

>> NEXT CASE ON THE DOCKET IS WILLIAM R. CREWS V. STATE OF FLORIDA.

GIVE THEM A FEW MINUTES, THOSE WHO WISH TO LEAVE TO LEAVE.

>> I THINK WE GOT IT PRETTY QUIET, COUNSEL.

>> MAY IT PLEASE THE COURT. I AM GLEN GIFFORD WITH THE PUBLIC DEFENDER'S OFFICE ON BEHALF OF WILLIAM CREWS. THIS IS A ISSUE OF PUBLIC IMPORTANCE.

THE STATUTE OF LIMITATIONS BY A PUBLIC OFFICER OR EMPLOYEE APPLY TO A PUBLIC SCHOOL TEACHERS?

I ASK YOU TO ANSWER THAT QUESTION IN THE NEGATIVE AND RULED THAT THE CONDUCT IDENTIFIED IN THE MOTION TO DISMISS IN THE TRAVERSE, AND CONNECTED WITH ANY SCHOOL ACTIVITY, IS NOT MISCONDUCT IN OFFICE.

MY ARGUMENTS TODAY FOCUS ON THE TERM MISCONDUCT IN OFFICE.

>> COULD I ASK ONE QUESTION IS YOU BEGIN?

CAN WE TELL FROM THE OVERALL RECORD EXACTLY WHAT HAPPENED AND WHERE FOR EACH OF THE COUNTS RATHER THAN JUST DESCRIBING THEM AS COUNTS FROM THIS RECORD?

>> YES.

FROM THE MOTION TO DISMISS WHICH INCORPORATED DEPOSITIONS OF THE ALLEGED VICTIMS AND THE REVERSES, YOU CAN DISCERN WHAT HAPPENED TO EACH COUNT.

>> DO WE KNOW THE RELATIONSHIP OF THOSE YOUNG PEOPLE TO THE TEACHER, THE SCHOOL BOARD THIS FEATURE?

>> YES.

UNDER THE TRAVERSES FOR THE COUNTS THAT REMAIN CHALLENGE IN THIS PROCEEDING, MR. CREWS WAS CLASSROOM TEACHER FOR EACH OF THE VICTIMS.

>> FOR EVERY ONE OF THEM AT SOME

POINT IN TIME.

>> YOU HAVE THE FACTUAL ATTACK
BUT I FOUGHT THE BROADER
QUESTION IS WHETHER YOU AGREE
WITH THE JUDGMENT THAT
MISCONDUCT IN OFFICE IS NARROWER
THAN A PUBLIC EMPLOYEE DOES
SOMETHING WRONG.

>> THAT IS RIGHT.

>> WE ARE TALKING ABOUT
EXTENDING A STATUTE OF
LIMITATIONS POTENTIALLY 30
YEARS, THE WHOLE LENGTH OF THAT
PUBLIC EMPLOYEE'S TENURE.

WE HAVE GOT OBVIOUSLY THERE
ADDED PUBLIC EMPLOYEE BUT DON'T
WE NEED TO LOOK AT THE QUESTION
MISCONDUCT IN OFFICE?

ARE YOU AGREEING THAT MISCONDUCT
IN OFFICE COULD APPLY TO A
PUBLIC SCHOOL TEACHER IF IT WAS
CLEAR THAT THE ABUSE OCCURRED IN
THE CLASSROOM OR IN THE BATHROOM
OF THE CLASSROOM?

>> THERE ARE TWO ASPECTS OF THE
ARGUMENT, THE FIRST GOES TO THE
CERTIFIED QUESTION, NO, A
PUBLIC-SCHOOL TEACHER CANNOT
COMMIT MISCONDUCT IN OFFICE.
IF YOU CONCLUDE TO THE CONTRARY,
THE SECOND PART OF MY ARGUMENT
IS THE CONDUCT IN THIS CASE DID
NOT CONDUCT -- MISCONDUCT IN
OFFICE.

>> LET ME ASK ABOUT YOUR FIRST
ASSERTION.

WHY IS IT NOT THE CASE THAT IF
WE ACCEPT YOUR FIRST ASSERTION,
WE ARE NOT EFFECTIVELY READING
THE TERM, I AM SORRY, EMPLOYER
OUT OF THE STATUTES.

>> YOU ARE NOT BECAUSE THE
STATUTE EVERY TIME IT SAYS
EMPLOYEE IT SAYS PUBLIC OFFICER
OR EMPLOYEE.

YOU HAVE TO CONSTRUE THAT TO
MEAN AN EMPLOYEE OF A PUBLIC
OFFICER, ONE WHO EXECUTES THE
DUTIES, FUNCTIONS, SOVEREIGN
POWER OF GOVERNMENT OF A PUBLIC

OFFICER.

>> LET ME SEE.

YOU ARE SAYING THAT THE EMPLOYEE PORTION OF THIS STATUTE REFERS TO A PERSON WHO WORKS FOR PUBLIC OFFICER?

>> WHO EXERCISES THE DUTIES OF PUBLIC OFFICE.

I AM TAKING THAT FROM SOME OF THE CASES IN A SUPPLEMENTAL AUTHORITY I FILED.

ONE OF THE WAS CLYDEWELL.

THESE CASES AROSE WILL FOR THE CHANGE IN STATUTE IN 1974.

CLYDEWELL WAS A CITY MANAGER CHARGED WITH LARCENY, FRAUD AND INFLUENCE-PEDDLING UNDER THIS PROVISION, THE PREDECESSOR TO THIS PROVISION.

HE ARGUED HE WAS NOT AN OFFICIAL BECAUSE HE HAD NO TERM OF OFFICE AND SERVED AT THE PLEASURE OF THE CITY COMMISSION.

HE REJECTED THAT ARGUMENT AND INTERPRET THE PROVISION TO INCLUDE PERSONS WHO EXERCISE CONSIDERABLE EXECUTIVE POWERS IN A POSITION OF PUBLIC AUTHORITY.

>> THAT IS THE CASE BEFORE THE STATUTE WAS CHANGED.

HOW WAS THE STATUTE CHANGE?

>> THE STATUTE WAS CHANGED TO ELIMINATE DURING TERMS OF OFFICE AND USES THE TERMS PUBLIC OFFICER OR EMPLOYEE.

>> IT AND THE TERM EMPLOYEE.

>> DOES.

>> I DON'T SEE HOW THOSE CASES ARE OF ANY HELP TO YOU.

ON THIS POINT.

BECAUSE THEY ARE DEALING WITH A DIFFERENT TEXT.

WE HAVE SOMETHING THAT HAS BEEN AUGMENTED BEYOND WHAT IT WAS PREVIOUSLY.

