

THE FLORIDA BAR V. MIGUEL FERNANDO MIRABAL

CASE NO. SC2021-1469

>> Chief Justice Carlos Muniz: WILL NOW TAKE UP OUR LAST CASE TODAY WHICH IS THE FLORIDA BAR V. MIGUEL FERNANDO MIRABAL
CASE NO. SC2021-1469.

>> Herman Russomanno III: MAY IT PLEASE THE COURT CHIEF JUSTICES COUNSEL FOR THE THE FLORIDA BAR HERMAN RUSSOMANNO I AM COUNSEL FOR THE RESPONDENT IN THIS MATTER. THE ISSUE BEFORE THE COURT TODAY IS EVEN IF THE COURT WERE TO FIND THAT THE BAR IS PROVEN BY CLEAR AND CONVINCING EVIDENCE THAT MR MIRABAL'S ACTIONS WERE KNOWINGLY WHERE THE APPROPRIATE SANCTION WOULD BE UNDER STANDARD 7.1 B THAT ONE THROUGH THREE YEAR SUSPENSION REHABILITATION SUSPENSION WOULD BE APPROPRIATE VERSUS DISBARMENT FOR PURPOSE OF BACKGROUND THE PROCEEDINGS ARE AFTER THE FLORIDA BAR FILED ITS COMPLAINT KNEW ALL OF THE FACTS IN SUPPORT OF ITS COMPLAINT THE FLORIDA BAR AND OTHER COUNSEL FOR STURMER BOTH CONSENTED TO IN A DAY SUSPENSION. WITH PROBATION THE REFEREE SAME JUDGE IN FORT LAUDERDALE REFEREE JUDGE ENTERED A 20 PAGE OPINION FACTS AND LAW IN SUPPORT OF THAT 90 DAYS SUSPENSION. THIS COURT REJECTED IT AND REMITTED IT DOWN BACK IN DECEMBER THERE WAS THREE DAYS OF HEARINGS ON THE MATTER.

THE FINAL HEARING OCCURS THE AMENDED REPORT WHICH IS THE OPERATIVE REPORT TODAY OCCURS RECOMMENDATION OF DISBARMENT.

THE STANDARD FOR TODAY AND FOR THE COURT TO ADDRESS IS THIS COURT DESPITE THE FACTS OF THE GUILT FACTORS, IN REVIEWING ITS SANCTION HAS THE ULTIMATE RESPONSE ABILITY TO ENTER THE APPROPRIATE SANCTION IN AND AT THE KEY IS THAT THE EXISTING CASE LAW.

THAT IS THE.

[LISTING NAMES] OUT OF THIS COURT IN 2023.

WE KNOW PLENTY OF CASES OF PRECEDENT WHICH IN 7, IN EXTREME MEASURE OF DISCIPLINE "THIS IS FROM THE.

[LISTING NAMES] CASE IN 2004 NEVER TO BE DECREED WHERE PUNISHMENT LESS SEVERE WOULD BE ACCOMPLISHED BY THE DESIRED END.

IN THE SUMMERS CASE THE COURT CITES THE LANGUAGE IT CITED MANY MANY TIMES.

DISBARMENT IS RARE WHERE REHABILITATION IS HIGHLY IMPROBABLE IT'S THE EQUIVALENT OF THE DEATH PENALTY IN A CRIMINAL CASE. IT'S OUR POSITION THAT MR. MARIBEL CAN BE REHABILITATED. HE CAN.

WITH A ONE THROUGH THREE YEAR SUSPENSION WHICH UNDOUBTEDLY IS SEVERE. STANDARD 7.1 B FOR IMPOSING LAWYER SECTION PROVIDES SUSPENSION IS APPROPRIATE WHEN A LAWYER KNOWINGLY ENGAGES IN CONDUCT THAT IS A

VIOLATION OF A DUTY OWED IS A PROFESSIONAL CAUSES INJURY AND POTENTIAL INJURY TO THE CLIENT, THE PUBLIC AND THE LEGAL SYSTEM. THE FACTS OF THIS CASE FALLS SQUARELY WITHIN THAT STANDARD. THE INJURY HAS BEEN ALLEGED. AND KNOWINGLY ENGAGING IN ACTIONS. THAT MR MIRABAL HAS ADMITTED TO.

>> COUNSEL DO YOU THINK IT IS APPROPRIATE TO CONSIDER IF HIS ACTIONS AFFECTED CLIENTS IN A DIFFERENT WAY THAN HIS ACTIONS AFFECTED THE LEGAL SYSTEM AS A WHOLE?

