# STARE DECISIS TAKES ANOTHER BLOW IN *TELLI v. BROWARD COUNTY*

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## *I. INTRODUCTION*

In 2000, voters in Broward County approved an amendment to the county charter that limited Broward County Commissioners "to no more than three consecutive four-year terms."[1] William Telli, a Broward County resident, challenged the charter amendment on the ground that it conflicted with the Florida Constitution.[2] The circuit court agreed, finding that, under the Florida Supreme Court's holding in *Cook v. City of Jacksonville*,[3] a term limit is a disqualification from office that can only be imposed on constitutional officers through amendment to the constitution itself.[4] The Fourth District Court of Appeal reversed, concluding that the holding in *Cook* was inapplicable and applying the novel rationale that the Florida Constitution does not "expressly authorize" a charter county's charter commissioner as the *Cook* Court used that term.[5] In *Telli v. Broward County*,[6] the Florida Supreme Court rejected the reasoning of the Fourth District but nevertheless affirmed the decision by receding from the majority's decision in *Cook* and adopting the dissent of Justice Anstead.[7] Unfortunately, the *Cook* dissent is devoid of much in-depth analy-

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1. *Telli v. Broward Co.*, 94 So. 3d 504, 505 (Fla. 2012).
2. *Id.* at 506.
3. 823 So. 2d 86 (Fla. 2002), *receded from*, *Telli*, 94 So. 3d 504.
4. *Snipes v. Telli*, 67 So. 3d 415, 416 (Fla. 4th Dist. App. 2011), *aff'd sub nom. Telli v. Broward Co.*, 94 So. 3d 504.
5. *Id.* at 418–419.
6. 94 So. 3d 504.
7. *Id.* at 512.

sis and contains almost no legal support.[8] By limiting its holding to the original *Cook* dissent without including any additional analysis,[9] the *Telli* decision all but ignores the doctrine of stare decisis and, in the process, makes it nearly impossible for the legal community to place any reasonable degree of confidence in the Court's own precedent. A true appreciation of the Court's apparent indifference to 125 years of well-reasoned analysis cannot be accomplished without first examining *Cook* and the precedent upon which it was based.

## *II.* COOK v. CITY OF JACKSONVILLE

### A. The Majority Opinion

*Cook* was a consolidated opinion derived from *City of Jacksonville v. Cook*[10] and *Pinellas County v. Eight is Enough in Pinellas*.[11] Turning to the facts of the first consolidated case, *City of Jacksonville v. Cook*, the court was confronted with the issue of the constitutionality of a Jacksonville Charter ordinance imposing a two-term limitation on various constitutionally created offices.[12] The trial court declared the term-limit ordinance unconstitutional and held that nothing in the Florida Constitution authorized the City to create "an unconstitutional additional qualification [for] or disqualification" from election to the constitutionally created offices.[13] The City appealed, and the First District reversed, reasoning that "where the constitution establishes no qualifications, the Legislature may impose additional qualifications."[14] Consistent with the Jacksonville Charter's home rule power, the First District held that the ordinance was constitutional and that the local legislature had the authority to prescribe additional qualifications or disqualifications impacting those constitutionally created offices.[15]

8. *See Cook*, 823 So. 2d at 96 (Anstead, Shaw & Quince, JJ., dissenting) (relying almost exclusively on the Florida Constitution).
9. *See Telli*, 94 So. 3d at 513 (briefly restating the rationale used in *Cook*'s dissent).
10. 765 So. 2d 289 (Fla. 1st Dist. App. 2000), *rev'd*, 823 So. 2d 86.
11. 775 So. 2d 317 (Fla. 2d Dist. App. 2000), *rev'd sub nom.* 823 So. 2d 86.
12. 765 So. 2d at 291.
13. *Cook*, 823 So. 2d at 88 (majority).
14. *Id.*
15. *Id.*

