

1 UNITED STATES DISTRICT COURT

2 MIDDLE DISTRICT OF ALABAMA

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4
5 INTERVIEW OF

6 **THE HONORABLE MYRON H. THOMPSON**

7 Senior District Judge
8 of the
9 United States District Court
for the Middle District of Alabama

10 as a part of the

11 ORAL HISTORY PROJECT

12 of the

13 U.S. DISTRICT COURT

14 MIDDLE DISTRICT OF ALABAMA

15
16 Interviewed by Larry T. Menefee

17 Attorney at Law

18 In the Chambers of Myron H. Thompson

19 at the

20 Frank M. Johnson Jr.

21 United States Courthouse Complex

22 One Church Street

23 Montgomery, Alabama

24 Monday, April 10, 2000

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MR. SEGALL: We're here on April 10, 2000, to interview Judge Myron Thompson. The interview is being conducted as part of the oral history project of the United States District Court for the Middle District of Alabama, a court on which Judge Thompson has served for 20 years, seven of which he served as chief judge.

The interview of Judge Thompson is being conducted in his federal courthouse chambers by Larry Menefee, an attorney practicing law in Montgomery, Alabama.

MR. MENEFEES: Judge, good afternoon. And appreciate your time for this interview. If we could, let's start with family background. If you would, tell me about your parents.

JUDGE THOMPSON: Well, first of all, good afternoon, Mr. Menefee.

MR. MENEFEES: Thank you.

JUDGE THOMPSON: My parents. Obviously, I had two. My

1 mother, who was -- when I was born worked in a local post office
2 as a clerk. And my father, when I was born, was a -- owned a
3 shoe shop and worked on shoes.

4 MR. MENEFEE: And where was this? Where were you born?

5 JUDGE THOMPSON: In Tuskegee, Alabama.

6 MR. MENEFEE: Okay. And date of birth?

7 JUDGE THOMPSON: January 7, 1947.

8 MR. MENEFEE: 1947. Did you have any siblings?

9 JUDGE THOMPSON: One brother who is five years older.
10 He now lives in D.C.

11 MR. MENEFEE: And do you have -- does he have children?

12 JUDGE THOMPSON: He has children, yes. He has three
13 girls.

14 MR. MENEFEE: Okay. Did you -- tell me about growing
15 up in Tuskegee. Did you spend all of your childhood there?

16 JUDGE THOMPSON: All of my childhood was in Tuskegee.
17 When I was growing up, Tuskegee was a fairly unusual place.
18 This was in the period when most of the area -- this is Macon
19 County -- was very poor. And it was also a time when full
20 segregation was enforced in the South. Tuskegee was viewed as
21 an oasis back then because to some degree you could grow up in
22 that community and never confront some of the segregation that
23 existed outside the community, primarily because Tuskegee was
24 all black. That's an odd comment, but -- in the sense that an
25 all-black community could be a haven from segregation. But the

1 fact it was all black meant you never had to actually confront
2 it.

3 So my early childhood growing up in Tuskegee was quite
4 pleasant. I actually grew up virtually in the shadow of the
5 college, Tuskegee Institute, now Tuskegee University.
6 Participated in most of the activities at the school and had
7 what I would consider to be a fairly normal, uneventful
8 childhood.

9 MR. MENEFE: I find your comments about the community
10 of Tuskegee interesting. I mean, within the city limits of
11 Tuskegee it was substantially white, was it not?

12 JUDGE THOMPSON: Yes, it was.

13 MR. MENEFE: But you're saying the Tuskegee University
14 community was all black?

15 JUDGE THOMPSON: Yes.

16 MR. MENEFE: And that -- I see.

17 JUDGE THOMPSON: Essentially, you had two communities
18 in the town. You had the city community, which was white and
19 black. And that would include even the surrounding county area,
20 Macon County. But when I was growing up, I very seldom ventured
21 downtown; and, really, my life centered mainly on the college
22 campus.

23 MR. MENEFE: And what schools did you attend?

24 JUDGE THOMPSON: When I was growing up?

25 MR. MENEFE: Yes.

1 JUDGE THOMPSON: Well, I went to a nursery school on
2 the campus.

3 MR. MENEFEE: Was that run by the University?

4 JUDGE THOMPSON: No. Actually, it was a private
5 nursery school. But it was on the campus, nonetheless. I
6 should say it was in the confines of the campus. And then I
7 went to a school which actually was operated by the college, an
8 elementary school.

9 MR. MENEFEE: Part of their education -- School of
10 Education?

11 JUDGE THOMPSON: Yes. Teachers trained there. It was
12 a very, very good school.

13 MR. MENEFEE: A lot of the faculty children?

14 JUDGE THOMPSON: A lot of the faculty kids went there.
15 I would think probably, as far as schools go, it would probably
16 match up to most schools that you could find anywhere.

17 MR. MENEFEE: That was elementary only?

18 JUDGE THOMPSON: That was elementary only.

19 MR. MENEFEE: What happened after that?

20 JUDGE THOMPSON: Only from first grade through ninth
21 grade. And then after that I went to I guess what some people
22 would say is a public school, because the other school was not
23 totally public in the sense that one just went there
24 automatically. You had to apply. From ninth grade through
25 twelfth, it was to a public school, which was quite an

1 eye-opener.

2 MR. MENEFE: Follow up on "eye-opener." What was --
3 what do you recall being most surprised at or eye opening?

4 JUDGE THOMPSON: The cross-section. Kids from all
5 backgrounds: the county kids, the kids who -- whose interests
6 sort of didn't necessarily coincide with mine, who had different
7 ambitions in life, who hadn't had all the advantages that I'd
8 had.

9 MR. MENEFE: You count the advantages growing up in
10 that Tuskegee community and the parents you had, I presume?

11 JUDGE THOMPSON: Oh, without question. Relatively
12 speaking, it was a tremendous advantage. Yes.

13 MR. MENEFE: In your high school, were the children
14 from the Tuskegee Elementary School -- did they constitute a
15 small minority of the overall high school, or were y'all -- when
16 you came into this larger public school?

17 JUDGE THOMPSON: Yes and no. Yes, in the sense that
18 some of us went to the public high school. A significant
19 portion of us went to private schools from then on, to boarding
20 schools.

21 MR. MENEFE: Away?

22 JUDGE THOMPSON: Away from Tuskegee, mainly up east.
23 That was a fairly common pattern. So in some sense I also lost
24 my friends who went away to school. And, of course, I stayed
25 home and went to the private school. And, of course, when we

1 got to the high school, the group of us who came out of
2 Tuskegee -- out of the elementary school at the college
3 generally would hang together. We began to disperse as years
4 wore on and we made other friends.

5 MR. MENEFEE: What was the name --

6 JUDGE THOMPSON: But we were a significant and very,
7 very small minority. Yes.

8 MR. MENEFEE: What was the name of the high school?

9 JUDGE THOMPSON: Tuskegee Institute High School. Even
10 though it was called Tuskegee Institute High School, it was a
11 public school.

12 MR. MENEFEE: I see. Located near the campus?

13 JUDGE THOMPSON: It was just -- it was located near the
14 campus; but nonetheless, it was a county school in every meaning
15 of the word. The kids were pretty much a cross-section.

16 MR. MENEFEE: Well, tell me some about your academic
17 interests, if you will, growing up through elementary,
18 principally high school. What subjects did you like and how did
19 you do?

20 JUDGE THOMPSON: Well, I can start at elementary
21 school. I became -- actually, I don't think I did very well the
22 first three or four years of elementary school. And then I
23 guess I sort of took out -- took off around third or fourth
24 grade and became an avid reader. I was not probably even in the
25 middle of my class during those early years. But by the time I

1 reached the eighth grade, I was number one.

2 I liked everything. That was the great thing about the
3 elementary school is that it provided such a tremendous
4 opportunity to do all kinds of things. I mean, we -- unlike
5 even schools today with strong emphasis on music, strong
6 emphasis on doing community things, projects, great parental
7 involvement, plays. We put on a lot of plays, things like that.
8 And the teachers were generally very good.

9 MR. MENEFEE: Did you finish high school with some
10 honors?

11 JUDGE THOMPSON: Yes. I was number two in my high
12 school.

13 High school was slightly different from the elementary
14 school. High school was not very challenging. Mainly what I
15 did in high school was just study on my own. But I had a lot of
16 friends who did the same thing. So we would study in our -- we
17 had a lot of groups like an astronomy club or a reading club
18 that weren't necessarily connected with the high school, but we
19 just did it on our own. High school was much more of a
20 free-for-all. We read a lot and we talked a lot. There were a
21 number of us who read a lot, and we would just get together and
22 talk about what we were reading.

23 MR. MENEFEE: About what size high school was this?
24 How many students, maybe, in your graduating class? Do you have
25 a sense?

1 JUDGE THOMPSON: I think there were maybe 300 in the
2 graduating class, maybe 400.

3 MR. MENEFEE: Now, was --

4 JUDGE THOMPSON: Most of those did not go to college.

5 MR. MENEFEE: Would the private boarding school that
6 some of your university colleagues have gone to, would that have
7 been within consideration of your family?

8 JUDGE THOMPSON: No. My family could not afford that,
9 even though I guess you could have gotten scholarships. I know
10 there were some families that were I think probably on financial
11 par with my family. But my mother didn't believe in that, and I
12 think wisely.

13 MR. MENEFEE: Interesting. Tell me about your mother's
14 convictions on that and --

15 JUDGE THOMPSON: Well, she just thought kids belonged
16 at home longer than eight years of elementary school. And I
17 don't think she could quite take the idea that I would be going
18 away, especially up east. I mean, this was -- this was before,
19 you know, you had jet planes; and these kids were taking a train
20 back and forth to school. And even if they took a plane, it
21 could take several days to travel. And they were going to
22 school in New Hampshire and Vermont and places like that, which
23 were really off the beaten path. So even if you got up east,
24 you still had a significant distance to go to find -- to get to
25 the sort of school out in the countryside. Anyway, my parents

1 did not like that.

2 MR. MENEFEE: Did your mother have long roots in the
3 Tuskegee community, her family?

4 JUDGE THOMPSON: No. No. My mother came from Alabama
5 but from Dothan. And she was one of six children. Our family
6 on my mother's side was extremely paternal. A very strong
7 grandfather who also came from around the Dothan area, Houston
8 County, Henry County area.

9 In fact, he -- maybe this led to some of my mother's
10 opinions about it. He sent his first three children away to
11 school because when my mother was growing up, they had no public
12 school for blacks beyond maybe seventh or eighth grade. There
13 was no black high -- there was no high school.

14 MR. MENEFEE: So strong --

15 JUDGE THOMPSON: Even though it was separate but equal,
16 there was just no high school for blacks.

17 MR. MENEFEE: So strong commitment by your father.

18 JUDGE THOMPSON: Grandfather.

19 MR. MENEFEE: Grandfather. Sorry.

20 JUDGE THOMPSON: Yes. So he would send his kids to
21 boarding schools after seventh or eighth grade. The first three
22 girls all went to boarding schools. And actually, my mother
23 went to Tuskegee -- to Tuskegee for boarding school in high
24 school. Tuskegee apparently had a high school residency, and
25 she went there for three or four years. And then I had another

1 aunt who went to Alabama State to high school. And then I had
2 another aunt who went to school I think in Selma. I'm not sure
3 about that.

4 So my grandfather actually decided that he did not
5 like his children going away, so he actually started the high
6 school in the area down in southeast Alabama. He actually got
7 the money together and actually started a public high school.
8 Got some local businesses to support it, hired a teacher, kept
9 it -- in fact, housed the teacher himself -- and actually
10 started the public high school, the first one in that area.

11 MR. MENEFE: And did it continue?

12 JUDGE THOMPSON: Yes. So that his boys, who later
13 came, could stay home.

14 Yes. And it eventually was the high school that the
15 kids went to. And -- but he did all of that, and primarily --
16 I'm sure he did it for public reasons too, but it was so that
17 his last three children --

18 MR. MENEFE: Sure.

19 JUDGE THOMPSON: -- wouldn't have to go away to school
20 like my mother did.

21 MR. MENEFE: And tell me about him. He must have been
22 an interesting and energetic person.

23 JUDGE THOMPSON: Oh, yes, he was.

24 MR. MENEFE: What did he do and --

25 JUDGE THOMPSON: Very -- very strong person. Very much

1 a -- I guess you would say a pillar of the community in that
2 area, Dothan. Very well respected.

3 MR. MENEFEE: What was his name?

4 JUDGE THOMPSON: John Glanton.

5 MR. MENEFEE: G-L-A-N-T-O-N?

6 JUDGE THOMPSON: Yes. John Henry Glanton. But a
7 strong believer in going to school.

8 MR. MENEFEE: Uh-huh.

9 JUDGE THOMPSON: Most of his kids became teachers, and
10 he was very adamant that I not become a teacher because he
11 thought that the teaching profession was so constrictive or
12 constricting. He used to say that -- that people who can't make
13 it teach you how to do it. Those who can, do it. So I just --

14 MR. MENEFEE: What did he do?

15 JUDGE THOMPSON: Well, he was a real estate dealer
16 and -- that was in his later years. He owned a lot of property.
17 But his early years, he was a farmer. He grew peanuts, pecans.
18 He owned lots of farmland which he eventually turned into
19 houses.

20 I want to qualify that last comment. He wasn't downing
21 teachers. I think he was just saying that we have too many
22 teachers in our family, and he wanted more of us to do something
23 other than teach. I think he viewed teaching as too safe.

24 MR. MENEFEE: Interesting. And what's your -- what was
25 your mother's name?

1 JUDGE THOMPSON: Lillian.

2 MR. MENEFE: Lillian Glanton?

3 JUDGE THOMPSON: Glanton. Yes. That was her maiden
4 name, Glanton. Yes.

5 MR. MENEFE: Had your grandfather had much formal
6 education?

7 JUDGE THOMPSON: No. My grandfather taught himself to
8 read, which even reflected more his interest in education. I
9 think he only went through the third grade. And then he
10 essentially taught himself to read, which reflected a strong
11 interest in having a school come down there. I would rather
12 suspect -- I don't know this -- that at the time my grandfather
13 could have gone to school, probably wasn't much of a school to
14 go to at that time for blacks.

15 MR. MENEFE: Tell me about on your father's side.

16 JUDGE THOMPSON: Father's side is a little more murky.
17 My father came from Birmingham.

18 MR. MENEFE: What's -- what was his full name?

19 JUDGE THOMPSON: Lawrence. Apparently, the third of
20 three Lawrences. He was Lawrence Thompson. Went to Tuskegee
21 but never finished and eventually opened a shoe shop there.

22 MR. MENEFE: When you say shoe shop, is this retail
23 shoe or cobbler, repairer?

24 JUDGE THOMPSON: No. He repaired shoes. He was very
25 good at it.

1 MR. MENEFEE: So did my grandfather, by the way.

2 JUDGE THOMPSON: Oh, really?

3 MR. MENEFEE: At any rate, go ahead.

4 JUDGE THOMPSON: Yeah. I used to go there and watch
5 him work on the shoes.

6 But at that time, Tuskegee was a -- basically a -- what
7 do you call it? -- a trade school. And my father strongly
8 believed in the trades. And you probably aren't aware of this
9 debate that went on back in the thirties and forties and
10 fifties, in particular at Tuskegee and among other black
11 schools, was whether to continue with the trades or to get more
12 into liberal arts. Remember, Booker T. Washington used to say,
13 you know, that learning Greek won't help you lay bricks. And my
14 father was a strong believer that the schools should have stuck
15 to the trade tradition. But having said that, he himself, and
16 while a tradesman, was very, very academic.

17 MR. MENEFEE: In what sense?

18 JUDGE THOMPSON: Well, he read a lot. He was also a
19 phenomenal bridge player. He won trophies playing bridge. He
20 used to go to competitions. So he was very mental, a very
21 cerebral man. And, in fact, to the degree that I probably
22 reflect my interest in reading, I'm probably more of a clone of
23 my father even though my mother, in the sense, had the
24 educational tradition coming down through her family. But on my
25 father's side, most of the kids all went to college, as did my

1 mother, obviously. But his siblings did, and they tended to
2 teach at the college level and I would say were much more
3 academic in their approach to life.

4 MR. MENEFEE: Interesting. I was almost thinking your
5 family would maybe set up --

6 JUDGE THOMPSON: My grandfather was more of a farmer.
7 He just had a strong interest in education too, but he was more
8 rooted. My father's side of the family was more peripatetic and
9 sort of all over the place. And my father and my mother
10 eventually divorced, and my father did go to New York.

11 MR. MENEFEE: I see. About what age were you when your
12 parents divorced?

13 JUDGE THOMPSON: That's a hard question. I think I
14 would have been about five or six.

15 MR. MENEFEE: Oh. Fairly young.

16 JUDGE THOMPSON: Very, very young. Yeah.

17 MR. MENEFEE: But you stayed in Tuskegee with your
18 mother.

19 JUDGE THOMPSON: I stayed in Tuskegee with my mother,
20 who later remarried --

21 MR. MENEFEE: I see.

22 JUDGE THOMPSON: -- about four or five years later.

23 MR. MENEFEE: And then your stepfather, were you close
24 to him?

25 JUDGE THOMPSON: Yes. My stepfather was a minister

1 there in Tuskegee. His name was Kenneth Buford. And he was
2 very involved in the church.

3 MR. MENEFEE: Which --

4 JUDGE THOMPSON: And, in fact, we eventually moved next
5 to the church called Butler Chapel Church, which took us outside
6 the confines of the University, of the college. We moved into
7 more of the community and rural area. And he was also very much
8 involved in the political activity of the city.

9 MR. MENEFEE: Of what denomination is --

10 JUDGE THOMPSON: Zion Methodist. And then I became
11 very involved in the church. I used to go open up the church.
12 I was responsible -- I did everything that a minister's son
13 would do. You know, since I was living next to the church, I
14 was just told to do a lot of the things that, because I was
15 there, that a child would do.

16 MR. MENEFEE: How did you find it being a preacher's
17 kid as they say?

18 JUDGE THOMPSON: Fine. No problem at all. I mean,
19 it's -- you know, kids -- people treat you nicely. I have very
20 fond memories of the church. I was never a religious scholar,
21 and I saw both sides of the church. I saw the side that was
22 very warm and good, but I also saw a side of the church I didn't
23 like.

24 MR. MENEFEE: The political --

25 JUDGE THOMPSON: Well, I saw the political side of the

1 church, yes. And I suddenly realized that, you know, that we're
2 all -- that all our feet are made of clay. But for a kid in
3 high school, that was something that was quite shocking.

4 MR. MENEFEE: Sure. And how about relationships with
5 your brother growing up? Did y'all have a good relationship and
6 what sort of --

7 JUDGE THOMPSON: Yeah. I suppose we were like any
8 brothers with a five-year span. That's a pretty big span,
9 actually.

10 MR. MENEFEE: Yeah. What nonacademic interests for you
11 and your brother? What else -- what other --

12 JUDGE THOMPSON: My brother and I were quite different.
13 My brother was not as academic as I was. And my life was
14 tempered by another factor that I guess sort of overshadowed
15 everything else, and that is I had polio when I was two or
16 three. And so for the first -- up through early high school, I
17 was constantly seeing doctors and stuff like that. So I had a
18 very close relationship with my mother and with my family. And
19 people tended to cater to me more because I was a child who,
20 obviously -- today you would call -- well, back then they would
21 call them crippled, then we were known as handicapped and,
22 finally, disabled.

23 MR. MENEFEE: Now, Tuskegee was a center for treatment
24 of polio in those days, was it not?

25 JUDGE THOMPSON: Oh, yes. That's right. Yes. Yes, it

1 was. The hospital was.

2 MR. MENEFEE: Did you receive some treatment and care
3 there?

4 JUDGE THOMPSON: Yes. Very good care, from what I
5 understand. Two or three operations. Lots of rehabilitation.
6 A good bit of time out of school doing those types of things.
7 But it was a center, and it was a polio center.

8 And I was one of the kids who caught it -- I guess it
9 would have been in the late forties or early fifties, during the
10 last epidemic. A lot of kids died, so I was fortunate in that
11 regard. And I was also fortunate that I did not have it in any
12 vital organs. I had it only in my leg, left leg. If you had it
13 in your vital organs, it could be quite debilitating, even if
14 you didn't die. I remember lots -- I remember being on the
15 wards and being in the hospital quite a bit.

16 MR. MENEFEE: I was over recently in Tuskegee and saw
17 the display in the museum of that treatment facility.

18 JUDGE THOMPSON: Yeah. Right.

19 MR. MENEFEE: Have you seen some of that?

20 JUDGE THOMPSON: I actually have not. I have not.

21 MR. MENEFEE: It's an interesting display. I was with
22 my children on a school trip, so --

23 JUDGE THOMPSON: Right. There were a lot of kids.
24 Now, ironically, I was the only kid that I knew of of my group
25 who had it, like play groups. For some reason, it always seemed

1 to me that a lot of kids who had it, that I was in the hospital
2 with, were kids from the neighboring -- the county. I don't
3 remember any kids who were like my playmates who had it. So
4 that's why it overshadowed a lot. I was -- I felt rather
5 unusual in that regard.

6 And this probably contributed also to my reading,
7 because I spent many -- much of my childhood in bed. I would --
8 recuperating from operations. Back then, you know, they didn't
9 make you get up and run. In fact, I was chastised often for
10 being too rough. They wanted you to sit down and be quiet and
11 not push things too far. So a lot of the time I spent mainly in
12 bed. And my friends would come visit me while I was in bed at
13 home, and I had an aunt who took care of me. So -- I didn't
14 even go to the bathroom. You know, everything was done in bed.
15 So I did spend a lot of time just playing in the corners of my
16 bed. I remember many a summer doing that.

17 MR. MENEFEE: You've mentioned your maternal
18 grandfather was apparently a strong figure that you recall. Who
19 would you cite as your most influential relative beyond parents?
20 Perhaps him?

21 JUDGE THOMPSON: Perhaps my grandfather, yes. Beyond
22 my parents.

23 MR. MENEFEE: Didn't mean to ask a leading question
24 here.

25 JUDGE THOMPSON: No, I suppose that's true. He was a

1 fairly dominating character in our family. He was -- he
2 controlled everything. Everyone -- when we were around him, he
3 was the center of all the attention. So, yes, I would say that
4 he had the strongest impact.

5 MR. MENEFEE: About when did he pass away?

6 JUDGE THOMPSON: He passed away about 16 years ago.

7 MR. MENEFEE: So he knew you as a --

8 JUDGE THOMPSON: Oh, yeah. He knew me as a judge.

9 MR. MENEFEE: -- as a judge.

10 JUDGE THOMPSON: Yes, he did. He was very proud of
11 that. We had talked about it quite a bit before I became a
12 judge, and we talked about it after I became a judge. No, he
13 was -- he was -- he was right there. He was there throughout my
14 life.

