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BEFORE THE STATE OF ALABAMA
JUDICIAL RESOURCE ALLOCATION COMMISSION
HEFLIN-TORBERT JUDICIAL BUILDING
FRIDAY, JANUARY 31ST, 2020
10:00 a.m.

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THE FOLLOWING PROCEEDING was held before
the Honorable Tom Parker, Chair, taken by Jeana S.
Boggs, Certified Court Reporter and Commissioner
for the State of Alabama at Large, at the offices
of the Heflin-Torbert Judicial Building, 300 Dexter
Avenue, Montgomery, Alabama, commencing at 10:00
a.m., Friday, January 31st, 2020.

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APPEARANCES :

COMMISSION MEMBERS :

CHIEF JUSTICE TOM PARKER, CHAIR

HONORABLE LEE CARTER

HONORABLE ZACK COLLINS

MR. CLAY CRENSHAW

HONORABLE CLYDE JONES

HONORABLE MICHAEL NEWELL

HONORABLE WILL PARKER

HONORABLE JAMES REID

HONORABLE JAKE WALKER

HONORABLE MICHELLE THOMASON

MR. HAROLD STEPHENS

HONORABLE EUGENE VERIN

ALSO PRESENT :

MR. RICH HOBSON

MR. BEN DUPRÉ

MS. CARY MCMILLAN

MR. MICHAEL GREGORY

MR. TODD RUSSELL

1 MR. HOBSON: Good morning,
2 everybody. My name is Rich Hobson, and I
3 am calling this meeting to order right now.
4 And I'll tell you what, we have an American
5 flag in here. Will you all please rise,
6 and please join me in the Pledge of
7 Allegiance.

8 (Pledge of Allegiance).

9 MR. HOBSON: And while we're still
10 standing, please join me in prayer.

11 (Prayer).

12 CHIEF JUSTICE PARKER: Well,
13 welcome to all of you. I am Chief Justice
14 Tom Parker, Chairman of this Commission.
15 And the law states that a majority of the
16 Commission shall constitute a quorum for a
17 meeting. And we have not only a majority,
18 we have one hundred percent present today.

19 And this meeting is subject to
20 the Open Meetings Act. We had a press
21 release that we issued informing the
22 public about this meeting, and we posted
23 it on the Open Meeting website at the

1 Secretary of State's office, as well as
2 on the Alabama Administrative Office of
3 Courts' website.

4 Our Court Reporter, Jeana Boggs,
5 is preparing an official transcript of
6 today's meeting, and a certified copy of
7 this will be among the reports submitted
8 to the Governor and the Legislature, and
9 it will be placed on the website of the
10 Administrative Office of Courts.

11 And just a note to all who will
12 participate in the meeting, when you
13 speak for the first time, identify
14 yourselves so Jeana Boggs can get a name
15 with a face, and hopefully she will
16 remember the next time you speak. If
17 not, Jeana, just speak up and let them
18 know.

19 And I want to read for the
20 record now all of those who are present.
21 And I am just going to go through the
22 list as we have it on the sign-up sheet:
23 Chief Justice Tom Parker, Judge Lee

1 Carter, Judge Zack Collins, Mr. Clay
2 Crenshaw from the Attorney General's
3 Office, Judge Clyde Jones, Judge Michael
4 Newell, Honorable Will Parker from the
5 Governor's legal office; Judge James
6 Reid.

7 HON. REID: Present.

8 CHIEF JUSTICE PARKER: Mr. Harold
9 Stephens, Judge Eugene Verin, Judge Jake
10 Walker, and Judge Michelle Thomason.

11 Now, have I missed anyone else
12 that is an official member? These were
13 the ones that we had listed and signed
14 in?

15 (No response).

16 CHIEF JUSTICE PARKER: All right.

17 Now, we are here today to
18 consider a vacant judgeship, as this
19 Commission is charged to do, under
20 Section 12(a) -- 12-9A-2. And the
21 circuit judgeship in Place 3 in Jefferson
22 County was declared vacant as a result of
23 a resignation of the judge who had that

1 position.

2 Now, we have a directive,
3 according to the legislative act that we
4 have 30 days in which to act when a
5 judgeship becomes vacant by resignation.
6 And so, that's why we are meeting today,
7 to determine whether a judgeship should
8 be reallocated to another circuit.

9 And so, what we want to do, I
10 want to entertain a motion and a second
11 to reallocate the judgeship. Once that
12 motion and second is properly before the
13 Commission, we will open the floor for
14 discussions. And we have Cary McMillan
15 and Michael Gregory from the AOC staff
16 here who will answer any questions from
17 the Commission members about the data
18 release to be considered for this
19 vacant -- or the data related to this
20 vacancy.

21 So, do I hear a motion?

22 HON. VERIN: Chief Justice?

23 CHIEF JUSTICE PARKER: Yes.

1 HON. VERIN: May I entertain a --
2 a directive first, and state the reasons
3 therefore.

4 CHIEF JUSTICE PARKER: Now, what
5 was your point of order, or what was it?

6 HON. VERIN: Actually, I would
7 move to table consideration of this
8 particular position being reallocated.

9 CHIEF JUSTICE PARKER: Well,
10 you -- you are out of order on this,
11 because we don't even have a motion on the
12 floor yet to table.

13 HON. VERIN: Okay.

14 MR. STEPHENS: Chief? Harold
15 Stevens. I would move that the Commission
16 reallocate the vacant circuit judgeship in
17 Jefferson County to Madison County in
18 accordance with the provisions of our
19 enabling Legislation Act 2017-42.

20 CHIEF JUSTICE PARKER: And is
21 there a second for that motion?

22 HON. REID: I second the motion.

23 CHIEF JUSTICE PARKER: And that's

1 James Reid.

2 Okay. Now, Mr. Verin.

3 HON. VERIN: Okay. To the Chief
4 Justice, other members of the Commission,
5 and to the citizens, officials that we have
6 here now in this room that's present, I
7 move that we table consideration of
8 reallocation of Place Number 3 on a variety
9 of reasons. But for the main reason that
10 there are three candidates who have put
11 their names up for election to this
12 position. They are present. They are very
13 concerned about this as are many other
14 judges in Jefferson County and other
15 officials and the citizens of Jefferson
16 County.

17 This position, again, has three
18 people running for the slot. And I think
19 that it would be manifestly unjust for
20 this position to be reallocated.

21 Now, I have got a lot of other
22 things I could say right now. But at
23 this point, I simply want to make that

1 motion and to ask for a second.

2 HON. COLLINS: I second that
3 motion. Zack Collins.

4 CHIEF JUSTICE PARKER: Zack
5 Collins.

6 HON. VERIN: And I forgot, my name
7 is Eugene Verin. Thank you, Zack.

8 CHIEF JUSTICE PARKER: So, let me
9 just quickly address this before we throw
10 it open to the floor for discussion on the
11 motion to table.

12 The Legislature did not make
13 provision in this Act for the vacancy
14 occurring after candidates had qualified
15 for a position. So, to follow the law it
16 creates this regretful situation where
17 people have qualified, but this is a
18 resignation that creates a vacancy. That
19 is one of the conditions under the
20 statute, and that's why we are here
21 today.

22 So, comments? Mr. Stephens.

23 MR. STEPHENS: Harold Stephens,

1 Mr. Chief Justice.

2 I would like to begin -- and
3 this is both in response to the motion to
4 table and in support of our motion. I
5 would like to begin just by distributing
6 some of this information the Commission
7 members have seen previously. Some of it
8 they have not.

9 The first document that I am
10 passing around, Chief, is a document that
11 was provided to us at the last meeting,
12 and I will let the copies get around
13 before I comment further about that.

14 So Chief, this is a document
15 that we were provided at the last meeting
16 that is entitled "Alabama Judicial
17 Circuits Population 2010 Census," and I
18 would particularly invite everyone's
19 attention to the second page, the second
20 county listed. We have Madison County,
21 23rd Judicial Circuit. The number
22 reflected there is 276,700. I was a
23 little bit surprised by that number,

1 Chief, at our last meeting.

2 I am going to pass around
3 another document, and this is a copy of
4 the 2000 census for Madison County. And
5 Chief, I'll also go ahead and pass around
6 right behind that a copy of the 2010
7 census from Madison County.

8 Chief, I was a little surprised
9 by the 276,000 number the last time we
10 met. I would have guessed -- but it
11 would have purely been a guess on my
12 part -- that that number should have had
13 a three in front of it; that it was a
14 300,000 number instead of a 200,000
15 number. In fact, I think what
16 inadvertently happened -- and I certainly
17 don't fault anyone about this; I just
18 think it is what it is. What was
19 presented to us in our last January 8th
20 meeting, it's the 2010 census. I think,
21 Chief, in reality, if you compare these
22 numbers, it was actually the 2000 Census.
23 You will see that Madison County in 2000

1 did have a population of 276,700, but in
2 the 2010 Census, Madison County had a
3 population of 334,800.

4 And so, finally, Chief, I would
5 pass around in terms of population
6 numbers, I actually have provided a copy
7 of the 2010 Census numbers for the State
8 of Alabama by county. Actually, Chief,
9 to just anyone who is interested, this
10 document includes the 2010 Census
11 numbers, the 2000 census numbers and, in
12 fact, the 1990 Census numbers.

13 And Chief, I would just say in
14 summary -- I mean, certainly under the
15 Act, the population is categorized as an
16 issue that this Commission is to look at.
17 I was a history major in college, Chief,
18 but I was almost a mathematical
19 statistics minor and took a year and a
20 half of calculus just for the fun of it.
21 So, I think I can do arithmetic fairly
22 well.

23 If you look at Madison County

1 from 2000 to 2010, our county grew by
2 approximately 58,000 people. Now, I
3 would be the first to acknowledge that
4 our colleagues from Mobile or other
5 counties -- Baldwin County, even
6 Limestone County, Chief, up in our neck
7 of the words in North Alabama -- if you
8 look at a percentage of growth, there are
9 certainly counties that grew percentage-
10 wise more than Madison. But if you look
11 at the sheer number of people that moved
12 into Madison County between 2000 and
13 2010, we grew by almost 60,000 people.
14 And there is no other county in this
15 state that grew by that number.

16 The next couple of documents I
17 would like to pass around are also
18 documents that are familiar to us, Chief,
19 as Commission members.

20 CHIEF JUSTICE PARKER: May I make
21 a point here?

22 MR. STEPHENS: Yes, Chief.

23 CHIEF JUSTICE PARKER: Information

1 that you have given us, as we look at
2 Jefferson County, is actually from the 2000
3 Census, as is the information about Madison
4 County.

5 MR. STEPHENS: Right. The --
6 there is a total population census
7 document, Chief, that I think if you do
8 compare, I do believe Jefferson County, if
9 you compare the population numbers,
10 Jefferson actually declined a few thousand
11 during that time period. But the main
12 point, Chief, that I wanted to show about
13 this is simply that, by sheer numbers
14 alone, Madison County grew more than any
15 county in the state.

16 The next document I would like
17 for us to look at is a document that this
18 very Commission has reviewed and approved
19 previously. And I will not belabor the
20 point, but this is the 2016 Circuit Court
21 Judicial Weighted Caseload. And I would
22 encourage all of my fellow Commission
23 members to look at the top. The 23rd

1 Judicial Circuit, Madison, is ranked
2 number one, with a difference, a need, of
3 3.36, Judges. And I fully appreciate the
4 Chief's earlier admonition to us that we
5 can't deal in decimal point judges; we
6 can't divide judges in half, although
7 Solomon or others might want to have done
8 so.

9 So, I would just say, we were
10 three judges short in Circuit Court in
11 Madison County. We were the number one
12 ranked circuit in 2016.

13 By contrast, Jefferson County,
14 which is shown at the bottom of that
15 page, is shown as the 41st ranked circuit
16 with a surplus number, or a positive
17 number, of 4.92. That was the 2016
18 numbers. The 2017 numbers, Chief, I'm
19 passing around now.

20 CHIEF JUSTICE PARKER: Now, let's
21 clarify that this is just for circuit
22 court.

23 MR. STEPHENS: Circuit court only,

1 Chief. That is absolutely correct. That's
2 correct. And my understanding, the vacancy
3 we are dealing with is a circuit court
4 vacancy.

5 CHIEF JUSTICE PARKER: Yes.

6 MR. STEPHENS: I will wait until
7 everyone has a copy of those.

8 (Pause).

9 So, the 2017 Circuit Court
10 Weighted Caseload is reported somewhat
11 differently. It's not arranged by rank,
12 it's arranged by circuit numbers. So, I
13 would invite everyone's attention to the
14 23rd Judicial Circuit, Madison, ranking
15 first in terms of need; 3.9 Circuit
16 Judges.

17 Jefferson County, the 10th
18 Judicial Circuit, a positive 6.82.
19 Madison County ranked first. Jefferson
20 County ranked 41st in the 2017 numbers.

21 And next, Chief, I would pass
22 around for everyone the 2018 Circuit
23 Court numbers.

1 (Pause) .

2 MR. STEPHENS: And again, Chief,
3 once again, as you pointed out, these are
4 only the circuit court numbers.

5 (Pause)

6 MR. STEPHENS: In the 2018 Circuit
7 Court numbers, again, all of these, Chief,
8 adopted and approved by this very
9 Commission. The 2018 numbers, Madison
10 County in terms of need for Circuit Court
11 judges ranked number one once again in the
12 state with a need of 3.39 circuit judges.
13 Jefferson County ranked 41st among the
14 circuits with a positive number, a surplus
15 number of 7.69 circuit judges.

16 And then, lastly, Chief, and
17 this is a document that we -- all of us
18 in this room, the Commission members --
19 we actually saw this document three weeks
20 ago at our January 8th meeting here.

21 CHIEF JUSTICE PARKER: And that's
22 what we approved.

23 MR. STEPHENS: Approved

1 unanimously, Chief, I might add.

2 (Pause).

3 HON. VERIN: I think there are two
4 different ones. One is yellow, and one is
5 not yellow. I'm not sure if they are
6 different documents.

7 MR. STEPHENS: And I am sorry.
8 That --

9 HON. JONES: Looks like the same
10 document. It looks like the same.

11 MR. STEPHENS: And so, Chief, the
12 2019 Circuit Court Judicial Weighted
13 Caseload unanimously approved by the
14 Commission at our last meeting on January
15 the 8th, showed Madison County, once again
16 ranked number one in terms of need with a
17 need of 3.25 circuit judges. Jefferson
18 County, by contrast, ranked 41 with a
19 positive of 7.98.

20 And then two last documents,
21 Chief, the Commission also approved, on
22 the Chief's recommendation, a document
23 identifying unified judicial system

1 needs. And that's just a -- I'm passing
2 around, Chief, a copy of this document
3 for everyone.

4 (Pause).

5 MR. STEPHENS: So, Chief, I would
6 invite the Commission members -- again, a
7 document unanimously approved at our
8 Commission's last meeting. I would invite
9 the Commission members' attention to the
10 fact that we said to the Legislature and
11 the world that Alabama Judicial System
12 needs 11 additional circuit judges, eight
13 additional district judges. But in
14 particular with regard to circuit judges,
15 which is what we are focused on today, the
16 23rd Judicial Circuit, Madison, needs three
17 additional circuit judges. I would note,
18 Your Honor, it is the only county listed
19 which is identified as needing three
20 circuit judges.

21 In summary, if we look at the
22 numbers in 2016, Madison County was one
23 needing three judges. In 2017, we were

1 one needing three judges. And 2018, we
2 were ranked one needing three judges. In
3 2019, we were one, ranked -- one again
4 needing three judges.

5 Now, I do want to just say this
6 briefly, Chief: I have got a few more
7 words, and thank you for your patience,
8 and I will be quiet.

9 But with respect to my brethren
10 and colleagues from Jefferson County, let
11 me be clear. I don't view this at all as
12 taking away a judgeship from Birmingham.
13 I started my legal career in Birmingham.
14 I love Birmingham. I have friends there,
15 friends in the bar, family members who've
16 lived in Birmingham. I started out in
17 the U.S. Attorney's Office in Birmingham
18 in 1980 before many people, Chief, in
19 this room were born. But I love
20 Birmingham. This isn't about trying to
21 do something negative to Birmingham. But
22 we only have limited judicial resources.

23 And I would say with this, too:

1 With, you know, all are due respect to
2 our colleagues -- Judge Jones, Judge
3 Verin -- the disparity that exists today,
4 Chief, is no one's fault. For those of
5 us who have practiced 40 years, which I
6 have in a few months, I know how we got
7 to where we got to. And I actually saw
8 it with my own eyes, and I participated
9 in it.

