

CHRIS BONNEAU
Khadijah Stone v Wes Allen

May 08, 2024
 DISTRICT COURT
 N.D. OF ALABAMA
 1-4

Page 1	Page 3
<p>1 IN THE UNITED STATES DISTRICT COURT FOR</p> <p>2 THE NORTHERN DISTRICT OF ALABAMA</p> <p>3</p> <p>4 CASE NUMBER</p> <p>5 2:21-CV-01531-AMM</p> <p>6</p> <p>7</p> <p>8 KHADIDAH STONE, et al.,</p> <p>9 Plaintiff(s),</p> <p>10 vs.</p> <p>11 WES ALLEN, et al.,</p> <p>12 Defendant(s).</p> <p>13</p> <p>14</p> <p>15 DEPOSITION TESTIMONY OF:</p> <p>16 CHRIS BONNEAU</p> <p>17</p> <p>18 May 8, 2024</p> <p>19 9:06 A.M.</p> <p>20</p> <p>21</p> <p>22 COURT REPORTER:</p> <p>23 MADISON BORDEN, CCR</p> <p>24 The reading and signing of this deposition</p> <p>25 has not been waived.</p>	<p>1 grounds at the time of trial or at the</p> <p>2 time said deposition is offered in</p> <p>3 evidence, or prior thereto.</p> <p>4 In accordance with Rule 5(d)</p> <p>5 of the Alabama Rules of Civil Procedure,</p> <p>6 as amended, effective May 15, 1988, I,</p> <p>7 Madison Borden, am hereby delivering Davin</p> <p>8 Rosborough the original transcript of the</p> <p>9 oral testimony taken May 8, 2024, along</p> <p>10 with the Exhibits.</p> <p>11 Please be advised that this</p> <p>12 is the same and not retained by the Court</p> <p>13 Reporter, nor filed with the Court.</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
Page 2	Page 4
<p>1 S T I P U L A T I O N</p> <p>2 IT IS STIPULATED AND AGREED</p> <p>3 by and between the parties through their</p> <p>4 respective counsel that the deposition of</p> <p>5 CHRIS BONNEAU may be taken before Madison</p> <p>6 Borden, Certified Shorthand Reporter and</p> <p>7 Notary Public, State at Large, at the</p> <p>8 offices of Balch & Bingham, 455 Dexter</p> <p>9 Avenue, Montgomery, Alabama, on</p> <p>10 May 8, 2024, commencing at approximately</p> <p>11 9:06 a.m.</p> <p>12 IT IS FURTHER STIPULATED AND</p> <p>13 AGREED that the signature to and the</p> <p>14 reading of the deposition by the witness</p> <p>15 is not waived, the deposition to have the</p> <p>16 same force and effect as if full</p> <p>17 compliance had been had with all laws and</p> <p>18 rules of Court relating to the taking of</p> <p>19 depositions.</p> <p>20 IT IS FURTHER STIPULATED AND</p> <p>21 AGREED that it shall not be necessary for</p> <p>22 any objections to be made by counsel to</p> <p>23 any questions, except as to form or</p> <p>24 leading questions, and that counsel for</p> <p>25 the parties may make objections and assign</p>	<p>1 A P P E A R A N C E S</p> <p>2</p> <p>3 FOR THE PLAINTIFF(S):</p> <p>4 Davin Rosborough</p> <p>5 Dayton Campbell- via Zoom</p> <p>6 American Civil Liberties Union</p> <p>7 Foundation</p> <p>8 125 Broad Street</p> <p>9 New York, NY 10004</p> <p>10</p> <p>11 FOR THE DEFENDANT(S):</p> <p>12 Michael Taunton</p> <p>13 Balch & Bingham</p> <p>14 455 Dexter Avenue</p> <p>15 Suite 8000</p> <p>16 Montgomery, AL 36104</p> <p>17</p> <p>18 FOR THE ATTORNEY GENERAL'S OFFICE:</p> <p>19 Jim Davis- via Zoom</p> <p>20 Misty Messick- via Zoom</p> <p>21 P.O. Box 300152</p> <p>22 Montgomery, AL 36130-0152</p> <p>23</p> <p>24</p> <p>25</p>



CHRIS BONNEAU
Khadijah Stone v Wes Allen

May 08, 2024

5-8

<p style="text-align: right;">Page 5</p> <p>1 I N D E X</p> <p>2</p> <p>3 WITNESS:</p> <p>4 Chris Bonneau</p> <p>5</p> <p>6 EXAMINATION BY PAGE</p> <p>7 Mr. Rosborough.....6</p> <p>8 Mr. Taunton.....205</p> <p>9 Mr. Rosborough.....210</p> <p>10</p> <p>11 PLAINTIFFS' EXHIBITS</p> <p>12 NO. DESCRIPTION PAGE</p> <p>13 Exhibit 1 Dr. Bonneau Expert Report 17</p> <p>14 Exhibit 2 Dr. Bonneau's CV 19</p> <p>15 Exhibit 3 Voters' Verdict excerpt 34</p> <p>16 Exhibit 4 Dr. Bonneau's transcript 39</p> <p>17 Exhibit 5 Electoral Verdicts 62</p> <p>18 Exhibit 6 Judicial Elections 66</p> <p>19 Exhibit 7 Dr. Liu's Expert Report 100</p> <p>20 Exhibit 8 Rebuttal Report 121</p> <p>21 Exhibit 9 Chart 148</p> <p>22</p> <p>23 DEFENDANTS' EXHIBITS</p> <p>24 There were no Defendant's Exhibits marked</p> <p>25 to this deposition</p>	<p style="text-align: right;">Page 7</p> <p>1 A. Correct.</p> <p>2 Q. How many times approximately?</p> <p>3 A. This will be my fourth.</p> <p>4 Q. Okay. Were all of those</p> <p>5 depositions as an expert witness?</p> <p>6 A. They were.</p> <p>7 Q. Is there any reason why you can't</p> <p>8 give your true and complete testimony</p> <p>9 today?</p> <p>10 A. Not that I'm aware of.</p> <p>11 Q. Okay. As you're aware, the court</p> <p>12 reporter here will provide a transcript of</p> <p>13 everything that we're saying, so just make</p> <p>14 sure to provide verbal responses rather</p> <p>15 than nodding even though we're across the</p> <p>16 table from each other. Does that work for</p> <p>17 you?</p> <p>18 A. It does.</p> <p>19 Q. And obviously for the benefit of</p> <p>20 the court reporter and the transcript,</p> <p>21 please wait until I'm done asking my</p> <p>22 question even if you think you know what's</p> <p>23 coming, and I will do the same for your</p> <p>24 answers just so the transcript is clear.</p> <p>25 Does that work for you?</p>
<p style="text-align: right;">Page 6</p> <p>1 CHRIS BONNEAU,</p> <p>2 having been first duly sworn, was examined</p> <p>3 and testified as follows:</p> <p>4 THE COURT REPORTER: Usual</p> <p>5 stipulations?</p> <p>6 MR. TAUNTON: Yes, except that</p> <p>7 we'd ask to reserve read and sign.</p> <p>8 MR. ROSBOROUGH: Yes, the same.</p> <p>9 That's fine.</p> <p>10 EXAMINATION</p> <p>11 BY MR. ROSBOROUGH:</p> <p>12 Q. Okay. Good morning, Dr. Bonneau.</p> <p>13 A. Good morning.</p> <p>14 Q. Did I pronounce your name</p> <p>15 correctly?</p> <p>16 A. You did.</p> <p>17 Q. All right. I think I just</p> <p>18 introduced myself before we started, but</p> <p>19 I'm Davin Rosborough. I am an attorney for</p> <p>20 the plaintiffs in this case. I'm with the</p> <p>21 ACLU. Nice to meet you.</p> <p>22 A. Nice to meet you.</p> <p>23 Q. Just go over a few basic ground</p> <p>24 rules before we dive into the substance.</p> <p>25 You have been deposed before, correct?</p>	<p style="text-align: right;">Page 8</p> <p>1 A. It does.</p> <p>2 Q. Great. And of course, let us</p> <p>3 know if you need a break at any point. My</p> <p>4 typical practice is just to try to take a</p> <p>5 break every 60 to 90 minutes or so. If you</p> <p>6 need a break sooner though, just speak up.</p> <p>7 That's fine. The only thing I would ask is</p> <p>8 if I have a question pending, for you to</p> <p>9 answer the question before we take a break.</p> <p>10 Does that work for you?</p> <p>11 A. Sounds fair.</p> <p>12 Q. Great. All right. Dr. Bonneau,</p> <p>13 who retained you in this case?</p> <p>14 A. I believe it's the State of</p> <p>15 Alabama.</p> <p>16 Q. Okay. Do you remember</p> <p>17 approximately when you were retained?</p> <p>18 A. I believe the first e-mail I got</p> <p>19 asking about this was -- what month are we</p> <p>20 in now? It was in the -- it was probably</p> <p>21 in the fall, October, Novemberish. Just</p> <p>22 asking if I was available and I'd be</p> <p>23 willing to look at some data and -- that</p> <p>24 sounds about right to me.</p> <p>25 Q. Okay. Do you recall when you</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
9-12

<p style="text-align: right;">Page 9</p> <p>1 began your actual work for this case</p> <p>2 approximately?</p> <p>3 A. I can look. I believe it was in</p> <p>4 November or December.</p> <p>5 Q. Okay. What did you do -- without</p> <p>6 disclosing the contents of any conversation</p> <p>7 with your attorneys, what did you do to</p> <p>8 prepare for today's deposition?</p> <p>9 A. So I read over my report. I read</p> <p>10 over the expert report of Dr. Liu and his</p> <p>11 rebuttal insofar as it pertains to what he</p> <p>12 said about my report. And then I also</p> <p>13 looked at some election returns trying to</p> <p>14 figure out some of the questions that came</p> <p>15 up in Dr. Liu's report trying see if I can</p> <p>16 figure out what was going on.</p> <p>17 Q. Okay. Did you meet with any</p> <p>18 attorneys to prepare for your testimony?</p> <p>19 A. I did.</p> <p>20 Q. And who -- which attorneys did</p> <p>21 you meet with if you can recall?</p> <p>22 A. I met with Mr. Taunton, and I</p> <p>23 spoke -- so I spoke on the phone with</p> <p>24 Mr. Taunton and Mr. Walker. I believe</p> <p>25 Mr. Davis might've been on that call as</p>	<p style="text-align: right;">Page 11</p> <p>1 A. No.</p> <p>2 Q. And did you discuss the -- your</p> <p>3 testimony in -- anticipated testimony in</p> <p>4 your deposition today with anyone other</p> <p>5 than your attorneys?</p> <p>6 A. No.</p> <p>7 Q. Okay. Dr. Bonneau, you've</p> <p>8 mentioned that you have served as an expert</p> <p>9 witness in other litigation before. Which</p> <p>10 cases -- to the best you can remember --</p> <p>11 have you served in as an expert witness?</p> <p>12 A. So this one case that was</p> <p>13 completed -- and that was a case here in</p> <p>14 Alabama in 2019 -- name of which I don't</p> <p>15 recall, but it's in my report. And I'm</p> <p>16 currently involved as an expert in a case</p> <p>17 in Mississippi which is coming to trial in</p> <p>18 August, and a case in Colorado which is</p> <p>19 coming to trial in July. And the names of</p> <p>20 those cases are also in my report.</p> <p>21 Q. So just in general terms to the</p> <p>22 best of your recollection, what did the</p> <p>23 Alabama -- the prior Alabama case concern?</p> <p>24 A. So the prior Alabama case -- so</p> <p>25 Alabama currently elects their judges --</p>
<p style="text-align: right;">Page 10</p> <p>1 well. And then yesterday, I met with</p> <p>2 Mr. Taunton.</p> <p>3 Q. Okay. So you met with the</p> <p>4 attorneys twice to prepare for your</p> <p>5 deposition today; is that correct?</p> <p>6 A. Once on the phone and then once</p> <p>7 yesterday after I arrived.</p> <p>8 Q. Approximately how long do you</p> <p>9 think you spent between the two sessions</p> <p>10 preparing?</p> <p>11 A. I would say -- just in those</p> <p>12 meetings or are you asking, like, also,</p> <p>13 like, the work I did preparing, like,</p> <p>14 reading and so on?</p> <p>15 Q. Sure. Fair clarification. So</p> <p>16 let's split it out. So first of all, the</p> <p>17 meeting with the attorneys.</p> <p>18 A. I would say approximately five</p> <p>19 and a half hours.</p> <p>20 Q. And how about preparation on your</p> <p>21 own?</p> <p>22 A. Probably another four to five</p> <p>23 hours.</p> <p>24 Q. When you met with your attorneys,</p> <p>25 was there anyone else present?</p>	<p style="text-align: right;">Page 12</p> <p>1 their state supreme court judges and</p> <p>2 appellate judges in statewide elections.</p> <p>3 And there was a lawsuit brought claiming</p> <p>4 that that served as a violation of the</p> <p>5 Voting Rights Act. And the argument was</p> <p>6 that Alabama should elect their judges in</p> <p>7 districts as opposed to statewide</p> <p>8 elections.</p> <p>9 Q. So your recollection is that this</p> <p>10 was a challenge to the at-large method of</p> <p>11 election of Alabama Supreme Court Justices,</p> <p>12 rather than in a districting plan?</p> <p>13 A. I would say a statewide election,</p> <p>14 not at large because at large I think has a</p> <p>15 different kind of meaning. But, yes, a</p> <p>16 statewide election versus district, yes.</p> <p>17 Q. Okay. So it was not a challenge</p> <p>18 to any sort of particular -- well, strike</p> <p>19 that.</p> <p>20 What is your understanding of the</p> <p>21 case out of Mississippi that you're</p> <p>22 currently serving as an expert witness in?</p> <p>23 A. Sure. So in Mississippi, they</p> <p>24 elect their state supreme court judges --</p> <p>25 they have nine judges on their court. And</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
13-16

<p style="text-align: right;">Page 13</p> <p>1 they elect their judges -- there are three 2 districts in Mississippi; District 1, 3 District 2 and District 3. Each district 4 elects three judges for a total of nine. 5 And so the lawsuit is they're challenging 6 the boundaries only of District 1 claiming 7 that the boundaries of District 1 8 unconstitutionally violated the Voting 9 Rights Act by unconstitutionally depriving 10 African Americans from electing a candidate 11 of their choice. 12 Q. Okay. And what are -- in broad 13 terms, what are your opinions in that case 14 that you've offered so far? 15 A. The opinions that I've offered in 16 that case are that in District 1 -- if you 17 look at election results, District 1 is the 18 only district in Mississippi to actually 19 elect an African American to the supreme 20 court, and it also elected other African 21 Americans to post with the same boundaries 22 as that district. And so I don't find the 23 claim that African Americans are not able 24 to elect a candidate of their choice to be 25 supported by the evidence.</p>	<p style="text-align: right;">Page 15</p> <p>1 the -- what is the focus of that case? 2 A. That case is about campaign 3 finance and whether or not Colorado's 4 campaign finance contribution limits are 5 unconstitutionally too low. 6 Q. And who retained you on that 7 case? 8 A. It is the -- so it is previous 9 candidates and also the Institute for Free 10 Speech is the sponsoring organization. 11 Q. In broad strokes, what are the 12 opinions you've offered in that case to the 13 extent you've put out a report so far? 14 A. Sure. So the opinions are that 15 the limits that are set by the State of 16 Colorado -- which are the lowest in the 17 country, \$400 per candidate, per election 18 cycle -- actually serve to make electoral 19 compensation less robust because it keeps 20 challengers from being -- it hampers 21 challengers from being able to raise enough 22 money to overcome advantages that 23 incumbents have accrued. 24 Q. Would it be fair then to broadly 25 summarize the three prior -- the three</p>
<p style="text-align: right;">Page 14</p> <p>1 Q. Okay. And going back to the 2 prior Alabama Supreme Court case we just 3 mentioned, to the best of your 4 recollection, what were your -- the 5 opinions that you offered in that case? 6 A. Well, the opinions I offered in 7 that case were that if you look at Alabama, 8 the reason why you -- so you don't have any 9 African Americans currently elected to the 10 state supreme court in Alabama, but you 11 also don't have any Democrats either. In 12 fact, since 2000, only one Democrat has 13 successfully won an election to the Alabama 14 Supreme Court. And so you can't 15 distinguish why it is that you don't see 16 African American representation of the 17 court because it's completely correlated 18 with the political party. 19 Q. Okay. The third case you 20 mentioned was in Colorado, correct? 21 A. Correct. 22 Q. Is that case currently ongoing? 23 A. It is, yeah. That will come to 24 trial in July. 25 Q. Okay. And generally, what is</p>	<p style="text-align: right;">Page 16</p> <p>1 current and prior cases that you've offered 2 expert testimony in as two involving state 3 supreme court elections and one involving 4 campaign finance? 5 A. Correct. 6 Q. Okay. Is this your first time 7 offering expert testimony in a legislative 8 districting case? 9 A. Yes. 10 Q. Okay. Switching gears a little 11 bit, I would like to just talk a little bit 12 about your background as a scholar. 13 A. Sure. 14 Q. I believe you've said that your 15 scholarly research focuses almost entirely 16 on judicial elections; would that be fair? 17 A. I would characterize it as 18 judicial elections as they relate to other 19 elections. So are judicial elections 20 somehow different from elections from other 21 offices? How do voters behave in judicial 22 elections based on what we know about how 23 they behave in other offices and so on. So 24 I would categorize it as elections more 25 broadly with the focus on judicial</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
17-20

<p style="text-align: right;">Page 17</p> <p>1 elections within that context.</p> <p>2 Q. Okay. I know these things can be</p> <p>3 tough to put a number on. I think you</p> <p>4 testified several years ago in the Alabama</p> <p>5 NAACP case that you -- that at that point,</p> <p>6 up until about two years before, you spent</p> <p>7 about 100 percent of your time on judicial</p> <p>8 elections, but at that point it became</p> <p>9 about 90 percent. Does that sound right to</p> <p>10 you?</p> <p>11 A. That sounds right, yes.</p> <p>12 Q. Does that -- would you say about</p> <p>13 90 percent of your time on judicial</p> <p>14 elections is still fairly accurate?</p> <p>15 A. If we're talking about research</p> <p>16 effort or -- yes.</p> <p>17 Q. Okay. Let me go ahead and hand</p> <p>18 over what we will mark as Exhibit 1.</p> <p>19 (Plaintiffs' Exhibit Number 1 was</p> <p>20 marked for identification.)</p> <p>21 Q. Okay. Dr. Bonneau, do you</p> <p>22 recognize this document?</p> <p>23 A. I do.</p> <p>24 Q. And what is it?</p> <p>25 A. It appears to be my expert report</p>	<p style="text-align: right;">Page 19</p> <p>1 Exhibit 2.</p> <p>2 (Plaintiffs' Exhibit Number 2 was</p> <p>3 marked for identification.)</p> <p>4 Q. Dr. Bonneau, do you recognize</p> <p>5 this document?</p> <p>6 A. Yes. It is my CV as of</p> <p>7 July 2023.</p> <p>8 Q. Okay. Do you have any updates</p> <p>9 that you would make to this CV since July</p> <p>10 of 2023?</p> <p>11 A. I've had -- I have another book</p> <p>12 chapter coming out about teaching in</p> <p>13 prison. But essentially -- and a few other</p> <p>14 service things I've done, but nothing that</p> <p>15 I think is --</p> <p>16 MR. TAUNTON: Can you -- I think</p> <p>17 when you passed across the table, we muted</p> <p>18 ourselves.</p> <p>19 MR. ROSBOROUGH: Oh.</p> <p>20 A. So nothing I -- I mean, nothing I</p> <p>21 think that -- I mean, I can get you a</p> <p>22 current copy, but it's almost essentially</p> <p>23 the same.</p> <p>24 Q. You -- to the best of your</p> <p>25 recollection, you haven't had any new</p>
<p style="text-align: right;">Page 18</p> <p>1 that I submitted in this case.</p> <p>2 Q. Okay. If you'll turn to page two</p> <p>3 for me.</p> <p>4 A. (Witness complies.)</p> <p>5 Q. And in the second full paragraph,</p> <p>6 your report states, my scholarly research</p> <p>7 primarily focuses on the nature of judicial</p> <p>8 elections. My studies have focused on all</p> <p>9 aspects of these elections, from voter</p> <p>10 participation to voter knowledge to</p> <p>11 campaign fundraising to campaign spending</p> <p>12 to electoral contestation to electoral</p> <p>13 competition to the consequences of electing</p> <p>14 judges. I have spent most of my scholarly</p> <p>15 career seeking to answer questions about</p> <p>16 judicial elections and respond to critics</p> <p>17 of them using empirical data.</p> <p>18 Does that fairly, in general</p> <p>19 terms, still summarize your scholarly</p> <p>20 research?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. We will certainly come</p> <p>23 back to the report a good bit, but you can</p> <p>24 set that aside if you want. And I'm going</p> <p>25 to hand over what we will mark as</p>	<p style="text-align: right;">Page 20</p> <p>1 articles published since the date of the</p> <p>2 CV?</p> <p>3 A. Not on the topic of elections. I</p> <p>4 had, again, a chapter come out on teaching</p> <p>5 and teaching in prison, but nothing on the</p> <p>6 topics of this case.</p> <p>7 Q. Okay. We can flip to page three</p> <p>8 of your CV. You list three books here.</p> <p>9 These are all books you've authored in</p> <p>10 whole or part?</p> <p>11 A. Correct.</p> <p>12 Q. And do these books all concern --</p> <p>13 well, let me ask you: What are these -- in</p> <p>14 general terms, what are the topics of these</p> <p>15 books?</p> <p>16 A. Sure. So Voters' Verdicts is a</p> <p>17 book that looks at how voters make</p> <p>18 decisions in state supreme court elections</p> <p>19 using the combination of survey data and</p> <p>20 also experiments. 2009, In Defense of</p> <p>21 Judicial Elections is a book that looks at</p> <p>22 political participation and campaign</p> <p>23 spending and voter knowledge in judicial</p> <p>24 elections. And then the third book,</p> <p>25 Strategic Behavior and Policy Choice on the</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
21-24

<p style="text-align: right;">Page 21</p> <p>1 U.S. Supreme Court involves the title, 2 which basically is -- it's a -- basically a 3 formal -- we develop a formal model of the 4 conditions in which judges will decide to 5 grant certain cases or where, you know -- 6 where the opinion will lie and what kinds 7 of policy outcomes you're likely to see 8 under different configurations. 9 Q. Okay. And you mentioned for the 10 first book, Voters' Verdicts, that you 11 relied to some degree on survey data and 12 experiments. Can you say a little bit more 13 about that? 14 A. Sure. So the survey data, we 15 were able to get some questions about vote 16 choice and participation on a national 17 survey, and then we supplemented that by 18 doing some experiments with students 19 basically manipulating different sources of 20 information that they have and figuring out 21 what kinds of information are more or less 22 valuable to people making choices in 23 hypothetical elections. 24 Q. So the survey data you used for 25 that book was part of a survey where you</p>	<p style="text-align: right;">Page 23</p> <p>1 the title maybe a little bit 2 self-explanatory, but can you tell me in 3 our own words what the subjects of that 4 book were? 5 A. So there were a bunch of 6 different chapters on different aspects of 7 judicial elections. So one would be on -- 8 one is on campaign advertising, one is on 9 campaign spending, one is on legitimacy and 10 changes in legitimacy over time, one is on 11 recusal and judges recusing, one is on the 12 use of judicial performance evaluations. 13 They're just different aspects of judicial 14 elections that have occurred, you know, 15 in -- so it's designed to be a reader for 16 undergraduate or graduating students who 17 are taking the class that touches on 18 different aspects of judicial elections. 19 Q. Okay. And the second edited book 20 you list there, Making Law and Court 21 Research Relevant: The Normative 22 Implications of Empirical Research. Tell 23 me about that book. 24 A. Yeah. So that was a little fun 25 side project that my coeditor and I</p>
<p style="text-align: right;">Page 22</p> <p>1 were able to actually influence the design; 2 is that fair? 3 A. Correct, yeah. So basically we 4 bought -- so in 2010, we bought I think it 5 was 1,000 respondents, and then in 2012, we 6 were able to get our questions on the core 7 part of the survey which we had like 10,000 8 respondents. 9 Q. Okay. The next category here is 10 edited books. Can you tell me for those 11 two books generally what your role was? 12 Let's start there, what your role was on 13 each of those two books. 14 A. So my role was in -- so I 15 authored a chapter or two in each of them, 16 and I was responsible for inviting authors 17 to submit -- so we wrote -- my coauthors 18 and I wrote the proposal to have -- to the 19 publisher, and then we went and asked 20 certain people we knew who were experts in 21 certain aspects to write a chapter, and 22 then we edited them and put them all 23 together and, yeah. 24 Q. For the first one, Judicial 25 Elections in the 21st Century, I understand</p>	<p style="text-align: right;">Page 24</p> <p>1 received National Science Foundation 2 funding for. And we were trying to respond 3 to the gap between what we know about how 4 judges behave, how law functions, and what 5 kind of, like, popular conceptions are or 6 popular -- and so we gathered together a 7 bunch of political scientists, law 8 professors. There was a sociologist. I 9 mean, basically, like, how do we go about 10 -- given the empirical research we conduct, 11 how do we go about making that more 12 digestible to a wider audience, and how do 13 we make it relevant. And one of the ways 14 we do that is to make kind of like these -- 15 the normative implications of our research 16 much more explicit so people who aren't 17 technically trained don't get lost in the 18 empirical information, can still actually 19 read and take home something useful, right, 20 from the knowledge we've generated. 21 Q. Sounds useful. 22 A. It was a fun book, yeah. 23 Q. And then next on your CV, you 24 list -- my count may be off by one or 25 two -- but approximately 22 peer-reviewed</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
25-28