15 I guess to some degree, you know, the feelings toward
16 my grandfather were a little bit ambiguous, because I always
17 thought that people never thought I would develop into anything
18 because I did have polio. You know, usually you think people
19 who are disabled are not going to do anything because you -- I
20 think that -- people don't say that, but I think they can give
21 that message pretty clear. Whether it's a physical disability
22 or a mental disability, I think the person is in some way
23 flawed, so you never expect them quite to develop into anything.
24 I don't think it's ever a conscious attitude, but I think it is
25 a subconscious attitude.

1 MR. MENEFEE: Are -- as to your parents and your
2 stepfather, are any of them living --

3 JUDGE THOMPSON: No.

4 MR. MENEFEE: -- still?

5 JUDGE THOMPSON: They've all passed on. My mother, my
6 stepfather, my father, and my grandfather.

7 MR. MENEFEE: What about -- you've mentioned
8 relationships, some with the church and various school
9 interests. Any other particular recreational or travel events,
10 any family trips that you might have been able to take growing
11 up?

12 JUDGE THOMPSON: Yes. We did some traveling.
13 Obviously, during my early years when it was just my mother, it
14 was very hard to travel because she had these two boys and --
15 you know, I had no father -- no husband. So what we would do is
16 we would travel with other families. There were other women who
17 had children. And quite often what they would do is they would
18 get together and travel together so that you had two adults and
19 then the kids were all in there together. And we did that a
20 lot, relatively speaking. We took trips to Texas and Michigan,
21 places like that.

22 MR. MENEFEE: Would those --

23 JUDGE THOMPSON: To visit other relatives.

24 MR. MENEFEE: Oh, principally visiting family.

25 JUDGE THOMPSON: Principally visiting family.

1 Obviously, we couldn't stay at any hotels or anything like that,
2 so we would -- even when we traveled, we went from family member
3 to family member. I remember that.

4 MR. MENEFEE: You started off by saying that Tuskegee
5 and the community you grew up in was something of an island from
6 the segregated world that's outside.

7 JUDGE THOMPSON: That's right. Uh-huh.

8 MR. MENEFEE: Do you recall -- I don't want to just
9 leave that whole era in time. Do you recall events of
10 confronting segregation in that -- outside that island that --

11 JUDGE THOMPSON: Outside the island? Oh, well, it
12 actually was there --

13 MR. MENEFEE: -- that made some influence that you
14 particularly recall?

15 JUDGE THOMPSON: I didn't want to say -- I don't want
16 to give the impression that there was no problem within the
17 community. There were problems many ways in the community. I'm
18 just talking about from the perspective of a child.

19 But going outside the community, yes. We saw it when
20 we would go to Dothan. I had people -- I remember being in the
21 car and someone making a racial slur. I remember once we were
22 going to Texas. The guy wouldn't let us use the bathroom, and
23 my mother asked him not to fill the car. She actually stopped
24 right then and said, take it out. Take the gas out of the
25 car -- that is, take the --

1 MR. MENEFEE: Nozzle.

2 JUDGE THOMPSON: -- the nozzle out. I mean, those
3 things, sure. Sure, I remember that. I remember coming to
4 Montgomery and -- I guess it was the Kress's downtown and eating
5 downstairs in the colored section. Sure. The colored counter.
6 I remember the water fountains. We did -- I did that.

7 MR. MENEFEE: Movie theaters.

8 JUDGE THOMPSON: Yes. Definitely the movie theaters.
9 In Tuskegee there were segregated movie theaters. But we also
10 went to movies on the campus, which is really where I went more
11 than I went downtown to see movies.

12 So it was everywhere. It was all around me, but the
13 exposure was just less.

14 MR. MENEFEE: Sure.

15 JUDGE THOMPSON: And -- but it was -- it was -- it was
16 everywhere, all around the city and in the city to some degree,
17 too, but on a more sophisticated basis and within the college a
18 more sophisticated basis. Because you couldn't vote. Things
19 like that. And people felt disenfranchised, and that was --
20 became very -- I felt that very strongly as I got older.

21 MR. MENEFEE: Do you recall conversations around dinner
22 tables in your home --

23 JUDGE THOMPSON: Oh, yes.

24 MR. MENEFEE: -- about issues of segregation and
25 community and political participation?

1 JUDGE THOMPSON: That was like grits in the morning and
2 greens at night. It was every day, two or three times a day.
3 Yes. All the time.

4 MR. MENEFEE: You said your stepfather, I think, was
5 active.

6 JUDGE THOMPSON: Yes, and my mother.

7 MR. MENEFEE: And your mother.

8 JUDGE THOMPSON: Were both very politically active.
9 And my father later ran for the city council when voting --

10 MR. MENEFEE: In Tuskegee?

11 JUDGE THOMPSON: -- when blacks were enfranchised in
12 Tuskegee. And, in fact, he was one of the first blacks, elected
13 officials, if not the first. And he was very much involved in
14 political activity. And I used to go to the -- what -- back
15 then, they called them mass meetings where they would go to the
16 churches and would plan their strategies. You know,
17 particularly during the -- I remember during the boycott, the
18 economic boycott of Tuskegee due to the inability to vote. And
19 I went to a lot of those myself. Mother would take me, and I
20 would just sit there. And so I was very much infused with that.

21 But as a child, you know, I wasn't quite sure what it
22 meant to vote. I mean, all I knew is that people were angry,
23 and I knew that to vote was important. But, obviously, I could
24 not vote, so I never felt directly the indignity of being denied
25 the right to vote.

1 MR. MENEFEE: Do you have any personal recollections of
2 events such as *Gomillion v. Lightfoot*, which is --

3 JUDGE THOMPSON: Oh, I knew Dr. Gomillion very well.
4 He lived right down the street from me. And I knew that he was
5 a highly respected member of the community, probably, you know,
6 the highest.

7 MR. MENEFEE: And he was a physician. Is that --

8 JUDGE THOMPSON: No, no. He was a professor at
9 Tuskegee. He -- I -- maybe political science professor. I
10 don't think he was in any way connected with science. In fact,
11 I'm pretty certain that's what he was.

12 MR. MENEFEE: Okay.

13 JUDGE THOMPSON: And he was a very soft-spoken man,
14 almost inaudible, very meek looking man and very -- and highly
15 respected man.

16 MR. MENEFEE: Well, let's try the other side of the
17 ledger. Did you ever meet Sam Engelhardt?

18 JUDGE THOMPSON: No. I knew virtually no whites
19 growing up. I knew none.

20 MR. MENEFEE: He was the --

21 JUDGE THOMPSON: I know who Sam Engelhardt was.

22 MR. MENEFEE: -- as I recall, the author of the --

23 JUDGE THOMPSON: Yes.

24 MR. MENEFEE: -- was it 28-sided figure of city
25 boundaries that was the subject of that.

1 JUDGE THOMPSON: No. I knew no whites, period,
2 children, adults, whatever.

3 MR. MENEFEE: Any work experiences, part-time work --

4 JUDGE THOMPSON: Yes.

5 MR. MENEFEE: -- as children?

6 JUDGE THOMPSON: Worked in a drugstore --

7 MR. MENEFEE: Uh-huh.

8 JUDGE THOMPSON: -- when I was in high school. Later
9 found out my mother paid the guy to let me work there.

10 MR. MENEFEE: Tell me about college. Where did you go
11 and why did you decide to go there?

12 JUDGE THOMPSON: Interesting question. Well, I went to
13 Yale as an undergraduate and then went to Yale Law School.

14 I spent many of my summers in what they called these
15 summer programs --

16 MR. MENEFEE: At Tuskegee?

17 JUDGE THOMPSON: -- at Tuskegee, the college, taking
18 things, math and English, just other courses. Some of them were
19 considered advanced courses, things like that. During one of
20 those summers, I met some kids -- I call them kids -- of course,
21 to me they seemed, you know, like very, very old adults who had
22 come down from the east to teach in some of these programs. And
23 I befriended them.

24 MR. MENEFEE: So this would have been high school days,
25 early sixties.

1 JUDGE THOMPSON: This is high school. This is like --
2 it's early sixties.

3 MR. MENEFEE: You graduated in '63?

4 JUDGE THOMPSON: Oh, no. '65.

5 MR. MENEFEE: '65.

6 JUDGE THOMPSON: This could have been maybe '63, '64.

7 MR. MENEFEE: Okay.

8 JUDGE THOMPSON: Yeah. And so they invited me to come
9 up east to visit them. And it coincided with a trip to visit my
10 father, who was then living in New York. So I went up east and
11 met -- and met with one of them in New York. It was a lovely
12 apartment on Fifth Avenue. It quite impressed me. We went to a
13 play and stuff like that. And I then went up to Martha's
14 Vineyard to visit another young man who was then at Yale Law
15 School and spent some time with him. And he then suggested that
16 we go visit colleges. And I visited a number of colleges at the
17 time and decided to go ahead and put in some applications. And
18 in the meantime, I actually was thinking about going to a
19 midwestern school which seemed more within my range, considering
20 that I had come from public high school, and had received some
21 early admissions to some --

22 MR. MENEFEE: Such as?

23 JUDGE THOMPSON: -- smaller schools.

24 MR. MENEFEE: Do you remember?

25 JUDGE THOMPSON: Oh, dear. What were they? Just small

1 schools out west or maybe around Pennsylvania and so forth.
2 Carleton, I think. Carleton College was one. And then I got my
3 SAT scores back. And I had took the SATs, and I actually felt
4 that I had scored perfect. I thought I had not gotten anything
5 wrong on them. And my scores were very high. And so when I
6 sent off my SAT scores, I got early admission everywhere.

7 MR. MENEFEE: And including Yale and --

8 JUDGE THOMPSON: Yale too. Right. I got into Yale. I
9 got into Harvard. Then Carleton came back and I was admitted
10 as -- they wanted me a presidential scholar and things like
11 that. So all of it sort of flowed from that. And --

12 MR. MENEFEE: That must have been pretty reaffirming
13 for a young man from Tuskegee, Alabama.

14 JUDGE THOMPSON: Yeah, it was. It was rather daunting,
15 actually. Rather -- rather scary. And so then it was just a
16 matter of selecting where I wanted to go to school.

17 MR. MENEFEE: Have you -- those seem like they must
18 have been pretty helpful contacts, those students that you --

19 JUDGE THOMPSON: Oh, I still know them.

20 MR. MENEFEE: I was wondering if you --

21 JUDGE THOMPSON: We remain friends.

22 MR. MENEFEE: Are you still in touch?

23 JUDGE THOMPSON: Yeah. I still see them every so
24 often. There are a couple, three or four, that I still see.
25 Yeah. And we write or we'll -- you know, of course, we don't

1 write constantly; but, you know, once in a while we will
2 reconnect just to find out what each of us is up to.

3 MR. MENEFEE: Uh-huh. Good. Well, tell me about Yale
4 and course of study and --

5 JUDGE THOMPSON: Yale was interesting. I considered my
6 high school years to be so unstructured that, really, what the
7 problem -- my problem -- my main problem at Yale was the
8 structured academic environment, going to classes, having
9 assignments, doing things within a structure, because I never
10 did that. I worked a lot, I studied a lot, I read a lot -- I
11 read a heck of a lot -- but it was always on my own, at my own
12 pace, and I did it on my own. And so --

13 MR. MENEFEE: Talking about high school.

14 JUDGE THOMPSON: High school.

15 MR. MENEFEE: Interesting.

16 JUDGE THOMPSON: Whereas when I got to Yale, it was the
17 structure. And, obviously, it was a very, very hard school. I
18 went there because it had a strong undergraduate program that I
19 was pretty much told from most of the people that I talked to
20 was probably more fitting for my background. Some of the other
21 larger schools, I think it was felt that I -- you know, I needed
22 a bit more spoon-feeding, considering where I had come from.
23 That was the general feeling.

24 MR. MENEFEE: What -- what did you end up majoring in?

25 JUDGE THOMPSON: Political science, but only because

1 that's where I had most of my credits. I'm not saying I
2 particularly liked political science. I enjoyed it all. One
3 just had to choose a major, so I chose that one.

4 MR. MENEFEE: You've had a long interest in music, if
5 I'm not mistaken, have you?

6 JUDGE THOMPSON: I don't know where you're getting that
7 from.

8 MR. MENEFEE: Well, I know you go listen to jazz a good
9 bit.

10 JUDGE THOMPSON: Oh, well that's in New York. Yes.
11 Well, I like it like anybody else likes jazz. No, I don't think
12 I have any --

13 MR. MENEFEE: It doesn't date to those interests.

14 JUDGE THOMPSON: Fairly --

15 MR. MENEFEE: It doesn't date to those days,
16 particularly.

17 JUDGE THOMPSON: No. Actually, if anything, it dates
18 back to elementary school. Very strong musical program in
19 elementary school. We used to -- we actually had to study
20 musical theory when we were in elementary school.

21 MR. MENEFEE: In elementary school?

22 JUDGE THOMPSON: Elementary school. And we studied
23 opera and we studied symphonies. This was a very good
24 elementary school.

25 MR. MENEFEE: That's impressive.

1 JUDGE THOMPSON: Yeah. It was a pretty good elementary
2 school. I still remember the courses. We had -- in fact, I
3 think we may have gone to music class like once a day. I mean,
4 this wasn't -- we weren't just hitting sticks. We actually had
5 to study. It was a significant part of the academic program,
6 that and arts. The boys had to take carpentry and the girls had
7 to take art. But you could do both, except I don't remember
8 girls taking carpentry. But the boys could take the art. And
9 that was a significant part of the academic program too. So I
10 actually had to -- we actually had a huge carpentry shop with
11 all the machines and stuff. School was pretty well stocked with
12 stuff to do. In other words, I'm sure there weren't many
13 schools that had saws, electric saws and drills and all that
14 kind of stuff as a side program.

15 MR. MENEFEE: Well, going back to Yale, were you -- I
16 don't know enough of Yale. Were you in dorms most of the time,
17 live off campus in apartments?

18 JUDGE THOMPSON: Yale was -- yeah. Yale had what they
19 called a college system, which is the same as Harvard had, where
20 you lived in sort of a smaller area that not only was where you
21 lived, but it also had some academic aspect to it. You ate
22 there; you lived there; your social life centered in the -- in
23 the college. And there were 12 colleges that made up the
24 University, and I was in what they called Jonathan Edwards.

25 And Jonathan Edwards was sort of an artsy college, and

1 a lot of the art students were in some way connected with
2 Jonathan Edwards. But you were assigned to Jonathan Edwards. I
3 didn't choose it on my own. It was just by happenstance that I
4 got assigned to Jonathan Edwards.

5 MR. MENEFEE: And just by happenstance that it has that
6 art interest or focus?

7 JUDGE THOMPSON: Yes. Yes. Yes. So we -- at Jonathan
8 Edwards I was more exposed to music and art and things like that
9 just because that was the flavor of the college, even though
10 everybody went to school together. All my classes were with
11 everyone within the University.

12 MR. MENEFEE: I see.

13 JUDGE THOMPSON: It's just that at Jonathan Edwards
14 they'd have like string quartets all the time. That was a very
15 common part of Jonathan Edwards, more so than the other
16 colleges. You could go hear the Guarneri String Quartet, you
17 know, which was something that people would pay a lot of money
18 to go see in New York. But we would have it all the time there
19 in Jonathan Edwards. And furthermore, the master of the college
20 was very much involved in the music program at Yale, which Yale
21 had one of the best music programs in the country. So that
22 reinforced the significance of music in the college itself.

23 MR. MENEFEE: Well, how did you find college for an
24 influence on your formation? Any particular reflections on that
25 time?

1 JUDGE THOMPSON: Well, first of all, Yale was all male,
2 but that was not that unusual back then, obviously. Most of the
3 Ivy League schools were all of one sex. The social environment
4 was limiting for that reason. You know, I didn't have dates and
5 things like that. Most of the kids who went to Yale had gone to
6 the sort of elite private schools. I had gone to a public
7 school, even though Yale at that time was approaching 40 to 50
8 percent public school kids. Later it would become more public
9 school kids than private school kids. But nonetheless, the
10 private school kids dominated. And secondly, the private school
11 kids were more prepared to -- to meet the demands of the
12 University because, for them, going to Yale from their private
13 school was just really another year. They were used to the
14 classes. They were used to the challenges in the classes. They
15 knew each other. The social environment was something they were
16 used to. The sports they played, which were totally alien to
17 me, you know, like lacrosse, crew and things like that, were
18 something that, you know, of course, they just -- they did
19 easily.

20 MR. MENEFEE: With whom did you develop your closest
21 friendships while there?

22 JUDGE THOMPSON: Within my college. A very, very close
23 friend, a couple, whom I have remained close with the last 30
24 years, since then.

25 MR. MENEFEE: Southerners?

1 JUDGE THOMPSON: Yes. One was southern; one was not.
2 One was from St. Louis. There were actually -- I guess it was
3 sort of like a clique. There were about ten of us. Mainly two
4 or three of us were from the South. A really good friend of
5 mine is from the South, from Pensacola. The guy I eventually
6 roomed with most of my years there was from St. Louis.

7 But we were very, very different. This was different
8 for me. Obviously, it was different for me because with the
9 added aspect that I was thrown in an environment that was
10 virtually all white. There were very few blacks. There was
11 only one other black in my college in my class, and I think he
12 may have moved out of the college ultimately into another
13 college and -- didn't leave the University. And there was an
14 upper-class black guy, but he was like two years ahead of me,
15 and I didn't really get to know him. But that was it.

16 MR. MENEFEE: And that was it.

17 JUDGE THOMPSON: That was it. So I was thrown from one
18 fairly nondiverse environment into another.

19 MR. MENEFEE: I guess that had its own set of
20 difficulties.

21 JUDGE THOMPSON: Yeah. But in some -- yes, there were
22 some. My Yale years I consider my sort of social -- I -- social
23 years. I don't think I was a particularly socially astute
24 person. I was not politically active. Mainly interested in
25 music, maybe reading, things like that. And so these guys did

1 that with me, and we would do that a lot. In that sense, social
2 life, very limiting because -- you know, I think once you went
3 outside the confines of the University, you know, it was assumed
4 you were going to have a date who was black. And there were
5 very few black women there. When I say "there," meaning the --

6 MR. MENEFE: New Haven area?

7 JUDGE THOMPSON: No. Well, the New Haven area as well
8 as just among the Ivy League schools. Most of the guys dated
9 girls from other sister schools, which, you know, were several
10 hours away. So you mainly had dances when they would bring
11 these women in. It was a horrible system. And you would meet
12 them and then they would go back. And hopefully you could set
13 up some rapport within the two hours that you got to know them.
14 But -- so my social life was fairly, fairly limited. But I did
15 develop some close friendships.

16 MR. MENEFE: Then did you have any obligations for
17 military service?

18 JUDGE THOMPSON: No.

19 MR. MENEFE: The polio background.

20 JUDGE THOMPSON: Because of the polio, I never had
21 that. And that was a significant factor too. I mean, I was
22 obviously limited by that at the school. There was not much in
23 sports I could do, even though I was a good swimmer and I did
24 take -- I did swim. And I did pass all of the physical
25 requirements. Back then we had to pass physical requirements.

1 They don't have that anymore. The idea was that we were
2 supposed to be true Renaissance men, which meant that, you know
3 we were supposed to be able to do so many sit-ups, so many
4 push-ups. We even learned posture. We even had a posture
5 class.

6 MR. MENEFE: A posture class.

7 JUDGE THOMPSON: A posture class. Had to learn how to
8 sit.

9 MR. MENEFE: No comment.

10 JUDGE THOMPSON: You know, I -- it sounds silly; but in
11 retrospect, it really wasn't that bad. I mean, it really taught
12 you how not to have back problems later in life. It told you
13 to, you know, have good posture. And I guess even though I
14 suppose the real emphasis was that you were supposed to carry
15 yourself a certain way.

16 MR. MENEFE: Were you aware of such institutions as
17 Skull and Bones?

18 JUDGE THOMPSON: Oh, yeah. Yeah.

19 MR. MENEFE: Heard a lot about that in recent years.

20 JUDGE THOMPSON: Heard a lot about that. Certainly.

21 Yes. In fact, it sat right across the street from Jonathan
22 Edwards, so I used to pass by it all the time.

23 MR. MENEFE: What about with the civil rights and to
24 the extent the antiwar movements were gaining currency for the
25 larger society? Did that impact --

1 JUDGE THOMPSON: Yes.

2 MR. MENEFEE: -- much of your time at Yale?

3 JUDGE THOMPSON: Yes. It finally caught up with Yale,
4 the antiwar movement did. I was not a part of that. In fact, I
5 was fairly pro the war and in high school had written a paper
6 pro the war. And then when I got to Yale, most -- most of us
7 were. There were a few of us who were not. And then by senior
8 year, a lot of the guys had changed. I did not. That's the
9 biggest argument I had with my father, who was strongly anti the
10 war. I used to go down to New York, and we had very, very bad
11 arguments in which I was very strongly for the war.

12 MR. MENEFEE: What was your dad doing at that time or
13 in his later --

14 JUDGE THOMPSON: In New York?

15 MR. MENEFEE: Yeah.

16 JUDGE THOMPSON: He actually did a lot of things, I
17 think. He was in a commercial business. He sold goods, mainly
18 apparel. He then I think did some stock brokerage work, things
19 like that.

20 MR. MENEFEE: Well, that's an interesting -- most of
21 the --

22 JUDGE THOMPSON: It was the opposite for most kids.

23 MR. MENEFEE: It's opposite of what most families I
24 know have experienced.

25 JUDGE THOMPSON: Right. Right.

1 MR. MENEFEE: Yeah.

2 JUDGE THOMPSON: Yeah. And so -- actually, when I was
3 in high school and I went to visit my dad, we were having some
4 argument, and I thought he was a Socialist. At one time I
5 thought he was an avowed Socialist, and I came home and I told
6 my mother that. That shows you how strong my own sentiments
7 were of sort of traveling the road that was so tried and true.
8 But my dad did have some unusual ideas about things, and he read
9 a lot. And he had -- he had read things that I hadn't read.
10 And he was one to say things to me that could be somewhat
11 shocking to me politically.

