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**Anthony Sanders** 00:04
Hello, and welcome to Short Circuit your podcast on the Federal Courts of Appeals. I'm your host Anthony Sanders, Director of the Center for Judicial Engagement at the Institute for Justice. When the name Sir Walter Raleigh is invoked, it could be for a great many things: his defense of England against the Spanish Armada, his attempt to find El Dorado along the Orinoco River, his backing of the ill-fated colony on Roanoke Island, giving us the name Virginia, taken from his outwardly taste queen. And of course, his placing his cloak on a puddle so that the virgin Queen could keep her feet dry. All of these adventures we could do a podcast on, but when his name shows up in an American legal opinion, it's almost certainly not about colonies, the Spanish menace, or Cities of Gold. No, it's probably about the Confrontation Clause and his request at his trial for treason, to cross examine, Lord Cobham, his accuser. Well, that very thing happened in the Sixth Circuit last week. And not only does that mean, we have a fascinating Confrontation Clause opinion to talk about. But the Supreme Court granted cert on a different Confrontation Clause case, as well. I can't think of a better way to discuss these rally developments than a confrontation with one of IJ's own explorers and landed gentlemen, Rob Johnson. Rob, I'd like to first confront you by saying welcome to Short Circuit.

**Rob Johnson** 01:35
Well thank you. And hopefully we can be not too confrontational about it. But it's good to be here.

**Anthony Sanders** 01:42
Well, we'll see that this is a podcast. Now after our escapade in the Sixth Circuit, we're going to move a bit to the west and examine something very, very Seventh Circuit: a consent decree involving Cook County, Illinois, in an opinion that anyone, such as myself who has lived in that county of corruption, will enjoy. The Seventh Circuit both complained about its responsibility to resolve disputes involving the corruption of the county clerk, but at the same time agreed that the corruption is still so very bad that it can't wash its hands of it just yet, even though it's a 50 year old dispute. And so it remains that the Chicago way passes through the Dirksen courthouse where the Seventh Circuit sits, who better to bring us this tale of intrigue than another former citizen of Cook County IJ's own untouchable litigator, Jeff Rose. Jeff, welcome to short circuit.

**Jeff Rowes** 02:38
Thank you. Great to be here, as always, Anthony. And the tales of Chicago corruption are never ending. And I look forward to discussing the latest chapter.

**Anthony Sanders** 02:48
Well, that's great, well, a non-corrupt yet perhaps in a judicial sense story. We have here from the Sixth Circuit, where we have a victory for a criminal defendant on a federal habeas petition with a unanimous decision by some judges who usually when it comes to the Constitution, agree on almost nothing. How do we get what's going on here?

**Rob Johnson** 03:17
Oh, it's true. It's kind of a remarkable alignment of the stars. So what we have in this case is a state court trial judge who was seemingly determined to place a thumb on the scales of justice against a criminal defendant. That may have been because the prosecution had an extremely tough case to make. the prosecution's theory was that the defendant here had shot the victim in a deserted parking lot at night. There was one eyewitness, but the eyewitness was on drugs at the time, and he admitted that it was dark and not all that easy to see. And perhaps even more significantly, the eyewitness had himself been a suspect of in this criminal offense. So he had an obvious reason to point the finger elsewhere.

**Jeff Rowes** 04:05
And indeed, the body of the murder victim was dumped in exactly the same place that the witness had been dumping evidence during one of his previous crimes.

**Rob Johnson** 04:14
Right.

**Jeff Rowes** 04:15
So pretty really fishy.

**Rob Johnson** 04:16
There's also a striking lack of, of actual physical evidence. I mean, one of the sort of most interesting facts I thought was that the perpetrator supposedly drove off in the car of the victim. But when they look