<p style="text-align: right;">Page 25</p> <p>1 journal articles. Does that sound ballpark 2 correct? 3 A. Yeah, that's about right. 4 Q. Okay. Is it fair to say that the 5 majority of these articles concern, in some 6 form, judicial elections? 7 A. Yes, that's fair. 8 Q. For those that did not concern 9 judicial elections, can you walk me through 10 just at a high level what the other topics 11 of the articles were? 12 A. Sure. So Desk Rejecting Against 13 Desk Rejects is a little pedagogical piece 14 that my coauthor and I served as editor of 15 a journal for six years, and one of the 16 things in the publishing, kind of -- I 17 don't know if I'll call industry, but in 18 publishing field, right, is editors decide 19 to reject articles before even sending them 20 out for peer review, so essentially desk 21 rejecting. So you would submit an article, 22 instead of me getting feedback from peers, 23 I would just say, eh, I don't think this is 24 any good. I don't like it. And so the 25 question is: Is this fair? And is this --</p>	<p style="text-align: right;">Page 27</p> <p>1 leaky pipeline where women scholars tend 2 not to be cited as much as men scholars, 3 even on the same topics. So what we tried 4 to do is say, all right, what if we signal 5 in our letter to reviewers that we really 6 want them to focus on, you know, citations 7 from women scholars and so on, and does 8 that make a difference. And we find that, 9 in fact, it can. That we can actually 10 increase, under some conditions, the number 11 of women scholars who are cited. This is 12 good, right, because, one, they're 13 obviously doing the work on the topic and 14 they should be cited. But it also means 15 they'll be better able, right, to get 16 tenure and be promoted and everything else. 17 And so editors actually can play a role in 18 trying to close the citation gap between 19 men and women scholars. 20 Stronger Together. Oh, yeah. So 21 we -- this piece is -- you might like this 22 piece. This piece -- so basically it's do 23 people perceive men and women differently 24 in terms of their acts? So what we did is 25 we showed people different ads of Hillary</p>
<p style="text-align: right;">Page 26</p> <p>1 does this impede science and scientific 2 progress? 3 Somebody wrote an article 4 basically against Desk Rejects claiming 5 that Desk Rejects are inherently unfair to 6 authors, and it really impedes, you know -- 7 we're owed, kind of, feedback once we 8 submit to a journal. So my coauthor was 9 like, well, no one has actually -- it has a 10 place, right. It has a place because 11 sending things for review consumes 12 resources, consumes time, and in the end, 13 if you submit an article and I read it and 14 I don't think it's very good, I'm not going 15 to publish it. I don't care what the 16 reviewers say because I'm the editor, and 17 that's my job. And so wouldn't you rather 18 know in two days rather than two months? 19 So that's what that article was. 20 The Citation Gap, oh, we did an 21 experiment on our reviewers. So that's 22 with my coauthor and two graduate students. 23 And so one of the things that we found in 24 political science -- as well as other 25 things -- is there is this gender gap and a</p>	<p style="text-align: right;">Page 28</p> <p>1 Clinton. One was, you know, her being 2 empathetic. One was her being a fighter. 3 One was her basically being a policy wonk, 4 and then the control ad was about bike 5 lanes or bike shares in D.C., one of those 6 things, right. And so basically it was, 7 like, asking their perceptions of the 8 candidates, like, after seeing those ads. 9 And what we find is, in fact, that, you 10 know, how women present themselves affects 11 how voters see them. And so, you know, 12 like the policy wonk ad, no one really 13 responded to, but empathy, yes. Well, what 14 does that mean? Well, it means, right, 15 that generally, right, we have this sexist 16 notion, right, that women shouldn't be 17 perceived as being fighters or angry, 18 right. But empathetic is a more quote, 19 unquote, natural role. And so that article 20 gets into that. 21 Evaluating the Effects of 22 Multiple Opinion Rationales and Supreme 23 Court Legitimacy. So that we did -- that's 24 where all graduate students came out of a 25 class -- so legitimacy of the Court depends</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
29-32

<p style="text-align: right;">Page 29</p> <p>1 on a lot of things. But one of the things 2 we wanted to test is, does the reason 3 matter? Does the reason the Court gives 4 matter in terms of whether or not people 5 are willing to accept a decision? You 6 know, and so we designed a series of 7 vignettes, right, for experiments where one 8 explanation is, you know, about the 9 constitution says this, whatever else. One 10 talks about, like, the current political 11 ties or, you know, references public 12 opinion. One represents religion and 13 biblical law. And I can't remember the 14 other ones. But anyway, it turns out that, 15 in fact -- it turns out, in fact, that I 16 believe rationales do matter. But it's 17 been a long time since I've looked at this 18 article, so I'm going to punt. 19 Q. I won't hold you to it. 20 A. All right. Yeah. Let's see. So 21 those are all nonjudicial elections, and 22 then the next one I would say is the 2007 23 Bonneau, et al., Agenda Control Median 24 Justice, and the Majority Opinion on the 25 U.S. Supreme Court. That talks about who</p>	<p style="text-align: right;">Page 31</p> <p>1 yes, then we're not going to hire you. 2 Nobody does that in a job interview. First 3 of all, that's illegal. Second, I have no 4 idea, I mean -- but, anyway, that's 5 basically -- I think that summarizes all of 6 the nonjudicial election ones. 7 Q. Okay. That is helpful. So if I 8 were to attempt to summarize -- and may 9 need to correct me, but I'll do my best. 10 For the articles -- peer-reviewed journal 11 articles you wrote which were not about 12 judicial elections, two focused on the 13 journal review process? 14 A. Sure. 15 Q. One focused on gender perception 16 and campaign ads? 17 A. Yeah. 18 Q. Two focused on decisions from the 19 U.S. Supreme Court? 20 A. Yes. 21 Q. And one focused on academic 22 hiring? 23 A. Sure. 24 Q. Okay. Great. And I promise 25 we're not going to go through this entire</p>
<p style="text-align: right;">Page 30</p> <p>1 controls the location and the majority of 2 opinion. Is it the opinion writer? Is the 3 median justice, right, or is it some other 4 justice? And what we find is that 5 basically the median just -- the opinion 6 writing has some control over what the 7 opinion is, but that control is constrained 8 by the median justice because, you know, 9 you need to get the five. The median 10 justice is necessary for five. So while it 11 can matter who the opinion writer is, it 12 doesn't necessarily matter depending upon 13 the configuration of the generals. 14 The Ames, et al., Hide the 15 Republicans, that was a response piece to 16 an article basically said that Christians 17 and Republicans are discriminated against 18 in academia. And what we find was -- our 19 response was that you don't know how to do 20 data analysis, and that's not true, and 21 there are other explanations for it. I 22 mean, it was a weird argument that they 23 made, like, that somehow, like, in a job 24 interview, you're asking someone, so are 25 you a Christian? Are you evangelical? If</p>	<p style="text-align: right;">Page 32</p> <p>1 document. 2 (Whereupon, a discussion was held 3 off the record.) 4 Q. So book chapters. 5 A. Yes. 6 Q. Again, similar question, is it 7 fair to say that a majority of these book 8 chapters concern judicial elections? 9 A. Yes. 10 Q. For those book chapters you've 11 authored that did not concern judicial 12 elections, can you just identify them and 13 tell me in a couple of sentences what 14 they're about? 15 A. Yeah. So the first one, the 16 Bonneau and Kanthak, Women's Political 17 Ambition, that's similar to the one I did 18 with Kanthak about Hillary Clinton. Used a 19 little bit of different data, but it's 20 about women's ambition in the presidential 21 elections and how they're evaluated by the 22 public. Then there are a couple at the 23 bottom of page five with Bartels about the 24 Normative Implications of Empirical 25 Research which I talked about earlier --</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
33-36

<p style="text-align: right;">Page 33</p> <p>1 what those talk about. Oh, then I have the 2 2006 with Tara Stricko-Neubauer, the 3 assessment of, like, the supreme court over 4 the last couple of years, the U.S. Supreme 5 Court: Continuity and Change. The ham of 6 that all is a chapter about applying the 7 2005 book but to the -- to a court of 8 appeals. So it's a simple application of a 9 model we developed. And then I have two 10 things in the Wisconsin Judiciary which 11 basically talks about the Wisconsin 12 Judiciary for a book on Wisconsin state 13 politics. Nothing really analytical there. 14 Much more descriptive about it. 15 Q. Okay. Okay. In terms of your 16 work on judicial elections, how would you 17 characterize the extent to which your work 18 has focused on the race of voters or the 19 race of candidates and the analysis? 20 A. Well, it's -- so I would say it 21 -- how would I characterize it? So there 22 are very few African American candidates 23 who run for state supreme courts. And so 24 to the extent that there's a known 25 variation, particularly in some states when</p>	<p style="text-align: right;">Page 35</p> <p>1 I believe. Yeah. Okay. So I'm looking at 2 the bottom of page 25, the paragraph -- the 3 last line that goes on to page 26. And the 4 section I'm referring to here refers to 5 variables affecting turnout; is that right? 6 A. It is. 7 Q. Okay. And you write, 8 historically, African Americans and other 9 minorities have faced unique impediments to 10 registration and voting; studies have shown 11 that Caucasian voters, white, continue to 12 have higher rates of participation than 13 minorities, even controlling for other 14 factors -- and you cite several works there 15 by their scholars -- consistent with this, 16 we hypothesize that white individuals are 17 more likely to vote than nonwhite 18 individuals. 19 So can you explain to me why you 20 included this in your analysis here? 21 A. Why we included that variable in 22 our analysis -- 23 Q. Correct. 24 A. -- race? Well, because we're 25 trying to understand what factors help</p>
<p style="text-align: right;">Page 34</p> <p>1 we say that that's an important thing to 2 look at. In terms of voters, most of my 3 analysis is not individual-level data, 4 right. It's based on aggregate election 5 returns and so on. Now, not all of it, 6 right. Certainly the survey work and the 7 experiments are individual-level data. But 8 to the extent we're looking at aggregate 9 data and aggregate election returns, I 10 don't look at individual voters at all in 11 those. 12 Q. Okay. In your book, Voters' 13 Verdicts -- and I'm happy to pass over -- 14 let's just go ahead and do that. Go ahead 15 and mark this as Exhibit 3. 16 (Plaintiffs' Exhibit Number 3 was 17 marked for identification.) 18 Q. And I'll represent that this is 19 certain whole chapters, but not the entire 20 book here -- 21 A. Okay. 22 Q. -- of Voters' Verdicts. You tell 23 me if that appears to be correct to you? 24 A. It does. 25 Q. Okay. If you can turn to page 25</p>	<p style="text-align: right;">Page 36</p> <p>1 predict turnout, and previous scholars have 2 found that, in fact, the race of the voter 3 does. And so consistent with good social 4 science, we want to make sure we took that 5 into account. 6 Q. And part of that reason was from 7 this research that found that black voters 8 face unique impediments to registration and 9 voting; is that correct? 10 A. Correct. 11 Q. Okay. 12 A. Historically. 13 Q. Okay. And another aspect of that 14 was black voters having lower turnout rates 15 historically; is that correct? 16 A. Well, so the fact that they have 17 had lower turnout rates is because of the 18 impediments to registration and voting. 19 Q. Okay. 20 A. There's nothing about being black 21 that leads you to turnout less. 22 Q. Fair enough. And are you aware 23 of whether such disparities exist in 24 Alabama? 25 A. Am I aware of which disparities?</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
37-40

<p style="text-align: right;">Page 37</p> <p>1 Q. Lower turnout rates due to</p> <p>2 historical impediments in registration and</p> <p>3 voting.</p> <p>4 MR. TAUNTON: Objection to form.</p> <p>5 A. I would say that it would</p> <p>6 surprise me if there was not lower turnout</p> <p>7 in Alabama, but I'm not offering an opinion</p> <p>8 about the reasons why in this case. That's</p> <p>9 outside of my --</p> <p>10 Q. Okay. And we discussed that you</p> <p>11 recently gave a deposition in the case in</p> <p>12 case in Mississippi involving supreme court</p> <p>13 elections there, correct?</p> <p>14 A. Correct.</p> <p>15 Q. As you testified to there, you</p> <p>16 continue to agree, it was not long ago when</p> <p>17 there was institutionalized oppressions of</p> <p>18 black citizens in the South regarding</p> <p>19 voting and political participation?</p> <p>20 MR. TAUNTON: Objection to form.</p> <p>21 A. Can you repeat the question?</p> <p>22 Q. Sure. You agree that it was not</p> <p>23 long ago when there was institutionalized</p> <p>24 oppression of citizens in the South</p> <p>25 regarding voting and political</p>	<p style="text-align: right;">Page 39</p> <p>1 effects I would argue of the institutional</p> <p>2 impediments persistent after the</p> <p>3 elimination of them, but I'm not in a</p> <p>4 position to say exactly, you know, how long</p> <p>5 those effects persisted.</p> <p>6 Q. Okay. I'm going to hand over</p> <p>7 what we will mark as Exhibit 4.</p> <p>8 (Plaintiffs' Exhibit Number 4 was</p> <p>9 marked for identification.)</p> <p>10 Q. Does this appear to be a</p> <p>11 transcript of your deposition in the White</p> <p>12 V. State Board of Election Commissioners</p> <p>13 case involving Mississippi Supreme Court?</p> <p>14 A. It does.</p> <p>15 Q. Okay. If you can turn to page</p> <p>16 80 -- well, it's the deposition page marked</p> <p>17 81. It's page 21 of this document.</p> <p>18 A. Yes.</p> <p>19 MR. TAUNTON: Just have a brief</p> <p>20 question. Is this the whole deposition or</p> <p>21 an excerpt?</p> <p>22 MR. ROSBOROUGH: I believe this</p> <p>23 is the whole deposition. Yes, this is the</p> <p>24 whole deposition.</p> <p>25 Q. Okay. At the bottom of page 81,</p>
<p style="text-align: right;">Page 38</p> <p>1 participation?</p> <p>2 A. What do you mean by not long ago?</p> <p>3 Q. Well, I think -- let me --</p> <p>4 A. Is that a quote from my</p> <p>5 deposition?</p> <p>6 Q. I believe so but --</p> <p>7 A. Well, if it is, then, yeah. I</p> <p>8 mean, that's what I said.</p> <p>9 Q. Well, let me ask you, how long</p> <p>10 ago would you characterize there being</p> <p>11 institutionalized oppression of black</p> <p>12 citizens in the South regarding voting and</p> <p>13 political participation?</p> <p>14 A. Well, certainly, I mean, legally,</p> <p>15 right, it was up until, you know, the</p> <p>16 Voting Rights Act. And obviously, there</p> <p>17 were times after that where you still had,</p> <p>18 you know, states trying to avoid compliance</p> <p>19 with the Voting Rights Act to keep blacks</p> <p>20 from voting. But I don't know -- I mean, I</p> <p>21 can't give you any specific -- I mean, I'm</p> <p>22 not familiar enough with the specific laws</p> <p>23 of states in recent times that may or may</p> <p>24 not have that effect. So I would say not</p> <p>25 in my lifetime have there been, right, the</p>	<p style="text-align: right;">Page 40</p> <p>1 going into page 82, you state in your</p> <p>2 testimony there that even after, you know,</p> <p>3 the Civil War and the passages of 13th,</p> <p>4 14th and 15th Amendments, we still had</p> <p>5 institutionalized oppression where</p> <p>6 individuals, African Americans, were not</p> <p>7 treated the same as whites, until we got to</p> <p>8 the Civil Rights Act and Voting Rights Act.</p> <p>9 Those vestiges are still there. That's not</p> <p>10 all that long ago. You know, that's my</p> <p>11 parents' generation. And so I think it's</p> <p>12 -- you know, I think it's naive to assume,</p> <p>13 right, that those vestiges don't still</p> <p>14 permeate throughout in terms of available</p> <p>15 opportunities, in terms of a whole bunch of</p> <p>16 things.</p> <p>17 Was that your testimony in the</p> <p>18 Mississippi case last year?</p> <p>19 A. It was.</p> <p>20 Q. And do you continue to agree that</p> <p>21 there are vestiges of racial discrimination</p> <p>22 that permeate throughout the political</p> <p>23 system?</p> <p>24 A. Absolutely.</p> <p>25 MR. TAUNTON: Object to the form.</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
41-44

<p style="text-align: right;">Page 41</p> <p>1 A. Absolutely.</p> <p>2 Q. Okay. We'll probably come back</p> <p>3 to this at some point, but put that aside</p> <p>4 for a moment. Dr. Bonneau, I'd like to</p> <p>5 discuss your quantitative analysis</p> <p>6 background a little bit.</p> <p>7 A. Sure.</p> <p>8 Q. Can you just give me a general</p> <p>9 overview of your training in quantitative</p> <p>10 analysis?</p> <p>11 A. So in graduate school, it was one</p> <p>12 of my examining fields which meant I passed</p> <p>13 the qualifying examination in political</p> <p>14 methods and research methodology. I have</p> <p>15 taught it at the graduate level at the</p> <p>16 University of Pittsburgh.</p> <p>17 Q. Okay. You have -- is it fair to</p> <p>18 say you have experience analyzing political</p> <p>19 participation using large data sets?</p> <p>20 A. Yes.</p> <p>21 Q. Using data sets that span</p> <p>22 multiple elections?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. Are there any general</p> <p>25 principles you try to follow when analyzing</p>	<p style="text-align: right;">Page 43</p> <p>1 to clearly operationalize your variables</p> <p>2 and figure out how to code them in a</p> <p>3 reliable and valid way. You want to make</p> <p>4 sure you're including as many possible</p> <p>5 explanations as possible -- as, you know,</p> <p>6 theocratically relevant variables as</p> <p>7 possible. And then you want to, you know,</p> <p>8 on the back end, subject your analysis to</p> <p>9 your appropriate robustness tests where</p> <p>10 appropriate.</p> <p>11 Q. Okay. When you get to the actual</p> <p>12 stage of the analysis, how, if at all, does</p> <p>13 sample size play a role in your analysis?</p> <p>14 A. So sample size can be incredibly</p> <p>15 important. Obviously, the larger your</p> <p>16 sample up to a point, right, the more tight</p> <p>17 your analysis will be. By tight I mean</p> <p>18 you'll be more sure that the results you</p> <p>19 receive from your sample are reflective of</p> <p>20 the population. And so if we're trying to</p> <p>21 make inferences about, say, the entire U.S.</p> <p>22 population like a presidential approval</p> <p>23 pole, if you only have 400 people that</p> <p>24 we're asking, our confidence level, right</p> <p>25 -- our confidence intervals -- margin of</p>
<p style="text-align: right;">Page 42</p> <p>1 large sets of data to reach conclusions</p> <p>2 about political participation?</p> <p>3 MR. TAUNTON: Objection to form.</p> <p>4 A. Yeah. What do you mean general</p> <p>5 principles?</p> <p>6 Q. As someone with training and</p> <p>7 research methodology, when you're</p> <p>8 analyzing, let's say, voting patterns and</p> <p>9 you're doing it using election data, are</p> <p>10 there general principles that you try to</p> <p>11 observe as a -- in terms of methodology?</p> <p>12 A. I think I know what you're</p> <p>13 asking. I'm trying to figure out how to</p> <p>14 answer that. In terms of general -- I</p> <p>15 mean, there are just general principles of</p> <p>16 research design that lead to the choices</p> <p>17 that end up being made. So, for example,</p> <p>18 if you're designing a study, right -- so</p> <p>19 stubbing back from the analysis part</p> <p>20 because the analysis part is all done by</p> <p>21 your computer, right. It all comes up to</p> <p>22 how you design the study. I mean,</p> <p>23 certainly there are principles at stake</p> <p>24 that you want to, for example, clearly</p> <p>25 define the scope of your inquiry. You want</p>	<p style="text-align: right;">Page 44</p> <p>1 error if you will -- plus or minus, will be</p> <p>2 much larger than if we have 4,000</p> <p>3 individuals. Now, there does become a</p> <p>4 point of diminishing marginal returns where</p> <p>5 more is not necessarily better, right,</p> <p>6 where you're not getting much more from</p> <p>7 each additional value. But certainly</p> <p>8 sample size, up to a point, is important.</p> <p>9 Q. And when you're analyzing</p> <p>10 patterns across time, across more than one</p> <p>11 election, is there a certain baseline of a</p> <p>12 number of elections you would want to</p> <p>13 analyze to be able to draw broader</p> <p>14 conclusions?</p> <p>15 A. No. It would depend on the</p> <p>16 question you're asking, and it also would</p> <p>17 depend on the nature of the elections and</p> <p>18 the -- to some extent, you're limited by</p> <p>19 the data you have. And so if you want to</p> <p>20 talk about, like, in the -- in the context</p> <p>21 of this case, I would love to analyze a</p> <p>22 bunch of elections where we had African</p> <p>23 American Republican candidates running,</p> <p>24 right. They don't exist, right. So you</p> <p>25 got to use the data you got, right. And</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
45-48

<p style="text-align: right;">Page 45</p> <p>1 because you don't necessarily get to choose 2 your data, you know, you can do things like 3 try and go back in time. You can try and 4 go across space, but you're limited to -- 5 you know, in the context of judicial 6 elections, there are only nine members of 7 the Alabama Supreme Court. That makes -- 8 you know, that makes -- and they serve for 9 six years, right, so you don't even have 10 regular elections. So when you have that, 11 it's necessarily going to be less -- fewer 12 -- there's going to be fewer cases than 13 looking at, you know, the U.S. Congress, 14 which is 435 members and elections every 15 two years. 16 Q. Can the limitations of the data 17 affect the, sort of, degree of certainty of 18 your conclusions? 19 A. Yes. And so I think when you 20 make conclusions though you don't want to 21 make conclusions just on the basis of one 22 piece of data, right. You want to -- I 23 always think about it like I'm trying to 24 put together a puzzle, right, and each 25 individual piece of data or each individual</p>	<p style="text-align: right;">Page 47</p> <p>1 correct, of the election? 2 A. Sure. 3 Q. How important to your analysis is 4 the -- let's say if you were trying to 5 examine current trends -- the recency of 6 the election? 7 A. So the answer, as with a lot of 8 things is, is it depends. It depends. 9 Have there been a lot of changes in the 10 state or in the political culture? Have 11 there been a lot of changes in 12 institutional rules? Have there been 13 changes -- so it could be if there have 14 been no changes and things have been pretty 15 stable, it could be not an issue at all. 16 If you're in a time of a lot of change, a 17 lot of new rules, and a lot of new things 18 going on, you may not want to go very far 19 back at all. And so, you know, in general, 20 I mean, if you had to, you know -- I would 21 say the more recent, the better, but that's 22 not to say that older elections should be 23 necessarily discredited because there may 24 be useful information there. 25 Q. Okay. I want to sort of switch</p>
<p style="text-align: right;">Page 46</p> <p>1 analysis can be kind of a piece of that 2 puzzle to help give you a more complete 3 picture. So in my work, I don't -- I try 4 very hard not to rely on one analysis or 5 one piece of data because I think that does 6 not give a complete picture. 7 Q. And would it be fair to say that 8 when you're dealing with a small number of 9 elections -- many of which can be decided 10 on idiosyncratic factors -- it can be 11 difficult to make any kind of conclusion 12 about the role of race or party for 13 instance in voter choices? 14 MR. TAUNTON: Object to form. 15 A. I would agree. Particularly when 16 you have -- to some extent, right, it's 17 already determined, right. When you have 18 multiple variables in only one case, you 19 can't tell what exactly is important or is 20 not important. 21 Q. I think a moment ago you 22 mentioned sort of the different factors 23 that affects the amount of data you 24 actually have to work with, and I think one 25 of those was recency or time, is that</p>	<p style="text-align: right;">Page 48</p> <p>1 gears -- well, just a little bit and talk 2 about causation in the social sciences. 3 And I think probably the easiest thing is 4 to start with your prior testimony and go 5 from there. So if you want to flip back to 6 the -- what I believe is Exhibit 4, your 7 testimony in the White V. State Board of 8 Election Commissioners case and go to page 9 32. 10 A. (Witness complies.) 11 Q. And so you testified on page 32 12 that causation is really, really hard in 13 social sciences because isolating an 14 independent fact requires manipulation of 15 an independent variable that you can't 16 always manipulate. So if I wanted to 17 establish causation between, say, gender 18 and vote choice, I need to do that 19 experimentally -- so the gold standard 20 would be to do it experimentally. But you 21 can't randomly assign someone's gender. 22 And so if you don't have random assignment, 23 then you can't do a real experiment. So 24 you can try to get at it. There are some 25 statistical techniques to try and get at.</p>

CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
49-52

<p style="text-align: right;">Page 49</p> <p>1 You know, isolating causal factors through 2 certain designs. I tend to be skeptical of 3 those, I think. And I don't think it's 4 always necessary to show causality. I 5 think when we can get causality, it's 6 great. But a lot of times causality is 7 allusive because there are multiple causes 8 to things. 9 Did I read that correctly? 10 A. You did. 11 Q. Okay. So why -- why is 12 establishing, in your own words, causality 13 really, really hard in the social sciences? 14 A. Because you're dealing with 15 humans. And so physics, it's easy. This 16 is why I always laugh when they call it, 17 like, the natural sciences, you know, the 18 hard science. No, they're the easy 19 sciences. Physics, right, if I drop my 20 glasses, gravity tells me it's going to 21 fall every time, and if it doesn't, we have 22 an existential issue. 23 In the social sciences, you're 24 dealing with humans, and when you're 25 dealing with humans and people, it's</p>	<p style="text-align: right;">Page 51</p> <p>1 experiment, you might be able to determine 2 that a specific factor plays a role? 3 A. Sure. Absolutely. 4 Q. But that you may not be able to 5 determine all of the factors that play a 6 role? 7 A. Right. And even -- and there may 8 be factors that you can't measure that play 9 a very big role. And so we have that 10 uncertainty. And so for me, I always think 11 it's -- I always want to err on the side of 12 acknowledging that rather than trying to 13 assume it away. 14 Q. In the testimony we just read, 15 you noted that there are some statistical 16 techniques to try to isolate causal factors 17 through certain designs but you tend to be 18 skeptical of those. 19 A. Uh-huh. 20 Q. What statistical techniques were 21 you referring to there? 22 A. I think there I was referring to 23 people who try to do -- like, there are -- 24 there are ways to basically impute data, if 25 you will, or run simulations on fake data</p>
<p style="text-align: right;">Page 50</p> <p>1 really, really hard because people are 2 complex and behavior's complex, and you 3 know, oftentimes have multiple causes or 4 multiple reasons for any one outcome. So 5 isolating is, aha, this is the one. Unless 6 you can do it experimentally, right, by 7 manipulating, right, which is holding 8 everything else constant and then changing 9 to one. It's really, really hard. And I 10 want to say, I generally don't think -- I 11 think we can overestimate causality. I 12 think sometimes we fall victim in social 13 sciences of trying to get at, you know, ah, 14 we can causally identify this one thing. I 15 don't think it's how the world works. I 16 don't think it's how people work, and I am 17 not convinced that it's always necessary. 18 If you have a bunch of data all pointing in 19 the same direction, maybe we can't say 20 definitively it's causal, but we can say 21 it's not just, you know, correlation. 22 Like, there's something going on there, and 23 so that's the context of that statement. 24 Q. Would it be fair to say that 25 without a randomized assignment and a real</p>	<p style="text-align: right;">Page 52</p> <p>1 you generate to try and get at, like, what 2 might -- but, again, I think that we're -- 3 I generally don't find those to be more 4 persuasive than a really good observational 5 study, right, that's carefully thought out. 6 But, you know, again, your mileage may vary 7 on that. That's an opinion that, you know, 8 some may disagree with. 9 Q. And I realize that the answer may 10 be that this depends, but how effective do 11 you think multiple variant regression 12 analysis is in trying to isolate causal 13 factors? 14 A. So multiple variant regression 15 analysis can help tell us what factors are 16 important. So what Xs, what variables are 17 important in understanding our dependent 18 variable. And that can also show us, like, 19 a relative effect. This has more of an 20 effect than that does. But in terms of 21 causality, it's limited. 22 Q. You have -- you've employed 23 regression analysis in your work before, 24 correct? 25 A. Correct.</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
53–56

