



1 P R O C E E D I N G S

2 (6:00 p.m.)

3 JUSTICE PITNEY: Case Imperial v. United States  
4 shall now be heard before the Court. Both sides shall have  
5 24 continuous hours to present oral arguments for their case  
6 and answer any questions from Justices.

7 I invite Mr. Sinz\_Esq to present arguments on behalf of  
8 the Petitioners. Counsel you have until 23:20 BST on the 21st  
9 of August to present your arguments. You may reserve no more  
10 than 1 hour for rebuttal. You may begin.

11 ORAL ARGUMENT OF SINZ\_ESQ

12 ON BEHALF OF PETITIONER

13 MR. SINZ\_ESQ: Hello I'm Sinz\_Esq counsel for  
14 petitioner arguing 2 things (1) The burden of proof in a  
15 criminal case cannot be met without witnesses or victims of  
16 a crime & (2) The judge erred when asking respondent a  
17 question to prove a key element after trial.

18 In support of (1) I mention the following, Under Rule  
19 901, the government has to "produce evidence sufficient to  
20 support a finding that" the evidence is what the government  
21 claimed they were." The rule only gives the government one  
22 option when authenticating video evidence and that is, (1)  
23 Testimony of a Witness with Knowledge citing from Fed. R.  
Evid. 901(b)(1), Counsel further argues with this rule the

1 government is required to have evidence tendered through  
2 witnesses to have it authenticated. The point of the rule is  
3 to have the proponent establish the evidence is what they  
4 say it is, counsel for respondent argues that Fed. R. Evid.  
5 901 is superseded by the Supreme Court rule "ADMISSIBLE  
6 EVIDENCE RULE" and that Fed. R. Evid. 901 conflicts with §5  
7 of said rule. Fed. R. Evid. 901 is not superseded by the  
8 admissible evidence rule that was a meritless argument by  
9 the respondents counsel, the two rules serve separate  
10 purposes, and Fed. R. Evid. 901 does not conflict with §5  
11 of the admissible evidence rule because, the language used  
12 in §5 is "In-site evidence that qualifies under Sections 3  
13 and 4 of this motion shall not be inadmissible under any  
14 circumstances, excepting extenuating circumstances at the  
15 judge's discretion.", counsel for petitioner argues firstly  
16 for evidence to be admitted it first but be authenticated  
17 and then it would be considered 'in-side evidence' and would  
18 then go through the check of whether it qualifies under  
19 Sections 3 and 4.

20 In support of (2) counsel for petitioner argues that  
21 the judge erred with asking respondent a question after trial  
22 because in trial the government herein respondent failed to  
23 prove a key element of the charge against petitioner it  
shouldn't be allowed for the presiding judge after trial to

1 have the government prove their charges where they failed to  
2 do so by asking them questions; what if the government didn't  
3 mentioned anything at all during trial, could the judge after  
4 trial is concluded then ask the government questions to prove  
5 key elements effectively after trial? That is what the  
6 Supreme Court would be allowing if they ruled in favor of  
7 respondent.

8 Counsel for respondent also mentioned "Respondent cited  
9 "(See *State v. Watlington*, 220 N.C. App. 418 [a] judge may  
10 ask questions . . . that elicit testimony which proves an  
11 element of the State's case so long as [the judge] does not  
12 comment on the strength of the evidence or the credibility  
13 of the witness" quoting *State v. Lowe*, 60 N.C. App. 549; see  
14 also *People v. Nguyen*, 2002 Cal. App. Unpub., *People v.*  
15 *Rigney*, 55 Cal. 2d 236, *Azbill v. State*, 88 Nev. 240)." in  
16 support of their claim that the judge can ask questions to  
17 prove key elements after trial, counsel for petitioner argues  
18 that the caselaw only establishes that judges can ask  
19 questions that 'elicit testimony' this is irrelevant because  
20 there was no testimony to elicit since there was no witnesses  
21 and further irrelevant because this wouldn't establish that  
22 they can do that after trial. Another picture counsel for  
23 petitioner wants to paint is after trial is concluded parties  
are considered dismissed what the trial judge did is

1 equivalent of a judge dismissing parties and then after  
2 calling back in the government to prove a charge without the  
3 defense being able to make a defense and this would also be  
4 ex parte communication. I have nothing more to add and rest  
5 my part of oral arguments unless there are any questions.

