

GOOD MORNING.

WELCOME TO THE FLORIDA SUPREME COURT.

ON TODAY'S DOCKET, ALTMAN VERSUS SCOTT.

>> MAY IT PLEASE THE COURT?

MY NAME IS CLIFTON MCCLELLAND, JR. AND I'M HERE ON BEHALF OF THE PETITIONERS.

I HAD THE HONOR OF REPRESENTING SENATOR ALTHENIA JOYNER AND SENATOR THAD ALTMAN.

THE PLAINTIFFS ARE HERE TO ARGUE A CASE INVOLVING A VERY LARGE INFRASTRUCTURE PROJECT AND THE SEPARATION OF POWERS UNDER THE FLORIDA CONSTITUTION.

>> YOU ARE GOING TO HAVE LIMITED TIME.

SIR?

>> THE LARGE INFRASTRUCTURE PROJECT COVERS THE HIGH-SPEED RAIL LINE FROM ORLANDO --

>> DID YOU HEAR?

>> SHE HAS A COMMENT.

>> WE KNOW WHY YOU ARE HERE.

DO YOU HAVE TROUBLE HEARING?

>> WE HAVE A LIMITED TIME AND WE KNOW THE BACKGROUND.

WE WOULD REALLY LIKE YOU TO --

CAN YOU HEAR?

>> I CAN BARELY HEAR YOU.

>> IT IS GOING TO BE HARD TO HAVE A CONVERSATION.

BUT WE WOULD LIKE YOU TO FOCUS IN ON THIS SPECIFIC LAW THAT THE

GOVERNOR HAS VIOLATED OR
SPECIFIC REVISION AS OPPOSED TO
JUST GENERAL PRINCIPLES.

WE KNOW ABOUT SEPARATION OF
POWERS.

WE WANT TO KNOW WHAT SPECIFIC
STATUTE IS PASSED BY THE
LEGISLATURE.

HE HAS VIOLATED IN HIS ACTIONS.

>> THE FIRST THING YOU HAVE TO
LOOK AT IS THE STATE
COMPREHENSIVE PLAN AND IT IS
ADOPTED UNDER THE CONSTITUTION.

>> EXCUSE ME.

WE HAVE A DEVICE THAT YOU MAY
WANT TO USE.

WE WOULD OFFER IT FOR YOU TO USE
IF THAT WOULD AMPLIFY THE SOUND,
IF THAT WOULD BE OF ASSISTANCE
TO YOU.

>> I'M SORRY YOUR HONOR, THE
AIRPLANE RIDE DOWN --

>> NO, I'M SORRY YOU HAVE THAT
PROBLEM BUT WE WILL SEE IF THIS
HELPS.

HOPEFULLY IT WON'T MAKE IT
WORSE.

>> OKAY.

THE FIRST THING THAT YOU HAVE TO
LOOK AT IS THE FLORIDA
COMPREHENSIVE PLAN AND THE
FLORIDA COMPREHENSIVE PLAN WAS
ADOPTED PURSUANT TO THE FLORIDA
CONSTITUTION AND THE
COMPREHENSIVE PLAN AND
SECTION 19 ESTABLISHES A STATE

POLICY.

THIS PARTICULAR PROJECT --
UNDER THE STATUTES PERTAINING
TO, IN THE FLORIDA
TRANSPORTATION CODE, THE FLORIDA
TRANSPORTATION CODE REQUIRES --
I'M GOING TO DO THE BEST I CAN.
THE FLORIDA TRANSPORTATION CODE
BASICALLY REQUIRES THAT YOU
COMPLY WITH THE STATE CONFERENCE
OF PLAN AND THEN THE NEXT
SECTION OF THE CODE BASICALLY
SAYS THE WORK PROGRAM, WHICH IS
WHERE THE RUBBER MEETS THE ROAD,
HAS TO COMPLY WITH THE
COMPREHENSIVE PLAN.

SO WE HAVE AN ARTICULATED STATE
POLICY TO DEVELOP A RAIL LINE
BETWEEN THE TAMPA BAY AREA AND
ORLANDO, AND THEN ON TOP OF
THAT, THE FLORIDA LEGISLATURE
CAME ALONG AND TASKED THE
FLORIDA HIGH-SPEED RAIL AND IN
THE HIGH-SPEED RAIL ACT THEY
SPECIFICALLY GAVE THE DIRECTION
THAT THE FLORIDA RAIL ENTERPRISE
WAS TO CONSTRUCT THIS PROJECT.
AND THEN IN ADDITION TO THAT,
THE LEGISLATURE CAME ALONG AND
APPROPRIATED \$130 MILLION FOR
THIS PROJECT.

>> ON THE ISSUE OF THE
APPROPRIATION, ARE YOU MAKING AN
ARGUMENT, AND YOU HAVE MADE IT
IN TWO DIFFERENT WAYS IN YOUR
PETITION AND IN YOUR REPLY, THAT

THERE IS SOME INDEPENDENT FUNDING STREAM THAT WOULD GO FROM THE FEDERAL GOVERNMENT DIRECTLY TO THE FLORIDA RAIL ENTERPRISE, OR ISN'T IT CORRECT THAT UNDER 216 WITHOUT ANY EXEMPTION, THAT ALL OF THE FEDERAL GRANT MONIES HAVE TO GO THROUGH AND BE APPROPRIATED BY THE LEGISLATURE.

>> THE WAY IT WORKS IS THAT YOU HAVE BOTH THE LEGISLATION BUT ALSO THE HIGH-SPEED RAIL ENTERPRISE FUND SUBJECT TO THE STATE BUDGET, AND ESSENTIALLY, IN FACT, THE EXHIBIT THAT WE HAVE ATTACHED INTO THE PETITION, THE EXHIBIT E ON PAGE 15 ACTUALLY LAYS OUT THE PROCEDURE ONCE THE FEDERAL GRANT FUNDS OCCURRED AND WHAT THAT PROCEDURE IS BASICALLY, THE RAIL COMMISSION SUBMITS AN INVOICE AND THE MONEY COMES DIRECTLY FROM THE FEDERAL GOVERNMENT TO THE RAIL COMMISSION.

>> HAS ANY OF THAT MONEY ACTUALLY COME TO THE RAIL COMMISSION YET?

>> YES, AND OUR BEST INFORMATION IS OVER \$22 MILLION OF IT HAS BEEN SPENT.

>> WHERE'S THE \$130 MILLION? IS THAT MONEY THAT THE LEGISLATURE APPROPRIATED THAT HIS STATE MONEY OR IS THAT

FEDERAL GOVERNMENT MONEY?

>> IT WAS ALL FLORIDA MONEY.

THE \$130 MILLION BASICALLY WAS
TO BE REIMBURSED OUT OF THE
FEDERAL MONEY.

ESSENTIALLY WE HAVE A PROJECT
THAT HAS ALREADY STARTED AND THE
\$130 MILLION.

>> THE POINT THE PROJECT HAS
STARTED IN SOME SENSE IS
UNCONTESTED, BUT THE POINT ALSO,
WHICH IS RELEVANT HERE, ISN'T
IT?

THAT THE PROJECT CANNOT GO
FORWARD WITHOUT FURTHER
APPROPRIATIONS BY THE
LEGISLATURE.