>> Herman J. Russomanno III: I DON'T THINK YOU CAN MAKE A DISTINCTION BECAUSE THE CASE LAW THERE IS PLENTY OF CASES OUT OF THIS COURT WHERE IF YOU ENGAGE IN MISCONDUCT AS A JUDGE OR A LAWYER OR A POTENTIAL JUDGE IN THIS CASE WHO BECAME A JUDGE IN 2008 OR A CLIENT JUST THE ADMINISTRATION OF JUSTICE I DON'T THINK YOU CAN DISTINGUISH. I THINK YOU'VE DEBATED ON THE FACTS OF THIS CASE BASED ON THE EXISTING CASE LAW WHICH I WILL WALK THROUGH FOR THE COURT.

>> CAN I CLARIFIED YOUR ARGUMENT IT IS NOT THAT WE ARE PRECLUDED FROM IMPOSING DISBARMENT IS ATTENTION ONLY THAT IT IS INAPPROPRIATE ON THE FACTUAL ISSUES.

>> Herman J. Russomanno III: OF COURSE THIS COURT IS GOING TO MAKE ITS DETERMINATION MY JOB IS TO ADVOCATE IT WILL BE A ONE THROUGH THREE YEAR SUSPENSION FOR THIS CASE WHICH IS HIGHLY DISTINGUISHABLE FROM THE CASES THE PARTIES HAVE ADDRESSED NOT THAT WE ARE ON THE TOPIC OR TO MAKE A POINT THIS IS INTERESTING BECAUSE WE LOOKED AT EVERYTHING THE REFEREE JUDGE EXCITED THE.

[LISTING NAMES] CASE IN RELIANCE UPON THE DISBARMENT. THE BARS BRIEF, I COMMEND THEM FOR THIS IN THEIR OWN ANSWER BRIEF PAGE 45 THEY DO NOT DISPUTE THAT THE CASE IS DISTINGUISHABLE FROM THESE FACTS.

[LISTING NAMES] WAS SERVING A THREE YEAR SUSPENSION AFTER BEING CONVICTED OF TAX EVASION THEN HE WAS HIDING ASSETS FROM THE IRS THE PROVISION AND THE THE FLORIDA BAR ARE COMPLETELY DIFFERENT HERE. IN THEIR ANSWER BRIEF THE BAR CITES TWO CASES TO SUPPORT DISBARMENT FOR MR MIRABAL. WHICH ARE HIGHLY THIS WHICH WILL DON'T APPLY TO THESE FACTS. THE. [LISTING NAMES] CASE IN 2021 JUSTICE COURIEL DRAFTED THAT AND WROTE IT. THAT RESPONDENT SERVED 20 DAYS IN JAIL FOR CRIMINAL CONTEMPT FOR LACKING CANDOR OF THE COURT BECAUSE HE WAS HIDING A SETTLEMENT AGREEMENT OF MONEY SO HIS WIFE DID NOT GET IT IN A DIVORCE. HE WAS DISBARRED BY THIS COURT.

AND THE WHOLE CASE THE SECOND CASE THAT THE BAR RELIES UPON IN SUPPORT OF THIS POSITION HALL 2010 THE COURT INITIALLY READ THE BRIEF BEFORE ORAL ARGUMENT AND SUSPENDED THE LAWYER AND SAID WILL HAVE ORAL ARGUMENT AFTER ORAL ARGUMENT THIS COURT DISBARRED HALL. HE HAD TWO FELONIES FOR GRAND THEFT FOR FRAUDULENT ESTATE AGREEMENT AND HERE IS WHAT HE DID. THE COURT WILL REMEMBER IN 2010 THE HALL WENT TO A FAMILY THAT HAD ALZHEIMERS AND UNFORTUNATELY CREATED DOCUMENTS SO THAT HALL COULD

OBTAIN THEIR PROPERTY.

>> THOSE OTHER CASES ARE SIGNIFICANTLY DIFFERENT IN KIND FROM THE FACTS HERE. WHERE WE HAVE KIND OF THIS SIMILARITY IN HIDING THE BALL AND IN A SIGNIFICANT WAY IN AN IMPORTANT PRECEDENT AND YOU COMPOUND THAT WITH THIS AFFIRMATIVE MISREPRESENTATION IN THE LETTER. I KNOW THE FACTS ARE DIFFERENT BUT WHY IS THAT SO DIFFERENT IN KIND THAT THEY CANNOT INFORM THIS COURT ON WHAT WE SHOULD DO IN THIS CASE?

>> Herman J. Russomanno III: BECAUSE OF THE HARM. THE HARM INVOLVED IS COMPLETELY DISTINGUISHABLE. THE COURT HAS TO FROM A BROAD SCOPE LOOK AT WHAT HARM WAS DONE WHAT HARM COULD HAVE BEEN DONE AND THE FACT THAT YOU'RE GOING TO HEAR WITH ONE OF THE FAMILY MEMBERS THAT HAS ALZHEIMER'S TRICKING THEM TO SIGN A DOCUMENT RECORD THAT ON THE RECORD SO THE LAWYER CAN GET A PROPERTY FOR THEIR OWN INTEREST IT WAS NOT FOR CLIENT IT IS HIGHLY DISTINGUISH ABLE WHAT WE ARE DOING TODAY. MR. MARIBAL HAS JUST ADMITTED WHAT IS ACTIONS WERE. THERE'S NO DOUBT HE SIGNED THE CERTIFICATIONS THE BRIEFS ARE WELL DONE ON BOTH SIDES THAT HE KNOWINGLY DID IT. THAT'S WHY FOCUS ON THE 7.1 B ON THE SUSPENSION I DID THIS. MY FORMER COCOUNSEL WHO IS NOW ELEVATED TO THE BENCH.