6 JUSTICE FRANKFURTER: Are you arguing that the  
7 burden of proof wasn't met in this specific case or that it  
8 couldn't be met in any case without witnesses and therefore  
9 it wasn't met here?

10 SINZ\_ESQ: The latter. To clarify I'm not saying  
11 "every case" in regard to in real life stuff because there  
12 are countless scenarios in real life as well as physical  
13 objects, DNA, etc and there may be stuff in real life that  
14 possibly can be proven without having to have a video  
15 recorded of the crime however in NUSA's aspect you need a  
16 video recorded to prove every type of crime which would  
17 require said evidence to be authenticated by a witness.

18 JUSTICE FRANKFURTER: Did you challenge the  
19 validity of the evidence during the trial? If so, please link  
20 the message where you did.

21 SINZ\_ESQ: I know what you're getting at and I said  
22 this during trial.

23 JUSTICE FRANKFURTER: Did you challenge the  
validity of the video though?

1 SINZ\_ESQ: 1 sec

2 JUSTICE FRANKFURTER: Yes or no?

3 SINZ\_ESQ: I objected to the fact that the burden  
4 of proof cannot be met without witnesses which encompasses  
5 the validity of the evidence because for evidence to be  
6 admitted it first must be authenticated and without witnesses  
7 it cannot be authenticated so it can't be admitted and  
8 without there being evidence the burden of proof cannot be  
9 met.

10 JUSTICE FRANKFURTER: But not to the authenticity  
11 of the evidence.

12 MR. SINZ\_ESQ: I think the validity of the evidence  
13 go hand and hand w the authenticity of evidence but I did  
14 heavily argue the burden of proof cannot be met without  
15 witnesses I think that is sufficient enough to allow me to  
16 argue the first question before the court

17 I don't think the court should deny answering the first  
18 question because I didn't specifically object to the  
19 authenticity/validity of the evidence because the burden of  
20 proof would encompass the validity/authenticity of evidence;  
21 if the question was "did the judge err by allowing evidence  
22 that wasnt authenticated to be used" then I think it would  
23 be appropriate to not answer the question however the  
question is "can the burden of proof in a criminal case be

1 met without witnesses or victims of a crime" and I argued  
2 that in the trial court

3 however in the chance that you think otherwise ill add  
4 on the first question's argument so it is not solely based  
5 off rule 901

6 The burden of proof shouldnt be able to be met when  
7 there are no witnesses or victims of a crime because in that  
8 case its the prosecutor speaking without personal knowledge.  
9 Someone who wasnt at the crime scene nor was told by ANYONE  
10 with personal knowledge that a did something to b should not  
11 be able to prove that beyond a reasonable doubt

12 The court at the very minimal should make at least 1  
13 witness a requirement for the burden of proof to be met, the  
14 governments trial arguments should at the very least be  
15 confirmed by at least 1 witness for a conviction to be met

16 The burden of proof is guilty beyond a reasonable doubt  
17 i think there is an erroneous amount of doubt to whether a  
18 person is guilty or not when the person who sent evidence on  
19 someone wont even testify to the acts and the chances of  
20 tampered evidence is incredibly high

21 JUSTICE FRANKFURTER: Yes, but don't you think the  
22 fact that a party didn't contest the validity of the evidence  
23 remove the need to authenticate it?

