

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

**KHADIDAH STONE, ET AL.,**

**Plaintiffs,**

**Civil Case No. 2:21-CV-01531-AMM**

**V.**

**WES ALLEN, SECRETARY OF STATE, ET AL.,**

**Defendants.**

**EXPERT REPORT OF DR. CHRISTOPHER W. BONNEAU**

**I. Introduction and Qualifications**

I was retained as an expert by the defendants to ascertain whether Black candidates in elections in Alabama perform worse than white candidates on account of their race. Additionally, I have responded to certain claims made by the plaintiffs' experts. My findings and conclusions are based on Alabama-specific voter registration and election data, research I have conducted in the writing of two books and multiple articles and chapters about judicial elections, and the findings of other scholars who have studied elections. I am compensated at a rate of \$350/hour; my compensation is not dependent on the contents of my report or the outcome of this case. I previously served as an expert for the defendants in *Alabama State Conference of the NAACP, et al. v. State of Alabama, et al.* (Case No: 2:16-CV-731-WKW, 2020), for the plaintiffs in *Greg Lopez, Rodney Pelton, and Steven House v. Jena*

*Griswold, Colorado Secretary of State, and Judd Choate, Director of Elections* (Case No: 1:22-CV-00247-PAB), and for the defendants in *Dyamone White, et al. v. Mississippi State Board of Election Commissioners, et al.* (Case No: 4:22-CV-62-SA-JMV).

I am currently Professor of Political Science at the University of Pittsburgh, where I have taught since 2002. I also am serving as the Interim Chair of the Department of Hispanic Languages and Literatures. I received my BA from Valparaíso University in Political Science, Theology, and Humanities, an MA in political science from Ball State University, an MA in political science from Michigan State University, and a PhD in political science from Michigan State University.

My scholarly research primarily focuses on the nature of judicial elections. My studies have focused on all aspects of these elections, from voter participation to voter knowledge to campaign fundraising to campaign spending to electoral contestation to electoral competition to the consequences of electing judges. I have spent most of my scholarly career seeking to answer questions about judicial elections and respond to critics of them using empirical data.

To date, I have coauthored 2 books on judicial elections (*In Defense of Judicial Elections* in 2009 and the award-winning *Voters' Verdicts: Citizens, Campaigns, and Institutions in State Supreme Court Elections* in 2015), and co-edited one other (*Judicial Elections in the 21<sup>st</sup> Century* in 2017). Additionally, I have authored or coauthored 14 scholarly articles and 8 book chapters on the topic. I have received multiple grants for my research from the National Science Foundation, and four of my articles have been published in the most selective general journals in my discipline.

Finally, I have spoken at numerous academic conferences, universities, bar associations, and legislative committees on the topic of judicial elections. A current version of my CV is appended to this report.

## II. Statewide Judicial Elections in Alabama

1. Alabama is one of six states to currently elect at least some of their state supreme court judges in races with the partisan affiliation of the candidates provided on the ballot. The others are Louisiana, New Mexico, Illinois, Pennsylvania, and Texas. Of these states, Texas is the only one besides Alabama to elect all their appellate judges in statewide races with the partisan affiliations of candidates on the ballot.
2. Prior to the realignment in Alabama politics from a Democratic majority to a Republican majority, African Americans not only served on Alabama's Supreme Court, but they also won reelection to that court. Oscar Adams won two statewide races (1982 and 1988) and Ralph Cook won one (1994). Since Cook lost his bid for reelection in 2000, only *one* Democrat has won election to Alabama's Supreme Court (Sue Bell Cobb), and she is also the only Democratic candidate to win an election to the intermediate appellate court in Alabama, suggesting something unique about her. Thus, when Alabama was a state dominated by the Democratic Party, African Americans had electoral success; since the switch to Republican Party dominance, they have not. But neither have white Democratic Party candidates.

3. Alabama does not register voters by political party; however, Alabama allows for straight ticket voting. Table 1 shows the percentage of straight-ticket votes cast in the past 3 election cycles.

