

The following is a real-time transcript taken as closed captioning during the oral argument proceedings, and as such, may contain errors. This service is provided solely for the purpose of assisting those with disabilities and should be used for no other purpose. These are not legal documents, and may not be used as legal authority. This transcript is not an official document of the Florida Supreme Court.

Yolanda G. Minagorri v. Archdiocese of Miami, Inc.

SC07-1171

>> PLEASE RISE.

HEAR YE, HEAR YE, HEAR YE, THE
SUPREME COURT OF FLORIDA IS NOW
IN SESSION.

ALL WHO HAVE CAUSE TO PLEA,
DRAW NEAR, GIVE ATTENTION, AND
YOU SHALL BE HEARD.

GOD SAVE THESE UNITED STATES,
THIS GREAT STATE OF FLORIDA,
AND THIS HONORABLE COURT.

>> GOOD MORNING.

GOOD MORNING.

>> LADIES AND GENTLEMEN, THE
FLORIDA SUPREME COURT.

PLEASE BE SEATED.

>> GOOD MORNING, FRIENDS, AND
WELCOME TO THE FLORIDA SUPREME
COURT AND THE ORAL ARGUMENT
CALENDAR FOR THURSDAY, JUNE
12th.

IT APPEARS THAT WE HAVE WITH US
THOSE LAWYERS TODAY FOR
PRACTICING WITH THE, BER THE
FLORIDA SUPREME COURT AND FOR
ALL THE FACULTY AND THE LAWYERS
THAT ARE HERE, WELCOME AND IF
WE HAVE I DON'T KNOW IF THE
LAWSUITS OR -- LAW STUDENTS OR
UNDERGRADUATES ARE BACK FROM
FSU THIS WEEK BUT WE WELCOME
ALL OF YOU TO THIS ARGUMENT
CALENDAR.

THE FIRST CASE ON THE CALENDAR
THIS MORNING IS MINAGORRI v.
THE ARCHDIOCESE.

>> MAY IT PLEASE THE COURT.
MY NAME'S GEORGE T. REEVES AND
WITH ME IS ANDREW J. DECKTHER
4th.

WE REPRESENT DR. ^IA LAUNDA
MINAGORRI A PRINCIPAL OF A
CATHOLIC SCHOOL IN MIAMI-DADE
COUNTY.

>> NOW, ISN'T IT TREMENDOUSLY
IMPORTANT THAT THIS PRINCIPAL
HAS, AND YOU'VE CONCEDED AND

AGREED, THAT REALLY OPERATE IN MINISTERIAL POSITION WITH REGARD TO THIS ORGANIZATION?

>> WE DO NOT DISPUTE THAT SHE WAS A MINISTERIAL EMPLOYEE.

>> ISN'T THAT A TREMENDOUSLY IMPORTANT FACTOR AS WE START CONSIDERING THE LEGAL ISSUES THAT MAY ARISE IN THIS CASE?

>> WELL, IN OUR OPINION, WE FEEL THAT THE DISTINCTION BETWEEN MINISTERIAL AND OTHER EMPLOYEES IS NOT DETERMINATIVE OF THIS ISSUE BECAUSE THE FIRST AMENDMENT DOES NOT COMPLETELY PRESCRIBE THE CIRCUIT COURT'S JURISDICTION OVER EMPLOYMENT MATTERS OVER MINISTERIAL EMPLOYEES, SO IN THAT FACT WE DO NOT FEEL IT IS DISPOSITIVE. CERTAINLY IT IS RELEVANT.

>> WHAT DOES IT EXPLAIN? BECAUSE IN THIS STATE WE HAVE A DEARTH OF LAW, FRANKLY, AND I WILL JUST ADMIT THAT WHEN I FIRST SAW THIS HAD TO DO WITH THE MINISTERIAL EMPLOYEE, I WAS THINKING OF IT IN THE SENSE OF, YOU KNOW, LIKE THE CLERK OF COURTS, A MINISTERIAL EMPLOYEE, BUT WE ARE TALKING ABOUT AS SOMEONE FUNCTIONING AS A MINISTER.

WHAT WOULD YOU -- HOW WOULD YOU DEFINE A MINISTERIAL EMPLOYEE IN THE CHURCH?

>> WELL, I THINK THE, THE REASON THAT IT WAS CONCEDED IN THIS CASE, AND I THINK WHICH WOULD FALL UNDER THAT DEFINITION IS THAT A MINISTER IN THIS CASE IS SOMEONE THAT IS CHARGED BY THE RELIGIOUS ORGANIZATION WITH, WITH PROMULGATING THE DOCTRINE AND DOGMA OF THE RELIGIOUS ORGANIZATION, AND IN THIS SENSE, THE PRINCIPAL IS CONSIDERED A MINISTERIAL EMPLOYEE, AND THAT'S WHY IT WAS -- BUT THAT WAS CONCEDED AT TRIAL AND HASN'T BEEN AN ISSUE THROUGHOUT THIS ENTIRE THING.

>> IF YOU HAD -- IF THE ISSUE

WAS THE TERMS OF HER EMPLOYMENT, LIKE THE CASE FROM THE THIRD -- THE OTHER CASE FROM THE THIRD DISTRICT INVOLVING THE RABBI AND THE EMPLOYMENT DISPUTE, IS THERE ANY QUESTION THAT THAT WOULD BE BARRED BY THE FIRST AMENDMENT?

>> WE THINK, AND I THINK THIS GOES TO THE CRUX OF THE ARGUMENT, WHAT THE THIRD DCA DID IN THIS CASE, THEY RULED IT WAS A JURISDICTIONAL BAR. NOW, WE DON'T THINK EVEN IN THAT CASE OR ANY OTHER IT'S A JURISDICTIONAL BAR. WE THINK IT'S AN AFFIRMATIVE DEFENSE AND THAT THEY ARE GOING TO HAVE TO PLEAD AND SHOW HOW THIS IMPINGES UPON THE FIRST AMENDMENT.

CERTAINLY A MINISTERIAL EMPLOYEE OR ANYONE ELSE, IF EVERYONE AGREES THEY'VE BEEN TERMINATED FOR A NONRELIGIOUS REASON, CERTAINLY THE FIRST AMENDMENT WOULD BE NO BAR TO THAT.

AND THAT'S WHERE WE THINK THE THIRD DCA ERRED BECAUSE THEY STATED THAT THESE TYPES OF RELATIONSHIPS NECESSARILY -- >> BUT HAVEN'T THE COURTS, ESPECIALLY THE FEDERAL COURTS THAT HAVE DEALT WITH THIS UNDER THE FIRST AMENDMENT STATED A, A GREAT RELUCTANCE TO ALLOW SECULAR COURTS TO GET INVOLVED IN MAKING, SLICING AND DICING DECISIONS CONCERNING THE CLERGY IN, IN ANY KIND OF RELIGIOUS ORGANIZATION?

>> THE INTERMEDIATE APPELLATE COURTS THAT HAVE DEALT WITH THIS ISSUE, SEVERAL OF THEM HAVE MADE THAT DISTINCTION. CERTAINLY THE NINTH CIRCUIT DIDN'T MAKE THAT DISTINCTION, AND THE NINTH CIRCUIT IN THE BARD CASE WAS WILLING TO ALLOW A TITLE SEVEN CLAIM TO GO FORWARD AND THAT WAS A TRUE -- THAT WAS A PRIEST OR SOMEONE APPLYING TO BE A PRIEST, SO

THE, THE INTERMEDIATE APPELLATE COURTS ARE NOT UNIFORM ON THAT, BUT THE UNITED STATES SUPREME COURT HAS NOT EXPRESSED THAT. THE UNITED STATES SUPREME COURT SPECIFICALLY IN THE SERBIAN E. ORTHODOX CASE, THAT WAS A CASE WITH THE DEFROCKMENT OF THE PRIEST WHERE AN ILLINOIS SUPREME COURT HAD OVERTURNED THE DEFROCKMENT OF A PRIEST, AND THE UNITED STATES SUPREME COURT CAME IN AND SAID THAT WASN'T RIGHT.

THEY CAN'T DO THAT, BUT THEY DIDN'T CREATE A JURISDICTIONAL BAR SAYING YOU CAN NEVER EVEN CONSIDER THE ISSUE.

THEY SAID WHEN THERE'S EXCESSIVE ENTANGLEMENT, WHEN THE ISSUES SO INTERTWINED WITH CHURCH DOCTRINE, YOU CAN'T SEPARATE.

>> YOU ARE TALKING ABOUT CLAIM OF RETALIATORY DISCHARGE, ARE YOU NOT?

CLAIMING THAT THE PRINCIPAL WAS ASSAULTED?

OKAY.

BY A PRIEST.

>> CORRECT.

>> AND WE'RE NOT TALKING ABOUT SEXUAL ASSAULT HERE.

>> CORRECT.

WE'RE TALKING ABOUT BATTERY.

>> ALL RIGHT, BATTERY.

