**Short Circuit | Episode 143**

***Religious Freedom v Anti-Discrimination and a promise not to do bad things***

ANTHONY: Hello, and welcome to *Short Circuit*--your podcast on the Federal Courts of Appeals. I am Anthony Sanders, Director of the Center for Judicial Engagement at the Institute for Justice. And joining me today are two wonderful guests: one is Institute for Justice, senior attorney Paul Avelar. Paul, welcome to *Short Circuit*.

PAUL: Thanks for having me back.

ANTHONY: And a special guest, I believe this first time on the podcast, Walter Olsen, senior fellow of the Cato Institute, Walter, welcome to *Short Circuit*.

WALTER: And to let us join you, thanks for having me on.

ANTHONY: Well, we have a couple of cases that each gentleman is read for today, but we also have some breaking news. Just Tuesday this week, there was a very interesting opinion from a Mississippi where a federal district judge ruled in a qualified immunity case. He ruled that he had to give qualified immunity to a police [00:01:00] officer, but excoriated the doctrine and implore the Supreme Court to revisit it. This is something we've talked about on *Short Circuit* many times, but it's such an interesting decision, I thought we should talk about it very briefly here.

Walter, could you give me your thoughts on this new opinion?

WALTER: People are going to be talking about this opinion for a long time. It is by Judge Carlton Reeves of Southern district of Mississippi. And yeah, it is to start with the sort of thing that will be taught in legal writing classes because simply as a work of persuasion you can't stop reading. It begins with various police misadventures, beginning with traffic stops and what happened to the people in them. And then it turns to the man suing in this particular case, a long, long opinion and yet many, many people will read it all the way through and learn not just [00:02:00] about qualified immunity, but also a great deal about race and law enforcement over the years.

Now, Judge Reeves is really someone to watch. Five years ago, there was a sentencing affair in which three white men were being sentenced for acts of racial terrorism, and what he said as he sentenced them was such an extraordinary statement of justice in the South, and where it has come and where we can hope that it may go in the future. It got covered a lot of places--I covered it at my old blog *Over Lawyered*, NPR and many others. So this decision not to spoil it for those who haven't read it, but it ends with finding that the police officer in fact cannot be sued because much as he would like to reconsider the doctrine of qualified immunity, it stands, and as a district judge, he cannot change it.

ANTHONY: Paul your thoughts?

PAUL: Yeah. So I mean, the interesting, the [00:03:00] most interesting thing about this decision aside from the, the history lesson and the clear passion that it was written with is it is the degree to which the judge really spelled out the doctrine at length and in, so doing indicted the doctrine.

That is, I think the, one of the more remarkable--there's a lot of remarkable things about this opinion--but I think one of the more remarkable ones is the degree to which he just lays out the facts of the case. And then in applying the law to the facts, you see just how silly, stupid egregious the law is. It's really, it's, it's remarkable. This is, I think definitely going to be one to watch.

ANTHONY: And we'll put a link up to that opinion on the *Short Circuit* webpage, so all of you listeners, please go there if you would like to take a read.

Speaking of [00:04:00] reading. Walter has read the case *New Hope Family Services v. Poole*, which is very interesting decision from the Second Circuit about a number of things.

One of them is that, that I hope we get to, is about a preliminary injunction. Which is also something that Paul will be talking about later. So, Walter, tell us about *New Hope Family Service*s.

WALTER: This is a case in a series of cases about one of the big questions out there, whether or not religiously-oriented adoption agencies that believe because of their religious views, that they cannot serve gay couples or unmarried couples, whether or not the state can order them to get out of the adoption business.

And many listeners will know that the Supreme Court has agreed to hear a case like this *Fulton vs City of Philadelphia*, which will be argued this fall. [00:05:00] The *New Hope Family Services* one is interesting for a couple of reasons. One of them is that the fact pattern is one where the agency is just operating independently. Unlike the one in *Fulton*, it does not have contracts with the City of Philadelphia, nor does it take any government money--it is a purely private and voluntary adoption agency working with, originally mothers who wanted to place their children, their babies with it. And so, in some ways, therefore it presents a cleaner profile. It's often hard to map out where *Fulton* is going to go because of the confusion of the, the city with the, the agency in, in what it can do.

Another difference is that the, in the Philadelphia case, The Third Circuit ruled for the city and the city had a fairly powerful hand [00:06:00] in some ways, because the city council had gone on a campaign to do this specific thing: to impose an anti-discrimination law.