ISN'T THAT CORRECT?

>> IT CANNOT GO FORWARD WITHOUT
ADDITIONAL APPROPRIATIONS?

>> YEAH THE 2.5 BILLION OR
WHATEVER -- THE TOTAL PROJECT --
IS STILL SUBJECT TO FUTURE
APPROPRIATIONS BY THE
LEGISLATURE.

THE LEGISLATURE HASN'T
APPROPRIATED ALL THAT MONEY.

>> YOU ARE CORRECT.

THE LEGISLATURE HAS ONLY
APPROPRIATED 130 MILLION AT THIS
TIME.

>> BUT ISN'T THAT A PRETTY
SIGNIFICANT THING HERE BECAUSE
AND DOESN'T THAT CIRCUMSTANCE
REALLY SEPARATE THE FACTS
PRESENTED HERE FROM THE FACTS IN

THE CASE THAT YOU RELY ON FROM THE STATE OF SOUTH CAROLINA WHERE GOVERNOR SANFORD GOT LOCKED INTO A DISPUTE THERE WITH THE LEGISLATURE ABOUT TAKING THE STIMULUS FUNDS AND --

BUT HE LOST BECAUSE THEY PASSED A LAW THAT REQUIRED HIM TO TAKE SPECIFIC ACTS TO OBTAIN THE FEDERAL MONEY.

AS I UNDERSTAND IT HE VETOED THE LAW AND THEY OVERRODE HIS VETO SO WE HAD A CLEAR DIRECTION THERE FROM THE LEGISLATURE, APPROPRIATION OF THE FUNDS BY THE LEGISLATURE.

THE GOVERNOR THERE WENT OFF AND ON SOME THEORY ABOUT THE FEDERAL LAW, GIVING HIM SPECIAL AUTHORITY.

HE LOST ON THAT.

HE LOST ON THE STATE LAW GROUNDS BUT THE GOVERNOR HERE HAS NOT DONE ANYTHING THAT LOOKS AT ALL LIKE THAT, HAS HE?

>> I THINK HE HAS AND IN FACT, I VIEW THIS AS BROKEN DOWN INTO TWO SEPARATE ACTIONS.

AT THIS POINT HE HAS ANNOUNCED THAT THE STATE OF FLORIDA IS NOT GOING FORWARD WITH THIS PROJECT.

>> LET ME ANSWER THE QUESTION ABOUT THAT.

THAT IS THE LETTER OF FEBRUARY 16?

>> YES, SIR.

>> IS THAT REALLY MEANINGFUL?

IF THAT IS NOT REQUIRED, THEN
THE LETTER IS A NULLITY.

IS THERE SOME FEDERAL
REQUIREMENT THAT HE SAYS OKAY I
LIKE THIS?

>> THE SECRETARY, AS WE READ AT
THE SECRETARY OF TRANSPORTATION
IS GOING TO PULL THE FUNDING.

>> THAT IS A MATTER OF FEDERAL
LAW IS NOT RATHER THAN STATE
LAW?

>> NO, YOUR HONOR.

I BELIEVE THAT WHAT THIS
CONSTITUTES BY HIM DECIDING NOT
TO GO FORWARD IS AS AN EFFECTIVE
IMPOUNDMENT OF THE DIFFERENCE OF
THE 66 MILLION-DOLLAR CONTRACT
AND 130 MILLION-DOLLAR
APPROPRIATION.

>> BUT EVEN IF -- LET'S JUST
ACCEPT THE FACT, YOUR ARGUMENT
THAT 130 MILLION WAS
APPROPRIATED AND 66 HAS SO FAR
BEEN AWARDED THEM SOMEHOW WHAT
THIS LETTER DOES IS, DOES NOT
GOING TO ALLOW THE FEDERAL
GOVERNMENT, OR THEY WON'T NOW
SEND \$66 MILLION MORE.

WE ARE TALKING ABOUT A
\$2.4 BILLION PROJECT AND I THINK
IN TERMS OF THE RELEASE THAT YOU
ARE SEEKING HERE WHICH IS A
MANDAMUS OR QUO WARRANTO, MY
QUESTION REMAINS AND I THINK YOU
ANSWERED IT BUT I'M NOT SURE AND

I WILL GIVE YOU A CHANCE, THE LEGISLATURE HAS NEITHER APPROPRIATED 2.4 BILLION NOR HAVE THEY WITHIN THE FLORIDA RAIL ACT OR CHAPTER 216 PROVIDED THAT THE FEDERAL MONEY, THE FEDERAL GRANT MONEY CAN FLOW TO THE RAIL ENTERPRISE WITHOUT CONTINUING APPROPRIATIONS BY THE LEGISLATURE.

IN OTHER WORDS THE LEGISLATURE ON A YEARLY BASIS STILL HAS TO ACT TO APPROPRIATE SO MY QUESTION IS, LET'S SAY WE GAVE YOU RELEASE ON \$66 MILLION. THAT IS NOT GOING TO GET THIS RAIL PROJECT BUILT SO IT IS REALLY UP TO THE LEGISLATURE TO DECIDE WHETHER THEY WANT A CONTINUING APPROPRIATION OR NOT, SO TELL ME WHAT IS WRONG WITH THAT VIEW?

COULD YOU PLEASE ANSWER THAT?

>> OKAY.

IS THAT YOUR POINT THAT THE LEGISLATURE CAN TURN IT DOWN OR THEY CAN KEEP IT BUT THE GOVERNMENT CAN'T?

IS THAT THE ONLY POINT YOU ARE MAKING?

>> YES.

THERE IS ACTUALLY, IN TERMS OF THE SEPARATION OF POWERS IT IS A LEGISLATIVE ISSUE.

THE SECOND POINT I WOULD LIKE TO MAKE IN TERMS OF THE REST OF THE

MONEY.

>> I RESPECTFULLY ASK YOU.

I KNOW THIS IS HARD SOMETIMES,
TO PLEASE ANSWER MY QUESTION.

IS THE REST OF THE MONEY
DEPENDENT ON WHAT THE
LEGISLATURE WILL DO IN THE
FUTURE, NOT THE GOVERNOR?
IS THAT NOT CORRECT?

IN OTHER WORDS, THERE IS NO
SITUATION OF A CONTINUING SOURCE
OF THE 2.4 BILLION COMING TO THE
STATE FROM THE FEDERAL
GOVERNMENT WITHOUT THE
LEGISLATIVE ACTION?

>> THE LEGISLATURE ON A YEARLY
BASIS UNDER THIS LAW HAS TO
APPROVE THE BUDGET.

>> AND DOES THAT BUDGET HAVE TO
INCLUDE MONEY FOR THE RAIL?

>> AS I LOOK AT THIS
LEGISLATION, I THINK THAT THE
BUDGET HAVE TO INCLUDE
EVERYTHING.

THE ISSUE ON THE RAIL, THE
FEDERAL MONEY, IS A MORE TYPICAL
DIFFICULT QUESTION TO RESPOND
TO.

BECAUSE THERE ARE CERTAIN
PROVISIONS OF THIS ACT WHICH
WOULD SUGGEST THAT IT BE
INDEPENDENT OF THE LEGISLATURE
IN THE SENSE OF A FOR INSTANCE,
EVERY YEAR IF YOU LOOK AT THE
WAY THIS IS SETUP, THE MONEY
COMES IN.

