

## U.S. COMMISSION ON CIVIL RIGHTS

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TUESDAY, JULY 6, 2010

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THE NEW BLACK PANTHER PARTY HEARING (2)

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The Commission convened in Room 540 at 624 Ninth Street, Northwest, Washington, D.C. at 9:30 a.m., Gerald A. Reynolds, Chairman, presiding.

PRESENT:

GERALD A. REYNOLDS, Chairman  
TODD F. GAZIANO, Commissioner  
GAIL L. HERIOT, Commissioner  
PETER N. KIRSANOW, Commissioner  
ASHLEY L. TAYLOR, JR., Commissioner  
  
MARTIN DANNENFELSER, Staff Director

STAFF PRESENT:

DAVID BLACKWOOD, General Counsel, OGC  
CHRISTOPHER BYRNES, Director, RPCU  
DEMITRIA DEAS  
LILLIAN DUNLAP  
PAMELA A. DUNSTON, Chief, ASCD  
LENORE OSTROWSKY  
JOHN RATCLIFFE, Chief, Budget and Finance  
KIMBERLY TOLHURST  
VANESSA WILLIAMSON  
AUDREY WRIGHT

COMMISSIONER ASSISTANTS PRESENT:

NICHOLAS COLTEN  
ALEC DEULL (via telephone)  
TIM FAY  
DOMINIQUE LUDVIGSON  
JOHN MARTIN  
ALISON SCHMAUCH

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## P R O C E E D I N G S

9:31 a.m.

**I. INTRODUCTION BY CHAIR**

CHAIRPERSON REYNOLDS: On the record. Okay. Good morning, ladies and gentlemen. Before I begin, I'd like to ask each Commissioner and the audience to please take a moment to silence your cell phones and for Commissioners to move your phones away from your microphone.

I'd also like to note that we have a sign language interpreter for anyone who may need one. Those who need those services please contact Pam Dunston. Ms. Dunston, please raise your hand so folks can see you.

(Show of hand.)

Thank you.

This hearing is called to order. Today we embark on a continuation of a hearing that we started on April 23, 2010 examining the Justice Department's handling of voter intimidation litigation involving the New Black Panther Party. This hearing is being conducted pursuant to 42 USC Section 1975(a) and the Commission Regulations at 45 CFR Section 702.

I'd like to thank all the Commissioners here today who worked to arrange their holiday travel

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1 plans and vacation schedules to be here for this  
2 important hearing into the New Black Panther Party  
3 matter. We had to accommodate a number of schedules  
4 including our witness and his attorney as well as the  
5 Commissioners. It's needed so that we can complete  
6 our investigation, finalize our report and submit our  
7 report to Congress, the President and the American  
8 people.

9 So, again, thank you for -- I'd like to  
10 thank all the Commissioners for rearranging your  
11 schedules to be here.

12 In the course of this investigation which  
13 began over a year ago in June 2009, the Commission has  
14 heard from various fact witnesses who witnessed the  
15 Election Day 2008 incident that is at the heart of our  
16 analysis. We've heard from Representative Frank Wolf,  
17 a former DOJ official, Greg Katsas and the Assistant  
18 Attorney General for the Civil Rights Division, Thomas  
19 Perez.

20 As most of you are aware by now, the  
21 litigation stemmed from an incident on Election Day  
22 2008 in which two members of the New Black Panther  
23 Party appeared at a polling station in Philadelphia.  
24 Video and eyewitness testimony showed that they stood  
25 at an entrance to a polling place dressed in

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1 paramilitary garb and black combat boots. One  
2 brandished a nightstick. They hurled racial epithets  
3 at whites and blacks alike, taunting poll watchers and  
4 poll observers who were there to aid voters.

5 The Department of Justice at first  
6 aggressively pursued this case, filing voter  
7 intimidation charges against four defendants: the two  
8 New Black Panthers who appeared at the Philadelphia  
9 polling place on the Election Day, the New Black  
10 Panther Party chairman, and the organization itself.  
11 None of the defendants contested the charges and the  
12 Department was poised to seek a default judgment in  
13 the case and to seek an injunction to stop further  
14 acts of intimidations.

15 But on the eve of the date which the court  
16 set for the Department's request for a default  
17 judgment, the trial attorneys in the case were  
18 instructed to request a continuance by then-Acting  
19 Assistant Attorney General for Civil Rights Loretta  
20 King. In the days that followed, and despite the  
21 robust justification that they had prepared at the  
22 inception of the case to support its request to file  
23 the suit, the experienced line career attorneys  
24 responsible for the case were put under intense  
25 pressure to justify the lawsuit against the Panthers,

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1 and they were required to prepare a defense of their  
2 proposed injunction and request for default.

3 In addition, Ms. King sought a review of  
4 the matter by the Division's appellate section, which  
5 agreed with the Department that the Department could  
6 make a reasonable argument in favor of default relief  
7 against all of the defendants and probably should,  
8 given the unusual procedural posture of the case. And  
9 just to unpack that, the defendants did not contest  
10 the case. They essentially had defaulted.

11 A total of at least six career attorneys  
12 intimately familiar with the details of the case  
13 shared this view, including the two who opined from  
14 the appellate section. Nonetheless, charges were  
15 dropped against all of the defendants but one,  
16 Minister King Samir Shabazz, who had wielded the billy  
17 club that day. The case against Jerry Jackson, the  
18 other New Black Panther Party member at the polling  
19 station that day, was dropped, as were charges against  
20 the party and its chairman. Furthermore, the  
21 injunctive relief sought against King Samir Shabazz  
22 was limited to prevent acts of intimidation by him  
23 solely in the City of Philadelphia and only through  
24 Election Day November 2012.

25 Last month, we heard testimony from Thomas

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1       Perez, who is the Assistant Attorney General for Civil  
2       Rights, regarding the Department's decision to largely  
3       dismiss the case. He testified that the facts and the  
4       law supported dismissal of the case against all but  
5       one defendant and the narrowing of the injunction  
6       sought against the defendant.

7                       This morning we will present one witness,  
8       J. Christian Adams, a member of the trial team in the  
9       New Black Panther Party case and a former DOJ lawyer  
10      who has resigned over the Department's handling of the  
11      case. Mr. Adams has spoken publicly regarding what he  
12      views as the serious mishandling of the New Black  
13      Panther Party case and will answer questions for us  
14      today as a part of our investigation of this matter.

15                      Our general counsel, Mr. Blackwood, will  
16      initiate the questions. Following Mr. Blackwood, the  
17      Commissioners will have an opportunity for at least  
18      two rounds of questions. Each Commissioner will have  
19      five minutes per round and we will proceed in the  
20      following order. I will go first. The Vice Chair is  
21      not with us today and then the remaining Commissioners  
22      in order of seniority.

23                      Commissioners may, of course, yield their  
24      time to one another. I may allow additional rounds of  
25      questioning as time permits.

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1                   **II. TESTIMONY OF J. CHRISTIAN ADAMS,**  
2                   **FORMER DEPARTMENT OF JUSTICE**  
3                   **VOTING RIGHTS ATTORNEY**

4                   CHAIRPERSON REYNOLDS: Mr. Adams, thank  
5 you for appearing before the Commission today. I'd  
6 like to swear you in. Please raise your right hand.  
7 Do you swear or affirm under penalty of perjury that  
8 the testimony you're about to give will be the truth,  
9 the whole truth and nothing but the truth.

10                  MR. ADAMS: I do.

11                  CHAIRPERSON REYNOLDS: Kind sir, thank you  
12 for being here. I appreciate the dedicated service  
13 that you've provided over the years. And I want to  
14 recognize your courage for speaking out against what  
15 you believe is wrongdoing.

16                  At this point, I would like to turn it  
17 over to our general counsel, Mr. Blackwood.

18                  MR. BLACKWOOD: Good morning. Mr. Adams,  
19 you're here with counsel today. Is that correct?

20                  MR. ADAMS: That's correct.

21                  MR. BLACKWOOD: Could you please identify  
22 him?

23                  MR. ADAMS: This is Mr. Richard Bolen.

24                  MR. BLACKWOOD: Good morning.

25                  MR. BOLEN: Good morning.

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1 MR. BLACKWOOD: Now, Mr. Adams, you're  
2 here because the --

3 MR. DANNENFELSER: Did you have a question  
4 at this time?

5 MR. ADAMS: I don't right now.

6 MR. DANNENFELSER: All right.

7 MR. BLACKWOOD: You're here because of a  
8 subpoena issued by the Commission. Is that correct?

9 MR. ADAMS: It is and I do have something  
10 I'd like to say about that.

11 MR. BLACKWOOD: Go ahead.

12 MR. ADAMS: Okay. I would rather not be  
13 here to testify despite reports to the contrary. I  
14 and my attorneys have invited the Department to file a  
15 motion to quash for the subpoena, and we informed the  
16 Department that we would not object to the motion to  
17 quash and, frankly, would probably have encouraged it.  
18 Obviously, the motion to quash was not forthcoming.

19 We were instructed, Mr. Coates and I,  
20 particularly me, that the Department of Justice would  
21 not enforce this subpoena against me and that  
22 therefore I need not comply with the subpoena which,  
23 of course, provides cold comfort to anybody who is  
24 under subpoena. For example, the Department recently  
25 reversed a number of declamations not to prosecute

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1 from the previous administration and reopen the  
2 examination of a number of matters which I won't  
3 detail here.

4 So administrations change and policies  
5 toward my dodging a subpoena in the future might also  
6 change over. Even if true, it seemed improper to tell  
7 me not to comply with the subpoena issued pursuant to  
8 Federal law simply because they don't intend to  
9 enforce it and to comply with the request from the  
10 Commission as the law permits the Commission to do.  
11 Congress has noted, some members, that they want a  
12 special prosecutor appointed in this case to enforce  
13 subpoenas, which further complicated my legal position  
14 in not complying with the subpoena.

15 The Department has asserted a variety of  
16 privileges regarding this case, and these assertions  
17 of privilege have been the subject of debate by some  
18 very, very able attorneys, with some saying the  
19 privileged assertions are meritless and the Department  
20 asserting they are legitimate. I had hoped executive  
21 privilege would be asserted to resolve the matter  
22 conclusively. But the Department informed me that  
23 they had not exerted executive privilege.

24 Nevertheless, in order to avoid these  
25 concerns, I will not testify about genuine

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1 deliberative process in this case, not because I  
2 concede those objections are valid but because I have  
3 far different matters to testify about which have  
4 absolutely nothing to do with any colorable privilege  
5 relating to the Black Panther case.

6 I will not discuss the mechanics or  
7 particularly the legal and factual debate within the  
8 Department in the case. You already have one side of  
9 that debate presented by Mr. Perez in various  
10 Department responses. On the other hand, Mr. Gregory  
11 Katsas testified to you and presented a legal analysis  
12 in his testimony that seeks to rebut many of the  
13 claims of the Department.

14 I'll not provide my opinion or  
15 recollection of those internal legal debates here.  
16 Please understand, therefore, that my attorney or I  
17 may have objections to answering some questions you  
18 ask regarding matters that may offend the Department's  
19 position, whether correct or not, regarding genuine  
20 deliberative process.

21 On the other hand, I am confident that  
22 what I will testify about today would be corroborated  
23 if Mr. Christopher Coates were allowed to comply with  
24 his subpoena. In fact, I would encourage the  
25 Commission to broaden its inquiry and subpoena

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1 individuals who recently left the Department, who no  
2 longer work there over the last four years, and work  
3 within the voting section because they, too, I believe  
4 would corroborate the testimony I'm going to give  
5 today.

6 Other current employees also could  
7 corroborate the testimony because I have absolute  
8 confidence, the deeper that your inquiry about matters  
9 I will speak about goes, the greater the certainty  
10 that I am describing matters accurately.

11 Mr. Bolen, one of my attorneys, has worked  
12 with the Department, as well as Mr. Jim Miles who is  
13 not here today who tried to reach a resolution. Mr.  
14 Miles could not be here because he's actually in  
15 Alaska until the snow starts to fly. So your schedule  
16 will not permit him to be here.

17 This matter has resulted in me paying  
18 attorneys, and I wish that the parties had reached a  
19 resolution that fully respected the legal obligations  
20 of the individuals subpoenaed.

21 Finally, for the record, I want to point  
22 out that the Department has previously allowed Mr.  
23 Christopher Coates to appear before this very  
24 Commission pursuant to a subpoena in 2008. Moreover,  
25 the Department has permitted line attorneys to testify

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1 before Congress on at least three occasions. Chief  
2 John Tanner in the voting section went before the  
3 House Judiciary Committee in October 2007. Line  
4 attorney Gerry Hebert appeared before the Senate  
5 Judiciary Committee on March 18, 1986 to oppose the  
6 nomination of Judge Sessions to the District Court in  
7 Alabama. The next day Paul Hancock, another voting  
8 section line attorney, appeared with Barry Kowalsky, a  
9 deputy in the criminal section, and Daniel Bell,  
10 another deputy in the criminal section, to provide  
11 evidence unhelpful to Mr. Sessions' nomination to the  
12 United States District Court in Alabama.

13 Therefore, I am here and ready to provide  
14 you as much information as possible.

15 MR. BLACKWOOD: Thank you. I do want to  
16 point out that, although I understand your assertion  
17 of privilege relating to decision making within the  
18 Department of Justice, this Commission is not  
19 necessarily bound. But that said, let's proceed.

20 There are two main issues that I want to  
21 address today. First is obviously the Black Panther  
22 matter, the case, and what happened in that case.  
23 Also about what you have described as the open and  
24 pervasive hostility within the Justice Department to  
25 bringing civil rights cases against nonwhite

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1 defendants on behalf of white victims. But to start  
2 with, let's go through some of the Black Panther  
3 matter.

4 As the Chairman pointed out, on Election  
5 Day in Philadelphia in 2008, there was an incident  
6 outside the Fairmount Street polling place. How did  
7 you become involved in that incident?

8 MR. ADAMS: Well, at the time I was an  
9 attorney in the voting section in Washington.  
10 Normally, on Election Day, the Department sends  
11 attorneys all over the country, as well as Federal  
12 observers and as well as other observers to monitor  
13 the election. I ball-parked that we had somewhere  
14 between 400 and 700, just ball-parking, attorneys  
15 around the country and Federal observers that day.

16 I was back in Washington to help  
17 coordinate the information flow of incidents as they  
18 arose throughout the country on November 4, 2008. So  
19 that's how the matter came to my attention.

20 MR. BLACKWOOD: Now we've had several  
21 witnesses who were present at Fairmount Street and  
22 they indicate that the Department of Justice lawyers,  
23 part of a roving team, met with them on Election Day  
24 to take some statements. Do you know who those  
25 individuals were?

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1 MR. ADAMS: I do not, actually. I knew  
2 that there was a team deployed to Fairmount Street,  
3 but I don't know who the individuals were.

4 MR. BLACKWOOD: Do you know whether those  
5 individuals took written statements from any of the  
6 witnesses?

7 MR. ADAMS: I know they took statements  
8 from the witnesses.

9 MR. BLACKWOOD: Did you actually see them?

10 MR. ADAMS: I did not.

11 MR. BLACKWOOD: Okay. As you became  
12 involved in the matter, did you meet with and take  
13 notes with regard to any of the witnesses that you  
14 spoke with?

15 MR. ADAMS: Of course. There's -- Of  
16 course. Any attorney would do that.

17 MR. BLACKWOOD: We have asked for those  
18 statements and the Department has indicated that  
19 they're not going to turn them over. And it's been  
20 extremely frustrating. Can you tell us whether those  
21 statements were straightforward fact statements or did  
22 they also include legal analysis and your  
23 observations? Or was it strictly the fact-finding?

24 MR. BOLEN: I'm going to have to object  
25 because, again, it's deliberative process as they were

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1 preparing the case.

2 MR. ADAMS: Yes. I mean, you're getting  
3 into the mechanisms of how the Department conducts an  
4 investigation and the particulars of what records  
5 there are. The existence of records the Department  
6 has asserted as somehow privileged, just the mere  
7 listing of what's there. So, I mean, you're getting  
8 to an area that I can't be very helpful in.

9 MR. BLACKWOOD: Do you have exhibits in  
10 front of you, Mr. Court Reporter?

11 COURT REPORTER: Yes.

12 MR. BLACKWOOD: Let me ask you to look at  
13 Exhibit A which is the J memo.

14 MR. ADAMS: Oh.

15 MR. BLACKWOOD: And we have obtained  
16 Exhibit A as part of our investigation into this  
17 matter, and the J memo is an attempt to summarize what  
18 the trial team is finding with regard to the case, and  
19 to suggest a particular action and approval by higher  
20 ups. Is that accurate?

21 MR. ADAMS: Yes. I mean, yes. It stands  
22 for justification. Every case that the Voting section  
23 brings, you produce a justification memorandum.

24 MR. BLACKWOOD: Okay. Now this memorandum  
25 has, indicates that it is from Chris Coates, Robert

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1 Popper, yourself and Spencer Fisher. Is that right?

2 MR. ADAMS: That's what it says.

3 MR. BLACKWOOD: And is it fair to say at  
4 that time that each of those four individuals  
5 including yourself supported the recommendation of the  
6 J memo?

7 MR. ADAMS: It's customary practice in the  
8 Department that you do not attach your name to a  
9 document that you disagree with.

10 MR. BLACKWOOD: Okay. And each of those  
11 four individuals, Mr. Coates, Mr. Popper, yourself and  
12 Mr. Fisher, you're all career employees, correct?

13 MR. ADAMS: That is correct.

14 MR. BLACKWOOD: Did -- In preparing the  
15 lawsuit, did the Department consider any criminal  
16 charges?

17 MR. ADAMS: Again, that's something I'm  
18 not going to answer.

19 MR. BLACKWOOD: Okay. The fact is that  
20 you sought, the suit sought, remedies under Section  
21 11(b) of the Voting Rights Act. Right?

22 MR. ADAMS: 11(b) is a civil provision in  
23 the Voting Rights Act of 1965.

24 MR. BLACKWOOD: In preparing the suit, did  
25 you all, you the trial team, have any concerns about

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1 the First Amendment having any implications in a  
2 Section 11(b) case?

