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12 March 86

ACR Review  
at 246 Drksey  
8 April 8, 1986

before  
investigators

Testimony of Paul F. Hancock  
employed by Cr. Rights Div DOJ since 1970  
worked w/ JF in civil rights cases prosecuted  
in SD Ala where JF is US Atty

12 Cr. Rights asked FBI to do investigation re: voting  
rights in Conecuh Co

11 "foggy" recollection that US Atty instructed  
local FBI office not to proceed w/ investigation  
"I mean in fairly confident that the investigation  
was not conducted at Mr. Ferrino's  
request." Deann Ferrino recall who told him.  
Says he spoke to Sessions who confirmed it.

20 "my recollection is really not clear"

lawsuit re: desecration against black voters <sup>persons</sup> in Conecuh  
who deserved to work at polls filed & settled by court

23 Other experience w/ Ferrino? — <sup>no other similar exp.</sup> "Mr. Ferrino  
has been very cooperative and has not  
interfered w/ our litigation. <sup>at all</sup> " <sup>actively</sup>  
Cr. Rights brought as many cases in SD Ala  
as any district.

24 "he has regularly been a very good help to us  
in getting things done"

25 "regularly offered assistance to the Civil  
Rights Div. & on

25 never heard Sessions make usually  
insensitive remarks.

## Testimony of J. Gerald Hebert

W/ DOJ since Aug 73 - senior trial atty  
in Civil Rights in Voting Section

considerable interaction w/ Sessions in Mobile  
1981. (Voting rights)

30 back in 81 a little opposition from JS  
thought cases didn't have much merit

33 JS said he thinks "business cases have gone  
too far." He told me he thought that we  
are really making a mistake driving white  
people out of public education.

34 voter fraud -- JS said prosecute them  
whether they were white or black.

35 if they violated the law

36 private white lawyer [James Blackshire - white]  
He's grace to race for handling civ. rights case  
"he said, well, maybe he is."

37 couldn't tell whether JS joking or not

38 in context of voting rights cases, JS said ADAAP  
and ACLA "un-American"  
"He said that he thought they had more honor  
than food when they were trying to force civil  
rights down the throats of people who were  
trying to put problems behind them."

39-40

"Communist inspired" re: NAACP or ACLU  
"I might add that when he made that comment about the NAACP on one of the occasions, he sort of ribbed me about it and followed it up by saying well, of course, you already know how I feel on that, and he just laughed."

41

JS never interfered in prosecuting any of Herbert's civil rights cases.  
no problem w/ cooperation

42

only other instance of non-cooperation w/ DOJ was Concul City (refer to Hancock)

43

Believes that JS thinks that getting away with racially discrim. reasons is a definite way blacks are harassed.

45

"The general impression I get when we talk about racial questions is that he is not a very accounting person when it comes to race relations."

48

has report or "conféradie" w/ JS -- yes

Testimony of Albert S. Gleason

51

tr. atty for DOJ Crim. Section (off. Civ. Rights) pursued investigation in SD Ala worked up JS

said he worked in DOJ and Civil Rights since 11 Jan 62

prev. law clerk to Sen U.S.D.J. (Oregon)

Donald Case (grand jury investigation)

55 Klaw comment -- "involving some joke about it"

56 re: Klaw using drugs, no longer has eyes

56 This was a joking reference -- no impression because just a joke  
Benny Kowalski and Thomas Figures and JS parent

59 respect for Klaw comment "said in jest"

60 never heard JS make any other similar remarks.

60 JS cooperated in investigation of Donald case "as fully as possible" in all respects... from start to finish.

62 very positive on JS competence, work & cooperation

Testimony of Daniel L. Bell

employed DOJ since 1970. Deputy Chief of Crim Section of Civil Rights Div.

66 knows JS from crim prosecutors in PD Habang in 77 or 78 when JS was AUSA "was quite helpful to me in the prosecution of Purice"

66

"my impression of Mr. Sessions is that he is very eager to pursue criminal civil rights cases..."  
~~not be actually~~

67

prosecution of Sheriff in Mobile City and 8 deputies for deliberately setting up ambush + murder of black inmate.

Very unpopular case in Mobile -- even people in US Atty's office were not friendly to prosecution. But US Atty and JS "were all very helpful to the prosecution."

68

~~Call~~ <sup>inquired</sup> called upon JS for help on case

69

Call: JS' help beyond call of duty because case not directly assigned to him.

(note: case resulted in acquitted (travesty))

72

never heard JS make racially insensitive remarks

JS absolutely cooperative and interested in handling these cases

13 March 86

Before  
Comm.

Jefferson B.

Testimony of Sessions, III

- 5 Kennedy: JS role in Perry Cty voter fraud case should bar judging
- 14 Denton: key complainants in Perry Cty case were black  
81 case: Randolph Cty 11 indicted (one black)  
3 convicted (all white) including Sheriff  
83 case: Bullock Cty black constabularian, indicted →  
pleaded guilty to voting rights violation  
84: Marshall Cty <sup>one</sup> white indicted & convicted on  
charges similar to those in Perry Cty.
- 22 as US Atty filed 17 cases to judgment:  
2 judges, lawyer, bail bondsman, bank pers,  
lawyer, state senators
- 24 SD Ala has best record at 11 Civ.  
of all Districts in Ala, Geo. Tenn + Miss  
& Northern Atlanta
- 25 State  
1988-83: pre dominantly black grand jury issued  
report: election tampered to Perry Cty;  
tampering, intimidation, abuse of absentee  
process. encourage vigorous prosecution  
of voting laws request federal agency to monitor.  
Report signed by the foreman (black)
- o/He reviewed relevant state materials &  
decided not to bring case

around Sept 84 JS' office had investigators  
in Penz City

27 729 absentee ballots at 4,000 total votes  
27 night before election Turner deposited  
347 ballots, Hogue: 170 ballots

30 "Xed"  
ballots had names crossed out  
indicating that ballots had been opened

Ballots picked up from voters by Turner  
voters said votes changed  
(black candidates switched for other blacks)

There was a pattern in the changes

53 re: bumpy witnesses to grand jury in Mobile

54 JS "when org like the Nat'l Council of  
Churches gets involved in political activities  
and int'l relations that people consider to be  
un-American, they lose their moral authority  
and ability to function, or to speak w/  
authority in the public because  
people see them as political"

↳ in conversation w/ former Asst UA  
Thomas Figures.

