

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

ALABAMA STATE CONFERENCE *
OF THE NAACP, et al., *
Plaintiffs, * 2:21-cv-1531-AMM
vs. * November 19, 2024
WES ALLEN, in his official *
capacity as Alabama Secretary *
of State, et al., *
Defendant. *

TRANSCRIPT OF BENCH TRIAL
VOLUME VI
BEFORE THE HONORABLE ANNA M. MANASCO
UNITED STATES DISTRICT JUDGE

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P R O C E E D I N G S

(In open court.)

THE COURT: Good morning, everyone. Glad to see you
all back nice and dry.

Lovely day for trial.

All right. You may proceed.

MR. ETTINGER: Thank you, Your Honor.

ADAM CARRINGTON

CROSS-EXAMINATION

BY MR. ETTINGER:

Q Good morning, Dr. Carrington. My name is Jay Ettinger on
behalf of the plaintiffs.

THE COURTROOM DEPUTY CLERK: I wanted to remind you,
you are still under oath.

THE WITNESS: Yes, ma'am.

BY MR. ETTINGER:

Q I am going to ask you a series of yes-or-no questions. Do
you understand?

A Yes.

Q And are you ready to proceed?

A Yes.

Q Your two areas of scholarly expertise are American
political institutions and the intersection of religion and
politics; is that correct?

A Yes.

1 Q And American political institutions and the intersection
2 of religion and politics are the focus of your research?

3 A Yes. They have been the primary focus.

4 Q You have a Ph.D. in political science, correct?

5 A Yes, I do.

6 Q And your Ph.D. program focused broadly on American
7 politics and political theory, correct?

8 A There were three emphases you could have. My primary for
9 -- my primary for my comprehensive exams was American, and then
10 my secondary field was theory.

11 Q And your Ph.D. program did not have a particular focus on
12 the American South, correct?

13 A No, it did not.

14 Q And your Ph.D. program did not have a particular focus on
15 Alabama politics, correct?

16 A Correct.

17 Q The predominant focus of your scholarship has been on the
18 period from roughly 18 -- the 1860s to the early 1900s,
19 correct?

20 A That has been the majority of my research, yes.

21 Q And the post-Reconstruction politics of the American South
22 has not been a primary focus of your scholarship, correct?

23 A Could you the say that question one more time, please?

24 Q Certainly.

25 The post-Reconstruction politics of the American South has

1 not been a primary focus of your academic work, correct?

2 A My work was partly on what's called judicial politics,
3 which is the intersection of the political realm and the
4 judiciary, and it's a subfield of institutional development.

5 Q And was that -- have you written scholarship on that topic
6 from the 1960s or later?

7 A Yes. The article -- well, I guess it depends upon how you
8 define it. But the article I wrote I co-wrote on the attacks
9 on the Supreme Court. I guess it did not have a focus
10 exclusively on the South, but it would be judicial politics
11 meets political parties because it was how parties attack the
12 Supreme Court.

13 Q And I believe you said it did not have a particular focus
14 on the American South?

15 A Correct. Correct.

16 Q And you have not published any scholarly work particularly
17 looking at post-Reconstruction politics in the American South,
18 correct?

19 A Not as the sole focus, no.

20 Q Similarly, you have not published any scholarship
21 specifically studying post-Reconstruction politics in Alabama,
22 correct?

23 A Correct.

24 Q And you have never taught any courses specifically focused
25 on the politics of the American South, right?

1 A No. Not so specifically.

2 Q And you have not taught any sources that have specifically
3 dealt with Alabama's political history, correct?

4 A No.

5 Q Dr. Carrington, you have never testified as an expert in a
6 litigation before, correct?

7 A Correct.

8 Q You're not a trained historian?

9 A I am a political scientist by training.

10 Q So you're not a trained historian?

11 A Yes. Correct.

12 Q You are not a trained statistician, correct?

13 A No.

14 Q In your testimony, you opined on the relative weight that
15 racial versus non-racial factors played in the realignment of
16 southern white voters, correct?

17 A Correct.

18 Q But you've never published any scholarship analyzing the
19 role of race in partisan alignment, correct?

20 A Correct.

21 Q And you've never published any scholarship analyzing the
22 role of race in voter participation, correct?

23 A Correct.

24 Q And you have never published any scholarship analyzing the
25 role of racial attitudes on partisan alignment, correct?

1 A Correct. It's been part of my teaching, but not my -- not
2 my published scholarship.

3 Q And you've never conducted any research of your own
4 measuring the impact of racial appeals on partisan alignment,
5 correct?

6 A Correct.

7 Q And you've never taught a course specifically focused on
8 the role of race in politics, correct?

9 A That is correct.

10 Q In your report, you identified three Senate Factors that
11 you contend your opinion relates to, specifically Senate
12 Factors 1, 2, and 6. Is that accurate?

13 A Yes, it is.

14 Q With respect to Senate Factor 1, you did not reach a
15 definitive conclusion on whether Alabama has a history of
16 official discrimination, correct?

17 A Yes. I was not asked to give a legal conclusion but to
18 help lawyers and the judges involved to consider those
19 questions. But, no, I was not asked to give a legal
20 conclusion, so I did not.

21 Q And just to be clear, you did not reach any conclusion
22 with respect to Senate Factor 1?

23 A Not a legal conclusion, no.

24 Q Did you reach any conclusions in your capacity as a
25 political scientist?

1 A I believe that it went to the totality of the
2 circumstances in saying that I believe race had been overly
3 discussed in the literature as opposed to the other factors,
4 but, again, as to any kind of conclusion definitive on the
5 Court, no, I did not.

6 Q But specifically with respect to Senate Factor 1, you
7 didn't reach any conclusions about the presence or lack thereof
8 of official discrimination in Alabama, correct?

9 A Correct.

10 Q And you did not evaluate whether Alabama has passed any
11 laws after 1965 that intentionally discriminated against black
12 Alabamians, correct?

13 A No. My focus was on the parties, so not on that. It was
14 beyond the scope of my inquiry.

15 Q And you did not spend much time evaluating whether Alabama
16 passed any laws after 1965 that had a discriminatory effect on
17 black Alabamians, correct?

18 A Correct.

19 Q Turning to your discussion of Senate Factor 6 regarding
20 racial appeals, you noted that your report touches on Senate
21 Factor 6, which asks whether political campaigns have been
22 characterized by overt or subtle racial appeals, correct?

23 A Correct.

24 Q But in terms of Senate Factor 6, you did not perform any
25 rigorous analysis of contemporary statements made by Alabama

1 politicians, correct?

2 A Correct. That's why I said touched on. It was to
3 contribute again to the totality of the circumstances if I
4 believe that if racial appeals are being made, that that would
5 connect to what was driving voter preferences and why they were
6 being driven. But, no, I did not do that kind of focus.

7 Q You did review the statements made by Alabama politicians
8 included in Dr. Bagley's report, correct?

9 A Yes, I did.

10 Q Besides the statements raised in Dr. Bagley's report, you
11 did not review any other contemporary statements made by other
12 Alabama politicians, correct?

13 A Contemporary statements, no, I did not.

14 Q With respect to Senate Factor 6, you did not reach any
15 conclusion as to whether political campaigns in Alabama have
16 been characterized by racial appeals, correct?

17 A A conclusion, no. No, I did not.

18 Q You take issue with the scholarship analyzing the presence
19 and influence of subtle or coded racial appeals, correct?

20 A Yes.

21 Q But you yourself have never performed any scholarly work
22 concerning the role of racial appeals in politics?

23 A Scholarly work but not published work. It has been part
24 of my teaching at the graduate and undergraduate level, but not
25 anything I have published.

1 Q And I believe yesterday on direct you testified that you
2 had not seen evidence that Reagan or Nixon used racial appeals
3 to pursue southern white voters; is that accurate?

4 A Yes. I believe the evidence that has been presented is
5 not definitive.

6 Q You are familiar with Lee Atwater, correct?

7 A Yes.

8 Q And Lee Atwater was a prominent Republican campaign
9 strategist in the 1980s, correct?

10 A In the 1980s, yes.

11 Q And he worked in the Reagan administration?

12 A Yes, he did.

13 Q And in the 1970s, Mr. Atwater ran a congressional -- ran
14 congressional campaigns in South Carolina, correct?

15 A Yes.

16 Q Mr. Atwater then managed President Reagan's 1984
17 presidential campaign, correct?

18 A Yes, he did and was part of the 1980 campaign, if I
19 remember.

20 Q Mr. Atwater also ran President Bush's 1992 presidential
21 campaign, correct?

22 A I believe it was the '88 campaign. I believe he had
23 passed away by the '92 campaign -- I may have my exact dates
24 off -- from his brain tumor.

25 Q But he was involved in --

1 A Yes.

2 Q -- President Bush's campaign?

3 A Yes.

4 Q It would be fair to say that Lee Atwater would have been
5 familiar with Republican political strategies in the 1980s,
6 correct?

7 A In the 1980s, yes.

8 Q Atwater would have also been familiar with the messaging
9 employed by the Republicans in the 1980s?

10 A Yes, in the 1980s. I think that he would have been part
11 of those discussions, yes.

12 MR. ETTINGER: John, could you pull up PX-21, page 9?

13 BY MR. ETTINGER:

14 Q And I believe you reviewed Dr. Bagley's rebuttal report,
15 correct?

16 A I did.

17 MR. ETTINGER: And, John, if you could blow up the
18 block text at the top half of the page.

19 BY MR. ETTINGER:

20 Q And in this quote, Lee Atwater explained, You start out in
21 the 19 -- in 1954 by saying "N" word "N" word "N" word. By
22 1968, you can't say "N" word -- that hurts you, backfires. So
23 you say stuff like, uh, forced bussing, states' rights, and all
24 that stuff, and you're getting so abstract.

25 Now you're talking about cutting taxes, and all these

1 things you're talking about are totally economic things and a
2 byproduct of them is that blacks get hurt worse than whites.
3 We want to cut this is much more abstract than even the bussing
4 thing, uh, and a hell of a lot more abstract than "N" word "N"
5 word.

6 You're familiar with that quote, Dr. Carrington?

7 A Yes.

8 Q Are you aware that President Reagan kicked off his 1980
9 political presidential campaign with a speech explicitly
10 invoking his belief in states' rights at the Neshoba County
11 Fair in Mississippi?

12 A Yes.

13 Q And are you aware that this was near the location that
14 three Civil Rights activists had been murdered in 1964 helping
15 register black Mississippians to vote?

16 A I am aware of that story, that tragic story, yes.

17 Q Did you consider a statement from Mr. Atwater or the
18 speech in analyzing whether President Reagan had made any coded
19 or subtle racial appeals?

20 A Yeah -- yes. The Lee Atwater quote, I think Dr. Bagley is
21 misleading, especially where the ellipsis is, because he says
22 in the rest of it that by the time you get to the 1980s,
23 southerners don't care that -- they don't care about the Civil
24 Rights Act enforcement. They're not angry about it is what I
25 mean.

1 He have says that if anything, some of those that he says
2 in the second half of the quote have become at most
3 subconscious and that, therefore, he says it's a good thing
4 that we have moved beyond race by then.

5 So I think Dr. Bagley's quote at least as characterizing
6 the Reagan administration is very misleading. And I think with
7 the Reagan quote in the context, I think you'd have to look at
8 what he said in his second inaugural and other things to get a
9 fuller idea of what he might have been intending based on where
10 he spoke.

11 Q In Dr. Bagley's report, he also includes some statements
12 made by contemporary Alabama politicians. And on page 30, in
13 particular, he describes that Senator Tommy Tuberville has
14 repeatedly stated his belief that white nationalists are not
15 racists.

16 Are you familiar with his inclusion of that?

17 A Yes. Yes, I am.

18 Q And you would want to see how Tuberville defended it
19 before deciding whether it constituted a racial appeal, right?

20 A Yes. Because he tries to separate white nationalism from
21 racism, which what is actually a thoughtful or accurate
22 statement is different from perceiving what someone thinks when
23 they speak it.

24 So I would not characterize that white nationalism as
25 being separatable from racism, but I can't say that tells me

1 what Senator Tuberville was saying given what he said.

2 Q So based just on the language of the statement itself, you
3 can't say one way or another whether a politician's position
4 that white nationalists aren't racist is a racial appeal,
5 correct?

6 A Correct, since he's trying to separate it from racism.
7 I'm not saying I'm defending its intelligibility or
8 thoughtfulness.

9 Q Dr. Bagley also provides the example of Mo Brooks, and
10 specifically in using the phrase "a war on whites," would you
11 agree that Mo Brooks was attempting to appeal to white voters?

12 A He may have been attempting to appeal to white voters.
13 Although the argument was that people should be treated equally
14 before the law and by the law and in society and was claiming
15 that whites were not being treated equal.

16 I think you can say that is a wrong statement, critique
17 the statement, say it's a not very thoughtful statement or
18 accurate statement, but still say that his appeal was to a kind
19 of need for racial equality.

20 Q But you would agree that he -- it was an attempt to appeal
21 to white voters?

22 A I think it was an attempt to appeal to certainly a certain
23 part of the electorate and on the basis, though, of racial
24 equality in general.

25 Q And that the particular part of the electorate that he

1 would have appealed to with that, in your view, it would have
2 appealed to white voters, correct?

3 A I think it would have been conceived as most relevant to
4 them, yes.

5 Q Dr. Bagley's report also identifies a quote from then
6 candidate Roy Moore in his 2017 campaign to the U.S. Senate.
7 In the quote, Mr. Moore says that the U.S. would have been
8 better off without the Reconstruction amendments and that the
9 antebellum period, quote, was a great time when the families
10 were united. Even though we had slavery, they cared for one
11 another. People were strong in the families. Our families
12 were strong. Our country had a direction.

13 Are you familiar with that quote?

14 A Yes.

15 Q And it's your view that it's unclear whether Mr. Moore was
16 making a racial appeal, correct?

17 A Yes, because he says except for slavery, or I forget the
18 exact wording. But he distinguishes slavery.

19 Now, may that be, again, a wrong statement about the
20 condition of the country then as now? That's not what --
21 that's not what I was trying to determine. But if the question
22 is whether he's making a racial appeal, I think the exception
23 of slavery to the good things he said doesn't make that as
24 evidently clear.

25 Q But you would agree that this statement would have the

1 effect of appealing to white voters more so than voters of
2 other races, correct?

3 A I think it was -- would be insensitive to the condition
4 and experience of African-Americans whether he was realizing it
5 or not.

6 Q Just to be clear, though, you would agree that this would
7 have the effect of appealing to white voters more so than
8 voters of other races?

9 A Whether consciously or not, I think that it would have
10 been -- it would have been more palpable to voters who did not
11 have the history of slavery, which would not be
12 African-American voters.

13 Q And it would have negatively appealed or repelled
14 African-American voters?

15 A I certainly think it could given it not taking -- giving
16 it not having a stronger condemnation of slavery or speaking
17 better of that time.

18 Again, he was accepting slavery. So whether it was an
19 intentional appeal in that way, I think would be really hard to
20 determine, given that context.

21 Q Dr. Carrington, you sat through a deposition in this case
22 back in May; is that correct?

23 A Yes, I did.

24 Q And you were under oath in that deposition?

25 A Yes.

1 Q And you told the truth in that deposition?

2 A Yes, I did.

3 MR. ETTINGER: John, could you pull up the May 1st
4 deposition, page 143, lines 4 through 11?

5 That's okay. We can move on from that.

6 BY MR. ETTINGER:

7 Q You also stated that your report touches on Senate Factor
8 2, correct?

9 A Correct.

10 Q And Senate Factor 2 asks about the extent to which voting
11 in elections are characterized by racially-polarized voting?

12 A Yes.

13 Q You did not conduct any statistical racially-polarized
14 voting analysis, correct?

15 A Correct. I was not looking at the statistical case, which
16 I believe I do not dispute there is statistical distinction.
17 It was what were the causal reasons.

18 Q And you, again, I think just mentioned, but you do not
19 dispute the existence of statistical racially-polarized voting
20 in Alabama?

21 A Correct. Yes. Like I said, I was going on causal as
22 opposed to statistical, so, yes.

23 Q And you're not opining that race played no role in the
24 political realignment of southern white voters, correct?

25 A Correct. As I said in my deposition, I believe it was a

1 factor.

2 Q And race has played a role in the political realignment of
3 white voters in Alabama, correct?

4 A Yes. I believe a role.

5 Q And, in fact, race has continuously played a role or a
6 factor in the political realignment of white voters in Alabama
7 from 1964 until today, correct?

8 A I cannot eliminate it as a factor, so correct. I would
9 not -- again, I can't read minds, so back to my direct
10 testimony, and I think it would be foolish of me that to say it
11 that can't -- never plays any factor, correct.

12 Q And you have never conducted any statistical analyses to
13 measure the relative influence of any of the factors you have
14 identified as contributing to the political realignment of
15 southern white voters, correct?

16 A Correct. I am trained from a more historical as opposed
17 to statistical approach, so that would be beyond my competence.

18 Q As you may recall from your deposition, we discussed
19 Dr. Bagley's citation to Pew Research studies about black
20 Alabamians' political self identification. Do you recall that?

21 A I believe so.

22 Q And the survey finds that 41 percent of black Alabamians
23 identify as conservative, correct?

24 A Yes.

25 Q The survey also finds that 35 percent of black Alabamians

1 identify as moderate, correct?

2 A I mean, I will admit I don't remember that off the top of
3 my head, but I trust that you're saying what was in the report,
4 so I'll agree to that.

5 Q And you don't have any reason to dispute the Pew Research
6 findings, correct?

7 A No. I would want to look into the methodology of how they
8 determined what people considered conservative, moderate, et
9 cetera. But, yeah, I would not dispute without looking deeper
10 into their surveys.

11 Q You reviewed Dr. Burch's rebuttal report in this case,
12 correct?

13 A At least the parts pertinent to my report, yes.

14 Q And in that portion, Dr. Burch argues that the literature
15 is clear; racial identity and racial attitudes shape
16 partisanship and party cohesion, and these two phenomena have
17 been increasingly linked since 2008. You are generally
18 familiar with the body of research Dr. Burch cites in her
19 rebuttal report, correct?

20 A Generally so, yes.

21 Q And you agree that the literature she cites for this
22 proposition supports her position, correct?

23 A Correct. I don't think she gives all the literature. I
24 cite literature contrary to that, but, yes. I don't believe
25 she is misrepresenting the literature at least generally

1 speaking that she gives, yes.

2 Q And you have not conducted any research of your own
3 looking into the correlation between racial resentment and
4 candidate support among white voters since 2008?

5 A What she looked at was overwhelmingly statistical. So,
6 no, I have not conducted like -- comparable research to those.

7 Q The primary focus of your analysis was on the factors
8 influencing the partisan shift of white voters from across the
9 American South, correct?

10 A Correct.

11 Q And your analysis was primarily focused on federal
12 elections, correct?

13 A I -- substantially, although I brought in Alabama
14 particular, both statistics and politics at a number of points
15 comparatively.

16 Q You did not analyze the different elements you identified
17 in your report, specifically how it specifically impacted the
18 partisan shift in Alabama's state-level elections, correct?

19 A Let's see. Well, certainly, I talked about state ballot
20 initiatives on two fronts. So I don't know if that would be
21 completely true.

22 MR. ETTINGER: John, could you please pull up the
23 deposition transcript from May 1st, page 164, lines 8 through
24 13?

25

1 BY MR. ETTINGER:

2 Q Starting on line 8, I asked you for the number of
3 different elements that you have identified in your report, did
4 you analyze any of those specifically with respect to the
5 partisan shift in Alabama's state-level elections?

6 Could you read your response, please?

7 A Yes. I said state-level elections, no.

8 And I understood that to be legislative offices. So I
9 should have probably clarified that I did look at ballot
10 initiatives and other things. But when you said elections,
11 that was my understanding. So, yes, that would be my
12 clarification.

13 Q And so just to clarify for the record, you did not analyze
14 any of the elements you identified in your report, how they
15 specifically impacted the partisan shift in Alabama's
16 state-legislative elections, correct?

17 A I did not try to parse out the particular state-level
18 moves, at least frame by frame. I would have had to have
19 sacrificed some kind of depth or breadth. If I had done a more
20 focused analysis, I would have looked at say the gains
21 legislatively in the late '70s and suburbs of Alabama cities in
22 the State Legislature or the eventual move in 2010 to a
23 majority Republican Legislature.

24 But given the breadth of what I was doing, I did have to
25 sacrifice some depth to keep it to a reasonable length.

1 Q And you did not include it, that analysis of Alabama
2 state-level elections for the Legislature in your report?

3 A No. Because I found the moves in those races consistent
4 with the larger story that included congressional and regional.
5 So if it had been an aberration from the South generally, I
6 would have noted that.

7 Q But you did not include any comparison of these Alabama
8 state legislative elections to your broader analysis of the
9 South in your report?

10 A I do not recall doing so.

11 Q You also did not analyze the voting patterns of black
12 voters, correct?

13 A Yes, that is correct.

14 Q And you did not analyze how any of the factors you raised
15 in your report impacted black voting patterns, correct?

16 A Correct. As I also said in my direct testimony.

17 Q Let's talk specifically about some of the factors you've
18 identified.

19 I believe one you identified was related to the rise of
20 the New Left; is that accurate?

21 A Correct.

22 Q And you identified the New Left as rising to prominence in
23 roughly the late 1960s and early 1970s; is that accurate?

24 A Rising to at least a prominent place within the Democratic
25 Party.

1 Q You did not specifically analyze how the rise of the New
2 Left at the national level impacted the Democratic Party within
3 Alabama, correct?

4 A My analysis of the Democratic Party struggles electorally
5 at the congressional -- especially the presidential level I
6 think was linked to that.

7 MR. ETTINGER: John, can you please pull up the
8 May 1st deposition, page 75, lines 16 through 24?

9 BY MR. ETTINGER:

10 Q Starting on 16, I asked: Did the New Left become a major
11 contender within the Democratic Party in Alabama at any
12 subsequent time?

13 After a couple of back and forth, starting on 22, could
14 you read your response?

15 A I did not focus as closely on Alabama, but so I would say
16 certainly not for Alabama in general.

17 And I was answering -- I was answering the question
18 whether -- or at least I understood myself to be answering the
19 question did the New Left become dominant within the Alabama
20 Democratic Party at that time, which I would say, no. But
21 national, regional, and local politics are not detached.

22 In fact, it's a common campaign tactic to smear or paint a
23 local or state party with the national party. And I was
24 arguing that voter identity could still be related to that.
25 And still was related to that even as the Democratic Party was

1 not New Left at that point.

2 Q And you did not analyze the influence of the New Left
3 within Alabama state politics, correct.

4 A Correct. Because as far as it's -- a takeover of the
5 Alabama Democratic Party itself, it really was not the case
6 through most of the twentieth century. A lot of the pressure
7 came from national and regional forces undermining voter IDs
8 and preferences at the time.

9 Q Do you know who Robert Vance is?

10 A I believe so, yes.

11 Q And who is Robert Vance?

12 A You will have to remind me. Maybe I'm blanking on which
13 person he is.

14 Q That's okay.

15 A Okay.

16 Q We'll turn next to the rise of modern conservatism. Is
17 that a factor you identified in your report?

18 A Yes, it is.

19 Q And one of the key elements of the modern conservatism
20 movement was an increased emphasis on states' rights, correct?

21 A Yes, or federalism, as was also often said.

22 Q And this increased emphasis on states' rights included a
23 preference for state control over the voluntariness and pace of
24 integration; is that right?

25 A Could you rephrase -- could you restate the first part?

1 Q Sure.

2 A Yeah.

3 Q The emphasis on states' rights included a preference for
4 state control over the voluntariness and pace of integration;
5 is that accurate?

6 A A preference, yes. I say that because I think the Nixon
7 administration, for example, had a preference, but was willing
8 to push when they felt they needed to.

9 Q And there was a difference in how aggressively to
10 implement integration between the Democrats and Republicans at
11 the national level following the Civil Rights Act?

12 A Yes. Yeah. Nixon is a good example of that.

13 Q And in general, advocates of modern conservatism supported
14 less aggressive integration efforts, correct?

15 A I would say at least less coercive, if by aggressive, you
16 mean coercive.

17 Q And following the -- 1964, it would be fair to say that
18 white voters in Alabama who held pro-segregationists viewpoints
19 would have preferred the Republicans' position on integration
20 than to the national Democrats' position?

21 A Preferred I would say yes, although as I mentioned I think
22 in the deposition and the report to various degrees, in many
23 ways, it was negotiating the terms of their own surrender,
24 their -- in the end was no pro-segregation party. It was a
25 question of which party you were going to lose -- lose

1 differently with.

2 Q And the Republicans' interpretation or position on that
3 would have aligned more closely with those who held
4 pro-segregationists views?

5 A If all you -- if all the goal is, yes, how quickly you're
6 going to use the segregation argument, I guess losing slower is
7 better than losing quicker.

8 And that's similar to what Kevin Phillips says in his
9 *Emerging Republican Majority*. He says we don't really have to
10 go to the South. Really the South has to come to us on our
11 terms.

12 And I think that -- I think that that plays out in the
13 debate.

14 Q The Republican Party benefitted from the passage of the
15 Civil Rights Act by a Democratic president, correct?

16 A Did you say the Republican party?

17 Q (Nodded head.)

18 A Could you be more specific, because they lose the 1964
19 election by one of the greatest landslides in American history.

20 So, yeah, I'm sorry. Could you clarify so I can answer
21 accurately?

22 Q Is it your position that they did not benefit from a
23 Democratic president passing the 1964 Civil Rights Act?

24 A Again, how do you mean -- how do you mean benefit?

25 Q Could you please pull up Dr. Carrington's August

1 deposition, page 102?

2 And, Dr. Carrington, you recall sitting for a deposition
3 in August, as well, on the *Milligan v. Allen* case?

4 A I do.

5 Q And, again, you were under oath for that deposition?

6 A Yes.

7 Q And you answered as accurately and truthfully as you
8 could?

9 A Yes.

10 Q Could you pull up lines 12 through 19?

11 Starting on line 12, I asked: And so, I guess, in like
12 the post-1964 period, did the Republican Party begin drawing
13 more support from voters who harbored anti-Civil Rights
14 viewpoints?

15 Could you read your answer?

16 A I think in 1964, they certainly benefitted from the
17 passage of the Civil Rights Act by -- well, by a Democratic
18 president, although it never would have gotten passed without
19 Republican votes.

20 So, yeah, if the context is did it -- did they begin to
21 get more votes after 1964 in the South? Yes. And did some
22 people who had to choose again how to lose in the anti-Civil
23 Rights camp maybe see Republicans as the better losing option?
24 Yes. But I was wondering if you had a more national, regional,
25 or local question to that.

1 And in my report, I also specified that the performance by
2 Goldwater really seems to be an aberration until later time, so
3 we can talk about that only if you want to.

4 Q Sure. Let's turn to that.

5 So in the 1964 presidential election, following the
6 passage of the Civil Rights Act, Republican presidential
7 candidate Senator Barry Goldwater won Alabama with nearly
8 71 percent of the vote; is that correct?

9 A Correct.

10 Q And this was the first time a Republican presidential
11 candidate had won Alabama since 1868?

12 A I believe 1872.

13 Q And in Alabama, Senator Goldwater benefitted from his vote
14 against the 1964 Civil Rights Act, correct?

15 A Correct.

16 Q Senator Goldwater's vote against the 1964 Civil Rights Act
17 increased his appeal to pro-segregationists voters in Alabama,
18 correct?

19 A Correct, although I will say he voted for the '57 and '60
20 Civil Rights Act, he desegregated his own businesses, so he was
21 a bit of a weak candidate, as far as making a pro-segregation
22 argument. But, yes, his opposition, I'm sure certainly made
23 him more attractive.

24 Q And George Wallace won the presidential vote in Alabama in
25 the next presidential election in 1968, correct?

1 A Correct.

2 Q George Wallace opposed integration in 1968 when he ran for
3 president, correct?

4 A Correct.

5 Q And George Wallace's anti-integration viewpoint helped him
6 attract supporters among white voters in Alabama when he ran
7 for president, correct?

