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

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

TRANSCRIPT OF BENCH TRIAL
VOLUME IV
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,

having been first duly sworn by the courtroom deputy clerk, was
10:32:44 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.

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 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
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

1 security, that is so important. And we try to do all of that
2 as best we possibly can for everybody who calls into my office
3 or comes and asks for our help.

4 Q Do you campaign in African-American neighborhoods?

11:25:56 5 A I do.

6 Q Do you seek support in your elections from people of all
7 races in your district?

8 A Of course. I mean, I would like to win 100 percent of the
9 vote. I know I'm not. And, frankly, I know certain areas that
11:26:09 10 are not likely to vote for a Republican. But I try to go there
11 and campaign because I still believe that they need to see me
12 campaigning. And I'm still going to fight for their vote right
13 down to the end.

14 Q Speaking of health care, when you spoke to the community
11:26:23 15 health centers, Congressman, one of your constituents testified
16 in this case, and she disagreed with your vote on a bill that
17 would have repealed the Affordable Care Act.

18 A Uh-huh.

19 Q Why did you vote to repeal the Affordable Care Act?

11:26:36 20 A So I represent everybody in my district. And I listen to
21 everybody. The vast, vast, vast majority of the people in my
22 district who have expressed themselves to me are adamantly
23 opposed to the Affordable Care Act and want it repealed and
24 replaced.

11:26:52 25 When I ran in my special election the fall of 2013, that

1 was the precise point in time that the way that law worked,
2 that health insurance companies were sending out notices to
3 people to tell them that their health insurance plan was being
4 canceled.

11:27:08 5 So I distinctly remember being at a football game in
6 Citronelle High School. This would have been in October,
7 September, October of 2013. And I'm passing out my fliers.

8 And word got around that somebody that was running for
9 Congress was there. And people went out to their cars to get
11:27:27 10 the notices they had just received to show me the notices that
11 said, We have canceled your health plan. And they were
12 outraged. Some of them were crying. And that continued after
13 I went into office.

14 So to represent my constituents, yes, I voted to repeal
11:27:45 15 and replace the Affordable Care Act because I didn't know want
16 to just repeal it. I wanted something in its place that would
17 try to meet the same needs as the intent of the Affordable Care
18 Act in a way that made more sense for my constituents and I
19 think for most people in the United States of America.

11:28:03 20 And the people in my district have strongly supported me
21 in doing that.

22 Q Was your position on that bill based at all on race?

23 A No. I've had African-Americans come up to me and complain
24 about the Affordable Care Act.

11:28:15 25 Q Congressman, this same constituent disagreed with your

1 vote on a bill concerning the First Step Act.

2 A Yeah.

3 Q What position did you take on that bill?

4 A I voted against it.

11:28:25 5 Q Why?

6 A There was some things in that bill that I liked. When I
7 ran the two-year college system in Alabama, we did the
8 education and workforce training inside Alabama state
9 penitentiaries. And so I saw the benefit of some of the things
10 they were trying to do in there.

11 But I was concerned the bill went too far in providing
12 some leniency to people who were involved in significant drug
13 trades and people involved in violent crime. And I didn't
14 think I would be representing my constituency, who by the way,
15 strongly supported me in that if I had voted for that bill.

16 Every congressman has to go through that calculus when you
17 vote for a bill because you are always going to have people in
18 your district that will disagree. That's okay. But where are
19 the vast majority of my constituents? On that bill, I knew
20 exactly where they were, and I voted that way.

21 Q Is your decision to run as a member of the Republican
22 party based on race?

23 A No.

24 Q Why do you run as a member of the Republican party?

11:29:31 25 A I have a fundamental belief that the most important thing

1 in America are the people, not the government. And when I look
2 at the philosophy of the Democratic party, it's about the
3 government, not about the people.

4 When I look the philosophy of the Republican party, it's
11:29:47 5 let's keep the government smaller, less invasive, so people can
6 decide things for themselves, whether it's health care or
7 whatever. So the basic philosophy of the Republican party is
8 not just more in keeping with my personal philosophy. It's
9 more with keeping with the vast majority of my constituents.

11:30:06 10 That's not to say that I don't understand and respect the
11 policy positions and the philosophy of the Democratic party. I
12 do. I work with Democrats a lot in the House. If you are
13 going to be successful, you have to do that.

14 But in America, there are two political parties. And the
11:30:22 15 Republican party more closely lines up with my beliefs and the
16 beliefs of my constituents. The Democratic party does not.

17 Q Do you have friendships with people who run as Democrats?

18 A Absolutely. I have lots of friendships with Democrats.
19 And one of the most rewarding parts of my experience in
11:30:38 20 Congress is not only to develop those relationships on a
21 personal basis, but to turn them into legislation. I will give
22 you an example.

23 A few years ago, you recall the "Me Too" movement got
24 started. And, you know, you found out these horrible things
11:30:52 25 that were going on in the entertainment industry, journalism,

1 United States Congress too. And I found out to my shock that
2 the same processes that the private sector is subject to under
3 Title VII of the 1964 Act are not the same that are applicable
4 to Congress. In fact, Congress was running a taxpayer funded
11:31:14 5 slush fund to pay off sexual harassment claims. As a former
6 labor and employment attorney who represented these small to
7 medium-sized businesses insisting they follow that, I was
8 outraged that Congress wasn't.

9 Well, I wasn't the only one. There was a woman from
11:31:30 10 California named Jackie Speier, a very liberal Democrat, who
11 has been an outspoken visionary, I would say, about that issue.
12 And when she and I found out that we shared that view, she and
13 I partnered on the piece of legislation that brought Congress
14 through the "Me Too" era into where we have to comply with the
11:31:52 15 same rules as everybody else, did away with the slush funds.
16 That piece of legislation passed the House unanimously, the
17 Senate unanimously, and it's a law today. And I'm proud of
18 that.

19 And Jackie Speier, who loves to tell the story about the
11:32:05 20 far-left Democrat from the California and the conservative
21 Republican from Alabama working together on a piece of
22 legislation that was morally right.

23 Q Congressman, I know you're busy representing the first
24 district and all of your other obligations. Why are you
11:32:22 25 interested enough in these district lines to take time out of

1 your schedule to come talk to the Court today?

2 A Because I know how important this is both as a constituent
3 having dealt with congressional offices, but also as a member
4 of Congress. If we get it wrong, it destroys the ability of
11:32:42 5 our Congressmen to represent us, a Congresswoman to represent
6 us, and destroys our ability to work together in the different
7 regions of the state to continue to move our state forward.

8 I think it's extremely important to get the districts
9 right. And if you make districts based upon race, you're
11:33:00 10 making them wrong. Because at fundamental, people are people
11 are people are people, and we need to be serving the people.
12 And to let an artificial construct like race become the
13 defining characteristic for our congressional districts, it's
14 not only economically antithetical to our interest, I think
11:33:18 15 it's morally reprehensible.

16 Q And do you believe even if everyone in Alabama were of the
17 same race that the districts that the plaintiffs propose would
18 be harmful to the economic interest of Mobile?

19 A Yeah. You know, I've been spending a lot of time in
11:33:32 20 Huntsville recently. I love Huntsville. Great place. But the
21 economic, social interests, et cetera of Huntsville and
22 Tennessee Valley are very different from my part of the state.
23 If you don't believe me, you go up there. They'll tell you
24 that.

11:33:46 25 So part of the job of a congressman is to make sure that

1 you're representing those differences that you're focusing on.
2 That doesn't mean that I'm going to fight with Mo Brooks about
3 what he is trying to do up there. To the contrary. Mo will
4 define for us, Here are the things that are important in my
11:34:02 5 district. Please help me, and I will do that.

6 Now, if you are a statewide official, if you're a governor
7 or a senator, you have to look at the statewide interests.
8 That's your job. When you're a congressman, your focus has to
9 be on your district, and you have to know the different parts
11:34:16 10 of the state are not better or worse. They're just different
11 from one another.

12 I don't have a Redstone Arsenal in my district. But if I
13 did, I would be as focused on that as Mo Brooks was. And I
14 hope that we'll continue to have congress people that
11:34:29 15 understand that that's our job.

16 Q Congressman, there was testimony earlier in this case. A
17 witness had brought a group to Washington, D.C. requesting a
18 meeting. She thought that it may have been with your office,
19 but she wasn't sure. And the testimony was that whichever
11:34:49 20 congressman it was declined that meeting and, in fact, made the
21 group wait out in the hallway when they showed up.

22 If a constituent or someone from Alabama requested a
23 meeting from you, would you try to accommodate that?

24 A Always.

11:35:03 25 Q Is that true regardless of race?

1 A Of course.

2 Q Is that true regardless of party affiliation?

3 A Of course. Because I don't always know the party
4 affiliation. Most of the time I don't.

11:35:15 5 Q Would you ever turn down such a meeting and make a group
6 wait in the hall if they came to see you?

7 A No, sir. And if I found out my staff did it, I would fire
8 them.

9 MR. DAVIS: May I confer, Your Honor?

11:35:27 10 THE COURT: Yes, you may.

11 MR. DAVIS: Your Honor, I pass the witness.

12 THE COURT: Who's going to do cross-examination?

13 MR. SPIVA: That would be me, Your Honor.

14 THE COURT: Okay.

11:35:39 15 CROSS-EXAMINATION

16 BY MR. SPIVA:

17 Q Good morning, Congressman Byrne. We met in the Rayburn
18 building in Washington, D.C. this morning at your deposition.
19 And we appreciated getting some of your time at that point.

11:35:54 20 It's good to see you again this morning.

21 A Good to see you.

22 Q Let me start with one of the things you talked about on
23 direct examination, Congressman Byrne.

24 You mentioned the mayor -- or the current mayor of the
11:36:06 25 city of Mobile, Mr. Sandy Stimpson and his One Mobile pledge.

1 Do you think that's been accomplished in the city of Mobile?

2 A I think they made dramatic progress.

3 Q And, of course, you're aware that Mr. Stimpson defeated
4 twice the first elected African-American mayor of the city of
11:36:31 5 Mobile?

6 A Yeah. Sam Jones, who I supported in his first runs for
7 office.

8 Q And do you know what the racial breakdown was in the vote
9 in the city of Mobile?

11:36:43 10 A I have no idea.

11 Q Would you be surprised that Mr. Stimpson in the last
12 election in 2017 received only 10 percent of the black vote?

13 A I wouldn't be surprised or not surprised. I just don't
14 know enough about the election returns to be able to respond to
11:37:01 15 it.

16 Q And in certain predominantly white areas of the city of
17 Mobile, Mr. Stimpson received upwards of 90 percent of the
18 white vote. Are you aware of that?

19 A I'm not. I don't know how you break it down that way
11:37:14 20 because the city's becoming so integrated. So I don't know how
21 you would be able to tell which was a white vote, which was a
22 black vote.

23 Q And I mean -- well, if that's the case, would that --
24 would that suggest to you that -- that the city has really
11:37:32 25 moved that far towards the admittedly ideal of one -- One

1 Mobile?

2 A No. That would tell me the person that made that analysis
3 doesn't know what they're talking about.

4 Q So if either polling organizations or political scientists
11:37:50 5 had done an analysis and shown that that was the breakdown of
6 the vote, that would be your response?

7 A I'm sorry I'm laughing. But I have seen so many polls
8 that say so many different things. The thing I've learned
9 about polls is that how you draw your sample, how you ask your
11:38:07 10 question has a great determining factor on what the outcome is.
11 And I have seen so many bad polls that until I see all the
12 underlying things in the poll, I tend not to believe it.

13 As you may know, I am running for U.S. Senate right now.
14 I have seen so many different polls that show so many people
11:38:23 15 are winning or losing the race that it's just a joke. So I
16 haven't seen these polls.

17 But I know how Mobile has been integrating, and I don't
18 know how you can seriously determine how many people in this
19 precinct or how many people in that precinct were white or
11:38:39 20 black and voted for Sandy Stimpson or voted against Sandy
21 Stimpson. I don't know how you know that.

22 Q So moving to a slightly different topic. You had
23 mentioned some of the integration that was going on and how
24 united Baldwin and Mobile is. Are you aware that some of your
11:38:57 25 constituents view Baldwin County as a sundown county?

1 A I'm sorry. I don't know what a sundown county is.

2 Q A county where it's not safe for black people to go after
3 sundown?

4 A I've never heard of that before. But I see

11:39:11 5 African-Americans after sundown all over Baldwin County doing
6 all sorts of things -- working, going to school activities,
7 participating in, you know, various entertainment and social
8 events. So anybody that feels that way doesn't know Baldwin
9 County.

11:39:25 10 Q So if a constituent of yours testified in court under oath
11 that she feels uncomfortable and has been harassed in Baldwin
12 County after sundown, you would question whether that
13 constituent --

14 A No, no, no. I'm not going to question somebody's
11:39:42 15 individual experience. I wasn't there with them, so I don't
16 know whether it was or wasn't. But I would say that is
17 certainly not a practice. And if anybody's done that in
18 Baldwin County, they would be going against the great weight of
19 what our public opinion is about what's appropriate and what's
11:39:55 20 not.

21 I guarantee if you go to any of the high school football
22 stadiums in Baldwin County this Friday night that are playing
23 playoff games, you will see black and white cheering for their
24 teams. And if they're on the same team, they're cheering
11:40:10 25 together.

1 Q That's great. Would you agree, though, it's sometimes
2 difficult for a member of the majority to really know the fears
3 and tribulations of members of the minority?

4 A No, I don't agree with that. I think it's true that it's
11:40:24 5 very difficult for any one human being to know exactly what's
6 going inside the life and head of another human being. But I
7 would not make a generalization based upon race like you just
8 did.

9 Q You don't know precisely the demographics of your
11:40:38 10 district; is that fair?

11 A Well, I don't know what you mean by precisely, but I can't
12 give you precise percentages, no.

13 Q Do you know what percentage African-American Mobile County
14 is?

11:40:49 15 A No. I think you asked me that in my deposition. I don't
16 remember what it is.

17 Q Okay. And you don't know what percentage African-American
18 Mobile city is, either?

19 A No, I don't. It doesn't matter to me.

11:41:01 20 Q But you do know that there is a substantial black
21 population in Mobile County?

22 A Oh, certainly, yeah.

23 Q And there's also a substantial black population in the
24 city of Mobile?

11:41:11 25 A Certainly.

1 Q And in the city of Pritchard?

2 A Yeah.

3 Q And you don't know whether the vast majority of
4 African-Americans in your district have voted for your opponent
11:41:24 5 in your past elections?

6 A Well, I'm told that. One time when I did a town hall in
7 the city of Pritchard, the local newspaper reported on it and
8 said how extraordinary it was that I did a town hall in there
9 when I got seven votes out of the city of Pritchard. But it
11:41:39 10 didn't matter to me that I only got seven votes in the city of
11 Pritchard. The people of Pritchard wanted me to be there, and
12 I'm going to be there.

13 Q That's not something you pay close attention to whether
14 you were the candidate of choice of African-Americans?

11:41:49 15 A I really don't.

16 Q You don't know the current president of the Alabama state
17 conference of the NAACP, do you?

18 A No.

19 Q And I take it from that you haven't met with the president
11:42:01 20 of the state conference of the NAACP since you have been a
21 congressman?

22 A Never had a request for a meeting with that person.

23 Q And you've never met as a group with representatives of
24 the state NAACP; is that fair?

11:42:14 25 A Well, I think we talked about this in my deposition. I

1 don't whether I have or haven't because people don't always
2 identify what groups they're with when they come to see me. So
3 I may have without knowing about it. But no one came into my
4 office and said We're with this group. So what we do when
11:42:29 5 groups meet --

6 Q Let me clarify the question. Maybe I can ask a better
7 question than I asked in the deposition.

8 A Right.

9 Q You have never officially met with representatives of the
11:42:39 10 state of Alabama NAACP; is that fair?

11 A Well, I may have and I didn't know it. They may have not
12 identified themselves as such.

13 And what I was getting ready to say is this: Is that we
14 respond to requests from groups to come see me. If they make a
11:42:53 15 request -- you heard what I said earlier. We accommodate them.

16 To my knowledge, we've never had a request by that group
17 to come see me. If they have, I would have said, Fine, come
18 see me.

19 Q Just so the record is clear, I mean, whether it was
11:43:08 20 pursuant to a request, by you or by them, you've never had a
21 meeting with a delegation from the state NAACP where they
22 announced to that they were from the NAACP?

23 A Not -- not identified as such.

24 Q Okay. And I take it the same is true of the local NAACP,
11:43:27 25 say the Mobile County NAACP or the city of Mobile NAACP?

1 A They've never requested a meeting with me.

2 Q Okay. And you haven't met with them?

3 A Because they've never requested one.

4 Q And you have never requested one of them either?

11:43:39 5 A Well, I don't normally requests meetings of other people.

6 They normally request meetings with me. That's the way it

7 works.

8 Q Sure. I can understand that.

9 Have you ever heard of the Black Women's Round Table?

11:43:50 10 A I'm sorry. The what?

11 Q The Black Women's Round Table?

12 A I have not heard of it.

13 Q I take it from that you have never personally met, again,

14 with people who announced themselves as being from the Black

11:44:01 15 Women's Round Table?

16 A They've never requested a meeting with me.

17 Q And have you heard of the National Coalition of Black

18 Civic Participation?

19 A No.

11:44:09 20 Q And I take it the same; you have never had a meeting with

21 them?

22 A They've never requested a meeting with me.

23 Q And have you met with a delegation from the national or

24 from the Alabama Urban League?

11:44:21 25 A They've never requested a meeting with me.

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1 Q Have you ever had a meeting with the national or the
2 Alabama Chapter of the Southern Christian Leadership
3 Conference?

4 A They've never asked for a meeting with me.

11:44:32 5 Q You have a sizeable and growing Hispanic population in
6 your district, do you not?

7 A Well, sizeable might be a little exaggerated. I do have a
8 Hispanic population. It has expanded some and also contracted
9 some during the recession.

11:44:49 10 Q Okay. But you have a growing Hispanic population in your
11 district; is that fair?

12 A Growing some, but not very fast.

13 Q Have you ever had a meeting with the League of United
14 Latin American Citizens?

11:45:02 15 A I'm not familiar with them.

16 Q Ever heard of an organization LULAC? That's sometimes the
17 acronym for that organization.

18 A No, sir.

19 Q And do you currently live in the city of Mobile,
11:45:20 20 Congressman?

21 A No.

22 Q You live in Baldwin County?

23 A I do.

24 Q And do you believe that as a congressman that you are in a
11:45:29 25 position to help residents of Alabama on issues of education,

1 for instance?

2 A Of course.

3 Q Criminal justice?

4 A Of course.

11:45:36 5 Q Health care?

6 A Of course.

7 Q Affordable housing?

8 A Of course.

9 Q Employment opportunities?

11:45:43 10 A Sure.

11 Q And you would agree with me that you have responsibilities
12 to your constituency, with regard to those types of issues?

13 A I have responsibility to my constituents regarding a wide
14 variety of issues. Those would be among them.

11:45:59 15 Q Okay. And you would agree with me, wouldn't you,
16 Congressman Byrne, that a disproportionate number of
17 African-American children are going to some of the worse
18 schools in Alabama and in your district?

19 A Yes. I think it's one of the biggest problems facing the
11:46:15 20 state of Alabama. It's something I've tried to do something
21 about starting back with my state school board service.

22 I think we have really missed a tremendous opportunity to
23 move Alabama forward by consigning African-American children
24 because of where they live to perennially failing schools.

11:46:35 25 That's one of the reasons why I have been such an advocate of

1 charter schools, to give the parents of those children a chance
2 to send their children to high performing schools.

3 I think it's the great civil rights issue of our time that
4 we find a way to get better education to all children, but
11:46:48 5 particularly to African-American children who have been forced
6 into schools that continue to fail.

7 Q Congressman, thank you for that.

8 Let me ask you about a couple of other issues along the
9 same lines. You don't know whether the average income level of
11:47:05 10 blacks in your district is lower than the average income of
11 whites in your district, do you?

12 A Yeah. I think you asked me in this deposition. I don't
13 know.

14 Q Okay. And you don't know whether African-Americans on
11:47:14 15 average in your district have lower health care outcomes or
16 greater health care needs than whites on average in your
17 district?

18 A I don't know.

19 Q And you, as I think you discussed on direct, you voted to
11:47:25 20 repeal the Affordable Care Act?

21 A Repeal and replace it with a different program.

22 Q Okay.

23 A That I thought would work better for my people.

24 Q Okay. Fair enough.

11:47:34 25 But you don't know whether the majority of the

1 African-Americans in your district were against the repeal of
2 the Affordable Care Act?

3 A I had very few people white or black come up to me and
4 speak to me that they were in favor of the Affordable Care Act.
11:47:48 5 I had a large number of people, African-American and white, who
6 were opposed to the Affordable Care Act.

7 Q You've never, for instance, seen any polling that suggests
8 that African-Americans in your district were for the repeal of
9 the Affordable Care Act?

11:48:00 10 A No.

11 Q And you haven't seen any polling data, I take it, whether
12 blacks either in Alabama or nationwide support the repeal of
13 the Affordable Care Act?

14 A I don't think I have, no. If I did, I don't remember.

11:48:13 15 Q And you are against restoring Sections 4 and 5 of the
16 Voting Rights Act? I think you've noted the formula or
17 preclearance provisions?

18 A Yeah. I get the -- which one is which, but I'm against
19 any sort of formula because I think we should have -- if we're
11:48:31 20 going to have a Voting Rights Act provision with regard to
21 preclearance, it should apply to every part of the United
22 States of America. So you wouldn't need a formula.

23 Q And we did discuss this at your issue. You don't really
24 mean preclearance, right? You mean the Department of Justice
11:48:45 25 should have enforcement authority, correct?

1 A Yeah. Well, if we're going to have preclearance,
2 everybody should go through it. But I think it's better to
3 have a situation where local governments, et cetera, would
4 simply send their information to the voting rights division of
11:48:58 5 the Justice Department saying we're about to go X, and the
6 Justice Department have plenty of time to make up their time
7 whether we need to go to court under existing provisions of the
8 Voting Rights Act to block that situation so that they could
9 make sure the voting rights are not being interfered with, and
11:49:14 10 that's a better way to do it.

11 Otherwise in a preclearance, you're certainly reversing
12 the burden of proof. You're making political entities, you
13 know, municipalities, counties, et cetera, prove that they're
14 not guilty. That's not America.

11:49:29 15 Q Well, I mean, you would agree with me, wouldn't you,
16 Congressman, that at least in 1965 there was a very good reason
17 to reverse that burden, wouldn't you?

18 A Absolutely. And I -- I understand why it was put there
19 that way. But I think we all have to understand that was
11:49:42 20 extraordinary. That should only be done under extraordinary
21 circumstances.

22 I mean, I grew up in Alabama in the '50s, '60s, and '70s.
23 I know it was like. It was terrible. We needed to do some of
24 those things. But it's not the '50s, '60s, '70s anymore.
11:49:59 25 Alabama is a different place.

1 You find things that are happening in other parts of
2 America that are -- I think very offensive that you don't see
3 happening in Alabama anymore. So I wonder why we would single
4 out Alabama or any other state in having a provision like that.

11:50:15 5 So I'm not for forming it. If we're going to do anything,
6 apply it to everybody.

7 Q Just to be clear, you would not be in favor of a
8 preclearance regime even if it were applied to every state in
9 the union; isn't that right?

11:50:25 10 A No, sir. I don't -- I don't think preclearance -- the
11 reversal of the burdens is appropriate under these
12 circumstances that aren't extraordinary anymore. But if you
13 are going to do it, apply it to every part of the United States
14 of America. Don't pick on Alabama.

11:50:38 15 Q And you've never talked to any of your black constituents
16 about whether they think there's a continued need for
17 preclearance under the Voting Rights Act?

18 A I think we talked about this during my deposition. I
19 think.

11:50:52 20 Q I'm asking you fair questions. Not asking anything for
21 the first time. Sorry to interrupt you, Congressman. I was
22 trying to make a light moment.

