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S. HRG. 119–201

CONFIRMATION HEARING ON FEDERAL APPOINTMENTS

HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ONE HUNDRED NINETEENTH CONGRESS

FIRST SESSION

SEPTEMBER 3, 2025

Serial No. J–119–36

Printed for the use of the Committee on the Judiciary

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U.S. GOVERNMENT PUBLISHING OFFICE
61–890 WASHINGTON : 2026

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CONTENTS

OPENING STATEMENTS

	Page
Grassley, Hon. Charles E.	1
Prepared statement	58
Durbin, Hon. Richard J.	3
Britt, Hon. Katie Boyd	9
Coons, Hon. Christopher A.	10

VISITING INTRODUCERS

McConnel, Hon. Mitch, U.S. Senator from Kentucky	4
Wicker, Hon. Roger, U.S. Senator from Mississippi	6
Hyde-Smith, Hon. Cindy, U.S. Senator from Mississippi	7
Tuberville, Hon. Tommy, U.S. Senator from Alabama	8

NOMINEES

Chamberlin, Robert P.	41
Questionnaire	63
Responses to written questions	124
LaCour, Edmund G. Jr.	42
Questionnaire	172
Responses to written questions	237
Additional materials	314
Lewis, William W.	43
Questionnaire	331
Responses to written questions	370
Mascott, Jennifer L.	12
Questionnaire	418
Responses to written questions	509
Additional materials	572
Maxwell, James Donald II	43
Questionnaire	601
Responses to written questions	681
Additional materials	728
Mooty, Harold D. III	44
Questionnaire	730
Responses to written questions	758

APPENDIX

Items submitted for the record	807

CONFIRMATION HEARING ON FEDERAL APPOINTMENTS

WEDNESDAY, SEPTEMBER 3, 2025

UNITED STATES SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 10:15 a.m., in Room 216, Hart Senate Office Building, Hon. Charles E. Grassley, Chairman of the Committee, presiding.

Present: Senators Grassley [presiding], Cornyn, Lee, Tillis, Kennedy, Blackburn, Schmitt, Britt, Moody, Durbin, Whitehouse, Klobuchar, Coons, Blumenthal, Booker, Padilla, Welch, and Schiff.

Also present: Senators McConnell, Wicker, Hyde-Smith, and Tuberville.

OPENING STATEMENT OF HON. CHARLES E. GRASSLEY, A U.S. SENATOR FROM THE STATE OF IOWA

Chairman GRASSLEY [audio malfunction occurs]. Good morning. I welcome everyone to today's hearing. Our first panel features Professor Jennifer Mascott, nominated for Court of Appeals, Third Circuit. Panel 2, we will hear from five district court nominees, Judges Robert Chamberlin; James Maxwell for the Northern District of Mississippi; Edmund LaCour, nominated Northern District, Alabama; Justice William Lewis, nominated Middle District, Alabama; Harold Mooty, nominated Northern District, Alabama.

Before we begin, I would like to address a few matters up front. First, I am disappointed that many highly qualified nominees are being held up on the Senate floor. The Senate's duty is to provide advice and consent, not manufacture gridlock. When nominees clear this Committee, they deserve a timely vote. Instead, we've seen well-qualified men and women who put their lives on hold and answered the call of public service, they're left twisting in the wind for months. That weakens our justice system at every level. Vacant judgeships mean heavy caseload and long delays. Vacant U.S. attorney offices leave communities without Senate-confirmed law enforcement leadership. That should concern everybody in this country, and particularly in the Senate.

There was a time when nominees who cleared this Committee were confirmed routinely, often as simply by voice vote. Now, we see a pattern of delay and obstruct. The losers aren't Republicans or Democrats; they are the American people waiting for justice. It's time for the Senate to act.

Second, we have heard time and again from my Democratic colleagues that our nominees lack independence from the President.

Well, that is a turn of events because at the Democrats' own partisan spotlight hearing, the Senate Minority Leader bragged that Democrats had stacked the bench with "progressive judges." He didn't stop there. He celebrated their rulings against President Trump and declared, "Our people are the first line of defense." Now think about those words, "our people." Thats' not the language of an independent judiciary. It is the language of political ownership. And yet, these are the same Democrats who cry foul and actually accuse Republican nominees of being Trump judges. The double standard is breathtaking.

And we're repeatedly hearing from Democrats that nominees must follow all court orders. Let me be clear. Following the rule of law means obeying lawful court orders. But we now have lower court judges who aren't following court orders. As Justice Neil Gorsuch put it just a few days ago, "Lower court judges may sometimes disagree with this court's decision, but the're never free to defy them." He warned that, "This is now the third time in a matter of weeks this court has had to intercede in a case squarely controlled by one of our precedents." He reminded those on the Federal bench that, "When this court issues a decision, it constitutes a precedent that commands respect in the lower courts."

Justice Brett Kavanaugh has made the same point: "Members of the judiciary have an important responsibility to get it right, to do our hard work, to understand our role in the constitutional democracy. We are not policymakers."

In March, Justice Alito condemned a Federal court for an act of "judicial hubris and self-aggrandizement." When the highest court in the land uses phrases like defy, hubris, and self-aggrandizement to describe what is happening in our judiciary, it tells you something has gone terribly wrong. All of us should agree lawful Federal court orders must be respected. That is not a Republican point or a Democrat point. That is the bedrock of the rule of law.

It is stunning to hear Democrats accuse Republican nominees of being Trump judges when their own leaders boast that their nominees are "his people." Judges aren't supposed to be anybody's people. They belong to a separate branch of Government, insulated from partisanship, with only one duty, to follow the law, whether you like the outcome or not.

So that brings us to today's nominees, highly qualified men and women who understand the importance of judicial independence in our constitutional design. We will hear more about Professor Mascott's tremendous resume in just a moment, but let me start by acknowledging that she is well-known and well-respected by this Committee. This Committee has called on Professor Mascott repeatedly to testify about some of the toughest constitutional and statutory questions. She also filed amicus briefs on behalf of Members of this Committee in very important cases. We trusted her judgment then, and we can trust it now.

Professor Mascott's qualifications speak for themselves. She clerked for two sitting Supreme Court Justices. The Supreme Court has cited her scholarship eight times and even mentioned her by name at oral arguments. At George Washington University Law School, she earned a record 4.22 GPA. Her professors even wrote to this Committee to explain that they often thought her exam an-

swers were better than their own answer keys. The kind of intellect that that represents, paired with her steady judgment, makes Professor Mascott an outstanding nominee for the Third Circuit.

Our district court nominees are also "well-qualified," and we will look forward to hearing from each of them today.

As a final point, I will mention that we will have a long hearing today, six nominees, two panels, multiple introducers. I will ask everyone to keep their remarks limited to 5 minutes, allotted to keep the hearing on schedule.

Senator Durbin.

OPENING STATEMENT OF HON. RICHARD J. DURBIN, A U.S. SENATOR FROM THE STATE OF ILLINOIS

Senator DURBIN. Thanks, Chairman Grassley. Welcome back to Washington.

Chairman GRASSLEY. You bet.

Senator DURBIN. I hope the corn crop in Iowa is as good as it is in Illinois.

Chairman GRASSLEY. It is going to be a national record.

Senator DURBIN. National record, I am not surprised, and I am sure your farm will lead the way.

I want to address the issue which you have raised, and very importantly raised at this hearing because I think it is time that we discuss it openly and find a solution. I share your interest in ending the impasse we face on the floor of the Senate. For decades, the Senate confirmed U.S. attorneys by voice vote or unanimous consent. All 85 of President Trump's U.S. attorney nominees during his first administration were approved by voice vote, all of them.

But early in the Biden administration, things changed. Senate Republicans began a campaign of obstruction. In April 2021, Senator Cotton of Arkansas announced he would block nominees from any State represented by a Democrat on this Committee. Senator Cotton finally lifted his hold in December 2021, but in February 2022, he again blocked U.S. attorney nominees for months. Talk about twisting in the wind. There is another case which I recall of supreme twisting in the wind. Remember when Anton Scalia died on a hunting trip? How long did that vacancy sit there, open, unfilled? At least 10 months. The whole last year of the Obama administration, he was unable to fill a vacancy on the highest court in the land.

On June 23, 2023, things changed again. Then-Senator J.D. Vance of Ohio announced he would place a blanket hold on "all Department of Justice nominees under Biden," including U.S. attorneys, to quote—and these are his words, and I attribute it to him on the floor—"grind the Justice Department to a halt," grind the Justice Department to a halt.

On eight separate occasions in 2023 and 2024, I went to the Senate floor to request—really to beg—for a change from Senator Vance. Give us consent to confirm these nominees according to the Senate tradition. Each time, my efforts were blocked by Senator Vance or other Republican Senators on his behalf.

Due to Republican obstruction, President Biden was only able to fill 68 of the 93 U.S. attorney positions with Senate-confirmed nominees. I appreciate, Mr. Chairman, that you did not agree with

Senator Vance's actions back then, and I don't believe you do now, but we can't have one set of rules for Republican Presidents and another for Democratic Presidents.

We also now face a Trump administration making an end run around Senate advice-and-consent duties. Senator Coons is here from the State of Delaware, and I am sure he will address that in a minute. In several blue States, the Trump administration has taken an illegal and unprecedented approach to filling U.S. attorney vacancies with extreme candidates while making no attempt to consult with Democratic Senators.

I learned during the first Trump administration to sit down and work with the Trump White House. We disagreed on almost everything. But when it came to filling judicial vacancies, we filled every single vacancy that I was party to during his administration. We reached an agreement. We both had to compromise, and we did. I think that is the way it still should work. The path forward cannot result in Republican Senators having their preferred U.S. attorney nominees confirmed, while Democratic Senators have outrageous picks installed in their States in legally dubious ways.

I look forward to working with you, Mr. Chairman, and I mean that personally, on a fair and bipartisan solution to this problem. It has been created by both parties. We are facing it now. Let's do something about it in a civil way, in a fair way, and I think we can achieve that.

I will tell you, I won't go into detail on the Delaware nominee. I will leave that to Senator Coons. But I want to thank you for your longstanding bipartisan tradition of requiring blue slips from Senators supporting district court nominees from other States. I can give you specific examples where, during the first Trump administration, Democratic Senators did not approve any blue slips to fill any judicial vacancies in their State. They waited until there was a Democratic President.

I can give you another example, a very obvious example—and I won't name names—of one State now represented on this Judiciary Committee where the Republican Senators filled no judicial vacancies during the Biden administration and waited until they had an opportunity for a Republican President. It has been done by both parties. But we have stood by the blue slip, and I hope we will continue to.

I yield.

Chairman GRASSLEY. Thank you. I want to now introduce Senator McConnell, Senator Hyde-Smith, Senator Tuberville, Senator Britt, and remarks from Senator Coons.

Senator McConnell, please proceed.

STATEMENT OF HON. MITCH MCCONNELL,
A U.S. SENATOR FROM THE STATE OF KENTUCKY

Senator MCCONNELL. Good morning, Mr. Chairman, members of the Committee. It is my honor to be here today to introduce my friend Jennifer Mascott.

President Trump made an excellent selection in Jenn as his nominee for the Third Circuit Court of Appeals. I have had the pleasure of getting to know Jenn over the years through her work as a professor. I can tell you firsthand that Jenn has honed a bril-

liant legal mind, evidenced in both her academic credentials and distinguished public service. This nomination provides the Senate with a prime opportunity to elevate a well-studied constitutional scholar who understands the role of a judge.

Before beginning her law career, Jenn graduated from the University of Maryland with degrees in math and Government. I am proud to say that, early in her career, she worked in a Kentucky congressional delegation as a press assistant. I am fond of her Kentucky connection and grateful for her service to the Commonwealth.

As you may expect, this was just one of many roles where Jenn excelled in serving others. After her work in Congress, Jenn graduated from the George Washington University Law School with the highest GPA in her class. She even made history by breaking the record for the law school's highest graduating GPA ever. It is no surprise that she is regarded as wicked smart among her peers in the legal community.

Jenn built her skills during impressive clerkships with the then-D.C. Circuit Court of Appeals Judge Brett Kavanaugh and then-Supreme Court Justice Clarence Thomas. Her legal foundation in text and tradition makes Jenn exceptionally well-suited for a spot on the Federal bench.

Perhaps the most impactful aspect of Jenn's resume is her devotion to teaching the next generation of attorneys. In her tenure at the Scalia Law School at George Mason University and Catholic University's Columbus School of Law, Jenn earned a reputation for accessibility to students and robust support for their legal journeys.

The faculty at her alma mater, GW, represented a variety of political backgrounds, praise her demeanor, her outlook on jurisprudence, and her stellar qualifications. Jenn's fair-mindedness and broad knowledge of the law make her the perfect candidate for Federal judge.

Needless to say, helping highly qualified legal professionals reach the Federal bench has been one of the favorite parts of my job. I have gotten to do it an awful lot. So I can speak with a bit of experience when I say that Jenn is exceptionally qualified for the role we are discussing. She will interpret the law as it is written and ensure to the best of her ability that our Founders' principle of the rule of law will prevail.

I would like to close by recognizing Jenn's four children, Avery, Everett, Eli, and Augustine, who I am sure are thrilled that their mom sits before this Committee today in consideration to be a Federal judge. Jenn, you and your family were incredibly strong through the loss of your husband, Jeff, in 2023. Your resilience is an inspiration to all of us. There is no doubt he is looking down today with so much pride in his family.

So, Mr. Chairman, thank you for allowing me today to give my insight on this stellar nominee. I am confident that Jennifer Mascott will serve our country well. I look forward to her consideration and her confirmation.

Chairman GRASSLEY. Thank you, Senator McConnell.

Now, Senator Wicker.

STATEMENT OF HON. ROGER WICKER,
A U.S. SENATOR FROM THE STATE OF MISSISSIPPI

Senator WICKER. Thank you very much, Chairman Grassley and Ranking Member Durbin and my distinguished colleagues on this Committee.

Senator Hyde-Smith and I have a great honor today of presenting two very outstanding members of our State Supreme Court for the two vacancies of district judge in the Northern District of Mississippi. Senator Hyde-Smith has served in the State Senate with both of these distinguished jurists before they went on to the bench. And, well, let me say she has known both of them as judges and one of them as a colleague since when she was herself a member of the State Senate.

And I will take the lead in introducing Justice Bobby Chamberlin, and Senator Hyde-Smith will take the lead in introducing Justice Jimmy Maxwell, but please know that we support them both.

From years of observing the personal character of Justice Bobby Chamberlin, I can assure this Committee that he is a rock-solid choice and ready to assume this office. I have known him for many years and had an opportunity to observe him in many, many capacities. He is a graduate of the University of Mississippi School of Law, and immediately upon graduation, he went back and began work in the private sector. He was actually a partner in one of the outstanding firms in DeSoto County, Mississippi.

He has excelled in the practice of private law. He has been a municipal court judge. He has been a city prosecutor for the city of Horn Lake, Mississippi. He has been appointed a special master in Chancery Court. He has worked for years as attorney for the DeSoto County Board of Supervisors, the governing legislative board of county Government in our State of Mississippi. And as I said earlier, he served as State Senator for DeSoto County for some 5 years, where indeed he did serve with Senator Hyde-Smith as a colleague.

Then in 2005, Governor Haley Barbour thought enough of Senator Chamberlin to appoint him as a circuit judge in Mississippi's 17th Circuit, a position which he held for over a decade until, in 2016, he decided to run for the position of Supreme Court Justice. Now, in some States that is appointive, but in our State it is elective, and it is, I think, a testimony to Justice Chamberlin's fairness and even-handedness that in the runoff election for that position of Supreme Court Justice in his home county of DeSoto County, the fastest growing county in the State of Mississippi, he received 93 percent of the vote. So I think that underscores what I have known for a long time, that the people who know him best have confidence in him, and they have seen him in all of these capacities over the years, and they thought enough of him to give him 93 percent of the hometown votes.

He is a family man. He and his wife Kim, who is herself a dedicated public servant, they raised their son William there in DeSoto County in Hernando and the United Methodist Church of Hernando. Bobby is clearly ready for this role.

Again, I endorse both of these candidates, Jimmy and Bobby. I know them by name. I know them personally. They will both make

very fine judges for the Northern District of Mississippi, and I urge my colleagues to approve their nominations.

Thank you, and I yield back, sir.

Chairman GRASSLEY. Senator Wicker, thank you.

Senator Hyde-Smith.

STATEMENT OF HON. CINDY HYDE-SMITH,
A U.S. SENATOR FROM THE STATE OF MISSISSIPPI

Senator HYDE-SMITH. Thank you, Chairman Grassley and Ranking Member Durbin and the Members of this Committee, for the opportunity to be here today to speak on behalf of my two very special friends. I am especially grateful to President Trump for nominating James Maxwell and Robert Chamberlin to serve as United States district judges for the Northern District of Mississippi. Both are highly qualified individuals and bring honor, experience, and integrity to the Federal bench. I congratulate them on this recognition and offer my full support for their confirmations.

As Senator Wicker mentioned, I got to know Bobby Chamberlin as we went into the State Senate together at the same time and his wonderful wife Kim and their son Will and realized how outstanding they all are.

Today, it is my privilege to introduce and speak in support of James Maxwell. He has long served the people of Mississippi with a distinction as a man of outstanding character and deep legal experience. Justice Maxwell resides in Oxford, Mississippi, home to the University of Mississippi, where he earned both his undergraduate and law degrees. His legal career reflects a steady rise through increasingly demanding roles, always defined by professionalism and dedication to the rule of law.

From 2002 to 2009, Justice Maxwell served as an assistant United States attorney in the Criminal Division, prosecuting a wide array of serious cases, from public corruption and white-collar crimes to major drug trafficking, gang activity, and violent offenses. His work helped make communities safer and underscored his commitment to justice.

In 2009, James was appointed to the Mississippi Court of Appeals, where he served until 2015. There, he worked on a wide variety of civil and criminal appeals and built a strong reputation for being fair, thorough, and a sharp legal mind.

Since 2016, Justice Maxwell has served on the Mississippi Supreme Court. In that esteemed role, he has reviewed thousands of cases and authored more than 500 majority opinions. This extraordinary body of work demonstrates both his intellect and his dedication to careful, principled jurisprudence. Altogether, his 16 years on the State's two highest courts, combined with his earlier Federal prosecutorial experience, make him exceptionally well-prepared to serve on the Federal bench.

Beyond the courtroom, Justice Maxwell has been an engaged leader in the Mississippi Bar Association and the State Prosecutors Association. And while his professional accomplishments are significant, those who know him best also speak of his humility, integrity, and faithfulness to both law and his community.

I would also like to recognize his wife, Mindy, who is here today in support. Her presence is a reminder of the family and commu-

nity that stands behind Jimmy and the values that shape his service.

In closing, I have full confidence in Justice Maxwell's qualifications, character, and commitment to justice. He will be a tremendous asset to the Northern District of Mississippi and to our Federal judiciary more broadly. I look forward to working with this Committee and with Leader Thune to ensure a swift and successful confirmation of both James Maxwell and Robert Chamberlin to serve in the Northern District of Mississippi.

Thank you so much.

Chairman GRASSLEY. Thank you, Senator Hyde-Smith.

Now, Senator Tuberville.

STATEMENT OF HON. TOMMY TUBERVILLE,
A U.S. SENATOR FROM THE STATE OF ALABAMA

Senator TUBERVILLE. Thank you, Chairman Grassley and the Committee, for holding this hearing. I want to begin by thanking President Trump for selecting these exceptional candidates. I really enjoyed working with Senator Britt on this important task.

We need our justice system to focus on upholding the Constitution, not pushing an agenda, and I am confident that these three gentlemen will respect the rule of law and will be impartial in all their interactions on the bench. It is my honor and privilege to introduce these three individuals who have been nominated to serve as Federal district court judges in the great State of Alabama.

Number one, Edmund LaCour for the Northern District. Edmund is currently the solicitor general of the State of Alabama. Before assuming this role, he served as deputy solicitor general. Prior to that, he worked in private practice here in Washington, DC. Edmund was previously nominated to be the U.S. district judge by President Trump at the end of his first administration, but this nomination was later withdrawn by President Biden. A native of Dothan, Alabama, Edmund attended Birmingham Southern College for an undergraduate degree and Yale Law School for his J.D.

Our second nominee, Hal Mooty for the Northern District of Alabama, Hal Mooty is a partner at Bradley Arant Boult Cummings LLP in Huntsville, Alabama, specializing in business and commercial litigation. He has served as the president of the Alabama Defense Lawyers Association's Young Lawyers Section and previously served on the Young Lawyers Executive Committee to the Alabama State Bar. Hal is originally from Montgomery, Alabama, and he went to both undergraduate and law school at the University of Alabama.

Our third nominee is Mr. Bill Lewis for the Middle District. Bill Lewis is a justice on the Alabama Supreme Court. Prior to being nominated to this role, he served as a judge on the Alabama Court of Appeals, and earlier, he was the presiding circuit judge on the 19th Judicial Circuit. Before his judicial service began, Bill was in private practice in Wetumpka, Alabama. He is a lifelong Alabama resident. Having grown up in Wetumpka, Bill attended the University of the South for his undergraduate degree and Cumberland Law School in Birmingham for his J.D.

Welcome to all these nominees and their families, which is quite a few, by the way. So thank you to the Committee for this oppor-

tunity, and I urge swift confirmation of these outstanding nominees.

Thank you, Mr. Chairman.

Chairman GRASSLEY. Thank you, Senator Tuberville.

Now, Senator Britt.

OPENING STATEMENT OF HON. KATIE BOYD BRITT, A U.S. SENATOR FROM THE STATE OF ALABAMA

Senator BRITT. Thank you, Chair Grassley, Ranking Member Durbin, for the opportunity to introduce these outstanding nominees.

Today is a great day, not only for the State of Alabama, but for our Nation, to get to see these fine men in front of us. I want to thank President Trump for his exceptional leadership in nominating each of these individuals, and I want to thank Senator Tuberville for us being able to work hand in glove to make this happen and move these to the front of this Committee.

I want to welcome Justice Bill Lewis, Hal Mooty, and Edmund LaCour and their friends and family who are here and with them today. We are so proud to have each and every one of you with us.

Before us are three nominees for Federal judgeships in our State who have superb qualifications and a devotion to the Constitution and the rule of law. I am thrilled that President Trump has nominated them to serve in the judiciary and am looking forward to their swift confirmation.

While each of them will have an opportunity to introduce themselves, I would like to take a minute to highlight some of their accolades. Justice Bill Lewis has served as a judge in Alabama's judicial system since 2016 and is currently an associate justice of the Alabama Supreme Court. Prior to that, he served as a circuit judge for Alabama's 19th Judicial Circuit and a judge on Alabama's Court of Civil Appeals. He has worked as both a prosecutor and a defense attorney and was in private practice for approximately 10 years before becoming a judge. He has also served our State in other ways, including as a member of the University of South Alabama Board of Trustees.

As a graduate of the University of South Alabama and the University of the South and Cumberland School of Law, he has received numerous awards and honors and has served with distinction throughout his career. Born and raised in the River Region, this is the place that my children call home, and I have an opportunity to reside. I can say that Justice Lewis has unquestionable character. He is a pillar of our community. His story and his grit inspire all who know him, and I cannot wait for him to be sitting on the bench.

Second is Hal Mooty. Hal is a partner at one of our State's preeminent law firms, Bradley Arant Boult Cummings. He has an outstanding record of representing his clients in commercial litigation across our great Nation, and he has been named as one of the best lawyers in America for commercial litigation. Hal has been an active member of the Huntsville community, having served as a board member and board president of the Crisis Center of North Alabama, the Development Council of Huntsville Hospital, the Committee for the Future for the Children's Hospital of Alabama,

and as part of the Madison County Volunteer Lawyers Program. Every person, every part of our State is seen by Hal, and he has a relentless pursuit to make sure that they are fought for.

As a graduate of the University of Alabama for both undergrad and law school, Hal has, throughout his career, consistently demonstrated the qualities that are essential to serving as a member of the Federal judiciary. Having known Hal for 22 years myself, I can tell you there is no one else who has the focus. It is unmatched. He has a relentless pursuit of excellence, and he has a deep sense of justice.

Finally, Edmund LaCour currently serves as the Solicitor General of the State of Alabama, a position he has held since 2019. A graduate of Birmingham Southern College and Yale Law School, his legal credentials are unquestioned. As solicitor general of Alabama, he has represented the State in a whole host of litigation and Federal court and has been admitted to practice before every circuit court of appeals in the United States, as well as the Supreme Court. As a lawyer, he has filed more than 100 briefs before the Supreme Court and has argued three cases before the Court. Prior to becoming solicitor general, he was in private practice at firms including Kirkland & Ellis and Baker Botts and he has also served as a clerk to Judge Bill Pryor on the 11th Circuit. As a fellow native of the Wiregrass, obviously, the entire region is proud to see you serve.

I believe that all three of these nominees will apply our laws fairly, uphold the Constitution, and serve with distinction on the Federal courts. I am proud to support their nominations and thank them for their willingness to serve and look forward to their swift confirmations.

Thank you, Mr. Chair.

Chairman GRASSLEY. Thank you, Senator. We aren't going to ask you any questions, so if you want to go, please leave.

[Laughter.]

Chairman GRASSLEY. Senator Coons, you wanted 3 minutes for some remarks.

Senator COONS. Thank you.

Chairman GRASSLEY. And maybe I will take a couple minutes after you get done for rebuttal to you.

OPENING STATEMENT OF HON. CHRISTOPHER A. COONS, A U.S. SENATOR FROM THE STATE OF DELAWARE

Senator COONS. Well, thank you, Mr. Chairman. Thank you for allowing me to speak to the nomination of Ms. Mascott to serve in the Third Circuit.

First, if I might, Professor Mascott, congratulations to you and to your family. I mentioned in our meeting yesterday, I have had several personal friends reach out to me to sing your praises as a wife, a mother, a neighbor, a friend, a colleague. And I too want to offer my condolences on the passing of your husband, Jeff. I personally know how devastating pancreatic cancer is.

I want to thank you for your service at the Department of Justice and the White House Counsel's Office and your willingness to continue to serve. My question, as I posed yesterday, though, is why that service should be in the Delaware seat on the Third Circuit.

You were nominated by President Trump to serve as general counsel of the Department of Education, a position that fits well with your administrative law and constitutional regulatory background. That nomination was just withdrawn yesterday. Why not serve there? You could serve on the D.C. Circuit, which handles lots of administrative and constitutional cases, many more than the Third Circuit. Why not serve there?

You have been nominated instead to sit on the Third Circuit in the Delaware seat, long held by Judge Kent Jordan. You are not a member of the Delaware Bar. You have never appeared or practiced in the Delaware State or Federal courts. As best as I could tell, your only connection to Delaware is a vacation home in Bethany Beach.

That is in sharp contrast to the jurist you have been nominated to replace. Judge Jordan clerked in Delaware, practiced in Delaware, worked in our U.S. Attorney's Office, served as a district court judge in Delaware. You weren't even admitted to practice in the Third Circuit until May, just 4 days after the White House mentioned you were potentially under consideration.

This is not your fault. This is an issue between me and the White House on whether they were ever actually working in good faith with Senator Blunt Rochester and me. We interviewed and recommended several conservative Delawareans, members of our bench and bar. I guess they just were not conservative enough. Apparently, there is not a single member of the Delaware bench or bar the White House thought was good enough because they have instead nominated a law professor from Washington.

Ms. Mascott, I appreciated our conversation yesterday when we met for the first time, but your lack of practical legal experience and your extreme views on Presidential power concern me gravely. You are an academic, an advocate, but you have not practiced torts or bankruptcy, criminal law, corporate law, and yet you will grade the work of Delaware's district and bankruptcy judges.

Last, in a moment when there is profound tension in our political system and our legal system about the boundaries between Articles I, II, and III of our Constitution, just a few months ago, you said the Supreme Court's decision in *Humphrey's Executor* should be struck down. *Humphrey's Executor* has been settled law for 90 years and is in many ways the foundation of the boundaries between executive power and the work of this body. Now you will testify, I expect, that I can count on you to apply fairly what is left of that landmark precedent.

I will close. I hope you come to understand the unique and important the welcoming and supportive role of the legal community in my State, a place you do not know but have now raised your hand to serve. I welcome the chance to question you today, but I regret to inform you I will oppose your nomination.

Thank you, Mr. Chairman.

Chairman GRASSLEY. I am going to put most of my statement in the record, but I just want to read some names that are precedent for what you talked about, Professor Mascott. We got Katzmann, New York, 2nd Circuit, Neil Gorsuch, obviously, when he was on the 10th Circuit; Judge Bybee, got both of Nevada—got both Senator Reid and Senator Ensign to return the blue slip for them. Alli-

son Rushing is another example. Judge Julie Rikelman, Boston seat on the First Circuit, she never practiced in Massachusetts, but Senators Warren and Markey backed her anyway and the Senate confirmed her. So those are some examples that I am going to put in the record.

But there is a famous memorable speech by Senator Tillis begging the Committee Democrats to respect his objection to circuit nominee Ryan Park and warn that the shoe would be on the other foot, and this is what Senator Tillis said: "I am wondering what Thom Tillis needs to show up in the Trump administration, the Thom Tillis that was here the last time who tried to work with you all on some judges, or the Thom Tillis that reflectively votes no. I will tell you the same thing next year when the roles are reversed. You are either going to make my job harder by doing the right thing and respecting your colleagues today, or you are going to make my job easier because I am going to go right down the line with the administration."

So that's the end of that now. We are ready for the new nominee. Professor, would you please come to the table but don't sit down right away because I would like to swear.

[Witness is sworn in.]

Chairman GRASSLEY. Thank you. Now, you can make your opening statement and introduce anybody that you want to introduce who is here or not here in support of you.

STATEMENT OF JENNIFER L. MASCOTT, NOMINEE TO SERVE AS UNITED STATES CIRCUIT JUDGE FOR THE THIRD CIRCUIT

Professor MASCOTT. Thank you, Mr. Chairman.

Chairman GRASSLEY. Please push the red button.

Professor MASCOTT. Yes. Thank you, Mr. Chairman, and thank you to the Committee for having me here today. I want to begin by thanking President Trump for the honor of his nomination to a seat on the U.S. Court of Appeals for the Third Circuit and for the opportunity of a lifetime to serve as a lawyer again now in the second Trump administration.

I also want to thank the many mentors like the judges for whom I clerked, Justice Thomas and Kavanaugh, from whom I have learned so much. Thank you to Senator McConnell for his warm introduction. I'm very grateful earlier in my career for the chance to serve as a staffer on the Senate and House sides of the Hill and during part of that time period for a member of the Kentucky delegation where Terry Carmack of Senator McConnell's office was my chief of staff.

Before testifying, I also want to thank members of my family and longtime friends and colleagues who are here and introduce my family. But before that, I want to reflect on several key figures who are not here. My parents, who had children quite a bit later in life, they were wonderful people and made me so much of who I am today. My dad was a minister and helped raise funds for a number of international nonprofit religious organizations, both in Africa and India, and through those efforts introduced us to people from around the world. My mom had been a high school English teacher, and before they had children of their own, they helped raise foster children.

They taught the value of hard work, excellence, determination, and a love of learning, and they esteemed public service, helping to develop a deep appreciation and respect for the freedoms we have in this amazing country we're all blessed to call home.

And then my husband, Jeff, he passed away from pancreatic cancer about 2 years ago. He was clever, entrepreneurial, and devoted to his family and his God. He became a young leader in our church. He was a great man and father, and his piercing affection taught me and our children a bit of what it means to be adored and deeply known.

We were young. After I finished high school at 16, we met in college and were married soon after we finished school. We both at that time worked for this body, Congress, on the House side and sold one of our cars to pay the security deposit for our first apartment on the Hill. And then with ingenuity and determination, he brought us to where we are today.

And here with me are our four children, courageous, kind, compassionate, strong, and so much fun.

And my parents-in-law, Tom and Jenny, career-long educators in the Montgomery and Howard County public school systems who essentially have become father and mother to me. My brother-in-law, Brent Mascott, an elementary school principal, plans to be here shortly after he finishes meeting with the school superintendent of the system to start the school year; and my sister-in-law, Amy Mascott, a Blue Hen, graduate of the University of Delaware, also a public school educator, she generously took the time to attend today, along with a number of other friends and colleagues.

It would be an unbelievable honor to enter judicial service and a gift of the kind of opportunity that in many ways can happen only in the kind of system we have here in America that provides immense opportunity for education and service, betterment, and selection of one's own profession.

Mine was not a family of lawyers. One grandmother, one of eight, was the first daughter in her family to finish high school, as I understand it. One grandfather stayed in school just through the eighth grade. The other was orphaned in his teens, joined the Army soon thereafter, and eventually becoming a short-lived professional boxer and then Baptist minister. A number of cousins have served in local law enforcement. And I would value the opportunity to continue that tradition of public and community service and preservation of the rule of law if this body were to vote to confirm me.

Thank you, and I look forward to your questions.

Chairman GRASSLEY. I thought you were going to introduce people that were here.

Professor MASCOTT. Well, my in-laws, Tom and Jenny Mascott, and my children. Thank you, Chairman.

Chairman GRASSLEY. You bet. Thank you.

Professor, you had a rare opportunity to clerk for not one, but two Justices on the Supreme Court, Justice Thomas and then Judge Gorsuch on the 10th Circuit. What did you take away from these clerkships about the proper role of a judge?

Professor MASCOTT. Well, Chairman, thank you. I am deeply honored to have been able to serve both alongside and for and later

teach with Justice Thomas and Justice Kavanaugh when he was on the D.C. Circuit, and they both brought a lot of humility to their service on the Federal bench and understanding of the limited role in our system of a Federal judge to decide concrete cases and controversies, fairly apply the principles of law, look deeply at the public understanding of text in the Constitution and statutes, and apply the law with justice and fairness and humility without favor to any particular kind of party.

Chairman GRASSLEY. You directed litigation clinics at two law schools where students worked on appellate briefs before the Supreme Court and Federal courts of appeal. What have you learned from mentoring students in these real-world cases? And how will that experience shape your approach to complex appellate cases when you are on the bench?

Professor MASCOTT. Well, thank you, Senator. It was an immense honor to be able to teach students, first as an adjunct at my alma mater, GW, and later at Scalia Law School and Catholic. And I was so happy to come in this morning and see actually several former students working here, staffers present right now at the hearing working for you all and continuing just a great tradition of service.

With the work particularly in founding the Student Litigation Clinics, focused on issues of separation of powers, those were great opportunities to help students get practical experience writing briefs, looking at important constitutional issues. The clinics had the offer—the honor, as I believe you mentioned earlier in your opening remarks, at times of even filing amicus briefs in the Supreme Court on behalf of Members of this Committee, sometimes even for as many as 100 Members of Congress in important cases dealing with student loan payments, the meaning and significance of the now reversed *Chevron* doctrine, and other important issues cutting across all three branches of Government, the important role of freedom and limited Government in this country. That is a tradition I know this Committee is working every day to try to uphold as well.

Chairman GRASSLEY. You have been before Congress many times on topics ranging from executive privilege to the role of Federal courts and administrative law. How has that experience shaped your perspective on the judiciary's role in our system of separated powers?

Professor MASCOTT. Well, Senator, I was really grateful for the opportunity here in this Committee and also on the House Judiciary Committee, as you mentioned, to be able to testify a number of times on the role of Federal courts in the confirmation hearings for two Supreme Court Justices on issues of regulatory law and executive privilege. And with the Committee's often exacting questions, it was really an opportunity to see how this body unpacks legal questions and is dedicated to its role in our system which, of course, in Article I is really preeminent with policymaking and establishing rule of law, preserving freedom.

And I was really grateful the Committee brought me in to unpack issues not only about how the three branches at the Federal level interact but also the way in which the Federal Government's designedly limited role preserves freedom of the States to be able

to govern people and preserves freedom of families and religious institutions and folks in local communities.

Chairman GRASSLEY. I referred in my opening statement about how your scholarship has been cited by the Supreme Court in more than one opinion, and you have even been referenced by name during oral arguments. How has your experience as a professor and scholar influenced the way you would approach precedent as a judge?

Professor MASCOTT. Well, the opportunity as a professor to study and teach and write on the Constitution would be foundational because it has really increased even more my love and respect for the document for our freedoms and provided a lot of opportunity to dig deep in the history of understanding the meaning of the text and phrases in the Constitution and how the Founders, in drafting and then ratifying among the State ratification conventions that text, were focused on preserving liberty and freedom and wrestling with accountability for governmental actors and focusing on the preeminence of elections in selecting policymakers.

Chairman GRASSLEY. Senator Durbin.

Senator DURBIN. Thanks, Mr. Chairman.

Professor, welcome back.

Professor MASCOTT. Thank you.

Senator DURBIN. I am glad you are here today, and congratulations on your nomination.

Professor MASCOTT. Thank you.

Senator DURBIN. You clerked for Justice Thomas on the Supreme Court. You also testified before this Committee against the Supreme Court ethics reform legislation at a hearing in June 2023. That hearing followed investigative reporting that revealed Justice Clarence Thomas received and failed to disclose gifts worth millions of dollars with some estimates placing the total value at over $4 million. This was confirmed by exhaustive Committee investigation and subpoenas that my staff and I conducted when I was Chairman of the Committee.

So I have several questions I would like to ask you first. If you are confirmed to serve on the Third Circuit, will you commit to abiding by all the rules and regulations governing judicial ethics, including Federal statutes and the code of conduct for U.S. judges?

Professor MASCOTT. Oh, Senator, absolutely. I would be committed to all ethics requirements, yes, Senator.

Senator DURBIN. I am going to assume unless you say otherwise that you had no personal knowledge of Clarence Thomas' receiving any gifts.

Professor MASCOTT. Senator, that is correct. I was his law clerk, yes.

Senator DURBIN. All right. You came before this Committee to testify on an effort we are making to try to establish a code of ethics for the highest court in the land. We know that there is a code of ethics that applies to Federal judges other than the Supreme Court and how it is enforced, and we are trying to write something that would apply to Supreme Court Justice Thomas or any others who have millions of dollars' worth of undisclosed gifts. Since you came and testified against our legislation, I will ask you a very

general question. How do you believe the Supreme Court should be governed when it comes to ethics?

Professor MASCOTT. Well, so, Senator, I was grateful to have the opportunity to come here back at that time during a challenging time. Just on your earlier questions, I just need to say again how honored I was to serve as a law clerk for Justice Thomas and have the deepest respect for him and his character and his integrity.

I appreciate your question about Senator Whitehouse's proposed legislation at that time. In my recollection of my testimony on that act—and I think I may have been the only Republican witness in the Committee testifying that day; I could be wrong about that—but that we were talking about the various constitutional or not aspects of the bill and that my testimony focused not really on policy questions of ethics but some of the particulars in the act like the lower court panels sitting to evaluate recusal decisions of Supreme Court Justices and that I was pointing out that in our system that has the Supreme Court vested with judicial authority at the top of Article III, that there were real constitutional questions about allowing inferior judges, as referred to in the Constitution, inferior courts, to sit in judgment really of any decisions of the Supreme Court and that there were also a lot of open questions in our system about the way that ethics decisions should be adjudicated, but I do not recall commenting on the policy of the Justices' decision to file recusals.

And again, my understanding is that even though it is not covered statutorily in quite the same way as lower courts at the Supreme Court by its own statements and commitments, it upholds the statutory recusal requirements in exactly the same way and with the same rigor that lower courts do.

Senator DURBIN. So when it comes to constitutional compliance, do you believe that receiving millions of dollars in gifts and not disclosing them is in the best interest of our Constitution?

Professor MASCOTT. Well, Senator, I—again—and I don't mean to comment first on the premise of the question. My recollection is that all reporting requirements there were dealt with and addressed. And the constitutional question, again, I think the provisions in the bill as I recall that were the focus of my testimony are about how these types of requirements are to be enforced. And the Supreme Court, as I recall, I think, a statement by Chief Justice Roberts at the time, again, emphasized how devoted the Supreme Court and every Justice is to complying with ethics requirements.

The main constitutional and legal questions before the Committee that day were which actors in our system are responsible for making sure those agreements are followed and questions about how two co-equal branches are to interact and how lower court judges interact with superior court judges.

Senator DURBIN. I think the reputation of the Supreme Court is important enough for us to be willing to consider new ideas on enforcement. Current rules do not work. There are too many gifts that go undisclosed to the Justices serving in the highest court of land. The Supreme Court of the United States, the highest court in the land, should not have the lowest standard of ethics.

And when you testified, and as you mentioned, the only one who testified against this bill for reform, it left a lasting impression

with me. I respect very much your education and what you have achieved in your life. It is remarkable. But this is one question that still remains unanswered as far as I am concerned.

Thank you very much.

Professor MASCOTT. Thank you, Senator.

Senator KENNEDY. Mr. Chairman, point of order. Could we ask your team to either turn up the air conditioning or build a fire, one or the other?

Chairman GRASSLEY. I am sure somebody heard the request.

Senator Lee.

Senator LEE. Thank you very much.

Ms. Mascott, it is a pleasure to have you here. We are grateful to have you here.

On this last point, I do think it is important to remember that separation of powers matters. We are talking here about a coordinate branch of Government. The highest court in the land, the Supreme Court of the United States, unlike the lower courts is not a creation of the Congress. We determine its size, but we can't relegate that into nonexistence, as we theoretically could do with any of the inferior courts.

And so when we are talking about the apex of a coordinate branch of Government, the question is not whether to have those standards in place. The question is who sets them and who does not, and that is not a question of whether you want rules to apply. They do have rules, but they are rules that they themselves have adopted consistent with existing Federal law.

Ms. Mascott, you have been nominated to the U.S. Court of Appeals for the Third Circuit, a court that is near and dear to my heart as I served as a law clerk back during the William Howard Taft administration——

[Laughter.]

Senator LEE [continuing]. And enjoyed that immensely. As you approach this role, tell me how you would go about interpreting text, statutory or constitutional, as that is arguably the single most distinguishing feature of the judicial role, particularly the judicial appellate role.

Professor MASCOTT. Yes, Senator. So in looking at statutory and constitutional text, I would be looking for the plain meaning or the public understanding of the text that is before the Court in that particular case. And, as this body knows, that often—it always includes starting with the text itself, not just the text of the word in isolation but understanding whether the phrase is a legal term of art, looking to the surrounding provisions, looking to how the word is used in other legislation enacted at the same time.

But another important point is the timing of the meaning of the phrase would, of course, be relevant based on the time the document became law, so for a statute, at the time it was enacted; and for the Constitution, at the time it was ratified by State conventions.

And if there is still, you know, question to get background, you know, other times people will use the evidence of outside sources to understand what the common understanding or plain understanding of a text would have been. So in my work the Stanford

Law Review article is probably the most emblematic of my deep look at a constitutional phrase.

I also looked at dictionaries at the time of ratification and used actually a technique that was coming into use at the time called corpus linguistics put forward by Brigham Young University with its data bases to look at thousands of uses in ordinary or legal language about how a word is used to further understand its meaning. And the importance is to know exactly what definition of meaning was given legal impact by the folks voting on the text at the time, which is why one wants to understand not only how the decision-makers themselves but the public more broadly understood it because it is not about the individual mind of the legislature but the objective meaning of the text and the document.

Senator LEE. Fantastic. I can't wait to tell my brother about your plug for corpus linguistics, especially out of BYU.

[Laughter.]

Senator LEE. Yes, and I think that is important when we talk about that approach looking at the original public meaning at the time of passage if a statute or at the time of ratification if it is the Constitution or a subsequent amendment thereto is important and that does matter. In fact, it is exactly what matters.

Now, insofar as the meaning of the text is plain and clear on its face, it is going to be an easier task. Where there are ambiguities, that is where lawyers earn their fee, and that is where judges do their best and hardest work. Of those things where it is not plain, what are some of the things that you would look to to resolve ambiguities? And in particular, to what extent is it helpful to gain insight into statements perhaps reflecting a particular subjective viewpoint of a particular lawmaker on something? And by that, I mean floor statements, statements made in debate, and so forth.

Professor MASCOTT. So Senator, if there was a text where the meaning wasn't originally clear—and as an attorney in the Office of Legal Counsel at the Department of Justice, this was the kind of question we often received. So I—in my experience, it should take a lot to reach the conclusion that text is truly ambiguous. A lot of hard work should be done looking at that phrase and surrounding phrases in advance and, as I mentioned before, dictionaries and other sources.

You mentioned the particular statements of lawmakers, so what we sometimes call legislative history. So if it is a collection of statements looked at as one piece of evidence, perhaps okay, but there would never be an instance where the intent of one individual person would have legal impact on the meaning of a text because the Constitution in Article I, Section 7 made this whole body through bicameralism and presentment and the President responsible for enacting text institutionally and not just one by one.

Senator LEE. So in other words, even if you could take one of those statements, and even insofar as one of those statements evidenced a subjective intent on the part of that lawmaker, that isn't relevant, regardless of whether they subjectively believed that? Unless that was somehow consistent with the original public understanding of it, that really has no bearing?

Professor MASCOTT. Correct, Senator, yes.

Senator LEE. Yep, thank you. I see my time has expired. Thanks, Mr. Chairman.

Chairman GRASSLEY. Senator Coons.

Senator COONS. Thank you.

Professor, are you a member of the Delaware Bar?

Professor MASCOTT. Senator, I am a member of the Virginia and Maryland Bars as a long-time public servant here in this area.

Senator COONS. Have you ever practiced law in Delaware?

Professor MASCOTT. Senator, I am admitted to the Third Circuit. I practice law, as I mentioned, as a public servant mostly here in Government.

Senator COONS. Have you ever practiced law in Delaware?

Professor MASCOTT. Senator, I have not. I practice law in this area.

Senator COONS. Have you made any argument in the Federal or State courts of Delaware?

Professor MASCOTT. Senator, again, as a public servant——

Senator COONS. You can treat these as yes and no questions, please, Professor. Have you ever filed a brief in a Delaware court?

Professor MASCOTT. Senator, I filed a brief in the Third Circuit. As your questions point out, as the President's nominee to the Third Circuit, I have been nominated to a seat that by custom now is within Delaware and would look forward, if this body were to confirm me, in joining the legal community specifically in Delaware. I would plan to have chambers in Wilmington. But right now, my practice has been as an academic and here in Washington, DC, as a public servant.

Senator COONS. So your record of scholarship and public commentary advocacy is quite lengthy, but I am concerned that your actual practice is quite short. How many depositions have you taken or defended?

Professor MASCOTT. So, Senator, as principally an appellate lawyer and——

Senator COONS. I think the answer is none. How many motions in limine have you argued?

Professor MASCOTT. Senator, my practice has been mostly at the appellate level, so I have filed dozens of appellate briefs. I have not argued motions in limine. I did argue to verdict, however, as the record shows, a district court case defending Title IX for the Department of Education, and so have argued in both district and appellate courts on behalf of the Federal Government.

Senator COONS. My point is simply that the Third Circuit's docket is substantially made up of criminal cases, bankruptcy cases, patent cases, very little in terms of constitutional administrative law, which is your specialty. And you have been nominated to essentially rule on appeals from the district courts, in particular the district courts of Delaware. And this long, long tradition of States getting to choose a member of their bench and their bar to go to a circuit is so that the values and the tradition, the legal concerns of that State are most respected.

Let me move to your substantive work because my core concern is that our Framers drafted a Constitution in order to constrain powers, the separation of powers, which you have taught. They put Congress as the Article I branch, not the President because they

were principally concerned about constraining an overreaching executive.

In a brief that you filed challenging President Biden's efforts to cancel student debt, you wrote, "The power of the purse is one of Congress' most potent checks on the executive branch." I asked you yesterday if you had ever advised the White House on impoundment issues, whether President Trump could refuse to spend money Congress has appropriated, and you said that you had. Did you advise the White House President Trump can refuse to spend money legally appropriated by this body?

Professor MASCOTT. So, Senator, I appreciate your question reference to Article I and appropriation. I know we talked about that a bit yesterday. And also, you know, having clerked for Judge Kavanaugh, he, as a former executive branch lawyer, also pointed out the President's role in having to sign off or veto legislation.

The particular question you talked about, I believe—I recall in our discussion that I had mentioned that I had not been working on that issue recently, that I was asked a discreet question actually prior to the start of the administration on the constitutional question related to that topic. But beyond that, really sitting here today as a judicial nominee with some of these issues playing out in the courts as we speak, I cannot further comment on the question.

Senator COONS. You publicly stated in March of this year that the Supreme Court's 90-year-old *Humphrey's Executor* case was wrongly decided. Do you stand by that statement?

Professor MASCOTT. So, Senator, as an academic—and I have taught in other forums—I strongly stand by my past work. Sitting here as a judicial nominee, what I also mentioned yesterday a number of times was my commitment as a lower court judge to fully and completely applying Supreme Court precedence and also the case that you mentioned, *Humphrey's Executor*, in the Supreme Court's own writings that has referred to it in the past decade, 10 or 15 years, as a narrow exception to the broader principle that the President, vested with the executive power, needs to supervise the executive branch, and I would apply all those principles fully.

Senator COONS. You were just in an exchange with Senator Lee where you talked about the importance of hewing toward the text. I think the Federal Trade Commission Act of 1914 could not have been clearer. In fact, the *Humphrey's Executor* decision was a unanimous decision by the Supreme Court, and it has been respected, not as a narrow exception, but as frankly the foundation of the boundary between the President and dozens of critical regulatory agencies. It prevents a President from whimsically removing based on partisan political or policy differences, something FDR was trying to do to a member of the FTC. Yesterday, the D.C. Circuit reaffirmed the holding of *Humphrey's Executor*. Why should we have confidence that we can count on you to uphold this 90-year precedent that just months ago you have argued was wrongly decided? Will you recuse yourself from cases applying that precedent, given your advocacy for its reversal?

Professor MASCOTT. So, Senator, if I were to have the honor of this body to confirm me, I would follow all statutory recusal requirements, and I understand one of those requirements to be to recuse from particular matters on which I would have worked and

also cases where I might have a financial interest at stake, and of course I would fully comply with all statutory recusal requirements.

Senator COONS. Last question. Do you think Congress can constitutionally restrict the removal of any official in the executive branch on any basis, whether it is for inefficiency or neglect of duty or malfeasance because, as is currently being hotly contested, there are critical boundaries between Article I and Article II powers, and you have been a relentless activist on behalf of expanding the scope of executive power. Is there any way Congress can restrict the removal of any executive branch official?

Professor MASCOTT. Senator, as you point out with it being contested, the contours of the constitutional power of Congress to constrain the President's supervisory power or to fashion characteristics on the contours of the institution of offices is currently being contested in courts, and so I am not going to be able to speak to the absolute merits on that question.

We did discuss Congress' role in fashioning and creating offices. We discussed the President's power to supervise the executive branch. And as I mentioned, if I were to have the honor to be confirmed, I would fully and faithfully apply the text and structure of the Constitution and decisions by the Supreme Court, of which I would be fully bound. Thank you.

Senator COONS. Ms. Mascott, you come from a great family. You have been a fierce, determined, and capable professor. I appreciate our conversation yesterday and your answers to my questions today. Thank you.

Professor MASCOTT. Thank you, Senator.

Senator BRITT [presiding]. Senator Kennedy.

Senator KENNEDY. Professor, congratulations. I believe you testified that you think the Constitution should be interpreted according to its original public meaning. Is that right?

Professor MASCOTT. Yes, Senator.

Senator KENNEDY. What does original public meaning mean?

Professor MASCOTT. Yes, Senator. So the original part of that phrase refers to the fact that when we look at interpreting a text, we want to interpret it at the time it was——

Senator KENNEDY. Professor, look me in the eye and just answer my question. What does original public meaning mean?

Professor MASCOTT. It means the meaning of the text as it was understood by the public at the time it became law.

Senator KENNEDY. Okay. So you think *Brown v. Board of Education* was incorrectly decided?

Professor MASCOTT. Well, Senator, I think *Brown v. Board of Education* was correctly decided. Scholars who have looked at the original meaning of phrases at that time and their reasoning in that case sometimes——

Senator KENNEDY. Well, how many——

Professor MASCOTT [continuing]. Question the reasoning of the case.

Senator KENNEDY. How many people in the United States of America at the time the Constitution was drafted do you think supported racial integration of schools? You think that was a majority view, do you?

Professor MASCOTT. Well, Senator——

Senator KENNEDY. Do you——

Professor MASCOTT [continuing]. At the time——

Senator KENNEDY. But first, Professor, do you think that was a majority view? Do you think most Americans at the time the Constitution was drafted supported integration of public schools, racial integration?

Professor MASCOTT. Well, Senator, I don't know as a sociological matter what percentage of people thought what at that time. I should point out that when we got to *Brown v. Board of Education*, of course, there had been several fundamental amendments to the——

Senator KENNEDY. But isn't that inconsistent with your statement that you have to interpret it according to original public meaning?

Professor MASCOTT. Well, what about the 14th Amendment and the 13th Amendment and the 15th Amendment? So original public meaning would mean that those——

Senator KENNEDY. Well, what about them?

Professor MASCOTT. Well, that would mean we would interpret those amendments and those protections with the understanding of the text and structure at the time those amendments were ratified, which is different, of course, in the 19th century——

Senator KENNEDY. Let's go back to *Brown v. Board*. Look, I think *Brown v. Board* was correctly decided, and I suspect you do too. But if you say we interpret the Constitution according to the way that people at that time understood it, do you really think that people at that time in America supported racially integrated schools? Do you really——

Professor MASCOTT. Well——

Senator KENNEDY [continuing]. Believe that?

Professor MASCOTT. Well, Senator, I think at the time of the ratification of the 13th, 14th Amendment—and 15th, all which have——

Senator KENNEDY. But do you think people at that time originally at that time supported integrated schools?

Professor MASCOTT. Well, Senator, on that particular question, I don't know it as a policy matter whether they were thinking about that particular issue. I think they certainly understood that the 14th Amendment, for which a massive part of this country essentially lost lives fighting the Civil War, certainly understood it to require racial equality——

Senator KENNEDY. But, Professor, you are not answering my question. I am trying to understand how you—I am just trying to understand how you think. It is very easy to say we interpret the Constitution according to its original public meaning, which, as I appreciate your testimony, means the way people who read the Constitution at that time interpreted it. Is that right?

Professor MASCOTT. Yes, Senator.

Senator KENNEDY. Okay. Do you think that most people at that time looked at the United States Constitution and said, well, here it is, big as Dallas, racially integrated schools are required? Do you really believe that?

Professor MASCOTT. Senator, I don't know, but I——

Senator KENNEDY. And if you don't—I don't think you do because I think historically that wasn't the case.

Professor MASCOTT. Well——

Senator KENNEDY. So how do you square that with the holding of *Brown v. Board*?

Professor MASCOTT. Well, I guess what I'm trying to say is I think there are several steps in between that are—have not come up yet in our conversation, which is that you look at the text and structure, which of the 13th, 14th, and 15th Amendments clearly is requiring racial equality. And then over time, that has to be applied to different questions as they arise in context.

So if the requirement is that all races be treated equally under the law, and the evidence shows that segregated schools is not doing that, then the requirement could be applied to integrate schools.

Senator KENNEDY. When you interpret a statute, you talked about interpreting it according to its plain meaning. What if the statute is ambiguous?

Professor MASCOTT. Well, Senator, if the statute——

Senator KENNEDY. What do you do if it is ambiguous?

Professor MASCOTT. If it's ambiguous on the particular question coming before the court, I start with that phrase, but I also look at the context of surrounding provisions.

Senator KENNEDY. I understand you define ambiguity as the language plus the surrounding language.

Professor MASCOTT. Yes.

Senator KENNEDY. I get that part. How ambiguous does it have to be, 51 percent ambiguous or just a little bit ambiguous?

Professor MASCOTT. So I have to say, I would use the same approach essentially in all cases, regardless of the ambiguity, because I would always start with the text, move to the surrounding provisions with the aim of fully understanding what Congress and the President had enacted, and only at that point——

Senator KENNEDY. Professor, I am going to run out of time. With respect, answer my question.

Professor MASCOTT. Well, I——

Senator KENNEDY. Okay? You are giving me professor talk. How ambiguous does it have to be?

Professor MASCOTT. I mean, I think under the Supreme Court's recent precedent in *Chevron*, it underscored that the Court can never just rest and say it is ambiguous. The Court has to come up with an answer.

Senator KENNEDY. Yes.

Professor MASCOTT. So I would——

Senator KENNEDY. So why don't you just look at legislative history?

Professor MASCOTT. Well, I would—well, you can't look at legislative history statements one by one because——

Senator KENNEDY. Why not?

Professor MASCOTT [continuing]. The individual intent——

Senator KENNEDY. Why not?

Professor MASCOTT. Well, Senator, with respect because this body has its role in our system as an institution, not one by one. So your personal understanding of the law——

Senator KENNEDY. You know——

Professor MASCOTT [continuing]. Doesn't matter.

Senator KENNEDY [continuing]. This will be my last question. I am sorry. Well, Coons went way over. So you are telling me that it doesn't help you at all to go through and look at the congressional record or read the committee reports or any of that? You don't think that is helpful in interpreting what a statute means?

Professor MASCOTT. It depends on the way in which it is being read. If it gives helpful statutory history, if it helps to refer to other portions of context, sure, but not to give it legally binding impact in and of itself. I would always be looking at a broad range of sources and use each of these statements as just one piece of evidence about what people understood the statute to mean at the time. So, no, I would never take a piece of legislative history in isolation and give it legal impact.

Senator KENNEDY. Thank you, Madam Chair.

Professor MASCOTT. Thank you.

Senator BRITT. Senator Blumenthal.

Senator BLUMENTHAL. Thanks, Madam Chair. Thank you for being here and congratulations on your nomination. I would say——

Professor MASCOTT. Thank you.

Senator BLUMENTHAL [continuing]. That, prior to the *Dobbs* decision, you were a pretty zealous advocate of overruling *Roe*. Is that correct?

Professor MASCOTT. Senator, I do not recall ever advocating for the overruling of *Roe*.

Senator BLUMENTHAL. Well, I think in December 2021 you said, "The most constitutionally correct outcome in *Dobbs* would be for the Court to conclude that the 14th Amendment due process clause, a guarantee of process protections, contains no substantive right." Is that your position?

Professor MASCOTT. Senator, yes. My scholarly and academic work would have been consistent with the outcome of the *Dobbs* decision and understanding there not to be a substantive due process clause in the 14th Amendment.

Senator BLUMENTHAL. You called the draft of *Dobbs* when it was leaked in May 2022 "a marvel of a draft." Do you think it is a marvel of a draft? It became the Court's decision and its opinion in the case, correct?

Professor MASCOTT. Senator, it did. And so, yes, I mean, I have spoken highly of the *Dobbs* decision. As I mentioned previously to the Senators on the Committee, would fully and faithfully apply the Supreme Court precedent and was happy to, when asked, provide extensive, you know, commentary about the constitutional methodology in the *Dobbs* opinion. I think actually some of those statements might have first happened again in a hearing by this Committee because, as I recall, there was a Subcommittee hearing on Senator Whitehouse's ethics reform bill the morning after the opinion was leaked, and this Committee was asking for feedback.

Senator BLUMENTHAL. You called it a marvel of a draft?

Professor MASCOTT. Yes, and I wrote also in The Wall Street Journal about the opinion as well, Senator, yes.

Senator BLUMENTHAL. And you said about *Roe* that it was, "not workable" and "really sat far out of the mainstream of constitutional reasoning of the Court over the past few decades." You said *Roe* was out of the mainstream after it was well-established and well-accepted law for decades?

Professor MASCOTT. Well, Senator, yes, consistent with the Supreme Court's own majority holding in *Dobbs*, which pointed out that even using traditional stare decisis factors, the *Roe v. Wade* decision was not one that merited the Court's stare decisis effect because of the development in the law over time, the fact that the Supreme Court itself had distanced itself even in follow-on decisions about abortion from the *Roe* reasoning and pointed out that the Court's text and tradition approach led to a different outcome in *Dobbs*, leaving the policy decision to the States and the people.

Senator BLUMENTHAL. Let me, with apologies, interrupt because I have limited amounts of time. You were asked also about the ramifications of *Dobbs*, and you, in effect, dismissed concerns that *Dobbs* would affect other substantive due process cases. And you said, "*Loving v. Virginia*, contraception, those are so far away from the Court's decision in *Dobbs* that they almost should not even be, I think, discussed in a realistic sense at this point in time based on this particular decision." So you do not view *Dobbs* as impacting in any way *Loving v. Virginia* or contraception cases? Is that correct?

Professor MASCOTT. Number one I read the Court in *Dobbs* to be very specifically grappling with the issues before it and looking case-by-case at the relevant history of its own reasoning in that line of cases. And I think the Court—the majority opinion made that very clear, and then there were also some concurring opinions that underscored it, Senator.

Senator BLUMENTHAL. So you see *Dobbs* not requiring or implicating the potential reversal of those other decisions?

Professor MASCOTT. That is correct. Not at this time, and of course, as you know, the only reason a case even gets to the Supreme Court is if the people have litigated it. And I think the point I was making in those comments you referenced is that *Dobbs* was very specifically oriented toward one line of cases being litigated at that time. Thank you, Senator.

Senator BLUMENTHAL. And let me ask you about one other area. I think you've been an active member of the Federalist Society, haven't you?

Professor MASCOTT. Yes, Senator.

Senator BLUMENTHAL. And in fact, you received the Federalist Society Joseph Story Award, which goes to lawyers who have demonstrated excellence in legal scholarship and who have made significant public impact in a manner that advances the rule of law and free society, correct?

Professor MASCOTT. I was very honored to get that, yes, Senator.

Senator BLUMENTHAL. But I am sure you are also aware that President Trump has attacked the Federalist Society, claiming that it gave him bad advice on his judicial nominees, and he has called its founder Leonard Leo a sleazebag. Do you agree with President Trump's criticisms of the Federalist Society?

Professor MASCOTT. Senator, I believe your statement is touching on judicial nominations, and President Trump, you know, alone, of course, is responsible for nominations. And other than that, I think I'm happy to answer questions about my nomination, but I have, as you point out, a significant background with the Federalist Society and was honored to receive the award.

Senator BRITT. Senator Blackburn.

Senator BLUMENTHAL. Thank you.

Senator BLACKBURN. Thank you, Madam Chairman.

Before I ask my questions, I do want to make a comment, and Chairman Grassley touched on this at the beginning of the hearing. It is so disheartening, and actually it is almost laughable to hear our colleagues on the other side of the dais complain about lack of consultation with the White House.