THEN HOW IN THE WORLD CAN THAT ISSUE BE EXPLORED WITHOUT GETTING INTO MATTERS OF FAITH IN TERMS OF THE EMPLOYMENT OF SOMEONE IN A MINISTERIAL POSITION, AND HERE WE'RE REALLY TALKING

MINISTERIAL/SPIRITUAL, YOU KNOW, AS FAR AS THE CHURCH. HOW, HOW IN THE WORLD CAN THAT ISSUE REALLY BE EXPLORED WITHOUT DEALING WITH THE ISSUE OF THE, THE SPIRITUAL MATTERS AND CHOICE OF THE CHURCH OF, YOU KNOW ALL THE WAY FROM, LOOK, ESSENTIALLY WE HAVE AT-WILL -- AN AT-WILL RELATIONSHIP THAT IS JUST

HEIGHTENED BY THE FACT THAT SHE'S ACTING IN A SPIRITUAL CAPACITY, SO HOW IN THE WORLD CAN YOU EXPLORE WHAT YOU'RE TALKING ABOUT NOW OR THE MOTIVATIONS FOR THE DISCHARGE? ON YOUR SIDE, TRYING TO PROVE THAT WELL, THE MOTIVATION FOR THE DISCHARGE IS HER COMPLAINT ABOUT THE PRIEST BATTERING HER IN WHATEVER WAY IT WAS. AND ON THE OTHER SIDE, THEY ARE SAYING LOOK, WE CAN DISCHARGE HER FOR ANY REASON, FOR ANY REASON, AND WE HAVE A GLOSS ON IT THAT NOT ONLY CAN WE DISCHARGE HER FOR ANY REASON, BUT BECAUSE SHE'S A SPIRITUAL EMPLOYEE, THAT THE COURTS ARE NOT ALLOWED TO DELVE INTO THIS UNDER THE SEPARATION OF CHURCH AND STATE CONCEPT. SO I DO -- I'M HAVING A PROBLEM BECAUSE YOU'VE GOT, IT SEEMS TO ME, TWO LAYERS TO GET THROUGH. SHE'S AN AT-WILL THAT THEY CAN DISCHARGE FOR ANY REASON, AND, AND THEY'VE GOT THE GLOSS OF YOU CAN'T DELVE INTO THE, THE REASONS IF IT'S A SPIRITUAL EMPLOYEE. NOW, I KNOW THE, YOU KNOW, OFTEN PERHAPS LOOK WITH FAVOR UPON STRING CITES IN BRIEFS, OKAY, BUT WE CERTAINLY CONSIDER THEM VERY CAREFULLY WHEN THEY'RE IN COURT DECISIONS. AND HERE THE THIRD DISTRICT CITED A VOLUMMINOUS LIST OF CASES WITH THE HOLDINGS, OKAY, THAT WERE ESSENTIALLY TO THE EFFECT THAT I JUST DESCRIBED. SO, YOU KNOW, EEOC AND VARIOUS OTHER STATE BODIES IN THE SAME CAPACITY, SO HELP US OVER THAT HUMP THAT APPEARS TO BE THERE THAT AS THE CHIEF SAID GOES WITH YOUR CONCESSION THAT SHE'S A MINISTERIAL EMPLOYEE. >> THE FIRST WAY I THINK I WOULD ADDRESS THAT IS WE NEED TO LOOK AT THE TRUE EMPLOYMENT RELATIONSHIP IN SECULAR TERMS. THIS EMPLOYMENT RELATIONSHIP OF

COURSE IN FLORIDA IS AN AT-WILL EMPLOYMENT RELATIONSHIP, BUT THAT IS CONSTRAINED WITHIN THE FLORIDA STATUTES.

FLORIDA STATUTES MODIFY THAT AT-WILL RELATIONSHIP SO THAT THEY CANNOT DISCHARGE WHISTLEBLOWERS RETALIATORILY. THOSE HAVE TO BE CONCEDED FOR WHERE WE ARE NOW THOSE FACTS FOR THE PURPOSES OF THIS DISCUSSION.

NOW HOW IS THAT MODIFIED BY THE FIRST AMENDMENT?

THAT'S THE QUESTION.

AND CERTAINLY THE FIRST AMENDMENT IN ITS PROTECTION AGAINST RELIGIOUS ENTITIES FROM GOVERNMENT INTERFERENCE SHOULD PROTECT RELIGIOUS ENTITIES.

BUT IT, THE, THE FUNDAMENTAL DIFFERENCE HERE, I THINK, YOUR HONOR, IS WHETHER OR NOT THE ARCHDIOCESE HAS TO AT LEAST CLAIM SOME RELIGIOUS ENTANGLEMENT.

THEY HAVEN'T SAID ONE WAY OR THE OTHER THAT THERE WOULD BE ANY RELIGIOUS PROBLEM --

>> I HAVE -- I JUST WANT TO UNDERSTAND SOMETHING ABOUT THIS BACK TO AGAIN THIS MINISTERIAL SITUATION BECAUSE PERHAPS, AND I'LL ASK THIS QUESTION, IF SHE WERE A TEACHER AT THE SCHOOL VERSUS THE PRINCIPAL, DO YOU THINK THE CASES MAKE A DISTINCTION BETWEEN SOMEBODY, SAY BEING FIRED FOR ILLEGAL REASON, YOU KNOW, IF THEY ARE FIRED BECAUSE THEY BLEW THE WHISTLE, YOU KNOW, SAY IT WAS SOMEBODY COMPLAINING ABOUT SEXUAL ABUSE THAT PRIESTS WERE ENGAGING IN, AND THEY WERE FIRED FOR THAT REASON.

THAT'S ILLEGAL AND THAT'S WHY WE LOOK AT THE POLICY REASON, BUT TELL ME WHERE YOU SEE IN THIS STATE.

FIRST OF ALL, HAS THIS -- THIS COURT HAS NEVER ENUNCIATED WHAT THIS MINISTERIAL EXCEPTION MEANS, CORRECT?

THIS COURT HAS NOT?

>> THIS COURT HAS NEVER, NEVER
ADDRESSED THE MINISTERIAL.

>> THE U.S. SUPREME COURT
HASN'T EITHER.

>> HAS NOT.

>> ARE WE, FROM THE SPRING
CITE, BECAUSE I AM STILL TRYING
TO GET TO THE BASIC JURIS
PRUDENTIAL QUESTION.

IF ARE WE TO ASSUME IF SOMEBODY
IS IN A MINISTERIAL QUESTION
THAT WHAT THE CASES ARE SAYING
IS THERE IS AN IRREBUTTABLE
PRESUMPTION THAT FIRST
AMENDMENT VALUES ARE INVOLVED,
AND THERE WOULD BE NECESSARILY
ENTANGLEMENT IN RELIGION?

>> I THINK THAT IS CERTAINLY
THE DECISION OF THE THIRD DCA
BELOW, THAT IT IS NECESSARILY

-- THAT IS THEIR WORDS,
NECESSARILY INVOLVES THE FIRST
AMENDMENT, AND PRESUMABLY,
NECESSARILY INVOLVES THE FIRST
AMENDMENT EVEN IF EVERYONE
CONCEDES THAT THERE ARE NO
RELIGIOUS ISSUES HERE.

>> SO IF THIS WAS -- IS YOUR,
NOW THERE'S A MOOTNESS ISSUE
THAT HAS BEEN RAISED AND IS
THIS CASE BEEN -- DISMISSED?
THERE'S NO JUDGMENT ANYMORE?
I MEAN THERE'S A JUDGMENT
AGAINST YOU?

>> WHAT HAPPENED IN THIS CASE
WAS THE THIRD DCA ISSUED THEIR
WRIT OF PROHIBITION PURSUANT TO
HAVE MANDATE OF THE THIRD DCA,
THE TRIAL COURT ISSUED A
DISMISSING OF THE CASE AS IT
WAS REQUIRED TO DO UNDER THE
THIRD DCA'S MANDATE OF COURSE
THE MANDATE OF THIS COURT WOULD
QUASH THE MANDATE OF THE
THIRD --

>> IT'S NOT AS IF THERE WAS
SOME OTHER ADJUDICATION.
IT FOLLOWED BECAUSE OF THE
PROHIBITION THAT THEY HAD NO
JURISDICTION?

>> CORRECT.

>> ARE YOU JUST ARGUING THE
ISSUE OF THE RETALIATION FOR

OBJECTING, YOU KNOW, THE WHISTLEBLOWER CLAIM BECAUSE YOU ALSO CLAIM ASSAULT AND BATTERY? IS THE LAW DIFFERENT IF SHE IS SUING FOR ASSAULT AND BATTERY? IS THAT -- WAS THAT ALSO ARGUED THAT THAT'S A FIRST AMENDMENT BAR TOO?

THAT SHE COULD BE BATTERED AND THAT WAS OKAY UNDER THE PROTECTION --

>> WELL, NO, IN THIS CASE THE ASSAULT AND BATTERY WAS THE PRIEST HAD COMMITTED THE ASSAULT AND BATTERY.

>> ON HER?

>> ON HER.

AND THAT'S WHAT WE'VE ALLEGED AND WE'RE NOT AT THE STAGE WHERE ANYONE'S PROVED ANYTHING ONE WAY OR THE OTHER.

>> SO BUT WAS THAT ALSO DISMISSED IN ORDERS NOT SUBJECT TO THE WRIT OF PROHIBITION THAT WAS --

>> THAT'S NOT BEFORE US.

>> CORRECT.

>> SO YOU'RE NOT ARGUING THAT THE CORRECTNESS OF NOT ALLOWING A COURT TO ACT IN AN INTENTIONAL TORT, YOU KNOW, FILED BY AN EMPLOYEE AGAINST A EMPLOYER --

>> NO, WE'RE NOT ARGUING THAT.

>> SO IT'S JUST A WHISTLEBLOWER.

>> YES, MA'AM?

>> LET ME ASK YOU THIS.

IT'S REALLY DISTURBING TO ME THAT IF THIS PERSON -- IS THE PERSON WE'RE TALKING ABOUT, YOUR CLIENT, A MINISTER IN THE SENSE OF BEING ORDAINED AND CAN CONDUCT RELIGIOUS SERVICES AND THOSE KINDS OF THINGS?

