

>> WE WILL NOW MOVE TO THE SECOND CASE ON TODAY'S DOCKET, THE DEPARTMENT OF STATE V. HOLLANDER AND DEPARTMENT OF STATE V. KNOWLES.

[INAUDIBLE CONVERSATIONS]

>> MAY IT PLEASE THE COURT--

>> JUST GIVE THEM A MINUTE. GET A LITTLE QUIET BACK THERE. LET THE HUBBUB SUBSIDE.

>> I'VE LEARNED NOT TO TAKE IT PERSONALLY WHEN THE COURT EMPTIES OUT--

>> YOUR REPUTATION PROCEEDS YOU.

[LAUGHTER]

>> MAY IT PLEASE THE COURT, I'M BARRY RICHARD.

I REPRESENT MARCY'S LAW FOR FLORIDA, AND TODAY I SPEAK AS WELL ON BEHALF OF THE--

[INAUDIBLE]

THERE'S ONLY ONE PORTION OF AMENDMENT 6 CHALLENGED IN THIS CASE, AND THAT'S THE PORTION RELATED TO VICTIMS' RIGHTS. THERE IS NOT MUCH OF A DISPUTE WITH RESPECT TO ACCURACY OF THE LANGUAGE OF THE SUMMARY REGARDING VICTIMS' RIGHTS, WHICH IS UNDERSTANDABLE.

BECAUSE NOTWITHSTANDING THE POSITION TAKEN BY THE PLAINTIFFS IN REGARD TO OUR WORD COUNT, IT'S REALLY A PRETTY SIMPLE AMENDMENT.

IT DOES THREE THINGS.

IT CREATES NEW CONSTITUTIONAL RIGHTS FOR VICTIMS, IT AUTHORIZES VICTIMS TO ENFORCE THOSE RIGHTS WITHIN THE CRIMINAL AND JUVENILE JUSTICE PROCESSES, AND IT REQUIRES COURTS TO ACT TO FURTHER THAT ENFORCEMENT ON BEHALF OF THE VICTIMS.

THAT'S WHAT IT DOES.

THAT'S WHAT IT SAYS IN THE SUMMARY--

>> BUT THEY DON'T, BUT YOU SAY IT'S VERY SIMPLE.

IT SAYS CREATES CONSTITUTIONAL

RIGHTS, BUT IT DOESN'T INFORM THE VOTERS THAT THERE IS A PRE-EXISTING CONSTITUTIONAL AMENDMENT THAT WAS PASSED BY THE CRC AND THEN PASSED INTO, AS PART OF THE CONSTITUTION 20 YEARS AGO.

AND IT IS AGGREGATING WHAT WAS STATED THEN IN BROAD TERMS INTO, I DON'T KNOW, A FIVE-PAGE, VERY LONG LIST, FIVE PAGES, 146 LINES OF TEXT INTO THE CONSTITUTION.

AND YOU'RE SAYING THERE'S NO ISSUE BECAUSE IT SAYS "CREATES CONSTITUTIONAL RIGHTS," THAT IT DOESN'T REFERENCE THAT IT'S REPEALING PRE-EXISTING STATUTE IN A CONSTITUTIONAL AMENDMENT?

>> WELL, YOUR HONOR, IT DOESN'T AGGREGATE ANYTHING.

IT TAKES THE THREE RIGHTS THAT WERE PREVIOUSLY IN THE CONSTITUTION, IT RETAINS THEM AND EMBELLISHES UPON THEM, AND IT CREATES NINE NEW RIGHTS.

SO IT DOES DO WHAT IT SAYS.

IT CREATES A VICTIMS' RIGHTS, AND IT DOES NOT REPEAL OR AGGREGATE EXISTING RIGHTS.

NOW, THERE ARE EXISTING RIGHTS.

I SUGGEST TO THE COURT THE FACT THAT THE SUMMARY SAYS IT CREATES RIGHTS DOESN'T IMPLY THAT THERE ARE NOT ALREADY SOME OTHER RIGHTS.

THAT CONCLUSION BY A VOTER WOULD BE IRRATIONAL, AND THIS COURT HAS NEVER SAID THAT'S THE CASE.

IT CORRECTLY SAYS IT CREATE RIGHTS, WHICH IT DOES, NINE RIGHTS THAT DON'T CURRENTLY EXIST.

THE ONLY ARGUMENT THAT'S MADE IN THE BRIEFS WITH REGARD TO THIS IS THE COMPLAINT BY THE PLAINTIFFS THAT THE AMENDMENT USES THE WORD "FACILITATE."

IT SAYS THE COURTS ARE REQUIRED TO FACILITATE THE RIGHTS, AND THAT WORD DOESN'T EXIST IN THE

TEXT TO HAVE AMENDMENT ITSELF--  
THE WORD FACILITATE MEANS TO  
HELP HAPPEN, AND THE AMENDMENT  
SAYS--

[INAUDIBLE]

WHICH IS PRECISELY WHAT  
FACILITATE MEANS.

THAT'S THE ONLY OBJECTION TO  
THIS PARTICULAR LANGUAGE.

THE MAIN THING THAT THE  
PLAINTIFFS ARGUE IS NOT THE TEXT  
OF THE AMENDMENT ITSELF IS  
INACCURATE-- OTHER THAN WHAT I  
JUST SAID-- BUT THAT IT FAILS  
TO INFORM THE VOTER OF THE  
SERIES OF CURRENTLY EXISTING  
RIGHTS OF ACCUSED.

I BELIEVE IT DOES NOT.

AND WHAT I SUGGEST IS THAT WE  
REVIEW THOSE CURRENTLY EXISTING  
RIGHTS AND SEE IF ANY OF THEM  
ARE REPEALED OR AGGREGATE BY  
THIS AMENDMENT.

BECAUSE I BELIEVE THAT THEY ARE  
NOT.

IT'S NOT THAT DIFFICULT, BECAUSE  
THEY ALL EXIST IN THREE SECTIONS  
OF ARTICLE I, 14, 15 AND 16.  
AND THERE ARE NOT THAT MANY OF  
THEM.

THE FIRST ONE IS THAT ACCUSED  
ARE ENTITLED UNDER SECTION  
14 TO PRETRIAL RELEASE ON  
REASONABLE CONDITIONS.

THE PLAINTIFFS ARGUE THAT THIS  
IS IMPEDED BY THE AMENDMENT,  
BECAUSE THE AMENDMENT ENTITLES  
THE VICTIMS TO HAVE CONSIDER  
WHAT A COURT HAS DETERMINED THE  
SAFETY AND WELFARE OF THE  
VICTIM'S FAMILY AND THE--

[INAUDIBLE]

BE.

>> MR. RICHARD, WE'RE GETTING  
INTO THE ACTUAL AMENDMENT.  
AND I TAKE IT THAT GOES TO  
CONSTITUTIONAL ISSUES THAT MAY  
BE PARTLY WRONG.

MY CONCERN, OUR CONCERN IS THE  
SUMMARY AND WHERE IN THE SUMMARY

DOES IT EDUCATE THE VOTER THAT NONE OF THESE ADDITIONAL RIGHTS FOR VICTIMS OF CRIME WILL IN ANY WAY INTERFERE WITH THE EXISTING RIGHTS OF THE ACCUSED PROMULGATED BY THE UNITED STATES CONSTITUTION?

>> WELL, I AGREE WITH YOU, YOUR HONOR, AND THE ARGUMENT THAT IS BEING MADE HERE IS THAT IT DOES IMPEDE THOSE PRE-EXISTING RIGHTS AND THAT THE SUMMARY DOESN'T TELL THE VOTER.

MY POSITION IS THERE IS NO MATERIAL IMPACT UPON THOSE PRE-EXISTING RIGHTS.

I AM NOT TRYING TO GET INTO-- [INAUDIBLE]

I AGREE--

>> WELL, IN THE AMENDMENT ITSELF IN SECTION 11E AT ONE POINT IN TIME THE ORIGINAL VERSION OF THE AMENDMENT INCLUDED THE SENTENCE TO THE EXTENT THAT THESE RIGHTS DO NOT INTERFERE WITH THE CONSTITUTIONAL RIGHTS OF THE ACCUSED.

THAT WAS EXCLUDED FROM THE PROPOSED AMENDMENT, AND THAT WAS THE ONLY PLACE IN THE SPIRE AMENDMENT WHERE THAT APPEARED. IT WAS-- THE ENTIRE AMENDMENT WHERE THAT APPEARED.

IT WOULD SEEM LIKE THAT WOULD BE A SENTENCE THAT WOULD APPEAR IN THE SUMMARY TO INFORM THE VOTER, YES, WE'RE GOING TO THE GIVE VICTIMS ALL THESE RIGHTS.

WHICH IS FINE, BUT THEY WILL NOT INTERFERE WITH THE RIGHTS OF THE ACCUSED.

IN IS THE SUMMARY, WHICH IS WHAT EVERYBODY GOES TO READ TO FIND OUT WHAT IT'S ABOUT.

>> YES, YOUR HONOR. THAT PHRASE APPEARED AFTER THE ORIGINAL--

>> RIGHT, RIGHT.

>>-- THREE RIGHTS, BE GIVEN NOTICE TO APPEAR AND TO BE

HEARD.

AND IT WAS LEFT OUT BECAUSE IT SERVED NO PURPOSE IN THE CURRENT AMENDMENT, AND ONCE IT WAS REPLACED BY THIS PARAGRAPH.

OF THE REASON IT SERVES NO PURPOSE IS BECAUSE NOTHING IN THIS AMENDMENT, NONE OF THESE VICTIMS' RIGHTS IN ANY WAY ADVERSELY AFFECTS THE RIGHT OF THE ACCUSED TO APPEAR, TO BE GIVEN NOTICE AND TO BE HEARD. NOTHING.

SO THE FACT THAT THAT WAS LEFT OUT, YOU KNOW THIS COURT HAS SAID TIME AND TIME AGAIN IT DOESN'T RENDER A PROPOSAL DEFECTIVE BECAUSE IT CHANGES-- [INAUDIBLE]

IT HAS TO HAVE A MATERIAL EFFECT ON A PRE-EXISTING CONSTITUTIONAL PROVISION.

