

>> SUPREME COURT OF FLORIDA'S  
NOW IN SESSION.

PLEASE BE SEATED.

>> THE COURT WILL NOW TAKE UP  
THE CASE OF THE STATE OF FLORIDA  
V. JOHNSON.  
COUNSEL?

>> GOOD MORNING.

MAY IT PLEASE THE COURT, MY NAME  
IS DAMARIS REYNOLDS.

WE'RE HERE TODAY BECAUSE THE  
DISTRICT COURTS OF APPEAL HAVE  
IGNORED THE PLAIN LANGUAGE, AND  
THEY HAVE DETERMINED THAT THE  
UNIT OF PROSECUTION FOR LEAVING  
THE SCENE OF A CRASH WITHOUT  
RENDERING AID TO EACH VICTIM OF  
THE CRASH IS THE CRASH SCENE  
RATHER THAN THE INDIVIDUAL  
VICTIMS.

NOW, WHEN WE LOOK AT THE TEXT OF  
SECTION 316.0272A, IT STATES  
THAT A DRIVER SHALL REMAIN AT  
THE SCENE OF THE CRASH UNTIL  
HAVING FULFILLED THE  
REQUIREMENTS OF SECTION 316.062.  
SO IT SAYS "SHALL," IT'S NOT  
OPTIONAL.

AND THEN WHEN WE LOOK AT  
316.062, WHEN WE LOOK AT THE  
TEXT OF THAT SECTION, IT ALSO  
USES THE WORD "SHALL," AND IT  
SAYS THE DRIVER SHALL RENDER TO  
ANY PERSON INJURED IN THE CRASH  
REASONABLE ASSISTANCE BY MAKING  
ARRANGEMENTS FOR SUCH PERSON TO  
RECEIVE MEDICAL TREATMENT IF IT  
APPEARS TO BE NECESSARY OR WHEN  
THE INJURED PERSON REQUESTS IT.

>> LET ME PAUSE YOU THERE.

SO JUST AS A THOUGHT EXERCISE,  
OBVIOUSLY--

[AUDIO DIFFICULTY]

RIGHT TO RENDER SUCH ASSISTANCE  
TO EVERYONE-- CRASH, CALL 911.

BUT LET'S ASSUME THAT THERE ARE  
15 PEOPLE INJURED--

[AUDIO DIFFICULTY]

SAY IN 8 DIFFERENT CARS.

WOULD IT BE THE STATE'S POSITION  
THAT THE DEFENDANT WOULD BE  
CHARGEABLE WITH 14 COUNTS OF A  
VIOLATION OF THE STATUTE IF HE

DEVOTED HIS EXCLUSIVE ATTENTION  
TO 1 VICTIM?

>> SO THE DUTY IS TO EACH  
VICTIM.

AND SO, YOU KNOW, OF COURSE  
THAT'S A VERY FACT-SPECIFIC  
QUESTION, AND THAT WOULD BE A  
QUESTION FOR THE JURY.

DID THIS DRIVER DO EVERYTHING HE  
OR SHE COULD FOR THE VICTIMS--

>> WELL, BEFORE WE GET TO THE  
JURY, I'M FOCUSED ON WHAT THE  
UNIT OF PROSECUTION IS.

>> ABSOLUTELY.

>> IT SEEMS TO ME THAT ONE  
LOGICAL CONSEQUENCE OF THE  
STATE'S POSITION IS THAT THE  
STATE COULD CHARGE THAT  
INDIVIDUAL WITH 14 COUNTS OF  
VIOLATING THE STATUTE IF THAT  
INDIVIDUAL FOCUSED HIS ATTENTION  
ON JUST ONE.

PERHAPS THE STATE, YOU KNOW, IN  
EXERCISE OF ITS PROSECUTORIAL  
DISCRETION WOULDN'T CHARGE THAT  
PERSON, BUT WITH 14, 12, 10 OR 5  
COUNTS, BUT IT SEEMS TO ME FOR  
YOUR POSITION TO FIT TOGETHER  
LOGICALLY, THE STATUTE MUST--  
[INAUDIBLE]

THE ABILITY TO CHARGE THE  
DEFENDANT WITH EVERY PERSON WHO  
THE DEFENDANT DOESN'T RENDER AID  
TO.

DO YOU DISAGREE?

AM I READING THIS WRONG?

>> NO, I DO AGREE.

>> OKAY.

>> THAT IS THE STATE'S POSITION.

>> CAN I-- LET ME INTERRUPT YOU  
ON THAT THOUGH.

THIS ISN'T ABOUT FAILURE TO  
AID--

[AUDIO DIFFICULTY]

REALLY ISN'T THIS CASE BECAUSE  
UNTIL YOU LEAVE, IF YOU FOCUSED  
ON 1 AND THEN LEFT 14 UNAIDED,  
THEN YOU WOULD MAYBE HAVE THE  
14.

BUT IF YOU'RE JUST THERE AND YOU  
FOCUSING ON ONE AND YOU'RE NOT  
AIDING SOMEONE, YOU MAYBE HAVE  
POTENTIALLY VIOLATED THE  
316.0271, BUT THAT WOULD, YOU

KNOW, YOU GET INTO WHETHER IT'S REASONABLE-- THAT ITSELF IS A NONCRIMINAL TRAFFIC INFRACTION, AND SO THERE'S NO CRIME WHETHER IT'S TO 15 PEOPLE OR 1 OR 8 PEOPLE AS LONG AS YOU'RE STILL THERE.