10 Early in my legal career when I
11 left the U.S. Attorney's Office, went up
12 to Huntsville to start private practice
13 in 1982, it was very common that I would
14 spend most of my Friday on a regular
15 basis sitting in a courtroom in the
16 Jefferson County Circuit Court, and we
17 would have motion dockets. And those
18 motion dockets would have hundreds of
19 lawyers there. The poor judges had to go
20 over case after case after case on their
21 docket. The dockets were extensive.
22 They were exhaustive. And almost every
23 case that could be filed in this state --

1 that could be filed in Jefferson County
2 was filed in Jefferson County. And
3 that's, I think, part of what contributed
4 to where we are today.

5 But venue statutes were passed,
6 as the Chief and the lawyers and judges
7 in this room are well aware, that changed
8 that in 1987 and other subsequent venue
9 changes. And that changed that. And so,
10 there weren't all these cases after cases
11 after cases being filed in Jefferson
12 County. The cases began to be filed
13 elsewhere.

14 So, to me, this is not about
15 taking away anything from Birmingham. I
16 don't want to couch it that way. I don't
17 view it that way. We only have limited
18 judicial resources. We can only do with
19 what we have. And to me, this is about
20 helping those in need, which I think is
21 an admirable goal for all of us. The
22 judges -- and two of them are here with
23 us: Presiding Judge Ruth Ann Hall, and

1 Madison County Circuit Judge Donna Pate.

2 Our judges in Huntsville, the
3 seven circuit judges that we have in
4 Huntsville -- and there are 27 circuit
5 judges just to remind everybody -- there
6 are 27 circuit judges in Jefferson
7 County. Jefferson County has twice our
8 population, a little over 600. We have a
9 little over 300. But they have four
10 times the number of circuit judges we do.

11 Our circuit judges, the good men
12 and women who serve on the bench in the
13 Circuit Court of Madison County, Alabama,
14 have been doing the work of ten judges.
15 Seven of them have been doing the work
16 for ten judges for year after year after
17 year.

18 And I have passed data around to
19 the members of the Commission. And the
20 last thing I want to pass around -- and I
21 will be the quiet, Chief, after this.

22 But, you know, the statute wasn't passed
23 as the judicial data collection

1 Commission. We were designated to be on
2 the Judicial Resource Allocation
3 Commission. That is our title. That's
4 what the Legislature charged this body
5 with.

6 And the last thing I am
7 providing to everybody, Chief, is an
8 excerpt from the enabling Legislation Act
9 Number 2017-42. That provision -- and I
10 am sorry. I will wait, Chief, until
11 everybody has a copy.

12 (Pause).

13 MR. STEPHENS: The provision of
14 the statute charges us, as members of the
15 Commission, to do this: In determining
16 whether to reallocate such judgeship, the
17 Judicial Resources Allocation Commission
18 shall consider the need based on the
19 district and -- and with all respect,
20 Chief, I believe the word "circuit" was not
21 shown in this copy -- based on the District
22 and Circuit Court rankings as determined
23 pursuant to Section One. Madison County in

1 the Circuit Court category has been ranked
2 one 2016, 2017, 2018. Three weeks ago, we
3 have unanimously approved the number
4 showing it ranked number one, again.

5 I have all the respect,
6 admiration, for my friends and colleagues
7 in Jefferson County, Chief. Again, I
8 don't view this as taking away. We are
9 just trying to help those in need. And I
10 think right now, based on need and based
11 on rankings, it would be appropriate to
12 reallocate the judgeship from Jefferson
13 County to Madison. And thank you, Chief,
14 for your indulgence and thanks to my
15 fellow Commission members for listening
16 to me.

17 CHIEF JUSTICE PARKER: Any other
18 comment on the motion to table? Judge
19 Reid?

20 HON. REID: Yes, I would like to
21 just add two comments to what Commissioner
22 Stephens has stated.

23 I would like to point out that

1 the 2000 population of Jefferson County
2 was 662,047 people. And the estimate of
3 the 2020 population -- and this is taken
4 from the U.S. Census. The population of
5 Jefferson County is estimated to be
6 659,300.

7 So, over the past 20 years
8 Jefferson County, if these numbers turn
9 out to be correct, has lost 3,000 people
10 over that period -- over the last 20
11 years. And we -- I think we all know why
12 these things have happened. People have
13 moved out of urban areas to suburban
14 areas. Shelby County has been probably
15 the most --

16 CHIEF JUSTICE PARKER: Like
17 Baldwin County.

18 HON. REID: And Baldwin County.
19 People have moved out of Mobile County to
20 Baldwin County.

21 So, we have seen a huge shift in
22 population during that period of time.
23 And -- but what didn't happen is, there

1 was no mechanism in place in the Judicial
2 Article that was passed in 1973 that
3 allowed to relocate judges to the
4 population shift.

5 So, we have got a situation
6 where we are trying to correct that now.
7 That is what this Commission was set up
8 for. And I think it's admirable that the
9 Legislature actually allowed us to do
10 this. They could have just reallocated
11 or relocated circuits, judges. They have
12 the power to do that. But instead, they
13 authorized this Commission to do that
14 work.

15 And it's really interesting that
16 we have so many judges on this
17 Commission. The majority of people are
18 judges. Judge Verin and I are both
19 retired judges, but we are still judges.
20 So, the majority of the people on the
21 Commission are judges. And it's
22 interesting that the Legislature allowed
23 us to correct this situation ourselves.

1 One other thing I want to point
2 out is, taking AOC's information -- and I
3 can't claim to be a math prodigy like
4 Commissioner Stephens is. I went to law
5 school because I couldn't do math. So, I
6 stand to be corrected on any of my
7 figures.

8 But I just took the workload,
9 based on weighted caseload for circuit
10 courts in the two circuits. Jefferson
11 County -- and I did add in two referees
12 who are purported to be circuit court
13 referees in Jefferson County. And the
14 workload in Jefferson County, per judge,
15 is 74% of the average caseload of judges
16 in -- circuit judges in the State of
17 Alabama. And if we do move this
18 judgeship, it would only go to 77%. They
19 would still be 77% of the average
20 workload of a judge in Alabama assuming
21 everybody had the average workload.

22 And one other thing to follow up
23 on Madison County's situation: Using the

1 same mathematical formula, Madison County
2 has 138% of the average workload of a
3 circuit judge in the State of Alabama.
4 That is, each judge has 138% of the
5 average workload. So, those are my
6 comments.

7 CHIEF JUSTICE PARKER: Before we
8 move on to other comments, I would like to
9 ask Cary McMillan from AOC to update those
10 workload numbers that Judge Reid was
11 referring to. But they have calculated
12 those and very close to what you had, but
13 they have got pinpoint numbers on the
14 workloads for Jefferson County and Madison
15 County.

16 MS. McMILLAN: We do.

17 HON. THOMASON: Chief, point of
18 order.

19 CHIEF JUSTICE PARKER: Yes,
20 Michelle. This is Michelle Thomason.

21 HON. THOMASON: I'm so sorry.
22 Yes.

23 Are we still in the discussion

1 phase of Judge Verin's motion?

2 CHIEF JUSTICE PARKER: Yes. The
3 motion to table.

4 HON. THOMASON: Okay. I just
5 wanted to make sure we were -- we had not
6 skipped past that motion.

7 CHIEF JUSTICE PARKER: Yeah. And
8 I took a little pause here to get detailed
9 numbers before this Commission. Judge Reid
10 had referred to them in a little more
11 general terms but in the neighborhood.

12 HON. REID: And I will exceed to
13 Ms. McMillan's expertise over my crunching
14 numbers -- and Michael.

15 MS. McMILLAN: We are passing out
16 two packets of information. The first one
17 is just the top five circuits in need of
18 workload per judge, which breaks out,
19 basically, the need per circuit and does it
20 by the judges in that circuit. I did not
21 include referees in that number. I just
22 used actual judges.

23 And then also, we have the

1 Jefferson County Circuit Judge Workload,
2 and that also breaks it out, and that one
3 does include referees. But it will be
4 easy enough to calculate it without the
5 referees.

6 So, by judge, for each of these,
7 we have different rankings. I am looking
8 at the top five circuit need for workload
9 judge. There again --

10 CHIEF JUSTICE PARKER: We didn't
11 get enough copies around here --

12 HON. THOMASON: Yeah, hold on just
13 a moment.

14 CHIEF JUSTICE PARKER: -- on the
15 first document. Are there some more?

16 HON. THOMASON: We are missing
17 Madison at this end.

18 CHIEF JUSTICE PARKER: And,
19 Harold, there is something else, too.

20 MR. STEPHENS: These are extras of
21 what I distributed, Chief. Thank you.

22 CHIEF JUSTICE PARKER: Okay. They
23 have gone all the way around. Yeah.

1 MS. McMILLAN: All right. On this
2 one, what we did was, we added in the
3 workload per judge to the formula just to
4 show what it would be.

5 So, taking the 19th Circuit, we
6 go across with the county, the region,
7 the workload minutes, the judge year
8 value, judicial overall need, how many
9 judges are needed for that circuit, the
10 district judges that are doing work in
11 circuit court, referees, then the circuit
12 judge implied overall need, the actual
13 number of circuit judges, the workload
14 per judge. And those are the -- the
15 workload per judge and the rank per judge
16 are the two columns that we handed out
17 last week -- or three weeks ago.

18 Then we had the regular weighted
19 caseload, which is that difference, which
20 is the circuit weighted caseload, and
21 then the rank for the entire circuit.

22 MR. STEPHENS: Point of order,
23 Chief, if I might.

1 CHIEF JUSTICE PARKER: Yes,
2 Mr. Stephens.

3 MR. STEPHENS: Could you explain,
4 Cary, the 1.93 number, what numbers are you
5 multiplying, dividing to get to that 1.93%?

6 MS. McMILLAN: We are taking the
7 number of actual circuit judges and
8 dividing that by the overall -- well,
9 actually the circuit judge implied need.
10 So, the three divided by 3.8 --

11 CHIEF JUSTICE PARKER: -- or 5.8
12 it says.

13 MS. McMILLAN: Or 5.8. I am
14 sorry, 5.8. And then that's your 1.93.

15 MR. STEPHENS: Thank you.

16 HON. REID: One further point, if
17 I may, Ms. McMillan.

18 CHIEF JUSTICE PARKER: That's
19 Judge Reid.

20 HON. REID: You are showing judge
21 year value for Autauga, Chilton and Elmore
22 of 83,850. Can you explain why their value
23 is different from the other four?

1 MS. McMILLAN: I can. The Judge
2 Year Value for multiple counties within one
3 circuit is smaller, because there is a
4 travel factor. Because the judge has to
5 travel the entire circuit as opposed to
6 just having -- staying in their circuit.

7 So, the Judge Year Value for
8 multi circuit -- multi-county circuit is
9 83,850, and the one for a single circuit
10 is 90,300.

11 HON. REID: Okay.

12 MS. McMILLAN: Also, and then, so,
13 there again, that shows that Madison
14 County, if you go across and go all the way
15 over to workload per judge, is 1.46, and
16 the rank there per judge is sixth. But the
17 overall need for the entire circuit is, the
18 need is negative 3.25, which means they
19 need more judges. And their rank is first.

20 And then it goes down to
21 Baldwin, which is -- the workload per
22 judge is 1.53, and the rank per judge is
23 five. And then their overall need is

1 negative 2.65, and their rank is three.
2 And it goes down from there. I will
3 point out that in the last meeting we
4 talked about the 24th Circuit being
5 Lamar, Pickens and Fayette. That that
6 circuit had an anomaly of some murders
7 that increased their number, and that's
8 why they are not on this list. They were
9 the -- workload per judge, they were the
10 number one slot. But they are
11 not because -- I mean, so, let me explain
12 that a little bit.

13 They had some murders that took
14 place, and that increased their --
15 capital murder is the largest number of
16 minutes per case that a judge spends on
17 any case. And that's -- we know that.
18 They had, in the 24th Circuit, in Fayette
19 County they had 36 counts of capital
20 murder. But of those counts, there were
21 three defendants with two victims that
22 made up those 36 counts.

23 In Pickens County, they had

1 eight counts of capital murder, and it
2 was two defendants that murdered -- or
3 allegedly murdered one victim. That
4 being said, when the Committee talked
5 last time, we talked about how you need
6 to look at a three-year span, like we
7 have looked at these numbers, and they
8 were not in the top five for three years.
9 It was just for that one year that popped
10 up so that -- because of these murders.
11 So, I did want to point that out.

12 CHIEF JUSTICE PARKER: Yeah. And
13 just to emphasize, our statutory directive
14 is that we had to have three full years of
15 data, which we got with the conclusion of
16 FY-19. So, that's why we were able to
17 prove a list at our last meeting.

18 Now, as Judge Thomason pointed
19 out, we are still discussing the motion
20 to table.

21 HON. VERIN: Yes, Chief.

22 CHIEF JUSTICE PARKER: Yes, Judge
23 Verin?

1 HON. VERIN: First, in response to
2 a lot of the comments, let's just remember
3 that this Commission acknowledged that we
4 need -- the State of Alabama needs 11 more
5 circuit judges in the State of Alabama.
6 And we need eight additional district
7 judges around the state.

8 So, just to make clear with
9 everyone, we are not saying that
10 Jefferson County has a surplus of judges.
11 I'm sure that the judges that are here
12 from Jefferson County could attest that
13 they don't work -- feel that they work at
14 .78% than any other judge in the state.
15 And Judge -- Chief Justice, if I may, as
16 I was allowed to do the last time,
17 introduce the judges that we do have
18 here.

19 We have Circuit Judge Annetta
20 Verin from the Bessemer division,
21 District Judge Lorraine Pringle from the
22 Bessemer division, District Judge Katrina
23 Ross from the Birmingham division,

1 Circuit Judge Javan Patton from the
2 Birmingham division, Circuit Judge
3 Michael Streety from the Birmingham
4 division, Circuit Judge Alaric May from
5 the Birmingham division, District Judge
6 William Bell from the Birmingham
7 division, and Circuit Judge Marshell
8 Jackson from the Birmingham division. I
9 know, she is going to get extra special
10 attention in a minute, folks. Trust me,
11 I know what I am doing sometimes,
12 sometimes.

13 As the Alabama Lawyers
14 Association's representative on this
15 Commission, I would like to introduce its
16 current president, Attorney Glenda
17 Freeman. ALA, which is the state's black
18 specialty group of attorneys statewide,
19 also has a judicial council. Its chair
20 is 10th Judicial Circuit, Jefferson
21 County Presiding Judge David Hobdy of the
22 Bessemer division, who along with the
23 council's vice-chair, Jefferson County

1 Circuit Judge Brendette Brown Green are
2 in South Africa right now attending the
3 National Bar Association's midwinter
4 conference. They are unable to be here,
5 but wanted me to express their concern,
6 and the fact that they would be here but
7 for the fact that they are with the
8 National Bar Association.

9 And, also, on the ALA's judicial
10 council, its Secretary/Treasurer and
11 fellow member of this Commission,
12 District Judge Zack Collins.

13 The Alabama Lawyers Association
14 is an affiliate chapter of the National
15 Bar Association, which is the oldest and
16 largest national network of African-
17 American attorneys and judges. Among its
18 past presidents are our own Fred Gray,
19 who was the first black state bar
20 president of this state.

21 Now, the Magic City Bar
22 Association is the Birmingham affiliate
23 of the Alabama Lawyers Association, and

1 its president, Chris Burrell, is here.

2 MR. BURRELL: Good morning.

3 HON. VERIN: Mr. Burrell, thank
4 you so much for your attendance.

5 Like the ALA, the Magic City Bar
6 Association has a judicial council; and
7 its chairperson, Jefferson County Circuit
8 Judge Agnes Chappell is in attendance.
9 And I would like for her to stand up
10 since they thought I slighted you before.
11 Thank you, so much.

12 Judge Chappell, by the way, is
13 probably one of the longest serving
14 judicial officers in the State of
15 Alabama, having continuously served as a
16 family court referee, municipal judge and
17 now as a circuit judge since about 1985.
18 Is that correct, Judge?

