OPEN NINTH:

CONVERSATIONS BEYOND THE COURTROOM

INSIDE THE PODCAST

EPISODE 4

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HOSTED BY: FREDERICK J. LAUTEN

(Music.)

>> Welcome to Episode 4 of "Open Ninth: Conversations

Beyond the Courtroom" in the Ninth Judicial Circuit Court of

Florida.

Now here's your host, Chief Judge Frederick J. Lauten.

>> JUDGE LAUTEN: Good morning, and welcome to "Open Ninth." Today we welcome Elyssa Cherney, Orlando Sentinel reporter, for our podcast.

And this podcast, Elyssa, will be unique because I'm going to start out as the moderator interviewing you, which I'm sure you're not accustomed to. And then I'll turn the microphone over to you and you'll be the moderator interviewing me.

So you all set to go?

>> ELYSSA CHERNEY: Yes. For the record, I was not aware of the setup before I agreed to it --

(Laughter.)

- >> ELYSSA CHERNEY: -- but yes.
- >> JUDGE LAUTEN: A little bit like sometimes your subject is getting a question they didn't think was coming.
 - >> ELYSSA CHERNEY: Yes.
- >> JUDGE LAUTEN: But why don't you introduce yourself to the audience and tell them where you're from.
- >> ELYSSA CHERNEY: Sure. My name is Elyssa Cherney.

 I'm originally from Chicago. I've been living here in

Orlando for about two years. And I cover the Ninth Circuit for the Orlando Sentinel. I'm officially the courts reporter, and I'm part of the breaking news team.

>> JUDGE LAUTEN: Great. Great. So did you go to school in Florida or did you go to school in Illinois?

>> ELYSSA CHERNEY: Nope. I went to school in Illinois.

I went to Northwestern University, where I studied

journalism, print journalism. I also studied something

called gender and sexuality studies as my double major. And

I graduated magna cum laude in 2014, and I moved to Florida.

Shortly after there, I started in the Lake County bureau. So I moved to Mount Dora and was living there.

>> JUDGE LAUTEN: Let's go back to Northwestern for a moment. That has a preeminent journalism school, I know.

And did you commute to the campus? Did you reside on campus?

>> ELYSSA CHERNEY: I actually lived on campus. I wanted that experience.

>> JUDGE LAUTEN: Great.

>> ELYSSA CHERNEY: I lived about 15 minutes from

Northwestern. I actually went to school -- high school in
the neighboring city Skokie.

>> JUDGE LAUTEN: Very good. So then you graduated with your undergraduate degree in journalism and your double major, and you said you headed to Polk County?

>> ELYSSA CHERNEY: Lake County.

- >> JUDGE LAUTEN: Lake County.
- >> ELYSSA CHERNEY: Yes.
- >> JUDGE LAUTEN: What was your job assignment in Lake County?

>> ELYSSA CHERNEY: Well, Lake County is something we call a bureau, kind of like a small satellite office, so there is only two reporters, an editor and then a columnist. So when you're in that situation, you have to do a little bit of everything.

Technically, my beat was education, so I went to school board meetings. But also anything that came up, you have to be like all hands on deck.

- >> JUDGE LAUTEN: So you went right from your journalism major and graduation to the *Orlando Sentinel* and then to the county bureau?
- >> ELYSSA CHERNEY: I had an internship in between graduation and my job here in Little Rock, Arkansas, where I covered state issues for them across the state of Arkansas.

 But throughout college, you -- you pretty much need to intern at different newspapers. So I had that experience. But, yes, this was my first job after college.
- >> JUDGE LAUTEN: So how long were you in the bureau before you came to cover the courts?
- >> ELYSSA CHERNEY: I was in that bureau about six months.

>> JUDGE LAUTEN: And then do you know how you got assigned to cover the court system in the Ninth Circuit?

>> ELYSSA CHERNEY: One of my editors recommended that I apply for the vacancy. I wasn't really thinking of it, but the previous reporter, Jeff Weiner, who did courts, went to cover the City of Orlando, and my editors just kind of gave me the courage to apply and said that they thought I would really enjoy it and that I tended to like understanding issues.

(Laughter.)

>> JUDGE LAUTEN: All right. So how long have you been covering the court here in the Ninth Circuit?

>> ELYSSA CHERNEY: It will be -- it's been over a year.

