I appreciate the opportunity to appear before the U. S. Commission on Civil Rights to provide what I trust will be helpful information relevant to the Commission's factfinding mission and its public hearing on racial and ethnic tensions in American communities--poverty, equality and discrimination. I will direct most of my remarks to the impact of Section 2 litigation on minority representation at the local government level in the Mississippi Delta. As the centerpiece of the 1982 Amendments to the Voting Rights Act, Section 2 was designed to enable minority voters "to shape electoral systems so as to minimize the impact of racism in those exceptional communities in which it still held sway." A. Thernstrom, *Whose Votes Count? Affirmative Action and Minority Voting Rights* 196 (Harvard Univ. Press, 1987). Following the 1980 census, a process of racial maximization through creation of majority-minority districts was commenced in many jurisdictions covered under Section 5 of the Voting Rights Act of 1965, by which state and local government entities were required to obtain preclearance of redistricting plans and other electoral changes by formal submissions to the Justice Department in Washington, D.C., or, in lieu of that administrative procedure, by filing a suit for declaratory judgment in the United States District Court for the District of Columbia. The Justice Department's racial maximization policy was justified by many on the basis of the low numbers of black elected officials in these covered jurisdictions, most of whom were in the southern states that comprised what was once the Confederacy. This maximization process, which involved deliberate and vigorous collaboration between various civil rights organizations and minority leaders working in conjunction with the Justice Department, accelerated following the 1990 census, and has led to government-sanctioned segregation of the races into what Justice Clarence Thomas has labeled "political homelands." *Holder v. Hall*, 114 S.Ct. 2581, 2598 (1994). As the following analysis will show, the time has come when generalized claims of historical discrimination will no longer suffice to explain minority electoral outcomes. The civil rights agenda must shift from distorting the Voting Rights Act and twisting it into a blunt instrument to create racial enclaves, to a more balanced enforcement of the Voting Rights Act's guarantee of equal electoral opportunity, which is the key to full inclusion and participation in a multi-racial democracy.

**Personal Background**
Before I turn to current legal developments which have had and continue to have a profound effect on race relations in the governmental, electoral and political arena, let me tell you a little bit about myself. I was born in Cleveland, Mississippi, recognized as "one of the ten best small towns in American," a vibrant community that keeps step with the pace of modern life. Cleveland has a bustling business community and is home to Delta State University with one of the state's fastest growing student populations, giving Cleveland a lively and youthful "college town" atmosphere. Delta State's new Performing Arts Center, which opened in 1995, has brought theater, dance, symphonies, jazz, choirs and concerts to our city, including most recently a fantastic performance by Ben Vereen and Leslie Uggams. Cleveland is full of surprises, including some of the finest dining in Mississippi, with KC's on Highway 61, a four star restaurant specializing in new American, continental and Chinese cuisine, with a wine cellar that has year after year earned it the Wine Spectator's Award of Excellence and has brought visitors to our area from literally all over the country.

Cleveland is one of two county seats of Bolivar County, and I was born there on November 19, 1952, shortly after 1 p.m., and I guess I've been making up for that missed lunch ever since. My daddy was a lawyer, and I had the wonderful opportunity to be his law partner until his death at age 60 in 1987. He graduated from Ole Miss Law School, earned a Masters Degree in Taxation from N.Y.U., and married Gloria Judson Smith, a wonderful lady from Greenville who gave birth to me. Ellis and Gloria Griffith raised all five of us children in a loving, Christian home where we never knew what it was like to be hungry, never experienced the embarrassment of doing without the necessities of life, and never practiced the religion of racism that seems to have scarred our entire region, state and nation so deeply and so permanently. No, we had loving, caring parents, a network of relatives and close friends, and a comfortable lifestyle.

As little children we were taught by example, not merely by words, to reach out to help those in need, not in a patronizing or condescending way, but in a spirit of love for one's fellow human being. I learned through stories drawn from my Daddy's childhood in Prentiss, Mississippi, in the heart of Jefferson Davis County, that his best friend, Homer Lee, was a black man, or as we would later learn to say in this politically correct world, an African-American. I experienced that love that crosses and even obliterates racial boundaries when I saw pictures, drawings, and documented little events from my family's past hanging from the walls and decorating the homes of two black women, Dot Temple and Ione Washington, who helped "raise me" in my childhood home. I also watched in silence as my Daddy leaped from our car when we were driving to a family reunion and cradled the fatally injured body of a little black boy who had been thrown from a vehicle involved in a car wreck just north of Shaw, Mississippi, and helped comfort a grieving black mother and father until medical help arrived.

As I grew up, my parents taught me the meaning and beauty of diversity and the need for real sensitivity to the pain caused by racial prejudice. As members of the Presbyterian Church in a denomination that would soon be torn by the forces of racial intolerance and subject to numbing criticism aimed at the church's moderate stance on race relations, integration, cultural diversity, and other progressive positions that still tweak the noses of fundamentalists, we may have seemed a little out of place in the ultra-conservative Bible Belt.

