

>> Marshal: ALL RISE THE FLORIDA SUPREME COURT IS NOW IN SESSION. PLEASE BE SEATED.

>> Chief Justice Carlos Muniz: THANK YOU OUR NEXT CASE IS LOUMPOS V. BANK ONE, 2024-1256.

I APOLOGIZE IF I MISPRONOUNCED IT.

>> John D. Goldsmith, Petitioner: YOU PRONOUNCE IT CORRECTLY JOHN D. GOLDSMITH FOR THE PETITIONER LINDA LOUMPOS ALSO KNOWN AS LINDA [NAMES]. WE ARE HERE TO THE COURT IS HERE TO DETERMINE WHAT ONE SENTENCE OF A STATUTE MEANS AND OF COURSE THE FIRST CANON OF STATUTORY CONSTRUCTION IS THAT WHAT THE LEGISLATURE SAYS IN A STATUTE IS WHAT IT MEANS.

THAT MEANS THAT THE COURT SHOULD NOT ADD LANGUAGE OR TAKE LANGUAGE AWAY FROM THE STATUTE IT SHOULD GIVE MEANING TO EACH OF THE WORDS THAT ARE PRESENT.

TO GRAPHICALLY ILLUSTRATE THIS IN MY REPLY BRIEF ON PAGE 2, I SET FORTH THIS IS WHAT THE STATUTE SAYS AND THIS IS WHAT THE RESPONDENT ASKS THE COURT TO DO WHICH IS TO REMOVE TWO WORDS WHICH IS ANY DEPOSIT OR ACCOUNT MADE THEY WERE TO REMOVE DEPOSIT OR, THEN THEY ALSO WANT TO ADD THE LANGUAGE AND IS ESTABLISHED IN THE ACCORDANCE WITH THE UNITY OF POSSESSION INTEREST TITLE AND TIME.

THAT IS NOT WHAT THE STATUTE SAYS. THE STATUTE SAYS ANY DEPOSIT OR ACCOUNT MADE IN THE NAME OF TWO PERSONS WERE HUSBAND AND WIFE SHALL BE CONSIDERED A TENANCY BY ENTIRETY UNLESS OTHERWISE SPECIFIED. IF THE LEGISLATURE INTENDED TO REQUIRE TENANCY BY ENTIRETY TO HAVE THESE UNITIES OF POSSESSION INTEREST TITLE AND TIME IT COULD HAVE WRITTEN IT THAT WAY.

>> Justice: I COMMEND YOUR FOCUS ON THE TEXT.

WHEN WE START IT SAYS ANY DEPOSIT OR ACCOUNT SHALL BE A TENANCY BY ENTIRETY.

I'M CALLED TO GIVE EFFECT TO SAY TO EVERY WORD IN HERE OF COURSE THAT IS THE WORD DEPOSIT BUT IS IT POSSIBLE TO HAVE A TENANCY BY THE ENTIRETY ANY DEPOSIT BUT NOT THE COUNT?

>> John D. Goldsmith, Petitioner: THE ANSWER TO THAT I DON'T THINK THAT THERE IS.

>> Justice John Couriel: HOW DOES THAT DESTRUCTIVE OR DEPOSIT ACCOUNT MAKE SENSE.

>> John D. Goldsmith, Petitioner: THE IMPORTANT PART OF THAT IS IT IS THE CANON OF STATUTORY CONSTRUCTION.

A LINGUISTIC ONE.
THE WORD IS.
[LISTING NAMES]

>> Justice John Couriel: YOU KNOW IT BY ITS ASSOCIATES WHO WAS IN HANGOUT WITH.

>> John D. Goldsmith, Petitioner: WHO IT IS HANGING OUT WITH HIS ACCOUNT AND BECAUSE EXCUSE ME THE WORD THE WORDS DEPOSIT ACCOUNT AND MADE, ARE ALL IN PROXIMITY TO EACH OTHER.

YOU CAN ONLY YOU CAN MAKE A DEPOSIT AT ANY TIME.

ALSO AN ACCOUNT CAN BE ESTABLISHED AT ANY TIME EITHER. THE FACT THAT THEY ARE TRYING TO SAY IT IS ONLY WHEN YOU OPEN THE ACCOUNT THAT THAT IS WHEN IT IS MADE I DON'T BELIEVE IS INACCURATE.

>> Justice: THE TEXT ACTUALLY SAYS MADE IN THE NAME OF TWO PERSONS.

>> John D. Goldsmith, Petitioner: THAT IS CORRECT.

>> Justice Charles Canady: TO ME THAT SUGGESTS THAT IF THE ACCOUNT WHATEVER HAS HAPPENED BEFORE IF AT SOME POINT THAT ACCOUNT IS MADE BY SOME DOCUMENTATION, IN THE NAME OF TWO PERSONS WERE HUSBAND AND WIFE, THEN IT'S IN TENANCY BY THE ENTIRETY UNDER THE STATUTE THAT IS THE CORE OF YOUR ARGUMENTS RIGHT.

>> John D. Goldsmith, Petitioner: THAT IS THE ABSOLUTE CORE OF THE ARGUMENTS. IT IS WHEN THEY WENT IN SEVEN MONTHS AFTER THE ACCOUNT WAS ESTABLISHED AND THEY ADDED HER OR THE EDITOR TO THE ACCOUNT THAT THE COUNT WAS THEN MADE IN THE NAME OF THE HUSBAND AND THE WIFE AND ITS INTENSITY BY ENTIRETY COUNT.

>> Justice Charles Canady: I THINK WITH THE 2ND DISTRICT IN A VERY THOUGHTFUL OPINION I THINK THE 2ND DISTRICT REALLY HAS A BETTER UNDERSTANDING OF BL BUT I THINK THE OTHER DISTRICT COURT KIND OF OVERLOOKED A LOT. IN THINKING THAT SOMEHOW RESOLVES THIS OR.

>> John D. Goldsmith, Petitioner: I DON'T DISAGREE WITH YOU YOUR HONOR.

>> Justice Charles Canady: IT WAS VERY THOUGHTFUL OPINION RESPONDED TO WHAT THE 2ND DISTRICT WOULD SAY THAT THE WAY YOU AND I HAVE INTERPRETED THAT PART OF THE TEXT REALLY IS NOT CLEAR ENOUGH TO OVERTURN THE COMMON LAW RULE ABOUT THE UNITY.

HOW DO YOU RESPOND TO THAT THAT IS REALLY THE HEART OF WHAT THEY SAY I

THINK.

>> John D. Goldsmith, Petitioner: YES THAT'S EXACTLY RIGHT I WOULD SAY THREE THINGS TO THAT FIRST, THEY CITE A SUBSTANTIVE RULE OF STATUTORY CONSTRUCTION WHICH IS THAT IF YOU PASS A STATUTE IN DEROGATION OF COMMON LAW IT HAS TO BE CLEAR IT HAS TO BE REPUGNANCE. FIRST THIS IS CLEAR AND REPUGNANT BECAUSE IT SAYS NOTHING ABOUT THE UNITY. IT ONLY SAYS ANY DEPOSIT OR ACCOUNT MADE IN THE TWO PERSONS THAT ARE HUSBAND AND WIFE SHALL BE CONSIDERED A TENANCY BY ENTIRETY IT IS REPUGNANT TO THAT.

BUT SECONDLY, YOU CAN HAVE BOTH. YOU CAN HAVE THIS IS WHAT MISSOURI RECOGNIZES IS THAT MISSOURI RECOGNIZES A STATUTORY TENANCY BY ENTIRETY BUT EVEN IF YOU HAVE A STATUTORY TENANCY BY ENTIRETY IF YOU DON'T MEET THAT YOU STILL HAVE A COMMON LAW STATUTORY YOU CAN STILL HAVE A COMMON-LAW TENANCY BY ENTIRETY THEY ARE NOT INCONSISTENT WITH EACH OTHER. BUT THE THIRD POINT I WOULD MAKE IS THE POINT THAT JUSTICE SCALIA MAKES WHICH IS THAT WHEN YOU TAKE A PROVISION LIKE A STATUTE IN DEROGATION OF COMMON-LAW, IT HAS TO BE CLEAR AND REPUGNANT.

