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Abraham Yisreal v. State of Florida
SC06-2211

THE NEXT CASE ON YOUR CALENDAR THIS MORNING IS YISRAEL VERSUS STATE OF FLORIDA.
[INAUDIBLE CONVERSATIONS].

GOOD MORNING. MATE PLEASE THIS COURT, DAVID McFERREN ON BEHALF OF PETITIONER ABRAHAM --

I AM HAVING TROUBLE.

OKAY, MR. MARSHAL, MAKE SURE WE CALM DOWN THEN AND PULL THE MICROPHONE, DOWN, PLEASE, SIR, OUR SOUND SYSTEM AT TIMES DOES NOT WORK PROPERLY. SO... WITH THAT -- ADDED NOISE IT MAKES IT DIFFICULT. NOT TO MENTION WE'RE ALL AGING. OKAY.

DAVID McPHERRI IN ON BEHALF OF THE PETITIONER, THE ISSUE BEFORE THE COURT TODAY IS WHETHER A DOCUMENTED DRAFTED BY AN EMPLOYEE OF A PUBLIC OFFICER AGENCY -- OFFICE OR AGENCY THAT SETS FORTH FINDINGS THAT THE EMPLOYEE UNCOVERED WHILE REVIEWING RECORDS MAINTAINED BY THAT OFFICE OR AGENCY IS IN FACT A PUBLIC RECORD THAT WOULD BE ADMISSIBLE UNDER THE PUBLIC RECORDS --

LET'S GO BACK, AS THE CASE STARTED UNFOLDING, AS WE READ THE OPINION FROM THE 4th DISTRICT IT APPEARED THAT ONLY JUST THIS ONE, ONE STATEMENT WAS PRESENTED. AS WE STARTED LOOKING THROUGH THE EXHIBITS AND WHAT ACTUALLY WENT INTO EVIDENCE AT TRIAL, EXHIBIT C, AS WE UNDERSTAND IT, CORRECT ME IF ANYTHING OF THIS INFORMATION IS CONTRARY TO YOUR UNDERSTANDING. BUT, IT WAS NOT JUST THE ATTACHMENT BUT YOU HAD I THINK, REFERRED TO THE COMPUTER PRINTOUT AS A CRIME IN TIME, WAS ATTACHED, TO THIS PIECE OF PAPER, WHATEVER YOU WANT TO CALL I IS THAT CORRECT AT THIS POINT.

I DON'T THINK IT IS. I --

CAN YOU TELL ME WHAT EXHIBIT IS C THEN IN OUR FILE IN THE COURT RECORD.

I THINK EXHIBIT C IS THE ACTUAL LETTER --

NO, SIR, STAMPED ACTUALLY THE EXHIBIT C IS STAMPED TO THE BACK PAGE OF THE COMPUTER PRINTOUT.

WELL, THE REASON --

I CHECKED THAT AS WELL.

AND THE REASON I THINK THAT IS BECAUSE NOBODY REFERRED TO IT DURING --

WHY IS IT IN THE --

THINGS GET INTO.

DO WE DEAL WITH THE RECORD OR WHAT PEOPLE SAY IT IS.

WELL, WE SHOULD DEAL WITH THE RECORD. BUT SOMETIMES THINGS GET INTO COURT FILES IN THE HEAT OF WHATEVER IS GOING ON IN COURT, AND GET HANDED ONE PERSON TO ANOTHER AND MAKES ITS WAY INTO THE COURT FILE AND WASN'T INTENDED TO. WHEN I READ THE RECORD I SEE THEY REFER SPECIFICALLY TO THAT LETTER --

YOU ARE REFERRING TO THE OPINION.

WHEN I READ THE SENTENCING TRANSCRIPT, PAGE 70 1:702, I THINK 713 --

HAVE YOU LOOK AT THE ORIGINAL COURT FILE?

I HAVE -- THE APPELLATE RECORD I RECEIVED. I --

AGAIN IT IS AN EASY ENOUGH QUESTION, HAVE YOU LOOK AT THE ACTUAL EXHIBIT.
YES.

AND DID YOU SEE EXHIBIT C AS WE SEE?

I SEE WHAT YOU ARE TALKING ABOUT. THE COMPUTER PRINTOUT THAT WAS THERE.
ATTACHED TO THAT LETTER AND IT HAS --

IT IS I DON'T KNOW I I DON'T KNOW THAT -- I CAN STATE IS ATTACHED.

STAPLED TO IT. IT WAS STAPLED TO IT WHEN IT CAME TO OUR COURT.

IN MY IN -- MINE ITS NOS. STAPLED. ITS THERE IN THE RECORD.

WHERE IS THE EXHIBIT STAMP PLACED?

I CAN'T ANSWER THAT.

ON THE BACK OF THE COMPUTER EXHIBIT.

AND WE NEED KNOW WHAT WE TALKING ABOUT. BECAUSE, YOU KNOW, THIS IS WHY IT CREATES A LOSS IF THE COURT IS TALK ABOUT ONE THING IT CHANGES THE ENTIRE NATURE THOUGH ARGUMENT FOR THE DISCUSSION THIS MORNING, DOES IT SENATE WELL, I THINK ARE RIGHT. I THINK IT DOES BUT APPARENTLY THE 4th DISTRICT COURT OF APPEALS FELT WE WERE ONLY TALKING ABOUT THE LETTER. THE 4th DISTRICT COURT OF APPEALS WAS NOT OF THE OPINION THAT THE COMPUTER PRINTOUT HAD BEEN INTRODUCED IN EVIDENCE. HAD THEY, I THINK THEY WOULD HAVE MENTIONED THAT.

WELL, I DON'T KNOW THAT THIS IS CASE, AT TIMES WE GET QUESTIONS THAT ARE CERTIFIED, THAT ONCE THE LAWYERS ARRIVE AND THE RECORD ARRIVES IT IS DIFFERENT FROM THAT STATED IN AN OPINION.

BUT WE ARE STILL DEALING WITH WHAT THE 4th DISTRICT COURT OF APPEALS SAID IN REGARD TO WHAT IS A PUBLIC RECORD.

WE NEED KNOW WHAT THE RECORD IS, DO WE NOT, TO DECIDE A CASE?

