

## *Curriculum Vitae*

# **Michael Ronald Arthur White, Sr.**

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### **Current Position**

#### **AUBURN UNIVERSITY MONTGOMERY – COLLEGE OF BUSINESS**

##### ***Senior Lecturer of Business Law***

Clement Hall, Suite 303

Business Administration Department, Room 302 B

P.O. Box 244023

Montgomery, Alabama 36124-4023

My relationship with AUM began in 1983 when I started teaching business and employment law courses as an adjunct instructor. In January 2016, I joined the Auburn University Montgomery (AUM) faculty full time as a *Visiting Lecturer*. During that term I competed with other applicants and was selected as *Senior Lecturer of Business Law* for the College of Business. I am responsible for developing and teaching all law-related business courses within the College of Business. In 2013 and 2015, I taught a full load of courses for AUM as an adjunct. I have taught both undergraduate and graduate level courses in all formats. I am certified to teach online courses for AUM, originally earning such certification in 2012 and was recertified in 2017 through December 2022. I have completed the initial training for Blackboard Ultra. In addition to teaching courses like MNGT 2410 *The Legal Environment of Business*, MNGT 3420 *The Legal Aspects of Business* and HRSM 4050 *Employment and Labor Law* within the undergraduate curriculum, I developed and taught a graduate level course MNGT 6970 *Healthcare Business Transactions* for the Executive Master of Business Administration (EMBA) program for AUM with the East Alabama Medical Center. This was first presented in 2013 and was renewed in the fall of 2017 at East Alabama Medical Center. The 2017 course was MNGT 6400 *Managing the Legal Environment of Healthcare* providing a fundamental examination of the legal system for medical personnel and the specific legal issues and statutes surrounding healthcare. During the summer of 2021, I taught an online graduate level course (ACCT 6970) to students in the Master of Accountancy program focusing on laws and regulations critical to passing the CPA examination.

I have been honored to be invited to teach MNGT 2410 the *Legal Environment of Business* for the international joint degree program for **Hubei University of Economics (HBUE) in Wuhan, Peoples Republic of China** and AUM. I taught six summer cohorts in Wuhan at the HBUE campus beginning in 2015 through 2020. Each cohort included approximately 90 to 100 students examining the legal systems of our respective countries and the impact upon business decisions. A number of the Chinese students have come to AUM to complete the joint degrees from the two universities and then pursued graduate degrees. I taught these international HBUE students in a hybrid face to face and online environment during the summers of 2021 and 2022..

In the Summer 2017, I taught an online course JUST 1270 *An Introduction to the American Legal System* for the former College of Public Policy and Justice at AUM.

#### **MICHAEL R. WHITE, Attorney at Law** **Montgomery, Alabama 36116**

##### **2003 to present day**

Since leaving state service as **Chief Administrative Law Judge for Education** in 2003, I have maintained a general legal practice primarily representing business clients in everything from contractual issues to complex litigation. My primary client in recent years was in the precious minerals business within the U.S. and Mexico. I am currently licensed in good standing and admitted to practice in all Alabama courts, as well as the United States Supreme Court. I have adjusted my legal practice as I have been primarily focused upon my teaching responsibilities. Occasionally, I offer some practical insight and consult on pending cases with other counsel based upon my past experiences in significant cases over the last 40 years. I am also involved in various Bar Sections, Committees, Statewide Task Forces and supporting activities with the State Bar Association which are often related to the courses I teach. Currently I am serving on a Bar Task Force to provide programs to public schools during February and May for diversity and Law Day. I have been a member in good standing of the **Alabama Bar Association since 1981** and admitted to practice before the **United States Supreme Court since 1997**.

## **CURRENT COMMITTEE SERVICE AND ACTIVITIES AT AUM**

### **University or Faculty Senate Committees**

**Faculty Council/ Senate Parliamentarian** – Initially elected by the AUM faculty to serve for 2019-2020 academic year and reelected for the 2020-2021 and 2021-2022 academic years. As Parliamentarian I am also a member of the **Faculty Senate Executive Committee** which sets the agenda for the Faculty Senate meetings and takes action when needed between Senate meetings.

**Intercollegiate Athletics Advisory Committee** – College of Business Faculty Representative and Chair (2020 to present)  
I served on this faculty senate committee which advises the University leaders on issues involving student-athletes and the programs at AUM. Our role is to act as representatives of the faculty for our respective colleges and schools and act in an oversight capacity for the athletic programs for the University and ensure compliance with NCAA requirements. In this capacity I made presentations to the coaches and assistant coaches for AUM on the creation of Limited Liability Companies for their various sports camps in order to meet the requirements of the NCAA on this matter. I offer legal insight when asked by the members of the committee and Chancellor. I was the Chancellor's lead person on convincing the Faculty Senate and Faculty Council to realign the IAC from a Faculty Senate committee to a University Committee. We generally meet twice a semester and as needed to address issues in the AUM Athletic Department.

**University Intercollegiate Athletics Committee (Chair)** – Following the conversion of this committee to a University Committee responding directly to the Chancellor, I was asked to serve as **Chair** and **developed bylaws** approved for the Committee. Our mission is to provide advisory feedback to the Chancellor consistent with university oversight responsibilities under NCAA Division II and the Gulf South Conference.