THAT'S A SUBSTANTIVE TYPE OF STATUTORY CONSTRUCTION.

THE FOCUS SHOULD REALLY BE ON THE LINGUISTIC STATUTORY CONSTRUCTION. WHAT DOES THE STATUTE SAY?

>> Justice: ONE OF THE BASIC TENETS OF THE WHOLE THING CONTEXT IS CRITICAL STATUTES ARE WRITTEN WITH AN UNDERSTANDING OF CERTAIN BACKDROPS EVERY NEW THING SORT OF KIND OF ENTERS THE SEA OF ALL THE SURROUNDING LAW. I THINK HE LOST ON THE WHOLE DEROGATION OF COMMON-LAW IS NOT SO MUCH FOR THE COURSE TO BE TELLING THE LEGISLATURE HOW YOU HAVE TO DO THINGS BUT SORT OF SETTING KIND OF DEFAULT RULES ABOUT HOW WE WILL UNDERSTAND WHAT NEW LAWMAKERS ARE THINKING THEY ARE DOING OR ARE DOING WHEN THEY ADDED THINGS TO THIS SEA OF EXISTING LAW?

I THINK THE 2ND DCA WHICH I AGREE WITH JUSTICE CANADY I BELIEVE TRY TO DO A GOOD JOB OF TRYING TO UNDERSTAND THAT JUST SORT OF FOCUSING MYOPICALLY ON THE ONE SENTENCE SORT OF BY ITSELF BUT TO SERVE UNDERSTAND WHAT IS THE LEGAL BACKDROP AGAINST WHICH THE LEGISLATURE DID THIS AND I THINK MAKING A REASONABLE ASSESSMENT OF THAT.

>> John D. Goldsmith, Petitioner: I THINK JUDGE KELLY IN HER OPINION DOES GO THROUGH AND MAKE THAT TYPE OF ANALYSIS BUT WITH ALL DUE RESPECT I THINK THE MISTAKE THAT SHE MAKES, IS HER FOCUS ON THE FACT THAT HER ASSERTION THAT IT IS NOT THE STATUTE INTERPRETED THE WAY I SUGGEST IS INTERROGATION OR IS NOT IN DEROGATION OF THE COMMON LAW. I DON'T THINK IT CAN BE MORE CLEARLY IN DEROGATION OF THE COMMON LAW BECAUSE IT IS VERY SPECIFICALLY IT DOES NOT INCLUDE THE SIX UNITIES IT INCLUDES ONE UNITY THE UNITY OF

MARRIAGE IF YOU WANT TO INCLUDE THE OTHER FIVE UNITIES HE COULD'VE DONE THAT THE LEGISLATURE KNEW WHAT IT WAS DOING.

THE FACT IT DID NOT INCLUDE ANY OF THOSE OTHER UNITIES IS CLEAR THAT THAT IS WHAT IT INTENDED. THE MISSOURI STATUTE THAT I CITED HAS BEEN INTERPRETED OVER THE YEARS HAVE BEEN IN EXISTENCE FOR A LONG TIME IN THE SAME MANNER PROVE THAT THERE IS A STATUTORY TENANCY BY ENTIRETY THAT IS CREATED.

>> Justice: WHAT IS THE SIGNIFICANCE OF THE LEGISLATURE SAYING SHALL BE
CONSIDERED RATHER THAN IS.

>> John D. Goldsmith,Petitioner: IN THAT THE LANGUAGE I THINK IT IS A MANDATORY STATEMENT THAT IT SHALL BE CONSIDERED AND THAT THE ONLY EXCEPTION TO THAT IS IF THERE IS FRAUD.

FRAUD UNDUE INFLUENCE THINGS OF THAT NATURE. THAT IS THE ONLY THING THAT CAN AFFECT IT. SAYING IT SHALL BE IT IS MAKING IT IT IS DIRECTION IT IS CERTAINLY IT IS NOT A REBUTTABLE PRESUMPTION WHICH IS WHAT EXISTED UNDER THE COMMON LAW WERE CERTAIN THINGS MIGHT BE PRESENT YOU MIGHT CREATE A REBUTTABLE PRESUMPTION ABOUT THINGS THAT IS PART OF WHAT THEY BEAL COURT WAS DEALING WITH IN TERMS OF DISCORD TALKING ABOUT IS THERE A REBUTTABLE PRESUMPTION.

>> Justice: ESSENTIALLY IT IS JUST KIND OF A COCKY LEGISLATIVE LANGUAGE FOR IS.

>> John D. Goldsmith,Petitioner: IT IS AND WE MEAN WHAT WE ARE SAYING AND CANNOT BE MORE CLEAR ABOUT THAT.

THAT IS REALLY THE FOCUS OF THE ARGUMENTS THE ONLY OTHER POINTS I WOULD LIKE TO MAKE IS THAT THE 2ND DISTRICT ALSO POINTS TO THE FIRST SENTENCE 655.791 WHERE IT SAYS IN CONNECTION WITH THE OPENING OF AN AN ACCOUNT IT SHOWS THE LEGISLATURE KNEW THAT TO SAY SOMETHING DIFFERENTLY. FIRST, THAT WAS PART OF THE STATUTE PASSED IN 1982.

THIS WAS PASSED IN 2008.

THE FACT THAT THEY ELECTED TO PUT IT IN THAT PART OF THE STATUTE DOES NOT REALLY PROVIDE ANY MEANING. AGAIN, THE LANGUAGE OF THIS STATUTE IS CLEAR. THE ALTERNATIVE AND WHAT THE LEGISLATURE IS CLEARLY TRYING TO GET OUT IS TO PREVENT THE NEED THAT IF SOMEBODY COMES IN AND THEY WANT TO ADD THEIR SPOUSES TO THE ACCOUNT THEY DON'T NEED TO CLOSE THE ACCOUNT PROBABLY MOVED TO ANOTHER FINANCIAL INSTITUTION SO THERE IS NOT AN ARGUMENT THAT THERE IS A MERE CONTINUATION. THAT IS A TYPE OF POLICY DECISION THAT THE LEGISLATURE WAS CLEARLY MAKING. THE LAST THING I WILL STATE IS THAT THE RESPONDENT'S BRIEF SAYS IT WOULD LEAD TO ABSURD RESULTS BECAUSE YOU COULD HAVE ONE PERSON HAVE A TENANCY BY ENTIRETY ACCOUNT OR YOU CAN HAVE PEOPLE WERE NOT MARRIED HAVE A TENANCY BY ENTIRETY COUNT BUT THE STATUTE SPECIFICALLY SAYS ACCOUNT MADE IN THE NAME OF

HUSBAND AND WIFE WHICH REQUIRES TWO PEOPLE WERE HUSBAND AND WIFE.

>> Justice: LET ME ASK YOU A QUESTION ABOUT THE UNDERLYING RATIONALE FOR THE UNITIES.

THIS ACTUALLY RELATES TO A SIMILAR QUESTION THAT WE WERE DEALING WITH ABOUT THE COMMON LAW THE CASE BEFORE US THE PRECEDING CASE THIS MORNING.

ARE THOSE RULES REALLY ABOUT TRYING TO FIGURE OUT WHAT THE PARTIES INTEND?

AT LEAST IN PART IN TRYING TO UNDERSTAND YOU HAVE THE UNITIES AS A WAY OF UNDERSTANDING A PARTICULAR INTENTION OF THE PARTIES. IS THAT RELATED TO THAT OR NOT?

>> John D. Goldsmith,Petitioner: I AM NOT SURE THAT IT COULD BE. THAT MIGHT BE.

>> Justice Charles Canady: WHAT IS IT ABOUT WHAT IS THE PURPOSE OF IT.

>> John D. Goldsmith,Petitioner: IT IS A TYPE OF COMMON LAW FORMALITY. THAT IN THE PRESENCE CONTEXT PROBABLY DOES NOT MAKE SENSE. IT IS A LAW FOR ALL THE PERSONAL PROPERTY AND THE LEGISLATURE HAS DEBATED WHETHER TO ABOLISH IT AS TO THE PERSONAL PROPERTY. I DON'T KNOW WHAT THE PURPOSE OF HAVING ALL OF THOSE UNITIES IN PLACE IT IS A KIND OF FORMALISTIC.

