

**OPEN NINTH:**  
**CONVERSATIONS BEYOND THE COURTROOM**  
**LESSONS FROM HURRICANE MICHAEL**  
**EPISODE 82**  
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**HOSTED BY: DONALD A. MYERS, JR.**

(Music)

**NARRATOR:** Welcome to another episode of “Open Ninth: Conversations Beyond the Courtroom” in the Ninth Judicial Circuit Court of Florida.

And now here’s your host, Chief Judge Don Myers.

**CHIEF JUDGE MYERS:** Hello, and welcome to Open Ninth. I’m here today with Judge Elijah Smiley from the Fourteenth Circuit. Judge Smiley first joined the bench in 1995 as a County Judge and was elected to the Circuit bench in 2006. He served as the Chief Judge of the Circuit from 2015 to 2019, and currently presides in the Family and Probate Divisions.

Thank you for joining me. It’s a pleasure to have you on the show.

**JUDGE SMILEY:** Pleasure. Thank you, Judge Myers.

**CHIEF JUDGE MYERS:** So some facts I know that you are well aware of, Judge Smiley. But on the afternoon of October the 10<sup>th</sup> of 2018, Hurricane Michael made landfall as an unprecedented Category 5 hurricane in the Florida Panhandle region. It had maximum sustained wind speeds of 161 miles an hour. The storm caused catastrophic damage from the wind and storm surge, particularly in the Panama City Beach area to Mexico Beach to Cape San Blas. The storm claimed more than 40 lives and it caused more than 25 billion dollars in property damage.

And your circuit, the Fourteenth Circuit, is right square in the middle of that, is that right?

**JUDGE SMILEY:** That is correct.

**CHIEF JUDGE MYERS:** So, you know, this is such an interesting topic for so many people who have never suffered a direct hit in the way that you all did. Tell us a little bit about your circuit to start.

**JUDGE SMILEY:** I’ll never forget that, October 10<sup>th</sup>, 2018. As you indicated, my name is Elijah Smiley, and I have had the privilege of serving as Chief Judge. I’m from the

Fourteenth Judicial Circuit. I was born and reared in Gulf County, which is one of our six counties. So there are six courthouses in our circuit. Panama City is the largest county. And I can just visually remember October 10<sup>th</sup>.

I stayed in my home along with my wife and my daughter. We had no idea that this hurricane was going to be as bad as it was. We would not have stayed there. And I can remember just the -- just as clear as that sun is outside that window there, when I woke up that morning, in that very instance, I was not certain who or how many or whether any and all of my court staff had been injured or killed. That was kind of a terrifying thought. And it was compounded by the fact that we had no way to communicate with each other. The hurricane was of such a catastrophic nature, it had pretty much decimated the communication infrastructure. Cell phones were not working, the internet was not working, no way to communicate with anybody.

And I have some pictures I'll show you shortly, standing in my yard, in my home, just trying to figure out, you know, what do we need to do.

**CHIEF JUDGE MYERS:** So how long did you have to prepare for it?

**JUDGE SMILEY:** We had no preparation. Meaning, there was a couple days -- I think it was on a Wednesday. There was a couple of days where we had some discussion, but the problem was we didn't anticipate this to be a Cat 5 or Cat 4, to be quite candid. We didn't anticipate that, so we didn't take any -- other than, you know, I think we let the staff off I believe it may have been the day before to go home and do some of the things that they needed to do. But only like very few people anticipated this to be a hurricane of this nature.

**CHIEF JUDGE MYERS:** So essentially, when you all left the courthouse, you locked the doors, figured everything would be fine, you went home.

**JUDGE SMILEY:** And I would be back -- I think it would have been on a Wednesday, I believed I would have been back that next day, regular.

**CHIEF JUDGE MYERS:** Okay.

**JUDGE SMILEY:** But that didn't happen.

**CHIEF JUDGE MYERS:** That didn't happen.

**JUDGE SMILEY:** That did not happen.

**CHIEF JUDGE MYERS:** All right. So were -- was there an evacuation order for the counties that you -- that make up the Fourteenth Circuit?

