

## **OLR Podcast Shorts: *Obiter Dicta***

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### **TRANSCRIPT**

**Devon Lamont:** Sometimes judges misunderstand the assignment and go a little off topic.

**Stephanie Katajamaki:** Sometimes judges tell us that 10,000 monkeys with typewriters would probably eventually replicate the collective works of William Shakespeare.

**Devon Lamont:** What does this have to do with the case? We don't know, but that's what we're here to find out.

**Stephanie Katajamaki:** Hi everyone, and welcome to the OLR podcast. My name is Stephanie Katajamaki—

**Devon Lamont:** And my name is Devon Lamont.

**Stephanie Katajamaki:** And we are two associate editors on the Ottawa Law Review.

**Devon Lamont:** Today, we're taking a dive into the world of *obiter dicta* and some of the things that judges have said as side bars in their judgments.

**Stephanie Katajamaki:** *Obiter dicta* is a Latin phrase meaning “said in passing”. We use it to describe the comments that judges often make in their judgments that don't necessarily pertain to the facts of the case at bar.

**Devon Lamont:** It can be hard to distinguish *obiter* from ratio. For those 1Ls out there, ratio is that rule about the case you need to remember going into exams.

**Stephanie Katajamaki:** With that, you might be wondering if *obiter* is binding like ratio is. The answer to that is not always clear. Traditionally, a case has only stood as authoritative and therefore binding for what it actually decides.

This was expressed by the Earl of Halsbury L.C. back in 1901 and was echoed in *R v Henry*, a Supreme Court of Canada decision from 2005. Essentially, the court in *R v Henry* held that the further comments made in *obiter* move away from the ratio the less authoritative weight they are given. Since then, we've heard more commentary on the extent to which *obiter* can be binding.

**Devon Lamont:** For example, in *R v Prokofiev*, Justice Doherty commented on the responsibility of lower courts to follow *obiter* from decisions at the Supreme Court of Canada. We know that lower courts are bound to the ratio of decisions at the Supreme Court, but Justice Doherty stresses that *obiter*

need not be followed if there are compelling reasons for straying from it, like we're following *obiter* would fail to preserve and promote certainty in the law.

**Stephanie Katajamaki:** Clear as mud? We think so too. You can read more about *obiter* in a recent OLR blog post called *The Death of Obiter Dictum*. But let's get into the actual cases we're here to discuss today.

For this portion of the podcast, I'm going to read a quote from a decision that is full of *obiter*-esque comments. Then, Devon will give us his best informed guess about what the case is about. We'll reveal the true substance of the decision after that. First case we're going to talk about is *R v Duncan*, and this judgment comes from Justice O'Donnell.

**Devon Lamont:** Okay.

**Stephanie Katajamaki:** So, at paragraph 8, Justice O'Donnell says, “it has been said that given enough time, ten thousand monkeys with typewriters would probably eventually replicate the collected works of William Shakespeare. Sadly, when human beings are let loose with computers and internet access, their work product does not necessarily compare favorably to the aforementioned monkeys with typewriters.”

And in case you're confused about what typewriters, Shakespeare, or internet access is, Justice O'Donnell has included notes about what each of those items are.

**Devon Lamont:** Okay, okay. That's very interesting comment. Once again, for the viewers, I have no idea what this pertains to. I am just supposed to give my best educated guess. I don't know, first reaction, this feels a bit like a boomer moment with the typewriters and the internet, but uh I honestly am no sure, maybe he just has like a very strange fascination for monkeys with typewriters and honestly, that's a—it's an interesting concept.

That's—I can't even begin to imagine what the subject matter could have been that would have brought that perfect piece of *obiter* in the decision. So let me think. Definitely...internet access has to do something with that? It has to do with maybe privacy? maybe some kind of soft development? Well, I'm not going to get any hints, am I?

**Stephanie Katajamaki:** No, you're getting nothing from me on this.

**Devon Lamont:** That's great, no hints. OKAY, you know what? I don't know what it is, but I love the mental image conjured here. And honestly, this is quite an iconic *obiter* moment.