In *Eight is Enough*, the plaintiff was a citizen who brought an action for injunctive relief that required the trial court to determine the constitutionality of a Pinellas Charter amendment imposing term limits on specific constitutionally created offices, including the board of county commissioners for Pinellas County, clerk of the circuit court, tax collector, sheriff, supervisor of elections, and property appraiser.[16] In declaring the Pinellas Charter amendment constitutional, the lower court "found that the disqualifications enumerated in [A]rticle VI, [S]ection 4, Florida Constitution, did not prohibit charter counties from imposing term limits within their counties."[17] Shortly after the trial court's ruling, the original plaintiff and several intervening parties appealed the order to the Second District.[18] In affirming, the Second District determined that there were "no statutes or constitutional provisions prohibiting a charter county from imposing term limits" that "did not affect the 'composition, election, term of office [or] compensation of [county commission] members.'"[19] Although the proposed initiative at issue in the case placed term limits on both county officers[20] and commissioners, only the clerk of the circuit court, the tax collector, and the sheriff petitioned the Florida Supreme Court for review.[21]

The issue the *Cook* Court addressed was whether charter counties' charters may provide term limits for county officer positions authorized by the Florida Constitution.[22] In quashing the decisions of the First and Second Districts, the Supreme Court unambiguously held that (1) "a term limit provision is a disqualification from election to office"; (2) "[A]rticle VI, [S]ection 4(a), Florida Constitution, provides the exclusive roster of those disqualifications which may be permissibly imposed"; and (3) "[A]rticle VI, [S]ection 4(b), Florida Constitution, provides

16. *Id.* at 89.

17. *Id.*

18. *Id.* The intervening parties included the board of county commissioners, tax collector, clerk of the circuit court, sheriff, property appraiser, and supervisor of elections.

19. *Id.* at 90 (quoting *Eight is Enough*, 775 So. 2d at 320) (alterations in original).

20. The Florida Constitution provides for the election in each county of a sheriff, a tax collector, a property appraiser, a supervisor of elections, and a clerk of the circuit court, collectively known as county officers or constitutional officers. Fla. Const. art. VIII, § 1(d).

21. *Cook*, 823 So. 2d at 90.

22. *Id.*

those positions authorized by the constitution upon which a term limit provision may be permissibly imposed."[23]

Significantly, the Court recognized that Article VI, Section 4 of the Florida Constitution "preempted the field" of disqualifications "permissibly imposed upon certain offices authorized by the constitution."[24] The Court determined that

> by virtue of [A]rticle VI, [S]ection 4(b), the Florida Constitution contemplates that term limits may be permissibly imposed upon certain offices authorized by the constitution. By the constitution identifying the offices to which a term limit disqualification applies, we find that it necessarily follows that the constitutionally authorized offices not included in [A]rticle VI, [S]ection 4(b), may not have a term limit disqualification imposed. If these other constitutionally authorized offices are to be subject to a term limit disqualification, the Florida Constitution will have to be amended to include those offices.[25]

In so holding, the Court notably and specifically rejected the argument that a charter county, pursuant to its home rule power, could impose additional qualifications or disqualifications on constitutionally authorized offices.[26] In support, the Court reaffirmed the holding in *Thomas v. State ex rel. Cobb*[27] that "'[t]he Constitution is the charter of our liberties. It cannot be changed, modified or amended by legislative or judicial fiat. It provides within itself the only method for its amendment.'"[28]

### B. The Dissent

The *Cook* dissent, which was written by Justice Anstead and joined by Justices Quince and Shaw,[29] focused on two aspects of the majority opinion. First, unlike the majority, Justice Anstead agreed with the argument that a charter county's home rule power allows it to impose additional qualifications or disqualifica-

23. *Id.*
24. *Id.* at 92–93.
25. *Id.* at 93–94.
26. *Id.* at 94 (noting that "[w]e do not agree with . . . the Second District's reliance on a charter county's home rule powers").
27. 58 So. 2d 173 (Fla. 1952).
28. *Cook*, 823 So. 2d at 94 (quoting *Thomas*, 58 So. 2d at 174).
29. *Id.* at 95 (Anstead, Shaw & Quince, JJ., dissenting).

tions on its constitutionally authorized offices.[30] Specifically, Justice Anstead reasoned that "[A]rticle VIII, [S]ection (1)(g), specifies that charter counties exercise their powers in a way that is *'not inconsistent with general law.'* The term limit provisions in the charters in these cases are not inconsistent with any provision of general law relating to elected county officers."[31] Like the majority, the dissent does not contain any meaningful analysis of a charter county's home rule powers beyond citation to Article VIII, Section 1(g) itself.[32]