**Political Reality**

Thank God, my parents rubbed off on me. In later years, as my work as a lawyer has brought me in contact with many of the warriors of the civil rights movement and their legacies, I have experienced the difference between genuine concern for improving race relations and its ugly counterpart that goes by such names as racial separatism, racial apartheid, racial bigotry, and racial hatred. I know the
difference between a white politician who talks the talk of racial harmony and one who reveals his true feelings with stupid racial slurs behind closed doors. I see the difference between a black politician who is a veteran of many campaigns over many years in which white crossover votes have increased from an insignificant trickle to a commanding segment of the vote that keeps putting him in office and a black politician who goes on the radio and t.v. to ask black voters to "vote black," who revels in stoking the fires of racial bitterness, hostility, and rage by vilifying such black conservatives as Clarence Thomas and J. C. Watts while remaining embarrassingly silent when Minister Louis Farrakhan calls all white men devils and castigates Jews as bloodsuckers.

I know the difference, in short, between those societal and political forces that continually strive to bridge the gap between white folks and black folks, and those negative forces that thrive on racial separatism. Nonetheless, I am for many sound reasons quite optimistic that we can all work together to improve, uplift and solidify our race relations through specific, calculated, and measured steps as we all enter the 21st century. The alternative is too bleak and destructive for us to acquiesce in.

**Low Ebb in Race Relations**

It doesn't take a rocket scientist to figure out that race relations in many parts of the nation are fragile and, some cynics may say, at an all-time low. You only need to look at a few headlines to get that sick feeling that the racial divide between blacks and whites in America is widening:

· On the eve of a record class action settlement against Texaco, its executives were heard in secretly tape-recorded meetings making demeaning statements about black employees, using racial slurs and epithets.

· Race has been blamed by blacks and whites as the main reason for O. J. Simpson's acquittal in his criminal trial by a predominantly black jury and a multi-million dollar punitive damage verdict handed down by a predominantly white jury.

· Clarence Thomas was forced to back out of a speech sponsored by the NAACP after protests by black leaders.

· Race-based scholarships and a law school's affirmative action admissions program were declared unconstitutional by the Fourth and Fifth Circuit Courts of Appeals.

· Racially gerrymandered congressional districts have been declared unconstitutional in Texas, North Carolina, Georgia, Florida, South Carolina, Virginia and New York.

· Rodney King's beating by LAPD officers was captured on videotape and the subsequent state court acquittal of those officers led to widespread rioting.

· Denny's Restaurant chain was charged with widespread racial discrimination against blacks.

· White supremacists, increasingly visible organizations filled with skinheads and avowed racists, are predicting a coming race war.

· Congressional black caucus leader Maxine Walters has defended the black English educational policy, known as ebonics, and has thrown down the gauntlet for race.

· Republican representative J. C. Watts of Oklahoma has refused to join the Congressional black caucus.
A rash of church burnings across the south has been claimed to be the result of racially motivated hate crimes by white people, although the vast majority of the churches burned were predominantly white churches and official government-sponsored investigations led to the conclusion that there was no organized conspiracy by white people to burn black churches.

James Earl Ray appears to be on the verge of getting a new trial even though he pleaded guilty to the 1968 assassination of Reverend Martin Luther King, giving rise to renewed discussion of a government-backed conspiracy that led to the death of Dr. King.

Byron de la Beckwith was convicted in a third trial, after two previous mistrials, by a predominantly black jury for the 1963 murder of NAACP Field Director Medgar Evers.

Ten black senators in the Mississippi Senate voted against designating I-20 to honor the Dixie Division of the 31st Infantry, with the Senate dividing itself along racial lines.

The University of Mississippi is giving serious consideration to banning use of the term "Rebels" and playing of the school song "Dixie" based on a perceived poor national image resulting from use of words, phrases and songs that exist only as reminders of slavery and racism to many black people.

Race Predominant Decisionmaking

When official decisions, whether by a President, a governor, or a county board of supervisors, are based predominantly on race, we get the worst that racism offers. Call it what you will, no amount of historical revisionism can ever put enough sugar-coating on the "separate but equal" doctrine of *Plessy v. Ferguson* to make it morally palatable to our society as a whole. Yet we seem to have turned a blind eye on history when it comes to allocation of political power based on race. Race-predominant redistricting and reapportionment in the 1990's, an area of litigation with which I have been involved since the 1980's, is just as divisive, disruptive, and wrong as racial segregation policies and laws that kept black children out of white schools until that form of blatant racism was declared unconstitutional in *Brown v. Board of Education*. Yet over forty years later we find our state and local governments embroiled in precisely the same wrong-headed efforts to separate blacks into their own "majority-minority districts" so as to enable blacks to elect the "authentic" black candidate of their choice, leaving in the aftermath an overwhelmingly racially identifiable assortment of elected officials supposedly beholden to those voters of their own racial or ethnic cleavage. It is against this backdrop of racial separatism, which unfortunately has been nurtured by the Civil Rights Division of the United States Department of Justice, that the recent decisions of the U. S. Supreme Court in *Miller v. Johnson*, *Vera v. Bush*, and *Shaw v. Hunt* must be viewed and understood.

