



**Oral Testimony of Barbara R. Arnwine, Executive Director  
Lawyers' Committee for Civil Rights Under Law**

**Louisiana Senate Judiciary Committee B Hearing on Supreme Court Justice, Bernette  
Johnson's Status as Next Chief Justice of Louisiana Supreme Court**

**July 25, 2012**

Good afternoon. Thank you Senator Morrell [Chair] and Senator Johns [Vice Chair] and members of Senate Judiciary Committee B, for inviting me to testify at today's public hearing. I am Barbara Arnwine, Executive Director of the Lawyers' Committee for Civil Rights Under Law in Washington, DC. The Lawyers' Committee was established in 1963 as a nonpartisan, nonprofit organization at the request of President John F. Kennedy to enlist the private bar's leadership and resources in combating racial discrimination and to secure equal justice for all.

My organization represents Louisiana Supreme Court Justice Bernette J. Johnson, as Plaintiff-Intervenor in *Chisom v. Jindal*, currently pending before the federal district court for the Eastern District of Louisiana. We have asked the court to enforce the Consent Judgment which resolved the case in 1992, and to secure Justice Johnson's right to serve as the next Chief Justice of the Louisiana Supreme Court.

The *Chisom* Plaintiffs brought the case in 1986 at a time when the state of Louisiana elected all but two of its Supreme Court Justices from single member districts. Two justices were elected from a large four-parish, majority-white district that included Orleans Parish. This arrangement reflected a determined effort to dilute black voting power in Orleans Parish.

Once the U.S. Supreme Court ruled in the case that judicial elections could be the subject of vote dilution claims under the Voting Rights Act, the *Chisom* plaintiffs were very confident that they would win and succeed in redistricting the state Supreme Court.

However, to avoid political problems for the two sitting white justices from the at-large district, the parties settled. They created a new Orleans Parish district, and created a temporary 8<sup>th</sup> seat on the Supreme Court – the *Chisom* seat—to let the two sitting justices complete their terms. Their settlement was embodied in the Consent Judgment and incorporated into Louisiana Acts 512 and 776.

The parties wisely agreed that the federal district court would retain jurisdiction over the *Chisom* Consent Judgment. The Louisiana Supreme Court, however, divested itself of jurisdiction when it declared Act 512 unconstitutional five years later. The result is that the federal district court is now the only court with jurisdiction over whether Justice Johnson's six years as a *Chisom* judge will count towards her eligibility to become the next Chief Justice.



The parties were clear that the *Chisom* judge would be an equal on the Court – not treated as a second class justice. The *Chisom* judge was to participate equally in all cases and duties, and share equally in the rights and benefits of her peers. These rights specifically included tenure. For Justice Johnson, this quite simply means that every year she served as the *Chisom* judge must count towards her seniority on the Court.

To date, members of the Court have not questioned her authority to participate in cases, render decisions, or fill in as an administrator of the Court in Chief Justice Kimball's absence. Yet, on the eve of her assuming the role of Chief Justice to which she is entitled, the Court now seeks to recalculate and reinterpret her service to the Court.

Rarely have we seen such a blatant example of injustice in our voting rights work or such a deliberate snub of a federal district court's order. To now deny Justice Johnson the Chief Justice position that she has rightfully earned through nearly eighteen years of Supreme Court service is, frankly, a shocking disregard of the very principles of justice and fairness that we would expect a judicial body to uphold.

On Justice Johnson's behalf, we will continue to our pursuit to vindicate her right to serve as the next Chief Justice of the Supreme Court.

Members of the Committee, I again thank you for the invitation to testify today. The Lawyers' Committee appreciates and is encouraged by your thoughtful consideration of this matter. Please let us know how we may be of further help in your efforts.