.
>> ALL RISE. HEAR YE HEAR YE HEAR YE..THE SUPREME COURT OF FLORIDA IS NOW IN SESSION, ALL WHO HAVE CAUSE TO PLEA, DRAW NEAR. GIVE ATTENTION. YOU SHALL BE HEARD. GOD SAVE THESE UNITED STATES,THE GREAT STATE OF FLORIDA, AND THIS HONORABLE COURT. LADIES AND GENTLEMEN, THE FLORIDA SUPREME PLEASE BE SEATED. GOOD MORNING AND WELCOME TO THE FLORIDA SUPREME COURT TODAY WE WILL TAKE UP CASE NUMBER CASE NO. SC23-0053 ONE RON DESANTIS, GOVERNOR, ET AL. v. DREAM DEFENDERS, ET AL
>> MR. CHIEF JUSTICE MAY PLEASE THE COURT MY NAME IS NICHOLAS MEROS I'M DEPUTY GENERAL COUNSEL FOR GOVERNOR DESANTIS 11TH CIRCUIT CERTIFIED QUESTION TO THE COURT REGARDING THE PROPER INTERPRETATION OF THE WORD RIOT IN SECTION.
FLORIDA STATUTE 870.01(2) 11TH CIRCUIT INCLUDED FOR ADDITIONAL QUESTIONS FOR THIS COURT TO CONSIDER WHEN ANSWERING THE CERTIFIED QUESTION.
>> Chief Justice Carlos Muniz: WHICH OF THOSE QUESTIONS IS DETERMINATIVE OF THE ACTION BEFORE THE FEDERAL COURT.
>> Nicholas J.P. Meros,Petitionr: I WOULD NOT SAY ANY ONE OF THE 4 QUESTIONS TO DETERMINE IF.. I THINK WE HAVE TO VIEW ALL OF THEM IN CONTEXT. ESPECIALLY THE FIRST TWO QUESTIONS INVOLVING WILLFUL PARTICIPATING ASPECT AS WELL AS THE VIOLENT PUBLIC DISTURBANCE THAT DOES WORK IN THE INTERPRETATION OF THE STATUTE. I BELIEV THE SECOND TWO SEEM TO BE KIND OF APPLICATIONS OF THOSE PHRASES.
WHEN WE SEE THINGS LIKE PILFERY PARTICIPATING IN A VIOLENT PUBLIC DISTURBANCE VIEWING THAT AS A WHOLE WE CAN TAKE THE INDIVIDUAL DEFINITIONS OF THOSE WORDS BUT VIEWING THEM IN CONTEXT REQUIRES THAT A PERSON CANNOT ONLY PARTICIPATE IN A VIOLENT PUBLIC DISTURBANCE BUT DO SO WILLFULLY. THE WORD WILLFULLY MEANS NOT ONLY INTENTIONALLY PARTICIPATING BUT ALSO HAVING KNOWLEDGE OF THE VIOLENT CHARACTER OF THE ASPECT.
IN VIEWING THAT IN CONTEXT TAKING ANY ADDITIONAL HYPOTHETICAL OR KNOWLEDGE SHOWS A PERSON CANNOT SIMPLY BE PRESENT AS A PROTEST. THAT IS REALLY WHAT APPLICANTS ARE CONCERNED ABOUT THE ARE UNDERSTANDABLY CONCERNED THAT THEIR MEMBERS MIGHT BE AT A PROTEST THAT EITHER IS VIOLENT OR BECOMES VIOLENT BUT THEY ARE NOT PARTICIPATING IN THAT VIOLENCE.
AND THEY CAN BE SWEPT UNDER THAT WHICH IS UNDERSTANDABLE BUT WILLFUL PARTICIPATING ASPECT IS ALLOWED THAT IT SAYS NOT ONLY TO HAVE TO JOIN IN THE PROTEST HAVE TO KNOW THERE'S VIOLENCE IN THE PROTEST AND BE WILLFULLY AND INTENTIONALLY JOINING THAT VIOLENCE.
>> COUNSEL DOESN'T THE THE ACTING WITH THE COMMMENT ALSO.
>> Nicholas J.P. Meros,Petitionr: YES IT DOES THE COMMENT SHOWS NOT ONLY DOES THAT PHRASE ACTING WITH COMMON INTENT HAVE TO MODIFY BOTH THE PERSON BUT ALSO THREE OR MORE PERSONS THAT DOES REALLY GO AGAINST THE ARGUMENT ABOUT EVEN MORE IMPORTANTLY THAT CANON REALLY IS THE LAST.

[LISTING NAMES] THAT THEY ARE TRYING TO PLAY TRULY THE.
[LISTING NAMES] WHICH DOESN'T JUST NEGATE EVERYTHING THAT CAME BEFORE IT IT REALLY APPLIES TO EVERYTHING THAT IS REASONABLE THAT CAME BEFORE IT IN HERE THE SITUATION IS BOTH THE PERSON AS WELL AS THE ASSEMBLY FOR THREE OR MORE PERSONS BOTH PERSONS THEY CAN BOTH BE ACTING WITH THE COMMON INTENT. IT REALLY DOES NOT MAKE SENSE FOR THE PHRASE ACTING WITH A COMMON INTENT TO ONLY TO APPLY TO THREE OR MORE PERSONS.
>> Justice Charles Canady: MAYBE IN A DIFFERENT SITUATION IF THE STATUTE HAD OMITTED THAT COMMENT.
>> Nicholas J.P. Meros,Petitionr: THE READING WAS VERY IMPORTANT BOTH READING EVERYTHING IN CONTEXT VIEWING THE COMMENT TOGETHER VIEWING ALL OF IN CONTEXT DOES DO A LOT OF THE WORK.
>> Chief Justice Carlos Muniz: CAN YOU HELP US UNDERSTAND IF THIS DEFINITION CHANGES THE COMMON LAW DEFINITION?
>> Nicholas J.P. Meros,Petitionr: YES SIR BOTH AT THE TRIAL COURT AND THE 11TH CIRCUIT AND HERE. THIS SUBSEQUENTLY IT DOES NOT CHANGE THE ACTUAL IMPORT OF THE CONSTITUTIONAL OF THE COMMON LAW IT PROBABLY DOESN'T CHANGE THE OUTCOME OF ANY SITUATION WHEN APPLYING THE STATUTE DOES SEEM TO SOMEWHAT NARROW THE COMMON LAW. WHAT THE LEGISLATURE WANTED TO DO WAS IT WANTED TO OFFER AN ACTUAL DEFINITION OF THE WORD RIOT WHERE THERE NOT BEEN ONE BEFORE AND IT'S BEEN GOING OFF THE COMMON LAW. AS YOU'LL SEE THE COMMON LAW ITSELF IS A LITTLE BIT FUZZY. THE WORDS TUMULTUOUS TURBULENT VIOLENT MANNER ALL OF THOSE THINGS ARE NOT REALLY CLEAR. WHAT IT SEEMS THE LEGISLATURE WAS TRYING TO DO WAS TO CLARIFY THOSE PHRASES EVEN IF THE ACTUAL OUTCOME OF APPLYING THE STATUTE WOULD NOT REALLY CHANGE THE OUTCOME.
>> Chief Justice Carlos Muniz: WE DON'T HAVE ANY REASON TO THINK THE LEGISLATURE WAS TRYING TO CREATE TRYING TO PROHIBIT MORE CONDUCT THAN WOULD'VE BEEN COVERED BY THE COMMON LAW.