**Table 1: Straight-Ticket Voting in Alabama Elections**

<b>Year</b>	<b>Total Ballots Cast</b>	<b>Straight Rep</b>	<b>% Straight Rep</b>	<b>Straight Dem</b>	<b>% Straight Dem</b>
2018	1,725,877	663,269	38.4%	462,065	26.8%
2020	2,329,114	967,157	41.5%	596,786	25.6%
2022	1,423,409	648,953	45.6%	298,434	21.0%

In 2018, the percentage of people voting straight-ticket Democrat was 26.8%, and the percentage of voters voting straight-ticket Republican was 38.4%. By 2022, of the over 1.4 million votes cast, 21.0% were straight-ticket Democratic ballots, while a whopping 45.6% were straight-ticket Republican ballots; the Democratic percentage decreased while the Republican percentage increased. While it is true that many voters who do not utilize the straight-ticket option may vote entirely for candidates of one political party, they are at least making individual selections in each race, which increases the chances that they will vote for candidates from multiple parties. Clearly, based on their advantage with straight-ticket voting, Republican candidates have a significant advantage over their Democratic counterparts.

4. The prevalence of straight ticket voting means that most voters are voting for a *political party*, not a candidate (or candidates). Thus, the fact that 45.6% of the ballots cast in 2022 were straight-ticket Republican votes indicates that the race of the candidates for either party did not matter; voters were not

voting for individual candidates. Add to that the 21.0% who voted straight-ticket Democrat, 66.6% of Alabama voters—2/3 (!)—cast ballots for a political party, not individual candidates.

5. Since 2000, there have been 36 elections to the Alabama Supreme Court. These elections are listed in the Appendix A to this report. Twenty (55.6%) of these have been contested in the general election by the two major political parties, and 1 election only had competition by a 3<sup>rd</sup> Party candidate.
6. Since 2000, only 1 Democrat (Sue Bell Cobb) has won an election to Alabama's Supreme Court. All incumbents have won except for three, two of those being Democratic incumbents in 2000 and one being the Republican who lost to Cobb in 2006. (The 2018 Republican primary election for chief justice—a separately elected seat—between two incumbent justices is not counted as an incumbent loss in this paragraph.)
7. From 2000-2022, looking at all 21 races where there was competition in the general election, the winner won with an average of 57.7% of the vote. The range over this time was 50.3% to 79.7% (in a race that involved a 3<sup>rd</sup> Party and no Democratic Party candidate); in races that involved Republicans and Democrats, the range was 50.3% to 67.5%.
8. Over this period, there were six African American candidates, all of whom were Democrats. In 2000, incumbents Ralph Cook and John England lost their bids for reelection; in 2006, challengers Gwendolyn Kennedy and John England lost their bids for the Supreme Court; in 2018, challenger Donna

Wesson Smalley lost an open seat to Jay Mitchell; and in 2022, Anita Kelly lost an open seat election to Greg Cook.

9. Comparing the vote of African American Democratic candidates to the other Democratic candidates in those years shows no evidence of racial bias in voting. In 2000, Cook received 46.4% of the vote and England received 45.8% of the vote. This is *higher* than the percentage of the vote received by the two losing Democratic candidates who were white (45.3% and 45.2%). While these differences are small, they suggest that the African American candidates were not disadvantaged because of their race; they were disadvantaged because they were Democrats. The same is true for 2006. In 2006, the closest race was between Sue Bell Cobb (the only Democrat to win during this period) and the incumbent Drayton Nabers. Cobb received 51.5% of the vote. England received 45.0% and Kennedy received 43.2%. These were higher than the percentage of the vote received by another white challenger, Al Johnson, who received 42.1%. Again, the African American candidates are performing on par with (or better than) the white candidates of their same political party.<sup>1</sup> This is not surprising given that Alabama both provides voters the political party affiliation of the candidates and allows voters to vote for all the party's candidates at once using the straight ticket voting option.

