

>> WE NOW MOVE TO THE SECOND
CASE ON TODAY'S DOCKET.
ANTUNES VERSUS SARASOTA COUNTY.
ARE YOU GOING TO PRESENT
ARGUMENT AT THE SAME TIME?
YOU AGREE, RIGHT?
>> WE DO AGREE.
GOOD MORNING.
IF IT PLEASES THE COURT.
ANDREA LYNN MORGENSEN FOR
THE APPELLANTS ANTUNES, ET. AL.,
VERSUS SARASOTA COUNTY.
THE CORE ISSUE IS THE IDENTICAL
CORE ISSUE TO THE
ONE UNDER DISCUSSION.
I WILL SPEND MORE TIME
ANSWERING QUESTIONS.
THE VARIATION IS THIS IS AN APPEAL
FILED WHEN 16 REGISTERED VOTERS
IN SARASOTA COUNTY, WERE
GRANTED A FINAL ORDER
FROM THE 12th JUDICIAL CIRCUIT
DENYING OUR MOTION TO DISSOLVE
THE INJUNCTION.
>> THE INJUNCTION, THE
PROCEDURAL POSTURE ON THIS WAS,
SOMETHING THAT I FIND
INTERESTING WHICH IS THAT ù
THE INJUNCTION WAS ENTERED
IN WHAT YEAR?
>> 2005.
>> YET NOTHING WAS APPEALED IN
2005?
>> CORRECT.
>> AND SO SEVEN YEARS LATER OR
WHATEVER, SIX YEARS LATER
SOMEBODY CAN COME IN DISSOLVE
THE INJUNCTION AND ALL OF
SUDDEN RESURRECT A CASE THAT
WAS ALREADY FINAL?
>> WELL, INJUNCTIONS BY THEIR
NATURE IT'S OUR POSITION AND WE
TOOK THIS POSITION WITH THE
COURT, THERE'S A RETENTION OF
JURISDICTION TO THE EXTENT THAT
THE LAW CHANGES AND THERE IS
CHANGE IN CIRCUMSTANCE THERE
NECESSARILY MUST BE A RETENTION
OF JURISDICTION.
WE MOVED FOR DISSOLUTION ON
THAT.
>> THE CHANGE IN LAW IN SNIPES.
TELLI VERSUS BROWARD COUNTY AND
SNIPES.
PRIOR TO THAT THE SNIPES

DECISION DISTINGUISHED COOK AND ACTUALLY CREATED A BASIS FOR THE ARGUMENT TODAY.

THAT WAS SPECIFIC TO 1-D. THE QUESTION OF THIS INJUNCTION WAS SPECIFIC TO 1-E, COUNTY COMMISSIONERS.

THAT REPRESENTED MANDATORY AUTHORITY IN THE 12TH JUDICIAL CIRCUIT AT THAT TIME.

THE FACT THAT NOBODY MOVED FOR A COUPLE YEARS LET IT LIE DORMANT I DON'T THINK PROHIBITED OUR CLIENTS RECOGNIZING THAT AND TAKING THAT STEP.

SO WE DID MOVE TO DISSOLVE THAT INJUNCTION AND APPLY THE CURRENT LAW IN PLACE.

THAT MOTION WAS DENIED AND THAT'S HOW WE GOT HERE TODAY.

>> THE TRIAL COURT JUDGE THERE, SIMPLY DID NOT ACKNOWLEDGE THE DECISION OF THE FOURTH DISTRICT?

>> PARDON ME?

>> THE TRIAL COURT JUDGE IN YOUR CASE CHOSE NOT TO ACKNOWLEDGE THE DECISION OF THE FOURTH DISTRICT OR DID HE DISTINGUISH IT OR DID HE JUST, THAT WASN'T ENOUGH?

>> HE DENIED IT WITHOUT RATIONALE.

SO WE'RE HERE WITHOUT ANY GUIDANCE AS TO WHY THAT WAS.

BUT WE DO AGREE WITH OUR COLLEAGUES FROM BROWARD COUNTY THAT THE ISSUE REALLY COMES DOWN TO THE 1-D, 1-E DISTINCTION.