>> Nicholas J.P. Meros,Petitionr: NOT JUST THROUGH THE DEFINITION I THINK THE STATUTE ITSELF SHOWS THE LEGISLATURE WAS CERTAINLY TRYING TO PROHIBIT MORE ACTIVITY THAT IS INCLUDED IN THE RIOT ACT TO BE SEEN BY TRYING TO DETER SUCH CONDUCT BY DENYING BAIL FOR THOSE WHO WERE CHARGED UNDER THESE CRIMES ADDING DEFINITIONS FOR AGGRAVATED RIOTS ADDING AFFIRMATIVE DEFENSES. THOSE OTHER THE PARTS OF THE STATUTE SHOWED LEGISLATURE WERE TRYING TO DETER THIS CONDUCT BY BY JUST ADDING A DEFINITION OF THE WORD RIOT. THAT REALLY TRIES TO CLARIFY THOSE WORDS THAT ARE UNCLEAR THE LEGISLATURE MADE A BALANCING CHOICE OF EVEN THOUGH THIS DEFINITION MAY NOT DO THAT MUCH IT MAY NOT CHANGE THAT MUCH OVER THE COURTS AND OTHER GROUPS COMING UNDER IT MORE CLARITY ON WHAT IS PROHIBITED.
AT THE EDGES ON THE MARGINS MAYBE THEY'RE NOT AS MANY CONVICTIONS UNDER THE STATUTE BUT IT OFFERS MORE CLARITY THAN THE OTHER SECTIONS OF THE STATUTE DO A LOT OF THAT KIND OF WORK.

VIEWING THE STATUTE ON THE WHOLE THE PHRASE WILLFULLY PARTICIPATING IN A VIOLENT PUBLIC DISTURBANCE DOES ALLOW THAT TO WORK BUT EVEN BEYOND THAT EVEN IF THERE IS IS AN OPEN QUESTION ABOUT WHETHER SOME CONDUCT IS INCORPORATED AND IS BROUGHT UNDER THAT WILLFULLY PARTICIPATING IN A VIOLENT PUBLIC DISTURBANCE LANGUAGE THERE IS STILL SECTION 7. WHICH IS A RULE OF CONSTRUCTION THAT THE COURTS MUST APPLY WHEN VIEWING EVERY OTHER SECTION. WHENEVER THERE IS A QUESTION ABOUT WHETHER SOMETHING SOMEONE MIGHT BE WILLFULLY PARTICIPATING WHETHER SOMETHING IS A VIOLENT PUBLIC DISTURBANCE THERE STILL SECTION 7 CLARIFIES AND OFFERS THAT TO THE EXTENT THERE IS ANY AMBIGUITY IF THAT BEHAVIOR IS INCLUDING PEACEFUL PROTEST IT IS CERTAINLY NOT PROHIBITED. THAT MAKES SENSE BECAUSE THE FLORIDA LEGISLATURE CLEARLY WOULD NOT PROHIBIT ACTIVITIES SECTION 2 EXPLICITLY PROTECTS IN SECTION 7. THIS MAKES SENSE ALSO BECAUSE THE POLICE WANT THIS COURT TO GO BEYOND THE TEXT YOU WANT THE COURT TO OFFER UNLIMITED CONSTRUCTION. WE ARE IN THE UNIQUE POSITION WHERE THE PARTIES AGREE ON THE FINAL OUTCOME. AND AGREE THE STATUTE SHOULD NOT BE READ TO CRIMINALIZE PEACEFUL PROTEST WE JUST DISAGREE ABOUT HOW TO GET THERE. WE CERTAINLY ARGUE THAT THE TEXT ITSELF IS PLAIN ON ITS OWN AND CAN BE INTERPRETED TO GET TO THAT RESULT EVEN IF THE WORDS AS VIEWED IN CONTEXT ARE NOT ENOUGH. AGAIN GO TO SECTION 7 DOES ALLOW THAT TO WORK AND EVEN BEYOND THAT TO SECONDARY CANONS THE CANON OF CONSTITUTIONAL AVOIDANCE THE RULE OF LENITY DOES DO SOME WORK THOSE ALSO BE SURE THE APPELLEES IF THEY ARE ENGAGED IN PEACEFUL PROTEST THEY ARE NOT WILLFULLY PARTICIPATING AND IF THEIR BEHAVIOR WILL BE COVERED.
EVEN GOING TO GO SECONDARY TENANTS IT IS STILL MORE ROOTED AND TIED TO THE TEXT IN ANY KIND OF LIMITING CONTRUCTION.
>> ISN'T THE ARGUMENT THAT THE SECONDARY CANONS ARE NOT NECESSARY BECAUSE OF THE NATURAL READING PROVIDES THE MORE LIMITED I GUESS YOU WOULD SAY ACTIVITY THAT THE STATUTE PRESCRIBES?
>> Nicholas J.P. Meros,Petitionr: YES YOUR HONOR ABSOLUTELY WE ARGUE THAT THE COURT THIS COURT MAKES CLEAR OVER AND OVER AGAIN OBVIOUSLY COURT STARTS WITH THE TEXT IF THE TEXT IS CLEAR USING ANY OF THOSE STATUTORY CANONS IT CERTAINLY CAN USE THINGS LIKE THE NEAREST REASONABLE REFERENCE CANON IF IT IS CLEAR ENOUGH ON THAT FACE IT CERTAINLY DOES NOT NEED TO GO BEYOND THAT WE ARGUE EVEN IF THAT IS UNCLEAR EVEN IF IT NEEDS TO GO BEYOND THAT GOING TO THE SECONDARY CANONS LIKE TENANT OF CONSTITUTIONAL AVOIDANCE LIKE THE RULE OF LENITY IS STILL MORE ROOTED TO TEST THAN GOING THE RULE OF LIMITED CONSTRUCTION WE ARGUE THAT THE COURT NEED NOT GO BEYOND THE TEXT CERTAINLY NOT SUBSECTION 7 BUT EVEN BEYOND THAT WAS OF THE CANONS.
>> COUNSEL RETHINK THE ARGUMENT OF THE SITE IS MADE THAT THE FEDERAL COURTS THE DISTRICT COURT AND THE 11TH CIRCUIT WERE PRECLUDED FROM CONSIDERING FLORIDA'S STATUTORY RULE OF LENITY. I DON'T I KNOW YOU THINK

IT'S NOT NECESSARY TO GO THERE? WHAT DO YOU THINK ABOUT THE ARGUMENT THAT THE FEDERAL COURTS ARE PRECLUDED FROM CONSIDERING THE RULE OF LENITY IN FLORIDA IS A STATUTORY COMMAND.
AND OTHER AS WELL AS THE CONSTITUTIONAL AVOIDANCE DOCTRINE.
>> Nicholas J.P. Meros,Petitionr: WE CERTAINLY DISAGREE. WE RECOGNIZE THAT THE 11TH CIRCUIT WHICH RECOGNIZE WHICH THE FEDERAL DISTRICT COURT DID NOT RECOGNIZE IT IS THIS COURT'S PREROGATIVE TO TELL FEDERAL COURTS WHAT FLORIDA LAW IS. TO THE EXTENT THEY ARE APPLYING FLORIDA LAW IN THIS CASE WHICH IS EXACTLY WHAT THEY ARE APPLYING HERE. THAT THEY HAVE TO PLAY THINGS LIKE THE RULE OF LENITY CONSTITUTIONAL AVOIDANCE CANON THOSE ARE THE CANONS THE COURT HAS MADE CLEAR IN ALL THE CASES THAT IS PART OF THE COURTS FIRST REVIEW OF THE STATUTE. NOT SIMPLY A PLAIN TEXT THEN CANONS IT IS PART AND PARCEL OF THE INITIAL REVIEW. TO THE EXTENT THE FEDERAL DISTRICT COURT FOR THE ELEVENTH CIRCUIT FOUND THERE PRECLUDED RECENTLY DISAGREE WE DON'T UNDERSTAND HOW THEY GOT THERE.