>> NO, THERE IS A CRIME. YOU HAVE TO BE THERE AND YOU HAVE TO RENDER AID.

>> NO. IT SAYS YOU HAVE TO-- THE CRIME IS TO LEAVE--

[AUDIO DIFFICULTY]  
FULFILLING OBLIGATIONS.

>> CORRECT.

>> SO UNTIL YOU LEAVE, YOU HAVE NOT COMMITTED A CRIME.

>> IF YOU DON'T LEAVE THE VICTIMS WITHOUT RENDERING AID, YOU HAVE NOT COMMITTED A CRIME.

BUT IF YOU DO NOT RENDER AID, YOU ARE COMMITTING A CRIME.

AND THE PROBLEM WITH THE HYPOTHETICAL IS THAT, YOU KNOW, YOU'VE GOT, YOU'VE GOT AN ACCIDENT, RIGHT?

NORMALLY YOU HAVE BYSTANDERS. HERE YOU HAVE, THERE'S AN ACCIDENT, AND YOU CAN CERTAINLY-- SOMEONE'S BLEEDING OUT, YOU CAN YELL TO BYSTANDERS HELP THE OTHER PEOPLE, HELP THIS OTHER PERSON, AND THAT'S HOW YOU FULFILL YOUR OBLIGATION.

BECAUSE YOU'RE TRYING TO MAKE ARRANGEMENTS WHICH IS WHAT THE STATUTE REQUIRES, YOU'RE TRYING TO MAKE ARRANGEMENTS FOR ALL OF THE VICTIMS--

>> COUNSEL, I JUST WANT TO BE ABUNDANTLY CLEAR SO WE UNDERSTAND WHAT YOU'RE ASKING THIS COURT, THE STATE IS ASKING THIS COURT HERE.

ARE YOU ASKING THIS COURT TO DETERMINE THAT IF A PERSON-- WHICH DID NOT HAPPEN IN THIS CASE.

I MEAN, I THINK IT'S UNDISPUTED THAT HE LEFT THE SCENE. BUT IF SOMEONE STOPS AND REMAINS AT THE SCENE BUT DOES NOT RENDER AID TO EVERY PERSON THAT THEY

HAVE COMMITTED A VIOLATION, A CRIMINAL VIOLATION, A FELONY?

>> THEY HAVE TO STAY AT THE SCENE AND RENDER AID.

NOW, HOW YOU DEFINE RENDERING AID?

YOU KNOW, THEY'D HAVE--

>> BUT LET--

>> BUT THAT'S NOT AT ISSUE IN THIS CASE.

THE GUY LEFT.

>> CORRECT.

>> SO THIS IS ALL, THIS IS ALL A HYPOTHETICAL--

>> CORRECT.

THIS IS ABSOLUTELY-- THEY'RE BOTH HYPOTHETICALS.

>> THAT'S NOT WHAT YOU'RE REALLY INTERESTED IN, IS IT?

>> NO.

THE STATE IS INTERESTED IN THE TEXT OF THE STATUTE AND ASKING THE COURT TO FOLLOW THE TEXT OF THE STATUTE.

PROVIDE CERTAIN INFORMATION WHENEVER THERE IS AN INJURY.

THIS COURT ALREADY SAID THAT IN 1997.

AND, YOU KNOW, WHAT HAPPENED WAS IN 1998 THE FOURTH DCA IN HARDY DECIDED TO FOLLOW-- WHICH WAS A 1987 CASE RATHER THAN FOLLOWING WHAT DUMAS SAID.

SO IT'S ALREADY ESTABLISHED THAT FLORIDA LAW IMPOSES AN AFFIRMATIVE DUTY ON A DRIVER TO STOP, RENDER AID AND PROVIDE CERTAIN INFORMATION WHENEVER THERE IS AN INJURY.

AND SO THE STATE'S POSITION IS THAT THE STATUTE SHOULD BE FOLLOWED.

THE TEXT OF THE STATUTE SAYS WHAT IT SAYS.

IT USES THE WORD "SHALL," AND SO WE NEED TO FOLLOW WHAT THE STATUTE SAYS.

IT SAYS IN 2A SHALL REMAIN AT THE SCENE OF THE CRASH UNTIL HE OR SHE HAS FILLED THE REQUIREMENTS.