THAT HAS NO MATERIAL EFFECT-- [INAUDIBLE]

>> WELL, ISN'T THE EFFECT AND THE HIGHER AMENDMENT AS LONG AS THE RIGHTS DON'T INTERFERE WITH THE RIGHTS OF THE ACCUSED, ALTHOUGH EVERY ONE OF US HAS SYMPATHY FOR THE RIGHTS OF THE VICTIM.

THE ACCUSED IS NOT YET CONVICTED OF A CRIME, SO THEY'RE STILL UNDER, UNDER OUR SYSTEM OF LAWS, PRESUMED INNOCENT.

NOT ONLY DOESN'T THE AMENDMENT MENTION THAT THE IDEA THAT THESE RIGHTS ARE DEPENDENT ON IT NOT INTERFERING WITH THE RIGHTS OF THE ACCUSED, BUT ACTUAL AMENDMENT SAYS THAT IT IS EQUATING VICTIMS' RIGHTS AND INTERESTS SHOULD BE NO LESS VIGOROUS THAN PROTECTIONS AFFORDED TO CRIMINAL DEFENDANTS AND JUVENILE DELINQUENTS. ADDING JUVENILE DELINQUENTS ON THERE.

.  
YOU DON'T SEE AN ISSUE WITH NOT

THE FEDERAL CONSTITUTIONAL RIGHTS BECAUSE THEY CANNOT INTERFERE WITH FEDERAL CONSTITUTIONAL RIGHTS, BUT OUR STATE CONSTITUTIONAL RIGHTS THAT PARTICULARLY AN ISSUE OF SPEEDY TRIAL?

COULD YOU COMMENT ON THAT? THE EFFECT ON DEFENDANTS RIGHTS THAT ARE, PREVIOUSLY WERE TOLD THAT THEY CAN'T INTERFERE AND NOW ARE, NOW THE AMENDMENT ITSELF SAYS WILL BE NO LESS VIGOROUS THAN THE PROTECTION THIS AFFORDS TO CRIMINAL DEFENDANTS.

>> YES.

LET ME TAKE THAT IN ORDER. I PROMISE I'LL GET TO SPEEDY TRIAL.

I KNOW YOU'LL REMIND ME IF I FORGET.

ANY CASE--

[LAUGHTER]

THAT LANGUAGE WAS GENERAL LANGUAGE, AND WHAT IT SAID WAS THAT THE VICTIMS' RIGHTS OF BEING GIVEN NOTICE, APPEARING AND HAVING THE RIGHT TO BE HEARD SHALL NOT IN ANY WAY INTERFERE WITH ACCUSED RIGHTS.

MY POINT IS THAT LANGUAGE NEVER MEANT ANYTHING.

THIS WAS A CLEANUP BECAUSE THERE IS NO--

VICTIMS RIGHTS THAT ORIGINALLY EXISTED, THAT EXIST TODAY IN THE CONSTITUTION, DON'T HAVE ANYTHING TO DO WITH ANY OF THE SPECIFIC RIGHTS WHEN IT COMES TO THE ACCUSED.

THAT'S WHY WE HAVE TO LOOK AT WHAT THOSE RIGHTS ARE IN SECTIONS 14, 15 AND 16.

WE CAN'T SAY THIS IS BECAUSE OF SOME GENERAL--

[INAUDIBLE]

WE HAVE TO SAY WHAT DOES IT AFFECT.

THAT'S WHY YOU SAID THIS MUST BE

CLEARLY AND CONCLUSIVELY  
DEFECTIVE.

SO WHAT I WAS IN THE PROCESS OF  
DOING WAS GOING THROUGH THOSE  
RIGHTS IN 14, 15 AND 16 TO  
DEMONSTRATE THAT THERE IS NO WAY  
THESE NEWLY-CREATED RIGHTS  
WILL--

[INAUDIBLE]

I CAN TELL YOU PRETTY QUICKLY  
THE REST OF THE-- SECTION 50  
HAS NOTHING TO DO WITH.

IT INVOLVES--

[INAUDIBLE]

MOST OF THE ISSUES ARE IN  
SECTION 16.

SECTION 16 GIVES GUARANTEES TO  
AN ACCUSED TO RECEIVE COPIES OF  
THE CHARGES.

[INAUDIBLE]

INFORMED OF THE ACCUSATION  
AGAINST THEM.

CLEARLY, THAT'S NOT--

[INAUDIBLE]

THAT'S NOT AFFECTING.

TO BE HEARD AS A PERSON AT  
TRIAL, THAT'S SURELY NOT  
AFFECTING.

HERE'S ONE THAT THE PLAINTIFFS  
DO TALK ABOUT, THE RIGHT TO  
CONFRONT AN ADVERSE WITNESS  
WITHIN THE TRIAL.

THE PLAINTIFFS WANT TO SAY  
THAT'S-- BUT THEY DO SAY THAT  
GENERALIZED LANGUAGE THAT YOUR  
HONOR WAS TALKING ABOUT MIGHT  
DEPRIVE OF AN ACCUSED USING THE  
RIGHT TO TAKE A DEPOSITION OF AN  
ACCUSED-- FIRST OF ALL, THERE  
IS NO CONSTITUTIONAL RIGHT TO  
TAKE--

[AUDIO DIFFICULTY]

IT DOESN'T EXIST AT ALL AT THE  
FEDERAL LEVEL.

AND WHAT WE'RE TALKING ABOUT IS  
THE MATERIAL IMPACT UPON SOME  
OTHER CONSTITUTIONAL PROVISION.  
BUT SECOND, NOTHING IN THIS  
AMENDMENT, NOTHING STOPS AN  
ACCUSED FROM TAKING A DEPOSITION

IF THE STATUTE'S PERMITTED IN  
THE CONSTITUTION.  
IT HAS NOTHING TO DO WITH IT.  
THE LAST THING IS THE ONE THAT  
YOUR HONOR ASKED ME ABOUT, WHICH  
IS SPEEDY TRIAL.

IN THE ORIGINAL--

[INAUDIBLE]

THE ARGUMENT WAS THIS AMENDMENT  
SOMEHOW HAS AN ADVERSE IMPACT  
ON-- IT SAYS THAT THE ACCUSED,  
THAT THE VICTIM HAS A RIGHT TO A  
SPEEDY TRIAL, IT CERTAINLY  
DOESN'T NEED ANYTHING TO STOP  
THE EXISTING CONSTITUTIONAL  
RIGHT OR EVEN STATUTORY RIGHT OF  
THE ACCUSED FOR A SPEEDY TRIAL.  
WHAT'S HAPPENED OVER TIME, THIS  
ARGUMENT BY THE PLAINTIFFS HAS  
MORPHED.

THE LAST BRIEFS WE HAVE, THE  
ARGUMENT IS NOT THAT IT  
AGGREGATES THEIR RIGHT TO A  
SPEEDY TRIAL--

[INAUDIBLE]

TO HAVE A DELAYED TRIAL WHEN  
NECESSARY TO PREPARE THEIR CASE.  
BUT IT DOESN'T DO THAT.

IF YOU LOOK AT WHAT THE NEW  
PROVISION SAYS, IT SAYS THAT THE  
VICTIM HAS THE RIGHT TO  
PROCEEDINGS FREE FROM  
UNREASONABLE DELAY.

NO ACCUSED HAS A CONSTITUTIONAL  
RIGHT TO UNDUE, REASONABLE  
DELAY.

[AUDIO DIFFICULTY]

WHETHER IT'S REASONABLE OR NOT.  
I DON'T QUESTION THE FACT THAT  
DUE PROCESS REQUIRES THAT THE  
ACCUSED BE GIVEN WHAT IS  
REASONABLY NECESSARY TO ALLOW  
THE PREPARATION OF A CASE.  
BUT THAT HAS NOTHING TO DO WITH  
THE REVISION BEFORE US TODAY  
WHICH ONLY SAY THAT IS THE  
VICTIM IS ENTITLED NOT TO BE  
SUBJECTED TO UNREASONABLE DELAY.  
COURTS TODAY AND DO DECLINE  
REQUESTS FOR THAT REASON.

THAT'S THE PRIMARY THINGS THAT WE'RE TALKING ABOUT HERE, BUT THERE ARE SOME OTHERS.

AND I DON'T KNOW HOW MUCH THEY CONCERN THE COURT--

[INAUDIBLE]

ONE OF THEM IS THE ARGUMENT BY PLAINTIFFS THAT THE ACCESS TO RECORDS PROVISION, PUBLIC RECORDS PROVISION IN ARTICLE I, SECTION 24 IS ABROGATED IN THIS REVISION THAT SAYS A VICTIM HAS THE RIGHT TO PREVENT THE DISCLOSURE OF INFORMATION THAT MIGHT LEAD TO THE UTILITY-- OR THE ABILITY TO LOCATE AND HARASS THE VICTIM'S FAMILY ARE.

ARTICLE I, SECTION 24 GIVES THE LEGISLATURE THE ABILITY THE CREATE EXEMPTIONS.

THE LEGISLATURE HAS CREATED AN EXEMPTION THAT DOES EXACTLY THAT.

AND I HAVE TO APOLOGIZE TO THE COURT, BECAUSE WHEN I REREAD MY BRIEF YESTERDAY, I DISCOVERED THE CITATION WAS LEFT OUT.

IT'S SECTION 119.071.

SUBSECTION J, SUB-SUBSECTION 1. AND WHAT IT SAYS RIGHT NOW THE LEGISLATURE HAS CREATED IN ITS AUTHORITY UNDER ARTICLE I, SECTION 24 IS THAT IT EXEMPTS FROM THE PUBLIC RECORDS OR LAW ANY DOCUMENT THAT REVEALS ANY IDENTIFYING INFORMATION, ESSENTIALLY.

THE HOME ADDRESS, THE PHONE NUMBER, THE IDENTITY OF THE VICTIM.

SO THIS PROVISION IN THE PROPOSED AMENDMENT DOESN'T CHANGE ANY MATERIAL CONSTITUTIONAL RIGHT THAT THE ACCUSED HAS.

>> Reporter: MR. RICHARDS, SECTION 10B, STATE APPEALS AND COLLATERAL--

[INAUDIBLE]

PROVIDES THAT IN NON-CAPITAL

CASES APPEALS MUST BE COMPLETED  
WITHIN TWO YEARS.

