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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

- - - - - +  
LAKEISHA CHESTNUT, et al. |  
Plaintiffs, |  
vs. | Case No.  
JOHN H. MERRILL, Secretary | 2:18-CV-00907-KOB  
of State, |  
Defendant. |  
- - - - - +

Washington, D.C.

Wednesday, July 24, 2019

Deposition of CONGRESSMAN BRADLEY BYRNE, a witness herein, called for examination by counsel for Plaintiffs in the above-entitled matter, pursuant to notice, the witness being duly sworn by MICHELE E. EDDY, RPR, CRR, a Notary Public in and for the District of Columbia, taken at the Rayburn House Office Building, 45 Independence Avenue, Southwest, Washington, D.C., at 9:58 a.m.

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2021 Dec-23 PM 06:21  
U.S. DISTRICT COURT  
N.D. OF ALABAMA

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A P P E A R A N C E S

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ALSO PRESENT:

Mitch Relfe, Legislative Director for  
Congressman Bradley Byrne  
Daniel Holmstock, Videographer

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P R O C E E D I N G S

Washington, D.C.

July 24, 2019

- - -

THE VIDEOGRAPHER: This is Video No. 1 in the video-recorded deposition of Congressman Bradley Byrne taken in the matter of Lakeisha Chestnut, et al. versus John H. Merrill in his official capacity as Alabama Secretary of State. It is pending before the United States District Court for the Northern District of Alabama, Southern Division, Case Number 2:18-CV-00907.

This deposition is being held at the Rayburn Office -- House Office Building at 45 Independence Avenue, Southwest, in Washington, D.C., on July 24th, 2019. The time on the video screen is 9:59 a.m.

My name is Daniel Holmstock, and I'm the legal videographer from Digital Evidence Group. Our court reporter is Michele Eddy, in association with Digital Evidence Group.

For the record now, will counsel please

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1 introduce themselves and whom they represent.

2 MR. SPIVA: My name is Bruce Spiva. I

3 represent the plaintiffs in the action.

4 MS. MADDURI: Lali Madduri, also for the

5 plaintiffs.

6 MR. RELFE: Mitch Relfe. I'm counsel

7 for the office of Congressman Byrne.

8 MR. DAVIS: Jim Davis representing

9 Secretary of State John Merrill.

10 THE VIDEOGRAPHER: Will the court

11 reporter please administer the oath.

12 - - -

13 CONGRESSMAN BRADLEY BYRNE,

14 having been duly sworn, testified as follows:

15 EXAMINATION BY COUNSEL FOR PLAINTIFFS

16 BY MR. SPIVA:

17 Q Good morning, Congressman Byrne.

18 A Good morning.

19 Q Thank you very much for taking your time

20 out. I know you have a busy schedule. We

21 appreciate that.

22 A Sure.

Page 6

1 Q We'll try to keep the encroachment on

2 your time to a minimum.

3 If you can just state your full name for

4 the record.

5 A My name is Bradley Byrne, B-Y-R-N-E.

6 Q What is your address, Congressman Byrne?

7 A 22489 Sea Cliff Drive, Fairhope,

8 Alabama, 36532.

9 Q Have you ever been deposed before?

10 A I have.

11 Q In what capacity?

12 A When I was a member of the State School

13 Board, there was a lawsuit against the State

14 School Board in our official capacity, and I

15 believe when I was Chancellor of Postsecondary

16 Education, there was a lawsuit against the

17 Department of Postsecondary Education, and in my

18 capacity as CEO of the system, I think I was

19 deposed a couple of times.

20 Q Okay. Other than those times, can you

21 recall any other times that you were deposed?

22 A I can't.

Page 7

1 Q Have you ever testified -- we've got a

2 little --

3 A Doesn't mean anything.

4 Q Okay. Have you ever testified in trial

5 before?

6 A Yes, I believe there was a trial

7 regarding the redistricting of the State School

8 Board in the Federal District Court of the

9 Southern District of Alabama, and I think I and

10 perhaps other members of the State School Board

11 were required to come and testify at that trial.

12 There was also a trial in the Montgomery

13 County Circuit Court that I was a very brief

14 witness in, and I think it was another one of

15 those redistricting cases.

16 Q Okay. And were you deposed in either of

17 those cases?

18 A I don't believe I was.

19 Q Okay. In connection with the school

20 board redistricting case, about what time period

21 was that? Maybe I'll try to refresh your memory.

22 Was it mid '90s?

Page 8

1 A No.

2 Q Was it more recent than that?

3 A It was more recent than that, but I

4 can't remember exactly when it was.

5 Q Okay. And do you recall what you

6 testified about in that redistricting case before

7 the Board of Education?

8 A There was some sort of a proposal, and I

9 don't know if it was a legislative proposal or

10 not, regarding the makeup of the districts and the

11 State School Board. There are eight districts.

12 And I was asked about my opinion about how my

13 district -- my State School Board district would

14 be put together.

15 Q Okay. And so I take it at that time you

16 were a member of the State Board of Education?

17 A I think I was. I can't remember, to be

18 sure.

19 Q All right. And do you recall whether

20 the districts changed as a result of that lawsuit?

21 A I don't know what became of that

22 lawsuit. I was just a witness.

Page 9

1 Q Okay. So let me just -- I'll briefly --  
 2 you've been deposed before, but I'll just briefly  
 3 go over kind of some of the, you know, usual  
 4 ground rules. We're doing great so far. Usually  
 5 because the court reporter has got to take  
 6 everything down, I will try to wait until you've  
 7 completed your answer before asking you the next  
 8 question or jumping in. I would just ask if you  
 9 would do the same, just wait for the whole  
 10 question to come out before you answer, just so  
 11 she can get everything down.

12 If I ask a question and it doesn't make  
 13 sense to you, please ask me and I will do my best  
 14 to rephrase it. If you answer it, I'll assume  
 15 that you understand it as asked. If you want to  
 16 take a break at any time, you know, just let me or  
 17 your counsel know and we can -- we can do that.  
 18 Just -- we just ask that while a question is  
 19 pending, if you can -- if you can answer the  
 20 question and then we can take a break at that  
 21 point.

22 I don't think there's anything else.

Page 10

1 And there's no reason why you can't  
 2 testify completely and truthfully today? You're  
 3 not on any medications or anything like that? I  
 4 have to ask everybody that.

5 A No, I'm not.

6 THE VIDEOGRAPHER: Your microphone fell,  
 7 counsel.

8 MR. SPIVA: Oh, thank you. The question  
 9 is where did it fall to.

10 Q And I will try to not gesticulate with  
 11 my hands so that I don't knock the microphone off.

12 And how did you -- how did you learn  
 13 about this case, Congressman Byrne?

14 A I believe I received notification of it  
 15 from the Attorney General's office, State Attorney  
 16 General's office. I may have read about it in the  
 17 news before, but I can't be certain about that.

18 Q Do you recall who you first talked about  
 19 this case with?

20 A There was a call in which there was a  
 21 member of the Attorney General staff on the call,  
 22 and there was a lawyer from a law firm in

Page 11

1 Montgomery, maybe two lawyers from that law firm  
 2 in Montgomery that were on the call.

3 Q And do you recall who from the AG's  
 4 staff was on that call?

5 A No.

6 Q Do you recall the names of the lawyers?

7 A Not really.

8 Q Was one of them Dorman? I'm forgetting  
 9 Dorman's last name.

10 MR. DAVIS: Walker.

11 Q Was one of them Dorman Walker?

12 A I think Dorman may have been on the  
 13 call.

14 Q You're familiar with Dorman Walker?

15 A Oh, I've known Dorman a long time. His  
 16 wife used to practice law with me.

17 Q Okay. And about when was that that you  
 18 received that call?

19 A This year, but I can't remember when.

20 Q Can you tell me what was discussed on  
 21 the call?

22 A That the case was pending, that there

Page 12

1 may be a need for me to give testimony and so sort  
 2 of in general what my understanding of the case  
 3 was, what my understanding of the proposed new  
 4 districts would be, and what my attitude and  
 5 concerns would be about that.

6 Q Okay. And what did you say in response  
 7 to those -- to those inquiries?

8 A Well, somebody showed me at that time  
 9 the actual proposed districts, and I told them I  
 10 had great concerns about it.

11 Q Okay. And we'll get into that in a  
 12 minute. Did they show you anything else other  
 13 than the proposed maps?

14 A I may have seen a copy of the complaint,  
 15 but if I did, I didn't read it very carefully.

16 Q Okay. I guess that's probably one of  
 17 the benefits of being a member of Congress and not  
 18 a practicing lawyer anymore.

19 A That is one of the benefits, and I  
 20 greatly appreciate that benefit.

21 Q I don't blame you at all.

22 And do you recall anything else about

Page 13

1 that conversation?

2 A I really don't.

3 Q Have you had any other conversations  
4 about the case since then?

5 A Yes, just one to get us set up for this  
6 deposition today.

7 Q Okay. Who did you talk to to get this  
8 set up for the depo?

9 A I think, once again, there was somebody  
10 from the Attorney General's office. Mr. Walker  
11 may have been on that one, too.

12 Q All right. Did you do anything to  
13 prepare for the deposition today?

14 A Just to make sure I remembered some  
15 things about the district and some of the things  
16 that we had done in the district, particularly my  
17 town halls. I've done a lot of town halls. I  
18 wanted to go back and make sure that I was certain  
19 about what we had done.

20 Q Did you look at any documents to  
21 prepare?

22 A Not any documents per se, no, just where

Page 14

1 did we have town halls, how often, et cetera.

2 Q All right. To refresh your recollection  
3 about that, did you talk to staff or --

4 A Yes, my staff would give me this  
5 information.

6 Q Got you.

7 And any other conversations or meetings  
8 to prepare for today's deposition?

9 A No.

10 Q Let me -- I'm not going into detail just  
11 yet, but let me -- just so I know what you -- what  
12 you looked at in preparing for today's deposition,  
13 let me hand you -- I'm going to have marked a few  
14 exhibits and then we'll -- I'll ask you whether  
15 these are the documents that you looked at.

16 MR. SPIVA: Give us just a second.  
17 We're just going to gather them up here.

18 Let me give these out one at a time so  
19 we don't get confused. If we could -- if we could  
20 have this one marked as Exhibit 1, please.

21 (Exhibit 1 was marked for identification  
22 and attached to the deposition transcript.)

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1 BY MR. SPIVA:

2 Q And, Congressman Byrne, if you could  
3 just take a look at that. Like I said, we'll get  
4 into detail in a little bit, but is that one of  
5 the proposed maps that you looked at?

6 And just for the record, this one is  
7 labeled "Revised Plan 1, Alabama -- U.S. House."

8 A I saw several. They were -- some of  
9 them were pretty similar so I can't tell you for  
10 sure that this is one that I saw, but it looks  
11 like it might have been.

12 Q Okay. Do you know -- did anybody tell  
13 you that the plans -- that the maps that you saw,  
14 or the proposed maps that you saw, came from an  
15 expert report of the plaintiffs?

16 A They may have, but I don't remember  
17 that.

18 Q Okay. All right. I'll tell you what,  
19 let me -- just as a matter of housekeeping, I'm  
20 going to give you all four of these and then we'll  
21 -- we'll come back to them in a minute.

22 MR. SPIVA: So if we could mark this as

Page 16

1 Exhibit 2, please.

2 (Exhibit 2 was marked for identification  
3 and attached to the deposition transcript.)

4 BY MR. SPIVA:

5 Q Congressman Byrne, Exhibit 2 is a  
6 document that's labeled at the bottom "Alabama --  
7 U.S. House, Revised Plan 2." Does this appear to  
8 be one of the maps that you reviewed?

9 A The same answer on this one. They're --  
10 they're all sort of different, but they're also  
11 sort of the same, so it looks like it's one I may  
12 have looked at.

13 Q Pretty similar to the ones you looked --  
14 you probably looked at?

15 A Right.

16 MR. SPIVA: Okay. And I'll give you  
17 what will be marked as Exhibit 3.

18 (Exhibit 3 was marked for identification  
19 and attached to the deposition transcript.)

20 BY MR. SPIVA:

21 Q Congressman Byrne, this is -- this  
22 Exhibit 3 is labeled "Alabama -- U.S. House,

Page 17

1 Revised Plan 3." And really the same question,  
2 does this appear to be one of the ones you may  
3 have looked at?

4 A The same answer.

5 Q Okay, got you.

6 MR. SPIVA: Just so we have them all out  
7 on the table, if this could be marked as Exhibit  
8 4.

9 (Exhibit 4 was marked for identification  
10 and attached to the deposition transcript.)

11 BY MR. SPIVA:

12 Q Congressman Byrne, this one is labeled  
13 "Alabama -- U.S. House, Illustrative Plan 4."  
14 Does that -- does that appear to be one that you  
15 reviewed in preparation?

16 A The same answer.

17 Q We'll come back to those in a minute.  
18 Let me just ask you a few questions just kind of  
19 about your background and the current -- and the  
20 current map.

21 You're currently the congressional  
22 representative for Alabama's First Congressional

Page 18

1 District?

2 A I am.

3 Q Okay. And can you describe your  
4 district geographically?

5 A Uh-hmm. It's all of Mobile and Baldwin  
6 Counties, all of Escambia County, all of  
7 Washington County, and all of Monroe County and a  
8 part of Clarke County.

9 Q And can you describe your constituents?

10 A Well, I have over 700,000 people that  
11 live in my district. Some people live in urban  
12 areas. Some people live in suburban areas. Some  
13 people live in rural areas. Some people are  
14 working in one type of work. Some people are  
15 working in different types of work. So it's a  
16 fairly diverse district. I like that, by the way.  
17 And we try to make sure we stay in touch with  
18 everybody in our district, wherever they live.

19 Q What are the racial demographics of your  
20 district?

21 A Well, I don't know precisely.

22 Q Sure. I'm not asking for precise

Page 19

1 numbers, but -- sorry to interrupt, but if you  
2 could give kind of a general description, that  
3 would be helpful.

4 A Well, the majority would be white.  
5 There would be a substantial African-American  
6 population and much smaller numbers of Hispanic  
7 Americans. And we do have Asian-Americans  
8 particularly in the southern part of Mobile  
9 County.

10 Q And you gave a little bit of that in the  
11 last part of your answer, but can you describe how  
12 the various racial groups, you know, how they're  
13 kind of spread over the district in terms of  
14 geographically? Are they segregated? Are they --  
15 is it pretty spread evenly over the district?

16 A Well, the district's got so many  
17 counties in it that you have white and  
18 African-American people in every county. The  
19 Asian-American population tends to be, not  
20 exclusively, but the vast majority of them are in  
21 Mobile County. And you do have a fairly sizable  
22 Hispanic population in the southern part of

Page 20

1 Baldwin County. That's not to say there aren't  
2 Asian-Americans --

3 Q Sure.

4 A -- and Hispanic-Americans in other  
5 places, but that's where you tend to find them.

6 Q Okay. How about African-American  
7 residents and white residents of the district, are  
8 there -- can you describe kind of patterns of  
9 residential -- residential patterns among those  
10 two groups?

11 A Well, if you get into the four rural  
12 counties, Monroe, Clarke, Escambia, and  
13 Washington, I don't -- I don't know that there is  
14 any sort of pattern. If there is, I haven't been  
15 aware of it. In Baldwin County, there's a smaller  
16 African-American population, smaller percentage,  
17 but it's not like they're just in one part of the  
18 county. You'll find pockets, I guess, of  
19 African-Americans in different parts of Baldwin  
20 County.

21 In Mobile County, it used to be that  
22 African-Americans were only -- the majority were

Page 21

1 found in the eastern part of the City of Mobile,  
 2 Prichard, southern part of the City of Mobile, et  
 3 cetera, but there has been in the last, at least  
 4 several years, since I've been in Congress, a  
 5 growing number of African-Americans that are  
 6 moving out and they're locating in other areas.  
 7 So they're actually dispersing more, from my  
 8 experience. Some of that comes from the fact that  
 9 when I campaign, I go door to door, so I'm  
 10 literally seeing people when they come to the  
 11 door. And some of it is when I go out and do my  
 12 town halls, I'm seeing people in different parts  
 13 of my district. I know when people come to the  
 14 district, well, they come from this community. So  
 15 that's been a change in the last several maybe  
 16 more years.

17 Q In the City of Mobile, are there racial  
 18 patterns in terms of where people live?

19 A Well, as I said, you find a  
 20 disproportionately high number of  
 21 African-Americans in what I call the eastern part  
 22 of Mobile, east of where I-65 bisects the city.

Page 22

1 And also in the southern part of Mobile, we call  
 2 that area Down the Bay, Maysville, et cetera.  
 3 But, in my experience, in the last  
 4 several years, I'm seeing more African-Americans  
 5 moving west of I-65, and there's a more integrated  
 6 population out west than there used to be, and  
 7 that seems to be something that is evolving and  
 8 getting stronger.

9 Q Okay. How long have you seen that  
 10 pattern that you just described occurring?

11 A You know, I didn't notice it until I ran  
 12 for Congress in 2013. I think it was occurring  
 13 before I noticed it, but I certainly noticed it  
 14 when I ran for Congress the first time in 2013  
 15 because I went to so many different neighbors  
 16 knocking on doors. So you begin to see, you know,  
 17 there are a lot of African-Americans that are  
 18 living in Sims, for example, and so you see that  
 19 pattern begin to emerge. Since I was elected in  
 20 2013, I'm seeing it occur more and more  
 21 frequently.

22 Q Got you.

Page 23

1 Did you grow up in Alabama, Congressman?  
 2 A I did.  
 3 Q Where did you grow up in Alabama?  
 4 A I grew up in Mobile.  
 5 Q Did you grow up in the City of Mobile?  
 6 A I did.  
 7 Q And you previously served as a State  
 8 Senator from Alabama's 32nd State Senate District;  
 9 is that right?

10 A I did.

11 Q And what time period did you serve as  
 12 State Senator?

13 A I was elected in 2002. You assume the  
 14 office the moment of your election, so November of  
 15 2002 until I resigned to become Chancellor of  
 16 Postsecondary Education in May of 2007, I believe.

17 Q Okay. Were you ever involved in any  
 18 redistricting in any capacity in that role?

19 A Other than being a witness that I told  
 20 you about previously, but I wasn't on the  
 21 reapportionment committee, no.

22 Q I assume from the time period, too, it

Page 24

1 was probably either after the last redistricting  
 2 or before the next one.

3 A Yes, I don't remember when I was in the  
 4 legislature that I as a legislator ever actually  
 5 dealt with any reapportioning.

6 Q Okay. And you also previously served as  
 7 a member, as we briefly discussed earlier, as a  
 8 member of Alabama's Board of Education.

9 A Right.

10 Q And let me actually give you another  
 11 exhibit. Actually before I do that, what -- about  
 12 what time period were you on the Board of  
 13 Education?

14 A I was elected in 1994 in November. My  
 15 predecessor was appointed to be the DA of Mobile  
 16 County, and the Governor appointed me to serve out  
 17 the remainder of his term. So I actually assumed  
 18 my office in December of 1994 and left that office  
 19 when I was elected to the State Senate in November  
 20 of 2002, so eight years.

21 Q All right. I'm going to give you  
 22 another exhibit, which will be, I think, Exhibit

Page 25

1 5.

2 A I'll move these up here.

3 Q Sure, yes.

4 (Exhibit 5 was marked for identification  
5 and attached to the deposition transcript.)

6 BY MR. SPIVA:

7 Q Congressman Byrne, this one is labeled  
8 at the top "2011 State Board of Education  
9 Districts." I realize that was well after the  
10 time that you served on the BOE, but does -- does  
11 this map appear to be pretty similar to the way  
12 the districts were drawn when you were on the  
13 board?

14 A It is not.

15 Q It's not, okay.

16 What are the major differences that you  
17 see?18 A Well, I can't speak to the other  
19 districts, but my district, which is District 1,  
20 was all of Mobile County, all of Baldwin County,  
21 and all of Escambia County. No part of Mobile  
22 County was a part of District, I guess that's --

Page 26

1 Q Five?

2 A Five? And I did not represent  
3 Covington, Butler, Conecuh, or Crenshaw.4 Q Okay. And when you were on the Board,  
5 was there ever a court ordered change to the Board  
6 of Education districts?

7 A No, I don't think so.

8 Q Okay. You don't recall like in 1996  
9 there wasn't any kind of a change to the  
10 districts?11 A Not that I can recall. It certainly  
12 didn't affect my district.13 Q Okay. So during the time that you were  
14 on there, as you recall, you didn't -- you  
15 represented, as you said, Mobile, the whole county  
16 of Mobile?17 A Yes. My district from the moment I was  
18 on the Board to the moment I left was all of  
19 Mobile County, all of Baldwin County, all of  
20 Escambia County.21 Q What district did you represent? I  
22 realize this is not the same configuration --

Page 27

1 A It was called District 1.

2 Q And it included, I think you said,  
3 Mobile; did it also include Baldwin?4 A All of Mobile, all of Baldwin, all of  
5 Escambia.