3 MR. ADAMS: Well, I'll speak broadly, but  
4 not specifically. The First Amendment, this is of  
5 course an issue in any case involving elections,  
6 politics, speech. Where the boundaries of the First  
7 Amendment concerns start and stop is often a very  
8 difficult issue. And I don't want to belabor the  
9 jurisprudence here, but you'd clearly have to consider  
10 First Amendment issues when you're dealing with any  
11 form of political speech or activity.

12 If you look at the U.S. v. Brown case, for  
13 example, which the Fifth Circuit affirmed and I'll get  
14 to in greater detail later, the defendants in the U.S.  
15 v. Brown case asserted a First Amendment defense to  
16 their blatant racial discrimination against white  
17 voters in Mississippi. So often times, or at least in  
18 that instance, the assertion of the First Amendment  
19 was suspect from the beginning, but nonetheless they  
20 asserted it.

21 The Fifth Circuit Court of Appeals took up  
22 the First Amendment defense in that particular case  
23 and said it was meritless that when you break the law,  
24 in and of itself, when you're breaking the law through  
25 an act that is separate from the First Amendment, that

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1 is satisfactory to proceed against that breaking of  
2 the law and the First Amendment concerns or defenses  
3 exist outside of the civil action to remedy the law-  
4 breaking. And in that particular case, the Fifth  
5 Circuit Court of Appeals agreed with the position of  
6 mine and held that there was no First Amendment  
7 defense to stop what Ike Brown was doing in  
8 Mississippi.

9 MR. BLACKWOOD: The defendants named in  
10 the Black Panther case included the two individuals at  
11 the polling place, King Samir Shabazz and Jerry  
12 Jackson. But the complaint also pursued action  
13 against the party itself, the New Black Panther Party,  
14 and Malik Zulu Shabazz. What was the basis of naming  
15 the latter two in this lawsuit?

16 MR. ADAMS: Well, I would turn -- I would  
17 suggest you look at the complaint. The complaint  
18 makes allegations that, for example, Malik Zulu  
19 Shabazz, who is the national party chairman of the New  
20 Black Panther Party, was responsible for organizing  
21 the deployment and, more importantly, endorsed the use  
22 of the weapon after the deployment occurred and to  
23 paraphrase the allegation that he was aware the weapon  
24 was used and that's just how it had to be. And for  
25 somebody to assent to that sort of illegal behavior as

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1 the chairman of an organization would tend, and as Mr.  
2 Katsas testified to you, create an agency liability  
3 for Shabazz.

4 The organization is a similar situation.  
5 If you look at the complaint, you'll see that the same  
6 agency principles were discussed in the complaint.  
7 And for -- they were addressed -- the Panthers were  
8 dressed in a trade dress of the organization. The  
9 Panthers had announced before the election -- I  
10 believe the week before the election, October 28th  
11 perhaps -- that they were going to have a nationwide  
12 deployment of 300 Panthers at polls. And this was on  
13 the Black Panther webpage. It's probably still there  
14 if someone looks.

15 So when you have an organization, whether  
16 it's the KKK or the Black Panthers or the Aryan  
17 Nation, announcing before an election that they're  
18 going to do X and then on Election Day X occurs, as  
19 Mr. Katsas testified, it might create agency liability  
20 for that organization.

21 MR. BLACKWOOD: In an interview that Malik  
22 Zulu Shabazz gave on Fox News several days after the  
23 election, he indicated that the reason Black Panther  
24 members were at the polling place and armed was  
25 because of the presence of skinheads and white

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1       supremacists.       Did you all look into those  
2       allegations?

3               MR. ADAMS:       Well, that's one of the  
4       questions about the extent and nature of the  
5       Department's investigation I will not answer. But I  
6       can say that no credible public information has ever  
7       appeared to establish there were skinheads.

8               If you listen to that interview and you  
9       may get to this in your question, your next question,  
10       Mr. Malik Shabazz said on Fox News that the use of the  
11       weapons, I believe, was an emergency response, that  
12       again he was endorsing the behavior of the Panthers on  
13       Election Day in Philadelphia. So you have him on  
14       national television saying that he was involved in  
15       this incident in Philadelphia in one way or another.

16              MR. BLACKWOOD:       In the J memo, it's  
17       indicated that you actually talked to Malik Zulu  
18       Shabazz. Is that accurate?

19              MR. ADAMS:       Well, the J memo probably says  
20       that. I haven't looked at it for a long time. But I  
21       won't dispute that.

22              MR. BLACKWOOD:       Okay. Did you actually  
23       talk to him and what was said?

24              MR. ADAMS:       I did talk to him.

25              MR. BLACKWOOD:       And did he defend the

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1 presence of the Panthers at the polling place?

2 MR. ADAMS: Yes, and he said the weapon  
3 was necessary.

4 MR. BLACKWOOD: In some of your recent  
5 writings, you indicated that there were prior acts of  
6 the Black Panthers at polling places during the  
7 primaries. Could you tell us about that?

8 MR. ADAMS: I can, and let me stress that  
9 this is very preliminary and this is also in the  
10 public domain if anybody cares to actually do some  
11 work and look at it. There were indications, and I  
12 will concede that indications as not admissible  
13 evidence, but indications are where every single case  
14 starts.

15 There were indications that the Black  
16 Panthers were also doing the same thing to supporters  
17 of Hillary Rodham Clinton in the primaries, especially  
18 and particularly I believe in March and April of 2008.

19 Those were simple indications that certainly would  
20 have been followed up on at some point by me, because  
21 I don't ever leave any stone unturned on these kind of  
22 cases if it had gone forward. Had there been a  
23 beginning of this activity going back to the  
24 primaries, it would have been very, very significant  
25 from my view to what was happening on Election Day.

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1 MR. BLACKWOOD: When did you become aware,  
2 though, of alleged acts during the primary? Before  
3 the prosecution of this case?

4 MR. ADAMS: I can't -- no, certainly not  
5 before. It never came to my attention before the  
6 prosecution of this case. But at some point in 2009 I  
7 picked up on some information that indicated this  
8 behavior was happening well before November 4th.

9 MR. BLACKWOOD: Now, on their website, the  
10 date is in question, but the Black Panthers allegedly  
11 renounced the acts that occurred on Election Day and  
12 also suspended Jerry Jackson and King Samir Shabazz.  
13 Was there any indication that that occurred, these  
14 acts occurred, directly as a result of the election,  
15 you know, right after Election Day, or that it  
16 occurred only after the lawsuit was filed?

17 MR. ADAMS: I think it only occurred after  
18 we started calling Malik Zulu Shabazz to talk to him.  
19 I mean, that's my view.

20 MR. BLACKWOOD: Do you -- One of those  
21 comments renouncing the event was dated anyway  
22 Election Day. Do you have any indication whether that  
23 actually occurred on Election Day or whether it was  
24 posted some time and just back dated?

25 MR. ADAMS: Whether or not this

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1 information was on the web for the public to consume  
2 on Election Day or shortly thereafter or on January  
3 4th when the lawsuit was filed, I cannot conclusively  
4 answer with certainty.

5 MR. BLACKWOOD: Okay. At this part, I'd  
6 like to walk through some of the chronology of the  
7 Panther case and we have up on the screen some of the  
8 more important dates but just -- You should have it  
9 also in front of you. But let me walk you through.

10 First off, the suit gets filed. The  
11 defendants are served, but they don't file an answer.

12 Correct?

13 MR. ADAMS: That's correct. They didn't  
14 file an answer. There's no answer in the public  
15 record.

16 MR. BLACKWOOD: And the failure to file an  
17 answer under Federal Rule 8 means the liability is  
18 conceded, right?

19 MR. ADAMS: All facts as pled are taken in  
20 favor of the plaintiff in that circumstance.

21 MR. BLACKWOOD: As indicated, on April  
22 28th, the record that we have received indicates that  
23 notices were sent to the defendants of the  
24 Department's intent to seek a default judgment. But  
25 cross reports indicated something occurred on April

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1 29th with regard to an objection by Mr. Rosenbaum.  
2 Can you tell us about that?

3 MR. ADAMS: I really can't. I mean,  
4 again, I'm not going to discuss the internal  
5 deliberations that went on and particularly this time  
6 period about the merits of those deliberations. I'm  
7 not going to talk about what the arguments were on  
8 each side. I just -- As I've stated in my opening,  
9 while I may not concede that that's deliberative  
10 process at this point, I'm nonetheless going to  
11 respect the Department's position that that's  
12 deliberative process.

13 MR. BLACKWOOD: All right. This is part  
14 of a press report that occurred in the *Weekly*  
15 *Standard*. Let me just ask factually. Did Mr.  
16 Rosenbaum note an objection that date?

17 MR. ADAMS: Well, I think Mr. Perez told  
18 you that he did, and I'd have no reason to differ with  
19 that testimony of Mr. Perez.

20 MR. BLACKWOOD: And was that the first  
21 objection noted by anyone higher up?

22 MR. ADAMS: I'm not sure if April 28th is  
23 the date. But suffice to say we were proceeding as  
24 the public record shows, and the court files, we were  
25 proceeding along merrily up until this point.

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1 MR. BLACKWOOD: Okay. The press reports  
2 also indicate that that date, the date that Mr.  
3 Rosenbaum first raised an objection, the trial team  
4 prepared a response. Was this in the form of a  
5 memorandum or an email?

6 MR. ADAMS: Probably both.

7 MR. BLACKWOOD: Did you ever receive a  
8 response?

9 MR. ADAMS: I never received a  
10 communication from Mr. Rosenbaum.

11 MR. BLACKWOOD: Now your position is that  
12 you're not going to tell us what the basis of the  
13 objections were.

14 MR. ADAMS: Well, I mean listen. You had  
15 the Assistant Attorney General for Civil Rights come  
16 here and tell you a whole litany of things that  
17 justified dismissing the case, facts in law, First  
18 Amendment, agency, all those things. Let's just put  
19 it this way. Those are not new arguments to me.

20 MR. BLACKWOOD: Okay. The press reports,  
21 that same article that I referenced before from the  
22 *Weekly Standard*, also indicated that, right after Mr.  
23 Rosenbaum made his objections, after a response was  
24 prepared by the trial team, there was "two days of  
25 yelling." Can you confirm that?

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1 MR. ADAMS: Yelling was part of it. There  
2 were other things, profanity, tossing of papers at  
3 each other, all-nighters.

4 MR. BLACKWOOD: All-nighters by the trial  
5 team?

6 MR. ADAMS: Correct.

7 MR. BLACKWOOD: Defending their position?

8 MR. ADAMS: Correct.

9 MR. BLACKWOOD: In any case, on May 1st,  
10 the motion to extend the deadline was filed to  
11 evidently give more time, is that correct, for the  
12 Department to consider what it's going to do?

13 MR. ADAMS: The face of the pleading, I  
14 believe, states that, due to the weighty issues  
15 involved in this case, we need more time to consider  
16 what would be an appropriate remedy.

17 MR. BLACKWOOD: Okay. So the Department  
18 buys itself an extra 15 days.

19 MR. ADAMS: That's right.

20 MR. BLACKWOOD: And during that 14 days  
21 what occurs?

22 MR. ADAMS: More of the same.

23 MR. BLACKWOOD: Well, let me show you --  
24 You should have in front of you what's marked as  
25 Exhibit B, which is a remedial memorandum dated May 6,

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1 2009 which we have received as part of our  
2 investigation. Is that an accurate copy of that  
3 memorandum?

4 MR. ADAMS: I suppose it is. It doesn't  
5 look -- I mean I have no reason to dispute its  
6 accuracy.

7 MR. BLACKWOOD: Okay. Again, on the  
8 front, it indicates that Mr. Coates, Mr. Popper,  
9 yourself and Mr. Fisher all join in support of the  
10 memorandum. Is that correct?

11 MR. ADAMS: As I stated, it is customary  
12 practice in the Department to not attach somebody's  
13 name to a document with which they disagree.

14 MR. BLACKWOOD: That memorandum, if you  
15 won't talk about it, the public can at least review  
16 the memorandum, and it points out or addresses a  
17 variety of arguments including First Amendment  
18 concerns. One of the matters that Mr. Perez testified  
19 about was Rule 11. And he made public comments before  
20 Congress indicating that there were Rule 11 concerns.

21 Could you describe for the public what Rule 11 is and  
22 why that might have caused consternation among the  
23 trial team?

24 MR. ADAMS: Yes. This is an issue near  
25 and dear to my heart. Rule 11, any lawyer knows, is

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1 an ethical obligation to only sign a complaint or a  
2 pleading that can be supported by the facts of the  
3 law. It's one of the first things you learn in law  
4 school. And most lawyers, in my experience, and all  
5 lawyers in my experience at the Department, take it  
6 very, very, very seriously. It's one of the most  
7 important parts of the whole Rules of Civil Procedures  
8 in my view.

9 When I heard the testimony that Rule 11  
10 would not support going forward in this case, I -- my  
11 blood boiled because I've never done anything like  
12 that in my life and never will. And for someone to  
13 assert that a pleading we signed and something this  
14 important could not be ethically supported was a very  
15 low moment. And it is false.

16 MR. BLACKWOOD: Has anybody at any time  
17 during your time at the Department, with regard to the  
18 Black Panther case, ever to your face accused you or  
19 any other members of the trial team that you're aware  
20 of of having violated Rule 11?

21 MR. ADAMS: Of course not. And there are  
22 so many procedures in place. For example, if Rule 11  
23 was at risk, why wasn't there an OPR investigation of  
24 Christian Adams and Christopher Coates and Robert  
25 Popper? There's an OPR investigation with somebody

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1 else, but it's not us. If there's a Rule 11 violation  
2 here, then bring it on because we didn't do anything  
3 wrong.

4 MR. BLACKWOOD: One of the things that you  
5 have mentioned in the two articles that you wrote  
6 immediately or last week or so, one with the  
7 *Washington Times* and then *Pajamas Media*, you mentioned  
8 an incident where the remedial memo or other memos  
9 were thrown at Steven Rosenbaum by Chris Coates. Can  
10 you tell us about that?

11 MR. ADAMS: Well, I could. Again, I  
12 hardly consider profanity and assaults to be -- and  
13 I'm using the term "assault" in the lightest of terms  
14 -- it's a piece of paper -- could be considered  
15 deliberative process. It's kind of a lack of  
16 deliberation. Mr. Rosenbaum told Mr. Coates, and I'm  
17 sure Mr. Coates would testify under oath if he were  
18 able to comply with the subpoena, that he hadn't even  
19 read these memos.

20 MR. BLACKWOOD: He Rosenbaum.

21 MR. ADAMS: That's correct. Before he  
22 began to argue against this case. And Coates was so  
23 outraged. He said, "That's bullshit. How dare you.  
24 That's bullshit." And Coates threw the memo at him  
25 and said, "You can't do that."

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1 MR. BLACKWOOD: Who is Steve Rosenbaum?

2 MR. ADAMS: At the time he was the Acting  
3 Deputy Assistant Attorney General for Civil Rights.

4 MR. BLACKWOOD: Had he been assigned to  
5 the voting rights section any time before that?

6 MR. ADAMS: Fifteen years ago he was in  
7 the voting -- I think at one point he was an acting  
8 chief. But I'm not sure about the chronology.

9 MR. BLACKWOOD: But immediately before  
10 this election, before 2008, was Steve Rosenbaum in the  
11 voting rights section?

12 MR. ADAMS: Yes, I think he was fifteen  
13 years ago.

14 MR. BLACKWOOD: Okay.

15 MR. ADAMS: Maybe 14, 16. But I wasn't  
16 there. I can't tell you exactly when.

17 MR. BLACKWOOD: To what section was he  
18 assigned during the election?

19 MR. ADAMS: At the time?

20 MR. BLACKWOOD: Yes.

21 MR. ADAMS: Okay. He is currently the  
22 Housing Chief in the housing section, Housing and  
23 Civil Enforcement, which has, of course, nothing to do  
24 with voting, and has been in housing for a long time.  
25 But I don't know exactly when he started.

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1 MR. BLACKWOOD: Okay. Now the incident  
2 you mentioned about the throwing of the memorandum,  
3 were you there?

4 MR. ADAMS: I was not but, as I said, if  
5 Mr. Coates were allowed to comply with the subpoena  
6 and if Mr. Popper was sitting in this chair right now,  
7 I have absolute certainty that they would say this,  
8 and it's not hearsay that Mr. Coates and Mr. Popper  
9 told me this. It's hearsay what happened. But it's  
10 not hearsay that I was told this.

11 MR. BLACKWOOD: During this period from  
12 May 1st when the case got extended until May 15th when  
13 the response is due to the court, did you become aware  
14 that the appellate section was asked to review the  
15 case as well?

16 MR. ADAMS: Well, that's one of the  
17 questions that will deal with something involving the  
18 deliberative process that I'll not answer.

19 MR. BLACKWOOD: Okay. Before you, you  
20 should have Exhibit C which is another document that  
21 we received through our investigation, which purports  
22 to be an email from Diana Flynn, also includes  
23 supporting information from Marie McElderry. Do you  
24 know who those individuals are?

25 MR. ADAMS: Diana Flynn is currently, as

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1 far as I know, the Chief of the Appellate section. I  
2 don't know who the other person is.

3 MR. BLACKWOOD: Do you know whether Diana  
4 Flynn is a career employee?

5 MR. ADAMS: Yes.

6 MR. BLACKWOOD: In that memorandum it  
7 states at the beginning of numbered paragraph one, and  
8 this is from the Appellate section --

9 MR. ADAMS: Can I interrupt you?

10 MR. BLACKWOOD: Yes.

11 MR. ADAMS: The answer to my last question  
12 simply said whether I knew she was a career employee.

13 MR. BLACKWOOD: Yes.

14 MR. ADAMS: That I do know whether or not  
15 she is and the answer is, yes, she is a career  
16 employee.

17 MR. BLACKWOOD: Okay.

18 MR. ADAMS: I've read too many  
19 depositions.

20 MR. BLACKWOOD: All right. Going back to  
21 Exhibit C, which purports to be a memorandum, an  
22 email, from the Appellate section. Ms. Flynn  
23 indicates "We can make a reasonable argument in favor  
24 of default relief against all defendants and probably  
25 should given the unusual procedural situation."

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1 During that time between May 1st and May 15th, did you  
2 become aware of the opinion of the Appellate section?