JS' church, United Methodist, gives  
money to NCC

Also went on to say "NCC and other  
civil rights orgs, when they leave the basic  
democratic questions and start getting into



matters such as foreign policy and things of that nature and other political ~~major~~ issues -- and that is probably I should not have said, but I really did not mean any harm by it."

55 "I certainly do not think the Nat'l Council of Churches, and certainly not the NAACP, as being an un-American organization. The [NAACP] - that organization has, without question, done more than probably any other organization to promote racial progress in the South." ... "I respect that organization."

56 Klan comment re: post -- a joke  
"the Klan is a force for hatred and bigotry"

57 Deaver making comment "Black people are the children of white people."  
Deaver: "you ought to be careful what you say to white folks"  
Said: you ought to watch what you say to folks -- Figures made witty comment to sec'y. but her feelings.

58 inexcusable to him he ever would have said NAACP was "pink" Maybe he said it about less church (are protest) -- which was awful thing to say and not true

59

JS - / don't tell racial phob or derogatory terms " / do not believe in that."

59

believes voting rights act is not some piece of legislation, but believes necessary (w/ US Fed Gov.) for racial progress to have been made. led to good results. Problems would not been worked out on their own.

70

re: disgrace to his race: JS does not believe that comment & seem to know why he would have said it

79

Comm. Hee's investigative <sup>(majority)</sup> team included Sessions "well qualified" Sen. B. Key said Min. investigative team (Gowan) - didn't include that - pay still out

Earl Biden refused to put? and watt comments led to resignation

83

denies calling someone a "nigger"

JS didn't hire any black attys and only black clerical staff hired after he knew of possible judging

5 - Attys hired (5 on staff at any given time) figures stayed 4 yrs

95 doesn't deny "insignia to race" comment only because Herbert would not have said otherwise  
doesn't recall it really

98 Has great respect for Blackship  
conversation was JS saying positive things about him

103 re: kind of activities NAACP shouldn't get into -- note fraud case they entered was not racial. Not a civil rights issue was a political issue

doesn't recall ~~the~~ "force civil rights from the throats of people" comment  
position

107 un-American" came up w/ "foreign policy & issues"  
→ sanctuary, Sanders is talking about Nat'l Council of Churches revolutionary theology

113 doesn't say ACLU and NAACP were un-American

114 JS supports Voting Rights legislation

Testimony of J. Gerald Herbert

trial atty Wright DN.

122 re: prosecuting irregular cases in SD Ala  
"And yet I have needed Mr. Sessions' help in more cases and he has provided that help every step of the way."

JS was particularly helpful AS Atty

125 some JS comments "showed a racial resentment"

126 resentment never "affected" his ability to do the job as U.S. Attorney and to help the Civil Rights Division.

Hebert troubled by use of his statement to depict JS as racist

127 no difficulty w/JS in cur. right cases in contrast to other US Atty

130-31 recalled of one early city investigation conversation was between JS and Hancock

133 re: ~~facts~~ "disgrace to his race" JS smiled when he said it (didn't laugh) but ~~was~~ was not serious

135 Hebert would certainly raise the issue to try to excuse JS in cur. right case

response to Sen Denton Q

142 Herbert: "I do not think JS is a racist"  
doesn't know whether JS would be prejudiced  
on bench

143 would believe JS if he says he will enforce  
the law as judge

SESSIONS testimony re: Connelly

144 The FBI investigation was done  
and forwarded to Dept (Civil Rights)

153 <sup>session</sup> The FBI agent who did investigation  
completed it and reported and said  
no other instructions from JS

190 JS denies saying he wishes he could  
decline all civil rights communal cases  
to contrary, feels strongly about that

197 denies wanted to drop Donald Hillis  
case by KKK

March 18

Testimony of Benny F. Kowalski  
before investigators

at DOJ since 1960  
Cir. Right Div. Crim Sec.

BFK involved w/ JS on Donald case only

never told by Figures that JS opposed  
Grand Jury investigation of Donald case  
Rather, Sessions approved it

12) Klan joke "I thought, it was unfair  
that that remark was being held  
as a serious remark when it was clearly  
me it was a joke."

14 doesn't think Figures was present when  
remark made

17 JS "I thought Mr. Sessions could not  
have been more supportive than he was of  
our efforts in the Donald Grand Jury  
investigation..."

18 "Very cooperative"

19 #Klan joke: "operating room humor"  
ridiculous remark

BFK told Figures about the joke

21-22 BFK: "I believe I had a fairly good  
opportunity to work with Mr. Sessions on a  
complex, sensitive, highly controversial  
civil rights case, and in the course of working  
with him, I became convinced that he was  
dedicated to making sure that that case

was prosecuted, if it could be, and he gave my office all the support conceivable to help make that prosecution occur and he gave me my respect in that process."