>> Justice: IS IT NOT A PRIVILEGED INSTITUTION OF MARRIAGE.

>> John D. Goldsmith,Petitioner: OF COURSE THE PURPOSE AND THE PURPOSE OF HAVING TENANCY BY ENTIRETY ORIGINALLY WAS THE IDEA THAT YOU MIGHT HAVE A HUSBAND WHO WOULD GO OFF AND WIDELY PLEDGE ASSETS THAT ARE OWNED BY THE HUSBAND AND WIFE. IT WAS REALLY TO PROTECT 150 YEARS AGO, IT WAS TO PROTECT THE WIFE.

BUT THE IDEA IS IS REALLY NOW TO PROTECT EITHER SPOUSE IT IS THAT THE UNITY RESULTS IN THE FACT THAT THE PROPERTY IS NOT OWNED BY THE HUSBAND OR THE WIFE BUT IT IS OWNED BY THEM AS A JOINT SEPARATE ENTITY. LIKE A LIMITED PARTNERSHIP LIKE A CORPORATION. THAT IS KIND OF THE IDEA OF WHAT THE WHOLE PURPOSE ORIGINALLY FOR THE TENANCY BY ENTIRETY ACCOUNTS ARE. THAT REALLY IS WHAT WE HAVE IN THIS SITUATION WHERE IT WAS CREATED IN THE INTEREST WITH THE ASSETS OF THE HUSBAND SO THAT IT WOULD BE IN THE NAME OF BOTH OF THEM, BITE TENANCY BY ENTIRETY.

THANK YOU.

>> Attorney: GOOD MORNING YOUR HONORS MAY IT PLEASE THE COURT AARON F. MILLER FOR THE RESPONDENT BANK ONE AS COUNSEL HAS POINTED OUT WE ARE

HERE ON A QUESTION AS TO THE ONE SENTENCE FROM 655.791 AND TO RESOLVE THE CONFLICT BETWEEN THE OPINIONS OF THE 2ND DISTRICT AND THE 4TH DISTRICT . IN OTHER WORDS IT NEEDS TO BE DECIDED WHETHER THE LEGISLATURE ABROGATED THE UNITIES OF TIME IN TITLE TO CREATE AN ENTIRELY BANK ACCOUNT WHEN IT AMENDED STATUTE 655.791 IN 2008.

CONTRARY TO THE PETITIONER'S ARGUMENT WE ARE NOT SEEKING TO REWRITE 655.791 RATHER WE BELIEVE AS DID THE SECOND DISTRICT COURTS PRESENTED TO IT ARE BRIEFS LIKE.

[LISTING NAMES] THAT THE PROPER INQUIRY AS TO WHETHER A BANK ACCOUNT IS ENTIRETY COUNT FIRST YOU HAVE TO START WITH THE REQUIRED UNITIES.

THESE UNITIES OF COURSE WE KNOW WHAT THE COMMON LAW IS WHEN IT COMES TO ESTABLISHING ENTIRETY'S BANK ACCOUNTS IS THIS COURT STATED VERY CLEARLY IN HAYSLIP BANK.

>> Justice Charles Canady: WHAT'S THE PURPOSES OF THE UNITIES WE HAVE THESE COMMON LAW RULES THEY HAVE SOME PURPOSE THEY ARE HELPING THEIR DEFAULT RULES IN SOME CASES ARGUABLY THAT ARE DESIGNED TO SERVE SOME PURPOSE WHAT IS THE PURPOSE OF THE UNITIES.

>> Aaron F. Miller,Respondent: AS COUNSEL HAS POINTED OUT I WOULD TEND TO AGREE WITH IT THE HISTORY OF THE CONCEPT OF TENANCY BY ENTIRETY IS AS ALSO EXPRESSED BY THIS COURT IN BEAL THAT THE ASSET BE IT REAL PROPERTY A BANK ACCOUNT WHATEVER IT HAPPENS TO BE IT IS NOT OWNED BY ANY OF THE INDIVIDUAL SPOUSES BUT INSTEAD IT IS OWNED BY THE UNITIES.

>> Justice Charles Canady: UNDERSTAND FLORIDA TENANCY BY THE ENTIRETY AND WHAT IT IS.

UNDERSTAND THE PUBLIC POLICY IN SUPPORT OF HAVING SUCH A TENANCY. THAT PROTECTS MARITAL ASSETS FROM THE INDIVIDUAL CREDITORS OF A PARTY TO THE MARRIAGE. UNDERSTAND THAT. WHAT ARE THE UNITIES ABOUT WHAT PURPOSE DO THE UNITIES SERVE?

HELP ME UNDERSTAND THAT.

>> Aaron F. Miller,Respondent: THE UNITIES I THINK ARE.

>> Justice Charles Canady: I KNOW THEY SERVE YOUR PURPOSE. [LAUGHTER] ASIDE FROM THAT WHAT PUBLIC POLICY THE COMMON LAW IS ABOUT PUBLIC POLICY RIGHT?

>> Aaron F. Miller,Respondent: I DON'T KNOW SO MUCH THAT THE COMMON LAW CAN BE DESCRIBED AS BEING ABOUT PUBLIC POLICY BUT IT IS THE HISTORICAL CONTEXT BY WHICH OUR CLAUSE IN OUR SOCIETY HAVE SORT OF EVOLVED OVER TIME.

THE PURPOSE OF THE UNITIES I THINK THE BEST ANSWER I CAN PROBABLY GIVE IS

THAT IT IS RULEBOOK FOR HOW TO GET TO THAT END GOAL. HOW TO CREATE THAT SORT OF ASSET THAT YOU HAVE TO FOLLOW THESE STEPS.

>> Chief Justice Carlos Muniz: HE IS ASKING YOU WHY THOSE PARTICULAR UNITIES?

>> Aaron F. Miller, Respondent:

>> Justice Charles Canady: WHAT PUBLIC PURPOSE IS SERVED BY REQUIRING PEOPLE TO JUMP.

UNDERSTAND IF IT IS ABOUT FIGURING OUT WHETHER THEY INTENDED TO HAVE TENANCY BY THE ENTIRETY IF WE LOOK AT THESE THINGS THAT HAPPEN AND NOBODY IS ABOVE THE WORD TENANCY BY THE ENTIRETY IF YOU'RE MARRIED THESE OTHER THINGS HAPPEN THAT A TENANCY BY THE ENTIRETIES THAT IS ONE THINK THAT'S A DEFAULT RULE FOR US TO FIGURE OUT WHAT THE INTENTION WAS. BUT ASIDE FROM THAT WHERE THE PARTIES I'M STRUGGLING TO SEE WHAT PURPOSE THE UNITIES SERVE WHEN YOU KNOW THAT THERE IS A DESIRE TO ESTABLISH TENANCY BY THE ENTIRETIES OF THIS KIND OF AT A LOSS AS TO WHY PEOPLE WANT TO HAVE TO JUMP THROUGH HOOPS WHEN THEY CAN CLEARLY EXPRESS THEIR ATTENTION.

>> Aaron F. Miller, Respondent: I THINK AGAIN GOING BACK TO THE HISTORICAL CONTEXT OF IT ALL WE HAVE THESE UNITIES OR THESE RULES AND REALLY HONESTLY THINK IT BOILS DOWN TO THE PASSING OF PROPERTY WHAT HAPPENED SHOULD ONE OF THE JOINT TENANTS OR NOT TENNYSON BY THE ENTIRETIES BUT SOME SOME OTHER SORT OF COMMON TENANCY LIKE TENANCY IN COMMON JOINT TENANCY WITH RIGHT OF SURVIVORSHIP THAT SORT OF THING WHAT TO DO WITH THE ASSETS BY THE PASSING OF ONE OF THE OWNERS.

>> Justice Charles Canady: AGAIN THAT IS NOT REALLY THAT IS KIND OF JUMPING TO THE ENDPOINT WE UNDERSTAND WHAT THE CONSEQUENCE OF HAVING THE TENANCY IS THE DIFFERENT TYPES OF TENANCY WHEN IT MAKES A DIFFERENCE. RIGHT OF SURVIVORSHIP AS OPPOSED TO NOT HAVING A RIGHT OF SURVIVORSHIP. IN THE TENANCY OF ENTIRETIES FOR BOTH PARTIES TO THE MARRIAGE OWN THE WHOLE PROPERTY.

