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ADVISORY OPINION TO THE GOVERNOR RE: COMMISSION OF ELECTED JUDGE

>> 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.

>> LADIES AND GENTLEMEN, THE
FLORIDA SUPREME COURT.

PLEASE BE SEATED.

>> GOOD MORNING AND WELCOME TO
THE ORAL ARGUMENTS SESSION FOR
TODAY, JANUARY 27th.

JUSTICE LABARGA IS RECUSED ON
THE CASE, THE CASE OF ADVISORY
OPINION TO THE GOVERNOR, IN
RECOMMISSION OF ELECTED JUDGE,
PARTIES READ TO PROCEED?

ALL RIGHT.

THE FLORIDA BAR GOING FIRST.

>> MAY IT PLEASE THE COURT,
STEPHEN GRIMES ALONG WITH MAJOR
HARDING REPRESENTING THE FLORIDA
BAR.

I'M NOT SURPRISED THAT THIS IS A
CASE OF FIRST IMPRESSIONS. I
THINK THE AVERAGE PERSON WHO
LOOKS AT THE CONSTITUTION AND
FOUND IN ORDER TO BE A JUDGE YOU
HAD TO BE A MEMBER OF THE
FLORIDA BAR WOULD ASSUME YOU HAD
TO BE IN GOOD STANDING, AND NOT
BE SUSPENDED.

BUT OF COURSE IN THIS CASE,
MR. ABRAMSON IS NOT ONLY
SUSPENDED BUT HE'S BEEN
SUSPENDED FOR 91 DAYS, WHICH IS
LONG PAST THE 30 DAYS IN WHICH
HE WOULD HAVE TO TAKE HIS OFFICE
FROM THE TIME OF -- THE TERM OF
OFFICE BEGINS AND YOU ONLY HAVE
30 DAYS TO TAKE OFFICE, AND
BEYOND THAT ACCORDING TO THE
RULES HE'D HAVE TO GO THROUGH A
RIGOROUS PROCEDURE IN ORDER TO
BE BACK IN GOOD STANDING --

>> WHAT DO YOU MAKE OF THE LANGUAGE, THOUGH, IN THE CONSTITUTION, THAT DOES NOT USE -- THAT DOES NOT USE FOR CIRCUIT JUDGES MEMBER IN GOOD STANDING, WHEREAS IT DOES FOR CERTAIN COUNTY JUDGES?

>> YES, SIR.

I THINK YOU HAVE TO GO BACK AND SEE HOW THAT LANGUAGE FOR THE COUNTY JUDGES GOT PUT INTO THE CONSTITUTION.

IT WASN'T ALL DONE AT ONE TIME. GO BACK TO 1968.

WE HAD A MASSIVE REVISION OF THE CONSTITUTION BUT THEY DIDN'T DO ANYTHING WITH ARTICLE 5.

IN 1972, THEY HAD ANOTHER AMENDMENT TO THE CONSTITUTION THAT DEALT WITH ARTICLE 5.

AND AT THAT TIME, IT PROVIDED -- HAD THOSE SAME PROVISIONS THAT ARE IN EXISTENCE NOW, WITH CIRCUITS, DISTRICT COURT OF APPEAL AND SUPREME COURT JUDGES, HAD TO BE A MEMBER OF THE BAR.

>> WASN'T THERE AT SOME POINT IN THE CONSTITUTION, A REQUIREMENT THAT YOU BE IN GOOD STANDING?

>> YES, MA'AM.

>> FOR ALL OF THE JUDGES.

>> FOR THE DISTRICT COURT OF APPEAL, THE SUPREME COURT AND THE CIRCUIT COURT?

WASN'T THERE A REQUIREMENT AT ONE POINT TO SAY, BE IN GOOD STANDING WITH THE FLORIDA BAR?

>> EARLIER THAN 1972, I DON'T KNOW.

BUT I KNOW THAT WHEN THE WHOLE ARTICLE 5 WAS RECAST, SUBSTANTIALLY, THAT, AT THAT TIME, THE PROVISIONS THAT NOW EXIST FOR CIRCUIT, DISTRICT COURT OF APPEALS AND SUPREME COURT, ARE THE SAME.

IT JUST SAYS MEMBERS OF THE FLORIDA -- MEMBER OF THE FLORIDA BAR.

AND FOR COUNTY JUDGES, IT SAID UNLESS -- AND I READ IT HERE, AT THAT TIME, IT SAID, UNLESS OTHERWISE PROVIDED BY GENERAL LAW, A COUNTY COURT JUDGE MUST

BE A MEMBER OF THE FLORIDA BAR.
SO, IT WAS THE SAME THING, IN
'72.

IT WASN'T UNTIL 1984 THAT THERE
WAS A SEPARATE AMENDMENT TO THE
CONSTITUTION DEALING WITH COUNTY
JUDGES IN WHICH THIS LANGUAGE
WAS PUT IN.

AND IT WAS TO DEAL WITH THE
SMALL COUNTIES WHERE YOU DIDN'T
HAVE VERY MANY LAWYERS...

>> I THINK, JUSTICE --

>> WHICH MENTIONED GOOD
STANDING.

>> BUT JUSTICE WELLS' POINT AND
I WOULD LIKE TO FOLLOW UP ON IT
BECAUSE WE LOOK TO TRY TO
DISCERN THE INTENT FIRST FROM
THE LANGUAGE USED, IS THAT IT IS
THROUGHOUT THE SECTION 8,

ARTICLE 5, SECTION 8 ON
ELIGIBILITY IT JUST SAID

MEMBERSHIP IN THE FLORIDA BAR
AND THEN, YOU LOOK TO SAY, WELL,
WHAT DOES MEMBERSHIP IN THE
FLORIDA BAR MEAN?

BUT, DO YOU HAVE AN EXPLANATION
FOR WHY, AS TO COUNTY, COUNTIES
WITH POPULATION LESS THAN
40,000, IT SAYS MEMBER IN GOOD
STANDING, WHEREAS THE OTHER
CATEGORIES DO NOT HAVE THAT
REQUIREMENT.

NOW, WE HAVE READ YOUR BRIEF AND
IT SEEMS COMPLETELY ABSURD AND I
THINK THE GENERAL PUBLIC WOULD
FIND IT SOMEWHAT LUDICROUS, TO
SAY TO SOMEBODY THAT CAN'T
PRACTICE LAW SHOULD BE ABLE TO
-- SOMEBODY THAT CAN'T PRACTICE
LAW SHOULD BE ELIGIBLE TO BE A
JUDGE AND NOT LOOK AT WHAT OUR
POLICY SHOULD BE BUT WHAT THE
CONSTITUTION SAYS AND WHAT IS
YOUR EXPLANATION FOR WHY THERE
IS A STATEMENT OR LANGUAGE "GOOD
STANDING" OR ONE OF THE
CATEGORIES, ONLY, AND NOT FOR
THE OTHERS, OTHER THAN, WELL,
THIS CAME LATER, SO THEY PUT IT
IN THERE.

I MEAN, IS THAT THE ONLY THING
YOU HAVE BEEN ABLE TO FIND OUT.

