

ADVISORY OPINION TO THE ATTORNEY GENERAL RE: LIMITING GOVERNMENT INTERFERENCE WITH ABORTION

CASE NO. SC2023-1392

>> Marshal:

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 SUPREME COURT OF FLORIDA. PLEASE BE SEATED.

>> Chief Justice Carlos Muniz: GOOD MORNING AND WELCOME TO THE FLORIDA SUPREME COURT. OUR FIRST CASE TODAY IS ADVISORY OPINION TO THE ATTORNEY GENERAL RE:LIMITING GOVERNMENT INTERFERENCE WITH ABORTION CASE NO. SC2023-1392.

>> Nathan Forrester: GOOD MORNING YOUR HONORS WE ARE HERE ON THE ATTY. GEN.'S PETITION FOR AN ADVISORY OPINION CONCERNING THE PROPOSED BALLOT INITIATIVE ENTITLED LIMIT GOVERNMENT INTERFERENCE WITH ABORTION. MY NAME IS NATHAN FORRESTER I'M REPRESENTING THE ATTY. GEN. WITH ME IS. MATHEW STAVER, WHO WILL ALSO SPEAK IN OPPOSITION TO THE AMENDMENT. I INTEND TO USE 12 OF MY 15 MINUTES THE MAIN ARGUMENT RESERVE THREE MINUTES FOR REBUTTAL MR. STAVER WILL SPEAK FOR FIVE MINUTES. THE PROPOSED AMENDMENT HERE SHOULD NOT BE PLACED ON THE BALLOT BECAUSE IT IS MISLEADING IN MULTIPLE RESPECTS. FIRST IT IS AFFIRMATIVELY MISLEADING BECAUSE IT TELLS VOTERS SOMETHING ABOUT THE AMENDMENT THAT IS LITERALLY UNTRUE. IT PROMISES THAT AFTER THE AMENDMENT "NO LAW SHALL PROHIBIT PENALIZED DELAY OR RESTRICT ABORTION IN EITHER OF THE CIRCUMSTANCES. BEFORE VIABILITY OR WHEN NECESSARY TO PROTECT THE PATIENT'S HEALTH. APPOINT AFFECT FEDERAL LAW THE PARTIAL BIRTH ABORTION ACT ALREADY DOES RESTRICT ABORTION IN BOTH THESE CIRCUMSTANCES AND WILL CONTINUE TO DO SO EVEN IF THE MOMENT PASSES.

>> Chief Justice Carlos Muniz: COUNSEL IT SOUNDS LIKE YOU ARE DESCRIBING AS A DESCRIPTIVE STATEMENT OF THE WORLD AS OPPOSED TO A COMMAND IN THE CONSTITUTION THAT CONGRESS SHALL MAKE NO LAW DOES NOT MEAN THAT AS A DESCRIPTIVE STATEMENT CONGRESS CANNOT TRY TO MAKE A LOT FOR EXAMPLE THAT INFRINGES ON DIRECT FREE SPEECH. I WONDER IF WE CAN ESTABLISH EARLY ON WHAT DEGREE OF KNOWLEDGE WE SHOULD ATTRIBUTE TO THE VOTER IN UNDERSTANDING THAT OBVIOUSLY PASSING THE AMENDMENT THE AMENDMENT HAS SOME EFFECT IT DOESN'T MEAN JUST LIKE THAT ALL THE LAWS THAT MIGHT TOUCH ON THIS ARE DESCRIPTIVELY GONE IT'S A PROSPECTIVE STATEMENT OF WHAT THE

LAW WILL BE AFTER THE CHANGE. DO NOT AGREE WITH THAT.

>> Nathan Andrew Forrester: I DON'T THINK I DISAGREE YOUR HONOR.

THE APPROACH THIS COURT HAS TAKEN HAS BEEN TO ASSUME I BELIEVE THAT THE LANGUAGE IN THE BALLOT SUMMARY IS IN FACT DESCRIPTIVE ABOUT THE STATE OF THE WORLD. IT SEEMS THAT IS THE APPROACH THIS COURT TOOK IN THE FIRST ADULT USE OF MARIJUANA CASE WHERE THE ADVICE WAS TO USE THE WORD PERMIT SUGGESTING THAT AS A UNIVERSAL MATTER USE OF MARIJUANA UP TO A CERTAIN QUANTITY WOULD BE PERMITTED.

THIS COURT SAID THAT WAS NOT GOOD ENOUGH IT DID NOT ASCRIBE TO VOTERS IN THE CASE AND AWARENESS OF THE FEDERAL SYSTEM AND NECESSARILY AND AWARENESS OF THE CONTROLLED SUBSTANCES ACT HAVING A PREEMPTIVE EFFECT.

>> Justice Couriel: AND YOUR OPPONENTS IN THIS CASE HAVE DONE AN ADMIRABLE JOB. I WOULD LIKE TO HEAR YOUR RESPONSE TO THIS ARGUMENT THAT THAT IS DISTINGUISHABLE HEARD THIS ARGUMENT WHEN WE WORK CONFRONTED WITH LANGUAGE THAT AFFIRMATIVELY PERMITTED CONDUCT THAT WAS IN FACT PRECLUDED BY FEDERAL LAW IF THAT WAS DIFFERENT FROM THE FACIAL CHALLENGE TO A STATEMENT OF WHAT THE LAW IS ACTUALLY THERE IS A FEDERAL LAW THAT WOULD THE PARTIAL BIRTH ABORTION ACT WOULD NOT COVER THE SAME UNIVERSE THE WHOLE ENTIRE UNIVERSE OF THIS FIELD THAT'S A LITTLE DIFFERENT THAN SAYING WHAT IT PERMITS OR IS THERE NO DISTINCTION IN YOUR MIND?

>> Nathan Andrew Forrester: I ACTUALLY THINK THE "NO LAW SHALL" LANGUAGE IS MORE OF AN AFFIRMATIVE DECLARATION ABOUT THE STATE OF THE WORLD. IT HAS THIS UNIVERSAL QUALITY TO IT. THE VERB PERMITS INVITES CONSIDERATION OF WHAT THE SUBJECT OF PERMITS IS. NAMELY THE AMENDMENTS.

THAT COULD LEAD A VOTER TO UNDERSTAND WE ARE TALKING THERE JUST ABOUT FLORIDA LAW. NO LAW SHALL AGAIN HAS THIS UNIVERSAL CONNOTATION I THINK.

>> Justice Charles Canady: IT COULDN'T POSSIBLY BE UNDERSTOOD THAT THE FLORIDA CONSTITUTION WOULD LIMIT THE CONGRESSIONAL POWER TO PASS A LAW COULD IT.

>> Nathan Andrew Forrester: I BELIEVE AGAIN THIS GOES TO THE ANSWER I GAVE TO JUSTICE COURIEL'S QUESTION THE APPROACH THIS COURT HAS TAKEN IS TO VIEW THESE AS DESCRIPTIVE PROMISES OF WHAT IS GOING ON IN THE WORLD. IT IS EFFECTIVELY SAYING THERE IS NO FEDERAL LAW THAT WILL GET A NEW WAY AS WELL. IT IS NOT SURLY SAYING THE CONGRESS WOULD NOT HAVE THE POWER BUT CURRENTLY YOU WOULD BE FREE. THAT SEEMS TO BE A PROBLEM UNDER THE APPROACH THIS COURT HAS TAKEN.

>> AND I ASK YOU TO ADDRESS A DIFFERENT QUESTION.

WHAT IS YOUR VIEW OF OUR ROLE UNDER 101.161 IN REVIEWING THE SUMMARY? WHAT EXACTLY ARE WE LOOKING FOR WHEN WE ARE LOOKING FOR AN EXPLANATION OF THE CHIEF PURPOSE. THAT IS OUR MANDATE. WHAT DOES THAT MEAN? ARE WE LOOKING AS TO WHAT THE DOES THE SUMMARY DESCRIBE WHAT THE AMENDMENT SAYS?

OR DOES THE SUMMARY DESCRIBE WHAT THE AMENDMENT DOES?

THOSE ARE TWO DIFFERENT QUESTIONS WHICH ONE WOULD YOU OR DO YOU THINK IS THE APPROACH EITHER WHAT WE'VE DONE IN THE PAST OR WHAT YOU THINK WE SHOULD DO WHEN APPROACHING THAT QUESTION.

>> Nathan Andrew Forrester: I THINK IT IS THE LATTER OF WHAT THE AMENDMENT DOES NOT SIMPLY WHAT IT SAYS.

I BELIEVE THIS COURT HAS SAID TIME AND AGAIN THAT THE PURPOSE OF REQUIRING THE STATEMENT OF THAT THE CHIEF PURPOSE EXPLANATORY STATEMENT OF THE CHIEF PURPOSE IS TO COMMUNICATE THE MATERIAL EFFECTS TO THE VOTER SO THAT SPEAKS IN TERMS OF WHAT THE AMENDMENT ACTUALLY DOES NOT MERELY WHAT IT SAYS.