I THINK THE ULTIMATE DECISION TO DEAL WITH THAT THE --

CREATED A HYPOTHETICAL ISSUE IF THE RECORD CONTAINS THE EXHIBIT C IS BOTH A LETTER, THAT BASICALLY AUTHENTICATES THE COMPUTER PRINTOUT. IT IS A DIFFERENT DISCUSSION. SO THAT IS WHAT WE NEED TO KNOW BEFORE WE START WRITING ON SOMETHING OR DECIDING A CASE. AND CORRECT ME IF YOU THINK I'M INCORRECT.

I THINK YOU DO NEED KNOW THAT. I DON'T KNOW THAT THAT LETTER AUTHENTICATES WHAT IS IN THAT EXHIBIT. THAT COMPUTER PRINTOUT.

I WOULD LIKE FOR TO YOU DISCUSS THIS AS THE THOUGH COMPUTER, A TACHED TO IT. THAT THIS IS RECORD WE HAVE TO CAME TO US.

OKAY. THE LETTER THAT IS WRITTEN BY JOYCE HOBBS, WHERE SHE SAYS THAT THIS INDIVIDUAL WAS RELEASED FROM PRISON ON A CERTAIN DATE. OBVIOUSLY, HERE SAY, AN OUT OF COURT ASSERTION. THE QUESTION IS WOULD THAT BE A PUBLIC RECORD. AND THERE A GUESSEE CAN LOOK AT TWO PIECES HERE AND IF WE WANT TO SAY THEY ARE TOGETHER WE AND SAY THEY ARE TOGETHER AND THERE IS THIS LETTER AND THE COMPUTER -- CERTAINLY THE LET ERS NOT CREATED AS PART OF THE PUBLIC DOCUMENT. THERE IS NO STATUTORY REQUIREMENT. AND ALL THOSE THINGS.

AND --

BUT THERE IS A REQUIREMENT DOC KEEP TRACK OF WHO THOSE INMATES ARE AND WHERE THEY ARE AND WHEN RELEASED AND THOSE KINDS OF THINGS.

ABSOLUTELY, I AGREE WHOLEHEARTEDLY SOMEWHERE IN THE DEPARTMENT OF CORRECTIONS THERE ARE RECORDS THAT SAY THE PERSON CAME IN ON A CERTAIN DATE AND LEFT ON A CERTAIN DATE AND IN FACT I RECENTLY SAW A SUPPLEMENTAL AUTHORITY WHICH WAS AN ADMINISTRATIVE PROCEDURE ACT RULE THAT SAYS WHEN A PERSON IS RELEASED THAT IS -- THERE IS A --

BACKING AWAY FROM THE MICROPHONE THERE.

I'M SORRY.

BUT ANYWAY, THE LETTER FROM JOYCE HOBBS, SHE CERTIFIES THAT MR. YISRAEL WAS RELEASED ON A CERTAIN DATE. IN THAT LETTER SHE DOESN'T AUTHENTICATE WHAT IS A COMPUTER PRINTOUT. SHE DOESN'T SAY LOOK THERE IS A COMPUTER PRINTOUT OF RECORDS THAT ARE MAINTAINED BY THE DEPARTMENT OF CORRECTIONS EITHER AS THEIR ACTIVITIES OR MATTER THAT'S ARE REPORTED PURSUANT TO DUTY IMPOSED BY LAW, SHOULDN'T SAY -- SHE DIDN'T SAY ANYTHING LIKE THAT.

THE FORM OF THAT ATTACHED THEN DOESN'T PROPERLY UNDER OUR STATUTES AUTHENTICATE THAT AS A PUBLIC RECORD. YOUR ARGUMENT IN CHAPTER 09 --

99.02. BUT DOESN'T AUTHENTICATE --

MY CONCERN IS THAT NOK OBJECTED TOITED AND I MIGHT AGREE WITH YOU THE LETTER ITSELF IF PROPERLY OBJECTED TO ISSED IN MIBL HEARSAY AND THIS E DOC HAS A SIMPLE WAY OF SOLVE IT AS THE COURT IN EVEN THE FIRST DISTRICT ACKNOWLEDGED. WHY WOULD IT SOMEBODY

RAISED ON THE FIRST TIME ON APPEAL.

WELL, IT'S NOT RAISED FOR THE FIRST TIME ON APPEAL.

IT WAS --

A MOTION TO CORRECT SENTENCING ERROR, PURSUANT TO RULE 3800-B ON 2 WAS FILED IN THE CASE, AND FOR THE ATTENTION OF THE TRIAL COURT AND STATE ATTORNEYS OFFICE. AND NO RULING ON THE FOETION MOTION, SAT 60 DAYS AN DEEMED DENIED AND IT WAS A SITUATION WHERE THE PETITIONER BROUGHT IT TO THE COURT'S ATTENTION AND IT WAS INADMISSIBLE TO ESTABLISH THE CRITERIA FOR --

BUT I'M NOT SURE. HAVE WE INTERPRETED THAT RULE, THAT BROAD -- BROADLY WHEN IT WAS ENACTED IT WAS REALLY MORE -- HAD IN FACT BUT A LONGER SENTENCE, BUT AS FAR AS THE ADMISSIBILITY OF THE EVIDENCE, THE ONLY WAY FOR THE TO HAVE BEEN CORRECTED WOULD BE TO REOPEN THE SENTENCING HEARING. HAVE WE RULED THAT THOSE KINDS OF THINGS CURE AN OBJECTION.

YOU HAVE NOT AT THIS POINT.

ESPECIALLY ONE THAT IS A PROPER TYPE OF -- YOU KNOW, WHERE YOU SAY THERE SHOULD HAVE BEEN CROSS-EXAMINATION AND -- SURE.

AND SOMETHING.

