

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Kristi Haskins Johnson
Kristi Erin Johnson
Kristi Erin Haskins (maiden name)

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

United States District Judge for the Southern District of Mississippi

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.

Office Address:
Mississippi Attorney General's Office
550 High Street
Jackson, Mississippi 39201

I reside in Brandon, Mississippi.

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

1980; Oxford, Mississippi

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.

2005 – 2008, Mississippi College School of Law, J.D., *summa cum laude*, 2008

1998 – 1999, 2001 – 2003, University of Mississippi, B.A., 2003

August 2000 – December 2000, University of South Alabama, no degree

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.

2020 – Present

Attorney General's Office for the State of Mississippi
550 High Street
Jackson, Mississippi 39201
Solicitor General

2014 – 2020

United States Attorney's Office
501 East Court Street
Jackson, Mississippi 39201
Assistant United States Attorney

2011 – 2014

Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
207 West Jackson Street, Suite 200
Ridgeland, Mississippi 39157
Associate Attorney

2010 – 2011

United States Court of Appeals for the Fifth Circuit
501 East Court Street, Suite 3.750
Jackson, Mississippi 39201
Law Clerk to Judge Leslie H. Southwick

Fall 2010

Mississippi College School of Law
151 East Griffith Street
Jackson, Mississippi 39201
Adjunct Professor of Legal Writing

2008 – 2010

United States District Court for the Northern District of Mississippi
301 West Commerce Street
Aberdeen, Mississippi 39730
Law Clerk to Chief Judge Sharion H. Aycock

Spring 2008 (Uncompensated)

Attorney General's Office for the State of Mississippi
550 High Street
Jackson, Mississippi 39201
Extern, Domestic Violence Division

Summer 2007
Wise, Carter, Child, and Carraway, P.A.
401 East Capitol Street
Jackson, Mississippi 39201
Summer Associate

Summer 2007
Butler, Snow, O'Mara, Stevens, and Cannada, PLLC
1020 Highland Colony Parkway, Suite 1400
Ridgeland, Mississippi 39157
Summer Associate

Summer 2006
Butler, Snow, O'Mara, Stevens, and Cannada, PLLC
1020 Highland Colony Parkway, Suite 1400
Ridgeland, Mississippi 39157
Summer Associate

Summer 2006
McGlinchey Stafford, PLLC
200 South Lamar Street
Jackson, Mississippi 39201
Summer Associate

2003 – 2005
Mike R. Wall, Attorney at Law
1403 Jackson Avenue, East
Oxford, Mississippi 38655
Secretary

2003
Abbeville Catfish
1208 Hwy 7 North
Abbeville, Mississippi 38601
Waitress

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.

I have not served in the U.S. military. I was not required to register for selective service.

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.

Mississippi Distinguished Civilian Award, awarded by the Mississippi Governor, for work on a Federal Tort Claims Act case involving the Installation Commander at the Joint Forces Training Facility at Camp Shelby (2019)

United States Attorney Daniel E. Lynn Award for Superior Litigation Service in Civil Litigation (2019)

Letter of Appreciation from the U.S. Department of Veterans Affairs for work on an employment discrimination case (2018)

Letter of Commendation from the National Science Foundation Office of Inspector General for work on a False Claims Act grant fraud case (2017)

Degree from Mississippi College School of Law conferred *summa cum laude* (2008)

Hearin – Hess Scholar - full academic merit scholarship in law school

Rankin County Bar Association Scholarship Recipient (2006)

American Jurisprudence awards for the following classes in law school: Criminal Procedure, Employment Discrimination, Federal Taxation, Legal Research and Writing, Pre-trial Practice, and Torts II (2005 – 2008)

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.

Mississippi Bar Association (2008)

Federal Bar Association

Secretary (2018); Treasurer (2019); Vice-President (2020)

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.