As a second basis for dissenting, Justice Anstead expressed disagreement with the foundation of the majority's opinion, namely, that by listing certain state-elected offices as having term limits, Article VI, Section 4(b) by implication excluded charter counties from imposing term limits on county officers.[33] Ultimately, it was this portion of the dissent that convinced the *Telli* Court to recede from the *Cook* majority's holding.[34]

## *III. THE PRECEDENT UNDERLYING* COOK

Prevalent throughout the majority opinion, but noticeably absent from the dissent, is the more than a hundred years of precedent upon which *Cook* was decided.[35] These cases are sometimes distinguished depending on whether they were decided under the 1885 or 1968 constitution.[36] Under either line of cases, the inescapable conclusion is that up to and including the decision in *Cook*, the Court has consistently found that the Florida

30. *Id.*

31. *Id.* at 96 (emphasis in original).

32. In its entirety, Article VIII, Section 1(g) provides the following:

> Counties operating under county charters shall have all powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors. The governing body of a county operating under a charter may enact county ordinances not inconsistent with general law. The charter shall provide which shall prevail in the event of conflict between county and municipal ordinances.

33. *Cook*, 823 So. 2d at 96 (Anstead, Shaw & Quince, JJ., dissenting).

34. *See Telli*, 94 So. 3d at 512 (agreeing with Justice Anstead's dissenting opinion in *Cook*).

35. *See Cook*, 823 So. 2d at 91 (majority) (stating that "[w]e decide the issue presented by these cases consistent with our decision in *Thomas*") (citing *Thomas*, 58 So. 2d 173); *id.* at 95 (Anstead, Shaw & Quince, JJ., dissenting) (using the text of the constitution to decide the issue).

36. *See e.g. City of Jacksonville*, 765 So. 2d at 292 (attempting to reconcile cases decided before the 1968 constitution with later cases).

Constitution unequivocally preempts the field of all disqualifications, including term limits, from the office of county commissioner.

### A. Pertinent Cases Decided under the 1885 Constitution

*State ex rel. Attorney General v. George*[37] is one of the first decisions of the Florida Supreme Court discussing constitutional preemption in the area of disqualification. In *George*, the Court held that when the constitution is silent as to the qualifications for the office of marshal and collector, it is unconstitutional for a city to impose its own disqualifications.[38] As part of its analysis, the Court considered the significance of the omission of qualifications from the constitution:

> The constitution prescribes no qualifications for office, except for governor, senators, and members of the house of representatives, and judges of the supreme and circuit courts; and, as to these, only the governor, senators, and members are required to be qualified electors. It is silent as to the qualifications of all other officers. We do not infer from this that the framers of the constitution were unmindful of the importance of having only such persons put into office as would be endowed with suitable qualifications. *Our inference rather is that they deemed it best to leave that without rigid restriction trusting that those who were to have the selection of officers would take care that none but fit persons should be selected or appointed*[ ]—fit, not only in respect to capacity and character, but also in having citizenship to identify them in interest with the communities in which their official duties were to be performed.
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> *There is no absolute connection between voters and officers by which the qualification for the latter should* necessarily *be determined by those for the former.* Each is regulated to its own end, the former always by special provision, the latter sometimes not at all, except, as in this state, the more important political and judicial places; so that, *as to all other officers, the people, in the absence of other requirements, are left to*

37. 3 So. 81 (Fla. 1887).
38. *Id.* at 82.

