

>> ALL RISE.
HEAR YE, HEAR YE, HEAR YE.
SUPREME COURT OF FLORIDA IS NOW
IN SESSION.

ALL WHO HAVE CAUSE TO PLEAD,
DRAW NEAR, GIVE ATTENTION AND
YOU SHALL BE HEARD.
GOD SAVE THESE UNITED STATES,
THE GREAT STATE OF FLORIDA, AND
THIS HONORABLE COURT.

LADIES AND GENTLEMEN, THE
FLORIDA SUPREME COURT IS NOW IN
SESSION.

PLEASE BE SEATED.

>> GOOD MORNING AND WELCOME TO
THE FLORIDA SUPREME COURT.
THE SOLE CASE ON OUR DOCKET
TODAY IS GARCIA VERSUS ANDONIE.

>> GOOD MORNING.

MAY IT PLEASE THE COURT.

I'M LINDA THORNTON, ASSISTANT
COUNTY ATTORNEY.

I REPRESENT PEDRO GARCIA,
THE MIAMI-DADE PROPERTY
APPRAISER.

YOUR HONOR, AT ITS START THIS
CASE ONLY INVOLVES THE SINGLE
ISSUE OF WHETHER THE PERMANENT
RESIDENCE OF THE ANDONIESÆ MINOR
CHILDREN HAD BEEN ESTABLISHED
IN FLORIDA SO THAT THE ANDONIES
COULD GET A HOMESTEAD EXEMPTION
ON THEIR PROPERTY.

THE THIRD DISTRICT ALLOWED THE
EXEMPTION BUT IN DOING SO
IGNORED THAT THE BURDEN OF
PROVING ENTITLEMENT TO
EXEMPTION IS PLACED ON THE
TAXPAYER AND HOMESTEAD EXEMPTION
STATUTES ARE TO BE STRICTLY
CONSTRUED.

>> SO ARE WE TALKING ABOUT
SUFFICIENCY OF THE EVIDENCE OR
A LEGAL QUESTION?

BECAUSE MY UNDERSTANDING WAS
THAT IT WAS ON MOTIONS FOR
SUMMARY JUDGMENT AT THE CIRCUIT
LEVEL AND THAT THE COUNTY, THE
PROPERTY APPRAISER, NEVER
CONTENDED THAT THERE WAS MORE
EVIDENCE THAT NEEDED TO BE
DEVELOPED.

SO I'M A LITTLE CONFUSED ABOUT
THAT BECAUSE THAT'S REALLY
DIFFERENT THAN WHETHER THERE'S

A CONSTITUTIONAL ISSUE
INVOLVED?

>> WELL, YOUR HONOR, I THINK
IT'S A LITTLE BIT OF BOTH.
IN THIS PARTICULAR CASE AT THE
ORAL ARGUMENT AT THE THIRD
DISTRICT, THAT QUESTION WAS
RAISED AND THE TAXPAYERS
ATTORNEY AS WELL AS THE
PROPERTY APPRAISER BOTH AGREED
THERE ARE NO OTHER FACTS IN
ISSUE.

WHATEVER FACTS THERE ARE ARE
CONTAINED IN THE AFFIDAVIT.
SO THERE IS SUFFICIENT EVIDENCE
IN THE RECORD TO DECIDE THE
CASE.

THAT BEING SAID WE DO BELIEVE
THE PRIME ISSUE IS WHETHER THE
NECESSARY SHOWING OF
ENTITLEMENT TO THE EXEMPTION,
IN OTHER WORDS, A SUFFICIENT
SHOWING THAT EFFECTUATED THE
INTENT OF THE PARENTS IN THEIR
AFFIDAVIT HAS BEEN MADE.

>> I DON'T UNDERSTAND THAT.
IF THERE IS, I THOUGHT YOUR
POSITION WAS THAT CHILDREN OF
TEMPORARY OR NON-PERMANENT
ALIENS COULD NEVER BE ENTITLED
TO THIS EXEMPTION?

THAT AS A MATTER OF LAW NO
MATTER WHAT THE PARENTS SAID
ABOUT THEIR INTENTION TO KEEP
THE, HAVE THE CHILDREN REMAIN
IN THAT HOME, THAT COULDN'T BE
BECAUSE THEIR, THEIR PERMANENT
HOME HAD TO BE IN HONDURAS OR
-- THAT THAT WAS THE POSITION
OF THE PROPERTY APPRAISER?

>> NO, NOT EXACTLY, YOUR HONOR.
IT'S A TWO-PART POSITION.

THE INITIAL THRUST WAS
DISAGREEING WITH THE TRIAL
COURT WHO FELT CITIZENSHIP WAS
ENOUGH TO ESTABLISH PERMANENT
RESIDENCE AND TO EMPHASIZE THAT
THE AD VALOREM LAW WHICH IS
BASED ON THE COMMON LAW HAS AT
ITS PREMISE THE PRESUMPTION
THAT THE DOMICILE OF THE MINOR
IS THAT OF ITS PARENTS BUT AS
WE ARGUED IN THE BRIEF, THE
SECOND PART OF IT IS WHAT'S
INCORPORATED IN SECTION 196.012

OF THE FLORIDA STATUTES.
AND THAT SAYS ONCE THE
PRESUMPTION IS ESTABLISHED IN
THIS CASE BY LAW AT THEIR
BIRTH, IN HONDURAS THE
PRESUMPTION IS PRESUMED TO
CONTINUE UNTIL A CHANGE HAS
BEEN SHOWN AND AT THAT POINT
WHAT WE DISCUSSED IS THAT THE
AFFIDAVIT OF THE PARENTS
DOESN'T SUFFICIENTLY REBUT THE
PRESUMPTION.

WE'RE NOT SAYING THAT --

>> WHAT WOULD REBUT -- SO,
IT'S, IT'S NOW YOUR POSITION
AND HAS IT ALWAYS BEEN YOUR
POSITION THAT THE PRESUMPTION
CAN BE REBUTTED?

>> YES, YOUR HONOR.

WE DISCUSSED --

>> YOU MAINTAINED THAT
CONSISTENTLY THROUGHOUT THESE
PROCEEDINGS?

>> YES, YOUR HONOR, AS YOU'LL
SEE IT IS DISCUSSED IN THE
BRIEF.

FIRST OF ALL YOU HAVE THE
PRESUMPTION THAT NEEDS TO BE
ACCEPTED THAT YOU START WITH
THE DOMICILE BEING THAT OF THE
PARENT.

THEN THE QUESTION IS WAS THAT
PRESUMPTION REBUTTED?

>> WHAT WOULD REBUT THE
PRESUMPTION?

YOUR CONTENTION IS THIS
AFFIDAVIT IS INSUFFICIENT TO
REBUT THE PRESUMPTION.

WHAT WOULD BE SUFFICIENT IN THE
VIEW OF YOUR CLIENT TO REBUT
THE PRESUMPTION?

>> YOUR HONOR, WHAT THE
PROPERTY APPRAISER WOULD EXPECT
TO SEE AND WHAT WE WOULD
SUGGEST IS A BRIGHT LINE
TEST --

>> WHAT DOES THE LAW REQUIRE?
WHAT IS YOUR POSITION ABOUT
WHAT THE LAW REQUIRES?
NOT WHAT YOU WANT, BUT WHAT THE
LAW REQUIRES?

>> WELL WHAT WE'RE ASKING FOR
IS WHAT WE THINK THE LAW
REQUIRES AND THAT IS THAT
INTENT BE EFFECTUATED BY

OVERPOSITIVE ACTS.

>> THE AFFIDAVIT SAYS IT IS THE RESIDENCE OF MY WIFE AND MYSELF AND THE PERMANENT RESIDENCE OF OUR THREE CHILDREN.

WHAT MORE DO YOU WANT THAN THAT?

>> WELL, YOUR HONOR, OUR POSITION THAT IS A SELF-SERVING STATEMENT.

HOW IS THAT, HOW IS THAT EFFECTUATED? IN OTHER WORDS, HAS, HAVE THE ANDONIES COME TO THE PROPERTY APPRAISER --

>> WHAT DOES YOU HAVE TO SAY FOR IT NOT TO BE A SELF-SERVING STATEMENT?

>> IT HAS TO SAY, WE RECOGNIZE WE CAN NOT BE HERE ON A PERMANENT BASIS, THEREFORE, HERE IS AN ORDER OF THE COURT WHERE WE HAVE ASKED THE COURT TO ESTABLISH THE PERMANENT RESIDENCE OF OUR CHILDREN IN FLORIDA.

>> SO THEY HAVE GOT, WHAT YOU'RE SAYING THEY HAVE GOT TO GO TO COURT TO GET A COURT ORDER?

>> I THINK THAT'S, I'M SORRY.

>> IS THAT RIGHT?

>> I THINK THAT'S THE BRIGHT, THAT IS THE BEST BRIGHT LINE TEST.

>> WELL IT IS BUT, OKAY.

THE FACT THAT THAT WOULD BE A BRIGHT LINE DOESN'T NECESSARILY MEAN THAT'S WHAT THE LAW REQUIRES OR SHOULD REQUIRE.

ISN'T IT, ISN'T IT THE CASE THAT PARENTS REGULARLY MAKE ARRANGEMENTS FOR OTHER PEOPLE TO TAKE CARE OF THEIR MINOR CHILDREN WHEN THEY'RE GOING TO BE AWAY FROM, FROM WHERE THE CHILDREN LIVE, AND THAT'S, AND THEY DON'T GO TO COURT TO HAVE THAT FORMALIZED.

THAT IS GOING ON ALL THE TIME WHERE PARENTS WHO HAVE TO BE AWAY FOR SOME REASON, ENTRUST THEIR CHILDREN TO RESPONSIBLE ADULTS AND THAT'S NOT A PROBLEM BUT YOU'RE SUGGESTING THAT, AND IN THESE CIRCUMSTANCES THERE

HAS TO BE SOMETHING MORE THAN
THAT KIND OF ORDINARY
ARRANGEMENT.

