

>> ALL RISE, HERE YOU HEAR YOU
HEAR YOU, SUPREME COURT OF
FLORIDA IS NOW IN SESSION.
GOD SAVE THE UNITED STATES,
GREAT STATE OF FLORIDA AND THIS
HONORABLE COURT.

LADIES AND GENTLEMEN, SUPREME
COURT OF FLORIDA PLEASE BE
SEATED.

>> GOOD MORNING AND WELCOME TO
THE FLORIDA SUPREME COURT.
FIRST CASE ON THE DOCKET IS THE
DEPARTMENT OF STATE VERSUS
FLORIDA GREYHOUND ASSOCIATION.
COUNCIL?

>> GOOD MORNING MISTER CHIEF
JUSTICE.

MY NAME IS JORDAN PRATT, DEPUTY
SOLICITOR GENERAL APPEARING ON
BEHALF OF THE PETITIONER'S IN
THIS MATTER.

AFTER MORE THAN A YEAR OF
DELIBERATIONS THE CONSTITUTIONAL
REVISION COMMISSION WHICH
CONVENES ONCE EVERY TWO DECADES
PURSUANT TO THE FLORIDA
CONSTITUTION PROPOSED AMENDMENT
13 WHICH WOULD PHASE OUT
COMMERCIAL DOG RACING IN
CONNECTION WITH WAGERING AND
LEAVE OTHER GAMING ACTIVITIES BY
2020.

ACCOMPANYING THE PROPOSAL THE
COMMISSION APPROVED BALLOT
TITLE.

THIS CHALLENGE TO THE BALLOT
LANGUAGE THIS COURT ASKS TWO AND
ONLY TWO QUESTIONS.

THE FIRST IS WHETHER THE BALLOT
TITLE AND SUMMARY DISCLOSED THE
CHIEF LEGAL EFFECT OF THE
PROPOSED AMENDMENT.

THE SECOND QUESTION THIS COURT
ASKS IS WHETHER THE BALLOT TITLE
AND SUMMARY ARE TRUTHFUL OR
MISLEADING.

BECAUSE THE BALLOT LANGUAGE FOR
AMENDMENT 13 FULFILLS BOTH THESE
REQUIREMENTS THIS COURT SHOULD
ALLOW THE VOTERS THE OPPORTUNITY

TO WEIGH ITS MERIT AND CAST THEIR VOTE AND PROJECT RESPONDENTS IMPROPER ATTEMPT TO INTERFERE IN THE AMENDMENT PROCESS.

REGARDING THE FIRST REQUIREMENT THE COURT HAS MADE PLAIN THAT BALLOT LANGUAGE MUST DISCLOSE THE CHIEF PURPOSE OF THE MEASURE WHICH IT IS ALSO MADE CLEAR CONSISTS ONLY OF ITS LEGAL EFFECT AND NOT THE POLICY MOTIVATIONS THAT MAY HAVE PROMPTED THE PROPOSAL.

AMENDMENT 13 IS A SIMPLE PROPOSAL AND IT LEGAL EFFECT IS SIMPLE.

WHAT IT WOULD DO HIS PHASEOUT COMMERCIAL DOG RACING IN CONNECTION WITH WAGERING, END RACING OF GREYHOUNDS AND OTHER DOGS BY PARAMUTUAL PERMIT HOLDERS.

IT WOULD OTHERWISE LEAVE GAMING ACTIVITIES UNAFFECTED AND THAT IS WHAT THE BALLOT TITLE AND SUMMARY TELL THE VOTERS THE AMENDMENT WOULD DO.

>> THE TITLE SAYS ENDS DOG RACING.

>> CORRECT.

THIS IS VERY CLEAR, VOTERS ARE PRESUMED TO READ THE BALLOT TITLE AND SUMMARY THEY HAVE WHEN THEY GO TO THE BALLOT BOX.

THE TITLE AND SUMMARY SERVE DIFFERENT FUNCTIONS, IT IS A CAPTION AND THE SUMMARY IS A STATEMENT OF THE PURPOSE OF THE MEASURE OF CHIEF LEGAL EFFECT TO BE MORE PRECISE SO THIS COURT IS NOT TASKED WITH FOCUSING SEPARATELY ON THE BALLOT TITLE IN THE BALLOT SUMMARY BUT PUTS BOTH TOGETHER.

>> THE IDEA SO I UNDERSTAND, IF THIS PASSES, THERE WILL BE NO MORE COMMERCIAL DOG RACING FOR WAGERING AND ALL THE DOG TRACKS THAT EXIST CAN STILL KEEP THEIR

OTHER GAMING ACTIVITIES SUCH AS THE SLOT MACHINES AND OFF THE TRACK BETTING?

>> PRECISELY CORRECT.

>> DO THEY HAVE UNTIL 2020 TO FINISH THIS?

I NOTICED ARTICLE 12 ON THE SCHEDULE SAYS THEY WILL TAKE EFFECT ON APPROVAL OF THE ELECTORATE.

HOW DOES THIS WORK, DOES IT STOP DOG RACING FOR THE PASSAGE OF THIS AS OF 2020?

>> THE BAND TAKES EFFECT ON DECEMBER 31, 2020.

>> PERMIT HOLDERS MAY AFTER THE PASSAGE OF THIS AMENDMENT BEGIN ON JANUARY 1, 2019, CEASE DOG RACING.

>> THEY CONTINUE IF THEY WANT TO IN 2020.

>> DECEMBER 31, 2020, IS THE LAST DAY A LICENSED PARAMUTUAL FACILITY OPERATOR CAN OPERATE DOG RACING.

JANUARY 1, 2019, IS THE FIRST DATE ON WHICH THOSE PERMIT HOLDERS END DOG RACING.