>> YOU SAID INDEPENDENT OF THE LEGISLATURE.

YOU SAID INDEPENDENT OF THE LEGISLATURE?

>> YES, YES.

IF YOU TAKE A LOOK, THE MONEY COMES IN AND IT IS REIMBURSED.

>> BY THEIR REIMBURSEMENT CONNOTES THAT THERE HAS BEEN SOME MONEY PUT OUT.

I WOULD ASSUME THAT IT IS THE STATE MONEY THAT HAS BEEN PUT OUT AND THEN THE FEDERAL GOVERNMENT IS REIMBURSING THE STATE.

IS THAT WHAT YOU ARE SAYING?

>> THAT IS CORRECT OR THE CONTRACT APPEARS THAT IT CAN ALSO DEAL WITH ADVANCES FOR THE FEDERAL MONEY CAN IN FACT BE ADVANCED.

>> BUT ALL THAT BEING SAID, I GUESS THE REAL ISSUE THAT IS TROUBLING TO US IS WHERE DOES THE GOVERNOR ACTUALLY FIT INTO THIS?

BY THE GOVERNOR SAYING FLORIDA DOESN'T WANT THIS MONEY, IS THAT STATEMENT IN AND OF ITSELF A POST-REPEAL OF THE \$130 MILLION? IS THAT YOUR ARGUMENT?

>> THAT IS THE FIRST PART OF IT.

>> OKAY.

THEN WHAT?

>> 130 MILLION, BASICALLY WHATEVER MONIES ARE NOT

OBLIGATED AT THIS POINT.

BECAUSE WE HAVE GOT A GRANT FOR THAT OF THAT 130, WE HAVE A 66 MILLION-DOLLAR GRANT.

>> THAT HAS ALREADY BEEN GIVEN TO THE ENTERPRISE?

>> SO WHAT YOU ARE TALKING ABOUT IS THE DIFFERENCE BETWEEN 66,000 AND 130.

>> THE SECOND POINT YOU ARE GOING TO MAKE IS WHAT?

>> THE SECOND POINT, IT IS OUR POSITION THAT THE GOVERNOR HAS AN OBLIGATION UNDER A SERIES OF STATUTES IN TERMS OF THE REST OF THE MONEY, THE FEDERAL MONEY. AND THAT SPRINGS OUT OF THE LEGISLATION PERTAINING TO RAILS, AND ONE OF THOSE PROVISIONS OF THE STATUTE REQUIRES THAT THE FLORIDA DEPARTMENT OF TRANSPORTATION SECURE FEDERAL FUNDS FOR RAIL.

>> ARE YOU TALKING ABOUT THE FLORIDA ACT?

>> YES.

>> BUT DOESN'T -- DOESN'T THAT STATUTE, THE STATUTORY SCHEME SPECIFICALLY PROVIDE -- AND THIS IS IN SECTION 341.303, SUBSECTION SIX -- THAT THE FLORIDA RAIL ENTERPRISE SHALL BE A SINGLE BUDGET ENTITY AND SHE'LL DEVELOP A BUDGET. A BUDGET WHICH SHALL BE SUBMITTED TO THE LEGISLATURE

ALONG WITH THE DEPARTMENT'S BUDGET AND ALL PASSENGER RAIL FUNDING BY THE DEPARTMENT SHALL BE INCLUDED IN THIS BUDGET ENTITY.

NOW DOESN'T THAT SUGGEST THAT ALL OF THIS MONEY HAS GOT TO GO THROUGH THE LEGISLATURE AND THE LEGISLATURE HAS TO APPROPRIATE IT THROUGH THIS BUDGETARY PROCESS TO WHICH THE FLORIDA RAIL AUTHORITY IS SPECIFICALLY MADE SUBJECT.

>> NOT NECESSARILY, YOUR HONOR. THE FEDERAL GRANT -- THE FEDERAL GRANTS, IF YOU TAKE A LOOK, THE FEDERAL GRANTS ARE ENTERED DIRECTLY INTO THE ENTERPRISE AND NOT NECESSARILY FOR THE STATE.

>> EITHER WAY THAT THEY ARE ENTERED INTO, I THINK IT GOES BACK TO A QUESTION THAT I'M STILL NOT SURE YOU ANSWERED. THE LEGISLATURE COULD HAVE MADE THIS EITHER A CONTINUING APPROPRIATION OR THEY COULD HAVE EXEMPTED IT AS THEY HAVE EXEMPTED STATE UNIVERSITIES FROM HAVING ANYTHING TO DO WITH THE FEDERAL GRANT AND LET IT GO THROUGH, BUT IT IS NOT CLEARLY DONE TO THE LAW, SO WE ARE STANDING HERE OR YOU ARE STANDING THERE.

WE ARE SITTING TRYING TO FIGURE OUT WHETHER THE GOVERNOR HAS

VIOLATED LAW AND WHAT YOU ARE TELLING US IS THAT WE HAVE TO PIECE TOGETHER ABOUT 10 DIFFERENT STATUTES AND EXHIBITS AND DO IT BY 9:00 TOMORROW MORNING.

IF THAT IS THE CONCERN, THAT WE ARE UNDER SOME EMERGENCY ARBITRARILY CREATED BY EITHER THE FEDERAL GOVERNMENT OR THE SECRETARY OF TRANSPORTATION, I CANNOT CLEARLY SEE THE LEGAL RIGHT.

I SEE THE FRUSTRATION THAT THOSE WHO HAVE BEEN IN FAVOR OF THIS RAIL SYSTEM HAVE.

IT IS CLEARLY FRUSTRATING TO HAVE THE GOVERNOR COME AND AND --

BUT THE QUESTION IS WHETHER THIS IS THE CASE THAT THIS COURT SHOULD INTERFERE WITH THE RELATIONSHIP BETWEEN THE GOVERNOR AND THE FEDERAL GOVERNMENT AND THE GOVERNOR AND THE LEGISLATURE.

SO, THAT IS WHERE YOU NEED TO HELP ME OUT, TO SAY WHERE IS IT?

>> AND WHAT SHOULD WE DO?

WHAT IS IT YOU ARE ASKING US TO DO?

>> OKAY.

I'M ASKING YOU TO DO TWO THINGS.

ONE IS I THINK THE GOVERNOR HAS IMPOUNDED THE \$60 MILLION BETWEEN THE AMOUNT OF THE

CONTRACT AND THE LEGISLATIVE
APPROPRIATION.

BECAUSE OF THE FACT HE HAS TOLD
THE FEDERAL GOVERNMENT THAT THE
STATE OF FLORIDA IS NOT GOING
FORWARD WITH THIS PROJECT AND IT
IS OUR POSITION THAT REPRESENTS
AN ABRIDGMENT ON A SEPARATION OF
POWERS.