>> NO, THAT'S NOT IN THE RECORD, AND NO I DON'T BELIEVE THAT SHE IS.

>> OH, OKAY.

SO ANYONE WHO, IF THIS PERSON WERE SAY THE JANITOR OF THIS SCHOOL, WOULD WE STILL HAVE THE SAME ARGUMENT HERE THAT IT WOULD BE EXCESSIVE ENTANGLEMENT

IF IT WAS THE JANITOR WHO WORKED AT THIS SCHOOL WHO WAS BATTERED BY A PRIEST?

YOU WOULD STILL HAVE THE SAME ARGUMENT THAT -- NOT, I GUESS I REALLY SHOULD ASK THAT ON THE OTHER SIDE.

WOULD -- WOULD THE FIRST AMENDMENT STILL BAR SOME KIND OF ACTION?

>> WELL, AND THAT'S A LITTLE BIT OFF OF OUR CASE, BUT I THINK THE ANSWER TO THAT WOULD BE THAT UNDER THE SMITH CASE AND OTHER CASES, OF COURSE, LAWS OF GENERAL APPLICABILITY APPLY TO RELIGIOUS ORGANIZATIONS LIKE THEY DO EVERYONE ELSE, AND SO CERTAINLY A WHISTLEBLOWER STATUTE WOULD BE I THINK DEEMED TO APPLY TO THE CHURCH.

WE DON'T THINK THOUGH THAT YOU WOULD NECESSARILY EXCLUDE IF THERE WAS A TRUE RELIGIOUS JUSTIFICATION IF THEY SAID WE TERMINATED THE JANITOR BECAUSE OF A RELIGIOUS REASON AND OUR ORGANIZATION SHOULD THE TRIAL COURT CONSIDER THAT AND IS THERE A POSSIBILITY OF A FIRST AMENDMENT DEFENSE?

YEAH, WE THINK THERE'S A POSSIBILITY OF IT.

BUT THAT'S JUST THE SAME AS WHAT WE'RE ADVOCATING IN THIS CASE.

THEY SHOULD COME FORWARD AND SAY THERE IS A RELIGIOUS JUSTIFICATION.

NOT JUST SAY WE'RE A CHURCH --

>> BUT --

>> THE FIRST AMENDMENT BARS THE SUIT.

>> ISN'T THE REAL FUNDAMENTAL ISSUE THAT WE'RE LOOKING TO IS WHETHER IN EVEN HAVING THE SECULAR COURT MAKE THAT DETERMINATION THAT IT STEPS ACROSS THE FIRST AMENDMENT?

SO, SO, ISN'T THAT REALLY THE FUNDAMENTAL -- WHY IS THAT NOT REALLY THE ISSUE?

NOT WHETHER IN FACT THERE IS A

RELIGIOUS OR NONRELIGIOUS READ,
BUT TO INVOLVE THE COURTS IN
THAT DECISION WITHIN THE, THE
RELIGIOUS STRUCTURE?
ISN'T THAT WHAT REALLY THE
ARGUMENT IS?

IT'S NOT THAT AN AFFIRMATIVE
DEFENSE AND YOU CAN GO AHEAD
AND DO IT.

IT'S THAT YOU CANNOT GET TO
THAT POINT.

>> WE THINK THAT THE BALANCING
ACT THAT THIS COURT IS REQUIRED
TO PERFORM WITH THE FIRST
AMENDMENT REQUIRES THE COURT TO
DO THAT, AND THE REASON IS
THIS.

UNDER CERTAIN ASPECTS OF THE
FIRST AMENDMENT, THIS COURT IS
REQUIRED TO GET TO -- TO ALLOW
RELIGIOUS ORGANIZATIONS FREE
EXERCISE TO AVOID EXCESSIVE
ENTANGLEMENTS, BUT THIS COURT
IS ALSO REQUIRED NOT TO
ESTABLISH RELIGIONS, NOT TO
PLACE THEM ON A PEDESTAL ABOVE
OTHER ENTITIES UNNECESSARILY.
IF A BLANKET PROHIBITION LIKE
THIS BECAUSE OF THEIR STATUS,
NOT BECAUSE OF ANY TRUE
ENTANGLEMENT WITH RELIGION, BUT
JUST BECAUSE OF THEIR STATUS,
WE FEEL WOULD BE A --

>> IS IT ENTANGLEMENT THOUGH IF
YOU HAVE THE SITUATION WHERE A
SECULAR COURT IS CALLED UPON TO
DETERMINE THE CREDIBILITY AND
LEGITIMACY OF THE CHURCH
CLAIMING, WELL, WE HAD FIVE
REASONS, OKAY, TO DISCHARGE HER
THAT ARE TOTALLY UNRELATED TO
THIS CLAIM OF RETALIATORY
DISCHARGE BECAUSE SHE
COMPLAINED ABOUT THE ASSAULT
AND BATTERY?

AND THEY CLAIM IT'S BECAUSE OF
THE ASSAULT AND BATTERY, AND
NOW THE SECULAR COURT LISTENS
TO EVERYBODY.

>> CERTAINLY.

>> AND, AND SAYS, WELL, I DON'T
BELIEVE YOU WHEN YOU SAY IT
WASN'T THE ASSAULT AND BATTERY,
AND I BELIEVE THAT IT WAS.

YOU KNOW, FOR THAT.

I MEAN, JUST THE VERY PROCESS OF INQUIRE NOTHING TO THAT IS REALLY WHAT THE CASE LAW TALKS ABOUT -- INQUIRING INTO THAT IS REALLY WHAT THE CASE LAW TALKS ABOUT EXCESSIVE ENTANGLEMENT, IS IT NOT?

>> IT IS.

>> ALLOWING A SECULAR COURT TO MAKE THOSE JUDGE SYSTEM WHAT THIS ENTANGLEMENT IS DEFINED AS IN THE CASE LAW.

>> WELL, NOT EXACTLY JUDGE, AND LET ME BACK UP A SECOND.

THE FIRST THING S NUMBER ONE, WE DON'T KNOW THAT A COURT'S EVER GOING TO BE REQUIRED TO MAKE THOSE DETERMINATIONS. THEY HAVEN'T SAID THERE'S ANY RELIGIOUS PROBLEM WITH THIS. CERTAINLY I THINK IF A MINISTER AND A CHURCH, IF A CHURCH FIRED A MINISTER AND AGREED AND SAID THERE'S NO RELIGIOUS ISSUE HERE, HE JUST SHOWED UP LATE, WELL, WHERE IS IT CASE LAW THAT SAYS --

>> WELL, WHERE IS THE CASE LAW THAT SAYS THAT THEY HAD THE OBLIGATION TO PROVE OR ASSERT THAT THERE WAS A RELIGIOUS REASON?

I THOUGHT THE CASE LAW SAID THAT THE BARRIER OCCURS MUCH EARLIER IN TERMS AND DOESN'T REQUIRE THEM TO DEMONSTRATE THAT THERE WAS A RELIGIOUS REASON.

THEY'RE FREE TO MAKE THIS. JUST BECAUSE OF THE STATUS, THE MINISTERIAL STATUS THAT YOU'VE CONCEDED OF THE EMPLOYEE.

>> WELL, CERTAINLY THE U.S. SUPREME COURT HAS NEVER FOUND THAT, YOUR HONOR, AND SPECIFICALLY, IN THE SERBIAN EAST ORTHODOX.

>> WHAT ABOUT THE CASES THAT HAVE FOUND THAT?

THE THE CASES THAT ARE NOT BINDING PRECEDENT ON THIS COURT, THE INTERMEDIATE COURTS, YES, SOME OF THEM HAVE FOUND

THAT, ABSOLUTELY CONCEDED.

>> IN FACT, THE ONLY OUTLIAR,
WHICH IS THE NINTH CIRCUIT.

RIGHT?

I MEAN, OF THE FEDERAL COURTS.
I MEAN, THEY HAVE A CASE WHICH
YOU'D ALLUDED TO EARLIER, WHICH
COULD WE READ TO SORT OF OPEN
THE COURTHOUSE DOOR, BUT THE
UNIFORM OPINION IN THE OTHER
CIRCUITS IS THAT EXACTLY WHAT
JUSTICE ANSTEAD WAS TALKING
ABOUT WAS THAT THAT BRINGING
THE SECULAR COURT INTO THE
MATTER.

>> MM-HMM.

>> OFFENDS THE FIRST AMENDMENT.
ISN'T THAT CORRECT?

>> I DO NOT DISPUTE THAT THE
OTHER FEDERAL CIRCUIT COURTS DO
TEND TO HOLD THAT WAY.
THE NINTH CIRCUIT DOES NOT HOLD
THAT WAY.

CERTAINLY THE NEW JERSEY
SUPREME COURT IN A VERY
THOUGHTFUL OPINION, THE MACK
LEVY OPINION DID NOT HOLD THAT
WAY AND I CHALLENGE THOSE
COURTS TO HOLD THAT WAY BECAUSE
THEY ARE HOLDING RELIGIOUS
ORGANIZATIONS BECAUSE OF THEIR
STATUS AND NOT BECAUSE OF ANY
RELIGIOUS ENTANGLEMENT ABOVE
OTHER ENTITIES.

WE FEEL THAT'S PLAINLY
PROHIBITED.

>> THE REASON FOR THOSE IS THE
ENTANGLEMENT COMES WHEN THE
SECULAR COURT MUST RULE ON THE
VALIDITY OF THE REASON.

