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**In re: Amendments to Rules of Appellate Procedure
SC06-159**

WE WILL CALL THE NEXT CASE FOR ALL THAT APPEAR IN RAY AMENDMENTS TO THE APPELLATE RULES OF PROCEDURE.

GOOD MORNING. MAY IT PLEASE THE COURT. JACK REITER APPEARING FOR THE APPELLATE RULES COMMITTEE. I WILL SPEAK ON THE ISSUE WITH THE GUARDIAN AD LITEM PROGRAM AND THE DISCUSSION OF THAT AS WELL. THE COMMITTEE AFTER REVIEW BY THE FAMILY LAW SUBCOMMITTEE AND THE MAJORITY OF THE FAMILY LAW SUBCOMMITTEE AND MAJORITY OF THE FULL COMMITTEE, BELIEVE THAT IT WAS APPROPRIATE TO ALLOW THE ORDER OF CUSTODY, IN A NONFINAL CUSTODY ORDER IN THE DEPENDENCY OR SHELTER CARE TYPE PROCEEDING OR TERMINATION OF PARENTAL RIGHTS PROCEEDING BUT A NONFINAL ORDER, PRELIMINARY NONFINAL ORDER TO BE IMMEDIATELY REVIEWABLE.

CHIEF JUSTICE: LET'S GO OVER WHAT, SPECIFICALLY, RIGHT NOW THE FINAL ORDER, ADJUDICATION OF DEPENDENCY AND TERMINATION OF PARENTAL RIGHTS ARE SUBJECT TO REVIEW AS APPEALED FROM FINAL ORDER. CORRECT?

CORRECT.

CHIEF JUSTICE: AND THEN EVERYTHING ELSE, THERE CAN BE A PETITION FOR CERT FILED. WELL, OBVIOUSLY IT CAN BE FILED, WHETHER IT IS HEARD. IS THE RULE ALLOWING, WOULD ALLOW NONFINAL ORDERS, NOT ONLY FOR THE SHELTER ORDER BUT FOR EVERY PLACEMENT CHANGE THAT OCCURS DURING THE ENTIRE PROCESS UNTIL THE FINAL ORDER OF PARENTAL TERMINATION OF RIGHTS?

THAT IS WHAT IS CONTEMPLATED BY THE RULE, YES, BECAUSE, AGAIN, OF THE OVERWHELMING NEED FOR REVIEW AND EXAMINED BY THE COMMITTEE AS MAJORITY, TO BALANCE NOT ONLY THE SIGNIFICANT AND IMPORTANT RIGHTS OF THE CHILD BUT ALSO THE CON-- OF THE CHILDREN, BUT ALSO THE CONSTITUTIONAL RIGHTS OF THE PARENT.

CHIEF JUSTICE: WE HEARD A CASE WHERE THERE WERE TWO INTERLOCKTORY PROCEEDINGS. IT IT APPEARS THAT THIS CASE WENT BEYOND NOT ONLY A YEAR BUT FOUR YEARS, AND I AM VERY, VERY CONCERNED, BECAUSE, OF COURSE, WE HAVE PARENTS' ATTORNEYS PAID FOR BY THE STATE. THEY STILL DON'T HAVE CHILDREN'S ATTORNEYS FOR MOST OF THE CHILDREN THAT WE ARE GOING TO ESSENTIALLY AUTHORIZE NONFINAL APPEALS FROM EVERY, AND OF COURSE NOW WE HEARD THAT MAGISTRATES ARE HEARING THESE INTERLOCKTORY ORDERS. FROM AN ADMINISTRATION OF JUSTICE AND A CONCERN THAT TERMINATION OF PERMANENCY IS SUPPOSED TO BE MADE UNDER FEDERAL LAW WITHIN A YEAR, A YEAR, I AM JUST REALLY.

THAT WAS REALLY BROUGHT IN AT THE DISCUSSION AT THE COMMITTEE LEVEL. THERE ARE SEVERAL FACTORS THAT WEIGH IN ON THAT ISSUE. FIRST OF ALL UNDER 9.130 WHEN READ TOGETHER WITH 9.136, THERE IS AN INHERENT EXPEDITED MECHANISM. IF THERE IS ANY SORT OF CUSTODY OR A CUSTODY ORDER IN PLACE ON A NONFINAL BASIS, AS YOUR HONOR POINTED

OUT , THESE DEPENDENCY, THE ULTIMATE DECISIONS ARE SUPPOSED TO BE MADE WITHIN A YEAR, SO CERTAINLY, IF THERE IS AN ORDER , INTERLOCKTORY OR FINAL NONCUSTODY HEARING, THAT TIME WHEN THAT ORIGINAL DECISION AND THE ONE YEAR, PERIOD, IF THERE WAS AN ERROR --

JUSTICE: DO WE HAVE ANY STATISTICS WHICH WOULD SHOW US HOW MANY CERT, OF THESE CERT PETITIONS ARE GRANTED?

NO , YOUR HONOR.

JUSTICE: WHERE THERE IS TAKEN THESE CASES BY THE DISTRICT COURTS?

NO. THAT EVALUATION WAS NOT DONE .

JUSTICE: OKAY. NOW , WHAT WE WOULD HAVE , THOUGH, IF THE RULE IS CHANGED, IS THAT YOU WOULD HAVE A RIGHT TO APPEAL EVERYONE OF THEM. CORRECT?

ANY CUSTODY DECISION IN ANY DEPENDENCY PROCEEDINGS, YES .

JUSTICE: SO WOULD YOU ESSENTIALLY RUN INTO A PROBLEM OF THE DEVELOPMENT OF THE LAW OF THE CASE ON INTERLOCKTORY BASIS?

I DON'T THINK SO , YOUR HONOR, BECAUSE I BELIEVE THE NONFINAL DECISION WOULD ALWAYS BE SUBJECT TO FURTHER REVIEW ON FINAL REVIEW OR COULD BE SUBJECT TO FURTHER DETERMINATION. SEE , YOUR HONOR , THE TRIAL COURT HAS CONTINUING JURISDICTION TO ENTER ANY ORDER TO ENABLE THE BEST INTERESTS OF THE CHILD, AND CERTAINLY THE TAKING OF THIS APPEAL WOULD NOT RESULT IN ANY SORT OF AUTOMATIC STAY.

