

1 UNITED STATES DISTRICT COURT

2 MIDDLE DISTRICT OF ALABAMA

3  
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. MENEFEE: 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. MENEFEE: 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. MENEFEE: 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. MENEFEE: But you're saying the Tuskegee University  
14 community was all black?

15           JUDGE THOMPSON: Yes.

16           MR. MENEFEE: 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. MENEFEE: And what schools did you attend?

24           JUDGE THOMPSON: When I was growing up?

25           MR. MENEFEE: 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. MENEFEE: Lillian Glanton?

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

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

6 JUDGE THOMPSON: Yes, and my mother.

7 MR. MENEFE: 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. MENEFE: 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. MENEFE: 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. MENEFE: 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. MENEFE: 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. MENEFE: 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. MENEFE: He was the --

21          JUDGE THOMPSON: I know who Sam Engelhardt was.

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

23          JUDGE THOMPSON: Yes.

24          MR. MENEFE: -- 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. MENEFEE: 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. MENEFEE: Then did you have any obligations for  
17 military service?

18 JUDGE THOMPSON: No.

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

22 JUDGE THOMPSON: I still did it.

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

24 JUDGE THOMPSON: I --

25 MR. MENEFE: 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. MENEFEE: 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. MENEFEE: 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. MENEFEES: I guess his last term from '82 to '86 --

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

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

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

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

10          JUDGE THOMPSON: Okay. Then --

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

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

13          MR. MENEFEES: And then '86 --

14          JUDGE THOMPSON: Right.

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

16          JUDGE THOMPSON: Right.

17          MR. MENEFEES: -- about two terms.

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

19 That's right.

20          MR. MENEFEES: But that was brief.

21          JUDGE THOMPSON: Yeah. Yeah.

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

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

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

The voting rights cases generated a lot of letters. Actually, I got some letters from other judges on that. And one judge accused me of having usurped the authority of other districts because they were all being brought here in Montgomery. Actually wrote me that. And then there were some editorials in North Alabama that one judge sent me where someone said that the blood of somebody was on my robe and so forth 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. MENEFEE: 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. MENEFEE: 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. MENEFEE: 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. MENEFE: 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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**MAGISTRATES**

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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