1           MR. SINZ\_ESQ: No it should be authenticated  
2 regardless before being admitted to evidence.

3           It doesn't just get to be admitted by the prosecutor  
4 saying "this is the evidence we are using."

5           If you were asking whether or not this court should  
6 answer the first question "Can the burden of proof in a  
7 criminal case be met without witnesses or victims of a  
8 crime?" that is a different question however I would argue  
9 yes because I argued that the burden of proof couldn't be  
10 met in the trial court and the question now is not solely  
11 based off rule 901 I've added circumstantial text however if  
12 the justices did answer the question they would ultimately  
13 have to take into consideration rule 901 and ill also mention  
14 the question isn't whether the judge erred when allowing non-  
15 authenticated evidence its whether the burden of proof can  
16 be met without witnesses or victims of a crime which is the  
17 main reason why it should be answered because I argued  
18 respondent couldn't met the burden of proof in the trial  
19 court which would be enough for me to ask the question in  
20 this court

21           JUSTICE FRANKFURTER: Circuit Courts have adopted a  
22 policy that "the party seeking to raise the issue [on appeal]  
23 must first present it to the [D]istrict Court in a manner  
that allows the Court an opportunity to recognize and rule



1 on it." *Flanigan's Enterprises, Inc. of Georgia v. City of*  
2 *Sandy Springs, Georgia*, 703 F. App'x 929, 938 (11th Cir.  
3 2017), cert. denied sub nom. *Flanigan's Enterprises, Inc. of*  
4 *Georgia v. City of Sandy Springs, Ga.*, 138 S. Ct. 2623 (2018)  
5 (internal quotation and citation omitted); see also  
6 *Diefenderfer v. Office of Recovery Servs. For State of Utah*,  
7 185 F.3d 873 (10th Cir. 1999) (citations retrieved from ABA  
8 website). The Supreme Court has adopted this policy. Why is  
9 this case an exception?

10 MR. SINZ\_ESQ: Like I said the question isnt whether  
11 the judge erred when allowing non-authenticated evidence its  
12 whether the burden of proof can be met without witnesses or  
13 victims of a crime which is the main reason why it should be  
14 answered because I argued respondent couldnt met the burden  
15 of proof in the trial court which would be enough for me to  
16 ask the question in this court the question isnt soley based  
17 off rule 901

18 JUSTICE FRANKFURTER: It seems to me that the issue-  
19 -the authentication of evidence--wasn't raised and you also  
20 didn't object to the validity of the evidence which would  
21 obviate the prosecution's need to call witnesses to validate  
22 it.

23 MR. SINZ\_ESQ: the issue is whether the burden of  
proof can be met in a criminal case without witnesses or

1 victims not whether the evidence should or shouldnt be  
2 allowed to be used the authentication of evidence is merely  
3 1 argument of the question

4 JUSTICE FRANKFURTER: But isn't that a question for  
5 the district court to resolve during their factfinding  
6 mission? I'm not aware of any statute that specifically  
7 prohibits judges and juries who solely rely on video evidence  
8 from finding defendants guilty. In fact, if the evidence was  
9 taken on discord following the Supreme Court's refresh rules,  
10 that would be authenticated and not need a witness.

11 MR. SINZ\_ESQ: The question was before the District  
12 Court per their ruling they must have thought otherwise but  
13 that wouldn't stop me from asking the question to this court  
14 and Its not per a statute its per "common legal sense" and  
15 if the evidence was taken on discord that doesnt mean it  
16 wouldnt need to be authenticated under rule 901 like i  
17 mentioned in my argument the admissible evidence rule serves  
18 to get rid of evidence that wouldn't be admissible before or  
19 after authentication for it to be off site evidence it needs  
20 to be authenticated to be considered evidence

21 JUSTICE FRANKFURTER: Discord evidence is  
22 authenticated through Rule 901(b)(10).

23

1           And there's a glaring issue with your argument: Rule  
2   901(b) does not purport to be a compendium of ways that a  
3   party can authenticate evidence.

4           I think it's really to the judge's satisfaction, and  
5   since you didn't even object to its admissibility during the  
6   trial, you're facing an uphill battle.