[LISTING NAMES] WHEN WE DID OUR BRIEFS WE LOOKED THROUGH ALL THE JUDICIAL CAMPAIGN AND PROPRIETY CASES. THEY ARE IN ALL THE PAPERS WE CITE TO EIGHT CASES. EVERY SINGLE ONE OF THE CASES IN WHICH A JUDGE OR POTENTIAL JUDGE A LAWYER AT TIME WAS ENGAGING IN JUDICIAL CAMPAIGN NONSENSE AND SHOULD NOT BE DONE THEY RECEIVED A PUBLIC REPRIMAND FROM THIS COURT OR UP TO A 90 DAY . I LOOKED AT ALL OF THE CASES. AND SPECIFICALLY EARLY 2023, THE RECENT CASE PUBLIC REPRIMAND PERSONALLY SOLICITING DONATIONS AND CAMPAIGN FINANCE REPORT INACCURACIES SIMILAR TO THIS CASE.

>> I THINK THE CASE IS A LITTLE DISTINGUISHABLE. IF I NOTE THE ONES WE'RE TALKING ABOUT THERE WAS NOT A REPEATED PATTERN OF INFLATING AND DEFLATING REPORTS AND CONVENIENTLY FORGETTING LARGE JUDGMENTS.

>> Herman J. Russomanno III: YOU ARE HUNDRED PERCENT CORRECT THAT'S WHY THIS COURT SAID. IT'S A PUBLIC REPRIMAND THAT'S WHY I AM ASKING OR ADVOCATING THAT THIS COURT TO SPEND MR MIRABAL FOR ONE THROUGH THREE YEARS SIGNIFICANT PUNISHMENT DIFFERENCE. YOU ARE RIGHT THAT IS WHY YOU MAKE THESE DISTINCTIONS IF THIS COURT FOUND THAT A PUBLIC REPRIMAND OR UP TO 90 DAY WAS APPROPRIATE. FOR NOW JUDGE.

[LISTING NAMES] 2010 THIS COURT CAMPAIGN FINANCE IN PROPRIETIES VERBALLY FILING FINANCIAL DISCLOSURES.

THE.

[LISTING NAMES] CASE IN 2021 REFEREE IN THIS CASE CITED TO IT THE 90 DAY SUSPENSION.

MISCONDUCT RECKLESS DISREGARD FOR THE TRUTH AND BETRAYING THE MOMENT IS CRIMINAL.

IN THE KINSEY CASE IN 2003 THERE WAS A PUBLIC REPRIMAND 11 ETHICAL

VIOLATIONS BY A POTENTIAL JUDICIAL RUNNING FOR JUDGE.

>> Chief Justice Carlos Muniz: I THINK WE CAN GO ALL DAY AND CITING CASES AND WHERE THEY ARE ON THE SPECTRUM. I THINK MAYBE WHAT I AT LEAST WOULD LIKE TO HEAR IS WHAT YOUR ASSESSMENT IS OF YOUR CLIENT'S REMORSE OF WHAT HAPPENED BECAUSE ON THE RECORD BEFORE US IT WOULD SEEM TO ME LIKE THAT'S A SIGNIFICANT CONSIDERATION IN DETERMINING WHETHER OR NOT DISBARMENT OR SOME FORM OF REHABILITATION IS APPROPRIATE.

>> Herman J. Russomanno III: GOOD QUESTION HERE IS THE ANSWER. ON TRANSCRIPT THREE PAGES 98 THROUGH 101 THE RECORD SHOWS THAT MR. MARIBAL AT THE TRIAL THE FINAL HEARING EXPRESSED HIS REMORSE FOR PAGES. HE EXPRESSED HIS REMORSE FOR HIS ACTIONS HE ADMITTED TO IT. IT IS IN THE RECORD NOT ONLY THAT IT'S A MITIGATING FACTOR MITIGATING FACTOR I HAVE NOT SET YET BUT YOU KNOW IT'S IN THE BRIEFS HE'S NEVER BEEN DISCIPLINED BY THE BAR. FOR 20 YEARS ADMITTED IN 2004. FOR 20 YEARS LET'S SAY IT IS 18 OR 17 THAT IS 2018 DECISION STARTED HE DID THE RIGHT THING UP TO A CERTAIN TIME THEN DID THE WRONG THING.