**Warhawk Hall of Fame Selection Committee** – As Chair of the IAC, I am on the selection committee for outstanding former student-athletes who made outstanding contributions to AUM.

**Search Committee for AUM Athletics Director** – I previously served on the search committee in 2016 and again served on the search committee for the Senior Athletics Director in summer 2022.

**Strategic Planning Committee – Facilities Component** – Served on committee to assess and develop a new strategic plan with respect to facilities at AUM for next five years. Made report to full committee and submitted plan to Chancellor for approval by AU Board of Trustees.

### **College of Business Committee Service**

**College of Business Faculty Development Committee** – I serve on this committee which will address changes in the faculty evaluations and other issues which impact upon the improvement of faculty in the College of Business. We have recently worked to develop faculty qualification criteria and evaluation criteria which were proposed to the faculty of the College of Business for approval. This committee often develops proposed policies for the College of Business for presentation to the faculty for approval.

I also participate in various activities within the College of Business and the University throughout the year to support students and initiatives of the leadership. I routinely participate with **the SHRM club** with Human Resource majors since I teach courses in that area. Served on selection committee for review of applicants for Human Resource faculty position, Spring 2018. Was chair of one search committee for Management faculty in Spring 2019 and served on two other search committees in Spring 2019 for HR faculty and a position in the University Advising Office. Various activities include participating in orientation activities for new students to helping students at Professors in Pajamas in preparation for their final exams. Routinely attend University athletic events to support student-athletes.

**Ad Hoc COB Service** – During the Fall 2021 and Spring 2022 I participated in developing and presenting information to students through various initiatives like **Majors in Minutes** where I helped students explore studies in Entrepreneurship, and a **COB Job Fair(s)** where we had several potential employers come to campus in Taylor Center and interview COB students for future employment opportunities.

**COB Team Captain for the AUM Family Campaign** – I am serving as the college coordinator to encourage participation by all faculty and staff in the annual giving campaign.

### ***Prior Committee and Service Includes:***

**Entrepreneurship Forum Speaker and Presenter – College of Business** – During the fall term of 2016 and in the spring term 2018, I served as a panelist for the Entrepreneurship initiative within the College. I presented information which would be useful for people starting businesses on the type of entity best suited and the tax implications of same.

**College of Business Scholarship and Honors Committee** – I served on the committee within the College which evaluates students for scholarship opportunities and makes decisions for various awards for students, faculty and staff. (2018-19)

**Interdisciplinary Program and Initiatives Development (IPID) Committee** – I served on the interdisciplinary group charged with developing suggested areas where multiple disciplines can provide instruction for programs which may improve student enrollment and participation. These were presented to the AUM Faculty Senate for consideration and forwarded to the Administration for possible adoption. (2017-2018)

## **Regional, State and Community Service**

**Cumberland School of Law – Samford University** – Judged the Williams 1L Moot Court competition involving first year Cumberland students who present and argue a case to the court. Students are evaluated on critical factors impacting the courtroom experience of actual practicing attorneys. Judged two different trials on February 13 and 25, 2022 in Birmingham.

**National Moot Court Competition Judge** for Region 8 competitions, including law schools from Kentucky, Florida, Georgia, Tennessee, Mississippi and Alabama. Presiding Judge for finals competition in 2019, a scoring panel judge in 2020. Sponsored by the Alabama Bar Association and the American Trial Lawyers Association. In Spring 2021 we held the competition virtually and evaluated teams based upon their virtual performance in Moot Court.

**Judge for Alabama Consortium for Technology in Education** – Evaluating projects submitted by K-12 students in competition for scholarships and other recognitions. In 2021 this event became the **Student Technology Association (STA)** and I judged student submissions from Middle School and High School students statewide.

**Alabama State Bar Task Force on Improving Lawyer Image** – Appointed to the task force in 2019 to develop strategies on how to better communicate to the public the service and good deeds of members of the Bar. Goal is to reinforce the professional image through positive contributions of lawyers and identify methods to best share through media, personal interests articles and local publications. Subcommittee chair on media contacts and strategies. State task force has approximately 35 members statewide representing over 18,000 lawyers in Alabama.

**Alabama State Bar Task Force – A Lawyer in Every Classroom** – A statewide task force to provide a direct presence in classrooms throughout the state on April 30, 2021 in support of Law Day and the role of lawyers in society. I will make a presentation to 7<sup>th</sup> and 8<sup>th</sup> graders in Conecuh County, Alabama consistent with other lawyers throughout the state to educate and enhance the understanding of law and lawyers in today's society. I am on the committee coordinating the activities of 200 lawyers across the state in making these classroom presentations. I continue to serve on this Task Force through 2022. We are again preparing in person and virtual programs for K-12 schools in support of Law Day 2022.

