

**UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY**

**QUESTIONNAIRE FOR JUDICIAL NOMINEES**

**PUBLIC**

1. **Name:** State full name (include any former names used).

Terry Fitzgerald Moorer

In 1979, I underwent a legal name change because the name on my birth certificate was incorrect. However, I have never been known by any other name than my current name.

2. **Position:** State the position for which you have been nominated.

United States District Judge for the Southern District of Alabama

3. **Address:** List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

United States District Court for the Middle District of Alabama  
Frank M. Johnson, Jr. U.S. Courthouse Complex  
One Church Street  
Montgomery, Alabama 36104

4. **Birthplace:** State year and place of birth.

1961; Greenville, Alabama

5. **Education:** List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

**Civilian Education**

1983 – 1986, University of Alabama, Farrah School of Law; J.D., 1986  
1981 – 1983, Huntingdon College; B.A., 1983  
1979 – 1981, Marion Military Institute; A.A., 1981

**Military Education**

2006, U.S. Army Military Judge Course (resident)  
1994 – 1996, U.S. Army Command & General Staff College (non-resident)  
1994, U.S. Army Judge Advocate Advanced Course (non-resident)  
1988, Combined Armed Services and Staff School (non-resident)

1987, U.S. Army Judge Advocate Basic Course (resident)

6. **Employment Record:** List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2007 – present

United States District Court for the Middle District of Alabama  
Frank M. Johnson, Jr. U.S. Courthouse Complex  
One Church Street  
Montgomery, Alabama 36104  
United States Magistrate Judge

1990 – 2014

Alabama National Guard  
1730 Congressman W.L. Dickinson Drive  
Montgomery, Alabama 36109  
Military Judge (2005 – 2014)  
Judge Advocate (1990 – 2005)

1990 – 2007

United States Attorney's Office for the Middle District of Alabama  
131 Clayton Street  
Montgomery, Alabama 36104  
Assistant United States Attorney

2003 – 2004

226th Area Support Group (ASG)  
Camp Arifjan, Kuwait  
APO, AE 09406  
Command Judge Advocate

1986 – 1990

Office of the Staff Judge Advocate  
Soldier Service Center  
Fort Rucker, Alabama 36362  
Trial Counsel, Chief of Legal Assistance, Chief of Administrative Law, Chief of Claims

Summer 1986

Don Siegelman, Campaign for Attorney General  
Montgomery, Alabama  
Campaign Aide

1985 – 1986

Justice Samuel A. Beatty – Alabama Supreme Court  
Tuscaloosa, Alabama  
Montgomery Office:  
300 Dexter Avenue  
Montgomery, Alabama 36104  
Work Study Clerkship

1981 – 1986

Battery A 1/117 FA Battalion  
Alabama National Guard  
Greenville, Alabama 36037  
Fire Direction Officer (1981 – 1982)  
Det 1 HHB 1/117 FA Battalion  
Alabama National Guard  
Evergreen, Alabama  
FIST Chief (1982 – 1986)

Summer 1984 and 1985

Legal Services Corporation  
Mobile, Alabama  
Washington Office:  
3333 K Street, NW  
Washington, DC 20007  
Intern

Summer 1983

Joe McCorquodale Campaign for Governor  
Montgomery, Alabama  
Campaign Aide

7. **Military Service and Draft Status:** Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

1990 – 2014

Alabama Army National Guard  
Colonel / O-6  
Retired

2003 – 2004

United States Army (called to active duty)  
226th Area Support Group  
Lieutenant Colonel / O-5  
Camp Arifjan, Kuwait

Honorably Discharged

1986 – 1990

United States Army

Captain / O-3

Fort Rucker, Alabama

Honorably Discharged

1981 – 1986

Alabama Army National Guard

First Lieutenant / O-2

Honorably Discharged

I timely registered for the selective service at age 18.

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

Scholarships

A.G. Gaston Scholarship (1983)

Junior College Honor Scholarship (1981)

Army ROTC Scholarship (1979)

Senator Cordy Taylor Scholarship (1979)

Civilian Awards

Roe Bank Award (2015)

Middle District of Alabama Organized Crime Drug Enforcement Task Force – Case of the Year (1999, 2001)

Montgomery Police Department – Honorary Police Badge (1998)

Butler County Civic League (1994)

As an Assistant United States Attorney (1990 – 2007), I received commendations, awards, and recognition at various times from the following organizations:

Federal Bureau of Investigation

United States Secret Service

United States Drug Enforcement Administration

United States Marshals Service

Organized Crime Drug Enforcement Task Force (OCDETF)

Internal Revenue Service – CID

United States Bureau of Alcohol, Tobacco & Firearms

Military Awards (in order of precedence)

Legion of Merit  
Bronze Star  
Army Commendation Medal (2nd Award)  
Army Achievement Medal  
Army Reserve Components Achievement Medal (2nd Award)  
National Defense Service Medal (2nd Award)  
Armed Forces Reserve Medal (4th Award)  
Army Service Ribbon  
Expert Marksmanship Qualification Badge with Pistol Bar

9. **Bar Associations:** List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

Alabama Bar Association  
Alabama Lawyers Association  
Capitol City Bar Association  
Federal Magistrate Judges Association, Long Range Planning Committee  
Hugh A. Maddox Inn of Court  
    President (2011)  
    Vice President (2010)  
National Association of Assistant United States Attorneys

10. **Bar and Court Admission:**

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Alabama, 1987

There has been no lapse in membership.

- b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

United States Court of Appeals for the Armed Forces, 1987  
United States Army Court of Military Review, 1987  
Alabama Supreme Court, 1987

There have been no lapses in memberships.

11. **Memberships:**

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Association of the United States Army (1986 – 1990)  
Evangel Christian Academy Booster Club (2003 – 2013)  
Huntingdon College Alumni Association (1983 – present)  
Marion Military Institute Alumni Association (1981 – present)  
National Guard Association of the United States (1981 – 2014)  
National Guard Association of Alabama (1981 – 2014)  
University of Alabama Alumni Association (1986 – present)  
Veterans of Foreign Wars (VFW) Life Member (2004 – present)

- b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To the best of my knowledge, none of the organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, religion or national origin, either through formal membership requirements or the practical implementation of membership policies.

**12. Published Writings and Public Statements:**

- a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

*JAG in the Sandbox*, in Operation Homecoming: Iraq, Afghanistan, and the Home Front, in the Words of U.S. Troops and Their Families (Andrew Carroll ed., 2006). Copy supplied.

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a

summary of its subject matter.

None.

- c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

As chair of the Committee on the Alabama Code of Military Justice (ACMJ), I presented information regarding the proposed ACMJ prior to its submission to the Governor and the Alabama legislature on the following dates:

March 8, 2011: Presentation to Major General Perry Smith, Adjutant General, Alabama National Guard.

February 16, 2010: Presentation to Major General Abner Blalock, Adjutant General, Alabama National Guard. A copy of the presentation is attached.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

June 12, 2017: Speaker, Courthouse visit by Stetson law students, United States District Court for the Middle District of Alabama. An audio recording is supplied.

May 25, 2017: Speaker, Kipp Charter School visit to the United States District Court for the Middle District of Alabama. A copy of a video presentation I used and a video recording of the speech are supplied.

November 7, 2015: Speaker, YMCA Youth Judicial Convention. My remarks were to administer the oath of office to the Youth Judicial Judges and participants and to encourage them as young adults to take up the mantle of civic responsibility to the legal system. I did not speak from a prepared text or outline. A copy of a readily available press report is supplied. The address of the Alabama YMCA Youth in Government program is Post Office Box 2336, Montgomery, Alabama 36102

November 5, 2015: Speaker, Alabama Attorney General's Office Annual CLE, Montgomery, Alabama. PowerPoint slides are provided.

May 27, 2015: Speaker, Geneva County Bar Association, Geneva, Alabama. I spoke regarding the state of the United States District Court for the Middle District of Alabama such as case filings, procedures and technological developments. I did not speak from a prepared text, and I no longer have an outline. The address of the Geneva County Bar Association is Post Office Box 95, Geneva, Alabama 36340, c/o Hon. Steven Smith

February 15, 2015: Speaker, First Missionary Baptist Church, Black History Month Celebration. My remarks were to encourage as many children as possible to consider a career in law and to discuss the contributions of African Americans in the field of law. I did not speak from a prepared text, and I no longer have an outline. A copy of a readily available press report is supplied. The address of the First Missionary Baptist Church is 707 South Street, Greenville, Alabama 36037.

October 30, 2014: Speaker, Alabama Bar admission ceremony. I did not speak from a prepared text, and I no longer have an outline. I made some brief comments on the privilege to serve as a lawyer in the community. I believe I also stated some practical tips for success related to work ethic and integrity, but do not remember the specifics of what I said. The address of the Alabama Bar Association is 415 Dexter Avenue, Montgomery, Alabama 36104.

Approximately June 2014: Speaker, Houston County Bar Association, Dothan, Alabama. I did not speak from a prepared text, and I no longer have an outline. I discussed the state of the United States District Court for the Middle District of Alabama such as case filings, procedures, and technological developments. The address of the Houston County Bar Association is c/o Ashton Ott, Post Office Box 2228, Dothan, Alabama 36302.

May 2, 2014: Panelist, Montgomery County Bar Association Panel, Prattville, Alabama. Judicial Panelist. I did not speak from a prepared text and I had no outline. The panel was a question and answer format about general court procedures. The address of the Montgomery County Bar Association is Montgomery County Courthouse, Law Library - Fourth Floor, 251 South Lawrence Street, Montgomery, Alabama 36104.

February 2014 (approximately): Speaker, Pine Level Missionary Baptist Church #2, Men's Day Program. I did not speak from a prepared text, and I no longer have an outline. My remarks were lay remarks to encourage men to fulfill their roles to their family and in relationships. The address of the Pine Level Missionary Baptist Church #2 is Pine Level Road, Greenville, Alabama 36037

November 2013 (approximately): Presenter (with Col W. Terry Travis), Meeting of the Commanders of the Alabama National Guard (Army and Air) regarding the Alabama Code of Military Justice (ACMJ). A copy of the presentation is attached.

November 2010 (approximately): Speaker, McKee Jr. High School Career Day



Program. I did not speak from a prepared text, and I no longer have an outline. My remarks were to encourage as many children as possible to consider a career in law. I have participated in this event on other occasions but do not have records of the dates. The address of McKee Jr. High School, 4015 McInnis Drive, Montgomery, Alabama 36116

February 2010 (approximately): Speaker, Pine Level Missionary Baptist Church Black History Program. I did not speak from a prepared text, and I no longer have an outline. My remarks were to highlight the contributions of African Americans in the field of law and to encourage as many children as possible to consider a career in law. The address of the Pine Level Missionary Baptist Church is 7990 County Road 106, Georgiana, Alabama 30633.

April 6, 2007: Speaker, Investiture ceremony for Hon. Terry F. Moorer, United States District Court for the Middle District of Alabama. A transcript is supplied.

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you. None.

