENTHOOD WOULD SPEAK SECOND.

CHIEF JUSTICE: MS. SHERWIN.

YES. THANK YOU , YOUR HONOR. MAY IT PLEASE THE COURT. MY NAME IS GALEN SHERWIN AND I REPRESENT PLANNED PARENTHOOD IN SOUTHWESTERN FLORIDA , PROVIDING HEALTH CARE SERVICES INCLUDING ABORTION SERVICES. IN ADDITION AS THIS COURT KNOWS FROM OUR COMMENTS , PLANNED PARENTHOOD IS A PLAINTIFF IN THE PENDING FEDERAL LITIGATION IN THE NORTHERN DISTRICT OF FLORIDA, CHALLENGING THE PARENTAL NOTIFICATION LAW, AND I SHOULD ADVISE THE COURT THAT JUDGE STAFFORD HAS JUST STAYED PROCEEDINGS PENDING THIS COURT'S PROMULGATION OF FINAL AMENDED RULES, SINCE THE REMAINING ISSUES IN THE -- THE REMAINING ISSUES IN THE FEDERAL COURT TURN ON THE STATE PROVISION. I WOULD LIKE TO USE MY TIME TO FOCUS ON TWO AREAS , THE FIRST THAT WE EXPEDITIOUSLY A MINOR FILING JUDICIAL -- EXPEDITIOUSLY A MINOR FILING JUDICIAL BYPASS .

JUSTICE: IF A MINOR RESIDES IN BROWARD COUNTY , WHY SHOULD NOT THE RULE THAT THE PETITION BE FILED IN BROWARD COUNTY . I UNDERSTAND YOUR ISSUES WITH OUT-OF-STATE PETITIONERS , BUT WHERE A PETITIONER RESIDES IN STATE , WHY SHOULDN'T THE RULE PROVIDE THAT VENUE IS IN THE COUNTY OF RESIDENCE?

YOUR HONOR , THE STATE HAS TAKEN A POSITION IN FEDERAL LITIGATION, THAT THAT LANGUAGE IS SUGGESTIVE AS TO VENUE , RATHER THAN REQUIRING VENUE , AND THAT IS A REASONABLE INTERPRETATION FOR SEVERAL REASONS. FIRST, I WOULD LIKE TO JUST --

IF IT IS PERMISSIVE , THEN WHY IS IT IN THERE AT ALL? IF ALL IT IS SAYING IS YOU CAN FILE IT AND YOU MAY IF YOU WANT TO, FILE IT IN THE COUNTY OF RESIDENCE, WHAT IS THE POINT OF HAVING IT IN THERE IN THE FIRST PLACE. WHY JUST NOT HAVE IT ALTERNATE ALL?

WELL , YOUR HONOR, I THINK THE -- HAVE IT AT ALL?

WELL, YOUR HONOR , I THINK THE INTERPRETATION IS REASONABLE AND ALSO SUPPORTED BY FLORIDA LAW, THAT THIS IS A PREFERENCE SUGGESTED IN THE STATUTE RATHER THAN A REQUIREMENT. FIRST OF ALL, IT IS REASONABLE BECAUSE THERE IS NO DEFENDANT IN PETITIONS FOR JUDICIAL BYPASS IN THESE PROCEEDINGS, AND THE NOTION OF VENUE IN THE FIRST PLACE, INTENDED TO PROTECT DEFENDANTS IN ADVERSARY ACTIONS FROM BEING INCONVENIENCED BY THE PLAINTIFF'S CHOICE OF FORUM OR FILING AND IN PROCEEDINGS THOSE SITUATIONS DON'T PRESENT SECONDLY THERE IS REASONING IN FLORIDA LAW. ONE CASE --

JUSTICE: STOP RIGHT THERE. IN OTHER VENUE PROVISIONS IT SAYS THAT THE CAUSE OF ACTION MAY BE FILED EITHER WHERE THE DEFENDANT RESIDES OR WHERE THE CAUSE OF ACTION OCCURRED. IT IS NOT NECESSARILY WHERE THE DEFENDANT RESIDES. IT COULD BE IN A VERY DIFFERENT COUNTY .

IN THESE TYPES OF PROCEEDINGS THERE IS NO DEFENDANT AND NO IDENTIFIABLE PLACE WHERE THE CAUSE OF ACTION ACCRUED AND THAT WAS ACTUALLY --

JUSTICE: HOW DO YOU ANSWER THE CONCERN THAT I FACED ALL THE TIME AS A CIRCUIT JUDGE, WHERE I HAVE AN OLD ER MALE ABUSE A YOUNGER FEMALE , AND -- ABUSING A YOUNGER FEMALE AND LET'S SAY THE PREGNANCY AT ISSUE HERE WAS THE SUBJECT OF SEXUAL ABUSE. IF , THE 25-YEAR-OLD MALE WITH A 14-YEAR-OLD GIRL AND HE TAKES HER TO ESCAMBIA COUNTY AND THE INCIDENT , ABUSE IS OCCURRING IN BROWARD COUNTY, LET'S SAY , WOULDN'T IT BE BETTER FOR THE SYSTEM, IF WE HAVE TRUE SEXUAL ABUSE GOING, TO KEEP IT CLOSER IN THE AREA? WOULDN'T IT , WHAT I AM SAYING IS IF WE ACCEPT YOUR ARGUMENT, AREN'T WE FACILITATING THE HIDING OF THAT ABUSE?