316.062 GOES VERY SPECIFICALLY INTO WHAT IS REQUIRED.

IT SAYS SHALL RENDER TO ANY

PERSON INJURED IN THE CRASH  
CONDITIONAL ASSISTANCE.  
TO IT'S REASONABLE ASSISTANCE.  
I MEAN, OBVIOUSLY, YOU KNOW,  
YOU'RE NOT GOING TO BE ABLE TO  
SAVE EVERY PERSON IN A CRASH,  
BUT YOU HAVE TO RENDER--  
>> I THINK JUSTICE LABARGA HAS A  
QUESTION FOR YOU.  
GIVE HIM A CHANCE.  
>> GO AHEAD AND FINISH.  
>> SORRY.  
SOMETIMES I SPEAK A LITTLE FAST.  
BUT THE REASONABLE ASSISTANCE--  
YOU AGREE.  
[LAUGHTER]  
THE REASONABLE ASSISTANCE  
INCLUDES THE CARING OR MAKING  
ARRANGEMENTS--  
>> THERE, THANK YOU.  
LET ME SEE IF I CAN GET IT  
STRAIGHT.  
THE ISSUE IN MY MIND HERE IS  
THIS UNIT OF PROSECUTION  
SITUATION, RIGHT?  
>> YES.  
>> THAT'S WHAT WE'RE TALKING  
ABOUT?  
>> YES, SIR.  
>> OKAY.  
NOW, IS THE UNIT IN YOUR MIND,  
THAT'S WHAT I'M TRYING TO HEAR  
FROM YOU, IS THE UNIT OF  
PROSECUTION'S ONE CASE PER  
SCENE, OR IS IT ONE CASE PER  
VICTIM?  
>> IT IS ONE CASE FOR VICTIM.  
AND I'LL GIVE YOU AN ANALOGY--  
>> THAT'S WHAT WE'RE TALKING  
ABOUT HERE.  
THAT'S THE ISSUE.  
>> THAT'S THE ISSUE.  
>> WE KNOW WE HAVE TO STOP AND  
RENDER AID--  
>> ABSOLUTELY.  
>> WHEN THERE IS MORE THAN ONE  
PERSON INJURED, ARE THERE FIVE  
COUNTS OR ONE COUNT?  
>> RIGHT.  
IT'S NOT JUST ONE COUNT.  
>> WHERE DO YOU GET THAT?  
>> FROM THE PLAIN READING OF THE  
TEXT.  
>> READ IT TO ME.

>> THE DRIVER OF A VEHICLE INVOLVED IN A CRASH OCCURRING ON PUBLIC OR PRIVATE PROPERTY WHICH RESULTS IN INJURY TO A PERSON. SO IT IS TALKING ABOUT INJURY TO A PERSON.

SHALL REMAIN AT THE SCENE OF THE CRASH UNTIL FULFILLING THE REQUIREMENTS OF 316.062 NOW SAYS SHALL RENDER TO ANY PERSON INJURED IN THE CRASH REASONABLE ASSISTANCE INCLUDING THE CARRYING OR MAKING OF ARRANGEMENTS OR THE CARING OF SUCH PERSON TO THE PHYSICIAN, SURGEON OR HOSPITAL FOR MEDICAL OR SURGICAL TREATMENT IF IT IS APPARENT THAT TREATMENT IS NECESSARY OR IF SUCH CARING IS REQUESTED BY THE INJURED PERSON. SO EVERYWHERE IN THE STATUTE IT USES THE WORDS "SHALL," THE REQUIREMENTS HAVE TO BE MET. AND THEN IT SPECIFICALLY STATES WHAT THOSE REQUIREMENTS ARE FOR EACH INJURED PERSON.

>> I MEAN, THE WORD "SHALL," IT APPLIES TO YOU HAVE TO STOP. YOU CAN'T LEAVE.

SO THE QUESTION IS, IS THE UNIT OF PROSECUTION AND WHAT I'M THINKING OF HERE IS WHETHER THAT MEANS THAT IF YOU LEAVE, YOU ARE GUILTY OF NOT RENDERING AID TO EACH PERSON INJURED OR KILLED.

>> IT DOESN'T JUST SAY SHALL REMAIN, IT SAYS SHALL RENDER TO ANY PERSON INJURED IN THE CRASH REASONABLE ASSISTANCE. THAT IS PART OF THE STATUTE TOO. SO WE CAN'T STOP AT THE PART WHERE IT SAYS THAT SHALL STOP OR SHALL REMAIN AT THE SCENE, SHALL PROVIDE INFORMATION.

WE ALSO HAVE TO READ THE PART THAT SAYS SHALL RENDER TO ANY PERSON INJURED IN THE CRASH REASONABLE ASSISTANCE.

>> I THINK--

>> I WAS JUST GOING TO SAY COULDN'T WE READ 316.0272A AS ESSENTIALLY SAYING YOU MUST STOP, YOU MUST REMAIN AND HOW LONG YOU REMAIN IS RELATED TO

316.062?

SO THAT GIVES KIND OF A TIME  
FRAME FOR HOW LONG YOU STAY AT  
THE SCENE.

BUT NOT FULFILLING THE  
REQUIREMENTS OF 316.062 IS NOT  
SO FOR INSTANCE IF I'M IN AN  
ACCIDENT I STOP, I REMAIN UNTIL  
EVERYTHING IS TAKEN CARE OF BUT  
I REFUSE TO GIVE MY PAPERWORK.  
HAVE I COMMITTED A VIOLATION OF  
THIS CRIMINAL STATUTE?

>> THAT WOULD BE A VIOLATION OF  
306.62 WHICH IS ENTITLED DUTY TO  
PROVIDE INFORMATION AND RENDER  
AID.

>> HOW DOES THE SECTION, NOT  
RENDERING AID, WHERE DO WE GET  
THAT PART?

>> WE CAN'T REMOVE THE REFERENCE  
TO 0.62 FROM 306.27.

IT IS IN THEIR.

WE CAN'T TAKE IT OUT.

THAT IS THE DEFENSE POSITION  
THAT WE SHOULD IGNORE THE  
REFERENCE TO 3.062 --

>> WE ARE TALKING ABOUT WHETHER  
IT AFFECTS THE PROSECUTION SO  
BACK TO THE QUESTION,  
HYPOTHETICALLY, IF AN INDIVIDUAL  
IS INVOLVED IN A TRAFFIC  
ACCIDENT AND THERE'S ONE OTHER  
CAR WITH TWO PEOPLE IN IT AND  
THEY REMAIN, UNTIL LAW  
ENFORCEMENT COMES OR MEDICS  
COME, THE WHOLE THING IS OVER  
THE EXCHANGE OF INFORMATION BUT  
THEY DON'T RENDER AID, IS THERE  
A VIOLATION OF 316.062?