3 MR. ADAMS: I have seen this document  
4 before.

5 MR. BLACKWOOD: All right. But at that  
6 time did you -- were you aware of it?

7 MR. ADAMS: Yes.

8 MR. BLACKWOOD: At that point then, you  
9 have the trial team, Mr. Coates, Mr. Popper, yourself,  
10 and Mr. Fisher, and also now Diana Flynn and Marie  
11 McElderry. All six are career employees and all six  
12 say the case should go forward. Is that correct?

13 MR. ADAMS: I won't dispute that.

14 MR. BLACKWOOD: Is it unusual to have six  
15 career employees overruled like that?

16 MR. ADAMS: Well, if you listen to the  
17 press accounts from the Bush Administration, you think  
18 it happened every day. But it really didn't. It is  
19 unusual.

20 MR. BLACKWOOD: Have you ever heard of the  
21 Appellate section reviewing a case that was in a  
22 default procedure or a default status?

23 MR. ADAMS: In my experience, no. And I'm  
24 quite confident, if Christopher Coates was sitting in  
25 this chair and were able to comply with the subpoena,

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1 he will tell you the same thing. And he's been there  
2 since 1996.

3 MR. BLACKWOOD: Was there any indication  
4 that anyone higher up than Loretta King or Steve  
5 Rosenbaum was making the decision to override the six  
6 career attorneys who said the case should go forward?

7 MR. ADAMS: None that I had any indication  
8 of.

9 MR. BLACKWOOD: When you were told, or the  
10 trial team was told, to dismiss the claims as to three  
11 of the defendants, was any reason given?

12 MR. ADAMS: Well, I mean, listen. You had  
13 Assistant Attorney General Perez come and tell you  
14 what he told you in his testimony here. And, as I  
15 indicated, those were not unfamiliar arguments to me.

16 MR. BLACKWOOD: As of today, you're not in  
17 the -- or don't feel free to testify exactly what you  
18 were told at that time.

19 MR. ADAMS: I will not.

20 MR. BLACKWOOD: During this process that  
21 went on between May 1st and May 15th, were there  
22 emails that you saw, documents back and forth,  
23 discussing the merits of the case?

24 MR. ADAMS: Well, that gets back into  
25 things I won't testify about.

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1 MR. BLACKWOOD: I'm not asking about the  
2 substance. But is there a paper trail out there?

3 MR. ADAMS: There is a -- there are large  
4 volumes of documents about this case.

5 MR. BLACKWOOD: Okay. You don't have  
6 those documents. Is that correct?

7 MR. ADAMS: No, sir.

8 MR. BLACKWOOD: They're back with the  
9 Department. Is that right?

10 MR. ADAMS: Or wherever else they might  
11 be. You know, they may be at the Assistant's office.

12 I have no -- I mean, they're mostly electronic. I  
13 mean, we reduced everything. The Department has this  
14 wonderful software package called Summation where we  
15 crank everything into Summation so it can be text  
16 searchable.

17 Now there was a lot of video, obviously,  
18 if you look on the web. And those don't lend  
19 themselves to Summation quite as easily. But,  
20 nonetheless, everything was converted to electronic  
21 because, when you go to trial, you want to have  
22 everything electronic. And you might as well do it at  
23 the very beginning.

24 There's no sense in saying a month before  
25 trial "Let's convert everything electronically." We

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1 were cranking things electronic as we got it.

2 MR. BLACKWOOD: Okay. So that would  
3 include -- This electronic database, if you will,  
4 would have not only the information about the  
5 substance of the case but also the communications back  
6 and forth between the trial team and higher ups.

7 MR. ADAMS: Probably, but I'm not sure  
8 about the latter part of your question. About the  
9 communications, I'm just not sure. Those will be  
10 electronic but maybe not in that database.

11 MR. BLACKWOOD: During the decision making  
12 process about the Panther case, did you hear that  
13 anyone at the Department was consulting with any  
14 outside groups such as the NAACP Legal Defense Fund?

15 MR. ADAMS: Well, I did, but we were also  
16 consulting with outside groups. We visited the  
17 Southern Poverty Law Center. We visited the Anti-  
18 Defamation League and would have probably hired them  
19 as an expert in this case if it had gone forward.  
20 Because, of course, the Black Panthers, they're a  
21 militant, anti-Semitic group. They're not just black  
22 nationalists. They hate Jews. And the ADL has an  
23 extensive database on this organization.

24 MR. BLACKWOOD: But the -- Your  
25 communications with the ADL and the Southern Poverty

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1 Law Center, I assume, were related to the substance of  
2 the case.

3 MR. ADAMS: That's correct.

4 MR. BLACKWOOD: Do you know whether  
5 anybody was consulting as to whether to proceed on the  
6 merits of the case with the NAACP Legal Defense Fund?

7 MR. ADAMS: Well, listen. This is not  
8 firsthand. But I was told by section management that  
9 NAACP members or staffers were talking with a voting  
10 section attorney in March of 2009 and asking, "When is  
11 this case going to get dismissed" which, of course, is  
12 interesting to hear for the first time that someone's  
13 even thinking about dismissing the case that you're in  
14 the middle of building. And that was -- It seemed  
15 strange. But it didn't really give me much pause  
16 other than to think that's a really strange request.

17 MR. BLACKWOOD: Well, all press reports  
18 indicated a conversation between Kristen Clarke of the  
19 Legal Defense Fund and a Laura Coates of the  
20 Department. Who is Laura Coates?

21 MR. ADAMS: She is a line attorney in the  
22 voting section, no relation to Christopher Coates.

23 MR. BLACKWOOD: And, according to the  
24 press reports, Laura Coates reported this contact,  
25 this conversation, with Kristen Clarke of the NAACP

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1 Legal Defense Fund "to her superiors." Do you know  
2 whether that occurred?

3 MR. ADAMS: I do. And, if Mr. Coates were  
4 able to comply with his subpoena and testify under  
5 oath, I'm quite confident that he would be able to  
6 share the full details of those communications as  
7 conveyed to him.

8 MR. BLACKWOOD: But you're not in the  
9 position to do that.

10 MR. ADAMS: Other than they existed and  
11 you accurately -- and that I characterized them as a  
12 request as to when the case was going to be dismissed  
13 as conveyed to me by Mr. Coates.

14 MR. BLACKWOOD: After the decision is made  
15 -- And let me back up for a second about the merits of  
16 the case or what happens -- the Department orders the  
17 trial team to dismiss the case as to three of the  
18 defendants. Correct?

19 MR. ADAMS: That's correct.

20 MR. BLACKWOOD: That's Jerry --

21 MR. ADAMS: That's in the public  
22 pleadings.

23 MR. BLACKWOOD: Right.

24 MR. ADAMS: That's what happened.

25 MR. BLACKWOOD: Okay. And also the

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1 injunctive relief that was sought was decreased from  
2 what was sought in the complaint to the ultimate  
3 relief that was sought.

4 MR. ADAMS: I won't dispute that.

5 MR. BLACKWOOD: Okay. And those are  
6 direct orders from Steve Rosenbaum and Loretta King?

7 MR. ADAMS: Those are direct orders from  
8 Christopher Coates to me on May 15th to prepare those  
9 pleadings. And, as I said, if Mr. Coates were allowed  
10 to testify about what the orders were, he would be  
11 able to corroborate what I'm telling you today.

12 MR. BLACKWOOD: Did he indicate who he  
13 received the orders from?

14 MR. ADAMS: Well, he put the phone down  
15 and said what the orders were and I seemed to recall  
16 it came from Rosenbaum. But I might be wrong. But  
17 Coates would be able to answer that question.

18 MR. BLACKWOOD: Something you just  
19 mentioned struck me. You were told that on May 15th,  
20 the day that the filings were due?

21 MR. ADAMS: A couple hours before they  
22 were due.

23 MR. BLACKWOOD: Isn't that slightly  
24 unusual to have direction like that on a case of this  
25 magnitude, to get the decision the same day that the

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1 pleading was due?

2 MR. ADAMS: I'll differ slightly. The  
3 Department frequently has tight deadlines. There is  
4 so much litigation going on, litigation I would be  
5 doing. And at this time period Rosenbaum was  
6 reviewing absolutely everything that Coates was doing,  
7 everything. And so he had a heavy workload because he  
8 was essentially acting in large status as the chief of  
9 the Voting section in place of Coates. So I can  
10 understand that Mr. Rosenbaum was probably backed up.

11 MR. BLACKWOOD: All right. What you just  
12 mentioned, that Mr. Rosenbaum was monitoring Mr.  
13 Coates, when did that begin?

14 MR. ADAMS: After the Inauguration and Mr.  
15 Rosenbaum moved into that position. If Mr. Coates  
16 were here to comply with the subpoena, I'm quite sure  
17 he would tell you all about that particular  
18 development.

19 MR. BLACKWOOD: All right. So it wasn't  
20 just the Black Panther case that precipitated this  
21 dispute or being reviewed. It was shortly after the  
22 election that Mr. Rosenbaum was overseeing Mr. Coates  
23 -- how do you put it -- rather closely or excessively  
24 closely?

25 MR. ADAMS: That's the gentle way.

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1 MR. BLACKWOOD: Okay.

2 MR. ADAMS: Yes.

3 MR. BLACKWOOD: Literally every piece of  
4 paper issued?

5 MR. ADAMS: Every single paper that would  
6 go to court would have to be reviewed by Mr.  
7 Rosenbaum, which was a departure from the previous  
8 eight years, at least, the previous four years in my  
9 personal experience. No front office in my mind would  
10 have ever had the time to do that sort of thing, but  
11 they found it.

12 MR. BLACKWOOD: After the dismissal of the  
13 Black Panther case on May 15th or, I won't say  
14 dismissal of the case, but dismissal as to three, the  
15 reduction of the injunctive relief sought, did Mr.  
16 Coates' position worsen?

17 MR. ADAMS: Of course.

18 MR. BLACKWOOD: Tell us how.

19 MR. ADAMS: He was, as I write in my  
20 *Pajamas* video piece, all of his power was slowly  
21 sucked away. He couldn't make decisions about to whom  
22 to assign a case. He couldn't make decisions about  
23 who would review a case, which deputy. He had a very  
24 difficult existence after the dismissal of the Black  
25 Panther case and I'm quite certain that, if he were

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1 allowed to comply with his subpoena, he would fully  
2 inform the Commission of what happened.

3 MR. BLACKWOOD: Just so I'm clear, it's  
4 almost like a two-step process. After the  
5 Inauguration, Steve Rosenbaum also steps up the  
6 monitoring of Mr. Coates. Every piece of paper and  
7 litigation has to be reviewed by him. And then after  
8 the Black Panther case dismissal, all of a sudden,  
9 his duties start to disappear as well.

10 MR. ADAMS: Yes. And it's far more  
11 extensive than this and I'm not going to fully get  
12 into it. I'm not going to speak for Mr. Coates. But  
13 as someone who admired his 30 some career years in  
14 Voting Rights, it obviously was disappointing to see,  
15 because nobody knew this area of the law better than  
16 Mr. Coates except perhaps the current Chief, whose  
17 results are also very good.

18 And so Mr. Coates had a very difficult  
19 time. And I'm sure he would testify about precisely  
20 why he thinks this was happening if he were allowed to  
21 testify.

22 MR. BLACKWOOD: Certainly within the  
23 Department and the line attorneys, there must have  
24 been some explanation that was circulating as to why  
25 this was happening to Mr. Coates.

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1 MR. ADAMS: Well, I don't -- I can't  
2 quantify that. I mean there's always talk in an  
3 office, so...

4 MR. BLACKWOOD: How about your duties?  
5 Did they change after the dismissal?

6 MR. ADAMS: Not so much. I was litigating  
7 a great case for the benefit of African Americans in  
8 Florida called United States v. Lake Park, which is a  
9 redistricting case or vote dilution case under Section  
10 2 in the Southern District of Florida. And I had a  
11 wonderful summer litigating that case after the Black  
12 Panther dismissal, you know, getting ready for  
13 depositions, investigations, settlement negotiations,  
14 throughout the fall. So I had a very good time  
15 working on other matters.

16 MR. BLACKWOOD: Other than the Ike Brown  
17 case and the Black Panther case, all your other cases  
18 dealt with protecting minority rights. Is that  
19 correct?

20 MR. ADAMS: That's correct. I brought  
21 cases to protect Hispanic voters, language-minority  
22 voters. I brought cases in United States v.  
23 Georgetown County, which is a school board down  
24 therethat the county is almost 40 percent African  
25 American and no school board members were getting

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1 elected. We sued Georgetown County.

2 I've done election coverages all over the  
3 country for the benefit of African Americans.

4 United States v. Lake Park was another  
5 case to benefit African Americans who were over 40  
6 percent of the population of Lake Park and had never  
7 elected a candidate since 1923 when the town was  
8 founded. And we brought that case and settled that  
9 case also.

10 MR. BLACKWOOD: During this time  
11 initially, Loretta King and Steve Rosenbaum are  
12 serving in acting positions. Correct? I mean as  
13 acting --

14 MR. ADAMS: Under the Vacancy Reform Act,  
15 they were serving in acting positions.

16 MR. BLACKWOOD: At what point did somebody  
17 actually step into it, a political appointee step in  
18 full-time step into the position of supervisor?

19 MR. ADAMS: I don't know exactly when.

20 MR. BLACKWOOD: Roughly when?

21 MR. ADAMS: Fall.

22 MR. BLACKWOOD: And who became that? Took  
23 that position?

24 MR. ADAMS: It was Assistant Attorney  
25 General Perez, I think, was confirmed in the fall. So

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1 that would have replaced Loretta King.

2 MR. BLACKWOOD: Okay. How about Steve  
3 Rosenbaum?

4 MR. ADAMS: That's harder for me to pick.  
5 I mean, maybe July, August, September, October a new  
6 DAAG was appointed, Julie Fernandes.

7 MR. BLACKWOOD: Okay. And DAAG is what?

8 MR. ADAMS: Deputy Assistant Attorney  
9 General.

10 MR. BLACKWOOD: So she serves under Perez.

11 MR. ADAMS: That's correct.

12 MR. BLACKWOOD: On January 4, 2010, there  
13 was a going-away party for Christopher Coates,  
14 correct?

15 MR. ADAMS: That's correct.

16 MR. BLACKWOOD: Were you there?

17 MR. ADAMS: I was.

18 MR. BLACKWOOD: Who else was there? I  
19 mean, by that, any supervisors?

20 MR. ADAMS: Yes. Assistant Attorney  
21 General Perez was there and DAAG Fernandes was also in  
22 attendance. I should note, though, that before Coates  
23 -- and I'm sure you're going to ask about his going-  
24 away speech -- before he got to his going-away speech  
25 Assistant Attorney General Perez had to catch a plane.

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1 So he left the room. But it tells you that Mr.  
2 Coates was about to deliver the speech in front of  
3 both of those individuals.

4 MR. BLACKWOOD: Well, I do have some  
5 questions about his speech. My understanding is that  
6 he talked about the two voting rights cases that were  
7 brought by the Department involving black defendants  
8 and he indicated that he had been criticized by those  
9 within the Department. And he had been, correct?

10 MR. ADAMS: I have a long list here that  
11 I'd like to get to about this very matter of many,  
12 many matters where there was hostility expressed  
13 toward a race-neutral enforcement of law. But you're  
14 summarizing one of them.

15 MR. BLACKWOOD: Okay. Then we'll get to  
16 that in just a second. So the public can follow  
17 along, he did mention two specific cases involving  
18 cases in which the defendant was black and the victims  
19 were white, first the Black Panther case and then  
20 what's called the Ike Brown case in Noxubee,  
21 Mississippi.

22 To that, let me read an excerpt of  
23 something that was released as allegedly a paraphrase  
24 of Mr. Coates' statement on his going-away party and  
25 ask if you can confirm whether it was said or not.

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1 "Selective enforcement of the law including the Voting  
2 Rights Act on the basis of race is just not fair and  
3 does not achieve justice. I have had many discussions  
4 concerning these cases. And one of my discussions  
5 concerning the Ike Brown case, I had a lawyer say he  
6 was opposed to our filing such suits. When I asked  
7 why, he said that only when he could go to  
8 Mississippi, perhaps 50 years from now, and find no  
9 disparities between the socioeconomic levels of black  
10 and white residents might he support such a suit. But  
11 until that day, he did not think that we should be  
12 filing voting rights cases against blacks or on behalf  
13 of white voters." Did you hear that statement?

14 MR. ADAMS: Yes, I did. And there's more.

15 MR. BLACKWOOD: Well, in your experience  
16 at the Department, have you had similar statements  
17 from -- have you heard similar statements from  
18 attorneys about a reluctance to pursue voting rights  
19 cases in which the defendants are black or the victims  
20 are white?

21 MR. ADAMS: Over and over and over again.

22 MR. BLACKWOOD: I sense that you -- Well,  
23 since you just mentioned a list, why don't you tell us  
24 about it?

25 MR. ADAMS: Okay. Mr. Coates was told

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1 that particular instance on or around when they were  
2 doing coverage in Noxubee in 2003. If Mr. Coates were  
3 here, he could tell you about this firsthand. But it  
4 was conveyed to me by Mr. Coates.

5 In the 45 years since the Voting Rights  
6 Act was passed in 1965, the Department has brought  
7 hundreds and I believe hundreds of cases to protect  
8 African Americans, language, minorities and so forth.

9 There are only two cases that the Department has  
10 brought to protect white voters and have African-  
11 American defendants. One was the New Black Panther  
12 case and one was U.S. v. Ike Brown. Those two cases  
13 provide the illustrations that I'm going to go through  
14 to make sure that all of these particular instances  
15 are out in the record and as to why I came to the  
16 conclusion in the my article that this is open and  
17 pervasive.

18 For example, and this is one of many, an  
19 attorney told Mr. Coates after the U.S. v. Ike Brown  
20 case was filed. He came to Mr. Coates and attorneys,  
21 people, refused to work on the case. They literally  
22 said, "I'm not going to work on that case." I refuse  
23 to work on that case.