I KNOW I'M ABOUT AT MY TIME. IF THE COURT HAS ANY OTHER QUESTIONS I RESERVE THE REST OF MY TIME FOR REBUTTAL. THANK YOU YOUR HONOR.
>> Chief Justice Carlos Muniz: THANK YOU.
>> MAY IT PLEASE THE COURT.
MR. CHIEF JUSTICE MEMBERS OF THE COURT I AM SONYA HARRELL I'M HERE IN BEHALF OF THE PETITIONER THE SHERIFF OF JACKSONVILLE. I WILL AGREE WITH ALL FROM THE GOVERNOR'S PERSPECTIVE I WANT TO TAKE A MINUTE OR TWO TO DISCUSS SOMETHING THAT ONLY THE SHERIFF HAS RAISED THROUGHT THIS FEDERAL LITIGATION AND THAT IS THE WELL-SETTLED BODY OF FLORIDA LAW GOVERNING PARTICIPATING AND A CRIME AND HOW IT HAS NEVER BEEN HELD THAT PARTICIPATION IS MORE THAN JUST MERE PRESENCE AT THE SCENE OF A CRIME. WE RAISE THAT THROUGHOUT THE FEDERAL DISTRICT LITIGATION AND THE 11TH CIRCUIT OF APPEALS HAVE NEVER RESPONDED TO IT. THAT COMMON LAW COMBINED WITH THE PLAIN LANGUAGE OF THE STATUTE THAT REQUIRES WILLFUL PARTICIPATION SIMPLY SHOWS THAT THE APPELLEES CONCERNS THAT INNOCENT BYSTANDERS MAY BE PROSECUTED.
THE STATUTE DOES NOT ALLOW FOR THAT. IT IS INCONSISTENT...
THAT IS ONE OF THE REASONS WE ORDERED FROM THE BEGINNING THAT THE ONLY REASONABLE AND READILY APPARENT CONSTRUCTION OF THE STATUTE WAS THAT IT DID NOT PROSECUTE INNOCENT BYSTANDERS. IT DID NOT PROSECUTE PEACEFUL PROTESTERS WHO WERE NOT WILLFULLY AND ACTUALLY PARTICIPATING IN THE VIOLENCE.
AGAIN WE AGREE WITH EVERYTHING THE GOVERNOR SAID WE WANT TO POINT OUT THE ADDITIONAL BASIS AND HOW IT IS CONSISTENT WITH THE WELL-SETTLED BLACK LETTER FLORIDA LAW THAT PARTICIPATING IN A CRIME MEANS MORE THAN MERE PRESENCE. THE FEDERAL DISTRICT JUDGE IN HIS ORDER SAID WHEN DISCUSSING OVERBREADTH SAID THE STATUTE APPEARS TO PROSECUTE MERE PRESENCE AND THAT IS SIMPLY NOT THE CASE. THE 11TH CIRCUIT IN ITS OPINION CONFUSED ABOUT

WHAT PARTICIPATION MEANS AND COMPARED IT TO LITTLE LEAGUE. WHERE EVERYBODY WHO SHOWS UP GETS A PARTICIPATION TROPHY
>> IS THERE IN FACT ANY OTHER FELONY PROVISION OR STATUTE THAT USES PARTICIPATE AS THE OPERATIVE VERB OR THIS UNIQUE.
>> Sonya Harrell: I AM NOT FAMILIAR WITH THE OTHER FELONIES AND WHETHER THEY USE THE SPECIFIC WORD PARTICIPATE I DO KNOW THAT THE CASE LAW GOVERNING PRINCIPLES.
>> Chief Justice Carlos Muniz: AIDING AND ABETTING DEFINITELY HELPS YOU. DO YOU AGREE WITH THAT? I GUESS MY QUESTION IS WHAT TO MAKE OF THE LEGISLATURE THE LEGISLATIVE DECISION TO USE AS THE ACTIVE VERB IN THIS FELONY TO PARTICIPATE WHICH SEEMS TO ME TO BE FAIRLY ODD VERB?
>> Sonya Harrell: THE LEGISLATURE IS OF COURSE PRESUMED TO TAKE THE COMMON-LAW INTO CONSIDERATION AND THERE IS A WIDE BODY OF CASE LAW FROM THIS COURT AND OTHER FLORIDA COURTS USING THE TERM PARTICIPATE. WE CITED.
[LISTING NAMES] WHICH TALKS ABOUT PARTICIPATING.
AND SO IT IS PRESUMED THE LEGISLATURE WOULD'VE TAKEN THAT INTO CONSIDERATION JUST SIMPLY BEING PRESENT AT A CRIME WHETHER IT IS FOR A LOOKOUT ON A ROBBERY, IT REQUIRES MORE THAN JUST BEING THERE. IT REQUIRES SOME KIND OF PARTICIPATION. IT COULD BE PRESUMED THAT THE LEGISLATURE TOOK THIS COURT'S WORDS USE OF THE PHRASE PARTICIPANTS AND USED THAT TO COME UP WITH THE WORD PARTICIPATE. AND BUTRESS IT WITH THE TERM WILLFUL PARTICIPANT NOT PASSIVE PARTICIPATION NOT MERELY OBSERVING BUT WILLFULLY PARTICIPATING. AND SO JUST LIKE THERE IS NO CLEAR INTENT OF THE LEGISLATURE TO OFFER THE COMMON LAW WITH REGARD TO DEFINING RIOT THERE WAS NO CLEAR INTENT OF THE LEGISLATURE TO ALTER THE USE OF THE TERM AND THE MEANING OF THE TERM PARTICIPATION.
IF THE COURT HAS NO OTHER QUESTIONS ABOUT THE SHERIFF'S POSITION ON ANY OF THE OTHER LITIGATION I'D BE HAPPY TO CEDE THE REST OF MY TIME TO MR. MORRIS FOR REBUTTAL AND ASKED THE COURT TO ANSWER THE CERTIFIED QUESTION BY CONFIRMING THAT THE STATUTE DOES NOT PROHIBIT PEACEFUL PROTEST OR INNOCENT BYSTANDERS.
>> Chief Justice Carlos Muniz: THANK YOU.
>> James E. Tysse,Resondent: ON BEHALF OF THE PLAINTIFF COMMUNITY ORGANIZATIONS IN RESPONSE TO UNPRECEDENTED RACIAL JUSTICE PROTESTS FLORIDA AMENDED ITS ANTI-RIOTING LAW TO AS RELEVANT HERE CRIMINALIZE PARTICIPATION IN A DISTURBANCE INVOLVING A COMMON LAW RIOTOUS ASSEMBLY ALTHOUGH THE FEDERAL DISTRICT COURT HELD THAT CHANGE FILE OF THE U.S. CONSTITUTION THAT COURT DID FACE IMPORTANT FEDERALISM CONSTRAINTS ON HOW IT COULD INTERPRET A STATE STATUTE TO PRESERVE ITS CONSTITUTIONALITY. BY CONTRAST THIS COURT HAS SEVERAL INTERPRETIVE GUIDES UNAVAILABLE TO THE FEDERAL COURTS WHICH PERMIT IT TO ADOPT A NARROW CONSTRUCTION THAT FULLY SATISFIES THE FIRST AND 14TH AMENDMENTS.