STATE APPEALS, DIRECT APPEALS  
AND COLLATERAL ATTACK APPEALS.

NOW, I CAN SEE HOW THE-- CAN  
FALL ON THE VICTIMS' RIGHTS  
BASED UPON GIVING VICTIMS  
CLOSURE.

HOWEVER, I DON'T SEE HOW THE  
ADDITIONAL REQUIREMENT THAT  
REQUIRES CHIEF JUDGES IN EACH  
CIRCUIT AND CHIEF JUSTICES OF  
THE SUPREME COURT TO REPORT TO  
THE LEGISLATURE.

YOU KNOW, CASES THAT ARE OVER  
THE LIMITED--

[INAUDIBLE]

WE'RE NOT GETTING INTO THIS  
SEPARATION OF POWERS ISSUE  
WHETHER THIS CONSTITUTIONAL  
PROVISION WILL BE GIVING THE  
LEGISLATURE ADDITIONAL AUTHORITY  
IN ENCROACHING OVER THE JUDICIAL  
BRANCH.

AND IF SO, WHY IS THAT NOT A BIG  
DEAL THAT SHOULD BE IN THE  
SUMMARY?

>> WELL, I'M A GREAT BELIEVER IN  
SEPARATION OF POWERS.

I'M ARGUED IN TONIGHT OF THIS  
COURT-- IN FRONT OF THIS COURT  
SEVERAL TIMES.

THE FACT IS IN THE FLORIDA  
CONSTITUTION WHETHER WE LIKE IT  
OR NOT, THE PEOPLE CAN CHANGE  
THAT IF THEY WANT TO.

IN THIS CASE, THEY CAN--

[INAUDIBLE]

REPORT TO THE LEGISLATURE.

AGAIN, WE'RE NOT TALKING ABOUT  
THE MERITS OF IT--

>> I'M NOT TALKING ABOUT THE  
MERITS, I'M TALKING ABOUT  
WHETHER SOMETHING THAT BIG  
SHOULD NOT BE AT LEAST IN THE  
SUMMARY SO PEOPLE KNOW WHAT--  
DID YOU CHANGE SEPARATION OF  
POWERS DOCTRINE?

>> WELL, IT TELLS-- DEALING  
WITH VICTIMS' RIGHTS, AND ONE OF

THE THINGS IT SAYS IS THERE  
SHALL BE A REPORT.  
FRANKLY, I DON'T THINK THAT'S SO  
MATERIAL TO REQUIRE THAT IT BE  
PLACED IN THE AMENDMENT, BUT  
THAT'S FOR THIS COURT TO DECIDE.  
I DON'T THINK IT'S A MAJOR  
INTRUSION.

I THINK IT'S A MATERIAL  
INTRUSION ON THE SEPARATION OF  
POWERS DOCTRINE.  
MULTIPLE INSTANCES IN WHICH THE  
COURT IS REQUIRED TO REPORT  
THINGS-- NOT EVEN  
CONSTITUTIONAL.  
THEY'RE STATUTORY, AND THIS  
COURT HAS NEVER HELD THAT THEY  
WERE UNCONSTITUTIONAL.

>> MR.--

>> WOULDN'T IT BE A VERY  
DIFFERENT MATTER IF THE PROPOSAL  
GAVE A DEADLINE THAT HAD NO  
EXCEPTIONS OR TO POSSIBILITY FOR  
EXCEPTIONS-- NO POSSIBILITY FOR  
EXCEPTIONS?

ARGUABLY, THAT WOULD BE A  
SIGNIFICANT, HAVE A SIGNIFICANT  
IMPACT ON THE JUDICIARY.  
BUT IT MIGHT BE SOMETHING THAT  
WOULD NEED TO BE MENTIONED IN  
THE SUMMARY.

THAT'S NOT WHAT WE HAVE HERE.  
THIS IS SOMETHING THAT ALLOWS--  
ESTABLISHES DEADLINES, GIVES  
EXCEPTIONS THAT THE JUDICIARY  
CAN MAKE AND SIMPLY ESTABLISHES  
A REPORTING MECHANISM WHEN THOSE  
DEAD HAWAIIANS ARE EXCEEDED.

>> YES. YES, YOUR HONOR.  
THERE IS NOTHING IN HERE THAT  
DECIDES WHAT'S REASONABLE AND  
UNREASONABLE.  
FINISH SO I SEE THAT MY TIME IS  
UP.

THERE'S ONE OTHER ISSUE THAT I  
WOULD ADDRESS NOW IF THE COURT  
WOULD LIKE ME TO, WHICH IS THE  
SINGLE-SUBJECT ISSUE WHICH IS  
BEING ARGUED BY ONE OF THE--  
[INAUDIBLE]

WHICH I THINK IS CLEARLY WELL  
ESTABLISH LONG AGO THAT SINGLE  
SUBJECT DOES NOT APPLY TO THE  
CRC.

IT'S VERY CLEAR--

[INAUDIBLE]

THE EFFORT TO CIRCUMVENT IS BY  
ARGUING THERE'S SOME KIND OF A  
FIRST AMENDMENT RIGHT NOT TO  
MAKE A CHOICE BETWEEN  
ALTERNATIVES THAT YOU DON'T  
LIKE.

THERE IS NO TO SUCH FIRST  
AMENDMENT RIGHT.

THE--

[INAUDIBLE]

REAPPORTIONMENT CASES.

THE U.S. SUPREME COURT HAS NEVER  
HELD--

[AUDIO DIFFICULTY]

AND IT WOULD BE, ESSENTIALLY,  
THE SAME.

YOU CAN NEVER BE HAVE A  
MULTIPLE-SUBJECT DEFENDANT  
BECAUSE IT WOULD ALWAYS  
VIOLATE--

>> WELL, HERE'S THE THING THAT'S  
DIFFERENT THOUGH PARTICULARLY IN  
THIS ONE.

YOU'VE GOT VICTIMS RIGHTS, AND  
THE REST OF EVERYTHING IS IN  
ARTICLE 5.

AND WHAT ON EARTH JUDGES  
INTERPRETING STATUTES WITHOUT  
DEFERMENT TO THE ADMINISTRATOR,  
LAW HAS TO DO WITH VICTIMS  
RIGHTS EXCEPT THAT MAYBE THEY  
BOTH OCCUR IN A COURT SETTING I  
THINK IS WHAT CONCERN IS.

I FLEE THERE'S NO SINGLE- I  
AGREE THERE'S NO SINGLE-SUBJECT  
VIOLATE.

THERE IS SOMETHING ABOUT THIS  
THAT IS THIS MULTIPLE  
UNCONNECTED SUBJECTS THAT'S  
REALLY PUTTING THE VOTER IN SOME  
POSITION.

IT'S ALMOST LIKE IT'S WORSE THAN  
LOG ROLLING BECAUSE IT'S NOTHING  
TO DO-- THE THREE ARE

COMPLETELY UNRELATED.

NOW, MAYBE THE-- THE CRC HAD, YOU KNOW, THIS IS A HUGE DEAL, AS YOU KNOW, EVERY 20 YEARS. THEY'VE NEVER DONE ANYTHING LIKE THIS, AND SO IT'S UNFORTUNATE THAT THIS IS HAPPENING BECAUSE IF IT WAS DECOUPLED, WE MIGHT NOT BE PRECISELY, YOU KNOW, WHERE WE ARE RIGHT NOW.

>> WELL, I WOULD SUGGEST, YOUR HONOR, THE VERY FACT THAT THEY ARE SO UNRELATED MAKES IT EASIER FOR THE VOTER TO DISTINGUISH BETWEEN THEM.

AND WE HAVE TO ASSUME THAT THE VOTER HAS THE INTELLIGENT-- THIS ARGUMENT WOULD SUGGEST THAT THE EARLY AMERICANS WERE INCAPABLE OF UNDERSTANDING FREEDOM OF SPEECH BECAUSE--

[AUDIO DIFFICULTY]

THE SAME PARAGRAPH AS FREEDOM OF ASSEMBLY.

WE CAN'T ASSUME THAT THE VOTERS ARE INCAPABLE OF READING THREE SUBJECTS IN A SHORT PARAGRAPH--

>> THAT'S NOT WHAT I'M SAYING. I WAS SAYING THAT THEY HAVE NO LOGICAL CONNECTION.

AND SO IN THAT WAY, I THINK IT CAUSED--

[INAUDIBLE]

NOW, THERE ARE MANY JUDGEMENTS THAT WOULD LIKE VERY MUCH THE THEIR RETIREMENT AGE RAISED, A PHI-PAGE VICTIM-- FIVE-PAGE VICTIMS' RIGHTS AMENDMENT, FRANKLY, SEEMS BEYOND WHAT THE CREATORS OF THE CONSTITUTIONAL REVISION COMMISSION INTENDED.

[INAUDIBLE]

>> THAT A MAY BE, YOUR HONOR, BUT THE GREATER-- LUMPED TOGETHER, MULTIPLE SUBJECTS THAT WERE NOT THE SAME.

AND WE KNOW THAT--

[INAUDIBLE]

BECAUSE ONLY ONE PLACE BEFORE WHERE THEY--

[AUDIO DIFFICULTY]

>> ALL YOUR TIME HAS EXPIRED.  
I WILL, NONETHELESS, GIVE YOU  
FIVE MINUTES YOU SOUGHT TO  
RESERVE FOR REBUTTAL.

>> THANK YOU.

>> MR. CHIEF JUSTICE, MEMBERS OF  
THE COURT, MY NAME IS MARK  
HERRON, I'M REPRESENTING THE  
HOLLANDER PLAINTIFFS IN THIS  
APPEAL.

WITH ME TODAY IS RENEE BROWN,  
ALSO REPRESENTING THE HOLLANDER  
PLAINTIFFS AND ALSO HARVEY  
SUPPLER WHO'S GOING  
TO THE FOCUS PRIMARILY ON THE  
SINGLE SUBJECT ISSUES THAT HAVE  
BEEN RAISED BY THE PLAINTIFFS IN  
THEIR LITIGATION.