8 A Yes. In fact, you know, Goldwater's election flipped the
9 normal script for how Republicans won before and after in the
10 South. And those voters seemed to revert mostly almost
11 overwhelmingly to Wallace in 1968, given by Nixon's pretty
12 paltry performance in the state that election year.

13 Q And to just to clarify, George Wallace did not run for
14 president as a Republican, correct?

15 A Correct.

16 Q In the decade after the Civil Rights Act, the Alabama
17 state Democratic Party did not adopt the same types of more
18 aggressive integration positions as the national Democratic
19 Party; is that correct?

20 A More -- correct.

21 Q And during this period, there were still Alabamians who
22 were pro-segregationists that may still have supported
23 Democrats at the state level, right?

24 A Yes. I could not eliminate that -- that possibility.

25 Q In fact, George Wallace served as the governor of Alabama

1 as a Democrat from 1963 to 1967, correct?

2 A Correct.

3 Q And during that time, then Governor Wallace was a strong
4 advocate for segregation in Alabama, correct?

5 A Correct.

6 Q And Mr. Wallace was the governor of Alabama on and off
7 until 1988, correct?

8 A That's correct, although his story is a bit more
9 complicated for those who know Alabama history post 1968,
10 including him declaring at his 1971 inauguration that the
11 government of Alabama is for all people, white and black.

12 So was he faking that? I don't know. But he already
13 starts to moderate on those questions as early as the early
14 '70s.

15 Q The Democratic Party did not lose its majority in the
16 Alabama Legislature until 2010, correct?

17 A Correct, which is actually comparable to the Deep South
18 states around it.

19 Q I believe in your report you identified that Republican
20 gains were largely focused on urban and metropolitan centers
21 rather than rural areas, at least in the immediate post-1964
22 period?

23 A That was their quickest growth, yeah. That's statistics
24 showing that the rural voters do not identify more than
25 suburban voters as Republican until into the twenty-first

1 century.

2 Q But you hesitate to say whether a majority of white
3 Metropolitan voters in Alabama would have supported the Civil
4 Rights Act in the decade following its enactment, correct?

5 A Correct. I know we talked about this in the deposition
6 when I think I said at one point they were more progressive on
7 it, not necessarily in supporting Civil Rights, but not letting
8 Civil Rights get in the way of them preferring Republicans for
9 other reasons, economic and such, which at least strikes me as
10 more progressive than those who would ignore all other issues
11 to just vote on the base of racial superiority or inferiority,
12 or a view of that, I should say.

13 Q And you are aware of the series of racially-motivated
14 bombings here in Birmingham commonly referred to as
15 "Bombingham," correct?

16 A Yes. Unfortunately. Not unfortunately that I know, but,
17 yes, that is a terrible history.

18 Q You are aware of the organization of White Citizens'
19 Councils in Alabama's major cities which opposed integration of
20 Alabama's public schools?

21 A Correct. Yes.

22 Q Who was Senator Sam Engelhart?

23 A He was one of the senators I believe was involved with
24 that organization.

25 Q Are you aware that he was a state senator from Alabama's

1 26th district in the mid to late '50s?

2 A I couldn't have told you the district, but, yes, that he
3 was a state legislator.

4 Q Are you aware that he was Alabama's state highway director
5 from 1959 to 1963?

6 A I did not recall that specific, that particular part of
7 his resume, but, yes, I believe you.

8 Q And I believe you just mentioned that you were aware that
9 he had a role within White Citizens' Councils?

10 A Yes.

11 Q You did not consider him in your report, correct?

12 A Correct.

13 Q You are aware of the phenomena of white flight in Alabama?

14 A Yes. At least, I know the concept of white flight.

15 Q And you understand that to mean that white families in
16 Alabama left the metropolitan areas to avoid having to send
17 their children to integrated schools, correct?

18 A I know that is a subset of white flight theory, because I
19 know it's also considered a national phenomena as far as the
20 hollowing out of the urban centers of white population to the
21 suburbs.

22 Q You did not review the history of violence and unrest
23 specifically in schools in Alabama as they were integrated,
24 correct?

25 A Correct.

1 Q You did not review the desegregation of Jefferson Davis in
2 Montgomery, correct?

3 A Correct.

4 Q You also did not review the desegregation of Baker in
5 Huntsville, correct?

6 A Correct. That was much more specific than I was -- than
7 how my focus was in the report, so, yes, I did not touch on
8 that.

9 Q And you did not analyze these specific instances when
10 evaluating whether white metropolitan voters in Alabama are
11 more racially progressive, correct?

12 A Are you asking for specific voters in particular?

13 Q I believe earlier you mentioned that white metropolitan
14 voters in the period that we're discussing allowed other issues
15 to predominate over race. Is that your view?

16 A Yes. And I base that on the research and -- the
17 scholarship on the growth of the Republican Party in the South
18 from the 1920s and on, including actually by the way, some
19 Alabama-specific studies that looked at the 1952, 1956, and
20 1960 elections noted outsized growth in the Republican Party in
21 more suburban and financially upscale areas of the state, which
22 comports with my statements.

23 Q And my question is whether any of the instances I just
24 discussed influenced your view on whether metropolitan white
25 voters allowed other issues to predominate over race?

1 A I think if you want the general view of an area, the way
2 people are voting might be more informative of generalities
3 than whether particular persons or groups enact violence, so,
4 no, I didn't -- I did not focus on that over and above the
5 other -- the other data I did cite.

6 Q It's your view that southern segregationists were in a
7 weak position in the late 1960s and '70s because the Civil
8 Rights movement had won out, correct?

9 A Correct.

10 Q And anything that remained was a rear guard action; is
11 that accurate?

12 A Yes. Yes. I think -- I believe so, as far as making any
13 sort of explicit pro-segregation argument.

14 Q Alabama did not see its first black Senate or state
15 legislator elected until the early 1970s, correct?

16 A Correct.

17 Q And Alabama did not see its first black representative
18 elected to Congress until 1992, correct?

19 A Correct -- I thought -- I thought from Dr. Bagley's report
20 said, as well that it was '96.

21 Q Correct.

22 A Okay.

23 Q And Alabama only elected its first black representative to
24 Congress after a federal court ordered Alabama to draw a
25 majority-minority district, correct?

1 A Yes.

2 Q I believe you were in the courtroom yesterday when
3 Mr. Roberts mentioned Fred Gray. Do you know who Fred Gray is?

4 A Yes. And I'm trying to remember that conversation, but go
5 on.

6 Q Who is Fred Gray?

7 A Was he the founder of that school, or am I getting him
8 mixed up with someone else?

9 Q No, he is not.

10 A Okay. Then I apologize. You will have to remind me. I
11 probably should have had more coffee this morning.

12 Q No. That's okay. It's not a memory test.

13 You also identified anticommunism as a factor leading to
14 the partisan realignment of southern white voters; is that
15 correct?

16 A That's correct.

17 Q But you did not specifically analyze how anticommunism
18 influenced the partisan realignment of white voters in Alabama,
19 correct?

20 A I did not look at the specific statements or things like
21 that, if that's what you mean. I did argue for why I believed
22 that more anticommunist rhetoric would be more palpable to the
23 southern voters including Alabamians.

24 Q Dr. Bagley in his rebuttal report states that
25 anticommunism in Alabama was closely tied to anti-Civil Rights

1 with many politicians accusing Martin Luther King, Jr., an
2 activist of being communist.

3 Do you recall seeing that?

4 A Yes.

5 Q You would agree that Dr. King was accused of having
6 communist sympathies, correct?

7 A Yes. And, actually, my own article on court curbing noted
8 that there were people that made that link -- well, not to
9 Dr. King in particular, but to elements of the Civil Rights
10 movement.

11 Q So your research had shown that there were links people
12 politicians made between communism and the Civil Rights
13 leaders?

14 A Yes. Yes.

15 Q And this may be an example, but Dr. Bagley included an
16 example from George Wallace rhetoric describing the communist
17 domination of the Civil Rights movement. Are you familiar with
18 that language?

19 A That language, yes. I don't remember Dr. Bagley's
20 specific quote, but it would be -- it would be commensurate
21 with what I have seen.

22 Q And that would be an example of anticommunism being used
23 in close association with anti-Civil Rights, correct?

24 A Yes. That would be one where there would be overlap, yes.

25 Q You also testified that voters' religious identities

1 played a factor in your analysis; is that correct?

2 A Correct.

3 Q And it's your view that the Republican policy positions on
4 abortion and LGBTQ issues appeal to Christians more than the
5 Democratic positions, correct?

6 A Well, I do specify a certain kind of Christian. I do make
7 some distinctions there. But, yes. Yes. Theologically
8 conservative and certain denominations.

9 Q And this difference between the parties on religious
10 issues would have begun to have a more meaningful impact
11 starting in around the 1960s and particularly so by the 1980s?

12 A Yes. I would say it's more -- I don't want to say muted,
13 because I don't think I used that the same way Dr. Bagley does.
14 It would have been more subdued. But it was certainly there.
15 When I did my research on court curbing attacks, like I said,
16 about every time that the Supreme Court came out with a school
17 prayer case or something like that or the -- you know, other
18 separation of church and state issues, it was a wedge issue
19 that was used.

20 Q You would agree that the rise of the Moral Majority
21 organization was a significant turning point for the impact of
22 religiosity in partisan alignment, correct?

23 A Yes. It was not the only, but it was a significant
24 organizing element of what became eventually known as the
25 Religious Right. Not the only, but a significant one.

1 Q And the Moral Majority was founded by Jerry Falwell,
2 correct?

3 A Yes, it was.

4 Q You are familiar with Bob Jones University, correct?

5 A Yes.

6 Q And you are familiar with the 1970 Supreme Court decision
7 -- '70s Supreme Court decision *Green vs. Kennedy*, which
8 stripped tax exempt status from schools that sought to maintain
9 segregation policies based on claims of religious freedom?

10 A Yes. I actually teach that case in my constitutional law
11 class.

12 Q And Bob Jones University resisted admitting black students
13 after the *Green vs. Kennedy* decision causing the IRS to revoke
14 its tax exempt status in 1976, correct?

15 A Yes. I'm trying to remember if at that point it was
16 admitting students or admitting particular students either
17 engaged in interracial marriages or something else. But I
18 don't think that distinction is pertinent to what you're -- I
19 don't think that makes a difference in what you're asking, so,
20 yes.

21 Q And you agree that the revoking of Bob Jones University
22 tax exempt status in part inspired Jerry Falwell to create the
23 Moral Majority?

24 A Yes. That was an instigating element, although I would
25 not say the only.

1 Q Are you aware that Bob Jones University did not permit
2 interracial dating on campus until after in 1983 Supreme Court
3 ruling against the school?

4 A Yes.

5 Q In your report, you did not analyze whether black
6 Alabamians have comparable levels of religious observance as
7 their white counterparts, right?

8 A Correct. As I said, they were not a focus of my report.

9 Q Pew Research Center has found that 94 percent of black
10 Alabamians identify as Christian, and 88 percent of black
11 Alabamians see religion as very important.

12 Are you aware of those findings?

13 A Yes.

14 Q And you don't have any reason to dispute those figures?

15 A No, I do not.

16 Q On the issue of abortion, you did not analyze whether the
17 policy preferences between white Christians and black
18 Christians differ, correct?

19 A I did not at least include that information in my report.
20 The same report I quoted did have that information, but given
21 my focus, I did not include it.

22 Q But you don't dispute that black Christians in Alabama
23 hold similar religious views on abortion as white Christians,
24 correct?

25 A Similar, although it's -- although less. It is closer to

1 a split, as I understand it, than it is much more dominant
2 among white voters, white religious voters.

3 Q And Pew Research has also found that 48 percent of black
4 Alabamians believe that abortion should be illegal in all or
5 most cases. Are you familiar with that finding?

6 A Yeah. I believe it was 48/47, correct?

7 Q And you have no reason to dispute the accuracy of those
8 figures?

9 A No. I believe it was 75 percent for white voters, if I'm
10 remembering, but you're asking me -- or I'm asking myself to
11 recall off the top of my head, so...

12 Q You did not analyze whether black Christians in Alabama
13 hold similar views on LGBTQ rights as white Christians,
14 correct?

15 A Again, that was not the focus of my inquiry, no.

16 Q Are you aware that 2014 Pew Research polling has shown
17 that 47 percent of black Alabamians oppose same-sex marriage
18 and only 45 percent are in favor?

19 A That sounds right. I mean, Alabama in that -- I think
20 we're talking about the same poll -- found it was the most
21 resistant or the most opposed to same-sex marriage in the
22 entire country, Alabama was. So I would be surprised if a
23 significant African-American population was not on board, but,
24 again, that was not a focus of my inquiry.

25 Q And it doesn't sound as though, but you don't have any

1 reason to dispute Pew's findings in that regard?

2 A No.

3 Q And you didn't consider these Pew Research findings in
4 reaching your opinions in this case, correct?

5 A No. Again, because I was trying to figure out what I
6 thought drove white voters, given the statistical questions
7 involved in my -- underlying my inquiry.

8 Q And over the time period that you analyzed, there was no
9 comparable shift in partisan alignment among southern black
10 Christians as there was among southern white Christians,
11 correct?

12 A Not that I am aware of. But, again, that's beyond the
13 scope of what I was studying.

14 Q And your report makes no attempt to explain the difference
15 in the voting patterns between black and white Christians in
16 Alabama that share views on certain social issues?

17 A No. I was looking for consistency between issue, belief,
18 and party that is identified with that issue belief. I found
19 consistency among white voters. I did not examine what might
20 be different about black voters on that question.

21 MR. ETTINGER: John, could you please pull up PX-323?

22 BY MR. ETTINGER:

23 Q Dr. Carrington, do you recognize this document?

24 A Yes. An op-ed I composed on the day that the first
25 *Milligan* opinion came out as part of an assignment that I had

1 with the Washington Examiner.

2 Q I believe in the picture that's Deuel Ross, one of the
3 attorneys in this case; is that correct?

4 A Yeah. I will say for those who have written op-eds, you
5 don't get to pick the picture. You usually get your headline
6 thrown out. So it's a nice picture: I like your tie better
7 today.

8 Q I couldn't resist myself.

9 And this is a true and accurate copy of the article that
10 you wrote dated June 11th, 2023, in the Washington Examiner?

11 A I assume. I assume so, yep.

12 Q Could you please read the title of this article?

13 A The Supreme Court's voting rights decision was a missed
14 opportunity -- Washington Examiner.

15 Q And this article was discussing the 2023 Supreme Court
16 decision *Allen v. Milligan*, correct?

17 A Yes, it was.

18 Q And in that case, the Supreme Court upheld a decision to
19 -- granting a preliminary injunction in which the Court found
20 that Alabama's congressional redistricting plan likely violated
21 Section 2 of the Voting Rights Act, correct?

22 A Correct.

23 Q And I believe in this article you wrote that the Supreme
24 Court 's decision continued with a line of precedent at odds
25 with important constitutional principles, correct?

1 A Yes. Yes.

2 Q And in your view, this decision was a missed opportunity
3 to reunderstand the Voting Rights Act more towards precedent
4 that had occurred prior to the 1982 amendment, right?

5 A Well, I said that one still has to follow the 1982
6 amendment. I mean, I will admit this was hastily written the
7 day it came out, so this -- I would not consider this
8 necessarily my -- what I would say in -- on final scholarship.

9 I was assigned as a Supreme Court commentator for all
10 major opinions that came out at the time, so -- but, yes. I
11 thought -- I expressed the initial reaction, that I found the
12 dissents more persuasive.

13 MR. ETTINGER: John, can you pull up the May
14 transcript, page 181, lines 11 through 15?

15 BY MR. ETTINGER:

16 Q And starting on line 11, my question was: And what
17 opportunity was missed in the way that it was reached?

18 Could you read your response?

19 A Yeah. I think to reunderstand the Voting Rights Act more
20 toward precedent that had occurred prior to the 1982 amendment
21 for particular -- conscious discrimination being -- wow.
22 That's a -- I do not like re-reading myself speaking.

23 MR. ETTINGER: Your Honor, may I have a moment to
24 consult with my colleagues?

25 THE COURT: You may.

1 MR. ETTINGER: No further questions.

2 THE COURT: All right.

3 MR. GEIGER: Just two or three on redirect.

4 REDIRECT EXAMINATION

5 BY MR. GEIGER:

6 Q Dr. Carrington, you noted that the shift to a Republican
7 majority in 2010 here in this state was similar to the timing
8 of shifts in other states.

9 Can you explain more if you have studied that?

10 A Yes. One thing that struck me in my research was the
11 comparability of Alabama to the other states. So Louisiana
12 shifted State Legislature the same -- basically the same
13 election. So does Mississippi. Arkansas the very next
14 election. Georgia actually is prior to this. It's 2005 when
15 it becomes majority Republican.

16 Comparable statistics for the U.S. House as far as it's
17 around '94 to '96 that the delegations shift from majority
18 Democrat to majority Republican.

19 Again, just saying that Alabama I don't believe is an
20 outlier on those questions. And my own research confirmed
21 that.

22 Q When analyzing the reasons undergirding voting behaviors
23 and patterns, is it consistent with political science to rule
24 out any one factor as influencing an individual voter's
25 political behavior?

1 A No. Again, that would go to mind reading. I was looking
2 more for what I thought were the driving or more -- more
3 explanatory reasons for what would be going on.

4 Q So wouldn't you say that race may play a role in
5 explaining voter behavior -- are you looking at evidence that
6 race is swaying large numbers of voters in Alabama today?

7 A Yes; and particularly the claim -- or particularly
8 responding to the claim that comes out in the literature that
9 the other issues are subsumed under race, or even ultimately
10 have race underneath them is what I was responding to.

11 Q And just for the sake of a clean transcript, I asked
12 whether you had identified evidence that race was swaying large
13 numbers of voters in Alabama today?

14 A Yes. I -- and I'm sorry. My answer would be, no, I don't
15 believe so.

16 Q Okay.

17 A And I certainly don't believe it was a dominant factor
18 even for many that it could be going on to some degree. That
19 was not the -- consistent with the evidence that I saw.

20 Q Thank you, Dr. Carrington.

21 MR. GEIGER: That's all my questions.

22 THE COURT: All right. Before I excuse
23 Dr. Carrington, were there exhibits we needed to admit with
24 respect to him? Did you admit his report?

25 MR. GEIGER: His report and his CV were admitted

1 earlier.

2 THE COURT: Were admitted earlier.

3 MR. GEIGER: Yes, Your Honor.

4 THE COURT: Any from defense?

5 MR. ETTINGER: No, Your Honor.

6 THE COURT: Okay. All right. Any reason why I may
7 not excuse Dr. Carrington?

8 MR. ETTINGER: No, Your Honor.

9 THE COURT: Dr. Carrington, thank you for being with
10 us. You're excused.

11 THE WITNESS: Thank you.

12 (Witness excused.)

13 THE COURT: All right. The state's next witness.

14 MR. SMITH: Your Honor, the secretary calls Dr. M. V.
15 Hood, III.

16 M.V. TREY HOOD, III

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

19 THE COURTROOM DEPUTY CLERK: If you will adjust your
20 microphone where it's comfortable for you. Say and spell your
21 first and last name for the Court, applies.

22 THE WITNESS: M.V. Hood, III.

23 MR. SMITH: Your Honor, I have clean copies of
24 Dr. Hood's report and CV. May I approach?

25 THE COURT: You may.

1 MR. SMITH: These are marked as DX-5 and DX-6. I
2 believe they have already been admitted.

3 THE COURT: They have.

4 DIRECT EXAMINATION

5 BY MR. SMITH:

6 Q Good morning, Dr. Hood.

7 A Good morning.

8 Q Have you been retained as an expert in this case?

9 A Yes.

10 Q And have you prepared an expert report as part of this
11 case?

12 A Yes.

13 Q And is that the document that's labeled DX-5 in front of
14 you?

15 A Yes.

16 Q And is your CV marked as DX-6 in front of you?

17 A Yes.

18 Q And is it a complete and accurate summary of your
19 background and professional experience as of the time it was
20 submitted?

21 A Through March 2024, yes.

22 Q Dr. Hood, could you summarize your educational background?

23 A Yes. I have three degrees in political science. I have a
24 B.S. from Texas A&M, an M.A. from Baylor, and a Ph.D. from
25 Texas Tech University.

1 Q And how are you employed, Dr. Hood?

2 A I am a professor of political science at the University of
3 Georgia. I'm also the director of the SPIA Survey Research
4 Center at the university.

5 Q And what is the SPIA Research Center?

6 A It's a center that conducts public opinion polling.

7 Q And do you teach any classes?

8 A Yes.

9 Q What classes do you teach?

10 A I typically teach a class in southern politics in the
11 spring semester. Right now, I'm teaching a class in survey
12 research methodology. I teach -- I have taught other classes
13 in the area of methods. I teach classes in introductory
14 American government.

15 I have some administrative duties, so I have been teaching
16 less as of lately.

17 Q And what administrative duties do you hold?

18 A Again, the directorship of the Survey Research Center.

19 Q Do you conduct empirical social science research?

20 A Yes.

21 Q And what are your principle areas of research?

22 A American politics and policy generally speaking. Within
23 that, southern politics and election administration primarily.

24 Q And are you familiar with social science research methods?

25 A Yes.

1 Q Have you received external grants to study issues related
2 to your principal areas of research?

3 A Yes, I have.

4 Q And what are some of the organizations that have provided
5 you with such grants?

6 A Pew, the National Science Foundation, the Center For
7 Voting -- or Voting Integrity and -- I'm sorry. I can't
8 remember the -- I can't remember that center, but center on
9 voting, SCEIR, S-C-E-I-R.

10 Q And do you serve on the editorial boards of any
11 publications?

12 A Yes. Currently, I am on the editorial boards for *Social*
13 *Science Quarterly* and *Election Law Journal*.

14 Q Have you served as an expert witness before?

15 A Yes.

16 Q Approximately, how many times?

17 A I don't know for certain. Probably about I would guess 25
18 times.

19 Q Have you been accepted as an expert witness in cases
20 involving redistricting, specifically, before?

21 A Yes.

22 Q And is a list of cases in which you have served as an
23 expert, does that appear on page 2 of your report for the last
24 five years?

25 A That would be correct, yes.

1 Q Have courts previously credited and relied on your
2 analyses?

3 A Yes.

4 Q And have you previously served as an expert in the state
5 of Alabama?

6 A Yes.

7 Q And have courts in Alabama accepted you as an expert?

8 A Yes.

9 MR. SMITH: Your Honor, at this time, I would tender
10 Dr. Hood as an expert in political science specifically in the
11 areas of electoral politics, racial politics, election
12 administration, and southern politics, an empirical social
13 science research, and for the matters discussed in his report.

14 THE COURT: Any objection?

15 MS. ALLEN: No objection, Your Honor.

16 THE COURT: Admitted.

17 BY MR. SMITH:

18 Q Dr. Hood, could you describe the scope of what you set out
19 to do in your report?

20 A Yes. I was asked by counsel for defendants to answer a
21 number of questions, and those are outlined in Section 2 on
22 page 2 of my report at the bottom of the page. There were five
23 questions that I analyzed. So that's comprised my report in
24 this matter.

25 Q All right. And, Dr. Hood, turning to page 3 of your

1 report, is this as to the first question that you were asked to
2 analyze?

3 A Yes. I was asked to look at black voting patterns, both
4 in Alabama, as well as in other states in the United States.

5 Q And how did you go about doing that?

6 A I collected and utilized survey data from two primary
7 sources -- the journalistic consortiums that produce the
8 national exit polls and a very large social science survey
9 that's conducted every two years called the CES, Cooperative
10 Election Study.

11 Q And did you compare Alabama to any other states?

12 A Yes. I compared Alabama to a number of other states --
13 any other state that had a black population of 10 percent or
14 greater.

15 Q And why did you pick the 10 percent black population
16 cutoff?

17 A Well, there has to be a critical mass to use survey data,
18 and so if a state had less than 10 percent African-American
19 population, for instance, I would be concerned that we would
20 have too few African-American respondents in the survey data to
21 be able to draw any kind of conclusive inferences.

22 Q How would you describe the geographic distribution of
23 these comparison states?

24 A Well, I believe they contained all the southern states, or
25 what I would consider the South, you know, which are the 11

1 former states of the Confederacy. But there were states, you
2 know, scattered all over the United States geographically,
3 so...

4 Q And how would you describe the political lean or political
5 control of the comparison states?

6 A Some are Republican controlled, some are Democratically
7 controlled.

8 Q But red states and blue states as those states are
9 commonly used?

10 A If you want to put it in that terminology, yes.

11 Q And I think you talked about your data sources. Does
12 either of your data sources, do they undergo a vote validation
13 process?

14 A The CES does. I mean, we can also be somewhat certain
15 about exit poll data. At least part of exit polls are still
16 conducted physically outside of voting precincts, so we can be
17 certain, you know, or certainly more certain that that person's
18 just voted.

19 But the CES, the Cooperative Election Study does undergo a
20 vote validation process after the fact. So what happens is
21 that respondents to the CES are matched to voter registration
22 databases within the various states. And they can tell --
23 excuse me -- if someone has turned out to vote in that election
24 or not.

25 So for the CES, I was using the vote validated component

1 to the CES.

2 Q And what did you do with this data once you collected it?

3 A Well, I analyzed it by compiling a number of comparison
4 both for Alabama, in between Alabama and these other comparison
5 states. I was looking at voting in presidential elections
6 going back to 2008. So this goes from 2008 to 2022. I looked
7 at gubernatorial returns, Senate returns, and sometimes House
8 -- U.S. House returns.

9 Q And does the use of this data allow you to make inferences
10 about voting patterns?

11 A Yes.

12 Q Let's look at -- can we pull up page 4 of Dr. Hood's
13 report, DX-5?

14 And, Dr. Hood, what do we see here in Table 1?

15 A So Table 1 are black voting patterns in the comparison
16 states, so this doesn't include Alabama. That's down in Table
17 2. And so what we can see -- and these are from the national
18 exit poll data. So this is not the CES data yet. But we have,
19 you know, returns again for president, governor, and Senate
20 here.

21 And, again, this will be the percentage of
22 African-Americans in the national exit polls that are voting
23 Democratic.

24 Q And I think you said, but did you say which data source
25 this uses?

1 A These were the national exit polls, yes.

2 Q And looking at the first line, I see 95.6 percent under
3 president for 2008. What does that number mean?

4 A So that would be for the comparison states as a group,
5 95.6 percent of African-Americans were voting for the
6 Democratic presidential candidate in 2008.

7 Q And how did you calculate that number?

8 A That's just simply an average across the states.

9 Q And did you use that same process for the other contests
10 in this chart?

11 A Yes.

12 Q Why are some of the lines under the president column
13 blank?

14 A Well, because, of course, there's only a presidential
15 election every four years, whereas, you know, in various
16 states, we have gubernatorial and U.S. Senate elections every
17 two years, so...

18 Q And could you describe what the information -- at the
19 bottom, there's a row 2008 to 2022. What do the numbers in
20 that row indicate?

21 A So those are just averages for that office. So for
22 president, again, from 2008 to 2022, the average is
23 93.1 percent. So 93.1 percent of black respondents to the
24 national exit poll surveys in these comparison states were
25 voting for the Democratic presidential candidate.

1 Q And how many total elections were considered in this
2 table?

3 A Looks like 165.

4 Q Okay. Can we look at Table 2, please?

5 And, Dr. Hood, what does this table show?

6 A This is, using the national exit poll data, but this is
7 only for the state of Alabama.

8 Q And why is there no information in the governor column
9 here?

10 A It means that for whatever reason, the news consortium
11 decided not to use Alabama as a state that they were polling
12 in, in off-year election cycles, so there's no gubernatorial
13 data available.

