Trump pick for attorney general is shadowed by race and history

By Ellen Nakashima and Sari Horwitz December 24, 2016

The career of Jeff Sessions, President-elect Donald Trump's nominee for attorney general, has been shadowed by his prosecution of the "Marion Three." Sessions brought forth the voter fraud case as a U.S. attorney in 1985, and his critics alleged the charges to be racially motivated. (Video: Dalton Bennett/Photo: Dalton Bennett/The Washington Post)

Evelyn Turner is 80 now and a stroke survivor, but she can still recall sitting in a packed courthouse in Selma, Ala., facing a jury that could send her and her husband, an aide to Martin Luther King Jr., to prison for 150 years.

The charges: mail fraud, voting more than once, and changing absentee ballots.
The trial “was nerve-racking,” recalled Turner, a mother of four. “I didn’t know if I was going to go to jail and leave my family.”

The U.S. attorney bringing the election fraud case was Jeff Sessions, today a four-term Republican senator from Alabama who is President-elect Donald Trump’s nominee for attorney general. Back in 1985 when his prosecutors tried the Turners and a third activist, black Americans were gaining ground in elective offices across the South. Sessions’s office charged the “Marion Three” — named after the Perry County town where the voter fraud allegedly took place — with tampering with absentee ballots cast by mostly elderly black voters to favor the activists’ preferred candidates.

[The facts about the voter fraud case that sank Jeff Sessions’s bid for a judgeship]

Sessions’s team lost the case. After deliberating for three hours, a jury of seven blacks and five whites found the defendants not guilty on all charges. The case and allegations of racial insensitivity figured prominently at a Senate hearing a year later at which Sessions’s nomination to be a federal judge was defeated by a vote of the Judiciary Committee. Some 30 years later, he will appear before the same committee — of which he is now a senior member — as the nominee to become the next attorney general.

After coming of age in the Deep South during the darkest days of the civil rights movement, Sessions has struggled to reconcile the racial politics of his region with the changing national discourse that lifted long-standing legal barriers for minorities.

Sessions’s long record in public life reveals a man who has hired African Americans for senior positions who speak highly of him, but who has been sharply criticized by civil rights groups for his positions on voting rights, same-sex marriage and gender equality.

In 1986, for instance, when he testified before Congress, he called the Voting Rights Act “intrusive” but “necessary.” Then in 2006, as a U.S. senator, he voted to renew the Voting Rights Act for 25 years. But seven years later, he said it was “good news . . . for the South” when the Supreme Court struck down a key provision of the law, which made it more difficult for the federal government to protect people from racial discrimination in voting.
In Sessions, Trump found a man who holds deeply conservative views. He positions himself as a champion of the working class and expounds the same populist message that has come to dominate the Republican Party: a belief that the world is divided between working people and elitist “masters of the universe,” and that illegal immigration poses an existential threat to the country.

A diminutive, silver-haired figure, known among Senate colleagues for his courteous manner, Sessions was the first senator to endorse Trump, back in February. Sessions donned a “Make America Great Again” hat, stumped at rallies and tried to coax his colleagues onboard. Many of his positions mirror those of the president-elect, whether it is building a wall along the Mexican border or restricting immigration from Muslim countries that harbor terrorists.

At a 2006 congressional hearing, Sessions said that an entire group of people wouldn’t thrive in America. “Fundamentally, almost no one coming from the Dominican Republic to the United States is coming
because they have a skill that would benefit us and would indicate their likely success in our society,” he said.

In 2009, he voted against a hate crimes bill named after Matthew Shepard, the gay Wyoming student murdered in 1998, that extended federal hate crime protections to people victimized because of their sexual orientation or gender identity.