In New York could have been done by more of a bureaucratic wish and a hope. When New York passed a law authorizing adoption by both members of the same sex couple, in fact, the David Patterson that explained the, I believe he was governor when he signed it, and he explained, this is not going to change anything by signing this law about agencies. It is a permissive law saying that some things can happen, it's not a primitive law saying that some things can't happen.

So nonetheless without any new authorization in law, New York's agency a few years later announced a new policy and then a few years after that began auditing agencies and eventually push came to shove. They ordered the agency to go out of business unless they came along.

So it's taken years for this to [00:07:00] mature. As I said, it came out differently because whereas the Third Circuit ruled for the city of Philadelphia, so Catholic church has had to appeal, the Second Circuit, and we'll get to the posture of the case in a minute, but the district court had basically said that the agency couldn't stay at a fair claim. The law was too clearly on the side of the state. And the second circuit said, no, wait a minute, we find that at least there is a colorable pleading to be made on a whole list of different theories that the agency has offered. And again, we're in that posture business because the court did not really indicate where it would go if the were world developed record. It simply said the agency had a right to get discovery and to develop a record on, I forgot exactly how many issues, but let me just sort of tick them off. First and very familiar now in litigation over religious rights, there's the *[00:08:00] Masterpiece Cake Shop animus issue*.

And everyone remembers, this was kind of a consolation prize for the Supreme court's unwillingness to resolve the substance in *Masterpiece Cake Shop* was that liberals and conservatives got together and said, guess what? We're giving you some important new rights to challenge the process itself as biased against religious people. And in that Colorado case, there was some fairly ripe language suggesting contempt and dismissal. Now *Masterpiece Cake Shop* animus theories have been brought up regularly in many cases often for lack of substantive theories that would get more grip given *Employment Division v. Smith*, which makes it very hard to, to proffer constitutional claims of right to accommodation on the basis of religion.

In one case that was widely watched from Michigan, Michigan again had tried to pull the plug on a religious adoption agency and the court stepped in and said, no I see [00:09:00] animus, go back and litigate some more, but you can't do this if you're going to set the sort of things that the Michigan attorney general said.

In this case that was one of the things that the agency is getting another hearing on even though there isn't really too much animus. Yeah, I think the view is there's just enough specs of objectionable dismissal that they can go back and look for more in, in discovery. So, so much for the animus side. As we know the longer term sticks with religious accommodation are more in the substance of, given *Employment Division v. Smith* are over striding the landscape and saying that so long as there is a neutral and generally applicable law, and it it's not been tainted by animus, you don't have rights to have a religious exercise that allow you to get out of it.

[00:10:00] What, what can be argued now? The, the court we we've been talking about long opinions, like that qualified immunity, one from Mississippi, this is another long opinion, much longer than it had to be, and, one of the reasons is that the, they are clearly teeing up, something in their view, even though they send it back to the lower court. So, it's not as if they've teed it up for the Supreme Court yet, but three judge panel, and I'll pause here to say that it's kind of a story panel because the one writing the opinion was Reena Raggi, José Cabranes, is, was second and the third was by designation, Edward Korman. That's a pretty illustrious panel. And so, Raggi presented the entire narrative and explored the legal issues with great sympathy for the agency. That's the first thing to [00:11:00] remember is that, this is written like a narrative of something that she expects to wind up being heard by someone other than the district court, when the district court hears, hears about it. So, she

marches through the various issues and they have these constitutional claims that have not necessarily fared very well in religious accommodation cases so far.

There are First Amendment claims, both as to forced speech. The idea is by requiring us to serve gay couples, you are forcing us to say that there are just as good as parents. And we don't, we believe that saying that would, would violate our conscience.

Third circuit ruled just the reverse. They said that, you know, this is basically a slight impediment, given that you've agreed to perform a social service with legal implications. You have to do it the way the law says, it's not an infringement of your rights against forced speech.

Likewise, forced association, not convincing to some other courts [00:12:00] kept alive by the Second Circuit. And, and the pattern here is that rather than ruling the agency's favor on substance, the Second Circuit, just again and again, said, "these have at least enough life in them to justify surviving the pleadings and going forward to discovery. We ain't saying whether or not they would be anywhere near close enough to get a preliminary injunction or the merits. All we're saying is a lot more discovery."

