

June 5, 2014 Case 3

SC14-227

>> ALL RISE.

THE SUPREME COURT OF FLORIDA IS

NOW IN SESSION.

PLEASE BE SEATED.

>> NEXT CASE FOR THE DAY IS,

AMENDMENTS TO THE FLORIDA RULES

OF APPELLATE PROCEDURE.

>> GOOD MORNING, YOUR HONORS.

I'M ED SANCHEZ.

I'M HERE ON BEHALF OF THE

APPELLATE COURT RULES COMMITTEE.

TO BE COMPLETELY HONEST WITH

YOU, I'M NOT SURE HOW TO

PROCEED.

I DON'T THINK I EVER BEEN IN

COURT WITHOUT OPPOSITION AND

CERTAINLY NOT --

>> BE CAREFUL THAT YOU DON'T

LOSE.

>> YOU CAN TALK FOR BOTH SIDES.

>> YOU CAN BE BRIEF.

>> I WOULD BE AS HAPPY TO BE AS

PREVIOUS AS YOU WOULD LIKE ME
TO.

I REALLY, MY THOUGHT HERE IS,
MOSTLY HERE TO ANSWER YOUR
QUESTIONS.

YOU HAVE EVERYTHING IN FRONT OF
US.

WE HAD COMMENTS AFTER WE FILED
THE OBJECTIONS FROM, ON THREE OF
THE DIFFERENT --

>> WELL I DO HAVE A QUESTION AND
THAT IS, IN THE RULE THAT TALKS
ABOUT ORDER TO SHOW CAUSE.

>> YES.

>> AND SO WHY WOULD WE, RIGHT
NOW, YOU CAN EITHER ISSUE, ASK
FOR A RESPONSE OR AN ORDER TO
SHOW CAUSE.

SO WHY SHOULDN'T JUSTICES HAVE
THAT OPTION?

>> WELL, YOUR HONOR, THAT IS ONE
OF THE THINGS WE AS A COMMITTEE
WERE DIVIDED ON AND I THINK WE
SENT UP TWO PROPOSALS TO YOU.

I THINK THE MAJORITY THOUGHT

THAT IT SHOULD BE JUST TO SHOW
CAUSE ORDER AND I THINK THE
REASON FOR THAT IF IT WAS
IMPORTANT ENOUGH THAT THE COURT
WANTED FURTHER BRIEFING AND
WANTED TO GO FORWARD I THINK A
LOT OF THE PRACTITIONERS FELT
THAT THAT SHOULD BE ENOUGH TO
STOP THE PROCEEDINGS BELOW WHILE
THAT WAS ADDRESSED.

>> GO AHEAD.

>> THE COURT KNOWS, IF THE COURT
FEELS THAT THEY SHOULD STOP THE
PROCEEDINGS AND EVERYTHING STAY
IN THE STATUS QUO, THE COURT
KNOWS THAT YOU WOULD ISSUE A
SHOW CAUSE AND THAT WOULD
HAPPEN.

AND SO, I'M JUST NOT, I'M JUST
NOT SURE THERE IS ANY REAL
RATIONAL REASON TO CHANGE THE
RULE THAT A SHOW CAUSE IS ALL
THAT YOU WOULD --

>> THAT MAY BE, YOUR HONOR, LIKE
I SAID, THAT IS ONE WE WERE

DIVIDED ON.

>> I THINK WHEN THE PROBLEM IS,
THERE WAS AN ASSUMPTION IF IT
WAS IMPORTANT ENOUGH TO ISSUE
SOMETHING, WE WANTED THE STAY
THE PROCEEDINGS.

THE TRUTH IS, AT LEAST I WILL
SAY IT FOR ME, YOU GET THE
PROHIBITION.

YOU'RE TRYING TO FIGURE OUT
WHAT'S GOING ON AND GETTING A
RESPONSE HELPS TO, HELPS US,
HELPS ME TO DETERMINE WHETHER IT
HAS MERIT OR NOT.

SO IT WOULD, I THINK IF WE DID
SOMETHING LIKE THIS IT WOULD
REALLY PROBABLY WE WOULD END UP
DENYING MORE AND IT WOULD NOT
HELP THE PERSON FILING THE
PETITION.

SO THAT'S, THAT'S THE REALITY OF
THAT SITUATION.

>> YEAH.

