

>> YOU MAY PROCEED.

>> I AM REPRESENTING THE CHIEF  
CIRCUIT JUDGES IN FLORIDA IN  
THIS RULEMAKING PROCEEDING.  
THE FOUR JUDICIAL ORGANIZATIONS  
WILL ADDRESS THE COURT TODAY.  
ALL FOR OUR OPPOSED TO THE TERM  
LIMITS AND ALL FOUR OPPOSE THE  
RULE RELATED TO ADVOCACY BEFORE  
THE LEGISLATIVE --

[INAUDIBLE]

THE IDEA OF THE CHIEF JUDGE OF  
THE CIRCUIT ACTUALLY ORIGINATED  
IN THE STATUTES.

IN 1971, THE FLORIDA LEGISLATURE  
LOOKED AT THE DISORGANIZATION OF  
THE TRIAL COURTS AND SAW  
MULTIPLE TRIAL COURTS.

EACH OF THE TRIAL COURTS HAVING  
ITS OWN CLERK AND ITS OWN  
MARTIAL, NO UNIFIED MANAGEMENT  
FOR THE WHOLE COURT SYSTEM AND  
THE LEGISLATURE PROPOSED A  
STATUTE WHICH CREATED A  
PRESIDING JUDGE IN THAT STATUTE  
IN 1971 STATUTE WAS REVIEWED BY  
THIS COURT IN THIS COURT  
INTERPRETED THE RULING SO THAT  
STATUTE INTO A RURAL.

IN THIS COURT'S OPINION YOU  
LOOKED AT THE ISSUE OF TERM  
LIMITS AND YOU DETERMINED IN  
THAT 19TH 71 DECISION THAT  
THERE WOULD BE NO TERM LIMITS  
FOR THE CHIEF CIRCUIT JUDGES.  
THE LEGISLATURE PROPOSED TO THE  
PEOPLE A CONSTITUTIONAL  
AMENDMENT TO ARTICLE V AND THAT  
WAS ADOPTED IN MARCH OF 1972 THE  
FOLLOWING YEAR.

AT THAT POINT, THE OFFICE OF THE  
CHIEF CIRCUIT JUDGE BECAME A  
CONSTITUTIONAL OFFICER.

BAD IS SIGNIFICANT FOR OUR  
DISCUSSION TODAY BECAUSE THE  
CONSTITUTION PROVIDES, AS TO THE  
CHIEF JUDGE, THAT THERE SHALL BE  
A CHIEF JUDGE IN EACH CIRCUIT  
THAT SHALL BE CHOSEN FROM AMONG  
THE CIRCUIT JUDGES AS PROVIDED  
BY THE SUPREME COURT RULED.

NOW IF THIS RULE ANNOUNCED IN  
FEBRUARY OF 2012 IS ADOPTED,  
THIS CONSTITUTION WILL SUDDENLY  
READ THE CHIEF JUDGE IN EACH  
CIRCUIT SHALL BE CHOSEN FROM  
AMONG THE CIRCUIT JUDGES WHO

HAVE NOT PREVIOUSLY SERVED EIGHT YEARS AS CHIEF JUDGE.  
IT IS A MODIFICATION OF THE CONSTITUTION AND IF WE THINK BACK TO --  
>> DON'T YOU HAVE TO READ THAT IN CONJUNCTION WITH THE MODIFICATION OF THE PROVISION WITH REGARD TO THE CHIEF JUSTICE'S POSITION OF THIS COURT WHICH MAKES THAT INDIVIDUAL THE CHIEF ADMINISTRATIVE OFFICER FOR THE ENTIRE COURT SYSTEM?  
>> YOUR HONOR, AFTER READING THAT WHOLE SECTION, TO SAY THIS COURT HAS AUTHORITY --  
>> ISN'T THAT WHAT THE CONSTITUTION SAYS AS WELL?  
>> THE CONSTITUTION SAYS THE CHIEF JUSTICE'S POSITION --  
>> THE ADMINISTRATIVE OFFICER FOR THE ENTIRE SYSTEM.  
THAT MEAN SOMETHING AS WELL THAT JUSTICE POLSON AND AS CHIEF JUSTICE MUST HAVE CERTAIN PARAMETERS ON THE ADMINISTRATION'S CONSTITUTIONALLY, HE HAS THAT AUTHORITY.  
>> YOUR HONOR --  
>> ARE YOU SAYING HE DOES NOT HAVE THAT?  
AS THE CHIEF ADMINISTRATOR ALTHOUGH THE COURT HAS GONE THROUGH MODIFICATIONS INTERNALLY BUT THAT CONSTITUTION READS, YOU READ OUT ALL OF THAT PROVISION FOR WHOEVER'S SITTING IN THE CHAIR.  
IF YOU ARE SAYING HE IS NOT HER SHE IS NOT THE CHIEF ADMINISTRATIVE OFFICER.  
ADMINISTRATIVE IT SEEMS TO ME HAS A PRETTY WIDE BERTH.  
>> THE CHIEF JUSTICE IS THE CHIEF SPOKESMAN FOR THE JUDICIAL SYSTEM.  
WE CAN SEE THE AUTHORITY OF ITS JUSTICE, THE AUTHORITY OF THIS COURT.  
WE DO NOT CONCEDE THAT A PROVISION IN THE CONSTITUTION ALLOWED TERM LIMITS TO BE IMPOSED ON CIRCUIT CHIEF JUDGES AND MY ONLY POINT IS THE CONSTITUTIONAL LANGUAGE ESTABLISHING THIS CONSTITUTIONAL

OFFICER A CIRCUIT JUDGE PROVIDES  
A POOL FROM WHICH A JUDGE WILL  
BE SELECTED IN THAT POOL IS ALL  
THE CIRCUIT JUDGES.

>> WHAT DOES THE LANGUAGE MEAN  
THEN THAT BASICALLY SAYS --  
THOUGH I DON'T HAVE IT RIGHT  
BEFORE ME BUT IT BASICALLY SAYS  
THAT, WHEN IT COMES TO THE CHIEF  
JUDGES, THEY ARE SELECTED VIA  
THEIR PEERS UNDER THE RULES OF  
THE SUPREME COURT.