19 HON. CHAPPELL: '84.

20 HON. VERIN: '84. Thank you so
21 much for your service, ma'am.

22 Now, the National Bar
23 Association, the Alabama Lawyers

1 Association, and the Magic City Bar
2 Association share all of the same
3 objectives which most pertinent to the
4 discussion today are the eradication of
5 racial and class bias from every aspect
6 of the judicial and law enforcement
7 process, the improvement of the public's
8 confidence in courts, and in the
9 determination of the judiciary to listen,
10 to understand, and to fashion effective
11 remedies for the legitimate grievances of
12 the deprived, the depressed, and the
13 dehumanized in our society.

14 And let me take this moment
15 right now to say that the weighted
16 caseload study, which as I said during
17 our last meeting, if you ask the judges
18 who participated in formulating this
19 study, will tell you that there was a
20 lack of controversy concerning the
21 outcomes and the way that it was
22 conducted.

23 Another one of the purposes and

1 objectives of the National Bar
2 Association, the Alabama Lawyers
3 Association, and the Magic City Bar
4 Association is to increase the numbers of
5 black judges on the local, state, and
6 national level. When then ALA President
7 Stephanie Hunter and I first discussed my
8 appointment to this Commission, we were
9 aware at that time that Jefferson County
10 was targeted as the primary source from
11 which judgeships were to be taken from.
12 And we agreed that the Association's
13 position would be to vote against any
14 reallocation of judges from Jefferson
15 County.

16 This discussion was ratified at
17 a subsequent meeting of the body. And
18 while the reasons discussed were many,
19 the overriding theme was that taking
20 judgeships away from Jefferson County
21 would have a disparate impact in the
22 number of black judges throughout this
23 state, and would be antithetical to our

1 goal of increasing the number of black
2 judges.

3 Statewide there are 148 circuit
4 court judges; 31 of these are held by
5 black judges. And of those 31, almost
6 two-thirds, 19, come from Jefferson
7 County.

8 Statewide, there are 98 district
9 court judges. Of these, 17 are black and
10 almost half of them come from Jefferson
11 County. Judge Reid, like you, I am not a
12 mathematician, but it does not take one
13 to see that Jefferson County is producing
14 black judges. And to permanently remove
15 judges therefrom would disparately impact
16 the number of black judges statewide.

17 But ALA's position is not to be
18 predicated on the statistical disparate
19 impact that such reallocations would have
20 on Jefferson County.

21 What is of greater importance
22 today and more immediate is that we
23 currently have three candidates running

1 on the ballot and who are on the
2 March 3rd, 2020, primary ballot for this
3 position.

4 Now -- and let me just state
5 this straight on out: There is strong
6 distrust in the black community with
7 America's justice system in general,
8 America's criminal justice system,
9 specifically, and Alabama's criminal
10 justice systems in particular. Just go
11 and see the movie "Just Mercy." And that
12 movie was not set in the '20s and '30s,
13 that movie was set in the 1980s and 1990s
14 in this State of Alabama, to get just a
15 small glimpse of what I am talking about.
16 And if you want to get a much more
17 in-depth detail of what I am talking
18 about, I recommend that you read the book
19 by the author Ta-Nehisi Coates, "We Were
20 in Power Eight Years." I recommend
21 everyone in this room to read that book
22 if you want to get a good synthesis of
23 black thought, distrust of the system,

1 and what it's rooted upon.

2 Pursuant to Canon One of the
3 Canons of Judicial Ethics, we, as judges,
4 are duty-bound to uphold the integrity
5 and independence of the judiciary. But
6 this does not mean that we are to turn a
7 blind eye towards the injustice within
8 the institutions that are meant to make
9 things just. That's the very reason why
10 this Commission has a representative of
11 the Alabama Lawyers Association on it.

12 In Jefferson County, many
13 members of the judiciary, along with the
14 other branches of government, have
15 consistently met to put black justices on
16 the bench and ensure that we kept black
17 judges on the bench. Again, many, many
18 meetings. I came to the state and was
19 licensed in '82. I had been meeting
20 about black judges before I became a
21 judge in '87, and I am still meeting
22 about black judges on the state, while I
23 am now retired. You see -- and let me

1 just -- I am trying to get you to
2 understand what's been going on in
3 Jefferson County circuit. If you will
4 indulge me, I would appreciate it.

5 Prior to my election to the
6 circuit bench in 1998, we had at one
7 point as many as five black circuit
8 judges at the same time in Jefferson
9 County. But in 1998, we only had one,
10 and he was retiring. There had been a
11 chilling effect among black lawyers to
12 run for judgeships in Jefferson County
13 with the losses in general elections of
14 first Judge Carol Smitherman and then
15 with the loss of Judge Annetta Verin,
16 who's present -- my wife, who is still a
17 circuit judge -- who lost to an attorney
18 who had never, ever practiced law. This
19 was a dark day in Jefferson County.

20 But two kamikaze black lawyers
21 ran in 1998 -- that's what we were
22 called, "kamikazes" -- because nobody
23 thought that they had a chance to win.

1 My colleague lost by half a percentage
2 point, and I won by less than a half of a
3 percentage point.

4 And a few months thereafter
5 there were another set of meetings called
6 by myself and Justice Ralph Cook with
7 other lawyers. And our message to
8 them -- to these lawyers was, well, now
9 we see that we can win elections in
10 Jefferson County. So, it's your duty now
11 to go out and run.

12 And despite the numerical gains
13 that we have had since 1998, as I said
14 before, the meetings have continued. But
15 these meetings have seemed to increase
16 within the last several years. You see,
17 there were rumors of events that were
18 going to happen in Jefferson County,
19 causing us to have various meetings
20 amongst ourselves, the judges, and then
21 our officials -- and speaking of which,
22 let me pause here and recognize, we have
23 Representative Chris England here. I'll

1 let you stand up and be recognize, sir.
2 He is a lawyer, too, by the way, and is a
3 good friend to the Judiciary.

4 I wish it was him talking
5 instead of me, and I would love to defer
6 to him, Chief Justice, but I will go
7 ahead, and not put him on the spot. But
8 if you would allow him, I would be more
9 than happy to stop than to continue on,
10 believe me.

11 CHIEF JUSTICE PARKER: Let's see.
12 I don't have the sign up sheet for those
13 who signed up to speak. I don't know if --

14 HON. VERIN: If he is on
15 the record --

16 CHIEF JUSTICE PARKER:
17 Representative England signed up in
18 advance.

19 REP. ENGLAND: I did.

20 CHIEF JUSTICE PARKER: Would you
21 bring that up to me, Susie, please.

22 HON. VERIN: Well, I can stop
23 right now. Let me get a sip of water,

1 please, so I can continue. As we do that,
2 let me go ahead.

3 CHIEF JUSTICE PARKER: So, do we
4 have people signing up now rather than
5 before the meeting?

6 HON. VERIN: I -- I'm only --
7 Chris England is who I wanted, I mean, as
8 far as I'm concerned. I am going to be
9 lengthy enough. But I am not going to
10 prohibit -- I'm just saying that I would
11 like to have Chris England, if possible, to
12 speak. Let me continue on, if I may.

13 Let me tell you the kind of
14 rumors and things that we were hearing
15 over the past couple of years. We heard
16 rumors that the Legislature was going to
17 increase the time experience requirements
18 to be a judge. And that's okay, but what
19 we were hearing was that they were going
20 to pass a bill requiring that the number
21 of years that you had to be a lawyer in
22 Jefferson County to be a judge would be
23 more than around the state. And I am

1 thinking about this, and I went to one of
2 my colleagues last week when we were at
3 the judges' convention. He said -- he
4 confirmed, yeah. It may not have been a
5 true rumor, but we sure were talking
6 about that.

7 There were rumors that the
8 boundary lines of the 10th Judicial
9 Circuit, which encompasses Jefferson
10 County, was going to be changed in such a
11 way as to influence black voters. We
12 were even told things, because we had a
13 great influx of black female lawyers who
14 became judges, that we shouldn't
15 advertise that so much. Be cool, we were
16 told; keep it quiet, because they are mad
17 at all of these black female judges being
18 on the bench.

19 And there were other rumors and
20 other issues, including this Commission,
21 that were discussed. The presiding judge
22 of the 10th Judicial Circuit, at a
23 meeting last year at one of our local

1 Bessemer banquets, was asked to comment
2 on these things, and he did.

3 On Tuesday, January 14th of this
4 year I was informed by a colleague that
5 the Governor had appointed the Place
6 Number Three incumbent circuit judge to a
7 now open position for a circuit judge --
8 for Circuit Judge Place Number 16. Now,
9 I am going to be dealing with these
10 numbers of these seats. It gets
11 confusing. So, I am going to slow down a
12 little bit and hope that you will be able
13 to go along with me.

14 Now, I was told this on the
15 14th -- and although I certainly found no
16 corroboration in AL.com or other news
17 sources, I just Googled, I didn't see
18 anything about it, I had no reason to
19 doubt the veracity of what I had been
20 told. Knowing that Place Number Three
21 was on the March 3rd, 2020, Jefferson
22 County primary ballot, and that there
23 were three lawyers who had qualified and

1 were actively campaigning for this
2 position, I wondered to myself and then
3 to others whether this created a vacancy
4 pursuant to Section 2 of the Reallocation
5 Statute, which would cause this
6 Commission to address this decision.

7 Section 2-A of the Reallocation Statute
8 reads in pertinent and part, "Only in the
9 event of a vacancy due to death,
10 retirement, resignation or removal from
11 office of a district or circuit judge,
12 the Judicial Resources Allocation
13 Commission shall have 30 days to
14 determine whether to reallocate such
15 judgeship to another district or
16 circuit."

17 Now, on Thursday morning,
18 January the 16th, I was informed by our
19 colleagues of this meeting. I hadn't
20 been getting proper notifications, and
21 something that me and Dr. Rich Hobson
22 squared away. I am now on -- in the
23 loop. I am now getting emails.

1 But it's something else when I
2 am on the Commission. Judges and other
3 folks are knowing I am on the Commission,
4 and they are telling me about a
5 Commission meeting, and I have got to say
6 I don't know anything about it. It was
7 not a good day, folks.

8 Around noon of the 16th, while I
9 was at the Bessemer courthouse in my
10 office, my telephone began to blow up
11 regarding the reallocation of Place
12 Number 3. These calls began shortly
13 after the 10th Judicial Circuit and
14 district judge's meeting concluded. The
15 calls first came from judges who had
16 attended the meeting, then lawyers who
17 had heard rumors of what had happened at
18 the meeting, and then from members of the
19 public. As I do, I informed the
20 leadership of the ALA and MCBA of this
21 Commission meeting, and all I could tell
22 them at that point was that I had heard
23 that there was a meeting, that hadn't

1 been confirmed to me, and that I had
2 heard that the topic of this meeting
3 would be the reallocation of Place Number
4 3.

5 I have given you this background
6 as a preface to explain why I must, on
7 behalf of the ALA, vote against the
8 reallocation -- not just of -- not just
9 because of the disparate impact that this
10 move would have, but on the grounds that
11 there was not a vacancy in Place Number
12 3., and there are other grounds that
13 others have wanted me to explain.

14 I want to first review how this
15 opening in Place Number 3, to which the
16 Place Number 3 incumbent left for
17 appointment to Place Number 16 on January
18 the 17th, 2020, arose.

19 Let me go back to the
20 November 2018 election -- general
21 election. During that election, the
22 Place 16 incumbent lost, and the Place
23 Number 3 incumbent won election to the

1 Alabama Court of Criminal Appeals
2 creating an opening in Place Number 3.
3 Are you with me so far? Okay. Place
4 Number 16 incumbent loses --

5 CHIEF JUSTICE PARKER: Bill Cole.

6 HON. VERIN: That's right. Okay?
7 Bill Cole I will mention in a minute. He
8 was the one who won, and he went up to the
9 Court of Criminal Appeals.

10 In an article dated December the
11 19th of 2018, AL.com reported that the
12 Jefferson County Judicial Commission
13 submitted three names to the Governor, to
14 which the Place 16 incumbent was
15 appointed by the Governor, effective
16 January the 15th of 2019. Okay?

17 Place Number 16 Judge Incumbent
18 loses; Place Number 3 incumbent wins to
19 the Court of Criminal Appeals. The
20 Governor appoints the incumbent loser to
21 Place 16 over to Place 3. Okay? So far
22 so good. Place 3 is why we are here
23 today.

1 Note that I use the term
2 "opening" and not "vacancy" when I refer
3 to Place Number 3, because there was no
4 vacancy as that term, I believe, is
5 defend in the reallocation statute. When
6 Place Number 3 Circuit Judge Bill Cole
7 won his election to the Alabama Court of
8 Criminal Appeals he did not die, he did
9 not retire, he did not resign from Place
10 3 never to be a judge again. He was
11 moved to another judgeship, and he was
12 not removed from office. Those are --
13 those are the four criteria. He --

14 CHIEF JUSTICE PARKER: Well,
15 wasn't this before we had the three years
16 of data?

17 HON. VERIN: True. But then I am
18 going to bring it right back down to this
19 particular judgeship in 2020, Judge -- I
20 mean, Chief Justice.

21 CHIEF JUSTICE PARKER: Gene, let
22 me just add a note for all in attendance.
23 We did not order lunch today.

1 HON. VERIN: Well, good, because I
2 won't stand between you and lunch, will I?

3 And, folks, I hate to be
4 laborious about this, but this is very
5 important. I think it's important for
6 you who are not in Jefferson County to
7 understand what we've been through.
8 Okay? And to, again, understand that the
9 weighted caseload study is only one of
10 the criteria that we are to use when we
11 determine whether to reallocate a
12 judgeship.

13 Now, the same is true when the
14 Place 16 incumbent accepted appointment
15 by the Governor back in 2019 to Place
16 Number 3. She did not die. She did not
17 retire. She did not resign from Place
18 Number 16 never to be a judge again, and
19 she was not removed from office. She
20 remained a judge, but not after circuit
21 judge Place Number 16, but as to Place
22 Number 3.

23 Place Number 16 laid dormant as

1 the qualifications of the Place 16 winner
2 was challenged in Jefferson County
3 Probate Court, Case Number 18BHMO2837,
4 and finally resolved by opinion of our
5 Alabama Supreme Court released August the
6 23rd, 2019, in Case Number 1180314,
7 affirming that the Place Number 16
8 winner's disqualification to hold office.

9 Qualifying to run for Place
10 Number 3 opened on September the 27th,
11 2019, and closed on November the 8th,
12 2019. Three lawyers qualified for this
13 position. The incumbent did not. Okay?

14 So, the place open -- that place
15 was open for election. Three lawyers
16 qualified, but the then incumbent judge
17 in Place Number 3 did not qualify to run
18 for that position. Those three lawyers
19 are Kechia Davis, Sammy Lee and Everett
20 Wess, and they are all in attendance.
21 And I would like to briefly tell you
22 something about them. And in no
23 particular order -- I will say ladies

1 first -- Kechia Davis is here. Stand up.

2 And she is Judge Davis; is that
3 correct, ma'am?

4 HON. DAVIS: Yes.

5 HON. VERIN: She is a judge for
6 the Birmingham City Court. She is a
7 graduate of the University of Alabama
8 School of Law, and the University of
9 Alabama undergraduate school. As I said,
10 she is a municipal court judge for the City
11 of Birmingham.

12 Appreciate you standing up,
13 ma'am.

14 She was also a Deputy District
15 Attorney for Jefferson County, and a
16 domestic violence attorney.

17 We have attorney Sammy Lee here.
18 He is a '97 graduate of the Birmingham
19 School of Law, and got his BA degree,
20 Bachelor's of Science degree from UAB in
21 1989. Now, he is a former law
22 enforcement officer. He was a police
23 officer for the City of Fairfield, and a

1 deputy sheriff for Jefferson County.

2 Thank you very much, sir.

3 And the third candidate who is
4 here is another judge, Judge Everett
5 Wess. Judge. He is a municipal court
6 judge for the City of Midfield, Alabama.
7 He has been a public defender prior
8 thereto, a special circuit court for
9 Jefferson County, a special district
10 court judge for Jefferson County, and he
11 is a graduate of the Birmingham School of
12 Law, has an MBA from Alabama A&M, and a
13 Bachelor of Science degree from Alabama
14 A&M. Thank you so much, sir.

15 Going back to the chronology of
16 what was going on: Shortly after the
17 Supreme Court's August the 23rd, 2019,
18 order confirming the Place 16 winner's
19 disqualification, the Jefferson County
20 Judicial Commission announced it was
21 seeking application to fill that
22 position. Remember again, Place 16, the
23 incumbent lost. The winner's

1 qualification was challenged. Finally
2 they were -- her disqualification was
3 affirmed by the Alabama Supreme Court.