LET ME ASK YOU.

AM I, I'M CORRECT?

>> THAT IS TRUE SPECIFICALLY
BECAUSE THEY'RE ASKING FOR A
HOMESTEAD EXEMPTION WHICH IS
PREMISED SHOWING A PERMANENT
RESIDENCE AND BECAUSE THE THIRD
DISTRICT IN ITS OPINION SAID
AND IF YOU, WOULD LET ME QUOTE
THE TROUBLESOME PART OF THE
OPINION, THE PARENTS OF
ADEQUATELY DECLARED WHATEVER
MAY BECOME OF THEIR ABILITY TO
REMAIN IN THE UNITED STATES IN
THE FUTURE THEY FULLY PLAN AND
INTEND FOR THEIR U.S.-BORN
CHILDREN TO PERMANENTLY RESIDE
IN THE UNITED STATES.

HOW DO THEY MAKE THAT HAPPEN?
ARE THEY LEAVING THE MINOR
CHILDREN IN THEIR HOME WITH
SOMEBODY?

>> THIS IS A YEARLY EXEMPTION.
AND SO IN FIVE YEARS THEY'RE
ALL IN SCHOOL.
THEY WERE ALL BORN IN THIS
COUNTRY.

THEY'RE AMERICAN CITIZENS.
I PRESUME THEY GO TO SCHOOL AND
THEY HAVE LIVED IN THAT HOUSE
SINCE THE HOUSE WAS, CONDO WAS
ACQUIRED.

SO IN FIVE YEARS FROM NOW IF
SOMETHING HAPPENS AND THEIR
PARENTS HAVE TO GO BACK TO
HONDURAS, THERE IS, GOING TO
STAY IN THAT HOME WITH
GUARDIANS OR GOING TO LEAVE.
AT THAT POINT THE HOMESTEAD
EXEMPTION IS GONE.

SO I DON'T UNDERSTAND THIS IDEA
THAT THE PERMANENCY MEANS THAT
SOMEONE HAS TO ESTABLISH FROM
NOW UNTIL THE AGE OF MAJORITY,
ITS STATUS.

WHAT WE'RE LOOKING AT IS A
POINT OF TIME FOR 14-YEAR-OLD,
A 10-YEAR-OLD AND 8-YEAR-OLD.
PEOPLE THAT HAVE BEEN IN THIS
COUNTRY AND PRESUMABLY ARE
WORKING AND FOR, SINCE 2003 AND
WE ARE TALKING ABOUT ONE YEAR

FOR AN EXEMPTION, RIGHT?
THE 2006 YEAR.
I DON'T KNOW WHAT'S HAPPENED IN
æ07, æ08, æ09, æ10, æ11, æ12.
NOTHING IS RES JUDICATA
THAT THIS HOMESTEAD EXEMPTION IS
REQUIRED.
AM I CORRECT ABOUT THAT?
>> YOUR HONOR, IT DOESN'T HAVE
TO BE FOREVER.
>> I'M ASKING YOU COULD YOU
LITIGATE THIS IF NEW FACTS CAME
TO LIGHT THE YEAR AFTER, CAN
THE PROPERTY APPRAISER MAKE A
DIFFERENT DETERMINATION AND
THEN IT GOES TO THE VALUE
ADJUSTMENT BOARD, THEY COULD
MAKE A DIFFERENT DETERMINATION
IF YOU DISAGREE AGAIN YOU GO TO
THE CIRCUIT COURT WHICH BY THE
WAY YOU BEAR THE BURDEN OF
PROOF IN CIRCUIT COURT,
CORRECT, YOU THE PROPERTY
APPRAISER?
>> YES, THAT IS TRUE.
>> IS THE STATUS PERMANENT
DECISION THAT THESE, THIS IS
FOREVER THE PERMANENT RESIDENCE
JUST BECAUSE IT WAS ESTABLISHED
IN 2006?
>> YOUR HONOR, THE BASIS OF THE
PROPERTY APPRAISER'S
REQUIREMENT THEY ESTABLISH IT
IN 2006 IS SOMETHING THAT WOULD
CARRY OVER EVERY YEAR AND IN
MIAMI-DADE COUNTY AS MAY BE IN
MOST COUNTIES IN FLORIDA THE
HOMESTEAD EXEMPTION ONCE
GRANTED IS AUTOMATICALLY
RENEWED ON A YEARLY BASIS.
OBVIOUSLY IF FACTS CHANGE, THEN
THE ANALYSIS CHANGES.
>> SO THAT'S WHAT I'M SAYING.
SO IF THEY END UP WHERE FOR THE
REASONS OF THE VISA, WHATEVER
THAT THEY HAVE TO GO BACK TO
HONDURAS, THEY'RE EITHER GOING
TO TAKE THEIR CHILDREN, AT
WHICH POINT THERE WILL BE NO
MORE HOMESTEAD EXEMPTION OR
THEY WILL HAVE THEIR CHILDREN
WITH EITHER A GUARDIANSHIP THAT
WILL BE ESTABLISHED OR WITH
RELATIVES OR WHATEVER AND AT
THAT POINT, THE SITUATION WILL

CHANGE AND THE, AND THE
HOMESTEAD EXEMPTION CAN BE
REVOKED IF IT'S, IF THOSE ARE
THE FACTS WHICH IS, WE INTEND
FOR OUR CHILDREN TO LIVE HERE
IN THE UNITED STATES, IN MIAMI,
IN THIS CONDO UNTIL THEIR AGE
OF MAJORITY IS, THAT FACT HAS
CHANGED.

>> WELL, YOUR HONOR, I THINK
THAT MIGHT CONFLICT WITH THE
REASONING IN THIS CASE WITH
BARREIRO AND DISTRICT COURTS IN
BEEKMAN AND ALCIME WHICH ALL
DEALT WITH SITUATIONS WHERE YOU
HAVE PEOPLE WHO ARE IN FLORIDA,
WORKING IN FLORIDA, HAVE
DRIVER'S LICENSES IN FLORIDA,
HAVE TIES TO FLORIDA BUT
BECAUSE THEY COULD NOT QUALIFY
AS A MATTER OF LAW AS PERMANENT
RESIDENTS, ALL OF THOSE FACTORS
DID NOT MATTER.

>> THE CHILDREN HERE ARE
CITIZENS OF THE UNITED STATES,
IS THAT CORRECT?

>> THAT'S CORRECT.

>> THEY CAN STAY, THEY CAN STAY
IN THE UNITED STATES.

>> WHAT IT MEANS, YOUR HONOR,
THE PARENTS BECAUSE THEY KNOW
THEY'RE ONLY HERE ON TEMPORARY
BASIS THEY CAN GO INTO COURT
AND MAKE SURE IF THEY LEAVE,
TEMPORARY GUARDIANSHIP IN THE
FAMILY OF -- CUSTODY OF FAMILY
MEMBERS OR STANDBY GUARDIAN IS
APPOINTED THEY CAN EFFECTUATE
THAT CHANGE.

>> THAT IS THE QUESTION HERE.
DO THEY HAVE TO DO THAT UNDER
THE LAW IN ORDER TO ESTABLISH
THAT THESE CHILDREN ARE
PERMANENT RESIDENTS?
IS THAT A REQUIREMENT UNDER THE
LAW TO DO THAT?

>> WELL THE LAW THAT
SPECIFICALLY SET OUT THAT
PROCEDURE ISN'T SPECIFIC.
HOWEVER IN CUSTODY DECISIONS,
GUARDIANSHIP DECISIONS, THAT IS
USUALLY RECOGNIZED AS THE MOST
FORM OF OFFICIAL WAY OF
ESTABLISHING A DOMICILE.

>> SO IF THE PARENTS DECIDE

THAT, OR THEY FIND OUT TODAY,
THEY HAVE GOT TO LEAVE IN 10
DAYS, AND THEY HAVE A RELATIVE
HERE, AN ADULT RELATIVE, THAT
THEY LEAVE THEIR CHILDREN WITH,
THAT WOULD NOT QUALIFY?

>> WELL, YOUR HONOR, FIRST OF
ALL, LET'S REMEMBER WHAT THE
ANDONIES GAVE TO THE PROPERTY
APPRAISER.

NOTHING MORE THAN THAT THEIR
AFFIDAVIT.

>> I'M JUST ASKING YOU HOWEVER,
IF THEY MAKE ARRANGEMENTS, THEY
HAVE TO GO HOME, THEY HAVE TO
GO BACK TO HONDURAS.

>> RIGHT, RIGHT.

>> IF THEY MAKE ARRANGEMENTS
WITH AN ADULT TO BE HERE WITH
THEIR CHILDREN IN THIS CONDO,
THAT'S NOT GOING TO BE
SUFFICIENT, IS THAT YOUR
POSITION?

>> WELL, FIRST OF ALL IT HAS TO
HAVE BEEN IN PLACE ON THE
TAXING DAY.

SECOND THERE ARE STATUTES,
THERE IS MORE THAN ONE STATUTE
IN FLORIDA LAW THAT RECOGNIZES
THAT GUARDIANSHIPS IN THOSE
VERY CIRCUMSTANCES CAN BE
ESTABLISHED WHERE YOU HAVE A
COURT ORDER, MAKING SURE THAT
THE SCHOOLS, THE HOSPITAL,
EVERYONE KNOWS THAT THESE MINOR
CHILDREN HAVE A RESPONSIBLE
ADULT WHO HAS BEEN GIVEN THIRD
TO LOOK OUT FOR THEIR
INTERESTS.

IT SHOULD BE WHAT FLORIDA WOULD
REQUIRE.