WELL, YOUR HONOR , THESE PETITIONS WOULD BE FILED SEPARATE FROM ANY OPEN CASES , AS MR . ABRAMOWITZ EXPLAINED, SO I DON'T BELIEVE THAT THERE WOULD BE ANY FACILITATION IN THAT KIND OF SITUATION AS AN ABUSIVE SITUATION.

JUSTICE: MY SUGGESTION IS COMBINING WITH A REQUEST THAT THERE BE NO SPECIFICATION OF THE PERPETRATOR OF THE ABUSE AND THE PETITION. WE ARE LEADING TO THAT. THAT IS PART OF MY CONCERN.

EVEN IF THE MINOR WE RE TO FILE IN THE CO UNTY, JURISDICTION OF THE DCA IN WHICH SHE RESIDES , I DON'T BELIEVE THAT THERE WOULD BE ANY FACILI TIES, ANY WA Y THAT THE COURT COULD M ORE EAS ILY DISCOVER THE ABUSE THERE THAN IT COULD , FOR EXAMPL E, IF SHE WERE T O FILE WHERE SHE WAS HAVING THE PRORB DONE. I DON'T THINK THAT THAT IS -- HAVING THE PROCEDURE DONE. I DON'T THINK THAT THAT ISLINKED IN ANY WAY TO T HELOCATION OF THE FILING .

JUSTICE: WHAT IS THEREASON FOR THE CONCERN THAT THERE BE A VENUE REQUIREMENTIN THE COUNTY WHERE THE MINOR RESIDES?

YOUR HONOR , THE REASONINGIS THERE IS NO REQUIREMENTIN THE STATUTE THAT THE VENUE BE INTERP RETED A S -

JUSTICE: I UNDERSTAND WHY BUT TELL ME WHY IT MAKES A DIFFERENCE.

THE REASON IS IT DO ESN'T PROVIDE UNNE CESSARY OBSTACLES FOR A MINOR. MINORS SHOULD BE ABLE TO FILE FOR PETITIONS WHEREVER IT IS VENT FOR -- I T IS CONVENIENT FOR THEM , AND I T IS SUPERFIC IAL TO FILE O R REQUIRE TO BE FILED IN HER HOME COUNTY.

JUSTICE: IS THERE, I WANT TO UNDERSTAND WHY YOU ARE CONCERNED ABOUT THIS.

YES, YOUR HONOR. THERE CAN BE VERY REAL OBSTACLES P OSED BY REQUIRINGA MINOR TO FILE IN A PARTICULAR PLACE. HER SUP PORT NETWOR K MAY B E IN A DIFFERENT JURISDICTION AND REQUIRING HER TO FILE IN A PARTICULAR PLACE THAT IS A WAY FROM THAT SUPPORT NETWORK COULD R AISE OBSTACLES.

CHIEF JUSTICE: FOLL OWING UP ON WHAT JUSTICE, I J UST WANT TO MAKE SURE W E UNDERSTAND SOMETHING. FIRST OF ALL, ARE YOU CONCERNED ABOUT THE FACTTHAT IF IT IS AN AREA T HAT IS A RELATIVELY S MALL COMMUNITY THAT, THERE MAY BE JUST POSSIBILITIES OF THE BREACH O F CONFIDENTI ALITY?

YOUR HONOR - -

CHIEF JUSTICE: THAT IS WHAT JUSTICE WELLS IS ASKING , AS OPPOSED TO SAYING WE ARE GOING TO GO TO A PLACE I N THE STATE WHERE THE JUDGES ARE THE EA SIEST TO GET THESE WAIVERS, THE COURT WANTS T O UNDERSTAND IF THERE ARE, WHAT ARE THE OTHER REAL LIFE PURPOSES FOR ALLOWING THE VENUE TO BE ANYWHERE IN T HESTATE?

YES , YOUR HON OR. AS YOUR HONOR MENT IONED , OF COURSE THERE BE CONFIDENTIALITY CONCERNS IF THE MINOR IS REQUIRED TO FILE IN HER OWN COMM UNITY , BUT BECAUSE THE , SHE CAN FILE CURRENTLY UNDER THE STATUTE , SHE CAN FILE WIT HIN THE JURIS DICTION I N ANY ZRBT COURT WITHIN THE JURISDICTION OF THE DCA WHERE SHE RESIDES, SO T HAT MIGHT NOT BE THE PLACE WHERE SHE DECIDES, IF SHE DE CIDES TO GO OUT SIDE HER HOME COUNTY OR THE CIRCU IT COURT WITHIN HER HOME COUNTY , SHE MIGHT HAVE TO TRA VEL A CONSIDERABLE DI STANCE TO THE NEXT COURT, BECAUSE THAT IS THE MOST REASONABLE PLACE SHE CAN GO.

CHIEF JUSTICE: JUST WAY THE CIRCUITS ARE SET U P.