BUT I'M TRYING TO UNDERSTAND THE UNITIES AND WHAT PURPOSE THAT SERVES I'M STILL.

>> Chief Justice Carlos Muniz: I THINK PART OF THIS ONE WAY TO UNDERSTAND THE STATUTE SORT OF IN CONTEXT OF WHAT CAME BEFORE IT I THINK MIGHT BE IF THERE'S SOMETHING SORT OF FUNDAMENTAL ABOUT THE UNITIES THAT YOU CANNOT REALLY TAKE AWAY AND STILL HAVE THIS TENANCY BY THE ENTIRETIES THAT MAYBE THAT WOULD BE A REASON TO NOT VIEW THE STATUTE IS HAVING "ABROGATED THAT ASPECT OF THE THING" IF THE STATUTE WHICH IS KIND OF

DECLARING THAT THIS SHALL BE CONSIDERED TENANCY BY THE ENTIRETIES DO THEN ESSENTIALLY SORT OF LEAPFROG OVER WHATEVER YOU'RE GETTING OUT OF THE UNITIES THEN YOU'RE CUT OFF AND RUNNING AND IT DOES THAT MATTER?

>> Aaron F. Miller, Respondent: TO GET TO THAT ENDPOINT AND WE ARE DEALING WITH THIS COMMON LAW PRINCIPLES CANDIDLY AND WAS NOT AROUND WHEN THEY CAME UP WITH THEM.

[LAUGHTER] I DON'T REALLY HAVE MUCH OF A SAY IN MY.

[UNCLEAR AUDIO] [LAUGHTER] WITH THESE OF THE RULES THAT WE DO HAVE THESE ARE THE RULES THAT WE HAVE TO LIVE WITH AND WITHIN OUR SYSTEM THAT WE ALL SORT OF RESIDED.

>> Justice: ISN'T YOUR STRONGER ARGUMENT WHATEVER THE COMMON LAW BACKGROUNDER STATUTE ABROGATED WE CAN EXPECT THIS LETTER TO TELL US AND HERE THERE IS NOT A CLEAR SORT OF RENOUNCEMENT OF THE COMMON LAW ISN'T THAT YOUR BETTER ARGUMENT.

>> Aaron F. Miller, Respondent: YES MR. JUSTICE IT'S OUR STRONGER ARGUMENT.

>> Justice John Couriel: WHY ARE YOU NOT MAKING THAT ONE.

[LAUGHTER] [UNCLEAR AUDIO]

>> Justice: CAN I ASK YOU A QUESTION IT SEEKS LIKE WHERE YOU'RE GOING IS ASKING US ABOUT THE TENANTS BY ENTIRETY FIRST AND THEN GO TO THE STATUTE BY WOULD WE NOT START WITH THE STATUTE WHEN THE STATUTE COVERS THIS IS AN ISSUE OF STATUTORY INTERPRETATION THE SECOND THE 4TH DISTRICT TRY TO INTERPRET THE STATUTE.

>> Aaron F. Miller, Respondent: YES AND NO IS SORT OF A LITTLE COLUMN A AND LITTLE COLUMN B . THE STATUTE THAT WOULD BE INTERROGATION OF THE COMMON LAW IT IS TRYING TO CHANGE THE COMMON LAW.

>> Justice: THAT ARE SUBSTANTIVE CANON OF INTERPRETATION OF THE STATUTE IS NOT A METHOD FOR DETERMINING WHETHER OR NOT THESE TYPES OF ACCOUNTS ARE IN FACT ONCE THERE TENANTS BY THE ENTIRETY. WE HAVE TO LOOK AT THE STATUTE FIRST.

>> Aaron F. Miller, Respondent: YES THE LANGUAGE OF THE STATUTE USES THE WORD MADE. IT DOES NOT SAY AUGMENTED AMENDED OR CHANGED IN ANY WAY IT SAYS MADE.

THAT IS THE WORD THAT THE LEGISLATURE HAD USED. NOW CANCEL.

>> Justice Charles Canady: WHAT ABOUT DEPOSIT IT'S THE FORMULATION IS A BIT ODD.

>> Aaron F. Miller, Respondent: I WAS JUST ABOUT TO GET TO THE TERM DEPOSIT USED IN THE STATUTE.

THE IDEA OF A DEPOSIT WAS NOT SOMETHING THAT WAS AN ISSUE IN THIS PARTICULAR CASE. I KIND OF FEEL THAT TRYING TO USE THE WORD DEPOSIT OR BRING IN THE WORD DEPOSIT WHEN TRYING TO DETERMINE WHAT THE LEGISLATURE WHAT THE STATUTE I'M SORRY THAT THE LEGISLATURE WHAT THEY ACCOUNT MADE IS A LITTLE BIT OF A DEFLECTION HOWEVER, THE ISSUE BELOW AGAIN IT DID NOT INVOLVE A SINGLE OR SERIES OF DEPOSITS. RATHER, THE ISSUE THAT WE ARE HERE ON IS WHETHER THE BANK ACCOUNT ITSELF WAS AN ENTIRETIES ACCOUNT. SO IF WE LOOK AT THE DEPOSIT JUST LIKE WE ARE ARGUING FOR OUR POSITION IS THAT THE ACCOUNT IS MADE WHEN IT IS CREATED THAT'S A SINGULAR POINT IN TIME. A DEPOSIT IS A SINGULAR POINT IN TIME.

>> Justice Charles Canady: [UNCLEAR AUDIO] IN A MUCH MORE NATURAL READING OF THE TEXT IS TO UNDERSTAND THAT ACCOUNT IS MADE IN THE NAME OF TWO PERSONS WHEN THERE IS SOME PAPERWORK THAT SAYS THIS ACCOUNT IS IN THE NAME WE ARE MAKING IT IN THE NAME OF TWO PERSONS OF THESE TWO PERSONS. WHO ARE HUSBAND AND WIFE?

YOU FILL OUT THE PAPERWORK THAT YOU MADE THE ACCOUNT IN THEIR NAMES.

>> Aaron F. Miller, Respondent: THAT IS ONE OF THE CRUX OF OUR POSITION YOU MAKE THE ACCOUNT WHEN YOU OPEN IT. IF YOU WANT TO EDIT SOMEBODY TO AN ACCOUNT.

>> Justice Charles Canady: BUT YOU CAN ALSO MAKE AN ACCOUNT IN A PERSON'S NAME BY SUBMITTING THE PAPERWORK THAT ESTABLISHES FROM THAT POINT FORWARD THAT IT IS IN THEIR NAME.

>> Aaron F. Miller, Respondent: BUT THE ACCOUNT WAS ALREADY MADE.

>> Justice Charles Canady: BUT YOU HAVE A LIMITED UNDERSTANDING OF THE WORD MADE.

>> Chief Justice Carlos Muniz: DOES THE TENANCY OF ENTIRETIES RULE ARE YOU SAYING IT BUILDS INTO THE UNDER THAT RULE IS THE MAKING SORT OF THAT IS THE UNITY OF TIME IS THAT PART OF THE ARGUMENT.

>> Aaron F. Miller, Respondent: YES PART OF OUR ARGUMENT IS THE AMENDMENT TO THE STATUTE DID NOT ABROGATE THE COMMON LAW AND THAT THEY CAN COEXIST THERE NOT MUTUALLY EXCLUSIVE OF EACH OTHER.