JUSTICE: WHY ISN'T THE PRESENT SYSTEM, THOUGH , WHERE WE HAVE THE IMMENSE FLEXIBILITY , THAT IS IF SOMEBODY CAN REALLY MAKE OUT A CASE IN A PETITION FOR WRIT OF CERTIORARI , THAT A REAL PROBLEM HAS ARISEN , THAT THERE IS REALLY, AND THEY CAN MAKE THAT CASE OUT , WE REALLY HAVE IN THAT SINGLE INSTANCE , AS OPPOSED TO THE FULL PANOPLY OF NONFINAL RIGHTS , AS FAR AS REVIEW IN THE DISTRICT COURTS OF APPEAL , WHY , WHAT IS THE PROBLEM , OTHER THAN WHAT YOU ALL CONSISTENTLY POINT OUT THAT OVER IN FAMILY LAW , YOU KNOW, THEY CAN DO THIS BUT IN THE DEPENDENCY SYSTEM THAT THEY CAN'T. OTHER THAN THAT , OKAY , WHY ISN'T THE FLEXIBILITY OF THE PRESENT SYSTEM ADEQUATE TO ADDRESS ANY REAL INSTANCES OF INJUSTICE?

WELL , OF COURSE, AS YOU POINTED OUT , WE HAVE THIS INCONGRUITY BETWEEN HOW THINGS ARE GOING TO BE IN THE FAMILY LAW SETTING , BUT BEYOND THAT THE CONCERN THAT WAS RAISED AND DISCUSSED AT THE SUBCOMMITTEE LEVEL , BY MR . KURSKOWSKI , WHO WAS HIS OWN ATTORNEY IN THE MATTER AND THE RULE , CONCERNED WITH STANDARDS OF REVIEW AND THE RIGHT OF REVIEW, THE PETITION FOR CERTIORARI IS CURRENTLY FAVORED AND PERHAPS THE ONLY MECHANISM UTILIZED BY INDIVIDUALS WHO ARE SEEKING REVIEW OF THIS TYPE OF NONFINAL ORDER AND , OF COURSE , CERTIORARI, THE STANDARD OF EVEN APPELLATE JURISDICTION THROUGH A PETITION, IS MUCH HIGHER AND OF COURSE IN SOME INSTANCES IT WOULD BE ALMOST IMPOSSIBLE BECAUSE OF THE HIGH STANDARD THAT HAS TO BE DETERMINED ON A PRELIMINARY BASIS .

JUSTICE: PART OF THE BASIS OF THAT ARGUMENT IS THE ARGUMENT THAT THERE IS NO LOGICAL REASON TO DIFFERENTIATE BETWEEN A CUSTODY MATTER AND DEPENDENCY AND TERMINATION. CAN YOU REALLY ADDRESS THAT ISSUE, BECAUSE MY UNDERSTANDING UNDER THE LAW IN A TYPICAL DIVORCE CUSTODY, IT IS SHARED PARENTAL RESPONSIBILITY. YOU ARE HAVING THE KIDS GOING BACK AND FORTH, AND THAT IS THE NORMAL SITUATION. ISN'T THAT MUCH , AND THERE IS NOT A GUARDIAN AD LITEM , ATTORNEY AD LITEM AND ALL OF THE OTHER RESOURCES , PSYCHOLOGISTS AND ALL OF THE OTHER RESOURCES DIRECTED TOWARDS

DEPENDENCY CASES , SO ISN'T IT , I SN'T THAT , DOES THAT ARGUMENT REALLY HOLD ANY WEIGHT THAT THERE IS NO REAL DIFFERENCE BETWEEN A DISSOLUTION OF MARRIAGE , CUSTODY CASE AND --

I THINK THE ARGUMENT STILL HOLDS WEIGHT , YOUR HONOR. I AGREE WITH YOU OF COURSE , THAT THERE ARE SIGNIFICANT DIFFERENCES BETWEEN A TYPICAL DIVORCE CONTEXT AND CUSTODY DISPUTE , AND THESE TYPES OF INSTANCES AND PROCEEDINGS THAT WE ARE DISCUSSING HERE, ALTHOUGH I THINK STIPULATIONS THEY MAY OVERLAP. SOMETIMES IN A CUSTODY PROCEEDING, THE ISSUES ARISE, BUT I THINK AT THE HEART OF THE ISSUE FROM THE RIGHTS OF PARENTS AND THEIR CHILDREN , WHICH ARE CERTAINLY AS SIGNIFICANT IN THE DEPENDENCY PROCEEDING AS THEY ARE IN THE FAMILY PROCEEDING , AND WHAT WE WERE ATTEMPTING TO DO AND AS I LISTENED TO DISCUSSIONS AT THE COMMITTEE LEVEL AND LOOKED BACK UPON THE MINUTES , WHAT WAS ATTEMPTING TO BE ESTABLISHED HERE WAS TO FORM SOME KIND OF CONGRUITY BETWEEN THE RIGHTS OF THE CHILDREN WHICH ARE OBVIOUSLY PARAMOUNT BUT NOT TO OVERLOOK THE FACT THAT THE PARENTS , WHO THE DECISION MAY ACTUALLY BE INCORRECT , IF THE DECISION TO TAKE THE CHILD OUTSIDE OF A SITUATION MAY BE THE WRONG DECISION.

CHIEF JUSTICE: JUSTICE CANTERO HAS A QUESTION.

WITHOUT GIVING THE OPPORTUNITY TO HAVE A RIGHT OF IMMEDIATE REVIEW, I THINK THAT IS WHERE THE PARALLEL IS IMPORTANT, YOUR HONOR, BETWEEN THE FAMILY CONTEXT AND THE DEPENDENCY CONTEXT. THE SIGNIFICANT BOND BETWEEN PARENT AND CHILD THAT IS FORCED TO WAIT A YEAR COULD THEN BE DESTROYED.

JUSTICE: I WAS GOING BACK TO THE DIFFERENT STANDARDS OF REVIEW. IT SEEMS TO ME ON CERTIORARI , YOU COULD DEFINITELY SHOW IRREPARABLE HARM ON APPEAL, BECAUSE YOUR CHILD HAS BEEN TAKEN AWAY , AND SO WE ARE LEFT WITH THE STANDARD OF DEPART FROM THE ESSENTIAL REQUIREMENTS OF LAW. DO YOU KNOW HOW COURTS HAVE INTERPRETED THAT STANDARD IN CHILD CUSTODY CASES AND WHETHER IT IS A GROSS ABUSE OF DISCRETION IN THESE CASES OR WHETHER YOU HAVE TO HAVE, JUST BEEN CONTRARY TO WHAT THE LAW WOULD DICTATE IN THAT CASE?