Mississippi Bar (2008)

I have had no lapses 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 Fifth Circuit (2008)
United States District Court, Northern District of Mississippi (2008)
United States District Court, Southern District of Mississippi (2008)

I have had no lapses in membership.

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.

Charles L. Clark Chapter of the American Inns of Court, Benchler (2017-2019)

Federalist Society (2018-present)

Mississippi Defense Lawyer's Association, Editorial Board (2011-2012)

Jackson Young Lawyer's Association (2010-2014)

- 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 my knowledge, none of the organizations listed 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.

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.

How to Avoid Mistletoe Mishaps with Holiday Parties, HR Professional

Magazine, October 2014. Copy supplied.

Performance Evaluations: A Critical Component of Avoiding Legal Liability, HR Professional Magazine, June 2014. Copy supplied.

Retaliation: What Constitutes Protected Activity?, HR Professional Magazine, April 2014. Copy supplied.

Best Practices for Responding to an EEOC Charge, HR Professional Magazine, January 2014. Copy supplied.

EEOC Charges – Why You Should Care, HR Professional Magazine, December 2013. Copy supplied.

Why and When to Conduct Internal Investigations, HR Professional Magazine, August 2013. Copy supplied.

Why, When, and How to Conduct an Internal Investigation into Employee Complaints: Best Practices to Avoid or Defend Against Litigation, Mississippi Defense Lawyer's Association Quarterly, Spring 2013. 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.

I have not prepared or contributed to any such reports, memoranda, or policy statements.

- 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.

I have not testified or given any official statements or other communications related to matters of public policy or legal interpretation.

- 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 1, 2019: Speaker, "Representing the USA and Appellate Practice Pointers," 35th Annual Mississippi National Guard Judge Advocate General CLE. Copy of PowerPoint presentation supplied.

March 25, 2019: Panel Discussion of Judges, "Appellate Practice Pointers from the Bench," Charles L. Clark Chapter of American Inns of Court. Group members posed questions to the panel. Notes from presentation planning supplied.

January 22, 2018: Group presentation, "Dealing with Problem Clients," Charles L. Clark Chapter of the American Inns of Court. Copy of PowerPoint presentation and handout supplied.

January 23, 2017: Group presentation, "200 Years of Mississippi Courts 1817-2017," Charles L. Clark Chapter of the American Inns of Court. Copy of PowerPoint presentation supplied.

May 2014: Group presentation, "Wage & Hour Law – Identifying and Avoiding the Pitfalls," Mississippi Annual Human Resource Conference, Biloxi, Mississippi. I have no notes, transcript, or recording. The address of the Mississippi Annual Human Resource Conference is Beau Rivage Resort, 875 Beach Boulevard, Biloxi, Mississippi 39530.

- 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.

Beyond the Jurisprudence: Thoughts from the Clerks on their Beloved Judge, 37 Miss. C. L. Rev. 58 (2018). Mississippi College School of Law's Law Review interviewed me for an article about the Hon. Leslie H. Southwick from the perspective of his law clerks. Law Review article 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.

I have never held judicial office.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment?
 - i. Of these, approximately what percent were:

jury trials:	_____ %
bench trials:	_____ % [total 100%]
civil proceedings:	_____ %
criminal proceedings:	_____ % [total 100%]

- b. Provide citations for all opinions you have written, including concurrences and dissents.
 - 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).
 - 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.
 - e. Provide a list of all cases in which certiorari was requested or granted.
 - 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.
 - 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.
 - 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.
 - 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.
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:

I have never held judicial office.

- 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.

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 never been a candidate for or held public office. I was appointed as the first Solicitor General in the State of Mississippi on February 24, 2020, by Mississippi Attorney General Lynn Fitch.

- 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.

I have never been a member or officer of any political party or election committee, nor have I played any role in a political campaign.

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;

Chief Judge Sharion H. Aycock, United States District Court for the

Northern District of Mississippi, 2008 – 2010

Leslie H. Southwick, United States Court of Appeals for the Fifth Circuit,
2010 – 2011

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

I have never practiced 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.