So with *Smith* itself and it's fascinating, Casey Mattox has pointed this out recently, the Supreme Court has recently had a series of extremely interesting religious liberty opinions in which most, or sometimes all of the justice writing opinions don't mention *Smith*. It's right there! It's like being at Mount Rushmore and not noticing the presidents. They are discussing religious Liberty and not saying anything about *Smith*. Now I find that silence just like [00:13:00] Sherlock Holmes' dog in the nighttime, to be fascinating because it suggests that there are rumblings of better not rely on it, and yet better not criticize it, you know, something is happening that they won't talk about Smith.

ANTHONY: Do you think that has to deal with--sorry to interrupt. Do you think that has to do with it being a Justice Scalia, golden oldie or, or what, what is the reason for that? It is quite bizarre.

WALTER: You know, we can talk and talk about Smith, clearly the intellectual discussion, which was always somewhat critical, has turned more so as more commentators have grown discontented. Particularly on the more conservative and libertarian side. Although I can tell you from Cato Institute that there are, I think I counted nine different views of *Smith* from, you know, should have happened earlier to, you know, what an abomination get rid of it immediately, and every gradation [13:50] in between. But, nonetheless, the commentary has grown more critical. The push has come closer to shove as [00:14:00] government keeps trying things that bother the commentators of which I think this is a very good example.

And so, Judge Raggi in *New Hope Family Services* does not doc *Smith*. She gets it right out there and she discusses it at considerable length, including it's shifting fortunes as far as the reception by, by commentators and scholars; including the fact that four, I wasn't counting how many, but she said that whether in majority opinions, descents, or whether in concurrence or dissent four, four justices had declared an interest in revisiting *Smith*.

So, so the discussion of that is going to be of interest to everyone who follows religious liberty issues, where *Smith*, you know, as I say, dominates the field.

So, so here [00:15:00] you have something that is very inconclusive in that it really is just send it back for more processing. But which should be kept in mind given that we aren't sure have a clear answer from the Supreme Court on *Fulton*. With *Fulton*, they could easily get lost in the weeds of government involvement in the child placement activities and give us some sort of narrow outcome that relates to that. A *New Hope Family Services* frames the issue in a way that Libertarians, I think, can find more directly compelling.

ANTHONY: So, Paul over to you now.

PAUL: So, as someone who regularly litigates under the First Amendment, this case has, has free exercise, it has free speech, it has expressive association. And I found myself most interested or drawn to. [00:16:00] what looks like an unmade administrative law or separation of powers issue. And that's, which, which turns into part of the showing or potential showing on, on animus, which is the history of this law and how the statute, when it was adopted was very clearly aimed at allowing religious groups like this to continue doing what they had always done. And, and, and as Walter has already said, you know, this doesn't change anything. It allows for adoptions without compelling any agency to alter its present policies. And then the agency took that and their initial take on the law is, “Yeah. That's, that's exactly what it does.” And that's their position for several years.

And then without any real explanation, it changes its interpretation of the law and creates a new rule that it is in obvious tension with the plain text of the statute itself. [00:17:00] And then that's what they start to enforce against these, you know, religious adoption agencies.

I, I think that's really interesting. It's a really, I think, important reminder of the importance of the structural constitution of separation of powers. Of ensuring that, you know, it's the legislature that's supposed to make the law, not some group of unelected bureaucrats who may have their own agenda.

WALKER: And, you know, you've got me free associating a bit because each state has its own procedures on these things. And people may remember some years ago, the interesting New York case on delegation of power in which the, New York City Health Department adopted, I think this was the, it was either the trans fats one or it was something second guessing people's food and drink choices.

ANTHONY: I think it was one of the big, Big Gulp case if I remember correctly.

WALKER: Oh, was it the Big Gulp Case? But anyway, I was struck down [00:18:00] on the basis that even though the federal judiciary wasn't allowing excessive delegation to get much traction, New York had a separate line of cases, which recognized the, the doctrine and gave it a considerably more bias.

So, whether that would be of any relevance in federal court consideration of this, I don't know. I moved, mixed feelings about this as an administrative law nerd, of course, I'm fascinated by the idea that reviewing this more carefully might lead to the elimination of a lot of regulation that is both unneeded and not particularly democratic because it didn't have the imprimatur of the elected branches.

At the same time, it would represent kind of the disappearance down a mouse hole of a case that might otherwise present a constitutional issue on the First Amendment that we want to have resolved at some point.