>> BUT BASICALLY DIDN'T THE
FEDERAL GOVERNMENT ASK THE
GOVERNOR TO GIVE US YOUR ANSWER
THAT HE WAS ALL FOR THIS AND HE
WOULD SUPPORT IT ALL ALONG THE
WAY AND, IF HE IS NOT FOR IT,
WHY CAN'T HE GIVE OPPOSITION TO
IT, PARTICULARLY WHEN THE
CONSUMMATION OF THIS IS ALL
SUBJECT TO THESE APPROPRIATIONS
THAT THE LEGISLATURE STILL HAS
TO MAKE IN WHICH HAS TO COME
BEFORE THE GOVERNOR AND HIS
CAPACITY AS POSSIBLY EXERCISING
HIS VETO?

IT SEEMS LIKE TO ME THAT THIS IS
A PROJECT WHICH IS JUST STILL
VERY MUCH AN EXPECTANCY.

IT IS NOT SOMETHING THAT THE
LEGISLATURE HAS FULLY
AUTHORIZED.

YOU ARE DOWN TO TWO MINUTES.
I WILL GIVE YOU AN EXTRA MINUTE
BECAUSE WE HELPED TO EXHAUST SO
MUCH OF YOUR TIME HERE.

>> YOUR HONOR, I BASICALLY THINK
THAT FROM THE LEGISLATURE PASSED

THE HIGH-SPEED RAIL ACT THAT
THEY GAVE THE DIRECTION TO THIS
PROJECT AND THAT THE GOVERNOR
DOESN'T HAVE THE AUTHORITY TO
UNILATERALLY DECIDE NOT TO GO
FORWARD WITH THE PROJECT.

AND I WOULD LIKE JUST IN THE
MINUTE OR TWO I'VE GOT LEFT --

>> THIS IS YOUR REBUTTAL TIME
YOU ARE IN.

YOU ARE IN YOUR REBUTTAL TIME.

>> OKAY.

OKAY.

I WILL YIELD AT THIS POINT.

>> MAY IT PLEASE THE COURT.

CHARLES TRIPPE, EXECUTIVE
OFFICER OF THE GOVERNOR.

FIRST LET ME SAY, THE GOVERNOR
IS NOT IN VIOLATION OF ANY LAW.

THE NARROW ISSUE BEFORE THIS
COURT IS WHETHER PETITIONERS
HAVE MET THEIR CITY BURDEN FOR
EXTRAORDINARY RELEASE UNDER
EITHER --

>> YOU SAID THE GOVERNOR IS NOT
IN VIOLATION OF ANY LAW BUT HOW
IN THE WORLD -- IT SEEMS TO ME,
THE LEGISLATURE HAS MADE A
POLICY DECISION THAT WE ARE
GOING TO HAVE A HIGH-SPEED RAIL
FROM TAMPA TO ORLANDO AND THAT
THEY TOOK THE NEXT STEP AND
ESTABLISH THE ENTERPRISE.

CORRECT?

AND THEN THEY TOOK A FURTHER
STEP AND APPROPRIATED

\$130 MILLION TOWARD THE PROJECT.
AND SO WITH THE GOVERNOR NOW
SAYING THAT FLORIDA IS NOT GOING
TO GO FORWARD WITH THIS PROJECT,
HASN'T HE IN ESSENCE SAID I AM
VETOING THE USE OF THIS
\$130 MILLION FOR HIGH-SPEED
RAIL?

>> HE IS NOT, AND HE HAS NOT
VETOED THE USE OF THE FUNDS.
THERE HAS BEEN ONE
APPROPRIATION.

>> BUT FOR THE HIGH-SPEED RAIL?
>> NO.

MOST OF THAT MONEY HAS BEEN
SPENT.

THE 130 THAT HAS BEEN
APPROPRIATED HAS BEEN SPENT.

>> SO THE ISSUE IS TO WHETHER
HIS ACTIONS AFFECT THE
130 MILLION YOU WOULD ARGUE AND
OF COURSE WE HAVE VERY LIMITED
TO NO FACTUAL RECORD HERE, BUT
THAT IS A DE MINIMIS RIGHT NOW?

>> IT IS NOT ONLY DE MINIMIS BUT
THE STATUTE ITSELF PROVIDES FOR
A CARRYOVER OF IT BY THE END OF
THE YEAR THE MONEY HASN'T BEEN
SPENT SO HE IS NOT IN VIOLATION.

>> HE HASN'T DONE ANYTHING WITH
THAT REMAINING MONEY OR THEY
HAVE NOT ESTABLISHED --

>> HE IS NOT INTENDING TO SPEND
IT ON SOME OTHER THING, NO.

>> MY QUESTION, OR PROBLEM, IS
WITH THIS.

WOULD YOUR ARGUMENT BE DIFFERENT ABOUT WHAT HAS HAPPENED IF FLORIDA STILL HAD THE HIGH-SPEED RAIL CONSTITUTIONAL AMENDMENT THAT WE HAD AND THEN WE DIDN'T HAVE IT, THAT MANDATED THAT A HIGH-SPEED RAIL SYSTEM BE BUILT IN THE STATE OF FLORIDA?

WOULD HIS DISCRETION AS FAR AS THE FUTURE BE LIMITED BECAUSE OF THAT CONSTITUTIONAL AMENDMENT?

>> I DON'T THINK IT WOULD MAKE ANY DIFFERENCE.

THE STATUTE PRESUMABLY WOULD HAVE BEEN PASSED UNDER THE CONSTITUTIONAL AMENDMENT AS WELL.

THERE'S A STATUTE WHICH CREATES THE ENTITY WHICH COULD DO THE HIGH-SPEED RAIL.

>> IN FACT IT DOES ACTUALLY MANDATE THAT ONE SHALL BE BUILT SO IS THIS A QUESTION MAYBE HE IS NOT IN VIOLATION NOW BUT HE MIGHT BE IN VIOLATION OF THE FUTURE?

OR DO WE LOOK AT IT JUST IS A MOMENT IN TIME?

>> IF THERE WERE A CONSTITUTIONAL AMENDMENT?

>> NO, NO.

BECAUSE YOU SAID THERE'S A STATUTE IN PLACE THAT SAYS ONE WHEN A HIGH-SPEED RAIL SYSTEM SHALL BE --

>> HE DOES NOT INTEND TO VIOLATE

THE LAW.

THE GOVERNOR IS TAKING A POSITION THAT THIS IS A BAD POLICY.

THE LEGISLATURE, HE BELIEVES, WILL AGREE WITH HIM.

>> THAT IS JUST THE POINT.

THE LEGISLATURE CAN AGREE WITH HIM BUT THEY HAVEN'T, AND ISN'T THE GOVERNOR MANDATED THROUGH THE CONSTITUTION TO CARRY OUT THE STATUTES AND LAWS OF THE LEGISLATURE?

AND THE LEGISLATURE SAID LET THIS BE AND THE GOVERNOR SAYS NO?

ISN'T THAT AN EFFECTIVE VETO?

>> IT IS NOT AN EFFECTIVE VETO.

>> LET ME ASK YOU THIS.

IS THIS CONDITION THAT THE GOVERNOR ACCEPT THIS COMING FROM THE FEDS?

IS THAT A FEDERAL CONDITION?

>> WELL, AS I UNDERSTAND IT AND WE HAVE ATTACHED THIS EXHIBIT I TO THE RESPONSE TO THE PETITION, A PAPER THAT WAS SENT TO THE GOVERNOR BY THE U.S. D.O.T..