2011 – 2014

Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
207 West Jackson Street, Suite 200
Ridgeland, Mississippi 39157
Associate Attorney

2014 – 2020

United States Attorney's Office, Civil Division
501 East Court Street
Jackson, Mississippi 39201
Assistant United States Attorney

2020 – present

Attorney General's Office for the State of Mississippi
550 High Street
Jackson, Mississippi 39201
Solicitor General

- 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 mediator or arbitrator in alternative dispute resolution proceedings.

b. Describe:

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

From 2008 to 2010, I served as a judicial law clerk to the Honorable Chief Judge Sharion Aycock of the United States District Court for the Northern District of Mississippi. In that role, I conducted legal research and

assisted in drafting opinions.

From 2010 to 2011, I served as a judicial law clerk to the Honorable Leslie H. Southwick of the United States Court of Appeals for the Fifth Circuit. In that role, I conducted legal research, drafted bench memoranda, and assisted in drafting opinions.

From 2011 to 2014, while at Ogletree, Deakins, Nash, Smoak & Stewart, P.C., I practiced employment law exclusively. My practice consisted of advising employers on legal requirements and best practices to create a work environment free of discrimination and harassment. This included providing client in-house training for managers on workplace harassment and other legal compliance issues. I conducted workplace investigations into allegations of discrimination and harassment. I also drafted and scrutinized employee handbooks and workplace policies. I also defended employers in federal court against alleged violations of Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, among other issues. My litigation practice consisted almost exclusively of litigation in federal court. I participated in dozens of case management conferences and settlement conferences before federal magistrate judges. I also participated in motion hearings, including a two-day preliminary injunction hearing, and pretrial conferences before federal district judges. I took and defended depositions and drafted pre-trial, post-trial, and dispositive motions.

From 2014 to 2020, as an Assistant United States Attorney, I defended the United States against civil actions brought against it in the United States District Court for the Southern District of Mississippi. My practice was exclusively federal court litigation. I handled employment discrimination and medical malpractice lawsuits involving federal agencies and actions brought pursuant to the Federal Tort Claims Act, as well as constitutional tort claims – commonly called *Bivens* actions. I investigated and pursued civil violations of the False Claims Act, such as healthcare fraud, social security fraud, and grant program fraud. I participated in dozens of case management and settlement conferences before the federal magistrate judges and participated in motion hearings, pretrial conferences, a civil jury trial, and a civil bench trial before the federal district judges. During this time, I also handled a few criminal matters, including felons in possession of firearms, carjacking, use of a firearm in furtherance of a crime of violence, and tax fraud. My participation in those cases included grand jury presentations, initial appearances, change of plea hearings, sentencing hearings, a competency hearing, a three-day evidentiary hearing, and a jury trial. I filed numerous appeal briefs with the Fifth Circuit Court of Appeals and participated in one Fifth Circuit oral argument. These appeals involved both criminal and civil matters.

On March 10, 2020, I became the first Solicitor General for the State of Mississippi. In this role, I will develop a centralized system for the review of appeals and a moot court program. I will supervise particularly important or complicated civil litigation in federal district court and Mississippi appellate courts and supervise civil and criminal appeals in the United States Supreme Court, the Fifth Circuit Court of Appeals, and the Mississippi Supreme Court.

- ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

In private practice at Ogletree, Deakins, Nash, Smoak & Stewart, P.C., my clients typically were businesses (corporations, limited liability companies, and partnerships).

While at the United States Attorney's Office, I only represented the United States.

While at the Attorney General's Office for the State of Mississippi, I have only represented the State of Mississippi.

- 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.