PAUL: Yeah. Well, I mean, breaking news, we're in the middle of the COVID pandemic and, and we've been seeing a lot of [00:19:00] executive branch, mostly governors, but departments of health orders, you know, under this emergency of, of shutting down First Amendment activities, including religious services and all the rest. And we've seen the First Amendment challenges to those, those are obviously ones that have to be made. I think there's a, you know, an increasing number of separation of powers, challenges in this, in this regime or in this, in this world as well, where we're starting to see pushbacks against. Well, the legislature hasn't, can't designate or delegate that power or it, it hasn't delegated that power or, or the, this exceeds what has been delegated. And, you know, maybe I'm just an eternal optimist. I think that we could see some real interesting developments in separation of powers issues. And then he is now next several months to it to a year coming out of, of these sorts of cases.

Not this one, obviously, but others, like it.

WALKER: Of course, [00:20:00] one other thing that has made a little, I'm hoping that this doesn't turn out to be the issue of disposition, is that for something like anti-discrimination law where the political forces--let's face it in New York--would come around to ratifying what the state agency was trying to do as in Philadelphia. They are probably not going to win the political fight, which would mean that although you might get some interesting separation of powers law out of it, from the standpoint of the policy, once again, as with so many of the *Masterpiece Cake Shop* animus issues, they go back, they do it right, and then you lose.

PAUL: Well, and then the, this turns exactly right back to *Smith*, right. Which is why it's a subject of such criticism, which is, you know, *Smith* basically says, “Oh, you know, we can trust the legislatures to protect religious liberties as, as they see fit. And so your, your remedy is with them, not with us.”

And I think there's a lot of second guessing of that going on right now. [00:21:00]

ANTHONY [21:06]: Well, in this case, the court second guessed the preliminary injunction and has sent it back to the lower court. In another case though, the plaintiff was not so lucky. So, Paul tell us about *Speech First* and the preliminary injunction that that plaintiff was looking for.

PAUL: Sure. So, this is a case out of the Seventh Circuit, springing from the kind of speech regulations that are not allowed in a free country, but are pretty much everywhere on colleges, camp, college campuses today.

The University of Illinois at, at Urbana-Champaign or Champaign-Urbana has a, a bias assessment and response team and bias incident protocols. And they can do all sorts of things. When bias-motivated incidents happen on campus. Including the power to investigate these, these incidents to, to impose no contact directives, which are orders backed by the potential threat of expulsion that prevent contact [00:22:00] between students for any number of bias-motivated complaints. And something called a prior approval rule that prohibits students from posting or distributing leaflets, handbills other types of materials about candidates for non-campus elections without prior approval.

And so, anyone who knows anything about the history of the First Amendment, you know, your alarm bells should be going off about prior restraint here. And, you know, this is of course another rule that's backed up with all sorts of, of threats of disciplinary action by the university.

So, Speech First, which is an organization dedicated to protect free speech on campus, sued several administrators at the university on behalf of four anonymous students who said that their speech was being chilled by these rules. And I don't think it'll surprise many people to know that the views, these students say they want to express are fairly common in, in certain parts of America, but not on college [00:23:00] campuses-- things like opposition to abortion or support for president Trump or, or opposition to gun control, any number of other of other things.

And so the, the appeal in this case is specifically about the denial of a preliminary injunction and because you have to show a concrete plan to be in violation of the challenged laws, that's a really tough showing to make, especially when the students who are subject to it are all so trying to remain anonymous. Too much specificity in the students aren't really anonymous anymore, but it's that sort of specificity that you have to provide.

And to further complicate things here, the others, because this is a motion, the other side gets to put up declarations and its own evidence. And here that was all unchallenged because the district court issued its decision before an evidentiary hearing ever took place.

And so that's, that's the, the, [00:24:00] the situation that the Seventh Circuit now finds. And the courts already in this area or inconsistent in the sorts of cases, the Sixth Circuit ruled in the other way in another speech, first case, a challenge to the University of Michigan's Bias Response Team Initiative.

These rules are essentially exactly the same, but whereas the Sixth Circuit said, yes, this sort of evidence is sufficient to, to, to go forward on a, a motion for preliminary injunction. The Seventh Circuit said, no, it's not and so sent the case back to the district court. The case is still alive, it has not been dismissed. One imagines, however that a motion to dismiss will be forthcoming. You know, for, for federal courts geeks who are procedure geeks, of course, that motion will be under rule 12(b)(6). And then the question there will be does the complaint itself, the four corners of the complaint satisfy.