## **EDUCATION**

**Cumberland School of Law, Samford University**, Birmingham, Alabama, September 1978 to May 1981  
Simultaneously earned - **Doctor of Jurisprudence, (J.D.) and Master of Business Administration (MBA)**

**Huntingdon College**, Montgomery, Alabama, September 1975 to May 1978  
Degree: B.A., Dual Majors in **Business Administration** and **History**, minor in Math

## **BAR & COURT ADMISSIONS**

**Alabama State Bar - September 1981 to present – Admitted to practice before all Alabama Courts**

*Bar Section Memberships:*

Business Law Section

Elections, Ethics and Government Relations Law Section

Health Law Section

In-House Counsel and Government Lawyers Section

Labor and Employment Law Section

**United States Supreme Court, Washington, D.C. – Admitted Member of Bar - 1997 to present**

*\* Prior admissions to Federal District and Circuit Courts not renewed based upon employment needs, dues expense and goals. Previously a member of 11<sup>th</sup> Circuit Court of Appeals and all three Federal District Courts within Alabama. Eligible for reinstatement in good standing, if desired.*

## **PROFESSIONAL TRAINING AND CERTIFICATIONS**

**Certified Mediator** - Mediation and Alternative Dispute Resolution Certification – Completed initial training course, December 2007, Mobile, Alabama. Course taught by Mediation Media, Inc. (Troy A. Smith, J.D.) in conjunction with the Alabama Center for Dispute Resolution and the Alabama State Bar. Permitted to act as Mediator for resolution of disputes within the courts of the State of Alabama pursuant to certification. Completed Advanced Mediator training, March 2010, Mediation Media, Inc., and the Alabama Center for Dispute Resolution, Montgomery, Alabama.

**Court Approved Guardian Ad Litem (GAL)** – 2009 to present – Completed Alabama Family Court Division training to serve as a Guardian Ad Litem in cases before the various Alabama courts, April 2009, Tuscaloosa, Alabama. Certified by state and listed for appointment to serve in such capacity. 2010 – 2021 - Recertified following annual training completion.

**Online Course Delivery Certification -Auburn University Montgomery – Since December 2012 through 2022.**

**Online Course Delivery Certification – Troy University** – Attended and completed the certification course for Blackboard delivery platform for Troy University, October 2015. Methods and uses differing for same by universities.

**Collaborative Institutional Training Initiative (CITI)** – Completed training in Social & Behavioral Research on July 14, 2017 and am certified through July 13, 2022.

**Graduate Teaching Approved** – I am currently approved to teach graduate level courses in my field of expertise.

## **PAST PROFESSIONAL EXPERIENCE**

### **TROY UNIVERSITY MONTGOMERY**

#### **SORRELL COLLEGE OF BUSINESS – Adjunct Faculty - 2015 to 2017**

I taught face to face courses on campus in Montgomery and online courses for main campus through *eTroy*. I completed Blackboard online certification for Troy University and have taught Law 2221 (Legal Environment) and HRM 4455 (Employment Law). Because of the conflict of interest when joining the full-time faculty of AUM, I no longer accept offers to teach from Troy University.

#### **CHIEF ADMINISTRATIVE LAW JUDGE FOR EDUCATION – Office of the Alabama Attorney General- 2003**

Administrative Law Judge hearing and deciding administrative law cases before different state agencies and boards. Heard evidence and made rulings with findings of fact on cases from tax franchise liability to license questions, depending upon the agency involved.

#### **GENERAL COUNSEL FOR THE ALABAMA DEPARTMENT OF EDUCATION -**

**DEPUTY ATTORNEY GENERAL - STATE OF ALABAMA 1997-2003** Chief legal counsel for State Board of Education and State Superintendent providing legal advice on all legal matters involving K-12 education in state. Advised Board on policy and legal matters impacting public schools in 128 districts. Acted at level of Assistant State Superintendent and Director of Legal Department within the executive council of the department. Managed a legal department with a budget of several million dollars within the agency. Interacted directly with Governor and Legislature on education legislation. Responsible for negotiation, implementation and compliance with several federal court Consent Decrees (Special Education & Facilities Desegregation, Teacher Testing, Employment Discrimination, Adequate School Funding).

**Partner in law firm Moore & White, Montgomery, Alabama – 1989-1997** General legal practice representing businesses and individuals in litigation and other aspects of legal needs. Also served as Due Process Hearing Officer for Alabama Education Department for Special Education hearings. Public Defender for City of Montgomery in Municipal Court. Special Assistant Attorney General for Alabama for eminent domain right of way actions.

**Partner in Moore, Kendrick, Glassroth, Harris, Bush & White – 1983-1989** General legal practice with five other attorneys handling all types of legal matters.

**Staff Attorney and Bailiff for the Hon. H. Randall Thomas, Circuit Judge – 1981-1982** I wrote legal opinions and orders for Judge on civil and criminal matters and acted as a bailiff for the court. Organized the civil case docket.

**Legal Intern for United States Senator Howell Heflin, Washington, D.C.** on the Senate Judiciary Committee, Summer 1980.

## **PROFESSIONAL PUBLICATIONS AND/OR PRESENTATIONS**

Much of my professional life as a practicing attorney did not lend itself to writing for academic research purposes or for publication. My writing was in behalf of clients, including the State of Alabama, as an advocate through briefs submitted to state and federal courts. Many of my cases were seminal in nature and represented the “cutting edge”

of novel legal issues, especially within the educational law area. While I was General Counsel for the Alabama Department of Education, I authored briefs which led to leading decisions on religious activities on public school grounds.

