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THE HONORABLE STERLING JOHNSON JR.
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THE HONORABLE STERLING JOHNSON, JR.

A Reflection on *HCC v. Sale*: A Conversation Between the Honorable Sterling Johnson, Jr. and Professor Brandt Goldstein

61 N.Y.L. SCH. L. REV. 69 (2016–2017)

ABOUT THE AUTHOR: The Honorable Sterling Johnson, Jr. is a Senior U.S. District Judge for the Eastern District of New York. Judge Johnson was appointed to the Eastern District of New York in 1991. One of the first cases over which he presided was *Haitian Centers Council, Inc. v. Sale*, the subject of the *Storming the Court* symposium. Judge Johnson previously served as the Special Narcotics Prosecutor for the City of New York for seventeen years. In that role, he supervised Assistant District Attorneys and investigators responsible for the preparation and prosecution of more than 7,000 criminal cases. Judge Johnson graduated from Brooklyn College in 1963 and earned his law degree from Brooklyn Law School in 1966, both while employed full-time as a police officer in the New York City Police Department. He served as an Assistant U.S. Attorney for the Southern District of New York from 1967 to 1970. Judge Johnson is a veteran of the Korean War as a former officer in the U.S. Marines, and a retired Captain in the U.S. Naval Reserve, where he served as Judge Advocate General from 1974 to 1991.

This interview was conducted by Brandt Goldstein on October 16, 2015, at New York Law School. Brandt Goldstein is a professor at New York Law School and author of *STORMING THE COURT: HOW A BAND OF YALE LAW STUDENTS SUED THE PRESIDENT—AND WON* (2005). The book is a narrative account of the legal fight to shut down the American detention camp at Guantánamo Bay in the early 1990s. It was named one of the ten best nonfiction books of 2005 by Kirkus Reviews. It was featured on C-SPAN2 Book TV and is used to teach Civil Procedure at New York Law School. Warner Bros. purchased rights to the story for development as a motion picture.

I. JUDGE JOHNSON AND BRANDT GOLDSTEIN ON HCC V. SALE: A CONVERSATION

*Luna Droubi*¹: Judge Sterling Johnson is the greatest mentor a young lawyer could ever dream to have. He has countless nuggets of wisdom that he shares with his mentees, and he delivers them masterfully.

Judge Johnson has a natural instinct for what is just and right in the world. He was confronted with injustice in his own life, and yet rose above it in a truly remarkable trajectory. I know I'm not alone when I say that it is because of Judge Johnson that I found my purpose. So thank you, Judge, from all of us.

Professor Goldstein: I thought we would start with some personal background questions leading up to *HCC v. Sale*.² You grew up in New York City and long before you were a judge you served as a police officer. Tell us a little bit about your experiences as an officer prior to getting to the bench.

Judge Johnson: I was born and raised in Bed-Stuy,³ in Brooklyn, New York. I was one of five children. My parents were on “home relief” or welfare, as we call it today. I attended the public schools in Bed-Stuy. I remember an incident when I was in high school. I told my counselor I wanted to be a lawyer. He suggested that I become a carpenter instead. The counselor was white and “separate but equal” was the law of the land at that time.⁴

I graduated high school then went into the Marine Corps. After three years, I was discharged and began my college career, going to school at night. I became a police officer one year later. As a police officer, I could not ride in a radio car with a white police officer. I remember one cold February night. There were ten of us and five radio cars. Eight officers were assigned to four cars. The remaining white officer was given an assignment inside the station house. I was sent out into the cold night to walk a foot post.

After eight and a half years of going to school, nights, days, and summers, I finally graduated from college. For the next three years I worked full-time at night as a detective in Bed-Stuy and went to law school full-time during the day. I graduated in the top ten per cent of my class.

Professor Goldstein: After law school graduation, you held many interesting positions before becoming a judge. How would you say these jobs prepared you for the bench?

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1. Introduction by Luna Droubi: J.D., New York Law School, 2011, and former clerk to the Honorable Sterling Johnson, Jr. in the U.S. District Court for the Eastern District of New York. Ms. Droubi was the Editor in Chief of the *New York Law School Law Review*, 2010–2011.
 2. *Haitian Ctrs. Council, Inc. v. Sale*, 823 F. Supp. 1028 (E.D.N.Y. 1993).
 3. This term refers to the neighborhood of Bedford-Stuyvesant.
 4. *Plessy v. Ferguson*, 163 U.S. 537, 551–52 (1896) (holding constitutional state-imposed racial segregation provided that accommodations to one race were equal to those enjoyed by the other), *overruled by* *Brown v. Bd. of Educ.*, 347 U.S. 483 (1954).