6 Q Any other counties?

7 A No.

8 Q Were you aware that at some point after  
9 you were on the Board that the map for the Board  
10 of Education districts had changed?

11 A I was.

12 Q Okay. And what was your understanding  
13 of what brought about that change?14 A Well, I don't know what brought about  
15 that change.

16 Q What -- strike that.

17 When you first got on the Board, you  
18 were a Democrat at that point.

19 A I was.

20 Q When you ran for reelection, what year  
21 was that?

22 A 1998.

Page 28

1 Q '98. Or I guess I should say election  
2 because you had been appointed. Did you serve  
3 through '98?4 A I was actually elected in '94. My  
5 predecessor, John Tyson, was appointed by Governor  
6 Folsom to be the DA in Mobile County. So he had  
7 two months left on his term, and so the Governor  
8 appointed me to serve out those two months before  
9 I assumed my full four-year term in January of  
10 1995.

11 Q I see, okay.

12 So when you first ran, you ran as a  
13 Democrat.

14 A I did.

15 Q Okay. And you later -- you're currently  
16 a member of the Republican party.

17 A Right.

18 Q And you at some point changed from the  
19 Democratic party to the Republican party.

20 A In January of 1997.

21 Q Okay. Why did you switch parties?

22 A Because the Democratic party no longer

Page 29

1 represented the principles that I stood for  
2 politically. And I was regularly told by  
3 Democratic leaders that I was not a Democrat, that  
4 I was really a Republican. I was regularly told  
5 by Republican leaders that I was not a Democrat, I  
6 was really a Republican. And I sat down with  
7 myself one day and said, you know what, you're not  
8 really a Democrat, you're really a Republican.  
9 And I think I was being honest with myself and my  
10 constituents. I think it was the right thing to  
11 do.

12 Q I know these things can be complicated,  
13 but is there a way to describe in general terms  
14 what principles you felt made you fit more with  
15 the Republican party than with the Democratic  
16 party?

17 A There were a bunch. And some of them  
18 really came to focus for me being on the State  
19 School Board. I was very much an education  
20 reformer. I believed that our education system  
21 should be there to serve the children, their  
22 parents, not other things. And I found that the

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1 Democratic party stood for taking care of adults  
2 first. And I found that to be totally contrary to  
3 my view of things. I was not familiar before I  
4 became on the State School Board with a two-year  
5 college system. At that time we go to a two-year  
6 college system, and I was not in agreement with  
7 the way that the Democratic party approached the  
8 two-year college system. I had great  
9 disagreements with them about that. I also  
10 disagreed with the Democratic party on basic  
11 issues like abortion, gaming, Second Amendment  
12 rights. And I was already at odds with the  
13 National Democratic Party. What really startled  
14 me was how much at odds I was with the State  
15 Democratic Party. And that made it very clear to  
16 me that I should change parties because, once  
17 again, I was being honest with myself and with the  
18 people I represent about where I stand on issues.

19 Q And on abortion, what -- how did you  
20 differ from the Democratic party on the issue?

21 A I'm ardently pro life.

22 Q And on the Second Amendment, how did you

Page 31

1 differ from the Democratic party?

2 A I'm ardently pro Second Amendment.

3 Q Okay. Are you antigun control?

4 A Yes, I'm antigun control. I think we  
5 have a right to bear arms under the Second  
6 Amendment.

7 Q And there was another issue other than  
8 education that you mentioned.

9 A Gaming.

10 Q Gaming. What was -- what was your  
11 difference with the Democratic party on gaming?

12 A Well, again, the Democratic party was  
13 very pro gaming and I was not. You remember in  
14 1999, Governor Siegelman pushed a so-called  
15 education lottery. And he expected the State  
16 School Board to be supportive of his education  
17 lottery. And I remember calling him on the phone  
18 and telling him, because I wanted him to hear it  
19 from me, that I was not supportive of his lottery.  
20 I did not think his lottery was good for the  
21 education system in the State of Alabama.

22 Q You became at some point the Chancellor

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1 of the Alabama Department of Postsecondary  
2 Education?

3 A Uh-hmm.

4 Q When was that?

5 A That was May of 2007.

6 Q Okay. So that was after your time as a  
7 State Senator?

8 A I was a State Senator and then Governor  
9 Bob Riley called me and wanted me to leave the  
10 State Senate, leave my private practice of law and  
11 take on the role of Chancellor with a two-year  
12 college system, a full-time job. When he  
13 initially asked me to do it, I turned him down.  
14 But he came back to me, and some other people came  
15 back to me and persuaded me to do it, and I did  
16 it.

17 Q And what were your -- what was the time  
18 period that you did that role?

19 A I was the Chancellor from May of 2007  
20 until I think May or June of 2009.

21 Q And what did you do after you were the  
22 Chancellor of the Alabama Department of



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1 Postsecondary Education?

2 A I ran for Governor and lost.

3 Q Sounds like that was probably the only  
4 election you ever lost, though.

5 A It's the only election I ever lost, but  
6 I'll never forget it.

7 Q Yeah. I've heard from people that  
8 that's the case, right, that's the -- you never  
9 forget that one.

10 A That's true.

11 Q Yes.

12 So -- and what were your  
13 responsibilities generally as the Chancellor?

14 A The Chancellor is the Chief Executive  
15 Officer of Alabama's two-year college system. At  
16 that time, the governing board was the State Board  
17 of Education so I was formally appointed by the  
18 State Board of Education. That's who I answered  
19 to. They were like my Board of Directors. Since  
20 then they've created a separate board to govern  
21 that system. That's the way it was then.

22 So I was responsible for making sure

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1 that we carried out the laws, that we carried out  
2 the directives and policies of the State Board of  
3 Education, and that the system was delivering on  
4 our mission. At the time I took over, the  
5 two-year college system was in a true crisis.  
6 There were two Grand Jury investigations going on.  
7 The Birmingham News had just won the Pulitzer  
8 Prize reporting on corruption in the system.

9 Q It's never -- when you get the Pulitzer  
10 Prize for a system that is corrupt, right --

11 A Yes. I mean, when the biggest newspaper  
12 in your state gets the Pulitzer Prize, reporting  
13 about the corruption of the system you've just  
14 been appointed to take over -- and we were  
15 attracting a lot of new jobs to Alabama. The  
16 two-year college system is a critical, if not the  
17 critical component to providing the workforce  
18 education the people need to be able to be  
19 prepared for those jobs. And so the Governor  
20 said, look, I need for you to first and foremost  
21 clean up the corruption in the system. And the  
22 corruption was endemic in the system. Secondly,

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1 you've got to turn this system to be a much more  
2 effective provider of this education as we  
3 continue to develop Alabama economically. And  
4 then later on, after I became Chancellor, because  
5 of the recession, I had to do all of that while we  
6 were cutting tens of millions of dollars out of  
7 the system, but it was a daunting task. But I  
8 understood how important it was to the state and,  
9 despite the fact I did not want to do it -- and  
10 Governor Riley can tell you how much I did not  
11 want to do it -- I did it. I'm glad I did, and  
12 I'm proud of the work that we did.

13 Q That's great.

14 And you also practiced law, I know, over  
15 a long period of time. What kind of law did you  
16 practice?

17 A I tell everybody I started out my career  
18 as a commercial litigator who did labor and  
19 employment law on the side and at the end of my  
20 career I was a labor and employment lawyer who did  
21 commercial litigation on the side. Both sides of  
22 law, obviously, and doing a lot of litigation.

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1 Q And where did you practice when you were  
2 practicing law?

3 A I started out -- well, all of my  
4 practice was in Mobile -- geographically I was  
5 headquartered in Mobile. Obviously I had cases  
6 all over the State of Alabama, some in the  
7 panhandle of Florida, a couple in the Gulf Coast  
8 of Mississippi.

9 Q Okay. Let me ask you, I know you've --  
10 it sounds like you've only had brief conversations  
11 kind of about this case, but you understand, I  
12 take it, Congressman, that you've been listed as a  
13 potential witness for the Secretary.

14 A Yes, I have.

15 Q And what topics do you expect to testify  
16 about at trial?

17 A About the proposals that would  
18 significantly change District 1.

19 Q Okay. Anything else?

20 A No, sir.

21 Q And what do you expect to testify about  
22 concerning that topic?

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1 A I would be testifying, I assume, about  
2 the significant concerns I have about the  
3 proposals in each of Exhibits 1, 2, 3, and 4, for  
4 the redrawing of District 1.

5 Q We'll dive into that in just a minute.

6 And let me just ask you before we do  
7 that, did you participate in any capacity in  
8 Alabama's redistricting process in the 2011  
9 redistricting cycle?

10 A No, I was not in the legislature.

11 Q Okay. Did you provide any input, have  
12 any conversations, anything like that?

13 A Not about congressional districts. I  
14 think after the fact I had a discussion with Randy  
15 Davis who was the House Member somewhat -- in some  
16 way involved in doing this about the School Board  
17 District (indicating).

18 Q And you're pointing to what I believe  
19 was marked as Exhibit 5?

20 A Exhibit 5, yes. He and I had a  
21 discussion about that. It may have been after the  
22 fact. I'm not certain.

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1 Q After it had changed to this current  
2 configuration?

3 A It was either as it was being proposed  
4 in this configuration or after it had been  
5 adopted.

6 Q Okay. And can you tell me, Congressman  
7 Byrne, about that conversation with Mr. Davis?

8 A Yes, I was concerned about taking away  
9 any part of Mobile County and putting it into  
10 another district. He and I had a discussion about  
11 why they decided to do that.

12 Q And why were you concerned?

13 A Because I think it's important to keep  
14 counties whole. I think it's problematic for a  
15 State School Board member from Montgomery to be  
16 able to understand the problems with the school  
17 system in Mobile County.

18 Q Okay. And what was your understanding,  
19 if any, of why the current configuration was being  
20 proposed?

21 A Well, because the population changes  
22 within District 5, they needed to grow it, and so

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1 they were looking for ways to grow it. And they  
2 decided to put part of it, as you can see from  
3 Exhibit 5, in the northeastern quadrant of Mobile  
4 County. And so I was expressing concerns about  
5 having two school board members dealing with the  
6 Mobile County School System. That was my primary  
7 concern.

8 Q Did you have any understanding of  
9 whether -- of what the change to the current  
10 configuration of the Board of Education districts  
11 did in terms of majority-minority districts,  
12 either in District 5 or District 4?

13 A We didn't get into that. I was more  
14 concerned about the problem of a person from  
15 Montgomery trying to understand all of the issues  
16 regarding the Mobile County School System.

17 Q Did you -- did you have an understanding  
18 that District 5 is now in the State Board of  
19 Education district -- State Board of Education  
20 map, that that is not a majority-minority  
21 district?

22 A Well, it was when I was on board. It

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1 just wasn't configured this way. But it was a  
2 majority-minority district then.

3 Q Okay. And was that true the whole time  
4 that you were on the school board?

5 A Yes, there were -- there were two  
6 different members. I have forgotten the man that  
7 was the member on it when I first was elected.  
8 But he was retired and was replaced by Ms. Ella  
9 Bell. So I worked with both of them and actually  
10 spent a little bit of time in various places in  
11 that district with them because they were  
12 different school board members. And particularly  
13 because I had a contiguous district to work with  
14 them, there were times when there were people in  
15 some of the counties just to the north of my State  
16 School Board district would call me for help on  
17 things, and I would tell them, I'm not your school  
18 board member, but I'm happy to help.

19 Q Right.

20 A And I would always inform the member  
21 from that district, hey, I've had this request  
22 from people in your district. I don't want to do

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1 anything in your district unless you're okay with  
 2 it. In every case they would say, no, fine, I  
 3 appreciate you doing it. Sometimes that was true  
 4 because of the geographic proximity. It's a lot  
 5 easier for somebody from Mobile to deal with  
 6 Washington, Clarke, and Monroe, for example, than  
 7 it is for somebody from Montgomery. So I could  
 8 physically be present where it was very difficult  
 9 for somebody from Montgomery to physically be  
 10 present.

11 Q I take it from kind of the beginning of  
 12 your answer, it sounds like there were two  
 13 majority-minority districts in the plan while --  
 14 during the time that you were on the school board?

15 A Yes, there was this district, District  
 16 5, and I can't remember the number of the  
 17 district, but it was Dr. Hall -- Dr. Hall's  
 18 district. That was mainly Birmingham. I know it  
 19 was more than that. Dr. Hall was the vice chair  
 20 of the Board when I was on the Board. Vice chair  
 21 is elected by the Board. The governor's formally  
 22 the chair of the Board, but the vice chair really

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1 functions as the chair of the Board. So Dr. Hall  
 2 was our vice chair chair the whole time I was on  
 3 the Board, and I certainly had a lot of  
 4 interaction with Dr. Hall and sometimes in her  
 5 district.

6 Q Okay. Just looking at Exhibit 5, do you  
 7 recall if Dr. Hall represented what's labeled as  
 8 District 4 which kind of goes up into Jefferson  
 9 County and Birmingham?

10 A Yes, I think she did, but I don't know  
 11 that it was configured this way. I can't tell you  
 12 for sure.

13 Q Sure.

14 A Mainly when I was interacting with  
 15 Dr. Hall in her district, I was in the Birmingham  
 16 area.

17 Q What kinds of interactions did you have  
 18 with Dr. Hall concerning her district?

19 A We would have State School Board  
 20 meetings in her district. She would have other  
 21 meetings in her district pertaining to education,  
 22 and she would invite some or all of us to come to

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1 these meetings.

2 Q Sure.

3 A I tried to accommodate Dr. Hall every  
 4 chance I could. I had tremendous respect for her.  
 5 She was our leader. And if she asked me to do  
 6 something, if I could do it, and I was a  
 7 practicing attorney so I -- lawyer duties, but if  
 8 I could do it, I tried to make my schedule  
 9 available for her.

10 Q How about in District 5, it sounds like  
 11 you had some interactions with the representative  
 12 from -- school board member, I should say, from  
 13 District 5 as well?

14 A Oh, yes, yes. We had not just those  
 15 three counties, just above District 1, which would  
 16 be Washington, Clarke, and Monroe, but we had  
 17 meetings in Selma, Tuskegee. Lots of things  
 18 around Montgomery. Of course, when we met  
 19 formally, usually we were meeting in Montgomery,  
 20 but we had other things around Montgomery like the  
 21 Trenholm State Technical College there in  
 22 Montgomery. So I had a fair amount of meetings in

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1 District 5.

2 Q Okay. And who represented District 5  
 3 when you were on the Board?

4 A I think the gentleman's name when I was  
 5 first elected was Dr. Willie Paul, and then he  
 6 retired and he was replaced by Ella Bell, who I  
 7 think is still on.

8 Q Okay. Did you work with either Dr. Paul  
 9 or Ms. Bell?

10 A A lot.

11 Q What kinds of things did you work with  
 12 them on?

13 A Just about everything you can imagine  
 14 that was within the jurisdiction of the State  
 15 School Board. So it could be K-12 matters. It  
 16 could be postsecondary matters. There was a lot  
 17 of that. A lot of the good things about the Board  
 18 when I was on it was we all interacted with one  
 19 another about one another's districts a lot, and I  
 20 really appreciated, when I was first on the Board  
 21 and not as familiar with that district, Dr. Paul  
 22 was really good about explaining things to us,

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1 taking us there. I remember we had a State School  
2 Board meeting in Tuskegee and we got there the day  
3 before, spent the night. We got to tour, learned  
4 all about Tuskegee. So I think Dr. Paul did a  
5 really good job of making sure we knew about his  
6 district, in each of his district, and I really  
7 enjoyed doing that.

8 Q So let me shift gears again here and  
9 just ask you if you're familiar with the term  
10 "communities of interest" as it applies to  
11 redistricting.

12 A I couldn't define it for you.

13 Q Okay. Not a formal definition, but do  
14 you have a sense of kind of what that means or --

15 A No, you would have to tell me.

16 Q Okay. In your view, are there  
17 communities of interest in your district?

18 A Of course.

19 Q Your congressional district?

20 A Yes.

21 Q Is there a way you can describe those?

22 A Yes.

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1 Q I can -- I can give you a current -- I  
2 know you know it very well, but if it's easier to  
3 talk about, looking at the current map, I can --  
4 why don't we mark one just so we all have it in  
5 front of us while you're -- while you're  
6 discussing. So this will be Exhibit 6.

7 (Exhibit 6 was marked for identification  
8 and attached to the deposition transcript.)

9 BY MR. SPIVA:

10 Q If you want to do it in connection with  
11 Exhibit 6, which is the current map of the U.S.  
12 House Districts in Alabama, or if you want to just  
13 do it, you know, without referencing it, however  
14 is, you know, easiest for you, but if you could  
15 kind of describe the communities of interest in  
16 your district.

17 A Sure. And I'll start with Exhibit 6  
18 because it is helpful. If you look at this map of  
19 those counties, everything feeds into Mobile  
20 Baldwin, okay? First of all, you have two major  
21 river systems that come together, and those two  
22 river systems help define both the economy and the

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1 culture and the communities of that area, going  
2 back hundreds of years. Many of the jobs for the  
3 district are there in Mobile and Baldwin Counties,  
4 and so you have people from Washington, Clarke,  
5 Monroe, and Escambia, who travel into those  
6 counties for their work and then go home at the  
7 end of the day. So just sort of center of  
8 everything is here in Mobile and Baldwin Counties  
9 just because of what they do economically. A lot  
10 of what the people in that area also get in terms  
11 of information comes from the three television  
12 stations there because people all get those  
13 television stations, and they obviously get their  
14 news from that. It used to be we had a common big  
15 urban newspaper, the Mobile Register, we still do,  
16 but it only prints three days a week so it's not  
17 quite as strong as it used to be.

18 Q It's kind of a common thing around the  
19 country, the local papers going online or just  
20 going out of business.

21 A Well, in Alabama, the three biggest  
22 newspapers have gone to I think three days a week.

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1 They have this online presence called AL.com. So  
2 -- but it used to be that even people in Monroe  
3 would get the Mobile Press-Register. That's where  
4 they got a lot of their news. But certainly today  
5 they get a lot of their news from those three  
6 local television stations.

7 Also because of the fact that you've got  
8 an urban area there in Mobile, a lot of people are  
9 pulled into that for cultural activities, civic  
10 activities, entertainment and things. So Mobile  
11 and now -- now that Baldwin County has grown so  
12 much, they're kind of a magnet for those four  
13 counties north of there and pull people in, both  
14 for work and for the other things I mentioned.

15 Q Okay. Now, I notice that Clarke County  
16 is only partially in your -- in your district. Is  
17 there -- to your knowledge, is there a reason why  
18 that piece of Clarke County is included in  
19 District 1 but not the rest of Clarke County?

20 A Well, I wasn't a congressman when this  
21 --

22 Q Sure.

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1 A -- map was done so I'm not sure what  
2 their motives were, but if you followed U.S. 43  
3 north out of Washington County, it would go  
4 basically through the middle of what you see there  
5 as part of District 1. So that includes two key  
6 communities, Jackson and Grove Hill. That's not  
7 all of the city limits of Jackson or all the city  
8 limits of Grove Hill, but a big part of each of  
9 those run right where U.S. 3 goes through there.  
10 And so the people in Grove Hill and Jackson will  
11 drive down to U.S. 43 to get to Mobile both for  
12 work and those other things that I mentioned.

13 Q Right. Okay. Any other things that you  
14 would describe as communities of interest in your  
15 district?

16 A Well, everything keys off of what I said  
17 before. Obviously jobs, economics pull people in.  
18 You've got that river system. A lot of us like to  
19 hunt and fish and so the Mobile-Tensaw River Delta  
20 is a very rich place in terms of habitat. We're  
21 all interested in that. This is the oldest part  
22 of the state of Alabama, founded by the French in

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1 1701, but you had other people that came in there  
2 to form that area. So you have this sort of  
3 historical tradition there. Mobile was a French  
4 city where Mardi Gras started in the United  
5 States. So Mobile -- used to be Mobile had Mardi  
6 Gras parades, nobody else did. Now these other  
7 places all have Mardi Gras parades. And so Mardi  
8 Gras has become something that pulls people  
9 together. We have a major university, University  
10 of South Alabama. It not only pulls people in  
11 from those areas, it does things out into these  
12 counties. So everything comes back to that for  
13 those four counties outside of Mobile and Baldwin  
14 County, everything comes back to that.