>> YES, THERE IS, THERE ARE,  
BECAUSE THE ONE.672 REVEALS  
REQUIREMENT OF 3 ONE 6.062 WHICH  
SAYS SHALL RENDER 20% INJURED IN  
THE CRASH REASONABLE ASSISTANCE.

>> WE KNOW IT WOULD BE A  
VIOLATION OF 316 BUT 062, 1027  
SAYS IS SHALL REMAIN UNTIL THEY  
FULFILL THE OBLIGATIONS.  
IF THEY REMAIN UNTIL THE SCENE  
IS DONE.

>> HAVE THEY FULFILL THE  
OBLIGATIONS?

>> THEY DIDN'T RENDER AID.

>> THEY DID NOT FULFILL THE

OBLIGATIONS BECAUSE THE OBLIGATION, THE ALLEGATION IS THERE, SHALL RENDER TO ANY PERSON INJURED DEMOCRATS REASONABLE ASSISTANCE.

>> I DON'T THINK YOU ARE HELPING YOURSELF BY FOCUSING ON THIS HYPOTHETICAL REMAINS IN WHAT THEY HAVE TO DO.

IN 062 IT SAYS VIOLATION OF THIS SECTION IS A NONCRIMINAL TRAFFIC INFRACTION PUNISHABLE AS A NONMOVING VIOLATION PROVIDED IN CHAPTER -- GETTING INTO THIS WEIRD THING BEFORE YOU CREATE A POTENTIAL CONFLICT BETWEEN THE TWO STATUTES.

WHAT WE ARE DECIDING - WHETHER YOU COUNT THE UNIT BY VICTIM OR CRASH SCENE SO IT DOESN'T SEEM LIKE THERE'S ANY BENEFIT TO YOUR THE COURT TO BE SPECULATING WHAT SOMEONE HAS TO DO OR DOESN'T.

>> THAT IS CORRECT ABSOLUTELY BECAUSE WE ARE TALKING CHARGES AGAINST PEOPLE WHO DID LEAVE THE SCENE OF THE CRASH.

WE HAVE CHARGES FOR SOMEONE WHO DID LEAVE THE SCENE OF THE CRASH SO THERE'S ONE PERSON WHO WAS DEAD AND THREE PEOPLE WHO WERE INJURED AND THAT WOULD BE LIKE, FOR INSTANCE, DETONATING A BOMB, TO DETONATE A BOMB.

ONE PERSON IS GOING 3 ARE INJURED, FOUR CHARGES.

AND ONE ACT, FOUR ACTS IN THE SENSE THAT FOUR PEOPLE HAVE BEEN ABANDONED AT THE SCENE WITHOUT RENDERING AID.

>> THE CRASH ITSELF IS WHAT CAUSED NOT THE LEAVING IS WHAT CAUSED THE INJURIES TO EACH INDIVIDUAL VICTIM.

THE BOMB KILLED EACH PERSON SO ARGUABLY YOU WOULD CHARGE THAT SEPARATELY.

NOT THE PERSON LEAVING THE SCENE THE CAUSES THE INJURY AND DEATH BUT THE ACCIDENT ITSELF.

>> NOT NECESSARILY.

LEAVING THE SCENE CAN RESULT IN A DEATH THAT WOULD NOT OTHERWISE HAVE HAPPENED.

IN PALM BEACH COUNTY --

>> THAT IS IMPORTANT TO THE LAW.

>> A GENTLEMAN NAMED GOODMAN, HE HIT SOMEONE IN WELLINGTON.

A UCF STUDENT 23 YEARS OLD, WENT TO HAVE A DRINK, THE LAW IS THERE TO PROTECT THE DRIVER WHO CREATES A PERIL, TO ADDRESS THE PERIL THAT WAS CREATED.

>> THIS APPLIES TO A DRIVER WHO WAS TOTALLY INNOCENT.

DOESN'T MEAN THE DRIVER HAD TO CREATE THE PERIL, THE DRIVER MIGHT HAVE BEEN THE VICTIM OF SOMEONE ELSE'S NEGLIGENCE AND STILL RECOVERED BY THIS.

>> IN THIS CASE THE DRIVER CREATED THE PERIL.

WE ARE NOT TALKING THE DRIVER WHO WAS INVOLVED OR WAS INVOLVED IN THE CRASH BUT WAS NOT INJURED, THAT'S NOT THE SITUATION WE ARE FACING IN THIS CASE.

I THINK IT IS IMPORTANT TO LOOK AT THE TEXT OF THE STATUTES --

>> YOU ARE MOVING INTO YOUR REBUTTAL TIME.

YOU CAN KEEP GOING BUT CONSUMING YOUR TIME.

>> I WILL SAY THIS FOR NOW.

THE ANALYSIS HAS BEEN -- THE CONVICTION DOES NOT VIOLATE DOUBLE JEOPARDY, THIS IS IN THE NEGATIVE AND REVERSE.

>> MAY IT PLEASE THE COURT, GLENN GIFFORD FROM THE CERTIFIED PUBLIC DEFENDERS OFFICE ON BEHALF OF MISTER JOHNSON.

I'M LIKE TO ASK THE INDULGENCE TO DISCUSS JURISDICTION FOR A MOMENT BEFORE MOVING ON TO THE MERITS.