**Stephanie Katajamaki:** How about I read you paragraphs one to four of this judgment?

**Devon Lamont:** Maybe that'll...give me a little bit of a clue here.

**Stephanie Katajamaki:** “You should get out of town’, the man said.

And so began the journey that resulted in my path intersecting with Matthew Duncan's path. And thence, to these reasons, with a slight detour through territory that might have confused Lewis Carroll.

I suppose that I should clarify that there was no menace in the man's directive to me to get out of town. He was a friend and a colleague in two careers. His suggestion had been that he and I should change positions for a fortnight, giving him exposure to the realities of the northern reaches of Toronto, while I would enjoy a similar change of environment in the more Sylvan environs of the Niagara region. I might even see a few plays in the evening, he pointed out.

And thus I came to meet Mr. Duncan.”

**Devon Lamont:** Wow.

**Stephanie Katajamaki:** Anything from that?

**Devon Lamont:** Sounds like a classic Charles Dickens novel, the way he writes. This is very eloquent. I couldn't even begin to fathom what this is about, but I like the way it's written. Honestly, it sounds like the start of a really good novel that maybe I'd like to read.

**Stephanie Katajamaki:** It's a book I would read too.

**Devon Lamont:** Honestly, he sounds like a good storyteller and it sounds like he's focusing a little bit more on this than maybe the decision. I'm okay with that. I'm all for it, honestly. Monkeys with typewriters and anytime a judge drops the words vent and fortnight in a decision, bring back old language. I like that.

**Stephanie Katajamaki:** And this case is actually from 2013, so it's not recent.

**Devon Lamont:** Oh wow. Okay. I was picturing a case from maybe like 1955 based on the language. So, okay. That's very interesting. Well, you know what? The judge who drafted this decision... I like the way he speaks. I like the way this was drafted. It's very eloquent and it makes, again, it makes me feel like I'm reading a novel.

This is great, especially for law students who kind of get bored reading decisions. I feel like if you add a few comments like this, especially with the monkeys and the typewriters, that would help me focus a little bit and get me more engaged with the story. So, anything that gets me more engaged with the decision, I'm all for it.

**Stephanie Katajamaki:** I'm glad you say that because we have two more decisions from Justice O'Donnell in this episode.

**Devon Lamont:** Okay, great. So, he's known for these comments.

**Stephanie Katajamaki:** He really is. Let me tell you about Mr. Duncan in this case. It's a Highway Traffic Act offense and it led to a police-citizen interaction in a parking lot. This is still kind of *obiter*, but this will give you a picture of what this case is about.

**Devon Lamont:** Okay.

**Stephanie Katajamaki:** So, at paragraph five, we hear that, “in the parking lot of Mr. Duncan's apartment building in the wee hours of the morning. A request that Mr. Duncan produce his license led to an alleged refusal, which led to an attempt to arrest him, which led to a struggle, which was captured on a very poor quality video taken on a mobile phone, at the end of which Mr. Duncan found himself being placed under arrest for allegedly assaulting a police officer. Nothing unusual in all that. The bread and butter of provincial court.

Of course, I hadn't counted on the freemen of the land.”

**Devon Lamont:** Okay, well it sounds like a bad day for Mr. Duncan, perhaps an even worse day for the police officer who had to deal with Mr. Duncan. Connecting this with monkeys and typewriters.

**Stephanie Katajamaki:** There's no connection.

**Devon Lamont:** That's, that's, um...

**Stephanie Katajamaki:** Oh, there is. So later on in the judgment, Justice O'Donnell also talks about how Mr. Duncan submitted an affidavit of truth in support of his claims.

**Devon Lamont:** Okay.

**Stephanie Katajamaki:** Yes.

**Devon Lamont:** Well...That is a flattering comparison, an affidavit of truth.

**Stephanie Katajamaki:** Well, I mean, in one of the notes, though, Justice O'Donnell says that he does not mean in any way to compare Mr. Duncan to a monkey with typewriter.

**Devon Lamont:** Right. Okay, well, I I'm glad that he added that clarification because it could very well be misconstrued. So— that's a good one to start us off.