23 You go ahead. Go ahead.

24 A I think what I told you is that Burt LeFlore, who ran
11:51:07 25 against me the first two times I ran for Congress -- I think

1 Burt Lefler mentioned it as part of the campaign. But other
2 than Burton doing that, I don't recall anybody every saying
3 anything to me about it.

4 Q And you don't know what the position of the NAACP in
11:51:20 5 Alabama is on that, do you? On whether the preclearance regime
6 should be restored?

7 A They've never talked to me about it.

8 Q You don't know what their position is?

9 A No, sir.

11:51:29 10 Q And I think you discussed on direct that you are familiar
11 with the First Step Act which reformed federal sentencing laws;
12 is that correct?

13 A I am.

14 Q And you opposed the First Step Act?

11:51:42 15 A I did. There were parts I liked; parts I didn't like.

16 Q And President Trump actually signed that into law,
17 correct?

18 A He did. He's very proud of it.

19 Q Let me talk to you for a minute about President Trump,
11:51:55 20 Congressman. You recall the Charlottesville marches and riots
21 by white supremacists there?

22 A I do. A shameful episode in the history of America.

23 Q It was. I agree with you on that, Congressman.

24 And you recall a young woman killed by one of those white
11:52:17 25 supremacists?

1 A Yes. Tragedy.

2 Q You recall an African-American man was run down by that
3 same white supremacist who killed her?

4 A Tragedy.

11:52:23 5 Q And you recall that other African-Americans and some
6 whites were beaten by those white supremacists?

7 A A tragedy.

8 Q And do you recall that following the killing of Heather
9 Heyer in Charlottesville that President Trump remarked that
11:52:40 10 there were fine people on both sides of that -- of those
11 marches in Charlottesville?

12 A I don't recall that. But I don't think there were fine
13 people on both sides.

14 Q You don't recall President Trump saying that there were
11:52:52 15 fine people on both sides?

16 A No, sir, I don't.

17 Q And do you recall the President saying in July of this
18 year that several congresswomen, all of whom were minorities,
19 should quote, unquote, go back to the countries where they
11:53:14 20 originally came from?

21 A I know he said something about that, but I don't remember
22 precisely what he said. So I don't want to characterize what
23 he said.

24 Q Do you recall that at a rally that the President held a
11:53:29 25 few days later that participants chanted, "Send her back," when

1 President Trump mentioned Representative Ilhan Omar, who is a
2 refugee from Somalia?

3 A No, I don't remember that.

4 Q And do you recall that there was a vote on the House of --
11:53:45 5 the floor of the House of Representatives condemning the
6 President for the tweets saying that these minority
7 representatives should be sent back?

8 A I don't remember that.

9 Q So you don't recall that you voted against the resolution
11:54:02 10 condemning those tweets?

11 A Well, there are lots of resolutions on the floor of the
12 House of Representatives that say a lot of different things. I
13 would have to see the resolution itself, because sometimes
14 they'll put one thing in a resolution and add a whole bunch of
11:54:18 15 other things in it. And I voted against it because of the
16 other things. So I would have to see the whole resolution.

17 That's what they do. They try to sneak other things in
18 there. I'm not going to get tricked into voting for something
19 I don't believe in.

11:54:30 20 THE COURT: In other words, do you actually read
21 things before you vote on them?

22 THE WITNESS: Your honor, I hope you would expect
23 people who are members of the bar that would actually read the
24 bills before we vote on them.

11:54:39 25 THE COURT: I would hope everyone does.

1 THE WITNESS: Yes, ma'am. I do my best.

2 BY MR. SPIVA:

3 Q This just happened this last spring. You really don't
4 have a recollection of the tweets by the President?

11:54:48 5 A No, sir, I don't. And I'll tell you why.

6 I decided once we got -- President Trump was elected, that
7 because of the incredible attacks on him and on other people
8 around him that there are two different things going on in
9 American society. There is the noise, and there is the
11:55:11 10 substance.

11 I and my staff are focused on the substance. We are not
12 focused on the noise. I'm not going to get myself or my staff
13 distracted from doing the substance of our jobs because there's
14 vast incredible noise out there.

11:55:25 15 So, no, sir, I don't pay attention to a lot of that stuff
16 because it has nothing to do the job that I do.

17 Q Would you agree that the President is engaged in racial
18 appeals?

19 A I don't know that he's engaged in racial appeals.

11:55:39 20 Q The things that I just mentioned, would you agree that
21 those are racial appeals?

22 A Well, I didn't hear them. So I don't know what context or
23 anything else. I think that there are people across America
24 who speak in racial terms, including liberals who speak in
11:55:57 25 racial terms that greatly disappoint me.

1 As someone that grew up in Alabama in the '50s, '60s, and
2 '70s, we paid a price. And I would hope that we have gotten
3 past all of that.

4 And to find people, liberals and Democrats -- liberals and
11:56:11 5 conservatives alike who want to go back and go back through all
6 and make decisions based upon race goes exactly against what
7 Dr. King stood for. And so I would hope all of us would get
8 over racial language and get on with the future of our country.

9 Q And that would apply to the President, as well?

11:56:27 10 A That would apply to everybody, including members of
11 Congress who are Democrats, including people who bring lawsuits
12 like this.

13 Q Would it surprise you to learn that some of your
14 African-American constituents took a message from the
11:56:39 15 President's tweets and from his statements about the
16 Charlottesville incident that -- took a message from that, a
17 negative message from that?

18 A Gosh, President Trump could get up in the morning and
19 clear his throat and people would take a negative message from
11:57:07 20 that. They do. We call it Trump Derangement Syndrome.

21 Q Do you think any of the Hispanic constituents that you
22 have took a negative message from him in saying that Mexicans
23 were rapists?

24 A I've never heard any Hispanic constituent complain to me
11:57:23 25 about President Trump.

1 Q You don't have an opinion on whether it would benefit the
2 African-American community in Alabama to have a second majority
3 African-American district?

4 A It would help everybody in Alabama to have congressmen and
11:57:37 5 congresswomen that are focused on the needs of their district,
6 and I don't think your race has anything to do with it.

7 Q Congressman Byrne, you would agree that it takes work to
8 bridge the kinds of divides that we have been talking about,
9 wouldn't you?

11:57:51 10 A Oh, yes, sir, I do.

11 Q And particularly racial divides?

12 A Yes, sir, I do.

13 Q And would you agree that blacks and whites sometimes come
14 at issues differently because of their experience growing up
11:58:03 15 either black or growing up white?

16 A Of course, I do.

17 Q And I know that you have said you don't really know what
18 the views of the majority of African-Americans in your district
19 are on some of these issues. But would you agree with me that
11:58:17 20 if I'm an African-American in your district, and I don't really
21 feel that you are responsive to my concerns and needs, that it
22 would be better for me to be joined with other
23 African-Americans in the Black Belt and Montgomery who share my
24 perspective?

11:58:33 25 A No, I don't agree with that.

1 Q Let me shift gears, Congressman.

2 You work -- I think you testified to this on direct. You
3 work with other congress people in Congress, including across
4 the aisle?

11:58:44 5 A Yes, sir.

6 Q You work with very well with Congresswoman Terri Sewell?

7 A Absolutely.

8 Q You have a good working relationship?

9 A I have a good working relationship, and going back years
11:58:57 10 before we were in Congress, a good professional relationship.

11 Q And you would work with another congresswoman or person --
12 that would be Terri Sewell, or whomever was representing a
13 different district -- if Mobile were, in fact, split and there
14 was a second district?

11:59:13 15 A Yes, sir. I -- the way we operate in the Alabama
16 congressional delegation is that we support one another when it
17 comes to things that are pertinent to the state of Alabama and
18 to our individual districts. It doesn't have to be my
19 district. I will support other people. I supported
11:59:30 20 Congresswoman Sewell on a number of things of her district, as
21 she has mine.

22 Q And you have continued the joint town halls that
23 Congressman Bonner used to have?

24 A We have done some. We haven't done any recently, but we
11:59:43 25 have done some.

1 Q And you would agree I take it that -- you are aware, of
2 course, that Montgomery is split between -- Montgomery County
3 is split between three different congressional delegations?

4 A I am. I am. I don't think that's good for Montgomery.

11:59:57 5 Q But you have no doubt that the three Congress people who
6 work --

7 A No.

8 Q Let me get the question out first. You would agree with
9 me that the people who -- the three Congress people who
12:00:08 10 represent Montgomery work together to try to protect the
11 interests of Montgomery County?

12 A They do. They work very hard together.

13 THE COURT: Representative Byrne, while we're talking
14 about that, will you remind me who the two other
12:00:30 15 representatives are for Montgomery County?

16 THE WITNESS: Congresswoman Roby and Mike Rogers.

17 THE COURT: That's right.

18 THE WITNESS: Congresswoman Roby, I think, has the
19 southern part of the city of Montgomery, and Congressman Rogers
12:00:45 20 has the eastern part. I said the city. I should have said the
21 county of Montgomery.

22 THE COURT: And Representative Sewell has the western
23 part?

24 THE WITNESS: Right. Yes, ma'am.

12:00:51 25 THE COURT: Thank you.

1 BY MR. SPIVA:

2 Q Congressman Byrne, I think that you had testified a lot
3 about the history that Baldwin and Mobile shared together. And
4 it's true that they have been in one congressional district for
12:01:09 5 about 50 years now; is that right? Almost 50 years?

6 A At one point, they were split. But I can't tell you how
7 long ago it was.

8 Q Okay.

9 A I can tell you it's far better off for them to be
12:01:22 10 together.

11 Q Let's maybe turn to -- this is Defendant's Exhibit 1. If
12 we can turn to, I think it's page 6 of Exhibit 1.

13 And I will represent to you this is an exhibit that
14 defense counsel put into evidence.

12:01:39 15 This is a depiction --

16 THE COURT: What is -- excuse me. What is the number
17 at the bottom of that exhibit?

18 MR. SPIVA: It should be Defendant's Exhibit 1, Your
19 Honor.

12:01:50 20 THE COURT: Right. But the page number.

21 MR. SPIVA: I thought it was page Number 6. But it
22 looks like on this version, it's just got the Bates number.

23 THE COURT: That's what we've been using. So if we
24 could use that one, it would help keep the record straight.

12:02:05 25 MR. SPIVA: Will do, Your Honor. That's Chestnut

1 Defense 3021.

2 BY MR. SPIVA:

3 Q And this is a depiction of the congressional districts
4 from 1964. And you would agree with me, Congressman Byrne,
12:02:21 5 that Baldwin and Mobile were split with Mobile County being in
6 District 1 and Baldwin being in District 2?

7 A Yes, sir. That's what it looks like.

8 Q And the District 2 in the 1964 map has Baldwin and
9 Montgomery County both paired in District 2, correct?

12:02:41 10 A That's what it appears to show, yes.

11 Q And if we could turn to the next page?

12 THE COURT: Before we leave that, how many
13 congressional districts were there in 1964, according to that
14 map?

12:02:52 15 THE WITNESS: Eight.

16 THE COURT: Thank you.

17 THE WITNESS: We lost a seat somewhere in there. I
18 have forgotten exactly when. I think maybe in 1980 or 1990.

19 BY MR. SPIVA:

12:03:03 20 Q If we can turn to the next page.

21 This is Chestnut Defense 3022 at the bottom. Defendant's
22 Exhibit 1.

23 And this is a 9th District map, but it's a 1950 map. And
24 you would agree with me here that Baldwin and Mobile were also
12:03:27 25 split between congressional district -- Districts 1 and 2,

1 correct?

2 A Yeah. This is a very famous map. Because after that,
3 Alabama went from nine to eight. And instead of the
4 legislature figuring out to configure them, they let everybody
12:03:37 5 run. And whoever was the guy that ran last was the odd guy
6 out. Guess who the odd guy out was? Frank Boykin from Mobile.
7 So in Mobile we are very sensitive about that.

8 Q I can see -- I can understand that.

9 So let's take a look at page 3023 of Defendant's
12:04:07 10 Exhibit 1. This is the 1940 congressional map. And here,
11 too --

12 A Counselor, I wasn't alive in 1940. I want to make that
13 point for the record.

14 THE COURT: And neither was I, just for the record.

12:04:22 15 BY MR. SPIVA:

16 Q And neither was I. Neither was I.

17 So Baldwin and Mobile are indeed split between 1 and 2
18 there, as well, aren't they?

19 A They are.

12:04:32 20 Q Okay. And if we can go back to 1917, which I believe was
21 the last -- this is before *Baker vs. Car*, so I don't think they
22 did redistricting as often as they started to. I guess 1940
23 was before *Baker vs. Car* too. But for whatever reason, I
24 believe the previous map was from 1917. And that's page 3024
12:04:55 25 of this Defendant's Exhibit 1.

1 And you'd agree with me here that Baldwin and Mobile are
2 also split between District 2 and District 1?

3 A That's certainly what it appears to show.

4 Q And let's just -- we won't -- I don't want to take too
12:05:13 5 much time. But if we can just briefly show on the screen in
6 order pages 3025, which is the 1901 map; and page 3026, which
7 is the 1891 map; and page 3027, which is the 1867 map.

8 And would you agree with me, Congressman Byrne, that each
9 of those maps -- well, strike that. Strike that.

12:05:47 10 THE COURT: Right. 1867 is going to mess you up
11 there.

12 BY MR. SPIVA:

13 Q Let me ask you: Would you agree that in the 1901 and the
14 1891 maps that Baldwin and Mobile counties were split between
12:06:04 15 CDs 1 and 2?

16 A That's what it appears to be.

17 Q So prior to the 1970s, the last time that Baldwin and
18 Mobile were united in a congressional district was in 1867, it
19 appears, and that's from Chestnut 3027, Defendant's Exhibit 1?

12:06:24 20 A Yeah. If you look at it, one of the things that's
21 happened there is that Alabama has added congressional
22 districts.

23 Q Uh-huh.

24 A Which is a good thing.

12:06:31 25 Q Yeah.

1 THE COURT: Well, between 1867, when it was four
2 districts, to 1950, when it was nine, and then we've had a
3 couple of other times when there's -- when it started
4 decreasing.

12:06:47 5 MR. SPIVA: I think 1867 was still -- was actually six
6 districts, Your Honor. But, yeah, increased then decreased.
7 That is true.

8 THE COURT: Okay. My eyes aren't seeing that much
9 difference in the three different blue districts. Sorry.

12:07:02 10 MR. SPIVA: I think the coloring job that y'all did
11 was pretty good for the most part.

12 BY MR. SPIVA:

13 Q So -- and, of course, you discussed -- we can take that
14 down.

12:07:15 15 You discussed, Congressman Byrne, on direct that the state
16 board of education maps splits Mobile to some extent, at least
17 part of the city of Mobile. I think you already said -- you
18 opposed that, correct?

19 A Yes, sir. I opposed that. But I understand what they did
12:07:32 20 in 2011, whenever it was.

21 Q And Ms. Ella Bell until she -- I'm sorry. I know you knew
22 her and worked with her when you were on the SBOE. I heard
23 about her passing.

24 A Uh-huh.

12:07:46 25 Q That she represented District 5 prior to her death a few

1 days ago. And do you have any reason to believe that she was
2 not able to effectively represent that district?

3 A She was not able to effectively represent that part of the
4 district.

12:08:03 5 Q And what about District 4? Do you believe that the -- I'm
6 sorry. I think the other district there is district --
7 District 1, the -- in the SBOE map?

8 A Yeah.

9 Q And do you believe that the representative who represents
12:08:25 10 District 1 is able to effectively represent their district?

11 A Yes. Because the difference is that that person is not
12 having to also represent the urban area of Montgomery. They
13 only have one -- or part of one urban area, whereas the person
14 in District 5 has two.

12:08:43 15 Q And you had mentioned on direct that it would be a
16 problem, I guess, joining the urban area of Montgomery with --
17 and I'm not talking about just on in terms of the SBOE map. I
18 mean in terms of the congressional map. There was a problem
19 with joining, I think the urban areas of Montgomery with the
12:09:02 20 urban area of Mobile; is that fair understanding?

21 A Yes. Not because they're urban, but because of the
22 different types of economy and culture, et cetera.

23 Q Do you think there's a problem with Congresswoman Sewell
24 representing both Birmingham and Montgomery?

12:09:18 25 A I've never really thought about it. I think it would be

1 better if she had one and not two.

2 As I said earlier, I think it would be better if there
3 weren't three Congressmen representing Montgomery. I think it
4 would be better if there was one. I think it would be better
12:09:33 5 if there was one representing Birmingham and if there was one
6 representing Huntsville.

7 I'm not saying they are not trying to do the best they can
8 with what they have got. They are. They're good people doing
9 hard work.

12:09:44 10 If I only had to focus on Montgomery, I would be a better
11 congressman for Montgomery. If I had to focus on Montgomery
12 and Mobile, I wouldn't be as good a congressman for either
13 area.

14 I have had the great benefit of only having to focus on
12:09:55 15 the Mobile urban area and the sort of economic thing that
16 spreads out from that. And that's allowed me to really
17 understand my district, really understand their needs, and
18 focus on them and lead on them.

19 Q Fair enough. But you don't -- I guess my question is kind
12:10:09 20 of going more to the fact that Birmingham and Montgomery are
21 currently and have been I guess for some time in the same
22 district. And you don't -- you believe that Congresswoman
23 Sewell effectively represents both of those area despite that?

24 A Congresswoman Sewell can effectively represent a lot of
12:10:28 25 things. She is extremely competent. I'm saying take her or

1 anybody else out of it. I think it would be better for each of
2 our metro areas to have one congressman representing that area
3 and looking out for the interests of that area. And I don't
4 think it's good for Montgomery to be split up among three
12:10:42 5 different districts.

6 Q And you mentioned at the beginning, I think of your direct
7 examination, that your district -- Congressional District 1 has
8 a lot of diverse interests. You talked about it being very
9 rural and very urban, well-to-do, and not so well-to-do?

12:11:05 10 A Yeah.

11 Q And declining and increasing; and African-American,
12 Hispanic, and Asian; and having soybeans, and nurseries, and
13 tourism, and cotton, and timber, and lots of different
14 interests that you have to represent. But, nonetheless, you
12:11:22 15 are able to, I take it, in your view you're able to effectively
16 represent all those interests?

17 A I am effectively able to do it. I would be less effective
18 if I had to spread that same effort over a wider geographic
19 areas with other interests that aren't presently in my
12:11:37 20 district.

21 MR. SPIVA: If I can confer for one minute, Your
22 Honor.

23 Thank you very much, Congressman. I appreciate it.

24 THE COURT: Any redirect?

12:11:54 25 MR. DAVIS: Yes, Your Honor.

1 REDIRECT EXAMINATION

2 BY MR. DAVIS:

3 Q Congressman, if the Alabama NAACP would like to meet with
4 you, would you be happy to try to accommodate that request?

12:12:06 5 A Absolutely.

6 Q Is that true of the Southern Christian Leadership
7 Conference?

8 A Yes. Let me point out, at one point, I was a member of
9 the Alabama NAACP.

12:12:14 10 Q Is that true of the Urban League?

11 A Yes, sir.

12 Q Is that true of all of the groups that you were asked
13 about?

14 A Yes, sir. If somebody asked for a meeting with me, we
12:12:22 15 move heaven and earth to accommodate them, particularly if
16 they're from the state of Alabama.

17 In Washington, my schedule is sometimes as such that a
18 vote gets called, and I just can't be there. And I have to
19 leave it to a staff person.

12:12:34 20 But we try as much as we possibly can to have me there
21 personally present when any group of people from Alabama come
22 to see me in Washington. And, of course, if it's in my
23 district, I'm always there.

24 Q And you said that normally people request meetings of you
12:12:49 25 instead of you meeting -- requesting meeting with constituents.

1 Is that true just of you, or is that just the way a
2 congressman's office operates?

3 A That's the way a congressman's office operates. We have
4 so many people and groups that want to meet with us that it is
12:13:04 5 a struggle to try to accommodate everybody. If you try to
6 accommodate everybody as we do, you're not really hunting for
7 other people to meet with because you don't have time to go
8 hunting for people to meet with. You're just doing the best
9 you can to meet with people that are making a request. And if
12:13:20 10 they have made a request, obviously they have something that's
11 important to them. And so we're going to do everything we can
12 to accommodate them so we can hear what's important to them.

13 Q So if you haven't reached out to any group of any kind of
14 any nature, that doesn't mean you're opposed to that group?

12:13:36 15 A Counselor, I'm also a member of the Alabama State Bar. I
16 have never reached out to Alabama State Bar for a meeting. But
17 they have with me. And so when they do, I will accommodate
18 them. But I never call the Alabama State Bar for a meeting.

19 Q Would you say that Mobile and Baldwin County are more
12:13:57 20 connected today than they were in the '60s and before?

21 A Absolutely.

22 THE COURT: Why is that?

23 THE WITNESS: Well, because back in the -- before that
24 period of time, Your Honor, Baldwin County was a very sparsely
12:14:12 25 populated rural county and had connections to Mobile, but they

1 weren't economic connections so much. As Baldwin County has
2 started to develop, the two economies have just merged with one
3 another.

4 So and this is the problem we've had with this interstate
12:14:31 5 bridge. We have tens of thousands of people living on one side
6 of the bay and working on the other. They're not all going one
7 way. They're crossing one another. So where I get my hair
8 cut, one of the ladies that cuts my hair lives in Mobile, but
9 she cuts my hair in Baldwin County.

10 When I have some checkups that I do at the outpatient
11 thing in Thomas Hospital there in Daphne, there are a lot of
12 women. The nurses that work in there that know me, because I
13 have been there a couple of times, I know are from Mobile.

14 So you have got people going both ways. We've just
12:15:05 15 integrated the two economies. And that's been to our great
16 benefit.

17 It's also been to our benefit in the legislature because
18 when you add the Baldwin County delegation and the Mobile
19 County delegation working together, we have greater throw
12:15:19 20 weight in Montgomery.

21 BY MR. DAVIS:

22 Q Were there many high-rise condominiums in Baldwin County
23 in the 1960s?

24 A There were none. The high-rise condominiums started after
12:15:30 25 Hurricane Frederick in 1979 and revolutionized the tourism

1 economy, which was basically zero in Baldwin County prior to
2 that time.

3 Q Would you say that the transportation system in the Gulf
4 Coast region is better today than it was in the '60s?

12:15:47 5 A It is better, but because of the vast increase in the
6 number of vehicles we've got coming, we are going to have to
7 continue to improve it. So we have continuing challenges.

8 But one of the things that's really put those two counties
9 together is when they completed Interstate 10 across the Mobile
12:16:03 10 Bay and Interstate 65 across the Mobile River Delta. That made
11 it easier to get back and forth.

12 THE COURT: In the 1960s, for some in this room who
13 may not have been alive then or remember it, to get from
14 Montgomery to the city of Mobile, was the interstate completed
12:16:24 15 into the city in the '60s?

16 THE WITNESS: No, ma'am.

17 THE COURT: Do you remember where it was -- those of
18 who were going to Mobile from Montgomery would have to get off
19 the interstate?

12:16:33 20 THE WITNESS: Yes, ma'am. You got off at Alabama 225
21 and drove south about 20 miles to Spanish Fort, and you got on
22 what we call the causeway, which is U.S. 31 and 90 and 98.

23 THE COURT: And if the weather was bad going across
24 that causeway, it could be somewhat treacherous, could it not?

12:16:54 25 THE WITNESS: Yes, ma'am.

1 THE COURT: Rain and wind, and stuff like that.

2 THE WITNESS: And when the tide gets up and you get a
3 wind coming from certain direction, the bay will actually
4 overwhelm the causeway. And you can't get across it. So
12:17:08 5 building the raised interstate was a big step forward.