WHEN A HUSBAND AND WIFE MAKE AN ACCOUNT AND AGAIN WE ARE TO REMEMBER THE HISTORICAL CONTEXT OF WHAT BROUGHT ABOUT THE AMENDMENT TO THE

STATUTE I THINK THERE IS PLENARY AUTHORITY DISCUSSING THIS WHERE IT ACTUALLY STEMMED FROM THIS COURT'S OPINION IN BEAL WE HAVE A SITUATION WHERE THE COUPLE WOULD GO TO A BANK THAT WOULD OPEN AN ACCOUNT TOGETHER IN SOME THANKS TO THIS SOMETHING STILL TO GIVE YOU A SIGNATURE CARD WITHOUT LIKE A MENU OF OPTIONS OF TYPE OF OWNERSHIP. DO YOU WANT IT OWNED AS TENANTS IN COMMON OR JOINT TENANCY, MULTIPARTY, SORT OF ACCOUNT TENANTS BY THE ENTIRETIES. THEN ALL SORTS OF PAY ON DEATH DESIGNATIONS. SOME BANKS HAVE A VERY COMPREHENSIVE SORT OF SIGNATURE CARD SO WHEN YOU OPEN AN ACCOUNT THE ARGUMENT THIS MENU OF OPTIONS TO CHOOSE FROM.

IN BEAL AGAIN IN BEAL ALL OF THE UNITIES THAT EXIST AND THE QUESTION IS ANSWERED BY THIS COURT WERE PREMISED ON THE FACT THAT ALL SIX OF THE UNITIES THAT EXIST BUT THE SITUATION WAS WHERE YOU HAD SORT OF A PLAIN JANE SIGNATURE CARD WHERE THERE IS NO DESIGNATION AS TO TYPE OF OWNERSHIP.

WHAT ARE WE SUPPOSED TO DO THAT SORT OF SITUATION?

IN BEAL THIS COURT OPINION WAS SUCH THAT HERE YOU HAVE ALL OF THE UNITIES JUST BECAUSE YOU DON'T HAVE THE SOME EXPRESS INDICATION ON THE SIGNATURE CARD THAT IS TO BE OWNED AS TENANTS BY THE ENTIRETIES THAT WE WILL PRESUME THAT IT WILL BE TENANTS BY THE ENTIRETIES. WHEN THE LEGISLATURE AMENDED THE STATUTE SOME SEVEN OR EIGHT YEARS LATER IT WAS LARGELY WITH THINK BECAUSE OF THE FOOTNOTE IN BEAL KIND OF ASKING BANKS TO CLEAN UP YOUR SIGNATURE CARD BECAUSE IT IS KIND OF CONFUSING. NOW THE LEGISLATURE STEPPED IN.

>> Justice Charles Canady: HOW LONG WAS THAT AFTER THE BEAL DECISION.

>> Aaron F. Miller, Respondent: SEVEN YEARS OR EIGHT YEARS.

>> Justice Charles Canady: I THINK THE NOTION SIX YEARS LATER THE LEGISLATURE RESPONDS TO A FOOTNOTE I JUST DON'T KNOW.

>> Aaron F. Miller, Respondent: AS WE PROVIDED IN OUR BRIEF THE LEGISLATIVE HISTORY OF THE AMENDMENT TO 655.79 PACIFICALLY REFERENCES BEAL. IN THIS SORT OF REQUEST OR SUGGESTION BY THIS COURT THAT THE STATUTE BE CHANGED OR AMENDED TO SORT OF ELIMINATE THIS AMBIGUITY AS TO WHAT HAPPENS IN A SITUATION WHERE YOU HAVE THIS SORT OF LIKE A SIGNATURE CARD THAT DOES NOT REALLY LIST OUT THESE SORTS OF OPTIONS. THAT IS IN THE LEGISLATIVE HISTORY ALTHOUGH IT WAS SEVEN YEARS LATER I GUESS IT WAS STILL FRESH IN THE MIND OF THE LEGISLATURE WHEN THEY ENACTED THE AMENDMENT TO 655.79.

>> Chief Justice Carlos Muniz: CAN YOU BE CLEAR A LOT OF THE QUESTIONS HAVE

BEEN ABOUT WHAT THIS NOT TO WHAT ARE YOU SAYING AFFIRMATIVELY THAT THE STATUTE DID DO YOU KIND OF ASSUME THE LEGISLATURE ENACTS A NEW PROVISION TO ACCOMPLISH A PARTICULAR RESULT . YOU ARE TRYING TO SERVE DISTINGUISH SORT OF WHAT THEY TOOK AS THE BACKDROP AND IT KIND OF INTENDED TO RETAIN AS THE BACKDROP BUT THEY HAVE A SLEEPER TRYING TO CHANGE SOME OF THE BACKDROP OF THE EXISTING LAW. WHAT WERE THEY TRYING TO CHANGE?

>> Aaron F. Miller, Respondent: THEY WERE TRYING TO ELIMINATE THIS AMBIGUITY WHEN YOU HAVE A SIGNATURE CARD THAT DOES NOT INDICATE WHAT TYPE OF OWNERSHIP THESE PEOPLE HAVE INTENDED FOR THE ACCOUNT TO BE OWNED AS. NOW WE ALSO KNOW FROM LEGISLATIVE HISTORY AND WE PROVIDED THIS ALSO IN OUR BRIEF IN 2019 THE LEGISLATURE EMBARKED ON SOME PROPOSED LEGISLATION THAT WOULD HAVE BEEN AS CLEAR AS A BELL THAT THEY WERE CHANGING THE COMMON LAW.

THIS WOULD HAVE THIS WITH SENATE BILL 1154 FROM 2019.
THE LEGISLATIVE ANALYSIS.

>> Justice: I'M A LITTLE CONCERNED BECAUSE THE COMMON LAW ABROGATION FROM A NOTICE PERSPECTIVE THE PEOPLE IN FLORIDA HAVE THE STATUTE ON THE BOOKS ARE YOU SUGGESTING THEN THAT IN ORDER TO UNDERSTAND THE STATUTE AND WHETHER OR NOT THEIR BANK ACCOUNT IS IN FACT ONE THIRD IS TENANTS BY THE ENTIRETY DEAF TO LOOK TO LEGISLATIVE HISTORY AND COMPARED TO PREVIOUS PAST STATUTES THEN MAYBE THIS ONE WAS CLEAR BUT THIS ONE IS NOT CLEAR. THIS EXCERPT REQUIREMENT DOES NOT IN THE STATUTE IS IN FACT IN THE STATUTE BECAUSE OF COMMON LAW AND BECAUSE OF THIS PREVIOUSLY PASSED A STATUTE NOW WE ARE GOING VERY FAR AFIELD OF WHAT FLORIDIANS EXPECT WHEN THEY READ A STATUE.

>> Aaron F. Miller, Respondent: IT MAY NOT BE AS CLEAR AS SOME WOULD LIKE TO DISCERN FROM THE STATUE.

THERE IS LOT OF THINGS THAT OUR SOCIETY FITS THEM FROM THE OLD COMMON LAW.

ALTHOUGH IT MAY NOT HAVE BEEN CODIFIED IN STATUTE WE ARE STILL AS FLORIDIANS EXPECTED TO KNOW THE LAW AND THE IGNORANCE OF THAT LAW IS NOT REALLY DEFENSE TO ANYTHING. I THINK THERE IS PLENARY AUTHORITY ON THAT TOPIC.

SO TO NOT KNOW NOT JUST WITH THE STATUTE SAY.

>> Justice: YOU SEE THE COMMON LAW TENANCY BY ENTIRETY AS TOUCHING A COMPLETELY DIFFERENT SUBJECT IT'S NOT A MATTER OF STATUTORY INTERPRETER IN YOUR MIND IT'S A SEPARATE LOT THAT APPLIES TO THE THE STATUTE IS NOT IF.

>> Aaron F. Miller, Respondent: IT'S NOT A SEPARATE LAW IT IS THE COMMON LAW I

THINK IT HAS EXISTED FOR AGES AND AGES AND AGES AND HERE THERE IS A LITTLE BIT.

>> Justice: THE WAY OF THE COMMON LAW FUNCTIONS IN FLORIDA WE HAVE WHATEVER IT IS 1.02 IT ADOPTS THE COMMON LAW OF JULY 2, 1776 THAT IS ESSENTIALLY A STATUTE THE LEGISLATURE CAN AMEND THAT OR THEY CAN CREATE STATUTE ABROGATED THE LANGUAGE THAT WE USE THAT'S WHY I'M TRYING TO UNDERSTAND YOU SEE THIS AS YOU SEE THE STATUTE AS TOUCHING THE ISSUE AT ALL OR DO YOU SEE THIS COMPLETELY SEPARATE.