15 Now, the fastest growing county in the  
16 State of Alabama, and, therefore, in my district,  
17 is Baldwin County on the eastern side of Mobile  
18 Bay. And so you used to just talk about Mobile,  
19 but my answer previously included Baldwin County  
20 because increasingly you've got Baldwin County  
21 pulling people in, whether it's to the eastern  
22 shore of Baldwin County or down there on the

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1 beaches, Orange Beach and Gulf Shores, which are  
2 tremendous hubs for tourism activity -- people  
3 play and have fun. Also as part of our sort of  
4 shared culture down there is we love seafood. And  
5 the seafood industry is very important to that  
6 district. Lots of restaurants, not just in Mobile  
7 and Baldwin Counties, but even these other places,  
8 lots of restaurants specialize in seafood. So  
9 that's another part of it. Gosh. While the  
10 economy is diverse in that area, there are certain  
11 things about the economy of that area that are  
12 unique. For example, you've got a port. No other  
13 part of Alabama has a port on the ocean or the  
14 Gulf of Mexico. As I said, seafood is a big part  
15 of it. And recreational fishing is a big part.  
16 So you have -- if you just think about that part  
17 of Alabama, and every part of Alabama is unique  
18 and has its own good attributes, but those --  
19 those are unique attributes, good attributes for  
20 that part that pull people together.

21 Q Okay. Do you believe that communities  
22 of interest under the current Alabama map -- but

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1 here I'm not just focusing on your district but  
2 the whole state -- do you think they're generally  
3 kept together under the current map?

4 A Well, I haven't thought about it for  
5 other districts, and I can't claim that I have the  
6 same level of knowledge about the other districts.

7 Q Sure.

8 A But knowing what I know about them, I  
9 think there are common interests in each of these  
10 districts. You can look at the map and tell that  
11 there are some districts that are geographically  
12 larger than others. And the larger they are, the  
13 more geographic area you cover, the less you have  
14 communities of interest. So that might be the  
15 case. But when you look at like the District 5,  
16 which I call it the Tennessee Valley. My daughter  
17 actually lives up there so I'm familiar with it  
18 through her, but I've also spent a lot of time  
19 working up there. That is clearly a community of  
20 interest because of the fact that they share the  
21 Tennessee River. The Tennessee Valley Authority  
22 provides their power. They have their own unique

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1 history up there. Huntsville, which is right near  
2 Madison County, is where they made the rocket for  
3 Apollo 11. So there's a lot of pride around that  
4 for obvious reasons. It's a more mountainous  
5 area. Where I live, it's more of a flat, coastal  
6 plain going down to the beaches area. So those  
7 two areas are pretty distinct. You can tell that.

8 District 2 is mainly -- we know it  
9 mainly as the wiregrass, plus Montgomery and some  
10 suburban counties. Wiregrass is a pretty  
11 well-defined region that has its own separate  
12 economy, special features, culture. Their  
13 agriculture is somewhat different from the  
14 agriculture that I have in my district. So  
15 they're more common that way.

16 District 7 is largely what we would know  
17 as the Black Belt in Alabama, not because of  
18 people's race but because of the soil.

19 Q Right. Yes.

20 A And so those counties have a lot in  
21 common with one another. And it's contiguous to  
22 my county, and obviously I have a part of Clarke

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1 County that is considered to be a part of it. So  
2 Representative Sewell, who represents District 7,  
3 and I work together a lot because we have a lot of  
4 things that we have in common.

5 Q I went to law school with Representative  
6 Sewell.

7 A Well, she and I -- she was, by the way,  
8 the bond lawyer -- one of the bond lawyers --  
9 outside bond lawyers when I was Chancellor of the  
10 Postsecondary system. This is before she was in  
11 Congress.

12 Q Right, yes, sure.

13 A So before she and I were colleagues, she  
14 was my lawyer.

15 Q Oh, okay.

16 A So she and I have a good working  
17 relationship. I knew some from my time before  
18 being in Congress about that district, Dr. Paul  
19 obviously introduced me to a lot, but I think  
20 Representative Sewell does a good job of that as  
21 well. So I see her district as having a community  
22 of interest.

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1 East of Alabama, District 3, that's Mike  
2 Roger's district. It's a little bit  
3 geographically bigger, but we kind of tend to see  
4 east Alabama as its own geographic region within  
5 the state. It goes from Russell all the way up to  
6 Cherokee, but you've got Opelika and Auburn where  
7 Auburn University is, an extremely important asset  
8 to the State of Alabama.

9 And then District 4, which is Robert  
10 Aderholt's district, is over there just below the  
11 Tennessee Valley. You have Cullman. You have  
12 Jasper. These are -- they tend to be kind of the  
13 same area. And that area right in the center,  
14 District 6, that's Gary Palmer's district. That's  
15 mainly the suburban areas to the City of  
16 Birmingham. The part of District 7 that gets up  
17 into Jefferson County is mainly -- mainly the City  
18 of Birmingham. So all of this area of District 6  
19 is the suburban areas to Birmingham.

20 So when I look at those, with not having  
21 the same level of knowledge about each of those  
22 districts as I do about my own, I do see that they

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1 have a lot in common and that sort of grouping  
2 makes sense to me.

3 Q Okay. Does it make sense to, with  
4 respect to kind of what you just said, District 6  
5 and District 7, to separate the suburban areas of  
6 Birmingham from the -- from the city itself?

7 A Well, I would prefer -- this is not with  
8 regard to that district -- with all districts -- I  
9 prefer to keep counties whole. But -- and I don't  
10 know why they chose to do it this way. It may be  
11 that they thought putting Birmingham together with  
12 the Black Belt districts made more of a community  
13 of interest than the suburban counties for  
14 Birmingham. I don't know. But I just -- just  
15 knowing those counties, I think that they have a  
16 lot in common.

17 Q Okay. Do you think the City of Mobile  
18 has anything in common with the Black Belt  
19 counties?

20 A Not as much. Mobile historically --

21 Q I keep mispronouncing it. I tried to  
22 get it right, but I keep -- I keep saying it

Page 57

1 wrong.

2 A It's real simple. It's Mobile.

3 Q Mobile, yes.

4 A Mobile historically was the port through  
5 which timber and agricultural products moved from  
6 the interior of the state of Alabama and then out  
7 to the world.

8 Q Right.

9 A And so back in those days, when that was  
10 a very important part of the economy of the  
11 interior of the state, then there probably was  
12 more contact between Mobile and the Black Belt.  
13 That's not nearly as important anymore. So I  
14 don't see as much contact and have not in my life  
15 have seen as much contact between those Black Belt  
16 counties and the southwestern part of the state.  
17 They just don't have that connection as much as  
18 they used to. I wish we had more of a connection,  
19 to be honest with you, but it's just the  
20 practicalities of the economy that they have  
21 there. Mobile is not as important to them because  
22 they're not moving things through the port as much

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1 as they used to.

2 Q Right. Okay.

3 Let me ask you, if you would, can we  
4 flip back to the current Board of Education map,  
5 which I think is Exhibit 5.

6 A Five.

7 Q Five, yes. I apologize. There are a  
8 couple questions I think I neglected to ask you  
9 when we were talking about that. Do you -- do you  
10 view the 2011 Board of Education plan as --  
11 respecting communities of interest? And in  
12 particular, kind of focusing on your area of the  
13 state and the area above it, so kind of what are  
14 now labeled District 1 and District 5. I mean, do  
15 you -- do you view that as respecting communities  
16 of interest, or not really?

17 A Not really.

18 Q How come? I apologize, I know you  
19 covered some of this before.

20 A That's fine.

21 I don't think that Conecuh, Butler,  
22 Crenshaw, and Covington look to Mobile very much,

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1 whereas obviously the people in the northeast  
2 quadrant of Mobile County that are in District 5,  
3 they look to Mobile all the time. So they've been  
4 essentially for purposes of the State School Board  
5 taken out and put into a district that looks more  
6 to Montgomery.

7 Q Okay. When you say "looks to," I think  
8 I kind of like intuitively understand what you  
9 mean, but can you explain a little bit more what  
10 you mean by "looks to"?

11 A Where do you get your news from. Where  
12 is the big city that you go shopping. Where are  
13 the commonalities of the economy. Where is the  
14 commonality in your traditions. You think of  
15 Conecuh, Butler, Crenshaw, and Covington being  
16 more a part of what we call the wiregrass. And,  
17 like I say, they look to Dothan and Montgomery.  
18 They don't look to Mobile as much.

19 Q Okay. Has -- I think you -- you said or  
20 named the current representative as Ms. Bell, I  
21 believe?

22 A Ella Bell.

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1 Q Ella Bell, yes.

2 Has she ever expressed to you any  
3 concerns about the current configuration of the  
4 district -- of her district?

5 A I don't think I've talked to Ms. Bell  
6 since the current configuration of this district  
7 was made.

8 Q Okay. Have you -- have you heard from  
9 anybody concerns about the current configuration,  
10 especially with respect to District 5?

11 A Well, I referenced earlier the  
12 conversations I had with Mr. Davis, who was the  
13 representative who was in charge of putting  
14 together the State School Board districts. I  
15 certainly registered to him my concerns. I don't  
16 know that I remember hearing anybody else have the  
17 same concerns or at least voice them.

18 Q Okay. So let's maybe now turn back to  
19 what we've been calling the proposed plans or  
20 revised plans. Why don't -- why don't we start  
21 with what was Exhibit 1, which is labeled "Revised  
22 Plan 1, Alabama -- U.S. House, Revised Plan 1."

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1 A Uh-hmm.

2 Q As soon as I can get it in front of me,  
3 let me just ask you, what is your view of revised  
4 plan 1, which is Exhibit 1?

5 A I don't think it's good for the counties  
6 that are presently in District 1 that would remain  
7 in this district, which would be Mobile, Baldwin,  
8 and Escambia. And I don't think it's good for the  
9 counties that are presently in District 2, which  
10 are Covington, Coffee, Dale, Henry, Houston, and  
11 Geneva.

12 Q Why not?

13 A Well, they are two different regions of  
14 the state, and they don't have the commonality  
15 that you see presently existing within present  
16 Districts 1 and 2. It's a long way from West  
17 Mobile to the eastern part of Houston County. So  
18 a congressman has to cover that whole area if  
19 they're doing their job right. So it is -- if you  
20 look at the present composition of District 1,  
21 it's not easy, but it's not as hard to get around  
22 that district and cover all those different

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1 communities. Whereas if you had to go all the way  
2 from West Mobile County to Houston County, it  
3 would be far more difficult to cover all of those  
4 communities. I mentioned earlier, I do a lot of  
5 town halls. I do them in every community you can  
6 imagine, big, small, rural, doesn't matter.

7 Q Yes.

8 A It would be very difficult for me to be  
9 able to cover what's here in District 1 and have  
10 the same level of town halls and certainly get to  
11 the variety of places I try to get to. Plus  
12 there's such a difference in the economies, et  
13 cetera, and what you're an advocate for in  
14 Congress, that you would still be an advocate for  
15 the entire district, but it would dilute your  
16 ability to be the advocate for the district. A  
17 Senator and a Governor represent the whole state,  
18 and they have to look out for the whole state. A  
19 congressman looks out for their district.

20 Q Right.

21 A They're the ones totally focused on the  
22 district. So right now as a congressman from

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1 District 1, I can totally focus on what I  
2 described to you earlier as the economy and the  
3 other needs for the present composition of  
4 District 1. What you would be asking a  
5 congressman to do under Exhibit 1 is to take that  
6 same level of effort and spread it out over a much  
7 broader array of interests. I wouldn't say that a  
8 congressman wouldn't try to do it, but I don't  
9 think even somebody working as hard as they  
10 possibly could, could do it as well or with the  
11 same level of attention and focus that there needs  
12 to be, plus you're splitting Mobile County up  
13 between District 2 and District 1, and I do not  
14 think it's in the district -- in the interest of  
15 the people of Mobile County to be split up like  
16 that. I think they need to have a whole county  
17 working with one congressman. I think they need  
18 to be conjoined with the whole county of Baldwin  
19 County.

20 Q Okay. Do you think there would be any  
21 benefits to the people of the City of Mobile to a  
22 configuration such as this?

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1 A I think it would be to the detriment of  
2 the people to the City of Mobile. I've been very  
3 involved in economic development efforts in that  
4 area for a long time. And splitting up our  
5 congressional representation would hurt those  
6 economic development efforts which have, frankly,  
7 done an amazing -- we have gotten an amazing  
8 result these last several years. Airbus has a  
9 plant there, for example. That Airbus plant just  
10 didn't show up there. There was substantial  
11 effort to make it happen. We have a Navy shipyard  
12 there in Mobile. That Navy shipyard didn't just  
13 show up there and still remain there. There's  
14 substantial effort for that to happen. I'm  
15 picking out some big examples.

16 Q Sure.

17 A I would -- I would think it would hurt  
18 those efforts based upon my experience going  
19 forward for there to be two congressmen  
20 representing that area rather than one.

21 Q Something you mentioned a minute ago or  
22 kind of at the beginning of the answer you gave



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1 about the map, you said that it would be  
2 difficult, I think, to kind of represent --  
3 effectively represent the whole area because --  
4 was that in terms of the wiregrass counties in the  
5 eastern part of the proposed District 1, is that  
6 mainly because of the distance or because of other  
7 factors?

8 A Other factors as well. Distance,  
9 certainly, is a big part of it. It's a larger  
10 geographic area, therefore, more difficult to  
11 cover. But there's a big difference in the  
12 Covington and Geneva, Coffee, Dale, Henry, Houston  
13 economy, what they focus on, than there is in the  
14 Escambia, Baldwin and Mobile, of the counties  
15 presently in there. One of the big things about  
16 those eastern counties is you've got right in the  
17 middle of that Fort Rucker.

18 Fort Rucker is a major focus for any  
19 congressman representing that area. It represents  
20 an enormous number of jobs, not just at the Fort  
21 but private sector businesses that do business  
22 with the Fort. You've got a lot of military

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1 retirees around in the -- in the communities  
2 around the Fort.

3 Houston County and Dothan, they have two  
4 or three different very important businesses going  
5 on there, but one of their newest things, they've  
6 got an osteopath college, a medical school,  
7 osteopath school. That's very different from a  
8 medical school like you have at the University of  
9 South Alabama in Mobile. Not worse or better,  
10 just different.

11 Q Right.

12 A You have a major university in Mobile  
13 County. They do not have a major university in  
14 the eastern counties in District 1, but they look  
15 just north to Pike where Troy University is. Troy  
16 University is a very different university from the  
17 University of South Alabama. Not better or worse.  
18 Different.

19 Q Right.

20 A So the interest that you would be trying  
21 to represent in these eastern counties are  
22 fundamentally different from the interests over

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1 here in the western part, Mobile, Baldwin, and  
2 Escambia. Even though there's some commonality in  
3 agriculture, the agriculture is different.  
4 They've got more poultry and cattle over there  
5 than we do on our side. We have more row crops  
6 than they do. So even though the agriculture may  
7 be similar, there's still some significant  
8 differences. So, for example, in Mobile and  
9 Baldwin Counties where I focus on things like  
10 fixing the red snapper season, which is a federal  
11 thing, believe it or not, making sure that we have  
12 the proper funding for the Navy shipyard in  
13 Mobile. I can really focus on things like that.  
14 But if you throw into the mix Fort Rucker, Troy,  
15 these other agricultural interests that are  
16 different from mine, then, once again, not just  
17 from the geography, but from the diversity of  
18 interest, I'm spreading my focus. I'm spreading  
19 my efforts over a much broader array of interests.

20 Q Okay. Are there any issues like that  
21 that you can think of where it would present kind  
22 of a conflict in the way you would need to vote on

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1 a given issue? I understand that they're  
2 different, they're kind of different issues, but  
3 where you would say, well, gosh, I got to vote  
4 for, you know, some water issue over here but I've  
5 got -- I've got to vote contrary to that because,  
6 you know, it's a more land-based area. Can you  
7 think of anything like that?

8 A You know, I'll give you an example. We  
9 had a water bill that moved through Congress a  
10 couple years ago, and because I represent these  
11 seafood areas, some of the seafood interests came  
12 to me and said we want to include in the bill the  
13 authorization of a study about oyster production.  
14 Okay? Very important to that area. The Georgia  
15 members saw that language and thought that it was  
16 there to try to protect the flow of water that  
17 ultimately gets down to Appalachia Cola because  
18 they have their own oysters. And that's where the  
19 Chattahoochee flows out of Georgia along the line  
20 with Alabama, and then through Florida.

21 And so I was able to tell them, no, this  
22 has to do with my district, which is over here.

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1 Q Right.

2 A It doesn't have to do with this side  
3 over there, and I'm not getting into your water  
4 wars because there's a water war between Alabama,  
5 Georgia, and Florida --

6 Q Right.

7 A -- with regard to the Chattahoochee and  
8 water coming out of the Atlanta. So that was -- I  
9 was able to escape what would have been a blocking  
10 vote from the Georgia delegation over that. But,  
11 in large part, it's not necessarily how you vote.  
12 It's how much time -- there's only so many hours  
13 in the day.

14 Q Right.

15 A I only have so many people on my staff.  
16 Okay? If you make me take my time, my staff and  
17 divide it along a much greater geographic area, a  
18 much wider area of interest, each one of those is  
19 going to get less attention, less effort.  
20 Something is going to suffer. That's just the  
21 nature of the world that we live in.

22 Q Right.

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1 A So, once again, that's the difference  
2 between being a congressman and a Senator.

3 Q Right.

4 A A Senator looks after the entire state.

5 Q Right.

6 A The congressman is focused on his or her  
7 district. I focus on my district. Congresswoman  
8 Roby who presently represents District 3 -- is  
9 that what it is?

10 Q I think so, yes.

11 A Yes. Is it 2?

12 Q Two.

13 MR. DAVIS: Roby is 2.

14 A She really focuses on her district. She  
15 knows that stuff about Fort Rucker. And she got  
16 it. And if she needs my help, she'll call me and  
17 I'll give it to her, but I recognize her as the  
18 expert on Fort Rucker. If she needs some help  
19 with Troy, even though I don't represent Troy, she  
20 calls me and I'm going to help her, but I  
21 recognize that she's got the expertise on that.  
22 All of us in the Alabama delegation have that

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1 understanding. If Congresswoman Sewell tells me  
2 "I need some help with something in the Black  
3 Belt," you tell me where you want to go, I'm going  
4 to get behind you and help you. We do that for  
5 one another. It's one of the strengths of our  
6 delegation, is that we do that. But we have to  
7 have that focus and expertise by the member from  
8 that district to lead the rest of us and, frankly,  
9 to lead the state as to where we need to go.

10 Q Right. I understand you are -- you are  
11 seeking to be the next Senator from Alabama.

12 A I am. I am.

13 Q You're going to have a change of focus.

14 A I am. I am. And that's why right now I  
15 can sort of see the difference.

16 Q Right.

17 A There is -- there is a fundamental  
18 difference between being a Senator, for that  
19 matter a Governor, and being a congressman.  
20 Congressmen or congresswomen focus on their  
21 district. They're the advocate for their  
22 district. And that's true not just in legislation

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1 but in federal programs, federal grants, and even  
2 in economic development. Believe it or not,  
3 they'll take a congresswoman or congressman when  
4 they're doing -- pitching somebody to come to an  
5 area and bring them in the room and say this is  
6 why this area is so important. This is why you  
7 should bring your business or factory and locate  
8 it here. I play that role. I know everybody else  
9 in delegation plays that role as well.

10 Q Sure, okay.

11 MR. DAVIS: Before you go to the next  
12 question, Congressman, do you need a break or a  
13 cup of water?

14 THE WITNESS: I would love a cup of  
15 water.

16 MR. SPIVA: I'm sorry. I apologize.  
17 I've been sitting here drinking this.

18 THE WITNESS: Are we taking a break?

19 MR. SPIVA: Yes, why don't we take a  
20 few-minute break.

21 MR. DAVIS: Just a couple minutes.

22 THE WITNESS: Yes, that would be great.

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THE VIDEOGRAPHER: The time is 11:06

a.m. and we're going off the record.

(A brief recess was taken.)

THE VIDEOGRAPHER: The time is 11:11

a.m. and we're back on the record.

MR. DAVIS: Before we continue, Bruce, am I correct that we have an understanding that this deposition be used only for purposes of this litigation?

MR. SPIVA: Yes.

MR. DAVIS: Including the video, the deposition transcript, all of that.