Now, under President Biden, there were numerous Members, and Senator Grassley talked about and mentioned Senator Tillis also this morning, and me, and Senator Hagerty that were not consulted at all. And there were not one, not two, but three judicial nominees that the Biden White House moved forward on without working with Senator Hagerty and me. So my colleagues across the dais had the opportunity to say something about those actions at that time, and they chose not to. They all went along with what they felt like was the position of the White House. So I find it, as I said, concerning, disheartening, and really curious as to why they would take the position they have.

Professor Mascott, I want to give you a chance to respond to some of the claims that I have heard from my colleagues across the dais that you are not qualified for the role. And I found it very interesting to hear them talk about this because they rubberstamped people that were brought forward by the Biden administration who were blatantly unqualified, and they were inexperienced judicial nominees. And I think that your credentials speak for themselves. I noted that you achieved the highest GPA at George Washington Law School, the highest in history——

Professor MASCOTT. Thank you.

Senator BLACKBURN [continuing]. Which is significant. And, of course, your clerkships, which have been discussed this morning, and you have held senior positions at the DOJ. You have spent years as a professor in constitutional and administrative law. And your list goes on and on. So speak for a moment about why you are ready, why this has prepared you to be a fair and unbiased judge.

Professor MASCOTT. Thank you so much, Senator Blackburn. And I am deeply honored, of course, by President Trump's nomination to a seat on the Third Circuit and this Committee's consideration. And as has been mentioned by some other Senators and Senator McConnell, I have had the honor of being a public servant and working on all three branches of Government, multiple positions there. I have been really grateful to serve for many years as a law professor, teaching students, some of whom are even working here today as committee staff, during that time, being able to file dozens of amicus briefs, sometimes on behalf of Senators of this Committee, in courts around the country, in the Supreme Court, and then working as an attorney in the Department of Justice and now

the White House on issues of separation of powers and testifying at this Committee.

And if I were to have the deep honor to be confirmed by this body, I would, in every case, bring exacting rigor and care and acknowledge the role of the judge as a very limited one in our system to resolve just discrete cases and controversies on questions that are brought before us where there is jurisdiction.

Senator BLACKBURN. I wanted to talk with you a little bit, and you have written several pieces on the Presidential constitutional authority to remove executive officers, and I noted your law review article in 2018, "Who are 'Officers of the U.S.?'" And I know that there is discussion around the President's ability to remove these officers from administrative agencies. And I know you can't talk about specifics, but talk generally about the State of the law when it comes to the President's constitutional removal power.

Professor MASCOTT. Thank you, Senator. And so, as you mentioned, I want to be very careful sitting as a judicial nominee now and not as an academic in addressing issues that are in a very real way before many courts and many cases right now in the country. But as you have referenced, those pieces were mentioning in the Stanford piece and then others that the Constitution vests the executive power in the President.

And it is by design because the President, through the electoral college is, of course, selected by the American people, and that if the President has the duty to carry out that power, the idea that that includes within it the supervisory power, and we would never want in our system of Government anyone really to be exercising policymaking power who is not accountable back to the people. And so that just raises questions about if there are full tenure protections, whether individuals might be at some point too insulated from the political system and Presidential supervision for it to be consistent with the constitutional structure.

Senator BLACKBURN. Thank you. Thank you, Madam Chairman.

Senator BRITT. Senator Whitehouse.

Senator WHITEHOUSE. Thank you, Chairman.

Professor Mascott, welcome. Is it fair to say that you have fairly little actual litigation experience outside of serving as amicus counsel?

Professor MASCOTT. Well, Senator, as I believe the Senator Judiciary questionnaire points out—and also, actually, that was quite extensive experience with dozens of amicus briefs, sometimes for Senators here. I also mentioned the background——

Senator WHITEHOUSE. But an amicus brief is different than actually trying cases. Have you ever tried a case, for instance, been the lead counsel in a case that was tried to verdict?

Professor MASCOTT. So, Senator, I believe as the letter that we submitted yesterday indicates—it was talking about the District of Massachusetts matter that I argued. It was a summary judgment in full trial, collapsed into one hearing, and argued that to verdict on the Title IX Department of Education and then also had the honor to argue on courts of appeals during my time at the Department of Justice and have served in all three branches of Government, of course.

Senator WHITEHOUSE. And with respect to your connections to Delaware, have you ever voted in Delaware?

Professor MASCOTT. Well, Senator, as I was discussing with Senator Coons, we, of course, have had a long time home——

Senator WHITEHOUSE. It is a pretty simple question. I would prefer if I didn't get filibustered, and I actually got an answer to a simple question. Have you ever voted in Delaware?

Professor MASCOTT. Well, Senator, as a public servant and professor here, no. I have been voting in Maryland.

Senator WHITEHOUSE. Have you ever registered to vote in Delaware?

Professor MASCOTT. Well, Senator, as a public servant and academic here, I am registered to vote here. If this body——

Senator WHITEHOUSE. Do you have a driver's license or any other record of licensing from the State of Delaware?

Professor MASCOTT. Senator, I do not yet have a Delaware driver's license. I do have a car that is insured in Delaware with—in anticipation——

Senator WHITEHOUSE. Because you have a summer house there?

Professor MASCOTT. We have had a long-time home in—yes.

Senator WHITEHOUSE. And you were not admitted until May into the Third Circuit?

Professor MASCOTT. Senator, I became admitted in May in the Third Circuit, yes.

Senator WHITEHOUSE. And you have no blue slip from either of the two Democrat Delaware Senators?

Professor MASCOTT. Senator, I am really honored to be the President's nominee, and——

Senator WHITEHOUSE. With no blue slip, correct?

Professor MASCOTT. Well, I don't—I didn't believe there were blue slips at the circuit court level at this point for any circuit court nominees.

Senator WHITEHOUSE. That was undone by our friends on the other side of the aisle, and now that is the new tradition, and I am clarifying that you have none, correct, right?

Professor MASCOTT. Senator, I don't because it has not been used for circuit court nominees.

Senator WHITEHOUSE. And your nomination to the Department of Education as general counsel was withdrawn when, today?

Professor MASCOTT. Senator, I believe it was referenced that it was yesterday.

Senator WHITEHOUSE. Yesterday, okay. You were on the board of the New Civil Liberties Alliance, I believe, at the time when Jeffrey Clark was hired. Do you recall that hiring?

Professor MASCOTT. Senator, I don't—well, I don't know what you mean by recall the hiring. I was on the board of the New Civil Liberties Alliance and just—and—up through about July of 2021. And, as I recall, what happened around that time is that—and I had a conversation with the director about it—I stopped being a board member. They were bringing litigation that involved an opinion that I had written at the Office of Legal Counsel in the executive branch, and I strongly disagreed with their stance in that litigation. It was actually bringing the opposite view. I also expressed that it was——

Senator WHITEHOUSE. I asking you about the hiring of Jeffrey Clark.

Professor MASCOTT. But that's my—I guess my point is, as a member of an advisory board, first of all, of the group, I wouldn't have had anything to do with it, and your issue has——

Senator WHITEHOUSE. So you weren't aware of it?

Professor MASCOTT [continuing]. Nothing to do with——

Senator WHITEHOUSE. You weren't aware of it at the time?

Professor MASCOTT. I read newspaper accounts of his hiring on the New Civil Liberties Alliance. As a board member, advisory——

Senator WHITEHOUSE. Nobody contacted you to ask that you support——

Professor MASCOTT. Oh, no, no. No.

Senator WHITEHOUSE [continuing]. His hiring——

Professor MASCOTT. Nope.

Senator WHITEHOUSE [continuing]. And you weren't——

Professor MASCOTT. Nope.

Senator WHITEHOUSE [continuing]. Consulted by him? You didn't interview him?

Professor MASCOTT. No, no. It was like a 24-member advisory board, a couple of dozen people. No.

Senator WHITEHOUSE. Got it. You constantly use the pejorative term "administrative State." You have called for the repeal or the overturning of *Humphrey's Executor*. You have called to undo *Chevron* deference. You have supported the so-called major questions doctrine. All of these signals are extremely important to the fossil fuel industry, which has a decades-long battle against agencies that regulate its pollution, and which is the dominant donor interest to the Republican Party, and which heavily funded the half-billion-dollar enterprise to capture the Supreme Court. How on earth can you expect anybody representing an interest opposed to the fossil fuel industry to get a fair hearing from you?

Professor MASCOTT. Senator, if I were to have the honor to be confirmed at the Third Circuit, as mentioned, I would be holding the role of a judge, which is to resolve fully and impartially cases and controversies, not rule on policy matters. And also, if one looks at a record, even of amicus briefs in the clinics, these are cases that are being brought on legal principles, and at times for parties that are holding different policy views, and I would continue to have the same tradition of impartiality for the rule of law if I had the honor of being confirmed.

Senator BRITT. Senator Schmitt.

Senator SCHMITT. Thank you, Madam Chair. And I would actually followup on Senator Whitehouse's argument. The little guy gets a better shot now. Look at the *Loper Bright* case. These were fishermen that, through the administrative State, were being then forced to pay for their own inspectors on the boats. And the leviathan of Government that was aimed against them, including their pleas for help, were ignored. So I actually appreciate your position on as it relates to the administrative State more broadly, but also your positions I think is the importance of separation of powers, and you are a national expert on that. And I am very excited about your nomination, so congratulations.

Professor MASCOTT. Thank you, Senator.

Senator SCHMITT. Last year, of course, the Supreme Court overturned the *Chevron* deference doctrine, and you were gracious enough to participate in our post-*Chevron* working group, and I have the report here, which provides and outlines, I think, a way forward now that that deference is no longer with us, thankfully.

In your view, what is the importance of that *Loper Bright* decision?

Professor MASCOTT. Senator, I think it was quite a significant way in which the Supreme Court looked, in that case, at the text of the Administrative Procedure Act, which, as this body knows, governs procedural practices across administrative agencies, and simply underscored and reaffirmed the idea that when statutory text is before a court, the court is supposed to look at the text as it was enacted by this body and signed by the President and not give a thumb on the scale in favor of the administrative agency's interpretation of the statute because—during the administrative agency's own regulatory proceedings but take a full and fair look at what the law's text means.

Senator SCHMITT. So does any deference remain in interpreting statutory text?

Professor MASCOTT. Not on questions of law after the *Loper Bright* decision.

Senator SCHMITT. And you will faithfully apply that decision as a Third Circuit judge?

Professor MASCOTT. Yes, of course.

Senator SCHMITT. A couple other questions I want to get to quickly. At Catholic University's Columbus School of Law, you ran a Separation of Powers Institute, is that correct?

Professor MASCOTT. Yes, Senator.

Senator SCHMITT. Why do you think the separation of powers is so important? Why do you think—as Justice Scalia once pointed out, that a lot of dictatorial, even communist regimes have a parchment of paper extolling the importance of individual rights, but it is the separation of powers that ultimately allows that to be meaningful in this country. Why do you think it is so important?

Professor MASCOTT. Yes, Senator. It is core to our constitutional structure because I think the Framers understood that decision-making needs to be divided up among multiple people to keep those of us who want to serve and have power accountable ourselves. And so at the Federal level, there's three different branches, as this body knows, but there's also the separation of powers vertically between the Federal Government and the States. And the policymakers are all accountable through elections back to the people, and it is core to our freedoms and our liberty and our prosperity.

Senator SCHMITT. And through that vertical and horizontal protection, it is meant to ultimately protect individual liberty, right?

Professor MASCOTT. Correct, yes.

Senator SCHMITT. All of it is dispersed——

Professor MASCOTT. Yes, Senator.

Senator SCHMITT [continuing]. Power and—yes.

Professor MASCOTT. Yes, absolutely.

Senator SCHMITT. I just have a couple final questions on a vertical stare decisis. In recent months, the Chief Justice, Justice Kavanaugh, and Justice Gorsuch all emphasized the need for lower

court judges to give some level of precedential weight to Supreme Court emergency docket decisions. And interestingly, many Democrat appointed judges are refusing to do that.

I heard a lot during the initial confirmation process from my Democrat colleagues about how they were so concerned that President Trump wasn't going to obey court orders. Well, it turns out, district court judges appointed by Democrats with overtly partisan leanings are refusing to obey orders from the Supreme Court on questions that are four corners. There is no distinguishing. They just don't want to do it because they don't like President Trump.

As a Third Circuit judge, will you respect Supreme Court precedent in emergency docket decisions?

Professor MASCOTT. Senator, yes, I will respect all Supreme Court precedent.

Senator SCHMITT. And do you have any issues with overturning a lower court judge who, on your read, did not follow Supreme Court precedent?

Professor MASCOTT. Senator, I hesitate to say anything at all that would suggest I am giving an opinion on a particular case, but as a general matter, I would consider myself on the appeals court to be responsible for following Supreme Court precedent myself. And if I saw it not followed in a decision that was under my review, to reach a holding that is consistent with the Supreme Court precedent and reverse the lower court.

Senator SCHMITT. So if a lower court judge were ignoring the Supreme Court, like my friends on the other side have wanted to juice up the public that President Trump would do, which he has never done, you would have the courage in that moment to say to that lower court judge, you need to follow actually Supreme Court precedent in ruling here?

Professor MASCOTT. If I thought a lower court decision was incorrect with that Supreme Court precedent, yes, I absolutely would reverse it if I had jurisdiction and make it be consistent with the Supreme Court precedent, yes.

Senator SCHMITT. Thank you. Congratulations. I think you are going to be great on the bench. Thank you.

Professor MASCOTT. Thank you.

Senator BRITT. Senator Klobuchar.

Senator KLOBUCHAR. Thank you. Thank you very much, Madam Chair. Issues have already been raised about Delaware, and I have a lot of respect, as does everyone in this room, for Senator Coons and his views of who should—his ability to weigh in on who should be a judge in his State. But I am going to put that aside. I know that has been raised, and I am very concerned about that.

I want to lead with what Senator Schmitt was asking about, and that is Justice Scalia's comment that our Constitution separates powers to prevent the centralization of power in one person or one party because when power is centralized in one person, "the game is over"—that is his words—for rights.

So, President Trump has claimed, "I have an Article II where I have the right to do whatever I want as President." He said that as recently as—on August 26, he said, "I have the right to do anything I want to do. I am the President of the United States."

Do you believe that the President is able to do, "anything he wants to do"?

Professor MASCOTT. Senator Klobuchar, of course, I—it's not for me to comment on individual, you know, statements really by anyone else. The matter of Presidential discretion, as this body knows, within Article II and the executive power, there are a number of responsibilities that the Executive has within which the Executive——

Senator KLOBUCHAR. But I am just asking——

Professor MASCOTT [continuing]. Has full discretion——

Senator KLOBUCHAR. Okay. Okay. I am just asking you if you think, under our Constitution, the President has the right to do anything, as he said——

Professor MASCOTT. Well——

Senator KLOBUCHAR [continuing]. He wants to do?

Professor MASCOTT. Well, I suppose it—I don't know the—I suppose it depends on the context of the remarks is kind of my—with respect, my point, if we're talking about a pardon decision, if we're talking about nomination decisions, there are many, many ways in which the President has full discretion that would——

Senator KLOBUCHAR. But you will not say that he doesn't have the power to do whatever he wants to do under the Constitution. He said anything he wants to do. He said "the right to do anything I want to do." That is what he said.

Professor MASCOTT. Well, Senator, I guess I'm saying that it—we're—it's—Presidential discretion depends on the context of the situation. You mentioned before separation of powers. Of course, also, like we have talked about today, Congress has a lot of power——

Senator KLOBUCHAR. You won't say it, so I guess the answer is clear. So last October, you told a group of students that you believe that, "Presidents are actually too weak." That's at Yale. The President has unilaterally frozen appropriated funds, shuttered congressionally created departments, attacked the independence of the Federal Reserve and agencies Congress set to be independent, refused to put Democratic commissioners on independent commissions, imposed costly tariffs, detained individuals without due process, and gone after universities, law firms, and journalists. Do you still believe that "Presidents are actually too weak" after these unprecedented power grabs?

Professor MASCOTT. Senator, without commenting on a lot of various, you know, actions and current issues that might be before the courts or currently are, my recollection of the context of the statement that I was—that you quote was that it was a conversation about Presidential supervision of the executive branch. And at that time, my understanding of the Constitution remains to be that the President is vested with the executive power and therefore is in charge of the executive branch. And I believe I was making comments on, historically, as the Supreme Court itself has pointed out in different opinions, Presidents have not always been free to fully supervise their branch. And I was putting forward a hope that the constitutional principles, as they are historically understood, would continue to be respected.

Senator KLOBUCHAR. Okay. Could we just move to guns here? As you know, we have had a number of horrific shootings in Minnesota this year, including involving assault weapons. You have praised Justice Thomas' views on the Second Amendment, which are often in dissent even on a very conservative Supreme Court. What is your understanding of the Second Amendment and whether Congress is permitted to pass laws to regulate the sale of guns? And I ask that because Scalia actually said, "Like most rights, the right secured by the Second Amendment is not unlimited. It is not a right to keep or carry any weapon whatsoever."

And Thomas was the only one who struck down a law to stop domestic abusers from possessing a gun, legislation I worked on. He was also one of just two Justices who would have struck down regulations of ghost guns. And in June 2025, he would have taken a case challenging Maryland's assault weapons ban.

So what I want to know is, given that you have praised him, what is your view on your understanding of the Second Amendment and whether Congress is permitted to pass laws to regulate the sale of guns in any way?

Professor MASCOTT. So, Senator, I want to be careful in—as in all my answers, of not straying into commenting on something that could come before me as a judge, but I agree with the—or would follow Supreme Court precedent that there is an individual right to bear arms and that in looking case-by-case basis, it is important to look at the history and tradition of what the regulation of guns was at that time. And so if a case came before me raising that question, I would faithfully and fully apply Supreme Court precedent.

Senator BRITT. Thank you. I would like to enter a letter into the record from 53 legal scholars. They write, "We are united in our view that Professor Mascott would be an outstanding addition to the Federal judiciary. Professor Mascott's impressive legal career includes service in all three branches of the Federal Government, in private practice, and in the legal academy. Her work has been cited not just by many scholars but by judges at every level of the Federal judiciary, including the Supreme Court. Some of us agree with her analysis. Others do not. We agree that, on the whole, Professor Mascott's academic work demonstrates the sort of intellectual rigor and depth that will serve her well during her career as a judge."

Professor MASCOTT. Thank you.

Senator BRITT. Thank you.

Senator WELCH. Thank you very much, Madam Chair.

Professor Mascott, the Congress has authorized the creation of inspectors generals. In fiscal year 1924, it saved $71 billion. In FY 1923, it saved $93 billion. Is it your view that Congress has the authority to establish inspector generals that review the appropriations and expenditures that Congress authorizes?

Professor MASCOTT. So, Senator, as with all the questions, I want to, in answering, stick with general principles in case there would ever be a case before me raising questions related to inspectors general. I don't understand there to have been a general constitutional question raised about inspectors general. I mean, I think in—with respect to the question about their role in the system, as

I mentioned in prior discussions on executive power, it would always, of course, be important that the office is structured so that that position is ultimately under the supervision of the executive branch and ultimately the President. I realize that raises constitutional tension with the role of the inspector general to look at records.

Senator WELCH. There is a tension, okay? Congress clearly has the right to appropriate funds, correct?

Professor MASCOTT. Yes, it is a constitutional power, of course, to appropriate funds.

Senator WELCH. And in the power to appropriate funds, do you contest the obligation that Congress has to make certain there is oversight in the expenditure of those funds?

Professor MASCOTT. Well, Congress—or, sorry, Senator, as the Supreme Court's indicated in precedent in the last couple of years, part of Congress' legislative power, yes, includes the ability to get records and to find out what is happening in the agencies that it legislates.

Senator WELCH. You have some question as to whether Congress, in pursuance of that obligation to oversee the wise use of taxpayer money according to appropriations Congress made, the Congress can't have an inspector general that is doing that work for us on a daily basis on behalf of the American people?

Professor MASCOTT. Oh, I certainly think Congress can create an office that is responsible for accounting and keeping records and can ask for records.

Senator WELCH. The Executive has fired the inspectors general, correct?

Professor MASCOTT. Well, I don't—as a factual matter, I don't recall how many firings there have been. My question also said it needs to be subject to——

Senator WELCH. It doesn't matter how many. The Executive has fired without giving Congress the 30-day notice required in the statute.

Professor MASCOTT. So—but, Senator, my earlier question—and again, now we're starting to get into the kind of specifics of things that could come before me if I were a judge, but in general——

Senator WELCH. That is specific.

Professor MASCOTT [continuing]. Even inspectors general, anybody who is responsible for any portion of the executive power has to be responsible to the President, and it is because of the core——

Senator WELCH. So——

Professor MASCOTT [continuing]. Value in our system——

Senator WELCH [continuing]. That is——

Professor MASCOTT [continuing]. Of elections.

Senator WELCH. But that is the tension. We have a responsibility in Congress to appropriate funds. Correct. We have a responsibility to make certain that the funds that are appropriated and taxed, paid for by the American people, are wisely spent. Do you have a dispute with that?

Professor MASCOTT. Senator, you do, but with respect, when we are talking about inspector general, which is in your hypothetical——

Senator WELCH. I am going to interrupt for a second——

Professor MASCOTT. Okay.

Senator WELCH [continuing]. Because we are not getting an answer here. And I am acknowledging there is a tension, but it goes back to what Senator Klobuchar said. There is a tension because in the constitutional system, it was designed to have a tension so that there wouldn't be the concentration of power in one branch, the executive, the legislature, or the judiciary.

Let me ask another question. If Congress has the authority to impose tariffs, and that is a constitutional responsibility and right we have, is that correct?

Professor MASCOTT. Yes, Congress has legislative responsibility for taxing, yes.

Senator WELCH. So does the Executive have the legal authority to impose a tariff because the Executive doesn't like what the judicial process is doing in a country like Brazil?

Professor MASCOTT. Senator, the question of tariffs is actively——

Senator WELCH. No, I am not——

Professor MASCOTT [continuing]. Before the courts.

Senator WELCH. I am not asking just about the tariffs. I am asking, is there constitutional authority for an Executive to decide to use the tool of a tariff because he disrespects and dislikes the judicial policy in another country?

Professor MASCOTT. Senator, my understanding of the legal basis for the tariffs is statutes that this body enacted with broad discretionary language, and tariffs within the terms of those statutes would, of course, be lawful.

Senator WELCH. Last question. Who won the 2020 election?

Professor MASCOTT. Senator, President Biden was certified as the winner of the 2020 election.

Senator WELCH. So you can't tell me who won.

Professor MASCOTT. Well, Senator, President Biden was certified the winner of the 2020 election.

Senator WELCH. Did he win the election or did it just accidentally get certified?

Professor MASCOTT. Senator, I have answered that question. He was certified the winner of the election.

Senator WELCH. I yield back.

Senator BRITT. Senator Schiff.

Senator SCHIFF. Thank you, Madam Chair.

Professor, you have appeared before the Committee many times, but the last time you were in Committee was for a hearing entitled "When the President Does It, that Means It's Not Illegal: The Supreme Court's Unprecedented Immunity Decision." At the time you described that immunity decision as modest, and I want to ask you about the modest impact of that decision.

When John Sauer was here for his confirmation hearing, I asked him about an argument he made in that case before the court of appeals in which he was asked specifically by the court of appeals judge, one of them, if the President were to order SEAL Team 6 to assassinate a political opponent, would he be immune? His answer, apparently, was yes, unless the President's party was willing to impeach him first. Is that your view as well? Would he be im-

mune from prosecution for using the military to assassinate a political opponent?

Professor MASCOTT. Well, Senator, as a lower court judge, I would be fully bound by Supreme Court precedent. I don't—I mean, on that particular question—and this is one reason I address the opinion as modest—the opinion addresses only portions of Presidential immunity. It specifically is addressing criminal immunity.

Senator SCHIFF. I will ask you a specific question. Would the President be immune from prosecution if he ordered SEAL Team 6 to assassinate a political opponent? Yes or no?

Professor MASCOTT. Senator, under the Supreme Court precedent on that question, the Supreme Court has specifically not answered it.

Senator SCHIFF. Is that a difficult question? Is that an open question in your view?

Professor MASCOTT. Well, Senator, under the contours of *Trump v. United States*, which deals with criminal immunity, I'm not sure that it fully answers all of the political mechanisms that would be in place to address and keep such a horrific situation from ever occurring.

Senator SCHIFF. So you are unclear as to whether a President could be prosecuted for that. Is that what you are saying? You don't know the answer?

Professor MASCOTT. Well, I think what I'm saying is that within the particular contours of criminal immunity discussed in that opinion, it addresses actually what is an official act. And so I think the first threshold question would be whether one could ever conceive of such a thing as an official act.

Senator SCHIFF. I don't want to filibuster my question. It is very simple. If the President tomorrow would order SEAL Team 6 to assassinate a political opponent, in your view, is he immune from criminal prosecution, absent an impeachment first?

Professor MASCOTT. If it's not an official act, a phrase that has not yet been fully defined in the courts, he's——

Senator SCHIFF. If he is using the military to do it, which the Court said he has absolute immunity when he deploys the military, is he immune or not?

Professor MASCOTT. Well, I don't read the Court's decision to say that any use of the military outside of official acts comes within its immunity contours. And as this body knows, because of various drone strikes and other things——

Senator SCHIFF. So under the question I asked you, what is the answer, Professor? Yes or no? You are——

Professor MASCOTT. Senator——

Senator SCHIFF [continuing]. Used to answering questions and asking your student questions. I am asking you a very simple question. Yes or no? Is the President immune if he uses SEAL Team 6 to kill a political opponent?

Professor MASCOTT. Senator——

Senator SCHIFF. Yes or no?

Professor MASCOTT [continuing]. With respect——

Senator SCHIFF. Okay.

Professor MASCOTT [continuing]. I think the Supreme Court——

Senator SCHIFF [continuing]. You are not willing to answer the question. Let me ask you a different question. It was recently reported that the President and his family made around $6 billion from the sale of crypto assets. Some of that money, much of that money comes from the Gulf. If the President were to sell a foreign policy decision to a Gulf nation in exchange for a crypto donation, is he immune from prosecution for that?

Professor MASCOTT. Senator, I don't know anything about the situation that you are describing. As I have said——

Senator SCHIFF. But you know something about the immunity decision. You said it was modest. I am trying to determine just how modest you think it is. Can the President sell U.S. foreign policy to the highest crypto donor and have a get-out-of-jail-free card?

Professor MASCOTT. Senator——

Senator SCHIFF. Or is he liable for prosecution?

Professor MASCOTT. Senator, if I may, the Constitution has many constraints for all of us. To carry——

Senator SCHIFF. You don't want to answer that question. Let me ask you a very different question. If the President were to use the military in direct violation of court order, deliberately, knowingly, blatantly use the military in violation of court order, is he immune from any liability?

Professor MASCOTT. Senator, as I said when I testified last September about the decision, the Clinton administration had an opinion——

Senator SCHIFF. I am not asking about the Clinton administration.

Professor MASCOTT. Well, this is directly relevant. The President—the position of the Clinton administration is that the President, while serving——

Senator SCHIFF. I am not asking the position of the Clinton administration. I am asking your position. Your view of the immunity decision, which you have described as modest, I am trying to determine just how modest you think it is.

Professor MASCOTT. So——

Senator SCHIFF. You are unwilling to say a President can't kill an opponent and be liable. You are unwilling to say the President can't sell foreign policy of the United States for cryptocurrency. You're unwilling to say he can't do that and still be immune. My question is, can he use the military in deliberate violation of court order and be immune? Yes or no?

Professor MASCOTT. Senator, you are asking very specific questions about whether our criminal justice system is the forum to punish——

Senator SCHIFF. Madam Chair, I yield back.

Senator BRITT. Thank you. I would like to enter into the record a letter from 48 former Justice Department officials that are familiar with Professor Mascott's work. They explained, "Her academic scholarship has been cited in Supreme Court opinions. She has argued high-stakes Federal cases, and she has submitted scores of briefs in courts across the country. Mrs. Mascott has been a world-class mentor to hundreds of aspiring lawyers. She was also a standout attorney at the Department of Justice, and her judgment is beyond reproach. She will make an excellent judge."

Without objection, the letter is entered into the record.

Senator BRITT. Senator Booker.

Senator BOOKER. Thank you very much, Madam Chairman.

And Ms. Mascott, this doesn't directly pertain to you, but I just want to say for the record, I am watching, in the short time I have been in the United States Senate, the continued deterioration of the advise-and-consent role of the United States Senate. I know Senator Coons very well, one of my few friends I had in the Senate before I became a Senator, who works in a bipartisan way, in a way that is a model really for the United States Senate. He made it very clear to the White House he was willing to work with them to find a candidate acceptable to them that could be a consensus and unifying candidate. But unfortunately, they are strongly objecting to your nomination.

And I know and I have heard from Members of this Committee on the other side of the aisle how much they reacted when a similar situation happened, or at least when a nominee was put forward in the Biden administration that didn't ultimately go forward to a vote. Well, this mirrors my experience with the vacant Third Circuit court seat in New Jersey, which was filled by Emil Bove. With your nomination, we now have two judicial nominees to the Third Circuit that do not have home State Senator support.

More than that, their objections, I think, are principled because of your lack of ties to the circuit on the appellate court. You will be reviewing decisions of the District Courts in Delaware, New Jersey, Pennsylvania, and the Virgin Islands who haven't appeared in this circuit and have very few ties. There is a reason why our Framers put these very important pillars into our Constitution.

And what I am seeing right now is something that I know confidently that my colleagues on the other side of the aisle would not accept, would find problematic. And to do it in a district where there are Senators who are very much willing to support Republican nominees that are done in a process that brings us together and doesn't yet again not only divide us, but ultimately continues to deteriorate the role that we have, I find highly objectionable.

But Ms. Mascott, you are before us, and I want to jump right in. In your Senate questionnaire, you describe your selection—I am sorry. When the President tried to fire FTC commissioners, I believe illegally so, Rebecca Slaughter and Alvaro Bedoya, I led over 40 of my colleagues in an amicus brief before the Court. In our brief, we defended the statutory protections Congress gave to the FTC commissioners to prevent a President from firing an FTC commissioner without cause. These protections were upheld by the Supreme Court in a 100-year-old precedent, almost 100-year-old, the *Humphrey's Executor* decision, which I know you are familiar with.

These protections exist because we need the FTC and other independent agencies to remain independent. The FTC breaks up monopolies, protects children's privacy online, and protects consumers by encouraging competition that keeps prices low at the grocery store, the pharmacy, and gas stations. But you argued that *Humphrey's Executor* was "not correctly decided." You were arguing essentially that independent agencies, that the FTC, maybe even the Federal Reserve, were never meant to be independent and shall serve at the pleasure of the President. Can you explain how an

agency tasked with protecting American consumers can possibly remain independent if a President can fire its members at will for any reason?

Professor MASCOTT. So, Senator, thank you for the question, and I want to be careful in giving an answer. I know you referenced in my academic writings to not stray into definitive statements that would be a problem as a judicial nominee. Structurally, with constitutional principles, my scholarship and those comments were referencing the principle that the President is vested with the executive power and so needs to be fully in charge of the executive branch, and that within our system we have checks for everyone. And so if there were a fully independent commission, who would be responsible for checking their actions if it is not the Presidential supervisor? Now certainly Congress, through its appropriations power, through the contours of the power that it gives to the office, through imposing constraints, would certainly have a role. And so I think that is a way in which a separation of powers would operate effectively.

Senator BOOKER. So I am going to have more questions for the record, but I want to just let you know clearly that I believe we have a President who has authoritarian ambitions. I believe we have a President right now who is openly violating court orders, openly violating clear principles of our Constitution. We have a President that is threatening judges that disagree with him and the independence of the judiciary. We have a President that is assuming responsibilities like spending powers clearly laid out in the Article I branch.

I am doing a lot of reading recently about the deterioration of democracies around the globe, and it is amazing how this President is doing things that speak to a very chilling and very sobering reality of a person who does not have respect for our Constitution and is doing things, to me, that could undermine our democracy, its strength, the trust in our institutions, or worse.

I have a big suspicion now that he is putting forward judges that are more loyal to him than they are to constitutional principles. I believe we are in a dangerous time, and I am going to have questions for you for the record, but I will say to you in this open hearing that your job is not to be President Trump's lawyer on the courts, but it is a sacred obligation.

And when the independence of agencies, when the checks and balances of our Constitution are under attack, as they are right now, it really is chilling to me that we have a judge nominee before us that cannot state unequivocally that they will protect not just the Constitution, but the important and urgent independencies of agencies and the urgency we have right now to deepen our commitment to constitutional principles. And so I look forward to getting your answers on the record, and I thank you very much for the indulgence to the Chairwoman.

Senator BRITT. Thank you. Professor Mascott, you have had a lot coming at you. I want to say congratulations on your nomination, and I wanted to give you the opportunity to think if there are any questions that you would like more time to answer or to dig into, I certainly would love to hear those responses. I know how these back-and-forths can be, and certainly, we would love if there is

anything that you didn't get to address to give you that opportunity to do that.

But when I am looking at your background, graduating from law school with the highest GPA ever recorded at George Washington University Law School, clerked for two Justices on the Supreme Court, and authored 29 published scholarly papers with a combined total of over 5,700 downloads, you and your work have been specifically cited by Justices of the Supreme Court both in written opinions and oral arguments. We have heard some today about your time in academia.

What I think people need to understand is that you have not retreated to the ivy tower of academia. Unlike most law professors, you clearly kept one foot in appellate practice and then the other filing amicus briefs obviously in consequential appeals before the Supreme Court and Federal courts of appeals and also being there in the classroom.

Supreme Court Justices have even mentioned you by name at oral arguments, spotlighting the position that you have advanced in an amicus brief. You have also stood in Federal court on behalf of the United States and authored scholarship that Supreme Courts have cited eight times, underscoring your contributions to these courts and scholarly understanding of all that is in front of us. That blend of practice, appellate advocacy, and scholarship, all while juggling the demands of being a professor are rare and exceptional.

I would love for you to take a few minutes and talk a little bit about how you believe that has shaped your judicial philosophy, and then also would like to hear anything that you feel like you haven't had an opportunity to answer.

Professor MASCOTT. Thank you very much, Senator. And I've been really honored to serve in all of those venues, and if this body were to do the honor of confirming President Trump's nomination of me to the Third Circuit, I would of course carry out that duty with a lot of seriousness and rigor, upholding the rule of law to the best of my ability impartially according to the text and structure of the Constitution. And the opportunity to serve in all three branches of Government has really helped to provide experience that I think would give a good foundation of being able to understand the limited role of a judge.

And as far as more comments, I'm just very grateful for everyone's time this morning and am just really so thrilled and moved to think about the possibility of continuing to be able to serve this country if I were confirmed to the judiciary.

Senator BRITT. Well, thank you for your willingness to serve.

This concludes panel 1. We appreciate your testimony, Ms. Mascott, and you are excused.

Professor MASCOTT. Thank you.

Senator BRITT. Will the witnesses for panel 2, the nominees, please come forward and stand at the witness table. I will now administer the oath. Would you all raise your right hand, please, and answer this question?

[Witnesses are sworn in.]

Senator BRITT. Thank you very much. You may be seated.

Well, welcome. And as customary in our process, if you desire to introduce the people that are with you, including your family, then you may be able to do that and then give your opening statement. We are going to start with Justice Chamberlin, and then we will just go right down the line. Justice Chamberlin, the floor is yours.

STATEMENT OF HON. ROBERT P. CHAMBERLIN, NOMINEE TO SERVE AS UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF MISSISSIPPI

Judge CHAMBERLIN. First, I would like to thank Chairman Grassley, acting Chairperson Britt, and Ranking Member Durbin. I appreciate you and the Members of this Committee for holding this hearing.

I would like to thank President Trump. It is a tremendous honor to receive this nomination and to be here today.

I would also like to thank Senators Wicker and Hyde-Smith for their kind remarks earlier this morning. I've known each of them for many years, and I greatly appreciate the kind words.

I have with me today my wife, Kim. We just celebrated 33 years of marriage not very long ago. She herself has been a public servant for decades, and importantly to me today, she has stood by me during any endeavor I have undertaken, and I have tried several during my career.

I would like to thank a few people or mention a few people that are not here today but that are viewing from home or otherwise. My mother, she would not—she's back home in Hernando. She would not miss this for anything in the world other than her irrational fear of flying, which I believe is the same reason my mother-in-law is watching from home.

I would like to recognize my brother, Larry, and his—my sister-in-law, Juanita, who are both doing the same, as well as my brother-in-law, Don, and my sister-in-law, Sydney. Finally, I would recognize my son, William, and my daughter-in-law, Sarah. They are back home in Jonesboro, Arkansas, where they work for Arkansas State University, him in the athletic department, her in communications, and they are getting ready for their first-ever matchup against the University of Arkansas in football. And as you know, in the South, football is king.

I would briefly mention a couple of mentors if I may. I would mention Bill Austin, who gave me my first job back in my hometown. He and the law firm, Billy Myers, Mary Monteith, Debbie Brandon, each taught me many, many things in their own way about the law, and I am greatly appreciative to Bill Austin for taking me under his wing.

I would also like to mention my aunt, Jeanette Martin. She was the political member of the family, and she taught me that it doesn't cost anything to be nice to people.

And finally, I would like to give a short dedication at this hearing to my oldest and dearest friend, who passed away unexpectedly a month ago. If you knew Louie Smith, you would love him, and I want to dedicate this hearing to him.

I thank you each for this honor, and I look forward to answering your questions.

Senator BOOKER. Madam Chairwoman, he mentioned an extraordinary wife. I just don't know of all the incredible women that are out there who it is. Can he identify her? There she is.

Senator BRITT. And also, congratulations on your incredible news, speaking of outstanding wives.

Senator BOOKER. I don't know about the judge and his qualifications. I am looking forward to reading more about him, but I do want to know how you keep a woman that is much better than you and stay married to her, so I look forward to that.

Senator BRITT. He just got engaged this weekend. It is a whole thing.

Judge CHAMBERLIN. Congratulations.

Senator BOOKER. Thank you very much.

Judge CHAMBERLIN. And I outkicked my coverage.

Senator BOOKER. I did too, sir, as a football player, former football player, as the Chairwoman's husband, I know what that means.

Senator BRITT. Congratulations, Senator Booker. Mr. LaCour.

STATEMENT OF EDMUND G. LACOUR, JR., NOMINEE TO SERVE AS UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ALABAMA

Mr. LACOUR. Thank you, Senator Britt. Thank you to Chairman Grassley, Ranking Member Durbin, other Members of the Committee for having this hearing today. I'm deeply honored to be here.

I'd like to first thank Almighty God, to whom I owe all good things. I would like to also thank President Donald Trump for the great honor of this nomination. I've got a few people to thank, including my lovely wife, who I think was taking my boys out on a little tour of the Senate. She should be back momentarily. Thank you as well to the dear friends of ours who are keeping our two younger and noisier children while we are up here in D.C. We love you all very much. Thank you to the many family and friends who are here present and also watching from afar, especially to my parents who always instilled in me the value of developing my talents to serve others and who made so much of that possible for me.

Finally, I would like to thank many former colleagues and current colleagues of mine who helped shape me as a lawyer, past colleagues at Baker Botts, Bancroft, and Kirkland, as well as my current colleagues at the Alabama Attorney General's Office who've set the bar so high as a lawyer—or as lawyers and helped me to reach it. Thank you to the judge I clerked for, Chief Judge Pryor, who has been just a phenomenal mentor and example as a man and a jurist. And then finally to Attorney General Steve Marshall, who gave me the opportunity to serve our home State and has supported me in so many other ways since then. Thank you.

Senator BRITT. Yes, and your wife and boys have entered the building.

Justice Lewis.

STATEMENT OF HON. WILLIAM W. LEWIS, NOMINEE TO SERVE AS UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF ALABAMA

Judge LEWIS. Thank you, Madam Chair. I can't tell you what an honor it is to be before this Committee. As a political science major, I am very happy right now.

Also, Ranking Member Durbin, Senator Grassley, thank you for allowing me to be here. I'd like to thank President Trump for the nomination. I'd like to also thank Governor Ivey for supporting me in my role as a State judge. And I'd also like to thank the people of Alabama, who have pretty much unanimously supported me throughout my political career.

We have a lot of brothers and sisters in my family, so in the interest of time, I won't introduce all of my family specifically, but all these folks in church on the front row here are my family, and I am honored to have them here, as well as my many friends and colleagues and even employees. Thank you.

Senator BRITT. Thank you very much.

Justice Maxwell.

STATEMENT OF HON. JAMES DONALD MAXWELL, II, NOMINEE TO SERVE AS UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF MISSISSIPPI

Judge MAXWELL. Am I on?

Senator BRITT. You are.

Judge MAXWELL. Senator Britt, Chairman Grassley, Ranking Member Durbin, Members of the Committee, I want to thank you for holding this meeting here today, and I want to give special thanks to Senators Hyde-Smith and Senator Wicker for their kind words and their support throughout this process. And I want to thank President Trump for the nomination and for that honor. It's been a dream of mine to serve on the Federal bench in the Northern District of Mississippi.

They told us to keep our remarks brief, and I'm going to try to do so, but I do have a few family members to recognize and some special guests. And the first one, of course, that I want to start with is my wife, Mindy Maxwell, who I actually met in the Federal courthouse for the Northern District of Mississippi while I was in law school. And we've been married now for 23 years. And I want to say this to Senator Booker. I can tell you beyond a shadow of any doubt that when the good Lord put Mindy Maxwell on this planet, he didn't create another woman like her, and she has been a very special wife, wonderful to me, and a terrific mother to our children. She's also a consummate professional, and, you know, she's also my best friend. And I know that—and I congratulate you on your wedding, and I hope that you have that same experience that I've had with my wife, Mindy.

Senators, I wish that my kids were here today for you to be able to meet them. They're both in college, hopefully in class right now. My daughter, May, is a sophomore at Justice Lewis' alma mater, Sewanee, in Tennessee, and my son, Trip, is playing football. He's a quarterback. He's a redshirt sophomore, kind of near your old stomping grounds. He's out in California playing in Los Altos at Foothill Community College, at least he was last night when I

checked with him. I don't know if he's hit the portal today, which is definitely a possibility.

[Laughter.]

Judge MAXWELL. Moving on from that, Senators, my mother, Bebe Maxwell, was not able to attend today. She would have loved to have been here. I know she's watching on TV from Derma, Mississippi, population of 900, probably on her knees praying for me like she has done for most of my life. My sister, Amanda, is watching from Houston, Texas.

And I have some special guests. My law clerk, Beth Archer, is here. My judicial assistant, Ellen Ford, is here, and one of our family friends, Blake Neely.

Before I conclude and close, I wanted to say a few words about somebody who is no longer with us but who has been a mentor throughout my life, and that's my father, Jim Maxwell. He was a trial lawyer's trial lawyer. My rides to school as a kid were a little bit different probably than most others. I didn't get to control the radio. He did, and he played tapes of the greats, Racehorse Haynes, Melvin Belli, Moe Levine, Percy Foreman, and later on Gerry Spence. Looking back, I hated it at the time, but right now, I'm glad he didn't change that dial.

Senators, just in closing, I want to thank you again for this opportunity. I look forward to answering your questions.

Senator BRITT. Thank you.

Mr. Mooty.

STATEMENT OF HAROLD D. MOOTY, III, NOMINEE TO SERVE AS UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ALABAMA

Mr. MOOTY. Senator Britt, Chairman Grassley, Ranking Member Durbin, Members of the Committee, thank you for this opportunity to appear before you today. I'd like to begin by thanking President Donald Trump for the honor of nominating me to the United States District Court in my home State of Alabama.

To Senator Tuberville, thank you for those kind words during the introduction.

To Senator Britt, God is good more than anyone else. It's been your tireless service to this country that inspired me to answer the call to serve. Thank you.

Senator BRITT. Thank you.

Mr. MOOTY. I'd like to, first, for 17 years of private practice, I could spend all morning taking up too much time thanking everyone. I just want to start with my family. My mother and father are both here from Montgomery, along with my brother. My father taught me what it means to be a lawyer and how to treat other people with respect, and I know my brother has learned similar lessons practicing law with my father.

My immediate family from Huntsville is here. My lovely wife, beautiful and also a practicing attorney, and our two middle school-aged children are here from Huntsville. And so many others made the trip to D.C. to support my nomination. I'd like to thank them for making the trip. And also, thank you to those who are watching remotely for also supporting me through this process.

Senator Britt, thank you again, and I look forward to answering the Committee's questions.

Senator BRITT. Thank you. I am going to reserve my time for later in the hearing.

And Senator Durbin, I am going to go ahead and kick it to you.

Senator DURBIN. Thanks, Senator Britt. Appreciate it, and thank you all for being here. I apologize for stepping away, but Senator Grassley and I were actually on the Senate floor conducting some business relative to the Committee, so we were not taking lunch breaks. We were busy during that period of time.

Mr. LaCour, you were Solicitor General for the State of Alabama. Is that true?

Mr. LACOUR. That's true, Senator.

Senator DURBIN. And there came a time when you were involved, I believe in 2023, in the drawing of maps for—were they legislative or congressional districts?

Mr. LACOUR. Senator, that case is still in active litigation, and I am an attorney for my clients. I want to be careful not to tread on any privileges. But there is some evidence that came out in litigation that State lawyers were advising State officials on issues of State law, which is something that the Attorney General's Office in Alabama, and in many States, does do with pending legislation.

Senator DURBIN. Could you clarify, were these legislative districts or congressional districts?

Mr. LACOUR. Sorry, Senator. These were congressional districts.

Senator DURBIN. Okay. And the case is still pending?

Mr. LACOUR. Yes, Senator. We have appealed to the U.S. Supreme Court.

Senator DURBIN. Public reporting and testimony revealed that you played a significant role in working with the State legislature to create maps that continue to disregard Federal court orders and suppress the influence of Black voters. Would you like to comment on that?

Mr. LACOUR. Senator, yes, I would like to say, again, we have arguments that we advanced in the case as to why that 2023 map is consistent with Section 2 of the Voting Rights Act and with equal protection clauses demands that States not use race to sort voters into different districts. And when it comes to defiance of court orders, I don't think any court order has been defied in that case. There was a court order in 2022, back in January, a preliminary injunction entered against our earlier 2021 plan, and that order was complied with to the point where we got a stay from the U.S. Supreme Court.

Senator DURBIN. I hate to interrupt you, but I am going to ask a specific question so that we get to the heart of this. State lawmakers said you helped draw the new map as solicitor general in a room across from State legislatures. You pushed for the inclusion of so-called legislative findings and helped write talking points for them. Are you aware of that assertion?

Mr. LACOUR. Senator, I'm aware of that evidence and those——

Senator DURBIN. True?

Mr. LACOUR [continuing]. Allegations. Senator, all I'm going to say is what the evidence shows in the case because, again, I'm an

attorney that is still litigating. There are privilege issues that I do not want to overstep.

Senator DURBIN. In the case of *Allen v. Milligan* that went before the U.S. Supreme Court, I understand in 2022 you argued that Section 2 of the Voting Rights Act required evidence of discriminatory intent to prove a violation. Do you understand now that that is different than what the law says?

Mr. LACOUR. Senator, we presented several arguments in that case. I think the Supreme Court has agreed that intent is not irrelevant under Section 2 of the Voting Rights Act. In that case, we presented an argument that was similar to one that Frank Easterbrook had adopted for the Seventh Circuit, that if you're trying to determine whether a map is dilutive, it's helpful to have a benchmark, a dilutive compared to what. And we had argued that if a plan that is being attacked under Section 2 of the Voting Rights Act looks like a map you might expect from a race-neutral process, then it's not discriminating against anyone on account of race. Ultimately, the Supreme Court, by a 5–to–4 vote, did not adopt that particular argument, but the litigation continues.

Senator DURBIN. Judge Lewis, you have been on the bench since 2016. The Alabama judicial canons state that "It is desirable that a judge or candidate for election to judicial office endeavor not to be involved in the internal workings of a political organization." You have served as a member of the executive committee of the Elmore County political organization since 2006, including chairman since 2018, and the State party's executive committee since 2008. Why did you not follow the recommendation of the Alabama judicial canons?

Judge LEWIS. Senator, that was—it is a recommendation, but I also checked with the ethics and, of course, the JIC, which is our regulatory agency, and they were—they permitted me to do that.

Senator DURBIN. Pardon me? Who permitted you?

Judge LEWIS. The Judicial Inquiry Commission, JIC. It's our regulatory body. And we run partisan elections in Alabama. I'm an elected official, so that was kind of a segue into my political career.

Senator DURBIN. Thank you. Senator Britt, I would like to have an additional 60 seconds if you don't——

Senator BRITT. Absolutely.

Senator DURBIN [continuing]. Object.

Senator BRITT. Absolutely.

Senator DURBIN. Justice Maxwell, in *Nash v. State*, you upheld a 12-year sentence for a defendant convicted of a misdemeanor—12 years—convicted of a misdemeanor for possessing a cell phone while in jail. You wrote, and I quote in that decision, "While obviously harsh, the sentence is not grossly disproportionate." Twelve years in prison for a misdemeanor possession of a cell phone. Please explain.

Judge MAXWELL. Senator, first, I would like to clarify that I was not the trial judge in that particular case, and this was not a misdemeanor charge. It was a felony offense that was charged by the district attorney, and our role as the Mississippi Supreme Court was to decide whether that was a lawful sentence within the parameters set by the legislature. And it fell within the parameters that were set by the Mississippi legislature, and it was a 9–to–0

decision by our Supreme Court on that question, whether it was a lawful sentence.

Senator DURBIN. The defendant had a wife and three children that depended on him, had been staying out of trouble with the law for nearly a decade since his prior conviction. The crime was victimless, and the facts suggest that his crime was accidental and likely caused by a failure in booking procedures, and yet you thought 12 years for a misdemeanor was warranted?

Judge MAXWELL. Senator, I did not impose my personal thoughts about that particular sentence. What I did was follow the letter of the law.

Senator DURBIN. But what was the range of sentencing in that——

Judge MAXWELL. The range was up to 15 years in prison.

Senator DURBIN. From what low number? 6 years, right?

Judge MAXWELL. I'm not—I don't remember the minimum range. We were just looking at——

Senator DURBIN. I think it was 6.

Judge MAXWELL [continuing]. Whether it was within the parameters.

Senator DURBIN. Twelve years for possession of a cell phone.

Thank you, Madam Chair.

Senator BRITT. Thank you, Senator Durbin. Senator Kennedy.

Senator KENNEDY. Thank you, Madam Chair.

And congratulations, gentlemen. I thought I would just start down here, and then move this way if thats' okay.

Judge, what is the rational basis test?

Judge CHAMBERLIN. Senator, I believe the rational basis test is going to be one of your least stringent tests, and whether a law has a rational basis for the outcome intended or the governmental interest that you're trying to obtain.

Senator KENNEDY. Okay. What if the legislature—or the Congress, as the case may be—doesn't list a reason? What if they just pass the statute?

Judge CHAMBERLIN. Senator, I would submit that that probably happens many times, and I think it's the role of the court—when determining such matters as a definition, I think it's the role of the court to determine whether the usage of that statute—using its wording in plain meaning, whether the usage of that statute is going to reach the governmental interest that you hope is obvious, but sometimes you have to determine.

Senator KENNEDY. So you just create the basis, the reason for the statute?

Judge CHAMBERLIN. I don't think that you create it, Senator, but I don't think that most statutes—to be honest, I don't think that they tell you what they are trying to accomplish so much as they say this is the law. For example, possession of a narcotic that's going to say it's illegal to possess this. We determine if there's a rational basis that forwards the ends of the governmental interest.

Senator KENNEDY. Well, how do you determine if there is a rational basis? Do you look at the statute, or do you look behind the statute?

Judge CHAMBERLIN. Well, I think that you always look at the statute. Now, I think you also look at any other precedent or case

law that is interpreted to the statute. However, you look to the language of the statute to determine what it does and what effect that might have.

Senator KENNEDY. Okay. Counselor, let's suppose that a legislature passes a statute that says if you have a college degree or a more advanced degree, you don't have to take a driver's license test. And let's assume for a second that the Federal court has jurisdiction over a challenge to the constitutionality of that statute. What test are you going to apply, Counselor?

Mr. LACOUR. Senator, that would be a classification that doesn't turn on any sort of protected characteristic, and so it would be a rational basis test that would apply in that instance.

Senator KENNEDY. You don't see any suspect classification?

Mr. LACOUR. No, Senator.

Senator KENNEDY. You don't see any fundamental right?

Mr. LACOUR. No, Senator.

Senator KENNEDY. What if the legislature didn't provide—so you would use the rational basis test?

Mr. LACOUR. I would, Senator.

Senator KENNEDY. And you would uphold that statute?

Mr. LACOUR. I think there could be some rational basis that a court could conceive of to justify that statute, and rational basis is not——

Senator KENNEDY. So you would invent the rational basis, the reason for the statute?

Mr. LACOUR. That's generally how the test has been applied by the Supreme Court and by lower courts, and as a district court judge, I would be bound by that Supreme Court precedent.

Senator KENNEDY. Okay. Judge, tell me the difference, sir, between notice pleading and fact pleading?

Judge LEWIS. Notice pleading, of course, goes to your due process issues under the 14th Amendment.

Senator KENNEDY. What is the difference between notice pleading and fact pleading? We use two systems——

Judge LEWIS. Yes, sir.

Senator KENNEDY [continuing]. In America, as you know.

Judge LEWIS. Yes, sir. Notice pleading is based on—of course, that goes under your jurisdiction—your personal jurisdiction, and then the fact pleading, of course, goes into your subject matter jurisdiction.

Senator KENNEDY. What system does the Federal judiciary use, notice or fact?

Judge LEWIS. Fact.

Senator KENNEDY. Okay. Judge let me—I am about out of time. Can I have 30 more seconds, Madam Chair? You heard me talk to the nominee for the Third Circuit about how she would interpret the Constitution, and she said that the Constitution should be interpreted according to its meaning, as understood by the people in America at the time the Constitution was passed. Do you agree with that?

Judge MAXWELL. I do, Senator.

Senator KENNEDY. Okay. Let me ask you what I asked her. How do you square that with *Brown v. Board of Education*?

Judge MAXWELL. I would adopt a lot of what she said, actually. I believe the 14th Amendment, as it came in, you know, addressed a lot of——

Senator KENNEDY. The 14th Amendment was later.

Judge MAXWELL. It was later. It was a——

Senator BRITT. Can you turn your microphone on, please? Thank you.

Judge MAXWELL. Sorry about that. I believe *Brown v. Board of Education* is directly decided.

Senator KENNEDY. I do, too, but when my friends—and I am a textualist as well, but when my friends say, well, we have to interpret the Constitution in accordance with the way the average American viewed the Constitution at the time, I say, okay, it seems fair to me. Do you think that the average American at that time looked at the Constitution and supported and believed that it provided for racially integrated schools? Do you think that was the majority view at the time?

Judge MAXWELL. Senator, all I know is that *Brown v. Board of Education* is good law, and it was correctly decided.

Senator KENNEDY. And why do you think it was correctly decided? I agree with you, but why?

Judge MAXWELL. Well——

Senator KENNEDY. If you interpret the Constitution by looking at its public meaning at the time?

Judge MAXWELL. Separate was not—it was inherently unequal, not equal——

Senator KENNEDY. It was what?

Judge MAXWELL. I just don't believe that there is a—any appetite in this country for any type of du jour type of segregation. I believe that that case——

Senator KENNEDY. At the time the Constitution was passed?

Judge MAXWELL. I'm talking about right now. I believe that it's good law——

Senator KENNEDY. No, but I mean——

Judge MAXWELL [continuing]. Senator.

Senator KENNEDY. Okay. I have gone way, way over. I am sorry, Counselor, I didn't get to you.

Mr. MOOTY. No problem, Senator.

[Laughter.]

Senator BRITT. Senator Blumenthal.

Senator BLUMENTHAL. Thanks, Madam Chair.

Let me follow that line of questioning by asking all of you, do you think *Brown v. Board of Education* was correctly decided? We will go right down——

Judge CHAMBERLIN. Senator, I believe, as a general rule, it would be improper of us to comment on the validity or give a thumbs up and down to most opinions. However, it's been traditional among the nominees that have come before this Committee regarding *Brown v. Board of Education*, and I will follow that and State my opinion, which is I believe it was correctly decided.

Senator BLUMENTHAL. You do believe it was correctly decided?

Judge CHAMBERLIN. Yes, sir.

Mr. LACOUR. Senator, I agree with what Justice Chamberlin just said. Yes, *Brown v. Board* was correctly decided.

Senator BLUMENTHAL. Thank you.

Judge LEWIS. Senator, I am very thankful for *Brown v. Board of Education*. I do believe it was correctly decided.

Judge MAXWELL. Same answer.

Mr. MOOTY. Same, Senator. I do believe *Brown v. Board* was correctly decided.

Senator BLUMENTHAL. Thank you. Let me ask then each of you, do you believe that *Loving v. Virginia* was correctly decided?

Judge CHAMBERLIN. Senator, I would preface with the same comments about commenting on cases, but I think for the same reason a moment ago that there are two cases, *Brown v. Board of Education* and *Loving v. Virginia* that have been commented on regularly, and I will maintain that tradition and state I do agree with that opinion and believe it was rightfully decided.

Senator BLUMENTHAL. Thank you.

Mr. LACOUR. Yes, Senator. As a beneficiary of interracial marriage, I also agree that *Loving v. Virginia* was correctly decided.

Judge LEWIS. Yes, Senator. I—again, I think there has been precedent from prior nominees that those two specific cases we are able to comment on, and I do believe it was correctly decided.

Judge MAXWELL. Senator, I believe it was correctly decided.

Mr. MOOTY. The same, Senator. I do believe *Loving v. Virginia* was correctly decided.

Senator BLUMENTHAL. Let's go to another case, *Obergefell v. Hodges*.

Judge CHAMBERLIN. Senator, as I began a moment ago when you asked about *Brown v. Board of Education*, I would first say it's improper to comment on whether these decisions were wise, and our opinion as lower court judges below the Supreme Court, of course, I think it would be improper for us to comment on that. I did make exceptions for two cases because that has been traditional before this Committee, but I do have to limit it to that and will be unable to respond to the question.

Senator BLUMENTHAL. So on what basis do you distinguish *Brown v. Board of Education* and *Loving v. Virginia* from *Obergefell*? They are both well-established, long-accepted precedents of the U.S. Supreme Court. Do you think that *Loving* and *Brown* were correctly decided, but you are unwilling to comment on *Obergefell*?

Judge CHAMBERLIN. Senator, I simply distinguish those because it has been traditional among nominees to respond regarding *Brown v. Board of Education* and *Loving v. Virginia*.

Senator BLUMENTHAL. Well, I wouldn't say—if I may interrupt with all due respect——

Judge CHAMBERLIN. Yes.

Senator BLUMENTHAL [continuing]. I wouldn't say it is traditional. I have just been asking this question for the last couple of years, and that happens to be the way nominees respond. They are willing to comment on *Loving* and *Brown* but not on *Obergefell*. We can go on to *Griswold*. There is no tradition here. I am asking you as an individual and a nominee for the United States District Court, do you think that *Obergefell* was correctly decided?

Judge CHAMBERLIN. Well, Senator, as I said a moment ago, it is the better practice not to comment on the wisdom or correctness of

these decisions. As you just stated, it's been asked about these cases for a period of time, and I'm merely following the line of tradition in answering the cases regarding *Brown* and *Loving*.

Senator BLUMENTHAL. So, essentially—and again, I don't mean to say this with any disrespect to any of you, you are just doing what has worked for the previous nominees?

Judge CHAMBERLIN. No, sir, I'm just following what they have done as I felt those were answers that have been——

Senator BLUMENTHAL. Okay.

Judge CHAMBERLIN [continuing]. Acceptable.

Senator BLUMENTHAL. I will give others the opportunity to comment on *Obergefell* as well.

Mr. LACOUR. Senator, *Obergefell* is binding precedent of the U.S. Supreme Court, and I would apply it faithfully if I am so fortunate as to become a Federal District Court judge.

Senator BLUMENTHAL. Do you think it was correctly decided?

Mr. LACOUR. Senator, just like Justice Kagan and Justice Jackson and other nominees who appeared before this court, I would not want to be seen as giving a preview as to how I might decide any related case, which I think if I were to give a thumbs up or thumbs down or otherwise grade the papers of the U.S. Supreme Court——

Senator BLUMENTHAL. Well, I am not going to argue with any of the nominees, but there is nothing pending right now that would involve your, in effect, commenting on something that is potentially before a court where you would serve.

Let me go on to the rest of you and just give you an opportunity to respond.

Judge LEWIS. Justice—Senator, my response will echo the other two colleagues, but I will say, as a district court, what does matter is binding Supreme Court precedent. And as long as the Supreme Court precedent—looking at it analytically from a legal perspective, it is right. And so as long as that's the precedent, then yes, we will follow it.

Senator BLUMENTHAL. Thank you.

Judge MAXWELL. Senator, it's binding precedent, and I would follow it if confirmed to the district court.

Mr. MOOTY. Senator, I agree with my colleagues. I will follow all binding Supreme Court precedent, including *Obergefell*, if I am fortunate enough to be confirmed to this position.

Senator BLUMENTHAL. Thank you all for your responses to my questions. And thank you, Madam Chair.

Senator BRITT. Senator Moody.

Senator MOODY. Thank you, Madam Chair. That is fun to say. And I apologize for my colleague, Senator Kennedy, who thinks he is a law professor during these hearings and launches into the Socratic method, probably gave you nightmares and harkened back to law school. He indeed takes very seriously this Committee's role in making sure we have the highest caliber of those that are confirmed for these lifetime posts. So we certainly thank the President for nominating such well-qualified and hardworking individuals whose accomplishments are great, but from what I can tell, your commitment to the Constitution and the rule of law may be even

greater. And so I am very proud to be here today and participate on this Committee.

I have actually, as you can see, I am the newest Member of this Committee, but yet I have served in the judiciary as a judge and in the other branches of Government. I was a State attorney general and a Federal prosecutor at one point, so I appreciate the breadth of experience that this panel represents. Thank you very much.

But I am not letting you off the hook, Mooty, and I think it is only right, since I am Senator Moody, to question Attorney Mooty. One of the biggest threats, I think, right now to our republic is the delicate balance of power that we have in our three separate branches. And again, having served in every branch, I think for the continued strength and prosperity of this Nation and the freedom of our people, we have to always go back to a very strict respect of the scope of power of each of the branches.

