

>> Chief Justice Carlos Muniz: OUR NEXT CASE IS JJJTB V. SCHMIDT CASE NO. 2023-0915.

>> Daniel E. Nordby, Petitioner: THIS CASE INVOLVES A QUESTION THAT IS DIVIDED THE DISTRICT COURT'S IS IT PARTIES OBJECTION TO CASE JURISDICTION WAIVED IF NOT TIMELY ASSERTED?

THIS COURT SHOULD QUASH THE SECOND DISTRICT'S DECISION AND APPROVE THE DISTRICT COURT DECISION DISTINGUISHING BETWEEN CASE JURISDICTION AND ITS SUBJECT MATTER JURISDICTION IN FINDING OBJECTION TO THE FORMER TO BE WAIVABLE. UNLESS THE COURT WOULD PREFER OTHERWISE I WILL BEGIN BY ADDRESSING THE DIFFERENCES BETWEEN SUBJECT MATTER JURISDICTION AND CASE JURISDICTION.

>> Justice: CAN WE FOCUS ON THE TIMELINESS ASPECT.

I'M CONCERNED WITH HOW AN OUTCOME IN THIS CASE FITTING WITHIN YOUR RULE JURISPRUDENCE IN FLORIDA. AND AFTER SEVERAL DISTRICT COURT CASES I THINK THE BRIEF HIGHLIGHTS I KNOW THE BRIEF HIGHLIGHTS THESE DEFICIENCIES IN CASE JURISDICTION RENDERS A GOVERNMENT VOIDABLE V. VOID. THERE IS A LOT OF DISTRICT COURT PRECEDENT SAYING WHETHER OR NOT JUDGMENT IS VOIDABLE CAN BE RAISED ON REHEARING.

I'M NOT SURE IF THAT IS CORRECT OR NOT CAN YOU EXPLAIN WHY WHETHER OR NOT SOMETHING ISN'T VOIDABLE SHOULD NOT BE ABLE TO BE WAIVED ON REHEARING.

>> Daniel E. Nordby, Petitioner: REQUIRING A TIMELY OBJECTION TO THIS COURT TO THE GENERAL PRINCIPLE OF CASE LAW ABOUT AVOIDING UNNECESSARY JUDICIAL PROCEEDINGS.

IN THE CASE OF PERSONAL JURISDICTION FOR EXAMPLE THAT OBJECTION MUST BE RAISED AT THE EARLIEST OPPORTUNITY.

HERE TO THAT OBJECTION CAN AND SHOULD HAVE BEEN RAISED MUCH EARLIER THAN A MOTION FOR RE-HEARING OR RECONSIDERATION RATHER THAN TWO YEARS INTO THE CASE WHERE AS IN THIS CASE THIS CASE DID NOT INVOLVE A SITUATION WHERE CASE JURISDICTION CAME AND WENT AS IT DOES IN SOME CASES. THIS IS A SITUATION WHERE AN OBJECTION TO CASE JURISDICTION WAS AVAILABLE TO THE RESPONDENT FROM THE TIME THE MOTION TO AMEND THE COMPLAINT WAS FIRST FILED. IN THIS PARTICULAR CASE THERE WOULD'VE BEEN NO IMPEDIMENT TO THE FILING OF THAT OBJECTION.

>> Justice: NOT JUST THAT IT SEEMS THEY HAVE A BIT OF A ROUND PEG IN A SQUARE HOLE PROBLEM IS THAT A MOTION FOR RE-HEARING IS LARGELY ABOUT DIRECTING THE COURT TO THE THINGS THE COURT OVERLOOKED NOT THINGS THE PARTIES OVERLOOKED.

>> Daniel E. Nordby, Petitioner: I CERTAINLY AGREE WITH THAT IN THIS PARTICULAR MOTION FOR RECONSIDERATION THERE WAS NO OBJECTION TO CASE JURISDICTION THERE IS A TWO PARAGRAPH OBJECT AND SUBJECT MATTER JURISDICTION THIS SECOND DISTRICT THAT THE RIGHT THE SUBJECT MATTER JURISDICTION REFERS JUST TO THE COURT'S POWER TO DEAL WITH THE CLASS OF CASES TO WHICH A

PARTICULAR CASE BELONGS. THERE IS NO QUESTION THAT CIRCUIT COURTS IN THE STATE HAVE SUBJECT MATTER JURISDICTION TO ADDRESS FORECLOSURE CASES. THIS IS NOT A SUBJECT MATTER JURISDICTION.

SUBJECT MATTER JURISDICTION ARISES FROM THE FLORIDA CONSTITUTION FROM AUTHORIZED STATUTES AND IT DOES NOT DEPEND ON PROCEDURAL ISSUES. THIS COURT IN ITS CUNNINGHAM CASE SAID FOR EXAMPLE THE CIRCUIT COURT HAD SUBJECT MATTER JURISDICTION OVER BAD FAITH CLAIMS AGAINST INSURANCE COMPANIES THERE MAY BE SOME PROCEDURAL IMPEDIMENTS TO THE COURT'S EXERCISE OF THAT SUBJECT MATTER JURISDICTION. BUT THAT IS WHAT CASE JURISDICTION IS CASE JURISDICTION INVOLVES THE EXERCISE OF JURISDICTION NOT HIS EXISTENCE.

>> Justice: CAN YOU HELP US I KNOW IS NOT RELEVANT TO THE LEGAL ISSUE HELP US UNDERSTAND I DON'T KNOW WHAT THE BIGGER SORT OF TRAVESTY HERE IS IS OBJECTING TO SOMETHING TWO YEARS INTO THE LITIGATION OR YOUR CLIENT SHOWING UP TWO YEARS AFTER AN APPEAL HAS BEEN DECIDED AND THE CLOSING ON THE CASE AND THEN FILING A MOTION TO AMEND THE COMPLAINT. WHAT GOOD FAITH BASIS DID ANYONE THINK ON EITHER SIDE FOR THINKING THAT YOU COULD THAT THIS CASE CAN BE REVIVED IN THIS POSTURE?

>> Daniel E. Nordby, Petitioner: WILL ADDRESS IT TO THE EXTENT I CAN FROM THE RECORD NOT THERE CASE BUT OUR CASE. IF YOU LOOK AT THE DOCKET ENTRIES FOR THE TRIAL COURT IN THIS CASE THE BEGINNING OF THE RECORD, YOU'LL SEE EVEN AFTER THE FINAL OR THE INITIAL FINAL ORDER WHICH MAY OR MAY NOT HAVE BEEN FINAL IT WAS APPEALED AMENDED CAME DOWN AFTER WAS BCA. YOU CAN SEE THERE IS EXTENSIVE DOCKET ACTIVITY IN 2017, 2018 THE TRIAL JUDGE ISSUED AN ORDER CALLING FOR CASE MANAGEMENT CONFERENCE. THE ORDER WAS IN AUGUST 2018 CASE MANAGEMENT CONFERENCE OCTOBER 2018 SHORTLY BEFORE THE CASE MANAGEMENT CONFERENCE MY CLIENT FILED A MOTION TO AMEND ITS COMPLAINT AND THAT THE MOTION WAS HEARD AT THE CASE MANAGEMENT CONFERENCE AND AN ORDER WAS ISSUED ACCEPTING THAT.