> *their own discretion, limited only by a common understanding, equivalent to law, that prohibits electing to office any person who is not in somewise a member of the body politic.*[39]

The Court has held fast to the principles first espoused in *George*. In *Thomas*, for example, a resident of Duval County wanted to run for the office of school superintendent but was precluded by a statute that required candidates for that office to hold a valid Florida Graduate Teacher's Certificate.[40] In affirming an order finding the statute unconstitutional, the Court relied on *George* as well as substantial additional authority upholding the same principles:

> "The declaration in the Constitution that certain persons are not eligible to office implies that all other persons are eligible."
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> Our State Constitution, as we have pointed out, prescribes in no uncertain terms that certain persons are disqualified to hold certain constitutional offices, such as, Governor, Members of the Legislature, Justices of the Supreme Court, [and] Judges of the Circuit and Criminal Courts. As to all officers the Constitution further excludes from office all persons "convicted of bribery, perjury, larceny or of infamous crime, or who shall make, or become directly or indirectly interested in, any bet or wager, the result of which shall depend upon any election; or that shall hereafter fight a duel or send or accept a challenge to fight, or that shall be second to either party, or that shall be the bearer of such challenge or acceptance; but the legal disability shall not accrue until after trial and conviction by due form of law." This solemn declaration in our Constitution about qualifications or disqualifications to hold public office [is] conclusive of the whole matter whether in the affirmative or in the negative form.
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> These plain and unambiguous specifications of disabilities exclude all others unless the Constitution provides otherwise. The effect of this declaration in the Constitution that certain

39. *Id.* at 82–83 (emphasis added).
40. 58 So. 2d at 173.

> officers are not qualified carries with it the necessary implication that all others are qualified.[41]

Finally, in *Wilson v. Newell*,[42] the Court addressed the constitutionality of a Florida statute that prescribed an additional residency qualification for those seeking election to the office of county commissioner.[43] The Court, in affirming the lower tribunal's well-reasoned decision, succinctly and summarily held that the subject Florida statute was facially "'unconstitutional, invalid and ineffective because it prescribe[d] qualifications for the office of County Commissioner in addition to those prescribed by the Constitution.'"[44] The essential facts in *Newell* are virtually indistinguishable from the facts in *Telli*.[45]

### B. Pertinent Cases Decided under the 1968 Constitution

Prior to *Cook* and the addition of Article VI, Section 4(b), the cases decided under the 1968 constitution took a narrower approach. These cases focused on whether the constitution preempted the field of disqualifications for a particular office by providing qualifications for that specific office.[46] *State ex rel. Askew v. Thomas*[47] examined whether the 1968 constitution preempts the field of disqualifications for school board candidates.[48] At issue in *Askew* was the constitutionality of a statute imposing residency requirements on school board members.[49] Rather than looking to the general disqualifications for constitutional officers set forth in Article VI, Section 4(a), the Court began its analysis by looking directly at the provision of the constitution concerning school board members, Article IX, Section 4.[50] The

41. *Id.* at 182–183 (quoting *People ex rel. Hoyne v. McCormick*, 103 N.E. 1053, 1057 (Ill. 1913)); Fla. Const. art. VI, § 5 (1885) (superseded 1968 by Fla. Const. art. VI, § 4).

42. 223 So. 2d 734 (Fla. 1969).

43. *Id.* at 735.

44. *Id.* at 735–736.

45. *Compare id.* at 735 (challenging the constitutionality of a Florida statute that prescribed an additional residency qualification for those seeking election to the office of county commissioner) *with Telli*, 94 So. 3d at 505 (challenging the constitutionality of a voter amendment to the Broward County Charter that limited Broward County Commissioners "to no more than three consecutive four-year terms").

46. *E.g. State ex rel. Askew v. Thomas*, 293 So. 2d 40, 42 (Fla. 1974).

47. 293 So. 2d 40.

48. *Id.* at 42.

49. *Id.* at 41.

50. *Id.* at 42.

Court reaffirmed the precedent that "statutes imposing additional qualifications for office are unconstitutional where the basic document of the constitution itself has already undertaken to set forth those requirements."[51]