WHY ISN'T THAT RIGHT?

>> IT WAS AUGMENTED TO ADD EMPLOYEE BUT NOT TO ADD MISCONDUCT IN PUBLIC OFFICE OR EMPLOYMENT.

IT DOESN'T ADD EMPLOYMENT.
THE LEGISLATURE, THERE IS
TENSION AND AMBIGUITY BETWEEN
THOSE TWO.

YOU HAVE PUBLIC EMPLOYMENT BUT
NOT MISCONDUCT IN PUBLIC
EMPLOYMENT.

>> LET ME SEE IF I UNDERSTAND
YOUR POSITION CORRECTLY.
YOUR ARGUMENT OBVIOUSLY THE
EXTENSION OF THE STATUTE OF
LIMITATIONS WOULD APPLY TO ME AS
JUSTICE OF THE SUPREME COURT.
IT WOULD APPLY ON THE ARGUMENT
TO MY STAFF ATTORNEYS WHO WORK
DIRECTLY UNDER ME TO DO MY WORK.
WOULD THAT BE TRUE?

>> THAT WOULD BE TRUE IF THEY
EXERCISE THE POWERS OF OFFICE
AND IF THEY HAVE DELEGATED
POWERS OF GOVERNMENTAL OR
JUDICIAL OFFICE.

>> WOULD IT APPLY TO THE PERSON,
THE EMPLOYEE WHO CLAIMS THE
SUPREME COURT?

>> NO.

THAT IS GETTING TO THE CORE OF
THE ARGUMENT.

>> TELL US WHO THAT WOULD APPLY
TO BECAUSE IT SEEMS TO ME THAT
YOUR INTERPRETATION OF THAT WORD
EMPLOYEE WOULD PRETTY MUCH
ELIMINATE ANYONE.

>> IT IS NOT PARTICULARLY THE
TERM EMPLOYEE FOR PURPOSES OF
THE ARGUMENT THAT THE TERM
MISCONDUCT IN OFFICE.

>> YOU SAID UNDER THIS STATUTE
WHERE IT SAYS OFFICER OR
EMPLOYEE, THAT IT HAS TO BE
SOMEONE WHO IS TAKING THE ROLE
AS IT WERE OR EXERCISING THE
POWERS OF THE PUBLIC OFFICER.
SO WHO WOULD THAT BE?

GIVE ME AN EXAMPLE OF DO THAT
COULD POSSIBLY RELATE TO?

>> THAT IS WHERE WE GET INTO THE
PREEMINENT CASES LIKE CLYDEWELL
THAT INVOLVED THE CITY MANAGER
OR CLYDE THAT INVOLVED BUILDING

MAINTENANCE.

HE WAS CHARGED WITH THEFT OF AN OFFICE TYPEWRITER AT THE ARGUED HE WAS NOT A COUNTY OFFICIAL. THAT CASE WAS DISMISSED AND THE FACTORS IN DETERMINING --

>> I UNDERSTAND BUT WHO WOULD BE?

BECAUSE IT SEEMS TO ME UNDER YOUR DEFINITION THAT I CANNOT THINK, I CAN'T THINK OF ANYONE WHO WOULD FIT UNDER THAT DEFINITION YOU HAVE OF EMPLOYEE.

>> ANYONE WHO HAS THE POWER TO CONFER A GOVERNMENT BENEFIT OR EXACT A GOVERNMENT PENALTY. ANYONE WITH THE POWER OF THE PURSE.

>> WOULD BE THAT PERSON.

>> THAT IS CORRECT, YOUR HONOR.

>> ALSO THOSE WHO PRETEND IT WOULD BE THAT PERSON.

HE HAS AUTHORITY AND POWER.

>> PEOPLE AT THE BOTTOM OF THE WRONG, SECRETARIES, MAINTENANCE WORKERS, JANITORIAL WORKERS, CUSTODIANS, THOSE PEOPLE HAVE NO POWER TO CONFER A BENEFIT OR EXACT A PENALTY.

>> I DON'T THINK YOU QUITE UNDERSTOOD.

YOU SAID THOSE PEOPLE, THE CITY MANAGER WOULD BE ONE OF THOSE PEOPLE, WOULD NOT NECESSARILY HOLD OFFICE THAT THIS WOULD APPLY TO.

>> THAT IS CORRECT.

THE REASON I CITE THAT CASE IS ALL THOSE THAT CASE THAT AROSE UNDER THE PRE AMENDMENT PROVISION, THE LEGISLATURE RETAINED THAT MEANING OF EXERCISING GOVERNMENT AUTHORITY, GOVERNMENT POWER IN THE AMENDMENT WE HAVE BEFORE US TODAY.

>> THE QUESTION IS, IS THERE ANY STATEMENT OF WHAT THE INTENT WAS BEHIND THIS VERY EXTREME EXTENSION OF THE STATUTE OF

LIMITATIONS?

BY THAT IT SEEMED TO ME THAT WHAT THEY WOULD HAVE BEEN GETTING AT, PEOPLE COULD EMBEZZLE FUNDS, SOMETHING THAT IS REALLY HIDDEN WHEN THEY ARE IN OFFICE BECAUSE THEY ARE THE ONES IN CHARGE SO TO SPEAK, BUT AS TO BE REACHED, THIS IS THE THING, THE REACH OF IT GOES TO HOW MANY PUBLIC EMPLOYEES TO WE HAVE IN THE STATE OF FLORIDA?

>> TENS OF THOUSANDS.

>> MORE THAN WE DID A DECADE AGO.

IT REACHES TO EVERYBODY UNTIL THEY LEAVE EMPLOYMENT IS WHAT I AM STRUGGLING WITH, SEEMS TO ME, BUT IS THERE ANYTHING THAT TALKS ABOUT THE EVIL TO BE CORRECTED? THAT IS WHAT WE LOOK AT, WHAT WHERE THEY AFTER?

WHERE THEY AFTER THE JANITOR WHO MAY HAVE PUNCH SOMEBODY OUT IN THE BASEMENT OF THE SUPREME COURT IN YEAR ONE THAT LEAVES IN YEAR 30 OR THE PERSON WHO IS EMBEZZLING MONEY?

>> THEY WERE AFTER THE TYPE --

>> I KNOW YOU THINK THAT I AM ASKING IS THERE ANY RESEARCH THAT DISCOVERED WHEN THE EVIL WAS THAT THEY WERE TRYING TO CORRECT?

>> NO, YOUR HONOR.

THAT IS THE CASE LAW, THE JUDGE COULDN'T FIND LEGISLATIVE HISTORY AND MY VISIT ACROSS THE STREET, I COULDN'T FIND A LEGISLATIVE HISTORY FROM THE 1974 AMENDMENT.