In 2000 I developed *The Guidelines for Religious Activities in Public Schools* from leading case decisions with the approval of Attorney General Bill Pryor. They were published statewide and offered on the Alabama Attorney General's website from 2000 to 2017 as the definitive legal advice and guidance on these important legal issues for parents, students and K-12 school administrators.

I wrote many briefs in conjunction with the Attorney General and was the primary education legal counsel in the cases before the Federal District Court and Eleventh Circuit Court of Appeals. I also authored lengthy briefs, replies and interpretive opinions on teacher testing in Alabama, the equitable funding of schools, desegregation and unitary status, teacher tenure and many other critical and seminal legal issues of importance to the citizens of Alabama. I drafted numerous pieces of legislation and wrote the teacher background check statute. I also drafted for adoption the administrative rules of the State Board of Education implementing state law in local school districts. My historic writing has not been of the traditional academic form with hypothesis, research and results, or the examination of data and observations. My writing has been as a advocate or primary author of opinions and legal briefs submitted to courts in the style and methods which are unique to those endeavors. But even as an advocate, my submissions to the courts had to have substantial research support in precedence and acceptance if I was to convince the Courts to adopt my arguments as ultimate rulings. Fortunately, in many instances the Courts were convinced to adopt my arguments expressed in these briefs and publish them within their rulings. These important rulings continue to have direct and continuing impact as various courts rely upon these rulings and cite those arguments in current decisions in Alabama and throughout the country.

As **Chief Administrative Law Judge/ Due Process Hearing Officer**, I would write opinions and orders resolving disputes, but often those written decisions were involving minor children and not generally published for public distribution. Over fifteen years of acting in this capacity I authored many rulings and opinions providing a statement of the facts from the evidence presented and application of the law to those facts in a final administrative ruling.

I am presently working on a manuscript with three colleagues nearing completion regarding limits on corporate executive compensation. It has been submitted for journal peer review. Additionally, I am conducting preliminary research on the legal issues impacting the workplace evaluation of higher education faculty.

## **Publications, Presentations, Scholarly Activities and/or Media Presence**

Haq, I., Smith, W. & White, M. (2018) "The relationship between an audit committee chair change and audit fees." *Journal of Finance and Accountancy*, 24, 1-15.

Reviewed manuscript on case study *Oh Naturelle, Health and Beauty* for possible publication in the *Journal of Legal Studies Education*. Found numerous issues with this case study and submitted detailed notes of problems through editor to author(s) to revise and re-write for consideration for publication. Poor authorities or cites thereto and lack of clear objectives to be taught by this case study. Revision recommended prior to publication. Summer 2021.

Reviewed manuscript on *Canadian Sports Law* for potential publication in the *Journal of Legal Studies Education*, checking the legal citations and assertions therein about U.S. law and making editorial comments and suggestions. March 2021

Reviewed manuscript on *Road Rage in California* for potential publication in the *Journal of Ethical and Legal Issues* checking the statutory assertions and interpretation of the laws cited while making editorial comments and suggestions prior to publication. March 2020

Reviewed manuscript on *Boosting the Southern Regional Economy While Balancing the Trade Deficit: Oil and Gas Exports are the Answer* for the *Southern Business Economic Journal* checking the legal assertions and making editorial comments and recommendations to Dr. Hahn prior to publication. February 2020

Reviewed classroom case study *Dick and Jane hire a Lawyer*, for the *Journal of Legal Studies Education* making editorial comments and offering opinions on the scenario offered and the questions posed for students within this case study. November 2019

**Reviewed Textbook** for Jones & Bartlett publishing, *Managing Legal Compliance in the Health Care Industry*, by George B. Moseley, III. Prepared a detailed report for company with suggestions and observations regarding the text material in preparation of the second edition. Was requested by the company because of my discipline expertise in the field.

**Speaker & Panel Member at Entrepreneurs Speaker Forum**, AUM College of Business, February 15, 2018 – Addressed legal and insurance issues in public forum with Mr. Willie Durham from State Farm Insurance. Directed to those starting a new business. Taylor Center, AUM – 5 to 8 p.m.

**\*Guidelines for Religious Activities in Public Schools, 2000 to 2017**, approved by Attorney General Pryor, distributed to all school districts and formerly published on Alabama Attorney General Website through 2017. Removed by new Attorney General when updating website and moved to archive materials on website.

**\*The 4- “C’s” of Intervention, Education and the Law**, Alabama School Board Journal, 2002, published by the Association of Alabama School Boards, Montgomery, Alabama.

**\*LEGAL ISSUES IN TEACHER TENURE and LEGAL ISSUES IN THE FAIR DISMISSAL LAW**, March 2000 handbook and presentation to Alabama Association of School Administrators, Montgomery, Alabama, Co-Authored with Hon. Dorman Walker and Hon. Carl E. Johnson, Jr. and presented jointly in two separate daily meetings.