JUST WAY THE CIRCUI TS ARE SET UP AND THE MOST CONVENIENT PLACE MAY BE DIFFERENT ALL TOGE THER, WHERE SHE HAS A RELATI VE OR MAYBE WHERE THE PROCED URE IS BEING

PERFORMED , AND THERE IS NO JUSTIFICATION IN THE STATE OR THAT EXISTS , REALLY , TO RESTRICT HER TO THIS PARTICULAR JURISDICTION.

CHIEF JUSTICE: THIS IS A GENERAL, NOW, AGAIN, ARE WE -- A VENUE, NOW, AGAIN, ARE WE IN A PROBABLY OR SUBSTANTIVE REALM? IS IT UP TO THE LEGISLATURE TO DECIDE WHERE THE VENUE IS , OR DO YOU CONSIDER IT PROCEDURAL?

IT IS CONSIDERED PROCEDURAL AND THIS COURT , AS YOU KNOW HAS VERY BROAD AUTHORITY TO SET PROCEDURAL RULES.THERE IS NO REAL JUSTIFICATION HERE FROM DEPARTING FROM THE PERMISSIVE LANGUAGE OF THE STATUTE AND THE JUSTIFICATION HAS NOT BEEN OFFERED FOR THE STATE , AND I WOULD LIKE TO READ TO YOU ONE BRIEF SECTION OF , THE LISTED GENERAL STATE , THAT, QUOTE , WHERE THE ACT, VENUE OR POSITION SEEMS LOGICALLY AIMED TOWARDS --

CHIEF JUSTICE: WAIT A MINUTE. WHAT STATE? WHOSE BRIEF ARE YOU READING FROM?

EXHIBIT A TO OUR COMMENTS , WHICH WAS THE STATE'S BRIEF IN THE FEDERAL CASE.

CHIEF JUSTICE: I SEE.

AND THE STATE SAYS, QUOTE , WHILE THE ACTOR VENUE PROVISION APPEARS LOGICALLY AIMED TOWARDS ENCOURAGING IN-STATE MINORS TO ENCOURAGE IN THE CIRCUIT COURT WITHIN WHICH THEY RESIDE , IT IS NOT MANDATED FOR THESE RESULTS. MOREOVER MINORS MAY PETITION ANY CIRCUIT COURT IN THE STATE, SINCE THE VENUE DOES NOT RESTRICT THE DECISION AND THUS THE POWER OF ANY CIRCUIT COURT TO GRANT APPROPRIATE RELIEF .

JUSTICE: BUT IT SEEMS TO ME THAT , WHEN YOU READ THIS, THAT PROVISION THAT YOU ARE TALKING ABOUT , WHAT THE LEGISLATURE IS SAYING IS THAT, INSTEAD OF HAVING TO FILE IN THE CIRCUIT COURT OF THE COUNTY WHERE YOU RESIDE , THAT YOU ARE GIVEN PERMISSION TO FILE IT IN THE CIRCUIT COURT IN ANY COUNTY THAT IS COVERED BY THAT DISTRICT COURT OF APPEALS , INSTEAD OF THIS WIDE RANGING ANYWHERE IN THE STATE CIRCUIT COURT THAT YOU ARE PROPOSING.

YOU ARE RIGHT, YOUR HONOR, IT IS SORT OF A HALF MEASURE, BUT IT DOESN'T ACTUALLY ACCOMPLISH ANYTHING , BUT AND THE STATE HASN'T SHOWN ANY JUSTIFICATION FOR IT OR SHOWN ANY INDICATION THAT IT BELIEVES THAT IT WAS INTENDED TO PREVENT ANY PARTICULAR EVIL . THERE IS NO REASON THAT MINORS SHOULD NOT BE ABLE TO FILE WHERE IT IS MOST CONVENIENT TO THEM, AND THAT MAY NOT BE WITHIN THE JURISDICTION SPECIFIED BY THAT PROVISION, AND THAT IS THE REASON THAT THE PROVISION SHOULD BE INTERPRETED AS PERMISSIVE RATHER THAN MANDATORY , AND I WOULD LIKE TO BRING YOUR ATTENTION TO ONE CASE OUT OF THE SECOND DISTRICT OF COURT OF APPEAL , AND THAT IS STATE DEPARTMENT OF HIGHWAYS A FETY AND MOTOR VEHICLES VERSUS SCOTT, IN WHICH THE DISTRICT COURT OF APPEAL CONSIDERED HOW A STATUTE GOVERNING CHALLENGES TO THE REVOCATION OF DRIVERS LICENSES WOULD APPLY TO AN OUT-OF-STATE RESIDENT, AND THE VENUE PROVISION IN THAT STATUTE STATED THAT SUCH PROVISIONS, QUOTE , SHALL BE REVIEWABLE IN THE COUNTY WHERE THE PETITIONER SHALL RESIDE . NOW, THE DCA READ THIS STATUTE'S VENUE PROVISION, TO SUGGEST VENUE BUT NOT REQUIRE IT , HOLDING THAT THE STATUTE, QUOTE , SIMPLY PROVIDES A CONVENIENT LOCATION IN ONE'S COUNTY OF RESIDENCE FOR REVIEW , AND THE COURT WENT ON TO HOLD THAT BECAUSE THE PETITIONER WAS A NONRESIDENT AND SUBMITTED HIMSELF TO THE COURT'S JURISDICTION AND THE STATE DID NOT OBJECT , THE VENUE WAS APPROPRIATE WHERE THE PETITION HAD BEEN BROUGHT.