CERTIFIED QUESTION ASKS ABOUT CONSIDERATION OF TWO STATUTES IN TANDEM, GIVEN THE REQUIREMENTS OF 316.062.

GOES ON TO SAY 16.027 REQUIRE, THE MAJORITY OPINION DOESN'T TALK ABOUT 316.027, THE CONCURRING OPINION.

THAT IS IN THE CERTIFIED QUESTION, NOT THE DECISION.

THE DISTRICT COURT PASSED UPON A

RULE UPON IN THIS CASE.  
EVEN THE OPINIONS DISCUSSED IN  
THE MAJORITY OPEN AND  
CONCURRENCE, NONE FROM TALK  
ABOUT 316.062, THERE'S A NEW  
CONSIDERATION IN THE LAW WITH  
THE CONCURRING OPINION BELOW.  
316.062 HAS ANY EFFECT  
WHATSOEVER ON HOW YOU CONSTRUE  
THE PROSECUTION.  
THE AFFIRMATIVE CITATION,  
FOLLOWING 30 YEARS OF CASE LAW.  
THE COURT DOESN'T HAVE  
JURISDICTION, EVEN WHEN THERE'S  
A CERTIFIED QUESTION IF THE  
COURT HAS NOT PASSED UPON, THE  
COURT DID NOT HERE.  
MOVING ON TO THE MERITS, BOTH  
PARTIES ARE SEEKING THE HIGH  
GROUND OF PLAIN MEANING, TO  
UNDERSTAND WHO GETS THE HIGH  
GROUND YOU HAVE TO LOOK AT THIS  
CASE, THE STATUTE 316.027 IN  
COMPARISON TO VEHICLE OR  
HOMICIDE STATUTE, DIFFERENT  
LANGUAGE.  
HERE THE LANGUAGE IS STOP AND  
REMAIN.  
THE VEHICLE OR HOMICIDE, TO  
RENDER AID IT IS REQUIRED BY  
316.062.  
TO RENDER AID, VEHICULAR  
HOMICIDE, STOP AND REMAIN AND  
CREATES CONDITIONS UNDER WHICH A  
DRIVER WHO MAY OR MAY NOT A BEEN  
THE CAUSE OF THE ACCIDENT.  
>> THE OFFERS OF THE SCENARIO,  
AND IS YOUR POSITION THAT IN  
CRASH INVOLVING MULTIPLE  
VICTIMS, IF A DEFENDANT STOPS  
AND REMAINS AND ATTENDS TO ONE  
VICTIM BUT LEAVES, BECAUSE IT IS  
JUST ONE CRASH THAT DEFENDANT IS  
IMMUNIZED FROM PROSECUTION IN  
THE CASE OF THE OTHER VICTIMS  
BECAUSE IT STOPPED AND REMAINED  
AT THE SCENE OF THE CRASH FOR  
ONE VICTIM AND SOLVED WHATEVER  
PHYSICAL INJURY THERE WAS  
BECAUSE THE UNIT OF PROSECUTION  
UNDER YOUR LIGHTS WOULD BE  
CRASH, IS IMMUNIZED FROM  
PROSECUTION.  
>> THE UNIT OF PROSECUTION IS

THE ONE CRASH, THE ONE FAILURE  
TO RENDER AID IN THIS INSTANCE.  
REGARDLESS HOW MANY PERSONS WERE  
INJURED IN THE CRASH, THE UNIT  
OF PROSECUTION, THERE'S ONLY ONE  
CRASH, ONE CRASH, ONE PERSON  
INJURED.

>> IN THAT CASE, IS THE PERSON  
CHARGED OR NOT.

NOT SURE I UNDERSTAND YOUR  
ANSWER.

>> HE CAN'T BE CONVICTED BECAUSE  
THE UNIT OF PROSECUTION --

>> YOUR VERSION, YOU -- YOUR  
PLAIN MEANING OF THE STATUTE  
SAYS IF I LEAVE THE SCENE AND  
DON'T RENDER AID TO VICTIMS 215  
AS LONG AS I DID IT FOR VICTIM  
NUMBER ONE, THE STATUTE SAYS I  
CAN'T BE CHARGED WITH A FELONY.

>> COULD BE ONE CHARGE UNDER THE  
CIRCUMSTANCES BUT ONLY ONE.

>> VICTIMS 215.

>> AS TO ANY VICTIMS THAT WERE  
NOT OFFERED AID IF THE DEFENDANT  
DOES LEAVE.

>> YOU VIEW IT AS ONE DUTY AS A  
WHOLE.

>> A COMPLETELY COMPLIED WITH  
THE DUTY OR NOT.

>> THERE IS INTO DUTY TO RENDER  
AID IN THE STATUTE, THERE'S A  
DUTY TO REMAIN.

>> THERE'S A DUTY NOT TO LEAVE  
WITHOUT COMPLYING.

>> IT SETS THE CONDITIONS --

>> 3.62 UNTIL YOU HELPED EVERY -  
REASONABLY ASSISTED --

>> THAT IS RIGHT BUT IF YOU  
REMAIN AND DON'T DO ANYTHING  
THEN UNDER THE PLAIN LANGUAGE -  
>>

>> WHAT DOES THE HYPOTHETICAL  
HAVE TO DO -

>> DOESN'T HAVE MUCH TO DO WITH  
THIS CASE BUT DOESN'T MATTER  
BECAUSE IN DOUBLE JEOPARDY  
ISSUES YOU DON'T LOOK AT  
INDIVIDUAL CASES EVEN FOR  
PROSECUTION.