14 Q Is that the same case for the blanks in the Senate data?

15 A Yes. Yes. So not every state every election cycle is
16 included in the national exit polls.

17 Q And so does this table include all of the information that
18 was available for these contests from that source?

19 A Yes.

20 Q And what did you find in this table?

21 A Well, for instance, for president from 2008 to 2022 for
22 the data that were available for Alabama, 94 percent of
23 African-Americans were voting Democratic for president,
24 90 percent for Senate. So the average of all the races across
25 these various offices is 92.4 percent.

1 Q All right. And then can we pull up Table 3 on the next
2 page?

3 Dr. Hood, what does this table show?

4 A It's the same table essentially, but now using the CES
5 data, the Cooperative Election Study data. So Table 3 are the
6 comparison states, and Table 4 is the state of Alabama.

7 Q And in this last column, you include House data. Could
8 you tell us about what that data, how that data was calculated?

9 A Right. Now, for all the races included in any of these
10 tables, they have to be two-party contested.

11 So, for instance, House races where there was, you know,
12 where there was not major party contesting the race, it
13 wouldn't be included in this particular calculation. But it
14 would be just the House elections are just a compilation, if
15 you will, or an aggregations of all the House votes for
16 Republicans and then for Democrats where there's two-party
17 contested House elections.

18 Q And so using that different dataset, is the methodology
19 here otherwise the same as Table 1?

20 A Yes.

21 Q Okay. Can we look at Table 4?

22 Dr. Hood, I think you already said this, but is this --
23 this is the CES data for Alabama?

24 A Correct.

25 Q And is this otherwise the same methodology as Table 2,

1 just using the different data source?

2 A Yes.

3 Q And, Dr. Hood, for each of these tables, is the
4 state-by-state data included in appendix B of your report?

5 A Yes. Yes.

6 Q And, Dr. Hood, what's your overall conclusion after
7 analyzing this data in this section?

8 A Well, from the analysis of the CES data and the national
9 election -- national exit poll data, it's fairly clear that
10 black voting patterns are what I would call monolithic, in
11 terms of support for Democratic candidates at various
12 office-holding levels. That goes both for Alabama and these
13 comparison states outside of Alabama.

14 Q Did you observe any differences by geographic region?

15 A No.

16 Q Did you observe any differences by the party control of
17 the states examined?

18 A No. I mean, you know, from state to state, there are
19 slight, you know, percentage differences. I'm not saying that,
20 but the same pattern holds across these states.

21 Q So on average, both in Alabama and throughout the South,
22 black voters support Democratic candidates at rates above
23 90 percent?

24 A Yes. That's what I found for both the exit poll data and
25 the CES data.

1 Q Dr. Hood, is this a racially-polarized voting analysis?

2 A No.

3 Q Did you purport to be performing a racially-polarized
4 voting analysis in your report?

5 A No.

6 Q All right. Dr. Hood, turning to page 7, I think this
7 begins a new section titled, Racial Comparisons. Could you
8 describe what analysis you were performing here?

9 A So, again, I'm still using Alabama versus these same
10 comparison states that have a black population of 10 percent or
11 greater. What I'm doing here in this particular section of my
12 report is providing a number of sociodemographic comparisons
13 between black citizens and white citizens to see if there's any
14 kind of disparity.

15 And I think I use 13 different comparison points.

16 Q So let's look first at Table 5 on page 8 of the report.

17 And, Dr. Hood, can you tell us what we're looking at in
18 this table?

19 A So you can see Alabama up at the top and then the
20 comparison states down below. What we're looking at here is
21 educational achievement, the percentage of the population
22 that's black and white that have a high school degree, and the
23 percentage of the population who are black and white that have
24 a college degree or higher.

25 Q And is this restricted to adults age 25 and older?

1 A Yes.

2 Q And what data source are you using for this table?

3 A This is the Census Bureau. Specifically, this was from
4 the 2022 American Community Survey.

5 Q And I see a note at the bottom, Dr. Hood, that says
6 averages exclude Alabama.

7 Why did you exclude Alabama from the average?

8 A Well, because I wanted to be able to compare Alabama to
9 these other states. So the average at the bottom of the table,
10 yes, only includes the comparison states.

11 Q And, Dr. Hood, the column that's labeled "difference,"
12 what does that indicate?

13 A In this particular table, it's just the percentage of the
14 white population with a high school degree if we want to look
15 at that first in numerical column to the left there minus the
16 percentage of the black population with the high school degree.
17 It's just the difference between those two measures.

18 So 89.8 minus 85 is 4.8 for Alabama, for instance.

19 Q And so that indicates that the white population in Alabama
20 holds a high school diploma or equivalent at 4.8 -- 4.8 more
21 percentage points of the population hold a high school diploma;
22 is that right?

23 A Yes. Yes.

24 Q And did you find any patterns in this table?

25 A Well, across Alabama and the comparison states, this

1 disparity in high school education graduation rates between
2 whites and blacks exists across all these states.

3 Q And turning to page 9 of the report, if we could.

4 Dr. Hood, what are you examining here?

5 A So this looks to be page 9, so Table 6.

6 Q Yes, sir.

7 A So this looks to be the percentage of the states'
8 population that's receiving food stamps.

9 Again, these data are derived from the U.S. Census Bureau,
10 specifically, the 2022 American Community Survey.

11 Q Why is the difference measure here negative?

12 A Well, again, that's because here, we're saying 8.1 minus
13 26.7 for a negative difference of negative 18.6. So if there's
14 a disparity in this particular table, it would be a negative
15 number, not a positive number.

16 Q And so what the positive or negative difference measure
17 indicates might depend on the data source you're examining?

18 A Yes.

19 Q But here, even though this is a negative differential,
20 does it indicate that a higher percentage of the black
21 population is on food stamps or is receiving food stamps?

22 A Yes.

23 Q Dr. Hood, would you flip through the rest of your report
24 through these sections and just tell the Court what the other
25 characteristics you looked at were?

1 A Sure. On page 10, Section C, Table 7, I'm looking at
2 median household income. And, again, the difference would just
3 be white house -- median household income minus black median
4 household income. So that's positive there if there's a
5 disparity.

6 There's a disparity in Alabama, as well as the comparison
7 states. On page 11, Section D, Table 8, this is looking at
8 another income measure per capita income. And, again, a
9 positive measure for disparity -- a positive difference measure
10 would be an indication of the disparity between whites and
11 blacks.

12 And there is a disparity both in Alabama, as well as these
13 comparison states for per capita income.

14 Section E on page 12, Table 9, this is the percentage of
15 the population in these states falling below the poverty level
16 by race.

17 So, again, here, again, a negative difference measure
18 would be an indication of a disparity. There's a disparity in
19 Alabama on this measure, as well as the comparison states.

20 Page 13, Section F, Table 10 looks at home ownership
21 rates, what percentage of the population are home owners. So
22 here, a positive difference measure would be an indication of a
23 disparity. There's a disparity in home ownership rates between
24 whites and blacks in Alabama, as well as the other comparison
25 states listed here.

1 G, Section G of my report, page 14, Table 11, this is
2 located unemployment rates. Now, these figures are from the
3 Bureau of Labor Statistics. But we have unemployment rates by
4 race for Alabama and the comparison states.

5 Here, a negative would be an indication of a disparity.
6 In other words, there would be more blacks unemployed than
7 whites. That's a disparity on this measure in Alabama, as well
8 as the comparison states.

9 Page 15, Section H, Table 12, this is looking at infant
10 mortality rates by race. So here, a negative difference
11 measure would be an indication of a disparity between whites
12 and blacks. And there is a disparity on this measure in
13 Alabama, as well as the comparison states listed.

14 Section I of my report, page 16, Table 13, this is looking
15 at the percentage of white and black populations within the
16 states that own a vehicle. So again, a negative difference
17 measure would be an indication of a disparity. There's a
18 disparity on this measure in Alabama, as well as the comparison
19 states listed.

20 Section J of my report, page 17, Table 14, this is a
21 comparison between white and black populations in Alabama and
22 the comparison states concerning the percentage of the
23 population that lacks health insurance. So a negative
24 difference measure would be an indication of a disparity
25 between whites and blacks. There is a disparity on this

1 measure in Alabama, as well as the comparison states.

2 Section K of my report, page 18, Table 15, Internet
3 access. This is the percentage of the white and black
4 populations that lack Internet access. So a negative
5 difference measure would be an indication in this table of a
6 disparity between whites and blacks. There is a disparity on
7 this measure in Alabama, as well as the comparison states.

8 Section L, page 19, Table 16, incarceration rates. So the
9 percentage of the white and black populations incarcerated. So
10 a negative difference measure here would be an indication of a
11 disparity between the white and black populations on this
12 measure. There is a disparity in terms of incarceration rates
13 between whites and blacks in Alabama, as well as the comparison
14 states.

15 So those were the factors that I looked at in this
16 particular section.

17 Q Dr. Hood, how did you choose those particular metrics to
18 look at?

19 A Well, those are very common sociodemographic comparison
20 metrics that are used often times to make comparisons between
21 racial groups.

22 Q And we just ran through them. Did you find any pattern
23 among these measures?

24 A Well, the main pattern I found is that there was a
25 disparity in Alabama, as well as the comparison states across

1 all these metrics. So there is really no case where I found
2 that the white population, for instance, on a particular metric
3 was worse off than the black population.

4 Q And when you say no case, do you mean in any other state
5 on any other characteristic?

6 A For the states analyzed, yes.

7 Q And so that was the case both in Alabama and in all of the
8 20 states that you reviewed?

9 A Yes.

10 Q Dr. Hood, Dr. Liu criticized your choice of comparison
11 states, in part, because Alabama's black population share is
12 among the top five states in the nation at above the 25 percent
13 level. Would these same patterns that you have identified here
14 still hold if you shifted the black population share cutoff
15 upwards?

16 A Yes. Yes.

17 Q And in reviewing these metrics, did you see any
18 differences by geographic region?

19 A No. Again, there was -- for any of these comparison
20 states plus Alabama, there was not a single case where the
21 disparity rate for whites was greater than that for blacks.

22 Q And so that was the case for both red states and blue
23 states, as well?

24 A Yes.

25 Q Okay. Dr. Hood, let's turn to page 20 of your report.

1 And Section 5 begins a new section titled Carson Vote.

2 Can you describe what you are doing in this section?

3 A I just was asked to gather some data on the 2016
4 Republican presidential primary race and specifically the share
5 of the vote that candidate Ben Carson received within these
6 states up until the point when he dropped out of the primary in
7 2016.

8 Q And how did Carson support in Alabama versus the other
9 states?

10 A It was the second highest level of support. Only Alaska
11 at 10.8 was -- gave Carson more support than Alabama at 10.2.

12 Q And did Carson drop out after the Alabama primary?

13 A I -- yes. It looks like it. I think these are all Super
14 Tuesday primaries on March 1st, that particular election cycle.
15 And so he participated in a number of party primaries within
16 these states on March 1st, and I believe he dropped out after
17 that.

18 Q All right. Dr. Hood, let's turn to page 21 of your
19 report, Section 6. And this section is titled White Support
20 For Minority Republican Candidates.

21 Can you describe what analysis you performed here?

22 A Yes. This was primarily based on political science
23 literature, as well as some work I had produced myself. And
24 it's looking at -- the work we produced in a peer-reviewed
25 academic journal article looked at white support, white

1 conservative support for minority Republican candidates. And
2 what we found in a nutshell in that particular article was that
3 white conservatives were more than willing to support minority
4 Republican candidates.

5 Now, we were looking at various election contests for
6 governor and the U.S. Senate.

7 In fact, support for minority Republican candidates among
8 white conservatives was sometimes even higher than whites'
9 conservative support for white Republican candidates.

10 Q And so I think you mentioned this, but this is based in
11 part on research you have performed yourself?

12 A Correct.

13 Q And that was peer-reviewed and published?

14 A Yes.

15 Q What sort of elections were you looking at in that work?

16 A In that particular work, we were looking at some
17 gubernatorial races and U.S. Senate races, so statewide races.

18 Q And do you cite examples of research done by others in
19 this section, as well?

20 A Yeah. I also looked at a couple of other articles that
21 were produced along the same lines that also found that, you
22 know, whites were more than willing to support minority
23 Republican candidates.

24 Q And do you recall what races that work was looking at?

25 A It looked at different races. Some of it were, again,

1 gubernatorial, U.S. Senate, and then one article I believe was
2 looking at U.S. House races.

3 Q And have you examined any instances of Republican support
4 for minority candidates in Alabama?

5 A Yes. I have got one example listed here at the bottom of
6 page 21, which is Republican state rep Kenneth Paschal.

7 Q How did Representative Paschal perform in these elections?

8 A Well, he won as a black Republican. He is a state
9 legislator. He's been reelected, although, it was unopposed in
10 this latest election cycle. But he was running in a district
11 that was about 84 percent White VAP. So given that, it would
12 be virtually impossible for him to win a race, which he did,
13 without white support.

14 Q And do you recall in the Republican primary the race of
15 the candidates he was running against?

16 A Well, there were -- there's a white Republican in the
17 Republican primary. That was one. And then I believe a white
18 Democrat if I'm correct.

19 Q So in the Republican primary and runoff -- let's focus on
20 the runoff.

21 A Okay.

22 Q Head to head with a white candidate, did Paschal win?

23 A Yes.

24 Q And in the general election head to head with the white
25 candidate, did Paschal win?

1 A Yes.

2 Q And I think you mentioned this already, but he's ran for
3 office again since that time?

4 A Yes. In 2022 was reelected, although he was unopposed.

5 Q Dr. Hood, now let's turn to Section 7 of your report, page
6 22, comparisons across time.

7 And can you describe what you're examining in this section
8 of the report?

9 A I was asked to produce to the extent possible a number of
10 comparisons over time.

11 Now, again, it may not seem this way, but to go back
12 50 years in time even in American history and look for data is
13 sometimes fraught with peril. And so this particular analysis
14 utilizes data I'm familiar with and that could be verified. I
15 mean, I would like to -- I guess I'm saying all this to say I
16 would have liked to have done additional comparison, but I
17 didn't feel comfortable with the data that were available.

18 So I did a couple of different comparisons across time.
19 Again, the comparison point years were the passage of the
20 Voting Rights Act in 1965, just prior to the renewal of the
21 Voting Rights Act in 1981, and then present day.

22 Q And so what were the factors that you did look at?

23 A So I looked at the number of black state legislators in
24 Alabama and that's in Table 18. There's a summary in Table 18.
25 So I have it divided up into the House and the Senate, of

1 course, for the State Legislature.

2 And just to go through the table very quickly, 1965, there
3 were zero black state senators and zero black State House
4 members.

5 In 1981, the numbers had increased from 0 to 8.6 percent
6 in the Senate, and 12.4 percent in the House.

7 And then present day, 2024, there are exactly 20 percent
8 of the State Senate are black senators and 24.8 percent, about
9 25 percent of House members are black legislators.

10 Q Did you look at any other measures in this section of the
11 report?

12 A I did. I looked at registration rates. That's in Table
13 19. So, again, going back to -- looking at Table 19, going
14 back to 1965, just under 24 percent of the black population in
15 Alabama was registered to vote.

16 In 1982, it had increased to about 58 percent if we round
17 off. And then by 2024, it's at just slightly over 95 percent.

18 Q And, Dr. Hood, I think you addressed this a little bit
19 already, but these two metrics were the two for which you were
20 confident in the data source available?

21 A Yes. And I had the data available I needed to make the
22 comparison.

23 Q And you would have looked at others, but you weren't
24 confident about the quality of the data?

25 A Or sometimes the data just don't exist. Like they may

1 have existed back to 1982 or 1981, but not necessarily back to
2 1965.

3 Q And what do these metrics tell us about how black
4 political participation has changed in Alabama over time?

5 A Well, it's certainly increased. So the number again of
6 black legislators started out zero in 1965 is very close at
7 least in the House, in terms of matching the overall black
8 population. It's slightly lower than that in the Senate.

9 But there have been major gains for the black population,
10 in terms of representation in the State Legislature.

11 And, again, with 95 percent of African-Americans
12 registered in Alabama, I mean, not everyone's registered, but
13 getting close to nearly everyone.

14 MR. SMITH: Your Honor, may I have a moment to confer?

15 THE COURT: You may. Is this an ideal time for our
16 morning break?

17 MR. SMITH: This would be an excellent time.

18 THE COURT: All right. It's 10:48. Let's come back
19 at 11:00.

20 (Recess.)

21 THE COURT: Please be seated. You may continue.

22 MR. SMITH: Your Honor, I have no further questions at
23 this time.

24 THE COURT: Thank you.

25 CROSS-EXAMINATION

1 BY MS. ALLEN:

2 Q Hi, Dr. Hood. You and I have met before. As you may
3 recall, my name is Amanda Allen, and I represent the
4 plaintiffs. I will be asking you a few yes--or-no questions on
5 behalf of the plaintiffs.

6 Do you understand?

7 A Yes. Good morning.

8 Q Good morning.

9 And are you ready to proceed?

10 A Yes.

11 Q Your report responds to five questions that attorneys for
12 the state of Alabama -- or the Secretary asked you to answer,
13 correct?

14 A Correct.

15 Q You did not formulate these questions, correct?

16 A Correct.

17 Q You addressed these questions because attorneys for
18 Secretary Allen asked you to address them, correct?

19 A Correct.

20 Q You undertook no independent evaluation of whether these
21 questions were relevant to the case, correct?

22 A Correct.

23 Q Dr. Hood, no court has ever relied on your testimony
24 comparing states in this way, correct?

25 A I don't think that's quite correct.

1 Q You compare black voting patterns in Alabama to 20 other
2 states, correct?

3 A Correct.

4 Q You selected the 20 states that your report focuses on
5 because each had a black population of 10 percent or greater,
6 correct?

7 A Correct.

8 Q And I recall you testified on direct that you select the
9 10 percent threshold because it had to be a critical mass,
10 correct?

11 A Yes.

12 Q Your basis for thinking a 10 percent threshold is
13 sufficient was just your judgment, correct?

14 A Right. My judgment and my experience conducting social
15 science research, yes.

16 Q In your analysis of black voting patterns, one of the
17 survey data that you rely on is national exit polls, right?

18 A Correct.

19 Q National exit polls are large-scale surveys designed to
20 provide representative samples of voters at the state level,
21 correct?

22 A Correct.

23 Q You relied on national exit polls in your report to show
24 the percentage of black voters who cast ballots for Democratic
25 candidates in certain statewide contests, correct?

1 A Correct.

2 Q The elections that you considered are presidential,
3 gubernatorial, and Senate races from eight election cycles
4 between 2008 to 2022, correct?

5 A Correct.

6 Q You determined that the results exhibit very high levels
7 of black support for Democratic candidates across elective
8 offices from 2008 through 2022 and the comparison states,
9 correct?

10 A Correct.

11 Q You determined that the average black Democratic vote for
12 president, governor, and Senate in Alabama during the same time
13 period was 92.4 percent, right?

14 A Correct.

15 Q I recall on direct examination you were explaining Tables
16 1 and 2 in your report, correct?

17 A Correct.

18 Q The highest vote percentage for black voters among all
19 elections for which you analyze exit polls were for President
20 Obama, correct?

21 A Looks like it, yes.

22 Q And that's both nationally and in Alabama, correct?

23 A Yes.

24 Q You did not consider the percentage of the white
25 electorate in any election in any of the comparison states,

1 correct?

2 A Correct.

3 Q You did not consider the percentage of the white
4 electorate that voted in Alabama in any election, right?

5 A Correct.

6 Q You did not report if white bloc voting is present
7 anywhere, correct?

8 A Correct.

9 Q Your report reflects no analysis of white voting patterns,
10 right?

11 A That is correct.

12 Q You agree that white support for Republican candidates
13 varies across jurisdictions, correct?

14 A Certainly.

15 Q Dr. Hood, you know how to conduct a racially-polarized
16 voting analysis, correct?

17 A Correct.

18 Q You have conducted RPV analysis before, correct?

19 A Correct.

20 Q To conduct an RPV analysis, you would need to compare
21 voting patterns between at least two racial groups, correct?

22 MR. SMITH: Your Honor, I am going to object. He has
23 already testified he didn't perform a racially-polarized voting
24 analysis, and this is going beyond the scope of his report and
25 opinions.

1 MS. ALLEN: Your Honor, may I respond?

2 On direct examination, Dr. Hood testified to his
3 examination of voting patterns, particularly black voting
4 patterns and has opened to the door to that. Additionally,
5 Dr. Hood as previous experience with testifying as to
6 racially-polarized voting.

7 THE COURT: I will allow it.

8 MR. SMITH: Thank you, Your Honor.

9 THE WITNESS: I'm sorry. I don't know where we're at,
10 at this point, so...

11 BY MS. ALLEN:

12 Q You co-wrote an article entitled, "From Legal Theory to
13 Practical Application," a how-to for performing vote dilution
14 analysis in *Social Science Quarterly*, correct?

15 A Correct.

16 Q In that article, you discuss how to perform RPV analysis
17 in a racial vote dilution lawsuit, correct?

18 A Correct.

19 Q One of the RPV principles you discuss is that of the
20 elections available for analysis, the more relevant are those
21 that feature a minority candidate from the racial or ethnic
22 group suing the jurisdiction in question, correct?

23 A Those can be more probative for a court, although a
24 minority-preferred candidate of choice could be a white
25 candidate, as well. So certainly, the article doesn't limit an

1 RPV analysis to just races that have a co-racial candidacy.

2 Q But in your article, you did discuss that the more
3 relevant of those elections feature a minority candidate from a
4 racial or ethnic group suing the jurisdiction in question,
5 right?

6 A Well, I don't have it in front of me. I don't know
7 exactly what I said. I may have used the word "more probative"
8 or the terminology "more probative." I mean, it's been years
9 since I wrote that.

10 Q Would it be helpful to see it?

11 A Sure.

12 Q Can we pull up PX-326 and turn to page number 12?

13 And do you see the second paragraph from the bottom, the
14 paragraph that starts "finally," Dr. Hood?

15 A Yes.

16 Q And do you see where it says of the elections available
17 for analysis, the more relevant are those that feature a
18 minority candidate from the racial or ethnic group suing the
19 jurisdiction in question?

20 A Yes.

21 Q And you still stand by that statement today?

22 A Certainly. I wrote it.

23 Q You participated as a witness in the *Milligan v. Allen*
24 case, right?

25 A Yes.

1 Q The Secretary retained you as an expert for that case,
2 correct?

3 A Correct.

4 Q When you prepared a report in conjunction with the
5 preliminary injunction hearing in *Milligan v. Allen* in late
6 2021, you performed an RPV analysis, correct?

7 A Yes.

8 Q You determined in your work for *Milligan* that RPV exists
9 in Alabama in the elections you analyzed, right?

10 A That would be a fair statement, yes.

11 Q You believe that voting in Alabama is typically racially
12 polarized, correct?

13 A Well, for races I analyzed for that case, that was true,
14 yes.

15 Q You reviewed Dr. Liu's expert reports in *Milligan*,
16 correct?

17 A Correct.

18 Q Including his review of exit poll data, right?

19 A I'm not saying I didn't. I don't recall that
20 specifically.

21 Q So you don't recall Dr. Liu's analysis of exit poll data?

22 A From the *Milligan* case? Not specifically, no.

23 Q Okay. I can refresh your recollection.

24 I'm going to show you Dr. Liu's 2021 expert report from
25 *Milligan*.

1 Dr. Hood, do you recognize this document?

2 A Well, it looks like it's a preliminary expert report by
3 Dr. Liu in the *Milligan* case.

4 Q Can we turn to page 14 of Dr. Liu's report? I am going to
5 turn your attention to the second paragraph -- actually --
6 yeah, the second paragraph of Section 8.

7 Can you please read aloud this paragraph?

8 A In addition, I reviewed exit poll data for the 2008
9 presidential Democratic primary and the 2008 U.S. Senate
10 elections in Alabama, which revealed a similar pattern of
11 racially-polarized voting.

12 In the 2008 primary, Hillary Clinton, a white woman,
13 received 72 percent of the white vote, and Obama received
14 84 percent of the black vote. In the 2008 Senate race, white
15 voter support for U.S. Senator Jeff Sessions was 89 percent
16 against Vivian Figures, a black candidate. Sessions received
17 58 percent of the white Democratic vote and 96 of the white
18 Republican vote. Figures won 90 of the black vote.

19 Q This data came from the same exit polls you discussed on
20 direct examination, correct?

21 A Yes. I would assume so.

22 Q And you do not dispute Dr. Liu 's findings, correct?

23 MR. SMITH: Your Honor, I am going to object. This is
24 a report from a completely different case. I don't think it's
25 been marked as an exhibit in this case. I don't really

1 understand where we're going with this.

2 MS. ALLEN: Your Honor, I believe during plaintiffs'
3 case in chief, the defendants asked Dr. Fairfax about other
4 cases that he's opined in, and this is essentially the exact
5 same thing and related to what Dr. Hood has testified today
6 considering his opinion on voting patterns.

7 MR. SMITH: Asking Mr. Fairfax to comment on his own
8 opinions in other cases is different than asking Dr. Hood to
9 comment on another expert's opinion in a different case.

10 MS. ALLEN: Your Honor, if I may respond, Dr. Hood
11 submitted a supplemental expert report that was in response to
12 this report, and this is the same exit polling data.

13 MR. SMITH: Not in this case, Your Honor. That was in
14 *Milligan*.

15 THE COURT: So I think the question, the last question
16 was whether he disputes Dr. Liu's findings. It's not his
17 report, so I don't think it's fair to ask him whether he
18 disputes the findings. But I do think it's fair game to ask
19 whether it's the same data that he relied on or not. If that
20 commonality -- you know, if you're asking questions about other
21 uses of the data that he relied on, I think that's fair game.

22 So maybe try again with the question.

23 BY MS. ALLEN:

24 Q Dr. Hood, Dr. Liu's findings are based off of as you said
25 this -- the same exit polling data that you used for the

1 purposes of your report in this case, correct?

2 A Yes, I think so. I mean, again, I haven't seen his expert
3 report in the *Milligan* case in, I don't know, years at this
4 point, so...

5 Q There's another exit polling data I want to ask you about
6 with Dr. Liu's report, if we could pull that up to turn to page
7 14 of Section 8, the first paragraph.

8 Can you read that aloud please?

9 A The RPV results based on EI in this report regarding
10 Obama's 2008 and 2012 general elections are consistent with the
11 exit poll results conducted by major media networks. Because
12 voters do not register by party in Alabama, the exit polls also
13 help us understand the votes of self-identified Democrats and
14 Republicans.

15 For example, according to the 2008 exit poll, Obama won
16 98 percent of black voters in Alabama, and John McCain, a white
17 Republican, won 88 percent of white voters. McCain won a
18 majority, parenthesis, 51 percent of white Democrats, and Obama
19 only won 47 percent of white Democrats. And in the 2012
20 presidential election, 84 percent of white people in Alabama
21 voted for Romney while white support for Obama was only
22 15 percent.

23 Q This would have come from the same exit polling data that
24 you looked at in your report for this case, correct?

25 A Yes.

1 Q Dr. Hood, you agree with the mechanical steps that Dr. Liu
2 described as the methodology appropriate to analyze
3 racially-polarized voting in this case, correct?

4 A Well, I'd have to review those steps at this point.

5 Q Can we pull up PX-16? Actually, can we take that down and
6 pull up Dr. Hood's deposition in this case from May 10th, 2024,
7 and turn to page 118, lines 12 through 23?

8 Dr. Hood, do you see my question: Do you have an opinion
9 one way or another about Dr. Liu's methodology in his report?

10 And then your answer was: Well, again, outside of what we
11 talked about in terms of what's probative or not -- I mean,
12 again, one doesn't have to limit the analysis of races simply
13 to those that have co-racial candidates. It's not necessary.
14 Other races can be analyzed. So the other mechanical steps,
15 you know, I think we'll probably agree on.

16 A Okay.

17 Q You also have no basis to disagree with Dr. Liu's
18 conclusion that non-partisan mayoral runoff elections in
19 Montgomery and the Huntsville regions are racially polarized,
20 correct?