Current State of the Law

I have submitted with this written presentation copies of several articles in which I have dealt with some of the issues raised by these recent Supreme Court decisions, including my best judgment as to where these constitutional decisions will lead us as we approach the year 2000 and the next decennial census. I will now turn to the impact those decisions have had and appear to be having on minority representation and race relations in the Mississippi Delta.

Democracy Front and Center

Thomas Jefferson was surely on target when he said "Democracy is cumbersome, slow, and inefficient, but in due time, the voice of the people will be heard and their latent wisdom will prevail."
Democracy, I believe, will not tolerate racism, because racism—especially in its institutionalized form—does not and never will be grounded on high moral principle. Democracy could not tolerate the racial injustice of slavery any more than democracy can now tolerate the racial apartheid and re-segregation of black and white voters through the mechanism of Voting Rights Act litigation.

**Race-Consciousness in the Public Sector**

None of this is to argue against the need for race-conscious efforts to make our public institutions more accountable, more accessible, and more conducive of equal political opportunity. Indeed, race can and always will be a legitimate factor in any decision that involves line-drawing and constitutional allocation of political power. *Devitt v. Wilson*, 856 F. Supp. 1409 (E.D. Cal. 1994), *aff’d in part and appeal dismissed in part*, 63 U.S.L.W. 3917 (1995). Race cannot predominate over other legitimate, race-neutral factors, which in the redistricting and reapportionment context are well known and include geographical compactness, contiguity, natural boundaries, preservation of communities of interest other than on a racial basis, and respect for political subdivisions. See B. Griffith, Race-Predominant Redistricting After *Shaw v. Hunt* and *Bush v. Vera*: Consigned to the Dustbin of History?, *State and Local Law News*, Section of State and Local Government Law, Vol. 20, No. 1 (Fall 1996).

**Mississippi's Second Congressional District**

Literally volumes have been written on the Second Congressional District of Mississippi in the form of reported decisions, reports of demographic and statistical experts, and quite a bit of legal literature and commentary. See *Jordan v. Winter*, 541 F. Supp. 1135 (N.D. Miss. 1982) (*Jordan I*), *vacated and remanded for further consideration in light of §2 of the Voting Rights Act of 1965*, *Brooks v. Winter*, 461 U.S. 921 (1983), *on remand*, *Jordan v. Winter*, 604 F. Supp. 807 (N.D. Miss. 1984) (*Jordan II*), *aff’d sub nom Allain v. Brooks*, 469 U.S. 1002 (1984). See generally *Connor v. Johnson*, 386 U.S. 483 (1967); *Allen v. State Board of Elections*, 393 U.S. 504 (1969); *Connor v. Waller*, 421 U.S. 656 (1975); *Connor v. Finch*, 431 U.S. 407 (1977). It was only after the present boundary lines of the Second Congressional District were finalized by legislative action and §5 preclearance that the entire body of voting rights law involving racially gerrymandered districts actually took shape. That decisional law is now a matter of record, and the question is being raised with increasing frequency about whether the Second Congressional District would pass constitutional muster in the event it is challenged as a racial gerrymander. Under the present state of the law, in order for a successful challenge to the Second Congressional District to be mounted, Plaintiffs residing in that district would first have to prove that the Mississippi Legislature's predominant reason for drawing the district's boundaries was race. The Plaintiff's burden in making such a challenge to a racial gerrymander was broadly described by the U. S. Supreme Court in *Shaw v. Hunt*, 116 S.Ct. 1894, 1902 (1996):

> The plaintiff bears the burden of proving the race-based motive and may do so either through "circumstantial evidence of a district's shape and demographics" or through "more direct evidence going to legislative purpose."