6 THE COURT: And that wasn't finished until about when?

7 THE WITNESS: They finished I-10 across Mobile Bay in,
8 I'm pretty sure 1976.

9 THE COURT: Okay. And so was it after the completion
12:17:24 10 of that interstate that Mobile and Baldwin really became more
11 united --

12 THE WITNESS: Yes, ma'am.

13 THE COURT: -- than they were previously?

14 THE WITNESS: I think that had a lot to do it.

12:17:36 15 And then it's odd to think of this, but that hurricane,
16 Hurricane Frederick, had a way of bringing both counties
17 together.

18 And then you had more people who literally started living
19 full-time on the eastern shore of Mobile County, which went
12:17:50 20 from a very sparsely populated area to having over 100,000
21 people living there now.

22 So it dramatically changed the nature of Baldwin County
23 from being primarily a sparsely populated rural county to being
24 more of a suburban and tourism county.

12:18:07 25 And as I said, you've got this integration of people and

1 economics between two county. They're much more tightly
2 connected now from when I was a child.

3 THE COURT: I just remember going to Mobile to
4 Montgomery, and it would take us longer to go from that exit
12:18:25 5 where the interstate stopped that was in -- was it in Baldwin
6 County?

7 THE WITNESS: Yes, ma'am.

8 THE COURT: North Baldwin County.

9 THE WITNESS: Stockton.

12:18:33 10 THE COURT: Yeah. It would take us longer to get from
11 there to the city of Mobile -- it was just that far on the map
12 (indicating) -- as it took to get from Montgomery to that area.

13 THE WITNESS: Well, it greatly improved the ability to
14 get from the northern part of Baldwin County to the northern
12:18:49 15 part of Mobile County when they completed I-65 across the Delta
16 which I think was 1981 or '2, somewhere in there.

17 THE COURT: Yeah. So just a little history lesson for
18 some who may not be aware of traveling issues in Alabama in
19 that time zone time frame.

12:19:11 20 THE WITNESS: Your Honor, I remember them well.

21 THE COURT: Uh-huh.

22 BY MR. DAVIS:

23 Q With these different developments, Congressman, is it more
24 feasible today for someone to live in Baldwin County and work
12:19:22 25 in Mobile than it would have been in the 1960s?

1 A Completely different. Much, much, much, more feasible.
2 And that's why you have literally tens of thousands of people
3 every day going back and forth.

4 Q Congressman, I've put Plaintiffs' Exhibit 4 back on the
12:19:38 5 screen, which is the state board of education districts.

6 During your cross-examination, you were asked, I believe,
7 if the representative of District 5 could effectively represent
8 all areas of the district?

9 A Yes.

10 Q Did I understand that correctly?
12:19:51

11 A Yes, sir.

12 Q And you said that they could not?

13 A They could not.

14 Q Okay. Is that because of some problem with the particular
12:19:58 15 representative, or is that because of the way the districts are
16 configured?

17 A It's the way the district is configured. I mean, I know
18 Ms. Bell who passed. I know she would have liked to have spent
19 more time in Mobile. But with so many hours in her day, you
12:20:15 20 look at her district, and she's got so many, many issues she's
21 having to deal with in Montgomery, she couldn't spend that time
22 in Mobile. She didn't have the time in her calendar.

23 Q I want to be clear. You are not criticizing Ella Bell at
24 all?

12:20:29 25 A No.

1 Q But the Alabama Legislature gave her a district where it's
2 going to be really hard to do her job; is that your testimony?

3 A That district from a part-time school board member.

4 Remember, these are part-time positions. That's almost an
12:20:39 5 impossible district.

6 And when you think of issues that are going on in the
7 Mobile County school system, the largest school system in the
8 state. And the Montgomery County school system has all these
9 issues right now, I don't know any person that could adequately
12:20:53 10 cover those two as a part-time school board member.

11 So I am not being critical of Ms. Bell at all who I knew
12 very well. I just think that that district's impossible.

13 THE COURT: And let me ask you this: Are the issues,
14 the school-related issues in Mobile and Montgomery that are
12:21:12 15 urban centers, different from the school issues in Marengo, and
16 Sumter, and Choctaw, and -- I can't read what that one is --
17 what is the one between Crenshaw -- well, Butler. We'll just
18 say Butler.

19 THE WITNESS: Those are all very different areas.

12:21:36 20 THE COURT: Those are extremely rural areas, are they
21 not?

22 THE WITNESS: Very rural. They don't have a lot of
23 local funding, which is a big problem that they face.

24 Some places don't have broadband, which, as you know, is
12:21:50 25 very important to delivering certain types of technology to

1 schools. So the problems that a lot of our rural schools in
2 Alabama face are different from the urban schools.

3 Mobile County has some extra problems because there are so
4 many different languages spoken in the southern part of Mobile
12:22:07 5 County and in the western part of Mobile County because the
6 University of South Alabama attracts a lot of different people
7 of different nationalities. So the Mobile County school system
8 is struggling with English as a second language-type issues
9 that you will not see in Montgomery County.

12:22:23 10 Montgomery County has a number of people who are sending
11 their children to private schools and it drains people out of
12 public schools at the very time you have more and more people
13 coming in from places like Korea because of Hyundai, et cetera.

14 So both school systems face serious issues. But they're
12:22:46 15 different types of issues.

16 THE COURT: Uh-huh. And those issues for Mobile and
17 Montgomery are very different from the rural school issues?

18 THE WITNESS: Yes, ma'am, very different.

19 BY MR. DAVIS:

12:23:00 20 Q Congressman, I believe you were asked during
21 cross-examination if you were aware that in the mayoral
22 election whether Sandy Stimpson was supported mainly by white
23 voters and his opponent mainly by African-American voters?

24 A Yes, I was asked that.

12:23:16 25 Q You weren't familiar with the racial patterns?

1 A No.

2 Q Congressman, I want to show you a part of the deposition
3 of one of the plaintiffs in this case, Lakeisha Chestnut, one
4 of your constituents, someone who lives in Mobile. It was
12:23:33 5 taken in June of this year. And I want to show you -- I will
6 represent to you --

7 THE COURT: Can you zoom in a little bit and see if we
8 can get that a little clearer?

9 MR. DAVIS: Is that better, Your Honor?

12:23:51 10 THE COURT: Yes. Look at that.

11 BY MR. DAVIS:

12 Q I will represent to you that she was asked what she was
13 looking for in a congressman and that she said on page 30 of
14 her deposition, beginning on line 8, that, quote, It doesn't
12:24:05 15 matter if that person is a man or a woman, black or white,
16 Democrat or Republican.

17 I'll give you a perfect example. Sandy Stimpson, our
18 mayor, he not only -- not only did he reach out in the
19 Caucasian communities, he reached out to African-American
12:24:20 20 communities. And he won overwhelmingly the African-American
21 support, and he's Republican.

22 My question to you, Congressman, is: Is this more
23 consistent with the Mobile, Alabama that you know?

24 A Yes. And this doesn't start with Sandy Stimpson. This
12:24:39 25 started a number of years ago. But we've made our whole

1 leadership, civic, political, faith-based, et cetera, have made
2 a real effort for us to work across our community as one
3 community. Sandy picked up the motto. But he stated a motto
4 that simply states what we've been doing for a long time.

12:24:57 5 And what she's saying here is what I was saying earlier
6 when she said that he got a lot of African-American support.
7 So when I heard some polls saying he didn't, I've got questions
8 about that, because I know a lot of African-Americans who live
9 in the city of Mobile who are very strong supporters of Mayor
12:25:11 10 Stimpson because of the record that he's done there, and
11 because they have very much bought into this whole idea about
12 one Mobile.

13 Q I'm going to see if I can get two maps on here at once.

14 THE COURT: And the two are which exhibits?

12:25:40 15 MR. DAVIS: Plaintiffs' Exhibit 15, which is the 2011
16 plan; and Plaintiffs' Exhibit 61, which is Revised Plan 1.

17 BY MR. DAVIS:

18 Q Congressman, the top one is a map of the districts as they
19 currently exist, and the bottom one is just a reminder of one
12:25:58 20 of Plaintiffs' proposals.

21 A Right.

22 Q Are you concerned with health care as it relates to your
23 constituents, Congressman?

24 A Yes, sir, very much.

12:26:10 25 Q Are you concerned that your constituents have access to

1 good education and opportunities?

2 A Passionately so.

3 Q Are you concerned that your constituents are part of an
4 area where the criminal justice system is fair?

12:26:27 5 A Yes, sir.

6 Q Is that true for your constituents of all races?

7 A Yes, sir.

8 Q When you're fighting for health care opportunities, good
9 health care, for a good education system, for criminal justice
10 system, are you going to be more effective doing it in the
11 districts as they are now, or if you're trying to run back from
12 west Mobile county to Dothan?

13 A In the districts as they are now.

14 Q When you're fighting for education and criminal justice
15 system, are you going to be more effective --

16 MR. SPIVA: Your Honor, I'm trying to not object. But
17 he's kind of testifying here. He's -- leading is the
18 objection.

19 THE WITNESS: I can answer the question without you
12:27:08 20 leading me.

21 I am going to be more effective representing my
22 constituents in anything in District 1 under Plaintiffs'
23 Exhibit 15 than I am in the other one. It's just too broad a
24 district for me to be effective in.

12:27:21 25 I care about all those issues. I'm going to work like

1 crazy on them. I'm being practical. There's so many hours in
2 the day. There's a lot of things to cover and lot of things
3 going on in that district.

4 I want to say this about health care. Alabama has been
12:27:37 5 mistreated under the Medicare program for years. The
6 reimbursement rate that our hospitals receive compared to
7 national average for Medicare services -- on average, we
8 receive 20 percent less.

9 Now, that hurts all of our hospitals. But it particularly
12:27:55 10 hurts our rural hospitals that are hanging on by a thread. So
11 I started working on this when I first got to Congress.

12 When President Trump came in, he put a new person in
13 charge of Medicare. I got a meeting with her, expressed to her
14 the problem. To her great credit, she worked with us, came up
12:28:14 15 with a new formula.

16 And as of October 1st of this year, Alabama hospitals,
17 particularly the rural hospitals, are going to be receiving
18 tens of millions more dollars. That benefits all of my
19 constituents, but it particularly benefits my rural
12:28:30 20 constituents. And it particularly benefits poor people in
21 those rural areas, and particularly benefits African-American
22 poor people in those rural areas.

23 And they were very much in my mind because without that
24 hospital, they would have to drive from Monroeville or Brewton
12:28:45 25 or Grove Hill to Mobile. And some of them might not make it.

1 That stroke may mean when they got to the hospital they're
2 dead. So when you're fighting, you have to have that sort of
3 thing in mind.

4 And if you're spread out and got to know so many rural
12:29:02 5 hospitals -- like all the rural hospitals in Mobile, Baldwin,
6 Escambia, Covington, you can get to know them, but not very
7 well. I know rural hospitals in my area, because I have been
8 to every one multiple times.

9 THE COURT: Thank you.

10 12:29:14 THE WITNESS: Yes, ma'am.

11 MR. DAVIS: And nothing further, Your Honor.

12 THE COURT: I have a couple of questions, if I may.

13 THE WITNESS: Sure.

14 THE COURT: Okay? You were shown some of
12:29:27 15 Ms. Chestnut's deposition testimony.

16 THE WITNESS: Yes, ma'am.

17 THE COURT: She also testified that -- I think it was
18 her, or was it Ms. Jones -- I'm sorry. I'm getting my
19 witnesses confused maybe.

12:29:43 20 Oh, it was Commissioner Tyson, who testified about taking
21 a group up to D.C.

22 MR. SPIVA: Yes, Your Honor.

23 THE COURT: That's right. And she said that she sent
24 an e-mail and requested a meeting, didn't get one, so went to
12:30:07 25 your office and had -- her group was told to wait outside.

1 I've been to some of the offices of our congressional
2 delegation in D.C. Is your outer office large enough to hold
3 15 people at one time?

4 THE WITNESS: 15 would be pushing it.

12:30:32 5 THE COURT: Would everybody be standing up?

6 THE WITNESS: Oh, yes, ma'am. I only have seats for
7 about four or five people.

8 THE COURT: Could 40 people get in there?

9 THE WITNESS: No, ma'am. Nowhere near 40 people could
12:30:42 10 get in my anteroom.

11 THE COURT: So if I brought a group of high school
12 students up to see you, and I had 15 people with me, would we
13 be able to come in and wait in your little waiting area?

14 THE WITNESS: Well, 15 wouldn't be in the waiting
12:31:00 15 area. We would have to leave some people outside. And then
16 when I was able to see them, then they would sort of bring them
17 all inside -- escort them into my office.

18 I don't have a desk in my office so I can leave it all as
19 a meeting area. So I can handle in my office maybe 15 people.
12:31:17 20 But if it got bigger than that, we would have to go somewhere
21 else.

22 And a point of fact, I tend to meet with the high school
23 groups either on the steps of the capitol, or frankly, I have
24 met with them in a stairwell that was relatively quiet because
12:31:30 25 I just don't have room in my office to accommodate people of

1 that size.

2 THE COURT: So if you were, say, I don't know, in a
3 meeting with someone else or at the capitol, and a group that
4 was 40 people or 15 people came to see you, would it be
12:31:49 5 unusual -- or would it be an indication of disrespect if they
6 were asked to wait in the hallway?

7 THE WITNESS: Well, let me just say this: I don't
8 know that we've ever done that. I'm not aware that we have.
9 But it certainly wouldn't be a sign of respect. It's just the
12:32:06 10 practicality that we have so little space in there, and we
11 don't like to crowd people in those offices. And they're
12 usually multiple groups going in and out. So we can't just
13 accommodate one group at a time.

14 Sometimes people on their own congregate outside my
12:32:22 15 office. They sort of gather up there. And when it's time to
16 come in, they come in. Usually they're coming in as another
17 group is walking out. So that sometimes happens.

18 And we do take our pictures with certain groups outside my
19 office because inside my office is too small to take a picture.

12:32:38 20 THE COURT: Okay. All right. You have also talked
21 about your work with the historically Black College and
22 University Caucus?

23 THE WITNESS: Yes, ma'am.

24 THE COURT: Do you have in District 1 an historic
12:32:54 25 black college?

1 THE WITNESS: I do. It's called Bishop State
2 Community College.

3 THE COURT: And where is that?

4 THE WITNESS: It's in downtown Mobile. It started out
12:33:04 5 as a satellite of Alabama State. And then when Alabama created
6 the two-year college in the '60s, it was turned into a two-year
7 college. But it's always been and it's still understood under
8 federal laws and guidelines as an historically black college
9 and university as a number of other two-year colleges in
12:33:21 10 Alabama are.

11 So my first work with HBCUs when I was on the state school
12 board, but then I worked with Tuskegee, Alabama State, and
13 Alabama A&M when I was in the state legislature. Then when I
14 was chancellor of the two-year college system, I had all the
12:33:37 15 HBCUs in the system.

16 So Ms. Adams, who is the cochair when she was elected and
17 decided to put together an HBCU caucus, she came to me because
18 she knew about my experience. And she wanted to have somebody
19 that was a partner in that endeavor who had some substantial
12:33:55 20 experience with HBCUs. And she knew of my philosophy, which is
21 the HBCUs offer another type of opportunity that's a good part
22 of the mix and the diversity of American higher education.

23 THE COURT: Okay. And you mentioned something about
24 an amendment that you tacked onto a bill.

12:34:12 25 THE WITNESS: Yeah.

1 THE COURT: And I didn't catch what that amendment
2 actually did or does.

3 THE WITNESS: So what we passed through committee last
4 week was a substantial reauthorization and rewrite of the
12:34:25 5 Federal Higher Education Act, which covers a whole lot of
6 things in education. And I didn't think it had adequately
7 provided for some programatic services that are provided for by
8 the federal money at HBCUs.

9 So I wrote an amendment that would expand what HBCUs could
12:34:47 10 do with the money and what kind of money they could access with
11 the federal government. And we had to have a roll-call vote,
12 and just about every amendment came up that day, but that
13 amendment passed by voice unanimously.

14 THE COURT: Okay. But that's just in the House. It
12:35:03 15 still has to go to the Senate, right?

16 THE WITNESS: Yes, ma'am. I don't know what the
17 trajectory is going forward to the Senate. But that --

18 THE COURT: But at least you did your part in the
19 House?

12:35:12 20 THE WITNESS: That's what we can do, yes, ma'am.

21 THE COURT: Okay. All right. I may well have caused
22 some additional questions from anybody.

23 And, Mr. Spiva, it's your turn anyway. Do you have any
24 further?

12:35:26 25 MR. SPIVA: Nothing further from me.

1 MR. DAVIS: No further questions, Judge. We thank the
2 Congressman for taking time to be here.

3 THE COURT: Thank you very much for being here.

4 THE WITNESS: I appreciate you and counsel
12:35:36 5 accommodating my schedule, Your Honor. Thank you.

6 THE COURT: Certainly. I hope we haven't kept you too
7 long.

8 THE WITNESS: Thank you.

9 THE COURT: We had talked about taking a late lunch.
12:35:46 10 This isn't terribly late, but do you want to break now?

11 MR. DAVIS: Your Honor, Mr. Bonner is not here yet.
12 He was planning to be here by 1:00, and he will be here by
13 1:00. But I think this will be a good time for a lunch break.
14 And that would still allow ample opportunity for us to finish
12:36:02 15 Mr. Bonner today.

16 THE COURT: Okay. All right.

17 So we'll come back at 1:40. How about that?

18 MR. DAVIS: Thank you, Judge.

19 THE COURT: If you will have your witness on the
12:36:16 20 stand, we will be ready to rock and roll for the afternoon.

21 MR. DAVIS: He'll be ready to go.

22 THE COURT: Okay. Great.

23 (Recess.)

24 THE COURT: Defense may call the next witness.

13:40:00 25 MR. DAVIS: Defendants call the Honorable Joe Bonner,

1 Your Honor.

2 JOSIAH BONNER, JR.

3 having been first duly sworn by the Courtroom Deputy Clerk, was
4 examined and testified as follows:

13:40:08 5 THE COURTROOM DEPUTY CLERK: Please state your name in
6 the microphone for the record.

7 THE WITNESS: Yes, ma'am. My name is Josiah,
8 J-O-S-I-A-H; Robins, R-O-B-I-N-S; Bonner, B-O-N-N-E-R, Jr.

9 DIRECT EXAMINATION

13:40:23 10 BY MR. DAVIS:

11 Q Good afternoon, Mr. Bonner.

12 A Good afternoon.

13 Q Thank you for joining us. Josiah. Your friends call you
14 Joe?

13:40:35 15 A Please.

16 Q Well, I can't from here. But not during this time.

17 Mr. Bonner, where are you presently employed?

18 A I am the Chief of Staff to the Governor of Alabama,
19 Governor Kay Ivey.

13:40:48 20 Q Have you ever represented Alabama's first district of the
21 United States House of Representatives?

22 A Yes, sir, I have.

23 Q When did you serve in Congress?

24 A I was elected in November of 2002. My term began in
13:41:00 25 January of 2003, and then I served until August of 2013.

1 Q Did you have any relationship with Congress --
2 particularly the first district of Alabama before you were
3 elected to represent the first district?

4 A Yes, sir, I did.

13:41:16 5 Q And what was that?

6 A I began my affiliation with the first district of Alabama
7 in 1981 when I was an intern for the congressman from that
8 district at the time, the late Congressman Jack Edwards, who
9 just recently passed away.

13:41:33 10 A Couple of years later, in 1984, I went to work with then
11 candidate for Congress, Sonny Callahan, who got elected in
12 November of that year. Congressman Callahan asked me to join
13 his staff. I joined him in January of 1985. And with the
14 exception of a brief period, I worked with him until he retired
13:41:56 15 18 years later in 2002.

16 Q And after 2002, when he retired, is that when you were
17 elected?

18 A It was. And in full disclosure, a member of Congress
19 staff cannot seek the office that his predecessor has without
13:42:15 20 retiring. So I left or resigned from Congress.

21 So as a staff member, I left to then run for the office
22 and was successful in that election in 2002.

23 Q I see. Thank you.

24 If I can have the screen, please?

13:42:29 25 Mr. Bonner, it may take a moment to pop up, and it will

1 come. There's a hard copy in front of you.

2 A Yes, sir.

3 Q I have put Plaintiffs' 15 on the screen. Do you recognize
4 this to be Alabama's current congressional plan?

13:42:50 5 A Yes, sir. I do. I do.

6 Q And you, of course, represented the first district in
7 southwest Alabama?

8 A That is correct.

9 Q I'd like you to tell the Court about your district,
13:42:59 10 Mr. Bonner, and particularly what are things that bind these
11 areas together? If you believe they are a community of
12 interest, please explain why.

13 A Well, the first congressional district in my view is
14 unlike any other congressional district in the state, in the
13:43:24 15 sense that it is the only coastal district.

16 So you've got Mobile and Baldwin counties in the southern
17 part of the district that not only are connected by Mobile Bay
18 but front the Gulf of Mexico.

19 And so, therefore, everything -- I would call it a hub and
13:43:42 20 spoke. Everything that radiates out radiates from the shared
21 economies, the shared history, the shared social occasions,
22 such as Mardi Gras, the shared political interests from Mobile
23 and Baldwin counties.

24 And so while I'm very familiar with this map and was in
13:44:14 25 Congress when this map was approved by the state legislature

1 and the Justice Department, I would say that this map is very
2 consistent with the previous maps from the previous
3 redistricting efforts of the last 25, 30, 40 years because the
4 legislature and previously the federal courts recognized that
13:44:40 5 there was a community of interest.

6 The people in Washington County, in Clarke County, in
7 Monroe County, and Escambia County, they bank in Mobile and
8 Baldwin counties. They buy their automobiles in Mobile and
9 Baldwin counties. There are car dealerships in Jackson, in
13:45:02 10 Chatom, and Monroeville. But there is -- the interests there
11 are unique in Alabama.

12 And that's why when I was privileged to represent the
13 first congressional district in the United States House, it was
14 an easier job, because it allowed me to represent so many
13:45:30 15 similar interests that were shared.

16 We have, for instance, shipyards in Mobile, in Baldwin
17 counties. There are no shipyards in any of the other 65
18 counties in Alabama.

19 And we have -- whether it's trying to train workers to
13:45:53 20 work in these industries, whether it's serving the different
21 communities that have shared interests, when you're dealing
22 with a hurricane, or an oil spill, there is definitely a
23 chemistry, if you will, that exists in this district that is
24 unique.

13:46:18 25 Q You mentioned economic ties. Do people who may reside in

1 Washington, Monroe, Escambia, or Clarke County, or Baldwin
2 County, do you have such citizens who come into Mobile for
3 their employment?

4 A Absolutely.

13:46:35 5 Q What are some of the larger employers in the region?

6 A Austal, which is a shipyard, one of the many, one of the
7 475 foreign-owned companies that invested in Alabama has over
8 4,000 employees. They're building ships for the United States
9 Navy.

13:46:56 10 And so we draw employees from the entire geographic region
11 that would make up the first congressional district, as well as
12 from Pensacola and from Biloxi and Gulfport. Austal's an
13 international company, and we are bringing in workers from
14 around this area. We don't have any workers drive from Dothan
13:47:18 15 or from Montgomery.

16 Airbus, another international company that's located in
17 Mobile, is assembling large commercial aircraft. It will, in
18 the next five years, become the fourth largest aerospace center
19 in the world; not in the United States, but in the world. And
13:47:41 20 so we're drawing workers from all throughout this area. We're
21 educating workers. We're training workers.

22 The state of Alabama has one of the most successful
23 worker-training programs run through the department of
24 commerce, AIDT, Alabama Industrial Training Program. Not
13:48:05 25 everybody can weld a ship, or work to assemble an airplane.

1 You have to be trained for that. We did not do that. We
2 didn't do airplanes as recently as 2012, is when we broke
3 ground on this.

4 So just like in other parts of the state where the
13:48:20 5 automotive industry has become prevalent in Tuscaloosa County,
6 and Jefferson County, and Montgomery County, and now in
7 Limestone County where the Mazda Toyota plant is coming up.
8 You don't just recruit a company and necessarily have a trained
9 workforce.