I DO NOT KNOW SPECIFICALLY HOW THE COURTS, WHEN THEY HAVE ADDRESSED THE, THESE TYPES OF ISSUES THROUGH CERTIORARI , AGAIN, THERE WAS NO ANALOGOUS DONE AT THE COMMITTEE LEVEL SPECIFICALLY TO DETERMINE HOW THEY HANDLED THE RIGHT OF REVIEW. ONE WOULD THINK IF IMPORTANT ENOUGH, HOPEFULLY THE COURT WOULD TAKE REVIEW AND DEPART FROM ESSENTIAL REQUIREMENTS IN THOSE INSTANCES, AGAIN , THOUGH, GOING BACK TO THE FUNDAMENTAL DIFFERENCES BETWEEN THE STANDARDS, WHICH IS WHAT REALLY MOTIVATE A LOT OF THE DECISION-MAKING AT THIS LEVEL, BECAUSE THESE STANDARDS ARE INHERENTLY DIFFERENT WHEN A RIGHT OF APPEAL AND RIGHT TO HAVE THAT DAY IN COURT ON AN EXPEDITED BASIS WITHOUT A RECORD BEING TRANSMITTED, SO THE -- TRANSMITTED , SO THE FEARS OF DELAY , I THINK , ARE MINIMIZED , AS OPPOSED TO A CERTIORARI DECISION WHERE THE RESPONSE IS REQUIRED, THE PERSON SEEKING THAT REVIEW HAS TO OBTAIN THAT THRESHOLD AND HAVE TO OVERCOME WHAT IS HISTORICALLY A VERY HIGH THRESHOLD.

THE CERTIORARI PROCESS , ALTHOUGH THE STANDARD MAY BE HIGHER, IT DOES SEEM TO BE A MORE EXPEDITED PROCESS THAN A NONFINAL REVIEW.

IN SOME WAYS IT MIGHT BE , YOUR HONOR, BECAUSE THE CERT, THE PETITION HAS TO BE FILED WITHIN 30 DAYS AS OPPOSED TO A NOTICE OF APPEAL , BUT THE EXPEDITED PROCEEDINGS SAID FORTH UNDER 9.130 , IN SOME DEGREES THE TIME LIMITATIONS ARE VERY CLOSE. ONE WAY TO LOOK AT IT FROM THE FLIP SIDE IS A PETITION FOR CERTIORARI MAY BE FILED AND THEN THE COURT MAY NOT ISSUE A SHOW-CAUSE ORDER REQUIRING A RESPONSE FOR SOME PERIOD OF TIME

, PERHAPS FOR WHATEVER REASON , PERHAPSIT IS UNDERGOING REVIEW AND THERE IS A DECISION TO BE MADE AS TO WHETHER THAT THRESHOLD DEPARTURE HAS BEEN ESTABLISHED BY THE PETITION , IN A NONFINAL APPEAL . THE NOTICE HAS TO BE FILED WITHIN 30 DAYS, AND I WOULD ASSUME THAT IN THESE INSTANCES IT WOULD BE DONE MUCH MORE QUICKLY . BRIEFS HAVE TO BE FILED 15 DAYS LATER AND ALL O F THESE MATTERS CAN BE DEALT WITH ON AN EXPEDITED BASIS. UNDER 9.14 6 I THINK SUBSECTION G , APPE LLATE COU RTS ARE SU PPOSED TO GIVE THESE APPEALS AND FINAL APPEALS , THESE EXPE DITED CONSIDERATIONS.

JUSTICE: IT DOESN'T SEEM LIKE THE DISTRICT COURTS OF APPEAL PA Y TOO MUCH ATTENTION TO THAT PROVISION IN AN EXPEDITED BASIS.

THEN THE LITIGANTS HAVE TO RE MIND THE COURT WITH MOTIONS TO EXPEDITE AND CITING TO THE RULE AND VIGOROUSLY REQUESTING THATTHE COURTS QUICKLY ADDR ES S THESE ISSUES.

CHIEF JUSTICE: YOU ARE IN YOUR REBUTTAL .

JUSTICE: I WILL WAIT TOTHE NEXT.

CHIEF JUSTICE: JUSTICE L EWIS. NO. WE WILL LET YOU , WE WILL HAVE SUFFICIENT TIME.WOULD YOU MIND IF WE GI VE A MINUTE OR TWO TO ASK MR . ABRAMOWITZ SOME QUESTIONS.

NO. CERTAINLY.

CHIEF JUSTICE: GO AHEAD BUT I AM NOT GOING TO CALL ON YOU YET. MR . YOUNG.

MAY IT PLEASE THE CO URT. MY NAME IS TOM YOUNG , AND I LL HERE ON BEHALF THE STATEWIDE GUARDIAN AD LITEM PROGRAM. CHIEF I SEE YOU ARE FROM ORLANDO.I TH OUGHT O R L ANDO IS THE ONLY PLACE THAT ISN'T PART OF THE STA TEWIDE GUARDIAN AD LITEM.

THAT IS THE IRONY, YOUR HONOR.I WAS LI VING IN ORL ANDO WHEN I MET MISS O R KIN, WH O IS THE EXECUTIVE DIRECTOR, SO WE BASE OUR APPELLATE PROGRAMOUT OF ORLANDO. OUR COMMENTS ARE BASED ON OUR EXPE RIENCE , SINCE IMPLEMENTING OUR STAT EWIDE APPELLATE PROGRAM , WHICH WE DID LAST OCTO BER A FTER TAKING ABOUT 18 MONTHS TO STUDY .

CHIEF JUSTICE: COULD YOU JUST GIVE ME, I READ YOUR COMMENT , WHAT IS THE BOTTOM LINE. WHAT IS THE PO SITION OF THE STATEWIDE GUARDIAN AD LITEM PROGRAM?

WELL, YOUR HONOR, WITH REGARD TO 9. 130- A -3-C-3 , OURPOSITION IS THAT AN AMENDMENT IS NOT NECESSARY. THERE ARE MANY CIRCUMSTANCES THAT GO INTO THE MIX , IF YOUWILL, AND IN DETERMINING HOW F AST SOME THING MOVES. FOR INSTANCE , IF A PARENT WANTS TO TAKE AN APPEAL , T HEY HAVE TO PETITION THE CIRCUIT COURT TO APPOINT AN APPELLATE LAWYER. ACROSS THE STATE, THERE ARE V ERY FEW PARENTS' ATTORNEYS WHO ARE REPRESENTING THE PARENTS IN THE TR IAL COURTTHAT ARE , WHO ARE ACTUALLY REPRESENTING THEM ON APPEAL AS WELL.THERE ARE SOME , BUT I WOULD SAY THE MAJORITY OF CASES , IT IS A NEW APPELLATE LAWYER , AND SO THAT ADDS PART OF THE DELAY. WITH RE GARD TO CERTIORARI , I CAN JUST TELL YOU ANECDOTALLY , THAT THE VAST MAJORITY OF CASES THAT WE SEE COME THROUGH OUR OF FICE ARE INITIATED B Y THE FILING AFTER NOTICE OF APPEAL , EVEN WHEN IT IS A NONFINAL ORDER , AND ONLY IN THE SE COND DISTRICT ARE WE SEE ING APPELLATE LAWYERS , ONCE APPOINTED , EVALUATING AND SAYING, O H, WE NEED TO FILE A PETITION FOR CERTIORARI , SO THEN THEY ARE FOLLOWINGUP WITH A PETITION , AND IN THE VAST MAJORITY OF CASES , THESE THINGS ARE PROCEEDING LIKE A DIRECT APPEAL.

