

>> ALL RISE.

ZECHARIAH MORGAN HEAR YE, HEAR YE, HEAR YE, THE SUPREME COURT OF FLORIDA IS NOW IN SESSION, ALL WHO HAVE CAUSE TO PLEAD, DRAW NEAR, GIVE ATTENTION AND YOU SHALL BE HEARD.

GOD SAVE THESE UNITED STATES, THE GREAT STATE OF FLORIDA AND THIS HONORABLE COURT.

LADIES AND GENTLEMEN, THE SUPREME COURT OF FLORIDA.

PLEASE BE SEATED.

>> GOOD MORNING AND WELCOME TO THE FLORIDA SUPREME COURT.

FIRST CASE ON THE DOCKET TODAY, ADVISORY OPINION TO THE GOVERNOR REGARDING IMPLEMENTATION AMENDMENT NUMBER 4.

>> GOOD MORNING, MAY IT PLEASE THE COURT.

I AM JOSEPH JACQUOT ON BEHALF OF THE GOVERNOR SPEAKING UP TO 10 MINUTES.

ON BEHALF OF THE SECRETARY OF STATE, SPEAKING UP TO 10 MINUTES.

JEREMIAH HAWKES FOR FIVE MINUTES AND JONATHAN WILLIAMS ON BEHALF OF THE FLORIDA HOUSE FOR FIVE MINUTES.

I WILL RETURN FOR REBUTTAL UP TO 5 MINUTES AS NEEDED.

ELECTIONS ARE COMING.

WE HAD SOME YESTERDAY.

THE GOVERNOR HAS A RESPONSIBILITY TO PROTECT THE INTEGRITY OF THE ELECTORAL PROCESS.

GOVERNOR DESANTIS WANTS TO ENSURE CONSTITUTIONAL RIGHTS ARE RESTORATIVE FELONS AFTER THEY HAVE PAID THEIR DEBT TO SOCIETY. THE GOVERNOR EXERCISED HIS CONSTITUTIONAL POWERS TO SEEK AN OPINION NOT BECAUSE OF THE AMBIGUITY AND TEXT OF AMENDMENT NUMBER IV BUT FOR AUTHORITY AND INTERPRETATION FROM THIS COURT. THE OTHER PARTIES HERE TODAY

HAVE SOUGHT INTERPRETATIONS FROM THE SECRETARY OF STATE. THEY HAVE BROUGHT FEDERAL LITIGATION IMPLICATING INTERPRETATIONS TO THE CONSTITUTIONAL PROVISION AND EVEN COUNTERED THE EXPLANATION OF AMENDMENT NUMBER 4'S SPONSOR AND RESPECT FOR BRANCHES OF GOVERNMENT AND THE JUDICIARY'S ROLE THE GOVERNOR SEEKS TO RENDER A FINAL INTERPRETATION OF WHETHER AMENDMENT 4 REQUIRES LEGAL FINANCIAL OBLIGATIONS WITHIN A SENTENCE TO BE COMPLETED BEFORE THE FELON BEGINS VOTING RIGHTS. THIS COURT'S ANALYSIS SHOULD BEGIN AND END WITH ITS PLAIN LANGUAGE.

AS STATED TO THIS COURT ON THE PROPOSED AMENDMENT, ALL TERMS OF THE SENTENCE MEANS ALL MATTERS.

>> QUICK QUESTION ON THE JURISDICTIONAL ASPECT.

WHY NOT RELY ON CLEMENCY POWERS AS PART OF THE CLEMENCY BOARD AS PART OF THE REGION -- THE REASON FOR SEEKING AN OPINION FROM THIS COURT, YOU RELY ON THE SHALL FAITHFULLY EXECUTE CLAUSE, YOU RELY ON HIM BEING IN CHARGE OF SUPPORTING OFFICERS WHO HAVE RESPONSIBILITY TO TAKE CARE OF ELECTIONS AND STATUTORY AUTHORITY ABOUT WHAT THE SECRETARY OF STATE WANTS TO DO BUT CONSPICUOUSLY ABSENT TO BE AS ANY RELIANCE ON CLEMENCY POWERS WHICH THE GOVERNOR, WHY NOT RELY ON THAT?

>> THE CLEMENCY POWERS ARE CERTAINLY EXCLUSIVE TO THE GOVERNOR AND THE CABINET, BUT WHAT AMENDMENT IV DID IS CREATE A NEW AVENUE OUTSIDE OF THAT CLEMENCY PROCESS FOR THESE FELONS.

IT IS ONLY ON THAT PROVISION THE GOVERNOR IS SEEKING THIS

QUESTION.

>> LET'S SAY SOMEONE QUALIFIES
ABSENT THE QUESTION BEFORE US.
DON'T THEY STILL HAVE TO GO TO
THE CLEMENCY PROCESS TO SAY I
QUALIFY UNDER THIS AND THE
RESTORATION OF MY RIGHTS?
THERE HAS TO BE AN OFFICIAL
PIECE OF PAPER, TO SAY MY RIGHTS
ARE RESTORED?

>> CERTAINLY THOSE WHO WISH TO
EXERCISE THEIR AMENDMENT IV
RIGHTS HAVE THE ABILITY TO
REGISTER AND IT IS INCUMBENT ON
THE SECRETARY OF STATE TO
EVALUATE THAT, TO PULL THEM OFF
THE REGISTRY.

AND MURDER, SEXUAL OFFENSE OR
HAVING COMPLETED TERMS OF THE
SENTENCE.

>> THAT IS UP FOR THE 20
PROCESS.

>> THAT IS AN EXCEPTION.

>> MY SECOND QUESTION, IS THAT
THE EXCLUSIVE MEANS THAT SOMEONE
WHO IS A FELON HAS COME OFF A
SENTENCE, THE EXCLUSIVE MEANS TO
HAVE RIGHTS RESTORED?

>> WE DON'T SEE IT THAT WAY.

>> IS THAT WHAT THE COURT SAID?
WHAT WE SAID?

DIDN'T WE SAY IN THE 2017
OPINION, ALLOWING, SAYING
AMENDMENT IV WAS APPROPRIATE TO
PUT ON THE BALLOT AND MEET THE
STATUTORY CONSTITUTIONAL
REQUIREMENTS FOR BEING ON THE
BALLOT THAT IT WAS THE EXCLUSIVE
MEANS FOR RESTORATION OF RIGHTS
FOR BALLOTS?

>> THERE WILL BE SOME FELONS WHO
DON'T GET RIGHTS UNDER AMENDMENT
IV.

THE CLEMENCY PROCESS IS STILL
OPEN.

>> THERE IS A LINE IN OUR
OPINION WHERE IT SUGGESTS IF
SOMEONE HASN'T COMMITTED MURDER
THE ONE OF THE SEX CRIMES THEY
ESSENTIALLY NO LONGER COULD GO

THROUGH THE CLEMENCY PROCESS.
WHAT JUSTICE LOCKE IS TRYING TO
CLARIFY IS WHETHER THIS IS THE
DISQUALIFICATION FOR THE BROADER
CATEGORY OF FELONS NOTHING WOULD
PREVENT THEM VYING FOR CLEMENCY.
SUBJECT TO THE RULES THERE'S
NOTHING THAT WOULD PREVENT
GOVERNOR AND MEMBERS OF THE
CABINET FROM ALLOWING PEOPLE TO
APPLY FOR CLEMENCY PRIOR TO
THEM, PRIOR TO THE
DISQUALIFICATION.

>> THAT IS CLEAR FOR THOSE WHO
COMMITTED MURDER OR SEXUAL
OFFENSES.

>> THESE OTHER PEOPLE, THE
GOVERNOR AND THE CABINET CAN
EXERCISE DISCRETION HOWEVER THEY
LIKE.

THERE IS NOTHING ABOUT THE TEXT
OF AMENDMENT 4 THAT SAYS PEOPLE
CAN NO LONGER ALSO SEEK TO GO
THROUGH THE REGULAR CLEMENCY
PROCESS.

>> THERE IS NOTHING IN THE
AMENDMENT THAT IS
SELF-EXECUTING.

TO HAVE YOUR RIGHT RESTORED.

>> THE WRITING -- THE RIGHT
EXISTS IN AMENDMENT IV BUT THAT
RIGHT HAS TO BE IMPLEMENTED ONCE
SOMEONE REGISTERS TO VOTE THE
SECRETARY HAS TO EVALUATE THAT.

>> THERE HAS TO BE QUALIFICATION
THAT HAS TO BE MET.

THEY COMPLETED PAROLE PROBATION
AND THAT IS WHY WE ARE HERE.

THERE HAS TO BE SOMETHING MORE.

IT IS NOT AUTOMATIC, WHEN YOUR
BIRTHDAY HAPPENS YOU
AUTOMATICALLY TURN A YEAR OLDER.

>> TO EVALUATE COMPLETION OF THE
SENTENCE IS GOING TO BE A MATTER
OF EXECUTION.

THE COMMON UNDERSTANDING OF
SENTENCE INCLUDES TERMS IN A
JUDGE'S ORAL PRONOUNCEMENT AND
THOSE IN LAW IMMORTALIZED IN A
SENTENCING DOCUMENT.

THIS IS -- ALL TERMS OF SENTENCE IN AMENDMENT IV'S CONSTITUTIONAL PROVISION REFERS TO EVERYTHING THAT IS A TERM AND CONDITION IN THE JUDGE'S SENTENCING ORDER. WHEN SENTENCING INCLUDES LEGAL FINANCIAL OBLIGATIONS, FINES, RESTITUTION, FEES AND COSTS, COMPLETION OF ALL TERMS OF SENTENCE REQUIRES THE SATISFACTION OF THOSE. THE OTHER PARTIES CLAIMED ALL TERMS OF THE SENTENCE INCLUDING PAROLE, REALLY MEANS ONLY IMPRISONMENT, PAROLE OR PROBATION.

THE PROVISION AT ISSUE IS NOT ALL TERMS OF INCARCERATION, NOT ALL TERMS OF PUNISHMENT AND ALL TERMS THAT ARE PUNITIVE. ALL TERMS MEAN ALL THE CONDITIONS IN THE SENTENCING ORDER.

AMENDMENT 4 RESTORES VOTING RIGHTS ONLY ON COMPLETION OF THOSE TERMS OF THE SENTENCE SO FULFILLING THOSE IS A CONDITION PRECEDENT TO VOTING.

AS THOSE ARE TERMS OF THE SENTENCE THAT MAY EXTEND BEYOND THE TIME OF PAROLE OR PROBATION AMENDMENT IV DOES NOT PROVIDE VOTING RIGHTS UNLESS AND UNTIL THEY ARE COMPLETE.

THE OTHERS ARGUE LIFOs I DIFFERENT, NONPUNITIVE. THIS IS NOT BASED ON AN ENFORCED TEXT BUT SELECT THEORIES OF CRIMINAL JUSTICE.

>> ISN'T THE TEXTUAL ARGUMENT FROM THE OPPOSING SIDE OR THE BEST TEXTUAL ARGUMENT FROM THE OPPOSING SIDE THAT WHEN YOU HAVE SPECIFIC EXAMPLES AFTER A GENERAL TERM THE GENERAL TERM IS CONSISTENT WITH SPECIFIC EXAMPLES?

THAT IS GENERALLY THE RULE?

>> THAT IS THE ARGUMENT BEING MADE.

WHEN YOU HAVE IN THE PHRASE INCLUDING PAROLE PROBATION, INCLUDING HAS ALWAYS BEEN INTERPRETED, INCLUDING BY THIS COURT AS NONEXHAUSTIVE LIST.

>> THERE IS NO DOUBT ABOUT THAT BUT IN THAT NONEXHAUSTIVE -- I AGREE COMPLETELY.

EVALUATING WHAT OTHER THINGS ARE THERE, ISN'T THAT WHICH IS LISTED DEFINE THE SCOPE OF WHAT IS INCLUSIVE OR EXCLUSIVE OF WHAT WOULD BE IN THE LIST?

>> IN TERMS OF LIMITATION ON WHAT THE TERMS OF THE SENTENCE IS.

IT IS AN EXPANSION SHOWING WHAT SHOULD BE CONSIDERED.

>> HOW IS COST AND FEES IN PARTICULAR LIKE PAROLE AND PROBATION?

>> COSTS AND FEES ARE NORMALLY IN A JUDGE'S SENTENCE.

PAROLE AND PROBATION, SOMETHING THAT IS NOT NORMALLY OR ALWAYS.