March 19, 1986

recanted testimony

on 17 March 86 Hancock and Hebert recanted portions of Legos' testimony re: Conneaut City block/FBI investigation [in a letter to Sen. Strom Thurmond + Joseph R. Biden, Jr. dated March 17, 86]

as "Mr. Sessions was not the United States Attorney at the time of the investigation, and thus I am submitting the enclosed Declaration to correct my prior testimony."

predecessor <sup>with name</sup> or Kambrough, Jr. had cancelled the invest. 2d the invest was supposed to be in Clarke City not Conneaut [Documents Proc. ACR]

Hebert's recantation also recants based on refreshed recall and review of documents

Testimony of DOJ: Keoney, Hancock, Kowalski, Glenn Bell

Keoney: Perry City case was Democratic Primary complaints, victims and Ds were black

James S. Liebman, Assoc. Prof Law  
Columba

33-34 Mayor Hayden of Uniontown Ala who has  
white support wanted slot of ballots  
(marked, unmarked & otherwise signed)  
some of his ballots were altered his  
candidates won  
no investigation

Kowalski et al (not incl. Keener)

49 Hancock: wrong re: JS and Conerly

55 wrong city, wrong US Atty, wrong time

62 same mistake was made to ABA

70 Kowalski: JS dedicated to crim prosecution  
of civil rights cases

70 Klan joke

72 Doem't think Figures was present

77 Glean: thinks he was present  
no question at the time, it was a joke  
Thinks Figures was present

82 Bell: Sessions very cooperative  
never witnessed JS racially motivated



~~Red no work~~

87

Kowalski: "in my experience with Mr. Sessions, he demonstrated unequivocal commitment to the prosecution of criminal and rights cases and showed sensitivity to these kinds of cases."

88

Glen: concurs in above "nothing I have ever heard him say leads me to believe that he has any racial insensitivity"

91

Glen: re: "un-American" comments. "I believe Mr. Sessions and I understood what I thought he was saying and I do not consider that to be a racist comment."

93

Glen: would not hesitate to go before JS as judge (w/ black client)

94

Bell - ditto  
Kowalski - ditto

Testimony of ~~Reddick~~, Fleury,  
Turner, Gilhard,

- 101 Fleury: "extreme" nature of  
unAmerican comments indicates bias.
- 103-04 no knowledge of JS
- 105 Turner: (defended Albert Turner and is  
his mother)
- 112 ballots handled by "pro-white"  
Hayden frog
- 121 ~~or~~ Turner admits only DS were  
ingapwnted  
Statement had said "elderly absentee  
voters" were ingapwnted by FBI re: Perry Ct
- 123 Stroke testimony re: one witness  
statement said "while he was done there"  
~~at~~ testimony at hearing: stroke later

Gilhard:

Judge  
McRae : strong endorsement

Black judge Karee Kennedy joined intending  
telegram from BTJ Judicial Council

Lavon Phyllis

DA's office

met w/ JS w/ Ray Johnson in Spring 82  
or 83 in Mobile re: voting irregularities

158 Perry City

11 blacks on Grand Jury voted  
for indictment (3 out of 15 needed)

168 fingerprinting and photographing of witnesses  
interviews lucrative. Did not happen

179 Atty Gen, Tom Billingslea re: absentee ballot  
complaint he made

JS fix for bench

no <sup>other</sup> senators present other than Denton + East  
Helton

Thompson : black

193 JS "intimidated by any form of  
prejudice"

194 "I have experienced racism in my life" "I admire him [JS]"

195 will serve nation well as fed. j.  
"fair and unpartial"

198 no racial prejudice towards blacks

Mentor: JS not prejudiced

207 Kimbrough: Figures left when  
Republicans elected

March 20

Figures

5 JS made similar remarks re: Un-American  
to Figures (as he did to Herbert DeLoach  
Figures not present)

6 NAAACP, SCLC, PUSH, NCL - anti-American  
values

not a joke

Figures was present for Klan remark

7 Took seriously (but did articulate cartoon)

March 20

## Testimony of Thomas Figures

- 13 admits JS told him that JS wanted Figures to continue working on civil rights cases
- 14 re: Donald investigation. JS never gave direct order to stop working on case, but said why are you wasting your time
- 22 re: NAAEP comment. Figures initiated conversation: "I think I said said, really in jest, well, there goes that subversive NAAEP again."
- 37 Figures regularly called "boy" by Sessions
- 39-a JS said "careful what you say to white folks" not simply "folks"
- 39-b JS rated Figures "excellent" last 2 yrs.
- 53 JS said he wanted to decline crim. civ. right cases
- 54 JS didn't mention "boy" to <sup>in</sup> Nat'l & Bar Assn adverse testimony -- (not in their report)
- 55 Figures now says he didn't call him "boy" on regular basis

## Sanders

Jenny S.  
Grenade

AUA

AH David

88 JS never called Figures "boy"  
(Figures said she was present)

E.T. Rollison, Jr.

AH David

89 it is a <sup>flat out</sup> lie that I called Figures "boy"

## Deval Patrick

Volevich

AUA since 1969

108 never called TF boy

110 TF is "racially sensitive ... with a pretty bad attitude problem."

111 "persecution complex"

Judge Kittrell

Horn, Black - JS fair

Senator Mitchell

member of NAACP

# TRANSCRIPT OF PROCEEDINGS

UNITED STATES SENATE

-- -- --

COMMITTEE ON THE JUDICIARY

-- -- --

CONFIRMATION HEARING

-- -- --

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Washington, D. C.  
March 20, 1986

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C O N T E N T S

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2	Panel 1	PAGE
3	Statements Of:	
4	Hon. Hank Sanders, Alabama State Senator,	
5	Montgomery, Alabama; Rev. O.C. Dobyne, Perry	
6	County, Alabama; Deval L. Patrick, Assistant	
7	Counsel, Legal Defense Fund, New York, New York;	
8	Thomas Figures, Attorney, Figures, Ludgood & Figures,	
9	Mobile, Alabama	3
10	Panel 3	
11	Statements Of:	
12	Hon. Braxton Kittrell, Judge, Thirteenth Judicial	
13	Circuit, Mobile, Alabama; Rev. Ben Sawada, Ashland	
14	Place United Methodist Church, Mobile, Alabama;	
15	George Horn, Mobile County Republican Executive	
16	Committee, Mobile, Alabama; Bobby Eddy, Chief	
17	Investigator, District Attorney's Office, Mobile	
18	Alabama	116

19  
20  
21  
22  
23  
24  
25

72/100-100  
890

CONFIRMATION HEARING

- - -

THURSDAY, MARCH 20, 1986

- - -

United States Senate,  
Committee on the Judiciary,  
Washington, D. C.

