

“Unfortunately, with the case still pending remand, the Rules of Professional Conduct limit the scope of my comments (for the time being). I have read the opinion(s) and believe that the proper analysis, based on general principles of law and appellate procedure, were adhered to by the majority. Neither the facts nor the caselaw support the position taken by the dissent. The dissent admits there is no legal basis for the relief proposed by its author.

The use of pejorative terms, such as labeling a crime victim to be a “Karen”, are insulting of crime victims everywhere. Minimizing the assault that occurred in this instance is simply inexplicable. Demanding that actual physical harm be done is inconsistent with legal principles of simple assault. Criticizing a crime victim for calling 911 is equally incomprehensible.

Though the dissent characterizes the entire incident and subsequent prosecution as “infected” by the “cancer” of racism from the 911 call through the trial, capable attorneys, qualified trial judges, and an appellate defense lawyer handled this matter prior to its presentation to the court of appeals. If they had seen it, it would have been assigned as error on appeal or addressed through an appropriate motion prior to trial. As the majority noted “[w]hile history, statistics, current events, and human nature must inform our decisions, they cannot be used as the basis for a decision when racism has not been raised, briefed, or found.” Slip Opinion at 4-5.

Our system of courts, established via Constitutional provisions and statutes enacted pursuant to them, are intended to insulate the judicial branch from the social and political forays taken by society and the other branches of government. The oath of a judge states that they are each to “faithfully and impartially discharge the duties of the office of judge.”

To that end, the majority correctly cites to Justice Ginsberg’s quote regarding this subject: “Courts do not, or should not, sally forth each day looking for wrongs to right, but rather should normally decide only the questions presented by the parties.” The majority opinion noted the dissent’s partiality and lack of neutrality. In response, the dissenting opinion embraced being partial.

Any allegation that is bolstered by newspaper articles, facts outside of the court record, out of state incidents, and resources that are largely untested by rigorous examination in a courtroom, are a poor basis for indictment of anyone for any reason, much less the 911 caller, the Sheriff’s office, and the deputy prosecutor. Hopefully, we will collectively demand better than that.”