



## Florida Should Vote To Retain Judge John Badalamenti Who Fights Loopholes And Abuses Of The Law

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While Florida voters focus on Donald Trump and Hillary Clinton, there are plenty of important decisions which go unnoticed and the retention of judges is one of the more difficult decisions for voters. Judge John L. Badalamenti one member of the District Court who should be retained.

Most recently it was Badalamenti who fought the appeals decision to overturn the murder conviction of George Shrader for the sexual assault and death of Sharon Lorraine Moss in 1986.

The reversal centered on Shrader's argument that the state had not proven sexual battery occurred and that "... there is no evidence of the timing of the sexual intercourse between the victim and Mr. Shrader," said the ruling, written by Judge Douglas Wallace and joined by Judge Stevan Northcutt.

It was Judge Badalamenti who dissented, writing that prosecutors presented "competent, substantial evidence" that non-consensual sexual acts occurred.

"There is record evidence of a struggle by a woman who is not alive to testify that she did not consent," Badalamenti wrote. "The state presented evidence that drops of blood containing Mr. Shrader's DNA were found in proximity of the victim's bludgeoned body, containing 36 stab wounds and semen that tested positive for Mr. Shrader's DNA."

Shrader deserves a fair trial, but it was murder overlapping with hiskilling of his uncle, a crime not in dispute. The appeals loophole would have gone unchallenged by some judges, but Badalamenti voiced the validity of initial evidence.

Additionally, in 2014, it was Judge Badalamenti who stood before the SCOTUS to prevent the police abuse of Sarbanes-Oxley in Yates v. United States.

In 2007, fishing boat captain John Yates was on a fishing expedition in the Gulf of Mexico, a Florida Fish and Wildlife Commission officer, cross-deputized as a federal agent for the National Oceanic and Atmospheric Administration, cited him for harvesting undersized grouper.

On the way back to port, Yates allegedly tossed some of the incriminating fish overboard and replaced them with larger specimens. When the officer learned of the switch from the fishing boat crew, Yates was charged with violating Sarbanes-Oxley. He was convicted and sentenced to 30 days in jail and three years of post-release supervision.

The origins of the law lie far from the fishing grounds of the Gulf. When Houston-based energy-trading company Enron imploded in 2001, accountants scrambled to destroy evidence that they had been cooking the books. In the wake of the company's collapse, federal laws hampered prosecution of the offenders. Congress remedied the problem in 2002 with passage of the Sarbanes-Oxley Act.

The fisherman's lawyer wanted the law confined to the destruction of records or other items used to store information, and the Justices spun out a series of scenarios to gauge what that would entail.

Justice Stephen G. Breyer commented that, "at first blush," the law "seems far broader than any witness-tampering law, any obstruction statute, any lying to a federal agent law that I've ever seen."

Badalamenti argued that the law should be confined to the destruction of devices or modes for storing information — and, even more narrowly, business information.

The case made some headlines as the late Justice Scalia exploded at one point asking "what kind of mad prosecutor" would use that law in a case like this one?

U.S. Solicitor General, Roman Martinez tried to portray the fisherman as someone who ordered the destruction of evidence, disobeyed a federal officer, and worked out a cover-up scheme, Chief Justice John G. Roberts, Jr., commented: "You make him sound like a mob boss."

Martinez was on the defensive throughout the remainder of his time. He tried to recover by going over the specific words and headings in the law, trying to show what Congress had intended for the law.

Martinez was suddenly confronted by Justice Samuel A. Alito, Jr. The lawyer, the Justice said, had a lot of arguments on the fine points about the law, but "you are asking us for something that is pretty hard to swallow," that this law could be used for "really trivial matters."

Martinez protested that the law would not be used for "trivial matters," but that's how Badalamenti ended up on the DC stage in the first place.

Brad Bondi (JD 98), a litigation partner at Cadwalader, Wickersham & Taft who heads the firm's Securities Enforcement and Investigation Group, has known Badalamenti since the two were UF undergraduates. Bondi wrote an amicus brief in the case on the behalf of the Cato Institute, a libertarian think tank in Washington, D.C. Bondi said that the Supreme Court would take the case is a testament to Badalamenti's skill as an appellate lawyer.

“I think he’s proven himself and gained the respect of the judiciary through his command of criminal law,” Bondi said. “It’s a testament to his strength as an advocate that he was able to convince the Supreme Court to take up this case.”

My verdict is that Badalamenti protects the citizens from abuses of the law and seeks out the truth to maintain justice.