>> Justice: WAS THE ORDER TO AMEND A COMPLAINT FOR SUBSEQUENT DEFAULT OR SOME OTHER REASON.

>> Daniel E. Nordby, Petitioner: WAS BECAUSE OF A SUBSEQUENT DEFAULT THE FIRST AMENDED COMPLAINT HAD TWO COUNTS ONE WAS AN ACTION ON THE NOTE BASED ON SUBSEQUENT DEFAULT AND THE OTHER WAS AN ACTION TO FORECLOSE THE MORTGAGE BASED ON THE SUBSEQUENT DEFAULT.

>> Justice: BOTH RELATE TO THE SUBSEQUENT DEFAULT I GUESS IT WAS 2015, 2016 NOT THE THING THAT GOT US THE GOT YOU TO THE FIRST ORDER OR WHATEVER THE STATUS WAS.

>> Daniel E. Nordby, Petitioner: THE MOTION TO DISMISS THE FIRST AMENDED COMPLAINT ATTACKED THE ACTION ON THE NOTE AND ALLEGE THAT IT FELL OUTSIDE OF THE STATUTE OF LIMITATIONS.

I THINK IT IS REASONABLE TO INFER THAT THE PETITIONER HERE FILED THE AMENDED COMPLAINT IN AN EFFORT TO HAVE THAT RELATE BACK TO THE FILING OF

THE INITIAL COMPLAINT TO AVOID THAT STATUTE OF LIMITATIONS ISSUE. THE STATUTE OF LIMITATIONS ISSUE IS NOT THERE ON THE ACTION AND FORECLOSURE WAS THE SUBJECT OF THE SECOND AMENDED COMPLAINT AN ACTION FOR FORECLOSURE WHICH IS NOT BARRED BY THE STATUTE OF LIMITATIONS. THAT CASE WENT FORWARD ON THE FORECLOSURE NOTE FOR TWO AND HALF YEARS. A THREE DAY BENCH TRIAL AND ANSWER AND 18 AFFIRMATIVE DEFENSES FILED BY THE RESPONDENT NONE OF WHICH ADDRESSED JURISDICTION OF ANY SORT.

>> Justice: CAN YOU GO BACK AFTER THE APPEAL THOUGH UNDERSTAND THE ARGUMENT ABOUT THE LANGUAGE OF THE INITIAL "FINAL ORDER" AND HEALTH THAT MAY BE RAISES AN ISSUE AS TO FINALITY. AFTER THE APPEAL THEN YOU SAID THERE WAS DOCKET ACTIVITY.

WHAT COULD THERE HAVE BEEN IF YOU ASSUME IT WAS A FINAL ORDER AND THE 2ND DCA DID ITS THING WHAT COULD THERE BEEN STILL LEFT GOING ON.

>> Daniel E. Nordby, Petitioner: I WILL CANDIDLY ACKNOWLEDGE PERHAPS THE BETTER PROCEDURE WOULD BE TO FILE A NEW ACTION TO FORECLOSE THE MORTGAGE BASED ON THE SUBSEQUENT DEFAULT. THERE WAS INTENT TO DO THAT IN POLK COUNTY BASED ON THE TRIAL COURT WERE THERE FROM THE JUDGE THIS ACTION TOOK PLACE WHEN THERE WAS CASE MANAGEMENT CONFERENCE SET IN THE ORIGINAL CASE IN AN EFFORT TO AMEND THAT. THE ISSUE AND TO GO TO YOUR EARLIER QUESTION CHIEF IS HAD THIS OBJECTION TO CASE JURISDICTION BEEN RAISED AT THAT TIME, IN RESPONSE TO MOTION FOR AMENDING THE CLIENT AND HAD THE TRIAL JUDGE RULED ON IT AND SUBMIT IT IS ISSUED I CANNOT DO ANYTHING MORE THIS CASE IS CLOSED MY CLIENT INIT 2018 SIX YEARS AGO COULD HAVE FILED THE COMPLAINT FOR FORECLOSURE AND PURSUED IT TO ITS RESOLUTION INSTEAD, WHAT WE FIND HERE IS ALL OF THESE YEARS OF LITIGATING NOT RAISING THE ISSUE. CONSUMPTION OF RESOURCES TO PARTIES AND THE COURT TO GET TO THE SAME PLACE. MY CLIENT NOW IF HE HAD TO COULD STILL FILE THIS MOTION OR COMPLAINT TO FORECLOSE THIS MORTGAGE BECAUSE IF THIS COURT WERE TO RULE AGAINST US.

OUR POSITION THEY SHOULD NOT NEED TO DO SO BECAUSE THE RESPONDENT COULD HAVE RAISED THAT ISSUE BUT FAILED TO DO SO.

>> Justice: IN IN TERMS OF WHETHER THIS IS CONFLICT CERTIFIED CONFLICT OR EXPRESS AND DIRECT YOU SEE THIS AS SIMILAR TO MCR FUNDING AND BECAUSE THE CASE JURISDICTION CAME UP FOR THE FIRST TIME ON APPEAL AND OBJECTION THAT WAS RAISED IN THE MOTION FOR RE-HEARING WAS SUBJECT MATTER JURISDICTION THIS IS MORE EXPRESS AND DIRECT THEN IT IS ASSOCIATED WITH MCR PRODUCING DIFFERENTLY.

>> Daniel E. Nordby, Petitioner: THIS COURT ACCEPTED JURISDICTION UNEXPRESSED AND DIRECT THE CERTIFIED CONFLICT WE DO THINK THERE'S CONFLICT OF MCR FUNDING UNDER THE FOURTH DISTRICT IN A SHORTER DESCRIPTION OF THE FOURTH DISTRICT THE DISTRICT COURTS ARE DIVIDED OR DIVIDED ON THIS ISSUES I WOULD SAY BROADLY SPEAKING THE FOURTH AND THE SIX ARE WITH US. THE SECOND AND FIRST ARE WITH THEM.