JUSTICE: THAT IS TALKING ABOUT OUT-OF-STATE PETITIONERS.

THAT CASE IS TALKING ABOUT OUT-OF-STATE PETITIONERS BUT THE LANGUAGE IN THAT

STATUTE SAID "SHALL"

JUSTICE: IN YOUR POSITION IF THE LEGISLATURE HAD INTENDED THE STATUTE TO BE INTERPRETED AS YOU SUGGEST, WHY WOULDN'T IT HAVE SAID SOMETHING COMPLETELY DIFFERENT, WHICH IS THE PETITION MAY BE FILED ANYWHERE IN THE STATE.

YOUR HONOR, THE STATUTE DOESN'T SAY THAT, AND IT DOESN'T USE THE TERM "SHALL" EITHER, AND I BELIEVE THAT THE STATUTE USES THE TERM "MAY" AND THE STATE SHOULD BE HELD ACCOUNTABLE FOR THE CHOICE OF THAT LANGUAGE. CERTAINLY THE STATUTE --

JUSTICE: MY QUESTION IS, IF THE LEGISLATURE INTENDED THAT RESULT, WHY WOULDN'T IT HAVE JUST SAID YOU CAN FILE THIS ANYWHERE IN THE STATE, INSTEAD OF YOU MAY FILE THIS THE WAY IT SAYS?

WELL, THERE IS NO, THERE IS NO, WE HAVE NO INDICATION THAT THAT WAS THE LEGISLATURE'S INTENT, AND CERTAINLY THE INTENT OF THE LEGISLATURE IS BEST, I BELIEVE IT IS BEST EXPRESSED THROUGH THE USE OF THE TERM "MAY" THERE, THAT THE TERM IS COMMONLY UNDERSTOOD AS PERMISSIVE. EVEN IF THE COURT SHOULD --

JUSTICE: WHY WOULD THAT PERMISSIVENESS, REALLY, NOT JUST REFER TO AREAS WITHIN THE DCA AS OPPOSED TO PERMISSIVENESS IN A MUCH BROADER CONTEXT?

YOUR HONOR, I THINK THE STATUTE CERTAINLY COULD HAVE BEEN MORE ARTFULLY DRAFTED.

JUSTICE: IT COULD HAVE SAID SOMETHING ELSE. ANOTHER STATUTE COULD HAVE SAID IF A MINOR WISHES TO FILE HER PETITION, SHE MUST DO SO IN THIS PARTICULAR AREA, BUT IT DID NOT SAY THAT, AND I THINK THAT THE LANGUAGE IS UNDERSTOOD TO HAVE A PERMISSIVE MEANING.

JUSTICE: I AM NOT SURE YOU RESPONDED. I AM TRYING TO UNDERSTAND WHY IT WOULD BE INAPPROPRIATE TO INTERPRET THIS PERMISSIVENESS "MAY" WITHIN THE MANDATORY OF THE DCA I AM NOT SURE YOU RESPONDED TO THAT.

I AM SORRY.

JUSTICE: THIS IS USED AS REFERENCE TO ANYWHERE WITHIN THE DCA AND THAT IS THE "MAY" LANGUAGE, AND MY QUESTION IS WHY WOULD IT BE INAPPROPRIATE FOR US TO SAY, WHAT IS YOUR POSITION TO SAY THAT THAT "MAY" POSITION IS DESIGNED WITH REGARD TO THE DCA AND NOT THE ENTIRE STATE, BECAUSE IF THAT HAD -- STATE OF FLORIDA, BECAUSE IF THAT HAD BEEN DESIRED, IT MAY HAVE BEEN WHAT WAS SAID. WHAT IS WRONG WITH LOGIC TO THAT PERMISSIVENESS IS WITHIN THE DCA.

YOUR HONOR, I THINK THAT COMES BACK TO WHAT PURPOSE VENUE PROVISIONS SERVE, AND CERTAINLY IN OTHER KINDS OF PROCEEDINGS IN WHICH THERE IS NO DEFENDANT, THE COURTS IN FLORIDA HAVE INTERPRETED THE VENUE PROVISIONS TO BE PERMISSIVE BECAUSE VENUE IS A DEFENSE THAT IS TO BE RAISED. THE BURDEN IS ON THE DEFENDANT TO RAISE THAT DEFENSE, AND IT IS WAIVED IF NOT RAISED, SO IN SUCH CIRCUMSTANCES WHILE THE LANGUAGE OF THE STATUTE CAN BE GIVEN A MEANING THAT IT IS THE SUGGESTED PLACE OF FILING, THERE IS NO ACTUAL WAY IN WHICH THE VENUE PROVISION OPERATES, ONCE THE PETITION HAS BEEN FILED.

CHIEF JUSTICE: I AM HAVING GOOD REASON TO HAVE TO STOP YOU, BECAUSE YOU HAVE USED UP YOUR 15 MINUTES AND I KNOW YOU WANTED TO TOUCH ON SOMETHING ELSE, BUT WE HAVE GOT TO LET MR. REITER SPEAK, AND THEN IF THERE IS A FEW MINUTES LEFT, WE CAN ADDRESS THE REMAINING.