BUT THE WRONG THING CAN BE CORRECTED WITH REHABILITATION. IT CAN. A THREE YEAR SUSPENSION BY THIS COURT WHICH HE MUST THEN WILL KNOW THREE YEARS HE'S GOT TO COME BACK AND SHOW THE BAR THAT HE HAS REHABILITATED IT'S ANOTHER BURDEN TO ESTABLISH.

BUT DISBARMENT ON THE FACTS OF THIS CASE AND THE EXISTING LAW I RESPECTFULLY SUBMIT IT IS INAPPROPRIATE EAST ON THE FACTS OF THE CASE. IN ADDITION TO THE MITIGATION.

>> COUNSEL REFEREE DID NOT FIND REMORSE AS A MITIGATING FACTOR CORRECT.

>> Herman J. Russomanno III: THAT IS CORRECT IT IS NOT IN THE REPORT HOWEVER IN ORDER TO ANSWER JUSTICE COURIEL'S QUESTION IT IS IN THE RECORD THE REFEREE WROTE WITH REFEREE WROTE. WE'LL HAVE TO ACCEPT IT AS IT IS WRITTEN BUT I WANT TO AT LEAST ADDRESS THAT. IT'S NOT LIKE HE IS NEVER BEEN REMORSEFUL IT'S UNDER OATH IN THE TRANSCRIPT AND HE SHOWS REMORSE.

>> Justice Charles Canady: COULDN'T WE NOT INFER THAT THERE REFEREE DISCREDITED THAT.

>> YOU COULD.

>> Herman J. Russomanno III: THE REFEREE DID NOT FIND IT BUT THERE WAS REMORSE EXPRESSED ON THE RECORD AT THE TRIAL.

IN ADDITION OTHER PENALTIES AND SANCTIONS WHICH IS A MITIGATING FACTOR 3. B 11 MR. MARIBAL RESIGNED FROM THE BENCH. HE PAID FINE IT'S A NOMINAL FUND THAT IS NOT THE ISSUE HE PAID THE FINE TO THE BOARD OF ELECTIONS COMMISSION THE REFEREE FOUND THAT WAS A MITIGATING FACTOR CHARACTER WITNESSES THERE WERE SIX OF THEM THE REFEREE FOUND THAT WAS A MITIGATING FACTOR IN THE END I ALSO CITE IN OUR PAPERS THIS IS INTERESTING THE INTEGRITY OF A JUDGE WHEN ONE ATTACKS ANOTHER JUDGE YOU SHOULD NEVER DO IT.

MOST LAWYERS ONLY A FEW ARE CRAZY ENOUGH TO DO IT BUT IN TERMS OF THIS

PARTICULAR FACT PATTERN THERE WAS A LETTER WRITTEN TO THE BAR THAT ONLY THE BAR RECEIVED IT WAS NOT DISSEMINATED WHY DO I REFERENCE THIS? IT GO BACK TO THE BRUCE JACOBS CASE 2023 I PRACTICE BRUCE IN MIAMI THE THINGS THAT BRUCE WROTE IN PAPERS ASTONISHED ME.

THIS COURT SUSPEND HIM FOR 90 DAYS.

I JUST WANT FOR THE EXISTING CASE LAW TO BE EVALUATED IN TERMS OF WHAT THE PROPER REPRIMAND IS AND IN OTHER CASES THE RAY CASE IN 2001 I NOTE THAT IS BEFORE 2015 WHEN THIS COURT SET A PRECEDENT BY SAYING WE WILL PUT HARSHER SANCTIONS I GET IT. THREE LETTERS ATTACKING JUDGES. BY RAY HE WAS PUBLIC REPRIMAND.

I WANT TO BE BRIEF. MY POINT IS THAT THE FACTS ARE WHAT THE FACTS ARE. EVEN WITH THE KNOWINGLY FACTOR THAT MR MARIBAL KNOWINGLY DID WHAT HE DID THIS COURT UNDER OATH THE STANDARD 7.1 B AND UNDER THE CASE LAW THAT I CITED IN OUR PAPER AND ORAL ARGUMENT WE RESPECTFULLY REQUEST THAT THIS COURT SUSPEND MR MARIBAL ONE THROUGH THREE YEARS WITH A REHABILITATION SUSPENSION NOT GIVE HIM THE ULTIMATE SANCTION OF A DISBARMENT. THANK YOU VERY MUCH.

>> Mark L. Mason: MARK L. MASON

APPEARANCE FOR THE FLORIDA BAR JOINING ME IS [LISTING NAMES] AND PARALEGAL WE ARE REQUESTING THIS COURT APPROVE THE REFEREE'S RECOGNITION OF MR MARIBAL DISBARMENT FROM THE PRACTICE OF LAW. BY WAY OF BACKGROUND I KNOW THERE WAS A MENTION OF THE CONSENT JUDGMENT BUT WAS NOT DISCUSSED WAS THE FULL NATURE OF THE MISCONDUCT. I THINK THAT IS IMPORTANT BECAUSE THIS COURT SAID IN.