**Stephanie Katajamaki:** *R v Duncan*.

**Devon Lamont:** That's a strong *obiter* comment right there. I can't see why it wouldn't be binding. Obviously, it's so close to the decision, you know.

**Stephanie Katajamaki:** Okay, next up we have another Justice O'Donnell decision.

**Devon Lamont:** Great, I like this guy.

**Stephanie Katajamaki:** This one is called *R v Toor*.

**Devon Lamont:** Okay.

**Stephanie Katajamaki:** I'm going to go to a little bit later in the decision just to not give anything away this time.

**Devon Lamont:** Alright.

**Stephanie Katajamaki:** So, at paragraph 11, Justice O'Donnell says, “the bottom line is that the extraterrestrial visitor on the Clapham omnibus, the emblematic reasonable person in the history of our legal system, could never find a s. 11(b) violation here.”

**Devon Lamont:** Okay! Wow, strong *obiter* for our second go-around here. Extraterrestrials and section 11 violations. I guess we're assuming that if extraterrestrials ever came to Earth, they'd be fascinated by our criminal law system and our charter rights. So that's, I'd say that's a hot take, but...

**Stephanie Katajamaki:** What do you mean, *if*?

**Devon Lamont:** Oh, that's true. You know, we don't know, I guess, yeah. Could you read the last part of that again?

**Stephanie Katajamaki:** Of course; “the emblematic reasonable person in the history of our legal system could never find a s. 11(b) violation here.”

**Devon Lamont:** Okay, and we're comparing the reasonable person to an extraterrestrial?

**Stephanie Katajamaki:** Well, the extraterrestrial visitor is the reasonable person in this case, apparently.

**Devon Lamont:** Well, you know what? If we're comparing our constitutional law and our criminal law systems by galactic standards, I think, I don't know how well they would fare, but you know what? If you go to some other places in the world, maybe it's not so bad.

It's an interesting comment. I'm not sure where I mean, obviously it's a section 11 violation. So, I'm going to guess it had something to do with criminal law, constitutional law. I guess no hints.

**Stephanie Katajamaki:** Well, let me let me give you paragraph seven because Justice O'Donnell actually talks about in our extraterrestrial visitors.

So, he says: “If extra-terrestrials were to visit Canada to study our criminal court system (or if they have already done so), it is probable that the two things most likely to perplex them would be our

law's treatment of drink-driving offences and its treatment of s. 11(b) of the Charter.” And then in brackets: “Aliens attending a trial in which both issues arose would probably run back to their ship and flee the galaxy forever.”

**Devon Lamont:** Well then, I guess, not such a glowing review of how we deal with section 11. Yeah, honestly, I love this fixation with extraterrestrials. I feel like this is something we need to explore more.

**Stephanie Katajamaki:** It's a common theme.

**Devon Lamont:** Yeah, it clearly is. Having a fun theme for your judicial decision, I respect that. Like I said with the other *obiter* comment, as a reader, as a student reading these judgments, it really does help me keep in it.

So, I appreciate that; and you—we can't stay in our little Canadian bubble here and just compare our system with how it used to be. We have to think, well, you know, if an alien did come to Canada, what would they think of us?

**Stephanie Katajamaki:** What is their opinion on our court system?

**Devon Lamont:** Exactly. That's an opinion that we rarely talk about. And I think we need to talk about it more. I'm glad that the judge here brought it up. It's about time.

**Stephanie Katajamaki:** So this case, you're right, it's about an 11(b) violation. So challenging the case under *Jordan*.

**Devon Lamont:** Oh, *Jordan* on delays.

**Stephanie Katajamaki:** They're saying it was too long of a delay. We know *Jordan*.

**Devon Lamont:** I guess, yeah, no. Aliens probably have the same commentary on say like our healthcare system, you know, with delays and all that.

**Stephanie Katajamaki:** I think my favorite part about this particular case is when Justice O'Donnell actually contemplates if there was a free seat on that alien bus, he might take it.