CHIEF JUSTICE: I AM NOT SURE, IS THE POSITION THAT YOU AG REE WITH THE RULES OF APPELLATE PROCEDURECOMMITTEE, THAT THEY SHOULD BE NONFINAL ORDERS?

WELL , YOUR HONOR --

CHIEF JUSTICE: BECAUSE I THOUGHT THAT IT SAID THAT THE AMENDMENT SHOULD BE EXPRESSLY LIMITED TO SHELTER ORDERS.

WE BELIEVE THAT THEY ARE CLEARLY NONFINAL ORDERS , BECAUSE WITHIN 44 OR 79 DAYS , THERE WILL BE A FINAL ORDER OF ADJUDICATION , SO WE BELIEVE THAT THE CURRENT RULES ARE SUFFICIENT FOR THESE REASONS . THE STANDARD FOR SHELTERING IS PROBABLE CAUSE , AND THE STANDARD OF REVIEW OF PROBABLE CAUSE IS LARGELY DE NOVO. YOU DO GET SOME DEFERENCE TO THE FACT FINDER ON WHAT IS HISTORICAL AND BACKGROUND FACTS , BUT AS TO WHETHER THOSE FACTS CONSTITUTE PROBABLE CAUSE, THE STANDARD OF REVIEW IS DE NOVO. THEREFORE IF THERE IS A DEPARTURE FROM THE ESSENTIAL REQUIREMENTS OF LAW , YOU CAN EASILY ESTABLISH THAT THROUGH CERTIORARI , BECAUSE , YES , YOUR HONOR .

JUSTICE: I GUESS THE PROBLEM AS I SEE IT , IS THAT IF YOU LOOK BACK AT THE REASON FOR HAVING IMMEDIATE REVIEW IN FAMILIAR CASES , I WOULD ASSUME WOULD BE THAT, THERE IS A CERTAIN DISRUPTION OF THE WHOLE FAMILY UNIT , OF DEPENDING ON WHERE THE CUSTODY GOES , AND WE ARE LOOKING AT THESE IN LIGHT OF THE BEST INTERESTS OF THE CHILDREN , CORRECT?

CORRECT.

JUSTICE: SO WE WANT TO MAKE SURE THAT THE CHILDREN ARE IN THE BEST CUSTODY POSITIONS OR GETTING THE KIND OF MONETARY RELIEF THAT IS NEEDED , SO WE ALLOW THESE NONFINAL ORDERS TO BE APPEAL , BUT DOES THOSE SAME INTERESTS COMPEL, AS MAYBE HEARING THESE OTHER KINDS OF CASES ON A NONFINAL APPEAL , ALSO? I MEAN, YOU STILL HAVE, IN A DEPENDENCY SITUATION , A TERMINATION OF PARENTAL RIGHTS SITUATION, WE STILL HAVE THE DISRUPTION OF THE FAMILY UNIT, AND CHILDREN NOT GOING TO ANOTHER PARENT BUT TO THE STATE , SO AREN'T THOSE INTERESTS EVEN HIGHER IN THOSE KINDS OF CASES?

YOUR HONOR , I THINK, I UNDERSTAND YOUR QUESTION , AND I HAVE TO RESPECTFULLY SUBMIT THAT, NO , AND THE REASON FOR THAT IS BECAUSE OF THE UNIQUENESS OF DEPENDENCY CASES. FOR INSTANCE IN A FAMILY LAW CONTEXT , YOU STILL ONLY HAVE A SINGLE FINAL ORDER. THAT IS THE ORDER DISSOLVING THE MARRIAGE AND AWARDING CUSTODY. SO FOR INSTANCE, IF THE PARENTS DIVORCE WHEN THE CHILD IS FIVE AND THERE IS A FINAL ORDER OF DISSOLUTION , AND THE ORDER GRANTING CUSTODY TO THE MOM --

JUSTICE: BUT I THOUGHT THIS RULE ALLOWED AN APPEAL FROM AN ORDER THAT IS NOT THE FINAL ORDER OF DISSOLUTION AND CHILD CUSTODY , BUT A TEMPORARY ORDER OF CHILD CUSTODY. DOESN'T THIS RULE APPLY IN THAT SITUATION?

WELL , YOUR HONOR , IT WOULD, IT WOULD APPLY IN THAT SITUATION, BUT IT WOULD , ALSO , APPLY IN A POST DISSOLUTION PROCEEDING , AND I BELIEVE THAT IS MORE WHAT THE RULE GOES TO, BECAUSE FOR INSTANCE , IF AFTER DISSOLUTION AND THE CHILD HAS BEEN WITH THE MOM FOR FOUR YEARS, THE FATHER COMES IN AND MOVES FOR CHANGE OF CUSTODY , THERE IS NOT GOING TO BE ANOTHER FINAL ORDER , SO THIS IS THE MECHANISM BY WHICH THE PARENTS ARE ABLE TO GET REVIEW OF A POST DISSOLUTION CHANGE OF CUSTODY : IN THE CONTEXT OF DEPENDENCY , PARENTS CAN SEEK REVIEW OF A SHELTER ORDER THROUGH CERTIORARI AND THERE IS GOING TO BE A FINAL ORDER THAT THEY HAVE A RIGHT OF DIRECT APPEAL , WITHIN 44-TO-79 DAYS.

CHIEF JUSTICE: THAT IS A DEPENDENCY, ORDER OF DEPENDENCY.

ORDER OF DEPENDENCY. EXACTLY. SO REALLY WHAT YOU HAVE IN DEPENDENCY THAT YOU DON'T HAVE IN FAMILY LAW, IS YOU REALLY HAVE TWO OPPORTUNITIES. YOU HAVE ONE

OPPORTUNITY IMMEDIATELY THROUGH CERTIORARI, AND WITHIN A COUPLE OF MONTHS , YOU HAVE THE RIGHT TO A DIRECT APPEAL ON AN ORDER OF ADJUDICATION .

JUSTICE: DID THE ORDER OF DEPENDENCY HELD TO BE A FINAL ORDER?

YOUR HONOR , IN THE GLF CASE , THE COURT HELD THAT AN ADJUDICATION ORDER AND DISPOSITION ORDER IS APPEALABLE , AND I BELIEVE THAT WAS A TERMINATION OF PARENTAL RIGHTS CASE BUT IT WOULD APPLY EQUALLY TO DEPENDENCY .

JUSTICE: I KNOW THAT IF PARENTAL RIGHTS ARE TERMINATED, THAT IS CERTAINLY A FINAL ORDER , BEFORE THAT IF A CHILD IS ADJUDICATED DEPENDENT , I AM NOT FAMILIAR WITH WHETHER THE CASES SAY THAT IS A FINAL ORDER OR WHETHER IT IS APPEALABLE AS A NONFINAL ORDER.