WHAT YOU DID DO IN THE OPINION WHERE YOU ADOPTED THE RULE, ENACTED IT, UP 61, AND IT IS INTENDSING THAT YOU OUGHT -- WHEN YOU TALKED ABOUT THE NEED FOR THIS RULE AND WHY WE WERE NOW AMENDING IT, TO ADD THIS PROCEDURE WHERE APPELLATE COUNSEL COULD FILE A MOTION TO CORRECT, YOU USED VARIABLE BROAD LANGUAGE IN THAT OPINION, TALKED ABOUT THE NEED --

THAT WAS STILL DESIGNED, WAS IT NOT, TO ALLEVIATE THE APPELLATE BURDEN OF GOING THROUGH THESE TECHNICALITIES, THINGS THAT WERE THERE, NOT TO CURE UNOBJECTED-TO KINDS OF THINGS THAT OCCURRED IN PROCEEDINGS. OR MAYBE WE DID. YOU THINK WE DID. THERE WAS LANGUAGE IN THAT OPINION ON -- [INAUDIBLE] ANY SENTENCING ERROR AND ALSO LANGUAGE IN THAT OPINION THAT SAID THAT SENTENCING TODAY IS NOT AS UNCOMFORTABLE INDICATED AS IT WAS YEARS AGO. EVERY YEAR WE GET A NEW SENTENCING STATUTE WITH NEW CRITERIA AND YOU MENTIONED IN YOUR OPINION HOW AT THIS POINT TRIAL COUNSEL ARE ACTUALLY COMING TO RELY UPON APPELLATE COUNSEL TO TRY --

RIGHT. BUT AGAIN, IF YOU HAVE A LONG SENTENCING HEARING, AND THE QUESTION IS, WHO IS TESTIFYING AT IT, I'M NOT -- YOU KNOW, AGAIN I -- MAYBE WE CAN DECIDE THIS CASE WITHOUT DECIDING THAT ISSUE. I DON'T -- BEING USED FOR THAT KIND OF THING, THEN, IT MAY BE USED BEYOND WHAT WE INTENDED BUT MAYBE -- THAT IS YOUR POSITION ABOUT THE OBJECTION, THAT THAT WAS THE FUNCTIONAL EQUIVALENT OF AN OBJECTION.

YES.

AND --

YOU AGREE WITH JUSTICE LEWIS IF THE DOCUMENT THAT IS ATTACHED IN OUR RECORDS, WAS PROPERLY AUTHENTICATED, THAT WOULD REMOVE ANY HEARSAY OBJECTIONS?

IF THAT COMPUTER PRINTOUT WAS PROPERLY AUTHENTICATED, IT WOULD APPEAR THAT IT IS A RECORD THAT SETS FORTH E THE ACTIVITIES OF THE DEPARTMENT OF CORRECTIONS IN REGARD TO --

THIS -- THERE ARE A LOT OF CASES PENDING, AND SEEMS TO ME IS AN EASILY FIXABLE ISSUE. THE KIND OF THING THAT SOMETIMES JUST AS WELL -- WHY IS THIS UP HERE? CAN'T WE JUST HAVE THE STATE JUST PUT THESE IN?

I DON'T DISAGREE WITH YOU. AND --

YOU WOULD AGREE --

IS THERE ANYTHING INACCURATE WE SHOULD KNOW OF IN THAT LETTER? IS YOUR CLIENT -- IF IT GOES BACK FOR RESENTENCING CAN HE SHOW THAT HE DIDN'T?

I'M UNABLE TO SAY ITS INACCURATE.

JUSTICE BELL HAS A QUESTION.

YOU WOULD AGREE WITH HA THE FIRST DCA RECENTLY WROTE IN PARKER, AS LONG AS THE PROCESS IS FULFILLED IT WOULD BE APPROPRIATE?

THE PROCESS BEING --

BRINGING IN THE CERTIFIED LETTER WITH THE PRINTOUT ATTACHED.

WHETHER EITHER AN EVIDENCE, CUSTODIAN, RECORDS CUSTODYIAN THAT COMES IN OR USE A CERTIFICATION PROCESS FOR A BEGIN RECORD OR WHETHER YOU HAVE A PUBLIC RECORD, NEEDS TO BE FOUNDATIONAL REQUIREMENTS FOR A PUBLIC RECORD. I'M NOT SAYING DOC NEEDS TO HIRE -- [INAUDIBLE] OUT AND APPEAR IN COURT EVERY DAY TO HANDLE THESE MATTERS. I THINK THERE PROBABLY ARE RECORDS THAT WOULD MEET A HEARSAY EXCEPTION.

HARMLESS ERROR STANDARD APPLY AS TO THIS ISSUE?

IN THIS INSTANCE, SPECIFICALLY IN THIS CASE, I WOULD SAY NO. BECAUSE THERE IS NO OTHER EVIDENCE THAT WAS INTRODUCED TO ESTABLISH THAT MY CLIENT WAS RELEASED FROM PRISON WITHIN FIVE YEARS OF THE DAY -- INAUDIBLE HUBBLE.

HARMLESS ERROR STANDARD APPLY WHERE THE DEFENDANT DIDN'T RAISE ANY ISSUE ABOUT THE PARTICULAR FACT THAT WAS INTRODUCED AND QLO SEE FROM THE RECORD THAT YOUR -- I DON'T SEE FROM RECORD YOUR CLIENTS ARGUED IT HAD BEEN MORE THAN FIVE YEARS SINCE HE WAS RELEASED, OR ANYTHING OF THAT NATURE. THAT WOULD DISPUTE THE FACT THAT THE STATE PUT IN THROUGH THIS LETTER.

YOU ARE RIGHT. THERE WAS NO DISPUTE RAISED. EITHER AT SENTENCING HEARING OR THE SUBSEQUENT MOTION TO CORRECT. HOWEVER, IN HABITUAL OFFENDER PROCEEDINGS THE STATUTE CLEARLY SAYS IT IS A STATE -- THAT THE STATE HAS PROVED THE PREDICATE FACTS BY A PREPONDERANCE OF THE EVIDENCE AND HAVE AN AFFIRMATIVE OBLIGATION, A BURDEN TO COME FORWARD WITH EVIDENCE. COMPETENT, SUBSTANTIAL EVIDENCE THAT IT WILL ESTABLISH

--

I'M NOT SURE I STILL AM CONCERNED ABOUT WHETHER OR NOT YOU ANSWERED THE CHIEF JUSTICE'S ORIGINAL QUESTION. THAT IS ABOUT THIS EXHIBIT C.