**Devon Lamont:** Go be a judge somewhere else in a galaxy far, far away. Yeah, I don't know. I don't I don't think the state of our law is quite so abysmal, but maybe it is.

**Stephanie Katajamaki:** Yeah, “even if at times I wonder if there might be a spare seat on that alien space-ship” is exactly what he says. Interesting case, give it a read.

**Devon Lamont:** Yeah. Honestly, I'll have to give it a read. Um I'm also sensing like maybe the judge here just has kind of this deep-seated desire to explore the cosmos or something.

**Stephanie Katajamaki:** And maybe in space is where he's seeing those monkeys with typewriters.

**Devon Lamont:** That's where he gets all his ideas. He's been abducted.

**Stephanie Katajamaki:** Once again, we have another Justice O'Donnell decision.

**Devon Lamont:** I love this guy so much. Okay.

**Stephanie Katajamaki:** It's our last one for this episode, though.

**Devon Lamont:** Oh, sad.

**Stephanie Katajamaki:** So savor this one.

**Devon Lamont:** Yeah, I will.

**Stephanie Katajamaki:** So this case is *R v Quirk*. So I've got one little quote I'm going to give you and then if you can't get it from that, which you probably can't get it from that. Let me read you the first paragraph after that.

**Devon Lamont:** Okay, I've been so good at guessing with these last two.

**Stephanie Katajamaki:** So on it.

**Devon Lamont:** So I'll do fine.

**Stephanie Katajamaki:** So from Paragraphs 22 to Paragraph 24, this is what Justice O'Donnell had to say. "Sergeant Schultz would intone forcefully, "I see nothing, I hear nothing, I know NOTHING!" or some variation thereupon. Those utterances became a meme, decades before the concept of a meme even entered popular culture.

Coming from the mouth of the actor John Banner, those words came to be very amusing.

Coming from the mouths of witnesses in a courtroom, not so much."

**Devon Lamont:** Okay, so we have finally an authoritative voice on memes now. Very interesting. So, we're talking about probably courtroom etiquette here and what witnesses can say. Probably don't want to drop memes in the courtroom. What did he say was the meme again? Like the very start of that quote?

**Stephanie Katajamaki:** "I see nothing, I hear nothing, I know NOTHING."

**Devon Lamont:** Okay, okay, interesting. An ideal witness depending on what side you're on. I guess not super helpful in the interests of justice for a witness to hear, see, and know nothing. But...



**Stephanie Katajamaki:** Do you know who Sergeant Schultz is?

**Devon Lamont:** I am not familiar with Sergeant Schultz. Please explain.

**Stephanie Katajamaki:** Sergeant Schultz, as we hear in the decision, was a member of the Luftwaffe assigned to guard allied aviators who were prisoners of war in a German Luftstalag during World War II.

**Devon Lamont:** Okay.

**Stephanie Katajamaki:** And he is a character from *Hogan's Heroes*.

**Devon Lamont:** *Hogan's Heroes*, I've heard of that.

**Stephanie Katajamaki:** I haven't.

**Devon Lamont:** I've heard of that somewhere. What was Sergeant Schultz's relevance to this?

**Stephanie Katajamaki:** Well, so Sergeant Schultz said, “I see nothing, I hear nothing, I know nothing.”

**Devon Lamont:** Quite an asset for the Allies then, I'd imagine, if he's the guard at this POW camp. Yeah, relating that to witnesses, I guess, that would not be an ideal witness, would it? Interesting analogy.

**Stephanie Katajamaki:** I mean, since you bring up witnesses, here's paragraph three from this decision. “Sergeant Schultz”—this is going to give us a picture of who he is— “to be clear, was not a witness. He is not a member of the Niagara Regional Police Service.

Indeed, he is not even a real person, as we just discussed.”

**Devon Lamont:** Great. Well, then I'm glad that he brought him up then.

**Stephanie Katajamaki:** Right.

**Devon Lamont:** What this case is about, I'm going to guess something procedural. It was *R v Quirk*, you said?

**Stephanie Katajamaki:** *R v Quirk*.

**Devon Lamont:** Okay, so it's criminal law. I don't know. I feel like this is going to pertain to something procedural then if we're talking about witnesses being poor people on the stand and just



not doing their job. So, I'm going to guess it has something to do with criminal procedure. Maybe in the same vein as *Jordan* in the last one?