*Siegelman Prosecutor Respected*, Montgomery Advertiser, Nov. 7, 2005, at B3. Copy supplied.

*Jail Guards Innocent, Prisoner Convicted in Drug Scheme*, The Associated Press State & Local Wire, March 1, 2002. Copy supplied.

*Alabama in Brief*, Birmingham News, February 20, 1998, at 05-B. Copy supplied.

Jennifer Royer, *Prosecutors Investigating Several Cases in Alabama*, Birmingham News, May 26, 1994, at 1. Copy supplied.

Tom Lindley, *Pornography Distributor Pleads Guilty, Faces Fine*, Birmingham News, December 7, 1993, at 1. Copy supplied.

13. **Judicial Office:** State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

In December 2005, the Judge Advocate General of the United States Army selected and appointed me to serve as a Military Judge for the Alabama Army National Guard. The jurisdiction of the position extended to courts-martials of all types (General, Special, and Summary), the authority to issue search warrants, and preside over administrative separations involving officers of higher rank. I served as a military judge until I retired from the Alabama National Guard in March 2014.

On January 3, 2007, I was appointed to serve as a United States Magistrate Judge of the United States District Court for the Middle District of Alabama by the judges of the United States District Court. As a magistrate judge, I preside over a wide variety of federal criminal and civil cases, including pretrial, grand jury, discovery matters, and civil jury trials. Most of my caseload consists of the referral of matters from the district court, with the exception of criminal matters over which I have jurisdiction under 28 U.S.C. § 636(a) and civil cases in which the parties consent to my jurisdiction pursuant to 28 U.S.C. § 636(c).

The Middle District of Alabama has a system wherein the Magistrate Judges are "on the wheel" for random case assignments. This system randomly assigns ordinary civil cases to the Magistrate Judges, just as cases are randomly assigned to the district judges. The parties have the option of consenting to my jurisdiction in which case I may preside over the trial, issue opinions on dispositive motions, issue orders on all other matters, and enter judgment. In cases where I am referred matters by the presiding district judge, I issue reports and recommendations on dispositive motions and orders resolving non-dispositive matters. I conduct pretrial proceedings in both civil and criminal cases as well as mediations in civil cases. With regard to felony criminal cases, I issue reports and recommendations on dispositive motions and orders on non-dispositive matters through the pretrial conference as well as the issuance of arrest warrants, search and seizure warrants, and other various criminal authorizations. I handle all aspects, including trials and sentencings, of petty offenses and certain criminal misdemeanors.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment?

Approximately 11 cases where I have been the presiding judge have gone to verdict or judgment.

- i. Of these, approximately what percent were:

jury trials:	45%
bench trials:	55%
civil proceedings:	27%
criminal proceedings:	73%

- b. Provide citations for all opinions you have written, including concurrences and dissents.

Citations for all opinions I have written as of September 8, 2017 and available on Westlaw and LEXIS are provided at Appendix 13(b).

- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy

of the opinion or judgment (if not reported).

1. *United States v. Davis*, 2:07-cr-248-WKW, 2008 WL 1927377 (M.D. Ala. Apr. 28, 2008), *aff'd*, 598 F.3d 1259 (11th Cir. 2010), *aff'd*, 564 U.S. 229 (2011).

This case involved a vehicle search incident to an arrest that was made for giving false information to an officer. The search revealed a pistol which was evidence of a violation of 18 U.S.C. § 922(g)(1). Applying binding Eleventh Circuit law set forth in *New York v. Belton*, 453 U.S. 454, 460-61 (1981), I deemed the search a valid search incident to arrest, citing officer safety. A year later in 2009, the Supreme Court released their opinion in *Arizona v. Gant*, 556 U.S. 332 (2009), which no longer permits searches of this nature. Davis then appealed my ruling to the Eleventh Circuit citing the new ruling in *Gant*, and argued that the exclusionary rule should retroactively apply to his case. The Eleventh Circuit held that the search did violate the defendant's 4th Amendment rights; however, at the time of the search the officer had acted in accordance with the binding law and thus affirmed the case. Davis appealed, but the United States Supreme Court ultimately held that when the police conduct a search in objectively reasonable reliance on binding appellate precedent, the exclusionary rule does not apply and affirmed my ruling.

Counsel for the Government

Matthew W. Shepherd

United States Attorney's Office, Northern District of Ohio

801 West Superior Avenue, Suite 400

Cleveland, Ohio 44113

(216) 622-3600

*Formerly with United States Attorney's Office, Middle District of Alabama*

Counsel for the Defense

Timothy Charles Halstrom

Timothy C. Halstrom, LLC

Post Office Box 231196

Montgomery, Alabama 36123

(334) 549-3506

2. *United States v. McGregor*, Crim. Act. No. 2:10-cr-0186-MHT (M.D. Ala. 2011).

*McGregor* is significant because it is one of the most media intensive cases in the Middle District of Alabama in recent years. The case involved the indictment of eleven defendants which included state senators, casino owners, lobbyists, and a legislative employee charged with the illegal attempt to push through a state bill which would legalize gambling in the State of Alabama. I sat as the referral judge and handled several issues under seal both before and during the trial. At trial, the jury rendered a not guilty verdict for all defendants.

Counsel for the United States

Michael Kendall Day  
U.S. Department of Justice  
Money Laundering and Asset Recovery Section  
950 Pennsylvania Avenue, NW  
Washington, DC 20530  
(202) 353-2248  
*Formerly with U.S. Department of Justice, Public Integrity Section*

Peter J. Ainsworth  
U.S. Department of Justice  
Office of Overseas Prosecutorial Development Assistance and Training  
950 Pennsylvania Avenue, NW  
Washington, DC 20530  
(202) 305-9277  
*Formerly with U.S. Department of Justice, Public Integrity Section*

Barak Cohen  
Perkins Coie  
700 13th Street, NW  
Suite 600  
Washington, D.C. 20005-3960  
(202) 654-6200  
*Formerly with U.S. Department of Justice, Public Integrity Section*

Brenda K. Morris  
Booz Allen Hamilton  
8283 Greensboro Drive  
McLean, Virginia 22102  
(703) 902-5000  
*Formerly with U.S. Department of Justice, Public Integrity Section*

Edward T. Kang  
Alston & Bird LLP  
The Atlantic Building  
950 F Street, NW  
Washington, DC 20004  
(202) 239-3728  
*Formerly with U.S. Department of Justice, Public Integrity Section*

Emily Rae Woods  
U.S. Department of Justice  
Office of Deputy Attorney General  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

(202) 514-4995

*Formerly with U.S. Department of Justice, Public Integrity Section*

Marquest J. Meeks

Entergy

Legal Department

639 Loyola Avenue, Suite 2600

New Orleans, Louisiana 70113

(504) 576-4541

*Formerly with U.S. Department of Justice, Public Integrity Section*

Louis V. Franklin Sr.

United States Attorney's Office, Middle District of Alabama

Post Office Box 197

Montgomery, Alabama 36101

(334) 223-7280

Steve Faega

Alabama Securities Commission

401 Adams Avenue, Suite 280

Montgomery, Alabama 36104

(334) 242-2984

*Formerly with United States Attorney's Office, Middle District of Alabama*

Ashley Nicole Penhale

Robert David Segall

Shannon Lynn Holliday

James David Martin

Copeland, Franco, Screws & Gill PA

444 South Perry Street

Montgomery, Alabama 36104

(334) 834-1180

Benjamin Joseph Espy

William Martin Espy

Joseph Cleodus Espy, III

Melton Espy & Williams, PC

255 Dexter Avenue

Montgomery, Alabama 36104

(334) 263-6621

Counsel for Defendants

Amy Levin Weil (*for defendant Gilley*)

The Weil Firm LLC

511 East Paces Ferry Rd, N.E.

Atlanta, Georgia 30305

(404) 581-0000

William Joseph Baxley (*for Defendant Coker*)  
Joel Evan Dillard  
Stewart Davidson McKnight, III  
Baxley Dillard McKnight James & McElroy  
2700 Highway 280, Suite 110 East  
Birmingham, Alabama 35223  
(205) 271-1100

Samuel Holley Franklin (*for Defendant Geddie*)  
Jackson R. Sharman, III  
Jeffrey P. Doss  
Lightfoot Franklin & White LLC  
The Clark Building  
400 20th Street North  
Birmingham, Alabama 35203  
(205) 581-0700

James P. Judkins (*for Defendant Geddie*)  
Ausley McMullen  
123 South Calhoun Street  
Tallahassee, Florida 32301  
(850) 425-5333  
*Formerly with Judkins, Simpson, High & Schulte*

Larry Dean Simpson (*for Defendant Geddie*)  
Larry Dean Simpson, Attorney At Law  
3792 Longfellow Road  
Tallahassee, Florida 32311  
(850) 508-8818  
*Formerly with Judkins, Simpson, High & Schulte*

Brett Michael Bloomston (*for Defendant Massey*)  
The Bloomston Firm  
2151 Highland Avenue South  
Birmingham, Alabama 35205  
(205) 212-9700

Joseph James Basgier, III (*for Defendant Massey*)  
Basgier Law  
301 19th Street North, Suite 510  
Birmingham, Alabama 35203  
(205) 458-1205

William Northington Clark (*for Defendant Means*)

Stephen Wesley Shaw  
William Hayes Mills  
Redden Mills Clark & Shaw LLP  
940 Financial Center  
505 Twentieth Street North  
Birmingham, Alabama 35203  
(205) 322-0457

Glory R. McLaughlin (*for Defendant Means*)  
American Civil Liberties Union of Alabama  
P.O. Box 6179  
Montgomery, Alabama 36106-0179  
(334) 265-2754  
*Formerly with Redden Mills Clark & Shaw LLP*

Ronald Wayne Wise (*for Defendant Preuitt*)  
500 Interstate Park Drive, Suite 520  
Montgomery, Alabama 36109  
(334) 260-0003

Henry Lewis Gillis (*for Defendant Ross*)  
Tyrone Carlton Means  
Means Gillis Law, LLC  
Post Office Box 5058  
Montgomery, Alabama 36103-5058  
(334) 270-1033

LaTasha Meadows Nickle (*for Defendant Ross*)  
19500 South Dixie Highway  
Cutler Bay, Florida 33157-7608  
(786) 293-4081  
*Formerly with Means Gillis Law, LLC*

John Mark Englehart (*for Defendant Ross*)  
Englehart Law Offices  
9457 Alysbury Place  
Montgomery, Alabama 36117-6005  
(334) 782-5258

James Woodfin Parkman, III (*for Defendant Smith*)  
William Calvin White, II  
Parkman White, LLP  
1929 3rd Avenue North, Suite 700  
Birmingham, Alabama 35203  
(205) 502-2000  
*Formerly with Parkman, Adams & White, LLC*

Joshua Logan McKeown (*for Defendant Smith*)  
Post Office Box 122  
Columbiana, Alabama 35051  
(205) 480-9001  
*Formerly with Parkman, Adams & White, LLC*

Richard Martin Adams (*for Defendant Smith*)  
No current address available  
*Formerly with Parkman, Adams & White, LLC*

Susan Graham James (*for Defendant Walker*)  
Denise Arden Simmons  
The James Firm  
600 South McDonough Street  
Montgomery, Alabama 36104  
(334) 269-3330

Jeffery Clyde Duffey (*for Defendant Walker*)  
The Law Office of Jeffery C. Duffey  
600 South McDonough Street  
Montgomery, Alabama 36104  
(334) 834-4100

Thomas Martele Goggans (*for Defendant Crosby*)  
2030 East Second Street  
Montgomery, Alabama 36106  
(334) 834-2511

3. *Sanders v. Myrick*, 2:09-cv-771-MEF, 2013 U.S. Dist. LEXIS 69188 (M.D. Ala. Apr. 8, 2013), *adopted by* 2013 U.S. Dist. LEXIS 68938 (M.D. Ala. May 15, 2013).