I started in March of last year.

>> JUDGE LAUTEN: I keep saying Ninth Circuit, but I'm not sure that's correct. Do you cover more than Orange and Osceola County?

>> ELYSSA CHERNEY: It depends. I used to -- because of some staffing changes at the *Sentinel*, there have been times where I covered Osceola courts and times where I haven't. We currently do have a full-time person who does Osceola.

But I kind of just gravitate towards whatever stories interest me. And if it's in Osceola, I will pursue it.

Obviously if there is someone else who has an interest, you just okay it with them. But, yes, that's a good point. I

predominantly do Orange County.

>> JUDGE LAUTEN: Do you cover Seminole or Brevard

County, or is it pretty much the Ninth Circuit? I've said

the Ninth Circuit --

>> ELYSSA CHERNEY: Yeah, it's pretty much the Ninth Circuit. There might be a situation where there's a case I think is really interesting and it might be in Brevard, which is not really in our coverage area. But if I think that the interest level is great enough, I can do that. We do have a full-time Seminole County courts reporter, and she will predominantly do those stories.

For example, she was doing a ten-month long project, so in that time, I was filling in for her and going to Seminole courts a lot. So I think I've gone to three different, you know, courthouses, at least, in the area.

>> JUDGE LAUTEN: So, Elyssa, what's the biggest challenge that you've faced in covering the court system?

>> ELYSSA CHERNEY: The biggest challenge is probably trying to understand some of the loftier legal arguments and then translate those into a way that readers can understand.

So, for example, as you know, there might be, like, an hour-long discussion before the judge about some sort of thing, maybe it's a discovery violation, maybe it's something else, and it takes a long time and you're trying to pay attention to all the details. But in the long run, it didn't

really make a big outcome on the case, and so as a reporter,

I kind of have to figure out how much real estate I'm gonna

give that situation in the story.

It's kind of just all about impact. You have to determine what's the most important thing with the most impact that I need to tell the reader.

>> JUDGE LAUTEN: Let me go back for a moment to your undergraduate experience. Did you take classes in law as a journalist -- journalism major?

>> ELYSSA CHERNEY: I took -- well, I took one class that -- well, I guess I took two classes. One was required for everybody. It was called -- I can't remember the exact title, but it was basically about journalism and media law, and, you know, the different types of ways journalists can possibly get in trouble and how to overcome those. And we talked about a bunch of landmark Supreme Court cases about freedom of the press and, you know, just the whole idea of intellectual and property rights and all that stuff.

And I also took a class that -- the name is escaping me, but it was just generally a class about the law and politics.

>> JUDGE LAUTEN: So your familiarity with the courts and the law, a lot of that sounds self-taught or stuff you've learned on the job?

>> ELYSSA CHERNEY: Yeah. But I think that's true about most beats that people zero in on. I think that some people

might know ahead of time what beat they want to cover, but it's kind of a futile thing, because you have very little control over it.

>> JUDGE LAUTEN: Do you think that there is a common misconception among the public about reporters? And if you think there is, what do you think that would be?

>> ELYSSA CHERNEY: Yeah. I mean, I think there is probably a handful of them. Perhaps one is just the idea that, like, reporters are always trying to pull a "gotcha" on different government agencies or sources. And I think that's a little bit misleading.

I think that if you ask any journalist, we'll say that the reason we're doing this is for the public and for the readers, and we have very high ethical standards as well. I think some of those stereotypes come from, you know, pop culture and movies and TV shows about reporters doing that stuff.

But the source -- making sources is the most important thing in journalism and so that -- that very rarely happens. I mean, you're constantly in communication with people and you have to tell them, look, I'm running the story about this controversial topic. What do you think about it? What's your response?

>> JUDGE LAUTEN: Yeah. I've ruined movie watching about any crime drama or law case with my family because I

keep screaming, "that would never happen" or "that's absurd."

It sounds like maybe reporters are portrayed the same way in

movies and TV shows.

>> ELYSSA CHERNEY: Yeah. I think House of Cards is a particularly bad culprit. But I think that Spotlight gets it pretty good.

>> JUDGE LAUTEN: Yeah. That's a good movie.

So is there one case that you could describe as the most interesting case that you've covered?