SO WHY WOULDN'T THIS BE A RULE  
OF THE SUPREME COURT CONCERNING  
THE ELECTION OF CHIEF JUDGES?

>> YOUR HONOR, IT IS A RULE AS  
TO WHO CAN BE A CHIEF JUDGE.  
WE CONCEDE THAT THE AUTHORITY OF  
THIS COURT TO DETERMINE THE  
METHOD OF SELECTION OF THE CHIEF  
JUDGE.

THIS COURT ITSELF TO MAKE THE  
APPOINTMENT FOR THIS SELECTION.

>> DIDN'T YOU SAY THE  
CONSTITUTION SAID IT HAD TO BE  
BY A VOTE OF THE JUDGES IN THE  
CIRCUIT?

>> YOUR HONOR, THE  
CONSTITUTION --

>> ARE YOU SAYING WE HAVE THE  
AUTHORITY TO SELECT CHIEF JUDGES  
LIKE IN NEW JERSEY --  
THE CHIEF JUSTICE DOES IN FACT  
SELECT THE CHIEF JUDGES OF EVERY  
CIRCUIT.

I CAN JUST BE JUDGE PERRY BACK  
THERE SAYING THAT WOULD BE WORSE  
THAN TERM LIMITS.

>> THE QUESTION IS DO YOU WANT  
TO DO THAT?

>> LET ME ASK YOU TO MOVE BEYOND  
THE ISSUE OF WHEN WE HAVE  
CONSTITUTIONAL AUTHORITY TO DO  
WHAT WE HAVE DONE TO ADDRESS THE  
ISSUE OF WHETHER IT'S A GOOD  
IDEA TO DO WHAT WE HAVE DONE  
ASSUMING WE HAVE THE  
CONSTITUTIONAL AUTHORITY AND YOU  
CAN ARGUE THAT IN YOU HAVE SOME  
POINTS BUT IF YOU MOVE BEYOND  
THAT TO FOCUS ON THE POLICIES --  
THE POLICY ASPECT OF THIS.

>> I THINK THAT IS PROBABLY  
WHERE WE BELONG.

[INAUDIBLE]

ON THOSE POLICY ISSUES ONE OF  
THE POINTS I WANTED TO MAKE IS,

TO HAVE LOCAL JUDGES AND CIRCUIT JUDGES MAKING A DECISION THAT GIVEN RESPECT TO THOSE IN THE CONCEDE THAT ARE THE BEST WE ARE HELPING BELIEF ISSUE OUT OF THE ETHIC COURT LEVEL AND WE ARE NOW PUTTING THE CHIEF JUDGE IN OUR JUDICIAL SYSTEM ON EQUAL FOOTING WITH THE OTHER PLAYERS IN THE JUDICIAL SYSTEM AS LONG SERVING STATE ATTORNEYS ARE PUBLIC DEFENDERS OR CLERKS IN PLACES WHERE CLERKS ARE NOT THEMSELVES TERM LIMITED.

BUT, THE CHIEF JUDGE DEALS WITH A VERY COMPLEX SYSTEM AND I WOULD RESPECTFULLY SUBMIT THAT THE JOB OF THE CHIEF CIRCUIT JUDGE IS PROBABLY THE MOST COMPLEX ADMINISTRATIVE JOB IN THE STATE.

THE CHIEF JUSTICE'S JOB IS AN IMMENSE JOB, BUT THE NUMBER OF PEOPLE THE CHIEF JUDGE HAS TO DEAL WITH, COUNTY COMMISSIONERS, TRYING TO GET --

THE WITH THE SHERIFF'S OFFICE AND VARIOUS WAYS IS A PRETTY COMPLEX JOB.

>> CAN I ASK A QUESTION ABOUT THAT BECAUSE OVER, FIRST OF ALL I SEE CERTAIN CHIEF JUDGES AND THE AUDIENCE AND I HAVE BEEN ON THE COURT FOR 14 YEARS.

I HAVE TOTAL ADMIRATION FOR EVERY JUDGE, JUDGE PERRY, JUDGE MORAN.

I COME FROM PALM BEACH COUNTY WHICH IS NOT AS BIG AS MIAMI-DADE BUT THEIR TRADITION HAS BEEN A FOUR-YEAR TERM AND THEN THEY GO ON.

WE HAVE IN PALM BEACH COUNTY A LOCATION OF JUDGES AND OVER MY 14 YEARS I HAVE HEARD ON MANY OCCASIONS FROM CIRCUIT JUDGES WHO CANNOT OR HAVE NOT SPOKEN UP BAD IN CERTAIN CIRCUITS, MAYBE NOT THE ONES REPRESENTED HERE, IT BECOMES SOMEWHAT CONTEMPTUOUS.

REALLY NOBODY CAN CHALLENGE THAT CHIEF JUDGE AND I NOTICE WHEN WE LOOKED AT IT IN 1966 THE MAJORITY OF CHIEF JUDGES UNDER A SURVEY WANTING TERM LIMITS.

I AGREE HERE WE DON'T HAVE THAT

INFORMATION BUT HOW DO WE MAKE SURE THAT WHAT WE ARE DOING, AND THIS IS GOOD POLICY, IS IN FACT BEST NOT ONLY FOR THE ADMINISTRATION OF JUSTICE AND ALL OF THE CIRCUITS, BECAUSE WHAT YOU SAID WOULD MEAN THAT WE OUGHT TO REALLY SAY THE TERMS SHOULD BE AT LEAST FOUR YEARS. IN OTHER WORDS IF FOUR-YEAR TERM WOULD NEVER BE A GOOD IDEA BECAUSE OF ALL THOSE THINGS. SO HOW DO WE BALANCE THAT BECAUSE YOU ARE REPRESENTING THE CHIEF JUDGES.

>> YOUR HONOR THE QUESTION IS WHETHER WE OUGHT TO BE -- I WANT YOU TO THINK ABOUT THIS. IS THERE ANY OTHER CONSTITUTIONAL OPTION -- OFFICER WHO IS WAS ACCOUNTABLE IN SO MANY DIFFERENT WAYS? THE OFFICE OF THE CHIEF CIRCUIT JUDGE.