My practice has been almost one hundred percent litigation and almost exclusively in federal court. As a civil litigator with Ogletree, Deakins, Nash, Smoak & Stewart P.C., and as an Assistant United States Attorney, I occasionally appeared in court. I have argued dispositive motions and other pre-trial motions and have served as trial counsel in two jury trials, one civil and one criminal, and one bench trial. I also have participated in a competency hearing, a three-day criminal evidentiary hearing, and a two-day preliminary injunction hearing. As the Solicitor General, I will appear in court more frequently.

- i. Indicate the percentage of your practice in:

- 1. federal courts: 90%
- 2. state courts of record: 10%
- 3. other courts: ___%
- 4. administrative agencies: ___%

- ii. Indicate the percentage of your practice in:

- 1. civil proceedings: 95%
- 2. criminal proceedings: 5%

- d. 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 have tried three cases to verdict, all at the United States Attorney's Office. I served as lead counsel on a criminal jury trial and as co-counsel on a civil jury trial and a civil bench trial. I assisted with two civil jury trials while at Ogletree, Deakins, Nash, Smoak & Stewart, P.C. Given my significant role in discovery, I provided assistance to trial counsel during trial but not did take any witnesses.

i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 70% |
| 2. non-jury: | 30% |

e. 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.

To date, I have not practiced before the Supreme Court of the United States. As the Mississippi Solicitor General, I will represent the State in any matters that may arise before the Court.

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. *Orlando Kilcrease v. Sonny Perdue, Secretary of the United States Department of Agriculture*, 5:18cv34-DCB-MTP (2018)

Orlando Kilcrease sued the United States Department of Agriculture for not hiring him as a Loan Specialist. He alleged discrimination based on age, race, and color. I exchanged and responded to written discovery, deposed Kilcrease, and then moved for summary judgment on all Kilcrease's claims. The district court granted summary judgment in favor of the government on all claims.

Date of Representation: 2018 – 2019

Judges: Hon. David C. Bramlette III, United States District Judge, Hon. Michael T. Parker, United States Magistrate Judge

Co-Counsel:

Keith Bernard French, Esq.
Bell Nunnally (no longer with U.S. Attorney's Office)
2323 Ross Avenue, Suite 1900
Dallas, Texas 75201
214-740-5763

Opposing Counsel:

Noah Drake, Esq.
Law Office of Noah Drake, PLLC
1415 First North Street
Vicksburg, Mississippi 39180
601-619-2391

Shameca S. Collins
Collins Law Office, PLLC
415 State Street
Natchez, Mississippi 39121
601-442-9880

2. *Warren Flowers v. Attorney General William P. Barr*, 2:17cv118-KS-MTP (2017)

Warren Flower's lawsuit stemmed from his employment as a Special Agent for the Federal Bureau of Investigation. He alleged race discrimination that created a hostile work environment and retaliation under Title VII of the Civil Rights Act of 1964. The district court granted summary judgment in favor the government on Flowers's race discrimination and hostile work environment claims. The court denied summary judgment on his retaliation claim. The sole remaining retaliation claim proceeded to a jury trial. I participated in the trial as co-counsel handling trial arguments, jury instruction conference, voir dire, direct examination of witnesses, and cross-examination of witnesses. Following the five-day trial, the jury returned a verdict in favor of the government.

Date of Representation: 2017 – 2019

Judges: Hon. Keith Starrett, United States District Judge, Hon. Michael T. Parker, United States Magistrate Judge

Co-Counsel:

Angela Givens Williams, Esq.
United States Attorney's Office

501 East Court Street, Suite 4.430
Jackson, Mississippi 39201
601-973-2822

Opposing Counsel:

Hal Neilson, Esq.
Neilson Law Office
706-A Jackson Avenue West
Oxford, Mississippi 38655
662-832-8070

Christy McCoy, Esq.
1739 University Avenue
Oxford, Mississippi 38655
662-513-6366

3. *United States v. Rahim Williams*, 3:17cr13-HTW-FKB; 3:17cr15-HTW-FKB; USCA
No. 19-60277 (2017)

Rahim Williams was charged in an indictment with carjacking and brandishing a firearm in furtherance of a crime of violence. The case proceeded to a jury trial. I handled opening statement, closing argument, direct and cross-examinations of various witnesses, including the criminal defendant. Following a five day trial, the jury acquitted Williams of both counts.