IN THE THIRD AND THE FIFTH ARE PART OF A MIXED BAG CANDIDLY. THE THIRD DISTRICT RESET OF THE OCEAN BANK CASE WHICH WE BELIEVE FROM THE THIRD WHICH WE WILL INVOLVE A SIMILAR SITUATION THAT IS CONSISTENT WITH OUR VIEW OF IT. THIS GOES TO THE LARGER POINT THIS IS AN ISSUE CRYING OUT FOR THIS COURT'S CLARIFICATION THAT BECAUSE THE DISTRICT COURTS ARE STRUGGLING BUT SIMPLY BECAUSE THEY ARE ARRIVING AT DIFFERENT CONCLUSIONS ON THE SAME QUESTION IT'S AN ISSUE THAT HAS RECURRED.

>> Justice: I THINK THE THIRD DCA I DON'T HAVE IT IN FOR ME I KNOW THEY HAVE THE YOU CANNOT RAISE VOIDABLE JUDGMENT ON APPEAL THE FIRST TIME THEY MIGHT FALL INTO THE CATEGORY OF DISTRICTS THAT SAY YOU CAN RAISE A VOIDABLE JUDGMENT ON REHEARING.

I THINK IS IMPORTANT FOR US TO BE CLEAR ON WHAT WE ARE DOING WHETHER WE ARE SAYING IT WAS LATE RAISED BECAUSE IT WAS RAISED IN REARING OR WHETHER IT WAS ISSUE RAISED FOR SOMEONE APPEAL IT IS TREATED DIFFERENTLY ON THE DISTRICT COURT I'M TRYING TO GET YOUR IMPRESSION WITH THIS FALLS.

>> Daniel E. Nordby, Petitioner: UNDERSTOOD I THINK THE BETTER VIEW OF IT WOULD BE TO SERVE OBJECTION TO BE RAISED AT THE FIRST OPPORTUNITY THAT IS PRESENTED.

THE THIRD DISTRICT SAID IN SANCHEZ CASE ACKNOWLEDGE IT USED IN TERMS CASE FOR SECTION AND SUBJECT MATTER JURISDICTION TO INTERCHANGEABLY AND AT TIMES IMPROPERLY. I THINK THIS IS AN ISSUE THAT HAS CONFUSED SOME OF THE COURTS BELOW AND THEY HAVE COME TO DIFFERENT CONCLUSIONS ON THE SAME QUESTION WHICH IS WHY WE ARE ASKING FOR THIS COURT TO BRING CLARITY TO IT BUT TO DIRECTLY ANSWER YOUR QUESTION IF THERE IS AN ISSUE THAT WOULD RENDER A JUDGMENT VOIDABLE THAT OBJECTION SHOULD BE RAISED AT THE FIRST OPPORTUNITY.

THIS COURT SAID STATE V. KING THERE IS GOOD REASON FOR REQUIRING DEFENDANTS TO REGISTER THEIR OBJECTIONS WITH THE TRIAL COURT AT THE FIRST OPPORTUNITY. THEY SAID NEITHER THE COMMON LAW OR STATUTE'S FAVOR ALLOWING A DEFENDANT USES THE RESOURCES OF THE COURT AND WAIT UNTIL THE LAST MINUTE TO UNRAVEL THE WHOLE PROCEEDING.

>> Justice: WHEN YOU SAY SHOULD THAT SOUNDS LIKE IT DOES NOT LEND ITSELF TO KIND OF A CATEGORICAL RULE YOU CAN IMAGINE THERE BEING DIFFERENT TYPES OF THINGS THAT MIGHT BE VOIDABLE THEN IT GETS RAISED IN REHEARING IN A CORPORATE IT SAYS IN THIS PARTICULAR CASE YOU'RE TOO LATE IN THIS OTHER CASE YOU'RE NOT TOO LATE.

IT IS MUST BE V. SHOULD BE IT SEEMS LIKE THAT IS A SEPARATE ISSUE WHAT YOU HAVE TO DO TO WAIVE AS OPPOSED TO IS IT WAIVABLE.

>> Justice: ISN'T THE UNDERLYING POINT HERE THAT RELEVANT TO THIS ISSUE THEY DID NOT IN THE MOTION FOR REHEARING RAISE CASE JURISDICTION. THEY RAISED SUBJECT MATTER JURISDICTION.

>> Daniel E. Nordby, Petitioner: DATED THE FIRST MENTION OF CASE JURISDICTION WAS IN THE REPLY BRIEF FOR THE 2ND DCA.

>> Justice Charles Canady: IT IS REALLY NOT THE BUSINESS ABOUT THE REHEARING WHY IS IT RELEVANT IF THEY DID NOT RAISE THEY DO NOT RAISE THE ISSUE THEN?

>> Daniel E. Nordby, Petitioner: I AGREE THIS MAY BE AN EASIER CASE THAN SOME OF THE OTHER CASES THEY COME UP WITH THIS FREQUENTLY COMES UP IN THE CASES PRESENTED IN ACTIONS TO ENFORCE A SETTLEMENT AGREEMENT WHETHER PARTIES SETTLE A CASE DISMISS IT IN ONE OR BOTH OF THEM GO BACK INTO THE SAME COURT CASE NUMBER FOUR? TO ENFORCE THAT SETTLEMENT AGREEMENT. AT PRESENT I THINK AN EASY CASE WHERE IF SOMEONE INVOKES A JURISDICTION OF THE COURT AND THE OTHER SIDE DOES NOT OBJECT AND ACTIVELY LITIGATE THE CASE BEFORE THE COURT THEN THEY HAVE WAIVED ANY OBJECTION TO THAT COURT CASE JURISDICTION.

TO ADJUDICATE THE DECISION. BECAUSE THE CONCRETE DECISION WOULD ALLOW THEM TO LIE IN WAIT TO LITIGATE THE CASE FIND OUT WHETHER THEY'RE GOING TO WIN OR LOSE THEN IF THEY LOSE ANY MOTION FOR RE-HEARING OR RECONSIDERATION SAME NEVERMIND. NOW THAT I'VE LOST YOU HAVE NO CASE JURISDICTION I CAN RAISE IT AT THIS POINT SOME COURTS WOULD SAY YOU CAN RAISE IT ON APPEAL.

AND THEY CAN DO THAT WHOLE PROCEEDING THAT IS INCONSISTENT WITH THE USE OF THE COURTS RESOURCES AND THE PARTIES RESOURCES. IT IS SOMETHING THAT THE FOURTH DCA GOVERNMENT ON THIS AND JUDGE RAY IN HER CONCURRING OPINION FROM THE FIRST DISTRICT HAS A LONG CASE NUMBER CALLED THE SAN PABLO CASE EXPLAIN THIS DIFFERENCE IN THE DIFFERENCE BETWEEN VOID AND VOIDABLE JUDGMENTS AND WHY AND OBJECTION TO CASE JURISDICTION SOMETIMES CALLED PROCEDURAL JURISDICTION OR CONTINUING JURISDICTION SHOULD BE VOIDABLE RATHER THAN FORWARD.