through the car for fingerprints, they don't find any of the perpetrator's fingerprints inside the vehicle. So sort of an interesting fact. The prosecution faced with all of this, their key witness is a person who's going to testify that the defendant was not only was seen in the car of the victim, but also knew about the victim's death before anyone should have known about this. So you know, pretty damning testimony, but the prosecution has another problem because this person shows up on the day of trial, and she says, I don't remember any of that anymore. And so, the judge, understandably, perhaps frustrated, or not understandably, sends this witness to jail, and sends her to jail with a copy of her prior statements on this topic, and then brings her back out and sits her down in front of the jury and says, "I want you to look the jury in the eye. And now I want you to tell them the truth." And so she then testifies as expected against the defendant. And then on cross examination, she is asked, "Well, why did you change your story? Why did you change your testimony," and she says, "I didn't want to go back to jail." Which, you know, I guess if I was on that jury, I'm not sure I would have convicted, but apparently, for this jury, it was enough. He is convicted, then goes up on appeal. And the judge or the Court of Appeals in the state court system reverses and sends it back for another trial, on the ground that the judge impermissibly influenced the jury, you know, that sort of like commenting on the evidence might be permitted in England, but it won't fly in the American judicial system. So the case goes back. And they're going to have a second trial. But now the prosecution hits another road bump, because this witness, their key witness is now unavailable. You know, they can't find her anywhere. And so, at this point, the prosecution says, Well, what we'll do is we'll introduce into evidence, the transcript of what happened at the trial the first time around and said, an exception for the Confrontation Clause, if you had, you know, a transcript of proceeding, where you'd had a prior opportunity to cross examine the witness. So, so far, so good, but the problem is, how do you introduce this transcript? And not then just have the whole same error all over again? You know, how do you cure it? So, the judge says, "Well, we can't just excise my comments, because that would be incomplete. So what I'm going to do is I'm going to excise from the transcript, any discussion of why this witness changed her mind." And that includes not just the judge's comments, but also the witness's statements on cross examination about not wanting to go back to jail. So that's the state court proceeding. He's convicted again. And then this proceeding, comes to the Sixth Circuit. And the question in the Sixth Circuit is whether the exclusion of that cross-examination testimony violates the Confrontation Clause. And the Sixth Circuit says, to ask the question, is to answer it, this is so obvious, we almost don't have to explain why. And here's how they kind of think about it. And this is where we come to Sir Walter Raleigh. They say, "Sir Walter Raleigh. The problem in that case, was that he wasn't given the right to confront, you know, to cross examine the witness against him. But what if he'd been given the right to cross examine the witness, but then he just wasn't allowed to introduce that testimony before the jury? Would that have somehow

cured the problem?" And of course, absolutely not. Right. Like if just because you can cross examine that witness isn't good enough, you have to be able to do that in front of the jury. So here, it's exactly that situation. He, the defendant's lawyers were allowed to cross examine this witness, but then the jury was never allowed to hear the cross examination, so obvious Confrontation Clause violation, and habeas is granted.

**Anthony Sanders** 08:32
And that is, for our listeners who aren't super stewed in federal procedure, that isn't something that doesn't happen all that often. Am I right?

**Rob Johnson** 08:42
Yeah, I mean, you're facing what's called the AEDPA challenge. So it's the delightfully named Anti-Terrorism and Effective Death Penalty Act, which makes it almost impossible to overturn a state conviction in federal court. It actually, there's an interesting little footnote in the opinion where they the judges say, "Well, you know, in the state court system on the first round of habeas, we don't think that they adequately raised this Confrontation Clause issue. But the state hasn't raised that in federal court. So we're just going to overlook the waiver." So, if there'd been just like, you know, a couple lines in the state's briefs where they had said, "This wasn't adequately raised in state court, probably a different result."

**Jeff Rowes** 09:21
Yeah. I mean, habeas petitions or habeas petitions are voluminous. There are plenty of prisoners and state courts that have nothing better to do than hand write petitions for complaining to a federal judge that there was a fatal constitutional defect in their conviction, and so let me out, but the proverbial needle in the haystack is finding the meritorious habeas petition. And in fact, a lot of federal trial courts across the country have special dedicated staff attorneys who do nothing but go through habeas petitions, trying to figure out if indeed there is somebody out there who is wrongfully in prison, but the standard, once you get that whether you know, the standard is exceptionally difficult. I mean, getting into jail is really, really, hard in America. Getting convicted of a crime is actually hard. But the flip side of that is, once you're convicted, all of the assumptions are that you are in fact guilty, and it is harder to go in the reverse direction and get out of prison back into the real world.