24 MR. BLACKWOOD: How can that happen? And  
25 as a supervisor he had to accept that?

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1 MR. ADAMS: This is how the Civil Rights  
2 division is. Listen. The Housing section won't even  
3 have an office picnic because the word "picnic" is  
4 viewed offensive. Okay. This is the Civil Rights  
5 division. Anybody who's been there can tell you this,  
6 and anyone who's there now knows this is the truth.  
7 You just work around it. You work around it.

8 So, anyhow, this person comes to Mr.  
9 Coates and he says, "I'm not going to work on the case  
10 because I didn't join the Voting section to sue black  
11 people." So this happened right after the case was  
12 filed. People refused to work on the matter.

13 One of the most compelling examples of  
14 this hostility, and I'll get to more conversations in  
15 a second, is how the Department refuses to enforce  
16 Section 5 of the Voting Rights Act on behalf of white  
17 victims. Section 5 is the preclearance provision.  
18 It's sort of technical. I understand. But it's what  
19 allows the Department to block implementation of  
20 voting changes, a very important part of the Voting  
21 Rights Act of 1965.

22 But I will guarantee you, in 45 years of  
23 this law's existence, not only has there never been an  
24 objection on behalf of a white victim, but there  
25 hasn't even been the analysis. They don't analyze

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1 this. It isn't done. There's hostility toward even  
2 opening up that can of worms.

3 And I'd like to submit for the record this  
4 submission. It just came in. This is from Noxubee  
5 County, Mississippi, the place where Ike Brown was  
6 found to have discriminated against the rights of  
7 white voters in 2007. This submission is asking the  
8 Department to approve Mr. Brown's right to block  
9 voters from voting. That's what this submission is,  
10 based on their ideology whether they've supported  
11 Republicans.

12 Now the Federal Court in Mississippi found  
13 that that particular behavior was indicative of racial  
14 intent, an illegal racial intent, and found in favor  
15 of the United States. Well, right now, we'll know by  
16 July 14th of this year whether or not what I'm saying  
17 is accurate about the Department, because this  
18 submission should be objected to. The Department  
19 should take the ruling in the U.S. v. Brown case and  
20 lodge an objection to this.

21 But I'll bet you that's not what's going  
22 to happen. And everyone's going to be able to see  
23 that they're not going to object to something they  
24 should be objecting to.

25 They have a couple of options. They could

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1 preclear it. That would be an embarrassment because  
2 the Federal Court already found that it violated the  
3 law. They could ask for more information under the  
4 statute, but that's a delaying tactic that would only  
5 give them until September 14th to decide.

6 They could do what's called a no  
7 determination letter, which is essentially a copout  
8 saying "Well, the Federal Court stripped you of power  
9 to run the election" which they did because he was so  
10 bad. "So you can't make this submission right now  
11 until you're back in charge." He's still going to  
12 have these rules in place in Mississippi after he's  
13 back in charge. So the no determination letter would  
14 be a copout.

15 Another copout would be a Section 2 case  
16 or an offensive attack in Federal District Court  
17 against Ike Brown for this submission. That would be  
18 to go to the judge with all those higher standards of  
19 proof of preponderance of the evidence and a Federal  
20 judge. And all those other risks that are involved  
21 with going to court in a Section 2 matter, if that  
22 Department chooses that, it will be more evidence they  
23 are unwilling to lodge an objection under Section 5 to  
24 this submission simply because it's white victims.

25 Now how do I know that they're not going

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1 to do this? Because I've talked to the victims in the  
2 last week. I've called the people in Noxubee,  
3 Mississippi and I've said to them, "Has the Department  
4 been calling you like they always do when a Section 5  
5 submission comes in, the minorities in the area?"  
6 "No, we haven't heard a word." "You're kidding me,  
7 right?" They haven't called about this submission  
8 which targets them because the Department doesn't want  
9 to use Section 5 to protect white voters.

10 And we will know by July 14th whether or  
11 not they have lodged an objection to this particular  
12 submission. My guess is they'll either say no  
13 determination or they'll try to go to Federal District  
14 Court, which of course both are copouts because of the  
15 risk involved in Federal Court, the higher standards.

16 Mississippi has a whole bunch of loyalty  
17 oath litigation that also complicates the issue that I  
18 won't discuss here. But it's a loyalty oath and it's  
19 a racially-based loyalty oath that the Department  
20 could object to tomorrow but won't.

21 MR. BOLEN: Can we submit that?

22 MR. BLACKWOOD: Yes. For the record,  
23 Chair?

24 CHAIRPERSON REYNOLDS: It's accepted.

25 MR. BOLEN: Thank you.

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1 MR. BLACKWOOD: Are there any more items on  
2 the list that you --

3 MR. ADAMS: Oh yes. There's plenty.

4 MR. BLACKWOOD: This is the time.

5 MR. ADAMS: Okay. At one meeting with the  
6 chiefs of the Civil Rights Division, including the  
7 Chief of the Criminal Section, Mark Kappelhoff, and  
8 other various leaders of the division, Mr. Kappelhoff  
9 made a statement where many people were present that  
10 -- it talked about the U.S. v. Ike Brown case, and he  
11 said, "That's the case that has gotten us into so many  
12 problems with civil rights groups."

13 Mr. Coates complained to the Acting  
14 Assistant Attorney General Grace Chung Becker, and  
15 said that that's a totally inappropriate statement.  
16 It is my understanding -- and if Mr. Coates were here  
17 to testify, to comply with the subpoena, he would tell  
18 you that Mr. Kappelhoff was told that in no uncertain  
19 terms should we be criticizing cases that the  
20 Department has decided to bring, and, in fact, in this  
21 case won.

22 But it shows you that, not only are people  
23 in the Department hostile to the case but, for reasons  
24 I can't even begin to explain, so is the civil rights  
25 community. It is a very short-sighted view.

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1                   Now, there's more.    In 2003, when the  
2 Department first started monitoring the behavior in  
3 Mississippi -- in U.S. v. Ike Brown we do election  
4 coverage -- a deputy named Robert Kengle, who is the  
5 Voting Section Deputy, told Mr. Coates while they were  
6 going down traveling, I think at the airport or near  
7 it, he said, "Can you believe we are being sent down  
8 to Mississippi to help a bunch of white people?"

9                   Again, Mr. Coates, if he were allowed to  
10 comply with the subpoena, would tell you this and tell  
11 you more.   Other people told me in the section when I  
12 was assigned to the case that -- they came and visited  
13 me, and they echoed the statements that you made  
14 earlier that, until blacks and whites achieved  
15 economic parity in Mississippi, we had no business  
16 bringing this case.   This obviously was rather  
17 discouraging, to hear that, you know, people didn't  
18 want to pursue a case that you were on.

19                   There's more, and it goes to the  
20 J memoranda process in the U.S. v. Ike Brown case, and  
21 this is very, very important to understand, because  
22 there's other witnesses to this, too.

23                   Mr. Coates prepared, in 2003, a  
24 J memoranda -- a memorandum about the Noxubee case.  
25 He included an extensive discussion as to why a civil

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1 case should be brought against Ike Brown in  
2 Mississippi and why it was very good to bring a civil  
3 case.

4 The Chief of the Voting Section at that  
5 time was a man named Joe Rich. Joe Rich forwarded a  
6 recommendation to closely monitor the situation, not  
7 sue, closely monitor, and omitted all of the  
8 discussion that Mr. Coates made about why a civil  
9 lawsuit was the best course of action. He also kept  
10 Mr. Coates' name on the recommendation. And, if  
11 you'll recall, we talked about how that is a violation  
12 of how you do things.

13 The front office found out about this  
14 surreptitious removal of the recommendation and  
15 exploded on Mr. Rich. Mr. Rich will not be able to  
16 deny under oath that he was scolded for this behavior  
17 and admitted that he did it. The recommendation was  
18 then repackaged and resubmitted with Mr. Coates'  
19 original recommendation for civil litigation included,  
20 and the case was approved. But this is another  
21 example of the hostility from the very inception of  
22 the U.S. v. Ike Brown case that was pervasive and  
23 open.

24 An employee who worked on the case of  
25 United States/Brown -- versus Ike Brown, worked very

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1 hard and very dedicated, and he is a minority. He was  
2 relentlessly harassed by Voting Section staff for his  
3 willingness as a minority to work on the case of  
4 United States v. Ike Brown.

5 Nobody will be able to deny under oath  
6 that this occurred, and Mr. Coates, if he were allowed  
7 to comply with his subpoena, would describe the  
8 harassment of this employee that resulted in an  
9 investigation, an employment investigation, of the  
10 individuals involved, and I believe, although I am not  
11 sure, a reprimand of the individuals involved. There  
12 will be written documents about this incident of  
13 racial harassment of an employee -- a dedicated  
14 department employee who is working on this case.

15 Others assigned to the case were harassed  
16 in other ways, such as being badgered and baited about  
17 their evangelical religious views or their political  
18 beliefs. In these instances, the victimized employee  
19 was openly assumed to espouse various political  
20 positions hostile to civil rights, simply because he  
21 worked on this case.

22 In one instance I had in the presence of  
23 other employees, I had to report to Mr. Coates that  
24 such harassment was being directed at me, too. There  
25 was an aggressive campaign in the media to discredit

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1 the case of United States v. Ike Brown, often quoting  
2 former Voting Section attorneys.

3 There was outrage that was pervasive that  
4 the laws would be used against the original  
5 beneficiaries of the civil rights laws. Some people  
6 said, "We don't have the resources to do this. We  
7 should be spending our money elsewhere." And that was  
8 how they would cloak some of these arguments.

9 Another deputy in the section said in the  
10 presence of Mr. Coates, "I know that Ike Brown is  
11 crooked, and everybody knows that, but the resources  
12 of the division should not be used in this way."

13 To deny that there was open hostility in  
14 the Voting Section in regards to the U.S. v. Ike Brown  
15 case, and towards the staff who brought the case, to  
16 me is the same as denying that we are all sitting here  
17 in this room today.

18 There was nothing more plain to me and  
19 others working on the case, but we persisted and we  
20 won. If you had the time to bring every single person  
21 who served in the section before this Commission, and  
22 if they testified truthfully, little doubt would  
23 remain whether or not open hostility exists towards  
24 race-neutral and equal enforcement of the voting laws,  
25 particularly in the case of United States v. Ike

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1 Brown. But it won't even take the whole section; just  
2 let Mr. Coates testify.

3 MR. BLACKWOOD: Could I ask you, was there  
4 ever a rationale given to you that you heard that  
5 explained what the opposition to race-neutral  
6 enforcement of the law was?

7 MR. ADAMS: There was many rationales, and  
8 I discussed this in my Pajamas Media piece. There is  
9 a couple. Let me just highlight one I didn't get to  
10 yet.

11 I had a visit once from an attorney who  
12 said, "You know what? There has never been official  
13 discrimination against white people in Mississippi,"  
14 which is of course true. There is no question about  
15 that. But that doesn't mean you don't enforce the law  
16 equally.

17 And I was told that it's -- essentially it  
18 was called Senate Factor One. Voting attorneys will  
19 recognize the argument that, in the absence of  
20 official discrimination, you shouldn't be pursuing  
21 these cases. And, of course, this is incredibly  
22 offensive to me, and I just persisted. But, you know,  
23 they have their arguments, and that's how it goes.

24 MR. BLACKWOOD: Are there any other items  
25 on your list?

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1 MR. ADAMS: Yes, there are. On the day  
2 that the Black Panther case -- or, excuse me, the day  
3 after the election -- it would be November 5, 2008 --  
4 I heard discussions in the hallways throughout the  
5 Voting Section, or actually in the Housing Section --  
6 I'm on the far frontier.

7 The Housing and Voting, believe it or not,  
8 are together, on the same floor. I'm on the edge,  
9 though, and I could hear discussions about what a joke  
10 it was. I heard things such as, "No big deal, the  
11 Black Panthers." Or it was a media-generated event,  
12 which of course if you remember back to the '60s that  
13 is what the old SEGs used to say whenever The New York  
14 Times was in town. This was just the media that was  
15 causing all of this trouble. Fox News.

16 The irony is, of course, that Housing is  
17 where Rosenbaum was. These were his employees. And,  
18 you know, I had visits saying there's lots of issues  
19 with that case. I reported all of these comments to  
20 Mr. Coates and to Robert Popper. And if they were  
21 allowed to testify, they would -- they once again  
22 would tell the truth about what was happening inside  
23 the section.

24 I was shocked that there was skepticism  
25 about the Black Panther case, and it deeply troubled

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1 the people on the team. So what we did in an effort  
2 to let our colleagues know about how bad these guys  
3 were was something that this Commission did.

4 We got the National Geographic video where  
5 the Black Panthers are calling for the murder of white  
6 babies in their cribs, which I understand you showed  
7 here, and calling for the murders of white people, to  
8 show the section. We thought, my goodness gracious,  
9 fair-minded people will soften their hearts -- will  
10 soften their hearts after they see these things.

11 I was not there the day the video played,  
12 but I'm told it did not exactly attract a large crowd.

13 COMMISSIONER GAZIANO: Could I interrupt  
14 just to let the record reflect that the individual on  
15 the New Black Panther tape who was urging  
16 AfricanAmericans to kill white babies was one of the  
17 defendants.

18 MR. BLACKWOOD: King Samir Shabazz.

19 MR. ADAMS: That's correct. He was the  
20 defendant urging -- and Jerry Jackson was right there  
21 with him at this particular event when he said it.

22 It became perfectly clear to me that not  
23 only was there open hostility toward equal enforcement  
24 in a colorblind way of the voting rights laws, but  
25 instructions were given in this regard.

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1 I was told by Voting Section management  
2 that cases are not going to be brought against black  
3 defendants for the benefit of white victims, that if  
4 somebody wanted to bring these cases it was up to the  
5 U.S. Attorney, but the Civil Rights Division wasn't  
6 going to be bringing it. If Mr. Coates were allowed  
7 to testify and tell the truth, then you would hear  
8 that these instructions were given.

9 MR. BLACKWOOD: That is extremely  
10 important -- these instructions. Were you there when  
11 they were given?

12 MR. ADAMS: I was -- I was present at one  
13 instance when the statement was made, and Mr. Coates  
14 gave me a recollection of a second time that  
15 instructions were given in a management situation.

16 MR. BLACKWOOD: Okay. The first time,  
17 when you were present, who made the statement?

18 MR. ADAMS: Okay. Two things. The  
19 statement was that we were in the business of doing  
20 traditional civil rights work, and, of course,  
21 everybody knows what that means, and helping  
22 minorities -- helping -- litigating on their behalf.

23 That statement was made by Julie  
24 Fernandes, who is the DAAG. The statement that Mr.  
25 Coates -- that was conveyed to me about the U.S.

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1 Attorney would have to do these cases, because we  
2 weren't going to do them, was also the same  
3 individual, Julie Fernandes, as told to me.

4 MR. BLACKWOOD: Okay. Any other comments?

5 MR. ADAMS: That's all.

6 MR. BLACKWOOD: You mentioned Ms.  
7 Fernandes. There is a press report also that, in  
8 front of the entire Voting Section, all of the career  
9 staff, she explicitly told them that this  
10 administration would not be enforcing Section 8 of the  
11 National Voter Registration Act. Were you there, and  
12 did --

13 MR. ADAMS: I was there --

14 MR. BLACKWOOD: -- she say that?

15 MR. ADAMS: I was there for that, and it  
16 -- I can tell you more about that.

17 MR. BLACKWOOD: Would you please? And  
18 also explain what Section 8 of the --

19 MR. ADAMS: Okay.

20 MR. BLACKWOOD: -- NVRA is.

21 MR. ADAMS: Motor Voter -- everybody knows  
22 Motor Voter -- has a number of provisions. One, for  
23 example, Section 7 is that welfare offices have to  
24 give out voter application forms. That's Section 7.

25 Section 8 is a general obligation to do

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1 list maintenance. In other words, no dead people can  
2 be on the voter rolls, no duplicates, people who have  
3 moved away. They have to be taken off the rolls.  
4 Okay? So they kind of work hand in hand. You want to  
5 have everybody registered to vote, but you don't want  
6 to have ineligible people registered to vote. It's a  
7 partnership.

8 Section 8 is the ineligible part, and a  
9 meeting of the entire Voting Section was assembled to  
10 discuss NVRA 8. This occurred in November of 2009.

11 Deputy Assistant Attorney General Julie  
12 Fernandes, when asked about Section 8, said, "We have  
13 no interest in enforcing this provision of the law.  
14 It has nothing to do with increasing turnout, and we  
15 are just not going to do it."

16 Everybody in the Voting Section heard her  
17 say this. Mr. Coates heard her say it. If he were  
18 allowed to comply with the subpoena, he would testify  
19 to the exact same thing.

20 MR. BLACKWOOD: And you heard it as well,  
21 though.

22 MR. ADAMS: Absolutely. I was shocked.  
23 It was lawlessness.

24 MR. BLACKWOOD: Are there any other  
25 similar type instructions that you can --

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1 MR. ADAMS: No.

2 MR. BLACKWOOD: -- tell us about? There  
3 is one argument that you mentioned that was raised  
4 about resources, and very quickly I will read you part  
5 of what purportedly was what Mr. Coates said at his  
6 going-away party and ask if you can confirm that this  
7 was his statement.

8 "Some who criticized the two cases" -- and  
9 that's Ike Brown and the Black Panthers -- "about  
10 which I speak claim that they are not opposed to  
11 protecting the rights of white voters, but question  
12 using the resources of the Voting Section in that  
13 manner. I question the validity of that criticism.

14 "Given the number of cases that the Voting  
15 Rights -- the Voting Section has filed during the past  
16 40 years on behalf of racial minorities, I do not  
17 understand why a mere two cases on behalf of white  
18 voters would have raised the ire of most of the  
19 critics of the Ike Brown and New Black Panther Party  
20 cases to the level that has been observed.

21 "Those critics are not motivated primarily  
22 by resource concerns, but, rather, in my opinion, by a  
23 strongly held but erroneous view that the work of the  
24 Civil Rights Division and its enforcement of the VRA  
25 should be limited to protecting racial, ethnic, and

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1 language minority voters.

2 "The resource issue is a red herring  
3 raised by those who want to continue to enforce the  
4 Voting Rights Act in a racially-biased fashion, and to  
5 turn a blind eye whenever incidents arise that  
6 indicate that minority persons have acted improperly  
7 in voting matters."