AS WE ALL KNOW, THE HOLLANDER  
PLAINTIFFS ASKED THIS COURT TO  
AFFIRM THE DECISION OF THE TRIAL  
COURT DECLARING THAT THE BALLOT  
SUMMARY AND TITLE OF AMENDMENT 6  
IS MATERIALLY MISLEADING AND  
REMOVING IT FROM THE BALLOT.  
WE ALL KNOW THERE ARE TWO ISSUES  
BEFORE THE COURT HERE TODAY, AND  
THE TWO ISSUES ARE WHETHER THE  
BALLOT TITLE AND SUMMARY FAIRLY  
INFORM THE VOTER OF THE  
AMENDMENT AND WHETHER THE  
LANGUAGE IN TITLE AND SUMMARY AS  
WRITTEN MISLEADS THE PUBLIC.  
THE HOLLANDER PLAINTIFFS DON'T  
NECESSARILY CONCEDE THAT THE  
CHIEF PURPOSE OF THIS  
AMENDMENT IS VICTIMS  
OF CRIME OR CRIME  
VICTIMS.

IT'S A SLIPPERY SLOPE BECAUSE  
YOU HAVE THREE SIGNIFICANT  
CHANGES TO THE CONSTITUTION THAT  
ARE LUMPED TOGETHER IN ONE  
AMENDMENT.

AND SO WHETHER YOU CAN HAVE A  
CHIEF PURPOSE OR WHETHER CHIEF  
PURPOSES IS SOMETHING FOR THIS  
COURT TO DECIDE IN LOOKING AT  
THESE AMENDMENTS.

>> WELL, IF YOU'RE GOING TO SAY THIS CAN'T BE MORE THAN ONE CHIEF PURPOSE, YOU'RE ESSENTIALLY SAYING THAT THERE'S A SINGLE SUBJECT REQUIREMENT. THERE MAY EVEN SOMETHING MINNESOTA MORE THAN A SINGLE SUBJECT REQUIREMENT, SOMETHING MORE RESTRICTIVE THAN THAT IS GOING TO APPLY TO ALL OF THESE PROPOSALS REGARDLESS OF WHETHER CONSTITUTIONAL SINGLE SUBJECT REQUIREMENT APPLIES. ISN'T THAT CORRECT?

>> WELL, AS I SIT HERE AND LISTEN TO THE ARGUMENTS, I THINK THAT IS AN ISSUE THAT A RISES WITH EACH CASE, WHAT IS THE CHIEF PURPOSE OF ALL THESE--  
[INAUDIBLE]

BECAUSE THEY ARE, MANY OF THEM ARE BUNDLING DISPARATE SUBJECTS. AGAIN, THIS IS SOMETHING FOR THE COURT TO DECIDE AS TO WHAT THE CHIEF PURPOSE IS.

WE'RE JUST NOT GOING TO CONCEDE THAT THE CHIEF PURPOSE OF THIS AMENDMENT IS VICTIMS OF CRIME. NOW, WITH RESPECT TO THE CRIME, PROVISIONS IN THIS AMENDMENT, THE HOLLANDER PLAINTIFFS DO CHALLENGE SEVERAL PROVISIONS IN THERE AND SAY THEY ARE NOT ADEQUATELY NOTICED IN THE BALLOT SUMMARY AND ENTITLE.

AND THIS COURT HAS ADDRESSED SOME OF THOSE ISSUES IN ITS QUESTIONING OF MR. RICHARD. WE BELIEVE AND WE ASSERT THAT THE BALLOT SUMMARY AND TITLE FAILS TO ACCURATELY INFORM THE VOTERS OF THE EFFECT ON EXISTING CONSTITUTIONAL RIGHT OF DEFENDANTS.

AND THIS COURT HAS FOCUS ON SOME OF THOSE ISSUES-- FOCUSED ON SOME OF THOSE AMENDMENTS AND SINCE THE LANGUAGE STRIKES OUT LANGUAGE IN THE EXISTING CONSTITUTION WITHOUT GIVING

NOTICE THAT THE RIGHTS OF VICTIMS ARE TO BE TEMPERS AND CONSIDERED SUBSERVIENT TO RIGHTS OF CRIMINAL DEFENDANTS.

>> NOW, WOULDN'T YOU CONCEDE MR. HERRON, THAT MOST OF THESE RIGHTS OF CRIME VICTIMS DON'T HAVE ANY IMPACT ON THE CONSTITUTIONAL RIGHTS OF DEFENDANTS.

YOU CAN KIND OF PUT A LIST OF THE CONSTITUTIONAL RIGHTS AND SEND US A LIST OF THESE, THE RIGHTS THAT ARE CREATED HERE. AND YOU JUST, THEY'RE NOT-- THEY DON'T REALLY BUMP UP AGAINST EACH OTHER.

I MEAN, FOR MOST OF THEM. WOULDN'T THAT BE TRUE?

>> [INAUDIBLE]

>> THE POINT OF ARGUMENT, AND I'LL COME BACK TO ANSWER YOUR QUESTION MORE DIRECTLY, BUT A STATE CONSTITUTIONAL RIGHT OF DEFENDANTS IS BEING TAKEN AWAY BY THE LANGUAGE OF THIS PROPOSAL.

AND IT'S NOT--

>> I'M SORT OF, I'M ALSO INTERESTED IN THE ANSWER TO JUSTICE CANADY'S QUESTION, SO MAYBE IF YOU COULD ANSWER THAT, YOU WOULD ANSWER IT FOR ALL OF US.

>> MANY OF THEM FURTHER EXPAND UPON THE EXISTING RIGHTS OF VICTIMS.

>> MY QUESTION WAS ABOUT WHERE YOU THINK-- YOU SAY IT'S TAKING AWAY RIGHTS OF DEFENDANTS. AND MY QUESTION WAS ISN'T IT TRUE THAT MOST OF THESE VICTIMS' RIGHTS DON'T EVEN POTENTIALLY COLLIDE WITH ANY CONSTITUTIONAL RIGHT OF A VICTIM?

I'M SORRY, OF A DEFENDANT.

>> AND I THINK WE'RE TALKING PAST EACH OTHER A LITTLE BIT.

>> I GET THE SAME SENSE.

[LAUGHTER]

>> BECAUSE THE LANGUAGE IN THE CURRENT CONSTITUTION BEING DELETED, AND IT'S BEING DELETED FOR A PURPOSE.

>> SO YOU'RE TALKING ABOUT THE LANGUAGE IN THE CURRENT VICTIMS' RIGHTS AMENDMENT.

BUT-- I UNDERSTAND THAT'S BEING DELETED.

BUT, YOU KNOW, ISN'T IT THE CASE THAT SOMETIMES THINGS GET PUT IN AMENDMENTS THAT ARE JUST KIND OF REALLY THERE TO ANSWER OBJECTIONS THAT ARE BEING MADE, THEY DON'T REALLY HAVE ANY EFFECT.

AND IT SEEMS TO ME AS SOMEONE WHO'S COMING IN HERE THAT THE PEOPLE OF FLORIDA ARE BEING DEPRIVE THE OPPORTUNITY TO VOTE ON THIS, TO SHOW SPECIFICALLY WHAT RIGHTS OF DEFENDANTS ARE BEING IMPACTS OR ARE CURTAILED BY THIS PROPOSAL.

AND WHEN I LOOK THROUGH IT, I SEE THE OVERWHELMING MAJORITY OF THESE THINGS THERE'S NO POTENTIAL IMPACT.

AND THE OTHERS THAT YOU KIND OF FOCUS ON, I DON'T REALLY SEE THAT THERE IS A COLLISION. OR A CURTAILMENT OF RIGHTS.

SO TELL ME, TELL ME SPECIFICALLY WHAT CONSTITUTIONAL RIGHTS OF DEFENDANTS ARE CURTAIL OR ARE DEFEATED BY THIS PROPOSAL.

>> I WILL GIVE YOU TWO EXAMPLES.

>> OKAY.

>> ONE EXAMPLE IS A SPEEDY TRIAL.

SPEEDY TRIAL.

SPEEDY TRIAL--

>> YOU'RE TALKING ABOUT THE SPEEDY TRIAL RIGHT OF THE DEFENDANT.

>> THAT IS CORRECT.

BECAUSE THE AMENDMENT GIVES THE STATE AN INDEPENDENT STATE CONSTITUTIONAL RIGHT TO SEEK A SPEEDY TRIAL OVER THE OBJECTION

OF THE DEFENDANT.

>> WELL, THE SPEEDY-- THE CONSTITUTIONAL SPEEDY TRIAL RIGHT OF DEFENDANTS IS A RIGHT FOR THEM TO GO, TO HAVE A SPEEDY TRIAL.

IT'S NOT A RIGHT TO SLOW THINGS DOWN--

>> BUT THEY HAVE--

>> I, YOU HAVE AN ARGUMENT, I THINK, THAT THERE'S A DUE PROCESS RIGHT FOR THEM TO HAVE ADEQUATE TIME TO PREPARE, CORRECT?

>> MY ARGUMENT IS NOT DUE PROCESS.

MY ARGUMENT IS BASED ON WHAT'S IN THE AMENDMENT AND THE NOTICE THAT IS GIVEN TO THE PEOPLE THAT THE AMENDMENT AFFECTS AND ESSENTIALLY OVERRULES, PERHAPS, THE RIGHT OF DEFENDANT IN THE CURRENT CONSTITUTION TO HAVE A SPEEDY TRIAL OR WAIVE A SPEEDY TRIAL.

>> BUT THAT'S-- I CAN'T SEE THAT FROM THE TEXT. SHOW ME WHERE THAT IS IN THE TEXT.

TWO PARTIES IN A CASE CAN HAVE A RIGHT TO A SPEEDY TRIAL.

THAT MEANS THE OTHER SIDE CAN'T DRAG IT OUT UNNECESSARILY.

WHEN ONE OF THE PARTIES RAISES THE RIGHT, THE COURT-- EVERYBODY'S GOT TO GET SADDLED UP AND GO.

BUT THE FACT THAT BOTH SIDES CAN DO THAT DOESN'T MEAN THAT THE RIGHT OF ONE SIDE OR THE OTHER IS ADVERSELY AFFECTED.

I CAN'T UNDERSTAND THE ARGUMENT.