THANK YOU. YOUR HONOR, MR. REITER HAS FOR YOUR INFORMATION , TOLD ME THAT HE DOESN'T THINK HE IS GOING TO USE ALL THE TIME , DEPENDING, OF COURSE , O N THE COURT'S QUESTIONS, SO PERHAPS I WI LL HAVE TIME AT THE END.THANK YOU.

GOOD MORNING. MAY IT PLEASE THE COURT. JACK REITER , C U R R E N T CHAIR OF THE APPE LLATE COURT R ULES COMMITTEE AND APPEAR ING ON ITS BEHALF TODAY. YOUR HONORS, WHEN WE WERE SERVED BY PLA N NED PARENTHOOD WITH THEIR AM ENDED COMMENTS AND SUGG ESTS IN CONNECTION WITH WHAT AL SO CONS TITUTES THIS COURT 'S APPEL LATE RULE , AND SUE RESPONSIBILITY ' , WE -- AND SUE S PONTE , W E F ELT IT WAS , HAVING GONE THROUGH THE FULL COMMITTEE AND RECOMMENDATIONS, WE NOW HAVE THREE RECOMMENDATIONS THAT WE BE LIEVE WILL HE LP CLAR IFY TO THIS COURT AND WITH RECOMMENDATIONS AS TO THERULE.

JUSTICE: YOUR SUGGESTIONS RELATE TO THE APPELLATERULE?

ONLY AS TO THE APPELLATE RULE, YOUR HONOR. FIRST OF ALL , WITH REFERENCETO THE CLERK, WE BELIEVE IT IS THE RESPONSIBILI TY OF THIS COURT TO MA KE SOME CHANGES REG ARDING THE CLERK OF THE COUR T. IN THIS SUPPLEMENTAL MEMORANDUM, I N THE F IRST PLACE WHERE IT IDENTI FIES THE CLERK TO ADD T HELANGUAGE OF THE L O WER TRIBUNAL, A AND THEN AT T HE END OF THE RULE AD DING THE LANGUAGE SHOULD THIS PETITION BE REVERSED ON APPEAL, PROVIDING THE CLERK WITH A COPY OF THE DECISION , WE WANTED TO ADD THAT LANGUAGE, REALLY, FOR T WOREASONS , FIRST OF ALL BECAUSE THE APPELLATE COURT WILL ACTU ALLY BE REVE RSING THE DISMISSAL OF THE PETITION, AND BY CLARIFYI NG THAT HERE, WE THINK I T BETTER ILLUSTRATES THE INTENT, AND I BE LIEVE IT WAS THIS COURT'S INTENT THAT THE DISTRICT COURT CLERK WOULD BE CHARGED WITH THE RESPONSIBILITY OF, IF THE APPELLATE COURT THEN DOES REVERSE THE DISMISSAL OF T HEPETITION, THEN THE DISTRICT COURT CLERK WOULD HAVE THE RESPONSIBILITY OF AL ERTING , PROVIDING NECESSARY MATERI AL TO THE MINOR.

CHIEF JUSTICE: THAT SE EMS FAIRLY NONCONTROVERSIAL . ANYTHING THAT YOU HAVE THAT MIGHT BE CONSIDERED CONTROVERSIAL ?

YOUR HONOR, I COME D O N'T KNOW THAT THESE ARE CONTROVERSE -- YOUR HONOR, I DON'T KNOW THAT THESE ARE CONTROVERSIAL.YOUR HONOR, ONE THING THAT WE DID ADD, WE AG REED WITH PLANTE PLANNED PARENT HOOD 'S -- WITH PLANNED PARENTHOOD 'S SUGGESTED CHA NGES TO ADD THE MINOR --

JUSTICE: WHY WOULDN'T APPELLATE RULES APPLY AND THEREFORE YOU AL WAYS HAVE THE OPPORTUNITY TO FILE A BRIEF AND REQUEST O RAL ARGUMENT?

YOUR HONOR, THE LANGUAGE AS IN THE RULE AS ORI GINALLY PROMULGATED , DID NOT SP ECIFY WHETHER OR NOT A MINOR WOULD HAVE LEAVE. IT ONLY SPECIFIED THAT THE COURT ITSELF HAD T HE AUTHORITY TO REQUEST BRIEFS OR ORAL ARGUMENTS IF IT F ELT IT WOULD BE NECESSARY. WE BELIEVE D THAT IT WOULD B E APPROPRIATE TO HAVE SOMETHING SPECIFIC IN THERE THAT LET THE MINOR OR HER COUNSEL KNOW THAT THERE IS A PROVISION AVAILABLE, THAT IT IS AUTHORIZ ED, SO THAT THERE WOULD BE NO CONF USION IF THERE IS SOME IS SUE IF PERHAPS THE MINOR O R HER COUNSEL BELIEVES THAT THE RECORD ISN'T SUFFI CIENT T O GIVE ALL THE INF ORMATION THEY BELIEVE WOULD BE NECESSARY.JUST TO ALERT THE MINOR THAT THAT OPPORTUNITY IS AVAILABLE.ONE OF THE CONCERNS THAT WAS RAISED BY , W ITHIN THE COMMITTEE DURING THE DISCUSSION, WAS WHAT E FFECT THIS MIGHT HAVE ON TIME AND THE PROCESS M O VING VERY QUICKLY.I BELIEVE, THOU GH, BECAUSE THE RULE REQUIRES T HE DECISION TO BE MADE WITHIN TEN DAYS, THAT A DISTRICT COURT WOULD HAVE THE INHERENT AUTHORITY TO REQUIRE, IF IT DOES AUTHORIZE A BRIEF OR ORAL ARGUMENT, TO MOVE THAT PROCESS QUICKLY SO THAT A DECISION COULD STILL BE REACHED WITHIN THE TEN - DAY WINDOW.