10 So we draw workers and we help educate young people. We
11 actually have an aviation training program high school in
12 Mobile to train young people who are looking for a career,
13 might or might not be interested in going to college, but see
14 an opportunity to work at Airbus or at one of the aviation
13:48:57 15 companies, and that's their career path to applied future.

16 So we have a lot of that that's connected between Mobile
17 and Baldwin counties.

18 Q And then, of course, you have the port on Mobile Bay.

19 A The port is Alabama's port. It is located in Mobile on
13:49:16 20 actually on the Mobile River. But it's not only our only deep
21 water port in the state. With the investments that the federal
22 delegation, when I was in Congress and since I've left, Senator
23 Shelby and others, as well as what the state has invested.

24 This past February, the state legislature passed a bill to
13:49:39 25 invest a hundred million dollars in the port of Alabama over

1 the next decade. Because we intend to make it one of the top
2 ten ports in the nation to help take those automobiles that
3 we're building elsewhere -- currently they're all exported to
4 other countries from other states. And we fully hope and
13:50:01 5 believe that Port of Mobile's continued growth will be a major
6 economic boom to this entire region and hopefully to the whole
7 state.

8 Q What type of industries or businesses in the first
9 district make use of the port to ship their goods?

13:50:17 10 A Practically all of them. Up Highway 43 and going from
11 Mobile up to Washington to Clarke County, we have large
12 international chemical preponderates -- BASF. We have a large
13 steel company -- ArcelorMittal -- and I will have to spell that
14 for you when I'm not on the witness stand. It's one of the
13:50:43 15 largest carbon and stainless steel companies in the world. We
16 recruited it to come.

17 It was at that time, a German-owned facility,
18 Thyssenkrupp, four-and-a-half billion dollars, the largest
19 private investment in any site in the United States at the
13:51:02 20 time. So we have steel, we have chemicals, we have a lot of
21 agriculture.

22 Agriculture in the southwestern corner is far different
23 than the agriculture in the southeastern corner, for instance.

24 Q How is it different?

13:51:14 25 A Well, it's different because of our history and different

1 because of our soil and different because of our opportunities.
2 The Wiregrass, which would be the second congressional
3 district -- Houston, Dale, Henry, Barbour, Pike, Coffee -- has
4 historically been peanut country. And we're one of the leading
13:51:35 5 peanut producing states along with Georgia. But for many
6 years, actually I was in Congress when we changed the federal
7 peanut program. It used to be paid to not grow peanuts if the
8 commodity had grown so much the year before.

9 They changed that in an ag bill, an agriculture bill. And
13:51:57 10 so now we grow peanuts in my old congressional district, but
11 nearly as prevalent in the Wiregrass. But we grow timber. We
12 have a lot of timberland in that area. Still have some cotton
13 production, some soybean production.

14 But poultry. We have some poultry. Most of the poultry
13:52:18 15 houses are actually in north Alabama. But we, for instance,
16 the port of Alabama is one of the largest exporters of poultry
17 to countries around the world -- to Russia, to Cuba, all over.
18 So the port is very important.

19 But many of the companies that exist, the timber
13:52:36 20 companies, the paper mills, and quite frankly, the aerospace
21 industry. We currently are bringing parts of those A320 Airbus
22 planes and soon A220 Airbus planes, bringing them on ships up
23 the bay into Brookley Field where they're assembled. Many of
24 the parts are made in all 50 states. They go to Europe for an
13:53:04 25 assembly process, and then they come for final assembly.

1 So the connectivity to Mobile's economy -- and when I say
2 Mobile, I'm talking about Mobile and Baldwin counties' economy.
3 A lot of the aerospace suppliers are in Baldwin County. And so
4 there's just a direct connection, direct relationship.

13:53:29 5 Q So is there a link in the economies of all of the counties
6 that are in District 1?

7 A Yes, sir.

8 Q You know, Baldwin County, is there agriculture in Baldwin
9 County?

13:53:43 10 A Baldwin County is one of the largest counties by land mass
11 in the state. And when I first went to work with Congressman
12 Callahan, even back in 1984, in his campaign, Baldwin County's
13 economy was more driven by agriculture than by industry.

14 Today the number one industry in Baldwin County is
13:54:06 15 tourism. But agriculture is still a very prominent part of it.
16 The problem is that it's growing so fast that a lot of the
17 agricultural land is turning into subdivisions so that the
18 people who work in these industries in and around Mobile and
19 Baldwin counties will have a home and a good school to live in
13:54:26 20 and raise a family.

21 Q Focusing just on Mobile and Baldwin County, are the
22 connections between Mobile and Baldwin County stronger today
23 than they were in, say, 50 years ago?

24 A Absolutely.

13:54:39 25 Q How so?

1 A Well, first of all, 50 years ago or 60 years ago, Baldwin
2 County was in the second congressional district. So it should
3 be noted that it has not always been this way. But 50,
4 60 years old the Baldwin County economy was agriculture. It
13:54:54 5 was not tourism.

6 Gulf Shores was a resort community that people went to
7 about two or three months out of the year. Now Gulf Shores,
8 Orange Beach, Fort Morgan, that area of Baldwin County is, if
9 not the largest, the second largest contributor to the state's
13:55:15 10 economy because tourism is a multibillion dollar business now.

11 But 50 or 60 years ago, to go from Mobile to Spanish Fort
12 would have taken you about 45 or 50 minutes. You would have
13 had to gone through a toll bridge or gone up -- we didn't have
14 I-65 that ran all the way down. We didn't have the George
13:55:37 15 Wallace tunnels that were completed in the 1970s or the Bayway.

16 And so it was a -- they were connected because of their
17 similarities of their history, but their economies were
18 different because Baldwin County was really more like on an
19 island by itself. It was not the growth county that it is
13:56:00 20 today.

21 And really, the growth has been taking place over the last
22 30 or 40 years.

23 Q Where do people in Washington, Clarke, Monroe, Escambia,
24 Baldwin County, or Mobile County, where do they get their news?

13:56:14 25 A Mobile.

1 Q Where do they go for some of the more major banking
2 transactions?

3 A Mobile.

4 Q What if you need a lawyer for your business in a big
13:56:28 5 lawsuit?

6 A I know there are a few lawyers in the room, so I don't
7 want to offend anyone. There are some good lawyers in rural
8 counties. My father was one of those.

9 But Mobile is the center of the economy -- the banking
13:56:43 10 company, the legal company, the medical economy. If you have
11 the flu, you will probably go to the doctor in Chatom. But if
12 you live in Washington County and you're sick, you are going to
13 go to Mobile. And the same would be true for Clarke, for
14 Monroe, Escambia, and Baldwin County. And Baldwin County has
13:57:02 15 got some great hospitals.

16 But Mobile has the University of South Alabama, which is
17 one of the only two medical schools and university hospitals in
18 the state -- Birmingham and UAB would be the second. Mobile
19 has the Providence Hospital. It has Mobile Infirmary, which is
13:57:21 20 one of the largest public private hospitals in the state.

21 So Mobile is a magnet for the economies of this district.
22 And, likewise, many of the people in Mobile have family and
23 personal relationships to the rural counties, as well. They
24 may hunt in Monroe County, or they may have a family home in
13:57:48 25 Clarke County or Escambia County.

1 If you look at the phonebooks, you would see a lot of the
2 same names in Monroeville that you would see in Mobile because
3 many of those families are related and connected.

4 Q Speaking of family home, I neglected to ask you where you
13:58:05 5 grew up, Mr. Bonner.

6 A I grew up in Wilcox County, which as a child was in the
7 first congressional district, when Congressman Edwards
8 represented us, as well as when Congressman Callahan was
9 elected and I went to work with him.

13:58:19 10 Q Has the first district contracted a little bit
11 geographically as Mobile has become more populous?

12 A It has. And it also contracted when the goal of zero
13 deviation and an equal number of residents per congressional
14 district required all of the Black Belt counties in those rural
13:58:47 15 counties to make some adjustments. Because, quite frankly,
16 Wilcox County's population has shrunk, and Mobile and Baldwin
17 counties' population has grown. The same could be said for
18 some of the other larger counties -- Jefferson and Madison.

19 Q Let's talk about the culture of the area. A few moments
13:59:10 20 ago you mentioned Mardi Gras. And I bet a lot of people
21 outside of Alabama don't know we have a Mardi Gras celebration
22 here.

23 A We not only have Mardi Gras, we have America's first. It
24 was started in Mobile. And it has spread. But if you -- the
13:59:28 25 truth be told, there are a lot of people in Birmingham or

1 Huntsville, or Montgomery, or Dothan who probably, if they have
2 a Mardi Gras celebration, it's something that's maybe 10 or
3 15 years old, not 150 years old.

4 So the history -- New Orleans has Mardi Gras, but they
13:59:48 5 stole it from us. I think I can say that in court.

6 THE COURT: I think it's been said many times many
7 places.

8 THE WITNESS: Judge, I'm sure you're right, especially
9 this weekend in Tuscaloosa.

14:00:01 10 THE COURT: A lot of things are being said there that
11 we probably don't need to talk about.

12 BY MR. DAVIS:

13 Q Mr. Bonner, is there anything else unique about the
14 history of this part of the state?

14:00:11 15 A Well, I will tell you, having served in Congress, that one
16 of the things we talked about during the deposition that I will
17 be happy to discuss now or upon cross-examination, one of the
18 jobs of -- one of the important roles of a member of Congress
19 is to be able to represent his or her district.

14:00:35 20 And by representing, in my case, we had over 450 town hall
21 meetings. But we also every month had field reps who would go
22 out and meet in the smaller communities in each of these
23 counties.

24 And so when you have a problem with social security, or
14:00:57 25 you have a problem with the Veterans Administration, or you

1 have a problem with one of the other federal agencies, being
2 able to talk with someone face to face on a regular basis --
3 most families can't afford to hop on an airplane and fly to
4 Washington, D.C. to see their congressman or senator.

14:01:16 5 And so the compactness of the district -- and that was one
6 of the goals when this map was produced was to keep all of the
7 districts, the integrity of those district lines as close to
8 what they were to the preceding decades. And I can say since I
9 was there at that time for the preceding decade, as well -- I
14:01:37 10 was not involved in the 1980 redistricting. But as a Hill
11 staffer, I worked on the 1990 and on the 2000, as well as the
12 2010.

13 And so for our sake, our goal was to always make sure that
14 we would -- because we knew none of us would be in Congress
14:01:59 15 forever. We wanted to make certain that the districts that we
16 inherited that we would hopefully pass off to someone else at
17 some point would be districts that those communities of
18 interest, the commonality of the business and enterprise, the
19 relationships of sports and social life, that they remained as
14:02:21 20 intact as possible. Because at the end of the day, if you
21 can't serve your district well, then you're not really the
22 representative that you portend to be.

23 Q Okay. So is your ability to represent your constituents
24 related to the compactness of the district and your ability to
14:02:39 25 get around to where they live?

1 A Well, it is certainly a benefit.

2 Now, I will acknowledge that if you look at the map of
3 Alabama, that there are other districts that are spread wider
4 or might be deeper. Congresswoman Sewell's district probably
14:02:53 5 has more counties. But you have to have more counties when you
6 have a smaller population in each of those counties that she
7 represents with the exception of coming into Birmingham and
8 Jefferson County.

9 But I would just use this as an analogy. I can be -- from
14:03:14 10 my office in downtown Mobile, I could be to the northern part
11 of my district when I represented it, now represented by
12 Congressman Byrne, to Jackson, Alabama, I could be there in an
13 hour and 20 minutes.

14 If I had to go from Mobile to Dothan, it would take about
14:03:33 15 three-and-a-half hours. And I would be spending the majority
16 of that time in Florida.

17 Q We are going to look at some of plaintiffs' proposals in a
18 minute. And I want to circle back to what you mentioned as the
19 latest redistricting cycle and even in the '90s and 2000s.

14:03:52 20 Before we turn to that, though, and while we still have
21 this one up, the history of the Mobile region -- we all know
22 that in Alabama there has been racial tension -- a lot of
23 episodes in our history that we're not proud of at all.

24 Did some of the same things that you saw happening in
14:04:18 25 Birmingham and in Montgomery, were they going on in Mobile?

1 A No. And I think there's a reason for that. Alabama's
2 racial history is something that is part of our story. But
3 it's also in many instances been part of a dark cloud that has
4 hung over our state as we've tried to change our image and
14:04:49 5 recruit new industries and change our state. Because people
6 around the world -- not just around the country -- have the
7 images seared in their minds of Jim Clark and Bull Connor and
8 the dogs and the firehoses and the Edmund Pettus Bridge.

9 We actually have a statue in Mobile of John LeFlore who
14:05:15 10 was an African-American educator, and Joe Langan who was the
11 mayor of the city of Mobile, very progressive back before
12 progressive necessarily meant liberal. And it was a statue
13 erected years ago, decades ago, because they made a commitment,
14 this black man and white man to make certain that what was
14:05:40 15 happening not just in Alabama, but in Meridian, Mississippi,
16 and in Little Rock, and other places around the southeast
17 predominantly, that it would not happen here.

18 So we have had -- every community has an incident that you
19 wish had not happened. But we were able to avoid it. But it
14:05:58 20 wasn't by accident. It was -- it was a commitment that we were
21 not going to repeat the mistakes others had made, and we were
22 going to do things differently.

23 Part of that I believe also comes from the fact that this
24 district, again, unlike any that I am familiar with, has a
14:06:17 25 diverse ethnic background. It's not just African-American and

1 Caucasian.

2 Down in the fishing village of Bayou La Batre down in the
3 southern part of the Mobile County, we probably have 25
4 different nationalities. You have people working in the
14:06:35 5 ship-building industries, people picking crab, people who are
6 unloading shrimp and other seafood, and they have come from
7 Cambodia and Laos and Vietnam.

8 And part of the role of a member of Congress when
9 servicing the district, when we had a hurricane -- and we had
14:06:55 10 two major ones when I was in Congress. We had some minor, but
11 Hurricane Ivan in 2004 and Hurricane Katrina in 2005, as well
12 as the oil spill in 2010, we would actually have to go to those
13 communities where there was a large ethnic diversity and have
14 fliers or translators who could speak their language. Many
14:07:17 15 don't speak English.

16 We have a large Hispanic community in Baldwin County. We
17 have a large Native American community. We actually have the
18 only federally recognized Native American tribe in Escambia
19 County, the Poarch Band of Creek Indians. And in Washington
14:07:31 20 County, we have the Mobile Washington Band of Choctaw Indians,
21 the MOWA.

22 So we have a lot of -- Mobile is an international city by
23 being a port city. But we also have a lot of different
24 cultures, a lot of different backgrounds that make Mobile and
14:07:49 25 Baldwin County and south Alabama somewhat unique compared to

1 other parts of the state.

2 Q Do you have a judgment, Mr. Bonner, when you were trying
3 to get out news about a hurricane or the oil spill, do you have
4 a judgment as to how many languages you needed to be able to
14:08:06 5 translate to get the word out?

6 A Well, unfortunately, I only speak one and not very well.
7 But we would make an effort -- we would work with faith-based
8 groups. We would work with the Red Cross, Salvation Army. And
9 there were times we would employ translators if we were going
14:08:22 10 down into a community like the Bayou that needed to make sure
11 we were getting information about services that were available,
12 how to make -- and take advantage of the oil spill trust fund
13 or where to go get food and shelter after a hurricane.

14 Q Has the city of Mobile ever had an African-American mayor?

14:08:42 15 A Yes, sir. Sam Jones was elected mayor back,
16 interestingly, when Mobile was a majority white city. And the
17 current mayor Sandy Stimpson was reelected, and now Mobile is a
18 majority African-American city.

19 Q The city of Pritchard, that's this in District 1, is it
14:09:05 20 not?

21 A It is. It is a small community north of Mobile, but it
22 would probably be one of the top 15 cities in size in the
23 state. I don't know the exact number. It, too, when it was a
24 majority Caucasian city, had a black Republican mayor. And
14:09:26 25 when it was a majority African-American city, had a white lady

1 as the mayor.

2 I'm not going to say that we've never had racial issues.
3 That would be untrue. But I will tell you that we have worked
4 harder, in large part, because we felt that we wanted to
14:09:46 5 distinguish us from the rest of the state and the rest of the
6 country, that we didn't see people based on the color of their
7 skin, but someone much smarter than me said the content of
8 their character and their heart.

9 Q Mr. Bonner, as you look at the current districts, are
14:10:08 10 there any things either economically, socially, culturally,
11 that distinguish the Wiregrass region that is in District 2
12 from the Gulf Coast region that is in District 1?

13 A Well, there are a number. Just as I have tried to
14 articulate the commonality of interests that we have, I think
14:10:34 15 Congresswoman Roby or her predecessors, Congressman Bright,
16 Congressman Everett, Congressman Dickerson would argue that
17 there is definitely a strong magnetic connection in the
18 Wiregrass. It's not just agriculture. It's not just peanuts.
19 It's military. They have a major Air Force Base an Air
14:10:56 20 University in Montgomery. We just recently landed the F35s for
21 Montgomery. It's a billion dollar-plus benefit to the state.

22 And down near Enterprise is one of the -- if not the
23 largest aviation training centers in the United States -- Fort
24 Rucker.

14:11:18 25 So a member of Congress from Alabama second district

1 historically, since I've been involved in this, would want to
2 be on the Agriculture Committee and would want to be on the
3 Armed Services Committee. And I think Congressman Everett was
4 on the Veterans Committee, as well, because we have a large
14:11:40 5 number of veterans throughout the state.

6 But while we worked very closely -- and our delegations'
7 collegiality and reputation well earned for working together is
8 legendary in Washington, D.C, especially these days. The fact
9 of the matter is it would have been a challenge for someone to
14:12:06 10 be advocating for ships or submarines down in Mobile and also
11 for helicopters or airplanes in Montgomery and Dothan, at
12 Enterprise.

13 Q Let's look at some of the different proposals, Mr. Bonner.

14 The plaintiffs in this case argue that districts in the
14:12:29 15 Alabama should be configured differently. And I'm now going to
16 put on the screen Plaintiff's Exhibit 61, which is their
17 Revised Plan 1.

18 A Yes, sir.

19 Q Now, let's say that these were the districts and you had
14:12:49 20 been elected to represent the first congressional district. Do
21 you see any challenges to providing effective representation to
22 constituents in a district like this?

23 A Yes, sir, I see a lot of challenges to it.

24 Number one, where I lived when I was living in Mobile
14:13:12 25 probably would have been in the second congressional district.

1 While you don't have to live in your district in Alabama to run
2 for that district, I'm not aware of anyone ever being elected.

3 So let's assume that I ran where I currently live in
4 Baldwin County. It would -- not only would it be a challenge
14:13:34 5 to serve from a distance standpoint, there's -- there would be
6 a lot to learn about their culture, their way of life, their
7 economic engine, if you will.

8 And there's just so little in common with this proposed
9 District 1 that I think it would make it not only difficult to
14:14:13 10 serve, I think you would very likely make it difficult to find
11 people who would want to serve in a district like this.

12 Q Would you be more hesitant to run for Congress if the
13 district looked like this as opposed to the way the lines are
14 presently?

14:14:32 15 A I would. And I would be equally as impacted to run in
16 District 2, as well.

17 District 2, you could be the congressman from Mobile. I
18 don't know where the population is on this map. So I'd have to
19 look at the actual numbers. But I guess it's conceivable you
14:14:55 20 could be elected to Mobile, and you would have to service in
21 terms of representing Macon County, Bullock County, Lowndes
22 County. There's very little in common.

23 The people in Fort Deposit don't travel to Mobile to buy
24 cars or to shop. And likewise, the distance -- you could go on
14:15:23 25 the interstate, but it would take you probably three hours,

1 three-and-a-half hours to get to the furthest point in the
2 second district. And in the first district -- I haven't driven
3 Mobile to Dothan in a while, but I know you're going to spend
4 the majority of the time in Florida.

14:15:38 5 Q Are there any communities -- are there any communities of
6 interest that you're aware of, Mr. Bonner, that would be shared
7 by people in downtown Mobile and people in Montgomery, Macon,
8 and Bullock counties?

9 A No, sir.

14:15:54 10 Q Are you aware of any way where the economies of these two
11 regions are interdependent?

12 A No, sir.

13 Q What about, say, western Mobile County and Henry, Houston,
14 and Dale counties? Are there any communities of interest that
14:16:12 15 are shared by those two regions?

16 A Not that I am aware of.

17 Q Do they -- do people from these two different areas work
18 for the same employers?

19 A No, sir. They would not work for the same employers.
14:16:28 20 They -- their schools don't compete against each other except
21 maybe at playoff time.

22 THE COURT: You talking about high schools?

23 THE WITNESS: Yes, ma'am.

24 THE COURT: And high school football is also big in
14:16:41 25 Alabama, isn't it?

1 THE WITNESS: That's what I have been told.

2 THE COURT: Okay.

3 THE WITNESS: But, Judge, even the four-year and
4 two-year colleges are different.

14:16:49 5 If you look at the -- at this map, there is a community
6 college in Mobile, Bishop State Community College. There's one
7 in Baldwin County that has a campus in Escambia County and
8 Monroe County. Coastal Alabama. The University of South
9 Alabama, the University of Mobile and Spring Hill College.

14:17:18 10 I don't have the numbers in front of me, but I would be
11 confident in saying that many of their students, the vast
12 majority of their in-state students are going to gravitate from
13 that area.

14 And, likewise, if you are from Houston, Dale, Henry,
14:17:34 15 you're probably going to go to Troy if you're not going to
16 Auburn or Alabama or going out of state.

17 The community college, Wallace Community College over in
18 Dothan, I mean, they're part of the same system, but they
19 wouldn't even teach the same type of classes.

14:17:52 20 I mean, again, we're -- our two-year system today is very
21 actively -- we need 500,000 new workers in the next five years
22 in Alabama. And our two-year system is being redesigned to
23 help bring a lot of those workers in through the two-year
24 education program.

14:18:12 25 But if you're in Mobile and you're at the one of the

1 community colleges, you're probably learning a trade to work in
2 the shipyards, or to work in the aerospace industry, or to work
3 in industries that support that, the steel industry, or the
4 aluminum.

14:18:29 5 And, likewise, the commonality of interests between Pike
6 County and Dothan, I mean, it's not just that you could be from
7 Dothan to Troy in an hour. It's that they have the same shared
8 relationships in their area that we have in ours.

9 THE COURT: And just so we all understand, where is
14:18:56 10 Dothan and where is Troy? Which counties?

11 THE WITNESS: Forgive me. Dothan is the county seat
12 of Houston County in the far southeastern corner. And Troy is
13 in Pike County. Abbeville is the county seat for Henry County.
14 Ozark is the county seat for Dale County. Enterprise or Elba.
14:19:18 15 I'm not sure. I might get in trouble here. But Enterprise and
16 Elba are in Coffee County. And Geneva is the county seat
17 Geneva County.

18 But even Covington County -- in this proposed map is
19 Andalusia. Andalusia doesn't even go to Escambia County to
14:19:37 20 shop. They would go east. They would not go west. And that
21 can be documented by just looking at the receipts of any of the
22 stores or the banks. There's just no real connectivity there.

23 BY MR. DAVIS:

24 Q Mr. Bonner, the plaintiffs have submitted a total of four
14:19:56 25 proposals. I want to show you a couple more.

1 This is Plaintiffs' Exhibit 67, or Plaintiffs' Revised
2 Plan 2. The districts are a little different in this plan than
3 in Revised Plan 1.

4 Do they give you some of the same concerns as Revised Plan
14:20:22 5 1?

6 A Yes, sir, they would.

7 Q Any different concerns?

8 A Well, so looking at the first district, your rural
9 counties are the same. But you have basically -- I would say
14:20:50 10 gerrymandered the Mobile County to create a district in the
11 second district that would probably be even worse for the rural
12 counties in that area if the congressman or congresswoman were
13 elected from Mobile County.