Williams was charged in a separate indictment as a felon in possession of a firearm. Williams, a previously-convicted felon, was found with a firearm that was used three days prior in a triple homicide. Williams pleaded guilty but objected to probation's recommendation for the district court to apply a sentencing enhancement because the firearm was used or possessed with another felony offense – first degree murder. Following a three-day evidentiary hearing, where I conducted the direct examination of multiple government witnesses, the district court held that a preponderance of the evidence supported that Williams used the firearm in a murder. The court sentenced Williams to 120 months, the statutory maximum, and ordered him to pay a \$1,500 fine and \$100 special assessment.

Williams appealed his sentence to the Fifth Circuit Court of Appeals. I prepared the Fifth Circuit brief. The Fifth Circuit affirmed Williams' sentence.

Date of Representation: 2017 – 2019

Judges: Hon. Henry T. Wingate, United States District Judge, Hon. F. Keith Ball, United States Magistrate Judge

Co-Counsel:

Dave Fulcher, Esq.

United States Attorney's Office
501 East Court Street, Suite 4.430
Jackson, Mississippi 39201
601-973-2824

Opposing Counsel:

Abby Brumley, Esq.
Federal Public Defender's Office
200 South Lamar Street, #200N
Jackson, Mississippi 39201
601-948-5381

Mike Scott, Esq.
Federal Public Defender's Office
200 South Lamar Street, #200N
Jackson, Mississippi 39201
601-948-5381

4. *Karlene Gilmore v. United States, et al.*, 2:17cv63-KS-MTP; USCA No. 17-60608 (2017)

Karlene Gilmore alleged that Colonel Gregory Michel, the Installation Commander for the Camp Shelby Joint Forces Training Center, wrongfully caused her separation from the Mississippi Military Department. She had been employed at the All Ranks Club, a facility that services Active, Reserve, and National Guard personnel at Camp Shelby. Colonel Michel was serving under federal orders pursuant to 32 U.S.C. § 502(f).

Invoking the Westfall Act, I removed the case to federal court, moved to substitute the United States as the proper party, and moved to dismiss the action because Gilmore failed to exhaust her administrative remedies prior to filing suit as required by the Federal Tort Claims Act. Gilmore challenged the Westfall certification. Following significant motion practice, the district court granted the United States' substitution and motion to dismiss. The court held that Colonel Michel was a federal employee acting in the course and scope of his employment during relevant time and that Gilmore failed to file an administrative claim prior to filing suit.

Gilmore appealed to the Fifth Circuit. I prepared the Fifth Circuit brief and participated in oral argument. The Fifth Circuit, through a published opinion, affirmed the district court's ruling in favor of the United States.

Date of Representation: 2017 – 2018

Judges: Hon. Keith Starrett, United States District Judge, Hon. Michael T. Parker, United States Magistrate Judge

Co-Counsel:

None

Counsel for Karlene Gilmore:

Daniel M. Waide, Esq.
1300 Hardy Street, 2nd Floor
Hattiesburg, Mississippi 39404
6021-582-4553

Counsel for the State of Mississippi:

Robert J. Dambrino, III, Esq.
Gore, Kilpatrick & Dambrino, PLLC
2000 Gateway, Suite 160
Grenada, Mississippi 38901
662-226-1891

5. *Jonathan Crain v. Attorney General Jeff Sessions, et al.*, 3:17cv868-SA-RP (2017)

Jonathan Crain's lawsuit stemmed from his employment as a Court Security Officer in the Southern District of Mississippi federal courthouse located in Jackson, Mississippi. He sued the United States Marshals Service, and the private security company that employed him, alleging race discrimination for failure to promote him to District Supervisor. Crain alleged that the Marshals Service was his joint employer and thus also liable under Title VII of the Civil Rights Act of 1964 for not promoting him. I moved to dismiss the action because the Marshals Service did not exercise any meaningful control over Crain that would transform it into a joint employer for purposes of Title VII. The district court granted the government's motion to dismiss holding that Crain was not an employee of the Marshals Service.