>> IT IS AND THAT'S DIRECTLY
CONTRARY TO THE UNITED STATES
SUPREME COURT DECISION IN THE
OHIO COMMISSION ON CIVIL RIGHTS
CASES, IN THAT CASE THE UNITED
STATES SUPREME COURT HELD THAT
THE OHIO CIVIL RIGHTS
COMMISSION INVESTIGATING IN A
DISCHARGE DID NOT IMPLICATE ANY
PROVISION OF THE FEDERAL
CONSTITUTION, IN THE FIRST
AMENDMENT IN PARTICULAR IN AND
THAT CASE THEY SAID
SPECIFICALLY IN DETERMINING

WHETHER OR NOT THE RELIGIOUS REASON, THE PURPORTED RELIGIOUS REASON WAS THE ACTUAL REASON. THAT INVESTIGATION DID NOT IMPLICATE ANY PROVISION OF THE FEDERAL CONSTITUTION.

>> YOU'RE WELL INTO YOUR REBUTTAL.

NO YOU CAN USE YOUR TIME AS YOU WISH.

>> I APPRECIATE IT.

I WOULD LIKE TO SAVE THE REST OF MY TIME.

>> MAY IT PLEASE THE COURT.

MY NAME IS ROBERT GLAZIER.

I REPRESENT THE ARCHDIOCESE OF MIAMI.

WITH ME IS CO-COUNSEL, ROBERT DIAZ.

>> I AM TRYING TO GET A HANDLE ON WHAT IS THE EXTENT OF THE PROHIBITION AS YOU SEE HERE. I CAN UNDERSTAND IF YOU'RE SAYING THAT IF IT'S A MINISTER WHO IS CHARGED WITH, OR SOMEONE WHO IS CHARGED WITH THE ONGOING RELIGIOUS ASPECT OF THE CHURCH THAT YOU CAN'T GET INTO THOSE KINDS OF ISSUES.

BUT IF SOMEONE IS, WHO ACTUALLY WORKS FOR THE CHURCH OTHER THAN A MINISTER OR MINISTERIAL PERSON AS YOU CALL THEM, WHO HAS NO CONTACT, SAY IN THIS SCHOOL, MY, MY JANITOR KIND OF EXAMPLE, HE HAS NO CONTACT WITH THE STUDENTS, HAS NO JOB IN PROMOTING THE RELIGION, THAT PERSON WOULD BE PROHIBITED ALSO FROM BRINGING ANY KIND OF ACTION AGAINST THE CHURCH ALSO? IS THAT YOUR ARGUMENT?

>> THAT IS DEFINITELY NOT OUR ARGUMENT.

>> OKAY.

SO EXPLAIN THE DIFFERENCE TO ME.

>> WHAT THE COURTS HAVE LOOKED AT IS NOT THE NAME CLERGY NOT WHETHER THEY'RE ORDAINED BUT THE FUNCTION OF THE JOB. IF THE FUNCTION OF THE JOB HAS A SIGNIFICANT MATTER OR REALLY HAS THE PROPAGATION OF THE

FAITH, THE SPREADING OF THE WORD, THEN THE PERSON IS DEEMED TO BE A MINISTER FOR THE PURPOSE OF THE CHURCH AUTONOMY DOCTRINE.

>> SO THE TEACHERS IN THE SCHOOL ARE SUBJECT OR NOT SUBJECT TO THE TOTAL EXCLUSION OF EVEN BEING ABLE TO INVESTIGATE?

>> I WOULD IMAGINE THAT A MATH TEACHER IS OUTSIDE THE SCOPE OF THIS DOCTRINE.

A THEOLOGY TEACHER IS WITHIN THE SCOPE OF THE DOCTRINE.

>> SO IS IT BECAUSE -- WHAT -- HAS THE U.S. SUPREME COURT ANNUNCIATED THIS DOCTRINE?

>> NO, THE U.S. SUPREME COURT HAS HAD DOZENS OF OPPORTUNITIES TO OVERTURN THIS ESSENTIALLY UNANIMOUS CASE LAW OF THE CIRCUIT COURTS OF APPEAL, AND THEY HAVE --

>> BECAUSE I AM STILL STRUGGLING WITH THE LINE THAT I, I PRINTED OUT FROM THE OHIO CIVIL RIGHTS CASE THAT SAYS WE THINK HOWEVER THAT DAYTON'S CONSTITUTIONAL CLAIM SHOULD BE DECIDED.

WE THEREFORE THINK THAT HOWEVER, THAT THE LOOKING -- THE COMMISSION VIOLATES NO CONSTITUTIONAL RIGHTS BY MERELY INVESTIGATING THE CIRCUMSTANCES THAT THE DISCHARGE IN THIS CASE.

IF ONLY TO ASCERTAIN WHETHER THE ASCRIBED RELIGIOUS BASE REASON WAS IN FACT THE REASON FOR THE DISCHARGE.

AND I AM ATTRACTED TO THE IDEA THAT THERE IS A DISTINCTION BETWEEN EVEN SAYING THAT IF YOU CONCEDED THAT THERE WAS NO RELIGIOUS-BASED REASON, THAT THE CIRCULAR COURT WOULD STILL BE VIOLATING THE FIRST AMENDMENT AS OPPOSED TO AT LEAST REQUIRING SOME SHOWING, AN AFFIRMATIVE -- YOU KNOW, AN AFFIRMATIVE DEFENSE THAT WE CONTEST THAT THIS WAS DONE

BECAUSE OF AN ASSAULT AND BATTERY.

WE DISCHARGED HER BECAUSE SHE WAS NOT FOLLOWING THE FAITH AND THAT THAT'S GOOD FAITH PLEADING, THAT WOULD BE ENOUGH TO DISMISS THE CASE BUT WE DON'T HAVE THAT HERE.

SO WHY IS IT?

WHAT IS THE OVERRIDING POLICY THAT SAYS BECAUSE SHE IS A PRINCIPAL AND PART OF HER DUTIES IS TO, OR TO ADVISE AND SPIRITUAL MATTERS THAT THAT MEANS NOTHING CAN BE DONE IN TERMS OF LOOKING INTO THE REASONS THAT SHE WAS DISCHARGED ILLEGALLY?

>> FIRST, LET ME START WITH THE, THE SUPREME COURT CASE. THAT WAS A CASE ABOUT FEDERAL OBSTENTION.

THE SUPREME COURT HELD THAT THE FEDERAL COURTS CANNOT INTERFERE IN A STATE --

>> THEY DIDN'T MAKE THE STATEMENT THAT I JUST --

>> THEY ABSOLUTELY DID. IT WAS DICTA.

NOW THAT WAS A LAY TEACHER. ANOTHER DISTINGUISHING CHARACTERISTIC.

IT'S NOT CLEAR IT WAS A MINISTERIAL EMPLOYEE, I BELIEVE, BUT MORE IMPORTANTLY THAT'S A 1987 DECISION.

IN THE PAST 21 YEARS, THERE ARE WITHOUT EXAGGERATION DOZENS, MAYBE HUNDREDS OF OPINIONS FROM THE FEDERAL COURTS SAYING THAT THE COURTS MAY NOT BECOME INVOLVED IN REVIEWING EMPLOYMENT DECISIONS ABOUT MINISTERIAL EMPLOYERS. AND THAT IS VERY CLEAR.

IF YOU LOOK AT THE TITLE SEVEN CASES, TITLE SEVEN IS A VERY IMPORTANT LAW, AND THE OTHER ANTIDISCRIMINATION LAWS PASSED IN THE 50s AND INTO THE 70s.

COURTS HAVE HELD WITHOUT EXCEPTION THAT WHEN A MINISTERIAL EMPLOYEE, A RELIGIOUS EMPLOYEE, MAY BE A

BETTER WAY OF DESCRIBING IT,
SUES THE COURTS CANNOT EXERCISE
JURISDICTION FOR CLAIMS BASED
ON THE HIRING OR FIRING OF THE
EMPLOYEE.

>> OKAY BECAUSE YOU AGREE -- WE
KNOW IF SHE SLIPPED AND FELL,
SHE, THAT'S, THAT DOES NOT
CAUSE AN ENTANGLEMENT IN
RELIGIOUS, CORRECT?

>> CORRECT.

>> NOW LET NEE ASK YOU THESE
QUESTIONS, AND I FORGOT TO ASK
THE OTHER SIDE.

UNDER THE WHISTLEBLOWER, THIS
IS A FLORIDA WHISTLEBLOWER
CLAIM.

>> YES.

>> HAS THE LEGISLATURE EXEMPTED
RELIGIOUS ENTITIES FROM THE
SCOPE OF THE WHISTLEBLOWER
STATUTE?

>> NO.

>> ALL RIGHT.

SO WHAT WE'RE -- WE'RE NOT
TALKING ABOUT -- WE'RE TALKING
ABOUT A STATUTORY CAUSE OF
ACTION THAT IS DEEMED.

>> CORRECT.

>> DEEMED TO BE AN IMPORTANT
PUBLIC POLICY IN THIS STATE
THAT WE WANT TO ENCOURAGE THAT
IF THERE IS SOMETHING ILLEGAL
GOING ON, EVEN IF IT'S IN THE
CHURCH, THAT EMPLOYEES SHOULD
FEEL FREE TO COME FORWARD
WITHOUT BEING RETALIATED
AGAINST.

THAT'S THE POLICY, CORRECT?

>> THAT'S THE POLICY.

IF I CAN EXPLAIN THAT UNDER
FEDERAL LAW, TITLE SEVEN HAS A
LIMITED RELIGIOUS EXCEPTION
THAT SAYS DISCRIMINATION ON THE
BASIS -- TITLE SEVEN SAYS
DISCRIMINATION ON A RELIGIOUS
BASIS IS ILLEGAL.