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<sup>1</sup> In 2018 and 2022, the only contested races involved African American candidates, so it is not possible to compare the performance of African American Democratic candidates with white Democratic candidates.

The African American candidates also spent significantly less money than their opponents in these state supreme court races, as shown in Table 2. However, Democratic candidates (including Sue Bell Cobb, who successfully won her election) all spent significantly less money than Republican candidates. While it is true that the candidate who spends the most money does not always win the election, scholars have shown that campaign spending does provide important information to voters (Bonneau and Hall 2009; Hall and Bonneau 2013; Hall 2015) and in an election it is very difficult to win if there is a large campaign spending differential.

Table 2: Campaign Spending by Candidate in AL State Supreme Court Races, Two-Party Contested Races Only

<b>Year</b>	<b>Candidate Name</b>	<b>Candidate Race</b>	<b>Candidate Party</b>	<b>Amount Spent</b>
2000	Ralph Cook	Black	Democrat	\$437,482
	Lyn Stuart	White	Republican	\$1,254,450
2000	John England	Black	Democrat	\$500,681
	Tom Woodall	White	Republican	\$1,107,839
2000	Sharon Yates	White	Democrat	\$715,419
	Roy Moore	White	Republican	\$1,499,766
2000	Joel Laird	White	Democrat	\$1,090,243
	Robert Harwood	White	Republican	\$1,460,157
2006	Gwendolyn Kennedy	Black	Democrat	\$13,708

	Tom Woodall	White	Republican	\$454,247
2006	John England	Black	Democrat	\$966,550
	Glenn Murdock	White	Republican	\$1,473,985
2006	Sue Bell Cobb	White	Democrat	\$2,474,988
	Drayton Nabers	White	Republican	\$4,608,662
2006	Al Johnson	White	Democrat	\$265,193
	Lyn Stuart	White	Republican	\$1,756,131
2018	Donna Wesson Smalley	Black	Democrat	\$74,734
	Jay Mitchell	White	Republican	\$631,119
2018	Robert Vance	White	Democrat	\$86,376
	Tom Parker	White	Republican	\$869,643
2022	Anita Kelly	Black	Democrat	\$22,506
	Greg Cook	White	Republican	\$1,909,110

10. In the elections in Table 2, Republican candidates, on average, spent

\$1,547,737, while Democratic candidates spent, on average, \$604,353.

11. In state supreme court elections from 2010-2022, there is a strong,

statistically significant relationship between the percentage of the vote

received by the Democratic candidate in a county and the percentage of the

registered voters who are African American in that county in a bivariate

regression. A one-unit increase in the percentage of registered voters who



are African American leads to a 0.50 percentage point increase in the percentage of the vote received by the Democratic candidate. This means that, on average, if the percentage of African American registered voters increased by 1%, Democratic candidates would perform 0.50 percentage points better, other things being equal. This indicates that a statistically significant important predictor of how well Democrats do in Alabama is a result solely of how many African American voters there are in the county.

12. This means that if, say, the percentage of registered voters who are African American moved from 35%-36%, the percentage of the vote received by Democratic candidates would increase from 45% to 45.5%.

13. In a multivariate regression model including both the percentage of the registered black population and whether the losing state supreme court candidate was black as independent variables, African American candidates perform 4.3 percentage points better than White candidates.

### III. Alabama Legislative Elections

14. I examined the 2022 elections to the Alabama House of Representatives using the same methods and techniques as I did for state supreme court elections, and I find similar results. Black Democrats who lost contested seats for the State House averaged 29.1% of the vote in the counties in which they ran, while white Democrats averaged 23.7%. Once again, while all Democrats have a difficult time winning elections in Alabama, Black Democrats perform better when they challenge white Republicans than white Democrats do.