[LISTING NAMES] THAT CUMULATIVE MISCONDUCT IS DEALT WITH IN MUCH MORE HARSHLY. IN ISOLATED INCIDENCES OF MISCONDUCT. WHAT WE HAVE HERE IS A THEME IT'S IN THE INITIAL BRIEF IT IS IN THE REPLY BRIEF. WERE WE HAVE CONDUCTED THAT SPANS THREE DIFFERENT TIME PERIODS THE 2018 CAMPAIGN, THOSE REPORTS, THE 2019 JNC APPLICATION THEN THE LETTER TO THE BAR THREE DIFFERENT TIME PERIODS WHERE EITHER WE ARE HAVING EXPRESS MISSTATEMENTS BEING MADE WHILE HE IS CERTIFYING TO THE TRUTH OF THEM OR HE'S COMMITTING THESE MIREPRESENTATIONS BY OMISSION. IT IS REPEATED. IN 2018 HE SUBMITTING THESE CONTAIN REPORTS THAT ARE INFLATING THE AMOUNT OF MONEY IS ACTUALLY RAISED AND HE IS CERTIFYING THEM EACH AND EVERY MONTH. THERE WAS EXTENSIVE EXAMINATION ON THAT POINT AND EVERY TIME IT WAS THIS WAS AN ERROR THIS WAS UNINTENTIONAL. I DIDN'T MEAN TO. THESE ARE THE CONSTANT EXCUSES THAT WE WERE GIVEN AT THE DISCIPLINARY HEARING.

>> COUNSEL TO THINK WHETHER OR NOT WE DETERMINE WHAT DISCIPLINE IS APPROPRIATE HERE DO YOU AGREE WITH OPPOSING COUNSEL THAT THIS CASE WOULD BE AN OUTLIER IN COMPARISON WITH OUR PRIOR DISCIPLINE FOR THESE TYPES OF ISSUES?

>> Mark L. Mason: I DO NOT BELIEVE IT IS AN OUTLIER I SAY THAT FOR A FEW REASONS I KNOW THERE WILL BE FACTUAL DISTINCTIONS IN ANY CASE SH PRINTS

ARE ACTUALLY CERTAINLY.

[LISTING NAMES] THAT HE WAS SUBJECT TO PRIOR SUSPENSIONS BUT THAT IS WHY I ARGUED.

[LISTING NAMES] ALSO REFERENCED THEY HAVE NO PRIOR DISCIPLINE YET THEY WERE DISBARRED FOR THEIR DISHONESTY WHICH WAS COMMITTED IN A JUDICIAL PROCEEDING. IS THERE A HUGE DIFFERENCE WITH THE FACT THAT THIS DID NOT OCCUR INSIDE A COURTROOM I DON'T BELIEVE SO.

>> Justice John Couriel: [LISTING NAMES] BOTH INVOLVE CONVICTIONS OF A CRIME. THERE IS NO CONVICTION HERE.

>> Mark L. Mason: THERE IS NO CONVICTION HERE. WE DO HAVE THE VIOLATION THAT HE STIPULATED TO A NET CONSENT ORDER REGARDING THE CAMPAIGN FINANCE VIOLATIONS. IN A JUST VIEWING WHAT HE DID I THINK THE BARS CONCERN IS NOT THE LABEL YOU PUT ON IT BUT WHETHER WE HAVE A PATTERN OF DISHONESTY WHERE DISBARMENT IS APPROPRIATE. NO WE DON'T HAVE A CONVICTION WE HAVE BEEN STIPULATING THAT HE VIOLATED TO THE STATUTE REGARDING HIS MONTHLY CAMPAIGN REPORTS. THAT HAS KNOWING AS AN ELEMENT OF THE OFFENSE YET HE STILL ARGUED AT THE DISCIPLINARY HEARING THROUGHOUT HIS INITIAL BRIEF THAT ALL THIS WAS UNINTENTIONAL.

>> CAN I ASK YOU THE SAME QUESTION I ASKED THE OTHER SIDE ABOUT REMORSE. CERTAINLY WE CAN FIND RECORD SITES TO SUPPORT STATEMENT ABOUT REMORSE. BUT WE WERE NOT PRESENT FOR THE PROCEEDINGS BELOW OTHER THAN TO JUST SORT OF REVERSE ENGINEER WHAT THE REFEREE FOUND. FROM THE ORDER WE CAN ONLY CONCLUDE THE REFEREE DID NOT CREDIT THOSE. IS THERE ANYTHING YOU WANT TO ADD ON THAT FRONT IT WOULD SEEM TO ME LIKE THAT IS AN IMPORTANT CONSIDERATION.