>> ELYSSA CHERNEY: I don't know if I'll call it the most interesting case. I predominantly cover crime, and a lot of that is violent crime, so homicides. But I think for me the most interesting thing I have done so far, for me, being new on the beat, was covering the Bessman Okafor trial because that lasted, I think, three weeks and there were two different phases, the guilt phase and the sentencing phase. And so that was all new to me.

It was my first kind of up-front and close experience with the death penalty, other than reading other media reports but actually seeing how it works through the system.

And usually -- sometimes I don't get to cover trials in full, but because that case was such a high-profile case, I was pretty much there every day, and it was really interesting to witness.

THE COURT: So some of my colleagues comment that it's

difficult for anybody to truly understand a trial unless they've sat through every minute of the trial from jury selection to sentencing.

What's your response to that?

>> ELYSSA CHERNEY: I totally agree. I a hundred percent agree. I wish that I could sit in trials all day. Unfortunately, we don't always have the resources for that. But I do personally -- if there's a trial that I think is really important, I will push to sit there all day.

Sometimes editors don't like that because I might not come back with a compelling story, but I think it's crucial to understanding the way the case develops and trying to understand the circumstances that the jury has and just basically portraying a true and accurate picture of what happened.

>> JUDGE LAUTEN: I -- sometime you have to write too, so I guess if you're in court all day long -- tell me a little bit about, what do deadlines mean? What kind of impact does a deadline have on a reporter?

That's something you see in TV and the movies and you wonder, is that a realistic portrayal? What kind of pressure do you feel from deadlines to get a story in?

>> ELYSSA CHERNEY: I feel like I've developed a pretty thick skin to deadlines, so I'm not that scared of them anymore. I don't really think of them of anything other than

I need to write something at this time.

So, for example, if I'm doing a court story, usually I will try to update -- you know, nowadays we have web and print. So if I'm doing a court story, I will aim to get a web update up before the lunch recess. So that requires me to type in the courtroom, which I'm usually doing.

So, you know, I do -- I listen to the first hour, two hours of what's going on. I'm still in the courtroom and I'm writing my copy in the courtroom and I'm posting it in the courtroom directly to our online website.

And then, you know, I'll do the same -- I might update it later in the day if something really interesting happens. If not, I'll just wait until the day is over and write my copy for the print paper, which is different than the online.

The online update is gonna be short. It's just gonna be the nitty-gritty. It might just be a new quote from somebody. The print story is gonna be more detailed.

In terms of deadlines, I'm aware of them. You work knowing that they're in the back of your head, so if I know that -- you know, sometimes I have to think about, okay this judge goes until -- usually we'll actually stop at 4:00 or 4:30 or 5:00. If it's a judge that doesn't stop at five and will keep on going until the next witness is over, I have to figure that out and weigh my options.

>> JUDGE LAUTEN: Do you have any advice for aspiring

journalists?

>> ELYSSA CHERNEY: Yes. My advice would be to get as familiar as you can with the Internet -- and that sounds silly because we use it every single day. But what I mean by that is learning how to post things online, how to interact with the Internet. How to take video and post them on the Internet. All these different tools that we have, take advantage of those opportunities because nowadays, you kind of have to do it all.

>> JUDGE LAUTEN: Is that not second nature to teenagers and young college students, or is it really a skill you have to learn?

>> ELYSSA CHERNEY: I think it's a skill you have to learn because -- I guess what I would say is -- I mean, there's -- you can see in our newsroom -- definitely a generational divide between ability and ease using the web between younger reporters and older reporters.

But, I mean, I would just encourage anybody who's in journalism to try to do an internship somewhere with a web company just to get that experience. It's really important.

>> JUDGE LAUTEN: There's a big debate among lawyers and judges with so many law schools in Florida and the market and the economies for law about whether to even encourage anybody to go to law school. Is it the same thing in journalism with pressures on print media and other media and the marketplace?

>> ELYSSA CHERNEY: I think it's no secret that perhaps journalism is not the most lucrative field. I don't think that anybody who's ever wanted to be a journalist has been interested in it for those reasons. So despite those circumstances, I don't really think that they can deter people who want this burden. But it is a consideration.

I think it takes a toll on journalists and it can make it a hard term -- a hard career to sustain long term. But I'm a big believer that you do what you're passionate about, and you can try to figure that out.