And from Thomas Jefferson to Abraham Lincoln, there has always been a concern of judicial tyranny and that if you have a judge or a body that is consistently given the task of checking the power of the legislative branch or checking the power of the executive branch, in turn, that unchecked judicial power may evolve into a type of judicial tyranny or oligarchy.

What concerns me is the increasing perception by the public of the judicial branch because I believe the failure of many historical Nation States started when people stopped trusting the judicial branch, started inferring that the judicial branch cared more about policy preferences or political influence than they did about reason and analysis.

And so I think right now, the biggest challenge we face as a Nation is the public's perception of this third branch and the danger that that presents to what was envisioned for this country by our Founders. And we celebrate 250 years next year, what our future looks like as a Nation.

And so you will be given a lifetime appointment. Many have gone on to experience that horrible sickness called robe-itis. I have seen it many times. But I think where the danger becomes is where that overtakes the commitment to go back to what your duty is first and foremost as a judge, an independent judge with the job of using the Constitution and the law that is given to you independently without any bias.

And so, I would like to hear—and we will start with you, Mr. Mooty, and as far as I can get down the line—how do you believe your judicial philosophy or your nomination and ultimate confirmation will allow us to restore and ensure public trust in the judiciary?

Mr. MOOTY. Thank you, Senator. I am fully committed to this body to faithfully apply the law of the land, the Constitution, and all Federal law faithfully and impartially and treat all persons who appear before me with dignity and respect and to give each case in controversy, as Article III specifies, the attention that it is due.

And I will add, this body conducted a hearing on the judicial branch being the least dangerous branch, as specified by Alexander Hamilton in Federalist Paper 78. It's only the least dangerous branch, Senator, if the judges, if we're fortunate enough to be con-

firmed, remember our role, Senator, as one of three separate but equal branches of Government and not attempting to legislate from the bench. And I'm committed not to do that if I'm fortunate enough to be confirmed.

Senator MOODY. And I see I am out of time, but I thought it was only fitting I started there. Everybody else starts with you, you poor thing.

[Laughter.]

Madam Chair.

Senator BRITT. Thank you so much, Senator Moody.

And, you know, on that note, I will go ahead and start with him as well so that way we can double up.

Look, each of you have outstanding and unique qualifications to serve as Federal judges. Whether it be as judges or advocates, each of you bring the necessary and important experience to the Federal judiciary.

Mr. Mooty, I will start with you. Can you speak to what experiences you have had over the course of your career that make you feel most qualified to serve in the position in which you have been nominated? And then we will go all the way down to Justice Chamberlin.

Mr. MOOTY. Thank you, Senator. I grew up in the courtroom. I was born on my dad's first day of his last semester in law school. I remember watching him try cases at a very young age. I remember working as a runner in his law firm and deciding I wanted to be not just a lawyer but a litigator in the courtroom at a very young age. And after 17 years in private practice and trying cases in Federal and State courts, appearing in Federal and State courts across the country, I feel like I was born to do this, Senator, and serve the public and my country in a manner that I feel like God has set me on a path to be back in the courtroom but for a lifetime appointment serving the public in a country that's given me so much, Senator. Thank you.

Senator BRITT. Thank you.

Judge MAXWELL. Senator, to echo Mr. Mooty's comments, I was also raised by a lawyer, and he taught me at an early age the important aspects of justice. I said riding to schools those mornings, we were listening to trial lawyers lecture, and I've taken that with me. I've been very blessed to have my own legal career kind of based on his shoulders.

For the past 16 years, I've served as a judge on our State's highest courts, and I've had the ability to decide basically every aspect of criminal and civil case. I've been around some excellent mentors on both the State Supreme Court and the Court of Appeals. But to truly get down to answer your question, what kind of separates me and uniquely qualifies me to serve in this role is the fact that I have been a Federal prosecutor in the Northern District of Mississippi, and it's where I got—it's where I cut my teeth as a lawyer. I learned a lot of lessons from the judges there, some tremendous judges, Neal Biggers, Allen Pepper, Glen Davidson, Mike Mills. I learned lessons and also took a lot of lumps, and that is a part of the experience.

We've heard a lot of questions about policy, about the Constitution, but what it gets down to as a judge is when you walk in that

courtroom, can you not only call balls and strikes like we have always heard the analogy from Chief Justice Roberts, but can you have a consistent strike zone for all the parties? What's a strike for one lawyer or one party can't be a ball for another. And I can submit to this Committee that if I'm confirmed to this position, it would be like coming home to that Federal family in the Northern District of Mississippi.

Senator BRITT. Thank you. Justice Lewis.

Judge LEWIS. Senator, I come from a background where I was the first person in my family to graduate from college. We came from a meager background. And when I go to court, especially in the early years of my legal profession, I saw myself in a lot of clients that came through there, not necessarily the criminal ones, but just in general. And that's one of the things that really has shaped my legal career. I believe that—and my judicial philosophy. I believe that everybody that comes into that court deserves to have their voice heard, regardless of where they are on the issues, regardless of where they come from, regardless of what they look like, regardless of who they are.

I was pretty much—I pretty much spent just about every minute of my legal career as an attorney in the courtroom. I practiced in civil litigation. I practiced in criminal litigation. I practiced as a prosecutor, a defense attorney. I handled civil rights cases. I handled civil cases. I've practiced in three States. And so I've got a broad background that I bring with me to this potential judgeship.

But then also, those experiences as a lawyer factored into the way I handled myself and carried myself as a judge. As a circuit judge, my circuit was one of the busiest circuits in the State of Alabama. I handled pretty much more cases in my circuit as any circuit judge in the State based on our caseload. And what that taught me was to manage dockets efficiently but also to make sure that everybody did have their voice heard.

When I went to the appellate level, it was much different because then I was in a position where I was able to be analytical. I was able to research cases. It also gave me the opportunity to see how other judges in the State did things, what worked, what didn't, and how they treated people as well.

And then when I became a supreme court justice, the focus shifted. Of course, I was still working on trying to get a consensus. As a trial court judge, what I say goes, and if you don't like it, appeal, right? But then as a—as an appellate judge, you've got to get a consensus. You've got to get other folks to gravitate to your issues. At least you have to try to. And that helped hone my skills in being analytical with legal arguments and things of that nature.

And also, as a supreme court justice, we're dealing more with State and even to an extent Federal policy. And so I have a broad background on every level of the legal profession, and I believe that will be very beneficial if I am to be confirmed as a judicial nominee.

Senator BRITT. Thank you. Mr. LaCour.

Mr. LACOUR. Thank you, Senator Britt. I've been fortunate in my career to get to cover a broad array of legal issues in a broad array of venues from the Northern District of California to the Southern District of New York, from the Middle and Northern Districts of Alabama all the way up to the U.S. Supreme Court, litigating near-

ly every one of the Bill of Rights and many other issues as well. And I think that's given me a good experience in terms of being able to get a new issue, get up to speed quickly, try to get the right answer, and then move on, and I think that's a really important skill for a judge to have, to be able to master an area of the law quickly so they can provide justice both by getting to the answer that the law demands but also getting an answer to the parties before you quickly so they can either appeal or move on with their lives. And so that's something that I hope to be able to bring is a degree of skill and a lot of hard work to the bench if I'm fortunate enough to be confirmed.

Senator BRITT. Thank you. Justice Chamberlin.

Judge CHAMBERLIN. Senator, first, I hope I'm not out of line if I correct a terrible omission from earlier today. I did not mention my father, who passed away in December, and his 91st birthday would have been on Labor Day. He would have been so proud today.

Senator BRITT. Certainly.

Judge CHAMBERLIN. To answer your question, I did not grow up the child of a lawyer. My father was a truck driver. My mother worked an assembly line. My earliest legal influences were Perry Mason and Ben Matlock.

Senator BRITT. I like it.

Judge CHAMBERLIN. But my father and mother instilled a sense of the necessity of education in us, and I'm happy to have obviously obtained a law degree.

My experience that most prepares me for this job is that I served 12 years as a circuit court judge. That's a trial judge level for the State courts in the State of Mississippi. I've run a courtroom. I've run a docket. I know the appropriate judicial temperament. I know the appropriate judicial demeanor, and I would hope to be able to bring those to the job if I'm fortunate enough to be confirmed.

Senator BRITT. Thank you very much.

I am out of time, but the beauty of being the Chair is you get to take more time. So I'm going to come right back across just very quickly if you don't mind answering, what qualities do you have that you find important for a Federal judge to aspire to and that you hope to emulate on the Federal bench? And many of you may have referenced this in your previous answer, which is fine for you to reference back to that. But we will start with you, Justice Chamberlin.

Judge CHAMBERLIN. As a U.S. district court judge nominee and for a U.S. district court position, first would be with any judicial position, integrity. I think integrity is about as important as it gets, of course a dedication to the law, and an appropriate—for reasons I did just mention, appropriate judicial demeanor and appropriate judicial temperament.

Senator BRITT. Excellent. Mr. LaCour.

Mr. LACOUR. So I'd like to think that I've learned from my former boss, Chief Judge Pryor, the value of, as I mentioned before, hard work. He recently served—or was commemorated for serving 20 years on the 11th Circuit, and several of his colleagues had commented in the Alabama Law Review that there were few judges as hardworking as him. He's well known as a sharp legal analyst, and

I hope I can be the same. But in terms of just getting opinions out the door and getting justice to the parties is something that I've admired and hope to emulate.

Senator BRITT. Thank you. Justice Lewis.

Judge LEWIS. Yes, Senator. Work ethic and integrity is what I think is the primary characteristic of a judge. I believe that my long legal career has taught me that most people, regardless of where they are on the issue, when they leave a courtroom, it's my job as a judge to make sure that they know that the system has worked, maybe not in their favor, but in the fact that they have had their day in court, have had their say, and feel like the system is working for them.

And I think Senator Moody touched on it a little bit, the perception of the judiciary is in a State that concerns me, and I believe that, as a district judge, it's our role as being the—on the Federal level that has the most access to the public to instill that confidence in everyone that this system works for everyone, whether it be a traffic ticket or a capital murder litigation, which I've been involved in on numerous occasions as well, at the end of the day, that person needs to feel like the system is there to hear them and make them feel like they are a part of this country.

Senator BRITT. Justice Maxwell.

Judge MAXWELL. Senator, I believe that integrity is paramount. Respect for the litigants before you is extremely important. And another quality that hasn't been mentioned yet is courage. Judges have to have the courage to make difficult decisions. You can't just put your, you know, finger in the air and check the pulse of what's going out there with your constituents because we only really have one constituent, and that is to the law, maybe, too, to the Constitution of the United States. And judges cannot push the law where they want it to go, or we all get to the wrong place. We have to follow the law, and if we do that, everyone in this room is going to end up in the right place.

Senator BRITT. Thank you. And the last word of the day to Mr. Mooty.

Mr. MOOTY. Thank you, Senator. My colleagues have given excellent answers to this question, and I don't want to repeat any of their attributes, so to give a different one while adopting all of theirs, preparedness, Senator. I've practiced for long enough to know that a lawyer and their client can tell when a judge is not prepared for a hearing or for a trial or for an appearance. I've learned from a lot of great mentors, know what you can control. And I teach my young litigation associates that you can control your level of preparedness when you walk into a courtroom, and that's something that I've tried to do every single time I set foot in the courtroom is make sure I'm the most prepared. I would take that to the bench, Senator, and instill a level of confidence not just with the lawyers but with the parties themselves. This judge is prepared, and the preparedness shows respect, and the preparedness shows integrity, Senator. Thank you.

Senator BRITT. Thank you so much, Mr. Mooty.

Well, thank you all for your time today. Congratulations on your nomination. Congratulations to your families. We are thrilled to

have each and every one of you here with us. Thank you to the nominees, obviously, for your testimony today.

Written questions for the record may be submitted up until September 10 at 5 p.m., of which the quicker you get back your answers, the faster we get to have an opportunity to put that before the full Committee.

And with that, thank you again, and this hearing is adjourned.

[Whereupon, at 1:14 p.m., the hearing was adjourned.]

[Additional material submitted for the record follows.]

Mascott Rebuttal: Coons – Delaware Ties

This Committee has considered numerous circuit nominees with limited records of practicing in a specific state.

Judge Robert Katzmann was a D.C.-based academic who never practiced in New York, but he was confirmed by voice vote to a New York seat on the Second Circuit.

Justice Neil Gorsuch graduated from a D.C. high school, clerked in D.C. and practiced law in D.C. for over a decade. But he was confirmed to a Colorado-based seat on the Tenth Circuit.

Judge Jay Bybee, joined the Nevada bar less than a year before his nomination, yet both Senators Reid and Ensign returned blue slips and introduced him at his hearing. He was confirmed to a Nevada-based Ninth Circuit seat.

Mascott Rebuttal: Coons – Delaware Ties

Judge Allison Rushing, though born in North Carolina, spent her entire legal career in Washington, D.C. She was also never admitted to the North Carolina Bar. But she was confirmed to a North Carolina-based seat on the Fourth Circuit.

Just last Congress, President Biden nominated **Judge Julie Rikelman** to a Boston seat on the First Circuit. Although she never practiced in Massachusetts, Senators Warren and Markey backed her anyway, and the Senate confirmed her.

Time and again, this Committee has confirmed judges without a strong record of practicing in a state, when they were otherwise qualified.

Mascott Rebuttal: Coons – Delaware Ties

And of course, the governing statute does not require state-specific residence. It only requires that a judge live in the Circuit at the time of appointment—meaning after the President signs and returns the commission.

More importantly, committee Democrats have made clear that they don't respect a home-state Senator's opposition to a circuit nominee. Republicans made this point explicitly last Congress when our Democratic colleagues voted in favor of numerous nominees over the substantive objections of home-state Senators from Tennessee, North Carolina, and Florida.

In one memorable speech, Senator Tillis begged Committee Democrats to respect his objection to circuit-nominee Ryan Park, and warned that the shoe would one day be on the other foot:

Mascott Rebuttal: Coons – Delaware Ties

He said [QUOTE] I'm wondering what Thom Tillis needs to show up in the Trump administration? The Thom Tillis that was here the last time, who tried to work with you all on some judges, or the Thom Tillis that reflexively votes no? . . . I will tell you the same thing next year when the roles are reversed . . . you're either going to make my job harder by doing the right thing and respecting your colleague today, or you're going to make my job easier because I'm going to go right down the line with the administration. [END QUOTE]

And what did my Democratic colleagues do? They fell in line and voted for Ryan Park anyway.

Now, suddenly, Democrats want a different set of rules. They don't want to live by the precedent they helped set.

Mascott Rebuttal: Coons – Delaware Ties

No amount of selective outrage changes the fact that Professor Mascott is exceptionally qualified. She has the intellect, experience, and constitutional expertise to serve the Third Circuit with distinction.

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

1. **Name**: State full name (include any former names used).

Robert Porter Chamberlin
Bobby Chamberlin

2. **Position**: State the position for which you have been nominated.

United States District Judge for the Northern District of Mississippi

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

Office: Gartin Justice Building
450 High Street
Jackson, Mississippi 39201

Residence: Hernando, Mississippi

4. **Birthplace**: State year and place of birth.

1965; Memphis, Tennessee

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

1987 – 1990, University of Mississippi Law Center; J.D., 1990

1985 – 1987, University of Mississippi; B.A., 1987

1983 – 1985, Northwest Mississippi Junior College; no degree

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2017 – present
Mississippi Supreme Court
Carroll Gartin Justice Center
450 High Street
Jackson, Mississippi 39201
Associate Justice

2004 – 2017
Mississippi Seventeenth Judicial District
DeSoto County Courthouse
2535 Highway 51 South
Hernando, Mississippi 38632
Circuit Court Judge

2000 – 2004
Mississippi State Capital Building
400 High Street
Jackson, Mississippi 39201
State Senator for District One

2001 – 2004
Chamberlin & Nowak P.C.
170 West Center Street
Hernando, Mississippi 38632
Law Partner

2001 – 2004
DeSoto County Board of Supervisors
DeSoto County Courthouse
2535 Highway 51 South
Hernando, Mississippi 38632
Board Counsel

Mid 1990s
State of Mississippi
Chancery Court, Mississippi Third District
2535 Highway 51 South
Hernando, Mississippi 38632
Special Master

1992
City of Horn Lake
3101 Goodman Road West
Horn Lake, Mississippi 38637
Municipal Prosecutor

1991 – 1999
City of Hernando
475 West Commerce Street
Hernando, Mississippi 38632
Municipal Judge

1990 – 2001
Austin Law Firm
(briefly known as Tollison, Austin, and Twiford)
6928 Cobblestone Boulevard, Suite 100
Southaven, Mississippi 38672
Law Partner (1994 – 2001)
Law Associate (1990 – 1994)

7. **Military Service and Draft Status**: Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

I have not served in the Military. I registered for the selective service after turning 18.

8. **Honors and Awards**: List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

Northwest Mississippi Community College Foundation Alumni Professional Achievement Award (2025)

Fellow, Mississippi Bar Foundation (2024)

Champion of Open Government Award, Mississippi Center for Freedom of Information (2004)

DeSoto's Best Attorney, DeSoto Times (2004)

Good Government Award, Common Cause Mississippi (2004)

Mississippi Law Enforcement Officers' Association Legislator of the Year (2003)

Attendee by Invitation, Forty-Seventh Annual National Security Seminar at the United States Army War College (2001)

Steen Reynolds Dalehite and Currie Moot Court Award, University of Mississippi (1990)

James O. Eastland Law Scholarship (1987 – 1990)

9. **Bar Associations**: List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

American Bar Association (1990 – present)

Mississippi Bar Association (1990 – present)
Presiding Judge, Complaints Tribunal (2013 – 2017)

State Intervention Court Advisory Committee (2023 – present)
Member (2013 – 2017)
Chairman (2021 – 2023, 2024 – present)

Mississippi Judicial College Board of Governors
Member (2017 – present)

Mississippi Conference of Circuit Court Judges
Secretary (2010 – 2011)
Vice-Chairman (2011 – 2012)
Chairman (2012 – 2013)

Study Commission on the Mississippi Judicial System (2001)

10. **Bar and Court Admission**:

a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Mississippi (1990)

Tennessee (1991)

In 2005, I surrendered my membership in the Tennessee Bar after my appointment as a Mississippi Circuit Court Judge.

b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

United States Court of Appeals for the Fifth Circuit (1990)
United States Court of Appeals for the Sixth Circuit (2001)
United States District Court for the Northern District of Mississippi (1990)
United States District Court for the Southern District of Mississippi (1990)
Mississippi Supreme Court (1990)
Tennessee Supreme Court (1991)

There have been no lapses in Membership other than my membership in Tennessee which I allowed to lapse in 2005 after I became a Mississippi Circuit Court Judge.

11. **Memberships**:

a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

DeSoto County Rebel Club
Member (1997 – 2001)
President (2001)

Optimist Club of Hernando, Mississippi
Member (2018 – present)

University of Mississippi Alumni Association
Member (1990 – present)

b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To my knowledge, no organization listed above currently discriminates or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies.

12. **Published Writings and Public Statements**:

a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply copies of all published material to the Committee.

Campaign finance legislation headed back to House, DeSoto Times Today, April 20, 2004. Copy supplied.

With debt looming, state health insurance needs work, DeSoto Times Today, February 10, 2004. Copy supplied.

Important goals reached during final weeks of session, DeSoto Times Today, April 9, 2003. Copy supplied.

Legislature on verge of passing education funding bill, Clarion Ledger, January 1, 2003. Copy supplied.

Medicaid bailout plans – to support or not to support, DeSoto Times Today, March 5, 2002. Copy supplied.

Medicaid problem will require some tough decisions, DeSoto Times Today, January 29, 2002. Copy supplied.

Working with tight budget will be a challenge in 2002, DeSoto Times Today, January 15, 2002. Copy supplied.

Last week of session, hectic and productive, DeSoto Times Today, May 9, 2000. Copy supplied.

Conference committee action slows down Senate, DeSoto Times Today, April 25, 2000. Copy supplied.

Pay raise plan passed is not perfect, DeSoto Times, April 18, 2000. Copy supplied.

Teacher pay raise issue is not dead, yet, DeSoto Times, April 11, 2000. Copy supplied.

Biggest news of the week is Snowden Grove, DeSoto Times Today, April 4, 2000. Copy supplied.

Senate must determine where to trim fat, DeSoto Times, March 28, 2000. Copy supplied.

Legislative Weekend enjoyed by all, DeSoto Times, March 8, 2000. Copy supplied.

Compulsory insurance needed for state, DeSoto Times, February 9, 2000. Copy supplied.

Insurance tops Capitol conversation, DeSoto Times, January 25, 2000. Copy supplied.

Committee assignments offer chance to service DeSoto needs, DeSoto Times, January 18, 2000. Copy supplied.

With Claude Purvis, DUI: Prosecution and Defense in Mississippi (1994). Copy supplied.

b. Supply copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization

that issued it, the date of the document, and a summary of its subject matter.

None.

c. Supply copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

During my tenure in the Mississippi Senate, I introduced many pieces of legislation. A list of the bill titles for legislation I introduced and co-sponsored is supplied, and the text of each is available at: https://www.legislature.ms.gov/legislation/previous-sessions/.

During my time in the Senate, I presented a number of bills on the floor of the Senate. The Mississippi Legislature does not preserve legislative history. The Mississippi College School of Law has preserved an archive of proceedings from 2012 going forward (which does not cover my time in the Senate), which are searchable at: https://law.mc.edu/legislature/. I presented some of the bills I authored, as well as others assigned to me by committee chairs.

To the best of my recollection, I have not otherwise provided any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, nor have I issued or provided or had others present on my behalf such to public bodies or public officials.

d. Supply copies, transcripts or recordings of all speeches or talks delivered by you including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

March 14, 2025: Panelist, "Dicta, huh, yeah...what is it good for? Or Dicta, a rose by any other name," the Corbin Appellate Symposium, in Little Rock, Arkansas. I spoke regarding the definitions of and proper usage of dicta. PowerPoint supplied.

May 1, 2024: Keynote Speaker, "An Evening Honoring the Judiciary," Jackson Young Lawyer's Association in Jackson, Mississippi. I addressed various legal topics. I have no notes, transcripts, or recording. The address of the Jackson Young Lawyer's Association is P.O. Box 22842, Jackson, Mississippi 39225.

December 29, 2023: Administering the Oath of Office for DeSoto County Sheriff Thomas Tuggle, at the DeSoto County Courthouse, Hernando, Mississippi. I have no

notes, transcripts, or recording. The address of the DeSoto County Sheriff's Office is 3091 Industrial Drive West, Hernando, Mississippi 38632.

December 6, 2023: Panelist, "Mississippi Rules of Evidence," Mississippi Justice Court Judges Training Course, Mississippi Judicial College. I spoke regarding an overview of evidence for justice court judges in Biloxi, Mississippi. PowerPoint supplied.

December 7, 2022: Panelist, "Evidence," New Trial and Appellate Judges Orientation, Mississippi Judicial College. I spoke regarding an overview of evidence for incoming judges in Oxford, Mississippi. PowerPoint supplied.

September 30, 2022: Senatobia Rotary Club, in Senatobia Mississippi. I spoke regarding the state of the judiciary. I have no notes, transcripts, or recording. The address of the Senatobia Rotary Club is 4975 Highway 51 North, Northwest Mississippi Community College, Haraway Center, Senatobia, Mississippi, United States, Mississippi 38668.

May 6, 2022: DeSoto County Fallen Heroes Memorial Service, at the DeSoto County Courthouse, Hernando, Mississippi. I spoke regarding the contributions of the deceased law enforcement officers being honored. I have no notes, transcripts, or recording. The address of the sponsor of the event, the DeSoto County Board of Supervisors, is DeSoto County Courthouse, 2535 Highway 51 South, Suite 200, Hernando, Mississippi 38632.

October 6, 2021: Panelist, "Judicial Ethics Across the Nation", Mississippi Justice Court Judges Fall Hybrid Seminar, Mississippi Judicial College. I spoke regarding ethical concerns regarding the judiciary across the country. The event was held in Biloxi, Mississippi. PowerPoint supplied.

June 10, 2021: Panelist, "Judicial Ethics Across the Nation," Mississippi Municipal Court Judges Hybrid Seminar, Mississippi Judicial College. I spoke regarding ethical concerns affecting the judiciary across the country. The event was held in Biloxi, Mississippi. PowerPoint supplied.

April 28, 2021: Panelist, "Judicial Ethics Across the Nation," Mississippi Trial and Appellate Judges Spring Conference, Mississippi Judicial College. I spoke regarding ethical concerns regarding the judiciary across the country. The event was held in Biloxi, Mississippi. PowerPoint supplied.

October 24, 2019: Panelist, "Mississippi Rules of Evidence, Discussion of Article I", Mississippi Trial and Appellate Judges Fall Conference, Mississippi Judicial College. I spoke regarding the Mississippi Rules of evidence in Article I. The event took place in Jackson, Mississippi. PowerPoint supplied.

November 1, 2018 (approx.): 90th annual Mississippi Bar memorial service, Mississippi Supreme Court Building, response on behalf of the Court. I spoke regarding the contributions of the deceased attorneys being honored. I have no notes, transcripts, or

recording. The address of the Mississippi Bar Association is 643 North State Street, Jackson, Mississippi 39202.

October 25, 2018: Panelist, "Enlargements of Time: Defining 'Cause' In Light of Fulgham and Other Civil Procedure Lagniappe," Mississippi Trial and Appellate Judges Fall Conference, Mississippi Judicial College. I spoke regarding recent civil cases. The event was held in Jackson, Mississippi. PowerPoint supplied.

August 30, 2018: keynote speaker, 20th Annual James O. Dukes Professionalism Program, Mississippi Bar Association. I spoke regarding the need for civility and professionalism in the legal profession. The event was held in Oxford, Mississippi. I have no notes, transcripts, or recording. The address of the Mississippi Bar Association is 643 North State Street, Jackson, Mississippi 39202.

July10, 2018: Panelist, "Enlargements of Time: Defining 'Cause' In Light of Fulgham and Other Civil Procedure Lagniappe," Mississippi Bar Summer School for Lawyers. I spoke regarding recent civil cases. The event was held in Miramar Beach, Florida. PowerPoint supplied.

April 20, 2018: Panelist, "New Criminal Rules," Mississippi Court Administrators Spring Conference, Mississippi Judicial College. I spoke regarding the criminal rules that had just gone into effect at the time. I have no notes, transcripts, or recording. The address of the Mississippi Judicial College is University of Mississippi, Kinard Hall, Wing E, Room 358, University, Mississippi 38677.

July 3, 2017: Administering the Oath of Office for City of Hernando officials. I have no notes, transcripts, or recording. The event took place at City Hall for the City of Hernando is 475 West Commerce Street, Hernando, Mississippi 38632.

2016: On frequent occasions during my 2016 campaign for Supreme Court Judge, I offered extemporaneous remarks departing from my standard speech. I have no record of the specific dates of those events, and I do not have any notes, transcripts, or recordings.

January 1, 2011: Administering the Oath of Office for Circuit Court Judge Gerald Chatham, DeSoto County Courthouse, Hernando, Mississippi. I have no notes, transcripts, or recording. The address of the DeSoto County Circuit Court is 2535 Highway 51 South, Suite 200, Hernando, Mississippi 38632.

2003: On frequent occasions during my 2003 campaign for my second term in the Mississippi State Senate, I offered extemporaneous remarks departing from my standard speech. I have no record of the specific dates of those events, and I do not have any notes, transcripts, or recordings.

1999: On frequent occasions during my 1999 campaign for Mississippi State Senate, I offered extemporaneous remarks departing from my standard speech. I have no record of the specific dates of those events, and I do not have any notes, transcripts, or recordings.

I performed the welcome and opening remarks for the annual Seventeenth District Drug Court Graduation in October from 2006 to 2016. I do not recall the contents of these introductory remarks. I have no notes, calendar, transcript or recording.

I have often performed the administration of Oath of Office for elected officials. I do not have a record of all of these but have listed those that I do recall.

I have spoken on occasion to high school and college students. I do not have a record of these. I do not recall the contents of these remarks. I have no notes, calendar, transcript or recording.

e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and copies of the clips or transcripts of these interviews where they are available to you.

Northwest Community College Foundation Awards, March 29, 2025. Acceptance speech available at https://youtu.be/d1pPdMOjtAc?si=XWZJ4lq5tfRA6cA2.

NWCC to honor Justice Chamberlin at Soiree, Tate Record, January 29, 2025. Copy supplied.

Justice Robert P. "Bobby" Chamberlin Awarded Northwest Alumni Professional Achievement Award, Northwest Mississippi Community College Foundation, January 22, 2025. Copy supplied.

Blake Smith, *Meet Newly Elected Mississippi Supreme Court Justice Robert P. Chamberlin*, Capital Area Bar Association, March 2017. Copy supplied.

"*A living, working reality*," Winona Times, January 12, 2017. Copy supplied.

Justice Chamberlin praised for fairness, intellect, integrity at investiture ceremony, State of Mississippi Judiciary, January 9, 2017. Copy supplied.

Four Supreme Court justices sworn in January 3, State of Mississippi Judiciary, January 3, 2017. Copy supplied.

Robert Lee Long, *Desoto County's Chamberlin wins election to Supreme Court*, The DeSoto Times, November 30, 2016. Copy supplied.

Robert Lee Long, *Supreme Challenge*, DeSoto Times, November 25, 2016. Copy supplied.

Robert Lee Long, *Drug Court pays off for participants, county*, DeSoto Times, July 27, 2016. Copy supplied.

Robert Lee Long, *Among the living and the dead,* DeSoto Times, October 25, 2012. Copy supplied.

Robert Lee Long, *Drug Court changing lives*, DeSoto Times, October 22, 2011. Copy supplied.

Robert Lee Long, *Second Circuit Judge would ease caseload,* DeSoto Times, December 18, 2007. Copy supplied.

DeSoto County Drug Court program begins operation, State of Mississippi Judiciary, October 13, 2006. Copy supplied.

Wayne Risher, *Off Bench,* DeSoto Appeal, March 9, 2006. Copy supplied.

Robert Lee Long, *Medicaid changeover eased by extension,* DeSoto Times Today, June 29, 2004. Copy supplied.

Staff and Wire reports, *House Oks Senate Tort Reform bill,* DeSoto Times Today, June 4, 2004. Copy Supplied

Sheila Hardwell Byrd, *Lawmakers considering bill to allow convicts to more easily regain rights,* Vicksburg Post, June 1, 2004. Copy supplied.

Julie Goodman, *Grueling session puts lawmakers to the test,* Clarion Ledger, May 29, 2004. Copy supplied.

Oliver Staley, *Compromise on voter ID bill fails,* Commercial Appeal, May 27, 2004. Copy supplied.

Civil Justice bill clears Mississippi Senate, Delta Democrat-Times, May 20, 2004. Copy supplied.

Shelia Hardwell Byrd, *Barbour says voter ID law shouldn't have exemptions,* Grenada Daily Star, May 17, 2004. Copy supplied.

Oliver Staley, *Special session called on tort suits, voter ID,* Commercial Appeal, May 14, 2004. Copy supplied.

Robert Lee Long, *Barbour recalls lawmakers to special session,* DeSoto Times Today, May 14, 2004. Copy supplied.

Opinion – Mary Messer, *Voter ID about fraud, not past policies,* Clarion Ledger, May 13, 2004. Copy supplied.

Robert Lee Long, *Governor to sign bill providing $44 million less for schools,* DeSoto

Times Today, May 11, 2004. Copy supplied.

Oliver Staley, *Miss. passes campaign bill*, Commercial Appeal, May 8, 2004. Copy supplied.

Shelia Hardwell Byrd, *House, Senate give campaign finance bill stamp of approval*, Daily Journal, May 8, 2004. Copy supplied.

AP wire, *Voter ID talks hit roadblock*, Meridian Star, May 6, 2004. Copy supplied.

Andy Kanengiser, *Negotiators unable to reach compromise on voter ID bill*, Clarion Ledger, May 6, 2004. Copy supplied.

Campaign finance appears dead after Senate sends back to conference, Daily Corinthian, May 5, 2004. Copy supplied.

Shelia Hardwell Byrd, *Conferees reach campaign finance deal*, Daily Journal, May 4, 2004. Copy supplied.

Voter ID OK'd by Senate, Delta Democrat-Times, April 29, 2004. Copy supplied.

Bobby Harrison, *Campaign finance bill headed to conference*, Daily Journal, April 28, 2004. Copy supplied.

Senate: No gay marriage, Deer Creek Pilot, March 18, 2004. Copy supplied.

Julie Goodman, *Voter fraud issue revived,* Clarion Ledger, February 18, 2004. Copy supplied.

William C. Bayne, *Chamberlin ready for election issues,* DeSoto Appeal, January 20, 2004. Copy supplied.

Robert Lee Long, *Chamberlin, Flowers bullish on committee assignments,* DeSoto Times, January 17, 2004. Copy supplied.

Toni Lepeska, *Hernando lawyer seeks re-election to state Senate,* DeSoto Appeal, December 27, 2003. Copy supplied.

Staff and Wire Reports, *Registration begins for list to block sales calls,* DeSoto Times, June 28, 2003. Copy supplied.

Robert Lee Long, *Musgrove signs bill to create equity funding pool for growing schools,* DeSoto Times Today, April 23, 2003. Copy supplied.

Robert Lee Long, *Lawmakers: Courage, prudence needed to shore up treasury,* DeSoto Times Today, April 9, 2003. Copy supplied.

Robert Lee Long, *School equity funding gets OK with one-year repealer,* DeSoto Times Today, April 1, 2003. Copy supplied.

Robert Lee Long, *Support for school equity funding bill promising, legislators say,* DeSoto Times Today, March 28, 2003. Copy supplied.

Jim Brock, *Educators honor Chamberlin,* DeSoto County Tribune, March 26, 2003. Copy supplied.

Robert Lee Long, *Health clinic bill headed for conference committee*, DeSoto Times Today, March 12, 2003. Copy supplied.

Robert Lee Long, *Legislature sends governor education bills,* DeSoto Times Today, February 1, 2003. Copy supplied.

Stacey Wiedower, *Miss. law could rid homes of pesky calls,* Memphis Daily News, January 30, 2003. Copy supplied.

Robert Lee Long, *"Do not call" bill designed to end disruption from telemarketing*, DeSoto Times Today, January 15, 2003. Copy supplied.

Robert Lee Long, *Lawmakers set to return to Jackson, face budget woes,* DeSoto Times Today, January 4, 2003. Copy supplied.

Robert Lee Long, *Tort reform efforts draw praise from area officials,* DeSoto Times Today, November 27, 2002. Copy supplied.

Robert Lee Long, *Officials say tort reform on minds of new business prospects,* DeSoto Times Today, October 12, 2002. Copy supplied.

Rino Dolbi, *The evidence is clear...,* DeSoto Times Today, June 25, 2002. Copy supplied.

Emily Wagner Pettis, *Auditor says state needs clearer laws on who is eligible for pauper burial,* Vicksburg Press, June 24, 2002, Copy supplied.

Robert Lee Long, *Redistricting of House, Senate on tap this week,* DeSoto Times Today, March 19, 2002. Copy supplied.

Robert Lee Long, *Legislature facing final showdown on budget talks*, DeSoto Times Today, March 13, 2002. Copy supplied.

Federal judges to take over redistricting process, DeSoto Times Today, January 16, 2002. Copy supplied.

Robert Lee Long, *Tort reform to be a major issue in 2002 Legislature,* DeSoto Times Today, January 3, 2002. Copy supplied.

Robert Lee Long, *Judicial redistricting put off until Congressional lines can be settled,* DeSoto Times Today, January 2, 2002. Copy supplied.

Robert Lee Long, *Legislature to grapple with rising prison cost in 2002*, DeSoto Times Today, December 29, 2001. Copy supplied.

Robert Lee Long, *DeSoto Central High School Construction funds not in danger*, DeSoto Times Today, December 28, 2001. Copy supplied.

Rino Dolbi, Study commission recommends sweeping changes for Mississippi judicial system, DeSoto Times Today, December 26, 2001. Copy supplied.

Rino Dolbi, *Chamberlin appointed to committee to study state's judicial system,* DeSoto Times Today, June 22, 2001. Copy supplied.

Rino Dolbi, *Chamberlin to represent state at War College,* DeSoto Times Today, April 26, 2001. Copy supplied.

Reed Branson, *Musgrove's local sales tax option reaches lawmakers*, Commercial Appeal, August 23, 2000. Copy supplied.

Rino Dolbi, *Expansion needed for DeSoto campuses*, DeSoto Times Today, August 10, 2000. Copy supplied.

Rino Dolbi, *Local legislators want to repeal bill on retirement perks*, DeSoto Times, June 22, 2000. Copy supplied.

Belinda Eldred, *Legislators: session rough, but productive*, DeSoto Times Today, May 9, 2000. Copy supplied.

Rino Dolbi, *Freshman senator has two month learning experience*, DeSoto Times Today, March 4 - 6, 2000. Copy supplied.

13. **Judicial Office**: State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

Associate Justice, Mississippi Supreme Court, District 3, Place 1
November 29, 2016 (Elected)
November 5, 2024 (Elected unopposed)

The Mississippi Supreme Court is the highest appellate court in the state of Mississippi.

Judge, Mississippi Seventeenth Judicial District
November 24, 2004 (Appointed)
November 7, 2006 (Elected unopposed)
November 2, 2010 (Elected unopposed)
November 4, 2014 (Elected unopposed)

This court is considered a trial level court, hearing all civil matters as well as felony criminal matters and various appeals from inferior tribunals.

Special Master, Chancery Court, Mississippi Third District
One year, mid – 1990s (Appointed)

This position had jurisdiction to assist the chancery court in non-dispositive matters.

Municipal Judge, City of Hernando
1991 – 1999 (Appointed)

This position had jurisdiction over misdemeanor criminal matters as well as preliminary hearings on felony cases.

a. Approximately how many cases have you presided over that have gone to verdict or judgment?

60-70

i. Of these cases, approximately what percent were:

jury trials:	95%
bench trials:	5%

ii. Of these cases, approximately what percent were:

civil proceedings:	15%
criminal proceedings:	85%

b. Provide citations for all opinions you have written, including concurrences and dissents.

Crabtree v. Allstate Property and Casualty Insurance Company, --- So.3d ----, 2025 WL 1409047 (Miss. 2025)

Chamberlin v. State, No. 2022-DR-00546-SCT, 2025 WL 1411239 (Miss. May 13, 2025)

Foreman v. DHP1, LLC, 406 So.3d 763 (Miss. 2025)

Radco Fishing and Rental Tools, Inc. v. Commercial Resources, Inc., 407 So.3d 167

(Miss. 2025)

Knight v. State, 407 So.3d 137 (Miss. 2025)

Middleton v. State, 407 So.3d 1023 (Miss. 2025)

Broome v. State, 402 So.3d 152 (Miss. 2025)

Smith v. State, --- So.3d ----, 2025 WL 432936 (Miss. 2025)

Weaver v. State, --- So.3d ----, 2025 WL 343113 (Miss. 2025)

Greenwood Leflore Hospital v. Boykin, 400 So.3d 445 (Miss. 2025)

X.G.C. v. Jackson County Department of Child Protection Services by Davenport, 400 So.3d 451 (Miss. 2025)

Carr v. State, --- So.3d ----, 2025 WL 275680 (Miss. 2025)

Mississippi Commission on Judicial Performance v. Moore, 400 So.3d 410 (Miss. 2025)

McGraw v. State, --- So.3d ----, 2024 WL 4987378 (Miss. 2024)

Ratcliff v. State, 396 So.3d 1101 (Miss. 2024)

In re Validation of Up to $27,600,000 Trust Certificates Evidencing Proportional Interests in a Lease by Simpson County School District, 400 So.3d 381 (Miss. 2024)

Scarborough v. Logan, 395 So.3d 381 (Miss. 2024)

ACE American Insurance Company v. Hetsco, Inc., 393 So.3d 1015 (Miss. 2024)

Fluker v. State, --- So.3d ----, 2024 WL 4163031 (Miss. 2024)

Hutto v. State, 391 So.3d 1192 (Miss. 2024)

Landrum v. Livingston Holdings, LLC, 396 So.3d 1026 (Miss. 2024)

Cassell v. Cassell, 389 So.3d 305 (Miss. 2024)

St. Dominic-Jackson Memorial Hospital v. Martin, 386 So.3d 359 (Miss. 2024)

Midsouth Association of Independent Schools v. Parents for Public Schools, 384 So.3d 1226 (Miss. 2024)

Archie v. State, 387 So.3d 963 (Miss. 2024)

Godbolt v. State, 407 So.3d 86 (Miss. 2024)

Harris v. State, 384 So.3d 493 (Miss. 2024)

In re Hassin, 396 So.3d 480 (Miss. 2024)

Smith v. Minier, 380 So.3d 889 (Miss. 2024)

Matter of Last Will and Testament of Bray, 404 So.3d 1146 (Miss. 2024)

Hardaway v. Howard Industries, Inc., 378 So.3d 946 (Miss. 2024)

Davis v. State, 379 So.3d 312 (Miss. 2024)

Shoemaker v. State, No. 2019-M-00832, 2024 WL 2160231 (Miss. 2024)

Fox v. State, No. 2022-KA-00988-SCT, 2024 WL 2168058 (Miss. 2024)

Cochran v. State, --- So.3d ----, 2024 WL 2160240 (Miss. 2024)

Gunn v. State, 374 So.3d 1206 (Miss. 2023)

K&C Logistics, LLC v. Old Dominion Freight Line, Inc., 374 So.3d 515 (Miss. 2023)

Godbolt v. Mississippi, No. 2020-DP-00440-SCT, 2023 WL 11647738 (Miss. 2023)

Rhea v. Career General Agency, Inc., 371 So.3d 1273 (Miss. 2023)

Priceline.com, LLC v. Fitch, 376 So.3d 1185 (Miss. 2023)

Young v. State, 368 So.3d 299 (Miss. 2023)

Stewart v. State, 367 So.3d 985 (Miss. 2023)

Mississippi State Democratic Party v. Hickingbottom, 361 So.3d 667 (Miss. 2023)

Anderson v. State, 361 So.3d 609 (Miss. 2023)

Henley, Lotterhos & Henley, PLLC v. Bryant, 361 So.3d 621 (Miss. 2023)

Mississippi Baptist Health Systems, Inc. v. Johnson, 360 So.3d 949 (Miss. 2023)

City of Ocean Springs v. Illanne, 360 So.3d 221 (Miss. 2023)

Luxe Homes, LLC v. Brewer, 359 So.3d 626 (Miss. 2023)

Mississippi Farm Bureau Casualty Insurance Company v. Peteet, 359 So.3d 191 (Miss. 2023)

White v. Targa Downstream, LLC, 358 So.3d 627 (Miss. 2023)

City of Jackson v. City of Pearl, 358 So.3d 621 (Miss. 2023)

City of Canton v. Slaughter, 358 So.3d 637 (Miss. 2023)

Pettis v. Simrall, 354 So.3d 295 (Miss. 2023)

Greenville Public School District v. Thomas, 352 So.3d 190 (Miss. 2022)

Carr v. Mississippi Lottery Corporation, 350 So.3d 1068 (Miss. 2022)

Haymon v. State, 346 So.3d 875 (Miss. 2022)

State by and Through Watson v. Long Beach Harbor Resort, LLC, 346 So.3d 406 (Miss. 2022)

Humphrey v. Holts, 364 So.3d 613 (Miss. 2022)

Manning v. State, 371 So.3d 117 (Miss. 2022)

Catholic Diocese of Jackson v. De Lange, 341 So.3d 887 (Miss. 2022)

Russell v. State, 346 So.3d 435 (Miss. 2022)

Mississippi State Port Authority at Gulfport v. Eutaw Construction Company, Inc., 340 So.3d 303 (Miss. 2022)

Ellis v. Ellis, 334 So.3d 1148 (Miss. 2022)

Lake Serene Property Owners Association Inc. v. Esplin, 334 So.3d 1139 (Miss. 2022)

Jones v. State, 334 So.3d 108 (Miss. 2022)

Batiste v. State, 337 So.3d 1013 (Miss. 2022)

University of Mississippi Medical Center v. Jensen, 334 So.3d 78 (Miss. 2022)

Copes v. State, 333 So.3d 1 (Miss. 2022)

Winfield v. Mississippi Bar, 349 So.3d 167 (Miss. 2021)

In re Contest of November 5, 2019 General Election for Chancery Clerk of Quitman, 329 So.3d 434 (Miss. 2021)

Kelly v. Ocwen Loan Servicing LLC, 329 So.3d 439 (Miss. 2021)

Spiers v. Oak Grove Credit, LLC, 328 So.3d 645 (Miss. 2021)

Singing River MOB, LLC v. Jackson County, 342 So.3d 140 (Miss. 2021)

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Batiste v. State, 364 So.3d 585 (Miss. 2020)

Casey v. State, 302 So.3d 617 (Miss. 2020)

Smith v. Hardy Wilson Memorial Hospital, 300 So.3d 991 (Miss. 2020)

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Harris v. State, 256 So.3d 574 (Miss. 2018)

Newsome v. Peoples Bancshares, 269 So.3d 19 (Miss. 2018)

Clark v. Bryant, 253 So.3d 297 (Miss. 2018)

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Hammons v. Navarre, 252 So.3d 9 (Miss. 2018)

Haynes v. State, 250 So.3d 1241 (Miss. 2018)

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Amos v. State, 363 So.3d 601 (Miss. 2017)

Williams v. State, 234 So.3d 1278 (Miss. 2017)

Mayor and City Council and City of Columbus v. Commercial Dispatch, 234 So.3d 1236

(Miss. 2017)

Dennis v. Dennis, 234 So.3d 371 (Miss. 2017)

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Fulgham v. Jackson, 234 So.3d 279 (Miss. 2017)

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Lewis v. Pagel, 233 So.3d 740 (Miss. 2017)

Perry v. State, 233 So.3d 750 (Miss. 2017)

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Shelton v. State, 214 So.3d 250 (Miss. 2017)

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Barham v. Miss. Power Co., 266 So.3d 994 (Miss. 2019) (Chamberlin, dissenting)

Logan v. RedMed, LLC, 377 So.3d 956 (Miss. 2024) (Chamberlin, dissenting)

Olshan Found. Repair Co. of Jackson, LLC v Moore, 251 So.3d 725 (Miss. 2018) (Chamberlin, dissenting)

Whitney Bank v. Triangle Constr. Co., Inc., 240 So.3d 1034 (Miss. 2017) (Chamberlin, dissenting)

Longo v. City of Waveland, 353 So.3d 437 (Miss. 2022) (Chamberlin, dissenting)

Ward v. Colom, 253 So.3d 265 (Miss. 2018) (Chamberlin, specially concurring)

In re Jex, 2025 WL 1133804 (April 17, 2025) (Chamberlin, specially concurring)

Davis v. Davis, 360 So.3d 196 (Miss. 2023) (Chamberlin, specially concurring)

City of Jackson v. Allen, 242 So.3d 8 (Miss. 2018) (Chamberlin, specially concurring)

Ashwell v. State, 226 So.3d 69 (Miss. 2017) (Chamberlin, concurring in result only)

Hatfield v. Deer Haven Homeowners Assoc., Inc., 234 So.3d 1269 (Miss. 2017) (Chamberlin, concurring in part and dissenting in part)

In re Estate of Eubanks v. Huber, 251 So.3d 734 (Miss. 2018) (Chamberlin, concurring in part and result)

In re Adoption of A.M., 323 So.3d 509 (Miss. 2021) (Chamberlin, concurring in part and result)

Wheelan v. City of Gautier, 332 So.3d 851 (Miss. 2022) (Chamberlin, concurring in result only)

Woods v. State, 242 So.3d 47 (Miss. 2018) (Chamberlin, concurring in part and dissenting in part)

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature of the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (4) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

1. *Thompson v. Rizzo Farms, Inc.*, Bolivar County Circuit Court 2nd District, Civil Action No. 2003-0094

Bolivar County Sheriff's Deputy Thompson filed suit against Rizzo Farms, Inc. as a result of personal injuries that Deputy Thompson sustained in a car wreck with Rizzo's employee, Brown. Deputy Thompson, while responding to a call, attempted to pass a heavy-duty truck when Brown, acting within the course and scope of his employment, began a left turn into his driveway resulting in a collision with Thompson's car. There was a witness dispute as to whether Thompson had activated his lights and siren. I presided over the trial. The jury found in favor of Rizzo. The jury verdict, and my judicial decisions, were affirmed by the Court of Appeals in *Thompson v. Rizzo Farms, Inc.*, 27 So.3d 452 (Miss.App. 2009).

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2. *Mersino Dewatering v. Roberts Contracting, Inc.,* Desoto County Circuit Court, Civil Action No. CV2011-0003 RCD

Mersino (MDI) sued Roberts (RCI) in a complex construction-contract dispute involving dewatering services, a necessary component of the project, MDI contracted to provide to RCI as a part of the Walls-Lagoon Project for improvement and expansion of a portion of Desoto County's regional sewer system. RCI paid MDI $612,448. MDI claimed it was owed an additional $117,690.30. This was a bench trial. I ruled in favor of MDI and awarded damages of $67,579. On appeal, the Court of Appeals determined that I had interpreted and enforced the contract correctly, properly denied RCI's motion in limine regarding MCI's business records and awarded damages based on substantial credible evidence. The Court of Appeals affirmed my bench verdict in *Roberts Contracting Inc. v. Mersino Dewatering Inc.,* 270 So.3d 994 (Miss. Ct. App. 2018).

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3. *State v. Ragland,* Desoto County Circuit Court, Criminal Cause No. CR2015-449

Shortly after 3:00 am on November 17, 2014, Manning, an employee of the Krystal restaurant in Olive Branch, was cleaning the restaurant when she turned around and saw a gun in her face. She could describe the assailant as a black male wearing a blue hoodie, surgical mask, gloves and shiny black shoes, and brandishing a black revolver. He demanded money. The Olive Branch Police Department subsequently pulled over a vehicle containing two suspects. Inside the vehicle, evidence was found, including a Krystal envelope, a Colt .38 revolver, ammunition, blue latex gloves, and surgical masks. Latex gloves were also found on Ragland's person. Ragland was convicted of armed robbery and conspiracy to commit armed robbery. The verdict, as well as my judicial decisions including the giving of an accomplice instruction, were affirmed by the Mississippi Supreme Court on appeal in *Ragland v. State,* 235 So.2d 1387 (Miss. 2017).

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4. *State v. Newberry,* Desoto County Circuit Court, Criminal Cause No. CR2006-703

On December 10, 2005, an undercover agent for the Desoto County Metropolitan Narcotics Unit, Wilkey, entered a residence on Labauve Street in Hernando. Agent Wilkey was with a confidential informant. Both men entered the kitchen and saw three white males and one black male. Agent Wilkey followed the black male into the living room and conducted a buy. The black male and two of the white males were never identified. Another black male, identified as Newberry, entered the room and sold agent Wilkey a bag of powder cocaine for $100. Newberry was convicted at trial and sentenced to sixty years due to his status as an habitual offender and a statutory enhancement as a repeat drug dealer. The Court of Appeals affirmed the conviction, as well as my judicial decisions including denial of Newberry's *Batson* challenge, in *Newberry v. State*, 19 So.3d 752 (Miss. Ct. App. 2008).

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5. *State v. Richardson,* Desoto County Circuit Court, Criminal Cause No. CR2006-00902-RC-1

Defendant Richardson was charged with fondling. On August 18, 2006, S.W., a ten-year-old child, was awoken early in the morning by a strange sound. S.W. then felt touching and poking in her "personal area." She jumped up and saw someone run out of the room into the bathroom. S.W. went to her mother's room and told her what had occurred. Her mother confirmed this. Richardson was the mother's boyfriend and the only other person at the home at the time. As trial judge, I granted the State's motion to clear the courtroom of nonessential personnel during the then 11-year old's testimony. Richardson was convicted. His conviction was affirmed by The Court of Appeals in *Richardson v. State,* 990 So.2d 247 (Miss.App. 2008)

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6. *Rhoda v. Weathers,* Desoto County Circuit Court, Civil Cause No. CV2009-0136CD

On April 11, 2004, Weathers was traveling south on W.E. Ross Parkway near its intersection with Church Road. Rhoda was travelling west on Church Road. What happened next was disputed with each claiming the other to be at fault. The jury returned a verdict for Weathers. The significance of this case involved my declining to assess sanctions for Weathers failing to admit the genuineness and admissibility of Rhoda's medical records. Weathers did not object to their admission at trial. The Mississippi Supreme Court upheld my determination in *Rhoda v. Weathers,* 87 So.3d 1036 Miss. 2012).

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7. *Ghane v. Mid-South Institute of Self Defense Shooting, Inc.,* Desoto County Circuit Court, Civil Cause No. CV2009-00240CD

This wrongful death action was brought against a private military contractor by the family of Ghane, a member of SEAL Team Five. Ghane was killed while involved in a live-fire, close-quarters combat training exercise in a shoot house at Mid-South Institute of Self-Defense when a bullet allegedly penetrated a ballistic wall, striking Ghane above his protective vest and killing him. After the incident, both the Navy Criminal Investigative Services (NCIS) and Naval Special Warfare Group One (NSWG-1) conducted an investigation. I denied defendant's first motion for summary judgment, finding issues of fact remained as to whether Ghane had fully released the defendants in his release and hold harmless. I granted the defendant's second motion for summary judgment, finding the claims raised a nonjusticiable political question because adjudication of the claim would require the trial court to question military training decisions and strategies. The Mississippi Supreme Court affirmed in part and reversed in part in *Ghane v. Mid-South Institute of Self-Defense Shooting, Inc.*, 137 So.3d 212 (Miss. 2014)

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8. *Truddle v. Baptist Memorial Hospital-Desoto, Inc.*, Desoto County Circuit Court, Civil Cause No. CV2010-0213CD

The wrongful death beneficiary of Carmichael sued Baptist Memorial Hospital-Desoto, Inc. and Dr. Malhotra after Carmichael committed suicide after being discharged from Baptist. Carmichael was admitted for chest pain and was diagnosed with gastrointestinal issues. Before discharge, Carmichael became agitated and aggressive but, over the beneficiary's objection was discharged. Carmichael returned for a scheduled follow up appointment and complained his medications were "making him crazy". Malhotra told Carmichael not to take additional pain medication and released him. Six days after release, and two days after his last appointment, Carmichael committed suicide. I granted summary judgment holding that, once a patient has been released from a defendant's custody, a suicide is only actionable when a defendant's intentional wrongful act proximately caused an irresistible impulse resulting in the suicide. The Mississippi Supreme Court affirmed in the oft-cited *Truddle v. Baptist Memorial Hospital-Desoto, Inc.*, 150 So.3d 692 (Miss. 2014)

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9. *Slater-Moore v. Goeldner*, Desoto County Circuit Court, Civil Cause No. CV2011-250

Slater-Moore hired the Goeldner Law Firm and its attorneys to represent her in what ultimately was an unsuccessful lawsuit and appeal. Slater-Moore and Goeldner entered into two separate contracts during the litigation with each containing almost identical provisions requiring any attorney-fee dispute be submitted to arbitration. Slater-Moore sued Goeldner claiming, among other things, that she was overbilled. Goeldner moved the court to compel arbitration which the court granted, finding that there was a valid arbitration agreement between the parties and that the fee dispute fell within the scope of that agreement. In an oft-cited opinion, the Mississippi Supreme Court affirmed this decision in *Slater-Moore v. Goeldner,* 113 So.3d 521 (Miss. 2013).

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10. *State v. Taggart,* Desoto County Circuit Court Criminal Cause No. CR2005-1011CD

Leon Taggart was charged in a multi-count indictment for house burglary, rape, kidnapping, and armed robbery. On September 5, 2005, Taggart appeared in the victim's bedroom in the early morning hours, bound her with duct tape and forcibly raped her. He used a knife to cut off the victim's pajamas and cut her in doing so. Taggart forced the victim to drive him, in her car, to an ATM where she was forced at knifepoint to withdraw money. Inexplicably, he then forced her to go through the drive thru at the Hernando McDonalds where she dove out of the car to safety. This case, cited often, was affirmed by the Mississippi Supreme Court in *Taggart v. State,* 957 So.2d 981 (Miss. 2007)

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d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

1. *Clark v. Bryant,* 253 So.3d 297 (Miss. 2018)

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2. *Priceline.com, LLC v. Fitch*

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3. *Harris v. State,* 256 So.3d 574 (Miss. 2018)

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4. *Araujo v. Bryant,* 283 So.3d 73 (Miss. 2019)

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5. *Landrum v. Livingston Holdings, LLC*

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6. *Hutto v. State,* 227 So.3d 963 (Miss. 2017)

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7. *Watson Laboratories, Inc. v. State,* 241 So.3d 573 (Miss. 2018)

Counsel for Appellant:

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8. *RW Development, LLC v. Mississippi Gaming Commission,* 307 So.3d 404 (Miss. 2020)

Counsel for Appellant:

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9. *Catholic Diocese of Jackson v. Delange,* 341 So.3d 887 (Miss. 2022)

Counsel for Appellant:

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Counsel for Appellee:

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10. *Miss. Dep't of Revenue v. SBC Telecom,* 306 So.3d 648 (Miss. 2020)

Counsel for Appellant:

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John S. Stringer
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Counsel for Appellee:

John F. Fletcher

Jones Walker
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e. Provide a list of all cases in which certiorari was requested or granted.

Godbolt v. Mississippi, 407 So.3d 86 (Miss. 2024), cert. denied, 145 S. Ct. 1965 (2025)

Hutto v. Mississippi, 391 So.3d 1192 (Miss. 2024), cert. denied, 145 S. Ct. 1093 (2025)

Manning v. Mississippi, 371 So.3d 117 (Miss. 2022), cert. denied, 144 S. Ct. 135 (2023)

Clark v. Mississippi, 315 So.3d.987 (Miss. 2021), cert. denied, 142 S. Ct. 466 (2021)

Turner v. Mississippi, 319 So.3d 1066 (Miss. 2021), cert. denied, 142 S. Ct. 241 (2021)

Carr v. Mississippi, 283 So.3d 18 (Miss. 2019), cert. denied, 141 S. Ct. 138 (2020)

Hutto v. State, 227 So.3d 963 (Miss. 2017), cert. denied, 583 U.S. 1123 (2018)

After a Westlaw search of the United States Supreme Court, I have been unable to find other cases over which I presided as a trial judge or wrote as a Supreme Court Justice where certiorari has been requested.

f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

Everett Moore v. State of Mississippi, 247 So.3d 1198 (Miss. 2018). The issue in this case was whether a defendant in a criminal case was entitled to a circumstantial evidence instruction. I concluded that he was not. On appeal, the Mississippi Supreme Court reversed, holding that defendant in criminal case was entitled to such an instruction. This decision was subsequently overruled in *Nevels v. State,* 325 So.3d 627 (Miss. 2021).

Long v. Vitkauskas, 228 So.3d 302 (Miss. 2017). The issue in this case was whether a rebuttable presumption existed that the return receipt associated with certified mail delivery of service of process was signed by Pennsylvania resident or his authorized agent, and thus service of process was to be deemed sufficient when resident failed to rebut the presumption. At the trial court level, I concluded that it did not. The Court of Appeals affirmed. The Mississippi Supreme Court reversed, concluding that the presumption existed and applied.

Davis v. State, 196 So.3d 194 (Miss. Ct. App. 2016). The issue in this case was whether the defendant was entitled to a change of venue. The Court of Appeals reversed, holding that the defendant was entitled to a change of venue.

Desoto County v. T.D. and Aaron Dennis, Desoto County Circuit Court CV 2012-284CD, *rev'd,* 160 So.3d 1154 (Miss. 2015). The issue in this case was whether the county was entitled to immunity under the Mississippi Tort Claims Act for a justice court clerk's failure to cancel an arrest warrant. I authored the circuit court opinion denying a motion for summary judgment. On appeal, the Mississippi Supreme Court reversed, finding that the county was entitled to immunity.

Tinseltown Cinema, LLC v. City of Olive Branch, 158 So.3d 367 (Miss. Ct. App. 2015). The issue in this case was whether the decision of the city's board to deny zoning applications was arbitrary and capricious. The Court of Appeals reversed, concluding that the board's decision was arbitrary and capricious).

Ghane v. Mid-South Inst. of Self Defense Shooting, Inc., 137 So. 212 (Miss. 2014). The issue in this case was whether (reversed trial court, holding that the adjudication of the wrongful death claim did not implicate political question that was barred from judicial review).

Sanford v. State, 121 So.3d 957 (Miss. Ct. App. 2013). The issue in this case was whether it was proper to revoke post-release supervision based on the prisoner's commission of new offenses where the terms of PRS were to run consecutively. At the trial court level, I revoked the terms of PRS. On appeal, the Court of Appeals held that it was error to revoke the term of PRS that had not yet begun.

Wilty v. Alpha, 99 So.3d 830 (Miss. Ct. App. 2012). The issue in this case was whether the defendants were entitled to judgment notwithstanding a verdict (JNOV). At the trial court level, I concluded the evidence was insufficient to support the verdict. On appeal, the Mississippi Court of Appeals reversed, holding that the grant of JNOV constituted reversible error.

Ladd v. State, 87 So.3d 1108 (Miss. Ct. App. 2012). The issue in this case was whether walking through an open garage door met the "breaking" element for burglary. The Court of Appeals reversed, holding that it did not satisfy that element.

Thomas v. State, 75 So.3d 1112 (Miss. Ct. App. 2011). The issue in this case was whether the defendant was entitled to a castle doctrine jury instruction in a case involving a shooting outside of his car. At the trial court level, I concluded he was not. On appeal, the Court of Appeals held that he was entitled to the instruction.

McLemore v. Miss. Transp. Comm'n, 992 So.2d 1107 (Miss. 2008). The issue in this case was whether the Tort Claims Act applied. I concluded that it did. The Mississippi Supreme Court reversed, holding that the claim was not subject to the Tort Claims Act because the takings clause applied to the property owners' allegations.