>> Aaron F. Miller, Respondent: THERE IS A PORTION OF THIS THAT WOULD BE AN ISSUE OF STATUTORY INTERPRETATION THIS COURT HAS SET FORTH THE TEST FOR ONE THE LEGISLATURE THROUGH STATUTE WHICH IS TO ABROGATE THE COMMON LAW. WE PROVIDE THE AUTHORITY IN OUR BRIEF THAT IT'S A TWO-PRONGED TEST THAT IF THE STATUTE UNEQUIVOCALLY STATES IT'S CHANGING THE COMMON LAW OR THAT THE STATUTE IS SO OPPOSED TO THE COMMON LAW THAT THE TWO CANNOT COEXIST, IN THIS SITUATION NEITHER OF THOSE PRONGS HAVE BEEN MET. THE AMENDMENT TO 655.79 DOES NOT MENTION THAT IT IS CHANGING THE COMMON LAW IN FACT IT USES THE WORD MADE WHICH HAS THE BASE DEFINITION OF THAT TERM WHICH WE TAKE FROM WEBSTER TAKES FROM BLACK'S DICTIONARY WHICH IS SINGULAR POINT IN TIME WHEN SOMETHING IS CREATED WHEN YOU MAKE SOMETHING YOU'RE BRINGING IT OR CAUSING IT TO EXIST.

>> Justice: WHAT WORD DO YOU USE MAKING AN ACCOUNT TECHNICAL TERM. [UNCLEAR AUDIO].

>> Aaron F. Miller, Respondent: IF YOU ARE TALKING ABOUT LET'S SAY MYSELF AND MY BROTHER YOU'RE NOT TALKING ABOUT A SITUATION TENANTS BY THE ENTIRETIES. WERE I WANT TO ADD SOMEBODY NOT MYSELF TO AN ACCOUNT THAT WOULD BE AN AMENDMENT TO A BANK ACCOUNT I THINK IN FACT THE BANKS THE FORMS TO FILL OUT IS CALLED AN AMENDMENT OR AN AMENDED SIGNATURE CARD OR SOME KIND OF SUBSEQUENT DESIGNATION.

>> Justice: WHAT ABOUT IN THE CASE OF SPOUSES.

>> Aaron F. Miller, Respondent: IN THE CASE OF SPOUSES NOW WE HAVE THE COMMON LAW RULES THAT WOULD STILL APPLY.

>> Justice: IS THERE A DIFFERENT WORD THAT WOULD APPLY TO SOMEBODY WHO OPENS AN ACCOUNT GETS MARRIED.
[UNCLEAR AUDIO]

>> Aaron F. Miller, Respondent: THE LEGISLATURE COULD HAVE USED SUCH LANGUAGE

IN THE PROPOSED LEGISLATION FROM 2019 THE PROPOSED STATUTE THE PAPER GOING OR THINKING OF ENACTING IT HAD LED WHICH IN THERE THAT WOULD HAVE BEEN VERY VERY CLEAR.

THERE WOULD'VE BEEN NO QUESTION ABOUT IT.

HAD THAT LEGISLATION BEEN ENACTED BUT IT HAD NOT . AT THE TIME OF THAT LEGISLATION IN 2019 AND WE PROVIDED IT IN OUR BRIEFS THE LEGISLATIVE ANALYSIS AT THE TIME INCLUDED THE LEGISLATURE'S UNDERSTANDING OF THE CURRENT STATE OF THE LAW AND IN FACT IT PROVIDED A FACT PATTERN SUBSTANTIALLY SIMILAR TO WHAT WE ARE FACED WITH YOU TODAY WHERE YOU HAVE A HUSBAND WITH A SECURITIES ACCOUNT ADDING HIS WIFE TO THAT ACCOUNT AND THAT ABSENT THE PROPOSED NEW STATUTE IT WOULD NOT BE CONSIDERED TENANTS BY THE ENTIRETIES. THE LEGISLATURE KNEW THIS IN 2019 AND THEY STILL CHOSE NOT TO CHANGE THE STATUTE OR TO ADD.

>> Justice: FOR CLARITY I APOLOGIZE JUST TO MAKE SURE I'M NOT CONFUSED ABOUT THIS, UNDER THE TRADITIONAL TENANCY BY THE ENTIRETIES RULE THIS ACCOUNT HAD BEEN OPENED BY THE HUSBAND THEN HE ADDS HIS WIFE, IF WE JUST THERE IS NO STATUTE JUST APPLYING THE TENANCY BY THE ENTIRETIES, ADDING THE WIFE WOULD NOT BE CONSIDERED AT BEING AN ACCOUNT MADE? BY THE HUSBAND AND WIFE.

>> Aaron F. Miller, Respondent: THAT WOULD NOT BE A TENANTS BY THE ENTIRETIES ACCOUNT IT WOULD FAIL FOR THE WANT OF UNITIES OF TIME IN TOTAL.

>> Chief Justice Carlos Muniz: PRODUCING THE SIDE FOR THEM TO WHEN WE HAVE TO THINK THAT WITH THE STATUTE WAS DOING WAS CHANGING THAT RULE FROM THE COMMON LAW ESSENTIALLY AS IF THE LEGISLATURE HAD SAID GOING FORWARD AND ACCOUNT IS GOING TO BE CONSIDERED MADE WHEN YOU ADD THE NAME OF YOUR SPOUSE TO AN ACCOUNT IS THAT ONE WAY. PART OF WHAT'S GOING ON HERE IS LIKE WHAT ASPECT OF THE COMMON LAW IS SORT OF BEING CHANGED OR IS ANY OF THE COMMON LAW THING CHANGED?

YOU WANT TO READ THIS INTO THIS MINIMALISTIC WAY THAT IS REALLY KIND OF ONLY WORK THE STATUTE IS DOING IS WHEN WE'RE LOOKING AT A FORM AND THERE'S EIGHT BOXES INCLUDING TENANCY BY THE ENTIRETIES AND NOTHING IS CHECKED. HOW ARE WE SUPPOSED TO READ THAT?

THEY ARE SAYING THIS KIND OF MADE A SUBSTANTIVE CHANGE TO LOVEUS SO THE LEGISLATURE IS SAID WE DON'T CARE WHEN THE INITIAL ACCOUNT WAS OPEN WE WILL DEEM AN ACCOUNT MADE A NEW ACCOUNT OF HUSBAND AND WIFE MADE WHEN YOU ADD SOMEONE TO THE THING BECAUSE IF YOU CHANGE THAT RULE THEN YOU CAN STILL KEEP YOUR SAME TENANCY KEEP THE BASICALLY YOU WOULD CUT UP UNDER THE COMMON LAW IF I JUST SAID THIS IS GOING TO BE DEEMED MADE AT A CERTAIN TIME I WOULD JUST APPLY MY RULE RIGHT TO THE EXISTING RURAL.

>> Aaron F. Miller, Respondent: IF THIS COURT WERE TO DO THAT THEN THIS COURT WAS SORT OF BE CHANGING THE STATUTORY LANGUAGE THE LEGISLATURE USED THE WORD.

>> Justice: YOU ARE SAYING WE WOULD MISINTERPRET THE WORD MADE.

>> Aaron F. Miller, Respondent: IN A MANNER OF SPEAKING.

>> Justice: REALLY WHAT THE ARGUMENT GOES BACK TO WHETHER COMMON LAW IS HELPING US TO UNDERSTAND WHAT THE MEANING OF THE WORD MADE IS YOUR STATUTE IS THE STATUTE DOES NOT APPLY THEY ARE BASING THE COUNT HAVING BEEN MADE WHEN THE COUNT WAS ADDED USA IT WAS NOT MADE UNTIL BEFORE.

>> Aaron F. Miller, Respondent: WE ARE USING A MORE LOGICAL WORD DEFINITION OF MADE.

>> Justice: YOU ARE SAYING IT'S A MATTER OF ORDINARY LANGUAGE YOU'RE SAYING THAT'S THE UNDERSTANDING OF THE WORD MADE IS MORE CONSISTENT WITH THE COMMON LAW TENANCY BY THE ENTIRETIES RULE WHICH IS THE SUBJECT MATTER OF THE STATUTE.