I SUBMIT THERE IS NOT. THERE OBVIOUSLY THE TRADITIONAL WAYS THAT APPLY TO ALL JUDGES, INVESTIGATION BY THE LEGISLATURE AND POSSIBLE IMPEACHMENT BUT BEYOND THAT A VOTE EVERY TWO YEARS BY BALLOT, REMOVAL BY THE TRIAL JUDGES THEMSELVES AND REMOVAL BY THIS COURT.

NOW, REMOVAL BY ACTION OF THIS COURT HAS HAPPENED IN THE PAST. TRIAL JUDGES ARE QUITE COMPETENT TO JUDGE EIGHT CHIEF JUDGE AT AND I RESPECTFULLY SUBMIT THAT THERE ARE MORE CHECKS AGAINST ABUSES OF POWER OF A CHIEF CIRCUIT JUDGE THAN ANY OTHER CONSTITUTIONAL OFFICER.

THE MECHANISMS ARE IN PLACE AND THEY ARE BEING USED.

I DON'T UNDERSTAND THAT ARGUMENT HOW THIS CHIEF JUDGES ARE GOING TO GET OUT OF CONTROL BUT IF THEY DO WE ARE NOT USING THE -- THAT ARE AVAILABLE TO US.

I WOULD LIKE TO MOVE ONTO THE COMMUNICATION RULE IF I MAY MAKE THIS FINAL POINT.

THERE ARE A NUMBER OF SUBMISSIONS TO THIS COURT AND NONE OF THEM SUGGEST THE DETERMINATION OF OUR CHIEF JUDGE.

THERE WAS NOT A RECOMMENDATION BY THE NATIONAL CONSULTANTS AND NOT A RECOMMENDATION OF THE CIVIC GROUP ITSELF AND WE HAVE NOW IN COMMENTARY BEFORE THE COURT MULTIPLE CONTENTS ON JUDICIAL ORGANIZATIONS, ALL THREE CONFERENCES AND SEVERAL BAR ASSOCIATIONS AND ALL OF THESE ARE OPPOSED TO THE IDEA OF TERM LIMITS FOR CHIEF JUDGES AND WE HOPE THAT THE COURT WILL LOOK AT THOSE CLOSELY.

THE COMMUNICATIONS RULE, WE HAVE SUBMISSIONS THERE ARE FIRST OF ALL.

AS THIS COURT SAYS ITSELF IN THIS FEBRUARY 2012 OPINION, YOU CAN ADOPT THIS RULE ON COMMUNICATION WITHOUT REPEALING STATUTES 26.55 AND MY QUESTION IS, WHY WOULD THE LEGISLATURE WANT TO CUT OFF THAT FORM OF COMMUNICATION AND MAYBE ANOTHER QUESTION IS WHY WOULD THIS COURT NOT WANT TO --

>> ARE WE TALKING ABOUT THIS SPECIFIC ISSUE OF THE BUDGET AND COMPENSATION?

HAVING BEEN CHIEF JUSTICE, JUDGE PERRY WAS HEAD OF THE TRIAL COURT BUDGET COMMISSION.

THERE IS NOTHING IN MY VIEW MORE HARMFUL THAN THE ABILITY OF THE BRANCH TO GET IT BUDGET PRIORITIES AND THE JUDGES GO OFF ON THEIR OWN AND LOBBIED FOR THEIR OWN ISSUES, AND YOU KNOW THEY WERE RECENT EXAMPLES WHERE THAT HAPPENED AND IT HURT THE BRANCH.

THE ISSUE OF WHETHER JUDGES CAN TESTIFY ON QUESTIONS AFFECTING THE ADMINISTRATION OF JUSTICE AND CHANGES IN THE WAY THAT FAMILY COURT CASES GO OR DEATH PENALTY CASES, BUT WE ARE TALKING ABOUT BUDGET AND COMPENSATION AND A STRUCTURE THAT WE HAVE IN PLACE AT THE TRIAL COURT BUDGET COMMISSION AND THE TCA BUDGET COMMISSION THAT ALLOWS FOR EVERYBODY TO HAVE A VOICE.

ALL THIS SAYS IS, AS LONG AS YOU MAKE CLEAR THAT YOU ARE EXPRESSING YOUR OWN PERSONAL

VIEWS, THEY SHOULD COME THROUGH THE CHIEF JUSTICE.

>> YOUR HONOR THIS COURT OBVIOUSLY IS WORRIED ABOUT THE POINTS MADE IN OUR SUBMISSION THAT THE COURT HAS TO HAVE LEADERSHIP FROM A CHIEF JUSTICE AND FROM THIS COURT SO WE DON'T CONTEST THAT. ON THE OTHER HAND IT'S A MISTAKE TO ADOPT A RULE -- THERE ARE TWO MAJOR REASONS FOR THIS.

ONE IS YOU FALL IMMEDIATELY IN CONFLICT WITH THE CODE OF JUDICIAL CONDUCT.

LOOK AT THE LARGE NUMBERS OF DECISIONS BY THE JUDICIAL ETHICS ADVISORY COMMISSION ON THAT.

>> ON THE ISSUE OF INDIVIDUAL JUDGES EXPRESSING THEIR VIEWPOINT TO THE LEGISLATURE CONCERNING AN ISSUE RELATED TO THE ADMINISTRATION OF JUSTICE, WE HAVE NOT PROHIBITED THAT. NOW THERE MIGHT BE SOME PEOPLE WHO WOULD LIKE TO THINK THAT WOULD BE A GOOD IDEA IF WE PROHIBITED THAT BUT THAT IS NOT WHAT WE HAVE DONE.

I THINK THAT WOULD BE A TERRIBLE IDEA TO DO THAT BECAUSE I THINK JUDGES DO HAVE THE RIGHT TO EXPRESS THEIR VIEWPOINT.

WHAT WE HAVE SAID AND MAYBE WE HAVEN'T DONE IT IN THE MOST ARTFUL WAY BUT WHAT WE HAVE SAID IS THAT WHEN THEY DO THAT INDIVIDUALLY, THEY MUST INFORM THE PERSON TO WHOM THEY ARE COMMUNICATING THAT THEY ARE NOT DOING IT ON BEHALF OF THE BRANCH, THAT THEY ARE SPEAKING FOR THEMSELVES AND THAT SEEMS LIKE A REASONABLE ACCOMMODATION FOR THE SAKE OF CLARITY BECAUSE I THINK WHAT HAPPENS SOMETIMES IS WHEN ONE JUDGE GO OVER THE LEGISLATURE AND SPEAKS TO A MEMBER OF THE LEGISLATURE, THAT IS A JUDGE.