Oaks v. Sellers, 953 So.2d 1077 (Miss. 2007). The issue in this case was when the statute of limitations on a claim against insurance agents began to run. I denied a motion for summary judgment based on the statute of limitations. On appeal, the Mississippi Supreme Court held that the statute of limitations began to run at the latest when insurer denied claim on ground that driver, insured's son, was not acting in course and scope of employment, not when a court imputed liability to insured.

g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

As a Mississippi Supreme Court Justice, I have occasionally had opinions and orders not designated for publication in official reporters. However, those opinions and orders are still available in databases such as Westlaw and Lexis. The percentage of such unpublished opinions would be approximately 5%.

Some of my opinions as a Circuit Court judge are available in databases such as Westlaw and Lexis and any unpublished opinions are stored as part of the court files maintained by the court.

h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

Midsouth Assoc. of Indep. Sch. v. Parents for Pub. Sch., 384 So.2d 1226 (Miss. 2024)

In re Validation of up to $27,600,000 Trust Certificates Evidencing Proportional Interests in a Lease by the Simpson Cnty. Sch. Dist. v. Simpson Cnty. Sch. Bd., 400 So.3d 381 (Miss. 2024)

Catholic Diocese of Jackson v. Delange, 341 So.3d 887 (Miss. 2022)

Russell v. State, 346 So.3d 435 (Miss. 2022)

Araujo v. Bryant, 283 So.3d 73 (Miss. 2019)

Clark v. Bryant, 253 So.3d 297 (Miss. 2018)

Mayor & City Council & City of Columbus v. Com. Dispatch, 234 So.3d 1236 (Miss. 2017)

Johnson v. State, 235 So.3d 1404 (Miss. 2017)

Smith v. Webster, 233 So.3d 242 (Miss. 2017)

i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

I have never sat by designation on a Federal Court of Appeals.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;

b. a brief description of the asserted conflict of interest or other ground for recusal;

c. the procedure you followed in determining whether or not to recuse yourself;

d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

As a Supreme Court Justice, I am called upon to assess whether recusal is necessary pursuant to the Mississippi Rules of Judicial Conduct. We are provided a list of cases as they are assigned, including names of parties and attorneys to assist in that decision. Unless it is a case where a party has requested recusal, there is no written order indicating recusal and the opinion usually designates "not participating". Upon receipt of the case assignments, I will indicate recusal to court administration. Those cases are listed below. However, there are cases where, upon circulation, it might come to my attention that a person unaware of all circumstances might believe there to be a conflict. In such instances, I do not participate in the case and simply vote "not participating". An example of this is a short period of time where I did not participate in Judicial Performance cases because the director was my landlord at the time. As to my time as Circuit Court Judge, I have no record of recusals. I would note that I did recuse a few times based on friendship with a party or prior working relationship with an attorney.

Brown v. State, 277 So.3d 1288 (Miss. 2017) (served as trial judge)

Long v. Vitkauskas, 228 So.3d 302 (Miss. 2017) (served as trial judge)

Shumake v. Shumake, 233 So.3d 234 (Miss. 2017) (personally friendship with party)

Ragland v. State, 235 So.3d 1387 (Miss. 2017) (served as trial judge)

Desoto Cnty. v. Standard Constr., Inc., 283 So.3d 102 (Miss. 2019) (former law partners on each side of case)

Thompson v. Desoto Cnty. Intervention Court, 337 So.3d 1035 (Miss. 2022) (Former presiding judge of Desoto County Intervention Court)

Moore v. State, 247 So.3d 1198 (Miss. 2018) (served as trial judge)

In re McClure, 347 So.3d 183 (Miss. 2022) (dispute between judges in former circuit court district)

15. **Public Office, Political Activities and Affiliations**:

e. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

Mississippi State Senator for District One, January 2000 to 2004, elected in1999 to a four-year term and re-elected to another term in November of 2003. I did not complete the second term, as I was appointed to the Mississippi Seventeenth Circuit Court judge position by the governor Haley Barbour.

Board Counsel for the DeSoto County, Mississippi Board of Supervisors, 2001 to 2004. I was appointed to this position by the Board of Supervisors and remained in this position until my appointment to the Mississippi Seventeenth Circuit Court judge position by the governor Haley Barbour.

Municipal Prosecutor for the City of Horn Lake, Mississippi in 1992. I was appointed to this position by the City of Horn Lake Board of Aldermen.

I have never had any unsuccessful candidacies for elective office or unsuccessful nominations for appointed office.

f. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I have never held an office in any political party or election committee.

16. **Legal Career:** Answer each part separately.

a. Describe chronologically your law practice and legal experience after graduation from law school including:

i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I have never served as a clerk to a judge.

ii. whether you practiced alone, and if so, the addresses and dates;

I have not practiced law alone.

iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each;

2001 – 2004
Chamberlin & Nowak P.C.
170 West Center Street
Hernando, Mississippi 38632
Law Partner

1990 – 2001
Austin Law Firm
(briefly known as Tollison, Austin, and Twiford)
6928 Cobblestone Blvd., Suite 100
Southaven, Mississippi 38672
Law Partner (1994 – 2001)
Law Associate (1990 – 1994)

iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have not served as a mediator or arbitrator.

b. Describe:

i. the general character of your law practice and indicate by date when its character has changed over the years.

After law school, I went to work at what became the Austin Law Firm. Initially, my practice was a general garden variety civil and criminal practice as well as domestic work and real estate closings. Shortly thereafter, a large amount of my time was dedicated to assisting Bill Austin, attorney for the local board of

supervisors, and William Myers in any litigation work arising from said representation. This included representation of various county entities, including the sheriff's department as well as local county officials. That responsibility grew when Myers left the firm in 1994, and I became a partner in the firm. During this period, I still maintained a general civil practice.

In 2001, Bill Austin retired and Tony Nowak and I formed Chamberlin-Nowak, P.C. At this time, I was appointed attorney for the board of supervisors. I also continued to work on litigation involving the county, assisted by Mr. Nowak. This included continued representation of various county entities including the sheriff's department as well as local county officials. During this period, I continued to maintain a general civil and criminal practice. I also participated in a minimal amount of transactional work. Some of this work had to be shared after I became a state senator in 2000 due to time constraints. I was appointed to the Circuit Court bench in late 2004.

ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

In private practice, I served both individuals and governmental entities as well as other corporate entities. The majority of my time was spent representing the Desoto County governmental clients. However, there was still a healthy amount of work done for individuals and smaller amount done for private corporations.

c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

The majority of my practice has been litigation. I appeared in court frequently, at least monthly, sometimes weekly. That included civil, governmental, civil and criminal cases.

i. Indicate the percentage of your practice in:

1.	federal courts:	10%
2.	state courts of record:	75%
3.	other courts:	15%
4.	administrative agencies:	0%

ii. Indicate the percentage of your practice in:

1.	civil proceedings:	80%
2.	criminal proceedings:	20%

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than

settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

To the best of my recollection, I have tried approximately 20 cases to verdict. I was sole counsel in all but three of those cases. In one of those cases, I was lead counsel, in two I served as associate counsel.

i. What percentage of these trials were:

1.	jury:	33%
2.	non-jury:	67%

e. Describe your practice, if any, before the Supreme Court of the United States. Supply copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have never appeared before the Supreme Court of the United States.

17. **Litigation**: Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

a. the date of representation;

b. the name of the court and the name of the judge or judges before whom the case was litigated; and

c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *Baptist Mem'l Health Care Sys. v. 3 Amigos Inc.,* Desoto County Circuit Court, Civil Cause No. 93285 (1993)

This was a zoning case in which I represented 3 Amigos, Inc. in their attempt to rezone an establishment, formerly used as a seafood restaurant, for use as a restaurant with the inclusion of a prominent bar area. This request was vigorously contested by Baptist Hospital which maintained a facility nearby. After a hearing before the Southaven Board of Aldermen, the matter was appealed to the Desoto County Circuit Court which granted the rezoning request. This case was affirmed, per curiam, by the Mississippi Court of Appeals in *Baptist Mem'l Health Care Sys., Inc. v. 3 Amigos, Inc.,* 669 So. 2d 791 (Miss.App. 1995) The dates of my representation were 1993-1995. The case was heard by Circuit Court Judge Andrew C. Baker.

Counsel Opposite:

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Memphis, Tennessee 38119-4839
(901) 522-9000

2. *State v. Tony Keith Reynolds,* Yalobusha County Circuit Court, case number unavailable, (1995)

I was appointed to represent Reynolds who was charged with two counts of murder. This case began as a dispute between Reynolds and one of the alleged victims in a honkytonk in Yalobusha County, Mississippi near the Yocona River. After searching for Reynolds in and around Coffeeville, Mississippi, the alleged victims (a father and adult son) cornered Reynolds in a field where he had parked his van to sleep. When the father attempted to pull Reynolds out of the van, Reynolds shot and killed him with a shotgun. He was then confronted by the son outside of the van and, likewise, shot and killed him with a shotgun. The jury verdict was not guilty on both counts on the grounds of self-defense. My representation was in 1995. The case was heard by Circuit Court Judge George C. Carlson, Jr.

Counsel opposite:
John Champion (deceased)
DeSoto County District Attorney
365 Losher Street
Hernando, Mississippi 38632
(662) 469-8014

3. *Miss. Dep't of Transp. v. B&G Outdoor,* Tunica County Circuit Court, Civil Cause No. 950166

I represented B&G Outdoor in the Tunica County Special Court of Eminent Domain against the Mississippi Department of Transportation over payment of replacement costs for a billboard after the land upon which the billboard was situated was taken for a highway project. MDOT offered the cost to relocate the billboard. However, due to zoning changes requiring billboards to be on monopoles, B&G claimed it would cost almost double what MDOT was offering. The trial court ruled that, interpreting the Mississippi Relocation Law, MDOT had to pay for a billboard in conformity with the new zoning regulations. This case was affirmed by the Mississippi Court of Appeals in *Miss. Dep't of Transp. v. B&G Outdoor,* 722 So.2d 1273 (Miss. 1998). The dates of my representation were 1996-1997. The case was heard by Circuit Court Judge John L. Hatcher.

Counsel opposite:
Paul R. Scott
Scott, Thompson & Welshans, PLLC

2545 Caffey Street
Hernando, Mississippi 38632
(662) 429-5041

4. *State v. Larry Henderson,* Desoto County Circuit Court, Criminal Cause No. CR-90-210-CW

In my first jury trial, I represented Henderson who was charged with false pretenses after fraudulently obtaining funds from the local bank in Hernando. The case involved a mistaken identification by two separate bank employees. There was another man with the same name as Henderson who was a regular customer of the bank. When given his name, the employees indicated they knew Henderson well. However, at trial, they were unable to identify the defendant as he was not the Henderson they knew. I produced the namesake Henderson, who they readily identified. The trial court granted a directed verdict for my client. The dates of my representation were 1990-1991.The case was heard by Circuit Court Judge George C. Carlson, Jr.

Counsel opposite;
J. Michael Horan
612 Main Street
Hattiesburg, Mississippi 39401
(601) 270-4499

5. *City of Horn Lake v. Grant,* Desoto County Circuit Court, Criminal Cause No. 9378

I represented the City of Horn Lake in their prosecution of Grant for DUI. Grant was a serial drunk driver who had thus far avoided conviction as well as a critic of Horn Lake city government. In this case, the City attempted to pull Grant over but Grant evaded the police and continued driving to his residence. Upon arriving at his residence he ran inside and jumped on the toilet, claiming that is where he had been the entire time. His defense centered on harassment for his criticisms of the city. The case was tried to a jury in Desoto County Court where Grant was found guilty. This was affirmed by the Desoto County Circuit Court in this cause as well as by the Mississippi Court of Appeals, per curiam, in *Grant v. City of Horn Lake,* 675 So.2d 1262 (Miss.App. 1995). The dates of my representation were 1993-1995. The jury trial was heard by County Court Judge Mills Barbee, while the Circuit Court Appeal was heard by Circuit Court Judge George C. Carlson, Jr.

Counsel opposite:
James D. Franks
2584 Highway 51 South, Suite 1
Hernando, Mississippi 38632
(662) 429-5914

6. *France, et.al v. City of Olive Branch,* United States District Court for the Northern District of Mississippi, Civil Cause No. 2:96CV148-B-B, 2:96CV188-B-B

I represented France, a former police officer, against the City of Olive Branch for various claims surrounding his wrongful termination. France was one of six police officers who was suspended with pay and ultimately terminated as a result of allegations of sexual misconduct with a minor which ultimately proved to be false. At their termination hearing, the officers were not given a specific basis for their termination and were terminated for such vague reasons as "conduct unbecoming a police officer". Their names were released to the press and substantial coverage in the local media followed. After summary judgment motions were denied, the case proceeded to trial before a jury in Oxford, Mississippi. After the plaintiffs rested their case, a settlement was reached for $95,000 per plaintiff. The dates of my representation were 1996-1998. The case was heard by United States District Court Judge Neil B. Biggers, Jr.

Co-Counsel:
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Oxford, Mississippi 38655
(662) 234-0766

Counsel opposite:
Gary E. Friedman
Friedman & Friedman
2600 South Douglas Road, Suite 1011
Coral Gables, Florida 33134-6142
(305) 446-6485

7. *Herring v. Byrd Bros., LLC*, Lafayette County Circuit Court, Civil Cause No. L00-340

I represented Byrd Brothers, LLC, a construction company, in their dispute with Bobby Herring d/b/a Herring Plumbing and Electric, over payment for work done on a construction project in Lafayette County, Mississippi. Herring sued Byrd on an open account and Byrd counter-claimed for breach of contract and slander of title. There was a disagreement as to whether the plumbing services provided by Herring included gas and gas fixtures which led to discord as well as billing problems that arose during the project. After a bench trial, the trial court entered a verdict for Herring, dismissing Byrd's counterclaims. However, on appeal, the Mississippi Court of Appeals reversed, holding that Herring had been given an opportunity to repair defective work but chose not to do so and that Byrd Brothers, LLC was entitled to, and obligated to, move forward and mitigate damages. *Byrd Bros., LLC v. Herring,* 861 So.2d 1070 (Miss.App. 2003). The dates of my representation were 2000-2003. The case was heard by Circuit Court Judge Henry L. Lackey.

Counsel opposite:
Omar D. Craig (deceased 12-1-2011)

8. *Roberts v. Roberts,* Desoto County Chancery Court, Civil Cause No. 02-08-1175(L)

I served as co-counsel to D. Pace Branan in this divorce case. I cannot recall if I was listed as counsel of record at trial although I am listed, along with Ms. Branan, as appellate counsel of record. This was a domestic case involving an agreed upon divorce and a contested dissolution of marital assets, alimony, child support and attorney fees. The Chancery Court found for our client on all major issues. This decision was affirmed by the Court of Appeals in *Roberts v. Roberts,* 924 So.2d 550 (Miss. Ct. App. 2005). My dates of representation were 2003-2005. The case was heard by Chancery Court Judge Percy L. Lynchard, Jr.

Co-counsel:
D. Pace Branan
2584 Highway 51 South, Suite 4
Hernando, Mississippi 38632
(662) 449-4800

Counsel opposite:
Steven G. Roberts
The Roberts Law Firm
221 West Main Street
Senatobia, Mississippi 38668
(662) 301-8313

9. *Wyssbrod v. Wittjen,* Desoto County Circuit Court, Civil Cause No. 950166

I represented, along with William P. Myers, First Bank of Holly Springs in a case involving a complex and convoluted business relationship between Wyssbrod and Wittjen. Our client was the unfortunate repository of some of the disputed funds and was sued for failing to honor certain checks. We obtained a summary judgment for our client as well as attorney fees and expenses. The court subsequently entered sanctions against Wyssbrod's attorneys. The court further sanctioned one of Wyssbrod's attorneys for failure to appear at a scheduled status hearing. The sanctions, attorney fees and expenses were affirmed in part, modified in part and reversed in part by the Mississippi Supreme Court in *Wyssbrod v. Wittjen,* 798 So.2d 352 (Miss. 2001). My dates of representation were 1995-2001. The case was heard by Circuit Court Judge George B. Ready.

Co-counsel:
William P. Myers
Myers Law Group

2042 McIngvale Road
Hernando, Mississippi 38632
(662) 429-1994

Counsel opposite:
James Welch
Welch & Associates Law Firm LLC
P. O. Box 3257
Gulfport, Mississippi 39505
(228) 206-5932

Omar D. Craig (deceased 12-1-2011)

10. *Bass v. Parkwood Hosp., et al,* United States District Court for the Northern District of Mississippi, civil cause number unknown

I represented Desoto County, Mississippi in an action brought by an involuntary committee against a private hospital, hospital employee, and county, asserting claims for due process violations, failure to accommodate religious dietary preferences and disability, race discrimination, malicious prosecution, and false imprisonment. The claims against Desoto County arose from sheriff deputies detaining Bass in the facility shortly before a chancery court special master issued a writ to take custody of Bass for mental examination or retention. The U.S. District Court ruled in favor of Desoto County, finding that Bass' claims failed as a matter of law. The dismissal of the claims against Desoto County were affirmed by the United States Court of Appeals, Fifth Circuit, in *Bass v. Parkwood Hospital,* 180 F.3d 234 (5th Cir. 1999). My dates of representation were 1996-1999. The case was heard by United States District Court Judge Neil B. Bigger, Jr.

Counsel opposite:
Myron Bass, pro se

18. **Legal Activities**: Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

The most significant legal activity I have pursued has been the formation, along with former Circuit Court Judge and Supreme Court Justice Ann Lamar, of the 17th Circuit Court Drug Court. This was a pet project of mine from the time I took the bench in 2004 and became a reality shortly thereafter. Seeing defendants close the revolving door of addiction/recidivism has been one of the great pleasures of serving on the bench. After being elected to the Mississippi Supreme Court, I have continued my advocacy for the drug courts, now called intervention courts, by chairing the State Intervention Court Advisory Committee.

As a circuit court judge, I served as Chairman of the state Conference of Circuit Court Judges and, as such, worked with judges from across the state to convey to the Mississippi Supreme Court and the Mississippi legislature the needs of the circuit courts.

I was also proud to pursue public service as a State Senator from 2000-2004. During this time I served as Chairman of the Elections Committee as well as Vice-Chairman of the Universities and Colleges Committee. I was also recognized as Legislator of the Year by the Mississippi Law Enforcement Officers Association in 2003.

19. **Teaching**: What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide copies to the committee.

I have never taught a class.

20. **Deferred Income/ Future Benefits**: List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

Other than 401K's, State of Mississippi retirement, and my wife's retirement, I have no anticipated future income, should I be appointed to this position.

21. **Outside Commitments During Court Service**: Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

Should I be confirmed, I would hope to be able to continue speaking on occasion to school classes, and at judiciary conferences.

22. **Sources of Income**: List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding $500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

When my nomination is formally submitted to the Senate, I will file my mandated Financial Disclosure Report and supply a copy to this committee.

23. **Statement of Net Worth**: Please complete the attached financial net worth statement in detail (add schedules as called for).

See attached Net Worth Statement.

24. **Potential Conflicts of Interest**:

a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

To my knowledge, there are no family members or other persons, parties, categories of litigation, or financial arrangements likely to present a potential conflict of interest that I would anticipate encountering. Of course, I will recuse from any litigation in which I played a role. I also realize the necessity to recuse in cases where I have a personal relationship with a party or any relationship with an attorney that would go beyond professional friendship.

b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

If confirmed, I will carefully review and address any real or potential conflicts by reference to 28 U.S.C. Section 455, Canon 3 of the Code of Conduct for United Stated Judges, and any and all other laws, rules and practices governing such circumstance.

25. **Pro Bono Work**: An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

Currently, as a Mississippi Supreme Court Justice, I cannot engage in traditional pro bono work. The same is true of my time as a Circuit Court Judge. Of course, this covers 2004 until the present. During that time, however, I have participated where possible to assist those who provide pro bono services. This includes attendance at pro bono clinics on behalf of the Supreme Court. On the Supreme Court, we are also supportive of the Access to Justice initiatives which includes not only funding but directions for those needing to access our court system who may not only lack funding but also guidance as to how to proceed.

As a practicing attorney, I strove to meet and exceed the pro bono expectations of the Mississippi Bar. This is above and beyond the voluminous pro bono work I have done on behalf of family members and friends who did not have the financial means to hire counsel.

26. **Selection Process**:

a. Please describe your experience in the entire judicial selection process, from

beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

On November 7, 2024, I contacted U.S. Senator Roger Wicker and U.S. Senator Cindy Hyde-Smith, expressing my interest in being appointed to the vacancy on the United States District Court for the Northern District of Mississippi. On April 16, 2025, I was contacted by the White House Counsel's Office, which advised that I had been recommended as a potential nominee to the U.S. District Court for the Northern District of Mississippi. On April 23, 2025, I interviewed with the White House Counsel's Office in Washington, D.C. Since June 5, 2025, I have been in contact with officials from the White House Counsel's Office and the Justice Department's Office of Legal Policy regarding the nomination.

b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

FINANCIAL STATEMENT

NET WORTH

Provide a complete, current financial net worth statement which itemizes in detail all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

ASSETS				LIABILITIES			
Cash on hand and in banks		132	623	Notes payable to banks-secured (auto)		37	321
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule		328	378	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable – see schedule		172	336
Real estate owned – see schedule	1	557	950	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		82	790	Co-signer on Daughter-in-law's car		25	457
Cash value-life insurance		14	317				
Other assets itemize:							
MS PERS – Robert		304	137				
MS PERS – Kimberly		19	000				
Fed. Thrift Savings – Kimberly		611	778	Total Liabilities		235	114
SLRP - Robert				Net Worth	2	815	859
Total Assets	3	050	973	Total Liabilities and Net Worth	3	050	973
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities	
LPL Financial – Robert	$47,000
Sammons Institutional Group	199,515
LPL Financial – Kimberly	74,000
Apple, INC	594
Alibaba Group Hldg LTD	466
Corecivic INC	520
General Dynamics	559
Huntington Ingalls	916
Leidos Hldgs Inc	442
L3 Harris Technologies Inc	497
Lockheed Martin Corp	467
Nvidia Corp	581
Palo Alto Networks Inc	593
Rafael Holdings Inc	396
RTX Corp	587
Smithfield	237
Charles Schwab cash balance	1008
Total Listed Securities	$328,378

Real Estate Owned	
Personal Residence	$420,000
Rental Property	213,200
Undeveloped Land #1	75,000
Undeveloped Land #2 (50% interest)	56,250
Undeveloped Land #3 (50% interest)	40,000
Vacation Home (75% interest)	187,500
Residence #2	300,000
Residence #3 (Co-Owner)	266,000
Total Real Estate Owned	$1,557,950

Real Estate Mortgages Payable	
Residence #3 – Mortgage	$153,916
HELOC	18,420
Total Real Estate Mortgages Payable	$172,336

AFFIDAVIT

I, Robert P. Chamberlin, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

8/1/25
(DATE)

Robert P. Chamberlin
(NAME)

Dale K. Thompson
(NOTARY)
By: V. Griffith, D.C.

CIRCUIT COURT OF DESOTO COUNTY MISSISSIPPI

My Commission Expires
January 3, 2028

Senator Dick Durbin
Ranking Member, Senate Judiciary Committee
Written Questions for Robert Porter Chamberlin
Nominee to be U.S. District Judge for the Northern District of Mississippi
September 10, 2025

1. You cosponsored SB2619, which allowed a health care provider to refuse treatment if it violated his or her conscience, without facing any consequences. The legislation's purpose and effect would have been to restrict access to abortion for women in Mississippi and provide a cover for providers who denied care to patients.

   You sponsored a proposed state constitutional amendment to prevent same-sex marriages performed in other states to be legally recognized in Mississippi in 2004. In support of the measure, you stated that, "sometimes preventative medicine is best."

   And, you voted for a bill to make it illegal for municipalities within Mississippi to sue gun manufacturers, distributors, or dealers for faulty design, manufacture, distribution or sale of firearms and ammunition because you wanted to "limit some of the rampant lawsuits that some other states have experienced."

   Why should women seeking reproductive care, members of the LGBTQ+ community, and victims of gun violence believe that they will be treated fairly in your courtroom—should you be confirmed to the federal bench—given your support for these legislative efforts?

   Response**:** The legislation referenced in the question was from over twenty years ago. It occurred over ten years before the U.S. Supreme Court decision in *Obergefell*. I will apply *Obergefell* and all binding precedent if confirmed as a United States District Court Judge. The reason all parties should feel they will be treated fairly in my courtroom is that I have proven it over the last 21 years, first with 12 years on the state trial court bench and then with almost 9 years on the Mississippi Supreme Court.

2. **You have previously spoken about the issue of addiction faced by many Americans, and highlighted the need to "put those with this mental illness back on the right track." Do you support President Trump's decision to cut over $11 billion in public health grants to address addiction and mental health, among other public-health problems?**

   Response**:** It would be inappropriate for me, as a judicial nominee, to comment on the wisdom of an executive decision made by the President.

3. Thousands of absentee and mail-in ballots were cast by voters during your election to the Mississippi Supreme Court. Yet, President Trump has vowed to eliminate voting by mail and electronic voting systems, calling it a "completely disproved Mail-In SCAM" and claiming that it enables "MASSIVE VOTER FRAUD."

a. Do you believe that the mail-in votes that were cast for you during your run for the Mississippi Supreme Court were a scam?

Response: The question invokes a political dispute. It would be inappropriate for me, as a judicial nominee, to comment on such a political dispute. As to my election, I have confidence in the Mississippi Secretary of State and the state election committee that it was conducted appropriately.

Months after your election, Mississippi Secretary of State defended state control and decision-making over election systems, arguing that "the diversity of current state election systems is one reason these systems have remained secure."

b. Do you disagree with President Trump that states are "merely an 'agent' for the Federal Government in counting and tabulating" election results?

Response: Please see my response to Question 3a.

c. During your tenure as Chairman of the Election Committee of the Mississippi State Senate, did you uncover widespread or systemic fraud owing to the use of mail-in ballots?

Response: I do not recall investigating fraud related to mail-in ballots during my tenure.

4. Did President Trump lose the 2020 election?

Response: President Biden was certified as the winner of the 2020 presidential election and served as the 46th President of the United States.

5. Where were you on January 6, 2021?

Response: I was in Mississippi.

6. Do you denounce the January 6 insurrection?

Response: The characterization of the events of January 6, 2021 have been the subject of much political debate. There is, likewise, continuing litigation involving those events. As a judicial nominee it would be inappropriate for me to comment on political issues as well as matters in ongoing litigation.

7. Do you believe that January 6 rioters who were convicted of violent assaults on police officers should have been given full and unconditional pardons?

Response: The pardon power belongs to the executive. The decision to pardon rests within the sound discretion of the President. To the extent this question asks for an

opinion of the President's decision or otherwise comment on a political matter, as a judicial nominee, it would be inappropriate for me to further comment.

8. The Justice Department is currently defending the Trump Administration in a number of lawsuits challenging executive actions taken by the Administration. Federal judges—both Republican and Democratic appointees—have enjoined some of these actions, holding that they are illegal or unconstitutional. Alarmingly, President Trump, his allies, and even some nominees before the Senate Judiciary Committee have responded by questioning whether the executive branch must follow court orders.

a. What options do litigants—including the executive branch—have if they disagree with a court order?

Response**:** The standard course would be to request a rehearing, obtain a stay, or appeal the order.

b. Do you believe a litigant can ever lawfully defy an order from a lower federal court? If yes, in what circumstances?

Response**:** Orders are meant to be followed. Those unhappy with an order should request a rehearing, request a stay, or file an appeal. However, there are certain, very limited, circumstances where a party can raise a defense to compliance such as lack of jurisdiction or impossibility. *See, e.g.*, 17 Corpus Juris Secundum Contempt Sections 56-65. Further, in some instances, defying a court order is necessary to appeal it. *See, e.g., Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009). Also see 15B Charles Alan Wright & Arthur R. Miller, Fed. Prac. & Proc. Juris. (2nd ed.) Section 3914.23.1.

c. Under the separation of powers, which branch of the federal government is responsible for determining whether a federal court order is lawful?

Response: The judicial branch. Additionally, see my response to Question 8b.

9. District judges have occasionally issued non-party injunctions, which may include "nationwide injunctions" and "universal injunctions."

a. Are non-party injunctions constitutional?

Response: This question relates to matters that are the subject of ongoing litigation. Therefore, it would be improper for me, as a judicial nominee, to further comment.

b. Are non-party injunctions a legitimate exercise of judicial power?

Response: Please see my response to Question 9a.

c. Is it ever appropriate for a district judge to issue a non-party injunction? If so, under what circumstances is it appropriate

Response: Please see my response to Question 9a.

d. As a litigator, have you ever sought a non-party injunction as a form of relief? If so, please list each matter in which you have sought such relief.

Response: Not to my knowledge.

10. At any point during your selection process, did you have any discussions with anyone—including individuals at the White House, the Justice Department, or any outside groups—about loyalty to President Trump? If so, please provide details.

Response: No

11. Does the U.S. Constitution permit a president to serve three terms?

Response: Section1 of the 22nd Amendment to the U.S. Constitution directs that "No person shall be elected to the office of the President more than twice". To the extent this question implicates an ongoing political dispute, it would be inappropriate for me, as a judicial nominee, to comment further.

12. On May 26, 2025, in a Truth Social post, President Trump referred to some judges whose decisions he disagrees with, as "USA HATING JUDGES" and "MONSTERS", who "…SUFFER FROM AN IDEOLOGY THAT IS SICK, AND VERY DANGEROUS FOR OUR COUNTRY…"[1]

a. Do you agree that these federal judges are "USA HATING" and "MONSTERS" who "…SUFFER FROM AN IDEOLOGY THAT IS SICK, AND VERY DANGEROUS FOR OUR COUNTRY…"?

Response: It would be inappropriate for me, as a judicial nominee, to comment regarding political disputes or the opinion of any political figure.

b. Do you believe this rhetoric endangers the lives of judges and their families?

Response: Please see my response to Question 12a.

13. In addition to the President's own attacks on judges, his adviser Stephen Miller took to social media to call a federal trade court's ruling against President Trump's tariffs a

[1] Donald J. Trump (@realDonaldTrump), TRUTH SOCIAL (May 26, 2025, 7:22AM), https://truthsocial.com/@realDonaldTrump/posts/114573871728757682.

"judicial coup"[2] and later reposted the images of the three judges who decided the case and wrote, "we are living under a judicial tyranny."[3]

a. Do you agree that these judges are engaged in a "judicial coup" and that "we are living under a judicial tyranny"

Response: Please see my response to Question 12a.

b. Do you believe this rhetoric endangers the lives of judges and their families?

Response: Please see my response to Question 12a.

c. Would you feel comfortable with any politician or their adviser sharing a picture of you on social media if you issue a decision they disagree with?

Response: Please see my response to Question 12a.

14. When, if ever, may a lower court depart from Supreme Court precedent?

Response: It is never appropriate for lower courts to depart from controlling Supreme Court precedent.

15. When, in your opinion, would it be appropriate for a circuit court to overturn its own precedent?

Response: As a district court nominee, I will not be called upon to overturn circuit court precedent. Circuit courts should follow the standards set in caselaw, and their own precedent, for when to overrule existing circuit court precedent.

16. When, in your opinion, would it be appropriate for the Supreme Court to overrule its own precedent

Response: As a district court nominee, I will not be called upon to overturn Supreme Court precedent. In determining whether Supreme Court precedent should be overruled, the Supreme Court applies the stare decisis factors set out in *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215, 268-90 (2022).

17. Please answer yes or no as to whether the following cases were correctly decided by the Supreme Court:

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[2] Stephen Miller (@StephenM), X, (May 28, 2025, 7:48PM), https://x.com/StephenM/status/1927874604531409314.
[3] Stephen Miller (@StephenM), X, (May 29, 2025, 8:25AM), https://x.com/StephenM/status/1928065122657845516.

a. ***Brown v. Board of Education***

Response: As dozens of nominees have said before, it is almost always improper for judicial nominees to give a thumbs-up or thumbs-down to Supreme Court precedent. To my knowledge, the only two exceptions to this general rule against opining on the merits of Supreme Court cases are *Brown* and *Loving*. I agree that both those decisions were correctly decided.

b. ***Plyler v. Doe***

Response: See above

c. ***Loving v. Virginia***

Response: See above

d. ***Griswold v. Connecticut***

Response: See above

e. ***Trump v. United States***

Response: See above

f. ***Dobbs v. Jackson Women's Health Organization***

Response: See above

g. ***New York State Rifle & Pistol Association, Inc. v. Bruen***

Response: See above

h. ***Obergefell v. Hodges***

Response: See above

i. ***Bostock v. Clayton County***

Response: See above

j. ***Masterpiece Cakeshop v. Colorado***

Response: See above

k. ***303 Creative LLC v. Elenis***

Response: See above

l. ***United States v. Rahimi***

Response: See above

m. ***Loper Bright Enterprises v. Raimondo***

Response: See above

18. With respect to constitutional interpretation, do you believe judges should rely on the "original meaning" of the Constitution?

Response: As a district court judge, should I be so confirmed, my obligation would be to apply binding precedent. As a district court judge, it seems highly unlikely that I would be called upon to interpret constitutional provisions but would, rather, be called upon to apply them. However, should I be so required, I would employ methodologies consistent with those used by the U.S. Supreme Court and Fifth Circuit Court of Appeals when called upon to undertake constitutional interpretation.

19. How do you decide when the Constitution's "original meaning" should be controlling?

Response: Please see my response to Question 18.

20. Does the "original meaning" of the Constitution support a constitutional right to same-sex marriage?

Response: The *Obergefell* decision holds that the Constitution includes that right. As a district court judge, I would apply all binding precedent. An analysis of original public meaning would not figure into the application of binding precedent.

21. Does the "original meaning" of the Constitution support the constitutional right to marry persons of a different race?

Response: The *Loving* decision holds that the Constitution includes that right. As a district court judge, I would apply all binding precedent. An analysis of original public meaning would not figure into the application of binding precedent.

22. What is your understanding of the Equal Protection and Due Process clauses of the Fourteenth Amendment?

Response: The Equal Protection Clause and the Due Process Clause require strict and intermediate scrutiny when the government attempts to classify persons based on a protected characteristic or quasi-protected characteristic. These protections include both procedural rules and substantive rights.

23. How do these clauses apply to individuals that the Framers of the amendment likely did not have in mind, such as women? Or LGBTQ+ individuals?

Response: The Supreme Court has found these protections to apply to sex discrimination and sexual orientation, among others. As with all other binding precedent, I will faithfully apply these decisions if so confirmed.

24. Do you believe that judges should be "originalist" and adhere to the original public meaning of constitutional provisions when applying those provisions today?

Response: Please see my response to Question 18.

25. If so, do you believe that courts should adhere to the original public meaning of the Foreign Emoluments Clause when interpreting and applying the Clause today?

Response: Please see my response to Question 18.

26. Under the U.S. Constitution, who is entitled to First Amendment protections?

Response: While the First Amendment applies to everyone, the Supreme Court has recognized that the First Amendment can apply differently to different people and in different circumstances. While preferences of one speaker over another is disfavored, and usually subject to strict scrutiny when favoring a particular content, there are also occasions where strict scrutiny is not required. *See, e.g. TikTok Inc. v. Garland*, 145 S.Ct. 57, 68 (2025).

27. How would you determine whether a law that regulates speech is "content-based" or "content-neutral"? What are some of the key questions that would inform your analysis?

Response: First and foremost, I would apply applicable binding precedent on the issue. Generally, determining whether a law regulating speech is content-based, as opposed to content-neutral, you have to determine whether the law in question regulates a particular kind of speech. In other words, does it apply to particular speech because of the topic discussed or the idea or message expressed. *See, e.g., City of Austin, Texas v. Reagan Nat'l Advertising of Austin, LLC*, 596 U.S. 61 (2022).

28. What is the standard for determining whether a statement is protected speech under the true threats doctrine?

Response: As set forth in *Counterman v. Colorado*, 660 U.S. 66, 74 (2023), true threats of violence are unprotected. They are defined as "serious expressions conveying that a speaker means to commit an act of unlawful violence." *Id.*

29. Is every individual within the United States entitled to due process?

Response: The Supreme Court has stated that "the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis,* 533 U.S. 678, 693 (2001). The question in most cases is less about whether the doctrine of due process applies and more about how much process is due. If confirmed, I will follow all binding precedent on the issue.

30. Can U.S. citizens be transported to other countries for the purpose of being detained, incarcerated, or otherwise penalized?

Response: This question is the subject of intense public debate and is being currently litigated. As a judicial nominee it would be inappropriate for me to comment on the subject.

31. The Fourteenth Amendment states: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside."

a. Is every person born in the United States a citizen under the Fourteenth Amendment?

Response: This question asks about matters being currently litigated. Therefore, it would be improper for me, as a judicial nominee, to comment on the subject.

b. Is the citizenship or immigration status of the parents of an individual born in the United States relevant for determining whether the individual is a citizen under the Fourteenth Amendment?

Response**:** This question asks about matters being currently litigated. Therefore, it would be improper for me, as a judicial nominee, to comment on the subject.

32. Do you believe that demographic and professional diversity on the federal bench is important? Please explain your views.

Response: Yes. Nobody should be excluded from the opportunity to serve as a judge based on race, ethnicity, sex, religion, or any other protected characteristic. Such diversity serves, among other things, to bring different viewpoints from differing backgrounds to the bench.

33. The bipartisan *First Step Act of 2018*, which was signed into law by President Trump, is one of the most important pieces of criminal justice legislation to be enacted during my time in Congress. At its core, the Act was based on a few key, evidence-based principles.

First, incarcerated people can and should have meaningful access to rehabilitative programming and support in order to reduce recidivism and help our communities prosper. Second, overincarceration through the use of draconian mandatory minimum sentences does not serve the purposes of sentencing and ultimately causes greater, unnecessary harm to our communities. With these rehabilitative principles in mind, one thing Congress sought to achieve through this Act was giving greater discretion to judges—both before and after sentencing—to ensure that the criminal justice system effectively and efficiently fosters public safety for the benefit of all Americans.

a. How do you view the role of federal judges in implementing the *First Step Act*?

Response: I would follow the *First Step Act of 2018* as well as all other sentencing directives. Judges are required to faithfully and impartially, within the parameters of the law, sentence defendants on a case by case basis applying all applicable sentencing directives including 18 U.S.C. 3553 and the Sentencing Guidelines.

b. Will you commit to fully and fairly considering the individualized circumstances of each defendant who comes before you when imposing sentences to ensure that they are properly tailored to promote the goals of sentencing and avoid terms of imprisonment in excess of what is necessary?

Response: Yes

34. The Federalist Society seeks to "reorder[] priorities within the legal system to place a premium on individual liberty, traditional values, and the rule of law."

a. During your selection process, have you spoken to or corresponded with any individuals associated with the Federalist Society, including Leonard Leo or Steven G. Calabresi? If so, please provide details of those discussions.

Response: No

b. Have you ever been asked to and/or provided services to the Federalist Society, including research, analysis, advice, speeches, or appearing at events?

Response: No

c. Have you ever been paid honoraria by the Federalist Society? If so, how much were you paid, and for what services?

Response: No

35. The Teneo Network states that its purpose is to "Recruit, Connect, and Deploy talented conservatives who lead opinion and shape the industries that shape society."

a. During your selection process, have you spoken to or corresponded with any individuals associated with the Teneo Network, including Leonard Leo? If so, please provide details of those discussions.

Response: No

b. Have you ever been asked to and/or provided services to the Teneo Network, including research, analysis, advice, speeches, or appearing at events?

Response: No

c. Have you ever been paid honoraria by the Teneo Network? If so, how much were you paid, and for what services?

Response: No

36. The Heritage Foundation states that its mission is to "formulate and promote public policies based on the principles of free enterprise, limited government, individual freedom, traditional American values, and a strong national defense." Heritage Action, which is affiliated with the Heritage Foundation, seeks to "fight for conservative policies in Washington, D.C. and in state capitals across the country."

a. During your selection process, have you spoken to or corresponded with any individuals associated with the Heritage Foundation or Heritage Action, including Kevin D. Roberts? If so, please provide details of those discussions.

Response**:** No

b. Have you ever been asked to and/or provided services to the Heritage Foundation or Heritage Action, including research, analysis, advice, speeches, or appearing at events?

Response: No

c. Were you ever involved in or asked to contribute to Project 2025 in any way?

Response: No

d. Have you ever been paid honoraria by the Heritage Foundation or Heritage Action? If so, how much were you paid, and for what services?

Response: No

37. The America First Policy Institute (AFPI) states that its "guiding principles are liberty, free enterprise, national greatness, American military superiority, foreign-policy engagement in the American interest, and the primacy of American workers, families, and communities in all we do."

a. During your selection process, have you spoken to or corresponded with any individuals associated with AFPI? If so, please provide details of those discussions.

Response: No

b. Have you ever been asked to and/or provided services to AFPI, including research, analysis, advice, speeches, or appearing at events?

Response: No

c. Have you ever been paid honoraria by AFPI? If so, how much were you paid, and for what services?

Response: No

38. The America First Legal Institute (AFLI) states that it seeks to "oppose the radical left's anti-jobs, anti-freedom, anti-faith, anti-borders, anti-police, and anti-American crusade."

a. During your selection process, have you spoken to or corresponded with any individuals associated with AFLI, including Stephen Miller, Gene Hamilton, or Daniel Epstein? If so, please provide details of those discussions.

Response: No

b. Have you ever been asked to and/or provided services to AFLI, including but not limited to research, analysis, advice, speeches, or appearing at events?

Response: No

c. Have you ever been paid honoraria by AFLI? If so, how much were you paid, and for what services?

Response: No

39. The Article III Project is an organization which claims that, "The left is weaponizing the power of the judiciary against ordinary citizens."

a. During your selection process, have you spoken to or corresponded with any individuals associated with the Article III Project, including Mike Davis, Will Chamberlain, or Josh Hammer? If so, please provide details of those discussions.

Response: No

b. Have you ever been asked to and/or provided services to the Article III Project, including research, analysis, advice, speeches, or appearing at events?

Response: No

c. Have you ever been paid honoraria by the Article III Project? If so, how much were you paid, and for what services?

Response: No

40. The Alliance Defending Freedom (ADF) states that it is "the world's largest legal organization committed to protecting religious freedom, free speech, the sanctity of life, marriage and family, and parental rights."

a. During your selection process, have you spoken to or corresponded with any individuals associated with ADF? If so, please provide details of those discussions.

Response: No

b. Have you ever been asked to and/or provided services to ADF, including research, analysis, advice, speeches, or appearing at events

Response: No

c. Have you ever been paid honoraria by ADF? If so, how much were you paid, and for what services?

Response: No

41. The Concord Fund, also known as the Judicial Crisis Network, states that it is committed "to the Constitution and the Founders' vision of a nation of limited government; dedicated to the rule of law; with a fair and impartial judiciary." It is affiliated with the 85 Fund, also known as the Honest Elections Project and the Judicial Education Project.

a. During your selection process, have you spoken to or corresponded with any individuals associated with these organizations, including Leonard Leo or Carrie Severino? If so, please provide details of those discussions.

Response: No

b. Have you ever been asked to and/or provided services to these organizations, including research, analysis, advice, speeches, or appearing at events?

Response: No

c. Have you ever been paid honoraria by these organizations? If so, how much were you paid, and for what services?

Response: No

d. Do you have any concerns about outside groups or special interests making undisclosed donations to front organizations like the Concord Fund or 85 Fund in support of your nomination? Note that I am not asking whether you have solicited any such donations, I am asking whether you would find such donations to be problematic.

Response: I am unaware of these groups or the allegations suggested by the question. Any activities by these groups, or others, would have no effect on my judicial decision making process. I would at all times abide by the law, rules and judicial canons.

e. If you learn of any such donations, will you commit to call for the undisclosed donors to make their donations public so that if you are confirmed you can have this information when you make decisions about recusal in cases that these donors may have an interest in?

Response: I am unaware of these groups or the allegations suggested by the question. Any activities by these groups, or others, would have no effect on my judicial decision making process. I would at all times abide by the law, rules and judicial canons.

f. Will you condemn any attempt to make undisclosed donations to the Concord Fund or 85 Fund on behalf of your nomination?

Response: I am unaware of these groups or the allegations suggested by the question. Any activities by these groups, or others, would have no effect on my judicial decision making process. I would at all times abide by the law, rules and judicial canons.

Nomination of Robert P. Chamberlin
Nominee to the United States District Court for the Northern District of Mississippi
Questions for the Record
Submitted September 10, 2025

QUESTIONS FROM SENATOR WHITEHOUSE

Please answer each question and sub-question individually and as specifically as possible.

1. As a state senator, did you cosponsor a state constitutional amendment to prevent same-sex marriages performed in other states from being legally recognized in Mississippi?

   Response: I did cosponsor SCR 514 during the 2004 Mississippi legislative regular session. This was a legislative enactment made in the representation of constituents from over 20 years ago, not a judicial decision. The purpose of the SCR was to prevent Mississippi from being required to recognize enactments from other states that were, at the time, illegal in Mississippi. Further, this was over 10 years before the U.S. Supreme Court decision in *Obergefell v. Hodges*, 576 U.S. 644 (2015). The decision in *Obergefell* is binding precedent. If I am fortunate enough to be confirmed as a U.S. District Court Judge, I will faithfully apply *Obergefell*, as well as all binding precedent of the U.S. Supreme Court as well as the Fifth Circuit Court of Appeals where applicable.

   a. Did you say the following about this amendment?

      A constitutional amendment certainly carries with it more weight. Sometimes preventive medicine is best.

      Response: I do not recall making the referenced statement. However, if it comes from a reputable source, I do not deny making the statement.

   b. What did you mean by "preventive medicine"?

      Response: It is clear from the context that the phrase is referencing the avoidance of litigation by acting preemptively.

2. As a state senator, did you cosponsor legislation to prohibit same-sex couples from adopting children?

   Response: I did cosponsor SB 2916 during the 2000 Mississippi legislative regular session. This was a legislative enactment made in the representation of constituents from almost 25 years ago, not a judicial decision. This was over 10 years before the U.S. Supreme Court decision in *Obergefell v. Hodges*, 576 U.S. 644 (2015). The decision in *Obergefell* is binding precedent. If I am fortunate enough to be confirmed as a U.S. District Court Judge, I will faithfully apply *Obergefell*, as well as all binding precedent of the U.S. Supreme Court as well as the Fifth Circuit Court of Appeals where applicable.

Senate Judiciary Committee
Nomination Hearing
September 3, 2025
Questions for the Record
Senator Amy Klobuchar

For Robert Chamberlin, nominee to be U.S. District Judge for the Northern District of Mississippi

While serving as a member of the Mississippi Senate, you introduced a state constitutional amendment to prevent same-sex marriages performed in other states to be legally recognized in Mississippi. In 2022, Congress passed the *Respect for Marriage Act*, which guarantees that valid marriages between two people are given full faith and credit in every state.

- If confirmed as a federal judge, will you recognize that federal law requires Mississippi to recognize and give full faith and credit to same sex marriages entered into another state?

  Response: Yes. I would recognize and respect any congressional act. Further, the referenced legislation was over 10 years before the U.S. Supreme Court decision in *Obergefell v. Hodges*, 576 U.S. 644 (2015). The decision in *Obergefell* is binding precedent. If I am fortunate enough to be confirmed as a U.S. District Court Judge, I will faithfully apply *Obergefell*, as well as all binding precedent of the U.S. Supreme Court as well as the Fifth Circuit Court of Appeals where applicable. Working as a legislator, representing constituents, and serving as a trial court judge, being a servant of the Constitution and the law, are vastly different. I have shown for almost 21 years now that I can be fair to all litigants on all issues that come before me as a judge. This would include the requirement to give full faith and credit to same sex marriages entered into in another state.

Nomination of Robert Porter Chamberlain to the
United States District Court for the Northern District of Mississippi
Questions for the Record
Submitted September 10, 2025

QUESTIONS FROM SENATOR COONS

1. At any point during the process that led to your nomination, did you make any representations or commitments to anyone—including but not limited to individuals at the White House, at the Justice Department, or at outside groups—as to how you would handle a particular case, investigation, or matter, if confirmed? If so, explain fully.

   Response: No

   a. At any point during the process that led to your nomination, were you asked about your opinion on any cases that involve President Trump or the Trump administration?

      Response: No

2. How would you describe your judicial philosophy?

   Response: If confirmed, my judicial philosophy would be to faithfully carry out the duties of an Article III judge of an "inferior" court to the U.S. Supreme Court. In doing so, I would apply all precedents of the U.S. Supreme Court as well as any other applicable laws or rules binding on the court.

3. With respect to substantive due process, what factors do you look to when a case requires you to determine whether a right is fundamental and protected under the Fourteenth Amendment?

   Response: If confirmed, I would faithfully apply the standards set forth in applicable Supreme Court precedent.

   a. Would you consider whether the right is expressly enumerated in the Constitution?

      Response: Yes. *See, e.g., Timbs v. Indiana,* 586 U.S. 146, 151 (2019); *McDonald v. City of Chicago, 561 U.S. 742, 767 (2010)*

   b. Would you consider whether the right is deeply rooted in this nation's history and tradition? If so, what types of sources would you consult to determine whether a right is deeply rooted in this nation's history and tradition?

      Response: Yes. I would consult historical sources including caselaw. I would also apply the instruction and sources referenced in *Dobbs v. Jackson Women's Health*

Organization, 597 U.S. 215, 237-40 (2022). As always, I would apply Supreme Court precedent.

c. Would you consider whether the right has previously been recognized by Supreme Court or circuit precedent? What about the precedent of another court of appeals?

Response: Yes. I would of course look to U.S. Supreme Court precedent and then precedent from the Fifth Circuit Court of Appeals. In the absence of such precedent, I would consult relevant case law from other circuits.

d. Would you consider whether a *similar* right has previously been recognized by Supreme Court or circuit precedent?

Response: Yes

e. What other factors would you consider?

Response: I would consider any factors which had been identified in controlling precedent.

4. In your view, is it ever appropriate for a judge to ignore, disregard, refuse to implement, or issue an order that is contrary to an order from a higher court? Please explain.

Response: It is never appropriate for a district court judge to fail to follow an order from a court which has appellate authority over that district court

5. Under 28 U.S.C. § 455, "[a]ny justice, judge, or magistrate judge of the United States shall disqualify [themself] in any proceeding in which [their] impartiality might reasonably be questioned."

a. If confirmed, would you recuse yourself from future cases involving challenges to Mississippi laws on which you voted affirmatively in the state legislature?

Response: In addressing the need to recuse in a case, I will abide by all laws, rules and judicial ethical canons.

b. Would you recuse yourself from future cases involving challenges to Mississippi laws you voted against while in the state legislature?

Response: In addressing the need to recuse in a case, I will abide by all laws, rules and judicial ethical canons.

6. In *United States v. Virginia*, 518 U.S. 515, 536 (1996), the Court explained that in 1839, when the Virginia Military Institute was established, "[h]igher education at the time was considered dangerous for women," a view widely rejected today. In *Obergefell v.*

Hodges, 576 U.S. 644, 668 (2015), the Court reasoned, "As all parties agree, many same-sex couples provide loving and nurturing homes to their children, whether biological or adopted. And hundreds of thousands of children are presently being raised by such couples. . . . Excluding same-sex couples from marriage thus conflicts with a central premise of the right to marry. Without the recognition, stability, and predictability marriage offers, their children suffer the stigma of knowing their families are somehow lesser." This conclusion rejects arguments made by campaigns to prohibit same-sex marriage based on the purported negative impact of such marriages on children.

a. When is it appropriate for a court to consider evidence that sheds light on our changing understanding of society?

Response: If I am confirmed, I will follow all applicable binding precedent. As regards consideration of particular evidence, at the district court level, that would be determined on a case by case basis pursuant to the rules of evidence.

b. What is the role of sociology, scientific evidence, and data in judicial analysis?

Response: At the district court level, I would be determining cases and controversies. The admissibility of scientific, technical, or other specialized knowledge in the determination of adjudicative facts is governed by Federal Rule of Evidence 702.

7. As a state senator, you supported a proposed state constitutional amendment to prevent same-sex marriages performed in other states from being legally recognized in Mississippi. The Supreme Court's decision in *Obergefell v. Hodges*, 576 U.S. 644 (2015), requires states to license and recognize same-sex marriages.

a. Why should the public be confident that you can apply *Obergefell* fairly when you tried to bar recognition of out-of-state marriages in Mississippi in the past?

Response: a. This legislation was over 10 years before the U.S. Supreme Court decision in *Obergefell v. Hodges,* 576 U.S. 644 (2015). The decision in *Obergefell* is binding precedent. If I am fortunate enough to be confirmed as a U.S. District Court Judge, I will faithfully apply *Obergefell*, as well as all binding precedent of the U.S. Supreme Court as well as the Fifth Circuit Court of Appeals where applicable. Working as a legislator, representing constituents, and serving as a trial court judge, being a servant of the Constitution and the law, are vastly different. I have shown for almost 21 years now that I can be fair to all litigants on all issues that come before me as a judge.

b. Would you recuse yourself from cases involving claims of discrimination against LGBTQ people?

Response: In addressing the need to recuse in a case, I will abide by all laws, rules and judicial ethical canons.

8. Do you consider yourself an originalist?
Response: I believe that when interpreting provisions of the constitution, we should give words and phrases their original public meaning.

   a. You said during your Senate Judiciary Committee confirmation hearing that *Brown v. Board of Education* was correctly decided. Can you explain how the Court's decision in *Brown* comports with an originalist interpretation of constitutional law?

      Response: The Fourteenth Amendment of the Constitution requires equal protection of all citizens under the laws. *See* U.S. Const. amend. xiv ("[N]or shall any state . . . deny to any person within its jurisdiction the equal protection of the laws."). This topic has been the subject of significant scholarly attention and that many well-renowned scholars believe the decision is consistent with originalist principles. *See, e.g.*, Michael W. McConnell, *Originalism and the Desegregation Decision*, 81 Va. L. Rev. 947, 1140 (1995) ("This Article shows ... that school segregation was understood during Reconstruction to violate the principles of equality of the Fourteenth Amendment.").

   b. You said during your Senate Judiciary Committee confirmation hearing that *Loving v. Virginia* was correctly decided. Can you explain how the Court's decision in *Loving* comports with an originalist interpretation of constitutional law?

      Response: The Fourteenth Amendment of the Constitution requires equal protection of all citizens under the laws. *See* U.S. Const. amend. xiv ("[N]or shall any state . . . deny to any person within its jurisdiction the equal protection of the laws."). This topic has been the subject of significant scholarly attention and that many well-renowned scholars believe the decision is consistent with originalist principles. *See, e.g.*, David R. Upham, *Interracial Marriage and the Original Understanding of the Privileges or Immunities Clause*, 42 Hastings Constitutional Law Quarterly 213 (2015); Steven G. Calabresi and Andrea Matthews, *Originalism and Loving v. Virginia*, 2012 BYU L. Rev. 1393 (2012).

   c. During your hearing, you were unwilling to answer whether you believed the Supreme Court's decision in *Obergefell v. Hodges* was correct. Why?

      Response: As numerous nominees have pointed out, it is generally improper to comment on the correctness of Supreme Court decisions except for the acknowledgement that they are binding precedent. There have been two exceptions to this general rule, *Brown* and *Loving*.

   d. How many times does Justice Kennedy's decision for the Supreme Court in *Obergefell* cite *Loving v. Virginia*?

I have not counted the exact number of times *Loving* is cited in *Obergefell,* however, upon review, it appears to be approximately 11-12 times.

9. I have been proud to co-lead the bipartisan *Safer Supervision Act*, a bill to reform our federal supervised release system that has received substantial conservative and law enforcement support. The premise of the bill is that our federal supervision system has strayed far from how Congress designed it, as courts impose it mechanically in essentially every case, which means that probation officers do not have time to properly supervise those who most need it. The bill reinforces courts' existing obligations under 18 U.S.C. §§ 3553 and 3583 to impose supervision as warranted by the individual facts of the case and encourages more robust use of early termination when warranted to provide positive incentives encouraging rehabilitation. At the encouragement of a bipartisan group of members of Congress, the U.S. Sentencing Commission recently finalized an amendment to supervision guidelines implementing certain parts of the bill; this amendment will go in effect in November.

    a. As a sentencing judge, would you endeavor to impose supervision thoughtfully and on the basis of the individual facts of the case consistent with 18 U.S.C. § 3553 and 18 U.S.C. § 3583?

    Response: Yes. I would faithfully follow 18 U.S.C. Section 3553 and U.S.C. Section 3583, as well as any other sentencing directives.

    b. Would you agree that the availability of early termination under 18 U.S.C. § 3583(e)(1) can provide individuals positive incentives to rehabilitate?

    Response: I agree that Congress has made the determination that early termination of supervised release is appropriate in some circumstances.

    c. Will you commit if confirmed to reviewing the *Safer Supervision Act* and the recent Sentencing Commission amendment and considering them as you develop your approach to sentencing of supervised release?

    Response: Yes

10. What is the remedy if the President violates his constitutional duty to faithfully execute the laws?

    Response: The legislative body has the option of impeachment proceedings. Regarding legal action, it would be inappropriate for me, as a judicial nominee, to comment on particular avenues available in the judicial process in matters involving an executive and his duties.

11. Is President Trump eligible to be elected President for a third term?

Response: Section 1 of the Twenty-Second Amendment states, in part, "No person shall be elected to the office of the President more than twice...." To the extent the question asks about political disputes, it would be improper for me, as a judicial nominee, to comment on any ongoing political dispute.

12. Who won the 2016 U.S. Presidential Election?

Response: Donald J. Trump. There was no dispute among the candidates.

13. Who won the 2020 U.S. Presidential Election?

Response: President Biden was certified as the winner of the 2020 presidential election and served as the 46th President of the United States. To the extent this question seeks to elicit an answer that could be taken as opining on the broader political or policy debate regarding the conduct of the 2020 presidential election or on statements by any political figure, my response, consistent with the position of prior judicial nominees when asked questions regarding the 2020 election, is that it would be improper to offer any such comment as a judicial nominee. See Code of Conduct of U.S. Judges, Canons 3(A)(6), 5.

14. Who won the 2024 U.S. Presidential Election?

Response: Donald J. Trump. There was no dispute among the candidates.

15. Would it be constitutional for the President of the United States to punish a private person for a viewpoint that person expresses in a newspaper op-ed?

Response: The limited facts given make it impossible to promulgate an educated First Amendment response. As a nominee, I do not think it would be appropriate for me to comment on such an abstract hypothetical scenario.

16. Do you agree with me that the attack at the U.S. Capitol on January 6, 2021, was an insurrection? Why or why not?

Response: The characterization of the events of January 6, 2021 has been the subject of much political debate. There is, likewise, continuing litigation involving those events. As a judicial nominee it would be inappropriate for me to comment on political issues as well as matters in ongoing litigation.

17. Would it be constitutional for the President of the United States to terminate government contracts with a private person specifically because that person donated to members of the opposite political party?

Response: This question references an ongoing political dispute which may lead to future litigation. As a judicial nominee, it would be inappropriate for me to comment.

18. Would it ever be appropriate for the President of the United States to punish a law firm for taking on a client that the President did not like?

    Response: This question references an ongoing political dispute which may lead to future litigation. As a judicial nominee, it would be inappropriate for me to comment.

19. Do you agree that there is a constitutional right to privacy that protects a woman's right to use contraceptives? If you do not agree, please explain whether this right is protected or not and which constitutional rights or provisions encompass it.

    Response: The U.S. Supreme Court has recognized a constitutional right to use contraceptives in *Griswold* and extended by *Eisenstadt*. As a United States District Court Judge, if so confirmed, I would follow all binding precedent.

20. Do you agree that the constitutional right to travel across state lines is fundamental and well established?

    Response: The U.S. Supreme Court has recognized a fundamental right to travel and that right is well established.

    a. Do you think it is constitutional for a state to restrict the interstate travel of its citizens?

       Response: As a judicial nominee, it would be inappropriate for me to comment on the constitutionality of a hypothetical state restriction on travel.

21. Do you believe that the Constitution protects a fundamental right to privacy?

    Response: The U.S. Supreme Court has recognized a fundamental right to privacy and that right is well established.

    a. Does that right extend to information about your health care and medical history?

       Response: This is a matter of ongoing public debate and litigation. As a judicial nominee, it would be inappropriate to comment as to the parameters of a right that has not been decided by the Supreme Court.

    b. Do you agree that it is a violation of that right for states to surveil people's health care and medical history?

       Response: This is a matter of ongoing public debate and litigation. As a judicial nominee, it would be inappropriate to comment as to the parameters of a right that has not been decided by the Supreme Court.

22. Do you agree that there is a constitutional right to privacy that protects the right to in vitro fertilization (IVF)? If you do not agree, please explain whether this right is protected or not and which constitutional rights or provisions encompass it.

Response: I do agree that there is a recognized constitutional right to privacy. Whether that right extends to IVF has been the subject of litigation. As a judicial nominee, it would be inappropriate for me to comment on matters that are subject to ongoing litigation.

23. Do you believe that immigrants, regardless of legal status, are entitled to due process and fair adjudication of their claims?

Response: The Supreme Court has stated that "the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). The question in most cases is less about whether the doctrine of due process applies and more about how much process is due. I confirmed, I will follow all binding precedent on the issue. Further, judges are to adjudicate all claims fairly, regardless of party.

24. Does the public's original understanding of the scope of a constitutional provision constrain its application decades later?

Response: As a district court nominee, this is a question that would rarely come into play. I would follow the binding precedent of the U.S. Supreme Court and the Fifth Circuit Court of Appeals. It is those courts which are tasked with determining the scope of a constitutional provision.

25. What sources would you employ to discern the contours of a constitutional provision?

Response: Please see my response to Question 24.

26. What role does morality play in determining whether a challenged law or regulation is unconstitutional or otherwise illegal?

Response: It is the role of a judge to evaluate claims and cases, to apply applicable law and precedent and decide such claims based on controlling law as applied to the facts of the particular case. Personal views of the judge should never come into play.

27. What role, if any, should the practical consequences of a particular ruling play in a judge's rendering of a decision?

Response: It is the role of a judge to evaluate claims and cases, to apply applicable law and precedent and decide such claims based on controlling law as applied to the facts of the particular case. With limited equitable exceptions, the practical consequences do not come into play. The law is to be applied faithfully and impartially.

28. What role, if any, should empathy play in a judge's decision-making process?

It is the role of a judge to evaluate claims and cases, to apply applicable law and precedent and decide such claims based on controlling law as applied to the facts of the particular case. Cases should not be decided on personal views or preference for one party over the other. However, judges, especially district court judges, do need to be mindful that their decisions have real life consequences and are not just an exercise in academia.