>> WE HAVE PEOPLE ALL OVER THE
UNITED STATES AND IN FLORIDA
WHO FOR SOME REASON OR ANOTHER
HAVE TO GO SOMEWHERE OR DO
SOMETHING AND LEAVE THEIR KIDS
IN CARE OF ANOTHER.

I THINK IT IS, I CAN NOT
IMAGINE A SITUATION OF THIS
FAMILY, LEAVING THEIR KIDS
WITH, SAY A GRANDMOTHER OR
SOMEONE LIKE THAT THAT THEY
TRUST AND WE'RE GOING TO MAKE
THEM GO INTO COURT AND SOMEHOW
GET A COURT TO APPROVE THEIR

FAMILY SITUATION, LEAVING THEIR KIDS WITH A TRUSTED FAMILY MEMBER?

>> YOUR HONOR, WHAT WE'RE ASKING FOR IS A COURT ORDER, OR SUFFICIENT EVIDENCE OTHERWISE, WHICH WE DIDN'T HAVE IN THIS CASE, TO ESTABLISH THAT THEIR PERMANENT RESIDENCE HAS BEEN CHANGED FROM HONDURAS TO FLORIDA.

THAT'S WHAT WE'RE LOOKING FOR.

>> THIS IS WHAT I FIND ABSOLUTELY INCREDIBLE. THREE CHILDREN THAT WERE, HAVE NEVER LIVED ON A PERMANENT BASIS IN HONDURAS. THREE CHILDREN THAT WERE BORN HERE.

THE PROPERTY APPRAISER IS SAYING PERMANENT RESIDENCE IS HONDURAS, IS THAT YOUR POSITION, IS THAT CORRECT?

>> STARTING POSITION, YOUR HONOR.

>> NOW WHEN THEY CAME IN AND ASKED FOR THEIR HOMESTEAD EXEMPTION DID THE PROPERTY APPRAISER SAY WE CAN'T GIVE THIS TO YOU UNLESS YOU HAVE A COURT ORDER SHOWING YOU HAVE AN ALTERNATIVE GUARDIAN THAT IS A PERMANENT RESIDENT OF THE UNITED STATES?

WAS THAT TOLD TO THIS FAMILY?

>> THEY WERE TOLD THAT THEY DIDN'T QUALIFY FOR THE --

>> I'M ASKING YOU DID THEY SAY THAT THE PROPERTY APPRAISER'S RULES ARE THAT THE ONLY WAY THAT, BECAUSE WE CAN'T FIGURE IT OUT ON A CASE-BY-CASE BASIS, IS THAT WE HAVE A RULE HERE THAT YOU NEED TO HAVE A GUARDIANSHIP?

WAS THAT EVER TOLD TO THEM?

>> I, I PERSONALLY DON'T KNOW. NOTHING IN THE RECORD ABOUT THAT.

>> WHEN IS THE FIRST TIME THAT THE ARGUMENT IS BEING MADE THAT THE ONLY WAY THAT THE EXEMPTION CAN BE GRANTED IS IF THE PARENTS THAT ARE NOT PERMANENT RESIDENTS OF THE UNITED STATES

HAVE A COURT ORDER SHOWING
THERE WOULD BE AN ALTERNATIVE
GUARDIAN?

WHEN WAS THAT MADE?

WAS THAT IN THE TRIAL COURT?
WAS THAT ARGUMENT MADE IN THE
TRIAL COURT?

>> I DON'T BELIEVE THAT WAS
SPECIFICALLY DISCUSSED IN THAT
WAY IN THE TRIAL COURT.

>> AND WAS IT, THAT MADE TO
THE THIRD DISTRICT, THAT THEY
JUST, THEY REJECTED THAT BUT
DIDN'T DISCUSS IT IN THEIR
OPINION?

>> THAT'S TRUE.

WE DID DISCUSS, WE DID DISCUSS,
IN FACT THERE WERE QUESTIONS AT
THE THIRD DISTRICT ABOUT, DOES
THE AFFIDAVIT AS IT WAS
PRESENTED, DOES THAT
SUFFICIENTLY REBUT THE
PRESUMPTION OF THE DOMICILE
BEING IN HONDURAS?

THE U.S. SUPREME COURT --

>> BY THE WAY, WHERE IS, THE
PRESUMPTION YOU SAID IT WAS IN
THE STATUTE?

IT IS NOT IN THE CONSTITUTION,
CORRECT?

>> IT IS NOT BECAUSE THE
CONSTITUTION DEFINES PERMANENT
RESIDENCE BUT --

>> NOT IN THE CONSTITUTION.

IS IT IN A STATUTE?

>> IT IS IN TWO PLACES YOUR
HONOR.

WITH RESPECT TO A MINOR CHILD
THE DEPARTMENT OF REVENUE HAS A
REGULATION THAT --

>> THAT IS NOT A STATUTE.

I'M ASKING YOU IF IT IS IN A
STATUTE?

>> WHAT IS IN THE STATUTE, YOUR
HONOR, 196.012, SUBSECTION 18.

ONCE A DOMICILE HAS BEEN
ESTABLISHED IT IS PRESUMED TO
CONTINUE UNTIL A CHANGE HAS
BEEN SHOWN.

AND IF YOU READ THAT
CONSISTENTLY WITH THIS COURT'S
DECISIONS IN BEEKMAN AND
CHISHOLM AND ALL THE CASES THAT
RECOGNIZE THE COMMON LAW

PRESUMPTION THAT THE DOMICILE OF A MINOR CHILD IS THAT OF ITS PARENTS BECAUSE THAT'S YOUR STARTING POINT, THEN THE STATUTE SAYS, THAT'S PRESUMED TO CONTINUE UNTIL A CHANGE HAS BEEN SHOWN. AND --

>> WHAT DOES THE LANGUAGE IN THE CONSTITUTIONAL PROVISION, THAT LANGUAGE THAT TALKED ABOUT A LEGALLY OR NATURALLY-DEPENDENT UPON THE OWNER, WHAT DOES THAT MEAN? BECAUSE IT SEEMS TO ME THAT IF WE FOLLOW YOUR LOGIC WE HAVE WRITTEN THAT PORTION OUT OF THAT CONSTITUTIONAL PROVISION.

>> I THINK WHAT IT MEANS, YOUR HONOR, THAT PERMANENT RESIDENCE DEFINES ONE OR THE OTHER. SOMEONE AFFILIATED WITH THAT HOMESTEAD HAS TO BE A PERMANENT RESIDENT.

WE ALL KNOW IT IS AGREED THAT THE CHILDREN --

>> PARENTS CAN'T BE PERMANENT RESIDENTS?

>> OF COURSE THEY CAN BUT PERMANENT RESIDENCE PRESUMED TO BE HONDURAS HAS TO BE TRANSFERRED TO FLORIDA.

>> -- BY QUITCLAIM DEED, WOULD THEY QUALIFY THEN?

>> I DON'T BELIEVE CHILDREN CAN OWN THE PROPERTY, YOUR HONOR. THEY'RE MINORS.

>> CHILDREN CAN'T OWN PROPERTY?

>> THAT'S MY UNDERSTANDING.

BUT WHAT WE'RE SAYING IN THIS SITUATION IS THERE ARE CIRCUMSTANCES, OBVIOUSLY, THAT CAN BE FASHIONED AND SHOULD BE FASHIONED TO MAKE SURE THAT IF THESE PARENTS ARE TOLD TOMORROW THEY NEED TO LEAVE FLORIDA, THAT THEIR CHILDREN CAN REMAIN HERE AS PERMANENT RESIDENTS.

>> YOU'RE CONCERNED ABOUT THE CHILDREN'S WELFARE?

IS THAT WHAT THE PROPERTY APPRAISER IS HERE TO MAKE SURE THAT THESE CHILDREN ARE NOT ABANDONED IN THIS, IN THE COUNTRY?

I'M GETTING, I REALLY AM TRYING

TO UNDERSTAND THE PROPERTY
APPRAISER'S GOOD FAITH ARGUMENT
HERE.

SO YOU'RE CONCERNED ABOUT THE
CHILDREN'S WELFARE?

>> WHAT WE'RE CONCERNED ABOUT
IS THE PARENT COMING IN AND
SAYING, WHAT WHETHER WE STAY,
WHETHER WE GO, OUR CHILDREN, WE
WANT OUR CHILDREN TO STAY HERE.
WE'RE SAYING THAT'S FINE BUT
YOU NEED TO SHOW HOW IS THAT
GOING TO HAPPEN.

>> IT REALLY SEEMS TO ME THIS
IS, WHAT YOU'RE SAYING IS, AND
CORRECT ME IF I'M WRONG ON THIS
BUT THERE'S NO PARTICULAR
STATUTE ANYWHERE THAT ANYONE
CAN FIND THAT DEFINES WITH ANY
PRECISION HOW YOU ESTABLISH
PERMANENT RESIDENCE.

IS THAT A FAIR STATEMENT?

FOR CONSTITUTIONAL PURPOSES?

SO WE GO BACK AND LOOK AT THE
COMMON LAW CONCEPTS AND WE LOOK
AT ONE STATUTE THAT DOESN'T
NECESSARILY IMPLEMENT HERE.

ISN'T THAT WHAT YOU'RE TRYING
TO ARGUE?

>> WELL, AND ALONG WITH THE
REGULATION WHICH IS BASED ON
FLORIDA SUPREME COURT PRECEDENT
WHICH ACKNOWLEDGES THAT
PRESUMPTION.

YOU TAKE IT ALL TOGETHER AND
YOU HAVE AN ACTUALLY A LOGICAL,
FRAMEWORK.

YOU START --

>> JUST NOTHING RIGHT NOW THAT
SAYS THAT IS THE ONLY WAY TO
DO IT?

>> OH, NO.