THAT IS WHAT IS DESCRIBED AS A PHASEOUT AND AN ACCURATE REPRESENTATION.

IT TAKES EFFECT DECEMBER 31, 2020.

THE ARGUMENT WHY THEY CONTEND THE LANGUAGE IS AFFIRMATIVELY MISLEADING, IT DECLINES TO DISCLOSE TO VOTERS THAT RELATES TO DOG RACES THAT OCCUR IN THE STATE OF FLORIDA AND THAT IS TRUE THE BALLOT SUMMARY TITLE DO NOT SAY IT RELATES ONLY TO DOG RACES IN THE STATE OF FLORIDA BUT WE DEAL WITH THE PROPOSED AMENDMENT TO THE FLORIDA CONSTITUTION AND IT MAKES CLEAR VOTERS ARE PRESUMED TO HAVE A CERTAIN AMOUNT OF COMMON SENSE AND AT A MINIMUM WE SUBMIT THE VOTERS SHOULD BE PRESUMED TO UNDERSTAND THAT WHEN THEY VOTE

ON AN AMENDMENT PROPOSED TO THE FLORIDA CONSTITUTION THAT THEY DETERMINE WHAT THE LAW SHOULD BE IN FLORIDA, NOT OTHER STATES.

>> IS A THE IDEA THEY COULD STILL BET ON DOG RACING IN OTHER STATES?

>> RESPONDENTS RAISE A RELATED ARGUMENT WHICH IS THE PROPOSED AMENDMENT ENACTED BY VOTERS, THE STATE OF FLORIDA, CITIZENS WILL STILL BE ABLE TO CAST WAGERS ON OUT-OF-STATE RACES.

>> I DON'T KNOW WHERE IN THE RECORD, THE OVERWHELMING MAJORITY OF THE DOG RACETRACKS ARE IN FLORIDA.

>> IN THE COUNTRY THAT IS CORRECT, THAT IS WITHIN THE RECORD AND THERE'S CERTAINLY ASPECT OF THE COMMISSION'S DISCUSSIONS IN THE TRANSITS OF THE HEARING.

>> THE ARGUMENT THAT IT DIDN'T SAY IT IS GOING TO END DOG RACING EVERYWHERE.

IS THAT A ONE OF THE REASONS THE TRIAL JUDGE STRUCK THIS?

>> I DON'T UNDERSTAND THE TRIAL JUDGE'S ORDER.

THE TRIAL JUDGE FOCUSED ON THE SECOND BUT RELATED ARGUMENT WHICH IS THE WAGERING ON OUT-OF-STATE RACES.

THAT ATTACK ON THE BALLOT LANGUAGE FAILS FOR A RELATED REASON NOT ONLY DO VOTERS UNDERSTAND UNDER THIS AMENDMENT RACES AND OTHER STATES WILL BE UNAFFECTED BUT THEY ALSO ARE GOING TO READ WHAT THE LANGUAGE SAYS.

WHAT THE LANGUAGE SAYS IS THE PROPOSED AMENDMENT WOULD PHASE OUT COMMERCIAL DOG RACING CONNECTION WITH WAGERING, NOT THAT IT WOULD PHASE OUT WAGERING IN CONNECTION WITH COMMERCIAL DOG RACING.

WHAT THE RESPONDENTS ARGUMENT

HAS DONE IS TAKE THE INVERSE OF THE BALLOT LANGUAGE AND ASSUME THE VOTERS WILL UNDERSTAND THE BALLOT LANGUAGE TO BE THE INVERSE OF WHAT IT SAYS.

>> EVEN IF SOMEONE THINKS WRONGLY THAT IT WOULD AFFECT THE REST OF THE COUNTRY, THOSE THAT DISFAVOR DOG RACING AT ALL AS INHUMANE WOULD STILL VOTE FOR THIS.

IF THAT IS AN ARGUMENT --

>> AFFAIR POINT.

TO THE EXTENT RESPONDENTS ARGUE THE BALLOT TITLE IS MISLEADING, WHAT THEY ARE ARGUING IS THE AMENDMENT WOULD NOT REACH AS FAR AS VOTERS WOULD UNDERSTAND TO REACH BY READING THE BALLOT TITLE AND SUMMARY.

IT IS TRUE THAT A VOTER WHO FAVORS THIS PROPOSAL WOULD FAVORITES LEGAL EFFECT.

THAT LEGAL EFFECT IS DISCLOSED BY THE BALLOT LANGUAGE BUT EVEN IF THEY LEAKED IT WOULD ACCOMPLISH MORE, CERTAINLY A YES VOTE, THEIR VOTE WOULDN'T CHANGE.

WE ARE NOT RESTING ON THAT CONTENTION.

WE CONTEND THE BALLOT TITLE AND SUMMARY ARE MISLEADING.

THEY ARE NOT HYPERTECHNICAL, AND WHAT THE CHIEF LEGAL PURPOSE.

>> WITH REGARDS TO THE RACES REVERSING BALLOT LANGUAGE.

AND TO UNDERSTAND THE LANGUAGE IN THE ORDINARY MEETING.

EVEN IF THE COURT WERE TO FOCUS SOLELY ON THE TITLE THE TITLE IS NOT -- THE REASON FOR THAT IS THE PLAIN MEANING OF THE UNADORNED TERM DOG RACING ENTAILS WAGERING AND THEY LOOK TO DIFFERENT SOURCES.

AND LOTS OF EXAMPLES OF NEWS ARTICLES THAT APPLY THE UNMODIFIED, GAMBLING OR WAGERING ACTIVITY BUT THIS COURT DOESN'T

HAVE TO LOOK AT NEWSPAPER
ARTICLES.