Judge Johnson: As a young teenager, right out of high school, I went into the Marine Corps. There, I learned discipline. When I was stationed overseas, it expanded my horizon. As a police officer, I learned about the criminal justice system. I learned about good and bad lawyers, good and bad judges, and good and bad cops. As an Assistant U.S. Attorney (AUSA), I learned how to try a case. I gained a perspective of the system that was brand new to me. As the Executive Director of the Civilian Complaint Review Board, I learned how to be an administrator for a large office. My time in the Drug Enforcement Agency also expanded my horizon because I traveled all over the world. I saw the drug problem from a national and international perspective. As the Special Narcotics Prosecutor for the City of New York for seventeen years, I honed my skills as an administrator, not just supervising civilians, but also legions of lawyers. As you can see, it was as if every job I had was preparing me for my current position.

I remember my first day on the job. The chief judge swore me in at nine o'clock in the morning and said, "You have a trial at nine thirty." I assumed the bench and looked down at the three people in front of me: the prosecutor, defense counsel, and the defendant. I had not tried a case in over twenty-five years, so I was somewhat nervous. I asked the prosecution, "What is this case about?" The prosecutor said, "Narcotics." I said, "Smoke, dope, blow, or crack?" The prosecutor and defense counsel looked befuddled. The defendant whispered something into his lawyer's ear and I was informed the defendant wished to withdraw his previously entered plea of "not guilty" and plead "guilty."

Professor Goldstein: Being selected and then ultimately ascending to the bench is a complicated, political process. Can you explain how it transpired for you?

Judge Johnson: Being appointed a federal judge is a complicated process. You also have to be in the right place at the right time. Traditionally, a senator recommends a candidate to the president.⁵ A senator from the president's party for that state makes the recommendation.⁶ If there is no senator from the president's party for that state, then the highest ranking elected official of the state makes the recommendation.⁷ If the candidate is acceptable to the president, the president sends that name to the Senate.⁸ There are hearings in the Judiciary Committee on the candidate's qualifications and temperament.⁹ If the candidate is voted out of the Committee, his name is sent to the full Senate for a vote.¹⁰ When the candidate is confirmed, he is

5. DENIS STEVEN RUTKUS, CONG. RESEARCH SERV., R43762, THE APPOINTMENT PROCESS FOR U.S. CIRCUIT AND DISTRICT COURT NOMINATIONS: AN OVERVIEW 11-12 (2016), <https://www.fas.org/sgp/crs/misc/R43762.pdf>.

6. *Id.* at 9.

7. *Id.* at 10 & n.47.

8. *Id.* at 17.

9. *Id.* at 22-23.

10. *Id.* at 27-28.

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sworn in as an Article III judge.¹¹ When I was appointed, I was a registered Democrat. However, I was recommended by a Republican senator, Al D'Amato, to a Republican president, George H.W. Bush.¹² I was confirmed by a democratically controlled Senate.

Professor Goldstein: You were on the bench for just six months when the *HCC* case came to you. A couple of lawyers and a group of law students shuttled into the courtroom, asking you to order the government to halt a major military Coast Guard operation 1,500 miles away, claiming a First Amendment right to communicate with their clients in Guantánamo. What was your reaction to that experience? What gave you the confidence to issue a temporary restraining order to stop the government from what it was doing?

Judge Johnson: I was appointed to the bench in September 1991. Six months later, in March 1992, I was sitting on the bench, on trial, in a narcotics case. I saw a group of people peering into my courtroom. When there was a break in my trial, the group came in. They wanted a temporary restraining order to prevent the U.S. Coast Guard from interdicting their clients in international waters and sending them to Guantánamo Bay, Cuba. This group was a band of Yale Law School students being supervised by their professor, Harold Koh, who accompanied them.¹³ The students alleged that they were being deprived of their rights to communicate with their clients, in violation of the U.S. Constitution. This was an area of the law I was unfamiliar with and I knew I had to learn it fast.

In one of the first two hearings I held, the government was represented by the U.S. Attorney's Office. I was informed that Washington, D.C., was interested in the proceedings and intended to participate. An AUSA asked for an adjournment because the Solicitor General himself, Ken Starr, was going to argue the case before me.¹⁴ I knew the solicitor general normally only argues cases before the Supreme Court, so I knew this was a significant case. To me, it appeared that the government was trying to threaten me. It was not what was said, but the way it was said. This

11. *Id.* at 41–42.