THE U.S. D.O.T. HAS SAID WE, THE U.S. D.O.T. DID NOT WANT TO GO FORWARD WITH THIS UNLESS THE STATE AND IN A SENSE MEANING THE GOVERNOR AS THIS HAS BEEN A SUBJECT OF DISCUSSION WITH THE GOVERNOR -- UNLESS THE STATE AND GOVERNOR ARE FULLY BEHIND IT.

SO IN A WAY THE GOVERNOR'S VIEWS
ON THIS ARE INFORMING THE U.S.
D.O.T..

>> I LOOKED UP AT STATUTE OR
TRIED TO, AND THERE A
CERTIFICATION THAT HAS BEEN DONE
AND UNDER SUBSECTION C, ACCEPTED
AND IF THE GOVERNOR DOESN'T
ACCEPT IT, THERE IS A WAY THAT
THE LEGISLATURE CAN DO A JOINT
RESOLUTION.

YOU CHALLENGE THAT IF IT WERE TO
BE PUT INTO EFFECT IT MAY NOT BE
CONSTITUTIONAL.

BUT THE BOTTOM LINE IS, THIS
IDEA THAT THE FEDERAL GOVERNMENT
HAS NOW SAID NOT ONLY DID YOU
HAVE TO APPLY, NOT ONLY DID YOU
HAVE TO CERTIFY, NOT ONLY DID
TEDIOUS TO SET UP A SEPARATE
ENTITY, BUT WE WANT THE GOVERNOR
OF YOUR STATE TO BE HAPPY AND
FULLY BEHIND IT.

IS THAT A LEGAL REQUIREMENT OR
IS THAT JUST A DECISION SINCE
THEY HAVE LIMITED MONEY, UNLESS
EVERYBODY IN THE STATE REALLY
WANTS IT THEY ARE GOING TO PULL
THE MONEY?

>> IT IS NOT JUST A POPULARITY
CONTEST.

IF YOU LOOK AT THE SAME PAPER,
THE D.O.T. EXPECTS CERTAIN
THINGS FROM THE STATE.

>> MY QUESTION IS, IS THAT THE
LETTER FROM THE GOVERNMENT THAT

YOU ATTACHED, IS THAT A LETTER
THAT IS MANDATED BY THE FEDERAL
RECOVERY ACT OR IS THAT
SOMETHING EXTRA THAT THE
DEPARTMENT -- FEDERAL DEPARTMENT
OF TRANSPORTATION HAS NOW
IMPOSED?

>> THE D.O.T. HAS IMPOSED THAT.

>> SO THERE IS NO LEGISLATION
THAT GOES ALONG WITH IT?

>> NOT THAT I'M AWARE OF.

>> IT IS ENTHUSIASTIC --
ACCEPTANCE THAT HAS TO BE THE
REQUIREMENT.

>> WHAT I MEANT TO SAY IT IS NOT
JUST BEING IN FAVOR OF PROJECT.
THE STATE ALSO IN THE VIEW OF
THE D.O.T. SEE THIS THROUGHOUT
THE PAPERS THAT WOULD BE
EXECUTED BETWEEN THE D.O.T. ON
THE STATE, THE STATE IN THEIR
VIEW HAS TO DO MANY THINGS.
SUPERVISED, PROVIDE TECHNICAL
SUPPORT, SO THEY WANT THE STATE
DOING THAT.

>> WHAT I DON'T UNDERSTAND IS
THIS, AND YOU CAN MAYBE --
FEDERAL GRANTS 101.

THE FEDERAL GOVERNMENT HAS SAID
HUGE CHUNK OF MONEY THEY AWARDED
FLORIDA, \$2.2 BILLION SURELY
THEY MUST CONTEMPLATE THE
POLITICS BEING WHAT IT IS THAT
THE WINDS OF POLITICS CHANGE ARE
RIM YEAR-TO-YEAR.

ONE YEAR AGO THE WHOLE

LEGISLATURE THOUGHT THIS WAS THE GREATEST THING IN THE WORLD. TEN YEARS AGO THE VOTERS DID AND A FEW YEARS LATER THEY DIDN'T. THE FEDERAL GOVERNMENT THOUGH, EVEN IF THE COMMITMENT WAS THE GOVERNOR SCOTT TODAY SAID I LOVE THIS PROJECT, THE WAY THE THING IS SET UP, TOMORROW, I MEAN AGAIN, THE SUBJECT TO THE LEGISLATURE CONTINUING TO APPROPRIATE THE MONEY.

SO THE FEDERAL GOVERNMENT, DO THEY NOT REQUIRE THERE TO BE SOMETHING ELSE SIGNED IN ADVANCE THAT SORT OF SAYS WE ARE ACCEPTING HIS MONEY?

>> THEY REQUIRE THAT CERTIFICATION BUT THAT CAN BIND THE NEXT YEAR'S LEGISLATURE AND EVERY YEAR THERE MUST BE APPROPRIATIONS AS JUSTICE CANADY POINTED OUT.

>> BUT COULD THEY HAVE DONE WHAT SOUTH CAROLINA DID WHICH IS APPROPRIATED THE WHOLE AMOUNT IN ONE LEGISLATIVE SESSION, THE WHOLE 2.4 BILLION?

>> I SUPPOSE IT IS THEORETICALLY POSSIBLE BUT I DON'T THINK IT WOULD BE FISCALLY PRUDENT TO DO THAT.

I DON'T IMAGINE THE U.S. GOVERNMENT WOULD FIND THAT FISCALLY PRUDENT TO PUT THAT AMOUNT OF MONEY INTO THE HANDS

OF THE STATE.

>> NOT TO GIVE IT BUT
APPROPRIATING IT IS THE SAME
THING AS RECEIVING IT, ISN'T IT?

>> NO AND THAT IS ONE OF OUR
POINTS BUT --

>> THE LEGISLATURE ACTUALLY
APPROPRIATED 2.4 BILLION THEY
WOULD HAVE TO ACTUALLY PUT THAT
ASIDE WITH A --

>> THEY WOULD HAVE TO PUT IT ON
THE BUDGET AT THE VERY LEAST.

>> RIGHTS OF THAT WOULD BE
2.4 BILLION THAT THE STATE
WOULDN'T HAVE TO USE TO PAY
EDUCATION, THE COURTS AND
EVERYTHING ELSE, CORRECT?

>> YES, AND THEY COULD DO A
CONTINUING APPROPRIATION BUT
THERE IS NONE HERE.

I WANT TO MAKE THAT CLEAR.

IT IS A ONE LINE, ONE-YEAR
APPROPRIATION AND THAT MEANS
THAT IT IS ON BUDGET AND IT MUST
COME BACK EVERY YEAR FOR FURTHER
APPROPRIATION.

THAT IS JUST THE NATURE OF THIS.

>> SO THOSE GRANTS COULD HAVE
GONE ALONG AND IT COULD HAVE
BEEN FIVE YEARS PAID OUT IN
SOMETHING COULD HAPPEN THE SIXTH
YEAR AND THIS HIGH-SPEED RAIL
GOES FOR 5 MILES AND IT STOPS,
BECAUSE THE LEGISLATURE OR THE
GOVERNOR DOESN'T APPROPRIATE OR
THE GOVERNOR VETOES IT?