**JUDGE SMILEY:** I believe there was an evacuation order, but it came so late that I think very few people who were associated with the court -- our court staff -- evacuated. Very few people evacuated.

**CHIEF JUDGE MYERS:** And you said you stayed in your home.

**JUDGE SMILEY:** I stayed in my home.

**CHIEF JUDGE MYERS:** How far is your home from the coastline?

**JUDGE SMILEY:** Probably a few miles. I'm a few miles from the coastline.

**CHIEF JUDGE MYERS:** And how about your courthouse there in Panama City?

**JUDGE SMILEY:** Courthouse is not very far from the Gulf of Mexico, maybe -- probably -- actually right in the house, out of my window, I can see part of the inlet from the Gulf of -- less than a mile. Less than a mile.

**CHIEF JUDGE MYERS:** So you go home. You weather it through the night. And you're fortunate, your home didn't suffer any major damage?

**JUDGE SMILEY:** No major damage.

**CHIEF JUDGE MYERS:** Okay. And you said that you woke up the next morning and you had some significant communication problems.

**JUDGE SMILEY:** In that we had no communication, no ability to communicate. And what caused me concern was I was attempting to try to communicate with the Court Administrator; I couldn't do that. I wanted to communicate with the other judges; I couldn't do that. So that was the inability to communicate with anyone.

So two things kind of was going through my head as I looked around. There was quite a bit of water. Neighborhood trees were down everywhere. After meeting some of the neighbors in the neighborhood trying to come up with some tentative plan to kind of make sure everybody in the neighborhood was okay, then I had to kind of revert to my responsibilities as Chief Judge. I was the Chief Judge at that time.

And so I was concerned about two things. The first thing I was concerned about was what I view as our most important resource, our court staff, our human staff, my judges. We have roughly, probably about somewhere between 80 and 90 employees, and that was my primary concern. I didn't even know whether or not -- I knew I had heard that the Mexico Beach -- later on, that they had been hit real hard, and I had employees from the Mexico Beach area. In fact, my secretary is from Mexico Beach.

And at a much later time we were able to get some satellite phone -- we got a couple satellite phones. In fact, it was the Court Administrator from the Second Circuit, Grant Slayden, who has some affiliations with the National Guard, who was able to have the National Guard deliver us some cell phones through some law enforcement personnel, and they were able to actually deliver to my --

**CHIEF JUDGE MYERS:** So you get a couple of satellite phones, and you take one and who gets the other?

**JUDGE SMILEY:** Actually, we ended up getting about -- I believe it was about ten satellite phones. Because what Court Administrator Grant was able to do, he was able to get some satellite phones from the Supreme Court, he was also able to get some extra ones from the First Circuit. So they sent in about ten phones.

And I'll never forget when -- there was a police -- a couple of police officers came to my house and they was trying to get one of those emergency protective orders -- perhaps we'll talk about it -- and then when they came to me, I was in my yard, and essentially what I did was I got a card table and set it up in my yard and was essentially conducting court in my yard with a card table.

And what he told me, one of the police officers, he said they had no way to communicate (indiscernible words), but they had no way to communicate. So what we did was we actually gave them two of the satellite phones. We actually gave them two of the satellite phones so that they would be able to communicate. And the remaining of satellite phones was distributed to the Court Administrator, the Technology Officer and some of the key judges who had some duty responsibilities.

**CHIEF JUDGE MYERS:** Okay. And once you establish communication, what are your first steps there?

**JUDGE SMILEY:** So the first thing I did was the Court Administrator and I set up a schedule where she would -- we would communicate with each other every day at 3 o'clock. That would be our end-of-the-day call to try to assess -- because what I tasked her with was trying to call and to communicate with all of our employees to try to figure out how are people

doing, who was hurt, (indiscernible words). So she was working on that. She kind of went through the whole list through the day and was able to make contact with most of our people. And some relief came when we were able to determine that none of our employees were physically hurt, even though their homes may have been destroyed.