THE AFFIDAVIT WAS FILED BY JAMES
BLANCHARD AND THE WEBSITE, WHICH
POST THOSE ARTICLES WHICH
DESCRIBE THE INDUSTRY AS THE DOG
RACING INDUSTRY THAT MAKE CLEAR
THEY ARE TALKING ABOUT WAGERING
ACTIVITIES.

MISTER BLANCHARD'S AFFIDAVIT
TALKS ABOUT GREYHOUND RACING.
DOESN'T SAY ANYTHING ABOUT
WAGERING, THAT IS A SYNONYMOUS
-- AND THE BALLOT TITLE, IT IS
NOT A FALSE STATEMENT.

THOSE ARE THE ARGUMENTS
RESPONDENTS RAISED WHY THE
BALLOT TITLE AND SUMMARY ARE
AFFIRMATIVE LEASING.

THE TRIAL COURT, THE BALLOT
TITLE AND SUMMARY ARE MISLEADING
BY MISSION, MISLEADING BECAUSE
THEY FAILED TO SAY WHAT THEY
NEED TO SAY.

THOSE ARGUMENTS ARE UNAVAILING
FOR SEVERAL REASONS.

THE FIRST ARGUMENT, TO DISCLOSE
THE INITIAL STATEMENT OF PURPOSE
IN THE PROPOSED AMENDMENT.

AND WORKING WITH THE STATE OF
FLORIDA, THIS COURT HAS BEEN
CLEAR FOR DECADES THAT WHAT A
PROPOSED AMENDMENT BALLOT
LANGUAGE NEEDS TO DO IS DISCLOSE
THE CHIEF LEGAL EFFECT, NOT THE
POLICY RELATION OF A PROPOSAL.
STATEMENT OF PURPOSE IS NOT
LEGALLY EFFECTIVE.

THE RESPONDENTS TRIED TO ARGUE
THAT UNDER THE CONTROLLING
STANDARD THE COURT SET FORTH IN
GRAY AGAINST, THE LAW OF THE
STATE FOR DECADES, THAT SOMEHOW
THIS STATEMENT OF PURPOSE WILL
HAVE AN IMPACT ON CERTAIN
ASPECTS OF THE INDUSTRY.

>> ONE COULD LOOK AT THE
CONSTITUTION AND ASSUMING THIS
AMENDMENT PASSED, LOOK AT THE
CONSTITUTION AND THEN SAY HUMANE

TREATMENT OF ANIMALS IS A
FUNDAMENTAL VALUE IN THE STATE
OF FLORIDA BUT WE ARE TREATING
SOME ANIMAL IN A CERTAIN WAY AND
IT IS A VIOLATION OF THE
CONSTITUTION.

WHY ISN'T THAT ARGUMENT MADE
ABOUT THIS LANGUAGE?

>> TO BE CLEAR THERE IS AN
OPERATIVE LEGAL EFFECT THAT
DEALS WITH ANIMAL WELFARE.

>> YOU CAN SEE PEOPLE MIGHT BE
INTERESTED IN GETTING RID OF
GREYHOUND RACING BUT MAY NOT BE
INTERESTED IN DECLARING THE
HUMANE TREATMENT OF ANIMALS IS A
FUNDAMENTAL VALUE.

>> THIS COURT HAS BEEN VERY
CLEAR, NEED ONLY AND DISCLOSE
THE LEGAL EFFECT OF MEASURE.
AND SEE WHAT HIS BREATH MIGHT
BE, THERE IS NO ARGUMENT ABOUT
THE BREADTH OF THE VALUE
STATEMENT, WHETHER IT HAS ANY
LEGAL EFFECT THIS COURT MADE
PLAIN, IN 1960.

IN ORDER TO BE LEGALLY
EFFECTIVE, THE CONSTITUTION HAS
TO PUT IN A MECHANISM BY WHICH
IT CAN BE ENFORCED.

THE STATEMENT THE ANIMAL
WELFARE, DOESN'T PROVIDE
JUDICIAL AND FORCIBLE -- IS ALL
AUTHORITY TO ENACT ANY MANNER OF
ANIMAL WELFARE POLICY.

NOT ADDING POWERFUL LEGISLATURE.
AS TO YOUR SECOND QUESTION, THE
CONSTITUTION REVISION COMMISSION
HAD AMPLE REASON TO CHOOSE THE
COURSE THAT IT DID.

THIS COURT HAS APPROVED BALLOT
LANGUAGE THAT DECLINED TO
ADDRESS A PREPARATORY STATEMENT
OF PURPOSE AND THAT IS MARINE
NET FISHING, THE BALLOT LANGUAGE
IN THAT CASE MADE NO MENTION OF
THE AMENDMENT'S TEXT, THE FIRST
STATEMENT OF THE AMENDMENT TEXT,
MARINE RESOURCES BELONG TO THE
PEOPLE AND SHOULD BE CONSERVED

AND MANAGE THE BENEFIT OF THE STATE IN FUTURE GENERATIONS IN THIS COURT APPROVED THE BALLOT LANGUAGE WHICH IT SAID --

>> THE TREATMENT OF PIGS DURING PREGNANCY.

SECTION 21 OF ARTICLE 10.

AND THE QUESTION IS WHETHER OR NOT WHETHER THEY MIGHT ELEVATE OTHER RIGHTS BECAUSE IT WAS IN THIS AMENDMENT.

SHOULD HAVE TO BE DISCLOSED IN THE BALLOT SUMMARY.

>> DISCLOSURE OF THESE TYPES OF STATEMENT OF PURPOSE WAS PERILOUS.

IN PARTICULAR LOOKING AT LAND-USE PLANS CASE IN WHICH THE COURT STRUCK BALLOT LANGUAGE.