>> DO YOU AGREE WITH THAT?

>> THAT'S CORRECT.

>> OKAY.

>> AND WE'RE NOT SAYING THAT
THE ONLY WAY IS SOMEONE GOES TO
COURT AND GETS A COURT ORDER.
WE'RE SAYING THAT IS THE
CLEANEST WAY.

FOR INSTANCE IN THE DEPARTMENT
OF EDUCATION VERSUS HARRIS
THAT IS WHAT THE COURT
SUGGESTED --

>> THERE IS NO ANOTHER ON THE

OTHER HAND THAT SAYS IF YOU DO NOT DO IT THAT WAY YOU DO NOT QUALIFY?
IS THAT CORRECT?
THERE'S NO CASE AUTHORITY --
>> THERE ARE NO CASES --
>> THERE IS NOTHING, THAT'S WHY I SAID THERE IS NOTHING THAT SAYS IF YOU DO NOT DO IT THIS WAY, X-WAY, THAT YOU CAN NOT QUALIFY FOR THE WHAT THE PEOPLE HAVE PLACED IN OUR CONSTITUTION?
>> YOUR HONOR, I THINK THERE'S CASE LAW --
>> COULD YOU ANSWER FIRST AND THEN EXPLAIN IT.
I'M TRYING TO UNDERSTAND, SEEMS TO ME THERE IS NO AUTHORITY ANYWHERE THAT SAYS THIS IS THE ONLY WAY YOU CAN DO IT FOR THIS CONSTITUTIONAL PROVISION?
>> THAT'S CORRECT BECAUSE THE CONSTITUTIONAL PROVISION DOESN'T PROVIDE THE DEFINITION HERE.
>> I UNDERSTAND.
>> BUT THE CASES IN FLORIDA, SNYDER, IS ONE OF THEM, ALL WHEN THEY TALK ABOUT THE COMMON LAW PRESUMPTIONS OF DOMICILE, MAKE IT VERY CLEAR THAT IF YOU'RE GOING TO ESTABLISH A DOMICILE SOMEWHERE YOU HAVE TO DO SOMETHING MORE THAN JUST MAKE A STATEMENT OF INTENT.
>> DOMICILE IS FUNCTIONALLY EQUIVALENT OF PERMANENT RESIDENCE?
>> YES IN THIS CONTEXT AND EVEN THE THIRD DISTRICT RECOGNIZED IN ITS OPINION IS THAT'S WHAT WE'RE TALKING ABOUT.
WE'RE NOT TALKING ABOUT CITIZENSHIP.
WE'RE NOT TALKING ABOUT ACTUALLY PHYSICAL RESIDENCE.
>> YOU USED ALL YOUR TIME.
I WILL NONETHELESS GIVE YOU TWO MINUTES FOR REBUTTAL.
>> THANK YOU.
>> GOOD MORNING.
MAY IT PLEASE THE COURT, DANIEL WEISS, TANNENBAUM, WEISS, ON BEHALF OF THE PARENTS, DAVID

AND ANA ANDONIE.
BEFORE THE COURT IS
CONSTITUTIONAL PROVISION WHICH
BEARS SOME EMPHASIS, AND ISSUE
BEFORE THE COURT THIS MORNING,
IS WHETHER REAL PROPERTY CAN
QUALIFY UNDER ARTICLE 7, SECTION
6-A OF THE FLORIDA CONSTITUTION
FOR PROPERTY TAX EXEMPTIONS FOR
A HOMESTEAD WHERE THE PARENTS
ARE CITIZENS OF ANOTHER
COUNTRY, AND THE CHILDREN ARE
U.S. BORN, FLORIDA BORN,
CITIZENS OF THE U.S., CITIZENS
OF FLORIDA AND THEREFORE
PERMANENT RESIDENTS RESIDING ON
THE SUBJECT PROPERTY.

>> IS THAT, IS CITIZENSHIP IN
YOUR MIND THE FUNCTIONAL
EQUIVALENT OF PERMANENT
RESIDENCE?

>> IT IS BUT WE WOULD SUBMIT
THAT IF YOU LOOK AT THE STATUTE
WHICH IS 196.012 SUBSECTION 17
AND 18, YOU WILL FIND THAT
PERMANENT RESIDENCE IS DEFINED.
PERMANENT RESIDENCE, CAN BE
CITIZENSHIP.

DOES NOT REQUIRE IT TO BE
CITIZENSHIP BECAUSE IF YOU'RE A
PERMANENT RESIDENT UNDER
IMMIGRATION LAW YOU WOULD
QUALIFY.

IN THIS INSTANCE IT WOULD BE
ENOUGH FOR THE CHILDREN TO BE
FLORIDA CITIZENS, HOWEVER YOU
ACQUIRE THAT BUT WE'RE SAYING
BY VIRTUE OF THE FACT THAT THEY
ARE U.S. CITIZENS OF FLORIDA,
CITIZENS, THEY DEFINITELY
QUALIFY.

>> ARE WE, THERE WAS SOMETHING
IN THE THIRD DISTRICT OPINION,
AND I, SINCE YOU OBVIOUSLY,
INTERESTED ME, THEY TALK ABOUT
THE AFFIDAVIT OF YOUR CLIENT
AND THEY SAY, THERE IS CONTRARY
EVIDENCE FROM WHICH WE CONCLUDE
THE AFFIDAVIT WAS MADE OTHER
THAN IN GOOD FAITH.

AND THEN JUDGE SHEPARD WENT ON
TO SAY, ALTHOUGH ONE MIGHT
WONDER WHETHER HIS ASSERTIONS
ARE CONGRUENT WITH THE LAWS OF
NATURE WE APPLY IT IN THIS

COURT THE CONSTITUTIONAL LAWS
OF THE STATE OF FLORIDA.
WHAT WOULD YOU -- YOU'RE NOT IN
HIS MIND, BUT WHAT DID HE, WHAT
IS THAT ARE WE TO MAKE OF THAT
IN THE OPINION?

>> I BELIEVE, I'M, AND I INFER,
THAT JUDGE SHEPARD WAS
CONCERNED ABOUT CHILDREN OF 7
AND 12 AND 14, LIVING ON THE
PROPERTY WITHOUT HAVING THEIR
PARENTS PRESENT BUT I THINK
WHAT WE NEED TO KNOW IS, AND
WHAT WE POINT OUT IS, THAT THIS
DETERMINATION IS MADE ANNUALLY
AND, AND AN ANNUAL APPLICATION
IS REQUIRED FOR HOMESTEAD
EXEMPTION.

IF THERE'S ANY CHANGE IN
STATUS, THERE'S A REMINDER CARD
THAT IS SENT OUT TO EACH
TAXPAYER WHO HAS A HOMESTEAD
EXEMPTION TO INFORM THE
PROPERTY APPRAISER.

>> YOUR OPPONENT IS INCORRECT
WHEN SHE SAYS ONCE YOU
ESTABLISH HOMESTEAD, IT IS
AUTOMATIC EVERY YEAR THEREAFTER
UNLESS YOU DO SOMETHING
AFFIRMATIVELY?

>> IT DOES CONTINUE AUTOMATICALLY
IF NOTHING CHANGES.
IT IS A REMINDER --.

>> PROPERTY OWNER HAS A DUTY
UNDER LAW TO GIVE THE PROPERTY
APPRAISER NOTICE OF ANY
RELATIVE CHANGE IN
CIRCUMSTANCES AND THEY CAN BE
IN TROUBLE IF THEY DON'T COMPLY
WITH THAT, IS THAT CORRECT?

>> IN TROUBLE TO SAY THE LEAST,
BECAUSE THE PROPERTY APPRAISER
CAN GO BACK 10 YEARS AND REVOKE
THE HOMESTEAD EXEMPTION AND
THERE IS 50% PENALTY PER ANNUM.
THEY LOSE THE SAVE OUR HOMES
AND 15% INTEREST.

THIS IS INCREASINGLY USED AS A
REVENUE SOURCE IN THE COUNTIES
THROUGHOUT THE STATE OF
FLORIDA.

SO THE ANSWER TO THAT IS
RESOUNDING YES.

IT IS NOT JUST A YES.

>> IS OUR CONCERN ON,

SEEMS LIKE THERE WAS SOME ISSUE ABOUT THE WELFARE OF THE CHILDREN BUT WHAT WE'RE REALLY -- ARE WE CONCERNED ABOUT A NON-RESIDENT, NON-CITIZEN FRAUDULENTLY USING THEIR CHILDREN TO GET A HOMESTEAD EXEMPTION?

IN OTHER WORDS, WHAT'S UNDERNEATH THIS CONSTITUTIONAL ISSUE?

>> THERE IS NOTHING UNDERNEATH IT.

>> IS THAT YOUR CONCERN? BUT THAT'S THE CONCERN, ISN'T IT?

THERE IS SOME POTENTIAL FOR FRAUD AND WHAT YOU ARE SAYING ABOUT IT IS THAT IF SOMETHING OCCURS AND THE PARENTS HAVE TO LEAVE THIS COUNTRY, AT THAT POINT, THEY HAVE TO NOTIFY THE PROPERTY APPRAISER OF THAT CHANGE, AND IF THEY TAKE THEIR CHILDREN WITH THEM AND THERE IS EVIDENCE THAT THEY ALWAYS INTENDED TO TAKE THEIR CHILDREN WITH THEM, THEN THE PROPERTY APPRAISER, CAN GO BACK AND DO WHATEVER IT IS GOING TO DO TO THAT PROPERTY, WHICH OBVIOUSLY DOESN'T GO BACK WITH THEM, STAYS IN THIS COUNTRY?

>> TO BE SURE.