YOU LOOK AT THE STATUTES, YOU  
LOOK AT THE CHARGING DOCUMENT  
AND DON'T LOOK AT INDIVIDUAL  
CASES OR SCENARIOS.

>> TALK ABOUT WHAT THE CASE IS.  
CAN YOU EXPLAIN THE EVOLUTION OF  
THE STATUTE FROM 1987 WHEN IT  
SEEMS LIKE THE FOUNTAIN HEAD  
CASE WAS DECIDED WHICH HAS BEEN  
ARGUABLY WITHOUT TOO MUCH  
THOUGHT GOING INTO IT.

THE AWARDING OF THE STATUTE  
TENDED IN THE DIRECTION OF  
MAKING IT MORE FOCUSED ON  
SPECIFIC INDIVIDUAL VICTIMS AND  
LESS ON THE CRASH SCENE.

>> I DON'T THINK THE STATUTE HAS  
EVOLVED AT ALL, IT IS PRETTY  
MUCH THE SAME.

>> THAT IS FACTUALLY WRONG BUT  
WHAT INFLUENCES WE DRAW, THE  
STATUTE IN 1987 RED THE DRIVER,  
SHALL IMMEDIATELY STOP, ETC..  
WE MOVE FROM THE FAT TO ONE  
SUFFERS A DIFFERENT INJURY, A  
MUTUALLY EXCLUSIVE TYPE IN THE  
THIRTIES DEATH WHICH IS MUTUALLY  
EXCLUSIVE.

THE EVOLUTION OF THE STATUTE,  
TOWARD AN INDIVIDUAL --

>> IT IS SEPARATED OUT SLIGHT  
INJURY, SERIOUS INJURY AND  
DEATH, THE KEY LANGUAGE OF THE  
STATUTE, STOP AND RAIN UNTIL  
SATISFIED THE REQUIREMENTS OF  
316.062 HAS NOT CHANGED.

>> IN 1995 STATUTE, USES THE  
WORD RESULTING IN THE DEATH OF  
ANY PERSON, THE 2020 STATUTE  
WHICH RESULT IN INJURY TO A  
PERSON SEEMS LIKE A DRASTIC  
CHANGE.

>> MY UNDERSTANDING THAT IS  
>> IS THAT THE GRIEVANCE THAT WE  
USED TO SAY?

THE STATUTE IS MOVING MORE IN  
THE DIRECTION FOR MORE  
ACCOUNTABLE HE FOR EACH PERSON  
INJURED?

>> THE SERIOUS INJURY AND INJURY  
ARE LESSER OFFENSES OF DEATH.  
IT COLLECTING TO DOUBLE JEOPARDY

--

>> IN THIS CASE THE WAY THE  
STATUTE RIGHTS IT, IT IS  
MUTUALLY EXCLUSIVE.  
INJURY OTHER THAN SERIOUS BODILY  
INJURY, SERIOUS BODILY INJURY,

THEN DEATH, AND YOU HAVE TO FIT EACH INJURED PERSON IN ONE BOX OR ANOTHER.

>> OUR POSITION IS THE KEY LANGUAGE FOR EACH OF THOSE PROVISIONS IS STOP AND REMAIN UNTIL AND THAT IS HOW YOU DETERMINE THE UNIT OF PROSECUTION BECAUSE THERE IS NO OBLIGATION ISSUE REMAINING, NO CRIME WHEN YOU PUT IT THIS WAY IF YOU REMAIN WITHOUT PROVIDING AID.

>> HOW DO YOU ADDRESS THE ARGUMENT ABOUT RESTITUTION PROVISION AND IT SEEMS TO SAY EACH VIOLATION OF THE STATUTE RESULTS IN THE VICTIM MEANING A SINGULAR VICTIM.

>> IF WE TALK ABOUT THE PLAIN MEANING OF THE LANGUAGE, THE RESTITUTION STATUTE DOESN'T CHANGE THAT.

>> IT WOULD ASSUME EVERY CRASH INVOLVES ONE VICTIM.

>> IN ADDITION TO THAT IT WOULD NOT BE NECESSARY TO SPECIFY RESTITUTION TO EACH VICTIM. IF THE UNIT OF PROSECUTION WAS EACH PERSON INJURED.

LOOK AT IT THAT WAY, THE NECESSITY OF REQUIRING RESTITUTION TO EACH PERSON IS ONLY IN THEIR BECAUSE THE UNIT OF PROSECUTION IS ONE CRASH REGARDLESS OF HOW MANY PEOPLE WERE INJURED.

>> DOUBLE JEOPARDY ARGUMENT CLEARLY MORE THAN ONE PERSON IS KILLED IN A SINGLE ACCIDENT, FOUR PEOPLE IN THE CAR, ROLLS OVER AND PEOPLE ARE KILLED.

THE SAME AS WHEN SOMEONE WHO DIED IN AN ACCIDENT.

WHY COULDN'T YOU CHARGE IN AN ACCIDENT AS TO EACH OF THE PEOPLE WHO WOULD BE INJURED IN A SINGLE ACCIDENT.

>>

>> THE VEHICULAR HOMICIDE STATUTE REQUIRES WHAT IS REQUIRED BY 316.062.

AND WHEN YOU SATISFY THE STATUTE, AND --

>> THE STATUTE, WITH RESPECT TO EACH PERSON. EACH OF THOSE PERSONS AND ENSURE THAT AID THE IS PROVIDED TO THEM AS IT CAN BE IN THE CIRCUMSTANCES FOR THE ACTIONS OF A PERSON WHO WAS INVOLVED IN THE ACCIDENT?