ACCURATELY QUOTED AND PARAPHRASED A PREPARATORY STATEMENT OF PURPOSE REGARDING IMPORTANCE OF LOCAL PARTICIPATION AND PUBLIC PARTICIPATION IN LOCAL LAND-USE PLANNING AND WHAT THE COURT SAID WAS THE STATEMENT OF PURPOSE EVEN THOUGH IT APPEARED IN THE TEXT OF THE AMENDMENT ITSELF AT THAT WAS POLITICAL OR EDITORIAL LANGUAGE AND THIS COURT CITING EVANS AGAINST FIRESTONE WHICH IS THE CASE THE COURT MADE CLEAR THE CHIEF PURPOSE OF THE PROPOSED AMENDMENT CONSIST OF ITS LEGAL EFFECT, NOT POLICY. THIS COURT RELIED ON EVIDENCE TO STRIKE THAT BALLOT.

>> IT MIGHT BE THE REVERSE.

IF THEY PUT IN THE LANGUAGE THAT IS OF FUNDAMENTAL VALUE INHUMANE TREATMENT OF ANIMALS, IT WOULD APPEAL TO A BROADER GROUP OF PEOPLE WHO MAY NOT PARTICULARLY CARE ABOUT GREYHOUND RACING BUT CARE ABOUT VALUES.

I CAN SEE THE RIVERS ARGUMENT BEING MADE IF THAT HAD BEEN INCLUDED.

UNDERSTAND WHAT I AM SAYING?

>> I THINK I DO.

THIS COURT'S PRESIDENT MADE CLEAR THIS COURT IS CONCERNED WITH TWO THINGS IN THIS CONTEXT. NUMBER ONE, IT IS CONCERNED WITH DISCLOSING THE CHIEF LEGAL EFFECT OF THE MEASURE AND NUMBER 2, IT IS CONCERNED THAT VOTERS COULD BE PROMPTED TO VOTE BASED ON THE WHY RATHER THAN THE WHAT. THIS COURT MADE PLAIN IT DOESN'T ONE VOTERS TO CAST THEIR VOTE BASED ON WHY.

IT ONCE THEM TO FOCUS ON WHAT AND THE WHAT IS THE LEGAL EFFECT OF THE AMENDMENT.

THIS COURT HAS APPROVED BALLOT LANGUAGE THAT IS DISCLOSE PREPARATORY FOR THE STATEMENTS BUT ALSO DISAPPROVED AND I THINK ONE COULD FAIRLY SAY THE SAFEST COURSE WHEN CONFRONTED WITH AN AMENDMENT THAT CONTAINS PREPARATORY STATEMENT WITH NO INDEPENDENT LEGAL EFFECT IS TO ADMIT DISCLOSURE SO WE ARE NOT POLITICIZING THE AMENDMENT PROCESS BUT DISCLOSING TO THE VOTERS WITH THE LEGAL EFFECT IS SO THEY CAN VOTE BASED ON THAT.

>> YOU CAN KEEP GOING BUT YOU ARE INTO REBUTTAL TIME.

>> IF THE COURT HAS NO OTHER QUESTIONS I WILL RESERVE THE REMAINDER OF MY TIME.

>> MAY IT PLEASE THE COURT. WITH ME, STEVE EMANUEL, THANK YOU FOR THE OPPORTUNITY TO BE HERE.

THERE ARE THREE SEPARATE AND INDEPENDENT REASONS THE COURT SHOULD FIND THE BALLOT LANGUAGE, STRIKE THE BALLOT FROM THE NOVEMBER ELECTION.

FIRST THE BALLOT LANGUAGE IN AMENDMENT 13 DOES FAIL TO DISCLOSE THE CHIEF PURPOSE FOR THE HUMANE TREATMENT OF ANIMALS, AND ALSO TO DECOUPLE THE LICENSURE WHICH WAS AN ISSUE IN

THE STATE OF FLORIDA FOR YEARS
FROM SLOT MACHINES AND CARD
ROOMS TO DECOUPLE THE LICENSURE
FROM GREYHOUND RACING.

>> HOW DOES IT NOT IF IT IS A
THE GAMING ACTIVITIES ARE NOT
AFFECTED?

>> THIS COURT HAS SAID IF AN
AMENDMENT IMPACTS ANOTHER
AMENDMENT OF THE CONSTITUTION,
IT MUST BE NOTICED AND GIVEN
NOTICE TO THE PEOPLE.

ARTICLE 10 SECTION 23 WAS PASSED
AND ALLOWED GAMING AND DOG
RACING AND BROWARD COUNTY.

AND THE PEOPLE OF THOSE COUNTIES
AUTHORIZED IT TO TAKE PLACE.

THEY CONSTITUTIONALLY CONNECTED
THOSE EVENTS, DOG RACING AND
CASINOS.

AND WE ARE CONSTITUTIONALLY
DISCONNECTING THOSE.

IT NEEDS TO BE DISCLOSED IN THE
BALLOT TITLE.

>> JUSTICE PARIENTE'S QUESTION,
IF THERE IS NO MORE COMMERCIAL
DOG RACING AND OTHER GAMBLING
WILL CONTINUE AS AUTHORIZED, WHY
ISN'T THAT A CLEAR STATEMENT
THEY ARE BEING DECOUPLED?

>> IF IT IS A CLEAR STATEMENT TO
THAT EFFECT, YES, BUT STILL, THE
COURT SAID IF IT AFFECTS ANOTHER
SECTION OF THE CONSTITUTION, IT
NEEDS TO BE DISCLOSED.

>> IT IS NOT AFFECTING IT.

>> IT IS DISCONNECTING RACING
FROM CASINOS AND ESTABLISHING
FREESTANDING CASINOS IN THE
STATE OF FLORIDA WHICH REJECTED
THE BALLOT.

AND OVER THE COURSE OF THE YEAR.

>> YOU ARE SAYING THAT
PRESENTLY.