The Committee met, pursuant to recess, at 2:14 p.m. in Room 226 of the Dirksen Senate Office Building, Hon. Jeremiah Denton, presiding.

Others present: Senators McConnell, Kennedy, Heflin, Simon, DeConcini, and East.

- - -

Senator Denton. Good afternoon. This hearing will come to order.

We had planned to have two panels today. We also just learned that Congressman Conyers and State Senator Mitchell from Michigan and Maryland, respectively, who could not appear yesterday, will appear today.

I just learned that they are voting, at the moment, on the "contra" issue and will be permitted to interrupt, as is the custom, to give their testimony when they arrive.

In the meantime, we will call the first panel--and I will ask them to remain standing as they approach the table: the Honorable Hank Sanders, Alabama State Senator,

1 Montgomery, Alabama; Reverend O. C. Dobyne, Perry County,  
2 Alabama; Deval L. Patrick, Assistant Counsel, Legal Defense  
3 Fund, New York, New York; and Thomas Figures, Attorney,  
4 Figures, Ludgood & Figures, Mobile, Alabama.

5 Gentlemen, if you will raise your right hands. Do you  
6 swear that the testimony you will give today before this  
7 Committee will be the truth, the whole truth, and nothing but  
8 the truth, so help you God?

9 [Witnesses answer in the affirmative]

10 Please be seated.

11 Mr. Sanders, you were the first one in order on this  
12 list, so I will ask Alabama State Senator, the Honorable Hank  
13 Sanders, if he has an opening statement.  
14  
15  
16  
17  
18

## PANEL 1

1  
2 STATEMENTS OF HON. HANK SANDERS, ALABAMA  
3 STATE SENATOR, MONTGOMERY, ALABAMA; REV.  
4 O. C. DOBYNES, PERRY COUNTY, ALABAMA; DEVAL  
5 L. PATRICK, ASSISTANT COUNSEL, LEGAL DEFENSE  
6 FUND, NEW YORK, NEW YORK; THOMAS FIGURES,  
7 ATTORNEY, FIGURES, LUDGOOD & FIGURES, MOBILE,  
8 ALABAMA.

9 Mr. Sanders. Mr. Chairman, if you would permit, I would  
10 like to yield to Mr. Figures to go first--with your permis-  
11 sion.

12 Senator Denton. I have no objection to that. We will  
13 call on Attorney Thomas Figures of Figures, Ludgood &  
14 Figures, Mobile, Alabama.

15 Mr. Figures. Mr. Chairman, Members of the Committee, I  
16 appreciate this opportunity to testify before this Committee  
17 regarding the nomination of Jefferson B. Sessions for the  
18 position of United States district Judge for the Southern  
19 District of Alabama.

20 Mr. Chairman, I would like to preface my testimony about  
21 this nomination with a brief statement about a related mat-  
22 ter. Since the possibility first arose that Mr. Sessions  
23 might be nominated for judgeship, I felt that whatever I  
24 might have to say on this matter should be said to this  
25 Committee and not to the press.

1           As a former prosecutor, I am well aware of the potential-  
2 ly unfair impact of premature publicity. Over the past nine  
3 months, I have repeatedly declined to discuss my testimony  
4 with the press. I have not issued press releases; I have  
5 declined invitations to be interviewed by reporters from  
6 Washington and Alabama; and I have made it clear to other  
7 individuals who oppose this nomination that I did not want  
8 to talk with the press.

9           During the past ten days, I have supplied the Committee  
10 with two prepared statements. One was provided prior to last  
11 week's hearing. A supplemental statement, which was typed  
12 yesterday morning, was given to the Committee staff midday  
13 yesterday. And an hour or two later, at the suggestion of  
14 the staff, copies were placed on the press table.

15           Because the Committee recessed yesterday before I was  
16 able to testify, portions of my supplemental statement  
17 appeared in today's newspapers, even though the Committee  
18 had not had a chance to question me about that statement.

19           That was a development which I, nor the Committee,  
20 intended, but one which yesterday's necessary adjournment  
21 apparently made inevitable.

22           Now, with respect to my statement that was furnished  
23 yesterday, in the interests of time I will not read the  
24 entire statement. But there are some matters addressed in  
25 the statement which I would like to read into the record.

1 I served as an Assistant United States Attorney in the  
2 district--that is the Southern District of Alabama--from  
3 September of 1978 to July of 1985.

4 During the last four years that I held that position,  
5 Mr. Sessions was the United States Attorney. During those  
6 years Mr. Sessions and I had frequent discussions regarding  
7 matters in the office, and we tried or worked together on a  
8 number of cases.

9 I would like to address the first portion of my testimony  
10 to a number of statements that Mr. Sessions made regarding  
11 civil rights or racial issues.

12 At the hearing last week, Mr. Sessions offered a number  
13 of accounts and explanations of several of these statements.  
14 In order to provide a background against which to evaluate  
15 that testimony, I would like to describe the events which I  
16 saw and heard in the United States Attorney's Office itself.