>> DOESN'T THIS INCLUDE A TERM OF PROBATION?

>> CERTAINLY NOT PAROLE.

CERTAINLY PROBATION CAN HAVE ACCESS DETERMINED LATER EVEN DISCRETION OF PROBATION OFFICER IN A LIMITED WAY.

>> YOU DON'T GET CONDITIONS UNTIL PROBATION HAPPENS, AND DISCUSSES WHAT YOUR CONDITIONS ARE UNTIL PROBATION STARTS.

>> THOSE ARE ELEMENTS THAT HAPPEN AFTER THE SENTENCING ORDER AND THOSE ARE BROUGHT INTO THE DEFINITION OF ALL TERMS OF SENTENCE BUT THOSE COSTS, FEES, RESTITUTION, FINES DO HAPPEN AT THE TIME THE SENTENCE IS MEMORIALIZED.

>> I UNDERSTAND IT HAPPENS AT THE SAME TIME BUT THE QUESTION WE ARE ASKED TO ANSWER IS IS A COST AT A FEE A SENTENCE?

THE PROBATION IS NOT PAROLE.

>> THE TERMS DON'T LIMIT ALL

TERMS OF THE SENTENCE BUT --

>> IT HAS TO BE LIKE THOSE THINGS.

IT CAN'T BE APPLES AND ORANGES. THOSE ARE NOT LIKE PROBATION AND PAROLE.

THE LIST HAS TO BE SOMETHING, THE THINGS OUTSIDE OF IT HAVE TO BE LIKE THAT WHICH IS IN IT.

>> THEY ARE ALIKE IN THE SENTENCE THAT THEY ARE PART SENTENCE, INCLUDING PAROLE OR PROBATION AS PART OF THE SENTENCE, AND SOME CONSTRAINT THAT COMES FROM THE INCLUDED THAT SHOULD BE IMPORTED INTO THE BROAD AND EXPANSIVE TRAYS.

>> HOW DO WE DEFINE THE BASKET NOW IT INCLUDES TWO THINGS HOW DO WE DEFINE THAT BASKET?

>> IT IS DEFINED BY WHAT IS IN A JUDGE'S SENTENCING ORDER.

>> WHAT ABOUT RESTITUTION? RESTITUTION COULD BE PART OF THE CONDITION OF PROBATION AS OPPOSED TO THE PROBATION OF SENTENCE.

IT COULD BE PART OF THE JUDGMENT AND SENTENCE AS WELL BUT LET'S JUST DEAL WITH RESTITUTION IS PROBATION.

>> WHEN WE LOOK AT THE SENTENCING ORDER WE LOOK AT DISCRETIONARY ITEMS THAT ARE PRONOUNCED BY THE JUDGE AS WELL AS THOSE IN LAW THAT ARE BROUGHT TOGETHER AND CERTAINLY RESTITUTION IS ENCOMPASSED IN THAT WHETHER IT IS PROVISIONS IN THE LAW AND THE FINAL SENTENCING ORDER, AND CERTAINLY WE BELIEVE RESTITUTION HAS A CONDITION FOR ENDING PAROLE CONTINUES THROUGHOUT THE TIME OF PROBATION AND EVEN PUT INTO A CIVIL LEAN, THAT ENFORCEMENT MECHANISM IS ONLY TO ENFORCE WHAT WAS ALREADY IN THE SENTENCE.

>> IS THAT ISSUE SOMETHING WE HAVE TO DECIDE FOR PURPOSES OF

THE GOVERNOR'S REQUEST, WHETHER OR NOT SOMETHING THAT HAS BEEN CONCLUDED TO A CIVIL LEAN, THE RESTITUTION STILL CONSTITUTES OBLIGATION SUBJECT TO THE REQUIREMENT?

>> ALL TERMS OF THE SENTENCE, EVERYTHING IN THE SENTENCING QUARTER.

>> RESTITUTION IS PART OF THAT ORDER, THINGS THAT SHOULD BE CONSIDERED.

DO WE HAVE TO CONSIDER FOR PURPOSES OF ANSWERING THIS REQUEST WHETHER OR NOT SOMETHING HAS BEEN CONVERTED TO A CIVIL LEAN WHICH SHOULD ALSO BE INCLUDED OR NOT?

>> IF THIS COURT DETERMINES RESTITUTION IS IN THE SENTENCING ORDER, THAT IS EXACTLY WHAT AMENDMENT IV CAPTURES.

WHETHER IT IS AN ENFORCEMENT MECHANISM, A MORE EFFECTIVE ENFORCEMENT MECHANISM THAT HAPPENS THROUGH A CIVIL PROCESS, SHOULDN'T UNDO WHAT WAS IN THE JUDGE --

>> THE POINT OF MY QUESTION IS IT SEEMS LIKE A SEPARATE ISSUE. MAYBE THE TERMS OF THE SENTENCING ORDER, MAY OR MAY NOT BE DIFFERENT.

I DON'T KNOW WHAT THE LANGUAGE IN THE SENTENCING ORDER SAYS, WHAT THE ORDERS SAY ON CONVERSION TO A CIVIL LEAN. MAYBE THEY VARY ACCORDING TO DIFFERENT PARTS OF THE STATE. MAYBE THAT NEEDS TO BE FLESHED OUT IN SOME WAY AS OPPOSED TO AN ADVISORY OPINION FROM THE COURT. WHAT ARE YOUR THOUGHTS ON THAT?

>> WE WILL TAKE WHATEVER A JUDGE DOES.

IF HE OR SHE PUT IN THE SENTENCING ORDER THESE TERMS AND CONDITIONS, THEN WE THINK THAT IS CAPTURED.

>> HOW CAN IT BE THAT THE

SENTENCING ORDER WHICH WILL CHANGE FROM DEFENDANT TO DEFENDANT BE WHAT -- WHAT THE VOTERS UNDERSTOOD IT TO MEAN, WHAT WAS UNDERSTOOD AT THE TIME IT WAS AN ACTOR TO BE WHAT WAS IN THE 4 CORNERS OF THE DOCUMENT THAT WILL CHANGE FROM DEFENDANT TO DEFENDANT TO CIRCUIT TO CIRCUIT?

>> THE VOTERS UNDERSTAND THESE ARE INDIVIDUALIZED DECISIONS MADE BY THE COURTS EVERY DAY BY JUDGES ON DEFENDANTS EVERY DAY BUT WHATEVER THE JUDGE HANDS DOWN, THOSE DEBTS TO SOCIETY HAVE TO BE REPAID SO IS A PHRASE, THE EXPANSIVE PHRASE, ALL TERMS OF SENTENCE IS INTENDED TO CAPTURE EVERYTHING A JUDGE PUTS IN SENTENCING WORK, DISCRETIONARY ITEMS OR WHETHER THEY WERE REQUIRED BY LAW.

>> EVEN IF IT IS ILLEGAL?

>> IF IT IS ILLEGAL THERE IS A PROCESS TO CHALLENGE THE ILLEGAL SENTENCES, WHAT IS DONE AND UPHELD AND THE RESULT OF THAT PROVIDE A NEW SENTENCE.

>> THIS GOES TO THE QUESTION FOR JUSTICE PAULSON ABOUT THE SCOPE OF YOUR QUESTION.

WHAT HE'S ASKING ABOUT GOES TO THE ISSUE OF COMPLETION.

YOU ARE ASKING US TO ADDRESS WHAT COMPLETION IN TERMS OF THE SENTENCE MEAN, THE CONVERSION TO THE CIVIL LEAN TO THAT ASPECT OF IT.

>> THE QUESTION THE GOVERNOR POSTED TO THE COURT IS WHETHER LEGAL FINANCIAL OBLIGATIONS ARE INCLUDED IN THE PHRASE ALL TERMS OF SENTENCE.

>> WHAT COMPLETION MEANS IS NOT PART OF THE QUESTION.

>> AND WE HELPED YOU TO CONSUME YOUR REBUTTAL TIME I WILL GIVE YOU TWO MINUTES FOR REBUTTAL. MAY IT PLEASE THE COURT.

MOHAMMED JAZIL ON
BEHALF OF SECRETARY OF STATE.
THE GOVERNOR 6 ADVISORY OPINION
TO PROVIDE SOME FINALITY AND
CERTAINTY AS WE HEAD INTO A
PRESIDENTIAL ELECTION.

THE SECRETARY OF STATE AGREES
BUT ALSO ASKS FOR CONSISTENCY
BETWEEN THE MEANING OF THE
PHRASE COMPLETION OF ALL TERMS
OF SENTENCE AS CONSIDERED AND
APPROVED BY THE COURT IN 2017
AND THE MEANING OF THE SAME
PHRASE.

IN 2017 THIS COURT, THE STATE
AND THE ELECTORATE WERE ALL TOLD
THE PHRASE COMPLETION OF ALL
TERMS OF SENTENCE INCLUDES
FINES, FEES, COSTS, RESTITUTION.

>> WE WERE TOLD THAT HERE BUT
VOTERS WERE TOLD IN DIFFERENT
EDITORIALS AND OPINION PIECES
THROUGHOUT THE STATE.

>> THE WORDS CAN CHANGE.
THE MEANING ATTACHED BY SOME
DID.

CONSTITUTIONAL TEXT THROUGH THE
CITIZEN INITIATIVE PROCESS WHERE
THE COURT HAD AN OBLIGATION
REVIEWED TO MAKE SURE BALLOT
SUMMARIES ARE NOT AMBIGUOUS THE
MEANING SHOULD BE FIXED, AND THE
MEANING SHOULDN'T CHANGE.

THE SECRETARY IN A NUTSHELL
AFTER COMPLETION OF ALL TERMS OF
SENTENCE INCLUDES FINANCIAL
OBLIGATIONS JUST AS IT DID IN
2017.

>> CAN I ASK A QUESTION TAKING
UP ON WHAT JUSTICE LOCKE WAS
ASKING?

WHAT WORK INCLUDING PROBATION
LANGUAGE, WHAT WORK IS THAT
DOING?

>> I READ THE WORD INCLUDING, IT
PROVIDES A LIST OF EXAMPLES.

>> THAT IS A GIVEN BUT IS A
COMPLETELY SUPERFLUOUS?

ALL TERMS OF SENTENCE, DOES THAT
DO NOTHING TO HELP US UNDERSTAND

WHAT THE SENTENCE MEANS?

>> IT IS NOT COMPLETELY SUPERFLUOUS, ALL TERMS OF SENTENCE, INCLUDING IN THE MIDDLE AND PAROLE AND PROBATION. MAY OR MAY NOT BE INCLUDED IN THE SENTENCING DOCUMENT.

>> WE AGREE PAROLE AND PROBATION ARE AFTER SOMEONE COMPLETES AN ACTUAL IMPRISONMENT.

>> YES, ONE WAY TO READING AND PAROLE AND PROBATION IS TO READ IT AS AN ATTEMPT TO CAPTURE WHAT SOMEONE MIGHT HAVE TO DO TO SATISFY THEIR DEBT TO SOCIETY AS MY FRIEND -- IF YOU VIOLATE THE SOCIAL CONTRACT CERTAIN PUNISHMENTS ARE METED OUT. THOSE PUNISHMENTS ARE USUALLY INCLUDED IN THE FOUR QUARTERS OF THE SENTENCING DOCUMENT AS THE COURT WAS PREVIOUSLY TOLD AND THEY INCLUDE PAROLE AND PROBATION.

ONE WAY TO READ COMPLETION OF ALL TERMS OF SENTENCING INCLUDING PAROLE AND PROBATION, TO CAPTURE THE ENTIRE UNIVERSE OF PUNISHMENT ACCORDED TO THE DEFENDANT.

>> OBVIOUSLY YOU WANT THE PUNISHMENT TO INCLUDE RESTITUTION COSTS.

IS A CLARIFYING IN AMBIGUITY. IF IT WERE THERE BEFORE THE PROBATION?

>> THAT IS ONE WAY TO READ IT. WE DON'T NEED TO GET THERE. YOUR HONOR LED THE QUESTION WITH SHOULD WE READ THE PHRASE IN SUCH A WAY WERE ALL TERMS OF SENTENCES WERE SEPARATELY WITH?

>> INCLUDING PAROLE AND PROBATION IS SUPERFLUOUS.

IT IS NOT SUPERFLUOUS, PAROLE AND PROBATION IT CAPTURES THE ENTIRE UNIVERSE OF PUNISHMENT GIVEN AFTER THE DEFENDANT.