As state attorney general in 1995, he argued against a decision by the Alabama Circuit Court to order the state to remedy funding inequities between the poorest school districts, which were heavily black, and their wealthiest, which were predominantly white. He did so on the grounds that taxing and spending power lay with the legislature, not the courts.
Sessions’s staff members say that while Sessions was U.S. attorney, he filed a host of desegregation lawsuits in Alabama. But Sessions did not initiate the lawsuits. Rather, he signed off on paperwork from the Justice Department’s civil rights division, supporting continuing federal desegregation lawsuits, which in some cases were decades old.

He also signed off on election lawsuits brought by the Justice Department to convert countywide elections to multiple district elections so that African Americans could be represented on county commissions and schools boards.

Supporters point out that as U.S. attorney, he worked hard on the successful 1983 prosecution of two Ku Klux Klan members for killing a black youth. Former FBI director Louis J. Freeh, in a letter of support to the Senate Judiciary Committee, also noted Sessions’s “fierce determination” to solve two civil rights murders: the 1989 killings of a federal judge in Alabama and an official with the National Association for the Advancement of Colored People. And as a U.S. senator, Sessions co-sponsored legislation to honor civil rights activist Rosa Parks with the Congressional Gold Medal.

But that doesn’t convince Rose Sanders, a lawyer and civil rights activist in Selma whose husband was on the Marion Three defense team. Sanders is adamant: “He is racist to the core.”

In sharp contrast, former deputy attorney general Larry Thompson, who is African American, considers Sessions a good friend of more than 30 years.

“He doesn’t have a racist bone in his body,” he said.

“I’ve been an African American man for 71 years,” said Thompson, who served in the George W. Bush administration. “I think I know a racist when I see one. Jeff is far from being a racist. He’s a good person, a decent person.”

‘The knee-knocker’
Jefferson Beauregard Sessions III, 70, is a third-generation Alabamian born in Selma. He was raised in a tiny town called Hybart, in Monroe County, the setting for the novel “To Kill a Mockingbird.” His mother called him “Buddy” to distinguish him from his father, who ran a country store and then a tractor dealership.

An only child, he attended a segregated school. “We never knew anything else,” recalled Les Johnson, a longtime friend and a retired banker. “That’s just the way it was.”

Sessions was active in Boy Scouts and became an Eagle Scout. To this day he has the motto “Be Prepared” on the back of his nameplate on his desk in his Senate office. He played linebacker on the high school team. He wasn’t big, “but he could sure tackle ‘em!” recalled Kay Ivey, a friend. “Some people called him ‘the knee-knocker.’”
The “bottom line,” said Ivey, who is now Alabama’s lieutenant governor, “is Jeff Sessions is a man of his word. If he tells you something, you can take it to the bank. He’s straight as an arrow and believes in the rule of law. Just like in football, when he grabs on to something, he hangs on tight.”

Sessions left home for college, attending a Methodist liberal arts college in Montgomery, Ala., called Huntingdon. He met his wife-to-be, Mary Blackshear, during his freshman year, and they married after graduation. Sessions organized a chapter of the Young Republicans, at a time when Democrats ruled the state, and became student government president. “That quiet friendliness and courtesy to everyone” is what got him elected, said Lindora Snyder, a college friend.

Jeff Sessions met his wife-to-be, Mary Blackshear, during his freshman year at college. (Family photo)

Jeff Sessions as a boy in a toy police car. (Family photo)
After graduating from Huntingdon, Sessions earned a law degree from the University of Alabama and then joined a small law firm before becoming an assistant U.S. attorney in Mobile. After a stint at another firm, in 1981, he was appointed U.S. attorney by President Ronald Reagan.

As U.S. attorney, Sessions worked with some minority communities. Robert Battles Sr., who was a neighborhood organizer in Mobile in the 1980s, said Sessions helped set up a “drug court” in the county to help first-time offenders clear their records. The effort primarily helped black youths who had minor drug convictions.