So two of our judges -- Judge Mallory's house was destroyed. It was -- he has subsequently torn it all down and he's -- Judge Overstreet's home was significantly damaged. He was not able to -- in fact, I talked with him before coming to the conference and they're still about halfway through trying to rebuild. And then we had a number of our court staff's homes who was significantly damaged. In fact, our Court Administrator -- I think we've still got a couple of employees that are still having housing issues.

**CHIEF JUDGE MYERS:** When did you first -- when were you first able to leave your home and go out and -- into the community and see the courthouse?

**JUDGE SMILEY:** I did it that day. I did it that day. It was difficult. I had a truck. And it was tough weaving through the trees on the ground and trying to watch out for the electrical wires. It took me a good while and I was able to kind of navigate my way down, going back and forth through the different alleys and ways, I made my way down to the courthouse. And that's why -- that's when I first saw the damage to the courthouse.

**CHIEF JUDGE MYERS:** And describe that for us.

**JUDGE SMILEY:** Essentially, the older part of the courthouse was damaged pretty significantly, the roof part of it. Water had infiltrated the building. The Court Administration building, which is a separate building, had been significantly damaged. And most of the damage came from the failure of the roof, the water penetrating the building. In fact, that building is being torn down this week. It's being torn down this week.

We were able to get inside of the courthouse, and where the County Judges are located, water had pretty much destroyed that area. In fact, it's still not operable today. It will probably be maybe another year before we get there. So subsequently what we've had to do, we had to bring in some temporary trailers and our County Judges and all of our Court Administration staff is operating out of trailers. And we subsequently have been able to move them from the trailers to another temporary location, so that's kind of an ongoing process.

**CHIEF JUDGE MYERS:** You have -- the Fourteenth Circuit is six counties, you told us.

**JUDGE SMILEY:** That's right.

**CHIEF JUDGE MYERS:** Were you able to make it to those other five courthouses as well?

**JUDGE SMILEY:** Not that day. Not that day. It was just simply -- those roads were not passible, it would not have been safe. But the ensuing -- the subsequent weeks, I was able to visit all of those areas. And we were able to establish some contact with our County Judges in the outlying counties. That was my main point of -- because some of the Circuit Judges may or may not reside in their respective counties, but there was at least a County Judge in each of those six counties that I could try to make contact with, try to identify what difficulties they were having. And I think one of the initial decisions we made was to close most of those courthouses for a period of time until we could get back in.

So there were two things that I was trying to simultaneously do. One of them was just a real fear and genuine concern for the court staff, trying to figure out what each individual situation was and trying to be a motivator to people, tell people, you know, everything is going to be okay and, you know, do what you have to do. And the other part that I was trying to do was

to kind of make sure that we provided a minimum level of court service so that we protected people's Constitutional Rights, provide a minimum level of due process.

**CHIEF JUDGE MYERS:** So for our listeners, though, let's talk about what that means.

**JUDGE SMILEY:** Okay.

**CHIEF JUDGE MYERS:** Because you and I work out of courthouses --

**JUDGE SMILEY:** That's right.

**CHIEF JUDGE MYERS:** -- and we go to work in those courthouses prepared to deliver services to the people in our communities. And we talk about due process services, those things that are fundamental, that are constitutional. What are those kinds of things?

**JUDGE SMILEY:** So for example, people were arrested. And the rules are and the Constitution require that they have an opportunity to be in front of a magistrate within a certain time period, 24 hours. In fact, we had received a call communicated through us from the jail -- the sheriff -- that the jail was overcrowded and that we needed to try to take some action, meaning the Court. And I tasked Judge Grammer with that. He's a County Judge, and does a great job. He went to the jail and he kind of worked his way through all of the list, and I think ultimately he ended up releasing some of them, I believe between two and three hundred people. Just kind of -- so he's trying to balance that issue. You don't want to -- you have to protect the public but you have to protect people's Constitutional Rights.