>> Chief Justice Carlos Muniz: DOES THE STATE HAVE A POSITION ON WHETHER AND UNBORN CHILD IN ANY STAGE OF PREGNANCY IS COVERED BY ARTICLE 1 SECTION 2 THE BASIC RIGHTS PROVISION . THE REASON I AM ASKING WE HAVE A LOT OF PRECEDENT FROM THE COURT SAYING THAT ONE OF THE THINGS THAT SUMMARY HAS TO DO IS IDENTIFY THE EFFECT OF ANY PROPOSAL ON OTHER CONSTITUTIONAL PROVISIONS. IT SEEMS LIKE IT IS KIND OF SELF-EVIDENT THAT THE PROPOSAL GIVES PEOPLE NOTICE THAT IT IS GOING TO AFFECT LEGISLATIVE POWER BUT IT SEEMS LIKE THE ISSUE OF WHETHER THE UNBORN HAVE ANY RIGHTS UNDER ARTICLE 1 SECTION 2 INDEPENDENTLY OF WHATEVER IS A MATTER OF GRACE THAT THE LEGISLATURE MIGHT WANT TO DO OR AN EGG EXERCISE OF LEGISLATIVE AUTHORITY. IT SEEMS LIKE THIS PROPOSAL KIND OF ASSUMES THAT THE CONSTITUTION IS CURRENTLY SILENT ON THAT ISSUE.

IF THAT ASSUMPTION IS WRONG, IT SEEMS LIKE IT MIGHT HAVE IMPLICATIONS FOR WHAT WE NEED TO DO HERE.

>> Nathan Andrew Forrester: WE JUST HAVE NOT TAKEN A POSITION ON THAT YOUR HONOR.

>> Chief Justice Carlos Muniz: DO YOU THINK WE CAN DECIDE THIS WITHOUT OURSELVES HAVING AN UNDERSTANDING OF WHAT THE CURRENT STATE OF WHAT THE CONSTITUTION IS. IT SEEMS LIKE A LOT OF OUR LAW HERE IN THIS AREA IS DESIGNED TO MAKE SURE THAT THE PEOPLE ARE AWARE WHAT IS THE CONSTITUTIONAL BASELINE AGAINST WHICH THEY ARE SUPPOSED TO CONSIDER A PROPOSAL.

I'M NOT SURE THAT WE, I CONSIDER MYSELF KIND OF A TOUGH ISSUE I'M KIND OF CURIOUS TO SAY WHAT YOU SAY WHAT THE OTHER SIDE SAYS. I'M NOT SURE WE CAN MAKE A JUDGMENT AS TO HOW THE PEOPLE ARE INFORMED ABOUT THIS THROUGH, OBVIOUSLY THERE IS A LIMITED AMOUNT THAT THE BALLOT SUMMARY CAN DO AND EVERYTHING. IF THE BARE MINIMUM IF PEOPLE NEED TO BE ON NOTICE AS TO WHAT IS THE CONSTITUTION DOING NOW WHAT ARE YOU PROPOSING TO CHANGE, CAN WE EVALUATE THAT WITHOUT TAKING A POSITION ON WHETHER THE CURRENT CONSTITUTION, LEGALLY NOT MORALLY OR POLITICALLY OR WHATEVER, BUT LEGALLY SPEAKS TO THIS ISSUE OF ANY KIND OF RIGHTS FOR THE UNBORN UNDER THIS DECLARATION OF RIGHTS PROVISION?

>> Nathan Andrew Forrester: I WILL CONFESS TO YOU YOUR HONOR THIS IS NOT AN ARGUMENT THAT I HAVE THOUGHT ABOUT. I'M SPEAKING A LITTLE BIT OFF THE CUFF HERE. I DO SEE A POTENTIAL FOR THAT ARGUMENT TO BE VIABLE UNDER THEIR APPROACH THIS COURT HAS TAKEN IN CASES LIKE.

[LISTING NAMES] WHERE YOU HAD BALLOT SUMMARY THAT WAS LITERALLY ACCURATE REFLECTING WHAT THE AMENDMENTS SAID. BUT IT FAILED TO DISCLOSE IMPORTANT BACKGROUND FACTS ABOUT THE LAW WHICH WAS IN THAT CASE THE EFFECT OF THE AMENDMENT THAT WAS ACTUALLY GOING TO BE LOOSENING RATHER THAN TIGHTENING THOSE RESTRICTIONS ON LOBBYISTS.

IT DOES SEEM LIKE SUPPORT FOR THE ARGUMENT YOU MAKE IT REQUIRES US TAKEN A POSITION ON ARTICLE 1 SECTION 2. YOU ASKED WHETHER WE HAVE ONE I DON'T BELIEVE THAT WE HAVE FORMED ONE ON THAT.

>> Chief Justice Carlos Muniz: WHAT IS YOUR OPINION ON WHAT WE SHOULD DO. IT SEEMS LIKE I'VE TRIED TO READ THROUGH ALL OF OUR CASES WE CLEARLY HAVE NOT DIRECTLY ANALYZED THIS ISSUE. BUT THE CONSTITUTION SAYS WHAT IT SAYS THE WORDS MEAN WHAT THEY MEAN.

I'M NOT TRYING TO ANNOUNCE ANY KIND OF MY OWN VIEW AS TO WHAT THEY MIGHT MEAN.

IT CERTAINLY SEEMS IT TALKS ABOUT ALL NATURAL PERSONS ARE EQUAL BEFORE THE LAW AND HAVE INALIENABLE RIGHTS. I DON'T KNOW I CAN AFFIRMATIVELY SAY THAT THE TERM NATURAL PERSON IS A MATTER OF JUST ORDINARY MEANING INCLUDE, THE UNBORN. WE CERTAINLY TALK ABOUT THE UNBORN THAT WAY.

I'M â | I'M CURIOUS AS TO WHAT YOUR VIEW IS AS TO WHETHER THE COURT NEEDS TO HAVE A VIEW ON THAT. IN ORDER TO BE ABLE TO DECIDE THIS CASE?

>> Nathan Andrew Forrester: I DON'T THINK YOU NEED TO HAVE A VIEW ON THAT WE THINK THERE ARE PLENTY OF OTHER SUFFICIENT GROUNDS FOR DEEMING THIS BALLOT INITIATIVE THIS BALLOT SUMMARY TO BE MISLEADING.

IT IS AN INTRIGUING ARGUMENT IT IS NOT ONE THAT I'VE THOUGHT ABOUT BEFORE. I CERTAINLY WOULD NOT SAY IT IS BEYOND THE PURVIEW OF THIS COURT TO TAKE INTO CONSIDERATION.

>> Justice Charles Canady: COUNSEL LET ME ASK YOU THIS. OTHER THAN THE SINGLE SUBJECT REQUIREMENT DOES THE CONSTITUTION ITSELF PLACE LIMITATIONS ON THE SUBSTANCE OF INITIATIVE PETITIONS OR INITIATIVE AMENDMENTS?

>> Nathan Andrew Forrester: THIS COURT HAS SAID THERE IS AN IMPLICIT ACCURACY REQUIREMENT IN ARTICLE 11.

>> Justice Charles Canady: WE PRIMARILY SAID THAT IN THE CONTEXT OF THE SUMMARIES CORRECT?

>> Nathan Andrew Forrester: IT INFORMS THE REQUIREMENT.

>> Justice Charles Canady: ACCURACY IS KIND OF DIFFERENT QUESTION THEN WHAT IS CONTAINED IN THE SUBSTANCE OF THE AMENDMENT OF A PROPOSED AMENDMENT.

>> Nathan Andrew Forrester: IF YOU ARE ASKING WHETHER IT IS APPROPRIATE TO REVIEW THE SUBSTANCE OF THE AMENDMENT I THINK THIS COURT HAS SAID THAT IS

NOT THE PURPOSE OF THE REVIEW AT THE STAGE.

YOU ARE REVIEW WHETHER IT IS MISLEADING WHETHER IT VIOLATES THE SINGLE SUBJECT RULE.

>> Justice Charles Canady: WHEN I READ YOUR BRIEF IT SOUNDS LIKE YOU THINK THAT THEY ARE EFFECTIVE SUBSTANTIVE LIMITATIONS ON WHAT CAN BE AN AMENDMENT BECAUSE IN THE PROPOSED AMENDMENT BECAUSE YOU BASICALLY ASSERT, IF THE WORDS ARE AMBIGUOUS AT LEAST AT SOME LEVEL THEN THAT CANNOT BE PROPOSED TO THE PEOPLE IS THAT CORRECT?

>> Nathan Andrew Forrester: IF IT IS CORRECT WHERE IS THAT IN THE CONSTITUTION? WHERE DOES THE CONSTITUTION HAVE SUCH A LIMITATION ON THE INITIATIVE PROCESS.