HOWEVER, THERE IS AN EXEMPTION.
DECISIONS MADE BASED ON THE
RELIGION OF AN APPLICANT ARE
EXCLUDED.

>> OKAY.

>> THERE IS NO GENERAL
EXCEPTION FOR RELIGIOUS

EMPLOYERS AND MINISTERIAL
EMPLOYEES.

THE COURTS HAVE SAID DESPITE
THE FACT THAT THERE IS ONLY A
LIMITED STATUTORY EXEMPTION AS
A MATTER OF CONSTITUTIONAL LAW,
COURTS CANNOT --

>> NOW.

SO WE'RE DEALING WITH WHETHER
THERE'S A PUBLIC POLICY.

NOW I'M GOING TO GIVE YOU TWO
HYPOTHETICALS.

ONE IS UNCONTROVERTED THAT
THIS EMPLOYEE FOUND OUT THAT
THERE WAS MASSIVE BILLING FRAUD
THAT WAS GOING ON THAT, THAT
THE MEMBERS OF THE CHURCH WERE
ON THE TAKE AND THAT THAT IS
WHAT WAS BEING EXPOSED --

EXPOSED AND YOU KNOW, THE FDLE
COMES IN AND THAT'S
UNCONTROVERTED AND SHE IS THE
ONE THAT COMES FORWARD AND
SHE'S FIRED.

STILL FIRST AMENDMENT?

THAT'S THE, -- EVERYONE KNOWS
THAT'S THE FACTS.

FIRST AMENDMENT?

>> IF THERE IS A MINISTER -- IF
THE PERSON IS A MINISTERIAL
EMPLOYEE, YES, FIRST AMENDMENT.

>> LET ME ASK A QUESTION --

>> I SAID IT RIGHT.

I DON'T MEAN ALL RIGHT.

I MEAN THAT'S YOUR ANSWER.

[LAUGHTER]

>> IS THE ISSUE OF WHETHER THE
INDIVIDUAL IS WITHIN THE
MINISTERIAL CAPACITY, ONE THAT
SECULAR COURTS ARE PERMISSIBLY
PERMITTED TO ENGAGE IN.

FOR EXAMPLE, WE COULD HAVE
HIRING CONTRACTS THAT RUN THE
GAMUT OF -- MAYBE NOT PRINCIPAL
BUT THE, THE BASKETBALL COACH.
WOULD HAVE THOSE KINDS OF
THINGS.

IS THE COURT PROHIBITED FROM
ENTERING WITH REGARD TO THOSE
INDIVIDUALS IF THERE IS A
CONTRACT THAT SAYS YOUR
POSITION IS MINISTERIAL?

HOWEVER IT WOULD DESCRIBE THAT.

>> THE COURTS HAVE TREATED

REALLY, IT'S A NARROW DOCTRINE COMPLETE WITHIN ITS SCOPE, BUT A NARROW DOCTRINE AND ONE OF THE THINGS THE COURT HAS TO DECIDE IS WHETHER THE PERSON IS A MINISTERIAL EMPLOYEE -- I DON'T KNOW THAT THE LABEL WHICH ANYBODY PLACES ON IT MATTERS PARTICULARLY.

IT'S WHAT JOB FUNCTIONS DOES THE PERSON --

>> SO THE COURT DOES HAVE THEN THE SUBJECT MATTER JURISDICTION TO MAKE THAT, THAT INITIAL DECISION?

>> CORRECT.

NOW HERE IT'S NOT AN ISSUE BECAUSE --

>> OH, I UNDERSTAND BUT I MEAN WE'RE PROBING FOR THE PARAMETERS OF WHAT WE'RE TALKING ABOUT THIS MORNING. AND I DON'T I KNOW WHETHER OPINIONS CAN BE WRITTEN OR NOT, BUT THOSE MAY BE IMPORTANT THINGS THAT WE MAY BE TALKING ABOUT.

>> THERE IS --

>> HOW DID THIS STIPULATION OR FACT GET IN THIS RECORD THAT THIS IS A MINISTERIAL -- ?

>> AT THE HEARING ON THE MOTION FOR SUMMARY JUDGMENT ON THE FIRST AMENDMENT DEFENSE. THE PLAINTIFF'S COUNCIL SAID, JUDGE, WE'RE NOT DISPUTING THE THAT SHE'S A MINISTERIAL EMPLOYEE.

SOMETHING ALONG THE LINES OF THAT'S WHAT THE CASE LAW SAYS. THERE WAS NO ATTEMPT TO --

>> THIS CASE HAS BEEN SET UP, SO TO SPEAK TO CHALLENGE THE MINISTERIAL DOCTRINE.

>> I THINK.

I THINK THIS IS, FIRST OF ALL, WHEN WE START OUT WITH THE CONCEDED FACT WELL SUPPORTED IN THE CASE LAW THAT THIS IS A MINISTERIAL EMPLOYEE, THEN WE LOOK TO THE CAUSE OF ACTION. THE CAUSE OF ACTION IS A WHISTLEBLOWER CLAIM. THE WHISTLEBLOWER CLAIM IS THAT

THE EMPLOYEE COMPLAINED ABOUT SOME ILLEGAL CONDUCT AND IT'S NOT CLEAR THAT SATISFIES THE STATUTE BUT ASSUMING IT DOES, SHE WAS HARASSED BECAUSE OF THE COMPLAINT AND THE CRUCIAL POINT THAT SHE WAS SHE WAS FIRED HERE CONSTRUCTIVELY FIRED BECAUSE THAT IS THE TYPE OF TERMINATION HERE, THAT SHE WAS CONSTRUCTIVELY FIRED BECAUSE OF HER COMPLAINTS, BECAUSE OF HER WHISTLEBLOWING.

NECESSARY FOR THE COURT TO DECIDE IS WHY THE ARCHDIOCESE OF MIAMI DECIDED TO CONSTRUCTIVELY TERMINATE THE PLAINTIFF.

WHY DID WE FIRE HER IS PART OF THE CAUSE OF ACTION.

YOU HAVE TO LOOK -- THE COURT WOULD HAVE TO LOOK INTO THE COLLECTIVE MINDS OF THE ARCHDIOCESE.

>> BUT IF THERE IS IN FACT A NONRELIGIOUS REASON, OR FOR HAVING FIRED HER, IT JUST, TO ME, DOES NOT MAKE A LOT OF SENSE THAT A COURT CANNOT LOOK AT THAT.

I MEAN, I UNDERSTAND COMPLETELY -- I UNDERSTAND THE FACT THAT YOU DON'T WANT TO GET ENTANGLED WITH THE COURT WITH A RELIGIOUS DOCTRINE.

BUT IF YOU ARE FIRING SOMEONE FOR SOME NONRELIGIOUS REASON, HOW IN THE WORLD DOES THAT GET YOU INTO THE RELIGIOUS DOCTRINE?

>> WELL, THERE ARE IF WE FIRED CONSTRUCTIVELY FIRED THE PLAINTIFF BECAUSE OF HER COMPLAINTS, THEN SHE COULD PREVAIL, ASSUMING, ESTABLISHING ANYTHING, THE OTHER REQUIREMENTS.

EVERY OTHER REASON IN THE WORLD, RELIGIOUS OR NOT, MEANS THAT SHE LOSES.

ON HER CAUSE OF ACTION.

>> I'M -- I MISSED THAT.

>> HER COMPLAIN IS THAT SHE WAS FIRED, HER STATUTORY CLAIM, THE

ONLY CLAIM BEFORE THE COURT IS THAT SHE WAS FIRED OUT OF RETALIATION.

IT COULD'VE BEEN A LOUSY REASON, EVEN AN ILLEGAL REASON. IF IT'S NOT THAT REASON, THEN SHE FAILS SO ALL THE OTHER POSSIBLE REASONS OF THE WORLD ARE PART OF THE DEFENSE TO THIS CASE.

>> THAT'S NOT REALLY TRUE, IS IT?

I MEAN, BECAUSE IF SHE WERE A TEACHER, NOT A, A MINISTER, NOT A PRINCIPAL, AND THERE WAS, AND WE'VE TALKED ABOUT -- THAT THE MERE FACT THAT THERE MAY BE, YOU KNOW, A, A MANUAL THAT'S INTRODUCED INTO EVIDENCE, DOES NOT ALL THE SUDDEN PUT THIS WALL UP AND SAY THAT WALL IS, NOW THERE'S EXCESSIVE ENTANGLEMENT.

THAT'S WHY THESE CASES, ESPECIALLY WHEN IT, YOU KNOW, SEVERAL YEARS AGO THE CHURCH WAS ARGUING WE COULDN'T GET INTO THE SEXUAL ABUSE CASES, THAT THE THIRD PARTY CASES. THEY WERE MAKING THE SAME EXACT ARGUMENT.

NOW EVERY COURT ALMOST UNANIMOUSLY SAID NO.

THAT IS NOT, YOU CANNOT HIDE BEHIND THE FIRST AMENDMENT. SO MY CONCERN AGAIN GOES TO THIS IS THAT, AND IT'S REALLY IS SOMETHING THAT JUSTICE LEWIS IS TOUCHING ON IS WE ARE HERE ALSO BECAUSE THEY SAID IT'S PROHIBITION.

IT HAS TO BE DISMISSED.

THE QUESTION IS IS CAN IT AT LEAST GO FARTHER TO SAY YOU'VE GOT TO START TO ASSERT SOME GOOD FAITH, FAITH RELIGIOUS-BASED REASON, THEN THE COURT CAN SAY NOW I THINK WE'RE GOING TO BE GETTING EXCESSIVELY ENTANGLED IN INTERPRETING RELIGIOUS DOCTRINE.