21 A Well, I didn't conduct that analysis.

22 Q So that's a yes to my question?

23 A Well, again, I don't have any reason to disagree
24 necessarily. Again, I didn't conduct that analysis myself,
25 so...

1 Q Racial voting patterns can vary between states, right?

2 A Correct.

3 Q And racially-polarized voting can also vary within a
4 state, right?

5 A Certainly.

6 Q That is, voting can be racially polarized in one county,
7 but not another, right?

8 A Hypothetically, yes.

9 Q Other than the states that you looked at for the purposes
10 of analyzing black voting patterns, you did not consider black
11 voting patterns in specific locales at all, right?

12 A That's correct.

13 Q Let's shift to discuss your racial comparison reporting.
14 Attorneys for the state of Alabama asked you to determine if
15 racial disparities present in Alabama also exist in other
16 states, correct?

17 A Correct.

18 Q You didn't conduct an analysis about why disparities exist
19 between black and white Americans, correct?

20 A Correct.

21 Q For Tables 5 through 10 and 13 through 15 in your report,
22 your source is the U.S. Census Bureau 2022 ACS five-year data,
23 correct?

24 A Looks like yes, 5 through 10 and 13 through 15 if that's
25 what you said.

1 Q Yes. For these tables where you use the U.S. Census
2 Bureau 2022 ACS five-year data, you did not report the margin
3 of error, correct?

4 A Correct.

5 Q For these tables, you did not report confidence intervals,
6 correct?

7 A Correct.

8 Q You believe that these tables accurately capture the
9 racial disparities in various areas, right?

10 A Yes. To the extent possible, yes, with survey data.

11 Q You did not analyze racial disparities in the Huntsville
12 region between black and white people, correct?

13 A Correct.

14 Q You did not analyze racial disparities between black and
15 white people in Montgomery either, correct?

16 A Correct.

17 Q Let's talk about Ben Carson.

18 Dr. Hood, a single electoral race is not sufficient
19 evidence to draw conclusions of voting patterns generally,
20 correct?

21 A Yes. I'd probably agree with that.

22 Q You gathered the vote return for Ben Carson during the
23 2016 Republican presidential primary, right?

24 A Correct.

25 Q Ben Carson was a black candidate who sought the Republican

1 nomination for president in 2016, correct?

2 A Correct.

3 Q You didn't gather data on Ben Carson's vote share for the
4 2016 Republican presidential primary for the Huntsville region,
5 correct?

6 A Correct.

7 Q You didn't gather data on Ben Carson's vote share for the
8 2016 Republican presidential primary for the -- for Montgomery,
9 correct?

10 A Correct.

11 Q You didn't consider the racial demographics of voters in
12 the 2016 Republican primary, correct?

13 A Correct.

14 Q You don't know the degree to which Carson's support in
15 Alabama was driven by white versus black Republican voters,
16 correct?

17 A Not from these data, no.

18 Q You didn't perform any RPV analysis for the state
19 primaries Carson participated in either, correct?

20 A Correct.

21 Q I want to turn to the section of your report about white
22 voter support in minority Republican candidates.

23 You write that white conservatives support minority
24 Republican candidates at the same rates or at significantly
25 higher rates than non-Hispanic white GOP nominees, correct?

1 A Yes.

2 Q To support that claim, you cite an article called True
3 Colors: White Conservative Support For Minority Republican
4 Candidates?

5 A Yes.

6 Q The True Colors article analyzes the voting behavior of
7 white voters as it relates to support for minority GOP
8 candidates and U.S. Senate and gubernatorial elections in 2006,
9 2010, and 2012, right?

10 A Correct.

11 Q Your article looked at minorities in general, right?

12 A Well, it wasn't limited to just African-Americans, if that
13 answers the question.

14 Q So the article does not focus on black candidates
15 specifically, correct?

16 A I think that's fair, yes.

17 Q The article is not based on any elections conducted in the
18 state of Alabama specifically, correct?

19 A Well, there would have been comparison cases to Alabama.
20 So during this time period, the study was conducted using the
21 2006, 2010, and 2012 elections. There were no minority
22 Republican candidates that were running for U.S. Senate or
23 governor from Alabama. That's true.

24 But Alabama would have been contained or included in the
25 number of comparisons that were made to voting for white

1 candidates for governor and U.S. Senates in Alabama during this
2 time period.

3 Q So that is a yes to my question that the article's not
4 based on any elections conducted in the state of Alabama
5 specifically?

6 A Well, again, Alabama was included. There were white
7 Republican candidates from Alabama running for U.S. Senate
8 races or gubernatorial races during this time period.

9 Q Do you recall testifying in the *Milligan v. Allen*
10 preliminary injunction hearing?

11 A Yes.

12 Q And you swore to tell the truth during that hearing?

13 A Yes.

14 Q Can we pull up PX-330, please, and turn to page 1430, and
15 let's start with 1430, line 25 going to 1431, line 2.

16 So starting on page 1430, the question in reference to
17 your True Colors article is: And the article isn't based on
18 any elections conducted in the state of Alabama, correct?

19 And your answer was?

20 A Correct.

21 Can I -- can we -- can I go back a little bit and see the
22 context though that this is being discussed in, please?

23 Q We can take it down.

24 The only example of white voters electing a black
25 Republican candidate in Alabama that you cite in your report

1 for this case is that of Representative Kenneth Paschal,
2 correct?

3 A Correct.

4 Q Representative Paschal's district is House District 73,
5 right?

6 A I believe so, yes.

7 Q You didn't conduct an RPV analysis of representative
8 Paschal's election, did you?

9 A No.

10 Q Representative Paschal was the first black Republican
11 elected to the Alabama Legislature in 140 years, correct?

12 A I think since Reconstruction, I think that's correct, yes.

13 Q Representative Paschal won the Republican runoff election
14 in 2021 by a very close margin, correct?

15 A Pretty close. A couple of points.

16 Q That was a special election, was it not?

17 A Yes.

18 Q House District 73 is in Shelby County, correct?

19 A Yes.

20 Q Turnout was extremely low, right?

21 A Yes. Turnout in special elections is typically lower than
22 general elections or even regular primary.

23 Q For Representative Paschal's special election, the turnout
24 was approximately 5.3 percent, correct?

25 A I don't know that I have that in my report.

1 Q Does that sound about right to you?

2 A Well, I don't know. I haven't looked at that in quite
3 some time.

4 Q You did no analysis of white support of a black Republican
5 candidate in the Huntsville area, correct?

6 A Correct.

7 Q You did no analysis of white support of a black Republican
8 candidate in Montgomery, correct?

9 A Correct.

10 Q You also addressed racial voting patterns in your book,
11 *The Rational Southerner: Black Mobilization, Republican*
12 *Growth, and Partisan Transformation of the American South,*
13 right?

14 A Correct.

15 Q And you still agree with your finding there that by the
16 mid-1960s, the Democratic Party became much more liberal along
17 Civil Rights issues, correct?

18 A Well, I mean, not initially. It's much more nuanced and
19 complicated than just that particular statement.

20 Beginning in the mid-1960s with the enfranchisement or we
21 could say re-enfranchisement of African-Americans in the
22 American South, black southerners moved en masse very quickly
23 to the Democratic Party. Well, so were white conservatives,
24 moderates, and white progressives also within the state
25 Democratic Party apparatus at that time.

1 So everybody was under the same big tent for a little
2 while.

3 Q So that's a yes to my question that you agree that by the
4 mid-1960s, the Democratic Party became much more liberal along
5 the Civil Rights issue?

6 MR. SMITH: Your Honor, I am going to object again.
7 He didn't cite this article. He hasn't offered an opinion on
8 realignment to party partisan. This is beyond the scope to
9 what he has testified to.

10 MS. ALLEN: Your Honor, I believe he just testified
11 that this book was about racial voting patterns. He testified
12 to voting patterns today, and the questions are limited to that
13 specific topic.

14 THE COURT: I will allow it.

15 THE WITNESS: I guess I disagree with that
16 characterization in particular. So, again, things are much
17 more nuanced and complicated than just offering that one
18 summation for a single year.

19 BY MS. ALLEN:

20 Q Do you recall testifying that by the mid-1960s with LBJ's
21 support of the '64 Civil Rights Act and then later in the '65
22 Voting Rights --

23 THE COURT: Counsel, you have to slow down a little
24 bit.

25

1 BY MS. ALLEN:

2 Q And later in the '65 Voting Rights Act, the Democratic
3 Party becomes much more liberal logically speaking along the
4 Civil Rights issue, whereas previously in the national level at
5 least, it had been really -- the Republican Party that was more
6 liberal on the Civil Rights issues?

7 A Yes. So now you're talking about at the national level.
8 So that's true. There was an issue switch on the Civil Rights
9 issue in the mid-1960s at the national level. Things are much
10 more complicated for state parties and below, though.

11 Q You were asked to compile some comparison data for black
12 Alabamians at approximately the time the Voting Rights Act was
13 initially signed into law, the reauthorization of the Voting
14 Rights Act in 1982, and present day, correct?

15 A Correct.

16 Q To answer this question, one of the data points you looked
17 at was the percentage of black legislators elected to each
18 chamber of the Alabama Legislature, right?

19 A Correct.

20 Q You provided data for black state legislators for 2024,
21 correct?

22 A Correct.

23 Q In the Alabama Senate, there was seven black legislators
24 in 2024, correct?

25 A Correct.

1 Q Every one of those senators were elected in majority-black
2 districts, correct?

3 A From my knowledge, yes.

4 Q In the Alabama House, there were 26 black legislators in
5 2024, correct?

6 A Yes, correct.

7 Q All except one of the legislators were elected in
8 majority-black districts, right?

9 A I believe that's correct, yes.

10 Q You also looked at black voter registration rates over
11 time in Alabama, right?

12 A Correct.

13 Q You opined that there have been significant gains for
14 black Alabamians across the last six decades based on the data
15 you gathered, correct?

16 A On this metric, yes.

17 Q For much of that period, Alabama was under a preclearance
18 regime under Section 5 of the Voting Rights Act, correct?

19 A It would have been, yes, up until 2013.

20 Q Section 5 of the Voting Rights Act only applied to those
21 jurisdictions like Alabama that had a history of discriminatory
22 voting laws, correct?

23 A Correct.

24 Q At least some of the changes in black representation in
25 Alabama over the last few decades are the result of litigation,

1 right?

2 A Litigation that created majority-black districts, yes.

3 Q You agree that it is possible that the effects of past
4 discrimination do not disappear as soon as the discrimination
5 legally ceases, correct?

6 A Correct. Although determining the extent to which that
7 may or may not be the case is sometimes quite complicated.

8 Q You agree that it's possible that even if racial
9 disparities gaps described in your report have decreased over
10 time, these disparities can still meaningfully impact political
11 participation, right?

12 A It's possible. But, again, some of the things I'm showing
13 here are showing a close in the gap in racial disparities,
14 so...

15 MS. ALLEN: Your Honor, may I have a moment to confer
16 with co-counsel?

17 THE COURT: You may.

18 MS. ALLEN: Nothing further, Your Honor.

19 THE COURT: All right.

20 MR. SMITH: May I have just one moment?

21 THE COURT: Sure.

22 MR. SMITH: Your Honor, just a few.

23 REDIRECT EXAMINATION

24 BY MR. SMITH:

25 Q Dr. Hood, do you recall being asked about performing RPV

1 analyses?

2 A Yes.

3 Q In your experience, do RPV analyses have to be limited to
4 biracial elections?

5 A No.

6 Q Do you understand the term biracial elections to mean
7 elections in which one candidate is black and one candidate is
8 white?

9 A Well, it could be a Hispanic and a white candidate. It's
10 whatever the racial group in question is, I guess, I would say.

11 Q Do you recall being asked about non-partisan mayoral
12 races?

13 A Yes.

14 Q If a candidate in a non-partisan mayoral race had
15 previously been a candidate for a partisan office, might that
16 be a partisan clue for voters, nonetheless?

17 A It could be a cue, yes, certainly.

18 Q Dr. Hood, do you recall being asked about the True Colors
19 article?

20 A Yes.

21 Q And whether that article discussed any elections in
22 Alabama?

23 A Yes.

24 Q Could you explain what you meant by elections in Alabama
25 being involved?

1 A I was just trying to clarify. I mean, so we're looking at
2 elections that featured a minority Republican candidate. But
3 there was a comparison set of elections that included white
4 Republican elections. So I was only trying to say or clarify
5 that Alabama would have been included because there were white
6 Republican candidates that would have been in the data that
7 were analyzed.

8 I'm not saying in that particular time period that there
9 were any minority Republican candidates running out of Alabama
10 for those offices, so...

11 Q And do you recall being asked some questions about shifts
12 in voting patterns --

13 A Yes.

14 Q -- along racial lines?

15 A Yes.

16 Q And I think the phrase "black mobilization" was used or
17 maybe was in the title. Can you explain what that means?

18 A Well, the book we wrote, the *Rational Southerner*, you
19 know, did look at race and realignment. But the way we're
20 measuring that in that particular book is by black political
21 mobilization and what effect it had on two-party growth in the
22 South.

23 Q And I think you referred to effects on the big tent.
24 Could you explain what you meant by that?

25 A Well, I mean, political parties in the U.S., we only have

1 two major political parties at any given time in history. They
2 tend to be pretty big tent organizations. It was a strange
3 situation, though, in the South. You know, in the mid-1960s
4 where effectively there were no viable Republican parties in
5 most of these southern states. That only came later. And so,
6 again, as I was saying, when blacks were re-enfranchised, if
7 you will, from the Voting Rights Act of 1965 from the end of
8 the poll tax, et cetera, that occurred all in about the
9 mid-1960s, they moved very quickly, that is, they being
10 African-Americans, moved very quickly into the Democratic Party
11 tent, but everybody else for a very short period of time was
12 also under the Democratic Party tent.

13 So, again, white progressives, moderates, and white
14 conservatives.

15 So what the book looks at I guess in a nutshell is the
16 effect of black political mobilization and, again, how that
17 caused in a way two-party growth to occur because you had
18 eventually white conservatives move over to the Republican
19 Party, which was pretty much defunct in most states, and then
20 later some white moderates moving over to the Republican Party
21 tents.

22 So, again...

23 Q Did the concentration of sort of many different groups
24 under the one big tent party make it more difficult for, for
25 example, white conservatives to achieve ideological and policy

1 outcomes?

2 A Well, yeah. Certainly. And that's one of the reasons
3 they moved over to the Republican Party, because it was
4 impossible, especially on the local level in a lot of areas for
5 white conservatives -- once again, blacks were politically
6 mobilized to be able to control the local Democratic Party
7 machinery or and Democratic Party nominations.

8 And so the Democratic Party became a less useful vehicle
9 for white conservatives to try to implement their own policy
10 goals. And so that's one of the reasons that we see the shift
11 amongst that group to the Republican Party.

12 Q And are those policy goals on nonracial and Civil Rights
13 issues?

14 A Sure. It could include a whole range of things --
15 economic issues, for instance.

16 Q Dr. Hood, do you think race and Civil Rights are the only
17 issues that motivated partisan realignment in the South?

18 A Not the only issue. It's part of the story, certainly.

19 Q But there are other factors?

20 A Certainly.

21 MR. SMITH: Your Honor, just -- nothing further, Your
22 Honor.

23 THE COURT: All right.

24 MS. ALLEN: Nothing from us.

25 THE COURT: Is there any reason why I should not

1 excuse Dr. Hood?

2 MR. SMITH: Not from defendant, Your Honor.

3 MS. ALLEN: Not from plaintiff, Your Honor.

4 THE COURT: Dr. Hood, thank you for being with us.

5 You are excused.

6 THE WITNESS: Thank you, Your Honor.

7 (Witness excused.)

8 THE COURT: Mr. Davis.

9 MR. DAVIS: Your Honor, our best guess, the direct
10 examination of our next witness, Dr. Landers, will be 30 to
11 45 minutes.

12 We are happy to proceed however the Court wishes -- lunch
13 break now or later, whatever you wish to do.

14 THE COURT: Do either set of counsel have a
15 preference? Who's hungry? Let's ask it that way. Mr. Ross is
16 hungry. Lunch now, and we will begin when we return.

17 All right. It's 11:45. Let's come back at 1:00. Is that
18 suitable?

19 All right. Thanks.

20 (Recess.)

21 THE COURT: Good afternoon, everybody.

22 All right. State's next witness.

23 MR. MINK: The defense calls Dr. Karen Landers.

24 THE COURT: All right.

25 KAREN LANDERS

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

3 THE COURTROOM DEPUTY CLERK: Please state and spell
4 your name for the Court.

5 THE WITNESS: Karen, K-A-R-E-N, Landers,
6 L-A-N-D-E-R-S.

7 THE COURTROOM DEPUTY CLERK: Thank you.

8 MR. MINK: Richard Mink for defendant Secretary of
9 State Wes Allen.

10 THE COURT: You may proceed.

11 DIRECT EXAMINATION

12 BY MR. MINK:

13 Q Dr. Landers, could you tell us where you live by city and
14 state?

15 A Yes. I live in Leighton, Alabama.

16 Q How long have you lived there?

17 A 44 years.

18 Q Now, you are a medical doctor; is that correct?

19 A Yes, sir.

20 Q Could you describe your education?

21 A Yes. I have a bachelor's degree in biology from the
22 University of Alabama in Birmingham. I have a medical degree
23 from UAB School of Medicine, graduated in 1977. I am board
24 certified and maintenance of certification certified by the
25 American Board of Pediatrics.

1 Q When you graduated with your medical degree, did you begin
2 in private practice?

3 A Yes, sir. After I completed my residency at the
4 University of Tennessee Center For Health Sciences in 1980, I
5 entered private practice at the Florence Clinic in Florence,
6 Alabama.

7 Q Do you continue in private practice today?

8 A No, sir. I work for the Alabama Department of Public
9 Health.

10 Q And how long have you been with the Alabama Department of
11 Public Health?

12 A I was recruited to the Alabama Department of Public Health
13 in 1982 due to my interest and background in communicable
14 diseases and vaccine preventable diseases.

15 Q What is your current position with the Alabama Department
16 of Public Health?

17 A I am the chief medical officer.

18 Q And how long have you been in that position?

19 A Since May of 2022.

20 Q Who was your predecessor in that position?

21 A Dr. Mary McIntyre.

22 Q Do you know how long she held the position of chief
23 medical officer?

24 A Since approximately 2016 until her retirement in May of
25 2022.

1 Q And do you know Dr. McIntyre's race?

2 A Yes. She's an African-American person.

3 Q How did you become the chief medical officer? Was it a
4 selection process, or did you have to interview for the job or
5 how did that come about?

6 A I was interviewed and selected as the chief medical
7 officer.

8 Q And why were you interested in becoming the chief medical
9 officer?

10 A In May of 2022, we were still in a very intense period of
11 time in COVID-19 in the state of Alabama, as well as other
12 public health issues. And Dr. McIntyre was retiring. With my
13 background and experience in public health, I did not think
14 that it was a good time for two experienced medical officers to
15 leave public health when we still needed a lot of intense work
16 and intense follow-up in the education of the public related to
17 communicable diseases.

18 Q And who selected you as the chief medical officer?

19 A The State Health Officer, Dr. Scott Harris.

20 Q And is he your supervisor?

21 A Yes, sir.

22 Q I will ask you more about the COVID-19 pandemic in a
23 minute, but I wanted to ask if you had ever testified in court
24 before?

25 A Yes, sir.

1 Q And what was the circumstances of that?

2 A In my role as a primary care pediatrician with both
3 private practice and also the Alabama Department of Public
4 Health, I have testified in a number of child abuse and child
5 sexual abuse cases throughout my career.

6 Q Dr. Landers, do you know what the term "medically
7 underserved means?"

8 A It's a broad term, but, yes, I know what it means.

9 Q Could you tell us what it means?

10 A Well, medically underserved, if we're talking just about
11 the state of Alabama, we're talking about persons who may live
12 in rural areas of Alabama, areas that may not have physicians
13 or nurse practitioners available, areas that may not have
14 hospitals currently operating or providing medical services
15 within that county or community such that persons have to
16 travel to other larger regions to receive medical care.

17 Q Have you spent any of your time in your professional life
18 working to serve the medically underserved?

19 A Yes, sir, I have.

20 Q Could you describe some of those efforts?

21 A Well, again, when I came to the Alabama Department of
22 Public Health in 1982, I am, of course, also a primary care
23 pediatrician in addition to my role in public health. So I
24 operated the pediatrics clinics for the Alabama Department of
25 Public Health within the area, the public health area that I

1 worked.

2 And I also trained nurses and nurse practitioners to
3 provide early periodic detection and screening for pediatric
4 issues and problems. So I acted not only as a clinician, but
5 also as a trainer and referral source and a mentor for other
6 pediatric providers.

7 Q What sort of efforts did you make in those roles to reach
8 the underserved?

9 A Well, the children that frequented the Alabama Department
10 of Public Health pediatrics clinics during the time that I
11 worked as a primary care pediatrician were children who either
12 had no insurance coverage or had Medicaid coverage and again in
13 a very, very small area where there were not providers. So I
14 essentially was their pediatric provider. I was their doctor.

15 Q Did your provision of pediatric services involve services
16 to minority children?

17 A Yes, sir. I served all children that came into the
18 Alabama Department of Public Health.

19 Q Did you have particular areas of the state that you
20 focused on?

21 A I worked throughout the state of Alabama because, as I
22 said, I did train nurses in EPSDT, and I was their consultant
23 and their mentor and their referral source for patients.

24 My primary pediatrics clinics were in northern Alabama,
25 northwestern Alabama. So I drove from Lauderdale, Colbert,

1 Franklin, Marion, Winston, and Walker Counties. But I also saw
2 children from other counties and in other counties that I -- I
3 worked throughout the state of Alabama during my career,
4 including some of the much more rural counties in the state.

5 Q Could you describe some of the minority outreach programs
6 that the Alabama Department of Public Health operates?

7 A Yes, sir. In terms of pediatrics, the Alabama Department
8 of Public Health for a long period of time was the primary
9 resource for early periodic detection and screening or EPSDT.
10 That was with the Medicaid population.

11 Now, with more pediatricians accepting EPSDT patients
12 through the years, there were not as many still coming to the
13 Health Department.

14 In addition, we also saw children that did not have
15 insurance coverage or other coverage such as Medicaid,
16 including Hispanic populations, again, who did not have a
17 source of insurance. Again, that's just a couple of things
18 we're talking about with pediatrics.

19 We, at one time, provided the bulk of immunizations in the
20 state of Alabama. With the introduction for the Vaccines For
21 Children Program, we provided fewer immunizations than we
22 previously did. But, again, we provided vaccines to a large
23 portion of the citizens of Alabama, principally children.

24 We provide a number of other programs that I could
25 highlight, including our Family Planning Program, our cancer

1 detection program, our Well Woman Program. Again, these are
2 all programs that persons come to the Health Department for,
3 and they are assessed based upon income so that no person is
4 denied service for lack of ability to pay.

5 But, again, these are throughout the state of Alabama and
6 do serve persons that might not have other resources for
7 medical care for these services within their counties.

8 Q You said people who may not have the resources otherwise.
9 Do a lot of those individuals include members of the minority
10 population?

11 A Yes, sir. We serve all clients, regardless of race,
12 color, or creed, regardless of ability to pay. But we do
13 certainly have minority populations -- African-American
14 populations, Hispanic populations. We have some other minority
15 populations that have come into Alabama more recently for
16 various reasons, and we are serving them, as well.

17 Q Could you tell us what the Office of Rural Health does?

18 A The Office of Rural Health is not under my purview as the
19 chief medical officer. However, the Office of Rural Health
20 works in terms of education in communities, works with entities
21 that are in communities such as rural health programs or rural
22 health clinics providing information and education and cross
23 walking with services that we have at the Alabama Department of
24 Public Health.

25 For example, some of our rural health clinics might do

1 primary care for women, but they might not provide services
2 such as Pap smears or colposcopy so they would refer the
3 patients to our family planning program for those types of
4 services.

5 So, again, we work within the rural communities also
6 ensuring that any other needs that might be brought up that we
7 can work within those communities for education and
8 information.

9 Q Do you know if the Office of Rural Health serves the
10 minority populations across the state of Alabama?

11 A Again, we serve everyone in the Alabama Department of
12 Public Health who comes to our programs, regardless of race,
13 color, creed, or other factors.

14 Q Could you tell us what the Office of Minority Health does?

15 A The Office of Minority Health, again, is not under my
16 direct purview as the chief medical officer. However, the
17 Office of Minority Health operates in a similar manner, and
18 that is to provide information and education to underserved
19 populations and focusing on some education specifically related
20 to health conditions that might be more prevalent in minority
21 populations, such as information on diabetes, information on
22 hypertension, information on obesity.

23 These are, again, factors that are considered to be
24 prevalent health factors throughout the state of Alabama, but
25 areas that minority populations have more morbidity and need

1 more information and education.

2 Q And that is a program within the Department of Public
3 Health?

4 A Yes.

5 Q Is Operation WIPE OUT also a program within the Department
6 of Public Health?

7 A Operation WIPE OUT is a program that is actually part of
8 our family health services or our Family Planning Program.

9 Part of Operation WIPE OUT is, again, in public health, we
10 educate. So it's to provide education and information to women
11 about cervical cancer, and also outreach, in terms of
12 prevention of cervical cancer, such as accessing the human
13 papillomavirus vaccine or the HPV vaccine.

14 In addition to that, women who have Pap smears that might
15 require their having a procedure called a colposcopy, we also
16 have a colposcopy program where our nurse practitioners are
17 trained and mentored by a board certified OB-GYN, and also he
18 is able to assist them in terms of any biopsies or other
19 procedures that might need to be done for these women to
20 determine if they have cervical cancer.

21 If they do, to provide referral sources for these women
22 to, first of all, prevent cervical cancer if we can by
23 education and vaccination, to reduce the spread of cervical
24 cancer, if a woman already has cervical cancer, where she can
25 have procedures and treatment to, again, reduce the risk of

1 morbidity or mortality from this cancer.

2 Q And is that program available throughout all 67 of
3 Alabama's counties?

4 A We do have the program available, as far as our Family
5 Planning Program. And in every county, there is access either
6 to having the evaluation or being referred to an adjacent
7 county for evaluation.

8 For example, we don't do colposcopies every day in every
9 county because we don't have providers to do that every day in
10 every county. But we do have providers that can receive
11 appointments. And we work with the clients to ensure that they
12 -- if there's a barrier such as transportation or something of
13 that nature, that we can work through that to ensure that the
14 woman receives follow-up.

15 And follow-up is a big part of this. Once we have women
16 who have an abnormal Pap smear and might need to be evaluated
17 with a colposcopy or referred for a colposcopy, then we have a
18 way of tracking and following those patients so that they don't
19 get lost in the medical system and they receive their follow-up
20 appointments.

21 Q Do you know if any of the individuals served by the
22 Department of Public Health through this program are from the
23 minority population?

24 A Again, the Alabama Department of Public Health serves all
25 persons, so we do serve minorities.

1 Q And I understood that that's what you had said. But do
2 you know if minority women, for example, women who are members
3 of a minority community actually seek those services?

4 A Yes, sir. I know that for a fact.

5 Q I think I failed to ask you a minute ago.

6 What other positions have you held within the Department
7 of Public Health prior to your current position?

8 A When I first started out with the Alabama Department of
9 Public Health in 1982, again, I was a primary care
10 pediatrician, but I also worked in communicable disease.

11 And because I have background prior to coming to the
12 Alabama Department of Public Health in tuberculosis control. I
13 became the principle pediatric consultant for tuberculosis.

14 I actually held that position until we hired an additional
15 pediatrician, and I believe that was in 2021. I was the
16 principal pediatric TB clinician for all of those years.

17 I started out as a district medical officer. Then I
18 became an area health officer. Then I was promoted to a
19 position called assistant state health officer.