MANY CRIMINAL STATUTES WERE AMENDED FIRST 1974.

THIS COULD HAVE BEEN AN ATTEMPT TO MODERNIZE THE LANGUAGE, MIGHT USE OF CLYDEWELL AND CLYDE IS TO SUGGEST THE LEGISLATURE WAS TRYING TO ELIMINATE THE ARGUMENTS THAT THOSE DEFENDANTS WERE MAKING.

THE PEOPLE IN OFFICE, WE WERE NOT OFFICIALS, THERE FOR THE LEGISLATURE ADDED PUBLIC OFFICER WORK AND EMPLOYEE AND

>> Reporter: THE REQUIREMENTS OF MISCONDUCT IN OFFICE.

THESE DEFENDANTS COULD COMMIT MISCONDUCT IN OFFICE.

>> IT SEEMS TO ME FROM READING THE STATUTE DIRECTED AT THOSE WHO MADE POLICY DECISIONS SO WHEN THEY GET OUT OF OFFICE IT IS FOUND OUT LATER THAT THEY DID SOME THINGS THAT SHOULD NOT HAVE THE STATUTE OF LIMITATIONS, I DON'T SEE IT APPLYING, SOMETHING ABOUT HISTORICAL REASONING FOR THIS STATUTES.

I DON'T SEE IT OF FLYING, THE JANITOR WHO PUNCHES SOMEBODY OUT.

I DON'T KNOW IF THAT IS THE INTENT, BUT THE HISTORICAL BASIS.

>> THE DIFFICULT TASK IS TO HAVE A DISTINCTION BETWEEN A SCHOOL TEACHER AND JANITOR OR JUDICIAL LAID.

>> ASSUMING WE AGREED WITH YOU, WHERE DO WE DRAW THE LINE WHERE THE STATUTE APPLIES TO.

>> THOSE WHO EXERCISE GOVERNMENT AUTHORITY AND GOVERNMENT POWER TO CONFER A BENEFIT, EXACT A PENALTY.

GOVERNMENT EMPLOYEES TO DEAL WITH THE PUBLIC AND EXERCISE THE POWERS THAT HAVE BEEN DELEGATED TO THEM BY THEIR EMPLOYER, A PUBLIC OFFICER.

THAT IS WHAT THE LEGISLATURE WAS TRYING TO GATT ASK IN RETAINING THE ACQUIREMENT OF MISCONDUCT IN OFFICE.

>> SEPARATE EXTENSION OF THE STATUTE OF LIMITATIONS FOR ABUSE OF CHILDREN.

IN OTHER WORDS, HOW OLD WERE THE VICTIMS IN THIS CASE?

>> THEY WERE IN THE NEIGHBORHOOD

OF 13 TO 15.

>> HOW MANY YEARS AFTER THIS ALLEGEDLY OCCURRED WAS THIS SCHOOL TEACHER CHARGED?

>> 10 OR 11 YEARS AFTER THE ALLEGED OCCURRENCE.

>> NOTHING ELSE IN THE STATUTE, IN CIVIL CASES IS EXTENDED. AND TO ACTUALLY --

>> THE LEGISLATURE SINCE THAT DECISION INCREASE THE STATUTE OF LIMITATIONS FOR SEXUAL ABUSE OF CHILDREN.

ELIMINATED THE STATUTE ENTIRELY FOR FELONY VIOLATIONS WHICH WE KNOW IS A STATUTE.

IT ELIMINATED THE STATUTE OF LIMITATIONS FOR THE FELONY ON 16 FOR THAT TYPE OF THING.

>> THAT IS A SEPARATE ISSUE HERE.

SOME SLIGHT -- THESE ARE SIGNIFICANT VIOLATIONS.

AT LEAST ALLEGED VIOLATIONS.

IT DEALT WITH MANY OF THESE CASES SPECIFICALLY TARGETING CHILD ABUSE, AND IN THE PRIVATE SCHOOL, IN POSITIONS OF AUTHORITY THAT ABUSED CHILDREN.

>> IT HAS BEEN EXTENDED FOR SEXUAL OFFENSES WHEN THE VICTIM TURNS 18.

THAT IS HOW THE LEGISLATURE DEALS WITH DELAYED REPORTING SEXUAL ABUSE.

THAT DELAYED REPORTING COMES FROM INTIMIDATION, FROM FEAR, EMBARRASSMENT, CONFUSION AND THE LEGISLATURE EITHER ELIMINATES THE STATUTE OF LIMITATIONS ENTIRELY OR COMMENCES IT AT AGE 18.

>> THE STATE FINDS NO RETRIBUTION IN THOSE REVISIONS HERE.

>> AFTER COUNTS 1 AND 6.

>> AS THERE WAS BEFORE US NOW ALL.

>> FIRST-DEGREE FELONIES IN COUNTS 1 AND 6, 1 REMAINS IN

EFFECT, COUNT 6 WAS REVERSED ON CUSTODIAL AUTHORITY ISSUE. THESE ACCOUNTS ARE THE SECOND AND THIRD DEGREE FELONIES THE STATE HAS TO RELY ON THIS PROVISION.

>> THE SERIOUS COUNT OF FIRST-DEGREE FELONY IS STILL A VIABLE COUNT?

>> ONE OF THEM.

>> THAT CARRIES A LIFE SENTENCE.

>> NO.

NOT IN THIS CASE.

WAS A 20 YEAR SENTENCE.

A PLEA FOR A 20 YEAR SENTENCE TO EVERYTHING.

SINCE THEN COUNT 6 HAS BEEN REVERSED.

OTHER OFFENSES COULD BE REVERSED HERE.

THE RATIONALE FOR EXTENDED THE STATUTE OF LIMITATIONS TO AFTER AN OFFICER WHO LEAVES OFFICE DOESN'T APPLY TO THIS TYPE OF OFFENSE, NOTHING ABOUT A TEACHER CONTINUING IN OFFICE OR LEAVING OFFICE THAT CONNECTS WITH THE RATIONALE FOR DELAYED REPORTING OF SEXUAL OFFENSES.

THE CONFUSION, EMBARRASSMENT, INTIMIDATION OF THE VICTIMS AND THE LEGISLATURE HAS DEALT WITH THAT IN OTHER WAYS.

THERE IS A TENSION IN THE STATUTE BETWEEN THE TERMS MISCONDUCT IN PUBLIC OFFICE AND PUBLIC OFFICER OR EMPLOYEE.

I BELIEVE THE TENSION CAN BE RESOLVED BY EXTENDING THE STATUTE TO THOSE EMPLOYEES WHO EXERCISE GOVERNMENT AUTHORITY AND GOVERNMENT POWER.