>> IF YOU FILTER THIS IT IS CORRECT BUT EVEN IF YOU HAVE A SINGLE UNIT OF PROSECUTION YOU CAN BE CHARGED WITH NONCRIMINAL TRAFFIC INFRACTION FOR EACH PERSON INJURED THE TWO DID NOT ASSIST.

THE PROBLEM GOES BEYOND THAT, 316.062 HAS 3 REQUIREMENTS, GIVE INFORMATION TO ANYONE INJURED, GIVE INFORMATION TO THE POLICE, AND IF THE UNIT OF PROSECUTION, EACH PERSON INJURED AND A DEFENDANT COULD RENDER AID TO EACH PERSON INJURED BUT NOT GIVE THE INFORMATION BETWEEN THE POLICE REACH PERSON INJURED HIS NOT -- IN THE CONJUNCTIVE, SO YOU WILL HAVE VIOLATED 316.062 AND BECAUSE WE DON'T LOOK AT INDIVIDUAL FACTS YOU HAVE MULTIPLE PROSECUTIONS. MULTIPLE CONVICTIONS FOR EACH PERSON INJURED EVEN THOUGH YOU HAVE RENDERED AID BECAUSE YOU HAVEN'T COMPLIED WITH INFORMATION.

TO THE STATUTE.

>> WHAT YEAR DOES THIS HAPPEN?

>> 2016.

2016.

>> OPERATING UNDER 1987 STATUTE?

>> AS TO THE LANGUAGE WE ARE FOCUSING ON THE PLAIN MEANING, YES.

>> THE WAY IT IS NOW, INJURY TO A PERSON, USE THE PHRASE OVER AND OVER AGAIN.

INJURY TO A PERSON.

>> IT DOES SAY THAT AND IF IT WERE OTHERWISE AMBIGUOUS, IT GOES TO THE TEST.

>> INJURY TO EACH PERSON SAYS INJURY TO A PERSON.

>> IN OTHER PIECES IT SAYS TO ANY PERSON.

IF YOU CONCLUDE THERE IS AN  
AMBIGUITY.

THE UNIT OF PROSECUTION IS ONE  
CRASH AND NOT EACH PERSON WHO  
WAS INJURED.

I TO DISCUSS THE MC NIGHT CASE,  
THE FIFTH DISTRICT COURT OF  
APPEALS CASE FROM 2005 AND IN MC  
NIGHT THEY INTERPRETED THE  
VEHICLE HOMICIDE STATUTE TO  
AUTHORIZE MULTIPLE CONVICTIONS  
ENHANCED A FIRST-DEGREE FELONY  
FOR FAILURE TO RENDER AID.

THEY AMENDED THAT STATUTE TO  
CLARIFY THE ASPECT OF CRIMINAL  
CONDUCT BE PUNISHED UNDER THE  
PROVISION.

THE DEFENDANT'S VERY TO RENDER  
AID TO EACH VICTIM OF THE  
ACCIDENT REQUIRED BY 316.2  
RATHER THAN THE DEFENDANT'S ACT  
OF FLEEING FROM HIS ELECTION  
SEEN IN VIOLATION OF 316.027.

I SEE THAT AS DISTINGUISHING THE  
LANGUAGE OF THE VEHICLE OR  
HOMICIDE STATUTE, THE DUI  
MANSLAUGHTER STATUTE AS AN  
ENHANCEMENT FOR FAILURE TO  
RENDER AID.

DISTINCT WISHING THAT THE  
LANGUAGE AND FAILURE TO LEAVE  
THE SCENE.

THE REASON THE LEGISLATURE MIGHT  
CHOOSE TO HAVE A SINGLE UNIT OF  
PROSECUTION FOR CRASH IS BECAUSE  
UNLIKE THE REGULAR HOMICIDE, THE  
DEFENDANT MAY NOT HAVE CAUSED  
THE ACCIDENT.

THE DEFENDANT MAY NOT HAVE  
DRIVEN RECKLESSLY OR DRIVEN  
DRUNK RESULTING IN DEATH.

THE LEGISLATURE COULD REASONABLY  
HAVE CONCLUDED IT IS A CRASH,  
NOT PER PERSON INJURED.

THE MC NIGHT CASE ILLUSTRATES  
THE DIFFERENCE BETWEEN THE TWO  
STATUTES.

IT IS NOT JUST THREE OR FOUR  
CASES THAT WERE CITED IN THE  
MAJORITY OPINION, BUT UNBROKEN  
LINE OF CASES GOING BACK AT  
LEAST IN 1987.

I FOUND AT LEAST TEN YOU MIGHT  
HAVE TO RETURN BOARD APPROVED

THE STATES CONSTRUCTION HERE.  
BUT THE STATUTE HAS CHANGED  
DURING THAT TIME.  
>> IT HAS CHANGED.  
>> IN WAYS THAT ARE QUITE  
MATERIAL.  
>> THEY DON'T PLANE THE MEANING  
OF THE ACTIVE VERB.  
WHICH YOU THINK CREATES THE UNIT  
OF PROSECUTION.  
>> TO BE CLEAR ABOUT  
JURISDICTIONAL ARGUMENT, AM I  
CORRECT IN UNDERSTANDING THAT  
YOU WOULD THINK WE WOULD HAVE  
JURISDICTION IF THE FIRST PHRASE  
OF THE CERTIFIED QUESTION HAD  
BEEN OMITTED SO INSTEAD OF  
HAVING THE GIVEN REQUIREMENTS OF  
SECTION 316.06 ONE FLORIDA  
STATUTE DOES CONVICTIONS SO ON,  
EVERYTHING BEFORE THE CONVICTION  
WAS REMOVED THAT WE WOULD HAVE  
JURISDICTION.  
IT IS THE REFERENCE TO 316.062  
ONE THAT YOU THINK THE VESTS US  
OF JURISDICTION.