AND AGAIN, YOUR HONOR, LIKE I
SAID, THIS IS NOT ONE THAT I

THINK WE HAD STRONG FEELINGS ON WHICH, THERE WERE STRONG FEELINGS OBVIOUSLY AMONG DIFFERENT MEMBERS OF THE COMMITTEE ON IT AND THE MAJORITY DID FEEL THAT THE SHOW CAUSE ORDER WOULD BE THE WAY TO GO BUT AS I SAID THERE WAS A SUBSTANTIAL NUMBER THAT FELT DIFFERENTLY.

AND EITHER WAY, THERE IS LANGUAGE IN THE RULE THAT EVERYONE AGREED WOULD BE BETTER OFF IF THE RULE WAS CLEANED UP TO ADDRESS AND CLARIFY SOME OF THAT.

WHICHEVER OF THE TWO OPTIONS THE COURT CHOSE TO PROCEED WITH.

BUT THAT WAS NOT ONE WHERE, I MEAN, IT REALLY WAS NOT ONE WE WANTED TO RECOMMEND JUST ONE OPTION SO I THINK --

>> THE SECOND OPTION IS REALLY WHAT WE DO.

>> YES.

AND IT IS AN OPTION THAT WAS,
REALLY NOT AT ALL REFLECTED IN,
WHAT THE PRACTICE IS.

SO, AND THE RULE.

SO EITHER WAY I THINK THE RULE
NEEDS TO BE, SHOULD BE CHANGED
TO REFLECT WHAT'S GOING ON, IF
THAT IS WHAT THE COURT IS GOING
TO ADOPT.

>> THE OTHER RULE THAT I HAD A
QUESTION ABOUT HAS TO DO WITH
THE INMATE FILING.

>> YES.

>> WHAT WAS THE PROBLEM WITH THE
FORMER RULE?

>> THERE WAS A NUMBER OF
PROBLEMS WITH THE FORMER RULE.

THERE WAS A SPLIT WITH THE
DISTRICT COURT OF APPEALS WITH
TIME ON THAT.

LARGELY HAD TO DO I THINK WITH
SOME CONFUSION OR SOME
DISAGREEMENT WHAT WAS DONE IN
THOSE CASES WHERE THERE WAS
SUMMARY DENIAL, SOME CLAIMS

AFTER, WHERE THERE WAS AN
EVIDENTIARY HEARING ON SOME OF
THE CLAIMS BUT NOT ON OTHER OF
THE CLAIMS AND IN THOSE
CIRCUMSTANCES THE DISTRICTS
DIVIDED.

THE SECOND DISTRICT WOULD HAVE
DONE A FULL REVIEW OF ALL THE
CLAIMS THAT WERE NOT ADDRESSED
BUT WERE DENIED WITHOUT THE
EVIDENTIARY HEARING WHILE THE
OTHER ONCE WOULD REQUIRE BRIEF.

>> I GUESS I'M TALKING ABOUT
INMATE FILING, THE SERVICING OF
THE BRIEF.

>> OH, I'M SORRY.

>> RULE --

>> MAILBOX RULE?

>> YES, THE MAILBOX RULE ABOUT
INMATES.

>> OKAY.

>> BECAUSE IT SEEMS TO ME THAT
THE PROPOSED RULE CONTEMPLATES
WHETHER OR NOT A FACILITY HAS OR
HAS NOT, DOES NOT, OR, DOES HAVE

SOME KIND OF A FORMAL SYSTEM OF
MAILING AND I'M JUST NOT SURE
HOW WORKABLE IT IS?

>> OKAY.

WELL, YOUR HONOR, I WILL ADDRESS
A COUPLE WAYS.

I WANT TO SAY MR. HELLER IS HERE
FROM THE ATTORNEY GENERAL'S
OFFICE.

HE WAS THE PROPONENT OF THAT
AMENDMENT.

HE IS HERE TO ADDRESS THAT AS
WELL.

BUT I WILL GO AHEAD AND ANSWER
TO YOU AND HE CAN CLEAN UP WHAT
I, WHAT I DON'T GET CLEAR
ENOUGH.

I THINK THERE REALLY ISN'T
CONFUSION, YOUR HONOR.

AND I THINK IT IS THE NEWNESS OF
IT PERHAPS DOING THIS CREATES
IT.