**Rob Johnson** 10:19

I don't know if I would agree that it's hard to get convicted. But that's maybe a broader systemic question. I mean, in some ways that sort of relates to the sort of underlying issue with this Confrontation Clause problems. I think part of what was going on in the state court is the judge basically was saying, “Well, you know, if you if you only excise part of the transcript on this on this issue, that's somehow unfair to the prosecution, because, you know, they're, we're kind of giving a leg up to the defendant that he gets to exclude all the evidence on this topic, or he has to introduce evidence on this topic within the prosecution. You know, they're sort of have a hand tied behind their back, because, you know, maybe at the first trial, they didn't want to ask this witness any questions, because of the way it was kind of presented to the jury. But then when you take that out, maybe they would have asked them different questions.” And so I think he sort of had this idea of fairness in mind. But, you know, I think what kind of what the Sixth Circuit is saying, in some ways is the Confrontation Clause is not about being fair to the prosecution, or to giving the prosecution kind of an equal shake with the defense, it's a personal right for the defense. And, you know, whether that's, in some sense, sort of, like, unfair to the prosecutor, they haven't even imagined this was a civil trial, where it was, you know, sort of two people fighting over a contract, like letting one side introduce part of the transcript, but then, you know, the other side doesn't get to introduce their part of the transcript, that would be, like, sort of problematic, but in a criminal trial, we're okay with that. And part of the reason is because the state has so many other advantages, right? Like the state gets to put you in jail while they're prosecuting you. They have unlimited resources, when defendants don't, they have a team of investigators looking for evidence against you when you don't get you know, it's very hard to get…

**Jeff Rowes** 12:08

I mean, it's also true that, you know, in a civil case, each party has a stake in winning, each party wants to win no matter what. And, you know, at least according to a law school adage, and you see this pop up in the case law from time to time, the prosecutor’s job is not to win, the prosecutors job is to see justice done. And so, the if at any time, the prosecutor him or herself, has a sense that the evidence doesn't support conviction beyond a reasonable doubt, the prosecutor should move to dismiss, the prosecutor has an affirmative dirt duty to turn over exculpatory evidence, just all kinds of like we don't think just because of the government gets somebody in prison that they've posted a when we actually want that person to be guilty.

**Rob Johnson** 12:50

Ideally, yeah, that's…

**Jeff Rowes** 12:51
Yeah. Ideally.

**Rob Johnson** 12:53
I think you talked to a lot of criminal defense lawyers, they might question whether that's how, you know, I think a lot of prosecutors operate on that.

**Jeff Rowes** 13:00
Right. I mean, you know, this raises the other issue, the Confrontation Clause issue is what this guy wants to confront the witness on is the fact that the government is paying the witness valuable consideration for her testimony, namely, or at least, you know, with the judge, but this is, you know, typically done by prosecutors is that we won't prosecute you for something, we'll keep you out of jail, we'll give you early release. And generally speaking, you can compensate fact witnesses for their time and expenses if they have to testify. But let's suppose somebody had truthful exculpatory testimony, like they saw you, you know, away from the scene of the crime at the moment. And but they said, “You know, I don't really feel like testifying or you know, people get in trouble in this neighborhood if they testify or do this other thing.” And you said, “I tell you what, I don't want to go to jail for the rest of my life. So I will pay you $100,000 in cash to come and offer this truthful testimony.” You could not do that. But what's the value of not going to prison for five years or 10 years or something the government is allowed to pay that. And we often feel like, not only is the government allowed to pay that, it pays that to people who are already part of the criminal justice system, who don't always often have the best reputations for honesty and fair dealing. And I feel like this, the reason why Confrontation is so essential here with this case highlights it is that the government is allowed to purchase testimony in a way that the defense just isn't.

**Anthony Sanders** 14:29
Seems pretty relevant.

**Rob Johnson** 14:30
The idea like that you would, the idea that you could put someone in jail until they, you know, testify a certain way is, I think shocking, shocking to me.

**Jeff Rowes** 14:38

Right? Exactly. The court using its contempt power that also shows that the court said, This is what I think is true, but I as the judge can't testify to this. So, what I have to do is I have to coerce this woman procedurally into testifying this so I can then find the fact that I've already found in my mind, and that just doesn't feel like a neutral, arbitrary, you know arbitrary at that point.

**Anthony Sanders** 15:05
It seemed like an odd splitting of the baby that actually the trial judge said that they, he allowed that statement from the prior trial of this woman saying that she used to smoke a lot of crack at that time, but not the separate statement in the same testimony that she was saying this, so she didn't have to go to jail. It, I don't really get the reasoning there.

**Jeff Rowes** 15:28
It sort of feels like the Sixth Circuit is basically saying, like, “Hey, you can't treat a trial, like a reality TV show, where you sort of take, you know, you get all of the footage, and then you just sew it together in a way that makes the result seem correct or palatable, right.” The Confrontation Clause thing is like, we want the whole truth, you can't go back in this transcript, and use scissors to cut out the parts that you don't like or that aren't going to support a conviction.

