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very irregular, improper, inappropriate proceedings and it operates by leaps and bounds in the way that a kangaroo hops. So that's where the term "kangaroo court" came from and why it is applied, and it applies in this instance more so than any that I have become aware of. If all the judge did was issue a memorandum and did not enter an order, then he cannot quash or do away with a grand jury proceeding. Now, to work backward, we know that he is not disbanding a grand jury because no grand jury has been impaneled. Since no grand jury had been impaneled, there were no proceedings before a grand jury, which proceedings could be kept secret. So all of that's off the table. What remains? An order that Judge Flowers had entered saying that a grand jury would be convened. Dunderhead comes along and says, well, no, it's not going to be that way and nobody can say anything about why. When a judge attempts to control the actions of another branch of government, he is perilously close to violating the separation of powers requirement of the constitution. Did he dismiss the grand jury entirely? The thing that will give a judge jurisdiction over an issue, the subject matter or individuals, is that a proceeding is before that judge. If the proceeding no longer is there, doesn't exist, on what basis can the judge presume to exercise power and authority over lawyers, whether defense lawyers or a prosecutor? I don't really know what is going on, but I think it's atrocious. And a judge who carries on his duties like that and a judge who has a history of incompetency ought to be subjected to an ethics complaint, which I may file. I'm going to do some research, gather some of the information that I've been told about this man, because a judge is required, under the Code of Judicial Conduct, to maintain competency in the law. But that's a side issue. The Attorney General did not have to have a grand jury convened. The Attorney General has said publicly, in his opinion, probable cause exists to charge David Hergert. The law, whether you look at the constitution, the statutes, or common law, all make it clear that a prosecutor has discretion which is not controlled by the Governor, by the Legislature, or by the judicial system. A judge cannot dictate to a prosecutor as to whether or not a charge should be brought. A duty is imposed on the prosecutor who has...

SENATOR CUDABACK: One minute.