Because we knew for a period of time we were not able to hold court, the first appearances that we're required to have on a daily basis. And the good thing is that we managed -- maybe except for the first couple of days -- to figure out a way to do first appearances. Every day we sent somebody to the jail to do that. Because the main communication link between the courthouse and the jail was damaged, it was cut. So we could not even do our normal video

communication, so we had to actually send a judge there. And I covered a couple of those days. So we had -- we met and we had a schedule to do that.

**CHIEF JUDGE MYERS:** And are there jails in each of your six counties?

**JUDGE SMILEY:** There are jails in each of the six counties. But the primary problem that we were having was in our largest area, which was Bay County. And the jail was crowded, and the communication that I received that it was tense in the jail and there was some difficulty. So we were able to bring down that population down by reducing some misdemeanors. They didn't get away. They had to come to court at some future point in time. But we were able to bring that down.

We were able to continue our daily first appearances. That means if you were arrested, the law -- Constitution requires that you're brought -- you be brought in front of a magistrate within 24 hours. You were able to -- you received that.

And some of our trials, I was worried about the speedy trials issue. As you know, the rules and the Constitution requires --

**CHIEF JUDGE MYERS:** And again, yes, for our listeners -- right.

**JUDGE SMILEY:** -- when an individual is arrested, if that individual has a trial, that trial has to occur within a certain time period. And during that time period in which the court was closed we had a number of cases where the speedy trial was an issue. So what we did was I communicated with the Public Defender and the State Attorney to try to identify and work through those issues. If there was any of those issues that was not resolvable, you know, we could -- we had to try to figure out a way to do that and --

**CHIEF JUDGE MYERS:** In your circuit, are the courts still operating with paper files or are they electronic or some mix of both?

**JUDGE SMILEY:** I would say about 90, 95 percent all electronic now.

**CHIEF JUDGE MYERS:** And all that information and data is stored on a server.

**JUDGE SMILEY:** And that was a problem. And that was a problem. That was a real big problem because our main servers were located in the Court Administration separate building that just got (indiscernible words), so that was just gone.

And we have been real blessed to have had the Court Technology Officers from five or six different circuits to come -- but not for their help, we would not have been able to get back up and running. We had Court Technology Officers from Tallahassee, Second Circuit, First Circuit, I think the Eighth Circuit, Fourth Circuit. They came in and they were able to help us move those -- the ones that survived, moved those servers over to the main courthouse and get all that reconnected. That's a lot of work and it takes a lot of expertise. So we was able to kind of get that back on. But it was a while before we were actually able to receive phone calls at the courthouse.

And during the emergency, on that day, I can never forget, I actually drove my truck -- I drove down to the radio station, the radio station that was broadcasting, and was able to actually hand-write out some messages, and that was one way we was able to communicate with the public about, you know, telling people, if you got court dates, you know, at this point don't really worry about that, don't try to come to the court, you will receive communication when the court system is back up. So we was actually able to communicate with that. And I was actually able to hand written -- write some orders and stuff, you know, in terms of releasing people from the jail, because there was no other way to communicate.

**CHIEF JUDGE MYERS:** So we take it for granted all of the different stakeholders that help us inside of a courthouse. But you've talked about the State Attorney and the Public

Defender's Office. You have sheriff's deputies, you've got clerks. And how are you communicating with all these folks to do those sorts of things?

**JUDGE SMILEY:** So very, very limited -- very, very limited communication. Once we got the satellite phones I was able to have some communication with the Deputy State Attorney and the Public Defender, so we was able to maintain some communication. My Court Administrator actually resides in Jackson County, which is maybe 60 miles away from my (indiscernible words). And the -- some of the communication there, in terms of the cell phones, were like a little bit better, and so she was able to do some communicating with the Public Defender in terms of that.

So in terms of trying to triage, and that's just trying to figure out what do we need to do first, the first thing was to try to -- just to continue to focus on my staff, focus on my judges to make sure they were okay. And the second thing was to work with these other agencies to make sure that we were providing the minimum level of due process in terms of trying to communicate with law enforcement, communicate with the Department of Juvenile Justice. Because what had happened is their facility had been significantly damaged. And they actually had to relocate all of the kids there in that detention center to different outlying counties.