>> Nathan Andrew Forrester: IS NOT PRECISELY WHAT WE ARE SAYING WE ARE SAYING TO THE BALLOT SUMMARY IS MISLEADING AND THE MERE FACT THAT IT TRACKS THE LANGUAGE OF THE AMENDMENT IS NOT SUFFICIENT TO RELIEVE IT OF THE REQUIREMENT.

>> Justice Charles Canady: HOW CAN A BALLOT SUMMARY BE LESS AMBIGUOUS THAN THE TEXT IT IS SUMMARIZING?

THEN YOU GOT TO TAKE A POSITION ON ISSUES THAT ARE AMBIGUOUS?

>> Nathan Andrew Forrester: IF THE BALLOT SUMMARY CARRIES FORWARD THE AMBIGUITY WITHOUT CLARIFICATION AND THE REQUIREMENT IN THE STATUTE SECTION 101.161 IS TO HAVE AN EXPLANATORY STATEMENT THE BALLOT SUMMARY DOES NOT DO THAT.

THEN THE BALLOT SUMMARY IS MISLEADING. THAT MAY HAVE AN UPSTREAM EFFECT ON WHAT SPONSORS ARE ABLE TO PROPOSE IN THE SENSE IT MAKE MAKE IT MORE DIFFICULT TO PROPOSE TEXT THAT ADEQUATELY EXPLAINS AN AMBIGUOUS TERM BUT THAT IS THE BURDEN.

>> Justice Charles Canady: IS THAT WHAT YOU ARE ARGUING ON THAT POINT EQUALLY APPLICABLE TO AN EMINENCE PROPOSED BY THE LEGISLATURE?

>> Nathan Andrew Forrester: I BELIEVE THAT IS CORRECT YOUR HONOR.

>> Chief Justice Carlos Muniz: I GUESS THE POINT OF THE QUESTION THE SUMMARY CANNOT LEGALLY FEE PROPOSAL WHATEVER THE WORDS ARE IN THE PROPOSAL THEY MEAN WHAT THEY MEAN.

THE SUMMARY CANNOT SORT OF BE A WAY TO SORT OF DICTATE WHAT THE MEANING OF THE LANGUAGE IS. SO IT SEEMS LIKE YOU ARE ASKING THE SUMMARY TO DO SOMETHING THAT IT KIND OF LEGALLY CAN'T DO BECAUSE WHATEVER THIS INTENDED MEANING OF THE SPONSOR MIGHT BE FOR THE INTENDED APPLICATION MIGHT BE. THAT MIGHT BE IRRELEVANT CONSIDERATIONS BUT THAT DOES NOT DEFINE THE MEANING OF THE WORDS. IT SEEMS LIKE YOU ARE ASKING AND SORT OF INVITING US TO GIVE LEGAL EFFECT TO THE SUMMARY THAT IS KIND OF INCONSISTENT WITH THE WAY WE VIEW THE LAW IN GENERAL.

>> Nathan Andrew Forrester: I DO BELIEVE AGAIN THE BALLOT SUMMARY HAS TO BE AN EXPOSITORY STATEMENT.

HE DOES NEED TO EXPLICATE IN SOME FASHION.

I'M AWARE OF AT LEAST ONE FIRST DCA CASE LOOK TO THE BALLOT SUMMARY TO INFORM THE MEANING OF THE AMENDMENT ITSELF. I DO THINK IT WOULD BE AT LEAST PERSUASIVE EVIDENCE OF HOW THE LANGUAGE OF THE MOMENT ITSELF WAS UNDERSTOOD BY VOTERS AT THE TIME.

THE TIME OF THE FRAMING.

I DON'T MISS EARLY VIEW WHAT YOU ARE DESCRIBING AS A VICE HERE.

>> Chief Justice Carlos Muniz: YOU ARE IN TO RUBTAL TIME YOU'RE WELCOME TO WRAP UP.

>> Nathan Andrew Forrester: FOR ALL THE REASONS I'VE SAID WE BELIEVE THE BALLOT SUMMARY HERE IS A LEAST AFFIRMATIVELY MISLEADING I DO NOT BELIEVE GET TO MY ARGUMENT AS TO WHY IT IS MISLEADING ANOTHER RESPECT THOSE REASONS WE THINK IT SHOULD BE INVALIDATED.

>> Chief Justice Carlos Muniz: THANK YOU.

>> Mathew D. Staver: MATHEW D. STAVER FOR FLORIDA VOTERS

AGAINST EXTREMISM. THIS AMENDMENT SHOULD NOT BE APPROVED BECAUSE IT VIOLATES THE SINGLE SUBJECT RULE. THEREFORE WRITES THE DOOM THIS AMENDMENT NO LAW SHALL RESTRICT. THAT IS BREATHTAKINGLY BROAD AND IT IS SUBSTANTIALLY DISRUPTING THE FUNCTIONS OF ALL THREE BRANCHES OF GOVERNMENT THIS AMENDMENT SAYS NO LAW SHALL RESTRICT IN ADDITION TO THE OTHER PROHIBITIONS.

THEY PROHIBIT, PENALIZE, AND DELAY. THAT MEANS NO LAW. THAT MEANS NO PARENTAL CONSENT THAT MEANS NO HEALTH.

>> THE PARENTAL CONSENT THERE IS AN EXPRESS CARVEOUT.

>> Mathew D. Staver: PARENTAL CONSENT.

>> HERE IS WHAT I'M WORKING THROUGH ON THIS ARGUMENT IF I UNDERSTAND YOUR POSITION YOU ARE SAYING THIS IS A WOLF.

AND WOLF IT MAY BE. BUT IT SEEMS LIKE OUR JOB IS TO ANSWER WHETHER IT IS A WOLF IN SHEEP'S CLOTHING.

THAT IS ALL WE GET TO DO.

AND IT SEEMS TO ME THAT YOU MAY BE RIGHT THIS MAY BE AS SWEEPING AS YOU SAY IT MAY BE THAT IT WIPES AWAY ALL REGULATION OF ABORTION. IT MAKES IT SO THE LIST OF HEALTHCARE PROVIDERS INCLUDES TATTOO ARTISTS. IT COULD BE THAT A TATTOO ARTIST IS INVOLVED IN THIS PRINT OR IT COULD NOT, WE DON'T KNOW. I GUESS MY POINT IS I COMING IN AND TELLING US THIS IS A WOLF WE MAY FIND THAT VERY PERSUASIVE FROM THE STANDPOINT OF WHETHER TO VOTE IN FAVOR OF THE AMENDMENT. BUT IT SEEMS THAT THAT IS NOT THE QUESTION BEFORE THE COURT THE QUESTION BEFORE US IS IS THIS HIDING A BALL IN SOME MEANINGFUL WAY OR SHOULD WE NOT SAY THE VOTERS CAN LOOK AT THIS AND SAY JEEP THAT SOUNDS REALLY SWEEPING LET'S NOT APPROVE THIS.

>> Mathew D. Staver: YOUR HONOR I THINK THIS COURT IN THIS PRECEDENT HAVE STRICTLY CONSTRUED AND APPLIED A SINGLE SUBJECT RULE.

TWO ASPECTS OF IT IS DOES THE PARTICULAR AMENDMENT SUBSTANTIALLY ALTER

THE FORMS OF GOVERNMENT . IN THIS CASE IT DOES ALL THREE BRANCHES. DOES IT ENGAGE IN.

[LISTING NAMES] IT DOES STRICTLY CONSTRUED WHEN THAT HAPPENS. IT'S A LEGAL QUESTION NOT A FACTUAL QUESTION. IT IS CLEARLY WITHIN THIS COURT'S PURVIEW. WHAT WE HAVE HERE IS ON THE FACE OF IT AS A LEGAL MATTER IT SAYS NO SHALL NO LAW SHALL RESTRICT THE MEANS NOTHING I DON'T KNOW HOW YOU HAVE A LOT THAT DOES NOT RESTRICT EVERY LAW RESTRICTS SOMETHING EVERY REGULATION RESTRICTS SOMETHING.

>> IF YOU'RE RIGHT AND THAT IS CLEAR ON THE FACE OF THE PROPOSAL WHAT ARE WE TO DO ABOUT IT.

>> Mathew D. Staver: STRIKE IT DOWN NOT ALLOW IT. THAT CANNOT GO ON THE BALLOT TO SUBSTANTIALLY ALTER THE FUNCTIONS CRITICALLY OF NOT JUST ONE BUT OF ALL THREE BRANCHES OF GOVERNMENT. THIS COURT HAS STRUCK DOWN AMENDMENTS THAT WERE PROPOSED THAT WOULD SUBSTANTIALLY ALTER THE FUNCTION OF ONE ASPECT OF GOVERNMENT THE LEGISLATURE FOR EXAMPLE. IN TERMS OF TAXING OR OTHER KINDS OF REVENUE BONDS AND SO FORTH. BUT THIS DOES ALL THREE.