MR. SPIVA: Yes, yes. It's not under seal, obviously, but we have no intent of like, you know, displaying this on the evening news or anything, you know -- anything like that, yes, right, exactly. I mean, I just -- I just want to be careful that I'm not like agreeing to keep it under seal because then it creates all kinds of problems when you have, as you know, Congressman, when you have to file, you have to file with a motion, and, you know, if there's anything that's

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referenced or anything like that --

MR. DAVIS: No, no, I'm not suggesting it should be under seal. I just want the typical understanding that with most depositions, it would be used for purposes of the litigation.

MR. SPIVA: Yes, that is -- that is -- I will agree to that, yes.

BY MR. SPIVA:

Q So, Congressman Byrne, was there anything else that was of concern to you regarding revised plan 1, which is I think labeled as Exhibit 1?

A Well, at least in general I've covered all of it, but there's -- there are a lot more details I could go into with regard to the different economies, et cetera. But, in general, I think I've told you about the spread of time, spread of resources and advocate over a greater, not only geographic area, but greater different types of interests.

Q And then maybe just focusing on, for a minute, the CD 2 under the revised plan 1, and if

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it's helpful to look at the current plan.

A Yes.

Q In looking at that --

A Yes, here.

Q -- do you have any further concerns other than the ones you've already articulated concerning the proposed CD 2 under revised plan 1?

A Well, I think I said this earlier, but I'll make sure I say it again. I think putting that part of Mobile or any part of Mobile County in the same district with the county that's basically centered on Montgomery is going to dilute the efforts that we're making there to build our economy, and also it's asking somebody who is basically focused on Montgomery to try to learn completely different, you know, economic setting, cultural setting, civic setting. And I think that's asking a whole lot from the person that represents District 2. I don't think they could do it as well. I'm not saying that they wouldn't put their effort forth. For example, if that was Terri Sewell, I think she would put all

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of her effort into it, but as smart and capable and hardworking as she is, I don't think she could do it as well.

Q And you noted -- well, I'll note, and tell me if you agree, the proposed District 7 under revised plan 1, that actually is a lot more kind of compact than the District 7 and Representative Sewell's district in the current plan.

A Yes.

Q Would you agree with that?

A I would. I do have concerns about splitting Tuscaloosa County. I think that split into Jefferson County, but it's presently split into Tuscaloosa County. And I think Congressman Aderholt or Congressman Sewell will handle it very well, but I think Tuscaloosa will be better off with one congressman.

Q Right. And Jefferson is currently split as well.

A Yes.

Q So any other concerns about any of this,

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1 you know, District 7, District 2, District 1 under  
2 revised plan 1?

3 A I have focused just on what it does to  
4 District 1. I haven't really looked that much at  
5 Exhibit 1 as to what it would do to the other  
6 districts. It does make some changes, but I think  
7 from my perspective, the biggest problem is what  
8 it does to District 1 and District 2 and -- let's  
9 see, District 1 and District 2.

10 Q Okay. As you know from, you know, at  
11 least briefly reviewing the complaint and, you  
12 know, you understand kind of the basic allegations  
13 in this complaint, that the plaintiffs are seeking  
14 to create a second majority African-American  
15 district. Do you think there would be a benefit  
16 to the African-American community to having a  
17 second majority African-American district?

18 A I don't really have an opinion about  
19 that. I'm more concerned about the people where I  
20 live. I don't think it's a benefit to the people  
21 of Mobile County, whether they're  
22 African-American, white, Hispanic, or

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1 Asian-American, to have a congressman from  
2 Montgomery. I don't care what the race of the  
3 congressman is. I don't -- if Martha Roby is  
4 going to be the congressman that would come in  
5 there, I don't think it's good for the people in  
6 my district to have a congressman who is mainly  
7 focused on Montgomery.

8 Q Okay. Now, would you agree that the  
9 voting in your district in the current  
10 configuration is fairly racially polarized? When  
11 I -- just to get a little definition, I mean, you  
12 know, the vast majority of African-Americans in  
13 your district tend to vote, you know, for your  
14 opponent, for the Democratic candidate, and the  
15 vast majority of whites tend to vote for yourself.

16 MR. DAVIS: Object to the form.

17 A I don't -- I don't know the numbers.  
18 Frankly, I don't pay that close attention to that.  
19 In general I know that more African-American's  
20 vote Democrat. More whites vote Republican.  
21 There has been more -- some shifting going on  
22 there, as a matter of fact. You're seeing, like

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1 in Mobile, the City of Mobile, you're seeing more  
2 whites voting Democrat. And in Baldwin County  
3 where I live, you're seeing more African-Americans  
4 vote Republican. So even that's shifting around.

5 Q Okay. You haven't actually seen the  
6 plaintiff's expert reports in this case, have you?

7 A No.

8 Q Would it surprise you that an estimated  
9 97 percent of African-Americans in your district  
10 voted -- sorry, it sounds impolite -- but voted  
11 against you, voted for your opponent in the last  
12 election?

13 MR. DAVIS: Object to form.

14 A I don't know the numbers and so I can't  
15 say I'm surprised. Like I say, when I look at the  
16 results of an election, I'm really not paying that  
17 close of attention to it or concerned about that.

18 Q Okay. Do you know whether -- what the  
19 African-American candidate of choice was in the  
20 last congressional election?

21 A Well, my opponent -- are you talking  
22 about my election?

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1 Q Yes.

2 A My opponent, the Democrat, was Robert  
3 Kennedy. But I don't know -- as I said, I didn't  
4 go back and look at the results after the fact. I  
5 don't know exactly how the vote split out. I know  
6 generally how many votes I got, generally how many  
7 votes he got, but I can't tell you where they came  
8 from.

9 Q Okay. How about the City of Mobile, do  
10 you know how the votes split out in the City of  
11 Mobile in the --

12 A In my election?

13 Q Yes.

14 A I didn't look that closely. I think I  
15 carried Mobile, but I don't know.

16 Q Okay. And I think you acknowledged a  
17 minute ago that, you know, most African-Americans  
18 in your district tend to vote Democratic as  
19 opposed to the majority of whites voting  
20 Republican. Why do you think that's the case?

21 MR. DAVIS: Object to form.

22 A That is a great question, and it's

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1 something that I not only have thought a lot  
 2 about, I've worried over because I don't think  
 3 it's healthy. I think there's some traditional  
 4 things going on. African-Americans look to the  
 5 Democratic party as the party that primarily  
 6 ushered through the civil rights legislation in  
 7 the '60s. Although, if you go back and look at  
 8 the history, it would not have happened without  
 9 Republican votes in both the House and the Senate,  
 10 and there were key opponents to that legislation  
 11 that were southern Democrats, but I think  
 12 African-Americans look to that and look to that  
 13 history. But more and more I think what's  
 14 happening in my district is really reflective of  
 15 what's happening in the country. People are  
 16 finding differences -- I don't want to use the  
 17 word polarization. I don't like it. People find  
 18 differences among one another because they have a  
 19 different view of what American -- what the  
 20 federal government should do for America, so it's  
 21 more ideological in my mind than it is racial.

22 Q Why do you think that -- well, first let

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1 me ask you, would you agree, though, that that --  
 2 that ideological difference closely tracks with  
 3 race, corresponds to race?  
 4 A I don't know because I've never actually  
 5 seen a study on that, but I know from talking to  
 6 people, be they white or African-American or  
 7 Hispanic or Asian-American, it really starts with  
 8 their role of the federal government or what's the  
 9 role that should be of the federal government.  
 10 So, clearly you've got people in my district of  
 11 different races who see that in completely  
 12 different ways.

13 And so I think it's more of what's  
 14 happening across the country, that is that we have  
 15 difference -- those of us who view the federal  
 16 government as something that should be far more  
 17 active than some of the rest of us do.

18 Q Do you think African-Americans tend to  
 19 view the role of the federal government more  
 20 robustly as one that should be more active than  
 21 white Alabamans tend to view it?

22 A I think that -- I don't know about more

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1 white Alabamans, but the African-Americans that I  
 2 have talked to about this express their desire to  
 3 have the federal government do more.

4 Q Would you say that's because those  
 5 African-Americans that you talked to view that as  
 6 in their interest?

7 A I'm not sure we drilled down that far to  
 8 know. Sometimes people will take an ideological  
 9 point of view that's not congruent with their  
 10 interests. So I can't say that for sure.

11 Q Okay. Do you believe that the needs of  
 12 African-Americans in your district differ from the  
 13 needs of other constituents in your district?

14 A No.

15 Q Why not?

16 A Because I think what people need is the  
 17 same. What they need from their families is the  
 18 same. What they need from their communities is  
 19 the same. What they need from their nation is the  
 20 same.

21 Q Do you have a sense of whether there are  
 22 certain -- let me strike that.

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1 What issues, if any, do you believe are  
 2 important to the African-American community in  
 3 your district?

4 A The same issues that are important to  
 5 the white people in my district. Their jobs, the  
 6 education of their children, the safety of their  
 7 homes and their community, the continuation of the  
 8 opportunities that have been afforded to them.  
 9 They want more opportunities for their children  
 10 and their grandchildren. I just don't see a  
 11 difference there. When you really sit down and  
 12 talk with them, as I do in my town hall  
 13 meetings -- I had one in Prichard on Friday, for  
 14 example. The main issue in my town hall meeting  
 15 on Friday was tolls for the new bridge coming  
 16 across I-10. And there were white and  
 17 African-American people there who had the same  
 18 type of disagreement with the tolls, same  
 19 intensity of disagreement with the tolls. It  
 20 didn't make any difference.

21 Q That was a green disagreement, right,  
 22 about how much green they're going to have to

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1 spend.

2 A Most things are like that. In my  
3 experience, most things are like that. People are  
4 people are people are people are people. They  
5 have the same concerns. You might find like, for  
6 example, Friday, that one concern there is,  
7 there's a community in Mobile County called  
8 Africatown. And it's a very important community.  
9 It's where the last group of slaves who were  
10 illegally brought here, by the way, in 1860 or  
11 1861, it's where they congregated and formed a  
12 community. We just recently found the ship that  
13 they came over on. It's a big deal.

14 Q I read about that.

15 A We've got some ideas on trying to build  
16 on that and build that community. One concern  
17 that they have that's specific to them, but this  
18 is -- it's more geographic -- it's one of the  
19 routes that people might take to get around the  
20 bridge would come right through Africatown and  
21 would harm, potentially, the activities a lot of  
22 us are interested in looking at to try to build up

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1 Africatown. But I can tell you from talking to  
2 the Mayor of Mobile, who happens to be white, that  
3 that is not something that is white or  
4 African-American. That is, hey, this is a major  
5 opportunity for Mobile. Let's not let this bridge  
6 thing mess up what could be a major opportunity.  
7 But the -- but the concerns that people have were  
8 the same.

9 Q What about in terms of socioeconomic  
10 needs? I mean, does the African-American or at  
11 least on average -- obviously all of these things  
12 you can't -- you can't talk about everybody  
13 because there are people of different  
14 socioeconomic needs of all races -- but on  
15 average, are the socioeconomic needs of  
16 African-Americans in your district greater than  
17 the socioeconomic needs of whites?

18 A Well, in general the answer is no, but  
19 there are some specifics, I think, that are  
20 important. This is not just true in Mobile  
21 County. It's true in other places in Alabama.  
22 Unfortunately a disproportionate number of

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1 African-American children are going to some of our  
2 worse schools. If you want to give everybody an  
3 opportunity in America, they got to get a good  
4 quality education. So the one of the reasons why  
5 I got so involved in education reform prior to  
6 going to the school board was -- in my view was  
7 the next real fight in the civil rights movement  
8 is over education. How do we get quality  
9 education to every child in Alabama, be they  
10 white, be they African-American, be they Asian, be  
11 they Hispanic. That should be something that we  
12 should all be concerned about. But in terms of  
13 the actual need, it's the same. It's just that  
14 we've got a specific manifestation of it  
15 disproportionately affecting young  
16 African-Americans.

17 Q Would you say that the income level, the  
18 average income level of African-Americans in your  
19 district is lower than the average income of  
20 whites in your district?

21 A I've not seen any data on that so I  
22 can't give you an answer.

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1 Q Okay. What about educational  
2 attainment, do you know whether there's a lower  
3 level of educational attainment on average among  
4 black -- blacks in your district than whites?

5 A Well, as I said earlier, I think some of  
6 them got lower quality education, a  
7 disproportionate number of them got lower quality  
8 education. So I don't know the actual data, but I  
9 would not be surprised to see -- if you don't get  
10 education early, it tends to have a going-on  
11 effect. You may not be able to get into college  
12 or you may not think about going to college. So I  
13 think it's one of the most important, if not the  
14 most important thing we need to be working on is  
15 how do we give everybody, wherever they come from,  
16 whoever their parents are, the best possible  
17 education we can give them.

18 Q That's right. You did speak to that.  
19 Sorry to repeat, but what -- what about  
20 healthcare, are there -- and health outcomes, have  
21 you seen any data on whether African-Americans on  
22 average in your district have kind of lower

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healthcare outcomes, greater healthcare needs than whites on average in your district?

A I've not seen any data, but I've been very involved with community health centers in my district. In fact, I got an award for that. Community health centers tend to be more prevalent in African-American districts. They're not only in African-American communities. So I do try to work with community health centers because I think that they're the best way to provide healthcare to people that are in poor communities. And so I do see that there's a need for us to do more with those community health centers. I am glad to see the University of South Alabama Medical Center providing really good, quality healthcare to everybody in our area. And it just happens to be located in an African-American community. So the people in that community are like right there, easy for them to access. So I can't give you anything from the data, but I do think that there's a need for us to work harder at that.

Q Am I right that you supported the repeal

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of ObamaCare?

A I did.

Q Do you believe that most -- the majority of African-Americans in your district supported the repeal of ObamaCare?

A I don't know.

Q And from the people you've talked to, the African-Americans you talked to in your district, do you get the sense that they support the repeal of ObamaCare?

A Some have told me that they do. Some have told me that they don't. I can't quantify that, though, because it's not like we scientifically polled it or even tried to go out and figure out the race of people who are responding on the telephone or by email to the office. But I have had African-Americans say that they didn't like ObamaCare. They wanted us to do something different.

Q Right.

A And I've had -- I have had African-Americans say that they supported it. One

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of the things that -- going back to community health centers. 100 percent of African-Americans that I've talked to about community health centers like community health centers. That's one of the reasons I'm so focused on community health centers. The reason they are, as these community health centers are located in their communities, in their neighbors. It's easy -- it's easy for them to physically access these centers. And the centers are really set up to focus primarily on the person. And so you can see where people would say "I really like going there because they really care about me." And so I do think that community health centers are in my mind a big part of what should be a solution to the healthcare problem throughout America, particularly in my district, and I think we could put more resources into that by putting less resources into ObamaCare.

Q Are those community health centers supported by the expansion of Medicaid under ObamaCare?

A No, they're supported by direct money

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that comes from the federal government community health centers. I've forgotten the name of the program. But in a community health center, you go and they take care of you and have a sliding scale of what you pay based on your income. It may be that some people go into community health centers have Medicaid. Some of them may be on Medicare. Some of them I know, because I've talked to them, are on private insurance and they prefer to use their private insurance at a community health center for all the reasons I said earlier. So I don't know that it -- that they're benefiting any more than any other healthcare institution is from any expansion of Medicaid.

Q Has Alabama accepted the expansion of Medicaid under ObamaCare?

A No.

Q That's not really an option, I guess, for people who wouldn't otherwise qualify for Medicaid, to take advantage of the expansion of Medicaid under ObamaCare in Alabama.

A A lot of people who don't qualify for

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1 Medicaid are accessing healthcare through these  
2 community health centers. And, as I say, they  
3 take you regardless of your circumstances and  
4 figure on the sliding scale how much you will  
5 contribute.

6 Q Okay. Have you seen any polling either  
7 in Alabama or nationwide about whether  
8 African-Americans support the repeal of ObamaCare?

9 A I haven't.

10 Q Do you believe that African-Americans in  
11 your district supported the Tax Cuts and Jobs Act?

12 A I'm not sure I've ever heard from an  
13 African-American one way or the other. Let me  
14 think about that for a second. I can't -- they  
15 may have, but I can't recall any particular  
16 conversation at this point in time.

17 Q Okay. About whether an African-American  
18 or the African-American community at large  
19 supports -- supported the Tax Cuts and Jobs Act?

20 A I don't remember any conversation about  
21 that.

22 Q Okay. You were supportive of the Tax

Page 94

1 Cuts and Jobs Act.

2 A Oh, I absolutely was, yes, sir.

3 Q And have you -- since you've been a  
4 congressman, have you taken a vote on the  
5 reinstatement of kind of Section 4, Section 5 of  
6 the Voting Rights Act?

7 A I don't believe I have. I don't think  
8 we have. Yeah.

9 Q Are you familiar with HR 1, the For The  
10 People Act which expands voter registration,  
11 voting access that was passed this year?

12 A Yes.

13 Q It was passed by the House this year.

14 A Yes.

15 Q Were you in support of that?

16 A I was not.

17 Q And --

18 A But not because it did the things you  
19 mentioned, but because of other things.

20 Q Why were you against it?

21 A Because they put a bunch of other stuff  
22 in there that I thought was not germane to what it

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1 was supposed to be about and I did not think would  
2 be helpful to what we're trying to do in America.  
3 I want everybody to vote, and I'm actually  
4 encouraged by the number and percentage of people  
5 that have been voting, particularly in Alabama,  
6 these last two or three or four election cycles.  
7 I'm pretty passionate about that. But I don't  
8 think -- I think that bill, while it pretended to  
9 be for that, I don't think it actually was going  
10 to accomplish that. I think it did some other  
11 things that I didn't think were pertinent to that  
12 effort.

13 Q Do you recall what it was that you  
14 didn't like about the bill?

15 A We can give a full breakdown. We had --  
16 I think we put out a statement at the time or we  
17 can give you something. But that bill was pretty  
18 vague and complex. It would take me a while to  
19 take you through everything that was a problem  
20 with it.

21 Q Okay. I just didn't know if there was  
22 any like major thing that stood out.

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1 A No, there was a ton of stuff. One of  
2 the things that disappointed me about that was, it  
3 was a bill that was just loaded up. And a lot of  
4 mistakes we make around here are when we take a  
5 good idea, if this is a good idea, we start  
6 loading other things on there. Then we destroy  
7 the good idea. That's not a Republican or  
8 Democrat thing, but everybody does that around  
9 here from time to time.

10 Q Right.

11 A And I was disappointed in a bill that  
12 could have been such a good bill that could have  
13 gotten a lot of bipartisan support I think was put  
14 together in such a way to where we were guaranteed  
15 it was only going to be partisan.

16 Q Do you think that African-Americans in  
17 your district on average support the measures that  
18 were in HR 1?

19 A I've never had anybody in an  
20 African-American community talk to me about HR 1.

21 Q What about -- would you support the  
22 reinstatement of Section 5 of the Voting Rights



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1 Act? This is the portion that was struck down by  
2 the --

3 A The formula?

4 Q Yes. Yes.

5 A The formula? No. I think there's a  
6 better way to do that.

7 Q And what's that?

8 A I think we should have it apply to  
9 everybody in America.

10 Q You would support something that would  
11 apply essentially to the preclearance review to  
12 all states?

13 A Yes, what I keep saying is, if it's good  
14 enough for Alabama, why isn't it good enough for  
15 California? Are we saying Alabama is more racist  
16 than California? Are we saying Alabama is more  
17 racist than Missouri? Are we saying Alabama is  
18 more racist than Maryland? Because if you look at  
19 what's happened in the last several years, you'll  
20 find more racial incidences in places like that  
21 than you will in Alabama, yet we're going to take  
22 a law and formula and use it to only focus on a

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1 few parts of America. If it's good for Alabama,  
2 it's good enough for everybody.

3 Q Right. And I'm not -- I'm not  
4 disagreeing with that at all. But there was like  
5 a coverage formula that, you know, involved  
6 looking at registration rates and --

7 A Which I think was prejudicial to  
8 Alabama, and I'm afraid a new one would be equally  
9 prejudicial. That's why I said the easiest way to  
10 do this is, if we're going to do this at all,  
11 apply it to everybody.

12 Q Would you support that? Would you  
13 support reinstating a preclearance regime if it  
14 applied to all states?

15 MR. DAVIS: Object to form.

16 Q Go ahead.

17 A When that is conjoined with some other  
18 things, I might. For example, I don't think you  
19 should have preclearance. I think maybe the best  
20 way to do it is tell everybody in America, every  
21 local, state, et cetera, jurisdiction, you submit  
22 to the Justice Department before you implemented

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1 the things that preclearance states you used to  
2 have to do. And that gives a heads-up to the  
3 Justice Department. If they want to bring an  
4 action in Federal Court, they can because they  
5 have that power to do that today, the Justice  
6 Department does today. Private individuals have  
7 the right to do that today. That wasn't taken  
8 away by the Supreme Court ruling. I just don't  
9 want Alabama to be singled out, and I think we  
10 have been. I think in the last couple, three  
11 decades that's been unfair, and I don't want that  
12 -- I'm not going to vote for something that  
13 singles out Alabama in a negative way like that.