I MEAN THAT IS HOW THIS COULD WORK?

>> IT COULD HAPPEN IN ONE REASON THE GOVERNOR DOES NOT FEEL THIS IS GOOD POLICIES BECAUSE IT IS A LONG-TERM PROJECT WHICH MAY NOT WORK.

>> NOW THE GOVERNOR DIDN'T SAY HE DIDN'T WANT THE MONEY. HE SAID HE DIDN'T WANT TO USE THE MONEY FOR THE LEGISLATIVE -- WHAT THE LEGISLATURE SAID THEY WANTED IT USED FOR SO ISN'T IT UP TO THE LEGISLATURE TO DETERMINE HOW MONIES ARE SPENT AND TO ENACT THE LEGISLATIVE STATUTE AND THE GOVERNOR HAS TO FOLLOW THAT?

HE CAN'T JUST WILLY-NILLY SAY I WANT TO USE THIS AND I WANT TO USE THAT.

>> CLEARLY JUSTICE PARIENTE, AS A LEGISLATIVE FUNCTION TO APPROPRIATE MONEY --

>> IT IS A LEGISLATIVE FUNCTION. OKAY.

>> THERE IS NO QUESTION ABOUT THAT.

>> LET ME ASK YOU ABOUT SOMETHING BECAUSE I'M STILL TRYING TO FIND OUT HERE WHAT IT IS, EVEN IF WE ASSUME THE GOVERNOR DID SOMETHING IMPROPER, WHAT IT IS SO WE COULD DO ABOUT IT.

I THINK I READ IN SOME OF THESE

PLEADINGS THAT THE ENTERPRISE
NEEDS TO SIGN SOME KIND OF
AMENDED AGREEMENT.

DID THE GOVERNOR TELL THE
DIRECTOR THAT HE OR SHE COULD
NOT FIND THAT AGREEMENT?

>> THERE IS AN AMENDMENT GRANTED
BUT IT HAS NOT BEEN SIGNED.

>> WHO HAS THE AUTHORITY TO SIGN
IT?

>> THE GRANT WOULD GO TO THE
DEPARTMENT OF TRANSPORTATION AND
THE STATE OF FLORIDA.

>> DOES THE GOVERNOR HAVE THE
AUTHORITY TO TELL THEM THAT THEY
CANNOT SIGN THAT AGREEMENT?

>> I BELIEVE SO.

>> UNDER WHAT AUTHORITY?

>> HE BEING THE CHIEF EXECUTIVE
OF THE STATE.

AND I WANT TO POINT OUT THIS IS
NOT AN APPROPRIATION ISSUE.
THE GOVERNOR IS NOT COMMANDED BY
THE FEDERAL GOVERNMENT TO DO
ANYTHING.

HE ONLY HAS TO SPEND WHAT HAS
BEEN APPROPRIATED AND NONE OF
THAT FEDERAL GRANT MONEY IF THAT
IS WHAT WE WANT TO CALL IT, HAS
BEEN APPROPRIATED SO HE HAS NO
DUTY TO SPEND THAT MONEY.

>> SO YOU ARE SAYING THAT THE
130 IS NOT FEDERAL GRANT MONEY?

>> IT IS.

>> BUT YOU ALSO SAID SOME OF
THAT HAD BEEN SPENT?

>> YES, ABOUT 110 MILLION OF THAT HAS BEEN SPENT BUT THAT IS YEAR ONE, THAT IS THE CURRENT YEAR.

THE GRANT YOU ARE REFERRING TO JUSTICE QUINCE IS FOR FUTURE YEARS.

EVEN IF THE LEGISLATURE WOULD STILL HAVE TO COME BACK AND MAKE APPROPRIATIONS.

>> AND I THOUGHT THAT, BASED ON WHAT HAD BEEN DONE BY THE LEGISLATURE -- AND AGAIN MAYBE THIS IS JUST A COURSE THAT I DIDN'T TAKE IN LAW SCHOOL ON GOVERNMENT CONTRACTS.

MAYBE I SHOULD HAVE.

THEY LOOK LIKE THEY, THE FEDERAL GOVERNMENT, HAD AWARDED THE STATE THE \$2.4 BILLION AND THAT THE STATE HAD CERTIFIED THEY WANTED IT AND WENT AHEAD AND DID ALL THIS, SO THESE OTHER THINGS LIKE A GRAND COOPERATIVE AGREEMENT, ISN'T THAT JUST BEING DONE PURSUANT TO WHAT THE MONEY IS THAT HAS ALREADY BEEN AWARDED TO THE STATE?

>> WHILE THEY CALL IT AN AWARD, AND THAT IS HOW THEY SEE IT BUT AS WE DISCUSSED EARLIER THIS SECRETARY OF TRANSPORTATION HAS SAID THIS WILL NOT GO FORWARD WITHOUT THE COOPERATION OF THE STATE, SO I THINK THAT IS A CONDITION IN WHICH THEY HAVE

IMPOSED.

>> IS THIS SOMETHING THAT WAS CERTAINLY ENVISIONED AT THE TIME THEY WERE DEALING WITH A LONG-TERM PROJECT THAT YOU MAY HAVE THESE POLITICAL PROBLEMS WITHIN THE STATES AND THAT IF YOU HAD AN EXECUTIVE THAT WAS NOT OF THE SAME VIEW OF THE LEGISLATIVE BRANCH, THEN THERE WAS A METHOD TO OVERCOME THAT AND THAT WAS A THE JOINT RESOLUTION?

>> WELL?

>> IT HAS TO COME DOWN TO THAT?

>> YES, IN THE JOINT RESOLUTION.

>> BUT I MEAN TO CONTEMPLATE THAT THESE ARE NOT HYPOTHETICALS THAT THE FEDERAL LAW CONTEMPLATES DOES IT NOT THAT THESE KINDS OF THINGS CAN HAPPEN AND THIS IS HOW YOU GET OVER IT AND WE ARE NOT THERE.

WE ARE NOT OVER IT, ARE WE?

>> WE ARE NOT OVER IT AND I'M NOT SURE THE GENESIS OF THAT I BELIEVE YOUR HONOR IS REFERRING TO 1607B.

I'M NOT SURE OF THE GENESIS BUT I THINK WAS INTENDED TO RESOLVE THE SPEECH BETWEEN THE EXECUTIVE AND THE LEGISLATIVE BRANCH.

>> IT DOESN'T LOOK LIKE IT IS ANYTHING BUT THAT.

AS JUSTICE LEWIS IS SAYING, THERE ARE STATES WHERE THERE ARE

THREE BRANCHES OF GOVERNMENT,
THAT THE GOVERNOR AND THE
LEGISLATURE MAY NOT BE IN SYNC
AND THEY WANTED TO STILL BE ABLE
TO GIVE THIS MONEY TO THE STATE
IF THE STATE LEGISLATURE WANTED
THAT MONEY.

THAT IS WHAT IT LOOKS LIKE.

>> THAT IS WHAT IT LOOKS LIKE.

I THINK ONE COULD QUESTION
WHETHER THEY HAVE THE POWER TO
DO THAT.

>> THAT IS NOT THE QUESTION
THOUGH.