12. See 2 *New York Prosecutors Nominated to the Bench*, N.Y. TIMES (Nov. 21, 1990), <http://www.nytimes.com/1990/11/21/nyregion/2-new-york-prosecutors-nominated-to-bench.html>; see also LOUIS J. FREEH, *MY FBI* 37–38 (2006).

13. Harold Hongju Koh attended the *Storming the Court* symposium at New York Law School, and delivered the keynote address. See *Storming the Court: 25 Years After H.C.C. v. Sale: Speakers*, N.Y.L. SCH. L. REV., <http://www.nylslawreview.com/storming-the-court-speakers/> (last visited Oct. 30, 2016) [hereinafter *Storming the Court Speakers*] (providing biographical information about participants in the *Storming the Court* symposium).

14. After serving as solicitor general, Starr was the independent counsel who investigated President Bill Clinton's alleged affair with a White House intern. He became president and chancellor of Baylor University in 2010, and recently stepped down because of controversy regarding the university's handling of sexual assault reports. See Melissa Korn, *Ken Starr Leaves Faculty Position at Baylor*, WALL STREET J. (Aug. 19, 2016, 2:32 PM), <http://www.wsj.com/articles/ken-starr-leaves-faculty-position-at-baylor-1471625866>.

prompted my retort, “You can bring anybody you want. I’m from Bed-Stuy and I will not be intimidated.”¹⁵

Professor Goldstein: Quite honestly, that was one of the moments when I knew I had a book I could write. If there is ever a movie, that line will be in it.

Back in the 1950s you served in the U.S. Marine Corps, and you spent a brief amount of time at Guantánamo. What do you recall about your service at Guantánamo? How did it help you understand what the government was claiming in this case?

Judge Johnson: I will never forget Gitmo.¹⁶ When I traveled there in the early 1950s, it was the first time I had been out of the country. At the time, Fidel Castro was a guerilla, fighting Fulgencio Batista in the hills.¹⁷ There were no barbed wires or landmines surrounding the base. Military personnel at the base could go into the towns surrounding the base and have a beer. One of the things I regret is that I did not go back to Guantánamo when the *HCC* case was pending. I would have loved to see the changes that were made. I also regret not meeting Yvonne Pascal, the heroine of your book.¹⁸

Professor Goldstein: A politician named Bill Clinton was on the campaign trail while the case was unfolding, and he talked about reversing the direct return policy and ending the ban on HIV-positive foreigners.¹⁹ The implication was that among other things, he was going to shut down the camp. Did you pay any attention to this at all?

Judge Johnson: I hate to say it, but I don’t trust politicians. No, I didn’t pay any attention to it. If you’re a politician and you say you’re going to do something, you must prove it to me. There was a lull in the litigation because of the presidential elections. Bill Clinton promised that if he were elected, the Bush policies regarding the Haitians in Guantánamo would change. When Clinton was sworn into office, the only thing that changed was his promise.

15. At the time, Bed-Stuy was not for the faint of heart or meek of spirit. See John Freeman Gill, ‘Wonder Years,’ by Way of Bed-Stuy, N.Y. TIMES (Dec. 4, 2005), <http://www.nytimes.com/2005/12/04/nyregion/thecity/wonder-years-by-way-of-bedstuy.html> (detailing high crime and tough existence within the neighborhood). The section’s reputation began to improve in the mid-2000s when the down real estate market made Bed-Stuy’s affordable housing attractive. *Id.*

16. A term used to refer to Guantánamo.

17. See AVIVA CHOMSKY, A HISTORY OF THE CUBAN REVOLUTION 34–43 (2d ed. 2015), for background information about the conflict.

18. “Yvonne Pascal” is the pseudonym for a woman who was imprisoned at Guantánamo and later became an activist for Haitian refugees.

19. Clinton pledged to give Haitian refugees temporary asylum while the Haitian government was being restored. Elaine Sciolino, *Clinton Says U.S. Will Continue Ban on Haitian Exodus*, N.Y. TIMES (Jan. 15, 1993), <http://www.nytimes.com/1993/01/15/world/clinton-says-us-will-continue-ban-on-haitian-exodus.html>.

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Professor Goldstein: The trial regarding the indefinite detention case took place in your courtroom in March 1993,²⁰ after Clinton was sworn into office. At this point, only the lawyers from the U.S. Attorney's Office were present to defend the government. Washington, D.C., under Clinton, had pulled out. What was your sense of how the Clinton administration was handling the defense in this case?