>> IT IS PURELY AN ISSUE OF LAW SO WHATEVER PERTAINS, IS THERE NOT, IS THERE ANY DISTINCTION BETWEEN THE SARASOTA COUNTY CHARTER OR BROWARD OR ANYTHING THAT WOULD BE AN INTELLECTUAL BASIS FOR YOUR CASE, NOT, EITHER RISING OR FALLING BASED ON TELLI?

>> WELL, I THINK THAT, WHAT THE CASE RISES AND FALLS ON IS THE EXPLICIT LANGUAGE OF 1-E.

>> BUT THEY'RE ARGUING THE SAME

THING.

>> WE HAVE A LOT OF DISCUSSION ON INTERPRETATION OF THE CONSTITUTION BUT THE LANGUAGE IS ACTUALLY VERY CLEAR THAT EXCEPT AS PROVIDED BY OTHERWISE BY CHARTER.

>> I JUST WANT TO MAKE SURE. IF YOU WERE, IF YOU HAD SAT AROUND AND NOT FILED A MOTION TO DISSOLVE THE INJUNCTION AND, HOWEVER TELLI, WHATEVER WAY IT COMES OUT, IS THERE A WAY TO, FOR, SARASOTA COUNTY TO DISTINGUISH ITS SITUATION FROM BROWARD COUNTY EITHER FOR BETTER OR FOR WORSE?

>> I UNDERSTAND THE QUESTION NOW. NO.

THE REASON THAT THIS IS HERE BEFORE THE COURT TODAY THERE IS A SENSE OF URGENCY IN SARASOTA COUNTY INsofar WE HAVE A DEADLINE OF JUNE 4TH OF THIS YEAR FOR QUALIFICATION FOR COUNTY COMMISSION.

WE HAVE AN INCUMBENT COMMISSIONER WHO WILL EITHER BE QUALIFIED OR DISQUALIFIED BY THE COURT'S RULING.

THE SECOND DISTRICT COURT OF APPEALS CONSIDERED THAT A MATTER OF GREAT PUBLIC IMPORTANCE.

>> BUT THERE IS NOTHING IN THE CHARTER THAT DISTINGUISHES THAT FROM THE BROWARD COUNTY CHARTER?

>> NO.

>> YESTERDAY I RECEIVED A NOTICE OF SUPPLEMENTAL AUTHORITY.

WOULD YOU EXPLAIN HOW YOU BELIEVE THIS ENHANCES YOUR LEGAL POSITION, THE DOCUMENTS THAT YOU FILED FROM THE ARCHIVES.

>> YES, SIR.

THE DOCUMENTS FROM THE ARCHIVES SHOW THAT THERE WAS SIGNIFICANT DEBATE IN 1966 WHEN THE CONSTITUTION WAS BEING AMENDED WITH RESPECT TO 1-D.

THERE WAS AT LEAST, THREE EFFORTS AND A DEBATE REGARDING

WHETHER OR NOT THE SAME
LANGUAGE EXCEPT AS OTHERWISE
PROVIDED BY COUNTY CHARTER
SHOULD BE USED IN 1-D IN
APPLICATION TO CONSTITUTIONAL
OFFICERS THAT PRESENTLY EXISTS
IN 1-E APPLICABLE TO COUNTY
COMMISSIONERS.

WE THINK THAT THAT'S
SIGNIFICANT BECAUSE IT'S,
EXPRESSES THAT IT WAS
INTENTIONAL.

IT'S CLEAR THERE WAS SOME
CONSIDERATION THAT THAT WAS AN
IMPORTANT CONSIDERATION.
THE POLICY RATIONALE IS A
LITTLE LESS CLEAR FROM
LEGISLATIVE HISTORY.

>> I'M NOT WORRIED ABOUT
POLICY.