WHAT I WOULD SUBMIT TO THE COURT UNDERNEATH THE CONSTITUTIONAL ISSUE IS THE CONSTITUTION AND THE CONSTITUTION SAYS THAT EVERY PERSON WHO HAS THE LEGAL OR EQUITABLE TITLE TO REAL ESTATE AND MAINTAINS THEIR ON THE PERMANENT RESIDENCE OF THE ONLY OTHER -- OR LEGALLY OR NATURALLY DEPENDENT UPON THE OWNER SHALL BE EXEMPT FROM TAXATION THERE ON, WHEN ESTABLISHED IN THE MANNER BY LAW WHICH IS TO FILE THE HOMESTEAD EXEMPTION APPLICATION.

THE APPLICATION IS A SWORN APPLICATION.

IT'S BEFORE THE COURT.

IT'S IN THE RECORD.

IT SPECIFIED THE SPECIFIC BASIS
THAT WE'RE HERE ON BEFORE THE
COURT WHICH IS NOT WE SUBMIT
THE SUFFICIENCY OF THE
EVIDENCE.

MOREOVER GOING TO JUSTICE
PERRY'S QUESTION, WE SUBMIT
THAT THE CHILDREN NOW HAPPEN TO
HAVE ATTAINED THE AGE OF 18, 19
AND 12.

SO EVEN IF THERE WERE
DISABILITY OF NON-AGE WHICH
ATTACHED TO THE OWNERSHIP OF
PROPERTY THAT IS NO LONGER THE
CASE.

SO PARTICULARLY IMPORTANT TO
RECOGNIZE AS THE COURT DOES
THAT TAXES ASSESSMENTS ARE DONE
ANNUALLY UNDER SECTION 192.042.
THAT THE DETERMINATION OF
HOMESTEAD IS AN ANNUAL
DETERMINATION.

>> WHAT HAS HAPPENED -- SPEAKING
OF THAT, THIS WAS IN 2006, CORRECT?
SO WHAT'S HAPPENED SINCE THEN?
HAVE THEY GOTTEN THE EXEMPTION
OR WHAT?

>> WELL, THAT'S NOT IN THE
RECORD BUT IF THE COURT WANT A
REPRESENTATION, THEY HAVE GOT
THE EXEMPTION YEAR AFTER YEAR
AND ONE YEAR THE --

>> THEY HAVE LIVED HERE?

>> PARDON ME?

>> THE PARENTS HAVE LIVED HERE?

>> THE PARENTS HAVE LIVED HERE.

THEY'RE STILL HERE.

I EXPECTED THEM IN THE
COURTROOM THIS MORNING.

THEY'RE NOT HERE BUT PHYSICALLY
HERE.

>> I KNOW IT IS NOT IN THE
RECORD.

>> IT IS NOT IN THE RECORD AND
MY RESPONSE TO THAT IS, WHAT
IFS, THE PROPERTY APPRAISER I
REALLY THINK IS HERE ON WHAT
IFS.

WHAT IF SOMETHING HAPPENS IN
THE FUTURE AND WE SAY WHAT IF
THE PROPERTY IS CONVEYED TO THE
CHILDREN.

THEY CAN STILL BE DEPENDENT ON
THE PARENTS BECAUSE THE SECOND
PRONG --

>> THE BUSINESS ABOUT THE WHAT
IFS, SEEMS TO ME TO BE RATHER
STRANGE BECAUSE PEOPLE HAVE
HOMESTEADS IN FLORIDA WHO MAY
HAVE SOME PROSPECT OF MOVING
OUT OF FLORIDA.

>> OF COURSE.

>> LIKE EVERYBODY POTENTIALLY
HAS THAT PROSPECT.

>> OF COURSE.

>> SO THE NOTION THAT SOME DAY
SOMETHING MIGHT HAPPEN THAT
WOULD CAUSE THEM TO MOVE AND
NOT RESIDE IN THE FLORIDA IS, I
JUST TO RELY ON THAT TO
ESTABLISH INELIGIBILITY HERE
SEEMS TO BE QUITE BIZARRE.
I'M SURE YOU AGREE?

>> I WOULD HAVE TO AGREE WITH
YOUR ASSUMPTION, YOUR HONOR.

>> I HAVE A QUESTION OF THE
DEPARTMENT OF REVENUE AND I SEE
THE SOLICITOR GENERAL IS
REPRESENTED HERE AND READ THE
BRIEF AND, USUALLY THE
SOLICITOR GENERAL IS DEFENDING
A, COMES IN TO DEFEND THE STATE
STATUTE IT LOOKS LIKE IT'S,
THAT THEY TAKE THE POSITION,
THE DEPARTMENT OF REVENUE, THAT
EVEN THOUGH THEY HAVE THIS RULE
THAT RULE IS NOT A CORRECT, IS
NOT A CORRECT STATEMENT OF THE
LAW.

NOW IS THAT YOUR INTERPRETATION
OF THEIR BRIEF?

>> MY INTERPRETATION OF THEIR
BRIEF IS THAT THEY SAY THAT THE
PROPERTY APPRAISER HAS NO
CONSTITUTIONAL OR STATUTORY
AUTHORITY TO GRAFT ONTO THE
CONSTITUTION AN ADDITIONAL
REQUIREMENT TO IMPORT IT FROM A
STATUTE, WHICH APPEARS TO HAVE
WITHIN IT, A VESTIGE OF A
FORMER --

>> TALKING THERE ABOUT THE
PERMANENT RESIDENCY?

>> I'M NOT.

>> THE RESIDENCY OF THE OWNER?

>> WHO RESIDES THEREON
PROVISION.

>> I DON'T KNOW THAT THERE IS
THE ISSUE OF THIS PRESUMPTION.
IS THE LAW IN FLORIDA, SHOULD

THE LAW BE THAT WHEN YOU'RE TALKING ABOUT MINOR CHILDREN WHO ARE DEPENDENT ON THEIR PARENTS FOR THEIR SUPPORT, UPBRINGING, ET CETERA, THAT THERE IS A PRESUMPTION THAT THEIR RESIDENCE, THEIR PERMANENT RESIDENCE FOLLOWS THE PERMANENT RESIDENCE OF THEIR PARENTS?

IS THAT AN APPROPRIATE, COMMON LAW PRESUMPTION THAT SHOULD CONTINUE IN THIS STATE, OR ARE YOU SUGGESTING, AND I HAVEN'T SEEN IT HERE, THAT THESE CASES FROM THE EARLY 1900s, A COUPLE OF THEM HAVING TO DO WITH MARRIED WOMEN, ARE REALLY VESTIGES OF ANOTHER TIME?

>> THEY'RE VESTIGES OF A BYGONE ERA BUT --

>> IS IT REALLY NOT AS TO CHILDREN?

BECAUSE CHILDREN DO ORDINARILY, THEY'RE, YOU WOULD ASSUME THEIR RESIDENCE IS GOING TO START OUT BEING THE SAME PERMANENT RESIDENCE AS THEIR PARENTS UNLESS THERE IS SOMETHING ELSE THAT'S SHOWN.

AND SO WOULD YOUR POSITION BE THERE SHOULDN'T BE A PRESUMPTION OR IT WAS REBUTTED BY YOUR AFFIDAVIT?

>> I WOULD LIKE TO GO DIRECTLY TO YOUR HONOR'S QUESTION. WHAT I FIND FASCINATING BY YOUR HONOR'S QUESTION IT'S PREDICATED ON A QUESTION OF PERMANENT RESIDENCE RATHER THAN DOMICILE.

AND WHILE THE COUNTY ACCURATELY AND CORRECTLY STATED THAT IT IS IN THIS PARTICULAR INSTANCE, PERMANENT RESIDENCE AND DOMICILE ARE INDISTINGUISHABLE, WHAT WE SUBMIT THAT WITH RESPECT TO YOUR HONOR'S QUESTION THERE ARISE AS DICHOTOMY BETWEEN PERMANENT RESIDENCE AND DOMICILE AND I DO NOT SAY LET'S DO AWAY WITH THE PRESUMPTION THAT THE DOMICILE OF THE CHILDREN FOLLOWS THAT OF THE FATHER OR USED TO BE THE

FATHER, NOW WE SAY PARENTS,
BECAUSE PARENTS ARE NATURAL
GUARDIANS OF THE CHILDREN, BOTH
OF THE PARENTS.

WHAT WE SAY IS THAT THE
PRESUMPTION HAS BEEN REBUTTED.
WE DON'T THINK WE'RE HERE BY
THE WAY ON THE SUFFICIENCY OF
THE EVIDENCE ISSUE.

WITH ALL DUE RESPECT TO THE
COURT WE DON'T THINK THE COURT
IS HERE ABOUT SUFFICIENCY OF
THE EVIDENCE.

WE DON'T THINK THAT IS WHAT THE
ROLE OF THE SUPREME COURT IS IN
THE STATE OF FLORIDA.

AND IF THAT'S WHAT WE'RE HERE
ON WE SUBMIT JURISDICTION MAY
HAVE BEEN IMPROVIDENTLY GRANTED
BUT --

>> SEEMS TO ME, AND CORRECT ME
IF I'M WRONG LOOKING AT THIS.

>> YES, SIR.

>> THIS IS FAR BROADER THAN
FOREIGN NATIONALS AND CHILDREN.
THIS DEALS COULD BE A RESIDENT
OF OHIO.

REGISTERING SOMEONE IN FLORIDA
AS DEPENDENT, PERMANENTLY,
PERMANENT RESIDENCE OF A LEGAL
DEPENDENT OF FLORIDA SAME PIECE
OF LAW WOULD APPLY, CORRECT?

>> ABSOLUTELY.

>> THIS IS BROADER GENERAL
CONSTITUTIONAL PRINCIPLE WE'RE
LOOKING AT AND IT HAPPENS TO BE
THOSE ARE THE FACTS OF THIS
CASE.

>> YES.

>> BUT THE PRINCIPLE IS MUCH
BROADER THAN THAT?