>> IN OTHER WORDS I THINK IT IS

SIGNIFICANT, IT WOULD BE A MORE DIFFICULT SITUATION, IF THEY DID IT ALL IN -- AT ONCE AND SPECIFICALLY PUT IN THE GOOD STANDING FOR COUNTY JUDGES, AND NOT FOR EVERYBODY ELSE. I THINK WHEN THEY DID IT LATER, THERE WAS NO PARTICULAR REASON, THEY JUST PUT IT IN, THEY WEREN'T THINKING ABOUT ANYBODY ELSE.

>> I MEAN, IS THAT THE BEST -- LET ME UNDERSTAND.

IS THAT THE BEST WE'RE ABLE TO COME UP WITH, IS WE HAVE NO IDEA?

AND I --

>> I THINK IN FAIRNESS, THAT IS TRUE.

I DON'T THINK THEY WERE THINKING IN TERMS --

>> WHO IS "THEY" THE LEGISLATURE.

>> THE VOTERS.

>> WAS IT THE LEGISLATURE THAT PUT THAT TO THE VOTERS.

>> IT WAS THROUGH A JOINT RESOLUTION, YES.

>> AND THERE IS NOTHING ABOUT THE THINKING AT THAT TIME, AS TO WHY THE ADDITIONAL PHRASE WAS ADDED?

>> NO, NOT -- NO, NOTHING. TO THAT.

>> SEEMS CERTAINLY THEY WERE NOT, NOT ADDRESSING OR SUGGESTING THAT THE HIGHER JUDGES SHOULD NOT BE IN GOOD STANDING BUT JUST PUT IN THE "GOOD STANDING" AND I CAN'T GIVE YOU AND PLAN NATION.

>> -- EXPLANATION.

>> PRIOR TO 1972, IN AN EARLIER VERSION OF THE CONSTITUTION THERE WAS A GOOD STANDING PROVISION FOR SUPREME COURT JUSTICES, AND DISTRICT COURT OF APPEAL JUDGES.

NOW, IF THAT IS TRUE, AND THEN IN LATER VERSIONS, THE GOOD STANDING PORTION WAS TAKEN OUT, I MEAN, DOESN'T THAT DEMONSTRATE SOME REQUIREMENT THAT AT LEAST THE DRAFTERS BELIEVE THAT THAT

REQUIREMENT WAS NO LONGER NECESSARY?

>> I'M NOT AWARE -- I KNOW IN 1972, WHEN THE -- THERE WAS A TOTAL REVISION, THE GOOD STANDING WASN'T IN THERE. BUT I'M NOT AWARE EARLIER THAN THAT, THE PREVIOUS CONSTITUTIONAL -- CONSTITUTION WRITTEN IN 1885 AND I'M NOT AWARE THAT THERE WAS A GOOD STANDING PROVISION IN THERE OR NOT.

I CAN'T TELL YOU THAT.

I CAN --

>> LET'S ASSUME THERE WAS A GOOD STANDING PROVISION IN THERE. THE ABSENCE OF IT, THEN IN THE THE 1972 VERSION, WHAT WOULD YOU SAY THE DRAFTER OF THAT -- I WOULD ASSUME, TOOK IT OUT DELIBERATELY?

>> I WOULD ASSUME THEY JUST -- YOU HAVE TO UNDERSTAND, THE REVISION IN 1972, IS JUST A TOTAL REVISION AND WHEN THEY PUT IN ALL KINDS OF THINGS THAT ABOLISHED ALL THESE OTHER COURTS AND EVERYTHING.

AND I WOULD ASSUME, THEY JUST STARTED FROM NEW AND THEY JUST TOOK A CLEAN SLATE, AND JUST PUT MEMBER OF THE BAR AND I WOULD ASSUME THAT THEY ASSUMED AND THAT IS ARGUMENT, OF COURSE, THAT THEY ASSUMED A MEMBER OF THE FLORIDA BA WOULD NECESSARILY BE A MEMBER IN GOOD STANDING -- BAR WOULD BE NECESSARILY A MEMBER IN GOOD STANDING.

>> WHAT IS YOUR RESPONSE TO THE FACT THAT IN THE RULES OF 5.1E, IT SPECIFICALLY SAYS THAT A -- DURING SUCH DISSENSION, TALKING ABOUT -- SUSPENSION, TALKING ABOUT SUSPENSION... [INAUDIBLE] THE RESPONDENT SHALL BE A MEMBER OF THE FLORIDA BAR BUT WITHOUT THE PRIVILEGE OF PRACTICING. AND WE FOLLOW IT UP, IN 1998 WITH A CASE, ROSS, AND WE SPECIFICALLY POINTED OUT, THAT A PERSON WHO IS SUSPENDED AS DIFFERENTIATED FROM BEING

DISBARRED, CONTINUES TO BE A MEMBER OF THE FLORIDA BAR.

>> WELL, OF COURSE IN THE BAR RULES THEMSELVES, THE BAR RULES ARE INCONSISTENT BECAUSE IN RULE 3-5.1 AND 3-7.10 OF THE SAME BAR RULES, IT SAYS IF YOU HAVE BEEN SUSPENDED MORE THAN TO THE DAYS IN ORDER TO GET REHABILITATED YOU HAVE TO GO THROUGH THE PROCEDURE FOR READMISSION TO MEMBERSHIP IN THE FLORIDA BAR. SO THE FLORIDA BAR RULES GO BOTH WAYS.

AND I AM SURE THAT WHEN THE PEOPLE WERE WRITING THE FLORIDA BAR RULES, THEY WEREN'T THINKING ABOUT ELIGIBILITY FOR BEING A JUDGE.

THEY WERE JUST SIMPLY LAYING IT OUT AND THEY'VE GOT INCONSISTENT PROVISIONS IN THERE AND, OBVIOUSLY, YOU CAN'T AMEND THE CONSTITUTION ANY WAY, BY WRITING WHAT YOU PUT IN THE FLORIDA BAR RULES.

>> LET ME ASK, IN THAT REGARD, AND I DON'T KNOW OF ANYONE, WHO HAS ACTUALLY DELVED INTO THIS ISSUE, BUT IT LOOKS TO ME THAT WHEN, WITH ARTICLE 5, SECTION 8, TALK ABOUT ELIGIBILITY AS A MEMBERSHIP IN THE FLORIDA BAR, I COULDN'T FIND IN THE CONSTITUTION THE ACTUAL USE OF THE WORD MEMBERSHIP IN THE FLORIDA BAR.

AND MAYBE, MR. HERRON CAN HELP ON THAT, WHERE HAS ARTICLE -- WHICH, THIS IS A SOMEWHAT FRIENDLY QUESTION, MR. GRIMES BUT WHEN YOU GET TO ARTICLE 5, SECTION 15 IT SAYS, THE SUPREME COURT SHALL HAVE EXCLUSIVE JURISDICTION TO REGULATE THE ADMISSION TO THE PRACTICE OF LAW AND THE DISCIPLINE OF PERSONS ADMITTED AND IT SEEMS TO ME IT, A APPROPRIATE, AND IN LOOKING AT WHAT MEMBERSHIP IS TO ME, IT THAT THE SUPREME COURT AS -- AND THE FLORIDA BAR IS AN ARM OF THE E SUPREME COURT HAS A GREATER DEGREE OF DEFINING MEMBERSHIP,

THAN IF IT WAS SET IN THE
CONSTITUTION.