The Marion Three

Alabama state troopers swing nightsticks to break up a civil rights voting march in Selma, Ala., on March 7, 1965. (Associated Press)

The voter fraud case made national news, and it was emblematic, voting rights advocates say, of a push by officials in several Southern states to try to disenfranchise black voters. Sessions was, former Justice Department officials say, the first U.S. attorney in the country to prosecute civil rights activists for voter fraud since the passage of the 1965 Voting Rights Act.
Albert Turner was the son of a farmer who rose to become King’s field secretary in Alabama. In 1965, Turner was in the front lines of the voting rights marchers who were attacked on a bridge in Selma by billy-club-wielding state troopers in what came to be known as “Bloody Sunday.”

In the 1980s, activists such as Turner sought to raise black voter participation by helping those who could not readily get to the polls, especially the elderly, the disabled, those who were barely literate and those who worked outside of the district in which they were registered to vote. The activists also would drop the absentee ballots in the mail.

The case arose out of complaints to the district attorney brought by local black officials that Turner, who led the Perry County Civic League, and associates were taking absentee ballots and altering the votes. At the time, there was a split between two factions, both black, that were vying for power in the county, according to congressional testimony.

Sessions testified to Congress in 1986 that the number of absentee ballots cast in Perry County in the primary was extraordinary: 729 out of 4,000 total. At his suggestion, he said, the FBI staked out the Marion post office before the primary and watched as the Turners and an associate, Spencer Hogue, drove up. Under a court order, election officials secretly numbered the ballots and matched them to the envelopes.

“These are the sort of tactics,” defense attorney J.L. Chestnut told the jury at the trial, that make “your American spines . . . tingle.”

Sessions explained what the authorities found.

“When those ballots were opened, there was a substantial number of them that had candidates’ names crossed out,” he said. “There would be an ‘X’ by one candidate and both the name and the X would be crossed out and an X placed beside another candidate’s name.” A total of 75 ballots had been changed, he said.
Any changes were made by the voters of their own volition, Evelyn Turner said in an interview. Her husband, she said, would tell the voter: “If this is not the person you want to vote for, then just draw a line through it. And he would even make them initial it,” she said.

Such voter assistance was permitted by state law.

Albert Turner died in 2000. But his younger brother, Robert Turner, 65, who is a lawyer in Marion and was also part of the defense team, is convinced that Sessions wanted to use his brother’s visibility to send a message.

“You got a person like Albert Turner that’s out front, spearheading all these voter registration drives, why not put him in jail and see how many people get scared?” he said.

Sessions has said he believed the prosecution was “well founded,” and he denied accusations that he was seeking to suppress black turnout.

‘Hospital humor’

Beulah Donald wipes away tears as she enters the funeral for her son Michael, 19, in Mobile, Ala., on March 28, 1981. (Mark Foley/Associated Press)
Sessions’s views on race burst onto the national stage a year later, in 1986, when Reagan nominated him to be a federal judge. Not only did the Turner case get rehashed by the Senate Judiciary Committee, but remarks he had made in other cases emerged, too.

[Jeff Sessions’s comments on race: For the record]

One of the most controversial was a quip he made during the 1983 investigation of the Ku Klux Klan. A 19-year-old African American, Michael Donald, had been attacked by two members of the Klan, who snatched him at gunpoint while he was walking home in Mobile, drove him to an empty field, beat him with a tree limb, slit his throat and hanged him from a tree. It was the last recorded case of a Klan lynching. After local officials botched the investigation, the Justice Department intervened.

Barry F. Kowalski was a white lawyer in the department’s civil rights division when he traveled to Mobile to work for four months on the investigation. In the South at that time, not all U.S. attorneys welcomed department lawyers from Washington, but Sessions was “entirely supportive,” said Kowalski, who is now retired.

“He was instrumental in making sure that both the state and federal prosecutions happened,” Kowalski said in an interview. Both men were convicted. One, after pleading guilty to criminal conspiracy in federal court, was sent to prison for life. The other, convicted in state court, was executed.

“You get close to somebody when you’re working together on a sensitive case,” Kowalski said. “I got close enough to him that I am convinced that he sincerely cared about solving that vicious murder and lynching of an African American.”