>> JUDGE LAUTEN: So, Elyssa, how many times have you been interviewed? You've been a trooper here. I'm going to turn this over so that you can be a moderator.

>> ELYSSA CHERNEY: Great. I'm much more comfortable with that.

>> JUDGE LAUTEN: But I want to thank you because it was pretty gutsy to say, okay, you can interview me when your whole career is you interview other people.

But I'm gonna turn this over to you so you can be the moderator now and you can interview me.

>> ELYSSA CHERNEY: Okay. And I will just say, note for the listeners, if you hear that kind of clicking noise, that's actually our *Orlando Sentinel* photographer Red Huber taking photos of this.

If you hear any noises that sound bizarre, it's probably

my computer. I like to use my computer when I'm interviewing people to take the best notes. So FYI, if you hear any noises -- and you'll hear my computer log in as well.

I was kind of curious once I saw the press release about this as to where the idea came from and how it all got started. I mean, it's pretty creative.

So just -- what's the story of this and how did it come to fruition?

>> JUDGE LAUTEN: So the courts have been somewhat behind the curve on social media, and, in part, that stems from a Florida Supreme Court decision in the ethics field that said judges can't friend lawyers on social media. And as a group, courts and judges were sort of questioning, what can we do with social media? Should we do anything? We're a pretty traditional, conservative entity, the court system.

I -- when I became Chief Judge, went out to Palo Alto to attend a future of the courts conference that was put on by the ABA and realized that social media is here. It's here to stay, and you can either get onboard and communicate information through that device to -- especially to young people, but really all people today -- or you can let the train just pass you by.

And I came back and said, we should start a Facebook account here. We should start to tweet about information from the court systems. And then Matt Benefiel, our court

administrator, and Karen Levey, who's our public information officer, said why don't we take it one step further and podcast. At first I thought, what would we podcast about?

>> ELYSSA CHERNEY: Mm-hmm.

>> JUDGE LAUTEN: But we talked about it at length and concluded that we could push information out to the public about the courts and the participants in the court and the court system itself in a way that would be unique. And so we decided, yes, let's experiment, so to speak, with podcasting. And we only recorded one episode and realized we're on board for podcasting.

>> ELYSSA CHERNEY: So is there -- has there been a definitive shift in the thinking from the conservative, you know, way of thought that, oh, no, judges and lawyers shouldn't really use social media? Has that changed?

>> JUDGE LAUTEN: I think there's a lot of conversation in the legal arena about technology. In the practice of law, there's a lot of conversation about pushing out information through social media. There's a company called AVVO, that's a lawyer rating service that's all driven by technology. There's LegalZoom. There's a number of companies who are legal but technologically driven.

And in the court system, pushing out information, whether it be about the court and how it functions or security or what you might face when you come into a

courtroom or scheduling, I mean, it's almost an endless list of information that we could push out that we're starting to push out.

And I just think it's the wave of the future. And so, yeah, we're a little slow sometimes in the court system, but I think -- I think using technology will help citizens understand their courts better.

>> ELYSSA CHERNEY: And I understand you've gotten a lot of positive feedback from different courts in the state and even across the country from your first two episodes that went up.

Tell me about some of the reactions you've gotten and maybe one or two that stuck out the most.

>> JUDGE LAUTEN: Yeah, it was a little surprising. We thought it would be really kind of slow to start and we'd have to work extremely hard to even get listeners to -- but the first podcast that we broadcast was an interview with the Chief Justice of the Florida Supreme Court, Justice Labarga, who has a fascinating story because he was born in Havana, Cuba. He immigrated to the United States. His father was about to be arrested. His father's friends were shot.

And Justice Labarga came to the United States, doesn't speak any English, starts living in Pahokee, and his life story is he ultimately becomes the Chief Justice of the Florida Supreme Court, the first Cuban American on the court.

He's the first Chief Justice in about 100 years to ever repeat a second consecutive term. So he has a very compelling story. We broadcast that and we got all kinds of feedback about it from more sources than we thought.

The second story that we broadcast was one of our circuit judges, Mark Blechman, climbing Mount Kilimanjaro.

So not really a legal story, per se, but it had a profound impact on Judge Blechman and his perspective on life, and we got positive feedback about that.