>> IT'S BROADER, IT IS BRODER
IN THE RESPECT YES, IF WE LOOK
AT THE DEPARTMENT REVENUE
REGULATION, 12D-7.007

SUBSECTION 4 IT CONTEMPLATES
THE SITUATION WITH PERSON MAY
BE RESIDENT OF ANOTHER STATE
BUT WHY NOT OF ANOTHER COUNTRY?
INTERESTINGLY TESTIMONY IN THE
RECORD, AND THERE IS SOME
TESTIMONY ADMINISTRATIVE
TRIBUNAL TESTIMONY AND WE
SUBMIT WHAT THE EVIDENCE IS IN
THE RECORD IS THE AFFIDAVIT OF

DAVID ANDONIE, IT IS THE
AFFIDAVIT OF ANGELA NEUMANN, A
30-YEAR EXEMPTION DIRECTOR OF
THE DEPARTMENT OF REVENUE AND
WE HAVE SWORN TESTIMONY OF
MS.^ANGELA NEUMANN IN
COLLATERAL PROCEEDING INVOLVED
WITH SAME SITUATION WE ARE HERE
THIS MORNING.

WHAT WE SAY WE'RE HERE ON
UNCONTROVERTED FACTS ONE YEAR,
AND ONE SPECIFIC SITUATION.

>> AS TO THAT ONE YEAR AND THAT
ONE SPECIFIC SITUATION, COULD
YOU TELL ME WHAT THE RECORD
SHOWS ABOUT THE IMMIGRATION
STATUS OF YOUR CLIENTS DURING
THAT ONE YEAR?

>> YES, SIR.

AS OF JANUARY 1st, 2006,
MR.^AND MRS.^ANDONIE ARE BOTH
HERE AS LAWFUL RESIDENTS.
THEY ARE HERE RESIDING,
PHYSICALLY RESIDING AT LEAST IN
THIS THE STATE OF FLORIDA IN
THE MUNICIPALITY OF KEY
BISCAYNE IN A CONDOMINIUM
TOGETHER WITH THEIR THREE MINOR
CHILDREN.

>> WHAT DID THEIR VISA EXPIRE?

>> THERE IS NO INDICATION THAT
IT EXPIRED AT ALL.

THAT IS A WHAT IF, WHAT IF IT
EXPIRES IN THE FUTURE?

>> THE RECORD DOES NOT SHOW THE
DATE OF THE TERMINATION OF
THEIR VISA?

>> NO. NOR IS THERE ANY
REASON FOR IT TO.

WHAT THE RECORD DOES ESTABLISH,
AND I READ FROM PARAGRAPH 8 OF
THE AFFIDAVIT, OF NOT OF DAVID
ANDONIE BUT ANGELA NEUMANN OF
THE DEPARTMENT OF PROPERTY
APPRAISAL.

FOUND ON PAGE 24.

THE ANDONIES FILED
APPLICATION FOR EXEMPTION OF
HOMESTEAD IN 2006, WHICH
HOPEFULLY IS ATTACHED TO THE
AFFIDAVIT OF ANGELA NEUMANN, A
SWORN APPLICATION AS IT MUST BE
AND HOPEFULLY IT IS ATTACHED TO
THE BRIEF OF THE PROPERTY
APPRAISER.

THE FOLLOWING STATEMENT WAS INCLUDED IN THE APPLICATION MISNEUMANN SAYS, QUOTE, MY CHILDREN ARE U.S. CITIZENS, AGES 7, 12 AND 14. LIVING AT THIS ADDRESS AND ARE LEGALLY AND NATURALLY DEPENDENT UPON MY WIFE AND ME. THEREBY QUALIFYING THE PROPERTY FOR HOMESTEAD EXEMPTION. A COPY OF THE HOMESTEAD APPLICATION IS ATTACHED TO THE AFFIDAVIT OF ANGELA NEUMANN AS EXHIBIT C. THEREFORE THE FACTS ARE UNCONTROVERTED. FACTS ARE LIMITED TO JANUARY 1st, 2006.

>> I WANT TO GO BACK TO JUSTICE LEWIS'S QUESTION.

>> YES.

>> YOU'RE SAYING AS FAR AS THEIR LEGAL STATUS THAT IS NOT AN ISSUE HERE?

>> CORRECT.

>> THE CONSTITUTION, AND I WASN'T REALLY FAMILIAR WITH THE SECOND POSITION, IS THAT YOU'VE GOT THE HOMESTEAD EXEMPTION IF IT'S PERMANENT RESIDENCE OF THE OWNER, WHICH IS THE ONE WE'RE MOSTLY FAMILIAR WITH.

>> YES.

>> OR, ANOTHER LEGALLY OR NATURALLY DEPENDENT PERSON UPON THE OWNER. SO THAT'S AN, CLEARLY THAT DOESN'T DEPEND UPON THE PERMANENT RESIDENCE OF THE OPENER OR IT WOULDN'T BE AN OR. SO GIVE, I WAS TRYING TO THINK OF THE HYPOTHETICALS OR THE REAL-LIFE SITUATIONS WHERE THAT OCCURS SUCH AS, WE TAKE OHIO. SOMEBODY WHO WAS, HAS ELDERLY PARENT IN FLORIDA, WHO IS DEPENDENT ON A SON OR A DAUGHTER IN OHIO, AND THEY BUY A RESIDENCE IN FLORIDA FOR THEIR ELDERLY PARENT WHO IS LEGALLY OR NATURALLY DEPENDENT? IS THAT ELDERLY PARENT THEN, DOES THAT PROPERTY, IS THAT ENTITLED TO A HOMESTEAD EXEMPTION?

>> THERE WOULD HAVE TO BE A
SHOWING, AND THERE HAS TO BE
ADEQUATE SHOWING AT THAT THE
PARENT, IF YOU WILL, IS
NATURALLY OR LEGALLY DEPENDENT.
NOW --

>> AND HOW IS THAT, I GUESS
THAT IS OUTSIDE THE RECORD BUT
IT SEEMS THAT THE ACTUAL FACT
OF DEPENDENCY WILL ALWAYS
CREATE SOME QUESTION AS TO
WHERE THE PERSON IS LIVING,
LIVING, SOMEPLACE ELSE.

>> YES.

>> THEY BUY THIS RESIDENCE FOR
THEIR PARENT OR IT COULD BE,
YOU KNOW, A DIVORCE SITUATION
WHERE AS A CONDITION OF THE
DIVORCE THEY BUY THE HOUSE.
SAY YOU, THE MOTHER OF OR
FATHER CAN LIVE THERE WITH THE
CHILD UNTIL THEIR MAJORITY.
I WAS TRYING TO THINK HOW MANY
SITUATIONS ARE THERE WHERE IN
THE STATE OF FLORIDA, AND MAYBE
WE DON'T KNOW THIS FROM THE
RECORD, WHERE THIS IS ALWAYS
GOING TO BE A FACTUAL DISPUTES
IT SEEMS TO ME.

I GUESS SOMEBODY IS GOING TO
HAVE TO ESTABLISH THE
DEPENDENCY WHY THEY'RE LIVING
IN ONE PLACE AND THE PERSON WHO
IS DEPENDENT ON THEM IS LIVING
OR, LIVING IN THAT RESIDENCE?

>> YES.

AND THAT'S ESSENTIAL I THINK TO
THE RECOGNITION WHAT WE'RE HERE
ON IS AN EXTREMELY LIMITED
ISSUE.

THAT IT IS A FACT-INTENSIVE
SITUATION.

AND FOR EXAMPLE, WE DO KNOW
FROM THE RECORD THAT A FEDERAL
INCOME TAX RETURN WAS SUBMITTED
BY THE ANDONIES TO SHOW THAT
THEIR CHILDREN ARE ACTUALLY
DEPENDENT.

NOW WE THINK THAT THE AFFIDAVIT
OR THE HOMESTEAD EXEMPTION
APPLICATION, BECAUSE IT IS
DATED WHAT MS.^NEUMANN STATED
AS A SWORN APPLICATION WHICH IS
THE FORM OF THE APPLICATION AND
WHICH IS ANOTHER PROTECTION BUT

INITIAL PROTECTIONS ARE FOUND
IN THE REGULATIONS OF THE
DEPARTMENT OF REVENUE UNDER
12-D-7 WHICH IS HOMESTEAD
EXEMPTION REGULATIONS WHICH SAY
THE OWNER, THE APPLICANT FOR
HOMESTEAD EXEMPTION HAS TO SHOW
TO THE SATISFACTION OF THE
PROPERTY APPRAISER, ONE THAT
THERE IS NO OTHER HOMESTEAD
EXEMPTION THAT ATTACHES TO THAT
FAMILY IN THE STATE OF FLORIDA
AND TWO, THAT THERE IS INDEED A
NATURAL OR LEGAL DEPENDENCE
THAT IS PREDOMINANT OR
EXCLUSIVE.

>> AND HERE THERE IS NO -- HERE
WE DON'T HAVE A MINOR CHILD.
WE DON'T HAVE ANY ISSUE,
THEY'RE NOT CONTESTING
DEPENDENCY?

THEY'RE JUST QUESTIONING THE
PERMANENT RESIDENCE?

>> YES.

AND THERE IS, PARENTS ARE THE
NATURAL GUARDIANS OF THE CHILD.
THEY COULD MAKE SOME OTHER
ARRANGEMENT IN THE FUTURE AS
THE COURT DISCUSSED WITH THE
PARTIES THIS MORNING.
THAT'S NOT THE CASE JANUARY
1st, 2006.