8 First, did he say something along these  
9 lines?

10 MR. ADAMS: Yes, he did, in front of the  
11 whole section and in front of Deputy Assistant  
12 Attorney General Julie Fernandes, and he thought that  
13 Tom Perez was also going to be there for that message.

14 MR. BLACKWOOD: What was the reaction to  
15 these statements?

16 MR. ADAMS: What was my reaction?

17 MR. BLACKWOOD: No. What was the  
18 reaction? Or, first, your reaction?

19 MR. ADAMS: Well, of course, I have lived  
20 that for the last five years. So it was --

21 MR. BLACKWOOD: You feel he was accurate.

22 MR. ADAMS: There's no question about it.

23 I mean, as I said, that's as plain as the fact that  
24 we are all sitting in this room. I have lived it. I  
25 know that's the truth. And, if he were here to

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1 testify, he would tell you that's the truth.

2 MR. BLACKWOOD: Was there any comment that  
3 you picked up as far as the rest of the section, what  
4 their reaction was?

5 MR. ADAMS: It was very uncomfortable for  
6 a lot of people because, when you have the courage to  
7 call people out for lawlessness, they don't like to  
8 hear it.

9 MR. BLACKWOOD: After the Commission began  
10 its investigation, were you asked to help produce the  
11 evidence and review what had occurred?

12 MR. ADAMS: I'm not going to answer that  
13 question. I'm sorry. That -- I mean, that gets into  
14 -- that gets into them judging what the extent of  
15 their privilege was, which arguably is an internal  
16 deliberation on a privilege matter that I'm not going  
17 to answer.

18 MR. BLACKWOOD: Okay. I'm not asking  
19 about the substance. I'm just asking, were you part  
20 of it?

21 MR. ADAMS: But deployment of resources is  
22 part of it, and I'm just not going to answer that  
23 question.

24 MR. BOLEN: And I'm objecting officially  
25 for that purpose.

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1 MR. BLACKWOOD: Okay. You have indicated  
2 publicly, though, that you met with Mr. Perez before  
3 he testified before the Commission, is that correct?

4 MR. ADAMS: That is correct.

5 MR. BLACKWOOD: Tell us about that,  
6 please.

7 MR. ADAMS: I held out hope. I think Tom  
8 Perez is a good man, I really do. We might disagree  
9 on how to get certain things done. We might have  
10 different views. But I have always sensed that he is  
11 a good person. I can't say that for everybody I have  
12 met in this, but with Tom Perez I can.

13 And I held out hope that a good person,  
14 like I thought he was, and still do, would have  
15 changed their mind if only we had an opportunity to  
16 warn him that the testimony he might give would be  
17 inaccurate. I have not said that he testified  
18 falsely. I have not said that he lied. I think that  
19 he believes in some measure what he is saying.

20 But Mr. Coates and I and Popper went and  
21 met with him the day before he testified here for  
22 about an hour, and we laid out all of our arguments  
23 and begged him not to testify inaccurately about the  
24 case.

25 MR. BLACKWOOD: Just so it's clear -- and

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1 I believe you have issued a statement recently, in the  
2 last day or so -- you are just saying that he is  
3 inaccurate. Is that correct?

4 MR. ADAMS: Yes, I have never accused him  
5 of lying. Those are -- those are inaccurate news  
6 reports. I have accused him of testifying  
7 inaccurately, because I really believe he is a good  
8 man. I really believe that, if anybody can clean this  
9 mess up, who would be acceptable to this  
10 administration, he is the guy to do it.

11 MR. BLACKWOOD: Now, you said Mr. Coates  
12 was there as well. Was he brought back specifically  
13 to meet with --

14 MR. ADAMS: No.

15 MR. BLACKWOOD: -- Mr. Perez?

16 MR. ADAMS: He called in by phone.

17 MR. BLACKWOOD: Okay. Why did you resign?

18 MR. ADAMS: Well, as I said I believe in  
19 one of my articles, I was placed -- and as I said in  
20 the opening, I was placed in a position where there  
21 was a clear federal law on point that required  
22 cooperation with the lawful subpoena of this  
23 Commission, where I was being instructed, I believe  
24 illegally, to dodge the subpoena.

25 Also, the testimony that was given to this

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1 Commission, I continue to believe, was inaccurate by  
2 Mr. Perez, and I resigned.

3 MR. BLACKWOOD: Did you resign as a direct  
4 result of his testimony?

5 MR. ADAMS: If he had not testified the  
6 way he did, there is some chance I would not have  
7 resigned.

8 MR. BLACKWOOD: There are press reports,  
9 basically leaks, about you saying that you are  
10 "disgruntled" to your conservative activists. Can you  
11 address those?

12 MR. ADAMS: Well, I was just promoted two  
13 weeks before I resigned, so I am certainly not  
14 disgruntled.

15 Let me take up the second point. My  
16 personal views about things never had anything to do  
17 with what I did at the Voting Section. You mentioned  
18 being conservative. I think that's pretty simplistic  
19 and juvenile for people to say that.

20 For example, did the fact that I wanted my  
21 taxes lowered have anything to do with what I did in  
22 the Voting Section? Of course not. Did the fact that  
23 I agree with the Supreme Court in Lawrence v. Texas  
24 when it struck down restrictions on sodomy laws, when  
25 it allowed gay people to live in freedom, the fact

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1 that I agreed with that, did that affect my work?  
2 Never.

3 But there is one personal belief that  
4 affected my work, and that was my deep and abiding  
5 respect of the 14th and 15th Amendments. There are no  
6 amendments to the Constitution that were gotten with  
7 such cost.

8 I mean, think about this. Two percent of  
9 the American population died to get those amendments,  
10 to ensure racial equality. That would be the same as  
11 Cleveland, Indianapolis, and Denver today just  
12 vanishing in some struggle. So we got racial equality  
13 enshrined as the Constitutional principle at such  
14 enormous cost in this country.

15 And so it affected me profoundly. That  
16 was a personal belief that every single day when I  
17 came to work meant a great deal to me. And so all  
18 those other things didn't, but this one did.

19 MR. BLACKWOOD: Now, one of the things  
20 that we were told -- by that I mean the Commission --  
21 as far back as September 2009, that the Department  
22 couldn't cooperate in our investigation, because the  
23 matter was being investigated by the Department -- or  
24 by the Department's Office of Professional  
25 Responsibility.

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1 MR. BOLEN: I'm sorry. I'm going to  
2 object to any questions in reference to the Office of  
3 Professional Responsibility.

4 MR. BLACKWOOD: My only --

5 MR. BOLEN: This is an ongoing  
6 investigation.

7 MR. BLACKWOOD: My only question is: were  
8 you ever interviewed?

9 MR. ADAMS: I'm not going to answer that.

10 MR. BLACKWOOD: I believe there was a  
11 press report where you indicated that you were only  
12 interviewed a week before you resigned?

13 MR. ADAMS: I never said anything like  
14 that.

15 MR. BLACKWOOD: Okay. One of the matters  
16 that has been raised in the press about the  
17 Commission, about this investigation, is that other  
18 cases were not pursued, and specifically a matter  
19 involving, in 2006, an incident in Pima, Arizona.  
20 Were you ever involved in a case involving an incident  
21 in Pima, Arizona, with regard to armed individuals  
22 challenging witnesses -- I mean, challenging voters?

23 MR. ADAMS: I had no involvement with  
24 that.

25 MR. BLACKWOOD: I have no further

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1 questions.

2 CHAIRPERSON REYNOLDS: Okay. Thank you.

3 At this point, we will have questions from  
4 each of the Commissioners. As I said earlier, we will  
5 have two rounds. Each Commissioner will have five  
6 minutes. Ordinarily, I would start off the  
7 questioning, but I am going to swap positions with  
8 Commissioner Gaziano. So, Commissioner Gaziano?

9 COMMISSIONER GAZIANO: Thank you, Mr.  
10 Chairman, and thank you very much --

11 CHAIRPERSON REYNOLDS: Now, before you  
12 start -- okay. I just wanted to make sure that we had  
13 someone on the clock. I will add -- I will add some  
14 time for my interruption.

15 COMMISSIONER GAZIANO: Thank you very much  
16 also, Mr. Adams. And if another round permits, I  
17 would like to explain further just how grateful I am  
18 that you are trying to thread this very difficult  
19 needle that you have between maybe Scylla and  
20 Charybdis, your legal obligation to come forward and  
21 comply with our subpoena, and what I think are the  
22 bogus but still threatening claims that the Department  
23 may have if you stray.

24 And I would like to explain that to the  
25 public and, again, why I think that is still very

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1 courageous that you are able to do so. But I need to  
2 drill down on some of these matters you have already  
3 set forth.

4 First, with regard to -- let me just --  
5 you have probably read Perez's testimony and my  
6 questioning of him. But just for the record, let me  
7 very briefly go through a few of the questions I asked  
8 him.

9 I mentioned news reports about the  
10 pervasive culture that we read within the division  
11 that many senior lawyers, supervising attorneys, and  
12 others, believed that civil rights law should not be  
13 enforced in a race-neutral manner, and should never be  
14 enforced against blacks or other national minorities.

15 And I asked him whether, when he came into  
16 the division, since he was in charge of the transition  
17 for the division, that he was certainly aware of these  
18 -- for the entire Department he was in charge of the  
19 transition -- what steps he took to investigate those  
20 -- that culture of the division he was inheriting, and  
21 he refused to say, which I -- that he did any  
22 investigation, which I -- except to say that he didn't  
23 believe anyone in his division had those views. So I  
24 took that to be a denial that he did any  
25 investigation.

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1 I asked him about other press reports at  
2 the time the New Black -- our investigation began and  
3 members of Congress, whether he -- that The Washington  
4 Times, for example, said the motive for dismissal was  
5 this caustic view that the civil rights laws should  
6 never be enforced against blacks and other minorities.

7 I asked him whether he took any steps to  
8 investigate that. He did not. I asked him about  
9 Coates' statement. I said, "Coates, your Voting  
10 Section Chief, resigned and gave a statement that he  
11 thought that was an improper -- did you ever talk to  
12 Coates?" He denied he did that.

13 And then I asked him what he would do if  
14 others in his division had such views. And so it is  
15 particularly important to me to ask about these Julie  
16 Fernandes statements, because Julie Fernandes -- is it  
17 his principal deputy, his most senior deputy, or is  
18 she just one of his deputies?

19 MR. ADAMS: I don't know the answer to  
20 that. She -- you could look on the website. She is  
21 the deputy over Voting, so that's all that mattered to  
22 me.

23 COMMISSIONER GAZIANO: Okay. This  
24 statement that Coates told you about where she  
25 essentially gave an instruction, as I understand your

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1 testimony, and I have heard it from one other source,  
2 Julie Fernandes, the Deputy Assistant Attorney General  
3 under the Obama administration, said that the Voting  
4 Section will never or will not, at least while she is  
5 there, bring any more cases against blacks or other  
6 national minorities. Is that essentially what you  
7 heard?

8 MR. ADAMS: Well, it is. It is what I  
9 heard. But bear in mind what I talked about in the  
10 U.S. v. Ike Brown Section 5 submission where, even if  
11 they did bring a case in the next couple of weeks, it  
12 would be inadequate given the power they have to  
13 object to that racially discriminatory submission as  
14 it stands right out of Washington. They don't need to  
15 go to Jackson to do it.

16 COMMISSIONER GAZIANO: I understand. I am  
17 going -- at some point in our investigation, I am  
18 going to not only re-urge that we try to press the  
19 Department to allow us to hear from Chris Coates. I  
20 am going to ask that we seek a subpoena for Julie  
21 Fernandes as well.

22 But it -- based on what you've heard about  
23 that incident, she supposedly said, "Well, it may be  
24 brought by U.S. Attorneys, but not by the Civil Rights  
25 Division."

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1 MR. ADAMS: Yes.

2 COMMISSIONER GAZIANO: Is that -- I mean,  
3 that is pretty shocking to me. Do U.S. Attorneys have  
4 the expertise to bring voter intimidation or other --

5 MR. ADAMS: I mean, voter intimidation is  
6 so simple they could probably do that. But Section 2  
7 cases, absolutely not. It is one of the most complex  
8 areas of law, bar none, maybe antitrust, but either  
9 that or Section 2.

10 COMMISSIONER GAZIANO: Yes. Even if Obama  
11 administration U.S. Attorneys are going to bring this,  
12 it still -- it is still troubling to me that Julie  
13 Fernandes would issue this edict. Who else was  
14 present at the meeting besides Coates?

15 MR. ADAMS: You would have to ask Coates.

16 CHAIRPERSON REYNOLDS: Okay. Last  
17 question, Commissioner Gaziano. You can follow up  
18 during the second round.

19 Commissioner Kirsanow.

20 COMMISSIONER KIRSANOW: Thank you, Mr.  
21 Chairman, and thank you, Mr. Adams. Your testimony is  
22 easily, I would think, the most extraordinary I have  
23 heard in the nine years I have been on this  
24 Commission, and I would suspect that, in the 50-plus  
25 years of the existence of this Commission, it ranks

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1 way up there.

2 We have gotten considerable resistance  
3 from the Department of Justice regarding our requests  
4 for information. The same resistance was experienced  
5 by Congressman Smith and Congressman Wolf. And, but  
6 for your resignation, I suspect that we wouldn't have  
7 even gotten close to the testimony, or the evidence  
8 adduced in your testimony, today.

9 I've just got some summary questions to  
10 ask. Most of them I think are susceptible of yes or  
11 no answers. To the extent they implicate any  
12 privileges, let me know.

13 Based on your testimony, to what extent  
14 can Americans rest assured that the Voting Rights  
15 Section or the Civil Rights Division will extend equal  
16 protection or equal treatment to all voters in terms  
17 of their prosecution of the Voting Rights Act?

18 MR. ADAMS: Well, to what extent is the  
19 big mystery. Let's hope that they object to the U.S.  
20 v. Ike Brown -- the Ike Brown submission next week.  
21 They probably won't, because they don't believe  
22 Section 5 applies to white voters, if they are  
23 victimized.

24 Let's hope they don't just try to sue and  
25 cop out and stop what he is trying to do. Let's hope

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1 they object.

2 We will know more about the answer to your  
3 question after July 14th. If they do anything other  
4 than object, clearly they will be announcing for  
5 everyone to hear what they think about your question.

6 COMMISSIONER KIRSANOW: As you sit here  
7 today, do you feel confident that Americans can be  
8 confident that they will be extended equal protection  
9 or equal treatment by the section?

10 MR. ADAMS: If the Department objects to  
11 the Ike Brown submission, I will begin to change my  
12 mind about their attitude. If they do anything other  
13 than object, I will not change my mind.

14 COMMISSIONER KIRSANOW: Taking the obverse  
15 of the New Black Panther Party case, if a member of  
16 the Ku Klux Klan or the National White People's Party  
17 or the Nazi Party, Aryan Nations, was stationed  
18 outside a polling place with full respective regalia  
19 -- Klan outfit, Nazi Party outfit, carrying a baton,  
20 shouting racial epithets, and making threats -- would  
21 you consider that to be something that is an 11(b)  
22 violation?

23 MR. ADAMS: Okay. I don't want to err by  
24 not hearing one of your facts. But, as I understand  
25 your question, it was the Klan out in front of a

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1 polling place, "in front" I assume meaning at the  
2 entrance, shouting racial epithets. Did they have a  
3 weapon in your fact pattern? I'm sorry.

4 COMMISSIONER KIRSANOW: Baton similar to  
5 that carried by the --

6 MR. ADAMS: There's absolutely no question  
7 about that. I mean, to brandish a weapon, which a  
8 nightstick is, the Department on many cases involving  
9 criminal matters viewed a nightstick as a deadly  
10 weapon. There is case law in that regard.

11 To have a deadly weapon like a nightstick  
12 in front of a polling place in Klan -- I mean,  
13 everyone here knows the answer to that question. You  
14 don't even need to ask it. It is just reality.

15 COMMISSIONER KIRSANOW: Right. I'm going  
16 to ask you a series of questions that I think may be  
17 susceptible of inaccurate, false, incorrect, however  
18 you want to respond. I understand it is your position  
19 that no one in this particular case has lied -- that  
20 is, had an intent to deceive or mislead.

21 But, based on some of the testimony we  
22 have heard thus far prior to your testimony, I would  
23 like to ask you the following set of questions. Did  
24 career attorneys, rather than administration political  
25 appointees, make the decision to dismiss the New Black

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1 Panther case?

2 MR. ADAMS: Oh, I see where you are -- in  
3 my mind, and I think in the minds of anyone who fairly  
4 reads the Vacancy Reform Act with credibility,  
5 political appointees made the decision.

6 COMMISSIONER KIRSANOW: Okay. Was the  
7 totality of law and facts such that it dictated  
8 dismissal in this case?

9 MR. ADAMS: That's one I won't answer.

10 COMMISSIONER KIRSANOW: Okay. Is this a  
11 case that would subject DOJ attorneys to Section --  
12 I'm sorry, Rule 11 sanctions?

13 MR. ADAMS: I -- that is one of the most  
14 outlandish things I have heard throughout this whole  
15 affair, that we were in violation of Rule 11. And it  
16 is personally offensive, because it is not true.

17 COMMISSIONER KIRSANOW: Is it accurate or  
18 inaccurate to say that this case could not meet the  
19 allegedly high standard required under Section 11(b)?

20 MR. ADAMS: Look, someone could file this  
21 case tomorrow. One of these victims could go out and  
22 file this. It would be an enormous embarrassment to  
23 the Department if that happens, and I hope it doesn't  
24 happen, because I hope the Department refiles this  
25 case.

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1           They would win this case if a private  
2 plaintiff brought it. I believe that they would  
3 ultimately win this case, only because the Panthers  
4 won't show up again, or they won't -- as I understand  
5 it, they weren't even cooperative here. And so,  
6 assuming they even show up on the merits, they are  
7 going to have a very difficult time losing this case  
8 from the plaintiff's perspective.

9           COMMISSIONER KIRSANOW: Is it common or  
10 unusual for DOJ to dismiss a case that it's  
11 essentially already prevailed upon on default?

12           MR. ADAMS: Chris Coates is someone who  
13 you should talk to, because his institutional  
14 experience goes back further than mine, and you have  
15 plenty of other former DOJ people.