AND OPERATING IN CONNECTION WITH
GREYHOUND RACING.

AND BY GETTING RID OF THE
GREYHOUND RACING, WITHOUT VOTER
APPROVAL, HAVING FREESTANDING
CASINOS.

IT SHOULD BE DISCLOSED TO THE VOTING PUBLIC AND THE FREESTANDING CASINOS, THEY WERE FIRST PART OF GREYHOUND RACING FACILITIES.

>> THE SECOND REASON --

>> WHAT SECTION OF THE CONSTITUTION IS THAT?

>> ARTICLE 10 SECTION 23.

>> THE SECOND BALLOT LANGUAGE OF AMENDMENT 13 IS AFFIRMATIVELY MISLEADING BECAUSE IT FAILS TO ADVISE FLORIDA VOTERS THAT IT WOULD ENSHRINE THE STATE CONSTITUTION, BROAD FUNDAMENTAL DECLARATION AT THE HUMANE TREATMENT OF ANIMALS IS A FUNDAMENTAL VALUE FOR THE PEOPLE OF THE STATE OF FLORIDA.

>> WHAT LEGAL EFFECT WOULD THAT PREPARATORY STATEMENT HAVE? WOULDN'T IT BE UP TO THE COURT AND SUBSEQUENT CASE TO DECIDE IF THERE'S A LEGAL EFFECT OR NOT, AND YOU ARE SAYING IT MUST DO THAT?

I DON'T THINK IT DOES THAT. AND FOCUSING ON SOMETHING PEOPLE CARE ABOUT WHICH IS HUMANE TREATMENT OF ANIMALS LIKE, IT IS NOT SAYING, NOT GIVING AN INDEPENDENT RIGHT THAT IS UNASSOCIATED WITH THE GREYHOUND RACING.

EXPLAIN HOW THAT SHOULD HAVE BEEN, WHAT YOU ARE SAYING IS THAT MUST BE A CHIEF PURPOSE AND THEREFORE SHOULD HAVE SAID IT IS PHASING OUT COMMERCIAL DOG RACING UNDER GAMING ACTIVITIES, NOT AFFECTED AND ESTABLISHING THE INHUMANE TREATMENT OF ANIMALS AS A FUNDAMENTAL CONSTITUTIONAL RIGHT IN THE STATE OF FLORIDA.

EVEN THOUGH THE FULL TEXT DEALS WITH DOG RACING.

>> THE FUNDAMENTAL VALUE LANGUAGE DOES HAVE LEGAL EFFECT AND ALTHOUGH IT MAY NOT CONTAIN

DETAILED ENFORCEABLE STANDARDS,
IT IS AN EXPRESSION OF SOCIETY'S
CONSENSUS AND I CAN ASSURE YOU
AS HAS BEEN MENTIONED, CITED AS
AUTHORITY IN FUTURE CASES.

>> IF WE ARE A VOTER AND I CARE
ABOUT INHUMANE TREATMENT OF
ANIMALS.

I DON'T THINK THERE SHOULD BE
HORSE RACING.

PUTTING THAT IN WOULD HAVE MORE
PEOPLE VOTING FOR IT IT WOULD
SEEM TO ME.

I DON'T SEE HOW LEAVING IT OUT
IS MISLEADING.

UNDERSTAND WHAT I AM SAYING?

>> JUSTICE PARIENTE, THIS COURT
SAID THE FUNDAMENTAL VALUE
LANGUAGE IN THE EDUCATION OF --
AMENDMENT, WAS A CRITICAL
COMPONENT OF THE AMENDMENT.

>> IN BUSH VERSUS HOLMES, THAT
WAS A CONSTITUTIONAL REVISION
COMMISSION AMENDMENT THAT NEVER
CAME TO THIS COURT.

WOULD YOU AGREE WITH THAT?

IN BUSH VERSUS HOLMES, WAS
INTERPRETING THE CONSTITUTIONAL
AMENDMENT AND THAT AMENDMENT IT
LINKS THE FUNDAMENTAL VALUE TO
THE SECOND PART, A PRECEPT OF
THE STATE OF FLORIDA TO HAVE
GOOD EDUCATION FOR ALL.

IT LINKS THE TWO TO GATHER, A
PREPARATORY STATEMENT IS A
STATEMENT.

IT HELPS THE CASE.

>> IT WAS IN THE BALLOT SUMMARY
OF EDUCATION AMENDMENT.

IT WASN'T THE BALLOT TITLE OR
SUMMARY.

HERE IT IS THE FIRST LINE, IN
ADDITION TO THE COURT SAYING IT
WAS A CRITICAL COMPONENT OF THE
AMENDMENT, BY WHAT WAS PUT IN BY
THE CRC, TO MAKE SURE EDUCATION
WAS KNOWN TO THE PEOPLE AS A
FUNDAMENTAL VALUE.

IN ADDITION TO THAT --

>> THE TWO STATEMENTS HAD TO DO

WITH EDUCATION, NOT A MORE SPECIFIC STATEMENT WHICH HAS TO DO WITH DOG RACING.

>> KNOW.

>> ISN'T IT TRUE IN THE CONSTITUTIONAL AMENDMENT RELATED TO PUBLIC EDUCATION EVER TALKS ABOUT FUNDAMENTAL VALUE, GOES ON TO SAY MORE SPECIFICALLY IT IS A PARAMOUNT DUTY OF THE STATE TO MAKE ADEQUATE REVISIONS AND THE ARGUMENT THAT AMENDMENT HAS FOCUSED ON WHAT THAT MEANS. AND THE FUNDAMENTAL VALUE. THAT IS THE WINDOW DRESSING BEYOND THAT.