JUSTICE: I NOT ICE T HAT YOU HAVE ALSO PROPOS ED A NOTICE OF APPEAL FOR THESE WAIVER CASES, AND DID YOU ACTUALLY OFFER A NOTICE OF APPEAL?

YES, Y OUR HONOR , WE HAVE. IF YOU LO OK ON PAGE 5 OF OUR SUPPLEMENTAL MEMORA NDUM , YOU WILL FI ND A NOTICE OF APPEAL FORM THAT WE HAVE PROMULGATED TO BE PROP OSED , I SHOULD SAY, TO BE IDENTIFIED AS RULE 9.900-F. WE HAVE GOT NOTICE OF APPEAL FORM, AND , AGAIN DURING THE DISCUSSIONS AT THE COM MITTEELEVEL, ONE OF THE BIG ISSUE S WAS MAIN TAINING CONFIDENTIALITY, AND WE DID GO, WE USED A SIGNATURE BLOCK IN THE NOTICE FORM , THAT WE T RIED TO T AILOR IT TO WHAT IS USED AT THE T RIAL LEVEL.

CHIEF JUSTICE: WHAT IS THE P OSITION ON THIS ISSUE OF WHETHER THE RIGHT T O COUNSEL ON APPEAL AND WHETHER THE LEGISLATURE HAS PROVIDED FOR THAT .

YOUR HONOR , THE COMMI TTEE DID NOT , AS A COLLECTIVE BODY, EVAL UATE THAT, BUT THE FAMILY LAW SUBCOM MITTEE , WHICH DID, I FIRST CHARGED THE FA MILY LAW SUBCOMMITTEE WITH EVALUATING THE RULE, AND THEY DID NOT FIND THAT THAT WAS A MERITORIOUS REQUEST FOR TWO REASONS, AND, AGAIN, WE PROVIDED THE FAMILY MEMORANDUM THAT WAS GIVEN TO ME AS AN EXHIBIT TO THE SUPPLEMENTAL MEMO , BUT THE RIGHT OF COUNSEL, FIRST OF ALL I BELIEVE TO BE, I T IS STATED IN THE STATUTE. SO THE STATUTE PROVIDES THE RIGHT OF COUNSEL. WHAT WE HAVE DONE IS - -

CHIEF JUSTICE: DOES T HAT INCLUDE ON APPEAL?

I BELIEVE IT , DOES YOURHONOR, BECAUSE SPECIFICALLY IT SAYS THAT THE CIRCUITJUDGE HAS THE RESPONSIBILITY TO AD VISE THE MINOR THAT THERE IS A RIGHT OF COUNSE L, AND I DON'T BELIEVE T HAT THERE IS ANY REASON WHY THAT WOULDN'T EXTEND THROUGH THE ENTIRE PROCESS, BECAUSE THE STATUTE, ALSO , PROVIDES FOR THE RIGHT OF EXPEDITED JUDICIAL REVIEW, SO I BELIEVE THAT THE LEGISLATIVEINTENT WAS CLEAR IN THAT SENSE , THAT ANY RIG HT OF COUNSEL , ANY COUNSEL APPOINT ED WOULD BE E ITHET FOR THE LOWER TRIAL LEVEL OR FOR THE APPELLATE LEVEL , AND WHAT WE DID DO , WE DID , ALSO , CREATE AN ADVISORY NOTICE TO T HEMINOR , AND THE COMMITTEE THAT IS ALSO PART OF OUR PACKAGE THAT WE HAVE SUBMITTED , THE ADVI SORY NOTICE TO THE MINOR IS , AGAIN, WE SORT OF MO DEL THE JUVENILE RULE NOTICE THAT KIND OF GUIDES THE MINOR, GIVES THE MINOR SOME ADDITIONAL INFORMATION ABOUT THE PROS HE E -- PROCES S. OUR ADVISORY NOTICE SETS FORTH FOR THE MINOR, AND, AGAIN, WHAT WE HAVE D ONE IS RECOMMENDED THAT THAT BE MADE A PART OF THE RULE , NOT THE RULE, EXCUSE ME , THE FORM OF THE RULE, THAT THE NOTICE OF APPEAL WITH THE AND ENDED ADVISORY NOTICE BE MADE A PART OF THE FORM ANDTHAT THAT WOULD BE M ADE AVAIL ABLE TO MINORS AND GIVEN TO THE CLERK. IN THAT ADVISORY NOTICE WE REITERATE THAT THE MINOR HAS A RIGHT OF COUNSEL , GETTING BACK TO WHAT WE BELIEVE THE STATUTE PROVIDES, SO IF FOR SOME REASON THE TRIAL JU DGE FORGET TO ADVISE THE MINOR THAT SH E HAS A RIGHT O F COUNSEL WHEN THE CLERK PROVIDES THE MINOR WITH THE ADVISORY NOTICE, THAT REMINDS THE MINOR OR HER COUNSEL THAT THERE IS S UCH A RIGHT , AND SO WE BELIEVE THAT THE OTHER PO INT THAT WAS RA ISED WH ICH, AGAIN, THE FAMILY SUBCOMMITTEE DID NOT BELIEVE WAS MERITORIOUS , WAS ALLOWING A MINOR TO FILE ELECTRONICALLY OR B Y FACSIMILIE, WE DON'T BELIEVETHAT, ALTHOUGH COURTS ARE MOVING TOWA RD ELEC TRONIC FILING, I THINK OVER TIME , THERE MIGHT BE A NATURAL EVOLUTION TO THAT PROCESS BUT FOR RIGHT NOW WE D IDN'T THINK IT REASONAB LE TO OPPOSE T HAT.