THE LEGISLATURE CANNOT ENACT ANYTHING, NOTHING NO MATTER HOW EGREGIOUS THE SITUATION THE LEGISLATURE CANNOT REMEDY WHATEVER BAD SITUATIONS OR BAD ACTORS ARE TAKING PLACE.

>> COUNSEL WE HAVE A PROVISION IN THE CONSTITUTION THAT SAYS NO LAW SHALL BE PASSED TO RESTRAIN OR ABRIDGE THE FREEDOM OF THE PRESS. IT'S AMOUNT THAT WAS OMITTED AND WE ARE FACED WITH AN INITIATIVE TO ADD SUCH LANGUAGE. IT SOUNDS LIKE TO ME YOUR ARGUMENT WOULD BE TO SAY WITH THE STRIKE THAT ALSO HOW IS THAT SUBSTANTIALLY DIFFERENT?

>> Mathew D. Staver: THERE ARE FOUR WAYS TO AMEND THE CONSTITUTION. AND SECTION 3 OF ARTICLE 11, IS THE ONLY ONE THAT HAS THE SINGLE SUBJECT. THE OTHER THREE WAYS.

>> Justice Charles Canady: YOU ARE SAYING IF THAT WAS ACTUALLY UP AND INITIATIVE WE DON'T HAVE IT IN THE CONSTITUTION. IT WAS PROPOSED IN AN INITIATIVE WE WOULD HAVE TO STRIKE IT UNDER THE PRINCIPLES YOU ARE ARTICULATING WHAT I'M SAYING THAT THAT WOULD BE A VERY CLOSE CALL. BECAUSE THAT DRASTICALLY WHICH YEAR BUT HERE IT IS NOT JUST THIS IT'S NO LAW SHALL RESTRICT PENALIZE PROHIBIT OR DELAY. THOSE ARE ALL FOR DIFFERENT KINDS OF CATEGORIES OF RESTRICTIONS.

IT PUTS IT ALL TOGETHER IN ONE.

IT NOT ONLY DISABLES THE LEGISLATURE BUT THE EXECUTIVE WITH THE AGENCY FOR HEALTHCARE ADMINISTRATION THEY CANNOT DO ANY REMEDY OR REGULATION WITH REGARDS TO MEDICAL PRACTITIONERS OR LICENSING. THIS COURT IS ONLY GOING TO HAVE ONE OPTION THAT IS TO STRIKE DOWN A LAW. EVERY LAW THAT COMES BEFORE IT IS RESTRICTIVE.

>> Chief Justice Carlos Muniz: I DON'T UNDERSTAND WHY YOU WOULD ARGUE GIVEN YOUR POSITION THAT THAT WOULD BE THE LEGAL EFFECT OF THE AMENDMENTS.

THESE GUYS ARE GOING TO BE DUSTING OFF THEIR ARTICLES ABOUT IT HAS TO BE IRRECONCILABLE AND ALL OF THAT STUFF.

THIS WILL BE IF THIS WORK TO BECOME PART OF THE CONSTITUTION IT WILL BE LITIGATED FOREVER. LET ME ASK YOU THE PRINCIPLE THAT YOU WOULD BE ASKING US TO ESTABLISH WHAT EFFECT WOULD THAT HAVE IF SOMEONE WERE TO COME FORWARD AND PROPOSE AN AMENDMENT ON THE OTHER SIDE.

THAT SAID NO LAW SHALL FAIL TO GUARANTEE THE RIGHTS OF UNBORN CHILDREN TO LIFE OR SOMETHING. IS THAT SOMETHING THAT WOULD BE OFF THE TABLE FROM AN INITIATIVE PERSPECTIVE ALSO?

>> Mathew D. Staver: I THINK IN ANSWER TO YOUR EARLIER QUESTION I THINK THE ARTICLE THAT YOU MENTIONED ACTUALLY ISN'T SOMETHING THAT IS OF A CONCERN. BECAUSE IN ADDITION TO NOT MY ARGUMENT BUT THE PREVIOUS ARGUMENT THE VOTER NEEDS TO BE APPRISED OF DOES THIS AMENDMENT EFFECT OTHER CONSTITUTIONAL PROVISIONS?

WHETHER THIS COURT HAS RULED ON IT OR NOT LEAST IN THE BALLOT SUMMARY THE LIMIT SHOULD APPRISE THE VOTER OF THE BREADTH OF THIS PARTICULAR LAW. OF THIS PARTICULAR AMENDMENT AND THE IMPLICATIONS THAT IT HAS FOR OTHER EXISTING CONSTITUTIONAL PROVISIONS NONE OF WHICH ARE DONE IN THIS ABDOMEN PRINT 75 WORDS IS WHAT THEY HAVE. THEY USED 49. THEY COULD'VE DONE A LOT MORE IN THAT PARTICULAR BALLOT SUMMARY THING THEY DID.

>> Chief Justice Carlos Muniz: VERY UNUSUAL FOR THIS COURT TO PUNISH A PARTY FOR BREVITY.

>> Mathew D. Staver: BRIEF IS NO LONGER REALLY BRIEF.

>> Chief Justice Carlos Muniz: YOU CAN HAVE SECONDS TO FINISH.

>> Mathew D. Staver: WOULD SAY YOUR HONOR IN THIS CASE THE BREADTH OF THOSE FOUR WORDS PROHIBIT, PENALIZE, DELAY, AND RESTRICT NOTHING WITH REGARDS TO ABORTION REALLY DISABLES ALL THREE BRANCHES OF GOVERNMENT. THOSE CASES WILL COME BEFORE THIS COURT BUT WHEN YOU READ NO LAW SHALL RESTRICT AND THERE IS A LAW BEFORE YOU THAT IS RESTRICTIVE PRIOR TO VIABILITY IT IS GOING TO BE STRUCK DOWN. IT'S A TOTAL ABOLITION OF ALL OF THE FUNCTIONS OF THOSE THREE BRANCHES OF GOVERNMENT WITH REGARD TO THE ISSUE OF ABORTION. FOR THOSE REASONS WE RESPECTFULLY REQUEST THAT THIS COURT NOT APPROVE IT FOR THE BALLOT.

>> Chief Justice Carlos Muniz: THANK YOU.

>> COURTNEY BREWER FOR

FLORIDIANS PROTECTING FREEDOM, INC THE PEOPLE OF FLORIDA RIGHT TO AMEND THEIR CONSTITUTION IS FUNDAMENTAL TO STATES DEMOCRACY. SEEKING TO EXERCISE THAT RIGHT NEARLY 1 MILLION FLORIDIANS AND COUNTING HAVE MADE CLEAR THEY WANT TO VOTE ON THE AMENDMENT BEFORE THIS COURT'S THIS AMENDMENT FOLLOWS THE DIRECTIVES GIVEN BY THE US SUPREME COURT IN. [LISTING NAMES] THAT THE PEOPLE SHOULD DECIDE HOW THEIR STATEMENT GOVERN ABORTION. IN CRAFTING THE AMENDMENT PEDAL AND SUMMARY THE SPONSOR FOLLOWED THE DIRECTIVES AND GUIDANCE GIVEN BY THIS COURT AND

THE CONSTITUTION ON THE TWO ISSUES BEFORE THE COURT TODAY.

>> COUNSEL I THINK YOU'RE GOING TO HAVE A LOT OF QUESTIONS I WANT TO GET THEM STARTED.

WE HAVE A LINE OF CASES THAT SAID THE SUMMARY MUST PROVIDE THEIR NOTICE OF THE EFFECTS OF THE AMENDMENT. SOMETIMES WITH SAID MATERIAL EFFECTS SOMETIMES WE'VE SAID LEGAL EFFECTS. IT SEEMS TO BE IF THERE IS A MAJOR CHANGE TO THE STATUS QUO OF WHAT HAS BEEN SORT OF KNOWN OR REGULATED BEFORE, THAT THAT IS SOMETHING THE VOTER SHOULD BE AWARE OF. HOW WOULD YOU ADDRESS THAT WITH THESE CONCERNS BECAUSE THERE ARE THINGS THAT THE LIMIT WOULD CHANGE THAT ARE NOT ADDRESSED CLEARLY.

AND I THINK YOU CAN HAVE MULTIPLE INTERPRETATIONS BUT IS THERE ANY RESPONSIBILITY?

WE NEED TO LOOK AT THAT SUMMARY TO SEE IF IT IS DESCRIBING THOSE EFFECTS TO A REASONABLE VOTER UNDERSTANDING WHAT THEY ARE VOTING FOR?

>> Courtney Brewer: YOUR HONOR A REASONABLE VOTER HAS ALL THE FAIR NOTICE THEY NEED IN THIS CASE BECAUSE OF THE LANGUAGE OF THE LIMIT IS THE SAME AS THE LANGUAGE IN THE SUMMARY FOR A PRACTICAL.