14 But if the congressman or congresswoman were elected from
14:21:13 15 Montgomery County -- and there's no reason to say that you
16 couldn't be elected from a rural county -- but if you look at
17 our current delegation, the majority of them come from some
18 larger city in their district. It would be very difficult.

19 Barbour County is a wonderful county. Eufaula, Lake
14:21:37 20 Eufaula. It would have so little in common with Monroe County,
21 so little in common with Conecuh County that unless -- I mean,
22 people in the Wiregrass -- the counties we were talking
23 about -- they don't go to Gulf Shores or Orange Beach to go to
24 the beach. They go to Panama City or Destin.

14:22:00 25 THE COURT: It's closer.

1 THE WITNESS: It's much closer.

2 So when we are talking about community of interest, that's
3 what I am referring to. I might not be articulating it well.

4 There's much more synergy and history of a relationship
14:22:17 5 that this district, this Plan 2 would be very, very difficult.

6 And, quite frankly, District 7, if you are representing the
7 seventh district and -- you got to go from Jefferson County
8 down to Washington County. Now it currently goes to Choctaw.

9 So I realize that's just -- and Marengo, that's one county
14:22:44 10 away and part of Clarke. But you're just making it harder and
11 more difficult and more expensive to serve.

12 For the record, each congressional office of the 435 have
13 roughly the same allowance. It's called a member's
14 representation allowance, an MRA. It's a little over a million
14:23:08 15 dollars. There are some that have additional stipends for high
16 rent areas -- New York City, Los Angeles, Dallas, Atlanta. But
17 for the most part, you have got to run your office out of that
18 budget. It does not pay the member's salary, the member's
19 travel back and forth to Washington, but everyone else's
14:23:28 20 travel, everyone else's stipends, the support, the rent, the
21 lease of a car comes out of that million dollars.

22 And so for any of these districts, you would be talking
23 about -- I had -- when I worked with Congressman Callahan, we
24 had one district office that was based in Mobile. When I was
14:23:48 25 elected, we opened a second office in Baldwin County because it

1 was such a fast-growing county.

2 But you would have to have at least three offices in the
3 first district. If you didn't have Houston, Geneva, Dale,
4 Henry counties represented with an office there, then you
14:24:04 5 probably would be serving one term, or vice versa. If you were
6 elected from that area in the Wiregrass, you would very likely
7 serve one term if you didn't represent those people who live in
8 Mobile and Baldwin counties.

9 And the same can be said for the other maps -- for the
14:24:21 10 other districts in District 7.

11 Congresswoman Sewell is from Dallas County. She was born
12 there. Her mother was the first African-American member of the
13 city council in Selma. And Terri is very proud --
14 Congresswoman Sewell is very proud of her Selma and Dallas
14:24:40 15 County heritage. But she lives in Birmingham. And so she has
16 an office in Dallas County, and they do a really good job.

17 We used to do joint town hall meetings in Clarke County
18 because we shared -- that was the one county that was split in
19 the 2000 redistricting, as well as in the 2010. And we made a
14:25:00 20 commitment actually with her predecessor Congressman Artur
21 Davis that we did not want that one rural county that had two
22 congressmen to have any loss of service. So we would go do
23 joint town hall meetings, and our staffs would work together to
24 make sure that those residents in Clarke County would not --
14:25:20 25 did not suffer any loss of representation.

1 But to answer your question -- and I apologize for being
2 so long winded -- it would create a real challenge, whether you
3 were the representative of District 1, District 2, or District
4 7 -- and I really am not even focused on the other districts.

14:25:38 5 BY MR. DAVIS:

6 Q I'm going to change maps now, Mr. Bonner, to look at
7 Plaintiffs' Revised Plan 3, which is marked as Plaintiffs'
8 Exhibit 73. And I ask you first: Does this plan present some
9 of the same concerns as we discussed with the first two?

14:25:51 10 A Yes, sir, it does.

11 Q Take a look at District 7, Mr. Bonner, in the Revised Plan
12 3. You notice that District 7 in this district does not
13 include Dallas County.

14 You know, Representative Terri Sewell, do you not?

14:26:14 15 A I do.

16 Q And you have worked together, as you mentioned?

17 A Yes.

18 Q What would her reaction be to District 7? Do you suppose
19 from knowing her that Dallas County's not in her district?

14:26:28 20 MR. SPIVA: Object, Your Honor. Calls for
21 speculation, what she would think of this plan.

22 THE COURT: I think he has laid a foundation to answer
23 that question. So overruled.

24 THE WITNESS: Congresswoman Sewell is extremely proud
14:26:43 25 of her -- of her home in Selma.

1 When she was first elected, the first year we went to the
2 White House Christmas party, she brought her mother as her
3 date. And I took a picture of her and her mother with
4 President and Mrs. Obama, who she had gone to college with.

14:27:08 5 And I will tell you that because we've had numerous
6 conversations about this -- I wouldn't portend to speak for
7 anyone else in the delegation. But Dallas County and Selma is
8 as important to Congresswoman Sewell as -- as any other county
9 in that district because she knows the role that Selma has
14:27:33 10 played in the story of Alabama and in the story of America.
11 And she is working hard.

12 She actually sponsored legislation recently to take the A.
13 G. Gaston Motel here in Birmingham and make it into a Civil
14 Rights district. And she has worked equally as hard to do
14:27:52 15 things with Edmund Pettus Bridge, and the churches, and the
16 Saint James Hotel, and other important landmarks in Selma.
17 It's a very important part of her life.

18 THE COURT: Are you aware of her efforts with the
19 federal courthouse in Selma?

14:28:08 20 THE WITNESS: No, ma'am.

21 THE COURT: Okay. I am. She almost derailed our
22 effort with the Anniston courthouse. So -- but I'm not
23 testifying. So I'll just leave it at that.

24 MR. DAVIS: And I'm not going to touch that topic.

14:28:24 25 MR. SPIVA: No objection, Your Honor.

1 THE COURT: No. We worked it out. And if y'all want
2 to know off the record sometime, I will tell you about her
3 commitment to restoring the federal courthouse there that had
4 not been used by the Southern District for a number of years.
14:28:47 5 And they're holding court there again because of her effort and
6 her insistence, so...

7 THE WITNESS: Well, I will say this: I was born in
8 Selma. And we did not have a hospital in Camden. And so I
9 moved to Camden three days later. I didn't stay there long.

14:29:05 10 But Terri and I have talked -- Congresswoman Sewell and I
11 have talked often about our love for that community and how in
12 many ways -- I mean, we were children when a lot of the story
13 was playing out.

14 But one of the tragedies that every year there's this
14:29:26 15 great pilgrimage, and there are 30 or 40 members of Congress,
16 and depending on who is in the White House, the President of
17 the United States comes, and there's a march over to reenact.
18 And it's wonderful reminder of how far we've come and how far
19 we have to go.

14:29:43 20 But the painful thing is, is that when that weekend is
21 over, Selma still struggles. You drive on Broad Street -- and
22 I was there recently -- and many of the old buildings that used
23 to house commerce, the department store, the newspaper, they're
24 closed. They're boarded up. And it pains her personally
14:30:04 25 because it is her home. And she -- as Your Honor is aware, is

1 passionate about this community. This is a part of her life.

2 BY MR. DAVIS:

3 Q Mr. Bonner, I'm trying to remember if I've already talked
4 about this map or not. This is Plaintiffs' Exhibit 40. And I
14:30:28 5 don't think so. This is Plaintiffs' Illustrative Plan 4. It's
6 a slightly different configuration of districts.

7 So quickly, does this configuration present some of the
8 same concerns to you as the other proposed maps we reviewed?

9 A Counselor, it -- there are -- they have one thing in
14:30:46 10 common. They are being drawn to achieve a political purpose
11 with little regard or respect for the historic relationships in
12 the economic interests that make these districts a part of the
13 state.

14 Q Why do you believe that is the case?

14:31:11 15 A Well, again, Montgomery is the capital seat. And so
16 Montgomery County is currently split. And that's not that
17 difficult to see. Jefferson County is split. Jefferson County
18 being the largest county and most populous county in the state.

19 But if you look at the economy of Montgomery, and you look
14:31:36 20 at the -- now we're looking at this Plan 4, but we're focusing
21 on District 2 because that's what draws my attention to it. If
22 you live on Dauphin island, which is -- if you look at the map,
23 the barrier island off the southern tip of Mobile County, or
24 you live in Bayou La Batre.

14:31:58 25 Q Is it where I've drawn a circle there?

1 A Yes, sir, it would be. Or you live in Citronelle, if you
2 go to the northern part of Mobile County in the yellow Section
3 2, Citronelle is the third largest community, maybe fourth
4 largest community of Mobile County. You are very likely not
14:32:20 5 going to know who your congressman is or your congresswoman
6 would be.

7 And, likewise, if you lived in the first district, in the
8 pink district, there's just so little -- there's no good way to
9 get from Mobile to Troy. There's no four-lane highway.

14:32:45 10 There's not an air service, not rail service. If you've got
11 commerce that -- your business interests -- you're going to
12 have so little connection to -- from this area of Mobile and
13 Baldwin counties to Geneva County to the part of Dale County.

14 And then if you look at the third district in this map --
14:33:12 15 and we haven't talked about the third district. But to go from
16 Henry County all the way up to Calhoun and Cherokee --
17 Congressman Rogers is from Calhoun County. He's currently
18 seeking reelection. Second district currently has a vacancy,
19 and there's going to be an election to elect the new member of
14:33:31 20 Congress from the second district.

21 But two of the candidates live down in this area of the
22 Wiregrass, in Henry County, Dale County, that area. I don't
23 know specifically where they live. But that would be a devil
24 of a district to try to represent.

14:33:50 25 Q Are districts drawn -- with this general configuration,

1 would they be good for people in Mobile?

2 A They wouldn't be good for people in Mobile because Mobile
3 relies heavily on the federal delegations' help.

4 When we were getting the contract to build the 20 new
14:34:19 5 littoral combat ships at Austal, I was still in Congress. It
6 was a two-and-a-half billion dollar contract that took us from
7 500 employees to 4,500 employees. That didn't happen just
8 because we wanted it to happen. It happened because Senator
9 Shelby, Senator Sessions -- and I was on the Defense
14:34:40 10 Appropriations Committee at the time, subcommittee. It doesn't
11 hurt to have your representatives being able to help you and
12 your constituents with the challenges and needs that they have.

13 Q And any detrimental effect to the economies or the
14 cultures of Mobile and Baldwin County to splitting them up in
14:35:07 15 this way, would that have an effect on white and black citizens
16 alike and their well-being?

17 A Well, as I said during the deposition, let me restate
18 here. I don't -- I don't believe for a minute that during the
19 10 years I was in Congress that there was any one of the
14:35:41 20 650,000 people who lived in my district who didn't feel that
21 they were adequately served by me and my office because we
22 didn't respond to someone because of their race or because of
23 their political views.

24 We had a sign on my door that I had made that said, This
14:36:03 25 office belongs to the people of south Alabama. And we treated

1 every case and we treated every constituent with the same type
2 of respect.

3 Now, I didn't always win certain parts of my district any
4 more than any of the other six members of Congress. I mean,
14:36:21 5 you can run unopposed. But even when you run unopposed, you
6 still might have a few write-ins for Mickey Mouse or Donald
7 Duck.

8 But I would think the people -- the African-Americans in
9 Mobile and Baldwin County have a lot more in common because of
14:36:44 10 the community than they would have with African-Americans in
11 Macon and Bullock counties.

12 Q Mr. Bonner, when you were campaigning in the first
13 district, did you campaign in areas that were largely
14 African-American, as well as areas that were largely Caucasian?

14:37:04 15 A I certainly did. My very first town hall meeting as a
16 member of Congress was in Pritchard, and my very last one was
17 in Pritchard.

18 Pritchard is a majority-minority population-wise. But the
19 very first earmark I got back when you can do earmarks was for
14:37:22 20 Pritchard, Alabama for a fire grant so that we could make sure
21 that the fire hydrants and the fire trucks could adequately
22 serve the people who lived in that community.

23 And I was very proud that when I left Congress I left with
24 enhanced relationships that I had made because I did campaign
14:37:49 25 and I served in those communities, even those areas. I only

1 lost one county during my ten years in Congress, and that was
2 Washington County the very first time. And I was determined I
3 wouldn't lose it again, and I didn't.

4 Q You said first and last town halls were in Pritchard. And
14:38:07 5 in between, did you make it an effort to hold town halls
6 throughout your district in diverse areas?

7 A A good friend of mine that I went to Leadership Mobile
8 with, her son was murdered in Trinity Gardens. Trinity Gardens
9 is a majority African-American part of Mobile. And Levonis
14:38:30 10 (phonetic) asked me if I would come have a town hall meeting.
11 She said, The people are afraid. And it would be a really big
12 message if the congressman would come unarmed without police
13 and security. Well, Levonis, I said, I don't have a weapon and
14 I don't travel with security. And I would be honored to come.

14:38:50 15 That's just one example. But I could give you countless
16 others.

17 I went to 26 funerals of soldiers who died during the wars
18 in Iraq and Afghanistan. Probably 18, 19 of those were
19 African-American soldiers. I went to every home, every family
14:39:09 20 that I visited with. I would like to think that they didn't
21 see me as a white congressman or as a Republican, but as their
22 congressman. Because I didn't see them as a black family. I
23 saw them as parents, brothers, and sisters of an American hero.

24 To the point that the first soldier who was killed, Howard
14:39:30 25 Johnson, Jr., who the year before was the all-star athlete in

1 high school. He was the first soldier killed in the war in
2 Iraq. I will tell you when I walked into his home -- he was
3 the only son. He had two sisters. His father was a minister.

4 And my wife made a pound cake, and we went to see them.

14:39:53 5 And the sisters asked if I would come in and visit with their
6 parents. And I didn't really know what I was going to say.

7 And I was very religious that day in asking the Lord for help.

8 But when I went in and visited, we were standing in
9 Howard, Jr.'s, bedroom with all of his trophies and ribbons.

14:40:14 10 He was an amazing young man by all accounts -- I didn't know
11 him -- and was a super athlete in high school. And I told his
12 father and mother, I said, Whatever I can do for you for as
13 long for as I'm alive, I will be here for you. And Reverend
14 Johnson said, Well, would you moderate at my son's funeral?

14:40:35 15 It was a nationally televised funeral. Senator Sessions
16 was there, Governor Riley was there, and I was there on the
17 platform of the church that Reverend Johnson, Sr., pastored.

18 And I truly don't believe that I was looking at a black
19 family or they were looking at a white man. We were looking at
14:41:00 20 people who were grieving over the loss of a young man.

21 Q Have you been recognized in any way, Mr. Bonner, for your
22 service to your African-American constituents?

23 A I have an award from the NAACP. But more importantly,
24 I've got countless memories and stories of men and women,

14:41:27 25 military and nonmilitary, that I've helped whether -- you know,

1 one of the great privileges a member of Congress has is helping
2 a young man or woman have the privilege of going to get an
3 education in one of our military academies. I still get
4 letters from people who had a chance to go get a world-class
14:41:46 5 education and then serve their country, and some are still in
6 active duty and some have gone on to other careers.

7 But I recently received a letter from -- actually the
8 mother of a young man who had gone on into medicine. And she
9 was telling me that had I not given her son that opportunity
14:42:11 10 there's no guarantee based on their financial background or
11 whatever that he would have had that opportunity. He was
12 African-American. He is African-American.

13 And so I'm proud of the honors, but I'm really more proud
14 of the relationships.

14:42:29 15 Q You know, you have in your role, both when you were chief
16 of staff and as the congressman for the first district, you've
17 been associated with the redistricting process or you've
18 been -- you have participated to some extent in drawing
19 congressional districts?

14:42:47 20 A I never drew a map, but I participated, yes.

21 Q So let's talk about in 1990 cycle and after the 1990
22 census when Alabama drew new congressional districts. You were
23 serving as chief of staff, correct?

24 A Yes, sir.

14:43:03 25 Q To which representative?

1 A Congressman Sonny Callahan.

2 Q And tell us about that round of redistricting in the
3 1990s.

4 A Well, that was -- that was -- it was an interesting time,
14:43:20 5 because the desire by the legislature was to create the first
6 minority-majority congressional district. And so that was not
7 really going to have any impact on our district, per se. But
8 it was going to have a significant impact on the Seventh
9 Congressional District, which heretofore had been represented
14:43:48 10 by Congressman Claude Harris, before that Congressman Walter
11 Flowers, and before that Congressman Richard Shelby.

12 And the legislature wanted and believed that it would be
13 appropriate to draw a majority-minority district. And that's
14 when, as you'll see on this map -- I assume you're going to
14:44:14 15 reference this is the map that was produced then?

16 Q Yes, Mr. Bonner. This is Plaintiffs' Exhibit 102. It's
17 one of the pages of Plaintiffs' 102. It is the maps that were
18 in effect between 1993 and 2002.

19 MR. DAVIS: But before we continue, Your Honor, I've
14:44:32 20 been asked to -- if this would be a convenient time for a quick
21 break.

22 THE COURT: That sounds good to me, as well, so we
23 will come back at 3:00 o'clock.

24 MR. DAVIS: We'll pick up from here.

14:44:47 25 (Recess.)

1 THE COURT: You may continue.

2 BY MR. DAVIS:

3 Q Okay, Mr. Bonner. We were looking at one of the pages in
4 Plaintiffs' 102, which was the congressional district plan
15:04:06 5 adopted in the '90s.

6 Before we continue, let me show you the one that was
7 adopted in the '80s, and I will take it off the screen so we
8 can see the difference. So do you recognize that as the
9 district during the '80s decade?

10 A Yes, sir. That was the district that I worked in as a
11 college intern and also as a young congressional staffer.

12 THE COURT: For the record, we're looking at
13 Plaintiffs' Exhibit 102?

14 MR. DAVIS: That is correct, Your Honor. Thank you
15:04:33 15 for reminding me.

16 BY MR. DAVIS:

17 Q Jefferson County was largely whole in that district?

18 A Well, it was a split county.

19 Q Yes.

15:04:48 20 A But it was more whole than in latter versions.

21 Q Yeah. Let's look at the district then to the '90s.

22 THE COURT: Wait a minute. How many districts did we
23 have in the map that's Plaintiffs' Exhibit 102?

24 THE WITNESS: Seven, Your Honor. We have had seven
15:05:07 25 congressional districts since the 1960s, when we went from

1 eight districts down to seven.

2 THE COURT: Thank you.

3 BY MR. DAVIS:

4 Q Actually, Mr. Bonner, were there not eight districts in
15:05:20 5 the '60s, and then we dropped to seven in the '70s? Am I right
6 about that? I want the record to be clear.

7 A Counsel, I'm not going to argue with you, but we had an
8 at-large election in 1964. That's when Congressman Edwards and
9 Congressman Dickenson, and that's when the other Republican
15:05:47 10 members were elected that year. And in 1960, when we had the
11 redistricting, I thought we went from eight to seven. We may
12 have gone from nine to eight.

13 Q Let's -- I want the record to be clear. So let's refresh
14 our recollections -- mine, too.

15:06:10 15 THE COURT: I don't remember that far back.

16 MR. DAVIS: This is Defense Exhibit 1, Your Honor
17 which is a series of historical maps. And I'm starting with
18 the '50s, although Mr. Spiva went through the same maps in the
19 cross direct of Representative Byrne.

15:06:31 20 THE COURT: Okay. And which page number of
21 Defendant's Exhibit 1 are you looking at right now?

22 MR. DAVIS: I regret to say, Your Honor, that my copy
23 does not have the page numbers. But this is the map from
24 1950 -- Mr. Spiva rescued me. It is 7 of 12, and the bottom of
15:06:56 25 the page says, Chestnut Defense 3022.

1 THE COURT: Thank you.

2 THE WITNESS: And that was in the 1950s?

3 BY MR. DAVIS:

4 Q That's correct.

15:07:03 5 A Okay.

6 Q And in the 1950s, then, we had nine districts, did we not?

7 A That's what the map shows.

8 Q Yes. And now I'll put a map dated congressional districts
9 1964.

15:07:23 10 THE COURT: That's page 321 -- I mean 3021?

11 MR. DAVIS: 30 -- yes, Your Honor.

12 THE COURT: I'm just trying to keep the record clear.

13 MR. DAVIS: Thank you.

14 BY MR. DAVIS:

15:07:38 15 Q And there we see in the '60s eight districts, do we not?

16 A Well, we do, but that was August of '64. The election was
17 in November of '64. And so what I don't recall as a child back
18 then -- and the judge wasn't even born.

19 THE COURT: Oh, yes, I was.

15:07:57 20 THE WITNESS: But I will take both the plaintiff and
21 the -- I will take your word for it. But that would have been
22 in August.

23 And what I was of the belief was that the election was a
24 result of the previous election with the statewide race where
15:08:18 25 Congressman Boykin, who at that time was the congressman from

1 the first district --

2 BY MR. DAVIS:

3 Q Okay.

4 A -- was the low man on the totem pole, in terms of the
15:08:26 5 vote. And that would have probably been in the '62 election, I
6 guess.

7 Q Well, we do know, then, from Chestnut Defense page 3020,
8 which is the plan that was developed after the 1970 census,
9 there we have seven districts, correct?

15:08:51 10 A Yes.

11 Q And we have had seven districts since then?

12 A That's the district that I most recall.

13 Q Okay. Thank you. I apologize for that detour.

14 So let's look now at the districts that were adopted in
15:09:14 15 the 1990s. And before we took a quick break, you were telling
16 us a little bit how those districts were adopted.

17 A Well, first of all, it should be noted that the -- that
18 district map -- Congressman Callahan had been in the Alabama
19 Legislature many years earlier. Congressman Flippo from
15:09:50 20 Huntsville in north Alabama the fifth district had been in
21 Congress and the state legislature. Congressman Bevill had
22 been in the state legislature the fourth district. And
23 Congressman Claude Harris from the seventh district before this
24 map was adopted had not been. He had been a judge, local
15:10:14 25 judge. Congressman Glen Browder from the third district had

1 been in the legislature and had been Secretary of State. And I
2 believe that was the time when Ben Erdreich was the Congressman
3 from Birmingham, and he was defeated by Congressman Spencer
4 Bachus, who was in the state legislature and had been on the
15:10:36 5 state school board.

6 I say that because during my involvement in the
7 redistricting process when we were in Montgomery with the state
8 legislature, it was helpful for members of the delegation who
9 had served in the Alabama Legislature. It was like a
15:10:57 10 fraternity. And they had those relationships. Plus you had
11 the seniority of Tom Bevill and Bill Dickenson, and Sonny
12 Callahan was acquiring seniority at that point.

13 The delegation, as I've indicated earlier, and as I'm sure
14 other witnesses have said, has a very strong reputation for
15:11:23 15 working together.

16 The awkwardness of the effort to produce the first
17 majority-minority map was that it was in all reality going to
18 keep Congressman Harris from being able to continue to serve.
19 He was not really interested in not leaving Congress, but the
15:11:45 20 political map of a 65 percent African-American majority
21 district made it unlikely that he would have been elected.

22 And so at that time a state senator, Earl Hilliard, very
23 popular in his district, ran in a very crowded primary. There
24 were a lot of people who ran. He won. And so this district
15:12:11 25 flipped, if you will, and remained a Democrat district, but it

1 became a majority-minority district, and it's remained so since
2 that time.

3 Q Okay. Now, you, as being chief of staff for the
4 representative of the first district, were you more focused on
15:12:28 5 the boundaries of the first district?

6 A Absolutely.

7 Q Yeah. And just to be clear, the congressional delegation
8 doesn't pass the redistricting plan?

9 A No, sir. We're at the mercy of either the legislature or
15:12:42 10 the courts.

11 Q But did you in the 1990s work with other chiefs of staff
12 and other members of the Alabama delegation to develop a plan
13 to tell the Alabama Legislature that we, the delegation, think
14 this would be fair?

15:12:54 15 A Absolutely. We have worked through -- each of the three
16 redistricting times that I have been involved in it, we've
17 worked as one. Even when there's been disagreement, we've also
18 agreed to work as one.