14 Q I mean, you would agree with me, though,  
15 that there was -- there was quite a history in  
16 Alabama of suppressing black voting rights.

17 A Oh, yes. I mean, prior to the civil  
18 rights laws in the 1960s, sure there were. But  
19 we're 50-plus years past that. And there's been a  
20 dramatic change in Alabama. I was a kid in the  
21 '60s so I wasn't an adult when all of that was  
22 going on, but I know the difference between the

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1 way things were in the '60s and the way they are  
2 today, and they're dramatically different.

3 Q Do you -- do you know whether your  
4 African-American constituents agree with you that  
5 that preclearance regime shouldn't be  
6 reimplemented, whether it's implemented just for  
7 Alabama or for the whole country?

8 A Never had an African-American  
9 constituent talk about that with me.

10 Q Do you know what position the state  
11 NAACP in Alabama has taken on that issue?

12 A I don't.

13 Q Do you know the current president of the  
14 state NAACP?

15 A I don't think I do.

16 Q I assume you haven't met with the  
17 president of the NAACP of the State of Alabama?

18 A I don't think we've had a request from  
19 the state or local NAACP for a meeting. We take a  
20 lot of meetings with groups. We can't always give  
21 it to them exactly when they want them, but when  
22 they make a request, we try to figure out a way to

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1 set up the meeting. And I just can't recall ever  
2 getting a request for a meeting from them.

3 Q Okay. I take it from your answer, then,  
4 it sounds like you haven't met with the local  
5 NAACP?

6 A I don't -- well, not formally. There  
7 may be some members of that group that have met  
8 with me in other ways.

9 Q Yes.

10 A But -- and we have people that come to  
11 my town hall meetings. I have no idea whether  
12 they are or they aren't.

13 Q Right.

14 A There are times where they identify  
15 themselves, but it's not unusual for them to come  
16 and not identify themselves as being a member of  
17 this group or that group. So I could have had a  
18 large number of members --

19 Q Sure, right.

20 A -- of the local NAACP be at a town hall  
21 meeting and I wouldn't know it.

22 Q Right. But it's not like you -- you

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1 haven't had a meeting with, say, the president of  
2 the City of Mobile's NAACP chapter?

3 A I don't think I have. I don't think  
4 they have requested one.

5 Q Have you ever requested one of them?

6 A No. I mean, I typically don't request  
7 meetings with people. They request meetings with  
8 me. I was telling you earlier, there's only so  
9 many hours in the day.

10 Q Sure.

11 A I try to respond to other -- my  
12 constituents' request. There are times when I  
13 reach out to a group, but there's usually a  
14 particular reason for that, some event has  
15 occurred or something that does involve my job  
16 where I feel like, hey, I need to go out and reach  
17 out to them.

18 Q Sure.

19 A But in 90-plus percent of the cases,  
20 people are calling up and say we want to meet with  
21 our congressman, and my staff tries to figure out  
22 how to fit it into my schedule.

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1 Q Is there an Urban League Chapter in  
2 Mobile?

3 A I don't know of one if there is.

4 Q I assume you haven't met with the head  
5 of the Urban League in the City of Mobile?

6 A I don't think I've ever had a request  
7 from them for a meeting.

8 Q Are you familiar with an organization  
9 called LULAC? It's the League of United Latin  
10 American Citizens.

11 A I'm not familiar with them.

12 Q I think I got -- I think I probably got  
13 the acronym a little bit wrong. It's Swedish  
14 LULAC, but I got the -- I think I mixed up the  
15 words. But you never met with LULAC, I take it,  
16 either?

17 A Not that I know of.

18 Q Are there any other African-American or  
19 Latino or Hispanic-focused organizations like the  
20 NAACP, like the urban league, that you have taken  
21 a meeting with since you've been congressman?

22 A I've met with so many groups. I would

Page 104

1 have to go back through my calendar going back to  
2 when I started. I meet with a lot of  
3 African-Americans. I don't always know, as I said  
4 --

5 Q Who they're affiliated with?

6 A -- who they're affiliated with because  
7 they tend to come to me because of a concern about  
8 a particular issue. So we're being responsive to  
9 a particular issue.

10 Q Sure.

11 A They may be there as part of a group and  
12 I just don't know it.

13 Q Yes, totally understand. I know a lot  
14 of -- the job of a Congress person, you're mainly  
15 doing a lot of what is constituent services,  
16 right?

17 A Right.

18 Q It's not a Republican or Democratic  
19 issue.

20 A Oh, yeah, and sometimes it may be a  
21 concern -- a specific concern for a community.

22 Q Right.

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1 A And you may have a group of people come  
2 to see you because of that concern for that  
3 community, but you don't necessarily know what  
4 organizations they're with or not. They're just  
5 there because they all agree about this one issue.  
6 And so we try to take -- if somebody asks for a  
7 meeting, we try to figure out a way to make that  
8 meeting happen. We try to figure out a way to  
9 make it happen as close to where they live as we  
10 can because I know it's difficult for people to  
11 come to places. So I frequently try to go out to  
12 people. So if a group in a community says we need  
13 to meet with you about X, if it's possible, I try  
14 to go out to them. It's not always possible  
15 because of my schedule having to be up here voting  
16 so much. So sometimes they have to come to my  
17 office, but I prefer to go to them.

18 Q You mentioned town halls. Have you had  
19 town halls in the City of Mobile?

20 A Oh, yes. Lots of them.

21 Q Have you had town halls in kind of  
22 African-American residential sections of Mobile?

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1 A I have.

2 Q Tell me about that.

3 A Well, it's more than once. It goes back  
4 several years from now. We just pick places -- we  
5 try -- we don't stay in the same place.

6 Q Right.

7 A So I've had them downtown. Downtown is  
8 -- tends to be more African-American than not.  
9 We've had them in -- there's a high school in what  
10 I was calling the southern part of Mobile.  
11 There's a high school there that we had a town  
12 hall in, which was more memorable for me because  
13 we had a lot of planned parenthood people there.  
14 We didn't know that we were going to have that.  
15 Instead of being focused on that community, which  
16 is what I like my town halls to be on, we had a  
17 lot of planned parenthood people that showed up  
18 for some reason.

19 We've had lots of meetings in -- this is  
20 just outside the city limits of Mobile in  
21 Prichard, like we just had one last week. I think  
22 we -- some of the data I told you, I think we

Page 107

1 found out that almost half of my town halls are in  
2 African-American communities, but that's spread  
3 out all over the district, not just the City of  
4 Mobile.

5 Q Have any people at those town halls, any  
6 African-Americans expressed any disagreement with  
7 your stances on any particular bill or issues?

8 A Yes. I have -- in my town halls it's  
9 not unusual for people of all races to disagree  
10 with me. That's why I have my town halls.

11 Q It comes with the territory.

12 A Yes, that's why I have my town halls. I  
13 think people deserve to have their representative  
14 come to their communities and listen to them. And  
15 so it's not infrequent that I go to a town hall  
16 and have people stand up and disagree with me.  
17 I've had African-Americans disagree with me. I've  
18 had white people disagree with me, some of them my  
19 friends. But that's the essence of being a  
20 congressman. If you only hear what you want to  
21 hear, you're not going to be a very good  
22 congressman.

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1 Q What about on issues of civil rights? I  
2 know that that's kind of a broad term. Have you  
3 had African-Americans at any of these town halls  
4 or elsewhere express to you that they disagreed  
5 with your position on civil rights?

6 A Not civil rights per se. It may be a  
7 particular issue that someone might associate with  
8 civil rights.

9 Q Can you give me an example?

10 A Well, I'm trying to think of one because  
11 I said might.

12 Q Right. Right.

13 A I do remember one of the times that I  
14 ran, I ran against a Democrat by the name of  
15 Burton LaFlore. I think Burton raised something  
16 in that race, but it's been several years ago and  
17 I don't recall now exactly what it was.

18 Q Right.

19 I forgot to ask you about one -- when we  
20 were talking about the various bills, the First  
21 Step Act involving federal sentencing and prison  
22 laws.

Page 109

1 A Oh, yes.

2 Q Did you --

3 A The one that the President supported?

4 Q Yes.

5 A I did not support that.

6 Q Okay. Why didn't you?

7 A Because I thought that it had the

8 potential for releasing people too early who had

9 committed some pretty serious crimes, not just

10 possession, but people were actually actively

11 involved in the distribution of very dangerous

12 drugs. I'm much more concerned about the people

13 that are involved in distributing the drugs than I

14 am the people that are using the drugs. The

15 people that use the drugs need help. The people

16 who are distributing the drugs need to be put in

17 jail and stay in jail.

18 Q Do you remember whether

19 African-Americans in your district supported the

20 First Step Act?

21 A Never heard anything from any of them

22 about that.

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1 Q Let me just take a quick look at my

2 notes. I think we're getting close to the end

3 here.

4 A Sure.

5 (Discussion off the record.)

6 Q Just one more. Are you familiar with

7 the Southern Christian Leadership Conference, the

8 SCLC?

9 A Oh, yes.

10 Q Do you know who the Alabama chapter

11 president is of that now?

12 A I do not.

13 Q Have you met with them?

14 A I don't believe they've ever requested a

15 meeting, but I'm obviously familiar with that

16 group.

17 Q Famous -- has a famous founder, right?

18 A Absolutely. Representative Sewell

19 brings a group down, we call it The Pilgrimage

20 every year. It's really sponsored by a group

21 called Faith In Politics. So I've tried to

22 participate in that every year. I've been very

Page 111

1 interested in the civil rights movement going back

2 several years. I've got a lot of books about it.

3 And my wife's family was sort of around it. She

4 lived in Montgomery. Her parents -- her mother in

5 particular were friends with some of the people

6 who were very active in the civil rights movement

7 in the Montgomery area. So I've always been

8 interested in it. I'm very familiar with the

9 history of it.

10 I don't know who's in charge of it in

11 Alabama right now, but if anybody in any of those

12 groups wants a meeting with them, they're going to

13 get it. And I'm probably seeing them at The

14 Pilgrimage every year, but I don't always know

15 who's who.

16 Q Right.

17 A And there's a lot of people there. But

18 I love going to The Pilgrimage. I love the time

19 we get to spend together talking about what

20 happened in the '60s and '70s and what we can do

21 to work together today.

22 Q And tell me what that is again. You

Page 112

1 mentioned it briefly, what is The Pilgrimage?

2 A There's a group here called Faith In

3 Politics here in Washington. And they started

4 working some years ago with Representative John

5 Lewis from Georgia. And they bring people to

6 Birmingham, Montgomery, and Selma. They call it

7 The Pilgrimage because it's like coming back. Not

8 only do they go -- we go to the main sites of

9 civil rights actions in Birmingham and Montgomery

10 and Selma, but we have programs as part of it.

11 People make presentations. When Representative

12 Sewell was elected, because she's from Selma,

13 she's a daughter of Selma.

14 Q Right. Yes.

15 A She became a lot more active in it.

16 After I was elected, she said -- knowing me like

17 she did, she said, "Bradley, you need to be

18 involved in The Pilgrimage. I said, "What is it?"

19 She told me. I said, "Wow, that's really cool."

20 So we participated at least in some part of it

21 every year since my first year. I couldn't do it

22 my first year because I had a conflict. So we

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were actually there with John Lewis and all of them for the 50th Anniversary of the Selma to Montgomery march, which was one of my sort of top 10 experiences in my life to be with John Lewis at that very important -- President Obama spoke, as you probably know, in Selma. That was a really cool experience.

What I'm saying is, I'm probably talking to some of the people you're talking about when I'm at The Pilgrimage every year, but I don't always know who's an officer of what because --

Q Sure.

A -- I know it's important, but we're so caught up in what's going on with the event of that day.

Q Sure.

Give me just one second to confer with my co-counsel --

A Sure.

Q -- the real brain here, and then --

A I used to have one of those.

MR. SPIVA: Thank you so much,

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Congressman Byrne. It's been a pleasure. I appreciate you taking the time to do it.

THE WITNESS: Good to see you.

MR. SPIVA: We can go off the record.

Oh, sorry. You -- I'm sorry, Jim.

MR. DAVIS: It's okay. For the record, I do not have any questions.

THE VIDEOGRAPHER: That's what I was waiting for. Okay. The time is 11:49 a.m., July 24th, 2019. We are going off the record, completing the videotaped deposition.

(Signature having not been waived, the deposition of Congressman Bradley Byrne was concluded at 11:48 a.m.)

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# CERTIFICATE OF SHORTHAND REPORTER

I, Michele E. Eddy, Registered Professional Reporter and Certified Realtime Reporter, the court reporter before whom the foregoing deposition was taken, do hereby certify that the foregoing transcript is a true and correct record of the testimony given; that said testimony was taken by me stenographically and thereafter reduced to typewriting under my supervision; and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 28th day of July, 2019.

My commission expires July 14, 2022

MICHELE E. EDDY

NOTARY PUBLIC IN AND FOR

THE DISTRICT OF COLUMBIA

Page 116

Congressman Bradley Byrne, c/o  
Office of the Attorney General  
501 Washington Avenue  
Montgomery, Alabama 36130-0152

Case: Lakeisha Chestnut, et al., v. John H. Merrill  
Date of deposition: July 24, 2019  
Deponent: Congressman Bradley Byrne

Please be advised that the transcript in the above referenced matter is now complete and ready for signature. The deponent may come to this office to sign the transcript, a copy may be purchased for the witness to review and sign, or the deponent and/or counsel may waive the option of signing. Please advise us of the option selected. Please forward the errata sheet and the original signed signature page to counsel noticing the deposition, noting the applicable time period allowed for such by the governing Rules of Procedure. If you have any questions, please do not hesitate to call our office at (202)-232-0646.

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Witness Name: Congressman Bradley Byrne  
Deposition Date: July 24, 2019

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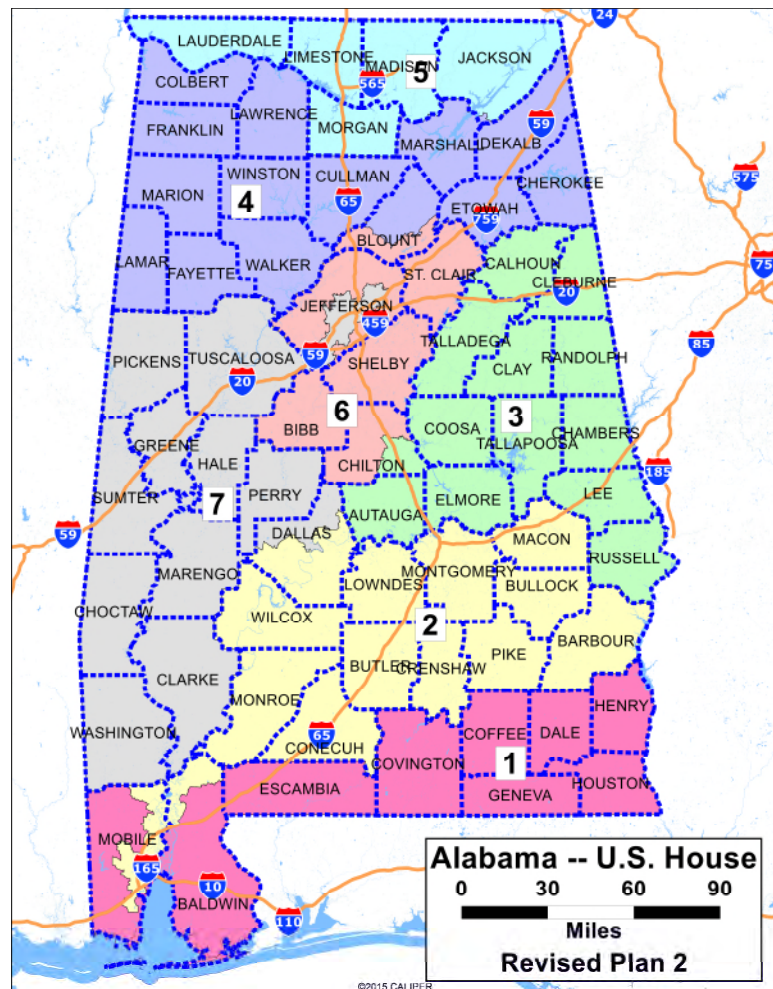
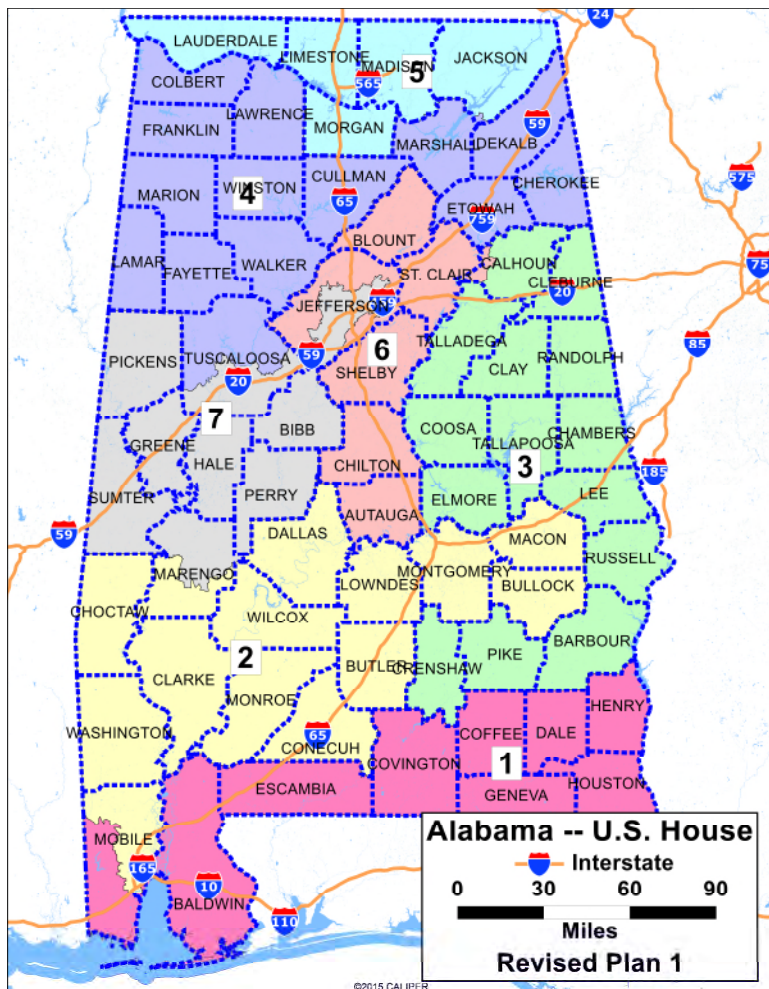
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Case: Lakeisha Chestnut, et al., v. John H. Merrill  
Witness Name: Congressman Bradley Byrne  
Deposition Date: July 24, 2019