And so in subsequent ensuing days, the communications with the Chief Justice and the State Court Administrator, there was an order that allowed the First Circuit and the Second Circuit to handle some of our Juvenile cases. So there are time-sensitive issues involving a juvenile, meaning that they have to be brought in front of a judge within a certain period of time and their cases had to be dealt within a certain period of time. We was able to keep that going, at least the Department of Juvenile Justice. And some of the emergency cases, the dependency cases, the delinquency cases, those cases for a period of time were actually processed out of

Tallahassee and Pensacola because we were simply not capable of dealing with those within our circuit.

**CHIEF JUDGE MYERS:** So I'm having a hard time imagining going down to the jail a day or two after the storm, you've got to do initial appearances --

**JUDGE SMILEY:** Yes.

**CHIEF JUDGE MYERS:** -- you have to see those folks who have been arrested within 24 hours, and they show up in front of you, you don't have access to a court file, you're dependent on, I assume, whatever paper records they were able to bring with them --

**JUDGE SMILEY:** Yes.

**CHIEF JUDGE MYERS:** -- or did the jail have some electronic records?

**JUDGE SMILEY:** So we had no access to the electronic records, so whatever information we had would have been whatever the jail was able to provide us at the jail. In terms of being able to do criminal histories and stuff -- but the good thing about it is, we were blessed, we have very experienced judges. And Judge Grammer was an experienced prosecutor. I think he had been with the prosecutor's office for 27 years' experience. You kind of triage. You know, if I've got a case dealing with a murder, that's a different situation. I got a case dealing with a misdemeanor or -- I mean, that's a different situation. So what you try to do is to triage the cases. Try to figure out which ones you need to deal with in order to try to protect the public.

But pretty much all of the misdemeanor cases I think we had gotten together with the County Judges and we had agreed -- all of the judges -- and we had agreed to pretty much suspend, you know, the payment of fines and those kinds of things so we can kind of communicate that to the public so individuals would not be concerned about that.

So the more difficult cases, you know, obviously we have to protect the public. So if you get somebody charged with a very serious case, you know, there's a reasonable probability that that situation probably demands that that person be held. And then you're dealing with the less serious matters, then more than likely on those cases we were actually giving Notices to Appear, and those Notices to Appear I believe was like in January. I mean, it was like 60, 90 days out. We weren't really worried about -- and we normally do -- you know, normally, you get arrested on a misdemeanor, you'll be in court in a couple days to have that resolved. Here we're giving court dates, you know, 60 to 90 days out hoping by that time we would have kind of restored some of our communications.

And then, you know, the court system does not just operate by itself. It operates because we have dedicated people who make it work. We have dedicated judges who make it work. But these are human beings, and so they've got their own situations with their houses may be destroyed, they may not have anywhere to live. And so it was kind of like (indiscernible words). And I was committed to just trying to make sure that the employees remembered that I wanted to make sure that they got their personal situation -- we'll figure out a way to try to triage this so we can kind of keep the minimum -- provide the minimum services that we have to provide.

And at that point, we was not really worried about Civil cases. You know, Civil cases and the Family cases, that was kind of pretty much, you know, not a priority.

**CHIEF JUDGE MYERS:** And a daily part of that work inside of the courthouse is filing things with the Clerk.

**JUDGE SMILEY:** Yes. Yes.

**CHIEF JUDGE MYERS:** How were you accomplishing the filing of documents?

**JUDGE SMILEY:** There were no filing of documents in that courthouse because we were not up and running. And the Clerk of Court, they did a very good job. Because in fact I remember even on the day of the hurricane being in the parking lot, I believe he was there as well. On the day of the -- the day after the hurricane, the day of, he was there just trying to make sure that when people come to the courthouse that we could explain to them the rules.

I'll never forget, there was -- never forget that I was in the parking lot, I believe, this was actually the day of the storm (indiscernible words), and I had this lady, she showed up in the parking lot and kind of was stressed out and she was asking me, you know, is court canceled. And what she was there -- she was there for a citizenship proceeding. I'm going to say, this is somebody who really, really committed -- who wanted to be -- she wanted to make sure she didn't miss that proceeding. And so that was interesting. And we were able to just give her another date and tell them that had been canceled, to come back. But she did not want to miss that, and that's one of the things that I'll never forget.