THE PRISON SYSTEM DOES HAVE A
LEGAL MAIL SYSTEM.

IT IS IMPLEMENTED BY RULE.

THERE REALLY ISN'T ANY CONFUSION

HOW THAT SHOULD WORK.

THE WAY IT WORKS IS AN INMATE

PRESENTS LEGAL MAIL.

IT GETS STAMPED.

IT'S PROCESSED.

IF HE WANTS A COPY OF IT, HE GET

AS COPY WITH THE STAMP ON IT

SHOWING IT WAS RECEIVED.

>> THAT IS WHAT IS GOING ON NOW.

>> THAT IS WHAT IS GOING ON NOW

BUT THE RULE DOESN'T REQUIRE

THAT BUT THAT IS WHAT THE SYSTEM

DOES.

IF YOU GET IT FILED YOU WILL

HAVE IT.

THERE STILL BE CERTIFICATE OF

SERVICE AND BECAUSE A

CERTIFICATE OF SERVICE IS ALWAYS

REQUIRED.

I EXPECT THE VAST MAJORITY OF

CASES THEY WILL AGREE.

HE WILL SIGN CERTIFICATE OF

SERVICE AND HE WILL TURN IT OVER

AND IT WILL BE STAMPED AND THAT

SHOULD BE THE RULE.

THE ISSUE IS WHEN THERE IS A
DISCREPANCY.

REALLY WHAT THIS DOES TO SAY, TO
ELIMINATE DISCREPANCIES YOU HAVE
TO USE THIS PROCEDURE.

SO THERE IS A DOCUMENTED WAY OF
DOING IT.

IT JUST DOWN GO INTO THE REGULAR
MAIL SYSTEM WHERE THERE IS NO
TRACKING.

WHERE NO ONE WILL KNOW WHETHER
OR NOT IT WAS ACTUALLY SERVED ON
THE DATE OF THE CERTIFICATE
SERVICE.

SO THAT'S ALL IT IS.

IF THERE IS A SYSTEM IN PLACE
WHICH THEY KNOW THERE IS IN THE
CORRECTIONS SYSTEM, THEN YOU
HAVE TO USE THAT TO MAKE USE OF
THE RULE.

USUALLY REALLY ALL IT IS GOING
TO BE CONFIRMATION OF THE
CERTIFICATE OF SERVICE AND IF IT
IS NOT, IF THEY DON'T MATCH UP,

IT SHOULD UNDER THE SYSTEM THERE
SHOULD BE A STAMP ON IT BUT IF
IT DOESN'T, THEN IT'S THE STATE
THAT HAS TO COME FORWARD AND
ESTABLISH, LOOK AT THE RECORDS.
SO THIS IS NOT TRUE.

PRESUMPTIVE IT WILL BE WHAT IS
SHOWN ON THE CERTIFICATE OF
SERVICE AND EVERYTHING ELSE.

SO IT REALLY, I REALLY DON'T
THINK THERE IS CONFUSION ABOUT
IT.

IT BECOMES SORT OF THE NOTION
YOU HAVE TO USE THE PROCESS IS
REALLY THE ONLY THING IN ORDER
TO GAIN THE BENEFIT OF THE RULE.

IN OTHER WORDS, YOU CAN'T JUST
SIGN A CERTIFICATE OF SERVICE,
PUT IN THREE DAYS AND REGULAR
LEGAL MAIL AND NO ONE KNOWS
WHERE IT GOES.

IT IS SHOWS UP WEEK LATER.

FILED WEEK, 10 DAYS, MONTHS
LATER.

BUT WHATEVER IT IS AN OLD

CERTIFICATE OF SERVICE AND SAY,

I GAVE IT TO THEM.

THERE IS A SYSTEM NOW THAT CAN

CONFIRM WHEN IT WAS GIVEN TO

THEM AND YOU HAVE TO USE THAT IF

YOU WANT TO TAKE ADVANTAGE OF

THE MAILBOX RULE.

THAT'S REALLY, THAT'S REALLY I

THINK ALL THAT THIS RULE DOES.

>> I HAVE A QUESTION ON THE

PARTIAL FINAL JUDGMENT AND THE

LANGUAGE.