>> WE'VE SAID SEVERAL TIMES PARROTING IS NOT NECESSARILY EXPLANATORY.

>> Courtney Brewer: THAT IS TRUE YOUR HONOR YOU ALSO SAID MANY TIMES THAT THE ANALYSIS UNDER THE SUMMARY AND TITLE IS EASILY MET WHEN THE LANGUAGE IS THE SAME. IN THOSE INSTANCES WHERE YOU HAVE FOUND THAT IT WAS NOT ENOUGH SUCH AS THE.

[LISTING NAMES] CASE THERE IT WAS THE AMENDMENT WAS REPLACING ANOTHER PROVISION OF THE CONSTITUTION AND WAS CONSTRICTING RIGHTS. AND THE COURT SAID HAD BEEN A TOTALLY NEW PROVISION THE WEIGHT THE SUMMARY IS PRESENTED WOULD HAVE BEEN OKAY.

>> Justice Charles Canady: WASN'T THE PROBLEM IN.

[LISTING NAMES] THAT THE PROPOSED AMENDMENT WAS IN EFFECT PERMITTING SOMETHING WHEN IT SAID IT WAS PROBATING SOMETHING.

>> Courtney Brewer: YES YOUR HONOR IT WAS MISLEADING IT MISLED AS TO THE CHIEF PURPOSE OF THE LIMIT WAS TO PERMIT SOMETHING THAT BEFORE THEN BEEN PROHIBITED.

HERE THERE IS NOTHING MISLEADING THE OPPONENTS HAVE NOT IDENTIFIED ANYTHING MISLEADING ABOUT THIS AMENDMENT.

>> HOW DOES THE CASE LAW DISTINGUISH BETWEEN THOSE CASES WHERE THE UNDEFINED TERMS ALBEIT A DISCONNECT BETWEEN THE OPERATIVE LEGAL EFFECT AND THE VOTERS UNDERSTANDING YOU THINK THAT'S A FAIR STATEMENT OF THE CASE LAW.

>> Courtney Brewer: YES YOUR HONOR I WOULD AGREE PEOPLE'S PROPERTY RIGHTS I THINK IS THE MAIN CASE OF THE OPPONENTS THAT THEY POINT TO ON THAT.

>> WHY IS THERE NOT A DISCONNECT HERE I THINK THE SPONSORS BRIEF REFLECTS A CLEAR UNDERSTANDING OF WHAT VIABILITY MEANS OF WHAT THE PATIENT'S HEALTH MEANS AND THE SIGNIFICANCE OF THIS, HOW DO WE EXPECT THE

VOTERS TO ASK UNDERSTAND LEGAL EFFECT WHEN THERE'S NO EXPLANATION FOR LEGAL EFFECT OTHER THAN PARITY.

>> Courtney Brewer: BECAUSE THE WORDS THAT ARE USED ARE UNDERSTOOD BY VOTERS IN THE CONTEXT IN WHICH THEY ARE USED THERE'S NO QUESTION THAT VOTERS UNDERSTAND WHAT VIABILITY MEANS IN THE ABORTION CONTEXT. THIS IS A TERM AND ITS MEANING THAT HAS BECOME A PART OF THE CULTURAL FABRIC OF OUR NATION VOTERS DISCUSSES

>> IT'S THE SPONSOR'S POSITION THAT THE VOTERS WOULD UNDERSTAND THAT VIABILITY IS LIMITED BY THIS LAST CLAUSE AS DETERMINED BY THE PATIENT'S HEALTHCARE PROVIDER.

>> Courtney Brewer: YES YOUR HONOR IT IS THE SPONSORS POSITION ABSOLUTELY.

>> HOW WOULD A VOTER UNDERSTAND THE DIFFERENCE BETWEEN APPLICATION AND THE SERIOUS QUALIFIER CAN INGEST FROM REVIEWING THE LANGUAGE AS WRITTEN.

>> BECAUSE OF THE TWO REASONS YOUR HONOR ONE JUST GRAMMATICAL RULES BUT I THINK IN OUR BRIEF WE POINT OUT THE 11TH CIRCUIT REFERRED TO THESE AS ORDINARY RULES OF GRAMMAR SUPREME COURT USED IN THE FACEBOOK CASE. BUT ALSO BECAUSE THIS IS CONSISTENT WITH THE WAY VIABILITY HAS ALWAYS BEEN DETERMINED VIABILITY IS ALWAYS BEEN DETERMINED.

>> IT HASN'T. EVERY LAW THAT'S BEEN PASSED IN FLORIDA HAS BEEN A CATEGORICAL BAN ON A CERTAIN WEEK. HOW WOULD IT NOT BE? WHY WOULD IT BE UNREASONABLE FOR A VOTER TO READ THIS LANGUAGE AND SAY ALL I WILL VOTE FOR BECAUSE THE LEGISLATURE WILL BE ABLE TO HAVE A BAN AT 21 WEEKS WITH EXCEPTIONS FOR THE HEALTH OF THE MOTHER WHY WOULD THAT BE AN UNREASONABLE CONCLUSION BY VOTERS.

>> Courtney Brewer: IT WOULD BE UNREASONABLE BECAUSE IT'S INCONSISTENT WITH THE LANGUAGE OF THE AMENDMENT.

>> THAT WOULD BE A SURPRISE TO A LOT OF VOTERS.

>> Courtney Brewer: I DISAGREE YOUR HONOR. I THINK THE VOTERS ARE PROBABLY TERRIBLE ABOUT READING THIS ON WHICH THEY WOULD UNDERSTAND THE INS AND OUTS OF IT ALSO IN FLORIDA EDUCATION ASSOCIATION THIS COURT SAID IT IS NOT WHAT CERTAIN VOTERS MIGHT BELIEVE IT IS WHETHER THE LIMIT IN THE SUMMARY HAVE GIVEN THEM FAIR NOTICE.

>> THERE ARE TWO SCENARIOS UNDER THE WORDS THAT ARE UNDEFINED AND IT WILL BE PLAYED OUT LATER DOWN THE LINE, IN WHICH CASE THE VOTERS WERE NOT ADVISED OF THAT. OR THIS HAS A VERY CLEAR MEANING AND THE VOTERS WERE NOT ADVISED OF THE FACT THAT THIS IS GOING TO SHIFT POLICY MAKING FROM THE LEGISLATURE TO THIS EXPERT CLASS OF DOCTORS TO DETERMINE THE CONDITIONS UNDER WHICH PEOPLE CAN END LIVES IN FLORIDA. I'M WONDERING WHY IF THOSE ARE ONE OF THE TWO SCENARIOS WHY NEITHER OF THOSE ARE EXPLAINED TO THE VOTERS.

>> Courtney Brewer: IT IS EXPLAINED TO THE VOTERS. BECAUSE THE LANGUAGE OF THE AMENDMENT IS CLEAR. THE COURT IS NOT REQUIRED DEFINITIONS BEFORE OF

TERMS THE VOTERS WOULD UNDERSTAND IN THE CONTEXT IN WHICH.

>> IS THAT WHAT YOUR ARGUMENT TURNS ON YOU ARE NOT REALLY TAKING ISSUE WITH THE PREMISE THAT WE REVIEW. VALID SUMMARIES FOR THEIR LEGAL EFFECT. YOU ARE SAYING THIS IS NOT FAIR UNDER THAT CONCEPT BECAUSE THESE TERMS ARE SO CLEAR.

>> Courtney Brewer: I THINK I'M SAYING BOTH. I AM SAYING THAT THE TERMS ARE CLEAR IN CONTEXT THAT THIS COURT HAS NEVER STRUCK AN AMENDMENT UNDER THE CIRCUMSTANCES AND I'M ALSO SAYING THAT VOTERS UNDERSTAND WHAT IS BEFORE THEM IF A VOTER DOESN'T LIKE THIS AND THAT MEANT THEY ARE PERFECTLY CAPABLE OF VOTING AGAINST IT IF THEY DON'T LIKE . BUT VOTERS HAVE SEEN AND DESERVE THE CHANCE TO VOTE ON INCLUDE IN THEIR CONSTITUTION WHAT HAPPENS WHEN THESE DECISIONS ARE TAKEN AWAY FROM HEALTHCARE PROVIDERS AND PUT IN THE HANDS OF POLITICIANS? AGAIN IF A VOTER DOES NOT WANT THAT IF THEY CAN VOTE AGAINST THIS AMENDMENT THERE WILL NOT BE THIS DETERMINATION LEFT TO THE HEALTHCARE PROVIDER TO DETERMINE WHEN VIABILITY.