In *State v. Grassi*,[52] the Court reached a similar holding. *Grassi* concerned Florida Statutes Section 99.032, which required "that '[a] candidate for the office of county commissioner shall, at the time he qualifies, be a resident of the district from which he qualifies.'"[53] At issue was whether the November 1984 amendment[54] to Article VIII, Section 1(e) of the Florida Constitution "delegates the establishment of specific county commissioner qualifications to the legislature."[55] The Court found that it did not, reasoning that the amendment is substantive and "delegat[es] to the legislature the task of establishing procedures for election of county commissioners, *not the power to set qualifications for that office*."[56] The Court went on to hold that "[b]ecause [A]rticle VIII, [S]ection 1(e) provides requirements for office of county commissioner, *the legislature may not impose additional requirements*."[57] Thus, because Article VIII, Section 1(e) requires county commissioners to be residents "at the time of election," Section 99.032's additional residency requirement "at the time of qualifying for election" was unconstitutional.[58] Consistent with the *Askew* Court's preemption analysis concerning school board members, the Court in *Grassi* began its analysis by looking to the specific constitutional provision applicable to the office at issue in that case, namely, county commissioner.[59] The *Grassi* Court then explained that Article VIII, Section 1(e) of the Florida Constitu-

51. *Id.*

52. 532 So. 2d 1055 (Fla. 1988).

53. *Id.* at 1055–1056 (quoting Fla. Stat. § 99.032 (1983)) (alteration in original) (emphasis omitted).

54. The amendment added the following language, which is *identical* to the language currently in the Florida Constitution: "'(e) *Commissioners*. Except when otherwise provided by county charter, the governing body of each county shall be a board of county commissioners composed of five *or seven* members serving staggered terms of four years. . . . *One commissioner residing in each district shall be elected as provided by law*.'" *Id.* at 1056 (quoting Fla. Const. art. VIII, § 1(e)) (alteration in original) (all emphasis in original except the last sentence).

55. *Id.* (internal quotation marks omitted).

56. *Id.* (emphasis added).

57. *Id.* (emphasis added).

58. *Id.* (emphasis added).

59. *Id.*

tion does not afford the power to the legislature, and by extension the electorate, to impose additional disqualifications for the office of county commissioner in addition to those already contained in the constitution.[60] At most, Section 1(e) provides the *method* by which the county board shall be filled and the size of the board.[61]

Based on the foregoing, the rationale of *Cook*'s predecessors actually applies with greater force to officers authorized under Section 1(e) than those authorized under Section 1(d). Regardless, the *Cook* Court's reliance on Article VI, Section 4, renders meaningless any minor differentiations between the language used in Sections 1(d) and 1(e).

## *IV.* TELLI v. BROWARD COUNTY

In *Telli*, the Court was asked to decide whether the holding in *Cook* was limited to those constitutional officers authorized by Article VIII, Section 1(d) or applied with equal force to all constitutional officers, including county commissioners, who are authorized under Article VIII, Section 1(e).[62] As mentioned above,[63] *Telli* involved a voter amendment to the Broward County Charter that limited Broward County Commissioners "to no more than three consecutive four-year terms."[64] William Telli, a Broward County resident, challenged the charter amendment on the ground that it conflicted with the Florida Constitution.[65] The circuit court agreed, finding, in reliance on *Cook*, that a term limit is a disqualification from office that can only be imposed on constitutional officers through amendment to the constitution itself.[66]

The Fourth District Court of Appeal reversed, finding that the *Cook* holding was limited to those constitutional officers authorized under Article VIII, Section 1(d).[67] In a seemingly strained interpretation of *Cook*, the district court circumvented the *Cook* Court's reliance on Article VI, Section 4 and simply rea-

60. *Id.*
61. *Id.*
62. *See Telli*, 94 So. 3d at 507 (noting that the issue focused on the breadth of the phrase "constitutionally authorized offices").
63. *Supra* pt. I.
64. 94 So. 3d at 505.
65. *Id.* at 505–506.
66. *See id.* at 506 (noting that the circuit court held that the term limits were unconstitutional).
67. *Id.* at 506–507.

soned that county commissioners, as set forth in Article VIII, Section 1(e), are not "constitutionally authorized" officers as that term was used in *Cook*.[68] The problem at the heart of the district court's analysis was that it hinged on drawing a distinction without a difference between Article VIII, Sections 1(d) and (e), which respectively provide, *inter alia*, the following:

> (d) COUNTY OFFICERS. There shall be elected by the electors of each county, for terms of four years, a sheriff, a tax collector, a property appraiser, a supervisor of elections, and a clerk of the circuit court; *except, when provided by county charter* or special law approved by vote of the electors of the county, any county officer may be chosen in another manner therein specified, or any county office may be abolished when all the duties of the office prescribed by general law are transferred to another office.
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> (e) COMMISSIONERS. *Except when otherwise provided by county charter*, the governing body of each county shall be a board of county commissioners composed of five or seven members serving staggered terms of four years.[69]

The Fourth District held that the officers identified in Section 1(e) are not "constitutionally authorized" officers because of the following introductory language: "'Except when otherwise provided by county charter . . . .'"[70] More specifically, the court held that county commissioners under Section 1(e) are merely default officers and that "[t]o equate the legal effect of [Sections 1(d) and 1(e)]—to say that [S]ection 1(e) establishes county officers with the same exactness as [S]ection 1(d) constitutional officers—would be to ignore the first seven words of [S]ubsection 1(e)."[71] Section 1(d), however, contains nearly the exact same language, resulting in the exact same default classification, whereby counties "shall" elect Section 1(d) officers "except[ ] when provided by county charter or special law approved by vote of the electors of the county."[72] The court additionally attempted to dis-

68. *See Snipes*, 67 So. 3d at 416–417 (recalling that *Cook* relied upon Article VI, Section 4 but limiting *Cook*'s holding to Article VIII, Section 1(d) officers); *see also Grassi*, 532 So. 2d at 1056 (describing Section 1(e)).

69. Fla. Const. art. VIII, § 1(d), (e) (emphasis added).

70. *Snipes*, 67 So. 3d at 417 (quoting Fla. Const. art. VIII, § 1(e)).

71. *Id.*

72. Fla. Const. art. VIII, § 1(d).

tinguish *Cook* on the grounds that the *Cook* analysis was "inappropriate when the case is read in light of the broad powers accorded charter counties by [S]ections 1(e) and 1(g) of [A]rticle VIII."[73] As discussed above,[74] *Cook* also involved a charter county, and the Court expressly rejected the argument that the Court's analysis should not apply to such municipalities.[75] As a result, the Fourth District's opinion and the Florida Supreme Court's opinion in *Cook* were hopelessly irreconcilable.

Not surprisingly, the Supreme Court rejected the Fourth District's attempt to distinguish Sections 1(d) and (e) as "unworkable."[76] Nevertheless, the Court affirmed the decision by receding from *Cook* and adopting Justice Anstead's dissent:

> The implied prohibition in *Cook* against term limits for county officers and county commissioners from the lack of inclusion in [A]rticle VI, [S]ection 4, of the Florida Constitution, overly restricts the authority of counties pursuant to their home rule powers under the Florida Constitution. The opinions of the First and Second Districts should have been affirmed, as Justice Anstead stated in his dissenting opinion. Because we now agree with Justice Anstead's dissenting opinion, and recede from *Cook*, we need not reach the issue of whether the office of county commissioner is one of those constitutional offices to which *Cook* applies.[77]

In so doing, the Court paid brief lip service to the doctrine of stare decisis while ignoring the rationale behind this most important of judicial doctrines. Perhaps most surprising is that the Court was not just doing an about-face on the relatively recent decision in *Cook* but expressly overruled the rationale in *Thomas*.[78] In that case, which relied on one of the earliest cases in Florida jurisprudence,[79] the Court specifically found that the framers of the constitution were clearly of the view that "[t]he effect of this declaration in the Constitution that certain officers

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73. *Snipes*, 67 So. 3d at 416.

74. *Supra* pt. II(A).

75. 823 So. 2d at 94 (majority).

76. *Telli*, 94 So. 3d at 513. Justice Lewis concurred in the result but did not offer a concurring opinion. *Id.*

77. *Id.* at 512.

78. *Id.* at 513; *see also Thomas*, 58 So. 2d at 183 (providing the rationale later quoted in *Cook*, 823 So. 2d at 91–92).

79. *Thomas*, 58 So. 2d at 181 (quoting *George*, 3 So. 81 at 82–83).

are not qualified carries with it the necessary implication that all others are qualified."[80] Yet with apparently no hesitation and little to no analysis, the Court swept under the rug precedent dating back to 1887.