DO YOU HAVE ANY RESPONSE TO
THAT, THAT IS, MEMBERSHIP IN THE
FLORIDA BAR, IS DEFINED ANYPLACE
ELSE IN THE CONSTITUTION, AND
WHAT WOULD YOU SAY IN TERMS OF
WHEN WE ARE TRYING TO DO
CONSTITUTIONAL CONSTRUCTION THE
CONSTITUTION GIVES THIS COURT
THE PLENARY AUTHORITY TO
REGULATE ATTORNEYS, TO BOTH
SUBMISSION AND FOR -- ADMISSION
AND DISCIPLINE.

>> I THINK THAT'S RIGHT.

AND I THINK ULTIMATELY, YOU GO
BACK TO THE PREMISE OF
CONSTITUTIONAL CONSTRUCTION.
IN WHICH OF COURSE YOU LOOK
FIRST AT WHAT THE LANGUAGE SAYS.
BUT, THIS COURT HAS OFTEN SAID
THAT YOU USE A LITERAL LANGUAGE
OF THE CONSTITUTION, UNLESS IT
REACHES AN UNREASONABLE OR
ABSURD RESULT.

AND YOU KNOW, AND THIS MOST
RECENT CASE, THAT HAS HAD THIS
ISSUE, WAS -- IS THE BENEVOLENT
POSTAL FLORIDA POLICE BENEVOLENT
ASSOCIATION VERSUS WILLIAMS AND
YOU -- FIRST YOU RECOGNIZE THE
RULE, THE CONSTITUTIONAL
LANGUAGE, WHICH ALLOWED IT TO
SPEAK FOR ITSELF AND WE REFERRED
TO TWO FUNDAMENTAL PRINCIPLES OF
CONSTITUTIONAL ADJUDICATION AND
FIRST IS THE CONSTITUTIONS
RECEIVE A BROADER AND MORE
LIBERAL CONSTRUCTION IN THE
STATUTES, AND, SECOND,
CONSTITUTIONAL PROVISIONS SHALL
NOT BE CONSTRUED SO AS TO DEFEAT
THEIR UNDERLYING OBJECTIVES,
AND, FINALLY, WHEN VIEWING
CONSTITUTIONAL ISSUES THE
PRINCIPLES RATHER THAN THE
DIRECT OPERATIONAL LITERAL
MEANING OF THE WORD USED MEASURE
THE PURPOSE AND SCOPE OF THE
PROVISIONS.

SO YOU GO BACK TO WHAT COULD
POSSIBLY BE INTENDED OTHER THAN
TO HAVE A SITUATION WHERE A
PERSON WOULD BE IN GOOD

STANDING.

>> LET ME ASK YOU A -- TWO
HYPOTHETICAL SITUATION.
LET'S ASSUME THAT SOMEONE BECAME
A MEMBER OF THE BAR, FIVE YEARS
BEFORE THEY SOUGHT TO BE ELECTED
TO A CIRCUIT COURT POSITION.
PROBABLY THE PRACTICAL MATTER,
THIS ISN'T GOING TO COME UP ON
THE APPELLATE AND SUPREME COURT,
I WOULD DOUBT THAT ANYBODY IS
GOING TO [INAUDIBLE] GOVERNOR,
IF IT'S A SUSPENDED LAWYER AND
PROBABLY ONLY COULD HAPPEN IN AN
ELECTED POSITION BUT MAYBE NOT.
BUT LET'S ASSUME THAT THAT
PERSON HAD BEEN ADMITTED TO
MEMBERSHIP FIVE YEARS BEFORE,
BUT, FOR THREE OF THE YEARS THEY
WERE UNDER A REHABILITATIVE
SUSPENSION.

WOULD THAT PERSON -- AND I WOULD
ASK THAT, WOULD THAT PERSON BE
ELIGIBLE FOR -- TO BECOME A
JUDGE, IF FOR THE FIVE YEARS,
THREE OF THE YEARS, THEY WERE
SUSPENDED UNDER A REHABILITATIVE
SUSPENSION, BUT, IN THE YEAR OR
SO PRECEDING, THEIR ELECTION,
THEY HAD, YOU KNOW, WERE NOW
BACK IN MEMBERSHIP.

>> I DO NOT BELIEVE HE OR SHE
WOULD.

UNDER THOSE CIRCUMSTANCES,
BECAUSE THEY WOULD NOT HAVE BEEN
IN GOOD STANDING AND BEEN AN
UNSUSPENDED -- FOR THE WHOLE
FIVE YEARS I DON'T THINK IT
MAKES ANY DIFFERENCE.
WHAT IT WAS DURING THE FIVE YEAR
PERIOD.

>> LET'S TAKE SOMEBODY THAT HAS
BEEN A LAWYER FOR 20 YEARS, AND
I'LL STAY WITH FIVE YEARS, LET'S
TAKE FIVE YEARS AND AS THE FIVE
YEAR PERIOD -- OUT OF THE FIVE
YEAR PERIOD FOR A PERIOD OF
TIME, BECAUSE THEY HAD A BAD
BOOKKEEPER AND THEY -- THEIR
TRUST ACCOUNT RECORDS WERE A
MESS THEY WERE UNDER A 60 DAY
SUSPENSION.

FOR THE -- FROM THE FLORIDA BAR.
WOULD THAT PERSON BE ELIGIBLE TO

BECOME A -- TO BE A JUDGE.

>> I WOULD SAY NOT.

FOR THE SAME REASON BUT YOU DON'T GET SUSPENDED UNLESS YOU DO SOMETHING PRETTY BAD AND WE ARE NOT TALKING ABOUT PUBLIC REPRIMANDS.

>> YOU ARE NOT DISTINGUISHING, I THOUGHT YOU WOULD BE DISTINGUISHING BETWEEN REHABILITATIVE SUSPENSIONS AND NONREHABILITATIVE SUSPENSIONS BECAUSE ONLY WITH REHABILITATIVE SUSPENSIONS SOMEBODY HAD TO THEN PETITION TO BECOME ADMITTED TO BE A MEMBER.

WHEREAS, IN THE CASE OF A NONREHABILITATIVE SUSPENSION, ALTHOUGH I THINK THE PUBLIC DOESN'T EVER REALIZE WHEN WE SAY 91 DAYS VERSUS 90 IS A HUGE DIFFERENCE, SO YOU ARE SAYING, THIS POSITION YOU ARE TAKING WOULD APPLY NO MATTER HOW SHORT THE PERIOD OF SUSPENSION HAD BEEN AND NO MATTER WHAT THE REASONS.

>> I THINK THE COURT COULD MAKE THAT DISTINCTION.