>> MR. CHIEF JUSTICE, I THINK YOU'RE FOCUSING ON THE EFFECT OF THE AMENDMENT AND EVERY DAY. I'M TALKING ABOUT WHAT SHOULD BE IN THE SUMMARY AND TITLE TO INFORM--

>> BUT IF IT DOESN'T HAVE THAT EFFECT, WHY SHOULD IT HAVE TO BE

IN THE SUMMARY?

>> IT DOES HAVE THE EFFECT.  
IT DOES HAVE THE EFFECT OF  
GIVING THE STATE, A STATE  
CONSTITUTIONAL AMENDMENT-- IT'S  
IN THE AMENDMENT, THE PROPOSED  
AMENDMENT-- TO SEEK, MOVE THE  
DEFENDANT TO TRIAL  
NOTWITHSTANDING THE DEFENDANT'S  
WAIVER OF HIS OR HER RIGHT TO A  
SPEEDY TRIAL.

>> BUT WHERE IN THE CURRENT  
CONSTITUTION ARE YOU GUARANTEED  
A RIGHT TO DELAY.

>> AGAIN, IT'S NOT A RIGHT TO  
DELAY--

>> OKAY.

SO IF GIVING-- WHERE IN THE  
CONSTITUTION DO YO-- OBVIOUSLY,  
YOU HAVE A RIGHT TO SPEEDY  
TRIAL, AND YOU CAN WAIVE THAT  
RIGHT.

BUT I'M JUST STRUGGLING TO  
UNDERSTAND--

>> AGAIN, I THINK THE ARGUMENT  
HAS BEEN FOCUSED ON WHAT NEEDS  
TO BE TOLD TO THE PUBLIC IN  
ORDER TO MAKE AN INTELLIGENT  
DECISION ON THE AMENDMENT.  
SO ONE TO HAVE RIGHTS THAT WE  
ASSERT AS BEING AFFECTED BY THIS  
AMENDMENT THAT NEED TO BE  
DISCLOSED IS THE RIGHT, THAT THE  
RIGHT TO SPEEDY TRIAL AS SET  
FORTH IN THE CURRENT  
CONSTITUTION IS BEING ABROGATED,  
IN A SENSE--

>> [INAUDIBLE]

YOU'VE SPENT 20 MINUTES ALMOST  
ON THIS ONE.

WHAT ELSE?

>> OKAY.

THANK YOU, YOUR HONOR.  
IT FAILS TO ACCURATELY INFORM  
THE VOTERS OF THE OBLIGATION OF  
THE JUDICIARY TO COMPLETE  
APPEALS AND COLLATERAL  
PROCEEDINGS--

>> BUT WITH RESPECT TO THE  
RIGHTS, YOUR RIGHTS ARGUMENT,

THE ONLY ONE THAT YOU ASSERT IS THAT IT INTERFERES WITH THE DEFENDANT'S CURRENT CONSTITUTIONAL SPEEDY TRIAL RIGHT.

>> NOT EXACTLY.

THE OTHER ONE WOULD BE IT IMPACTS THE RIGHTS THAT ARE GUARANTEED TO THE PUBLIC UNDER ARTICLE I, SECTION 24.

WE MADE THAT ARGUMENT THAT THIS AMENDMENT DEMANDS THE PUBLIC RECORDS AND PUBLIC MEETINGS DIVISIONS OF THE CONSTITUTION WITHOUT GIVING NOTICE TO THE PUBLIC.

>> THE QUESTION I ASKED ORIGINALLY WHICH-- AND YOU CAN STOP TALKING ABOUT IT WHENEVER YOU WANT TO, BUT I SENSED THAT MAYBE I DIDN'T MAKE MYSELF CLEAR WHEN I ASKED THE QUESTION. I WANT TO KNOW WHAT SPECIFIC RIGHTS, AND I THINK JUSTICE LEWIS WOULD WANT TO KNOW THE SAME THING.

WHAT SPECIFIC RIGHTS OTHER THAN THIS ONE WE'VE BEEN TALKING ABOUT A LOT, WE'LL MOVE ON FROM THAT, WHAT SPECIFIC RIGHTS OF DEFENDANTS ARE CURTAILED OR ADVERSELY AFFECTED BY THE PROPOSED VICTIMS' RIGHTS AMENDMENT?

WHAT ELSE DO YOU HAVE ON YOUR LIST OF DEFENDANTS' RIGHTS?

>> AGAIN, THE CLEAREST ONE AND, AGAIN, MR. RICHARD ARGUED ABOUT SOME OF THEM IN HIS PROPOSAL, IS THAT THE AMENDMENT PLACES VICTIMS' RIGHTS, ELIMINATES THE ABILITY-- THE LANGUAGE OF THE CURRENT CONSTITUTION THAT VICTIMS' RIGHTS SHALL NOT ABROGATE DEFENDANTS' RIGHTS. AND SO WE DON'T KNOW EXACTLY HOW THIS IS ALL GOING TO PLAY OUT. MY POINT IS THAT I CONTINUE TO TRY TO MAKE TO THE COURT IS THAT THE BALLOT SUMMARY AND TITLE

NEEDS TO GIVE THE PUBLIC NOTICE  
OF THOSE CHANGES.

AND THAT'S--

[INAUDIBLE]

JUST TWO MORE THINGS.

FINISH WE BELIEVE AND HAVE  
ARGUED THAT THE TITLE AND IS  
SUMMARY MISLEADS VOTERS BY THE  
LANGUAGE THAT IT USES WITH  
RESPECT TO SAYING CREATING  
VICTIMS' RIGHTS.

IT AMENDS VICTIMS' RIGHTS, IT  
SUBSTANTIALLY EXPANDS VICTIMS'  
RIGHT.

S.

IN OUR PAPERS WE POINT TO OTHER  
REVISIONS OF THE CRC OR OTHER  
PROPOSED AMENDMENTS OF THE CRC  
WHERE THE CRC, IN SPECIFIC  
PROPOSALS-- AMENDMENT 8, FOR  
EXAMPLE, ONE THAT YOU PREVIOUSLY  
DEALT WITH TODAY-- IT TALKS  
ABOUT CREATING A TERM LIMIT.

AND IT DID CREATE A TERM LIMIT  
BECAUSE NO TERM LIMIT EXISTED.  
IN AMENDMENT 10, IT TALKS ABOUT  
CREATING GOVERNMENT AGENCY WHERE  
NO GOVERNMENT AGENCY EXISTED.

IN AMENDMENT 12 THE CRC WAS VERY  
CAREFUL TO SAY IT EXPANDS  
LOBBYING PROHIBITIONS IN CERTAIN  
CIRCUMSTANCES AND CREATES  
LOBBYING PROHIBITIONS IN OTHER  
CIRCUMSTANCES.

HERE THE COURT TRIES TO HIDE THE  
BALL, TRIES TO MISLEAD THE  
VOTER, TRIES TO PUT POLITICAL  
RHETORIC IN THE AMENDMENT THAT  
BASICALLY IS DESCRIBE BY USING  
THE WORD "CREATING," CREATES THE  
FALL IMPRESSION, WE BELIEVE  
THAT THERE IS NO EXISTING  
CONSTITUTIONAL RIGHTS FOR  
VICTIMS.

I SEE MY TIME IS EXPIRED.  
AND I DON'T WANT TO TAKE UP ANY  
MORE TIME.

>> OKAY, THANK YOU.

>> YOUR HONORS, MAY IT PLEASE  
THE COURT, HARVEY--

[INAUDIBLE]

ON BEHALF OF AMY KNOWLES.  
WITH RESPECT TO THE FIRST ISSUE,  
THAT IS STATUTORY ACCURACY  
REQUIREMENT, WE'RE GOING TO  
DEFER TO THE ARGUMENTS THAT  
MR. HERRON HAS RAISED AND THAT  
ARE IN THE AMICUS BRIEFS.  
I JUST WANT TO ADDRESS ONE QUICK  
THING.

I DON'T WANT TO LOSE SIGHT OF  
WHERE, ULTIMATELY, I WANT TO GO.  
I HAVE A SHORT PERIOD OF TIME.  
WHAT I FIND PARTICULARLY  
TROUBLING IS SOMETHING THE COURT  
HAS ALREADY RAISED, AND THAT IS  
AREAS OF CURTAILMENT, IF YOU  
ARE, AS TO THE RIGHT TO APPEAL,  
THE RIGHT TO POST-CONVICTION  
REMEDIES.

IT STILL ALLOWS IT, BUT NOW  
THERE IS THE REQUIREMENT OF--

[INAUDIBLE]

AND IN RESPONSE TO YOUR  
QUESTION, JUSTICE CANADY, TO THE  
EXTENT THAT THAT IN ANY  
FRUSTRATES OR CHILLS THE  
DEFENDANTS' RIGHTS, AND THIS  
COURT KNOWS IT'S NOT ALWAYS--  
>> WELL, WE'RE REALLY TALKING  
ABOUT THE APPELLATE--

[INAUDIBLE]

AND THE REPORTING REQUIREMENT  
HAS TO COME NOT FROM CHIEF  
JUSTICE--

[INAUDIBLE]

AT ALL.  
IT COMES FROM THE CHIEF JUDGES  
OF DCAs AND THE CHIEF JUSTICE  
OF THE FLORIDA SUPREME COURT.  
SO THE COURTS HAVE TALKING ABOUT  
IN 10B REALLY THE APPELLATE  
COURTS, NOT THE TRIAL COURTS.  
ISN'T THAT CORRECT?

>> IT IS MY UNDERSTANDING, YOUR  
HONOR, THAT IN THIS REACHES NOT  
ONLY TO THE APPEAL, BUT IT ALSO  
REACHES TO POST-CONVICTION--

>> WELL, ANY POST-CONVICTION,  
YOU KNOW, TO A DISTRICT COURT OF

APPEAL OR TO THE FLORIDA SUPREME COURT COMES FROM AFTER THE RULING WITH BY THE TRIAL COURT, DENIAL OF--

[INAUDIBLE]

AND THEN WHAT TRIGGERS THE APPEAL IS THE NOTICE OF APPEAL, RIGHT?

>> CORRECT.

>> ALL RIGHT.