>> LET ME REFER TO THE CASE THAT HAS BEEN MENTIONED ABOUT LOCAL COMPREHENSIVE PLAN, ADDRESSING THE INHUMANE TREATMENT. AND IT WAS THE CHIEF PURPOSE OF THEIR AMENDMENT.

>> AND THE TREATMENT OF ANIMALS HE MAINLY IS ALREADY IN THE CONSTITUTION.

IF YOU SAY THAT HAS A LEGAL EFFECT.

>> THEY ARE INCORPORATING THAT. AND THE SUMMARY, THAT WAS ON THE BALLOT.

>> I'M STRUGGLING TO UNDERSTAND YOUR ASSERTION THAT THIS LANGUAGE HAS ANY LEGAL EFFECT. THIS WOULD PROHIBIT CONDUCT IN THE STATE OF FLORIDA DIRECTLY? IT IS NOT SELF-EXECUTING, RIGHT?

>> PROBABLY NOT.

>> IF IT IS NOT SELF-EXECUTING YOU ARE RIGHT.

THAT WOULD REQUIRE THE LEGISLATURE TO DO SOMETHING TO MAKE, GIVE IT LEGAL EFFECT. THIS IS ALLOW THE LEGISLATURE TO DO ANYTHING THEY CAN'T ALREADY DO OR PREVENT THE LEGISLATURE FROM DOING ANYTHING?

>> IF IT DOESN'T HAVE A DIRECT LEGAL EFFECT, HOW COULD IT POSSIBLY HAVE A LEGAL EFFECT?

>> WITH ALL DUE RESPECT, THE

PEOPLE OUGHT TO KNOW.
IN LANGUAGE SIMILAR TO THIS WAS
DECLARED, THE CHIEF PURPOSE.
IF LANGUAGE SIMILAR TO THIS HAS
BEEN DECLARED CRITICAL, FOR THE
PURPOSE OF CLARIFYING TO THE
PEOPLE.
>> IF YOU CAN'T IDENTIFY A LEGAL
EFFECT IT SOUNDS LIKE POLITICAL
RHETORIC.
THEY CAN PUT POLITICAL RHETORIC
ON ABOUT SUMMARY.
IT HAS NO LEGAL EFFECT FOR
POLITICAL RHETORIC.
>> IF THE COURT WOULD PERMIT ME,
THE ANIMAL LAW SECTION OF THE
FLORIDA BAR, THERE'S NO BETTER
PLACE FOR THE EVOLUTION OF THE
LAW TO BE ENSHRINED.
I WANTED TO MAKE SURE I
UNDERSTOOD WHAT ENSHRINED WAS
AND LOOKED UP THE DEFINITION AND
IT SAID TO BE MADE PERMANENT.
THE LAW HISTORICALLY VIEWS
ANIMALS AS PERSONAL PROPERTY.
WE COME TO UNDERSTAND MORE ABOUT
ANIMALS, THE LAW IS SHIFTING
TOWARDS MORE HUMANE VIEW THAT
RECOGNIZES DISTINCTION BETWEEN
LIVING BEINGS AND OTHER FORMS OF
PERSONAL PROPERTY.
FUTURE GENERATIONS WILL BE ABLE
TO POINT TO THE CHANGE IN THE
FLORIDA CONSTITUTION AS AN
IMPORTANT SHIFT IN THE WAY
ANIMALS ARE TREATED AND AN
EXAMPLE OF SOCIAL AND MORAL
PROGRESS.
AND SURELY THE EVOLUTION IN THE
LAW, THE SHIFT IN THE LAW AND
CHANGE IN THE CONSTITUTION
INDICATE A LEGAL EFFECT PEOPLE
WILL EXPECT TO BE CARRIED OUT BY
THE COURTS AND THE LEGISLATURE.
>> WOULDN'T THE SITUATION BE
SOMEWHAT DIFFERENT IF THE
REFERENCE WAS TO A FUNDAMENTAL
RIGHT HAS OPPOSED TO A
FUNDAMENTAL VALUE?
WE THINK ABOUT FUNDAMENTAL

RIGHTS THAT BRINGS TO MIND THE
POSSIBILITY OF ENFORCEMENT.
FUNDAMENTAL VALUE WITHOUT MORE
REALLY DOES NOT BRING TO MIND
THE IDEA OF ENFORCEMENT.
I AM SURE THERE ARE SOME PEOPLE
WHO WOULD VIEW THE ADOPTION OF
THIS AMENDMENT AND THE
PROHIBITION OF THE DOG RACING AS
A STEP FORWARD IN THE HUMANE
TREATMENT OF ANIMALS AND
SOMETHING THAT MIGHT SET A
PRECEDENT FOR FURTHER PUBLIC
POLICY DEVELOPMENT IN THE FUTURE
BUT THAT IS A DIFFERENT MATTER
THAN A LEGAL MATTER ON WHICH
THIS ARGUMENT HEADS.

>> ALSO, MISTER CHIEF JUSTICE,
THE LANGUAGE DOES NOT ENSHRINE
THIS BROAD DECLARATION ONLY TO
DOG RACING.

>> HERE IS MY PROBLEM AGAIN.
I APPRECIATE AND ECHO WHAT
JUSTICE KENNEDY IS SAYING.
YOU HAD 15 YEARS AGO, WE ARE NOT
GOING TO CONFINE PREGNANT PIGS.
20 YEARS AGO, WE ARE GOING TO
NOT ALLOW WAGERING ON DOG
RACING.

BETWEEN THOSE TWO, ARE YOU
SAYING THE CONSTITUTIONAL
REVISION COMMISSION INTENDED, BY
PUTTING THIS LANGUAGE IN THE
AMENDMENT, THE HUMANE TREATMENT
OF ANIMALS IS A FUNDAMENTAL
VALUE, THEY INTENDED FOR THIS
AMENDMENT TO GO BEYOND DOG
RACING.