7           MR.    SINZ\_ESQ:   Discord   evidence   is   not  
8   authenticated through Rule 901(b)(10) as i said the  
9   admissible evidence rule serves to get rid of evidence that  
10  wouldnt be admissible before or after authentication (b)(10)  
11  says "Any method of authentication or identification allowed  
12  by a federal statute or a rule prescribed by the Supreme  
13  Court." the admissible evidence rule made wasnt made to give  
14  a method of authentication/identification it was made to  
15  get rid of inadmissible evidence. Also rule 901 isn't a  
16  compendium of ways for authentication there is also self  
17  authenticating evidence per 902 and although i did not  
18  specifically object to the evidence I argued the burden of  
19  proof couldnt be met without witnesses or victims which would  
20  give me enough to ask the question here like i said rule 901  
21  is not the only argument behind the question

22           JUSTICE   FRANKFURTER:   Authentication   precedes  
23  admissibility.

          MR. SINZ\_ESQ: ?

1 JUSTICE FRANKFURTER: Before something is  
2 admissible, it must be authenticated.

3 If the Supreme Court enacts rules that would verify that  
4 the messages were actually sent by the person they claim to  
5 be sent by (in other words, specific evidence must be  
6 proposed to support a finding that the item is what the  
7 proponent claims it is), that's authentication.

8 MR. SINZ\_ESQ: so yes if the Supreme Court made a  
9 rule for authenticating evidence then that would fall under  
10 Rule 901(b)(10) although i think they shouldn't do such so  
11 we still have the realistic nature of cases but however they  
12 havent outlined rules for authenticating evidence they  
13 outlined a rule for getting rid of evidence

14 JUSTICE FRANKFURTER: That's the same thing. You  
15 call not authenticating evidence "getting rid of it."

16 MR. SINZ\_ESQ: rule 901 is the rule for getting  
17 something admitted to evidence by the proponent proving it  
18 is what they say it through the rules if its not admitted it  
19 simply is not evidence and was never evidence for the case  
20 however the admissible evidence rule serves to get rid of  
21 after authenticated evidence

22 JUSTICE FRANKFURTER: That's just an idiotic  
23 reading of the real.

MR. SINZ\_ESQ: I think we are getting off topic

1 but you're saying that the admissible evidence rule and  
2 rule 901 (authenticating evidence rule) is the same thing  
3 which simply is not true

4 JUSTICE FRANKFURTER: Like if a party gives proof  
5 that their evidence was recorded on discord, was actually  
6 said by the defendant, etc. that wouldn't satisfy the  
7 admissible evidence rule? The Admissible Evidence Rule is  
8 handicapped to only decide whether evidence which is already  
9 authenticated is authenticated?

10 I think that's a pretty bizarre reading of the rule.

11 And truly there only needs to be one situation where a  
12 defendant can be proven guilty beyond a reasonable doubt for  
13 us to answer no on your question.

14 MR. SINZ\_ESQ: If a party proves that the discord  
15 evidence is what they say it is they would have to do so with  
16 a witness with personal knowledge per rule 901 and no that  
17 incorrect admissible evidence rule is not there to decide  
18 whether authenticated evidence is authenticated its there to  
19 decide whether evidence is admissible just because I prove  
20 something is what i say it is doesn't mean its admissible  
21 and that point is clearly proven by the fruit of the poisonous  
22 tree doctrine which logic is even if something is what is is  
23 i.e. you find a video in my house of me killing someone and  
its proven that it actually is proof of me killing someone

1 however you got the video by breaking into my house; you  
2 obtained it illegally so it isnt admissible - with this  
3 argument I think I have sufficiently argued admissibility  
4 and authentication is not the same thing

5 JUSTICE FRANKFURTER: Counselor, authentication is  
6 a tenet of admissibility. Yes, there's other factors to the  
7 larger question of admissibility, but authentication is one  
8 of those questions.

9 And this rule lays out the requirements to authenticate  
10 an item of evidence, by producing other pieces of evidence  
11 sufficient to support a finding that the item is what the  
12 proponent claims it is.