THAT IS SIMPLY NOT THE QUESTION.
IN YOUR VIEW, IT IS A LETTER OF
FEBRUARY 16 THAT HAS GENERATED A
CONTROVERSY HERE OR THE DISPUTE
THAT WE ARE BEING ASKED TO
RESOLVE.

>> I SUPPOSE.

>> THAT LETTER WAS IN RESPONSE
TO A REQUEST BY SOMEONE FROM THE
FEDERAL GOVERNMENT WANTING THE
EXECUTIVE BRANCH IN FLORIDA TO
ENTHUSIASTICALLY SUPPORT THIS.
WAS IT NOT?

>> YES AND THE SUPPORT IS NOT
THERE.

>> UNDERSTAND AND THAT IS WHAT
IS BEING ASKED THAT SOMEHOW THIS
COURT ORDER, THAT EXECUTIVE, TO
ENTHUSIASTICALLY SUPPORT OR TAKE
THAT STEP.

IS THAT WHAT YOU SEE THEY ARE
ASKING US TO DO?

>> THAT IS ONE THING AND MUCH MORE.

I WOULD LIKE TO ADDRESS THAT VERY BRIEFLY BECAUSE AS ONE LOOKS AT THEIR QUEST FOR RELIEF AND I WILL READ IT, THIS IS THE REQUEST FOR RELEASE ON PAGE 23 OF THE PETITION.

TO EXPEDITIOUSLY ACCEPT THE FUNDS, AND BY THAT THEY MEAN THE STIMULUS OR ARRA FUNDS, AND APPLY SUCH FUNDS APPROPRIATED BY CONGRESS AND THE FLORIDA LEGISLATURE FOR THE FLORIDA HIGH-SPEED RAIL PROJECT.

THE RELEASE THAT IS ASKED IS IN ORDER FOR THE GOVERNOR TO NOT ONLY -- THE GOVERNOR IS THE ONLY DEFENDANT HERE.

I WILL GET TO THAT IN A MINUTE BUT TO EXPEDITIOUSLY ACCEPT THE FUNDS, AND PRESUMABLY THAT MEANS FUNDS INTO THE FAR FUTURE, BECAUSE THERE IS NO ISSUE AS TO THE CURRENT YEAR.

THAT HAS BEEN APPROPRIATED AND SPENT AND THEN TO APPLY SUCH FUNDS --

THE ONLY WAY THEY CAN APPLY IS TO BUILD THE PROJECTS OF THIS-- THE SCOPE OF THIS IS FAST.

>> WELL AND IS IN PART ABOUT A REQUEST THAT THE GOVERNOR NOT MAKE A COMMITMENT THAT HE WOULD NOT EXERCISE HIS VETO AUTHORITY WITH RESPECT TO APPROPRIATIONS

TO FURTHER THIS PROJECT?
IF THERE IS ANYTHING THAT IS
INTEGRAL TO THE EXECUTIVE
FUNCTION UNDER OUR CONSTITUTION
IT WOULD BE THE GOVERNOR'S
AUTHORITY TO VETO MEASURES
COMING THROUGH THE LEGISLATURE,
INCLUDING HIS AUTHORITY TO
EXERCISE A LINE-ITEM VETO WITH
RESPECT TO APPROPRIATIONS?

>> ABSOLUTELY, SIR.

>> BUT ISN'T THAT THE CASE GOING
FORWARD?
HE CAN'T DO IT RETROACTIVELY CAN
HE?

>> NO SIR BUT THERE IS NO ISSUE
RETROACTIVELY.

MOST OF THE MONEY HAS BEEN SPENT
AND IT WILL CARRY OVER.

>> WHEN YOU SAY CARRY OVER, WHAT
YOU MEAN?

>> THE STATUTE, AND I CAN GET
IT, BUT THE STATUTE INVOLVES THE
MONEY FROM THIS YEARS
APPROPRIATIONS NOT SPENT.

>> DO WE SEND IT BACK TO THE
FEDERAL GOVERNMENT?

>> NO, TO THE LEGISLATURE.

>> BUT THE LEGISLATURE WOULD
HAVE NO CHOICE EXCEPT TO USE IT
FOR THE HIGH-SPEED RAIL OR TO
GIVE IT BACK, IT WOULD SEEM TO
ME.

>> THAT MAY BE TRUE.

I JUST COULDN'T SAY AS I STAND
HERE NOW.

BUT GETTING BACK TO THE SCOPE OF
RELEASE IT WOULD NOT ONLY
REQUIRE INTRUSION INTO THE VETO
POWER BUT EFFECTIVELY IT IS
GOING TO REQUIRE IN ORDER TO THE
LEGISLATURE TO APPROPRIATE INTO
FUTURE YEARS.

THE MONEY CAN'T BE THERE TO
SPEND UNLESS THE LEGISLATURE
APPROPRIATED BECAUSE THIS HAS TO
BE ON BUDGET.

>> OBVIOUSLY GOING FORWARD THE
LEGISLATURE HAS THE POWER TO
REPEAL THIS.

IF THEY DECIDE TO NEXT WEEK,
THEY CAN DO IT.

>> YES, SIR.

>> I THINK THE ONLY ARGUMENT WE
CAN SEE HERE IS THE GOVERNOR
CAN'T UNILATERALLY DO IT ON HIS
OWN RELATING BACK.

HE HAS THE RIGHT TO VETO
ANYTHING COMING FORWARD.

>> AND THAT IS WHAT HE HAS SAID.
WE ARE NOT TALKING
RETROSPECTIVELY.

>> AS WE GO FORWARD I'M GOING TO
VETO APPROPRIATION AND THAT IS
BECAUSE HE HAS BEEN ELECTED.
HE HAS LOOKED AT THIS AND
DECIDED IT IS DANGEROUS TO THE
PUBLIC.

THIS IS NOT A PRUDENT THING TO
DO.

>> BUT THAT IS NOT PART OF OUR
CONSIDERATION AT ALL.

WHETHER IT IS A GOOD IDEA OR A
BAD IDEA.

>> I BELIEVE --

>> IS THAT RIGHT?

DO YOU AGREE WITH THAT?

>> YES SIR, AND THE PETITION
SHOULD BE TONIGHT BECAUSE THIS
COURT DID NOT FASHION
APPROPRIATE RELEASE.

>> THIS IS AN EXTRAORDINARY WRIT
BEING PRESENTED TO US FOR THE
FIRST TIME, UNLESS THERE IS A
CLEARLY ESTABLISHED VIOLATION OF
LAW AND UNDER A SPECIFIC ACT
THAT HE HAS VIOLATED MANDAMUS.
IF WE GRANT OF MANDAMUS IN THIS
CASE OUR PRISONERS WOULD HAVE A
FIELD DAY BECAUSE AGAIN YOU NEED
TO HAVE IT BE VERY NARROW AND
VERY SPECIFIC IT IS MANDAMUS.

>> YES MA'AM.

MANDAMUS IS COMPLETELY
INAPPROPRIATE BECAUSE THERE IS
NO MINISTERIAL ACT HERE.

IT IS NOT A SIMPLE MINISTERIAL
ACT OF TURNING OVER PAPERS.