Judge Johnson: I thought Washington left the U.S. Attorney's Office out on a limb. Nevertheless, the government was more than adequately represented. I was really impressed with Bob Begleiter.²¹ He was a lawyer's lawyer. He represented his client as he was supposed to, yet he did not misrepresent crucial facts to the court when questioned.

Professor Goldstein: Begleiter actually got up and made this extraordinary statement in open court: "We're not giving the prisoners proper medical care, yet at the same time, we're not prepared to move them off Guantánamo."

When you think about the cases you've decided over the last twenty-five years, how does this case stack up against them? What stands out for you about the case?

Judge Johnson: It's almost as if it was meant to be. I was a judge for only six months when this case came across my docket. The Yale law students who prosecuted the case are now influential members of the bar around the country. When I think about it, I was really not supposed to be there. I was originally scheduled to be appointed as a judge in the Southern District. However, Louis Freeh, a friend, and the former Director of the FBI, was appointed at the same time.²² He was also a former AUSA in the Southern District. Since there was only one vacancy there at the time, I was asked if I would mind going to the Eastern District. It was one of the smartest decisions I ever made. I got an opportunity to work with Leo Glasser, my old law school professor and one of the few people I knew who understood the rule against perpetuities. Some of the other great judges in the Eastern District were Eugene Nickerson, Ray Dearie, Reena Raggi, and Jack Weinstein, to name a few. I could go to them and ask them questions, no matter how silly the question was. They were very, very supportive. So, the stars were aligned. I was at the right place at the right time. Whether I knew it or not, I was prepared for the *HCC* case.

Professor Goldstein: What would you say, looking back, is the legacy of the case?

Judge Johnson: As a lawyer, if you see a wrong, or an injustice, you have an obligation to do something about it. Challenge it. A group of Yale law students, and I emphasize *students*, saw an injustice being perpetrated against a group of people who were

20. *Haitian Ctrs. Counsel, Inc. v. Sale*, 817 F. Supp. 336 (E.D.N.Y. 1993) (requiring defendants to either provide adequate medical care to screened-in individuals with low T-cell counts or evacuate them).

21. Robert Begleiter is a founding partner at Constantine Cannon LLP and former Chief of the Civil Division of the U.S. Attorney's Office for the Eastern District of New York. He defended the government in *HCC* while an AUSA in the Eastern District of New York. See *Storming the Court Speakers*, *supra* note 13.

22. See FREEH, *supra* note 12, at 37–38.

voiceless. The law students' actions helped give the wrongly detained Haitians a voice. There is a role for the bar to make it easier for law students and lawyers to engage in public interest work. I cannot applaud enough the contribution made by Simpson Thacher in this effort. This prestigious law firm not only contributed resources to the cause but also made available Joe Tringali, a top-notch litigator.²³

Professor Goldstein: What was your reaction to the government's reopening of Guantánamo Bay during the War on Terror, after the Twin Towers went down?

Judge Johnson: I thought, and still think, it's a big mistake. There must be a balance between civil liberties and security. If a person is going to be held as a prisoner for any length of time, he should be tried and convicted or acquitted.

II. QUESTIONS FROM THE AUDIENCE

Professor Michael Barr: What did you think was the biggest mistake that the plaintiffs made in litigating the case?

Judge Johnson: I think the biggest problem for the government attorneys was having to defend the government's racist actions toward the Haitians. I don't care how you slice that apple; racism was at the core of it.

I recall there was testimony indicating that some Haitians were in this rickety old boat and they came across some Cubans who were in a boat worse than theirs was. The Haitians took the Cubans aboard and they were stopped by the U.S. Coast Guard. The Cubans were allowed into the United States and the Haitians were taken to Guantánamo Bay. You can say whatever you want; to me, that's racism. And that should have been brought up by the litigants.

I also think as a plaintiff I would have focused more on the illegal detention in the beginning. The Haitians were at Guantánamo Bay but had not committed a crime. They weren't charged and weren't accused of anything. That was a significant due process issue.

The government's position was that the Haitians had no standing to come to court because they were in Guantánamo Bay, Cuba, which is foreign soil. I remember asking one of the government witnesses what law was applicable, because they were on foreign soil. Is it Cuban law? I knew it wasn't. If it wasn't American law, what law was it? I remember asking, "What happens if a crime is committed against a Haitian in Guantánamo Bay?"