Of course, there are certainly circumstances where a court need not be constrained by the doctrine of stare decisis.[81] It is axiomatic, however, that the mere disagreement with a previous result is a wholly insufficient basis for a court to recede from its own precedent.[82] To quote from an earlier opinion of the Florida Supreme Court in *Rotemi Realty, Inc. v. Act Realty Co.*,[83] "The doctrine of stare decisis counsels us to follow our precedents *unless there has been 'a significant change in circumstances after the adoption of the legal rule, or . . . an error in legal analysis.*'"[84] While it is true that *Cook* was only decided by a four-to-three majority, the only change in the ten years between *Cook* and *Telli* was to the membership of the Court. Another Florida Supreme Court decision described the importance of stare decisis as follows:

> "A basic change in the law upon a ground no firmer than a change in our membership invites the popular misconception that this institution is little different from the two political branches of the [g]overnment. No misconception could do more lasting injury to this Court and to the system of law which it is our abiding mission to serve."
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> We agree that a basic change in Florida law at this point would constitute an unprincipled abrogation of the doctrine of stare decisis and would invite the popular misconception that this Court is subject to the same political influence as the two political branches of government. Nothing could do more lasting injury to the legitimacy of this Court as an institution. It is in issues such as the present—where popular sentiments run strong and conflicts deep—that stability in the law is para-

80. *Id.* at 183.

81. *See Rotemi Realty, Inc. v. Act Realty Co.*, 911 So. 2d 1181, 1188 (Fla. 2005) (noting that stare decisis mandates following precedent except in certain circumstances).

82. *Telli*, 94 So. 3d at 512.

83. 911 So. 2d 1181.

84. *Id.* at 1188 (quoting *Dorsey v. State*, 868 So. 2d 1192, 1199 (Fla. 2003)) (alteration in original) (emphasis added).

> mount and that the doctrine of stare decisis applies perforce . . . .[85]

The Court, however, never found a significant change in circumstances since the decisions in *Cook*, *Thomas*, and *George*, or that there was an error in the 125-year-old legal analysis contained therein. Rather, the Court simply stated that "we now agree with Justice Anstead's dissenting opinion."[86] The Court also opined, without explanation, that the distinctions raised by the Fourth District were "unworkable," and therefore, "[r]eceding from the *Cook* decision will promote stability in the law by allowing the counties to govern themselves, including term limits of their officials, in accordance with their home rule authority."[87] Respectfully, this limited explanation turns precedent on its head. The only lack of stability in the law arose from the Fourth District's refusal to adhere to *Cook*'s plain and unmistakable language in the first place. Rather than recede from *Cook*, the appropriate way to further promote that stability would have been for the Court to reverse the decision of the Fourth District and simply explain that the opinion in *Cook* meant precisely what it unambiguously said.

This Article is not about the merits of term limits or whether they are a good idea. In fact, there are many compelling reasons for a voter to support a constitutional amendment permitting a county to decide for itself whether its officers should be subject to term limits. Nevertheless, the decision in *Cook* was not only legally sound and wholly unambiguous but based on over a century of precedent. The Fourth District recognized as much, but it simply failed to distinguish *Cook* logically. It has been said that the Florida Supreme Court's decision in *Telli* was a victory for the voters of Broward County. However, when the highest court in

85. *N. Fla. Women's Health & Counseling Servs., Inc. v. State*, 866 So. 2d 612, 638–639 (Fla. 2003) (quoting *Mitchell v. W.T. Grant Co.*, 416 U.S. 600, 636 (1974)) (typeface altered).

86. *Telli*, 94 So. 3d at 512.

87. *Id.* at 513.

the state recedes from a century of precedent with little to no explanation, everyone loses.[88]

88. Unfortunately, the Court's willingness to recede from precedent is not isolated and oftentimes has more far-reaching implications than in *Telli*. *See Tiara Condo. Ass'n v. Marsh & McLennan Cos.*, No. SC10-1022, 2013 WL 828003 at *13 (Fla. Mar. 7, 2013) (Canady, J., dissenting) (opining that the majority opinion not only emaciated the economic loss rule but "effectively dismisse[d] the reasoning in this Court's prior decisions as irrelevant").