\*Annual Presentations to the Alabama Association of School Administrators, Alabama School Board Association, and also the Alabama School Board Attorneys Association, various topics on school law, school safety and statewide implementation of education initiatives. Three separate association conferences with presentations made to each group. Each group received written materials relevant to their respective areas of concern on legal issues and implementation of education policies. Materials published and distributed by Alabama Department of Education, July each year from 1997 through 2002, Gulf Shores, Alabama. **[Note: 18 different conference presentations by MRW during this period]**

\*Multiple presentations on developing case law and court decisions to quarterly K-12 Superintendent meetings held throughout Alabama by State Department of Education, from March 1997 through December 2002. **[Approx. 15 separate presentations and supporting materials provided by MRW during these meetings.]**

\*Multiple presentations made to the Alabama Board of Education in work sessions and public meetings on various case decisions and the implementation of consent decrees. Twice a month during the six years serving as Chief Legal Counsel, 1997 – 2003. Written materials and oral presentations made to the body. **[Approx. 60 such presentations to the State Board of Education.]**

**\*Responsible for implementation of the Federal Consent Decree on Teacher Testing** in Alabama (*Allen v. Alabama State Board of Education*) and coordinating the Court appointed, Monitoring Committee and their meetings to implement the same. Reported upon progress to Governor and State Board of Education in numerous public meetings with written materials and oral presentations.

\*Interviewed for many news articles and media presentations by television, radio and newsprint media on matters related to K-12 education and legal issues in Alabama. Participated in radio programs for WVAS at Alabama State University on topics from desegregation to high school exit exam. Interviewed and quoted in many articles in Birmingham News & Post Herald, Mobile Register and Montgomery Advertiser newspapers on multiple topics from 1997 -2003.

\*Negotiated, co-authored and helped to implement **Special Education Federal Consent Decree (1998 -2000)** which required specific documentation of students as meeting requirements as mentally challenged **prior** to being assigned to classes for same. See *Lee v. Macon County BOE, et al*, statewide issues in Special Education and School Facilities. Consent Decree was recognized as superior in its components by United States Justice Department Office of Civil Rights and U.S. Attorney General at time. Used as a template for other states to implement adequate and thorough evaluation and documentation of students prior to referring for MR classes in special education. Made multiple statewide presentations on implementing new requirements to state education personnel and parents.

\*Recognized as a Governor’s Fellow for my presentations and efforts in the development of Alternative Dispute Resolution (ADR) by the Governor’s Task Force on State Agency ADR, Alabama 2001.

**\*Keys to Success in a Real Estate Transaction in Alabama**, Co-Author, National Business Institute, Inc., Eau Claire, Wisconsin, 1996, Presented March 1996. (Professional CLE hours.)

**\*Mastering Real Estate Titles and Title Insurance in Alabama**, Co-Author, National Business Institute, Inc., Eau Claire, Wisconsin, 1995. Presented at July 1995 Seminar. (Professional CLE hours.)

\*Legal Issues in Special Education, seminar panel member as Hearing Officer, Alabama State Department of Education, March ’95. Presentation to K-12 school personnel.

## **Recent Awards or Recognitions**

**April 2020- Nominated for AUM University Distinguished Faculty Service Award** – Recognized by Provost and awarded \$1,000 in professional development funds based on nomination.

**2019 Warhawk Faculty/Staff of the Year Award** – Voted upon by all university student-athletes as faculty member who goes above and beyond in support of student-athletes at AUM. University wide award. April 22, 2019

April 2019 – Recognized by three baseball student-athletes as faculty member who has had significant impact upon their lives. Award recognized prior to baseball games.

April 2018 – Recognized by AUM Tennis team and AUM Baseball team as faculty member who has had a significant impact upon the student-athletes' lives.

March 2018 – Recognized by Women's Softball team and two players as a faculty member who has had a significant impact upon their lives.

December 2017 – Recognized by cross-country team member as faculty member who has had significant impact upon the student-athlete's life. Recognized at Basketball game halftime.

## **Past Awards, Honors and Activities**

**CUMBERLAND LAW SCHOOL, SAMFORD UNIVERSITY** - Delta Theta Phi Legal Fraternity

### **HUNTINGDON COLLEGE**

**President, Student Government Association, 1977-1978**

Huntingdon Host, 1975-1978

Head Host, 1975- 1976

Society for the Advancement of Management, 1976-1978

International Relations Club, 1977-1978

Town Senator in SGA 1976-1977

Honors Committee Selection, 1977-1978

### **COLLEGIATE SPORTS**

Huntingdon Golf Team Member, 1975-1978

### **FRATERNITY**

Charter Member of Sigma Phi Epsilon, Huntingdon Chapter

Controller of Chapter Finances, 1977-1978

Delegate to National Conclave, 1977

### **COLLEGE AWARDS**

Huntingdon Scholars Award, 1975-1978 (academic scholarship)