13 I think that's textbook authentication.

14 MR. SINZ\_ESQ: are you referring to rule 901 or  
15 admissible evidence rule

16 JUSTICE FRANKFURTER: Admissible Evidence Rule.

17 The requirements of it being:

18 Off-site evidence must contain reliable proof that an  
19 online account indeed belongs to the subject and is not a  
20 fraudulent account and that such message was made by that  
21 account. Off-site evidence must be obtained through video or  
22 gif to validate the previously noted requirements. To make  
23 sure evidence is allowed the video or gif needs to show the  
person or account, the message, and the program or

1 application the evidence is being gathered on must be  
2 refreshed. This can be done on most programs and  
3 applications-such as discord, skype, and various browsers-by  
4 pressing 'Ctrl' and 'R' in sequence. Under the presiding  
5 judge's discretion, this section can be exempted if both  
6 parties agree to its validity and witness testimony may also  
7 be used in verifying the authenticity of an account if under  
8 extenuating circumstances.

9 MR. SINZ\_ESQ: okay so, it actually doesn't lay out  
10 the requirements of authenticating an item it lays out rules  
11 to clarify whether something is admissible or not with your  
12 argument you are hinting that admissibility and  
13 authentication is the same thing which it isnt and i  
14 sufficiently proved so with this

15 JUSTICE FRANKFURTER: Here we go again, counselor.  
16 I'll repeat, again. Authentication is a tenet of  
17 admissibility. Yes, there's other factors to the larger  
18 question of admissibility, but authentication is one of those  
19 questions.

20 MR. SINZ\_ESQ: Im confused as to what that means  
21 can you clarify what you're saying so are you saying  
22 admissibility and authentication is the same thing or not

23

1 JUSTICE FRANKFURTER: A FACTOR of ADMISSIBILITY is  
2 AUTHENTICATION. If something cannot be authenticated, it is  
3 not admissible.

4 This of course doesn't necessarily work in the other  
5 direction ("if something is authenticated, it is admissible")  
6 because there's other factors at play (illegally obtained  
7 evidence, for example).

8 Do you understand?

9 Section 6 of the Admissible Evidence Rule expands on  
10 the 901(b) list of specific ways to authenticate pieces of  
11 evidence from off-site mediums.

12 Now, if the government hacked someone's discord account  
13 and went through this process, it would inadmissible despite  
14 having Section 6 authentication.

15 MR. SINZ\_ESQ: again you are arguing that  
16 admissibility and authentication is the same thing but  
17 instead of doing it in a positive manner you're now calling  
18 it a factor of admissibility

19 JUSTICE FRANKFURTER: Jesus Mary Joseph.

20 MR. SINZ\_ESQ: authentication is not the same thing  
21 as admissibility and I'm not sure what you were trying to  
22 prove with this argument but the admissible evidence rule  
23 does not give a way of authenticating evidence discord



1 evidence per (b)(10) it gives rules on whether something is  
2 admissible or not

3 JUSTICE FRANKFURTER: I guess you just can't  
4 understand this so we'll move on.

5 What do you think the Admissible Evidence Rule does?

6 MR. SINZ\_ESQ: like i said it gives rules to clarify  
7 whether after authenticated evidence is admissible

8 JUSTICE FRANKFURTER: What are the factors of  
9 section 6 that decide that?

10 MR. SINZ\_ESQ: (1) be obtained by video or gif (2)  
11 include a refresh of the video or gif

12 JUSTICE PITNEY: Sorry just to clarify for my own  
13 understanding; you are arguing that evidence can be factual,  
14 and inadmissible?