>> THOSE TWO PHRASES CAPTURE THE ENTIRE -- THAT IS PART OF MAKING

SURE THE WHOLE UNIVERSE IS
COMING.

>> HOW CAN THEY BE SERVED PER
FLU US?

DOESN'T IMPLY THEY JUST MEANS
SOMEONE SATISFIES AND GETS
RIGHTS RESTORED UPON LEAVING
JAIL?

THERE IS SOMETHING MORE
INCLUDING LANGUAGE PAROLE AND
PROBATION.

>> YES.

>> LET ME FOCUS, WHAT THIS CAN
BE UNDERSTOOD, WE RECOGNIZE THE
TERM COULD MEAN A LENGTH OF TIME
OR PERIOD OF TIME.

AND PAROLE AND PROBATION, THE
FACT THAT THAT IS INCLUDED
FOCUSES ON THE LENGTH OF TIME
ASSOCIATED WITH RESTRICTION ON
LIBERTY INTEREST OF THE
DEFENDANT.

AND IN TERMS OF INCARCERATION, A
LENGTH OF TIME ASSOCIATED WITH
THE MOST SEVERE LIBERTY IN
INFRINGEMENT, AND THE LIBERTY
INTEREST IS IMPAIRED.

THE LANGUAGE IS FELONY
CONVICTION, IT WOULDN'T MAKE
SENSE TO USE TERM TO ME IN TERMS
OF LENGTH OF TIME, THERE'S ONLY
ONE LENGTH OF TIME THAT SOMEONE
HAS LIBERTY INTERESTS IMPAIRED
ASSOCIATED WITH SINGLE FELONY
CONVICTION.

DOESN'T THAT ELIMINATE THE USE
OF THE WORD THE LENGTH OF TIME
USE OF THE WORD TERM, THE FACT
IT IS A FELONY CONVICTION, IN
TERMS OF SENTENCE ASSOCIATED
WITH A FELONY CONVICTION WHICH
HAS TO BE TALKING ABOUT HOW THE
ALTERNATIVE WHICH IS PROVISIONS
OF THE SENTENCE, CONDITIONS OF
THE SENTENCE.

>> PRECISELY, YOUR HONOR.

WE NOTE THE POINT IN OUR BRIEFS,
TALKS ABOUT CONVICTION AND TALKS
ABOUT TERMS OF SENTENCE
CONVICTION.

IT IS ANALOGOUS TO A DURATION AND THE TERMS OF THE LEASE WHICH ARE ALL THE CONDITIONS INCLUDED IN THE LEASE SINGULAR CONVICTION SINGULAR, TERM PLURAL, TERM SINGULAR.

>> ONCE YOU GET THERE.

INTROSPECTION -- IRRESPECTIVE ANYTHING ELSE IN TERMS OF PROVISIONS OR CONVICTIONS, ALL TERMS COULD MEAN ANYTHING OTHER THAN ALL TERMS WHICH INCLUDE EVERYTHING THE JUDGE PRONOUNCES AND EVERYTHING THAT IS PART OF THE SENTENCE.

>> IMPORTANT TO NOTE THAT IS THE POSITION TAKEN EARLY ON, BASED ON THE REPRESENTATIONS TO THIS COURT, THIS COURT CONCLUDED THE PHRASE IS CLEAR AND UNAMBIGUOUS, CLEAR AND UNAMBIGUOUS.

IF WE FIND AMBIGUITY AFTER THE FACT AFTER IT HAS BEEN INCLUDED IN THE CONSTITUTION IT CREATES CONUNDRUM.

WE HAVE A PROCESS, A CITIZEN INITIATIVE PROCESS THE DEPARTMENT OF STATE TAKE SERIOUSLY WHERE THIS COURT, THIS VERY LANGUAGE, THIS IS NOT A LEGAL PHRASE, SO PEOPLE UNDERSTAND, PEOPLE UNDERSTOOD IT PER THE PROPONENTS COUNSEL TO MEAN EVERYTHING THAT IS INCLUDED IN THE SENTENCING DOCUMENT.

>> THE SUMMARY HAS TO BE CLEAR AND UNAMBIGUOUS TO WHAT IS IN THE PROPOSED.

THE SUMMARY DOESN'T MEAN TO BE MORE CLEAR THAN THE AMENDMENT ITSELF.

OF THE AMENDMENT ITSELF HAS AMBIGUITY.

I'M NOT SAYING THIS IS AMBIGUOUS, THEN IF YOU ARE MERELY PARROTING THE WORDS OF THE AMENDMENT, THAT'S ALL YOU CAN ASK PEOPLE TO DO.

NOTHING SAYS -- NOTHING SAYS AMBIGUOUS PROPOSALS ARE NOT

ALLOWED TO BE PUT ON THE BALLOT,
RIGHT?

>> AMBIGUOUS PROPOSALS WILL NOT
BE ALLOWED TO BE PLACED --

>> IT LOOKS AT THE INITIATIVE,
THEY EVALUATE THE PROPOSAL
ITSELF -- NOT TALKING WORDS OF
THE SUMMARY BUT THE TEXT THAT IS
PROPOSED TO BE ADDED TO THE
CONSTITUTION.

ONLY THINGS THAT ARE CLEAR AND
ON AMBIGUOUS CAN BE ADDED TO THE
CONSTITUTION.

>> WE HAVE TO LOOK AT WHAT THE
SUMMARY IS A SUMMARY OF.

IF IT IS A SUMMARY OF SOMETHING
THAT IS CLEAR AND ON AMBIGUOUS
OF THE SUMMARY ITSELF CAN TRACK
LEGISLATIVE LANGUAGE, TO CAPTURE
WHAT THE BALLOT INITIATIVE MEANS
FOR THE VOTER, THE VOTER DOESN'T
SEE THE ACTUAL INITIATIVE
LANGUAGE ON THE ELECTION DAY
BALLOT.

IF WE ARE SAYING, THE SUMMARY
CAN BE AS AMBIGUOUS ATTRACTING
THE LANGUAGE, THAT IS NOT A
SUMMARY AT ALL.

THAT IS PROVIDING FOLKS AN
OPPORTUNITY TO KNOW WHAT THEY
ARE VOTING ON.

THIS IS NOT SOMETHING NEW.

SMITH VERSUS AMERICAN AIRLINES,
THE ADVISORY OPINION REGARDING
PROPERTY RIGHTS AMENDMENT AND
ADVISORY ABOUT TREATING PEOPLE
DIFFERENT ME TALK ABOUT THE
CAPTURE.

>> THAT IS A BIGGER ISSUE THAN
WE HAVE TO DEAL WITH.

>> IF THERE ARE NO OTHER
QUESTIONS I RESERVE THE BALANCE
OF MY TIME.

>> HE HAS GOT ALL HE IS GOING TO
GET.

>> MAY IT PLEASE THE COURT,
JEREMIAH HAWKES ON BEHALF OF THE
SENATE AND PRESIDENT BILL
GALVANO.

I WANT TO START WITH A QUESTION

ABOUT CLEMENCY BECAUSE THAT IS AN IMPORTANT ISSUE TO LOOK AT. YOU HAVE SAID IN THE PAST THE POWER AND RIGHTS REST IN THE EXECUTIVE AND YOU SUBSEQUENTLY EXPLAINED IN THE ADVISORY OPINION REGARDING CIVIL RIGHTS. THAT CASE IS INTERESTING BECAUSE WHAT HAPPENED IS THE LEGISLATURE PASSED A STATUTE THAT PROVIDED AUTOMATIC RESTORATION OF CIVIL RIGHTS FOR FELONS.

THE COURT SAID THE GOVERNOR HAS THE POWER OF CLEMENCY WHICH LEFT THE NECESSARY IMPLICATION THE STATUTE WAS UNCONSTITUTIONAL AND THE COURT FURTHER EXPOUNDING ON THAT SAID THIS PROHIBITION AGAINST LEGISLATIVE ENCROACHMENT ON THE EXECUTIVE COMMITTEE POWERS APPLICABLE TO THE JUDICIARY.

ONE OF THE REASONS THE QUESTION YOU ARE ASKING HERE TODAY IS SO IMPORTANT IS AMENDMENT NUMBER MEANS WHAT IT MEANS, THE LEGISLATURE CAN'T EXPAND ON THAT, THE COURT CAN'T EXPAND ON THAT.

WHAT RIGHTS GIVES BACK IN THE RIGHT GIVES BACK.

>> IF YOU ASK US TO GIVE DIFFERENCE TO HAVE A LEGISLATURE HAS DEFINED THE TERM DOESN'T THAT PRESUPPOSE AMBIGUITY ABOUT HOW IT IS DEFINED?

>> OF THE CORE WERE TO GO THERE WE DON'T THINK THERE IS AMBIGUITY.

IF YOU READ IT IN CONTEXT THE LEGAL FINANCIAL OBLIGATIONS AS JUSTICE LAWSON WALKED THROUGH, LOTS OF TERMS VERSUS TERM AND PERIOD OF TIME AND JUSTICE LAWSON POINTED OUT YOU HAVE TO COME TO THE CONCLUSION -

>> IF WE LOOK AT THE LANGUAGE AND CONCLUDE WHAT IT MEANS THERE'S NO REASON FOR US AT ALL EVER, DESPITE THE FACT WE ARE

NOT ASKED TO LOOK AT IT TO LOOK
AT THE LEGISLATURE PASSED.

>> IF YOU FIND NO AMBIGUITY
WOULD NOT HAVE TO LOOK AT THE
LEGISLATURE PASSED.

ON THE BRIEF SAYS IS IF YOU DO
FIND AMBIGUITY, A
CONTEMPORANEOUS INTERPRETATION
BY THE LEGISLATURE SHOULD BE
GIVEN GREAT DEAL OF WEIGHT AND
DIFFERENCE BY THE COURT BECAUSE
THE LEGISLATURE IS THE
REPRESENTATIVE BODY OF THE
PEOPLE SO INTERPRETING WHAT THE
PEOPLE'S NATURAL LAW IS, THERE
SHOULD BE DIFFERENT TO THE
LEGISLATURE.

>> CAN I INTERRUPT?

IF YOU THINK THERE IS AMBIGUITY
GIVE ME REPRESENT THE
LEGISLATURE WHY WOULD YOU WANT
US TO ANSWER THE QUESTION?
ONCE WE ANSWER THE QUESTION WE
ARE NECESSARILY RELEASED
DEPENDING ON HOW WE WORD IT ARE
CONSTRAINING THE ABILITY OF THE
LEGISLATURE LATER ON TO CHANGE
ITS MIND AND INTERPRET THE TERM
REASONABLY BUT WITHIN THE ZONE
OF WHAT THE AMBIGUITY WOULD
PERMIT.

WHY WOULD YOU WANT US TO ANSWER
UNLESS WE CAN SAY THAT IT ONLY
HAS ONE MEANING?

>> BECAUSE WE DID AND
IMPLEMENTING STATUTE AND THE
COURT SHOULD LOOK TO THE
GUIDANCE THE LEGISLATURE HAS
GIVEN IT AND THAT
CONTEMPORANEOUS INTERPRETATION
BECAUSE WE ALREADY ACTED.

>> LEGISLATURE COULD CHANGE HIS
MIND.

WHY WOULD YOU WANT US TO LOCK IN
A PARTICULAR MEANING?

>> THAT IS THE MEANING THE
LEGISLATURE SAID.

WE DON'T THINK LATER ENACTMENT
BY THE LEGISLATURE WILL CARRY
THE SAME WEIGHT.

>> YOUR UNDERSTANDING THIS STATUTE, THIS AMENDMENT IS NOT SELF EXECUTING AND THAT'S NOT THE NEED FOR THE IMPLEMENTING STATUTE.

>> CORRECT.

THE WHOLE ELECTION SYSTEM REQUIRES HOW PEOPLE REGISTER, WHEN PEOPLE REGISTER, WHEN PEOPLE VOTE AND REGARDLESS WHAT INTERPRETATION IS GIVEN WILL REQUIRE COORDINATION BETWEEN THE PARTS OF CORRECTIONS AND CLERKS OF COURT WITHOUT PRIOR PARTICIPANTS IN THE STATUTE TO PROVIDE INFORMATION.

WE THINK THERE WAS A NEED FOR AN IMPLEMENTED STATUTE IN ORDER FOR THIS AMENDMENT TO WORK?

AND WE DID THAT AS PROMPTLY AS WE COULD.