>> Chief Justice Carlos Muniz: THERE WAS NOTHING ON THE FACE OF THE LIMIT IF IT WERE TO BECOME LAW THAT WOULD SAY THE LEGISLATURE CANNOT SORT OF ADOPT A GENERIC DEFINITION OF VIABILITY THAT HEALTHCARE PROVIDERS WOULD THEN BE THE ONES TO SORT OF DECIDE WHETHER ACTUALLY IN A PARTICULAR CASE THAT IS BEEN MET RIGHT.

>> Courtney Brewer: THERE IS NOTHING THAT CHANGES THE ROLE OF THE LEGISLATURE TO BE SURE.

>> Chief Justice Carlos Muniz: LET ME ASK YOU ABOUT THIS PERSONHOOD ISSUE. IT SEEMS LIKE I COULD THINK THAT EVERYTHING THAT THE SUMMARY SAYS IN AND OF ITSELF IS OKAY BUT THEN THERE IS THIS ISSUE OF DOES OUR CASE LAW STAND FOR THE PROPOSITION IF YOU ARE GOING TO SUBSTANTIALLY ALTER AN EXISTING PART OF THE CONSTITUTION NEEDS TO BE IDENTIFIED FOR THE VOTER? I THINK THERE'S LOTS OF CASES THAT SAY THAT. THEN THE QUESTION BECOMES DOES THIS ESSENTIALLY HAVE THE EFFECT OF CHANGING ARTICLE 1 SECTION 2 AND THAT IS NOT SOMETHING THAT IS FLAGGED FOR THE VOTER GOAL WHAT IS YOUR POSITION ON THAT.

>> Courtney Brewer: YOUR HONOR, I THINK THE AG DOES NOT HAVE A POSITION ON WHETHER THAT CONSTITUTIONAL PROVISION WOULD APPLY IN THE CIRCUMSTANCES IN WHICH YOU ARE SUGGESTING. IF THIS COURT HAD THAT ARGUMENT BEFORE THAT THIS AMENDMENT WAS PASSED AND THERE WAS A CONFLICT BETWEEN IT AND ARTICLE 1 SECTION 2 THEN THIS COURT CAN BALANCE THE DIFFERENT RIGHTS AT THAT TIME.

>> Chief Justice Carlos Muniz: I DON'T MEAN TO INTERRUPT BUT THE WHOLE OR THE LOGIC OF THEIR PRECEDENT IN THIS AREA IS THAT THE VOTERS ARE SUPPOSED TO BE THE ONES DOING THE BALANCING.

THIS PROPOSED AMENDMENT, WHEN I SAY IT IS ONE-SIDED I DON'T MEAN IT IS ONE-SIDED IN ANY KIND OF DECEPTIVE WAY. IT KIND OF ASSUMES THAT THE

CONSTITUTION AS IT EXISTS RIGHT NOW IS SILENT AS TO ANY RIGHTS OF THE UNBORN. I DON'T KNOW IF THAT ASSUMPTION IS CORRECT?

MAYBE A MORE DIRECT QUESTION FOR YOU WOULD BE CAN WE SAVE AS A MATTER OF LAW THAT THE TERM ALL NATURAL PERSONS EXCLUDES UNBORN CHILDREN?

>> Courtney Brewer: I DON'T THINK THAT THAT IS A QUESTION THAT WOULD COME BEFORE THIS COURT.

>> Chief Justice Carlos Muniz: I'M ASKING RIGHT NOW UNDER THE EXISTING CONSTITUTION THIS IS THE CONSTITUTION WE ARE LOOKING AT THE WORDS WE NEED TO UNDERSTAND IF THIS PROPOSAL WOULD CHANGE THAT OR AFFECTED. IN ROE VERSUS WADE THE MAJORITY OPINION SAID IF THE UNBORN OR PERSONS THEN IT THROWS THE ENTIRE ANALYSIS OFF. NO ACADEMICS IT'S A QUESTION OF WHETHER THAT IS TRUE.

THE WAY THIS IS BEEN TRADITIONALLY VIEWED IS THAT IF YOU REALLY OR VIEW IT AS THE RIGHTS OF THE WOMAN AND THE RIGHTS POTENTIALLY OF THE UNBORN THAT CHANGES THE QUESTION IF YOU ARE COMPARING THE RIGHTS OF THE WOMAN TO THE SORT OF AUTHORITY OF THE STATE AND WHATEVER INTEREST PAYMENT WILL WANT TO PURSUE YOU HAVE ANY AUTHORITY UNDER FLORIDA LAW THAT WOULD ALLOW US TO SAY THAT NATURAL PERSONS DOES NOT INCLUDE THE UNBORN?

>> Courtney Brewer: I DON'T THINK THERE'S ANY AUTHORITY UNDER FLORIDA LAW TO SAY IT DOESN'T INCLUDE THE UNBORN WHAT YOU WOULD ASK THE LIMIT SPONSORS TO DO IS THINK OF THE ALWAYS A CONSTITUTIONAL ANOTHER PROVISION OF THE CONSTITUTION MIGHT BE INTERPRETED AND TO SOMEHOW COMMUNICATE THAT TO THE VOTERS.

YOU ARE LOSING I THINK IN THAT INSTANCE WE WOULD REALLY LOSE THE CLARITY ON THAT AND THE WHAT THE CONSTITUTION REQUIRES A PROPOSED AMENDMENT TO SAY .

>> Chief Justice Carlos Muniz: SHOULD IT MATTER THAT THIS LANGUAGE IS FROM 1968. SHOULD IT MATTER THAT FOR 100 YEARS THE LAW OF FLORIDA WAS THAT BASICALLY THROUGH THE HOMICIDE LAWS AND THE ABORTION LAWS THEY CAN ONLY BE READ SORT OF MAKING SENSE IF THE UNBORN CHILD IS SOME KIND OF A PERSON WHETHER IT IS LEGAL WHETHER YOU HAVE TO TREAT BORN AND UNBORN EXACTLY THE SAME THAT'S A SEPARATE ISSUE. I'M JUST ASKING SORT OF AS A MATTER OF LANGUAGE AND AS HOW WE ARE USING ALL THE TOOLS IN THE TOOLBOX FOR HOW WE INTERPRET THE MEANING.

>> Courtney Brewer: YOUR HONOR, I CAN BACK TO THIS IS NOT THE QUESTION BEFORE THIS COURT.

IF THE SPONSOR HAD TO INCLUDE SOMETHING LIKE THAT IN THE AMENDMENT WE WOULD BE WEIGHING INTO AN ISSUE IN THE CONSTITUTION THAT IS NOT BEEN FLUSHED OUT BEFORE THIS COURT I WOULD ALSO NOTE THAT THE SPONSOR'S INTENT ON HOW THIS WOULD INTERACT IS NOT DETERMINATIVE TO THIS COURT. LONG-TERM CHIEF JUSTICE MUNIZ YOU SAID IN YOUR DISSENT AND ALL VOTERS VOTE THAT SPONSOR'S STATED INTERPRETATION OF THE PROPOSED AMENDMENT CANNOT TRUMP THE PLAIN MEANING OF THE AMENDMENT'S TEXT. WHAT THE

AMENDMENT IS. WHAT WE HAVE PUT BEFORE THE VOTERS WE WILL PUT BEFORE THE VOTERS IS ENTIRELY REFLECTED BY THE BALLOT SUMMARY.

I WAS GOING TO SAY IT IS QUITE RIGHT THAT THE TEXT TRUMPS I WONDER WHETHER THAT HELPS WHEN IT COMES TO THE COLLATERAL EFFECTS.

TO PICK UP ON A DIFFERENT THREAD OF THE ARGUMENT HERE.

IS IT YOUR POSITION THAT THE REASONABLE VOTER WOULD UNDERSTAND THAT THIS DOES AWAY WITH ALL EXISTING REGULATIONS WHERE AN ABORTION CAN BE PERFORMED FOR EXAMPLE PRINT BECAUSE THE PLAIN EFFECT OF THE TEXT SAY YOUR OPPONENTS COULD SAY A REASONABLE READER OF THIS LANGUAGE IS INDEED QUITE SWEEPING AND MIGHT HAVE THAT EFFECT .

>> Courtney Brewer: YOUR HONOR, THE PLAIN LANGUAGE DOES NOT SAY ANYTHING ABOUT IT DOES NOT LIMIT THE STATE IN ITS ABILITY TO REGULATE HEALTHCARE.

>> Chief Justice Carlos Muniz: BUT IT DOES HERE I DISAGREE WITH YOU. THE PLAIN TEXT OF LANGUAGE SAYS YOU CANNOT DELAY AN ABORTION. CAUSING SOMEONE TO GO TO A LICENSED CLINIC MIGHT BE A DELAY AS OPPOSED TO I DON'T KNOW USING SOME ABORTION AT HOME.

>> Courtney Brewer: ALLOW ME TO REPHRASE THEN YOUR HONOR THERE ARE OF COURSE REGULATIONS THAT ENCOMPASSES PROHIBITIONS IT ENCOMPASSES PENALIZATION. BUT THOSE TERMS DO NOT ENCOMPASS ALL REGULATIONS THAT THE STATE MAY IMPOSE.