IMPORTANTLY THE PARTIES HERE AS YOUR HONORS KNOW NOT ONLY AGREE ON A CONSTITUTIONAL CONSTRUCTION TODAY OR AT LEAST LARGELY AGREE THEY ALSO AGREED THAT THE CONSTITUTIONAL AVOIDANCE CANONS UNDER WHICH ANY FAIRLY POSSIBLE CONSTRUCTION MUST BE ADOPTED TO SAVE STATUTES CONSTITUTIONALITY PERMITS THE COURTS TO ADOPT THE PARTIES AGREED ON CONSTRUCTION THEREFORE WE THINK THE SIMPLEST WAY FOR THE COURT TO ANSWER 11TH CIRCUIT'S QUESTIONS IS TO RULE THAT AT A MINIMUM IT IS FAIRLY POSSIBLE TO READ SECTION 870.01 AS EFFECTIVELY CODIFYING OR NARROWING IS MY FRIEND ON THE OTHER SIDE SUGGESTING THE COMMON-LAW RIGHT DEFINITION. DOING SO WILL PERMIT THIS COURT TO ADOPT A CONSTITUTIONAL READING WITHOUT NEEDING TO NECESSARILY WRESTLE WITH SOME OF THE MOST DIFFICULT INTERPRETIVE QUESTIONS THAT THE FEDERAL COURT SAID.
>> COUNSEL JUST WANT TO MAKE SURE I UNDERSTAND YOUR POSITION HERE. IF I UNDERSTAND IT CORRECTLY YOU ARE SAYING THAT THE INTERPRETATION YOU ARE ADVOCATING IS A REASONABLE AND FAIRLY POSSIBLE INTERPRETATION? CORRECT.
>> James E. Tysse,Resondent: I WOULD SAY FAIRLY POSSIBLE YOUR HONOR.
>> Justice Charles Canady: YOU ARE SAYING IT IS NOT REASONABLE.
>> James E. Tysse,Resondent: WE DON'T THINK IT IS REASONABLE WE DON'T THINK IT IS THE MOST NATURAL READING IN THE 11TH CIRCUIT.
>> Justice Charles Canady: IT CAN BE FAIRLY POSSIBLE BUT NOT REASONABLE.
>> James E. Tysse,Resondent: CORRECT YOUR HONOR
>> IN INTERPRETATION THERE IS NOTHING THAT EQUATES REASONABLE IS BROADER THAN WHAT THE COURT SAYS IS THE BEST OR MOST NATURAL YOU AGREE WITH THAT RIGHT.
>> James E. Tysse,Resondent: YOUR HONOR I DO AGREE WITH THAT I WILL SAY THE REASON WHY WE DON'T THINK IT IS REASONABLE AS FOR THE REASONS WE LAID OUT IN OUR BRIEFS IN THIS COURT AS WELL AS THE 11TH CIRCUIT. IT WOULD VIOLATE SEVERAL RULES OF GRAMMAR THAT IT WOULD ADD SURPLUSAGE TO THE STATUTE.
IT SEEMS TO CONTRADICT THE LEGISLATURE'S INTENT IN ENACTING THIS AND CHANGING THE COMMON LAW. FOR THOSE REASONS WE WOULD NEVER BELIEVE IT WAS REASONABLE CONSTRUCTION INSTEAD OF THE MOST NATURAL READING I THINK IS THE ONE WE SUGGESTED HAVING SAID THAT THIS COURT IS DIFFERENTLY SITUATED THAN THE FEDERAL COURTS WHICH WERE CONSTRAINED IN ADOPTING A CONSTRUCTION OF STATE LAW.
>> Chief Justice Carlos Muniz: YOUR'RE ASKING US TO ESTABLISH A PRECEDENT THAT WE CAN EXPRESSLY ADOPT WHAT WE CHARACTERIZE AS A UNREASONABLE INTERPRETATION OF THE STATUTE JUST TO SAVE IT FROM I THINK THIS WHOLE THING IS BIZARRE.
IT'S ALMOST LIKE FIRST OF ALL I THINK THE STATUTE HAS A FAIR AND REASONABLE AND COMPLETELY PERMISSIBLE READING THAT AVOIDS ALL OF THIS. IT SEEMS LIKE THE DISTRICT COURT AT THE FEDERAL LEVEL WENT OUT OF ITS WAY TO TAKE A KIND

OF WILLFULLY UNREASONABLE READING OF THE STATUTE TO MAKE A POINT FOR WHATEVER REASON I DON'T KNOW.
I DON'T KNOW WHY YOU ARE ASKING THE COURT TO SET A PRECEDENT THAT WOULD BE VERY DISRUPTIVE OF OUR STATUTORY INTERPRETATIONS JURISPRUDENCE IN GENERAL AND YOU HAVE THE OTHER SIDE BASICALLY AGREE WITH YOU ON ULTIMATELY WHAT THE SUBSTANCE OF THE STATUTE IS. IT SEEMS LIKE A BIZARRE POSITION FOR YOU TO TAKE.
>> James E. Tysse,Resondent: YOUR HONOR I THINK IT GOES TO THE NATURE OF CONSTITUTIONAL AVOIDANCE REVIEW THAT'S WHAT WE THINK THE SUPPOSED RESULT IS TO SAY ALL AGREE AT A MINIMUM IT IS FAIRLY POSSIBLE THAT IS ENOUGH. IT GOES TO CONSTITUTIONAL AVOIDANCE WHERE THIS COURT HAS NO OBLIGATION TO ADOPT INTERPRETATION EVEN IF IT'S NOT THE BEST READING POTENTIALLY EVEN IF IT'S NOT REASONABLE READING FOR EXAMPLE THERE ARE SITUATIONS WHERE THE COURT FOR EXAMPLE HAS INTERPRETED INTENT ELEMENTS THAT DOESN'T APPEAR IN THE STATUTE BECAUSE TO DO OTHERWISE WOULD BE A.. WOULD VIOLATE THE CONSTITUTION. IT IS A FOR EXAMPLE THAT WAS THE.
[LISTING NAMES] CASE.
>> Chief Justice Carlos Muniz: WE DON'T NEED TO GET INTO AN ACADEMIC DEBATE ABOUT STATUTORY INTERPRETATION READING STATUTE IS IMPLICITLY INCORPORATING MENS REA THAT IS NOT A MATTER OF DOING A MATTER OF ADAPTING POSSIBLE BUT UNREASONABLE INTERPRETATIONS THAT IS JUST A MATTER OF UNDERSTANDING BACKGROUND LAW AND WHAT LEGISLATURES ARE PRESUMED TO HAVE INCLUDED IN THE STATUTE?