12 MR. MENEFEE: But in any event, he was politically
13 engaged.

14 JUDGE THOMPSON: Oh, he was very politically engaged,
15 and -- but very fascinating. A very fascinating man.

16 MR. MENEFEE: Tell me about law school. Why did you
17 go? And why Yale? And when did you decide?

18 JUDGE THOMPSON: Ah, I got in. That was it, because I
19 got in. And Yale Law School was the place to go at the time.
20 Small, very active. I had met a number of the professors at the
21 law school while I was an undergraduate there. Charles Black,
22 who actually taught me as an undergraduate, was a professor at
23 Yale Law. And we had become very good friends. And I had no
24 idea what I was going to do when I got out of Yale either, which
25 I think was true for about 99 percent of us who went to law

1 school.

2 MR. MENEFEE: Well, when did you first have the idea
3 that you were going to law school?

4 JUDGE THOMPSON: When I was trying to find a job and I
5 didn't have anything else to do.

6 MR. MENEFEE: At the end of --

7 JUDGE THOMPSON: I knew that the Yale degree got me
8 nothing.

9 MR. MENEFEE: At the end of undergrad?

10 JUDGE THOMPSON: At the end of undergraduate school. I
11 said, well, I'll put this off for three years. I'm sure that
12 resonated among a lot of us at the time. Those who were -- of
13 course, for those who were subject to being drafted, it was a
14 significant issue. I don't know if you remember, but I think if
15 you took a test back then, you could avoid the draft. They used
16 to call it the "stupid test," so if you scored high enough --
17 I'm pretty certain that's the way it was. That was the first --
18 then they went to the lottery later. But it meant that a lot of
19 college kids were not drafted. It was an absurd arrangement for
20 the draft. It favored only the rich and the educated. It was
21 an absurdity.

22 MR. MENEFEE: Tell me, did you enjoy law school?

23 JUDGE THOMPSON: Yes. Very, very much. It was
24 different from undergraduate school in the sense that I was -- I
25 did become somewhat politically active in law school, but not a

1 lot.

2 MR. MENEFEE: What political issues motivated you most?

3 JUDGE THOMPSON: Well, I was -- there was the war. And
4 I guess even though I was never that actively opposed to the
5 war, I guess I was becoming against it at that time.

6 The law school just had so much that was going on
7 politically, you know, whether it was civil rights and the types
8 of courses that were being offered, the discussions that were
9 going on around the tables in the dining hall, places like that.

10 MR. MENEFEE: You mentioned Charles Black. Any other
11 particular --

12 JUDGE THOMPSON: Burke Marshall. I took a course from
13 Burke Marshall who became a very good friend of mine and still
14 is. Those are the two that sort of stand out, I guess, from my
15 law school career. But there were -- of course, I enjoyed some
16 of the other law school courses.

17 MR. MENEFEE: Friends from those days?

18 JUDGE THOMPSON: Yes. Very, very good friends, but not
19 as close as the friends from undergraduate years. Those friends
20 tended to be more friends on an intellectual and political basis
21 rather than friends on a personal basis, even though -- and this
22 is where the twist comes. When you consider that Yale
23 undergraduate at that time was a school in which, you know,
24 race-mixing was not acceptable among certain circles, whereas
25 the law school was much more open. But at the same time, I

1 formed closer relationships, I think, as an undergraduate than I
2 did as -- while I was in law school. But that may have been due
3 to the fact that I was probably seeking that more as an
4 undergraduate than when I was in law school.

5 MR. MENEFEE: Were there more black law students --

6 JUDGE THOMPSON: And there were a lot more black law
7 students, yes --

8 MR. MENEFEE: -- than undergrads?

9 JUDGE THOMPSON: -- than undergrads. Probably as many
10 blacks within that little law school as there were when I was at
11 Yale as an undergraduate.

12 MR. MENEFEE: How do you assess the value of law
13 school? Was it a good preparation for what -- for law practice?

14 JUDGE THOMPSON: Oh, yes, yes. It was a very, very
15 good preparation. I found it very challenging, very demanding.
16 I think as with any true, exciting institution, what went on
17 outside the classroom was just as important as what went on
18 inside the classroom. Yale was quite a dynamic place to be. I
19 mean, we talked law. And the culture was fascinating just
20 generally. Yeah.

21 MR. MENEFEE: What about any summer jobs during law
22 school? What did you do those two summers?

23 JUDGE THOMPSON: Interesting. The first summer had a
24 very strong impact on me. I worked in New York. For some
25 reason, the message didn't get to me that to go work for the law

1 firms, you were supposed to be a second-year student. And I --
2 I don't know how it happened, but I went down to New York and
3 decided to apply for a job on my own rather than go through the
4 student placement, which is where the law firms come in and will
5 interview you on campus. And I just showed up at a number of
6 law firms. And when I showed up, I think they thought I was a
7 second-year law student. And when I got in the door and we
8 started talking, they suddenly realized I was first year. And I
9 got several offers, ironically, even though they knew I was
10 first year.

11 And so I ended up taking a job with a Wall Street firm,
12 even though I was first year, I guess with the understanding
13 that I would come back the second year if I liked it and they
14 liked me. And as circumstances would have it, I arrived late
15 for some reason. I don't know why. Maybe I had tests or
16 something. But the other summer interns started earlier, and
17 they had nowhere to put me when I got there. I think they may
18 have hired me as an extra summer student. And so I worked in
19 the library and had no office. I think I had a part-time
20 secretary, but basically nowhere to go.

21 And as it ends up, you know, I was the only one who
22 didn't have an office, I mean, somewhere, at least a cubbyhole
23 to work in. You didn't have an office. You had this little
24 cubbyhole, I think they must have had, for these summer people.
25 And one of the partners was taking off for Europe, and he was

1 going to be gone two months with his wife and family. And, yes,
2 they had nowhere to put me except in his office. And it started
3 like three days after I got there, four days after I got there.
4 So I had this palatial office. Had a beautiful view of the
5 Statue of Liberty and ended up having two secretaries, because I
6 had his secretary as well as my own. And the impact was
7 enormous because at the end of that summer, I realized that if I
8 came and worked at that place again, in 40 years I would have
9 the same thing that I had right then. I would have the same
10 office, the same secretary. And I decided then and there that
11 this is not what I wanted, that the commitment was not great
12 enough to want a Persian rug, which I had, and a liquor cabinet
13 and a nice desk. I had had it. And I decided then that's not
14 what I wanted.

15 MR. MENEFEE: What firm was that?

16 JUDGE THOMPSON: LeBoeuf, Lamb. A great utilities
17 firm. Not much for people, of course, who like the environment,
18 but it was very nice to me. And at that point, I decided I
19 would not go back to Wall Street for the second year, even
20 though they made offers and so forth.

21 MR. MENEFEE: What did you do the second summer?

22 JUDGE THOMPSON: The second summer I spent part time
23 working what they call a redevelopment corporation in Harlem
24 that was sponsored by Atlantic Richfield. But I had to do part
25 time up in Harlem and part time working in an office in Atlantic

1 Richfield.

2 MR. MENEFEE: I see. By the way --

3 JUDGE THOMPSON: Not quite as interesting a summer as
4 the one at LeBoeuf, Lamb in the sense of an impact.

5 MR. MENEFEE: Did you, by chance, know Bill or Hillary
6 Clinton while you were at Yale?

7 JUDGE THOMPSON: I did know Hillary, yes.

8 MR. MENEFEE: Did you?

9 JUDGE THOMPSON: I understand that Bill was around.
10 And I'm sure that we were probably at parties together, probably
11 spoke to each other, but I don't remember him. I just don't
12 remember him, and he was there. But I do remember her, which
13 must say a lot.

14 MR. MENEFEE: I guess so.

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FAMILY LIFE

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MR. MENEFEE: Tell us something about your family. Who did you marry? Where did you meet her? And when did you get back to Montgomery?

JUDGE THOMPSON: That's a lot of questions.

MR. MENEFEE: Yeah.

JUDGE THOMPSON: Well, I met my wife-to-be while I was in law school. It ends up that her father met and married a very good friend of my mother's. And one Christmas while I was home from law school, we met.

MR. MENEFEE: In Tuskegee?

JUDGE THOMPSON: In Tuskegee. And then we dated while I was in law school. She -- my wife then was in New York doing some social work, and then she later went to graduate school. And then we later reconnected when I went to Dothan. But that's covering a fairly long span.

MR. MENEFEE: And her name is?

JUDGE THOMPSON: Ann Oldham.

MR. MENEFEE: Yes. So Ann's roots are in --

JUDGE THOMPSON: Ann's roots are actually in New York and North Carolina. She was born in New York, spent some of her childhood in North Carolina, and to some degree I think considers herself a New Yorker.

MR. MENEFEE: Did -- well, what's the Alabama connection? I'm sorry.

1 JUDGE THOMPSON: Her father married my mother's best
2 friend, a woman who was my mother's best friend.

3 MR. MENEFEE: I see. But nevertheless was living
4 in North Carolina?

5 JUDGE THOMPSON: In Tuskegee. So her father came to
6 Tuskegee.

7 MR. MENEFEE: Oh, I see.

8 JUDGE THOMPSON: And that's where we met one Christmas
9 when her father was down here.

10 MR. MENEFEE: But you didn't know Ann from Tuskegee
11 days.

12 JUDGE THOMPSON: No, no. Ann never lived in Tuskegee.

13 MR. MENEFEE: I see.

14 JUDGE THOMPSON: So we met over that Christmas holiday,
15 and I went back to Yale and she went back to New York. And then
16 we dated after that.

17 MR. MENEFEE: What did she do her graduate studies in?

18 JUDGE THOMPSON: Southern Illinois in social work as
19 well. Sociology, social work. And then she came back to
20 Alabama to work as well, and then I came back from law school.

21 MR. MENEFEE: So you finished -- what year did you
22 finish law school?

23 JUDGE THOMPSON: I finished in '72. I finished
24 undergrad in '69 and went to law school and finished in '72.

25 MR. MENEFEE: Okay. And when did you and Ann marry?

1 JUDGE THOMPSON: In 1979. We dated for about six or
2 seven years.

3 MR. MENEFEE: So she was in Alabama.

4 JUDGE THOMPSON: She was in Alabama at the time. We
5 were both living in Dothan, Alabama, at the time.

6 MR. MENEFEE: I see. What was Ann doing? Social work?

7 JUDGE THOMPSON: Social work. And I was practicing law
8 at the time.

9 MR. MENEFEE: And was -- who was she employed by, the
10 department --

11 JUDGE THOMPSON: The mental health -- one of the mental
12 health centers in Dothan.

13 MR. MENEFEE: I see. Well, and tell me, in '79, that
14 was about the time you went on the bench.

15 JUDGE THOMPSON: Yeah. A year later I went on the
16 bench.

17 MR. MENEFEE: And moved to Montgomery.

18 JUDGE THOMPSON: Moved to Montgomery. And Ann, of
19 course, came with me.

20 MR. MENEFEE: Yes.

21 JUDGE THOMPSON: And worked here at Trenholm for a
22 while until the kids were born. And --

23 MR. MENEFEE: Trenholm is a community college.

24 JUDGE THOMPSON: Community college. Exactly. Where
25 she did basically social work there too.

1 MR. MENEFEE: I see. Now tell me about your children.

2 JUDGE THOMPSON: Well, we had two children, a son and a
3 daughter, who were born in 1985. And they were twins, so we
4 very excited about that. The main thing being, of course, we
5 had them at such a late age. I was 37 and Ann was 36, but we
6 decided we wanted to have kids. And it was a pleasure of having
7 children I'm sure that any couple would know.

8 MR. MENEFEE: Okay. And you have subsequently
9 adopted --

10 JUDGE THOMPSON: Yeah. Well, we lost our daughter
11 about four years ago, and then we adopted two children about six
12 months ago.

13 MR. MENEFEE: And give me the names of your children.

14 JUDGE THOMPSON: Well, the twins were Miles and Lilly.
15 And then we adopted Jaylen and Jason, so we're a family of five.

16 MR. MENEFEE: And how old is Jaylen and Jason, your
17 recently adopted children?

18 JUDGE THOMPSON: They are five and six. And Miles is
19 now 14.

20 MR. MENEFEE: So age is no barrier to adoption, Judge.

21 JUDGE THOMPSON: No, no. At the age of 52, I can
22 assure you that it's no barrier. It is a handicap, though.

23 MR. MENEFEE: Do they require a fair amount of energy?

24 JUDGE THOMPSON: They require an immense amount of
25 energy. Yeah. I feel like I'm going through life, you know,

1 with this handicap of my age. But they're so much fun it makes
2 up for it, obviously. It's wonderful.

3 MR. MENEFEE: And you're living here in Montgomery on
4 Cloverdale Road.

5 JUDGE THOMPSON: Yes.

6 MR. MENEFEE: Is that where you settled pretty soon
7 after --

8 JUDGE THOMPSON: That's where we settled after we came
9 here, and we've been there for 20 years.

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LEGAL CAREER

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2 MR. MENEFEE: To pick up your legal career, when you
3 finished law school, what were your principal decisions that you
4 had to confront about where to work?

5 JUDGE THOMPSON: Oh, the first one was where to go,
6 obviously. And having worked at LeBoeuf, Lamb, I had pretty
7 much written off staying in New York and had really decided, I
8 guess, by then to come back to Alabama. I also got a call from
9 the attorney general down here -- his name was Bill Baxley --
10 who had heard about me and actually recruited me. Actually
11 called me at Yale and said, "Well, now, you'll be home one
12 Christmas. Why don't you come down and let's talk?" And I
13 said, "Fine."

14 Also, going back through my history, you know, I was
15 never that politically active and actually probably was viewed
16 by most of my friends as fairly conservative and, to be honest
17 with you, probably was. In fact, most of my friends, I think,
18 did view me that way, including my parents too.

19 My mother actually once took me aside and said, you
20 know -- I regret to say this -- she said, "Don't you care about
21 the people?" That was during my days when I guess I was
22 spending more time reading and having fun. So the decision to
23 come back to Alabama and to not stay up east and not go the sort
24 of financial route of a lot of money was reinforced by my
25 parents. They wanted that. They wanted me to come back. They

1 didn't necessarily want me to make a lot of money. And I think
2 to some degree, but for that, I may have chosen another path.

3 MR. MENEFEE: Tell me about Baxley's overture or offer
4 to you. What was the --

5 JUDGE THOMPSON: Well, he offered -- yes. He --

6 MR. MENEFEE: What was the pitch?

7 JUDGE THOMPSON: He was very -- the pitch was, you
8 know, come down here, you know, and -- you know, "We'd like to
9 have you in the office." He seemed very excited. He was very
10 young and energetic, and it sounded like a really wonderful
11 place to work. And he was very honest. You know, he didn't
12 have any blacks. I later learned that I was the first black
13 professional the State had -- I actually didn't know that until
14 recently -- of all of state government.

15 I think it was more or less, on my part, a decision
16 that I wanted to come south, but I didn't know quite how I
17 wanted to come south. I also had this strong desire to be a
18 hip-pocket lawyer. I wanted to work in a small town and have a
19 small law practice, but I didn't know how to go about doing it.
20 And I saw this as an opportunity to fulfill that desire. It was
21 just one of those things I wanted to do; and I knew if I didn't
22 do it, I would always wonder if I could have done it and what it
23 would have been like to have done it. So we had mutual desires.
24 I think he wanted someone, obviously, from Yale; obviously, who
25 was black; and I was looking mainly at a way to get back into

1 the state.

2 MR. MENEFEE: How did -- what did you spend your time
3 on in the AG's office? What type of work did you end up --

4 JUDGE THOMPSON: Everything. Did a lot of
5 environmental work. A lot of -- did some school cases, even.
6 You know, I'm trying to remember now. Wrote a good number of
7 opinions, those AG opinions. Obviously, when you start there,
8 you do the criminal work. I did some of that. And I did a
9 lot -- we did a lot of federal court work. When things were
10 brought in federal court, I was generally involved in it.

11 MR. MENEFEE: How did you find the work environment,
12 your colleagues?

13 JUDGE THOMPSON: Very, very nice. A lot of us were
14 young. He had recruited quite a number of young lawyers who
15 were considered very progressive and interested in coming back
16 to the South and doing things. So it was an exciting time. It
17 was exciting to be around the office. The office was going
18 through a change. There were the old lawyers who were still
19 there, and then there were the new lawyers. So it was -- it
20 was -- it was quite, quite enjoyable, quite exciting.

21 MR. MENEFEE: Did -- how long did you stay with
22 the AG's office?

23 JUDGE THOMPSON: Just two years. Not very long. And
24 then I opened my own law practice.

25 MR. MENEFEE: In Dothan?

1 JUDGE THOMPSON: In Dothan.

2 MR. MENEFEE: By yourself?

3 JUDGE THOMPSON: By myself. Yes. I had -- the summer
4 I had worked with LeBoeuf, Lamb and then the summer I had worked
5 with Atlantic Richfield and so forth, I had apartments in New
6 York, but I had very -- they weren't very expensive. So I saved
7 most of my money. So when I came to the Attorney General's
8 office, I continued that -- to keep that money. And when I
9 opened my law practice, I basically opened it up with the money
10 I had earned during the summers when I was in law school --
11 earned in the summers I was in law school. I presumed that I
12 would not make any money my first year or two, so I needed
13 enough money to live off of until I could generate enough money
14 to start paying bills, personal bills, other than office bills.

15 MR. MENEFEE: So this was about 1973 or '4.

16 JUDGE THOMPSON: This would have been '74. The end of
17 '74, so I guess -- yeah.

18 MR. MENEFEE: And where did you open practice?

19 JUDGE THOMPSON: I bought an old house down in Dothan
20 and just hung out my shingle. That's what I wanted to do. And
21 I went over to the county courthouse and let them know that I
22 was there. And I had already been admitted to the Middle
23 District here and then tied up with a number of groups trying to
24 get clients. That was basically it.

25 MR. MENEFEE: What got you to Dothan? Was it --

1 JUDGE THOMPSON: My grandfather --

2 MR. MENEFEE: Grandfather.

3 JUDGE THOMPSON: -- and relatives. Obviously, I wanted
4 a place where hopefully I would have some immediate clients,
5 like my family. And it was -- also, Tuskegee had so many
6 lawyers and Montgomery had lawyers. South Alabama had no black
7 lawyers. Zero. So I was really the only one down there.

8 MR. MENEFEE: What did you see in terms of type of
9 practice? How did it develop the first couple of years?

10 JUDGE THOMPSON: I wanted a general practice. I didn't
11 want to be pigeon-holed. And I did have a general practice. I
12 did everything. I did criminal work. I did divorce work. But
13 my primary cases were in the area of civil rights. Primarily I
14 connected up with other lawyers throughout the state. I started
15 handling all of the school cases in that area of the state and
16 did a lot of work with the Justice Department trying cases and
17 things like that. And then clients started coming. Then I had
18 a connection with the teachers and other groups. Then there
19 were no lawyers down there who would handle union cases, and I
20 would do that too. So I started doing some union work. That's
21 pretty much the way that my caseload began to develop.

22 MR. MENEFEE: So the school cases, were those --

23 JUDGE THOMPSON: Desegregation cases.

24 MR. MENEFEE: -- desegregation cases that were filed
25 under the --

1 JUDGE THOMPSON: *Lee versus Macon.*

2 MR. MENEFEE: -- *Lee versus Macon.*

3 JUDGE THOMPSON: Yeah. They had all been branched off,
4 and I had those for that area of the state.

5 MR. MENEFEE: So you were working at that time with
6 Fred Gray and --

7 JUDGE THOMPSON: I was working with Fred Gray and
8 Solomon Seay and a few others, yes, but mainly with Solomon
9 Seay. He was the one I really worked with more than anyone
10 else. Yes. And with a number of lawyers from Justice who, by
11 the way, have remained good friends over the years.

12 MR. MENEFEE: How did you find the private practice as
13 it developed over those --

14 JUDGE THOMPSON: Extremely demanding, but so much fun
15 to be your own boss. And very romantic. You know, I had this
16 old house. And I lived in the back, and I had my office in the
17 front. And friends would come through and I would entertain
18 them. You know, we'd sit out in the backyard and drink a glass
19 of wine and I'd cook or something like that. Of course, you
20 know, you can only do this if you were a bachelor and had very
21 little personal overhead as well as office overhead. So it was
22 just kind of romantic. It was my idea of a -- I used to call it
23 an adagio existence. You know, it was slowly -- you know,
24 southern existence. But it really wasn't true. I was working
25 my tail off. But it seemed that way back then in some ways.

1 We'd go to movies and we would go out of town, go to plays. You
2 know, go to Atlanta, go to New Orleans, go to New York. And
3 then the cases were interesting. And, of course, I would --
4 they were all new to me, so they were fascinating. And I hadn't
5 burned out on anything back then.

6 MR. MENEFEE: What do you -- towards the end of your
7 private practice, how would you describe it in terms of amount
8 of time in state court versus federal court?

9 JUDGE THOMPSON: Became more and more federal as time
10 went on.

11 MR. MENEFEE: Uh-huh.

12 JUDGE THOMPSON: Significantly more federal.

13 MR. MENEFEE: And did you continue to practice by
14 yourself?

15 JUDGE THOMPSON: Yes, until the last year. And I took
16 in a partner named Winn Faulk. And -- but we only practiced
17 together perhaps even less than a year. It was just so much
18 work. And we became very good friends. I said, "Why don't we
19 go into practice together?" He had just gotten out of law
20 school.

21 MR. MENEFEE: And how did you find your reception in
22 Dothan?

23 JUDGE THOMPSON: In Dothan? It was very good. I found
24 Dothan to be a fairly conservative community, very rural and --
25 but very, very open. The judges were nice to me. The lawyers

1 were nice to me. I can't say that -- insofar as the legal
2 profession is concerned, I don't remember any ugly experiences.
3 The Bar was very warm and welcoming. I later became secretary
4 of the Bar and a few things like that, even though I was very
5 young. I was involved in the Young Lawyers. I considered it a
6 very nice community.

7 MR. MENEFEE: Did -- did you continue to take the mix
8 that included both criminal and civil?

9 JUDGE THOMPSON: Yes. Now, that was kind of curious,
10 too, because I did take controversial cases. But they never
11 seemed to rub off on me. I still had fairly good friends. And
12 I tried to be -- I tried to be involved in all the different
13 communities down there of all different types.

14 MR. MENEFEE: For example?

15 JUDGE THOMPSON: Well, you know, it wasn't just a
16 question of white and black. There was also an economic
17 diversity I thought that was important to be -- to share in.
18 And then I had my own interests that were -- you know, whether
19 it was the arts and so forth, which was a little harder to get
20 in Dothan, but there were people down there. So I was very much
21 involved in that too.