20 At that time, there were three of us in the state that
21 held that designation. I was one of the three that held the
22 designation of assistant state health officer. And with
23 realignment and title changes, I really have had a number of
24 different titles, such that by the time I became chief medical
25 officer, I was really functioning in a role as a deputy and an

1 assistant to the chief medical officer, as well as the
2 principal medical consultant for our media team and
3 communications, along with the primary consultant for
4 tuberculosis control and other vaccine preventable diseases.

5 And I was also serving in the capacity as the -- one of
6 the two principal scientific leads for COVID-19 and emerging
7 infectious diseases.

8 I have been the medical consultant for our Center For
9 Emergency Preparedness since its inception after 9/11. And I
10 was the medical consultant for the Center For Emergency
11 Preparedness until we hired a new physician for that role in
12 2021 prior to my taking the role as chief medical officer in
13 2022.

14 Q Let me ask you about the COVID-19 pandemic and the state's
15 response to that.

16 Did you work on the state's response to the COVID-19
17 pandemic?

18 A I was one of the two physicians that worked scientific
19 leads. I was co-lead scientific to the COVID-19 response along
20 with one of my other colleagues.

21 Q Was that Dr. McIntyre or someone else?

22 A It was actually Dr. Burnestine Taylor because Dr. McIntyre
23 was the chief medical officer at that time.

24 Q Did you work in conjunction with Dr. McIntyre at all on
25 the COVID response?

1 A Yes. Dr. McIntyre and I worked hand and glove, because I
2 was the principal consultant in terms of our communication to
3 the public, our media communications. I provided a number of
4 television, print, radio, other forms of communication at the
5 local, state, national, and international level.

6 I also assisted her in drafting and writing updates
7 regarding our isolation and quarantine policies, ensuring that
8 if persons had questions about administration of vaccine, I was
9 one of the primary consultants for the nurses during that time.

10 And, again, I assisted Dr. McIntyre as she directed the
11 roles of the programs during the COVID-19 pandemic.

12 Q Do you know if there was any specific outreach made to the
13 minority community during the pandemic?

14 A Yes, sir. I'm aware of quite a bit of outreach. I
15 actually did some of that myself personally in the minority
16 community. I was invited to a number of events, which I
17 attended at churches, at colleges, at health fairs or
18 health-related situations.

19 I actually presented at -- I believe it was AARP. They
20 were holding fairly regular roundtables. I participated on
21 Facebook live in a number of discussions and consultations
22 related to communicating to minority communities, as well as
23 the entire population.

24 I have a heavily Hispanic population in the area that I
25 previously directed. I worked with that population to provide

1 early education related to COVID-19 and vaccine for that
2 particular condition.

3 Q Were you and any of the other doctors at the Department of
4 Public Health involved in patient care during the COVID-19
5 pandemic?

6 A Yes, sir, we were.

7 Q Could you describe that?

8 A We had persons coming to the Alabama Department of Public
9 Health sites for COVID testing.

10 Initially, COVID testing had to be done in laboratories.
11 You did not have the rapid testing that we have now. And even
12 with rapid testing, we were some of the first entities to have
13 rapid COVID testing available through certain products that
14 were again available for onsite rapid COVID testing.

15 So early on, we operated COVID testing sites throughout
16 our -- at that time 66, county health departments. We have 67
17 now. One county was actually very small. We didn't have a
18 presence at that time.

19 So when persons presented who needed a COVID test and they
20 received the COVID test, if they did not have a physician of
21 record when they presented or they didn't state that they had
22 insurance or any other coverage, then those patients were
23 basically divided up, if you will, or assigned to the medical
24 officers to call and talk with those patients to, if you will,
25 do an over-the-phone direct patient care interview and to

1 discern whether or not that patient needed further referral as
2 a physician, or if they were, you know, able to be managed at
3 home. And I was one of the physicians who took care of a
4 number of COVID-19 patients during that time.

5 Q And that was -- you were one of four?

6 A At that time, Dr. Taylor had a case load. Dr. Thomas had
7 a case load. I had a case load. And then we had Dr. McIntyre
8 periodically taking a case load, as well.

9 Q That was in addition to your normal duties in the
10 Department of Public Health?

11 A Yes, sir. Yes, sir.

12 Q Can you speak to the demographics of the individuals who
13 sought direct help from public health?

14 A Again, early on, we were one of the few places that were
15 testing for COVID. So everyone came. Everyone came to the
16 Health Department to get testing. And then, of course, fairly
17 rapidly, hospitals were able to stand up to do testing.

18 Some hospitals developed their own individual COVID
19 testing programs. I'm very familiar with one that was done in
20 the Huntsville region. They called it the Fever and Flu
21 Clinic, and that's where people went for COVID testing.

22 Again, everyone came to us for testing or, again, fairly
23 rapidly went to other places that had access to testing. And
24 we provided COVID testing to whomever came and presented and
25 needed a COVID test.

1 Q Were there members of Alabama's minority community who
2 came to those testing centers?

3 A Yes, sir. Actually, in our specific region where I was at
4 the time, we had a catchment area of five counties that we
5 centralized our Health Department testing at an old community
6 college site, working in conjunction with the EMA and some of
7 the local hospitals so that we had a COVID testing site for
8 five county health departments at one site.

9 We also had people that -- we did drive-through so people
10 could drive into the back of the health departments or in the
11 area designated and some of us would be available there,
12 depending on the situation to actually do the nasopharyngeal
13 swab in appropriate PPE and either put that test in the media
14 to be sent to the Bureau of Clinical Laboratories, or
15 eventually, we were able to do rapid testing once that was
16 available onsite.

17 Q Once the COVID-19 vaccine became available, what was the
18 procedures that the Department of Public Health went through to
19 make that available to the public?

20 A When COVID vaccine first became available in December of
21 2020, it was actually mid-December of 2020, the initial
22 allocation for every state -- every state was on allocation
23 throughout the United States. And we received an allocation
24 from CDC just like any other state. And our allocation plan
25 was based solely upon the guidance of the CDC.

1 So initially, the vaccine was provided to frontline health
2 care workers -- persons that were in situations where they were
3 highly exposed to COVID cases, hospitals, emergency rooms, EMS
4 services, nursing home workers, in-home care workers, again,
5 persons that were working in the health care industry
6 primarily.

7 Q At some point, did the COVID vaccine become available to
8 everyone in the population?

9 A In April of 2021. And, again, we were allocated -- every
10 week, we got allocations from the federal government.

11 In April of 2021, the Alabama Department of Public Health
12 was finally able to open up for COVID vaccine for all persons
13 in the age group that was eligible that wished to receive the
14 vaccine. Because at that time, we still did not have emergency
15 use authorization for pediatric vaccine until later in the
16 year.

17 Q Was there any distinction made in the distribution of the
18 COVID vaccine based on someone's race?

19 A Well, again, we went strictly by the guidance of the CDC.
20 We had a phase plan -- Phase 1, Phase 1A, 1B, and 1C.

21 Again, we were in the phase plan. The guidance came out
22 from the CDC. And once we had adequate vaccine, CDC would make
23 a change based upon the perceived allocation that we had enough
24 allocation to move into another population, and we would do
25 that.

1 And, again, it was based on categorization of the patients
2 as outlined per the CDC.

3 For example, after we moved out of the initial health care
4 allocation, then we moved into age groups. For example,
5 persons 75 years of age and above were addressed due to higher
6 morbidities and mortalities.

7 So race was not a factor that was given to us as part of
8 the allocation from CDC, but rather health factors, health
9 factors, occupational factors, those kinds of factors.

10 Q You may have mentioned this earlier, but was there
11 specific efforts made to reach the minority communities about
12 the availability of the vaccine?

13 A When we started out doing our vaccine allocation plan,
14 even though we were working with the health care workers and
15 frontline workers, we received messaging information from the
16 CDC, and we followed that messaging information.

17 And in Alabama, it was important, and it is important to
18 insure that persons who are eligible and need the vaccine and
19 desire the vaccine received that.

20 So I was the principal communicator for the Alabama
21 Department of Public Health related to that.

22 So in terms of persons who were in those groups,
23 regardless of their racial composition, but if they were in
24 certain groups that were already identified, then the measures
25 were made to ensure that people understood what the COVID

1 vaccine was, how the COVID vaccine was administered, what the
2 COVID vaccine could do for them, in terms of protecting their
3 health and well-being, any questions they might have related to
4 contraindications or side effects.

5 So, again, we were communicating to everyone.

6 Now, that being said, certainly we wanted to ensure that
7 minority populations received information. So in coordination
8 with Dr. McIntyre, I worked with her in reaching out to groups
9 that were very heavily invested in the minority communities,
10 such as faith-based organizations such as HBCUs, other groups
11 that were advocates in the community or leaders in the
12 community, the Black Mayors Association is one group here in
13 Alabama, that we worked with.

14 Again, I've already mentioned, you know, faith-based,
15 other leaders in the community, colleges, and so forth.

16 Q Do you have a sense as to -- or maybe you have the actual
17 data -- to know the percentage of African-American Alabamians
18 versus percentage of white Alabamians who got the vaccine?

19 A As far as those actual numbers now, I do not recall
20 specific numbers.

21 When we had our dashboard -- and we had a dashboard that
22 was updated on a regular basis, and that dashboard had a number
23 of elements, including race, including age group. And looking
24 at the counties, some people may remember the color coding of
25 the counties and what the amount of -- the amount of COVID that

1 was being seen in the counties.

2 At one time early on in COVID -- and this actually
3 persisted through -- the African-American community was doing
4 an outstanding job in the particular groups that I mentioned.

5 I worked very, very closely with a number of ministers --
6 just talked to one of them the other day, in fact -- in
7 promoting this information through their faith-based groups.
8 There is an article that is in the MMWR from -- I believe it
9 was April of 2021 -- and Alabama ranked ninth in the United
10 States in terms of providing COVID vaccine to counties with
11 high social vulnerability indices.

12 So that was something that we were very encouraged to see
13 that, because there was a lot of work going into getting that
14 COVID vaccine out there to reduce morbidity and mortality.

15 Q So you mentioned -- correct me if I get this wrong --
16 social vulnerability index?

17 A The social vulnerability index, or indices is plural.

18 Q Can you explain what that is?

19 A Again, social vulnerability indices what we're really
20 looking at are factors that affect persons' ability, if you
21 will, to access medical care and other services.

22 So, you know, it's a broad category. There are 15
23 identified categories. And they're compacted down into four
24 smaller groups.

25 And, you know, just for example, what you're looking at in

1 the subcategorization, one of the categories is economic. You
2 know, one of the other categories is household makeup, if you
3 will; in other words, what, you know, what the makeup of your
4 household is in terms of numbers of persons in your household,
5 persons of certain age groups in your household. Just one of
6 the other factors is race, ethnicity, and language. So, again,
7 they're kind of compacted down in smaller groups.

8 But what you're really looking at is a number of outside
9 factors that can affect people's ability to access health care
10 services or understanding of health care information, et
11 cetera.

12 Q In the approximate 40 years that you have been with the
13 Department of Public Health, do you have a perception as to the
14 increased availability of public health services to minority
15 communities?

16 A Throughout my career, I have served all populations. I
17 have served minority communities, minority groups.

18 Again, as part of my work, the Alabama Department of
19 Public Health, again, being a public health agency, our goal is
20 to provide preventive health services to all persons.

21 We certainly have expanded in terms of our ability to
22 provide some types of specialized care, if you will, just for
23 example, our women's health, our colposcopy program. We are
24 exceedingly proud of the work that we have done to reduce
25 cervical cancer in the state of Alabama.

1 And that is a newer program that we have been carrying out
2 over the last few years to, again, advance women's health and
3 to reduce this terrible disease among women.

4 Certainly we have expanded our ability to provide
5 treatment services to tuberculosis patients, ensuring that
6 those patients receive the highest level of management and
7 treatment.

8 One of my late colleagues and I were the first physicians
9 in the state of Alabama to use the BPaL regimen, which is a
10 tuberculosis regimen for multidrug-resistant TB. We'd see that
11 really in foreign-born persons more than in minorities more.
12 So we have expanded our services throughout the Alabama
13 Department of Public Health during my tenure.

14 Q What about the access to pediatric care for citizens of
15 Alabama, particularly minorities?

16 A Again, in Alabama, when I first came to Alabama in 1980,
17 the coverage for Medicaid in the pediatric and the OB
18 population at that time was smaller.

19 In the early 1990s, the Medicaid expansion for pediatric
20 and OB patients was undertaken so that women at or below
21 150 percent of federal poverty -- and that's -- I don't know
22 the exact numbers there -- were able to access Medicaid for
23 maternity care, as well as their children staying on Medicaid
24 until they were 19.

25 In 1997, Alabama had the first child health insurance

1 program, which really was able to pick up children that were
2 above the Medicaid amount in income, but still did not have
3 insurance coverage.

4 So we just celebrated our 25th anniversary of the CHIP
5 program in 2022. We were, again, the first state in the nation
6 of a CHIP program.

7 Our ALL Kids program. We now have our ALL Babies program
8 that we have expanded throughout the state of Alabama such that
9 women that don't qualify for Medicaid, but are still
10 underserved, in terms of insurance coverage, can apply to be on
11 our ALL Babies program.

12 So we have, again, expanded our maternity access for
13 people to have coverage. We are not the providers of the
14 actual services. We are the intermediary for the insurance, I
15 guess, for lack of a better word with ALL Babies and ALL Kids.

16 MR. MINK: Judge, could I have just a moment?

17 THE COURT: You may.

18 MR. MINK: No further questions at this time. I will
19 pass the witness.

20 THE COURT: All right. Okay. Thank you. Counsel for
21 the plaintiff.

22 MR. UNGER: Thank you, Your Honor. Jess Unger for the
23 plaintiffs.

24 CROSS-EXAMINATION

25 BY MR. UNGER:

1 Q Good afternoon, Dr. Landers.

2 A Hello.

3 Q If I say ADPH, you will understand that I am referring to
4 the Alabama Department of Public Health, correct?

5 A Yes, sir.

6 Q Okay. You first joined ADPH in 1982?

7 A That's correct.

8 Q And prior to the COVID-19 pandemic, you considered
9 retiring; isn't that right?

10 A Yes, sir.

11 Q But you stayed on in your role at ADPH out of a sense of
12 duty after coronavirus hit; is that right?

13 A Yes.

14 Q I would like to talk about the coronavirus pandemic.
15 Governor Ivey declared a state of emergency statewide in
16 response to the pandemic, correct?

17 A Yes.

18 Q And Governor Ivey renewed that state of emergency several
19 more times; is that correct?

20 A That is correct.

21 Q And ADPH responded to the pandemic with public health
22 orders that had statewide effect, as well, correct?

23 A Yes, sir.

24 Q Black Alabamians were disproportionately hospitalized with
25 COVID; is that right?

1 A We had higher hospitalization in African-American persons.

2 Q And black Alabamians disproportionately died from COVID,
3 as well, correct?

4 A Yes, sir.

5 Q And those disproportionately hospitalizations and deaths
6 were related to underlying morbidities?

7 A Is that a question?

8 Q Yes, ma'am.

9 A Okay. Yes. African-American persons with, for example,
10 hypertension or diabetes or obesity or immunosuppression,
11 again, those are all contributory factors to mortality if
12 you're infected with SARS-CoV-2.

13 Q And black people in Alabama suffer disproportionately from
14 a number of those morbidities that you mentioned, correct?

15 A Yes, sir.

16 Q And black people in Alabama suffered disproportionately
17 from a number of chronic health problems, correct?

18 A Yes, sir.

19 Q Black Alabamians are at a higher risk for diabetes than
20 their counterparts in the rest of the population?

21 A Yes, sir.

22 Q Black Alabamians are at higher risk for hypertension than
23 their counterparts in the population?

24 A Yes, sir.

25 Q Black Alabamians are at higher risk for obesity than their

1 counterparts in the rest of the population?

2 A Yes, sir.

3 Q Black Alabamians are at higher risk for cardiovascular
4 disease at a high rate?

5 A That's correct.

6 Q Okay. On a number of factors generally speaking, black
7 Alabamians experience worse health outcomes, correct?

8 A Yes, sir.

9 Q And black people have had less access to health care in
10 Alabama, correct?

11 A Yes. Certainly depending on where people live, they might
12 have less access to health care.

13 Q Black women experience worse maternal mortality outcomes
14 compared to their white counterparts?

15 A Yes, sir.

16 Q And Alabama sees higher infant mortality among black
17 infants, as well, correct?

18 A They do.

19 Q As of 2022, babies born to black women in Alabama were
20 almost three times more likely to die than babies born to white
21 women in Alabama, correct?

22 A Yes, sir.

23 Q And you spent your career as a public health official
24 serving underserved populations, correct?

25 A Yes.

1 Q And access to health care plays a role in health outcomes
2 for underserved populations?

3 A Yes, sir.

4 Q And education plays a role, as well?

5 A Yes, sir.

6 Q And funding plays a role for health outcomes for
7 underserved populations, as well?

8 A Yes, sir.

9 Q And poverty plays a role in health outcomes for
10 underserved populations?

11 A Yes, sir.

12 Q And black Alabamians comprise a majority of the
13 populations you have served in underserved communities,
14 correct?

15 A I'm sorry. I didn't understand the way you asked the
16 question. Could you ask it again?

17 Q Yes, ma'am. Black Alabamians comprise a majority or most
18 of the population that you have served in underserved
19 communities, correct?

20 A Yes, sir.

21 Q These factors that we have been talking about like
22 education and poverty levels help inform your understanding of
23 why black Alabamians have disproportionately worse health
24 outcomes than white Alabamians, correct?

25 A Yes, sir.

1 Q If I refer to the United States Department of Health and
2 Human Services as HHS, you will understand what I am referring
3 to, right?

4 A Yes, sir.

5 Q You would not be surprised if HHS labels racial
6 discrimination as one of several determinants of health
7 outcomes, right?

8 A No, I wouldn't be surprised.

9 Q Okay. And access to health care services is related to
10 that, right?

11 A I'm -- if you're asking if racial discrimination is
12 related to my -- my providing care to persons, that would not
13 be correct.

14 Q That wasn't my question.

15 Access to health care services is related to the role that
16 racial discrimination plays as a determinant of health
17 outcomes; is that correct?

18 A Again, from my perspective as a provider, no.

19 Q Let me ask it this way: Access to health care services
20 can be affected by racial discrimination; isn't that right?

21 A Well, again, I can only speak to my own work as a
22 physician and my department and say that racial discrimination
23 is not a part of any factor of Alabama Department of Public
24 Health providing care to people in the state of Alabama.

25 Q I understand.

1 ADPH entered a resolution agreement with the United States
2 Department of Justice and HHS last year; is that right?

3 A ADPH entered into a voluntary agreement in -- and I
4 believe it was May of 2022.

5 MR. UNGER: John, could we pull up PX-368?

6 BY MR. UNGER:

7 Q The Resolution Agreement that you referred to had to do
8 with sewage in Lowndes County, correct?

9 A Yes.

10 Q Let's take a look at this agreement.

11 Do you recognize this document?

12 A I'm sorry. You are going to have to blow it up a little
13 bit.

14 Q Sure.

15 MR. UNGER: John, could we zoom in?

16 BY MR. UNGER:

17 Q Dr. Landers, do you recognize this document?

18 A I am familiar with the document. I have not read every
19 word of it.

20 Q Okay. Can you say what it is?

21 A It is -- do you want the title?

22 Q Sure.

23 A Okay.

24 Q If you can identify it, yes?

25 A Interim Resolution Agreement between the United States

1 Department of Justice and the United States Department of
2 Health and Human Services and the Alabama Department of Public
3 Health. Do you want me to keep reading?

4 Q No. That's all right.

5 Dr. Landers, how did you come to be familiar with this
6 document?

7 A I'm familiar with it, because when I became chief medical
8 officer, I was aware that this agreement was going to be
9 developed.

10 MR. UNGER: Plaintiffs would like to offer 368 into
11 evidence.

12 THE COURT: 368. Any objection?

13 MR. MINK: No objection.

14 THE COURT: All right. Admitted.

15 (Plaintiff's Exhibit 368 admitted in evidence.)

16 BY MR. UNGER:

17 Q Dr. Landers, this Interim Resolution Agreement is related
18 to a situation where people living in Lowndes County did not
19 have adequate sewage disposal options; is that right?

20 A Yes, sir.

21 Q And as a result, they were risking exposure to raw sewage;
22 is that right?

23 A Yes, sir.

24 Q Is it correct that the majority of households affected by
25 unsanitary waste water systems in Lowndes County are black

1 households?

2 A Lowndes County is a primarily African-American county, so
3 that is correct.

4 Q Okay.

5 Lowndes County is part of Alabama's Black Belt region; is
6 that correct?

7 A Yes, it is.

8 Q And Lowndes County borders Montgomery County; is that
9 right?

10 A I believe it does. I'm sorry I don't have a map right in
11 front of me, but I believe it does.

12 Q Okay. And it is a very poor area of the state of Alabama,
13 correct?

14 A It is a very poor small county. I believe the population
15 is about 10,000 people.

16 Q People in Alabama's Black Belt already face difficulties
17 accessing health care providers generally; is that right?

18 A Yes. There are few health care providers in those smaller
19 counties.

20 Q And that Resolution Agreement between the federal
21 government and ADPH remains in effect today, does it not?

22 A To my knowledge.

23 Q Okay. In the 1990s, you witnessed the effects of a health
24 care coverage eligibility expansion through the Medicaid
25 expansion that you referenced and CHIP, correct?

1 A The Medicaid expansion was separate from CHIP. Is that
2 what you're asking?

3 Q Yes.

4 A Okay.

5 Q I can ask one at a time.

6 You witnessed the effects of the health care coverage
7 eligibility expansion through Medicaid expansion early in the
8 1990s, correct?

9 A Yes.

10 Q And later in the 1990s, also through CHIP, as well?

11 A For the Child Health Insurance Program, yes.

12 Q And those prior expansions in the 1990s began to address
13 health disparities affecting black Alabamians in pediatric and
14 OB care, correct?

15 A Well, actually, affecting all Alabamians because persons
16 who were -- whomever would be eligible for that, which included
17 African-American persons, white persons, and persons of other
18 races that were eligible based on income guidelines.

19 Q And would it be fair to say that it began to address
20 disparities for the underserved population in Alabama, those --

21 A Yes.

22 Q Okay. And you are aware of a present-day debate whether
23 to expand Medicaid again under the 2010 Affordable Care Act,
24 correct?

25 A I'm peripherally aware of that. I am not directly

1 involved or engaged in at that discussion.

2 Q State of Alabama has not to this day undertaken that
3 expansion, correct?

4 A Again, to my knowledge, I don't work for Medicaid, so I
5 really don't have any specific knowledge related to that.

6 Q It is very important to you to study black women's health,
7 correct?

8 A It's very important for me to study everyone's health in
9 preventative measures, including African-American women.

10 Q And there is a history of racial disparities in health
11 outcomes in Alabama, correct?

12 A I think in terms of talking about infant mortality and
13 maternal mortality and other factors that affect
14 African-American persons, that is a fair statement.

15 Q And these racial disparities result from barriers like a
16 lack of access to education and information, correct?

17 A Yes.

18 Q Poor health outcomes can make it harder for someone to
19 maintain decent employment, correct?

20 A Yes, sir.

21 Q And it's possible that poor health outcomes can make it
22 harder for someone to participate in community activities,
23 correct?

24 A Again, I can assume that if persons are not well, they
25 might not be participating in other activities.

1 Q That could include things like a parent-teacher
2 association meeting or a town council meeting potentially?

3 A Yeah. I can only assume.

4 Q Okay.

5 MR. UNGER: May I have a moment to confer with
6 counsel?

7 THE COURT: You may.

8 MR. UNGER: No further questions for me. Thank you,
9 Dr. Landers.

10 THE WITNESS: Thank you very much. Any redirect?

11 MR. MINK: Yes, ma'am.

12 REDIRECT EXAMINATION

13 BY MR. MINK:

14 Q Dr. Landers, plaintiffs' counsel talked to you about the
15 Interim Agreement that he put up on the screen.

16 Do you know what the genesis of that issue was?

17 A Do you mean how this -- how it actually started? I want
18 to make sure I understand your question.

19 Q I mean, what were the -- what was the condition that
20 created the need for the agreement?

21 A Okay. To my understanding -- and I was not directly
22 involved in the agreement -- but to my understanding, in
23 approximately 2017, there was a study that was done in the
24 Lowndes County region using a non-FDA approved test for soil
25 helminths, which is like worms. That's what most people would

1 understand in terms of the -- that terminology.

2 And at that time, this non-FDA approved test was used in a
3 fairly small group of children and people indicating that these
4 persons could have soil-transmitted helminths.

5 If you read the entire article, which I read extensively
6 and reviewed extensively, the gold standard for
7 soil-transmitted helminths was actually not met according to
8 the CDC.

9 And so the study did not show that there was a problem
10 with soil-transmitted helminths in that region.

11 That particular study as I understood it -- again, I was
12 peripherally involved -- in terms of just being aware of it,
13 brought more attention to that region of Alabama to the Black
14 Belt.

15 Certainly people shouldn't have sewage running out in
16 their yard. They should have an appropriate sanitation system
17 for their home, for their own health and well-being. But that
18 particular study did not prove anything related to that.

19 So that was my understanding that that was a catalyst for
20 the subsequent activities. Again, I was very peripherally
21 involved in it at that time.

22 Q Do you know whether that agreement contained any provision
23 expressing fault or liability on the part of the state?

24 A Again, I'm not an attorney and it was -- I'm peripherally
25 aware of the information. It was my understanding -- because I

1 was asked in media interviews, and I reviewed the news release
2 on this -- that no fault was found with the state of Alabama
3 related to any discriminatory practices against the citizens of
4 Lowndes County. And that was my understanding.

5 Q Do you know if there have been any -- there has been any
6 progress made in the treatment of sewage in Lowndes County?

7 A Yes, sir. There has been progress made.

8 Q Could you describe any of that that you are aware of?

9 A Yes, sir. I have been more involved since I became chief
10 medical officer. And I am aware of a very extensive amount of
11 work on the part of the Alabama Department of Public Health,
12 including me, working within the community attending events,
13 going into the community and talking to the citizens.

14 There were a number of elements that the Alabama
15 Department of Public Health undertook. One of these elements
16 was an assessment, a community assessment survey. And that
17 information was gathered and analyzed based upon a number of
18 factors.

19 And that data was used to select persons that were at
20 highest risk for lack of a better word of needing the sewage
21 system because of the elements in their home, for example, such
22 as maybe having sewage backing up in your home or not having a
23 working system at all, not even having good straight piping or
24 anything of that nature, and health factors.

25 So a number of elements there analyzed such that persons

1 were ranked to be eligible to apply to get a septic tank system
2 that would be paid for through some funding that was received
3 through ARPA, you know, from the state of Alabama, if you will,
4 so that persons could again get a working system. And once
5 having a working system, would provide information and
6 education about maintaining that system for their home so they
7 could have that both now and in the future in their home.

8 Again, there was a lot of education. There is a lot of
9 education ongoing. We have persons that are hired to focus on
10 providing this information.

11 The Alabama Department of Public Health does not install
12 septic tanks. That is not part of our work. But we provide
13 information. We provide education. We provide access, the
14 terms of helping people get RFPs so that they can have an
15 application for working system.

16 Q Plaintiffs' counsel asked you a few minutes ago about the
17 fewer number of providers, health care providers in the Black
18 Belt counties recognizing that all of those counties are not
19 100 percent African-American. They're also other minorities,
20 as well as white Alabamians who live in those counties. Are
21 they also subject to those same -- that same lack of health
22 care?

23 A Again, in any of the rural counties in Alabama -- and, of
24 course, the Black Belt being some of the more rural counties in
25 -- Black Belt counties being named Black Belt because of the

1 soil there, if you will. Again, traditionally those are some
2 of the smaller counties and poorer counties.

3 But in any of the rural counties in Alabama, we're seeing
4 hospitals that are closing or already have closed. We are
5 seeing communities that a physician who may be my age that's
6 been practicing for a number of years, you know, has retired,
7 and there's not a physician to come along to take their place.