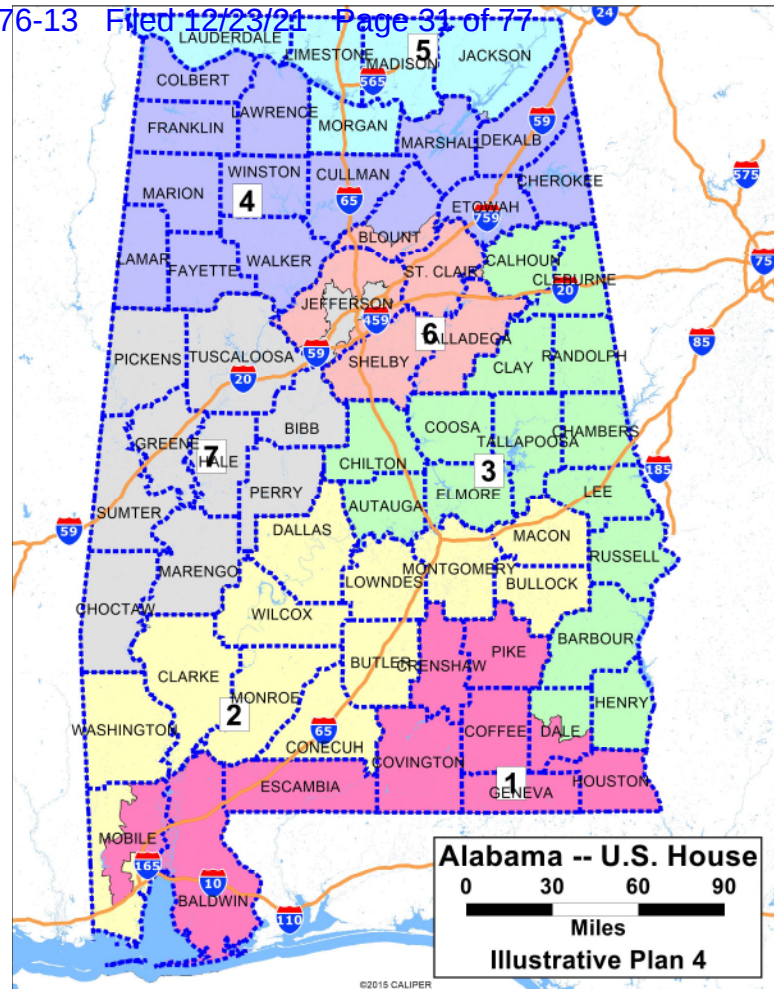
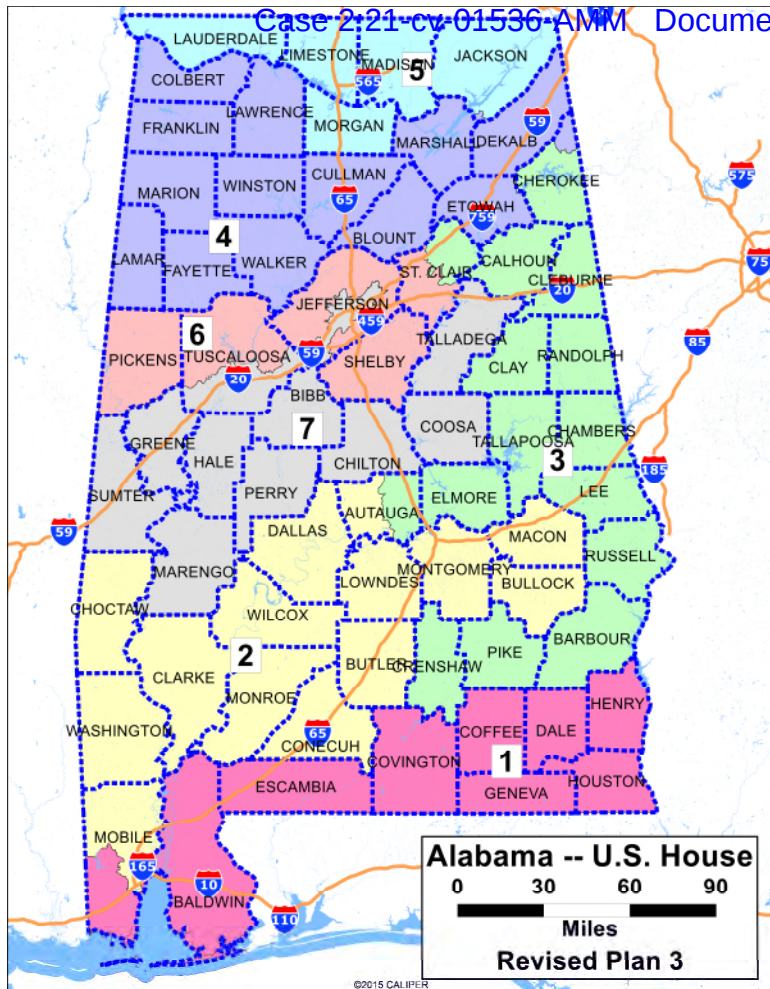
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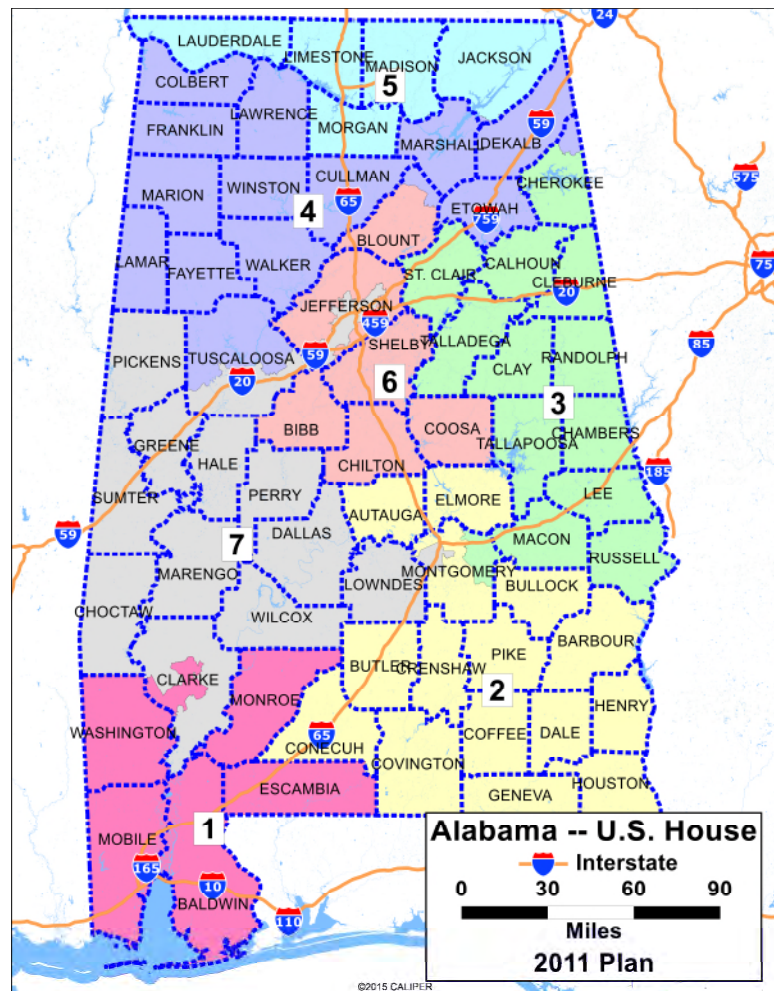
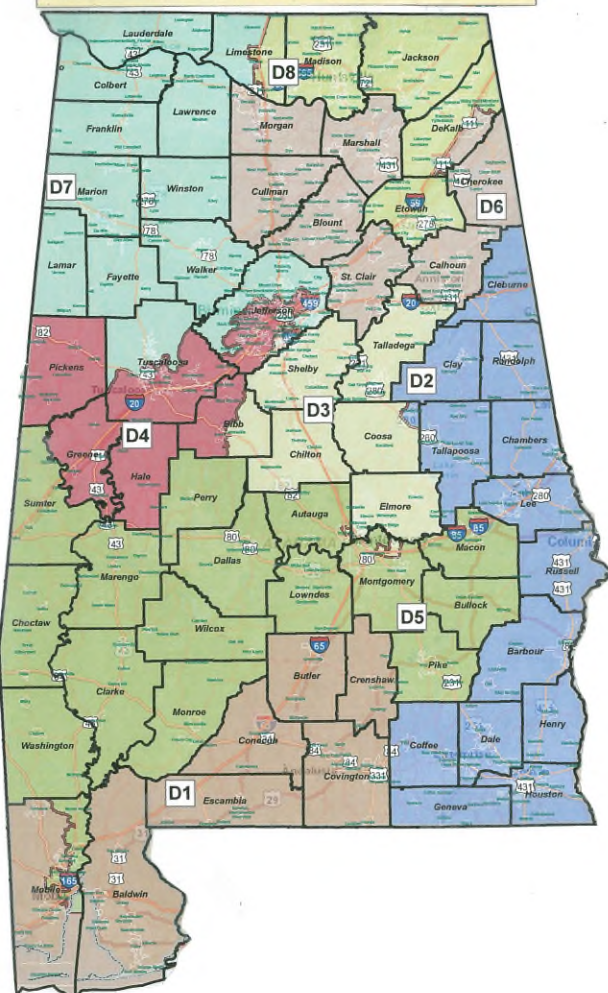
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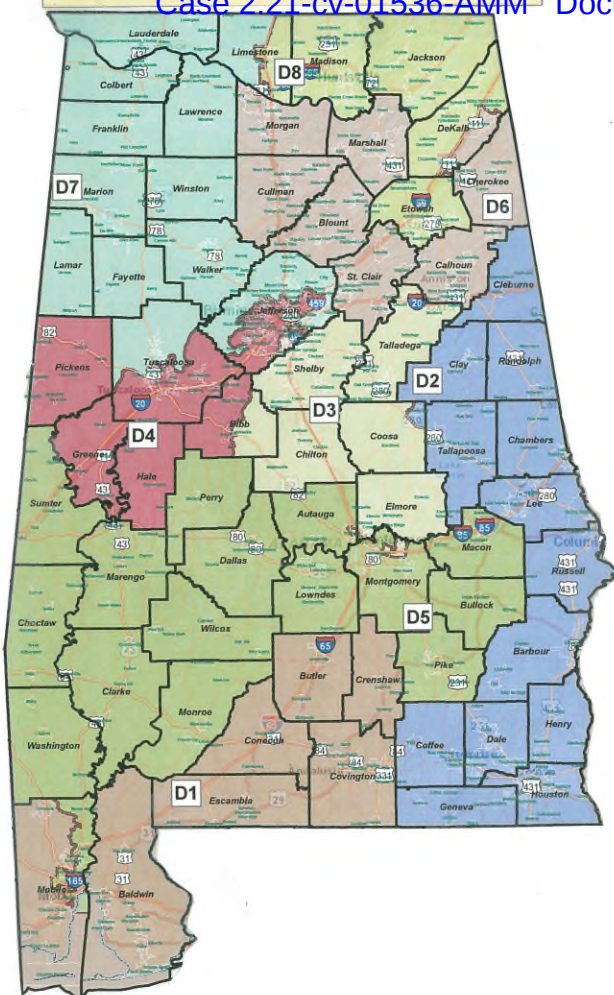




2011 State Board of Education Districts









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 2 FOR THE NORTHERN DISTRICT OF ALABAMA  
 3 SOUTHERN DIVISION

4 LAKEISHA CHESTNUT, an individual; \*  
 5 MARLENE MARTIN, an individual; \* 2:18-cv-00907-KOB  
 6 BOBBY DUBOSE, an individual; \* November 7, 2019  
 7 RODNEY LOVE, an individual; KAREN \* Birmingham, Alabama  
 8 JONES, an individual; JANICE \* 9:00 a.m.  
 9 WILLIAMS, an individual; RODERICK \*  
 10 CLARK, an individual; JOHN HARRIS, \*  
 11 an individual, \*  
 Plaintiffs, \*  
 vs. \*  
 JOHN H. MERRILL, in his official \*  
 capacity as Alabama Secretary of \*  
 State, \*  
 Defendant. \*

\*\*\*\*\*

12 TRANSCRIPT OF BENCH TRIAL  
 13 VOLUME IV  
 14 BEFORE THE HONORABLE KARON O. BOWDRE  
 CHIEF UNITED STATES DISTRICT JUDGE

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P R O C E E D I N G S

(In open court.)

THE COURT: You may be seated. Good morning.

MR. DAVIS: Good morning, Your Honor.

10:32:26 THE COURT: Defense may call your next witness.

MR. DAVIS: Your Honor, the defense calls Congressman  
Bradley Byrne.

BRADLEY BYRNE,

10:32:44 having been first duly sworn by the courtroom deputy clerk, was  
examined and testified as follows:

THE COURTROOM DEPUTY CLERK: Please state your name in  
the microphone for the record.

THE WITNESS: My name is Bradley Byrne; B-R-A-D-L-E-Y;  
B-Y-R-N-E.

10:32:55 THE COURTROOM DEPUTY CLERK: Thank you.

DIRECT EXAMINATION

BY MR. DAVIS:

Q Good morning, Congressman Byrne.

A Good morning.

10:33:02 Q Thank you for being here today. Do you represent  
Alabama's first district in the United States Congress?

A I do.

Q How long have you served in the Congress?

A I am at the end of my sixth year.

10:33:11 Q Let's go back a little bit and talk about your background.

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1 You are an attorney, correct?

2 A I am.

3 Q Have you practiced in private practice?

4 A I have.

10:33:19 5 Q Where did you practice?

6 A I practiced all over the state of Alabama. In fact, I've  
7 been in this courtroom in this building before, but primarily  
8 in the southwestern part of the state.

9 Q Where is your home?

10:33:30 10 A Presently, it's in Fairhope. But I was born and raised in  
11 Mobile. And my wife Rebecca and I lived over there until we  
12 moved to Fairhope in 2001.

13 Q Thank you.

14 And, Congressman, you and I both are going to have to  
10:33:41 15 remember they're taking down what we say. If I start talking  
16 too fast, I will try to remember to slow down. Let's both do  
17 that so they can take it all.

18 A Okay.

19 THE COURT: Well, I think Ms. Christina will let you  
10:33:51 20 know when she's having any problems, right, Ms. Christina?

21 THE COURT REPORTER: Yes.

22 MR. DAVIS: I'm trying to keep anybody from being mad  
23 at me this morning.

24 THE COURT: I don't know how it is for you, but for  
10:34:01 25 me, that would be a tall order.

1 BY MR. DAVIS:

2 Q Congressman, have you ever been a member of the Alabama  
3 Legislature?

4 A I have.

10:34:10 5 Q Where did you serve, and approximately what years?

6 A I represented Senate District 32, which was Baldwin  
7 County, but not all of Baldwin County. I represented part of  
8 it. I was elected in November of 2002. And under Alabama law,  
9 you take your seat the moment the general election is decided.

10:34:29 10 And I served there until I resigned in May of 2007 to become  
11 the chancellor of post-secondary education for the state of  
12 Alabama.

13 Q And how long did you serve as chancellor of the two-year  
14 college system?

10:34:44 15 A Almost precisely two years, maybe a little bit over.

16 Q And you said you have been a member of the state board of  
17 education?

18 A I have; for eight years.

19 Q Is that an elected position?

10:34:52 20 A It is.

21 Q Do you serve by districts?

22 A We did, and they still do.

23 Q Where was your district located in the state of Alabama?

24 A It was District 1, so it was the southern part of the  
10:35:04 25 state, southwestern part of the state. It was all of Mobile,

1 Baldwin, and Escambia counties.

2 Q Okay. I would like you to look, Congressman, at  
3 Plaintiffs' Exhibit 15. You have a hard copy, and there's a  
4 picture on the screen. And I represent to you that this is  
10:35:21 5 Alabama's 2011 congressional district plan, so you see there  
6 the boundaries of the districts as they are at present.

7 Could you describe your district for the Court,  
8 particularly focusing on any ways that in your opinion this  
9 area within District 1 is bound together in part of a community  
10:35:40 10 of interest?

11 A So as you can see here, it is all of Mobile County, which  
12 is the urban or metropolitan county; all of Baldwin County,  
13 which is the fastest growing county in the state of Alabama;  
14 all of Escambia County; all of Monroe County; all of Washington  
10:35:56 15 County; and a portion of Clarke County that primarily includes  
16 parts of the city of Jackson and the city of Grove Hill.

17 What you can't see here there are two large river systems  
18 that go through the center of that district and empty out into  
19 Mobile Bay. And what you also can't see here are some U.S.  
10:36:16 20 highways that connect these counties primarily from the  
21 northern part of the district to the southern part of the  
22 district which people use to get to work.

23 There's a lot of people in Washington, Clarke, and  
24 Escambia that work in either Mobile or Baldwin County. They go  
10:36:34 25 there to shop, or they go there for their hospital, or they go

1 there for entertainment.

2 So the way it's aligned is that the people in those four  
3 counties outside of Mobile and Baldwin travel into and out of  
4 Mobile and Baldwin. I won't say all of them do, but a good  
10:36:49 5 many of them do.

6 Q Where do people who live in the first district get their  
7 news, their media?

8 A They get it from the television -- local television  
9 stations in Mobile. They get it from the *Mobile Press*

10:37:02 10 *Register*. They get it from some radio stations that are  
11 primarily centered in Mobile. And to some extent, they get it  
12 from the local weekly newspapers and local radio stations.

13 Q Okay. Where would a person in, say, Washington, Monroe,  
14 and Escambia County go for major hospital care?

10:37:18 15 A They would go into Mobile. You have the University of  
16 South Alabama Medical Center, Mobile Infirmary, Springhill  
17 Infirmary, and Providence Hospital. Those are the four large  
18 hospitals in my district.

19 So it's not unusual at all to see people from one of those  
10:37:32 20 four counties who either they or people in their family are  
21 having to either stay in their hospitals or go there for  
22 outpatient care.

23 Q Are there any major four-year universities located within  
24 the present first district?

10:37:45 25 A There are. There's the University of South Alabama, a



1 regional public university that has over 15,000 students in  
2 Mobile. There's also Springhill College, a smaller private  
3 Jesuit college in the city of Mobile. And just outside of  
4 Mobile in Mobile County, there's the University of Mobile.

10:38:02 5 Q And would a lot of students from those universities that  
6 you mentioned come from Washington, Monroe, Escambia, and  
7 Baldwin counties?

8 A Yes. Most of the students in those four rural counties,  
9 if they're going to a public four-year college or even private  
10:38:19 10 four-year college, most of them are coming into Mobile to go to  
11 one of those three colleges.

12 Q Let's talk about some of the employers in the region.  
13 Well, first off, there's a major port in Mobile, is there not?

14 A Yes, sir. The Port of Mobile is one of the fastest  
10:38:33 15 growing ports in the United States of America. It's really the  
16 reason Mobile's there to begin with.

17 It started out as a French trading post. But during the  
18 boom years in the 19th century, there was a lot of product that  
19 was being moved from the interior of the state of Alabama  
10:38:49 20 through the Port of Mobile and out to ports in Europe. It was  
21 mainly cotton, but it was also timber products, et cetera.

22 So the connections of those counties north of Mobile to  
23 Mobile literally go back centuries.

24 Q You sometimes see major industries located along river  
10:39:04 25 system. Are there any major industries located along the

1 rivers that flow into Mobile Bay?

2 A Yes, sir. If you go up on the eastern part of Mobile  
3 County into Washington County, at the end of that part of my  
4 district that's Clarke County, you have U.S. 43. And along  
10:39:20 5 U.S. 43, you have a number of steel plants, chemical plants, a  
6 power generating plant for Alabama Power Company, and some  
7 other manufacturing concerns.

8 Q And you've said that a lot of people from these outlying  
9 counties come into Mobile County to work. What are some of the  
10:39:40 10 major employers in the Mobile area?

11 A The largest single private sector employer is Austal  
12 shipyard that's located on the water front in Mobile. It  
13 employs 4,000 direct employees and about another 1,000 contract  
14 employees.

10:39:56 15 Then you have Airbus, which has not only an assembly line  
16 there for the A320 and soon the A220. They have an engineering  
17 facility there. And out there by the Mobile Airport an actual  
18 facility that services the military.

19 You have, as I said, three steel mills there in Mobile  
10:40:15 20 County, a number of chemical companies.

21 The University of South Alabama is a major employer.

22 The Mitchell Cancer Center is there, as is the University  
23 of South Alabama Medical Center, another major employer.

24 And then, of course, the Port of Mobile and interests  
10:40:31 25 related to the port are major employers.

1 One of the fastest growing employers is now, however, is  
2 over in the southern part of Baldwin County where we have this  
3 major tourism industry. We have a number of people coming from  
4 the rural counties to go down to work in whatever the retail or  
10:40:47 5 other things that are related to the tourism industry in south  
6 Baldwin County, which is also fast growing.

7 Q You mentioned tourism. Does the fact that the first  
8 district is located on the coast, is that something that binds  
9 this region together?

10:41:03 10 A Oh, yeah. Very much so. It almost doesn't matter where  
11 you live in my district, you've got some connection to the  
12 water. It may be because you like to fish. It may be because  
13 you like to eat seafood. It may be you just like being there  
14 near the water and seeing it and enjoying it.

10:41:20 15 So we have -- in that whole area in southwest Alabama,  
16 we've always recognized Mobile Bay and the waters that flow  
17 into and around Mobile Bay as a part of who we are.

18 Q Is there a strong seafood industry in the first district?

19 A There is indeed. In south Mobile County and south Baldwin  
10:41:37 20 County, there is a very strong long-term seafood industry.

21 A number of people are employed in various parts of that  
22 industry. As I say, a lot of people like to come down there  
23 and buy their seafood directly because it's fresh and you've  
24 got a reasonable price on it.

10:41:52 25 Q Back to some of the industry we're discussing. Is there

1 any industry upriver that uses the port system to ship its  
2 product?