In this case brought under 42 U.S.C. § 1983, the *pro se* plaintiff challenged the constitutionality of the actions taken during his arrest. He claimed the officers used excessive force when they fired shots at him and the co-defendants from his criminal case, acted with deliberate indifference to his safety, and arrested him without probable cause. During the incident, four people including plaintiff and two police officers sustained gunshot wounds and one other suspect died from his multiple gunshot wounds. I issued a Report and Recommendation which recommended denying summary judgment as to the excessive force claim and granting summary judgment as to the remaining claims. The District Judge adopted the recommendation in full and appointed counsel for trial. The excessive force claim went to trial and judgment was rendered by a jury in favor of the defendants.

Court-Appointed Counsel for the Plaintiff



Charles Andrew Stewart, III  
Bradley Arant Boult Cummings LLP  
445 Dexter Avenue, Suite 9075  
Montgomery, Alabama 36104  
(334) 956-7700

Jonathan Corley Hill  
No current address available  
*Formerly with Bradley Arant Boult Cummings LLP*

Counsel for the Defense  
Stacy Lott Reed  
City Attorney's Office  
Post Office Box 1111  
Montgomery, Alabama 36101  
(334) 241-2050

4. *United States v. Smith*, 2:12-cr-48-MHT, 2013 U.S. Dist. LEXIS 74209 (M.D. Ala. Jan. 4, 2013), 2013 U.S. Dist. LEXIS 72638 (R&R), 2013 U.S. Dist. LEXIS 80279 (Supplemental R&R) (M.D. Ala. Jan. 16, 2013, May 24, 2016), *adopted by* 2013 U.S. Dist. LEXIS 79525, *aff'd*, 821 F.3d 1293 (11th Cir. 2016), *cert. denied*, – U.S. –, 137 S. Ct. 690 (2017).

The three defendants were correctional officers indicted for beating an inmate to death. I issued several Reports and Recommendations in this case. The case presented several constitutional questions including an issue of first impression in the Eleventh Circuit – specifically, whether a state employee can, after he has been fired, waive his rights under *Garrity v. New Jersey*, 385 U.S. 493 (1967) and allow his prior compelled and protected statements to be used by the federal government in a criminal investigation. After extensive briefing and conducting an evidentiary hearing, I issued a Report and Recommendation wherein I recommended denial of the defendants' motion to suppress and motion for a hearing pursuant to *United States v. Kastigar*, 406 U.S. 441 (1972). After consideration of the objections, I issued a supplemental Report and Recommendation to address issues raised by the defense (as a new argument was raised in the objections). After considering the original Report and Recommendation, the Supplemental Report and Recommendation, and the extensive objections, the District Court adopted the analysis in full. After conviction, defendant Smith appealed the issue and the Eleventh Circuit affirmed the decision.

Counsel for the United States  
Jerusha Adams  
United States Attorney's Office, Middle District of Alabama  
131 Clayton Street  
Montgomery, Alabama 36101

(334) 223-7280

Patricia Ann Sumner  
U.S. Department of Justice, Office of the Inspector General  
950 Pennsylvania Avenue NW  
Washington, DC 20530  
(202) 616-4719  
*Formerly with U.S. Department of Justice, Civil Rights Division*

Counsel for the Defense  
Clayton Rushing Tartt  
James Woodfin Parkman, III  
Parkman White, LLP  
1929 3rd Avenue North, Suite 700  
Birmingham, Alabama 35203  
(205) 502-2000  
*Formerly with Parkman, Adams & White, LLC*

Richard Martin Adams  
No current address available  
*Formerly with Parkman, Adams & White, LLC*

5. *Arthur v. Davenport*, 2:11-cv-438-WKW (M.D. Ala. 2011 – 2016)

In this death penalty appeal, I handled several discovery matters including motions to compel and motions for protective orders. Many of these issues were filed under seal and can be only discussed in a limited manner. The case is significant because it challenged the method by which Alabama executes prisoners and my orders could have had an effect on the ultimate ruling regarding Alabama's lethal injection protocol. On February 21, 2017, the United States Supreme Court denied *certiorari*, – U.S. –, 137 S. Ct. 725 (2017), and the State has set a new date for execution.

Counsel for the Plaintiff  
Adam Rhys Brebner  
Akash Mayank Toprani  
Suhana S. Han  
Sullivan & Cromwell LLP  
125 Broad Street  
New York, New York 10004  
(212) 558-4000

Andrew S.C. Brinkman  
Paul Hastings LLP  
200 Park Avenue  
New York, New York 10166-0005

(212) 318-6000  
*Formerly with Sullivan & Cromwell LLP*

Counsel for the Defense  
Henry Mitchell Johnson  
James Clayton Crenshaw  
James Roy Houts  
Lauren Ashley Simpson  
Thomas R. Govan, Jr.  
Alabama Attorney General's Office  
501 Washington Avenue  
Montgomery, Alabama 36104  
(334) 242-7300

6. *United States v. Jenkins*, 2:08-cr-121-WHA, 2008 U.S. Dist. LEXIS 122322 (M.D. Ala. 2008).

In this 16-defendant case, the defendants were indicted for conspiracy to distribute powder and crack cocaine. This case involved significant case management given the number of individuals involved and also included evaluating requests for detention/bond, a motion to suppress the information obtained from a Title III wiretap, and the evaluation of guilty pleas for several defendants. With regard to the motion to suppress, after careful consideration of the motion, response, and evidence presented at the hearing, I issued a report and recommendation wherein I recommended the motion to suppress be denied. The District Judge adopted my report and recommendation in full. I also carefully conducted a hearing and discussed the care inquiry prior to accepting the guilty pleas for several defendants. Most of the defendants entered guilty pleas and testified at trial on behalf of the government. The remaining defendants were found guilty by jury verdict.

Counsel for the United States  
Verne H. Speirs  
Tommie Hardwick  
United States Attorney's Office, Middle District of Alabama  
Post Office Box 197  
Montgomery, Alabama 36101-0197  
(334) 223-7280

Counsel for the Defense  
Timothy Charles Halstrom  
Timothy C. Halstrom, LLC  
Post Office Box 231196  
Montgomery, Alabama 36123  
(334) 549-3506

Andrew Mark Skier (*for Defendant Ma. Jenkins*)  
8191 Seaton Place  
Montgomery, Alabama 36116  
(334) 263-4105

Richard Kelly Keith (*for Defendant F. Jenkins*)  
560 South McDonough Street, Suite D  
Montgomery, Alabama 36104  
(334) 264-6776

Russell Turner Duraski (*for Defendant Mi. Jenkins*)  
Law Office of Russell Duraski  
621 South Hull Street  
Montgomery, Alabama 36104  
(334) 625-1807

Roianne Houlton Conner (*for Defendant M. Boykins*)  
The Law Offices of Roianne Houlton Conner  
250 Winton M. Blount Loop  
Montgomery, Alabama 36117  
(334) 215-1988

Ronald P. Guyer (*for Defendant Alvarez*)  
1202 South Alamo  
San Antonio, Texas 78210  
(210) 226-6808

Michael Lee Kidd (*for Defendant Carter*)  
22 Scott Street  
Montgomery, Alabama 36104  
(334) 834-5433

Ben Elton Bruner (*for Defendant Butler*)  
505 South Perry Street  
Montgomery, Alabama 36104  
(334) 323-4462

Benjamin Edward Schoettker (*for Defendant Mumpfield*)  
Barfoot & Schoettker LCC  
608 South Hull Street  
Montgomery, Alabama 36104  
(334) 834-3444

Jeffery Clyde Duffey (*for Defendant Watkins*)  
The Law Office of Jeffery C. Duffey

600 South McDonough Street  
Montgomery, Alabama 36104  
(334) 834-4100

Jon Carlton Taylor (*for Defendant Murry*)  
The Law Offices of J. Carlton Taylor  
Post Office Box 230783  
Montgomery, Alabama 36123-0783  
(334) 472-0500

Virginia Rose Lucci (*for Defendant Gaston*)  
505 South Perry Street  
Montgomery, Alabama 36104  
(334) 834-5700

William Rives Blanchard, Jr. (*for Defendant Lockhart*)  
Blanchard Law Offices  
505 South Perry Street  
Montgomery, Alabama 36104  
(334) 328-3422

Everett McRae Urech (*for Defendant Mack*)  
Urech & Livaudais, PC  
510 North Daleville Avenue  
Daleville, Alabama 36322  
(334) 598-4455

Joseph Peter Van Heest (*for Defendant J.R. Russell*)  
Office of Public Defender, Tuscaloosa County, Alabama  
714 Greensboro Avenue, Suite 519  
Tuscaloosa, Alabama 35401  
*Formerly solo practitioner*

Thomas Martele Goggans (*for Defendant Shelton*)  
2030 East Second Street  
Montgomery, Alabama 36106  
(334) 834-2511

7. *Boswell v. Bayrock Mortg. Corp.*, 2:11-cv-821-MEF, 2012 U.S. Dist. LEXIS 16255 (M.D. Ala. Jan. 19, 2012).

These *pro se* plaintiffs filed a suit to quiet title and asserted claims against the defendant banks for violation of the Truth In Lending Act and for fraud. This was the first of many cases in the Middle District of Alabama which related to challenges involving mortgages and the recent real estate market crash. After carefully considering the plaintiffs' complaint and defendants' motions to dismiss,

I issued a report and recommendation which recommended dismissing the claims. The District Judge adopted the report and recommendation in full.