>> IT SAYS ACT ANYTIME WHEN THE DEFENDANT IS IN PUBLIC OFFICE, OR EMPLOYMENT.

YOU CONTINUALLY GO BACK TO THIS, IT IS ONLY PUBLIC OFFICE.

TO ME IT COULDN'T BE CLEARER THAT IT APPLIES NOT ONLY TO SOMEBODY WHO MAY HOLD PUBLIC

OFFICE BUT AN EMPLOYEE.
>> IT DOES.
>> OF THAT OFFICER.
>> I BELIEVE EVERY TIME A PUBLIC OFFICER IS USED FOR PUBLIC OFFICE IS USED IT ALSO SAYS OR EMPLOYMENT OR EMPLOYEE.
>> THOSE ARE TWO DIFFERENT STATUSES THEY'RE LOOKING TO.
>> YOU SHOULD CONSTRUE THE EMPLOYEE IN LIGHT OF PUBLIC OFFICE.
>> HOW CAN WE CONSTRUE IT IF WE DON'T BELIEVE, SOME MAY BELIEVE IT IS AMBIGUOUS OR UNCLEAR. I AM STRUGGLING WITH IT. TO ME IT IS NOT AN CLEAR. YOU HAVE TO BE IF YOU ARE AN OFFICE OR AN EMPLOYEE AT MUST OCCUR WHEN EITHER YOU WERE IN OFFICE OR AN EMPLOYMENT.
>> I GO TO THE MISCONDUCT IN OFFICE REQUIREMENT WHERE THE TENSION IS. IT DOES NOT SAY MISCONDUCT IN OFFICE OR EMPLOYMENT. TO RESOLVE THAT TENSION BETWEEN THOSE PROVISIONS YOU FILTER THE MISCONDUCT IN OFFICE THROUGH THE OTHER PROVISION.
>> ISN'T IT THE CASE THAT OFFICE IS AN EXTENDED SENSE THAT GOES BEYOND WHAT WE MIGHT THINK OF AS SPECIFICALLY A GOVERNMENTAL OFFICE LIKE THE SENSE OF A POSITION?
>> THAT IS CORRECT.
>> SO WHEN WE LOOK AT THAT IN THE CONTEXT OF THIS, IT SEEMS TO ME THAT YOU ARE ASKING US TO BASICALLY READ SOME WORDS OUT OF THE STATUTE AS OPPOSED TO UNDERSTANDING ONE TERM IN A BROADER SENSE. YOU UNDERSTAND THE TERM OFFICE IN THE BROADER SENSE, WE CAN MAKE IT FIT WHEREAS YOU ARE SAYING NO, YOU HAVE GOT TO INTERPRET THAT TERM IN THE NARROW SENSE AND WE OUT THESE

OTHER WORDS.

I AM SURE YOU WOULDN'T
CHARACTERIZE IT THAT WAY BUT WHY
IS THAT NOT A FAIR
CHARACTERIZATION OF WHAT YOU ARE
ASKING US TO DO?

>> THE COURTS TRY TO GIVE EFFECT
TO EVERY WORD THE LEGISLATURE
USES AND ALSO TRIES TO GIVE
AFFECT TO INTENTIONAL OMISSIONS.
I SEE AN INTENTIONAL OMISSION IN
MISCONDUCT IN OFFICE AND NOT
INCLUDING MISCONDUCT IN OFFICE
OR EMPLOYMENT AND THAT CREATES
THE TENSION.

THE COURT SHOULD GIVE EFFECT TO
THAT ADMISSION AS IT GIVES
EFFECT TO THE TERM PUBLIC
EMPLOYEE AND TO DO THAT YOU
RESTRICT THE APPLICATION OF THIS
STATUTE TO THOSE EMPLOYEES OF
PUBLIC OFFICERS WHO EXERCISE
SOME GOVERNMENTAL AUTHORITY.

I HAVE JUST A MINUTE LEFT.

I WOULD LIKE TO DISCUSS .2.

IF YOU DISAGREE WITH THE ON .1
AND IS ESSENTIALLY THAT BECAUSE
THESE CRIMES DID NOT OCCUR WHILE
THE DEFENDANT WAS TEACHING, AND
DURING SCHOOL HOURS AND DID NOT
OCCUR DURING ANY SCHOOL ACTIVITY
OR EXTRACURRICULAR ACTIVITY, DID
NOT OCCUR ON SCHOOL CAMPUS, THIS
IS NOT MISCONDUCT IN OFFICE AS
THAT TERM WOULD BE CONSTRUED.

>> THERE IS THE NEXUS
REQUIREMENT.

>> AND THE STATE AGREES THERE IS
THE NEXUS BUT IS THERE A
CONCRETE NEXUS?
PROBABLE NEXUS?

>> THE FACT THAT THE DEVELOPED A
RELATIONSHIP WITH HIS CHILDREN,
TEACHERS STUDENT RELATIONSHIP
DURING SCHOOL HOURS?

IS THAT A SUFFICIENT NEXUS?

>> OPPOSITION IS IF THE TEACHER
DOES NOT HAVE A DUTY, THE
AUTHORITY AND THE DUTY TO ACT AS
A TEACHER WHEN THE OFFENSES

OCCUR AT THE NEXUS DOESN'T EXIST.

>> I UNDERSTAND IF HE WAS A TEACHER IN ONE SCHOOL AND IS ACCUSED OF HAVING DONE THESE ACTS TO CHILDREN IN ANOTHER SCHOOL THAT HE NEVER MET BEFORE IN THE COURSE OF HIS EMPLOYMENT. I CAN SEE THERE BEING NO NEXUS BUT THERE SEEMS TO BE A NEXUS AND THAT HE DEVELOPED A RELATIONSHIP, TEACHER/STUDENT RELATIONSHIP IN HIS CLASSROOM WITH THESE PARTICULAR STUDENTS.

>> I ASK THE COURT TO CONSTRUE THE PROVISION IN LIGHT OF ALLBURG AND THE COURT'S APPLICATION OF THE CUSTODIAL AUTHORITY ELEMENTS AND THE FACTS ARE FAIRLY SIMILAR.

THERE ARE SOME DISTINCTIONS BUT IF THERE IS NO CUSTODIAL AUTHORITY, NO DUTY, OF CARE FROM THE TEACHER'S RESPONSIBILITIES DURING ACTIVE TEACHING, THERE WOULD NOT BE MISCONDUCT IN OFFICE AS WELL.

>> I GIVE TWO MINUTES FOR REBUTTAL.

WE USE THE MOST OF YOUR TIME OURSELVES.