Date of Representation: 2017 – 2018

Judges: Hon. Sharion Aycock, United States District Judge, Hon. Roy Percy, United States Magistrate Judge

Co-Counsel:

None

Counsel for Jonathan Crain:

Dennis Horn, Esq.
Horn & Payne, PLLC
1300 US-51
Madison, Mississippi 39110
601-853-6090

Counsel for Metropolitan Services:

Justin L. Furrow, Esq.
Chambliss, Bahner & Stophel, P.C.

Liberty Tower
605 Chestnut Street, Suite 1700
Chattanooga, Tennessee 37450
423-757-0221

W. Matthew Wayne, Esq.
Chambliss, Bahner & Stophel, P.C.
Liberty Tower
605 Chestnut Street, Suite 1700
Chattanooga, Tennessee 37450
423-757-0251

William Trey Jones, Esq.
Brunini, Grantham, Grower & Hewes, PLLC
190 East Capitol Street, Pinnacle Building, Suite 100
Jackson, Mississippi 39201
601-948-3101

6. *Jimmy Kelly, et al. v. United States*, 3:14cv70-HTW-LRA, USCA No. 17-60227
(2014)

Jimmy Kelly brought this medical malpractice suit pursuant to the Federal Tort Claims Act because of the medical care he received from Jackson-Hinds Comprehensive Health, a federally-funded health care clinic. Specifically, he claimed a nurse practitioner prescribed him medications without first ordering labs to assess his condition causing him permanent acute renal failure. This complicated medical malpractice case exposed the United States to \$40 million in potential liability.

The bench trial lasted two and a half weeks. I argued pre-trial motions, trial motions, and handled numerous witnesses on direct examination and cross-examination to include expert witnesses, fact witnesses, and one of the Plaintiffs. Following the bench trial, I prepared findings of fact and conclusions of law.

The Court ruled in favor of the United States holding that the federally-funded health care clinic did not breach the standard of care in providing treatment to Kelly, and even if it had, that breach did not cause Kelly's injuries. Kelly appealed to the Fifth Circuit Court of Appeals, and I drafted the appellate brief. The Fifth Circuit affirmed the district court's ruling.

Date of Representation: 2014 – 2018

Judges: Hon. Henry T. Wingate, United States District Judge, Hon. Linda R. Anderson, United States Magistrate Judge

Co-Counsel:
Dave Fulcher, Esq.

United States Attorney's Office
501 East Court Street, Suite 4.430
Jackson, Mississippi 39201
601-973-2824

Opposing Counsel:

Michael T. Jaques, Esq.
Sessums Dallas, PLLC
240 Trace Colony Park Drive
Ridgeland, Mississippi 39157
601-933-2057

Bobby Dallas, Esq.
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7. *Maushunia Johnson v. Attorney General Eric Holder, Jr.*, 3:14cv772-CWR-FKB
(2014)

Maushunia Johnson's lawsuit stemmed from her employment as a cook supervisor at the Federal Correctional Complex in Yazoo City, Mississippi. She alleged discrimination based on her age, sex, and prior Equal Employment Opportunity activity. I took the depositions of Johnson and her treating psychiatrist. I defended seven depositions, including a 30(b)(6) deponent. I filed and defended numerous discovery motions and then moved for summary judgment on all Johnson's claims. The district court granted summary judgment in favor of the government on all claims.