NOTICE OF APPEAL, ONCE THAT'S FILED IS WHAT THE LANGUAGE SAYS IN NON-CAPITAL CASES THEY HAVE TWO YEARS, AND IN A CAPITAL CASE THEY HAVE FIVE YEARS.

SO ISN'T THIS JUST A CLOCK ON THE APPELLATE COURTS, THE DISTRICT COURTS OF APPEAL AND THE SUPREME COURT SO THAT THEY DON'T SIT ON THE APPEAL AND THAT THERE'S NOT SOME UNTIMELY DISPOSITION OF A CASE?

>> I THINK IN THEORY IS THE TO--

[INAUDIBLE]

I CAN APPRECIATE THAT.

THE ANSWER, I WOULD DISAGREE--

[AUDIO DIFFICULTY]

THE CLOCK STARTS--

[INAUDIBLE]

CRIMINAL PROCEDURE SAYS THAT THE DEFENDANT HAS TWO YEARS FROM THE TIME OF CONVICTION AND SENTENCE IS FINAL WHICH--

[INAUDIBLE]

AGAIN, I DON'T WANT GET TOUR AWAY FROM WHERE--

[AUDIO DIFFICULTY]

>> WHEN YOU LOOK AT THE LANGUAGE OF B, IT'S TALKING ABOUT BETWEEN THESE APPEALS MUST HAVE BEEN CONCLUDE BY.

>> BUT IT'S ALSO, IT SAYS-- JUDGMENT COMPLETE.

SO IT'S TWO YEARS FROM THE DAY OF THE APPEAL.

[AUDIO DIFFICULTY]

>> THIS IS SOMETHING THAT I THINK YOU ALL WILL WRESTLE WITH MORE THAN I CAN OTHER THAN TO

SAY I KNOW JUSTICE CANADY ASKED SEVERAL TIMES WHAT THINGS CAN YOU POINT TO.

>> LET ME ASK YOU ABOUT THE-- I MEAN, ASSUMING THAT WE WOULD HAVE TO CHANGE OUR RULES, THE TIME FRAMES FOR POST-CONVICTION RELIEF IN OUR RULES IN ORDER TO MAKE THIS WORKABLE IF IT GETS ON THE BALLOT AND PASSES IS THE ISSUE, I THOUGHT, WAS WHETHER IT CHANGES A CONSTITUTIONAL PROVISION.

AND SINCE THERE'S NO CONSTITUTIONAL DEADLINE THAT WOULD BE AFFECTED, I'M WONDERING WHY IT'S RELEVANT THE OUR CONSIDERATION HERE.

>> THE COURT ASKED A NUMBER OF TIMES WHAT SPECIFICS CAN YOU POINT TO ABOUT THIS AMENDMENT THAT IN ANY WAY WOULD MY CANDIDATE--

[INAUDIBLE]

>> YEAH, BUT WE WERE TALKING ABOUT EXISTING CONSTITUTIONAL RIGHTS.

>> I UNDERSTAND THAT.

I UNDERSTAND THAT.

AND YOU SHOULD ARTICLE V THE DEFENDANT HAS VERY CLEAR, FUNDAMENTAL RIGHTS TO THE EXTENT-- THERE MAY BE OTHER THINGS TOUCHED ON, BUT--

[INAUDIBLE]

DEFENDANT'S RIGHTS TO EXERCISE HIS PROTECTIONS UNDER ARTICLE V, THEN THAT IS TROUBLING.

AND WHEN YOU LOOK AT THAT IN COMBINATION WITH THE LANGUAGE, THAT'S TAKEN OUT.

THE LANGUAGE IS NOT JUST SIMPLE--

[INAUDIBLE]

WE DON'T NEED IT ANYMORE AND SO WE TOOK THAT LANGUAGE OUT.

IT'S NOT THAT.

THAT SENTENCE SAYS APART FROM ANY POLITICAL CONSIDERATIONS, THAT SENTENCE SAYS DEFENDANTS'

RIGHTS SHALL TRUMP THE  
DEFENDANT-- THE VICTIMS' RIGHTS  
IF THIS--

[INAUDIBLE]

IT'S NOT JUST SOMETHING THAT'S  
THROWN IN THERE.

ANY EXISTING RIGHTS BEFORE THIS  
GETS PUT INTO PLACE ARE THEN  
SUBSERVIENT, IF YOU WILL-- MET  
ME, IF I MAY--

>> DOES IT SAY VICTIMS RIGHTS  
FROM--

>> WELL, THAT WAS MY PLEDGE.  
AND THE REASON I SAID THAT IS  
THAT IN THE WAY THAT I LOOKED AT  
THAT SENTENCE, WHICH IS NOW  
BEING DEBATE ABOUT, WHICH IS--

[AUDIO DIFFICULTY]

HAVE THESE RIGHTS AS LONG AS  
IT--

[INAUDIBLE]

I KNOW WE'RE NOT THERE YET,  
WE'RE NOT LOOKING TO MERIT, BUT  
IF IT EVER DID COLLIDE, AT THAT  
POINT--

>> WELL IT SAYS SPECIFICALLY, I  
MEAN, THERE'S TWO THINGS THAT  
HAPPEN.

FIRST, YOU'RE CORRECT.

IT'S EXCISED.

[AUDIO DIFFICULTY]

IT'S A VERY SIMPLE CONCEPT.  
VICTIMS SHOULD HAVE RIGHTS, BUT  
DEFENDANTS WHO, UNTIL THEIR  
APPEALS ARE FINAL, ARE PRESUMED  
INNOCENT.

NOW, THOUGH, IT DOESN'T SAY THAT  
VICTIM' RIGHTS WILL BE ELEVATED.  
IT SAYS THAT THEY'RE NO LESS  
VIGOROUS IN PROTECTIONS AFFORDED  
TO CRIMINAL DEFENDANTS,  
ESSENTIALLY TAKING THE--  
PUTTING THOSE ENUMERATED RIGHTS  
IN SAYING THEY GET TREATED AT  
LEAST EQUAL TO.

SO THEY DON'T SAY TRUMPS THE--

>> THAT WAS MY TERM.

>> OKAY.

BUT STILL THAT'S SIGNIFICANT  
FROM THE POINT OF HOW THE COURT

TRIES TO BALANCE THE RIGHTS OF AN ACCUSED WHEN THERE ARE THESE MULTIPLE ENUMERATED RIGHTS.

>> LET ME JUST SUGGEST TO COURTS,.

[AUDIO DIFFICULTY]

IT'S VERY IMPORTANT THAT I USE THE TERM TRUMP ONLY BECAUSE SOMETIMES IT'S EASIER FOR ME TO THINK OF THINGS IN COMMON SENSE TERMS.

TO ME, WHEN I READ THAT SENTENCE, THE IMPRESSION THAT I GOT IS THAT AT SOME TIME IN THE FUTURE-- AND WE'RE NOT THERE YET, BUT THOSE TWO SHOULD COLLIDE.

VICTIMS RIGHTS WOULD BE HONORED AS LONG AS IT DIDN'T IN ANY WAY COMPROMISE RIGHTS.

IT IS A-- I USED THE WORD TRUMP WITH NO POLITICAL OVERTONES TO IT.

BUT AGAIN, THAT'S NOT--

[INAUDIBLE]

I APPRECIATE YOU GIVING ME TIME TO TALK ABOUT--

>> WHY DON'T YOU GO THROUGH WHAT YOU WANT TO TALK ABOUT IT.

>> THANK YOU, YOUR HONOR.

>> IT PROBABLY WOULD HAVE BEEN GOOD TO START WITH THAT.

>> YOU KNOW, IT PROBABLY WOULD. THESE ARE THINGS THAT YOU WISH YOU HAD A REDO.

[LAUGHTER]

I'VE--

[INAUDIBLE]

AS A CONSTITUTIONAL ACCURACY REQUIREMENT.

THAT IS TO SAY THAT WHEN WE FIRST LOOKED AT THIS, I LOOKED AT FLORIDA STATUTE 101.161, AND THAT'S WHERE MOST OF THE--

[AUDIO DIFFICULTY]

WHEN I STARTED TO TALK ABOUT THIS WITH THE PEOPLE, THAT'S WHERE ATTORNEYS STARTED TO THINK ABOUT IS THE BALLOT CLEAR AND ALL THOSE SORTS OF THINGS.

BUT THERE'S ANOTHER ASPECT OF THIS.

FLORIDA STATUTE 101.141 REALLY, REALLY GETS AT ITS GENESIS.

IN THE ARMSTRONG CASE FROM SOME TYPE OF A CONSTITUTIONAL ACCURACY REQUIREMENT, ARE WE PLACING VOTERS IN A POSITION WHERE IN ANY WAY THEIR ABILITY TO EXERCISE A FREE AND MEANINGFUL VOTE IS IN ANY WAY FRUSTRATED?

ARE WE PUTTING THEM IN A POSITION WHERE THEY HAVE TO COMPROMISE THEIR VOTES?

[AUDIO DIFFICULTY]

THE SECRETARY OF STATE'S POSITION IS ALMOST-- IT'S A CATEGORICAL--

[INAUDIBLE]

LET'S LOOK AT THE CONSTITUTION. THERE ARE PROVISIONS FOR SINGLE SUBJECT.

WE CALL IT BUNDLING, WE ALL COME TO THE SAME PLACE.

WHERE IN THE CONSTITUTION CAN WE LOOK FOR THE AUTHORIZATION FOR COURTS TO CONDUCT SOME TYPE OF FINISH.

[INAUDIBLE]

THAT, BY ITS VERY TERMS APPLIES TO--

[AUDIO DIFFICULTY]

IT'S NOT AUTHORIZED OR NEED NOT BE A CHALLENGE TO-- YES, YOUR HONOR.

>> YOU'VE USED ALL YOUR TIME. HOWEVER, IN LIGHT OF HOW YOU GOT TO THIS POINT, I'M-- DON'T LEAVE, DON'T LEAVE.

[LAUGHTER]

I'M GOING, I WANT TO JUST TELL YOU I'M GOING TO GIVE YOU THREE MORE MINUTES.