Counsel for Defendants

Kary Bryant Wolfe (*for Defendants Bank of America and US Bank, N.A.*)  
Jones, Walker, Waechter, Poitevent, Carrere & Denegre LLP  
1819 5th Avenue North  
One Federal Place, Suite 1100  
Birmingham, Alabama 35203  
(205) 244-5200

Alan Michael Warfield (*for Defendants Bank of America and US Bank, N.A.*)  
BB&T  
200 West Second Street  
Winston-Salem, North Carolina 27101  
(800) 226-5228  
*Formerly with Jones, Walker, Waechter, Poitevent, Carrere & Denegre LLP*

Mary Colleen Beers (*for Defendants Bank of America and US Bank, N.A.*)  
Capital One  
15075 Capitol One Drive  
Richmond, Virginia 23238  
(844) 348-9137  
*Formerly with Jones, Walker, Waechter, Poitevent, Carrere & Denegre LLP*

John Thomas Bender (*for Defendant Real Time Resolution*)  
McFadden, Rouse & Bender, LLC  
718 Downtowner Boulevard  
Mobile, Alabama 36609  
(251) 342-9172  
*Formerly with McFadden, Lyon & Rouse, LLC*

8. *United States v. Smith*, 694 F. Supp. 2d 1242 (M.D. Ala. 2009)

Defendant was charged in a four-count indictment with the intent to distribute crack cocaine, possession of marijuana, and possession of a firearm in furtherance of a drug trafficking crime. The charges stemmed from two separate traffic stops which became the subject of a motion to suppress. The motion implicated both the Fourth and Fifth Amendments. It also involved searches of the person, search of the vehicle, and the constitutionality of a roadblock. After careful consideration of the motion, response, and evidence presented at a hearing, I issued a Report and Recommendation which recommended granting the motion to suppress with regard to certain statements made at the first stop and denying the motion as to the remaining issues. The District Judge adopted the motion in full. After Smith was convicted, he appealed my ruling on the motion to suppress to the Eleventh Circuit. The Eleventh Circuit affirmed my rulings on the suppression

issues, but remanded the case for unrelated sentencing issues for which I had no involvement. *See* 481 F. App'x 540 (11th Cir. 2012).

Counsel for the United States

Jerusha Tatiana Adams  
Kent B. Brunson  
Tommie Hardwick  
United States Attorney's Office, Middle District of Alabama  
131 Clayton Street  
Montgomery, Alabama 36101  
(334) 223-7280

Counsel for the Defense

Christine Freeman  
Federal Defenders for the Middle District of Alabama  
817 South Court Street  
Montgomery, Alabama 36104  
(334) 834-2099

Kevin Butler  
Federal Public Defender for the Northern District of Alabama  
505 20th Street North  
Suite 1425  
Birmingham, Alabama 35203  
(205) 208-7170  
*Formerly with Federal Defenders for the Middle District of Alabama*

Alec Karakatsanis  
Civil Rights Corps  
910 17th Street N.W., Fifth Floor  
Washington, D.C. 20006  
(202) 599-0953  
*Formerly with Federal Defenders for the Middle District of Alabama*

9. *Ellington v. Astrue*, 927 F. Supp. 2d 1257 (M.D. Ala. 2013); *Ellington v. Colvin*, 2:15-cv-479-TFM, 2016 U.S. Dist. LEXIS 109007.

These social security appeals challenged the final judgment of the Commissioner of Social Security when her child CKS was denied supplemental security income benefits from the 2009 application. In the first appeal, I determined the Administrative Law Judge (ALJ) erred as a matter of law for failure to consider the listings and failure to properly weigh the evidence. Consequently, I reversed and remanded the case for proceedings consistent with the opinion. This particular opinion was published at 927 F. Supp. 2d 1257. After remand, the Commissioner re-heard the case and the ALJ issued a new opinion again rejecting the disability claim. The case returned to the Middle District of Alabama for my appellate review

of the new determination. After a careful review of the entire record including the previous remand, I determined the decision was again in error. Considering the history of this appeal as well as CKS' other Social Security appeal which was also reversed and remanded by a different magistrate judge from the Middle District of Alabama, I determined that reversal with remand for reconsideration would be insufficient as the case had been going on for almost 10 years. The claimant deserved favorable resolution of her case. As such, I reversed and awarded benefits to the claimant.

Counsel for the Plaintiff

Quinn Eric Brock  
Walter Allen Blakeney  
Brock & Stout LLC  
807 East Lee Street  
Enterprise, Alabama 36330  
(334) 393-4357

Counsel for the Commissioner

Stephen Michael Doyle  
United States Attorney's Office, Middle District of Alabama  
131 Clayton Street  
Montgomery, Alabama 36104  
(334) 223-7280

10. *Wachovia Bank, N.A. v. L&H Invs.*, 728 F. Supp. 2d 1307 (M.D. Ala. 2010).

The plaintiff filed suit claiming the defendants defaulted on the terms of eight loan agreements. The parties consented to my jurisdiction under 28 U.S.C. § 636(c). The plaintiff filed a motion for summary judgment to which no response was filed. After a careful consideration of the motion and evidence, I granted summary judgment in part as to six of the notes at issue. With regard to the final two notes, I denied the motion without prejudice to reassert because the evidence was not clear and contradictory as to the amounts. I also granted the plaintiff's attorneys fees. After consideration of the opinion, the plaintiff corrected its deficiencies as to the remaining two notes and summary judgment was ultimately granted.

Counsel for Plaintiff

Eric Lloyd Pruitt  
William Patton Hahn  
Baker Donelson  
420 20th Street North, Suite 1400  
Birmingham, Alabama 35203  
(205) 244-3836

Counsel for Defendants



Collier Hollan Espy, Jr.  
Espy, Metcalf & Espy  
326 North Oates Street  
Dothan, AL 36303  
(334) 793-6288

d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

1. *United States v. Davis*, 2:07-cr-248-WKW, 2008 WL 1927377 (M.D. Ala. Apr. 28, 2008), *aff'd*, 598 F.3d 1259 (11th Cir. 2010), *aff'd*, 564 U.S. 229 (2011).

Counsel for the Government

Matthew W. Shepherd  
United States Attorney's Office, Northern District of Ohio  
801 West Superior Avenue, Suite 400  
Cleveland, Ohio 44113  
(216) 622-3600

*Formerly with United States Attorney's Office, Middle District of Alabama*

Counsel for the Defense

Timothy Charles Halstrom  
Timothy C. Halstrom, LLC  
Post Office Box 231196  
Montgomery, Alabama 36123  
(334) 549-3506

2. *United States v. Harris*, 1:08-cr-211-MEF, 2009 WL 1549288 (M.D. Ala. May 29, 2009).

Counsel for the United States

Jerusha Tatiana Adams  
A. Clark Morris  
Robert Randolph Neeley  
United States Attorney's Office, Middle District of Alabama  
131 Clayton Street  
Montgomery, Alabama 36101  
(334) 223-7280

Counsel for the Defense

Christine Freeman  
Federal Defenders for the Middle District of Alabama  
817 South Court Street  
Montgomery, Alabama 36104

(334) 834-2099

Kevin Butler  
Federal Public Defender for the Northern District of Alabama  
505 20th Street North  
Suite 1425  
Birmingham, Alabama 35203  
(205) 208-7170  
*Formerly with Federal Defenders for the Middle District of Alabama*

3. *Valencia v. Dep't of Interior*, 3:08-cv-69-WKW, 2008 WL 4495694 (M.D. Ala. October 7, 2008).

*Pro se* Plaintiff:

Counsel for the Defense  
James Dubois  
United States Attorney's Office, Middle District of Alabama  
131 Clayton Street  
Montgomery, Alabama 36101  
(334) 223-7280

4. *Hammonds v. Hyundai Motor Mfg. Ala.*, 2:10-cv-103-TFM, 2011 WL 2580168 (M.D. Ala. June 28, 2011).

Counsel for the Plaintiff  
Temple Trueblood  
Wiggins, Childs, Pantazis, Fisher & Goldfarb, LLC  
301 19th Street North  
Birmingham, Alabama 35203-3204  
(205) 314-0534  
*Formerly with Wiggins Childs Quinn & Pantanzis, PC*

Ann Carroll Robertson  
*Deceased*

Counsel for the Defense  
Joseph Trent Scofield  
Burr & Forman LLP  
420 North 20th Street, Suite 3400  
Birmingham, Alabama 35203  
(205) 458-5149

Brian Roberts Bostick  
Ogletree, Deakins, Nash, Smoak & Stewart  
420 North 20th Street; Suite 1900

Birmingham, Alabama 35203  
(205) 328-1900

5. *Colony Ins. Co. v. Floyd's Prof'l Tree Serv.*, 3:07-cv-1044-TFM, 2008 WL 2705123 (M.D. Ala. July 9, 2008).

Counsel for the Plaintiff

Blake Lee Oliver  
Phillip Exton Adams, Jr.  
Adams White Oliver Short & Forbus, LLP  
205 South 9th Street  
Post Office Box 2069  
Opelika, Alabama 36801  
(334) 745-6466

Counsel for the Defense

Donald Richard Harrison (*for Defendants Floyd's Professional Tree Service and Dustin Floyd*)  
*Deceased*

Bishop Derrick Blythe (*for Defendant June Brand*)  
151 Alabama Street  
Alexander City, Alabama 35010  
(256) 234-4101

6. *United States v. Smith*, 2:12-cr-48-MHT, 2013 U.S. Dist. LEXIS 74209 (M.D. Ala. Jan. 4, 2013); 2013 U.S. Dist. LEXIS 72638 (R&R), 2013 U.S. Dist. LEXIS 80279 (Supplemental R&R) (M.D. Ala. Jan. 16, 2013, May 24, 2016), *adopted by* 2013 U.S. Dist. LEXIS 79525; *aff'd*, 821 F.3d 1293 (11th Cir. 2016), *cert denied* 137 S. Ct. 690, 196 L.Ed.2d 569 (Jan. 9, 2017).

Counsel for the United States

Jerusha Adams  
United States Attorney's Office, Middle District of Alabama  
131 Clayton Street  
Montgomery, Alabama 36101  
(334) 223-7280

Patricia Ann Sumner  
U.S. Department of Justice, Office of the Inspector General  
950 Pennsylvania Avenue NW  
Washington, DC 20530  
(202) 616-4719  
*Formerly with U.S. Department of Justice, Civil Rights Division*

Counsel for the Defense

Clayton Rushing Tartt  
James Woodfin Parkman, III (*for Defendant Smith*)  
Parkman White, LLP  
1929 3rd Avenue North, Suite 700  
Birmingham, Alabama 35203  
(205) 502-2000  
*Formerly with Parkman, Adams & White, LLC*

Richard Martin Adams (*for Defendant Smith*)  
668 Preserve Way  
Hoover, Alabama 35226  
(205) 789-9530  
*Formerly with Parkman, Adams & White, LLC*

7. *Sanders v. Myrick*, 2:09-cv-771-MEF, 2013 U.S. Dist. LEXIS 69188 (M.D. Ala. Apr. 8, 2013), *adopted by* 2013 U.S. Dist. LEXIS 68938 (M.D. Ala. May 15, 2013).

Counsel for the Plaintiff  
Charles Andrew Stewart, III  
Jonathan Corley Hill  
Bradley Arant Boult Cummings LLP  
445 Dexter Avenue, Suite 9075  
Montgomery, Alabama 36104  
(334) 956-7608

Counsel for the Defense  
Stacy Lott Reed  
City Attorney's Office  
Post Office Box 1111  
Montgomery, Alabama 36101-1111  
(334) 625-2050

8. *Miles v. Dickey*, 2:09-cv-950-MHT, 2010 WL 3398993 (M.D. Ala. July 9, 2010), *adopted by* 2010 WL 3399032 (M.D. Ala. Aug. 26, 2010).