19 Q And after the 2000 census, were you still chief of staff
15:13:14 20 at the time that they were drawing new district lines for
21 congressional districts?

22 A Yes, sir. I was chief of staff in 2000, 2001.

23 Q When you were drawing a proposed -- not you, but when the
24 delegation was working on a proposal for the district lines
15:13:35 25 after the 2000 census, was anyone, to your knowledge, arguing

1 that there should be a second district that is majority
2 African-American?

3 A Yes, sir. There were some legislators who were arguing
4 for that point. And there were some political leaders in the
15:13:54 5 Alabama Democratic Conference -- primarily Dr. Joe Reed, who
6 was advocating there be two districts.

7 Q Was Representative Hilliard still representing the seventh
8 district at that time?

9 A Yes, sir.

10 Q What was his position on whether Alabama should draw a
11 second majority black district?

12 A Not speaking for Representative Hilliard, but speaking for
13 the delegation, we were united that we wanted to preserve the
14 districts as they were, and all the members were supportive of
15:14:25 15 that effort.

16 MR. SPIVA: Your Honor, can I have a continuing
17 objection on hearsay here? I kind of have a feeling I know
18 where Your Honor's ruling is going to go on that, but just so I
19 don't have to interrupt the flow.

15:14:37 20 THE COURT: Yes. You can have a standing objection.

21 MR. SPIVA: Thank you, Your Honor. And sorry, Your
22 Honor, and relevance, if I may.

23 THE COURT: Okay.

24 BY MR. DAVIS:

15:14:47 25 Q Are you aware, Mr. Bonner, of any objection from

1 Representative Hilliard to a plan after the 2000 census that
2 included only one majority black district?

3 A No, sir. And, Counselor, I was in the meetings with the
4 members of Congress. And the meetings were small. There were
15:15:10 5 the seven members of Congress and the seven staff designees.
6 Most cases it was the chief of staff. And we were working
7 together to try to work with the legislature in hopes of
8 producing a map that the legislature could pass that also would
9 be approved by the Department of Justice.

15:15:32 10 Q Now, after the 2000 census, when it was time for new
11 district -- excuse me -- the 2010 census, and it was time for
12 new district lines, you were a member of Congress by that
13 point?

14 A Yes, sir.

15:15:47 15 Q Okay. Did the delegation again work on a proposal to give
16 to the Alabama Legislature?

17 A We did work together. All seven members were in agreement
18 that it would be in the best interest of the state and of the
19 communities in the districts that we represented if we could
15:16:11 20 remain united. And we remained united.

21 Q And was the plan that the delegation proposed to the
22 Alabama Legislature, is it largely the plan that was ultimately
23 passed?

24 A It is. There were some minor deviations, as I recall.
15:16:30 25 Not necessarily in my district, but in other districts in

1 between the fourth district and the sixth district and perhaps
2 the fifth district.

3 There was a little bit of back and forth between
4 Congressman Brooks and Congressman Aderholt and Congressman
15:16:46 5 Bachus. But at the end of the day, the map that the
6 legislature produced was by and large the map that we were
7 hopping it would be.

8 Q And Representatives Aderholt, Bachus, and Rogers, did you
9 say?

15:17:01 10 A Bachus. Bachus, Brooks and Aderholt.

11 Q Those are districts in north Alabama, correct?

12 A Yes, sir.

13 Q Okay. Were all the members of the delegation supportive
14 of this proposal, to the best of your knowledge?

15:17:19 15 A They not only were supportive, they were financially
16 invested in it.

17 Q What do you mean?

18 A All seven members of the delegation agreed to support, if
19 the legislature could not agree upon a plan, that we would help
15:17:35 20 finance legal counsel to represent us if we went to federal
21 court, and we would work together to help the legislature if
22 they could pass a plan. If they needed expertise drawing maps,
23 or others who would be working to help achieve this goal, we
24 all agreed that we would have skin in the game.

15:18:00 25 Q Who represented District 7 at this time, around 2010-2011?

1 A That would have been Congresswoman Terri Sewell.

2 Q And she, of course, still represents District 7 today?

3 A She does an outstanding job.

4 Q Would you say that the Alabama delegation as a whole, all
15:18:20 5 seven Congressmen and Congresswomen -- do you work together to
6 such an extent that you get to know one another?

7 A Counselor, the delegation not only works together, but we
8 socialize together. We have lunch together every month. I
9 would say that there's no other delegation in the entire
15:18:42 10 Congress where both parties, both Democrats, Republicans,
11 black, white, liberal, conservative, we meet every month and
12 have lunch. We don't talk politics. We talk people. We talk
13 about what we can do to advance interests of our state.

14 And so when I was working to get Airbus to come to Mobile,
15:19:04 15 Congressman Bud Cramer from Huntsville who represented Boeing,
16 Airbus' rival, was right there with us, as was Congressman
17 Davis. And we haven't -- I say "we." It's a small group. You
18 feel like you're in the fraternity even when you're not. But
19 it's a very genuinely collegiate group who is committed to
15:19:30 20 serving 4.8 million people who live in this state.

21 Q Did you have sufficient opportunity to work with
22 Congresswoman Sewell that you feel you got to know her
23 character?

24 A Absolutely. She and I held joint town hall meetings. We
15:19:44 25 have frequent dinners together. I hosted a dinner for her.

1 And Congresswoman Martha Roby, they were the first female
2 congresswomen elected from Alabama perhaps ever. And so when
3 they were elected at the same time, one was a Democrat, one was
4 a Republican. One was African-American, one was Caucasian. I
15:20:06 5 hosted a reception for them their very first week. We have
6 frequent meals together.

7 And Terri -- and Congresswoman Sewell and I -- there's no
8 one I have higher regard for. She's very passionate about
9 representing her district and her state.

15:20:21 10 Q Have you had sufficient opportunity to observe her
11 representing her constituents to believe that it is her desire
12 to do her best to represent all of her constituents?

13 A So much so that one time when we were having lunch in our
14 delegation lunch, she had gotten a call from the President --
15:20:40 15 President Obama was in office at the time, who was twisting
16 arms pretty heavy that she vote on a union bill that would have
17 been what the administration wanted. She had voted against
18 that bill because it was counterproductive to what her district
19 needs were. And she did that more than one occasion.

15:21:00 20 Q Do you have any reason to believe, Mr. Bonner, that
21 Congresswoman Sewell would support a plan that she believed
22 discriminated against African-American voters?

23 A Absolutely not. She is an attorney, a very accomplished
24 attorney. She would -- she values the Constitution. And she
15:21:27 25 would in no way to advance her own personal interest or

1 political causes do anything that would disenfranchise the men
2 and women that live in her district.

3 Q Did the delegation -- well, was the delegation aware in
4 the year 2011 that Alabama's congressional districts would have
15:21:51 5 to be precleared by the Department of Justice?

6 A Yes, sir.

7 Q Did you have any thoughts on how that might be
8 accomplished?

9 A Well, we were very fortunate that the only Democrat in the
15:22:04 10 delegation had gone to college and law school with the
11 President of the United States and the first lady, and was very
12 good friends with the Attorney General of the United States.
13 And so while we didn't defer solely to Congresswoman Sewell,
14 she offered to do her part to help make sure that the map that
15:22:28 15 would eventually pass would be precleared, and she did.

16 Q And forgive me, Mr. Bonner. You said that -- you already
17 mentioned that she knew President Obama and Mrs. Obama. Did
18 you also mention whether she knew the Attorney General at that
19 time?

15:22:43 20 A Absolutely. She knew the Attorney General well, and
21 considered him someone that she -- I think it would be safe to
22 say she considered him a friend, but also someone that she
23 looked up to and respected. As did I, quite frankly. I did
24 not have the long-standing relationship with the Attorney
15:23:08 25 General that Congresswoman Sewell did. But I was very proud

1 that on my last day in office -- he and I had worked very
2 closely together during the oil spill when President Obama put
3 then secretary of the Navy Ray Mabus in charge of the response
4 and then later put Mr. Feinberg, Ken Feinberg in charge of the
15:23:31 5 fund that would help pay the victims.

6 We had a lot of problems with Mr. Feinberg and that
7 organization that was set up. And I had several reasons and
8 several occasions to seek the guidance of the Attorney General.
9 And he was always responsive.

15:23:49 10 And as I say, when my last day in Congress came, his was
11 one of the last calls I took, and it was wishing me well and
12 thanking me for my service and saying that he regretted that I
13 was leaving. It meant a lot to me. Then and does.

14 And, of course, he married a young lady from Mobile,
15:24:06 15 Alabama who is a distinguished physician, OB-GYN in Georgetown,
16 Dr. Sharon Malone.

17 Q In the end, Mr. Bonner, is it your opinion from our
18 discussion today that it's important that the Gulf Coast region
19 have effective and strong representation in Congress?

15:24:24 20 A Yes, sir.

21 Q Do you believe that the current districts respect the
22 communities of interest of that region?

23 A Absolutely.

24 Q Do you believe that the different proposals we looked at
15:24:35 25 from the plaintiffs would break up those communities of

1 interests?

2 A Without a doubt.

3 Q And would those proposals make it more difficult to
4 provide good representation to the Gulf Coast region?

15:24:46 5 A In my experience of having worked in Congress and around
6 Congress for 28 years, absolutely.

7 Q Thank you, Mr. Bonner. I pass the witness, Your Honor.

8 THE COURT: Cross-examination?

9 MR. SPIVA: Yes, Your Honor. Thank you.

15:25:02 10 CROSS-EXAMINATION

11 BY MR. SPIVA:

12 Q Good afternoon, Congressman Bonner.

13 A Good afternoon.

14 Q I appreciate your testimony, and I really appreciated and
15:25:18 15 was moved by the story that you told about the young man from
16 Iraq. That was a very moving story. I appreciate that.

17 Congressman, you'd agree with me that the
18 African-Americans in your district, when you represented it,
19 largely supported the ACA, the Affordable Care Act?

15:25:38 20 A Yes, sir.

21 Q And you did not support the ACA?

22 A That's correct. No one in the delegation did.

23 Q Uh-huh. You also supported repealing the ACA before you
24 left Congress?

15:25:48 25 A Yes, sir.

1 Q You'd agree with me that most African-Americans in your
2 district opposed the repeal of that, correct?

3 A I would tell you that when President Bush was in office
4 and we expanded Medicare to include prescription drugs, it was
15:26:15 5 controversial because it was very complicated.

6 We actually had town hall meetings to try to help people
7 understand that it wasn't intended to be complicated, but it
8 was. We had sometimes 40, 50 plans that senior citizens on
9 Medicare had to choose from. And I think at the time, the Bush
15:26:30 10 Administration did a very poor job of rolling that out.

11 Likewise, I think when the Affordable Care Act passed, it
12 was not my goal to oppose it. But I felt very frustrated that
13 something as important as health care, which I didn't think my
14 party had done a good job of addressing, but I also didn't
15:26:57 15 think it should be a party-driven issue. Not a single
16 Republican voted for it. And every Republican voted to repeal
17 it, to my knowledge, to my recollection.

18 When Social Security passed in the 1930s, when Medicare
19 and Medicaid passed, when the Civil Rights Act and the Voting
15:27:16 20 Rights Act passed, those passed on bipartisan votes.

21 And I believe then and I still believe that we need to do
22 something about health care. I used to keep a copy of the
23 Affordable Care Act on my desk, all 1,600-plus pages. And
24 people would come in, and they'd rather have a picture with the
15:27:34 25 bill than with me because it represented how difficult it was

1 to believe that the promises made in that legislation that it
2 was going to expand health care and reduce costs and you'd be
3 able to keep your doctor and all those other promises that were
4 made would ever be able to be honored.

15:27:52 5 And I think as we sit here in 2019, we would both agree --
6 or at least I'm not speaking for you -- but we still have a
7 ways to go to make our health care system more affordable, more
8 available. And I don't believe the Affordable Care Act did it.
9 I didn't believe that either then.

15:28:07 10 Q But you would agree with me that most of the
11 African-Americans in your district opposed the repeal of ACA?

12 A They did, but it was a respectful opposition. I answered
13 every letter that came in and had town hall meetings to address
14 that just as we did with the Medicare expansion of Part D.

15:28:26 15 And I did go to Pritchard. I did go to other communities
16 of majority African-American, and we talked openly about it. I
17 had charts. I listened. And I certainly tried -- even though
18 I didn't vote the way they wanted me to, perhaps, I was
19 responsive and respectful of their views. And I think at the
15:28:44 20 end of the day, they respected my position on it because I
21 continued to be reelected.

22 Q Thank you, Congressman.

23 You voted against the reauthorization of the Voting Rights
24 Act in 2006; isn't that right?

15:28:57 25 A Yes, sir.

1 Q And you were one of only about 35 or 36 Congress people of
2 either party who voted against the reauthorization in 2006;
3 isn't that right?

4 A Yes, sir.

15:29:09 5 Q President Bush signed the reauthorization?

6 A Yes, sir.

7 Q And in 2011 you didn't see any value in creating a second
8 majority-minority district or influenced district, did you?

9 A No one in the delegation did, nor did Congresswoman
15:29:29 10 Sewell.

11 Q Well, while you were in office -- I'm kind of shifting
12 gears here, Congressman. Did you ever reach out to groups in
13 your constituents to invite their viewpoint on certain issues?

14 A Yes, sir.

15:29:44 15 Q For instance, if you were considering a bill regarding
16 business development, would you reach out to the Mobile Chamber
17 of Commerce?

18 A I know I did many times. We had economic forums. We did
19 some for the minority business community that was an arm of the
15:30:03 20 Mobile Chamber of Commerce. And, yes.

21 Q So regardless of whether they had specifically asked you
22 for a meeting, you sometimes would go out and actually reach
23 out to these groups to meet with them?

24 A Yes, sir.

15:30:14 25 Q And you would agree with me, wouldn't you, Congressman,

1 members of Congress like you often engage in community outreach
2 efforts; isn't that fair?

3 A You couldn't be successful -- when you run every
4 two years, you better reach out and touch someone, as the
15:30:31 5 commercial used to say.

6 Q That's right. I remember that.

7 And that's what you do when you want to understand and
8 represent those interests the best that you can?

9 A It is. But there's a benefit to being able to work your
15:30:47 10 district, to serve your district in a way that -- my last year
11 in Congress, my last full year in Congress, so that would be
12 2012, I think I was in D.C. 45 weeks out of the year.

13 So you're in Washington for Monday through Thursday or
14 Tuesday through Friday. And you come home. So when you have
15:31:06 15 those planned vacations or not -- excuse me. I'd like to
16 correct the record. Those planned recesses.

17 Q Right.

18 A The public believes they're vacations. When you have
19 those planned recesses, you have to maximize your time there
15:31:20 20 because you -- each district has the same number of people.
21 Each district has a different land mass and number of counties
22 and communities in that district. But each member of Congress
23 has the same responsibility to try to get to know their
24 districts, try to serve their district, try to benefit their
15:31:40 25 district to the best they can with their votes, as well as with

1 their service.

2 Q Would you agree with me, Congressman Bonner, that when
3 counties are split in a congressional district, that the
4 Congress people who represent portions of those counties, they
15:31:56 5 generally endeavor to work together to provide good
6 representation to that county?

7 A I can only speak with firsthand experience here. We
8 certainly did. But I -- if you look at the current map, you
9 would have to ask Congresswoman Sewell if she and Congressman
15:32:16 10 Palmer have joint meetings together, or if she and
11 Congresswoman Roby or Congressman Rogers -- I made an effort
12 because it was my belief -- we only had one split county during
13 my time in Congress, and that was Clarke County. I made a
14 promise to the publisher of the local newspaper when he was
15:32:34 15 adamantly opposed to split splitting it in -- I guess that
16 would be the 1990.

17 Q Was that the *Mobile Register*?

18 A No. It was actually Jim Cox. He is the editor of the
19 *Clarke County Democrat*.

15:32:47 20 Q Oh, I see. Sorry.

21 A And he was very upset that they were talking about
22 splitting -- the local officials were upset, as well. That was
23 when Congressman Davis was in office. And Congressman Davis
24 and I made a commitment publicly that we would represent that
15:33:05 25 district as one.

1 And one example of that was when we had a town hall
2 meeting in Jackson. There was a union representative from the
3 paper mill who was very upset about a vote that he said I made
4 that was perceived to be anti-union. And I really was having a
15:33:25 5 hard time remembering the vote because we had never had that
6 vote. It was a vote in the Senate, not the House. Congressman
7 Davis came to my rescue and told the constituent that he was
8 mistaken, and I very much appreciated it.

9 So, yes, I made an effort, but I can't say in the 435
15:33:47 10 congressional districts around the country that members always
11 see -- in fact, I would say more times than not they don't do
12 joint meetings.

13 Q Sure. Let's just put up back up Plaintiffs' Exhibit 15
14 just so we have the context of what Congressman Bonner is
15:34:04 15 talking about, the split in Clarke County in the present map.

16 And you mentioned that there were some people who opposed
17 that split when it got put into place in the 2011 map?

18 A Yes, sir.

19 Q And but you -- as you mentioned, you and Congressman Davis
15:34:23 20 at the time made a commitment to the people of Clarke County
21 that rather than being concerned about having a county split
22 that it would actually be beneficial to them?

23 A Well, we certainly made the commitment we would not let it
24 be detrimental. And our goal was to make it beneficial.

15:34:39 25 Actually, the county was split in the previous redistricting, I

1 believe. But it was split further in the 2011.

2 Q And you -- as you just testified, you worked very hard to
3 make sure that it was not detrimental, the split?

4 A Yes, sir.

15:34:55 5 Q And you mentioned that you and Representative Davis did
6 town halls together?

7 A As I did with Representative Sewell.

8 Q Right. By the way, I went to law school with
9 Representative Sewell and Representative Davis actually. But I
15:35:11 10 must not have done something right though.

11 A No. You did do something right.

12 Q But you worked -- you worked cooperatively and amicably
13 both with Representative Davis and with Representative Sewell?

14 A It was a personal friendship, as well as a professional
15:35:26 15 relationship in both instances.

16 Q And would you agree that in some ways Clarke County got
17 better representation because it had two Congress people to
18 call for help?

19 A I could not say that they got better representation. I
15:35:47 20 would say that they knew from both of us, both Representative
21 Davis and Representative Sewell that we had made -- it was
22 easier to do when you're talking about one county, as well.
23 But we made that commitment in good faith, and we honored it in
24 good faith.

15:36:09 25 THE COURT: Just a second.

1 What is the major city in Clarke County?

2 THE WITNESS: Judge, Clarke County has three cities
3 that would each consider themselves major: Thomasville is in
4 the northern part of the district; Grove Hill is the county
15:36:30 5 seat; Jackson is in the southern part.

6 So Jackson was in my district in the 2011 map. And in the
7 2001 map, I included Grove Hill, but did not go all the way to
8 Thomasville.

9 THE COURT: I just am not familiar with that part of
15:36:49 10 the state as I am with some other parts.

11 THE WITNESS: They would love to welcome you if you
12 have the opportunity.

13 The economy of Clarke County has a -- gravitates towards
14 Mobile. It's a large timber county. It's the timber belt of
15:37:06 15 Alabama. Boise Cascade is a large paper mill on the river in
16 Jackson. The river flows through, and so they have local docks
17 there that connects to the Port of Mobile.

18 THE COURT: Where is the dock? What town?

19 THE WITNESS: In Jackson.

15:37:24 20 THE COURT: In Jackson?

21 THE WITNESS: And the three cities, believe it or not,
22 actually with -- in the next three weeks, Thomasville will have
23 their hospital reopened.

24 So Clarke County is one of the rural counties that is an
15:37:43 25 exception of America. They have three hospitals. The county

1 probably has 25,000 people in it. They really can't support
2 three. They're getting ready to get a regional airport, as
3 well.

4 So it's a -- it's a county where the three communities,
15:37:58 5 Counselor -- Jackson, Grove Hill, and Thomasville -- are very
6 competitive with one another. And, quite frankly, that
7 competitiveness sometimes created a challenge when you were
8 representing one community and another member was representing
9 the other two communities.

15:38:18 10 BY MR. SPIVA:

11 Q I'm sure. I'm sure.

12 So would you agree with me, Congressman, that you spent as
13 much county in Clarke County as you did in any of the other
14 counties in your district?

15:38:27 15 A I spent an awful lot of time in Clarke County. But I
16 would like to think -- like if you have three children, you
17 love them all. I tried to spend as much time in all of the
18 counties.

19 I did not want the people in the rural areas of the
15:38:43 20 district to believe that they were any less important to me
21 politically, or socially, or economically because they were not
22 in Mobile.

23 Q Would it be a fair statement, Congressman Bonner, that if
24 you got a call from a part of Clarke County that was not in
15:39:02 25 your district, like Thomasville, I understand was not part of

1 your district, or if Congresswoman Sewell would get a call from
2 a part of Clarke County that not in her district, and I
3 understand Jackson was in your district, not hers, that they
4 would get help regardless of which of you they called?

15:39:18 5 A They would. The tradition in Congress is that you serve
6 the districts of your -- the constituents of your district.

7 So when I was a young congressional staffer, if we had
8 gotten a letter or a phone call from a member -- from someone
9 living in another county or another part of another district,
10 we would write them a very polite note thanking them for
11 contacting us and saying that we had referred their letter to
12 the congressman who was so ably serving them in their district.

13 Q Uh-huh.

14 A But when I was in Congress and we had the split county in
15 Clarke County, we would always work with Congresswoman Sewell's
16 office if it was one of her constituents, and likewise, she
17 would work with me if it was one of mine.

18 Q And just shifting to another portion of the map here. I
19 mean, you don't view it as a problem or a concern that
20 Jefferson County is split, for instance, by District 7, do you?

21 A No. Jefferson County has been split for, I think the last
22 three redistricting cycles. And it would have to be split even
23 if the goal was not to create a majority-minority district
24 because of its population size and its connectivity to the
15:40:43 25 other areas that surround it.

1 Q And this is a little bit of a difficult question,
2 Congressman. But I know you talked about the unity between
3 Mobile County and Baldwin County. Have you ever heard
4 reference by any of your African-American constituents when you
15:41:01 5 were in Congress or since referring to Baldwin County as a
6 sundown community?

7 A That's the first time I've heard that word.

8 Q And sundown community, one of the witnesses in this case
9 that lives in Mobile, the way she defined it is a place that,
15:41:17 10 you know, like in the old days that it's not safe -- completely
11 safe for African-Americans to travel there. She didn't feel
12 secure traveling there after the evening.

13 A I'm not familiar with that description.

14 Q And do you know -- were you aware, Congressman Bonner,
15:41:44 15 that the current state board of election map actually splits
16 Mobile and includes it in one of the other -- in a state board
17 of election district that spans north into Montgomery?

18 A I was reminded of that when we did depositions in July.

19 Q And you don't have any reason to believe that the two
15:42:07 20 current representatives of the two districts, the one that
21 splits Mobile, which I believe is District 5 or the one --
22 well, she unfortunately recently passed away, but while she was
23 living that either she or the person who was representing
24 District 4 were not effective representatives for their
15:42:26 25 districts, do you?

1 A Counselor, we discussed this in the deposition. You were
2 not there. I would just like to offer this.

3 Q I read it though.

4 A Well, but I think this is important.

15:42:38 5 A school board member in Alabama of the state school board
6 makes about \$15,000 a year, does not have a staff, and does not
7 have the same type of responsibilities as a United States
8 Representative does in the United States Congress. It is not
9 the salary. It's not the staff. It's the different
10 responsibility.

11 And the fact of the matter is that unfortunately and
12 regretfully, our state school board is part of the reason that
13 our scores -- and the NAEP scores came out last week, and we
14 were ranked 49th and 50th. So I don't think anyone can hold up
15 our state school board as an example of producing a good
16 product or being a good return for the taxpayers of Alabama who
17 have children in our public schools.