BUT, FOR OUR PURPOSES, IN ORDER TO BE CONSISTENT, I THINK I HAVE TO TAKE THE OTHER POSITION.

I THINK THE COURT COULD MAKE THAT DECISION.

>> ONE OTHER QUESTION IS, THE BAR SOMETIMES, AND IN THIS CASE, THERE WAS A FAIRLY LENGTHY DELAY, BEFORE THIS WENT THROUGH THE GRIEVANCE COMMITTEE, THE BAR, IF THE BAR HAD NOT BROUGHT THIS UNTIL AFTER MR. ABRAMSON WAS ELECTED AND HIS COMMISSION ISSUED, THERE COULD BE NOTHING -- THEN IT WOULD GO ON TO THE JQC.

>> IT WOULD BE A JQC MATTER ONCE

--

>> AND IN THIS SITUATION IF WE DECIDE THE PLAIN LANGUAGE REQUIRES IT SAYS WHAT IT SAYS, DO YOU SEE ANYTHING THAT WOULD STOP THE JQC FROM BEING ABLE TO INSTITUTE PROCEEDINGS BASED ON THE CONDUCT OR MISCONDUCT OF

MR. ABRAMSON.

>> THE JQC WOULD HAVE JURISDICTION, CERTAINLY.

>> AND ELIGIBILITY AND FITNESS ARE TWO DIFFERENT CONSIDERATIONS.

>> YES.

YES.

>> YOU ARE WELL INTO YOUR REBUTTAL.

>> OKAY.

>> IF YOU CARE TO SAVE SOMETIME.

>> YOUR HONOR, I'LL DEFER.

>> MADAME CHIEF JUSTICE, MEMBERS OF THE COURT, MARK HERRON ON BEHALF OF WILLIAM ABRAMSON AND WITH ME THIS MORNING IS ROB KELFER, IN RESPONSE TO YOUR QUESTION, JUSTICE PARIENTE AND YOUR HYPOTHETICAL WE ARE -- OUR POSITION WOULD BE IN EITHER CASE UNDER THE LANGUAGE OF THE CONSTITUTION, MR. ABRAMSON WOULD BE ELIGIBLE AND -- TO ASSUME THE OFFICE AND THAT IS BASED ON THE PLAIN LANGUAGE OF THE CONSTITUTION, BUT DID YOU NOT HAVE A GOOD STANDING REQUIREMENT

--

MEMBER IN GOOD STANDING REQUIREMENT AS PART OF THE QUALIFICATIONS FOR OFFICE OF CIRCUIT COURT JUDGE.

>> BUT DOESN'T THAT KIND -- ISN'T THERE SOMETHING A LITTLE SCREWY OR -- ABOUT THIS KIND OF SITUATION?

HERE WE HAVE AN ATTORNEY WHO IS NOT ELIGIBLE TO PRACTICE LAW IN THE COURT, YET NOW YOU ARE SAYING THAT HE IS ELIGIBLE TO PRESIDE OVER THAT COURT.

>> I'M NOT SAYING IT.

MADAME CHIEF JUSTICE I BELIEVE THE FLORIDA CONSTITUTION SAYS IT BECAUSE IT DOES NOT HAVE THE QUALIFICATION FOR OFFICE.

>> WELL, HOWEVER, THE FLORIDA CONSTITUTION YOU WOULD AGREE, I'M SURE, MR. HERRON, HAS TO BE GIVEN A REASONABLE CONSTRUCTION.

>> BEGINNING WITH THE PLAIN LANGUAGE OF THE STATUTE.

>> BEGINNING WITH THE PLAIN

LANGUAGE BUT, THEN, IT -- ISN'T THIS A RELATIVELY SIMPLE MATTER? THAT WE HAD IN THE STATE CONSTITUTION, A PROVISION THAT SAYS IN ORDER TO BE A JUDGE THAT YOU HAVE TO BE A PERSON WHO, FOR A REQUISITE PERIOD OF YEARS, CAN PRACTICE LAW IN FLORIDA.

>> A MEMBER OF THE FLORIDA BA.

>> WELL, THAT, BUT THE ELIGIBILITY REQUIREMENT, REALLY, IS THAT YOU HAVE TO BE ABLE TO PRACTICE LAW.

BECAUSE THAT IS WHAT THE WHOLE MEANING HAS TO BE.

UNDERLYING THE FACT THAT YOU -- THE MEANING OF THE MEMBER OF THE FLORIDA BAR IS BECAUSE WE HAVE A UNIFIED BAR IN FLORIDA.

THEREFORE, IN ORDER TO PRACTICE LAW, YOU'VE GOT TO MEET THAT REQUIREMENT.

AND SO THAT IS THE ELIGIBILITY THAT I AS A VOTER WOULD UNDERSTAND VOTING IN THE -- ON THIS CONSTITUTION.

THAT I WILL GET JUDGES WHO CAN PRACTICE LAW, AND HAVE PRACTICED LAW FOR THIS PERIOD OF TIME. IN FLORIDA.

>> I WOULD TEND TO AGREE WITH YOU, WRITING ON A BLANK SLATE. AND THERE WAS NO 1948 AMENDMENT, TO THE FLORIDA CONSTITUTION.

1984 AMENDMENT OF THE FLORIDA CONSTITUTION CLEARLY PUTS LANGUAGE IN THE CONSTITUTION THAT SAYS, WITH RESPECT TO COUNTY JUDGES AND COUNTIES UNDER 40,000, PERSONALLY, THERE IS A GOOD STANDING REQUIREMENT THAT -- FIVE YEAR REQUIREMENT, NOW, IN --

>> ACTUALLY THAT'S NOT -- FOR UNDER 40,000 THERE IS NO SPECIFIC -- MAYBE I'M READING IT WRONG I THOUGHT THERE WAS NO REQUIREMENT FOR 40,000 AND UNDER. COUNTIES.

>> MAYBE FIVE YEARS OR ONE YEAR GUT THE GOOD STANDING --

>> NO, THAT IS WHAT WAS INTERESTING, ALL OTHER JUDGES

EXCEPT FOR COUNTY JUDGES IN COUNTIES HAVING A POPULATION OF LESS THAN 40,000 HAVE TO HAVE SOME NUMBER OF YEARS.

IT IS ONLY COUNTIES 40,000 AND UNDER I GUESS THE PERSON COULD BECOME A MEMBER OF THE BAR, AND THE NEXT DAY BE ELIGIBLE TO BE A COUNTY JUDGE.

THERE IS NO YEARS, NOT EVEN YEARS EXPERIENCE.

>> YEAH, AND AGAIN, THAT WAS THE BATTLE IN 1984, THAT WAS FOUGHT IN THE FLORIDA LEGISLATURE. I MEAN, THEY WERE BRINGING THE COUNTY JUDGES IN THOSE COUNTIES FROM NOT HAVING TO BE MEMBERS OF THE FLORIDA BAR AND...TY...

[INAUDIBLE].