WE CAN'T DO THAT.

BUT THE MERE FACT THAT YOU

RAISE RELIGIOUS REASON DOESN'T
PER SE MEAN THERE IS
ENTANGLEMENT.

>> IT IS NOT POSSIBLE, COURTS
HAVE CONCLUDED, TO TALK ABOUT
THE NONRELIGIOUS ASPECTS OF THE
HIRING OF CLERGY BECAUSE CLERGY
ARE BY DEFINITION RELIGIOUS
EMPLOYEES.

IT IS INEVITABLY A RELIGIOUS
INQUIRY, INEVITABLY INTRUDES
INTO CONSTITUTIONALALLY
PROTECTED AREAS.

CAN'T YOU -- CAN'T WE BE -- WE
BE REQUIRED TO STATE THE REASON
THERE IS A COURT OUT THAT WE
CITED THE BRIEF THE FACT THAT
WE DO NOT HAVE TO TELL A COURT
WHY WE DECIDED TO HIRE OR FIRE
A RELIGIOUS EMPLOYEE.

THAT'S ABOUT AS HARD AND FAST A
RULE AS THERE IS IN THE LAW.

>> NOW AGAIN YOU DON'T SAY -- I
THINK THIS IS STILL -- MAYBE,
AND JUSTICE CONVINCED AND I AM
MAYBE HAVING THE SAME PROBLEM
WHEN YOU SAY GO ONE PRIEST AND
SOMETHING ABOUT THAT TITLE OR
RABBI, OKAY, NOW WE GET THAT
ONE.

BUT THEN YOU SAY RELIGIOUS
EMPLOYEE, WELL, THIS IS A, WAS
A CATHOLIC SCHOOL.

>> CORRECT.

>> SO I, I THINK THAT EVERY --
THEY MAY BE A MATH TEACHER BUT
IT'S THE RELIGION TEACHER, NOW
ALL THE SUDDEN IT'S, ARE THEY A
MINISTERIAL EMPLOYEE THERE?
SO HERE -- SHE IS THE PRINCIPAL
BUT SHE'S NOT EXACTLY LIKE THE
PRIEST OR THE RABBI.

I MEAN, SHE'S LEADING A SCHOOL
AND SHE'S ADMINISTERING A
SCHOOL AND SHE SAYS SOMEONE
ASSAULTED HER AND SHE
COMPLAINED ABOUT IT AND SHE WAS
FIRED NOW THAT SEEMED -- THEN
THERE'S NO LEGISLATIVE BAR.

I DON'T SEE HOW THE COURTS LACK
POWER TO FURTHER INVESTIGATE
THAT ALLEGATION.

>> COURTS ESSENTIALLY WITHOUT
EXCEPTION HAVE CONCLUDED THAT

WHEN THE PLAINTIFF IS A, AND I TRIED DIFFERENT TERMS. A MINISTERIAL EMPLOYEE, EVEN THOUGH NOT A MINISTER, OR A RELIGIOUS EMPLOYEE, THAT IF THE PERSON IS SUING AND THEIR CAUSE OF ACTION FOCUSES ON THE REASON FOR HIRING OR FIRING, THE COURT CANNOT GO FARTHER.

EVEN IF THERE'S AN IMPORTANT PUBLIC POLICY LIKE TITLE SEVEN, YOU KNOW, AS CRUCIAL A LAW, A STATUTE AS PERHAPS U.S. CONGRESS HAS PASSED IN THE LAST HALF CENTURY, STILL THE CONSTITUTIONAL REQUIREMENTS OF RELIGIOUS FREEDOM OUTWEIGH THAT.

NOW AGAIN, IT DOESN'T APPLY TO THE MATH TEACHER, AND IT DOESN'T APPLY TO THE JANITOR AND IT DOESN'T APPLY TO THE SECRETARY, DOESN'T APPLY MAYBE TO THE BUDGET OFFICER.

BUT FOR PEOPLE WHOSE JOB REQUIRES PROPAGATION OF THE RELIGION --

>> LET ME ASK YOU A QUESTION. WE'VE TALKED ABOUT THE FIRST AMENDMENT.

CAN YOU SPEAK TO YOUR POSITION AS TO THE STATE CONSTITUTIONAL EXPRESS RELIGIOUS FREEDOM PROVISION?

>> THE --, IF FIRST OF ALL, WE -- THERE'S BEEN NO -- WHILE IT WAS RAISED IN THE TRIAL COURT, IT WAS RAISED IN THE APPELLATE COURT, THERE'S BEEN NO SEPARATE ANALYSIS.

IN SOME WAYS BECAUSE WE SUBMIT THAT THIS IS SO EASILY DECIDED UNDER THE ABUNDANT FEDERAL CONSTITUTIONAL LAW, THE STATE CONSTITUTION BECOMES -- WE HAVEN'T FOCUS SAID OUR ATTENTION ON IT.

I THINK THE PRINCIPAL, SINCE THE STATE CONSTITUTION CAN GO NO LOWER IN PROTECTION OF --

>> WELL, I GUESS, IN OTHER AREAS, THIS COURT HAS SAID BECAUSE THERE'S AN EXPRESS PROVISION IN THE STATE

CONSTITUTION, IT SHOULD BE GIVEN GREATER PROTECTION THAN THE FEDERAL CONSTITUTION.

THAT'S THE PURPOSE.

WOULD THAT APPLY IN THIS CASE?

>> I, I GUESS THEORETICALLY I'D LIKE TO TO RESERVE THE RIGHT TO MAKE THAT ARGUMENT BUT BECAUSE IT IS SO CLEAR AS A MATTER OF FEDERAL CONSTITUTIONAL LAW THAT THIS LAWSUIT IS BARRED THAT I'M NOT SURE THERE'S A NEED TO GO HIGHER.

I MEAN, AGAIN, THE CASE LAW -- THERE ARE A FEW OUTLAYERS. THE NINTH CIRCUIT WHICH INVOLVES -- THE NINTH CIRCUIT WAS CLEAR TO SAY HIRING AND FIRING DECISIONS CANNOT BE REVIEWED BUT ASIDE FROM THAT, ALL THE COURTS SAY THAT A CASE BROUGHT BY A RELIGIOUS OR MINISTERIAL EMPLOYEE WHICH SEEKS REVIEW OF THE REASONS FOR HIRING IS BARRED.

IT IS BARRED NO FURTHER DISCUSSION NEEDED.

IT IS -- THIS IS NOT WE SUBMIT A PARTICULARLY DIFFICULT ISSUE UNDER THE CHURCH AUTONOMY DOCTRINE.

THE MALICKI CASE WITH THIRD PARTY, THAT WAS A TOUGH QUESTION, A TOUGH ARGUMENT AND THIS COURT LIKE MOST COURTS REJECTED THE ARGUMENT THAT THE CHURCH AUTONOMY SERVES AS THE BAR.

THIS IS RIGHT IN THE HEART OF CHURCH DOCTRINE BAR.

THE INEVITABLE PART OF THE PLAINTIFF'S CLAIM WHY DID WE IN OUR MINDS DECIDE TO FIRE CONSTRUCTIVELY FIRE THE PLAINTIFF.

THE COURT HAS TO DECIDE THAT TO CONSIDER HER CAUSE OF ACTION.

TAKING -- FOR US TO HAVE TO STATE THE REASON, IT'S A USELESS ENTERPRISE.

WE TELL YOU THEY WERE RELIGIOUS REASONS.

WHAT HAPPENS THEN?

>> WHAT HAPPENS IN A

HYPOTHETICAL WHERE YOU DO STATE THE REASONS AND THE REASONS ARE JUST AS ARE CLAIMED HERE, THAT IS THAT SHE RECEIVES A LETTER THAT IN ESSENCE SAYS WE'RE TIRED OF YOU COMPLAINING ABOUT FATHER SO-AND-SO.

AND WE TOLD YOU WE'RE SORRY BUT FATHER SO-AND-SO'S BEEN HERE FOR ALL THIS TIME AND YES, YOU KNOW, BY FIRING YOU MAYBE WE RISK SOME LUTE OR SOMETHING.

-- SOME LAWSUIT OR SOMETHING BUT THEY MEANT -- THEY ATTACH THE LETTER TO THEIR COMPLAINT. AND SO HERE, MY GOODNESS, THEY, THEY COME, YOU KNOW, WITH ABOUT AS, AS GOOD OF EVIDENCE AS YOU KNOW, THEY MAY SAY, GEE, I'M SORRY THAT WE WROTE THAT LETTER.

AND THE BISHOP SHOULDN'T HAVE DONE IT OR WHOEVER, BUT THERE IT IS, ATTACHED TO THE COMPLAINT.

YOU KNOW, AND THE HEADLINES IN THE "MIAMI HERALD" AND AND OBVIOUSLY I'M TRYING TO PRESENT YOU WITH A PRETTY DIFFICULT HYPOTHETICAL.

>> YOU HAVE.

[LAUGHTER]

MY POSITION WOULD BE THE SAME THAT THERE IS A CONSTITUTIONAL BAR THAT INN INEVITABLY, -INESCAPABLY, NECESSARILY IN THE WORD OF THE THIRD DISTRICT, THE REVIEW OF A DECISION FOR THE HIRING OR FIRING OF A MINISTERIAL OR RELIGIOUS EMPLOYEE INTRUDES UPON --

>> WHAT INTRUSION -- EXPLAIN -- IN THIS HYPOTHETICAL, WHAT REAL INTRUSION IS THERE ON ANY RELIGIOUS DOCTRINE IF THE GROUP -- IF ALL -- WE ALL AGREE THAT THEY FIRED HER BECAUSE THEY WERE TIRED OF HEARING HER COMPLAINT ABOUT HAVING BEEN ASSAULTED WHAT ENTANGLEMENT IN RELIGION DOES THAT PRESENT.