>> Justice: DOES THE WAIVER ISSUE MATTER AT ALL ESSENTIALLY THE PROCEDURAL RULES ARE THE COURT LIMITATION ON ITS OWN DISCRETION GIVEN NOTICE OF APPEAL BEING 30 DAYS AS OPPOSED TO 16. DOES IT MATTER THE COURT'S PRONOUNCEMENT OF WHEN THE COURT WILL HEAR CASE RATHER THAN THE PARTIES RIGHT AND IN THE WAY ASSERTING A DEFENSE WILL BE IN TERMS OF LANGUISHING A KNOWN RIGHT I THINK IS THE INTENTION RELINQUISHMENT OF A RIGHT I THINK IS THE DEFINITION OF A WAIVER.

>> Daniel E. Nordby, Petitioner: IT'S A GOOD QUESTION I THINK THIS FALLS MORE IN THE CATEGORY OF RIGHT THE PARTY HAS IN THIS CASE THEN A COURT'S AUTHORITY DERIVING FROM THE CONSTITUTION AND STATUTES.

THAT IS THE REASON THE SUBJECT MATTER JURISDICTION IS NOT WAIVABLE AND ALWAYS LEADS TO A VOID JUDGMENT AND TO BE RAISED IN INTENT BEGIN INVOLVES THE COURTS VERY AUTHORITY TO ACT IN ANY KIND OF CASE. RATHER THAN JUST UNDER THIS PARTICULAR FACTS AND CIRCUMSTANCES PRESENTED. UNDER THE CIRCUMSTANCES WHERE PARTY SUBJECT ITSELF TO THE COURT'S JURISDICTION WITHOUT OBJECTION ASKED THE COURT FOR AFFIRMATIVE RELIEF THAT I THINK FALLS IN LINE WITH THIS SORT OF PROCEDURAL ISSUES THAT A PARTY WOULD NEED TO OBJECT TO AT THE EARLIEST OPPORTUNITY I'M LOOKING STATE V. KING FROM

THIS COURT WHERE A JUVENILE WAS CHARGED BY INDICTMENT RATHER THAN BY INFORMATION. THIS COURT SAID THAT IS A PROCEDURAL ISSUE YOU HAVE TO RAISE THAT AT THE EARLIER OPPORTUNITY YOU CANNOT RAISE THAT AT A LATER TIME AND CALL IT SUBJECT MATTER JURISDICTION. THIS COURT HAS HELD SIMILARLY ENCASSES GOING BACK TO THE 1920S.

THE CONTRARY CASES THE CASES THAT MY FRIEND ON THE OTHER SIDE IS 22, IN MANY CASES CONFUSE THESE TWO DISTINCT CONCEPTS THEY REFER TO A COURT LACKING JURISDICTION TO ACT. RATHER THAN THE MORE PRECISE AND TALK ABOUT WHETHER IT IS SUBJECT MATTER JURISDICTION OR CASE JURISDICTION.

THE SECOND DISTRICT AS I SAID HAS ACKNOWLEDGED THAT THESE TWO ARE DIFFERENT THINGS BUT AS A MATTER OF DISTRICT RESIDENT HAS AN MATTER OR WAIVABLE THE FIRST DISTRICT SAID THE SAME THING IN THE OPINION FROM JUDGE RAY I MENTIONED TO ACKNOWLEDGE THE DIFFERENCE BETWEEN THEM SAID THEY ARE BOTH NOT WAIVABLE IN OUR CASE.

>> Justice: IN SOME HAS AGREED THERE IS THE DISTINCTION THEY MAY BE CLEARLY ESTABLISHED YOU CAN STILL SAY IT IS KIND OF AN ARBITRARY DISTINCTION . IF THE APPEAL IF THE ORDER WAS FINAL AND THE APPEAL WAS FINAL AND THE MANDATE WAS ISSUED THE COURT DOES NOT HAVE THE "AUTHORITY TO HEAR THAT PARTICULAR CASE AT THAT POINT" ESSENTIALLY THROUGH THIS WAIVER THE PARTIES KIND OF DAVID THE AUTHORITY WHICH IS SORT OF A CONCEPTUAL WE ARE BASICALLY JUST KIND OF THING GIVEN THE LANDSCAPE AND THE PRESIDENT WE WILL KIND OF OVERLOOK THAT.

I DON'T KNOW THAT YOU THROUGH THIS LABELING EXERCISE OF THE SUBJECT V. CASE YOU STILL HAVE THE FUNDAMENTAL PROBLEM THAT IN THIS PARTICULAR CASE IF EVERYBODY WAS PLAYING BY THE RULES THE COURT DID NOT HAVE THE AUTHORITY TO ACT.

>> Daniel E. Nordby, Petitioner: I AGREE WITH THE COURT OR IN THE CASE WHERE THE COURT LACKS CASE JURISDICTION IF AN OBJECTION IS TIMELY RAISED.

>> Justice: THIS WHOLE THING IS ABOUT TRYING TO FIGURE OUT IN THAT SITUATION CAN IT BE CURED THROUGH THIS WAIVER?

>> Daniel E. Nordby, Petitioner: AGREED I DISTINGUISH THAT FROM A CIRCUMSTANCE WHERE PARTY FILED A COMPLAINT FOR FORECLOSURE OF A MORTGAGE IN THIS COURT. THE COURT DOES NOT HAVE SUBJECT MATTER JURISDICTION TO ADJUDICATE THAT OF CASE NO MATTER IF THE PARTIES WANTED THIS COURT TO DECIDE THE CASE OR NOT. I SEE MY TIME IS RUNNING LOW I WILL RESERVE THE RIGHT FOR REBUTTAL.

>> Jesse Lee Ray, Respondent: [LISTING NAMES] TODAY WE ARE HERE ON THE QUESTION OF CASE TRADITION AND HOW IT WILL BE DECIDED IN FLORIDA. EVERYONE AGREES THAT THIS CASE DID NOT INVOLVE SUBJECT MATTER JURISDICTION EVERYONE AGREES IT DOES NOT INVOLVE PERSONAL JURISDICTION. FLORIDA HAS HELD THAT CASE JURISDICTION IS VERY FACT SPECIFIC. THE FACTS OF THIS CASE BRIEFLY, THERE WAS A 2011 FORECLOSURE WITH THE 2015 TRIAL IN HILLSBOROUGH COUNTY THERE WAS A FINAL ORDER FOR THE DEFENDANT AGAINST

JJJJTB THE DEFENDANT WHENEVER) IT WAS FINAL IN EVERY RESPECT IN THE SENSE THAT THERE WAS NO ADDITIONAL JUDICIAL LABOR THAT WAS LEFT TO DO. IT WAS APPEALED FINAL ORDER TO THE 2ND DCA.