I CAN SAY , YOUR HONOR , THE COURTS ARE TREATING THOSE AS A FINAL ORDER. I DON'T KNOW THAT THERE IS A CASE THAT EXPLICITLY SAYS THAT.

CHIEF JUSTICE: I GUESS YOUR POSITION WOULD BE THAT THOSE ARE PROBABLY FINAL ORDERS OR APPEALABLE AS NONFINAL ORDERS?

OUR POSITION IS THAT ADJUDICATION OF DEPENDENCY ORDER , ADJUDICATION AND DISPOSITION ORDER OF DEPENDENCY IS A APPEALABLE FINAL ORDER BECAUSE IT DISPOSES JUDICIAL LABOR ON THAT PETITION.

JUSTICE: DOESN'T THE JUDICIAL LABOR HAVE TO -- JUDICIAL LABOR HAVE TO CONTINUE, AS FAR AS THE PARENTAL RIGHTS?

WELL , IN THE GLS DECISION , YOUR HONOR, THE COURT RECOGNIZES THAT DEPENDENCY CASES ARE EXTREMELY UNIQUE AND DON'T REALLY FIT NEATLY WITHIN THE RULES LIKE OTHER CASES THAT TYPICALLY RESULT IN ONE ORDER. YES , JUDICIAL LABOR CONTINUES, BUT, YOUR HONOR , I WOULD SUBMIT EVEN AFTER TERMINATION OF PARENTAL RIGHTS, JUDICIAL LABOR CONTINUES UNTIL THAT CHILD IS ADOPTED, AND WHEN WE HAVE 3,000 CHILDREN WHO ARE NOT ADOPTED AFTER TERMINATION , JUDICIAL LABOR CONTINUES FOR YEARS , SO, AGAIN , DEPENDENCY AND TERMINATION OF PARENTAL RIGHTS CASES ARE VERY UNIQUE AND THE GUARDIAN AD LITEM POSITION IS THAT THE COURT NEEDS TO CONSIDER THE UNIQUENESS OF THESE CASES WHEN CONSIDERING HOW THE RULES APPLY TO THEM.

JUSTICE: WHAT HAS BEEN YOUR EXPERIENCE, AS FAR AS THE CERTIORARI PETITIONS ARE , HAVE ANY OF THEM BEEN GRANTED?

YOUR HONOR , I BELIEVE WE HAVE SEEN 15 SHELTER ORDERS SINCE OCTOBER APPEALED , WHETHER THROUGH A NOTICE OF APPEAL OR CERTIORARI , AND I DON'T KNOW THE OUTCOME . I KNOW THAT WE HAVE DEALT WITH PARENTS, BECAUSE THE COURTS EITHER DID NOT APPOINT AN ATTORNEY FOR THE PARENTS AT THE SHELTER HEARING OR DID NOT ALLOW THE PARENTS TO TESTIFY OR CROSS-EXAMINATION WITNESSES. I WOULD SAY THAT THE FIFTH DISTRICT DECIDED ADD CASE ON FRIDAY , JUNE 2 , IN A SHELTER , CONCERNING A SHELTER ORDER , AND IF YOU PULL UP THE FIFTH DISTRICT WEB SITE, YOU WILL SEE THAT THAT WAS INITIATED THROUGH THE FILING OF A NOTICE OF APPEAL. IT WAS FULLY BRIEFED WITHIN 20 DAYS , FULLY BRIEFED BY ALL PARTIES WITHIN 20 DAYS BY THE END OF MARCH , AND IT STILL TO OK UNTIL JUNE , AND THE COURT EXPEDITED IT , DID EVERYTHING IT COULD TO EXPEDITE IT .

JUSTICE: I GUESS MY QUESTION IS YOU ARE TALKING ABOUT APPEALS , BUT MY QUESTION IS IF YOU THINK THAT CERTIORARI IS ADEQUATE TO ADDRESS THIS ISSUE , HOW MANY CERTIORARI PETITIONS ARE ACTUALLY GRANTED , IF ANY , THOSE THAT ARE ACTUALLY CONSIDERED AS CERTIORARI PETITIONS?

YOUR HONOR , THE R ONY CANNOT DIRECTLY ANSWER YOUR QUESTION -- THE REASON I CANNOT DIRECTLY AN SWER YOUR QUESTION IS I HAVE NOT SEEN A PARENTS' ATTORNEY FILE A CERTIORARI PETITION ON THIS. THEY FILE A NOTICE OF APPEAL. I BELIEVE --

CHIEF JUSTICE: WHAT YOU YOU ARE SAY ING AS A PRACTICAL MATT ER, THE RULE IS GOING, IF WE ADOPT THE RULE, I T WILL CON FORM WITH WHAT IS GOING ON IN A LL OF THE DISTRICT COURTS , OTHER THAN IN THE SE COND . THAT AS A PR ACTICAL MATTER , THEY ARE TREATING THESE AS NONFINAL ORDERS .

I BELIEVE WHAT IS HAPPENING IS THE COURT IS REVIEWING WHAT IS BEING FILED AND THEN IT IS SAYING , O KAY , THIS DOCUMENT WITHIN TEN DAYS OR 20 DAYS OR WHATEVER, G IVE IT TO US, ANDTHE COURTS ARE TR YING TO EXP EDITE THESE CASES AS BEST THEY CAN.

JUSTICE: HA S ANY APPELLATE COURT HELD THAT A DEPENDENCY ORDER WOULD FALL WITHIN THE CU RRENT A -3- C-3 ? BECAUSE IT IS A CHILD CUSTODY AND FAMILY LAW , ANDTHIS IS WITHIN THE REALM OF FAMILY LAW?

YOUR HONOR , TO MY KNOWLEDGE , ALL DEPENDENCY ADJUDICATIONS ARE BEING TREATED AS APPEALS FR OM FINAL ORDERS , UNDER 9.200.

JUSTICE: WHAT I MEAN , THESE NONFINAL CASES THAT YOU YOU ARE GE TTING THAT YOU ARE SAYING ARE FILE D AS APPEALS AND NOT FILED AS CERTIORARI. HAS ANY APPELLATE COURT SAID, WELL, WE ARE GOING , WE CONSIDER THESE AS FILED UNDER A -3 -C-3 , EVEN AS WRITTEN NOW?