At one point in the investigation, Kowalski told Sessions that the Klansmen had been smoking marijuana and drinking on the night of the attack.

Sessions seemed surprised that Klansmen would smoke marijuana, and Kowalski said he teased him that it was the 1980s. To which Sessions replied, as Kowalski remembers: “I used to respect them, but if they smoke pot, I sure can’t.”

Kowalski took it as a joke between two men working on a grim murder. “It was hospital humor,” he said.
Later, in the U.S. attorney’s office, Sessions made the same comment, but this time, two other lawyers were also present: Thomas H. Figures and Albert Glenn.

Figures, the only black prosecutor in the office, who was also working on the case, later testified before the Judiciary Committee that he was deeply offended and did not think the comment was a joke. Kowalski and Glenn, also white, testified they thought the comment was intended to be humorous.

Other allegations of insensitive remarks were aired at the more than 19-hour hearing. One witness said that Sessions called the NAACP and the American Civil Liberties Union “un-American” and “Communist-inspired.” Sessions denied making some statements, said others were taken out of context, and at one point said he could be “loose with my tongue.” Finally, he said, forcefully: “I am not the Jeff Sessions my detractors have tried to create. I am not a racist. I am not insensitive to blacks. I have supported civil rights activity in my state.”

The Republican-led committee, including his home-state senator, Howell Heflin, rejected his nomination by a vote of 10 to eight.

In 1995, Sessions became state attorney general. A year later, he ran for the U.S. Senate, winning the seat vacated by Heflin, who retired. Sessions joined the committee that had rejected him.

As a senator, Sessions hired William Smith, the first black Republican chief counsel on the Senate Judiciary Committee. Smith said that he never saw any indications of racially insensitive behavior.

“Jeff Sessions is a man who cared for me, who looked out for me and who had my best interests in mind,” said Smith, who is now the chief of staff for Rep. Gary Palmer (R-Ala.). “So, anybody who says anything different doesn’t know Jeff Sessions.

‘More needs to be done’

In February, Evelyn Turner traveled to Washington to represent her husband in a ceremony awarding a Congressional Gold Medal to the “foot soldiers” who took part in the 1965 voting rights march from Selma to Montgomery. Sessions had sponsored the legislation in the Senate.
Civil rights activists and their families, along with leaders of the Senate and the House, filled the grand Emancipation Hall of the Capitol Visitors Center.

Sessions rose to speak.

“I was a teenager at the time of this march growing up 35 miles south in the little town of Camden, attending all-white segregated schools,” he said.

“I saw evidence of discrimination virtually every day. I think even the youth of our time were aware of the historic events that were beginning to unfold in Selma, but maybe probably not fully understanding the significance of it.

“Certainly,” he said, looking out at the sea of faces, “I feel like I should have stepped forward more and been a leader and a more positive force in the great events that were occurring.”

[Watch the Gold Medal ceremony]
He invoked the name of the man he had once tried to send to prison years after the march. “Seeing that film [footage of the march], I always see Albert Turner Sr. in the front with his white hat going down when the troopers attacked.”

Sessions praised the foot soldiers for their “courage and fidelity” and added: “More needs to be done. We need to join closer hands.”

Afterward, he greeted the Alabama delegation. He reached out to hug Evelyn Turner. But she held him off. “I told him, ‘I don’t want to hug you. You tried to send us off for . . . years,’ ” she said.

“I’m sorry you feel that way, Mrs. Turner,” he said, as she recalled.

Her son, Albert Turner Jr., who was at her side, turned to her. “Mama, that’s over with. You’re old now. You’ve got to forgive him,” he said.

“I might forgive him,” she replied. “But I won’t forget.”

Michelle Ye Hee Lee, Julie Tate and Matt Zapotosky contributed to this report.

Correction: An earlier version of this report incorrectly said that Albert Turner Sr. was the son of a sharecropper. He was the son of a farmer in Perry County, Ala.

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