THE RECORD THAT YOU AGREE, PROPERLY CERTIFIED, THAT THAT APPEARS TO BE THE KIND OF THING. THE DEPARTMENT OF CORRECTIONS MANDATED TO KEEP RECORDS COMING AND GOING AND THE LOCATION. AND -- AND NOT SURE THAT YOU REALLY ANSWERED HIS QUESTION, BECAUSE WHAT IT APPEARS HERE IS THROUGH ALL OF THIS, IF THAT RECORD OF THE COMING AND GOINGS THAT JUST LIKEN AN OFFICIAL LOG, THAT IT REALLY MOVES THIS ISSUE, THAT YOU RAISED AND YET, I DON'T -- YOU SAID, WELL, -ON WHETHER IT WAS OR WASN'T OR WHATEVER. BECAUSE IT APPEARS THAT EVEN UNDER YOUR ARGUMENT NOW, THAT AT MOST ALL WE WOULD DO WITH A SITUATION LIKE THIS IS PERHAPS SEND IT BACK TO THE COURT AND SAY, WELL,, BE SURE THAT THIS OTHER RECORD GOT PROPERLY BEFORE THE COURT TO BE CONSIDERED. HELP US AGAIN WITH YOUR STATEMENT, WITHOUT SOMETHING IN THE RECORD. THAT APPEARS TO BE THE PROPER KIND OF RECORD THAT WOULD DEMONSTRATE THE RELEASE DATE OF THE PRISONER, RECORD MANDATES WOULD BE KEPT UNDER STATUTORY MANDATE AND WHAT IS IT THAT IS IT THAT IS STILL AT ISSUE HERE?

WELL, STILL AT ISSUE IS THAT THE LETTER THAT MS. HOBBS WROTE DID NOT SAY ANYTHING IN REGARD TO THIS COMPUTER PRINTOUT. SHE DIDN'T MENTION IT. SO WE DON'T KNOW IF IT'S ACTUALLY A PUBLIC RECORD. WE DON'T HAVE ANY CERTIFICATION THAT THIS IS WHAT IT CLAIMS TO BE.

HERE WE'RE TALKING ABOUT AN UNOBJECTED-TO PROCEEDING, OKAY? WHICH HAS NOT ONLY SO OFFICIAL SAYING THIS IS WHEN THE PERSON WAS RELEASED, BUT IT HAS THE DOCUMENTS THAT BACK IT UP. AND 2 PROPER -- THE PROPER TIME TO INQUIRE ABOUT ALL THAT IS WHEN THAT IS OFFERED INTO EVIDENCE TO PROVE THE TIME WHEN THE PRISONER WAS RELEASED. NOT SOME TIME LATER WHEN YOU'VE GOT SEVEN APPELL LATE JUDGES ASKING YOU, YOU KNOW, THESE QUESTIONS ABOUT WHERE THAT CAME FROM AND WAS THAT PLACED INTO THE RECORD AT THE TIME. I MEAN, THE COMPLICATION YOU'RE TALKING ABOUT IS THE COMPLICATION BROUGHT ON BY THE FACT THAT THIS ISSUE WASN'T RAISED AT THE TRIAL COURT LEVEL. THAT NOBODY OBJECTED TO THE WAY THE STATE PROVED UP THE RELEASE DATE WHICH INCLUDES THIS RECORD, APPARENTLY A CON TREMP RAIN WAREHOUSE RECORD OF WHEN THE PERSON WAS RELEASED. YOUR POSITION STILL IS THAT THAT DIDN'T PROPERLY GET INTO A RECORD? IT'S NOT MENTIONED IN THE SENTENCING TRANSCRIPT. I WOULD THINK IF THEY WERE MOVING THAT INTO EVIDENCE AND RELYING ON THAT, THAT WOULD HAVE BEEN MENTIONED. TWO

PARTIES --

WE KNOW IT'S THERE BECAUSE WE HAVE IT BEFORE US IN THE RECORD.

BUT WE DON'T KNOW HOW IT GOT THERE. IF YOU READ, LOOK AT THE SENTENCE IN THE TRANSCRIPT. THE PROSECUTOR READS WHAT HE'S RELYING ON, AND IT'S THE LETTER FROM MS. HOBBS. THE TRIAL JUDGE IN MAKING THE FINDING OF FACT NECESSARY, READS THE LETTER FROM MS. HOBBS. NOBODY MENTIONS --

BUT ISN'T THE LETTER JUST A SUMMARY OF WHAT'S ATTACHED?

WHAT THE CUSTODIAN OF RECORD DID WAS SUMMARIZE WHAT THE FACTS SHOW, AND SO THE PROSECUTOR ADMITS THE LETTER WITH THE ATTACHMENT, THE CLERK STAMPS IT, THE COURT ACCEPTS IT IN, AND THEY JUST RELY ON THE SUMMARY OF THE RECORD STATED BY THE CUSTODIAN.

WOULDN'T THAT BRING UP THE PROBLEM OF HOW DO WE WANT LITIGATION TO PROCEED, AND DO WE WANT THE ACTUAL PUBLIC RECORDS OR COPIES OF THEM BROUGHT IN FOR THE TRIER OF FACT? OR DO WE WANT THE PARTIES TO BE ABLE TO CALL UP THAT PUBLIC OFFICER AGENCY AND SAY, HEY, DO YOU HAVE SOMEONE THERE WHO COULD READ THAT LETTER FOR ME AND PUT YOUR OFFICIAL STAMP ON IT?

I THINK THE JUSTICE IS SAYING YOU HAVE IT ATTACH TODAY WHAT WE HAVE. WE HAVE THE CASE NUMBER, WE HAVE THE EXHIBIT NUMBER, WE HAVE THE CLERK'S SIGNATURE, AND WE HAVE THE STATE'S EXHIBIT. THAT'S WHAT WE HAVE.

AND ALL I CAN SAY IS IT WAS NOT REFERRED TO AT ALL.

OKAY. COULD YOU ANSWER JUSTICE BELL'S THE THOUGH? HE'S ASKING WITH THE PIECE, WITH THE COMPUTER PRINTOUT ATTACHED, IS WHAT I THINK HE WAS ASKING YOU, COULD YOU JUST ANSWER HIS QUESTION?

IF THERE WAS AN ADMISSIBLE, AND WE KNOW WE HAVE AN ADMISSIBLE PUBLIC RECORD THAT COULD COME IN WITHOUT THE SUMMARY AND THEN THERE'S JUST A COVER LETTER WITH THE SUMMARY, I'D BE HARD-PRESSED TO SAY THAT'S A PROBLEM BECAUSE YOU HAVE THE DOCUMENTS ATTACHED TO IT THAT WOULD BE THE THE ADMISSIBLE PUBLIC RECORD.

LET ME SEE IF WE CAN GO THIS WAY TO TRY AND HELP YOU. IS THE, UNDER SEAL, THE STATEMENT UNDER SEAL BY MS. HOBBS, IS THAT DIFFERENT IN FORM IN ANY WAY FROM THAT WHICH WAS ATTACHED TO THE CASE OF THE FIRST DISTRICT THAT APPROVED A STATEMENT SUCH AS THIS WITH THE COMPUTER PRINTOUT ATTACHED? OR IS IT THE SAME VERBAGE?