One of the witnesses for the government said, "We had just such a crime. One of the Haitian men raped one of the Haitian women and he's serving time right now." Then I asked, "What if one of the Haitian men committed a crime against the U.S. government, what is the government going to do then?"

23. Joseph Tringali, Of Counsel at Simpson Thacher & Bartlett LLP, was a litigation partner during work on *HCC*. See *Storming the Court Speakers*, *supra* note 13.

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I knew there was a section in Title 28 that said a case can be brought in any district on the mainland.²⁴ For the purposes of prosecution, it would be as if the case had occurred in that district.²⁵

Professor Goldstein: So then, U.S. law actually did apply in the criminal context. That's the answer that they gave you?

Judge Johnson: Right. They couldn't actually answer the question. As good a lawyer as Ken Starr was, he couldn't answer the question about due process. Are you going to keep people as prisoners—I don't care if you call them humanitarian camps or whatever—forever, without them knowing what their fate is?

If you murder someone, you're probably going to serve life or you're going to "get the chair." If you pull a stick up you're going to get twenty-five years or so. But in this context, these were people who only wanted to flee their persecutors. They were put into camps and told that they would be there forever, or as one witness said, until they died, or until they found a cure for AIDS. And I said to myself, "Oh yeah?"

Mr. Ronald Aubourg: Judge Johnson, I know at times you wanted to quit. You wanted to quit the Police Department. You wanted to quit law school. Who or what kept you going?

Judge Johnson: I really don't know. I look at some of the things that I have done and I say to myself, what the hell did I do that for? I remember once when I was in the Police Department in Narcotics working undercover. I was supposed to make a buy. I gave a fictitious name, Herman from Harlem. And whom should I run into but my brother. My brother was an alcoholic at the time.

My brother said, "Hey, Sterling, give me a dollar." The drug dealer said, "I thought you said your name was Herman?" I said, "Don't pay this wino no mind, he's a drunk." Oh boy. The dealer then looked at me suspiciously and asked me to go into a hallway to complete the transaction. I declined.

But if I had to say one person who kept me going, it would be my mother. I was born and raised prior to *Brown v. Board of Education*.²⁶ As I mentioned earlier, in high school, a counselor told me not to become a lawyer, but a carpenter because they make good money. So, I went home and I told my mother that story and she said, "If God gave you the talent to drive a cab, drive a cab. If God gave you the talent to wash windows, wash windows. But if God gave you the talent to be a lawyer, be a lawyer. All I ask of you is that whatever you do, be the best there is." This is a woman who never had a high school education.

24. 28 U.S.C. § 1350 (2012) ("The district courts shall have original jurisdiction of any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States.")

25. *See id.*

26. 347 U.S. 483 (1954).

Judge Pamela Chen: The political ramifications of the case and the statements that you made, as you said earlier, probably upset the president's administration. Did you get a call from your sponsor, Senator Al D'Amato?

Judge Johnson: No, I did not. But I learned an interesting thing when the case went to the Supreme Court. Justice Antonin Scalia wrote a note to another justice asking that the language I had written not be included in the return case. I had blasted the administration, stating that the treaty the American government signed is "not worth the paper it is printed on."²⁷

Ms. Rachel Searle: I understand that you were not intimidated by any of the lawyers who were involved in the case, but were you ever afraid of being reversed by a higher court? Does fear of reversal ever play into your decisions?

Judge Johnson: Well, you heard from Judge Chen, she and I have had the pleasure of being reversed several times. No, fear does not play into my decisions. I do what I think is the right thing to do, and if a court wants to reverse me, they're going to reverse me. It doesn't mean that they're right and I'm wrong. Think about some of the decisions that the Supreme Court has made over the years: *Dred Scott v. Sandford*,²⁸ *Plessy v. Ferguson*²⁹—terrible.

So, no, you do what you think is the right thing to do. If they reverse you, they reverse you.

Ms. Marissa Jackson: You've mentioned your belief that racism was central to this case, and I would agree. You've also talked about your awareness of being a black judge in this case and what it meant to you to share that in common with the plaintiffs.

We've also talked a lot about the fact that you're not easily intimidated; you don't really care about what people think and you do what you think is right. But did you ever have in the back of your mind just a thought that somehow you were being "too black" when you were doing what you were doing, even though you knew it was right?