**Stephanie Katajamaki:** You're right on criminal.

**Devon Lamont:** Okay.

**Stephanie Katajamaki:** Not right on procedure.

**Devon Lamont:** Oh, dang it.

**Stephanie Katajamaki:** From Justice O'Donnell himself in the very first paragraph: “The wee hours of the morning. A speeding car. A very brief vehicle and foot “chase”. The smell of alcohol on breath. Defiance. Resistance. A struggle. Drink-driving charges. Allegations of excessive force and denial of access to counsel.”

**Devon Lamont:** This is great. feel like if this was narrated by Morgan Freeman, this would be great. You could totally make a whole movie out of this, just what he's writing here. I've noticed he likes to start his *obiter* comments with “in the wee hours”, because didn't he say that in the last one too?

**Stephanie Katajamaki:** Yeah.

**Devon Lamont:** All right. So, drinking and driving offense. Other than that, I don't know. Maybe witnesses wanted to just not convict this guy and they wouldn't say anything. It sounds like the justice here is a little upset with that.

**Stephanie Katajamaki:** Essentially, yeah. The reference to Sergeant Schultz was kind of in the sense that we had witnesses that were just like Sergeant Schultz. They didn't see anything. They didn't hear anything; they weren't very helpful witnesses, if you will. So, that was one of the things they were struggling with in the case is the evidence of what was going on with—

**Devon Lamont:** OK, I feel like I should get some points for procedure.

**Stephanie Katajamaki:** I'll give you points.

**Devon Lamont:** I should really get some points.

**Stephanie Katajamaki:** I'll give you points for that.

**Devon Lamont:** Okay.

**Stephanie Katajamaki:** So we're moving away from the criminal law cases now, which means we're also moving away from Justice O'Donnell. Next up, we have two cases from Justice Quinn.

**Devon Lamont:** Okay.

**Stephanie Katajamaki:** When you see that name, know you're in for a good decision.

**Devon Lamont:** Got it.

**Stephanie Katajamaki:** The first case we have is *Miller v Carley*. Just to sort of set the stage for this decision, at paragraph 210, Justice Quinn says: “During this trial, truth was only an occasional visitor.”

**Devon Lamont:** Oh.

**Stephanie Katajamaki:** So take that into consideration.

**Devon Lamont:** Okay, that's oddly poetic.

**Stephanie Katajamaki:** So this one might be a bit of a giveaway because his *obiter* comes out strong from the beginning and it really tells you what the case is about. So, an easy one.

**Devon Lamont:** I need an easy one after my performance so far.

**Stephanie Katajamaki:** So this is paragraphs one to three. “After a busy day conducting illegal drug transactions, the plaintiff, the defendant and a mutual friend stopped at a corner store where the defendant purchased some “scratch” lottery tickets. One of the tickets proved to be a \$5-million winner.

The parties dispute ownership of the winning ticket. If the ticket were a child and the parties vying for custody, I would find them both unfit and bring in Family and Children's Services.

The case is awash in untruths and curiosities. It is a study in good fortune squandered and generosity abused.”

**Devon Lamont:** Again, this seems like a really good intro to a book.

**Stephanie Katajamaki:** It's a book I would read.

**Devon Lamont:** Honestly, yeah. All right, you have the plaintiff, the defendant, someone else dealing drugs—as you do, you know, hard days work dealing drugs. And then they go out and get a scratch ticket and then they're squabbling over the ticket.

**Stephanie Katajamaki:** Yes.

**Devon Lamont:** And if they were vying for child support, they would all be unfit. I would hope they would be unfit considering that they're dealing drugs. But I don't know if that's what the justice zeroed in on here. On that point, I would probably agree.

Okay, let me think. I don't know. Maybe the plaintiff just like the defendant in the face or something to get the scratch ticket and ran with it? That's what I'm thinking.