4 So, on October the 28th of 2019,
5 the Jefferson County Judicial Commission
6 announced the names of the three
7 applications it had received. And on
8 November the 14th, very close to right
9 now, the Commission selected three names
10 to send to the Governor. The Place
11 Number 3 incumbent was among the three
12 names submitted. Remember, she didn't
13 qualify to run for Place Number 3, which
14 is the seat that she was holding. She
15 went ahead and qualified -- and put her
16 name into consideration for Place Number
17 3.

18 HON. JONES: You mean Place Number
19 16.

20 HON. VERIN: I'm sorry. Place
21 Number 16. See, even I get these numbers
22 mixed up every once in a while. Thanks for
23 listening, Judge. Okay?

1 And that brings me back to my
2 colleague informing me on the 14th of
3 this month that the Place Number 3
4 incumbent had been appointed to fill the
5 Place Number 16 open position.

6 Again, and, Chief, as I analyzed
7 before, it does not appear to me or the
8 Alabama Lawyers Association, the Magic
9 City Bar Association, and others in this
10 room that the vacancy as defined in
11 Section 2-A of the Reallocation Act was
12 created when the Place Number 3 incumbent
13 was appointed to fill the opening in
14 Place 16 by the Governor. She did not
15 die. She did not retire. She did not
16 resign from Place Number 3 not to be a
17 judge again, and she was not removed from
18 office. She remained a judge, but not at
19 the circuit judge Place Number 3, but as
20 a judge on Place Number 16.

21 Moreover, as I said before and
22 due to the three candidates there are now
23 attorneys whose names will be on the

1 primary ballot on March the 3rd, 2020.
2 Absent a March the 31st runoff, the
3 winner of that election will have
4 achieved their dream of becoming a state
5 court judge for the State of Alabama as
6 the winner will have no opposition during
7 the general election.

8 Now, others have approached me,
9 and maybe some of these other speakers
10 will address what they feel are some of
11 the other fallacies in terms of why there
12 has not been a vacancy created.

13 Based upon what I already told
14 you, I don't think that justice would be
15 served by deferring the dreams of these
16 three lawyer candidates for the judicial
17 posts. Whether their dreams have been
18 long-standing, as had been the case with
19 my wife, Annetta Verin, back in 1980 when
20 we were in law school. She sat in the
21 moot courtrooms presiding judge's chair,
22 had her pictures taken, because that was
23 her dream way back then.

1 So, whether these three
2 candidates have had their dreams for a
3 long time or whether their dreams to be a
4 full-time day court judge have been more
5 recently formed, it would simply not be
6 fair to defer those dreams and reallocate
7 this particular position. And this
8 reallocation would send such a bad
9 message to the Jefferson County community
10 and reaffirm their worst fears that the
11 black judiciary in Jefferson County is
12 under attack.

13 And despite these candidates
14 playing by the rules and doing everything
15 in their power to achieve that dream,
16 that in an instant this Commission can
17 take away that dream.

18 So, in sum, I formally move that
19 we table any discussion of reallocating
20 Circuit Judge Place Number 3. Now --

21 CHIEF JUSTICE PARKER: We have
22 already had a second to that motion.

23 HON. VERIN: Right.

1 CHIEF JUSTICE PARKER: So, that's
2 on the table. So, that's what we're
3 discussing.

4 HON. VERIN: Okay. Well, let me
5 just finally conclude by saying this: As a
6 member of this Commission, I didn't realize
7 until recently as when somebody said it and
8 I checked it out, all -- as far as I can
9 see from the data that we have in the
10 weighted caseload -- and, again, that's not
11 the Bible, I want everybody understand
12 that -- but all of the seats that are going
13 to be reallocated come from Jefferson
14 County. All of them.

15 There are going to be vacancies
16 soon in Jefferson County besides this
17 place. That's a fight I am willing to
18 take up another day, and I promise on a
19 much shorter basis, folks. This seat,
20 though, is the one that we are here about
21 today, and that I simply ask that you
22 search in your souls to think about it.

23 Madison County, I believe, over

1 my objection and perhaps over some others
2 here, you are going to get help. Help is
3 on the way. But I urge not from this
4 particular place.

5 Thank you very much, Chief.

6 CHIEF JUSTICE PARKER: Thank you,
7 Judge Verin. And let me just make sure
8 that everyone remembers that there is a --
9 we can only reallocate once every two
10 years. So, there is a moratorium that
11 would go into effect if a seat is
12 reallocated today.

13 Now, are there any other
14 comments?

15 HON. WILL PARKER: Chief Justice
16 Parker, this is Will Parker from the
17 Governor's legal office. I just wanted to,
18 for the good of the Commission, let
19 everyone note, I have been told that Judge
20 Pulliam did send a resignation letter to
21 the Governor. I did get the seats mixed
22 up, too. I think she was in Place 3, and I
23 think she sent us a resignation letter

1 announcing that she was leaving her Place 3
2 seat prior to her appointment to Place 16.

3 CHIEF JUSTICE PARKER: That is
4 correct. I have a copy of it, as well.

5 HON. JONES: No. No. Actually,
6 what happened --

7 CHIEF JUSTICE PARKER: Now, this
8 is Judge Clyde Jones.

9 HON. JONES: I am chairman of the
10 Judicial Commission in Jefferson County,
11 Clyde Jones.

12 What happened was, the Governor
13 appointed her on that Monday, I think it
14 was maybe January 13th, and then she
15 re -- she was currently in Place 3, and
16 then she resigned the next day on
17 Tuesday, January 14th.

18 HON. WILL PARKER: That may be
19 true. I -- I'm trying to find that out. I
20 thought it might be helpful to the
21 Commission, and I don't know the date of
22 the resignation letter. So, thank you.

23 CHIEF JUSTICE PARKER: Any other

1 discussion on the motion to table? Judge
2 Reid?

3 HON. REID: I have a question.
4 Judge Verin, you went through your numbers
5 really quick, but could you help me and
6 just clarify some of your numbers?

7 HON. VERIN: Yes.

8 HON. REID: Would you go back and
9 tell me how many African-American circuit
10 judges there are in Jefferson County?

11 HON. VERIN: From my count, there
12 are 19.

13 HON. REID: 19?

14 HON. VERIN: That's right.

15 HON. JONES: Excuse me. You're
16 not talking -- excuse me. Clyde Jones.
17 Chief, he is not talking --

18 CHIEF JUSTICE PARKER: Once you
19 have identified yourself our reporter
20 hopefully can get it from there.

21 HON. JONES: So, you're not -- are
22 you -- You're not asking about the Bessemer
23 division when you say Jefferson County, are

1 you?

2 HON. VERIN: No. I can break that
3 down to --

4 HON. JONES: You're just talking
5 about the Birmingham division?

6 HON. REID: I really was asking
7 for Jefferson County.

8 HON. JONES: But it's not --

9 HON. REID: Okay. And I would --
10 I would be happy to have the total number,
11 if you have got that. I mean, Jefferson
12 County, plus the Bessemer division, how
13 many African-American circuit judges are
14 there?

15 HON. VERIN: Okay. In the Circuit
16 Court Birmingham Division of Jefferson
17 County, there are a total of 16.

18 HON. REID: African-Americans?

19 HON. VERIN: That's correct. In
20 the Birmingham Division, Circuit Court,
21 four black males and 12 black females.

22 In the Birmingham Division,
23 District Court Division, there are five:

1 One black male and four black females.

2 In the Circuit Court Bessemer
3 Division, there are a total of three:
4 Two black males, and one black female.

5 And in the District Court,
6 Bessemer Division, there are a total of
7 three black district court judges: One
8 black male, and two black females. For a
9 total in Jefferson County of what I
10 gather, as I said before, were nineteen
11 black circuit judges and eight black
12 district judges.

13 CHIEF JUSTICE PARKER: 26.

14 HON. REID: And in total, there
15 are how many circuit judges in Bessemer
16 County, in the Bessemer Division?

17 HON. VERIN: In the Bessemer?
18 Four.

19 HON. REID: Four. So, there are
20 two whites and two African-Americans?

21 HON. VERIN: No. In Bessemer,
22 there is one white and three black.

23 HON. REID: Circuit judges?

1 HON. VERIN: That's correct.

2 HON. REID: Okay. So, a total of
3 four. So, 31.

4 CHIEF JUSTICE PARKER: 31 total
5 judges for Bessemer and Jefferson County
6 circuit judges.

7 HON. VERIN: I can give you that
8 number. Jefferson County totals would be
9 27 circuit judges in Birmingham and
10 Bessemer.

11 HON. REID: Told of 27?

12 MR. GREGORY: This is Michael
13 Gregory. The total number of circuit
14 judges in the 10th Judicial Circuit is 27,
15 currently.

16 HON. VERIN: That's right.

17 HON. REID: Okay. Well, then, my
18 number was correct. I thought I -- I might
19 have missed something. But I would like to
20 just point out that if there are 19
21 African-American judges in Jefferson County
22 and 27 total judges, that means that
23 70 percent of the judges in Jefferson

1 County Circuit Court are African-American,
2 70 percent.

3 HON. VERIN: Right.

4 HON. REID: And if you lose a
5 judge, if you lose one judge, your ratio
6 would only drop to 69 percent African-
7 American.

8 HON. VERIN: In Jefferson County.

9 HON. REID: In Jefferson County,
10 and Bessemer. That includes Bessemer.

11 HON. VERIN: Right. And
12 statewide.

13 HON. REID: Well, I'm not
14 talking -- we are talking about Jefferson
15 County. I am not talking about statewide.

16 HON. VERIN: Sure. But I -- the
17 ALA, the Alabama Lawyers Association. And
18 so, the numbers of black judges total.

19 HON. REID: And I would point out
20 that the census -- the census data for
21 Jefferson County shows that African-
22 Americans comprise 43 percent of Jefferson
23 County population.

1 So, you have got 70% -- well,
2 this is based on the U.S. Census data for
3 2020. That's --

4 UNIDENTIFIED WOMAN: Which has not
5 occurred.

6 HON. REID: Okay. Well, I can use
7 2010 data, and it won't -- could not occur.

8 CHIEF JUSTICE PARKER: Let's limit
9 our discussion to people on the Commission
10 at this point.

11 HON. REID: Okay. Those are my
12 comments based on disparate impact.

13 CHIEF JUSTICE PARKER: Judge
14 Jones.

15 HON. JONES: I have a little
16 different take on the courts and of whether
17 we are going to take Place 3 from Jefferson
18 County. I had been practicing law for 40
19 years. I have been a prosecutor for five,
20 a defense attorney for 17, and a circuit
21 judge, in May, for 18. And half of that
22 time there were no African-Americans on the
23 bench in Jefferson County. There have only

1 been African-Americans on the bench in
2 Jefferson County since Judge Richmond
3 Pearson came on the bench from the State
4 Senate. And he retired around 1990, maybe,
5 eight.

6 And in the Birmingham Division,
7 which is what I tend to focus on, there
8 were no other African-Americans on the
9 bench in the Birmingham Division. Carol
10 Smitherman was appointed in 1990 by Guy
11 Hunt for less than a year and lost that
12 election to Alfred Bahakel, and we had
13 another judge appointed in the civil
14 division who served for about a year and
15 retired for his own personal reasons.

16 But it was not until 2000 that
17 Judge Houston Brown, who practiced law
18 with me for about 12 years until he won
19 in a general election after first having
20 been appointed by the Governor. So, at
21 that time, in 2000, he was the only
22 African-American judge.

23 HON. VERIN: In the Birmingham

1 Division.

2 HON. JONES: In the Birmingham
3 Division. Of course, Gene, you have
4 already claimed Bessemer. I am focusing on
5 Birmingham.

6 Not until 2002 -- So, Houston
7 Brown was in the civil. In 2002, I was
8 appointed to the criminal division, and
9 for a number of years, I was the only
10 judge in that building until Judge Ross
11 over there was elected to the district
12 court. And then it was only gradually,
13 beginning in 2008, that we started
14 getting one and two other judges during
15 the election years.

16 So, for most of the history of
17 the state -- and I think we are
18 celebrating our 200th anniversary this
19 year, or up to last year, there were no
20 African-Americans on the bench in
21 Jefferson County, none whatsoever, and
22 there was no chance.

23 Now, what I want to focus on is

1 that, when we talk about whether we are
2 going to take a judgeship, according to
3 the Alabama Code Section 12-9A-2(a), and
4 then talk about in the event of a vacancy
5 due to death, retirement, resignation, or
6 removal from office, this Commission has
7 30 days to determine whether it will be
8 reallocated.

9 But it goes on further, and it
10 says that in no event shall the
11 Commission reallocate a judgeship to
12 another district and circuit, and in
13 doing so would cause that district or
14 that circuit from which the judgeship was
15 removed to move into the ten counties in
16 most need of a district judge or the ten
17 circuits or divisions thereof.

18 Now, when this Act was passed,
19 they made a particular specialized note
20 to say that before you remove a judge
21 from a circuit that you would give
22 special consideration to those circuits,
23 and it's the only one that has divisions.

1 And as you-all know by now,
2 because I think I have said it several
3 times, Jefferson County is the only
4 circuit in Alabama that has divisions.
5 And it makes a difference. If you are
6 talking about a circuit that has 20 --
7 let's say 28 judges total, but those 28
8 judges are broken down into divisions as
9 opposed to there just being 28 judges
10 that handle criminal, civil, a little
11 domestic relations, et cetera, it makes a
12 difference. And we have numbers too in
13 Jefferson County.

14 Let me give you an example. In
15 the domestic relations division, where
16 Judge Chappell over there works and Pat
17 Stevens and Nekita Blocker, our numbers
18 show that they are working at about 130%.
19 So, they are --

20 CHIEF JUSTICE PARKER: If I may,
21 Cary McMillan passed around this sheet that
22 has shady colors on it, and it breaks down
23 Birmingham Division versus Bessemer

1 Division, and the figure that you are
2 talking about, domestic relations for
3 Birmingham Division is shown there as
4 117.55%.

5 HON. JONES: Okay. That's not
6 what Judge Boohaker gave us recently, but
7 I'll go with 117, Chief.

8 And to continue, in the civil
9 division in circuit we have about 11
10 circuit judges. In the criminal
11 division, we have -- and have always had
12 for a long time, for a decade at least or
13 more -- eight circuit judges.

14 So, if you take a circuit judge
15 from us, then we will only have seven
16 circuit judges. But not only that, we
17 have a circuit judge in the criminal
18 division that refuses to handle homicide
19 cases. And guess what type of case it is
20 that circuit judges like Judge May and
21 Streety there and myself try the most?
22 Homicide cases. And you can look at the
23 news any day of the week, and you can see

1 it: Capital murder, felony murder,
2 murder, manslaughter, criminal negligent
3 homicide. That's what we do. That's
4 what we have to do and use our 28 weeks
5 for that we have.

6 But -- so, that gets us down to
7 six judges. But on top of that, the
8 Legislature in its infinite wisdom
9 sometime transferred a district court
10 judgeship under civil division to the
11 criminal division to specifically handle
12 municipal appeals. In the Birmingham
13 Division of Jefferson County, we have
14 approximately 23 municipalities that have
15 appeals dockets.

16 So, that district court judge,
17 which is Debra Weston-Pickens, she now
18 has been transferred to the civil
19 division, because when the Legislature
20 increased the amount that could be
21 claimed in the District Court Civil
22 Division from \$10,000 to \$20,000, they
23 did not add another judgeship for the

1 most populous circuit in the State of
2 Alabama.

3 CHIEF JUSTICE PARKER: Nor did
4 they add judgeships anywhere when they
5 changed that.

6 HON. JONES: Yeah. But I want to
7 focus on Jefferson County.

8 So, it's now from eight. We are
9 down to six, plus we now have to handle
10 municipal appeals docket for 23
11 municipalities: Mountain Brook,
12 Vestavia, Hoover, Gardendale, Fultondale
13 area, you know, et cetera, et cetera.

14 So, our caseload from last year,
15 now, it's a lot different. And that's
16 70-something percent that was mentioned
17 earlier it's going to be a lot greater,
18 because we don't have as many judges. We
19 are down two judges, and we're also
20 handling municipal appeals.

21 HON. THOMASON: May I ask --

22 HON. JONES: You can't talk about
23 apples and oranges. Did someone say

1 something, Chief?