>> YES.  
IF IT HAD BEEN PHRASED AS DOUBLE  
JEOPARDY TO CONVICT SOMEONE A  
REACH PERSON INJURED UNDER  
LEAVING THE SCENE STATUTE, THAT  
WOULD BE ADEQUATE.

IT IS THE INFLUENCE --

>> I SAID TOO MUCH.  
>> THE 16.06 TO THE CREATES THE  
PROBLEM ACCORDING TO JUDGE  
WHITAKER.  
ACCORDING TO THE MAJORITY WHICH  
DIDN'T EVEN SEE FIT TO ADDRESS  
316162.  
NOT ACCORDING TO OTHER COURTS  
THAT WRESTLED WITH THIS ISSUE,  
THE SIDE OF THIS ISSUE OVER THE  
COURSE OF 30 YEARS, OR 10 CASES,  
THERE MAY BE MORE.  
UNLESS THE COURT HAS FOR THE  
QUESTIONS I ASK YOU DISCHARGE  
JURISDICTION OR IF YOU CHOOSE TO  
RETAIN THE CASE, AND YOU DECIDE  
THE ISSUE TO CERTIFY QUESTION IN  
THE AFFIRMATIVE, ANSWER IN THE  
AFFIRMATIVE, DOUBLED EVERY  
VIOLATION IN THE CIRCUMSTANCES  
AND APPROVE THE DECISION OF THE

DISTRICT COURT.

>> OTTO?

>> IT IS THE STATE'S POSITION THAT 3 ONE 6.062 CANNOT BE REMOVED FROM THE 3 ONE 6.OH 27028.

IT IS PART AND PARCEL OF THE STATUTE THAT NEEDS TO BE READ. IT CANNOT BE DIVORCED FROM 2 ONE 6.2 ONE 72 A.

THERE IS NO REMOVING IT.

>> THE COUNCIL'S POINT IS IT SHOULD BE REMOVED, IT IS THAT THE DISTRICT COURT DIDN'T FOCUS ON THAT AT ALL.

>> THIS COURT DID IN 1997.

TO STOP, RENDER RATE AND PROVIDE CERTAIN INFORMATION AND IT IS APPARENT, 316.62, ANY INJURED PERSON HAS RENDERED AID AND ALL PERTINENT INFO IS EXCHANGED AND ALSO AS THE COURT NOTED, IN 2014, THE WORD ANY WAS CHANGED IN THE STATUTE SO THE DRIVER OF A VEHICLE INVOLVED IN A CRASH THAT RESULTS IN INJURY TO A PERSON SHALL REMAIN AT THE SCENE.

A PERSON, RIGHT OFF THE GET GO, 316.027, STARTS WITH A VEHICLE AT A PERSON.

ANY WAS ILLUMINATED.

AND FURTHERMORE, THE COURT FOUND LAST YEAR THAT DEFENDANTS WAS THE CHARGE WITH EVERY OFFENSE THAT ARISES FROM ONE, WHAT IS IT PURSUANT TO 775.02 ONE 4 A AND THAT IS CONSISTENT THAT EACH VICTIM HAS A CIVIL CAUSE OF ACTION AGAINST THE DRIVER WHO IS RESPONSIBLE FOR THE CRASH.

THIS COURT FOUND IT IS THE TEXT OF THE STATUTE, NOT THE FACT OF THE CRIME THAT ARE RELEVANT FOR THE DOUBLE JEOPARDY ANALYSIS. THE DOUBLE JEOPARDY CLAUSE IS MUST LOOK ONLY TO THE STATUTORY ELEMENTS.

WHOEVER COMMITS AN ACT OR ACTS WHICH CONSTITUTE ONE OR MORE SEPARATE COMMITTAL OFFENSES SHALL BE SENTENCED SEPARATELY FOR EACH OFFENSE FOR 775.0 ONE 24 A.

THE STATUTORY LANGUAGE IS THE ONLY FACTOR FOR DETERMINING WHETHER THE LEGISLATURE INTENDED TO PUNISH SEPARATE OFFENSES. THE LEGISLATURE HAS MADE IT CLEAR IN SECTION 4 BE THAT IT'S INTENT IS TO CONVICT AND SENTENCE EACH OFFENSE COMMITTED IN THE COURSE OF ONE SINGLE EPISODE.

THAT DOES NOT CONSTITUTE A VIOLATION OF DOUBLE JEOPARDY. IT IS FAULTY AND INCOMPLETE AND THE CONVICTION FOR EACH VICTIM, DOES NOT CONSTITUTE DOUBLE JEOPARDY.

THE STATE WOULD ASK THE COURT TO ANSWER THE CERTIFIED QUESTION IN THE NEGATIVE AND REVERSE THEM.

>> WE THANK YOU FOR YOUR ARGUMENT IN THIS CASE, THAT IS THE FINAL CASE ON THE DOCKET TODAY SO COURT IS NOW ADJOURNED.