

Making History in Oral Arguments and Proceedings Before The Supreme Court of Florida

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The Supreme Court of Florida (Court) has a rich and colorful history dating back to 1845, the year Florida became a State. In the more than 177 years the Court has existed, it has occupied three homes in Tallahassee, Florida. The Court's first headquarters was located in the old State Capitol Building, which housed the judicial, legislative and executive branches of the state government.ⁱⁱ The Court held its first session at the old Capitol Building in January 1846,ⁱⁱⁱ and continued to operate from that location through September 1912.^{iv} In October 1912, the Court moved into a new facility on Jackson Square, in Tallahassee, one block from the old State Capital,^v sharing that building with the Florida Railroad Commission.^{vi} By the early 1940s, it became apparent the Court needed additional space, and a decision was made to build a new structure.^{vii} In 1948, the new building was completed, and the Court relocated to its present location at 500 South Duval Street in Tallahassee.^{viii}

During the history of the Court at its current location, there have been significant developments in the oral arguments and proceedings before the Court. This article will briefly address some of the more notable and historic events including: (1) the dedication ceremony for the new Court building, (2) the advent of the Justices wearing robes on the Bench, (3) the broadcasting of live oral arguments and ceremonial sessions, (4) the authorization by the Court to conduct oral arguments remotely, through the use of communication technology, during the Coronavirus Disease 2019 (COVID-19) pandemic, and (5) the ceremonial session before the Court highlighting the amendment to the Oath of Admission for attorneys which requires counsel to conduct themselves with fairness, integrity, and civility.

The Dedication Ceremony for the New Court Building

On December 29, 1948, the new Court building was officially dedicated at an elaborate ceremony. At that time, the Governor of Florida, Millard Caldwell, and

Chief Justice Elwyn Thomas, placed a box containing historical documents and photographs in the building's cornerstone.^{ix} Other dignitaries participating in the dedication ceremony included United States Associate Justice Stanley Forman Reed, who delivered the dedication address, and Charles Overman, then director and secretary of the Florida State Improvement Commission.^x

The cost of the new Court building was \$1.7 million,^{xi} approximately 17 times the price of the facility the Court previously occupied.^{xii} One of the many attributes of the new Court building is the palatial and dignified courtroom for oral arguments and ceremonial proceedings. The architectural style of the building is also distinctive and includes Jeffersonian Greek Revival elements.^{xiii} The white bronze replica of the Court's seal, embedded into the rotunda floor, is also noteworthy and of historical significance.^{xiv} The central figure in the Court seal is the Greek Goddess of Justice, Themis.^{xv} She is blindfolded to symbolize the impartiality of the law, and carries the scales of justice in one hand and an avenging sword in the other.^{xvi} The Court's seal additionally includes an eagle, which has been interpreted as "the power of justice ruling the world."^{xvii} The official motto in the Court seal is the Latin phrase *Sat Cito Si Recte* which means "Soon enough if done rightly."^{xviii} The phrase connotes the importance of taking the time necessary to achieve true justice.^{xix}

The Advent of the Justices Wearing Robes on the Bench

Justices began hearing oral arguments in the courtroom of the new Court building on June 7, 1949.^{xx} On that date, the Justices wore robes on the Bench for the first time in the history of the Court.^{xxi} This new protocol was in line with the desire of several Justices to elevate and formalize proceedings before the Court.^{xxii} The Justices participating in this historic event were the Honorable Alto Adams, then Chief Justice, the Honorable Glenn Terrrell, the Honorable Roy Chapman, the Honorable Elwyn Thomas, the Honorable Harold Sebring, and the Honorable Paul Barns.^{xxiii} In the audience was Florida Governor Millard Caldwell, and Attorney General Richard Ervin.^{xxiv}

The Broadcasting of Live Oral Arguments and Ceremonial Sessions

Oral arguments and ceremonial sessions before the Court have been broadcast live since September 1997.^{xxv} The genesis of the live broadcasts was a cooperative agreement between the Court and Florida State University.^{xxvi} Oral arguments and ceremonial sessions are broadcast live on (1) cable television through the Florida Channel,^{xxvii} (2) the internet in video and audio formats from a website jointly maintained with WFSU-TV located at <http://wfsu.org/gavel2gavel/>,^{xxviii} (3) Facebook Live,^{xxix} and (4) YouTube.^{xxx} In addition, an archive in video and audio formats from previous oral arguments and ceremonial sessions dating back to September 1997 is available.^{xxxi} The Court calendar, briefs, press summaries, and other case information are posted on the Court's Public Information page of the Court's website located at <https://supremecourt.flcourts.gov/Oral-Arguments>.^{xxxii}