>> IF THERE ARE NO FURTHER QUESTIONS.

>> MISTER CHIEF JUSTICE AND MAY IT PLEASE THE COURT.

JONATHAN WILLIAMS ON BEHALF OF THE FLORIDA HOUSE OF REPRESENTATIVES.

THE HOUSE AGREES WITH GOVERNOR THE JUSTICES SHOULD ANSWER THE QUESTION POSED IN THE AFFIRMATIVE RATHER THAN REFRAMING ARGUMENTS THAT HAVE ALREADY BEEN MADE.

I WOULD LIKE TO ADDRESS TWO WAYS THE HOUSE'S BRIEF HAS BEEN MISCONSTRUED BY THOSE WHO DISAGREE WITH THE GOVERNOR'S INTERPRETATION.

I WOULD LIKE TO START WITH A HOUSE THAT STATEMENT OF THE TERMS OF SENTENCE WHEN READ WITH NO CONTEXT AT ALL IS SUSCEPTIBLE TO MULTIPLE MEANINGS.

THE HOUSE'S VIEW IS THAT IS A FAIRLY UNREMARKABLE STATEMENT. THE ENGLISH LANGUAGE IS FULL OF WORDS AND TERMS THAT STANDING ALONE WITHOUT CONTEXT ARE AMBIGUOUS.

TAKE THE WORD COURT.
HE CAN REFER TO THIS COURT, OR A
BASKETBALL COURT OR THE PROCESS
BY WHICH ONE LOSE A POTENTIAL
LOVER.

THE HOUSE'S POSITION IS WHEN
READ IN CONTEXT PARTICULARLY
WITH FLORIDA'S LAW ON SENTENCING
THAT EXISTED AT THE TIME THIS
AMENDMENT WAS ADOPTED THAT
AMBIGUITY DISAPPEARS.

AS WE EXPLAINED IN OUR BRIEF
UNDER THE JUDICIAL DECISIONS AND
STATUTES THAT WERE IN PLACE AT
THE TIME OF THE AMENDMENT'S
ADOPTION, FINANCIAL TERMS WERE
PART OF THE SENTENCE UNDER
FLORIDA LAW.

HAD THE FRAMERS OF THE AMENDMENT
INTENDED THOSE TERMS NOT BE
SATISFIED THE FRAMERS SHOULD
HAVE USED SOME TERM OF
LIMITATION TO MAKE THE INTENT
CLEAR.

>> AT LEAST WITH REGARD TO COSTS
AND FEES THERE IS COUNTER
INDICATION IN THE STATUTE BY
SAYING ADDITION TO THE SENTENCE
YOU ARE TO IMPOSE X OR Y WHICH
WOULD INDICATE CASE LAWS
ADJUSTING THOSE THINGS ARE CIVIL
IN NATURE RATHER THAN COMMITTAL
IN NATURE.

HOW ARE WE TO READ THOSE COUNTER
INDICATIONS IF THE PUBLIC
MEANING OF WHAT SENTENCE MEANT
IS DEFINED BY WHAT THE LAW WAS
EXISTING AT THE TIME?

>> THERE ARE SOME STATUTES
CONCERNING FEES THAT MAKE IT
FAIRLY CLEAR THAT FEES WOULD BE
INCLUDED.

FOR EXAMPLE SECTION 27521B TO
CALLS ON THE FEE FOR A OFFENDED
OFFENDED TO BE PART OF THE
SENTENCE.

>> ARE WITHIN IN ANSWERING THE
QUESTION TO PARSE OUT WHICH FEES
ARE CALLED SENTENCE LIKE THE ONE
YOU JUST REFERENCED, AND THOSE

THAT SEEM TO INDICATE THEY ARE NOT SENTENCE OR IN ADDITION TO CRIMINAL SANCTION?

>> I WOULD DEFER TO THE GOVERNOR ON THE SCOPE OF THE OPINION, THE AIM OF THE HOUSE'S BRIEF WAS SIMPLY TO MAKE CLEAR UNDER FLORIDA LAW EXISTING AT THE TIME THE AMENDMENT WAS ADOPTED, IT WAS CLEAR THERE WERE FINANCIAL TERMS OF SENTENCE UNDER THE LAW AND THE MERE FACT THAT A TERM MIGHT BE FINANCIAL DOES NOT MEAN IT IS NOT AMONG THE TERMS OF SENTENCE THAT MUST BE COMPLETED.

>> IF YOUR COHORT SAID WE SHOULD DEFINE SENTENCE ON THE 4 CORNERS WHAT THE SENTENCING DOCUMENT IS YOU HAVE COME TO TELL US WE SHOULD DEFINE IT BY WHAT EXISTING LAW WAS AT THE TIME. OF THOSE ARE CONTRARY TO EACH OTHER IN SOME WAY, WHICH ONE ARE WE TO LOOK AT?

>> I DON'T THINK THERE IS A CONTRADICTION. WHAT THE HOUSE IS SAYING BY REFERENCING PRIOR LAW IS IT IS CLEAR THAT FINANCIAL CONDITIONS CAN BE PART OF THE SENTENCE AND THEREFORE THE ARGUMENT THAT FINANCIAL CONDITIONS ARE NEVER PART OF THE TERMS OF SENTENCE THEY MUST BE COMPLETED IS AN INCORRECT ARGUMENT.

>> THE HOUSE IS NOT REALLY STAKED OUT A POSITION AS TO WHETHER PARTICULAR COMPONENTS -->> IS IT ENOUGH TO ANSWER THE QUESTION THAT IT CAN BE THAT RESTITUTION FEES AND COSTS CAN BE PART OF SENTENCE AND TO LITIGATE, HAVE FOLKS LITIGATED FROM THEIR?

>> NOT BECAUSE WE ARE UNCOMFORTABLE WITH THE QUESTION. IN THE HOUSE'S VIEW THE SCOPE OF THE QUESTION IS SOMETHING THE GOVERNOR SHOULD CLARIFY, NOT THE HOUSE SHOULD CLARIFY.

THAT QUESTION IS DIRECTED --
>> IS YOUR POSITION THAT IT IS
POSSIBLE IF WE ARE STICKING WITH
THE TEXT THAT IT IS POSSIBLE TO
DISTINGUISH SOME FEES AS NOT
BEING PART OF THE SENTENCE AND
OTHERS THAT WOULD BE?

>> THE HOUSE DOESN'T TAKE A
POSITION ON THAT.
THE HOUSE BRIEF WAS AIMED AT
MAKING CLEAR THAT UNDER EXISTING
FLORIDA LAW THERE WERE SOME
CONDITIONS FINANCIAL IN NATURE
THAT WERE IMPOSED AS PART OF
SENTENCES AND THAT MAKES IT
CLEAR.

>> RIGHT NOW IS YOUR POSITION
THAT IT IS ALL OR NOTHING?
WOULD SOMEONE HAVE TO LOOK AT
EACH PARTICULAR FEE OR COST AND
MAKE A JUDGMENT AS TO WHETHER
THEY SHOULD BE DEEMED, QUOTE,
PART OF THE SENTENCE OR NOT?

>> I DON'T MEAN TO SEEM EVASIVE
BUT THE HOUSE DOESN'T HAVE A
POSITION ON THAT ISSUE AT THIS
TIME AND I'M RELUCTANT TO CREATE
ONE ON-THE-FLY SO I WOULD LIKE
TO ASSIST YOU WITH THAT BUT I
CAN'T.

>> YOUR TIME HAS EXPIRED.
>> I WILL SIT DOWN, THANK YOU.
>> WHEN IT GOES READ IT STARTS
COUNTING UP.
THAT DOESN'T MEAN YOU GET MORE
TIME.

>> MISTER CHIEF JUSTICE, MAY IT
PLEASE THE COURT, MY NAME IS
ANTON MARINO AND I DISCUSSED THE
IMPROPRIETY OF THE GOVERNOR'S
REQUESTED A TEXTUAL ANALYSIS OF
AMENDMENT 4.

MY COLLEAGUE, DELMER SMITH, WILL
TALK ABOUT THE INTERPRETATION OF
AMENDMENT NUMBER FOR RUNS
CONTRARY TO THE UNITED STATES
CONSTITUTION.

WHEN HIS SUPERMAJORITY OF
FLORIDA'S VOTERS RATIFIED
AMENDMENT NUMBER THEY DID SO

UNDERSTANDING THE CHIEF PURPOSE OF AMENDMENT NUMBER WAS TO END LIFETIME DISENFRANCHISEMENT AND AUTOMATICALLY RESTORE VOTING RIGHTS.

>> LET ME ASK ABOUT THIS AUTOMATIC RESTORATION. YOUR BRIEF TALK A LOT ABOUT AUTOMATIC RESTORATION.

WHERE IN THE TEXT OF AMENDMENT NUMBER 4 IS THE LANGUAGE THAT SAYS IT IS AUTOMATIC?

>> I UNDERSTAND, YOUR HONOR. THE DECISION IN GRAY VERSUS BRYANT INDICATE THE PRESUMPTION CITIZEN INITIATIVE THAT BECAME PART OF THE CONSTITUTION ARE INDEED SELF-EXECUTING AND THIS COURT APPLYING THAT, RECOGNIZED AMENDMENT 4, AUTOMATIC RESTORATION, IN THE 2017 DECISION THAT UNANIMOUSLY HELD.

>> HOW IS ITSELF EXECUTING? IT SEEMS TO ME THERE HAS TO BE THE PERSON WHO -- NOT DISENFRANCHISED HAS TO DO SOMETHING.

>> WHAT THE RETURNING -- THEY COMPLETE THE TERM OF SENTENCE AND WE ARGUE, COMPLETING THE TERM OF SENTENCE UNDER THE COMPLETION OF ANY TERM OF IMPRISONMENT AND PAROLE AND PROBATION.

TO ANSWER YOUR QUESTION THE GREAT COURT ACKNOWLEDGED THERE WERE INSTANCES WHERE THE LEGISLATURE CAN SUPPLEMENT EVEN SELF-EXECUTING AMENDMENTS THROUGH CERTAIN IMPLEMENTATION PROVISIONS BUT WHAT THE LEGISLATURE MAY NOT DO IS NULLIFY THE PURPOSE OF THE AMENDMENT AND THE CHIEF PURPOSE OF AMENDMENT IV WAS TO END LIFETIME DISENFRANCHISEMENT.

>> YOU ARE PRIMARILY ARGUING TO THE PURPOSE BUT IT DERIVED FROM THE TEXT. THE TERM BEING IN THE DURATIONAL

SENSE BUT THAT'S NOT THE WORD
USED IN THE CONSTITUTION AS
JUSTICE LAWSON DID.

IT IS THE PLURAL TERMS.

>> THE WORD IN THE ACTUAL
PROVISION INDICATES TERMS.

>> BY THE TERM NE RATHER THAN
CONVICTION?

>> I DON'T KNOW IF TERMS IS
MODIFIED BY SENTENCE.

>> IT IS TERMS OF SENTENCE BUT
WHAT DOES THAT MODIFY?

IT MODIFY THE SINGULAR FELONY
CONVICTION.

>> THERE ARE INSTANCES THAT
INDICATE A JUDGE CAN IMPOSE BOTH
A TERM OF IMPRISONMENT AND TERM
OF PROVISION.

>> WHAT IS THE MOST NATURAL
UNDERSTANDING OF TERMS?

SAID THAT IT IS DURATIONAL IN
MULTIPLE TERMS OR IS IT
CONDITIONAL, THE CONDITIONS OF
WHAT THAT IS?

>> YOU HAVE TO LOOK AT TERMS
WITHIN THE CONTEXT OF THE
ENTIRETY OF THE PROVISION.
THE COMPLETION OF TERMS OF
SENTENCING INCLUDING PROBATION,
THERE IS SOME DISCUSSION --

>> ALL TERMS --

>> I RECOGNIZE THE COURT HAD
DISCUSSION IN ITS COLLOQUY
REGARDING THE MEANING OF THE
WORD INCLUDING OR ALL MEANINGS
AND CERTAINLY LOOKING AT ALL,
ONE WOULD HAVE TO LOOK TO THE
ASSOCIATED WORD CANON OR
SOMETHING ELSE.

>> I TO INTERRUPT.

CAN WE GO BACK TO SOMETHING VERY
BASIC?

CAN YOU EXPLAIN TO IS YOUR
DECEMBER 2018 LETTER TO THE
SECRETARY OF STATE?