JJJJTB APPEALED THAT AND THAT THE COURT AFFIRMED IT AND ISSUED A MANDATE RESENDING THAT CASE BACK TO THE TRIAL COURT THERE WAS NO RESERVATIONS IN THE MANDATE WITH REGARD TO AMENDING THE PLEADINGS.

TWO YEARS LATER AFTER HAVING A CASE IN POLK COUNTY JJJJTB CAME BACK AND SOUGHT LEAVE TO AMEND IN THE ORIGINAL HILLSBOROUGH COUNTY CASE THE COURT ALLOWED IT WE ULTIMATELY HAD A TRIAL WHERE JJJJTB PREVAILED. AT THAT POINT THE RESPONDENT FILED A MOTION FOR RE-HEARING.

MR SCHMIDT MADE TRADITIONAL ARGUMENTS THAT WERE DENIED AND WENT TO THE 2ND DCA WE SPECIFICALLY DO NOT USE THE TECHNICAL MAGIC WORD CASE JURISDICTION WE DID LAY OUT THE FACTS OF THIS WAS A FINAL JUDGMENT AND THERE WAS A MANDATE AND THERE WAS NO RESERVATIONS LEFT.

>> Justice: THEN THERE WAS AN ALLEGED SUBSEQUENT DEFAULT I DON'T THINK YOU CAN BURY THAT. PERHAPS THIS LINE OF ARGUMENT WOULD HAVE HAPPIER CONCLUSION FOR YOU IF THE AMENDED COMPLAINT WERE ABOUT THE 2011 DEFAULT BUT HOW DO YOU ADDRESS THE FACT THAT FOR ME, THIS CASE SORT OF RESTARTS WITHOUT SECOND DEFAULT AND IS ALSO THE CASE THAT IT IS LESS ABOUT CASE JURISDICTION AND MORE ABOUT THE NATURE OF WAIVER. HELP ME UNDERSTAND HOW YOUR CASE JURISDICTION ARGUMENT IS SO FUNDAMENTAL THAT IT IS UNWAIVABLE IN LIGHT OF THAT SECOND DEFAULT.

>> Jesse Lee Ray, Respondent: I WOULD SAY IT HAS TO DO WITH THE FINALITY OF THE DECISION IN THE MANDATE YOUR HONOR.

>> Justice: YES BUT THERE IS A NEW DEFAULT THERE IS A FRESH DEFAULT THERE IS A NEW, ACCORDING TO YOUR FRIEND AND ACCORDING TO THE OTHER SIDE YOU DEFAULT ON THE NOTE AGAIN. AND TO STOP PAYING. OR WHATEVER THE NATURE OF THE DEFAULT.

>> Jesse Lee Ray, Respondent: IF THEY FILED A NEW FRESH FORECLOSURE THAT WOULD BE A SEPARATE DIFFERENT CASE THERE WOULD NOT HAVE BEEN ANY OF THESE ISSUES THAT WOULD'VE BEEN RAISED IN THAT CASE AS FAR AS WHAT IS THE POLICY.

>> Justice Charles Canady: THAT IS A PURELY FORMALISTICALLY OF LOOKING AT THIS AS OPPOSED TO LOOKING AT THE MERITS . UNDERSTAND WE DO LOOK AT THINGS FORMALISTICLY THAT IS NOT A LIEN FOR TEST BUT NOT ALWAYS. I STRUGGLE ON THE MERITS OF IT.

>> Jesse Lee Ray, Respondent: THE MERITS OF IT THE POLICY OF FINALITY I WILL POINT TO THE COURT DECISION IN.

[LISTING NAMES]

>> Justice Charles Canady: ON THE POLICY OF FINALITY YOU CAN LITIGATE SOMETHING AND THE JUDGMENT CAN BE FINAL AND CAN HAVE RES JUDICATA EFFECT.

THEN SOMEBODY CAN GO ONE OF THE LOSING PARTY CAN GO INTO COURT AND TRY TO RELITIGATE AGAIN IF YOU DON'T DEFEND ON THE BASIS OF RES JUDICATA YOU

HAVE THE BENEFIT OF THAT. AND YOU DON'T BRING IT UP IT IS WAIVED I THINK.
UNDER OUR LAW.

IF YOU CAN GET BECAUSE PEOPLE HAVE TO BRING UP THEIR ISSUES THEY HAVE TO
BRING UP THEIR DEFENSES.

IF THEY DON'T, THEN THE SHIP HAS SAILED.

I'M STRUGGLING TO SEE WHY THIS IS DIFFERENT THAN SOMEONE WHO FAILED TO
BRING UP A RES JUDICATA DEFENSE WHO WOULD LOSE THE ABILITY TO RAISE IT IN
THE APPELLATE COURT.

IF THEY FAIL TO BRING IT UP AT THE FIRST OPPORTUNITY IN THE TRIAL COURT.

>> Jesse Lee Ray, Respondent: AGAIN YOUR HONOR AND IN FACT SPECIFIC TEST
WHENEVER THE CASE LAW COULD HAVE TO DO WITH THE FINALE OF THE TEST THAT
THIS WOULD AFFECT WHETHER OR NOT THE CASE HAS BEEN WAIVABLE . I FEEL IN
THE DOVER V. WARHOL CASE THE SUPREME COURT SPECIFICALLY HELD IS OUR
VIEW A PROCEDURE WHICH ALLOWS AN APPELLATE COURT TO RULE ON THE MERITS
OF THE TRIAL COURT JUDGMENT THEN PERMIT THE LOSING PARTY TO AMEND ITS
INITIAL PLEADING TO ASSERT MATTERS NOT PREVIOUSLY RAISED RENDERS A
MOCKERY OF THE FINALE CONCEPT OF THE JUDGMENT OF THE SYSTEM OF
JUDGMENT. IN NONE OF THE CASES WE CITE OR HAVE BEEN CITED BROUGHT THE
COURT PRECEDENT INVOLVE THIS ISSUE OF FINAL JUDGMENT THAT WAS AFFIRMED
ON APPEAL AND THERE WAS A MANDATE TO THE TRIAL COURT. EVEN IF THIS IS A
FACT SPECIFIC QUESTION THE FINALITY POLICY WITH REGARD TO THE END OF THIS
CASE, WITHOUT THE ABILITY OR WITHOUT IF THIS IS AN ISSUE OF WAIVER THE
SLIPPERY SLOPE ARGUMENT HERE WOULD BE THE FINALE IN A CASE IN A CASE
WHERE THERE IS A FINAL JUDGMENT AND AMENDING THE FINALE WOULD STILL BE A
MATTER OF CONSENT AGREEMENT OR WAIVER. YOU RUN THE RISK OF BASICALLY
NEVER ENDING LITIGATION.