>> MAY IT PLEASE THE COURT. THE TERMS PUBLIC EMPLOYEE AND PUBLIC OFFICER WORKED SPECIFICALLY ADDED AND THE DEFENDANT'S INTERPRETATION OF THOSE WORDS RENDITIONS THEM MEANINGLESS.

>> LET ME ASK ABOUT THE NEXUS HERE.

WHEN WE HAVE THESE WORDS IN OFFICE AND IF WE ARE WILLING TO GET OVER THE ARGUMENT ON THE OTHER SIDE THAT THE DEFENDANT HERE IS NOT -- IN OFFICE, IS NOT COVERED BY THIS ON THE FIRST POINT, OF WHAT EXACTLY IS THE NEXUS FOR EACH OF THESE COUNTS? ISN'T IT THE CASE THEN NOTHING HAPPENS IN THAT SCHOOL?

>> CORRECT.

>> WHAT KIND OF NEXUS IS THERE THAT WE CAN SAY THAT THE MISCONDUCT WAS IN OFFICE?

>> THE OVERARCHING CONDUCT FOR ALL THREE OF THE VICTIMS IN THIS CASE IS THEY ALL COMPLY WITH THE DEFENDANT'S COMMANDS BASED ON HIS AUTHORITY AS THEIR TEACHER.

>> LET ME ASK YOU THIS FACTUAL THE.

WAS HE THERE TEACHER AT THE TIME THESE ACTS OCCURRED.

>> YES.

>> IN ONE INSTANCE IT WAS ACTUALLY BEARING A SCHOOL FIELD TRIP IN THE DEFENDANT'S HOTEL ROOM.

SO DURING THAT ONE COUNT IT IS CONNECTED TO THE DUTIES OF HIS JOB AND AUTHORITY AND TRUST THAT HE WAS GIVEN BY THE PEOPLE THAT HE USED TO FACILITATE HIS CRIMES?

>> WITH RESPECT, ONE IS ON A FIELD TRIP, WITH RESPECT TO THE OTHER TWO IS THERE ANY INDICATION IN THE RECORD THAT HE A RANGE TO MEET THEM OUTSIDE OF SCHOOL FOR THE PURPOSE OF PERFORMING THESE CRIMINAL ACTS?

>> ABSOLUTELY.

ALL THREE OF THE VICTIMS WE ARE LOOKING AT WERE SOLICITED BY THE DEFENDANT DURING SCHOOL HOURS. IN ONE SPECIFIC CASE HE TOOK THE VICTIM OUT OF SCHOOL DURING SEVENTH PERIOD CLASS DURING SCHOOL HOURS, DURING HIS WORKING HOURS OF THE DAY, TOOK HIM DIRECTLY TO HIS PRIVATE SAUNA WHERE HE COMMITTED SEXUAL ACTS ON THE CHILD.

THIS IS DURING SCHOOL HOURS. THESE ARE CHILDREN THAT ARE ACCESSIBLE TO HIM DURING HIS EMPLOYMENT, DURING HIS POSITION OF AUTHORITY AND TRUST.

>> LET ME ASK YOU THIS.

IF YOU HAVE SOMEONE WHO IS NOT A

TEACHER BUT IS THE PUBLIC OFFICER OR PUBLIC EMPLOYEE AND THE SAME KIND OF SEXUAL ABUSE TOOK PLACE OUTSIDE OF WHATEVER OFFICE THAT PERSON IS IN WITH THE STATUTE APPLIES?

>> IT DEPENDS.

IF THEY USE THEIR POSITION OF AUTHORITY AND TRUST --

>> NO AUTHORITY OVER THE CHILD'S, YOU ARE NOT A TEACHER, NO POSITION TO INFLUENCE THIS CHILD, YOU JUST FOR WHATEVER REASON MEET A CHILD AND SEXUALLY ABUSED THAT CHILD, BUT YOU ARE A PUBLIC OFFICER, DOES THE STATUTES APPLY IN THAT CIRCUMSTANCE?

>> NO.

THAT IS NOT MISCONDUCT IN OFFICE.

>> SO IT ISN'T THE FACT OF HOLDING THE OFFICE THAT MAKES THE PERSON FIT UNDER THE STATUTES.

IT IS CONNECTING THE OFFICE TO WHAT THE PERSON DID.

>> ABSOLUTELY.

HOLDING OFFICE.

HOLDING A PUBLIC OFFICE, THE STATE WOULD ARGUE IS DIFFERENT THAN JUST COMMITTING MISCONDUCT IN OFFICE.

THE LEGISLATURE SPECIFICALLY TOOK OUT THIS IMPORTANT PHRASE. THE OLD STATUTE ONLY APPLIED WHEN IT WAS CONNECTED WITH THE DISCHARGE OF THE DUTIES OF THE OFFICE AND PETITIONERS ESSENTIALLY ASKING THIS COURT TO GO BACK TO THE OLD VERSION, APPLIED THE OLD CASES THAT EXAMINED THE OLD VERSION THAT HAD NOTHING TO DO WITH THE NEW TERMS THAT WERE ADDED. THE SUBSTANTIAL TERMS.

THIS IS AN EXTREME REWRITING OF THE WHOLE STATUTE AND IF YOU LOOK TO THE PHRASE MISCONDUCT IN OFFICE, IF YOU ISOLATE IT FROM

THE OTHER WORDS YOU MIGHT FIND YOURSELF LOOKING AT AMBIGUOUS TERMS.

>> OBVIOUSLY WE MAY SEE THIS -- WE SEE IT DIFFERENTLY EVEN AMONG MY COLLEAGUES WHEN WE SEE IT DIFFERENTLY.

IT WOULD HAVE BEEN SO EASY TO SAY IF THEY WERE GOING TO EXTEND IT TO EVERY PUBLIC EMPLOYEE WHO DOES SOMETHING WRONG WHILE EMPLOYED, COMMITS A CRIME, OF MISCONDUCT IN OFFICE OR EMPLOYMENT I GUESS I NEVER THOUGHT OF OFFICE, AGAIN, SOMEBODY WHO DOES MAINTENANCE HERE, THAT THEY ARE EMPLOYED, A PUBLIC EMPLOYEE, BUT THEY DO SOMETHING IN THE COURSE OF THEIR EMPLOYMENT.

WHERE IS IT THAT -- WHY DO WE GO AHEAD WITH THE OPERATIVE WORD AND EXPAND THAT TO INCLUDE A WORD THAT IS NOT THERE IF THERE IS AMBIGUITY?