29. What role, if any, should a judge's personal life experience play in his or her decision-making process?

Response: A judge's life experiences will hopefully have prepared the judge to undertake the judicial office with understanding, diligence, integrity, courage, knowledge and impartiality. No judge is required to check their common sense at the courthouse door.

30. Should you be confirmed, would you ever inform parties before you that they do not need to comply with your orders?

Response: No. I would never inform a party before me that they did not have to comply with an order. However, I would hear and adjudicate any claim by a party that they were somehow relieved from following order. This would seem to implicate a very unique and narrow set of circumstances.

a. Under what circumstances would you tell a party they could decide not to comply with your orders?

Response: Please see my response to Question 30.

b. What would you do if a party refuses to comply with one of your orders?

Response: If such a scenario were to arise, I would first determine if noncompliance had in fact incurred. This may or may not require a hearing. If I found that noncompliance had occurred, I would likely require additional briefing and hold a hearing to determine the reason for noncompliance and what further action may be necessary.

31. When it comes to conducting yourself ethically, who in the legal profession do you see as a role model?

Response: I cannot say that I have a role model in that regard. I guess, at times, it is too hard to put someone up on a pedestal. I suppose we all aspire to the fictional standards of Atticus Finch.

32. Discuss your proposed hiring process for law clerks.

Response: I intend to use the same methods I have used in hiring clerks as a state trial court judge and state appellate court judge. I would accept applications, evaluate potential applicants, narrow down the list for interview, interview candidates, and make a decision. In doing so, I would evaluate the application and candidate as a whole to determine who was the best fit for the job.

a. Do you think law clerks should be protected by Title VII of the Civil Rights Act?

Response: As a judicial nominee, it would inappropriate for me to comment on proposed legislative action.

33. In the past year, multiple studies have revealed ongoing problems with workplace conduct policies and outcomes in the federal judiciary. In a national climate survey, hundreds of judiciary employees reported that they experienced sexual harassment, discrimination, or other forms of misconduct on the job. A study by the Federal Judicial Center and the National Academy of Public Administration found the branch has failed to set up trusted reporting systems for employees who experience misconduct or ensure those handling complaints are adequately trained.

a. If confirmed, what proactive steps would you take to ensure that the clerks and judicial assistants who work in your chambers are treated with respect and are not subject to misconduct?

Response: First and foremost would be communication. I would make sure all staff were made aware of their importance, their right to be free from any type of mistreatment and I would maintain an open door policy to hear and address any complaints in that regard. I would also make sure that they had access to appropriate personnel should they feel uncomfortable discussing such topics with me.

b. What proactive steps would you take to ensure that any workplace-related concerns that your clerks and judicial assistants may have are fully addressed?

Response: Please see my response to Question 33a.

c. If you are confirmed and you later hear from a colleague or your chambers staff that another judge is acting inappropriately, what steps would you take to help ensure the problem is addressed?

Response: I would likely address the concern with the judge in question. I would also follow any requirements imposed upon me by law or the judicial canons.

34. Some district court judges have issued standing orders indicating that the court will favor holding an oral argument when there is a representation that the argument would be handled by a junior lawyer. Such efforts are intended to provide more speaking

opportunities in court for junior lawyers. Would you consider issuing a standing order that would encourage more junior lawyers to handle oral arguments? Why or why not?

Response: I am unfamiliar with this practice but I am certainly open to consider any mechanism that would provide additional opportunities for young attorneys to hone their courtroom skills.

a. How else would you support the skills development of junior lawyers appearing before you?

Response: Please see my response to question 34. In addition, I would seek opportunities to speak at CLE's or other opportunities to give pointers.

35. Do you think the individuals convicted of assaulting law enforcement officers at the Capitol on January 6, 2021, deserved to be pardoned?

Response: The pardon power belongs to the executive. The decision to pardon rests within the sound discretion of the President. To the extent this question asks for an opinion of the President's decision or otherwise comment on a political matter, as a judicial nominee, it would be inappropriate for me to further comment

36. If you were the President on January 20, 2025, would you have pardoned the individuals convicted of assaulting law enforcement officers at the Capitol on January 6, 2021?

Response: Please see my response to Question 35.

Questions for the Record for Justice Robert Chamberlin
Submitted by Senator Richard Blumenthal
September 10, 2025

1. The Trump administration has stepped up attacks on reproductive rights, including freezing Title X funding for clinics that offer reproductive care, cutting Biden-era emergency abortion protections, pardoning anti-abortion extremists, and fighting to defund Planned Parenthood. And the Republican budget bill will kick 16 million people off their health insurance and defund Planned Parenthood—threatening the closure of 200 health centers across the country and putting access to vital reproductive care for millions of families at risk.

   You have crusaded against reproductive rights throughout your career. As a Mississippi State Senator, you cosponsored a bill to revise the state's homicide and assault statutes to expand the definition of "human being" to include an unborn child beginning at conception. You also cosponsored a bill to allow healthcare providers to refuse to provide treatment that violated their consciences, without risking criminal, civil, or administrative liability.

   Response: I staunchly disagree with the prologue of the question. I have not crusaded against reproductive rights throughout my career. Rather, in the 20 years since I left the legislature I have served 12 years as a state trial court judge and almost 9 years as an appellate judge on the Mississippi Supreme Court where I have steadfastly defended the law and followed binding precedent without fail.

   a. With such clear anti-choice views, how can litigants expect you to be fair on issues related to reproductive rights?

      Response: Working as a legislator, representing constituents, and serving as a trial court judge, being a servant of the Constitution and the law, are vastly different. I have shown for almost 21 years now that I can be fair to all litigants on all issues that come before me as a judge.

2. As a Mississippi State Senator, you sponsored a state constitutional amendment to prevent same-sex marriages performed in other states from being legally recognized in Mississippi. In an interview, you justified the need for the amendment by saying "[a] constitutional amendment certainly carries with it more weight" and "[s]ometimes preventative medicine is best."

   a. Given your record and comments, how can homosexual litigants expect you to treat them fairly in the courtroom?

      Response: Working as a legislator, representing constituents, and serving as a trial court judge, being a servant of the Constitution and the law, are vastly different. I have shown for almost 21 years now that I can be fair to all litigants on all issues that come before me as a judge.

b. In 2015, the Supreme Court ruled in *Obergefell v. Hodges* that the right to same-sex marriage was the law of the land. Your record shows that this conflicts with your personal views.

   i. Do you believe *Obergefell* was correctly decided?

      Response: As has been expressed by Justice Kagan, and numerous nominees to come before this committee, it is generally not proper for judicial nominees to give a "thumbs-up" or "thumbs-down" to any particular U.S. Supreme Court precedent. The holding in *Obergefell* is binding precedent and, as such, I will follow it faithfully should I be confirmed.

   ii. Do you still believe that "preventative medicine" is needed to push back against same-sex marriage? If not, what changed your mind?

      Response: Respectfully, the question is a mischaracterization of the comment. The comment referred to the ability to avoid litigation by acting preemptively relating to issues that were, at the time, illegal in Mississippi.

   iii. Will you commit to applying *Obergefell* should a relevant case come before you?

      Response: Yes

3. If confirmed, will you recuse yourself from any case where a reasonable person, knowing all the relevant facts, might question your impartiality, even if you personally believe you can be fair?

   Response: In addressing the need to recuse in a case, I will abide by all laws, rules and judicial ethical canons.

   a. If confirmed, will you recuse yourself from cases involving individuals, organizations, or entities to which you or your family members have made political contributions or provided political support?

      Response: Please see my response to 3

   b. If confirmed, will you recuse yourself from cases involving former clients, former law firms, or organizations with which you have had significant professional relationships?

      Response: Please see my response to 3

c. If confirmed, will you recuse yourself from cases involving personal friends, social acquaintances, or individuals with whom you have ongoing personal relationships?

Response: Please see my response to 3

4. If confirmed, will you commit to avoiding all *ex parte* communications about pending cases, including informal discussions at social events or professional gatherings?

Response: In addressing *ex parte* communications, I will abide by all laws, rules and judicial ethical canons.

d. If confirmed, will you avoid discussing pending cases or judicial business with elected officials, political appointees, or political operatives?

Response: Please see my response to 4.

e. If confirmed, will you commit to declining meetings or communications with lobbyists, advocacy groups, or special interests seeking to influence your judicial decisions?

Response: Please see my response to 4.

f. If confirmed, will you refrain from making public statements about legal or political issues that could reasonably be expected to come before your court?

Response: Please see my response to 4.

5. If confirmed, will you commit to filing complete and accurate financial disclosure reports that include all required information about your financial interests and activities?

Response: In addressing financial disclosure reports, I will abide by all laws, rules and judicial ethical canons.

g. If confirmed, will you decline all gifts from parties who might appear before your court or who have interests that could be affected by your judicial decisions?

Response: Please see my response to 5.

h. If confirmed, will you decline privately funded travel, hospitality, or entertainment that could create an appearance of impropriety or special access?

Response: Please see my response to 5.

i. If confirmed, will you ensure that any teaching, speaking, or writing activities comply with judicial ethics requirements and do not create conflicts with your judicial duties?

Response: Please see my response to 5.

6. The House Republican-authored budget reconciliation bill had included a provision that would have limited federal judges' ability to hold government officials in contempt. While the Senate Parliamentarian ruled that the provision violated the Byrd Rule, and it was, therefore, removed, it would have prohibited federal courts from issuing contempt penalties against officials who disobey preliminary injunctions or Temporary Restraining Orders if the party seeking the order did not provide financial security to cover potential future damages for wrongful enjoining.

The contempt power was first codified in law in the Judiciary Act of 1789. In 1873, the Supreme Court described it as "inherent in all courts" and "essential to the preservation of order in judicial proceedings and to the enforcement of the judgements, orders, and writs of the courts, and consequently to the due administration of justice." Yet House Republicans are seeking to exempt government officials from this key tool for judicial enforcement.

a. Do you believe the contempt power is "essential . . . to the due administration of justice[?]"

Response: Yes

b. Do you believe that federal judges should be limited in their ability to hold government officials who defy court orders in contempt?

Response: I would follow all rules and precedents relating to the issue of judicial contempt orders should a case implicating the issue come before me as a judge. Otherwise, consistent with the Code of Conduct and positions taken by prior nominees, it would be inappropriate for me, as a pending nominee, to comment on any subject of political controversy or to express a position regarding matters of public policy or any ongoing litigation.

7. If confirmed, you, like all other members of the federal bench, would have the ability to issue orders. On February 9, 2025, Vice President Vance posted on X that "[j]udges aren't allowed to control the executive's legitimate power." This raises an extremely concerning specter of Executive Branch defiance of court orders.

a. If confirmed, would you have the ability to issue orders?

Response: Yes

i. Would you have the ability to enforce those orders?

Response: Yes

ii. What powers would you have to enforce those orders?

Response: There are various tools available to a trial court judge to ensure compliance with court orders. These include sanctions, civil and criminal contempt procedures, as well as lesser means such as status reports or regular court appearances to explain noncompliance.

b. Does there exist a legal basis for federal Executive Branch officials to defy federal court orders? If so, what basis and in which circumstances?

Response: Orders are meant to be followed. Those unhappy with an order should request a rehearing, request a stay, or file an appeal. However, there are certain, very limited, circumstances where a party can raise a defense to compliance such as lack of jurisdiction or impossibility. *See, e.g.*, 17 Corpus Juris Secundum Contempt Sections 56-65. Further, in some instances, defying a court order is necessary to appeal it. *See, e.g., Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009). Also see 15B Charles Alan Wright & Arthur R. Miller, Fed. Prac. & Proc. Juris. (2nd ed.) Section 3914.23.1.

c. Does there exist a legal basis for state officials to defy federal court orders? If so, what basis and in which circumstances?

Response: Please see my response to 7b

d. What would make a court order unlawful?

Response: While the question is extremely broad, generally speaking, a court order could be "unlawful" if entered without jurisdiction as it would be void ab initio.

i. What is the process a party should follow if it believes a court order to be unlawful?

Response: Please see my responses to Questions 7b-c

ii. Is it ever acceptable to not follow this process? When and why?

Response: Please see my responses to Questions 7b-c

8. Were you in Washington, D.C. on January 6, 2021?

Response: No

a. Were you inside the U.S. Capitol or on the U.S. Capitol grounds on January 6, 2021?

Response: No

Senator Mazie K. Hirono
Senate Judiciary Committee

Nominations Hearing
Questions for the Record for Robert Chamberlin

1. As part of my responsibility as a member of this committee to ensure the fitness of nominees, I ask each nominee to answer two initial questions:
    a. **Since you became a legal adult, have you ever made unwanted requests for sexual favors, or committed any verbal or physical harassment or assault of a sexual nature?**

       Response: No

    b. **Have you ever faced discipline or entered into a settlement related to this kind of conduct?**

       Response: No

2. As a Mississippi state senator in 2004, you cosponsored SB2869, a bill to include "unborn children" in the definitions of assault and homicide in Mississippi's criminal code. This included changing the definitions to expand the criminal code to conduct affecting unborn children "from conception until live birth." This bill became law, and as a result, in Mississippi, a prosecutor can charge a person for damage to an embryo or fetus. This includes charging the mother of the embryo or fetus, and many mothers have in fact been charged.
    a. **When deciding whether to cosponsor SB2869, did you consider how the bill would be implemented in practice?**

       Response: Yes

    b. **When ruling on a case as a judge, will you be considering how your judicial opinions and decisions will be implemented in practice?**

       Response: It is the role of a judge to evaluate claims and cases, to apply applicable law and precedent and decide such claims based on controlling law as applied to the facts of the particular case. With limited equitable exceptions, the practical consequences do not come into play. The law is to be applied faithfully and impartially. Cases should not be decided on personal views or preference for one party over the other. However, judges, especially district court judges, do need to be mindful that their decisions have real life consequences and are not just an exercise in academia.

    c. **At the time you decided to support and cosponsor this bill, what issues did you believe this bill would address?**

Response: I believe the language of the bill is self-explanatory as to the issues it was intended to address.

d. **For each of the issues you believed this bill would address, how did you believe that enforcement would operate in practice?**

Response: Please see my response to Question 2c. Additionally, enforcement was the duty of prosecutors, not legislators.

e. **At the time you decided to support and cosponsor this bill, what was your understanding of the mens rea required to convict someone under this bill? Does it require knowledge that a person is pregnant?**

Response: As a judicial nominee, it would be inappropriate to comment on what I might have thought the mens rea requirement was as a legislator. That was and is a judicial determination.

f. **Has your understanding of the mens rea required to convict someone under this bill changed in the decades since the bill was passed?**

Response: Please see my response to Question 2e.

g. **Did you anticipate that the law would primarily be enforceable against pregnant women?**

Response: No.

h. **If not, how did you envision enforcement to operate against anyone other than the mother of the embryo or fetus**

Response: There are many ways in which the law could have been violated by men and women alike including instances of domestic violence against the mother.

3. While in the State Senate, you supported a bill that would make it illegal for municipalities to sue gun manufacturers, distributors, or dealers in most circumstances. As a judge, you will be deciding whether to hold parties liable for their actions. **What other industries did you support protecting from lawsuits as a state senator?**

Response: I disagree with the question's characterization that the bill referenced protected any industry from lawsuits. To my recollection, I have not supported legislation that "protected" industries from lawsuits. I would note that in a 2004 special session we did pass a tort reform legislative package.

4. In 2004, you supported an amendment to the Mississippi Constitution to prevent recognition of same-sex marriages performed in other states. You also supported a

resolution urging Congress to pass a federal constitutional amendment defining marriage as between one man and one woman. **Will you recuse yourself in any decisions involving the constitutionality of same-sex marriage?**

Response: In addressing the need to recuse in a case, I will abide by all laws, rules and judicial ethical canons.

5. **Do you believe *Obergefell v. Hodges* was correctly decided?**

Response: As numerous nominees have pointed out, it is generally improper to comment on the correctness of Supreme Court decisions except for the acknowledgement that they are binding precedent. There have been two exceptions to this general rule, *Brown* and *Loving.*

6. **Do you believe *Brown v. Board of Education* was correctly decided?**

Response: As numerous nominees have pointed out, it is generally improper to comment on the correctness of Supreme Court decisions except for the acknowledgement that they are binding precedent. There have been two exceptions to this general rule, *Brown* and *Loving. Brown* was correctly decided.

7. **If you answered question 7 with a "yes" or "no" but did not similarly answer question 6, please explain how you determined you could answer question 7 but could not answer question 6.**

Response: As numerous nominees have pointed out, it is generally improper to comment on the correctness of Supreme Court decisions except for the acknowledgement that they are binding precedent. There have been two exceptions to this general rule, *Brown* and *Loving.*

Nomination of Robert P. Chamberlin
United States District Court for the Northern District of Mississippi
Questions for the Record
Submitted September 10, 2025

QUESTIONS FROM SENATOR BOOKER

1. In 2025, you joined seven other Mississippi Supreme Court Justices to uphold a ruling that denied a transgender teen's name change despite his parents' consent. The majority opinion repeatedly identified and referred to the transgender teen as a female and affirmed the chancellor's conclusion that "it [is] in the minor's best interest to wait until [he] was more mature to decide to legally change [his] name as part of a gender transition."[1]

    a. According to the majority's reasoning, under what circumstances would a minor ever be able to legally change their name as part of a gender transition?

    Response: The majority in *McKay* merely affirmed the decision of the chancery court judge which found that, under the applicable law, it was not in the best interest of the minor to grant the name change. In such instances, the chancery court judges "have discretion to grant or deny a minor's requested name change" and may only grant such a name change where it is "clearly in the best interest of the child". The chancellor also noted on the record the right of the minor to come back before the court when the minor was more mature. As to speculation as to what circumstances would warrant a name change in the future, it would be inappropriate to comment.

    b. According to the majority's reasoning, under what circumstances would a non-transgender minor be able to legally seek a name change?

    Response: Please see my response to Question 1a.

2. In 2000, you sponsored a Mississippi Senate bill that would prohibit same-sex couples from adopting in Mississippi and further would render invalid in Mississippi any adoption by same-sex couples that is valid in another jurisdiction.[2]

    a. Provide the policy justification for this legislative proposal.

    Response: I did cosponsor SB 2916 during the 2000 Mississippi legislative regular session. This was a legislative enactment made in the representation of constituents from almost 25 years ago, not a judicial decision. This was over 10 years before the U.S. Supreme Court decision in *Obergefell v. Hodges,* 576 U.S. 644 (2015). The decision in *Obergefell* is binding precedent. If I am fortunate enough to be confirmed as a U.S. District Court Judge, I will faithfully apply *Obergefell*, as well as all binding

[1] *In re Petition of S.M.-B, a Minor, by and through Monica Lee McKay v. Mississippi State Bd. Of Health*, No. 2023-CA-01379-SCT (Miss. Apr. 17, 2025), *available at* https://courts.ms.gov/images/Opinions/CO182514.pdf.
[2] Mississippi Legislature, Senate Bill No. 2916, Regular Session 2000.

precedent of the U.S. Supreme Court as well as the Fifth Circuit Court of Appeals where applicable.

3. In 2004, you sponsored a Mississippi Senate resolution to amend the state's constitution to define marriage as valid only between a man and a woman.[3]

   a. What are the facts and holding of the Supreme Court's 2015 decision in *Obergefell v. Hodges*?

      Response: The *Obergefell* case involved a state's denial of a marriage license to a same sex couple. The Supreme Court held that the Fourteenth Amendment requires a state to license marriages of same sex couples under the same terms and conditions as marriages between two people of the opposite sex. The *Obergefell* decision is binding precedent recognizing a constitutional right to same sex marriage.

      i. What impact would the holding of *Obergefell* have on a proposal to amend a state's constitution to define marriage as only between a man and a woman?

         Response: It would prohibit such an amendment. I would note that the legislation to which you refer was twenty years ago, over ten years before the *Obergefell* decision.

   b. Are there any circumstances in which a state should not recognize a same-sex marriage that was performed in another state?

      Response: States are required to follow binding precedent of the U.S. Supreme Court including *Obergefell.*

4. The American Bar Association (ABA) Standing Committee on the Federal Judiciary has conducted extensive peer evaluations of the professional qualifications of a president's nominees to become federal judges for seven decades. This practice has endured through 18 presidential administrations, under Republican and Democratic presidents.

   On May 29, 2025, Attorney General Pam Bondi ended this longstanding practice when she informed the ABA that, "[T]he Office of Legal Policy will no longer direct nominees to provide waivers allowing the ABA access to nonpublic information, including bar records. Nominees will also not respond to questionnaires prepared by the ABA and will not sit for interviews with the ABA."[4]

   a. Do you agree with AG Bondi that "the ABA no longer functions as a fair arbiter of nominees' qualifications and its ratings invariably and demonstrably favor nominees put forth by Democratic administrations"?

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[3] Mississippi Legislature, SCR No. 514, Regular Session 2004.
[4] Letter from Attorney General Pam Bondi to William R. Bay, President, American Bar Association (May 29, 2025), https://www.justice.gov/ag/media/1402156/dl?inline.

Response: It would be inappropriate for me, as a judicial nominee, to express an opinion on the statements of any political figure or on any subject of political controversy.

5. How would you characterize your judicial philosophy?

Response: If confirmed, my judicial philosophy would be to faithfully carry out the duties of an Article III judge of an "inferior" court to the U.S. Supreme Court. In doing so, I would apply all precedents of the U.S. Supreme Court as well as any other applicable laws or rules binding on the court.

6. What do you understand originalism to mean?

Response: Originalism is a method of constitutional interpretation that requires a judge to apply the text of a constitutional provision according to its original public meaning.

7. Do you consider yourself an originalist?

Response: Constitutional provisions should be applied as written according to their original public meaning.

8. What do you understand textualism to mean?

Response: Similar to originalism, textualism refers to a method of interpreting a statute that requires a judge to interpret the text as written and apply it pursuant to the meaning it had at the time of enactment.

9. Do you consider yourself a textualist?

Response: Statutory language should be applied as written according to its meaning at the time of enactment.

10. Legislative history refers to the record Congress produces during the process of passing a bill into law, such as detailed reports by congressional committees about a pending bill or statements by key congressional leaders while a law was being drafted. Some federal judges consider legislative history when analyzing the meaning of a statute.

    a. If you are confirmed to serve on the federal bench, would you consult and cite legislative history to analyze or interpret a federal statute?

    Response: Reliance on legislative history is unnecessary when a statute's language is unambiguous. *Mohamad v. Palestinian Authority,* 566 U.S. 449, 458 (2012). To the extent it is necessary, in rare circumstances, to consult legislative history, the purpose should be to clear up ambiguity, not invite it. *Milner v. Dep't of Navy,* 562 U.S. 562, 574 (2011). I would apply all binding precedent of the U.S. Supreme Court and the Fifth Circuit Court of Appeals.

b. Do you believe that congressional intent matters when interpreting a statute? Why or why not.

Response: Please see my response to Question 10a.

11. According to an academic study, Black men were 65 percent more likely than similarly-situated white men to be charged with federal offenses that carry harsh mandatory minimum sentences.[5]
    a. What do you attribute this to?

    Response: This question refers to a topic which is subject to intense public discussion and debate. It also implicates issues which might come before me as a U.S. District Court Judge should I be so confirmed. Therefore, it would be inappropriate for me, as a judicial nominee, to comment further. If confirmed, there would be no room for bias in my courtroom.

12. A recent report by the United States Sentencing Commission observed demographic differences in sentences imposed during the five-year period studied, with Black men receiving federal prison sentences that were 13.4 percent longer than white men.[6]
    a. What do you attribute this to?

    Response: Please see my response to Question 11.

13. What role do you think federal judges, who review difficult, complex criminal cases, can play in ensuring that a person's race did not factor into a prosecutor's decision or other instances where officials exercise discretion in our criminal justice system?

    Response: Under 18 U.S.C. Section 3553 (a), judges must "avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct". Additionally, judges must always be aware of potential bias in sentencing. These are requirements I followed during my twelve years as a state trial court judge.

14. Do you believe it is an important goal for there to be demographic diversity in the judicial branch? Why or why not.

    Response: Yes. Nobody should be excluded from the opportunity to serve as a judge based on race, ethnicity, sex, religion, or any other protected characteristic. Such diversity serves, among other things, to bring different viewpoints from differing backgrounds to the bench.

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[5] Sonja B. Starr & M. Marit Rehavi, *Racial Disparity in Federal Criminal Sentences*, 122 J. POL. ECON. 1320, 1323 (2014).
[6] U.S. SENTENCING COMM'N, DEMOGRAPHIC DIFFERENCES IN SENTENCING 2 (Nov. 2023), https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2023/20231114_Demographic-Differences.pdf.

15. Please indicate whether you have ever published written material or made any public statements relating to the following topics. If so, provide a description of the written or public statement, the date and place/publication where the statement was made or published, and a summary of its subject matter. Mere reference to the list of publications and statements provided in your Senate Judiciary Questionnaire is insufficient; provide specific responses.

    If you have not disclosed a copy of the publication or a transcript of the statement to the Judiciary Committee, please attach a copy or link to the materials and please explain why you have not previously disclosed them.

    a. Abortion
    b. Affirmative action
    c. Contraceptives or birth control
    d. Gender-affirming care
    e. Firearms
    f. Immigration
    g. Same-sex marriage
    h. Miscegenation
    i. Participation of transgender people in sports
    j. Service of transgender people in the U.S. military
    k. Racial discrimination
    l. Sex discrimination
    m. Religious discrimination
    n. Disability discrimination
    o. Climate change or environmental disasters
    p. "DEI" or Diversity Equity and Inclusion

    Response: As noted on my Senate Judiciary Questionnaire, I have spoken about rules of evidence, civil procedure, and other litigation matters. Those discussions may have touched on the issues listed above, but I do not remember any specifically doing so. For a full accounting of the topics I have addressed, please refer to the list of the list of publications and statements provided in your Senate Judiciary Questionnaire and the corresponding recordings or attachments. To the best of my knowledge, the answers provided on my Senate Judiciary Questionnaire and supplement disclose all publications and public statements.

16. Under what circumstances would it be acceptable for an executive branch official to ignore or defy a federal court order?

    Response: Orders are meant to be followed. Those unhappy with an order should request a rehearing, request a stay, or file an appeal. However, there are certain, very limited, circumstances where a party can raise a defense to compliance such as lack of jurisdiction or impossibility. *See, e.g.,* 17 Corpus Juris Secundum Contempt Sections 56-65. Further, in some instances, defying a court order is necessary to appeal it. *See, e.g., Mohawk Industries, Inc. v. Carpenter,* 558 U.S. 100, 111 (2009). Also see 15B Charles Alan Wright & Arthur R. Miller, Fed. Prac. & Proc. Juris. (2nd ed.) Section 3914.23.1.

a. If an executive branch official ignores or defies a federal court order, what legal analysis would you employ to determine whether that official should be held in contempt?

Response: If such a scenario were to arise, I would first determine if noncompliance had in fact incurred. This may or may not require a hearing. If I found that noncompliance had occurred, I would likely require additional briefing and hold a hearing to determine the reason for noncompliance and what further action may be necessary.

b. Is there any legal basis that would allow an executive branch official to ignore or defy temporary restraining orders and preliminary injunctions issued by federal district court judges? Please provide each one and the justification.

Response: Please see my response to Question 16.

17. Does the president have the power to ignore or nullify laws passed by Congress?

Response: The executive and legislative branch have clearly defined roles in our government as set forth in Article I and Article II of the Constitution, as well as the remainder of the Constitution and applicable precedent interpreting the Constitution. Any dispute as to the parameters of those powers are clearly issues which would have to be addressed by the judicial branch and, as a judicial nominee, it would be inappropriate for me to further comment.

18. Does the president have the power to withhold funds appropriated by Congress?

Response: Please see my response to Question 17.

19. Does the president have the power to discriminate by withholding funds against state or local jurisdictions based on the political party of a jurisdiction's elected officials?

Response: Please see my response to Question 17.

20. Does the Supremacy Clause of the U.S. Constitution establish that federal laws supersede conflicting state laws?

Response: Yes

21. Does the Fifth Amendment of the U.S. Constitution apply to non-citizens present in the United States?

Response: The Supreme Court has stated that "the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis,* 533 U.S. 678, 693 (2001). The question in most cases is less about whether the doctrine of due process applies and more

about how much process is due. If confirmed, I will follow all binding precedent on the issue.

22. Is it constitutional for Congress to delegate to federal agencies the power to implement statutes through rulemaking?

Response: The issue of Congressional delegation to federal agencies is currently a hotly debated topic of public policy and legality. It is also subject to ongoing litigation. As such, as a judicial nominee, it would be improper for me to comment further.

23. Was *Brown v. Board of Education*, 347 U.S. 483 (1954), correctly decided?

Response: As dozens of nominees have said before, it is almost always improper for judicial nominees to give a thumbs-up or thumbs-down to Supreme Court precedent. Two exceptions to this general rule against opining on the merits of Supreme Court cases are *Brown* and *Loving*. I agree that both those decisions were correctly decided.

24. Is *Griswold v. Connecticut*, 381 U.S. 479 (1965), binding precedent? Please describe the facts and holding of this case.

Response: *Griswold* is binding precedent. It involved an appeal by individuals who were penalized for prescribing contraceptives, and the Court held that the statute violated a "right to privacy" that the Court interpreted to be within the Constitution.

25. Is *Lawrence v. Texas*, 539 U.S. 558 (2003), binding precedent? Please describe the facts and holding of this case.

Response: *Lawrence* is binding precedent. It involved an appeal by an individual penalized for engaging in certain sexual conduct, and the Court held that the statute penalizing engaging in that conduct violated the Constitution.

26. Is *Obergefell v. Hodges*, 576 U.S. 644 (2015), binding precedent? Please describe the facts and holding of this case.

Response: *Obergefell* is binding precedent. It involved a challenge to state statutes defining marriage as a union between one man and one woman. The Court held that the Constitution requires States to license a marriage between two people of the same sex.

27. Do you believe that President Biden won the 2020 election? Note that this question is not asking who was certified as president in the 2020 election.

Response: President Biden was certified as the winner of the 2020 presidential election and served as the 46th President of the United States. To the extent this question seeks to elicit an answer that could be taken as opining on the broader political or policy debate regarding the conduct of the 2020 presidential election or on statements by any political figure, my response, consistent with the position of prior judicial nominees when asked questions

regarding the 2020 election, is that it would be improper to offer any such comment as a judicial nominee. See Code of Conduct of U.S. Judges, Canons 3(A)(6), 5.

a. Did Biden win a majority of the electoral vote in the 2020 election?

Response: Please see my response to Question 27.

b. Do you believe that the results of the 2020 election, meaning the vote count, were accurate? If not, please provide why not and examples.

Response: Please see my response to Question 27.

28. The 22nd Amendment says that "no person shall be elected to the office of the President more than twice."[7]

a. Do you agree that President Trump was elected to the office of the President in the 2016 election?

Response: President Trump was certified as the winner of the 2016 election.

b. Did Trump win a majority of the electoral vote in the 2016 election?

Response: Please see my response to Question 28(a).

c. Do you agree that President Trump was elected to the office of the President in the 2024 election?

Response: President Trump was certified as the winner of the 2024 election.

d. Did Trump win a majority of the electoral vote in the 2024 election?

Response: Please see my response to Question 28(c).

e. Do you agree that the 22nd Amendment, absent a constitutional amendment, prevents President Trump from running for a third presidential term?

Response: Section 1 of the Twenty-Second Amendment states, in part, "No person shall be elected to the office of the President more than twice…." I have not reviewed any case law or other authorities addressing or interpreting this Amendment, nor formed an opinion on how it might apply to any particular facts. To the extent the question asks about political disputes, it would be improper for a judicial nominee to promise or forecast how he or she would rule in a case that might come before him or her

[7] U.S. CONST. amend. XXII.

29. Has any official from the White House or the Department of Justice, or anyone else involved in your nomination or confirmation process, instructed or suggested that you not opine on whether any past Supreme Court decisions were correctly decided?

    Response: No, except that I was advised that numerous nominees in prior hearings had opined on the correctness of *Brown* and *Loving*.

30. Have you spoken or corresponded with Elon Musk since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

    Response: No

31. Have you spoken or corresponded with any member of the Department of Government Efficiency (DOGE) since November 2024? If yes, identify the member(s) and provide the dates, mode, and content of those discussions and communications.

    Response: No

32. Have you spoken or corresponded with Stephen Miller since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

    Response: No

33. Have you spoken or corresponded with Chad Mizelle since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

    Response: No

34. Have you spoken or corresponded with Pam Bondi since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

    Response: No

35. Have you spoken or corresponded with Todd Blanche since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

    Response: No

36. Have you spoken or corresponded with Emil Bove since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

    Response: No

37. Have you spoken or corresponded with Leonard Leo since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No

38. Have you—personally or through any of your affiliated companies or organizations, agents, or employees—provided financial support or other resources to any members of the Proud Boys or of the Oath Keepers for their legal fees or for other purposes? If yes, state the amount of financial support provided, dates provided, and for what purposes.

Response: No

39. Have you ever spoken or corresponded with any of the following individuals? If yes, provide the dates, mode, and content of those discussions and communications.
    a. Enrique Tarrio
    b. Stewart Rhodes
    c. Kelly Meggs
    d. Kenneth Harrelson
    e. Thomas Caldwell
    f. Jessica Watkins
    g. Roberto Minuta
    h. Edward Vallejo
    i. David Moerschel
    j. Joseph Hackett
    k. Ethan Nordean
    l. Joseph Biggs
    m. Zachary Rehl
    n. Dominic Pezzola
    o. Jeremy Bertino
    p. Julian Khater

Response: No

40. Have you ever spoken or corresponded with any individuals convicted and later pardoned of offenses related to the January 6, 2021 attack on the U.S. Capitol? If yes, identify the individual(s) and provide the dates, mode, and content of those discussions and communications.

Response: No

41. Have you ever been demoted, terminated, or experienced any other adverse employment action?

Response: No

    a. If yes, please describe the events that led to the adverse employment action.

b. If no, please affirm that, since becoming a legal adult, you have left each place of employment voluntarily and not subject to the request or suggestion of any employer.

I affirm that since becoming a legal adult I have left each place of employment voluntarily and not subject to the request or suggestion of any employer.

42. Federal judges must file annual financial disclosure reports and periodic transaction reports. If you are confirmed to the federal bench, do you commit to filing these disclosures and to doing so on time?

Response: Yes

43. Article III Project (A3P) "defends constitutionalist judges and the rule of law." According to Mike Davis, Founder & President of A3P, "I started the Article III Project in 2019 after I helped Trump win the Gorsuch and Kavanaugh fights. We saw then how relentless—and evil—too many of today's Democrats have become. They're Marxists who hate America. They believe in censorship. They have politicized and weaponized our justice systems."[8]

a. Do you agree with the above statement?

Response: It would be inappropriate for me, as a judicial nominee, to comment on any public dispute or the opinion of any public figure.

b. Have you discussed any aspect of your nomination to the federal bench with any officials from or anyone directly associated with A3P, or did anyone do so on your behalf? If yes, identify the individual(s) and provide the dates, mode, and content of those discussions and communications.

Response: No

c. Are you currently in contact with anyone associated with A3P? If so, who?

Response: No

d. Have you ever been in contact with anyone associated with A3P? If so, who?

Response: No

44. Since you were first approached about the possibility of being nominated, did anyone associated with the Trump Administration or Senate Republicans provide you guidance or advice about which cases to list on your Senate Judiciary Questionnaire (SJQ)?

Response: No

[8] https://www.article3project.org/about

a. If so, who? What advice did they give?

Response: Not Applicable

b. Did anyone suggest that you omit or include any particular case or type of case in your SJQ?

Response: No

45. During your selection process did you talk with any officials from or anyone directly associated with the Article III Project, or did anyone do so on your behalf? If so, what was the nature of those discussions?

Response: No

46. During your selection process did you talk with any officials from or anyone directly associated with the Federalist Society, or did anyone do so on your behalf? If so, what was the nature of those discussions?

Response: No

47. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding your nomination.

Response: On November 7, 2024, I contacted U.S. Senator Roger Wicker and U.S. Senator Cindy Hyde-Smith, expressing my interest in being appointed to the vacancy on the United States District Court for the Northern District of Mississippi. On April 16, 2025, I was contacted by the White House Counsel's Office, which advised that I had been recommended as a potential nominee to the U.S. District Court for the Northern District of Mississippi. On April 23, 2025, I interviewed with the White House Counsel's Office in Washington, D.C. Since June 5, 2025, I have been in contact with officials from the White House Counsel's Office and the Justice Department's Office of Legal Policy regarding the nomination. On August 11, 2025 I received a phone call from President Trump advising me of my nomination.

48. Please explain, with particularity, the process whereby you answered these written questions.

Response: I drafted my responses to each of these questions. I did so after reviewing the responses of several prior nominees. After receiving feedback from persons at the Office of Legal Policy at the U.S. Department of Justice, I finalized my answers and authorized them to be submitted to this committee. My answers are my own.

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

1. **Name**: State full name (include any former names used).

Edmund Gerard LaCour Jr.

2. **Position**: State the position for which you have been nominated.

United States District Judge for the Northern District of Alabama

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

Office of the Alabama Attorney General
501 Washington Avenue
Montgomery, Alabama 36104

4. **Birthplace**: State year and place of birth.

1985; Phoenix, Arizona

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

2008 – 2011, Yale Law School; J.D., 2011

2007 – 2008, Trinity College Dublin; M. Phil, 2008

2003 – 2007, Birmingham-Southern College; B.A. (*summa cum laude*), 2007

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2018 – present
Office of the Alabama Attorney General
501 Washington Avenue

Montgomery, Alabama 36104
Solicitor General (2019 – present)
Deputy Solicitor General (2018 – 2019)

2016 – 2018
Kirkland & Ellis LLP
1301 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Partner (2017 – 2018)
Associate (2016 – 2017)

2015 – 2016
Bancroft PLLC
500 New Jersey Avenue, N.W., 7th Floor
Washington, D.C. 20001
Associate

2014 – 2015
Baker Botts LLP
700 K Street, N.W.
Washington, D.C. 20001
Associate

2012 – 2014
Baker Botts LLP
910 Louisiana Street
Houston, Texas 77002
Associate

Fall 2012
Romney for President, Inc.
500 Cummings Center, Suite 4400
Beverly, Massachusetts 01915
Attorney Volunteer (Uncompensated)

Fall 2012
Office of the Texas Attorney General, Solicitor General's Division
300 West 15th Street
Austin, Texas 78701
Law Clerk (Uncompensated)

2011 – 2012
Honorable William H. Pryor Jr.
United States Court of Appeals for the Eleventh Circuit
Hugo Black Courthouse
1729 5th Avenue North

Birmingham, Alabama 35203
Law Clerk

Spring 2011
United States Attorney's Office for the District of Connecticut
157 Church Street
New Haven, Connecticut 06510
Law Clerk

Summer 2010
Martha Roby for Congress
2876 Zelda Road
Montgomery, Alabama 36106
Campaign Volunteer (Uncompensated)

Summer 2010
Bradley Arant Boult Cummings
1819 5th Avenue North
Birmingham, Alabama 35203
Summer Associate

Summer 2009
United States Attorney's Office for the Northern District of Alabama
1800 5th Avenue North, Suite 200
Birmingham, Alabama 35203
Law Clerk

Summer 2009
Bradley Arant Boult Cummings
1819 5th Avenue North
Birmingham, Alabama 35203
Summer Associate

Summer 2007
Bradley Arant Rose & White
[Now Bradley Arant Boult Cummings]
1819 5th Avenue North
Birmingham, Alabama 35203
Project Assistant

7. **Military Service and Draft Status**: Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

I have never served in the military. I registered for the selective service upon turning 18.

8. **Honors and Awards**: List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

Leonine Forum, Leonine Fellow (2015 – 2016)

Bradley Arant Boult Cummings, 2009 Douglas Arant Public Interest Fellowship (2009)

Rotary Ambassadorial Scholar (2007 – 2008)

Degree from Birmingham-Southern College, *summa cum laude* (2007)

Birmingham-Southern College, Phi Beta Kappa (2007)

Birmingham-Southern College, Alpha Lambda Delta Book Award (highest GPA in the honor society) (2007)

Birmingham-Southern College, Phi Eta Sigma Senior Award (highest GPA in the honor society) (2007)

Birmingham-Southern College, Pi Sigma Alpha National Political Science Honor Society (2007)

Birmingham-Southern College, Mortar Board National College Senior Honor Society (2007)

Birmingham-Southern College, Order of Omega Greek Honor Society (2007)

Birmingham-Southern College, Hess Fellowship (2006)

Birmingham-Southern College, Honor Council (2004 – 2007)

Birmingham-Southern College, National Merit Scholar Scholarship (2003 – 2007)

9. **Bar Associations**: List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

Alabama Supreme Court, Standing Committee on Alabama Rules of Appellate Procedure (2019 – present)

Federalist Society for Law and Public Policy Studies (2008 – present)
DC Young Lawyers Chapter, Steering Committee (2015 – 2018)
Houston Lawyers Chapter, Board Member (2012 – 2014)

Hugh Maddox Inn of Court (2021 – 2022)

U.S. Court of Appeals for the 11th Circuit, Lawyers Advisory Committee (2024 – present)

10. **Bar and Court Admission**:

a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Alabama (2011)
Texas (2013)
District of Columbia (2016)

My Alabama Bar license was in inactive status or special membership status from 2013 until 2018 because I did not live or practice law in Alabama. My Texas Bar license has been in inactive status since January 2019 because I moved to Alabama and no longer practice law in Texas. I resigned my D.C. Bar license in June 2019 because I moved to Alabama and no longer practice law in Washington, D.C. Otherwise, there have been no lapses in membership.

b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

Supreme Court of the United States, 2015
United States Court of Appeals for the First Circuit, 2025
United States Court of Appeals for the Second Circuit, 2015
United States Court of Appeals for the Third Circuit, 2017
United States Court of Appeals for the Fourth Circuit, 2021
United States Court of Appeals for the Fifth Circuit, 2017
United States Court of Appeals for the Sixth Circuit, 2013
United States Court of Appeals for the Seventh Circuit, 2022
United States Court of Appeals for the Eighth Circuit, 2024
United States Court of Appeals for the Ninth Circuit, 2015
United States Court of Appeals for the Tenth Circuit, 2023
United States Court of Appeals for the Eleventh Circuit, 2016
United States Court of Appeals for the D.C. Circuit, 2015
United States Court of Appeals for the Federal Circuit, 2015
United States District Court for the Middle District of Alabama, 2018
United States District Court for the Northern District of Alabama, 2019
United States District Court for the Southern District of Alabama, 2018
United States District Court for the District of North Dakota, 2023
United States District Court for the Eastern District of Texas, 2025
United States District Court for the Northern District of Texas, 2014
Supreme Court of Alabama, 2011

My admission to the U.S. Court of Appeals for the Second Circuit remained active from 2015 until 2020, but then was not renewed until I practiced before that court again in

2024. Otherwise, I am aware of no lapses in memberships.

11. **Memberships**:

a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

American Enterprise Institute Enterprise Club (2017 – 2021)

Birmingham-Southern College Alumni Board (2019 – 2023)

Holy Spirit Catholic Church
Building Committee Member (2023 – present)
Parish Council Member (2023 – present)
Parish Council President (2023 – 2024)

Teneo Network
Member (2014 – present)
Regional Chair (2016 – 2018)

Wynlakes Golf & Country Club (2021 – present)

b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

I was a member of the Birmingham-Southern College Alumni Board. The College closed in 2024. The college dates back to 1856, when the Methodist Church founded Southern University in Greensboro, Alabama. In 1898, the Methodist Church founded what would become Birmingham College, and the two schools merged in 1918. Women were allowed to attend classes at Southern College as early as 1867. But Birmingham-Southern College did not admit African-American students until 1965. At no time during my service on the Alumni Board did Birmingham-Southern College discriminate in admissions or in the hiring of employees on the basis of race, sex, religion or national origin, either through formal admission or hiring requirements or the practical implementation of admission or hiring policies.

Except as set forth above, none of the organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, religion or national origin, either

through formal membership requirements or the practical implementation of membership policies.

12. **Published Writings and Public Statements**:

a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply copies of all published material to the Committee.

Steve Marshall & Edmund LaCour, *Attorney General William H. Pryor Jr.*, 75 Ala. L. Rev. 1099 (2024). Copy supplied.

Symposium: The Supreme Court turns against novel or late-breaking execution challenges, SCOTUSBlog (July 29, 2019). Copy supplied.

Yale Law & Policy Review, Volumes 27 – 29, Fall 2008 – Spring 2011. I served as an editor on volume 27 and as a senior editor on volumes 28 and 29 of the journal. I do not recall any specific articles on which I worked.

Euthanasia: An Ethical and Pragmatic Public Policy Approach, Southern Academic Review (2006). Copy supplied.

Youth hopes, acts for better future, Voice of Alabama, Sept. 4, 2006. Copy supplied.

b. Supply copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

None.

c. Supply copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

Letter to the Senate Judiciary Committee supporting the nomination of Chad Meredith, July 20, 2025. Copy supplied.

Letter of State Solicitors General to the Senate Judiciary Committee supporting the nomination of Joshua Divine, May 29, 2025. Copy supplied.

Letter of former law clerks for Chief Judge Pryor to the Senate Judiciary Committee supporting the nomination of Joshua Divine, May 29, 2025. Copy supplied.

Letter to the Senate Judiciary Committee supporting the nomination of Whitney Hermandorfer, May 21, 2025. Copy supplied.

Letter to the Senate Judiciary Committee supporting the nomination of D. John Sauer, Jan. 3, 2025. Copy supplied.

Testimony of Edmund G. LaCour Jr., Hearing before the United States Senate Committee on the Judiciary: "Texas's Unconstitutional Abortion Ban and the Role of the Shadow Docket," Sep. 29, 2021. Copy supplied.

Letter to the Senate Judiciary Committee supporting the nomination of Stephen Vaden, Nov. 12, 2019. Copy supplied.

Letter to the Senate Judiciary Committee supporting the nomination of Lawrence VanDyke, Oct. 28, 2019. Copy supplied.

d. Supply copies, transcripts or recordings of all speeches or talks delivered by you including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

July 9, 2025, Speaker, "The Politicization of Science," Federal Trade Commission, Washington, DC. Video of the event is available here: https://www.ftc.gov/media/dangers-gender-affirming-care-minors.

March 7, 2025: Speaker, "Maintaining Your Faith Life," Montgomery Catholic Preparatory School Senior Success Seminar, Montgomery, AL. I spoke with seniors from Montgomery Catholic Preparatory School about ways to maintain their religious faith as they graduate high school and go on to new environments and challenges. I have no notes, transcript, or recording. Montgomery Catholic Preparatory School is located at 5350 Vaughn Rd, Montgomery, AL 36116.

March 3, 2025, Speaker, "Arguing Before the Supreme Court," University of Alabama School of Law's Chapter of the Federalist Society, Tuscaloosa, AL. Notes provided.

March 3, 2025, Speaker, "The Role of State Solicitors General," Guest speaker for a class focused on the Role of the State Attorney General at the University of Alabama Law School, Tuscaloosa, AL. Notes provided.

December 2, 2024, "The *Skrmetti* Case: SCOTUS to Hear Challenge to Tennessee's Ban on 'Gender Affirming' Treatments," Fair For All, https://www.youtube.com/watch?v=mp1AQv1OgyY.

October 7, 2024: Speaker, "Role of the State Solicitor General," Guest speaker at Auburn University pre-law class, Auburn, AL. I have no notes, transcript, or recording. The Auburn University Pre-Law Scholars Program is located at the Haley Center, 351 W Thach Concourse Suite 7002, Auburn, AL 36849.

October 3, 2024: Speaker, "Voting Rights Litigation," Heritage Foundation and Harvard Journal of Law and Public Policy, Washington, DC. Audio of the event is available here: https://open.spotify.com/episode/7jYpOCoXpeXCrlUkSYSbvl?go=1&sp_cid=a3090bf5520a031128bfb72dfaa8839c&utm_source=embed_player_p&utm_medium=desktop&nd=1&dlsi=713126a95ce8471c.

August 9, 2024: Speaker, "Racial Gerrymandering Claims and Federal Redistricting Litigation," Republican National Lawyers Association, Palm Beach, FL. I discussed current issues in redistricting litigation. I have no notes, transcript, or recording. The Republican National Lawyers Association's address is P.O. Box 18965, Washington, D.C. 20036.

June 13, 2024: Speaker, "Appellate Litigation Update" & Introduction of Chief Judge William H. Pryor Jr., Alabama Attorney General's Continuing Legal Education Seminar, Montgomery, AL. Notes provided.

May 2, 2024: Speaker, "Hot Topics in State Litigation," Birmingham Lawyers Chapter of the Federalist Society, Birmingham, AL. I discussed certain cases the State was either engaged in or had recently resolved. I have no notes, transcript, or recording. The Federalist Society's address is 1776 I Street, NW Suite 300, Washington, DC 20006.

April 29, 2024: Speaker, "Federal Preemption and Environmental Regulation Webinar," C. Boyden Gray Center at George Mason University. Video available at: https://www.youtube.com/watch?v=4K33QiNUZwU.

November 17, 2023: Speaker, Civil Procedure Discussion Regarding *Culley v. Marshall*, No. 22-585 (U.S.), Yale Law School, New Haven, CT. Notes provided.

November 17, 2023: Speaker, "Luncheon with Eddie LaCour," Yale Law School Chapter of the Federalist Society, New Haven, CT. I spoke with students at the law school about the role of a state solicitor general and some of the State's recent litigation. I have no notes, transcript, or recording. The Federalist Society's address is 1776 I Street, NW Suite 300, Washington, DC 20006.

November 2, 2023: Speaker, "Luncheon with Eddie LaCour," DC Young Lawyers Chapter of the Federalist Society, Washington, DC. I spoke generally about the role of a state solicitor general and cases in which states have been involved. I have no notes, transcript, or recording. The Federalist Society's address is 1776 I Street, NW Suite 300, Washington, DC 20006.

September 8, 2023: Speaker, "Modern Strategies for the Offices of State Attorneys General," The Federalist Society's Alabama Chapters Conference, Birmingham, AL. Video available at https://youtu.be/tTzTPmIxW84.

May 25, 2023: Speaker, "Role of the State Solicitor General," Dothan Rotary Club, Dothan, AL. Notes provided.

May 10, 2023: Speaker, "Supreme Court and Appellate Court Review," Alabama Attorney General's Continuing Legal Education Seminar, Montgomery, AL. Notes provided.

April 28, 2023: Speaker, "The Advocates: Arguing the Constitution and Achieving Results," The Federalist Society's Third Circuit Chapters Conference, Philadelphia, PA. Notes provided.

April 25, 2023: Speaker, Thomas Goode Jones School of Law Board of Advocates Awards Banquet, Montgomery, AL. Notes provided.

February 20, 2023, Speaker, "The Solicitor General & States at SCOTUS," Guest speaker for a class focused on the Role of the State Attorney General at the University of Alabama Law School, Tuscaloosa, AL. I have no notes, transcript, or recording. The University of Alabama Law School is located at 101 Paul W Bryant Dr, Tuscaloosa, AL 35401.

November 28, 2022: Speaker, "The New Supreme Court: Stories from the Front Lines," Alaska Lawyers Chapter of the Federalist Society, Anchorage, AK. I spoke on a panel about my recent experiences litigating before the Supreme Court. I have no notes, transcript, or recording. The Federalist Society's address is 1776 I Street, NW Suite 300, Washington, DC 20006.

November 3, 2022: Speaker, "A Conversation About Election Law," Yale Law School Federalist Society, New Haven, CT 06511. I spoke about my recent experiences litigating before the Supreme Court. I have no notes, transcript, or recording. The Federalist Society's address is 1776 I Street, NW Suite 300, Washington, DC 20006.

October 28, 2022: Speaker, "A Breakfast Chat with Alabama Solicitor General Edmund LaCour," Georgetown University Law School Chapter of the Federalist Society, Washington, DC. I spoke generally about the role of a state solicitor general and cases in which states have been involved. I have no notes, transcript, or recording. The Federalist Society's address is 1776 I Street, NW Suite 300, Washington, DC 20006.

July 21, 2022: Speaker, "*Smith*, Strict Scrutiny, and the Supreme Court: What Does the Future Hold?" Alliance Defending Freedom, Greensboro, GA. I was part of a panel that discussed recent developments in free exercise jurisprudence. I have no notes, transcript, or recording. Alliance Defending Freedom's address is 15100 N. 90th Street, Scottsdale, AZ 85260.

July 18, 2022: Speaker, "2022 Supreme Court Review," Nashville Lawyers Chapter of the Federalist Society, Nashville, TN. Notes provided.

June 23, 2022: Speaker, "Role of the State Solicitor General," Houston County Republican Women, Dothan, AL. I discussed the role the solicitor general plays in the Alabama Attorney General's office and some litigation in which the State was involved. I have no notes, transcript, or recording. The event was covered here: https://dothaneagle.com/news/local/houston-county-republican-women-organization-donates-to-food-bank-hears-from-solicitor-general/article_191f1dbc-00a4-11ed-a886-b3b83894dff3.html. Copy supplied.

April 29, 2022: Speaker, "The Voting Rights Act and Alabama Congressional Districts Case," Birmingham Lawyers Chapter of the Federalist Society, Birmingham, AL. I discussed litigation related to Alabama's congressional districts. I have no notes, transcript, or recording. The Federalist Society's address is 1776 I Street, NW Suite 300, Washington, DC 20006.

December 2, 2021: Speaker, "SCOTUS Preview," Huntsville-Madison County Bar Association, Huntsville, AL. I reviewed several cases that were pending before the Supreme Court. I have no notes, transcript, or recording. The address for the Huntsville-Madison County Bar Association, Inc. is 228 Holmes Avenue, 8th Floor, Huntsville, AL 35801.

October 21, 2021: Speaker, "A View from the States: AL, TN, LA, and TX Solicitors General Panel Discussion," Birmingham Lawyers Chapter of the Federalist Society, Birmingham, AL. I discussed several recent or ongoing cases in which states had been involved. I have no notes, transcript, or recording. The Federalist Society's address is 1776 I Street, NW Suite 300, Washington, DC 20006.

September 29, 2021: Speaker, United States Senate Committee on the Judiciary Hearing on "Texas's Unconstitutional Abortion Ban and the Role of the Shadow Docket," Washington, DC. Remarks included.

September 21, 2021: Speaker, "Supreme Court Round-Up," Tampa Bay Lawyers Chapter of the Federalist Society, Tampa, FL. Notes provided.

August 31, 2021: Speaker, "The Role of the State Attorney General in Preserving Our Federalism," University of Alabama School of Law's Chapter of the Federalist Society, Tuscaloosa, AL. I participated in a panel with the Alabama Attorney General to discuss constitutional challenges initiated by the States. I have no notes, transcript, or recording. The Federalist Society's address is 1776 I Street, NW Suite 300, Washington, DC 20006.

August 5, 2021: Speaker, Law School Prep Academy, Alliance Defending Freedom, webinar. I participated in an online discussion with incoming first-year law students about my background, path to law school, and legal career. I have no notes, transcript, or

recording. Alliance Defending Freedom's address is 15100 N. 90th Street, Scottsdale, AZ 85260.

July 21, 2021: Speaker, "Supreme Court Round-up," Montgomery Lawyers Chapter of the Federalist Society, Montgomery, AL. Notes provided.

March 30, 2021: Speaker, "Role of the State Solicitor General," Guest speaker at Auburn University pre-law class, Auburn, AL. Notes provided.

December 4, 2019: Speaker, "Lunch remarks," Meeting of Southern Forestry Association Executives, Montgomery, Alabama. I briefly summarized some recent legal cases involving Alabama. I have no notes, transcript, or recording. The Alabama Forestry Association hosted the lunch at their office, which is at 555 Alabama Street, Montgomery, Alabama 36104.

October 24, 2019: Speaker, "A View From The States," Restaurant Law Center Legal Summit, Dallas, Texas. I spoke on a panel about the role of a state solicitor general and the role that amicus briefs play in appellate litigation. I have no notes, transcript, or recording. The Restaurant Law Center's address is 2055 L Street, N.W., Suite 700, Washington, D.C. 20036.

October 10, 2019: Speaker, "Supreme Court OT 2019 Preview," Hugh Maddox Inn of Court, Montgomery, Alabama. Notes provided.

September 24, 2019: Speaker, "Supreme Court OT 2019 Preview," Cumberland School of Law Chapter of the Federalist Society, Birmingham, Alabama. Notes supplied as notes from October 10, 2019 event.

September 23, 2019: Speaker, "Supreme Court OT 2019 Preview," University of Alabama Student Chapter of the Federalist Society, Tuscaloosa, Alabama. Notes supplied as notes from October 10, 2019 event.

September 11, 2019: Speaker, "Canons of Statutory Interpretation," Legislative Services Agency, Montgomery, Alabama. Notes provided.

July 24, 2019: Speaker, "Supreme Court Term in Review," Birmingham Lawyers Chapter of the Federalist Society, Birmingham, Alabama. Notes provided.

April 25, 2019: Panelist, "Professional Panthers Law Professions," Birmingham-Southern College, Birmingham, Alabama. I joined other alumni to speak to a group of college students interested about careers in law. I have no notes, transcript, or recording. The address of Birmingham-Southern College is 900 Arkadelphia Road, Birmingham, Alabama 35254. The College's description of the event supplied.

October 21, 2018: Judge/Panelist, Van Vleck Constitutional Law Moot Court Competition, George Washington University Law School. I was a judge for the Round of

16 of this moot court competition. I have no notes, transcript, or recording. The address for George Washington University Law School is 2000 H Street, N.W., Washington, D.C. 20052.

July 11, 2018, Moderator, "Reception with Judge William H. Pryor Jr." D.C. Young Lawyers Chapter of the Federalist Society, Washington, D.C. I have no notes, transcript, or recording. I moderated a discussion with Judge Pryor about his work on the U.S. Sentencing Commission. The Federalist Society's address is 1776 I Street, N.W., Suite 300, Washington, D.C. 20006.

June 16, 2018, Speaker/Facilitator, Supreme Court Summer Institute, Street Law, Washington, D.C. The program was for high school social studies teachers and focused on the U.S. Supreme Court. I summarized the arguments presented that Term in *Masterpiece Cakeshop v. Colorado Civil Rights Commission*. I have no notes, transcript, or recording. The event was held at Georgetown Law School. Street Law's address is 1010 Wayne Avenue, Suite 870, Silver Spring, Maryland 20910.

October 26, 2017: Speaker, "Tribute to Fr. Arne Panula" and "The Witness of Fr. Arne," Catholic Information Center's Saint John Paul II Award for the New Evangelization Dinner, Washington, D.C.
Video available at https://www.youtube.com/watch?v=dFuTHJnBSAE&t=2s and https://www.youtube.com/watch?v=UpdmQyT0f9Y.

While studying at Trinity College Dublin from 2007 through 2008 on a Rotary Ambassadorial Scholarship, I spoke to a few different Rotary Clubs in Ireland about the history of Birmingham, Alabama. Upon returning to Alabama, I spoke to the Shades Valley Rotary Club in Birmingham, on July 14, 2008, about my year in Ireland. I have no notes, transcripts, or recordings of these talks.

> The address for the Rotary Club of Dun Laoghaire, Ireland, is C/O National Yacht Club East Pier, Dun Laohgaire Pier, Dun Laoghaire A96 AX98, Ireland. I spoke at the Rotary Club Dublin-Fingal on March 31, 2008, and that club currently meets at Maldron Hotel, Dublin Airport K67, Ireland.
>
> I spoke at the Rotary Club Dublin Viking on April 25, 2008, but that club no longer meets, and I have no record of where it met in 2008.
>
> The Dublin Central Rotary Club, where I spoke on April 30, 2008, meets at St. Stephens Green Hibernian Club, 9 St. Stephens Green, Dublin 2, Ireland. The address for the Rotary Club of Shades Valley is Post Office Box 530342, Birmingham, Alabama 35253.

e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and copies of the clips or transcripts of these interviews where they are available to you.

Vicki McKenna Show, June 19, 2025. Audio available: https://newstalk1130.iheart.com/featured/vicki-mckenna/content/2025-06-19-426-the-vicki-mckenna-show-vicki-mckenna-show-josh-kaul-continues-his-lawfa/.

Nick Mordowanec and Barney Henderson, "Supreme Court Delivers Major Setback for Transgender Community," Newsweek, June 18, 2025, https://www.newsweek.com/supreme-court-delivers-major-setback-transgender-rights-2087407.

Ryan Hall, "Alabama judge hears arguments in lawsuit filed by NAACP against state," CBS 42, July 31, 2024, https://www.cbs42.com/alabama-news/alabama-judge-hears-arguments-in-lawsuit-filed-by-naacp-against-state/.

Debbie Elliott, "Panel hears oral arguments over Alabama's law banning gender-affirming care," NPR, Nov. 18, 2022, https://www.npr.org/2022/11/18/1137817671/panel-hears-oral-arguments-over-alabama-s-law-banning-gender-affirming-care.

Alexandra Limon, "SCOTUS considers decision in Alabama voter map case," News Channel 6, Oct. 4, 2022, https://www.wjbf.com/news/washington-dc/scotus-considers-decision-in-alabama-voter-map-case/.

Nina Totenberg, "Can Trump Change A Key Census Count? Supreme Court Hears His Claim," NPR, Nov. 30, 2020, https://www.npr.org/2020/11/30/939655182/can-trump-change-a-key-census-count-supreme-court-hears-his-claim.

Carly Swanson, "Student Organization Challenges NCSU Policy," Spectrum News, June 3, 2016. Copy of article supplied and video available at https://spectrumlocalnews.com/nc/triangle-sandhills/top-stories/2016/06/2/student-organization-challenges-ncsu-policy-.

"Christian group says NCSU policy violates free-speech rights," WRAL.com, June 2, 2016. Copy of article supplied and video available at https://www.wral.com/christian-group-says-ncsu-policy-violates-free-speech-rights/15748463/.

Emery Dalesio, "Christian groups challenge NC university's speech permits," Associated Press, June 2, 2016. Copy supplied. Reprinted in multiple outlets.

13. **Judicial Office**: State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I have not held judicial office.

a. Approximately how many cases have you presided over that have gone to verdict or judgment? _____

i. Of these cases, approximately what percent were:

jury trials: ___%
bench trials: ___%

ii. Of these cases, approximately what percent were:

civil proceedings: ___%
criminal proceedings: ___%

b. Provide citations for all opinions you have written, including concurrences and dissents.