>> Aaron F. Miller, Respondent: WHEN WE TALK ABOUT STATUTORY INTERPRETATION TIER AND SUCH RECONSTRUCTION HERE WE HAVE AIRPLANE AND UNBIDDEN BIGGEST WORD THE STATUTE ITSELF.

>> Justice: YOU HEARD FROM SEVERAL OF THESE JUSTICES THEN CONSIDER THAT BECAUSE LET'S PRETEND THERE IS NO COMMON LAW IT SOUNDS LIKE YOU'RE HEARING FROM SEVERAL OF THESE PEOPLE APPEAR THAT THEY WOULD CONSIDER THE COUNT MADE IN THE NAME OF TWO PEOPLE WHEN YOU EDIT THE NAME.

>> Aaron F. Miller, Respondent: THAT MAYBE THAT IS NOT THE DEFINITION OF THE TERM MADE WHEN USED IN CONTEXT OF THE STATUTE IF THE LEGISLATURE WISHED FOR THE TERM MADE AS USED IN THE STATUTE TO MEAN SOMETHING ELSE THEN THE STATUTE WOULD HAVE TO SAY SO.

BUT BECAUSE THE STATUTE LACKS ANY DEFINITION OF THAT TERM WE HAVE TO USE THE PLAIN ORDINARY MEANING OF THE WORD.

>> Justice: YOU CAN HAVE 30 SECONDS TO FINISH UP.
WE'VE BEEN ASKING YOU A LOT OF QUESTIONS.

>> Aaron F. Miller, Respondent: JUST TO SUM UP AND TO CONCLUDE AS WE PROVIDED IN THE BRIEFS THE STATUTORY LANGUAGE DOES NOT ABROGATE THE COMMON LAW IT

FAILS THIS COURT'S TEST AS TO WHEN A STATUTE DOES ABROGATE THE COMMON LAW.

I THINK WE HAVE REALLY TOUCHED AND HIT ON THE POINT AS TO THE TERM MADE. IN THE PLAIN DEFINITION OF THAT WORD. AS IT SHOULD BE APPLIED THE STATUTE IS WHEN AN ACCOUNT IS CREATED OR SOMEHOW IS CAUSED TO EXIST.

THERE IS SUBSTANTIAL HIGHLY PERSUASIVE AUTHORITY STATING THAT IN LINE WITH 65.79 ONE IS AMENDED TO CREATE AN ACCOUNT BY THE ENTIRETIES ALL SIX UNITIES MUST BE PRESENT WHEN THE BANK ACCOUNT IS OPEN NOT WHEN A SPOUSE IS ADDED.

AND WILL PRAY THAT THIS COURT RESOLVE THE CONFLICT BY ADAPTING THE OPINION OF THE 2ND DISTRICT AND SQUASHING THE OPINION OF HER T ANSWER THE FOURTH DISTRICT OPINION IN FOR .

THANK YOU.

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

>> John D. Goldsmith,Petitioner: IF

I MAY I WANT TO VERY BRIEFLY TALK ABOUT

LEGISLATIVE HISTORY THINK AWAY FROM THAT BECAUSE I DON'T THINK THAT IS THE APPROPRIATE RULE OF THE LEGISLATIVE HISTORY DOES NOT SUPPORT THE POSITION OF THE RESPONDENT IS ACTUALLY QUITE THE OPPOSITE THE LEGISLATIVE HISTORY SPECIFICALLY ONLY STATES I WILL QUOTE WITH THE LEGISLATIVE HISTORY IS.

IS THAT IT IS SPECIFICALLY SAYS - IT EXPLAINS WHAT THE COURT DID IN BEAL BANK THAT IS IT AND IT ALSO SAYS THAT THE PURPOSE OF THE STATUTE IS GOING TO MAKE IT MORE DIFFICULT FOR CREDITORS TO REACH ASSETS.

>> Justice: YOU WOULD CONCEDE WE WOULD HAVE A DIFFERENT CASE INSTEAD OF SAYING MADE THE STATUTE SAID OPENED.

RIGHT?

>> John D. Goldsmith,Petitioner: RIGHT.

>> Justice: ONE STATUTORY CHOICE AVAILABLE TO THE LEGISLATURE WOULD'VE BEEN TO SAY WHEN A DEPOSIT IS MADE OR ACCOUNT IS OPENED.

>> John D. Goldsmith,Petitioner: THAT IS CORRECT.

>> Justice: THEN THERE WOULD'VE BEEN HELPMEET THEN REASON FOR WHAT WOULD'VE HAPPENED TO THE COMMON LAW BECAUSE I GO BACK TO WHERE I WAS BEFORE ABOUT THIS THIS DISJUNCTIVE ABOUT DEPOSIT OR ACCOUNT IF IT SAID DEPOSIT MADE OR ACCOUNT OPENED HOW WOULD THAT EFFECT THE COMMON LAW ANALYSIS?

>> John D. Goldsmith, Petitioner: BECAUSE DEPOSITS ARE MADE THROUGHOUT THE HISTORY OF THE COUNT THEN MAYBE THEN PERHAPS THAT WHICH SHOWED THAT THE LEGISLATURE INTENDED THERE TO BE A DISTINCTION BETWEEN THE EFFECT OF DEPOSITS AND WHEN AN ACCOUNT WAS OPEN SINCE YOU CAN MAKE A DEPOSIT AND ANY TEMPERED THAT WOULD BE A VERY DIFFICULT CHORE FOR COURT TO DO TO HAVE TO LOOK AT EACH OF THE DEPOSITS THAT WERE MADE.

>> Justice: INSTEAD THE LEGISLATIVE CHOICE WAS JUST TO SAY MADE A VERB THAT WORKS WITH BOTH DEPOSIT AND AN ACCOUNT.

ONE RESULT OF THAT LEGISLATIVE CHOICE IF I'M UNDERSTANDING YOUR ARGUMENT IS THAT THEN THEY ARE BASICALLY ABROGATING THE UNITY OF TIME. OR THEY ARE SAYING I CAN HAVE A TENANCY BY THE ENTIRETIES IN A DEPOSIT NOT JUST AN ACCOUNT.

>> John D. Goldsmith, Petitioner: THAT'S CORRECT THAT INTERPRETATION MAKES SENSE OF WHAT THE LEGISLATURE WAS ATTEMPTING TO DO THEY WERE GETTING THE ONLY MENTION ONE UNITY THE UNITY OF MARRIAGE. THEY DON'T MENTION ANY OF THE OTHER UNITIES THEY KNOW WHAT THEY UNITIES ARE.

I WANT TO GO BRIEFLY TO THE 2019 LAW THAT HAD NOT BECOME LAW BUT WHAT HAPPENED THERE WAS THAT WAS NOT AN ATTEMPT TO APPLY IT TO BANK ACCOUNTS THAT WAS ATTEMPT TO APPLY IT TO ALL PERSONAL PROPERTY IT WAS PUSHED BY THE REAL PROPERTY PROBATED TRUST LAW SECTION, AND THE ARTICLE THAT THEY WROTE IN CONNECTION WITH THIS THEY SAID, "REASONABLY REFERRING TO 2008 AMENDMENT LAST SENTENCE OF 879.55 PRESUMABLY THERE IS NO LONGER A REQUIREMENT ESTABLISHED THE UNITIES IN THE CASE OF BANK ACCOUNTS. THE EFFECT OF THE 2008 AMENDMENT TO FS 65.79 DOES CREATE SIGNIFICANT DIFFERENCES IN THE TREATMENT OF BANK ACCOUNTS AS OPPOSED TO OTHER PERSONAL THAT WAS THE PURPOSE OF THE CHANGE IN THE LAW IN 2019 THAT DID NOT OCCUR. AGAIN I DON'T THINK IT'S APPROPRIATE TO CONSIDER THE LEGISLATIVE HISTORY PARTICULARLY LEGISLATIVE HISTORY OF A BILL THAT DID NOT PASS.

>> Justice: DO YOU AGREE THAT THE COMMON LAW RELEVANT TO OUR UNDERSTANDING OF WHAT MADE IN THE NAME OF THE HUSBAND AND WIFE IN THE CONTEXT MEANS.