AND PROVIDE A CONSTITUTIONAL
RIGHT FOR ANIMALS IN THE STATE
OF FLORIDA, THAT THAT WAS THEIR
INTENT, YOU'RE SAYING THAT
SHOULD HAVE BEEN IN THE CHIEF
PURPOSE.

THE READING THIS AMENDMENT AS A
WHOLE, YOU SEE IT WAS BROADER
THAN GREYHOUND RACING WAGERING.
>> TALKS ABOUT ANIMALS AND ONLY
THE TITLE AND SUMMARY RELATED TO
DOG RACING.

>> LET'S JUST ASSUME AGAIN IT SAID IN THE BALLOT SUMMARY HUMANE TREATMENT OF ANIMALS IS A FUNDAMENTAL VALUE.

I DON'T KNOW ANYONE WHO THINKS IT IS GOOD TO HAVE INHUMANE TREATMENT OF ANIMALS EVEN IF THEY ARE NOT DOG LOVERS.

THE QUESTION IF IT HAD BEEN IN THERE, ARE YOU SAYING THIS CONSTITUTIONAL AMENDMENT WAS INTENDED TO GO BEYOND WAGERING ON DOG RACING TO AFFECT ALL TYPES OF DOGS, CATS, RABBITS, >> THAT IS ADEQUATELY REFERRED TO, AND EMPHASIZED IN THE STATEMENT BY THE FLORIDA BAR.

>> WE ARE ALL LOOKING FORWARD TO THIS CASE.

>> ISSUES RELATING TO CIRCUSES AND TREATMENT OF ANIMALS IN THOSE?

I EARN THIS COURT WILL BE SEEING, THE LEGISLATURE SEEING LOTS OF LEGAL IMPLICATIONS AS A RESULT OF THIS BUT WHY WOULD YOU WANT TO INSTILL IN THE CONSTITUTION OF THE STATE OF FLORIDA A STATEMENT INVOLVING THE FUNDAMENTAL VALUE OF AN ITEM AND NOT DISCLOSE THAT TO THE PUBLIC, TO THE VOTER?

WHY WOULD YOU WANT TO INCLUDE SUCH A SIGNIFICANT STATEMENT. A STATEMENT THAT HAS BEEN TALKED ABOUT AS CRITICAL, THAT HAS BEEN TALKED ABOUT AS THE CHIEF PURPOSE AND NOT DISCLOSE IT?

>> YOU TALKED ABOUT IT IS CHIEF PURPOSE?

TRYING TO UNDERSTAND.

>> THE REFERENDUM REQUIRED FOR ADOPTION AND AMENDMENT OF THE LOCAL GOVERNMENT COMPREHENSIVE PLAN IN 2005, THE COURT STATED IN ADDRESSING THE INHUMANE TREATMENT OF ANIMALS AND THE PREGNANT PIG CASE WAS NOT ONLY THE SPONSOR'S REASON FOR ADVANCING THE AMENDMENT BUT THE

CHIEF PURPOSE OF THE AMENDMENT ITSELF AND THE FUNDAMENTAL VALUE OF THE LANGUAGE, AND WERE IN THE BALLOT TITLE AND SUMMARY.

WE THINK IT IS NOT ONLY MISLEADING BUT IT IS INAPPROPRIATE FOR THE VOTER TO BE REQUIRED TO SAY YAY OR NAY SUCH A FUNDAMENTAL VALUE WITHOUT BEING GIVEN NOTICE THEY ARE DOING SO.

WE CERTAINLY THINK THAT IS A GOOD AND VALID REASON FOR THE PURPOSE OF STRIKING THIS FROM THE BALLOT.

SO IN THE MINUTE I HAVE LEFT, I WOULD SAY THAT THERE IS A SIGNIFICANT DECOUPLING IN THE CONSTITUTIONAL AMENDMENT, THE CONSTITUTIONAL COUPLING AND IF THIS PASSES, THERE WILL BE IN EFFECT A VOTE FOR FREESTANDING CASINOS IN THE STATE OF FLORIDA. AND DENIED BY THE VOTERS. HAND WHEN IT IS PUT ON THE BALLOT.

ALSO, IT WILL BE DECOUPLING THAT WAS NOT ONLY BY THE CONSTITUTION BUT ALSO BY THE VOTERS OF MIAMI-DADE AND TO SAY THAT NO OTHER GAMING IS UNAFFECTED IS AFFECTED, IS FALSE AND WOULD REQUIRE THE COURT TO STRIKE THIS FROM THE BALLOT.

>> I WOULD LIKE TO PICK BACK UP WHERE MY DISTINGUISHED MAN ON THE OTHER SIDE LEFT OFF. THE RESPONDENTS MADE AN ACCURATE AND CRITICAL CONCESSION, FORECLOSING THEIR ARGUMENT FRONT DISCLOSED CHANGE OF THE CONSTITUTIONAL STATUS QUO. THE RESPONDENT HAVE AGREED WITH PETITIONERS, ARTICLE 10 SECTION 23 DOES NOT IMPOSE A FREESTANDING STATEWIDE CONSTITUTIONAL COUPLING REQUIREMENT FOR SLOT MACHINES AND PARI-MUTUEL FACILITIES. WHAT IT DOES DO IS ESTABLISHES

THE AUTHORITY OF TWO COUNTIES,
BROWARD AND MIAMI-DADE, TO
REFERENDUM, COUNTYWIDE
REFERENDUM, SLOT MACHINES, AND
FACILITIES THAT EXISTED IN 2004.
THE OTHER IS ASIAN HAS ALREADY
HEARD AND TO THE EXTENT THERE IS
ANY COUPLING REQUIREMENT
REFERRED TO IN ARTICLE 10
SECTION 23, THAT RELATES ONLY TO
THE AUTHORITY GRANTED IN THAT
AMENDMENT TO TWO COUNTIES.