If the plaintiff were able to establish that race was the predominant factor motivating the Mississippi Legislature's decision to place a significant number of voters within the Second Congressional District, then it would be incumbent upon the state to establish two things: first, that a compelling state interest justifies creation of the district, and second, that the district was narrowly tailored to achieve that compelling state interest. See *Shaw v. Hunt*, 116 S.Ct. 1894 (1996); *Bush v. Vera*, 116 S.Ct. 1941 (1996); *Miller v. Johnson*, 115 S.Ct. 2475 (1995); *United States v. Hays*, 115 S.Ct. 2431...
Relevant evidence in such a proceeding would include the State of Mississippi’s §5 preclearance submissions pertaining to the District since the early 1980’s. This would include the various narrative statements, exhibits and evidentiary material submitted to the §5 Unit of the Civil Rights Division, United States Department of Justice, tracing the various boundary changes in the district since at least August 1981, when the Mississippi Legislature enacted S.B. 2001, for redistricting the state’s five Congressional districts. Other relevant evidence would include correspondence to and from the Attorney General of the United States and Voting Section attorneys during that same time period touching on the question of whether creation of a safe black district predominated in the negotiations leading to the drawing of the final boundaries of the Second Congressional District in its present form today. For example, this would include any reference or absence of reference to traditional race-neutral criteria and standards such as compactness, contiguity, respect for political subdivision boundaries and preservation of non-racial communities of interest in the reapportionment process. Also, relevant evidentiary material would include newspaper articles, including national, statewide and local media, in which legislators and/or the various parties and their legal representatives described or referred to a principal goal and objective of creating a safe black district, the use of race in making boundary line changes, and any efforts to protect or enhance the minority voting age population in what has been a majority-minority district since 1984. See Jordan v. Winter, 604 F. Supp. 807 (N.D. Miss. 1984)(the Court noting, incidentally, that “Plaintiffs’ plans are an obvious racial gerrymander which would bring into the Second District overwhelmingly black sections of the City of Jackson and its suburbs; these inner-city, metropolitan areas have little in common with the interests of the predominantly rural Delta region.” Id. at 815.). Finally, in order to have any significant likelihood of success, Plaintiffs mounting a racial gerrymander challenge to Mississippi’s Second Congressional District would need to amass any other direct and indirect evidence pointing to whether the Mississippi Legislature either regarded or generally disregarded the objective of keeping regions, communities and localities intact and whether it abandoned or gave mere lip service to compactness, protection of incumbents and other race-neutral factors. Incidentally, it makes absolutely no difference that the Legislature may have been coerced into adopting the present Second District plan by a Justice Department intent on maximizing minority voting strength wherever and whenever possible. See Miller v. Johnson, 515 U.S. ____, 132 L.Ed.2d 762, 115 S.Ct. 2475 (1995).

Similar evidence has been presented and discussed by the courts in the above cited racial gerrymandering cases, and the same type of evidence was recently considered in racial gerrymandering challenges to congressional districts in cases arising in Virginia and New York. In Moon v. Meadows, 1997 WL 57432 (E.D. Va. February 7, 1997), the United States District Court for the Eastern District of Virginia addressed the issue of whether the Third Congressional District of the Commonwealth of Virginia was unconstitutionally racially gerrymandered. The Court noted that the district in its present configuration was "an amalgamation principally of African-American citizens contained within the legislatively determined boundaries for the obvious purpose of establishing a safe black district." 1997 WL 57432 *3. The evidence was overwhelming, according to the Court, that the creation of a safe black district predominated in the drawing of the boundaries of this congressional district, which were described as follows:

The district is anchored in the tidewater cities of Norfolk, Suffolk and Portsmouth. It crosses the Chesapeake Bay to include portions of the cities of Hampton and Newport News where the African-American population is the majority, using only the open water of the Chesapeake Bay and the James River to connect the disparate and non-contiguous
portions of these two small cities. The District then crosses the James River into the largely rural Surry County, recrossing the James River to take in all of the African-American majority Charles City County. In Charles City County the district splits in three directions. To the south the District runs through Prince George County and slices through the City of Hopewell, including only those areas where blacks predominate, before terminating some 30 miles away in the City of Petersburg, which it also divides racially. To the east, the District takes in part of rural southeastern Henrico County before reaching the more built up and heavily black eastern suburbs of Richmond, racially dividing the capital city nearly in half before terminating in a small black neighborhood in northern Henrico County. To the north, the district widens out to take all of the rural and agricultural counties of New Kent, King William, King and Queen, and ends its roughly 225 mile trek in Essex County along the banks of the Rappahannock River.

*Id.* at *3.*

After reviewing the evidence and the legal principles applicable to this racial gerrymander challenge, the District Court concluded:

The Third Congressional District is racially gerrymandered in violation of the Equal Protection Clause of the fourteenth Amendment because it relies upon the classification of large numbers of Virginians by race so as to include or exclude them from that district. The Court finds that the Commonwealth of Virginia subordinated traditional districting principles, such as compactness, communities of interest, and respect for cities and counties, to accomplish its goal of a safe black district. Because race predominated in the drawing of the district, the Court applied strict scrutiny to see if the use of race was necessary to accomplish a compelling state interest. The Commonwealth has failed to prove that District 3 satisfies a compelling state interest or that it is narrowly tailored. Accordingly, this Court will strike down this district as violative of the Fourteenth Amendment to the Constitution of the United States.