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature of the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (4) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

e. Provide a list of all cases in which certiorari was requested or granted.

f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by

which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not held judicial office.

a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;

b. a brief description of the asserted conflict of interest or other ground for recusal;

c. the procedure you followed in determining whether or not to recuse yourself;

d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

15. **Public Office, Political Activities and Affiliations**:

a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

Solicitor General, State of Alabama (2019 – present); appointed May 2019 by Alabama Attorney General Steve Marshall.

Deputy Solicitor General, State of Alabama (2018 – 2019); appointed December 2018 by Alabama Attorney General Steve Marshall.

U.S. District Judge for the Middle District of Alabama (2020); nominated by President Trump on May 20, 2020. The nomination was returned to the Senate on January 3, 2021, and President Trump renominated me the same day. President Biden withdrew the nomination on February 4, 2021.

b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

Tom Cotton for Senate (2014). I helped raise funds for Senator Cotton's campaign by inviting friends to contribute.

Volunteer, Romney for President (Fall 2012). I helped supervise absentee ballot counts in Florida and assisted with election day planning and operations in Wisconsin.

Volunteer, Martha Roby for Congress (Summer 2010). I made phone calls to tell supporters about scheduled events and otherwise assisted with campaign activities.

16. **Legal Career:** Answer each part separately.

a. Describe chronologically your law practice and legal experience after graduation from law school including:

i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

From 2011 to 2012, I served as a law clerk to the Honorable William H. Pryor Jr., Circuit Judge of the United States Court of Appeals for the Eleventh Circuit.

ii. whether you practiced alone, and if so, the addresses and dates;

I have not practiced law alone.

iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each;

Summer 2007
Bradley Arant Rose & White
[Now Bradley Arant Boult Cummings]
1819 5th Avenue North
Birmingham, Alabama 35203
Project Assistant

Summer 2009
United States Attorney's Office for the Northern District of Alabama
1800 5th Avenue North, Suite 200
Birmingham, Alabama 35203
Law Clerk

Summer 2009
Bradley Arant Boult Cummings
1819 5th Avenue North
Birmingham, Alabama 35203
Summer Associate

Summer 2010

Bradley Arant Boult Cummings
1819 5th Avenue North
Birmingham, Alabama 35203
Summer Associate

Spring 2011
United States Attorney's Office for the District of Connecticut
157 Church Street
New Haven, Connecticut 06510
Law Clerk

Fall 2012
Office of the Texas Attorney General, Solicitor General's Division
300 West 15th Street
Austin, Texas 78701
Law Clerk

2012 – 2014
Baker Botts LLP
910 Louisiana Street
Houston, Texas 77002
Associate

2014 – 2015
Baker Botts LLP
700 K Street, N.W.
Washington, D.C. 20001
Associate

2015 – 2016
Bancroft PLLC
500 New Jersey Avenue, N.W., 7th Floor
Washington, D.C. 20001
Associate

2016 – 2018
Kirkland & Ellis LLP
1301 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Associate (2016 – 2017)
Partner (2017 – 2018)

2018 – present
Office of the Alabama Attorney General
501 Washington Avenue
Montgomery, Alabama 36104

Deputy Solicitor General (2018 – 2019)
Solicitor General (2019 – present)

iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have not served as a mediator or arbitrator.

b. Describe:

i. the general character of your law practice and indicate by date when its character has changed over the years.

In Fall 2012, I served briefly as a law clerk to the Texas Solicitor General. I focused mainly on legal research and writing related to appellate matters.

From 2012 to 2015, while at Baker Botts LLP, I handled complex commercial litigation before both state and federal courts and at every stage from trial to final appeal. For trial litigation, I drafted and responded to discovery, reviewed documents, drafted deposition outlines, served as second chair for numerous depositions, defended a deposition, helped select a jury, drafted critical motions, and argued before a state trial court judge. For appellate litigation, I drafted appellate briefs, argued before a federal court of appeals, and helped prepare partners for oral arguments.

From 2015 to 2016, while at Bancroft PLLC, I focused more heavily on appellate litigation, while also working on some state and federal trial court matters. On trial matters, I drafted and argued critical motions and provided strategic advice. On appellate matters, I argued before a federal court of appeals, drafted briefs on a wide array of substantive matters, and helped prepare partners for oral arguments, including two before the Supreme Court of the United States.

From 2016 to 2018, while at Kirkland & Ellis LLP, I continued to work on both trial and appellate matters. I continued to argue cases before federal courts of appeals and draft appellate briefs, but I also worked on bankruptcy and district court litigation.

From 2018 to 2019, as Alabama's Deputy Solicitor General, I worked on constitutional cases in federal court—pre-trial motions practice, discovery, drafting briefs, and arguing appeals. I also worked on state court criminal appeals and federal habeas matters.

From 2019 to the present, as Alabama's Solicitor General, I supervise the state's litigation and also personally litigate many cases. I supervise attorneys in three areas: (1) particularly important or complicated civil litigation in federal district

court or state trial court, (2) civil and criminal appeals in the Supreme Court of the United States, the United States Court of Appeals for the Eleventh Circuit, and the Alabama Supreme Court, and (3) legal opinions issued by the Attorney General. I personally litigate trial-level cases and appeals at the direction of the Attorney General.

ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

In private practice, my clients were those of the law firms where I worked, typically large companies or nonprofit organizations. I also represented individuals in white-collar criminal defense matters. While I specialized more heavily in appellate litigation upon moving to Bancroft PLLC in 2015, I have consistently engaged in litigation before trial courts throughout my career. I handled a diverse array of legal issues, including criminal defense matters for both paid and pro bono clients, constitutional litigation, complex tort and contracts disputes, administrative law challenges, and bankruptcy matters.

Since I joined the Alabama Attorney General's Office in 2018, my clients have been the state, its agencies, and its officers. I continue to work on and supervise several cases that are at the trial level, while supervising and litigating appellate matters as well. I continue to handle a diverse array of legal issues in both criminal and civil matters.

c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

My practice has always focused on litigation and litigation-related advice. In private practice, I occasionally appeared in trial and appellate courts. I also routinely assisted attorneys before and during their court appearances. Since joining the Alabama Attorney General's Office, I have appeared in court more frequently. In total, I have argued three times in the Supreme Court of the United States, roughly twenty times in federal courts of appeals, four times in the Alabama Supreme Court, and numerous times in federal district courts.

i. Indicate the percentage of your practice in:

1.	federal courts:	90%
2.	state courts of record:	10%
3.	other courts:	0%
4.	administrative agencies:	0%

ii. Indicate the percentage of your practice in:

1. civil proceedings: 65%
2. criminal proceedings: 35%

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

In private practice, I was associate counsel in a case that concluded following a bench trial before a federal district court. I was also associate counsel in a state court jury trial that ran for four weeks before plaintiff agreed to dismiss its claims against my client with prejudice, ending the trial.

Since joining the Attorney General's Office, I have helped oversee cases that have proceeded to final judgment. I was one of the lead lawyers in *West Virginia v. United States Dep't of Treasury*, 571 F. Supp. 3d 1229 (N.D. Ala. 2021).

I was chief counsel in a case in which the State succeeded in having five of plaintiffs' six claims dismissed. *See Alabama State Conf. of the NAACP v. Marshall*, No. 2:24-CV-00420-RDP, 2024 WL 3893426 (N.D. Ala. Aug. 21, 2024).

I was one the lead lawyers in *Singleton v. Allen*, No. 2:21-CV-01291-AMM, 2025 WL 1342947 (N.D. Ala. May 8, 2025), which reached a final merits determination.

i. What percentage of these trials were:

1. jury: 20%
2. non-jury: 80%

e. Describe your practice, if any, before the Supreme Court of the United States. Supply copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have practiced extensively before the Supreme Court of the United States both in private practice and at the Alabama Attorney General's Office. I have argued three times before the Supreme Court of the United States. I have drafted briefs for petitioner or respondent in nine merits cases. I have also drafted numerous cert petitions, briefs in opposition, and amicus briefs at both the cert and merits stages.

I have worked on briefs for a party in the following merits cases:

Halliburton v. Erica P John Fund, 134 S. Ct. 2398 (2014)
FERC v. EPSA, 136 S. Ct. 760 (2016)
Hughes v. Talen Energy Marketing, 136 S. Ct. 1288 (2016)
Jesner v. Arab Bank, 138 S. Ct. 1386 (2018)
Murphy v. National Collegiate Athletic Association, 138 S. Ct. 1461 (2018)

Allen v. Milligan, 599 U.S. 1 (2023) (argued; transcript supplied)
Culley v. Marshall, 601 U.S. 377 (2024) (argued; transcript supplied)
Williams v. Reed, 145 S. Ct. 465 (2025) (argued; transcript supplied)
Hamm v. Smith, No. 24-872 (cert. granted June 6, 2025)

In addition, for the following matters, I worked on briefs either for *amicus curiae* at the merits or nonmerits stage, for parties at the nonmerits stage, or for a non-lead state party in a merits case being led by another state:

Apuzzo v. Securities and Exchange Commission, No. 12-1118 (June 24, 2013)
Mount Soledad Memorial Assoc. v. Trunk, 134 S. Ct. 2658 (June 30, 2014)
Rogers v. United States, 135 S. Ct. 500 (Nov. 10, 2014) [I was unable to locate a copy of this cert. petition]
Perez v. Mortgage Bankers Association, 135 S. Ct. 1199 (2015)
Mylan v. Apotex, No. 15-307 (Nov. 9, 2015)
International Franchise Association v. City of Seattle, No. 15-958 (May 2, 2016) [I was unable to locate a copy of the reply brief.]
BNSF v. Tyrrell, 137 S. Ct. 1549 (2017)
Ming Tung v. China Buddhist Association, No. 16-450 (Jan. 9, 2017)
Mylan Pharmaceuticals Inc. v. AstraZeneca AB, No. 16-360 (Jan. 9, 2017)
Peruta v. State of California, No. 16-894 (June 26, 2017)
Stein v. United States, No. 17-250 (Dec. 11, 2017)
Bauer v. Becerra, No. 17-719 (Feb. 20, 2018)
Holland v. Rosen, No. 18-396 (Oct. 29, 2018)
Kennedy v. Bremerton School District, No. 18-12 (Jan. 22, 2019)
American Legion v. American Humanists Association, 139 S. Ct. 2067 (2019) (merits briefing occurred after I left Kirkland & Ellis LLP)
Acklin v. Alabama, No. 18-640 (Mar. 25, 2019)
Samra v. Alabama, No. 18-9031 (May 14, 2019)
Samra v. Alabama, No. 18-9033 (May 14, 2019)
Price v. Dunn, No. 18A1238 (May 30, 2019)
Davenport v. Estate of Marquette Cummings, No. 18-1191 (June 24, 2019)
Ala. Dept. of Revenue v. CSX Transportation, No. 18-447 (June 24, 2019)
Woodward v. Alabama, No. 18-1298 (Oct. 7, 2019)
Floyd v. Alabama, No. 18-9838 (Oct. 7, 2019)
Hall v. Alabama, No. 18-1362 (Oct. 7, 2019)
Hunt v. Alabama, No. 18-8466 (Oct. 7, 2019)
Woods v. Alabama, No. 18-9438 (Oct. 7, 2019)
Woodward v. Alabama, No. 18-1298 (Oct. 7, 2019)
New York State Rifle & Pistol Association v. City of New York, No. 18-280 (petn. granted after I left Kirkland & Ellis LLP; case decided Apr. 27, 2020)
Dunn v. McWilliams, No. 19A871 (Feb. 11, 2020)
Frazier v. Dunn, No. 19-6531 (Feb. 24, 2020)
Woods v. Stewart, No. 19A984 (Mar. 5, 2020)
Woods v. Dunn, No. 19-7880 (Mar. 5, 2020)
DeBlase v. Alabama, No. 19-7239 (Apr. 20, 2020)
Wilkerson v. Alabama, No. 19-6006 (May 18, 2020)

Carroll v. Alabama, No. 19-7456 (May 26, 2020)
Malpasso v. Pallozzi, No. 19-423
Tomlin v. Patterson, No. 19-7127
Smith v. Dunn, No. 19-7745
Thrasher v. Alabama, No. 19-7751
McMillan v. Alabama, No. 20-193
Donald J. Trump v. State of New York, No. 20-366
James v. State of Alabama, No. 20-708.
State of Alabama v. Alabama State Conference of The N.A.A.C.P., No. 20-1047
Commissioner, Alabama Department of Corrections v. Reeves, No. 20-1084
Peter Capote v. State of Alabama, No. 20-1136
Antonio Devoe Jones v. State of Alabama, No. 20-1125
Eugene Milton Clemons II v. Jefferson S. Dunn, Commissioner, Alabama Department of Corrections, No. 20-1197
Casey A. McWhorter v. Commissioner, Alabama Department of Corrections, No. 20-1302
Seattle's Union Gospel Mission v. Matthew S. Woods, No. 21-144
Kenneth Eugene Smith v. Jefferson S. Dunn, Commissioner, Alabama Department of Corrections, No. 21-579
Ohio v. Department of Labor, Occupational Safety and Health Administration, Nos. 21A244, 21A247
Kyle Ardoin, Secretary of State v. Press Robinson, No. 21A814
Nancy Catherine Powers v. State of Alabama, No. 21-1486
Westley Devone Harris v. State of Alabama, No. 22-44
State of Arizona v. Alejandro Mayorkas, Secretary of Homeland Security, No. 22A544
John Q. Hamm, Commissioner, Alabama Department of Corrections v. Kenneth Eugene Smith, No. 22-580
State of Arizona v. Alejandro Mayorkas, Secretary of Homeland Security, No. 22-592
State of West Virginia v. B.P.J., No. 22A800
Troy University v. Sharell Farmer, No. 22-787
Thomas C. Alexander v. South Carolina State Conference of the NAACP, No. 22-807
Leavell-Keaton v. Alabama, No. 22-6895
Commissioner, Alabama Department of Corrections v. Joseph Clifton Smith, No. 23-167
Wes Allen v. Evan Milligan, No. 23A231
Wes Allen v. Marcus Caster, No. 23A241
American Petroleum Institute v. State of Minnesota, No. 23-168
Casey A. McWhorter v. State of Alabama, No. 23A402
Metropolitan School District of Martinsville v. A.C., A Minor Child By His Next Friend, Mother, And Legal Guardian, M.C., No. 23-392
United States of America v. Donald J. Trump, No. 23-624
State of Alabama v. Marcus Bernard Williams, No. 23-682
Thomas Dale Ferguson v. Commissioner, Alabama Department of Corrections, No. 23-639
Kenneth Eugene Smith v. State of Alabama, No. 23A664

Kenneth Eugene Smith v. Commissioner, Alabama Department of Corrections, Nos. 23-6562, 23A688
United States of America v. Jonathan Skrmetti, No. 23-466
Donald J. Trump v. United States of America, No. 23A745
Raul Labrador v. Pam Poe, No. 23A763
Donald J. Trump v. United States of America, No. 23-939
Sunoco LP v. *City & County of Honolulu*, Nos. 23-947, 23-952
Charles Walen v. Doug Burgum, No. 23-969
Alabama v. California, No. 22O158
State of Kansas v. Alejandro Mayorkas, No. 23-1353
Young Israel of Tampa, Inc. v. Hillsborough Area Regional Transit Authority, No. 23-1276
State of Ohio v. U.S. Environmental Protection Agency, No. 24-13
State of West Virginia v. Environmental Protection Agency, No. 24A95
State of Oklahoma v. Environmental Protection Agency, No. 24A213
Bradley Little v. Lindsay Hecox, No. 24-38
State of West Virginia v. B.P.J., No. 24-43
State of Louisiana v. Phillip Callais, Nos. 24-109, 24-110
United States of America v. Jonathan Skrmetti, No. 23-477
Warren Petersen v. Jane Doe, No. 24-449
United States of America v. Steven T. Marshall, Nos. 24-582, 24-612
Patricia Guerrero Chief Justice of California v. Stephen Moreland Redd, No. 24-948
Ulysses Charles Sneed v. Terry Raybon, Warden, No. 24-1034
Corey Schirod Smith v. John Q. Hamm, Commissioner, Alabama Department of Corrections, No. 24-1153
Turtle Mountain Band of Chippewa Indians v. Michael Howe, No. 25A62
Although not listed on the briefs or docket, I also assisted in the preparation of the briefs in the following cases:

Mt. Soledad Memorial Association v. Trunk, No. 11-998 (June 25, 2012)
Shelby County v. Holder, 133 S. Ct. 2612 (2013)
Long v. Pfister, No. 17-991 (Apr. 23, 2018)
Price v. Dunn, No. 18-1249 (May 13, 2019)
Price v. Dunn, No. 18-8766 (Apr. 12, 2019)
Callen v. Alabama, No. 18-8593 (June 3, 2019)

17. **Litigation**: Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

a. the date of representation;

b. the name of the court and the name of the judge or judges before whom the case

was litigated; and

c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *Boe et al v. Marshall et al*, No. 2:22-cv-00184-LCB-CWB (M.D. Ala.); *Eknes-Tucker v. Governor of Alabama*, No. 22-11707, 80 F.4th 1205 (11th Cir. 2023); *United States v. Marshall*, No. 24-582 (U.S.); *Eknes-Tucker v. Marshall*, No. 24-612 (U.S.)

On April 19, 2022, parents, minors, and healthcare providers brought a § 1983 action against state officials, alleging that Alabama's Vulnerable Child Compassion and Protection Act—which restricts minors from using puberty blockers, cross-sex hormones, or surgeries for the purpose of gender transition treatment—violated the First, Fifth, and Fourteenth Amendments and was preempted by federal law. The United States intervened as a plaintiff as well, raising an Equal Protection Clause challenge.

I served as one of the lead counsel before the district court and on appeal. Judge Liles Burke, sitting by designation for the United States District Court for the Middle District of Alabama, held a multiday hearing on plaintiffs' motions for preliminary injunction. I helped draft defendants' opposition, cross-examined an expert witness at the hearing, and presented the closing statement. The court granted in part plaintiffs' motion for a preliminary injunction, and the State appealed.

On appeal, I drafted briefs and argued before the Eleventh Circuit panel—Circuit Judges Barbara Lagoa and Andrew Brasher, as well as District Judge J. P. Boulee, United States District Judge for the Northern District of Georgia, sitting by designation. In an opinion drafted by Judge Lagoa, the panel sided unanimously with the State, reversing the district court's preliminary injunction.

Meanwhile, the district court litigation continued. I helped draft and argue motions to compel discovery from the private plaintiffs, the United States, and third parties. When plaintiffs sought stays of the litigation, I argued in opposition. After more than two years of litigation, the parties submitted cross-motions for summary judgment, as well as numerous motions in limine. The court stayed the proceedings pending the Supreme Court's decision in *United States v. Skrmetti*, No. 23-477, but before the Supreme Court issued its ruling both the United States and the private plaintiffs dismissed their claims with prejudice.

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2. *Singleton et al. v. Allen*, No. 2:21-cv-1291 (N.D. Ala.) (3-judge court)
Milligan et al. v. Allen et al., No. 2:21-cv-1530-AMM (N.D. Ala.) (3-judge court)
Caster et al. v. Allen et al., No. 2:21-cv1536-AMM (N.D. Ala.)
Allen v. Milligan, Nos. 21-1086 & 21-1087, 599 U.S. 1 (2023)

In November 2021, three sets of plaintiffs brought § 1983 actions against the Alabama Secretary of State, alleging that Alabama's 2021 congressional redistricting plan violated § 2 of the Voting Rights Act and/or the Equal Protection Clause. Each sought a preliminary injunction ahead of the 2022 congressional primaries. The court set the hearing for January 2022. I served as one of the lead counsel before the district court and on appeal. Judge Anna Manasco of the United States District Court for the Northern District of Alabama presided in all three cases. Because two of the cases involved

constitutional challenges to a state congressional plan, three-judge courts were convened in those cases, with Eleventh Circuit Judge Stanley Marcus and Southern District of Alabama Judge Terry Moorer joining Judge Manasco to form three-judge courts. At the preliminary injunction stage, I helped draft the State's response and cross-examined two expert witnesses and a fact witness. The district court granted a preliminary injunction in the *Milligan* and *Caster* cases on the ground that the 2021 plan likely violated § 2 of the Voting Rights Act.

The State immediately appealed to the Supreme Court and sought a stay of the preliminary injunctions. On February 7, 2022, the Supreme Court stayed the district court's injunctions. *See Merrill v. Milligan*, 142 S.Ct. 879.

I then drafted briefs and argued the State's appeal before the Supreme Court. On June 8, 2023, the Supreme Court affirmed the district court's orders, concluding that the 2021 plan likely did violate § 2 of the Voting Rights Act. *See Allen v. Milligan*, 599 U.S. 1 (2023). Chief Justice Roberts wrote the majority opinion, joined by Justices Sotomayor, Kagan, Kavanaugh, and Jackson. Justice Kavanaugh wrote a concurrence. Justice Thomas dissented, joined by Justices Alito, Gorsuch, and Barrett. Justice Alito dissented, joined by Justice Gorsuch.

Following remand, the Alabama Legislature adopted a new congressional redistricting plan in light of the Supreme Court's order. That plan was also challenged as violating § 2 of the Voting Rights Act and the Equal Protection Clause. I argued for the State during this preliminary injunction hearing. The district court issued a preliminary injunction. *See Singleton v. Allen*, 690 F. Supp. 3d 1226 (N.D. Ala. 2023).

Discovery then proceeded. The three cases went to trial simultaneously. On May 8, 2025, the district court issued a permanent injunction, concluding that the 2023 plan violated § 2 and was intentionally dilutive in violation of the Equal Protection Clause. *See Singleton v. Allen*, No. 2:21-CV-01291-AMM, 2025 WL 1342947 (N.D. Ala. May 8, 2025). The State has appealed directly to the Supreme Court. The State's jurisdictional statements are due in the *Singleton* and *Milligan* cases on September 4, 2025.

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3. *Alabama v. Dep't of Commerce*, No. 2:18-cv-00772-RDP, 396 F.Supp.3d 1044 (N.D. Ala. 2019)

In May 2018, the State of Alabama sued the U.S. Department of Commerce, Secretary of Commerce, Census Bureau, and Director of the Census Bureau, arguing that the decennial apportionment of Congressional seats and Electoral College votes among the states should be based on only those people lawfully present within each state on the date the census is conducted. Upon joining the Attorney General's Office, I became lead counsel in the litigation. I argued a motion to dismiss and motion to intervene before Judge R. David Proctor of the United States District Court for the Northern District of Alabama. The court denied Defendants' motion to dismiss and granted Defendants-Intervenors motion to intervene. The case proceeded through discovery. After the release of the 2020 Census results showed that Alabama would not lose a seat in Congress, the State of Alabama voluntarily dismissed its case.

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4. *Lewis v. Governor of Ala.*, 944 F.3d 1287 (11th Cir. 2019) (en banc)

I was counsel of record for the State of Alabama, the Governor, and the Attorney General in this challenge to an Alabama law that preempted local laws requiring a minimum wage

higher than mandated by state or federal law. Two African-American minimum wage employees sued the State Defendants arguing that the law violated the Equal Protection Clause. After the Eleventh Circuit granted the state's petition for rehearing en banc, I briefed and argued the appeal. The en banc court held that plaintiffs did not have standing to bring their claim against the Attorney General because he does not enforce the preemption law and a court order against him would not significantly increase the likelihood that their employers would pay them the local minimum wage. Judge Newsom wrote the majority opinion, joined by Chief Judge Carnes and Judges William Pryor, Branch, Grant, Tjoflat, and Marcus. Judges Wilson, Martin, Jordan, Rosenbaum, and Jill Pryor dissented.

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5. *In re Millennium Lab Holdings II, LLC*, 575 B.R. 252 (Bankr. D. Del. 2017), *aff'd*, 591 B.R. 559 (D. Del. 2018)

This bankruptcy case involved the Chapter 11 restructuring plan of Millennium Lab Holdings. I was an associate lawyer on the case representing James Slattery, the founder of Millennium, who helped provide $325 million needed to facilitate the company's restructuring in return for releases of potential claims against him related to Millennium's bankruptcy. Some creditors objected to the releases, but the plan was confirmed. The case turned primarily on whether the bankruptcy court had constitutional authority to grant releases to third parties. I drafted briefs and helped my colleague prepare for oral argument before Bankruptcy Judge Laurie Silverstein, who agreed with my client that the court had authority to grant the releases. On appeal before District Judge Leonard Stark, I again drafted briefs and helped my colleague prepare for oral argument, and the court again ruled for us. After I left Kirkland & Ellis LLP, the Third Circuit affirmed in *In re Millennium Lab Holdings II, LLC*, 945 F.3d 126 (3d Cir. 2019).

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6. *Culley v. Marshall*, No. 22-585, 601 U.S. 377 (2024)

I represented Attorney General Steve Marshall as lead counsel before the Supreme Court. Two car owners, whose vehicles were seized incident to the arrests for drug offenses of the persons to whom the owners had loaned their cars, brought separate putative class actions under § 1983 against the Attorney General of Alabama, municipalities, and others, alleging the defendants violated the owners' due process rights by retaining their cars during the civil forfeiture process without holding preliminary hearings. In one case, the United States District Court for the Southern District of Alabama, No. 1:19-CV-701-TFM-MU, Terry F. Moorer, 2021 WL 4477900, granted the defendants' motions to dismiss and for judgment on the pleadings. In the second case, the United States District Court for the Northern District of Alabama, No. 4:20-CV-00091-ACA, Annemarie Carney Axon, 2021 WL 1264244, granted in part and denied in part the defendants' motions to dismiss and for judgment on the pleadings, and subsequently, 2021 WL 4149784, granted the defendants' motion for summary judgment.

The owners in both cases appealed, and their appeals were consolidated. The United States Court of Appeals for the Eleventh Circuit, 2022 WL 2663643, affirmed. Certiorari was granted.

I briefed and argued the case before the Supreme Court. Alabama prevailed. Justice Kavanaugh wrote an opinion for the Court, joined by Chief Justice Roberts, and Justices Thomas, Alito, Gorsuch, and Barrett joined. The Court concluded that a timely forfeiture proceeding, without more, satisfies the demands of due process. Justice Gorsuch filed a concurring opinion, in which Justice Thomas joined. Justice Sotomayor filed a dissenting opinion, in which Justice Kagan and Justice Jackson joined.

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7. *Williams v. Reed*, No. 23-191, 145 S. Ct. 465 (2025)

This case involves applicants who sought to compel the Alabama Secretary of Labor to improve the speed and manner in which the Alabama Department of Labor processed their applications for unemployment benefits. On February 3, 2022, they filed a joint complaint in state circuit court asserting under 42 U.S.C. § 1983 that the processing procedures violated the Social Security Act and Due Process Clause. The Alabama

Supreme Court held that the State's statutory scheme for processing unemployment benefits claims and related due process cases required that the applicants first obtain a final determination from the Department of Labor before proceeding to circuit court, and thus that the state courts did not have jurisdiction over the § 1983 claim. The U.S. Supreme Court agreed to review the question whether § 1983 preempts that aspect of Alabama's law, such that circuit courts would be required to entertain claims about unemployment benefits that were not exhausted in accordance with state law. I was lead counsel in the case. I drafted the State's brief and argued before the Supreme Court on October 7, 2024. The U.S. Supreme Court reversed the Alabama Supreme Court. Justice Kavanaugh wrote for the majority, joined by Chief Justice Roberts, and Justices Sotomayor, Kagan, and Jackson. The Court held that the State's administrative-exhaustion requirement effectively immunized state officials from § 1983 claims challenging delays in administrative process, and thus, was preempted. Justice Thomas filed a dissenting opinion, in which Justices Alito, Gorsuch, and Barrett joined in part. On remand to the Alabama Supreme Court, the case has been further briefed, and we are awaiting the court's decision.

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8. *NCAA v. Governor of N.J.*, 832 F.3d 389 (3d Cir. 2016) (en banc), rev'd sub nom. *Murphy v. NCAA*, 138 S. Ct. 1461 (2018)

The Professional and Amateur Sports Protection Act ("PASPA") is a federal law that prohibited most states from authorizing sports gambling. New Jersey authorized sports gambling, and the National Collegiate Athletic Association, National Basketball Association, National Football League, National Hockey League, and the Office of the Commissioner of Baseball (the Leagues) sued to halt New Jersey's conduct as being preempted by PASPA. Defendants were Christopher J. Christie, Governor of the State of New Jersey; David L. Rebuck, Director of the New Jersey Division of Gaming Enforcement and Assistant Attorney General of the State of New Jersey; Frank Zanzuccki, Executive Director of the New Jersey Racing Commission; the New Jersey Thoroughbred Horsemen's Association, Inc.; the New Jersey Sports & Exposition Authority; Stephen M. Sweeney, President of the New Jersey Senate; and Vincent Prieto, Speaker of the New Jersey General Assembly. Defendants argued that PASPA unconstitutionally commandeered the states. The Leagues argued that PASPA was standard preemption legislation that only told the states what they could not do, rather than forcing them to take certain actions. I began working on this case for the Leagues after the Third Circuit granted the Governor's petition for rehearing en banc. I helped my colleague prepare for oral argument, and the court ruled for the Leagues in an opinion by Judge Rendell joined by Judges Ambro, Smith, Fisher, Jordan, Hardiman, Greenaway Jr., Krause, Rendell, and Barry. Judges Fuentes, Restrepo, and Vanaskie dissented.

Defendants filed a petition for a writ of certiorari in the United States Supreme Court, and I helped draft the brief in opposition. The Supreme Court granted the petition, and I then helped draft a merits brief for the Leagues and helped my colleague prepare for oral argument. The Court ruled for Defendants in a 6-3 opinion, holding that PASPA unconstitutionally commandeered New Jersey. Justice Alito wrote the opinion, in which Chief Justice Roberts and Justices Kennedy, Thomas, Kagan, and Gorsuch joined, and in which Justice Breyer joined in part. Justice Thomas filed a concurring opinion. Justice Breyer filed an opinion concurring in part and dissenting in part. Justice Ginsburg filed a dissenting opinion, in which Justice Sotomayor joined, and in which Justice Breyer joined in part.

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9. *United States v. Zarrab*, No. 15 CR 867 (RMB), 2016 WL 6820737 (S.D.N.Y. Oct. 17, 2016)

While at Bancroft PLLC and then Kirkland & Ellis LLP, I helped represent Reza Zarrab, a criminal defendant charged with sanctions violations, money laundering, and bank fraud. I drafted several key pre-trial motions in the case, including a motion to dismiss the indictment, and I argued a motion regarding whether the court should hold a Franks hearing (*see Franks v. Delaware*, 438 U.S. 154 (1978)) to determine whether the affidavit underlying a search warrant was made intentionally or with reckless regard for the truth. District Judge Richard Berman did not dismiss the indictment or grant the suppression motion. In November 2017, Zarrab pleaded guilty.

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10. *Moncrief Oil Int'l Inc. v. OAO Gazprom*, 414 S.W.3d 142 (Tex. 2013); Moncrief Oil Int'l Inc. v. OAO Gazprom, No. 4:14-CV-626-O, 2014 WL 12595739 (N.D. Tex. Sept. 22, 2014); Moncrief Oil Intern., Inc. v OAO Gazprom, No. 017-229664-08, 2015 WL 9260617 (Tex. Dist. Feb. 02, 2015)

Moncrief Oil alleged that in the late 1990s, Gazprom subsidiaries agreed to give Moncrief a large share of a natural gas field in exchange for development assistance. In 2005, Moncrief brought a contract action in Texas that the District Court and Fifth Circuit dismissed for lack of personal jurisdiction. Moncrief then sued Gazprom in Texas again, alleging that Gazprom stole trade secrets from Moncrief during a settlement discussion in Texas that occurred before the Fifth Circuit dismissed the contract claim. The Texas Supreme Court held in 2013 that Texas courts could exercise personal jurisdiction over this new misappropriation of trade secrets claim and a related tortious interference claim.

I was then assigned to draft a motion for rehearing, which the Texas Supreme Court denied (Justices Nathan L. Hecht, Paul W. Green, Phil Johnson, Don R. Willett, Eva M. Guzman, Debra H. Lehrmann, Jeffrey S. Boyd and John P. Devine).

The case returned to Tarrant County District Court before Judge Melody Wilkinson. I helped in all aspects of preparing for trial, including drafting and responding to discovery requests, reviewing documents, preparing deposition outlines, second-chairing most key depositions, defending a deposition, and drafting pretrial motions. At one point, I drafted a brief in support of removing the case to federal court, but District Judge Reed O'Connor remanded the case. The case then went to trial. I assisted co-counsel with voir dire, assisted co-counsel with direct and redirect examinations of witnesses, and argued before Judge Wilkinson regarding the admissibility of deposition testimony. After four weeks of trial, it was revealed during cross-examination of a Moncrief witness that a key document, which Moncrief had identified as documentation from 2004 regarding its purported trade secret, could not have been created any earlier than 2012. Shortly after that fact came to light, Moncrief dismissed its case with prejudice.

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18. **Legal Activities**: Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

As the Solicitor General of Alabama, I have a substantial role in supervising the drafting of Attorney General's Opinions, which resolve questions of state law for the benefit of local and state officials. These opinions are available at https://www.alabamaag.gov/opinions.

In private practice, I sometimes provided confidential litigation advice to clients who were considering bringing affirmative litigation or who were gauging litigation risks of potential courses of conduct.

In *Grace Christian Life v. Woodson*, No. 5:16-CV-202-D, 2016 WL 3194365 (E.D.N.C. June 4, 2016), I served as lead counsel for Grace Christian Life, a student group at North Carolina State University whose members had been told by a university employee that they could not invite other students to their group's meetings without first acquiring a permit from the university. I drafted a complaint and motion for preliminary injunction, arguing that this speech permitting regime violated the First Amendment and had been applied in an unconstitutional manner. I then argued the motion before District Judge James Dever, who granted the preliminary injunction two days later. I then negotiated with lawyers for the university regarding changes to the university's policies that addressed Grace's concerns. We then settled the case.

I have never acted or registered as a lobbyist.

19. **Teaching**: What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide copies to the committee.

I have never taught a course.

20. **Deferred Income/ Future Benefits**: List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

None.

21. **Outside Commitments During Court Service**: Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

I hope to be able to teach a law school course on an adjunct basis, but I have no current plan, commitment, or agreement to do so.

22. **Sources of Income**: List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding $500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

When my nomination is formally submitted to the Senate, I will file my Financial Disclosure Report and will supplement this Questionnaire with a copy of that Report.

23. **Statement of Net Worth**: Please complete the attached financial net worth statement in detail (add schedules as called for).

Please see attached Net Worth Statement.

24. **Potential Conflicts of Interest**:

a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

If confirmed, I will recuse in any litigation where I have ever played a role. I intend to recuse from any current or future case that challenges a government law or policy that I have previously defended. I also intend to recuse from any current or future cases in which I was involved in a previous iteration of the case involving a criminal defendant. For a reasonable period of time, I will recuse in cases where the Office of the Alabama Attorney General represents a party. My wife was an Assistant United States Attorney for the Middle District of Alabama, and I will recuse from any case in which she was involved. My wife is now an attorney in private practice with a law firm that practices across the country, and I will recuse from any case in which she is or appears to be involved. I will evaluate any other real or potential conflict, or relationship that could give rise to appearance of conflict, on a case-by-case basis and determine appropriate action with the advice of parties and their counsel, including recusal where necessary.

b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

If confirmed, I will carefully review and address any real or potential conflicts by

reference to 28 U.S.C. § 455, Canon 3 of the Code of Conduct for United States Judges, and any and all other laws, rules, and practices, governing such circumstances.

25. **Pro Bono Work**: An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

I maintained a robust pro bono practice while I was in private practice. For example, on two occasions, I represented habeas petitioners as counsel of record before the Sixth Circuit, drafting the briefs and arguing the appeals. *See Thompson v. Rapelje*, 839 F.3d 481 (6th Cir. 2016); *Rogers v. United States*, 561 F. App'x 440 (6th Cir. 2014).

In *Mount Soledad Memorial Assoc. v. Trunk*, 134 S. Ct. 2658 (June 30, 2014), I drafted an amicus brief for the American Legion.

In *Grace Christian Life v. Woodson*, No. 5:16-CV-202-D, 2016 WL 3194365 (E.D.N.C. June 4, 2016), I served as lead counsel for Grace Christian Life, a student group at North Carolina State University whose members had been told by a university employee that they could not invite other students to their group's meetings without first acquiring a permit from the university. I drafted a complaint and motion for preliminary injunction that argued that this speech permitting regime violated the First Amendment and had been applied in a discriminatory manner. I then argued the motion before District Judge James Dever, who granted the preliminary injunction two days later. I then negotiated with lawyers for the university regarding changes to the university's policies that addressed Grace's concerns, and we then settled the case. (My former firm received partial compensation for my work after defendants paid some attorney's fees as part of the settlement.)

In *Calvillo v. Sessions*, 713 F. App'x 682 (9th Cir. 2018), I represented an immigrant who appealed the decision of the Board of Immigration Appeals to deny his application for withholding of removal and protection under the Convention Against Torture.

In *American Legion v. American Humanists Association*, 139 S. Ct. 2067 (2019), I drafted an amicus brief on behalf of Veterans of Foreign Wars of The United States and the National World War I Museum and Memorial.

I represented Joseph Kennedy pro bono before the Supreme Court in *Kennedy v. Bremerton School District*, No. 18-12 (Jan. 22, 2019).

While at Baker Botts LLP, I also volunteered at a legal clinic in Houston, Texas, for veterans who needed legal advice.

My position at the Attorney General's Office prevents me from engaging in pro bono work. *See* Ala. Code § 36-15-9.

26. **Selection Process**:

a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

In November 2024, I was informed that if I was interested in being recommended by Senator Tommy Tuberville and Senator Katie Britt for a position as a federal district court judge in Alabama, that I should submit written materials to staff for each senator indicating my interest. Later that month, I emailed counsel for each senator. On December 10, 2024, I met with Mary Blanche Hankey from Senator Tuberville's office, and Drew Robinson from Senator Britt's office. In January 2025, I was asked to submit additional written materials to the Senators, which I provided that month. On March 20, 2025, I again met with Ms. Hankey and Mr. Robinson, and on April 7, we had a virtual interview. On May 7, I interviewed with Senator Tuberville and Ms. Hankey. On June 9, the White House Counsel's Office contacted me to schedule an interview. On June 23, I interviewed with lawyers from the White House Counsel's Office in Washington, DC. Since then, I have been in contact with officials from the White House Counsel's Office and the Justice Department's Office of Legal Policy regarding the nomination

b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

FINANCIAL STATEMENT

NET WORTH

Provide a complete, current financial net worth statement which itemizes in detail all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

ASSETS				LIABILITIES			
Cash on hand and in banks		220	422	Notes payable to banks-secured (auto)			
U.S. Government securities		100	152	Notes payable to banks-unsecured			
Listed securities – see schedule	2	037	375	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable – see schedule		418	265
Real estate owned – see schedule		595	800	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		64	000				
Cash value-life insurance		5	769				
Other assets itemize:							
Thrift Savings Plan – Civilian		389	260				
Retirement Systems of Alabama – 1		205	622				
Employees' Retirement System of Alabama		71	073	Total Liabilities		418	265
				Net Worth	3	271	208
Total Assets	3	689	473	Total Liabilities and Net Worth	3	689	473
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities	
Vanguard Total Bond Market ETF	55,376
Vanguard Total Intl Bond Index ETF	7,676
Vanguard Advice Select Global Value Admiral Cl	68,568
Vanguard Advice Select Intl Growth Admiral Cl	52,231
Vanguard Total Bond Market Index Admiral Cl	9,821
Vanguard Federal Money Market Investor Cl	380
Vanguard Ltd Term Tax Exempt Admiral Cl	11,089
Vanguard Total Intl Bond Index Admiral Cl	20,388
Vanguard Total Stock Market ETF	574,587
Vanguard Growth ETF	13,442
Vanguard Intermediate Term Tax Exempt Admiral Cl	15,450
Vanguard Long Term Tax Exempt Admiral Cl	10,702
Vanguard Total Intl Stock Index ETF	354,564
Vanguard Intl Core Stock Admiral Cl	46,143
College Counts Target Fund 60	35,143
College Counts Moderate Age Based 03-05	62,900
College Counts Moderate Age Based 0-02	11,374
DC College Savings 2031 Portfolio	12,400
DC College Savings 2034 Portfolio	22,969
Vanguard Target Retirement 2050 Trust Plus	24,407
Vanguard Target Enrollment 2040/2041 Portfolio	45,456
Vanguard Target Enrollment 2030/2031 Portfolio	36,342
Vanguard Target Enrollment 2040/2041 Portfolio	28,975
Vanguard Aggressive Growth Portfolio	195,811
Vanguard Target Enrollment 2034/2035 Portfolio	217,316
Vanguard Commencement Portfolio	9,521
Fidelity Freedom Index 2050 Instl Prem	91,271
Vanguard LifeStrategy Growth Fund Investor Shares	3,073
Total Listed Securities	$ 2,037,375

Real Estate Owned	
Personal Residence	$595,800
Total Real Estate Owned	$595,800

Real Estate Mortgages Payable	
Personal Residence – Mortgage	$418,265
Total Real Estate Mortgages Payable	$418,265

AFFIDAVIT

I, Edmund Gerard LaCour Jr., do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

08/04/2025 (DATE)

Ed LC (NAME)

(NOTARY)

My Commission Expires 7/15/2026

Senator Dick Durbin
Ranking Member, Senate Judiciary Committee
Written Questions for Edmund G. LaCour, Jr.
Nominee to be U.S. District Judge for the Northern District of Alabama
September 10, 2025

1. During your tenure as Solicitor General of Alabama, federal courts have repeatedly ruled against you and the state of Alabama. You have represented Alabama in several challenges to illegal and discriminatory voting maps drawn by the state legislature. Federal courts, including the Supreme Court, recognized those maps likely violate Section 2 of the Voting Rights Act. In 2023, the state of Alabama disregarded instructions from courts to draw two majority-Black districts where minority candidates could be chosen. As I mentioned at your hearing, public reporting and testimony revealed that you played a significant role in working with the state legislature to create another map that continued to disregard federal court orders and suppressed the influence of Black voters.

   a. **If the Supreme Court issues an order against a party in this case, is a party permitted to defy that order?**

      Response: No court order was defied. The preliminary injunction order entered in 2022 enjoined the Alabama Secretary of State from conducting any congressional elections according to the State's 2021 Plan, *Singleton v. Merrill*, 582 F. Supp. 3d 924, 936 (N.D. Ala. 2022), but that order was stayed by the Supreme Court, *see Merrill v. Milligan*, 142 S. Ct. 879 (2022). The preliminary injunction order entered in 2023 enjoined the Alabama Secretary of State from conducting any congressional elections according to the State's 2023 Plan, the Secretary complied with that order, and the 2024 congressional election was held under a court-drawn plan. *Singleton v. Allen*, 782 F. Supp. 3d 1092, 1145 (N.D. Ala. 2025). The Supreme Court's decision in *Allen v. Milligan*, 599 U.S. 1 (2023), answered only the liability question of whether the 2021 Plan, based on the limited preliminary-injunction record, likely violated § 2 of the Voting Rights Act. The majority did not opine on whether any other plan adopted for the rest of the decade would need to have two-majority black districts or whether a different and fuller record might show that Alabama's 2021 Plan did not violate § 2.

   b. **If you are confirmed to the district court and issue a decision, would the parties before you be required to comply with your decision and any orders you or the district court may issue?**

      Response: If I become a federal district court judge, and I issue a decision, any party bound by the court's order will generally be required to comply with it unless it is stayed or reversed on appeal.

c. If you are confirmed to the district court, will you condone or permit the kind of repeated noncompliance with court orders that you and the Alabama state legislature engaged in?

Response: Please see my answer to question 1a.

Public reporting has also revealed that, as a result of this litigation you helped lead, Alabama taxpayers are on the hook for more than $5 million in attorneys' fees to the plaintiffs as of August 2024.

d. Please provide the amount in attorneys' fees that has been requested by the plaintiffs' attorneys in this litigation to date. Please also provide the amount in attorneys' fees Alabama has paid to the plaintiffs' attorneys in this litigation to date.

Response: The court ordered the State of Alabama to pay the *Milligan* Plaintiffs $3,000,000 in attorneys fees. *Milligan v. Allen*, No. 2:21-cv-1530 (N.D. Ala. Aug. 7, 2024), ECF 383. And the court ordered the State of Alabama to pay the *Caster* Plaintiffs $2,250,000 in attorneys fees. *Caster v. Allen*, No. 2:21-cv-1536 (N.D. Ala. July 30, 2024), ECF 297.

2. You have represented the state of Alabama in several death penalty cases. In a case last year involving the execution of Kenneth Smith, you wrote in a Supreme Court filing that Smith was "scheduled to be executed by nitrogen hypoxia, perhaps the most humane method of execution ever devised." Smith's planned execution by nitrogen hypoxia, or nitrogen gas asphyxiation, was the first of its kind in the United States and perhaps the world. Human rights experts expressed serious concerns that the method would result in a painful and humiliating death, and they have called for a ban on the method.

Kenneth Smith was executed on January 25, 2024. Despite your claims about the painlessness of nitrogen hypoxia, witnesses described it as a profoundly disturbing event, noting that Smith remained conscious for several minutes as he writhed and convulsed on the gurney.

a. Do you still believe that nitrogen hypoxia is "perhaps the most humane method of execution ever devised"?

Response: The statement is supported by evidence tested in litigation challenging Alabama's method of execution by nitrogen hypoxia.

Many Alabama inmates pleaded nitrogen hypoxia as their preferred method of execution in challenges to lethal injection and later officially elected nitrogen hypoxia when it became available by statute. Moreover, in his dissenting opinion in *Bucklew v. Precythe*, Justice Breyer noted undisputed evidence that "nitrogen hypoxia would be 'quick and painless' and would take effect in 20 to 30 seconds." 587 U.S. 119, 164-65 (Breyer, J., dissenting).

> In the most recent published decision in Alabama regarding a challenge to nitrogen hypoxia, the federal district court concluded—after considering numerous exhibits and live witness testimony—that the prisoner had "not established that the Protocol very likely causes needless psychological suffering, superadds psychological pain, or creates a substantial risk of serious psychological harm." Mem. Op. at 26-27, *Frazier v. Hamm*, 2:24-cv-732 (M.D. Ala. Jan. 31, 2025), ECF 46. The focus was on emotional or psychological distress because the experts and the parties agreed that nitrogen hypoxia is physically painless. *Id.* at 10, 21, 27. As to emotional distress, the plaintiff's position was "not sufficiently supported by research, scientific studies, or articles." *Id.* at 23.

Despite concerns that Smith could choke to death on his own vomit, Alabama said it would not stop the execution if Smith vomited once the pure nitrogen was running. In defense of Alabama's plan, instead of addressing the underlying concerns, you told the Eleventh Circuit that Smith could "have his last meal earlier in the day, or the day before the planned execution."

b. Are you proud of the arguments and statements you made relating to the Smith case?

Response: The district court noted "that many capital cases come to the federal court system with the primary or sole aim of delaying execution indefinitely." *Smith v. Hamm*, No. 2:23-CV-656-RAH, 2024 WL 116303, at *8 (M.D. Ala. Jan. 10, 2024). Smith raised arguably inconsistent challenges to the State's method of execution. On one hand, he argued that the State's mask was too loose and would "fail[] to ensure an airtight seal and would allow oxygen to infiltrate the mask." *Smith v. Comm'r, Alabama Dep't of Corr.*, No. 24-10095, 2024 WL 266027, at *6 (11th Cir. Jan. 24, 2024). On the other hand, he argued that the mask was tight and that he was likely to vomit to such an extent that the mask would fill up enough to cause him to suffocate. *Smith v. Hamm*, No. 2:23-CV-656-RAH, 2024 WL 116303, at *20 n.13 (M.D. Ala. Jan. 10, 2024). The district court found his concerns to be premised on "a cascade of unlikely events." *Id.* at *20. As a lawyer, my oath is to zealously advocate for my client, advancing whatever good faith arguments my client has available, regardless of my views of what might be an ideal policy outcome. It would not be appropriate for me to express particular approval or disapproval of any particular position taken on behalf of my clients.

3. Did President Trump lose the 2020 election?

Response: The Constitution prescribes certification by Electors from the States as means for determining who prevailed in a presidential election. *See* U.S. Const., art. II, § 1; U.S. Const. amend. XII. Under this process, President Joseph Biden was certified as the winner of the 2020 election.

4. **Where were you on January 6, 2021?**

   Response: I was in Montgomery, Alabama.

5. **Do you denounce the January 6 insurrection?**

   Response: How the events at the Capitol on January 6, 2021, are characterized is a matter of political debate and was the subject of litigation in *Trump v. Anderson*. Moreover, the effect of pardons issued to those prosecuted for actions taken related to the events at the Capitol on January 6, 2021, is subject to ongoing litigation that could arise in cases that could come before me if I am confirmed to serve as a district court judge. Thus, under the Code of Conduct for United States Judges, it would be inappropriate for me to address these issues.

6. **Do you believe that January 6 rioters who were convicted of violent assaults on police officers should have been given full and unconditional pardons?**

   Response: The Constitution empowers the President to issue pardons. Under the Code of Conduct for United States Judges, it would be inappropriate for me to weigh in further.

7. The Justice Department is currently defending the Trump Administration in a number of lawsuits challenging executive actions taken by the Administration. Federal judges—both Republican and Democratic appointees—have enjoined some of these actions, holding that they are illegal or unconstitutional. Alarmingly, President Trump, his allies, and even some nominees before the Senate Judiciary Committee have responded by questioning whether the executive branch must follow court orders.

   a. **What options do litigants—including the executive branch—have if they disagree with a court order?**

      Response: The normal practice for any party who has been bound by a federal court order is to seek a stay of that order from the district court, and from appellate courts if needed, and to appeal the order when the applicable law provides for an appeal. If the order is not stayed, the normal course is for the party to comply with the order unless and until it is vacated or reversed by an appellate court.

   b. **Do you believe a litigant can ever lawfully defy an order from a lower federal court? If yes, in what circumstances?**

      Response: There are some potential exceptions to the normal rule that a party must comply with a court order. Professor William Baude has canvassed authority suggesting that "[a] court without jurisdiction over the parties and the subject matter could not bind them to judgment, right or wrong." William Baude, *The Judgment Power*, 96 Geo. L.J. 1807, 1827 (2008); *see also In re Sawyer*, 124 U.S.

200, 220 (1888) ("Where a court has jurisdiction, it has a right to decide every question which occurs in the cause; and, whether its decision be correct or otherwise, its judgment, until reversed, is regarded as binding in every other court: but, if it act without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void."). If it is impossible for a party to comply with a court's order, that can sometimes excuse compliance with the order. *See Shillitani v. United States*, 384 U.S. 364, 371 (1966) ("[T]he justification for coercive imprisonment as applied to civil contempt depends upon the ability of the contemnor to comply with the court's order." (citing *Maggio v. Zeitz*, 333 U.S. 56, 76 (1948)). And there are some interlocutory orders, particularly in the discovery context, that a party may need to disobey in order to preserve the party's rights and be able to immediately appeal. For example, in *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100 (2009), the Court declined to allow an interlocutory appeal of an attorney-client privilege issue because a "long-recognized option" for parties was "to defy a disclosure order and incur court-imposed sanctions." *Id.* at 111.

c. Under the separation of powers, which branch of the federal government is responsible for determining whether a federal court order is lawful?

Response: Under the Constitution, each government official in each of the three branches takes an oath to uphold the Constitution and the laws of the United States. After the Supreme Court decided in *Employment Division v. Smith*, 494 U.S. 872 (1990), for example, C Congress responded with the Religious Freedom and Restoration Act. Pub. L. No. 103-141, 107 State. 1488 (1993). Representative Charles Schumer opined that "Justice Scalia's decision explained that requiring the Government to accommodate religious practice was a luxury.... The Founders of our Nation, the American people today know that religious freedom is no luxury, but is a basic right of a free people." 139 Cong. Rec. 9684 (May 11, 1993) (statement of Rep. Schumer). Representative Jerrold Nadler promised that "[t]his landmark legislation will overturn the Supreme Court's disastrous decision, *Employment Division versus Smith*, which virtually eliminated the [F]irst [A]mendment's protection of the free exercise of religion." 139 Cong. Rec. 9683 (May 11, 1993) (statement of Rep. Nadler). Similarly, there is a history of executive officials who believe a court order is unlawful following the court order as to that particular litigant, but refusing to apply the reasoning of the court order to other potential litigants. The judiciary, however, has authority to adjudicate cases and controversies and enter orders that bind the parties.

8. District judges have occasionally issued non-party injunctions, which may include "nationwide injunctions" and "universal injunctions."

a. Are non-party injunctions constitutional?

Response: The Supreme Court recently held in *Trump v. CASA, Inc.* that "universal" injunctions that go beyond what is necessary to provide full relief to

the parties "can be justified only as an exercise of equitable authority, yet Congress has granted federal courts no such power." 145 S. Ct. 2540, 2550 (2025). The Court's statutory holding, however, did not resolve whether the Constitution would be violated by such universal relief. The Eleventh Circuit has suggested that such relief "push[es] against the boundaries of judicial power." *Georgia v. President of the United States*, 46 F.4th 1283, 1303 (11th Cir. 2022). If confirmed, I would apply these and other relevant precedents. Under the Code of Conduct for United States Judges, it would be inappropriate for me to weigh in further an issue that could come before me.

b. Are non-party injunctions a legitimate exercise of judicial power?

Response: Please see my answer to question 8a.

c. Is it ever appropriate for a district judge to issue a non-party injunction? If so, under what circumstances is it appropriate?

Response: "Several procedural devices allow nonparties with similar interests to seek the protection of injunctive relief—class certification under Rule 23, joinder and intervention in an existing lawsuit, or even filing a new lawsuit of their own." *Georgia v. President of the United States*, 46 F.4th 1283, 1306 (11th Cir. 2022). If confirmed, I would apply these and other relevant precedents. Under the Code of Conduct for United States Judges it would be inappropriate for me to weigh in further an issue that could come before me.

d. As a litigator, have you ever sought a non-party injunction as a form of relief? If so, please list each matter in which you have sought such relief.

Response: As a general matter, during my service as Alabama Solicitor General, the State led or joined several multi-state lawsuits that may have sought such an injunction or the vacatur of a federal agency rule under the Administrative Procedures Act. For example, the State of Alabama was a plaintiff in *Georgia v. President of the United States*, 46 F.4th 1283 (11th Cir. 2022), in which the district court issued a nationwide injunction that was reversed in part by the Eleventh Circuit for being too broad.

9. At any point during your selection process, did you have any discussions with anyone—including individuals at the White House, the Justice Department, or any outside groups—about loyalty to President Trump? If so, please provide details.

Response: No.

10. Does the U.S. Constitution permit a president to serve three terms?

Response: The text of the 22nd Amendment prohibits any person from being "elected to the office of the President" for a third time. U.S. Const., amend. XXII.

11. On May 26, 2025, in a Truth Social post, President Trump referred to some judges whose decisions he disagrees with, as "USA HATING JUDGES" and "MONSTERS", who "…SUFFER FROM AN IDEOLOGY THAT IS SICK, AND VERY DANGEROUS FOR OUR COUNTRY…"[1]

a. Do you agree that these federal judges are "USA HATING" and "MONSTERS" "…SUFFER FROM AN IDEOLOGY THAT IS SICK, AND VERY DANGEROUS FOR OUR COUNTRY…"?

Response: Under the Code of Conduct for United States Judges, it would be inappropriate for me to weigh in on these statements, which are both about political disputes and ongoing litigation.

b. Do you believe this rhetoric endangers the lives of judges and their families?

Response: Please see my answer to question 11a.

12. In addition to the President's own attacks on judges, his adviser Stephen Miller took to social media to call a federal trade court's ruling against President Trump's tariffs a "judicial coup"[2] and later reposted the images of the three judges who decided the case and wrote, "we are living under a judicial tyranny."[3]

a. Do you agree that these judges are engaged in a "judicial coup" and that "we are living under a judicial tyranny"?

Response: Under the Code of Conduct for United States Judges, it would be inappropriate for me to weigh in on these statements, which are both about political disputes and ongoing litigation.

b. Do you believe this rhetoric endangers the lives of judges and their families?

Response: Please see my answer to question 12a.

c. Would you feel comfortable with any politician or their adviser sharing a picture of you on social media if you issue a decision they disagree with?

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[1] Donald J. Trump (@realDonaldTrump), TRUTH SOCIAL (May 26, 2025, 7:22AM), https://truthsocial.com/@realDonaldTrump/posts/114573871728757682.
[2] Stephen Miller (@StephenM), X, (May 28, 2025, 7:48PM), https://x.com/StephenM/status/1927874604531409314.
[3] Stephen Miller (@StephenM), X, (May 29, 2025, 8:25AM), https://x.com/StephenM/status/1928065122657845516.

Response: Please see my answer to question 12a.

13. When, if ever, may a lower court depart from Supreme Court precedent?

Response: Lower courts should not depart from Supreme Court precedent. As the Supreme Court has repeatedly held, "if a precedent of this Court has direct application in a case," lower courts "should follow the case which directly controls, leaving to this Court the prerogative of overruling its own decisions." *Agostini v. Felton*, 521 U.S. 203, 237 (1997).

14. When, in your opinion, would it be appropriate for a circuit court to overturn its own precedent?

In the Eleventh Circuit, only the en banc court can overturn prior panel precedent. *In re Lambrix*, 776 F.3d 789, 794 (11th Cir. 2015). The Eleventh Circuit has recently looked to whether an "earlier decision" was "[]consistent with clear Supreme Court precedent" or with "relevant decision[s] of our sister circuits." *Jones v. Governor of Fla.*, 975 F.3d 1016, 1033 (11th Cir. 2020) (en banc). And the court has considered "reliance interests on that decision." *Id.* As a nominee to the district court, it would be inappropriate for me to opine on when the Eleventh Circuit should overturn its precedent; if confirmed, it will be my job to apply all binding Eleventh Circuit and Supreme Court precedent.

15. When, in your opinion, would it be appropriate for the Supreme Court to overrule its own precedent?

Response: When the Supreme Court considers whether to overrule its own precedent, it considers "the strength of the grounds on which" the precedent rests, *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 234 (2022), "the nature of the[] error, the quality of the[] reasoning, the 'workability' of the rules" the precedent imposes, any "disruptive effect on other areas of the law," and the presence or "absence of concrete reliance." *Id.* at 268. The Court has also said that the doctrine of *stare decisis* "is at its weakest when we interpret the Constitution because a mistaken judicial interpretation of that supreme law is often practically impossible to correct through other means." *Ramos v. Louisiana*, 590 U.S. 83, 105-06 (2020) (quotation marks and footnotes omitted). As a nominee to the district court, it would be inappropriate for me to opine on when the Supreme Court should overturn its precedent; if confirmed, it will be my job to apply all binding Eleventh Circuit and Supreme Court precedent.

16. Please answer yes or no as to whether the following cases were correctly decided by the Supreme Court:

a. *Brown v. Board of Education*

Response: Yes. *Brown v. Board of Education* was correctly decided. While it is typically inappropriate for a nominee to offer views on whether a particular Supreme Court precedent was correctly decided, numerous nominees have made

an exception and offered their views that *Brown* and *Loving v. Virginia* were correctly decided. It is beyond dispute that "[t]he clear and central purpose of the Fourteenth Amendment was to eliminate all official state sources of invidious racial discrimination in the States," *Loving v. Virginia*, 388 U.S. 1, 10 (1967), that anti-miscegenation statutes violate that guarantee of equal treatment, *id.* at 11, as does operating public schools that segregate children through de jure racial discrimination, *Brown v. Board of Education*, 347 U.S. 483, 495 (1954). Thus, in line with the past practice of numerous nominees, I believe it appropriate for me to offer my view that both *Brown* and *Loving* were correctly decided.

b. ***Plyler v. Doe***

Response: Please see my answer to question 16a.

c. ***Loving v. Virginia***

Response: Please see my answer to question 16a.

d. ***Griswold v. Connecticut***

Response: Please see my answer to question 16a.

e. ***Trump v. United States***

Response: Please see my answer to question 16a.

f. ***Dobbs v. Jackson Women's Health Organization***

Response: Please see my answer to question 16a.

g. ***New York State Rifle & Pistol Association, Inc. v. Bruen***

Response: Please see my answer to question 16a.

h. ***Obergefell v. Hodges***

Response: Please see my answer to question 16a.

i. ***Bostock v. Clayton County***

Response: Please see my answer to question 16a.

j. ***Masterpiece Cakeshop v. Colorado***

Response: Please see my answer to question 16a.

k. ***303 Creative LLC v. Elenis***

Response: Please see my answer to question 16a.

l. ***United States v. Rahimi***

Response: Please see my answer to question 16a.

m. ***Loper Bright Enterprises v. Raimondo***

Response: Please see my answer to question 16a.

17. With respect to constitutional interpretation, do you believe judges should rely on the "original meaning" of the Constitution?

Response: At a general level, I understand originalism to mean that, when interpreting a constitutional provision, the role of the judge is to look to the original intent of those who adopted the provision, as evidenced by how the text at issue would have been understood by reasonable people at the time it was adopted. The Supreme Court has interpreted several provisions of the Constitution by looking to the original meaning of the provision. If confirmed, I will interpret any constitutional provision before me as required by Supreme Court and Eleventh Circuit precedent.

18. How do you decide when the Constitution's "original meaning" should be controlling?

When interpreting the Second Amendment, the Supreme Court first looks to whether the "Amendment's plain text covers an individual's conduct." *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1, 17 (2022). If so, "the Constitution presumptively protects that conduct" unless the government "demonstrate[s] that the regulation is consistent with this Nation's historical tradition of firearm regulation." *Id.* Similarly, in rejecting a recent free speech challenge, the Supreme Court held that, "[w]hen faced with a dispute about the Constitution's meaning or application, '[l]ong settled and established practice is a consideration of great weight.'" *Houston Cmty. Coll. Sys. v. Wilson*, 595 U.S. 468, 474 (2022) (quoting *The Pocket Veto Case*, 279 U. S. 655, 689 (1929)). Likewise, "[a]n analysis focused on original meaning and history … has long represented the rule rather than some 'exception' within the Court's Establishment Clause jurisprudence." *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 536 (2022) (quotation marks omitted). If confirmed, I will interpret any constitutional provision before me as required by Supreme Court and Eleventh Circuit precedent.