>> Mark L. Mason: WHAT I WILL SAY ABOUT THAT IS THAT I CAN'T TELL YOU I'VE NEVER READ A SANCTION HEARING WHERE THE RESPONDENT HAS NOT STRESSED REMORSE. AT THAT POINT THERE WAS A FINDING OF GUILT. WHEN A REFEREE DECLINES TO MAKE A FINDING REGARDING THE PRESENCE OF AN AGGRAVATING OR MITIGATING FACTOR IS ENTITLED TO THE SAME DEFERENCE YOU WOULD FIND IF THE REFEREE FOUND THAT MITIGATING FACTOR.

PUTTING TO RECORD EVIDENCE THIS AS MY CLIENT IS REMORSEFUL IT DOESN'T PROVE THAT THE REFEREE WAS CLEARLY ERRONEOUS IN THE RULING. IT JUST INDICATES REFEREE DID NOT ACCEPT THAT TESTIMONY BY INVOCATION BY THE FACT THAT IT IS NOT IN THERE. I THINK THAT IS READILY APPARENT BY THE FACT THAT YOU HAVE THIS REFEREE REPORT THAT GOES THROUGH THE LITANY OF MISCONDUCT SPANNING THE THREE DIFFERENT TIME PERIODS AND ULTIMATELY SAYS YES I DID ORIGINALLY AGREED TO CONSENT JUDGMENT BUT THAT WAS REJECTED I CONDUCTED A FULL HEARING I LEARNED THE BREATH OF WHAT HE DID AND THEREFORE I AM CHANGING MY RECOGNITION TO DISBARMENT. THIS WASN'T SOME BLIND SIDE TYPE DEAL THROUGHOUT THE HEARING YOU WERE CURING ABOUT THESE CONTAIN REPORTS YOU ARE HEARING ABOUT THE JNC APPLICATION WHERE HE WAS OMITTING SIX CIVIL CASES.

>> IT DOES BEG THE QUESTION WHY THE BAR AGREED TO CONSENT JUDGMENT IN THE FIRST PLACE.

>> Mark L. Mason: THE REFEREE INTEREST AS WELL FROM THE REFEREE'S PERSPECTIVE THE ORIGINAL THOUGHT WAS A STEP DOWN FROM THE BENCH WHICH WAS A SIGNIFICANT OTHER SANCTION WHICH WOULD BE A MITIGATING FACTOR. THAT IS WHY ORIGINALLY THAT WAS AGREED TO. BUT THEN WHEN ULTIMATELY YOU START DOING ALL OF THE FACT-FINDING YOU HEAR FROM JUDGE.

[LISTING NAMES] WAS THE VICTIM OF THESE DISCOURAGING CLAIMS BY MR. MARIBAL REGARDING THE FILING OF A FRIVOLOUS SUIT AGAINST SOMEBODY WOULD NEVER HAPPEN AND YOU COMBINE THAT WITH THE FACT THAT HE WAS ALSO ENGAGING IN MISCONDUCT IN 2018 AND 2019 TO TRY AND BECOME A JUDGE WHEN INTEGRITY WAS A PERMANENT IMPORTANCE. NOT ONLY IN TERMS OF HIS CAMPAIGN BUT IN TERMS OF THE RELEVANT APPLICATION WHEN HE IS REQUIRED TO DISCLOSE NAME EVERY CASE WHERE YOU'VE EVER BEEN NAMED PARTY AND HE OMITTS SIX OUT OF A TOTAL OF 15.

2 OF WHICH VERY FRANKLY THIS IS WHAT THE REFEREE FOUND. NO ONE COULD REASONABLY FORGET. ONE OF THEM WAS A LAWSUIT BY THE FDIC ACCUSING HIM OF ENGAGING IN MORTGAGE FRAUD. THE SECOND ONE WAS A SUIT AGAINST BANK OF AMERICA WHICH THE REFEREE CHARACTERIZED IT AS IT RESULTED IN A VERY SCATHING ORDER BY A FEDERAL JUDGE.

IN WHICH THE FEDERAL JUDGE SAID HE DRAFTED A DEED IN LIEU OF FORECLOSURE THE BANK NEVER AGREED TO IT THAT HE RECORDED IN THE OFFICIAL RECORDS ANYWAY THEN SUED ON THE BASIS THAT THEY VIOLATED THIS AGREEMENT THAT NO ONE EVER AGREED TO ACCEPT MR. MARIBAL.

IT'S INCONCEIVABLE THAT HE WOULD HAVE JUST FORGOTTEN TO DISCLOSE THESE THINGS. THE REFEREE FOUND THAT THIS WOULD NECESSARILY MEAN THAT HE WAS DOING THAT BECAUSE HE DIDN'T WANT TO DISCLOSE SOMETHING THAT WOULD ADVERSELY AFFECT HIS CHANCES TO FILL A JUDICIAL VACANCY. WHEN YOU LOOK AT THE.

[LISTING NAMES] CASE IS NOT SO MUCH THAT IT IS RELEVANT IN TERMS OF THE SPECIFIC FACTS BECAUSE.