8 There's not a nurse practitioner to come along and take
9 their place. So there's not someone there to pick up the
10 medical care for the community. They're not OB providers to
11 provide obstetrics services to women. So there are fewer
12 places for women to be able to deliver babies.

13 And this is a problem in all of our rural counties in
14 Alabama.

15 Q You talked about a few minutes ago about the disparity in
16 the infant mortality rates between white Alabamians and I think
17 African-American Alabamians.

18 Has that rate changed over the time that you have been
19 working for the Department of Public Health?

20 A The rate has decreased thankfully. Certainly, I've been
21 at the department a long time. But it's not decreased down
22 below the national average, which is our goal. That's where we
23 want to be.

24 We want all Alabamians to be healthy. And I've spent my
25 whole career as a pediatrician and as a public health official,

1 you know, working for the health and well-being of the citizens
2 of Alabama.

3 I've treated a number of patients that are of all races,
4 colors, or creeds. Some of my patients have actually gone on
5 to be extremely successful professionals. They remember me. I
6 have to say I don't remember them, because now they're adults
7 and obviously they look different from when they did when they
8 were children.

9 But, you know, as a representative of the Department of
10 Public Health and as an individual physician, it has been my
11 great honor to serve the citizens of Alabama.

12 Q How did the minority communities respond to the COVID-19
13 vaccine when it first became available?

14 A In my own experience as a physician and as a public health
15 official, there was a lot of enthusiasm. And I actually think
16 at the moment -- this minister I just spoke to the other day --
17 there was a lot of enthusiasm. This one particular minister,
18 if you will, was a fabulous leader in north Alabama and really
19 got in front of COVID. I will have to say, he was just someone
20 who even before the pandemic became as widespread, he was in
21 the churches as a leader. And he was -- was actually a
22 veteran.

23 So he had military experience. He was a leader out
24 telling people, I think this is going to be something we're
25 going to have to pay attention to. Let's get out in front of

1 it. Let's educate people. Let's do what he can to serve our
2 citizens and to ensure their health and well-being.

3 Q You talked about your own efforts -- and I think you also
4 referred to the Department of Public Health's efforts. But is
5 the Alabama Department of Public Health working to address
6 those medical concerns that plaintiffs' counsel raised that are
7 present in the minority community, the different problems that
8 are there?

9 Is -- in other words, is the Alabama Department of Public
10 Health reaching out to those communities in an effort to
11 improve their health?

12 A Yes. We have many efforts. One is our -- our mortality
13 -- our maternal mortality review committee, our MMRC that is
14 led by one of our OB-GYNs and other persons, that he has
15 recruited OB-GYNs throughout the state and other health care
16 providers to look at maternal mortality with all women, whether
17 they be white women, African-American women, Hispanic women,
18 again, other groups to identify causes of maternal mortality.

19 You know, I think that's exceedingly important. One thing
20 that we found out in our maternal mortality review is the,
21 again, underlying health problems such as cardiovascular
22 disease. You know, one may not think about in pregnant women,
23 but that has been a factor, cardiovascular disease,
24 hypertension, certainly women having strokes or other
25 cardiovascular events.

1 So, again, attempting to determine that. And as part of
2 that, we also have our maternal autopsy program. I know that's
3 not something that people like to talk about. But once a woman
4 passes away as -- after pregnancy -- and, again, we are
5 following these women up to a year -- we would like to have an
6 autopsy in order to determine the cause or causes of death.
7 And that service is provided free of charge to that family.

8 Now, again, it's not something people like to talk about,
9 but we want to give families some closure. But we also want to
10 be able to have that data to see what factors were there that
11 we might have the opportunity to intervene. Again, you know,
12 was it a situation of sepsis or something of that nature.

13 Again, while it's a very heart-wrenching topic, it's
14 something that the Alabama Department of Public Health has
15 taken extremely seriously, is taking very seriously, and is
16 working to get this data to be able to share and present and
17 help the women of Alabama.

18 MR. MINK: Judge, can I have one minute?

19 THE COURT: You may.

20 MR. MINK: If we could have the last exhibit that was
21 pulled up, the Interim Agreement.

22 THE COURT: That was Plaintiffs' 368.

23 MR. MINK: If we could make it a little bit bigger so
24 I can see it, as well.

25 If you could scroll down I think to the second page.

1 Could you continue to scroll?

2 Okay. If you could highlight the paragraph D.

3 BY MR. MINK:

4 Q Dr. Landers, earlier, I asked you about whether this
5 agreement to your understanding constituted any sort of
6 admission on the part of Department of Public Health. And
7 looking at the last sentence of this paragraph D, I'm going to
8 read it, and I will ask you if I have read it directly.

9 This agreement does not constitute an admission of
10 noncompliance with Title VI and Section 1557 by ADPH; meaning,
11 the Alabama Department of Public Health, nor does this
12 agreement constitute a finding of noncompliance by the United
13 States.

14 Did I read that correctly?

15 A Yes, sir.

16 Q And was that your understanding of what this agreement
17 did?

18 A That was my understanding.

19 Q Okay.

20 MR. MINK: Thank you. You can take the document down.

21 I don't have any further questions.

22 THE COURT: All right. Thank you. Any from the
23 plaintiff?

24 MR. UNGER: No, Your Honor.

25 THE COURT: All right. Is there any reason I may not

1 excuse Dr. Landers?

2 MR. MINK: No, ma'am.

3 THE COURT: Okay. Dr. Landers, thank you for being
4 with us today. You're excused.

5 (Witness excused.)

6 THE COURT: All right. The Secretary's next witness?

7 MR. MINK: The defense calls Cedric Coley.

8 THE WITNESS: All right.

9 CEDRIC COLEY

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

12 THE COURTROOM DEPUTY CLERK: Please state and spell
13 your name for the record.

14 THE WITNESS: Cedric Coley, C-E-D-R-I-C, C-O-L-E-Y.

15 DIRECT EXAMINATION

16 BY MR. MINK:

17 Q Good afternoon, Mr. Coley.

18 A Good afternoon.

19 Q Could you tell the Court the city and state where you
20 live?

21 A Montgomery.

22 THE COURT: I don't think your microphone is on.

23 BY MR. MINK:

24 Q Could you please the state the city and state where do you
25 live?

1 A Montgomery, Alabama.

2 Q And how long have you lived in Montgomery?

3 A Ever since around 2 years of age.

4 Q Are you a native of Alabama?

5 A I was born in Las Vegas, Nevada.

6 Q At some point, you moved to Alabama?

7 A Yes. Yes. Around 2 years of age.

8 Q And you've lived in Alabama since then?

9 A Yes.

10 Q What year were you born?

11 A 1990.

12 Q So that makes you 34 today?

13 A Yes.

14 Q Have you lived in Alabama anywhere other than Montgomery?

15 A Yes.

16 Q Could you tell the Court where else you've lived in
17 Alabama?

18 A I've lived in Prattville, Alabama; Hoover, Alabama;
19 Millbrook, Alabama; Wetumpka, Alabama; Hope Hull, Alabama.

20 Q And so how long have you actually lived in Montgomery now?

21 A As an adult, since 2015.

22 Q Mr. Coley, could you state your race for the record?

23 A I identify myself as a black American.

24 Q Thank you.

25 Could you describe your educational background?

1 A Yes. I attended public schools in Montgomery, Alabama up
2 until Capital Heights. I believe that is junior high school.

3 I also attended public schools in Prattville, Alabama,
4 elementary schools mainly. I also attended Millbrook Middle
5 School. I graduated from Stanhope Elmore High School in 2008.
6 I attended two years at Jacksonville State University. I
7 attended one semester at Faulkner University.

8 Q So when you refer to Jacksonville State, that was college
9 you were attending?

10 A Yes.

11 Q And when did you attend there?

12 A From 2008 until 2010.

13 Q And what was your course of study there?

14 A Political science major, minor in military science.

15 Q And I believe you said you at some point began attending
16 Faulkner University?

17 A Yes.

18 Q And when was that?

19 A That was in the fall of 2010.

20 Q And did you have the same course of study there?

21 A No.

22 Q What were you studying at Faulkner.

23 A I studied theology, Biblical text.

24 Q And for those who may not know, Faulkner University is
25 located where?

1 A Montgomery, Alabama.

2 Q Did you graduate from Jacksonville State or Faulkner?

3 A No.

4 Q So could you describe your employment history from the
5 time that you left Faulkner?

6 A At the time I left Faulkner, mainly -- well, pretty much
7 all factory-type settings. To name a few, like Viscofan and
8 Hyundai.

9 Q Where do you currently work?

10 A I currently am in private security downtown Montgomery. I
11 am also a farmer; that is, it's a mixture of business and
12 hobby. But it is work. And I have done throughout the year
13 political consulting.

14 Q Are you currently involved in political consulting?

15 A Not at this time.

16 Q Are you registered to vote?

17 A Yes.

18 Q Do you remember when you first registered to vote?

19 A It was in the year of 2008.

20 Q Was that the first opportunity that you had to vote?

21 A Yes.

22 Q Did you have any difficulties registering to vote?

23 A No.

24 Q Have you voted in elections in Alabama since 2008?

25 A Yes.

1 Q Have you had any difficulties voting yourself?

2 A No.

3 Q The first time you voted, were you supporting a particular
4 political party or candidate?

5 A In 2008, I know I voted for Barack Obama who was candidate
6 for president. I do not recall if I voted straight ticket for
7 any party in 2008.

8 Q And why did you vote for President Obama?

9 A At the time, I thought his policies would be good for the
10 country. I thought he was the type of public figure that I
11 wanted to support. He had a good message of hope and change
12 that I liked. And I think that was enough to win me over.

13 Q Did your opinion change at some point?

14 A It did.

15 Q Could you tell us about that?

16 A After he was elected in 2009 and 2010, I remember huge
17 political debates about health care reform. And I did not
18 understand what I was hearing as far as some things were good,
19 some things were bad. I didn't understand that most of his
20 opposition I was hearing was racist or was anti-black.

21 So I did my own research, and I came to the conclusion
22 that his policies were contrary to my personal interests. And
23 I decided to not support him for the next presidential cycle.

24 Q Did you discuss your views with your family?

25 A I did.

1 Q And what was their reaction?

2 A Well, the older generations, they wanted to know why I
3 wouldn't just simply vote straight ticket Democrat. The middle
4 and younger generations like myself -- I was 18 in 2008, and I
5 was 22 in 2012 -- they understood that there were policies that
6 I could not agree with and that I did not think would be good
7 for my future.

8 Q Had your parents or grandparents been politically active?

9 A My parents were not. My grandfather did participate in
10 civil disobedience and civil mass protests in the late '60s,
11 mid-'60s.

12 Q Was that in Alabama?

13 A Yes.

14 Q Have you ever run for office?

15 A I have.

16 Q And when was the first time you ran for office?

17 A That was in 2014.

18 Q And what office did you run for?

19 A I ran for the Alabama House of Representatives, House
20 District 69.

21 Q Did you run under the banner of a particular political
22 party?

23 A Yes.

24 Q And what party was that?

25 A It was the Alabama Independence Party.

1 Q Do you know anything about the creation of the Alabama
2 Independence Party?

3 A I do.

4 Q Could you tell us about it?

5 A Myself and a friend at the time who stayed in the
6 Tuscaloosa area, we got together, put our minds together. I
7 expressed to him that I wanted to seek public office. I
8 thought that would be beneficial for someone my generation to
9 run for public office.

10 And we started on the path of running as an Independence
11 candidate. And we found out quickly that the state of
12 Alabama's laws, you've got a hill to climb if you don't run
13 under a major political party.

14 So we decided to partner with other friends from across
15 the state and create the Alabama Independence Party as a
16 flagship for candidates to run for public office and easier
17 ballot access.

18 Q Were you successful in that race?

19 A I was not.

20 Q Could you describe the reaction that you received from
21 voters when you were campaigning?

22 A Well, the person-to-person conversations, the vast
23 majority of them, we were in agreement, as far as policy
24 changes, as far as educational changes.

25 The conversations went to differences, but we came to

1 common ground. And a lot of that conversation was surrounding,
2 well, why won't you run as a Democrat or as a Republican? What
3 is this independence thing?

4 Q Did you receive different reactions from white voters
5 versus African-American voters?

6 A I actually did. I received the most hostile responses --
7 not many, but enough -- from Democrat-leaning voters, older
8 generation voters. They wanted to know why I did not seek
9 public office as a Democrat.

10 Q Now, you said Democrat voters or Democrat-leaning voters.
11 My question spoke specifically to the racial breakdown. Was
12 there a difference in the reaction you got based on your race
13 and the race of the voter?

14 A More hostile responses from black voters.

15 Q Along the same lines as you just described?

16 A Mostly, yes.

17 Q Was there something else?

18 A It seemed like the majority of the hostile responses, it
19 didn't necessarily come from individuals who I would see as --
20 it seemed like it came from more so individuals who are more
21 radical for the Democrat Party. White voters, it was, to my
22 experience, was pretty split either Independent or Republican.
23 And it was more so, oh, okay, I'll consider you.

24 Q During your candidacy, are you aware of any difficulties
25 that someone had voting for you?

1 A Yes.

2 Q Could you describe that?

3 A I was approached after the 2014 general election by
4 relatives and friends that I consider supporters of the
5 campaign. They mentioned, hey, I went in to vote for you at my
6 particular polling location and I was not -- I didn't see you
7 on the ballot, one; or two, I was told I had -- I couldn't vote
8 for you. I attempted to vote split ticket voting. And the
9 poll watchers --

10 MR. ROSS: Objection, Your Honor. This is hearsay.

11 MR. MINK: He is relating what he heard, but this was
12 also reported in the media. And given an opportunity, I will
13 be able to --

14 MR. ROSS: It's double hearsay then.

15 THE COURT: What's the purpose for which it's being
16 offered?

17 MR. MINK: To demonstrate the response that he got as
18 a candidate during his run for this office.

19 THE COURT: Is it being offered for the truth of any
20 assertion about not being on the ballot or not being able to
21 vote split ticket?

22 MR. MINK: Yes.

23 THE COURT: Then I think it is hearsay.

24 MR. MINK: I will move on.

25 BY MR. MINK:

1 Q Was that the last time you ran for an office?

2 A No.

3 Q When did you run next for an office?

4 A For city council in 2015.

5 Q City council of what city?

6 A Montgomery, Alabama.

7 Q Was that a nonpartisan or partisan race?

8 A It was a nonpartisan race.

9 Q Were you successful?

10 A No.

11 Q What was the reaction that you received from the voters
12 when you were running for that election?

13 A It was more so -- it's not your time. At the time, I was
14 25. And, again, most of the issues that we were discussing,
15 they agreed with the majority of them. We discussed
16 differences. But the majority of the responses was, I've got a
17 candidate that I was already considering that I've known for
18 years. I just don't think it's your time.

19 Q Have you run for office since then?

20 A Yes.

21 Q And when was that?

22 A That was this year, 2024.

23 Q Was that a partisan election or nonpartisan election?

24 A It was a partisan election.

25 Q And what office were you running for?

1 A I ran for Montgomery County Commission District 3.

2 Q And did you run under a particular party banner?

3 A Yes.

4 Q And what was that?

5 A It was for Republican nominee.

6 Q Were you in a primary?

7 A Yes.

8 Q Did you win the primary?

9 A No.

10 Q Do you know the name of the individual who did win the
11 primary?

12 A I do.

13 Q And what was his name? What is his name?

14 A His name is Justin Castanza.

15 Q Do you know if he was eventually elected to the county
16 commission?

17 A He was.

18 Q Do you have any opinion about the voter turnout for that
19 primary?

20 A The voter turnout was low. I believe, if I can recall
21 correctly, it was the lowest turnout for county commission race
22 in the city for the primary.

23 Q Do you have any opinion as to why Mr. Castanza may have
24 won over you in that election?

25 A I do. I have several.

1 Q Okay. Could you tell us what those are?

2 A One is when you running for public office, if you have a
3 bigger monetary war chest, it matters. I raised a little bit
4 north of \$12,000. Mr. Castanza had over \$35,000.

5 Mr. Castanza is the son of a business owner, Chappy's
6 Deli. The owner is his father. So there's name recognition
7 there.

8 And Mr. Castanza also is the president of a Catholic
9 school with a couple of locations in Montgomery County.

10 So I believe those factors played a role.

11 Also, the position holder at the time, she endorsed him
12 the last week of the election, so I think those factors
13 mattered.

14 Q And what is Mr. Castanza's race?

15 A White American.

16 Q In your opinion, did race play a part in that election?

17 A No.

18 Q So you mentioned that you were running as a Republican.
19 At what point, did you become involved with the Republican
20 Party?

21 A I started to campaign and help the Donald Trump for
22 president campaign in 2015, 2016. And I became more active,
23 involved in 2016 with the local Montgomery County Republican
24 Party.

25 Q What was the reaction of the Montgomery County Republican

1 Party to your interest in the Republican Party?

2 A It was -- it was a welcoming experience. They were
3 reaching out to me when I was running for Independence
4 candidate. They felt as though our values lined up, and I
5 should consider being a part of the Republican Party.

6 Several members of the Montgomery Republican executive
7 committee cultivated relationships with me. It wasn't just
8 simply political conversations. It was more so, how are you
9 doing today, Cedric? How's mom?

10 Q So you joined the party at some point?

11 A I became a member of the Montgomery County Republican
12 Executive Committee.

13 Q And how did you get a position on that committee?

14 A So you submit an application and you go through an
15 interview process. You go to -- the first meeting you
16 introduce yourself to the membership. The second meeting they
17 vote on your application to be a member, and I was successful.

18 Q What would you say the demographics are of the Montgomery
19 County Republican Party?

20 A I would say at least -- I would say at least around about
21 75 percent white American.

22 Q And the remainder -- remaining 25 percent minority?

23 A Yes.

24 Q Have you held any positions in the Montgomery County
25 Republican Party?

1 A Yes.

2 Q And what positions have you held?

3 A I was elected to member at-large for the Montgomery County
4 Republican Executive Committee. I was elected to the State
5 Executive Committee representing Montgomery County. I was
6 appointed to elections chair.

7 Q Who appointed you to elections chair?

8 A The chairman Connie Greer.

9 Q The chairman of what?

10 A Montgomery County Republican Party.

11 Q And you said you were elected to a member of the executive
12 committee?

13 A Yes.

14 Q And was that by a vote of the party -- of the Montgomery
15 County Republican Party or only the committee?

16 A So the position, a part of the Montgomery County
17 Republican executive committee is an elected position within
18 the county's Republican Party.

19 And at the time, there were few candidates for -- to fill
20 the positions. So the Montgomery County Republican executive
21 committee held a meeting among each other and voted me a
22 member.

23 Q Did you serve a term in that position?

24 A Yes.

25 Q And what was the term?

1 A The terms are two-year terms for member at-large;
2 four-year term for state executive committee.

3 Q So are you still serving the term as an elected member
4 at-large?

5 A No. I did not seek reelection.

6 Q When did that term end?

7 A It will expire in January.

8 Q Of 2025?

9 A Yes.

10 Q Have you been involved with the state Republican Party of
11 Alabama?

12 A Yes.

13 Q Could you describe your activities with the state
14 Republican Party?

15 A I was appointed to the Alabama Outreach Coalition task
16 force by chairman John Wahl in 2021. I was asked by the
17 Alabama Republican Party to represent the party in Georgia to
18 help elect Herschel Walker. I believe that was in 2022.

19 I also served as the Mo Brooks co-chair for Montgomery
20 County. I have also served as a field representative helping
21 to consult candidates for State Legislature in the State
22 Senate.

23 Q Okay. Let me ask you about -- you said you were appointed
24 by the chairman of the Alabama Republican Party John Wahl to be
25 to the central Alabama regional director?

1 A Yes.

2 Q And what do you do in that position?

3 A So the task force, the Alabama Outreach Coalition, the
4 task force, has regional directors. I was appointed the
5 central Alabama regional director. And our mission is to
6 facilitate partnerships and conversations between the local
7 county chapters, the four Republican auxiliary groups, and the
8 Alabama communities in general to figure out ways we can open
9 up the party, figure out ways we can communicate our party
10 values to the people of Alabama in general, and if need be,
11 assist with consulting and campaign canvassing or campaigning
12 for Republican candidates from across the state.

13 Q Are you familiar with the Alabama Minority GOP?

14 A Yes. I'm a member, yes.

15 Q And what is that group do?

16 A So the -- the Alabama Minority GOP is one of four
17 auxiliary group part of the Alabama Republican Party, and the
18 Alabama Minority GOP, membership is open to all Alabamians.
19 They specialize in being a launch pad for minority Alabamians,
20 minority Americans.

21 Q And what do you do in your role with them?

22 A Currently, I'm just a member of the minority GOP.

23 Q I think you mentioned this, but maybe I misunderstood.

24 You were appointed by the state chair of the Republican
25 Party to do what job?

1 A The Alabama Outreach Coalition is different from the
2 Alabama Minority GOP.

3 Q I understand.

4 Were you appointed by the state chair as elections
5 director for any position?

6 A Not elections director, but I was appointed by the
7 Montgomery County Chairman Connie Greer to be the elections
8 chair for Montgomery County this election cycle.

9 Q Is that a term position?

10 A It's at the pleasure of the chairman. It could be for a
11 campaign season, or it can be for the full term of the
12 chairman.

13 Q Are you still serving in that position?

14 A Yes.

15 Q I think you mentioned a moment ago that you had advised
16 Republican candidates; is that correct?

17 A Correct.

18 Q So could you tell us some of the names of the individuals
19 that you have advised?

20 A I can. Mr. Michael Nimmer, he ran for State Senate, State
21 Senate District 23; Mr. Mrs. Carla Mattox, she ran for House
22 District 69; Mr. Rick Rehm, he ran for House District 85.
23 There's another gentleman. I'm trying to recall his name. He
24 ran for a House district, as well.

25 Q Let's take each one of those.

1 Mr. Nimmer that you mentioned, do you know his race?

2 A White American.

3 Q Ms. Carla Mattox, her race?

4 A She's a white American.

5 Q I think you said Rick Rehm?

6 A Yes.

7 Q His race?

8 A White American.

9 Q And the other individual whose name you couldn't recall,
10 do you remember?

11 A He's a white American.

12 There was another candidate. We call her Tia, last name
13 Pierrot. She's a black American. She ran for a House
14 district.

15 Q And when you were advising these individuals on their
16 campaigns, were you being paid by anyone?

17 A Yes.

18 Q Who were you being paid by?

19 A By the Alabama Republican Party as an official field
20 representative on their behalf.

21 Q Did any of these candidates reject your help?

22 A No.

23 Q Did you find them all to be receptive to your help?

24 A Yes. They listened. You know, it's -- yes, they
25 listened. You give them advice, and they go out, and do it

1 their way. For example, an example, hey, go to a particular
2 neighborhood. We've got a campaign tool that you can utilize
3 to go to specific homes for Republican leaning or hard
4 four-by-fours, meaning these Republicans have voted in every
5 election the past four years. You want to target these
6 particular individuals in your primary or in the general
7 campaign to get out your vote.

8 They would go to the neighborhood and not necessarily use
9 the app and -- yeah.

10 Q And I may have just asked you this, but did any of them
11 reject your help?

12 A No.

13 Q Have you had any difficulties in fully participating in
14 the Republican Party in Alabama?

15 A No.

16 Q Would you describe the Alabama Republican Party as
17 welcoming to minorities?

18 A Yes.

19 MR. MINK: Judge, if I could have just a minute.

20 THE COURT: You may.

21 MR. MINK: I don't have any further questions at this
22 time. I will pass the witness.

23 THE COURT: All right.

24 Mr. Ross, we have been going for about an hour and
25 45 minutes. I don't know how long you have. Would you rather

1 take our break or go ahead and start?

2 MR. ROSS: We can take a break, Your Honor.

3 THE COURT: All right. Let's come back at 3:00.

4 (Recess.)

5 THE COURT: Please be seated. Mr. Ross? You may
6 proceed.

7 CROSS-EXAMINATION

8 BY MR. ROSS:

9 Q Hello, sir.

10 A Hey.

11 Q My name is Deuel Ross. I represent the plaintiffs. I am
12 going to be asking you a series of yes-or-no questions.

13 Do you understand?

14 A Yes.

15 Q Are you ready to begin?

16 A Yes.

17 Q Thank you.

18 You live in Montgomery County, correct?

19 A Yes.

20 Q Your mother also lives in Montgomery County?

21 A No.

22 Q Where does she live?

23 A She's deceased.

24 Q She's deceased. I'm sorry.

25 Before she passed away, where did she live?

1 A Montgomery County.

2 Q You have two uncles and three aunts? How many uncles and
3 aunts do you have?

4 A So I have got three that I am aware of and three aunts.

5 Q Okay. Three aunts and three uncles; is that what you
6 said?

7 A Yes.

8 Q Okay. And your aunts and uncles have a lot of children,
9 right?

10 A Yes.

11 Q Okay. Your family all live in Montgomery or central
12 Alabama, right?

13 A No.

14 Q Where do they live?

15 A One of my uncles lives in Autauga County. One lives in
16 Nevada. An aunt that lives in Kansas.

17 Q Okay. So of your Alabama family, they mostly live in
18 Montgomery and central Alabama, right?

19 A Yes.

20 Q Okay. And you mentioned that your grandfather was a part
21 of the sit-ins during the Civil Rights movement?

22 A Yes.

23 Q You paid tithes to the Fresh Anointing House of Worship,
24 correct?

25 A Yes.

1 Q And you have attended church at the Fresh Anointing House
2 of Worship, correct?

3 A Yes.

4 Q And that's a predominantly black church, correct?

5 A Yes.

6 Q Over the last seven years, you have worked on several
7 political campaigns?

8 A Yes.

9 Q And that campaign work has involved at least three of your
10 own runs for office; is that right?

11 A Yes.

12 Q Let's talk about each of those elections.

13 So in 2024, you ran in the Republican primary for
14 Montgomery County District 3, correct?

15 A Yes.

16 Q Okay. And as you testified on direct, your opponent was
17 Justin Castanza, correct?

18 A Yes.

19 Q And Mr. Castanza is a white man, correct?

20 A Yes.

21 Q You did not receive any support from the Republican Party
22 in that primary, correct?

23 A I received some support.

24 Q No sitting commissioner endorsed you in that campaign,
25 right?

1 A Correct.

2 Q Prior to this election, Ms. Rhonda Walker was the sitting
3 commissioner for District 3, right?

4 A Yes.

5 Q She is a white Republican?

6 A Yes.

7 Q She endorsed Mr. Castanza in the primary?

8 A Yes.

9 Q You lost to Mr. Castanza in the primary, right?

10 A Yes.

11 Q You received around 19 percent of the vote, correct?

12 A Yes.

13 Q District 3 has one of the highest turnouts around
14 commission districts traditionally, correct?

15 A That, I'm not aware of.

16 Q Okay. You took a deposition recently, correct?

17 A Yes.

18 Q And that was in this case, or it was in the redistricting
19 case, correct, is your understanding?

20 A It was pertaining to three different cases.

21 Q Right. And that was the -- you testified truthfully in
22 that deposition, correct?

23 A Yes.

24 Q Okay.

25 MR. ROSS: John, can you please pull up deposition

1 page 38 line 9?

2 BY MR. ROSS:

3 Q The question was: Does it, referring to Commission
4 District 3, have higher turnout than other districts within the
5 county commission? And can you just read your answer starting
6 at line 11?