>> FIRST OF ALL, I RECOGNIZE IF I WERE ARGUING THOSE FACTS I WOULD HAVE A DIFFICULT PROBLEM.

NOW THE CONTOWERS OF THE
DOCTRINE.

>> BUT DON'T YOU SEE --

>> CONTOURS OF THE DOCTRINE
PERMITTIVE NO EXEMPTIONS.

WITHIN THE DOCTRINE THERE IS A
COMPLETE BAR.

IT IS A STRONG AND HARSH
DOCTRINE IN CASES BUT COURTS
HAVE HELD THAT IT IS
NECESSARY.

NOW --

>> IT SEEMS TO ME THAT AN
EXAMPLE LIKE THAT REALLY
DEMONSTRATES THAT THE COURT
SHOULD AT LEAST, AT LEAST HAVE
THE, THE AUTHORITY TO LOOK AT
THAT KIND OF -- THESE KINDS OF
SITUATIONS TO DETERMINE IF
THERE IS A RELIGIOUS REASON
THAT WOULD GET YOU ENTANGLED IN
THE CHURCH'S DOCTRINE, ET
CETERA, OR IF THERE IS A
NONRELIGIOUS REASON FOR IT THAT
AND THEN THE CHURCH SHOULD BE
TREATED AS ANY OTHER EMPLOYEE
-- EMPLOYER.

>> WHAT I CAN TELL THE COURT IS
THAT THAT POSITION HAS NOT BEEN
THE POSITION OF THE COURTS
AROUND THE COUNTRY.
THE FEDERAL COURTS HAVE BY AND
LARGE NOT -- HAVE NOT REQUIRED
AN EMPLOYER TO STATE A REASON.
MAYBE UNDER THOSE VERY
DIFFICULT HYPOTHETICAL, MAYBE A
COURT COULD DRAW OUT A
DISTINCTION AND SAY, WELL THIS
ANOMALOUS CASE CAN GO FORWARD,
BUT --

>> WELL, LET ME ASK YOU THIS
QUESTION.

YOU SAID IF I WERE FACED WITH
THIS, IT WOULD BE MORE
DIFFICULT.

WELL, IF A COURT -- WHAT IT WE
OPENED THE FILE OF WHATEVER
RELIGIOUS INSTITUTE, THE
LETTER'S RIGHT IN FRONT OF THE
FILE?

IT SAYS, YOU KNOW, WE GOT TO
GET THIS PERSON.

THEY'RE JUST COMPLAINING.

THEY'RE REVEALING THAT WE'RE

BAD PEOPLE, AND THE REVEALING
WE'RE HURTING PEOPLE, REVEALING
THAT WE'RE STEALING SO WE HAVE
GOT TO GET RID OF THEM?
WHAT IF THAT LETTER IS IN A
FILE?

IT'S NOT SENT.

IT'S NOT ATTACHED, BUT IT'S IN
THE FILE, CAN YOU FIND THAT.

>> THE ANSWER IS NO.

RESPECTFULLY I DON'T THINK IT'S
ANY BUSINESS OF THE CIVIL
COURTS TO OPEN UP --

>> YOUR VIEW IS THAT IT'S JUST
AN ABSOLUTE BAR AND YOU CAN'T
EVEN REALLY GET INTO IT NO
MATTER WHAT IS THERE.

>> I JUST WANT TO MAKE SURE --
YOU SAID THAT WOULD BE A HARDER
CASE BUT RIGHT NOW THE -- IN
THE THIRD DISTRICT OPINION, IT
ALLEGES THAT THE, THAT
PRINCIPAL WAS ASSAULTED AND
BATTERED BY A PRIEST, HER
IMMEDIATE SUPERVISOR, AND THEN
BECAUSE OF THAT, SHE COMPLAINED
AND SHE WAS TERMINATED.

SO RIGHT NOW WE HAVE THAT FACT
WITHOUT, I MEAN, WE DON'T HAVE
A LETTER, BUT WE'VE GOT THE
UNREFUTED ALLEGATIONS OF THE
COMPLAINT.

WE DON'T EVEN HAVE A -- DO WE
HAVE A DENIAL IN THE RECORD?
MOO WE -- I DON'T BELIEVE THERE
IS -- THERE MIGHT BE A DENIAL
IN THE COMPLAINT.

>> THAT WOULD HELP IF THERE
WERE.

>> I THINK THE MIGHT BE --

>> THAT WOULD JUST MAKE TO ME
AT LEAST, AT LEAST REQUIRING
THE CHURCH TO SAY WE DENY IT
AND WE ASSERT THAT THERE WAS A
RELIGIOUS REASON.

WE'D AT LEAST BE ABLE TO LOOK
AND SAY WE FEEL BETTER ABOUT
THOSE CASES, YOU KNOW, THE ONE
THAT GETS FIRED BECAUSE OF THE
MED-- YOU KNOW, THE FRAUD OR,
YOU KNOW, COMPLAINING ABOUT
WIDESPREAD ABUSE, SEXUAL ABUSE
THAT OR WE'RE AT LEAST
PROTECTING AS WELL AS THE

PUBLIC AS WELL AS SHIELDING THE CHURCH FROM UNNECESSARY ENTANGLEMENT.

I MEAN, WHY ISN'T THAT JUST A BETTER POLICY, AT LEAST REQUIRE AN ANSWER, A DENIAL AND SAY NO, SHE WAS A MINISTERIAL EMPLOYEE, PLUS THERE WAS A RELIGIOUS REASON FOR FIRING HER.

>> BUT THEN THE QUESTION IS WHAT DOES THE COURT DO WITH THE EXPLANATION?

>> WELL, WE AT LEAST WE HAVE A RECORD THAT REFUTES SOMETHING AND WE HAVE A REASON TO SAY THEN IT WOULD BE ENTANGLEMENT.

>> IT WOULD BE -- THE INQUIRY -- I THINK IT'S CLEAR, SHE'D HAVE TO END THEN UPON THE STATEMENT OF A RELIGIOUS REASON, BUT THE COURTS SAY YOU DON'T HAVE TO GO THAT FAR BECAUSE AN EMPLOYER DOES NOT HAVE TO STATE THE REASON FOR THE TERMINATION OF A RELIGIOUS EMPLOYEE.

THAT IS WHERE THE COURTS, I THINK BASICALLY WITHOUT EXCEPTION -- WITH THAT EXCEPTION HAVE DRAWN THE LINE? WE -- IF WE SAY THAT THE COURT CAN AT LEAST LOOK AT THIS, BUT THERE'S ALREADY BEEN A DISMISSAL OF THIS PARTICULAR COMPLAINT AS I UNDERSTAND IT, ALL OF THE -- ALL OF THE COUNTS OF THIS COMPLAINT HAVE BEEN DISMISSED.

>> YES.

>> SO WHAT THEN CAN, CAN GO ON?

>> THAT WAS THE POINT THAT I MEANTED TO GET ON, THE ISSUE OF MOOTNESS.

AFTER THE APPEAL WAS OVER IN THE THIRD DISTRICT, THE TRIAL COURT ENTERED A JUDGMENT. TWO COUNTS DISMISSED IN THE FINAL CASE, WHISTLEBLOWER CLAIM.

>> ONCE THIS COURT ACQUIRED JURISDICTION OVER THE THIRD DISTRICT'S DECISION, YOU'RE NOT SAYING THIS COURT NOW HAS LOST JURISDICTION AS YOU ARGUED IN

YOUR WRIT OF PROHIBITION, ARE YOU?

>> I AM SAYING THAT THIS CASE IS NOW MOOT.

THERE IS NO FURTHER CONTROVERSY BETWEEN THE PARTIES.

>> ARE YOU SAYING THEN THAT THE COURTS WILL BE POWERLESS TO EVEN ENTER AN OPINION TO REQUIRE REVERSAL OF WHAT'S GOING ON?

THIS HAPPENS ALMOST DAILY WITH REGARD TO FOLKS SEEKING REVIEW OF OUR DECISIONS IN THE UNITED STATES SUPREME COURT, AND IF WE WERE TO HOLD SOMETHING LIKE THAT, THEN THAT WOULD THEN SAY THAT THE UNITED STATES SUPREME COURT GOT NO AUTHORITY IN A SITUATION LIKE THIS TO, TO ISSUE AN OPINION OR A DECISION ON THE CASE.

>> IF THE PLAINTIFF HAD FILED A NOTICE OF APPEAL FROM THE TRIAL COURT'S FINAL JUDGMENT, THE ISSUE WOULD STILL BE ALIVE. THERE WAS NO NOTICE OF APPEAL AND I'M NOT SAYING THAT THE COURT HAS NO AUTHORITY OR NO JURISDICTION.

THIS COURT'S CASE LAW SAYS THAT IF THE CASE BECOMES MOOT, AS WE SUBMIT THIS CASE HAS, THE COURT HAS THE DISCRETION TO DECIDE THE CASE IF IT IS OF GREAT PUBLIC IMPORTANCE.

>> YOU SHOULD -- YOU SAY THEY SHOULD'VE SOUGHT IN THE THIRD DISTRICT FOR A STAY OF THE MANDATE.

>> STAY OF THE MANDATE, YES. ASK THIS COURT FOR A STAY OF THE EFFECT OF THE MANDATE. FAILING THERE, FILE NOTICE OF APPEAL.