CHIEF JUSTICE: THE EVOLUTION BUT --

THE TECHNOLOGICAL EVOLUTION. I AM A BIG PROPON ENT OF THAT , YOUR HONOR. WE BELIEVE THAT ULTIMA TELY THAT MAY OC CUR DUE TO T HESUPREME COURT'S AND OTHER DISTRICT EFFORTS. RIGHT NOW IT WOULD BE IMPRACTICAL TO I MPOSE THAT ON DISTRICT COURTS.

WHAT ABOUT THE EXPEDITED PROCEDURES TO THIS COURT ?

YOUR HONOR , AGAIN, ALTHOUGH THIS IS NOT PRESENTED OFFICIALLY TO THE RULES COMMITTEE, THE FAMILY SUBCOMMITTEE DID EVALUATE THAT, ALSO, AND DID NOT SUGGEST ANY RULE. I BELIEVE THAT AND THE FAMILY SUBCOMMITTEE IN THEIR MEMORANDUM AND I THINK IT IS ACCURATE, THERE IS NO , IN THE EVENT THAT THERE WAS SOME ISSUE TO GIVE RISE TO THE SUPREME COURT 'S RECOMMENDATION, CERTIFY A QUESTION OF GREAT PUBLIC IMPORTANCE OR SOMETHING ALONG THOSE LINES , I THINK CERTAINLY IN THE SPIRIT OF THE EXPEDITED PROCEDURE AND IN THE RARE CIRCUMSTANCES THAT THIS COURT WOULD ACCEPT JURISDICTION, BECAUSE I DON'T BELIEVE THERE IS ANY NATURAL, I DON'T BELIEVE THAT, UNDER NORMAL CIRCUMSTANCES, THESE CASES WOULD COME TO THIS COURT, BUT IN THE EVENT THAT IT DID , I THINK THIS COURT WOULD HAVE CERTAINLY THE INHERENT AUTHORITY TO DEAL WITH THAT ON A CASE-BY-CASE BASIS . I DON'T THINK THERE NEEDS TO AND RULE THAT SPELLS THAT OUT , BECAUSE THE FAMILY LAW SUBCOMMITTEE INDICATES THIS IN THEIR MEMO. IT SEEMS VERY RARE THAT THESE CASES WOULD HAVE JURISDICTION.

CHIEF JUSTICE: WE ACTUALLY EXPEDITE CHILD CASES, SO I THINK WHAT WE WOULD DO IS LOOK AT OUR PROCEDURES AND PROVIDE FOR FURTHER EXPEDITED PROCEDURES FOR THESE CASES. I AM NOT SURE WE NEED A RULE, BUT IF WE NEED ONE , YOU WILL HELP US WITH IT .

IF THE COURT NEEDS ANY FURTHER ASSISTANCE , WE ARE HAPPY TO PROVIDE IT I WANT TO THANK THE COURT FOR ALLOWING ME TO SPEAK TODAY.

CHIEF JUSTICE: MR . ABRAMOWITZ , ARE YOU PREPARED, REALIZING THE JUVENILE COURT RULES COMMITTEE IS NOT ALL OF THE LAWYERS IN THE STATE , BUT RIGHT NOW ON AN ISSUE OF VENUE , WAS THAT LOOKED AT BY YOUR COMMITTEE?

WE DID NOT ADDRESS THAT -- BY YOUR COMMITTEE?

WE DID NOT ADDRESS THAT ISSUE.

CHIEF JUSTICE: IS THERE ANY FURTHER COMMENT BEFORE I LET MS. SHERWIN TAKE THE LAST FIVE MINUTES?

I APPRECIATE BEING HERE. THE LAST TIME I WAS HERE WAS IN 1987 , WHEN I INTERNEED FOR ROSEMARY BARKETT. IT IS FUN TO COME BACK.

CHIEF JUSTICE: IT IS GOOD TO SEE YOU. HOPE IT IS AS FUN A PLACE AS IT WAS THEN.