7 A I would say one of the highest.

8 Q You can take it down.

9 I'm sorry. Read the second line there, line 12.

10 Can you just read line 12, as well?

11 A Voter turnouts.

12 Q Okay. So -- all right. You can take it down.

13 District 3 is considered a safe Republican district,
14 correct?

15 A Yes.

16 Q District 3 is a majority white district, correct?

17 A Yes.

18 Q Mr. Castanza did not have an opponent in the general
19 election, correct?

20 A Correct.

21 Q And he won the race essentially by default because there
22 was no opponent in the general election, correct?

23 A Correct.

24 Q Okay. There are five county commissioners in Montgomery
25 County, correct?

1 A Yes.

2 Q Montgomery County is about 60 percent black; is that
3 right?

4 A I would say at least 60 percent, yes.

5 Q Okay. For your 2024 campaign, how much did your family
6 contribute to the campaign?

7 A At this time, I can't recall a specific amount. I know my
8 uncle contributed to the campaign.

9 Q But you don't know the number?

10 A Not at this time.

11 Q You mentioned earlier that the Montgomery County
12 Republican Party is about 75 percent white and 25 percent
13 minority; is that correct?

14 A Yes.

15 Q That was a county executive committee?

16 A Yes.

17 Q Okay. And what percentage of the county executive
18 committee is black?

19 A I would say around -- there's at least 30 of us, and I
20 know there's two active members that are black Americans.

21 Q So I'm bad at math. So that's less than 10 percent; is
22 that right? Sorry. The two that you mentioned, that's
23 including you, correct?

24 A Yes.

25 Q Okay. Okay. Let's discuss your second race. In 2015,

1 you ran for the Montgomery City Council District 4; is that
2 correct?

3 A Yes.

4 Q And the city council elections as you mentioned are
5 nonpartisan, correct?

6 A Yes.

7 Q Okay. And so you didn't run under any particular party
8 banner; is that correct?

9 A Correct.

10 Q Okay. Did you publicly associate with any party during
11 that race?

12 A During that race in that election?

13 Q Correct.

14 A No. It was nonpartisan.

15 Q Okay. So the answer is no, you did not publicly associate
16 with any party in the 2015 race?

17 A Not for city council, no.

18 Q You had three opponents in that race?

19 A For city council?

20 Q Yes, sir.

21 A No. It was seven of us altogether.

22 Q Okay. You lost that race, correct?

23 A Yes.

24 Q It was David Burkette who won the District 4 city council
25 race; is that correct?

1 A Yes.

2 Q And Mr. Burkette is African-American; is that right?

3 A Yes.

4 Q And the Montgomery County -- City Council District 4 was
5 majority black at the time that you ran; is that correct?

6 A Yes.

7 Q Thank you.

8 Your last race -- rather, your first race was the State
9 House District 69 in 2014; is that correct?

10 A Yes.

11 Q And as you testified on direct, you ran as a candidate for
12 the American Independence Party?

13 A No. The Alabama --

14 Q Excuse me.

15 A -- Independent Party.

16 Q Thank you. You ran in the general election against a
17 Democrat and a Republican, correct?

18 A Yes.

19 Q And you lost that election?

20 A Yes.

21 Q Was it Mr. Lawrence who won that race?

22 A Yes.

23 Q And Mr. Lawrence is black?

24 A Yes.

25 Q In 2014, House District 69 was majority black?

1 A Yes.

2 Q In 2014, you ran on a platform that included a number of
3 things, and I will list them out one by one. The first was
4 legalization and regulation of cannabis, correct?

5 A Yes.

6 Q The other was protecting American workers against
7 globalism?

8 A Correct.

9 Q And you were also for safe guarding against replacement
10 technology; is that correct?

11 A Correct.

12 Q At that time, you believe that this platform distinguished
13 you from Republican and Democratic candidates, correct?

14 A Correct.

15 Q Mr. Coley, you have never won an election; is that
16 correct?

17 A Mr. Coley, no.

18 Q Sorry.

19 A I haven't won a public election of the American people
20 outside of the Republican Party.

21 Q Okay. So let me ask one more time. You've never won a
22 general election to public office; is that correct?

23 A Correct.

24 Q In the last four to five years, you have become active in
25 the Alabama Republican Party, correct?

1 A Yes.

2 Q You became interested in the Republican Party after
3 Mr. Trump's -- excuse me -- during Mr. Trump's 2016 election,
4 right?

5 A Yes.

6 Q And you also became more active because of your
7 relationships with close friends; is that right?

8 A Yes.

9 Q As you testified on direct you are a member of the Alabama
10 Minority GOP, correct?

11 A Yes.

12 Q Okay. On average, about five to ten people show up at the
13 Alabama Minority GOP events; is that correct?

14 A At the Alabama Minority GOP events?

15 Q Yes.

16 A Five to ten? I would say no, but I haven't been to the
17 latest event, which was hosted in Mobile. I believe there was
18 more than that present.

19 Q Less than 20?

20 A More than 20.

21 Q Okay. Can we pull up his deposition, page 60, please.

22 Start at line 11, the whole line there.

23 So you see that there's a series of questions here
24 beginning at line 11 asking you if you are a member of the GOP
25 -- excuse me -- the Alabama Minority GOP -- and then there's a

1 question about whether you attend the meetings or how many
2 people attend the meetings, and you say it varies on line 20.

3 Then the question is asked: Can you give an approximation
4 of how many people attend the events. It varies between what
5 and what. Can you just read your answer from line 23 to 25,
6 please?

7 A Line 23. It was -- it can vary from five individuals to,
8 depending on the speaker, depending on the event of the
9 meeting, 5 to 20-plus members, an estimate.

10 Q Okay. Thank you.

11 And minority to you means non-white Americans, right?

12 A Correct.

13 Q In your experience, the Alabama Republican Party is
14 majority white, correct?

15 A Correct.

16 Q And it would not surprise you that the majority of white
17 voters in Alabama support the Republican Party, correct?

18 A Okay. Correct.

19 Q For your family, voting not necessarily a top priority,
20 correct?

21 A Correct.

22 Q Your family members tend to prioritize work or taking care
23 of their family rather than voting on election day, correct?

24 A Correct.

25 Q And in your experience, some black people do not vote

1 because their attitude is their vote will not have a
2 significant impact, correct?

3 A Correct.

4 Q Okay. You would support one day off from work to make it
5 easier for people to vote, correct?

6 A I would, yes.

7 Q And, again, you are a black American, correct?

8 A Correct.

9 Q And as a black American, you absolutely sometimes face
10 difficulties aligning yourself with the Republican Party on
11 particular issues, correct?

12 A I would say so, yes.

13 Q I will name some examples. You support criminal justice
14 reform because they're outdated penalties and laws that are on
15 the books that you think a majority of voters agree need to be
16 updated and erased, correct?

17 A Correct.

18 Q You believe that these outdated fines and penalties
19 adversely affect people in the criminal justice system,
20 correct?

21 A Say -- state that again.

22 Q You believe that these outdated fines and penalties
23 adversely affect people in the criminal justice system,
24 correct?

25 A Correct.

1 Q You believe that criminal justice reform should be more of
2 a priority on the national level for the Republican Party,
3 correct?

4 A Correct.

5 Q You also disagree with President Trump's handling of the
6 COVID-19 health crisis in 2020, correct?

7 A Correct.

8 Q You disagreed with the state government's handling of the
9 COVID health crisis, correct?

10 A Correct.

11 Q You also disagree with President Trump's handling of
12 China, correct?

13 A Correct.

14 Q You believe that he should be stronger with China with
15 regards to hacking and other grievances, correct?

16 A Correct.

17 Q You like history, right?

18 A Yes.

19 Q Okay. You support the removal of Confederate monuments
20 and flags from government property, correct?

21 A In the public domain being upkeep by the public tax
22 payers' funding.

23 Q Is that a yes?

24 A Yes.

25 Q Okay. So let me ask it one more time just to make sure

1 the record's clear.

2 So you support the removal of Confederate monuments and
3 flags from government property, correct?

4 A Correct.

5 Q Okay. And in 2015, you were a part of a group of
6 individuals that the Governor asked to retire the Confederate
7 flag on Capitol grounds, correct?

8 A Correct.

9 Q You believe that only the American flag should be known on
10 public property, correct?

11 A The American flag and the state and local municipalities
12 flags, yes.

13 Q Okay. Thank you.

14 Now, as someone who enjoys history, you are aware that
15 Governor George Wallace flew the Alabama flag beginning in 19
16 -- the Confederate flag beginning in 1963 over the state
17 Capitol, correct?

18 A Correct.

19 Q Okay. And Governor Wallace was a famous segregationist,
20 correct?

21 A Correct.

22 Q And Governor Wallace was a Democrat, correct?

23 A Correct.

24 Q And the flag stayed on the Capitol grounds from roughly
25 1963 until 2015, correct?

1 A Can you clarify the location of the particular flags
2 you're speaking of?

3 Q The Confederate flag stayed on the Alabama Capitol grounds
4 from roughly 1963 until 2015, correct?

5 A I believe at the memorial that I'm thinking you're
6 referring to, those flags stayed there longer than that. I
7 believe that monument was dedicated at the end of the 18 -- the
8 1800s, so from the 1800s until 2015.

9 Q You're aware that the Confederate flag flew on the top of
10 the Alabama State Capitol during that time that I just
11 described?

12 A Yes. But two different locations. One was on top of the
13 Capitol, but the monument flags that I asked the Governor to
14 remove, they predate what Governor George Wallace was doing in
15 the '60s.

16 Q Okay. But the Confederate flag flew on the state Capitol
17 grounds until 2015, correct, whether it was on top of the
18 Capitol or at the memorial beside the Capitol?

19 A Yes.

20 Q Thank you.

21 You're not fully familiar with the Section 2 of the Voting
22 Rights Act, correct?

23 A No.

24 Q And you don't know how your testimony would be relevant to
25 a case involving Section 2 of the Voting Rights Act, correct?

1 A The specifics of that, I don't -- I don't know.

2 Q Thank you.

3 You did not attend any public hearings related to
4 redistricting in 2021, correct?

5 A I don't recall, no.

6 Q No, did you not attend any public hearings related to
7 redistricting in 2021?

8 A No, I don't recall.

9 Q Okay. Can you please pull up his deposition, page 108,
10 line 13?

11 The question was asked: Did you attend any public
12 hearings on redistricting during the this redistricting cycle?
13 Could you please read your answer on line 15?

14 A I almost did, but, no. I had a schedule conflict.

15 Q Thank you. You are not familiar with the term "racial
16 polarization," correct?

17 A I have heard it before. I haven't looked up the
18 definition of it.

19 Q You have helped black Republicans run for the State House
20 in Macon County, correct?

21 A One in particular, yes.

22 Q You also helped a black Republican run for the State
23 Senate in 2022 in Montgomery, correct?

24 A Yes.

25 Q Okay. You also helped a black Republican run for the

1 State Legislature -- you have helped other -- excuse me --
2 black Republicans run for the State Legislature, including
3 Representative Kenneth Paschal, correct?

4 A Yes.

5 Q And Representative Paschal was elected from Shelby County,
6 correct?

7 A Yes.

8 Q Okay. You tried to help a black Republican in Dallas
9 County who wanted to run for the State Legislature, correct?

10 A Yes.

11 Q Except for Representative Paschal, the other black
12 Republicans who you have assisted in running for the State
13 Senate or State House have all failed to win a seat in the
14 Legislature, correct?

15 A Yes.

16 Q To your knowledge, no black Republican has ever won a
17 statewide office in Alabama, correct?

18 A Yes.

19 Q You do not know what relief the plaintiffs are seeking in
20 this case, correct?

21 A We haven't discussed it specifically, as far as their end
22 goal, but I would imagine it would be to allow the State
23 Legislature to redraw district lines pertaining to their
24 information and their research.

25 Q Okay. You believe that the Republican Party is inviting

1 to everyone, correct?

2 A Yes.

3 Q And you believe that race relations are good in Alabama,
4 correct?

5 A It has improved, yes.

6 Q And your beliefs are based on your own experiences,
7 correct?

8 A Yes.

9 Q And your beliefs are based on your own judgment, correct?

10 A Yes.

11 Q And your own research?

12 A Yes.

13 Q Okay. Okay. I'd like to talk about a few of those things
14 related to your judgments.

15 You have publicly expressed your belief that COVID-19 was
16 a "plandemic," correct?

17 A I have used that termination -- terminology, yes.

18 Q And you believe that COVID-19 was a "plandemic," correct?

19 A I have used that terminology, yes.

20 Q Let me ask one more time.

21 MR. MINK: Objection. He has already answered the
22 question twice.

23 THE COURT: It's been asked but not answered.

24 BY MR. ROSS:

25 Q You believe that COVID-19 was a "plandemic," correct?

1 A Correct.

2 Q And you believe that COVID-19 was a bioweapon, correct?

3 A Based on the research, yes.

4 Q Based on your research, correct?

5 A Based on the research by federal agencies, yes.

6 Q Okay. You believe it's a fact that China created COVID-19
7 as a bioweapon, correct?

8 A Based on U.S. government research, yes.

9 Q You are an America First conservative, right?

10 A Yes.

11 Q Not all Republicans identify as America First
12 conservatives, correct?

13 A Correct.

14 Q Okay. So as an American First conservative, you believe
15 that there's a globalist network of international cartels that
16 are deliberately destroying our nation, correct?

17 A Yes.

18 Q And these cartels are working through education?

19 A One avenue, yes.

20 Q And the economy?

21 A Yes.

22 Q And the judicial and intelligence systems, correct?

23 A I would say sections of the judicial system and some
24 sections of intelligence agencies.

25 Q Are a part of this globalist cartel, correct?

1 A Yes.

2 Q You also consider yourself a member of the Stop the Steal
3 movement?

4 A I attended a rally in Atlanta, Georgia, yes.

5 Q For Stop the Steal in 2020?

6 A Yes.

7 Q You believe that the will of the people was not honored
8 with respect to the 2020 presidential election, correct?

9 A Yes.

10 Q You believe that President Trump won the 2020 presidential
11 election, correct?

12 A I do.

13 Q Okay. You believe that Congress should have slowed down
14 the 2020 electoral college count to investigate what you
15 believe are irregularities with respect to that election,
16 correct?

17 A Place a moratorium on certifying the 2020 election.

18 Q And you are a finger pop away from attending the
19 January 6th, 2021, event in Washington, D.C., correct?

20 A Yes.

21 Q The only reason why you didn't attend the January 6th,
22 2021, event is because you could not book a hotel, correct?

23 A Correct.

24 Q Thank you.

25 You do not believe that Republican politicians use racial

1 appeals to attract or discourage certain voters, correct?

2 A I don't think so.

3 Q Okay. And, again, as a Republican, you ran this year,
4 correct?

5 A Correct.

6 Q You also campaigned for Republican candidates in Alabama
7 this year?

8 A Correct.

9 Q And this year's presidential race was between a white
10 Republican and a black Democrat, correct?

11 A Yes.

12 Q Okay. You were the GOP elections chair for Montgomery
13 County this year, correct?

14 A Correct.

15 Q You have an Instagram account?

16 A I do.

17 Q And you post under the Instagram name Cedric Coley?

18 A Correct.

19 Q And that's spelled just your name, C-E-D-R-I-C, C-O-L-E-Y,
20 correct?

21 A Correct.

22 Q You sometimes post public images on your Instagram to
23 encourage people to vote Republican, correct?

24 A Correct.

25 Q Who is Curtis Allen?

1 A Curtis Allen?

2 Q If you don't know him, that's fine.

3 A At this moment, that name doesn't ring a bell.

4 Q Okay. I'd like to show you an image demonstrative.

5 You posted this image on your Instagram page on

6 August 22nd, 2024, correct?

7 A Correct.

8 Q Beside the image, you wrote the caption, The choice this
9 November 5th could not be clearer. Vote red. Hash tag gas and
10 groceries; hash tag jobs not mobs; hash tag America first U.S.

11 Did I read that correctly?

12 A It's a grammatical error. The U.S. should be an American
13 flag.

14 Q Okay.

15 A But, yes, everything else is the same.

16 Q Okay. Looking at the posted image, on the right it shows
17 a dark gray hand over a blue background; is that correct?

18 A Correct.

19 Q What does it say on the gray hand with the blue
20 background?

21 A It's the image of a Democratic Donkey.

22 Q What does the text say on the blue side?

23 A Not mobs. Do you want me to continue?

24 Q Yes, please.

25 A Walk away from violence, walk away from hypocrisy, walk

1 away from globalist Democrats.

2 Q And you associate the Democrat Party with violence,
3 hypocrisy, and globalism in this -- this image does at least?

4 A In this image, yes.

5 Q Okay. What gesture is the dark gray hand making?

6 A It's a fist.

7 Q Do you know if that particular hand gesture is associated
8 with any particular phrases or symbols?

9 A I have seen it -- well, this particular graphic in
10 different colors.

11 Q The fist, not the graphic?

12 A The fist graphic associated with communism, associated
13 with riots, associated with rising up, uprisings.

14 Q You also -- isn't it associated with the phrase "black
15 power?"

16 A Yes.

17 Q Okay. On the left, it also shows a white hand over a red
18 background; is that correct?

19 A Correct.

20 Q And can you just tell me is that the emblem of the
21 Republican Party, the elephant on the -- that white hand?

22 A It is.

23 Q What symbol is the white hand making?

24 A It looks like it's making the symbol of okay.

25 Q Okay. And is that what that gesture means to you?

1 A This particular, it does mean that, and it also goes back
2 to the FBI categorizing this particular hand gesture as white
3 supremacist.

4 Q Okay. Thank you.

5 And sorry. Can you just read for me the rest of the text
6 there? Is it -- I will read it for you. So it also says on
7 the red side: Jobs, vote for civility, vote for prosperity,
8 vote for unity, vote for patriotism, vote Republican.

9 Correct?

10 A Correct.

11 MR. ROSS: No further questions, Your Honor.

12 THE COURT: You may proceed.

13 REDIRECT EXAMINATION

14 BY MR. MINK:

15 Q Mr. Coley, do you agree with the Republican Party on all
16 issues?

17 A Not all issues, no.

18 Q In your county commission race, Montgomery County, do you
19 have any reason to think that your race was an obstacle to your
20 election?

21 A No, it wasn't.

22 Q As you campaigned for -- in District 3, did you experience
23 any hostility from voters on account of your race?

24 A No.

25 Q Despite your disagreement with the Republican Party on

1 some issues, do you nonetheless believe the Republican Party is
2 a better home for you politically?

3 A I do.

4 Q You testified that some black individuals, including your
5 family, may not prioritize voting because they believe their
6 vote doesn't matter. Is that what you said?

7 A Correct.

8 Q Do you think that their vote doesn't matter because
9 they're black?

10 A No.

11 Q Or because they're only one vote in a million?

12 MR. ROSS: Objection. I don't -- may be calling for
13 hearsay. I'm not sure he's asking why they don't vote or why
14 he thinks they don't vote.

15 MR. MINK: I asked why he thinks that.

16 THE COURT: You may answer.

17 THE WITNESS: And I have had conversations with them,
18 and they've told me based on the 2020 election --

19 MR. ROSS: Objection. He's testifying to why -- what
20 they told him.

21 THE COURT: For what purpose is the evidence being
22 offered?

23 MR. MINK: Well, I'm asking him to explain why he
24 thinks -- what he thinks about the reasons people don't vote.

25 THE COURT: Well, that question's different than what

1 people have told him.

2 MR. MINK: Right. And I wasn't asking what they had
3 told him as much as what his perception was.

4 THE COURT: All right. Let's try a new question.

5 MR. MINK: I will.

6 BY MR. MINK:

7 Q Do you think that people who don't vote because they may
8 not prioritize voting do so because they're only one vote out
9 of many million?

10 A That's some of the reason, yes.

11 Q In your roles in the Republican Party, both at the state
12 level and the local level in Montgomery County, have you
13 reached out to minorities for the Republican Party?

14 A Yes.

15 Q Have you ever made any intention or effort to push
16 minorities away from the Republican Party?

17 A To push minorities away from the Republican Party?

18 Q Yes.

19 A No.

20 Q In any context, have you ever intended to advocate for
21 white supremacy?

22 A No.

23 MR. MINK: That's all the questions I have.

24 THE COURT: Mr. Ross, do you have any recross?

25 MR. ROSS: No, Your Honor. Thank you.

1 THE COURT: All right. Is there any reason I may not
2 excuse Mr. Coley?

3 MR. MINK: No, ma'am.

4 THE COURT: All right. Mr. Coley, thank you for being
5 with us today. You're excused.

6 (Witness excused.)

7 BILL MCCOLLUM

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

10 THE COURTROOM DEPUTY CLERK: Please state and spell
11 your name for the record.

12 THE WITNESS: Bill McCollum, B-I-L-L; McCollum,
13 M-C-C-O-L-L-U-M.

14 DIRECT EXAMINATION

15 BY MS. MESSICK:

16 Q Good afternoon, Mr. McCollum.

17 A Afternoon.

18 Q What county and state do you live in?

19 A Fayette County, Alabama.

20 Q What is the racial makeup of Fayette County?

21 A Probably 13 percent black.

22 Q Do you have a sense of whether Fayette County is more
23 Democratic or Republican?

24 A It's more Republican at this time.

25 Q Has it always been that way?

1 A No, ma'am.

2 Q What did it used to be like?

3 A Probably 99 percent Democrat.

4 Q Sir, what year were you born?

5 A 1949.

6 Q And for the record, can you tell me your race, please?

7 A I'm black.

8 Q Could you briefly tell me about your work background?

9 A I have a law enforcement background. I started in the
10 United States Navy as base policeman, sort of like military
11 police. And after discharge from the Navy, I joined the
12 Fayette Police Department, Fayette, Alabama for approximately
13 four years.

14 And after that, I joined the Frisco railroad as a special
15 agent investigator for the railroad. It's now become part of
16 the Burlington Northern Santa Fe Railroad.

17 Q And did you work at all or volunteer after that?

18 A After retirement, I moved back to Fayette, Alabama, and I
19 volunteered with the Fayette County Sheriff Department,
20 somewhere around 1998, '99, somewhere in there.

21 Q And do you do any kind of work now?

22 A I just help my wife one day a week in her barbecue
23 business.

24 Q Since after high school, do you have any kind of
25 formalized education?

1 A Yes, ma'am. I've graduated three different law
2 enforcement academies in Jefferson State College in Birmingham,
3 associates's degree, law enforcement.

4 Q You said an associate's degree in law enforcement from
5 Jefferson State community -- or Jefferson State College?

6 A Yes, ma'am.

7 Q And then what about police academies?

8 A I graduated -- let's see -- four different police
9 academies.

10 Q Okay. You've recently ran for office, didn't you?

11 A Yes, ma'am.

12 Q And what office did you run for?

13 A Fayette County Board of Education District 6.

14 Q What was the result?

15 A Well, I was defeated. I won 48 percent of the votes.

16 Q So it was pretty close?

17 A Pretty close.

18 Q Did you run with any political party?

19 A Yes, ma'am. I ran under the Republican banner.

20 Q Why are you a Republican?

21 A Ma'am?

22 Q Why are you a Republican?

23 A Well, I used to be a Democrat back in the olden days, back
24 in the '70s, but I switched parties many years ago to the
25 Republican Party. I didn't like a lot of the policies here in

1 Alabama Democratic Party, so I just switched to Republican
2 Party.

3 Q Well, what kind of policies drove you away from the
4 Democratic Party or to the Republican Party?

5 A Well, the premarked ballots they issue a few days before
6 the election guiding blacks how to vote rather than letting
7 them think for themselves. I felt like I could think for
8 myself.

9 Q Who is they?

10 A Alabama Democratic Conference puts out the premarked
11 ballots out of Montgomery.

12 Q Are there any specific issues that you agree with the
13 Republican Party on like social issues or money issues or
14 anything like that?

15 A Oh, yes, ma'am. I like the conservative values. I like
16 to keep more of my tax dollars in my pocket and things of that
17 nature. And just not like a lot of the policies of the
18 Democratic Party of today.

19 Q How have Republicans responded to your interest in the
20 party?

21 A Well, they've supported my campaigns every time, you know,
22 I've ran. And I'm the current vice chairman of the Republican
23 Party nominated and elected by the party members, so I would
24 think they accepted me well.

25 Q How long have you been vice chairman -- you're saying for

1 the Fayette County Republican Party?

2 A Yes, ma'am.

3 Q How long have you held that role?

4 A 15 years or more.

5 Q Have you ever had an interest in being the chairman of the
6 Fayette County Republican Party?

7 A I've never had an interest in it. I served as interim
8 chairman. We had a resignation one time. And I served a short
9 period of time until we elected a new chairman.

10 Q So have you ever been denied the role of chairman?

11 A No, ma'am. I've been encouraged to run for it. I just
12 don't have the time to deal with it.

13 Q When did you first get involved with the Republican Party
14 in Fayette County?

15 A Back in 1998 after retirement, I moved back to Fayette
16 County, Alabama, and I got involved with the Republican Party
17 at that time.

18 Q What was the Republican Party in Fayette County like at
19 that time?

20 A Oh, there was about eight or nine of us that met. Wasn't
21 too many of us, but we still met.

22 Q Who is Bob Hamner?

23 A Bob Hamner was a good friend of mine who, you know, I had
24 known prior to leaving Fayette in '75. In returning back, we
25 just renewed our old friendship. And he was a Republican. He

1 served on the state executive committee, and we had breakfast
2 together almost every morning, and he was a staunch Republican.
3 And he would always talk about the party. I guess he sort of
4 influenced me in some aspect.

5 Q You said there were only about ten people in the
6 Republican Party in Fayette County when you joined around 1998.

7 Do you recall the race of the other members?

8 A They was all white.

9 Q Have you held or do you hold any offices with the State
10 Republican Party?

11 A Yes, ma'am. I've been a member of the State Executive
12 Committee for better than 15 years.

13 Q And what is the State Executive Committee?

14 A Well, we meet twice a year and, you know, they write
15 resolutions and submit them to the state -- legislation stuff
16 to get -- influence to get them passed I would imagine. That's
17 what I understand about it.

18 Q Is at the governing body for the state?

19 A It's the governing body for the Republican Party.

20 Q Is District 6 for the Fayette County Board of Education,
21 is that the same district lines as for District 6 of the
22 Fayette County Commission?

23 A Yes, ma'am.

24 Q Leading up to the 2024 elections, who was the incumbent in
25 District 6?

1 A In which election? Board of Education?

2 Q This summer, yes. This summer. Who was holding that,
3 office, board of education?

4 A Gentleman named John Stowe was the board of education
5 person for District 6.

6 Q What race is he?

7 A He's black.

8 Q And what political party?

9 A Democrat.

10 Q And did he run for reelection this year?

11 A No, ma'am.

12 Q Was there a Democrat candidate in the general election
13 this year?

14 A Yes, ma'am. Black female name's Portia Stowe.

15 Q And is Ms. Stowe also a Democrat?

16 A Yes, ma'am.

17 Q Are there any other -- well, do you know if Portia Stowe
18 has taken office yet?

19 A No, ma'am. I don't know if she's taken office yet. I
20 know it's sometime in November.

21 Q Okay. Take yourself back to November 1, just before the
22 election.

23 A Yes, ma'am.

24 Q John Stowe was the incumbent in District 6. Were there
25 any other black officials elected to the Fayette County Board

1 of Education?

2 A Prior to November 1?

3 Q Yes.

4 A Commissioner John Underwood was county commission at that
5 time.

6 Q Right. Of the Fayette County Board of Education, any
7 black members other than John Stowe?

8 A Yes, ma'am. Two years ago, we elected a young man named
9 Tierre Agnew District 3 Fayette County Board of Education.

10 Q And did Mr. Agnew get elected as a Democrat or Republican?

11 A He got elected as a Republican.

12 Q And do you know what the racial makeup of his district is?

13 A Right at 98 percent white.

14 Q Can you think of any other African-American elected
15 officials in Fayette County who were elected from districts or
16 areas that are majority white?

17 A Yes, ma'am. We had a city councilman whose nonpartisan
18 election. She won district councilman seat with probably
19 80 percent white.

20 Q And do you remember her name?

21 A Virettia Whiteside.

22 Q Did you have any volunteer help with your election this
23 year?

24 A Yes, ma'am.

25 Q Who volunteered to help you?

1 A A lot of the party members had a staff of about 40, 50,
2 got out and helped campaign and boots on the ground so to
3 speak.