<p style="text-align: right;">Page 53</p> <p>1 Q. Why do you tend to use regression 2 analysis when you employ them? 3 A. Well, because the data that I 4 study, you know, a lot of times fits the 5 assumptions of the ordinarily (inaudible) 6 framework; that is, if we have a linear -- 7 we're assuming a linear relationship 8 between the independent variables and the 9 dependent variable. And so when you're 10 assuming that a less regression is a very 11 robust and very effective way to analyze 12 whether or not the relationship we observe 13 in the data can be generalized to things 14 more generally. 15 Q. How do you decide whether to use 16 a bivariate or a multivariate regression? 17 A. So, I mean, a lot of it -- so to 18 be clear, a bivariate regression, right, 19 there's always the (inaudible) which is the 20 residual, right. So basically the residual 21 is everything that's not explicitly modeled 22 gets thrown into the residual. You know, a 23 lot of it depends on the question you're 24 answering. If it's a very specific 25 question in a very limited format, then</p>	<p style="text-align: right;">Page 55</p> <p>1 Q. Switching gears a little bit, I 2 believe that you've testified recently that 3 you would not consider yourself an expert 4 on racially polarized voting; is that 5 correct? 6 A. Correct. 7 Q. And you have never performed a 8 racially polarized voting analysis 9 yourself; is that correct? 10 A. Correct. 11 Q. Okay. You have not researched or 12 published on ecological inference analysis, 13 correct? 14 A. Correct. 15 Q. And you agree, as you did in the 16 Mississippi case, that you did not know of 17 any empirical methods that would be better 18 at generating racially polarized voting 19 estimates compared to ecological inference? 20 A. Correct. That's not my area of 21 expertise. 22 Q. Okay. Switching gears yet again, 23 we talked a bit about before about your 24 expertise in judicial elections. Are there 25 distinctive aspects of judicial elections</p>
<p style="text-align: right;">Page 54</p> <p>1 bivariate can be fine. Multivariate is 2 also fine, again, depending upon the data 3 you have. Sometimes you don't have the 4 data really explicitly modeled everything 5 that you think could be an issue. So it's 6 -- generally speaking, multivariable is 7 superior to bivariate, but if you have a, 8 you know, limited amount of data, you know, 9 you just want to -- you know, a lot of 10 these things I think -- again, these things 11 are not showing causality. They're showing 12 relationships. Now, it could be that a 13 relationship you find in bivariate data 14 goes away when you include other relevant 15 variables. But maybe not, right. That's 16 an empirical question. 17 Q. It's fair to say that bivariate 18 analyses are generally correlational rather 19 than causal? 20 MR. TAUNTON: Objection to form. 21 A. Yeah, I mean, all regression 22 analysis is -- I mean, none of it gets at 23 causality. 24 Q. Yeah. 25 A. So no more so than anything else.</p>	<p style="text-align: right;">Page 56</p> <p>1 that make it a, sort of, specialized 2 subfield as opposed to legislative 3 elections or electoral politics more 4 generally? 5 MR. TAUNTON: Object to form. 6 A. In some forms of judicial 7 elections, yes. So if you have retention 8 elections or if you have nonpartisan 9 elections, those are a little different. 10 But in terms of partisan elections, no. 11 Q. Okay. In terms of partisan 12 judicial elections, are there any factors 13 that you believe are unique as opposed to 14 legislative elections? 15 A. Any factors that are unique? No. 16 Q. Okay. 17 A. Not that I've found empirically. 18 Q. You have written pretty 19 extensively about incumbency advantage in 20 judicial elections, correct? 21 A. Sure. 22 Q. And let me just make this easy 23 rather than forcing you to remember all of 24 this stuff. We have -- we've already 25 marked the Voters' Verdicts; is that right?</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
57-60

<p style="text-align: right;">Page 57</p> <p>1 A. Right. 3. 2 Q. Okay. Exhibit 3. Thank you. So 3 if you want to turn to page 69 and 70. 4 A. (Witness complies.) 5 Q. So you write right at the top of 6 this chapter -- well, let me step back a 7 second. Is this a chapter that you 8 authored? 9 A. It is. 10 Q. Okay. And this chapter that 11 we're looking at right here is on 12 incumbency and vote choice, correct? 13 A. It is. 14 Q. All right. And you write right 15 at the top of this chapter that one of the 16 enduring findings in electoral politics is 17 that incumbents generally fare better than 18 non-incumbents. While this finding is 19 reasonably well established, a veritable 20 plethora of explanations exists for this 21 incumbency advantage. 22 Is it still your view that one of 23 the enduring findings in electoral politics 24 is that incumbents generally fare better 25 than non-incumbents?</p>	<p style="text-align: right;">Page 59</p> <p>1 A. It is. 2 Q. Flipping a couple of pages to 3 page 73. You -- right at the top of the 4 page, you write that the vast majority of 5 incumbents in partisan states are 6 reelected. 7 A. Yes. 8 Q. Does that remain true today? 9 A. Yes. 10 Q. Okay. What did you mean by 11 partisan states? 12 A. So states where judges are 13 elected in partisan elections. So the 14 party ID, the judge is on the ballot like 15 in Alabama. 16 Q. Okay. So Alabama is one of the 17 handful of states with partisan judicial 18 elections? 19 A. Correct. 20 Q. Okay. You've also written a good 21 deal about campaign spending in judicial 22 elections, correct? 23 A. Correct. 24 Q. How does campaign spending affect 25 candidate success in judicial elections,</p>
<p style="text-align: right;">Page 58</p> <p>1 A. It is. 2 Q. Okay. And you note a plethora of 3 explanations exist for this. What are some 4 of the most -- the top-level explanations 5 for why incumbency advantage exists? 6 A. Sure. So I go on to talk about 7 how incumbents often enjoy greater name 8 recognition than non-incumbents. They have 9 the perks of office that bestow an 10 electoral advantage so the ability to 11 signal they're an incumbent on campaign 12 materials and in advertisements. They have 13 an established fundraising network. They 14 have a campaign staff or a demonstrated 15 track record of success, constituents who 16 have already supported them before. So 17 there are a lot of built-in advantages that 18 one gets simply by being an incumbent. 19 Q. And you write, if voters indeed 20 have some general preference to choose an 21 incumbent over a nonincumbent, all else 22 being equal, then judicial incumbents 23 should have a formidable advantage over 24 their opponents. 25 Is that still true?</p>	<p style="text-align: right;">Page 60</p> <p>1 the big-picture view? 2 A. So big-picture view, much like 3 elections for other offices, you need to 4 spend to get your name out there to run an 5 effective campaign. That said, it's not 6 determinative. Candidates who get outspent 7 win regularly. And so it's not necessarily 8 about the amount of spending, but it's the 9 amount of spending relative to other 10 factors like how much is your opponent 11 spending. Are you a member of the dominant 12 political party or are you not a member of 13 the dominant political party? All of these 14 things, right. So in Alabama, if you are a 15 Democrat, and you're going up against a 16 Republican incumbent, you're going to have 17 to spend a hell of a lot more money than if 18 you're a Republican going up against a 19 Democrat incumbent should one have existed. 20 Or if it's an open seat, right. So it's 21 all conditioned by party. It's conditioned 22 by status of your opponent, how much -- if 23 your opponent's only spending \$10,000, 24 well, then you can probably get away with 25 spending \$8,000. If your incumbent's</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
61-64

<p style="text-align: right;">Page 61</p> <p>1 spending \$2 million, and you're trying to 2 spend \$20,000, you might as well spend 3 zero. So it's contextual, but spending, as 4 is for all elections, is important. 5 Q. Campaign spending can be affected 6 both by donations and by party support, 7 correct? 8 A. Correct. 9 Q. If a candidate supporters are on 10 a whole lower income than another candidate 11 supporters, can that play a role in their 12 ability to raise money? 13 MR. TAUNTON: Object to form. 14 A. It could if they're relying on -- 15 if individual contributions are, for 16 example, the most important contribution to 17 campaign as opposed to, say, trade groups, 18 PACs, Super PACs, out-of-state groups. I 19 mean, there are a lot of sources of 20 funding. So it certainly could be, right. 21 You could see a situation where a candidate 22 has a lower percentage of funding from 23 individuals, but that's made up for by 24 other groups. So it could be, but there's 25 a lot of other factors that play into it.</p>	<p style="text-align: right;">Page 63</p> <p>1 Q. And if you want to just take a 2 second and read the paragraph at the very 3 bottom of 830 continuing on to 831 and 832. 4 A. You want me to read it aloud? 5 Q. No, no, you can just read it to 6 yourself to sort of refresh your memory. 7 Just let me know when you're ready. 8 A. Yes. 9 Q. Okay. So you -- am I correct 10 that one way to sum up your -- what you 11 write here in this article is that for 12 those incumbents that are facing the 13 election for the first time -- so say 14 someone who's been appointed to office but 15 now is running for re-election for the 16 first time -- that the higher the spending 17 ratio between that incumbent and the 18 challenger, the lower the chances of the 19 incumbent losing? 20 A. Correct. Although it falls just 21 outside the conventional significance, but, 22 yes. 23 Q. Okay. 24 A. Right, this indicates that 25 appointed incumbents can effectively</p>
<p style="text-align: right;">Page 62</p> <p>1 Q. Okay. Does it remain true that 2 for incumbents who are facing an election 3 for the first time, the higher the spending 4 ratio between the incumbent and the 5 challenger, the lower the chances of the 6 incumbent losing? 7 MR. TAUNTON: Object to form. 8 A. The higher the ratio between -- 9 so if challengers spend about equal to the 10 incumbent, does that lower the chances of 11 the incumbent winning? Is that your -- 12 Q. No, no. Yeah, let me make this 13 easier. So I'm going to hand over what we 14 will mark as Exhibit 5. 15 (Plaintiffs' Exhibit Number 5 was 16 marked for identification.) 17 Q. I just handed you an article. Is 18 this an article that you authored? 19 A. It is. 20 Q. And what is this article on? 21 A. Electoral Verdicts Incumbent 22 Defeats in State Supreme Court Elections. 23 Q. Okay. If you want to flip to 24 page, let's say, 830. 25 A. (Witness complies.)</p>	<p style="text-align: right;">Page 64</p> <p>1 respond to campaign expenditures by their 2 opponent simply by spending more money, and 3 that avenue is not open to incumbents from 4 a previous (inaudible) finance. Spending 5 more money doesn't necessarily increase 6 their percentage in votes. So we have an 7 issue with the margin returns probably 8 there or something. 9 Q. So there's a relationship between 10 candidates' success for incumbents running 11 for reelection for the first time and their 12 ability to fundraise; would that be fair? 13 A. I would not say reelection. I 14 would say running for election because 15 these people have not faced the electorate 16 and fundraise -- I mean, here I'm just 17 talking about expenditures. So fundraising 18 is certainly one component of expenditures. 19 You have to have money to spend, but 20 fundraise does not -- should not be meant 21 to imply raise money from, like, 22 individuals or -- right. It's just matter 23 of raising money or getting money to spend. 24 It could be a personal loan. 25 Q. Okay.</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
65-68

<p style="text-align: right;">Page 65</p> <p>1 A. It could be a number of factors.</p> <p>2 Q. So let me try that again then to</p> <p>3 see if I can sum this up. There is a</p> <p>4 relationship between incumbents facing</p> <p>5 election for the first time and the amount</p> <p>6 of their expenditures compared to the</p> <p>7 challenge?</p> <p>8 A. You mean in terms of electoral --</p> <p>9 Q. In terms of electoral success.</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Let's flip over. I'm</p> <p>12 going to hand over another exhibit.</p> <p>13 THE WITNESS: Do we need a break</p> <p>14 before we -- it's all right if you want to</p> <p>15 finish this line.</p> <p>16 MR. ROSBOROUGH: I'm happy to</p> <p>17 break whenever. This -- what I'm going to</p> <p>18 ask you right here is probably just a</p> <p>19 couple of minutes.</p> <p>20 THE WITNESS: Sure.</p> <p>21 MR. ROSBOROUGH: And then at a</p> <p>22 good transition point, we can take a break.</p> <p>23 Does that work?</p> <p>24 THE WITNESS: Perfect. Yep.</p> <p>25 MR. ROSBOROUGH: Okay.</p>	<p style="text-align: right;">Page 67</p> <p>1 Q. Right. So would it be fair to</p> <p>2 say that -- well, what do you mean by the</p> <p>3 cost of running -- the costs of running for</p> <p>4 election becoming too high?</p> <p>5 A. Being high enough that candidates</p> <p>6 cannot raise enough money to effectively</p> <p>7 compete.</p> <p>8 Q. Okay. Have you analyzed in any</p> <p>9 state whether that has become the case?</p> <p>10 A. I have not.</p> <p>11 Q. Okay. So you don't know if, for</p> <p>12 example, in Alabama the cost of running for</p> <p>13 election for state supreme court is too</p> <p>14 high for minority candidates to be able to</p> <p>15 compete one way or the other?</p> <p>16 A. Correct.</p> <p>17 Q. Okay. And why did you write that</p> <p>18 this might deter minority candidates if the</p> <p>19 cost becomes too high?</p> <p>20 A. Well, because, you know, the</p> <p>21 sentence before talked -- well, the first</p> <p>22 part of that sentence talks about how we</p> <p>23 know women are more election adverse than</p> <p>24 men. And so if you're more election</p> <p>25 adverse to begin with, any additional</p>
<p style="text-align: right;">Page 66</p> <p>1 Q. I'm going to hand over what we'll</p> <p>2 mark as Exhibit 6.</p> <p>3 (Plaintiffs' Exhibit Number 6 was</p> <p>4 marked for identification.)</p> <p>5 Q. Does this appear to you to be a</p> <p>6 chapter that you wrote from the book that</p> <p>7 you edited in judicial elections in the</p> <p>8 21st Century?</p> <p>9 A. It is.</p> <p>10 Q. And the chapter that is in here</p> <p>11 is called Fundraising and Spending in</p> <p>12 Supreme Court Elections, correct?</p> <p>13 A. Correct.</p> <p>14 Q. Okay. Turning to page 81, if you</p> <p>15 go down to the last full paragraph on the</p> <p>16 page starting with third, you write further</p> <p>17 down in that paragraph that needing to</p> <p>18 raise significant funds of money could</p> <p>19 further deter candidates from minority</p> <p>20 groups from seeking office leading to a</p> <p>21 lack of diversity on the bench, correct?</p> <p>22 A. Correct. And then the next</p> <p>23 sentence says, we have not yet seen this,</p> <p>24 but if the cost of running for election</p> <p>25 becomes too high, we certainly could.</p>	<p style="text-align: right;">Page 68</p> <p>1 hurdle makes you less likely to run.</p> <p>2 Q. Okay.</p> <p>3 MR. ROSBOROUGH: Okay. That is a</p> <p>4 good place to pause and take a break if</p> <p>5 you'd like.</p> <p>6 (Whereupon, a recess was taken.)</p> <p>7 Q. Dr. Bonneau, you've studied the</p> <p>8 role of partisanship in elections as part</p> <p>9 of your research?</p> <p>10 A. Well, partisan shouldn't mean the</p> <p>11 world. Political party plays? What do you</p> <p>12 mean by partisanship?</p> <p>13 Q. Sure. Let's say the role that</p> <p>14 political parties played in judicial</p> <p>15 elections.</p> <p>16 A. Yes.</p> <p>17 Q. It was one of the topics in</p> <p>18 Voters' Verdicts?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Let's go to back to</p> <p>21 Voters' Verdicts which is -- is that</p> <p>22 Exhibit --</p> <p>23 A. 3.</p> <p>24 Q. -- 3? Thank you. Flipping over</p> <p>25 to page 38, 39, and this is in the chapter</p>

CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
69-72

<p style="text-align: right;">Page 69</p> <p>1 Vote Choice in State Supreme Court 2 Elections, correct? 3 A. Correct. 4 Q. All right. And there is some 5 discussion here about different types of 6 nonpartisan elections; is that right? 7 A. Yes. 8 Q. You note here that in local 9 elections, the results are fairly clear and 10 consistent. In a study of nonpartisan 11 school board elections, Berry and Howell 12 (2007), control for partisanship among a 13 large number of predictors of vote choice 14 and find that partisanship is not a 15 significant predictor of election outcomes. 16 Similarly, a study of both mayoral and 17 state legislative elections finds that 18 removing partisanship from the ballot 19 especially eliminates the relationship 20 between voters' party identifications and 21 their vote choices, citing Schaffner, 22 Streb, and Wright (2001). The primary 23 limitation on these findings is that 24 mayoral and state legislative races are 25 often low-profile, low-cost, and</p>	<p style="text-align: right;">Page 71</p> <p>1 Q. Would you agree that looking at 2 results of the nonpartisan mayoral 3 elections where there's no partisan 4 identification on the ballot can reduce 5 partisan queues for voters? 6 A. It can reduce partisan queues, 7 but as we found with state supreme court 8 elections, there are often ways for voters 9 to find out or assume who the party is. So 10 it really depends upon the nature of the 11 mayoral election. Some mayoral elections 12 may be purely nonpartisan. Others may be 13 nonpartisan in, you know, that they don't 14 have the party getting ballot but both 15 political parties are endorsing candidates, 16 they're distributing literature on 17 candidates, the candidates are making clear 18 who they're affiliated with. And so you 19 want to be careful about ascribing general 20 findings or a more general finding to a 21 specific case because the context might be 22 different. 23 Q. Got it. Do you -- if vote choice 24 in a nonpartisan biracial mayoral election 25 were significantly polarized by race, would</p>
<p style="text-align: right;">Page 70</p> <p>1 low-information affairs. 2 Is it still your best 3 understanding that for mayoral elections 4 removing partisanship from the ballot 5 essentially eliminates the relationship 6 between voters' party identification and 7 vote choice? 8 MR. TAUNTON: Object to form. 9 A. For mayoral elections, I think in 10 general, I have no information suggested in 11 that finding in general is not true. To be 12 clear though, the Schaffner, Streb, and 13 Wright article that found that, I believe 14 they only look at mayoral elections 15 comparing (inaudible) in Illinois because 16 one has partisan elections, one has 17 nonpartisan elections. And so to the 18 extent that that -- so I'm not sure about 19 the political culture or the context or 20 whatever of local politics in two -- to 21 call them rural I think would be an 22 overstatement -- towns -- college towns, 23 right, in Illinois. But, I mean, I have no 24 qualms with their methodology or their 25 findings.</p>	<p style="text-align: right;">Page 72</p> <p>1 that provide any useful information about 2 whether the race of the candidate might've 3 played a role in the decision of voters? 4 MR. TAUNTON: Object to form. 5 A. If -- so in a race between a 6 white candidate and black candidate in a 7 nonpartisan race, might that -- without 8 parting the ballot, okay -- and so the 9 question then is -- 10 Q. Would a polarization with black 11 voters primarily voting for the black 12 candidate and white voters primarily voting 13 for the white candidate tell you anything 14 useful about whether the race of the 15 candidate may have played a role of the 16 decision? 17 MR. TAUNTON: Object to form. 18 A. Well, I think it could, but I 19 would also point out that black candidates 20 overwhelmingly identify as Democrats. And 21 so because there's such a high correlation 22 between African Americans and 23 identification of Democratic party, if I 24 were a voter in a situation like that, and 25 I had no other information, I would assume</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
73-76

<p style="text-align: right;">Page 73</p> <p>1 the black candidate is a Democrat. And if 2 I was a Democrat, I would vote for that 3 person -- and I may be wrong -- and if I 4 was a Republican, I wouldn't. And so I 5 think because we have such a high overlap 6 between African Americans in one political 7 party, it complicates what we can learn. 8 Q. In terms of white voters, would 9 that provide you any relevant information? 10 A. In terms of white voters? Well, 11 no, I would say the same thing, right. So 12 white voters would also assume that the 13 black candidate is a Democrat. 14 Q. So under your assumptions -- 15 under what you're postulating here about 16 voters' assumptions, the race of the 17 candidate itself is a party queue for 18 voters potentially? 19 A. Yes. 20 Q. Is it possible that, in fact, 21 both the white and the black candidate 22 identify as Democrats? 23 A. Sure. In a hypothetical example, 24 anything's possible. 25 Q. Okay. But you wanted -- you said</p>	<p style="text-align: right;">Page 75</p> <p>1 selecting the candidates or the party for 2 reasons related to race, correct? 3 MR. TAUNTON: Object to form. 4 A. Correct. Yeah, again, right, 5 voters have a complex -- and it varies by 6 individual, and so there's no doubt that 7 among those factors, race would be a factor 8 for some of them. 9 Q. And in this case, you did not 10 conduct any analysis to rule in or rule out 11 whether black voters or white voter support 12 candidates because of their views on 13 race-related issues, correct? 14 A. No, I did not -- I mean, 15 generally to do that you would need to 16 conduct a survey of voters and ask them, 17 and you would need to ask them very 18 specific questions, right. You couldn't 19 just say, so did you not vote for this 20 person because he's black? I mean, because 21 they'll be all no, right. So I mean, 22 that's really tough to get at. So that's 23 what you would need to do in order to make 24 that statement. 25 Q. Okay. And let's turn to your</p>
<p style="text-align: right;">Page 74</p> <p>1 that you want to be careful about ascribing 2 any more general findings to a specific 3 case because of the different contexts? 4 A. Right. And so certainly it 5 could. I mean, we'd have to look at the 6 specific election and try and figure it 7 out. 8 Q. Okay. Even when voters make 9 choices -- at least in part -- based on the 10 political party of the candidate, do you 11 agree that racial issues may affect the 12 decision of which party to choose? 13 MR. TAUNTON: Object to form. 14 A. I would say that when voters mix 15 elections in terms of what party they 16 identify with, there are a number of 17 considerations voters make. Some may do it 18 solely based on economic reasons, some may 19 do it based on religious reasons, and, yes, 20 some may do it based on racial reasons. 21 Q. And I think you testified 22 recently in the Mississippi case that even 23 if black voters are not choosing candidates 24 on the basis of race, but rather party, 25 that does not preclude black voters from</p>	<p style="text-align: right;">Page 76</p> <p>1 deposition in the Mississippi case which I 2 believe we marked as Exhibit 4; is that 3 right? 4 A. Correct, yes. 5 Q. And if you want to flip over to 6 page 84, you were asked about in your 7 review what makes African Americans more 8 likely to be Democratic voters. And one of 9 the reasons you cite was that the 10 Democratic parties is the party that helped 11 pass the Civil Rights Acts and Voting 12 Rights Act, correct? 13 A. Correct. 14 Q. You also agree that the 15 Democratic party has been more open in 16 terms of nominating and electing African 17 American officials, correct? 18 A. Correct. 19 Q. So in terms of race, you thought 20 that there -- you think that there are both 21 historical reasons and also current policy 22 reasons for why black voters choose, in 23 general, to more frequently vote for 24 Democratic candidates? 25 A. Correct.</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
77-80

<p style="text-align: right;">Page 77</p> <p>1 Q. Okay. And then if you flip over 2 to page 82, you were asked a similar 3 question about what makes white people more 4 likely to be Republican voters and noted 5 that you think that there are a number of 6 things, and one was that the Republican 7 party has done a really good job of 8 appealing to a time when white people were 9 more prominent. 10 A. What page is this at? 11 Q. 87. 12 A. Oh, 87. Okay. You said 82. 13 Q. Oh, I'm sorry. 87. 14 A. Correct. 15 Q. Okay. And you also testified a 16 bit about partisan realignment in the 17 South, correct? 18 A. I believe I did. 19 Q. Okay. And you agree that without 20 question, the passage of the Civil Rights 21 Act and Voting Rights Act contributed to 22 that shift of some white voters from the 23 Democratic to the Republican party? 24 A. It was one factor that 25 contributed to the shift of some voters,</p>	<p style="text-align: right;">Page 79</p> <p>1 Q. Do you -- would it sound right to 2 you that the last presidential Democratic 3 candidate that plurality of Alabama has 4 voted for was President Carter in 1976? 5 A. That would not surprise me. 6 Q. Okay. And that the plurality 7 choices in the two elections prior were 8 Nixon and George Wallace. Does that sound 9 right? 10 A. Sure. 11 Q. Okay. Does it sound correct to 12 you that Alabama last elected a Democrat as 13 governor in 1998, Don Siegelman? 14 A. Siegelman, I -- yeah, sounds 15 right. 16 Q. Okay. And that the last time 17 Alabama elected a Democrat to another 18 statewide office such as attorney general 19 or secretary of state was Nancy Worley in 20 2002? 21 A. I would say -- well, unless 22 you're not counting Doug Jones to the 23 senate, and that's special election. So if 24 you're not counting U.S. Senate as a 25 statewide office -- which it isn't, but</p>
<p style="text-align: right;">Page 78</p> <p>1 yes. 2 Q. Okay. And in terms of that 3 partisan realignment in the South with more 4 white voters shifting from the Democratic 5 to the Republican party, do you know when 6 the time period occurred in Alabama 7 specifically? 8 A. So my -- so when voters shifted, 9 I do not. I know when -- for example, my 10 study of elections when statewide shifted, 11 right, and that was later than a lot of 12 southern states, and so you're looking at 13 late 90s, early 2000s. But then if you're 14 looking at the state legislature, it's even 15 later than that. 16 Q. Okay. So it's fair to say there 17 was a sort of large time period in which 18 white voters tended to start voting 19 nationally for Republican candidates 20 earlier than they started voting in 21 statewide races and then local state races 22 for the Republican versus Democratic party? 23 A. In Alabama. 24 Q. In Alabama. 25 MR. TAUNTON: Object to form.</p>	<p style="text-align: right;">Page 80</p> <p>1 it's elected statewide. 2 Q. And the Doug Jones -- Doug Jones 3 was elected to the U.S. Senate from Alabama 4 in 2017; is that right? 5 A. Sure. Yeah, I don't know the 6 year. '17, '19. 7 Q. Okay. To the best of your 8 knowledge, Siegelman, Worley, and Doug 9 Jones were all white Democrats? 10 A. When was the Worley election? 11 Q. 2002. 12 A. Sue Bell Cobb won state supreme 13 court election in 2006 as a Democrat I 14 believe. 15 Q. Okay. And Sue Bell Cobb, Nancy 16 Worley, Doug Jones, and Don Siegelman were 17 all white Democrats; is that right? 18 A. I believe so, yes. 19 Q. Do you know when Alabama -- when 20 Republicans gained control of the Alabama 21 State Senate? 22 A. Was it 2010 maybe? 23 Q. I think that's right. And are 24 you aware that as of 2010, Democrats still 25 held the state senate by a 20 to 15 margin?</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
81-84