THE RECORD IS UNCONTROVERTED.
IT IS NOT DISPUTED.
IF ANYTHING, IT'S RE-EMPHASIZED
BY THE AFFIDAVIT OF ANGELA
NEUMANN AND BY HER TESTIMONY
WITH REGARD TO THE
CIRCUMSTANCES OF UNDER WHICH
THERE MIGHT BE A COLLEGE
STUDENT WHO MIGHT BE OVER THE
AGE OF 18 OR OVER THE AGE OF 18
LIVING ON PROPERTY WHERE THE
PROPERTY OWNER LIVES ELSEWHERE,
BY ELSEWHERE EITHER NOT ON THE
SUBJECT PROPERTY OR ELSEWHERE
IN THE SAME COUNTY IN WHICH
CASE STILL ONLY ONE HOMESTEAD
EXEMPTION IS APPROPRIATE FOR
THAT FAMILY UNIT.
MAY LIVES WHERE IN FLORIDA.
DOES NOT CLAIM A HOMESTEAD
EXEMPTION ELSEWHERE.
BY THE WAY THERE IS A LOT OF
CROSS-REFERENCING BY COMPUTER

NOW TO MAKE SURE THAT THEY'RE
NOT TWO HOMESTEAD EXEMPTIONS
CLAIMED IN THE STATE OF
FLORIDA.

AND MIGHT BE AN OWNER WHO LIVES
IN ANOTHER STATE. AND SO ON.

>> CAN I GO BACK TO SOMETHING I
JUST SAW IN THE AFFIDAVIT OF
NEUMANN.

>> YES.

>> AND THIS GOES TO JUSTICE
CANADY'S QUESTION.

IT SAYS THAT MR. ^ANDONIE'S VISA
WAS ISSUED ON MAY 25th, 2000,
AND EXPIRED ON MAY 25th 2005.
NOW THAT DOESN'T SEEM TO BE AN
ISSUE BUT YOU'VE BEEN REFERING
TO THIS AFFIDAVIT.

WHAT, THAT'S A NONISSUE YOU'RE
SAYING BUT IT IS IN THE RECORD
THAT SAYS IT EXPIRED.

>> I GUESS I WOULD HAVE TO
STAND CORRECTED BECAUSE THAT IS
NOT CONTROVERTED.

WE HAVEN'T CONTROVERTED THAT.
BUT WHAT DOES CONTROVERT THAT
WE SUBMIT IS THE CONSTITUTION
OF THE STATE OF FLORIDA WHICH
SAYS THAT EVERY PERSON WHO HAS
THE LEGAL OR EQUITABLE TITLE TO
REAL ESTATE AND MAINTAINS
THEREON THE PERMANENT RESIDENCE
OF THE OWNER, NOT THE CASE
HERE.

WE DON'T CONTEND IT IS THE
CASE.

WE NEVER CONTENTED IT IS THE
CASE.

THERE WAS AFFIRMATIVE
REPRESENTATION IN THE HOMESTEAD
APPLICATION THAT IS NOT THE
CASE.

OR PERMANENT RESIDENCE OF
ANOTHER LEGALLY OR NATURALLY
DEPENDENT UPON THE OWNER SHALL
BE EXEMPT FROM TAXATION.

NOW WHAT WE SUBMIT IS WE WOULD
ALLUDE TO WHAT JUSTICE OVERTON
SAID MANY MOONS AGO, WELL,
1980s.

NOT MANY MOONS AGO FOR SOME OF
US, WHERE THIS COURT, NOT THIS
COURT, BUT MEMBERS OF THE
COURT, THIS COURT, SUPREME
COURT OF FLORIDA DISMISSED AS

IMPROVIDENTLY GRANTED
JURISDICTION WITH REGARD TO THE
LISBOA CASE WHICH WAS
NONPERMANENT RESIDENT CASE
WHICH CAME OUT OF THE THIRD
DISTRICT AND OUT OF MIAMI-DADE
COUNTY AND JUSTICE OVERTON
CAUTIONED AGAINST EXCESSIVE
INVOLVEMENT IN THE IMMIGRATION
LAWS OF THE STATE.

AND WE THINK AT SOME POINT WE
DON'T WANT TO HAVE THE PROPERTY
APPRAISER OF THE COUNTY ELECTED
OFFICIAL THOUGH HE MAY BE, AND
ALTHOUGH WE ADDRESS HIM AS THE
HONORABLE AND WE GIVE RESPECT
TO THE OFFICE, WE DON'T THINK
THAT THEY'RE PROPERLY, OR ARE
EQUIPPED STATUTORILY
CONSTITUTIONALLY OR OTHERWISE
TO BE DECIDING IMMIGRATION LAW.
SO IF THERE IS SOME ISSUE, I
DON'T KNOW WHETHER THE ANDONIES
RENEWED THEIR HOMESTEAD
EXEMPTION STATUS AT SOME POINT.
THE PROPERTY APPRAISER DID NOT
RAISE THIS WITH REGARD TO THE
DENIAL OF THE HOMESTEAD
EXEMPTION.

WE NEVER --

>> IMMIGRATION STATUS?

RENEWED THEIR VISA?

>> PARDON ME?

>> YOU MEAN RENEWED THEIR VISA?

>> THE ISSUE OF THE RENEWAL OF
THE VISA.

WE RAISED ISSUE OF STATUS OF
THE PARENTS BY AFFIRMATIVELY
STATING THEY'RE NOT PERMANENT
RESIDENTS AND THEY'RE NOT
PERMANENT RESIDENTS.

WHETHER THE VISA WAS RENEWED BY
JANUARY 1st --

>> NOBODY IS CONTENDING THAT
THE PROPERTY APPRAISER IS NOT
CONTENDING THAT THE LEGALITY OF
THEIR PRESENCE IS AN ISSUE
HERE?

>> WELL, IF THAT IS NON-ISSUE
WE WOULD MOVE ON AND WOULD
SIMPLY STATE --

>> I DON'T KNOW.

YOU KNOW, WE'RE HERE.

WE'RE NOT HERE TO DECIDE THE
IMMIGRATION STATUS OF SOMEONE

SIX YEARS AGO.

JUST THAT YOU HAD SAID THEY WERE HERE LEGALLY AND YOU REFERRED TO THIS AFFIDAVIT AND THE AFFIDAVIT SAYS THAT THE VISA EXPIRED.

SO JUST, YOU KNOW, NOT A, YOU SEEM TO BE DANCING AROUND IT. MAY NOT BE AN ISSUE THAT WE WILL EXAMINE BUT IT CERTAINLY ON THE FACE OF THE RECORD WE DON'T HAVE SOMETHING THAT SHOWS THAT THIS IS INCORRECT.

SUBPARAGRAPH 5 OF THE AFFIDAVIT OF THE PROPERTY --

>> YOU DO NOT BUT WHAT I'M SAYING CONSTITUTIONALLY THAT DOESN'T MATTER.

IF IT WERE STILL THE CASE HERE --

>> BUT YOU ANSWERED QUESTIONS TO JUSTICE CANADY THAT SAID THEY WERE, THEIR VISA HAD BEEN RENEWED OR HADN'T BEEN EXPIRED. THAT'S ALL I'M REFERRING TO.

>> I USE THOSE TERMS BUT I DID SAY THEY WERE LAWFUL RESIDENTS AS OF JANUARY 1st. AND THIS CERTAINLY ADDRESSED THAT ISSUE AND I'M CONCERNED ABOUT THAT FACTUALLY AND I RECEDE FROM THAT BECAUSE I HAVE NO -- I DON'T RECEDE FROM THAT. JANUARY 1st, 2006 IS NOT MAY 25th, 2005.

AND IF THE PROPERTY APPRAISER FOR THE PURPOSE OF THE TRIAL COURT PROCEEDINGS CROSS-MOTIONS FOR SUMMARY JUDGMENT WENT TO THE IMMIGRATION AUTHORITIES AND FOUND OUT THAT THIS WAS PRESUME -- WAS ISSUED ON MAY 2000 AND EXPIRED MAY 25th, 2005.

I DON'T SEE ANYTHING HERE THAT SAYS IT WASN'T RENEWED. SO --

>> LET ME ASK YOU THIS QUESTION.

>> YES, SIR.

>> AS I READ THE CONSTITUTIONAL PROVISION.

>> YES, SIR.

>> IN ISOLATION.

>> YES, SIR.

>> THERE IS NOTHING THAT PROHIBITS EVEN A, AN ILLEGAL

ENTRANT TO OWN PROPERTY, IS
THERE? IS THERE --
>> YES, THAT'S CORRECT.
>> THERE IS PROHIBITION?
>> WE'RE NOT HERE ABOUT THAT.
>> RIGHT.
SEEMS TO ME THAT'S NOT WHAT
OUR ISSUE IS?
>> NO. THAT IS A CONCERN FOR
IMMIGRATION.
BUT WE ARE HERE IN 2012 AND
FRANKLY I EXPECTED MR.^ANDONIE
TO BE HERE WITH KRISTEN, NOW
12.
THE OTHER CHILDREN BEING 18 AND
19 YEARS OLD AND THAT IS A
NONISSUE HERE.
BUT WE'RE NOT HERE ON THAT
ISSUE.
BUT THE QUESTION IS, IF
SOMEBODY, IF THE OWNER WERE,
QUOTE AN ILLEGAL IMMIGRANT,
WOULD THAT BE AND IN GOOD FAITH
CLAIM?
THAT IS ISSUE FOR ANOTHER DAY
WE SUBMIT.
THANK YOU.
WE WOULD ASK THE COURT TO
AFFIRM THE THIRD DISTRCT.
THANK YOU.
>> I'LL GIVE FOUR ADDITIONAL
MINUTES.
COUNSEL HAS FOUR ADDITIONAL
MINUTES.
>> THANK YOU, YOUR HONOR.
I WANT TO CORRECT A COUPLE OF
FACTUAL MATTERS.
JUSTICE QUINCE YOU ASKED WHAT
HAPPENED IN SUBSEQUENT YEARS.
THE VALUE ADJUSTMENT BOARD
GRANTED EXEMPTIONS, NOT THE
PROPERTY APPRAISER.
THE PROPERTY APPRAISER HAS BEEN
CONSISTENT IN ITS POSITION.
THERE HASN'T EVER BEEN ANYTHING
MORE THAN THE AFFIDAVITS
SAYING, IT IS OUR INTENT THAT
THE CHILDREN BE PERMANENT
RESIDENTS.
ALSO WANT TO BE CLEAR THIS IS
NOT AN IMMIGRATION CASE.
THIS WOULD APPLY TO ANYONE FROM
OUT-OF-STATE.
THE ANALYSIS THAT WE BELIEVE
COMMON LAW OF DOMICILE IS

INCORPORATED IN THE AD VALOREM TAX DICTATES THAT THE FOCUS BE THOSE PRESUMPTIONS AND WHETHER THEY WERE REBUTTED AND THAT WOULD BE TRUE WHETHER SOMEONE WAS FROM ALABAMA OR OHIO OR FROM A DIFFERENT COUNTRY.