3 A Virtually all of them do both in and out. Sometimes with  
4 the chemical companies they have other things -- substances are  
10:42:10 5 coming from other places that is brought into their facility.  
6 They do whatever their process is to turn it into something  
7 else, and then it goes right back out again.

8 So it's not unusual -- and same is true for the steel  
9 companies and for some of the other manufacturing concerns.  
10:42:27 10 For example, the -- for Airbus, you have a number of parts and  
11 large parts of the jet that come in by barge or large ocean  
12 going ship and they go to a special port there, and then they  
13 are trucked back over to the Airbus facility.

14 So the port is critically important to the manufacturing  
10:42:45 15 concerns all over my district.

16 Q Would it be fair to say, Congressman, that the health of  
17 the economies of the entirety of your first district is linked  
18 to the health of the port system?

19 A Very much so.

10:42:58 20 Q And other industries, such as Airbus and the shipyard?

21 A Very much so. I don't know that a lot of those industries  
22 would be there but for the port. In fact, I think they  
23 wouldn't be there but for the port.

24 Q And the port doesn't just benefit the economy of Mobile  
10:43:14 25 County. Would it also benefit the economy of Washington,

1 Monroe, Escambia, and Clarke counties?

2 A The port benefits those counties and virtually every  
3 county in the state of Alabama.

4 Q Sure. Well, that's a good point. Does the economic  
10:43:27 5 health of the first district benefit the entirety of the state?

6 A Very definitely. Most of the tourism, the tourist tax  
7 revenue for the state of Alabama comes from Baldwin County, for  
8 example. A lot of the things that are flowing into our  
9 automobile plants, the parts, et cetera, flow through the Port  
10:43:47 10 of Mobile.

11 The Port of Mobile is presently constructing a facility  
12 where they can actually take automobiles out of that port and  
13 ship to other places. So the port of Mobile is a big part of  
14 the economic development of the state of Alabama.

10:44:02 15 Q But you would agree that there's a strong direct link to  
16 these people in Washington, Monroe, Escambia, Clarke, Baldwin  
17 counties who go into Mobile County to get their paycheck?

18 A Absolutely. You have a large number of people who drive  
19 in from those counties into Mobile, maybe to a lesser extent  
10:44:21 20 Baldwin County for their work. As I say, they may be going  
21 there for their health care. They may be going there to shop.  
22 And they may be going there for just pure entertainment  
23 purposes. It's sort of the center right there for those things  
24 for southwest Alabama.

10:44:36 25 Q Let's talk about the social and cultural life of the first

1 district. What are some things socially and culturally that  
2 bind that region together?

3 A Well, the biggest is Mardi Gras. We like to tell the  
4 people in New Orleans that we have the first Mardi Gras. They  
10:44:48 5 don't like that, but it's the truth. And that Mardi Gras has  
6 always bound that area together. And in some of the towns  
7 outside of Mobile County, they've actually started their own  
8 little Mardi Gras parades there that are very fun to go to.

9 I think everybody understands that's kind of a way of  
10:45:05 10 expressing our joy of life. We like to have fun. We like to  
11 eat. We like to go to parades. We like to spend time with one  
12 another.

13 Our Mardi Gras is very family oriented. You have families  
14 who for generations have been coming into Mobile for Mardi Gras  
10:45:21 15 so they can partake of that.

16 THE COURT: And moon pies.

17 THE WITNESS: And moon pies.

18 THE COURT: You can't forget the Mobile moon pies.

19 THE WITNESS: Very good microwaved with some ice cream  
10:45:30 20 on top of it.

21 THE COURT: I haven't it that way. I will have to  
22 see.

23 BY MR. DAVIS:

24 Q Are you aware of any counties outside of the first  
10:45:39 25 district that celebrate Mardi Gras?

1 A There are some in Mississippi and some in Florida. But  
2 I'm not aware of any others in Alabama.

3 Q Okay. I meant to limit my question to Alabama counties.  
4 So thank you for being more specific.

10:45:52 5 What about the demographics of the first district? Is  
6 this a diverse district?

7 A Extremely diverse. You've got an urban center there in  
8 Mobile. You've got a major tourist destination in south  
9 Baldwin County.

10:46:09 10 As you said, we have the seafood industries in both south  
11 Mobile County and south Baldwin County. In south Mobile County  
12 a big part of that seafood industry is a southeast Asian  
13 population that immigrated there at the end of Vietnam war.

14 Then you move up into the northern part of the both Mobile  
10:46:27 15 and Baldwin counties and spreading out to the rural counties.

16 Timber is a big thing. We do have agriculture. Cotton  
17 and peanuts are big. Some soybean.

18 We have -- sort of a unique part of agricultural industry  
19 in my district is we have a lot of nurseries. Some of them  
10:46:44 20 small, some of them big in both Mobile and Baldwin counties.

21 And then you've got some tourism, a little less tourism up  
22 in the northern part of my district where people like to go  
23 hunt and fish. We've been trying to develop that.

24 So you've got very rural sparsely populated areas, very  
10:47:01 25 urban densely populated areas. You have got areas that are

1 well-to-do, areas that are not so well-to-do, areas that are  
2 developing, areas that are declining. It's a very diverse  
3 district.

4 Q So you have constituents who are Asian American?

10:47:14 5 A Yes.

6 Q You have constituents who are African-American?

7 A Yes, sir. And Hispanic.

8 Q And Hispanic. You've served in the state legislature.

9 You've been elected to the board of education. You have been  
10:47:30 10 elected to Congress. Do you spend much of your time  
11 campaigning door to door?

12 A I do. That's one of the things that I enjoy doing. And I  
13 learn a lot by going door to door. I enjoy the interaction I  
14 have with the people when I do it.

10:47:43 15 Q What, if anything, have you noticed during your  
16 door-to-door campaigning about where people live in your  
17 district, particularly where people live of different races?

18 A Well, the populations are shifting. Families, white or  
19 black, are trying to move to the suburban areas.

10:48:03 20 So as I go through suburban areas of west Mobile city,  
21 west Mobile County, I notice a pretty good integration,  
22 increasing integration of African-American families. It's  
23 almost always families, people with children.

24 On the other side, you've got more and more younger  
10:48:19 25 people, white and black, moving into the downtown and midtown



1 area because that's sort of the hot, hip place to live. And so  
2 you're seeing two areas that used to be more or less segregated  
3 are beginning to integrate because the younger people want to  
4 go be downtown or near downtown.

10:48:35 5 The people with families want to be out in the suburban  
6 areas that are little more kid friendly.

7 Q So are you seeing the Mobile area becoming more integrated  
8 residentially --

9 A Yes.

10:48:45 10 Q -- over time?

11 A Absolutely.

12 Q Is there anything unique about the history of this part of  
13 Alabama?

14 A Well, we were founded first by the French in the early  
10:48:57 15 18th century, and then had the Spanish come in for a number of  
16 years. Then the British took over for a number of years. Then  
17 the Spanish came back. Then the British came back.

18 And in 1710, we and some places over what is now  
19 Mississippi tried to form our own country called West Florida.  
10:49:15 20 And the only thing that the British and the new American  
21 Republic could agree upon was they weren't going to let us form  
22 our own country.

23 So ultimately the Americans took over our part of Alabama  
24 during the War of 1812. So by the time that part of the state  
10:49:32 25 came into the United States of America, we had this very sort

1 of cosmopolitan beginning.

2 So you have a lot of people there -- and I'm one of them  
3 who have French or Spanish forbearers. And we have that sort  
4 of culture that comes into who we are. So that's unique.

10:49:49 5 The fact that we are a port city is unique in Alabama. We  
6 have inland ports that are very important. But we're the only  
7 deep water ocean port.

8 And we went through a period of time during the 19th  
9 century when we were very outward looking towards the rest of  
10:50:07 10 the world. In fact, when they referred to Mobile in London and  
11 Paris newspapers in the 19th century, they never said Mobile,  
12 Alabama or Mobile, USA. They just said Mobile because  
13 everybody knew who it was.

14 In the latter part of the 19th century, we had three  
10:50:23 15 German language newspapers. We had a vast influx of Germans.  
16 About at the same time, we were bringing a lot of Greeks in  
17 that ended up in a place called Malbis in Baldwin County. And  
18 we found a number of people from Scandinavia and places like  
19 Czechoslovakia that were moving into the area.

10:50:43 20 So we've had this type of history of different types of  
21 nationalities, ethnicities, and even religions moving into our  
22 area. And I see a lot of that around the state of Alabama. I  
23 don't see it to the extent that I see it in my part of the  
24 state.

10:50:57 25 Q Would you agree, Congressman Byrne, that Mobile and

1 Baldwin County are closely connected culturally and  
2 economically?

3 A I have to quote Winston Churchill. Winston Churchill said  
4 that the Americans and the British were separated by a common  
10:51:10 5 language. And I tell people all the time Mobile and Baldwin  
6 County are separated by a common bay and river system. We're  
7 very integrated with one another.

8 My family actually started out in Baldwin County and  
9 migrated over the Mobile County. We have had our feet in both  
10:51:25 10 sides of the bay for generations. And we're not unusual.

11 So you've got people who have some sort of a connection on  
12 both sides of the bay. And we've found over the last 20 years  
13 that the economic development efforts of both sides of the bay  
14 have been merging.

10:51:41 15 And so we're actually doing a lot more cooperative things  
16 between the two counties. And each county sort of living off  
17 of the other in various ways.

18 So the cooperation between local government, local  
19 economic developers, local civic leaders on both sides of the  
10:51:58 20 bay is something we've worked very, very hard on. And it's  
21 paying off for us in a big way.

22 Q Are Mobile and Baldwin counties becoming more or less  
23 connected over time?

24 A Much more connected. In fact, right now we have a problem  
10:52:10 25 that in order to keep us connected we have got to build a new

1 Interstate 10 bridge across our river. We're struggling with  
2 that there's so much connection. But that's a good thing.

3 I think it benefits both counties. And I think it's  
4 benefited the incredible economic development efforts we have  
10:52:26 5 had there in the last 20 years.

6 Q I didn't ask you, Congressman -- what, if any, committees  
7 do you serve on in Congress?

8 A I'm on two. I'm on the House Armed Services Committee and  
9 on the Education and Labor Committee. When I say education and  
10:52:38 10 labor, it's both K-12 and higher education policy on the  
11 education side.

12 But on the labor side, it's my old area of law practice,  
13 which is traditional labor and then traditional employment law,  
14 Title VII, et cetera. So that committee actually lines up  
10:52:53 15 pretty well with what my experience was before coming to  
16 Congress.

17 Q Okay.

18 THE COURT: Wait a minute. Education and Labor are  
19 one committee?

10:53:01 20 THE WITNESS: Yes, ma'am.

21 THE COURT: That's an interesting combination.

22 THE WITNESS: Yes, ma'am. But because of my  
23 background, it sort of fits being on the state school board,  
24 being chancellor, and being a former labor and employment  
10:53:14 25 lawyer. So I'm always uniquely suited to be on that committee.

1 I fact, I think I'm the only person in Congress that can say  
2 all that.

3 THE COURT: I was about to say you're probably unique  
4 in that in more ways than one.

10:53:26 5 BY MR. DAVIS:

6 Q What issues do you need to focus on when you represent the  
7 first district, Congressman? If your colleagues saw you coming  
8 down the hall, they say, Here comes Congressman Byrne. He  
9 probably wants to talk to me about -- what?

10:53:37 10 A Oh, well. If you asked the House leadership, they'd say,  
11 When Byrne comes down the hall, he's interested in that ship --  
12 those ships, the fish, red snapper, and he's interested in that  
13 bridge. In fact, they can go down the line and say one, two,  
14 three.

10:53:51 15 And part of the reason for that is that I have just  
16 focused on it, focused on it, focused on it. And they know  
17 what I'm interested in and what they need to be working with me  
18 on.

19 That's true for most successful members of Congress.  
10:54:04 20 You've got to get everybody to understand this is what's  
21 important to my district, and I'm going to focus on it, and you  
22 have to focus on it with me if you want me to be cooperative.

23 Q So are those things important to you because they're  
24 important to your constituent in the first district?

10:54:17 25 A Absolutely.

1 Q Are those things that Congressman Roby is known for  
2 focusing on as she represents the second district?

3 A Oh, yeah. She's got Fort Rucker, a major army helicopter  
4 base kind of in the center of her district. So Fort Rucker is  
10:54:32 5 important to her. She has Maxwell Air Force Base up there in  
6 Montgomery. Obviously very important to her. Maxwell Air  
7 Force Base does a lot of different things, but a lot of it is  
8 training and education.

9 She's got very important agricultural interests in her  
10:54:49 10 district -- cotton, peanuts, cattle primarily.

11 She's got a university in the center of her district, Troy  
12 University. That's a regional university that also has an  
13 international reach even having campuses in southeast Asia and  
14 China. She also has the University of Troy in Montgomery,  
10:55:11 15 Auburn University in Montgomery, and Alabama State University.  
16 So she's got four different universities that she works with.

17 There are also some other specialty businesses in her  
18 district. Great Southern Wood Preserving, which we all know as  
19 YellaWood, is located in Abbeville in her district. It's the  
10:55:28 20 largest treated lumber company in the world.

21 And there is a plastic recycling business in Troy that's  
22 the largest in the world.

23 And then you have a number of defense-related businesses  
24 both around Fort Rucker and around Troy University itself,  
10:55:44 25 including the site where they make the Thad missile system, et

1 cetera.

2 So she's got some very important economic development,  
3 economic interests in her district, and military interest in  
4 her district that she has to focus on. And everybody in

10:56:00 5 Washington knows that.

6 Q Well, you have the naval shipyard in the first district?

7 A Right.

8 Q And she has Fort Rucker and Fort --

9 A Maxwell Air Force.

10:56:10 10 Q -- Maxwell Air Force Base. So there are military  
11 interests in both districts?

12 A Right.

13 Q Are they the same?

14 A No. So the Armed Services Committee is broken up into  
10:56:20 15 subcommittees. One of those subcommittees is the Seapower  
16 Committee. It makes sense if you represent a naval shipyard to  
17 be on the Seapower Committee. If you don't represent a naval  
18 shipyard, you wouldn't necessarily want to be on the Seapower  
19 Committee.

10:56:35 20 She would be interested and was when she was on the Armed  
21 Services Committee and being on tactical land and air, which  
22 deals with things like Fort Rucker and Maxwell.

23 So if you were just looking at those two, they are two  
24 different areas of focus within military defense matters.

10:56:53 25 It doesn't mean that she wouldn't know anything about my

1 shipyard or that I don't know about her military bases. We  
2 both do, and we work with one another. But she's the leader  
3 over there, with regard to Rucker and Maxwell. I follow her  
4 lead. I'm the leader with regard to the shipyard in my area.  
10:57:10 5 She follows my lead, as others do.

6 And so we're able to separate our areas of expertise,  
7 strengthen ourselves. And by complimenting one another,  
8 Alabama actually punches above its weight. If you look at how  
9 many members we have in our seniority, we get far more for the  
10:57:28 10 buck than most states do.

11 Q Right now, looking at the current borders of the first  
12 district, do you find that this area's connected enough to make  
13 it easier for you to focus on a narrow set of issues?

14 A Yes, sir. I can tell you -- I meet once a year with  
10:57:48 15 economic developers, once a year with our superintendents of  
16 education, once a year with our higher ed leadership, once a  
17 year in various ways with local elected leadership so that --  
18 and it's compact enough that I can do that. And then in  
19 between those yearly meetings, we stay in touch with one  
10:58:05 20 another.

21 Plus it's pretty easy to get around my district driving  
22 wise. I can get to even the furthest part of my district  
23 fairly easily. So from my perspective, that sort of  
24 compactness of the district gives me the ability to focus on  
10:58:20 25 the things I need to focus on and get my job done.



1 Q Where do you have offices?

2 A I have one in Mobile, and I have one in Summerdale, which  
3 is on Alabama 59 just north of Foley. If you're going to the  
4 beach, you go right past my office.

10:58:37 5 THE COURT: Is that in Baldwin County?

6 THE WITNESS: Yes, ma'am.

7 BY MR. DAVIS:

8 Q How easy would it be to focus not just on snapper and  
9 ships and the bridge, but to also focus on timber and peanuts  
10 and army helicopters and the other things that are in the  
11 second district?

12 A Well, you know, if that was your job, you would do it.  
13 But there's only so many hours in the day. You only have so  
14 much staff. And when you spread yourself over that much of a  
10:59:06 15 geographic area with those different interests, by definition,  
16 you're going to get less attention to each of those.

17 So anybody who would try to represent both of those I'm  
18 sure would do the best they could, but they couldn't do it as  
19 well as if you keep these districts compact.

10:59:22 20 Q Congressman, the plaintiffs in this lawsuit have argued  
21 that Alabama should draw different districts, and they've made  
22 a series of proposals to suggest different ways that may be  
23 done. What I have put on the screen is Plaintiffs' Exhibit 61  
24 also known as their Revised Plan 1.

10:59:47 25 Look at the first district, as is configured here on

1 Plaintiffs' Exhibit 61. What response do you have to this  
2 district?

3 A Well, I'd be living on Interstate 10 getting back and  
4 forth between the western most part of my district to the  
11:00:05 5 eastern most part of my district, because that's the most  
6 efficient way to get from the western part of that district to  
7 the eastern part of the district. It takes a long time to get  
8 from far west Mobile County to get to Dothan over there in the  
9 southeastern part of Houston County.

11:00:19 10 And then if you go up to Henry County where Abbeville is,  
11 you would be even further because you would have to go over  
12 Interstate 10, come up through Dothan, then go even further  
13 north. That's not to say if that was my district I wouldn't do  
14 it. Of course, I would do it. But because of the geographic  
11:00:34 15 distance there, I would not be able to do as much.

16 So in the past six years, I've done over 130 town halls in  
17 55 different localities in my district. I would not be able to  
18 do that many town halls nor reach that many localities if that  
19 were my district.

11:00:49 20 Q Are there communities of interest that unite southwest  
21 Mobile County with Houston and Henry counties?

22 A I can't think of any.

23 Q Okay. Do they have any common industry?

24 A There is some agriculture in southwest Mobile County.  
11:01:08 25 Some of it's common to Houston County, et cetera. But some of

1 it's not. For example, you have got a lot of pecans in  
2 southwest Mobile County. You have a lot of watermelons there.  
3 I don't think they do over there. You have some of the  
4 nurseries there in southwest Mobile County. They don't over  
11:01:25 5 there. And then they don't have any seafood. In the far  
6 southern part of Mobile County, you have all those seafood  
7 interests.

8 So, yes, there's agriculture, but it's different  
9 agriculture. And you might not think that they're that  
11:01:39 10 different. But when you start looking at the federal  
11 agriculture programs and how they apply here, there's a great  
12 deal of difference.

13 Cattle is a very different thing than growing crops. And  
14 they have a lot of cattle over there in that part of Alabama.

11:01:55 15 Q Do people from Henry and Houston County come to Mobile to  
16 work?

17 A No.

18 Q Do a lot of industries in Henry and Houston County use  
19 ports to ship their products?

11:02:06 20 A No, sir. There is a port there in Panama City, and that's  
21 closer to them to be able to truck things. So I can't say that  
22 there aren't any. But all that I know of is being shipped from  
23 that part of the state of Alabama through the port there in  
24 Panama City.

11:02:22 25 Q Now, look at the yellow district, Exhibit 2 -- excuse

1 me -- District 2 here on Plaintiffs' Exhibit 61.

2 A Uh-huh.

3 Q It connects -- would you agree that it includes the more  
4 urban parts of Mobile?

11:02:37 5 A It does. It also includes some of the less-populated  
6 parts of the northern part of Mobile County, as well.

7 Q And then it goes to connect those areas of Mobile County  
8 with Montgomery, Macon, and Bullock County. Are there strong  
9 connections between urban Mobile and Macon, Bullock, and

11:02:58 10 Montgomery counties?

11 A As far as I know, there are no connections.

12 Q Does anyone from Montgomery, Macon, or Bullock County come  
13 to Mobile to work?

14 A Not that I've ever known of. That'd be a pretty far  
11:03:10 15 commute. It would be a long commute.

16 Q Do they get their media from Mobile?

17 A No. They get their media from Montgomery.

18 Q Are there communities of interest that you're aware of  
19 that bind -- that bind urban Mobile County with Lowndes,

11:03:29 20 Montgomery, Macon, and Bullock County?

21 A Not that I know of. I've never known of any sort of  
22 cross-fertilization, in terms of what we're doing economically.  
23 I've worked with people in those counties.

24 Q Sure.

11:03:43 25 A But not on things that have anything in common with what

1 we do down in the southwest Alabama.