<p style="text-align: right;">Page 81</p> <p>1 Does that sound right?</p> <p>2 A. Yeah, if you say it's true, I</p> <p>3 have no reason to dispute it.</p> <p>4 Q. Okay. Are you aware of how many</p> <p>5 Democrats in the 2010 state senate were</p> <p>6 white?</p> <p>7 A. No.</p> <p>8 Q. Okay. If I said 8 out of 20,</p> <p>9 would that sound ballpark correct to you?</p> <p>10 A. I have no reason to think you're</p> <p>11 lying.</p> <p>12 Q. Okay. But you don't know one way</p> <p>13 or the other?</p> <p>14 A. No.</p> <p>15 Q. Okay. Would it be fair to say</p> <p>16 that white Democrats continue to have some</p> <p>17 success in Alabama past the 1990s and into</p> <p>18 the 2000s?</p> <p>19 A. White Democrats to have some</p> <p>20 success. Well, in what kind of elections?</p> <p>21 MR. TAUNTON: Object to form.</p> <p>22 Q. In state legislative elections.</p> <p>23 A. Oh, sure.</p> <p>24 Q. Okay.</p> <p>25 A. I would say black Democrats</p>	<p style="text-align: right;">Page 83</p> <p>1 been elected to statewide office in</p> <p>2 Alabama's history without first being</p> <p>3 appointed?</p> <p>4 A. I'm trying to think about the</p> <p>5 state supreme court. I mean, the only way</p> <p>6 I would know that is if it was one of the</p> <p>7 state supreme court guys, but I'm not sure</p> <p>8 if they were initially appointed or not.</p> <p>9 So if they were, I would assume it was one</p> <p>10 of the state supreme court justices, but</p> <p>11 I'm not sure if they're initially</p> <p>12 appointed.</p> <p>13 Q. All right. Maybe a better</p> <p>14 question is: Are you aware of whether any</p> <p>15 black candidate has ever been elected to</p> <p>16 statewide office in Alabama outside of the</p> <p>17 Alabama Supreme Court?</p> <p>18 A. I am not aware.</p> <p>19 Q. If no black candidate has ever</p> <p>20 been elected to statewide office in Alabama</p> <p>21 other than the Alabama Supreme Court, does</p> <p>22 that play any role in your analysis?</p> <p>23 MR. TAUNTON: Object to form.</p> <p>24 A. Play a role -- well, if that's</p> <p>25 true, that's a fact. It's not something I</p>
<p style="text-align: right;">Page 82</p> <p>1 probably do too based on what you just told</p> <p>2 me.</p> <p>3 Q. Are you aware of whether any</p> <p>4 black Democrats won election to state</p> <p>5 legislature in a district that was not</p> <p>6 majority black voting age population?</p> <p>7 A. I do not.</p> <p>8 Q. Okay. Putting aside partisanship</p> <p>9 as a factor for a moment, do you have any</p> <p>10 scholarly or research background on whether</p> <p>11 the electoral environment has gotten better</p> <p>12 or worse for black voters in Alabama since</p> <p>13 the 80s and 90s?</p> <p>14 A. Do I have any data?</p> <p>15 Q. Any data -- well, no. Let me ask</p> <p>16 that again. Have you conducted any</p> <p>17 research for analysis, either for this case</p> <p>18 or in your own scholarly pursuits, about</p> <p>19 whether the electoral environment has</p> <p>20 gotten better or worse for black voters</p> <p>21 electing preferred candidates in Alabama</p> <p>22 since the 80s and 90s?</p> <p>23 A. I have not.</p> <p>24 Q. Okay. Are you aware of how many</p> <p>25 -- of whether a black candidate has ever</p>	<p style="text-align: right;">Page 84</p> <p>1 analyzed. So it doesn't play a role in my</p> <p>2 analysis because I didn't examine election</p> <p>3 returns that involve candidates who had</p> <p>4 been elected because there haven't been any</p> <p>5 in recent years. So, no, it hasn't played</p> <p>6 a role in my analysis. I don't know how it</p> <p>7 would.</p> <p>8 Q. Putting aside partisanship, does</p> <p>9 it tell you anything useful about the</p> <p>10 ability of black Alabamians as a political</p> <p>11 scientist to elect candidates in Alabama?</p> <p>12 A. See, I mean, I understand putting</p> <p>13 aside partisanship, but in my review, you</p> <p>14 can't. And so I don't know how to envision</p> <p>15 a world given how highly partisan things</p> <p>16 are and how everybody has sorted into their</p> <p>17 own teams -- I don't know how you put that</p> <p>18 aside, and so I don't know -- I mean, in a</p> <p>19 world like -- for it to tell me something,</p> <p>20 it would have to be a world where nobody is</p> <p>21 partisan and individuals are solely</p> <p>22 evaluating candidates on the basis of</p> <p>23 their -- and that just doesn't exist.</p> <p>24 Q. Is the same true with respect to</p> <p>25 race? You can't examine partisanship in</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
85-88

<p style="text-align: right;">Page 85</p> <p>1 Alabama without thinking about the role of 2 race? 3 A. I think that's fair. 4 Q. Okay. This may help to ask a 5 little more focused better question. If 6 you turn to page three of your report which 7 I believe is Exhibit 1. 8 A. Correct. Page 3? 9 Q. Yes, that's right. So in 10 paragraph two on page three, you talk about 11 a realignment in Alabama politics from a 12 Democratic majority to a Republican 13 majority and state at the end, second to 14 last sentence, that, you know, Alabama was 15 a state once dominated by the Democratic 16 party. Does the fact that -- if it is true 17 -- I'll ask you to assume -- that no black 18 candidates were elected to statewide 19 office, other than state supreme court even 20 in the period where Alabama was dominated 21 by the Democratic party -- 22 MR. TAUNTON: Objection to form. 23 Q. -- would that tell you anything 24 relevant about black Alabamians ability to 25 elect preferred candidates?</p>	<p style="text-align: right;">Page 87</p> <p>1 Q. Okay. We'll come back to that. 2 What is your understanding of -- at a high 3 level -- the claims in this case? 4 A. My understanding of the claims in 5 this case is that voting -- that the way 6 the state senate districts are drawn has 7 led to African Americans not being able to 8 elect candidates of their choice. And that 9 you could draw districts to create another 10 district that would better enable African 11 Americans to elect candidates of their 12 choice. 13 Q. Are you aware of whether the 14 claims in this case are focused on any 15 particular geographical areas? 16 A. My understanding is, yeah, 17 Huntsville and also here in Montgomery. 18 Q. Okay. Are you aware at all of 19 the states -- current state senate district 20 configuration in the Huntsville area? 21 A. I'm aware -- I mean, I've seen it 22 drawn, so if that's -- by aware, yes. 23 Q. Okay. Are you aware of whether 24 any black candidates have ever been elected 25 to the Alabama State Senate from the</p>
<p style="text-align: right;">Page 86</p> <p>1 MR. TAUNTON: Same objection. 2 A. Well, you're assuming that the 3 preferred -- so this gets into descriptive 4 versus substantive representation to me, 5 right. African Americans could have 6 preferred candidates who are not black. 7 And so without knowing who's running, so if 8 there were no black candidates even 9 running, you could say, well, why aren't 10 they running? And that's a whole nother, 11 like, down the rabbit hole. But it's not 12 the case that they weren't able to elect 13 their preferred candidates. Their 14 preferred candidates for offices other than 15 the supreme court were not black. But 16 again, I don't know how many people run, 17 how many people lost in the primary or 18 anything else. So I would say -- and I 19 said they had electoral success, which I 20 still think is true. They did have 21 electoral success. But since the switch, 22 nobody on the Democratic party has had 23 electoral success unless you're running 24 against Roy Moore -- or in the shadow of 25 Roy Moore or Sue Bell Cobb.</p>	<p style="text-align: right;">Page 88</p> <p>1 Huntsville region? 2 A. I am not aware. 3 Q. Are you aware of the basic 4 district configuration in Montgomery for 5 state senate? 6 A. Again, very -- yes, I would say 7 basic. 8 Q. Do you have any opinions on this 9 case one way or the other on whether black 10 voters should be able to have redrawn 11 districts to have a fairer opportunity to 12 elect candidates of choice in either of 13 those two regions? 14 MR. TAUNTON: Objection to form. 15 A. Do I have opinions about whether 16 they -- like, as a normative position? 17 Q. Yes. Well, yes. Let's start 18 there. 19 A. So as a normative position, do I 20 have any opinions about whether or not 21 blacks should be able to elect a candidate 22 of their choice in those regions? 23 Q. Correct. 24 A. I think redistricting is an art, 25 not a science. I think there are an</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
89-92

<p style="text-align: right;">Page 89</p> <p>1 infinite number of districts that can be 2 drawn, and I think people can disagree 3 about how lines are drawn. And so my 4 general opinion on redistricting cases is 5 it's a really hard thing to do. There -- 6 and it's really hard to distinguish between 7 separating out partisan gerrymandering 8 which is permissible and other forms of 9 gerrymandering which may not be 10 permissible. 11 Q. You are offering no opinion as an 12 expert in this case about whether or not 13 black voters should have an additional 14 district in either of those areas in which 15 they can elect a candidates for their 16 choice, correct? 17 A. That's not part of my report. 18 Q. Okay. I'd like to sort of turn 19 to a higher level, again, about your 20 opinions of this case since we're getting 21 there. What questions were you asked to 22 analyze for your work in this case? 23 A. Sure. I was asked to -- as I 24 state in the beginning -- ascertain whether 25 black candidates in elections in Alabama</p>	<p style="text-align: right;">Page 91</p> <p>1 Q. That conclusion -- and you 2 anticipated my next question. But let me 3 just ask it for you so it's clear. What 4 opinion did you reach on that question? 5 A. That the most -- that elections 6 in Alabama are determined by political 7 party primarily, not race. 8 Q. Okay. When you say that 9 elections are determined primarily because 10 of political party rather than race, are 11 you making a causal conclusion there? 12 A. No. I'm saying that's the most 13 likely explanation based on the data we 14 have. 15 Q. Okay. Other than your opinions 16 about Dr. Liu's report, are there any other 17 opinions that you intend to offer in this 18 case? We'll come back to those that deal 19 with Dr. Liu's report. 20 MR. TAUNTON: Object to form. 21 A. I intend to answer questions I'm 22 asked. So I don't -- I mean, if I'm asked 23 questions that are -- that I can answer, I 24 mean, I think I have to do that. But my 25 analysis in my report is --</p>
<p style="text-align: right;">Page 90</p> <p>1 perform worse than white candidates on 2 account of their race. And then I respond 3 to certain claims made by the plaintiffs' 4 experts, primarily Liu. I don't think I -- 5 I mention Burch in the report, but I don't 6 touch any of her analyses. So that's what 7 I was asked to do. 8 Q. When you say on account of race, 9 what did you mean by that? 10 A. I meant do black candidates do 11 worse than white candidates because they're 12 black. 13 Q. Does your -- is the question you 14 asked to analyze whether they do worse -- 15 whether race was the most important factor 16 or whether it was any factor? 17 MR. TAUNTON: Object to form. 18 A. Yeah. I would say I was not 19 asked whether or not it was the most 20 important factor. I was asked, you know, 21 can these election results be explained by 22 race? And my report shows that -- I think 23 -- that the best explanation based on the 24 available data that I have is that it's 25 party -- political party of the race.</p>	<p style="text-align: right;">Page 92</p> <p>1 Q. Let me ask a better question 2 then. In your report, you do not analyze 3 -- putting aside your analysis of Dr. Liu's 4 report, you did not analyze any other issue 5 except for the one you just identified 6 about whether black candidates in elections 7 in Alabama perform worse than white 8 candidates on the account of race; is that 9 fair? 10 A. I think that's fair, yes. 11 Q. Okay. Other than perhaps 12 reacting -- and, again, we'll get to this 13 -- to what Dr. Liu said in his rebuttal 14 report after you wrote your report, are 15 there any other opinions you intend at this 16 time to offer? 17 A. I don't believe so. 18 Q. Okay. In terms of this primary 19 question here about whether black 20 candidates in elections perform worse than 21 white candidates on account of race, what 22 data did you analyze to reach your 23 conclusion? 24 A. So I looked at Alabama specific 25 voter registration and election data. I</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
93-96

<p style="text-align: right;">Page 93</p> <p>1 also looked at, you know, some historical 2 election returns in judicial races that 3 I've analyzed before. 4 Q. Okay. What were the sources of 5 your data? 6 A. Secretary of State's Office. I'm 7 not sure if the campaign finance data is 8 from Secretary of State in Alabama or if 9 they have a separate office of campaign -- 10 they're all publically available 11 governmental sources of data. And then I 12 also Googled -- sorry. And then I also, 13 like, if I was trying to figure out what 14 the race of a candidate was, I would go on 15 the Ballotpedia or other sources to try and 16 ascertain through pictures of candidates in 17 which I was successful. Same thing with 18 names, right, gender because sometimes 19 names aren't always what they seem. 20 Q. Okay. You mentioned, I think, 21 some data you had relied on before. Were 22 there data cells you've built from your own 23 work or other cases that you relied upon 24 here? 25 A. Yes. But those are publically</p>	<p style="text-align: right;">Page 95</p> <p>1 candidate running, you know, in the same 2 similar district later on. I looked at 3 straight-ticket voting, right, which is a 4 way for voters to vote for a slate of 5 candidates and not for any individual 6 candidate. 7 So and then I tried to figure out 8 through regression there at the end whether 9 or not the Democratic percentage of the 10 vote for the statewide offices; governor, 11 senate, attorney generals, secretary of 12 state over two elections in one where we 13 had black candidates as Democrats running 14 and where we had white candidates whether 15 or not the race of the candidate had any 16 statistical relationship to the share that 17 the Democratic candidate got. 18 Q. Okay. You mentioned that in 19 Alabama race and party are highly 20 correlated; is that right? 21 A. Correct. 22 Q. What do you mean by that? 23 A. It means that the overwhelming 24 number of African Americans in Alabama 25 identify and run for office as members of</p>
<p style="text-align: right;">Page 94</p> <p>1 available as well. So there's nothing -- 2 so the data I relied upon, like for the 3 judicial stuff, is stuff that I've 4 collected over the years, but that's also 5 all from the governmental -- you know, 6 official sources of data. 7 Q. Okay. How would you characterize 8 the methodology or methodologies you 9 employed to reach your conclusion on this 10 question about whether black candidates in 11 elections in Alabama perform worse than 12 white candidates on account of race? 13 MR. TAUNTON: Object to form. 14 A. So I looked at historical 15 election returns between, you know, black 16 candidates and white candidates. And then 17 I also tried to figure out how do we suss 18 out or separate out party from race. 19 Particularly in a state where they're very 20 highly correlated. And so I looked at 21 things like, when did we have black 22 Republicans run for office? And if we did, 23 what were the results of those offices? 24 What happened when you had black candidates 25 and -- running in a race and then a white</p>	<p style="text-align: right;">Page 96</p> <p>1 the Democratic party. 2 Q. And does that also hold true for 3 white voters and the Republican party? 4 A. I didn't look at that, but it's 5 true that a majority of white voters in 6 Alabama do identify with the Republican 7 party. If I were betting, I would bet that 8 there are more whites in Alabama who 9 identify with the Democratic party than 10 blacks who identify with the Republican 11 party. But that's true I think in every 12 state. 13 Q. In your experience, is Alabama at 14 the more extreme end of the spectrum in 15 terms of the amount -- the degree to which 16 white voters support the Republican party 17 and black voters support the Democratic 18 party? 19 MR. TAUNTON: Object to form. 20 A. I don't have any insight as to 21 what -- if we're looking at -- I mean, if 22 you look at, like, nationwide election 23 results like a presidential election, 24 Alabama is certainly one of the most 25 Republican states. But I don't think we</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
97-100

<p style="text-align: right;">Page 97</p> <p>1 can make claims about the degree to which 2 whites are identifying with one or the 3 other and then compared to -- I mean, a lot 4 of it would depend on who's voting in the 5 election and a whole bunch of things. So I 6 have no opinion to offer on that. 7 Q. Okay. You're not a lawyer, 8 correct? 9 A. Thankfully, no. 10 Q. Are you in a very general sense 11 familiar with the set of legal requirements 12 for racial vote dilution claims under 13 Section Two of the Voting Rights Act that 14 are sort of colloquially known as the three 15 Gingles preconditions? 16 A. I am. 17 Q. Okay. And I'm not holding you to 18 anything, but what is your general 19 understanding? 20 A. Right. That in order to show 21 that there's a potential section two 22 violation, it needs to be shown that -- 23 like, the first is that there's a cohesive 24 racial voting block, that that voting block 25 is unable to elect candidates of their</p>	<p style="text-align: right;">Page 99</p> <p>1 must be able to show that it is politically 2 cohesive. And third, the minority must be 3 able to demonstrate that the white majority 4 vote significantly has a block to enable it 5 to defeat the minorities preferred 6 candidate. 7 You have no opinions on the 8 second and third preconditions either, 9 correct? 10 A. Correct. 11 Q. Okay. And you have no opinions 12 in this case on whether black voters in 13 Alabama have an equal opportunity to 14 participate in the political process? 15 A. Correct. 16 Q. Okay. Which expert reports, 17 other than obviously your own, did you 18 review for your work in this case? 19 A. I reviewed Liu's in some detail, 20 and I've read over Burch's just to see if 21 there was anything in there worth 22 responding to, and that's it. 23 Q. Okay. Did you review any of the 24 other defendant expert reports in this 25 case?</p>
<p style="text-align: right;">Page 98</p> <p>1 choice, and that the majority voting block 2 is basically preventing that from 3 happening, and then there's something about 4 the totality of the factors which -- yes. 5 Q. Okay. Just to sort of nail down 6 the scope of your opinions here, I'm just 7 going to read a couple of quotations from 8 recent U.S. Supreme Court case, Allen 9 versus Milligan, which interpreted section 10 two of the Voting Rights Act. So just 11 assume that what I'm reading is from the 12 case and correct. I'm not asking you 13 whether or not you know that. To succeed 14 in proving a section two violation under 15 Gingles, plaintiffs must satisfy three 16 preconditions; first, the minority group 17 must be sufficiently large and 18 geographically compact to constitute a 19 majority in a reasonably configured 20 district. 21 You have no opinions about 22 whether or not the plaintiffs have shown 23 that precondition in this case, correct? 24 A. Correct. 25 Q. Okay. Second, the minority group</p>	<p style="text-align: right;">Page 100</p> <p>1 A. No. 2 Q. Are you offering -- have you 3 offered any opinions about Dr. Burch's 4 report? 5 A. No. 6 Q. Okay. So in terms of the other 7 reports in this case, your only opinions 8 about other experts concern Dr. Liu, 9 correct? 10 A. Correct. 11 Q. Okay. Let me go ahead -- let's 12 just do it so we have it. I'm going to go 13 ahead and hand over what we can mark as 14 Exhibit 7. 15 (Plaintiffs' Exhibit Number 7 was 16 marked for identification.) 17 Q. Do you recognize this document? 18 A. I do. 19 Q. And what is it? 20 A. The expert report of Baodong Liu, 21 Ph.D. 22 Q. Okay. This is the report that 23 you were referring to that you reviewed by 24 Dr. Liu? 25 A. Correct.</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
101-104

<p style="text-align: right;">Page 101</p> <p>1 Q. Okay. And I know there's a 2 rebuttal report as well. We'll get to 3 that. But in terms of initial reports, 4 this is the only plaintiff s' expert report 5 on which you're offering opinions, correct? 6 A. Correct. 7 Q. Okay. We'll come back to the 8 disagreements that you have with Dr. Liu. 9 I'd like to start and just sort of figure 10 out where there are places that there may 11 be agreements or you have no opinion before 12 we get to the disagreements. Understanding 13 that you may have some disagreements about 14 which methodology Dr. Liu employed -- chose 15 to employ to do his analysis, you have no 16 disagreements with the way he carried out 17 that methodology, correct? 18 A. I have no opinion. 19 Q. No opinion. Thank you. Okay. 20 You offer no opinion or criticisms of the 21 data on which he relied, correct? 22 A. Correct. 23 Q. You have no -- putting aside the 24 reason why black and white voters may have 25 made the choices that they did, you have no</p>	<p style="text-align: right;">Page 103</p> <p>1 candidates? 2 A. Well, he does say that black 3 candidates -- correct, yes. He does not 4 make a conclusion about why. All he can 5 say is that they do vote differently. 6 Q. Okay. And you have no 7 disagreement with the mere fact that they 8 vote differently? Your disagreement mainly 9 concerns that he did not analyze in that 10 report why they vote differently; is that 11 right? 12 A. Yes. 13 Q. Okay. I'd like to talk through 14 more specifically what your criticisms of 15 Dr. Liu's analysis and opinions are now 16 that I think we've gotten some of the 17 things out of the way that you don't offer 18 an opinion on about his analysis. Okay. 19 So let's turn back to your report. I think 20 that would be the most useful, Exhibit 1, 21 and turn to page 12, paragraph 22. 22 A. (Witness complies.) 23 MR. TAUNTON: What was this 24 exhibit? Did you introduce this exhibit? 25 THE WITNESS: Yeah, that's 7.</p>
<p style="text-align: right;">Page 102</p> <p>1 criticisms of his opinion that black and 2 white voters are highly polarized in their 3 voting choices in the Montgomery and 4 greater Huntsville regions, correct? 5 A. Correct. 6 Q. Okay. And you have no 7 disagreement with his opinions regarding 8 the effectiveness of plaintiffs' 9 illustrative districts for black voters 10 versus the enacted plan, correct? 11 A. I have, yeah, no opinion. 12 Q. Okay. Would it be fair to say 13 that your biggest criticism of Dr. Liu is 14 not of what he did in his initial report 15 but what he didn't do, that he analyzed 16 racial voting patterns without analyzing 17 why voters are polarized based on race? 18 A. I would say that the data he 19 conducted, I don't feel like supports the 20 conclusions he reaches. 21 Q. Okay. Do you about -- do you 22 know whether Dr. Liu in his initial report 23 offers any opinion about why different 24 racial groups vote the way they do versus 25 the fact that they vote for different</p>	<p style="text-align: right;">Page 104</p> <p>1 Q. So as we just discussed would -- 2 you say in paragraph 22 -- let me find it. 3 I'm sorry. Paragraph 21 but page 12. Same 4 page. Last sentence, even if we were to 5 grant that EI is 100 percent accurate in 6 recovering individual-level behavior from 7 aggregate data, that data would still not 8 tell us why we observe what we observe. 9 Is that a sort of fair summary of 10 one of your criticisms of Dr. Liu, that the 11 results of his analysis don't tell us why 12 voters voted the way they did as opposed to 13 just showing us the patterns? 14 A. Correct. 15 Q. Okay. And then flipping back a 16 page to page 11, so right under now we're 17 at the heading, Response to Plaintiffs' 18 Experts Reports. Paragraph 20, Dr. Liu 19 relies on King's ecological inference, EI, 20 technique to determine whether voting in 21 Alabama races is racially polarized. While 22 EI techniques are widely used by courts for 23 this type of analysis, they have some 24 significant limitations (e.g., Cho 1998; 25 Elmendorf, Quinn, and Abrajano 2016.) Did</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
105-108

<p style="text-align: right;">Page 105</p> <p>1 I read that correctly?</p> <p>2 A. You did.</p> <p>3 Q. Okay. And I think we covered</p> <p>4 this earlier, but you do not consider</p> <p>5 yourself an expert in ecological inference</p> <p>6 analysis, correct?</p> <p>7 MR. TAUNTON: Object to form.</p> <p>8 A. I -- Correct. I've never used</p> <p>9 it. I'm familiar with it. I've obviously</p> <p>10 read about it, you know, in my training. I</p> <p>11 understand it. But --</p> <p>12 Q. Okay. And you acknowledge here</p> <p>13 that EI techniques are widely used and</p> <p>14 accepted by courts for RPV analysis,</p> <p>15 correct?</p> <p>16 A. Correct.</p> <p>17 Q. Okay. You then say in the next</p> <p>18 paragraph, in addition to the statistical</p> <p>19 limitations noted above, there is a</p> <p>20 significant inferential limitation: EI</p> <p>21 cannot tell us about the reasons behind the</p> <p>22 observed, inferred, data. What statistical</p> <p>23 limitations are you referring to in this</p> <p>24 paragraph?</p> <p>25 A. So I'm referring to the Cho and</p>	<p style="text-align: right;">Page 107</p> <p>1 don't know how good or bad your estimates</p> <p>2 are going to be because you don't know in</p> <p>3 priority what your data specifications --</p> <p>4 what the data looks like.</p> <p>5 Q. Dr. Cho published this article</p> <p>6 the year after Dr. King's article on</p> <p>7 setting out his new EI technique came out;</p> <p>8 is that correct?</p> <p>9 A. I believe so, yes.</p> <p>10 Q. Okay. And one of the sort of</p> <p>11 main points that Dr. Cho makes is that EI</p> <p>12 is appropriate if and only if the</p> <p>13 specification is correct. I.e., if and</p> <p>14 only if there's no correlation between the</p> <p>15 parameters and the regressors; is that your</p> <p>16 understanding?</p> <p>17 A. Correct.</p> <p>18 Q. Do you have any understanding of</p> <p>19 whether or not Dr. Liu accounted for that</p> <p>20 and made sure that the specification was</p> <p>21 correct and that there's no correlation</p> <p>22 between the parameters and the regressors?</p> <p>23 A. I don't see anything in his</p> <p>24 report suggesting that he did.</p> <p>25 Q. If he did account for that, would</p>
<p style="text-align: right;">Page 106</p> <p>1 Elmendorf articles that talk about how EI</p> <p>2 can be sensitive to the data specification,</p> <p>3 how it can give you -- if you don't have</p> <p>4 the right data specification and you run</p> <p>5 it, it can give you strange and nonsensical</p> <p>6 results. And so that's primarily what I'm</p> <p>7 referring to.</p> <p>8 Q. Okay. Do you have any sources or</p> <p>9 anything else you're relying on in terms of</p> <p>10 the statistical limitations of EI beyond</p> <p>11 the Cho and the Elmendorf articles that you</p> <p>12 cite there?</p> <p>13 A. No, those are it.</p> <p>14 Q. Okay. What do you mean</p> <p>15 statistical limitations to refer to when</p> <p>16 you say that?</p> <p>17 A. Well, that the results you get,</p> <p>18 right, depend upon the nature of the data</p> <p>19 and the assumptions you make. And so Cho</p> <p>20 shows through a variety of simulations some</p> <p>21 of the differences that can result, and the</p> <p>22 thing that she claims and shows I think</p> <p>23 convincingly is that you never know -- you</p> <p>24 don't know what the correct data</p> <p>25 specification is. And so in many ways, you</p>	<p style="text-align: right;">Page 108</p> <p>1 that remove your criticism of the EI</p> <p>2 technique in terms of the statistical</p> <p>3 limitations?</p> <p>4 A. I'd have to -- it's too -- I'd</p> <p>5 need to see it.</p> <p>6 Q. Okay. The Elmendorf article is</p> <p>7 about primarily doctrinal issues in the law</p> <p>8 around racial polarized voting rather than</p> <p>9 statistical issues; is that fair to say?</p> <p>10 A. Correct. Although Kevin Quinn is</p> <p>11 a pretty high-level methodologist.</p> <p>12 Q. Okay. Elmendorf is a law</p> <p>13 professor, correct?</p> <p>14 A. I think that's right.</p> <p>15 Q. Doesn't have a Ph.D.?</p> <p>16 A. Sounds right.</p> <p>17 Q. Okay. I'd like to flip back to</p> <p>18 page 12, now paragraph 22. Dr. -- you</p> <p>19 write that Dr. Liu's analysis ignores the</p> <p>20 single biggest determinant of vote choice</p> <p>21 in American politics: Political party,</p> <p>22 (e.g., Sievert and Banda 2024; Stapleton</p> <p>23 and Langehennig 2024.) So am I correct</p> <p>24 that you're starting point here -- in terms</p> <p>25 of that point -- is on the national level</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
109-112