[LISTING NAMES] INVOLVED INCOME TAX EVASION AND A LAWYER TRY TO GET BACK INTO REINSTATEMENT THEN JUST LIVES MORE. BY FAILING TO DISCLOSE CERTAIN HOLDINGS HE HAD IN CANADA THAT WAS UNCOVERED AND THEN HE DOES THE SAME THING WE TRIES TO EXCUSE AWAKE WHAT HE DID. THE PROBLEM HERE IS WE ARE SEEKING DISBARMENT BECAUSE THERE HAS JUST BEEN A CONSTANT PATTERN OF DISHONESTY IN THESE CASES. THAT'S A FAR AS NOT BEEN ADDRESSED.

YES IT IS UNUSUAL FOR SOMEONE TO SUDDENLY GET DISBARMENT WHEN THEY HAVE A CLEAR DISCIPLINE HISTORY. IT HAS HAPPENED IN HALL. YOU CAN SAY IT IS CRIMINAL CONDUCT IT IS DIFFERENT. BUT AT THE SAME TIME WHEN YOU COMBINE WHAT HE DID ALL OF THE INSTANCES SPANNING 2018 AND 2019, THE DISTINCTION DOESN'T LOOK QUITE AS MITIGATING.

JUST IN TERMS OF THE CASE LAW.

>> CAN I ASK YOU A QUESTION ON FUNDING FOR 82B WHICH IS TEXTURALLY APPLICABLE TO TENANTS OF PUBLIC OFFICE WHICH IS IN THE CONTEXT OF THE BAR JUDICIAL PROCEEDING WHY IS THAT NOT APPLICABLE IN THAT SITUATION WHEN IT IS IN THE CONTEXT OF A BAR DISCIPLINE PROCEEDING IT'S A LETTER ABOUT A COMMENT OF WHO FILED THE COMPLAINT THAT SORT OF THING.

>> Mark L. Mason: THE CODE OF JUDICIAL CONDUCT VIOLATION. HE WAS RUNNING FOR OFFICE AT THE TIME. HE ACTUALLY SUCCEEDED IN THAT THAT WAS THE 2021. HE WAS APPOINTED TO THE POSITION SO IT BECAME A BAR VIOLATION.

>> REGARDLESS OF THE TIMING YOU THINK IT NEEDS TO BE TIED TO ACTIVITY IN THE CONTEXT OF THE CAMPAIGN VERSUS IN A DISCIPLINARY PROCEEDING OR IS IT ANYTHING A CANDIDATE DOES WRONG IN ANY PROCEEDING IS SUBJECTED TO DISCIPLINE UNDER THAT PROVISION?

>> Mark L. Mason: I THINK IT APPLIES WHEN HE IS A CANDIDATE FOR OFFICE I DON'T THINK IT NEEDS TO BE TIED TO THE SPECIFIC RACE. I KNOW THERE WAS A BIG DEAL MADE OUT OF THAT SPECIFIC RULE VIOLATION IN THE REPLY BRIEF. BUT WE ARE TALKING ABOUT ONE INSTANCE THE LAST INSTANCE OUT OF SEVERAL AND WHAT HE DID IN TERMS OF FALSELY ACCUSING A JUDGE SITTING JUDGE OF FILING A FRIVOLOUS SUIT WHICH NEVER HAPPENED. IT VIOLATED SEVERAL RULES BESIDES THAT ONE.

>> I GUESS 2 FOLLOW-UPS BASED ON THE... ARE YOU AWARE OF ANY CASES TO SUPPORT YOUR INTERPRETATION? THAT IS UNTETHERED TO CANDIDACY FOR JUDICIAL OFFICE AS LONG AS THE PERSON WHO COMMITTED THE VIOLATION IS A CANDIDATE FOR JUDICIAL OFFICE AND SECOND DOES THAT MATTER TO OUR DETERMINATION.

>> Mark L. Mason: I DON'T HAVE CASE LAW. I WOULD JUST GO BY WHAT THE CODE OF JUDICIAL CONDUCT BINDS CANDIDATES TO DO. THAT'S WHY THE REFEREE FOUND HE VIOLATED THE JUDICIAL CANON AS WELL ENCLOSING I'M SORRY I DON'T MEAN TO CUT OFF ANY OF THE QUESTIONS IN CLOSING I WOULD ASK THIS COURT TO CONSIDER THE CASE LAW TO CONSIDER THE FACT THAT THERE IS A LITANY OF MISCONDUCT. I DIDN'T HEAR ANY ARGUMENT HERE TODAY AT LEAST THAT IT WAS UNINTENTIONAL. THIS SEEMS TO BE AT LEAST SOME KIND OF CONCESSION ON THAT FRONT. AT THE SAME TIME THIS HAS COME A LITTLE LATE IN THE PROCEEDING WHEN THE REFEREE ALREADY FAILED TO FIND THAT THERE IS ANY REMORSE I THINK THAT REASON THERE NEEDS TO BE A DISBARMENT FROM THE PRACTICE OF LAW IN THIS CASE.