Another thing is that a number -- a significant number of our lawyers' offices were severely damaged. Severely damaged. And, you know, lawyers play a very integral part to make sure this process works. I mean, it doesn't work unless we have all of these players; the State Attorney, the Public Defender, the lawyer, you know, the law enforcement, the Clerk of the Court, our staff. It only works when everybody kind of works together (indiscernible words). And in that instance, all of those players had been severely impacted.

**CHIEF JUDGE MYERS:** How long was it before power was restored?

**JUDGE SMILEY:** Power was out -- I don't recall exactly, but it was a while before power was restored. It was a while.

**CHIEF JUDGE MYERS:** And then once power was restored, you learned that all these fiber optic cabling systems were gone?

**JUDGE SMILEY:** That was a whole -- that was just a whole difficult -- even -- because the electrical power is a system that was kind of associated by itself that had nothing to do with whether or not the phones were working. Because now with the technology, we have these phones that work by way of the internet. And it was a whole different system. And I learned that our computer system is somehow tied to the servers in Tallahassee, and we're dependent upon them. And so we've subsequently had had some discussions about developing some offsite system, I think maybe over in Jacksonville, where, you know, if this system is down we may be able to tie into that and we're not down so long. I think there've been some discussions about that.

**CHIEF JUDGE MYERS:** So this is early October. When do you really consider yourself to be kind of back up and running to some degree?

**JUDGE SMILEY:** It was certainly not until 2019. Because see right now, at least in Bay County, even my County staff, County Judges, all the Court Administration staff are displaced. And it would have not been until 2019 that we had that fiber optic -- the fiber cable restored because they had to run a complete new line to the jail. Apparently it had been cut somewhere or damaged somehow, and that communication with the Sheriff's Office had to be restored. So it was not until -- see, the storm was October 10 -- maybe November, December -- it would have been in 2019 before we began to even have some phone communications. Because I think what we had to do was to establish a single communication line so all of the public would be able to call into this one line. I didn't have access in my office. None of the judges had access in their office.

**CHIEF JUDGE MYERS:** Tell us a little bit about where we are now. You're ten or eleven months since the hurricane.

**JUDGE SMILEY:** So we've made some progress. We've made some progress. And Gulf County is doing well, they've been able to recover. Calhoun County, one of our counties, they've been able to recover. Jackson County and Bay County are the two counties that were impacted the most. And so Jackson County is still in that process where we're redoing those courtrooms and I think probably within the next two or three months we'll probably have -- those courtrooms will be usable. And in the interim, in Jackson County, we were holding court over at the Agricultural Center. The County Judges were going to the jail still to do the first appearances. And that presented all kind of -- and it still does present all kind of security issues holding court over at the Agricultural Center because it was not designed for courtrooms. But here again, our pledge, as the judges, was to make it work, to do whatever we had to do to make sure the people that we served that are the citizens of those six counties received the minimum level of due process, that their rights were protected. So we were committed to doing that.

And so in Jackson County, we made progress. In fact, the Legislature -- we give thanks to the Legislature. They allocated one million dollars, and we've gotten that money, to assist with that courthouse repair over in Jackson County that resulted from the hurricane. So that was a big help and we appreciate that from the Legislature.

In Bay County, it's a very more complicated situation because, well, ultimately, the County is ultimately going to end up having to build a new Juvenile building, a new Court Administration complex, and so we're probably looking at 36 months to kind of get all that taken care of because the Court Administration building has been -- it's being torn down and they're in the plans of (indiscernible words).

**CHIEF JUDGE MYERS:** And are you -- am I right, you're operating out of trailers there still?

**JUDGE SMILEY:** We were able to do away with the trailers. The trailers were -- that situation was not working. It was good for about, you know, three weeks, but it was not an optimal security situation for our judges and it was not an optimal situation for our court staff. But it was an emergency situation that worked for a few weeks. They had somewhere to sit and a place to be.