19. Does the "original meaning" of the Constitution support a constitutional right to same-sex marriage?

Response: *Obergefell* is binding Supreme Court precedent, and I would faithfully apply it in cases calling for its application. Otherwise, please see my answer to question 16a.

20. Does the "original meaning" of the Constitution support the constitutional right to marry persons of a different race?

Response: Yes. The Supreme Court recognized in *Loving v. Virginia* that "[t]he clear and central purpose of the Fourteenth Amendment was to eliminate all official state sources of invidious racial discrimination in the States." 388 U.S. 1, 10 (1967). There was "patently no legitimate overriding purpose independent of invidious racial discrimination which justifie[d]" Virginia's law prohibiting interracial marriages. *Id.* at 11.

21. What is your understanding of the Equal Protection and Due Process clauses of the Fourteenth Amendment?

Response: At a general level, the Fourteenth Amendment's Due Process Clause has been interpreted to guarantee certain substantive rights, specifically, those "fundamental rights and liberties which are, objectively, deeply rooted in this Nation's history and tradition." *Washington v. Glucksberg*, 521 U.S. 702, 720-21 (1997) (quotation marks omitted). Procedural due process typically requires the State to provide certain procedural rights before depriving any person of life, liberty, or property. Sometimes, for example, a court will determine what process is due by balancing the private interests at stake, the value added by additional procedures, and the burdens on the government from adding procedures. *See Mathews v. Eldridge*, 424 U.S. 319, 334-335 (1976). Under Equal Protection Clause doctrine, "if a law neither burdens a fundamental right nor targets a suspect class, [courts] will uphold the legislative classification so long as it bears a rational relation to some legitimate end." *United States v. Skrmetti*, 145 S. Ct. 1816, 1828 (2025). But "laws that classify on the basis of race, alienage, or national origin trigger strict scrutiny and will pass constitutional muster only if they are suitably tailored to serve a compelling state interest." *Id.* (quotation marks omitted). And "sex-based classifications warrant heightened scrutiny." *Id.* Under intermediate scrutiny, "the State must show that the classification serves important governmental objectives and that the discriminatory means employed are substantially related to the achievement of those objectives." *Id.* at 1828-29 (quotation marks omitted).

22. How do these clauses apply to individuals that the Framers of the amendment likely did not have in mind, such as women? Or LGBTQ+ individuals?

"[S]ex-based classifications warrant heightened scrutiny." *United States v. Skrmetti*, 145 S. Ct. 1816, 1828 (2025). Under intermediate scrutiny, "the State must show that the classification serves important governmental objectives and that the discriminatory means employed are substantially related to the achievement of those objectives." *Id.* at 1828-29 (quotation marks omitted). The Supreme Court has also applied these clauses to sexual orientation. *See, e.g., Romer v. Evans,* 517 U.S. 620 (1996); *Lawrence v. Texas,* 539 U.S. 558 (2003); *Obergefell v. Hodges,* 576 U.S. 644 (2015). I would faithfully apply these and all other binding precedents if confirmed. Because other issues related to this question are the subject of ongoing litigation, under the Code of Conduct for United States Judges it would be inappropriate for me to weigh in further.

23. Do you believe that judges should be "originalist" and adhere to the original public meaning of constitutional provisions when applying those provisions today?

Response: Please see my answer to question 17.

24. If so, do you believe that courts should adhere to the original public meaning of the Foreign Emoluments Clause when interpreting and applying the Clause today?

Response: Please see my answer to question 17.

25. Under the U.S. Constitution, who is entitled to First Amendment protections?

The First Amendment provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." But the Supreme Court has recognized that in some contexts, the First Amendment may apply differently to different people. First example, "New York's regulation in defining obscenity on the basis of its appeal to minors under 17" was upheld as consistent with the First Amendment. *Ginsberg v. New York*, 390 U.S. 629, 638 (1968). And the Court recently reaffirmed that "while laws favoring some speakers over others demand strict scrutiny when the legislature's speaker preference reflects a content preference, such scrutiny is unwarranted when the differential treatment is justified by some special characteristic of the particular speaker being regulated." *TikTok Inc. v. Garland*, 604 U.S. 56, 72-73 (2025) (cleaned up). If confirmed, I will apply all binding First Amendment precedents.

26. How would you determine whether a law that regulates speech is "content-based" or "content-neutral"? What are some of the key questions that would inform your analysis?

The Supreme Court recently summarized that "a law is content based on its face if it applies to particular speech because of the topic discussed or the idea or message expressed." *TikTok Inc. v. Garland*, 604 U.S. 56, 70 (2025) (cleaned up). And even "a facially content-neutral law is nonetheless treated as a content-based regulation of speech if it cannot be justified without reference to the content of the regulated speech or was adopted by the government because of disagreement with the message the speech conveys." *Id.* at 70-71 (cleaned up).

27. What is the standard for determining whether a statement is protected speech under the true threats doctrine?

"True threats are serious expressions conveying that a speaker means to commit an act of unlawful violence." *Counterman v. Colorado*, 600 U.S. 66, 74 (2023) (cleaned up). The speaker must have acted at least recklessly for the statement to not be protected by the First Amendment; that is, the speaker must at least be "aware that others could regard his

statements as threatening violence," yet he "delivers them anyway." *Id.* at 79 (cleaned up).

28. Is every individual within the United States entitled to due process?

Response: The Supreme Court has held that Fifth Amendment's "Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). In any case, there will still remain a question of what "process" is "due." To the extent this question asks me to opine on current political or legal disputes that are pending or could soon be pending, under the Code of Conduct for United States Judges, it would be inappropriate for me to weigh in further.

29. Can U.S. citizens be transported to other countries for the purpose of being detained, incarcerated, or otherwise penalized?

Response: Please see my answer to question 28.

30. The Fourteenth Amendment states: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside."

a. Is every person born in the United States a citizen under the Fourteenth Amendment?

Response: Because this question asks about matters that are the subject of ongoing litigation, under the Code of Conduct for United States Judges, it would be inappropriate for me to answer.

b. Is the citizenship or immigration status of the parents of an individual born in the United States relevant for determining whether the individual is a citizen under the Fourteenth Amendment?

Response: Please see my answer to question 30a.

31. Do you believe that demographic and professional diversity on the federal bench is important? Please explain your views.

Response: Yes, I believe it is important that anyone who wishes to serve in the judicial branch is considered without regard to their race, sex, ethnicity, religion, or other protected characteristic. Excluding a candidate for service based on such characteristics would be an affront to his or her individual dignity and would deprive the judicial branch of talented public servants.

32. The bipartisan *First Step Act of 2018*, which was signed into law by President Trump, is one of the most important pieces of criminal justice legislation to be enacted during my

time in Congress. At its core, the Act was based on a few key, evidence-based principles. First, incarcerated people can and should have meaningful access to rehabilitative programming and support in order to reduce recidivism and help our communities prosper. Second, overincarceration through the use of draconian mandatory minimum sentences does not serve the purposes of sentencing and ultimately causes greater, unnecessary harm to our communities. With these rehabilitative principles in mind, one thing Congress sought to achieve through this Act was giving greater discretion to judges—both before and after sentencing—to ensure that the criminal justice system effectively and efficiently fosters public safety for the benefit of all Americans.

a. How do you view the role of federal judges in implementing the *First Step Act*?

Response: As with any other federal law, judges should impartially apply the requirements of the First Step Act, and precedents interpreting it, whenever applicable.

b. Will you commit to fully and fairly considering the individualized circumstances of each defendant who comes before you when imposing sentences to ensure that they are properly tailored to promote the goals of sentencing and avoid terms of imprisonment in excess of what is necessary?

Response: I will fully and fairly apply all applicable laws governing sentencing determinations, including 18 U.S.C. § 3553.

33. The Federalist Society seeks to "reorder[] priorities within the legal system to place a premium on individual liberty, traditional values, and the rule of law."

a. In your Questionnaire, you state that you are currently or were previously a member of the Federalist Society. What is your understanding of "traditional values"?

Response: I am not familiar with this statement, its context, or what the author meant by "traditional values."

b. President Trump wrote on Truth Social that the Federalist Society gave him "bad advice" on "numerous Judicial Nominations." He also wrote that Leonard Leo is a "sleazebag" who "probably hates America." If you are not familiar with this post, please refer to it in the footnote.[4]

i. Do you agree with President Trump that the Federalist Society provided President Trump with bad advice during his first term? Why or why not?

[4] Donald J. Trump (@realDonaldTrump), Truth Social (May 29, 2025, 8:10 PM), https://truthsocial.com/@realDonaldTrump/posts/114593880455063168.

Response: Under the Code of Conduct for United States Judges, it would be inappropriate for me to comment on these statements, which are both about political disputes and ongoing litigation.

ii. Do you agree with President Trump that Leo is a sleazebag who probably hates America? Why or why not?

Response: Please see my answer to question 33(b)(i).

iii. If you are confirmed, do you plan to remain affiliated with the Federalist Society?

Response: If confirmed, I will evaluate all my associations and memberships for consistency with 28 U.S.C. § 455, the Code of Conduct for United States Judges, and any and all other laws, rules, and practices governing such circumstances.

c. During your selection process, have you spoken to or corresponded with any individuals associated with the Federalist Society, including Leonard Leo or Steven G. Calabresi? If so, please provide details of those discussions.

Response: During my selection process, I have not spoken to or corresponded with Leonard Leo or Steven G. Calabresi. To the best of my knowledge and recollection, I did not talk with any Federalist Society officials or employees as part of my selection process. To the extent this question asks about conversations with Federalist Society members or officials that occurred between the time of my contact with staff for Senators Tuberville and Britt and my nomination, I note that the Federalist Society has tens of thousands of members and dozens of officials. I have several friends who are members or officials, and I generally shared some information about my selection process with them.

d. Have you ever been asked to and/or provided services to the Federalist Society, including research, analysis, advice, speeches, or appearing at events?

Response: Yes. I have been invited and have accepted invitations to speak to Federalist Society student chapters at law schools and to chapters for lawyers. In law school, I helped organize events for the Yale Law School chapter. After law school, I helped organize events as a board member for the Houston Lawyers Chapter and as part of the steering committee for the DC Young Lawyers Chapter.

e. Have you ever been paid honoraria by the Federalist Society? If so, how much were you paid, and for what services?

Response: To the best of my recollection, I have not been paid any honoraria.

34. The Teneo Network states that its purpose is to "Recruit, Connect, and Deploy talented conservatives who lead opinion and shape the industries that shape society."

a. In your Questionnaire, you state that you are currently or were previously a member of the Teneo Network. How many meetings have you attended since joining?

Response: I have been a member since 2014. I do not recall how many meetings I have attended, but I would estimate on average about two to three events per year.

b. During your selection process, have you spoken to or corresponded with any individuals associated with the Teneo Network, including Leonard Leo? If so, please provide details of those discussions.

Response: During my selection process, I have not spoken to or corresponded with Leonard Leo. To the best of my knowledge and recollection, I did not speak or correspond with any Teneo officials or employees as part of my selection process. To the extent this question asks about conversations with Teneo members or officials that occurred between the time of my contact with staff for Senators Tuberville and Britt and my nomination, I note that Teneo has many members and officials, and I do not know everyone who may be a member or official. I have several friends who are members or officials, and I generally shared some information about my selection process with them.

c. Have you ever been asked to and/or provided services to the Teneo Network, including research, analysis, advice, speeches, or appearing at events?

Response: Yes. I spoke at a Teneo event about Alabama's litigation in *Boe v. Marshall* and the State's amicus brief in *United States v. Skrmetti*. I have also helped organize and participate in small group discussions.

d. Have you ever been paid honoraria by the Teneo Network? If so, how much were you paid, and for what services?

Response: To the best of my recollection, I have not been paid any honoraria.

35. The Heritage Foundation states that its mission is to "formulate and promote public policies based on the principles of free enterprise, limited government, individual freedom, traditional American values, and a strong national defense." Heritage Action, which is affiliated with the Heritage Foundation, seeks to "fight for conservative policies in Washington, D.C. and in state capitals across the country."

a. During your selection process, have you spoken to or corresponded with any individuals associated with the Heritage Foundation or Heritage Action, including Kevin D. Roberts? If so, please provide details of those discussions.

Response: During my selection process, I have not spoken to or corresponded with Kevin D. Roberts. To the best of my knowledge and recollection, I did not speak or correspond with any other individuals associated with the Heritage Foundation or Heritage Action as part of my selection process. To the extent this question asks about conversations with such individuals about matters unrelated to my selection process, I have corresponded with Heritage Foundation employees about a matter that the Alabama Attorney General's Office is litigating.

b. Have you ever been asked to and/or provided services to the Heritage Foundation or Heritage Action, including research, analysis, advice, speeches, or appearing at events?

Response: Yes. I spoke on a panel about Voting Rights Act litigation at a Heritage Foundation event in October 2024.

c. Were you ever involved in or asked to contribute to Project 2025 in any way?

Response: No.

d. Have you ever been paid honoraria by the Heritage Foundation or Heritage Action? If so, how much were you paid, and for what services?

Response: No.

36. The America First Policy Institute (AFPI) states that its "guiding principles are liberty, free enterprise, national greatness, American military superiority, foreign-policy engagement in the American interest, and the primacy of American workers, families, and communities in all we do."

a. During your selection process, have you spoken to or corresponded with any individuals associated with AFPI? If so, please provide details of those discussions.

Response: To the best of my knowledge, during my selection process, I have not spoken to or corresponded with any individuals associated with AFPI.

b. Have you ever been asked to and/or provided services to AFPI, including research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Have you ever been paid honoraria by AFPI? If so, how much were you paid, and for what services?

Response: No.

37. The America First Legal Institute (AFLI) states that it seeks to "oppose the radical left's anti-jobs, anti-freedom, anti-faith, anti-borders, anti-police, and anti-American crusade."

a. During your selection process, have you spoken to or corresponded with any individuals associated with AFLI, including Stephen Miller, Gene Hamilton, or Daniel Epstein? If so, please provide details of those discussions.

Response: During my selection process, I have not spoken to or corresponded with any individuals associated with AFLI, including Stephen Miller, Gene Hamilton, or Daniel Epstein. To the best of my knowledge and recollection, I did not speak or correspond with any other individuals associated with AFLI as part of my selection process. To the extent this question asks about conversations unrelated to my selection process, I corresponded with lawyers at America First Legal about them filing a motion to allow attorneys from the Alabama Attorney General's Office to appear pro hac vice in a case.

b. Have you ever been asked to and/or provided services to AFLI, including but not limited to research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Have you ever been paid honoraria by AFLI? If so, how much were you paid, and for what services?

Response: No.

38. The Article III Project is an organization which claims that, "The left is weaponizing the power of the judiciary against ordinary citizens."

a. During your selection process, have you spoken to or corresponded with any individuals associated with the Article III Project, including Mike Davis, Will Chamberlain, or Josh Hammer? If so, please provide details of those discussions.

Response: During my selection process, I have not spoken to or corresponded with Mike Davis, Will Chamberlain, or Josh Hammer. To the best of my knowledge and recollection, I did not speak or correspond with any other individuals associated with the Article III Project during my selection process.

b. Have you ever been asked to and/or provided services to the Article III Project, including research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Have you ever been paid honoraria by the Article III Project? If so, how much were you paid, and for what services?

Response: No.

39. The Alliance Defending Freedom (ADF) states that it is "the world's largest legal organization committed to protecting religious freedom, free speech, the sanctity of life, marriage and family, and parental rights."

a. During your selection process, have you spoken to or corresponded with any individuals associated with ADF? If so, please provide details of those discussions.

Response: I have a few friends who work at ADF who I kept apprised of significant developments during my selection process.

b. Have you ever been asked to and/or provided services to ADF, including research, analysis, advice, speeches, or appearing at events?

Response: Yes. In August 2021, I participated in an online discussion with incoming first-year law students about my background, path to law school, and legal career. In July 2022, I spoke on a panel that discussed recent developments in free exercise jurisprudence. And in *Grace Christian Life v. Woodson*, No. 5:16-CV-202-D, 2016 WL 3194365 (E.D.N.C. June 4, 2016), I worked with ADF lawyers to provide pro bono representation to a student group at North Carolina State University whose members had been told by a university employee that they could not invite other students to their group's meetings without first acquiring a permit from the university.

c. Have you ever been paid honoraria by ADF? If so, how much were you paid, and for what services?

Response: Sometime before 2018, I participated as a mock interviewer to help prepare law students for job interviews. I believe I was paid a few hundred dollars for working with them for the day.

40. The Concord Fund, also known as the Judicial Crisis Network, states that it is committed "to the Constitution and the Founders' vision of a nation of limited government; dedicated to the rule of law; with a fair and impartial judiciary." It is affiliated with the 85 Fund, also known as the Honest Elections Project and the Judicial Education Project.

a. During your selection process, have you spoken to or corresponded with any individuals associated with these organizations, including Leonard Leo or Carrie Severino? If so, please provide details of those discussions.

Response: During my selection process, I have not spoken to or corresponded with Leonard Leo or Carrie Severino. To the best of my knowledge and recollection, I did not speak or correspond with any other individuals associated with the groups listed above.

b. Have you ever been asked to and/or provided services to these organizations, including research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Have you ever been paid honoraria by these organizations? If so, how much were you paid, and for what services?

Response: No.

d. Do you have any concerns about outside groups or special interests making undisclosed donations to front organizations like the Concord Fund or 85 Fund in support of your nomination? Note that I am not asking whether you have solicited any such donations, I am asking whether you would find such donations to be problematic.

Response: I am unaware of any such donations in support of my nomination. Any advocacy for or against my nomination would not bear on how I would decide cases if I am confirmed. To the extent that this question asks about policy or legal views on whether certain donations should be disclosed, under the Code of Conduct for United States Judges, it would be inappropriate for me to answer.

e. If you learn of any such donations, will you commit to call for the undisclosed donors to make their donations public so that if you are confirmed you can have this information when you make decisions about recusal in cases that these donors may have an interest in?

Response: I am unaware of any such donations. If confirmed, I will address all potential or actual conflicts in accordance with the federal recusal statute, the Code of Conduct for United States Judges, and any other laws and rules governing disqualification. Where appropriate, I will consult additional authorities, such as ethics opinions from the Committee on Codes of Conduct for the Judicial Conference of the United States, as well as the opinions and experiences of my colleagues. To the extent that this question asks about policy or legal views on whether certain donations should be disclosed, under the Code of Conduct for United States Judges, it would be inappropriate for me to answer.

f. Will you condemn any attempt to make undisclosed donations to the Concord Fund or 85 Fund on behalf of your nomination?

Response: Please see my answer to question 40e.

Nomination of Edmund Gerard LaCour Jr.
Nominee to the United States District Court for the Northern District of Alabama
Questions for the Record
Submitted September 10, 2025

QUESTIONS FROM SENATOR WHITEHOUSE

Please answer each question and sub-question individually and as specifically as possible.

1. You have disclosed that you are a member of the Teneo Network. Why did you join that organization?

   Response: My wife was invited to join in 2014, and friends recommended the group as a good resource for finding community, networking, and learning more about current issues.

2. What activities have you engaged in as part of the Teneo Network?

   Response: I have attended a few retreats, several dinner gatherings, and several holiday parties. I spoke at a Teneo event about Alabama's litigation in *Boe v. Marshall* and the State's amicus brief in *United States v. Skrmetti*. I have also helped organize and participate in small group discussions.

   a. Have you participated in creating any agenda for the Teneo Network? If yes, please describe.

      Response: No. As I noted above, I helped organize and participate in small group discussions, but I have not participated in creating an agenda for the group.

   b. Have you participated in any fundraising for the Teneo Network? If yes, please describe.

      Response: I have donated to the group, but I do not recall otherwise having participated in fundraising.

3. Do you know Leonard Leo?

   Response: Yes.

   a. If so, how do you know Leo?

      Response: My recollection is that we met at a Federalist Society event.

   b. Have you ever communicated with Leo? If so, state how many times and describe the communication(s).

Response: I have spoken briefly with Leo on a handful of occasions at events with other lawyers, typically about current events. We once spoke briefly on the phone regarding a legal issue.

4. Have you ever spoken with Leonard Leo about your nomination? If so, please describe the conversation(s).

   Response: No.

5. Do you agree with the Teneo Network's stated goal to "crush liberal dominance" across America?

   Response: Under the Code of Conduct for United States Judges, it would be inappropriate for me to comment on any subject of political controversy or to express a position regarding matters of public policy.

   a. Do you intend to "crush liberal dominance" from the bench? If so, how?

      Response: If I am confirmed, I do not intend to advance or oppose any political agenda. Rather, in the words of the judicial oath, I intend to "administer justice without respect to persons, and do equal right to the poor and to the rich, and … faithfully and impartially discharge and perform all the duties incumbent upon" me "under the Constitution and laws of the United States." 28 U.S.C. § 453. That requires impartially interpreting the law without regard to any personal or policy views.

6. Did you speak with anyone affiliated with the Teneo Network regarding your judicial nomination? If so, with whom did you speak and what was said?

   Response: To the best of my knowledge and recollection, I did not speak with any Teneo officials or employees as part of my selection process. To the extent this question asks about conversations with Teneo members or officials that occurred between the time of my contact with staff for Senators Tuberville and Britt and my nomination, I note that Teneo has many members and officials, and I do not know everyone who may be a member or official. I have several friends who are members or officials, and I generally shared some information about my selection process with them.

7. You have disclosed that you are a member of the American Enterprise Institute. Why did you join that organization?

   Response: A friend recommended the group's Enterprise Club as a way to network with other young professionals and learn more about the scholarship produced by AEI.

8. What activities have you engaged in as part of the American Enterprise Institute?

Response: When I lived in Washington, DC, I attended several dinners at AEI where other young professionals and AEI scholars would gather and hear from the scholars. I recall attending at least one event in Birmingham, Alabama, after moving to Alabama in 2018.

a. Have you participated in creating any agenda for the American Enterprise Institute? If yes, please describe.

Response: No.

b. Have you participated in any fundraising for the American Enterprise Institute? If yes, please describe.

Response: I have donated to the group, but I do not recall otherwise having participated in fundraising

9. Did you speak with anyone affiliated with the American Enterprise Institute regarding your judicial nomination? If so, with whom did you speak and what was said?

Response: No.

Senate Judiciary Committee
Nomination Hearing
September 3, 2025
Questions for the Record
Senator Amy Klobuchar

For Edmund LaCour, nominee to be U.S. District Judge for the Northern District of Alabama

1. As Solicitor General for the State of Alabama, you defended a congressional redistricting plan that would have included a single majority-Black district in Alabama, despite the fact that Alabama's population is thirty percent African American.

   Chief Justice Roberts, in his opinion for the Court, wrote that: "The heart of these cases is not about the law as it exists. It is about Alabama's attempt to remake our §2 jurisprudence anew" and that Alabama's "reading of §2, by contrast, runs headlong into our precedent." He also wrote: "we find Alabama's new approach to §2 compelling neither in theory nor in practice" and that Alabama's "understanding of §2 cannot be reconciled with our precedent."

   - Do you agree with Chief Justice Roberts that Alabama legal arguments ignored Supreme Court precedent and would "remake" the *Voting Rights Act* if adopted?

     Response: In February 2022, in Alabama's litigation over that congressional plan, Chief Justice Roberts wrote of § 2 redistricting precedent that "it is fair to say that *Gingles* and its progeny have engendered considerable disagreement and uncertainty regarding the nature and contours of a vote dilution claim," and that there were a "wide range of uncertainties arising under *Gingles*." *Merrill v. Milligan*, 142 S. Ct. 879, 882-83 (2022) (Roberts, C.J., dissenting). Alabama presented arguments to the Court both as to why the State should prevail under the Court's precedent and how the Court should resolve the uncertainties that remained under the Court's precedent. Ultimately, the Court affirmed the district court's preliminary finding of a likely § 2 violation as "a faithful application of our precedents." *Allen v. Milligan*, 599 U.S. 1, 42 (2023). Under the Code of Conduct for United States Judges, it would be inappropriate for me to offer my personal views on whether that Supreme Court precedent was correctly decided.

2. After the Court's decision in *Allen v. Milligan,* Alabama passed new maps which again included only a single majority-Black congressional district in the state. This summer, a three-judge panel struck down these maps as also violating the *Voting Rights Act* and directed the state to use a court ordered map.

   When it issued its preliminary injunction in 2023, the Supreme Court wrote: "We are deeply troubled that the State enacted a map that the State readily admits does not provide the remedy we said federal law requires. We are disturbed by the evidence that the State delayed remedial proceedings but ultimately did not even nurture the ambition to provide the required remedy."

   - After the Court's decision in *Allen v. Milligan*, were you involved in any way in the redrawing of Alabama's congressional maps?

Response: My role in Alabama's redistricting was and is as an attorney, and both attorney-client privilege and legislative privilege limit what I can share about legal advice and ongoing litigation. But there was testimony in *Singleton v. Allen*, 782 F. Supp. 3d 1092 (2025), that I provided members of the Alabama Legislature legal advice on how to draft redistricting legislation that could comply with the "competing hazards of liability" (*Abbott v. Perez*, 585 U.S. 579, 587 (2018)) imposed by § 2 of the Voting Rights Act and the Equal Protection Clause. There was testimony that this advice included suggestions as to different ways the legislation could be drafted, *Singleton*, 782 F. Supp. 3d at 1151, including by suggesting draft legislative findings, *id.* at 1153. There was also testimony that I provided talking points for a member of the Legislature. *Id.* at 1187.

- Why did the redrawn maps fail to consider the directives of the Supreme Court and the U.S. District Court for the Northern District of Alabama?

Response; Alabama has argued, and continues to argue before the Supreme Court, that the 2023 Plan responded to the positions of the district court and Supreme Court that Alabama's 2021 Plan likely violated § 2 by providing disparate treatment to two different communities of interest in Alabama that resulted in discriminatory effects on account of race. Plaintiffs had argued that the 2021 Plan had kept "the Gulf Coast counties together" but split a majority-black community of interest called the Black Belt. *Singleton v. Merrill*, 582 F. Supp. 3d 924, 1012 (N.D. Ala. 2022). And they argued that "one way to split the Black Belt less is to split the Gulf Coast counties and include some of the population of Mobile County with a district that also includes part of the Black Belt." *Id.* Along those lines, the Supreme Court concluded that Plaintiffs' alternative plans, which split the Gulf Coast but closed splits in the Black Belt, were "reasonably configured" when compared to the State's 2021 plan because "[t]here would be a split community of interest in both." *Allen v. Milligan*, 599 U.S. 1, 21 (2023). The 2023 Plan provided equal treatment to those communities by closing splits in the Black Belt while also avoiding splits for the Gulf Coast. By doing so, the black voting age population in District 2 rose from around 30% to around 40%. But after two years of discovery and a full trial, the district court concluded in 2025 that § 2 requires Alabama not just to keep the Black Belt together, but to split the Gulf Coast to combine black voters in Mobile with black voters more than 200 miles away. On appeal, the State is arguing that the district court's opinion misapplies § 2 and raises serious constitutional questions.

Moreover, the State's position is that while the Supreme Court affirmed the district court's liability finding, the Supreme Court did not opine on the district court's statements about how a likely remedy would need to be crafted.

The State also continues to argue that even if the 2023 Plan did not match the expectations the district court set forth in its preliminary injunction opinion, it was not defiant to continue to litigate the merits of that assessment. As the Supreme Court recently reemphasized, preliminary injunctions issue based on "procedures that are less formal and evidence that is less complete than in a trial on the merits." *Lackey v. Stinnie*, 145 S.Ct. 659, 667 (2025). Courts often "reach[] a different conclusion upon full consideration of the merits." *Id.* The 2023 Legislature could have thought that with a full

chance to make its case, that it might be able to rebut plaintiffs' evidence that black voters in Alabama "have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice." 52 U.S.C. § 10301(b). The State had recently prevailed on similar arguments in the previous two § 2 vote-dilution challenges against the State that had been litigated to final judgment. *See Ala. Leg. Black Caucus v. Alabama*, 989 F. Supp. 2d 1227, 1287 (M.D. Ala. 2013); *Ala. St. Conf. NAACP v. Alabama*, 612 F. Supp. 3d 1232 (M.D. Ala. 2020).

And the State continues to argue that the 2023 Legislature declined to place the race of voters ahead of traditional districting principles because doing so would likely open the State up to claims that it has violated the Constitution's Equal Protection Clause. The State had faced similar claims against its 2021 Plan, which the district court did not rule on in its 2022 preliminary injunction order, but the court deemed the constitutional issues to be "complicated." *Singleton v. Merrill*, 582 F. Supp. 3d 924, 1035 (N.D. Ala. 2022). And in *SFFA v. Harvard*, 600 U.S. 181 (2023), the Supreme Court held that the consideration of race in Harvard University's admissions process violated the Equal Protection Clause. Three Justices noted in dissent that the "consideration of race" needed for "achieving racial diversity in higher education" is "[j]ust like" the "consideration of race" needed for "drawing district lines that comply with the Voting Rights Act." 600 U.S. at 361 n.34 (Sotomayor, J., dissenting).

3. The President has floated the idea of ending mail-in voting nationwide. In 2024, 36 states, including Minnesota, allowed voters to vote by mail, and nearly a third of voters used it to cast their ballots. The President claims that "the States are merely an 'agent' for the Federal Government, as represented by the President of the United States, tells them."

   - As a state official, do you believe the President is correct?

     Response: Under the Code of Conduct for United States Judges, it would not be appropriate for me as a judicial nominee to weigh in on this political and policy issue, which could come before me if I am confirmed to serve as federal judge.

   - Do you agree that the Constitution makes clear the regulation of elections is the power of the states or Congress, not the President?

     The Elections Clause provides: "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators." Const. art. I, § 4, cl. 1. To the extent this question asks me to opine on current political or legal disputes that are pending or could soon be pending, under the Code of Conduct for United States Judges it would be inappropriate for me to weigh in further.

Nomination of Edmund Gerard LaCour, Jr. to the
United States District Court for the Northern District of Alabama
Questions for the Record
Submitted September 10, 2025

QUESTIONS FROM SENATOR COONS

1. At any point during the process that led to your nomination, did you make any representations or commitments to anyone—including but not limited to individuals at the White House, at the Justice Department, or at outside groups—as to how you would handle a particular case, investigation, or matter, if confirmed? If so, explain fully.

   Response: No.

   a. At any point during the process that led to your nomination, were you asked about your opinion on any cases that involve President Trump or the Trump administration?

      Response: No.

2. How would you describe your judicial philosophy?

   Response: The role of a federal judge in our system of separated powers is critical, but limited. The legislative branch enacts laws, the executive branch executes them, and the judicial branch ensures that in a case or controversy involving those laws, the law is properly applied, whether that be a statute or the Constitution. Thus, judges take up only those legal issues properly brought before them and within their jurisdiction. And they, in the words of the judicial oath, "administer justice without respect to persons, and do equal right to the poor and to the rich, and … faithfully and impartially discharge and perform all the duties incumbent upon" them "under the Constitution and laws of the United States." 28 U.S.C. § 453. In my view, that requires impartially interpreting the law (whether statutory or constitutional) based on the text adopted by lawmakers as understood by the public at the time that text became law and in accordance with binding precedent. That requires the judge to apply the law without resort to the judge's personal or policy views.

3. With respect to substantive due process, what factors do you look to when a case requires you to determine whether a right is fundamental and protected under the Fourteenth Amendment?

   Response: The Fourteenth Amendment's Due Process Clause has been interpreted to guarantee certain substantive rights, specifically, those "fundamental rights and liberties which are, objectively, deeply rooted in this Nation's history and tradition." *Washington v. Glucksberg*, 521 U.S. 702, 720-21 (1997) (quotation marks omitted). If I were confirmed, I would faithfully apply the standards set forth in *Glucksberg* and other applicable Supreme Court precedent.

a. Would you consider whether the right is expressly enumerated in the Constitution?

Response: Yes. The Supreme "Court's incorporation of certain guarantees in the Bill of Rights … is … long established." *McDonald v. City of Chicago*, 561 U.S. 742, 791 (2010) (Scalia, J., concurring). "With only 'a handful' of exceptions, th[e Supreme] Court has held that the Fourteenth Amendment's Due Process Clause incorporates the protections contained in the Bill of Rights, rendering them applicable to the States." *Timbs v. Indiana*, 586 U.S. 146, 150 (2019).

b. Would you consider whether the right is deeply rooted in this nation's history and tradition? If so, what types of sources would you consult to determine whether a right is deeply rooted in this nation's history and tradition?

Response: Yes. Many Supreme Court decisions have looked to whether an asserted right is "deeply rooted in this Nation's history and tradition." *Timbs v. Indiana*, 586 U.S. 146, 150 (2019) (quoting *McDonald v. City of Chicago*, 561 U.S. 742, 767 (2010)). If I were to hear a case requiring that analysis, I would consult the same types of sources the Supreme Court has relied on its substantive due process decisions. For example, in *Timbs*, the Court considered whether a right to be free from excessive fines was deeply rooted in our Nation's history and tradition. The Court noted that the Eighth Amendment's "Excessive Fines Clause traces its venerable lineage back to at least 1215, when Magna Carta" guaranteed a similar right. 586 U.S. at 151. The English Bill of Rights provided a similar guarantee. *Id.* at 152. And "[i]n 1787, the constitutions of eight States—accounting for 70% of the U.S. population—forbade excessive fines." *Id.* (citing Calabresi, Agudo, & Dore, *State Bills of Rights in 1787 and 1791*, 85 S. Cal. L. Rev. 1451, 1517 (2012)).

c. Would you consider whether the right has previously been recognized by Supreme Court or circuit precedent? What about the precedent of another court of appeals?

Response: Yes. If binding precedent already recognizes the right, I would be bound to recognize it as well. If there is no binding precedent, I would still consider opinions from other courts for their persuasive authority.

d. Would you consider whether a *similar* right has previously been recognized by Supreme Court or circuit precedent?

Response: Yes.

e. What other factors would you consider?

Response: I would consider any other factors identified in applicable precedent from the Supreme Court and the Eleventh Circuit.

4. In your view, is it ever appropriate for a judge to ignore, disregard, refuse to implement, or issue an order that is contrary to an order from a higher court? Please explain.

   Response: Lower courts should not depart from binding precedent issued by a higher appellate court. As the Supreme Court has repeatedly held, "if a precedent of this Court has direct application in a case," lower courts "should follow the case which directly controls, leaving to this Court the prerogative of overruling its own decisions." *Agostini v. Felton*, 521 U.S. 203, 237 (1997).

5. Under 28 U.S.C. § 455, "[a]ny justice, judge, or magistrate judge of the United States shall disqualify [themself] in any proceeding in which [their] impartiality might reasonably be questioned."

   a. In your role as Alabama's Solicitor General, you filed a brief asserting that transgender status is not a quasi-suspect class. Would you recuse yourself from any cases involving allegations of discrimination against transgender people?

      Response: I will recuse myself from any case in which I have been involved. More generally, if confirmed, I will carefully review and address any real or potential conflicts by reference to 28 U.S.C. § 455, Canon 3 of the Code of Conduct for United States Judges, and any and all other laws, rules, and practices, governing such circumstances.

   b. Have you authored briefs in support of President Trump that were docketed in his criminal cases?

      Response: Yes.

   c. Because you have weighed in explicitly on President Trump's side in a legal matter, will you recuse yourself from cases involving challenges to President Trump's actions?

      Response: I will recuse myself from any case in which I have been involved. More generally, if confirmed, I will carefully review and address any real or potential conflicts by reference to 28 U.S.C. § 455, Canon 3 of the Code of Conduct for United States Judges, and any and all other laws, rules, and practices, governing such circumstances.

   d. Why should the people of Alabama trust that you will review claims against President Trump fairly when you have previously advocated on his behalf?

      Response: The decision as to whether the State of Alabama files an amicus brief in a case belongs to the Alabama Attorney General. Throughout my career, I have upheld my oath to advocate zealously for my client, no matter my personal views. For example, in private practice, I represented criminal defendants and habeas petitioners; in public service, I have litigated against criminal defendants and

habeas petitioners. In each case, I have pressed whatever good faith arguments my client had available, regardless of my views of what might be an ideal policy outcome. My work on amicus briefs in *United States v. Trump* is no different. If I am so fortunate as to be confirmed and take the judicial oath, I will likewise set aside my personal views and provide impartial justice, seeking to get to the answer commanded by the law, not any policy preference.

6. In *United States v. Virginia*, 518 U.S. 515, 536 (1996), the Court explained that in 1839, when the Virginia Military Institute was established, "[h]igher education at the time was considered dangerous for women," a view widely rejected today. In *Obergefell v. Hodges*, 576 U.S. 644, 668 (2015), the Court reasoned, "As all parties agree, many same-sex couples provide loving and nurturing homes to their children, whether biological or adopted. And hundreds of thousands of children are presently being raised by such couples. . . . Excluding same-sex couples from marriage thus conflicts with a central premise of the right to marry. Without the recognition, stability, and predictability marriage offers, their children suffer the stigma of knowing their families are somehow lesser." This conclusion rejects arguments made by campaigns to prohibit same-sex marriage based on the purported negative impact of such marriages on children.

   a. When is it appropriate for a court to consider evidence that sheds light on our changing understanding of society?

      Response: If confirmed, I would faithfully apply any relevant precedents of the Supreme Court and the Eleventh Circuit governing the consideration of such evidence.

   b. What is the role of sociology, scientific evidence, and data in judicial analysis?

      Response: If confirmed, I would faithfully apply any relevant precedents of the Supreme Court and the Eleventh Circuit governing the consideration of such evidence. The admissibility of scientific, technical, or other specialized knowledge in the determination of adjudicative facts is governed by Federal Rule of Evidence 702 and precedent construing that rule, among other standards.

7. I have been proud to co-lead the bipartisan *Safer Supervision Act*, a bill to reform our federal supervised release system that has received substantial conservative and law enforcement support. The premise of the bill is that our federal supervision system has strayed far from how Congress designed it, as courts impose it mechanically in essentially every case, which means that probation officers do not have time to properly supervise those who most need it. The bill reinforces courts' existing obligations under 18 U.S.C. §§ 3553 and 3583 to impose supervision as warranted by the individual facts of the case and encourages more robust use of early termination when warranted to provide positive incentives encouraging rehabilitation. At the encouragement of a bipartisan group of members of Congress, the U.S. Sentencing Commission recently finalized an amendment to supervision guidelines implementing certain parts of the bill; this amendment will go in effect in November.

a. As a sentencing judge, would you endeavor to impose supervision thoughtfully and on the basis of the individual facts of the case consistent with 18 U.S.C. § 3553 and 18 U.S.C. § 3583?

Response: Yes. If confirmed, I would follow all directives of Congress, including considering supervised release and the recommendations of the Sentencing Commission.

b. Would you agree that the availability of early termination under 18 U.S.C. § 3583(e)(1) can provide individuals positive incentives to rehabilitate?

Response: Congress has determined that "terminat[ing] a term of supervised release" early can in certain circumstances serve "the interest of justice," which could include providing an incentive for individuals to rehabilitate. 18 U.S.C. § 3583(e)(1).

c. Will you commit if confirmed to reviewing the *Safer Supervision Act* and the recent Sentencing Commission amendment and considering them as you develop your approach to sentencing of supervised release?

Response: Yes.

8. What is the remedy if the President violates his constitutional duty to faithfully execute the laws?

Response: "Under Article II, the Executive Branch possesses authority to decide 'how to prioritize and how aggressively to pursue legal actions against defendants who violate the law.'" *United States v. Texas*, 599 U.S. 670, 678 (2023) (quoting *TransUnion LLC v. Ramirez*, 594 U.S. 413, 429 (2021)). At the same time, the Constitution requires the president to "take Care that the Laws be faithfully executed." Art. II, § 3. While "Take Care Clause" claims have been raised in litigation, I am not aware of any case that has squarely held that the President has violated the Take Care Clause. The precise interaction of these principles is a matter of ongoing dispute and could come before me as a judge, if I am confirmed. Thus, under the Code of Conduct for United States Judges, it would be inappropriate for me to weigh in further.

9. Is President Trump eligible to be elected President for a third term?

Response: The text of the 22nd Amendment prohibits any person from being "elected to the office of the President" for a third time. U.S. Const., amend. XXII.

10. Who won the 2016 U.S. Presidential Election?

Response: Donald Trump was certified as the winner of the 2016 U.S. Presidential Election.

11. Who won the 2020 U.S. Presidential Election?

Response: Joe Biden was certified as the winner of the 2020 U.S. Presidential Election.

12. Who won the 2024 U.S. Presidential Election?

Response: Donald Trump was certified as the winner of the 2024 U.S. Presidential Election.

13. Would it be constitutional for the President of the United States to punish a private person for a viewpoint that person expresses in a newspaper op-ed?

Response: If expression does not fall into a category of speech excluded from constitutional protection, the First Amendment generally limits the government's ability to regulate the expression based on viewpoint. Under the Code of Conduct for United States Judges, it would be inappropriate for me to comment further on this hypothetical, lest I be seen as prejudging a case that could come before me.

14. Do you agree with me that the attack at the U.S. Capitol on January 6, 2021, was an insurrection? Why or why not?

Response: How the events at the Capitol on January 6, 2021, are characterized is a matter of political debate and was the subject of litigation in *Trump v. Anderson*. Moreover, the effect of pardons issued to those prosecuted for actions taken related to the events at the Capitol on January 6, 2021, is subject to ongoing litigation that could arise in cases that could come before me if I am confirmed to serve as a district court judge. Thus, under the Code of Conduct for United States Judges, it would be inappropriate for me to address these issues.

15. Would it be constitutional for the President of the United States to terminate government contracts with a private person specifically because that person donated to members of the opposite political party?

Response: In *Rutan v. Republican Party of Illinois*, 497 U.S. 62 (1990), the Supreme Court recognized that the First Amendment placed some limits on state officials regarding discharging certain public employees based on political affiliation. But I have not had occasion to research whether or how these principles or others might apply to contracts with the federal government. To the extent this question asks me to opine on current political or legal disputes that are pending or could soon be pending before a court, under the Code of Conduct for United States Judges it would be inappropriate for me to weigh in further.

16. Would it ever be appropriate for the President of the United States to punish a law firm for taking on a client that the President did not like?

    Response: The question asks about current alleged political disputes and ongoing litigation. Under the Code of Conduct for United States Judges, it would be inappropriate for me to comment.

17. Do you agree that there is a constitutional right to privacy that protects a woman's right to use contraceptives? If you do not agree, please explain whether this right is protected or not and which constitutional rights or provisions encompass it.

    Response: In *Griswold v. Connecticut*, 381 U.S. 479 (1965), the Supreme Court assessed a state law banning the use of contraceptives or assisting others in obtaining contraceptives. The Court held that the law unconstitutionally intruded upon a constitutional right of marital privacy. The Supreme Court then later recognized that "a prohibition on contraception per se … violates the rights of single persons under the Equal Protection Clause of the Fourteenth Amendment." *Eisenstadt v. Baird*, 405 U.S. 438, 443 (1972). As a district court judge, I would be bound to follow all binding precedent.

18. Do you believe that a federal statute banning abortions nationwide would be constitutional?

    Response: It would be inappropriate for me to forecast how I might rule in a case that could come before me. To the extent the question asks for my personal political views, under the Code of Conduct for United States Judges, it would be inappropriate for me to provide my political or policy views.

19. Do you agree that the constitutional right to travel across state lines is fundamental and well established?

    Response: The Supreme Court has recognized that "freedom to travel throughout the United States has long been recognized as a basic right under the Constitution." *United States v. Guest*, 383 U.S. 745, 758 (1966).

    a. Do you think it is constitutional for a state to restrict the interstate travel of its citizens?

       Response: The Supreme Court has stated that "[t]he 'right to travel' discussed in our cases embraces at least three different components. It protects the right of a citizen of one State to enter and to leave another State, the right to be treated as a welcome visitor rather than an unfriendly alien when temporarily present in the second State, and, for those travelers who elect to become permanent residents, the right to be treated like other citizens of that State." *Saenz v. Roe*, 526 U.S. 489, 500 (1999). To the extent this question asks me to opine on current political or legal disputes that are pending or could soon be pending before a court, under

the Code of Conduct for United States Judges it would be inappropriate for me to weigh in further.

20. Do you believe that the Constitution protects a fundamental right to privacy?

Response: The Supreme Court has recognized a constitutional right to privacy in certain contexts. For example, in *Eisenstadt v. Baird*, 405 U.S. 438 (1972), the Court opined that "[i]f the right of privacy means anything, it is the right of the individual, married or single, to be free from unwarranted governmental intrusion into matters so fundamentally affecting a person as the decision whether to bear or beget a child." 405 U.S. 438, 453 (1972). If confirmed, I would faithfully apply all binding precedent.

a. Does that right extend to information about your health care and medical history?

Response: The Eleventh Circuit has "acknowledged a constitutional right to privacy ... for intimate personal information given to a state official in confidence." *Pryor v. Reno*, 171 F.3d 1281, 1288 n.10 (11th Cir. 1999) (citing *James v. City of Douglas*, 941 F.2d 1539, 1544 (11th Cir. 1991). To the extent this question asks me to opine on current political or legal disputes that are pending or could soon be pending before a court, under the Code of Conduct for United States Judges, it would be inappropriate for me to weigh in further.

b. Do you agree that it is a violation of that right for states to surveil people's health care and medical history?

Response: In *Whalen v. Roe*, 429 U.S. 589 (1977), the Supreme Court considered whether the State of New York could record the names and addresses of all persons who have obtained, pursuant to a doctor's prescription, certain drugs for which there is both a lawful and an unlawful market. Plaintiffs argued that such recording violated their rights of privacy, but the Supreme Court rejected that challenge. If a challenge to a state action like that posited in the question came before me, I would faithfully apply all applicable precedent. But it would be improper for me as a judicial nominee to forecast how I might rule in a case that could come before me. To the extent this question asks me to opine on current political or legal disputes that are pending or could soon be pending before a court, under the Code of Conduct for United States Judges, it would be inappropriate for me to weigh in further.

21. Do you agree that there is a constitutional right to privacy that protects the right to in vitro fertilization (IVF)? If you do not agree, please explain whether this right is protected or not and which constitutional rights or provisions encompass it.

Response: In *Skinner v. Oklahoma*, the Supreme Court referred to procreation as "fundamental to the very existence and survival of the [human] race" and as a "basic civil right[ ] of man." 316 U.S. 535, 541 (1942). In *Morrissey v. United States*, 871 F.3d 1260 (11th Cir. 2017), the plaintiff relied on *Skinner* to argue that the government's refusal to

provide him a tax deduction for costs related to IVF violated his "fundamental right to father a child through the use of advanced IVF procedures." *Id.* at 1269. The Eleventh Circuit held that the plaintiff did not have "fundamental right to procreate via an IVF process that necessarily entails the participation of an unrelated third-party egg donor and a gestational surrogate." *Id.* If confirmed, I would faithfully apply any relevant precedents of the Supreme Court and the Eleventh Circuit. To the extent this question asks for my personal views or to opine on current political or legal disputes that are pending or could soon be pending before a court, under the Code of Conduct for United States Judges, it would be inappropriate for me to weigh in further.

22. Do you believe that the Constitution's Equal Protection Clause prohibits discrimination based on sex?

Response: Under the Equal Protection Clause, laws that discriminate based on sex are unconstitutional unless they satisfy heightened scrutiny. *United States v. Skrmetti*, 145 S. Ct. 1816, 1828 (2025). *Id.* Under intermediate scrutiny, "the State must show that the classification serves important governmental objectives and that the discriminatory means employed are substantially related to the achievement of those objectives." *Id.* at 1828-29 (quotation marks omitted). I would apply all binding Equal Protection Clause precedent. To the extent the question asks for my personal views about whether decisions were correctly decided, it would be inappropriate for me as a nominee to weigh in further.

a. Do you believe that women are a quasi-suspect class constituting heightened protection under the Constitution's Equal Protection Clause?

Response: Please see my answer to question 22.

b. Do you believe that homosexual people are a quasi-suspect class constituting heightened protection under the Constitution's Equal Protection Clause?

Response: Though the Supreme Court held in *United States v. Windsor*, 570 U.S. 744, 770 (2013), that the Defense of Marriage Act violated the "Constitution's guarantee of equality," the Court declined to opine on whether homosexual people are a quasi-suspect class. To the extent this question asks for my personal views or to opine on current political or legal disputes that are pending or could soon be pending before a court, under the Code of Conduct for United States Judges, it would be inappropriate for me to weigh in further.

23. Do you believe that immigrants, regardless of legal status, are entitled to due process and fair adjudication of their claims? Explain.

Response: The Supreme Court has held that Fifth Amendment's "Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence

here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). In any case, there will still remain a question of what "process" is "due." To the extent this question asks me to opine on current political or legal disputes that are pending or could soon be pending before a court, under the Code of Conduct for United States Judges, it would be inappropriate for me to weigh in further.

24. Does the public's original understanding of the scope of a constitutional provision constrain its application decades later?

Response: At a general level, I understand originalism to mean that, when interpreting a constitutional provision, the role of the judge is to look to the original intent of those who adopted the provision, as evidenced by how the text at issue would have been understood by reasonable people at the time it was adopted. The Supreme Court has interpreted several provisions of the Constitution by looking to the original meaning of the provision. At the same time, the Court has explained that "[t]hese precedents were not meant to suggest a law trapped in amber." *United States v. Rahimi*, 602 U.S. 680, 691 (2024). For example, "the Second Amendment is not limited only to those arms that were in existence at the founding," and it "permits more than just those regulations identical to ones that could be found in 1791. Holding otherwise would be as mistaken as applying the protections of the right only to muskets and sabers." *Id.* at 691-92. The court's task is to "ascertain whether the new law is 'relevantly similar' to laws that our tradition is understood to permit, applying faithfully the balance struck by the founding generation to modern circumstances." *Id.* at 692 (cleaned up). If confirmed, I will interpret any constitutional provision before me as required by Supreme Court and Eleventh Circuit precedent.

25. What sources would you employ to discern the contours of a constitutional provision?

Response: I would first determine whether binding precedent has defined the contours of the provision or provided an interpretive method for courts to apply to the provision. If so, I would apply that precedent. If not, I would consider the text of the provision, its place in the broader context of the Constitution, historical sources that shed light on the meaning of that text, decisions from other courts interpreting that provision or similar provisions, and any other sources that could help me discern the meaning of the text.

26. Do you believe that Section 2 of the Voting Rights Act is constitutional?

Response: The question of whether § 2 of the Voting Rights Act is constitutional as applied to districting laws is currently pending in courts. Under the Code of Conduct for United States Judges, it would be inappropriate for me to weigh in further.

a. Do you believe that to establish a violation of Section 2 of the Voting Rights Act a plaintiff needs to prove intentional discrimination? Explain.

The Supreme Court has held "that § 2 turns on the presence of discriminatory effects, not discriminatory intent." *Allen v. Milligan*, 599 U.S. 1, 25 (2023). At the

same time, the Supreme Court has also instructed courts assessing a § 2 challenge to consider "the policy underlying the State's or the political subdivision's use of the contested practice or structure." *Thornburg v. Gingles*, 478 U.S. 30, 45 (1986); *see also Brnovich v. Democratic Nat'l Comm.*, 594 U.S. 647, 671-72 (2021) ("[I]t is important to consider the reason for the rule. Rules that are supported by strong state interests are less likely to violate § 2."); *Rose v. Sec'y, State of Georgia*, 87 F.4th 469, 485 (11th Cir. 2023) ("[W]e analyze plaintiffs' proposed remedy and look to a state's policy interests and rationales as one part of that larger undertaking."). To the extent this question asks me to opine on current political or legal disputes that are pending or could soon be pending before a court, under the Code of Conduct for United States Judges it would be inappropriate for me to weigh in further.

27. What role does morality play in determining whether a challenged law or regulation is unconstitutional or otherwise illegal?

Response: The role of a federal judge is to decide legal claims based on arguments presented by the parties, in light of applicable law, binding precedent, and the text of the statute, regulation, or constitutional provisions at issue. Judges are bound by oath to faithfully and impartially apply the law, not their personal beliefs or preferences.

28. What role, if any, should the practical consequences of a particular ruling play in a judge's rendering of a decision?

Response: There are some instances where judges are required to consider the practical consequences of a particular ruling. For example, in considering whether to grant a stay of an order, courts consider not only "(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits;" but also the more practical considerations of "(2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies." *Nken v. Holder*, 556 U.S. 418, 426 (2009). Courts have also recognized that when interpreting a statute, "absurd results are to be avoided." *United States v. Turkette*, 452 U.S. 576, 580 (1981).

29. What role, if any, should empathy play in a judge's decision-making process?

Response: "A judge should be patient, dignified, respectful, and courteous to litigants, jurors, witnesses, lawyers, and others with whom the judge deals in an official capacity. A judge should require similar conduct by those subject to the judge's control, including lawyers to the extent consistent with their role in the adversary process." Canon 3(A)(3) of the Code of Conduct for United States Judges. Likewise, a judge should not lose sight of the real-world impacts of his or her rulings. But a judge must also "administer justice without respect to persons, and do equal right to the poor and to the rich, and ... faithfully and impartially discharge and perform" the judicial role (28 U.S.C. § 453) based on an impartial application of the law, not personal beliefs.

30. What role, if any, should a judge's personal life experience play in his or her decision-making process?

Response: A judge's personal life experience will hopefully aid him or her in being patient, dignified, respectful, and courteous to litigants, jurors, witnesses, lawyers, and others with whom the judge deals; and will hopefully have prepared him or her to perform the duties of the office with excellence and efficiency.

31. Should you be confirmed, would you ever inform parties before you that they do not need to comply with your orders?

Response: The normal practice for any party who has been bound by a federal court order is to seek a stay of that order from the district court, and from appellate courts if needed, and to appeal the order when the applicable law provides for an appeal. If an order I issued were stayed by me or a higher court, the parties before me would not need to comply with the order while the stay would be in effect. If a party did not obtain a stay and did not comply with my order, I would fairly entertain the party's argument that it has a valid defense to non-compliance or that its non-compliance should otherwise be excused.

a. Under what circumstances would you tell a party they could decide not to comply with your orders?

Response: Please see my answer to question 31.

b. What would you do if a party refuses to comply with one of your orders?

Response: Generally speaking, if I were a federal judge, and a party failed to comply with an order, I would consider issuing a show cause order or other order requiring the party to provide information about whether it has complied with the order or taken steps to do so. If after hearing from the parties, I concluded the order was violated, I would consider potential sanctions, including through civil contempt or criminal contempt proceedings. I would also fairly entertain the party's argument that it has a valid defense to non-compliance or that its non-compliance should otherwise be excused.

32. When it comes to conducting yourself ethically, who in the legal profession do you see as a role model?

Response: I have been blessed to practice with and before many excellent lawyers and jurists over the course of my legal career, many who I consider to be role models. As I mentioned at the hearing, during my year clerking for Chief Judge William Pryor of the

Eleventh Circuit and since, I have been inspired by his firm commitment to the rule of law and his diligence in performing his duties as a federal judge.

33. Discuss your proposed hiring process for law clerks.

Response: Out of respect for the Senate's pending consideration of my nomination, I have not yet developed a proposed hiring process for law clerks. But I intend to review all applications that are submitted, including recommendations, references, grades, and work product. I will then try to identify clerks who are likely to take the job seriously, perform it well, and treat others in the courthouse with dignity and respect.

a. Do you think law clerks should be protected by Title VII of the Civil Rights Act?

Response: Under the Code of Conduct for United States Judges, it would be inappropriate for me to address this legislative proposal.

34. In the past year, multiple studies have revealed ongoing problems with workplace conduct policies and outcomes in the federal judiciary. In a national climate survey, hundreds of judiciary employees reported that they experienced sexual harassment, discrimination, or other forms of misconduct on the job. A study by the Federal Judicial Center and the National Academy of Public Administration found the branch has failed to set up trusted reporting systems for employees who experience misconduct or ensure those handling complaints are adequately trained.

a. If confirmed, what proactive steps would you take to ensure that the clerks and judicial assistants who work in your chambers are treated with respect and are not subject to misconduct?

Response: While I will have not yet formulated particular chambers policies, as a general matter, I would be willing to consider any policies that would help ensure that the clerks and other staff who would work in my chambers are treated with respect and not subject to misconduct.

b. What proactive steps would you take to ensure that any workplace-related concerns that your clerks and judicial assistants may have are fully addressed?

Response: Please see my answer to question 34a.

c. If you are confirmed and you later hear from a colleague or your chambers staff that another judge is acting inappropriately, what steps would you take to help ensure the problem is addressed?

Response: Generally, I would consider taking whatever steps would be warranted by the circumstances, keeping in mind the seriousness and credibility of the allegations and the privacy of the individuals concerned.

35. Some district court judges have issued standing orders indicating that the court will favor holding an oral argument when there is a representation that the argument would be handled by a junior lawyer. Such efforts are intended to provide more speaking opportunities in court for junior lawyers. Would you consider issuing a standing order that would encourage more junior lawyers to handle oral arguments? Why or why not?

Response: I would consider issuing such a standing order. For junior lawyers, opportunities to present argument to a court can help them develop their legal abilities to better serve their clients and, by extension, the courts.

a. How else would you support the skills development of junior lawyers appearing before you?

Response: In my current role, I look for opportunities to give junior attorneys the opportunity to take on significant responsibilities, including arguments and depositions. I would generally encourage parties before me to do the same where appropriate and would seek additional ways to promote the development of junior lawyers.

36. Do you think the individuals convicted of assaulting law enforcement officers at the Capitol on January 6, 2021, deserved to be pardoned?

Response: The Constitution empowers the President to issue pardons. Under the Code of Conduct for United States Judges, it would be inappropriate for me to weigh in further.

37. If you were the President on January 20, 2025, would you have pardoned the individuals convicted of assaulting law enforcement officers at the Capitol on January 6, 2021?

Response: Please see my answer to question 36.

38. Do you consider yourself an originalist?

Response: I generally consider myself to be an originalist, to the extent that means that the role of a judge when interpreting a constitutional provision is to look to the original intent of those who adopted the provision, as evidenced by how the text at issue would have been understood by reasonable people at the time it was adopted. But if confirmed to serve as a district court judge, it is likely that for most of the constitutional issues that come before me, there will be precedent regarding what the constitutional provision means and/or how it is to be interpreted. I would apply all binding precedent, including on issues of how to interpret constitutional provisions.

a. You said during your Senate Judiciary Committee confirmation hearing that *Brown v. Board of Education* was correctly decided. Can you explain how the Court's decision in *Brown* comports with an originalist interpretation of constitutional law?

Response: While this topic is the subject of scholarly debate, Professor Michael McConnell has set forth evidence from around the time of the ratification of the Fourteenth Amendment that supports the proposition that the outcome of *Brown v. Board of Education* is consistent with an originalist interpretation of the Fourteenth Amendment. *See* Michael W. McConnell, *Originalism and the Desegregation Decision,* 81 Va. L. Rev. 947 (1995). He documents, for example, that in the first few years following the enactment of the Fourteenth Amendment, "half or more of the Congress voted repeatedly to abolish segregated schools under authority of the Fourteenth Amendment." *Id.* at 986.

b. You said during your Senate Judiciary Committee confirmation hearing that *Loving v. Virginia* was correctly decided. Can you explain how the Court's decision in *Loving* comports with an originalist interpretation of constitutional law?

Response: The Supreme Court recognized in *Loving v. Virginia* that "[t]he clear and central purpose of the Fourteenth Amendment was to eliminate all official state sources of invidious racial discrimination in the States." 388 U.S. 1, 10 (1967). Virginia's law prohibiting interracial marriages failed because there was "patently no legitimate overriding purpose independent of invidious racial discrimination which justifie[d]" the law. *Id.* at 11.

c. During your hearing, you were unwilling to answer whether you believed the Supreme Court's decision in *Obergefell v. Hodges* was correct. Why?

Response: It is typically inappropriate for a nominee to offer views on whether a particular Supreme Court precedent was correctly decided, as doing so could be seen at tipping the nominee's hand as to how he or she might decide related cases. Numerous nominees have made an exception and offered their views that *Brown v. Board* and *Loving v. Virginia* were correctly decided. In line with that practice, I believe it appropriate for me to offer my view that both *Brown* and *Loving* were correctly decided, while refraining from otherwise commenting on the correctness of other decisions.

d. How many times does Justice Kennedy's decision for the Supreme Court in *Obergefell* cite *Loving v. Virginia*?

Response: Justice Kennedy's decision for the Supreme Court in *Obergefell v. Hodges* cites *Loving v. Virginia* at least nine times.

Questions for the Record for Edmund LaCour
Submitted by Senator Richard Blumenthal
September 10, 2025

1. As Alabama's Solicitor General, you represented the state in a citizen challenge to its congressional redistricting plan. You argued the case on appeal to the Supreme Court, which ruled that Alabama's plan likely violated the Voting Rights Act and affirmed a lower court's order requiring any redistricting to include two districts in which Black voters comprised a majority or close to a majority. The Alabama legislature then adopted a new map, which still failed to include two Black-majority districts—in direct violation of the court's directive. When this plan was challenged, you again argued on behalf of the state. But more than that, you helped draw maps, inserted pages of legislative findings into the enabling legislation, and handed out talking points for Republican lawmakers to use to advance the plan.

   You also defended an Alabama law that criminalized absentee ballot assistance and the state's prohibition on curbside voting during the COVID-19 pandemic. And you were involved in drafting an amicus brief submitted to the Supreme Court in *Shelby County v. Holder* that argued that the 2006 reauthorization of certain sections of the Voting Rights Act was unconstitutional and that the Act's preclearance formula—an essential tool in preventing discriminatory voting practices—"serves no purpose."

   a. Please describe your involvement in Alabama's redistricting, aside from your role as an attorney. Specifically, please describe your involvement in drawing maps, inserting information into the enabling legislation, and handing out taking points to Republican politicians.