Date of Representation: 2014 – 2017

Judges: Hon. Carlton W. Reeves, United States District Judge, Hon. F. Keith Ball, United States Magistrate Judge

Co-Counsel:

None

Opposing Counsel:

Brent Hazzard, Esq.
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447 Northpark Drive

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8. *Gregory Davidson v. United States, et al.*, 1:14cv230-LG-DAS; USCA No. 15-60567 (2014)

Gregory Davidson's lawsuit stemmed from his service in the Mississippi National Guard. Specifically, Davidson complained of his failure to pass the Army Physical Fitness test on several occasions, a reprimand related to his job performance, and his failure to receive a commission as a military officer.

Invoking the Westfall Act, I removed the case to federal court, substituted the United States as the proper party, and moved to dismiss the case based on the *Feres* doctrine because Davidson's injuries arose his military service and for failure to exhaust administrative remedies prior to filing suit as required by the Federal Tort Claims Act. The district court granted the United States' motion to dismiss.

Davidson appealed to the Fifth Circuit Court of Appeals. I prepared the appellate brief. The Fifth Circuit affirmed the district court's dismissal in favor of the United States. Davidson filed a writ of certiorari to the United States Supreme Court. The Court denied the writ.

Date of Representation: 2014 -- 2016

Judges: Hon. Louis Guirola, Jr., United States District Judgment, Hon. David A. Sanders, United States Magistrate Judge

Co-Counsel:

None

Opposing Counsel:

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9. *Kimsey Cooper v. Walgreen Co.*, 3:11cv240-DPJ-FKB (2011)

Kimsey Cooper's lawsuit stemmed from her employment as a Pharmacist Supervisor at Walgreens. She alleged race discrimination that created a hostile work environment and retaliation under Title VII of the Civil Rights Act of 1964. As counsel for Walgreen's, I exchanged written discovery and moved for summary judgment on all Cooper's claims. The district court granted summary judgment in favor of Walgreens on all claims.

Date of Representation: 2011 – 2012

Judges: Hon Daniel P. Jordan III, United States District Court (Chief), Hon. F. Keith Ball, United States Magistrate Judge

Co-Counsel:

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10. *George "Homer" Duke v. Performance Food Group*, 1:11cv220-MPM-DAS; USCA No. 14-60138 (2011)

George "Homer" Duke's lawsuit stemmed from his employment at Performance Food Group as a sales associate. He alleged Performance Food Group terminated his employment in violation of the Age Discrimination in Employment Act, the Americans with Disabilities Act, and the Family Medical Leave Act. I exchanged and responded to written discovery, deposed Duke, defended the depositions of numerous fact witnesses, participated in a settlement conference with the court, and moved for summary judgment on all Duke's claims.

The district court denied summary judgment, and the case proceeded to trial. I prepared motions in limine and the pretrial order. Although I did not take witnesses at the trial, I sat at counsel table and assisted the trial team given my significant contribution to discovery in the case. Following a five-day jury trial, the jury returned a verdict in favor

of Performance Food Group.

Duke appealed to the Fifth Circuit Court of Appeals. I prepared the appellate brief. The Fifth Circuit affirmed the jury's verdict and district court's evidentiary rulings.

Date of Representation: 2011 – 2014

Judges: Hon. Michael P. Mills, United States District Judge, Hon. David A. Sanders, United States Magistrate Judge

Co-Counsel:

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Opposing Counsel:

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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.)

As an Assistant United States Attorney, I served as the Affirmative Civil Enforcement Coordinator, in addition to my role representing the government in defensive litigation.

As the Affirmative Civil Enforcement Coordinator, I handled dozens of investigations into allegations of fraud committed against the United States. Matters were referred to the United States Attorney's Office from numerous federal agencies, including the Social Security Administration, the Drug Enforcement Administration, the United States Department of Health and Human Services, the National Science Foundation, and the National Aeronautics and Space Administration. Many of these investigations resulted in pre-litigation settlements for the United States. Some representative settlements are as follows:

The National Science Foundation's Office of Inspector General referred a matter to the United States Attorney's Office for grant fraud allegedly committed by Jackson State University related to National Science Foundation grant awards. I negotiated and resolved this matter pre-litigation for \$1.17 million.