Counsel for the Plaintiff  
Charles Andrew Stewart, III  
Bradley Arant Boult Cummings  
1819 Fifth Avenue North  
Birmingham, Alabama 35203  
(205) 521-8916

Summer Austin Wells  
No current address available  
*Formerly with Bradley Arant Boult Cummings*

Counsel for the Defense

Wallace Damon Mills  
621 South Hull Street  
Montgomery, Alabama 36104  
(334) 593-8053

9. *Melton v. Nat'l Dairy Holdings*, 705 F. Supp. 2d 1303 (M.D. Ala. 2010).

Counsel for the Plaintiff

Susan Gale Donahue  
Temple Trueblood  
Wiggins Childs Quinn & Pantanzis, PC  
301 19th Street North  
Birmingham, Alabama 35203-3204  
(205) 314-0534

Ann Carroll Robertson  
*Deceased*

Counsel for the Defense

Brian Roberts Bostick (*for Defendants National Dairy Holdings, Dairy Fresh of Alabama, and National Dairy*)  
Sandra Beth Reiss  
Timothy A. Palmer  
Veronica LaShonda Merritt  
Ogletree, Deakins, Nash, Smoak & Stewart  
420 North 20th Street; Suite 1900  
One Federal Place, Suite 1000  
Birmingham, Alabama 35203  
(205) 328-1900

Sandra Beth Reiss (*for Defendants National Dairy Holdings, Dairy Fresh of Alabama, and National Dairy*)  
The Reiss Firm LLC  
Post Office Box 660121  
Birmingham, Alabama 35226  
205-637-1388

*Formerly with Ogletree, Deakins, Nash, Smoak & Stewart*  
Veronica LaShonda Merritt (*for Defendants National Dairy Holdings, Dairy Fresh of Alabama, and National Dairy*)  
No current address available  
*Formerly with Ogletree, Deakins, Nash, Smoak & Stewart*

Allison Star Kahalley (*for Defendant International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, Local Union No. 991*)

Jesse Cecil Gardner  
Mary Elizabeth Olsen  
Michael Vance McCrary  
The Gardner Firm PC  
Post Office Box 3103  
Mobile, Alabama 36652  
(251) 433-8100

10. *Ellington v. Astrue*, 927 F. Supp.2d 1257 (M.D. Ala. 2013); *Ellington v. Colvin*, 2:15-cv-479-TFM, 2016 WL 4424959 (M.D. Ala. Aug. 17, 2016).

Counsel for the Plaintiff

Quinn Eric Brock  
Walter Allen Blakeney  
Brock & Stout LLC  
807 East Lee Street  
Enterprise, Alabama 36330  
(334) 393-4357

Counsel for the Commissioner

Stephen Michael Doyle  
United States Attorney's Office, Middle District of Alabama  
131 Clayton Street  
Montgomery, Alabama 36104  
(334) 223-7280

e. Provide a list of all cases in which certiorari was requested or granted.

1. *United States v. Davis*, 2:07-cr-248-WKW, 2008 U.S. Dist. LEXIS 123469 (M.D. Ala. Apr. 10, 2008), *adopted by* 2008 U.S. Dist. LEXIS 34680 (M.D. Ala. Apr. 28, 2008), *aff'd*, 598 F.3d 1259 (11th Cir. 2010), *aff'd*, 564 U.S. 229 (2011).

2. *United States v. Smith*, 2:12-cr-48-MHT, 2013 U.S. Dist. LEXIS 74209 (M.D. Ala. May 24, 2013), 2013 U.S. Dist. LEXIS 72638 (R&R), 2013 U.S. Dist. LEXIS 80279 (Supplemental R&R) (M.D. Ala. Jan. 16, 2013, May 24, 2016), *adopted by* 2013 U.S. Dist. LEXIS 79525, *aff'd*, 821 F.3d 1293 (11th Cir. 2016), *cert. denied*, – U.S. –, 137 S. Ct. 690 (Jan. 9, 2017).

3. *Massey v. Quality Corr. Healthcare, Inc.*, 2:12-cv-101-WHA, 2015 U.S. Dist. LEXIS 24077 (M.D. Ala. Jan. 30, 2015), *adopted by* 2015 U.S. Dist. LEXIS 23203 (M.D. Ala. Feb. 26, 2015), *aff'd*, 646 F. App'x 777 (11th Cir. 2016), *cert. denied*, – U.S. –, 137 S. Ct. 137 (Oct. 3, 2016).

4. *McKeithen v. Jackson*, 3:11-cv-190-WHA, 2013 U.S. Dist. LEXIS 182436 (M.D. Ala. Dec. 5, 2013), *adopted by* 2014 U.S. Dist. LEXIS 729 (M.D. Ala. Jan. 6, 2014), *aff'd*, 606 F. App'x 937 (11th Cir. 2015), *cert. denied*, – U.S. –, 136 S.

Ct. 802 (Jan. 11, 2016).

5. *United States v. Teers*, 2:12-cr-104-MHT, 2012 U.S. Dist. LEXIS 177824 (M.D. Ala. Dec. 17, 2012), *adopted by* 2013 U.S. Dist. LEXIS 57648 (M.D. Ala. Apr. 23, 2013), *aff'd*, 591 F. App'x 824 (11th Cir. 2014), *cert. denied*, – U.S. –, 135 S. Ct. 1465 (Feb. 23, 2015).

6. *Franklin v. Arbor Station*, 2:11-cv-294-MEF, 2012 U.S. Dist. LEXIS 185482 (M.D. Ala. Dec. 5, 2012), *adopted by* 2013 U.S. Dist. LEXIS 12910 (M.D. Ala. Jan. 31, 2013), *aff'd*, 549 F. App'x. 831 (11th Cir. 2013), *cert. denied*, – U.S. –, 134 S. Ct. 2884 (Jun. 30, 2014).

7. *Smitherman v. United States*, 2:10-cv-894-MEF, 2011 U.S. Dist. LEXIS 96161 (M.D. Ala. Aug. 1, 2011), *adopted by* 2011 U.S. Dist. LEXIS 92049 (M.D. Ala. Aug. 17, 2011), *aff'd on other grounds*, 463 F. App'x 893 (11th Cir. 2012), *cert. denied*, 568 U.S. 984, 133 S. Ct. 535 (2012).

8. *United States v. Rendon*, 2:09-cr-48-WHA, 2009 WL 3052277 (M.D. Ala. Sep. 21, 2009), 2010 WL 3879542 (M.D. Ala. Sep. 1, 2010), *adopted by* 2010 WL 3842621 (M.D. Ala. Sep. 28, 2010), *aff'd*, 462 F. App'x 923 (11th Cir. 2012), *cert. denied*, 568 U.S. 920, 133 S. Ct. 369 (2012).

9. *Spencer v. Riley*, 2:09-cv-1089-MEF, 2012 U.S. Dist. LEXIS 99217 (M.D. Ala. Jun. 4, 2012), *adopted by* 2012 U.S. Dist. LEXIS 95571 (M.D. Ala. Jul 11, 2012), *aff'd* 524 F. App'x 498 (11th Cir. 2013), *cert. denied*, 568 U.S. 869 (Oct. 1, 2012).

10. *United States v. Owuor*, 2:08-cr-149-WKW, 2009 WL 1439361 (M.D. Ala. May 20, 2009) and 2009 WL 3157252 (M.D. Ala. Sep. 28, 2009), *aff'd*, 397 F. App'x. 572 (11th Cir. 2010), *cert. denied*, 562 U.S. 1239 (2011).

11. *Cutts v. Jones*, 1:06-cv-256-MHT, 2008 U.S. Dist. LEXIS 124275 (M.D. Ala. Dec. 18, 2008), *adopted by* 2009 U.S. Dist. LEXIS 7150 (M.D. Ala. Jan. 30, 2009), *aff'd*, 09-10779 (11th Cir. Apr. 23, 2009), *cert. denied*, 558 U.S. 1053 (2009).

12. *Walker v. Culliver*, 3:07-cv-62-WHA, 2008 U.S. Dist. LEXIS 125818 (M.D. Ala. Nov. 3, 2008), *adopted by* 2008 U.S. Dist. LEXIS 95014 (M.D. Ala. Nov. 21, 2008), *aff'd*, 08-16863 (11th Cir. Feb. 24, 2009), *cert. denied*, 557 U.S. 924 (2009).

13. *Upshaw v. Mitchem*, 2:04-cv-1125-WKW (M.D. Ala. May 24, 2007), *adopted by* 2007 WL 1992083 (M.D. Ala. Jul. 5, 2007), *aff'd*, 07-13616 (11th Cir. Oct. 25, 2007), *cert. denied*, 552 U.S. 1245 (2008).

f. Provide a brief summary of and citations for all of your opinions where your

decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

1. *Iacullo v. United States*, 2:10-cv-589-TMH, 2014 WL 2861427 (M.D. Ala. June 24, 2014), *rev'd*, 657 F. App'x 916 (11th Cir. 2016).

In this case, the *pro se* plaintiff was an inmate who sued the United States under the Federal Tort Claims Act (FTCA) alleging inadequate dental care. I initially entered a Report and Recommendation denying the United States' motion for summary judgment. After the United States objected, I reviewed the objections, reconsidered, and issued a new report and recommendation which would grant the motion for summary judgment for qualified immunity. The district judge reviewed the second Report and Recommendation and adopted it in full. On appeal, the Eleventh Circuit determined that my first Report and Recommendation was correct and summary judgment should be denied due to material facts at issue and remanded the case.

2. *Thomason v. One West Bank, FSB*, 2:12-cv-604-MHT, 2013 WL 1311096 (M.D. Ala. Sep. 5, 2012 & Feb. 22, 2013), *aff'd in part, vacated in part, and remanded* by 596 F. App'x 736 (11th Cir. 2014).

This action arises from the plaintiff's attempt to modify the terms of a loan which were secured by two mortgages signed by the plaintiff's wife on the home where they resided. After his wife's death, the loan fell into default and was referred to foreclosure. Initially, the plaintiff brought suit under the provisions of the Emergency Economic Stabilization Act (EESA), 12 U.S.C. § 5201 (specifically the Home Affordable Modification Act (HAMP), and the Home Affordable Foreclosure Alternatives Program (HAFA)), and the Real Estate Settlement Procedures Act (RESPA), 12 U.S.C. § 2601. Based on the original complaint, I issued a Report and Recommendation which recommended dismissal of the action on the basis that there was no private right of action available under HAMP or HAFA and that the plaintiff failed to allege facts sufficient under RESPA to state a claim. The plaintiff filed his objections along with a motion to amend his complaint. After considering the plaintiff's objections and the proposed amendment, by supplemental recommendation I recommended the motions to amend be denied as moot because they claimed no additional claims. These recommendations were adopted by the district court and the plaintiff appealed to the Eleventh Circuit. The Eleventh Circuit affirmed dismissal of the plaintiff's HAMP and HAFA claims based on my conclusion that there is no private right of action available under either statute. However, the Eleventh Circuit concluded that the plaintiff should have been given the opportunity to amend as his proposed amendment seemingly stated a claim for relief under RESPA. Thus, the Eleventh Circuit remanded the case to address the RESPA claim along with any other claims the plaintiff newly raised.