THEY ARE SPEAKING FOR THE JUDICIAL BRANCH.

THE POSITION THEY ARE ARTICULATING MAY BE CONTRARY TO THE POSITION THAT THIS COURT HAS ADOPTED AND THE CONFERENCES HAVE

ADOPTED AND THE OVERWHELMING MAJORITY OF JUDGES BUT THERE IS THAT PROSPECT OF CONFUSION AND WHAT WE HAVE DONE IS TO TRY TO ELIMINATE THAT POTENTIAL FOR CONFUSION.

>> WITH RESPECT YOUR HONOR, SEEMS TO ME THAT THE RULE ITSELF CREATES CONFUSION.

IT CREATES THE CONFLICT FOR THE DEMAND.

>> EXPLAIN HOW WE DO THAT. HOW DOES IT DO THAT TO REQUIRE THAT THE JUDGE SIMPLY EXPLAIN THAT THE JUDGE IS NOT SPEAKING FOR THE BRANCH?

>> YOUR HONOR I UNDERSTAND WHAT IS MOTIVATING THAT BUT HOW WHEN THE DEVIL WILL THAT EVER BE ENFORCED?

THINK ABOUT THE ENFORCEMENT PROBLEM.

IF YOU LOOK AT THE OFFICE RULE TO PROHIBIT SPEECH, UNLESS YOU FOR SOME OTHER KINDS OF SPEECH, AREN'T THERE SOME TERRIBLE CONSTITUTIONAL TRAPS LURKING FOR IS?

THINK ABOUT THE REPUBLICAN AUTHORITY VERSUS WHITE. HOW DO WE DEAL WITH JUDGE'S SPEECH IN TERMS OF THE LIMITATION OR ACTUALLY DIRECTING WHAT JUDGES WILL SAY?

>> THE PROBLEM IS THIS. WOULD YOU AGREE THAT THIS COURT IS A POLICYMAKING ENTITY OF THE JUDICIAL BRANCH?

THE ABSOLUTELY NOT.

>> IF THE BAR COMES FROM THIS COURT THE CIRCUIT COURT CONFERENCE IS COMPRISED OF ALL CIRCUIT COURT JUDGES, RIGHT?

>> YES, SIR.

>> THE CONFERENCE GOES ACROSS THE STREET TO THE LEGISLATURE AND TAKES THE POSITION, THE LEGISLATURE WOULD LOOK TO THAT CONFERENCE AND SAY, THIS IS THE POSITION OF ALL THE CIRCUIT JUDGES THIS DAY.

IF THAT IS A POSITION CONTRARY TO WHAT THE FLORIDA SUPREME COURT HAS, DOESN'T THAT TOTALLY UNDERMINE THE POSITION OF THIS COURT BEING THE POLICYMAKING ENTITY OF THE BRANCH?



>> YOUR HONOR I AM OVERTIME BUT  
MAY I RESPOND?  
THERE MAY HAVE BEEN INSTANCES OF  
THAT YOUR HONOR, BUT AS TO THE  
CONFERENCE OF CIRCUIT JUDGES I'M  
NOT AWARE OF THOSE INSTANCES.  
BUT, MY POINT HERE IS THAT A  
RULE THAT LIMITS SPEECH OR  
COMPELLED SPEECH IS BOUND TO  
CAUSE MISCHIEF DOWN THE LINE.  
THIS RULE DOES BOTH THOSE  
THINGS.  
THE JUDGES SPEAK IN A CERTAIN  
WAY AND THEN THERE IS  
DIFFERENCES IN THE SPEECH OF  
CERTAIN SUBJECTS.  
WE DON'T THINK FIRST OF ALL THEY  
ARE PERMISSIBLE BUT THEY ALSO --  
THERE IS AN ENORMOUS PROBLEM  
WITH ENFORCEABILITY.  
THE KINDS OF COMPLICATIONS THAT  
WILL BE THERE IF WE ADOPT SUCH A  
RULE.

>> OKAY, THANK YOU.

>> MAY IT PLEASE THE COURT?

I AM A 13TH JUDICIAL CIRCUIT  
JUDGE AND IMMEDIATE PAST CHAIR  
OF THE FLORIDA COUNCIL CIRCUIT  
JUDGES AND OUR CONFERENCE ADOPTS  
THE ARGUMENTS OF COMMENTS MADE  
BY MR. D'ALEMBERTE REGARDING THE  
COMMUNICATIONS RULE.

>> ON THE TERM LIMITS, DID YOU  
ENDEAVOR TO TAKE A SURVEY,  
CONFIDENTIAL SURVEY OF YOUR  
MEMBERS TO SEE WHAT THEIR VIEWS  
WERE ON TERM LIMITS?

>> NO, WE HAVE NOT.

>> SO DOES THE LEADERSHIP OF  
GREEK?

>> THE LEADERSHIP AND THE  
EXECUTIVE COMMITTEE OR ON HER.

>> WAS THERE ANY REASON WHY YOU  
DECIDED THAT IT WOULD BE A GOOD  
IDEA TO GET A HOLD FROM YOUR  
MEMBERS WHICH ARE NOW HOW MANY  
CIRCUIT JUDGES?

>> 599 AT THIS CIRCUIT JUDGES.  
I'M NOT SURE ABOUT THAT NUMBER  
BY 599 ACTIVE CIRCUIT JUDGES.

>> WAS THERE ANY THOUGHT GIVEN  
TO THAT MIGHT BE A GOOD WAY TO  
GIVE US A SENSE OF HOW THE  
JUDICIARY LOOKS AT THE ISSUE OF  
WHETHER THERE SHOULD BE LIMITS  
ON THE TERM OF THE CHIEF  
JUDGE?