WHEN I SAY YOU I MEAN THE ACLU
WAS A SIGNATORY, EXPLICITLY SAID
COMPLETION OF ALL TERMS OF
SENTENCE INCLUDES INCARCERATION,
PROBATION, FINANCIAL OBLIGATIONS

IMPOSED AS PART OF AN INDIVIDUAL SENTENCE.

THIS IS DIRECTLY ON POINT. I AM NOT ADJUSTING THE WORDS MEAN WHAT THEY MEAN BECAUSE YOU SAID THEY MEAN THAT BUT THIS LETTER REFLECTS YOUR UNDERSTANDING OF WHAT THE WORDS SHOULD MEAN AND WHAT THE VOTERS DID.

I'M HAVING A HARD TIME UNDERSTANDING HOW WE GET FROM THIS CLEAR STATEMENT IN THE LETTER TO WHAT YOU ARE ARGUING NOW.

>> THE DECEMBER 2019 LETTER IN THE MARCH 2019 LETTER ACKNOWLEDGE THERE MAY BE INSTANCES WHERE LEGAL FINANCIAL OBLIGATIONS AS CONDITIONS OF PAROLE AND PROBATION ARE CONTEMPLATED WITHIN THE MEANING OF SENTENCE.

HOWEVER IT IS ALWAYS OUR POSITION THAT THE RESTORATION CANNOT BE DEPENDENT ON A PERSON'S ABILITY TO PAY FINANCIAL OBLIGATIONS.

>> YOU SAY IT HAS ALWAYS BEEN? I'VE NOT SEEN ANYTHING SUBMITTED WHERE THAT POSITION WAS TAKEN BEFORE THIS LAWSUIT.

>> YOU ARE SEEING THE ACLU'S POSITION?

>> THE ACLU'S POSITION, MY UNDERSTANDING IS THE POSITION OF EVERY PARTY THAT -- EVERY PORTION THAT WAS PART OF THE SPONSORSHIP DID UNDERSTAND --

>> HOW IS THAT POSSIBLE? BECAUSE WHEN THE ACLU IN PARTICULAR WHEN YOU HAD A VOTER GUIDE ABOUT CONSTITUTIONAL AMENDMENT SPECIFICALLY SAID THE ACLU OF FLORIDA SUPPORT AMENDMENT IV RETURNING ELIGIBLE IS A VOTE OF LIBERTY INTO COMPLETED THE TERMS OF THEIR SENTENCES INCLUDING ANY PROBATION PAROLE FIND A

RESTITUTION AS THIS WAS WHAT WAS TOLD TO THE VOTERS OF FLORIDA. IN ADDITION TO THAT THERE ARE OTHER THINGS.

THIS IS FROM THE MIAMI HERALD, AN OP-ED PIECE, TO BE ELIGIBLE THE FELONS MUST COMPLETE ALL TERMS OF SENTENCE WAS THE MEANS WOULD HAVE COMPLETED HOUSE ARREST, JAIL AND PRISON SENTENCES AND COMMUNITY SERVICE, A RESTITUTION, COURT COSTS AND FEES AND FULFILLED ANY OTHER SPECIAL CONDITIONS OF PAROLE OR PROBATION.

>> RESTITUTION AND OTHER LEGAL FINANCIAL OBLIGATIONS ARE CONDITIONS OF PAROLE AND PROBATION AND SO TO THE EXTENT THEY ARE CONDITIONS OF PAROLE AND PROBATION THEY ARE INDEED PART OF THE SENTENCE.

HOWEVER THE LEGISLATURE HAS ALREADY CREATED A SITUATION, RECOGNIZE QUESTIONS REGARDING THIS EARLIER REGARDING WHAT HAPPENS WHEN AN INDIVIDUAL IS UNABLE TO PAY THE LEGAL FINANCIAL ALLEGATIONS ON COMPLETION OF PAROLE AND PROBATION.

>> IF I'M PRONOUNCING THE SENTENCE STAY, NOBODY'S PAROLE ELIGIBLE FOR AN OFFENSE COMMITTED IN A LONG TIME SO FOR A NON-PAROLE ELIGIBLE DEFENDANT, I AM SENTENCING YOU TO FIVE YEARS IN STATE PRISON, \$5000 OF RESTITUTION, A \$2000 FINE AND COURT COSTS IN THE AMOUNT OF \$973 FOR WHAT ARE THE CONDITIONS OF THAT SENTENCE?

>> FOR PURPOSE --

>> WHAT ARE THE CONDITIONS OF THE SENTENCE?

WHAT ARE ALL CONDITIONS OF THE SENTENCE?

>> THERE IS A DISTINCT TO BE DRAWN BETWEEN TERMS AND CONDITIONS.

IF WE ARE TALKING ABOUT
CONDITIONS --

>> WHAT ARE THE TERMS OF THE
SENTENCE?

>> THE TERMS WOULD BE INSTANCES
WHERE THE PERSON WERE SUBJECT TO
IMPRISONMENT OR PROBATION IF
THEY WERE SUBJECT TO PROBATION
AND AGAIN --

>> RESTITUTION, \$5000
RESTITUTION TO THE VICTIM THAT
THAT IS NOT A TERM OF SENTENCE?
THAT WOULD BE NEW TO ME UNDER
FLORIDA LAW.

>> IT IS NOT INTENDED TO BE AND
THE LEGISLATURE IN PASSING
SECTION 775.08 OF THE FLORIDA
STATUTE AND SECTION 938.30 OF
THE FLORIDA STATUTE DOES
INDICATE RESTITUTION IS INTENDED
TO BE MEDIAL IN NATURE, TO
PROVIDE AN OPPORTUNITY FOR THE
OFFENDER TO MAKE THE CRIME
VICTIM HOLE IN THE INSTANCES
WHERE THEY ARE ABLE TO BUT THE
REASON THE LEGISLATURE CARVED
OUT THESE PROVISIONS.

>> THE SENTENCE I HYPOTHETICALLY
PRONOUNCED DID NOT HAVE A
POSSIBILITY DID NOT INCLUDE A
TERM OF PROBATION, DID NOT HAVE
A 5 YEAR PRISON TERM AND A
NUMBER OF OTHER CONDITIONS.
WITH ALL TERMS OF THE SENTENCE
WHAT WOULD YOUR ANSWER BE?

>> MY ANSWER WOULD BE THE TERM
IS THE TERM OF IMPRISONMENT, THE
ONLY TERM THAT IS IDENTIFIED
BECAUSE IT IS DURATIONAL.
THE OTHERS WOULD BE CONDITIONED
--

>> YOUR VIEW IS THE WORD TERMS
COULD MEAN A LENGTH OF TIME.

>> OUR POSITION IF YOU LOOK AT
THE TEXT AND LOOK AT A FAIR
READING OF THE AMENDMENT TERMS
COULD BE DURATIONAL IN NATURE.

>> INCLUDING HAS TO MEAN
SOMETHING OTHER THAN THAT WHICH
IS LISTED.

>> INCLUDING CAN MEAN SOMETHING OTHER THAN THAT.
WHAT DOES IT MEAN OTHER THAN PAROLE AND PROBATION.
>> IT WOULD MEAN THINGS THAT ARE INSTANCES WHERE THE RETURNING CITIZEN OR OFFENDER'S LIBERTY IS SUBJECT TO THE STATE'S CONTROL.
>> IS A RESTRICTION ON LIBERTY?
>> NOT NECESSARILY.
>> HANGING OVER MY HEAD WAS A JUDGMENT TO PAY BACK SOMETHING UNDER A CERTAIN AMOUNT OF TIME OR EVEN NOT, THAT IS A DISTRACTION ON LIABILITY TO DO THINGS THAT I OTHERWISE WOULDN'T WANT TO DO?
>> IT MAY BE A RESTRICTION TO A CERTAIN DEGREE BUT --
>> ISN'T THAT ENOUGH?
>> KNOW, BECAUSE WHAT THE LANGUAGE AGAIN CONTEMPLATES --
>> HOW IS IT ANY DIFFERENT IN MY JURISDICTION WHEN I WAS A TRIAL COURT JUDGE WE WOULD OFTEN IMPOSE ADMINISTERED OF PROBATION AUTHORIZED BY STATUTE AND IT IS NOT PROBATION AT ALL, YOU ARE ON PROBATION BUT DON'T NEED TO REPORTER DO ANYTHING OR ANY FEES REGARDING IT.
IT IS JUST THERE AND EXPIRES ON ITS OWN.
THAT IS A VERY BROAD RESTRICTION.
IS THAT LESS IF I'M IMPOSING \$150,000 RESTITUTION OBLIGATION OR \$50,000 FINE BUT ONE MUST PAY.
>> IT IS A RESTRICTION.
IT IS IMPORTANT TO LOOK AT THE PURPOSE BEHIND INCLUDING PROBATION AND PAROLE WITHIN THE TEXT OF THE AMENDMENT.
I WOULD LIKE TO DRAW THIS ATTENTION TO THE SECRETARY OF STATE SUPPLEMENT APPENDIX, PAGE 42, 99, 100, 121, 122, 71, 129, 101, AND 109 AND THERE IS SIGNIFICANT BALLOT POINT AS YOU

ARE AWARE ON WHAT VOTERS WHO WERE POLLED AT THE TIME WERE CONCERNED ABOUT, SIMPLY RESTORING RIGHTS UPON COMPLETION OF ANY TERM OF IMPRISONMENT BUT WANTED TO MAKE SURE THE PERSON HAD ALSO COMPLETED ANY PERIOD SUPERVISED RELEASE BUT EDITION THERE WAS CONCERN ABOUT THE AMBIGUITY OF WHAT WOULD HAPPEN IF AN INDIVIDUAL WERE SENTENCED TO PROBATION BUT WERE NOT SENTENCED TO A TERM OF INCARCERATION.

>> CAN I GO BACK REGARDING TERM? YOU STARTED TO SAY LET'S LOOK AT WHAT THAT MEANS IN THE SECTION OR ARTICLE AND AS I UNDERSTAND IT IN THE SAME ARTICLE AND SECTION THERE IS USE OF THE SINGULAR TERM REFERRING TO A TERM OF OFFICE, CORRECT?

>> THERE IS INDEED A USE OF A SINGLE A TERM REFERRING TO A TERM OF OFFICE.

>> DOESN'T TOOK THE POSITION BETWEEN THOSE INDICATE THE DIFFERENCE BETWEEN THE USE AS A DURATIONAL TERM AND USE AS A TERM OF CONDITION?

>> NOW, YOUR HONOR AND HERE IS WHY.

THERE CAN BE SEQUENCE OF TERMS OF IMPRISONMENT AND PROBATION AS PART OF ONE'S SENTENCE, SECTION 948.012 TO BE OF THE FLORIDA STATUTES PERMITS THE TRIAL COURT TO IMPOSE A TERM OF IMPRISONMENT.

>> IT AUTHORIZES SPLIT SENTENCES.

THAT IS WHAT YOU'RE REFERRING TO.

WE ALL UNDERSTAND THAT. THE UNDERSTANDING OF THE PUBLIC AND ACTING THIS, UNDERSTAND THE DEFINITION OF A SPLIT SENTENCE OR WHAT THE NATURAL READING OF THE SINGULAR FOLLOWED BY THE PLURAL TERMS.

>> YOUR HONOR RAISES AN IMPORTANT POINT WHEN THEY READ THE TEXT.

AS SECRETARY OF STATE COUNCIL NOTES, WENT TO THE BALLOT BOX, AND IMPROVING OR REJECTING THE AMENDMENT WAS THE SUMMARY AND THE TITLE.

THE TITLE ITSELF IS ENTITLED TO VOTER RESTORATION AMENDMENT. THE BALLOT SUMMARY INDICATES ITS PURPOSE IS TO RESTORE VOTING RIGHTS.

>> A MIKE OTHER AMENDMENTS SUBMITTED TO VOTERS, THIS BALLOT SUMMARY ACTUALLY IS IDENTICAL TO THE TEXT BEFORE US.

>> THAT IS CORRECT.

IT WOULD BE SPECULATIVE TO SAY IN 5 TO 10 MINUTES, IN THE BALLOT BOX CASTING THEIR VOTE, APPROVING OR REJECTING THE AMENDMENT THEY CONTEMPLATE ALL OF THE CLOSE PARSING AND READING.

>> IS THERE AN AMBIGUITY? ARE YOU SUGGESTING THERE IS AN AMBIGUITY IN THE AMENDMENT LANGUAGE?