15 As in they are completely separate from each other and  
16 have no weight on the other?

17 MR. SINZ\_ESQ: as in factual do you mean something  
18 is what the person says it is?

19 if so yes its been proven even if something is what the  
20 person says (proven to be factual) it can still still can be  
21 inadmissible and that I proved with [link]

22 JUSTICE PITNEY: makes perfect sense to me.

23 JUSTICE FRANKFURTER: Why are those 2 factors  
important?

1           MR. SINZ\_ESQ: its important/established so that if  
2 discord evidence can be authenticated through a witnesses it  
3 must then be in video/gif and include a refresh to be  
4 admissible

5           JUSTICE FRANKFURTER: But doesn't the rule  
6 specifically state that witnesses are not the preferred way  
7 to authenticate this type of evidence and can only be used  
8 in extenuating circumstances? And, furthermore, isn't  
9 producing evidence that satisfies those two factors  
10 equivalent to "the proponent ... produc[ing] evidence  
11 sufficient to support a finding that the item is what the  
12 proponent claims it is?"

13          MR. SINZ\_ESQ: no let me explain why, if i'm the  
14 prosecutor for a case and I'm charging you with making a  
15 threat to assassinate the president that you made on discord  
16 under admissible evidence rule §6. requires me to prove the  
17 account i have a video is actually you and, that the message  
18 i have a video of was actually sent by you the rule requires  
19 that the a message was sent by you for it to be admissible  
20 that is not a sufficient to support a finding that the item  
21 is what the proponent claims it is. Rule 901(1) says that a  
22 witness with personal knowledge give testimony that a item  
23 is what it claims to be in this case the witness would need  
to give testimony that it was you that said you were gonna

1 assassinate the president however the admissible evidence  
2 rule §6 serves that even after the fact of it being  
3 authenticated by the witness it would only be admissible if  
4 i had it in (1) a video/gif and if the video had (2) a  
5 refresh and (3) the account

6 JUSTICE FRANKFURTER: 901 doesn't say witness.

7 MR. SINZ\_ESQ: (1) Testimony of a Witness with  
8 Knowledge. Testimony that an item is what it is claimed to  
9 be.

10 JUSTICE FRANKFURTER: That's one example in an  
11 incomplete list.

12 901 doesn't exclude witness; it doesn't mandate them  
13 either.

14 MR. SINZ\_ESQ: (1) is the only way to authenticate  
15 a recorded video

16 JUSTICE FRANKFURTER: Can you copy and paste what  
17 it says before 901(b)(1)?

18 MR. SINZ\_ESQ: "(a) In General. To satisfy the  
19 requirement of authenticating or identifying an item of  
20 evidence, the proponent must produce evidence sufficient to  
21 support a finding that the item is what the proponent claims  
22 it is.

23

1 (b) Examples. The following are examples only – not a  
2 complete list – of evidence that satisfies the requirement:"

3 JUSTICE FRANKFURTER: Ah, there we go. Not a  
4 complete list.

5 MR. SINZ\_ESQ: there is also self authenticating  
6 evidence which is why its not a complete list of ways evidence  
7 can be authenticated

8 JUSTICE FRANKFURTER: That's not why. That's a  
9 totally different category.

10 Anyways, I have no more questions.

11 MR. SINZ\_ESQ: As of now there is no reason to  
12 believe that specifically video recorded evidence can be  
13 authenticated by any other means you do know the Supreme  
14 Court can overturn their own opinions right? If something is  
15 brought to light (which i doubt it will be) that video  
16 evidence can be authenticated without a witness then it would  
17 be appropriate to overturn such decision

18 and alright thank you for the questions Justice  
19 Frankfurter

20 JUSTICE PITNEY: Thank you for your arguments  
21 counsel.

22 I invite the Solicitor General to present his arguments.  
23 You will have 24 hours beginning now.

ORAL ARGUMENT OF SINZ\_ESQ

ON BEHALF OF PETITIONER

MR. JMPISAWESOME: Thank you Justice Pitney and may it please the court,

Since I believe the vast majority of the issues presented by the petitioner have been adequately responded to in my brief, I would like to take this time to simply elucidate some issues that were mentioned in oral arguments, several of which have already been inquired into by Justice Frankfurter. The first of which is the nature of authentication. The petitioner forwards a theory to this court that authenticity is a self-contained and discrete step of evidence that is totally disjunct from the process of determining admissibility itself. Ignoring that the argument from modus tollens in my reply brief shows that whether or not authenticity is a separate step is wholly irrelevant, I feel it necessary to point out that this is simply a patently false claim. The seminal literature on evidence law wholeheartedly supports the notion that authenticity is merely another element of admissibility; numerous treatise on American and common-law evidence such as Wigmore's Treaty on the Law of Evidence and McCormick's Handbook on the Law of Evidence both categorize authenticity as a "special category of relevance", meaning that a lack of authenticity