WHY DON'T WE CONSTRUE IT IN THE LIGHT MOST FAVORABLE TO THE DEFENDANT'S GIVEN THAT WHAT MR. MORLEY GIFFORD SAID MAKE SENSE THAT THERE ARE REASONS TO EXTEND THE STATUTE OF LIMITATIONS, THEY ARE NOT TIED TO NO LONGER A TEACHER BUT WHEN SOMEBODY -- IS NO LONGER MINOR, SO IT HAS BEEN EXTENDED.

IT IS TWOFOLD.

ONE IS DO WE -- HOW BROADLY ARE WE SUPPOSED TO BE READING MISCONDUCT IN OFFICE AND HOW DO WE SEE THE PURPOSES OF THIS EXTENDED NOT JUST TO THIS CASE PUTT TO THE THOUSANDS OF EMPLOYEES IN THE STATE WHO WOULD BE SUBJECT TO A DIFFERENT STATUTE OF LIMITATIONS THAN ANYBODY IN A SIMILAR SITUATION IN THE PRIVATE WORLD?

>> I WOULD FIRST POINT TO THE OPINION OF BRUTALLY 1958 CONSTRUING THE OLD STATUTE.

THERE WERE PERCEIVED INEQUITIES
WHY THEY WERE APPLYING THE
STATUTE OF LIMITATIONS EXTENSION
BACK THEN.

THIS COURT STATED THAT THOSE
EQUITIES ARE LEFT FOR THE
LEGISLATURE TO DECIDE.

>> WHAT DID BRUNO INVOLVE?

>> AN EXAMINATION OF THE OLD
STATUTE.

>> WHAT WAS THE CRIME?

>> THEY DEALT WITH PUBLIC
OFFICIALS, ELECTED OFFICIALS
COMMITTING MISCONDUCT THAT WAS
RELATED THE DISCHARGE, DUTIES OF
THE OFFICE.

BASED ON THE OLD STATUTORY
LANGUAGE.

>> THERE COULD BE INEQUITY BUT I
SEE THAT AS COMPLETELY
INAPPROPRIATE USE OF THE STATUTE
OF LIMITATIONS BECAUSE THE
PEOPLE WHO HAVE THE PURSE IN ANY
PART TOGETHER PLACE KNOW HOW TO
HIDE THEIR CRIMES.

IT MAKES SENSE TO ME THAT THOSE
THAT ARE IN POSITIONS HOLDING
PUBLIC OFFICE AND THE EMPLOYEES
WORKING FOR THEM ARE SUBJECT TO
THIS.

>> THAT WAS THE TRADITIONAL
REASON FOR ELECTED PUBLIC
OFFICIALS TO CONCEAL THEIR
CRIMES BUT IF YOU THINK ABOUT
VICTIMS THAT ARE AFRAID TO COME
FORWARD BECAUSE THAT PERSON,
THAT TEACHERS STILL IN A
POSITION OF AUTHORITY, IT MAKES
SENSE THAT YOU WOULD APPLY,
EXTEND THE STATUTE TO THOSE
PEOPLE BECAUSE THESE CRIMES MAY
NOT COME TO LIGHT UNTIL AFTER
OFFICE.

>> WHY DIDN'T THE LEGISLATURE
BANNED THOSE CRIMES?

THE LEGISLATURE JUST ABOUT EVERY
SESSION HAS CRIMES AGAINST
CHILDREN.

WHY NOT MAKE A PARTICULAR
EXCEPTION KNOWING THAT IS WHAT

HAPPENS, CHILDREN ARE AFRAID TO
STEP FORWARD.

TAKES YEARS TO COME FORWARD.
DEALING WITH CHILDREN DEALING
WITH THIS CATCH ALL HERE.

>> THIS COULD APPLY IN A NUMBER
OF DIFFERENT TYPES OF
MISCONDUCT.

AND PUBLIC EMPLOYEES.

>> IF WE ACCEPT THAT IT COVERS
THE TEACHER AND COVERS THE
JANITOR.

IF THE JANITOR COMMIT SOME
CRIMINAL ACTS DURING THE COURSE
OF HIS EMPLOYMENT, AND NO
PROSECUTION TAKES PLACE, OF 2
TWO YEARS AFTER ENDING HIS
POSITION IS PROSECUTED FROM THE
CRIME.

AND ANY KIND OF CRIME.

>> ANY KIND OF CRIME BASED ON
MISCONDUCT RELATED TO HIS
CHALLENGE AND THE POSITION TO
FACILITATE THE CRIME.

>> IT IS NARROW WERE SO WOULDN'T
BE UP PUNCHING, KEEP TALKING --

>> PUNCHING A FELLOW EMPLOYEE.

>> DON'T SEE HOW THAT IS USING A
POSITION TO HIT THE CRIME.

IT IS PRETTY PERSONAL.

>> DEPENDS ON THE FACTS OF THE
CASE.

>> THE IDEA OF BEING THAT
DEPENDENT CONCERNS ME BECAUSE WE
ARE REALLY SAYING, EMPLOYEES ARE
HERE FOR 30 YEARS, UNUSUAL OR
THE STATE GOVERNMENT OTHERWISE
DOING THEIR JOBS.

IT IS REALLY BROAD.

THE IDEA, AGAIN, THAT PEOPLE
DIE, WITNESSES DAY.

WE DON'T HAVE DUE PROCESS ISSUE
HERE BUT IN TERMS OF HOW BROAD
IT SHOULD BE, MAKING SURE IT IS
CONSTRUED CONSTITUTIONALLY.

>> JUMPING TO THE RULE, LOOK AT
A DEFINED TERMS, GOING OUTSIDE
THE STATUTE, IS PLAYING ON ITS
FACE BUT IF YOU GO OUTSIDE AND
LOOK AT OTHER DEFINITIONS THERE

IS NO REASON TO APPLY THE RULE
BECAUSE THERE ARE OTHER
DEFINITIONS THE CLARIFY EVEN
MORE CLEAR EXACTLY WHAT THE
LEGISLATURE INTENDED.

IF I COULD DIRECT YOUR HONORS,
PETITIONER DIRECTED YOU TO THE
EDUCATION CODE.

PETITIONER HAS POINTED TO THE
EDUCATION CODE TO SAY
PUBLIC-SCHOOL TEACHERS ARE
DEFINED AS INSTRUCTIONAL STAFF
SO THEY ARE NOT REALLY PUBLIC
EMPLOYEES BUT IF YOU LOOK AT TWO
SECTIONS PAST THAT, IN THE
EDUCATION CODE THE LEGISLATURE
APPLIES THE TERM MISCONDUCT IN
OFFICE TO INSTRUCTIONAL
PERSONNEL.

THEY OF WHY IT FOR WHEN THERE IS
MISCONDUCT THAT COULD TERMINATE
THEIR CONTRACT OR BE SUSPENDED
SO THEY APPLY THAT PHRASE
MISCONDUCT IN OFFICE TO PUBLIC
SCHOOL TEACHERS.