>> Chief Justice Carlos Muniz: THANK YOU.

>> Herman J. Russomanno III: I'M GOING TO BE VERY BRIEF JUST TO TOUCH ON A COUPLE OF POINTS IN REBUTTAL THE CONSENT OF THE 90 DAY SUSPENSION IN RESPONSE TO JUSTICE COURIEL'S QUESTION THE BAR WITH ALL OF ITS AMMUNITION OF BAR HISTORY AND CASE LAW AFTER IT DID ITS INVESTIGATION AFTER IT FILED ITS COMPLAINT WITH THIS COURT THEN ENTERED INTO A 90 DAY PERIOD THEY KNOWINGLY ENTERED INTO THAT WITH THE EXISTING CASE LAW THIS COURT HAD

EVERY RIGHT.

>> Justice Charles Canady: WE KNOW THAT.

ULTIMATELY WE DECIDE THAT'S WHY WE REJECTED IT AND SENT IT BACK.

I DON'T REALLY KNOW THAT THAT HELPS YOU.

>> Herman J. Russomanno III: I ACKNOWLEDGE THAT IN RESPONSE TO THE COMMENTS ABOUT THE THREE CASES THE BAR IS RELYING UPON.

[LISTING NAMES] . YOU'RE RIGHT THERE ALL CONVICTION CASES. SERIOUS CONVICTION CASES.

FELONIES FOR TAX EVASION.

PUT IN JAIL BY JUDGE FOR HIDING ASSETS FROM A WIFE IN A DIVORCE. AND IN A WHOLE WORST-CASE SCENARIO YOU MAKE AN ALZHEIMER'S HOMEOWNER SIGN A DOCUMENT AND YOU HAVE TWO FELONIES TACKED ONTO THAT. HIGHLY DISTINGUISHABLE FROM THE FACTS OF THIS CASE. I DO THINK IT MATTERS THAT THOSE ARE CONVICTION CASES WHICH THE BAR IS RELYING UPON VERSUS WE DO NOT HAVE ONE HERE. IN TERMS OF MITIGATION A HUGE FACTOR IS THAT MR. MARIBAL HAS NO PRIOR DISCIPLINE. THAT IS A HUGE FACTOR.

THERE ARE SEVERAL FACTORS THAT THE COURT FOUND DID NOT FIND. IT WILL BE UP TO THIS COURT TO DETERMINE AND WEIGH THOSE AND FINALLY THE LAWYERS IMPOSING SANCTIONS STANDARD 7.1 B ALLOWS THIS COURT TO ENTER A SUSPENSION WHEN A RESPONDENT KNOWINGLY DOES SOMETHING.

MR. MARIBAL ADMITS HE KNOWINGLY DID THESE THINGS THEREFORE WE RESPECTFULLY REQUEST THIS COURT IMPOSE A ONE THROUGH THREE YEAR SUSPENSION BECAUSE HE CAN BE REHABILITATED HE CAN.

>> Justice Charles Canady: COUNSEL LET ME SAY THIS THE REHABILITATION ISSUE COMES IN TO PLAY PRIMARILY WHEN WE ARE DETERMINING THAT A DISBARMENT WILL BE PERMANENT.

THAT IS LIKE GO AWAY AND DON'T COME BACK EVER.

THIS IS NOT A PERMANENT DISBARMENT IS IT?

>> Herman J. Russomanno III: IT IS NOT IT'S A DISBARMENT OF 10 YEARS A DISBARMENT OF 10 YEARS IS A HUGE .

>> Justice Charles Canady: IT IS FIVE YEARS.

THERE WOULD BE AN OPPORTUNITY TO SHOW REHABILITATION AFTER THE FIVE YEARS AND COME BACK.

THIS IF WE DETERMINE AND WE DECIDE TO UPHOLD THE REFEREE'S RECOMMENDATION HERE. WE ARE NOT SAYING THAT THE PETITIONER HERE IS BEYOND HOPE AND IS BEYOND REDEMPTION. THAT IS NOT WHAT IS BEING SAID. WE ARE NOT SAYING YOU ARE OUT OF THE BAR AND IF YOU COME BACK IT IS GOING TO BE FIVE YEARS FROM NOW.

>> Herman J. Russomanno III: I DON'T DISAGREE WE ALL KNOW THERE'S A HUGE DISTINCTION BETWEEN BEING DISBARRED AND SUSPENDED. IN THE CASE LAW WE CITED IT SUPPORTS A SUSPENSION AND NOT A DISBARMENT THANK YOU FOR YOUR TIME.

>> Chief Justice Carlos Muniz: THANK YOU WE APPRECIATE THE EXCELLENT

ARGUMENTS ON BOTH SIDES WE ARE ADJOURNED.

>> Marshal: ALL RISE.