18 But I'm aware that the district -- I think it's Exhibit 4,
19 the map that the -- your colleague introduced and refreshed my
20 memory. I remember that they did draw state school boards.
21 They redrew the state legislative races at that time. That's
22 part of the responsibility of redistricting process. But it
23 was not something that I focused on because, quite frankly, my
24 children were out of school, and I have just never seen a state
15:44:13 25 school board member having the same responsibility to serve

1 constituents and to represent the economies and the people who
2 live in those districts in the same way as I have members of
3 Congress.

4 Q Fair enough. But the problems that you mentioned with the
15:44:29 5 school system, I assume you don't attribute that to the split
6 of Mobile in the plan?

7 A I don't. But the school board member who passed away,
8 Mrs. Ella Bell, recently, a fine lady.

9 Q Uh-huh.

15:44:46 10 A But she was wheelchair bound the last year of her life.
11 She was living in Montgomery. I would ask you: How frequently
12 do you think she had an opportunity to get to Washington County
13 or to the part of Mobile County that she represented? I don't
14 know the answer to that. I don't expect you to.

15:45:07 15 But I will just tell you one person, whether they're
16 healthy or infirm, who has a district that spreads from the
17 coast all the way up to Sumter County, Livingston, the only way
18 to go from that part of Mobile -- you can go four-lane up until
19 you get to Thomasville.

15:45:30 20 And then from Thomasville, which is the northern part of
21 Clarke County, into Marengo County into Sumter County, you're
22 going on two-lane farmer-to-market roads.

23 And, likewise, from Pike County, Bullock County, Macon
24 County, if the Representative and the Governor will get to make
15:45:50 25 the appointment on that Representative to fill that unexpired

1 vacancy, we have got two people from Mobile who have expressed
2 an interest in it. And what is going to be a factor in the
3 Governor's decision will have to be can that person adequately
4 represent the far eastern counties, as well as the far northern
15:46:12 5 counties if they're in the southern most part of that district.
6 It will be a factor.

7 Q Can we simultaneously let's leave this up, but also pull
8 up Plaintiffs' Exhibit 6, the board of education plan that the
9 Congressman was just testifying about?

15:46:28 10 And so you were talking about the distance from Mobile to
11 Sumter County, I take it, Congressman?

12 A Sumter County, yes.

13 Q Sorry for my pronunciation.

14 But, you know, you would agree that Congresswoman Sewell's
15:46:47 15 district extends almost as far from the southern end of Clarke
16 all the way up to actually the county above Sumter to Pickens,
17 and then, you know, to the east up through Birmingham to
18 Jefferson County?

19 A Yes, sir.

15:47:03 20 Q But you agree with me -- and I know you have said this --
21 that she represents her district very effectively?

22 A She does. She also has a district office in Selma. So
23 that would be about an hour away. She has a district office in
24 Tuscaloosa. She has a district office in Jefferson County.

15:47:20 25 As I said, under the previous examination, you can have as

1 many district offices as you want, but you've got to be able to
2 pay for them. I imagine that Congresswoman Sewell's budget --
3 I don't know this -- but it probably goes to the limits.

4 The House allows each member of Congress to have a certain
15:47:39 5 amount of money, also a cap on a number of staff. When I was
6 in Congress, we could have up to 24 full and part-time
7 employees. Most of us out of necessity could only afford about
8 12 to 15. So she does an excellent job.

9 But the people in Clarke County and Thomasville that live
15:47:57 10 in her district would be able to drive to Selma, or conversely
11 the representative from Selma would be able to drive to
12 Marengo. Actually I was in the conference with Representative
13 Sewell's field director from Selma just a few weeks ago in
14 Demopolis, which is in Marengo County.

15 And she does an admirable job. But it would be a
16 challenge for anyone -- Congresswoman Sewell or me -- to only
17 have one representative in one office serving a district that
18 large, which is what the state school board has, and the
19 representative is the elected representative himself or
15:48:19 20 herself.

21 Q Right. And understood. But given the budget she has,
22 Congresswoman Sewell is able to be an excellent representative
23 despite the distances and the different types of areas that are
24 included in her district. You would agree with that?

15:48:52 25 A I would.

1 Q Okay.

2 THE COURT: I think we could all probably agree that
3 Congresswoman Sewell is Superwoman. I mean, she really -- she
4 really is amazing.

15:49:04 5 THE WITNESS: She is. We all agree with that.

6 MR. SPIVA: I agree with that, Your Honor.

7 THE COURT: Yeah.

8 BY MR. SPIVA:

9 Q We can probably take the maps down for now.

15:49:11 10 You testified earlier on direct to your understanding of
11 what Congresswoman Sewell would want in terms of the
12 configuration of her district in the 2011 plan. And, you know,
13 I don't go over this again. You just agreed that she's a very
14 competent representative for Alabama, right?

15:49:31 15 A Yes, sir.

16 Q And she --

17 THE COURT: As a matter of fact, I think we ought to
18 maybe consider writing her in for President or something.

19 MR. SPIVA: Maybe one day, Your Honor.

15:49:45 20 THE COURT: Yeah.

21 BY MR. SPIVA:

22 Q She has a good understanding of communities of interest in
23 Alabama. Would you agree with that?

24 A Yes, sir.

15:49:50 25 Q She has the best interests of Alabama residents at heart.

1 You would agree with that?

2 A I certainly would.

3 Q And that's including the state's economic interests?

4 A Yes, sir. I actually used the example of where she voted
15:50:01 5 for her constituent against President Obama's very
6 strong-willed persuasive efforts to try to get her to vote with
7 a piece of legislation. She actually did that on several
8 occasions.

9 Q One day off the record I will do my Obama impression for
15:50:21 10 you, too.

11 A I look forward to that.

12 Q So and you would agree, I think, that her opinion about
13 Alabama's congressional districts is relevant to your
14 assessment of the congressional plan; is that fair?

15:50:31 15 A I certainly think that the members of Congress's
16 opinion -- Congresswoman Sewell's and the other six members
17 that currently serve -- are relevant to the discussions that we
18 have had to this point.

19 And I think going forward, they will certainly find their
15:50:49 20 voice and speak, I hope collectively, because it's worked so
21 well in the past when they've worked together. But absolutely
22 I think her concerns are very valid, as I do the other six
23 members.

24 Q Are you aware that Representative Sewell issued a press
15:51:06 25 release after this lawsuit was filed specifically endorsing

1 this litigation challenging Alabama's congressional plan as a
2 violation of Section 2?

3 A No, sir. That's the first time I've heard of that.

4 Q Can we pull up Congresswoman Sewell's statement?

15:51:24 5 THE COURT: Is it an exhibit?

6 MR. SPIVA: It is not marked because it's being used
7 for impeachment purposes, which sounds worse than I mean it.

8 THE COURT: Has it been shown to defense?

9 MR. SPIVA: Not yet.

15:52:17 10 MR. DAVIS: Your Honor, we do not object to this
11 exhibit.

12 THE COURT: Okay.

13 MR. SPIVA: Thank you.

14 THE COURT: Thank you.

15:52:33 15 MR. SPIVA: If we can pull that back up. And I
16 believe this will be marked as Plaintiffs' Exhibit 129, Your
17 Honor. I think that -- the last exhibit we had on our list was
18 Plaintiffs' Exhibit 128.

19 BY MR. SPIVA:

15:52:45 20 Q So I take it you weren't aware, Congressman Bonner, that
21 in this June 13th, 2018, press release regarding this
22 litigation -- and I'm reading from the paragraph in the middle
23 here that Congresswoman Sewell said, "I applaud today's effort
24 by the National Redistricting Foundation to challenge the
15:53:09 25 underrepresentation of African-American voters in Alabama, said

1 Representative Terri Sewell. Generations of Alabamians have
2 fought tirelessly for equal voting rights, and I support all
3 efforts to guarantee fair representation and access to the
4 polls. More than 50 years after the enactment of the Voting
15:53:24 5 Rights Act of 1965, our work to prevent voter discrimination
6 and unfair electoral practices is not over. Our vote is our
7 voice, and protecting the vote for all Americans must remain a
8 top priority."

9 THE COURT: I'm sorry. What was the date of that?

15:53:39 10 MR. SPIVA: That was June 13th, 2018, Your Honor.

11 THE COURT: Thank you.

12 BY MR. SPIVA:

13 Q And if you need more context, Congressman, in the first
14 paragraph, it talks about this being the day that this lawsuit
15:53:53 15 was filed.

16 A I certainly have no reason to doubt it is her press
17 release, or that those or are her words or her feelings. I do
18 know for a fact that she was actively involved as a full
19 participant in helping us get the district lines that we
15:54:11 20 currently have.

21 Q Understood.

22 Let me -- and I should say -- when I say understood, I'm
23 saying I'm not challenging, you know, what you're saying. I'm
24 not saying that I agree with it, but...

15:54:24 25 A Understood.

1 Q Okay. So I want to talk to you a little bit, Congressman
2 Bonner, about the 1992 map, I guess it was, because you were
3 in -- well, you were chief of staff to --

4 A Chief of staff.

15:54:44 5 Q -- to Congressman Callahan, was it?

6 A Yes, sir.

7 Q And --

8 A If you can pull that up, that would be great.

9 Q Yes, I will. I think that is in Defendant's Exhibit 1.
15:55:10 10 The 1992 map, I believe?

11 THE COURT: It's page 3019.

12 MR. SPIVA: Thank you, Your Honor.

13 BY MR. SPIVA:

14 Q Now, I actually don't have a specific question about this
15:55:24 15 map on 3019. But if you wanted to see it, Congressman Bonner,
16 that's the one.

17 My question is actually more about how it came about.

18 Would you agree that the state eventually consented to
19 draw this -- an African-American district only after litigation
15:55:57 20 was brought against the state challenging the map that the
21 legislature had drawn?

22 A Counselor, if this was drawn in 1992, then that would have
23 been, I believe, drawn by a federal court.

24 Q Okay. And that -- but before that, in *West vs. Hunt*,
15:56:23 25 there was a challenge to -- well, I'm sorry. Let me strike

1 that because I think I understand the clarification you're
2 giving.

3 The state had not enacted a new map after the census came
4 out in 1991; is that fair?

15:56:38 5 A The state legislature failed to act.

6 Q Failed to act?

7 A That's when we went to federal court, and that's what led
8 to what began a collaborative effort within the delegation to
9 try to work together because it cost Congressman Callahan
10 several hundred thousand dollars -- I don't remember the exact
11 amount in legal fees -- to go to federal court to guarantee
12 that we could have a district to run in. Because if the
13 legislature fails to act, then you have to look to the federal
14 courts so that we would know what our district lines were.

15:57:09 15 Q Right. But it was only after litigation was brought that
16 the state consented eventually to draw a majority-minority
17 district; is that fair?

18 A With all due respect, I was not focused on the litigation
19 side of it. I was focused, as I've always been, as a staffer
15:57:27 20 and a member working with the delegation to try to produce a
21 map that was consistent with the previous maps to the best of
22 our ability.

23 And so I would not question your statement. I just know
24 that when the federal courts drew the map, at that time it was
15:57:46 25 determined that there was a need for a majority-minority

1 district.

2 Q And, in fact, the DOJ rejected the legislature's plan when
3 it tried to draw CD 7 as a majority-minority district on the
4 grounds of packing. Is that accurate?

15:58:03 5 A It's been a few years ago.

6 Q Sure.

7 A So...

8 Q Let me put something up that might refresh your
9 recollection. If we can put up Plaintiffs' 104. And this is
10 in evidence. If we can put up the first page and then
11 simultaneously put up page 2 of Plaintiffs' Exhibit 104.

12 And if you can, could just take a look and read to
13 yourself. I won't read it the whole thing into the record.
14 But the first full paragraph that begins, Our analysis further
15 indicates that the fragmentation of the black population
16 concentrations outside of the one district with a black voting
17 age population majority was unnecessary.

18 Just tell me when you have had a chance to read that
19 paragraph.

15:59:06 20 A Yes, sir. I've read it.

21 Q Okay. And would you agree with me that this is a letter
22 from the Department of Justice -- we can kind of close up the
23 blown-up portion -- dated March 27th, 1992, that is regarding
24 the Alabama proposed congressional map? It's also about
15:59:39 25 another issue, as well. But it includes that as one of the

1 issues?

2 A That's what it appears to be. I don't see the third page
3 or fourth page -- third page. But that's what it appears to
4 be, yes, sir.

15:59:49 5 Q Okay. And I can show you the third page if you want. But
6 it's -- well, I will show it to you just so -- I don't know if
7 we can get all three on there, but it's boilerplate.

8 Would you agree, based on the paragraphs that I showed
9 you, that the DOJ declined to preclear the proposed map on the
16:00:09 10 grounds that the one majority-minority district in that map
11 appeared to be packed?

12 A That's what it appears to say in the letter.

13 Q Okay. And was the DOJ taking the position that it
14 appeared that there could be two majority-minority districts in
16:00:31 15 the 1992 map?

16 A I -- I would probably be wise to not assume what the DOJ
17 was assuming.

18 Q Okay. Just let me just highlight one portion. There's a
19 section of that paragraph that says, These included plans with
16:00:50 20 one district --

21 THE COURT: Which paragraph?

22 MR. SPIVA: The page 2. It's the full paragraph that
23 begins, Our analysis. And this is the one that I think you
24 just read to yourself.

16:01:03 25 BY MR. SPIVA:

1 Q The sentence that begins, These included plans with
2 one district based on the black communities of Montgomery and
3 Mobile counties and the intervening and adjacent
4 black-populated areas and the other based upon the black
16:01:16 5 population of Jefferson County and southern Tuscaloosa County
6 together with black-populated areas to the south and west.
7 Moreover, it appears that the elimination of this identified
8 fragmentation would enhance the ability of black voters to
9 elect representatives of their choice.

16:01:35 10 Would you agree that DOJ is suggesting that there could be
11 a second district in an alternative plan?

12 THE COURT: I'm not sure I read it that way. Is that
13 all you're relying on?

14 MR. SPIVA: No. It's -- actually I may have needed to
16:01:58 15 read more of the letter, actually. I'm now seeing.

16 THE COURT: Okay. And I'm confused as to which map
17 this letter was addressed to. Was it something that was
18 preliminary to the 1992 map that it's in Defendant's Exhibit 1,
19 page 3019?

16:02:23 20 MR. SPIVA: Correct, Your Honor. There was a map that
21 the legislature -- well, they enacted and sought preclearance
22 of.

23 THE COURT: Well, I thought that we just heard that
24 the state legislature failed to act.

16:02:41 25 MR. SPIVA: Well, first they failed to act.

1 THE COURT: I'm trying to figure out.

2 MR. SPIVA: Maybe I will try to break it down again
3 just for clarity. But I think the testimony so far has
4 shown -- but let me give a proffer so you'll see where I'm
16:02:55 5 going.

6 The state failed to enact a map after the 1991 census.
7 Litigation was brought challenging the existing --

8 THE COURT: Failure to do so.

9 MR. SPIVA: On one person one vote grounds. That
16:03:08 10 litigation resulted in a consent map that the legislature
11 enacted -- and I am going to ask you if you agree with all this
12 in just a minute -- that the legislature enacted. They sought
13 preclearance of that map. DOJ in this letter declined
14 preclearance on the grounds that it only had one
16:03:26 15 majority-minority district, and it appeared that there was
16 fragmentation of black population and that it was unnecessary
17 just to have one district. The Court ultimately ordered -- so
18 that map did not go into effect. And then there was not enough
19 time, and the Court ultimately ordered a map which then stayed
16:03:51 20 in place for the rest of the '90s.

21 THE COURT: Which is the one that is in here as 1992?

22 MR. SPIVA: Exactly, Your Honor.

23 THE COURT: So this complaint didn't apply to the map
24 that was court ordered that's the 1992 map that we've been
16:04:12 25 looking at.

1 MR. SPIVA: Correct. Correct. Because the Court's
2 map doesn't have to be precleared. So that map was -- well, it
3 was ordered and stayed in effect for the rest of the '90s.

4 THE COURT: Okay. Well, do we know what the map
16:04:26 5 looked like that this letter's addressed to?

6 MR. SPIVA: I don't believe we have a copy of that.
7 But this --

8 THE COURT: Okay. So it doesn't address any of the
9 maps that we've been looking at? And we've been looking at a
16:04:42 10 whole lot of maps this week, right?

11 MR. SPIVA: No. No. The point of this is that in
12 1992 DOJ raised the possibility of two majority-minority
13 districts and, in fact, refused to preclear a map.

14 THE COURT: Okay. And that was when the first
16:04:58 15 majority-minority district was recognized.

16 MR. SPIVA: Yes.

17 THE COURT: Okay.

18 MR. SPIVA: Yes. Exactly.

19 BY MR. SPIVA:

16:05:07 20 Q So maybe with that, now that I've thoroughly confused
21 everybody, let me see if I can ask you if you can confirm
22 whether I was accurate in all of that.

23 So let me just retrace a step. I think we can take that
24 down.

16:05:20 25 THE COURT: Sorry about that.

1 MR. SPIVA: No, no, no. It was my fault. Totally my
2 fault.

3 BY MR. SPIVA:

4 Q So, Congressman, after the 1991 census, the state failed
16:05:29 5 to enact a map, a new map after reapportionment?

6 A That is correct.

7 Q And there was litigation brought challenging the fact that
8 the old map no longer complied with one person one vote; is
9 that fair?

16:05:45 10 A I will have to be honest. I don't remember all of the
11 litigation that was brought. I remember -- I don't even
12 remember how many times the legislature attempted to draw it.
13 I believe that the governor at the time, Governor Siegelman,
14 called them into special session maybe two or three times, to
16:06:07 15 produce a map. And when they failed to because the clock was
16 ticking on the upcoming election, the map that was put in place
17 was put in place by a federal court and upheld, I believe, by a
18 three-judge panel.

19 Q But before the Court entered a map, did there -- wasn't
16:06:28 20 there a consent map that the legislature passed as a result of
21 litigation?

22 A I regret I can't -- my memory's not quite that good.

23 Q Okay. All right. So in that case, we'll just move on.

24 And we can take the exhibit down.

16:06:45 25 But you would agree with me that in that -- during that

1 cycle, the 1990-cycle, DOJ declined to preclear one of the maps
2 on the grounds that it didn't draw two majority-minority
3 districts?

4 A I'm not trying to be difficult. I really don't recall.

16:07:08 5 Q That's fine.

6 A I remember DOJ -- the Civil Rights Division during the
7 Clinton Administration was a party to the conversations, but I
8 really -- that's the first time I've seen that letter probably
9 since 1992.

16:07:26 10 Q Okay. And for the record, believe it or not, this was
11 still during the George H. W. Bush Administration.

12 A Oh, really.

13 Q Yeah; March of 1992.

14 So let's just shift gears again. I know that you
16:07:41 15 mentioned the fact that Mobile, I think, hadn't had some of the
16 same racial divisions that other parts of Alabama went through
17 during earlier periods. Is that a fair understanding of what
18 you said?

19 A It is. I also pointed out that there were -- there was a
16:08:01 20 hanging in Mobile. There was racial strife, as there was in
21 Boston and in Detroit and in Los Angeles and in Washington,
22 D.C.

23 Q Uh-huh.

24 A But Mobile was very deliberate in working our leaders at
16:08:17 25 the time. My predecessor and my former boss, Sonny Callahan,

1 was a Republican. He had been a Democrat before he switched
2 parties. And he held Joe Langan the mayor in the highest
3 regard because he said -- I remember vividly countless times he
4 said Mayor Langan and John LeFlore worked in partnership -- and
16:08:38 5 other African-American leaders and white leaders worked to try
6 to avoid the same type of unfortunate events that took place in
7 other parts of the south, including Alabama.

8 Q And I'm sorry. The first part of what you said. I
9 wasn't -- did you say there was a hanging in Mobile?

16:08:59 10 A There was. I cannot tell you the young man's name, but
11 there -- I mean, Mobile has not escaped racial tension.

12 Q Right. So we went down the road or up the road, I guess
13 to Montgomery to the -- I always call it the lynching museum,
14 but I know it has a different name.

16:09:16 15 A Equal Justice Institute.

16 Q There's a plaque with Mobile's name on it, right? With at
17 least one name listed?

18 A A lot of cities, a lot of names, unfortunately.

19 Q Right. And Mobile was not immune to Jim Crow. Am I right
16:09:29 20 about that?

21 A You would be correct.

22 Q They had segregated schools?

23 A Yes, sir.

24 Q And you mentioned the election of the black mayor in
16:09:41 25 Mobile, Sam Jones, during a time when the city was not yet

1 majority-minority?

2 A Yes, sir.

3 Q And so I guess that one thing that shows is that depending
4 on the circumstances, an African-American can be elected in
16:09:57 5 Alabama without 50 -- over 50 percent of the population being
6 African-American?

7 A Mayor Jones was the long-time county commissioner, very
8 well respected. Mayor Dow did not seek reelection. So it was
9 an open seat.

16:10:17 10 And then Commissioner Jones ran a very good campaign and
11 had brought support from both racial communities.

12 Q Right.

13 A He's now in the state legislature.

14 Q Right. He ultimately was defeated in two races by the
16:10:35 15 current, the white mayor Sandy Stimpson whom I think you also
16 referenced?

17 A That's right.

18 Q And are you aware -- first of all, let me ask you: Do you
19 consider Alabama.com to be a kind of reputable source for -- at
16:10:48 20 least in terms of news -- about election results and the like?

21 A No, sir.

22 Q No, sir. Okay. You did --

23 A At one time, they were a very reputable newspaper. But
24 when they fired 750 of the reporters and editors, I don't think
16:11:08 25 it's a credible news source at all.

1 Q A lot of newspapers have fired a lot of staff recently,
2 right?

3 A I studied journalism. So that's why I'm doing what I'm
4 doing.

16:11:18 5 Q So but -- are you aware of the polarized nature -- the
6 racially polarized nature of the voting in the two elections
7 that featured the contest between Mayor Jones and Mayor
8 Stimpson?

9 A You would have to give me some specific examples.

16:11:40 10 Q Well, did you ever review reporting that suggested that in
11 the black areas of the city that in the 2017 election Mayor
12 Stimpson received below 10 percent of the vote?

13 A Regretfully I was not living in Mobile at the time. I was
14 living in Tuscaloosa. So I did not subscribe to the paper, and
16:12:01 15 I did not follow it on a regular basis.

16 Q And so I take it you weren't aware of reporting that in
17 the predominantly white areas of the city that Mayor Stimpson
18 got upwards of 90 percent of the white vote?

19 A Counselor, Mayor Stimpson's reelection against Mayor
16:12:21 20 Jones -- at that time Mobile was and is a majority
21 African-American community. And I think the fact is that what
22 Sandy Stimpson has done in his personal life, his business
23 life, he, on his own expense, helped start a school, Pritchard
24 Prep, so that the young predominantly African-American students
16:12:47 25 that live in that community could go to a quality school with

1 good teachers, with uniforms, with good services provided. And
2 if you look at their rate of success graduating, going on to
3 school, going into the workforce, it's a model of efficiency.
4 And Sandy led the effort on that by himself.

16:13:13 5 I don't know what the rate -- I can honestly say under
6 oath I couldn't tell you what any of the precincts showed in
7 the actual vote. But I would say that Mayor Stimpson's life
8 service is one that is focused on doing the right thing for all
9 the people.

16:13:32 10 Q Right. And this was not a personal attack on Mayor
11 Stimpson. I actually don't know him. And it's more my
12 question really went to whether you were aware of the
13 polarized -- racially polarized nature voting in that area?

14 A I was not.

16:13:58 15 Q In the 2000 cycle redistricting, you were also still
16 working for Representative Callahan at the time?

17 A In 2000?

18 Q Yes.

19 A Yes, sir.

16:14:09 20 Q And Representative Callahan spent \$250,000 to ensure that
21 the districts didn't change from their prior configuration, or
22 changed as little as possible; is that fair?

23 A I don't know the amount. I know that he did spend money
24 because he had spent money previously in federal court.

16:14:28 25 Q Uh-huh.