>> THIS COMMITTEE IS COMPRISED  
OF REPRESENTATIVES FROM THE  
DISTRICTS AND SO THAT WAS WHAT  
WE DID.  
WE REGARD LEADERSHIP ON THAT  
ISSUE.  
>> THE CONFERENCE, I WAS LOOKING  
AT THE STATUTE.  
>> 26.5?  
>> THE CONFERENCE WAS ENACTED AS  
PART OF THE FLORIDA LEGISLATION  
AND MR. D'ALEMBERTE EDUCATED US  
ON THE CHIEF JUDGE IS.  
WAS THAT 1939?  
>> 1939, YES MA'AM.  
>> SINCE THAT STATUTE WAS PUT  
INTO EFFECT WOULD YOU AGREE WE  
HAVE HAD SORT OF A SEA CHANGE IN  
THE WAY THE JUSTICE IS  
ADMINISTERED IN THE STATE OF  
FLORIDA?  
>> THERE HAS BEEN A LOT OF  
CHANGES SINCE 1939.  
>> WHAT WOULD YOU SAY IN THIS  
DAY AND AGE IS THE PRIMARY  
PURPOSE OF THE CIRCUIT JUDGES?  
>> TO REPRESENT THE INTERESTS OF  
THE CIRCUIT JUDGE IN THE STATE  
OF FLORIDA ON ISSUES DEALING  
WITH PENSIONS AND BENEFITS AND  
ALSO TO EDUCATE.  
>> I THOUGHT, ESPECIALLY WITH  
THE TRIAL COURT BUDGET  
COMMISSION HAVING COME INTO  
BEING THAT THE PRIMARY PURPOSE  
WAS EDUCATION.  
>> IS RIGHT ON THE TOP OF THE  
LIST OR ON HER.  
>> IT'S INTERESTING IT WAS NOT  
IN LIST OF RESPONSIBILITIES  
UNDER 26.55.  
>> AND THE ONLY THING IS THERE  
ARE, NOT LESS THAN 60 DAYS  
BEFORE THE CONVENING OF THE  
REGULAR SESSION YOU ARE SUPPOSED  
TO REPORT ON ANY DEFECTS IN THE  
LOSS OF THE STATE AND AMENDMENTS  
AND I HAVE NEVER SEEN THAT.  
DOES THAT HAPPEN?  
>> YES.  
IT HAPPENS EVERY YEAR.  
>> THANK YOU.  
>> WE FILE THAT EVERY  
LEGISLATIVE SESSION.  
>> THE OTHER PART, THE  
RESPONSIBILITY OF CONSIDERING  
AND MAKING RECOMMENDATIONS

CONCERNING THE BETTERMENT OF THE JUDICIAL SYSTEM, IT THEN SAYS THE REPORT TO THE SUPREME COURT FINDINGS AND RECOMMENDATIONS, SO DO YOU SEE THIS AS THE CONFERENCE IN EXISTENCE TO ADVISE THE LEGISLATIVE BRANCH ON THE RECOMMENDATIONS FOR THE BETTERMENT OF THE JUDICIAL SYSTEM OR TO ADVISE THE SUPREME COURT OF RECOMMENDATIONS?

>> THE LEGISLATURE RECOGNIZES AND RELIES ON THE VOICES OF THE FRONTLINE TRIAL JUDGES THAT ARE DEALING WITH THE STATUTE. WE WORKED WELL WITH THE SUPREME COURT.

OUR CONFERENCES WORKED WELL WITH THE OTHER CONFERENCE IS.

>> AND I TOTALLY AGREE THAT THE CONFERENCES OVER THE LAST DECADE, AND WE HAVE ALL WORKED HARMONIOUSLY TOGETHER WHICH IS WHY I WAS SORT OF SURPRISED WITH THE CONFERENCE BEING CONCERNED THAT THE CHANGES THAT WERE BEING PROPOSED --

NOT TERM LIMITS BUT ALL THE OTHER PARTS WHERE WE REALLY SAID THAT NOBODY IS GOING TO BE GOING ACROSS TO LOBBY THE LEGISLATURE ON BUDGET COMPENSATION ISSUES UNLESS IT GOES THROUGH THE UNIFIED COMMITTEE ON COMPENSATION FOR ALL JUDGES HAVE A VOICE AS THEY GO THROUGH THE TRIAL COURT BUDGET COMMISSION. THOSE MECHANISMS -- MECHANISMS WE HAVE NOW FOR BUDGET AND COMPENSATION.

>> IT HAS WORKED WELL YOUR HONOR.

WE HAVE BEEN SPEAKING WITH ONE VOICE.

TO MAKE SURE WE SPEAK WITH ONE VOICE AND IS JUSTICE CANADY POINTED OUT THEY DON'T KNOW IF I AM A TCA JESTER OR CIRCUIT JUDGE.

THAT IS WHY WE ARE VERY CAREFUL THAT WE ALL SPEAK WITH THAT ONE VOICE AND SAID OUR LEGISLATIVE PRIORITIES AND BEGAN THE TRIAL COURT BUDGET COMMISSION AND THE D.C. BUDGET COMMISSION RESPONSIBLE FOR THOSE BUDGETARY ISSUES.