So we're probably the first state court in the United States to podcast. And a lot of other courts are calling us now saying, some of the -- asking some of the questions you did like, why did you start this? What's -- they're very interested, if they've listened to our podcast. They're like, we're intrigued by this. How much did it cost? Oh, my gosh, we can't figure out how you even did this. Tell us how you did it. So we're getting inquiries from courts around the state and, really, around the nation.

>> ELYSSA CHERNEY: Yeah. You know, like you just said a lot of -- when I think of a court podcast, I might think that it would be about legal terms or recent cases, but these are actually kind of personal stories from people in the justice system.

Why -- was that your original intent, and what do you think that accomplishes?

>> JUDGE LAUTEN: Yeah. That's a great question. As you know, one of the things we can't do -- well, I can't do it and any of my colleagues can't comment about pending or impending cases. So we can't have a podcast where a judge sits down, for example, and critiques or analyzes or evaluates a pending case or even a case that we think would come to the court system. And that -- because our ethical rules preclude us from doing that.

So while some people might think, oh, great, I'm going to listen to Judge Lauten comment about the Bessman Okafor case, I can't do that ethically. And so it takes us in a little bit of a different direction.

But one of the -- one of the long-term goals of the Florida court system is to communicate better with the public, and that's one of the chief justice's -- and all of the justices on the court -- have emphasized to communicate better with the public about our court system. And so podcasting is one way to do that.

It also helps humanize the participants in the court system. And so we know that we're seen as men and women sitting in a raised platform in a courtroom wearing a robe.

It's a very formal setting. I think a courtroom should be a formal setting. But we also realize that that setting sort of makes us impersonal to people.

And the podcasting program helps us to personalize the

court system and maybe demystify it a little bit, which I think is a good thing. I don't think citizens should be confused or mystified about their court system. It's their court system. It's not my court system. It's really the citizens' court system. So hopefully podcasting can help accomplish that goal.

>> ELYSSA CHERNEY: Were there any hurdles when you were kind of trying to think this up? For example, I remember a conversation I had with a judge once, and I wanted to write about one of his extracurricular activities, and he actually mentioned he doesn't really try to bring a lot of attention on that because of safety concerns.

You know, he's presiding over some cases that might end up with people not being happy. He doesn't want people to know too much about his personal life.

Are there any other kind of considerations that you might have had to make while trying to ultimately humanize some of these people?

>> JUDGE LAUTEN: Well, you mentioned probably the most important one. So we're always conscious about security, and we don't ever want to compromise anybody's security through the court system. And there is a balance between pushing out information and compromising the integrity of the court system. So we're always balancing that.

Some of our challenges to get going weren't kind of that

lofty. The first one is we struggled for weeks about what to name the podcast. And we did research and learned that naming a podcast system is very important for attracting listeners.

And we went through dozens of names, some of them we loved, and then we would find out that they've already been registered or taken by another company. We had to reject them.

So one of the slowdowns to our start-up was just coming up with a name that might attract people as listeners and that was very interesting and sometimes frustrating and very often a funny exercise that we all engaged in here. Then we finally settled on a name, registered it.

The equipment doesn't cost as much as people might think. So the equipment is a relatively low-budget item. We spent a couple hundred dollars on microphones and we monitor -- or use a laptop computer to kind of monitor the program. So it's sort of low tech.

But your question specifically is there are some topics we won't go into. We wouldn't mention where a judge lives or extensive conversation about how many family members there are or where they might be at a particular time of day because we're conscious about security.

And then I know you know this as a reporter, there are just some ethical restrictions that -- and there should be

some ethical restrictions about what a judge can or cannot say or what a judge can or cannot do, so we're always conscious of that.

And that sort of lends itself to these stories that aren't really necessarily directly case related --

>> ELYSSA CHERNEY: Mm-hmm.

>> JUDGE LAUTEN: -- but we think are interesting for the public to know.

We've just started, so we are not sure exactly where this might go. We technologically, Elyssa, would like to increase technology in the courthouse through wave-finding systems, that is high-tech boards that will help people navigate this 23-story building because they often get confused about where they're going. We have a Facebook page where we're trying to push out information. And then this podcasting system sort of humanizes the courts.

>> ELYSSA CHERNEY: Do you anticipate doing any programming that is a little more legal-based? Like, for example, talking -- like you do in the program where you invite people to learn about the courts. You choose a topic that you know people are interested in, let's say it's pro se representation, do you anticipate doing any programs that are a little bit more lecture-based?