>> THAT IS ALL THAT YOU ARE FOCUSING ON AND THEY WERE NOT FOCUSING ON, WE BETTER MAKE SURE THAT WE REITERATE THAT FOR APPELLATE JUDGES, SUPREME COURT JUDGES, CIRCUIT COURT JUDGES AND COUNTY JUDGES IN COUNTIES MORE THAN 40,000, WE WANT THESE PEOPLE TO BE LAWYERS THAT HAVEN'T BEEN UNDER A SUSPENSION OR A -- YOU KNOW, FOR A PERIOD OF YEARS.

>> AND AGAIN, IF WE ARE WRITING ON A BLANK SLATE, YOU -- WOULDN'T HAVE TO HAVE SAID IS THAT A.

IF IN FACT THAT IS WHAT THE LEGISLATOR THOUGHT. WOULDN'T HAVE TO THINK THAT TRUE THROUGH.

I MEAN, THERE ARE THESE PRINCIPLES OF CONSTRUCTION THAT SAYS WHEN THE LEGISLATURE, AGAIN, THE LEGISLATURE DRAFTED THIS.

USES WORDS IN ONE SECTION, THEY DON'T USE IN ANOTHER SECTION, YOU CAN'T IMPLY THOSE WORDS IN THE SECTION WHERE THOSE WORDS ARE APPLY TO THE OTHER SECTION.

>> MR. HERON...

>> GO AHEAD.

>> WOULD YOU AGREE, CERTAINLY, WITH THE USE OF THE PHRASE, OR THE WORDS, "MEMBERSHIP IN THE

FLORIDA BAR" THAT THAT IS NOT
DEFINED CONSTITUTIONALLY, OR IN
THE CONSTITUTION.

YOU AGREE WITH THAT
SPECIFICALLY?

>> MEMBER OF THE BAR OF FLORIDA.

>> THAT IS WHAT IT SAYS.

>> THE WORDS IN THE
CONSTITUTION.

SO, THEREFORE IT REQUIRES
REFERENCE TO SOME EXTRINSIC
SOURCE TO FIND OUT WHO THAT --
EXTRINSIC SOURCE TO FIND OUT WHO
THE THAT MAY BE.

>> I WOULD CONCEDE THAT AND THE
BAR RULES TELL US THE MEMBER OF
THE --

>> WELL, AGAIN IT COMES TO THE
MATTER OF LOOKING THEN TO
ANOTHER SOURCE, AND WE HAVE
CERTAIN CRITERIA THAT, THROUGH
THIS COURT, THIS COURT, ACTUALLY
APPROVES THOSE RULES, AND WE
HAVE CERTAIN CRITERIA, GOING
THROUGH THE EXAM, AND THOSE
KINDS OF THINGS, THAT ONE
SATISFIES.

YOU WOULD AGREE WITH THAT.

>> TO BE AN INITIAL --

>> TO BE A MEMBER.

AND THEN, ONCE YOU ARE A MEMBER,
IT CARRIES WITH IT CERTAIN
RIGHTS AND PRIVILEGES, SOME USE
FANCY LANGUAGE, PERTINENT THERE
TO AND WHATEVER BUT THAT CREATES
A CERTAIN CATEGORY BECAUSE OF
THE MEMBERSHIP.

CORRECT?

>> AGAIN, I WANT TO HEAR THE
NEXT ONE, IF I COULD!

>> I'M REALLY TRYING TO --

>> SEE WHERE YOU ARE -- WHAT
CLIFF YOU ARE TRYING TOSS ME
OVER.

>> I'M TRYING SEE WHERE WE'D
ANALYZE THAT AND I LIKE TO THINK
WHERE WE ARE WITH REGARD TO
SUSPENSIONS AND DEFINING
MEMBERSHIP WITH REGARD TO
SUSPENSIONS THAT PROBABLY, THE
RULE WAS NEVER INTENDED TO
DEFINE WHO COULD BE A JUDGE.
AND WE ALSO TALKED IN TERMS THAT
YOU MAY HAVE MEMBERSHIP BUT

DON'T HAVE ANY OF THE RIGHTS OR OTHER POWERS OF MEMBERSHIP, WHILE YOU ARE SUSPENDED. SO I'M TRYING TO WORK THROUGH THIS.

BECAUSE I AGREE WITH YOUR FACIAL STATEMENT AND SAYS WHAT IT SAYS BUT IT REQUIRES REACHING OUT TO EXTERNAL SOURCES AND WHAT THOSE SOURCES ARE AND WE DON'T HAVE IN OUR RULES, OR DO WE, A RULE THAT DEFINES MEMBERSHIP, PRECISELY FOR JUDGESHIP PURPOSES.

>> AND I THINK IT WOULD BE INAPPROPRIATE FOR THE RULES OF THE FLORIDA BAR TO DEFINE SUCH MEMBERSHIP ANOTHER PUPS OF SEEKING QUALIFICATIONS TO OFFICE.

>> WHY?

BECAUSE WE COULD HAVE -- COULD SAY YOU HAVE TO GO TO LAW SCHOOL SIX YEARS AND CHANGE TO IT TOMORROW.

AND THAT WOULD THEN CHANGE THE QUALIFICATIONS OR ELIGIBILITY IF THAT IS WHAT IT TAKES FOR MEMBERSHIP UNDER THE BAR RULES, CORRECT.

>> THAT IS CORRECT.

>> SO, THAT IS WHAT I'M SEARCHING FOR IS WHY WE WOULD NOT --

>> YOU ARE THE NOT CHANGING ELIGIBILITY FOR JUDGESHIP.

AS I SAY YOU ARE CHANGING ELIGIBILITY FOR ALL LAWYERS, WITH RESPECT --

>> I MEAN, WE DO HAVE ALL LAWYERS, THEY MAY BE, QUOTE, A MEMBER, BUT, THEY DON'T HAVE ALL THE POWERS, THEY DON'T HAVE ALL THE AUTHORITY OR DON'T HAVE ALL THE PRIVILEGES.

THAT GO WITH THAT, QUOTE, MEMBERSHIP.

>> AND THAT IS --

>> ONE OF WHICH IS THE ABILITY TO BE A JUDGE.

>> AND THAT IS WHAT THE ADDITIONAL LANGUAGE IN GOOD STANDING WOULD PERMIT, THAT CONSTRUCTION AND THAT RESULT.

AND THAT LANGUAGE IS NOT THERE,
WITH RESPECT TO --

>> SO YOU ARE SAYING THAT BY
THEM ADDING THE ONE PROVISION
ABOUT COUNTIES, OF LESS THAN --
20 -- 40,000, IT PROHIBITS THE
BAR RULES FROM ADDING ANY OTHER
REQUIREMENTS ONTO MEMBERSHIP.

>> IT PROHIBITS MEMBERSHIP FOR
THE PURPOSES OF SEEKING OFFICE.

>> AND YOU CAN PUT IN, CHANGE
THE REQUIREMENTS FOR MEMBERSHIP
IN THE FLORIDA BAR AT ANY TIME.
BUT YOU CAN'T, I DON'T BELIEVE,
WHAT JUSTICE LEWIS WAS ASKING
ME, PUT SPECIFIC THINGS IN YOUR
BAR RULES THAT DEFINE WHAT THAT
MEANS FOR THE PURPOSES OF
SEEKING THE OFFICE OF A JUDGE.