**Who's Who in American Colleges and Universities, 1978**

### **JEFFERSON DAVIS HIGH SCHOOL**

**President, Student Council, Jefferson Davis, Enrollment 2300**

President, Hi Y/Tri-Hi Y Club

President, Law Explorer Scouting Post 24

Sports Editor Yearbook

Delegate to Youth Legislature, 1974

**Southeastern Ballroom Dance Competition, South Carolina - First Place –Waltzing**

### **HIGH SCHOOL SPORTS**

Varsity Football, Two Letters earned as Quarterback

B-Team Football, Two Years as Quarterback

Varsity Track

### **HONORS AND RECOGNITIONS**

**Voted Most Likely to Succeed**

National Honor Society – GPA 3.94

Winner of David Folmar Memorial Leadership Award

Nominee for Jimmy Hitchcock Award for Outstanding Athletics, Character and Scholarship

\* Appointed to the **United States Naval Academy, Annapolis, Md.** by United States Senator Jim Allen, but I could not attend due to severe illness of Mother who died shortly after date I would have reported for duty. Being appointed to a service academy was a significant honor.

## **SCOUTING - EAGLE SCOUT - 1 Gold, 2 Silver & 1 Bronze Palm – Troop 130, Talladega, Alabama**

Order of the Arrow - Brotherhood Member

Awards and Medals -National Camping, Mile Swim, Gold Quill, Paul Bunyan Axeman, Sharpshooter

Instructor of Map and Compass

Junior Leaders Training Camp Completed

Served in all leadership positions from Scribe to Senior Patrol Leader

Attended 13<sup>th</sup> World Scouting Jamboree – Mt. Fuji, Japan , Bugler for troop

Served as Den Leader when son was in Cub Scouts.

**Member of National Eagle Scout Association** to promote character and leadership.

## **PERSONAL INTERESTS AND HOBBIES**

I enjoy growing and developing Bonsai trees. My interest began when I went to Japan as a Boy Scout and has continued all these years. I work with the traditional junipers one thinks of when Bonsai comes to mind, but I also appreciate the subtle shapes of Japanese Maples. These trees can be very delicate and I have learned greater patience as our southern weather provides significant change constantly stressing the plants. For some reason, all my tomatoes seem to be smaller and now resemble bonsai tomatoes.

One of my majors in college was History. I now enjoy collecting stamps from all around the world in part due to that history background. I think of the various worldwide postage stamps in the light of the historic events which influenced the decision of the country to issue the particular stamp acknowledging such event or person.

My greatest devotion is to my wife of the last thirty nine years, Patricia. She is my blessing. She is a gifted photographer and I tried to help her in the operation of her photography studio. Because of health issues she was forced to close the photography studio. We value time together and any chance to spend time with our son, Michael. We contribute many hours of service to various organizations ranging from Hospice to local animal shelters within our community.

## **Published Case Decisions of Note wherein I served as Lead Counsel with prevailing briefs:**

### ***State Board of Education v. Ronald Waldrop, et al., 840 So.2d 893 (Ala. 2002).***

This case deals with the requirements of establishing a class action case in order to provide a settlement which will provide continuity to all those impacted under a particular statutory interpretation. The case involved paying teachers under a state salary matrix and the discretion permitted to local boards of education to deviate from same. It also defines when a common fund benefit or settlement may be utilized as an argument for the award of attorney fees and when it is not appropriate. This ruling was especially important for businesses defending class action claims in limiting the attorney fees owed to class counsel under the common fund theory in Alabama. The Alabama Supreme Court ruled it was inappropriate in this case to provide the attorneys a portion of the fund meant for teacher salaries.

This decision has been cited **forty-four (44)** times by other courts, **twenty-four (24)** of them since **2010**. Each of these cases relied upon the **Waldrop** decision rationale as support for the ruling therein. Not only is this case cited in Alabama, but it is also cited by courts in North Carolina (2010) and Texas (2013). The Texas case is a decision of the U.S. District Court, Northern Division which I use in classroom lectures to demonstrate cross jurisdictional interpretations of contracts and the elements necessary to form a legally enforceable agreement. It is a Texas case about the breach of a contract created under Alabama law and the denial of attorney fees under the factors described in **Waldrop**. [Altec Capital Services, LLC, d/b/a Equipment Finance Partners v. Weir Bros., Inc. et al., 030813 TXNDC,3:11-CV-3409-D (NDTX 2013)].

#### **Alabama Citations**

2015 – 4 times  
2014 – 4 times  
2013 – 5 times  
2012 – 3 times  
2010 – 2 times

#### **Federal Citations**

2013 – 1 time  
2012 – 2 times  
2011 – 2 times

### ***Ex parte Gov. Fob James, et al., v. Alabama Coalition for Equity, Inc., et al., 836 So. 2d 813 (Ala. 2002).***

This is a shortened citation referring to the group of cases (consolidated by the Court) which were brought challenging school funding in Alabama and attempting to remove unconstitutional language from the Alabama Constitution. There were numerous efforts made legislatively and by the State Board of Education to attempt to address the differences of funding available to school districts in Alabama based upon their local tax base and what components were necessary to provide an adequate education. The cases were ultimately decided on a **separation of powers** analysis by the Alabama Supreme Court. The Court ruled that the Alabama Constitution places the burden of funding education in Alabama upon the Legislature and not the Judiciary. Were the Courts to order implementation of taxes or allocation of resources, then the Courts would step beyond those powers enumerated for the Judiciary in our Constitution. This case is a significant decision utilizing a **separation of powers** analysis we argued in behalf of the Governor and State BOE.