>> JUDGE LAUTEN: We are constantly evaluating what we're doing and where we're going. We decided at first that

we don't want to just get online and say here's what it's -here's the experience if you're in landlord tenant court.

But we might eventually do a podcast, sort of, in that area
that pushes out legal information.

One of the things we have to be careful about is, judges can't give legal advice.

>> ELYSSA CHERNEY: Mm-hmm.

>> JUDGE LAUTEN: We can push out general information about procedure and how the process works as you saw it inside the courts, which is an evening time educational experience where we push out information, but we can't there, nor could we on a podcast, give legal advice. So we're kind of working, what would a podcast look like that's not legal advice but more of that information.

>> ELYSSA CHERNEY: Gotcha.

And I just learned before sitting down that you try to do these episodes in a one-sitting session as to avoid any editing.

>> JUDGE LAUTEN: Right.

>> ELYSSA CHERNEY: That goes to the low budget, I'm assuming.

>> JUDGE LAUTEN: Well --

>> ELYSSA CHERNEY: Yeah. And just tell me a little bit about how this all works. What happens after we leave here?

>> JUDGE LAUTEN: We turn it over to some pretty

talented IT people. Some -- a little bit of music is added on, an intro by one of our employees is added on. We could edit, if we needed to.

So interestingly, we did a podcast, we were off site.

We were at a hotel room at a conference and somebody started pounding on the door. It was really housekeeping to come in and say we want to clean your room.

And so we had to stop that and start it over again. But we could have edited that out. But what I don't like to do is interrupt the conversation. So we like the conversation to flow and then we'd go back and edit it if we can.

We haven't really done a lot of editing to any of our podcasts yet. They're pretty much the original content we push out to the public.

>> ELYSSA CHERNEY: And, you know, I think I'm wrapping up here, but I'm just curious, I mean, do you like podcasts?

Do you listen to podcasts in your free time?

>> JUDGE LAUTEN: I listen to some.

>> ELYSSA CHERNEY: Which ones?

>> JUDGE LAUTEN: There are some judges here who listen to more podcasts.

I listen to podcasts a little bit about leadership and organization, sort of business structure. Because one of the differences being chief judge is I'm not presiding over cases as much as I use to. It's more like being -- somewhat like a

CEO.

And so I'm listening to podcasts about leadership skills and business structures. I have an MBA and a JD, but I got my MBA so long ago that I'm sure the curriculum is different.

I've sometimes fantasized that I should go back to business school and take some refresher classes since now I'm chief judge, which is a different skill set.

>> ELYSSA CHERNEY: But you don't listen to the crime ones like Serial?

>> JUDGE LAUTEN: No.

>> ELYSSA CHERNEY: That's a great one. I recommend it.

>> JUDGE LAUTEN: No, but I'll take recommendations easily.

>> ELYSSA CHERNEY: Yeah.

>> JUDGE LAUTEN: I watch some crime drama with my wife.

But like I say, I kind of ruin it at home because I keep

editing and saying that would never happen.

There's a crime show on TV where the judge walks out into a courtroom hallway in his or her robe with the two lawyers and hears a motion to suppress as they're walking down the hallway.

We know that that would never happen in real life. You would never have a judge in a robe in a hallway for security reasons. And everything a judge does is on the record so it can be appealed to the appellate court. So, yeah, sometimes

I spoil good TV shows because of my training.

>> ELYSSA CHERNEY: And is there anything else that you want to say about the podcast that we haven't talked about?

>> JUDGE LAUTEN: No. Just that we're excited about it, that it's new to us. We might stumble occasionally because we're brand new to it, but the feedback that we've gotten is positive. And anyone who has feedback, feel free to contact us. You can do it on our website.

I just hope that these are helpful to the public, and we'll see where it takes us.

>> ELYSSA CHERNEY: Great. Well, thank you so much.

>> JUDGE LAUTEN: Thank you so much, Elyssa. Appreciate it.

>> Thank you for listening to "Open Ninth:

Conversations Beyond the Courtroom" brought to you by Chief

Judge Frederick J. Lauten and the Ninth Judicial Circuit

Court of Florida.

Please remember to follow us on Facebook and Twitter for more information about the Ninth Judicial Circuit Court.

(Music.)