Remote Oral Arguments Through the Use of Communication Technology

The COVID-19 pandemic has created enormous and unprecedented challenges for all state and federal courts throughout the United States. As a result of the emergence of the COVID-19 pandemic, on March 17, 2020, and in subsequent administrative orders, then Chief Justice Charles T. Canady directed that court proceedings be conducted remotely, through the use of technology, when possible.^{xxxiii} The overarching intent of the administrative orders issued by then Chief Justice Canady was to mitigate the impact of COVID-19, while keeping the courts operating to the fullest extent consistent with public safety.^{xxxiv}

Consistent with the administrative orders, 1,200 video conference licenses were promptly secured and implemented throughout the State of Florida,^{xxxv} and the Court Clerk and the Public Information Office assisted the Court in preparing for the remote oral arguments.^{xxxvi} The Court held its first set of virtual arguments on May 6, 2020. The remote oral arguments worked remarkably well. The Justices and the counsel arguing the cases were able to appear remotely and the cases proceeded as

scheduled. The public was also able to view the oral arguments live on cable television, the internet, and social media.^{xxxvii}

As an outgrowth of the successful use of technology to conduct court proceedings remotely during the pandemic, and the determination made by the Court's Workgroup on the Continuity of Court Operations and Proceedings During and After COVID-19 that "permanent, broader authorization for remote proceedings was warranted based on the positive outcomes and efficiencies observed during the pandemic,"^{xxxviii} the Court adopted comprehensive rules governing remote court proceedings.^{xxxix} Specifically, on July 14, 2022, the Court amended multiple rules of procedure, including Florida Appellate Rule of Procedure 9.320.^{xl} New Florida Rule of Appellate Procedure 9.320, which addresses remote oral argument through the use of communication technology, authorizes the court, in the exercise of its discretion, at the request of a party, or on its own motion, to "order participation in oral argument through the use of communication technology."^{xli} Fla. R. App. P. 9.320(e)(3).

Fairness, Integrity, and Civility Required by the Court

On September 12, 2011, in response to increasing concerns about acts of incivility among members of the legal profession, the Court revised the Oath of Admission administered to new members of The Florida Bar.^{xlii} "Recognizing the importance of respectful and civil conduct in the practice of law"^{xliii} and the "necessity for civility in the inherently contentious setting of the adversary process,"^{xliv} the Court modified the Oath of Admission to The Florida Bar by adding the following language to the Oath: "To opposing parties and their counsel, I pledge fairness, integrity, and civility, not only in court, but also in all written and oral communications."^{xlv} This significant amendment to the Oath of Admission was highlighted by then Chief Justice Canady in his remarks at the Ceremony for Induction of Candidates for Admission to The Florida Bar held before the Court on October 3, 2011.

Words of Encouragement and Wisdom for Practitioners Appearing Before the Court

Justice Canady, whom his colleagues elected to serve as the Chief Justice of the Court for three terms, has offered the following words of encouragement and wisdom to appellate practitioners:

Appellate advocacy is an essential part of our legal system. It plays a critical role in giving life to the rule of law in our society. As you work to develop your skills as an appellate practitioner, I hope you will find inspiration and encouragement in the reality that the appellate process is a fundamental element of the rule of law.^{xlvi}

Justice Canady concluded his third term as the Chief Justice of the Court on June 30, 2022. In recognition of his outstanding service in leading Florida's judicial system, Justice Canady received a well-deserved standing ovation from the more than 325 attendees at the Florida Supreme Court Historical Society's annual Supreme Evening event held on April 7, 2022, in Tallahassee.^{xlvii}

Conclusion

As the Court approaches the seventy-fifth anniversary of the dedication of its majestic and storied home, it is appropriate to celebrate the significant and transformative accomplishments of the Court. The dignity of the Court has been enhanced, oral arguments and ceremonial sessions have become more accessible to the public, communication technology has been successfully utilized to safely conduct remote oral arguments during the COVID-19 pandemic, and civility, integrity, and professionalism have been promoted by the Court. The Justices are to be commended for their dedication, professionalism, resiliency, and commitment to justice, particularly during the challenging and stressful events that the Court has experienced. We owe a deep debt of gratitude to the current and former Justices who have faithfully and tirelessly served on the Court and helped to provide justice for the people of Florida.