It's a [00:25:00] very different kind of test. And so, not quite sure which way that will come out, but I want to focus here on the Seventh Circuit's ruling that the challenge to the prior approval rule was moot because weeks after Speech First sued, but just before the university had to respond to the motion for preliminary injunction, the university changed the rule and then claimed it had no intention of restoring the rule or any rule like it.

And so, it's, it's elimination of this rule was in its word, definitive. And that sort of the move is called voluntary cessation. It is where a challenged party, the defendant, voluntarily--and this is a podcast, so you can't see me doing the scare quotes—voluntarily stops doing the

things challenged in the pending lawsuit, and then claims that this move boots the need for any [00:26:00] prospective relief: no, no declarations, no injunctions. But if that's true, it leaves the defendant free to start back up again. There being no court order telling them they can't.

And so ordinarily, the federal courts are not fond of this sort of move. They view it highly suspiciously. And there's usually a heavy burden on the defendant to show that the challenged action just cannot, will not happen again. Unless of course you are the government.

The courts to varying degrees, treat voluntary cessation by the government very differently. And they, they admit that they're doing this. They, they're treating the government as a litigate differently than they treat every other litigant. Unlike with private parties, they assume the government is acting in good faith and they put the burden on the plaintiffs show that the challenge acts will happen again, it's a complete flip of the burden of proof.

And that's what happens here. The majority [00:27:00] two judges say, the university swore it would behave. That's good enough for government work, and we're done here.

The dissent, however, in this case takes the position that given the totality of the circumstances, the timing of the change, the fact that there's nothing that stops the universe, the university did this on its own. That the fact that there's nothing that stops university from doing this again, the fact that the university has previously called the speech regulations critical to its functioning means that there's no reason to, to, to credit the notion that this will just never happen again.

And for those of us who sue the government, this sort of voluntary cessation move is, is familiar. You know, here at IJ, we represent many people, especially in civil forfeiture cases, but in other cases as well, where the government enforces laws against ordinary people and just grinds them down. And then the second we show up the government pretends, like it never did anything and there's nothing more to [00:28:00] fight about, you know, we never did that, and we won't ever do it again.

You know, I've been representing an elderly couple in a forfeiture case for four years now. And the police sees their car and tried to forfeit it. These folks fought back and, and for five months they, they fought back on their own to absolutely no avail, and less than a month after we showed up the government took the position that it did nothing wrong, everything it did was legal, but you can have the car back, you know, out of the goodness of our heart. And oh, by the way, now this whole case is moot. Judge, you don't have to worry about this anymore.

And this is particularly infuriating, if you're on this side of the, of the, when you're suing the government, because as we talked about at the beginning of the podcast, there's all these doctrines out there that make it almost impossible to sue the government for money.

Qualified immunity is one of the, there's lots of others. Right? And so this oftentimes leads people who have had their rights violated and absolutely no way to [00:29:00] actually get the courts to recognize that violation and to begin, to put a stop to these things. And so, you know, that's the thing that stood out for me.

I think at some point the Supreme Court is going to have to take up this issue. They sort of ducked it this last term in the *New York Rifle and Pistol Association* case. But at some point, I think there's, there's going to have to be a rethinking of the way the lower courts are doing voluntary cessation when it involves the government.

WALKER: Cato, of course, often takes an interest in these voluntary cessation things, because it is frustrating, they can use it to game the system. Let me be devil's advocate for a moment because there are a couple of reasons why it's, I think a hard problem for the judge, judiciary to solve, even if they have come on board with almost everything you said. One is that the, there's the general preference to, to let [00:30:00] litigation go and not keep it alive.

But beyond that, there is the, you don't want to provide a disincentive for good behavior. And obviously some good behavior is currently motivated by the desire to get out of litigation. In some ways, the part that is morally offensive is not the discontinuation, but the later stage of the resumption. So maybe there, if we can find a penalty for resumption, it's better at, than a bar against discontinuation.

But the, depending on the extent to which the behavior is focused on a policy area, as opposed to harassing some poor individual, you also get into some of the issues that make consent decrees so difficult.