I'M JUST LOOKING HOW THIS MAY
SHOW ME THAT, THAT'S THE
HISTORY BEHIND THIS LANGUAGE
AND THERE'S NO DISCUSSION, AS
I SEE IT IN ANY OF THESE PAGES,
BETWEEN THE TWO SECTIONS, AM I
CORRECT?

>> CORRECT.

>> AND I DO SEE, I MEAN I SEE
THE LANGUAGE, THE UNDERLINING,
THE STRIKE-THROUGH AND ALL
THAT.

SO IS THAT THE EXTENT OF ITS
IMPORTANCE?

I WANT TO BE SURE I CAPTURE
WHATEVER IT IS?

>> TO SOME DEGREE I THINK THE
ABSENCE OF DEBATE WITH RESPECT
TO 1-E AND COUNTY COMMISSIONERS
IS WHAT IS SIGNIFICANT.

AND I THINK THAT SUPPORTS THE
ARGUMENT.

>> HOW CAN I TELL THAT FROM,
BECAUSE I CAN'T SEE THAT 1-E IS
EVEN DISCUSSED ANYWHERE IN
HERE?

>> AGREED BUT THE WAY, AND I
CAN'T SHOW YOU A NEGATIVE
EITHER BUT --

>> THAT'S WHAT YOU'RE SAYING.
OKAY.

ALL RIGHT.

I THOUGHT MAYBE IN THESE PAGES
IT WOULD HAVE TOLD ME THAT.

>> IN THE FINAL OUTCOME THERE

WAS SIGNIFICANT CONSIDERATION OF WHERE THAT EXCEPTION WAS GOING TO BE PUT IN, THAT IT WAS CONSIDERED A SIGNIFICANT EXCEPTION.

>> I JUST WANT TO MAKE SURE I UNDERSTOOD.

>> I THINK THE MAJORITY OF TIME IS PROPERLY SPENT THERE BECAUSE WHAT WE'RE TALKING ABOUT IS INTERPRETING THE CONSTITUTION, THE INTENT OF THE DRAFTERS IS CLEARLY AN IMPORTANT ISSUE.

THE ABSENCE OF THAT DEBATE WITH RESPECT TO COUNTY COMMISSIONERS WOULD SEEM TO BE REFLECTIVE OF SOMETHING, AND THE COURT SHOULD GIVE CONVERSATION WHAT THAT IS REFLECTIVE OF, PRESUMABLY THE 1-E COMMISSIONERS ARE SUBJECT TO THE HOME RULE IN 1-G.

DOES NOT SEEM TO BE COINCIDENCE IN THE LEGISLATIVE HISTORY THAT WAS WHERE 1-C WAS ADDED FOR THE FIRST TIME AND COUNTIES ALLOWED TO ENACT CHARTERS FOR FIRST TIME ON STATEWIDE BASIS RATHER THAN BY SPECIAL LAW.

>> I GUESS YOU AGREE THERE THAT THE D OFFICERS AND THE E ARE CONSTITUTIONALLY AUTHORIZED OFFICERS, CORRECT?

>> WELL, I BELIEVE THAT THE 1-D OFFICERS ARE CONSTITUTIONAL OFFICERS THAT WERE, CLEARLY THEY'RE THE CONSTITUTIONAL OFFICERS THAT WERE UNDER CONSIDERATION IN THIS COURT'S COOK DECISION.

THERE IS A DISTINCTION AS WAS THE FOURTH DISTRICT COURT OF APPEALS INDICATED IN THEIR ANALYSIS OF TELLI VERSUS BROWARD COUNTY AND SNIPES. FROM A COLLOQUIAL AND LEGAL POINT OF VIEW, COUNTY OFFICERS ARE 1-D OFFICERS THAT --

>> BASIS OF COOK WAS THE DISQUALIFICATIONS ARE EXCLUSIVE AND CAN'T BE ADDED EXCEPT BY AMENDING THE CONSTITUTION.