**Stephanie Katajamaki:** You're overthinking.

**Devon Lamont:** Really?

**Stephanie Katajamaki:** You're overthinking this, Devon.

**Devon Lamont:** Well, it has to have something to do with drug dealing because if that's part of the case. It has to be a drug case, right?

**Stephanie Katajamaki:** It's civil though, remember? We're not doing—

**Devon Lamont:** Oh, right. You're right.

**Stephanie Katajamaki:** We're out of the...

**Devon Lamont:** Okay. maybe... Okay. I feel like this is probably a common thing. One person paid for the ticket; the other person scratched the ticket. Who gets the money, right? Is that maybe what it's about?

**Stephanie Katajamaki:** That's exactly it.

**Devon Lamont:** Oh my God, I got it! Okay, finally.

**Stephanie Katajamaki:** So, what happened was the plaintiff and the friend were both present when the defendant bought a lottery ticket.

**Devon Lamont:** Okay.

**Stephanie Katajamaki:** And then that lottery ticket went on to win five million dollars. Now the plaintiff wants a piece of that \$5 million, and the plaintiff says that he had given the defendant ten dollars for the purchase of the ticket. So...

**Devon Lamont:** Okay.

**Stephanie Katajamaki:** It's a very contested decision.

**Devon Lamont:** Yeah, I love that he just added in the extra fact of a hard day's work drug dealing.

**Stephanie Katajamaki:** It was so relevant to the decision, don't you think?

**Devon Lamont:** Yeah, honestly. It's just giving us a little bit of context to help us visualize. So well, yeah, I mean, if he paid ten bucks, he should probably get part of the winnings, right?

**Stephanie Katajamaki:** No...

**Devon Lamont:** No, he didn't win?

**Stephanie Katajamaki:** The action was dismissed.

**Devon Lamont:** Oh, wow. Oh, maybe if it was given as a gift, though?

**Stephanie Katajamaki:** Oh, that's getting into property law.

**Devon Lamont:** Yeah. No, I haven't dealt with property law since 1L.

**Stephanie Katajamaki:** We're not going there 1Ls, sorry.

**Devon Lamont:** Okay. All right.

**Stephanie Katajamaki:** That is that is *Miller v Carley*

**Devon Lamont:** Interesting.

**Stephanie Katajamaki:** Well, I hope they're happy.

**Devon Lamont:** I'm glad he threw in a little fun fact there to introduce the story.

**Stephanie Katajamaki:** Try to derail it, throw you off your game. So, the next case, our last case of the day is *Bruni v Bruni*, which is also from Justice Quinn.

**Devon Lamont:** Okay.

**Stephanie Katajamaki:** Any initial thoughts?

**Devon Lamont:** Alright, so maybe a family dispute. I'm guessing maybe husband-wife?

**Stephanie Katajamaki:** You're right about that.

**Devon Lamont:** Okay. Alright.

**Stephanie Katajamaki:** It was a good guess. Let's get into what Justice Quinn had to say about *Bruni v Bruni*.

**Devon Lamont:** Alright.

**Stephanie Katajamaki:** So, this is actually a note that I'm going to read. It's a note added at the end from the case itself.

**Devon Lamont:** Okay.

**Stephanie Katajamaki:** Okay. "At one point in the trial, I asked Catherine: "If you could push a button and make Larry disappear from the face of the earth, would you push it?" Her I-just-won-a-lottery smile implied the answer that I expected."

**Devon Lamont:** Wow, okay. She really does not like her, I presume ex-husband. So, I'm sensing like maybe a little bit of animosity in this relationship.

**Stephanie Katajamaki:** A little.

**Devon Lamont:** Just a little bit.

**Stephanie Katajamaki:** Well, Justice Quinn was fair in his assessments. He treated both parties equally here because in paragraph 11, Justice Quinn says, "Catherine and Larry were married on October 7, 1995. If only the wedding guests, who tinkled their wine glasses as encouragement for the traditional bussing of the bride and groom, could see the couple now. [See note three below]". And I'll give you note three. "I am prepared to certify a class action for the return of all wedding gifts."