22 MR. MENEFEE: Any particular civic institutions down
23 there of churches, arts?

24 JUDGE THOMPSON: Well, I did go to the churches
25 sometimes. I never was a participant in the arts, like I never,

1 you know, was an actor or anything, a singer. I can't sing at
2 all. But I did go to things like that. That's what I mean.
3 No, mainly what I did was my legal practice. And I was
4 politically active, mainly, but I was active from a
5 behind-the-scenes perspective. I never thought of myself as
6 running for office or anything like that.

7 MR. MENEFEE: Did you do --

8 JUDGE THOMPSON: Never was interested in that.

9 MR. MENEFEE: Did you do much more than give a
10 contribution occasionally?

11 JUDGE THOMPSON: Oh, no. No, I was involved. Yeah. I
12 would -- I would go to the meetings. And I was, you know, part
13 of the Young Democrats back then. And I may even have been
14 president. I don't know. But I was never out front. That was
15 just not my style.

16 MR. MENEFEE: Did -- now, you and Ann married in --
17 where did you marry, in Dothan?

18 JUDGE THOMPSON: In Dothan. Well, we married here up
19 on Lake Martin, just north of Montgomery here. And about five
20 years into my practice, we married. And --

21 MR. MENEFEE: Lived in Dothan a while?

22 JUDGE THOMPSON: And lived in Dothan -- actually, we
23 were only there for a year. So actually, when -- I took on my
24 partner in the practice of law, and then Ann and I married all
25 within about the same time.

1 MR. MENEFEE: And lived in the back of the law office?

2 JUDGE THOMPSON: No. Then after that, I had to get a
3 house. So we had -- I had to move out of the law office.

4 MR. MENEFEE: You let Winn Faulk have the back of the
5 law --

6 JUDGE THOMPSON: No, he actually lived in his own
7 place. I was -- but actually, by the -- that all happened
8 simultaneously. So he was in another place, and I moved out of
9 the law office. And then it made it big enough so that we could
10 have two lawyers; because, really, until I moved out, I couldn't
11 have taken in a partner. So that all happened somewhat
12 simultaneously.

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TRANSITION TO THE BENCH

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MR. MENEFEE: Let's go now into your appointment as a federal judge --

JUDGE THOMPSON: Uh-huh.

MR. MENEFEE: -- and that transition. Tell me about the appointment and how that came about. And give us some time context too.

JUDGE THOMPSON: Okay. The appointment -- this would have been in 1980. It was totally unexpected. I guess to some degree it's already been written about. But at that time I was 33 years old. Two people had been appointed to the bench -- two of the first blacks -- excuse me -- had been nominated to be appointed -- had been nominated for positions on the bench, Fred Gray and U. W. Clemon.

MR. MENEFEE: That's the middle -- for the middle and northern districts.

JUDGE THOMPSON: Middle and northern district. Fred Gray for the middle and U. W. Clemon for the northern district. And their nominations ran into significant problems. And I was aware of it and, in fact, had become involved in Fred Gray's to some extent. I went to Washington on an occasion to work with some of his lawyers, and I did some research on some of the issues that had come up -- not legal research. Mainly, you know, checking Bar records and things like that, just looking around, to respond to some of the allegations that had been made

1 against him. And -- but I was on the outside. I mean, I was --
2 in the sense that I was not a principal lawyer for his team, but
3 I was involved and I was offering my support. And I was aware,
4 obviously, of what was going on.

5 And ironically, my grandfather at the time was -- had
6 mentioned to me once, he says, "You know, I'd like to see you
7 get that job." And he was always emphasizing about staying
8 honest and things like that.

9 And when Fred finally ran into so much trouble that
10 Senator Heflin asked him to withdraw his name, the question
11 became, what would happen to the position, to the nomination, if
12 he did? And I think Fred initially -- I don't remember quite
13 the details -- refused. And then I think the senator became
14 more adamant and said he couldn't go forward. And finally Fred
15 said that he would withdraw if I would be nominated. I had
16 known Fred Gray from childhood, sort of -- what do they say? He
17 knew me before I knew myself. He knew me as a kid. He knew my
18 parents.

19 And I was approached by Solomon Seay the first time,
20 and Solomon asked me if I would be the one who would let his
21 name be submitted for the position. And I told him no. I told
22 him, you know, I was too young, that I didn't want to go through
23 all of that that Judge Clemon and Gray had gone through. And
24 secondly, I didn't understand why -- there were other people
25 there who were, in my mind, significantly more qualified for the

1 position. I mean, there were -- while there was between, say,
2 Solomon Seay and my generation a significant void of black
3 lawyers, still they were there. And I said, "Well, why don't
4 you turn to one of them?" And -- and also, I was really
5 enjoying the practice of law.

6 I think it was sort of -- the way I put it to my
7 parents, it was sort of like -- it was sort of like someone
8 saying -- you know, you're in the eighth grade. Well, you
9 have -- you have this offer to go to college from the eighth
10 grade. You know, that's nice and it's -- it's an honor. And
11 everybody will say that, you know, wow, he went to college from
12 eighth grade. But you miss out on, you know, dating and you
13 miss out on all the problems that are involved with going to
14 high school and being a teenager in high school. I mean, you
15 just don't -- you don't experience those -- you don't have those
16 experiences. And so there's just a lot to be said about doing
17 things at a given time when you're supposed to do them.

18 And for me, it was -- to do this job at 33 would mean
19 that, you know, I just wouldn't have the time to sort of really
20 let my practice mellow out and be able to see some significant
21 cases to conclusion and just go through the normal cycle of
22 events. I mean, I always thought that one became a federal
23 judge, you know, in your late forties or early fifties. And I
24 think that's for the most part true.

25 So that and in conjunction with the other problems that

1 I had seen confronted by Judge Clemon and Mr. Gray led me to
2 reject the offer the first time. And then Solomon Seay came
3 back again and just said, you know, "There's nobody else who
4 will take it. And if you don't take it, it just won't get
5 taken." And so I finally relented and says, "Okay. I'll do
6 it."

7 And I met Senator Heflin in Tuscaloosa one weekend.
8 This was like in August. And they were talking about having the
9 whole thing done by mid-September, a month and a half. They
10 wanted to do it all.

11 MR. MENEFE: So it was August of 1980.

12 JUDGE THOMPSON: It was like August -- if I remember
13 correctly, it was like August the 8th or August the 9th that I
14 met with Senator Heflin.

15 MR. MENEFE: In the midst of the presidential campaign
16 going on.

17 JUDGE THOMPSON: It was right in the middle of the
18 presidential campaign, you know. No one knew whether Carter was
19 going to be reelected. So the position might not even be
20 available after the election. And so I was having to make these
21 decisions that quickly. And so I met with Senator Heflin, and
22 he said he thought it was doable. He couldn't promise anything,
23 obviously. He wasn't going to promise me that, but he strongly
24 encouraged it. And I said, "Okay. I'll do it."

25 And, you know, then there was the FBI check. And they

1 literally started the FBI check the day after I agreed. I mean,
2 I was filling out the forms and they were already going around
3 talking to all my friends within days of when it happened. And
4 I guess once it was done, it sort of took on a life of its own.
5 It wasn't as if, then, I could say no.

6 And I'm sure that, to some degree, I benefited from the
7 unfortunate circumstances that Fred Gray had gone through. I
8 think there was a strong effort not to have that happen again.
9 So in many ways -- in fact, not in many ways, essentially in all
10 ways -- he greased the path for me. So I just sort of -- just
11 happened.

12 And as soon as I got the paperwork in, my name was sent
13 over to the -- I met with -- well, yeah. As soon as I got the
14 paperwork in, I met with the senator again and talked to his
15 staff, and my name was then sent over by the president. And
16 within a month and a half, it was over.

17 And I was -- I never -- this shows you some of the
18 things, though, about sort of like missing high school. I never
19 got a call from the president. Carter never called me. Now,
20 you're supposed to get a call from the president. But he was
21 out campaigning and they wanted to do this so fast that I missed
22 out on all those -- those little perks that come from the
23 process. And, you know, mine was just -- you know, I went up
24 for my senate hearing, which is supposed to be a successful
25 hearing in the sense that you want as few newspaper people there

1 as possible. The less notoriety, the less opposition you get.
2 And so it was -- even though it was in the papers. But at the
3 same time, it was moving real fast. And I think there were only
4 two senators present. I think there was Senator Heflin and
5 Senator Metzenbaum at the time. And another senator, Stewart, I
6 believe it was, who was the other senator from our state, sort
7 of showed his face. But he was in the middle of an election,
8 and I don't think he wanted to be connected with me too much at
9 the time.

10 And that was pretty much it. And there were a few
11 questions. And I had called Charles Black, who I told you was a
12 good friend of mine, and Burke Marshall and sort of tried to
13 talk to them about advice as to how to prepare for the hearing.
14 And I remember Charles Black, in his usual underspoken, colorful
15 way, said, "Well, you know, I suppose the biggest problem you're
16 going to have is your age." And I said, "Yeah." He said,
17 "Well, you can tell them that Justice Story was 32 when he was
18 appointed to the Supreme Court." So he didn't see why there
19 should be a problem appointing a 33-year-old to the district
20 court -- which is actually what I did say. And so you can see
21 now why I called Charles Black. I knew he would have something
22 very nice for me to -- to say. And, of course, Burke Marshall.
23 They all wrote letters and sort of advised me.

24 And for the hearing itself, the senate confirmation
25 hearing, they wanted as few people there as possible. So I

1 assumed that my parents could be there, which they were, and my
2 brother and my wife. And that was almost just about it. And
3 the two senators. I mean, we barely filled up a corner of the
4 room. And -- but that's the way they wanted it because they
5 didn't want any controversy.

6 MR. MENEFEE: And how did the final vote in the
7 Senate --

8 JUDGE THOMPSON: Well, it ended up that because only
9 two senators were present, they didn't have a quorum. Maybe the
10 senators were out campaigning. Plus, they were doing it so
11 fast, so they didn't have time to get everyone there. And I
12 had -- the only way I could get out of the committee was I had
13 to be voted out unanimously because they had no quorum. If
14 there was one dissenting vote, I couldn't -- I would have
15 been -- I would have hung up.

16 In the meantime, I read in the paper -- in fact, it was
17 in the local Dothan paper -- that the Democrats had been
18 promised 12 -- 12 judges, and I was 13. And, of course, then it
19 really looked like I was, you know, dead in the water. There
20 was no way I was going to get through. They had been promised
21 12. I was number 13.

22 And I can't remember when the other 12 were coming up
23 for their votes on the Senate floor. I think they had already
24 been through the confirmation hearing. By the way, Judge Clemon
25 had already been confirmed about seven or eight months earlier.

1 And ironically, I get a call from Senator Heflin
2 shortly after getting back to Montgomery from the hearing after
3 having read in the newspaper that I was number 13. Sort of a
4 significant number too. I get this call from Senator Heflin a
5 few days later saying, "Well, your name is on the floor. You've
6 been voted out of the committee. It was unanimous." Said, "I
7 got that." And he says, "We're on the floor now, and the vote
8 is being taken." And then he said, you know, "Be prepared."
9 And then, of course, he calls me back in a few minutes and says,
10 "You're a judge."

11 The other 12 were still hanging. I was the thirteenth,
12 but I went through. The other 12 were still up in the air. I
13 think they eventually got through, though.

14 MR. MENEFEE: Interesting.

15 JUDGE THOMPSON: But apparently he had made some
16 promises and was able to do it.

17 And then I had to inform all of my clients that I could
18 no longer represent them. And this was all within a month and a
19 half. You know, this was quite a skyrocketing --

20 MR. MENEFEE: Did you leave the practice there
21 with Winn to --

22 JUDGE THOMPSON: With Winn. Yes. I felt very bad
23 about that, because we had been practicing less than a year and
24 here I was abandoning him with this practice. I was -- I felt
25 somewhat like I had betrayed him.

1 MR. MENEFEE: Had you ever -- had you ever previously
2 thought of wanting to be a judge?

3 JUDGE THOMPSON: No. I was a city judge for a little
4 town called Gordon. That was about it. But that was a traffic
5 judge. And I had later learned that when I -- after I took the
6 job, that the city was notorious as a speed trap (laughter).
7 Here I had taken this job in a city that was -- anyway.

8 MR. MENEFEE: Did you --

9 JUDGE THOMPSON: At least that didn't come up during
10 the confirmation hearing.

11 MR. MENEFEE: Did you earn your keep?

12 JUDGE THOMPSON: You mean as a judge? I don't -- no.
13 I didn't know anything about that till later. I thought I
14 called them the way I saw them. No one ever challenged what the
15 officers were out there doing on the road. I didn't do it very
16 long, though.

17 MR. MENEFEE: I mean, did the judgeship --

18 JUDGE THOMPSON: I don't know if that's true or not.
19 That was a rumor that I later heard.

20 MR. MENEFEE: Well, did the federal judgeship actually
21 look unattractive to you other than the timing?

22 JUDGE THOMPSON: Other than the timing? Yeah, just
23 being prepared, being young. I thought I was a bit young. Yes.
24 But like I said, that all goes to the time -- and the
25 confinement. Even though I consider myself a fairly quiet

1 person, you know, I do like my space. This was unbelievably
2 confining.

3 And it's somewhat like living in a -- you know, a glass
4 house. People are looking at you, trying to see what you're
5 doing. You know, and I was sensitive to the fact that what
6 other people could do, even other judges could do, I may not be
7 able to do, that my --

8 MR. MENEFEE: Because you are black.

9 JUDGE THOMPSON: Yes. Because I'm black. And what I
10 say, what I write, what I might do might be more -- might be
11 viewed with more scrutiny than others. And I wasn't quite sure
12 that I wanted to subject myself to that. And perhaps I've bent
13 over backwards to avoid that.

14 And see, the other problem is, you know, most of my
15 friends were lawyers and most of my friends were politically
16 active. And I knew that to the degree that I maintained those
17 relationships, that they might be used to compromise me as a
18 judge. And I knew that there were just some things I could not
19 say or do that I felt other lawyers could say and could do and
20 other judges, even, could say and could do with some impunity.

21 MR. MENEFEE: Well, with all of those reservations --

22 JUDGE THOMPSON: I still did it.

23 MR. MENEFEE: -- nevertheless, you still did it.

24 JUDGE THOMPSON: I --

25 MR. MENEFEE: I'm hearing a great sense of duty and

1 obligation.

2 JUDGE THOMPSON: I -- to be honest with you, a
3 significant part of it was a great sense of duty. I mean, it
4 was an honor, but I was never into the real trappings of that.

5 When we travel, my wife and I travel, I don't tell
6 people I'm a judge because I prefer to get to know them as
7 friends. Once you tell someone you're a judge, you know, it
8 sort of sets up a barrier. It sets up a distance between you.
9 And I guess they feel like you're judging them all the time or
10 that you're some sort of person that they can't sort of sit back
11 and have a little fun with. So when we travel, whether we're in
12 New York or just traveling in general -- we go to New York a
13 lot -- or other areas where people don't necessarily know us,
14 you know, I will tell people that I'm a lawyer because then
15 they'll open up to me more. I don't think they feel like
16 they're on the spot, you know. We can just be friends.

17 MR. MENEFEE: Any --

18 JUDGE THOMPSON: It reminds me of a movie I saw
19 recently by the Polish director who recently died. It was a
20 French movie. The -- the blue, the white, and the red. It's
21 actually three movies. The last one, the red, is about a judge.
22 It's actually the only movie I've ever seen about a judge. And
23 I didn't know it when I saw it. Actually, one of my law clerks
24 had mentioned the three movies to me, and I found it so unusual.

25 And in the movie, the judge says -- while talking to

1 this woman who he's befriended, why did you retire from being a
2 judge -- and he didn't use these words, but he basically says,
3 you know, judging is really quite an arrogant job. I mean, you
4 do set yourself up as a judge of other people. And he says, but
5 with the arrogance that sets you up, it sets you apart too. You
6 can't quite get close to people because of that. And it may be
7 a two-way problem. People may view you that way and, to some
8 degree, it may even seep into your own relationships with other
9 people and how you view people.

10 And he then says to the woman, "I bet you don't know
11 many judges, do you?" She said, "No." He says, "Well, we're
12 just like anybody else." And she says, "No, I guess I haven't
13 ever known a judge." And then I think the concept of even being
14 a friend with one seemed a little bit unusual. It was almost
15 like a rare species. And this judge was a very imperfect judge.
16 You know, I think we get into judges who are imperfect in the
17 sense of maybe having done criminal acts, but imperfect in the
18 sense of just being human, you know, of suffering from the same
19 sort of human foibles that other people have.

20 MR. MENEFEE: Feet of clay.

21 JUDGE THOMPSON: Feet of clay in all -- in all ways.
22 Anyway, it was an interesting movie about a judge. And then the
23 concept of countering that with the notion of just how the job
24 requires that, to some degree, you be so arrogant, which gets
25 back to the whole idea of why we're doing this, to be honest

1 with you. I feel somewhat uncomfortable. This sort of plays
2 into that arrogance.

3 MR. MENEFEE: This interview?

4 JUDGE THOMPSON: This interview does. Yes. I mean,
5 why not a doctor? Why not a lawyer? Why not an architect? I
6 mean, my life is no more interesting than anyone else's other
7 than the fact that -- of the job I do. But on a personal level,
8 I'm no different from anyone else. And yet there is an
9 arrogance imposed on you, in a way -- and I think, to some
10 degree, that we actually exercise -- that I find somewhat -- a
11 little bit uncomfortable. And that's what I find difficult
12 about the job. And that's why -- even before I took it, I was
13 aware of that aspect of it.

14 MR. MENEFEE: Well, it's a principal leadership role in
15 one of the three branches of government.

16 JUDGE THOMPSON: Well, it's a very confining role,
17 unlike a legislator, whom I think we expect to have their feet
18 made of clay, or even in the executive branch to some degree,
19 even. I think that judges are supposed to be so perfect. They
20 really do set them up not only -- but you're supposed to be a
21 leader in all aspects of life. And, you know, whether you're
22 going out for dinner and you want to go out and have a drink --
23 you know, I obviously can't go to any country club and sort of
24 hide myself away in there into some private atmosphere. But
25 people do expect you to behave in a certain way all the time in

1 a small community like this one.

2 MR. MENEFEE: Do you think that -- I mean, I think the
3 judiciary, to some extent, continues to encourage that --

4 JUDGE THOMPSON: Oh, I'm sure it does. And I'm not
5 actually saying that it's bad.

6 MR. MENEFEE: Sure.

7 JUDGE THOMPSON: I'm just saying that it's real.

8 MR. MENEFEE: It is real. And assuming that, do you
9 think it's necessary for judicial functioning?

10 JUDGE THOMPSON: Probably. Yes, probably. I haven't
11 thought about it as a necessity. I've just thought about it as
12 a reality.

13 MR. MENEFEE: The executive branch has had in the past
14 some aura of perfection at times in its history.

15 JUDGE THOMPSON: Well --

16 MR. MENEFEE: But maybe in the recent decades, with
17 increased access to media, is --

18 JUDGE THOMPSON: Right. But I think the imperfection
19 in the executive branch has probably always been there. And
20 perhaps even to some degree among judges it was somewhat hidden,
21 the imperfection. But I guess it's a question of not only being
22 imperfect, it's the total requirement of impartiality by
23 appearance, not in fact, but even by appearance, that is so
24 completely demanding. In the executive branch, at least you can
25 take sides on issues, you know, just publicly. Here one is --

1 it's a presumption that you cannot.

2 MR. MENEFEE: Well, that's a considerable personal
3 sacrifice.

4 JUDGE THOMPSON: Yeah, it is.

5 MR. MENEFEE: Do you think it also impacts your family?

6 JUDGE THOMPSON: Without question it does. It impacts
7 your whole family, your children, your wife, what she can and
8 cannot do, what your children can and cannot do. And it impacts
9 on the sense of wanting to have a normal family, whatever
10 "normal" means, but you try to approach it as much as possible.

11 MR. MENEFEE: Any reflections on the confirmation
12 process, not just your own, but now, looking back, and how
13 you've seen that perhaps evolve over the last 20 years?

14 JUDGE THOMPSON: I think that the process has become so
15 politicized and so scrutinizing that a lot of good people whom I
16 think would make exquisite judges -- I think what it does is
17 encourages people who have a lackluster background. And in a
18 real sense, a person who has a controversial background, who
19 takes stands, who actually does seek to make a contribution to
20 the community in many ways, not just through giving but who
21 actually does publicly, is not encouraged to and, in fact, is
22 discouraged from doing that because of that past. To some
23 degree, one of the reasons I was able to get through so easily
24 is I had no history. And those people who had the history
25 couldn't afford to be subjected to that scrutiny. And that's --

1 that's insane. That's wrong.

2 And, you know, if you were growing up black in the --
3 in this -- in that time, the only way you almost could not have
4 a history was to be 33. If you were -- if you were a practicing
5 lawyer and you were worth anything, you had to have had a
6 history. You had to have taken a stand. No -- you weren't
7 going to work in any corporate firm that was going to allow you
8 to have no history so that you could enter into the bench
9 without having taken a stand.

10 MR. MENEFEE: You were -- the judgeship that you filled
11 was vacant and previously occupied by --

12 JUDGE THOMPSON: By Judge Johnson.

13 MR. MENEFEE: -- by Judge Frank Johnson.

14 JUDGE THOMPSON: Of course, that added to the daunting
15 quality of it, of course. That's someone who's -- who I guess
16 some people have called a quintessential trial judge. Even
17 though he was an appellate judge, I think he's really viewed as
18 a quintessential trial judge.

19 MR. MENEFEE: And Judge Johnson had been appointed to
20 the Eleventh Circuit by President Carter.

21 JUDGE THOMPSON: Right.

22 MR. MENEFEE: And --

23 JUDGE THOMPSON: And then I followed him as a district
24 judge. Actually, I was present when he got notified of his
25 confirmation. We were trying a case down in Dothan. And he --

1 he was called off the bench. Someone handed him a note, you
2 know. You don't disturb Judge Johnson very often when he's on
3 the bench. And it was a call from Senator Kennedy telling him
4 that he had either just -- I think he had just been confirmed by
5 the Senate. And he had gotten -- he recessed court to go accept
6 the call. And, of course, we were lawyers in court. And word
7 had filtered down to us that the call had come through. But at
8 that time, I had no idea of the -- of the significant impact it
9 would have on my life.

10 MR. MENEFEE: While the subject is there, a reflection
11 or two on Judge Johnson, both from a trial lawyer and a
12 successor in district court. How did you find him as a trial
13 judge? You had cases before him.