SO ALTHOUGH I APPRECIATE THE DISTINCTION AND I THINK THERE IS ACTUALLY A PRETTY BIG DISTINCTION IN THE

CONSTITUTIONAL OFFICERS OF D
THAN E, I DON'T KNOW THAT HOW
THAT IS LEGALLY SIGNIFICANT FOR
THE PURPOSE OF THE
UNDERPINNING OF COOK WHICH IS,
THE DISQUALIFICATIONS ARE
EXCLUSIVE AND CAN NOT BE ADDED
EXCEPT BY AMENDING THE STATE
CONSTITUTION?

>> I THINK THAT THIS COURT
COULD GRANT RELIEF REQUESTED IN
THIS CASE FUNCTIONALLY BY BOTH
PARTIES WITH EITHER BY RECEDING
FROM COOK OR CONSISTENTLY WITH
COOK AND THE REASON BEING THAT
COOK AT THE END OF THE DAY
STANDS FOR THE PROPOSITION THAT
YOU HAVE TO LOOK TO THE
CONSTITUTION THE SPECIFIC
PROVISION UNDER DISCUSSION, TO
DETERMINE WHAT ITS MEANING IS.

>> BUT, AGAIN, AND MAYBE WE'RE
JUST GOING TO GO AROUND.

TO ME, AS I SAID EARLIER, THE
MOST COMPELLING REASON, AND
IT'S COOK AND IT MAY BE
UNDERPINNINGS IN THOMAS, IS
THAT WE TREAT DISQUALIFICATIONS
DIFFERENT THAN QUALIFICATIONS.
FOR ANY OFFICER THAT IS
GOVERNED IN ANY WAY BY THE
CONSTITUTION.

AND CERTAINLY COUNTY
COMMISSIONERS ARE, THE IDEA
THAT YOU HAVE TO HAVE A
GOVERNING BODY FOR A LOCAL, YOU
KNOW, FOR A COUNTY IS THERE AS,
YOU KNOW, WE'RE NOT DEALING
WITH MAYORS OR, YOU KNOW, CITY
GOVERNMENT.

WE'RE TALKING ABOUT COUNTY
GOVERNMENT.

AND I DON'T KNOW HOW YOU GET
AROUND THAT THIS IS THE TERM
LIMITS IS A DISQUALIFICATION FOR
CONSTITUTIONALLY AUTHORIZED
OFFICERS.

WE COULD HAVE TALKED ABOUT THE
DIFFERENT LEVELS OR DIFFERENT
SECTIONS BUT FOR D AND E
PURPOSES THEY'RE BOTH
CONSTITUTIONALLY AUTHORIZED
OFFICERS, AREN'T THEY?

>> WELL, TO THE EXTENT THAT ALL
ARE AUTHORIZED BY THE

CONSTITUTION BUT I DON'T KNOW THAT WE CAN SAY FROM WHAT WE CAN READ IN THE COOK OPINION THAT THAT'S THE CASE AND I DON'T KNOW THAT WE CAN SAY THAT'S THE CASE BECAUSE WHILE THE CONSTITUTION AND MENTIONS AND AUTHORIZES IT AUTHORIZES THE OFFICERS EXCEPT AS OTHERWISE PROVIDED BY COUNTY CHARTER THAT WOULD SUGGEST AN AMENDMENT IS NOT NECESSARY BECAUSE THE LANGUAGE IS ALREADY CLEAR.

AND I DON'T THINK YOU NECESSARILY HAVE TO, IF REQUESTED RELIEF IS GRANTED, DEFINE IT IS RECEDING FROM COOK ALTHOUGH IT COULD BE, GIVEN THE LANGUAGE IN COOK, WHICH IS REITERATION DETERMINATION IN COBB, THAT THE CONSTITUTION IS THE CHARTER OF OUR LIBERTIES. IT CANNOT BE CHANGED OR MODIFIED BY LEGISLATIVE OR JUDICIAL FIAT.

IS PROVIDES WITHIN ITSELF THE ONLY METHOD OF ITS AMENDMENT. THIS PARTICULAR PROVISION DOES NOT REQUIRE THAT AMENDMENT FOR THE COURT TO GRANT THE REQUESTED RELIEF.