>> John D. Goldsmith, Petitioner: I DON'T THINK SO BECAUSE I THINK THE FIRST THING TO GO TO IS THE TEXT.

>> Chief Justice Carlos Muniz: THAT DOES NOT HELP. OBVIOUSLY THE TEXT WHEN YOU "GO TO THE TEXT" AND THAT YOU TALK ABOUT SOMETHING THAT IS BEEN COVERED BY THE COMMON LAW FOR EVER THEN GOING

TO THE TEXT EQUALS I'M ASKING YOU GOING TO THE COMMON LAW TO SAY THAT GOING TO THE TEXT MEANS GOING TO THE DICTIONARY OR GOING TO THE CORPUS GRAPHICS DATABASE ARE GOING TO MAKE THAT INTUITION OR GOING TO THE COMMON LAW THOSE ARE ALL SORT OF SENSITIVE CHOICES THAT YOU HAVE TO MAKE AT THE BEGINNING. IT IS NOT AN INHERENT THING.

>> John D. Goldsmith, Petitioner: EXCEPT THE LEGISLATURE KNEW OR KNOWS WHAT THE COMMON LAWS.

>> Justice: WHAT DID THE LAW THE COMMON LAW TELL HIM ABOUT WHAT MADE MEANS.

>> John D. Goldsmith, Petitioner: IT DOESN'T SAY ANYTHING ABOUT THAT.

>> Chief Justice Carlos Muniz: IN THE CONTEXT OF TENANCY BY THE ENTIRETIES.

>> John D. Goldsmith, Petitioner: IT IS NOT THE SAME THING ABOUT THAT SAYS THERE SIX UNITIES REQUIRED FOR A TENANCY BY ENTIRETY.

THOSE SIX UNITIES MUST BE PRESENT WHAT THE LEGISLATURE DID KNOWING WHAT THOSE SIX UNITIES ARE ALL INCLUDED ONE OF THEM THE UNITY OF MARRIAGE. KNOWING THAT THEY COULD'VE MADE CLEAR AND IF THEY COULD HAVE SAID AT THE TIME A DEPOSIT IS MADE OR ACCOUNT IS OPENED THEY COULD HAVE VERY SPECIFICALLY SAID THAT THE UNITY OF THAT THE UNITY OF TIME IS STILL PRESENT THEY COULD'VE SAID THAT.

>> Justice: IT SEEMS LIKE A TOUGH CASE IT SEEMS LIKE THE MORE ONE LOOKS FOR SORT OF A CONSCIOUS DESIRE TO CHANGE SORT OF THE COMMON-LAW BACKGROUND ON TENANCY BY THE ENTIRETIES I THINK THE LESS EVIDENT THAT IT IS.

IF YOU THINK YOU JUST KIND OF WRITING ON A BLANK SLATE IT SEEMS LIKE A STRONGER THING BUT IF I REALLY WERE A LEGISLATOR AND I WAS THINKING LIKE THERE'S ALL OF THESE SIX UNITIES AND I WANT TO REDUCE IT TO ONE OF PROBABLY WOULD'VE WRITTEN THIS IN A DIFFERENT WAY.

I WOULD SAY NOTWITHSTANDING X, Y, AND Z IT WILL BE CONSIDERED A TENANCY BY THE ENTIRETIES IF YOU DO WHATEVER.

YOU KNOW WHAT I'M SAYING?

IF YOU THINK IN SORT OF AN INTENTIONAL WAY.

>> John D. Goldsmith, Petitioner: CHIEF JUSTICE UNDERSTAND WHAT YOU'RE SAYING BUT THE LEGISLATURE KNEW WHAT THE COMMON-LAW UNITIES FOR AND IF THEY WROTE A STATUTE THAT WAS REPUGNANT TO THOSE SIX COMMON LAW UNITIES. IF THEY THOUGHT ANY OF THOSE UNITIES SHOULD STILL BE PRESENT THEY COULD HAVE PUT THAT.

>> Justice: IF MADE IS WHEN THEY KEPT US OPEN THEN IT IS NOT REPUGNANT NECESSARILY.

>> John D. Goldsmith,Petitioner: IT DOES NOT SAY MADE WHEN THE COUNT IS OPEN IT ALSO SAYS ANY DEPOSIT MADE WHICH IS MADE THROUGHOUT THE HISTORY OF THE COUNT AND AGAIN GOING BACK TO THE.

[LISTING NAMES] DOCTRINE THOSE WORDS HAVE MEANING AND THEY HAVE TO HAVE MEANING AND THE MISSOURI STATUTE WOULD ONLY SAYS ANY DEPOSIT MADE SHALL BE CONSIDERED IN THE NAME OF HUSBAND AND WIFE SHALL BE CONSIDERED TENANCY BY THE ENTIRETIES THE COURT DETERMINES UNDER THAT LANGUAGE THAT THAT IS A TENANCY BY ENTIRETY.

>> Justice Charles Canady: AGAIN, JUDGE KELLY USED THIS LANGUAGE TO CUT IN A DIFFERENT DIRECTION BUT WE KNOW THAT THE LEGISLATURES THOUGHT ABOUT THE OPENING OF THE ACCOUNT.

>> John D. Goldsmith,Petitioner: YES THEY USE THAT.

>> Justice Charles Canady: IT IS TIED IN THE FIRST SENTENCE IS TIED OPENING OR MAINTENANCE THAT THEY HAD THE CONCEPT OF OPENING. BUT THEY DO NOT CHOOSE TO USE THE CONCEPT OF OPENING WHEN THEY TALK ABOUT THIS ACCOUNT MADE IN THE NAME OF TWO PERSONS.

>> Justice: THAT IS PARTLY BECAUSE THEY'RE TRYING TO USE ONE WORD TO COVER BOTH DEPOSIT ACCOUNT ARGUABLY YOU CAN SAVE MADE REFERS TO OPENING IT IS TOUGH.

>> John D. Goldsmith,Petitioner: AGAIN I THINK THAT THIS IS TO GET BACK TO JUSTICE SASSO!, THAT THE PUBLIC HAS A RIGHT TO RELY ON WHAT IS SIMILARLY.

>> Justice: THAT DOES NOT GET YOU ANYWHERE BECAUSE ESSENTIALLY YOU CANNOT RELY RELIANCE ONLY MAKE SENSE IN THE CONTEXT OF UNDERSTANDING WHAT THE SORT OF RULES OF THE GAME ARE. IF IT IS LIKE HOW INFORMED ABOUT THE LAW DOES THE PERSON NEED TO BE DO THEY HAVE TO KNOW THAT THE CHANGES TO THE COMMON-LAW NEED TO BE CLEAR AND THEY READ IT THAT WAY TO THEY NEED TO KNOW THAT I'M SUPPOSED TO BE LIKE A FOURTH-GRADER WHO JUST CAN READ ENGLISH AND THAT IS WHAT THE LAW MEANS? THE NOTICE THING THE NOSE CAN COMPLETELY CUT EITHER WAY DEPENDING ON SORT OF WHAT YOUR BASELINE KNOWLEDGE IS GOING INTO IT WHEN YOU OPEN THE BOOK.

>> John D. Goldsmith,Petitioner: IT'S A LITTLE BIT DIFFERENT BECAUSE YOU'RE GOING

INTO A BANK AND YOU'RE DEALING WITH BANK OFFICERS THERE OPENING THESE ACCOUNTS ALL THE TIME.

>> Justice: WHO KNOWS THE COMMON LAW PROBABLY.

>> John D. Goldsmith, Petitioner: WHO TO THE OPPOSITE KNOW THE STATUTE OTHERWISE WOULD HAVE LEFT THEM OPEN ACCOUNT WITH A MARK IN TWO DIFFERENT PLACES THAT IT'S A JOINT TENANCY BY ENTIRETY COUNT BECAUSE THEY BELIEVE THE STATUTE MEANT WHAT IT SAID ANYWAY I APOLOGIZE I THINK I'M WAY OVER.

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>> Chief Justice Carlos Muniz: THANK YOU VERY MUCH WE APPRECIATE IT.

>> Marshal: ALL RISE.