**Anthony Sanders** 15:55
Rob, before we leave the Confrontation Clause, the Supreme Court granted cert last week in a different Confrontation Clause case, that's a different issue than this one, but just good to have the listeners know that this is going on. Its Hemphill v. New York. And anything you want to say briefly about that new case.

**Rob Johnson** 16:17
Yeah, so it's interesting, because in some ways, it raises a lot of the same issues that we've been talking about here, not like in a legal sense, but in kind of the broader, what is the purpose of the Confrontation Clause sense? And because the question there is, you know, what happens if a defendant, essentially in the words of the cases opens the door to the introduced duction of evidence that would otherwise violate the Confrontation Clause? So, in that case, the defendant made a comment or suggested at trial, that there was an alternate suspect of this offense, and that this alternate suspect, possessed a nine-millimeter handgun. And then, you know, it turns out to that suspect had later pled guilty in another related proceeding to not possessing a different type of handgun, not a nine-millimeter handgun. And so, the question is, can you introduce that guilty plea,

which is effectively testimony without giving the defendant an opportunity to cross examine that individual? And it's sort of this, again, is this fairness to the government idea that sometimes creeps into the cases, it's like, the idea is, oh, you created a misleading impression, and the government has to be given the opportunity to correct that somehow. That's what the New York State Court said. But there's a split on this, because there are other cases that I think are the correct cases that have said, you know, that's completely irrelevant to the Confrontation Clause analysis. And I think it does come back to this idea that, you know, the remedy and the Confrontation Clause is not, let's exclude a bunch of stuff to somehow make this like better. The remedy is, you know, let's get the whole picture. You know, if the government wants to say that it wasn't a nine-millimeter handgun, well, then they'd better bring in the actual person, and we can cross examine him and the jury can actually assess that.

**Anthony Sanders** 18:04
Well, we'll look forward to that case, next term in the fall. For now, though, we're going to look at the whole picture of Cook County, Illinois, which is not pretty at all. Jeff, could you tell us what's the latest in the Windy City?

**Jeff Rowes** 18:20
Sure. So, the latest in the Windy City is a story that really goes all the way back to the Civil War, and the big structural change in American law with the post-Civil War constitutional amendments, and the statute, section 1983 that allows that allows people to sue state and local officials is this idea that we are going to subject state and local governments to the oversight of the federal courts. And that raises a fundamental federalism issue, which is how much supervision is too much? Or how much do we really want local affairs to be supervised by, you know, the proverbial unelected, you know, priest in black robes type of thing. And as it turns out, you know, throughout the 20th century, there were a number of hotspots in civil rights litigation that involve big categories. So, like your prison policy in which the rights of 1000's of people were violated or school desegregation or busing cases were the rights of 1000's of children not to be discriminated against on the basis of race were involved. And the federal courts began to enter consent decrees. In other words, the government being sued, and the particular class or the particular plaintiffs enter into an order that is then judicially enforceable, which gives the court oftentimes unlimited supervision over the particular practices and policies that are the basis for the lawsuit and that's what was going on here in the Seventh Circuit case that in 1972, and then again in 1991. This series of cases started by a guy named Shakman against Cook County and Shakman's basic grievance was the Cook County, the politicians in Cook County, the entrenched sort of Dawn's the kind of people who have always done business with the likes of Al Capone. And everyone who