>> Justice: DEPENDING ON HOW GOOD THE ATTORNEY DEPENDING ON HOW GOOD
THE ATTORNEY IS .

>> Jesse Lee Ray, Respondent: OR DEPENDING THERE WERE TWO JUDGES IN THIS
CASE THAT DID NOT CATCH THIS ISSUE.

>> Justice: THAT IS AN ISSUE OF WHEN CAN A JUDGE RATE SOMETHING SUA SPONTE.
CAN I ASK A QUESTION ON THAT TYPICALLY THINK OF ISSUES THAT JUDGES RAISES
SUA SPONTE INVOLVING JUDICIAL POWER WILL BE SUBJECT MATTER JURISDICTION
WE DON'T HAVE THE POWER UNDER THE CONSTITUTION TO DECIDE STUFF THAT IS
NOT INVESTED TO US THROUGHOUT THE CONSTITUTION FOR THE STATUTE IF
AUTHORIZED BY THE CONSTITUTION THEN WE ARE AUTHORIZED TO RAISE THOSE
ISSUES THROUGH SUA SPONTE WE HAVE THE OBLIGATION TO LOOK AT SUBJECT
MATTER JURISDICTION WHEN YOU THINK ABOUT PROCEDURAL JURISDICTION OR
CASE TRADITION IS WITHIN THE COURT'S POWER WE HAVE NOT ARBITRARILY BUT AS
A MATTER OF POLICY LIMITED WHEN WE HEAR APPEALS WHEN JUDGMENTS ARE
FINAL ETC. BUT WE HAVE THE JUDICIAL POWER TO HEAR THOSE CASES.

WHY WOULD IT BE APPROPRIATE FOR JUDGE TO RAISE SUA SPONTE IF IT IS
SOMETHING THAT THE COURT HAS THE POWER TO HEAR AND IT IS INCUMBENT ON

THE PARTIES TO RAISE TO THE JUDGE?

>> Jesse Lee Ray, Respondent: I WOULD SAY CASE JURISDICTION IT IS AS IF THE APPLICATION OF SUBJECT MATTER JURISDICTION WITHIN A CERTAIN CASE, AS A SEARCH THEY ARE SORT OF BOUND TOGETHER AND THAT THEY WOULD BE SIMILAR IN THAT RESPECT. BECAUSE SUBJECT MATTER JURISDICTION IS THE CATEGORY TO HEAR ANY CASE AND THEN CASE JURISDICTION IS WITHIN THAT JURISDICTION TO HEAR A PARTICULAR CASE, THE SUBJECT MATTER JURISDICTION AND CASE JURISDICTION ARE SIMILAR IN THAT RESPECT THAT IS WHY THEY CAN BE RAISED BY THE COURT.

>> Justice: YOUR RULE BE ANYTHING THAT AFFECTS THE COURT'S AUTHORITY WHETHER IT IS THE WHAT TYPE OF CASE OR THE WHEN ISSUE A JUDGE WOULD BE JUSTIFIED IN RAISING SUA SPONTE.

>> Jesse Lee Ray, Respondent: YES.

>> Justice: IF THERE IS BEEN AMENDED DOES THE TRIAL COURT HAVE THE POWER TO KEEP LITIGATING THE CASE I DON'T KNOW THE RIPE.

>> Jesse Lee Ray, Respondent: THAT IS EXACTLY WHAT HAPPENED IN THIS CASE.

>> Justice: I'M JUST SAYING IS THAT THAT PART OF THE ANSWER THAT IS WHERE THE SUBJECT MATTER AND AFTER A MANDATE MAY BE I DON'T KNOW I KNOW WE LABEL THE THINGS DIFFERENTLY IF THE COURT DOES NOT HAVE AUTHORITY AFTER A MANDATE THEN IT IS A MATTER OF POWER IT IS NOT A DISCRETIONARY THING.

>> Jesse Lee Ray, Respondent: AGREEMENT.

>> Justice: IS IT TRUE THAT IF YOU WERE TO WIN THE OTHER SIDE CAN COME WITH THE SUBSEQUENT DAYS I UNDERSTAND THERE'S A DIFFERENCE BETWEEN STATUTE OF LIMITATIONS IN THE NOTE V. FORECLOSURE WOULD BE A COMPLETE REDO OF WHAT HAPPENED OR WOULD THERE BE CERTAIN CLAIMS THAT COULD BE ON THE TABLE AND SOME OF WHAT WAS DECIDED HERE.

>> Jesse Lee Ray, Respondent: THERE ARE CONTINUING DEFAULTS ALLEGED WITH INSURANCE THE DEFAULT THAT WERE ALLEGED IN THE SECOND CASE INVOLVING TAXES AND INSURANCE.

THE MORTGAGE OR THE MORTGAGE INCORPORATES A NOTE BUT THE NOTE IS BARRED BY THE STATUTE OF LIMITATIONS.

THE TAXES ARE CURRENT AND THERE IS INSURANCE ON THE PLACE RIGHT NOW. I DON'T THINK THE MORTGAGE IS STILL ENFORCEABLE BUT IF IT IS IT IS NOT IN DEFAULT.

>> Justice: YOU BROUGHT UP THE COURT ARGUMENT EARLIER.

IN THE MOTION FOR RE-HEARING IF IT SAYS EXPLICITLY SUBJECT MATTER JURISDICTION ISN'T THAT A VERY DIFFERENT LEGAL ARGUMENT WE HAVE CASES WHERE FOR EXAMPLE SOMETHING OR SOMEBODY HAS DISCUSSED THE FACT OF WHY THE OBJECTIVE EVIDENCE BUT THE USE MAY BE A GOLDEN RULE INSTEAD OF UNFAIRLY PREJUDICIAL OR SOMETHING LIKE THAT AND THOSE ARE DIFFERENT ARGUMENTS DIFFERENT LEGAL ARGUMENTS THAT WE HOLD PARTIES ACCOUNTABLE FOR WHY IS THIS A MAGIC WORD SITUATION AND NOT A STRONG LEGAL ARGUMENT.

>> Jesse Lee Ray, Respondent: WITH THE ISSUE THIS INVOLVING THE POWER OF THE

COURT HAVING A MANDATE THAT THIS WOULD NOT BE AN ISSUE WHERE THE PARTIES SHOULD BE ABLE TO WAIVE THAT AND RESTART THE LITIGATION AGAIN. WE WOULD SAY THAT THAT WOULD BE I GUESS MY ANSWER.