>> James E. Tysse,Resondent: LET ME TAKE IT THIS WAY YOUR HONOR I DON'T WANT TO FAIR ENOUGH TO YOUR POINT MAYBE IT'S A BIT ACADEMIC. WHAT IS REASONABLE VERSUS UNREASONABLE I THINK SOME OF THIS IS SEMANTICS. I THINK THE FEDERAL COURT WAS CONSTRAINED FROM ADOPTING A CONSTRUCTION THAT WAS BOTH REASONABLE AND READILY APPARENT AT THE MINIMUM I THINK THIS READING IS NOT READILY APPARENT IN OUR VIEW DOESN'T GIVEN THE ADDED SURPLUSAGE THE FACT TO CHANGE THE COMMON-LAW DEFINITION IT BASICALLY TOOK THE COMMON-LAW DEFINITION AND ADDED 17 WORDS TO THE BEGINNING OF IT THAT WOULD ESSENTIALLY SERVE NO PURPOSE IF THE GOVERNORS AND THE SHERIFF CONSTRUCTION WERE CORRECT.
>> Chief Justice Carlos Muniz: I'M SORRY TO INTERRUPT. YOU TOLD US 11TH CIRCUIT GAVE US THIS LAUNDRY LIST OF QUESTIONS THAT WOULD HAVE US IN MY VIEW GRATUITOUSLY ANSWERING A LOT OF THINGS ABOUT THE STATUTE KIND OF IN THE ABSTRACT.
YOU'VE TOLD US 1 EFFICIENT WAY OF DEALING WITH IT IS TO SAY ESSENTIALLY WHAT IS IN THE COMMON LAW RULE IT EMBODIES IT IN THE TEXT?
WOULD IT ALSO SOLVE THE PROBLEM HERE IF WE JUST SAID THAT THE ACTING WITH THE COMMON INTENT THAT THAT APPLIES TO THE DEFENDANT ALSO?
>> James E. Tysse,Resondent: I THINK IT WOULD YOUR HONOR. I THINK IT WOULD WE SUGGESTED SOME INTERPRETATIONS OF THE STATUTE THAT WE BELIEVE ARE

FAIRLY POSSIBLE. EVEN IF NOT READILY APPARENT FROM THE INITIAL READING AND UNDERSTANDING THE CONTEXT OF THE STATUTE AS A WHOLE.
AMONG THOSE READINGS ARE TO SIMPLY SAY THAT WHEN THE STATUTE REFERS TO ACTING WITH A COMMON INTENT TO ASSIST EACH OTHER THAT IT COULD REFER TO BOTH ACTING WITH COMMON INTENT OF THE THREE PEOPLE PLUS THE PERSON AT THE BEGINNING OF THE SENTENCE.
>> Chief Justice Carlos Muniz: IF WE WRITE THAT AND HE GOES BACK TO THE 11TH CIRCUIT YOUR POSITION BEFORE THE 11TH CIRCUIT WOULD BE THE STATUTE IS CONSTITUTIONAL FACIALLY CONSTITUTIONAL.
>> James E. Tysse,Resondent: THAT IS RIGHT YOUR HONOR I THINK IT WOULD THEN ESSENTIALLY RE-CODIFIED THE COMMON-LAW DEFINITION AND THEREFORE RENDER OUR CONSTITUTIONAL CONCERNS NO LONGER IT WOULD SOLVE THE PROBLEM. I WOULD URGE THE COURT TO ADOPT A CONSTRUCTION FOR NOT ONLY HAS THE PERSON SHARING THE COMMON INTENT WITH THE OTHER RIOTERS THE OTHER INVOLVED IN THE OTHER COMMON-LAW RIGHTS OF ASSEMBLY TO MAKE CLEAR TO PARTICIPATE IN THE VIOLENT PUBLIC DISTURBANCE INVOLVING THE COMMON-LAW RIGHTS MEANS TO PARTICIPATE IN THE COMMON-LAW RIGHT ITSELF NOT SOME LARGER ASSEMBLY OF WHICH THE COMMON-LAW RIGHT OF ASSEMBLY IS A PART.
>> JUSTICE CANADY WAS TALKING ABOUT THE IMPORTANT OF THE COMMENT IN THE STATUTE
I WONDER IF THERE IS NOT SUCH A PARALLEL IN A 70.01 AND A 70.02.
[UNCLEAR AUDIO].
STRUCTURALLY 02 IS IDENTICAL. A PERSON COMMITS A RIOT THEN WE GO TO THE INTENT PHRASE SET OFF IN OPPOSITION BY COMMAS ACTING WITH COMMON INTENT TO ASSIST EACH OTHER IN VIOLENT AND DISORDERLY CONDUCT. DOESN'T THAT STRUCTURAL CONGRUENCE OF THOSE TWO PROVISIONS ANSWER THE QUESTION AND TELL US THAT THE STATUTE IS PLAIN AS DAY IF THERE IS CLEARLY A REFERENCE CONSISTENT WITH THE COMMON LAW AND ALSO JUST PLAIN TEXT HERE THE PARTICIPANTS FOR THE PURPOSE OF COMMITTING THIS FELONY OBVIOUSLY SHARES THE INTENT.
ISN'T THAT THE MOST NATURAL READING OF THE STATUTE.
>> James E. Tysse,Resondent: WE DON'T THINK IT'S THE MOST NATURAL READING OF THE STATUTE YOUR HONOR.
>> UNDERSTAND WHY SHOULD I TWIST MYSELF INTO A PRETZEL TO FIND A LEGISLATIVE DECISION TO CRIMINALIZE PROTECTIVE CONDUCT.
>> James E. Tysse,Resondent: I THINK UNDER THE NEAREST REASONABLE REFERENCE CANON NOT WITHSTANDING POTENTIAL PERILS WITH OTHER SECTION ACTING WITH THE COMMON INTENT APPEARS TO BE MODIFYING THE ASSEMBLY OF THREE OR MORE PERSONS THAT CLEAR FROM THE REASONABLE TENANT.
>> COUNSEL NOTE THERE IS ANOTHER RULE THAT HAS TO DO WITH THE COMMENTS. DO WE KNOW THAT? HASN'T THE SUPREME COURT OF THE UNITED STATES ARTICULATE THAT RULE.
>> James E. Tysse,Resondent: THE LOCKHART CASE THAT RULE APPLES IN SEVERAL

SITUATIONS.
>> Justice Charles Canady: NOT JUST LOCKHART MORE RECENTLY IN FACEBOOK.
>> James E. Tysse,Resondent: THERE ARE DUELING CANONS HERE WE ACKNOWLEDGE THAT.
>> Justice Charles Canady: NONE OF THOSE CANONS ARE TRIGGERED ARE TRIGGERED WITH THE MOST NATURAL READING OF THE STATUTE LEAVES US WITH THE RESORT TO READ THEM.
>> James E. Tysse,Resondent: OBVIOUSLY WE HEAR ON STATUTORY CONSTRUCTION MATTERS.
>> Justice Charles Canady: THIS IS NOT SO MUCH ATTENDANT AS A RULE OF GRAMMAR.
>> James E. Tysse,Resondent: CORRECT YOUR HONOR.
>> Justice Charles Canady: A RULE OF GRAMMAR THAT IS THERE.
THAT HAS BEEN ACKNOWLEDGED BY THE COURT.
>> James E. Tysse,Resondent: I URGE YOU TO LOOK AT THE LOCKHART CASE WHICH SAID ESSENTIALLY THAT THE RULE OF THE LAST APPLIES WHERE DOES THE STRUCTURE OF THREE VERBS WITH A PROVISION AT THE END AND YOU SAY A COMMA THERE AFFECTS WHETHER OR NOT. THIS IS NOT A PARALLEL.