3. *Smitherman v. United States*, 2:10-cv-894-MEF, 2011 WL 3665004 (M.D. Ala. Aug. 1, 2011), *aff'd on other grounds*, 463 F. App'x 893 (11th Cir. 2012).

The plaintiff brought a Federal Tort Claims Act (FTCA) action against the United States as administratrix of her daughter's estate alleging her daughter developed cancer after medical personnel gave her sodium fluoride supplements. I recommended that the claims brought on behalf of the estate be dismissed without prejudice because an estate cannot proceed *pro se*. The District Judge subsequently adopted my recommendation. The Eleventh Circuit ultimately determined the case warranted dismissal, but for a different basis. Specifically, the Court concluded that the United States had not waived its sovereign immunity. As such, the case was reversed and remanded with instructions to dismiss the case with prejudice for lack of jurisdiction.

4. *Mitchell v. Middlebrooks*, 2:05-cv-373-MHT, 2007 WL 2815029 (M.D. Ala. Sept. 26, 2007), *rev'd*, 287 F. App'x 772 (11th Cir. 2008).

The District Court adopted my Report and Recommendation which found that the petitioner's 28 U.S.C. § 1441 petition was moot because he had been released from custody. However, at the time of the resolution of the case, petitioner was still serving a period of supervised release, which imposed restrictions on his liberty. Therefore, it was possible a court could reduce the term of supervision; and thus, the case was not moot. Without expressing any opinion on the merits, the Eleventh Circuit remanded the case for further proceedings consistent with the opinion.

5. *United States v. Lee*, 2:04-cv-1110-MEF, (M.D. Ala. Jun. 8, 2007), *rev'd on other grounds*, 265 F. App'x 763 (11th Cir. 2008).

This case is technically not a reversal of a case I handled and the issue was not one raised or addressed in my civil case, but rather relates to an issue raised in the original criminal case. Because of the connection between the two cases, I disclose it out of an abundance of caution. My case (2:04-cr-1110-MEF) was a 28 U.S.C § 2255 petition to vacate a sentence imposed in a criminal case before the same district judge and different magistrate judge (2:03-cr-67-MEF). In the § 2255 case, I entered a Report and Recommendation which recommended vacating the previously imposed criminal sentence to correct procedural deficiencies, but that the same sentence/judgment could be imposed by the District Court. In the criminal appeal, the Eleventh Circuit determined that the district court should have excluded Lee's 1977 youthful offender adjudication from consideration of whether Lee qualified as an armed career criminal under the ACCA. The criminal case was reversed for resentencing. That particular issue was never raised in the civil case or otherwise brought before me to address.

6. *Womack v. United States*, 2:08-cv-534-WKW, 2009 U.S. Dist. LEXIS 73170 (M.D. Ala. Feb. 13, 2009), *adopted in part and rejected in part* by 2009 U.S.

Dist. LEXIS 70997 (M.D. Ala. Aug. 12, 2009).

In this case, the District Court adopted the majority of my Report and Recommendation, but reached a different conclusion regarding the dismissal of the Plaintiff's Federal Torts Claims Act (FTCA). The District Court determined that dismissal may be premature because discovery had not yet been conducted regarding the contractual status of the doctor whose alleged actions gave rise to the tort claims. After the District Court issued its Opinion, the United States filed a motion for reconsideration urging adoption of my Report and Recommendation. The reconsideration request was denied. After a short discovery period, the United States filed a motion for summary judgment which again raised its defense of sovereign immunity. I assured another Report and Recommendation wherein I determined dismissal and summary judgment were appropriate. The District Judge adopted the Report and Recommendation in full now that discovery had conclusively established the applicability of sovereign immunity.

7. *Cobb v. Alabama*, 2:10-cv-502-MHT, 2011 U.S. Dist. LEXIS 93286 (M.D. Ala. Mar. 22, 2010), *adopted in part and rejected in part* by 2011 U.S. Dist. LEXIS 93904 (M.D. Ala. Aug. 22, 2010).

In this case, the District Court adopted the majority of my Report and Recommendation, but reached a different conclusion regarding the applicability of sovereign immunity for the prospective and injunctive relief and the claim for liquidated damages against the State of Alabama. Those claims proceeded until an additional motion to dismiss and motion for summary judgment were later filed. Ultimately, the District Court adopted my recommendation wherein the claims were later dismissed under the different summary judgment standard.

8. *Davis v. Smitherman*, 2:14-cv-986-WKW, 2015 U.S. Dist. LEXIS 146073 (M.D. Ala. Oct. 8, 2015), *adopted in part and rejected in part* by 2015 U.S. Dist. LEXIS 145858 (M.D. Ala. Oct. 28, 2015).

In this case, the District Court adopted a portion of my Report and Recommendation including the primary basis for dismissal under Fed. R. Civ. P. 37. However, the District Court disagreed with a secondary theory of dismissal and judgment on the pleadings for *res judicata* and rejected that portion of the analysis. However, given the adoption of the primary basis for dismissal, the case result was still the same.

9. *Stevens v. Sun Life and Health*, 3:16-cv-76-WKW, 2016 U.S. Dist. LEXIS 98354 (M.D. Ala. Jul. 26, 2016), *adopted in part and rejected in part* by 2017 U.S. Dist. LEXIS 31734 (M.D. Ala. Mar. 7, 2017).

This case was brought pursuant to the Employment Retirement Income Security Act (ERISA), 29 U.S.C. § 1001. Defendant filed an early motion for summary judgment relating to a denial of benefits. The District Court adopted the

recommendation as it pertained to the denial of Defendant's motion for summary judgment, but reached a different conclusion regarding the assessment that Plaintiff did not exhaust her administrative remedies on her long-term disability claims. The end determination was still the same which included denial of Defendant's motion for summary judgment.

- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

According to a report run through CM-ECF on September 5, 2017, I have written approximately 2373 opinions/reports and recommendations since becoming a United States Magistrate Judge on January 3, 2007. Of the opinions and reports and recommendations I have written as a magistrate judge, 1312 (55%) appear on Westlaw and 1635 (68%) on LexisNexis legal databases. All published and unpublished opinions are docketed by the Middle District of Alabama Clerk's Office and are available to the public (unless sealed) *via* CM-ECF and/or PACER at [www.almd.uscourts.gov](http://www.almd.uscourts.gov).

- h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

1. *United States v. Smith*, 2:12-cr-48-MHT, 2013 U.S. Dist. LEXIS 74209 (M.D. Ala. May 24, 2013), 2013 U.S. Dist. LEXIS 72638 (R&R), 2013 U.S. Dist. LEXIS 80279 (Supplemental R&R) (M.D. Ala. Jan. 16, 2013, May 24, 2016), *adopted by* 2013 U.S. Dist. LEXIS 79525, *aff'd*, 821 F.3d 1293 (11th Cir. 2016), *cert. denied*, – U.S. –, 137 S. Ct. 690 (Jan. 9, 2017).

2. *United States v. Harris*, 1:08-cr-211-MEF, 2009 WL 1549288 (M.D. Ala. May 29, 2009).

3. *United States v. Davis*, 2:07-cr-248-WKW, 2008 WL 1927377 (M.D. Ala. Apr. 28, 2008), *aff'd*, 598 F.3d 1259 (11th Cir. 2010), *aff'd*, 564 U.S. 229 (2011).

- i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

I have not sat by designation on a federal court of appeals.

- 14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict

of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;
- b. a brief description of the asserted conflict of interest or other ground for recusal;
- c. the procedure you followed in determining whether or not to recuse yourself;
- d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

As a United States Magistrate Judge, I follow the federal recusal statutes and Code of Conduct for United States Judges. I assess recusal concerns in accordance with 28 U.S.C. § 455. Whether specifically addressed by the Code of Conduct for United States Judges, the recusal statutes, or solely based on my interest in maintaining impartiality or the appearance of impartiality, I would disclose any potential conflicts and recuse myself as appropriate.

Our Clerk of Court has an automatic recusal list for me which involves two individuals and no financial matters. Specifically, I recuse myself from any criminal matters in which my son (an officer for the Montgomery Police Department) is involved. The Middle District of Alabama uses a monthly rotation for criminal duty on search warrants and other similar authorizations. When I am on criminal duty, the United States Attorney's Office for the Middle District of Alabama attempts to screen those cases involving my son prior to contacting my office for scheduling a criminal matter. Additionally, my lead law clerk runs a conflict check on the criminal matters prior to scheduling the appointment.

I evaluate each case assigned to me when reviewing the corporate/conflict disclosure statements filed by the parties in civil cases. Beyond the automatic recusal process managed by the Clerk's office, I recused myself once. In *United States v. A.N. Adams*, Crim. Act. No. 2:15-cr-411-LSC (M.D. Ala.), I recused myself because the defendant was a childhood friend of my daughter. I had not seen the defendant since she was perhaps 10 years old and recused myself once I saw her in court and recognized that she was my former neighbor and a childhood friend of my daughter. I would have recused myself prior to her first appearance in court but did not make the connection that she was a former neighbor as I knew the defendant by her middle name and her middle and last names are common names which are likely shared by a number of persons.

I can only recall a few instances where a party requested my recusal and each of those instances involved a *pro se* litigant who did not like a ruling made in his or her case. I did not recuse myself in those instances. The Court has no method to track those requests,

but I always applied the federal recusal statutes and Code of Conduct for United States Judges.

**15. Public Office, Political Activities and Affiliations:**

- a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

I have not been a candidate for any elected or appointed non-judicial office.

- b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

April 1982 – September 1982, Joe C. McCorquodale for Governor. I served as a paid campaign aide responsible for recruiting and coordinating volunteers. The campaign ran third in the primary and failed to qualify for the runoff.

April 1986 – July 1986, Don Siegelman for Attorney General. I served as a paid campaign aide responsible for recruiting and coordinating volunteers, assisting in the daily management of the state campaign headquarters, researching for candidate speeches, and distributing campaign literature. The campaign was successful and won the primary without a runoff.

**16. Legal Career:** Answer each part separately.

- a. Describe chronologically your law practice and legal experience after graduation from law school including:

- i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I did not serve as a clerk to a judge after graduation from law school.

- ii. whether you practiced alone, and if so, the addresses and dates;

I have not practiced law alone.

- iii. the dates, names, and addresses of law firms or offices, companies, or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1986 – 1990  
Army Aviation Center OSJA  
Ft. Rucker, Alabama 36362  
Judge Advocate

1990 – 2007  
United States Attorney's Office for the Middle District of Alabama  
131 Clayton Street  
Montgomery, Alabama 36104  
Assistant United States Attorney

1990 – 2014  
Alabama National Guard OSJA  
Congressman Dickinson Drive  
Montgomery, Alabama 36109  
Military Judge (2005 – 2014)  
Judge Advocate (1990 – 2005)

- iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have not served as a private mediator or arbitrator.

b. Describe:

- i. the general character of your law practice and indicate by date when its character has changed over the years.