**Devon Lamont:** Oh wow, this must have been some breakup. Holy. Yeah, I know you got to think about the wedding guests too, you know? You pay a lot of money to go to those weddings.

**Stephanie Katajamaki:** You do, they're expensive these days.

**Devon Lamont:** And if you don't get a good wedding gift, you might actually not talk to either of them for a while because they might get a little upset about that. What was it, a class action you said?

**Stephanie Katajamaki:** A class action for the return.

**Devon Lamont:** This must have been recent then.

**Stephanie Katajamaki:** 2010.

**Devon Lamont:** Oh, they were married in 1995?

**Stephanie Katajamaki:** They were married for a while.

**Devon Lamont:** Okay, well maybe, I feel like...What is that 15 years? It's a little late to get your return on a wedding gift. Maybe a little late, but wedding gifts are expensive.

**Stephanie Katajamaki:** Yeah, so you're completely right about the substance of this case. I'll give you paragraph two because that's you know, it explains the whole of the matter essentially.

“This is yet another case that reveals the ineffectiveness of Family Court in a bitter custody/access dispute, where the parties require therapeutic intervention rather than legal attention. Here, a husband and wife have been marinating in a mutual hatred so intense as to surely amount to a personality disorder requiring treatment.”

**Devon Lamont:** What a beautiful word, marinating.

**Stephanie Katajamaki:** Marinating in a mutual hatred. Fifteen years of it, apparently.

**Devon Lamont:** Yeah. Well, you know that's marriage, right?

**Stephanie Katajamaki:** Apparently.

**Devon Lamont:** Yeah, that's solid *obiter*. And this relationship must have been something else if he felt the need to say all of this. But you know, maybe he—the justice—just said what the husband and wife could never say.

**Stephanie Katajamaki:** You know what, that's a good point. Maybe we should thank Justice Quinn.

**Devon Lamont:** Yeah, and honestly, I appreciate—in all seriousness—I do appreciate the comment on therapy rather than a focus on the legality of divorce and all that, because sometimes the whole counseling and everything, that does not get enough attention.

So, I get where he was going with that. I don't know if he needed to say they were marinating in mutual hatred. But I mean, maybe it needed to be said, right? So, in any event, I appreciate the Justice's comments and yeah.

**Stephanie Katajamaki:** He included some other fun little tidbits; we might as well throw in here.

**Devon Lamont:** Yeah, throw them in.

**Stephanie Katajamaki:** His very first paragraph... he starts it saying, “Paging Dr. Freud. Paging Dr. Freud.”

**Devon Lamont:** That's...Okay. I don't even know where to go with that one.

**Stephanie Katajamaki:** It sounds like he did, yeah.

**Devon Lamont:** At any rate, I appreciate the *obiter*. These have been some fantastic comments. These have been good. Some great *obiter* moments.

**Stephanie Katajamaki:** You did pretty good. You did good with your guesses.

**Devon Lamont:** Maybe towards the end, not so much at the start. We started off a little more difficult, but I think there's a lot to be said about taking some of these comments out of context. So, I'd encourage everybody listening to go read the entire judgments.

You know what, I'm going to give myself some credit because most of these judgments are like 200 to 300 paragraphs long. So, and from an *obiter* comment...I think I should get a little bit of credit.

**Stephanie Katajamaki:** You get credit for it. You did great.

**Devon Lamont:** Definitely stronger at the end there.

**Stephanie Katajamaki:** Yeah, for sure.

And with that, we've come to the end of today's episode of the OLR Podcast.

**Devon Lamont:** We hope you had as much fun listening as we did chatting about monkeys with typewriters, aliens, Sergeant Schultz, scratch tickets, and Freudian family dynamics.

**Stephanie Katajamaki:** Next time you're reading a decision and read about something a little more out there than expected, think to yourself, is this going to be on my exam or is this actually *obiter*?

We would also like to thank the OLR Podcast Committee for making this episode possible. Thanks for listening and you'll hear us next time.