<p style="text-align: right;">Page 109</p> <p>1 that political parties, the biggest 2 determinant of vote choice in our 3 contemporary political world? 4 A. I would say it's more than just 5 national level. One of the enduring 6 findings in a political scientist for 50 7 years is the importance of the political 8 party. 9 Q. Okay. Let me ask something a 10 little different. Is the point that you're 11 starting with here citing to these two 12 articles basically that no matter what 13 state you're in, across the country, 14 political party is the single biggest 15 determinant of vote choice? 16 A. You cannot explain vote choice or 17 the reasons why people vote the way they do 18 without taking into account political 19 party. 20 Q. And that applies across the 21 entire country? 22 A. Correct. 23 Q. Okay. Are you relatively 24 familiar with these two articles that you 25 cited?</p>	<p style="text-align: right;">Page 111</p> <p>1 correct? 2 A. Correct. 3 Q. All right. Do you agree with 4 Dr. Watts that much of black support for 5 the Democratic party has relied upon the 6 party's willingness to support racial 7 policy positions in favor of black 8 interests? 9 A. I have no reason to disagree with 10 that. 11 Q. And do you have any reason to 12 disagree with Dr. Watts' point that black 13 support for the Democratic party is also 14 due to the Republican party's failure to 15 position itself as a viable option for the 16 black electorate citing the Republican 17 party's use of racially coded language 18 during election campaigns? 19 A. I have no reason to dispute that. 20 Q. Okay. And Dr. Watts' article 21 really focuses on black voting patterns 22 only, correct? It doesn't analyze white 23 voters' voting patterns? 24 A. Correct. 25 Q. And you would agree that white</p>
<p style="text-align: right;">Page 110</p> <p>1 A. Yeah. I mean, I would say -- I 2 mean, I don't think I could pass, like, a 3 multiple choice test on -- but, yeah. 4 Q. Neither of these articles 5 particularly analyze the role of race in 6 vote choice; is that fair to say? 7 A. Sure. 8 Q. Neither of these articles rules 9 out the rule of race as a determinant even 10 if -- as it rules in a strong role of 11 party; is that also fair to say? 12 A. Sure. 13 Q. And neither of these articles 14 addresses the role of race versus party in 15 Alabama specifically, correct? 16 A. Yeah. 17 Q. Okay. Skipping -- I guess 18 skipping a sentence -- the third sentence, 19 this is important because we know that 20 African Americans overwhelmingly identify 21 with the Democratic party (e.g., Watts 22 2024). 23 Again, in citing the Watts 24 article and that first statement, you're 25 talking about on a national level; is that</p>	<p style="text-align: right;">Page 112</p> <p>1 voters' voting patterns differ pretty 2 significantly in different states in 3 different localities across the country, 4 correct? 5 MR. TAUNTON: Object to form. 6 A. So that white voting patterns 7 differ, yes. 8 Q. So for instance -- 9 A. There's more variation in white 10 voting patterns than black voting patterns. 11 Q. Right. So for instance, we both 12 live in Pennsylvania. There's a higher 13 percentage of white voters in Pennsylvania 14 that regularly vote for the Democratic 15 party than white voters in Alabama, 16 correct? 17 A. Correct. 18 Q. And within Pennsylvania, there's 19 a higher percentage of white voters in 20 Pittsburgh and Philadelphia that vote for 21 the Democratic party than there probably is 22 in Lancaster, correct? 23 A. Almost certainly. 24 Q. Okay. Moving down here in the 25 same paragraph, you write, in 2022, looking</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
113-116

<p style="text-align: right;">Page 113</p> <p>1 at Alabama State Senate races, the 2 bivariate correlation at the county-level 3 between the percentage of registered voters 4 who are black and the percentage of the 5 vote received by the Democratic party was 6 0.78, an incredibly strong relationship. 7 What data did you use here in 8 conducting that analysis? 9 A. So these are the 2022 Alabama 10 State Senate races, and so I have 11 county-level data that has a percentage of 12 registered voters in each country who are 13 black, and then we also know what 14 percentage of a vote in that county was 15 received by the Democratic party candidate, 16 and that's it. 17 Q. Okay. So correct to say that all 18 of your analysis there in terms of this 19 bivariate correlation was performed at the 20 county-level; is that right? 21 A. Correct. 22 Q. Okay. And then so walk me 23 through the actual analysis that you 24 performed here. 25 A. So I gathered data on the Alabama</p>	<p style="text-align: right;">Page 115</p> <p>1 State Senate, the bivariate correlation of 2 .78, that was looking at state senate races 3 across the entire state, correct? 4 A. Correct. 5 Q. It was not focused just in the 6 Montgomery or the Huntsville region? 7 A. Correct. 8 Q. Flipping over to page 13, 9 paragraph 24, you write, interestingly, SD2 10 involved the same Republican candidate in 11 both 2018 and 2022, but the Democratic 12 opponent was a black candidate in 2022, but 13 a white candidate in 2018. In 2018, 14 Democrat Amy Wasyluka, a white Democrat, 15 received 45.6 percent of the vote against 16 Tom Butler. In 2022, Kim Lewis, a black 17 Democrat, received 44.4 percent. While the 18 district lines changed in between these 19 elections, it is still informative that the 20 white Democratic candidate and the black 21 Democratic candidate essentially performed 22 the same. 23 Did I read that correctly? 24 A. You did. 25 Q. Okay. Do you know the degree to</p>
<p style="text-align: right;">Page 114</p> <p>1 State Senate races, collected a bunch of 2 different factors. So totaling votes by, 3 say, the Democratic candidate received, 4 Republican candidate received, whether or 5 not either candidate was black, either 6 candidate was incumbent, and then I put it 7 into a statistical program, and I typed a 8 command that gave me the correlation 9 between those two and whether or not it was 10 statistically significant. 11 Q. And basically that means this 12 analysis tells you that there's a strong 13 relationship between the percentage of 14 black voters in a county in support for 15 Democratic candidates; is that correct? 16 A. Correct. 17 Q. Okay. In this analysis here, you 18 were looking at the relationship between 19 black voters and Democrats? You were not 20 looking at white voting patterns; is that 21 correct? 22 A. Correct. 23 Q. Okay. This analysis, you 24 performed it at a county-level, but the 25 data you're reporting here for Alabama</p>	<p style="text-align: right;">Page 116</p> <p>1 which senate district -- and let me first 2 ask: SD2 refers to Alabama State Senate 3 District 2, correct? 4 A. Correct. 5 Q. Do you know the degree to which 6 SD2 changed between 2018 and 2022? 7 A. How do you mean degree? Like, a 8 quantitative degree? Like, how many, like, 9 new voters versus old voters or what do you 10 mean by -- 11 Q. Sure. Let's start there. Do you 12 know what percentage of the voters in -- 13 who are in the prior district remained in 14 the district in 2022? 15 A. I do not. 16 Q. Okay. Do you know -- okay. If 17 the pool of voters in the 2018 version and 18 the 2022 version changed significantly, 19 would that information inform your analysis 20 here? 21 MR. TAUNTON: Object to form. 22 A. Yeah. I mean, to the extent that 23 there's a significant deviation, then I 24 think it's a less useful comparison over 25 those two election cycles.</p>

CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
117-120

<p style="text-align: right;">Page 117</p> <p>1 Q. Okay. Is there a point at which 2 as a percentage you'd find it to become 3 more or less useful? 4 A. Well, I think there's a -- I 5 mean, I look at these things as a matter of 6 degree. So, I mean, if you're telling me 7 it's two percent, I think we probably both 8 agree that's not a lot. If you're telling 9 me it's 10 percent, we might reasonably 10 disagree on whether that's a lot. If 11 you're telling me it's 25 percent, I think 12 we'd all agree that that's a lot. So I 13 mean, I think reasonable people, you know, 14 depending upon what the number is or 15 whatever can have different conclusions on 16 that. 17 Q. Okay. So basically it's sort of 18 a sliding scale, but the larger the 19 amount -- the larger the degree of which 20 the district changed, the less informative 21 the comparison between those two years 22 would be; is that fair? 23 MR. TAUNTON: Object to form. 24 A. So with the caveat that it's not 25 just the percentage of the voters who</p>	<p style="text-align: right;">Page 119</p> <p>1 A. I do not. 2 Q. Okay. If there was an increase 3 in the black voting age population between 4 the years of more than a nominal amount, 5 would that affect your comparison of the 6 two races? 7 A. I mean, it could, but it'd also 8 help with turnout, you know, and with how 9 was turnout. So, yes, it would be one 10 piece of additional things that would tease 11 out this. 12 Q. So did you analyze the turnout in 13 these races either overall or by race in 14 2018 and 2022? 15 A. I did not. I mean, we don't know 16 necessarily turnout by race because we 17 don't keep it. So, yes, I did not. 18 Q. Did you do any analysis to assess 19 the relative strength of the two Democratic 20 candidates, the one in 2018 and the one in 21 2022? 22 A. I did not. 23 Q. Would that potentially matter in 24 vote choice decisions? 25 A. Sure. It could.</p>
<p style="text-align: right;">Page 118</p> <p>1 are -- but I would also -- here's why I 2 wish Alabama would register voters by party 3 because you could be swapping out, say ten 4 percent of Democrats and replacing them 5 with a new ten percent of Democrats, and so 6 then that would -- you'd see the ten 7 percent change, yeah. But is it a 8 meaningful ten percent change? No. And so 9 the nature of the voters that also comes 10 into that. So it's really hard to -- we 11 need to know a lot more information. 12 Q. I think you've anticipated a 13 couple of my next questions. Whether you 14 know any characteristics -- demographic 15 characteristics of SD2 in 2018 or SD2 in 16 2022? 17 A. I do not. 18 Q. Those would be useful to know, 19 you agree, for your analysis? 20 A. I would agree that that would 21 give additional context, yes. 22 Q. So like for instance, you don't 23 know the black voting age population or 24 black citizen voting age population for SD2 25 in 2018 or in 2022; is that correct?</p>	<p style="text-align: right;">Page 120</p> <p>1 Q. Did you do any analysis about the 2 campaign spending about the two Democratic 3 candidates here? 4 A. Did not. 5 Q. Would that potentially be 6 informative about the strength of their 7 campaigns? 8 A. It could. 9 Q. So moving on to the next 10 paragraph, 25, you criticize Dr. Liu for 11 focusing only on races that include -- only 12 on races that include African American 13 candidates to determine if voting is 14 racially polarized, correct? 15 A. Correct. 16 Q. You note in that paragraph that 17 if African Americans vote similarly for 18 white candidates as they do for African 19 American candidates, then it cannot be the 20 race of the candidate that is driving 21 voting patterns, correct? 22 A. Correct. You cannot explain a 23 constant with a variable. 24 Q. If it is true then that black 25 Alabamians vote differently for white</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
121-124

<p style="text-align: right;">Page 121</p> <p>1 candidates than they do for black 2 candidates of the same party, would it then 3 follow that race most likely is at least a 4 driver of those voting patterns? 5 MR. TAUNTON: Object to form. 6 A. It certainly could be, yes. 7 Q. Okay. Let's -- I have not 8 introduced it yet. I'm going to mark a new 9 exhibit, which is -- we'll mark as 10 Exhibit 8. 11 (Plaintiffs' Exhibit Number 8 was 12 marked for identification.) 13 Q. Dr. Bonneau, do you recognize 14 this document? 15 A. I do. 16 Q. And what is this document? 17 A. It is the rebuttal report of 18 Baodong Liu, Ph.D. 19 Q. All right. You have read this 20 report before? 21 A. I have. 22 Q. Okay. Do you recall when you 23 received this report approximately? 24 A. If it was filed April 19th, I'm 25 sure I received it within a week.</p>	<p style="text-align: right;">Page 123</p> <p>1 biracial state senate elections using the 2 data you provided for 2022 showed 3 polarization -- racial polarization in 4 voting patterns? 5 MR. TAUNTON: Object to form. 6 A. Yes, they do show. Yes. 7 Q. Okay. Do you have any 8 disagreements with his methodology here? 9 A. Besides the fact that he doesn't 10 think that all the black candidates are 11 Democrats, no. 12 Q. Okay. Let's turn to table two 13 then, which I think you were just 14 mentioning. And it's his analysis of 15 racially polarized voting in the 16 non-biracial state senate elections that 17 you provided. You mentioned that you -- 18 well, I don't want to mischaracterize your 19 -- what is your -- do you have an opinion 20 about this analysis? 21 A. I do. 22 Q. What is your opinion? 23 A. It doesn't make sense. 24 Q. Okay. What about the analysis 25 doesn't make sense?</p>
<p style="text-align: right;">Page 122</p> <p>1 Q. If you could turn to page seven 2 of this report. To the best of your 3 understanding from reading the report, is 4 it your understanding that on pages seven 5 and eight of Dr. Liu's rebuttable, he takes 6 the data that you provided concerning 2022 7 state senate elections and groups those 8 elections into biracial elections in one 9 group and uniraical elections in another 10 group? 11 A. Correct. 12 Q. And that doing that, he finds 13 strong racial polarization only in the 14 biracial elections so when there's a black 15 Democrat and a white Republican, but not 16 strong racial polarization in the uniraical 17 elections when there's a white Republican 18 and a white Democrat? 19 A. I think his analysis of the 20 uniraical elections is problematic. 21 Q. Okay. Let's take this one by 22 one. Let's come back to that. I'm going 23 to definitely ask you about that. Let's 24 start with the biracial elections. Do you 25 agree that Dr. Liu's analysis of the</p>	<p style="text-align: right;">Page 124</p> <p>1 A. So as I read this analysis, in 2 these non -- so in these monoracial state 3 senate elections, about 75 percent of 4 blacks in these elections voted for the 5 Republican candidate. 6 Q. That's your assessment of what 7 this is saying? 8 A. I have not -- I would challenge 9 anybody in 2022 elections to find blacks -- 10 75 percent of any blacks voting for a 11 Republican candidate. 12 Q. You understand that he ran these 13 using your data, correct? 14 A. I do. 15 Q. And have you identified any error 16 in the data that you provided? 17 A. I looked, and I could not find 18 anything, so I don't have an explanation. 19 I did not run this table, so I don't know 20 what he did. Table one using the same data 21 conforms to other ways -- other analyses 22 that have been run. So I have no -- but I 23 will say that if I were presenting this 24 table in a report with my name on it, I 25 would make damn sure it was right, and I</p>

CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
125-128

<p style="text-align: right;">Page 125</p> <p>1 would not present something that doesn't 2 make sense. Because to me, if it's a 3 problem with the data, then that should be 4 identified, and Dr. Liu has the data, and 5 all the data are public data. So it's easy 6 enough to check if I made some kind of 7 inputting error or keying error in the 8 data, but this is not a credible table. 9 Q. If there's a problem with the 10 data here, that would affect all of your 11 analyses about the 2022 state senate 12 elections too, wouldn't it? 13 A. It could. Not necessarily. It 14 depends on where the error is, what the 15 error is and -- it could. 16 Q. What work did you do to verify 17 Dr. Liu's analysis here? 18 A. I did not verify his analysis 19 here. 20 Q. Okay. So your criticism is just 21 based on a gut reaction that you don't find 22 the results to be plausible? 23 A. I don't know if it's a gut 24 reaction. I mean, I have not -- if you can 25 find me a scholarly study or anything that</p>	<p style="text-align: right;">Page 127</p> <p>1 A. Well, it's data given by the 2 State of Alabama. And, again, I'm not -- I 3 could have easily -- I could've made an 4 inputting mistake. I have not found it. 5 If I have, it had not shown up in any 6 other, I think, table that people have used 7 that either Dr. Liu or I have used that 8 data for. Everything else is consistent 9 with what we would expect. So, again, I 10 can't rule it out, but I can't tell you 11 what he did to get this nonplausible table. 12 Q. Did you ask for Dr. Liu's data or 13 code or anything like that in order to 14 check his work? 15 A. No. 16 Q. Okay. 17 A. I just got the report recently. 18 Q. Okay. So the sole basis for you 19 finding his table two not plausible is your 20 general sense that black voters don't tend 21 to vote for Republican candidates; is that 22 right? 23 A. It's not a general sense. It's a 24 finding of the literature. I don't know 25 anyone that would find that plausible.</p>
<p style="text-align: right;">Page 126</p> <p>1 shows that when you have two white 2 candidates, 75 percent of black voters are 3 going to vote for the Republican, then 4 maybe I'd believe it. 5 Q. Well, do you know anything about 6 the racial characteristics of State Senate 7 Districts 12, 21, and 29? 8 A. What do you mean the racial 9 characteristics? 10 Q. The breakdown of voting age or 11 citizen voting age population by race in 12 those districts? 13 A. Yeah. That's in the data set. 14 Q. Okay. Do you recall if these are 15 heavily white districts or if they're -- 16 A. I believe one of them is very 17 heavily white, but I don't recall, like, 18 off the top of my head. 19 Q. Okay. Do you know anything about 20 the turnout in these races? 21 A. That should be in the data set. 22 I mean, if not, we can easily find that 23 data. But, again, this is not my table 24 so... 25 Q. It is your data though, correct?</p>	<p style="text-align: right;">Page 128</p> <p>1 Q. Okay. But you have no 2 statistical basis to make that assertion? 3 A. Not at this time, no. 4 Q. If this is indeed correct, would 5 this show that beyond party race, if the 6 candidate does play a role in voting 7 decisions in state senate elections in 8 Alabama? 9 MR. TAUNTON: Object to form. 10 A. If this is correct, I would say 11 that he has found the one case out of any 12 case in the country that shows this result. 13 And I'm not sure how informative such a 14 dramatic outlier would be to any kind of 15 analysis about general trends or anything 16 else. Again, this is a departure from -- I 17 don't know if I can adequately convey how 18 much of a departure this is from what 19 political scientists have found to be true 20 in studies. So honestly, I would not know 21 what to -- I mean, occasionally you do 22 something, and you get a wonky result. And 23 so you're like, huh. Okay. And so you 24 want to figure out why that is. As opposed 25 to just, oh, yeah, I got this wonky result.</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
129-132

<p style="text-align: right;">Page 129</p> <p>1 Isn't this nice? So I mean, I don't have 2 enough information. I would need a lot 3 more information and need to think about it 4 a lot more to figure it out. 5 Q. Might turnout rates have some 6 role to play here? 7 A. Certainly could. 8 Q. Okay. Is it possible that black 9 turnout is -- voting in uniracial elections 10 is lower? 11 A. To get this kind of result, it 12 would have to be -- it's possible, yes. 13 Q. Okay. 14 A. Even if there was four voters, I 15 don't think you've got three voting for the 16 Republican, but maybe. 17 Q. Okay. 18 (Whereupon, a discussion was held 19 off the record.) 20 Q. Turning further down page eight 21 and then over to page nine in Dr. Liu's 22 rebuttal report, Dr. Liu analyzed three 23 nonpartisan mayoral races, correct? 24 A. Correct. 25 Q. And two of those races were for</p>	<p style="text-align: right;">Page 131</p> <p>1 nonpartisan judicial elections, what we 2 found is that voters are still very much 3 able to identify which candidate is 4 affiliated with which party, even though 5 party cues are on the ballot. What happens 6 is two things; one, they make more 7 mistakes, right. So instead of having, 8 like, 95 percent of Republicans vote for 9 the Republican parties on the ballot, it 10 goes down to, like, 70 percent. It's still 11 significant. 12 The second thing is voters don't 13 vote. They roll off. One, because if you 14 voted straight ticket, your vote doesn't 15 count because it's nonpartisan; and two, 16 because you may not know anything because 17 you don't have the most meaningful cue on 18 the ballot. So are these races nonpartisan 19 in terms of do they not have party ID on 20 the ballot? Sure. Are they nonpartisan 21 and name only in the sense that the 22 candidates and the campaign was very much 23 of a partisan campaign and in a mayoral 24 election, we are more likely to have 25 contact with the candidates and know the</p>
<p style="text-align: right;">Page 130</p> <p>1 mayor of Montgomery 2019 and 2023, and one 2 was a 2020 mayoral race in Decatur, 3 Alabama; is that correct? 4 A. Correct. 5 Q. The results of Dr. Liu's analysis 6 showed starkly racially polarized voting 7 even without partisan cues on the ballot. 8 Do you agree with that? 9 A. Without partisan cues on the 10 ballot, yes, I agree with that. 11 Q. Okay. Does that tell us 12 something at least about the role that race 13 might play above and beyond party in these 14 elections? 15 MR. TAUNTON: Object to form. 16 A. So you've read at least parts of 17 Voters' Verdicts, so you have an idea of 18 where I'm going with nonpartisan elections. 19 There are nonpartisan elections and then 20 there are nonpartisan elections. A lot of 21 nonpartisan elections are nonpartisan in 22 parties endorse candidates, parties 23 advertise for candidates, candidates 24 endorse parties, candidates signal to 25 voters. And so in some of my work on</p>	<p style="text-align: right;">Page 132</p> <p>1 candidates and know their backgrounds and 2 so on, right, because it's a local 3 election? I don't know. 4 So my general sense is that 5 nonpartisan elections are not particularly 6 affective at removing the party cue from 7 voters. And so I'm not convinced that in 8 these mayoral run-off elections -- for 9 example, let's say one of the candidates 10 was a former elected official for the state 11 legislature and now is running for mayor. 12 Everybody knows that that candidate is a 13 Democrat or a Republican. 14 Q. If none of these candidates were 15 former state legislatures, would that 16 affect your opinion? 17 MR. TAUNTON: Object to form. 18 A. Maybe. Again, it depends on the 19 type of campaign, right. Are they running, 20 you know, a campaign with voters where 21 they're endorsed by a political party and 22 sending out mailers and everything, you 23 know. And, again, race, right, is so tied 24 up with party. If you see a black 25 candidate running for mayor, you don't have</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
133-136

<p style="text-align: right;">Page 133</p> <p>1 to have the party ID on there. People will 2 assume that that candidate is a Democrat. 3 Q. In Voters' Verdicts, mayoral 4 elections were one example of a type of 5 race where you argued that nonpartisan 6 races may actually eliminate some partisan 7 cues, correct? 8 MR. TAUNTON: Object to form. 9 A. I probably said that citing the 10 Streb study. It's not anything we 11 analyzed. So, you know, in a lot of 12 mayoral elections, right, at least in our 13 area, it's two members of the same party 14 run, right, because you have one party 15 dominance, right. I mean, I can tell you 16 in Pittsburgh, it's not a nonpartisan 17 election, but if it was, it would be 18 between two Democrats. So I mean, I don't 19 have any data -- well, I was almost 20 certainly citing the Streb, Wright, and 21 Schaffner study. 22 Q. Removing the partisan cue from 23 these mayoral elections in terms of the 24 ballot itself and finding this stark racial 25 polarization in voting, does that provide</p>	<p style="text-align: right;">Page 135</p> <p>1 analysis here that Dr. Liu conducted in 2 terms of racially polarized voting in these 3 mayoral runoffs, correct? 4 A. Not that comes to mind. 5 Q. Okay. Last little portion here 6 before we take a break. Let's turn back to 7 your report. We'll go to page 14 on your 8 report. So in paragraph 26, you write, 9 looking at contested statewide supreme 10 court -- sorry. Looking at contested 11 statewide state supreme court elections 12 from 2000 to 2022, the bivariate 13 correlation between percentage of 14 registered voters who are African American, 15 and the percentage of the vote received by 16 the Democratic candidate is 0.46. If I 17 limit the analysis to 2010 to 2022, it is 18 0.48. This relationship is statistically 19 significant. The higher the percentage of 20 registered voters who are black, the higher 21 percentage of the vote -- of vote for the 22 Democratic candidate. 23 Your analysis here is showing a 24 correlation between percentage of African 25 American voters and votes received by the</p>
<p style="text-align: right;">Page 134</p> <p>1 you anything useful in terms of whether 2 race might've played some role, even if not 3 the dominant role? 4 A. Not in the absence of any 5 additional information. 6 Q. If campaigns were not -- if 7 parties were not endorsing candidates and 8 sending out mailers, would that affect your 9 opinion? 10 A. To the extent that the race -- 11 MR. TAUNTON: Object to form. 12 A. Any of these races would be truly 13 nonpartisan, right, which means the absence 14 of parties, the absence of cues from the 15 candidates and everything else, then that 16 could potentially give us information. 17 Although, again, I would say that if you 18 read a newspaper article and it just has 19 bios of the candidates and one of the 20 candidates is black and one is white, most 21 voters are going to assume that the black 22 candidate is the Democratic candidate. 23 Q. Turning back -- oh, let me just 24 ask one more question about this. You 25 don't have any specific criticisms of this</p>	<p style="text-align: right;">Page 136</p> <p>1 Democratic candidate, correct? 2 A. Correct. 3 Q. Okay. And this is specific to 4 state supreme court races in Alabama, 5 correct? 6 A. Correct. 7 Q. In the 2010 to 20 -- and feel 8 free to flip to the -- I know you have an 9 appendix at the back. Do you agree that 10 two of the three races in the 2010 to 2022 11 period that you analyzed had black 12 Democratic candidates? 13 A. Yes. 14 Q. And does it sound right that 6 of 15 the 11 races from the full 2000 to 2022 16 period had black Democratic candidates? 17 A. Yes, that's right. 18 Q. You didn't break down these 19 patterns of correlation by looking at 20 biracial versus uniraical -- 21 A. I -- 22 Q. -- correct? 23 A. Not in that paragraph, no. 24 Q. Okay. Might that have provided 25 some information about whether racial</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
137-140