An investigation was initiated by the United States Attorney's Office's healthcare fraud investigator who discovered instances of Medicare overpayments to Dr. Aremmia Tanious and Jefferson Medical Associates. I negotiated and resolved this matter pre-litigation for \$817,635.06.

The Drug Enforcement Administration referred a matter to the United States Attorney's Office for Controlled Substance Act record keeping violations allegedly committed by Marion Discount Drugs and Union Discount Drugs. I negotiated and resolved this matter pre-litigation for \$148,050.00.

The National Aeronautics and Space Administration's Office of Inspector General referred two matters to the United States Attorney's Office for grant fraud allegedly committed by Apix Semi-conductor, LLC and Ultra Safe Nuclear Corporation. I negotiated and resolved both matters pre-litigation for \$83,334.00 and \$80,514.00, respectively.

I have never performed any lobbying activities.

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.

I served as an adjunct professor of Legal Writing at Mississippi College School of Law in the fall of 2010. Copy of syllabus supplied.

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.

None

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 have no plans, commitments, or agreements to pursue outside employment.

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).

When my nomination is formally submitted to the Senate, I will file my Financial Disclosure Report and will supplement this Questionnaire with a copy of that Report.

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

See 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.

Cases that may present conflict issues would be those related to my service as a government lawyer or as a private practitioner. If confirmed, I would recuse myself in any matter in which, during my government service, I participated as counsel, advisor, or material witness, or expressed an opinion concerning the merits. 28 U.S.C. § 455(b)(3). Moreover, I would also recuse myself in any matter in which, during my private practice, either I or a lawyer with whom I was then practicing participated. See 28 U.S.C. § 455(b)(2).

- 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 would evaluate any potential conflicts of interest under 28 U.S.C. § 455, Canon 3C of the Code of Conduct for U.S. Judges and all other laws, rules, and practices and procedures governing such circumstances. In considering the standards set forth in those rules, I would consult judicial decisions and opinions of the judicial conference applying the rules to particular 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.

As an Assistant United States Attorney, my ability to do volunteer legal work in the community was limited. Nevertheless, I contributed to the community in other ways. While at Ogletree, Deakins, Nash, Smoak & Stewart, P.C., and at the United States Attorney's Office, I volunteered numerous times to judge moot court competitions for law students at Mississippi College School of Law. My estimated devoted time is less than 40 hours. I also volunteered at Habitat for Humanity and Mississippi Stewpot Community Services. My estimated devoted time is less than 40 hours. At the United States Attorney's Office, I participated in community outreach related to the office's Anti-Bullying LEAD campaign which included visiting with high school students. I also participated in the United States Attorney's Violent Crime community outreach initiative in Jackson, Mississippi, which included grilling and serving hamburgers in Jackson community parks and discussing participation of the public in combatting violent crime. My estimated devoted time was approximately 40 hours.

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.

I was contacted on November 18, 2019, by Senator Cindy Hyde-Smith's office and on November 22, 2019, by Senator Roger Wicker's office regarding the judicial vacancy in the Southern District of Mississippi. I interviewed with Senators Cindy Hyde-Smith and Roger Wicker on November 27, 2019, at Senator Wicker's office in Jackson, Mississippi.

On January 28, 2020, Senator Hyde-Smith informed me that she and Senator Wicker had recommended my name to the White House for the district judge vacancy. I was contacted the next day by an official from the White House Counsel's Office to schedule an interview.

On February 6, 2020, I interviewed with attorneys from the White House Counsel's Office and the Office of Legal Policy at the Department of Justice. I

have been in communication with officials from the White House Counsel's Office and the Office of Legal Policy at the Department of Justice.

- 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.