>> Justice Charles Canady: THAT'S WHY REFER TO WHAT SISTER CAROLYN TOLD ME ABOUT [UNCLEAR AUDIO] COMMENTS IN A POSITION I'M USING THAT PHRASE IN THE SAME WAY IN 870.011 AND 870.012.
>> James E. Tysse,Resondent: [UNCLEAR AUDIO].
IN ASSEMBLY FOR EXAMPLE I THINK IT IS IF YOU LOOK AT RULES OF GRAMMAR IT'S AN AWKWARD PHRASING THAT'S WITH THE FEDERAL DISTRICT COURT HELD AND THE 11TH CIRCUIT AT LEAST AGREED THERE WAS MORE THAN ONE POSSIBLE INTERPRETATION OF THIS. I WOULD TAKE A STEP BACK.
>> LET ME GO BACK TO THE RULE OF LENITY. I THINK YOU WOULD GATHER SOME OF THE QUESTIONS HERE THAT AT LEAST SOME OF US ARE NOT CONVINCED THAT THERE IS ANY AMBIGUITY HERE.
SAY WE THOUGHT THERE WAS AMBIGUITY THE COURT THOUGHT THERE WAS AMBIGUITY. I AM PUZZLED I AM VERY PUZZLED BY THE RULE YOU SUGGEST THAT A FEDERAL COURT IS PRECLUDED FROM CONSIDERING OUR STATUTORY RULE OF LENITY. IN A CASE SUCH AS THIS.
WHAT IS THAT BASED ON?
>> James E. Tysse,Resondent: IT'S BASED ON THE RULE OF LENITY IS A CANON THAT COMES INTO PLAY ONLY WHEN ALL THE OTHER CANONS HAVE BEEN EXHAUSTED. AND WHAT THE SUPREME COURT SAID IN THE DEBIT CASE WE CITED IN THE 11TH CIRCUIT IS THAT THROUGH FEDERALISM CONCERN THE SUPREME COURT CAN'T IN CONSTRUING A STATE STATUTE ASSUME THAT THE STATE COURTS.
>> Justice Charles Canady: THAT HAS GOT NOTHING TO DO WITH FEDERALISM CONCERNS.
SKILL IN THE DECISION IN BABBITT SAID.
>> Justice Charles Canady: THAT IS AN INTERPRETATION OF A FEDERAL

ADMINISTRATIVE REGULATION ISN'T IT?
>> James E. Tysse,Resondent: MAYBE I'M CONFUSING THE CASE YOUR HONOR.
>> Justice Charles Canady: I THINK YOU ARE.
I'VE READ IT I ASSUME YOU HAVE READ IT AT SOME POINT?
>> James E. Tysse,Resondent: I DID YOUR HONOR MAYBE I'M CONFUSING THE CASE MY UNDERSTANDING IS COURTS DON'T ASSUME THE FUTURE DECISION-MAKERS WILL APPLY THE RULE OF LENITY BECAUSE THE RULE OF LENITY ONLY APPLIES AFTER ALL THE OTHER STATUTORY.
[UNCLEAR AUDIO].
AGAIN I THINK WOULD APPLY ONCE THE OTHER RULES OF STATUTORY.
[UNCLEAR AUDIO].
>> Chief Justice Carlos Muniz: IN FLORIDA RULE OF LENITY IS STATUTORY NONE THE LESS IT APPLIES AS THE LAST REFUGE OF A SCOUNDREL AND NOT AS A STATUTORY COMMAND.
>> James E. Tysse,Resondent: I BELIEVE THE.
[LISTING NAMES] CASE SAYS THAT ESSENTIALLY WE APPLY LENITY ONCE WE DETERMINE THAT AFTER EXHAUSTING THE OTHER RULES OF STATUTORY CONSTRUCTION THERE REMAINS AMBIGUITY I THINK.
[LISTING NAMES] MAKES CLEAR IN THE CERTIFICATION CONTEXT THAT THE RULE OF LENITY CAN AND DOES APPLY IN THIS SITUATION AND THEREFORE THIS COURT OF COURSE CAN APPLY THE RULE OF LENITY FOLLOWING THE STATUTORY COMMAND. TO DO SO.
>> DO YOU HAVE ANY AUTHORITY OTHER THAN BABBITT VERSUS SWEET HOME TO SUPPORT YOUR POSITION WHICH YOU MAINTAIN THROUGHOUT THIS LITIGATION THAT THE FEDERAL COURT ARE PRECLUDED FROM CONSIDERING OUR STATUTORY RULE OF LENITY WHEN THEY ARE INTERPRETING A STATE CRIMINAL STATUTE?
>> James E. Tysse,Resondent: I DON'T HAVE AUTHORITY FOR THAT PROPOSITION YOUR HONOR. THAT WAS THE POSITION WE TOOK IN THE 11TH CIRCUIT.
>> Justice Charles Canady: THAT IS ALL BASED ON BABBITT.
>> Justice Charles Canady: BASED ON FEDERAL COURTS SAYING WE DO NOT APPLY THE RULE OF LENITY IN A FACIAL CHALLENGE THIS COURT HOWEVER HAS MADE CLEAR IN THE CONAGE CASE IT DOES APPLY THE RULE OF LENITY INCLUDING IN A CERTIFIED QUESTION. IN CONAGE MADE PARTICULARLY CLEAR UP THAT SITUATION INVOLVED A CRIMINAL DEFENDANT WAS MAKING A ARGUMENT THAT WAS INCONSISTENT WITH THE MOST RIGHTS PROTECTIVE INTERPRETATION THE COURT SAID BECAUSE WE HEAR A CERTIFIED QUESTION WE CAN APPLY THE RULE OF LENITY AND ADOPT THE POSITION EVEN INCONSISTENT WITH WHAT THE CRIMINAL DEFENDANT WAS ADVOCATING BECAUSE IT WAS THE MOST RIGHTS PROTECTED.
>> WHY DOESN'T THE COMMON-LAW CONTEXT GIVE US THE CONTEXT WE NEED TO RESOLVE ANY OF THE GRAMMATICAL WARS ON THE SIGNIFICANCE OF THE COMMA?
>> James E. Tysse,Resondent: THE COMMON LAW CONTEXT IF YOU ARE REFERRING THE IDEA OF YOUR HONOR THAT THE RULE AGAINST ALTERING THE COMMON-LAW.
>> I GUESS I'M REFERRING TO THE COMMON-LAW BACKGROUND THAT THAT STATUTE

WAS ADOPTED AND WHY IT DOES NOT PROVIDE US A CONTEXT WE NEED AMONG THESE COMPETING INTERPRETATIONS IF YOU WANT TO CALL IT THAT BETWEEN THE SIGNIFICANCE OF COMMON PLACEMENT AND THAT SORT OF THING WHAT IS NOT RESOLVED TO THE MOST REASONABLE READING BEING ONE THAT EXCLUDES ANY SORT OF PEACEFUL PROTEST OR CONSTITUTIONALLY PROTECTED CONDUCT.
>> James E. Tysse,Resondent: I THINK UNDER THE NARROWING CONSTRUCTION WE URGE THAT DOES RESOLVE THAT PROBLEM I THINK BY ESSENTIALLY SAYING THAT THIS CODIFIES OR AS MY FRIEND ON THE OTHER SIDE SUGGESTS.
>> I GUESS FROM NARROWING CONSTRUCTION IF WERE LOOKING FOR THE MOST REASONABLE READING OF THE STATUTE WOULD TAKE CONTEXT INTO ACCOUNT YOU WOULD AGREE WITH THAT.