2 Q Looking back at District 1, the pink district, if that  
3 were your district, where would you need to have offices?

4 A Certainly you would want to have an office in Dothan. You  
11:04:04 5 probably would try to have something either in Brewton or  
6 Andalusia, one in Mobile. But then you've got three offices,  
7 and we only have so much money in the budgets they give us to  
8 run our offices.

9 And so you would definitely sacrifice, in my judgment, the  
11:04:20 10 one in Baldwin County. And the one you had either in Brewton  
11 or Andalusia would have to be a pretty small office because you  
12 couldn't afford it any other way. It's hard to maintain more  
13 than two offices in your district under the budget we have got.

14 Q So District 1, as it's proposed here on Plaintiffs'  
11:04:39 15 Exhibit 61, would that be more difficult for you to represent  
16 than the district you presently represent?

17 A Far more difficult. I would try. Don't get me wrong.  
18 And I think any representative would try.

19 But I think the reality is it's so broad geographically,  
11:04:56 20 and it has such differences in their, you know, economies, et  
21 cetera, I think it would be very difficult.

22 Q Would District 2, as it's configured here on Plaintiffs'  
23 Exhibit 61, would it be more difficult to represent than the  
24 present District 2 that Congresswoman Roby serves?

11:05:14 25 A Absolutely. I mean, you've got to represent Montgomery

1 and Mobile. And Montgomery and Mobile are friends, but they  
2 are two different economies. They've got two different sets of  
3 things trying to accomplish. And trying to master what the  
4 needs are of those two distinct areas and regions would be very  
11:05:34 5 difficult, I would think.

6 Congressman Roby would throw herself at it and I think do  
7 well at it. But I think even as good as she is and as hard as  
8 she works, I think she would find it extremely difficult to  
9 represent an area that looks like that.

11:05:48 10 THE COURT: Is it fair to say that sometimes Mobile  
11 and Montgomery may be somewhat of competitors, as well as  
12 friends?

13 THE WITNESS: Yes, ma'am. That's not unusual, you  
14 know, when you're going after an economic development prospect.  
11:06:05 15 You're friends and work together on things you can. But if  
16 there's one prospect and you both want to go get them, you're  
17 competitors.

18 THE COURT: And isn't there a little bit of maybe  
19 sibling rivalry as to who is the largest city at what time, and  
11:06:22 20 things of that nature?

21 THE WITNESS: There's some sibling rivalry going on  
22 there, yes, ma'am. We have a close connection to the people in  
23 Montgomery. We have lots of friendships.

24 But let's face it. When you're trying to develop your  
11:06:35 25 area economically and you're competing for a new plant or

1 factory business, you know, everybody's on their own. And  
2 we're going to -- we're going to compete very hard against one  
3 another. And I think that's what's made Alabama so successful  
4 economically is we cooperate when we can. But, buddy, when  
11:06:51 5 it's time to, you know, to suit up and go after it, we go after  
6 it. And we've been a very successful as a state because of  
7 that.

8 BY MR. DAVIS:

9 Q Congressman, I've put on the screen now Plaintiffs'  
11:07:03 10 Exhibit 61, which is Plaintiffs' Revised Plan 2.

11 A slightly different configuration.

12 THE COURT: I think it's 67.

13 THE WITNESS: Yeah.

14 MR. DAVIS: I'm sorry if I misspoke. Plaintiffs'  
11:07:15 15 Exhibit 67.

16 BY MR. DAVIS:

17 Q Congressman, would this configuration of districts present  
18 the same concern as the Revised Plan 1 we just saw?

19 A It would even more so in some respects because you're  
11:07:26 20 going even deeper into parts of Mobile County that have very  
21 different interests.

22 So -- and I'm just looking at what it would take to drive  
23 from Tuskegee to -- I guess that's Fowl River in the southern  
24 part of Mobile County. That would be quite a hike.

11:07:45 25 Q If someone were running from -- wanting to represent

1 District 2, if it were drawn as it is here on Plaintiffs'  
2 Exhibit 67 -- let's say you had a candidate running in a  
3 primary from downtown Mobile and a candidate running from the  
4 Montgomery area. Do you have any sense of which candidate  
11:08:08 5 might have a stronger base of support?

6 A Yeah. The Montgomery candidate. So and think about that.  
7 That means you just hurt Mobile. If you do that district --  
8 that district you got in Plaintiffs' Exhibit 67 hurts Mobile,  
9 everybody in Mobile.

11:08:23 10 Q Well, and then I guess you would have an election for  
11 District 1 at the same time. You could have a candidate from  
12 west Mobile County and a candidate from Dothan. You could have  
13 a candidate elected from Dothan to represent District 1, a  
14 candidate from Montgomery to represent District 2, and no one  
11:08:41 15 anywhere -- who was -- lives anywhere around Mobile County?

16 A That's right.

17 Q Would you not?

18 A That would be devastating for Mobile.

19 Q Would that be good -- you said it would be bad for Mobile.  
11:08:56 20 Would it be good for the state of Alabama?

21 A No. You would lose a congressman or woman who was focused  
22 on that very economically dynamic part of the state.

23 And I would say the same thing by the way if we were  
24 talking about Huntsville. I mean, Congressman Mo Brooks  
11:09:14 25 represents Huntsville. If we lost one congressperson looking



1 out for that incredibly dynamic economy in Huntsville, it would  
2 hurt the entire state of Alabama.

3 Q I'll show you now, Congressman, Plaintiffs' Exhibit 73  
4 which is Plaintiffs' Revised Plan 3. It is a third  
11:09:37 5 configuration of your districts.

6 Would this plan present some of the same concerns as the  
7 other two we saw?

8 A Yes, sir. And I will add an additional concern that would  
9 be true for this one and the rest of them. One of the things  
11:09:48 10 we've been trying to do very hard is to not separate parts of  
11 Mobile from others. And we don't want to separate Baldwin  
12 County from Mobile. All of these start to break up Mobile,  
13 which is something we're trying to stop.

14 Our mayor in Mobile Sandy Stimpson, his motto is One  
11:10:06 15 Mobile. We start doing things like, this we're going against  
16 that. We have a group that's trying to make sure we integrate  
17 Mobile and Baldwin County together. This goes against that.  
18 So this actually hurts those efforts.

19 Q Would your concerns be the same or even greater if not  
11:10:21 20 only were Mobile divided, but if it were divided along racial  
21 lines?

22 A I would be even more concerned. I think dividing along  
23 racial lines is really bad.

24 Q And now --

11:10:36 25 THE COURT: Why do you think that is really bad,

1 dividing among racial lines?

2 THE WITNESS: Well, I think it's morally bad. But  
3 when you start to sell your area economically, the last thing  
4 an economic development prospect wants to see is that you have  
11:10:52 5 got division with your community, and particularly racial  
6 division.

7 They like seeing people who are unified, who work  
8 together, who overcome problems -- not expect you to have no  
9 problems. They want to see that you have unified efforts to  
11:11:05 10 overcome those problems.

11 And areas that have racial divisions are areas that start  
12 with a handicap in trying to attract economic development  
13 prospects.

14 THE COURT: Thank you.

11:11:15 15 THE WITNESS: Yes, ma'am.

16 BY MR. DAVIS:

17 Q Do you think it would promote racial unity and thus  
18 economic development and all the other benefits of racial unity  
19 if we said this part of Mobile is in a district designed to be  
11:11:33 20 an African-American district, and this part of Mobile is in a  
21 district designed to be a white district?

22 A I think it would greatly harm all of our efforts if we did  
23 that. That's why I strongly support Mayor Stimpson's motto,  
24 One Mobile.

11:11:45 25 Q Congressman, I've put on the screen now Plaintiffs'

1 Exhibit 40, which is Plaintiffs' Illustrative Plan 4. It's a  
2 fourth proposed configuration of districts.

3 Does this configuration present some of the same concerns  
4 as you had when we looked at the other plans?

11:11:59 5 A Yes, sir. And when it snakes up into Pike County, that's  
6 where Troy is. That's where Troy University is. So let me  
7 tell you about what that means.

8 Troy and the University of South Alabama are football  
9 rivals. So a couple of years ago, Congresswoman Roby and I  
11:12:19 10 went to a Troy game in Troy. She walked out on the field with  
11 the Troy team that she represents. I walked out on the field  
12 with the University of South Alabama that I represent for the  
13 coin toss. And, of course, we had a bet on the game.

14 Well, if I am the congressperson representing both of  
11:12:34 15 those districts, which team am I going to walk out on the field  
16 with? If I'm a smart congressman, I am not going to walk out  
17 on that field.

18 Now, that may seem like a little thing. But by doing that  
19 you're communicating, if you're Martha Roby, to the people that  
11:12:48 20 are in Troy and live around Troy, and big Troy supporters who  
21 you are and how you're going to support that university. Same  
22 for me. Spreading yourself out like that is probably not a  
23 good idea.

24 Q Are you suggesting that Alabamians are interested in  
11:13:01 25 college football?

1 A Yes, sir. I think Alabamians are interested in college  
2 football.

3 We have the President of the United States coming to  
4 Tuscaloosa Saturday, game day for ESPN, and the Number 1 team  
11:13:12 5 is playing the Number 2 team. I think we're interested in  
6 college football.

7 Q Now, as you mentioned, Congressman, you've served on the  
8 state board of education, correct?

9 A Yes, sir.

11:13:28 10 Q I've put on the screen now Plaintiffs' Exhibit 4 which  
11 I'll represent to you is a map of the present state board of  
12 education districts.

13 How many districts are in the state board of education  
14 map?

11:13:43 15 A There are eight.

16 Q Was this the configuration of districts when you served on  
17 the state board of education?

18 A It was not.

19 Q Okay. Your District 1, then, looked different from this  
11:13:53 20 District 1?

21 A Very different.

22 Q How did your District 1 look?

23 A It was all of Mobile County. So it was no part of like  
24 this finger comes down from District 5. It was all of Baldwin,  
11:14:06 25 all of Escambia which is the same here. But I did not have

1 Conecuh, Butler, Crenshaw, or Covington.

2 Q Who represented District 5 when you served on the state  
3 board of education?

4 A My first six years it was Dr. Willie Paul. And then the  
11:14:24 5 last two years I was on there, it was Ms. Ella Bell, who passed  
6 away earlier this week.

7 Q Did only people from your district call you with any state  
8 board of education business?

9 A No. People in Washington County and Monroe County either  
11:14:40 10 got confused about whether I was their school board member or  
11 because I was so close by wanted me to come up there and do  
12 things with them. So it was not unusual for me to get a call  
13 from a school or a school system or education advocate saying,  
14 would you come up and meet with us?

11:14:56 15 And I would always call the board member from that  
16 district and say, Look, I got this phone call. I want to go up  
17 there and be helpful to them. But it's your district, and I am  
18 not going to go in your district. And without fail, they would  
19 say, No, I appreciate your doing it because it's hard for me to  
11:15:10 20 get down there. So thank you for going up and doing that.

21 So even though they weren't my constituent on the school  
22 board, I would go up and have meetings and do things and then  
23 transmit whatever I learned about that to Dr. Paul or Ms. Bell  
24 when I saw them next.

11:15:22 25 Q Congressman, do you support a state board of education

1 plan that divides Mobile County in this way?

2 A No. And I was pretty outspoken about it.

3 Mobile County -- the Mobile County school system is the  
4 largest school system in the state. It's gone through some  
11:15:41 5 difficult times. But it's has made some real strides recently  
6 because of substantial efforts that the leadership within the  
7 system and people in the system had been making. Montgomery  
8 County schools, as you probably know, have had a lot of  
9 problems recently and are really struggling.

11:15:57 10 It would be very difficult to be a state school board  
11 member representing two such large urban districts that have  
12 issues, but different issues. In addition to which, you're  
13 going to have a lot of these rural areas. You are going to  
14 have those rural areas or some rural areas no matter which one  
11:16:14 15 you have.

16 But to have both urban areas, I think one of us is going  
17 to get the short end of the stick. And because -- I'm not  
18 taking anything away from anybody involved with this -- because  
19 the primary focus of that district is Montgomery, it's going to  
11:16:30 20 the Mobile County school system.

21 Q Hypothetically, even if everyone in the room thought this  
22 was a great way to configure the state board of education  
23 districts, does that mean it would be a good way to configure  
24 congressional districts?

11:16:43 25 A No. Being a congressman and being a state school board

1 member, I am one and I was the other. They are two completely  
2 different things. It is far, far, far more involved to be a  
3 congressman.

4 When you're in the state school board, you have got a  
11:16:57 5 relatively narrow range of issues that you're focusing on.  
6 When you're a congressman, you're focusing on an incredibly  
7 broad array of issues; everything from foreign and military  
8 policy to health policy, et cetera.

9 And to be able to deal with that in all of its local  
11:17:13 10 manifestations, and there are local manifestations to all of  
11 these issues. To try to cover something of that breadth in two  
12 different distinct metro areas, I think would be extremely  
13 difficult.

14 Q Okay. Well, I don't want to suggest that communities of  
11:17:28 15 interest are not important when you're drawing board of  
16 education districts. But would you agree that if you have  
17 districts that break up communities of interest for a board of  
18 education plan, that that doesn't present as many problems as  
19 if you break up communities of interest for a congressional  
11:17:46 20 district?

21 A Oh, yeah, I agree with that. But I still don't like this  
22 state school board configuration. I have been very vocal about  
23 that.

24 Q Now, you said you hold -- I'm going to put the present  
11:17:59 25 districts back up.

1 A Okay.

2 THE COURT: Just for the record -- Plaintiffs' 15?

3 MR. DAVIS: Plaintiffs' 15.

4 THE COURT: Thank you.

11:18:11 5 BY MR. DAVIS:

6 Q You said you hold town hall meetings in your district?

7 A Yes, sir.

8 Q Where?

9 A Everywhere. I have had over 130 town hall meetings in  
11:18:22 10 six years across 55 different communities. I don't just have  
11 them in Mobile. I just don't have them in Baldwin County. I  
12 have them everywhere. And so we've been to the tiniest places  
13 you can imagine because I think those people deserve to see  
14 their congressman too.

11:18:39 15 Q Do you hold town hall meetings in precinct that maybe you  
16 didn't carry in the election?

17 A Yes. I've done that many times.

18 Q Do you hold precincts in communities that have a large  
19 African-American population?

11:18:51 20 A Yeah. Of those 55 different communities, not quite half  
21 of them are majority African-American and have African-American  
22 mayors, et cetera. So there are local officials there that are  
23 African-American.

24 Q Do you have a sense of how many town hall meetings you may  
11:19:10 25 have held in areas with a strong African-American presence?



1 A Well, if I have had 130 across 55 different communities,  
2 it's probably at least 50, maybe more. And there are multiple  
3 ones in different ones, too.

4 So Mobile, for example, I've had town halls in different  
11:19:31 5 parts of Mobile, the eastern half and the western half, all  
6 over. There's an African-American community up in the northern  
7 part of Mobile County called Mount Vernon, another Pritchard.  
8 I've been to Pritchard a number of times at their request.

9 So we try to spread it around as much as we can. And we  
11:19:53 10 always respond to requests. For example, if a community says,  
11 We want you to come back, we come back.

12 So we've been to Grove Hill. I think this is my -- I was  
13 over there the other day. I think I've been there six times in  
14 six years.

11:20:04 15 So we try to be as responsive to the people in these areas  
16 as we can.

17 We actually had a CBS news crew -- morning news crew come  
18 down with us a year and half ago. They followed us for an  
19 entire day. And I was real proud of that. And at the end of  
11:20:24 20 the day, the news crew turned to me and said, These were some  
21 of the nicest people we've ever met -- even people that  
22 disagreed with you. And there were people that disagreed with  
23 me in my town halls. They were so nice. I said, That's how we  
24 roll down here in southwest Alabama.

11:20:38 25 Q When you have a town hall meeting, do you call only on

1 people who you think will give you a friendly question?

2 A I wish I had that clairvoyance, but I don't. The way I  
3 run my town halls is this: We gather -- whoever the host is  
4 welcomes everybody and we usually have a pledge, or something  
11:20:52 5 like that. Then I get up and say, Look, I am not going to give  
6 you a speech. I'm just going to take your questions and  
7 comments. I only have one rule and that's we respect one  
8 another. And I say, Who wants to start us off? And people  
9 raise their hands.

11:21:04 10 Now, most of the people, the vast majority of the people  
11 in those rooms, I don't know who they are. And I have no idea  
12 what questions I'm going to get. I've had national news  
13 reporters with me, and I've warned them, I have no idea what  
14 they're going to ask me. So when I call on somebody, I  
11:21:18 15 literally don't know what they're going to ask or say.

16 And I try to -- I pick, but I try to bounce around the  
17 room. And I try not to go back to the same person more than  
18 once. Although sometimes you do that because nobody else is  
19 asking questions.

11:21:31 20 And so I try to call on as much of a diverse array of  
21 people in that room as I can. And we get some very diverse  
22 array of comments and questions. And like I say, sometimes  
23 people agree with me, and sometimes they do not.

24 Q Do you want to hear the concerns and points of view of  
11:21:47 25 people who don't agree with you?

1 A Absolutely. I tell people all the time at the end that  
2 you don't get to do this in the People's Republic of China or  
3 Iran. And the great thing about America is that we get to have  
4 that sort of interchange between the government and the people,  
11:22:02 5 and that government has to hear even things that's not, you  
6 know, with what I think is the right policy option.

7 But I think that's valuable to me to do that. And that's  
8 why I do it. And I do a lot more than most people in Congress  
9 do.

11:22:15 10 Q Do you run for office under the manner of any particular  
11 political party?

12 A Yeah. I'm a Republican.

13 Q Do you consider yourself to represent constituents even if  
14 they're members of a different political party?

11:22:31 15 A Of course. When you run in an election as a Republican or  
16 Democrat, when the election is over, you have a job to do. And  
17 your job is to represent the entirety of your district. All  
18 700-plus thousand people, your job is to represent them.

19 So, you know, but most of the time when you have contact  
11:22:48 20 with people, it's not over some grand issue. It's because they  
21 have a problem with the VA, or social security, or whatever.  
22 And my job is to be their congressman. And we work very hard  
23 on doing things for them.

24 So probably the number one thing that I interact with my  
11:23:04 25 constituents about are problems they have with the VA, whether

1 they're African-American, white, or anything. And so that's  
2 what they want out of their congressman is somebody that's  
3 going to take those sorts of things seriously. And when they  
4 have a policy position, they want us to listen to them.

11:23:18 5 They're not always expecting me to agree with them. But at  
6 least they want me to listen to them, and I try do that.

7 Q Is there anything, Congressman, that you have worked on  
8 and fought for during your service that you're particularly  
9 proud of that may have had a special benefit towards the  
11:23:33 10 African-American communities?

11 A Yeah. There are two.

12 Q What's that?

13 A I am the -- there are two of us. There are two cochairs  
14 for the historically Black College and University Caucus in the  
11:23:44 15 United States House of Representatives.

16 The other cochair is Alma Adams, a Democrat from North  
17 Carolina. And she and I over the last three or four years --  
18 and I'm going to give her more credit than me because she has  
19 been great at this --- have grown that caucus into a fairly  
11:24:01 20 large caucus in the House. We've been able to pass some  
21 legislation that I think is important.

22 Equally important, is we've been bringing people in from  
23 the private sector who have not interacted with HBCUs. To get  
24 people -- major companies, et cetera to try to understand what  
11:24:17 25 an HBCU is, the importance of their mission, their students, so

1 they're paying more attention to their students. And that has  
2 been a great joy for me.

3 I was able to put an amendment on a bill that came through  
4 the House education committee -- education labor committee last  
11:24:32 5 week that spread out and added to some programatic offerings  
6 that HBCUs could have under some federal programs. Because of  
7 that, I received the Thurgood Marshall College award. The  
8 Thurgood Marshall fund works with HBCUs, African-Americans  
9 students to try to provide them more opportunity. And I was  
11:24:53 10 very proud they gave me that award.

11 The second is that I work with community health centers.  
12 Now, community health centers are not focused just in  
13 African-American communities. But at least in my district,  
14 there are a lot of community health centers in hard to reach,  
11:25:07 15 underserved areas that are predominantly African-American.

16 So I've been one of the leaders in Congress in trying to  
17 provide more authority and more resources to these community  
18 health centers because I think they do the best job of anybody  
19 I've seen of getting health care to people who really need  
11:25:24 20 them, can't afford it, and probably wouldn't access it any  
21 other way. And I received an award for that, as well.

22 So if I think of the top two things, I would think about  
23 those. But as I said earlier, the day in and day out stuff I  
24 do for individual constituents, a lot of whom are  
11:25:41 25 African-Americans whether they're working with VA or social