>> I BELIEVE JUSTICE POLSTON HAS
A QUESTION.

>> UNDER YOUR INTERPRETATION A
SUSPENDED LAWYER CAN BE A JUDGE
AND PRESIDE, RIGHT.

>> THAT'S WHAT I SAID.

>> WHAT ABOUT AN INACTIVE
MEMBER, CAN AN INACTIVE MEMBER
BECOME A JUDGE AND PRESIDE?

>> TO ANSWER YOUR QUESTION, I
DIDN'T REVIEW THAT.

I DON'T KNOW WHAT THE STATUS IS
OF AN INACTIVE MEMBER AS TO
WHETHER THEY ARE A MEMBER OF THE
FLORIDA BAR.

>> WELL, IT --

>> WE DIDN'T RESEARCH THAT.

>> IF IT'S AN INACTIVE MEMBER
THAT IS ANOTHER CATEGORY OF
SO-CALLED MEMBERSHIP, THEY ARE
JUST INACTIVE, RIGHT.

>> AND AGAIN WE HAVE NOT THOUGHT
ABOUT THAT, WE HAVE NOT BRIEFED
THAT.

>> IT SEEMS TO ME IF YOU ARE
TALKING ABOUT A SUSPENDED
MEMBER, BEING ABLE TO PRESIDE, I
REALLY DON'T SEE HOW THAT WOULD
BE MUCH DIFFERENT THAN AN
INACTIVE MEMBER, BECAUSE, AN
INACTIVE MEMBER IS ALSO NOT ABLE
TO HOLD THEMSELVES OUT TO BE
ABLE TO PRACTICE LAW, BUT, YET
IN THAT SUBSECTION OF THE
FLORIDA RULES IT SAYS THAT AN

INACTIVE MEMBER CANNOT HOLD ANY POSITION THAT REQUIRES THE PERSON TO BE A LICENSED FLORIDA ATTORNEY.

DOES BEING A JUDGE REQUIRE YOU TO BE A LICENSED FLORIDA ATTORNEY.

>> AGAIN, THAT IS THE CRUX OF WHAT YOU ARE TRYING TO GIVE MEANING TO THESE -- THIS PROVISION OF THE CONSTITUTION. AND, AGAIN IT IS OUR POSITION THAT BECAUSE GOOD STANDING WOULD INCLUDE THAT, AND IS ALREADY IN THE CONSTITUTION IT DOES NOT APPLY TO CIRCUIT COURT JUDGES AND SO,...

>> CAN YOU SPRAIN IN THE RULE ITSELF, AS MR. GRIMES WAS MENTIONING AND WE ARE TALKING ABOUT A VERY NARROW GROUP OF LAWYERS, THE VAST MAJORITY OF FLORIDA LAWYERS NEVER SEE THE INSIDE OF A GRIEVANCE COMMITTEE AND NEVER HAVE A... [INAUDIBLE] MR. ABRAMSON HAS HAD A COUPLE OF REPRIMANDS FOR THIS AND ANOTHER GRIEVANCE PENDING.

AND IN THE REHABILITATIVE SUSPENSION, ONE PORTION OF THE RULE, 3.5.1E SAYS A SUSPENDED LAWYER IS A MEMBER OF THE FLORIDA BAR.

BUT IT APPEARS FROM OUR INTERPRETATION OF IT, THAT IS SO THAT THE SUSPENDED LAWYER, THE SUSPENDED LAWYER CONTINUES TO DO SOMETHING THAT VIOLATES THE RULES UNDER THE FLORIDA BAR, THAT IS... DISBARRED AND HOW DO YOU RECONCILE IN THE RULE ITSELF THE LANGUAGE THAT SAYS NOT ONE SOMEONE SUSPENDED MORE THAN 90 DAYS IS NOT ELIGIBLE FOR ALL THE PRIVILEGES OF MEMBERSHIP TO THE FLORIDA BAR BUT THE COURT DOES NOT BECOME ELIGIBLE UNTIL THE COURT -- THIS COURT, ISSUES AN ORDER REINSTATING THE RESPONDENT TO MEMBERSHIP IN THE FLORIDA BAR.

IF THE LAWYER IS ALREADY A MEMBER UNDER YOUR TAKE ON THIS, THEN WHAT IS THAT PORTION OF THE

RULE SAYING, IF -- OTHER THAN, REALLY, THAT THEY WERE ONLY -- SAY THEY ARE A MEMBER FOR PURPOSES OF IMPOSING MORE DISCIPLINE BUT ARE NOT IN FACT A MEMBER OF THE FLORIDA BAR FOR ANY OTHER PURPOSE, AND IT'S -- WHAT IS YOUR RESPONSE TO THAT.

>> WELL, IT SEEMS THAT THE RULES SPEAK IN UNCLEAR TERMS BUT IT IS CLEAR THEY ARE MEMBERS OF THE BAR.

>> IT ISN'T CLEAR THEY ARE MEMBERS OF THE BAR.

>> DURING SUSPENSION THEY SHALL CONTINUE TO BE A MEMBER OF THE PLA BAR.

>> OKAY.

, SO LET ME ASK YOU, IT GOES BACK TO WHAT JUSTICE WELLS SAYS. WHAT -- A MEMBERSHIP IN THE BAR IS NOT LIKE BEING A MEMBER OF THE LIONS CLUB.

IT DOESN'T MEAN THAT YOU ARE A CARD CARRYING, HAVE A BAR NUMBER, TO BE A MEMBER OF THE BAR, REQUIRES THAT YOU BE AN ATTORNEY THAT CAN PRACTICE LAW.

>> JUSTICE PARIENTE, I SEE WHERE YOU STARTED THAT AND IT DOESN'T MAKE ANY SENSE.

IT MAY BE ABSURD THAT MR. ABRAMSON CAN ACCEPT THIS COMMISSION, THIS JUDGESHIP, BUT, AGAIN IT IS THE CONSTITUTION WE ARE DEALING WITH AND NOT NECESSARILY THE ABSURTIDY OF THE SITUATION.

>> WOULDN'T WE TAKE THAT ONE STEP FURTHER IN THAT -- AND I'M SURE YOU ARE AWARE, MR. HERRON, THAN IN DAVEY -- ENRIGHT DAVEY IN THE COURT MADE IT CLEAR THAT THE -- A LAWYER WHO BECOMES A JUDGE IS SUBJECT TO DISCIPLINE BY THE JQC, WHICH FOR CONDUCT, PRIOR TO BECOMING A JUDGE. THIS COURT SAID THAT, CORRECT.

>> CORRECT.

>> AND S AS PART OF H -- AND AS PART OF THE RECOMMENDED DISCIPLINE THAT WOULD ULTIMATELY, THIS COURT, COULD SANCTION A PERSON WHOSE CONDUCT

WAS SUSPENDABLE, BEFORE THEY BECAME A JUDGE.