Judge Johnson: The answer is no. I gave a speech here at New York Law School and the topic was "Diversity in the Federal Judiciary." I titled my speech "The Only Fly in the Buttermilk."³⁰

27. *Haitian Ctrs. Council, Inc. v. McNary*, No. 92 CV 1258, 1992 WL 155853, at *12 (E.D.N.Y. Apr. 6), *aff'd in part, vacated in part*, 969 F.2d 1326 (2d Cir. 1992), *vacated as moot sub nom. Sale v. Haitian Ctrs. Council, Inc.*, 509 U.S. 155 (1993).

28. 60 U.S. (19 How.) 393 (1857) (holding that the Court lacked jurisdiction because the petitioner was a slave who did not have the right to bring the action), *superseded by constitutional amendment*, U.S. CONST. amend. XIV.

29. 163 U.S. 537 (1896) (upholding state racial segregation laws and the "separate but equal" doctrine), *overruled by* *Brown v. Bd. of Educ.*, 347 U.S. 483 (1954).

30. Sterling Johnson, Jr., U.S. Dist. Judge, E. Dist. of N.Y., Speech Presented by the New York Law School Program in Law and Journalism: *The Only Fly in the Buttermilk* (Mar. 23, 2009).

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When I came on the bench on June 28, 1991, I was only the sixty-eighth African American federal judge in the history of the United States of America.³¹ This was 1991. Can you imagine that?

I look at the magistrate judges in this country, there are about 570 total.³² Fewer than ten per cent are African American.³³ As of 2015, there were close to 350 bankruptcy judges in this country.³⁴ Only 2.9 per cent were African American.³⁵ So, no, I don't think I'm being too black. Sometimes maybe I'm not black enough.

Ms. Audrey Carr: Could you speak to what you think the similarities are between the detention of the Haitians at Guantánamo Bay and the current detention of Central Americans in Texas in so-called “family retention centers.”³⁶

Judge Johnson: I think the core issue is due process. The Constitution does not prohibit people from being incarcerated, but you have to have due process. If you don't have due process, it's all a farce.

Professor Molly Land: With regard to the ending of the case, certainly there was a victory in that the Haitians were released, but the decision was vacated by agreement of the parties. So, I am wondering if you can share your thoughts about that part of the story and how it played out.

Judge Johnson: The parties had to decide whether to appeal it to the Supreme Court—and possibly lose. I actually agreed with their decision not to appeal it. I think they would have lost. They chose to release the prisoners from Guantánamo Bay, and that was the right thing to do.

I received a lot of hate mail for my decisions. I remember getting a letter that said, “Hooray for sickle-cell anemia, the ‘white man’s hope.’” I got a check in the mail for five dollars with a note that said, “You can go buy yourself some gloves and

31. See *History of the Federal Judiciary: Biographical Directory of Federal Judges*, FED. JUD. CTR., <http://www.fjc.gov/history/home.nsf> (follow “Judges of the United States Courts” hyperlink; then follow “Select research categories” hyperlink; select “Confirmation Date” and “Race or Ethnicity”; then select “Continue”; enter “Before June 28 1991” in “Confirmation Date” field and select “African American” in “Race or Ethnicity” field; select “Search”) (last visited Oct. 30, 2016).

32. *Statistics and Reports: Table 1.1—U.S. Federal Courts Judicial Facts and Figures*, U.S. CTS. (Sept. 30, 2016), <http://www.uscourts.gov/statistics/table/11/judicial-facts-and-figures/2015/09/30> (select “Download Data Table”) [hereinafter “*Statistics and Reports*”].

33. See Marian Payson, *Diversity in the Magistrate Judge System*, FED. LAW., May/June 2014, at 55, 55.

34. *Statistics and Reports*, *supra* note 32.

35. Frank J. Bailey, *Does the Federal Article I Bench Reflect the Ethnicity of the Populations that They Serve? What if the Answer Is No?*, JUDGES’ J., Spring 2016, at 21, 22.

36. Julia Preston, *Hope and Despair as Families Languish in Texas Immigration Centers*, N.Y. TIMES (June 14, 2015), <http://www.nytimes.com/2015/06/15/us/texas-detention-center-takes-toll-on-immigrants-languishing-there.html>.

shake hands with the Haitians when they come aboard to the United States.”³⁷ But I did the right thing, and I can look in the mirror and know I did my job.

37. While it was false, many people once believed that HIV could be transmitted through minimal contact such as a handshake or the use of the same silverware. Scott Skinner-Thompson, *Negligence and Intentional Torts*, in *AIDS AND THE LAW* 8-1, 8-26 to -27 (Scott Skinner-Thompson ed., 5th ed. Supp. 2016).

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