>> IF THERE IS INDEED AMBIGUITY IN THE LANGUAGE, I DON'T GO TOO MUCH INTO MY COLLEAGUE'S ARGUMENT.

I DON'T WANT TO BE TOO REPETITIVE BUT THERE'S AMBIGUITY THIS COURT SHOULD READ THE AMENDMENT WITH THE UNITED STATES CONSTITUTION AND SEVERAL INSTANCES WHERE LEGAL, FINANCIAL OBLIGATIONS --

>> SHOULD BE STRICKEN?

>> KNOW, YOUR HONOR.

INVALIDATING A CITIZEN'S INITIATIVE BALLOT IS NOT SOMETHING THAT WOULD BE A PROPER REMEDY FOR THE COURT TO CONSIDER IN AN ADVISORY OPINION.

I WANT TO GO TO THE SUBJECT OF JURISDICTION.

I WANT TO ADDRESS A FEW

INSTANCES --

>> BEFORE WE GO TO JURISDICTION
CAN YOU TALK TO ME?

ONE OF THE THINGS WE TALK ABOUT
IS WHAT THE PUBLIC'S
UNDERSTANDING WAS OF THE TERMS
OF THE PROPOSED BALLOT SUMMARY
AND THE ACTUAL TEXTS THAT ARE
IDENTICAL.

HOW DO WE THEN DEAL WITH THE
FACT THAT THERE WERE DIFFERENT
OP-ED PIECES THAT WERE VOTER
GUIDES THAT SPECIFICALLY
DISCUSSED WHAT WAS MEANT BY
TERMS OF SENTENCE INCLUDING
PROBATION, FINES, RESTITUTION,
PAROLE.

I HAVE DREAMS HERE OF OP-ED
PIECES AND EDITORIALS FROM
DIFFERENT PAPERS ALL OVER
FLORIDA THAT MADE IT CLEAR THIS
INCLUDED RESTITUTION AND FINES.

>> ORDINARILY THIS COURT LOOKS
SPECIFICALLY TO THE TITLE IN THE
SUMMARY BECAUSE IT IS THE ONLY
THING THAT THE COURT CAN
IDENTIFY AS ALL VOTERS HAVING
SEEN WHEN THEY CAST THEIR
BALLOTS.

>> WE HAVE LOOKED BEHIND THAT.

>> INSTANCES, YES, TO SEE SOME
DISCUSSION WHAT GENERAL
UNDERSTANDINGS OF THE CITIZEN
INITIATIVE WOULD BE, BUT THIS
BEGINS THERE ANALYSIS WITH TITLE
AND SUMMARY.

I WANT TO SPEND THE MOMENT
BECAUSE I'M RUNNING OUT OF TIME
REGARDING JURISDICTION.

>> YOUR GOING TO GET A COUPLE
MINUTES BECAUSE THE OTHER SIDE

--

>> REGARDING THE ISSUE OF
JURISDICTION THE GOVERNOR'S
COUNCIL SUGGESTS HE WANTS A
CLEARANCE THAT ANSWER REGARDING
WHAT THIS AMENDMENT MEANS WAS
THE ADVISORY OPINION PROCESS IS
NOT THE APPROPRIATE AVENUE TO
GET A CLEAR DEFINITION.

THIS COURT ACKNOWLEDGED IN NUMEROUS OPINIONS ANY ADVISORY OPINION ISSUED BY THE COURT IS MERELY PERSUASIVE, NOT BINDING EVEN ON THIS COURT AND IT INDICATED INDIVIDUALS WHO MIGHT BE INTERESTED IN AN ADVERSARIAL PROCEEDING CAN RELITIGATE THE ENTIRE CASE.

>> THE GOVERNOR HAS TO CONDUCT AN ELECTION AND THE GOVERNOR IS ASKING FOR GUIDANCE ON HOW TO DO THAT IN A WAY THAT ENCAPSULATES THEIR JOB TO HEAR THE VOTER ROLLS OR WHO IS ENTITLED TO VOTE.

HOW IS THAT NOT ENTITLED TO AN ANSWER BIAS?

>> ONE POINT RACE ON THE OTHER SIDE'S WORDS MATTER.

I LIKE TO LOOK AT THE TEXT AND HISTORY OF ARTICLE IV SECTION 1C WHICH REQUIRES THE GOVERNOR WHEN SUBMITTING OPINION TO THIS COURT BE DIRECTLY, INVOLVE SOMETHING THAT DIRECTLY IMPACT HIS EXECUTIVE POWERS AND DUTIES AND HERE IS WHY.

THE HISTORY OF THAT SPECIFIC SECTION HAS EXISTED SINCE 1885. BEFORE 1885, THE GOVERNOR'S AUTHORITY TO REQUEST ADVISORY OPINION HAD ITS GENESIS IN 1868 IN THE 1868 CONSTITUTION.

ARTICLE 5 SECTION 16 OF THE 1868 CONSTITUTION PERMITTED THE GOVERNOR TO SEEK AN ADVISORY OPINION REGARDING ANY QUESTION OF LAW.

>> YOUR TIME IS GETTING SO SHORT.

THIS IS VERY MUCH INTERTWINED WITH THE GOVERNOR'S - AND THEIR DISQUALIFICATION ENDS, WHAT PROCEDURES THEY SET UP, THEY HAVE UNPAID OBLIGATIONS BUT FINISH THEIR PROBATION WHEN THEY WANT TO APPLY FOR CLEMENCY. SEEMS TO ME THAT THE MUCH MORE DIRECT EFFECT ON THE GOVERNOR'S

EXECUTIVE AUTHORITY THAN
SUPERVISING ELECTIONS, I DON'T
SEE HOW YOU CAN SAY THAT'S NOT
ENCOMPASSED IN WHAT THE
CONSTITUTION ALLOWS HIM TO ASK.

>> BECAUSE THIS COURT HAS
ANSWERED THE QUESTION.

REGARDING OPINION OF SUPREME
COURT, 227684 OF FLORIDA, 1897
ON CONSIDERATION OF THE NEW TEXT
THAT REMAINED IN THE
CONSTITUTION TO THE PRESENT DAY
THE GOVERNOR REQUESTS AN
ADVISORY OPINION FROM THIS COURT
REGARDING SPECIFIC POWERS THAT
AROSE AS A MEMBER OF THE PARDON
BOARD.

THAT WOULD HAVE BEEN UNDER
ARTICLE FOR SECTION 12 OF THE
1885 CONSTITUTION.

YOU WANT TO KNOW WHETHER A
PARDON GRANTED BY THE REMAINDER
OF THE PARDON BOARD FROM WHICH
HE DISSENTED WOULD STILL BE
EFFECTIVE AND THIS COURT SAID
NO.

IT IS INAPPROPRIATE TO ANSWER
THAT QUESTION AND IT DID SO FOR
ONE REASON.

AND INVOLVE THE LIFE, LIBERTY
AND INTERESTS OF ONE INDIVIDUAL
WHO IS NOT A PARTY TO THAT CASE.

OF THIS COURT -- LEAVE
UNANSWERED QUESTION THAT
INVOLVES THE LIFE AND THAT HE
AND INTERESTS OF ONE INDIVIDUAL
IT MUST LEAVE UNANSWERED
QUESTION THAT INVOLVES THE LIFE
AND LIBERTY AND INTEREST OF
HUNDREDS OF THOUSANDS OF
RETURNING CITIZENS THROUGHOUT
THE STATE.

>> IF YOU COULD WRAP IT UP IN A
FEW SECONDS HERE.

>> THANK YOU, YOUR HONOR.

WE ASK THIS COURT TO DISMISS THE
GOVERNOR'S REQUEST AS IMPROPER
BECAUSE IT SIGNIFICANTLY EXPANDS
HIS AUTHORITY TO REQUEST AN
ADVISORY OPINION FROM THIS COURT

AND SOMETHING FLORIDA REJECTED WHEN IT ADOPTED THE LANGUAGE THAT EXISTED IN THE TEXT SINCE 1885.

WE ASK THIS COURT IF IT WERE TO ENGAGE IN AN ASSESSMENT OF AMENDMENT IV IT DOES NOT REQUIRE REPAYMENT OF ALL LEGAL FINANCIAL OBLIGATIONS BECAUSE DOING SO WOULD MEAN EVERY PERSON UNABLE TO PAY IS SERVING A LIFE SENTENCE.

IT CANNOT BE MORE THAN 4 OUT OF 5 RETURNING CITIZENS IS SERVING A LIFE SENTENCE.

ADOPTING THE GOVERNOR'S INTERPRETATION LEAVES AN ABSURD RESULT THAT CONTRAVENES THE CHIEF PURPOSE OF THE AMENDMENT. THANK YOU, YOUR HONORS.

>> MISTER CHIEF JUSTICE AT MAY IT PLEASE THE COURT, MIA CHAY BROWN 9 BEHALF OF THE RAZOR PARTIES.

FOR NEARLY A CENTURY THIS COURT HAS READILY FOUND THE CONSTITUTIONAL AVOIDANCE DOCTRINE COMPELS IT TO ADOPT PLAUSIBLE INTERPRETATIONS OF STATE LAW TO AVOID CONSTITUTIONAL INFIRMITY.

>> WE REPLIED IT IN AN ADVISORY OPINION?

>> I DON'T KNOW, YOUR HONOR.

>> I THINK THE ANSWER IS PROBABLY NO.

>> IT MAY BE.

>> IF THE ANSWER IS NO, ISN'T THERE A GOOD REASON NOT TO DO IT IN THE CONTEXT OF WHERE THERE'S NOT A TRUE CASE OR CONTROVERSY IN THE CASE YOUR COLLEAGUE SO WELL STATED IS NOT EVEN BINDING ON US?

>> IN THAT CASE THE CORRECT RESPONSE WOULD BE TO NOT ISSUE AN ADVISORY OPINION A DECLINE JURISDICTION.

TO ISSUE AN ADVISORY OPINION WHERE THERE WOULD BE SERIOUS

CONSTITUTIONAL QUESTIONS AT
ISSUE SEEMS TO ME NOT TO BE A
PARTICULARLY USEFUL --

>> WHY?

ALL THAT HAS BEEN ASKED IS WHAT
THE CONSTITUTION MEANS WAS THE
APPLICATIONS OF THAT ARE FOR
CASES AND CONTROVERSIES
INCLUDING THOSE THAT MIGHT EXIST
IN A COURTHOUSE DOWN THE STREET
FROM HERE.

HOW DOES THAT AFFECT WHAT WE DO
AND HAVE BEEN ASKED TO DO WHICH
IS ANSWER A QUESTION ABOUT WHAT
A TERM MEANS?

>> IF THIS COURT WERE TO FIND
AMENDMENT IV REQUIRES PAYMENT IT
WOULD PUT THE FLORIDA
CONSTITUTION DIRECTLY IN
CONFLICT WITH THE UNITED STATES
CONSTITUTION AS FOUND BY THE
DISTRICT COURT THIS PAST MONTH
WHICH FOUND THE GOVERNOR, THE
INTERPRETATION OFFERED BY THE
GOVERNOR, THE SECRETARY AND THE
LEGISLATURE DIRECTLY VIOLATES
THE 14TH AMENDMENT.

>> DIDN'T THE 11TH CIRCUIT FIND
OTHERWISE EARLIER?

>> KNOW, YOUR HONOR.

>> AND FOUND IT ONLY WAS A
VIOLATION IF THERE WAS AN
ABILITY TO PAY.

>> CORRECT AND THAT IS AN ISSUE
TODAY.

THE 11TH CIRCUIT AND DISTRICT
COURT LAST MONTH FOUND THAT
REQUIRING PAYMENT OF LEGAL
FINANCIAL OBLIGATIONS AS A
CONDITION OF RIGHTS RESTORATION
VIOLATES THE 14TH AMENDMENT WHEN
THERE IS NO PROCESS OR NO
CONSIDERATION OF THE DEFENDANT'S
INABILITY TO PLAY.

>> REGARDING RESTITUTION?

>> THE INABILITY TO PAY FINDING
REACHED ALL FORMS OF FINANCIAL
OBLIGATIONS.

>> THE LAST SENTENCE OF THE
FOOTNOTE.