>> AT ANY RATE, OUR POSITION DOES NOT REST ON OUR--

[INAUDIBLE]

FUNDAMENTAL RIGHT TO EXERCISE A FREE, MEANINGFUL VOTE AND THE CONSTITUTIONAL RIGHT OF VOTERS

TO BE ABLE TO-- ONE THAT IS  
FREE OF ANY ARBITRARY VOTING  
CONDITIONS.

>> ARE YOU SAYING THAT THE  
VOTERS, THE PEOPLE OF FLORIDA  
ARE UNABLE TO CONSIDER ONE THING  
AT A TIME?

>> WHAT I'M SUGGESTING, YOUR  
HONOR, NUMBER ONE--

[INAUDIBLE]

BUT MORE TROUBLING IS THAT THEY  
A MAY BE PLACED IN A POSITION  
WHERE THEY HAVE TO COMPROMISE IN  
SOME WAY.

>> I MEAN, ISN'T THAT THE WAY  
THE DEMOCRATIC--

[INAUDIBLE]

YOU VOTE FOR A CANDIDATE, AND  
IT'S VERY UNLIKELY THAT YOU  
WOULD AGREE WITH EVERY POSITION  
OF THAT CANDIDATE.

YOU HAVE TO CHOOSE WHICH, UP OR  
DOWN.

I MEAN, AND THE ONLY WAY TO GET  
TO WHAT YOU'RE SAYING THE VOTERS  
HAVE A RIGHT TO DO IS TO SAY  
THAT THE CONSTITUTION PROVISIONS  
HAVE TO GO TO THE VOTERS-- MORE  
NARROWLY, SINGLE BUDGET.

BUT ONE SPECIFIC OR  
IDENTIFIABLE, AND I GUESS MY  
QUESTION IS WHERE DO YOU FIND  
THAT REVISION IN THE  
CONSTITUTION TO SAY THAT VOTERS  
HAVE THAT RIGHT THE--

[INAUDIBLE]

>> I THOUGHT ABOUT THE NOTION  
THAT WHEN I GO INTO THE BALLOT  
BOX AND I'M VOTING FOR SOMEBODY  
FOR OFFICE, I MAY LIKE SOME OF  
THE THINGS THAT HE OR SHE DOES  
AND NOT LIKE OTHER THINGS, ISN'T  
THAT INTRINSIC TO THE VOTING  
PROCESS.

BUT AGAIN, WE KEEP IN MIND AS--

[INAUDIBLE]

WE ARE CONSIDERED A  
CONSTITUTION.

WE ARE NOT TALKING ABOUT  
SOMEBODY WHO WILL TAKE OFFICE OR

NOT TAKE OFFICE OR WILL TAKE  
OFFICE AND THEN WILL--

>> WAS THE '68 CONSTITUTION THE  
RESULT OF THE CONSTITUTIONAL  
REVISION CONSTITUTION?

>> I CAN'T ANSWER THAT.

>> BUT THAT WAS--

[INAUDIBLE CONVERSATIONS]

>> I THINK IT WAS, RIGHT?

>> I THINK, AS I RECALL, THIS  
INITIATIVE AMENDMENT CAME UP IN  
'72, ALTHOUGH I'M CERTAINLY SURE  
THAT I COULD BE WRONG.

>> ISN'T THIS REALLY SOMETHING  
THAT THOSE WHO ARE--

[INAUDIBLE]

REALLY TRY TO EDUCATE THE PUBLIC  
ABOUT?

YES, YOU MAY LIKE CHANGING THE  
AGE FOR JUDGES, BUT THIS OTHER  
PROVISION IS SOMETHING THAT'S  
REALLY GOING TO WREAK HAVOC  
WHATEVER WAY AND TELL THEM THAT  
YOU'VE GOT TO MAKE A SACRIFICE,  
AND BOTH KNOW BECAUSE THIS OTHER  
THING IS MORE INSIDIOUS.

ISN'T THAT THE KIND--

[INAUDIBLE]

>> I ABSOLUTELY THINK SO.  
THE VOTER NEEDS TO KNOW ALL THE  
THINGS THAT HAVE BEEN BROUGHT UP  
IN THE STATUTORY ACCURACY  
CLIMATE.

THE VOTER NEEDS TO KNOW HOW IT'S  
GOING TO RELATE TO OTHER  
PROVISIONS IN THE CONSTITUTION.  
BUT THEY ALSO NEED TO KNOW, AS  
YOU SAY, THAT IF THIS COULD IN  
ANY WAY--

>> GIVES THEM SOMETHING TO--

[AUDIO DIFFICULTY]

>> WELL, TO THE EXTENT THAT THIS  
COURT IS GOING TO LOOK TO THIS  
BALLOT TITLE AND THIS BALLOT  
SUMMARY AS ADVISING THAT THE  
VOTER OF THE IMPLICATIONS, IT  
ABSOLUTELY IS SOMETHING--

>> I WANT TO ASK YOU ONE FINAL  
QUESTION, AND JUSTICE LEWIS HAS  
A QUESTION, RECOGNIZE HIM ALSO.

HAS ANY COURT ANYWHERE EVER  
ADOPTED THIS SPECIFIC THEORY  
THAT YOU HAVE BEEN TALKING  
ABOUT?

>> WELL, I CAN TELL YOU, AND THE  
LAW'S A BIT DIFFERENT.

I WAS VERY INTERESTED WHEN I SAW  
THIS IN MONTANA.

THIS SAME LAW CAME UP.

AND IT WAS PASSED BY VOTERS.

AND THEN IN 2017-- IN DECEMBER  
OF 2017 MONTANA'S SUPREME COURT  
BASICALLY THREW IT OUT.

EVEN THOUGH IT HAD BEEN APPROVED  
BY THE VOTERS.

BUT THEY DID IT--

[AUDIO DIFFICULTY]

NOW, WE DON'T HAVE THAT, I  
UNDERSTAND THAT THAT.

AND THE PROPOSAL--

>> WELL, OKAY.

OKAY.

I'M ASKING ABOUT SPECIFIC THEORY  
YOU'VE BEEN TALKING ABOUT.

NOW YOU'RE TALKING ABOUT THIS  
CASE.

IT SOUNDS LIKE A DIFFERENT  
THEORY BASED ON A SPECIFIC  
PROVISION IN THE CONSTITUTION.

I'M TALKING ABOUT THE  
SPECIFIC--

[INAUDIBLE]

IS THERE A CASE.

>> THERE ISN'T.

>> THIS IS WHERE YOU GIVE A SIDE  
OR SAY, NO, THERE'S NO ONE.

>> WELL, OKAY.

>> THANK YOU.

THANK YOU.

>> WELL, I DO HAVE A QUESTION.

YOU'VE BEEN UP HERE FOR 20  
MINUTES, AND I FEEL THAT YOU  
HAVEN'T HAD AN OPPORTUNITY TO  
GET ACROSS WHAT YOU'RE SAYING  
ABOUT THE MULTIPLE SUBJECTS.

ALL THIS, AND THIS IS NOT--

YOU'VE BEEN POUNDED WITH  
QUESTIONS ABOUT LOG ROLLING AND  
ARE YOU SAYING THAT YOU HAVE TO  
HAVE ONE DISCREET SENTENCE FOR

EACH AMENDMENT, THAT KIND OF  
THING.

I'M HEARING YOU SAY, AND YOU  
CORRECT ME IF I'M WRONG, BUT I'M  
HEARING YOU SAY THAT THERE IS A  
POINT AT WHICH MULTIPLE THINGS  
ARE BEING PLACED WITHIN ONE  
PROPOSAL CAN CREATE THE TYPE OF  
AMBIGUITY AND LACK OF CLARITY  
THAT FALLS UNDER THE DUTY TO  
HALF CHEER AND CONCISE SUMMARY  
AND TITLE, NOT A SINGLE SUMMING  
VIOLATION.

IS THAT WHAT YOU'RE SAYING?  
AND IF IT IS, COULD YOU PLEASE  
AS SUCCINCTLY AS POSSIBLE-- I  
DON'T WANT TO DRAW THIS OUT, BUT  
AS SUCCINCTLY AS POSSIBLE, WHAT  
IS THAT CONFUSION?

IN THIS CASE?

>> [INAUDIBLE]

SUGGEST TO YOU, AND I HOPE THIS  
ANSWERS YOUR QUESTION.

TWO SCENARIOS.

HYPOTHETICAL THAT I THINK  
SUMMARIZES THE CHARACTERIZATION  
OF OUR POSITION.

I GO INTO THE VOTING BOOTH.

I PRESENT IT WITH-- I HAVE A  
PROPOSAL THAT HAS THREE PARTS TO  
IT.

I LIKE PART B, BUT I DON'T WITH  
LIKE PART C.

MY ACTIONS ARE DON'T VOTE AT  
ALL OR DECIDE DO I LIKE THIS  
MORE THAN I DISLIKE THIS.

THAT IS CONTRARY TO WHAT WE  
THINK OF AS A MEANINGFUL VOTE.

THE SECOND PART IS I HAVE A  
PROPOSAL.

THREE-PART PROPOSAL.

INDEPENDENT, DISTINCT--

[INAUDIBLE]

MR. RICHARD HAS THE EXACT SAME  
PROPOSAL.

EXACT SAME.

WORDS EXACTLY THE SAME.

MINE IS PROPOSED TO GO THROUGH  
THE COMMISSION PROCESS.

HIS WILL BE THROWN OUT, AND MINE

WILL MAKE IT ONTO THE BALLOT.  
AND THAT SEEMS TO BE--  
CONCEPTUAL WAY OF UNDERSTANDING  
WHY THAT IS AND WHY IT SHOULDN'T  
BE.

DOES THAT ANSWER YOUR QUESTION?

NO.

>> NO.

>> I'M HAPPY TO TAKE ANOTHER  
STAB AT IT.

[LAUGHTER]

>> THANK YOU.

THANK YOU.

>> PLEASE THE COURT, MR. SUPPLER  
CLOSED BY MAKING THE COMMENT  
THAT IT DOESN'T SEEM TO BE RIGHT  
OR FAIR THAT THERE IS NO SINGLE  
SUBJECT.

THERE'S A SINGLE SUBJECT  
REQUIREMENT IMPOSED--

[INAUDIBLE]

NOT OTHERWISE.

AND MAKES AN IMPORTANT POINT  
HERE.

THAT'S TRUE.