<p style="text-align: right;">Page 137</p> <p>1 motivations were at all in play?</p> <p>2 A. I mean, earlier I talk about how</p> <p>3 black candidates for the state supreme</p> <p>4 court do better than white Democratic</p> <p>5 candidates for the state supreme court.</p> <p>6 That is in -- let's see. Yeah, in</p> <p>7 paragraph eight, I talk about the six</p> <p>8 African American candidates, all of whom</p> <p>9 are Democrats. And if you look at</p> <p>10 paragraphs eight and nine, it talks about</p> <p>11 their percentage of voter comparison to the</p> <p>12 white candidates. So I do that there.</p> <p>13 Q. I got that, and I'm going to come</p> <p>14 back -- after lunch, we'll come back and</p> <p>15 talk this specifically. My question was a</p> <p>16 little bit different here. You performed a</p> <p>17 bivariate correlation analysis looking at</p> <p>18 the relationship between percentage of</p> <p>19 black registered voters and vote received</p> <p>20 by the Democratic candidate, correct?</p> <p>21 A. Correct.</p> <p>22 Q. You did not perform separate</p> <p>23 bivariate correlation analysis in which you</p> <p>24 looked at biracial elections versus</p> <p>25 uniraical elections, correct?</p>	<p style="text-align: right;">Page 139</p> <p>1 about there?</p> <p>2 A. No. I mean, there are elections</p> <p>3 that have partisan elections like</p> <p>4 elections, you know, that are at issue</p> <p>5 here. I'm familiar with them in Alabama</p> <p>6 because of previous work, and so I thought</p> <p>7 there would be some useful information.</p> <p>8 Q. How many black candidates have</p> <p>9 won election to the Alabama Supreme Court?</p> <p>10 A. I believe the answer is two. I</p> <p>11 believe it's just Adams and Cook.</p> <p>12 Q. And is it your understanding that</p> <p>13 one of them won election once and the other</p> <p>14 one won election twice?</p> <p>15 A. Correct.</p> <p>16 Q. Okay. And these elections in</p> <p>17 which those two candidates won were --</p> <p>18 occurred during the period of 1982 to 1984;</p> <p>19 is that right?</p> <p>20 A. Correct.</p> <p>21 Q. Okay. Both Oscar Adams and Ralph</p> <p>22 Cook were first appointed to the bench</p> <p>23 before they won election; is that correct?</p> <p>24 A. I believe so.</p> <p>25 Q. So in the elections that they</p>
<p style="text-align: right;">Page 138</p> <p>1 A. I believe that's correct, yes.</p> <p>2 Q. Okay. Would that analysis, if</p> <p>3 there were differences between those two</p> <p>4 elections, potentially tell you something</p> <p>5 about whether race may or may not have</p> <p>6 played some role in -- race of the</p> <p>7 candidate may have played some role in vote</p> <p>8 choice in addition to party?</p> <p>9 MR. TAUNTON: Object to form.</p> <p>10 A. It could.</p> <p>11 Q. Okay.</p> <p>12 MR. ROSBOROUGH: Now is a good</p> <p>13 time for a break.</p> <p>14 (Whereupon, a recess was taken.)</p> <p>15 Q. All right. Dr. Bonneau, I'd like</p> <p>16 to turn to section two of your report,</p> <p>17 Exhibit 1, starting on page three. Why did</p> <p>18 you choose to analyze judicial elections in</p> <p>19 Alabama for this case?</p> <p>20 A. Well, because it's what I know,</p> <p>21 and I thought they had interesting</p> <p>22 information that could potentially shed</p> <p>23 light on the facts in this case.</p> <p>24 Q. Is there any particular</p> <p>25 interesting information you were thinking</p>	<p style="text-align: right;">Page 140</p> <p>1 won, they ran as incumbents, correct?</p> <p>2 A. That would be correct.</p> <p>3 Q. Okay. And as discussed earlier,</p> <p>4 there's a significant incumbency advantage</p> <p>5 in partisan judicial races, correct?</p> <p>6 MR. TAUNTON: Objection to form.</p> <p>7 A. Correct.</p> <p>8 Q. Even during this period of 1982</p> <p>9 to 1994 -- and not ever -- has a black</p> <p>10 candidate won election to the Alabama</p> <p>11 Supreme Court without first being</p> <p>12 appointed, correct?</p> <p>13 A. I believe that's correct.</p> <p>14 Q. Okay. During the same period of</p> <p>15 1982 to 1994 in which these two black</p> <p>16 Democratic justices were appointed and then</p> <p>17 won election, do you know how many white</p> <p>18 Democratic justices won election in the</p> <p>19 Alabama Supreme Court?</p> <p>20 A. During that period of '82 to '94?</p> <p>21 I could find -- I mean, I could find out,</p> <p>22 but I don't know off the top of my head.</p> <p>23 Q. It is your understanding that the</p> <p>24 -- either the entire court -- or the large</p> <p>25 majority of the court were Democrats at the</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
141-144

<p style="text-align: right;">Page 141</p> <p>1 time?</p> <p>2 A. Correct.</p> <p>3 Q. So presumably it's a pretty large</p> <p>4 number in comparison. Does 15 or so sound</p> <p>5 right to you?</p> <p>6 A. No reason to think that's not</p> <p>7 right, sure.</p> <p>8 Q. Okay.</p> <p>9 A. I also don't know how many</p> <p>10 African Americans lost election -- like,</p> <p>11 who ran in primaries or wherever else and</p> <p>12 lost over that time period. It could be</p> <p>13 that Adams and Cook were the only two who</p> <p>14 sought election, which would give context</p> <p>15 to that answer.</p> <p>16 Q. So I guess, do you know then</p> <p>17 whether or not black candidates needed an</p> <p>18 incumbency advantage to win as opposed to</p> <p>19 white candidates?</p> <p>20 MR. TAUNTON: Object to form.</p> <p>21 A. No. Because we don't have any</p> <p>22 black candidates -- as far as I know --</p> <p>23 without an incumbency advantage. And so we</p> <p>24 don't know.</p> <p>25 Q. What analysis for this case did</p>	<p style="text-align: right;">Page 143</p> <p>1 A. Correct.</p> <p>2 Q. Okay. You're not trying to make</p> <p>3 a broader point there about black electoral</p> <p>4 success or a lack thereof in the 80s and</p> <p>5 90s?</p> <p>6 A. Correct.</p> <p>7 Q. Okay. You also analyze the</p> <p>8 performance of Democratic candidates in</p> <p>9 Alabama State Supreme Court election since</p> <p>10 2000, correct?</p> <p>11 A. Correct.</p> <p>12 Q. Okay. And I think in your report</p> <p>13 at five -- on page five I should say,</p> <p>14 paragraph six, you talk a little bit about</p> <p>15 incumbency, and so I guess, is it true that</p> <p>16 during this time period of 2000 to 2022,</p> <p>17 all incumbents won re-election except for</p> <p>18 three; is that right?</p> <p>19 A. Correct.</p> <p>20 Q. The three who lost -- the three</p> <p>21 incumbents who lost re-election were two</p> <p>22 black Democratic candidates and the</p> <p>23 Republican who lost to the white Democratic</p> <p>24 candidate in that same year, correct?</p> <p>25 A. No. The white Republican -- so</p>
<p style="text-align: right;">Page 142</p> <p>1 you do of judicial elections that occurred</p> <p>2 in Alabama between 1982 and 1994?</p> <p>3 A. Like, nothing beyond what's in</p> <p>4 this. Just noting that these two</p> <p>5 candidates, you know, won election those</p> <p>6 years.</p> <p>7 Q. Okay. Is there a reason you</p> <p>8 chose not to analyze black and white</p> <p>9 candidates' success in the Alabama Supreme</p> <p>10 Court from this pre-1982 to, say, 2000</p> <p>11 period?</p> <p>12 A. Just time. It's a long time ago</p> <p>13 and the further out you get, right, the</p> <p>14 less useful -- and during that time we know</p> <p>15 Alabama was undergoing a transition. And</p> <p>16 so I don't think, you know, the payoff was</p> <p>17 worth it.</p> <p>18 Q. On page three, lower down in the</p> <p>19 paragraph when you write that when Alabama</p> <p>20 was a state dominated by the Democratic</p> <p>21 party, African Americans had electoral</p> <p>22 success, are you referring solely to the --</p> <p>23 two state supreme court candidates who --</p> <p>24 Oscar Adams and Ralph Cook who were</p> <p>25 appointed and then won election?</p>	<p style="text-align: right;">Page 144</p> <p>1 Sue Bell Cobb beat Neighbors in 2006. Not</p> <p>2 the same year. That was not in 2000 --</p> <p>3 Q. Not the same year, okay.</p> <p>4 A. But in 2000, the two black</p> <p>5 Democrats lost, but every Democrat lost in</p> <p>6 2000. So the Republicans went 5-0 in 2000</p> <p>7 -- in the elections in 2000.</p> <p>8 Q. Okay. Yep. I see that. I got</p> <p>9 the year wrong there. Okay. So then is it</p> <p>10 true that all incumbents from 2000 to the</p> <p>11 present have won re-election except for two</p> <p>12 black Democratic candidates who lost in</p> <p>13 2000 and the Republican candidate who lost</p> <p>14 to Sue Bell Cobb, the white Democratic</p> <p>15 candidate, in 2006?</p> <p>16 A. Correct.</p> <p>17 Q. Okay.</p> <p>18 A. Again, all of the incumbents --</p> <p>19 right.</p> <p>20 Q. The only Democrat to win election</p> <p>21 in the Alabama Supreme Court since 2000 is</p> <p>22 a white Democrat, correct?</p> <p>23 A. Correct.</p> <p>24 Q. On page six, you write at the</p> <p>25 beginning of paragraph nine, comparing the</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
145-148

<p style="text-align: right;">Page 145</p> <p>1 vote of African American Democratic 2 candidates to the other Democratic 3 candidates in those years shows no evidence 4 of racial bias in voting. 5 What did you mean there? 6 A. I meant that the black Democratic 7 candidates did not perform worse than the 8 white Democratic candidates. 9 Q. Your analysis there was based on 10 total vote for percentage for each 11 candidate; is that right? 12 A. Correct. 13 Q. Okay. You didn't analyze racial 14 voting patterns there? 15 A. No. But I analyzed how well the 16 black candidates did compared to the white 17 candidates. And so if there was racial 18 bias in voting, one would think the black 19 candidates would do worse than the white 20 candidates when, in fact, they did not. 21 They did slightly better. 22 Q. But you do not know how the 23 different racial groups voted in those 24 elections, correct? 25 A. Correct.</p>	<p style="text-align: right;">Page 147</p> <p>1 impossible to win if you don't spend any 2 money -- or if you get dwarfed by your 3 opponent. 4 Q. If black candidates have a harder 5 time raising campaign money, could that 6 affect their electoral prospects? 7 A. It could. 8 Q. In table two, you look at 9 campaign spending across Alabama Supreme 10 Court elections by the specific races, 11 identifying both the race of the candidate 12 and the party of the candidate, correct? 13 A. Correct. 14 Q. What did this analysis tell you? 15 A. What did it tell me? 16 Q. Yeah. Well, let me rephrase it. 17 What, if any, conclusions or opinions did 18 you draw from this table? 19 A. Well, I concluded that African 20 American candidates spend less money than 21 their opponents. But that's true generally 22 for Democratic candidates. All have spent 23 significantly less money than their 24 opponents, including the successful 25 Democratic candidate, Sue Bell Cobb.</p>
<p style="text-align: right;">Page 146</p> <p>1 Q. It could be that black voters 2 voted at a higher rate for black candidates 3 and white voters voted at a higher rate for 4 white candidates even among Democrats, 5 correct? 6 A. Could be. 7 Q. Let's turn to page seven. You 8 write that scholars have shown that 9 campaign spending does provide important 10 information to voters (Bonneau and Hall 11 2009; Hall and Bonneau 2013; Hall 2015) and 12 in an election, it is very difficult to win 13 if there's a large campaign spending 14 deferential. 15 What is the basis for your 16 conclusion that it's very difficult to win 17 if there's a large campaign spending 18 deferential? 19 A. Well, because campaigns require 20 money and resources in order to get their 21 names out to voters. And so if you look at 22 campaign spending and how that affects 23 percentage of vote, while it's not 24 completely determinative, as you can lose, 25 even if you spend the most money, it's</p>	<p style="text-align: right;">Page 148</p> <p>1 Q. I'm going to hand over what I 2 will mark as Exhibit 9. 3 (Plaintiffs' Exhibit Number 9 was 4 marked for identification.) 5 Q. I will represent to you that this 6 takes the data in your table two and breaks 7 it out based on race and then within party 8 race as well. Take as much time as you 9 want to look over it, but let me know when 10 you have a chance if this looks accurate, 11 like, and accurate transcribing of what's 12 in your report to the best of your 13 knowledge. 14 A. I mean, without knowing, like, 15 the races or -- I would have no reason -- 16 like, which corresponds to which, I would 17 have no reason to think that that -- that 18 looks right. 19 Q. Okay. 20 MR. TAUNTON: What's that in the 21 bottom? 22 MR. ROSBOROUGH: So down at the 23 bottom here -- 24 THE WITNESS: Average. 25 MR. ROSBOROUGH: -- that is an</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
149-152

<p style="text-align: right;">Page 149</p> <p>1 average.</p> <p>2 Q. So, yeah -- and feel free if you</p> <p>3 want to take out a calculator and check</p> <p>4 them. But I'll represent that these are --</p> <p>5 the bottom row is the average for each of</p> <p>6 the columns. So, you know, the average</p> <p>7 spending by black candidates is \$335,944,</p> <p>8 whereas white candidates is a 1,300,553 --</p> <p>9 let's say 1.35 million approximately.</p> <p>10 A. Yeah.</p> <p>11 Q. Okay. And then on the other end</p> <p>12 of the table, you see you've got white</p> <p>13 Republicans but there are no black</p> <p>14 Republicans who have run for Alabama</p> <p>15 Supreme Court during this period. Does</p> <p>16 that seem right to you?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. But we do have both white</p> <p>19 Democrats and black Democrats?</p> <p>20 A. Correct.</p> <p>21 Q. Okay. So would you agree that</p> <p>22 there is a similar numerical deferential</p> <p>23 different black Democrats and white</p> <p>24 Democrats with white Democrats on average</p> <p>25 spending approximately \$600,000 more as</p>	<p style="text-align: right;">Page 151</p> <p>1 times much as black Democrats?</p> <p>2 MR. TAUNTON: Object to form.</p> <p>3 A. On average.</p> <p>4 Q. Okay. Whereas on average, white</p> <p>5 Republicans spent not double the amount of</p> <p>6 white Democrats, maybe 1.75 as much,</p> <p>7 something like that?</p> <p>8 A. Sure.</p> <p>9 Q. Okay. What does this, if</p> <p>10 anything, tell you in terms of your</p> <p>11 analysis?</p> <p>12 A. So I would draw a couple caveats</p> <p>13 with averages first of all. Particularly</p> <p>14 with the black Democrats who have half</p> <p>15 those candidates spent less than \$100,000.</p> <p>16 In fact, two of them spent less than</p> <p>17 \$25,000. That, to me, signifies it's not a</p> <p>18 real campaign because that amount of</p> <p>19 spending is incredibly low and definitely</p> <p>20 -- so the average is going to be pulled</p> <p>21 down, right, because of it. So averages</p> <p>22 when you have a small number of cases,</p> <p>23 right, and you have outliers like that,</p> <p>24 right -- so you have three that spent --</p> <p>25 three of the six spent north of 437,000.</p>
<p style="text-align: right;">Page 150</p> <p>1 there is between white Democrats and white</p> <p>2 Republicans with white Republicans spending</p> <p>3 a little over \$600,000 more?</p> <p>4 A. I have white Republicans spending</p> <p>5 1.5 million.</p> <p>6 Q. Right. But it compares to the</p> <p>7 white Democrats. They spend on average --</p> <p>8 A. About 6 --</p> <p>9 Q. A little over \$600,000 more?</p> <p>10 A. Okay.</p> <p>11 Q. And that's a similar gap -- a</p> <p>12 little smaller numerically between white</p> <p>13 and black Democrats, correct?</p> <p>14 A. Yeah, it's similar.</p> <p>15 Q. Okay. And in terms of, sort of,</p> <p>16 percentage deferential, the gap is actually</p> <p>17 much larger between white and black</p> <p>18 Democrats as there is between white</p> <p>19 Democrats and white Republicans, correct?</p> <p>20 A. When we're looking at averages,</p> <p>21 yes.</p> <p>22 Q. Looking at averages, exactly. So</p> <p>23 on average, white Democrats spent, what,</p> <p>24 not quite three times as much, but maybe</p> <p>25 something in the order of two and a half</p>	<p style="text-align: right;">Page 152</p> <p>1 So it's really -- but there's two</p> <p>2 categories of black Democrats these numbers</p> <p>3 tell me. So I think that's the first. I</p> <p>4 think it also would be helpful here to know</p> <p>5 the years of the spending. Like, was a lot</p> <p>6 of this spending done in the early part,</p> <p>7 like, in the 2000s? Which if you look and</p> <p>8 see Ralph Cook was 2000s, John England was</p> <p>9 2000s, Gwendolyn Kennedy, 13,000 spent in</p> <p>10 2006, which is not a competitive amount.</p> <p>11 And then later on, the other small numbers</p> <p>12 are after the shift has been complete. And</p> <p>13 so aggregating these things over that</p> <p>14 20-year period, I think, is a little</p> <p>15 misleading.</p> <p>16 And so, yeah, that's what I would</p> <p>17 say. Whereas, if we look at Republican</p> <p>18 spending over the entire time, right,</p> <p>19 you're seeing -- in fact, some races in</p> <p>20 2000, the Republicans spent more than they</p> <p>21 did in 2018. But you don't see that,</p> <p>22 right, with the Democrats. And so the</p> <p>23 Democrats, their spending in their</p> <p>24 competitors has declined over time.</p> <p>25 Q. Okay. Would it be useful to look</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
153-156

<p style="text-align: right;">Page 153</p> <p>1 at the same election years in comparison 2 when you have both white and black 3 Democrats and look at the differences? 4 A. Sure. Like in 2000 and 2006? 5 Q. Exactly. So let's take a look 6 back at your report on page seven. In the 7 year 2000, you had two white Democrats and 8 two black Democrats running, correct? 9 A. Correct. 10 Q. The black Democrats spent 11 respectively \$437,000 and change and 12 \$500,000 and change, correct? 13 A. Correct. 14 Q. So the average between the two 15 there -- 16 A. Yeah. 17 Q. -- what, 465, something like 18 that? 19 A. Sure. 20 Q. Okay. And the white Democrats 21 that year spent \$715,000 and change and 22 \$1.09 million in change, correct? 23 A. Correct. 24 Q. Okay. Does that tell you 25 anything relevant or useful about -- within</p>	<p style="text-align: right;">Page 155</p> <p>1 England, another black Democrat, who spent 2 about \$966,000, and then you have Sue Bell 3 Cobb, who's a white Democrat, who spent 4 about -- a little under -- let's say spent 5 about \$2.47 million. And then Al Johnson, 6 a white Democrat, who spent \$265,000. 7 A. Correct. 8 Q. Do you see racial deferentials 9 there comparing candidates there within the 10 same year? 11 A. No. 12 Q. You don't see any racial 13 deferentials? 14 A. It tells me that Gwendolyn 15 Kennedy did not run as a real campaign. I 16 have no idea who she was or what her 17 background was or if she was a serious 18 candidate. But the fact that John England 19 spent almost a million dollars and 20 significantly outspent Al Johnson, who's a 21 white Democrat, and given the amount of 22 money, how far below any other amount 23 Gwendolyn Kennedy's campaign is, I just 24 don't think that's a valid, you know, point 25 of comparison.</p>
<p style="text-align: right;">Page 154</p> <p>1 the same party -- these deferentials and 2 campaign spending based on race? 3 A. It tells me that black Democrats 4 spent less money than the white Democrats, 5 which is interesting because in paragraph 6 nine, it turns out those black Democrats 7 actually got more votes -- a higher 8 percentage of the vote than the white 9 Democrats did. And so, yeah, I think they 10 perform better with spending less money. 11 Q. Do you have any views about 12 why -- well, let's turn to -- there's 13 another, I think, election where we can 14 make a comparison which is 2006. 15 A. Correct. 16 Q. Okay. So in 2006, once again, 17 you've got two black Democrats and two 18 white Democrats running? 19 A. Uh-huh. 20 Q. All right. And you've got -- 21 there you've got Gwendolyn Kennedy spent 22 about \$13,000; is that correct? 23 A. That is correct. 24 Q. Okay. And that's -- she's a 25 black Democrat. And you've got John</p>	<p style="text-align: right;">Page 156</p> <p>1 Q. Okay. If you take Gwendolyn 2 Kennedy out of the equation, you have a 3 white candidate spending about \$265,000 and 4 a white candidate spending about 5 \$2.47 million? 6 A. Uh-huh. 7 Q. Average of that would be what? 8 A. I don't know if an average is 9 meaningful in two candidates, right. 10 Because on the other side, we only have 11 one, John England spending almost one 12 million dollars. I think we can say Sue 13 Bell Cobb was a prolific fundraiser and 14 raised a lot of money partially probably 15 because she had to go against Neighbors who 16 spent 4.6 million. And John England ran a 17 very well-financed campaign. One million 18 dollars spent, right, is a pretty good 19 amount. And he ultimately was not 20 successful. Al Johnson, a white Democrat, 21 raised the least amount. So with those 22 three, I don't see any -- it's not clear to 23 me how race would be a -- now, if John 24 England was last and had, you know, raised 25 a significant amount less, then maybe I'd</p>

CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
157-160

<p style="text-align: right;">Page 157</p> <p>1 conclude something different.</p> <p>2 Q. Now, when you were analyzing</p> <p>3 these in terms of party, did you remove</p> <p>4 candidates like Anita Kelly, Donna Wesson</p> <p>5 Smalley, and Gwendolyn Kennedy who raised</p> <p>6 under \$100,000?</p> <p>7 A. No.</p> <p>8 Q. Why not?</p> <p>9 A. Because it's real data. I mean,</p> <p>10 so I don't believe in excluding data that</p> <p>11 exists. I think that data tells us</p> <p>12 something.</p> <p>13 Q. Okay.</p> <p>14 A. It may not tell us something</p> <p>15 about the role of race or whatever else,</p> <p>16 but for me, it tells me that Gwendolyn</p> <p>17 Kennedy ran an inept campaign. That's</p> <p>18 useful, right, other than just excluding</p> <p>19 it, right. Then we have all these</p> <p>20 questions of why'd you exclude this? It's</p> <p>21 the same thing. So I'd rather be</p> <p>22 transparent and include everything. The</p> <p>23 same thing if you look at 2018. So Anita</p> <p>24 Kelly raised not much money, but neither</p> <p>25 did Robert Vance. \$86,000 for a statewide</p>	<p style="text-align: right;">Page 159</p> <p>1 Q. So let me ask you: Does this --</p> <p>2 is it your view that this chart tells us</p> <p>3 something useful about party but nothing</p> <p>4 useful about race?</p> <p>5 A. I think -- right, I think this</p> <p>6 table shows that Democrats are outspent by</p> <p>7 Republicans, and that this is true whether</p> <p>8 the Democrats are black or Democrats are</p> <p>9 white. And that if we look at, you know,</p> <p>10 the comparisons, occasionally we see black</p> <p>11 Democrats raising less money than white</p> <p>12 Democrats. On occasion, you see the</p> <p>13 opposite. And so there's no real -- it's a</p> <p>14 small number of elections. And so it's</p> <p>15 hard to discern a pattern in a small number</p> <p>16 of elections. But I don't think using</p> <p>17 averages when, you know, you take out one</p> <p>18 in an average, it's going to completely,</p> <p>19 you know, skew things the other way. It's</p> <p>20 just not an accurate -- I don't think it's</p> <p>21 the best way to look at this data.</p> <p>22 Q. The only black Democrat who</p> <p>23 raised more money than a white Democrat in</p> <p>24 a given year was John England, correct, in</p> <p>25 2006?</p>
<p style="text-align: right;">Page 158</p> <p>1 race is not a large sum of money. And, in</p> <p>2 fact, that was 2018. Vance raised slightly</p> <p>3 more than Donna Wesson Smalley did, 74,000.</p> <p>4 So, you know, both of those were incredibly</p> <p>5 underfunded. And, in fact, as a</p> <p>6 percentage, Donna Wesson Smalley's</p> <p>7 percentage of how much was raised by her</p> <p>8 opponent is greater than Vance with Tom</p> <p>9 Parker. So if we're looking at, like, a</p> <p>10 percentage of money raised or whatever</p> <p>11 else, Smalley, the black candidate did</p> <p>12 better than Vance.</p> <p>13 Q. Is there sort of a threshold at</p> <p>14 which you would say based on the amount</p> <p>15 spent that this isn't a real campaign?</p> <p>16 A. Not a threshold, but I think a</p> <p>17 comparison to others. And so when you look</p> <p>18 at all the other elections around, and you</p> <p>19 see one that's -- or two figures that are</p> <p>20 just drastically out of whack -- look, if</p> <p>21 everyone was making 50,000 and one dude</p> <p>22 spent 2.5 million, I would say that</p> <p>23 spending's out of whack. And so it's a lot</p> <p>24 more about the context of what the</p> <p>25 candidates are doing in the race.</p>	<p style="text-align: right;">Page 160</p> <p>1 A. That is correct.</p> <p>2 Q. Who raised more than Al Johnson</p> <p>3 but far less than Sue Bell Cobb?</p> <p>4 A. Correct.</p> <p>5 Q. Okay. But in all the other</p> <p>6 cases, black Democrats raised less money</p> <p>7 than white Democrats?</p> <p>8 A. Correct. But they also performed</p> <p>9 better electorally in terms of percentage</p> <p>10 of the vote.</p> <p>11 Q. Right. This chart though is just</p> <p>12 looking at campaign spending, correct?</p> <p>13 A. That chart is, yes.</p> <p>14 Q. Okay.</p> <p>15 A. But it connects back to, you</p> <p>16 know, the discussion in nine and -- about</p> <p>17 percentage in votes.</p> <p>18 Q. Okay. Well, let's go ahead and</p> <p>19 move on to that actually. It's a good</p> <p>20 transition. Turn to page eight and nine,</p> <p>21 get past this chart and look at -- starting</p> <p>22 in paragraph 11.</p> <p>23 A. Okay.</p> <p>24 Q. Okay. So here you look at the</p> <p>25 relationship between the percentage of the</p>

CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
161-164

<p style="text-align: right;">Page 161</p> <p>1 vote received by the Democratic candidate</p> <p>2 in a county and the percentage of</p> <p>3 registered voters who are African American</p> <p>4 in that county in a bivariate regression;</p> <p>5 is that right?</p> <p>6 A. That is correct.</p> <p>7 Q. Okay. And you used registration</p> <p>8 rate rather than turnout rate for black</p> <p>9 voters, correct?</p> <p>10 A. Correct.</p> <p>11 Q. And there can be differences</p> <p>12 between registration and turnout rates in</p> <p>13 terms of racial groups, correct?</p> <p>14 A. Sure.</p> <p>15 Q. Okay. You didn't account for</p> <p>16 that in your analysis here, correct?</p> <p>17 A. No. This is about registered</p> <p>18 voters.</p> <p>19 Q. Okay. And this shows a</p> <p>20 correlation between African American voters</p> <p>21 and votes for Democratic candidates in</p> <p>22 state supreme court elections?</p> <p>23 A. Correct.</p> <p>24 Q. You note -- skipping down a</p> <p>25 couple paragraphs to 13 -- in a</p>	<p style="text-align: right;">Page 163</p> <p>1 Q. Okay. And, again, here, you</p> <p>2 didn't analyze how the different racial</p> <p>3 groups voted, correct?</p> <p>4 A. Correct.</p> <p>5 Q. And you don't know turnout by</p> <p>6 race?</p> <p>7 A. Correct.</p> <p>8 Q. And you didn't conduct a racially</p> <p>9 polarized voting analysis, correct?</p> <p>10 A. Correct.</p> <p>11 Q. Okay. Could this deferential of</p> <p>12 performance be that black voters are more</p> <p>13 likely to vote for black Democrats than</p> <p>14 white Democrats? Could that be a reason</p> <p>15 why black candidates perform better?</p> <p>16 A. Could black Democrats are more</p> <p>17 likely to vote for black candidates? Sure.</p> <p>18 Q. Okay. I'd like to switch gears</p> <p>19 to the Alabama -- section three, Alabama</p> <p>20 Legislative Elections.</p> <p>21 A. Okay.</p> <p>22 Q. So in paragraph 14, you write</p> <p>23 that you examined the 2022 elections to the</p> <p>24 Alabama House of Representatives using the</p> <p>25 same methods and techniques as you did for</p>
<p style="text-align: right;">Page 162</p> <p>1 multivariate regression model including</p> <p>2 both of the percentage of the registered</p> <p>3 black population and whether the losing</p> <p>4 state supreme court candidate was black as</p> <p>5 independent variables, African American</p> <p>6 candidates performed 4.3 percentage points</p> <p>7 better than white candidates.</p> <p>8 Walk me through a little bit of</p> <p>9 what analysis you were conducting there</p> <p>10 with that multivariate regression model.</p> <p>11 A. Sure. So the dependent variable</p> <p>12 is percentage of the vote, and we're trying</p> <p>13 to explain that, right. And so above, I</p> <p>14 talk about how Democratic percentage of</p> <p>15 vote goes up depending upon the amount of</p> <p>16 registered voters for African American.</p> <p>17 And so I added to that analysis a variable</p> <p>18 as to whether or not the losing supreme</p> <p>19 court candidate was black as well. And</p> <p>20 what we find then when you take into</p> <p>21 account the race of the candidate as well</p> <p>22 as the percentage of the voters who are</p> <p>23 African American, that African American</p> <p>24 candidates perform 4.3 percentage points</p> <p>25 better than white candidates.</p>	<p style="text-align: right;">Page 164</p> <p>1 the state court elections, and you found</p> <p>2 similar results. Black Democrats who lost</p> <p>3 contested seats for the State House</p> <p>4 averaged 29.1 percent of the vote in the</p> <p>5 counties in which they ran, while white</p> <p>6 Democrats averaged 23.7 percent. And you</p> <p>7 note then on the -- in the next paragraph,</p> <p>8 this is also true in the 2022 elections to</p> <p>9 the Alabama State Senate: Black Democrats</p> <p>10 who lost contested seats averaged 32.1</p> <p>11 percent of the vote in the counties in</p> <p>12 which they ran, while white Democrats</p> <p>13 averaged 24.9 percent.</p> <p>14 Why did you choose to analyze</p> <p>15 only contested seats in which black</p> <p>16 Democrats lost the election?</p> <p>17 A. No. I analyzed contested seats</p> <p>18 where Democrats lost the election. So</p> <p>19 these are seats, right, where you have</p> <p>20 Democrats -- black Democrats and white</p> <p>21 Democrats, all of whom lost.</p> <p>22 Q. Okay. Let me then re-ask --</p> <p>23 rephrase the question -- ask a different</p> <p>24 question. Why did you analyze only seats</p> <p>25 that Democrats lost?</p>

CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
165-168

<p style="text-align: right;">Page 165</p> <p>1 A. Well, because one of the 2 arguments in this case is that African 3 Americans are unable to elect voters of -- 4 candidates of their choice. And so if 5 Democrats are winning, those aren't 6 particularly relative to that claim, right, 7 because those are cases where the 8 candidates of choice are actually winning 9 elections. And so then I looked at races 10 where the Democrats lost because these are 11 races where that claim is potentially 12 plausible. And so I compare how black 13 Democrats -- or how black Democrats do in 14 districts where Democrats lose and win 15 districts that are Republican. 16 Q. Why did you choose to analyze 17 this at the county level? 18 A. Well, because that's -- I mean, 19 because if you get into house districts, 20 right, sometimes counties are split, and 21 then you get into certain precincts and 22 getting down into the precinct level 23 analysis, I just did not have the chance to 24 -- so I thought county was an appropriate 25 surrogate, if you will.</p>	<p style="text-align: right;">Page 167</p> <p>1 A. Not in this analysis, no. 2 Q. All right. If black Democrats 3 ran on average in districts with higher 4 percentages of black voters, that would 5 very likely be a reason for them obtaining 6 higher voting percentages, right? 7 MR. TAUNTON: Object to form. 8 A. Correct. It would also make it 9 more likely they would win. And so -- and 10 that's why I excluded the races where -- 11 and if you look at some of these figures -- 12 and we were talking about averaging 30 13 percent of the vote and 24 percent of the 14 vote for Democrats. These are heavily 15 Republican districts. 16 Q. Right. Absolutely. But even 17 within this pool of districts -- 18 A. Sure. 19 Q. -- if black Democrats were more 20 likely to run in districts with higher 21 percentages of black voters, that might be 22 a reason why they're obtaining higher 23 voting percentages, correct? 24 A. Correct. 25 Q. Okay. You also write that black</p>
<p style="text-align: right;">Page 166</p> <p>1 Q. You didn't analyze -- or strike 2 that. 3 Your analysis here does not 4 account for the percentage of black voters 5 in these different counties or districts, 6 correct? 7 A. Not -- that's correct. 8 Q. Would it surprise you if there 9 were very different percentages of black 10 voters in the races in which black 11 Democrats won as opposed to the races in 12 which Democrats lost? 13 A. No, I'm -- 14 MR. TAUNTON: Object to the form. 15 A. -- not surprised. Given the 16 identification of African Americans to the 17 Democratic party, that would not surprise 18 me. 19 Q. Okay. And you say that basically 20 the gist of this is more black voters means 21 more Democratic votes, correct? 22 A. Correct. 23 Q. Okay. But, again, you didn't 24 control for the racial composition of the 25 counties, correct?</p>	<p style="text-align: right;">Page 168</p> <p>1 Democrats perform better when they 2 challenge white Republicans than white 3 Democrats -- 4 A. Right. 5 Q. -- right? 6 A. That's a conclusion of -- 16 is a 7 conclusion of 14 and 15. 8 Q. Okay. Would you agree that in -- 9 at least in many parts of Alabama, black 10 voters make up a significant portion of the 11 Democratic voting base? 12 A. Yes. 13 Q. So could your conclusion that 14 black Democrats perform better when they 15 challenge white Republicans than white 16 Democrats do mean that black voters prefer 17 black candidates to white candidates even 18 within party? 19 A. That could be, sure. 20 Q. And in this analysis, you didn't 21 analyze why black candidates perform 22 better, correct? 23 A. Correct. 24 Q. Okay. You go on next to discuss 25 a few specific races in paragraph 17, 18</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
169-172

<p style="text-align: right;">Page 169</p> <p>1 and 19; is that right?</p> <p>2 A. That is.</p> <p>3 Q. Okay. You state in paragraph 16</p> <p>4 that it is important to remember that in</p> <p>5 state legislative races, unlike statewide</p> <p>6 races, the electorate and candidates for</p> <p>7 each seat are unique.</p> <p>8 What did you mean by that?</p> <p>9 A. I mean that when you're looking</p> <p>10 at state legislative races, you don't have</p> <p>11 the same candidates in each district,</p> <p>12 whereas statewide races, it's the same</p> <p>13 candidates in every precinct, every county,</p> <p>14 every district of the state. It's not true</p> <p>15 with state legislative races. And so it's</p> <p>16 hard to compare across state -- it's hard</p> <p>17 to compare results across state legislative</p> <p>18 districts because of these differences and</p> <p>19 these idiosyncrasies where you don't have</p> <p>20 them in statewide races.</p> <p>21 Q. And you believe that racial</p> <p>22 polarization in a primary is only a sign of</p> <p>23 minority voters' preference for one</p> <p>24 candidate relative to the other choices and</p> <p>25 not necessarily a signal of how much</p>	<p style="text-align: right;">Page 171</p> <p>1 A. Correct.</p> <p>2 Q. Do you happen to know whether</p> <p>3 that's black total population or black</p> <p>4 voting or citizen voting age population?</p> <p>5 A. Not off the top of my head.</p> <p>6 Q. Okay. And you note that in the</p> <p>7 Democratic primary, a white Democratic</p> <p>8 candidate defeated a black Democratic</p> <p>9 candidate with the white candidate, Philip</p> <p>10 Ensler, receiving over 65 percent of the</p> <p>11 vote against the black candidate, Malcolm</p> <p>12 Calhoun.</p> <p>13 What, if any, conclusions do you</p> <p>14 draw from this specific race?</p> <p>15 A. Well, I say that while the data</p> <p>16 can't tell us why voters of HD74 selected</p> <p>17 the candidate they did, they indicate that</p> <p>18 the race of the candidate was not a factor</p> <p>19 in an African American losing the</p> <p>20 Democratic primary.</p> <p>21 Q. How do you rule out race</p> <p>22 completely as a factor in this race?</p> <p>23 A. Well, because you have a majority</p> <p>24 black district that selected a white</p> <p>25 candidate.</p>
<p style="text-align: right;">Page 170</p> <p>1 minority voters like the preferred</p> <p>2 candidate in an absolute sense, correct?</p> <p>3 MR. TAUNTON: Object to the form.</p> <p>4 A. Yeah, I believe that's actually a</p> <p>5 quote from the Elmendorf, Quinn, Abrajano</p> <p>6 article. I'm not that smart to say it</p> <p>7 though.</p> <p>8 Q. You also testified earlier today</p> <p>9 I believe -- and tell me if I'm getting</p> <p>10 this wrong, but that you are careful about</p> <p>11 ascribing a more general finding to a</p> <p>12 specific case because the context may be</p> <p>13 different?</p> <p>14 A. Correct. You know, you're</p> <p>15 looking for a piece of evidence to put</p> <p>16 together a coherent puzzle, and some pieces</p> <p>17 are more or less valuable, some fit and</p> <p>18 some don't. And so we don't want to</p> <p>19 overgeneralize from individual cases, but</p> <p>20 it's also important to, you know, see if we</p> <p>21 can learn something from them.</p> <p>22 Q. Okay. So let's look at paragraph</p> <p>23 17. There, you discuss House District 74</p> <p>24 which you discuss briefly in 2022 that the</p> <p>25 district became 55 percent black, correct?</p>	<p style="text-align: right;">Page 172</p> <p>1 Q. You don't know though, for</p> <p>2 instance, if the vast majority of white</p> <p>3 Democrats voted for the white candidate and</p> <p>4 black Democrats split their vote between</p> <p>5 the two candidates fairly evenly resulting</p> <p>6 in a win?</p> <p>7 A. I do not, but if that is the</p> <p>8 case, then that tells me that the voters,</p> <p>9 right, selected the candidates based on the</p> <p>10 candidates themselves. But, no, we don't</p> <p>11 have any information on that breakdown.</p> <p>12 Q. Okay. If that were the case and</p> <p>13 there was a much larger percentage of white</p> <p>14 voters voting for the white Democrat in the</p> <p>15 primary than black voters voting for the</p> <p>16 white candidate, would that tell you</p> <p>17 anything about race?</p> <p>18 A. I mean, maybe, but the example</p> <p>19 you gave was, like, half black candidates</p> <p>20 voting for Calhoun and then half black</p> <p>21 voters voted for Ensler. That tells me the</p> <p>22 black community was split about which</p> <p>23 candidate they thought best represented</p> <p>24 their interests.</p> <p>25 Q. But in that scenario, the white</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
173-176

<p style="text-align: right;">Page 173</p> <p>1 community of Democrats was not split and 2 voted for the Democratic candidate, let's 3 say, by 90 to 10? 4 A. Well, we would have to see how 5 many voters there were, right. It could be 6 they had ten voters and nine of them voted 7 -- right. And so without knowing, you 8 know, what percentage of the voters and 9 turnout and everything else, it would be 10 hard to say. We'd need more information. 11 Q. So it's hard to draw much of a 12 general conclusion at all from this one 13 specific race; is that fair? 14 A. I think that's true for any one 15 specific race. 16 Q. Okay. And, again, here, you 17 didn't perform statistical analysis of the 18 reasons for the vote choice, correct? 19 MR. TAUNTON: Object to form. 20 A. I don't believe we can know the 21 reasons from the vote choice. 22 Q. Okay. You didn't analyze turnout 23 by race on here, correct? 24 A. I did not. 25 Q. Okay. Do you have any -- if this</p>	<p style="text-align: right;">Page 175</p> <p>1 some racial differences in turnout in this 2 election? 3 A. It seems like a very small 4 difference. I'll point out that he also 5 conducted his analysis using my data which 6 led to table two. So, you know, again, I 7 don't know what to make of his numbers 8 there. 9 Q. Okay. Fair enough. Well, 10 actually table two he analyzed state senate 11 elections. This is a state house race. 12 A. Right. But it still comes from 13 my data -- my state house data. 14 Q. Okay. Okay. 15 A. But, yeah. I mean, I would say a 16 two percent turnout is not a difference -- 17 does not strike me as a huge difference. 18 Q. Would you qualify this in general 19 as a low turnout election? 20 A. Oh, sure. 21 Q. Okay. Does that make it harder 22 to draw broader inferences about this 23 election if the turnout was, say, less than 24 ten percent? 25 A. It depends. I mean, so is it</p>
<p style="text-align: right;">Page 174</p> <p>1 was an extremely low turnout race, would 2 that reduce the impact of any findings for 3 the race? 4 A. Maybe. I'd want to know if it 5 was turnout across different groups. I'd 6 want to know if it's low turnout compared 7 -- compared to what? You know, compared to 8 other similar situated races? Compared to 9 previous in that district? Compared to -- 10 so, you know, it's possible. 11 Q. Okay. Let's just -- we're going 12 to come back to your report in a second. 13 But let's flip over to Dr. Liu's rebuttal 14 report quickly which is -- 15 A. 8. 16 Q. Yes, thank you. 8. And turn to 17 page eight. So Dr. Liu here notes that he 18 performed an ecological inference analysis 19 and found that black turnout was as low as 20 only five percent in that election, where 21 the white turnout was slightly higher at 22 7.1 percent, and other turned out at more 23 than 11 percent. 24 Would you consider -- well, 25 number one, does this suggest there are</p>	<p style="text-align: right;">Page 176</p> <p>1 representative of elections where turnout 2 is 40 percent? Almost certainly not. Is 3 it reflective of elections that are -- also 4 have turnout around that number? Maybe. 5 And so it depends on what we're comparing 6 it to. 7 Q. Okay. There are candidate 8 specific factors that could've influenced 9 vote choice in this election as well, 10 correct? 11 A. Absolutely. 12 Q. If the white candidate here was a 13 top advisor for the black mayor of 14 Montgomery, could that have affected vote 15 choice? 16 A. Sure. If -- yeah, if that was -- 17 if the campaign focused on that, and that 18 was well-known, sure. 19 Q. If the black candidate had lost 20 the previous Democratic primary runoff to a 21 black candidate, could that have played a 22 role here? 23 A. If the candidate was a prior 24 loser, sure. 25 Q. Campaign spending could've played</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
177-180

<p style="text-align: right;">Page 177</p> <p>1 a role here?</p> <p>2 A. Absolutely.</p> <p>3 Q. Okay. And you sat here that the</p> <p>4 data cannot tell us the reasons why the</p> <p>5 voters in House District 74 selected the</p> <p>6 candidate they did, correct?</p> <p>7 A. Correct.</p> <p>8 Q. So the sole basis for your</p> <p>9 conclusion that race of the candidate was</p> <p>10 not a factor in this primary, it was the</p> <p>11 fact that a white candidate beat a black</p> <p>12 candidate; is that right?</p> <p>13 MR. TAUNTON: Object to form.</p> <p>14 A. Sure.</p> <p>15 Q. Did you analyze any other similar</p> <p>16 Democratic primaries for your report?</p> <p>17 A. No. If they're not in the</p> <p>18 report, I did not analyze them.</p> <p>19 Q. Okay. Let's move on to the next</p> <p>20 paragraph here, paragraph 18.</p> <p>21 A. Yep.</p> <p>22 Q. You discussed the candidacy and</p> <p>23 election of Kenneth Paschal -- might be</p> <p>24 pronouncing it wrong -- who you note became</p> <p>25 the first black Republican to win election</p>	<p style="text-align: right;">Page 179</p> <p>1 issues in this case.</p> <p>2 Q. It's also a pretty unusual case,</p> <p>3 isn't it? You mentioned that this is the</p> <p>4 first black Republican to win election to</p> <p>5 the State House since reconstruction.</p> <p>6 A. Yes, it's very unusual.</p> <p>7 Q. Okay. Are you aware of any black</p> <p>8 Republicans who have won election to the</p> <p>9 state senate since reconstruction?</p> <p>10 A. I am not.</p> <p>11 Q. Okay. It's possible that there</p> <p>12 are differences in white Republican voting</p> <p>13 patterns in Shelby County versus the</p> <p>14 Montgomery or Huntsville area; is that</p> <p>15 fair?</p> <p>16 MR. TAUNTON: Objection to form.</p> <p>17 A. It's possible, sure.</p> <p>18 Q. Is there any significance to you</p> <p>19 that Representative Paschal is the first</p> <p>20 black Republican to win election in a State</p> <p>21 House race since reconstruction in terms of</p> <p>22 the utility of this as an example?</p> <p>23 MR. TAUNTON: Objection to form.</p> <p>24 A. I think it's an example. It's a</p> <p>25 recent example, 2021. Is it a one-off? I</p>
<p style="text-align: right;">Page 178</p> <p>1 to the State House since reconstruction.</p> <p>2 In doing so, he defeated a white Republican</p> <p>3 in the primary and won 74.7 percent of the</p> <p>4 vote against a white Democrat in the</p> <p>5 general election.</p> <p>6 Do you know what area of the</p> <p>7 state this district is in?</p> <p>8 A. I believe it's Shelby County, but</p> <p>9 I'm not entirely sure.</p> <p>10 Q. Okay. Shelby County is not</p> <p>11 either in the Montgomery or the Huntsville</p> <p>12 area, correct?</p> <p>13 A. I believe it's a suburb of</p> <p>14 Birmingham. Alabama geography here.</p> <p>15 Q. So this race has limited value in</p> <p>16 telling you anything about the voting</p> <p>17 patterns in the Montgomery or Huntsville</p> <p>18 region; is that fair?</p> <p>19 MR. TAUNTON: Objection to form.</p> <p>20 A. Again, it's an illustrative case.</p> <p>21 I would love to have in the Montgomery area</p> <p>22 or the Huntsville area a race like this to</p> <p>23 analyze, but you got to play with the</p> <p>24 players you got. So I thought it was a</p> <p>25 useful case to illustrate some of the</p>	<p style="text-align: right;">Page 180</p> <p>1 mean, part of the -- we don't know. Part</p> <p>2 of the issue is there are so few African</p> <p>3 Americans who run as Republicans, so, you</p> <p>4 know, in order to get enough cases to be</p> <p>5 able to say anything more definitive other</p> <p>6 than this, you know, shows that things are</p> <p>7 possible, you know, it's going to be a long</p> <p>8 time probably.</p> <p>9 Q. Is the fact that he is the first</p> <p>10 black Republican to win a State House race</p> <p>11 since reconstruction indicative of the fact</p> <p>12 that race may still play a role in voting</p> <p>13 decisions in Alabama?</p> <p>14 MR. TAUNTON: Objection to form.</p> <p>15 A. Maybe. Again, we'd have to know</p> <p>16 how many, you know, black Republicans have</p> <p>17 tried and lost. You know, and particularly</p> <p>18 not getting out of the primary and so on.</p> <p>19 So this one case doesn't necessarily</p> <p>20 indicate that, but, yeah.</p> <p>21 Q. Okay. And here you didn't look</p> <p>22 at the turnout in these races?</p> <p>23 A. Correct.</p> <p>24 Q. Or and you didn't look at the</p> <p>25 turnout biracial group?</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
181-184

<p style="text-align: right;">Page 181</p> <p>1 A. Correct.</p> <p>2 Q. Okay. Would it be useful if</p> <p>3 there was another biracial primary in the</p> <p>4 last couple of years -- biracial Republican</p> <p>5 primary to know information about that</p> <p>6 race?</p> <p>7 A. I think the more cases we have,</p> <p>8 the more -- the better able we are to draw</p> <p>9 inferences or conclusions about trends and</p> <p>10 everything else.</p> <p>11 Q. Okay. I want to turn back to the</p> <p>12 Liu rebuttal at page three. In the second</p> <p>13 full paragraph -- second paragraph of page</p> <p>14 three, Dr. Liu notes that there was a</p> <p>15 Republican primary this year, 2024, in</p> <p>16 Congressional District 2 with eight</p> <p>17 candidates where four of the candidates</p> <p>18 were white and four of the candidates were</p> <p>19 black.</p> <p>20 Were you aware of this race?</p> <p>21 A. Vaguely.</p> <p>22 Q. Okay. Assuming he's right that</p> <p>23 the four black candidates finished in</p> <p>24 fifth, sixth, seventh, and eighth place and</p> <p>25 received together only a little over six</p>	<p style="text-align: right;">Page 183</p> <p>1 MR. TAUNTON: Object to form.</p> <p>2 A. Well, I think we've established</p> <p>3 that because it's one of the things we want</p> <p>4 to look at.</p> <p>5 Q. Okay. Might this show -- well,</p> <p>6 let me move on from that. In the next</p> <p>7 paragraph -- sorry. In the next sentence,</p> <p>8 Dr. Liu notes a 2024 biracial Republican</p> <p>9 primary for Montgomery County Commission</p> <p>10 District 3 in which -- and this is the</p> <p>11 white candidate won with over 80 percent of</p> <p>12 the votes cast.</p> <p>13 Does that affect your opinions at</p> <p>14 all about the utility of the Paschal race?</p> <p>15 MR. TAUNTON: Objection to form.</p> <p>16 A. I think this is another example</p> <p>17 of a black candidate running -- again, we</p> <p>18 don't know anything about the quality of</p> <p>19 the candidates. Was the -- was this Justin</p> <p>20 Castanza? Was he incumbent? I mean, so</p> <p>21 absent -- it's a data point that's worth</p> <p>22 looking into and seeing what information</p> <p>23 there is to learn from.</p> <p>24 Q. Is the Paschal race of any more</p> <p>25 utility than either of these races for your</p>
<p style="text-align: right;">Page 182</p> <p>1 percent of the total vote, does that carry</p> <p>2 any relevance to your opinions about the</p> <p>3 Paschal race?</p> <p>4 MR. TAUNTON: Objection to form.</p> <p>5 A. No, not in an eight-person race.</p> <p>6 I mean, at that point you're -- I mean, no,</p> <p>7 I would say. You know, you have eight</p> <p>8 candidates, you have four black candidates</p> <p>9 who lost. You also have three white</p> <p>10 candidates who lost, right. Only one</p> <p>11 person can win unless they have -- I'm not</p> <p>12 sure if they have runoff race for</p> <p>13 congressional races here in Alabama. But</p> <p>14 if they do, then only two Republicans -- I</p> <p>15 mean, two of the ones could -- and also, I</p> <p>16 keep in mind that blacks overwhelmingly</p> <p>17 identify with the Democratic party. So in</p> <p>18 a multi-candidate race like this, you know,</p> <p>19 I'm not sure how informative this is. I'm</p> <p>20 not sure even what the -- when we're</p> <p>21 talking about turnout, was this a low</p> <p>22 turnout election?</p> <p>23 Q. That's something -- turnout is</p> <p>24 something important to know to be able to</p> <p>25 draw any conclusions about the elections?</p>	<p style="text-align: right;">Page 184</p> <p>1 analysis in this case?</p> <p>2 A. Possibly, possibly not.</p> <p>3 Q. Okay. In paragraph 19, you</p> <p>4 mention Bill Lewis, a black attorney, was</p> <p>5 appointed to the Circuit 19 bench by</p> <p>6 Republican Governor Robert Bentley. Lewis</p> <p>7 subsequently won a full term on the bench</p> <p>8 in 2018, facing no opposition in either the</p> <p>9 Republican primary or in the general</p> <p>10 election. Even though white votes make up</p> <p>11 the majority of the Republican party, Lewis</p> <p>12 was unopposed for the nomination,</p> <p>13 suggesting that his race was not a factor</p> <p>14 in the election.</p> <p>15 So this is a scenario here where</p> <p>16 this was a black attorney who was appointed</p> <p>17 to the bench who did not run -- who then</p> <p>18 ran in an uncontested election, correct?</p> <p>19 A. Correct.</p> <p>20 Q. When you analyzed Alabama Supreme</p> <p>21 Court races, you excluded uncontested</p> <p>22 elections, correct?</p> <p>23 A. Correct.</p> <p>24 Q. Why did you do so?</p> <p>25 A. Well, I don't know if I excluded</p>

CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
185-188

<p style="text-align: right;">Page 185</p> <p>1 them. I mean, they're in Appendix A if 2 they're uncontested, but there's no 3 variation in vote total or there's no 4 campaign or anything else so there's 5 nothing to analyze once uncontested. 6 Q. Would the same be true here, 7 there's nothing to analyze when it's 8 uncontested? 9 A. Well, there's not, right? I 10 mean, but what I do say is -- I mean, 11 here's a guy, right, who's a black 12 Republican presumably because he was 13 appointed by -- well, we know he's a black 14 Republican because he ran in the Republican 15 primary and nobody challenged him either 16 internally to the party or externally. I 17 would think that if there were concerns 18 about Republicans not supporting black 19 candidates, they probably would've run 20 somebody against him. But nothing 21 happened. So, again, I think it's an 22 interesting case of a black Republican who 23 is holding office and who is cruising to 24 elections and re-elections without 25 opposition.</p>	<p style="text-align: right;">Page 187</p> <p>1 as a Republican in Alabama. 2 Q. You'd be careful about ascribing 3 any more general finding about this 4 specific case though? 5 A. Sure. 6 MR. ROSBOROUGH: Did you want to 7 take a break here? I think then this'll 8 probably be the final segment of the 9 deposition when we come back. 10 MR. TAUNTON: Great. 11 (Whereupon, a recess was taken.) 12 Q. Dr. Bonneau, you used 13 straight-ticket voting as part of your 14 analysis in this case, correct? 15 A. Correct. 16 Q. Have you conducted -- well, let 17 me step back here. Have you published any 18 articles on straight-ticket voting? 19 A. I have. 20 Q. Okay. And what was that article? 21 A. That was the Bonneau and Loepp 22 article in 2014. 23 Q. Let's turn back to your CV 24 actually. That's a good idea. 25 A. Bonneau and Loepp 2014, Getting</p>
<p style="text-align: right;">Page 186</p> <p>1 Q. Would you have found useful 2 information if you looked at the 3 uncontested state supreme court races? 4 A. Well, if there were some -- so to 5 be clear, I did, right. And if you look at 6 Appendix A, you see a bunch of uncontested 7 races on there. The reason why they're not 8 analyzed when I'm looking at vote totals or 9 campaign spending, because the vote totals 10 are 100 percent. They don't vary. These 11 candidates cannot lose because they're not 12 challenged. Likewise, Bill Lewis cannot 13 lose because he's unchallenged. The fact 14 that he's a black Republican, and he's 15 unchallenged and cannot lose is 16 interesting. Now, you can say, well, all 17 these Republicans on -- these white 18 Republicans on the Alabama State Supreme 19 Court also cannot lose, sure. That's 20 interesting too. 21 Q. You can't -- sorry. I didn't let 22 you finish. 23 A. No. I was just saying he was 24 just a case of a -- a rare case of an 25 African American who was winning elections</p>	<p style="text-align: right;">Page 188</p> <p>1 Things Straight, the Effects of Ballot 2 Design and Electoral Structure on Voter 3 Participation. 4 Q. Okay. What did you -- well, tell 5 me a little bit about that article. What 6 did you analyze in that article? 7 A. So in that article, we analyzed 8 -- it was in the context of state supreme 9 court elections, but basically voter 10 participation and how the presence of 11 straight-ticket voting option can increase 12 voter participation because it eliminates 13 voter fatigue and so voters, you know, not 14 rolling off. This is in partisan 15 elections. In nonpartisan elections, it 16 actually has the reverse effect. And the 17 reason why is because when you go in in a 18 nonpartisan election and you vote straight 19 ticket for all the partisan offices, you 20 often think you voted for everybody and 21 then you leave. When I was voting in 22 Michigan, I never once voted for Michigan 23 Supreme Court because I'd go in and 24 straight ticket, and I'd walk out. And I 25 didn't know better. And so if I know</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
189-192

<p style="text-align: right;">Page 189</p> <p>1 better, think about all the other voters 2 who don't know better. And so in 3 nonpartisan elections, having that 4 straight-ticket option actually decreases 5 voter participation. 6 Q. Interesting. 7 A. I love that paper. That's a fun 8 paper. 9 Q. What are the limitations, if any, 10 to focusing an analysis on straight-ticket 11 voting? 12 MR. TAUNTON: Object to form. 13 A. What are the limitations? 14 Q. Let me re-ask that. That's a 15 poor question. Are there limitations to 16 using straight-ticket voting to draw 17 broader conclusions about electoral voting 18 patterns? 19 A. Well, there could be. I mean, 20 what straight-ticket voting tells us is how 21 many voters have voted for the party 22 instead of for candidates. I think about 23 it like, you know, you go to -- you go to 24 an auction, right, and you bid on a pallet, 25 and you take the pallet home of stuff,</p>	<p style="text-align: right;">Page 191</p> <p>1 except for one. Let's say, for example, 2 your ex-wife's running, and you don't want 3 to vote for her, so you vote for all the 4 Republicans except her. That doesn't count 5 as a straight ticket vote even though 6 you're not -- you are voting straight 7 ticket. Or if you only want to vote for 8 president or a couple offices, same thing. 9 If they're all the same party, you're not 10 crossing over. So this is -- obviously, 11 this is a (inaudible) of people who do not 12 vote for multiple parties on their ballot. 13 Q. Do you have any sense either 14 nationally or within Alabama about -- for 15 the folks who vote nonstraight ticket if 16 they're -- what percentage they're, sort 17 of, manually voting straight ticket versus 18 only voting for certain races versus voting 19 for different parties? 20 A. I do not. I do know that ticket 21 splitters -- so people who don't forget to 22 vote, right, are relatively rare and that 23 it tends to happen much more in local 24 elections. So I think with the times that 25 I've split my ticket, it's always been for,</p>
<p style="text-align: right;">Page 190</p> <p>1 right. You may have 500 pairs of 2 sunglasses. You didn't want them. They're 3 ugly, whatever. But you got them because 4 you bought the pallet. Straight-ticket 5 voting is the same thing. I go in. I 6 check the R or the D. I'm voting for every 7 single candidate on there. At the same 8 time, I'm voting for no candidates, right. 9 I'm voting simply for the party package. 10 I'm buying the pallet; the good, the bad, 11 and the useless. 12 Q. Now, looking at straight-ticket 13 voting obviously excludes the portion of 14 voters who did not vote straight-ticket, 15 correct? 16 A. It does. 17 Q. Those voters may have different 18 characteristics than the pool of voters who 19 voted straight ticket, correct? 20 A. They could. Voters could also 21 vote straight ticket though without voting 22 the straight ticket option. So if 23 anything, this is an undercount of people, 24 right. So you could go in and color in all 25 the bubbles of one party's candidate or all</p>	<p style="text-align: right;">Page 192</p> <p>1 like, local elections or whatever else 2 because, you know, the candidate that my 3 party endorsed found out to be a slime bag 4 or something. And so I'll vote for -- or 5 maybe I coach baseball with someone who's 6 running for a county council or something, 7 so I'll vote for him even though he's not 8 in my party. 9 Q. When you're analyzing -- well, 10 let me be more specific. In this report, 11 when you're analyzing straight-ticket 12 voting, you're not looking at the candidate 13 who's running in those elections, correct? 14 A. Well, no, because in those 15 elections -- 16 Q. Or candidates I should say. 17 A. No. Because the voters aren't 18 voting for those candidates. They're 19 voting for the party. 20 Q. Okay. And you're not looking at 21 the race of the candidates? 22 A. Same thing. Could be a mixed 23 race. It could be all white people. It 24 could be not. 25 Q. Dr. Liu points out in his report</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
193-196

<p style="text-align: right;">Page 193</p> <p>1 a statement from Dr. Morris Fiorina and his 2 work. Is that someone you're familiar 3 with? 4 A. It is. 5 Q. Okay. And one thing that he 6 notes is that from Dr. Fiorina's work, 7 Unstable Majorities: Polarization, Party 8 Sorting, and Political Stalemate, that to 9 study whether voters use straight-ticket 10 voting or split-ticket voting. Scholars 11 need to analyze not only voters but also 12 who are the candidates that are running the 13 elections. 14 What is your reaction to that? 15 A. That there is no empirical basis 16 for that statement. 17 Q. Okay. Turning back to your 18 report, page 14. Let me find my place 19 here. I have the wrong page. Okay. In 20 addition to looking at statewide 21 percentages, you looked at the 22 gubernatorial, attorney general, and 23 secretary of state elections in 2018 and 24 2022, and the U.S. Senate elections in 2020 25 and '22, and the list of counties you</p>	<p style="text-align: right;">Page 195</p> <p>1 greater Huntsville area and not the 2 Montgomery area? 3 A. Primarily for purposes of time, 4 and I was not asked to look at Montgomery. 5 Q. Are you aware of the racial 6 identity of the candidates running in those 7 elections that you analyzed? 8 A. Yes. 9 Q. And what are the racial identity 10 of those candidates? 11 A. Well, table three, right, 12 governor in 2022 -- so basically 2022 we 13 had black candidates running as Democrats, 14 and in 2018, we had white candidates. 15 Q. Okay. Are you aware of whether 16 there was -- in these races or even down a 17 ballot -- a single black Republican 18 candidate? 19 A. I am not. 20 Q. Okay. Would it surprise you if 21 none of Republican candidates in these 22 races were black? 23 MR. TAUNTON: Object to form. 24 A. No, that would not surprise me. 25 Q. Okay. You would agree that it's</p>
<p style="text-align: right;">Page 194</p> <p>1 provide, which comprise the greater 2 Huntsville area, correct? 3 A. Correct. 4 Q. Okay. Why did you choose to look 5 at those specific races? 6 A. Well, because I was looking to 7 see about whether or not voters in the 8 Huntsville area utilize straight-ticket 9 voting, and those races are top of the 10 ticket races, so they're common to all 11 those counties. There's no difference in 12 candidates among those counties, unlike 13 when you look further down, right, you'd 14 have different candidates. And so they 15 were a good way to get a sense of what's 16 going on in that area. 17 Q. This does not include the state 18 senate races? 19 A. Correct. 20 Q. Okay. 21 A. But they'd be sucked in. If 22 you're voting -- if you're in this county, 23 and you're voting straight ticket, then all 24 those races are there. 25 Q. Why did you only look at the</p>	<p style="text-align: right;">Page 196</p> <p>1 rare in Alabama to have a black Republican 2 on the general election ballot? 3 MR. TAUNTON: Objection to form. 4 A. If I didn't agree to that, then 5 you would be surprised. 6 Q. If it's rare to have black 7 Republicans on the general election ballot, 8 is it fair to say that many Republican 9 straight-ticket voters may assume that the 10 candidates they're voting for are white? 11 A. I think, yeah, that's probably an 12 assumption. 13 Q. And you analyzed both Republican 14 and Democratic straight-ticket voting for 15 these offices in 2018, 2020 and '22, 16 correct? 17 A. Correct. 18 Q. All right. Let's turn back to 19 Dr. Liu's rebuttal report, pages five and 20 six, sort of, the area where -- 21 A. Sure. 22 Q. Okay. So here, let's first look 23 at page five and figure one. What is your 24 understanding of what Dr. Liu is doing 25 here?</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
197-200

<p style="text-align: right;">Page 197</p> <p>1 A. He's looking at the percentage of 2 people who vote straight ticket Democratic 3 in the Huntsville region over three 4 elections. 5 Q. Okay. And he uses the data that 6 you -- the same data that you used? 7 A. Correct. 8 Q. Okay. Dr. Liu's figure shows a 9 decline in straight-ticket Democratic 10 voting in this region from 2018 and 2020 to 11 2022, correct? 12 A. Correct. 13 Q. Is that meaningful to your 14 analysis or does that affect your opinions 15 in any way? 16 A. Not in isolation. I mean, there 17 could be a number of reasons for that. 18 Could be candidates, could be a decline of 19 Democratic voters, could be a number of 20 things. 21 Q. Okay. On the next page, what do 22 you understand the chart there to be 23 showing? 24 A. Well, I understand -- so this 25 chart shows basically a relationship</p>	<p style="text-align: right;">Page 199</p> <p>1 partial question there. When you're 2 looking -- okay. Let's go back to your 3 report. 4 A. Okay. 5 Q. Okay. Now, table three in your 6 report, page 15, can you describe what 7 you're analyzing there and what you found? 8 A. Sure. So the correlation between 9 percentage -- the Democratic percentage of 10 the vote and straight-ticket Democratic 11 ballots. So how much of the Democratic 12 percentage of the vote comes from 13 straight-ticket Democratic ballots. And 14 what we see is in every one of those 15 elections, right, high -- right, the 16 percentage of votes received by Democratic 17 candidates is almost perfectly correlated 18 with the voters who cast straight party 19 Democratic votes. So almost all of the 20 votes that Democratic candidates are 21 getting is coming from straight tickets. 22 Q. And did you compare these trends 23 across different election years where black 24 Democrats versus white Democrats were 25 running?</p>
<p style="text-align: right;">Page 198</p> <p>1 between the percentage of votes received by 2 -- I mean by black electorate and 3 straight-ticket voting. I would say that 4 this is an example of how to mislead with 5 graphics. If you look at -- there's seven 6 data points. You have one, maybe two, that 7 are close to the line. You have four over 8 half of the data points, right, that are 9 clustered in the upper left. What's 10 happening is because you have these 11 outliers down at the bottom and also over 12 on the far right, it's skewing that 13 regression line, right. So you're drawing 14 a line that fits that data, and that data 15 is unduly influenced by those two outliers. 16 If I were to show you this in tabular form, 17 you would not make this conclusion because 18 of the high number of clusters, right, in 19 the upper left quadrant. 20 Q. Isn't it true that Madison County 21 has the largest percentage of black voters 22 in the Huntsville region? 23 A. I'll take your word for it. 24 Q. Okay. And do you understand that 25 that also had the -- let me retract my</p>	<p style="text-align: right;">Page 200</p> <p>1 A. Well, we have that, right, in 2 line two of table three. So when we have 3 black candidates running for governor, U.S. 4 Senate, attorney general, secretary of 5 state, right. So we have the comparison of 6 blacks versus whites. 7 Q. These are all -- right. These 8 are comparisons over different election 9 years, correct? 10 A. Correct. 11 Q. Okay. Did you account at all for 12 different turnout rates by race across 13 these different years? 14 A. Nope. 15 Q. Different candidate quality? 16 A. Nope. 17 Q. Different candidate funding? 18 A. Nope. 19 Q. Different percentage of 20 straight-ticket voting? 21 A. Well, that's what this shows, so 22 I would say, yes. But I would also say, 23 right, there are no differences here to 24 explain any of those things. So if there's 25 a difference in turnout, okay. That's not</p>

CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
201-204

<p style="text-align: right;">Page 201</p> <p>1 going to affect things because there's no 2 difference in conclusions you draw based on 3 the relationship between straight-ticket 4 voting and the Democratic percentage of the 5 vote. 6 Q. You did not analyze the race of 7 the voters voting straight ticket, correct? 8 A. We don't know that. 9 Q. In terms of the Republican 10 straight-ticket voters, your analysis of 11 the straight-ticket voting shows that party 12 identification played a significant role, 13 correct? 14 A. Correct. 15 Q. Your analysis does not rule out, 16 however, that racial identity of candidates 17 may have also played a role; is that also 18 correct? 19 MR. TAUNTON: Object to form. 20 A. Yeah, I mean, I don't know how I 21 could rule that out. 22 Q. And same for the Democratic 23 candidates? 24 A. Correct. 25 Q. Okay. In your conclusion on page</p>	<p style="text-align: right;">Page 203</p> <p>1 your opinion? 2 MR. TAUNTON: Objection to form. 3 A. Correct. 4 Q. Okay. And I think we discussed 5 this, but you agree that racial issues may 6 play a significant role in party choice? 7 MR. TAUNTON: Objection to form. 8 A. They could. 9 Q. Okay. I'd like to turn back to 10 Dr. Liu's rebuttal report -- well, actually 11 strike that. 12 Let's go back to Dr. Liu's 13 initial report. 14 A. 7. 15 Q. Yeah, that's right. Earlier, I 16 asked you about the criticisms of Dr. Liu's 17 initial report that you had, and we talked 18 about several of them. Can you recall if 19 there are any additional criticisms or 20 observations you have about Dr. Liu's 21 initial report that I did not ask you 22 about? 23 A. Not that I recall. 24 Q. Okay. Now, let's turn to 25 Exhibit 8, his rebuttal report. We've</p>
<p style="text-align: right;">Page 202</p> <p>1 17, you say, my examination of the evidence 2 in this case does not reveal evidence of 3 voting based on race. 4 Your -- would it also be fair to 5 say that your examination of the evidence 6 does not allow voting based on race? 7 MR. TAUNTON: Object to the form. 8 A. Does not rule out voting? I 9 think that's -- yeah, I think that's fair. 10 Q. Okay. The primary evidence you 11 are looking at and analyzing here was about 12 partisan rather than racial patterns; is 13 that fair? 14 A. It was trying to figure out if 15 what we observe in the data is more 16 consistent with the story based on party or 17 based on race. And in my opinion, based on 18 the evidence presented in my report, party, 19 right, is a better explanation, right. But 20 the data are more consistent with the story 21 based on political party than they are with 22 a story based on race. 23 Q. Understood. In that finding 24 though, you're not ruling out race as a 25 factor, just not as the primary factor in</p>	<p style="text-align: right;">Page 204</p> <p>1 talked -- okay. Well, let me start here. 2 There are a couple of portions in Dr. Liu's 3 rebuttal report that primarily concern 4 other experts, correct? 5 A. Yes. 6 Q. Okay. We've talked about at 7 least some of the analyses Dr. Liu does in 8 his rebuttal report and gotten your 9 reactions. Is -- are there other 10 components of Dr. Liu's rebuttal report 11 that we did not discuss about what you have 12 opinions or observations? 13 A. No. I think we covered just 14 about everything in his rebuttal report as 15 it pertains to my report, and so I have no 16 opinions about what he has to say about 17 other people. 18 Q. Okay. 19 (Whereupon, a discussion was held 20 off the record.) 21 MR. ROSBOROUGH: Dr. Bonneau, I 22 appreciate your time today. Pending what 23 defense counsel has, I have no further 24 questions. Thank you. 25 THE WITNESS: Thank you.</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
205-208

<p style="text-align: right;">Page 205</p> <p>1 MR. TAUNTON: I just have a 2 couple of questions. 3 EXAMINATION 4 BY MR. TAUNTON: 5 Q. Can you find Plaintiffs' 6 Exhibit 5, which I believe is Electoral 7 Verdicts? 8 A. Yes. 9 Q. Do you remember being asked 10 questions about this earlier today? 11 A. I do. 12 Q. And in particular, I believe you 13 were asked about a sentence on -- that 14 starts on page 830 and carries over to 831? 15 A. Correct. 16 Q. I think it was a sentence -- and 17 I'll even read it at the very bottom here. 18 As expected, the higher the spending ratio 19 between the incumbent and challenger, the 20 lower the chances of the incumbent's 21 losing, but -- and carry over to the next 22 page -- only for those incumbents who are 23 facing the electorate for the first time, 24 although this falls just outside the 25 conventional level of significance.</p>	<p style="text-align: right;">Page 207</p> <p>1 Plaintiffs' Exhibit 6, which I believe is 2 Judicial Elections in the 21st Century. 3 A. Yep. 4 Q. And you were asked some questions 5 about a statement on page 81. 6 A. Correct. 7 Q. And towards the last full 8 paragraph on that page, towards the bottom, 9 middle of the paragraph, there's a 10 sentence, moreover, given that we know 11 women are more election-averse than men 12 (Kanthak and Woon 2015), needing to raise 13 significant funds of money could further 14 deter candidates from minority groups from 15 seeking office, leading to a lack of 16 diversity on the bench. 17 Do you see that sentence? 18 A. I do. 19 Q. Do you remember being asked about 20 it? 21 A. I do. 22 Q. Were you equating or including -- 23 were you equating or including women in 24 your reference to minority groups seeking 25 office in that sentence?</p>
<p style="text-align: right;">Page 206</p> <p>1 My question is this -- you 2 mention here incumbents who are facing the 3 electorate for the first time. So is your 4 observation here limited to retention 5 elections and candidates who were appointed 6 and now are running for office for the 7 first time? 8 A. So there are no retention 9 elections in this analysis. It's only 10 candidates who are appointed by the 11 governor to fill a vacancy or by a 12 commission to fill a vacancy. 13 Q. So then you were not speaking 14 here about candidates who -- normal 15 incumbency candidates or ran for office, 16 won office, and then were running as 17 incumbents for the very first time? 18 A. Correct. That is not what -- 19 right, that is not what appointed means in 20 this case. I mean, those candidates are in 21 the data set, but the results are only 22 significant for those candidates who were 23 originally appointed to their seat on the 24 bench and now are running to keep it. 25 Q. Let me have you flip over to</p>	<p style="text-align: right;">Page 208</p> <p>1 A. So Kanthak and Woon only talk 2 about women being more election-averse. I 3 expanded a little bit talking more about 4 minority groups tying into the Jurwitz and 5 Lanier piece which looks at diversity on 6 the bench. And so what I was trying to say 7 is needing to raise significant funds of 8 money could lead to this lack of diversity 9 on the bench, not only for women but for 10 other candidates. And, thus far we have 11 not seen that lack of diversity on the 12 bench, but it's possible that we could at 13 some point. 14 Q. So when you talk about lack of 15 diversity on the bench, women is part of 16 what you were looking at? 17 A. It's part of it, yes. 18 Q. Then let me have you flip over to 19 Plaintiffs' Exhibit 7, which is Dr. Liu's 20 initial report. And you've, of course, 21 seen this report before, right? 22 A. Very familiar. 23 Q. Yeah. And I'm going to -- I may 24 sub out actually my copy for your copy if 25 that's okay just because mine has color.</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

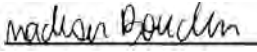
May 08, 2024
209-212

<p style="text-align: right;">Page 209</p> <p>1 MR. TAUNTON: Is that okay with 2 you? 3 MR. ROSBOROUGH: That's fine. 4 MR. TAUNTON: Okay. I'll note 5 it's the same. 6 MR. ROSBOROUGH: Yeah, that's 7 fine. 8 Q. So it might be easier to read. 9 What is figure one? 10 A. So figure one looks at the 11 percentage of the vote in State Senate 12 District 7, and it looks at the black 13 candidate, who was Korey Wilson, which is 14 the top -- the top person -- the top graph. 15 The middle is the white opponent, Sam 16 Givhan. The bottom is other, right, which 17 I assume is something like write-ins or a 18 third-party candidate. Yeah. 19 Q. Is there anything -- did you find 20 anything unusual in this figure? 21 A. Well, I do think that the 22 write-in -- it's really odd the write-in 23 candidate, right. So the blue curve shows 24 the support, right, for other -- so the 25 bottom there looks like people who are not</p>	<p style="text-align: right;">Page 211</p> <p>1 significance to the percentage of other in 2 that last third graph, would that resolve 3 any questions you have about the top two? 4 A. Well, my issue -- I guess my 5 question, right, would be, right, so you 6 create this density plot based on the EI 7 operation, and so all three plots are 8 generated based on his ecological inference 9 operation. And much like some of the 10 tables -- or one of the tables we saw 11 earlier, when you get results that don't 12 seem to make sense or that seem anomalous, 13 I think in order to assuage any doubts 14 about the operation -- the kind of analysis 15 you did, you should try and explain it. So 16 it's not -- so I would -- so I would -- so 17 if you say you didn't ascribe any meaning 18 to that, that does not satisfy any 19 questions. If you say, oh, look, I looked 20 into it, and here's what it is and 21 whatever, and here's why we find this, all 22 right. Well, that makes sense. So I do 23 think there's some explaining to be done 24 when you find anomalous things. 25 Q. Are you aware of whether Dr. Liu</p>
<p style="text-align: right;">Page 210</p> <p>1 black or white. So other, right, 2 significantly voted for this third-party 3 candidate in a way that is different than 4 what you see in the first two -- in the 5 first two graphs. 6 Q. Is that something that's 7 expounded upon or explained in this report? 8 A. Not that I saw. 9 Q. Is that something that maybe you 10 would otherwise want additional 11 investigation? 12 A. I mean, I think whenever you 13 graph something or whenever you plot 14 something and see something anomalous, it 15 behooves you to kind of dig in and try and 16 figure out what that is. 17 MR. TAUNTON: That's all I've 18 got. 19 MR. ROSBOROUGH: One follow-up 20 question here -- one or two maybe about the 21 same figure here. 22 EXAMINATION 23 BY MR. ROSBOROUGH: 24 Q. If Dr. Liu testified that he 25 didn't rely upon or ascribe any</p>	<p style="text-align: right;">Page 212</p> <p>1 was analyzing at all voters who are not 2 white or not black? 3 A. I am not aware of anything beyond 4 what was in this report. 5 Q. Have you read his deposition 6 testimony in this case? 7 A. I have not. 8 Q. Okay. And where in your report 9 can we find any sort of analysis or 10 testimony about figure one? 11 A. I don't believe I talk about that 12 in my report. 13 Q. Okay. 14 MR. ROSBOROUGH: That's all for 15 me. 16 (The deposition of CHRIS BONNEAU 17 was concluded at 2:36 p.m.) 18 --oOo-- 19 20 21 22 23 24 25</p>



CHRIS BONNEAU
Khadidah Stone v Wes Allen

May 08, 2024
213-216

Page 213		Page 215	
1	C E R T I F I C A T E	1	PAGE LINE CORRECTION AND REASON THEREFORE
2	State of Alabama	2	_____
3	Lee County	3	_____
4	I, Madison Borden, do hereby	4	_____
5	certify that I recorded, by means of	5	_____
6	stenotype, the foregoing proceedings at the	6	_____
7	time and place stated in the caption	7	_____
8	hereof, that the foregoing represents a	8	_____
9	full, true, and correct transcript of the	9	_____
10	proceedings on said occasion.	10	_____
11	I further certify that I am	11	_____
12	neither of counsel nor of kin to any	12	_____
13	parties, nor interested in the outcome of	13	_____
14	this case.	14	_____
15	I further certify that I am a	15	_____
16	duly licensed Court Reporter, as displayed	16	_____
17	by my license number below, by the Alabama	17	_____
18	Board of Court Reporting.	18	_____
19	So certified on May 22, 2024.	19	_____
20		20	_____
21		21	_____
22		22	_____
23		23	_____
24	MADISON BORDEN, CCR	24	_____
25	CCR#687, Expires 9/30/24	25	_____
Page 214		Page 216	
1	SIGNATURE OF WITNESS	1	PAGE LINE CORRECTION AND REASON THEREFORE
2		2	_____
3	I, _____, do hereby certify that	3	_____
4	on this _____ day of _____ 2024, I	4	_____
5	have read the foregoing transcript and to	5	_____
6	the best of my knowledge it constitutes a	6	_____
7	true and accurate transcript of my	7	_____
8	testimony taken by oral deposition on May	8	_____
9	8, 2024.	9	_____
10		10	_____
11		11	_____
12		12	_____
13	WITNESS	13	_____
14		14	_____
15	Subscribed and sworn to before me	15	_____
16	this _____ day of _____, 2024.	16	_____
17		17	_____
18		18	_____
19		19	_____
20		20	_____
21		21	_____
22		22	_____
23		23	_____
24		24	_____
25	NOTARY PUBLIC	25	_____