15. This is also true in the 2022 elections to the Alabama State Senate: Black Democrats who lost contested seats averaged 32.1% of the vote in the counties in which they ran, while white Democrats averaged 24.9%.
16. It is important to remember that in state legislative races, unlike statewide races, the electorate and candidates for each seat are unique. However, the results above suggest that, in districts where a Black Democrat is challenging a white Republican, that candidate outperforms districts where a white Democrat is challenging a white Republican.
17. Another indication that race is not the driving force behind vote choice comes from the 2022 District 74 election to the Alabama House of Representatives. In 2018, that district was 67% white and elected a Republican; in 2022, after redistricting, it became 55% Black (Cason 2022). Perhaps not surprisingly, a Democrat was elected. However, in the Democratic primary, a white Democratic candidate defeated a Black Democratic candidate. In fact, the white candidate (Philip Ensler) received over 65% of the vote against the Black candidate (Malcolm Calhoun). If race was the driving force in this election, then why would a majority Black district select a white Democratic nominee over a Black nominee? While the data cannot tell us the reasons why voters in House District 74 selected the candidate they did, the data do indicate that the race of the candidate was not a factor in an African American candidate losing either the Democratic primary.

18. Additional evidence for the effect of party being the most important factor can be found looking at the Alabama House of Representatives. In 2021, Kenneth Paschal became the first Black Republican to win election to the State House since Reconstruction. In doing so, he defeated a white Republican in the primary and won 74.7% of the vote against a white Democrat in the general election. While only 1 case, this illustrates that voters do make selections based on the candidate's positions as well as their political party affiliation.
19. Likewise, Bill Lewis (a Black attorney) was appointed to the Circuit 19 bench by Republican Governor Robert Bentley. Lewis subsequently won a full term on the bench in 2018, facing no opposition either in the Republican Primary or in the general election. Even though white votes make up the majority of the Republican Party, Lewis was unopposed for the nomination, suggesting that his race was not a factor in the election.

#### IV. Response to Plaintiffs' Experts Reports

20. Dr. Liu relies on King's ecological inference (EI) technique to determine whether voting in Alabama races is racially polarized. While EI techniques are widely used by courts for this type of analysis, they have some significant limitations (e.g., Cho 1998; Elmendorf, Quinn, and Abrajano 2016).
21. In addition to the statistical limitations noted above, there is a significant inferential limitation: EI cannot tell us about the reasons behind the observed (inferred) data. Liu posits that Black candidates lose, writing, "Despite the

highly cohesive BVAP [Black Voting Age Population] uniting behind the BPCs [Black Preferred Candidates], the white majority voters formed as a voting bloc to typically defeat the BPCs in these elections.” But his analysis must end there; he cannot provide an explanation for why BPCs lose. That is, even if we were to grant that EI is 100% accurate in recovering individual-level behavior from aggregate data, that data would still not tell us *why* we observe what we observe.

22. However, Dr. Liu’s analysis ignores the single biggest determinant of vote choice in American politics: political party (e.g., Sievert and Banda 2024; Stapleton and Langehennig 2024). Indeed, the term “party” does not appear in the text of his report at all (excepting the references). This is important because we know that African Americans overwhelmingly identify with the Democratic Party (e.g., Watts 2024). In 2022, looking at Alabama State Senate races, the bivariate correlation at the county-level between the percentage of registered voters who are Black, and the percentage of the vote received by the Democratic Party candidate was 0.78, an incredibly strong relationship; for the Alabama State House, it was even higher: 0.82. The bivariate correlation measures the extent to which both variables occur together. It ranges from -1.0 to 1.0, and any correlation above 0.5 (or -0.5) is considered a moderate relationship and any correlation above 0.7 (or -0.7) is considered a strong relationship. Thus, we need to find a way to separate out the effects of political party from the effects of race.