WOULD BE -- TO SUSPEND THE JUDGE.

NOW, WHAT HAS THEN BEEN ACCOMPLISHED IS ONLY THAT THE PERSON HAS A COMMISSION, HAS A VACANT POSITION FOR WHICH IN PALM BEACH COUNTY, THEY ARE -- THERE WOULD BE NO ABILITY TO FILL THAT POSITION THAT THE PERSON STILL COULDN'T SERVE AS THE JUDGE.

SO IT SEEMS TO ME THAT WE ARE CONFRONTED WITH WHAT COULD ULTIMATELY BE A VERY HARMFUL AND ABSURD SITUATION. FOR THE JUDICIARY.

>> AND AGAIN, MY POINT IS, IS THAT YOU WOULD BE AMENDING THE CONSTITUTION --

>> BUT I WOULDN'T BE AMENDING IT INsofar AS -- I MEAN, I -- I CAN'T AMEND THE CONSTITUTION, BUT, INsofar AS THE PRACTICALITY OF WHAT HAS HAPPENED, IN THE COMMUNITY, WHERE THIS JUDGE IS SUPPOSED TO BE FULFILLING THE ROLE, THE -- THERE COULD BE A SITUATION IN WHICH YOU MERELY GO THROUGH THE WORDING OF THE COMMISSION, AND THEN, THE PERSON CAN STILL -- CANNOT SERVE,.

>> AND AGAIN, I THINK, WE MAY BE PREJUDGING, PERHAPS, WHAT A JQC MIGHT DO IN THAT SITUATION.

>> ULTIMATELY IT WOULD ALL COME BACK TO THIS COURT.

>> ULTIMATELY IT WOULD COME BACK TO THIS COURT, AND THAT COULD EXTEND UP TO THE PERIOD OF TIME, EVEN UP TO THREE YEARS.

>> AND, AGAIN, I DON'T WANT TO -- JUDGE I DON'T WANT TO PREJUDGE WHAT JQC --

>> I UNDERSTAND BUT THEORETICALLY --

>> THE TRIAL WITHOUT THE TRIAL.

>> UNDER THIS ARGUMENT, YOU COULD HAVE A LAWYER WHO IS UNDER SUSPENSION FOR THREE -- A THREE YEAR PERIOD SITTING THERE ADJUDICATING CASES AN COURTROOM IN WHICH SHE OR HE WOULD NOT BE

ALLOWED BY LAW TO REPRESENT ANYONE.

>> AND AGAIN, BUT IT COULD ALSO HAPPEN THAT HE COULD BE REINSTATED VERY QUICKLY AS WELL

--

>> NOT AFTER THREE YEARS.

>> [INAUDIBLE].

>> NO.

>> HOLD HIMSELF OUT IN THE COURSE OF THE ELECTION, TO THE PUBLIC.

AND TO --

>> I DON'T BELIEVE HE COULD.

>> WHAT WAS YOUR ANSWER.

>> I DON'T BELIEVE HE COULD.

>> HE CAN'T JUST -- SOMEBODY RUNNING FOR OFFICE CAN'T SAY I'M A MEMBER OF THE FLORIDA BAR.

BUT, YET, HE MEETS THE CONSTITUTIONAL REQUIREMENT TO BE A JUDGE WHICH REQUIRES THAT HE BE A MEMBER OF THE FLORIDA BAR.

>> AND AGAIN --

>> SEEMS TO BE A LITTLE --

>> YOU RUN INTO CANON 7 WITH RESPECT TO THE CANDIDACY ISSUES. AND WE ALL KNOW THAT A SUSPENDED MEMBER OF THE BAR CAN'T HOLD HIMSELF OUT TO BE A LAWYER, BECAUSE IT WOULD BE ADDITIONAL

--

>> OKAY.

.

>> RIGHT.

.

>> WELL, SHOULDN'T OUR FOCUS HERE, REALLY BE I DON'T KNOW WHAT -- TECHNICAL PROVISIONS OF THE BAR RULES AND HOW THEY COULD DEFINE -- THE FINE DISTINCTIONS THEY MAKE ABOUT DIFFERENT CATEGORIES OF MEMBERSHIP BUT ON HOW THE PEOPLE WHO RATIFY THE CONSTITUTION WOULD HAVE UNDERSTOOD THAT REFERENCE. AND ISN'T THAT THE RIGHT FOCUS, REALLY.

>> I BELIEVE IT IS AND I BELIEVE THAT WHEN YOU LOOK AT THE BALLOT SUMMARY, WHICH WE SUPPLIED IN OUR BRIEF, TO THIS COURT WITH RESPECT TO THE 1984 AMENDMENT, IT IS CRYSTAL-CLEAR THAT THE

PEOPLE WHEN THEY READ THAT
BALLOT SUMMARY, KNEW AND
UNDERSTOOD THAT THE GOOD
STANDING REQUIREMENT WAS ONLY
GOING TO APPLY TO THOSE JUDGES,
COUNTY JUDGES, COUNTY COURT
JUDGES AND -- IN COUNTIES UNDER
40,000.00

>> AND THAT AMENDMENT IN 1984,
DID THEY REFERENCE THE OTHER
PART.

>> YES, THEY SET FORTH THE
ENTIRE --

>> AND THOSE -- WERE THOSE
AMENDED?

>> NO.

>> SO YOU THINK THAT -- SO LET
ME PICTURE IT, BECAUSE WE REALLY
ARE TALKING ABOUT REQUIREMENTS
THAT WERE IN BEFORE 1984.

A DIFFERENT SET OF JUDGES VOTED.
THE VOTERS HAVE VOTED BEFORE
1984, YOU WOULD AGREE IF THAT
LAST LINE WAS NOT IN THERE FOR
THE COUNTY LESS THAN 40,000,
EVERYBODY WOULD BE CLEAR AS CAN
BE THAT MEMBERSHIP MEANT YOU HAD

--

>> NO, I DIDN'T SAY THAT.
I SAID IT WOULD BE CLEAR THIS
COURT WOULD HAVE A BLANK SLATE
ON WHICH TO WRITE.

>> BUT YOU ARE SAYING WE ARE
SUPPOSED TO UNDER THIS -- THE
VOTERS KNEW THEY WERE IMPOSING A
MORE STRINGENT REQUIREMENT ON
JUDGES WITH -- WHO RUN AS COUNTY
JUDGES IN COUNTIES LESS THAN
40,000 THAN THEY WOULD FOR THE
JUSTICES OF THE SUPREME COURT OF
FLORIDA.

>>Y BELIEVE WHEN YOU READ THE
BALLOT SUMMARY THAT IS ON PAGE
TEN OF OUR BRIEF YOU WOULD COME
TO THAT CONCLUSION.

>> AGAIN, JUST IN SUMMARY, WE
BELIEVE THAT THE CONSTITUTION'S
-- CONSTITUTIONAL LANGUAGE IS
CLEAR, AND NOT AMBIGUOUS, AND IT
-- THE CONSTITUTIONAL LANGUAGE
CLEARLY ADDRESSES THE MATTER AT
ISSUE, AND MR. ABRAMSON...