>> Justice: CAN THIS BE RAISED FOR THE FIRST TIME ON APPEAL IS THAT ESSENTIALLY THE ARGUMENT IT DOES NOT MATTER WHAT WAS IN THE REARING BECAUSE YOUR ARGUMENT ULTIMATELY IS THAT IT CANNOT BE WAIVED EVER SO IT CAN BE RAISED ON APPEAL FOR THE FIRST TIME.

>> Jesse Lee Ray, Respondent: 2ND DCA HAS CLEARLY AND ABSOLUTELY, THE SCHMIDT DECISION IS ABSOLUTELY CLEARLY CORRECT ON THE 2ND DCA PRECEDENT IS A CONFLICT ON THE CASES. I WOULD SAY WE WOULD ASK THAT THE COURT AFFIRMED THE 2ND DCA. TO THE EXTENT THE COURT IS NOT GOING TO SAY THAT THEY CAN NEVER BE RAISED IN ANY CIRCUMSTANCES WE HAVE THE CIRCUMSTANCE HERE WE HAVE THE FINAL JUDGMENT THE APPEAL AND THE MANDATE WHICH WE THINK SHOULD NOT BE A SITUATION WHERE IT COULD HAVE BEEN WAIVED FOR THE SECOND DISTRICT CALLED OUR MOTION FOR RE-HEARING THEY SAID IT WAS A CHALLENGE UNDER CASE JURISDICTION EVEN WITHOUT THE MAGIC WORD WE GOT. [UNCLEAR AUDIO].

>> Justice: PUTTING ASIDE ISSUE ABOUT THE REARING HOW DOES YOUR ARGUMENT RECONCILE WITH THE HOW CAN IT BE RECONCILED WITH THE PROVISION OF FLORIDA RULES OF CIVIL PROCEDURE 1.14H THAT SAYS A PARTY WAIVES ALL DEFENSES AND OBJECTIONS IF THE PARTY DOES NOT PRESENT EITHER BY MOTION OR IF THE PARTY HAS MADE NO MOTION RESPONSIVE PLEADING ACCEPT THAT DEFENSE OF LACK OF JURISDICTION OF THE SUBJECT MATTER MAY BE RAISED ANYTIME.

THAT SEEMS TO STATE A PRINCIPAL THAT CUTS AGAINST WHAT YOU'RE ARGUING.

>> Jesse Lee Ray, Respondent: DOES NOT SPECIFICALLY SAY CASE JURISDICTION IN THE RULE.

I WOULD SAY IS A SUBSET OF CASE JURISDICTION.

>> Justice Charles Canady: IT SAYS ANYTHING BESIDES SUBJECT MATTER JURISDICTION HE STARTED OFF BY SAYING EVERYBODY AGREES THIS IS NOT ABOUT SUBJECT MATTER JURISDICTION OR PERSONAL JURISDICTION.

IT REALLY COVERS THE WATERFRONT. CARVING ELSE.

THE SUBJECT MATTER JURISDICTION WHICH MAY BE RAISED EVERY TIME BUT EVERYTHING ELSE YOU HAVE TO BRING UP. IF YOU DON'T IT IS WAIVED.

>> Jesse Lee Ray, Respondent: I WOULD SAY CASE JURISDICTION IS A SUBSPECIES OF SUBJECT MATTER JURISDICTION.

>> Justice Charles Canady: THAT'S A VERY ODD THING TO SAY NOW MAYBE MY MEMORY IS FAILING ME I THINK YOU SAID YOU ACCEPTED AGAIN UNDERSTAND YOU HAVE THE CASE YOU'VE GOT.

YOU ARE DOING THE BEST YOU CAN WITH WHAT YOU GOT.

I THOUGHT I REMEMBERED YOU KIND OF ACCEPTING THIS DIVISION BETWEEN SUBJECT MATTER PERSONAL JURISDICTION AND CASE JURISDICTION.

NOW YOU'RE MOVING AWAY FROM THAT.

>> Jesse Lee Ray, Respondent: I AGREE THEY ARE GENERALLY RECOGNIZED AT THREE DIFFERENT THINGS I RECOGNIZE THE RULE SAYS WHAT IT SAYS I DON'T THINK THE INTERPRETATION OF WHETHER OR NOT SUBJECT MATTER JURISDICTION INCLUDES CASE JURISDICTION UNDER CERTAIN CIRCUMSTANCES FITS UNDER THAT RULE. WAS THE SAME DETERMINATION OF WHETHER OR NOT FLORIDA COURTS HAVE RECOGNIZED THREE DIFFERENT TYPES OF JURISDICTION DOES THAT ANSWER OR ADDRESS YOUR QUESTION.

AGAIN, UNDER THE PRESIDENT OF THE DOVER CASE THE SLIPPERY SLOPE BEING IF THIS COURT ISSUED A MANDATE IT SAID THIS CAN BE WAIVABLE AT ANY TIME THERE IS RISK WE GO BACK TO THE TRIAL COURT AND GET LEAVE TO AMEND AND BE OFF AND RUNNING YET AGAIN. THERE WERE TWO JUDGES THAT MISSED THIS CASE. [LISTING NAMES] IS ONE WHO GRANTED LEAVE TO AMEND AND OF COURSE GEORGE PEACOCK WAS THE JUDGE ON THE CASE FOR THE REARING AND THE TRIAL. BUT AGAIN WOULD ASK THAT EITHER THE COURTS SUPPORT THE 2ND DCA UNDER THE PRINCIPLES OF FINALITY OR TO THE EXTENT THE COURT FINDS THAT THIS IS WAIVABLE UNDER CERTAIN CIRCUMSTANCES THAT IN THESE CIRCUMSTANCES WITH THE FINAL JUDGMENT WAS FINAL IN ALL RESPECTS THE APPEAL AND THE MANDATE THAT THIS WOULD NOT BE A SITUATION WHERE IT SHOULD BE WAIVED. IT WAS RAISED ON THE REARING THE 2ND DCA RECOGNIZE THAT THE EXTENT THAT PRESENTED FROM BEING EXPRESS CONFLICT AND IF NOT THEN IT IS JUST AN ISSUE OF WHETHER OR NOT THE 2ND DCA OR THE FOURTH DCA WHO RULE OF LAW RULES THE DAY.

THANK YOU.

>> Chief Justice Carlos Muniz: THANK YOU VERY MUCH.