I BELIEVE THAT IT CERTIFIED THAT THE FIRST DIRECT CASE, NOT OURS, I BELIEVE THE FIRST DISTRICT CASE, WHICH WAS GRAY, I BELIEVE THE CERTIFIED ATTACHED COPY OF THE CRIME AND TIME REPORT IS AN ACCURATE REFLECTION OF THE DEPARTMENT OF CORRECTIONS. I BELIEVE THAT IS WHAT THAT SAID, AND WE DON'T HAVE THAT IN THIS CASE.

YOU'RE IN YOUR REBUTTAL, BUT I WANTED TO ASK YOU A QUESTION ABOUT THE CONFRONTATION CLAUSE ISSUE. AND ASSUMING THAT THAT COMPUTER PRINTOUT WAS ATTACHED, FOR THE MOMENT, YOU ARGUE IN YOUR BRIEF THAT SECTION 775084 REQUIRES THAT THE PROCEEDINGS IN SENTENCINGS UNDER THE HVFO STATUTE BE CONFRONTED, BE CONDUCTED WITH ALL THE RIGHTS OF CONFRONTATION. SO IS IT YOUR POSITION THAT, ASSUMING, AGAIN, THAT THE COMPUTER PRINTOUT IS ATTACHED, THAT THE STATE COULD NOT INTRODUCE THAT COMPUTER PRINTOUT BECAUSE THE STATUTE REQUIRES CONFRONTATION?

NO. UNDER THE PUBLIC RECORD PERCEPTION, IT WOULDN'T BE TESTIMONIAL IN NATURE. I THINK THE STATE COULD PROBABLY IN THAT SITUATION -- [INAUDIBLE] HOWEVER, THIS LETTER BY ITSELF WOULD HAVE BEEN A TESTIMONY TESTIMONYIAL -- ACCUSATION IN A LETTER -- O REALLY THE WHOLE CASE TURNS ON, IS IT LETTER OR LETTER PLUS?

YOU'RE PROBABLY RIGHT.

BUT THE CONFLICT ISSUE IS NOT LETTER, LETTER PLUS, THE CONFLICT ISSUE IS IF IT WERE JUST THE LETTER. NOW, WE MAY BE HYPOTHETICAL HERE, BUT IS IT CERTIFIED -- IT'S CERTIFIED.

ALL RIGHT, SO THE COURT DISTRICT APPARENTLY THINKS EVEN IF IT WAS JUST THE HEAT LETTER, IT'S OKAY, AND THAT'S WHY YOU'RE UP HERE.

[INAUDIBLE].

I REPRESENT THE STATE OF FLORIDA. THANK YOU ALL FOR YOUR TIME HERE TODAY. I CAME HERE PREPARED, OF COURSE, TO DEFEND THE LETTER AS A PROPER PUBLIC RECORD. DON'T YOU WANT TO JUST GO TO THE FALLBACK POSITION? ISN'T IT JUST AS EASY FOR THE STATE TO PRODUCE WHAT WE THINK WAS ATTACHED AND HAVE THAT AUTHENTICATED? THE FIRST DISTRICT SAYS THAT'S WHAT IS APPROPRIATE, AND THAT WOULD JUST GET RID OF ALL THIS -- CERTAINLY, IT WOULD, BUT RESPECTFULLY, ISN'T THAT A POLICY DECISION, NOT A LEGAL DECISION? IF THIS LETTER COMPLIES WITH -- BUT IF IT DOESN'T, THEN YOU AGREE? YES.

WELL, HOW DID -- WELL, YOUR OPPONENT SEEMS TO SAY THAT ALL THAT WENT ON AT THE SENTENCING HEARING WAS THAT THE LETTER WAS WHAT, FROM MS. HOBBS, WAS WHAT WAS BEING DISCUSSED AND NOT WHAT WE NOW HAVE AS AN ATTACHMENT. DO YOU KNOW HOW THAT GOT IN THE RECORD?

THE RECORD WE HAVE HERE IN FRONT OF US DOESN'T CONTAIN THAT. I BELIEVE THE RECORD THAT I LOOKED AT AT THE DISTRICT COURT OF APPEALS -- I'M LOOKING AT THE SENTENCING TRANSCRIPT. IT DOES SAY WHEN THEY'RE INTRODUCING SCHEDULE -- SEE, AND IT'S NOT THE CLERKS. I CAN'T ARGUE THAT. BUT IT DOES SAY THAT STATE -- IDENTIFICATION B IDENTIFICATION, OFFENDER INFORMATION WITH COVER PAGE SIGNED BY GEORGE HOBBS. IT SAYS IT, I MEAN, WITH COVER PAGE.

I HAVE A RECOLLECTION OF SEEING THE CRIME WITH TIME REPORT. I KNOW I MADE THAT ARGUMENT WHEN I WAS DEFENDING IT AT THE BUSINESS LEVEL.

BUT THE FOURTH DISTRICT SAYS THAT JUST 11 IS ENOUGH. ISN'T THERE A SUBSTANTIAL PROBLEM HERE? BECAUSE ALL OF THE RELIABILITY FACTORS THAT GO WITH BUSINESS RECORDS, AKA PUBLIC RECORDS OR WHATEVER, AND THAT IS THAT SOMEBODY'S OFFICIALLY CHARGED WITH MAKING A CONTEMPORANEOUS ENTRY WHEN A PARTICULAR EVENT OCCURS, YOU KNOW, SUCH AS IN A LOGBOOK OR SOMETHING. AND THAT WOULD BE THE CLASSIC THING. THAT'S WHY WE'RE TALKING ABOUT, YOU KNOW, THAT EXHIBIT. NONE OF THOSE SAFEGUARDS ARE INVOLVED WITH THE SIMPLE WRITING OF A LETTER. AND AS FOR SOMEBODY, IN ESSENCE, THE WRITING OF A LETTER LIKE THIS IS SORT OF SAYING, WELL, I WENT AND LOOKED AT THE RECORD. IT'S THE RECORDS, REALLY, THAT ARE SUBJECT TO THE BUSINESS OR PUBLIC RECORDS EXCEPTION. NOT THE STATEMENT OF SOMEBODY THAT SAYS I WENT AND LOOKED AT THEM. AND NOW WE'RE GOING TO HAVE TO RELY ON WHOEVER IT WAS THAT WENT TO LOOK AT THE RECORDS. IT'S THE RECORDS THEMSELVES. IN THIS CASE, WE HAVE THE RECORDS THEMSELVES, APPARENTLY. BUT I HAVE A LOT OF -- LOT OF DIFFICULTY WITH YOUR POSITION SAYING, WELL, YOU KNOW, WHEN YOU HAVE A PROBLEM LIKE THIS, YOU JUST ASK SOMEBODY FROM THE DEPARTMENT OF CORRECTIONS TO WRITE YOU A LETTER, AND WE'LL PUT THAT INTO EVIDENCE.

