Per Curiam

SUPREME COURT OF THE STATE OF RIDGEWAY

No. ___

IN RE RIDING CIRCUIT AMENDMENT ACT

[May 25, 2020]

PER CURIAM.

When evaluating a matter such as riding justices, it is entirely an administrative matter. It becomes a concourse of impossible dilemmas with no equilibrium. Hopefully this order puts confusion at ease. We begin with saying what this order is not. This order is not a departure from the status quo; it is not the court attempting to usurp the power and forge its own veto with constitutional provision, and it is not the court attempting to superimpose its own whim on the other branches of government or onto a private citizen. This lack of exercise of any power onto a surrounding branch thereby makes the matter entirely internal. The issue lies precisely within the judicial branch with its only vector of escape is with the Senate attempting to, beyond constitutional authority, tell the court how it ought to administer itself.

I

When the court decrees that a law is unconstitutional, it is not enjoining any party. It is a statement of the court that the law will not be followed because it is unconstitutional, and will be seen in the words of Chief Justice Marshall, "void." Furthermore, how is a court ought to proceed and uphold a perceived violation of the constitution institutionalized in its rules? The simple fact of the matter is that the

court need not provide a constitutional reason to throw out a rule.

The exercise of the court rulemaking process is prescribed entirely onto the Supreme Court, with a tertiary grant to the legislature granting it the ability to revise. The language of the constitution gives the legislature essentially revise and repeal powers over the rules, however it specifically and unambiguously created this power onto a rule previously adopted by the court. This however, does not give the power to the legislature to introduce new rules. When the legislature created a prohibition on a practice that the Court was involved in, and that prohibition is manifestly emanated into the operation of the court, it has created a rule. The Constitution, through its language, does not allow for this to happen.

Through our administrative power to handle as to how we conduct the day-to-day business of the court, we are simply stating that the incursion of that power is beyond the authority of the legislature and ought not to be followed. We do not need to derive any additional power from the case or controversy clause to assert a power that exists entirely outside of it, that being the rulemaking power and the administrative power. If we hold the power, at the same time to make a rule, then we duly hold the power to rescind. That is where we derive our legal authority. When we take a deterministic stance in a matter like this, where we disregard a law as it applies, how else are we to avoid saying the words "the law ought not to be followed?"

When Chief Justice Marshall, in *Marbury* v. *Madison*, 1 Cranch 137 (1803), was trying to resolve the conundrum as to whether a judge should enforce a law they determine to also be unconstitutional, he looked squarely to the oath he took to resolve this matter. He stated:

> "Why does a judge swear to discharge his duties agreeably to the Constitution of the United States if that Constitution forms no rule for his government? if it is

> closed upon him and cannot be inspected by him? If such be the real state of things, this is worse than solemn mockery. To prescribe or to take this oath becomes equally a crime." *Id.,* at 179.

The grey area then becomes the fact that this is a matter that applies exclusively to ourselves, and is enforced entirely by our own good behavior. Its why this matter cannot exist as any case or controversy, and it is why it is inherently administrative. With that, how are we to hold ourselves to a standard and rule which we find to be unconstitutional and illegitimate? To what principle are we obedient to if we take active enforcement of this? Do we serve the Constitution or the will of the Senate? We cannot as interpreters of this Constitution, hang ourselves with something antithetical to it. Neither in case, nor controversy, nor in chambers. The Constitution ceases to become our master if we refuse to enforce it unto ourselves.

II

A great source of debate regarding this order arises from the fact that it is proceeding as if it were not a case. Firstly, it is an asinine belief that the case or controversy clause applies to the rulemaking process of the court. For the court does not need case nor controversy to adopt, revise, or repeal a rule of the court. Likewise, it needs neither case or controversy to refuse adherence to a de-facto rule clothed as law. The arguers of this point of view fail to contend how this would proceed as a case or controversy, other than the fact that it "should." I was able to examine two possible routes and I was able to generate two adamant reasons as to why these routes ought to be avoided as matter of necessity.

The first route is if a justice decided that he wished to sue for the power to ride the Superior Court. Remedy and law be obvious, but where does the injury exist? How does a lack of ability to take a case generate injury beyond a general-

ized grievance? The injury from this prohibition is incognizable, and unrecognized by our current case or controversy jurisprudence. The second route is for a justice to just ride the Superior Court anyways, and deal with the inevitable appeals on the matter. What a shame it is for the justice system if the court invented and schemed its own controversies to deal with matters it thought wrong. Unraveling parties into a nuanced discussion not on the merits of their case but on the authority of the Senate to act in a way no-where near related to the controversy at hand. It's a disgusting practice for the court to engage in intentional disobedience of rule or law for the sake of proving its unconstitutionality. It is also a manifestly dangerous maneuver for a justice to act like he is now somehow above the law, and it puts the court in a more dangerous point of public perception if the citizenry sees a justice disregard law without putting pen to paper as to why he made such a decision. How is this fair for any party involved? For the defendant whose appeal now turns away from his remedy to the legitimacy of his presiding judge. Plaintiffs and defendants alike would be caught in a vicious crossfire over silly and otherwise inconsequential constitutional law blather.

Skeptics then attempt to argue that because we have now just proven inherit lack of case or controversy means that it should not have had any adjudication, but it has more power being argued as evidence that this matter is in-fact administrative. The lack of a case or controversy arises because this is something we enforce exclusively onto ourselves, rather than onto others. Then follows the argument that the matter should have been received and afforded some sort of process such as briefs and oral arguments. The case or controversy clause requires no such thing. It just requires adversarial parties, an injured party, entitlement of law, and remedy. It does not require briefs, oral arguments, or petitions. Those would fall under the spectacle of due process.

Due process arguments are entirely a different ballgame than case or controversy arguments because they are evaluated onto a different lens. Due process only is afforded by the Constitution when there is some injury at hand. It is hard to find or clearly establish any injury caused by having riding justices other than the fact that it is looked upon disfavorably. There has been no offer of empirical evidence that by the court making today's decision will result in some injury. For example, in *RPS* v. *SteKing*, 1 Rid. 1 (2022), the court reversed the opinion of their fellow justice, thereby disproving the notion that the court is now somehow a fraternity of organized stakeholders wishing to impose their will if one of their own gets entoiled in controversy. Currently preponderance only exists in proving that the process, while looked upon disfavorably, produces no harm to neither party in a claim. So, with the court now affirming its rulemaking powers and reversing a rule imposed by the legislature, it has not violated any principle nor prong of due process. Briefs, oral arguments, and all other appendages of due process are only required when there is injury at stake. If the court had a scintilla of belief that its actions would place undue burden on any party proceeding before the court now or in the future, it would have undergone some sort of process to ensure stakeholders be heard. But, when the matter is over the general disfavorment of a practice and actual harm going inarticulate, it makes little sense as to why it ought to be afforded due process. We understand that people want to be heard over this matter, but it is not viable to afford them that right over matters strictly involving the interior of the judiciary and not the exterior. The lack of any cognizable injury or deadset requirement of due process only serves to strengthen the theme of this order, and that this is inherently an administrative matter with the effects only being felt on the inside, with litigator's only articulate gripe being disdain for the procedure and not cognizable harm or prejudice to either party in a matter.

Per Curiam

The administrative rule promulgated by the Senate is repealed.

It is so ordered.