17 First, I was not present when Mr. Sessions made to Mr.  
18 Hebert the remarks described last week regarding the NAACP,  
19 the ACLU, and the National Council of Churches. However,  
20 Mr. Sessions made a very similar remark to me on a separate  
21 occasion.

22 On the day in question, Mr. Sessions came into my office  
23 just as I was reading a newspaper account of some then-recent  
24 action of the NAACP. I casually mentioned that development  
25 to Mr. Sessions. Mr. Sessions, in response, stated that he

1 believed the NAACP, the Southern Christian Leadership  
2 Conference, Operation Push, and the National Council of  
3 Churches were all un-American organizations teaching  
4 anti-American values.

5 This statement clearly was not intended as a joke.  
6 Mr. Sessions was extremely grave as he spoke, and he raised  
7 his voice. Mr. Sessions did not refer to foreign policy or  
8 any other specific action. But he spoke as a man gravely  
9 concerned by the threat which he believed these organizations  
10 posed to American values.

11 He chose his words carefully, distinguishing, quote,  
12 un-American, unquote, activities from, quote, subversive,  
13 close quote, activities; and making clear that he regarded  
14 the groups as un-American but not subversive.

15 At no time in this exchange did Mr. Sessions refer to  
16 the opinions of third parties regarding the NAACP, SCLC, Push,  
17 or the Council of Churches.

18 He was without question describing his personal and  
19 manifestly deeply felt position.

20 Second: I was present when Mr. Sessions made the remark  
21 described last week regarding the Ku Klux Klan, stating that  
22 he thought its members were okay until he learned that they  
23 smoked marijuana.

24 Whatever Mr. Sessions view of the Klan may be today,  
25 the remark that he made during the Donald case, indicating

1 that he only objected to the Klan because of drug use by its  
2 members, was not made in a joking manner. I certainly took  
3 it as a serious matter. Mr. Kowalski on the other hand  
4 apparently did not take this remark as seriously as I did.

5 The cartoon which the Committee circulated yesterday  
6 reflected my view that Mr. Sessions' remark was serious as  
7 well as my feeling that his remark was entirely inappropriate.  
8 The original cartoon was a criticism of President Reagan's  
9 attitude toward the Civil Rights Commission. I added a new  
10 caption to change the cartoon into a criticism of Mr.  
11 Sessions' remark about the Klan.

12 The fact that I, like the original author of the cartoon,  
13 expressed that criticism in the form of a cartoon, does not  
14 mean that either of us did not regard the problem at issue  
15 as a serious or important one.

16 As a result of a disagreement between Mr. Sessions and  
17 myself regarding the handling of a particular case, Mr.  
18 Sessions said, referring to me, quote, he must think  
19 this is New York; this is Alabama; close quote.

20 In his testimony last week, Mr. Sessions acknowledged  
having made this remark. Mr. Sessions testified that he  
thought he had made the remark in connection with the Sammy  
Murray case. That was a falso claim indictment which the  
government ultimately dismissed because of the appearance  
that Mr. Murray's supervisors had sought the indictment



1 as part of a vendetta against Mr. Murray.

2 Prior to the dismissal of that indictment Mr. Sessions  
3 and I had a number of discussions during which I urged that  
4 it would be a serious injustice to continue the case, while  
5 Mr. Sessions initially resisted dismissing the matter.

6 My own best recollection is that Mr. Sessions made the  
7 remark about New York and Alabama not regarding the Murray  
8 case, but during the course of a discussion about whether  
9 to pursue a criminal civil rights investigation.

10 The exact context in which this remark was made, however,  
11 is not critical. I thought this remark inappropriate when  
12 I heard it, as I do today, because it appears to rest on the  
13 assumption that the standards of conduct and justice  
14 appropriate for a United States Attorney in New York and  
15 elsewhere in this country somehow do not apply in Alabama.

16 Reasonable attorneys can and will disagree about the  
17 handling of particular cases within the Justice Department,  
18 but the laws and constitutional guarantees government  
19 attorneys enforce should be enforced in an evenhanded  
20 manner throughout the nation.

21 Federal laws and constitutional provisions that would  
22 protect a Sammy Murray or anyone else in New York are just  
23 as applicable and should be implemented with equal vigor  
24 in Alabama and any other State in the Union.

25 have focussed my testimony on civil rights cases, and

1 my statement, and activities, because this is the area about  
2 which the Committee is particularly concerned.

3 In all fairness to Mr. Sessions, however, I should  
4 make clear that the problems which existed in the area of  
5 civil rights were not present in other aspects of my case  
6 assignments.

7 Except in criminal civil rights cases, Mr. Sessions  
8 deferred to my recommendations regarding whether to pursue  
9 cases, and never withdrew a case assignment because he  
10 disagreed with my recommendation.

11 During the period that Mr. Sessions has served as United  
12 States Attorney, his office has made substantial progress in  
13 rooting out political corruption in the City of Mobile. The  
14 Hogan and Sullivan case, in which Mr. Sessions was personally  
15 involved, was a major step towards reducing bribes and case-  
16 fixing in the State court system.

17 Let me say in conclusion, Mr. Chairman, that I take no  
18 satisfaction in testifying on this matter. This nomination  
19 has prompted often bitter disagreement among lawyers and  
20 others in Southern Alabama, and any sensible person might  
21 prefer to stay out of that controversy.

22 As you heard yesterday, several of the State judges  
23 before whom I practice, and a number of the lawyers with  
24 whom I have to work, feel very strongly about Mr. Sessions  
25 and differ with my opinion.

1           But I, like the witnesses who have supported Mr.  
2 Sessions, have an obligation to bring before the Committee  
3 material evidence that bears on whether or not the nominee  
4 should be confirmed.

5           I believe my obligation to do so is particularly clear.  
6 Over the last four years I have dealt with Mr. Sessions  
7 day in and day out regarding not just one or two prosecutions,  
8 but scores of cases. I have had discussions with Mr. Sessions  
9 at which others simply were not present.