>> LET ME ASK YOU THIS,
HYPOTHETICALS, ASSUMING THAT A
LEGISLATOR OR A JUSTICE IN THE
SUPREME COURT GOES ACROSS THE
STREET OVER HERE AFTER HOURS AND
HAS A COUPLE DRINKS AND GETS
INTO A FIST FIGHT, PUNCHES
SOMEBODY OUT.

WITH THAT TYPE OF CRIME BE
COVERAGE ON THE STATUTE?
I DON'T SEE IT AS BEING
JOB-RELATED BUT AS A PUBLIC
OFFICIAL.

>> IF I WAS HAVING A DRINK, I
DECKED HIM.

AM I -- DOESN'T APPLY TO ME?
DO I GET THIS?

>> YOU WOULD HAVE VIOLATION OF
OTHER RULES OF ETHICS.

>> IF THE SAME BAR, I AM HAVING
DRINKS WITH SOMEONE ELSE AND I
AM CONSPIRING WITH HIM OR HER TO
ACCEPT MONEY IN EXCHANGE FOR
LEGISLATION, DEFINITELY?

>> ABSOLUTELY.

THAT IS OUTSIDE THE GEOGRAPHICAL
CONFINE OF YOUR OFFICE BUILDING
AND THAT IS AFTER HOURS, IN
PUBLIC OFFICE.

THAT WOULD APPLY TO YOU.

TO SAY --

>> I WANT TO MAKE SURE WE ARE
CLEAR TO THE SCOPE OF THIS.
THE SECRETARY FOR EXAMPLE TAKES
AN iPad AND NO ONE FINDS OUT
UNTIL THEY LEFT THEIR JOBS AS
THE SECRETARY, THIS STATUTE
WOULD BE APPLICABLE AND YOU
COULD CHARGE THAT SECRETARY WITH
THEFT OF THE iPad.

>> THAT iPad IS SITTING ON YOUR
DESK, THEY USE THEIR POSITION TO
STEAL THE iPad, THAT WOULD BE
REASONABLY RELATED, THEIR OFFICE
-- THEY WORK FOR A HIGHER
AGENCY.

>> THIS OFFICE THING, EMPLOYMENT
IS CLEAR, PUBLIC OFFICE IS
CLEAR.

KEEPS TALKING ABOUT -- BY PUBLIC
OFFICER OR EMPLOYEE WHEN THE
DEFENDANT IS IN PUBLIC OFFICE, I
DON'T GET THE OFFICE PART.

>> A JANITOR WOULD BE IN OFFICE.
IF YOU LOOK AT IT IN ISOLATION.
IF I DIDN'T APPLY IT TO
DIFFERENT CATEGORIES, IF YOU
DON'T READ THE STATUTE AS A
WHOLE, I WOULD THINK OF PEOPLE
WHO RUN FOR OFFICE.

>> IN COMPASSES EVERYBODY.
EVERYBODY IS EMPLOYED BY THE
PUBLIC.

>> YES.

THERE ARE DIFFERENT --

>> IT IS KIND OF BROAD.
THAT IS WHAT THEY INTEND, THEY
MAKE EXTREME CHANGES.
AND IT APPLIES TO THE WORD
OFFICIALS.

>> ACTING UNDER THE CITY
MANAGER, WOULD BE AN EMPLOYEE
AND WOULD BE MISCONDUCT IN
OFFICE.

THE IDEA THAT ANYBODY WHO WORKS

FOR IN THAT BUILDING AGAIN
EVERYBODY REALLY IS SUBJECT, DID
THE LEGISLATURE WHEN THEY MADE
THOSE TWO CHANGES AND DIDN'T
MAKE THE CHANGE TO MISCONDUCT IN
OFFICE INTENT THAT BREATH?
MY VIEW -- IS THERE ANY
INDICATIONS THAT THEY WANTED TO
PUT INTO THE NET EVERYBODY WHO
WORKS FOR THE STATE OF FLORIDA
AND FOR EVERY MUNICIPALITY?
AND EVERY MUNICIPALITY AND EVERY
COUNTY.

ARE WE TALKING HUNDREDS OF
THOUSANDS?
MILLION?

>> EVERY TIME YOU GO TO A
CONGRESSIONAL HEARING YOU WILL
HEAR ABOUT ACCOUNTABILITY, THE
PEOPLES WANT, THE PEOPLE THEY
ELECT AND TAXPAYERS PAY FOR THEY
WANT TO MAKE SURE THEY ARE
ACCOUNTABLE.

THIS STATUTE EXPANDS
ACCOUNTABILITY FOR PEOPLE THAT
ARE WORKING IN PUBLIC
EMPLOYMENT.

THAT IS WHAT THE LEGISLATURE WAS
AIMED AT DOING.

I DON'T HAVE THE CONGRESSIONAL
RECORD FOR THIS EXACT STATUTES
THAT IT SEEMS CLEAR THE WAY THEY
DID IT THAT WAY.

GOING BACK TO THE REASONS, IN
THEIR DISSENTS PART OF THE
REASON THEY FOUNDED AMBIGUOUS IS
THEY DON'T SEE A VALID REASON TO
DIFFERENTIATE BETWEEN PUBLIC AND
PRIVATE EMPLOYEES.

THAT SHOULD BE LEFT FOR THE
LEGISLATURE TO DECIDE BUT THERE
ARE VALID REASONS.

PUBLIC EMPLOYEES UNLIKE PRIVATE
EMPLOYEES WHEN THEY VICTIMIZE
AND INDIVIDUALS THEY ARE
VICTIMIZING THE PUBLIC.