BUT, IN TERMS --

>> BUT IN TERMS OF THE CONSTITUTIONAL PROVISION THAT ANTICIPATES THERE WILL BE CIRCUMSTANCES WHERE THE PERMANENT RESIDENCE OF THE OWNER IS SEPARATE FROM THE PERMANENT RESIDENCE OF AN INDIVIDUAL LEGALLY OR NATURALLY DEPENDENT UPON THE OWNER, AND THE SITUATION THAT IS MOST COMMON WOULD BE CHILDREN LEGALLY OR NATURALLY DEPENDENT UPON THEIR PARENTS BUT IT COULD BE ELDERLY PARENTS.

WHAT ARE, I MEAN THE PROPERTY APPRAISER'S EXPERIENCE IN THIS, WOULD SHOW THAT, AND WOULD YOU AGREE THAT THOSE BECOME FACTUALLY, FACTUALLY UNIQUE ISSUES IN EACH SITUATION?

>> THAT'S CORRECT.

WHICH EMPHASIZES EVEN MORE THE IMPORTANCE THAT THE PROPERTY APPRAISER NOT BE EXPECTED TO GRANT OR DENY HOMESTEAD EXEMPTIONS JUST UPON SELF-SERVING STATEMENTS.

IN YOUR --

>> VALUE ADJUSTMENT BOARD REALLY IS THE ONE THAT DISAGREED WITH THE PROPERTY APPRAISER.

THEN THE LAW ALLOWS YOU TO GO INTO COURT

WITH THE PROPER APPRAISER AND ESTABLISH WHY THE VALUE ADJUSTMENT BOARD WAS WRONG?

>> RIGHT.

>> THAT'S WHY I THINK WE HAVE THIS PRESUMPTION MIXED UP IN THE STATUS OF THIS PROCEEDING BECAUSE YOU, THE VALUE ADJUSTMENT BOARD PRESUMABLY FELT THE AFFIDAVIT WAS ENOUGH TO REBUT AND NOW YOU COME FOR THE IN THE CIRCUIT COURT WITH CONTRARY EVIDENCE AND THERE

ISN'T ANY.

>> NOT WITH CONTRARY EVIDENCE
BUT JUST SAYING AS A MATTER OF
LAW, A MERE STATEMENT OF INTENT
IS NOT ENOUGH.

AND THE DIFFERENCE IN FACTUAL
SCENARIOS --

>> BUT WASN'T REALLY, BECAUSE
WE ARE HERE ON A BROADER
PRINCIPLE BUT ALSO THE FACTS OF
THIS CASE AND WHETHER THERE IS
JUSTICE OR INJUSTICE.

THERE IS NOTHING THAT SHOWS
THAT AGAIN THERE WAS ANY KIND
OF, SORT OF FRAUD OR
MANIPULATION OF THE HOMESTEAD
EXEMPTION.

THESE ARE PEOPLE THAT CAME,
THIS E-2 VISA FROM SOMEBODY
THAT WILL BE PUTTING CAPITAL
INTO THIS COUNTRY.

THEY, THEIR CHILDREN WERE BORN
HERE.

THEY WERE BEING RAISED HERE, 8
AND 12 AND 14.

THEY LIVED IN THIS HOUSE.

THEY WERE TAXPAYERS.

I JUST DON'T SEE THE, WHERE THE
PROBLEM IS, THAT THE PROPERTY
APPRAISER HAS NOT, THINKING
THAT SOMEHOW THE CONSTITUTIONAL
INTENT IS BEING FRUSTRATED BY
PROVIDING THIS EXEMPTION?

>> YOUR HONOR, IT'S BECAUSE THE
CONSTITUTION REQUIRES PERMANENT
RESIDENCE AND WE LOOK TO WHAT
THIS COURT ITSELF HAS STATED IN
LOOKING AT PERMANENT RESIDENCE.

IT'S A MATTER OF LAW.

IT IS NOT --

>> THE QUESTION HERE IS WHAT IS
ADEQUATE TO OVERCOME THE
PRESUMPTION, RIGHT?

>> THAT'S CORRECT.

>> THAT IS WHY THIS ALL BOILS
-- AND YOU DECIDED SOMETHING
MORE THAN THIS DECLARATION BY
THE PARENTS --

>> THAT'S CORRECT.

>> -- WAS NECESSARY TO OVERCOME
THE PRESUMPTION?

>> THAT'S CORRECT.

LET ME GIVE YOU A PERFECT
EXAMPLE WHY.

YOU NOTED IN THE RECORD THAT
WHEN THEY MADE THEIR
APPLICATION THEY PRESENTED AN
EXPIRED VISA.
NOW, BY THE TIME IN MIAMI-DADE
THE VALUE ADJUSTMENT BOARD
HEARINGS CAN BE YEAR,
YEAR-AND-A-HALF AFTERWARDS,
THAT WASN'T AN ISSUE BY THE
TIME THEY GOT TO THE VALUE
ADJUSTMENT BOARD HEARING.
SINCE WE HAD DENIED IT ANYWAY
THAT WASN'T THE FOCAL POINT OF
THE CASE BUT IT SHOWS THE
PROBLEMS THAT CAN UP WITH
VARIOUS FACTUAL SCENARIOS AND
WHEN SOMEONE CAN NOT
THEMSELVES, AS A MATTER OF LAW,
AS THE OWNER SAY, WE'RE
PERMANENT RESIDENTS AND THEY
NEED TO RELY ON THE PERMANENT
RESIDENTS OF THEIR DEPENDENTS
THERE NEEDS TO BE SOME FACTUAL
BASIS THAT THE PROPERTY
APPRAISER CAN RELY ON TO MAKE
SURE EVERYTHING'S IN ORDER.
NOW --

>> BUT THAT SECOND PORTION OF
THE CONSTITUTIONAL PROVISION
ABOUT THE NATURALLY-DEPENDENT,
DOES THAT TURN ON WHETHER OR
NOT THE PARENTS VISA WAS IN
EFFECT AT THAT TIME?

I DON'T GET REALLY THE
CONNECTION YOU'RE MAKING
BETWEEN WHETHER OR NOT THEIR
VISA HAD EXPIRED?

>> THERE IS NO CONNECTION AT
ALL.

>> OKAY.

>> BECAUSE WHETHER THEIR VISA
WAS EXPIRED OR WHETHER THEIR
VISA WAS TEMPORARY THEY'RE
STILL NOT AS A MATTER OF LAW AS
PERMANENT RESIDENTS, SO THEIR
CHILDREN NEED TO BE ESTABLISHED
AS PERMANENT RESIDENTS AND
PRESUMPTION NEEDS TO BE
OVERCOME.

WHAT WE'RE SAYING THE
SELF-SERVING AFFIDAVIT WAS NOT
ENOUGH TO DO THAT.

>> I MEAN YOU COULD HAVE AN
ADULT CHILD TOTALLY DISABLED.
HOW ABOUT DISABLED CHILD?

WHAT ARE YOU GOING TO HAVE?
HAVE MY CANCELED CHECKS? I PAY
EVERYTHING FOR THIS INDIVIDUAL.
AND SO I'M MISSING HOW, I MEAN
IF WE, IF WE'RE GOING TO
REQUIRE LEGAL PROCEEDINGS FOR
ALL THESE THINGS, WHY WOULD IT
NOT BE BETTER DONE SOMEWHERE
ELSE OTHER THAN JUST MAKING IT
UP AS WE GO ALONG?

>> WELL, TWO ANSWERS, YOUR
HONOR.

FIRST OF ALL, IF THE PARENT WAS
NOT GOING TO BE WITH THAT CHILD
OR THAT CHILD WAS GOING TO BE
LEFT WITHOUT THE PARENT YOU
WOULD NORMALLY HAVE A
GUARDIANSHIP IN THAT SITUATION
SO THAT DECISIONS COULD BE
MADE.

SECOND, BECAUSE WE'RE TALKING
ABOUT A HOMESTEAD EXEMPTION
WHICH IS NOT A MATTER OF RIGHT,
IT IS A MATTER OF ENTITLEMENT,
STRICT CONSTRUCTION, UNDER THE
LAWS OF THE STATE OF FLORIDA
AND FOR THAT REASON WE WOULD
REQUEST THAT THE, THAT THIS
COURT REVERSE THE DECISION OF
THE THIRD DISTRICT AND GIVE THE
PROPERTY APPRAISERS CLARITY
THEY NEED TO BE ABLE TO
IMPLEMENT THE LAWS CONSISTENTLY.

>> WE THANK YOU.

WE THANK YOU BOTH FOR YOUR
ARGUMENT. THAT CONCLUDES TODAY'S
SESSION OF COURT.

THE COURT IS ADJOURNED.

>> ALL RISE.