THIS PARTICULAR PROVISION STATES, AS EXCEPT OTHERWISE PROVIDED BY COUNTY CHARTER. THIS IS THE EXCEPTION.

>> DO THE OFFICERS IN THIS CASE COME WITHIN THAT WHICH WAS EXCLUDED, WAS EXPRESSLY EXCLUDED FROM COOK, WHEN THIS COURT SAID, WE DO NOT ADDRESS THE VALIDITY OF A TERM LIMIT PROVISION UPON AN OFFICE AUTHORIZED IN A COUNTY CHARTER BUT NOT AUTHORIZED IN THE FLORIDA CONSTITUTION?

I THINK THAT IS A VERY IMPORTANT QUESTION.

BUT THE ANSWER IS SOMEWHAT OF A HYBRID.

ALTHOUGH THE COUNTY COMMISSIONERS ARE MENTIONED AND THE DERIVED FROM 1-E, THAT SPECIFICALLY, SPECIFICALLY THE LANGUAGE,

PREAMBLE LANGUAGE IN 1-E,
EXCEPT AS OTHERWISE PROVIDED BY
COUNTY CHARTER APPEARS TO BE A
CONSTITUTIONAL DELEGATION TO
THE COUNTY TO REGULATE THE
COMMISSIONERS.

>> HOW ARE THE COMMISSIONERS
STRUCTURED?

ARE THEY CALLED DIFFERENT,
ARE THERE DIFFERENT TERMS?
WHAT, TELL ME, WHAT OTHER
DISTINCTION DO YOU HAVE IN YOUR
CASE?

>> I THINK THAT IS THE, IN OUR
PARTICULAR FACTUAL?

>> OR THESE CASES?

>> I THINK THAT IT IS LESS OF A
FACTUAL DISTINCTION THAN IT IS
ACTUALLY THE CONSTITUTIONAL
DISTINCTION.

>> COOK TELLS DIFFERENT OFFICES,
DIDN'T IT?

>> RIGHT.

>> CAN'T BE WITHIN THAT
DECISION.

>> NO.

THAT'S, IS SORT OF THE POINT DE
JURE I THINK THAT THE COOK
DECISION DOES NOT ADDRESS 1-E
OFFICERS AT ALL.

AND IT'S UNCLEAR WHETHER COOK
WOULD HAVE BEEN DECIDED THE WAY
IT WAS HAD THAT BEEN PART OF
THE QUESTION.

THAT WE DO NOT KNOW BECAUSE THE
1-E OFFICERS, THE COUNTY
COMMISSIONERS WERE REMOVED FROM
CONSIDERATION BY NOT FILING AN
APPEAL OUT OF EIGHT IS ENOUGH I
BELIEVE IT WAS PINELLAS.

THAT COULD HAVE BEEN SUBJECT
BEFORE THE COURT.

IT WAS NOT.

FROM THAT POINT OF VIEW THIS
WOULD BE A CASE OF FIRST
IMPRESSION, THE FIRST
OPPORTUNITY TO LOOK AT 1-E.

NOT SURE IT IS APPROPRIATE
TO TERM 1-E, WHEN 1-E IS
ABUNDANTLY CAREER EXCEPT AS
OTHERWISE PROVIDED BY COUNTY
CHARTER THIS IS THE DEFAULT
STRUCTURE THAT APPLIES.

COOK CONTEMPLATES THERE ARE
EXCEPTIONS TO THE PROVISIONS OF

DISQUALIFICATIONS PROVISIONS,
THE PROVISIONS IN THE
CONSTITUTION AND POINTS THOSE
OUT IN ITS NOTES.

I WOULD AGREE WITH MY COLLEAGUE
THAT 6-4, SUB B IS NOT END-ALL
BE-ALL ESPECIALLY IN
CIRCUMSTANCE SUCH AS THIS WHERE
ARTICLE 8, SECTION 1-E SO CLEAR
THIS IS ONE OF THOSE
EXCEPTIONS.

IF I MAY RESERVE THE REST OF MY
TIME FOR REBUTTAL.

IF NECESSARY.