THERE IS NO CONTENTION THAT THE NEUTRALLY NEUTRAL GENERALLY APPLICABLE HEALTH AND SAFETY RELATIONS ARE GOING TO PROHIBIT PENALIZED DELAY OR RESTRICT ABORTION. AND IT WOULD NOT BE PROHIBITED BY THIS AMENDMENT.

>> Chief Justice Carlos Muniz: WE HAVE MAYBE 50 YEARS OF ABORTION JURISPRUDENCE WHERE SO MUCH OF THE FIGHT WAS ABOUT DELAY OR RESTRICT WHEN IT WAS ABOUT REGULATION. HERE I THINK YOUR INTENT IS PEAKING IN THE WEIGHT THAT YOU SAID WAS NOT ACCEPTABLE.

>> Courtney Brewer: OF COURSE IF THERE WAS A REGULATION THAT WAS CHALLENGED AS BEING A PROHIBITION, DELAY, RESTRICTION OR PENALIZING ABORTION, IT WOULD BE BACK BEFORE THIS COURT IT WILL BE BEFORE THIS COURT TO MAKE THAT DETERMINATION. WHAT THE INTENT IS WOULD NOT MATTER THIS COURT VERY WELL KNOWS HOW TO ANALYZE STATUTES AND ANALYZE THEM UNDER THE FRAMEWORK OF CONSTITUTIONAL AMENDMENTS. IT WOULD BE A HUGE SHIFT FOR THIS COURT TO SAY THAT EVERY REGULATION THAT MIGHT COME UNDER FIRE WOULD NEED TO BE ADDRESSED BEFORE THE VOTERS. IT WOULD EFFECTIVELY TAKE AWAY THE VOTERS RIGHT TO AMEND THEIR CONSTITUTION WHICH IS A SACROSANCT RIGHT IMPORT OF ORGANIC LAW IN THE STATE.

>> I'M SORRY I WANT TO ASK THIS QUESTION I WANT YOU TO RESPOND DIRECTLY TO THE ARGUMENT MADE BY OPPONENT SUSAN B ANTHONY WHEN THEY SAY THE CHIEF PURPOSE THAT IS NOT COMMUNICATED BY THE AMENDMENT THE PROPOSED AMENDMENT IS THAT WE WOULD BE ENSHRINING CONSTITUTIONAL CEMENT I THINK IS WHAT THEY SAID.

ABORTION WITHOUT RESTRICTION FOR THE ENTIRE NINE MONTHS OF PREGNANCY

THAT IS NOT BEING COMMUNICATED TO THE VOTERS . IN THE WAY THAT THE LANGUAGE OF THE BALLOT SUMMARY AND THE AMENDMENT IS DRAFTED NOW. AND THAT IS IMPORTANT BECAUSE ABORTION IS DIFFERENT RIGHT ACCORDING TO DOBBS IT'S A DIFFERENT ISSUE. IT HAS DIVIDED EVERY ONE ACCORDING TO THEIR PERSONAL BELIEFS. ISN'T THAT PART OF THE JOB OF THE PROPOSED AMENDMENT TO MAKE SURE THAT THEY ARE COMMUNICATING TO THE CHIEF PURPOSE AND THE EFFECT OF WHAT IT IS THAT THIS PROPOSED AMENDMENT WOULD ACTUALLY DO?

>> Courtney Brewer: YOUR HONOR, I DON'T KNOW HOW AND WOMEN CAN BETTER INDICATE ITS CHIEF PURPOSE VIA A SUMMARY THEN BY PUTTING THE LANGUAGE OF THE LIMIT IN THE SUMMARY THE VOTERS WILL HAVE THAT LANGUAGE IN THE BALLOT BOX WITH THEM. THE WHOLE PURPOSE OF THE SUMMARY NEEDING TO BE CLEAR AND UNAMBIGUOUS ABOUT THE CHIEF PURPOSE IS BECAUSE OFTEN VOTERS DO NOT HAVE THAT LANGUAGE IN THE BALLOT BOX WITH THEM. BUT HERE THEY WILL. THIS COURT HAS SAID AS LONG AGO AS NEARLY 50 YEARS AGO IN SMATHERS VERSUS SMITH THE SUMMARY SHOULD BE NEITHER LESS NOR MORE EXTENSIVE THAN THE AMENDMENT APPEARS TO BE AND ALSO IN.

[LISTING NAMES] IN 2018 THE FLORIDA LAW DOES NOT REQUIRE THAT A SUMMARY DO MORE THAN COMMUNICATE WHAT VOTERS ARE BEING ASKED TO APPROVE OR REJECT. BY PUTTING THE LANGUAGE OF THE AMENDMENT INTO THE SUMMARY THAT IS PUBLISHED HERE IN THIS COURT HAS REPEATEDLY SAID THAT THE SUMMARY AND TITLE PROVISIONS ARE EASILY SATISFIED WHEN THAT IS THE CASE.

>> Chief Justice Carlos Muniz: THIS IS A WOLF THAT COMES AS A WOLF. IF PEOPLE THINK THAT THIS IS SWEEPING THE SUMMARY MAKES IT PRETTY OBVIOUS THAT IT IS SWEEPING.

>> Courtney Brewer: YES IF VOTERS DO NOT AGREE THAT THEY WILL HAVE THE OPPORTUNITY TO VOTE AGAINST IT.

BUT THE ARGUMENTS ABOUT WHAT THIS AMENDMENT WILL DO THAT IS NOT THIS. IT IS NOT THE TIME AND PLACE FOR THAT AND THOSE ARE ARGUMENTS THAT THE AG MAY CERTAINLY MAKE ON THE STUMP. BUT THEY ARE NOT ARGUMENTS APPROPRIATE FOR THIS COURT'S ANALYSIS RIGHT NOW FOR ABOUT WHETHER THE SUMMARY CLEARLY STATES THE PURPOSE.

IF I MAY JUST BRIEFLY RESPOND TO THE SINGLE SUBJECT ARGUMENT.

THIS AMENDMENT DEALS WITH A SINGLE SUBJECT IT LIMITS GOVERNMENT INTERFERENCE WITH ABORTION. IT JUST REQUIRES THE GOVERNMENT TO COMPLY WITH THE CONSTITUTION.

WHICH THE GOVERNMENT KNOWS HOW TO DO. THOUGH IT DESCRIBES THE TYPE OF GOVERNMENT INTERFERENCE LIMITED IN WHAT CIRCUMSTANCES THEY ARE LIMITED IT'S HIS IDEA OF TWO SIDES OF THE SAME COIN AS THIS COURT IS SAID IN PREVIOUS CASES ON THIS. THIS COURT HAS EMPHASIZED REPEATEDLY HOW RELUCTANT IT IS TO REMOVE AN AMENDMENT FOR THE PEOPLE SANCTIFIED RIGHT OF SELF-DETERMINATION IT SHOULD NOT WHERE THE SPONSOR FOLLOWED THE FRAMEWORK ESTABLISHED AND OF THE CASE AND THE CONSTITUTION USING THE SAME UNDERSTANDABLE LANGUAGE IN THE SUMMARY AND AMENDMENT IN

ADDRESSING ONLY ONE SUBJECT INSTEAD THE PEOPLE OF FLORIDA SHOULD BE ABLE TO EXERCISE THEIR VOICE AND VOTE ON THIS AMENDMENT.
THANK YOU.

>> Chief Justice Carlos Muniz: YOU CAN HAVE TWO MINUTES FOR REBUTTAL.

>> Nathan Andrew Forrester: IT IS NOT ENOUGH SIMPLY TO TRACK THE LANGUAGE OF THE AMENDMENT IF THE LANGUAGE OF THE AMENDMENT ITSELF IS OF SUCH ELASTICITY THAT AN ENORMOUSLY WIDE RANGE OF MEANINGS WILL ATTACH TO IMPROVE AND VOTERS WILL NOT ACTUALLY UNDERSTAND WHAT THEY ARE VOTING FOR.

>> Chief Justice Carlos Muniz: MY PROBLEM WITH THAT WHOLE ARGUMENT GOES BACK TO WHAT JUSTICE CANADY WAS SAYING WHICH IS ESSENTIALLY THE ONLY CONSEQUENCE IF WE WERE TO ADOPT THAT KIND OF A READING OF THIS IS IT WOULD HAVE DRAMATICALLY CHANGED THE SUBJECT OF WHAT COULD BE PROPOSED. ALL OF THESE THINGS THERE SUPPOSEDLY UP IN THE AIR ABOUT THIS WHICH I AGREE ARE GOING TO HAVE TO BE WORKED OUT OVER TIME IF THIS WORK TO BECOME PART OF THE CONSTITUTION, THERE IS NO POSSIBLE WEIGHT THAT HE SUMMARY COULD TAKE THROUGH ALL OF THESE DIFFERENT VARIABLES AND POSSIBLE IMPLICATIONS AND EVERYTHING.