Immediately following law school in 1986, I joined the United States Army as a Judge Advocate. In that position, my practice was wide and varied. I served Trial Counsel for the Commander of the Aviation Training Brigade wherein I represented the command in administrative elimination boards, non-judicial punishments, and courts-martial. I also served as Chief of Legal Assistance, Chief of Administrative Law, and Chief of Claims. In Legal Assistance, I was responsible for providing legal assistance to members of the armed forces and their dependents which spanned estate planning, tax preparation, domestic relations, and real estate. As Chief of Administrative Law, I ensured all installation activities complied with federal and state administrative regulations, coordinated with regulatory agencies, and assisted with labor law issues before the Merit Systems Protections Board. Finally, as Chief of claims, I represented Lyster Army Hospital in medical malpractice claims and was legal counsel to the Army Aviation Research Laboratory.

I began serving as an Assistant United States Attorney in 1990 and continued until December 2006. I handled a broad array of federal criminal matters, including narcotics, financial fraud, firearms, immigration money laundering, counterfeiting, racketeering, gang cases, and child pornography. I was involved from the investigative phase through indictment, pretrial, plea negotiations, trial, and appeals. Starting in 2001, I was the lead OCDETF Task Force Attorney.

From 1990 to 2014, I represented the Alabama Army National Guard in legal matters that included military justice, contracts, fiscal law, claims, and administrative law. In December 2005, I became a military judge wherein I handled matters arising under the Uniform Code of Military Justice and also spearheaded the establishment of a new Alabama Code of Military Justice.

As the command judge advocate, I directly advised the forward deployed commanders regarding various matters including sorting and classifying regime incarcerated Iraqis (POWs, recognized criminals, and political prisoners), restarting the Iraqi legal system, and UCMJ violations. I also provided legal assistance to deployed military members and supervised deployed JAGs.

- ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized. My client in practice has always been the United States or a person affiliated with the United States such as military members or military dependents. The Alabama Bar Association does not allow attorneys to specialize.

As a judge advocate from 1986 to 1990 (active duty) and 1990 to 2005 (National Guard), my clients were service-members and their dependents. This included a vast array of legal issues. From 1990 to 2006, I represented the United States, its departments, and agencies in criminal litigation.

- c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

The majority of my practice was spent in criminal litigation and I appeared in court frequently. The frequency of my appearances remained constant from 1990 until I became a U.S. magistrate judge and excepting my year-long deployment to Kuwait/Iraq.

- i. Indicate the percentage of your practice in:
  - 1. federal courts: 95%
  - 2. state courts of record: 0%

- 3. other courts: 3%
- 4. administrative agencies: 2%

ii. Indicate the percentage of your practice in:

- 1. civil proceedings: 1%
- 2. criminal proceedings: 99%

State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I tried approximately 200 cases to verdict (almost all in federal court).

i. What percentage of these trials were:

- 1. jury: 95%
- 2. non-jury: 5%

- d. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have not practiced before the Supreme Court of the United States

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- a. the date of representation;
- b. the name of the court and the name of the judge or judges before whom the case was litigated; and
- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

- 1. *United States v. PHE*, 2:93-cr-329-ID (M.D. Ala. 1993).

I represented the United States as lead counsel. At the time, PHE was one of the largest pornography distributors in the United States. PHE began operations in the Middle District of Alabama by sending unsolicited pornographic brochures to various persons including juveniles. After a number of complaints were filed, I directed an investigation which culminated in an indictment against PHE and



others. I personally met with then-Attorney General Janet Reno to discuss developments in the litigation. PHE plead guilty, paid a \$250,000 fine and voluntarily ceased business operations in Alabama.

Dates of representation: 1992 – 1993

Presiding Judge: Hon. Ira DeMent

Co-Counsel

J. Robert Flores  
Gammon & Grange  
8280 Greensboro Drive, Suite 140  
McLean, Virginia 2210

Defense Counsel

George Beck  
Morris, Haynes, Wheelles, Knowles & Nelson, Attorneys At Law  
131 Main Street  
PO Box 1660  
Alexander City, Alabama 35011  
(256) 329-2000

2. *United States v. Williams*, 2:97-cr-46-CSC (M.D. Ala. 1997).

I represented the United States as the sole counsel in this matter involving the defendant's failure to pay court ordered restitution for at least ten years to his child. Mr. Williams was a resident of another state and his child lived in the Middle District of Alabama. The case was significant because it was one of the first cases in the Middle District of Alabama and the nation under what was then a new federal law which was later subjected to heavy constitutional attacks. The case survived constitutional review and culminated in a guilty plea with the payment of \$73,000.00 in restitution to the victim.

Date of representation: 1997

Presiding Judge: Hon. Charles S. Coody.

Defense Counsel

Christine Freeman  
Federal Defenders for the Middle District of Alabama  
817 South Court Street  
Montgomery, AL 36104  
(334) 834-2099

3. *United States v. Martin*, 2:97-cr-213-WHA (M.D. Ala. 1998).

I represented the United States as lead counsel in case involving an international drug smuggling operation which operated between the British Virgin Islands, the United States Virgin Islands, the Middle District of Alabama, Charlotte, North Carolina and the Southern District of Georgia. The coordinated, multi-district prosecution targeted 15 defendants in the Middle District of Alabama who either pled guilty or were convicted after trial. Ultimately the operation seized more than 1,000 kilograms of cocaine after a firefight in the British Virgin Islands. Within the United States the operation seized more than 100 kilograms of cocaine and approximately \$1,000,000 in cash and property.

Date of representation: 1991

Presiding Judge: Hon. W. Harold Albritton

Defense Counsel

Terry Russell Smyly (*for Defendant Deane Martin*)  
2038 Lebron Avenue  
Montgomery, Alabama 36106  
(334) 462-6938

Randy Bruce Maddox (*for Defendants Elmer James, Jr, Jamalia Ross, and Aileen Ross*)  
Law Offices of Randy Bruce Maddox  
6728 Taylor Court  
Montgomery, Alabama 36117  
(334) 244-7333

David Bryson Byrne, Jr. (*for Defendants Ruchel Daniel and Mayra Daniel*)  
600 Dexter Avenue; Room NB-05  
Montgomery, Alabama 36130  
(334) 242-7120

David Bryson Byrne, III (*for Defendant Cleavon Edney*)  
Beasley, Allen, Crow, Methvin, Portis & Miles, P.C.  
Post Office Box 4160  
Montgomery, Alabama 36103  
(800) 898-2034

Ronald Wayne Wise (*for Defendant Gholam Hossein Gholami*)  
500 Interstate Park Drive, Suite 520  
Montgomery, Alabama 36109  
(334) 260-0003

Paul Roy Cooper (*for Defendant Terrance Martin, Jr.*)  
Cooper & Cooper  
312 Scott Street

Montgomery, Alabama 36104  
(334) 262-4887

Barbara Jean Wells (*for Defendant Wonder Meryl*)  
Capell & Howard, P.C.  
150 South Perry Street  
Montgomery, Alabama 36104  
(334) 241-8016

Kimberly Owen Fehl (*for Defendant Wentworth Kirby*)  
Montgomery City Attorney  
Post Office Box 1111  
Montgomery, Alabama 36101  
(334) 625-2050

Sydney Albert Smith (*for Defendant Reinaldo Velasquez*)  
3987 County Road 364  
Elba, Alabama 36323  
(334) 897-3256

Joseph Peter Van Heest (*for Defendant Arthur Raymo III*)  
Public Defender for Tuscaloosa County  
714 Greensboro Avenue, Suite 519  
Tuscaloosa, Alabama 35401  
(205) 345-8200

Robert F. Powers (*for Defendant Barbara King*)  
*Deceased*

Michael A. Joseph (*for Defendant Vernon Vegas*)  
Apothecary Hall, Upper Courtyard  
6A Company Street  
Christiansted, St. Croix U.S. Virgin Islands 00820  
(340) 773-9650

Roianne Houlton Conner (*for Defendant Michael Delongchamp*)  
The Law Offices of Roianne Houlton Conner  
Post Office Box 240458  
Montgomery, Alabama 36124  
(334) 215-1988

William Rives Blanchard, Jr. (*for Defendant Christina Perez*)  
Blanchard Law Offices  
505 South Perry Street  
Montgomery, Alabama 36104  
(334) 328-3422

Kyla Groff Kelim (*for Defendant Eddie Felix*)  
Post Office Box 109  
Fairhope, Alabama 36533  
(251) 281-8120

4. *United States v. Oliver*, 2:91-cr-73-WHA (M.D. Ala. 1991).

I represented the United States as co-counsel in this matter involving a crack cocaine distribution ring and crack house run by Edna Oliver and her children in Luverne, Alabama. One of the crack house customers bludgeoned an elderly woman to death with her cane so that he could steal the proceeds from the victim's social security check she cashed earlier that day. Immediately after the robbery, he took the money to the Oliver crack house in Luverne and bought more crack. A jury convicted all four defendants.

Date of representation: 1991

Presiding Judge: Hon. W. Harold Albritton

Co-Counsel

Louis V. Franklin, Sr.  
U.S. Attorney's Office, Middle District of Alabama  
Post Office Box 197  
Montgomery, Alabama 36101  
(334) 223-7280

Defense Counsel

Julian Lenwood McPhillips, Jr. (*for Defendant Johnnie Oliver*)  
McPhillips Shinbaum, LLP  
516 South Perry Street  
Montgomery, Alabama 36104  
(334) 262-1911

Robert Mitchell Alton, III  
Alabama Department of Transportation  
Legal Bureau  
1409 Coliseum Boulevard, Room 147  
Montgomery, Alabama 36110  
(334) 242-6350

Margaret Johnson McNeill (*for Defendant Edna Oliver*)  
Alabama Department of Revenue  
Legal Division  
Post Office Box 320001  
Montgomery, Alabama 36132  
(334) 242-9690

Robert F. Powers (*for Defendant Anthony Oliver*)  
*Deceased*

Fred White Tyson (*for Defendant Eddie Oliver*)  
Rushton, Stakely, Johnston & Garrett PA  
Post Office Box 270  
Montgomery, Alabama 36101  
(334) 206-3265

Jennifer Lee Lunt  
No current address available  
*Formerly with Jennifer L. Lunt, Attorney at Law*

5. *United States v. Carmichael*, 2:03-cr-259-MHT (M.D. Ala. 2006).

I represented the United States as co-counsel in this matter. The defendant was a prominent person in the Montgomery community masquerading as a legitimate businessman who owned the Carmichael Center – a large entertainment venue. Investigative leads from as far back as 1993 indicated Carmichael was a large drug distributor in the Middle District of Alabama and elsewhere. A seizure of narcotics lead to the return of indictment and the successful prosecution of Carmichael and forfeiture of his assets including the Carmichael Center. The investigation also revealed that Carmichael had an associate shot in the head because he thought the associate was an informant. The associate survived the gunshot and ultimately testified at trial.