I WOULD BE GRATEFUL, THANK YOU.

>> WHAT ARE YOU GOING TO BE
REBUTTING?

>> MY FOOT IN MY MOUTH,
MR. ^CHIEF JUSTICE.

>> MAY IT PLEASE THE COURT.

Is that what your argument is
about that?

>> I think it means that, except
otherwise provided by the county
charter, it's applicable to a
number of commissioners that can
be there in terms of office that
can be there.

The term limitations are a
function of the term of office
of that section is what I guess
what would be appellate court
said it was the default
provision and if you practice as
I have occasionally condominium
law, there is a default
provision in condominium laws as
you get depravation of
condominium does not cover than
the statute applies in this is
what we are going to do.

This is the same thing.

If the charter is silent then
you're going to have
commissioners that will be
staggered.

Our charter isn't silent.

You have to take two years off
so I think that is the
significant difference from D
which says you shall have these
people and vote except, these
are like my eighth grade grammar
teacher would be very proud of
me now.

The use of semicolons, colons and periods.

You can put a period there and you can make two or three sentences but it uses semi-colon and a colon when thoughts are together.

If he read it that way, it becomes even more clear that there are these constitutional officers and you shall have them period except you can remove them under the circumstances and that is significantly different. That is the different manifestation with Cooke.

>> I don't understand how that is relevant.

I mean I understand, what you are saying is obvious. These different things are dealt with in different ways but I don't understand how that is relevant to the question of whether the order can include a qualification or disqualification that is not in the Constitution.

And again, I feel that -- to Thomas, I guess Thomas versus Cobb, and I'm struggling with how we can decide this in a way that is favorable to your position without proceeding from Thomas versus Cobb.

>> Two ways I think we can do it.

One way is to read the county charter and is being a default provision and it sends it back. That specific language has never been reviewed and sends back to the charter and lets the voters of the counties in Sarasota County make that determination. What, if any, term limitations do they want to put on it.

Way number two is, in the unfortunate event in our position that if you expand it to cover the county commissioners, then if you look at Cooke, all the disqualifications contained within Article VI, section 4

except he drops a footnote and footnote 9 says there are others in the Constitution, justices being one and the Governor being the other.

I would make an argument that this is an express delegation back to the locals to make the decision under Cooke so I don't think you need to recede from Cooke

>> You are talking about versus Cobb.

Which is further than Cooke and I think it really has, it represents one element in Cooke but I understand what they were saying in Thomas versus Cobb.

The Constitution we say what disqualifies someone from being a state officer?

Or a county officer, and require a school superintendent to have a certificate, an educational credential that the legislature is to acquire and goes beyond what is in that requirement in the Constitution.

You can't do it because instead this is what it must be.

You can say it has got to be something in addition to that.

Now it seems like to me that the reasoning there kind of says --

>> I need to look at it.

>> I will candidly say, I think that that reasoning is subject to challenge because it is a, I think any time we get into implying prohibitions on either the legislature or some other into the that is recognized in the Constitution do have broad powers on the part of the county then that raises a question.

How can we be sure that will necessarily imply it?

So put that aside.

I am having trouble understanding how we can reconcile the reasoning of that opinion with the result that is being described by the fourth district.

>> We are going to look at I

believe Mr. Chief Justice the term limits of 1E versus the timing of Cobb and I don't have that in front of me to respond to that.

The language which is provided by county charter --

>> Cobb is from the 50s.

Cobb is from March 28, 1956?

Before even I was born.

>> And I would need to look at that.

I don't have that answer in front of me.

What does the Constitution look like when that was decided the exculpatory language.

>> It also seems to me that this is the first time we have ever directly address this exclusively county position.

Circuit judges resigned to go to the Supreme Court.

These are all statewide kinds of functions and we do in Cooke say specifically that it is 1D.

We may throw in constitutional but it's always in connection with the 1D offices it seems to me.

>> Yes, sir, and the question is, is 1E -- our county commissioners constitutional officers tend to know them.