14 JUDGE THOMPSON: Ah, yes. I had many cases before him.
15 Actually -- this is really true. After he was confirmed and he
16 was to be sworn in, I had something like five cases pending
17 before him, and they had just been filed. And he was to be
18 confirmed maybe -- I don't know. There was a period of time
19 between when he knew he was going to be sworn in and he was
20 going to -- or maybe it was even after his confirmation he was
21 going to go to the Eleventh Circuit. And he called my office up
22 and he said, "I'm going to set them all down for trial within
23 three months or four months." And I said, "Oh, my goodness.
24 I've got to get these -- I've got to prepare these cases and get
25 to trial in three months." And I did it. And he ruled in my

1 favor in all of them. And of course I knew that I wanted -- you
2 know, for me, it was worth the effort to spend day and night
3 getting them ready for trial. And we just tried them like that
4 (demonstrating). And he just -- he did that for me. I
5 considered his having done that for me. That was actually -- I
6 considered that a -- rather than leaving it to another judge on
7 the bench or whoever might have replaced me or to the other
8 judges in the Court, he did that. And I actually consider that
9 an honor that he was kind enough to -- he didn't -- he only did
10 that in those cases too. I had some other cases. They were all
11 civil rights cases. And he tried them all one right after the
12 other.

13 MR. MENEFEE: After you got on the bench and shared
14 this at least same courthouse with then appellate Judge Johnson,
15 did you have much of a collegial relationship with Judge
16 Johnson?

17 JUDGE THOMPSON: Not really. There was so much
18 difference in age. I was very young. I did not consider him a
19 very warm person. In other words, it's not something that --
20 somebody I would just go to lunch with on a regular basis and
21 not easily approachable. But that didn't bother me. I mean, I
22 was a rather reserved and quiet person myself.

23 But at the same time, you know, when we did talk, we
24 talked about serious matters. I sat on a few cases with him.
25 And I remember one of my first decisions was in the deadly

1 force, use of deadly force, very early. And it was against the
2 Montgomery -- no. The first one was *Ayler*. It was against the
3 Department of Corrections. It was a prisoner who had escaped
4 and was shot. And I found that the use of deadly force without
5 some evidence of physical or a threat of harm was
6 unconstitutional. And -- well, it ends up that I wrote that and
7 so forth and was criticized very much for that. And I even
8 remember some lawyers meeting me later in Dothan and said that I
9 developed that out of whole cloth. People really were quite up
10 front about how much they disliked the opinion, some of them to
11 my face. I never said anything. And a lot of things were
12 written.

13 But it became back -- the issue ironically came back to
14 me again in another case, *Pruitt*. And this time, however, it
15 went to trial and the jury found for the plaintiff. I also in
16 that case granted summary judgment for the plaintiff, which was,
17 I guess, unheard of. It went up on appeal. Even though I
18 had -- was the first to have declared that as a principle of law
19 as far as I know in the country, there was another case out of
20 Tennessee, *Garner*, that had reached the Supreme Court or had
21 been decided by the Circuit. I think it was on its way to the
22 Supreme Court.

23 In the meantime, my case was before a panel of the
24 Eleventh Circuit of which Judge Johnson was not a member. And
25 he said to me, he says, "You know, I don't know." He said, "You

1 know what you did is right." I said, "Yeah. I know what I did
2 is right." He said, "Now, hold your stomach in, because you may
3 get reversed, but be prepared. Just don't let it get you down."
4 I said, "Okay." And then he said, "And we'll see what happens
5 en banc." (Laughter)

6 MR. MENEFEE: And what happened? The rest of the
7 story.

8 JUDGE THOMPSON: Well, it ends up in the meantime that
9 the Supreme Court in *Garner* adopted the principle, essentially,
10 almost verbatim of what I had said. And the Eleventh Circuit
11 affirmed in a very nice opinion that complimented me on
12 predicting the law. And, in fact, it was an unusual oral
13 argument. Apparently, the judges on the panel even said it at
14 oral argument, something like it's remarkable how Judge Thompson
15 predicted that this would be the law. And those were rare
16 times, I'm afraid, that don't occur anymore.

17 MR. MENEFEE: The conversation with Judge Johnson, was
18 that just a casual one in the hall or did he call you up or --

19 JUDGE THOMPSON: Just casual in the hall. That's
20 right. No. No, he was not a man to call you up. You just met
21 him in the hall and -- I think he could see that I was
22 concerned. And the case had gotten a lot of publicity.

23 And the *Pruitt* case was against the City of Montgomery
24 and the mayor of Montgomery just was -- was out, you know, for
25 me left and right and all over the board. And this was just --

1 that case was just added ammunition, considering all the other
2 things that were going on involving the city and me. So I knew
3 that if it was reversed, that, you know, I would be vilified.
4 And I think he was saying, you know, be ready. And, you know,
5 I -- I thought about it, and I was ready to the degree anyone
6 ever is ready. I don't know if you ever are ready.

7 MR. MENEFEE: How did you find the early weeks, year or
8 so, on the bench? Was that a big adjustment? And what eased
9 it?

10 JUDGE THOMPSON: Yeah. Well, actually, I had to move
11 in to the job. I moved from Dothan. It was. It was a big
12 adjustment. You know, I was only six years out of law school.
13 I look at pictures of myself now and think that, I can't believe
14 that that person was appointed a judge -- that is, pictures of
15 myself back then. It was a big adjustment. Yes.

16 MR. MENEFEE: Any particular memories that -- the most
17 difficult aspects of the adjustment or --

18 JUDGE THOMPSON: Well, it was just that the cases had
19 such strong implications. You know, I -- you know, I take very
20 seriously the notion that what you do impacts other people. I
21 mean, it -- and that cuts both ways. To some degree it's easy
22 to maintain the status quo. It's harder to change the status
23 quo. You're going against the current. But nonetheless, not to
24 change the status quo when it should be changed impacts people
25 too. And yet at the same time, when you do change the status

1 quo, you're never quite sure what the implications of what
2 you'll -- the change you'll bring about. And sometimes I'm not
3 always convinced that it's necessarily for the good. Change
4 isn't good always.

5 MR. MENEFEE: Was there -- in terms of the early years
6 and sort of getting up to speed or whatever it --

7 JUDGE THOMPSON: Yeah.

8 MR. MENEFEE: -- took to --

9 JUDGE THOMPSON: Well, I knew the law.

10 MR. MENEFEE: Sure.

11 JUDGE THOMPSON: And I like the law. I like reading
12 it. And I liked all kinds of reading aspects of the law. I
13 think it was mainly just the --

14 MR. MENEFEE: That weight?

15 JUDGE THOMPSON: The weight of what you could do or
16 what you could not do.

17 MR. MENEFEE: Gravitas or something.

18 JUDGE THOMPSON: Yes. But even the absence of doing
19 it, even the maintaining the status is a weight I -- which I
20 think some -- talking to some judges or talking to people, I
21 don't think they realize. And I think to some degree the
22 momentum is in the direction of not changing. And, you know, I
23 actually have no problem with that because I think, to some
24 degree, the law is a conservative force and it should be. But
25 that doesn't detract from the thought process that one goes

1 through in making one's decisions.

2 MR. MENEFE: Do you think it is easy to fall into a
3 less weighty assessment of the burdens?

4 JUDGE THOMPSON: I think so.

5 MR. MENEFE: And just let's make a decision and -- I
6 don't mean to cut a deal, but --

7 JUDGE THOMPSON: Well, you can always settle cases.
8 But also, if you -- you know, to some degree, if you -- if you
9 deny relief, that gets rid of the case. If you grant relief,
10 you know, you're talking about living with the case for years.
11 And, you know, I don't know how often that plays into the
12 judicial process, but I am pretty convinced that it does.

13 Now, it can play into it several ways. I mean, it can
14 play into it in the sense of a judge who can go through a whole
15 judicial career and virtually never do anything. And that's
16 true. I mean, you can literally sit on the bench and do almost
17 nothing. Or you can sit on the bench and you can make some
18 conscientious effort to seek out and do what you perceive.

19 Now, I'm not talking about judicial activism
20 necessarily. I'm just talking about in your everyday cases of
21 making sure they're done right. And that requires a lot of
22 work. And, you know, whether you're dealing with civil rights
23 or whether you're dealing with an antitrust case or whether
24 you're dealing with a case involving a guardianship.

25

1 MR. MENEFEE: Judge, if we might, I would like to start
2 a discussion of some of the more significant cases that you've
3 ruled on. I'm not sure how to address this, but let's try by
4 general subject. In the mental health area, I believe you
5 inherited from Judge Johnson the *Wyatt* litigation.

6 JUDGE THOMPSON: Yes.

7 MR. MENEFEE: And had a great deal of time.

8 What are your particular reflections on that area of
9 law and that particular case?

10 JUDGE THOMPSON: Speaking sort of generically, I think
11 *Wyatt*, as an institutional case, represents probably one of the
12 most difficult issues facing modern-day courts; that is, what do
13 you do when suddenly a court is confronted not with a case, but
14 with an institution?

15 First of all, you begin with the premise that any
16 institution was not put under the authority of the Court. It
17 was put under the authority of the executive branch of
18 government. And while people like to say that, you know,
19 certain judges run certain institutions, that's not really true.
20 By its very nature that it's an institution, an executive
21 institution, it should be under the executive branch. So you
22 have this sort of intersection of an alleged violation of a
23 right that a court has to address, not as some sort of specific
24 violation, but a systemwide violation, and this notion that
25 these institutions are best run by executive officers.

1 How does a court, then, come up with some solution to
2 that problem? Obviously, I think that the court should show
3 strong deference to the institution itself and to its own
4 operation and how it is best operated. Ideally, I think the
5 role of the court should be to coax the executive officer into
6 doing what's right without actually assuming that responsibility
7 of determining, other than in sort of a broad notion, what is
8 right, because if you micromanage, then you're essentially
9 taking over the responsibility of the executive officer. But at
10 the same time, you can't abdicate the responsibility the court
11 has to make sure that certain rights are vindicated and remedied
12 or the violations are remedied.

13 So *Wyatt* is sort of, I think, a prime example of that.
14 There have been many articles written about *Wyatt* and all the
15 good that the court order brought about. I'm not sure if that's
16 just not chapter one of a scheme as to whether this is the best
17 way to do that. And actually, there have been some later
18 articles written about -- and actually quite critical of *Wyatt*,
19 in the sense that when courts do that, they retard the normal
20 process of correction.

21 Some people have made the argument that in Alabama the
22 State quite often punts its problems into court. Well, perhaps
23 all too often, by being so efficient in at least resolving the
24 initial problems, the court encourages that abdication of
25 responsibility when the responsibility really belongs with the

1 State and its own officials. So it will be interesting to see
2 how *Wyatt* has fared in conjunction with other states that may or
3 may not have been under court order.

4 At the same time, obviously, *Wyatt* is not unique.
5 There were many suits filed against mental health institutions
6 across the country, and some of those institutions may very well
7 still be under court order.

8 The bottom line is I think that the questions posed by
9 *Wyatt* and cases like *Wyatt* should be debated. I think the
10 debate is healthy. I think that to some degree, cases like
11 that, in the sense that they are debated, reflect sort of trends
12 in our law one way and then the other.

13 I found it interesting to be a part of that process. I
14 tried to make clear throughout that process that my preferred
15 resolution was that the State do what it was supposed to do and
16 it was not the Court's responsibility.

17 I remember Judge Rives quite often would comment that
18 he looked forward to the day when the State of Alabama would
19 take on the mantle of its own responsibility to enforce
20 constitutional rights and not turn towards the courts. I think
21 that that is a dream that every judge should have before ever
22 stepping into any institutional litigation.

23 MR. MENEFEE: I guess in the period of time that we're
24 generally talking about, Wallace -- Governor Wallace rather
25 symbolizes the executive branch of the State of Alabama. And he

1 certainly used the federal judiciary as a political whipping
2 boy --

3 JUDGE THOMPSON: Right. I'm not sure *Wyatt* represents
4 that. I think *Wyatt* was not where the executive officer was
5 seeking to retard the enforcement of rights. I think *Wyatt* may
6 have represented more a negligence, a failure to attend
7 completely, rather than just a conscious effort to prevent
8 certain things from happening.

9 When I think of Wallace -- and actually, I'm trying to
10 remember now whether, during the *Wyatt* litigation, Wallace was
11 governor. I think he was, but I'm not sure that he was governor
12 necessarily during an extended part of that litigation.

13 MR. MENEFEE: Well, it was certainly the school
14 cases --

15 JUDGE THOMPSON: Yes.

16 MR. MENEFEE: -- that he took his strongest stands.

17 JUDGE THOMPSON: Right. Now, the school cases, to me,
18 represent sort of a different issue in the sense of the
19 relationship between the courts and the executive branch. I
20 think they represent more of a conscious effort to keep things
21 from being -- from happening, unlike *Wyatt*, which is an
22 institutional case which may -- to the extent that there were
23 violations, may represent more of just an abdication of
24 responsibility altogether -- that is, when *Wyatt* was initially
25 filed.

1 I was not on the bench during the Wallace years. I
2 mean, if -- to the degree that I would talk about *Wyatt* -- about
3 Wallace, it would be to the degree that I was growing up and was
4 a child and was in high school, or college.

5 MR. MENEFE: I guess his last term from '82 to '86 --

6 JUDGE THOMPSON: Was Wallace in office '82 to '86?

7 MR. MENEFE: I -- that's my memory. James was --

8 JUDGE THOMPSON: Then I was on the bench, then.

9 MR. MENEFE: James was '78 to '82, I think.

10 JUDGE THOMPSON: Okay. Then --

11 MR. MENEFE: Wallace came back for one last term.

12 JUDGE THOMPSON: You know, now that you've --

13 MR. MENEFE: And then '86 --

14 JUDGE THOMPSON: Right.

15 MR. MENEFE: -- Guy Hunt was elected for --

16 JUDGE THOMPSON: Right.

17 MR. MENEFE: -- about two terms.

18 JUDGE THOMPSON: I'm wrong, then. You're right.

19 That's right.

20 MR. MENEFE: But that was brief.

21 JUDGE THOMPSON: Yeah. Yeah.

22 MR. MENEFE: And a much less vigorous Wallace at that
23 stage.

24 JUDGE THOMPSON: Exactly. It was much more of a
25 low-keyed administration.

1 MR. MENEFEE: Sure.

2 JUDGE THOMPSON: That just shows you how much I
3 remember. And it also shows you, to some degree, the degree to
4 which the Court had any contact with him. Reflected more maybe
5 on both sides sort of a retrenchment.

6 But when I think of what you're talking about, of using
7 the courts as a political tool, I think of those early -- the
8 1960s and the seventies. Both decades preceded me on the bench.

9 MR. MENEFEE: And I guess the patients in the mental
10 health system very much represent a constituency that has not
11 had, I would -- might -- I might argue, a voice in our political
12 system to get a share of attention --

13 JUDGE THOMPSON: Well, actually --

14 MR. MENEFEE: -- in those days.

15 JUDGE THOMPSON: I'm sure that argument has been made
16 too. But actually, where it posed an interesting issue is
17 determining what's in the best interests of the patient or the
18 class members. And in that sense, *Wyatt* also posed some
19 significant problems.

20 Typically, in a class action, you know what your class
21 members want. Now, you may not agree, as a lawyer, with their
22 assessment of what they want or, as a judge, you may not agree
23 with what they are requesting, but at least you have some
24 parameters to work with. *Wyatt*, in contrast, posed the problem
25 of what happens when lawyers or courts take it upon themselves

1 to determine what's in the best interests of a particular group
2 of people.

3 And actually, I suppose that argument goes both ways.
4 You could say, well, because you have people who are so
5 vulnerable, the court should pay particular attention to their
6 needs. At the same time, I think the argument can be made that
7 the persons who are best capable of making that determination is
8 the executive branch because they have the personnel,
9 presumably -- psychiatrists, the psychologists, the social
10 workers -- who can identify those needs. And to the degree that
11 there is a debate between what is in the best interests of the
12 patients, those should be the people making the determination.
13 I mean, after all, the court is not a psychologist. The court
14 is -- a typical judge is not a psychiatrist or a social worker.

15 So that sense of these people being wards or
16 incompetent is troubling on both sides of the argument. And I
17 think that to the degree that there are those who say that the
18 courts should not be involved in institutional litigation, I
19 think that that's an arrow they could put in their quiver. And
20 to the extent that there are those who argue that the courts
21 should readily jump in to such cases, I think that could also be
22 an arrow in their quiver. And to be honest with you, I have no
23 solution other than to say that I think courts should be
24 conscious of both concerns.

25 MR. MENEFEE: Another area I know you've spent a great

1 deal of time with are voting rights cases. There was a number
2 of cases filed under the generic title of *Dillard* attacking
3 local government voting systems, *Harris v. Graddick* for poll
4 workers. What are your reflections on that area of the law, how
5 it developed, and the role you saw courts playing, your court
6 playing?

7 JUDGE THOMPSON: Actually, *Harris versus Graddick* I
8 found a very interesting case in two regards. Number one, it
9 dealt with a systemic problem, that is, the number of black poll
10 watchers. And I think it dealt with it correctly. But number
11 two, I thought that it was an interesting case in the sense that
12 the length of the Court's involvement was measured and limited.
13 And I'm not sure if both of those factors together -- that is,
14 the Court's involvement being the remedy of the problem and
15 there being some sort of deadline on how long that remedy was to
16 stay in effect -- had a role in what I thought was an effective
17 piece of litigation.

18 In contrast, the other -- the *Dillard* cases, I'll be
19 very honest with you, posed a lot of ideological problems for
20 me. Not politically ideological, but legally ideological.
21 Obviously, the -- how a -- how a government shapes its political
22 boundaries is just that, political. The notion that courts
23 should get involved in that process is a troubling notion. And,
24 of course, it's troubled judges for this -- for the last
25 century. We're in the year 2000, but it clearly troubled judges

1 when it came to one person, one vote. And then, obviously, it
2 troubled judges with the advent of the Voting Rights Act.

3 And I think for that reason, even among judges, it
4 creates strong feelings because I think there is still the
5 strong sentiment that courts should not be involved in that.
6 And then yet, at the same time, when it's clear that certain
7 rights have been violated, I think the positions on the other
8 side are equally as strong that somebody has to remedy the
9 problem. If you have a group of people who are a minority and
10 can't seek redress through the political process, there really
11 is no other avenue other than the courts.

12 Now, I add a caveat to that. The other argument is
13 that there is no immediate avenue of redress. Some people might
14 say that the true avenue of redress to that type of problem is
15 time itself and let everyone just go through the process of
16 being acclimated and becoming a part of the political process.
17 But the voting rights cases in that sense posed a problem. Of
18 course, cutting through all of what I've said is that Congress
19 passed Section 2. And it's really not for me to pass judgment
20 on whether the law is wise or unwise. It's -- my role is just
21 to enforce it.

22 In my dealings with people, quite often I think people
23 will mention -- and I say they come from all different sides of
24 the spectrum -- as to whether Section 2, you know, was a wise
25 piece of legislation in the sense that it does compartmentalize

1 blacks into one district, arguably. And therefore, the argument
2 can be made that it reintroduces the notion of separate but
3 equal. And it also -- getting back to some degree we were
4 talking about in *Wyatt* -- retards the normal process of things
5 just working themselves out on their own through the political
6 process.

7 I remember years ago I was talking with a friend, and
8 we were both interested in Shakespeare. And, of course, one of
9 my favorite plays next to *Julius Caesar* is *Romeo and Juliet*.
10 And he was making the argument that if the friar had not got
11 involved in Juliet and Romeo's problems and let them solve them
12 themselves, they would be alive today. And I think his argument
13 was that if courts sometimes stayed out of the problems, they
14 might end up -- while going to battle and fighting it out, that
15 sometimes it's better just to let it go through its normal
16 course of action rather than constantly trying to remedy this
17 small problem, remedy that small problem, and keep the parties
18 from following through in a normal resolution. I guess to some
19 degree, he viewed the friar as sort of an activist judge.

20 So in that sense, yeah, voting rights cases pose a
21 difficult problem. Actually, years ago, I think before a lot of
22 people took on to it, I actually viewed these cases as, to some
23 degree, what one would call traditionally affirmative action in
24 the sense that they were race-conscious. And if I had to do
25 them over again and I think that if one were to rewrite the act

1 or, perhaps, if courts were to look at them again, I think that
2 they would have been more palatable had there been some sort of
3 sunset provision in them like all affirmative action cases have,
4 that any remedy fashioned by the court perhaps should be for a
5 number of years. And then you come back and look at them again
6 rather than making these systems sort of permanent. Because
7 anytime you have something where I think you separate blacks
8 into a separate group as, arguably, Section 2 does, I think
9 there probably should be a way for undoing that in the future
10 too.

11 MR. MENEFE: Well, is that not principally a judicial
12 creation in terms of district elections? You have been able to
13 approve, through some consent --

14 JUDGE THOMPSON: Yes.

15 MR. MENEFE: -- agreements alternative voting systems
16 that do not create these segregated --

17 JUDGE THOMPSON: Right.

18 MR. MENEFE: -- if we use the term "segregated
19 districts." So the judiciary, really, has, in a way, tied its
20 own hands, perhaps properly so --

21 JUDGE THOMPSON: Well, I understand the arguments on
22 that too. I mean, those are systems that a lot of executive
23 officials view as alien to our American system. I know you're
24 talking about the limited voting and --

25 MR. MENEFE: Cumulative.

1 JUDGE THOMPSON: -- cumulative voting. And that's the
2 problem with that.

3 MR. MENEFE: Yeah.

4 JUDGE THOMPSON: I think an argument could be made that
5 they're better than the segregated systems. The question is,
6 where's the trade-off? And if you -- you can come up with a
7 better system; but to the degree that in our American system we
8 tend to vote by districts rather than through sort of limited
9 voting and cumulative voting, I think the courts have probably
10 come down on the side that -- of voting by districts and, in
11 viewing the solutions, having to come within those parameters or
12 that particular political framework.

13 MR. MENEFE: The sunset idea is interesting because
14 once people are empowered into the system for some period of
15 time, up until the sunset --

16 JUDGE THOMPSON: It does --

17 MR. MENEFE: -- they may actually have enough voice --

18 JUDGE THOMPSON: Right.

19 MR. MENEFE: -- to provoke the legislature or whatever
20 governing body to enact an appropriate remedial system.

21 JUDGE THOMPSON: There's no question that that system
22 is -- from a political science standpoint has those
23 flexibilities. The question is, is it adoptable from a legal
24 standpoint? And that's -- that's where the trouble is.

25 The -- but getting back to the *Dillard* cases,

1 another -- another problem is, you know, from a political point
2 of view, is this really in the best interests of the community
3 to have these divisions? Even though you might end up electing
4 the black official, I guess the question is, at what cost? And
5 to the degree, I guess, that Congress has made that
6 determination, that is -- I'm comfortable with it. I mean,
7 that's what Congress said to do, and I carry out my duty. But
8 to the degree that -- whether I think it's a wise piece of
9 legislation or not, I guess that's really not something for me
10 to be concerned about other than just sort of from an
11 ideological, political perspective as a private citizen.