>> Daniel E. Nordby, Petitioner: GOOD MORNING VERY BRIEFLY WE AGREE THAT THE MANDATE RENDERED THE INITIAL DECISION FINAL AS TO THE INITIAL DEFAULT RATE WHAT WE ARE TALKING ABOUT HERE ARE NEW INSTANCES OF DEFAULT. AS TO THE ISSUE OF POST MANDATE ACTION BY THE TRIAL COURT, AND IT IS PROCEEDING THAT GOES TO THE COURT'S AUTHORITY TO ACT AS A MATTER OF CASE JURISDICTION IN PRECISELY THE SAME WAY WE WOULD SUBMIT AS A TRIAL COURT THAT ACTS AFTER THE PARTY VOLUNTARILY DISMISSES THE CASE PURSUANT TO A SETTLEMENT AGREEMENT. I CITED SEVERAL CASES WHERE THE PARTIES HAVE DISMISSED THE CASE PURSUANT TO A SETTLEMENT AGREEMENT THE COURT IS NOT RESERVED JURISDICTION TO ENFORCE THE SETTLEMENT OR ENFORCE THE SETTLEMENT AND THE PARTIES GO BACK AND FORTH THAT'S IMPORTANT TO SEEK ENFORCEMENT OF THE SETTLEMENT AGREEMENT AND THE CASES CLARK CASE FROM THE SIXTH DCA AND OTHER CASES THAT WE HAVE CITED TO SAY IN THAT INSTANCE WHEN THE PARTIES HAVE GONE INTO A COURT THAT PERHAPS THERE IS A VALID OBJECTION TO CASE JURISDICTION IF TIMELY ASSERTED BUT HAVE NOT ASSERTED WHERE THE PARTIES.

>> Justice: AGAINST THE WRINKLE I DON'T KNOW IN MATTERS IT DOES SEEM DIFFERENT IN THAT SENSE THE OFFENSE YES THE COURT THEY THE COURT SHOULD NOT BE ACTING ON IT SEEMS LIKE THE MANDATE DOES IMPLICATE THE AUTHORITY

OF THE APPELLATE COURT IN THAT WHOLE PROCESS. IF YOU HAVE A JUDGE WHO DOES NOT LIKE THE RESULT IN THAT THE DC THEN YOU HAVE A PARTY THAT OBVIOUSLY DID NOT LIKE IT THEN YOU HAVE THE OTHER PARTY ON THE OTHER SIDE SLEEPS ON THE ISSUE. YOU CAN REALLY IMAGINE A SITUATION WHERE THE APPELLATE COURT'S AUTHORITY IS UNDERMINED WHEREAS IN THIS IN THE INSTANCE OF THIS IS MISSILE AND THE COMEBACK DOESN'T HAVE THAT ASPECT TO IT.

>> Daniel E. Nordby, Petitioner: I TAKE YOUR POINT IN A DIFFERENT CASE IF MY CLIENT HERE ATTEMPTED TO AMEND ITS COMPLAINT TO REALLEGE AN ACTION BASED ON THE INITIAL DEFAULT THAT WOULD CLEARLY UNDERMINE THE AUTHORITY OF THE APPELLATE COURT. TO FINALLY DECIDE THAT ISSUE.

THE FACT THAT THESE ARE NEW DEFAULTS AND IT'S AN AMENDED COMPLAINT THEY COULD'VE BEEN BROUGHT AS INDEPENDENT ACTION WITH AVENUE MR. TAKATA FACT I THINK IT TAKES IT OUTSIDE OF THAT SCENARIO.

>> Justice: IN TERMS OF THE UNDERLYING LEGAL PRINCIPLES YOU'RE TALKING ABOUT THAT CASE THAT WAS STILL WE WOULD STILL BE IN THE SAME BOAT. WE MAY HAVE MORE THAN INCENTIVE TO FIGURE OUT THE WAY THAT YOU WILL LOSE. [LAUGHTER] BUT THE UNDERLYING THE BOTTOM LINE THE PRINCIPLES WOULD STILL BE THE SAME WHETHER IT IS WAIVABLE WHETHER IS A REAL DISTINCTION OR MEANINGFUL DISTINCTION IN THIS CONTEXT BETWEEN CASE AND SUBJECT MATTER ETC. ETC.

>> Daniel E. Nordby, Petitioner: I TAKE YOUR POINT I THINK THAT CASE WOULD RAISE SOME DIFFERENT ISSUES THAN THE ONES HERE. CERTAINLY WE CITED ON PAGE 13 OF OUR BRIEF RULE 1.140 TO JUSTICE CANADY!

WE THINK THAT DISTINCTION IN THAT RULE BETWEEN SUBJECT MATTER JURISDICTION AND ALL OTHER DEFENSES REASONABLY APPLIES HERE IN MY LAST THREE SECONDS I COULD.

>> Justice: I HAVE A QUESTION IF THE CHIEF DOES NOT MIND.

>> Daniel E. Nordby, Petitioner: HOME GOING TO YOUR EARLIER QUESTION I HAVE PAID TO HEAR YOUR NEW QUESTION WAS GOING TO POINT TO PAGES 21 AND 22 OF OUR INITIAL BRIEF IN RESPONSE TO YOUR EARLIER QUESTION ABOUT WHEN THESE OBJECTIONS SHOULD BE RAISED AND WHY THEY SHOULD BE RAISED AT THE FIRST OPPORTUNITY?

>> Justice: MY QUESTIONS IS ON THE SUA SPONTE ASPECT OF THE TRIAL JUDGE WOULD BE JUSTIFIED IN RAISING OR AUTHORIZED RATHER THAN JUSTIFIED.

>> Jesse Lee Ray, Respondent: I DON'T THINK SO IS MY HESITANT ANSWER ON THAT. A TRIAL JUDGE WAS ONLY HAVE THE ABILITY TO SUA SPONTE AND MAYBE THE ALLEGATION QUESTION OR SUBJECT MATTER JURISDICTION IF THIS IS NATURE OF A PROCEDURAL DEFENSE THAT A PARTY MAY RAISE A PARTY PRESENTATION PRINCIPLES WHICH JUST MAYBE THE JUDGE SHOULD NOT RAISE THAT ISSUE AS A POTENTIAL DEFENSE FOR THE ONE PARTY. NOT AN ISSUE WE PUT ON THE BRIEF BUT THAT IS MY BEST ANSWER.

>> Chief Justice Carlos Muniz: ANYBODY HAVE ANY OTHER QUESTIONS?

>> Daniel E. Nordby, Petitioner: THANK YOU VERY MUCH WE ASKED THE COURT TO QUASH THE SECOND DISTRICT DECISION APPROVED THE COMPLICATIONS AND WHOLE THE PARTIES TIMELY HAD JURISDICTION.

>> Chief Justice Carlos Muniz: THANK YOU VERY MUCH WE WILL BE IN RECESS FOR 10 MINUTES.