THANK YOU, YOUR HONOR. I WANT TO COME BACK AND TRY AND GET AT SOME OF THE QUESTIONS REGARDING THE IMPACT OF THE VENUE PROVISION , INTERPRETED AS MANDATORY ON THE GROUND , THAT THIS, REALLY - -

CHIEF JUSTICE: YOU UNDERSTAND, BECAUSE WE WERE TALKING ABOUT PROCEDURAL SUBSTANTIVE , THAT IF IT IS SUBSTANTIVE, THE COURT CAN ONLY INTERPRET, AND WE WOULD RARELY DO THAT IN THE CONTEXT OF A RULES CASE , SO --

YES, YOUR HONOR, IN OTHER CONTEXTS, VENUE HAS BEEN INTERPRETED AS PROCEDURAL. WITH RESPECT TO THE BURDENS THAT IT WOULD PLACE ON MINORS, THESE ARE EXTREME , AND AN EXAMPLE THAT I CAN GIVE IS A MINOR WHO IS TEMPORARILY LIVING WITH HER GRANDMOTHER IN NORTHERN FLORIDA BUT HER ACTUAL PLACE OF RESIDENCE IS IN SOUTHERN FLORIDA. THIS, TO HAVE HER , TO REQUIRE HER TO FILE HER PETITION IN SOUTHERN FLORIDA UNDER THOSE CIRCUMSTANCES IS A HEAVY BURDEN ON HER. SHE WOULD HAVE TO DRIVE HOURS TO GET TO THE APPROPRIATE PLACE OF FILING .

CHIEF JUSTICE: WOULDN'T THAT, AGAIN, IN TERMS OF WHAT RESIDENCE MEANS, ARE YOU SAYING THAT THE PERSON WOULDN'T FEEL THAT THEY ARE AT THAT POINT, A RESIDENT OF WHERE HER GRANDMOTHER IS?

REALLY, THERE IS NO DEFINITION OF RESIDENCE IN THE STATUTE. THERE IS NO CLEAR PLACE.

JUSTICE: AREN'T THOSE THE TYPES OF ISSUES, THEN, THAT THEY ADJUDICATE ON A CASE-BY-CASE BASIS? WE CAN'T SUFFERING WHEN WE ARE APPLYING THE RULES, AND SOMETIMES THE RULES OF THE STATUTE HAVE TO BE INTERPRETED THROUGH LITIGATION, AND WE CAN'T CONSIDER EVERY POSSIBLE CIRCUMSTANCE WHEN WE ARE DEVELOPING A RULE.

THAT IS TRUE, YOUR HONOR, CERTAINLY, BUT IN THIS CASE WE HAVE ANTICIPATED SOME OF THE PROBLEMS, AND WE CAN ACT SPEEDILY TO PREVENT THEM, AND--

CHIEF JUSTICE: IS THERE ANOTHER AREA BESIDES THE VENUE THAT YOU WANT --

YES, AND I WOULD LIKE TO MOVE TO IT QUICKLY. SPECIFICALLY ON THE VENUE THERE IS ONE MORE POINT I WOULD LIKE TO MAKE, WHICH IS THAT THIS COURT, THE COURTS IN FLORIDA, IN INTERPRETING WHETHER A PROVISION SHOULD BE MANDATORY OR PERMISSIVE, HAVE ALWAYS ERRED ON THE SIDE OF THE PRESERVATION OF SUBSTANTIVE RIGHTS, AND THAT GOES HAND-IN-HAND WITH THE NOTION THAT, PROCEDURAL RULES SHOULD, ALSO, BE IMPLEMENTED TO ADVANCE AND NOT INHIBIT THE VINDICATION -- THE VINDICATION OF SUBSTANTIVE RIGHTS, SO THOSE PRINCIPLES WE ARE ASKING TO GUIDE THIS COURT HERE TODAY IN IMPLEMENTING THE RULES. THAT IS REALLY ALL I HAVE, YOUR HONOR.

CHIEF JUSTICE: WAS IT PLANNED PARENTHOOD THAT TALKED ABOUT ALLOWING OTHERS TO ATTEND AT THE MINOR'S REQUEST, THE HEARING?

YES, YOUR HONOR. CHIEF I AM CONCERNED ABOUT THAT IDEA THAT, SHOULDN'T THE TRIAL JUDGE BE THE INDIVIDUAL ON THE GROUND THAT MAKES THE DECISION OF WHO ELSE CAN ATTEND A HEARING, RATHER THAN MANDATE THAT IN A RULE?

CERTAINLY THE TRIAL JUDGE CAN USE DISCRETION BUT WE THOUGHT THAT IT WOULD BE ADVISEABLE JUST TO SPECIFY THAT A PERSON OF THE MINOR'S CHOOSING MIGHT BE PERMITTED TO ATTEND, AND THAT DESIGNATING THAT THE PUBLIC WAS EXCLUDED FROM THE COURTROOM THAT, DIDN'T UNNECESSARILY OR UNINTENTIONALLY DEPRIVE THE MINOR OF SUPPORT.

CHIEF JUSTICE: THANK YOU VERY MUCH FOR CLARIFYING THOSE ISSUES.

THANK YOU.

CHIEF JUSTICE: THANK YOU TO ALL OF YOU IN TRYING TO DO YOUR VERY BEST TO MAKE SURE THAT WE HAVE A RULE THAT IS CONSISTENT WITH THE STATUTE AND FURTHERS THE PURPOSES OF THE STATUTE. THANK YOU VERY MUCH.