Date of representation: 2006

Presiding Judge: Hon. Myron Thompson

Co-Counsel

A. Clark Morris  
U.S. Attorney's Office, Middle District of Alabama  
Post Office Box 197  
Montgomery, Alabama 36101  
(334) 223-7280

Steve Faega  
Alabama Securities Commission  
401 Adams Avenue, Suite 280  
Montgomery, Alabama 36104  
(334) 242-2984  
*Formerly with U.S. Attorney's Office, Middle District of Alabama*

Defense Counsel

Ronald Wayne Wise (*for Defendant Leon Carmichael, Sr.*)

500 Interstate Park Drive, Suite 520  
Montgomery, Alabama 36109  
(334) 260-0003

Barry Elvin Teague (*for Defendant Freddie Williams*)  
*Deceased*

6. *United States v. Cowart*, 1:00-cr-81-WHA (M.D. Ala. 2000).

I represented the United States as the sole counsel in this matter. Cowart was a Lieutenant Colonel in the Army who was receiving kickbacks from various contracts he made in his military capacity. Cowart ultimately pled guilty.

Date of representation: 2000

Presiding Judge: Hon. W. Harold Albritton

Defense Counsel

Richard Glynn Poff, Jr.  
205 North 20th Street Suite 310  
Birmingham Alabama 35203  
(205) 322-7050

7. *United States v. Middlebrooks*, 1:97-cr-76-CSC (M.D. Ala. 1997).

I represented the United States as sole counsel in this matter involving seven defendants in a drug conspiracy case. Middlebrooks was a veterinarian who used his license to divert anabolic steroids for distribution. The case was significant because of the abuse of his veterinary license to serve. To the best of my recollection, several defendants pled guilty and the remaining were convicted by a jury.

Date of representation: 1997

Presiding Judge: Hon. Myron Thompson.

Defense Counsel

Richard Kelly Keith (*for Defendants Gregg Warr and Jon Johnston*)  
560 South McDonough Street, Suite D  
Montgomery, Alabama 36104  
(334) 264-6776

William H. Robertson (*for Defendant Gregg Warr*)  
*Deceased*

Timothy Charles Halstrom (*for Defendant James Middlebrooks*)

Timothy C. Halstrom, LLC  
Post Office Box 231196  
Montgomery, Alabama 36123  
(334) 549-3506

Daniel Gary Hamm (*for Defendant Walter Edson*)  
*Deceased*

Joseph Peter Van Heest (*for Defendant Mark Childs*)  
Office of Public Defender, Tuscaloosa County, Alabama  
714 Greensboro Avenue, Suite 519  
Tuscaloosa, Alabama 35401  
*Formerly solo practitioner*

Robert F. Powers (*for Defendant Michael Childs*)  
*Deceased*

Terry Russell Smyly (*for Defendant Michael Childs*)  
2038 Lebron Avenue  
Montgomery, Alabama 36106  
(334) 462-6938

Ben Elton Bruner (*for Defendant Robert Beasley*)  
505 South Perry Street  
Montgomery, Alabama 36104  
(334) 323-4463

8. *United States v. Baker*, 3:91-cr-82-REV (M.D. Ala. 1991).

I represented the United States as sole counsel in this matter. The defendant was a patient at the Veteran's Affairs Medical Center in Tuskegee, Alabama and while there he killed another patient by kicking the victim multiple times thereby breaking the ribs which punctured the lungs and spleen. As a result of the injuries, the victim died. The jury found Defendant guilty of murder in the second degree.

Date of representation: 1991

Presiding Judge: Hon. Robert E. Varner.

Defense Counsel  
Robert T. Meadows, III  
Capell & Howard, P.C.  
Post Office Box 1857  
Opelika, Alabama 36803

9. *United States v. Payne*, 2:98-cr-110-HDV (M.D. Ala. 1998).

I represented the United States as co-counsel in this 1998 case. This case involved two defendants where were part of a family of violent narcotics dealers. One defendant (Drayton) threatened to kill the DEA Agent who arrested his sibling and secured a lengthy sentence against Drayton's brother. The case resulted in a guilty plea by one defendant and a guilty verdict by the jury as to the other defendant.

Date of representation: 1998

Presiding Judge: Hon. Harold D. Vietor

Co-Counsel

Louis V. Franklin Sr.  
U.S. Attorney's Office, Middle District of Alabama  
Post Office Box 197  
Montgomery, Alabama 36101  
(334) 223-7280

Defense Counsel

Kyla Groff Kelim (*for Defendant Charles Payne, Jr.*)  
Post Office Box 109  
Fairhope, Alabama 36533  
(251) 281-8120

William Rives Blanchard, Jr.  
Blanchard Law Offices  
505 South Perry Street  
Montgomery, Alabama 36104  
(334) 328-3422

10. *United States v. Robinson*, 3:92-cr-66 (M.D. Ala. 1993).

I represented the United States as sole counsel in this matter. Robinson was a marijuana grower who had an extensive indoor growing operation. In building the case against Robinson the Agents used a Forward Looking Infrared Radar (FLIR) thermal imaging examination. At the time, a FLIR was a relatively new piece of technology for law enforcement to utilize. I successfully argued the denial of a motion to suppress based on the use of the FLIR. After the denial of his suppression motion, Robinson pled guilty and received 130 months of imprisonment. Robinson appealed the denial of his motion to suppress and the use of the FLIR to the Eleventh Circuit Court of Appeals. The case was affirmed on appeal at *United States v. Robinson*, 62 F.3d 1325 (11th Cir. 1995).

Date of representation: 1993



Presiding Judge: Hon. Truman M. Hobbs.

Defense Counsel

Habib Yazdi

Mobile Divorce Law Firm

501 Church Street

Mobile, Alabama 36602

(251) 438-7800

18. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

All Rise Reentry Court

One of the most rewarding experiences I engage in as a United States Magistrate Judge is my participation in the All Rise Reentry Court program sponsored by the Middle District of Alabama. The Reentry Court assists high risk offenders who have been recently released from imprisonment in their adjustment to a free world environment and becoming productive members of society. My role is to work with the assigned Probation Officer to jointly assess the needs of each prospective member and participant to reduce recidivism. The Reentry Court draws from community resources such as the local chapter of the Federal Bar Association to provide small tangible incentives for the participants. Additionally, Reentry Court is part of a scientific study to evaluate the effectiveness of the program on the rate of recidivism. Graduates of the one-year program reduce their term of supervision by one year. Ultimately, it is the court's effort to bridge the gap between recently released prisoners and their return to the community.

Alabama Code of Military Justice Committee

In late 2009, I initiated a committee to draft a new military code for the State of Alabama. The existing military code was antiquated as it was drafted in the early-mid 1950s and inadequate to address the needs of an operational state military force in today's world. I assembled a broad-spectrum team of stakeholders to ensure the ultimate product, a new Alabama Code of Military Justice, had balance and was fair.

Assistant United States Attorney

As an Assistant United States Attorney and the lead OCDETF attorney, I was responsible for coordinating the investigation and prosecution of major narcotics trafficking cases within the Middle District of Alabama. I have also worked on complex criminal cases involving money laundering, murder, bank robbery, counterfeiting, and

child pornography.

I have never been a lobbyist.

19. **Teaching:** What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

None

20. **Deferred Income/Future Benefits:** List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

The only future benefits I expect to receive are from my federal retirement plan and my military retirement.

21. **Outside Commitments During Court Service:** Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

I do not have any plans, commitments, or agreements to pursue outside employment if confirmed.

22. **Sources of Income:** List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding \$500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

See attached Financial Disclosure Report.

23. **Statement of Net Worth:** Please complete the attached financial net worth statement in detail (add schedules as called for).

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you

would address any such conflict if it were to arise.

As a United States Magistrate Judge, I follow the federal recusal statutes and Code of Conduct for United States Judges. I assess recusal concerns in accordance with 28 U.S.C. § 455. Whether specifically addressed by the Code of Conduct for United States Judges, the recusal statutes, or solely my interest in maintaining impartiality or the appearance of impartiality, I would disclose any potential conflicts and recuse myself as appropriate.

My oldest son was a police officer with the Montgomery Police Department. I recused myself from any criminal or civil case when he was identified as a party or witness. The Clerk of Court has this conflict registered in the declared list of conflicts. I would also address any such conflict by working the local prosecutors and defense counsel should the issue arise to ensure I am not assigned to the case or should the conflict later arise, recuse myself.

I also recuse myself from cases involving a local attorney who served as my deputy staff judge advocate during my deployment to Kuwait and Iraq. The Clerk of Court has this conflict registered in the declared list of conflicts

I have no known financial conflicts.

- b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

If confirmed, I will carefully review and real or potential conflicts by reference to 28 U.S.C. § 455, Cannon 3 of the Code of Conduct of United States Judges, and any other laws, rules, and practices governing such circumstances.

25. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

Throughout most of my legal career (as a federal prosecutor and magistrate judge), I have been prohibited by law or significantly limited in my ability to engage in the practice of law outside government service. However, through my service as a Judge Advocate in the Alabama National Guard, I have been able to assist numerous service members and their families with legal issues, not merely as a duty of employment, but also through contact with those members because of my service.

*Minority Prelaw Conference.* Each year, the Capitol City Bar Association and the Alabama Bar Association sponsor a one-day workshop to encourage local area school children to consider the legal profession as a career choice. The workshop consists of Question-and-Answer sessions, a mock trial, and a luncheon where the students dine with

an attorney and/or judge to engage in table discussions about the law and legal profession. For the last six years, I have presided over the mock trial in addition to participating in the other activities.

*Cumberland School of Trial Advocacy Competition.* In 2015, I acted as a judge in the Cumberland School of Law Trial Advocacy Competition.

*Mockingbird Classic Moot Court Competition.* In 2016, I acted as a judge in the Faulkner University, Jones School of Law sponsored moot court competition.

26. **Selection Process:**

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

In September 2013, United States Representative Terri Sewell formed a committee consisting primarily of retired federal and state judges to interview persons interested in being nominated to serve as a United States District Judge. I appeared before the committee in Huntsville and Montgomery, Alabama.

In approximately October 2013, I and other persons who wished to be considered for appointment as a District Judge appeared before the Alabama Democratic Party Judicial selection committee. I was asked general questions about my background.

In approximately August 2015, I met briefly and separately with Senator Richard Shelby and Senator Jeff Sessions to submit my name for consideration for the open positions for United States District Judge in Alabama. We briefly discussed my resume and background.

In late-January/early-February 2017, I was contacted by a member of Senator Shelby's staff requesting resume information as I was being considered as a potential nominee for the federal bench. A few days later, both Senator Shelby and then-Senator Sessions told me that my name would be submitted by them to the White House as a candidate for the district court bench. On March 13, 2017, I interviewed telephonically with attorneys from the Office of Legal Policy and the White House. On March 14, 2017, I interviewed telephonically with the Office of White House Counsel. During each interview, I was asked general questions about my legal career and background.

I have communicated regularly with the Office of Legal Policy in the preparation of my answers to this questionnaire and the completion of other related materials.

- b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No