2 HON. THOMASON: I was going to ask
3 a question. May I ask a question real
4 quick?

5 CHIEF JUSTICE PARKER: Judge
6 Thomason. It's Place 3 we are talking
7 about, not 16; am I right? It's Place 3?

8 HON. JONES: It's Place 3, because
9 she's back in 16 now.

10 HON. THOMASON: Okay. Yes. I
11 just wanted to confirm.

12 So, what division is Place 3 in?

13 HON. JONES: Criminal, and 16.

14 HON. THOMASON: It's criminal in
15 the Jefferson Division, correct?

16 HON. JONES: In the Criminal
17 Division.

18 HON. THOMASON: I mean, in
19 Birmingham?

20 HON. JONES: Birmingham, yes.

21 HON. THOMASON: Yes.

22 HON. JONES: Birmingham Division.

23 HON. THOMASON: Okay. I just

1 wanted to make sure. So -- so, and just to
2 clarify because I haven't looked at it on
3 the sheet. But moving that -- and Cary
4 this may be a question for you or the
5 Chief. But moving that position, Place 3,
6 would that -- that -- just to clarify, that
7 would not move, then, that division into
8 the ten -- one of the ten in most need; am
9 I right, or would or it would not so that
10 it would fall under this category of the
11 statute saying we can not move it?

12 MR. HOBSON: Well, if I could --
13 Rich Hobson. And if you and don't mind.

14 HON. JONES: No. Go ahead.

15 HON. THOMASON: Because it does
16 say "divisions thereof."

17 MR. HOBSON: That's correct.
18 Breaking it out into divisions -- and you
19 are right -- Jefferson County is unique in
20 that. In the circuit criminal for the
21 Birmingham Division you would have to lose
22 four judges to be in the top ten. And in
23 the civil division, you would have to lose

1 six judges, in the civil division, to be in
2 the top ten. So, that's a total of ten
3 circuit judges to be in the top ten in the
4 state.

5 HON. JONES: And, again, my point
6 is, you can't -- you can't analyze apples
7 and oranges the same way. We are a
8 different kind of circuit. Let's say that
9 we have maybe an extra judge in the civil
10 division -- okay? --

11 HON. THOMASON: Well, I was
12 just -- I just wanted to know because I
13 don't think we have looked -- I haven't, at
14 least, looked at it from that light. I
15 didn't -- I wasn't -- I didn't -- I never
16 even really looked at the language that
17 said "divisions thereof."

18 HON. JONES: Right.

19 HON. THOMASON: And I haven't seen
20 any of our reports that broke down your
21 divisions. And if it moved you into the
22 bottom ten, then this -- I mean, we were --
23 the discussion would be over, because the

1 statute says we can't do it.

2 So, I just wanted to say, you
3 know, before we went any further, if it
4 was there, then I think we are done.

5 HON. JONES: But I don't think
6 anyone has done any numbers on the fact
7 that, for us having eight circuit judges in
8 the criminal division, we are now down to
9 six judges, and we are also having to
10 handle all of these municipal appeal cases.
11 No one had done numbers on that. No one
12 has determined what that would do.

13 So, all I am saying is that, let
14 us not take a judgeship from the criminal
15 division at this time. There may be
16 another division down the road on another
17 date that it might make sense. But I am
18 just saying that we shouldn't take this
19 seat, Place 3, from the criminal
20 division.

21 Now, what Gene was talking about
22 earlier in Place 16, if that current
23 Place 16 judge had won that election,

1 then she would have had a six-year term.
2 When Judge Cole went to the Court of
3 Criminal Appeals, there would have been a
4 vacancy, and our local Judicial
5 Commission would have filled that
6 vacancy, and we would still have a judge
7 in the criminal division and there would
8 be no vacancy.

9 CHIEF JUSTICE PARKER: Are you
10 finished?

11 HON. JONES: I am almost finished,
12 Chief. Now, in Jefferson County, when it
13 is comes to criminal indictments, we don't
14 take one capital case and try to make it
15 into three. We don't make it, you know,
16 capital murder, child molesting 14, capital
17 murder, robbery, and capital murder,
18 kidnapping. We normally charge one way.
19 We don't have a lot of multi-indictments.
20 And I think some counties do, and they are
21 getting the benefit of that.

22 Now, let me say this: According
23 to the statute, the reallocation statute,

1 we can only take one judge from a circuit
2 that the Chief -- I think mentioned a few
3 minutes ago -- every two years. Now,
4 when I look at the numbers that's
5 entitled, on the sheet that's been given
6 to us, entitled Alabama Fiscal Year 2019
7 Circuit Court Judicial Weighted Caseload
8 Implied Need, I see on number two in
9 Jefferson County as number 41. And to
10 the left of that, you will notice it says
11 Jefferson County has a total of 7.98
12 extra judges. But when you go down that
13 second list that starts off -- it's the
14 second to the left on the top of the
15 page, you have rank on the right, then
16 difference in plus or minus surplus,
17 there is no other circuit in the state
18 that has one surplus judge.

19 So, what does that tell us? It
20 tells us that all of these judgeships --
21 and at our last meeting we determined
22 there were 11 circuit judgeships and
23 eight district judgeships that were

1 needed -- that all of them are going to
2 try to come out of Jefferson County. Do
3 you know how long that would take? You
4 can only take one every two years.

5 And that's why this Commission,
6 when Chief Justice Stuart was here, and
7 we recommended to the Legislature that
8 they create additional judgeships, and
9 that's why in our last meeting we
10 recommended again to the Legislature that
11 they create additional judgeships to
12 solve this problem. It is because
13 judicial reallocation simply will not
14 work by taking one judge or trying to
15 take one judge from Jefferson County
16 every two years. And that's the bottom
17 line.

18 And I have a lot of respect for
19 the people on this committee and this
20 Commission and what you do and what you
21 have done, but taking Place 3 from the
22 criminal division is not the solution.

23 Thank you so much, Chief.

1 MR. NEWELL: Chief, can I --

2 CHIEF JUSTICE PARKER: Judge

3 Newell.

4 HON. NEWELL: I am Judge Mike
5 Newell from Winston County. I want to say
6 this: I agree with judge Jones about this.
7 Now, back when the study was done in '16,
8 just a point of clarification, Jefferson
9 County has not been the only circuit that
10 was on the chopping block. There was one
11 nother circuit, and that circuit was Walker
12 County. But Walker County has since had
13 the numbers come off.

14 But the bigger issue is this:
15 The issue is, we have a clearly
16 demonstrated need in the State of Alabama
17 of 18 judges; and that is, to provide
18 access to justice, which we all care
19 deeply about, and that's why this
20 discussion is taking place.

21 And this is a matter of just my
22 personal opinion, but this is a clear
23 example of how the Legislature, because

1 they refused to accept the responsibility
2 of funding the court adequately as it's
3 Constitutionally obligated to do, has
4 forced us into the position of sitting in
5 this room and pitting judge against
6 judge. And there is not a judge in this
7 room that is actually against one
8 another. We have to desperately seek to
9 fight and preserve the limited -- very
10 limited resources that we have. And it's
11 a struggle every day.

12 And I just want to point out
13 that I agree with Judge Jones when he
14 says that this is not going to alleviate
15 the pressing need for judges in this
16 state. It never was, and it never will.
17 This is purely and solely designed by the
18 Legislature to act like they did
19 something to address our issue when they
20 did nothing.

21 CHIEF JUSTICE PARKER: Judge
22 Walker.

23 HON. WALKER: Jake Walker, 37th.

1 And I appreciate the history out of
2 Jefferson County, but it seems we have, you
3 know, two issues. And I don't know whether
4 we have looked at that. The first issue
5 is: Do we have a resignation? And it
6 seems to be -- it seems there is a filed
7 resignation by Judge Courtney.

8 CHIEF JUSTICE PARKER: I have a
9 copy of the letter here. It's dated
10 January 13th, effective January 14th.

11 HON. WALKER: And the second issue
12 is: As Chief pointed out, there does --
13 the statute appears to be silent when
14 candidates have qualified for the position.
15 And so, I don't know whether that legal
16 issue has been looked at, as you are going
17 to have this statute competing with, I
18 assume, out of Title 17 of the election
19 code.

20 Now, right now the candidates
21 are running, I assume, under a party
22 primary. And so, that's a party
23 function. But there will be an election

1 in March, and there could be a runoff.

2 Now, if the Commission voted to
3 reallocate this judgeship, the party --
4 and the chairman is here -- one of the
5 chairmen -- could -- could --

6 (Laughter).

7 HON. WALKER: But the chairman is
8 here, and the chairman then certifies the
9 winner of the primary and passes that on to
10 the Secretary of State. Does the Secretary
11 of State then produce a ballot?

12 HON. JONES: He has already
13 produced it.

14 HON. WALKER: But I am talking
15 about for the general election that would
16 go to the --

17 HON. JONES: For the primary, he
18 has.

19 HON. WALKER: Right. Well, I know
20 it, yes, sir. I understand that. But I am
21 saying as the process moves on. I am just
22 wondering has that issue been looked at,
23 because it seems you have, you know, two

1 totally competing statutes.

2 HON. JONES: But, Chief, these
3 people, if you remember from law school
4 they talked about detrimental relies.
5 These people have detrimentally relied upon
6 the fact that this party opened up the
7 names to run in this primary. They paid
8 thousands of dollars to qualify. They have
9 been out there working. They paid for
10 signs and buttons and push cards. They
11 have detrimentally relied upon the fact
12 that this was going to be an open election.
13 And now we are going to swoop out of the
14 sky and obviate say that, hey, there is no
15 election for this seat? That's not right.

16 HON. WALKER: But I guess by going
17 back to my question is -- and, again, I
18 don't mean to put Mr. Russell on the spot.
19 But I mean, has that -- has that issue been
20 researched? And that's just simply my
21 question.

22 CHIEF JUSTICE PARKER: Well, and
23 the starting point of the question is what

1 I said earlier. The Legislature did not
2 address this scenario. They just gave us a
3 mandate on this.

4 And so, Todd Russell is general
5 counsel for the Administrative Office of
6 Courts and for the court system. Todd?

7 MR. RUSSELL: Right. And we did
8 research this issue. We looked at what was
9 out there. And, honestly, we came back to
10 the point that the Legislature had every
11 opportunity to include potential candidates
12 for any vacancy in consideration when they
13 drafted 12-9A-1 throughout that entire
14 statute, and they chose not to include it.

15 So, then it would be our
16 position that we are to act and that,
17 moving forward, understanding that they
18 chose not to address it so that's not --
19 that was not a concern, an issue to be
20 before the Commission.

21 HON. COLLINS: Zack Collins. Can
22 I chime in, Chief?

23 CHIEF JUSTICE PARKER: Yes, sir.

1 HON. COLLINS: But the Legislature
2 appears to have given us the opportunity to
3 chime in.

4 MR. RUSSELL: Yes, sir.

5 HON. COLLINS: With Section Five
6 by saying, hey, we can look at any other
7 information being relevant.

8 HON. JONES: That's right.

9 CHIEF JUSTICE PARKER: The judge
10 is referring to Section 12-9A-1, Subsection
11 5.

12 HON. COLLINS: Thank you, Chief.

13 And I pose this hypothetical:
14 If it were Jefferson County that had the
15 deficit and Madison County with the
16 surplus, would we be having this
17 discussion?

18 I mean, so, we have to really
19 look at, you know, the fairness, because
20 you have these candidates who are
21 running, and we were all run, and I
22 enjoyed running. I can't imagine being
23 in the middle of a race and putting in

1 all the hard work -- in fact, I lived in
2 Montgomery County. I moved to Russell
3 County to run, which is my home; I am
4 from Columbus. I can't imagine going all
5 the way back home thinking that I was
6 going to, you know, live my dream of
7 being a judge and then something happen,
8 and it just swooped the seat from me.
9 And I put in \$25,000, \$30,000, \$50,000,
10 and I can't get that back.

11 When you put up against the fact
12 that there probably are going to be some
13 more vacancies, we could table this and
14 then come back and look at it once we
15 consider everything under -- of 1-6(d)-3
16 and look at all the considerations for
17 those courts of Jefferson County with
18 special divisions.

19 So, I think we just, before we
20 say, hey, let's do this, because you
21 can't just look at the numbers alone. We
22 need to look at everything. How is it
23 really going to impact Jefferson County?

1 How is it really going to impact? And
2 when we look at it then, we, as a
3 Commission, can make the determination
4 and, okay, it's not going to figure that
5 bad or maybe it will or maybe we wait
6 until the civil seat comes up, but all of
7 those things that we should look at. But
8 just getting the data and the numbers and
9 saying, hey, the numbers say we should
10 make this change, I don't think that's
11 right.

12 CHIEF JUSTICE PARKER: Judge
13 Collins tied that back into the motion to
14 table that's on the floor, and Judge Jones,
15 who's been raising his hand here.

16 HON. JONES: Well, I wanted to ask
17 our legal director that, if this Commission
18 decides -- and I pray they do decide -- not
19 to take Place 3 from Jefferson County,
20 would that not leave -- fill in that place
21 up to the Jefferson County Judicial
22 Commission?

23 MR. RUSSELL: Oh, yes, sir. That

1 is the way the statute is written. If this
2 group chooses not to act within the 30
3 days, it would be filled as it normally
4 would be.

5 I would like to also mention,
6 for the benefit of the Commission that
7 the five factors that we see under
8 12-9A-1 for your consideration, that was
9 referenced earlier the weighted caseload
10 study, the population of the district,
11 the duties and conformity of any other
12 criteria you choose to look at, those are
13 referenced under (d) in the annual review
14 for the letter that you provided last
15 meeting to the Governor and to the
16 Legislature regarding any increase or
17 decrease in the number of judges overall.

18 Our guidance for the meeting we
19 are in today is found in 12-9A-2 that
20 speaks specifically of the ability of
21 looking at the study itself that was made
22 available to everybody earlier when we
23 looked at it when that was passed around,

1 which specifically says, the Commission
2 shall consider the need based on the
3 district and court rankings as determined
4 pursuant to Section 12-9A-1, that
5 weighted caseload study, which was
6 approved.

7 CHIEF JUSTICE PARKER: And you are
8 reading from 12-9A-2(a).

9 MR. RUSSELL: I'm reading from
10 12-9A-2(a).

11 HON. VERIN: Chief, this is Eugene
12 Verin, if I may.

13 I think the question, because we
14 have the discretion on this Commission
15 and we need to ask is, based upon
16 everything that we have heard, is this
17 the judgeship that we want to start off
18 reallocating and with the potential of it
19 causing litigation, public scrutiny, and
20 other negative factors. Is this really
21 where we want to start? I think each of
22 us needs to ask that question. My answer
23 to that question is, no. This is not the

1 way we want to start. What I suggest is
2 that we table, of course, our discussion
3 of Place Number 3.

4 I think that, based upon the
5 phone calls I received on the 14th or
6 16th, whichever date it was, that allowed
7 the Jefferson County judges were caught
8 by surprise -- they were caught by
9 surprise.

10 What really needs to happen is,
11 they need -- those judges, since they
12 know that, in essence, their circuit,
13 their division, is on the chopping block,
14 they need to have some discussion. We
15 need to be provided with the information
16 concerning which judgeships are going to
17 be open for this upcoming election cycle,
18 or the next one, which ones would be open
19 or vacant due to resignation -- I mean,
20 retirement. And then they can come up
21 and guide us, this Commission, with some
22 type of schedule that they can rely upon
23 to give to us so that it may be mutually

1 agreeable, if that's possible. But that
2 is what needs to be done.

3 This is not the place to take.
4 This is going to be controversial. This
5 is not going to make the Judiciary look
6 good.

7 HON. JONES: And one last comment,
8 Chief. And I want to address this to our
9 legal director.

10 12-9A-2(a) says: Only in the
11 event of a vacancy due to death,
12 retirement, resignation, et cetera.
13 Okay. So, if you have a judge serving a
14 six-year term and he or she -- because we
15 have got a lot of shes -- decides to
16 retire three years into his term, that's
17 one thing. But let's say the judge has
18 been on the bench for 18 years and
19 decides to retire. I don't think it's
20 clear that they are talking about both of
21 those situations. I don't think they are
22 talking about the latter situation, only
23 the formal situation that I just

1 mentioned if a judge retires in the
2 middle of their term, and it is not clear
3 from a plain reading of the statute.