1 A With no disrespect, we could not have to pay lawyers who
2 charge a lot of money. That was our preferred method.

3 Q And Dr. Joe Reed, chairman -- you are aware of Dr. Joe
4 Reed?

16:14:50 5 A Yes, sir.

6 Q He was pushing to create a second majority-minority
7 district during that cycle; is that correct?

8 A Yes, sir, that's right.

9 Q Oh, let me ask you --

16:15:01 10 THE COURT: During which cycle?

11 MR. SPIVA: The 2000 cycle, Your Honor.

12 BY MR. SPIVA:

13 Q But I do want to step back for one second to the '90s
14 cycle.

16:15:11 15 That district, as a result of all the process that we --
16 that I tried to unwind a minute ago, that district had been
17 represented by a white congressman before that cycle; is that
18 right?

19 THE COURT: Which district?

16:15:29 20 MR. SPIVA: District 7.

21 THE WITNESS: Congressman Claude Harris represented
22 that district until such time that Congressman Earl Hilliard
23 was elected, to the best of my memory.

24 BY MR. SPIVA:

16:15:39 25 Q And Congressman Earl Hilliard was the first

1 African-American elected to Congress in Alabama in District 7
2 as a result of the redistricting in the 1990 cycle?

3 A Yes, sir; first one since Reconstruction.

4 Q First since Reconstruction.

16:15:51 5 And Congressman Harris was a Democrat, correct?

6 A He was.

7 Q And Congressman Hilliard was also a Democrat, correct?

8 A That's correct.

9 Q Congressman Callahan -- I'm going back to the 2000 cycle
16:16:15 10 now for just a minute.

11 A Okay.

12 Q He did not support the creation of a second
13 majority-minority district in the 2000 cycle; is that correct?

14 A He did not support it because the plan that Dr. Reed had
16:16:28 15 proposed would have actually come in and circled his house. He
16 lived on a river called Dog River in Mobile, south Mobile. It
17 would have circled his house and taken his district under
18 Mobile Bay -- there was a legal question about whether that
19 would establish a contiguous district into Baldwin County all
16:16:51 20 the way over the Dothan, and I believe all the way up to
21 Auburn.

22 So he was not only not supportive of it. He was opposed
23 to it, because he would have left his driveway -- his home
24 under his driveway, and when he got onto Riviere Du Chien,
16:17:04 25 which was the road leading to it, he would have been in a

1 different congressional district. He thought that was not fair
2 to Mobile; much less to his own service.

3 Q Right. And beyond the taking of his home out of the
4 district, he would have been opposed to it even if it hadn't
16:17:24 5 taken his home out of it because it would have split up his
6 existing district; is that fair?

7 A That's right.

8 Q And that was mainly a self-serving reason that -- because
9 he wanted to keep the current configuration and be reelected?

16:17:37 10 A I think it is safe to say that every member of Congress
11 that has a good district would like to keep their district.

12 Q You have heard the expression, You can never be too rich
13 or too skinny. I guess no Congressman thinks they can have too
14 safe of a district?

16:17:50 15 A Well, when you run every two years as our founders
16 envisioned, it is oftentimes a factor in -- you know, the
17 average tenure in Congress is a little over eight-and-a-half
18 years. And when you look at what's going on in Washington
19 right now, you have to believe it's going to go down not up.

16:18:08 20 But if you're going to serve your district, as we've
21 discussed earlier, with your heart, with your soul, with your
22 brain, with the talents of the team you have assembled, you
23 really want a district that you can do honor by.

24 And as we've also discussed, I believe sincerely that
16:18:29 25 every member of our delegation that has worked to quote,

1 unquote, preserve their district to the best of their ability
2 has also realized they would not always be in that district.
3 So they were trying to preserve those communities of interest,
4 that commonality that existed and has existed for years and
16:18:48 5 decades.

6 Q If I can just have one moment.

7 Thanks so much, Congressman. I really appreciate your
8 time?

9 THE COURT: Any redirect?

16:19:02 10 REDIRECT EXAMINATION

11 BY MR. DAVIS:

12 Q Congressman Bonner, can I direct your attention on
13 Plaintiffs' Exhibit 15, which is the current redistricting plan
14 to Clarke County. I believe that you said that when Clarke
16:19:48 15 County was split, it was certainly your goal to work with the
16 other congressmen and try to prevent it from harming the
17 representation of the citizens of Clarke County?

18 A Yes, sir.

19 Q And do you think you were successful in that?

16:19:59 20 A I certainly do.

21 Q Do you mean by that, that it's preferable in some way to
22 split counties?

23 A I don't think it's preferable. I think it's unavoidable
24 unless you're from a single district state where the entire
16:20:16 25 state like Montana has one district. Because if the goal is to

1 get zero deviation and to have a equal number of citizens in
2 each district, and then if you have added goals of minority
3 representation, minority-majority representation or whatever,
4 it -- I've not seen a map that could be produced where there
16:20:41 5 wouldn't be some split counties.

6 Q If there have to be equal population among the districts,
7 county splits are unavoidable, correct?

8 A That would be my assessment.

9 Q You testified that you were able to prevent the split in
16:21:01 10 Clarke County from causing too much harm. But is the split of
11 Clarke County easier to deal with than a split of Mobile County
12 might be?

13 A Well, if you look at the school board map that we have
14 looked at, where Mobile County is split, I have indicated that
16:21:23 15 in my opinion that makes it more difficult for the people in
16 the two parts of the county to actually have strong
17 representation. Although the school board, as I've also noted,
18 is different in my view than the representation in Congress.

19 But I think that it is more challenging in this particular
16:21:49 20 case because of the communities of interest between Mobile and
21 Baldwin counties.

22 Q Now, Mr. Bonner, are you aware of any part of the first
23 district where African-Americans are unwelcome either after
24 dark or at any other time?

16:22:07 25 A Absolutely not.

1 Q And I'm not questioning anyone's personal perceptions or
2 feelings. But do you think if there were such a place in
3 Alabama, that either from the time you were serving as a member
4 of Congress or time as the Governor's chief of staff that that
16:22:23 5 might have been brought to your attention?

6 A I would hope that it would have been brought to my
7 attention.

8 Q Do you think that if there were such a place in Alabama
9 that that likely would have been reported on by the media?

16:22:33 10 A Even AL.com.

11 Q On the mayoral race, one of the plaintiffs in this case --
12 I'm going to try to expand that a little bit.

13 One of the plaintiffs in this case, an African-American
14 from Mobile, said in her deposition -- on page 30 of her
16:23:09 15 deposition when she was talking about what type of person she
16 wanted representing her in Congress, she said in the
17 highlighted portion, It doesn't matter if that person is a man
18 or a woman, black or white, Democrat or Republican. I'll give
19 you a perfect example. Sandy Stimpson, our mayor, he not
16:23:25 20 only -- not only did he reach out in the Caucasian communities,
21 he reached out to African-American communities. And he won
22 overwhelmingly the African-American support, and he's
23 Republican.

24 Is this statement by an African-American plaintiff in this
16:23:43 25 lawsuit, is that consistent with your view of Mobile and with

1 the Stimpson mayoral election?

2 A Well, again, to be consistent, I was not in Mobile at the
3 time. But that is certainly the Sandy Stimpson that I know.

4 Q Okay.

16:23:57 5 A And I've known him all my life, or I've known him all of
6 my adult life.

7 I would also say that Mayor Jones and I are very close
8 friends, and we have a very close working relationship now that
9 he is a member of the Alabama State House of Representatives.

16:24:15 10 Q Looking at Congresswoman Sewell's statement, Mr. Bonner,
11 did you see anywhere in the paragraph statement where she said
12 that she believes there should be two districts in Alabama that
13 are majority black?

14 A No, sir.

16:24:39 15 Q Did you notice anywhere where she said that she supported
16 packing and cracking black voters in 2011, but now she doesn't?

17 A No, sir.

18 Q Now, you, I'm sure, are quite busy as chief of staff. But
19 you're concerned enough about the districts in Mobile County or
16:25:02 20 in the first district to take time out to come and testify
21 about them to court, correct?

22 A I wanted to be with all of you today.

23 Q And Representative Byrne was concerned enough about the
24 district lines in assuring effective representation for the
16:25:16 25 Gulf Coast area that are you aware that he took time out of his

1 schedule to come and testify today?

2 A I heard when I got here that I just missed seeing him.

3 Q Are you aware or have you heard of Congresswoman Terri
4 Sewell coming to testify to saying that she believes that the
16:25:30 5 current district plan that she supported in 2011 is a
6 constitutional violation or a Voting Rights Act violation?

7 A Counselor, I am not aware of any other witnesses that have
8 been called. So if she's been called, I am not aware of that.

9 THE COURT: You didn't read about it in AL.com?

16:25:50 10 THE WITNESS: No, ma'am, I did not.

11 BY MR. DAVIS:

12 Q Have you heard of the National Redistricting Foundation,
13 Mr. Bonner?

14 A Is that the group that is the plaintiff in this case?

16:26:00 15 Q Well, according to Congresswoman Terri Sewell's statement,
16 it says that the National Redistricting Foundation supported
17 the plaintiffs in this lawsuit.

18 A I really am not familiar with the National Redistricting
19 Foundation.

16:26:13 20 Q Thank you.

21 THE COURT: Any recross?

22 MR. DAVIS: I'm not quite done. I'm sorry. I was
23 thanking him.

24 THE COURT: I'm sorry.

16:26:27 25 BY MR. DAVIS:

1 Q Are you familiar with what has been called the Max Black
2 policy that DOJ was enforcing in the 1990s, Mr. Bonner?

3 A No, sir.

4 Q Okay. Oh, assuming from the letter that you saw, the
16:26:44 5 preclearance letter from DOJ in 1992, did you understand DOJ to
6 be saying that perhaps it was possible to draw two
7 majority-minority districts in Alabama?

8 A That would be my interpretation of that.

9 Q Are you aware of anyone who, after that letter was issued,
16:27:05 10 went to the federal court and said, Don't approve the one
11 majority black plan. Here is the majority -- here is the plan
12 with two minority-majority districts. Pass this one instead?

13 A Counsel, I want to be consistent. It's been a few years
14 since 1992, but I do not recall that happening.

16:27:24 15 Q Are you aware of anyone who filed a lawsuit in the 1990s
16 that said, The plan approved by the federal court is wrong
17 because it's only got one majority-minority district. This one
18 should be adopted instead with two majority-minority districts?

19 A I'm not aware enough to offer an informed opinion.

16:27:49 20 MR. DAVIS: And now I am finished, Your Honor. Thank
21 you, Mr. Bonner.

22 THE COURT: All right. Any recross?

23 MR. SPIVA: Just very briefly, Your Honor. Although I
24 am aware of the Court's statement yesterday that you can't
16:28:05 25 trust a lawyer who says, I have one more question.

1 THE COURT: I'm not sure I'm the first one that said
2 that. I think I echoed it.

3 MR. SPIVA: Yeah. I have said that before myself. I
4 do have a little more than one question, but not much.

16:28:18 5 RE-CROSS-EXAMINATION

6 BY MR. DAVIS:

7 Q If we could put up Plaintiffs' Exhibit 129 again, please.

8 And I know, Congressman Bonner, that you were asked
9 whether Representative Sewell's statement said anything about
10 seeking an additional congressional district. And I just
11 wanted to draw your attention to the first paragraph, which
12 says, On Wednesday, the National Redistricting Foundation
13 supported plaintiffs in a lawsuit alleging that the current
14 congressional district maps in Alabama, Georgia, and Louisiana
15 violate Section 2 of the Voting Rights Act. The lawsuit seeks
16 congressional maps that would unite African-Americans to form
17 additional majority-minority congressional districts in the
18 three states. Congresswoman Terri A. Sewell, Democrat Alabama
19 represents Alabama's seventh congressional district, the
20 state's only majority-minority congressional district.

21 Would you agree with me, Congressman Bonner, that the
22 only -- that by definition, the only way to get an additional
23 majority-minority congressional district in Alabama would be to
24 create a second majority-minority congressional district?

16:29:32 25 A Well, that would ask me to assume that a minority could

1 not be elected in the majority.

2 Q No, no. Actually I'm not asking you that. I'm asking
3 you: In order to get an additional majority-minority
4 congressional district setting aside whether someone could get
16:29:51 5 elected or not, in Alabama that would mean two majority
6 minority congressional districts?

7 A I understand where you're going with that. I -- the map
8 being what it is, to get another additional majority-minority
9 district, you would have to draw a second one.

16:30:18 10 Q Thank you, Congressman.

11 And then the last thing that I have is that you were asked
12 whether in the 1990s you were aware of anyone suing to try to
13 stop the plan that the Court had ordered with one congressional
14 district. And my only follow-up to that is: Are you aware
16:30:39 15 that the black population in Alabama has grown between 1990 or
16 grew between 1990 and 2010?

17 A I'm not aware. But I would certainly not dispute that.

18 Q Okay. Thank you so much. I really appreciate it.

19 A Thank you.

16:30:55 20 THE COURT: Anything further, Mr. Davis?

21 MR. DAVIS: Nothing further, Your Honor.

22 THE COURT: Okay. Thank you, Congressman Bonner. I
23 appreciate you being here.

24 THE WITNESS: Thank you, Judge.

16:31:05 25 THE COURT: You may step down.

1 THE WITNESS: Thank you.

2 THE COURT: Thank you. I understand that's the last
3 witness for today, right?

4 MR. DAVIS: That's correct, Your Honor. Our experts
16:31:17 5 will be ready to testify tomorrow at whatever time the Court
6 chooses.

7 THE COURT: Are we going to be able to get them both
8 done if we start at 9:00, or do we need to start at 7:00 a.m.?

9 MR. DAVIS: We are quite confident if we start at 9:00
16:31:32 10 that will still leave time to complete both experts.

11 THE COURT: As well with cross?

12 MR. SPIVA: What's that?

13 THE COURT: As well as having some cross of them as
14 well?

16:31:39 15 MR. SPIVA: Yeah, Your Honor. I think that should be
16 plenty of time. I guess two issues or questions. One is
17 whether Your Honor's decided whether you want closings or not.

18 THE COURT: Well, I thought we might take a little bit
19 of a break and then come back and talk about some housekeeping
16:31:53 20 things, if that's all right with y'all.

21 MR. DAVIS: Sure.

22 MR. SPIVA: Okay. Sure. And one other question which
23 we could is -- I mean, or reservation, I guess.

24 I don't think we're going to have rebuttal witnesses. I
16:32:04 25 mean, I think it would be very unlikely, but I just wanted to

1 reserve, obviously, that, you know, a potential rebuttal.

2 THE COURT: Certainly.

3 Okay. Well, let's take about five or 10 minutes. And
4 since y'all have all your stuff in here, I'll just come back in
16:32:18 5 here.

6 You're at ease, okay.

7 (Recess.)

8 THE COURT: This first part I want definitely on the
9 record.

16:38:47 10 Y'all have pre-introduced a thousand pages of evidence. I
11 don't think I'm exaggerating too much on that. We've got five
12 or six big notebooks from plaintiff and a box full of exhibits
13 from the defendant. And Plaintiffs' list is 129 now. And the
14 defendant's list, a lot of which have not been pre-admitted, I
16:39:22 15 don't think, but it was 200-something.

16 Oh, my goodness. And those are just numbers. Like I
17 said, not all of those have been pre-introduced because of some
18 objections.

19 But I have not done a great job of keeping up with which
16:39:44 20 ones that have actually been mentioned off of your lists, which
21 I usually do when they are, you know, coming in one at a time.
22 But my recollection is -- and this gets into math again -- that
23 a very small percentage of the exhibits that have been
24 pre-admitted have actually been used in trial.

16:40:10 25 I'm hoping that you are not expecting me to read every

1 page of every exhibit that has been pre-introduced before
2 making my decision in this case. If so, I'm going to need a
3 heck of a lot of help from you to accomplish that.

4 But what I'm wondering is if there are exhibits that have
16:40:32 5 not been used that can be withdrawn to make the record more
6 precise as to what evidence has actually been presented to me.

7 If we could do that, and also if there's something that
8 has been pre-admitted that you haven't used that you really do
9 think I need to read, I want you to call that to my attention
16:40:58 10 either tomorrow -- I will give you a little period of time to
11 do that in writing.

12 But I do not want to be in a situation where I make my
13 decision based upon the evidence that has been actually used
14 here in this courtroom this week, and it goes up on appeal --
16:41:18 15 because we know it's going to be appealed -- and then y'all
16 ambush me by pulling out all of these bits of information to
17 the circuit that I didn't get to consider here.

18 I don't think y'all would do that to me. But I just want
19 to make sure, as I said, that anything that I need to consider
16:41:42 20 y'all let me know, and I will do that. But I don't have the
21 time or the inclination to go through all of these boxes, all
22 of these notebooks, literally thousands of pieces of paper to
23 make my decision. If I had to do that, it would probably be --
24 well, well into 2020 before I could even start working on a
16:42:06 25 decision. So is that fair?

1 MR. SPIVA: That seems fair, Your Honor. I wonder if
2 maybe -- you had alluded to potentially giving you something in
3 writing afterwards? I wonder if -- I hate to be a broken
4 record.

16:42:17 5 THE COURT: I'm talking about something short, okay?

6 MR. SPIVA: Yeah.

7 THE COURT: And on two different points: One being,
8 you know, evidentiary stuff.

9 MR. SPIVA: Right. Okay.

16:42:27 10 THE COURT: Or give you some time to make sure there's
11 nothing else there that I need to consider.

12 MR. SPIVA: I expect some of the longer ones are
13 probably like one thing within a long exhibit where we could
14 give you cites, pin cites where it's not like you have to read
16:42:47 15 every page of it.

16 THE COURT: Yeah. That's the kind of thing I'm
17 talking about. If there's one sentence in something that is a
18 20-page document, tell me about it now. Don't spring it on an
19 attack to my decision in the Eleventh Circuit.

16:43:09 20 So, you know, if there's some things that you know that we
21 can withdraw, that would be fabulous. And I would love to, you
22 know, have y'all do that. And I'll just, you know, I'll give
23 you some time to let me know on that. But any of these things
24 that you would like to take back off of my bench before you
16:43:27 25 leave tomorrow, I would not be opposed to that, either.

1 So any questions about that part?

2 MR. SPIVA: That's clear.

3 THE COURT: All right. And so y'all can work together
4 maybe on that kind of stuff?

16:43:42 5 Great. Y'all have worked together so well.

6 MR. SPIVA: Question, Your Honor: Does the clerk need
7 a separate copy of the exhibits?

8 THE COURT: We need an electronic copy of the exhibits
9 that you're actually expecting me to use. How about that?

16:43:57 10 MR. SPIVA: Okay.

11 THE COURT: Is that right?

12 THE COURTROOM DEPUTY CLERK: Individual pdfs of each
13 one.

14 THE COURT: Okay. All right. Good. Okay.

16:44:21 15 As far as additional supplemental information. When I
16 wrote the opinion on the motion for judgment as a matter -- no,
17 on the matter of records, judgment on pleadings, the idea of
18 mootness was mentioned. But I really relied on the plaintiffs'
19 citing the Sanders case -- Sanders vs. Dewey (phonetic) --

16:45:03 20 Dewey City? Dewey County? I think that's --

21 MR. WALKER: Board of education.

22 THE COURT: The 2001 Eleventh Circuit case. But that
23 was prior to *Shelby County vs. Holder*.

24 And so I've got some questions as to whether the effect of
16:45:29 25 a declaratory judgment in a gerrymandering case that was

1 decided prior to *Shelby County* continues to carry weight as to
2 the validity of a declaratory judgment in this case. And that
3 goes to the defendant's mootness argument.

4 And the defense may have presented that to me at that
16:46:05 5 time, but I don't remember wrestling with that issue.

6 MR. WALKER: We didn't fully brief that, I mean give
7 that to you until our pretrial.

8 THE COURT: Okay. I knew that was when I went, whoa,
9 wait a minute. So, and I believe that that is a purely legal
16:46:23 10 issue. And I would love to have a brief on that. And I think
11 really the defense did that in the pretrial brief.

12 And so I guess what I would love to see would be something
13 in response, a legal argument from the plaintiff on that, and
14 then I'd give the defense an opportunity to respond --

16:46:48 15 MR. WALKER: Thank you, Your Honor.

16 THE COURT: -- to that.

17 And along that same line, I would like a very clear
18 statement from the plaintiffs as to what relief it is you're
19 really seeking in this, and how can that not be a purely
16:47:16 20 advisory opinion, which declaratory judgment precludes me from
21 making, okay? And we'll give defense an opportunity to respond
22 to that. I think those were the only two things that -- yeah.

23 I will say I have thoroughly enjoyed this trip through
24 Alabama history reminding me of things that happened when I was
16:47:51 25 a child, and that I've been able to, you know, observe myself

1 the changes in our state. As I think it's been said, Alabama
2 has a tortured history when it comes to racial relationships.

3 And I join with Ms. -- was it Chestnut? Who said she
4 really desires to see unity in our state. It's something that
16:48:20 5 we all have to be working toward. But, anyway...

6 Anything else?

7 Anything y'all want to say?

8 MR. SPIVA: Those are all the topics you want
9 post-trial briefing on?

16:48:34 10 THE COURT: Yes.

11 MR. SPIVA: The one thing I might request is because
12 of the way Your Honor kind of framed the question in our
13 pretrial hearing about I think, you know, the way I shorthanded
14 is how much -- how much racial gerrymandering is too much
16:48:51 15 racial gerrymandering.

16 The defendants have gotten a chance to address that
17 question, and we haven't. I mean, we don't concede that it
18 would be racial gerrymandering as that term is -- under the
19 case law is known to --

16:49:05 20 THE COURT: Did you not address that in your pretrial
21 brief?

22 MR. SPIVA: Not really, Your Honor.

23 MS. KHANNA: We addressed our understanding of the
24 legal standard. I understand that the Court's usual schedule
16:49:16 25 allows for pretrial briefs and responses to pretrial briefs.

1 But I think we haven't yet had an opportunity to do -- is
2 respond to each other's pretrial briefs.

3 As you mentioned, of course, we have not responded their
4 mootness argument. There are probably other arguments that we
16:49:32 5 have made that they haven't had a chance yet to respond to, and
6 they have made that we haven't had a chance to respond to.

7 So I think we would request the Court's permission for a
8 short briefing -- responsive briefing on some of the legal
9 issues discussed in the pretrial briefs.

16:49:44 10 THE COURT: Okay. Well, I thought that the -- I
11 thought that issue was addressed in your agreed propositions of
12 law and additional propositions of law that you submitted.

13 MR. SPIVA: I don't think we had any agreement on it
14 though.

16:50:03 15 THE COURT: I know you didn't have any agreement, but
16 you submitted additional law on that.

17 MS. KHANNA: We did. I think we addressed it -- we
18 addressed the kind of principles of law generally. I don't
19 think we've had a chance -- or the defense had a chance to
16:50:14 20 really address the arguments as being -- as they are in the
21 briefs.

22 THE COURT: That's not an issue I'm struggling with.
23 You know, if that's a heartburn issue that you feel like you
24 really need to respond to, okay. But it's not where I'm
16:50:35 25 struggling. Does that make sense?

1 MR. SPIVA: Yes. That makes sense.

2 MR. WALKER: Your Honor, when do you want us to let
3 you know what exhibits we can withdraw?

4 THE COURT: Well, I'd love you to tell me that
16:50:47 5 tomorrow before you leave here, but...

6 MR. WALKER: You can withdraw all of theirs, Your
7 Honor.

8 THE COURT: I know you may need some time. A week,
9 two weeks? You tell me what you need.

16:51:02 10 MR. WALKER: A week is fine.

11 MR. DAVIS: A week is fine. We just need a nap after
12 this, and then we can think.

13 THE COURT: I understand. I really do.

14 (Discussion off the record.)

15 (Whereupon, the above proceedings were concluded at 4:51
16 p.m.)

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CERTIFICATE

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Christina K Decker

11-14-19

Christina K. Decker, RMR, CRR
Federal Official Court Reporter
ACCR#: 255

Date