>> WHAT I'M CONFUSED ABOUT, WHAT PART OTHER THAN THE TERM LIMITS

DO THEY OPPOSE IN THE OPINION  
THAT THE COURT ISSUES?  
>> I WAS SPECIFICALLY ADDRESSING  
THE RULE OF THE CONFERENCE.  
AS WE DISCUSSED ITS UNDER  
FLORIDA STATUTE 26.55 AND 3.200P  
DOES NOT BECOME EFFECTIVE UNTIL  
THAT STATUTE IS REPEALED.  
OUR CONCERN IS CHANGING THE  
STRUCTURE OF OUR CONFERENCE.  
THE FACT IS THAT ALL THE  
CONFERENCES ARE DIFFERENT.  
THERE HAS BEEN A CHANGE IN OUR  
OFFICERS, IN OUR GOVERNING  
STRUCTURE OF THE CONFERENCE.  
CURRENTLY WE HAVE THE LEADER OF  
THE CONFERENCE SINCE 1937 HAS  
BEEN THE CHAIRMAN OR CHAIR.  
>> THOSE INTERNAL FEATURES OF  
CONFERENCE CAN SAY THAT IN  
REALITY WHAT WE HAVE HAD AS A IS  
A CIRCUIT COURT CONFERENCE BY  
STATUTE.  
THE COUNTY BY RULE AND THE  
DISTRICT COURT OF APPEALS BY ITS  
OWN CHARTER SOMEHOW.  
WOULD IT MAKE SENSE TO HAVE SOME  
TYPE OF UNIFORMITY IN THE  
CONFERENCES AND SINCE WE ARE  
PART OF THE JUDICIAL BRANCH TO  
HAVE THOSE RULES?  
>> I THINK MR. CHIEF JUSTICE IT  
WOULD BE IDEAL BUT WE WOULD LIKE  
TO HAVE INPUT, THE COUNTIES  
WOULD LIKE TO HAVE INPUT.  
IT HAS WORKED WELL SINCE 1939.  
>> I THINK THE INTERNAL  
MECHANISMS OF THE CONFERENCE IS  
CERTAINLY OPEN TO CHANGE AND  
SUGGESTED BY THE CONFERENCE.  
THE THING HERE IS THE CHANGES.  
>> WE SEE AND AGREE THAT THERE  
SHOULD BE CONSISTENCY.  
WE WOULD LIKE INPUT AND FILE  
FOR THE RULES.  
WORKED SINCE 1939.  
WE HAVE BEEN A BIG PART OF  
THE BRANCH AND CONTINUE TO  
BE PART OF THE BRANCH AND  
WORK FOR THE SUPREME COURT.  
AND WORK WITH ALL OF OUR  
PARTNERS.  
>> THANK YOU.  
>> GOOD MORNING.  
MY NAME IS KIM CARLTON  
BONNER WITH THE COUNTY COURT  
JUDGES SPECIFICALLY TO

ADDRESS CERTAIN PARTS OF THE  
RULE WE FEEL  
DISPROPORTIONATELY HAVE AN  
ILL EFFECT PARTICULARLY ON  
SMALL COUNTY AND SINGLE  
COUNTY JUDGES.

WE ARE IN AGREEMENT WITH THE  
CHIEF JUDGES AND CIRCUIT  
COURT CONFERENCE WITH REGARD  
TO ARGUMENTS THEY MADE.

AND ALL 22 MEMBERS HAVE A  
LOT OF INTEREST TO  
ACCOMMODATE, AND TO MAKE  
SURE THEY'RE GIVING A VOICE.

>> MAYBE I SHOULD KNOW THIS  
BUT THEY DO NOT GET TO VOTE  
ON WHO THE CHIEF JUDGE IS?

>> WE DO.

>> I'D DON'T KNOW WHY I  
THOUGHT IT SAID CIRCUIT  
JUDGES.

A COUNTY JUDGE IS CHOSEN.

>> THE ONLY ONE I AM AWARE  
OF.

IT MAY HAVE BEEN A CHIEF  
JUDGE IN AS CHIEF CIRCUIT.

>> MAYBE A SINGLE COUNTY  
CIRCUIT IT WOULD BE  
DIFFERENT OR MAYBE IT WOULD  
BE.

>> WE NEVER HAD ONE IN OUR  
AREA BUT I DON'T THINK  
ANYTHING PROHIBITS IT  
NECESSARILY.

IT IS UNCOMMON I BELIEVE.  
PARTICULARLY THE SINGLE  
JUDGE COUNTIES THE RULES AS  
THEY STAND WE WOULD LIKE THE  
OPPORTUNITY TO COMMENT AND  
OFFER INPUT HOW TO  
ACCOMPLISH WHAT THIS COURT  
WANTS TO ACCOMPLISH WHICH IS  
AS THE STUDY GROUP MENTIONED  
IS TO HAVE A UNIFIED VOICE,  
HAVE THE RANK-AND-FILE FEEL  
THEY HAVE MORE OF A VOICE IN  
HAVING THAT IN PUT.

AS IT CURRENTLY STANDS, I  
WILL FOCUS ON THE SMALLER  
COUNTIES.

IN THOSE COUNTIES THE COUNTY  
JUDGES HAVE OFTEN FAMILIAR  
RELATIONSHIPS WITH THEIR  
LOCAL AND STATE ELECTED  
OFFICIALS.

THEY HAVE GROWN UP WITH THEM  
AND GONE TO SCHOOL WITH THEM

AND LIVED NEXT DOOR WITH  
THEM AND THEIR CHILDREN GO  
TO SCHOOL WITH THEM.  
THEY -- WHEN SOMETHING  
HAPPENS -- THEY HAVE NOT  
ADVOCATED MADE ANY  
STATEMENTS ABOUT WHAT WOULD  
BE AGAINST THE POSITION THIS  
POLICY WOULD HOLD THAT THE  
INSTITUTION HAS SET UP NOW  
TO OBTAIN CERTAIN APPROVALS  
WE BELIEVE IS OVERLY BROAD  
AND NOT PRACTICALLY ALLOW A  
WAY TO BE ENFORCED.  
>> I YOU TALKING  
SPECIFICALLY ABOUT PAY AND  
BENEFITS KIND OF ISSUE.  
AND MEMBERSHIP.

PORTION OF THE EFFECT ON  
SMALLER JUDGES, SMALLER  
COUNTY JUDGES AND CREATE AN  
INSTITUTIONAL METHOD OF  
GETTING THESE -- LET ME ASK  
YOU THIS ABOUT THIS MOTION.  
AND WHAT THEY SAY WHEN THEY  
GO ACROSS THE STREET.  
I DON'T RECALL SEEING BUT  
DID YOU PROPOSE SOME CHANGE  
TO THE RULE THAT SAYS -- YOU  
WERE SPEAKING INDIVIDUALLY.  
WAS VERY PROPOSED CHANGE TO  
THAT RULE?  
>> WE DID NOT PROPOSE -- WE  
WOULD LIKE THE OPPORTUNITY  
TO DO SO IF GIVEN BY THE  
COURT TO ACCOMPLISH WHAT YOU  
WANT TO ACCOMPLISH BUT THE  
RULES AS INTERPRETED  
COMPLETELY -- EVEN AT SOME  
POINT IT WILL PROTECT THE  
SPEECH.  
MY LIGHT IS BLINKING.  
>> MAY IT PLEASE THE COURT?  
I AM STEVE NORTH --  
NORTHCUTT.  
WE FILE COMMENTS ABOUT FOUR  
OF THE RULES MY COLLEAGUES  
HAVE TOUCHED ON TWO OF THEM  
AND I DON'T PROPOSE THE  
LABOR ON THAT POINT.  
NOT ON THE LAST SUBJECT.  
BUT I DO WANT TO ENDORSE AND  
ABOUT THE POSITIONS AND  
ARGUMENTS MY COLLEAGUES MADE  
AT THIS POINT AND ALSO POINT  
OUT THAT THE DISTRICT COURTS

OF APPEAL ARE IN A SLIGHTLY DIFFERENT SITUATION WITH REGARD TO THREE ASPECT OF THE RULE CHANGE.