>> James E. Tysse,Resondent: OF COURSE.
>> YOU AGREE, WHAT DOES PROVIDE COMMON-LAW INTERPRETATION OF THE STATUTE SPILL IN THE COMMON LAW DOES PROVIDE CONTEXT THE PROBLEM WAS THE FEDERAL DISTRICT COURT NOTED THIS CHANGES THE COMMONWEALTH IT ADDS 17 WORDS THE BEGINNING OF ESSENTIALLY THE COMMON-LAW DEFINITION WHICH WAS WHY ARE PLAINTIFFS BROUGHT THIS LAWSUIT IN THE FIRST PLACE I THINK IT'S IMPORTANT TO TAKE A STEP BACK AND RECOGNIZE THIS IS A FACIAL CHALLENGE BROUGHT IN THE FIRST AMENDMENT CONTEXT IT'S ABOUT WHETHER OR NOT INDIVIDUALS ARE WILLING TO GO OUT AND RISK BEING ARRESTED WITHOUT POSSIBILITY OF BAIL FOR PARTICIPATING FOR EXERCISING THEIR FIRST AMENDMENT RIGHTS AND IN THAT CONTEXT I THINK VAGUENESS AND CONFUSION HAS PARTICULAR SALIENCE. I THINK THAT IS WHAT WAS MOTIVATING THE FEDERAL DISTRICT COURT IT WAS WORRIED THERE WERE PEOPLE WHO IN FACT THE UNDISPUTED RECORD SHOWED WERE WILLING TO GO OUT AND EXERCISE THE FIRST AMENDMENT RIGHTS BECAUSE OF FEARS THAT WHAT THE STATUTE HAD DONE WAS EXPAND THE COMMON-LAW DEFINITION TO TAKE AN INITIAL DEFINITION EXPANDED IT TO SOMETHING MORE I THINK AT THIS POINT IN FRONT OF THIS COURT THIS COURT HAS THE AUTHORITY TO EFFECT THE OBLIGATION TO ADOPT IN THE CONSTRUCTION OF THE STATUTE THAT WILL PROTECT CONSTITUTIONAL RIGHTS IF IT IS LEAST VISUALLY POSSIBLE.
>> Chief Justice Carlos Muniz: CAN I ASK YOU YOU'RE BEING ASKED ALL THESE DIFFERENT QUESTIONS THAT ARE STARTING FROM THE PREMISE THAT THE POSITION IS MORE FAVORABLE TO YOUR CLIENTS IS THAT THE MOST NATURAL READING OF THE STATUTE? AND YOU KEEP COMING BACK WITH THE ANSWER THAT IS FIGHTING THE PREMISE AND ASKING US TO CONCLUDE THAT EVEN THOUGH IT IS NOT THE CORRECT READING OF THE STATUTE THAT WE SHOULD SOMEHOW ADOPT THIS PERMISSIBLE BUT UNREASONABLE INTERPRETATION WHY ARE YOU SO WEDDED TO THIS IDEA THAT THE LEGISLATURE DID SOMETHING WRONG THAT WE HAVE TO BASICALLY SAVE THE LEGISLATURE FROM ITSELF?
I DON'T UNDERSTAND THAT.
>> James E. Tysse,Resondent: YOUR HONOR ULTIMATELY WE AGREE ON THE CONSTRUCTION I THINK WE ARE TRYING TO PROVIDE CONTEXT AND HOW WE GOT

HERE AND WHY WE ARE HERE IN THE FIRST PLACE.
>> Chief Justice Carlos Muniz: I THINK YOU'RE HERE BECAUSE THE DISTRICT JUDGE ADOPTED WILLFULLY REASONABLE READING OF THE STATUTE.
>> James E. Tysse,Resondent: WE HAVE A SLEEP RESPECT WE DISAGREE WITH THAT YOUR HONOR.
>> Justice Charles Canady: IF IT WAS UP TO YOU WOULD NOT BE HERE CORRECT.
>> James E. Tysse,Resondent: CORRECT YOUR HONOR.
>> Justice Charles Canady: YOU DON'T WANT US TO ADOPT THIS INTERPRETATION WHICH ARE NOW SUGGESTING IS POSSIBLE FOR US TO ADOPT.
YOU JUST WANT TO HAVE THE STATUTE DECLARED UNCONSTITUTIONAL.
>> James E. Tysse,Resondent: WE WANT THE DEFENDANTS TO BE A JOINT IN THIS LAWSUIT IN FACT THAT'S WHAT THE DISTRICT COURT ORDERED AND WE THOUGHT THAT GIVEN A REVIEW OF THE STATUTE IN THE DISTRICT COURT'S VIEW OF THE STATUTE THE CERTIFICATION WAS UNNECESSARY 11TH CIRCUIT DISAGREE IN THAT ORAL ARGUMENT THAT IF THE COURT FEELS THERE IS ONE MORE THAN ONE REASONABLE INTERPOSITION THEY SHOULD GO AHEAD CERTIFYING THE QUESTION WE WILL BE HERE DEFENDING IT TO BE TOTALLY CLEAR WE ULTIMATELY AGREE ON THE COMMON LAW OR UNCONSTITUTIONAL CONSTRUCTION THAT WOULD PRESERVE THE COMMON-LAW PROVIDE CONTINUITY IN THE DEFINITION AND RESOLVE THESE PROBLEMS I THINK I'M HERE TODAY TO TELL YOU I TRIED TO PROVIDE CONTEXT FOR WHY WE ARE IN THE FIRST PLACE. THIS WAS A GOOD FAITH CONCERN ON THE PART OF THEIR CLIENTS I THINK MY FRIEND ON THE OTHER SIDE SAID WAS UNDERSTANDABLE FOR MY CLIENTS TO HAVE THESE CONCERNS IN LIGHT OF THE AMENDED STATUTE.
>> Chief Justice Carlos Muniz: I THINK IT'S A BIZARRE ADVOCACY TACTIC TO TRY TO GET US TO ADOPT A RULE OF STATUTORY CONSTRUCTION THAT WOULD GO FAR BEYOND THIS PARTICULAR CASE AND HAS NO SUPPORT IN ANY KIND OF LAW OF STATUTORY INTERPRETATION DOWN FAMILY WITH. ALL OF THESE TENDONS THAT YOU WERE TALKING ABOUT WITH AVOIDANCE AND LIMITED IN ALL THAT STERILE WITHIN THE REALM OF REASONABLE INTERPRETATION. IT'S A MATTER OF SOMETIMES PICKING A LESS GOOD BUT STILL REASONABLE INTERPRETATION TO PURSUE THESE OTHER ENDS.
I'VE NEVER HEARD OF A CANNON THAT SAYS YOU CAN ADOPT AN UNREASONABLE INTERPRETATION TO SAVE THE STATUTE.
>> James E. Tysse,Resondent: MAYBE YOUR HONOR IT WAS A SEMANTICS ISSUE.