>> AND JOHNSON V GOVERNOR.
>> THAT IS WHAT WE ARE TALKING ABOUT.
>> JOHNSON V GOVERNOR FOUND CONDITIONING RIGHTS ON INABILITY TO PAY IS --
>> FOR RESTITUTION DOESN'T APPLY TO RESTITUTION?
>> I BELIEVE IT DOES.
>> THE FOOTNOTES AS WE EXPRESS NO OPINION WITH REGARD TO RESTITUTION OR SOMETHING LIKE THAT.
I WILL GET YOU THE EXACT LANGUAGE.
>> THE 11TH CIRCUIT MAY HAVE LEFT THAT OPEN BUT WHETHER IT IS AN OPEN QUESTION OR NOT THERE ARE GRAVE DOUBTS --
>> HOW IS IT POSSIBLE -- I AM NOT SURE THE QUESTION GOT ANSWERED SO I WILL ASK YOU. HOW DO WE DEAL WITH THE FACT THE PARTIES HERE HAVE SPECIFICALLY SAID AT SOME POINT THAT ALL TERMS OF SENTENCE ALSO INCLUDE PAROLE, FINES, RESTITUTION. HOW DO WE DEAL WITH THAT?
>> NEITHER OF THE PARTIES HERE NORTHERN PROPONENTS, NOR THE PROPONENTS LAWYER IN MARCH 2017 ARE THE VOTERS AND THEIR STATEMENTS CAN'T BE IMPUGNED TO THE VOTERS BUT WHEN YOU HAVE AN ISSUE.
>> HOW DO YOU DEAL WITH THE FACT THAT THE VOTERS WERE TOLD BY PEOPLE WHO ARGUED BEFORE THIS COURT WHO ARE NOW PRESENT THAT THAT WAS INCLUDED BY THE TERMS OF THEIR SENTENCE INCLUDING PROBATION, PAROLE, FINES, RESTITUTION AND ANY OTHER DEBTS?
>> TWO THINGS.
>> YOU DON'T DISAGREE OR DO YOU DISAGREE THAT WAS TOLD TO THE VOTERS?
>> TO TAKE A STEP BACK I THINK THE VOTERS THOUGHT MANY THINGS INTERPRETING AMENDMENT IV BEFORE

THEY VOTED.
SOME OF THOSE EDITORIALS
INCLUDED RESTITUTION AND FINES
AND FEES, SO CITIZENS WOULD SEE
A RIGHT TO VOTE ON DETERMINATION
AND PAROLE.

BUT WHAT WAS BEFORE THEM IN THE
BALLOT BOX IS THE TEXT OF THE
AMENDMENT.

>> THE FLORIDA RESTORATION
RIGHTS COALITION WAS PARTY TO
THE ACTION BEFORE THIS COURT IN
2017, CORRECT?

>> CORRECT.

>> SUZANNE MANNING SAID
AMENDMENT 4 WILL AFFECT PEOPLE
WHO HAD BEEN WAITING FOREVER,
PEOPLE WHO HAVE DONE THEIR TIME
AND FINISH THEIR SENTENCE, PAID
THEIR COURT COSTS, PAID THEIR
FINES, PAID THEIR RESTITUTION.
AND THAT WAS IN AN EDITORIAL.

>> THOSE EDITORIALS MAY BE
RELEVANT IN THE CONTEXT -- THEY
ARE ONLY RELEVANT IN THE CONTEXT
WHERE THE TEXT ITSELF IS NOT
PLANE AND IS AMBIGUOUS AND WHERE
YOU HAVE AN THEM BEGIN THIS
PROVISION THIS COURT HAS HELD SO
LONG AS THERE ARE GRAVE
CONSTITUTIONAL DOUBTS IT SHOULD
CONSTRUE STATE LAW IN A WAY THAT
AVOIDS CONSTITUTIONAL --

>> DIDN'T THE SUPREME COURT STAY
IN MARTINEZ THE CONSTITUTIONAL
AVOIDANCE IS ONLY APPROPRIATE
WHERE THERE IS AMBIGUITY?
WHERE THERE ARE TWO NATURAL
READINGS?

IF WE DON'T FIND THERE IS
ANOTHER NATURAL READING BUT THE
ONLY NATURAL READING IS THE ONE
ARTICULATED AFTER LOOKING AT
EVERYTHING, HOW CAN WE APPLY A
CONSTITUTIONAL AVOIDANCE
ASSUMING IT APPLIES ON THE
ADVISORY CONTEXT?

>> AS LONG AS YOU LOOK BEYOND
THE TEXT OF THE AMENDMENT YOU
ASSUME THE TEXT OF THE AMENDMENT

IS ITSELF AMBIGUOUS AND AS LONG AS THE INTERPRETATION THAT WE HAVE PROVIDED IS REASONABLE AND THE AMENDMENT IS REASONABLY SUSCEPTIBLE TO THAT INTERPRETATION THIS COURT'S PRECEDENT PROVIDES THE PROBLEM PROVIDED WHAT ARISES OUT OF THE REQUIREMENT TO PAY AS RIGHTS INTERPRETATION.

>> SORRY TO INTERRUPT BUT WHEN YOU TALK ABOUT THE REQUIREMENT, DID YOU AGREE THIS DIDN'T CHANGE THE UNDERLYING CLEMENCY PROCESS? THAT ANYONE COULD STILL APPLY FOR CLEMENCY?

WHAT I UNDERSTAND THIS TO HAVE DONE IS CHANGED FOR DISQUALIFICATION FOR PEOPLE WHO HAVEN'T COMMITTED MURDERS OR SEX OFFENSES AND COMPLETED ALL THE TERMS OF THEIR SENTENCE BUT DIDN'T DO ANYTHING TO CHANGE THE UNDERLYING AVAILABILITY OF CLEMENCY.

THERE IS NOTHING THIS DID THE CHANGED THE STATUS QUO IN THAT SENTENCE.

DO YOU AGREE WITH THAT?

>> THAT AMENDMENT TO TWO THINGS. THE DISQUALIFICATION ARISING FROM A FELONY CONVICTION SHALL TERMINATE ON CONVICTION AND THAT IS WHERE THE AUTOMATIC NATURE OF THE RIGHTS RESTORATION PROCESS COMES FROM, THAT LANGUAGE THAT SAYS IT SHALL TERMINATE.

>> THE ABILITY, YOU STILL CAN GET YOUR RIGHTS RESTORED EVEN WHILE STILL DISQUALIFIED, RIGHT? THAT IS THE WHOLE POINT, WHILE YOU ARE SUBJECT TO DISQUALIFICATION YOU CAN STILL GO THROUGH CLEMENCY.

I DON'T UNDERSTAND, IF THERE WAS NOTHING UNCONSTITUTIONAL ABOUT THAT, HOW CAN SHORTENING THE DISQUALIFICATION FOR PEOPLE WHO HAVE COMPLETED THE TERMS OF THE SENTENCE, HOW CAN THEY CREATE A

CONSTITUTIONAL PROBLEM?

>> THE EXECUTIVE CLEMENCY
PROCESS IS DISCRETIONARY SO IT
IS NOT A GUARANTEE.

THERE IS NO IMPERATIVE ON THE
GOVERNOR OR CABINET TO GRANT --

>> THAT IS A PROBLEM AND THERE
WAS A PROBLEM BEFORE THIS
AMENDMENT.

>> WHAT YOU WOULD BE DOING HERE
IS BASED ON INABILITY TO PAY YOU
WOULD CREATE TWO SEPARATE TRACKS
WHERE SOMEONE WHO HAS THE MEANS
TO PAY OFF THEIR FINES AND FEES
WOULD HAVE THE RIGHT
AUTOMATICALLY TERMINATED AND
SOMEONE WHO DOES NOT HAVE THE
MEANS IS SUBJECT TO
DISCRETIONARY PROCESS AND THAT
GOES BEYOND WHAT IS PERMISSIBLE
UNDER THE 14TH AMENDMENT.

>> HOW IS A DISCRETIONARY
PROCESS?

IF IT IS AN OBLIGATION YOU HAVE
UNDER A SENTENCE IMPOSED BY A
TRIAL COURT JUDGE?

>> I WAS REFERRING TO THE
EXECUTIVE COMMITTEE PROCESS, NOT
DISCRETIONARY.

>> ARE YOU SAYING OF THE 14TH
AMENDMENT WOULD PRECLUDE --
LET'S TAKE THE FEES AND COSTS
OUT.

IS THE LOGIC OF WHAT YOU ARE
SAYING IS IF THAT HAD
SPECIFICALLY SAID YOUR
DISQUALIFICATION ENDS WHEN YOU
COMPLETED ANY TERM OF
CONFINEMENT AND PAID OFF YOUR
RESTITUTION?

ARE YOU SAYING THAT WOULD BE
UNCONSTITUTIONAL?

>> IT WOULD BE UNCONSTITUTIONAL
IF IT DID NOT TAKE INTO ACCOUNT
THE DEFENDANT'S INABILITY TO
PAY.

>> THROUGH A WAY OTHER THAN THE
UNDERLYING AVAILABILITY OF
CLEMENCY WHERE THAT COULD BE A
REASON FOR YOU TO GO IN FRONT OF

THE CLEMENCY BOARD AND SAY I UNDERSTAND I'M SUBJECT TO DISQUALIFICATION BUT I ASK FOR CLEMENCY BECAUSE I CAN AFFORD TO PAY RESTITUTION?

>> CORRECT.

THE ISSUE IS IF YOU HAVE OUTSTANDING RESTITUTION YOU DON'T QUALIFY FOR THE CLEMENCY PROCESS UNDER CURRENT RULES FOR EXECUTIVE CLEMENCY AND 2, THE PROCESS ITSELF IS DISCRETIONARY SO THE GOVERNOR AND CABINET FOR ANY REASON COULD DENY THAT APPLICATION.

YOU ARE SUBJECTING EACH -- THERE IS NO --

>> THE 14TH AMENDMENT REQUIRES ALL OR NOTHING, WOULD ALLOW A PERMANENT DISQUALIFICATION OF FELONS BUT THE STATE DOESN'T HAVE THE CONSTITUTIONAL OPTION TO SAY WE ARE IN IT AND THE DISQUALIFICATION WHEN YOU FINISH YOUR TERM OF INCARCERATION AND PAID RESTITUTION.

DOES THAT MAKE SENSE?

>> IT DOES.

THE SUPREME COURT IN RICHARDSON DECIDED DISENFRANCHISEMENT WAS CONSTITUTIONAL BUT IT REMANDED TO THE LOWER COURT THE QUESTION WHETHER FELONY THE -- THE ISSUE IN CALIFORNIA IN THAT CASE, THERE WAS DESPERATE TREATMENT IN THE APPLICATION OF THAT PROCESS. THERE WAS A LINE OF CASES THAT CLEARLY STATE IF YOU CAN TAKE THE RIGHT AWAY TO VOTE AWAY FROM SOMEONE CONVICTED OF A FELONY YOU CANNOT RESTORE THAT RIGHT IN A WAY THAT VIOLATES THE OTHER LIMITATIONS IMPOSED BY THE CONSTITUTION.

>> THE OTHER APPLIED ARGUMENTS, ALL YOUR ARGUMENTS HAVE TO DO WITH AS APPLIED ARGUMENTS. WE ARE TALKING FACIAL APPLICATION, WHAT IS INCLUDED IN THE ACTUAL TEXT OF THE

CONSTITUTION, WHAT IS INCLUDED.
>> THE INABILITY TO PLAY IS AN
AS APPLIED ISSUE THE POLL TAX
USUALLY THE 24TH AMENDMENT IS A
FACIAL QUESTION AND FEDERAL
COURT IN JONES RAISED SERIOUS
DOUBTS ABOUT WHETHER SOME
TELEPHONES ARE FUNCTIONALLY
ATTACHED.

>> I'M QUITE CONFIDENT JUDGE
HINKLE CAN SORT OUT WHAT IS
CONSTITUTIONAL AND WHAT IS NOT
IN HIS COURT.

WE HAVE BEEN ASKED AS THE
FLORIDA SUPREME COURT TO
DETERMINE AS A MATTER OF FLORIDA
CONSTITUTIONAL LAW WHAT IS IN
THESE TERMS, NOT TO ADDRESS
WHETHER IT IS UNCONSTITUTIONAL
OR NOT AND EVEN IF PARTS OF IT
WERE UNCONSTITUTIONAL THAN A LOT
OF THINGS FLOW FROM THAT,
WHETHER CERTAIN THINGS ARE
SEVERABLE WHICH WOULD BE A
MATTER OF STATE LAW, NOT FEDERAL
LAW, AND WHETHER THE WHOLE THING
GOES OR PIECES OF IT STAY.
ALL THOSE THINGS ARE YET TO BE
SORTED OUT DOWN THE ROAD BUT NOT
BEFORE US RIGHT NOW.