NO , YOUR HONOR. I , IN THE FIFTH DIST RICT AND PREVIOUSLY IN THE SECOND DISTRICT, THE COURTS WERE INVOKING JURISDICTION UNDER 9.14-D, W HICH IS WH Y YOU HAVE THE PROPOSED AMENDMENT THERE . I HAVE SEEN SOME COURTS SAYTHAT THERE IS A RIGHT OF DIRECT APPEAL, NOT SHELTER BUT IN ANY THING AFTER ADJUDICATION OF DEPENDENCY , UNDER 9.130- A -4 , WHICH TALKS ABOUT APPEALS OF NONFINAL ORDERS FOLL OWING A FINAL ORDER. SOMETIMES THE COURTS JUST ALLOW IT, BUT THERE ARE , AND WE C ITE IT IN OUR COMMENTS , THE THREE DECISIONS FROM THE FOURTH, FIFTH AND, I BELIEVE FIRST DISTRICTS THAT HAVE EXP RESSLY CITED 9.130-A-4.

CHIEF JUSTICE: YOUR TIME IS EXPI RE D . I WANT TO ASK, I WANT TO MAKE SURE I UNDERSTAND. IS THE PR ESENT PRACTICE THAT, IN ALL OF THESE CASES THAT GO UP , WH ETHER IT IS BY PETITION OR APPEAL , THAT THE GUARDIAN AD LITEM PRO GRAM IS ENTERING AN APPEARANCE TO REPRESENT THE INTE RESTS OF THE CHILD?

YOUR HONOR, WE TRIED TO DO THAT. IF WE ARE SERVED WITH NOTICE OF THE APPEAL , MOST OF THE DISTRICT COURTS ARE AUTOMATICALLY FORWARDING THINGS TO US. BECAUSE THE GUAR DIAN PROGRAMDID NOT HAVE A STAT EWIDE APPELLATE PRAC TICE UNTIL RECENTLY, WE ARE STILL FREQUENTLY OMITTED.

CHIEF JUSTICE: WHAT IT MEANS AS A PRACTICAL MATTER, BECAUSE THE GUARDIAN AD LITEM AT L EAST FOR HA LF THECASE, IS NOT APPO INTED FOR THE CHILD, THAT WHATEVER RIGHT THERE IS , WHETHER IT IS NONFINAL OR PETITION , WHEN THAT CHILD IS TAKEN A WAY FROM THE PARENTS , THE CHILD IS NEVER A BLE T O APPEAL OR PETITION AN APPELLATE COURT I N THOSE CASES WHERE THERE IS NO GUARDIAN AD LITEM .

THAT'S CORRECT , YOURHONOR.I BELIEVE WE ARE ON ABOUT 62 PERCENT OF THE CASES NOW , AND WITH THE NEW FUNDINGFROM THE LEGISLATURE THIS YEAR, I BELIEVE WE ARE H OPING TO INCREASE 6,000 TO 7,000 MORE CHILDREN.

CHIEF JUSTICE: THANK YOU VERY MUCH.

THANK YOU.

CHIEF JUSTICE: I DIDN'T WANT TO PUT YOU IN AN AWKWARD POSITION. IT SEEMED LIKE YOU HAVE SO MUCH KNOWLEDGE.

NO. NO.

CHIEF JUSTICE: WHAT IS CONCERNING ME IS THAT, IF ALL OF THE APPELLATE COURTS ARE TREATING THESE CASES AS NONFINAL ORDERS ANYWAY, THEN, WHAT, AREN'T WE JUST GOING AND CONFORMING THE RULES TO THE PRACTICE?

I THINK YOU SAID THE BEST, BY THE WAY I AM ALAN ABRAMOWITZ, CHAIR OF THE JUVENILE RULES COMMITTEE. I THINK YOU MADE THE BEST ARGUMENT THERE WHEN YOU TALKED ABOUT A CASE THAT WAS FIVE YEARS IN THE MAKING. NORMAL APPEAL PROCESS, AND NOW WE ARE IN A HORRIBLE SITUATION IN THAT CASE, I AM ASSUMING, AND IN YOUR, WHEN YOU RULED ON THE WRIT, YOU, I THINK IT WAS A CONCURRING OPINION THAT ASKED SPECIFICALLY FOR THE CIRCUIT JUDGE TO STILL MAKE THE DECISIONS THEY NEEDED TO MAKE, AND I THINK WHAT WE FORGET, AND JACKIE HEARD HIM QUOTED, JACK LEVIN, I HEARD HIM QUOTED AS SAYING THAT CHILDREN NOT FROZEN IN ICE. BY THE TIME YOU GO THROUGH THE TIME FRAME AND APPEALS PROCESS, THE CIRCUMSTANCES HAVE LONG CHANGED. THEY ARE NOT EVEN CLOSE. JUDGES ARE RULING IN THE UPPER COURT ON THINGS THAT ARE NOT EVEN HAPPENING ON THE GROUND. THAT IS THE AMAZING THING. THE WRITS ARE VERY IMPORTANT. I WOULD LIKE TO POINT OUT ONE THING FROM A CASE IN THE FIFTH DISTRICT COURT OF APPEAL WHERE A CHILD NEEDED A CYST REMOVED FROM THEIR THROAT. I THINK IT WAS DCF, BUT THE CHILD IS ABOUT TO TURN 18, AND IF THEY HAD DONE A REGULAR NONFINAL ORDER, HE WOULD HAVE TURNED 18 AND THAT CHILD WOULD HAVE BEEN LONG GONE. HIS MEDICAID WOULD HAVE EXPIRED AND THE JUDGE REFUSED TO HEAR THE CASE ACTUALLY AND THE JUDGE WAS ORDERED TO AUTHORIZE THE DEPARTMENT TO AUTHORIZE THE SURGERY, JUMPING IN ON A WRIT, AND UNIQUE ACCESS.

CHIEF JUSTICE: THERE STILL WOULD BE THE PETITION, THIS ISN'T ELIMINATING THE PETITION FOR A WRIT, AND IN A MEDICAL PROCEDURE, THAT IS NOT INCLUDED AS A NONFINAL ORDER. IT IS ONLY DETERMINATIONS OF CUSTODY, SO LET'S GO BACK TO THE FACT THAT ON THE GROUND IS IT TRUE THAT EVERY COURT, OTHER THAN THE, OR EVERY DISTRICT OTHER THAN THE SECOND DISTRICT IS TREATING THESE, ANYWAY, AS NONFINAL APPEALS?

WHICH TYPE, THE REGULAR, THE DEPENDENCY?

CHIEF JUSTICE: FOR ANYTHING OTHER THAN DEPENDENCY AND TERMINATION OF PARENTAL RIGHTS.

IT LOOKS LIKE THEY ARE TREATING THEM AS FINAL ORDERS OF DEPENDENCY. IT SEEMS LIKE THE COURT, IF IT IS AN EMERGENCY AND YOU FILE SOMETHING, THEY WILL HEAR IT. IT IS CLEAR IF YOU FILE A WRIT THAT THEY WILL HEAR IT.