MENDEZ SAYS THAT TO BE

APPEALABLE PARTIAL JUDGMENT,

IMMEDIATELY APPEALABLE MUST BE

SEPARATE AND DISTINCT, NOT

INTERDEPENDENT OR INTERRELATED.

NOW, THE LANGUAGE IS USED,

COMPLETELY UNRELATED.

AND YOU ARGUE THAT THE CLAIM IS

JUST REALLY WHAT IT IS,

UNCONNECTED OR DISTINCT.

I DON'T KNOW, I MEAN BECAUSE AS

I READ IT THAT IT SEEMS THAT

THERE IS JUST TONE, COMPLETELY

UNRELATED VERSUS INTERRELATED
BECAUSE REALLY MOST OF THOSE
ARE -- THESE SOMEHOW ARE GOING
TO BE RELATED, JUST NOT
INTERRELATED.

ISN'T THERE A CONCERN THAT WE
MAY ACTUALLY BE CHANGING THE
STANDARD AND WHAT'S THE REASON
FOR USING COMPLETELY UNRELATED
AS OPPOSED TO JUST INCORPORATING
THAT IT MUST BE SEPARATE AND
DISTINCT LANGUAGE FROM MENDEZ?

>> I WILL TELL YOU, YOUR HONOR,
I DO NOT REMEMBER EXACTLY WHY IT
WAS DRAFTED INITIALLY THE WAY IT
WAS DRAFTED.

MY BELIEF IT WAS DONE BECAUSE
JUST TO HAVE IT IN SHORTER, MORE
MANAGEABLE LANGUAGE FOR THE
RULE.

>> WELL DOES THE COMMITTEE NOTE
SAY THE INTENT IS TO INCORPORATE
THE MEN MENDEZ TEST?
OTHERWISE THE JUDGE WILL THINK
IT'S A NEW TEST?

>> YES, I DON'T THINK WE PUT ANYTHING ABOUT THAT IN THE COMMITTEE RULE, ALTHOUGH I WILL TELL YOU, YOUR HONOR, THE INTENT, THE INTENT WAS TO KEEP IT, TO REALLY MAKE NO CHANGE. THE INTENT OF THIS RULE WAS TO PUT SOMETHING IN THE RULE THAT ALERTED FOLKS IT IS NOT JUST YOUR NOTION WITHOUT LOOKING AT THE CASE LAW, OH, WELL, THERE IS JUDGMENT THAT IS PART OF THE CASE SO I CAN TAKE THAT UP NOW WHICH APPARENTLY HAPPENS WITH SOME FREQUENCY.

>> SO IF WE EITHER TWEAK THE LANGUAGE MAKE IT JUST LIKE MENDEZ OR SAID THE COMMITTEE IN THE NOTE THAT YOU OFFERED, TO INCORPORATE THE MENDEZ TEST THAT WOULD BE --

>> I THINK BOTH OF THOSE WOULD BE FINE.

AND, YOU KNOW, WE HAVEN'T TALKED ABOUT THAT IN THE COMMITTEE BUT

THINK THAT WOULD BE OKAY.

I KNOW WHEN WE SAW THE COMMENT
THAT CAME OUT AND A FEW OF US
CAME OUT AND HAD SOME CONCERNS
INITIALLY.

WE LOOKED AT THE CASE LAW.

SOME OF THE CASE LAW WE PUT IN
OUR COMMENT, REALLY USES SORT OF
THE SAME LANGUAGE WE HAVE IN THE
RULE AND, AND THE IDEA, I THINK
IN OF THE RULE HAVING THIS
LANGUAGE WAS REALLY SORT OF A
SHORTHAND NOTATION TO TAKE
PEOPLE INTO THE CASE LAW AND NOT
JUST TO GO ON SOME NOTION OF
WHAT A PARTIAL FINAL JUDGMENT IS
OTHERWISE.

SO BUT YES, I DON'T THINK THERE
WOULD BE, I MEAN I THINK, I
THINK THE REASON THE MENDEZ
LANGUAGE WASN'T USED BECAUSE IT
WOULD BE A LITTLE LONG AND WIELD
DID I FOR A RULE BUT I THINK
THAT'S REALLY THE ONLY REASON --
WIELD DI.

THERE WAS NO INTENT AT ALL TO
CHANGE THE MEANING OR FUNCTION
OF IT.

>> THANK YOU.

>> THANK YOU, YOUR HONORS.