**CHIEF JUDGE MYERS:** You said your first priority was people. Tell me about the people a little bit. How -- what's been their response to this? How have they worked through this process?

**JUDGE SMILEY:** So we have an amazing staff, and we thank them for their service. And they are committed to and they've been committed to providing just good service to the public. And so we try to convey to our staff, when an individual attempts to contact the court, you know, to be sensitive. They have concerns about their loved one that may be in jail and they've got concerns about their divorce case. And you know, sometimes the public, they don't necessarily -- they're not really concerned about our problem -- your problem on the other end that your house may be torn -- I mean, what they're concerned about is that they're contacting this public agency and they expect a reasonable response. And we try to convey that to our staff. And I have to just praise our staff, they've done a really, really good job. And as I understand it, I think, most of them are making some recovery. In fact, I even -- my secretary, I think she just got a new roof put on the house last week. (Indiscernible words).

I think the Court Administrator told me we still got a couple employees that don't have places to live. In fact, one of the consequences of the storm is that the apartment housing

complex, they were just devastated and their rent prices have gone up. And we lost -- a couple people just simply not able to afford to rent there, staff people.

**CHIEF JUDGE MYERS:** So tell me, at some point you had to have sat down and said, all right, here's some things that we should probably do differently so that if this happens in the future we are better prepared.

**JUDGE SMILEY:** I think -- somehow the -- the communication part of it. We did the best that we could with what we had, but that was not a good situation. And there's a whole -- there's a lot of room for improvement. So we only had one satellite phone. One. So perhaps we need to try to figure out a way to have more of those or to have some other alternative way of communicating when the system goes down. You know, my cell phone provider, I just was not able to communicate. And all of our judges are on the same network. We may want to consider having everybody not necessarily on the same network, so if one -- if Verizon goes down, somebody may be with T-Mobile. That may be some possibility.

And the other thing that we really need to do, we need figure out a way to have some central point in the event of an emergency where our employees could somehow or another report to or communicate, whether it be some Facebook page or be some website wherein that they know as employees one of the first things that they need to do when they have access to communication is to communicate to this website or communicate to this emergency thing so that we can -- that would assist us in trying to, you know, make sure that they're okay and to try to be in a position to try to provide what kind of services that we can provide.

**CHIEF JUDGE MYERS:** So a check-in spot.

**JUDGE SMILEY:** Some kind of check-in spot. Some kind of way to check in.

**CHIEF JUDGE MYERS:** So communication in the big picture, communication specifically with employees. And it sounds like you're already working on a response to the problems with technology by making sure you've got off-site data.

**JUDGE SMILEY:** Yes. That's critical, because at this point, as you indicated earlier, Judge Myers, is that we're moving toward a paperless system where you don't have paper, and so when you lose that ability to go onto the computer and logon to your -- whatever system you've been using to access the files, you lose that ability, there's not a whole lot I can do efficiently or effectively (indiscernible words) when I don't have access to the case file. And so somehow or another we need to have communications in terms of how do you deal with that in the event of an emergency. What are the backups? And I'm sure there are some big corporations that have these plans, so it's probably not a difficult problem to solve but just something that we had not thought about and we had not developed to that extent because I'm not sure we contemplated having a hurricane that had this level of impact on the court system.

**CHIEF JUDGE MYERS:** As I understand it, this was -- you'd like to say once in a lifetime. I hope that's the case.

**JUDGE SMILEY:** I sure hope so.

**CHIEF JUDGE MYERS:** But certainly the largest storm to make landfall since Hurricane Andrew in Miami, in Florida.

**JUDGE SMILEY:** And all of the -- we're working with the County to try to make improvements. But all of the public infrastructures have been devastated. The schools have just -- were devastated. Even the hospitals were devastated. The military base was just devastated. And so it was of such a catastrophic nature that we were relying on the Commission and the -- to

try to provide services to the court. The court system is not the only system they have to try to take care of.