CHIEF JUSTICE: BUT I I NOT MR. -- -BUT I THOUGHT MR WAS SAYING THAT THE PARENTS WERE FILING IT AS AN APPEAL FROM A NONFINAL ORDER AND THAT IS HOW THE APPELLATE COURTS WERE TREATING THAT.

IF YOU, I THINK THEY HAVE. IT DEPENDS ON WHAT THE ATTORNEY FILED. I MEAN, BASICALLY WHAT MY EXPERIENCE IS, THAT TO A CERTAIN DEGREE, DICTATES. IN FACT, IF YOU FILE THE WRONG THING THEY WILL FIX IT. THAT IS WHAT I HAVE SEEN, AT LEAST IN THE FIFTH DISTRICT COURT OF APPEAL IF YOU PLEAD THE WRONG THING.

CHIEF JUSTICE: YOU THINK THAT IT WOULD BE AT LEAST AT GOOD IDEAS TO EXPRESSLY ALLOW SHELTER ORDERS, WHICH WOULD BE THE CRITICAL INITIAL ORDER, TO BE APPEALABLE AS A NONFINAL ORDER, AT LEAST TO HAVE ONE CATEGORY THAT IS FOR THE DEPENDENCY?

WELL, I KNOW THAT IN DELINQUENCY IN CHAPTER 985, THEY ADDRESS THAT ISSUE WITH REGARD TO SHELTER ORDER OF CHILDREN, BECAUSE A LOT OF CHILDREN BY THE TIME YOU DO THE NONFINAL, I MEAN AND NOT DO A WRIT, THEN IT IS LONG GONE. THE CIRCUMSTANCES HAVE CHANGED, SO THE COMMITTEE DID NOT ADDRESS THAT SPECIFICALLY.

CHIEF JUSTICE: UNLESS YOU COULD REALLY GET A DETERMINATION ON THAT SHELTER ORDER, FOR THE SAME REASON, THAT IS WHY WE ARE TALKING ABOUT EXCEPTIONS WITHIN TEN OR 20 DAYS AFTER THE DETERMINATION IS MADE, WE ARE ALMOST, WE ARE ON DEPENDENCY. IS THAT WHAT YOU ARE SAYING SOMETHING.

YES. YOU HAVE HAD OTHER HEARINGS IN THE INTERIM AND MORE INFORMATION MAY HAVE COME OUT. THAT IS WHY IT IS SO CRITICAL, THE SPEEDY THINGS OCCUR BECAUSE YOU ALREADY HAVE YOUR HEARINGS, ESPECIALLY UP FRONT FROM THE SHELTER CASE, YOU ARE HAVING HEARINGS MORE OFTEN AND AS YOU MOVE PAST THE 90th DAY OR 88th DAY AND THEN YOU ARE GOING TO THE 5-MONTH REVIEWS UNLESS YOU CAN HAVE A GENERAL MAGISTRATE EARLIER HEAR THE CASE.

CHIEF JUSTICE: BUT I REMEMBER THIS FROM SEVERAL YEARS AGO, DEPENDANCY ORDERS ARE TREATED AS FINAL ORDERS IN ALL OF THE APPELLATE COURTS, AREN'T THEY?

DEPENDENCY, YES. IN PRACTICE.

CHIEF JUSTICE: IN PRACTICE BUT IT IS NOT SPECIFICALLY LISTED AS A FINAL ORDER BUT IT IS TREATED AS FINAL ORDER, AN ORDER OF DEPENDENCY?

I AM NOT SURE. I WOULD DEFER TO THE APPEAL EXPERT.

JUSTICE: THIS COURT DECIDED A CASE THAT REALLY RULED, BY THE WAY, A CASE WHERE ODD CIRCUMSTANCES CUTTING OFF THE RIGHTS TO APPEAL WAS ONE OF THE SUBISSUES OF THE CASE. ISN'T THAT WHERE THAT CAME UP?

I JUST KEEP IN MIND THAT THE CHILDREN ARE CHANGING AND IF YOU HAVE A DISTRICT COURT OF APPEAL MAKING DECISIONS, WHILE MORE HEARINGS HAVE GONE THAT CHANGED CIRCUMSTANCES TRBS IS PROBLEMATIC.

CHIEF JUSTICE: MR. REITER. THANK YOU FOR RESPONDING. MR. REITER, WE WILL ASK THOSE QUESTIONS.

JUSTICE: MR. REITER, ARE THERE MEMBERS OF THE COURTS OF APPEAL ON YOUR COMMITTEE?

YES, THERE ARE. IN FACT I AM GLAD YOU MENTIONED THAT, BECAUSE JUDGE HOLSTON, WHO I BELIEVE IS A FIRST OR SECOND DISTRICT COURT OF APPEALS JUDGE, AT ONE OF OTHER MEETINGS IN DISCUSSING THIS ISSUE, ONE OF HIS COMMENTS, AND I REMEMBER, A GAIN, IN REVIEWING THE MINUTES, HE THOUGHT IT WAS IRONIC THAT WE ALLOW IMMEDIATE APPEAL OF IMMEDIATE POSSESSION OF PROPERTY BUT THAT THEY WOULD WE WOULD NOT ALLOW IMMEDIATE APPEAL OF POSSESSION OR CUSTODY OF A CHILD.

CHIEF JUSTICE: WHAT WILL ABOUT THE ISSUE THAT WE ARE TALKING ABOUT, WHICH IS THAT, THIS HAPPENS IN DIVORCE CASES, THAT WE ARE SETTING THERE AND SOMEBODY IS DECIDING SOMETHING THAT HAS NOW HAS BEEN 20 OTHER HEARINGS ON IT, AND IT IS NEVER THE SAME CIRCUMSTANCES, BUT YOU ARE FIXED IN TIME. IN CHILDREN FOR THESE CUSTODY CASES, I

MEAN IN DEPENDENCY ISSUE , YOU HAVE THE RIGHT TO APPEAL A FINAL ORDER THE TERMINATION OF CUSTODY, I MEAN OF DEPENDENCY, THE PRICEABLE EFFECT IS THERE IS NO WAY, NO MATTER HOW HARD THE DISTRICT COURT OF APPEAL TRIES , THAT THEY CAN GET THESE CASES RESOLVED IN LESS THAN 60 DAYS. I MEAN, WHAT, DID YOU LOOK AT THAT? WHAT THE NUMBER OF DAYS THAT , AS, AND MY EXPERIENCE HAS BEEN THAT NO BODY, INCLUDING DCF, INCLUDING THE PARENTS' ATTORNEY, EVER EVEN SAYS WE HAVE GOT TO EXPEDITE THIS AND DECIDE THIS TOMORROW!