>> THE VALIDITY OF WHATEVER
REASONS THE LEGISLATURE HAVE
MIGHT HAVE OR NOT AN ISSUE.
THE DEFENDANT HAS NOT MADE A

CHALLENGE BASED ON DUE PROCESS
OR ANY CONSTITUTIONAL RIGHT.
HE HAS NOT MADE THAT ARGUMENT.
>> ON WOULD SAY THE MORE
IMPORTANT INCORRECT PARTS OF AS
-- THEY LOOK AT THE TERM IN
ISOLATION AND JUMP IMMEDIATELY
TO THE RULE, YOU HAVE TO LOOK AT
THE OTHER WORDS, SPECIFIC WORDS
IN PUBLIC EMPLOYEE AND PUBLIC
EMPLOYMENT THAT WERE ADDED AT
LOOK AT THE WORDS THAT WERE
TAKEN OUT.
IS NO LONGER CONFINED TO PUBLIC
OFFICIALS.
IT NO LONGER ONLY APPLIES TO
THEIR TERMS OF OFFICE.
THAT WOULD INDICATE NET TERM OF
OFFICE, AN ELECTED OFFICIAL,
SOMEONE IN PUBLIC OFFICE.
THAT HAS BEEN TAKEN OUT AND THEY
CHANGED IT WITH A MORE BROAD
TERM IN OFFICE.
THE STATE'S POSITION IS ANYTHING
CONNECTED WITH THE OFFICE IS
APPLICABLE TO ALL PUBLIC
EMPLOYEES AND THE FACTS OF THIS
CASE, YOUR HONOR, YOU WERE
ASKING WHY COULDN'T WE USE OTHER
STATUTORY EXTENSIONS?
>> I AM -- IT IS HARD NOT TO
FIND THE REASON.
IT GIVES ME SOLACE TO KNOW THERE
ARE OTHER STATUTES AND MADE SURE
FOR SOME OF THE CRIMES HE IS
GOING TO BE AN ALLEGATION NOW.
HE PLEDGED 20 YEARS.
>> THERE WERE A NUMBER OF
CRIMES.
>> WE ARE LOOKING AT MAKING SURE
EVERYTHING IS FINE.
WHAT MR. GIFFORD SAID IS MANY
STATUTES DELIVER CHILD ABUSE
THAT EXTEND THE STATUTE AND
SEEMS LIKE A CLEANER WAY,
TEACHERS WHO USE THEIR AUTHORITY
TO NOT WORRY WHETHER THEY ARE
PUBLIC EMPLOYEES OR PUBLIC
OFFICERS WHO BASICALLY SAY THEIR
ABUSE FOR LEAVING BEING A

TEACHER.

OR ANY TEACHER PUBLIC SCHOOL OR PRIVATE SCHOOL TEACHERS.

THEY HAVE DONE IT IN OTHER WAYS. WHAT OTHER EXTENSIONS?

>> THERE ARE OTHER WAYS THAT MAKE SENSE TO EXTEND THE STATUTE OF LIMITATIONS.

>> I WANT TO MAKE CLEAR WHAT THE LIMITATION IS ON THIS STATUTE, ANYONE WHO WORKS IN A PUBLIC POSITION IS ONLY LIMITED BY THE FACT THAT THE CRIME HAS TO RELATE TO THEIR OFFICE.

>> TRUSTED AUTHORITY IN THE OFFICE.

WHEN YOU READ THE STATUTE AS A WHOLE, WHEN YOU GIVE EFFECT TO ALL THE WORDS THAT WERE ADDED IN PUBLIC EMPLOYMENT.

THEY WOULD NOT HAVE DIFFERENTIATED BETWEEN THESE GROUPS FOR NO REASON.

THEY WOULD NOT HAVE SAID PUBLIC OFFICERS IN PUBLIC OFFICE AND PUBLIC EMPLOYEES AND PUBLIC EMPLOYMENT AND APPLY THE TERM MISCONDUCTED BOTH OF THOSE GROUPS.

NO REASON THEY WOULD DO THAT UNLESS THEY MEANT WHAT THEY SAID THAT THE STATUTE MEANS WHAT IT SAYS AND IT IS FOR THESE REASONS WE ASK THIS COURT TO ANSWER THE CERTIFIED QUESTION IN THE AFFIRMATIVE THAT THE STATUTE OF LIMITATIONS IS BASED ON THE CONDUCT IN OFFICE BY PUBLIC EMPLOYEE AT ANY TIME PUBLIC EMPLOYMENT APPLIES TO PUBLIC SCHOOL TEACHERS.

THANK YOU.

>> REBUTTAL?

>> COULD I ASK YOU TO SAY IF YOU DISAGREE WITH ANYTHING THE STATES THAT ABOUT THE NEXUS BETWEEN THE EMPLOYMENT AND THESE -- FACTUAL CIRCUMSTANCES THAT THEY ASSERT ESTABLISH A NEXUS WITH RESPECT TO PARTICULAR

ACCOUNTS AT ISSUE HERE.
IS THERE ANYTHING FACTUALLY THAT
IS NOT SUPPORTED?

>> IF WE ASSUME THAT APPLIES TO
PUBLIC SCHOOL TEACHERS I
DISAGREE.

THE NEXUS WOULD HAVE TO BE, THE
CRIME WOULD BE COMMITTED ON THE
SCHOOL CAMPUS.

>> ANYTHING INACCURATE ABOUT
WHAT THEY SAID ABOUT THE FACT
THEY BELIEVE ESTABLISH THE
NEXUS?

>> THERE WAS SOMETHING IN ONE OF
THE DEPOSITIONS ABOUT A SCHOOL
FIELD TRIP.

IS UNCLEAR WHETHER ANY OF THE
COUNTS CORRESPOND TO THE SCHOOL
FIELD TRIP THAT IS IN THE
DEPOSITION BECAUSE OF THE
POSTURE OF THE CASE WE CAN'T
TELL WHETHER ANY OF THE COUNCIL
APPLY TO THAT.

IF ANY DO IT WOULD BE THE
OBSCENITY COUNT, SHOWING OBSCENE
PICTURES.

>> DO YOU DISPUTE THAT THE
VICTIMS OF THESE CRIMES WERE THE
STUDENT OR A STUDENT OF THE
DEFENDANT WHEN THE CRIMES
OCCURRED?

>> I DON'T DISPUTE THAT AT ALL.
ALSO HE SAID AS TO FOR -- FOUR
OF THE COUNTS, MR. CREWS TOOK
THE STUDENT OUT OF THE PLANNING
PROJECT, THAT IS CORRECT, THAT
WAS WITH THE STUDENT'S MOTHER'S
PERMISSION AS I RECALL FROM
THEIR RECORDS.

IF THERE IS CUSTODIAL AUTHORITY
IT WOULD BE THROUGH THE MOTHER.
THAT CORRESPONDS TO COUNT 1.
THE TERM DURING TERMS OF OFFICE
WAS REMOVED.

PUBLIC EMPLOYEE IS NOT DEFINED
IN THE CRIMINAL CODE.

>> THAT IS YOUR WEAKEST
ARGUMENT.

>> IT IS.

THAT IS WHY I DIDN'T LEAD WITH

IT.

>> SAVVY MOVE.

>> THERE IS AMBIGUITY AND THE
AMBIGUITY WOULD BE RESOLVED IN
THE FAVOR OF THE DEFENDANT.
AND CONNECTED WITH THE DUTIES OF
OFFICE.

THEY ARE MOVING AWAY FROM THE
CONSTRUCTION OF THAT.

COURT IS IN RECESS FOR TEN
MINUTES.