WE KNOW THAT--

[INAUDIBLE]

THE SINGLE SUBJECT ISSUE IS NOT  
CONSTITUTIONAL.

IT'S POLITICAL.

NOTHING IN THE U.S. CONSTITUTION  
PROHIBITS STATES FROM DOING WHAT  
THEY PLEASED WITH SINGLE SUBJECT  
OR LOG ROLLING OR ANYTHING ELSE.

IT'S A POLITICAL ISSUE THAT'S  
LEFT TO-- THIS STATE HAS MADE  
THE DECISION, AND THIS COURT HAS  
RECOGNIZED--

[INAUDIBLE]

AND THAT'S THE END OF THE STORY.  
THE OTHER THING I WANTED TO  
COMMENT ON WAS JUSTICE LAWSON'S  
COMMENT ABOUT CHOICE.

CHOICE, I HAVE TO REALLY  
VIGOROUSLY DISAGREE WITH  
COUNSEL.

THE NECESSITY AND THE  
OPPORTUNITY TO SOMETIMES MAKE  
DIFFICULT CHOICES AT THE CORE OF  
OUR DEMOCRACY.

AND JUSTICE LAWSON MADE AN EXCELLENT POINT. YOU HAVE TO CHOOSE BETWEEN CANDIDATES, AND SOMETIMES IT'S TOUGH. ONE OF THEM FAVORS ABORTION, BUT HE ALSO FAVORS GUN CONTROL. THE OTHER ONE HAS THE NEAR OPPOSITE. THE VOTER OR DOESN'T HAVE THE RIGHT TO--

>> THAT'S WHEN, HERE, LET'S GO BACK TO THAT ISSUE WHICH IS ABOUT CHOICE. AND I KNOW MAYBE THE APPELLEES GLOSSED OVER IT, BUT IT STILL BOTHERS ME. IT TALKS ABOUT CREATING CONSTITUTIONAL RIGHTS FOR VICTIMS OF CRIME. IT SAYS NOTHING ABOUT, DISCUSSES THE PRE-EXISTING RIGHTS OF VICTIMS THAT WERE QUALIFIED BY THE EQUAL IF NOT SUPERIOR RIGHTS THAT HAVE BEEN HONORED IN THIS CAY AND THIS COUNTRY SINCE THE BEGINNING OF OUR CONSTITUTION NOW GOING TO ELEVATE VICTIMS' RIGHTS IN THIS. IT'S CALL MARCY'S LAW, I GUESS SOMEBODY OUT IN CALIFORNIA. THIS IS A PART OF A NATIONAL LAW, SOMETHING THAT WAS CREATED IN FLORIDA. TO SAY THAT, NO, IT'S NOT TO THE EXTENT THAT THEY INTERFERE WITH DEFENDANTS' RIGHTS SO THAT A COURT CAN MAKE THAT DECISION. IT'S ENUMERATING, HOW MANY--

10?

11?

SPECIFIC RIGHTS.  
HOW MANY?

>> THERE ARE 9--

>> 9 SPECIFIC RIGHTS. AND WITHOUT SAYING ONE THING IN THE BALLOT SUMMARY THAT IT IS TAKING DEFENDANT CANS' RIGHTS AND INSTEAD OF SAYING-- DEFENDANTS' RIGHTS AND INSTEAD

OF SAYING TO THE EXTENT THAT IT DOESN'T INTERFERE, THAT IT'S PUTTING IT ON AN EQUAL IF NOT GREATER FEELING BECAUSE THEY'RE ENUMERATED.

THAT'S THE PART THAT CONCERNS ME ABOUT THE MISLEADING ASPECT OF THIS PART OF THE AMENDMENT. AND MAYBE YOU'VE ANSWERED IT ACCURATELY.

TO ME, THAT'S STILL THE CONCERN, IS A SEA CHANGE IN WHAT IT COULD DO TO THE RIGHTS OF THE DEFENDANTS IN TRIALS IN THE STATE OF FLORIDA THROUGH UNKNOWN CONSEQUENCES OF THESE SPECIFIC RIGHTS OF VICTIMS.

>> WELL, IT SAYS IT CREATES VICTIMS' RIGHTS. THAT IS ACCURATE.

>> IT ADDS, WHAT IT SHOULD SAY IS IT ADDS TO THE CONSTITUTIONAL RIGHTS ALREADY ESTABLISHED AND THEN SAY-- AND NOT TO THE EXTENT THAT IT INTERFERES WITH DEFENDANTS' RIGHTS, BUT IT WILL PUT THE RIGHTS OF VICTIMS ON THE SAME PLANE AS THE RIGHTS NOT OF CONVICTED FELONS, THE RIGHTS OF THE ACCUSED.

>> THERE ARE TWO ISSUES YOU RAISED.

THE FIRST ONE IS THAT COUNSEL DID SUGGEST THAT--

[AUDIO DIFFICULTY]

IF WE HAD DONE THAT, PLAINTIFFS WOULD BE STANDING BEFORE THIS COURT SAYING IT'S MISLEADING BECAUSE--

>> I DON'T KNOW WHAT HE, I WOULD SAY THAT IT ADDS TO THE RIGHTS ALREADY SET FORTH IN EARLY.

>> WELL, THE QUESTION IS WHETHER IT WAS MISLEADING.

LET ME SUGGEST AN ANALOGY.

IF I GO UP TO A RESTAURANT THAT SAYS WE ACCEPT CREDIT CARDS, IT'S NOT RATIONAL FOR ME TO ASSUME FROM THAT THEY DON'T ACCEPT ANY OTHER FORM OF

PAYMENT, CASH IS NOW GONE.  
ONE HAS NOTHING TO DO WITH THE  
OTHER.

THE FACT THAT WE'RE CREATING NEW  
RIGHTS DOESN'T MEAN THERE ARE  
NOT CURRENTLY EXISTING RIGHTS.

>> BUT IT'S FROM THEM--

>> WELL, IT DIDN'T STRIKE  
ANYTHING OUT.

>> SO AND, THE TRIAL JUDGE SAID  
IT DID DO AWAY WITH PRIVATE  
RIGHTS, BUT EVERYBODY AGREES--

>> THAT'S CORRECT.

IN FACT, IT ELABORATED.

>> WHERE DOES IT TAKE THE PART  
THAT SAYS THOSE RIGHTS DON'T  
INTERFERE WITH THE  
CONSTITUTIONAL RIGHTS OF THE  
ACCUSED?

>> IT DOESN'T.

IT DOESN'T RETAIN THAT.

BUT AS I SAID, THAT'S  
MEANINGLESS BECAUSE THEY  
NEVER--

[INAUDIBLE]

THEY NEVER DID.

AND SO THIS IS AN EXAMPLE OF  
TAKING SOMETHING OUT THAT HAS NO  
PURPOSE.

SO IF THE COURT DOESN'T ACCEPT  
THAT, IT DOESN'T ACCEPT IT.

BUT THE FACT IS THE TWO COUNTS  
BEFORE THIS COURT, NEITHER WAS  
ABLE TO ANSWER THE QUESTION OF  
WHAT PARTICULARLY RIGHT DOES IT  
INTERFERE WITH?

IT CERTAINLY DOESN'T INTERFERE  
WITH THE PRE-EXISTING, THE RIGHT  
TO BE GIVEN-- IT DOESN'T  
INTERFERE WITH THAT.

WHICH LEADS TO THE LAST THING,  
THIS ISSUE OF NO LESS VIGOROUS.  
THAT'S GENERAL, THAT'S GENERAL  
STATEMENTS OF THINGS THAT DON'T  
HAVE ANYTHING TO DO WITH  
REALITY.

WHAT DIFFERENCE DOES IT MAKE?  
I DON'T KNOW THAT WE KNOW WHAT  
IT MEANS, BUT WHAT DIFFERENCE  
DOES IT MAKE--

[AUDIO DIFFICULTY]

IF, AS JUSTICE CANADY SAYS, THEY NEVER BUMP UP WITH ONE ANOTHER? YOU HAVE TO REMEMBER, THIS IS MATERIAL UPON THE CONSTITUTION. THERE'S NO MATERIAL IMPACT HERE.

>> SO IN THE LAST CONSTITUTIONAL REVISION COMMISSION WHEN THEY PUT IN THE LANGUAGE BECAUSE THEY ARE CONCERNED, PRESUMABLY, THAT IT WAS GOING TO INTERFERE WITH EXISTING RIGHTS, THEY PUT THAT IN EVEN WITH ALL THE LAWYERS AND JUDGES ON THE COMMISSION TO NO EFFECT?

>> WELL, ONE THING WE ALL KNOW IS WE HAD NO IDEA THE COMMISSION PUTS THINGS IN JUST LIKE WE HAD NO IDEA--

>> WASN'T THE PRIOR VICTIMS' RIGHTS PROPOSAL THAT CAME FROM THE LEGISLATURE?

>> I THINK SO.

>> NOT THE CRC.

>> RIGHT.

CAME FROM THE LEGISLATURE, THEY HANDED THAT IN, AND I SUSPECT-- HAVING BEEN IN THE LEGISLATURE-- WHY DON'T WE ADD THIS IN, AND SOMEBODY ELSE SAYS, OH, OKAY.

BUT THE QUESTION IS, WHAT DID IT DO?

BECAUSE, YOU KNOW, I DON'T HAVE TO TELL THIS COURT THIS HAS TO BE CLEARLY AND CONCLUSIVELY DEFECTIVE.

WHATEVER THAT MEANS, IT'S SOMETHING PRETTY HEAVY.

IT DOESN'T MEAN JUST THE FACT THAT, OH, WELL, IT'S GOOD TO PUT SOMETHING BACK IN, AND WE CAN'T FIGURE OUT WHAT IT HURTS.

SO I SUGGEST, YOUR HONOR, THAT THIS PROPOSAL, IF THIS SUMMARY IS NOT CLEAR, THEN WE'RE SETTING A NEW STANDARD FAR BELOW CLEARLY AND CONCLUSIVELY.

>> THANK YOU.

THANK BOTH SIDES FOR YOUR

ARGUMENT.  
AND THAT CONCLUDES THIS SESSION  
OF THE FLORIDA SUPREME COURT.  
THANK YOU.