YOUR HONOR , LET ME RESPOND TO THAT IN MULTIPLE WAYS. FIRST OF ALL , IN MY OWN PRACTICAL EXPERIENCE , AGAIN, THIS IS NOT IN A DEPENDENCY PROCEEDINGS BUT IN PRACTICAL EXPERIENCE ON A NONFINAL ORDER, AGAIN RELATING TO PROPERTY, I HAVE SEEN THE THIRD DISTRICT COURT OF APPEAL ISSUE AN OPINION LITERALLY WITHIN 30 DAYS FROM INITIAL BRIEFING.

CHIEF JUSTICE: WHAT IS YOUR EXPERIENCE , WHAT IS THE STATISTICS, WHAT IS THE NUMBERS?

I DON'T HAVE THAT.

CHIEF JUSTICE: DON'T YOU THINK THAT IS A CRITICAL THING FOR US TO UNDERSTAND? I MEAN, WE HAVE A SUBCOMMITTEE OF THE DISTRICT COURT OF APPEAL , PERFORMANCE AND ACCOUNTABILITY AT OUR REQUEST , LOOKING IT AT THE WHOLE ISSUE OF THE DELAY IN THE APPELLATE PROCESS WHEN IT COMES TO DEPENDENCY . SHOULDN'T WE AT LEAST HAVE THEM WEIGH IN ON WHAT IS GOING ON ON THE GROUND , BEFORE WE MAKE WHAT IS , TO ME A RADICAL CHANGE IN THE RULE?

I THINK THOSE STATISTICS WOULD BE VERY HELPFUL , YOUR HONOR , I ABSOLUTELY DO , BUT I ALSO DO WANT TO POINT OUT THAT, WHEN THESE ISSUES ARE BEING REVIEWED , AND THIS GOES BACK TO ONE OF THE OTHER QUESTIONS THAT CAME UP , WHEN THESE ISSUES ARE BEING REVIEWED, THE FACT THAT THERE ARE INTERIM DECISIONS THAT ARE MADE BY THE TRIAL JUDGE ARE NOT NECESSARILY GOING TO CHANGE DRAMATICALLY THE ENTIRE SCOPE OF WHAT IS BEING REVIEWED, IF NO EXAMPLE THE ISSUE THAT IS ON APPEAL IS THE IMMEDIATE CUSTODY OR PLACEMENT OF A CHILD PENDING DISPOSITION OF AN ULTIMATE TERMINATION OF PARENTAL RIGHTS DECISION, WHICH COULD TAKE MONTHS OR A YEAR. THERE MAY BE ORDERS ENTERED ALONG THE WAY THAT GO TO THE PROTECTION OF THE CHILD BY THE TRIAL COURT , WHICH HAS THE JURISDICTION TO DO THAT.

JUSTICE: COULD YOU MAKE A COMMENT ON THE GUARDIAN AD LITEM ATTORNEY 'S COMMENT THAT PERHAPS THE ROOTS TO THE APPELLATE RULE WITH REFERENCE TO DOMESTIC CASES , HAVE TO DO WITH POST DISSOLUTION CHANGES OF CUSTODY. CAN YOU ENLIGHTEN US ABOUT THAT AT ALL?

YOUR HONOR , AGAIN, THIS IS NOT SOMETHING THAT WAS SPECIFICALLY EVALUATED BY THE COMMITTEE. I DO NOT BELIEVE , THOUGH , SINCE IT WASN'T EVALUATED BY THE COMMITTEE, IT IS HARD FOR ME TO ARTICULATE A RESPONSE SPECIFICALLY TO THAT QUESTION , YOUR HONOR , BECAUSE , AGAIN , I DON'T KNOW. THE COMMITTEE DID NOT COMPARE --

JUSTICE: WE ARE ALL TALKING ANECDOTALLY , AND ONE OF THE THING THAT IS COMING UP ON MY REVIEW SCHEEN WITH APPELLATE LAW WEEKLY IS YOU DON'T SEE CASES IN THERE ON APPELLATE REVIEW OF TEMPORARY CUSTODY, NOW THAT THE COURT IS REVIEWING THOSE. THAT IS AMONGST THE DCA AND , OF COURSE , IT MAY BE THAT THEY NOT WRITING OPINIONS OR WHATEVER -- THAT THEY ARE NOT WRITING OPINIONS OR WHATEVER THE MATTER IS , BUT ALL OF YOU HAVE REALLY SORT OF ACKNOWLEDGED THAT THERE IS REALLY A FALSITY OF FACTS FOR US TO TELL WHAT IS GOING ON WE AT THE APPELLATE LEVEL -- ON AT THE APPELLATE LEVEL, OTHER THAN THAT THE APPELLATE COURTS ARE DOING A GOOD JOB WHEN THIS ISSUE IS RAISED OF JUMPING ON IT AND TURNING IT AROUND IN A HURRY WHEN IT HAS TO

DO WITH THE CHILDREN, BECAUSE VIRTUALLY ALL OF THEM HAVE RESPONDED TO OUR URGING AND THE RULES THAT WE HAVE ABOUT TREATING CHILDREN'S ISSUES WITH PRIORITY.

YOUR HONOR, I THINK ONE THING TO REMEMBER IS LOOKING AT IT FROM A PRACTICAL EXPERIENCE, JUSTICE PARIENTE POINTED OUT AFTER HEARING WHAT THE GUARDIAN HAS TO SAY ABOUT THIS ISSUE, IF COURTS AND ATTORNEYS AND PERSONS ARE PRACTICALLY UTILIZING THE APPEAL METHOD IN ORDER TO SEEK REVIEW OF THESE SORTS OF ORDERS, THEN ANYTHING ALLOWING THIS AMENDMENT WOULD, THEN, BY GUIDANCE AND PRACTICABILITY WOULD CONFORM TO THE PRACTICE AS IT IS UTILIZED, AND IT REALLY GOES BACK TO WHAT JUSTICE QUINCE SAID BEFORE ABOUT THE IMPORTANCE OF NOT DISRUPT A FAMILY UNIT, WHETHER IT BE IN A FAMILY SETTING, WHICH IN MOST CASES THERE WAS SHARED PARENTAL RESPONSIBILITY DURING THE PENDENCY OF PROCEEDINGS AND IN A DEPENDENCY CASE WHERE THE FAMILY HAS COMPLETELY BEEN TORN APART BY A NONFINAL ORDER, PENDING DISPOSITION OF THE FINAL ISSUE. I HAVE NOTHING FURTHER, UNLESS ANYONE HAS ANY QUESTIONS REGARDING THE PROPOSED AMENDMENT.

CHIEF JUSTICE: THANK YOU VERY MUCH. THE COURT WILL TAKE THIS MATTER INTO CONSIDERATION AND APPRECIATES THE RESPONSIVENESS TO OUR QUESTIONS AND WE WILL TAKE OUR MORNING RECESS OF 15 MINUTES.

MARSHAL: PLEASE RISE.