1 implies a lack of relevance. As every law school student in  
2 this country knows, relevance is an immutable aspect of  
3 admissibility, and so if it was not already obvious that  
4 authenticity constitutes a necessary element of  
5 admissibility, it is now thoroughly elucidated by these texts  
6 to be just that. For a more specific treatment of  
7 authenticity in respect to the Federal Rules of Evidence, J.  
8 Weinstein's commentary on the rules of evidence is topical  
9 and comes to the exact same conclusion.

10 From this treatment of authenticity as an element of  
11 admissibility, the Global Rule on Admissible Evidence could  
12 not be clearer. It explicitly rejects admissibility  
13 preemptions on any evidence that is categorically deemed "in-  
14 site", lest extenuating circumstances rear its head.

15 And hence, we are left with not a modicum of rhetoric  
16 left to substantiate the idea that the evidence presented in  
17 this trial was insufficient or inadmissible.

18 Now, as for the petitioner's novel claim that witness  
19 testimony is required to satisfy the burden of proof in a  
20 criminal proceeding, this claim should hardly even be  
21 entertained by the court. The notion that witness testimony  
22 is a fundamental requisite for satiating the burden of proof  
23 relies on the idea that witness testimony is per se of higher  
evidentiary weight than any other mode or form of evidence

1 that could possibly be set to trial. This conclusion violates  
2 the basic sense of logic and the a cornerstone distinction  
3 in the court of law between the form of evidence and the  
4 weight it carries. Weight and form are two independent  
5 characteristics of evidence and the only aspect of evidence  
6 that has any bearing on satisfying the burden of proof is  
7 weight, as determined by the trier of fact. I would invite  
8 the petitioner to offer case law or some other authority of  
9 law substantiating the idea that witness testimony is some  
10 accoutrement with which a case immediately fails in its  
11 absence. Until then, as Justice Frankfurter so succinctly  
12 put it, this is a fight that is nothing but uphill for the  
13 petitioner.

14 The respondent waives the rest of their time and invites  
15 any questions the court may have.

16 MR. SINZ\_ESQ: Ahh the chewbacca defense but in the  
17 sc. I'd like to say my rebuttal now please lmk if i can or  
18 when i can

19 JUSTICE FRANKFURTER: Counselor, please stop  
20 talking during other people's time.

21 MR. SINZ\_ESQ: I was under the impression that he  
22 waived the rest of his time so i could begin sorry about  
23 that.

1 JUSTICE FRANKFURTER: The correct response was no  
2 response.

3 I say this with some irony but what about the judge  
4 asking a question during the trial?

5 MR. JMPISAWESOME: This topic was not brought up in  
6 the petitioner's oral argument in any manner that would  
7 reveal any fundamental new argument in support of their  
8 claim, so I would still maintain the arguments I wrote in my  
9 brief. Namely that a Judge's power to guide the case in a  
10 non-prejudicial manner has always been recognized in case  
11 law and that merely asking a party to clarify their cause of  
12 action in respect to facts that they've already presented  
13 can hardly be considered prejudice, and is in fact the very  
14 type of inquiry that justifies giving them such a power in  
15 the first place.

16 It's also interesting to note that this argument was  
17 not raised at any time between the judge's question and his  
18 ruling, which means that even if this court were to find that  
19 he erred in asking such a question, it would still not justify  
20 a vacation of the trial unless it constitutes a plain error  
21 of the law.

22 JUSTICE PITNEY: This case is submitted.

23 (Whereupon, at 6:46 PM, the case was submitted.)