4 CHIEF JUSTICE PARKER: Clay
5 Crenshaw.

6 MR. CRENSHAW: May I -- yeah.
7 Clay Crenshaw in the AG's office. May I
8 ask a question, Mr. Chief Justice?

9 When were the factors revised
10 that went into the Judicial Weighted
11 Caseload Study?

12 CHIEF JUSTICE PARKER: Cary
13 McMillan, can you answer that?

14 MS. McMILLAN: The Judicial
15 Weighted Caseload Study?

16 MR. CRENSHAW: Yes. Yes, ma'am.

17 MS. McMILLAN: That was decided
18 it -- We worked on it in 2015 based on 2014
19 numbers because you needed the prior year's
20 numbers, and then it was adopted in 2017.

21 MR. RUSSELL: In the summer of
22 2017.

23 CHIEF JUSTICE PARKER: Let me just

1 clarify for everyone here. The methodology
2 has been consistent for the three years of
3 data that we have now?

4 MS. McMILLAN: Yes. We have
5 data -- We have the exact same data from
6 '14 all the way through '19.

7 MR. CRENSHAW: I understand.
8 But -- and when did the Act become
9 effective?

10 HON. REID: It has a date of
11 February the 7th, '17, the one that I am
12 holding.

13 MR. CRENSHAW: All right. So, the
14 factors have to have been revised after
15 February 2017; is that accurate?

16 MR. RUSSELL: Correct. It was
17 approved by the Supreme Court in the summer
18 of '17. And then the way the data that we
19 are talking about today is reviewed every
20 is at the ending of the fiscal year, that's
21 the only time that we've looked at. Then
22 the factors are placed against that data.
23 Then you would have that first year's --

1 that first full-year's data utilizing the
2 new factors for fiscal years '17, '18 and
3 now '19.

4 MR. CRENSHAW: So, I guess my
5 follow-up question has to be: Do we have
6 three years of data since the factors were
7 revised in July or June of 2017?

8 CHIEF JUSTICE PARKER: That was
9 the basis of our action at our last
10 meeting, because the factors were revised
11 before the calculation of the data for '17.

12 MR. CRENSHAW: Okay. Thank you,
13 Mr. Chief.

14 HON. JONES: This is one -- Chief,
15 one other question.

16 CHIEF JUSTICE PARKER: You just
17 said your one last comment.

18 (Laughter).

19 HON. JONES: You know lawyers
20 never make the last comment.

21 CHIEF JUSTICE PARKER: You're a
22 judge, though.

23 HON. JONES: Okay. I will go with

1 my word.

2 HON. THOMASON: Can I ask -- Can I
3 ask Judge Verin a question?

4 Your last statement about this
5 not doing it now or from this particular
6 position and it being controversial, is
7 that stemming from the fact that we have
8 candidates running?

9 HON. VERIN: Primarily, from my --
10 yes.

11 HON. THOMASON: Okay. Because in
12 looking at -- After my last question, the
13 division that this position is coming from
14 is your circuit criminal out of the
15 Birmingham Division, and I see that's at
16 53%. So, I would -- if it were my County,
17 I would think if there -- and I understand
18 you have made some comments about it's
19 different there. But if I was going to
20 lose a judgeship, I would sure want to lose
21 it from the group that had the lowest
22 caseload as opposed to a group that had the
23 highest caseload.

1 So, I'm assuming when you are
2 saying, not now, that this is a hard one
3 to take. It's mostly because of this
4 race as opposed to the workload of the
5 judges in that division; am I right? The
6 election cycle? And I agree, that can be
7 a complicated issue.

8 But is that pretty much where
9 you were coming from on that -- with that
10 statement, or were there other factors
11 about the -- the specifics of this
12 position? I am just not familiar with
13 the divisions as much as --

14 HON. JONES: Well, that's what I
15 was trying to explain, Judge Thomason --

16 HON. THOMASON: Yeah.

17 HON. JONES: -- about Jefferson
18 County's criminal division when I started
19 talking about we have always eight judges,
20 and now we are down to six judges handling
21 homicides, plus we have to handle all of
22 these municipal appeals --

23 HON. THOMASON: Right.

1 HON. JONES: -- for 23 different
2 municipalities.

3 You know, what's going to
4 happen -- and people don't, you know,
5 think about it a lot of times. When you
6 have a circuit that has divisions, it's
7 only the criminal division that there is
8 a Constitutional right to a speedy trial
9 under the 6th Amendment, as you know.
10 Divorces can take four or five years.
11 Civil cases can take four or five years.
12 But we don't get to do that in the
13 criminal division.

14 And if we are stuck handling all
15 these municipal appeals and we are not
16 trying homicide cases that are stacking
17 up and robbery and rape and kidnapping
18 and drug trafficking and everything else,
19 then we are back into another problem. I
20 don't -- You know, as a presiding judge
21 of the criminal division, I don't want to
22 see us get there.

23 HON. THOMASON: Are those the

1 cases taken into account in this
2 percentage, the municipal appeals, as well?

3 MS. McMILLAN: They are.

4 HON. THOMASON: They are? So,
5 everything that -- okay.

6 HON. JONES: We just did -- How
7 can they be taken into account? We just
8 did this.

9 MS. McMILLAN: For the weighted
10 caseload numbers, they are taken into
11 account. For what you have moved around in
12 your county, that -- I mean, I did it based
13 on seven judges, because that's currently
14 how many judges you have. I didn't count
15 the district judge doing circuit work.

16 HON. JONES: And she didn't count
17 the fact that we have the circuit judge
18 that refuses to handle homicide cases. So,
19 we only --

20 MS. McMILLAN: But I didn't --

21 HON. JONES: -- have a six-judge
22 rotation.

23 MS. McMILLAN: Actually I didn't

1 do that.

2 HON. JONES: But that's why I'm
3 saying that these numbers don't really
4 adequately reflect the caseload of our
5 judges. And Judge May and Judge Streety
6 over there can verify what I am saying.
7 Plus --

8 CHIEF JUSTICE PARKER:
9 Commissioner Stephens. I'm sorry. Did I
10 cut you off?

11 HON. JONES: Oh, no. No.

12 MR. STEPHENS: Chief, I'll -- I
13 will try to be real brief.

14 First of all, I am honored and
15 I'm blessed to be on this Commission, and
16 I certainly appreciate Judge Jones, Judge
17 Verin and all the judges who serve on
18 this Commission, all the judges who are
19 sitting out here today. I know that it
20 is not an easy task for all of them. I
21 do want to clarify just a couple of
22 things.

23 First of all, just to be

1 absolutely, positively clear -- and there
2 is at least one Birmingham judge here who
3 I served on the Alabama Supreme Court
4 Dispute Resolution Commission with, and
5 other judges from Birmingham I think who
6 know me and know my heart.

7 But I want to be clear about
8 this, Judge Verin, so you and I are on
9 the same page: My motion has nothing
10 whatsoever to do with race. My parents
11 raised me to teach me that God created
12 all of us, regardless of skin color,
13 everyone of us in this room, everyone of
14 us on this planet.

15 So, I just want to be sure that
16 we are clear about that. And if I
17 thought for one second there was some
18 motion before this commission based on
19 race, I would adamantly oppose that,
20 because God doesn't care about the color
21 of my skin or your skin. He cares about
22 the condition of our hearts.

23 So, I want to be clear about

1 that. It doesn't have to do with race.

2 Now, I do understand --

3 HON. VERIN: Well, Chief, if I
4 could respond to that just briefly, just
5 very briefly.

6 CHIEF JUSTICE PARKER: Well, is
7 this a good point, or do you want to
8 finish?

9 MR. STEPHENS: Sure. I mean, I
10 think we are -- we understand.

11 HON. VERIN: Yeah. And I was not
12 --

13 MR. STEPHENS: I don't think you
14 were insinuating that it --

15 HON. VERIN: No, and I wasn't.
16 But I have got to let you know the
17 realities of our community and what's going
18 on in Jefferson County. And that is a very
19 prevalent -- Those issues that I mentioned
20 to you, I tried to state them as nicely as
21 I could, and I mean that. I really do.
22 And I hope that the members of this
23 Commission understand that. You know,

1 I'm -- We are trying to do the best that we
2 can with what we have, all of us are. But
3 we do need to have this frank discussion.

4 MR. STEPHENS: I agree
5 wholeheartedly. And certainly in the
6 motion it is not my intent to in any way
7 harm or disappoint Judge Davis or Judge
8 Wess or Officer Lee, and I commend all of
9 them for their service, the judges and
10 especially Officer Lee for you keeping us
11 safe and putting your life in jeopardy to
12 do that.

13 MR. LEE: Excuse me, sir,
14 attorney. I was a police officer for 20
15 years.

16 MR. STEPHENS: Well, I did -- I
17 understand you are an attorney now, but I
18 am just saying in the past in your service
19 as a police officer.

20 But, you know, I don't think we
21 can overlook to that, if we chose not to
22 transfer -- and I would say vote no for
23 the tabled motion -- if we choose not to

1 transfer, for all we know, we are
2 depriving some African-American lawyer in
3 Madison County, you know, the opportunity
4 to serve, as well.

5 Now, I will say this: Judge
6 Claude Hundley had hoped to be with us
7 here this morning, but he was not able to
8 be here. Judge Verin, he was the first
9 circuit judge sworn in in the history of
10 Madison County. And it's regrettable
11 that it took that long. He picked one
12 member of the Madison County Bar to
13 speak -- and I probably spoke too long,
14 Chief. But he picked me to speak, and I
15 will always count that as a high honor to
16 speak.

17 And so, I mean, I don't think we
18 can conclude that, if we take a judgeship
19 away from Jefferson County, then we are
20 depriving an African-American an
21 opportunity, because certainly I would
22 hope that we would have opportunities for
23 African-American lawyers to serve, as

1 well.

2 I do want to clarify, too, Judge
3 Jones, I do understand that you-all have
4 specializations in Jefferson County.

5 Judge Hall and Judge Pate do not have the
6 privilege of having specializations.

7 They try divorce cases every month. They
8 try civil cases every month. They try
9 criminal cases every month. They try
10 homicide cases. And to my knowledge,
11 Judge Jones, I don't know that any of our
12 judges get a pass on, they don't want to
13 try homicide cases so they don't have to.

14 So, if we do reallocate, I get
15 that you-all might have to make some
16 internal adjustment. But I do want to be
17 clear about this: Specialization is not
18 to be the basis for our decision today.
19 And I think it was pointed out earlier,
20 just to be clear, back to the statute
21 under Section 1(d), it says: Judicial
22 Resource Allocation Commission shall
23 annually review the need for increasing

1 or decreasing the number of judgeships
2 using the following criteria. And it
3 includes the weighted caseload,
4 population, judicial duties in the
5 district or circuit, including those
6 counties or circuits that has
7 specialization, uniformity in
8 calculations, other information. That is
9 a part of our annual review.

10 But as was pointed out
11 earlier -- and I do want to be are clear,
12 and, Judge Verin, we do disagree about
13 this -- you said the weighted caseload is
14 only one criteria we should consider. I
15 would respectfully point out that in
16 Section 2 it says: In determining
17 whether to reallocate, the Judicial
18 Resources Allocation Commission shall
19 consider the need based on a district and
20 circuit court rankings as determined
21 pursuant to Section 1, period. It
22 doesn't say anything about
23 specialization. It doesn't say anything

1 about any other factors other than the
2 rankings.

3 To the comment about all seats
4 will come from Jefferson County, as the
5 Chief said, if we vote not to table and
6 if we vote to move the judgeship, which I
7 strenuously and earnestly urge all the
8 members of the Commission to vote to do,
9 there will not be another judgeship
10 transferred from Jefferson County for at
11 least two years. And I pledge to you,
12 Judge Verin and Judge Jones, if anyone
13 attempted that, I would lock arms with
14 you-all and adamantly oppose doing that,
15 because it can't be done.

16 And finally, Judge Verin, I
17 mean, you said Madison County will get
18 help, but, you know, from our perspective
19 today is the day. I mean, we've been
20 number one. We've been number one.
21 We've been number one. We have collected
22 the data.

23 I do think this is about helping

1 your fellow judges, because they are in
2 need. I do think it's about our
3 judiciary and the appearance of our
4 judiciary. 60,000 people moved into
5 Madison County between 2000 and 2010, and
6 our judges did not change one iota. They
7 have the same judicial system. The
8 numbers are higher now. I mean, I don't
9 have to tell you-all that. We all read
10 the newspaper. I think the current
11 numbers are 350,000, 360,000, or so. I
12 mean, we have got another 80,000 that
13 have come there.

14 And so, you know, I don't think
15 it's fair to deprive those people of
16 judicial resources. I know we are all
17 short. I know we are all hurting. And I
18 will say this and be quiet, Chief -- and
19 Judge Jones and Judge Verin, just so we
20 are on the same page -- my motion is not
21 to hurt anyone today. I don't want to do
22 that. And if I were in Jefferson County,
23 yes, Judge Collins, I mean, I would be

1 arguing and I do think, yeah, if Madison
2 County were ranked last and Jefferson
3 County would be ranked first, I would be
4 here saying, okay, do it, you know,
5 because that's what the numbers are.

6 I get that no one from
7 Birmingham or Jefferson County wants a
8 position moved. I understand that. And
9 if Madison County or if it were Russell
10 County, I mean, yeah, it's human nature
11 to say we don't want to do it.

12 But we as a Commission have a
13 job to do, and our job is to consider
14 need based on the rankings. The rankings
15 show that Madison County has a need. And
16 I am sorry that it comes from Jefferson
17 County. I would be sorry if it came from
18 any county. But there is the opportunity
19 to do this, and I think today is the day,
20 now is the time. The next time it comes
21 up, there will be some other issue, some
22 other question out there. But clearly
23 within the statute we can and we should

1 do it.

2 So, I would just urge you--all --
3 again earnestly and graciously, I would
4 urge you to vote, no, on the motion to
5 table. To vote, yes, on the
6 reallocation.

7 HON. COLLINS: Can I respond,
8 Chief?

9 CHIEF JUSTICE PARKER: Zack.

10 HON. COLLINS: Zack Collins.

11 The statute, the Act says that
12 in determining whether to, all right,
13 reallocate, which means we don't have to.

14 MR. STEPHENS: Agreed.

15 HON. COLLINS: It says: We shall
16 consider the needs, which means we don't
17 have to. We can look at a lot of other
18 factors, and you say, hey, well, what about
19 helping our fellow judges. Well, what
20 about helping our fellow future judges who
21 have relied on running for office?

22 So, a solution to this could be
23 that we table this, go back to the

1 Legislature and say, hey, you-all need to
2 amend and fix this particular issue
3 because when judges are on notice that if
4 running for office a particular seat
5 could be pulled up from under you, they
6 may not put those resources into that
7 office. I wouldn't.

8 If I know that Judge Verin is
9 about to retire and there is a
10 possibility that the seat is going to be
11 taken away, I am not going to run for it.
12 Why would I?

13 So, these folks are going to be
14 affected today, right now. Madison
15 County -- and, look, I love my job, so I
16 don't ever complain about it. You know,
17 I don't care -- judges transfer cases to
18 me all the time. They come down and say,
19 hey, you know, I wonder -- send it to me.
20 I don't care. I can be doing something
21 else.

22 So, if this seat is reallocated,
23 it's still going to take some time before

1 that seat actually comes up in Madison
2 County. Now, I imagine the Legislature,
3 whatever the processes is, but it's going
4 to take time to find a judge. That could
5 take several months. Lawsuits. It could
6 take -- but these folks who have
7 detrimentally relied -- and the
8 Legislature left it out, but as a
9 judge -- as judges, we should be
10 compassionate. And I am compassionate
11 about how this is going to impact folks
12 who are trying to get on the bench and
13 serve.

14 And I just don't think -- I just
15 think we should pump the brakes on this
16 and deal with it in the Legislature and
17 say, hey, you-all need to fix this.
18 You-all really need to fix this, because
19 it's going to impact fellow members of
20 our community, and it is going to send a
21 bad message.

22 And race aside, I'll let Judge
23 Verin, Judge Jones and all them arguing

1 for Jefferson County, I don't have a dog
2 in the fight in Jefferson County. But I
3 go back to, if it were reversed, and when
4 you say, hey, if the shoe were on the
5 other foot, I have just got to take you
6 at your word, but with all due respect, I
7 really don't believe that. I would hope
8 that you would be arguing like Judge
9 Verin saying, my fellow members who are
10 running in Madison County, whether they
11 are white, black, or whatever, will be
12 impacted by us removing a seat. That's
13 unjustly unfair. That's -- that's what I
14 am looking at it from. It's unjustly
15 unfair.