23. Indeed, in Table 1 of Dr. Liu's report, in all three elections he analyzes, the Black candidate represented the Democratic Party, and the white candidate represented the Republican Party.
24. Interestingly, SD2 involved the same Republican candidate in both 2018 and 2022, but the Democratic opponent was a Black candidate in 2022, but a white candidate in 2018. In 2018, Democrat Amy Wasyluka (a white Democrat) received 45.6% of the vote against Tom Butler. In 2022, Kim Lewis (a Black Democrat) received 44.4%. While the District lines changed in between these elections, it is still informative that the white Democratic candidate and the Black Democratic candidate essentially performed the same.
25. Dr. Liu focuses only on races that include African American candidates to determine if voting is racially polarized. However, only focusing on these cases leads to selection bias and potentially erroneous conclusions. Rather, we need to look at how people in Alabama vote in *all* races, not just those where there are African American candidates. If African Americans vote similarly for white candidates as they do for African American candidates, then it *cannot* be the race of the candidate that is driving voting patterns. By excluding these races, the Liu report assumes that there are differences based on the race of the candidate rather than treating it as an empirical question. "For example, if white voters tend to be conservative and most potential minority candidates are very liberal, strong minority candidates

may elect not to run because they are ideologically out of step” (Elmendorf, Quinn, and Abrajano 2016, 655).

26. Looking at contested statewide state supreme court elections from 2000-2022, the bivariate correlation between percentage of registered voters who are African American, and the percentage of the vote received by the Democratic candidate is 0.46; if I limit the analysis to 2010-2022, it is 0.48. This relationship is statistically significant: the higher the percentage of registered voters who are Black, the higher the percentage of vote for the Democratic candidate.
27. Both Dr. Liu and Dr. Burch examine the counties around the Huntsville area. Dr. Liu examines three elections for the state senate (endogenous elections) as well as a host of statewide elections to conclude that there is “a high level of racial polarized voting in the Greater Huntsville region” (Liu report, p. 8). However, his analysis completely ignores the importance and influence of political party.
28. We can analyze the impact of political party by examining the prevalence of straight ticket in the counties that comprise Greater Huntsville. Voters who vote for straight tickets are, by definition, voting for a political party slate and not for individual candidates. In Table 3, I analyze the gubernatorial, attorney general, and secretary of state elections in 2018 and 2022, and the U.S. Senate elections in 2020 and 2022 in the following counties which comprise the Greater Huntsville area: Blount, DeKalb, Jackson, Limestone, Madison, Marshall, and Morgan. Specifically, Table 3 presents the bivariate

correlations between the percentage of the vote received by the Democratic candidate for office and the percentage of voters who cast straight-ticket Democratic tickets. I selected these races to illustrate the importance of straight ticket voting because they are the most important statewide races. There is no reason to suspect that selecting other races would lead to different results.

Table 3: Correlation between Democratic Percentage of the Vote and Straight-Ticket Democratic Ballots

Office	Correlation (significance)
Governor 2018 (White candidate)	0.979 (0.000)
Governor 2022 (Black candidate)	0.994 (0.000)
U.S. Senate 2020 (White candidate)	0.994 (0.000)
U.S. Senate 2022 (Black candidate)	0.991 (0.000)
Attorney Gen. 2018 (White candidate)	0.991 (0.000)
Attorney Gen. 2022 (Black candidate)	0.991 (0.000)
Sec. of State 2018 (White candidate)	0.991 (0.000)
Sec. of State 2022 (Black candidate)	0.992 (0.000)

29. As Table 3 shows, the percentage of votes received by Democratic candidates is highly correlated (indeed, almost perfectly so) with the percentage of voters who cast straight-party Democratic candidates. This is true regardless of whether the Democratic candidates were white (2018 and 2020) or Black

(2022). A very high percentage of the votes received by Democratic *candidates* comes from voters selecting the Democratic *party* in straight-ticket voting.