THE FIRST DIFFERENCE BETWEEN THE D.C. AS AND TRIAL COURT IS FOR 50 YEARS FLORIDA LAW HAS SPECIFIED THAT THE SELECTION OF THE DISTRICT COURT BE JUDGED BY JUDGES OF THAT COURT.

YOUR HONOR POINTED OUT IT WAS POINTED OUT THAT THE RULE DOESN'T SAY THAT WITH REGARD TO CIRCUIT COURTS BUT WE DO HAVE THAT DIFFERENCE AND THAT WAS WRITTEN INTO THE STATUTES IN 1957 WHEN THE D.C. AS CAME INTO EXISTENCE AND IS STILL ON THE BOOKS ON 39.12.

IN 1972 WITH THE REVISION TO ARTICLE 5 WE HAVE THE CURRENT PROVISION WHICH IS ARTICLE 5 SECTION 2, IT STATES IN A SLIGHTLY DIFFERENT WAY, SPECIFIES CHIEF JUDGE OF THE DISTRICT COURT OF APPEAL WILL BE CHOSEN BY A MAJORITY OF THE JUDGES.

>> YOU ARE ADDRESSING THE REMOVAL ASPECT?

>> THE REMOVAL ASPECT AND TERM LIMIT ASPECT.

WE CONTEND THAT THEY IMPINGE ON THE AUTHORITY OF THE DISTRICT COURT OF APPEAL TO CHOOSE THEIR CHIEF.

THIS COURT EARLIER THIS YEAR IN THE CASE THAT WAS SUBMITTED IN WRITING BY COMMISSIONER DALEMBERT SAID WITHDREW FROM THE PREVIOUS CASE ON THE ISSUE OF WHETHER CHARTER COUNTIES CAN IMPOSE TERM LIMITS ON THEIR LOCAL OFFICERS.

THIS COURT AND WROTE THAT COOK UNDERMINED THE ABILITY OF COUNTIES TO GOVERN THEMSELVES AS GRANTED BY THE CONSTITUTION AND THIS POWER GRANTED DISTRICT COURT JUDGES IS NOT SO BROAD.

>> DCAS HAVE REAL POWER?

>> WITH THE ELECTION RAP

SHEETS.

THAT IS ABOUT IT.

THE SAME PRINCIPLE APPLIES.

DON'T GET ME WRONG.

WE THINK THAT THE NARROWING  
OR DRAINING OF THE POOL OF  
CIRCUIT JUDGES WHO ARE  
AVAILABLE -- IS NOT A GOOD  
IDEA.

WE DON'T THINK IT IS GOOD  
POLICY TO IMPOSE TERM LIMITS  
ACROSS THE BOARD FOR A  
VARIETY OF REASONS WE HAVE  
OUTLINED IN WRITTEN  
SUBMISSIONS.

WE HAVE THE ADDITIONAL  
ARROWS IN OUR QUIVER WHICH  
IS THE FLORIDA CONSTITUTION  
LEAVES THAT AUTHORITY TO  
SELECT A CHIEF JUDGE AND TO  
REMOVE THE CHIEF JUDGE AS  
DISTRICT COURT JUDGES.

I WILL POINT OUT ANOTHER  
INTERESTING TWIST, THAT THE  
RULE AS IT PREEEXISTING THE  
CHANGE MADE IN FEBRUARY  
PROVIDES THAT DCA JUDGE CAN  
BE REMOVED BY A TWO THIRDS  
VOTE OF THE JUDGES AND I  
ACTUALLY THINK THAT VIOLATES  
THE CONSTITUTION BECAUSE THE  
CONSTITUTION SAYS CHOSEN BY  
A MAJORITY OF THE JUDGES AND  
I WILL SUBMIT THAT THE  
ABILITY OR IF THE  
CONSTITUTIONAL LANGUAGE --  
THERE WOULD BE NO NEED FOR  
THIS COURT EVER TO REMOVE  
THE DCA CHIEF JUDGE BECAUSE  
THE DCA CHIEF JUDGE IF THE  
RULE COMPLIED WITH THE  
CONSTITUTION ABOUT WHAT IT  
TOOK TO REMOVE THE CHIEF  
JUDGE AND DOCKERY WOULD KEEP  
A MAJORITY OF THE JUDGES ON  
HIS OR HER COURT HAPPY AND  
SATISFIED THAT THE JUDGES  
BRING THE COURT FORWARD AND  
NOT BRING THE COURT INTO  
DISREPUTE.

>> CIRCUMSTANCES WHERE A  
MAJORITY OF JUDGES THOUGHT  
THAT BUT THE CHIEF JUDGE WAS  
BRINGING THE WHOLE BRANCH  
INTO DISREPUTE?

>> YES.