12 MR. MENEFEE: In the -- move on to the area of
13 employment rights where you've had a number of cases, many of
14 them involving either local government -- I know, in particular,
15 the city of Montgomery -- and some aspects of state government.

16 JUDGE THOMPSON: Uh-huh.

17 MR. MENEFEE: I don't recall, and I'm not familiar with
18 specific private employment arrangements or litigation that
19 you've dealt with, but --

20 JUDGE THOMPSON: I guess --

21 MR. MENEFEE: How would you contrast or compare the
22 employment litigation with either of these other areas?

23 JUDGE THOMPSON: Again, when it comes to individual
24 rights, that is, someone brings an individual claim of
25 discrimination, the dimensions and the problems are different

1 from when those problems are systemic.

2 If we start talking about -- and I will start talking
3 about -- the issue from the perspective of the individual, I
4 found it fascinating because it -- it doesn't always -- it isn't
5 always as simple as it's made out to be.

6 One of the issues I found early on was the issue of
7 bumping. And something courts wrestle with all the time, what
8 do you do when you have rights at issue that involve innocent --
9 allegedly innocent people, you know, someone who's been put into
10 a position without knowing that the employer may have
11 discriminatorily denied someone else the position for an illegal
12 reason? I remember seeing that early on. And that was very
13 difficult. And I'm not sure you can come up with any one
14 principle to resolve that.

15 Or there is the question quite often in these
16 individual cases as to whether the person should go back into
17 the position that he or she wants or whether the person should
18 be put in the position that he or she wants. These positions
19 carry with them responsibilities. They carry with them
20 relationships. And to order that someone be placed in a
21 position I think puts the person in that position with
22 significant handicaps. There's the question as to whether or
23 not they really earn the position. There's the question as to,
24 once they're in the position, can they work with the people who
25 may have opposed their initial request for the position?

1 You know, I guess putting myself in that place, you
2 know, would I want to go into a position that I had sued for
3 knowing, perhaps, that the people that I am going to work with
4 may not actually have wanted me there? But sort of -- you know,
5 you get back again to when courts redress these problems and
6 they order that certain things be done. Courts work with -- you
7 know, to some degree, we work with sledgehammers. You know, we
8 don't -- we don't work with fine-tuned surgeon's tools. And we
9 can't make people like each other.

10 And even on an individual level, the problems that
11 confronted the courts in the school desegregation cases when you
12 were forcing blacks and whites to go together -- to school
13 together, you know, just how, really, an effective tool was
14 that? And then you look around you and you see that, for
15 whatever reasons, many of these schools are completely
16 resegregated again.

17 MR. MENEFEE: What's your assessment on the school
18 desegregation effort?

19 JUDGE THOMPSON: Difficult. Very, very difficult.
20 Ideally, I think if we had the resources and money to build good
21 schools for everyone, that would be best, without regard to race
22 or anything else.

23 MR. MENEFEE: Failure of leadership on the part of the
24 local school systems to effectively deal with the issues of
25 integration?

1 JUDGE THOMPSON: Probably a failure of leadership on
2 the part of everyone. Local school systems, yes. Parents, yes.
3 Communities, yes. If you bring kids into a school and you don't
4 have the support of the parents, if you have cultural
5 differences between the students insofar as supporting the
6 school, I think those are problems. You just can't say, you
7 know, these kids go to school with these kids, and that's it.
8 And then the courts walk away, the community walks away, the
9 school board walks away, and you just may have parents who have
10 different feelings about what it means to support the school.
11 And, of course, the kids are caught up in this sort of crossfire
12 and abdication of responsibility.

13 I really don't know. I'm not a sociologist. I'm not a
14 person -- I'm not an educator. I'm not a person who has the
15 answers to these problems. It will be curious to see, years
16 from now, whether courts, in their efforts to enforce
17 desegregation orders, have been effective.

18 I was not at the front line in the enforcement of these
19 orders. I've handled a few, but I have to admit that they were
20 marginal cases. I have a few still pending. I was involved in
21 them as a lawyer. But even there, again, more from the marginal
22 side. The notion of desegregation or the notion of
23 integration -- and those concepts, to some people, mean quite
24 different things -- have been quite problematic for the courts.
25 And it will be curious to see, years from now, whether this

1 whole effort of the last four decades has been as successful as
2 people thought it was going to be at the time they set out to do
3 what happened.

4 I mean, just looking at my own background, which I have
5 already discussed with you, I'll be very honest with you. I
6 thought my elementary school was better than any white
7 elementary school in the state, which was an all-black
8 elementary school. One of the results, to some degree, of
9 desegregation was the eventual closing of that school. And, in
10 fact, I think I've -- I have no personal knowledge, but pretty
11 reliable knowledge, that that was one of the effects of it. It
12 was a decentralization and a dispersion. And here was a very,
13 very, very good black school; and essentially, with sort of the
14 notion of making everything equal, that school was eventually
15 closed.

16 I think as concepts, you know, all parents want their
17 kids to go to the best school. The notion that integration, in
18 and of itself, is good is probably a flawed concept. I don't
19 think I buy that. But I guess I buy it in the sense that I buy,
20 to some degree, the voting rights integration. It's just a
21 prophylactic measure to achieve an end because you don't have
22 anything else better. But ideally, you know, I would not like
23 to talk about integrating schools. I mean, the notion that you
24 have to identify a person's race or that black kids are better
25 off going to school with white kids or white kids are better off

1 going to school with black kids is a troubling notion. In fact,
2 I really don't like to hear it. I just think kids are going --
3 better off going to the best school.

4 But I think in all these instances, they're just
5 prophylactic measures. They're alternative measures because no
6 one has come up with a better -- better means. And when a
7 person comes up with a better remedy, you know, I would be at
8 the forefront of dismantling all of these sort of -- any type of
9 race-conscious tools.

10 MR. MENEFE: These -- this discussion has covered a
11 number of broad, significant areas of litigation. Do you -- if
12 you could narrow this down to some more personal vignettes or
13 memories -- do you have any memories of particular litigants or
14 either plaintiffs or lawyers that have appeared in either of
15 these cases or other significant cases that particularly come to
16 mind as bringing great benefit to the Court with their skills or
17 humor to the Court or otherwise stand out in your memory of the
18 last 20-odd years?

19 JUDGE THOMPSON: I'll have to think about that for a
20 second or two.

21 MR. MENEFE: Uh-huh.

22 JUDGE THOMPSON: I'm trying to sort of go over in my
23 mind the cases that I've dealt with over these years.

24 Obviously, having a good lawyer in court is a real
25 treasure for -- for a judge. It makes his or her job so, so

1 very much easier.

2 MR. MENEFEE: Do you need two good lawyers?

3 JUDGE THOMPSON: Yes. Without question. There's no
4 question that the process wins when there are two good lawyers.
5 Of course, it's worse when both sides are poorly represented.
6 And, of course, I guess it's a question as to whether there is
7 fairness when one side is inadequately represented, because the
8 side that isn't adequately represented may not get a fair shake
9 in court unless the judge is willing to make sure that that
10 playing field is leveled.

11 I remember years ago when I was in law school talking
12 about when you have two good lawyers. Charles Black, who was a
13 professor at Yale Law School, used to say that his worst
14 nightmare was when he would go before the U.S. Supreme Court and
15 the other side would be represented by a lawyer who was poorly
16 articulating his argument over a very, very difficult and
17 perhaps sometimes even close issue, because he said that
18 sometimes in these instances where the issue was very close --
19 the judges knew it was close; the lawyers knew it was close --
20 the judges would quite often try to articulate it for the
21 lawyer. And Professor Black was always concerned that in that
22 process of articulation, the judges might decide they liked the
23 argument and would start sort of trying to think of reasons why
24 it was such a great argument, especially if they perceived it as
25 an argument they -- that he or she had come up with or they had

1 come up with themselves. I don't necessarily think that's
2 always true, though. But he said he always felt uncomfortable
3 in that --

4 MR. MENEFEE: Well, as a judge, could you -- can you
5 imagine that happening?

6 JUDGE THOMPSON: I think sometimes when judges go back
7 and you're trying to weigh arguments and things, you do, to some
8 degree, come up with arguments that the lawyers did not come up
9 with. I'm very conscious of that. And when I do that, I
10 actually consciously try to then let the lawyers know what I'm
11 thinking if it's not already been articulated and invite them to
12 comment on it. Either -- even if the decision is written, I
13 will say, you know -- you know, if you have some argument, you
14 want me to revisit this, I'll welcome that revisiting. Or
15 sometimes I'll just have a -- you know, invite them in and say,
16 this is -- I'm thinking about this different sort of tack. Do
17 you see any problems with it?

18 That's good in two ways. Number one, it puts the
19 lawyers on notice that you're thinking about something and
20 attacking it from a different angle, and I just think they're
21 entitled to know that. Secondly, it lets you get their input,
22 because it may end up that because the lawyers did not posit
23 that reason, they may very well have a good reason for not
24 having put forward that idea. And it may be something -- based
25 on something that's not in the record.

1 And in this way, you allow them to show you how while
2 you might think from what you've heard this idea or this
3 principle or this resolution or decision is good, if you had --
4 if you were confronted with additional facts, which they may
5 have thought these facts weren't necessary, may not be a very
6 good decision after all. So it's -- when judges go back and
7 they sort of come up with these sort of afterthoughts, you have
8 to be very, very careful as to when you do that and under what
9 circumstances you do it.

10 MR. MENEFE: Do you feel that you're working with
11 blinders on, not knowing how much the lawyers have filtered
12 arguments --

13 JUDGE THOMPSON: Yes.

14 MR. MENEFE: -- and facts that are presented?

15 JUDGE THOMPSON: Yes. I think it's a very risky thing
16 to do, especially if -- now, if it's just that they've
17 overlooked a principle of law, that's one thing. But when you
18 really are coming up with just a new tack on how to come at the
19 problem, I think it's a very risky thing to do.

20 MR. MENEFE: We've covered a number of broad areas
21 that involve a great deal of legal and, if you will, social
22 terrain over the last several decades. But just in terms of
23 legal precedent, are there -- is there an opinion or two or so
24 that stick out in your mind that you feel were the most
25 significant legal precedent that you -- that you had to address

1 in terms of setting new legal standards or --

2 JUDGE THOMPSON: Getting back, I guess, into the area
3 of employment, one of the cases I guess is the *Paradise* case
4 involving the state troopers. Even though -- in a very
5 interesting way, that case stands for the proposition of
6 affirmative action where I ordered, you know, one-for-one
7 promotions, which is different from one-for-one hirings, because
8 with one-for-one promotions, you're talking about literally
9 taking someone over someone else, that is, one black for one
10 white, whereas hiring, the impact is more diffuse. And that
11 case went all the way to the Supreme Court.

12 I think it's so often overlooked that I ordered that
13 one time. And I can't now remember whether it was ten people or
14 maybe 12 or 13; but nonetheless, it was a very limited
15 application of a remedy even though it took a case that went
16 that far and even though it's so cited so often. The true
17 remedial aspect of it was it was a one-time event involving
18 maybe ten people, maybe if you double it, saying one for one,
19 maybe 20 people, out of thousands and thousands of people --
20 hundreds and hundreds, I should say; I won't exaggerate -- who
21 may have been affected by the opinion ultimately. So I think
22 sometimes people don't realize just how narrow the true impact
23 of the actual case was when we talk about precedent.

24 The other case I guess that I would -- that I find most
25 interesting and that I wrestled with most was the *Shuford* case

1 involving the junior college system and the remedy there for
2 affirmative action and the notion of looking for remedies that
3 while expanding the avenues of people, whether based on sex or
4 race -- and that case involved both sex and race
5 discrimination -- you ultimately still try to come up with a
6 scheme that is race-neutral or sex-neutral.

7 In that case, the solution was to try to expand the
8 pool more and thereby increase the opportunities for blacks and
9 whites to compete but still try to make sure that the ultimate
10 decision is a decision that is not based on race or sex. In
11 that sense, the case I found as an interesting resolution -- I
12 found the case to be an interesting resolution because I think
13 there was a conscious effort to come up with some alternative
14 means and not always opt out -- not always opt for the easy
15 solution, which may be the race-conscious solution.

16 And I guess to some degree, that case has been cited by
17 a number of appeals courts for that principle. And I'm still
18 working with it to sort of expand on it, that in dealing with
19 many of these problems, I think the fact that a solution is
20 immediately effective doesn't always mean that it's the best
21 solution, that a solution that is -- especially when it comes to
22 the area of remedies in race and so forth -- that a solution
23 that's more diffuse and even takes a bit more time may, in the
24 long run, be a better solution. Or a solution that requires a
25 much more complex scheme may be a better solution than just

1 saying, you know, well, we'll just put one black and one white
2 here and walk away.

3 MR. MENEFEE: When you deal with an issue of the
4 complexity that you've just described in *Shuford* or similar
5 cases, how do you find that deliberative process? Is it an
6 interesting intellectual challenge, a great weight to bear, a
7 burden? How would you describe the -- the task? How do you
8 find it?

9 JUDGE THOMPSON: I guess it's all of the above. It
10 really is intellectually interesting, you know, except I don't
11 try to -- I don't want it to be so intellectually interesting
12 that I lose sight of the fact that it does have impact on
13 people. But I find it very fascinating. I mean, it's fun to
14 sort of sit back and play with these -- these notions and
15 concepts and sort of weave them in.

16 MR. MENEFEE: Feel particularly isolated, or are you
17 with law clerks or any other colleagues enough --

18 JUDGE THOMPSON: No. I throw it out with the law
19 clerks. I don't generally discuss it with other judges. I
20 generally let them shoot at them. I like criticism of something
21 before I do it. I like -- as I say, I'd like to know what
22 the -- I'd like to know where the holes are and where the
23 weaknesses are. Don't hold back on me. I'd rather my law
24 clerks tell me that than somebody else tell me that, in
25 particular, either the paper or the court of appeals. If it's

1 flawed, let me know before I sign off on it. I mean, that's
2 silly to be afraid to tell me that. You know, I -- I can always
3 say "I don't agree with you," but at least I've been told before
4 I signed my name.

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DECISIONS

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2 MR. MENEFEE: What opinions or decisions do you recall
3 being the most controversial and provoking the most outrage,
4 public outrage, in your time? Anything in particular?

5 JUDGE THOMPSON: Quite a number, I guess. Well,
6 getting back to the *Ayler* and the *Pruitt* opinions involving the
7 use of deadly force, I was attacked pretty strongly for that.
8 And that was a hard opinion because I really did have to come up
9 with what I thought was a fair reading of the law, and I wasn't
10 sure as to whether my reading was correct. And then to add to
11 that was the notion that it was occurring within an environment
12 that was -- that was pretty heated.

13 The other opinions that I guess would have engendered
14 such strong feeling -- well, the trooper case actually did too.
15 That was a pretty significant case in the sense of when I first
16 did it. And not many courts had actually ordered that type of
17 one for one before.

18 The voting rights cases generated a lot of letters.
19 Actually, I got some letters from other judges on that. And one
20 judge accused me of having usurped the authority of other
21 districts because they were all being brought here in
22 Montgomery. Actually wrote me that. And then there were some
23 editorials in North Alabama that one judge sent me where someone
24 said that the blood of somebody was on my robe and so forth
25 because of some *Dillard* case I had signed off on.

1 MR. MENEFEE: Did you ever have to deal with threats of
2 violence?

3 JUDGE THOMPSON: No. I've gotten some typical threats,
4 but nothing that I would consider of any significance.

5 The -- some of the employment cases locally, obviously,
6 generated a lot of opposition. These were cases involving the
7 Montgomery Police Department and the Montgomery Sheriff's
8 Department. And I got lots of letters and editorials and such
9 that were all written to me about me and so forth. And even
10 there was one time where a group took a big, huge page written
11 to me about, you know, what I was doing was wrong.

12 MR. MENEFEE: Page in the newspaper?

13 JUDGE THOMPSON: In the local newspaper, yes,
14 advertisement.

15 And those case are difficult because, obviously, number
16 one, I don't -- I'm not a police officer. I know nothing about
17 police work, and yet I'm trying to do the best I can to resolve
18 these employment cases involving race and sex discrimination --
19 even though I would say that the -- the most difficult part of
20 those cases was from the sex perspective, that women being
21 involved in the police department, I think, generated a lot of
22 strong feeling on both sides.

23 MR. MENEFEE: So most difficult in the sense that they
24 provoked the strongest argument from the parties or most
25 difficult for you to --

1 JUDGE THOMPSON: I really had no problem with women
2 being in the police department. I actually had -- even one
3 judge told me that when I was resolving these cases, you know,
4 well, if you were a policeman, you know, would you want a male
5 or female down with you in the ditch if somebody is coming at
6 you? And this is another judge who told me that. So I was
7 getting it from all sides.

8 Now, I don't talk much. I never really voiced these
9 things before. But, no, I never really -- I felt fairly
10 comfortable in the sense of the rights and how well they had
11 been articulated. And I knew what I was doing was right. I
12 guess it really came more to when, in fact, was a police officer
13 being discriminated against because of her sex and when, in
14 fact, she was incompetent. And the problem with the court is
15 that if you are confronted with an initial finding of sex
16 discrimination -- and quite often it will just be obvious to
17 you -- that can't be used to -- or used as a shield for the
18 incompetent. And you have to be -- while you want to vigorously
19 seek out and make sure that a person is not discriminated
20 against because of sex, you still have to be sure that when, in
21 fact, a person is not entitled to a position and should not
22 receive that position, that he or she doesn't. And that's --
23 and that's part of the difficulty with some of those cases.
24 Those cases also involve First Amendment rights.

25 MR. MENEFFEE: Were there other cases, Judge, or issues

1 that you recall provoking a particular public comment?

2 JUDGE THOMPSON: I guess some of the more recent cases
3 in the sense that -- of getting a lot of letters and a lot of
4 discussion -- call-in shows and so forth -- was the gay-lesbian
5 case. And --

6 MR. MENEFEE: That was out at the University, wasn't
7 it?

8 JUDGE THOMPSON: It was at the University of Alabama.

9 MR. MENEFEE: Yes.

10 JUDGE THOMPSON: And actually, that was an interesting
11 case in the sense of how it was litigated and, secondly, what
12 happened as a result. The issue was whether or not the
13 gay-lesbian groups could hold their conference at the University
14 of Alabama. And the State of Alabama passed legislation saying
15 that if you fostered the notion of sodomy, any group that did
16 that could not use any of the state facilities. And that would,
17 of course, apply to the state university. And I declared that
18 statute unconstitutional.

19 And -- but when it was first filed in court, the
20 organization, the gay-lesbian group -- I think it was out of
21 Mobile. It may have been at the university. I can't remember
22 now -- put it forward as basically sort of a gay rights case.
23 After looking at it -- and this sort of gives you an idea of
24 what we were talking about earlier about when judges think about
25 things -- I saw it more as a First Amendment case. And at the

1 argument on it, I was basically putting forward that myself.
2 And I eventually asked the lawyers later to brief that issue,
3 especially after the Supreme Court had come out with what was
4 called the *Rosenberger* decision about the group at the
5 University of Virginia that was a religious group that wanted to
6 use the university's facilities and the University of Virginia
7 had said that they couldn't because they thought they would be
8 fostering religion. And the Supreme Court said, no, that
9 religious groups have the right to access public forums just
10 like anybody else as long as you're neutral about the matter.
11 Even though the *Rosenberger* test -- the *Rosenberger* case really
12 went off more on what they call the *Lemon* test, which is whether
13 or not the university was fostering religion, the first half of
14 the opinion dealt with just access to the university facilities.

15 And when I read that, I realized, that's what this case
16 was really about. And so I basically wrote it from that
17 perspective and, really, while dealing somewhat with the issue
18 of gay-lesbian rights, viewed it that way. And it was
19 eventually affirmed by the Eleventh Circuit on that ground.

20 But that was one where I think that, to some degree,
21 sitting down with my law clerks -- I remember sitting in here
22 reading the *Rosenberger* opinion in the process of reading other
23 cases. And somebody saying, this case fits -- this case -- this
24 is -- *Rosenberger* is what this case is about. This is not about
25 gays having a right to be on university grounds. At least I

1 don't have to resolve that right now. That's the next case.

2 But nonetheless, after declaring that statute
3 unconstitutional, I got just tons of letters from -- ironically,
4 mainly from parents of -- typically, at least from the letters,
5 of gays and lesbians who felt very strongly about what I had
6 done.

7 MR. MENEFEE: Appreciative.

8 JUDGE THOMPSON: And very supportive. Yes. However, I
9 also got quite a number -- at least I watched a number of TV
10 programs, call-in shows, and those responses were quite to the
11 negative -- quite to the opposite. Some people were saying that
12 as a result of what I had done, their sons and daughters could
13 now be indoctrinated into this alternative lifestyle and were
14 taking me to task for it. In a sense, that's probably one of
15 the more recent cases that's already concluded that has
16 generated a lot of comment.

17 Another one was really the social security case that I
18 had too, which I got a lot of nice editorials about. It was a
19 class action. And as a result of that just literally hundreds
20 and thousands of people were put back on the social security
21 rolls that had been taken off improperly. And I got a lot of
22 letters on that.

23 And these cases, while they're sort of like -- generate
24 a lot of activity when they come out, they're more like -- sort
25 of like a flash in the pan and people don't quite often remember

1 them later. But they're -- I think of them fondly.

2 MR. MENEFEE: What do you do with most of that
3 correspondence?

4 JUDGE THOMPSON: I just put it away.

5 MR. MENEFEE: Does it go to the court file?

6 JUDGE THOMPSON: I don't know. I don't think so. It's
7 just -- people just write you and say what they think about
8 particular cases. But I have not felt that my judicial career
9 was ever wanting in the sense of controversy.

10 MR. MENEFEE: Have you enjoyed the -- the -- I don't
11 know what -- intellectual vigor, political dimensions, social
12 dimensions that those cases have brought?

13 JUDGE THOMPSON: I wouldn't say I enjoyed it, no. I
14 mean, I've never been a front-line person myself. I've never
15 commented about them one way or the other. I think it's
16 important that courts know what's happening in the sense of what
17 people feel. Of course, that's just a very important First
18 Amendment right to begin with, that the public has that right to
19 make those views known, even to the court indirectly, perhaps
20 not in the sense of necessarily always filing a brief, but
21 letting your views be known through the press and through
22 letters and things like that.