RESPONDENTS --

>> THE PRACTICAL IMPLICATIONS OF
THAT LAST STATEMENT, FOR DADE
AND BROWARD COUNTIES, THOSE
FACILITIES THAT ARE NOW ALLOWED
PURSUANT TO THE VOTE OF LOCAL
CITIZENS TO HAVE ACQUIRED ROOMS
OR WHATEVER ELSE THEY HAVE IF
THEY HAVE CERTAIN PARI-MUTUEL
ACTIVITIES GOING ON, THEY WERE
ALLOWED TO HAVE THAT KIND OF
LICENSE SO NOW, WHAT THIS DOES
AND WHAT THIS IS SAYING IS THERE
IS NO LONGER THE REQUIREMENT IN
BROWARD COUNTY THAT IT BE
COUPLED WITH SOME KIND OF OTHER
ACTIVITIES THAT THOSE
INDIVIDUALS CAN CONDUCT THEIR
SLOT MACHINES OR WHATEVER,
WITHOUT THAT PREDICATE.
THAT IS WHAT THIS DOES
EFFECTIVELY.

>> CORRECT JUSTICE LEWIS.

>> NO OTHER PLACE IN THE STATE
OF FLORIDA, JUST THOSE TWO
COUNTIES.

>> NOT EXACTLY, JUSTICE LEWIS.

>> TELL ME EXACTLY.

>> TO BE VERY PRECISE, THERE IS
BY STATUTE, NOT BY CONSTITUTION
BUT BY STATUTE WHICH THE
LEGISLATURE HAS CHOSEN TO ENACT
A REQUIREMENT.

WHAT THE LEGISLATURE SAID IS
ALTHOUGH THE LEGISLATURE HAS
AUTHORITY TO DO WHAT IT ONCE
WITH REGARD TO SLOT POLICY THE
LEGISLATURE COULD AUTHORIZE

SLOTS, GAS STATIONS AS A MATTER OF POLICY.

KEEP THEM TO PARI-MUTUEL FACILITIES.

SECTION 551102, SUBPARAGRAPH 4, SPECIFICALLY AUTHORIZES SLOTS, SLOT MACHINE GAMING IN FACILITIES THAT ARE PARI-MUTUEL FACILITIES OUTSIDE MIAMI-DADE AND BROWARD COUNTY.

AS LONG AS THE COUNTY IS A HOME COUNTY A COUNTY IS DEFINED IN CHAPTER 125 OF FLORIDA STATUTES THE COUNTY CAN HAVE SLOTS.

AND SORT OF SLOT ARE NOT CONFINED TO THE TWO COUNTIES EXPRESSED IN AMENDMENT 10 SECTION 23.

THE REASON FOR THAT IS ARTICLE 10 SECTION 23 RELATES ONLY TO THE COUNTY'S OWN AUTHORITY TO AUTHORIZE THEIR OWN SLOT MACHINES AND THAT IS ONLY GRANTED TO MIAMI-DADE.

>> OF THE 12 GREYHOUND RACING FACILITIES IN THE STATE OF FLORIDA, YOU HAVE ONE IN PALM BEACH COUNTY.

WILL THEY BE ABLE TO CONTINUE TO HAVE THESE OTHER SLOT MACHINES?

CAN THE LEGISLATURE GO AND CHANGE THE STATUTE AND SAY YOU DON'T HAVE PARI-MUTUEL WAGERING, LIVE RACING, WE ARE NOT GOING TO ALLOW THIS?

>> WITHOUT THIS PROPOSED AMENDMENT, IGNORING THIS PROPOSED AMENDMENT AND ASKING ABOUT THE LEGISLATURE'S A 40, OUTSIDE MIAMI-DADE AND BROWARD COUNTY THE LEGISLATURE CAN DECOUPLE, BAN, EXPAND, THAT IS AN AUTHORITY THE LEGISLATURE HAS.

THE RESPONDENT CONCEDED THE LEGISLATURE HAS THE AUTHORITY TO DO WITH THIS PROPOSED AMENDMENT WOULD DO WHICH IS TO AMEND STATUTORY LAW TO DECOUPLE AND THIS IS VERY PLAIN, AND THE

LIMITATIONS --

>> THE FAILURE TO CONDUCT
GREYHOUND RACING ON
DECEMBER 31ST.

IT DOES NOT CONSTITUTE GROUNDS
TO REVOKE OR DENY RENEWAL OF
OTHER GAMING LICENSES HELD BY A
PERSON WHO IS A LICENSED
GREYHOUND PERMIT HOLDER.

DOES IT GIVE THE PARTY
AFFIRMATIVELY, THE LEGISLATURE
PRECLUDED, REVOKING THE
LICENSES, THAT CONDUCT LIVE
GREYHOUND RACING.

>> IT IS NOT AN ISSUE DISCUSSED
IN THE BRIEFING.

WHAT I CAN TELL YOU IS WHAT THIS
COURT WOULD LOOK TO ABOUT
WHETHER THE LAND WHICH CONTAINS
LIMITATION ON THE POWERS OF THE
LEGISLATURE.

THIS MAKES CLEAR THE OPERATION
OF THE AMENDMENT FOR GAMING
ACTIVITIES AND THAT AFFECTED
THIS AMENDMENT, PLAINLY
DISCLOSED IN THE VOTERS INASMUCH
AS THEY ARE TOLD OTHER GAMING
ACTIVITIES WON'T BE AFFECTED.

I HAPPY TO ANSWER ADDITIONAL
QUESTIONS THE COURT MIGHT HAVE.

>> THANK YOU FOR YOUR ARGUMENTS.