The, allowing the government to bind itself, not to take some policy actions in the future is implicitly a bind on democratic choice at a mean, may involve concessions the courts would [00:31:00] not have ordered and all the rest of it. None of this exactly contradicts what you're saying, it's just that I predict that if the courts do eventually turn and face it, we're going to have complicated doctrine because I think this is one reason they've avoided it so far.

PAUL [31:18]: I mean, one of the things here is that we already do have complicated doctrine and a large part of that here is because the courts do treat the government differently. They, they, they flat out say it: we will, we will treat the government differently when it does this because we trust them, but we don't trust private parties.

And I, that I think is that is.

WALKER: Is it trust though? Or is it just private parties don't have a particular kind of right. Or, you know, private party has violated labor law. They might just say, look, you have to promise not to fire a unit organizer, and we're just not going to let you out of that because you're just a private party. With as soon as it's the government, they do have these additional arguments about what if voters [00:32:00] decided to change policy on this. And I don't, I'm not that impressed by those arguments often, but I, but I don't think that trust is the only thing going on.

PAUL: Well, that's what the courts say they're doing. We, we believe—

WALKER: And to me as a libertarian, the government is the least trustworthy.

PAUL: We presume the government's good faith in doing this. And, and, and your evidence for that presumption is what exactly? It's an, it's an unfounded, empirical assumption about the way the world works and we've, we've seen this in lots of other areas that we work.

WALKER: Let's say the offense is the resumption, let's say three years later, what they go back to the bad practice or what should the remedy be for that resumption?

PAUL: I mean the, the, in, in these cases, what you're talking about is a court order that says that's unconstitutional. Stop it. That that's where that's where, where this mootness issue come comes in.

Part of it could be, I, well, part of this is taking on the larger issue of these [00:33:00] government immunities that make it difficult or impossible to, to win compensation when your rights are violated because if the government has already violated your rights, you're entitled, you should be entitled to, under 1983, you are entitled to damages. For the violation of that right. It's because the courts have created all of these immunity doctrines that make that impossible, that then this voluntary cessation becomes so powerful. It is the way of wiping out these cases.

WALKER: Yeah. Well, I think you're really onto something on that because with qualified immunity, you know, they have this supposition that they didn't know it was wrong. Whereas if they had been in court admitting that it's something they must never do again, then they camped at all claim that.

ANTHONY: It would be interesting to see where they had been in court and, and seen that it was wrong, but because there's no case in that circuit on with that fact pattern, then there still [00:34:00] is qualified immunity. I, I could, I could actually see that the case coming out that way.

But Paul, my, my take on the, the, the voluntary succession of this case, I was also, I had the same reaction you did. Usually it seems when the government does get away with voluntary cessation, it's often like there's not a good chance that this is going to come back because the reason why they enacted the policy in the first place has gone away, or, you know, the mayor who proposed it has long since been, been, been voted out of office.

This is the same cast of characters who just, who enacted this policy who have repealed it. I think if you would have a case where you shouldn't have voluntary cessation, it's this set of facts.

PAUL: And that's, that's very much what the dissent says. Look at all of these facts, we can't ignore these things.

You know, even if we have a presumption in an unfounded presumption in favor of the government, why do we have it when these facts are in play? That I, I just don't get it.

It's, you know, the, [00:35:00] the, the courts are frankly all over the map. They all treat the government differently to different degrees and they all have different standards.

Interestingly, I don't think the Supreme Court has talked much about voluntary cessation when it comes to the government. This is really an area where the lower courts have done all the work and in a way that's kind of like what happened in it--maybe not in qualified immunity--where the court itself, the Supreme Court itself has taken very few qualified immunity cases, although it has a lot on its shadow document docket that overturns per curiam, and maybe that's not the best example.

WALKER: Is my memory trekking myth that the Supreme Court has taken cases in which the crux was whether or not fees should be awarded as opposed to whether or not the promise should be accepted on its own to, to, to end the case. It gets them into some of the same issues, at least because they have to decide whether [00:36:00] the discontinuation of conduct as well.

ANTHONY: Well, thank you both so much for coming on this podcast. Thank you to Paul, who you can, you can always see filing his latest case for IJ. And a big thank you to Walter. I got to know Walter when I was in law school and in the mail I had mailed to me a book called *the Rule of Lawyers*, which all of you should go check out, I think, uh, I think it holds up well after all these years. And, and we thank you for your, for your service after all these years in, in fighting for, for Liberty and for rationality in our legal system. Thanks to all of you for listening to this podcast. And as always, we are asking you to stay engaged.