>> CORRECT.

WHAT IS BEFORE YOU IS WHAT THE
AMENDMENT MEANS AND WHAT
INTERPRETATION THE COURT SHOULD
ADOPT.

>> THE PARTIES, THE ACLU LATINO
JUSTICE LEAGUE OF WOMEN VOTERS
COMING IN DECEMBER 2018 WHEN
THEY WERE TO THE SECRETARY OF
STATE THEY SAID WE URGE THE
DEPARTMENT TO TAKE THIS VIEW
REGARDING ELIGIBILITY OF
INDIVIDUALS REGISTERED TO VOTE
AND IT SAID COMPLETION OF ALL
TERMS OF SENTENCE INCLUDE
FINANCIAL OBLIGATIONS IMPOSED AS
PART OF AN INDIVIDUAL SENTENCE.
HOW CAN NOW YOU TAKE AN OPPOSITE
VIEW WHEN YOU TOLD ANOTHER PARTY
THE SECRETARY OF STATE WHO IS

CHARGED WITH IMPLEMENTING AND ENABLING INDIVIDUALS TO HAVE THEIR RIGHTS RESTORED, ONE THING, AND YOU ARE TELLING THIS COURT THAT IS NOT CORRECT, NOW IT IS UNCONSTITUTIONAL.

>> MY COLLEAGUE IN THE ACLU EXPLAIN THEIR POSITION WHEN THEY MADE THAT STATEMENT BUT MY CLIENTS ARE NOT SIGNATORIES TO THAT LETTER AND NEITHER WERE THE VOTERS OF FLORIDA.

WHAT IS AT ISSUE HERE IS WHETHER THERE IS A REASONABLE INTERPRETATION OF THE PHRASE COMPLETION OF ALL TERMS OF SENTENCE THAT EXCLUDES LEGAL FINANCIAL OBLIGATIONS AND IF THERE IS THIS COURT IS OBLIGATED TO ADOPT THEM.

>> DO YOU AGREE THE LETTER SAYS FINANCIAL OBLIGATIONS ARE PART OF TERMS OF SENTENCE?

>> TO THE EXTENT THEY ARE CONDITIONS OF PROBATION AND PAROLE WHICH IS THE POSITION OF THE ACLU --

>> THAT IS NOT WHAT THE LETTER SAYS.

THE LETTER EXPLICITLY SAID OR CONDITIONS OF PROBATION AND PAROLE AND BEFORE THAT IT SAID FINES IMPOSED AS PART OF THE SENTENCE.

WHAT ARE WE TO TAKE FROM THE FACT THE GOVERNOR HAS NOT ASKED US TO COMPLETION?

YOUR POINT IS THE COMPLETION OF THE TERM, THESE FINANCIAL OBLIGATIONS AND STILL REQUIRED TO PAY, THAT CREATES CONSTITUTIONAL PROBLEMS?

IF WE ARE NOT ASKED WHAT COMPLETION MEANS THAT ANOTHER COURT IS ASKED TO ANSWER THAT AND ALL WE ARE ASKED TO ANSWER IS WHAT TERMS OF SENTENCE MEAN WHICH IS WHAT I HEAR THE GOVERNOR'S COUNCIL ASKING US TO DO AND WE DO THAT TO BE

CONSISTENT WITH THE LETTER OF THE ACLU AND THE OP-ED'S AND OUR TEXTUAL READING AND EVERYTHING ELSE, HOW DO WE STEER INTO THE CONSTITUTIONAL PROBLEM YOU ARE TALKING ABOUT?

>> I WOULD QUIBBLE A LITTLE BIT WITH THE GOVERNOR AT STATEMENT HE'S NOT ASKING YOU TO INTERPRET THE PHRASE AS A WHOLE.

>> HIS COUNSEL LATE THAT RIGHT HERE?

>> THE REQUEST ASKS YOU TO A CLAIM WHETHER LEGAL FINANCIAL OBLIGATIONS ARE INCLUDED IN THE PHRASE COMPLETION OF ALL TERMS.

>> RIGHT HERE I HEARD WHAT I HEARD.

>> IF THAT IS THE POSITION THEY ARE TAKING --

>> DO YOU AGREE -- YOU SAY THAT IS FINE, THAT AVOIDS THE CONSTITUTIONAL ISSUE YOU ARE TALKING ABOUT?

>> KNOW, YOUR HONOR.

>> WHY?

>> I THINK IT DOESN'T AVOID THE CONSTITUTIONAL ISSUE BECAUSE YOU STILL HAVE TO DEFINE WHAT CONSTITUTES ALL TERMS OF SENTENCE.

>> THAT IS HOW WE WOULD DEFINE IT, TO INCLUDE WHATEVER IT IS. LET'S SAY RESTITUTION.

EVEN JUDGE HINKLE SUGGESTED IT PROBABLY IS NOT SO LET'S SAY IT INCLUDES RESTITUTION.

>> LET'S CONSIDER RESTITUTION, THE 11TH CIRCUIT - I WANT TO REITERATE THE INABILITY TO PAY IS A DIFFERENT ANALYSIS.

>> I UNDERSTAND.

IF WE DON'T DEFINE COMPLETION AND THAT IS LEFT OPEN ALL WE DO IS SAY WHAT THE TERMS OF SENTENCE MEANS, DO WE STEER INTO THE CONSTITUTIONAL ISSUE YOU HAVE BEEN TELLING US TO AVOID? IT SEEMS TO ME WE DON'T.

>> YOUR HONOR, I THINK -- I

THINK -- SO LONG AS OUR POSITION IS SO LONG AS -- SO LONG AS THE COMPLETION OF SENTENCE REQUIRES PAYMENT OF LEGAL FINANCIAL OBLIGATIONS, THAT WOULD VIOLATE THE 14TH AMENDMENT.

>> THAT DOESN'T ANSWER MY QUESTION.

>> I UNDERSTAND.

I POINT TO OTHER INSTANCES IN FLORIDA STATE LAW DEFINING COMPLETION OF SENTENCE FOR THE EXPRESS PURPOSE OF RIGHTS RESTORATION UNDER THE RULES OF CLEMENCY THE DEFINE COMPLETION OF ALL SENTENCES SEPARATELY FROM LEGAL FINANCIAL OBLIGATIONS AND THEY DEFINE COLLUSION OF SENTENCE TO INCLUDE A PERIOD OF INCARCERATION AND SUPERVISION AND SEPARATELY LOOK INTO WHETHER A PERSON HAS OUTSTANDING LEGAL FINANCIAL OBLIGATIONS AND THAT EXISTS IN THE CLEMENCY RULES EVEN FOR PEOPLE APPLYING FOR REMISSION OF THEIR FINES AND FEES SO TO THE EXTENT THAT YOU ARE ADOPTING A DEFINITION OF TERMS OF SENTENCE CONSISTENT WITH FLORIDA LAW IN THE CONTEXT OF RIGHTS RESTORATION IT IS INCUMBENT UPON THE COURT TO LOOK AT FLORIDA STATE LAW THAT EXISTS ON POINT IN THAT CONTEXT.

>> THERE ARE A NUMBER OF STATUTES THAT SAY THE OPPOSITE OF THAT, RIGHT?

>> THERE HAS BEEN SOME DISPUTE AMONG PARTIES ABOUT WHETHER SUCH THINGS AS PAROLE OR PROBATION OR SENTENCES --

>> COUNSEL FOR THE HOUSE I STATUTE A SPECIFIC KIND OF FEE, PUBLIC DEFENDER FEE, PART OF THE SENTENCE, RIGHT?

>> THAT IS THE CASE.

>> WHY WOULDN'T THAT BE PART OF THE SENTENCE?

>> IT IS NOT DEFINED THAT WAY IN THE CONTEXT OF RIGHTS

RESTITUTION UNDER THE RULES OF EXECUTIVE QUINCY AND THERE'S NO REASON THIS COURT CANNOT DO THE SAME.

>> DEFENDANTS WHO ARE ACQUITTED, ARE THEY SUBJECT TO COST AND FEES, IMPOSITION OF COST AND FEES?

>> I BELIEVE THERE ARE COSTS AND FEES FOR WHICH THEY ARE RESPONSIBLE EVEN IF THEY ARE ADJUDICATED GUILTY.

I KNOW THAT IS THE CASE FOR DEFENDANTS WHO HAVE ADJUDICATION WITHHELD WHO UNDER FLORIDA LAW

--

>> WITH RESPECT TO ACQUITTED DEFENDANTS, NO COSTS OR FEES --

>> MORE FAMILIAR WITH FLORIDA CRIMINAL LAW THAN I AM SO --

>> DOESN'T THE PUBLIC DEFENDER FEE APPLY?

DOESN'T THE PUBLIC -- IF YOU HIRE THE PUBLIC DEFENDER IT IS \$50.

>> THAT IS CORRECT AND IT IS CORRECT IN THE CASE WHERE A PERSON, THEIR ADJUDICATION IS WITHHELD AND THEY ARE NOT CONVICTED.

IT IS NOT ACQUITTED BUT IT IS THE CASE YOU WOULD NOT LOSE YOUR RIGHT TO VOTE BECAUSE HE WOULD NOT BE CONVICTED OF A FELONY BUT WOULD STILL BE ON THE HOOK FOR A FEE THAT IS TAXED YOU BY THE STATE.

I HAVE NOTHING FURTHER, NO FURTHER QUESTIONS.

>> MAY IT PLEASE THE COURT. THE QUESTION IMPOSED BY THE GOVERNOR SHOULD BE ANSWERED ON THE PLAIN LANGUAGE OF THIS PHRASE, ALL TERMS OF SENTENCE INCLUDING PAROLE ARE PROBATION. THREE QUICK POINTS.

ALL TERMS OF SENTENCE, EVERYTHING IN A JUDGE'S SENTENCING ORDER, NO BASIS TO PARSE PUNITIVE VERSUS

NONPUNITIVE OR THE PURPOSES OF PUNISHMENT VERSUS DETERRENCE.
>> YOUR COLLEAGUES SUGGESTS WE SHOULD LOOK AT STATUTES GOVERNING.

SHOULD WE LOOK AT THE STATUTES EVEN IF SOMETHING IS NOT AUTHORIZED BY STATUTE BUT IS CONTAINED IN THE FOUR CORNERS, THAT IS THE SENTENCE?

>> THIS COURT TO MAKE THIS DETERMINATION BASED ON AMENDMENT'S FORCED LANGUAGE. STATUTES SHOWED INSTANCES IN WHICH COSTS AND FEES AND RESTITUTION ARE PART OF THE SENTENCE BUT THERE IS NO NEED TO GO TO THE STATUTES TO DEFINE THIS PHRASE.

IT CAN BE DONE BY PLAIN LANGUAGE.

SECOND, THE PHRASE INCLUDING PAROLE AND PROBATION CAN'T BE THE TAIL WAGGING THE DOG. INCLUDING PHRASE DOESN'T FORECLOSE L AT OHs BUT INJURIES PAROLE AND PROBATION ARE TO BE COMPLETED AND THIRD WHATEVER CIVIL ENFORCEMENT MAY BE NECESSARY TO COLLECT LFOs, EVERYTHING A JUDGE PUT IN A SENTENCE A FELON MUST REPAY IN TERMS OF DEBT TO SOCIETY TO REGAIN VOTING RIGHTS.

>> TO THE COMPLETION POINT?

>> TO BE CLEAR THE GOVERNOR ISN'T REQUESTING THIS COURT ANSWER A QUESTION OF COMPLETION.

>> REPAYING DEBTS -- THE QUESTION IS WHAT IS THE SENTENCE?

WHAT ARE THE ELEMENT OF THE SENTENCE?

AS FAR AS WHETHER YOU COMPLETED THAT ARE REPAY DEBTS OR WHATEVER SEEMS TO ME TO GO MORE TO COMPLETION THAN THE END POINT.

>> THE QUESTION THE GOVERNOR IS ASKING IS THOSE DEBTS TO SOCIETY INCLUDED IN ALL TERMS OF THE

SENTENCE?
HE WOULD ASK THIS COURT FIND IN
THE AFFIRMATIVE.
IF THERE ARE NO FURTHER
QUESTIONS I WILL CONCLUDE OUR
ARGUMENT, THANK YOU.
>> WE THANK YOU ALL FOR YOUR
ARGUMENTS.