knows that you know the Chicago way if you want something done, you they have the so-called aldermanic system where any particular alderman in any particular district can reject any permit or has to personally approve it. And the nutshell behind these cases, is that political figures and senior bureaucrats were using their power to give out jobs, or to give out promotions, or to raise salaries, or to take you out of the garbage collection department and put you into the hot tub testing department. They were using that to ensure electoral victory. So essentially buying votes through civil service, bribery. And Shakman, and his partners in this got these consent orders. And that basically made the local try a federal trial judge who is assigned to the case and who eventually retired out, then subsequently a magistrate judge who retired out. So over the course of 50 years since the early 1970s, there has been a judge who is nominally in charge of supervising all of these potentially unconstitutional first amendment violating patronage, you know, patronage issues or patronage practices. And, you know, this case is less interesting in the specific details of the decision, the specific details of the decision are, you know, there's a bunch of stuff about standing, and then there's a bunch of stuff about whether or not they can revisit these particular consent orders. But the thing the Seventh Circuit really wants to talk about is it says, “look, technically, you know, this is there's like 7,000 docket entries in this case, and it's mostly just periodic update, saying nothing has changed. an evidentiary hearing just showed that actually, there still seems to be some problems. And so, we are not going to dissolve this five-decade long supervision. But,” and then there's like this big sort of long multi page conclusion at the end, which is like, “the Federal Court should not be in the business of being the super bureaucrat. Federal judges are not well suited to being super bureaucrats. It takes up everybody's time, that kind of stuff.” And to say that there is something gravely concerning from a federalism point of view, in having unelected federal judges have essentially personal veto power, because that, you know, the fact is, whether you're complying or not complying with the consent order is going to depend on the judge’s findings of fact, which even if you can get them reviewed by a court of appeals, there's going to be extreme deference to that. So not only do we not want that happening, we also don't want what seems to be going on here, which is just a kind of charade in which cases stay open. And they have 1000’s, of docket entries, but nothing really happens. So that's the big picture question here. Seventh Circuit said, “we're not going to vacate it this time, but you get a sense that it might be coming soon.” And that Cook County has to clean up its act. But generally speaking, in one sense, is the fine hand of Judge Easterbrook, although he didn't write the opinion he was on the panel, one senses, his skepticism of the federal court role in overseeing local government in this,

**Rob Johnson** 23:22

I sort of have to wonder if, though, what difference it makes, you know, the specific constitutional right that's involved here? I mean, because I mean, if this was a different type of violation, you might argue, you know, the fact that the violation has been going on for a long time and hasn't been fixed, doesn't mean that the court shouldn't still be involved. But at least to my mind, there's something a little bit suspect about this whole area of doctrine, just because political patronage for the first 150 years of the country was just how people did government, right. And we sort of think of it as this dirty thing. But in some ways, it makes sense, right? Like you elect somebody to come into an office, and he brings all his friends with them to help them do the job. And that's just, you know, that's still how it works. with, you know, a large segment of the government, it's not like we expect one president to work with the Secretary of Defense from the last president. You know, and we sort of have decided, “oh, we're going to have this sort of big civil service that is exempt from that.” But I don't know why that should be constitutionalized. As a matter of First Amendment doctrine.

**Anthony Sanders** 24:31
Jeff, do you think that's underlying some of the court skepticism here is that, you know, back when this case was brought in the late 60s, early 70s, what we had a different course Supreme Court, different First amendment jurisprudence, which is very much in flux. And so, this was never really ruled on other than by the district court, like the actual merits. And so maybe if this case came today, although First Amendment protections today are actually a lot stronger than they were in many ways in their early 70s. Perhaps when it comes to dirty political patronage, you know that a court would say, this isn't a First Amendment issue. This is like a RICO violation type of an extortion issue. And so, this isn't really the how we should be involved here.

**Jeff Rowes** 25:19
Right. You know, I think that Cook County itself, this is the, you know, the position that took that I think Rob is articulating it characterize this as a non-justiciable political question. In other words, there's this sort of narrow, weird, eccentric doctrine, which says that if there are questions that really aren't fundamentally judicial questions, and one of those questions might be how elected officials dish out jobs, and I'm not just talking to like the most senior job where obviously you have to be affiliated with the person, like, you know, the Secretary of Defense has to be affiliated with the President, but even sort of further down the line, that maybe that's just how things happen. Like, you know, there are all of these stories that I can't remember the, the famous guy in New York, but like the sort of like machine politics kind of thing, where somebody controls everything, and they know that okay, if we sweep into office, then all of these unions are going to be in, and all of these other people are going to get their

jobs. And you know, it often had a sort of ethnic sort of thing where you know, okay, you know, we're going to get rid of all the Irishman this next time, or we're going to bring in all the Irishman next time, and, and that kind of thing. And so, Cook County was asserting that these are just non justiciable questions, and we shouldn't first amendmentize them. And perhaps they're drawing an implicit comparison with voting rights kind of cases where you have practices of voter suppression, like demonstrated practices of voter suppression, which are based on race, and that is core. That is core equal protection, stuff, like courts should be doing that and court should be doing core First Amendment stuff. And so if Cook County is punishing people who are writing op eds, in the paper, and you know, all of a sudden, they're getting like 10, parking tickets a day or something like that, like, that's core First Amendment stuff. But on the other hand, saying, support me knock on doors around the neighborhood, do all this kind of stuff, and then you're going to have a job in my administration. Maybe that's just politics.