4 Q And that's 40 or 50 Republicans?

5 A Yes, ma'am.

6 Q Could you approximate their racial makeup --

7 A It was all --

8 Q -- of that group?

9 A It was all white.

10 Q Did you receive any support from the Fayette County
11 Republican Party in your campaign this year?

12 A Yes, ma'am. They done some newspaper ads. They done two
13 newspaper ads for me.

14 Q Can you describe them at all?

15 A Well, they done single ads to encourage the citizens of
16 Fayette to vote Republican, vote for Bill McCollum, he is the
17 best man for the job, things of that nature.

18 Q Did any of those newspaper ads include a photo of you?

19 A Yes, ma'am.

20 Q Did you receive any support from the state Republican
21 Party in this election this year?

22 A Yes, ma'am.

23 Q And what was that?

24 A I received some contributions. They done two or three
25 mail outs for me prior to the election, photos, and nice things

1 to say about me and encouraging people in the district to
2 support and vote for me.

3 Q Was this year the first year you ever ran for office?

4 A No, ma'am.

5 Q When is the first time you ran for office?

6 A First time I ran for office was in 1974.

7 Q And what office did you run for?

8 A I ran for the Sheriff of Fayette County.

9 Q What kind of -- you mentioned you have some law
10 enforcement experience. What kind of law enforcement
11 experience did you have at the time that you ran for sheriff in
12 1974?

13 A Oh, I had -- I guess six or seven years in law
14 enforcement. I had my military -- law enforcement, and I had
15 been on the Fayette Police Department better than four years at
16 the time.

17 Q When you were hired to the Fayette Police Department, were
18 there other black police officers?

19 A No, ma'am.

20 Q Who hired you?

21 A Gentleman named Guthrie Smith. He was the mayor for the
22 city of Fayette at that time in 1970.

23 Q How were you received by the police chief?

24 A Well, it wasn't all embracing by the police chief, but the
25 mayor pretty well backed me. I did have some issues out of the

1 police chief.

2 Q How about your fellow officers?

3 A Ma'am?

4 Q How were you received by your fellow officers?

5 A Well, in the beginning, the group of us about ten officers
6 at that time, and I was the only black officer. And, of
7 course, the other officers said they wasn't going to work with
8 me. It was all new to them. And said they'd quit before
9 they'd work with a black and things of that nature.

10 Q Did any of them actually quit?

11 A No, ma'am. My understanding the mayor called them all in
12 his office and told him that they couldn't work with Bill
13 McCollum put their badges on the desk.

14 Q When you ran for sheriff of Fayette County in 1974, what
15 party did you run with?

16 A I ran as a Democrat.

17 Q And you testified earlier today that you used to be a
18 Democrat in the 1970s?

19 A Yes, ma'am.

20 Q Did you consider yourself a Democrat in 1974?

21 A At that time, yes, ma'am. But I had to, to be able to run
22 for sheriff of Fayette County. I hadn't much of an option. I
23 wanted to run as a Republican, but the, you know, the county
24 chairman said he wouldn't advise that because he felt like I
25 wouldn't -- I wouldn't scratch the surface at all.

1 Q Was Fayette County still heavily Democratic at that point?

2 A Yes, ma'am. 100 percent basically.

3 Q Do you remember if you had a primary in 1974?

4 A Yes, ma'am.

5 Q And how did you do?

6 A Well, that's -- I think there was eight of us, and I came
7 in third out of eight.

8 Q Did you have any problems trying to run for that office?

9 A Yes, ma'am.

10 Q Can you tell us about that, please?

11 A Well, the day that I went to qualify, you know, back in
12 those days, you went to the Fayette County courthouse where the
13 probate judge handled everything. And the county administrator
14 would sign you up. And, of course, I went on to qualify and
15 told him what I wanted to do.

16 And he said that he didn't know if he could do that or
17 not, if he could register me to run for sheriff. And he said,
18 just wait right here, I need to go talk with the probate judge.
19 So they left me sitting out there in the hall for about
20 three hours and done whatever they supposed to do, whoever they
21 called.

22 You know, I could see them down the hall on the rotary
23 phone, you know, for about two or three hours. And apparently
24 somebody told him to let him qualify, so he came back and said,
25 they said let you qualify.

1 Q Do you know if any African-American had ever qualified in
2 Fayette County before you did?

3 A No, ma'am. I was the first one ever ran for public office
4 in Fayette County.

5 Q And you ran for office this year. Have you run for office
6 at other times?

7 A Yes, ma'am.

8 Q Between 1974 and 2024?

9 A Yes, ma'am.

10 Q Did you ever have a similar experience with qualification,
11 any of the other times you have run?

12 A No, ma'am.

13 Q Was it after you ran for sheriff that you went to work for
14 the railroad?

15 A Yes, ma'am.

16 Q And can you tell me briefly about that?

17 A Well, I went to the work for the old Frisco railroad in
18 1975, which is now as merged. It became Burlington Northern
19 Santa Fe railroad at the time.

20 Q And what did you do for the railroad?

21 A I was special agent for the railroad, the old fashioned
22 railroad detective they called them 100 years ago.

23 Q And how long did you work for the railroad approximately?

24 A About 25 years.

25 Q And did you retire from there?

1 A Yes, ma'am.

2 Q And did you live anywhere else while you were working for
3 the railroad?

4 A Yes, ma'am. They transferred to Memphis 17 years, and
5 transferred me over to Amory, Mississippi for two years, and
6 back '84 to '86, and then they transferred me back to Memphis
7 for several years. Then they sent me down to Fort Worth,
8 Texas, my last seven years of work experience.

9 Q When you retired from the railroad, where did you live?

10 A When I retired from the railroad?

11 Q Uh-huh.

12 A I lived in Fort Worth, Texas.

13 Q Okay. When did you come back to Alabama?

14 A I moved back in 1998.

15 Q Did anything noteworthy happen when you -- well, where in
16 Alabama did you return to?

17 A I moved back to Fayette County, Alabama.

18 Q Okay. Did anything noteworthy happen when you came back
19 to Fayette County?

20 A Well, I built a home prior to retirement, and I moved back
21 here in 1998, and four or five days after I moved in, the
22 florist truck showed up and a nice bouquet of flowers and had a
23 note on it that said, Welcome home, Bill McCollum. Mayor
24 Guthrie Smith.

25 So sort of put a smile on my face since he's the one hired

1 me as a police officer in 1974, so...

2 Q What race was Mayor Smith?

3 A Ma'am?

4 Q What race was Mayor Smith?

5 A White. He's a white male.

6 Q Have you ever -- have you ever run against a white
7 Republican in a primary?

8 A Yes, ma'am. I ran for sheriff in 2002 as a Republican.
9 And I had an opponent in the Republican primary.

10 Q And who was that?

11 A His name was John Swindle, Officer John Swindle. He was a
12 police officer.

13 Q And he was a white Republican?

14 A Yes, ma'am.

15 Q And what was the outcome of that primary?

16 A I won that primary by 60-something percent -- 68 percent.

17 Q Do you remember what happened in the general election?

18 A I was defeated by an officer gentleman named Hubert
19 Norris, N-O-R-R-I-S. He was the former sheriff that got locked
20 up for RICO racketeering years prior to that.

21 Q Do you remember Mr. Swindle or Mr. Norris making an issue
22 of your race in that election?

23 A No, ma'am.

24 Q And is Mr. Norris also white?

25 A Yes, ma'am.

1 Q Do you remember any other times that you have run a race
2 against a white Republican -- Republican primary with a white
3 opponent?

4 A Yes, ma'am. I ran for sheriff again I believe in 2014.

5 Q And who was your white Republican opponent?

6 A His name was Jerry Melay (phonetic). He was a deputy at
7 the time.

8 Q And do you remember who won that election?

9 A He defeated me in the primary.

10 Q Did he make your race an issue in that election?

11 A No, ma'am.

12 Q Are you registered to vote in Alabama?

13 A Yes, ma'am.

14 Q Do you recall ever having any problems registering to vote
15 in Alabama?

16 A No, ma'am.

17 Q Do you recall ever having any problems updating your voter
18 registration in Alabama?

19 A No, ma'am.

20 Q And do you recall ever having any problems actually voting
21 in Alabama?

22 A No, ma'am.

23 Q Are you aware of any problems with the November 5 election
24 we just had in Fayette County?

25 A No, ma'am.

1 Q Generally speaking, how would you compare race relations
2 in Fayette County now to 1974?

3 A Well, we've made a lot of moral growth in Fayette County.
4 Like I say, we elected a board member Tierre Agnew, which is a
5 district of 98 percent white or greater. Got no problem in
6 there. And I ran a couple of times in the Republican Party,
7 and the party accepted me. You know, we've made a lot of moral
8 growth in Fayette County.

9 Q Thank you very much. I will pass the witness.

10 THE COURT: Thank you. You may proceed.

11 MS. CARTER: Thank you.

12 CROSS-EXAMINATION

13 BY MS. CARTER:

14 Q Thank you. Hi. My name is Brittany Carter. I represent
15 the plaintiffs.

16 A Yes, ma'am.

17 Q I am going to ask you some yes-or-no questions.

18 A Yes, ma'am.

19 Q Please answer them as truthfully and directly as possible.
20 You can hear me okay?

21 A Yes, ma'am.

22 Q Thank you, sir.

23 Fayette County has a population of approximately 18,000,
24 correct?

25 A Yes, ma'am.

1 Q And you ran for the District 6 seat on the board of
2 education in Fayette County this year, correct?

3 A Yes, ma'am.

4 Q You ran as a Republican?

5 A Yes, ma'am.

6 Q Approximately, 1,000 people voted in that District 6
7 election, correct?

8 A Yes. Roughly.

9 Q And did you win your election?

10 A No, ma'am.

11 Q And you previously ran for District 6 county commissioner,
12 correct?

13 A Yes, ma'am.

14 Q You didn't win that race either, right, Mr. McCollum?

15 A No, ma'am, I didn't.

16 Q Did another black candidate win?

17 A Yes, ma'am, the incumbent.

18 Q Black candidates typically win in Fayette County's
19 Commission 6th District, right?

20 A Yes, ma'am.

21 Q No black candidate has won in any other Fayette County
22 Commission district, correct?

23 A In any other county other than District 6, yes, ma'am.

24 Q Thank you, sir.

25 Most of the white voters in District 6 appear to vote

1 Republican, right?

2 A At this time, yes.

3 Q And most of the black voters in District 6 vote for
4 Democrats, right?

5 A Not in this last election, they didn't.

6 Q You also ran for sheriff of Fayette County in 2002,
7 correct?

8 A Yes, ma'am.

9 Q You ran as a Republican in that election, correct?

10 A Yes, ma'am.

11 Q And you lost to a white Democrat in that election,
12 correct?

13 A In the general election.

14 Q Yes, sir.

15 You lost to a white Democrat in the general election,
16 correct?

17 A Yes, ma'am.

18 Q You also ran for sheriff of Fayette County in 1974 in the
19 Democrat primary, correct?

20 A Yes, ma'am.

21 Q And you lost in the 1974 primary for sheriff to a white
22 Democrat, correct?

23 A Yes, ma'am.

24 Q And so, Mr. McCollum, you have never won an election,
25 correct?

1 A That's right.

2 Q In 1974, the white Democrat who you lost to in the primary
3 for sheriff was Hubert Norris, correct?

4 A Yes, ma'am.

5 Q And Mr. Norris was also the white democrat who you lost to
6 in the 2002 general election for sheriff, correct?

7 A Yes, ma'am.

8 Q And in 2002, Mr. Norris won despite being previously
9 having been convicted of taking bribes from bootleggers and
10 spending time in federal prison, correct?

11 A Yes, ma'am.

12 Q In 1974, Fayette County was majority white, correct?

13 A Yes, ma'am.

14 Q In the 1970s, Fayette County was majority Democrat, right?

15 A Yes, ma'am.

16 Q And in 2002, Fayette County was majority white, correct?

17 A Yes, ma'am.

18 Q It was about 85 percent white in 2002, correct?

19 A Yes, ma'am.

20 Q Was the county also majority Democrat in the early 2000s?

21 A Yes, ma'am.

22 Q And today, black people make up 13 percent of Fayette
23 County, right?

24 A At the present time, yes, ma'am.

25 Q And today, Fayette County remains about 85 percent white,

1 correct?

2 A Yes, ma'am.

3 Q And today, Fayette County is also majority Republican,
4 right?

5 A Yes, ma'am.

6 Q The current sheriff of Fayette County is a white
7 Republican, right?

8 A Yes, ma'am.

9 Q Now, you faced racial discrimination in running for
10 sheriff in 1974, right?

11 A Yes, ma'am.

12 Q And that's the story you recounted earlier about the
13 probate judge making you wait outside for two to three hours,
14 correct?

15 A Yes, ma'am.

16 Q And only after you waited for hours did he come back to
17 say that you were qualified to run for sheriff, right?

18 A Running as city administrator to convey that message.

19 Q So after you waited for two to three hours, the probate
20 judge sent his administrator to then tell you that you were
21 qualified to run for sheriff, correct?

22 A Yes, ma'am.

23 Q You were the first black candidate to run for political
24 office in Fayette County, correct?

25 A Yes, ma'am.

1 Q And you testified earlier that prior to running for
2 sheriff, you served as a police officer in Fayette County in
3 1970s?

4 A Yes, ma'am.

5 Q 1970s.

6 And once in 1974, you were asked to leave a restaurant
7 across the street from the police station, right?

8 A Yes, ma'am.

9 Q At that time, you were working as a police officer and in
10 uniform with your partner, correct?

11 A Yes, ma'am.

12 Q The restaurant asked you to leave because it did not serve
13 black people, right?

14 A Yes, ma'am.

15 Q In the 1970s, Fayette County politicians would use race in
16 their campaigns, right?

17 A I don't understand what you're trying to say.

18 Q In the 1970s, in your experience running for political
19 office, did you experience Fayette County politicians using
20 racialized appeals and comments in their campaigns?

21 A No, ma'am.

22 Q Okay. Can you go to the deposition transcript, page 50?
23 So, Mr. McCollum, you testified in a deposition earlier
24 this year, correct?

25 A Yes, ma'am.

1 Q And you were under oath in that deposition?

2 A Yes, ma'am.

3 Q And you testified truthfully in that deposition?

4 A Ma'am?

5 Q You testified truthfully in that deposition?

6 A Yes, ma'am.

7 Q Yes, sir.

8 Okay. So page 50, so line 17. Start at line 17.

9 MS. MESSICK: Objection, Your Honor. This is improper
10 impeachment. The question that Ms. Carter asked is different
11 from the question in the deposition.

12 MS. CARTER: The question in the deposition is: Have
13 you ever seen candidates, black or white, use race in their
14 campaign. So it is literally the exact same question he asked
15 me to rephrase, and so I did that to help him.

16 MS. MESSICK: I thought it was limited to the county.
17 If the question was in fact today general, then I withdraw the
18 objection. But I thought she asked him about his elections.

19 THE COURT: I will allow it.

20 MS. MESSICK: The deposition is not his elections.

21 THE COURT: You may answer.

22 BY MS. CARTER:

23 Q Okay, Mr. McCollum. So -- so the question here says:

24 Have you ever seen candidates, black or white, any party, use
25 race in their campaigns as a -- as a -- making an issue in the

1 campaign?

2 And then can you read your answer?

3 A I can't say I can.

4 Q And so then it continues: So even when you first ran for
5 office. And then can you read your answer?

6 A I don't know of any politician that used any racial
7 epithets even in 1974 in that campaign.

8 Q Okay. So on this page when you answer, Oh, back then,
9 yes, are you saying that you now disagree with that statement?

10 A I don't understand -- oh. Back then. What's the next?
11 What was I saying, oh, back then for?

12 Q We can move on.

13 MS. CARTER: Thanks, John.

14 BY MS. CARTER:

15 Q So, Mr. McCollum, would you agree that in the 1970s race
16 and segregation were the football to kick in political
17 campaigns?

18 A Yes, ma'am.

19 Q After your brother integrated the high school in Fayette
20 County, he was chased around, correct?

21 A Yes, ma'am. Yes, ma'am.

22 Q Around what year was that?

23 A I believe around '67, '66, somewhere along in there.

24 Q District 6 became a majority-minority district as a result
25 of court order in 1988, right?

1 A As far as I know. '88.

2 Q Before that court order, no black person had ever been
3 elected to the Fayette County Commission, right?

4 A That's right.

5 Q And before that court order, black people could not be
6 elected to any offices in the county, right?

7 A There hadn't been any elected.

8 Q That court order also changed the method of electing
9 members of the county commission, board of education, and
10 Fayette city council from at-large elections to district-based
11 elections, right?

12 A Yes, ma'am.

13 Q After the court order, black people started winning
14 elections to the commission, school board, and city council,
15 right?

16 A Yes, ma'am.

17 Q And in the case of the county commission and school board,
18 that court order increased the number of seats to six, so that
19 a majority-black district could be drawn, right?

20 A Yes, ma'am.

21 Q Ever since that court order, black people have been
22 elected to that majority district on the commission and the
23 school board, correct?

24 A Yes, ma'am.

25 Q You agree that black voters ought to have an equal

1 opportunity to elect their candidates, right?

2 A Yes, ma'am.

3 Q Beside allowing you to be a member of the party, and since
4 being in control, you have not seen the Republican Party
5 support policies that help non-white voters, right?

6 A You're asking me have I seen any policy that help
7 non-white voters?

8 Q Yes, sir. Supported by the Republican Party.

9 A Yes, ma'am. Republican Party got my wife appointed to the
10 board of registrars by Ms. Shaw. I forget what office she hold
11 down at Montgomery at that time. Samantha Shaw appointed my
12 wife to the board of registrars through Republican Party, so,
13 yes. They helped.

14 Q So I will ask my question then, Mr. McCollum. Besides
15 allowing you or your wife to be members of the Republican
16 Party, you have not seen the Republican Party support policies
17 that have helped non-white voters, correct?

18 A Well, there's been some other black in the party other
19 than me and my wife.

20 Q So I will ask my question again: Other than appointing
21 black people to positions, have you seen the Republican Party
22 support policies to help non-white voters?

23 A Have I seen their policies?

24 Q Yes. That's my question.

25 A What policies are you talking about?

1 Q So, again, you testified in a deposition earlier this
2 year, correct, Mr. McCollum?

3 A Yes, ma'am.

4 Q And you testified truthfully in that deposition?

5 A Yes, ma'am.

6 MS. MESSICK: Your Honor, again, it's improper
7 impeachment.

8 THE COURT: I think you have got to get an answer
9 before you can show him the deposition on this.

10 MS. CARTER: You think I have to get an answer?

11 THE COURT: Well, to the question whether he has seen
12 the Republican Party support policies that favor non-white
13 voters.

14 MS. CARTER: Okay.

15 BY MS. CARTER:

16 Q So I will ask you the question again, Mr. McCollum.

17 A Yes, ma'am.

18 Q Have you seen the Republican Party support policies that
19 help non-white voters other than giving positions to you and
20 your wife and other individual black people that you know?

21 A Yeah. We had one other gentleman over at Lamar County. I
22 know the Republican Party was responsible for getting him
23 appointed to the forestry commission, if that's what you are
24 asking.

25 Q I'll move on.

1 A He was a black gentleman.

2 Q Yes, sir. The current probate judge is white, correct?

3 A Yes, ma'am.

4 Q Actually, Mr. McCollum, I have one more question about the
5 policies.

6 There are no particular issues that attracted you to the
7 Republican Party outside of you getting -- being able to have
8 positions in the party, correct?

9 A What are you asking me again?

10 Q I will move on.

11 The current circuit judge is white, correct?

12 A Yes, ma'am.

13 Q The current district judge is white, correct?

14 A Yes, ma'am.

15 Q The current -- your current representative in the State
16 House is white, correct?

17 A Yes, ma'am.

18 Q Your current state senator is white, correct?

19 A Yes, ma'am.

20 Q The probate judge and circuit judge -- the probate judge,
21 circuit judge, and district judge are all elected at-large by
22 the whole county, right?

23 A Yes, ma'am.

24 Q And your state senator and state representative are both
25 elected from majority white districts, right?

1 A Those positions you just called, at-large positions in
2 that district.

3 Q Your state senator and state representative are both
4 elected from the -- are at-large county positions, right?

5 A Yes, ma'am.

6 Q Black voters tend to support different candidates from
7 white voters in Fayette County, right?

8 A They -- rephrase that again.

9 Q Black voters tend to support different candidates from
10 white voters in Fayette County, right?

11 MS. MESSICK: Objection. Asked and answered.

12 THE COURT: It's not been answered.

13 MS. MESSICK: Okay.

14 THE WITNESS: Some of them do. Some of them support
15 black and white candidates.

16 BY MS. CARTER:

17 Q I will ask it again: On a regular -- on a routine basis,
18 black voters tend to typically support different candidates
19 from white voters in a -- well, in Fayette County, right?

20 A Well, not exclusively.

21 Q Right. My question was whether black voters tend to
22 support different candidates from white voters.

23 A Black voters tend to support, you know, black candidates
24 if that's what you are asking me.

25 Q Thank you.

1 MS. CARTER: May I have a moment to confer?

2 THE COURT: You may.

3 MS. CARTER: Nothing further from our side. I'll
4 pass.

5 THE COURT: Thank you. Ms. Messick?

6 MS. MESSICK: Thank you, Your Honor. Just briefly.

7 REDIRECT EXAMINATION

8 BY MS. MESSICK:

9 Q Mr. McCollum, you mentioned that it was the administrator
10 at the probate judge's office who was sent to tell you that you
11 would be allowed to qualify?

12 A Yes, ma'am.

13 Q Who is it that you dealt with that entire day?

14 A The gentleman's name?

15 Q No. His position.

16 A His position? He was the administrator for the probate
17 judge.

18 Q Okay. Did you ever talk to the probate judge that day if
19 you recall?

20 A No, ma'am. Because everybody went to the administrator to
21 qualify.

22 Q And Ms. Carter asked you about a restaurant that you were
23 refused service in, in 1974, when you were a Fayette police
24 officer.

25 What happened to the restaurant after you were refused

1 service?

2 A Well, someone contacted the FBI, Justice Department, and
3 they sent representative out to investigate it. And they did.
4 And the management staff was subpoenaed to federal court here
5 in Birmingham. And they agreed to post a sign outside their
6 establishment saying that they will serve any and all races,
7 regardless. And that --

8 Q Thank you.

9 A -- opened the doors for blacks to eat there.

10 Q Have you seen policies from the Democrats that you think
11 benefit the black community?

12 A Have I seen policies that benefit the black community from
13 the Democrat Party?

14 Q Yes.

15 A I've seen some that have went against the black community.

16 Q You were asked about Democratic policies at your
17 deposition. Do you remember talking about policies before Guy
18 Hunt?

19 A Yes. Prior to Guy Hunt, Democrats controlled Alabama for
20 over 100 years. Guy Hunt was the first Republican elected as
21 governor within 100 years' span.

22 Q And did the Democrats do things to help black voters in
23 those years when they were in charge?

24 A I'm sure they probably done some things, but I can't
25 recall anything. You mean on a state level or federal level,

1 or what are you asking me?

2 Q I understood your testimony at your deposition to be
3 talking about state level.

4 A State level. I don't recall of anything right now.

5 Q All right. Thank you very much for your time today.

6 A Yes, ma'am.

7 THE COURT: Is there any reason I may not excuse
8 Mr. McCollum?

9 MS. MESSICK: No, Your Honor.

10 MS. CARTER: Nothing from the plaintiffs.

11 THE COURT: Mr. McCollum, thank you for being with us
12 today. You're excused.

13 (Witness excused.)

14 THE COURT: Was that the Secretary's final witness of
15 the day?

16 MR. DAVIS: It's the final one we had scheduled today.
17 Dr. Bonneau is here. He's prepared to start today or prepared
18 to start in the morning. And I will let the Court know,
19 following Dr. Bonneau, we have two additional fact witnesses,
20 and that will complete the defendant's case.

21 THE COURT: All right. Following Dr. Bonneau, you
22 have got two additional fact witnesses.

23 MR. DAVIS: Susan Copeland and Patty Payne. Both of
24 whom I think will be on the shorter end. In other words, I do
25 not -- although we're happy to follow the Court's lead, I do

1 not think it necessary for us to start Dr. Bonneau today to
2 finish tomorrow.

3 THE COURT: All right. Does plaintiffs' counsel have
4 any objection to recessing for the day now and starting with
5 Dr. Bonneau in the morning?

6 MR. ROSBOROUGH: No objection, Your Honor. It might
7 be helpful to talk quickly about any plan for closing and
8 whether we want to try to do that tomorrow or Thursday, though.

9 THE COURT: So the options for closings are to do them
10 tomorrow whenever we finish knowing that we have to be out of
11 the courtroom by 6:00 p.m., or we can do them -- we can recess
12 tomorrow whenever we finish and come back and do closings at
13 1:30 p.m. on Thursday.

14 Can y'all refresh my memory about how long I gave you for
15 closings?

16 MR. DAVIS: I think you said 30 minutes, Judge,
17 although you said you may have questions.

18 THE COURT: I think I can sit still and not interrupt
19 anybody for 30 consecutive minutes and then ask questions
20 afterward and that way you can plan 30 minutes.

21 But my -- is 30 minutes adequate?

22 MR. ROSBOROUGH: I believe so, Your Honor.

23 MR. DAVIS: So do I.

24 THE COURT: Okay. All right. So I think assuming I
25 have -- I don't know, 15 minutes of questions, that means

1 closings would be roughly an hour and a half if I have got
2 15 minutes for each side, if that affects your decision about
3 whether y'all want to do them tomorrow or Thursday.

4 MR. DAVIS: Well, let's assume that Dr. Bonneau takes
5 the full morning, two fact witnesses -- do you think we could
6 finish those if we started at 1:30 by 3:30?

7 MS. MESSICK: I would guess that those will be pretty
8 quick, but, yes.

9 MR. DAVIS: Let's say 3:30 or 4:00 to plan for the
10 worst.

11 THE COURT: Okay.

12 MR. ROSBOROUGH: I'm happy to do whatever the Court
13 prefers. I think we are -- the plaintiffs are fine to proceed
14 into -- after a short break closings tomorrow, assuming the
15 schedule doesn't go unexpectedly. But we'll do whichever the
16 Court prefers.

17 MR. DAVIS: I don't have a preference. I am fine, as
18 well to roll right into closings if time permits. If it
19 doesn't, I am happy to wait until Thursday.

20 THE COURT: Okay. Well, let's -- plan A will be to
21 roll right into closings. If anyone feels pressed or if we're
22 late in the day and folks think that they would streamline
23 their closing if they had a little bit more time with it, then
24 we will all plan to return at 1:30 on Thursday. How does that
25 sound?

1 MR. ROSBOROUGH: That works for plaintiffs, Your
2 Honor. Thank you.

3 MR. DAVIS: Perfect.

4 THE COURT: Okay. Great. All right. One question
5 just for my own information.

6 Mr. Coley testified a little bit about a deposition that I
7 gather was in the congressional cases; is that right?

8 MR. ROSBOROUGH: Yes, Your Honor.

9 MR. DAVIS: Yes.

10 THE COURT: All right. And it has not been marked in
11 this case. And I don't mean not been offered. I mean, it's
12 not been premarked by either side; is that right?

13 MR. DAVIS: I think that's right.

14 MR. ROSBOROUGH: Yeah. I agree.

15 THE COURT: Okay. I just wanted to be sure I was
16 appropriately oriented.

17 All right. Then we will recess for the day.

18 And can I have Mr. Davis and Mr. Ross quickly at the bench
19 just for an off the record?

20 (Discussion off the record.)

21 THE COURT: Let's say 8:30 for tomorrow.

22

23 (Whereupon, the above proceedings were concluded at
24 4:30 p.m.)

25

CERTIFICATE

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Christina K Decker

11-19-2024

Christina K. Decker, RMR, CRR

Date

Federal Official Court Reporter

ACCR#: 255