*Id.* at *9.*

More recently, on February 26, 1997, the United States District Court for the Eastern District of New York held that the current configuration of New York's Twelfth Congressional District violated the Fourteenth and Fifteenth Amendments to the United States Constitution, and, applying the above legal principles with regard to racial gerrymandering challenges, concluded:

As a result of the DOJ's interpretation of the Voting Rights act, race became the predominant factor used by the referees in creating the 12th CD and by the Legislature in adopting the referees' plan. The referees segregated voters by race, as evidenced by the criteria set forth in the final report and the testimony of their experts. Furthermore, the Legislature no only adopted the referees' plan, but itself specifically offered plans that segregated voters by race. The evidence demonstrates that, while protecting incumbency was a major factor in the redistricting, it was still secondary to race for both the referees and the Legislature. Neither the defendants nor the intervenors here raised an issue of material fact that counters this conclusion. Finally, there has been no showing that the 12th CD is narrowly tailored to meet the arguably compelling interest of compliance with the VRA. The 12th CD fails to meet the compactness requirement of *Thornburg v. Gingles*, 478 U.S. 30 (1986). Nor does the need to comply with § 5 of the VRA justify the 12th CD. Prior to the 1992 redistricting, there were five majority-minority districts.
Without the 12th CD, the 1992 plan had six such districts; thus there would have been no retrogression and no dilution - although a second Latino district, rather than a fifth African-American district, might have been required. Moreover, alternative redistricting plans that assure minority representation and non-retrogression and which avoid race-based districting are readily available and feasible. For the foregoing reasons, we conclude that the 12th CD was unconstitutionally drawn.

*Diaz v. Silver*, ___ F. Supp. ___ (Civil Action No. 95-CV-2591, E.D. N.Y., February 26, 1997). See also *Smith v. Beasley*, 946 F. Supp. 1174 (D. S.C. 1996)(holding that race was the predominant factor in the South Carolina Legislature's drawing of six of its nine House districts and all three Senate districts, and that neither the House nor the Senate could meet the strict scrutiny test as to any of the challenged districts).

**Race Relations in the Delta**

Over two decades of hotly contested litigation under the Voting Rights Act have led to the present shape of Mississippi's Congressional District, and that litigation's impact upon race relations in the Mississippi Delta is at best problematical. Indeed, race relations in the Mississippi Delta are but a reflection of race relations nationally, but with the added ingredient of a horrible history of official discrimination and socioeconomic disparities that seem to persist decades after official racial barriers to access and participation have been removed. No one reason or cause can be advanced to explain why the Mississippi Delta still has some of the most extreme examples of poverty, substandard housing, teenage pregnancy and illiteracy. Can past discrimination and pre-Civil War slavery, however, still account for statistical differences between whites and blacks in the areas of income, housing and education? Or should we at some point acknowledge the futility of assessing fault and blame for racial crimes and institutional racism that has its roots in the slave-trading industry four hundred years ago? And should we lift our sights to a more attainable goal of improving race relations, opening lines of communication between whites and blacks in every field of endeavor, reaching out and joining hands to build bridges to the future rather than nursing the rage, hatred and hostility that seem to lie just beneath the surface of so many people and groups who feed off continued racial separation and re-segregation?

**Racial Separateness and Past Discrimination**

It may be hard to focus on biracial coalitions and building bridges to unite blacks and whites when we keep encouraging racial separateness through racially gerrymandered districts on the Congressional, legislative and local government level. The process of forging bonds between blacks and whites is not made any easier when we have such spirit-crushing reminders of our past, including *Ghosts of Mississippi*, *Mississippi Burning*, *A Time to Kill*, and other voices that tell Mississippians how bad their ancestors were and how guilt-ridden their collective consciences must be. No, we should never forget the past, but we must put it in its context. Just as you can't unring a bell, you can't undo history. But you can learn from it, apply its teachings and hard-fought principles to current conditions, and move forward together and not as a racially separate society.

You can learn from this past history of discrimination if you are a 44-year-old white boy who grew up in the most Southern place on earth, the Mississippi Delta, and you can do your part to show sensitivity and understanding to black citizens by walking in their shoes, looking at the world through their eyes, and experiencing life through their vantage points. Sure, white men can't jump, but they can and must reach out and take affirmative steps to heal the hurts and lift the spirit of those who are still reminded of the harmful effects of racism.
The influence of race in the civil and criminal justice systems has been in the spotlight since the state court acquittal and federal court convictions of Stacy Koon and Lawrence Powell in the Rodney King beating case and the acquittal on criminal charges and finding of civil liability on the part of O. J. Simpson. Jury nullification was a seldom-used concept before these cases became virtual fixtures in the media-saturated conscience of America. Now we are hearing charges and countercharges ad nauseam of "white man's justice," double standards, and racially motivated jury behavior. Indeed, race relations are not moving forward in this area, and the prospects for improving them look bleak.

Just ask any high profile leader in the black community to comment on the judicial ability of Justice Clarence Thomas, and you get at best a chilling, thinly veiled contempt bordering on hatred, as in Keisi Mfume's recent diatribe. Just ask any rank-and-file white factory worker to comment on affirmative action, and you get a smoldering response that shows how thin the veneer may been on what we neatly package as "racial progress."

In fact, stage a confrontation between the KKK and the local NAACP chapter in front of a courthouse where a black man is standing trial for murdering two white racists who raped his ten-year-old daughter, and you have a scene out of John Grisham's A Time to Kill, a scene some may consider not too far removed from reality. Focusing on the negative power of racism generates anything but neutrality, but blunting the razor-edge of racism takes more than words. It takes positive action, sensitive listening, constructive solutions, cautious optimism, and faith in the human spirit. Biracial coalition-building takes a corporate effort, a constant and determined effort to get beyond the private nursing of old wounds, as Bolivar County's experience under the Voting Rights Act will show.