I WILL GRANT YOU THAT WE COULD HAVE DIFFERENT VIEWS OF WHAT IS REASONABLE I THINK AT A MINIMUM IT WAS READILY APPARENT READING THAT IS CERTAINLY WHAT THE DISTRICT COURT HELD. IT WAS NOT READILY APPARENT READING IT WAS ONE USING CONSTITUTIONAL AVOIDANCE PRINCIPLES AND OTHERWISE THIS COURT CAN AND WE THINK SHOULD ADOPT AS THE AUTHORITATIVE AND BINDING READING I'M NOT TRYING TO SUGGEST THAT THIS COURT REVAMP ITS STATUTORY CONSTRUCTION PRINCIPLES I DO THINK THAT THE CONSTITUTIONAL AVOIDANCE CASES WHICH THIS COURT HAS AN OBLIGATION TO ADOPT AND READING

WOULD BE CONSTITUTIONAL SOMETIMES ADOPTS INSTRUCTIONS THAT ARE NOT READILY APPARENT. THEY DO SO WHEN IT'S FAIRLY POSSIBLE TO DO SO BUT NOT ONCE READILY APPARENT. THAT'S WHY THINK THE SIMPLEST WAY TO RESOLVE THIS CASE IS TO SIMPLY SAY ALL AGREE IT'S FAIRLY POSSIBLE AND MOVE ON FROM THERE BUT OBVIOUSLY IF THIS COURT WANTS TO SAY BUT THIS IS THE REASONABLE AND BEST INTERPRETATION THAT WOULD PROTECT OUR CLIENTS RIGHTS AND WE WOULD LOOK AT THAT REGARDLESS WE THINK THIS COURT SHOULD ADOPT A CONSTRUCTION THAT DOES PROTECT THOSE RIGHTS AS BOTH SIDES AGREE. THAT EITHER CODIFIES OR EVEN AS MY FRIEND ON THE OTHER SIDE SAYS NARROWS THE COMMON-LAW TO PROTECT THOSE RIGHTS. ANY FURTHER QUESTIONS I'M HAPPY TO ANSWER FOR MY TIME IS DONE.
>> Chief Justice Carlos Muniz: THANK YOU VERY MUCH.
>> Nicholas J.P. Meros,Petitionr: I WANT TO FOLLOW ON WHAT MY FRIEND ON THE OTHER SIDE HAS SAID AND TO THE POINTS JUSTICE CANADY AND
JUSTICE MUNIZ THEIR POINTS ITS ABSOLUTE TRUTH THE COURT WOULD ABSOLUTELY NEED TO BEND ITSELF OVER BEND ITSELF INTO A PRETZEL TO ADOPT THE LIMITED CONSTRUCTION IT IS CLEAR THAT THE AS THIS COURT SEEMS TO RECOGNIZE THE PLAINTEXT INTERPRETATION OF THE STATUTE IS CLEAR ON ITS FACE.
>> Chief Justice Carlos Muniz: WHAT IF ANYTHING TO THE STATUTE CHANGE OF THE COMMON-LAW.
>> Nicholas J.P. Meros,Petitionr: OUR EMPHASIS ON THE COMMON-LAW IT SUBSEQUENTLY DOES NOT CHANGE THE OUTCOME OF OTHER PROSECUTION IT WOULD CLARIFY AND POTENTIALLY NARROW SOME OF THE TERMS IN THE COMMON-LAW.
THE WORDS TUMULTUOUS THINGS LIKE THAT THAT ARE BETTER SUITED FOR A LONG TIME AGO ARE NOT AS READILY APPARENT HERE IN WORDS LIKE WILLFULLY PRINCIPATE VIOLENT PUBLIC DISTURBANCE OR CLEAR SO IT'S CLEAR FOR BOTH THOSE TRYING TO PARTICIPATE IN THE CONDUCT BUT FOR THE COURTS TRYING TO APPLY IT. THAT OF COURSE IS ENTIRELY THE LEGISLATORS PREROGATIVE TO CODIFY THAT THIS COURT UNDERSTANDS THERE IS A PRESUMPTION THAT THE LEGISLATURE BY CODIFYING SOMETHING DOES CHANGE IT SO THERE IS A LITTLE BIT OF THAT NARROWING ASPECT. THAT IS ABSOLUTELY THE LEGISLATORS PREROGATIVE THAT DOES NOT MEAN THAT ANY LANGUAGE THAT DOES NOT SEEM TO LINE UP WITH THE COMMON-LAW IS SOMEHOW SURPLUS AND THE COURT MUST JUMP OVER THE PLAINTEXT AND GO TO A LIMITED CONSTRUCTION. VAGUE KNOWLEDGE IS NOT REASONABLE BUT IS FAIRLY POSSIBLE. THAT CERTAINLY CANNOT BE THE STANDARD WHEN THERE IS A REASONABLE AND WE ARGUED THE MOST NATURAL READING OF THE STATUTE THE COURT HAS TO GO BEYOND THAT JUMP TO TEXTUAL TOOLS TO USE A INTERPRETATION THAT IS FAIRLY POSSIBLE THIS COURT SEEMS TO RECOGNIZE THE COURT DOES NOT NEED TO GO BEYOND THE TEXT TO APPLY THE COMMON INTENT LANGUAGE TO BOTH THE PERSON AND THE ASSEMBLY OF THREE PERSONS IT'S CLEARLY THE MOST NATURAL READING USING GRAMMAR TOOLS YOU

CAN USE OTHER CANNONS LIKE THAT THEY'RE STILL ROOTED IN THE TEXT.
WE CERTAINLY AGREE IT IS NOT ONLY FAIRLY POSSIBLE NOT ONLY REASONABLE BUT MOST NATURAL FOR THE STATUTE WITH THIS LANGUAGE TO CRIMINALIZE THE WRITING BUT NOT TO CRIMINALIZE PEACEFUL PROTESTING AND WE AGREE WITH JUSTICE MUNIZ AND JUDGE WALKER DID GO BEYOND THE TEXT AND DID SEEM TO TRY TO APPLY THE STATUTE WITH AN OUTCOME IN MIND AND ON THE POINT OF WHAT THE COURT IS DOING HERE OBVIOUSLY THE COURT IS OFFERING AN ADVISORY OPINION TO THE 11TH CIRCUIT ON HOW TO INTERPRET THAT STATUTE. BUT REALLY THE COURT ONLY NEEDS TO DECIDE WHETHER IT NEEDS TO CLARIFY THE STATUTE BY BE GOING BEYOND THE TEXT OR CODIFYING THE STATUTE BY APPLYING THE MOST PLAIN AND MOST REASONABLE AND MOST NATURAL READING . IT IS CERTAINLY NOT REASONABLE FOR THIS COURT TO GO BEYOND THE TEXT ENOUGH TO APPLY THE PLAINTEXT SIMPLY SHOWS THAT SIMPLY BEING AT A PROTEST BEING A PEACEFUL PROTEST AND NOT PARTICIPATING NOT WILLFULLY PARTICIPATING IN A PROTEST SIMPLY BEING THERE IS CERTAINLY NOT PARTICIPATING OR WILLFULLY PARTICIPATING OR IT MAKES YOU LIABLE UNDER THE STATUTE.
AND FINDING OR APPLYING THE REASONABLE INTERPRETATION WILL ELIMINATE ANY CONCERNS THAT MY FRIEND SEEM TO HAVE WITH THE STATUTE. ELIMINATE ALL VAGUENESS CONCERNS AND THAT IS THE MOST NATURAL READING SO THE COURT NEED GO NO FURTHER THAN THE ACTUAL TEXT TO ANY CANNONS OR ANY LIMITED CONSTRUCTION. UNLESS THE COURT HAS ANY QUESTIONS I WILL CEDE THE REST OF MY TIME THANK YOU YOUR HONOR.
>> Chief Justice Carlos Muniz: THANK YOU.