>> WAIT A MINUTE.

NOW, ON THAT BALLOT SUMMARY,

THAT YOU JUST TALKED ABOUT, IT DOESN'T SEEM TO ME THAT IT MAKES ANY REFERENCE TO JUSTICES AND SUPREME -- AND DISTRICT COURT OF APPEAL JUDGES.

WHAT IS THE LANGUAGE THAT YOU THINK MAKES IT CLEAR THAT THERE IS A DIFFERENCE, JUDGE.

>> AGAIN SUMMARY ONLY SPEAKS IN TERMS OF COUNTY COURT JUDGES.

>> SO, HOW WOULD -- SO, IT WAS THE VOTERS BEFORE 1985, THAT YOU -- WE HAVE TO LOOK AT THEIR INTENT, NOT WHAT VOTERS WERE DOING IN -- WHEN THEY PUT IN THE ADDITIONAL PROVISION.

>> AND I DON'T --

>> WHAT MR. GRIMES IS SAYING, WASN'T HE?

WHICH IS THIS WOULD BE FAR MORE POWERFUL ARGUMENT IF ALL OF THOSE REQUIREMENTS WERE PUT INTO THE CONSTITUTION AT ONE TIME.

>> WELL, AGAIN, BUT I THINK, WHEN LUKE AT THE 1984 AMENDMENT, THIS SPECIFIC REQUIREMENT WAS ADDED IN 1984.

WHICH WOULD LEAVE ONE TO CONCLUDED OTHERWISE IT WASN'T THERE.

BECAUSE HAD THEY JUST SAID, MEMBER OF THE BAR, I BELIEVE THIS COURT WOULD HAVE A BLANK SLATE ON WHICH TO WRITE.

THANK YOU.

>> THANK YOU VERY MUCH FOR YOUR ARGUMENT.

REBUTTAL?

>> THANK YOU, MAY IT PLEASE THE COURT, MAINLY HARDING, KEVIN CAROLL WITH OUR FIRM IS WITH US. AND IN BRIEF RESPONSE, I WOULD JUST LIKE TO SAY, IN REGARD TO THE 84, THE LEGISLATURE PROPOSED THAT.

BUT, THE VOTERS ADOPTED IT.

AND AS HAS BEEN INDICATED, HERE, THE VOTERS WOULD REALLY FIND IT HARD TO BELIEVE THAT WHAT THEY DID WAS TO ALLOW A LAWYER WHO COULD NOT PRACTICE IN THE COURT TO PRESIDE AS A JUDGE OVER THAT COURT, AS WAS SO ELOQUENTLY STATED.

WHAT THAT AMENDMENT DID WAS TAKE AWAY THE FIVE-YEAR REQUIREMENT BECAUSE OF A -- PROBLEMS THEY WERE HAD IN SMALLER COUNTIES, SOME WITHOUT LAWYERS, THAT HAD BEEN THERE, FOR FIVE YEARS, AND THEY STATED THE OBVIOUS.

HE HAS TO BE OR SHE HAS TO BE A MEMBER OF THE BAR IN GOOD STANDING.

AND I THINK THAT THAT IS WHAT TO US AND I THINK THAT THE -- YOU KNOW, --

>> BUT YOU KNOW, EVEN THAT SUMMARY, IT TALKS NOT ONLY ABOUT THE COUNTY COURT JUDGES AND THE COUNTIES LESS THAN 40,000 IT ALSO TALKS ABOUT THE OTHER COUNTY COURT JUDGES WHERE THEY TALK -- COUNTIES OF MORE THAN 40,000 WHERE THEY HAVE THE FIVE-YEAR REQUIREMENT BUT, YET AGAIN, DID NOT ADD THE "GOOD STANDING" LANGUAGE FOR THOSE PARTICULAR COUNTY --

>> AND I WOULD SUGGEST THEY WERE JUST STATING THE OBVIOUS AND I WOULD SUGGEST THEY WOULD NOT EVEN THINK AS HAS BEEN SUGGESTED, THAT THEY WOULD ALLOW A LAWYER WHO HAS BEEN SUSPENDED FROM THE PRACTICE TO ASSUME THE ROLE OF A JUDGE IN A COURTROOM. AND WHEN YOU REALLY GET BACK TO THINKING ABOUT THIS, AND WHICH WE CONCLUDED IN OUR BRIEF, WE ARE DEALING WITH TRUST AND CONFIDENCE IN A BRANCH OF GOVERNMENT.

WE ARE DEALING WITH TRUST AND CONFIDENCE IN THE JUDICIARY AND THE DECISIONS THAT ARE MADE BY THAT BRAND OF OF GOVERNMENT.

AND I WOULD SUGGEST -- BRANCH OF GOVERNMENT AND I WOULD SUGGEST IF WE ALLOWED THIS TO HAPPEN AND, AS -- THERE WOULD BE A SIGNIFICANT IMPACT ON THE TRUST AND CONFIDENCE OF THE PEOPLE IN THE JUDICIARY OF THIS STATE. AND I THINK IT IS ALSO VERY INTERESTING IN READING CASES LAST NIGHT, PREPARING FOR THIS,

IN ONE OF THE CASES, A -- 1846
CASE, WAS CITED.

AND IT SAYS THAT THE REASON AN
INTENTION OF THE LAW GIVER WILL
CONTROL THE STRICT LETTER OF THE
LAW WHEN THE LATTER WOULD LEAD
TO PALPABLE INJUSTICE,

CONTRADICTIONS AND absurdity.

AND SO, OTHER STATES,

WASHINGTON, CALIFORNIA, KANSAS,

KENTUCKY, LOUISIANA, HAVE FACED

SIMILAR ISSUES TO THIS, AND HAVE

ALL SAID IT CANNOT BE THE INTENT

OF THE LEGISLATURE OR THE WILL

OF THE PEOPLE FOR A SUSPENDED

JUDGE TO BE A -- SUSPENDED

LAWYER TO BE A JUDGE PRESIDING

OVER -- PRESIDING OVER THE

COURT.

>> IN YOUR RESEARCH HAS ANY
COURT ACROSS THE COUNTRY GONE
THE OTHER WAY.

>> WE HAVE NOT FOUND IT.

AND IT HAS NOT BEEN CITED IN ANY
BRIEF.

WE HAVE NOT BEEN AWARE OF IT.

ALL THAT WE HAVE SEEN IN DEALING

WITH THIS ISSUE HAVE BEEN AS WE

HAVE INDICATED IN OUR BRIEF.

>>> WITH THAT WE WOULD SUGGEST
THAT YOU ANSWER THE GOVERNOR'S
QUESTION AND SAY NO.

YOU ARE NOT AUTHORIZED TO ISSUE
A COMMISSION TO MR. ABRAMSON.

>> THANK YOU AND THANK YOU FOR

YOUR ARGUMENTS AND THE COURT

WILL BE -- ARGUMENTS AND THE

COURT WILL BE IN RECESS.

>> PLEASE RISE.

SUPREME COURT IS NOW ADJOURNED.