**Black Electoral Success in Bolivar County, Mississippi**

Following the 1980 decennial census, Bolivar County sought to develop a new redistricting plan in order to bring its five Supervisor districts into compliance with the one person, one vote standard, due to population shifts during the 1970's. While the county was in the midst of Section 5 administrative proceedings, seeking to obtain preclearance of its proposed redistricting plan, Section 2 of the Voting Rights Act was amended to incorporate the "results test" now embodied in 42 U.S.C. §1973. On June 27, 1993, a class action was brought against Bolivar County by eight black citizens seeking to enjoin use of the county's existing redistricting plan, which the Plaintiffs claimed was in violation of Section 2 and Section 5 of the Voting Rights Act of 1965, as amended. Under court supervision, the County developed a redistricting plan that embodied the one person, one vote principle and avoided impermissible dilution of black voting strength. Following a five-day hearing that ended on October 11, 1993, Chief Judge William C. Keady of the United States District Court for the Northern District of Mississippi concluded that this redistricting plan represented a good faith effort to afford blacks an equal opportunity to participate in elections and to elect candidates of their choice, that it did not result in denial or abridgement of the right of any citizen to vote on account of race, and that Section 2 was not violated. **Lucas v. Bolivar County**, Civil Action No. DC83-136-WK-O (Memorandum of Decision, February 14, 1984)(Keady, C.J.). The Attorney General of the United States precleared this redistricting plan under Section 5 of the Voting Rights Act in May 1984, and the Plaintiffs' appeal from the District Court's decision was dismissed by the United States Court of Appeals for the Fifth Circuit in April 1995. **Lucas v. Bolivar County**, 756 F.2d 1230 (5th Cir. 1985).

**The Reality of Black Electoral Success in Bolivar County**

http://www.griffithlaw.net/public-files/files/Before%20USComm%20on%20Civil%20Right...
Even before the Section 2 trial in 1983, Bolivar County had more black elected officials that any other county in the State of Mississippi. Indeed, the state had more black elected officials than any other state in the nation. Judge Keady's findings of fact in his February 14, 1984, decision reflected an intensely local appraisal of past and present political reality and a frank acknowledgment that any lingering effects of past official discrimination had indeed dissipated. Specifically, the Court found that success at the polls for a black candidate depends more on one's competency and qualifications for the job and type of campaign conducted than upon the size of the black voting age population, so long as it constitutes a majority of the total voting age population. The Court also found that while disparities between blacks and whites in education and income do to some extent hinder the ability of blacks to participate fully in the electoral process, that adverse impact has diminished greatly in recent years because of progress made in Bolivar County by blacks educationally, economically and politically. The Court also emphasized that the County had made an impressive showing of its involvement in obtaining industries that afford job opportunities for black citizens, in developing affirmative action programs and in sponsoring job training programs. Significantly, in one of the first Section 2 decisions to address the "Dole Compromise" of Section 2, Judge Keady reached this ultimate conclusion:

"The credible evidence is that the success of candidates at the polls is generally determined by the factors of incumbency, experience, qualifications and vigorous community-wide campaigning, and not by race. Section 2 expressly disavows any right of proportional representation to the members of the protected class, and it should not be construed to guarantee the success of a candidate because of his race. (February 14, 1984, Memorandum of Decision, p. 26)."

By the time of the 1990 census, the picture of minority electoral achievement and empowerment in Bolivar County was indeed impressive, and that trend has continued to the present day.

- District 3 Supervisor and now President of the Board of Supervisors, Richard M. Coleman, is in his third term of office. He was preceded by Kermit Stanton, who served on the Board for four terms and was elected President during his last four years.

- District 4 Supervisor James McBride is serving in his first term on the Board of Supervisors after years of public service as a member of the Board of Aldermen of the City of Cleveland.

- District 1 Commissioner and Chairman of the Bolivar County Election Commission, David Washington, is now in his fourth term of office, serving with three other African-American Commissioners and one white Commissioner.

- Of the three Justice Court Judges serving Bolivar County, two, Erma Inge and Cardell Fletcher, are African-Americans.

- Circuit Clerk Rosie Simmons, one of the first African-American citizens elected to countywide office in Bolivar County, is now serving her third term.

- Circuit Judge Kenneth L. Thomas, formerly Municipal Court Judge for Rosedale, Mississippi, is in his second term of office as Circuit Judge for the Eleventh Circuit Court District, Place Three.

- Of the three elected Constables serving Bolivar County, Robert L. Scott and Samuel Keith Tolliver, both African-Americans, have been consistently re-elected to office.
State Senator Willie Simmons, whose Senate district includes a substantial portion of Bolivar County, serves Bolivar County along with State Senator Johnnie Walls, whose district includes the southern portion of the county. Simmons had previously served as a Cleveland School District Trustee, elected to office from a majority white district.