Endnotes

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ⁱⁱ *The Evolution of Justice in Florida*, Supreme Court Library and Archives (2021), at 56, [http://www.flcourts.org/Law Library & Archives/ Historical Documents & Rare Books](http://www.flcourts.org/Law%20Library%20&%20Archives/Historical%20Documents%20&%20Rare%20Books).

ⁱⁱⁱ *Id.* at 23.

^{iv} From 1846 to 1851 the Justices served in a dual capacity as both appellate and trial-level judges. During that time, the Justices “were expected to ‘ride circuit,’ meaning they had to travel by horse or carriage to the major cities of the State. Many qualified people chose not to apply simply because of the arduous travel the job required.” [http://www.flcourts.org/History of the Florida Supreme Court](http://www.flcourts.org/History%20of%20the%20Florida%20Supreme%20Court).

^v *The Evolution of Justice in Florida*, Supreme Court Library and Archives (2021), at 57, [http://www.flcourts.org/Law Library & Archives/ Historical Documents & Rare Books](http://www.flcourts.org/Law%20Library%20&%20Archives/Historical%20Documents%20&%20Rare%20Books).

^{vi} *Id.*

^{vii} *Id.* at 38.

^{viii} *Id.* at 39.

^{ix} *Id.* At the dedication ceremony, the artifacts installed in the building's cornerstone included the following:

a copy of General Andrew Jackson's commission as governor of the territories of East and West Florida, a photograph of a painting of French General Marquis de Lafayette, a photograph of a Seminole Indian chief playing golf in Fort Myers, and a copy of the Tallahassee Democrat's March 18, 1945, coverage of the Florida Centennial.

Walter W. Manley II and Canter Brown, Jr., *The Supreme Court of Florida, 1917-1972*, University Press of Florida (2006), at 168.

^x *The Evolution of Justice in Florida*, Supreme Court Library and Archives (2021), at 57, [http://www.flcourts.org/Law Library & Archives/ Historical Documents & Rare Books](http://www.flcourts.org/Law%20Library%20&%20Archives/Historical%20Documents%20&%20Rare%20Books).

^{xi} *Id.* at 38.

^{xii} The previous courthouse, occupied by the Court, was constructed at a cost of one hundred thousand dollars. Walter W. Manley II and Canter Brown, Jr., *The Supreme Court of Florida, 1917-1972*, University Press of Florida (2006), at 159.

xiii *The Evolution of Justice in Florida*, Supreme Court Library and Archives (2021), at 38, [http://www.flcourts.org/ Law Library & Archives/ Historical Documents & Rare Books](http://www.flcourts.org/Law%20Library%20&%20Archives/Historical%20Documents%20&%20Rare%20Books).

xiv [http://www.flcourts.org/Supreme Court Seal](http://www.flcourts.org/Supreme%20Court%20Seal). The current seal of the Court was officially adopted in 1950. *Id.*

xv *Id.*

xvi *Id.*

xvii *Id.*

xviii *Id.*

xix *Id.*

xx Florida Supreme Court Minute Book, vol. 47 (1949), at 514.

xxi *Id.*

xxii Walter W. Manley II and Canter Brown, Jr., *The Supreme Court of Florida, 1917-1972*, University Press of Florida (2006), at 193.

xxiii Florida Supreme Court Minute Book, vol. 47 (1949), at 513.

xxiv *Id.* at 514.

xxv [http://www.flcourts.org/Supreme Court Oral Argument Broadcasts & Ceremonial Sessions](http://www.flcourts.org/Supreme%20Court%20Oral%20Argument%20Broadcasts%20&%20Ceremonial%20Sessions).