This ruling has been cited **forty-one (41)** times by courts within and without Alabama, state and federal. It has been referred to by courts in Arkansas, Texas, Nebraska, Colorado, Indiana, Iowa and Illinois supporting decisions in those jurisdictions. Since **2010** this case was relied upon **fifteen (15)** times and it is anticipated that it will continue to be solid authority standing for judicial restraint in the exercise of authority.

#### **Alabama Citations**

2014 – 3 times  
2013 – 3 times  
2011 – 1 time

#### **Federal & Other State Citations**

2015 – 1 time – Illinois Supreme Court  
2014 – 1 time – 11<sup>th</sup> Cir. Ct. of Appeals (Fed.)  
2012 – 1 time – Iowa Supreme Court



*\*Earlier versions of this case were also appealed and reported at 713 So.2d 937 (Ala. 1997). The earlier versions addressing the issues of finality of orders and appeals have been cited by courts twenty-seven (27) times in addition to those shown above. Since 2011 it was cited ten (10) times including twice (2) in Alabama state courts in 2015 and one (1) time by U.S. District Court in Alabama in 2015.*

***Edward L. Hall, Dr., Cordelia B. Moffett, Dr., on their own behalf and on behalf of all other persons similarly situated, v. Alabama Association of School Boards, Sandra Sims-Degraffenreid, in her official capacity as Executive Director of AASB, Dr. Ed Richardson, in his official capacity as Alabama State Superintendent of Education, et al., 326 F.3d 1157 ( 11<sup>th</sup> Cir. 2003).***

This case involves allegations that local school boards violated **employment discrimination law** under **Title VII** in the selection of local superintendents of education. I was involved representing the **State Superintendent** who ultimately was responsible for supervision of Alabama's K-12 system. We defended the allegations through federal trial and on appeal to the Eleventh Circuit Court of Appeals. We were successful in showing **no violation of Title VII**. We encouraged the Court to preserve the discretion of local school boards in selecting candidates who will best fit the local needs to lead community schools. But this decision is not limited to just school boards and stands for a **strong employer decision for employer discretion in selecting qualified employees** consistent with Title VII. The Court described the application of the Supreme Court's **burden shifting** mechanism in discrimination cases pursuant to **McDonnell Douglas Corp. v. Green, 411 U.S. 792, 93 S. Ct. 1817, 36 L. Ed. 2d 668 (1973)** even when there has been circumstances of past discrimination.

Since 2010 this employment law decision has been cited by **seventeen (17)** courts in support of their analysis of other cases. Overall this decision has been cited more than **thirty-nine (39)** times by other courts. Of those citations since 2010, **three (3)** were in Georgia and **three (3)** were in Florida.

#### Citations in Other Cases

2015 – 3 times  
2014 – 6 times  
2013 – 4 times  
2012 – 3 times  
2011 – 1 time

***Governor Don Siegelman, etc., et al. v. Alabama Association of School Boards, et al., 819 So. 2d 568 (Ala. 2001).***

This is a case on statutory interpretation and the implementation of **budget proration** orders in the Education Trust Fund budget. This case impacted both K-12 systems and Higher Education in Alabama. The primary issue dealt with whether salaries paid from ETF funds were subject to being prorated when the Governor declared proration in the budgets. Ultimately the Court concluded, consistent with my interpretation as General Counsel for the Education Department that such **salaries were excluded from such proration** orders.

This decision has been cited by other courts **thirty-four (34)** times. Since 2010 it has been used as the basis of other court decisions on **nine (9)** occasions. **Three (3)** of those instances were in 2015. The issue of proration in the education funding budgets appears to be uniquely an Alabama problem as its citations seem to be limited to Alabama courts.

#### Alabama Citations

2015 – 3 times  
2014 – 2 times  
2013 – 1 time  
2012 – 1 time  
2010 – 2 times

***State of Alabama, By and Through Attorney General Bill Pryor, ex rel. James T. Jeffers v. Cynthia F. Martin, 735 So. 2d 1156 (Ala. 1999).***

This case deals with the constitutionality of portions of the Alabama Education Code found in Title 16 and its application to elected officials with issues of conflict of interests. The Alabama Supreme Court upheld our position that it was a violation of the law for a school employee to both act as an elected official responsible for governing a system and also be an employee subject to such governance. The Court declined to address our assertions that the Alabama Ethics Act was constitutional since there was a specific code provision in the Alabama education laws (Ala. Code 1975, § 16-11-2(b)) which addressed the situation presented.

Because of the unique and limited nature of this ruling, there are not as many instances where it would be necessary to cite this ruling. It has been cited **nine (9)** times overall and **four (4)** of those since 2010. It was cited **three (3) times in (2015)**.