WELL, IT'S NOT JUST A LETTER. IT'S A LETTER AUTHENTICATED, UNDER SEAL PURSUANT TO STATUTE. THE LEGISLATURE --

IT DOESN'T INVOLVE THE CONTEMPORANEOUS ENTRY OF A FACT THAT IS GOING ON, AND THAT THAT OFFICIAL IS CHARGED WITH RECORDING WHICH IS THE WHOLE PURPOSE BEHIND HAVING AN EXEMPTION FOR BUSINESS OR PUBLIC RECORDS. THAT IS THAT WHEN YOU'RE OFFICIALLY MANDATED TO DO SOMETHING AND TO KEEP A LOG OR WHATEVER, THEN YOU ARE ALL THESE SAFEGUARDS, YOU KNOW, PRESUMABLY. BUT THOSE SAFEGUARDS DON'T EXIST WHEN YOU JUST ASK SOMEBODY TO WRITE A LETTER.

WELL, I'M NOT SURE THAT THEY DO OR DON'T, I BELIEVE WE CAN MAKE AN ARGUMENT THAT THEY DO.

TELL ME HOW THEY DO. WHERE IS THE -- IN OTHER WORDS, WITH THIS OFFICIAL THAT WROTE THE LETTER, WAS IT A WOMAN OR A MAN?

IT WAS JOYCE HOBBS.

HOW DID THAT PERSON HAVE ANY OFFICIAL DUTY CON TEN PLAIN WAREHOUSELY WITH THE RELEASE OF THE PRISONER TO MAKE AN ENTRY THAT THE PRISONER DID, INDEED, YOU KNOW, LEAVE AT THAT DATE IN TIME?

NONE OF THAT WITH THAT OFFICIAL, RIGHT?

NO QUESTION OF THAT --

X
SO IS IT THE DANGER INVOLVED THERE IS SOME OTHER AGENT OF THE STATE CALLS THIS PERSON AND SAY WE'RE TRYING TO HABITUALIZE THIS BAD DUDE, AND WE NEED A LETTER TO SAY HE WAS RELEASED WITHIN THIS FIVE-YEAR PERIOD, COULD YOU SEND ME THAT LETTER? RESPECTFULLY, I DON'T THINK WE CAN STRETCH IT THAT FAR.

WHY NOT?

WELL, WE'RE TALKING ABOUT, THE DEFENDANT, THEY KNOW WHEN THEY'RE -- THE INFORMATION IS ON THE DEPARTMENT OF CORRECTIONS' WEB SITE. THEY TAKE INFORMATION CERTAINLY FROM THE RECORD, AND I CAN'T ARGUE THAT IF YOU TOOK THIS LETTER AND ATTACHED THE REPORT THAT IT WOULDN'T BE A BETTER EXHIBIT, AND IT WOULDN'T ANSWER ALL THOSE QUESTIONS.

YOU AGREE IT WOULD BE?

I CAN'T ARGUE THAT IT WOULDN'T BE. I CAN ARGUE THAT IT ISN'T NECESSARY TO SUPPORT WHAT THE FOURTH DISTRICT SAID. AS THEY SAID IN THEIR CONCLUSION, THEY SEE NO STATUTORY DUTY OR NO DIFFERENCE IN RELIABILITY. YOU'RE CORRECT, JUSTICE BELL. THE WHOLE ISSUE IS RELIABILITY, AND THAT'S WHAT I THINK HEARSAY IS ROOTED IN.

AGAIN --

DEFENDING SOLELY THE BUSINESS RECORD. AND I THINK IT OBVIOUSLY FITS MUCH BETTER AS A PUBLIC RECORD.

AND ISN'T THAT WHERE --

THE CON PEP BRAIN WAREHOUSE ISSUE IS NOT NECESSARILY --

SO WE HAVE LESS SAFEGUARDS WITH THE PUBLIC RECORD THAN WE DO WITH BUSINESS RECORDS?

WELL, THE HEARSAY EXCEPTION DOES NOT REQUIRE A PUBLIC RECORD TO BE MADE CONTEMPORANEOUSLY AS A BUSINESS RECORD IS REQUIRED TO. IT'S NOT CONTAINED IN THAT STATUTE. IT SIMILAR SIMPLY IS ANY RECORD MAINTAINING IN ANY FORM, LETTER E MEMORANDA -- THE EXACT LANGUAGE HERE.

THIS LETTER WAS ACTUALLY DONE IN CONTEMPLATION OF BEING USED IN A SPECIFIC CASE. AND SO UNDER -- DIDN'T THE STATE ACTUALLY ASK FOR THIS LETTER?

NO QUESTION, THE STATE ATTORNEY ASKED FOR THESE LETTERS.

AND THIS WAS IN CONTEMPLATION OF ONGOING CASE. AND YOU BELIEVE THAT FALLS UNDER THE HEADING OF PUBLIC RECORD?

WELL, IT CERTAINLY FALLS UNDER 119. THE QUESTION --

ISN'T THAT WHERE THE RELIABILITY FACTOR COMES IN, WHERE COURTS HAVE DRAWN THE DISTINCTION? AND THAT IS IF IT'S MADE IN THE ORDINARY COURSE OF BUSINESS REGARDLESS OF WHETHER THERE'S ANY LITIGATION ONGOING, THAT'S A BUSINESS RECORD WHETHER THE GOVERNMENT HAS CREATED IT OR A PRIVATE ENTITY HAS CREATED IT. HOWEVER, WHEN IT'S DONE FOR THE SPECIFIC PURPOSE OF THE LITIGATION TO BE INTRODUCED IN THE LITIGATION, IT'S NO LONGER A BUSINESS RECORD BECAUSE NOW ITS RELIABILITY IS QUESTIONABLE BECAUSE IT'S GOING TO BE OFFERED IN ORDER TO SUPPORT ONE SIDE'S THEORY OF THE CASE OR TO AUTHENTICATE SOME FACT THAT ONE SIDE WANTS. IT'S NO LONGER CONDUCTED FOR OTHER BUSINESS PURPOSES. ISN'T THAT WHERE COURTS HAVE DRAWN THE LINE?