xxvi *Id.*

xxvii *Id.*

xxviii *The Supreme Court of Florida Manual of Internal Operating Procedures* (2021), at 19.

xxix [http://www.flcourts.org/Supreme Court Oral Argument Broadcasts & Ceremonial Sessions](http://www.flcourts.org/Supreme%20Court%20Oral%20Argument%20Broadcasts%20&%20Ceremonial%20Sessions).

xxx *Id.*

xxxi *Id.*

xxxii *The Supreme Court of Florida Manual of Internal Operating Procedures* (2021), at 19.

xxxiii The Honorable Charles T. Canady, then Chief Justice of the Court, “Keep the Courts Open: Access, Planning Guide Response to Maintain Justice,” *Historical Review*, Florida Supreme Court Historical Society (Spring/Summer 2020), at 6.

xxxiv See, for example, *In re: COVID-19 Emergency Procedures in the Florida State Courts*, Fla. Admin. Order No. AOSC20-13 (March 13, 2020); *In re: COVID-19 Essential and Critical Trial Court Proceedings*, Fla. Admin. Order No. AOSC20-15 (March 17, 2020); *In re: Comprehensive COVID-19 Emergency Measures for the Florida State Courts*, Fla. Admin. Order No. AOSC20-23 (April 6, 2020) and as amended thereafter; *In re: COVID-19 Public Health and Safety Precautions for Phase 2*, Fla. Admin. Order No. AOSC 20-32 (May 21, 2020) and as amended thereafter; and *In re: Comprehensive COVID-19 Emergency Measures for Appellate Courts*, Fla. Admin. Order No. AOSC20-109 (Nov. 23, 2020) and as amended thereafter.

xxxv The Honorable Charles T. Canady, then Chief Justice of the Supreme Court of Florida, “Keep the Courts Open: Access, Planning Guide Response to

Maintain Justice,” *Historical Review*, Florida Supreme Court Historical Society (Spring/Summer 2020), at 6.

xxxvi *Id.*

xxxvii *Id.*

xxxviii *In re: Amendments to Florida Rules of Civil Procedure, Florida Rules of General Practice and Judicial Administration, Florida Rules of Criminal Procedure, Florida Probate Rules, Florida Rules of Traffic Court, Florida Small Claims Rules, and Florida Rules of Appellate Procedure*, Case No. SC21-990 (Fla. July 14, 2022), at 2-3.

xxxix *Id.*

xl *Id.* The amendments to the rules of procedure became effective October 1, 2022, at 12:01 a.m. *Id.* at 8.

xli On October 3, 2022, two days after amended Florida Rule of Appellate Procedure 9.320 became effective, Chief Justice Carlos G. Muniz issued an administrative order terminating COVID-19 operational measures dealing with remote proceedings. The administrative order explains that it was terminating the measures in light of the Court’s adoption of comprehensive rules governing conduct of remote court proceedings. *In re: Termination of Specified COVID-19 Emergency Operational Measures to Account for New Rules on Remote Conduct of Court Proceedings*, Fla. Admin. Order No. AOSC22-51 (October 3, 2022).

xlii *See In re Oath of Admission to The Florida Bar*, No. SC11-1702, 73 So. 3d 149 (Fla. 2011).

xliii *Id.*

xliv *Id.* (Quoting *In re Snyder*, 472 U.S. 634, 647, 105 S. Ct. 2874, 86 L. Ed.2d 504 (1985); and citing art. V, section 15, Fla. Const.).

xlvi Oath of Attorney Admission to The Florida Bar, amended September 12, 2011. *See In re Oath of Admission to The Florida Bar*, 73 So. 3d 149 (Fla. 2011).

xlvi The Honorable Charles T. Canady, then Chief Justice of the Supreme Court of Florida, “Three Cardinal Principles of Appellate Advocacy,” *Florida Appellate Practice*, The Florida Bar (2012), ch. 1, at 2.

xlvi Mark D. Killian, “Chief Justice Canady Says The Courts Are Making A Dent In Case Backlogs,” *The Florida Bar News* (April 11, 2022); Francine Walker, “*Sat Cito Si Recte*: A Supreme Evening 2022,” *Historical Review*, Florida Supreme Court Historical Society (Spring/Summer 2022), at 30.