ANY THREE OF THOSE THINGS OF SUCCESSFUL AND THE LAST ONE WAS WITHIN THE PLAINTIFF'S POWER WOULD'VE KEPT THIS CASE ALIVE.

>> WE CAN ISSUE OPINION BUT NOTHING ELSE CAN GO ON AT THE TRIAL IS WHAT YOU ARE SAYING.

>> I THINK THAT WHATEVER THE COURT DOES, WE'RE GOING TO SAY,

HEY WE'VE GOT A FINAL JUDGMENT
ENTERED 11 MONTHS AGO THERE WAS
NO APPEAL FILED THIS CASE IS
OVER.

IF THE COURT ARGUES THIS IS A
MATTER OF GREAT PUBLIC
IMPORTANCE --

>> IF THAT FINAL JUDGMENT WAS
ARGUED ON AUTHORITY OF THE
PROHIBITION, WHICH WE VACATE,
THEN WOULDN'T THE FINAL
JUDGMENT HAVE TO BE VACATED?

>> NO.

>> WHY NOT?

DO YOU HAVE A CASE THAT SAYS
THAT?

>> I DON'T HAVE A CASE THAT
SAYS THAT.

THE ONLY WAY IT COULD BE
VACATED IS WHEN RULE 1.540 IS
NOT A SUBSTITUTE.

>> DO YOU HAVE A CASE THAT SAYS
THAT?

>> I DO NOT HAVE A CASE.

>> BECAUSE THERE IS NO CASE
THAT EXISTED THAT I'M AWARE OF
THAT HAS THAT HOLDING TO IT.

>> I'M NOT SURE IN A CRIMINAL
CONTEXT THERE'S SOME FLUIDITY
IN A CIVIL CONTEXT ONCE A FINAL
JUDGMENT IS ENTERED, THEY NEED
TO APPEAL IT.

HERE THERE IS ONLY ONE
APPELLATE PROCEEDING.

>> WITH THAT I THINK WE HAVE
COVERED OUR AREA AND YOU HAVE
GONE WELL BEYOND YOUR TIME.
WITH OUR ASSISTANCE.

THANK YOU, OUR QUESTIONING AT
TIMES TAKES US BEYOND THE
ARGUMENT.

>> LET ME ASK YOU --.

>> GO AHEAD, JUSTICE.

>> MR. ^REEVES, THIS HAS ALL
BEEN A LOT OF FUN, BUT WOULD
YOU RESPOND TO THE MOOTNESS
AND, AND THE FACT THAT FINAL
JUDGMENT WAS IN FACT ENTERED
FROM WHICH IT IS FINAL?

>> CERTAINLY.

THERE IS A CASE ON POINT.

IT WAS THE KEYE CASE CITED IN
OUR RESPONSE.

THE KEYE CASE HOLDS EXACTLY AS

JUSTICE ANSTEAD SAID, THAT ONCE THE -- THE TRIAL COURT IS REQUIRED TO ISSUE ITS DISMISSAL UPON THE MANDATE OF THE THIRD DCA.

IF THIS COURT ISSUES.

THIS QUASHATHIZE THIRD DCA'S MANDATE WHICH RENDERS, IN THE KEYE CASE, RENDTHERS IT A NULLITY.

AND THAT WOULD ALLOW US TO PROCEED FURTHER THERESIS NO ISSUE TOF MOOTNESS WE DID NOT HAVE TO FILE A NOTICE.

>> SO YOUR OPINION IS THERE WOULD BE NO REASON TO FILE A MOTION TO STAY THE MANDATE OF THE DISTRICT COURT?

>> CORRECT.

CORRECT.

THERE'D BE NO REASON TO BECAUSE IN THE, THE MANDATE DOESN'T ACCOMPLISH -- WE CAN'T PROCEED FURTHER.

WE WOULDN'T WANT TO PROCEED FURTHER WITH THE CASE UNTIL THIS COURT TELLS US WHETHER OR NOT YOU ARE GOING TO ACCEPT JURISDICTION AND MAKE A RULING.

WE DON'T WANT TO HAVE A TRIAL AND THEN THIS COURT SUPPORT --

>> YOU COULDN'T -- I MEAN, ONCE THERE WAS A PROHIBITION, YOU COULDN'T DO ANYTHING.

>> WELL, THEORETICALLY HAD THE THIRD DCA ALLOWED US TO STAY THE MANDATE, I GUESS WE COULD HAVE, BUT WE WOULDN'T WANT TO PROCEED FURTHER AND INCUR THAT EXPENSE AND THERE WAS NO NEED TO DO.

>> EVEN IF THEY STAYED THEIR MANDATE, THEIR MANDATE THERE STILL WOULD BE THE TRIAL COURT'S ORDER.

>> THE TRIAL COURT SUPPORTED US WHICH IS WHY THEY HAD TO GO WITH THE WRIT OF PROHIBITION. THE TRIAL COURT FOUND WITH US.

>> DO WE HAVE THE TRIAL COURT'S -- IS THERE A WRITTEN FINAL -- WRITTEN ORDER?

>> THERE IS A VERY BRIEF SUMMARY WRITTEN ORDER THAT JUST

SAYS THEIR MOTION FOR SUMMARY JUDGMENT IS DENIED.

AND THEIR MOTION FOR SUMMARY JUDGMENT THEY DIDN'T ALLEGE ANY RELIGIOUS INSTANCES OR ANYTHING ELSE.

THEY JUST SAID THE FIRST AMENDMENT BARS THESE THINGS ABSOLUTELY IN JURISDICTION.

>> BUT BY YOU CONCEDED THAT SHE'S THIS MINISTERIAL EMPLOYEE, YOU REALLY HAVE AS JUSTICE WELLS SAID EARLIER, YOU KNOW, YOU'RE KIND OF PUTTING US IN THIS POSITION OF, YOU KNOW, HAVING TO SAY, LISTEN, WE'RE NOW DEALING WITH A CONCEDEDLY RELIGIOUS EMPLOYEE.

AND A TERMINATION DECISION. IT SEEMS TO ME THAT THAT, YOU KNOW, IT'S NOT A GOOD CASE THEN TO REALLY EXPLORE WHAT THE PARAMETERS OF THE MINISTERIAL EMPLOYEE EXCEPTION WOULD BE AS OPPOSED TO IF YOU SAID WELL SHE'S A PRINCIPAL.

SHE DOES DO SOME THINGS THAT ARE LIKE A MINISTER BUT SHE ALSO IS THE, YOU KNOW, THE PRINCIPAL OF THE SCHOOL, SO I MEAN, IN TERMS OF WHETHER WE SHOULD KEEP THIS CASE SEEMS TO ME THAT THERE'S A REAL QUESTION THAT WITH NO CONFLICT OUT THERE AND YOU HAVING CONCEDED THAT IT'S AN ISSUE THAT THIS REALLY ISN'T A GOOD CASE FOR US TO ENTANGLE OURSELVES IN, SO TO SPEAK.

>> IT'S NOT A GOOD CASE TO DECIDE WHETHER SOMEONE'S A MINISTERIAL EMPLOYEE IT'S CERTAINLY A GOOD CASE THOUGH TO DECIDE WHETHER OR NOT THE CHURCH IS AN ANY DIFFERENT POSITION IN THIS CASE THAN IT WAS IN MALICKI v. DOE OR DOE v. EVANS.

SIMPLY BY COUNSEL'S REMARKS HE WAS STATING THE EVILS SET UP IN MALICKI v. DOE WHICH IS COURTS COMING AND IN LOOKING AT THE EMPLOYMENT RELATIONSHIP, ASKING WHY WE WERE FIRED.

>> LET ME ASK YOU A QUESTION.
IS ONE OF YOUR REMEDIES
REENSTATEMENT.
THAT WAS ORIGINALLY ASKED IT'S
BEEN SENSE WAIVED BUT IT WAS
ORIGINALLY ASKED.

>> THAT'S WHAT YOU WERE
SEEKING.

>> ORIGINALLY, YES.

>> REPAYMENT AND REINSTATEMENT.

>> CORRECT.

>> AND YOU CAN SEE THAT WOULD
CLEARLY BE ENTANGLEMENT IF YOU
WERE FORCED A RELIGIOUS
INSTITUTION TO REHIRE A
MINISTERIAL EMPLOYEE.

>> WE CONCEDED MY CLIENT DID NO
LONGER WORK AT THE
ORGANIZATION.

WE DIDN'T WANT IT.

AS FAR AS THE CONSTITUTIONAL
QUESTION OF WHETHER WE COULD
GET REINSTATEMENT IT'S THE SAME
RESPONSE.

THEY HAVE TO SHOW WHY THAT
VIOLATES OR WHY THERE'S A
PROBLEM RELIGIOUSLY WITH THAT
AND WE THINK IT WOULD BE MUCH
EASIER FOR THEM TO SHOW THAT.

>> YOU THINK A COURT COULD
FORCE A CHURCH TO REHIRE AN
INDIVIDUAL?

>> I THINK --

>> IN A MINISTERIAL CAPACITY.

>> I THINK USING THE
HYPOTHETICAL GIVEN, IF THE
CHURCH FIRES SOMEONE FOR A
NONRELIGIOUS REASON AND
EVERYONE AGREES WITH THAT, I
THINK YES, A CIRCUIT COURT
COULD ORDER THEM TO REHIRE THEM
BECAUSE THE NONRELIGIOUS REASON
DOES NOT BAR IT.

>> WITH OUR ASSISTANCE, YOU'VE
ALSO GONE WELL BEYOND YOUR
TIME.

WE THANK BOTH OF YOU IF THE
MOST INTERESTING ARGUMENTS.
WE'LL TAKE THE CASE UNDER
ADVISEMENT.