State Representative Linda Coleman has very ably served her constituents and is now serving in her second term as a member of the Mississippi House of Representatives.

City of Rosedale Mayor J. Y. Trice has played a significant role on the county and state level, serving in leadership positions on the State Department of Education through appointment by the Governor. His many years of service and sacrifice for the benefit of his fellow citizens have brought him the highest of honors and recognition on the county, state and national level.

Congressman Bennie Thompson, representing the Second Congressional District of the State of Mississippi, including Bolivar County, gained valuable experience through service on the Hinds County Board of Supervisors for a decade and through active participation in the National Association of Counties for running for Congress. He was preceded in that national office by Mike Espy, whose second term ended with his appointment by President Bill Clinton to the cabinet level position of Secretary of the United States Department of Agriculture.

The overwhelming majority of school board trustees who have been elected to each of the six school boards in Bolivar County are African-Americans, and the overwhelming majority of mayors and aldermen who comprise the governing authorities in most of the fifteen municipalities in this county are African-Americans.

My personal experience in working with the Board of Supervisors of Bolivar County since 1977, and as Board Attorney since January 1983, is that this governing authority has benefitted greatly from the presence and active participation of African-Americans serving as elected Supervisors and representatives of the people of this county.

**Black Lies, White Lies**

Turning now from Bolivar County to the broader question of race relations on the national level, a controversial book by Tony Brown was published two years ago, and it cuts to the core of race relations in America. The book is entitled *Black Lies, White Lies: The Truth According to Tony Brown* (William Morrow & Company, 1995). He tackled the thorny issue of racial separatism with a vengeance, saying that

"Black and white, our fates are intertwined as Americans. We have no choice but to put aside our differences and join together to save this country from the sort of economic and moral bankruptcy that has turned once-thriving urban black neighborhoods into cesspools of violence, drugs and degradation. We do not have to like each other. We do not have to live next door to each other. But we do have to share the burden of saving this country and transforming it into a prosperous nation where anyone can grab the brass ring." *Id.* at xix.

**A Blunt Assessment**
His warning in the introduction of this book that "you are about to be confronted with truths that may startle and upset you," and that neither blacks nor whites may like what he has to say, really does not prepare you for his blunt assessment of race relations in America.

As Steven Spielberg said in his February 23, 1997, postscript to the television version of Schindler's List,

We are not born with hatred. Hatred is acquired. We have to learn how to work together to create a culturally diverse society.

Brown echoes this throughout his book, starting with the words of Whitney Young, the former president of the National Urban League, who said, "We didn't all come over on the same ship, but we are all in the same boat." Id. at 9. He carries this boat imagery and also the strong analogy to teamwork throughout his book, emphasizing that blacks and whites whether they like it or not, are in this together, and that "we win as a team or we lose as a team. Since we are all Americans, we play on Team America, and frankly, our team is in the dumps right now." Id. at 17.

In addressing affirmative action, he uses a powerful analogy based on the parable about the prodigal son, concluding that only when we strengthen the weakest link in the chain can we strengthen the entire chain, and that just as the father helped his entire family by helping and rehabilitating his most needy and weakest son, this enrichment of his entire family made it possible to raise more crops and fatten more calves in the future.

Brown's central theme strikes at the heart of racial separatism and re-segregation, and cries out for tolerance and empathy, something the craftsmen of today's racially gerrymandered districts choose to ignore.

It is Brown's rejection of victimization rhetoric that sets him apart from those modern racial separatists who demand racial maximization through majority-minority districts and whose efforts have often led to the creation of unconstitutional districting schemes which even the United States Supreme Court labeled "political apartheid."

**Reason for Optimism**

Out of Brown's analysis come some encouraging notes of optimism. For white folks that may not have noticed it, blacks are a complex, multi-faceted group, just as whites are a complex, multi-faceted group. Brown goes so far as to describe the "tribes of black America," which include the talented tenth, the most influential black professional and intellectual class that includes such folks as Whoopi Goldberg and Bryant Gumbel; the "black unaccountable machine" whose leaders rant and rave about the oppression of the black masses but instead of doing something to alleviate that oppression, endeavor mostly to enhance opportunities for the upper classes and liberal racists, id. at 53; the "black masses," which Brown concludes is filled with marginally middle-class, poor and working poor, and underclass blacks who have been exploited by their own black leaders; and the "John the Baptist brigade," in which Brown includes himself along with William Raspberry, Pulitzer Prize-winning columnist of The Washington Post, Eugene Jackson, CEO of the World African Network, Preston Wilcox, an educator devoted to Harlem's blacks, Robert Woodson, of the National Center for Neighborhood Enterprise, Elizabeth Wright, publisher and editor of Issues and Views, and Bernard Kinsey, former co-chair of Rebuild L.A., a commission appointed after the riots following the Rodney King verdict. For this latter "tribe", its goal is for black Americans to gain control of their own
destinies by taking the responsibility for their own social and economic development, and not to wait for white people to solve their problems.