>> MAY IT PLEASE THE COURT.

JOSHUA HELLER, THE PROPONENT FOR
THE PRISON MAILBOX RULE.

I WANT TO CLARIFY ONE THING SAID
BY MR. SANCHEZ. EVEN THOUGH
I WORK AT ATTORNEY GENERAL'S
OFFICE I SUBMITTED THIS PROPOSED
RULE IN MY INDIVIDUAL CAPACITY
AS AN ATTORNEY AND MEMBER OF THE
BAR.

THIS IS NOT A POSITION
NECESSARILY THE POSITION OF MY
OFFICE AND HAS NOT BEEN THE ONE
THAT HAS BEEN OF DISCUSSION WITH
THEM.

UNDER THE FEDERAL MAILBOX RULE
WHICH THIS COURT ADOPTED IN
HAGUE, IN ORDER FOR A PRISONER
TO RECEIVE THE BENEFIT OF THE
MAILBOX RULE THE PRISONER MUST

USE ANY ADMINISTRATIVE SYSTEM
FOR LEGAL MAIL, IF THERE IS ONE.
NOW THIS COURT HAS REPEATEDLY IN
THOMPSON AND GRIFFIN IN 2000 AND
2002 RESPECTIVELY.
THE USED A PROCEDURE TO
ESTABLISH THE CRITICAL DATE
UNDER THE MAILBOX RULE.
THE DATE THE PRISONER PROVIDES
DOCUMENT TO A PRISON OFFICIAL
FOR PURPOSES OF MAILING.
IN 2004 AFTER THOSE DECISIONS
THE DEPARTMENT OF CORRECTIONS
IMPLEMENTED THAT PROCESS WHICH
PRESENTLY EXISTS AS AN
ADMINISTRATIVE RULE.
HOWEVER, UNLIKE THE FEDERAL LAW
AND THE FEDERAL RULES THAT HAVE
BEEN CODIFIED UNDER THE PRISON
MAILBOX RULES UNDER APPELLATE
RULES 4 AND RULE 3 OF THE RULES
GOVERNING 2254 CASES. THIS
COURT'S CODIFICATION OF THAT
RULE DOES NOT REQUIRE AN INMATE
TO USE AN ADMINISTRATIVE PROCESS

FOR A LEGAL MAIL IN ORDER TO
RECEIVE THE BENEFIT OF THAT
RULE.

THE PURPOSE OF THIS RULE IS TO
PROVIDE UNIFORMITY AND CERTAINTY
IN INTERPRETATION THAT DOESN'T
PRESENTLY EXIST.

WHEN SIMPLY LOOKING AT THE
RULES.

NOW, JUSTICE QUINCE --

>> PLACING, THE FORMER RULE SAYS

IF THEY PLACED IT WOULD BE THE

DATE THEY PLACED IT IN THE HANDS

OF, WHAT'S THE LANGUAGE?

PLACES THE DOCUMENT IN THE HANDS

OF AN INSTITUTION OFFICIAL.

>> FORMER RULE DOES NOT SAY

THAT, JUSTICE QUINCE OF THE

FORMER RULE SAYS THAT THE TIME

THAT THE INMATE PUTS

CERTIFICATE -- I BELIEVE THE

FORMER RULE INDICATES THE TIME

IN THE CERTIFICATE OF SERVICE BY

THE INMATE IS PRESUMPTIVELY THE

DATE THEY DID SO.

IT DOES NOT REQUIRE --

>> A DOCUMENT FILED BY PRO SE
INMATE CONFINED IN INSTITUTION
IS TIMELY FILED IF THE INMATE
PLACES THE DOCUMENTS IN THE
HANDS OF AN INSTITUTION OFFICIAL
FOR MAILING ON OR BEFORE THE
DATE OF LAST DAY OF FILING.

>> THAT DATE IS PRESUMED TO BE
THE DATE THAT'S IN THE
CERTIFICATE AND THAT'S WHERE IN
LIES THE PROBLEM AND WHERE WE
HAD PROBLEMS IN INTERPRETATION
PARTICULARLY BETWEEN BOTH STATE
AND FEDERAL COURTS.

FOR EXAMPLE --

>> THIS HAS BEEN A PROBLEM?
I MEAN THROUGHOUT THE STATE OF
FLORIDA?

>> THIS HAS BEEN A PROBLEM.