16 The mere fact that the statute
17 says -- and I get the whole thing about
18 the review. You know, when I made my
19 comment, I referred to other things could
20 be taken into consideration. We brought
21 these issues up at the last meeting. It
22 was my understanding the numbers that we
23 approved were to send to the Legislature

1 to get new judgeships. That was my
2 understanding.

3 We evaluated the needs; that's
4 what we were supposed to do, but it
5 doesn't mean we have to do this right
6 now. We can leave here right now and
7 another judgeship comes up in six months,
8 a year. We come back. We have got this
9 issue resolved. Anybody that wants to
10 run, they do it at their and own peril.
11 I think that's the -- I think that's the
12 more practical way of handling this,
13 other than saying, oops, we have got a
14 vacancy, let's go ahead and move on it
15 right now, because we can't do anything
16 for another two years. And then when we
17 come back, it will be another issue. And
18 maybe the issues are valid. Maybe the
19 statute, I mean, it is what it is, but I
20 think we need to pump our brakes on this
21 and just take -- really take a look at
22 it, and also just consider the folks who
23 are running for office.

1 Now, I talk loud only because I
2 talk passionately, so I am not fussing.
3 Okay?

4 CHIEF JUSTICE PARKER: Judge
5 Collins --

6 HON. COLLINS: Yes, sir.

7 CHIEF JUSTICE PARKER: -- let me
8 underscore something that you said but make
9 a differentiation.

10 HON. COLLINS: All right.

11 CHIEF JUSTICE PARKER: And it is
12 mandatory that we meet within 30 days to
13 determine.

14 HON. COLLINS: That's right.

15 CHIEF JUSTICE PARKER: But then
16 the word follows "whether" and that was the
17 word you were focusing on.

18 HON. COLLINS: Yeah. Exactly, I
19 mean, so, again, once the vacancy came
20 open, we could have very well met the next
21 day, talked about this, ironed all of this
22 out. But we had to meet when we could
23 meet.

1 And, again, I believe that the
2 30-day window is -- probably should be
3 amended. It probably should be a little
4 longer so that we can address these kind
5 of issues. But it just appears the way
6 the legislation is written it's going to
7 do harm to somebody, but does it have to
8 be the people who relied on the system
9 of: I am running for office, and I am
10 about to be a judge? Is that what we
11 really want to do?

12 I just think that's unfair, with
13 all due respect, and so, that's why I
14 support the motion to table at this time.

15 CHIEF JUSTICE PARKER: And let me
16 clarify where we are so everybody can keep
17 this in their mind. We had a -- We have a
18 two-part question, whether to reallocate,
19 and that's where we are right now. And
20 then the following question, if we vote yes
21 on that would be, where to.

22 But after the getting the
23 motion, and a second, we have got a

1 motion to table that first question, and
2 a second. So, that's what's before us
3 right now. And I want to go ahead and
4 move us to a vote on the motion to table.

5 And let's see. I am going to go
6 through the list and --

7 HON. COLLINS: Chief, I don't know
8 how all this will go. Can I make a motion
9 to move that we send this back to the
10 Legislature to address these issues?

11 CHIEF JUSTICE PARKER: I think
12 that would be an appropriate discussion
13 after we make our determination on whether
14 to table.

15 HON. COLLINS: Okay. All right.
16 I'll wait then.

17 CHIEF JUSTICE PARKER: Because we
18 all recognize there is a need for the
19 statute to be refined a little, and there's
20 a need for judgeships. So...

21 MR. NEWELL: Chief, can I make one
22 comment before we do that applies to what
23 --

1 CHIEF JUSTICE PARKER: Judge
2 Newell.

3 HON. NEWELL: Yes, sir. And thank
4 you, and I apologize for interrupting you.

5 You know, when reallocation was
6 going through, it was never going to
7 impact Winston County. It wasn't. But I
8 have always been a firm believer that no
9 organization gets stronger by
10 cannibalizing itself.

11 And I remember oftentimes that
12 Judge Bentley and I would stand up, and
13 we would be what appeared to be the lone
14 crazy voices in the room. You go to the
15 restroom, and people would be slapping
16 you on the back going, I appreciate you
17 saying that.

18 And the thing that breaks my
19 heart, and these are the very issues that
20 I predicted would happen -- and I am not
21 saying I am a soothsayer. It was
22 confirmed oftentimes in private
23 discussions. But it is so tragic we are

1 now forced to fight these issues out in
2 this room when we all saw this coming and
3 nobody stood up to challenge it when the
4 train was leaving the station. We should
5 have been on the phone with our
6 Legislators, but we are all busy doing
7 our other things. We should have been
8 educating the general public, but we are
9 all busy doing different things. And
10 that's how, Judge Collins, we find
11 ourselves in this difficult position
12 today, because we did not take action
13 when action was needed, and that's how we
14 got this.

15 And I appreciate your
16 indulgence, Chief.

17 CHIEF JUSTICE PARKER: Well, I am
18 going to call the roll on vote, because we
19 have to have a majority to do this, a
20 two-thirds.

21 MR. RUSSELL: Two-thirds.

22 HON. THOMASON: I don't think we
23 have to have a majority on the motion to

1 table.

2 CHIEF JUSTICE PARKER: No, we
3 don't, but --

4 HON. THOMASON: I mean, we don't
5 have to have two-thirds, but a majority on
6 that vote.

7 CHIEF JUSTICE PARKER: But I want
8 to get a recorded vote so that we can be
9 clear where we stand on this, and not just
10 a show of hands.

11 MR. RUSSELL: Chief Justice?

12 CHIEF JUSTICE PARKER: Yes.

13 MR. RUSSELL: Can I just point out
14 that the statute specifically says: All
15 reallocation decisions require a two-thirds
16 vote of the Commission members, however you
17 choose to interpret that.

18 CHIEF JUSTICE PARKER: Let's take
19 our vote. Lee Carter. Just the motion to
20 table. Yes --

21 HON. CARTER: I vote "no" to
22 table.

23 CHIEF JUSTICE PARKER: Okay. Zack

1 Collins?

2 HON. COLLINS: Yes.

3 CHIEF JUSTICE PARKER: Clay

4 Crenshaw?

5 MR. CRENSHAW: No.

6 CHIEF JUSTICE PARKER: Clyde

7 Jones?

8 HON. JONES: Yes.

9 CHIEF JUSTICE PARKER: Michael

10 Newell?

11 MR. NEWELL: No.

12 CHIEF JUSTICE PARKER: Will

13 Parker?

14 HON. WILL PARKER: No.

15 CHIEF JUSTICE PARKER: James Reid?

16 HON. REID: No.

17 CHIEF JUSTICE PARKER: Harold

18 Stephens?

19 MR. STEPHENS: No.

20 CHIEF JUSTICE PARKER: Gene Verin?

21 HON. VERIN: Yes.

22 CHIEF JUSTICE PARKER: Jake

23 Walker?

1 HON. WALKER: Yes.

2 HON. THOMASON: Michelle Thomason?

3 HON. THOMASON: No.

4 CHIEF JUSTICE PARKER: And I am
5 going to vote "no" so that we have eight
6 nos and four yeses. So, the motion to
7 table failed.

8 So, now we are back to Harold
9 Stephens' motion to reallocate.

10 HON. THOMASON: Do we have a
11 second on that, Chief?

12 CHIEF JUSTICE PARKER: Yes, we
13 did. The second was James Reid.

14 Okay. So, I am going to call
15 the roll on the motion to reallocate one
16 judgeship, a circuit judgeship.

17 REP. ENGLAND: Chief Justice, I
18 know I signed in to speak. Would it be
19 appropriate to speak before this vote is
20 taken or to wait after?

21 CHIEF JUSTICE PARKER: Chris, I
22 will always allow you to speak.

23 REP. ENGLAND: So, is it okay?

1 CHIEF JUSTICE PARKER: Yes, Chris.
2 Representative England.

3 REP. ENGLAND: I won't take long.
4 I am a member of the Legislature. I know
5 about filibustering is all about. I can
6 probably talk all day.

7 I just want to reiterate what
8 was said about substantial reliance. A
9 very plain reading of the statute creates
10 the understanding of anybody who is
11 willing to run for office, that this
12 potential judgeship isn't one that's
13 considered a vacancy for the purposes of
14 the statute.

15 But not only that, also plain
16 reading of the statute suggests that the
17 data that you are supposed to have after
18 the revision of the formula is taken is
19 not available. Because if you were to
20 meet on today and make the decision that
21 you are talking about, what that would
22 essentially mean is that you were
23 counting data before the formula was

1 revised and also before the law was
2 created.

3 And as a member of the
4 Legislature, it was part of the deal that
5 was cut in order to make this happen,
6 because there were people who were on
7 both sides of it. The agreement was
8 reached on the three years from the date
9 the passage -- and then it was added
10 later from the date of the revision to
11 give people time and notice to let them
12 know what was coming.

13 As a matter of fact, this
14 particular result where we had three
15 people qualify because they read the
16 statute and had a full understanding of
17 what it meant to this potential judgeship
18 wasn't available for reallocation is why
19 they decided to run. And I -- you said,
20 depending on who the chair of the party
21 is, well, at the time, I also, to make
22 sure that this didn't happen -- or
23 something like this didn't happen, called

1 and verified and I was told that there
2 wasn't enough data because the statute
3 required from the date of the revision of
4 the formula three years. And also that
5 this wasn't particularly a vacancy that
6 was available because of the way that --
7 when it was generated, that then this
8 seat was to be filled by election and not
9 by appointment or to be reallocated.

10 And ultimately, if we were
11 looking at the factors, the other vacancy
12 that was in Jefferson County was actually
13 more apt for reallocation because of the
14 notice required than the one that we are
15 having here. When I say "notice
16 required," the statute creates the notice
17 required. Because if you read it, you
18 will be able to determine long before
19 qualifying occurs whether or not you
20 should run for the seat.

21 So, the fact of the matter is,
22 we shouldn't have had a discussion in
23 January about reallocating a seat when it

1 was going to be on the ballot in March
2 and qualifying ended in November.

3 So, I mean, duly noted about
4 what you said about the statute is
5 horrible. And it's -- and it's one of
6 the many things that the Legislature has
7 failed to do over the course of humanity,
8 I guess.

9 But there has to be some
10 clarification in it. But I will -- I
11 submit to you that the two things that
12 are crystal clear, just on plain reading
13 of the statute is, one, that this vacancy
14 didn't occur in the way the statute
15 prescribed, but, two, that the three
16 years of data that you are supposed to
17 have starts when this formula was
18 revised, which was why we required it to
19 be done by January 1st, 2018, because we
20 needed actually a start date of when the
21 collection was -- when the collection
22 actually began.

23 Because, honestly, if this were

1 not part of the case, then you could have
2 reallocated as soon as those two
3 vacancies came -- appeared in Jefferson
4 County, because you would have already
5 had the data if you were back counting.

6 So, in essence, someone
7 recognized three years were necessary,
8 which is why we are here. But I think
9 just based upon a very plain and obvious
10 reading of the statute, we are not at the
11 point where you have got three years of
12 data, and this is not a vacancy for the
13 purposes of this reallocation code
14 section, which ultimately means that we
15 wouldn't have had three people running
16 for it, because they read it and
17 understood it just as, you know, lawyers
18 should.

19 So, that's basically all I have.
20 Thank you.

21 HON. JONES: And, Chief, one thing
22 that has not been made clear: One, I never
23 got my answer about the definition of

1 retirement. It doesn't mean early
2 retirement or retirement at the end of the
3 term. And, two, you know, if Place -- I
4 don't like to call people's names, but if
5 the current judge of Place 16 had been
6 appointed in December, it would be a
7 different scenario, you know. But that
8 appointment wasn't made until January.

9 So, you know, timing, you know,
10 makes a difference with things, also.

11 CHIEF JUSTICE PARKER: Clyde, you
12 asked about a retirement, but we are
13 dealing with a resignation creating this
14 vacancy.

15 HON. JONES: Well, I am not too
16 sure about that, too, Chief. You know,
17 when I think about this and I go back in
18 time, this vacancy really came about
19 because Linda Hall was disqualified years
20 ago. Wasn't it the 2018 election, guys?

21 HON. VERIN: 2018 election, yes.

22 HON. JONES: Huh?

23 HON. VERIN: Yes.

1 HON. JONES: So, her election was
2 void after this year, in 2018. So, this
3 body didn't have jurisdiction to decide to
4 take that seat. She never was qualified to
5 take that seat, so her election was void
6 from the beginning.

7 And, you know, I know the appeal
8 took some time, but her election was
9 void.

10 HON. COLLINS: Can just add real
11 quick, Chief?

12 CHIEF JUSTICE PARKER: Before you
13 do, Zack, we had a sign-up sheet, and the
14 only person to check request to speak was
15 Representative Chris England.

16 UNIDENTIFIED WOMAN: I have a
17 check mark, and I think my wife has one.

18 UNIDENTIFIED WOMAN: It's open to
19 the public.

20 CHIEF JUSTICE PARKER: No. Yes,
21 it's open to the public to sit here, but
22 there were nobody else signed up to speak
23 specifically. They didn't check the

1 speaking.

2 UNIDENTIFIED WOMAN: I'm sorry. I
3 didn't understand that. I am just a
4 citizen.

5 HON. COLLINS: Thank you, Chief.
6 As -- I think we should in -- before
7 looking in this, because I -- as
8 Representative England was speaking,
9 this -- our decision here to me is probably
10 going to have litigation written all over
11 it. If that's the case, let's just say we
12 reallocate a seat to Madison County;
13 someone else gets appointed to Madison
14 County. They leave their private practice,
15 go into a judgeship, and then the Supreme
16 Court tells -- we find out that, hey, this
17 was wrong, we shouldn't have done this.
18 What do we tell that person then? You got
19 to go back to private practice, which they
20 shut down?

21 You got to -- this -- we just
22 kind of putting -- We are rushing to do
23 this. It would be better if we just get

1 these issues resolved first.

2 What Representative England is
3 talking about, we can easily get that
4 resolved. Any amendments, we can easily
5 get that resolved before we take away
6 from these three folks who are running,
7 who relied -- and potentially put someone
8 in Madison County in the same kind of
9 spot to where this is all redone, thrown
10 out, and now they have to go back to
11 private life and restart their practice,
12 or whatever it is.

13 I mean, to me the better thing,
14 I think, we should just kind of be
15 judicious in our thinking about this.
16 And what we do know is more than likely,
17 within the next year or two, there would
18 probably be another seat coming up. If
19 it is, it is. If it's not, it is not.
20 But we should take our time and do this
21 right as opposed to just saying, the
22 numbers just came in, we have got a
23 chance to move, let's move now and that's

1 it. That just doesn't seem, you know,
2 right to me.

3 HON. THOMASON: Chief, can I make
4 a comment?

5 CHIEF JUSTICE PARKER: Judge
6 Thomason.

7 HON. THOMASON: I can't -- I can't
8 certainly speak for the Legislators that
9 were involved in this. And Representative
10 England, you know I just respect and
11 appreciate your service on the Legislature
12 so much.

13 But I don't think this is the
14 first time something like this has ever
15 happened, and I don't think it will be
16 the last as far as candidates running or
17 something happened. For instance, right
18 now there are candidates running for a
19 position on the Court of Civil Appeals
20 for Judge Donaldson. And you speak to
21 those candidates, and they say, well, we
22 are not sure we are actually going to get
23 through the whole election, because we

1 are not sure if he might retire early.
2 They know that if he retires early, then
3 there will be an appointment, you know,
4 to that position, and their race is
5 basically over. And that's happened in
6 the past, and I think it will continue to
7 happen in the future that there is
8 sometimes people who are in the process
9 of campaigning and things happen. So --

10 HON. COLLINS: But that's
11 different from --

12 HON. THOMASON: I mean, if Judge
13 Donaldson retired today, you know, if he
14 just decided to retire, that's creates a --
15 and that's not one of our positions we are
16 filling.

17 But I am just saying, those
18 things do happen and maybe this -- the
19 Legislation is quiet and doesn't speak to
20 that. But I think -- I think the
21 Legislators have certainly seen some
22 history of some unusual things like this
23 happening that they would have had to

1 consider because they have seen it happen
2 before. Are people being disqualified?
3 Wasn't it Shelby County, as well, that
4 there was a disqualification because of
5 residency?