16           I think Mr. Katsas testified -- I may be  
17 wrong -- that this is unprecedented.

18           COMMISSIONER KIRSANOW: Thank you, Mr.  
19 Chairman.

20           CHAIRPERSON REYNOLDS: Thank you.  
21 Commissioner Taylor.

22           COMMISSIONER TAYLOR: Thank you, Mr.  
23 Chairman.

24           Mr. Adams, I wanted to talk to you about  
25 this culture issue within the division, and also about

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1 the mechanics of the default order or default  
2 judgment. But before I ask you those questions, it  
3 struck me as -- "unfortunate" is too soft a term --  
4 that you were placed in this position where you were  
5 forced to resign. You know, you receive a subpoena,  
6 you want to comply. I mean, in your own words, why  
7 did you feel compelled to resign?

8 MR. ADAMS: Well, the law still governs  
9 this country, and there is a federal law that says  
10 that you all have the power to issue the subpoenas,  
11 and that federal agencies must comply, and I  
12 personally received a subpoena. And I have learned  
13 since I was in law school that, when you are  
14 subpoenaed, you have to comply, or you go through the  
15 judicial process to extinguish the subpoena, which my  
16 attorney begged the Department to do. "Please file a  
17 motion to quash this subpoena. We will not oppose it.  
18 We will be happy as a lark if that happens."

19 There are some comical blogs that said  
20 that I was fighting to testify. That is not true.

21 COMMISSIONER TAYLOR: Were you told that  
22 they would not enforce the subpoena?

23 MR. ADAMS: Oh, yes. Oh, yeah. That was  
24 the reason that I need not comply, because they had no  
25 intention of enforcing it.

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1                   COMMISSIONER TAYLOR: Let me turn to this  
2 culture question. You talked about this culture being  
3 open, pervasive, bordering on a policy in terms of the  
4 lack of neutral application of the law. And I  
5 understand this pertains to white victims. I  
6 understand this pertains to not prosecuting blacks  
7 that violate the law and seek to prevent others from  
8 voting or intimidate others.

9                   Did you hear a discussion of the refusal  
10 to protect black victims in this regard? Because one  
11 of the overlooked facts --

12                   MR. ADAMS: Yes.

13                   COMMISSIONER TAYLOR: -- pertains to a  
14 poll-watcher --

15                   MR. ADAMS: Yes.

16                   COMMISSIONER TAYLOR: -- who was African  
17 American. And we had testimony from Chris Hill, who  
18 is a lawyer there onsite in Philadelphia, and he  
19 talked about seeing the Black Panthers walking in to  
20 find the Republican poll-watcher, and finding an older  
21 African American cowered in the corner, who told that  
22 there would be hell to pay if he stepped outside.

23                   Those same folks who refuse to protect  
24 white victims, those same folks who refuse to  
25 prosecute blacks, do they also refuse to protect black

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1 victims in that context?

2 MR. ADAMS: Yes. This goes -- this also  
3 goes to the U.S. v. Ike Brown case. In Noxubee, we  
4 had black victims there, individuals who got visits  
5 from notaries who cast their ballots for them. They  
6 denied them the right to vote as part of this illegal  
7 scheme to harvest votes.

8 We had a witness at trial in Noxubee say  
9 that he -- she was harassed by the defendant, and she  
10 said, "Don't you dare come around here telling me how  
11 to vote here in Mississippi, how I ought to be  
12 voting." This was a black lady. You know, "How dare  
13 you, in this place, come and intimidate me into this."

14 There were black victims over and over and  
15 over again in these cases. That is something that is  
16 lost on the civil rights groups who oppose these  
17 cases. It's tragic, because it's -- the people they  
18 purportedly protect are being harmed and losing their  
19 right to vote.

20 COMMISSIONER TAYLOR: Let me talk to you,  
21 if I could for a moment, my last few minutes, about  
22 the mechanics. We have our timeline here, and you all  
23 filed your complaint, they failed to respond, and our  
24 timeline indicates that a default order was entered.  
25 Now, that is not a default judgment. It's an order of

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1 default. Correct?

2 MR. ADAMS: That's right. That's right.

3 COMMISSIONER TAYLOR: It is important that  
4 folks understand this difference, because a default  
5 judgment can require some type of proffer or  
6 discussion in open court.

7 And, going back to the Rule 11 question,  
8 as an officer of the court, you are required to be  
9 truthful and honest and forthright to the court. Even  
10 in the context of an adversarial proceeding, even in  
11 an instance where the other side does not appear, you  
12 are still required to be truthful and honest in order  
13 to have a default judgment in those cases entered.

14 Were you prepared if the Judge had said to  
15 you, "Mr. Adams" -- you were a member of the trial  
16 team, I assume. Were you prepared to present evidence  
17 to the Judge to support your request?

18 MR. ADAMS: I think the answer is obvious,  
19 but I don't want to give it. I will tell you that any  
20 plaintiff who brings this case will not have a very  
21 difficult time in a similar posture to present  
22 evidence.

23 COMMISSIONER TAYLOR: Well, let me ask you  
24 the question another way, because you signed the  
25 initial complaint, as did Grace Chung Becker, as did

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1 Mr. Coates, and Mr. Popper's name is on it as well.  
2 The allegations in the complaint, they are what they  
3 are. Had the court said to you, "Provide evidence to  
4 support the allegations in the complaint you filed,"  
5 could you have done that?

6 MR. ADAMS: Yes. Let me backtrack. I  
7 wasn't saying I wasn't going to answer the last  
8 question because I didn't --

9 COMMISSIONER TAYLOR: Okay.

10 MR. ADAMS: -- know the answer. I was  
11 saying because I am afraid that it could tread on  
12 deliberative process.

13 I assure you, based on my experience with  
14 the attorneys involved who are the best in the  
15 business, the best -- Chris Coates is the best, Popper  
16 is brilliant, he is like a professor. I hope he comes  
17 here sometime. There is no doubt what we would have  
18 done if we had proceeded. We're good attorneys, and  
19 you prepare.

20 CHAIRPERSON REYNOLDS: Thank you.  
21 Commissioner Heriot?

22 COMMISSIONER HERIOT: Well, first, I want  
23 to say that I agree with Commissioner Kirsanow that  
24 what you have been testifying to is quite  
25 extraordinary, and I think by way of --

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1 CHAIRPERSON REYNOLDS: Excuse me.  
2 Commissioner Heriot, do you have your mic on?

3 COMMISSIONER HERIOT: Do I? I'm also  
4 going to resist the temptation to ask you about what  
5 the Housing Section has against picnics.

6 (Laughter.)

7 But Commissioner Taylor started on a road  
8 that I would like to at least touch on. I'm not sure  
9 whether this is going to be a question that you can  
10 answer or not. But, as Commissioner Taylor has been  
11 saying, this case went into default, and it is  
12 certainly true that courts do not always -- do not  
13 always simply enter a judgment upon default. They  
14 require some proof.

15 But Mr. Perez told Congress, I believe,  
16 that -- that -- he put it in such a way that it made  
17 it sound like a default was actually an obstacle.  
18 Just for the record here, if you can tell us, it's a  
19 good thing, isn't it, for plaintiffs when the  
20 defendant goes into default, when the defendant fails  
21 to appear?

22 MR. ADAMS: It's a beautiful thing.

23 COMMISSIONER HERIOT: It usually makes  
24 your job much, much easier, does it not?

25 MR. ADAMS: The only thing that makes it

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1 easier than having a default is when there is actually  
2 video.

3 (Laughter.)

4 COMMISSIONER HERIOT: Gosh, was there  
5 video in this case?

6 MR. ADAMS: Yeah, there was that, too.

7 COMMISSIONER HERIOT: Yes, yes. I heard  
8 about that, too. Well, let's look -- let me go into  
9 some of the nuts and bolts here, and that is Mr.  
10 Jackson. Mr. Jackson, I am told, was actually a poll-  
11 watcher himself, right? Certified, I guess, by the  
12 Democratic Party?

13 MR. ADAMS: Mr. Jackson was indeed -- he  
14 is not only a poll-watcher, he is a Democratic Party  
15 elected official in the city of Philadelphia, the Tall  
16 Black Panther. He is an Executive Committeeman in  
17 that particular precinct. He wasn't on the ballot  
18 that day, I should note, though.

19 COMMISSIONER HERIOT: Okay. Okay. The  
20 police, I believe, when they came and told the -- Mr.  
21 Shabazz, the one with the billy club, that he had to  
22 vacate the premises, they let Mr. Jackson stay. Does  
23 the fact that Mr. Jackson was a poll-watcher have any  
24 bearing on his liability?

25 MR. ADAMS: No. Thank heavens, no. I

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1 mean, otherwise, you would appoint as poll-watchers  
2 the biggest and baddest thugs you have and give them  
3 credentials to roam about the community, nor does the  
4 fact that the police let him stay have anything to do  
5 with it.

6 The Federal Government has never taken the  
7 position, and hopefully never will, that local law  
8 enforcement officials can opine on matters of federal  
9 law. We have entirely different laws that we enforce.

10 COMMISSIONER HERIOT: Okay.

11 MR. ADAMS: And the Philadelphia police  
12 don't enforce federal voting right statutes.

13 COMMISSIONER HERIOT: So you don't have to  
14 defer to the Philadelphia police.

15 MR. ADAMS: Of course not.

16 COMMISSIONER HERIOT: Okay. Just want  
17 that for the record.

18 MR. ADAMS: Yeah.

19 COMMISSIONER HERIOT: And I would think,  
20 if anything, the fact that Mr. Jackson was a poll-  
21 watcher might even raise the standard of care we would  
22 expect from him, wouldn't it?

23 MR. ADAMS: Well, you know what? I don't  
24 want to add or subtract elements from the statute. It  
25 was so clear -- you know, the statute is what it is,

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1 and I don't think we need to add requirements. That  
2 is just my personal view.

3 COMMISSIONER HERIOT: Well, you think that  
4 he gets training, and, therefore, at least he knows  
5 things. It makes it more difficult for him to say, "I  
6 didn't understand this."

7 MR. ADAMS: Fair enough.

8 COMMISSIONER HERIOT: Okay. What about  
9 the -- I'm skipping around here, because my colleagues  
10 have already asked you a number of the questions that  
11 I wanted to ask you. But one issue that interested me  
12 was the ultimate injunction that was -- well, first,  
13 the injunction that was asked for, and then the rather  
14 severe reduction in that injunction. What was  
15 originally asked for?

16 MR. ADAMS: Well, if you read the  
17 complaint, I believe it asks for an injunction against  
18 all of the parties. I don't know whether it says  
19 "nationwide" in the complaint. I can't remember. But  
20 it clearly asks for an injunction against all the  
21 parties.

22 COMMISSIONER HERIOT: And what was in fact  
23 obtained?

24 MR. ADAMS: Well, the -- what was  
25 obtained, as I recall, was an injunction against King

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1 Samir --

2 COMMISSIONER HERIOT: Only.

3 MR. ADAMS: -- only to not have a weapon a  
4 certain distance, and I think it's through -- I think  
5 it's 100 feet. And it expires in 2012.

6 COMMISSIONER HERIOT: And if I'm --

7 MR. ADAMS: And it's for Philadelphia.

8 COMMISSIONER HERIOT: Not for the suburbs,  
9 right?

10 MR. ADAMS: That's correct.

11 COMMISSIONER HERIOT: So it would be  
12 perfectly legal for him to take a weapon to the polls  
13 in the suburbs?

14 MR. ADAMS: Well, my position is it's not  
15 perfectly legal for him to do this anywhere, so, I  
16 mean, that just would have to be another case.

17 COMMISSIONER HERIOT: Okay. Within the  
18 scope of the injunction.

19 MR. ADAMS: That's correct.

20 COMMISSIONER HERIOT: Okay. I was told  
21 that --

22 CHAIRPERSON REYNOLDS: Last question.

23 COMMISSIONER HERIOT: Okay. I was told  
24 that someone at the Department of Justice has recently  
25 alleged that it was the trial team that wanted to

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1 shrink the injunction down to that tiny little "can't  
2 show up in the city of Philadelphia with a weapon."  
3 Any truth to that?

4 MR. ADAMS: I would hope that Mr. Coates  
5 has the opportunity to answer that question. I know  
6 the truth.

7 COMMISSIONER HERIOT: Okay.

8 CHAIRPERSON REYNOLDS: Okay. I just have  
9 a few questions for you. My colleagues and the  
10 General Counsel have done a good job of teasing out  
11 the information that we need.

12 You mentioned that there was a black  
13 attorney at DOJ who was willing to work on voting  
14 rights cases, and instances involving black  
15 defendants. And you also indicated that this  
16 individual was harassed. Do you believe that his  
17 willingness to work on these types of cases adversely  
18 -- will adversely affect his career advancement at the  
19 Department of Justice?

20 MR. ADAMS: Just to be clear, I didn't  
21 testify he was an attorney. I testified he worked on  
22 the cases. There's a difference. Whether or not it  
23 will affect his advancement I can only speculate, and  
24 I suspect after the attention that has now been given  
25 to this outrageous behavior directed toward him, it

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1 will not impair his advancement opportunities, as I  
2 have confidence that good people will not allow it to  
3 interfere.

4 CHAIRPERSON REYNOLDS: Thank you. Also,  
5 you testified as to an exchange where profanity was  
6 used where there was a tossing of paper. Could you  
7 elaborate on that?

8 MR. ADAMS: Well, this is something, of  
9 course, that Mr. Coates would be the best person to  
10 elaborate fully in front of the Commission about. But  
11 it was some time during one of these discussions where  
12 he was outraged about the lack of good faith and the  
13 lack of due diligence, the duplicity, that was going  
14 on, and he used the profanity and threw the materials  
15 at the individual who had professed to have not read  
16 them.

17 CHAIRPERSON REYNOLDS: Okay. So he has  
18 essentially gone to his superior --

19 MR. ADAMS: That's correct. It's his  
20 superiors who he does this to.

21 CHAIRPERSON REYNOLDS: Okay. So he goes  
22 to his superior. He learns during this exchange that  
23 an important decision is being made, and in this case  
24 it is the decision to withdraw charges against three  
25 of the four defendants, and during this meeting he

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1 learns that this individual had not read the J memo.

2 MR. ADAMS: That is correct.

3 CHAIRPERSON REYNOLDS: Thank you.

4 The remainder of my time, Commissioner  
5 Gaziano?

6 COMMISSIONER GAZIANO: Okay. Let me go  
7 back to -- I will follow up on that. I have a few  
8 other questions about that, but let me go back to the  
9 two Julie Fernandes statements. I know they are not  
10 -- they are only symptomatic of the culture that you  
11 have spoken of, but I want to try to nail down the  
12 time.

13 With regard to the instruction that  
14 Fernandes gave to the management of the Voting Section  
15 that no cases will be brought in the, you know, Obama  
16 administration while she is there against blacks or  
17 other minorities, about what time period was that  
18 statement made?

19 MR. ADAMS: I would have to say some time  
20 between September of '09 and December of '09.  
21 Precisely when it was, I can't tell you.

22 COMMISSIONER GAZIANO: So that is after  
23 Congressmen Wolf and Lamar Smith began to investigate  
24 this Black Panther suit, after we opened our  
25 investigation, which I can tell you was June 16th was

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1 our first letter to the Department. So it was some  
2 months after that that Julie Fernandes made this  
3 statement.

4 MR. ADAMS: I don't even think she worked  
5 there in June of '09.

6 COMMISSIONER GAZIANO: Okay. And when was  
7 the other statement that you mentioned that you were  
8 present for where she said, "We are going to only  
9 handle traditional civil rights"?

10 MR. ADAMS: It would have been in the same  
11 general time period.

12 COMMISSIONER GAZIANO: Okay.

13 MR. ADAMS: She was doing brown bag  
14 lunches. That's when all of these outrageous  
15 statements were made.

16 COMMISSIONER GAZIANO: Okay.

17 MR. ADAMS: Well, not all, but these  
18 particular ones.

19 COMMISSIONER GAZIANO: And the other motor  
20 voter statement --

21 MR. ADAMS: November 30, 2009.

22 COMMISSIONER GAZIANO: November 30th.

23 MR. ADAMS: I'm pretty sure that is  
24 accurate.

25 COMMISSIONER GAZIANO: Okay. And let me

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1 now go back to the incident where Christopher Coates  
2 threw the J memo. Was Perez aware of that incident  
3 when he testified before us?

4 MR. ADAMS: I have no idea.

5 COMMISSIONER GAZIANO: One of my --

6 MR. ADAMS: Wait.

7 COMMISSIONER GAZIANO: -- sources said --

8 MR. ADAMS: Wait, wait, wait.

9 COMMISSIONER GAZIANO: -- that during your  
10 meeting with him --

11 MR. ADAMS: Yeah.

12 COMMISSIONER GAZIANO: -- the day before  
13 the hearing, Chris Coates related that story to him.

14 MR. ADAMS: Chris Coates related a lot  
15 during that meeting. Whether or not he related that  
16 he threw the J memo, I cannot recall.

17 COMMISSIONER GAZIANO: Did he relate to  
18 Assistant Attorney General Perez that Rosenbaum had  
19 not read the J memo?

20 MR. ADAMS: Again, I think he did, but I  
21 just don't remember for sure.

22 COMMISSIONER GAZIANO: Okay. What else  
23 did you relate to Perez that -- in one of your  
24 articles you say that you told Perez that, if he  
25 testified that the facts and law did not support the

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1 claim, that would be inaccurate.

2 MR. ADAMS: Correct.

3 COMMISSIONER GAZIANO: And he did keep  
4 repeating that line to us. I want to know what his  
5 knowledge base was at the time he testified, because  
6 it certainly seems to me, if he was aware of all of  
7 the facts that you are telling us, that he gave very  
8 incomplete testimony at best, and maybe misleading  
9 testimony. That is for us to decide. I'm not asking  
10 you to characterize that.

11 But I just want to know, what was the  
12 nature of the information you provided -- you, Coates,  
13 Popper, provided to Perez the day before he testified?