>> OH, OKAY.

I NEVER HEARD OF THIS.

>> IN MY PRACTICE I CAN TELL YOU
WHERE A COUPLE OF CIRCUMSTANCES
WHERE WE'VE SEEN SITUATIONS.

FOR EXAMPLE, EVEN THOUGH THE ADMINISTRATIVE PROCESS UNDER THE DEPARTMENT OF CORRECTIONS PROHIBITS A DEFENDANT FROM USING REGULAR MAIL CHANNELS WE'VE HAD CASE, IN FACT I PERSONALLY HAVE HAD A CASE WHERE THE INMATE INSTEAD SENT THE DOCUMENT THROUGH THE REGULAR MAIL CHANNELS AND ATTEMPTED TO ASSERT THE PRISON MAILBOX RULE BASED ON OTHER INMATES PROVIDING AFFIDAVITS THAT IS WHEN HE PRESENTED IT TO THE REGULAR MAIL.

WHAT HOUSTON VERSUS LACK SAYS, IS THE PRISON MAILBOX RULE EXISTS FOR THE PURPOSE OF THE FACT THAT THE INMATE HAS NO CHOICE TO ENTRUST THEIR DOCUMENT TO PRISON OFFICIALS WHO MAY HAVE, AS THEY SAY ANY REASON TO DELAY.

IN THIS CIRCUMSTANCE, PARTICULARLY UNDER THE

DEPARTMENT OF CORRECTIONS RULES,
PURSUANT TO THIS COURT'S
REPEATED INVITATIONS THEY HAVE
CREATED A WAY TO ESTABLISH WHAT
THAT IS.

IF AN INMATE AVOIDS THAT
PROCESS, IMPERMISSIBLY OR ANY
OTHER WAY, AND DOES NOT OBTAIN
THAT DATE STAMP, OR DOES NOT USE
THAT PROCESS WOULD PROVIDE THE
DATA ON THE FACE OF THEIR
DOCUMENT THEY SHOULD NOT BE
ENTITLED TO THE BENEFIT OF THE
PRISON MAILBOX RULE AS THE
FEDERAL COURTS ALSO HELD UNDER
THE RULE THIS COURT ITSELF HAS
ADOPTED.

THE COMMENT IN OPPOSITIONS
RAISED TWO POINTS I WOULD LIKE
TO ADDRESS.

MR. STANTON AND I SEEMED TO
DISAGREE ON WHAT THE
ADMINISTRATIVE CIVIL DOES UNDER
THE PRISON MAILBOX RULE, THE
FEDERAL RUE WHICH THIS COURT

ADOPTED.

WHAT THE ADMINISTRATIVE SYSTEM
DOES IS NOT AN OPPORTUNITY FOR
THE STATE TO REBUT A CERTIFICATE
OF SERVICE.

THE USE OF AN ADMINISTRATIVE
SYSTEM IS A NECESSARY
PREREQUISITE TO OBTAINING THE
BENEFIT OF THE RULE IF IT
EXISTS.

THERE MAY BE INSTITUTIONS, DOC
SHOULD NOT BE ONE OF THEM,
INSTITUTIONS WITHIN A STATE, A
COUNTY JAIL MAY NOT HAVE A
SYSTEM SUCH AS THIS.

IN THAT CIRCUMSTANCE IT IS THE
CERTIFICATE THAT WOULD BE THE
CONTROLLING DATE BUT IF AN
INMATE USES IT TO AVOID THAT
SYSTEM, THEN THE DATE BECOMES
THE CLERK DATE.

IF THERE IS A SYSTEM AND THEY
DON'T USE IT THAT'S A RISK THEY
TAKE BECAUSE OF THE FACT THEY
HAVE MADE A CHOICE NOT TO

CONFIRM THAT DATE.

NOW ONE --

>> HOW ABOUT IF SOMETHING WITHIN
THE SYSTEM, AN INDIVIDUAL IS
ANGRY AT AN INMATE, YOU KNOW HOW
THESE OFFICERS AND INMATES GO AT
ONE ANOTHER?

IT'S A CORRECTIONS OFFICER THAT
CAUSES IT, WHY SHOULD THE INMATE
BE PENALIZED BECAUSE MAYBE A
CORRECTIONS OFFICER HAS CAUSED
IT NOT TO COMPLY AND NOT BE
FILED, STAMPED AND ALL THIS
OTHER STUFF?