WE ALL KNOW THE EXAMPLE YOU



ARE TALKING ABOUT.  
>> THAT IS HYPOTHETICAL.  
IT IS NOT HYPOTHETICAL THAT  
THAT HYPOTHETICAL INSTANCE  
TOOK A TWO THIRDS VOTE OF  
THE COURT OF THAT JUDGE'S  
COURT TO REMOVE IT.  
AND I SUBMIT THAT IF THE  
RULE REFLECTED WHAT THE  
CONSTITUTION SAYS THAT A  
MAJORITY OF THE JUDGES COULD  
REMOVE HIM OR IF THERE IS NO  
MAJORITY THE CHIEF JUSTICE  
CAN WHICH IS WHAT THE  
CONSTITUTION SAYS, THAT  
HYPOTHETICAL SITUATION WOULD  
HAVE BEEN RESOLVED FAR  
SOONER BY THAT COURT.  
>> WE CAN'T KNOW FOR SURE.  
ALL I KNOW IS WE WALKED  
ALONG FOR 55 YEARS AND THE  
TIME THAT IT BECAME A  
PROBLEM THE REAL PROBLEM WAS  
THE TWO THIRDS VOTE IN THE  
RULE, NOT THE CONSTITUTION.  
I RECOGNIZE THERE WAS  
NOTHING ABOUT THAT IN THE  
REPORT OF THE GOVERNMENT'S  
STUDY GROUP FOR THE  
CONSULTANT'S REPORTS BUT  
THERE IT IS.  
>> IF THE COURT HAS NO MORE  
QUESTIONS OF LIKE TO TURN TO  
LAST POINT WHICH IS NOT BEEN  
RAISED BY MY COLLEAGUES  
WHICH HAS TO DO WITH THE  
PROVISION INSERTED FOR THE  
FIRST TIME FOR THE DCAS THAT  
THE FAILURE OF A JUDGE TO  
COMPLY WITH THE DIRECT ORDER  
OF THE CHIEF JUDGE IS DEEMED  
ECLECTIC DUTY AND THE CHIEF  
JUDGE CAN ESSENTIALS  
REINSTITUTE A DISCIPLINARY  
PROCESS AGAINST THAT JUDGE.  
ONE OF THE DIFFERENCES  
BETWEEN TRIAL COURTS AND DCA  
IS WE ARE COLLEGIAL  
DECISION-MAKING BODY.  
MAJORITY OF YOU HAVE SERVED  
ON DCA, MOST RECENTLY  
JUSTICE LEVARGGA.  
BUT YOU KNOW FROM YOUR  
EXPERIENCE JUST AS YOU KNOW  
FROM YOUR EXPERIENCE ON THIS  
COURT THAT THE COLLEGE  
DECISION -- COLLEGIAL

DECISION-MAKING PROCESS IS  
CARRIED OVER INTO THE  
ADMINISTRATIVE PROCESS.  
>> TELL ME THE OBJECTION,  
WHAT SPECIFIC PROVISIONS YOU  
OBJECT TO AS APPELLATE  
JUDGES.  
>> I WILL FIND IT RIGHT  
HERE, I HOPE.  
YOUR POINT THAT THE CHIEF  
JUSTICES --  
[TALKING OVER EACH OTHER]  
-- THEY DON'T ASSIGN JUDGES  
IN THE SAME WAY THAT THE  
JUDGES OF THE CHIEF JUDGES  
OF THE CIRCUIT COURT IS A  
DIFFERENT DYNAMIC.  
>> DIFFERENT ANIMAL IN TERMS  
OF COMPLEXITY OF THE JOB AND  
IN TERMS OF THE MANNER IN  
WHICH THE JOB IS DONE.  
APPELLATE COURTS BECAUSE OF  
THE NATURE OF THEIR  
DECISION-MAKING ADMINISTER  
THEIR COURTS --  
>> GIVE ME THE SPECIFICS.  
>> RULE 2.0 --  
[TALKING OVER EACH OTHER]  
>> AND IT SAYS -- THIS IS  
GENERALLY THE FAILURE OF ANY  
JUDGE TO COMPLY WITH THE  
ORDER OR DIRECTIVE OF THE  
CHIEF JUDGE SHALL BE  
CONSIDERED NEGLECT OF DUTY.  
WE HAVE NOT HAD THAT IN DCA  
BEFORE AND THAT WILL UPSET  
THE COLLECTIVE --  
>> YOU DON'T THINK THE CHIEF  
JUDGE OF THE APPELLATE COURT  
NEEDS THAT AUTHORITY?  
I AM SURE THAT AS TO THE  
OTHERS THIS IS THE  
RECOMMENDATION --  
>> GO BACK AND LOOK AT THE  
CONSULTANT'S REPORT IT  
REFERS TO COMMENTS BY SOME  
CIRCUIT CHIEF JUDGES.  
NO MENTION OF DISTRICT COURT  
OF APPEAL AND THE REASON IS  
THERE'S NOT A PROBLEM.  
IF I AM PRESIDENT OF THE  
CONFERENCE I HAVE AN  
EXECUTIVE COMMITTEE  
CONSISTING OF THE CHIEF I  
CALL THEM UP ABOUT THIS AND  
SAY TAKE A LOOK.  
WHAT ARE YOUR ISSUES?

THEY DON'T PULL THEIR OWN  
JUDGES.  
THAT IS HOW IT IS DONE.  
I AM AFRAID THAT THAT LEAVES  
ROOM FOR DISAGREEMENT.  
THE ROLE OF THE CHIEF JUDGE  
AND I SUBMIT A CHIEF JUSTICE  
WITHIN THE COURT IS TO  
FACILITATE THAT  
CONSENSUS-BUILDING PROCESS  
AND CARRY OUT THE CONSENSUS.  
>> IT WOULD BE HYPOTHETICAL  
BECAUSE I DON'T KNOW -- THE  
ISSUE OF HOW CASES ARE  
ASSIGNED AND WHAT IF THE  
JUDGE SAYS I WON'T SIT THAT  
WEEK?  
WHAT -- DOES THE CHIEF JUDGE  
HAVE THE AUTHORITY TO SAY  
YOU HAVE TO SIT?  
>> I THINK PERHAPS AND I  
THINK THE GROUP WOULD.  
I HAVE ONLY BEEN AROUND FOR  
15 OF THE 55 YEARS OF DCA  
AND NEVER HEARD A STORY LIKE  
THAT.  
IN MY COURT IF WE ARE  
BEHIND, WE HAVE A LIST OF  
CASES THAT CIRCULATE,  
JUSTICE CANADY, IT IS 8  
SHAME THAT NO ONE IS GOING  
TO BUCK THE GROUP AND IT IS  
IMPORTANT THAT WE LEAVE IT  
THAT WAY.  
THANK YOU VERY MUCH.  
>> THANK YOU ALL.  
THE COURT WILL TAKE A RECESS  
FOR TEN MINUTES.  
>> YOUR HONOR?  
MAY I ASK A QUESTION?  
IT WAS NOT CLEAR WHETHER THE  
COURT WAS INVITING  
SUBMISSION FROM THE  
COMMUNICATION RULE.