10           If I failed to testify about such discussions, the  
11 Committee would have no other way of obtaining that  
12 information.

13           In passing on Mr. Sessions' nomination, the Committee  
14 should of course consider his entire record, the good as  
15 well as the bad.

16           Based on my own experience with and knowledge regarding  
17 Mr. Sessions, however, I am convinced that the Committee  
18 should disapprove his nomination.

19           The statements that he has made fall far short of the  
20 high standards that should be required of a Federal judge  
and are inconsistent with the sense of fairness shared by  
21 most Alabamians, white as well as black, laymen as well as  
22 lawyers.

23           Thank you. I would like to submit the rest of my  
statement for the record.

[The following was received for the record:]

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1           Senator Simon. Mr. Chairman, if I could have your  
2 consent, I am going to have to leave for another meeting.

3           If I could ask just one question of the witness, if  
4 there would be no objection?

5           Senator Denton. Without objection.

6           Senator Simon. Would it be fair to characterize Mr.  
7 Sessions as an able, decent person but simply not sensitive  
8 in this area?

9           Mr. Figures. Senator Simon, I believe that the statements  
10 and actions of Mr. Sessions regarding race, and regarding  
11 civil rights, impact tremendously on whether he is decent.  
12 And for that reason I could not conclude, based on those  
13 statements and those actions, that he has the sufficient  
14 perspective and integrity to serve as a Federal judge.

15          Senator Simon. I thank you, Mr. Chairman.

16          Senator Denton. Now, Mr. Figures, you mentioned when  
17 you began that it was inevitable that your testimony would  
18 be used.

19                It is interesting that it was used before you testified.  
20 I say that as no reflection upon you or the Committee. I  
21 don't think anybody intended that that be done.

22                I bring it up because in the CBS News, which was  
23 selected to reflect what happened at yesterday's hearing,  
24 it was my information that they went back to two incidents  
25 which occurred last Thursday at the hearing in which most

1 of the people in the Senate had to read that set of incidents  
2 rather than what happened yesterday; and they only used one  
3 from yesterday's hearing.

4 Is it true that shortly after Mr. Sessions became U.S.  
5 Attorney he told you that he wanted you to continue to  
6 handle civil rights cases?

7 Mr. Figures. Yes, sir.

8 Senator Denton. Further, that he specifically told you  
9 that he encouraged you to come to him to discuss any problems  
10 that you saw in the civil rights area because he wanted to  
11 ensure that those cases were properly handled?

12 Mr. Figures. Yes, sir, he said that. And that course  
13 of action took place up to a certain point in time.

14 Senator Denton. Is it true that Mr. Sessions had an  
15 open-door policy for anyone in the office who wished to  
16 discuss a case or matter with him?

17 Mr. Figures. He had an open-door policy with respect  
18 to discussion of cases.

19 Insofar as matters are concerned, I recall early in  
20 Mr. Sessions' tenure going in to discuss with him a couple  
21 of matters that arose from situations where I felt that I  
22 had been offended or not treated in accord with my  
23 professionalism, which I tried to maintain. And on those  
24 occasions Mr. Sessions, for some reason, tried to convince  
25 me that I was the one who caused the situation in the first

1 place, and that there was nothing that he was going to do  
2 " about it.

3 After talking with him with respect to those situations  
4 I thereafter declined to discuss anything with him other  
5 than matters pertaining to cases. Because my judgment was  
6 that I was not going to obtain a fair shake with respect to  
7 criticism of acts directed toward me which I thought  
8 unprofessional and riddled with prejudice.

9 Senator Denton. Mr. Figures, have you ever asked  
10 Mr. Sessions--ever asked Mr. Sessions--to prosecute any  
11 civil rights case or any other case, for that matter, and  
12 been refused?

13 Mr. Figures. Have I ever asked him to prosecute one?

14 Senator, insofar as the Michael Donald case, which is  
15 addressed in my statement, Mr. Sessions never gave me a  
16 direct order to stop working on that case.

17 But early in the investigation, he made suggestions  
18 which had the effect of impressing me that he did not want  
19 that particular case around. He would say things like,  
20 why are you wasting time on the case? Why do you not find  
21 something better to do?

22 And on one occasion I overheard him tell another  
23 assistant that even if the culprits were identified in  
24 that case, that I would never try it.

25 I accepted those remarks--

1           Senator Denton. Who was the assistant who overheard  
2 that?

3           Mr. Figures. I overheard--

4           Senator Denton. Oh, you overheard him telling an  
5 assistant.

6           Would you tell us who that assistant was?

7           Mr. Figures. Virginia Granada.

8           I took those statements in cumulative as a very strong  
9 suggestion that, one, he did not want the case there; and  
10 two, he did not want me working on it.

11          Senator Denton. He would certainly be putting himself  
12 in great jeopardy, I would think, knowingly, if he did that.

13          Mr. Figures, how long have you known Mr. Sessions?

14          Mr. Figures. I did not know him prior to his becoming  
15 U.S. Attorney.

16          Senator Denton. Have you had dealings with him on  
17 matters other than those occurring in the working environment?

18          Mr. Figures. I think that I may have gone to a couple  
19 of forums where Mr. Sessions spoke.

20          Senator Denton. In other words, did you have a social  
21 relationship with Mr. Sessions?

22          Mr. Figures. No, sir, I had no social relationship  
23 with him.

24          Senator Denton. Did you have a social relationship  
25 with anyone in the office?



1 Mr. Figures. I believe that early I had lunch and  
2 occasionally drinks with people in the office. But I  
3 would not describe it as a very close personal relationship.