**White Cultural Conspiracy?**

Finally, Brown deals with the widespread belief among many blacks that there is a white cultural conspiracy aimed at keeping them down, and the widespread belief among many white voters that blacks are to be blamed for spiraling welfare costs, violent crime and chronic urban programs. *Id.* at 333. Brown says that both blacks and whites are equally wrong about each other, and that "we are in a national state of denial. The cure is to get in touch with reality."

The cure proposed by Brown is for us to adapt as one people, as Team America, and make a choice, "to grow as a people or to dissolve as a republic." *Id.* at 337.

As a high profile African-American, Tony Brown has in one book attacked white racism and black self-victimization with equal vigor and condemnation. His book is not one of simply slashing and burning, but he offers wise, workable solutions to our problems in America, with a blueprint for what he calls the "American renewal" by which we all must act on the premise that "we are in the same boat."

As disturbing as it is enlightening, **Black Lies, White Lies** is must-reading for any serious student of race relations. It sheds much light on the underlying forces and tensions which have led to our present state of maximization of minority voting strength and creation of majority-minority districts through elaborate racial gerrymanders.

**The Same Boat**

I agree with Tony Brown that we are really all in the same boat, and we cannot afford to walk away from the issues of race, racial equality and reconciliation. As a native of the Mississippi Delta, living in "the most southern place on earth," James C. Cobb, **The Most Southern Place On Earth - The Mississippi Delta and the Roots of Regional Identity** (Oxford Univ. Press, 1992), I choose to work for and within our governmental system to do all that I can to help resolve these issues, to help hold on to the valuable gains that our African-American citizens have made in the political arena, while at the same time refusing to throw up my hands at the efforts of a small group of flame-throwing racists who scream out for racial separatism and re-segregation of blacks and whites into racial enclaves and political homelands. I choose to work for equal electoral opportunity, but never guaranteed electoral results based on race.

Let me give this final note in closing. My mamma decided to return to teaching in the early 1970's, after four of her five children had navigated through most of their teenage years. She became a speech and English teacher at my alma mater, Cleveland High School, where she met Sank Powe, a man who had big impact on a lot of people in our community and who has been recognized as one of the South's most outstanding coaches.

After leading his boys and girls in over 500 career victories, Sank Powe, Cleveland High School baseball and softball coach, received national recognition in 1994 when he was named recipient of the Master Coach's Award by *Easton Sports* and *Collegiate Baseball*. At the awards banquet in Los Angeles, Sank said:
Racism is taught, you know. We're not born with it. It all starts at home with parents. Teaching and coaching in a predominantly white school has afforded me my own avenue to fight racism....

One day the whites will tell their children they had a black teacher and coach who meant a lot to them... who taught them a lot--who taught them about government, about sports, and about life. Maybe then those whites will respect you and your children more, and maybe the next generation of white and black folks won't be so quick to judge each other simply on the basis of skin color.


I have gotten to know Coach Powe better in our early morning fitness workouts over the last three years, and I think you can understand why I am so excited about my fourteen-year-old daughter Julie being coached in softball by this man.

**Conclusion**

We indeed have to learn to live together, and while individually we cannot change the world, we can and must join hands in a united effort as American citizens. Racially gerrymandered supervisor districts are no more an answer to the problems plaguing blacks and whites and racially gerrymandered Congressional districts designed to assure a "safe seat" for a person whose skin color happens to be black.

Indeed, poverty, inequality and discrimination have long existed and been a part of the sometimes tattered socioeconomic fabric of the Mississippi Delta, as well as many other parts of this nation, but these are problems we must confront through coherent, rational and racially sensitive action in our communities, and not through racial separatism and re-segregation. We have the choice of either dwelling on the negative, engaging in heated rhetoric about who is victimizing whom, blaming present conditions on the past history of discrimination from the time of Civil War slavery to the present, and by continuing this regrettable dead-end course of foisting majority-minority districts on state and local governments and their citizens through a process that must be branded for what it is: political apartheid.

On the other hand, we have the choice of developing and maintaining a positive and constructive attitude, a proactive approach by which we respect one another and try not only to maintain equilibrium and balance in race relations but exert our very best efforts to improve those relations through a spirit of mutual cooperation and good faith as we move forward into the 21st Century.

As Tony Brown put it, "The only thing an American is entitled to is freedom; anything else is a gift." Indeed our destiny and our freedom are inextricably tied together. We cannot return to business as usual, and we cannot walk alone.

I reject the notion that a Martin Luther King or a Colin Powell can't be a leader for white people just as emphatically as I reject the notion that a Bill Clinton or a George Bush cannot represent black people. It will take work, but it must be grounded on faith in God and faith in our best natural resource, our fellow citizens, regardless of race, color, creed, national or ethnic origin. "With this faith we will be able to hew out of the mountain of despair a stone of hope. With this faith we will be able to transform the jangling discords of our nation into a beautiful symphony of brotherhood."