A, THERE IS NO CLEAR ANSWER TO THESE QUESTIONS.

AND IF THE SUMMARY SAYS WHAT IT SAYS PEOPLE CAN SEE FOR THEMSELVES IF IT IS TOO BROAD OR VAGUE OR WHATEVER INDETERMINATE.

>> IF THE SUMMARY ENGAGES IN THIS INTERPRETIVE ENTERPRISE THEN THE PEOPLE ARE OPPOSED TO IT WILL COME IN AND SAY NO THAT IS NOT THE CORRECT INTERPRETATION. THAT IS NOT WHAT IT SAYS IN THE SUBJECT TO OTHER INTERPRETERS IT IMPOSES AN IMPOSSIBLE BURDEN ON THE PEOPLE PROPOSING AN AMENDMENT IT SEEMS TO ME ALL OF THESE THINGS HAVE TO BE ARGUED ABOUT IN THE POLITICAL PROCESS . BECAUSE OTHERWISE, IT IS A RESTRICTION ON THE SUBSTANCE OF WHAT CAN BE PROPOSED.

THAT IS NOT IN, WE ARE NOT GIVEN THE POWER IN THE CONSTITUTION TO IMPOSE SUCH A RESTRICTION.

>> Nathan Andrew Forrester: I TAKE YOUR POINT JUSTICE CANADY.

IT DOESN'T SEEM BAD THING THAT IF THE EFFECT OF THE BALLOT SUMMARY REQUIREMENTS IS THAT THE AMENDMENT ITSELF MUST BE MORE CLEAR OR MUST BE EXPLAINED MORE CLEARLY BY THE BALLOT SUMMARY THAT IS WHAT THE SPONSORS HAVE TO DO. OTHERWISE THE VOTERS DO NOT KNOW WHAT THEY ARE VOTING FOR.

THAT IS THE WHOLE PURPOSE OF THE BASICALLY THE TRUTH AND PACKAGING LAW THAT IS SECTION 101.1.61 YOU ARE GETTING.

>> Justice Charles Canady: YOU THINK THE LEGISLATURE CAN IMPOSE A SUBSTANTIVE REQUIREMENT OF WHAT CAN BE IMPOSED IN AN AMENDMENT.

AT THE END OF THE DAY IF IT SEEMS LIKE WHAT YOU ARE SAYING. IS WE CAN THROUGH THAT REQUIREMENT OF GENERAL LAW ACTUALLY RESTRICT THE SUBSTANCE OF WHAT IS AN AMENDMENT.

>> Nathan Andrew Forrester: AGAIN, THE SPONSOR WOULD HAVE TWO OPTIONS. ONE, IS TO EXPLAIN, THE OTHER IS TO ADVISE OR REVISE THE AMENDMENT SO IT IS NOT IMPOSING A SUBSTANTIVE LIMITATION OF WHAT CAN BE PUT INTO THE AMENDMENT. THE PROBLEM IS WHAT YOU HAVE DONE HERE YOU CREATED A RORSCHACH TEST OF SORTS WHERE THE VOTERS LOOK AT THESE LANGUAGES THEY ATTACH WIDELY DIFFERENT MEANINGS TO IT BUT THEY MAY END UP VOTING ON THE SAME SIDE OF THE ISSUE DESPITE HAVING SHARPLY DIFFERENT VIEWS ABOUT WHAT THE LIMIT ACTUALLY DOES BRING YOU WIND UP WITH AN INACCURATE FINAL COUNT ON THE BALLOT. THAT IS THE FUNDAMENTAL PURPOSE OF ALL OF THESE MECHANISMS THAT ARE LAID OUT IN THE CONSTITUTION AND BY STATUTE. THE CONSTITUTIONALITY OF SECTION 101.161 HAS BEEN ACCEPTED THAT DOES IN SOME SENSE CONSTRAIN HOW BELT SUMMARIES ARE DONE.

IN SO FAR AS IT HAS THIS INDIRECT UPSTREAM EFFECT ON HOW THE AMENDMENT ITSELF WOULD BE PHRASED BECAUSE THERE IS ONE OPTION FOR CURING AMBIGUITY. I DON'T SEE HOW THAT CAN BE A BAD THING. AS TO THE WOLF.

>> Chief Justice Carlos Muniz: GO AHEAD

>> Nathan Andrew Forrester: A WOLF IN SHEEP'S CLOTHING ARGUMENT THIS GETS BACK AGAIN TO THE VOTERS NEED TO NOTE THE EFFECTS OF WHAT IS GOING ON HERE. WHAT I'M HEARING IS THIS AMENDMENT IS ACTUALLY VERY VERY BROAD IT IS UNAMBIGUOUSLY BROAD. I DON'T THINK THAT THE BALLOT SUMMARY ADEQUATELY DISCLOSES THAT POTENTIALITY. SOME VOTERS MAY SUSS IT OUT. OTHER VOTERS WILL NOT.

>> Chief Justice Carlos Muniz: PROHIBIT PENALIZE DELAY AND RESTRICT I THINK IS OBVIOUS THAT, THERE IS GOING TO BE DEBATES ABOUT WHAT ARE THE GAPS AND WHAT CAN THE LEGISLATURE DO. BUT IT IS PRETTY OBVIOUS THIS IS A PRETTY AGGRESSIVE COMPREHENSIVE APPROACH TO DEALING WITH THIS ISSUE. IF IT WERE, IF THE VOTERS WOULD ARGUE ABOUT WHETHER THEY WANT SOMETHING MORE NUANCED THAN THAT. IT DOESN'T SEEM LIKE THIS IS REALLY TRYING TO BE DECEPTIVE.

AS I BEST, THROUGH MY QUESTIONS, I THINK THERE IS A PROBLEM WITH WHAT IT DOES NOT THIS) IT IS PRETTY SELF-EVIDENTLY BROAD.

>> Nathan Andrew Forrester: THAT BEING THE CASE I WOULD SAY THAT THE TITLE OF THIS IS UNDERSTATED TO THE POINT OF DECEPTION.

LIMIT GOVERNMENT INTERFERENCE WHAT YOU ARE TALKING ABOUT IT UNAMBIGUOUSLY WOULD EVISCERATE GOVERNMENT INTERFERENCE WITH ABORTION.

>> Justice Charles Canady: WHAT TITLE WOULD WORK?

THAT IS NOT REALLY YOUR OBLIGATION IF YOU HAVE AN IDEA I'M CURIOUS.

>> Nathan Andrew Forrester: PROHIBIT.

>> Justice Charles Canady: PARDON.

>> Nathan Andrew Forrester: PROHIBIT HAS A STRONGER CONNOTATION IT IS NOT MY JOB TO DO THE SPONSORS WORK BUT THERE ARE BETTER WORDS LIMIT HAS A SENSE OF NOT GOING AS FAR AS ALL THE WAY.

>> Chief Justice Carlos Muniz: YOU AGREE THAT WE HAVE BILLIONS OF CASES THAT YOU SAID YOU READ THE TITLE TOGETHER WITH THE REST OF THE SUMMARY. PROHIBIT WOULD BE A MISSTATEMENT.

OF THE AMENDMENT. IF YOU READ ALL OF IT TOGETHER THE PEOPLE OF FLORIDA ARE NOT STUPID. THEY CAN FIGURE THIS OUT PRINT I THINK THERE MAY BE A PROBLEM AS TO WHAT IT DOES NOT SAY.

>> Nathan Andrew Forrester: IF THE DETERMINATION BY CLAUSE MODIFIES THE TERMS THAT PRECEDE IT. I'M NOT SURE THAT THERE ARE ANY LIMITS AND FRAME IT MIGHT BE A MORE ACCURATE DESCRIPTION OF WHAT IS GOING ON. I'M NOT SAYING WE ARE ENDORSING THAT IS BEST READING OF THIS BUT IT IS A POTENTIAL READING. IT IS ONE THAT SOME VOTERS MAY SEE SOME VOTERS MAY NOT.

THAT CONFUSION THAT VOTER CONFUSION DISTORTS THE FINAL OUTCOME THAT IS THE FUNDAMENTAL PROBLEM THAT WE SEE HERE.

I HAVE EXCEEDED MY TIME.

>> Chief Justice Carlos Muniz: WE HELPED YOU.

WE HELPED YOU TO EXCEED YOUR TIME.

>> Nathan Andrew Forrester: THANK YOU YOUR HONORS FOR THE REASONS WE SET FORTH WE SUBMIT THAT THIS COURT SHOULD STRIKE THIS BALLOT INITIATIVE FROM THE NOVEMBER BALLOT.

>> Chief Justice Carlos Muniz: THANK YOU VERY MUCH THE COURT WILL TAKE A QUICK BREAK THANK YOU.