6 HON. WALKER: No. It's the
7 opposite. Jefferson County citizens
8 elected a Shelby County resident to serve
9 as a judge in Jefferson -- of course, it's
10 our position that that reallocated the
11 judgeship to Shelby County.

12 (Laughter).

13 HON. WALKER: But --

14 HON. JONES: Don't let me get
15 started on that. You don't want that,
16 believe me.

17 HON. THOMASON: I was thinking
18 there was another county that had it -- in
19 the last ten years or so had a
20 disqualification because of that.

21 MR. NEWELL: Bill Bostick, Shelby
22 County.

23 HON. THOMASON: But, anyway, I --

1 that's all I am saying. I don't -- I mean,
2 I can't speak -- but I don't, you know, and
3 I don't -- I second some things that Mike
4 said, Judge Newell. This is so
5 uncomfortable to have to do.

6 And -- but I guess, you know,
7 from a judicial standpoint, I know there
8 are members of this committee that are
9 not judges, but, you know, sometimes it's
10 distasteful to have to follow the law.
11 We have to interpret it, and we have to
12 follow it. And this is distasteful.
13 It's one of those times. This is
14 distasteful to do.

15 And you-all know me well enough
16 to know, absolutely -- in fact, as
17 presiding -- as the president of the
18 District Judges Association, I have
19 appointments to make to this committee,
20 and I sought to -- I sought to find
21 diversity on this Commission, and I
22 appointed Zack for that purpose to this
23 Commission. It's important to me for

1 there to be diversity and a voice, and
2 that we all have that voice.

3 I don't -- and I even -- I will
4 go so far as to say that I interpret that
5 the statute basically mandates what we
6 are doing, because I think that what it
7 says is, when we get together to
8 evaluate, I don't think that's saying
9 that we can just choose not to
10 reallocate.

11 I think it's saying, when we
12 evaluate every vacancy, if that vacancy
13 doesn't fall within the numbers, that's
14 when we don't act. That's when we can't
15 act. It's a vacancy for Madison. We
16 can't act then. And then that would be
17 appointed. So, I just --

18 HON. JONES: I don't think it's
19 clear, Michelle. If I retire at the end of
20 18 years of service, does that allow the --
21 this Commission to come in and fill my
22 seat? No.

23 HON. THOMASON: I think clearly it

1 does.

2 HON. JONES: It does not. If I
3 retire early, it might, but not if I retire
4 at the end of my term. And Commissioner --
5 let me say this. I love my judges --

6 CHIEF JUSTICE PARKER: Well, there
7 is an exception if you are age prohibited
8 from running again.

9 HON. JONES: Of course, if you are
10 age prohibited.

11 CHIEF JUSTICE PARKER: And the
12 Legislature did take that into account.

13 HON. JONES: Yeah. But if you are
14 just finishing your term and retire, then
15 this Commission doesn't come into being.
16 And the other thing is this: If there are
17 60,000, 70,000, 80,000 people moving into
18 the great state of Madison -- I mean, the
19 great City of Madison, that's a lot of tax
20 money coming in, and the Legislature could
21 afford to pay for another judge. That's a
22 lot of tax money.

23 MR. STEPHENS: And we are agree,

1 they should, Judge.

2 HON. THOMASON: Well, I'll tell
3 you -- I'm just -- I'm thankful that
4 retirement question is for another day and
5 another Commission, because I think, again,
6 we will have a challenge when it comes to
7 that. But I think here we are with a
8 decision.

9 HON. JONES: We are not saying
10 don't reallocate. We are just saying don't
11 take this seat and kill the criminal
12 division in Jefferson County, the largest
13 county in the State of Alabama where people
14 have a right to a speedy trial. That's all
15 we are saying. That's all.

16 MR. NEWELL: Chief, can I make a
17 request, and I apologize.

18 The statute has been referenced
19 over and over, and I apologize. I
20 inadvertently left my copy of the
21 statute. Is there any way that we could
22 all be just provided with a copy of it
23 and take a few moments and we all read it

1 so we are clear about exactly what the
2 statute says again? We have all read it
3 on multiple occasions, but...

4 HON. JONES: Is that one of the
5 copies that's got the whole statute?
6 Because I have got parts of it.

7 HON. THOMASON: And if anybody
8 wants to just Google it and pull it up on
9 their phone, it's 12-9A-1. And then of
10 course, the subsequent subsection.

11 CHIEF JUSTICE PARKER: Judge Reid.

12 HON. REID: Chief, while Judge
13 Newell is reviewing the statute, could I
14 ask Cary or Mike -- Mike or Cary, could we
15 get a clarification on when the formula was
16 revised and what the three years are that
17 we are working with here, the dates?

18 CHIEF JUSTICE PARKER: Let's
19 answer that, and then it's been requested
20 to take a short break.

21 MS. McMILLAN: The formula -- The
22 weighted caseload formula was revised --
23 and, Chief, the Supreme Court order, I

1 thought that was in '16, before this came
2 into effect.

3 So, the formula has been there.
4 It was voted on. And then our first
5 meeting that we had -- or that the
6 Commission had was -- they voted on that
7 formula to use the weighted caseload as
8 that weighted caseload formula.

9 HON. REID: And that would have
10 been '18. We met in '18. We met in '19,
11 and we met in '20. So, we have had three
12 meetings to approve the weighted caseload.

13 MS. McMILLAN: And they approved
14 the '17 numbers.

15 HON. REID: They approved the --
16 okay.

17 MS. McMILLAN: In '18.

18 CHIEF JUSTICE PARKER: So, really,
19 we had four years, because it was revised
20 in '16 based on the new report.

21 MR. RUSSELL: Chief Justice, Todd
22 Russell. If I could just add, the Judicial
23 Weighted Caseload Study was officially

1 revised on June 21st, 2017, heard by the
2 Supreme Court. So, then, when you get a
3 fiscal year's worth of data at the end of
4 September, fiscal year '17 was applied to
5 the new study; the next year, fiscal year
6 '18; then next year, fiscal year '19, which
7 gives us our three years complete that we
8 have in force now.

9 HON. REID: Okay. Thank you, sir.

10 CHIEF JUSTICE PARKER: Okay.

11 Let's take a short five-minute break.

12 Let's reconvene at 12:35. That's only four
13 minutes.

14 (At which time, a recess was
15 taken).

16 CHIEF JUSTICE PARKER: Okay. Let
17 me call us back to order now. And after
18 the motion to table failed, we are back to
19 the question, the motion proposed by Harold
20 Stephens. And I want to make sure
21 everybody understands that it's a divided
22 issue. First, we are going to vote on
23 whether to reallocate and, second, if we

1 vote to reallocate, where to reallocate to.

2 And I am going to call the roll
3 on the question of whether to reallocate.
4 And I am going to follow the same order
5 as before, starting with Lee Carter.

6 HON. CARTER: Yes.

7 CHIEF JUSTICE PARKER: Zack
8 Collins?

9 HON. COLLINS: No.

10 CHIEF JUSTICE PARKER: Clay
11 Crenshaw?

12 MR. CRENSHAW: No.

13 CHIEF JUSTICE PARKER: Clyde
14 Jones?

15 HON. JONES: No.

16 CHIEF JUSTICE PARKER: Mike
17 Newell?

18 HON. NEWELL: Chief, I want to say
19 something prior to voting on this. I have
20 been and remain vehemently opposed to
21 reallocation. And there are oftentimes in
22 my colloquy when I tell folks, if this was
23 Mike Newell's court, I would do something

1 else. But when I was sworn in as district
2 court judge, I took an obligation to follow
3 the law, and there a bunch of them I don't
4 agree with and this is one of them. But in
5 accordance with the statute, I have to vote
6 "yes".

7 CHIEF JUSTICE PARKER: Will
8 Parker?

9 HON. WILL PARKER: Yes.

10 CHIEF JUSTICE PARKER: Jim Reid?

11 HON. REID: Yes.

12 CHIEF JUSTICE PARKER: Harold
13 Stephens?

14 MR. STEPHENS: Yes.

15 CHIEF JUSTICE PARKER: Gene Verin?

16 HON. VERIN: No.

17 CHIEF JUSTICE PARKER: Jake
18 Walker?

19 MR. WALKER: No.

20 CHIEF JUSTICE PARKER: Michelle
21 Thomason?

22 HON. THOMASON: Yes.

23 CHIEF JUSTICE PARKER: And I am

1 going to vote "no", because of those who
2 relied on this being a seat up for
3 contention and filed and paid that
4 qualifying fee.

5 And so, we do not have
6 two-thirds supporting reallocation.

7 So, where do we go from here?
8 Representative England, we need to have
9 an amendment to this statute to somehow
10 take into account this scenario that we
11 were presented with here with three
12 candidates who had already qualified
13 before the vacancy occurred. We need
14 something like they did with the age
15 aging-out provision, so that we don't
16 short change those who have acted on this
17 in reliance and presented themselves for
18 public service.

19 Second, we have a temporary
20 stop-gap measure that's going to be
21 before the Legislature. And,
22 Representative England, I want to speak
23 to you in your role on the Prison

1 Commission, and that's the interim judges
2 bill that would allow us to bring back
3 retired judges, paying them only one
4 fourth of the salary, because we will
5 allow them to keep their retirement. And
6 we can temporarily fill this need.

7 We will certainly need that for
8 resentencing and for accelerated use of
9 accountability courts. So, I want to ask
10 you, please, in that hat that you wear
11 for the Prison Commission to push that
12 bill.

13 REP. ENGLAND: Yes, sir.

14 CHIEF JUSTICE PARKER: And I want
15 to tell those here, particularly Harold
16 Stephens, that I filed that bill
17 mid-session last year at the request of the
18 Speaker of the House Mac McCutcheon,
19 because with the three circuit judge need
20 there in Madison County, we have to address
21 these needs.

22 Now, having interim judges is a
23 nice quick fix; but we need to, over the

1 coming years, move to permanent
2 new elected judgeships. And so, that's
3 where I want to ask that we go on this.

4 Any other discussion at this
5 point?

6 (No response.)

7 CHIEF JUSTICE PARKER: Well, I
8 want to thank you-all for your service. We
9 have aired out our feelings, passionately,
10 over this scenario that we were presented
11 with here after qualification of three
12 candidates, yet we all recognize the great
13 need that exists for new judgeships across
14 the state as population has shifted, as
15 population has grown in Baldwin, Mobile,
16 Madison Counties in particular, Shelby
17 County even has need. And I know
18 Tuscaloosa does, Representative England.

19 REP. ENGLAND: We do.

20 CHIEF JUSTICE PARKER: So, we need
21 just to keep working with the Legislature.

22 I have to tell you my own
23 personal approach as Chief Justice. I

1 was deputy director of the court system
2 in 2003 when we had tremendous cuts
3 because of a financial crisis. We
4 cannot, in any way, touch elected
5 officials, judges or circuit court
6 clerks. So, those that we lost were the
7 court specialists in the circuit clerk's
8 offices and courtroom bailiffs.

9 I am methodically working to
10 restore those positions before adding new
11 judgeships, because if I bring on a new
12 permanent judge without support staff,
13 they are going to be handicapped. They
14 won't be as effective.

15 So, last session, the Alabama
16 Legislature responded to our request, and
17 we have restaffed the circuit clerk's
18 offices, or at least it's been
19 reauthorized. I don't know that they
20 have hired all those 67 that we were
21 allotted by the Legislature.

22 My next major focus is going to
23 be on the courtroom bailiffs that we lost

1 so that we can have courtroom security
2 again. And just to make sure everybody
3 understands the distinction: Sheriffs
4 are required to provide courthouse
5 security, and that's why they are at the
6 doors of the courthouses with the metal
7 detectors, but it's the courtroom
8 security that I am vitally concerned
9 about in this changed societal setting
10 that we are in now.

11 So, is there any other
12 discussion as to where we go forward from
13 here? Judge Jones?

14 HON. JONES: So, to wrap this up,
15 Chief, so that there won't be the question
16 about it, this Place 3 seat now goes to the
17 Jefferson County Judicial Commission to
18 fill?

19 HON. VERIN: That's not what we
20 are here for.

21 HON. JONES: Well, that's what
22 we --

23 HON. THOMASON: Uh-huh (negative

1 response) .

2 HON. VERIN: Uh-huh (negative
3 response) .

4 HON. JONES: Well, you don't want
5 to leave here with some people thinking
6 it's still going to be filled by ballot,
7 and some people thinking it's going to be
8 filled by the Commission.

9 HON. VERIN: I don't think we need
10 to address that, yet.

11 CHIEF JUSTICE PARKER: Wait.
12 Before we address this question, let me get
13 on the record what our vote totals were.
14 And that was five -- six "yes" and five
15 "no". That's why we did not get two-thirds
16 to move forward with reallocation.

17 So, Todd Russell?

18 MR. RUSSELL: Thank you, Chief
19 Justice. I just wanted to address the
20 question before us, and the answer is found
21 in 12-9A-2(b), "In the event the Commission
22 chooses not to reallocate the vacant
23 judgeship within the 30 days prescribed in

1 subsection (a), the vacancy shall be filled
2 according to law in the district or circuit
3 in which the judgeship is located."

4 HON. JONES: That's what I
5 thought.

6 HON. VERIN: All right. Thank
7 you.

8 CHIEF JUSTICE PARKER: So, does
9 that mean that even after they qualified it
10 would go to the --

11 HON. JONES: Judicial Commission.

12 HON. THOMASON: So, they're not --
13 There's not going to be an election anyway.

14 MR. NEWELL: Wait a minute. Why
15 would it not continue to be the election,
16 because the election is prescribed by law.

17 HON. JONES: But the judicial
18 Commission is --

19 MR. NEWELL: I think that was the
20 intention, that if there is a vacancy and
21 we don't reallocate it, then the Governor
22 could appoint, or if it's a seat that's up
23 for election, then it would be filled by

1 election, which is in accordance with the
2 law.

3 HON. JONES: In Alabama, Judge,
4 certain circuits' vacancies are filled
5 directly by the Governor. In other
6 circuits, they are filled by the Judicial
7 Commission for that circuit. In Jefferson
8 County, Birmingham Division, we have a
9 Judicial Commission. In Bessemer we do
10 not. They go straight to the Governor, and
11 that's what the law means.

12 HON. VERIN: I've got a point of
13 order --

14 MR. RUSSELL: You-all make
15 recommendations to the Governor, correct?
16 Three names, I believe?

17 HON. JONES: Yes.

18 HON. VERIN: I've got a point of
19 order. That's not for our purview right
20 here.

21 CHIEF JUSTICE PARKER: No. We
22 don't determine that, but it would help to
23 know.

1 HON. JONES: It helps to know. I
2 move to adjourn.

3 CHIEF JUSTICE PARKER: Well, no.
4 I mean, before we -- I entertain a motion
5 to adjourn, I need to correct the record.

6 It's six yeses, and six noes.

7 Okay. We have had a motion to
8 adjourn and a second.

9 HON. COLLINS: Second.

10 CHIEF JUSTICE PARKER: All in
11 favor signify by standing up.

12
13 (At which time, the Judicial
14 Resource Allocation Committee
15 adjourned meeting at 12:43
16 p.m.)

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REPORTER'S CERTIFICATE

STATE OF ALABAMA,

CHILTON COUNTY,

I, Jeana S. Boggs, Certified Court Reporter
and Commissioner for the State of Alabama at Large,
do certify that I reported the proceedings in the
matter of:

BEFORE THE STATE OF ALABAMA

JUDICIAL RESOURCE ALLOCATION COMMISSION

HEFLIN-TORBERT

JUDICIAL BUILDING

FRIDAY, JANUARY 31, 2020

10:00 a.m.

* * * * *

On Friday, January 31st, 2020.

The foregoing 160 computer-printed pages
contain a true and correct transcript of the
statements by counsel.

I further certify that I am neither of
relative, employee, attorney or counsel of any of
the parties, nor am I a relative or employee of
such attorney or counsel, nor am I financially
interested in the results thereof. All rates

1 charged are usual and customary.

2 I further certify that I am duly licensed
3 by the Alabama Board of Court Reporting as a
4 Certified Court Reporter as evidenced by the ACCR
5 number following my name found below.

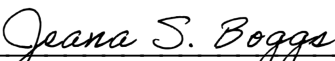
6 This 22nd day of February, in the year of
7 our Lord, 2020.

8

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11



Jeana S. Boggs, CCR
ACCR NO. 7 Exp 9/30/20
Certified Court Reporter and
Notary Public
Commission expires: 8/9/2022

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