>> THE WAY IT HAS FIRST BEEN
PRESENTED AND IT SOUNDED AS IF
THE 2.4 BILLION HAD ALREADY BEEN
APPROPRIATED AND NOTHING WAS
LEFT OTHER THAN THE MONIES TO
SLOW DOWN.

IF THAT WERE THE CASE YOU WOULD
AGREE WE WOULD HAVE SOMETHING TO
BE CONCERNED ABOUT.

>> IT WOULD BE DIFFERENT CASE.

I DON'T KNOW IF I WOULD BE CONCERNED BUT IT WOULD CERTAINLY BE A DIFFERENT CASE.

>> I WOULD BE CONCERNED THAT THE GOVERNOR COULDN'T SINGLE-HANDEDLY --

IT IS A GRANT AND AN AWARD AND ALLOCATION OF THAT KIND OF MONEY.

>> I THINK WE ARE IN AGREEMENT THAT WE ARE NOT DEALING WITH -- THAT CASE DOES NOT DEAL WITH SIMPLY THIS YEAR'S APPROPRIATION.

YOUR HONOR IS TALKING ABOUT A VERY DIFFERENT CASE WHERE FUTURE APPROPRIATIONS WOULD BE IN ADDITION.

>> BUT AT THIS POINT, ASSUMING THERE WAS NO ISSUE ABOUT WHETHER THE GOVERNOR LIKES THIS PROJECT OR DOESN'T LIKE THIS PROJECT, COULD THE FEDERAL GOVERNMENT JUST DECIDE, OH, WE DON'T WANT FLORIDA TO HAVE THIS MONEY ANYMORE AND THEY CAN'T DO IT. I MEAN, ARE THEY BOUND BY THE AWARD OF TELLING US THE 2.4 BILLION --

>> APPARENTLY THEY SAID WITHOUT THIS ADDITIONAL CONDITION, IT IS NOT GOING TO GO FORWARD.

>> BUT I'M SAYING BEYOND THAT. EVERYTHING ELSE, HAS EVERYTHING ELSE BEEN DONE AND COULD THE FEDERAL GOVERNMENT, IF WE TAKE

THAT OUT OF THE EQUATION, THIS
WHOLE THING ABOUT THE GOVERNOR'S
ASSURANCE, IF WE TAKE THAT OUT
OF THIS EQUATION, HAS FLORIDA
DONE EVERYTHING IT WAS SUPPOSED
TO DO TO GET THE 2.4, AND COULD
THE FEDERAL GOVERNMENT BACK OUT?

>> THE GRANT AMENDMENT HAS NOT
BEEN SIGNED SO NOT EVERYTHING
HAS BEEN DONE.

I DON'T THINK MY ANSWER CAN GO
MUCH FURTHER THAN THAT, BUT THE
GRANT AMENDMENT HAS NOT BEEN
SIGNED.

>> I COULD ARGUE THAT MIGHT BE A
MINISTERIAL ACT, THE SIGNING OF
THIS THAT HAS ALREADY BEEN DONE.

>> YOUR HONOR I THINK WE ARE
WELL PAST THAT BECAUSE THE
APPROPRIATION PROCESS CANNOT BE
PREEMPTED BY THAT.

EVERY YEAR THERE MUST BE
APPROPRIATIONS.

>> THAT IS THE MOST CRITICAL
THING WE HAVE GOTTEN TO IS THIS
IS IN THE HANDS OF THE
LEGISLATURE NOW TO DECIDE WHAT
THEY WANT TO DO.

>> YOUR TIME HAS EXPIRED.

I'M GOING TO GIVE OPPOSING
COUNSEL ANOTHER MINUTE.

IF YOU WANT ANOTHER MINUTE YOU
CAN HAVE THAT TOO BUT IF YOU
WANT TO SIT DOWN, THAT'S FINE
TOO.

>> IN THE MINUTE I HAVE I WANT

TO EMPHASIZE THIS.

THESE LARGE INFRASTRUCTURE PROJECTS REQUIRE MULTIPLE YEARS, A GREAT DEAL OF PLANNING AND WILL RUN THROUGH HICCUPS AS THEY PROGRESS.

IF WE CAN'T HAVE A STATE PLAN THAT IS FOLLOWED ALONG WITH THE LEGISLATURE ESSENTIALLY SIGNING AN AGENCY WITH THIS RESPONSIBILITY.

>> BUT COULD, AS JUSTICE PARIENTE ASKED EARLIER, WE GET FIVE YEARS DOWN THE ROAD IN THIS PROJECT AND ALL THE APPROPRIATIONS HAVE BEEN MADE, BUT FOR SOME REASON THE LEGISLATURE DECIDES THEY ARE NOT GOING TO APPROPRIATE THAT SIXTH YEAR.

IS IT STUCK?

A HALF A RAIL, AND THAT IS IT?

>> THAT IS THE PREROGATIVE OF THE LEGISLATURE.

>> IT SEEMS TO ME IT IS A WASTE OF EVERYONE'S MONEY.

YOU SAID IT IS A WASTE.

SHE SAID IT IS A WASTE.

>> THAT WOULD CERTAINLY BE A WASTE OF ALL OF OUR MONEY IN FIVE YEARS DOWN THE ROAD ON A PROJECT, ANY KIND OF PROJECT -- I'M NOT JUST TALKING ABOUT THIS RAIL PROJECT BY THAT THERE ARE NO ASSURANCES THAT YOU ARE GOING TO COMPLETE THE PROJECT.

>> THAT IS CORRECT AND THE VOTERS WOULD BE ABLE TO SPEAK AT THE BALLOT BOX.

THAT IS THE ULTIMATE SOLUTION.

>> IT SEEMS TO ME THE GOVERNOR HAS CONCEDED HE IS NOT DOING ANYTHING WITH THE 130 MILLION WHEN WE HAVE BEEN HERE.

I HAVE NOT HEARD YOU VARY FROM YOUR AGREEMENT THAT ANY FUTURE APPROPRIATION IS IN THE HANDS OF THE LEGISLATURE, SO ISN'T THIS NOW -- THIS IS PREMATURE AS TO WHAT MIGHT HAPPEN NEXT MONTH. ISN'T THAT THE NEXT STEP?

>> THE INITIAL QUESTION THAT YOU ASKED AND THE REASON I'M SO CAREFUL ABOUT IT IS I THINK THERE IS IN CONTINUING APPROPRIATION IN TERMS OF THIS. WE HAVE GOT AN APPROPRIATION IN TERMS OF THE STAMP ACT THAT KICKS IN.

>> YOU HAVE GOT A CONTINUING APPROPRIATION OF \$60 MILLION AND NO ONE HAS DISCUSSED THAT IN DETAIL.

WE ARE TALKING ABOUT THE MONEY FROM THE FEDERAL GOVERNMENT THAT IS NEEDED TO ACTUALLY MAKE THIS PROJECT GO.

>> YES.

>> CORRECT?

>> YES.

>> THANK YOU.

>> WE THANK BOTH SIDES FOR YOUR

ARGUMENTS.

THAT IS THE ONLY CASE ON OUR
DOCKET TODAY.

SO THE PROCEEDINGS OF THE COURT
ARE COMPLETED, AND SO WE STAND
ADJOURNED.

PLEASE RISE.