4 Senator Denton. During the Carter Administration,  
5 how would you describe your relationship with Mr. Kimbrough,  
6 the predecessor of Mr. Sessions?

7 Mr. Figures. I felt closer than my relationship with  
8 Mr. Sessions.

9 Senator Denton. And Mr. Kimbrough, did he meet your  
10 standards for racial sensitivity?

11 Mr. Figures. Senator, I felt that there were a couple  
12 of occasions when Mr. Kimbrough indicated some problems in  
13 that area. But overall, I thought his position on matters  
14 in that area was better than that of Mr. Sessions.

15 Senator Denton. Yesterday Mr. Hancock and Mr. Hebert,  
16 two of several Department of Justice witnesses who testified  
17 in this confirmation hearing, corrected an earlier testimony  
18 and deposition in which they accused Mr. Sessions of blocking  
19 a civil rights investigation. They said that they had  
20 faulty recall, and that it was Mr. Kimbrough, not Mr.  
Sessions, who terminated the FBI investigation in a particular  
county.

Knowing that--and Mr. Sessions was falsely accused in  
this case--do you believe that your recollection on the  
events which you have described in your statement,

1 particularly the one in which you said that was your  
2 best recollection. Do you believe that your recollection  
3 on the events you have described is absolutely accurate?

4 Mr. Figures. Well, Senator Denton, my statement does  
5 not address the connector or Dallas County matters at all  
6 because I have no question--

7 Senator Denton. I mean the other events to which you  
8 did testify?

9 Mr. Figures. Oh, I stand by the contents of my  
10 statement with respect to everything that is in it,  
11 Senator.

12 Senator Denton. You do not believe there is any  
13 possibility you might be confused or even wrong in some  
14 of your recollections and descriptions?

15 Mr. Figures. The statement represents my best  
16 recollection. I have reviewed it several times. And I  
17 do not think there is anything in it, Senator, that I am  
18 not willing to stand by.

19 Senator Denton. I ask, Mr. Figures, because this  
20 Committee has received several gratuitous and not wholly  
21 objective reports on the Sessions nomination from groups  
22 with a clear interest in the outcome of the Sessions  
23 nomination. And in analyzing these reports, it is clear  
24 that you have been a major source of information for these  
groups.

1 Will you tell Committee how you came to be involved  
2 in this confirmation process, beginning with your first  
3 contact on the Sessions nomination?

4 Senator DeConcini. Mr. Chairman, if I may? Can the  
5 Chairman identify the groups he is making reference to?  
6 Maybe they have already been identified before I came. If  
7 so, I can look at the record. But just so I can follow here.

8 Senator Denton. One was the anonymous report which I  
9 was privileged to see only the night before the first  
10 hearing was scheduled, which contained a great deal of  
11 information, the source of which was alleged to be Mr.  
12 Figures. The second was the National Bar Association  
13 report.

14 Senator DeConcini. We are talking about one anonymous  
15 one and the National Bar Association that attribute the  
16 information to Mr. Figures?

17 Senator Denton. Yes.

18 Senator DeConcini. Thank you, Mr. Chairman. That is  
19 all.

20 Senator Denton. And by name, it was not attributed to  
21 him. It is only by inference, by virtue of the type of  
22 information--

23 Senator DeConcini. Thank you, Mr. Chairman.

24 Senator Denton. Thank you, Senator DeConcini.

25 Mr. Figures. If I recall the question correctly,

1 my best recollection is, subsequent to my resignation from  
2 the U.S. Attorney's office, I--

3 Senator Denton. When was that again, Mr. Figures? I  
4 have forgotten.

5 Mr. Figures. My resignation was effective July 3rd,  
6 1985.

7 Senator Denton. July 3rd, 1985?

8 Mr. Figures. Yes, sir.

9 I received a telephone call while recuperating from  
10 some surgery that I had performed from Fred Grey, who is  
11 the President of the National Bar Association. If I am  
12 not mistaken, Mr. Grey indicated to me the National  
13 Bar Association was seriously concerned about Mr. Sessions  
14 nomination. He inquired as to whether, by virtue of my  
15 working in that office, I could provide any input to an  
16 investigation that they were contemplating conducting.

17 I told him that I would be happy to provide whatever  
18 information I had. And he gave me the names and telephone  
19 numbers of other individuals connected with the National  
20 Bar Association whom he suggested that I contact, or would  
21 contact me. I have forgotten.

22 Senator Denton. Is there any other incident in which  
23 you had contacts giving information relative to Mr. Sessions'  
24 nomination?

25 Mr. Figures. I attempted to give information to

1 Roland Nachman.

2 Senator Denton. To who?

3 Mr. Figures. Mr. Roland Nachman, who conducted the  
4 American Bar Association investigation. For some reason,  
5 I found my attempts to provide that information to Mr.  
6 Nachman on several occasions met with resistance insofar  
7 as those things that apparently Mr. Nachman did not believe  
8 or desire to hear.

9 So I believe that the next major contact source that I  
10 had, subsequent to the one with Mr. Grey, was the one with--  
11 no, I am mistaken. Mr. Nachman contacted me before I left the  
12 U.S. Attorney's office.

13 So I think those are the two major contact sources.

14 Senator Denton. Did you ever write Mr. Nachman a letter?

15 Mr. Figures. I do not recall having written Mr.  
16 Nachman a letter, Senator.

17 Senator Denton. Mr. Figures, in your second prepared  
18 statement, you describe at the bottom of the page--or bottom  
19 of page one, a very specific recollection of a comment that  
20 you attribute to Mr. Sessions regarding the NAACP, SCLC,  
21 Operation Push, the National Council of Churches.

22 You begin by saying, quote, on the day in question,  
23 Mr. Sessions came into my office just as I was reading a  
24 newspaper account of some then-recent action of the NAACP,  
25 unquote.