>> THAT IS WHY THE RULE IS
WRITTEN IN FORM OF PRESUMPTIONS,
JUSTICE LEWIS.

>> WHY EVEN DO THAT TO GET INTO
PRESUMPTIONS?
WHY SHOULD WE MAKE A PRESUMPTION
IF THAT IS SOMETHING -- THIS IS
NOT LIKE IT IS HUGS AND KISSES
GOING ON IN THESE INSTITUTIONS.

>> WHAT YOU DO YOU UNDERCUT A
PROCEDURE REQUIRED BY TOC WHERE

THE DOC CREATED PROCEDURE THAT
THE COURT INVITED AND THAT WITH
IMPUNITY THAT SYSTEM IS VIOLATED
AND WE'LL GIVE YOU THE BENEFIT
WHETHER YOU CHOOSE TO BACKDATE
THAT DATE, ET CETERA.

THE OTHER POINT MADE IN REGARDS
TO THE COMMENT WAS THAT THE
INMATE MAY NOT HAVE THE BENEFIT
OF THE PRISON MAIL LOG,
ET CETERA.

THAT'S NOT EXACTLY, THAT I THINK
IS A QUIBBLE WITH THE
ADMINISTRATIVE PROCEDURE BUT I
CAN EXPLAIN THAT AND ADDRESS
THAT CONCERN WHICH IS, WE DON'T
ACTUALLY REQUIRE THE PRISONS ARE
NOT REQUIRED TO HAVE AN OUTGOING
LEGAL MAIL LOG.

INSTEAD, AND I SEE MY TIME
EXPIRED?

CAN I QUICKLY ADDRESS THIS POINT
AND BRIEFLY CONCLUDE?

>> YES.

>> WHAT THE PRISON MAIL LOG

INSTEAD OF HAVING AN OUTGOING
MAIL LOG, WE HAVE THIS SYSTEM IN
PLACE TO ESTABLISH THAT DATE.
THE STAMP APPEARS ON THE FACE OF
THE DOCUMENT AND THE FUNCTION
THAT WOULD BE THE CLERK'S, WHICH
IS PROVIDING EITHER THE DOCUMENT
OR, AND A COPY CAN BE PROVIDED
TO PRISON OFFICIAL WHO RECEIVES
THE MAILING AND THEY STAMP BOTH
DOCUMENTS, MUCH LIKE A CLERK
WOULD FOR AN ATTORNEY WHO WOULD
PROVIDE A COPY TO, OF A DOCUMENT
TO A CLERK TO PROVE IT WAS IN
FACT FILED ON THAT PARTICULAR
DATE.

SO ACCORDINGLY BECAUSE THE
PROPOSED RULE WOULD ACCURATELY
REFLECT THE COURT'S ADOPTION OF
THE FEDERAL MAILBOX RULE IT
PRESERVED ORDERLY ADMINISTRATION
OF THAT RULE AND INSURE
UNIFORMITY AND CERTAINTY IN ITS
INTERPRETATION THAT I ASK THAT
YOU ADOPT THE RULE.

>> MR. SANCHEZ, DO YOU HAVE

ANYTHING ELSE?

>> NO, YOUR HONOR.

>> WE APPRECIATE THE WORK OF THE
COMMITTEE VERY MUCH AND, TO YOU
FOR APPEARING AS WELL AND
COMMENTING.

>> I HAVE JUST ONE COMMENT.

>> OKAY.

>> THIS IS, NOT TO YOU, IT IS
ACTUALLY TO OUR CHIEF JUSTICE.

THIS IS YOUR LAST ORAL ARGUMENT
PRESIDING AS CHIEF JUSTICE AND
IT HAS BEEN, FOR ME AND I KNOW
FOR ALL OF JUST A PRIVILEGE TO
SERVE UNDER YOU.

YOU CONDUCT YOURSELF IN ALL
ASPECTS WITH PROFESSIONALISM AND
DIGNITY AND RESPECT AND IT'S
JUST BEEN, JUST A SHEER JOY TO
HAVE YOU PRESIDE.

>> THANK YOU.

THANK YOU VERY MUCH.

THE COURT IS ADJOURNED.

>> I AGREE.

>> ALL RISE.