23 MR. MENEFEE: Is there a substantive area of the law
24 that you enjoy the most?

25 JUDGE THOMPSON: Actually, one of the great things

1 about this job is its variety. I think most people think that
2 because I've had so many employment cases, that that's probably
3 what I enjoy the most, but that's not true. I do enjoy them,
4 but that's not necessarily my total area in love of the law.
5 And -- or even some of the voting rights cases. I've just sort
6 of had those mainly forced on me to some degree. I mean, I
7 didn't choose those as an intellectual challenge. Judges react,
8 mainly.

9 If I were to choose a particular area that I really
10 liked --

11 MR. MENEFE: You don't have to.

12 JUDGE THOMPSON: I know that. And I guess I'd just
13 have to say it's moving from one to the other that provides the
14 most interest. I truly -- actually, I've handled several
15 antitrust cases, and I have really liked them. I enjoy them
16 because they're just intellectually challenging.

17 MR. MENEFE: What about the criminal area? How do you
18 find that?

19 JUDGE THOMPSON: Very troubling on many scores, on many
20 levels. I actually enjoy trying a criminal case, but the notion
21 that -- that you have such an immediate impact on another
22 person's life is just daunting. The fact that you can actually
23 imprison someone, that that is within your discretion, is a
24 terribly frightening notion. And it troubles me sometimes that
25 judges do take it so lightly. I guess I want -- I guess to some

1 degree, the fact that I do feel bad at least makes me feel like
2 I'm -- I'm still human. Aside from that -- and actually, when I
3 say that in the criminal context it's such a daunting
4 responsibility -- and it's something that all judges face as
5 federal, state, whatever, as long as you're generally a trial
6 judge -- that's just the beginning.

7 Actually, I want to digress just a little bit. I was
8 recently at a moot court competition in Columbia, and I was
9 sitting with a judge from Canada. Actually, she was chief
10 justice of Canada at this moot court competition. We were
11 judging the competition together along with a third judge. And
12 she said that at the appellate level when they resolve criminal
13 cases, the defendant is brought in and listens to what goes on
14 just as they are brought in and are entitled to hear proceedings
15 at the trial level. And on reflection, I thought, you know, we
16 really are talking about taking away people's freedom. And they
17 really should be fully aware of that process, you know, when
18 judges sit down and talk about what's going to happen to them.

19 MR. MENEFEE: You mean the accused or the judges should
20 be aware?

21 JUDGE THOMPSON: Both. The judges should be aware of
22 the people -- they should be aware by looking at the people
23 they're dealing with, and the accused should be aware in the
24 sense that they look at human beings and know that they're just
25 not some cog in a machine, that some human being is actually

1 sitting there listening and deciding what's going to happen to
2 them. And, you know, it's -- it's a little troubling that they
3 can be off somewhere and these judges, in a public forum at an
4 oral argument, make this decision. And she was making this
5 argument. I found it quite fascinating.

6 But getting back to the notion of criminal law, one of
7 the most troubling aspects out of several is the disparity in
8 money, the difference between the -- the significance of the
9 fact that if you are poor in the system, you cannot always get a
10 fair shake. And I can actually give you a little anecdote that
11 will back that up, a personal anecdote from when I was a trial
12 lawyer.

13 As a young lawyer, I had been called upon to represent
14 a defendant in a criminal case. And the circumstances were that
15 the defendant was represented by another lawyer, a retained
16 lawyer, and the lawyer had come forward with the defendant for
17 the defendant to enter a plea of guilty. And the defendant
18 refused to acknowledge the facts of guilt. He was willing to
19 say, well, I'm guilty, but he refused to admit that he had
20 committed the facts that would have supported -- or admit to the
21 facts that would have supported his guilt. And the judge in
22 that case refused to take the plea. This was a federal judge --
23 in fact, it was Judge Johnson -- refused to take the plea, which
24 is very typical. I've done it many times myself, which is you
25 get a defendant who says, well, I want to plead guilty, and then

1 you ask him the facts as to what they did. They say, well, I
2 didn't do that. I didn't have those drugs on me. You say,
3 well, I can't accept your plea. And this happened in this case.
4 And the judge refused to take the -- the guilty plea and said,
5 we'll go to trial the next morning.

6 In the meantime, the lawyer said, well, I can't
7 continue to represent him. He's either -- I don't remember
8 exactly the circumstances. Either the client, the defendant,
9 had lost confidence in the lawyer or the lawyer had lost
10 confidence in the client in the sense of not believing the
11 client anymore or both. And so the lawyer moved to withdraw
12 from any further representation of the defendant.

13 And I had a small practice in Dothan, Alabama. In
14 fact, I was a very young lawyer at the time. Goodness, I guess
15 I may have been down there only a few months if not perhaps --
16 maybe a year. I don't know. And I was called up and told to
17 come to the court, that I would represent this defendant and we
18 were going to trial the next morning at nine o'clock. And, you
19 know, 24 hours of preparation is not much time for preparation.

20 So I met with my client. And the defendant said, you
21 know, "I'm really not guilty." And, you know, as a lawyer, you
22 know, I've -- even a young lawyer, I had heard that many times
23 and knew that that wasn't always true.

24 And I said, "Well, do you have anyone who can testify,
25 who can support your claim of no guilt?" And he said, "Yes."

1 He says, "There was a witness who actually was present at the
2 time that I was accused of having these drugs, and this witness
3 will verify that those drugs are not mine, that I knew nothing
4 about them, and will support my claim of innocence."

5 And I said, "Well, who's the witness?" And he said,
6 "The witness is Larry." I'm using that as a name, but I don't
7 remember the exact name. I said, "Larry. Larry." And this
8 happened out at a military base near Dothan, Alabama. And says,
9 "I think he was connected with some people out there. I'm not
10 sure. But I know his name was Larry." And -- you know, I've
11 heard -- I've had many a "Larry" story.

12 So I'm sitting there, and I go, "Yeah. Sure. Well,
13 how can I find Larry? You don't have his last name?" "No."

14 "Where is Larry now?" He says, "Well, I think he left
15 the base. He's no longer there."

16 "Can you give me a description?" "Not really. It was
17 night."

18 And I said -- and we're going to go to trial the next
19 morning, and all I have is a witness named Larry whom -- no last
20 name. Probably the guy has never seen him since. In fact, he
21 hadn't. And I think maybe even had left the base. I'm not even
22 sure whether he was military or civilian. So I did something
23 that I thought was really, I guess to some degree, rather
24 amazing. I went to court that afternoon right after the
25 appointment and subpoenaed Larry. And I said in the motion that

1 I had no idea what the last name was. I did not know what
2 Larry's position was at the base. I suspected that he may have
3 been on the base about the time of this offense and may have
4 known my client.

5 And Judge Johnson signed the order. And I felt a
6 little silly asking for it, but he said -- he looked at me and
7 said, "Well, let's see what happens." And he not only signed
8 the order to subpoena, he ordered the FBI to find Larry. They
9 found Larry. They found him that night. They called me around
10 ten o'clock that night saying, "We have Larry. We think we have
11 Larry." He was somewhere out west in like Colorado or something
12 like that. He was on the base at that time. He was -- he fit
13 the description. He did know my client and so forth. They gave
14 me his number. And they said in the meantime they had given him
15 a ticket, since he had been subpoenaed, and he would be arriving
16 on the plane that morning. But they gave me a number where I
17 could call him.

18 I called Larry, and he verified everything my client
19 had said. He was also a military policeman. I then go to the
20 airport with a tape recorder because I wanted to get this on
21 tape before anyone else talked to him. Taped the conversation.
22 Took the tape to the U.S. attorney. Told the U.S. attorney that
23 Larry was out in the hall and he would verify that it was
24 totally wrong, that my client was not involved in drugs and that
25 he just happened to be in the car and he was aware of who it

1 was, the real culprit. They dropped the charges immediately.

2 But for that much access to the criminal -- that much
3 access to investigative power, my client would have been
4 convicted. There is no -- they had the goods on him. There was
5 no way he could have proven his innocence other than through his
6 word. And as far as he knew, these other officers said that he
7 was caught with the drugs. While in that instance Larry had a
8 court-appointed lawyer, the lawyer being myself, because he was
9 poor and he had retained a lawyer who could not afford to find
10 Larry, it would have been impossible to find Larry without the
11 tools of the federal government or some huge investigative force
12 like the FBI. He would have been found guilty. There's no
13 question. And that's the only reason he was pleading guilty.
14 His lawyer, and rightfully so, told him that he had no chance
15 before a jury. His only avenue was mercy of the Court.

16 And I think most judges can tell you that as you see
17 defendants come before you, before the court -- and while I
18 think we're also fully aware that most of them, for the most
19 part, probably are guilty -- but that's not the issue. The
20 issue is are they getting fair representation, especially for
21 that one defendant who may have a Larry out there that they
22 can't find. Inadequate representation, inadequate resources,
23 can be quite critical in the defense of a case. And --

24 MR. MENEFEE: How serious a problem do you find that as
25 a judge?

1 JUDGE THOMPSON: Oh, I think it's a very serious
2 problem. Yes. I think very seldom can a truly -- a defendant
3 who's charged with a serious crime ever afford true
4 investigative tools. I think that's clearly the exception. The
5 O. J. Simpson trial is the exception, as they say, that proves
6 the rule. You have to be very, very rich. Only if you're very
7 rich. And I have seen some clients who have come before me, you
8 know, with good lawyers, with all the paperwork, with the
9 investigative tools, and it can make a difference in the outcome
10 of the case.

11 And some people forget that when we're talking about
12 the outcome of the case, it doesn't mean whether you're guilty
13 or innocent alone. That is an issue. But what happens at
14 sentencing? How well you're prepared to proceed with the
15 sentencing process. But that's a side of the criminal process
16 that I've seen that deeply troubles me.

17 MR. MENEFEE: Has it gotten better or worse in the last
18 20 years?

19 JUDGE THOMPSON: I would say -- I would have to
20 conscientiously and in good faith say that it's gotten better,
21 that with things like public defenders -- I think we have a very
22 good public defender program. And that is, in fact, when I was
23 chief judge, one of the reasons that I so strongly pressed for
24 the public defender was a question of resources, that we should
25 have on board a defense team that has, you know, access to the

1 same investigative tool as does the prosecution. And I think
2 the public defender concept has gone a good ways towards
3 leveling that playing field.

4 Now, the area where it can be most problematic is with
5 habeas law. And you get cases out of state court where I think
6 that there is sometimes questionable -- or it is sometimes
7 questionable whether defendants have received the type of
8 representation through the availability of adequate resources,
9 money, investigative tools and so forth.

10 MR. MENEFE: In the Middle District, it's a great deal
11 of habeas --

12 JUDGE THOMPSON: Oh, yeah, well, I'm sure most courts
13 do, but yeah.

14 MR. MENEFE: With the state prisons.

15 JUDGE THOMPSON: We're not different from any other
16 court in that -- yes. But that is one of the most troubling
17 aspects of the criminal justice system is the adequacy of
18 resources and, along the same lines, the adequacy of
19 representation because quite often lawyers who -- who represent
20 defendants -- because they don't have money, assuming they don't
21 go through the public defender, they can't afford the best
22 lawyer.

23 MR. MENEFE: Tell me about your experience with your
24 judicial colleagues, the other judges. You came on the bench
25 approximately 20 years ago. You practiced for some five or six,

1 seven years, I guess, before -- before that.

2 JUDGE THOMPSON: Uh-huh.

3 MR. MENEFEE: Judge Johnson had just gone to the court
4 of appeals. Who else was with you initially on the district
5 court bench? And what have been your customs in terms of
6 collegial relationships, of meetings and --

7 JUDGE THOMPSON: During those early years, the other
8 two judges were Judge Varner and Judge Hobbs. I viewed myself
9 as getting along with them very well. I enjoyed my relationship
10 with them. They were very friendly judges.

11 I always viewed the Middle District court as a friendly
12 court, that is, the judges get along with each other. You know,
13 you hear these horrible rumors about other courts where the
14 judges don't even talk to each other. They can be in the same
15 elevator, and they won't even acknowledge each other's presence
16 perhaps other than with a gruff. But the Middle District has
17 been fortunate, and the judges on this court have been fortunate
18 that we've had a fairly good relationship, a very friendly
19 relationship. I think even when they've disagreed with some of
20 my rulings, that, in no way, interfered with our relationships
21 among the judges.

22 And then after those judges took senior status -- that
23 is, Judge Hobbs and Judge Varner -- the more recent judges are
24 Judge Albritton and Judge DeMent. And that tradition has
25 continued. And I think it's a tradition that I hope will stay

1 ingrained and will not be lost. There is a conscious effort to
2 make sure that we all get along.

3 MR. MENEFEE: Do you try to institutionalize that with
4 some occasional meetings and quasi-social or social events?

5 JUDGE THOMPSON: We do.

6 MR. MENEFEE: What do you do?

7 JUDGE THOMPSON: We do meet, the three of us. And
8 sometimes it's just a social gathering just for lunch. And
9 then, of course, we do take up court business; and we try to do
10 that on a monthly basis. Then we have what we call court
11 meetings with our magistrate judges involved as well as other
12 court personnel.

13 The magistrate judges, which are fairly new, have added
14 a new dimension to the court. When I was chief judge, my seven
15 years, some of the things I wanted to do, which I think I have
16 done -- and I sort of set the priorities. One was to get the
17 public defender. When I became chief judge, I wanted to get the
18 public defender, and I got that. I did that immediately. And I
19 consider that a significant contribution to the court.

20 The next thing was to expand the number of magistrate
21 judges that we had, and I did that. And with -- in fact, our
22 first black and first -- and then our two female magistrate
23 judges, Judges McPherson and Judge Walker, were all -- those
24 positions were created under me and then were eventually filled
25 while I was chief judge.

1 MR. MENEFEE: And were Judges Coody and Carroll on
2 board?

3 JUDGE THOMPSON: Judges Coody and Carroll were already
4 on board.

5 MR. MENEFEE: Before you were chief judge?

6 JUDGE THOMPSON: That's right. But they came on while
7 I was judge.

8 And the other thing was, of course, building the new
9 courthouse. I wanted to do that. And I spent a significant
10 part of my chief judge years working on putting that together.
11 And, in fact, I just ceased being chief judge about a year and a
12 half ago, so the actual construction -- I'm not supervising, but
13 the getting of the money and the actual design and all that I
14 did. Now, that was interesting too, because we were one of the
15 first courts and perhaps maybe the only court where the judges
16 were directly involved in the actual construction project. Most
17 of these courthouse projects are what they call turnkey projects
18 where they just sort of deliver the court --

19 MR. MENEFEE: Who do you go through?

20 JUDGE THOMPSON: -- to the judges.

21 MR. MENEFEE: GSA?

22 JUDGE THOMPSON: GSA. And when we -- when they came to
23 us and decided that they wanted to -- you know, they were
24 willing to build a courthouse for us, I became very aggressive
25 in making sure that we were involved from the beginning in

1 everything from the selection of the architect to the actual
2 design, the initial design.

3 In fact, when they first sat down here with me and some
4 other judges, I had just become chief judge and we were sitting
5 down with GSA. They wanted to build sort of like an eight-story
6 building on that little square piece of property behind us, and
7 I said no. And I said, Let me go to the city and see if we can
8 close the street, and we will try to buy all the land next to us
9 so that we can maintain the integrity of sort of a four- or
10 five-story building rather than a skyscraper -- relatively
11 speaking, skyscraper -- behind us.

12 And then when it came to the question of the design
13 itself, we were right there and we voiced our preference. And I
14 can, for the most part, say that at each instance our preference
15 was -- won out. And I say that because I've heard that we
16 ruffled some feathers in that process.

17 MR. MENEFEE: Ruffled feathers within GSA, principally?

18 JUDGE THOMPSON: I would -- just generally is what I
19 understand.

20 MR. MENEFEE: Generally?

21 JUDGE THOMPSON: Because, obviously, we took away some
22 other people's authority, you know. We were -- we could be a
23 thorn in the side.

24 MR. MENEFEE: Were you also -- in terms of your
25 relationships with the city, local government, was that an

1 issue?

2 JUDGE THOMPSON: It was an issue. But ironically, even
3 though through my litigation I think I had created some
4 problems, when it came to the actual construction of the
5 building, because everyone had an interest in getting this
6 building built and everyone had an interest in making sure that
7 it was a good building, the city was quite supportive. And I
8 met with the mayor on many occasions. And even though we had
9 had our confrontations, I guess you could say, and I'll put that
10 in quotes in the sense that he had said some things about me
11 and -- rather interesting things at times -- on this issue we
12 were -- we were on the same page. And he was as supportive as I
13 that this project be successful.

14 MR. MENEFEE: Are there -- you mentioned the height of
15 the proposed addition, now almost a reality. Were there other
16 several key design elements or planning elements that you were
17 most concerned with?

18 JUDGE THOMPSON: Well, the circular design was one.
19 You know, they were going to build us a box, and we said that --
20 we said that we wanted more of a circular design. And I also
21 wanted to make sure that it connected with this building. What
22 was critical to me, once we decided to close the street and get
23 the property next door, was maintaining the integrity of this
24 building.

25 I remember when we dedicated the new building -- well,

1 not dedicated -- when we broke ground for the new building, I
2 said that, you know, to me, it was -- it was as if this was the
3 jewel in the crown. You know, the new building is big. It's
4 like a -- in fact, it's circular like a crown. But the
5 historical significance of this building should not be lost.
6 And so I thought that any design concept had to take that into
7 consideration so that in no way would the integrity or beauty or
8 historical significance of this building be lost.

9 Which actually brings up another sort of interesting
10 point. You know, we were talking about being chief judge and
11 what one does as a chief judge. I -- in the process of also
12 designing this building, I spoke with certain people about what
13 we should do with the bus station. And most people said, it is
14 so ugly. I am so glad to see it go. And so I had two law
15 clerks -- actually, one of the law clerks was another judge's
16 law clerk -- who came to me and said, "I consider that a
17 travesty." And, "Judge, you just cannot let this bus station be
18 taken down." And I said, "You really want to save this bus
19 station?" They said, "Yes. What about the historical
20 significance of it?"

21 And so I thought about it. And I said, you know, maybe
22 that's right. You know, one just -- you know, in the process of
23 building things, we so quickly discard old things. So I called
24 up a few people. I called up a number of local citizens and
25 even a historian or two and set up a committee on my own to

1 preserve the bus station. And I was concerned in that process
2 of selling it to the other judges too. And they were concerned
3 that in the shadow of this beautiful building that we would
4 have, we might have an eyesore, that it would be sort of like
5 other historical projects. You know, everyone is excited about
6 preserving it, but no one does anything, actually, to preserve
7 it after it's done.

8 And to give you a little background, this is the bus
9 station where the Freedom Riders were beaten so badly. And this
10 is a bus station where as a result of those confrontations and
11 the Freedom Riders coming down here that integrated blacks and
12 whites on the buses, it led to a lot of the lawsuits and a lot
13 of the laws that led to the desegregation of public
14 transportation. And a lot of it happened right out here. I
15 mean, this is this bus station. It's quite significant in that
16 historical -- in that history.

17 And so I brought these people together and eventually,
18 as a part of my being able to sell it to the other judges and to
19 assure them that it would not be an eyesore, that this was not
20 something that we would turn over to some local organization
21 and, as a result, it would sit there and -- unattended, I
22 convinced GSA to give them a significant amount of money as seed
23 money to support the initial funding for the bus station. And
24 then I had the group commit to getting additional funds from the
25 federal government through the state historical society. And

1 then I brought in the state historical society and got them to
2 sort of oversee what was going on along with this local group.
3 And we met on many occasions right here in this chambers behind
4 my courtroom. So I was working on two fronts. I had to sort of
5 first get this group together and get them active in preserving
6 the bus station. Secondly, I had to sell it to the other judges
7 on my court because, you know, I was only one vote, even though
8 I was chief judge. And we pulled it off.

9 And once GSA got behind us and was willing to give us
10 some money -- that is, General Services Administration -- once
11 the state through its own historical group was able to find some
12 other matching funds, and once this group was able to gel and
13 come up with some specific plans for the preservation, it ended
14 up being a doable project and one that appears that it may be
15 self-sustaining and we won't have an eyesore. And, in fact,
16 we'll have a tourist attraction that will be part of our own
17 complex and clearly not just a positive addition, but quite a
18 significant addition to the whole courthouse.

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MR. MENEFEE: One area you mentioned briefly was the expansion of the magistrate judges, the number. And their role has always, to my knowledge, been quite active in the Middle District.

JUDGE THOMPSON: Yes. Unlike other courts.

MR. MENEFEE: Yes. Would you talk about the evolution of and your view on the role of the magistrate judges --

JUDGE THOMPSON: Yes.

MR. MENEFEE: -- and use in the Middle District.

JUDGE THOMPSON: Yes. That has primarily occurred under my tutelage as chief judge again. And I strongly believed in the use of our -- aggressive use of the magistrate judges. I thought they had a lot to add to the court. Through most of that tenure, my tenure as chief judge, we had one of the highest caseloads in the country. I think at some point we were number two in the country. We're still within the top ten. And our magistrate judges were a vehicle for the effective disposition of cases.

Along with that, it was critical that we get good magistrate judges. I remember when Judge Carroll's nomination as a magistrate judge came up. Here was someone who had excellent credentials. It was important that we keep out of the process politics where it was a question of appointing the nephew of some important -- cousin of some person who was close

1 to a judge. I was -- felt very strongly that it should be a
2 merit-based scheme for selection. And I think it has been. And
3 I think we're fortunate to have four very good magistrate
4 judges, all of whom are well respected by the local bar and I
5 think have been a tremendous help to our court. And we are one
6 of the few courts that utilize magistrate judges that
7 thoroughly.

8 And indeed, while I was chief judge, going back, it's
9 kind of interesting too, we were one of the first courts to have
10 more magistrate judges than district judges. And this is sort
11 of an example of when someone says, you can ask -- you know, if
12 you don't ask for something, you'll never get it. And I was
13 told that we would never get four magistrate judges because we
14 only had -- well, actually, the first thing I was told is we
15 would never have three magistrate judges because there was a
16 fear that each magistrate judge, if you had three magistrate
17 judges along with three district judges, would become a super
18 law clerk for each district judge. So there was a rule of thumb
19 that a court could never have as many magistrate judges as it
20 had district judges. And I asked for three, and it was just a
21 matter of going to Washington, which I did a lot of. And --

22 MR. MENEFEE: Did you work mainly --

23 JUDGE THOMPSON: -- we were able to pull that off.

24 MR. MENEFEE: I'm sorry.

25 Did you work mainly through Senator Heflin or --

1 JUDGE THOMPSON: No. You actually worked through your
2 council and you work through GSA and --

3 MR. MENEFEE: I see.

4 JUDGE THOMPSON: I mean -- yeah. The AO is what you
5 do. And then when it came to four, we were the first court to
6 do that maybe along with one other court, that we would actually
7 have more magistrate judges than district judges. And, again,
8 it was a question of just asking because, you know, if you -- if
9 you call them up on the phone, the initial response was no, that
10 that just cannot be. That's a rule of thumb.