1 To the best of your recollection, when did that happen,  
2 Mr. Figures?

3 Mr. Figures. It happened in October of 1982.

4 Senator Denton. Any idea of the time of day?

5 Mr. Figures. Early in the day, shortly after I came in.

6 Senator Denton. And what was the news story to which  
7 you are referring regarding the NAACP?

8 Mr. Figures. I am not completely certain about that,  
9 Senator.

10 My best recollection is that it was a story pertaining  
11 to the NAACP challenging some position pertaining to the  
12 President's stand on affirmative action, I believe.

13 That is my best recollection, but I am not completely  
14 sure about it.

15 Senator Denton. Did you call Mr. Sessions into your  
16 office to tell him about this event, or did he just walk in  
17 there?

18 Mr. Figures. He walked in.

19 Senator Denton. Did you know at the time--did you  
20 expect his reaction--

21 Mr. Figures. No, sir.

22 Senator Denton. --to be emphatic?

23 Mr. Figures. I did not at that time.

24 Senator Denton. Do you recall what you said to elicit  
25 such an emphatic response from him?

1 Mr. Figures. Yes, sir. He came in and he may have  
2 asked me what I was reading about or I may have told him  
3 what I was reading about. And I think I said, really in  
4 jest, well, there goes that subversive NAACP again. Because  
5 that was early in my relationship with Mr. Sessions, and had  
6 I known that he held these positions, I would not have  
7 even joked about it. So I said, well, there goes that  
8 subversive NAACP again. And when I said that, his demeanor  
9 changed. He assumed a very serious look on his face. His  
10 face blushed. He became very stoic. And he said, very  
11 harshly and very clearly: Well, I don't think they are  
12 subversive, but I think organizations like the National  
13 Council of Churches, NAACP, SCLC, and Push, and my best  
14 recollection is he said the rest of them, are un-American  
15 organizations with anti-traditional American values.

16 Senator Denton. Mr. Figures, a major factor in this  
17 case has been the interpretation of what Mr. Sessions said  
18 in jest and what he said seriously and accompany whether it  
19 was racially divided or not.

20 You have just announced that you said, there goes that  
subversive NAACP again. And you maintain that you made that  
in jest. I can believe that. I can believe that some other  
black people whom I have heard testify might use an  
unflattering word with respect to the activities of the  
NAACP in Alabama political. We heard one yesterday. We

1 heard one yesterday who I think characterized Perry County  
2 as a very hot political spot which agreed with Mr. Kimbrough's  
3 and Mobile is not dissimilar to that.

4 And for you to raise that in jest would subject you  
5 later to questioning were you to have kept your job and  
6 been nominated for something which required a hearing.

7 So you said, there goes that subversive NAACP again,  
8 and he responded immediately by getting somewhat hot. And  
9 you stated what he said.

10 Would you state again, as closely as you can recall,  
11 what his words were, with your having introduced the word  
12 subversive?

13 Mr. Figures. He said that organizations like the  
14 National Council of Churches, NAACP, SCLC, and Push, and  
15 I believe he said, the rest of them, but I am not sure about  
16 that so I am not going to attribute that to him, are  
17 un-American organizations with anti-traditional American  
18 values.

19 Senator Denton. Anti-American what? Excuse me, I just  
20 didn't get the last part.

21 Mr. Figures. With anti-traditional American values.

22 Senator Denton. Anti-traditional American values.

23 Well, that is different from anti-American, is it not?

24 Mr. Figures. It is a matter of interpretation,

25 Senator.



1           Senator Denton. Well, I would admit that these state-  
2           ments that he made are a matter of interpretation; a  
3           critically important matter of interpretation.

4           Senator DeConcini. Mr. Chairman?

5           Senator Denton. I will not interrupt your questions--  
6           go ahead.

7           Senator DeConcini. No, I misunderstood. I only want  
8           for the record to understand: Did he say that they are  
9           anti-American, or did he say they are anti-American and  
10          anti-traditional American values? I got confused there.

11          Mr. Figures. He said that they were un-American  
12          organizations with anti-traditional American values.

13          Senator DeConcini. I did not mean to interrupt you.  
14          I just did not understand.

15          Thank you.

16          Senator Denton. Now, I will recall that Mr. Sessions  
17          did not agree with that version of what he said.

18          Did Mr. Sessions--had Mr. Sessions ever grouped such  
19          diverse organizations as these together before in any  
20          comment that he had made to you? Had he ever made a flat  
21          out unsolicited statement to you condemning such organizations  
22          and grouping them together as being un-American?

23          Mr. Figures. No.

24          Senator Denton. Do you think it is possible that by  
25          virtue of having made a challenging and perhaps irritating

1 provocative remark to him, that you may have elicited a  
2 remark that was in a similar vein?

3 Mr. Figures. Senator, I did not consider it a  
4 challenging remark. It was early in our relationship.

5 Senator Denton. But the whole pattern has been how  
6 the others regard your words.

7 Mr. Figures. Well, had I known that Mr. Sessions held  
8 these views regarding such organizations, I would not have  
9 said it.

10 Frankly--

11 Senator Denton. So working with him for all those  
12 years, you did not know that he held those views?

13 Mr. Figures. No, this was relatively early in our  
14 professional relationship.

15 Senator Denton. But after that remark--

16 Mr. Figures. I made sure that I said nothing else  
17 that would provoke anything like that.

18 Senator Denton. For three years after you heard that  
19 remark, you remained on the job with him without any  
20 apparent serious reservation. Mr. Kimbrough said that  
21 he retired or resigned and urged you to because he was a  
22 yellow dog Democrat and he did not see how he could objective-  
ly work for a Republican, so he just quit and he advised you  
to do the same.

But you hung in there, even after that remark?