**Rob Johnson** 27:12
There's a line drawing problem, I think, because I think everybody agrees, you know, the mayor's right hand man, or whatever should be, you know, the person the mayor chooses, and then how far down the org chart does that go. But right, there's a, I think there's an argument to be made, it should go all the way down the org chart, because at some level, the guy at the very bottom is the one who's carrying out your orders. And if he doesn't agree with what you're trying to do, we're not going to get anything done. And I'm not saying that's right. But I'm just not sure that that's a First Amendment issue.

**Jeff Rowes** 27:42
Exactly. Uh, you know, the other problem then is by, you know, one of the ways we have addressed it, certainly in the, you know, in the federal government, and in other contexts is we've said, like, okay, there are positions in which you can discriminate against the person you hire based on their party affiliation, or some other kinds of things like that, you know, the, the who's going to be your chief of staff, for example, but we're going to say, at some arbitrary line, everyone below that is part of the professional civil service, and so that what they're supposed to do is neutrally serve, to the best of their ability who ever are the elected officials. And so, there's, you know, one can understand their legitimate First Amendment arguments in favor of that system. But, it also means that you sort of drive biases in the civil service underground, right. And so, it might actually be the case that the civil service has its own set of objectives, or prejudices, or affiliations or whatever, that might make it difficult for one type of administration to work with it then with another type. And so, you might want to say, Well, basically, if you elect so and so president, that person should be able to sweep in and know not only that, they're

going to have a Secretary of Defense on their side, but all the way down. So that whatever order, the Secretary of Defense issues is actually going to be faithfully carried out not gummed up, not have a bunch of rulemakings, etc., etc.

**Rob Johnson** 28:59
Yeah, I mean, the kind of implicit assumption in this area of First Amendment law, at least the sort of older cases from the 70s, and what have you is that there's almost a First Amendment protection or the first time and always mandates, a permanent civil service bureaucracy. And I just don't know that's true.

**Jeff Rowes** 29:15
Right. And it may not be good in the long term.

**Anthony Sanders** 29:18
And one subtext I think here is that this is a case in Chicago, which nothing like what the federal courts have had to do in the south, but it is a place where if the federal, a lot of people live in Chicago would agree and I certainly had the sentiment when I lived there, if the if the federal government wasn't in Chicago watching things, things would get even worse pretty quickly. Like the US attorney is always highly prized, you know, knight in shining armor in the city compared to the local state and city bureaucrats and elected officials. And so, you can see this. I mean, you know, two of these judges are from Chicago, Scudder, the newer judge, used to work for a Chicago firm. They know what's going on here. They know how things work in the city and have always worked in the city in the county. And so, although this is kind of a weird First Amendment thing that's only really around because of this old consent decree that hasn't done all that much. There's so much history and so much, you know, current corruption that still happens there, that they know, they can't put this to bed, because they're about the only thing, you know, preventing the city from doing stuff that although a lot of cities in the country are bad, wouldn't be happening in most places. Now, that might change soon, they said, you know, this is kind of your last and final warning. But I think that is going on in the background,

**Jeff Rowes** 30:55
You know, the case is also weird and may have just factually weird and may have raised eyebrows among the Seventh Circuit in which, like Shakman, was running for office in the late 70s, this suit eventually goes up and is decided by the Seventh Circuit in 1972, then there are certain modifications that take place in 1991. But really not much is going on, like Shakman is not making motions claiming the Cook County is violating any of the terms and stuff then all of a sudden, Shakman just very recently,

and one imagines, he's like, you know, 80 years old at this point or something like that, suddenly Shakman comes like, you know, kicks open the door. We got to get this thing enforced now. And then, you know, after doing nothing for like 40 or 50 years, and then the court holds an evidentiary hearing is like, “Well, what do you know, they actually are violating the terms of this, even though nobody's cared about it for the last 40 years.” And so, the Seven Circuits a little exasperate, it's like, well, we can't dissolve the consent order, because there's evidence that you're actually violating the consent order. But on the other hand, we don't get Shakman like, what have you been doing twiddling your thumbs for the last 40 or 50 years? What's the deal and the federal courts don't want because the federal courts can only do things when you ask them to do it. They don't want to just be sort of like your last resort, like you know, the final thing you call, the 911, or something like that when it comes to matters of municipal bureaucracy.

**Anthony Sanders** 32:15
Well, I appreciate you guys weighing in on corruption in Cook County, and as well as the much more pristine wins of the Confrontation Clause in the Sixth Circuit. We'll look forward to hearing more about these issues on future podcasts. But in the meantime, I ask that all of you get engaged.