WHEN YOU'RE TALKING ABOUT BUSINESS RECORDS, YES, YOUR HONOR. THERE'S A BROADER EXCEPTION FOR PUBLIC RECORD, AND I DON'T THINK THAT YOU CAN --

WHERE I FEEL UNCOMFORTABLE WITH THE ARGUMENT IS THE PUBLIC RECORDS IS ANYTHING IS A PUBLIC RECORD THAT A GOVERNMENT OFFICIAL CREATES. AND SO IF WE CREATE SOMETHING SAYING THINGS ABOUT THIS DEFENDANT, ABOUT THE DEFENDANT'S PAST OR WHATEVER, IT CAN VIOLATE 20 -- VIOLATE 20 DIFFERENT HEARSAY RULES BUT BECAUSE IT HAPPENED TO BE WRITTEN IN A LETTER, IT'S NOW INTRODUCE BL AS SUCH.

[INAUDIBLE]

WHERE DOES THE LEGISLATURE MANDATE THE DEPARTMENT TO WRITE LETTERS TO OFFICIALS IN SENTENCING TO TELL THEM WHAT THE RELEASE DATE WAS?

OF COURSE IT DOESN'T.

OKAY, THEN THAT'S MY POINT.

[INAUDIBLE] TO MAINTAIN ALL SORTS OF INFORMATION TO RELEASE DATE. SO THE COMPUTER PRINTOUT FALLS WITHIN THAT CATEGORY, I AGREE. I'M TALKING ABOUT THE LETTER THAT WAS

CREATED SPECIFICALLY TO INTRODUCE AT THE SENTENCING, WHY IS THAT A PUBLIC RECORD SIMPLY BECAUSE IT HAPPENS TO BE WRITTEN BY A PUBLIC INITIAL ALL I CAN GO TO -- WE KEEP GOING IN THE SAME CIRCLE, AND I APOLOGIZE. ALL I CAN GO TO -- DEPARTMENT IS MANDATED BY THE LEGISLATURE TO NOTIFY CERTAIN PEOPLE OF THE RELEASE DATE.

AND DOESN'T THAT MEAN THAT WHEN A PERSON IS RELEASED, CONTEMPORANEOUSLY WITH THE RELEASE THAT THE DEPARTMENT IS OBLIGATED TO SEND A LETTER? IT DOESN'T MEAN THAT FIVE YEARS LATER AT A SENTENCING ON ANOTHER CRIME THE DEPARTMENT MUST SEND OUT A RELEASE DATE LETTER?

I BELIEVE IT'S WITHIN SIX MONTHS OF THE RELEASE. NO, OF COURSE IT DOESN'T. BUT I BELIEVE THAT'S A DECISION THAT THE THE LEGISLATURE HAS DELEGATED AUTHORITY TO THE DEPARTMENT TO MAINTAIN THEIR RECORDS OF RELEASE DATES AND TO PROVIDE THEM IN A WAY THAT THEY SEE FIT. AND IT'S A POLICY DECISION THAT THE DEPARTMENT HAS MADE. IF THIS COURT DOESN'T FEEL --

YOU SAID IT WAS WITHIN SIX MONTHS OF RELEASE.

THE NOTIFICATION TO THE STATE'S ATTORNEY AND THE VICTIMS MUST BE DONE WITHIN SIX MONTHS.

AND YOU'RE NOT ARGUING THAT THIS LETTER WAS DONE PURSUANT TO THOSE REQUIREMENTS IN THE STATUTE?

THE RECORDKEEPING IS DONE PURSUANT TO THE REQUIREMENTS IN THE STATUTE. HOW THE DEPARTMENT CHOOSES TO DISPERSE THOSE RECORDS PURSUANT TO THE -- I THINK, IS A POLICY DECISION AND AUTHORITY THAT'S DELEGATED TO THE DEPARTMENT. YOU KNOW, I MEAN, I GUESS WE'RE PARSING WORDS --

NO, I THINK WHAT IT IS --

IT SHOULD BE BETTER.

THERE'S DIFFICULTY IN ANSWERING THE QUESTION BECAUSE THERE REALLY IS NO STATUTORY AUTHORITY FOR THAT SEPARATE LETTER.

BUT WE COULD TAKE THIS THAT TO THE ULTIMATE, THERE IS NO STATUTE TOY AUTHORITY FOR PUBLIC RECORD, DIRECTING ANY DEPARTMENT IN THIS STATE. THERE IS LITTLE STATUTORY AUTHORITY TELLING THE DEPARTMENT HOW THEY MUST MAINTAIN THEIR RECORDS. THAT'S GENERALLY DELEGATED --

AGAIN, WE'RE GOING IN CIRCLES.

MY OTHER POINT, I DID ARGUE THAT THE FOURTH DISTRICT COURT OF APPEALS, THAT THE ISSUE WAS NOT PRESERVED, AND THEY REJECTED IT. AND IT'S JUST IN A FOOTNOTE. I THINK THAT IS AN ISSUE.

I'M TRYING TO UNDERSTAND. IS THERE A REASON THAT YOU CAN ATTRIBUTE THAT THE FOURTH DISTRICT WOULD JUST PULL AND TALK ABOUT JUST A COVER SHEET WHEN THIS IS WHAT THE HEARING SAYS, THIS IS WHAT THE EXHIBIT SAYS, AND THEN TO ONLY JUST TALK ABOUT THAT COVER SHEET AND NOTHING ELSE. IS THERE ANY CONCEIVABLE ?RN.

AS MUCH AS I HATE TO ADMIT IT -- POINT BY EITHER ONE OF US BY EITHER THE APPELLATE OR THE STATE.

NO, NO, I THINK THE QUESTION IS WHAT WAS BEFORE THE FOURTH DISTRICT, WAS IT WHAT WE HAVE HERE NOW WHICH IS THE LETTER WHEN THE PRINT HEAD ATTACHED?

AGAIN, I REMEMBER SEEING THE CRIME AND TIME REPORT AND WRITING THAT IT'S NOT ATTACHED TO THE RECORDS THAT HAVE BEEN SUBMITTED TO US FOR THIS PURPOSE, BUT I REMEMBER SEEING IT.

SO THE RECORD THAT CAME FROM THE FOURTH DISTRICT DOES NOT HAVE THE CRIME AND TIME SNORT.