***H.E. Monroe, Jr., in his official capacity as Commissioner of the Department of Revenue, State of Alabama v. Valhalla Cemetery Company, Inc., et al., 749 So. 2d 470 (Ala. Civ. App. 1999).***

This is the ultimate combination of death and taxes in a lawsuit. At issue here was a case which saved the Education Trust Fund an estimated **\$140 million** in potential refunds had we not been successful. The case involves the collection of use taxes in lieu of sales taxes for the ETF. We

were able to promote our position that such payments of use taxes were proper under existing law and refunds were not ordered on use taxes collected.

Even though this case is specialized for the application of Alabama use taxes, it has been cited by other courts **nine (9) times**. It was cited by **California courts in 2010** and that decision was thereafter cited **four (4) more times by other California courts in 2012 and 2013**. Alabama courts last used this decision in **2011** in opinions. The point is that once a decision is cited in one case, its impact grows exponentially as those cases are relied upon thereafter by other courts and jurisdictions, growing the **impact and use of the original research**.

***State of Alabama v. Josh B. Washington*, 623 So.2d 392 (Ala. Cr. App. 1993);(Cert. Denied July 30, 1993).**

This decision involves a fundamental Constitutional right guaranteed by the Fourth Amendment to the U.S. Constitution. Although decided in 1993, it has been one of **the leading cases on search and seizure of vehicles following a traffic stop and issuance of a traffic citation**. This case establishes what is required by police officers or state troopers when they wish to search a vehicle following a traffic stop. The officer in this case failed to provide what was needed to support a search of the driver's vehicle and therefore the Court disallowed the search of Mr. Washington's vehicle as in **violation of the Fourth Amendment**.

The decision has been cited more than **thirty-five (35) times** by various courts evaluating search and seizure issues under the Fourth Amendment. It has been cited by courts in Maryland, Nebraska, Wyoming, New Mexico and Delaware. The Delaware Superior Court relied upon the **Washington** case ruling in **April 2015** in finding the search of a motorist's vehicle as improper. The findings in the **Washington** case have been **favorably viewed and cited five (5) times since 2014 in Alabama cases**.

***Ex parte Jimmy Lee Curry. Re Jimmy Lee Curry v. State of Alabama*, 471 So. 2d 476 (Ala. 1984).**

This case stands for ratification of the right of persons facing trial to have the jury told that their **verdict must be unanimous** under Alabama Constitutional Law before they can be convicted of a criminal offense. It impacts the fundamental rights of someone facing criminal charges.

The **Curry** decision has been cited more than **twenty-one (21) times** over the last thirty years, and **twice (2) in the last two years (2014)** when trial courts failed to instruct juries that they must return a verdict upon which they all agree. It has also been cited by the Wisconsin Supreme Court in a similar situation.

***Michael Chandler, et al., v. Fob James, et al.*, 985 F. Supp. 1068 (M.D. Ala. 1997).**

This case is the foundational decision governing religious activities (school prayer) on public school properties in Alabama. It was brought by persons objecting to prayers being offered by public school officials and others at public school events and functions. It is the case in which Judge Ira DeMent issued a lengthy injunction which was later vacated by the 11<sup>th</sup> Circuit Court of Appeals. Moreover, this case was modified by the United States Supreme Court when it issued its decision in ***Santa Fe Independent School District v. Doe***, 530 U.S. 290 (2000) involving a Texas school district's policies. The ultimate ruling is that school officials cannot initiate or impede "***genuinely initiated student prayer***".

Other courts in South Carolina and California cited this decision **twice (2) in 2015**. It was also cited twice (2) in different Florida rulings in 2010. This case has been cited **sixteen (16)** prior times by other courts.

However, what makes this case special regarding its impact, is that it also was prominent in an article written in the Wake Forest Law Review entitled, ***Inequality Among Equals: Disparities in the Judicial Treatment of Free Speech and Religious Exercise Claims***. 39 Wake Forest L. Rev. 361.

\*This case also enjoys a form of continuing publication as it is the basis for ***Guidelines for Religious Activities in Schools*** authored by me and **currently published (2016)** on the Alabama Attorney General's Office website at <http://www.ago.alabama.gov/Page-Resources>. The Guidelines provide continuing impact to parents and stakeholders seeking information on what is permissible and prohibited on public school grounds and activities with respect to religious activity. (Attorney General Marshall moved the materials into archive status with a new web page in 2018.)

***Anthony T. Lee, et al., v. Butler County Board of Education, et al.*, 183 F. Supp. 2d 1359 (M.D. Ala 2002).**

Filed in 1963 to eliminate the vestiges of discrimination in Alabama public schools – often referred to as the ***Lee v. Macon*** cases wherein multiple school districts were sued in companion cases. When I became SDE General Counsel in 1997 my responsibilities were to help the remaining local school systems in the cases meet their obligations to achieve unitary status under the original court orders. My office also had to address two pending statewide issues in the litigation dealing with special education services and approval of school facilities. I negotiated the Special Education Consent Decree which concluded in 2007 and the Statewide Facilities Decree which ended in 2011. We brought roughly 100 cases to conclusion which had been pending nearly 50 years. Our Special Education Consent Decree was recognized by U.S. Attorney General Eric Holder as a model for other states to follow in meeting the needs of students with special needs.