14 CHAIRPERSON REYNOLDS: Last question.

15 MR. ADAMS: I would characterize it as a  
16 comprehensive review of the merits of the case.

17 CHAIRPERSON REYNOLDS: Okay. This  
18 concludes the first round. We start off a second,  
19 and, Commissioner Gaziano, you are in the lead-off  
20 position.

21 COMMISSIONER GAZIANO: Okay. Well, thank  
22 you. I think I get an extra, but I'll -- but I'll  
23 yield to other Commissioners first.

24 Let me just go back to these other  
25 statements regarding the culture at the time. Do you

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1 know if anyone, after Coates' statement -- it was  
2 January, early January 2010, that he made the  
3 statement at his farewell reception regarding this  
4 culture that the General Counsel read a portion of, do  
5 you know if there was any investigation by anyone in  
6 the division of whether there was any truth to Chris  
7 Coates' statement?

8 MR. ADAMS: I was never asked. Whether or  
9 not there was an investigation broadly, I can't  
10 answer.

11 COMMISSIONER GAZIANO: Okay. Who else do  
12 you think we should subpoena to learn the facts of  
13 this case?

14 MR. ADAMS: Listen, there is a whole lot  
15 of attorneys who have left the Department over the  
16 last couple of years that know this is the truth.

17 COMMISSIONER GAZIANO: But who -- let's  
18 start with who is there now.

19 MR. ADAMS: Okay.

20 COMMISSIONER GAZIANO: What people -- what  
21 people from Holder, Perrelli, and in the division --

22 MR. ADAMS: Well, I --

23 COMMISSIONER GAZIANO: -- who should we --  
24 who would give us valuable information?

25 MR. ADAMS: I don't know. I mean, I

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1 haven't had broad discussions with people. You all  
2 are going to have to figure out how to do this  
3 investigation. I can't help you with your  
4 investigation other than to comply with your subpoena  
5 and answer questions truthfully.

6 COMMISSIONER GAZIANO: And you have been  
7 very helpful, but let me just -- let me mention a few.  
8 Popper -- do you think that we should -- that Popper  
9 would be able to give valuable testimony?

10 MR. ADAMS: If Bob is -- I haven't turned  
11 around for a while. If Bob is sitting behind me, I'll  
12 say no, because he will club me in the back of the  
13 head. But if he isn't, there is no doubt that Bob  
14 knows about this case. There is no question that Bob  
15 knows about this case.

16 COMMISSIONER GAZIANO: Okay. Former  
17 Associate Attorney General -- that's the number three  
18 post in the Department -- Greg Katsas was just talking  
19 about the normal procedures for this kind of a case,  
20 and he testified that it was -- it would be a very  
21 remarkable matter. It would actually make news to  
22 dismiss a case, especially one that you had -- that  
23 was on default.

24 He said that decision could not possibly  
25 be made at the division level, even if there was a

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1 confirmed head, that that kind of decision would have  
2 to be made at the Associate Attorney General level or  
3 higher. Do you have any reason to know whether that  
4 is accurate or not?

5 MR. ADAMS: Very little, but some. On  
6 some cases, I briefed the associate in my time at  
7 Justice, not this particular associate but a previous  
8 associate, on matters involving very important  
9 matters, you know, ones that people need to know about  
10 before something happens.

11 So it would not surprise me that, on  
12 something like this, a similar briefing would occur,  
13 but I have no personal knowledge of anything that  
14 deals with briefing. We were just doing our job. I  
15 mean, we were just line attorneys collecting evidence,  
16 making phone calls, writing pleadings. So all of  
17 these other issues are not my issues.

18 COMMISSIONER GAZIANO: Sure. But you did,  
19 I think, answer, and I want to make sure I got it  
20 right, that, in your knowledge, the Department has  
21 never refused to pursue a default judgment.

22 MR. ADAMS: Well, in my knowledge, and if  
23 Coates was here his knowledge goes back further, so --

24 COMMISSIONER GAZIANO: Okay. And I'm just  
25 trying to get your general knowledge whether that

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1 supports former Associate Attorney General Katsas that  
2 it is unlikely that political acting officials, like  
3 King and Rosenbaum, would have been able to make the  
4 final call in the Department to dismiss the suit.

5 MR. ADAMS: My understanding is that  
6 former Associate or Acting Associate and former  
7 Assistant Attorney General Katsas gave testimony that  
8 was consistent with your conclusion.

9 COMMISSIONER GAZIANO: Well, let me --  
10 since you did -- you have briefed the Associate  
11 before. Their interrogatory answers from the  
12 Department say that Perrelli, the current Associate  
13 Attorney General, was briefed about the case and the  
14 potential dismissal. It also said the Attorney  
15 General was made generally aware. In your experience  
16 in the Department, does the Attorney General and  
17 Associate Attorney General have the authority to  
18 express an opinion?

19 MR. ADAMS: I would hope so.

20 COMMISSIONER GAZIANO: If they are being  
21 briefed on a matter, can they ask for more information  
22 if they want more information?

23 MR. ADAMS: I have been given a request  
24 for more information from one of those offices you  
25 named.

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1 COMMISSIONER GAZIANO: Okay. And those  
2 offices are generally briefed about a matter, so that  
3 they can take contrary action to the proposed -- they  
4 can say, "Yes, your proposed action is okay," "No, I  
5 don't want you to do that," they have the authority to  
6 do that within the Department, don't they?

7 MR. ADAMS: I assume they do. But, again,  
8 I'm a line attorney. I --

9 CHAIRPERSON REYNOLDS: Last question.

10 COMMISSIONER GAZIANO: That's fine. I'll  
11 yield. Thank you.

12 CHAIRPERSON REYNOLDS: Commissioner  
13 Kirsanow.

14 COMMISSIONER KIRSANOW: Thank you, Mr.  
15 Chairman.

16 Mr. Adams, long-time civil rights attorney  
17 Bartle Bull, who is a witness in this case, expressed  
18 the opinion that this was the worst case of voter  
19 intimidation he has seen in over 40 years. Do you  
20 assess that -- do you concur with that assessment?

21 MR. ADAMS: Well, I haven't been around as  
22 long as Bartle Bull has. He was in Mississippi in the  
23 late '60s. He worked on Charles Evers' governor's  
24 campaign. He was Jimmy Carter's campaign director.  
25 He was Robert F. Kennedy's. He got a medal from the

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1 Lawyers Committee for Civil Rights recently for his  
2 work.

3 He has been around a lot longer than me.  
4 So I cannot corroborate his wisdom, because he has  
5 just seen more than I have. Nor would I disagree with  
6 it.

7 COMMISSIONER KIRSANOW: Vice Chair -- the  
8 Vice Chair, who is not here today, has a piece on  
9 National Review Online today, in which she makes light  
10 of the fact that there were only two Panthers involved  
11 in this case and describing this case as very small  
12 potatoes. Does the number of potential defendants  
13 have any bearing on whether or not 11(b) charges  
14 should be brought by the DOJ?

15 MR. ADAMS: It could have one defendant.  
16 It doesn't matter. If you break the law, you break  
17 the law. You know, if I might for a moment, the  
18 absent Commissioner is a friend of mine. And she  
19 wrote a book, which I highly recommend, called Voting  
20 Rights and Wrongs. I suggest that this Commission  
21 introduce portions of it into the record, because it  
22 is -- it corroborates much of what I am saying.

23 She has a whole section on page 124 called  
24 "A Lawless Civil Rights Division." She has  
25 descriptions how, on page 130, that the Civil Rights

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1 Division, from '93 to 2000, was forced to pay over \$4  
2 million in attorneys fees and costs awarded against  
3 DOJ for filing frivolous and unwarranted  
4 discrimination cases in 10 lawsuits.

5 There is a whole lot more in her book that  
6 corroborates what I'm saying today, not specific  
7 facts, but the general culture. And, basically, from  
8 page 113 to 145, Commissioner Thernstrom, who is a  
9 friend, speaks about what I'm speaking about.

10 COMMISSIONER KIRSANOW: The Vice Chair  
11 also makes mention of the fact that these actions were  
12 allegedly performed in majority-black precincts.  
13 Should that have any bearing on whether or not 11(b)  
14 charges should be brought?

15 MR. ADAMS: Well, the relevance to whether  
16 they were performed in majority-black precincts shows  
17 up in a couple of different places. One, you won't  
18 want to be that 10 percent, in the minority, in that  
19 particular precinct with a Black Panther there. And  
20 that is exactly what it is, is 10 percent white in  
21 that precinct, according to my best estimates. It is  
22 probably plus or minus three.

23 So, yes, it has some relevance, but it  
24 shouldn't drive the question. The fact that it's a  
25 majority-black precinct in Philadelphia is a

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1 preposterous way to oppose going forward in this case.

2 It is saying, you know, the numbers are too slim.

3 You are only a few people, so you don't deserve

4 federal protection.

5 COMMISSIONER KIRSANOW: The salient

6 timeframe for dismissal of this case was some time, I

7 believe, between April 29th of 2009 and May 15th.

8 April 29th, Mr. Rosenbaum expresses some doubts as to

9 whether or not this is a strong case, and then on May

10 15th the trial team was ordered to dismiss a portion

11 of the charges and reduce the scope of the injunction.

12 Are you aware of -- and I'm not asking for

13 anything that is privileged or any detail, but are you

14 aware of whether or not any facts in the case changed

15 in that timeframe?

16 MR. ADAMS: What was your first date?

17 COMMISSIONER KIRSANOW: April 29th of 2009

18 through May 15th of 2009.

19 MR. ADAMS: No. No publicly-available

20 facts about the Black Panthers, about this event,

21 changed whatsoever.

22 COMMISSIONER KIRSANOW: Did any aspect of

23 the law change? In other words, were there any

24 decisions rendered by any federal court that would

25 change the interpretation of 11(b) as applied to the

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1 facts of this case?

2 MR. ADAMS: Nothing.

3 COMMISSIONER KIRSANOW: In that two-week  
4 period, are you aware of any opinion, facts, evidence  
5 introduced by any individual, group, branch, section,  
6 of DOJ, that would affect the outcome of this  
7 particular case?

8 MR. ADAMS: Well, you are asking me about  
9 possible internal deliberations, and I won't answer  
10 that question.

11 COMMISSIONER KIRSANOW: Okay. Getting  
12 back to the description of this particular case as  
13 very small potatoes, in your experience, would the New  
14 Black Panther case be considered very small potatoes?

15 MR. ADAMS: Well, certainly not when you  
16 -- if somebody were to get to the bottom of when this  
17 really started, was it going on during the primaries  
18 or not, that would become very big potatoes. But even  
19 putting that issue aside, we in this country, I  
20 believe, still recognize that the ballot box is  
21 sacred, that there is something exceptional about this  
22 nation that values the right to vote. We have shed so  
23 much blood to get here.

24 And to -- excuse me, we have shed so much  
25 blood to get here, and it has to be treated with

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1 absolute sanctity. And so it doesn't matter if it is  
2 one person with a stick, or five people with a gun, or  
3 a bunch of people in Philadelphia, Mississippi with a  
4 deputy sheriff named Cecil Price working for him.

5 We have an ironclad obligation in this  
6 nation to protect the right to vote, because so many  
7 people died to get us here. And so I think the  
8 argument that it was only one person doesn't matter,  
9 because one person is the next person, and then more.

10 And, you know, we had evidence that this wasn't  
11 necessarily just isolated.

12 So the idea that you wouldn't pursue this  
13 because it was only one person is what an apologist  
14 does, and that is what the SEGs did in the '60s.

15 CHAIRPERSON REYNOLDS: Thank you.

16 COMMISSIONER KIRSANOW: Thank you, Mr.  
17 Chair.

18 CHAIRPERSON REYNOLDS: At this time,  
19 Commissioner Taylor?

20 COMMISSIONER TAYLOR: Thank you, Mr.  
21 Chairman.

22 You have five years of experience in the  
23 Voting Rights Section, correct?

24 MR. ADAMS: That's correct.

25 COMMISSIONER TAYLOR: During that time

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1 period, was there any other instance in which the  
2 division or the department, to your knowledge, walked  
3 away from a default order and did not ask the court to  
4 enter a default judgment for all of the relief  
5 requested in the original complaint?

6 MR. ADAMS: No. In fairness, though, this  
7 doesn't happen. The mere fact that there was a  
8 default was an anomaly in this case, especially when  
9 one of the parties had counsel, and one of the other  
10 parties was an attorney.

11 COMMISSIONER TAYLOR: I want to follow up  
12 on Commissioner Kirsanow's questions in terms of the  
13 law not changing during the critical time period, and  
14 the underlying facts of the case not changing. Once  
15 the court entered its default order on April 17th, we  
16 have our memo here from Diana Flynn dated May 13th,  
17 were you aware of this memo's existence during this  
18 time period?

19 MR. ADAMS: During this time period,  
20 generally, yes.

21 COMMISSIONER TAYLOR: You were aware of  
22 it?

23 MR. ADAMS: Yes.

24 COMMISSIONER TAYLOR: Did you actually see  
25 it?

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1 MR. ADAMS: Yes.

2 COMMISSIONER TAYLOR: So you were aware  
3 that she said -- and this is Diana Flynn, who is in  
4 the Appellate Section, sort of the second review, if  
5 you will, of your work and whether or not you all  
6 should proceed for a default judgment.

7 We have already brought the case and made  
8 the allegations, and she says, "See the complaint.  
9 And I assume that this reflects the division's policy  
10 judgment that it is appropriate to seek such relief  
11 after trial." She is talking about the relief  
12 requested in the original complaint.

13 So the law hasn't changed, the facts have  
14 not changed. The policy of the division is reflected  
15 in the complaint in the relief sought. What changed?

16 MR. ADAMS: I can't answer that. I don't  
17 know. I truly don't know.

18 COMMISSIONER TAYLOR: It is accurate to  
19 say that the division's policy can be found in the  
20 complaints it files, correct?

21 MR. ADAMS: Well --

22 COMMISSIONER TAYLOR: So it's accurate to  
23 say, as I read this complaint, that that articulates  
24 the Department's policy --

25 MR. ADAMS: That's a great point.

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1 COMMISSIONER TAYLOR: -- at the time.

2 MR. ADAMS: That's a great point. In  
3 2001, before the inauguration, the Department filed a  
4 case of the United States v. Charleston County, South  
5 Carolina. It was a redistricting case alleging that  
6 Charleston County had dilutive elections at large for  
7 districts -- or for County Council.

8 Chris Coates actually brought that case,  
9 too. That case was filed before the Bush  
10 inauguration, with some concern that the Bush  
11 administration would reverse course and dismiss the  
12 case. Well, thankfully, the Bush administration took  
13 office and was absolutely committed to going forward  
14 with that case. And the Department won that case.  
15 Chris Coates won that case, along with some other very  
16 -- along with some other very able attorneys working  
17 on the case.

18 In hindsight, the fears that the case  
19 would be dismissed that were expressed by people in  
20 the Reno Justice Department proved not to be true,  
21 that the Bush -- the Ashcroft Justice Department did  
22 not dismiss that case and fought vigorously and won  
23 the case.

24 Fast forward. In this particular  
25 instance, based in some part on the Charleston

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1 precedent, you have a different outcome. So --

2 COMMISSIONER TAYLOR: That's all I have,  
3 Mr. Chairman.

4 CHAIRPERSON REYNOLDS: Okay. Commissioner  
5 Heriot?

6 COMMISSIONER HERIOT: Okay. I guess I  
7 just want to do some cleanup, since I am either the  
8 last or second-to-the-last here, make sure that some  
9 of the things that you have mentioned here -- that  
10 we've gotten out everything.

11 You started to talk about attorneys who  
12 are no longer with the Department who might  
13 corroborate your view of the culture of the Voting  
14 Section?

15 MR. ADAMS: That's correct.

16 COMMISSIONER HERIOT: But I don't think  
17 you ever got that out.

18 MR. ADAMS: Well, I said that there are,  
19 and I would be happy to provide the names to your  
20 counsel. But I am certainly not going to do that  
21 until I have a chance to talk to them and make sure  
22 they're okay with it.

23 COMMISSIONER HERIOT: Well, then, I would  
24 request that you do that.

25 MR. ADAMS: Okay.

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1                   COMMISSIONER HERIOT:   Then, you mentioned  
2                   a second ago -- and this is not the first time I think  
3                   -- you said we had evidence that this wasn't  
4                   necessarily just an isolated incident.  Could you run  
5                   me by exactly the evidence you are talking about at  
6                   this point?

7                   MR. ADAMS:   Yes.  Let me stress, evidence  
8                   was -- if I said "evidence" in the record, that is not  
9                   what I should have said.  I said "indications."

10                  COMMISSIONER    HERIOT:            You    said  
11                  "indications" the first time.

12                  MR. ADAMS:   Okay.

13                  COMMISSIONER HERIOT:    But I think you  
14                  actually said "evidence" the second time, unless I  
15                  misheard you, but I understand what you mean.  What  
16                  were these indications?

17                  MR. ADAMS:   Indications were accounts from  
18                  other parts of the country that this behavior may have  
19                  been going on prior to the general election, and may  
20                  have been going on in the primaries with Hillary  
21                  Clinton supporters as the victims.

22                  COMMISSIONER HERIOT:    And where did the  
23                  accounts come from?

24                  MR. ADAMS:    Okay.    Publicly-available  
25                  information was the basis of these particular

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1 indications. I'm not saying that they --

2 COMMISSIONER HERIOT: Are you talking  
3 about press reports, something on the internet?

4 MR. ADAMS: Yes. I'm not saying that they  
5 carried a great deal of weight. I'm not saying that I  
6 would have gone to trial on what was out there. What  
7 I am saying is, is if we had time to fully investigate  
8 it, we would have gotten to the bottom of it.

9 COMMISSIONER HERIOT: Do you remember  
10 exactly what kind of indications you are talking  
11 about, or is this sort of --

12 MR. ADAMS: Same sort of Nation of  
13 Islam/New Black Panther thugs.

14 COMMISSIONER HERIOT: Through their  
15 websites?

16 MR. ADAMS: No, people at the polls.

17 COMMISSIONER HERIOT: People at the polls  
18 said --

19 MR. ADAMS: Correct.

20 COMMISSIONER HERIOT: Okay. People at the  
21 polls saying that they had seen this?

22 MR. ADAMS: There is a group of Hillary  
23 Clinton supporters -- I think they call themselves  
24 Pumas. I don't know enough about it, but I -- and  
25 there --

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1 COMMISSIONER HERIOT: I bet it's not  
2 Cougars. That wouldn't be the --

3 (Laughter.)