11 MR. MENEFEE: Give me -- discuss the use of law clerks.
12 How have you selected them? What's been your experience?
13 You've always --

14 JUDGE THOMPSON: Law clerks.

15 MR. MENEFEE: Yes. And what's been your relationship?

16 JUDGE THOMPSON: To be very honest with you, I think
17 law clerks are probably the best part of this job. They bring a
18 freshness to the job each year that I think is healthy for a
19 judge. While you have to train these law clerks each year, the
20 payoff is, though, that you get new ideas. You get someone on
21 board who's looking at this for the first time. It keeps the
22 judge from becoming jaded. I know some judges have moved to
23 permanent law clerks or law clerks for two or three years. I
24 view them as extended family, and I -- I really consider them a
25 tremendous benefit to my ability to judge and, on a personal

1 level, just a real pleasure. I now have three law clerks. I've
2 gotten an extra law clerk from one of the senior judges. But
3 for the first -- up -- well, up until about maybe four or five
4 years ago, I had two law clerks per year.

5 MR. MENEFEE: And describe some of the social relations
6 and -- that you've -- how -- how have you --

7 JUDGE THOMPSON: Well --

8 MR. MENEFEE: What are your customs with law clerks?

9 JUDGE THOMPSON: Well, we tend to go to lunch every
10 Wednesday, but it's not quite that formal. My law clerks come
11 over to my house. You know, it's sort of like they're not
12 company, so they don't come in the front door. They come in the
13 back door, which is where we all enter, all family. So I view
14 them as extended family.

15 I see my law clerks a lot. When I travel around the
16 country, I visit them. I was recently in New York. I will call
17 my law clerks, I will have lunch with them, and we will go out
18 socially.

19 In a way, I'm sort of fortunate. Because I was 33 when
20 I was appointed, I actually have a cadre of law clerks who are
21 within ten years of my age. So I have law clerks who are in
22 their forties. And to some degree, while they still call me
23 "Judge," as time has gone -- and you know how, as you get older,
24 people -- your ages tend to get closer? -- we're actually quite
25 close in age and quite close in the sense of career, what we've

1 done with our careers. So if I go visit law clerks, you know,
2 some of my law clerks are grayer than I am. You know, some of
3 them have kids who are grown. I have law clerks who have kids
4 who are in college, probably out now, or getting out. In
5 fact --

6 MR. MENEFEE: Any of them on the bench?

7 JUDGE THOMPSON: No, I don't have any law clerks who
8 are actually on the bench yet. I've had some who have been
9 considered, but I don't have any judge law clerks. I have some
10 whom I think will definitely become judges, but I guess they're
11 reaching that age now where they would probably be ready. That
12 is something to think about. I mean, they're at an age where
13 they're in their forties and late thirties.

14 MR. MENEFEE: Not like a 30 appointment.

15 JUDGE THOMPSON: But not like a 30-year-old
16 appointment, no. Thirty-three at that. But they're reaching
17 that point, and I'm still at a relatively young age too.

18 So when I see them socially, you know, we go out and we
19 do things together. And it isn't always as if it's -- you know,
20 it's sort of like an old man sort of taking a young man out, you
21 know, when you sort of lecture to him for a while and tell
22 him -- give him -- share your wisdom. Because we're so close in
23 age, I think it's more of an equality than -- in our
24 relationship.

25 And, in fact, I -- with these two new children, I

1 actually have children younger than a large number of my law
2 clerks. If we were all to get together, I would actually have
3 younger children.

4 MR. MENEFEE: Do you occasionally have reunions?

5 JUDGE THOMPSON: Yes. And --

6 MR. MENEFEE: Any regular frequency on that, or just
7 occasionally?

8 JUDGE THOMPSON: Well, actually, we've only had one,
9 one at 15. I'd like to do one at 25. I've been so busy this
10 year. And the law clerks want to have it, and I've -- I think
11 I'd rather do it at 25, though.

12 And I do see them with such tremendous frequency. It's
13 not as if I don't see them and that they come down here. I
14 mean, literally when we -- when I'm in town -- and they do come
15 see me. I probably have a law clerk who comes to town to visit
16 and stay -- we have a law clerk room at our house. We call it
17 the law clerk bedroom. And I would say probably once every two
18 months we have a law clerk who's staying there on some occasion.
19 I just went to Atlanta two weeks ago, and I saw all the clerks.
20 We went out and went to a baseball game with the kids with a
21 couple of law clerks and their families.

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ELEVENTH CIRCUIT

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MR. MENEFEE: Well, speaking of Atlanta, that was my next subject. The Eleventh Circuit. I was trying to remember when the -- when that divided.

JUDGE THOMPSON: 1981. 1981.

MR. MENEFEE: So just as you got on the bench.

JUDGE THOMPSON: About a year after that. Yeah.

MR. MENEFEE: How has the court of appeals changed from your observation? And what's been the relationship, if any, that you could describe?

JUDGE THOMPSON: I've sat on the circuit and I enjoyed it, but I really do consider myself a trial judge. I really like trying cases.

Obviously, it's changed. I mean, the old court, the old Fifth, and to the degree it became the new Eleventh, dealt with social changes that I guess, in the eyes of some, are probably no longer as pressing as they were back then. To some degree, I guess the shift in courts of the Eleventh Circuit reflects the shift that has occurred on many courts, whether it's Supreme Court or the Eleventh Circuit or even at the district court level.

You know, I -- I'm talking to my fellow judges here, and we're talking about remand. I'll just use -- because it's sort of noncontroversial -- whether to remand cases to state court. And I was reminiscing. I said, "You know, when I came

1 here 20 years ago, plaintiffs' lawyers wanted to be in federal
2 court and defense lawyers wanted to be in state court." And
3 some of the judges, you know, say it's defense lawyers who want
4 to be in federal court and maybe plaintiffs lawyers want to be
5 in state court. And I was reading some of the Eleventh Circuit
6 opinions, you know, and I'm saying to myself, you know, the
7 degree to which quite often decisions really, truly reflect the
8 times and how some of those decisions, if they had been handed
9 down 15 years ago, I think, could very well have been different.

10 MR. MENEFEE: Could have --

11 JUDGE THOMPSON: Issues like remand, you know. You
12 know, how -- where the judges come from. And so I was talking
13 to my fellow judges. You know, I said, I sit here, and, you
14 know, I haven't changed. Sometimes the court of appeals has
15 changed and sometimes circumstances around me have changed. And
16 I -- of course I follow the law, but I also say, you know, the
17 pendulum swings both ways. And that's one thing that I -- that
18 I guess 20 years on the bench has really given me, is the notion
19 of patience and that while some people might say, well, you
20 know, this is a reading of the law and, you know, the sky is
21 falling, you know, the pendulum really does swing one way and
22 perhaps goes too far. I mean, I have never viewed myself as a
23 know-all and assuming that my view of the law is the way the law
24 ought to be. I think that it's important that there be
25 counterbalancing views. And it keeps me in check and, to some

1 degree, I hope that I keep others in check. But the pendulum
2 does swing back and forth, and I think that's a healthy part of
3 the law.

4 So when we talk about, you know, the Eleventh Circuit
5 or we talk about any court, those shifts are probably healthy
6 shifts. Perhaps what would really be frightening is if the
7 court remained static and did not reflect to some degree the
8 changing times and the current needs.

9 MR. MENEFEE: Is there a difference in -- have you seen
10 a difference in -- to the extent the court is either more or
11 less supportive of district -- of the trial judges, that is, in
12 deference to --

13 JUDGE THOMPSON: I think to some degree that depends
14 upon what's going on. And to some degree, when I make that
15 comment, you know, I'm biting -- you know, I'm chopping off my
16 own nose because I'm saying that, you know, obviously, I'm being
17 held in check too. You know, maybe I would like a static court
18 that purely viewed my view of the law.

19 But I think that once you become a judge, I think what
20 should overrule everything else is principle. And I have a
21 strong, abiding faith in the process itself. In fact, I don't
22 think I could work within the process if I didn't have that.
23 And so I think overall, the process works. Isolated cases, it
24 may not. In isolated cases, I think it clearly fails. But when
25 you look at the overall picture, I think that -- I think the

1 process does succeed.

2 MR. MENEFE: And is that sense of faith in that
3 process stronger today than it was 20 years ago, about the same,
4 or --

5 JUDGE THOMPSON: Probably stronger.

6 MR. MENEFE: Uh-huh. Wisdom.

7 JUDGE THOMPSON: Because it's based -- I think 20 years
8 ago, it was a matter of faith. Now I think it's based more -- I
9 can actually look at -- I have some empirical evidence that it
10 is true. It's not totally just a question of faith. When I was
11 young and sort of starting out, it was a question of faith. Now
12 I think it's -- I think I have something to back it up.

13 MR. MENEFE: Well, what observations would you make on
14 the Supreme Court and changes you've seen there over the --

15 JUDGE THOMPSON: Same observations.

16 MR. MENEFE: Same.

17 JUDGE THOMPSON: You know, whether we're talking about
18 particular justices or the Court as a whole -- you know, they
19 talk about the Warren Court. They talk about the Rehnquist
20 Court -- the genius behind this system is that -- ironically, is
21 that those courts will pass, just as I will pass. And you have
22 to keep in perspective what has happened over a period of time,
23 over a period of 50 years, over a period of 60 years, over a
24 period of 70 years.

25 MR. MENEFE: Well, any particular thoughts on the role

1 of Clarence Thomas on the Supreme Court, in particular?

2 JUDGE THOMPSON: Actually, when I -- when I think about
3 Clarence Thomas, I guess someone who's listening to this might
4 be curious as to why you happened to bring up Clarence Thomas.
5 It's sort of -- the question itself raises a question.

6 MR. MENEFEE: Fair enough. I understand.

7 JUDGE THOMPSON: When I was first appointed as a judge,
8 some people were curious as to whether, I guess for lack of a
9 better word, I was going to be either conservative or liberal.
10 And -- for lack of better words. Because I guess to some
11 degree, I had never shown my hand. I mean, I did have a civil
12 rights practice, but I was never on the front lines. I never
13 really demonstrated -- and I told you the story about my mother
14 and about my sort of taking traditional views of the law,
15 traditional views of how one progressed. I worked on Wall
16 Street. And I really wanted just to be a hip-pocket lawyer,
17 which there was nothing unusual about that, when I came back to
18 Alabama. And several people actually approached me.

19 And when I went up to New York to meet with a number of
20 politicians -- it happened at the time I was being appointed,
21 they were having the Democratic Convention and Carter was, of
22 course, being renominated. And many of the lawyers just were
23 saying that while they knew me, they had no idea what my
24 political views were. And, in fact, because they didn't have
25 any ideas of what my political views were, they thought that,

1 more than likely, I was a closet conservative. And I refused to
2 allay that concern because I didn't think that that was an
3 issue. I thought that what I hoped to bring to the bench was
4 just an intellectual integrity. And I was just going to let it
5 play out the way it played out.

6 Getting back to Clarence Thomas, to me, I guess what I
7 would say is for those people who are opposed to him, I just
8 think it's time to get over it. I mean, I think each of us is
9 entitled to have his own views. He's chosen his views. You
10 can't knock a person for having views. You can disagree with
11 them and you can complain about them; but to keep going back and
12 sort of rehashing those old concerns, to me, is not very
13 fruitful. I mean, he's made clear what his views are.

14 I think it's important that we all maintain a sense of
15 proportion, that we have to believe in the system itself.
16 Clarence Thomas is not the Supreme Court, nor is any justice the
17 Supreme Court, nor am I this court. To me, I follow -- assuming
18 he writes a majority decision, I follow it. I think that's the
19 role of the judges. I think that's the role of the lawyers.

20 Now, having said that, what history will say about him
21 or what -- the degree that -- you know, blacks and whites who
22 may have a particular interest in what he did, of course, they
23 have free play to write about it in years to come. But insofar
24 as to lament his having been appointed to the Supreme Court,
25 that, to me, is a moot issue. And the thing now is to -- if you

1 ever get him on a case is to convince him to rule your way.
2 Now, you may know what your probability is, just like you know
3 what your probability is of getting Breyer or getting Ginsburg
4 to rule in your favor or to getting Scalia. On some issues you
5 may feel it's a close issue; on some issues you may feel it's
6 lost. But that's just part of the process. And I guess the --
7 for me, the issue is just to get over it and let's move on.

8 MR. MENEFEE: To get back more grounded in the district
9 court area, what have you -- have you developed any philosophy
10 or theories on encouragement of settlement and alternative
11 dispute resolution, mediation, arbitration, those kind of buzz
12 words today?

13 JUDGE THOMPSON: Yes. Not really. I don't really
14 press settlement that strongly. I think judges get very close
15 to the line when they get really involved in settlement
16 discussions, and I try to stay away from that. I also think
17 that you can raise some severe ethical problems when you really
18 get too enmeshed in settlement.

19 And I've actually -- I've been indirectly burned on
20 that in some other cases where lawyers, after -- especially on
21 some of my institutional cases when relationships break down,
22 then lawyers can turn on the judge. Judges have to be very
23 careful when you start getting too enmeshed in things like that.
24 The case doesn't always go away. And then you might find
25 yourself with egg on your face insofar as what you may have said

1 during some settlement discussion. So I try to stay neutral and
2 I try to stay out of the process.

3 Secondly, you know, we -- it's hard sometimes for
4 judges to really say that they forget something they've heard in
5 the process of settlement discussions. I remember a case once
6 where the lawyers were sitting before me. I did not solicit
7 their response, but one of them blurted out what the settlement
8 offer was. We went to trial. They did not settle. I then had
9 the case before me on remittitur. I remitted the case to the
10 exact amount, according to the lawyer, that had been said to me
11 in chambers. I did not remember the discussion. I do not
12 remember the lawyer ever having said that amount.

13 Two things. Did I -- did I compartmentalize it and
14 resort to my subconscious? You know, you can put me under
15 hypnosis and find out. All I can tell you is I don't remember
16 it. But perhaps even more importantly, the fact that it was
17 said before me in this conference, assuming -- I rather suspect
18 the lawyer was telling the truth. It was a lawyer I would
19 respect. And he actually said it jokingly. He wasn't really
20 being that critical. And I actually told him I didn't remember
21 it, because he blurted it out. I didn't solicit it.

22 I think that to the degree I may -- if I had solicited
23 that response, if I, in fact, believed that the case should be
24 remitted, it would have undermined the independent -- my
25 independent assessment of the case based on what I heard at

1 trial. Even if it was pure happenstance, it was serendipity
2 that we suddenly came up with the same two figures, the fact
3 that he knew that I had heard it undermined the fact that I had
4 come up with this -- with this other figure. If I remember
5 correctly, that case eventually settled.

6 But that's just an example to me of how judges can open
7 themselves up and how maybe subliminally they can be affected,
8 even though not consciously. And even if they're not aware
9 sometimes and even, in fact, if they don't necessarily take into
10 consideration what they've heard during settlement discussions,
11 in a later process of resolving the case I think it can
12 undermine the appearance of an independent decision.

13 MR. MENEFEE: Judge, over the time you've been on the
14 bench, what do you see as the most significant changes in trying
15 cases in terms of rules of discovery and procedure, use of
16 perhaps expert witnesses, pleading and practice? Where is that
17 going?

18 JUDGE THOMPSON: Trying cases. Without question,
19 lawyers are better. Another factor that has made them better is
20 the law has become so complex. To try a simple Title VII case
21 is procedurally and analytically unbelievable. And if it's
22 against the State, you've got so many analytical issues from
23 Eleventh Amendment immunity, qualified immunity, whether you've
24 exhausted your administrative remedies, EEOC. I mean, it's just
25 a host of issues before you ever even begin to approach the

1 merits of the case. You know, prima facie case. Shifting
2 burdens of proof. This is on a simple Title VII case as to
3 whether someone was fired for an illegal reason. If it's a
4 disability case, you complicate it even more.

5 So a young lawyer who wants to bring a simple Title VII
6 case can't do what I did 20 years ago, 25 years ago when I was
7 practicing law. And I remember the judge would just say, you
8 know, well, I find your reason to be pretextual or not. You
9 just have so many issues out there to address that it's just
10 daunting. But that's not true just -- it's true of some other
11 areas of federal law.

12 You know, I don't have a solution to that problem, but
13 I would say that I think simplification of the law is something
14 we've just very much lost sight of. In that sense, cases -- how
15 cases are tried has changed.

16 Discovery I think is much more under control. I think
17 there was a period of time when it may have been a little bit
18 out of control and people were filing boilerplate discovery
19 requests. We see less and less of that.

20 Actual trials themselves, I think with computers, with
21 other court-assisted gadgets, I think it makes for a much better
22 and more focused -- more focused litigation and a better effort
23 to get at the truth. Obviously, it all boils down to whether
24 you believe the witness. But insofar as getting documents
25 before the jury or the judge in an efficient and an unexpensive

1 way, I think we're better at it.

2 MR. MENEFEE: You mentioned that you had occasionally
3 sat with the Eleventh Circuit. And, of course, you've been on
4 three-judge panels.

5 JUDGE THOMPSON: Seems like three-judge panels all the
6 time. It seems like there's one going on all the time.

7 MR. MENEFEE: How do you -- do you enjoy that type of
8 necessary collegial interaction in a three-judge court? Maybe
9 trial court and a three-judge court or on the appellate level.
10 How does that contrast with you sitting as a sole judge in a
11 trial court?

12 JUDGE THOMPSON: Well, at the appellate level where
13 you're purely an appellate judge, it's really much more
14 detached. And also, you're generally looking at principles.

15 As a single judge, trial judge, your discretion is just
16 so broad, whether it's fashioning a sentence -- I mean, are you
17 going to give this person three years? Are you going to give
18 him five years? Are you going to place him on probation? All
19 of those decisions can probably be upheld on appeal. I mean, it
20 can be that wide-ranging within the confines of the guidelines.
21 I'll get to that in a minute. But nonetheless, even within
22 those confines of the guidelines, you can make a tremendous --
23 you can make a difference in how the outcome -- what the outcome
24 of the case can be.

25 And even in a simple employment case, you know, to some

1 degree you have discretion as to, you know, reinstatement, how
2 the case will progress, defining the direction of the case. Or
3 voting rights cases. One of the troubling aspects of that is
4 the fact that the trial judges have so much discretion in
5 fashioning the remedy. In that sense, it's a bit more daunting.

6 A three-judge trial court is sort of a little bit of
7 both, because you do fashion remedy there. The difference is
8 you get the touch of the appellate court because you have to at
9 least get one other vote, yet you still have the touch of the
10 single judge because you fashion a remedy. And you have to get
11 at least one other vote to exercise that discretion.

12 MR. MENEFEE: Does that get quite cumbersome --

13 JUDGE THOMPSON: Yes, it can be.

14 MR. MENEFEE: Three-judge -- and particularly -- just
15 the routine --

16 JUDGE THOMPSON: Long trials. Yes, the routine of a
17 trial ties up three judges. Getting our schedules together --
18 you know, we're all busy. We all have caseloads. And for us
19 all to come in there and try a case can be rather difficult for
20 the parties. You're trying to get all these people. It's
21 different when you have an oral argument and an appellate judge.
22 You're talking about 30 minutes you have to be together. Here
23 you can be together for weeks at a time. And that really does
24 tie up judicial resources.

25 MR. MENEFEE: Judge, I think my last question I'd just

1 asked your -- for this interview would be to look to the future.
2 What professional ambitions? Do you aspire to go to the court
3 of appeals or Supreme Court? How do you see -- and how do you
4 see the courts evolving over the near-term future?

5 JUDGE THOMPSON: Well, being 53 years old, many people
6 get appointed as trial judges at my age. I really enjoy this
7 work. I really enjoy the trial work. I would, to some degree,
8 see any -- you know, going to the Eleventh Circuit or something
9 like that as an easier job, to be very honest with you, much
10 easier job. And I do enjoy the activity. I enjoy going to
11 court. I enjoy the high drama of what goes on in court. I
12 enjoy the people. I enjoy -- I don't get to touch the flesh
13 like the lawyers do, but I get closer to it than an appellate
14 court would or an appellate court judge would.

15 No, I am comfortable where I am, and I would be
16 satisfied being right here. The only difference that I make is
17 that I try to -- I enjoy teaching, and I may do some of that in
18 the future. I probably would like to do a bit more writing.
19 I've thought a lot about some of the things I would like to
20 write about in the area of law, just subjects, different
21 subjects.

22 MR. MENEFEE: There's not much provision for
23 sabbaticals.

24 JUDGE THOMPSON: Not really. No. Some courts are
25 beginning to do it. They realize that allowing judges to take

1 time off is to the benefit of the judge and to the court. Large
2 courts can do this more easily than smaller courts because the
3 impact is -- can be diffused. If you have an 18-judge court and
4 you redistribute that judge's cases for a year, then you're
5 talking about each judge getting maybe, you know, just a handful
6 of cases or maybe 20 or 30. For a small court like ours where
7 we each have, you know, close to 300 cases, plus or minus,
8 that's not so easy to do. It's one thing for me to call on the
9 other two judges and ask them to take on another 150 cases when
10 they're already overworked with cases. So I don't know what the
11 solution would be. Not -- I think the Chicago District Court
12 actually does have somewhat of a semi-sabbatical that a judge,
13 every five or seven years, can take off six months, perhaps even
14 as much as a year, by prearrangement. I don't know -- that
15 would be almost not feasible for a small court.

16 MR. MENEFEE: Thank you.

17 JUDGE THOMPSON: Thank you.

18 MR. MENEFEE: Very much.

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REPORTERS' CERTIFICATE

We, Patricia G. Starkie and Risa L. Entrekin,
Registered Diplomate Reporters and Official Court Reporters for
the United States District Court for the Middle District of
Alabama, do hereby certify that the foregoing 151 pages contain
a true and correct transcript of the interview of The Honorable
Myron H. Thompson in the City of Montgomery, Alabama, on
April 10, 2000.

In testimony whereof, we hereunto set our hand this
11th day of August, 2017.

/s/ Patricia G. Starkie
PATRICIA G. STARKIE, RDR, CRR
Official Court Reporter

/s/ Risa L. Entrekin
RISA L. ENTREKIN, RDR, CRR
Official Court Reporter