**CHIEF JUDGE MYERS:** Right.

**JUDGE SMILEY:** You know, you've got the education system, you've got the hospital system, you've got the roads. All of it was devastated.

Overall I think that our response was probably as good as you could get given the limitations that we had and what we had to work with in terms of just trying to -- our role, your role and my role as judges, as you know, is to apply the law and deliver justice and make sure those minimum due process rights are protected. And I think we did that reasonably well. Reasonably well. Not an ideal (indiscernible words) but I think we did okay.

**CHIEF JUDGE MYERS:** You know, we -- there's so many stories in history where difficult circumstances occur and people rise to the occasion.

**JUDGE SMILEY:** Right.

**CHIEF JUDGE MYERS:** And it sounds like your staff and you and those people that we partner with in the justice system did exactly that.

You started to tell me a story about an officer coming for an emergency protective order.

**JUDGE SMILEY:** So they came to my house. You know, this law that we've -- I think it was this past -- it's only been on the books about two years this risk protection order. And they came to my house. I was standing out there in the yard, and apparently this individual had had some weapons and it turned out that he thought maybe his home was being invaded by robbers and I think he was shooting and they needed to have that done with -- get the weapons removed temporarily.

And so the court system continued to work. They was able to locate me, and I was able to -- they was able to get the paperwork to me and I was able to review it. Typically, we would have transmitted it electronically. I was able to sign that and they were subsequently able to remove the weapons temporarily. And there was a, you know, subsequent hearing. In fact, I was the judge that presided over that subsequent hearing.

**CHIEF JUDGE MYERS:** So under the rule for those risk protection orders, you have to have a hearing within three days to ensure compliance.

**JUDGE SMILEY:** That's exactly right. Yes. Yes. Yes.

**CHIEF JUDGE MYERS:** And then a hearing in 14 days to -- on the process of determining whether there's clear and convincing evidence --

**JUDGE SMILEY:** Yes. Yes. Yes. Yes. Yes.

**CHIEF JUDGE MYERS:** -- that this individual with guns is dangerous to himself or dangerous to others. Were you able to hold those hearings?

**JUDGE SMILEY:** We were not able to do the 14-day hearing because of the circumstances, but we extended that and we were able to have it have a later point in time. I communicated that to the -- I believe it would have been the lawyer for the --

**CHIEF JUDGE MYERS:** For the respondent --

**JUDGE SMILEY:** Yeah, that would have been the Sheriff's Department. I believe it would have been the Sheriff's Department.

**CHIEF JUDGE MYERS:** -- or for the petitioner? Okay, yeah. Well, that's --

**JUDGE SMILEY:** And the respondent. So we didn't -- but we were able to finally get that case processed. But we do have those timelines. We were not able to make the 14-day

hearing because we just simply -- and I think the rules in fact, I recall, allow being to continue that upon the exceptional --

**CHIEF JUDGE MYERS:** Yes.

**JUDGE SMILEY:** -- circumstances. If I recall, that's what I did. I granted the temporary because I wanted to deal with the immediate emergency there was -- based upon what I read I thought that was sufficient cause to allow law enforcement to go remove this -- the weapon, and they did. It was a number of weapons. They removed all of the weapons. They had a number of (indiscernible words). And I told them we would subsequently set it for a hearing and based upon that statute and the circumstances, I'm going to -- we're not going to make the 14-day hearing.

**CHIEF JUDGE MYERS:** You know, it's really remarkable, though, in the face of, again, all of that adversity, all of the destruction around you and loss of life and property that notwithstanding the court system persisted. It continued to do what it was designed to do at its very base level, and that is to ensure that due process has been served.

Judge Smiley, a remarkable story. Thank you for sharing, and thank you for being here.

**JUDGE SMILEY:** We appreciate you. Thank you, Judge Myers.

**NARRATOR:** You've been listening to "Open Ninth: Conversations Beyond the Courtroom" brought to you by Chief Judge Don Myers and the Ninth Judicial Circuit Court of Florida. For more information about the Ninth Judicial Circuit Court, follow us on Twitter, Facebook, Instagram and LinkedIn.

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