4 MR. ADAMS: No. There are indications  
5 that this was occurring in the primaries. Thankfully,  
6 we still have a free press, I'm told, that maybe they  
7 can look into this and get to the bottom of it,  
8 because certainly it is not going to happen now.

9 COMMISSIONER HERIOT: Is there anything --  
10 well, let me backtrack a little bit. I take it you  
11 have looked at the publicly-available documents that  
12 the Commission has produced so far and put into the  
13 record, the testimony.

14 MR. ADAMS: I haven't.

15 COMMISSIONER HERIOT: You have not looked  
16 at any of --

17 MR. ADAMS: I mean, some of them I have.  
18 I mean --

19 COMMISSIONER HERIOT: You have looked at  
20 some of the depositions?

21 MR. ADAMS: Yes. But, I mean, today -- I  
22 looked at the Kristen Clarke deposition, because if  
23 you want to talk about some problems about veracity,  
24 that is where to start.

25 COMMISSIONER HERIOT: Okay. Well, let me

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1 ask that question. I want to talk about some problems  
2 that have to do with veracity. What is it about the  
3 Kristen Clarke deposition that causes you to say that?

4 MR. ADAMS: Yes. In that deposition, it  
5 is sort of like -- and Rich will kick me if I get this  
6 wrong -- is it Peter denying Jesus three times? Yes.

7 Peter denies Jesus three times. Kristen Clarke  
8 denies Chris Coates six.

9 And in those e-mails that go back and  
10 forth between Clarke and people inside the Department,  
11 they were very angry at CC -- CC. And Clarke denies  
12 in that deposition, I think six times, that she knows  
13 who CC is. They used to travel together. They worked  
14 with each other. It is perfectly apparent to anybody  
15 who knows the reality of what was going on in the  
16 Voting Section that that is not truthful testimony.

17 COMMISSIONER HERIOT: How long did she  
18 work with Chris Coates?

19 MR. ADAMS: Again, you are going to have  
20 to have Chris Coates here and tell him.

21 COMMISSIONER HERIOT: Is there anyone else  
22 at the Department with the initials CC --

23 MR. ADAMS: Negative.

24 COMMISSIONER HERIOT: -- that you can  
25 think of?

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1 MR. ADAMS: Nobody.

2 COMMISSIONER HERIOT: Okay. Anything else  
3 in that deposition that caused you concern?

4 MR. ADAMS: Well, that's the one that  
5 comes first to mind. I seem to remember something  
6 else, but I -- oh, it may be the denial that she was  
7 lobbying the Department. I mean, look, that is a  
8 question of competing witnesses. What does one  
9 witness say? What does Clarke say? I can't answer  
10 that. You all are going to have to do that. I can't  
11 do that.

12 COMMISSIONER HERIOT: Do you have any  
13 personal knowledge of this?

14 MR. ADAMS: Coates does.

15 COMMISSIONER HERIOT: You do not, I take  
16 it.

17 MR. ADAMS: Only what Coates told me.

18 COMMISSIONER HERIOT: Okay. Okay. What  
19 did Coates tell you?

20 MR. ADAMS: That it was reported to him  
21 that Kristen Clarke was talking to an attorney in the  
22 Voting Section, and asking when the case was going to  
23 be dismissed, well in advance of that timeline up  
24 there.

25 COMMISSIONER HERIOT: Did anyone else talk

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1 to you about it?

2 MR. ADAMS: Perhaps Popper, but I don't  
3 remember. Again, you need to call them up to tell  
4 about it.

5 COMMISSIONER HERIOT: Okay. Any other  
6 inaccuracies or questionable items that you have seen  
7 in the record that we have created so far?

8 MR. ADAMS: Not that I have seen, no.

9 COMMISSIONER HERIOT: Okay.

10 MR. ADAMS: That doesn't mean I reviewed  
11 the whole record. I just --

12 COMMISSIONER HERIOT: Yes, I understand  
13 that. I understand. I think that's all I've got.

14 CHAIRPERSON REYNOLDS: Okay. Before I  
15 start, I'd like to poll the Commissioners to see if  
16 there is a need for a third round.

17 COMMISSIONER GAZIANO: I'd kind of like  
18 one.

19 CHAIRPERSON REYNOLDS: Okay.

20 COMMISSIONER GAZIANO: If possible.

21 CHAIRPERSON REYNOLDS: Sure. Okay. I  
22 just have a few questions for you. We have --  
23 throughout our exchanges, and throughout your  
24 testimony, you have mentioned Coates. It is obvious  
25 that he is a very important witness. Shortly after

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1 this controversy took place, he was transferred to  
2 South Carolina. He is still on the payroll at the  
3 Department of Justice?

4 MR. ADAMS: Yes, sir.

5 CHAIRPERSON REYNOLDS: He is currently  
6 working in South Carolina?

7 MR. ADAMS: Yes, sir.

8 CHAIRPERSON REYNOLDS: Are you aware that  
9 the Commission's jurisdiction, in terms of its  
10 subpoena power, does not go past 100 miles?

11 MR. ADAMS: I did not know that.

12 CHAIRPERSON REYNOLDS: Is there -- are you  
13 aware of any information that would support the  
14 proposition that that transfer took place in part to  
15 put him beyond the reach of the Commission's subpoena  
16 power?

17 MR. ADAMS: That would be a personnel  
18 matter about Chris, and I would not be privy to that  
19 sort of thing anyhow.

20 CHAIRPERSON REYNOLDS: Okay. Mr. Coates,  
21 his -- the working environment during this  
22 controversy, I imagine that things became difficult  
23 for him at the Department of Justice.

24 MR. ADAMS: That's an understatement.

25 CHAIRPERSON REYNOLDS: Okay. And this

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1 atmosphere, the environment in which he worked during  
2 this period, was that in part the cause for his  
3 willingness to be transferred to South Carolina?

4 MR. ADAMS: Look, I don't want to speak  
5 for him. He is a dear friend. He is under subpoena.  
6 He can answer these questions directly to this  
7 Commission.

8 CHAIRPERSON REYNOLDS: I understand.  
9 Thank you.

10 Okay. Commissioner Gaziano.

11 COMMISSIONER GAZIANO: Sorry to keep you,  
12 and perhaps others. You were asked by the General  
13 Counsel whether you were personally involved in the  
14 Pima County, Arizona suit, and you said that you were  
15 not on that trial team. Am I accurate in thinking  
16 that Coates would provide the best evidence of that?

17 MR. ADAMS: Coates will be aware about --  
18 he will be aware of that, I am quite sure.

19 COMMISSIONER GAZIANO: There are some  
20 others involved in this investigation, whose names  
21 won't be mentioned, that pretend that we are not  
22 interested in those other cases that have been raised.

23 But we -- this Commission has always been interested  
24 in comparing the actions of the New Black Panther case  
25 and any others.

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1                   Perez mentioned three or four others in  
2 his prepared testimony. We have heard others. There  
3 is one in Mississippi in 2005; Orange County,  
4 California; Grand Coteau, Louisiana, in 2006. Is it  
5 fair to say that, you know, there were other -- were  
6 you personally involved in any of those other cases?

7                   MR. ADAMS: I was involved in none of  
8 them.

9                   COMMISSIONER GAZIANO: Okay.

10                  MR. ADAMS: Coates, however, would be able  
11 to answer questions about those cases.

12                  COMMISSIONER GAZIANO: Okay. I  
13 desperately want more information from the Department.  
14 It is absolutely central to our original  
15 investigation, and the implication that we don't want  
16 to compare apples to oranges, or apples to apples, as  
17 the case may be, offends me. But thank you for  
18 identifying another reason for the Department to allow  
19 Coates to testify again to this Commission.

20                  Finally, I want to end where I said I -- I  
21 kind of wanted to begin, to explain -- you are not  
22 testifying to matters that are deliberative. But  
23 deliberative process is a subset of executive -- the  
24 President's executive privilege.

25                  And as we in the Commission have explained

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1 to the Department time and time again, the Supreme  
2 Court in U.S. v. Reynolds says that executive  
3 privilege is not to be lightly invoked, but it must be  
4 personally invoked by the President or the Department  
5 head.

6 And we finally heard only the night before  
7 Perez testified that it has not been invoked. And, as  
8 far as I know, it hasn't been invoked to this point.  
9 And yet the Department's position is that, even though  
10 it has not invoked executive privilege, it can simply  
11 refuse to comply with the Commission's request. Is  
12 that the way it has been communicated to you, or do  
13 you have some other understanding of that -- of their  
14 position?

15 MR. ADAMS: My understanding of their  
16 position is they have not invoked executive privilege.

17 My understanding of their position is that they have  
18 interpretations of deliberative process that seem to  
19 be inconsistent with previous interpretations by the  
20 Office of Legal Counsel inside the Justice Department.

21 That is one of the reasons I am here today.

22 COMMISSIONER GAZIANO: Okay. Well, I  
23 again just -- thank you for being in this position.  
24 But I'm going to ask you one question that I asked  
25 Perez, but this is as a general lawyer, as any lawyer

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1 who has just taken your -- about conflicts of  
2 interest.

3 We have asked the Department to appoint a  
4 special counsel. Since they have a conflict of  
5 interest in enforcing subpoenas against the  
6 Department, we have asked them to appoint, like you  
7 did, to go to court -- we have asked for special  
8 counsel to go to court, since we have a disagreement.

9 We think there is no excuse for them not  
10 to follow the law unless the President invokes it.  
11 They think they can do whatever they want. We have  
12 asked them to appoint a special counsel to go to  
13 court, and I asked Perez, and they said, "No, they  
14 don't want to do so." I asked him, and I'll ask you,  
15 do you know of any situation where the entity with the  
16 conflict of interest gets to decide how to resolve the  
17 conflict of interest?

18 MR. ADAMS: A federal district court judge  
19 who has a motion for recusal in front of him. That's  
20 one that comes to mind.

21 COMMISSIONER GAZIANO: Is there any non-  
22 judicial official?

23 MR. ADAMS: Probably not. But, again, I  
24 am not an oracle of all things of the world, so I  
25 can't -- I can't answer that question conclusively.

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1 COMMISSIONER GAZIANO: But I just -- I  
2 don't know if you want to comment -- note for the  
3 record that we are in a similar position to you. We  
4 either would have been happy to go to court with the  
5 Department, or for them to comply with the law. But  
6 the Department has chosen to do neither.

7 MR. ADAMS: No. Clearly, my attorneys  
8 very much made it clear, contrary to, as I said, some  
9 comic blogs, that I would have welcomed a motion to  
10 quash the subpoena. I would have been perfectly happy  
11 if that had been the outcome in regards to that  
12 subpoena.

13 I would have let the court know that I  
14 have no objection to the motion to quash, but that  
15 never came.

16 CHAIRPERSON REYNOLDS: Thank you.  
17 Commissioner Kirsanow.

18 COMMISSIONER KIRSANOW: Thank you, Mr.  
19 Chairman.

20 Mr. Adams, is it -- would it be fair to  
21 say that one of the objectives of the Voting Rights  
22 Act, 11(b) in particular, is not simply to address any  
23 particular harm or grievance of an affected  
24 individual, but also to act as a deterrent? That is,  
25 the Department of Justice would bring a case to make

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1 sure that this type of conduct didn't occur on a  
2 repeated basis. Would that be fair?

3 MR. ADAMS: Unquestionably. You know,  
4 especially given the sacred nature of what we're  
5 talking about, the right to vote. No question.

6 COMMISSIONER KIRSANOW: And then, to what  
7 extent, then, would the fact that we have this video  
8 that has been seen by millions of people have any  
9 bearing on the Department's determination to dismiss  
10 this case, or to bring it in the first case, but then  
11 to dismiss it after some deliberation apparently?

12 MR. ADAMS: That is one of the saddest  
13 parts of this whole story is, so many young people are  
14 going to see, as I put it, we abetted wrongdoers and  
15 abandoned law-abiding citizens. Those messages  
16 percolate throughout a culture, and it is a tragedy  
17 that that occurred.

18 COMMISSIONER KIRSANOW: In 2007, Attorney  
19 General Mukasey, then-Attorney General Mukasey, issued  
20 a memo issuing guidelines restricting communications  
21 with the White House -- with DOJ with the White House  
22 in certain circumstances. Are you aware of who within  
23 Justice, if anyone, would have communications with the  
24 White House regarding any type of dismissal of the New  
25 Black Panther case?

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1 MR. ADAMS: I have very little familiarity  
2 with what are -- I call or other people call inside  
3 the Department "the Mukasey memos," in regards to  
4 those communications. I may have looked at them one  
5 time and thought, "Well, that won't apply to me. I'm  
6 not going to have those communications anyhow," so I  
7 moved on to other more important things. But I don't  
8 have -- I don't have a lot of familiarity with those  
9 memos.

10 COMMISSIONER KIRSANOW: And just an  
11 observation. You made mention of the fact that  
12 whether or not the Department of Justice disputes the  
13 submission that you presented into evidence would be  
14 an indication as to whether or not they are engaged  
15 in, or continue to engage in, equal treatment or equal  
16 protection of all individuals in the United States of  
17 America with respect to voting rights. Given your  
18 testimony today, I would be astonished if they didn't  
19 dispute it.

20 MR. ADAMS: Well, don't forget, they have  
21 options on how to dispute it. I made it clear that if  
22 they do anything other than object to the submission,  
23 they will be televising to anybody who knows this area  
24 of the law that they don't believe Section 5 applies  
25 to white victims.

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1                   Now, they can go and do a more  
2 determination -- or, excuse me, a more information  
3 letter or a no determination letter. They could even  
4 go back to the federal judge with all of the inherent  
5 heightened risk of doing so to try to seek a stoppage  
6 of what is going on here. But they don't want Section  
7 5 to be used for white victims, so it is not going to  
8 happen.

9                   Now, if they do it, I am going to be  
10 thankful. I am going to write a thank-you note, you  
11 know, "Please do this more." But it's not going to  
12 happen. You can know July 14th -- look, they may go  
13 file something in district court, but every lawyer  
14 knows that that carries risks that sending a letter  
15 saying, "We object under Section 5" doesn't. And they  
16 won't do the Section 5 letter because they don't want  
17 to help white victims in Noxubee County, Mississippi.

18                   COMMISSIONER KIRSANOW: Thank you, Mr.  
19 Adams.

20                   Thank you, Mr. Chairman.

21                   CHAIRPERSON REYNOLDS: Okay. Commissioner  
22 Taylor.

23                   COMMISSIONER TAYLOR: Just one question,  
24 Mr. Chairman.

25                   Mr. Adams, could you share with the

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1 Commission the response -- what I have heard described  
2 as the smearing of your good name in response to your  
3 willingness to speak candidly about these issues?  
4 Share some of that with us, if you would.

5 MR. ADAMS: Well, you know, I don't want  
6 to necessarily get in too much of a fistfight, but it  
7 is curious how, you know, various things have been  
8 said, whether it is that I am a conservative, which I  
9 guess is somehow disqualifying to tell the truth, or  
10 axe to grind.

11 Listen, I loved my job. It was a  
12 wonderful gig. I was at the top of the federal pay  
13 scale. I couldn't go any higher. I got promoted two  
14 weeks earlier before I resigned. It is intellectually  
15 enriching to do this work.

16 For somebody to smear, as opposed to argue  
17 the merits, I guess when that is all you have that's  
18 what you have to do. So --

19 CHAIRPERSON REYNOLDS: Okay. Commissioner  
20 Heriot?

21 COMMISSIONER HERIOT: Oh, I've got the  
22 world's easiest question for you.

23 MR. ADAMS: Okay.

24 COMMISSIONER HERIOT: You had mentioned  
25 the brown bag lunches.

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1 MR. ADAMS: Yes.

2 COMMISSIONER HERIOT: Could you just  
3 describe what those are?

4 MR. ADAMS: Yes. The brown bag lunches  
5 were a phenomenon in the Voting Section where Julie  
6 Fernandes or others would come to the section,  
7 assembled section in the conference room, and talk  
8 about the law, what their priorities were. We would  
9 all -- you know, people would bring lunch, and these  
10 would go on inside the Voting Section.

11 And we would have a topic. One week it  
12 was NVRA, the next week it is Section 2, the next week  
13 it is Section 5. And so that's what the brown bag  
14 lunches were.

15 COMMISSIONER HERIOT: So these were not  
16 casual -- somebody happens just to say something.

17 MR. ADAMS: Oh, no. No, no. These were  
18 policy discussions that you could bring lunch to.

19 CHAIRPERSON REYNOLDS: Okay. I don't have  
20 any questions during this round.

21 MR. ADAMS: I have a check that you all  
22 gave me for a witness fee that I don't want to cash.  
23 Can I give it back to you?

24 CHAIRPERSON REYNOLDS: Okay. That's --

25 (Laughter.)

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1 We'll take care of that afterwards.

2 MR. ADAMS: Okay.

3 CHAIRPERSON REYNOLDS: And I --

4 MR. ADAMS: I just want it to be on the  
5 record that I didn't accept any money for this  
6 testimony.

7 CHAIRPERSON REYNOLDS: Okay. Yes, we will  
8 accept that --

9 COMMISSIONER HERIOT: Put on the record  
10 how much that is, so it doesn't sound like we are  
11 paying you a large --

12 MR. ADAMS: \$40.

13 CHAIRPERSON REYNOLDS: \$40, okay. I would  
14 like to thank you for testifying today. I think that  
15 your testimony today was powerful and will help us  
16 shape our report. But this concludes our hearing  
17 today.

18 **III. ADJOURN**

19 CHAIRPERSON REYNOLDS: We are adjourned  
20 sine die. We will hold the record open for additional  
21 evidence pursuant to 45 CFR Section 702.8.  
22 Individuals who wish to submit items for consideration  
23 to be included in the record may send them to the  
24 General Counsel of the Commission, which is located  
25 624 9th Street, N.W., Washington, D.C. The zip is

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1 20425.

2 Thank you very much.

3 (Whereupon, at 11:49 a.m., the proceedings in the  
4 foregoing matter were adjourned.)

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