30. While it appears from simply looking at the election results as if the Black Democratic candidates for these offices performed worse in 2022 than they did in 2018 and 2020, statistical analysis shows this difference is not statistically significant.
31. Table 4 shows the results of a bivariate regression between the Democratic candidate's percentage of the vote and whether the candidate was Black. If Black candidates performed worse than white candidates, holding other things constant, then the coefficient should be negative and statistically significant. If a coefficient is not statistically significant, then it means it is not different than 0; the differences we observe in the data are not generalizable to the larger population. As Table 4 shows, while the coefficient is negative for each of these races, in no cases is it statistically significant. We cannot reject the null hypothesis that there is no relationship between the race of the candidate and the percentage of the vote received by that candidate. Thus, there is no relationship between a candidate's percentage of the vote and whether the candidate was Black in these races.

Table 4: Bivariate Regressions between Democratic Percentage of the Vote and Whether the Candidate was Black



Office	Coefficient (significance)
Governor	-10.043 (0.112)
U.S. Senate	-8.514 (0.196)
Attorney General	-7.900 (0.224)
Secretary of State	-7.229 (0.251)

32. Indeed, the lack of relationship holds even when the percentage of voters who voted straight-ticket Democrat is included as an independent variable. In sum, the empirical evidence shows that the political party of the candidates is what matters in these elections, not race.

#### V. Conclusion

33. My examination of the evidence in this case does not reveal evidence of voting based on race. Indeed, African American candidates either perform as well as or outperform White candidates of the same political party in judicial and state legislative elections in Alabama.

34. African American candidates did have success running in statewide judicial elections before Alabama realigned and became a one-party Republican state.

35. The lack of success of African American candidates is not because of their race; rather, it is because they overwhelmingly run as members of the Democratic Party. Indeed, in the one case where a Black Republican ran against a white Democrat for a state legislative seat, the Black Republican

won easily (and even defeated a white Republican in the primary). And in the one case where a Black Republican judge ran for election, he was uncontested in both the primary and the general election.

36. Contrary to the claims made by the plaintiffs in their complaint (paragraph 100), the evidence indicates that it is not the case that “even when voters are choosing among candidates from the same party, race influences their vote.”

I reserve the right to update this report based on additional facts, testimony, and/or materials.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.



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Chris W. Bonneau

March 26, 2024

DATE

## References

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**Appendix A: Alabama State Supreme Court General Elections, 2000-2022**

Year	Winner (Party)	Loser (Party)	Winner Pct. of Vote
2000	Moore (R)	Yates (D)	54.7%
2000	Stuart (R)	Cook (D)	52.6%
2000	Lyons (R)	Smith (L)	79.7%
2000	Woodall (R)	England (D)	54.2%
2000	Harwood (R)	Laird (D)	54.8%
2002	See (R)	Anderson (D)	52.6%
2004	Parker (R)	R. Smith (D)	55.8%
2004	P. Smith (R)	Monroe (D)	61.6%
2004	Bolin (R)	Rochester (D)	59.7%
2006	Cobb (D)	Nabers (R)	51.5%
2006	Lyons (R)	-----	100%
2006	Woodall (R)	Kennedy (D)	56.8%
2006	Stuart (R)	Johnson (D)	57.9%
2006	Murdock (R)	England (D)	55.0%
2008	Shaw (R)	Paseur (D)	50.3%
2010	Parker (R)	Parsons (D)	58.9%
2010	Bolin (R)	Edwards (D)	62.8%
2010	Wise (R)	Chambers (D)	62.9%
2012	Moore (R)	Vance (D)	51.8%
2012	Murdock (R)	-----	100%
2012	Bryan (R)	-----	100%
2012	Stuart (R)	-----	100%
2014	Shaw (R)	-----	100%
2014	Main (R)	-----	100%
2016	Bolin (R)	-----	100%
2016	Wise (R)	-----	100%
2016	Parker (R)	-----	100%
2018	Parker (R)	Vance (D)	57.4%
2018	Stewart (R)	-----	100%
2018	Bryan (R)	-----	100%
2018	Sellers (R)	-----	100%
2018	Mitchell (R)	Smalley (D)	60.5%
2020	Shaw (R)	-----	100%
2020	Mendheim (R)	-----	100%
2022	Cook (R)	Kelly (D)	67.4%
2022	Wise (R)	-----	100%