We would suggest they are not. Locally as is recognized in the Fourth DCA the constitutional officers are those powerful people the clerk and the sheriff and all those people.

>> But it's obviously authorized by the Constitution.

>> It's recognized by the Constitution.

>> It's a default position.

>> Again you are kicking it back to the locals to make the decision.

That is how I read the first clause.

>> Let's go back though, I asked this question of the argument and I want to make sure.

Under section 4, Article VI, disqualification for the county

charter trust to the provisions of section 4A as far as who can hold office in a county position.

>> Two ways to think about that. One is if you determine they are not county authorized, then Cooke does not apply and Article VI section 4 does not apply.

>> So your argument is, because Broward county attorneys -- 4A would still apply. You cannot be a felon and your civil rights not restored and hold office for a county position.

>> Practicing in Louisiana I used to think that was a requirement.

[LAUGHTER]

But yes, it would apply in that sense, I agree with you.

>> With the local government, charter government, impose a qualification or disqualification that nobody over the age of 70 could hold office at the county commissioners?

>> If it did not violate any other act of the federal or state law.

>> So that wouldn't be -- So that is not a disqualification, it being over age 70?

>> It would be a determination by the voters of that county. They would determine the term of office and the county commissioners.

You would have to extrapolate that.

In answer to your hypothetical it would be totally impermissible disqualification of office.

>> I'm sorry, you said -- The only way to do that would be to amend the Constitution.

>> That is correct.

>> So again I guess we go back to this core issue, which is that term limits are part of the

disqualifications section exclusively and sets forth the people that cannot serve more than two terms.

>> That brings it back to my second , and that is that Cooke is applying to county commission and if you view Article VI, section 4 as applying that I would make the argument that phrase in 1E steps provided by county charter is a direct delegation back to the county on the disqualification which is otherwise permissible by law as to the terms of office.

>> Is it clear that under a county charter, you can lay out the qualifications for a county commission or whatever you want? Even if it is called county commissioner, I think you wouldn't even have to call them county commissioners.

You could call them whatever you wanted to.

You can set up the qualifications for who can hold that particular office.

Is that correct?

>> Yes.

>> Okay, so it just seems to me we are getting into a lot of the qualifications.

This is a disqualification.

The other side of a qualification --

I mean, you could say that anyone is eligible to hold office up to age 70 and that is a qualification, but if you say you can't hold office after age 78 because it's a disqualification --

It just seems to me that we are doing a lot of work with qualification and disqualification.

>> This is a friendly question here.

[LAUGHTER]

Watch out.

>> I know.

[LAUGHTER]

>> If the supervisory body were

to call and say county council,
would they still be a
constitutional officer?

>> Yes.

Under 1D?

You could change their office.

>> You can call it whatever you
want to call it.

Just because the Constitution
calls the county commission
doesn't necessarily mean it has
to be that?

I am talking about the county
commissioner and because the
county commissioner, county
council --

>> Yes, your governing body, you
are right, it was a difficult
question.

Their right to change the
charter under 1E with a number
of county commissioners.

>> You can call it what you want
to call it is my only point.

Just because it's mentioned in
the Constitution as a
constitutional officer that in
itself does not make them a
constitutional officer because
of this exception to default in
1E.

>> I believe you call it
something else, yes Sir.

>> But that is permissible?

>> I believe so.

There are five county
commissioners elected to
four-year terms.

>> In Duval county, Duval
county --

>> No, to that question, Sir.

>> Duval county has merged and
of course we have not brought
that up because there are a
whole series of constitutional
issues considering how that was
done in 1934 with special
recognition that they have a
whole different system of
government that has been
consolidated.

>> Let me answer that.

Did I understand you to say
that, under a charter, a
government charter, the

disqualifications in Article VI,
section 4A could be eliminated?
That is, the county could decide
we are going to have --

[INAUDIBLE]

>> No, I don't believe that is
true.

>> Don't you think that is true?

>> You started to say --

>> I caught myself, yes.

I realized I was no longer --

Thank you.

>> We thank you very much for
your arguments and the court
will now take a recess.

>> All rise.