THE RECORD THAT I HAVE HERE HERE --

SO THE WAY THAT IT WAS ARGUED TO THE FOURTH DISTRICT DID NOT INCLUDE THE ATTACHMENT?

WELL, I BELIEVE IT DID, AND I PUT THAT IN MY BRIEF HERE REFERENCING -- NO, I DIDN'T WANT PUT IT IN HERE.

WE NEED TO -- THIS IS JUST GETTING MORE AND MORE CONFUSING. THERE IS ONE RECORD IN A FILE, IN A CASE, AND THAT IS THE OFFICIAL RECORD FROM THE CIRCUIT COURT, AND THEY SEND

THAT RECORD TO THE APPELLATE COURT R. YOU SPEAKING OF WHAT YOUR INTERNAL DEPARTMENT SENT YOU? WHAT ARE YOU SPEAKING OF WHEN YOU SAY OUR RECORDS DON'T HAVE IT?

THE DOCUMENT THAT I HAVE IN FRONT OF ME DOES NOT HAVE IT TODAY. I DO REMEMBER SEEING IT.

OKAY. SO THAT'S SOMETHING INTERNALLY FROM YOUR OWN OFFICE.

DID YOU ARGUE TO THE FOURTH DISTRICT THAT THAT ATTACHMENT ALSO VALIDATED THE BIND -- FINDING HERE OF THE --

TO THE BEST OF MY RECOLLECTION, IT'S BEEN OVER A YEAR SINCE I WROTE THAT BRIEF, BUT TO THE BEST OF MY RECOLLECTION, YES. AGAIN, WE HAVE A LOT OF DECISIONS FROM AROUND THE STATE ON THIS EXACT ISSUE. SOME OF THEM, I THINK, INDICATED FROM THE FIRST DEPARTMENT INDICATE THERE'S AN ATTACHMENT OF THE CRIME AND TIME REPORT THAT IS ACCEPTABLE. I SENT IN A NOTICE OF SUPPLEMENTAL AUTHORITY TO THE THIRD DISTRICT WHICH HAS CERTIFIED A QUESTION OF GREAT PUBLIC IMPORTANCE ON THE EXACT ISSUE, AS FAR AS I SEE IT. THE ONLY TWO ACES -- CASES THAT I FOUND ON THE ISSUE OF WHETHER OR NOT THIS LETTER CONSTITUTES A PUBLIC RECORD ADMISSIBLE UNDER THE EXCEPTION TO THE HEARSAY RULE, THE WARD CASE FROM --

ALSO THE FIRST DISTRICT DISCUSSED IT IN ONE OF THEIR OTHER CASES. SO THAT'S WHERE -- THERE'S NOT A CERTIFIED QUESTION, THERE'S A CERTIFIED CONFLICT.

IN THE GRAY CASE.

YEAH.

WELL, THEY DISCUSSED THE BUSINESS RECORD. THEY DIDN'T GET INTO DISCUSSION AS A PUBLIC. THAT'S BECAUSE IT DIDN'T HAVE THE PUBLIC RECORD ATTACHED.

YEAH. YEAH. I HAVEN'T USED MY TIME, BUT IF NO ONE HAS ANY QUESTIONS, I THINK WE ALL KNOW.

OKAY. THANK YOU VERY MUCH.

TWELVE SECONDS IF THERE'S ANY QUESTIONS.

WELL, I THINK, I GUESS FROM WRITING OPINIONS AND TRYING TO KNOW EXACTLY WHAT WE'RE DEALING WITH, THE COVER SHEET DOES NOT CERTIFY, IN THIS CASE, THAT THESE ARE ACCURATE OR ANYTHING LIKE THAT. AND THAT'S WHERE I'M TRYING TO GET TO -- I MUST TELL YOU, I MEAN, IN LOOKING AT THE RECORD MYSELF, I MEAN, IT'S VERY CLEAR IT'S ATTACHED TO IT, IT WAS STAPLED TO IT. BECAUSE I LOOK TODAY SEE IF THE ATTACHMENT WAS ON THE FRONT PAGE. IT WASN'T. IT WAS ONLY STAMPED ON THE COMPUTER PRINTOUT.

HOW WAS THE ATTACHMENT TREATED IN THE FOURTH DISTRICT?

BECAUSE THERE WAS NO MEETING FOUNDATION FOR A BUSINESS RECORD, IT WAS ARGUED THAT THIS SHOULD NOT HAVE COME IN AS A BUSINESS RECORD. THAT'S WHAT THE OBJECTION WAS, AND, THEREFORE, THERE HAS NOT --

NEVER DISCUSSED, REALLY, THE PUBLIC RECORD ASPECT?

WHEN IT GOT NOT GOT TO THE FOURTH DISTRICT, THEY DIDN'T GO TO IN TERMS OF BUSINESS RECORD, THEY WENT WITH PUBLIC RECORD. SO AS MR. PALMER MENTIONED, THAT WAS NOT SOMETHING INITIALLY ADDRESSED WITH THE COURT. THEY NEVER RESPONDED TO IT. THEY MAY HAVE CREATED SOME OF THE CONFUSION TO AS TO WHAT EXACTLY THE FOURTH DISTRICT FELT WAS ACTUALLY PART OF THE RECORD. I HAVE TO TELL YOU, MY READING OF THE RECORD WAS THAT ALL WE WERE DEALING WITH WAS THE LETTER FROM MS. HOBBS.

HOW DO YOU RESPOND TO COUNSEL READ FROM THE TRANSCRIPT? HOW DO YOU RESPOND FROM THAT? IT SAYS COVER SHEET WITH ATTACHMENTS.

I DIDN'T WANT READ COVER SHEET. I MEAN, I THOUGHT MAYBE THERE WAS LIKE A COVER SHEET WITH THIS DOCUMENT SHE WAS WRITING.

OKAY. WE APPRECIATE IT. WE'VE ALL PRACTICED LAW, WE APPRECIATE THE DIFFICULTY WITH GETTING RECORDS. PLEASE UNDERSTAND, WE'RE JUST TRYING TO DECIDE THIS PROPERLY, AND WE'RE NOT TRYING TO POINT THIS AT YOU. WITH OUR HELP YOU'VE USED UP ALL YOUR TIME. WE THANK YOU FOR THIS CONFUSING QUESTION. THE COURT WILL TAKE ITS MORNING RECESS.
ALL RISE.