      Response: My role in Alabama's redistricting was and is as an attorney, and both attorney-client privilege and legislative privilege limit what I can share about legal advice and ongoing litigation. But there was testimony in *Singleton v. Allen*, 782 F. Supp. 3d 1092 (2025), that I provided members of the Alabama Legislature legal advice on how to draft redistricting legislation that could comply with the "competing hazards of liability" (*Abbott v. Perez*, 585 U.S. 579, 587 (2018)) imposed by § 2 of the Voting Rights Act and the Equal Protection Clause. There was testimony that this advice included suggestions as to different ways the legislation could be drafted, *Singleton*, 782 F. Supp. 3d at 1151, including by suggesting draft legislative findings, *id.* at 1153. There was also testimony that I provided talking points for a member of the Legislature. *Id.* at 1187.

   b. During your time as Alabama's Solicitor General, were you ever involved with the legislative process in any other instances? If so, please describe those instances.

      Response: The Alabama Attorney General's Office is regularly consulted to provide legal advice to members of the Legislature or legislative staff who request our legal advice. *See* Ala. Code § 36-15-1(1)(a). Thus, there have been instances

in which I and other lawyers in the Attorney General's Office have reviewed and sometimes suggested revisions to proposed legislation. These requests for legal advice—often made in anticipation of litigation—and responses from the Attorney General's Office are privileged. *See In re Cnty. of Erie*, 473 F.3d 413, 419 (2d Cir. 2007) (recognizing that because "public officials are duty-bound to understand and respect constitutional, judicial and statutory limitations on their authority[,] … their access to candid legal advice directly and significantly serves the public interest").

c. Given your history seeking to restrict voting rights—even going so far as to assist Alabama in defying a court order—how can litigants expect you to be fair in voting rights cases if confirmed?

Response: First, no court order was defied. The preliminary injunction order entered in 2022 enjoined the Alabama Secretary of State from conducting any congressional elections according to the State's 2021 Plan, *Singleton v. Merrill*, 582 F. Supp. 3d 924, 936 (N.D. Ala. 2022), but that order was stayed by the Supreme Court, *see Merrill v. Milligan*, 142 S. Ct. 879 (2022). The preliminary injunction order entered in 2023 enjoined the Alabama Secretary of State from conducting any congressional elections according to the State's 2023 Plan, the Secretary complied with that order, and the 2024 congressional election was held under a court-drawn plan. *Singleton v. Allen*, 782 F. Supp. 3d 1092, 1145 (N.D. Ala. 2025).

Second, throughout my career, I have upheld my oath to advocate zealously for my client, no matter my personal views. For example, in private practice, I represented criminal defendants and habeas petitioners; in public service, I have litigated against criminal defendants and habeas petitioners. In each case, I have pressed whatever good faith arguments my client had available, regardless of my views of what might be an ideal policy outcome. My work on voting rights cases is no different. If I am so fortunate as to be confirmed and take the judicial oath, I will likewise set aside my personal views and provide impartial justice, seeking to get to the answer commanded by the law, not any policy preference.

2. You submitted several amicus briefs to the Supreme Court in support of President Trump in his various criminal cases.

a. If confirmed, how can litigants expect you to be fair in matters concerning President Trump?

Response: The decision as to whether the State of Alabama files an amicus brief in a case belongs to the Alabama Attorney General. Throughout my career, I have upheld my oath to advocate zealously for my client, no matter my personal views. For example, in private practice, I represented criminal defendants and habeas petitioners; in public service, I have litigated against criminal defendants and

habeas petitioners. In each case, I have pressed whatever good faith arguments my client had available, regardless of my views of what might be an ideal policy outcome. My work on these amicus briefs is no different. If I am so fortunate as to be confirmed and take the judicial oath, I will likewise set aside my personal views and provide impartial justice, seeking to get to the answer commanded by the law, not any policy preference.

b. If confirmed, do you commit to recusing yourself from any matter in which President Trump is a named party?

Response: I will recuse myself from any case in which I have been involved. More generally, if confirmed, I will carefully review and address any real or potential conflicts by reference to 28 U.S.C. § 455, Canon 3 of the Code of Conduct for United States Judges, and any and all other laws, rules, and practices, governing such circumstances.

3. If confirmed, will you recuse yourself from any case where a reasonable person, knowing all the relevant facts, might question your impartiality, even if you personally believe you can be fair?

Response: I will recuse myself from any case in which I have been involved. More generally, if confirmed, I will carefully review and address any real or potential conflicts by reference to 28 U.S.C. § 455, Canon 3 of the Code of Conduct for United States Judges, and any and all other laws, rules, and practices, governing such circumstances. The Supreme Court has stated that under 28 U.S.C. § 455(a), "what matters is not the reality of bias or prejudice but its appearance." *Liteky v. United States*, 510 U.S. 540, 548 (1994). "This inquiry is an objective one, made from the perspective of a reasonable observer who is informed of all the surrounding facts and circumstances." *Microsoft Corp. v. United States*, 530 U.S. 1301, 1302 (2000). If such an objective observer "might reasonably … question[]" my "impartiality," I would recuse. 28 U.S.C. § 455(a).

a. If confirmed, will you recuse yourself from cases involving individuals, organizations, or entities to which you or your family members have made political contributions or provided political support?

Response: I will recuse myself from any case in which I have been involved. More generally, if confirmed, I will carefully review and address any real or potential conflicts by reference to 28 U.S.C. § 455, Canon 3 of the Code of Conduct for United States Judges, and any and all other laws, rules, and practices, governing such circumstances. For potential conflicts of interest, I would disclose all relevant information to the parties, hear from the parties, and then rule on any recusal motion based on the relevant authorities and guidance. But it would be inappropriate for me to prejudge any hypothetical recusal motion.

b. If confirmed, will you recuse yourself from cases involving former clients, former law firms, or organizations with which you have had significant professional relationships?

Response: Please see my response to question 3a.

c. If confirmed, will you recuse yourself from cases involving personal friends, social acquaintances, or individuals with whom you have ongoing personal relationships?

Response: Please see my response to question 3a.

4. If confirmed, will you commit to avoiding all *ex parte* communications about pending cases, including informal discussions at social events or professional gatherings?

Response: If confirmed, I will adhere to all ethical rules and obligations that apply to federal judges.

a. If confirmed, will you avoid discussing pending cases or judicial business with elected officials, political appointees, or political operatives?

Response: Please see my response to question 4.

b. If confirmed, will you commit to declining meetings or communications with lobbyists, advocacy groups, or special interests seeking to influence your judicial decisions?

Response: Please see my response to question 4.

c. If confirmed, will you refrain from making public statements about legal or political issues that could reasonably be expected to come before your court?

Response: Please see my response to question 4.

5. If confirmed, will you commit to filing complete and accurate financial disclosure reports that include all required information about your financial interests and activities?

Response: Yes.

a. If confirmed, will you decline all gifts from parties who might appear before your court or who have interests that could be affected by your judicial decisions?

Response: Please see my response to question 4.

b. If confirmed, will you decline privately funded travel, hospitality, or entertainment that could create an appearance of impropriety or special access?

Response: Please see my response to question 4.

c. If confirmed, will you ensure that any teaching, speaking, or writing activities comply with judicial ethics requirements and do not create conflicts with your judicial duties?

Response: Please see my response to question 4.

6. The House Republican-authored budget reconciliation bill had included a provision that would have limited federal judges' ability to hold government officials in contempt. While the Senate Parliamentarian ruled that the provision violated the Byrd Rule, and it was, therefore, removed, it would have prohibited federal courts from issuing contempt penalties against officials who disobey preliminary injunctions or Temporary Restraining Orders if the party seeking the order did not provide financial security to cover potential future damages for wrongful enjoining.

The contempt power was first codified in law in the Judiciary Act of 1789. In 1873, the Supreme Court described it as "inherent in all courts" and "essential to the preservation of order in judicial proceedings and to the enforcement of the judgements, orders, and writs of the courts, and consequently to the due administration of justice." Yet House Republicans are seeking to exempt government officials from this key tool for judicial enforcement.

a. Do you believe the contempt power is "essential . . . to the due administration of justice[?]"

Response: It would be inappropriate for me as a judicial nominee to respond to this question to the extent it involves an issue that could come before me if I am confirmed. And to the extent the question asks about my views on questions of policy or political disputes, it would be inappropriate under the Code of Conduct for United States Judges for me to weigh in. But as the question notes, the Supreme Court has stated that "[t]he power to punish for contempts is inherent in all courts; its existence is essential to the preservation of order in judicial proceedings, and to the enforcement of the judgments, orders, and writs of the courts, and, consequently to the due administration of justice." *Bessette v. W. B. Conkey Co.*, 194 U.S. 324, 327 (1904). If confirmed, I will faithfully apply this precedent and all binding precedent.

b. Do you believe that federal judges should be limited in their ability to hold government officials who defy court orders in contempt?

Response: Under the Code of Conduct for United States Judges, it would be inappropriate for me as a nominee to weigh in on this question, both because it implicates ongoing political disputes and because the issue could arise before me if I am confirmed to serve as a federal judge.

7. If confirmed, you, like all other members of the federal bench, would have the ability to issue orders. On February 9, 2025, Vice President Vance posted on X that "[j]udges aren't allowed to control the executive's legitimate power." This raises an extremely concerning specter of Executive Branch defiance of court orders.

    a. If confirmed, would you have the ability to issue orders?

    Response: Yes. If I had jurisdiction over the case and parties, I could issue orders in the case. If I did not have jurisdiction, I could issue an order dismissing the case.

        i. Would you have the ability to enforce those orders?

        Response: If I had jurisdiction over the case and parties, I could enforce orders entered in the case.

        ii. What powers would you have to enforce those orders?

        Response: When proper processes are followed, federal courts have the power to order sanctions, including through civil contempt and criminal contempt proceedings. Courts may also order litigants or parties to appear and show cause as to whether they have complied with an order or otherwise provide information regarding compliance efforts.

    b. Does there exist a legal basis for federal Executive Branch officials to defy federal court orders? If so, what basis and in which circumstances?

    Response: The normal practice for any party who has been bound by a federal court order is to seek a stay of that order from the district court, and from appellate courts if needed, and to appeal the order when the applicable law provides for an appeal. If the order is not stayed, the normal course is for the party to comply with the order unless and until it is vacated or reversed by an appellate court.

    There are some potential exceptions. Professor William Baude has canvassed authority suggesting that "[a] court without jurisdiction over the parties and the subject matter could not bind them to judgment, right or wrong." William Baude, *The Judgment Power*, 96 Geo. L.J. 1807, 1827 (2008); *see also In re Sawyer*, 124 U.S. 200, 220 (1888) ("Where a court has jurisdiction, it has a right to decide every question which occurs in the cause; and, whether its decision be correct or otherwise, its judgment, until reversed, is regarded as binding in every other court: but, if it act without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void."). If it is impossible for a party to comply with a court's order, that can sometimes excuse compliance with the order. *See Shillitani v. United States*, 384 U.S. 364, 371 (1966) ("[T]he

justification for coercive imprisonment as applied to civil contempt depends upon the ability of the contemnor to comply with the court's order." (citing *Maggio v. Zeitz*, 333 U.S. 56, 76 (1948)). And there are some interlocutory orders, particularly in the discovery context, that a party may need to disobey in order to preserve the party's rights and be able to immediately appeal. For example, in *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100 (2009), the Court declined to allow an interlocutory appeal of an attorney-client privilege issue because a "long-recognized option" for parties was "to defy a disclosure order and incur court-imposed sanctions." *Id.* at 111.

c. Does there exist a legal basis for state officials to defy federal court orders? If so, what basis and in which circumstances?

Response: Please see my response to question 7b.

d. What would make a court order unlawful?

Response: A court order could be described as unlawful if it is wrong on the merits or entered without jurisdiction.

i. What is the process a party should follow if it believes a court order to be unlawful?

Response: Please see my response to question 7b.

ii. Is it ever acceptable to not follow this process? When and why?

Response: Please see my response to question 7b.

8. Were you in Washington, D.C. on January 6, 2021?

Response: No.

a. Were you inside the U.S. Capitol or on the U.S. Capitol grounds on January 6, 2021?

Response: No.

Senator Mazie K. Hirono
Senate Judiciary Committee

Nominations Hearing
Questions for the Record for Edmund Gerard LaCour Jr.

1. As part of my responsibility as a member of this committee to ensure the fitness of nominees, I ask each nominee to answer two initial questions:
    a. **Since you became a legal adult, have you ever made unwanted requests for sexual favors, or committed any verbal or physical harassment or assault of a sexual nature?**

        Response: No.

    b. **Have you ever faced discipline or entered into a settlement related to this kind of conduct?**

        Response: No.

2. The following questions regard your involvement with Alabama's 2021 redistricting maps.
    a. **Did you have any conversations with members of the state legislature regarding the maps during the drawing process?**

        Response: No.

    b. **If your answer to question (2)(a) is anything other than "no,"**
        i. **On what dates were each conversation?**
        ii. **What was the nature of each conversation?**
        iii. **During any of these conversations did you suggest changes to the proposed maps? If so, what changes?**
    c. **At any point did you advise members of the Alabama legislature that the maps could be rejected by a court as a racial gerrymander?**
    d. **What was your role in drawing these maps?**
    e. **During consideration of the maps in the state legislature, did you pass out information on the maps to members of the state legislature?**
    f. **If your answer to question (2)(e) is anything other than "no,"**
        i. **What was the purpose of this information?**
        ii. **Who instructed you to distribute this information?**
        iii. **If no one instructed you to distribute this information, why did you do so?**
        iv. **At any point did any member of the state legislature ask you questions about this information in response to this information? If so, what did they ask and how did you respond?**

3. In 2021, a three-judge district court found that the 2021 redistricting maps constituted an illegal racial gerrymander. **Explain the District Court's reasoning**.

Response: The three-judge district court did not find that Alabama's 2021 congressional plan was an illegal racial gerrymander. While two sets of plaintiffs alleged that the 2021 plan was an illegal racial gerrymander and sought preliminary injunctions in 2021 on that ground, the three-judge district court deemed those "constitutional issues" to be "complicated," and "decline[d] to decide the constitutional claims asserted by the *Singleton* and *Milligan* plaintiffs" in its preliminary injunction order. *Singleton v. Merrill*, 582 F. Supp. 3d 924, 1035 (N.D. Ala. 2022). The court did issue a preliminary injunction after deciding that the plan likely violated § 2 of the Voting Rights Act. But the court did not find that the plan was a racial gerrymander.

4. **Did the Supreme Court state that it had no "basis to upset the District Court's legal conclusions," referencing the District Court's ruling that the maps constituted a racial gerrymander?**

   Response: The Supreme Court reviewed the district court's finding that the 2021 plan likely violated § 2 of the Voting Rights Act and concluded that there was no "basis to upset the District Court's legal conclusions" with regard to that finding of liability based on the preliminary-injunction record. *Allen v. Milligan*, 599 U.S. 1, 23 (2023). Neither court ruled that the plan was a racial gerrymander.

5. The following questions regard your involvement in Alabama's 2023 redrawn redistricting maps, after the Supreme Court ruled against you.
   a. **Did you have any conversations with members of the state legislature regarding the new maps during the drawing process?**

      Response: My role in Alabama's redistricting was and is as an attorney, and both attorney-client privilege and legislative privilege limit what I can share about legal advice and ongoing litigation. But there was testimony in *Singleton v. Allen*, 782 F. Supp. 3d 1092 (2025), that I provided members of the Alabama Legislature legal advice on how to draft redistricting legislation that could comply with the "competing hazards of liability" (*Abbott v. Perez*, 585 U.S. 579, 587 (2018)) imposed by § 2 of the Voting Rights Act and the Equal Protection Clause. There was testimony that this advice included suggestions as to different ways the legislation could be drafted, *Singleton*, 782 F. Supp. 3d at 1151, including by suggesting draft legislative findings, *id.* at 1153. There was also testimony that I provided talking points for a member of the Legislature. *Id.* at 1187.

   b. **If your answer to question (5)(a) is anything other than "no,"**
      i. **On what dates were each conversation?**

         Response: Please see my answer to question 5a.

      ii. **What was the nature of each conversation?**

         Response: Please see my answer to question 5a.

iii. **During any of these conversations did you suggest changes to the proposed maps? If so, what changes?**

Response: Please see my answer to question 5a.

c. **What was your role in drawing these new maps?**

Response: Please see my answer to question 5a.

6. Prior to answering the following questions, thoroughly review the May 8, 2025, per curiam opinion of the United States District Court for the Northern District of Alabama, Southern Division in *Singleton v. Allen*, 2:21-cv-01291-AMM, and *Milligan v. Allen*, 2:21-cv-01530-AMM.

a. **Did the District Court hold that Alabama's new maps were unlawful?**

Response: Yes. Alabama has appealed that ruling to the Supreme Court.

b. **Did the District Court write that Alabama's legislature had made a "deliberate decision to double down on the dilution of Black Alabamians' votes" in the 2023 maps?**

Response: Yes. Alabama has appealed that ruling to the Supreme Court.

c. **During the argument in this case, did you suggest that a state legislature could ignore a court order to create a second majority-minority district?**

Response: No court order was ignored. In 2022, the district court entered a preliminary injunction that held it was likely that Alabama's 2021 congressional plan violated § 2 of the Voting Rights Act. The court's preliminary injunction order enjoined the Alabama Secretary of State from conducting any congressional elections according to the State's 2021 Plan, *Singleton v. Merrill*, 582 F. Supp. 3d 924, 936 (N.D. Ala. 2022), though that order was stayed by the Supreme Court, *see Merrill v. Milligan*, 142 S. Ct. 879 (2022). The district court's opinion also stated that the preliminary-injunction record "suggests that any remedial plan will need to include two districts in which Black voters either comprise a voting-age majority or something quite close to it." *Singleton v. Merrill*, 582 F. Supp. 3d 924, 1033 (N.D. Ala. 2022). But the court did not order the Alabama Legislature to enact any plan.

Alabama has argued, and continues to argue before the Supreme Court, that the 2023 Plan responded to the positions of the district court and Supreme Court that Alabama's 2021 Plan likely violated § 2 by providing disparate treatment to two different communities of interest in Alabama that resulted in discriminatory effects on account of race. Plaintiffs had argued that the 2021 Plan had kept "the Gulf Coast counties together" but split a majority-black community of interest called the Black Belt. *Singleton v. Merrill*, 582 F. Supp. 3d 924, 1012 (N.D. Ala. 2022). And they argued that "one way to split the Black Belt less is to split the

Gulf Coast counties and include some of the population of Mobile County with a district that also includes part of the Black Belt." *Id.* Along those lines, the Supreme Court concluded that Plaintiffs' alternative plans, which split the Gulf Coast but closed splits in the Black Belt, were "reasonably configured" when compared to the State's 2021 plan because "[t]here would be a split community of interest in both." *Allen v. Milligan*, 599 U.S. 1, 21 (2023). The 2023 Plan provided equal treatment to those communities by closing splits in the Black Belt while also avoiding splits for the Gulf Coast. By doing so, the black voting age population in District 2 rose from around 30% to around 40%. But after two years of discovery and a full trial, the district court concluded in 2025 that § 2 requires Alabama not just to keep the Black Belt together, but to split the Gulf to combine black voters in Mobile with black voters more than 200 miles away. On appeal, the State is arguing that the district court's opinion misapplies § 2 and raises serious constitutional questions.

d. **Did the District Court write "we also emphasize our concern about the State's assertion that in response to any injunction we may issue, it is free to repeat its checkmate move"?**

Response: Yes. Alabama has appealed that ruling to the Supreme Court. We have argued, and continue to argue, that the 2023 Plan does not violate § 2 and was not enacted with discriminatory intent.

e. **Do you agree that a State does not have the power to "repeat its checkmate move" in ignoring a court order?**

Response: The State has argued that passing a plan that tried to comply with § 2 is not a "checkmate move," even if the plan did not match the expectations in the district court's preliminary injunction opinion. Relatedly, the State has argued that it is not a "checkmate move" to continue to litigate the merits of a case after losing at the preliminary injunction stage. As the Supreme Court recently reemphasized, preliminary injunctions issue based on "procedures that are less formal and evidence that is less complete than in a trial on the merits." *Lackey v. Stinnie*, 145 S.Ct. 659, 667 (2025). Courts often "reach[] a different conclusion upon full consideration of the merits." *Id.*

f. **Did the District Court write "there is nothing customary or appropriate about a state legislature's deliberate decision to ignore, evade, and strategically frustrate requirements spelled out in a court order" in its opinion?**

Response: Yes. Alabama disputes that characterization of the Legislature's actions and has appealed that ruling to the Supreme Court.

g. **At any point did you advise members of the state legislature to ignore the requirements spelled out in the court order?**

Response: Please see my answers to questions 5a and 6c.

h. **At any point did you advise members of the state legislature to evade the requirements spelled out in the court order?**

Response: Please see my answers to questions 5a and 6c.

i. **At any point did you advise members of the state legislature to strategically frustrate the requirements spelled out in the court order?**

Response: Please see my answers to questions 5a and 6c.

j. **Why did the legislature ignore the court order to create a second majority-minority district?**

Response: Please see my answers to questions 5a and 6c.

k. **What legal justification could the legislature have for creating a map with anything other than a second majority-minority district?**

Response: Please see my answers to 6c and 6e.

l. **Did the District Court discuss "a case all too familiar to Alabama" from 1967, where "the Supreme Court explained decades ago that decisions to ignore court orders are intolerable in our system of ordered liberty even when they are undertaken in unassailable good faith and for purely 'righteous' purposes," in its opinion?**

Response: Yes. Alabama disputes that characterization of the Legislature's actions and has appealed that ruling to the Supreme Court.

m. **What righteous purpose, if any, would you consider sufficient for an individual to fail to comply with a District Court order?**

Response: The normal practice for any party who has been bound by a federal court order is to seek a stay of that order from the district court, and from appellate courts if needed, and to appeal the order when the applicable law provides for an appeal. If the order is not stayed, the normal course is for the party to comply with the order unless and until it is vacated or reversed by an appellate court. As explained in my answer to question 6c, the Secretary of State followed that normal practice in this case, seeking and obtaining a stay of the 2022 preliminary injunction order, and then complying with the preliminary injunction order from 2023 because that order was not stayed.

7. **Aside from an attempt to create a technical contempt in order to pursue an interlocutory appeal, is there a situation where an individual can legally ignore a**

District Court order prior to appeal? If so, explain thoroughly, with citations to relevant law.

Response: If an order is stayed either by the district court or an appellate court, the party need not comply with the order. If the order is not stayed, the normal course is for the party to comply with the order unless and until it is vacated or reversed by an appellate court. There are some potential exceptions. Professor William Baude has canvassed authority suggesting that "[a] court without jurisdiction over the parties and the subject matter could not bind them to judgment, right or wrong." William Baude, *The Judgment Power*, 96 Geo. L.J. 1807, 1827 (2008); *see also In re Sawyer*, 124 U.S. 200, 220 (1888) ("Where a court has jurisdiction, it has a right to decide every question which occurs in the cause; and, whether its decision be correct or otherwise, its judgment, until reversed, is regarded as binding in every other court: but, if it act without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void."). If it is impossible for a party to comply with a court's order, that can sometimes excuse compliance with the order. *See Shillitani v. United States*, 384 U.S. 364, 371 (1966) ("[T]he justification for coercive imprisonment as applied to civil contempt depends upon the ability of the contemnor to comply with the court's order." (citing *Maggio v. Zeitz*, 333 U.S. 56, 76 (1948)). And there are some interlocutory orders, particularly in the discovery context, that a party may need to disobey in order to preserve the party's rights and be able to immediately appeal. For example, in *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100 (2009), the Court declined to allow an interlocutory appeal of an attorney-client privilege issue because a "long-recognized option" for parties was "to defy a disclosure order and incur court-imposed sanctions." *Id.* at 111.

8. **What is the Independent State Legislature Theory?**

Response: The Elections Clause provides: "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators." Const. art. I, § 4, cl. 1. Generally speaking, the independent state legislature theory posits that "the Elections Clause insulates state legislatures from review by state courts for compliance with state law." *Moore v. Harper*, 600 U.S. 1, 19 (2023). The Supreme Court rejected that theory, concluding "that state legislatures remain bound by state constitutional restraints when exercising authority under the Elections Clause." *Id.* at 32.

9. **Do you agree with or subscribe to any part of the Independent State Legislature Theory?** If so, describe your agreement.

Response: As noted in my answer to question 8, the Supreme Court held that "[s]tate courts retain the authority to apply state constitutional restraints when legislatures act under the power conferred upon them by the Elections Clause. But federal courts must not abandon their own duty to exercise judicial review. In interpreting state law in this area, state courts may not so exceed the bounds of ordinary judicial review as to unconstitutionally intrude upon the role specifically reserved to state legislatures by Article I, Section 4, of the Federal Constitution." *Moore v. Harper*, 600 U.S. 1, 37

(2023). If confirmed, I will apply this precedent and any other binding precedent. Under the Code of Conduct for United States Judges, it would be inappropriate for me to comment on whether the Court's decision in *Moore v. Harper* was correctly decided.

10. **Is there a situation where an individual can legally ignore a District Court order which has been affirmed by an appeals court?** If so, explain thoroughly, with citations to relevant law.

    Response: Please see my answer to question 7.

11. **Was the 2006 reauthorization of the Voting Rights Act constitutional?**

    In *Shelby County v. Holder*, 570 U.S. 529 (2013), the Supreme Court held that § 4's coverage formula, which determined the jurisdictions would be covered by § 5's preclearance regime, was unconstitutional. The court reasoned that "[c]overage today is based on decades-old data and eradicated practices. The formula captures States by reference to literacy tests and low voter registration and turnout in the 1960s and early 1970s." *Id.* at 551. It was "irrational for Congress to distinguish between States in such a fundamental way based on 40-year-old data, when today's statistics tell an entirely different story." *Id.* at 556. The question of whether § 2 of the Voting Rights Act is constitutional as applied to districting laws is currently pending in courts. Under the Code of Conduct for United States Judges, it would be inappropriate for me to weigh in further.

12. U.S. law requires judges to recuse themselves for any one of many reasons, including if they served as a government attorney regarding a matter or if their "impartiality might reasonably be questioned."
    a. **Are you aware of this law?**

       Response: Yes.

    b. **Will you comply with this law, if confirmed?**

       Response: Yes.

    c. Given your role drafting, lobbying for, and defending in court racially gerrymandered Alabama redistricting maps, will you—
        i. **Recuse yourself from any case regarding these maps?**

           Response: I will recuse myself from any case in which I have been involved. More generally, if confirmed, I will carefully review and address any real or potential conflicts by reference to 28 U.S.C. § 455, Canon 3 of the Code of Conduct for United States Judges, and any and all other laws, rules, and practices, governing such circumstances.

        ii. **Recuse yourself from any case regarding Alabama redistricting maps?**
            Response: Please see my answer to question 12(c)(1).

iii. **Recuse yourself from any case regarding Alabama election law?**

Response: Please see my answer to question 12(c)(1).

Nomination of Edmund G. LaCour, Jr.
United States District Court for the Northern District of Alabama
Questions for the Record
Submitted September 10, 2025

QUESTIONS FROM SENATOR BOOKER

1. As solicitor general of Alabama, you defended the legality of the districting plan adopted by Alabama for its 2022 congressional elections. The U.S. Supreme Court affirmed a lower court's issuance of a preliminary injunction prohibiting the use of the districting plan for diluting the votes of Black Alabamians, in violation of the Voting Rights Act. [1] The Court also affirmed the lower court's order that Alabama adopt a congressional redistricting plan that "includes either an additional majority-Black congressional district, or an additional district in which Black voters otherwise have an opportunity to elect a representative of their choice." Yet, Alabama presented a 2023 redistricting plan that, like the enjoined redistricting plan, included only one majority-Black district.

   Lawmakers testified under oath that you helped draw voter maps, draft legislation, and create talking points for Republican lawmakers seeking to establish and defend gerrymandered maps. [2]

   a. Did a federal court instruct Alabama to remedy its violation of the Voting Rights Act by adopting a districting plan that includes either an additional majority-Black district, or an additional district in which Black voters otherwise have an opportunity to elect a representative of their choice?

      Response: In 2022, a federal district court entered a preliminary injunction that held it was likely that Alabama's 2021 congressional plan violated § 2 of the Voting Rights Act. The court's preliminary injunction order enjoined the Alabama Secretary of State from conducting any congressional elections according to the State's 2021 Plan, *Singleton v. Merrill*, 582 F. Supp. 3d 924, 936 (N.D. Ala. 2022), though that order was stayed by the Supreme Court, *see Merrill v. Milligan*, 142 S. Ct. 879 (2022). The district court's opinion also stated that the preliminary record "suggests that any remedial plan will need to include two districts in which Black voters either comprise a voting-age majority or something quite close to it." *Singleton v. Merrill*, 582 F. Supp. 3d 924, 1033 (N.D. Ala. 2022). But the court did not order the Alabama Legislature to enact any plan.

      i. How many times has Alabama been so-instructed by a federal court?

         Response: As noted in my answer to question 1a, while the district court's preliminary injunction order in 2022 opined on what sort of plan would be necessary to remedy the likely violation of § 2 that the court identified on the

[1] *Allen v. Milligan*, 599 U.S. 123 (2023).
[2] Kyle Whitemire, *Meet the Architect Behind Alabama's Voting Rights Defiance,* AL.com (Aug. 16, 2023), https://www.al.com/news/2023/08/meet-the-architect-behind-alabamas-voting-rights-defiance.html.

limited preliminary-injunction record, the court did not order the Alabama Legislature to enact any plan. In 2023, the district court entered a preliminary injunction that enjoined the Alabama Secretary of State from using the State's 2023 congressional plan, the Secretary complied with that order, and the 2024 congressional election was held under a court-drawn plan. *Singleton v. Allen*, 782 F. Supp. 3d 1092, 1145 (N.D. Ala. 2025). In 2025, the litigation over the 2023 plan resulted in a final judgment in which the district court held that § 2 and the Equal Protection Clause were violated, and that the court-drawn plan must be used until Alabama enacts a new redistricting plan based on the 2030 census. The State has appealed that ruling.

ii. Did Alabama follow the instructions issued by the federal court?

Response: Alabama has argued, and continues to argue before the Supreme Court, that the 2023 Plan responded to the positions of the district court and Supreme Court that Alabama's 2021 Plan likely violated § 2 by providing disparate treatment to two different communities of interest in Alabama that resulted in discriminatory effects on account of race. Plaintiffs had argued that the 2021 Plan had kept "the Gulf Coast counties together" but split a majority-black community of interest called the Black Belt. *Singleton v. Merrill*, 582 F. Supp. 3d 924, 1012 (N.D. Ala. 2022). And they argued that "one way to split the Black Belt less is to split the Gulf Coast counties and include some of the population of Mobile County with a district that also includes part of the Black Belt." *Id.* Along those lines, the Supreme Court concluded that Plaintiffs' alternative plans, which split the Gulf Coast but closed splits in the Black Belt, were "reasonably configured" when compared to the State's 2021 Plan because "[t]here would be a split community of interest in both." *Allen v. Milligan*, 599 U.S. 1, 21 (2023). The 2023 Plan provided equal treatment to those communities by closing splits in the Black Belt while also avoiding splits for the Gulf Coast. By doing so, the black voting age population in District 2 rose from around 30% to around 40%. But after two years of discovery and a full trial, the district court concluded in 2025 that § 2 requires Alabama not just to keep the Black Belt together, but to split the Gulf Coast to combine black voters in Mobile with black voters more than 200 miles away. On appeal, the State is arguing that the district court's opinion misapplies § 2 and raises serious constitutional questions.

iii. Did a federal court state in May 2025 that, "The [Alabama] Legislature knew what federal law required and purposefully refused to provide it, in a strategic attempt to checkmate the injunction that ordered it"?[3]

Response: Yes. The State has appealed that ruling to the Supreme Court.

iv. Did that federal court state in May 2025 that: "[T]ry as we might, we cannot understand the 2023 Plan as anything other than an intentional effort to dilute

[3] *See* Order, ECF No. 490, *Milligan v. Allen*, No. 2:21-cv-01530 (N.D. Ala. May 8, 2025).

Black Alabamians' voting strength and evade the unambiguous requirements of court orders standing in the way."[4]

Response: Yes. The State has appealed that ruling to the Supreme Court.

v. Did you play a role in defying the "unambiguous requirements of court orders" in this case?

Response: No court order was defied. The preliminary injunction order entered in 2022 enjoined the Alabama Secretary of State from conducting any congressional elections according to the State's 2021 Plan, *Singleton v. Merrill*, 582 F. Supp. 3d 924, 936 (N.D. Ala. 2022), but that order was stayed by the Supreme Court, *see Merrill v. Milligan*, 142 S. Ct. 879 (2022). The preliminary injunction order entered in 2023 enjoined the Alabama Secretary of State from conducting any congressional elections according to the State's 2023 Plan, the Secretary complied with that order, and the 2024 congressional election was held under a court-drawn plan. *Singleton v. Allen*, 782 F. Supp. 3d 1092, 1145 (N.D. Ala. 2025).

The district court's 2022 preliminary injunction opinion stated the court's view, based on a rushed preliminary-injunction record, "that any remedial plan will need to include two districts in which Black voters either comprise a voting-age majority or something quite close to it." *Singleton v. Merrill*, 582 F. Supp. 3d 924, 1033 (N.D. Ala. 2022). My role in Alabama's redistricting litigation was and is as an attorney, and both attorney-client privilege and legislative privilege limit what I can share about legal advice and ongoing litigation. But there was testimony in *Singleton v. Allen*, 782 F. Supp. 3d 1092 (2025), that I provided members of the Alabama Legislature legal advice on how to draft redistricting legislation that could comply with the "competing hazards of liability" (*Abbott v. Perez*, 585 U.S. 579, 587 (2018)) imposed by § 2 of the Voting Rights Act and the Equal Protection Clause. There was testimony that this advice included suggestions as to different ways the legislation could be drafted, *Singleton*, 782 F. Supp. 3d at 1151, including by suggesting draft legislative findings, *id.* at 1153. There was also testimony that I provided talking points for a member of the Legislature. *Id.* at 1187. The State continues to argue that even if the 2023 Plan did not match the expectations set forth in the district court's preliminary injunction opinion, it was not defiant to continue to litigate the merits of that assessment. As the Supreme Court recently reemphasized, preliminary injunctions issue based on "procedures that are less formal and evidence that is less complete than in a trial on the merits." *Lackey v. Stinnie*, 145 S.Ct. 659, 667 (2025). Courts often "reach[] a different conclusion upon full consideration of the merits." *Id.*

[4] *See id.*

2. The American Bar Association (ABA) Standing Committee on the Federal Judiciary has conducted extensive peer evaluations of the professional qualifications of a president's nominees to become federal judges for seven decades. This practice has endured through 18 presidential administrations, under Republican and Democratic presidents.

   On May 29, 2025, Attorney General Pam Bondi ended this longstanding practice when she informed the ABA that, "[T]he Office of Legal Policy will no longer direct nominees to provide waivers allowing the ABA access to nonpublic information, including bar records. Nominees will also not respond to questionnaires prepared by the ABA and will not sit for interviews with the ABA."[5]

   a. Do you agree with AG Bondi that "the ABA no longer functions as a fair arbiter of nominees' qualifications and its ratings invariably and demonstrably favor nominees put forth by Democratic administrations"?

      Response: Under the Code of Conduct for United States Judges, it would not be appropriate for me as a judicial nominee to weigh in on this political and policy issue.

3. How would you characterize your judicial philosophy?

   Response: The role of a federal judge in our system of separated powers is critical, but limited. The legislative branch enacts laws, the executive branch executes them, and the judicial branch ensures that in a case or controversy involving those laws, the law is properly applied, whether that be a statute or the Constitution. Thus, judges take up only those legal issues properly brought before them and within their jurisdiction. And they, in the words of the judicial oath, "administer justice without respect to persons, and do equal right to the poor and to the rich, and … faithfully and impartially discharge and perform all the duties incumbent upon" them "under the Constitution and laws of the United States." 28 U.S.C. § 453. In my view, that requires impartially interpreting the law (whether statutory or constitutional) based on the text adopted by lawmakers as understood by the public at the time that text became law and in accordance with binding precedent. That requires the judge to apply the law without regard to the judge's personal or policy views.

4. What do you understand originalism to mean?

   Response: While there are several different definitions and strands of originalism, at a general level, I understand originalism to mean that, when interpreting a constitutional provision, the role of the judge is to look to the original intent of those who adopted the provision, as evidenced by how the text at issue would have been understood by reasonable people at the time it was adopted.

5. Do you consider yourself an originalist?

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[5] Letter from Attorney General Pam Bondi to William R. Bay, President, American Bar Association (May 29, 2025), https://www.justice.gov/ag/media/1402156/dl?inline.

Response: I generally consider myself to be an originalist to the extent that means that the role of a judge when interpreting a constitutional provision is to look to the original intent of those who adopted the provision, as evidenced by how the text at issue would have been understood by reasonable people at the time it was adopted. But if confirmed to serve as a district court judge, it is likely that for most of the constitutional issues that come before me, there will be precedent regarding what the constitutional provision means and/or how it is to be interpreted. I would apply all binding precedent, including on issues of how to interpret constitutional provisions.

6. What do you understand textualism to mean?

Response: I understand textualism to mean that a judge interpreting a statute is "require[d] … to interpret statutory language according to its plain meaning as understood within its statutory context." *Turner v. U.S. Att'y Gen.*, 130 F.4th 1254, 1258 (11th Cir. 2025). And while "statutory terms can carry meanings that depart from their ordinary ones," like when Congress "define[s] a word or phrase in a specialized way or employ[s] a term of art with long-encrusted connotations in a given field," "absent such evidence, those whose lives are governed by law are entitled to rely on its ordinary meaning, not left to speculate about hidden messages." *Feliciano v. Dep't of Transportation*, 145 S. Ct. 1284, 1291 (2025).

7. Do you consider yourself a textualist?

Response: I generally consider myself to be a textualist, to the extent that phrase is interpreted as I have described it in my response to question 6. But if confirmed to serve as a district court judge, if there is binding precedent regarding what a statute means and/or how it is to be interpreted, I would apply all binding precedent, including on issues of how to interpret particular statutes.

8. Legislative history refers to the record Congress produces during the process of passing a bill into law, such as detailed reports by congressional committees about a pending bill or statements by key congressional leaders while a law was being drafted. Some federal judges consider legislative history when analyzing the meaning of a statute.

   a. If you are confirmed to serve on the federal bench, would you consult and cite legislative history to analyze or interpret a federal statute?

   Response: Justice Sotomayor recently wrote for a unanimous Supreme Court in a case involving a provision of the Foreign Sovereign Immunities Act, "[i]t is the statutory text … that best reflects Congress's intent." *Republic of Hungary v. Simon*, 604 U.S. 115, 137 (2025). And the Constitution provides in Article I, § 7, that for a bill to become law, it must pass both the House of Representatives and the Senate and be presented to the President. Legislative history does not go through that constitutional process. That said, courts applying a textualist approach will still sometimes consult legislative history, not to give effect to the subjective intent of any given legislator, but to "ferret out … shifts in linguistic usage or subtle distinctions between literal and ordinary meaning." *Bostock v. Clayton Cnty.*, 590 U.S. 644, 675 (2020). Moreover,

where binding precedent has interpreted a statute in light of legislative history, I will apply that precedent.

b. Do you believe that congressional intent matters when interpreting a statute? Why or why not.

Response: Congressional intent as reflected in the statute Congress enacts matters because the Constitution assigns Congress the power to legislate. "It is the statutory text … that best reflects Congress's intent." *Republic of Hungary v. Simon*, 604 U.S. 115, 137 (2025). As the Supreme Court "has repeatedly stated, the text of a law controls over purported legislative intentions unmoored from any statutory text." *Oklahoma v. Castro-Huerta*, 597 U.S. 629, 642 (2022). If confirmed to serve as a district court judge, if there is binding precedent regarding what a statute means and/or how it is to be interpreted, I would apply all binding precedent, including on issues of how to interpret particular statutes.

9. According to an academic study, Black men were 65 percent more likely than similarly-situated white men to be charged with federal offenses that carry harsh mandatory minimum sentences.[6]

a. What do you attribute this to?

Response: I am unfamiliar with that study and the bases for its finding. I have not conducted the research needed to offer a view about the cause or causes that would explain that finding.

10. A recent report by the United States Sentencing Commission observed demographic differences in sentences imposed during the five-year period studied, with Black men receiving federal prison sentences that were 13.4 percent longer than white men.[7]

a. What do you attribute this to?

Response: I am unfamiliar with that report and the bases for its finding. I have not conducted the research needed to offer a view about the cause or causes that would explain that finding.

11. What role do you think federal judges, who review difficult, complex criminal cases, can play in ensuring that a person's race did not factor into a prosecutor's decision or other instances where officials exercise discretion in our criminal justice system?

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[6] Sonja B. Starr & M. Marit Rehavi, *Racial Disparity in Federal Criminal Sentences*, 122 J. POL. ECON. 1320, 1323 (2014).
[7] U.S. SENTENCING COMM'N, DEMOGRAPHIC DIFFERENCES IN SENTENCING 2 (Nov. 2023), https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2023/20231114_Demographic-Differences.pdf.

Response: While "[p]rosecutors are given broad discretion in deciding against whom to focus limited prosecutorial resources, ... the decision whether to prosecute may not be based on an unjustifiable standard such as race, religion, or other arbitrary classification." *United States v. Smith*, 231 F.3d 800, 807 (11th Cir. 2000) (quotation omitted). Thus, a criminal defendant can bring a "selective-prosecution claim," which is "an independent assertion that the prosecutor has brought the charge for reasons forbidden by the Constitution." *Id.* While the defendant's burden is "demanding," *id.*, he or she can prevail by "demonstrate[ing] that the federal prosecutorial policy had a discriminatory effect and that it was motivated by a discriminatory purpose. To establish a discriminatory effect in a race case, the claimant must show that similarly situated individuals of a different race were not prosecuted." *Id.* at 808. Fairly adjudicating these claims is one way a federal judge can ensure a person's race did not factor into a prosecutor's decision. Additionally, at sentencing, a judge is required to consider "the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct" when determining the sentence to be imposed. 18 U.S.C. § 3553(a)(6). Carefully considering the sentencing guidelines and data from the United States Sentencing Commission regarding sentences for similar crimes may also help ensure that a person's race does not factor into a sentencing decision.

12. Do you believe it is an important goal for there to be demographic diversity in the judicial branch? Why or why not.

Response: Yes, I believe it is important that anyone who wishes to serve in the judicial branch is considered without regard to their race, sex, ethnicity, religion, or other protected characteristic. Excluding a candidate for service based on such characteristics would be an affront to his or her individual dignity and would deprive the judicial branch of talented public servants.

13. Please indicate whether you have ever published written material or made any public statements relating to the following topics. If so, provide a description of the written or public statement, the date and place/publication where the statement was made or published, and a summary of its subject matter. Mere reference to the list of publications and statements provided in your Senate Judiciary Questionnaire is insufficient; provide specific responses.

If you have not disclosed a copy of the publication or a transcript of the statement to the Judiciary Committee, please attach a copy or link to the materials and please explain why you have not previously disclosed them.

Response: As noted on my Senate Judiciary Questionnaire, I have spoken numerous times about the role of state attorneys general and solicitors general as well as litigation engaged in by the Alabama Attorney General's Office. I have also given talks that provide reviews of recent Supreme Court decisions and previews of upcoming cases. These talks have likely touched on many of the issues below. Where I recall specifically addressing the issues mentioned below, I have listed out those talks or publications. But for a full accounting of the topics I have addressed, please refer to the list of the list of publications and statements provided in your Senate Judiciary Questionnaire and the corresponding recordings or

attachments. To the best of my knowledge, the answers provided on my Senate Judiciary Questionnaire and supplement disclose all publications and public statements.

a. Abortion

Response: Testimony of Edmund G. LaCour Jr., Hearing before the United States Senate Committee on the Judiciary: "Texas's Unconstitutional Abortion Ban and the Role of the Shadow Docket," Sep. 29, 2021. I testified at a hearing before the Senate Judiciary Committee about the role of the Supreme Court's emergency docket. I did not address the issue of abortion, but the hearing did focus in part on the Supreme Court's decision in *Whole Woman's Health v. Jackson* to not issue an injunction barring enforcement of a Texas law that restricted abortions and provided for private enforcement of the law. I opined that there was broad agreement that the law presented a complicated jurisdictional question that the Supreme Court had never addressed.

b. Affirmative action
c. Contraceptives or birth control
d. Gender-affirming care

Response: July 9, 2025, Speaker, "The Politicization of Science," Federal Trade Commission, Washington, DC. Video of the event is available here: https://www.ftc.gov/media/dangers-gender-affirming-care-minors. I spoke about Alabama's litigation in *Boe v. Marshall* and the amicus brief Alabama filed with the Supreme Court in *United States v. Skrmetti*.

May 15, 2025: Speaker, "Conversation with Alabama Solicitor General Eddie LaCour," Teneo, Washington, DC. I spoke about Alabama's litigation in *Boe v. Marshall* and the amicus brief Alabama filed with the Supreme Court in *United States v. Skrmetti*.

December 2, 2024, "The *Skrmetti* Case: SCOTUS to Hear Challenge to Tennessee's Ban on 'Gender Affirming' Treatments," Fair For All, https://www.youtube.com/watch?v=mp1AQv1OgyY. I spoke about Alabama's litigation in *Boe v. Marshall* and the amicus brief Alabama filed with the Supreme Court in *United States v. Skrmetti*.

November 17, 2023: Speaker, "Luncheon with Eddie LaCour," Yale Law School Chapter of the Federalist Society, New Haven, CT. I discussed some of Alabama's recent or ongoing litigation, including *Boe v. Marshall*, which involved whether the Constitution bars States from imposing age limits on certain treatments for gender dysphoria.

Vicki McKenna Show, June 19, 2025. Audio available: https://newstalk1130.iheart.com/featured/vicki-mckenna/content/2025-06-19-426-the-

vicki-mckenna-show-vicki-mckenna-show-josh-kaul-continues-his-lawfa/. I discussed the Supreme Court's decision in *United States v. Skrmetti*.

Nick Mordowanec and Barney Henderson, "Supreme Court Delivers Major Setback for Transgender Community," Newsweek, June 18, 2025, https://www.newsweek.com/supreme-court-delivers-major-setback-transgender-rights-2087407. I discussed the Supreme Court's decision in *United States v. Skrmetti*.

Debbie Elliott, "Panel hears oral arguments over Alabama's law banning gender-affirming care," NPR, Nov. 18, 2022, https://www.npr.org/2022/11/18/1137817671/panel-hears-oral-arguments-over-alabama-s-law-banning-gender-affirming-care. I discussed Alabama's law imposing age limits on certain treatments for gender dysphoria.

e. Firearms
f. Immigration
g. Same-sex marriage
h. Miscegenation

Response: Steve Marshall & Edmund LaCour, *Attorney General William H. Pryor Jr.*, 75 Ala. L. Rev. 1099 (2024). In this article, Attorney General Steve Marshall and I discussed some of the work Chief Judge William Pryor of the United States Court of Appeals for the Eleventh Circuit undertook when he served as Alabama's Attorney General. The article addressed how, when AG Pryor took office, Alabama was one of just two states with a law on the books prohibiting interracial marriage, though the law had been unenforceable since the Supreme Court had decided *Loving v. Virginia* in 1967. We then recounted how AG Pryor made it a priority to lead efforts to repeal the "unconstitutional," "unenforceable," and "immoral" provision, and how his efforts helped secure the repeal of the prohibition from the state's constitution. *Id.* at 1106.

i. Participation of transgender people in sports
j. Service of transgender people in the U.S. military
k. Racial discrimination

Response: Steve Marshall & Edmund LaCour, *Attorney General William H. Pryor Jr.*, 75 Ala. L. Rev. 1099 (2024). In this article, Attorney General Steve Marshall and I discussed some of the work Chief Judge William Pryor of the United States Court of Appeals for the Eleventh Circuit undertook when he served as Alabama's Attorney General. The article addressed how, when AG Pryor took office, Alabama was one of just two states with a law on the books prohibiting interracial marriage, though the law had been unenforceable since the Supreme Court had decided *Loving v. Virginia* in 1967. We then recounted how AG Pryor made it a priority to lead efforts to repeal the "unconstitutional," "unenforceable," and "immoral" provision, and how his efforts helped secure the repeal of the prohibition from the state's constitution. *Id.* at 1106.

October 3, 2024: Speaker, "Voting Rights Litigation," Heritage Foundation and Harvard Journal of Law and Public Policy, Washington, DC. Audio of the event is available here: https://open.spotify.com/episode/7jYpOCoXpeXCrlUkSYSbvl?go=1&sp_cid=a3090bf5520a031128bfb72dfaa8839c&utm_source=embed_player_p&utm_medium=desktop&nd=1&dlsi=713126a95ce8471c. I discussed current issues in redistricting litigation, including § 2 of the Voting Rights Act and the Equal Protection Clause.

August 9, 2024: Speaker, "Racial Gerrymandering Claims and Federal Redistricting Litigation," Republican National Lawyers Association, Palm Beach, FL. I discussed current issues in redistricting litigation, including § 2 of the Voting Rights Act and the Equal Protection Clause.

November 3, 2022: Speaker, "A Conversation About Election Law," Yale Law School Federalist Society, New Haven, CT 06511. I spoke about my recent experience litigating before the Supreme Court in *Allen v. Milligan*.

April 29, 2022: Speaker, "The Voting Rights Act and Alabama Congressional Districts Case," Birmingham Lawyers Chapter of the Federalist Society, Birmingham, AL. I discussed litigation related to Alabama's congressional districts.

October 24, 2019: Speaker, "A View From The States," Restaurant Law Center Legal Summit, Dallas, Texas. I spoke on a panel about the role of a state solicitor general and the role that amicus briefs play in appellate litigation. The talk included discussion of *Lewis v. Governor of Alabama*, a case in which plaintiffs alleged that a state law setting a uniform minimum wage was racially discriminatory. The Eleventh Circuit held that the plaintiffs lacked standing.

l. Sex discrimination
m. Religious discrimination

Response: Carly Swanson, "Student Organization Challenges NCSU Policy," Spectrum News, June 3, 2016. Copy of article supplied and video available at https://spectrumlocalnews.com/nc/triangle-sandhills/top-stories/2016/06/2/student-organization-challenges-ncsu-policy-.

"Christian group says NCSU policy violates free-speech rights," WRAL.com, June 2, 2016. Copy of article supplied and video available at https://www.wral.com/christian-group-says-ncsu-policy-violates-free-speech-rights/15748463/.

Emery Dalesio, "Christian groups challenge NC university's speech permits," Associated Press, June 2, 2016. Copy supplied. Reprinted in multiple outlets.

In each of the three articles above for subsection m, I discussed a free speech challenge by a religious student group at North Carolina State University to a speech-permitting policy that the group alleged had been applied to its members in a discriminatory manner.

July 21, 2022: Speaker, "*Smith*, Strict Scrutiny, and the Supreme Court: What Does the Future Hold?" Alliance Defending Freedom, Greensboro, GA. I was part of a panel that discussed recent developments in free exercise jurisprudence.

n. Disability discrimination
o. Climate change or environmental disasters

April 29, 2024: Speaker, "Federal Preemption and Environmental Regulation Webinar," C. Boyden Gray Center at George Mason University. Video available at: https://www.youtube.com/watch?v=4K33QiNUZwU. I discussed lawsuits brought by state and local government against energy companies that seek to hold the companies liable under state law based on allegations that the companies contributed to climate change.

p. "DEI" or Diversity Equity and Inclusion

14. Under what circumstances would it be acceptable for an executive branch official to ignore or defy a federal court order?

Response: The normal practice for any party who has been bound by a federal court order is to seek a stay of that order from the district court, and from appellate courts if needed, and to appeal the order when the applicable law provides for an appeal. If the order is not stayed, the normal course is for the party to comply with the order unless and until it is vacated or reversed by an appellate court.

There are some potential exceptions. Professor William Baude has canvassed authority suggesting that "[a] court without jurisdiction over the parties and the subject matter could not bind them to judgment, right or wrong." William Baude, *The Judgment Power*, 96 Geo. L.J. 1807, 1827 (2008); *see also In re Sawyer*, 124 U.S. 200, 220 (1888) ("Where a court has jurisdiction, it has a right to decide every question which occurs in the cause; and, whether its decision be correct or otherwise, its judgment, until reversed, is regarded as binding in every other court: but, if it act without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void."). If it is impossible for a party to comply with a court's order, that can sometimes excuse compliance with the order. *See Shillitani v. United States*, 384 U.S. 364, 371 (1966) ("[T]he justification for coercive imprisonment as applied to civil contempt depends upon the ability of the contemnor to comply with the court's order." (citing *Maggio v. Zeitz*, 333 U.S. 56, 76 (1948)). And there are some interlocutory orders, particularly in the discovery context, that a party may need to disobey in order to preserve the party's rights and be able to immediately appeal. For example, in *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100 (2009), the Court declined to allow an

interlocutory appeal of an attorney-client privilege issue because a "long-recognized option" for parties was "to defy a disclosure order and incur court-imposed sanctions." *Id.* at 111.

a. If an executive branch official ignores or defies a federal court order, what legal analysis would you employ to determine whether that official should be held in contempt?

Response: Generally speaking, if I were a federal judge, and a party failed to comply with an order, I would consider issuing a show cause order or other order requiring the party to provide information about whether it has complied with the order or taken steps to do so. If after hearing from the parties, I concluded the order was violated, I would consider potential sanctions, including through civil contempt or criminal contempt proceedings. I would also fairly entertain the party's argument that it has a valid defense to non-compliance or that its non-compliance should otherwise be excused.

b. Is there any legal basis that would allow an executive branch official to ignore or defy temporary restraining orders and preliminary injunctions issued by federal district court judges? Please provide each one and the justification.

Response: Please see my response to question 14.

15. Does the president have the power to ignore or nullify laws passed by Congress?

Response: The President is vested with the authority to veto legislation passed by Congress. *See* Const., art. I, § 7, cl. 2. "Under Article II, the Executive Branch possesses authority to decide 'how to prioritize and how aggressively to pursue legal actions against defendants who violate the law.'" *United States v. Texas*, 599 U.S. 670, 678 (2023) (quoting *TransUnion LLC v. Ramirez*, 594 U.S. 413, 429 (2021)). At the same time, the Constitution requires the president to "take Care that the Laws be faithfully executed." Art. II, § 3. The precise interaction of these principles is a matter of ongoing dispute and could come before me as a judge, if I am confirmed. Thus, under the Code of Conduct for United States Judges, it would be inappropriate for me to weigh in further.

16. Does the president have the power to withhold funds appropriated by Congress?

Response: In *City of New York v. Train*, 494 F.2d 1033, 1050 (D.C. Cir. 1974), the D.C. Circuit held that a provision of the Federal Water Pollution Act Amendments of 1972 required the Administrator of the Environmental Protection Agency to allot the full sums authorized to be appropriated by the Act. That decision was affirmed by the Supreme Court. *See Train v. City of New York*, 420 U.S. 35 (1975). I am also generally aware of the Congressional Budget and Impoundment Control Act of 1974, Pub. L. No. 93–344, 88 Stat. 298. To the extent this question asks me to opine on current political or legal disputes that are pending or could soon be pending before a court, under the Code of Conduct for United States Judges, it would be inappropriate for me to weigh in further.

17. Does the president have the power to discriminate by withholding funds against state or local jurisdictions based on the political party of a jurisdiction's elected officials?

    Response: Please see my response to question 16.

18. Does the Supremacy Clause of the U.S. Constitution establish that federal laws supersede conflicting state laws?

    Response: The Supremacy Clause provides: "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." As the Supreme Court has held, "this Clause creates a rule of decision: Courts 'shall' regard the 'Constitution,' and all laws 'made in Pursuance thereof,' as 'the supreme Law of the Land.' They must not give effect to state laws that conflict with federal laws." *Armstrong v. Exceptional Child Ctr., Inc.*, 575 U.S. 320, 324 (2015).

19. Does the Fifth Amendment of the U.S. Constitution apply to non-citizens present in the United States?

    Response: The Supreme Court has held that Fifth Amendment's "Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). In any case, there will still remain a question of what "process" is "due." To the extent this question asks me to opine on current political or legal disputes that are pending or could soon be pending before a court, under the Code of Conduct for United States Judges, it would be inappropriate for me to weigh in further.

20. Is it constitutional for Congress to delegate to federal agencies the power to implement statutes through rulemaking?

    Response: The Supreme Court recently reaffirmed that while "[l]egislative power … belongs to the legislative branch, and to no other, … Congress may seek assistance from its coordinate branches to secure the effect intended by its acts of legislation. And in particular, Congress may vest discretion in executive agencies to implement and apply the laws it has enacted—for example, by deciding on the details of their execution." *FCC v. Consumers' Rsch.*, 145 S. Ct. 2482, 2496-97 (2025) (cleaned up). For a delegation to be permissible, Congress must "set out an 'intelligible principle' to guide what it has given the agency to do." *Id.* at 2497.

21. Was *Brown v. Board of Education*, 347 U.S. 483 (1954), correctly decided?

    Response: Yes. *Brown v. Board of Education* was correctly decided. While it is typically inappropriate for a nominee to offer views on whether a particular Supreme Court precedent was correctly decided, numerous nominees have made an exception and offered their views

that *Brown* and *Loving v. Virginia* were correctly decided. In line with that practice, I believe it appropriate for me to offer my view that both *Brown* and *Loving* were correctly decided.

22. Is *Griswold v. Connecticut*, 381 U.S. 479 (1965), binding precedent? Please describe the facts and holding of this case.

    Response: Yes, it is binding precedent. The case involved a state law banning the use of contraceptives or assisting others in obtaining contraceptives. The Court held that the law unconstitutionally intruded upon a constitutional right of marital privacy.

23. Is *Lawrence v. Texas*, 539 U.S. 558 (2003), binding precedent? Please describe the facts and holding of this case.

    Response: Yes, it is binding precedent. The case involved a state law making it a crime for two persons of the same sex to engage in certain intimate sexual conduct. The Court held that the state could not, consistent with the Due Process Clause, enforce such a law against adults engaged in that consensual private sexual conduct. *Lawrence v. Texas*, 539 U.S. 558, 578 (2003).

24. Is *Obergefell v. Hodges*, 576 U.S. 644 (2015), binding precedent? Please describe the facts and holding of this case.

    Response: Yes, it is binding precedent. The case was brought by same-sex couples who challenged state laws that defined marriage as a union between one man and one woman. *Obergefell v. Hodges*, 576 U.S. 644, 653-54 (2015). The Court held that the right to marry is a fundamental right inherent in the liberty of the person, and under the Due Process and Equal Protection Clauses of the Fourteenth Amendment, couples of the same-sex may not be deprived of that right and that liberty and that States must recognize lawful same-sex marriages performed in other States.

25. Do you believe that President Biden won the 2020 election? Note that this question is not asking who was certified as president in the 2020 election.

    Response: The Constitution prescribes certification by Electors from the States as the means for determining who prevailed in a presidential election. *See* U.S. Const., art. II, § 1; U.S. Const. amend. XII. Under this process, President Joseph Biden was certified as the winner of the 2020 election.

    a. Did Biden win a majority of the electoral vote in the 2020 election?

       Response: Please see my answer to question 25.

    b. Do you believe that the results of the 2020 election, meaning the vote count, were accurate? If not, please provide why not and examples.

Response: I have no personal knowledge as to whether vote counts for the 2020 election were accurate. Otherwise, please see my answer to question 25.

26. The 22nd Amendment says that "no person shall be elected to the office of the President more than twice."[8]

    a. Do you agree that President Trump was elected to the office of the President in the 2016 election?

       Response: Donald Trump was certified as the winner of the 2016 election.

    b. Did Trump win a majority of the electoral vote in the 2016 election?

       Response: Please see my answer to question 26a.

    c. Do you agree that President Trump was elected to the office of the President in the 2024 election?

       Response: Donald Trump was certified as the winner of the 2024 election.

    d. Did Trump win a majority of the electoral vote in the 2024 election?

       Response: Please see my answer to question 26c.

    e. Do you agree that the 22nd Amendment, absent a constitutional amendment, prevents President Trump from running for a third presidential term?

       Response: The text of the 22nd Amendment prohibits any person from being "elected to the office of the President" for a third time. U.S. Const., amend. XXII.

27. Has any official from the White House or the Department of Justice, or anyone else involved in your nomination or confirmation process, instructed or suggested that you not opine on whether any past Supreme Court decisions were correctly decided?

    Response: In preparing for the hearing before the Senate Judiciary Committee, there were general discussions regarding responses nominees have previously provided. I have given answers based on my understanding of what is appropriate under the Code of Conduct for United States Judges, including by taking into account interpretations and practices of many prior nominees.

28. Have you spoken or corresponded with Elon Musk since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

    Response: No.

[8] U.S. CONST. amend. XXII.

29. Have you spoken or corresponded with any member of the Department of Government Efficiency (DOGE) since November 2024? If yes, identify the member(s) and provide the dates, mode, and content of those discussions and communications.

    Response: To the best of my knowledge and recollection, no.

30. Have you spoken or corresponded with Stephen Miller since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

    Response: No.

31. Have you spoken or corresponded with Chad Mizelle since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

    Response: Yes. In late November 2024, we spoke over the phone about potential positions at the Department of Justice. In late January 2025, we spoke over the phone about a matter that I had litigated as a lawyer in the Alabama Attorney General's Office. In May 2025, I spoke with him briefly when I saw him in Washington, D.C.

32. Have you spoken or corresponded with Pam Bondi since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

    Response: No.

33. Have you spoken or corresponded with Todd Blanche since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

    Response: No.

34. Have you spoken or corresponded with Emil Bove since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

    Response: No.

35. Have you spoken or corresponded with Leonard Leo since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

    Response: No.

36. Have you—personally or through any of your affiliated companies or organizations, agents, or employees—provided financial support or other resources to any members of the Proud Boys or of the Oath Keepers for their legal fees or for other purposes? If yes, state the amount of financial support provided, dates provided, and for what purposes.

    Response: No.

37. Have you ever spoken or corresponded with any of the following individuals? If yes, provide the dates, mode, and content of those discussions and communications.

    Response: No.

    a. Enrique Tarrio
    b. Stewart Rhodes
    c. Kelly Meggs
    d. Kenneth Harrelson
    e. Thomas Caldwell
    f. Jessica Watkins
    g. Roberto Minuta
    h. Edward Vallejo
    i. David Moerschel
    j. Joseph Hackett
    k. Ethan Nordean
    l. Joseph Biggs
    m. Zachary Rehl
    n. Dominic Pezzola
    o. Jeremy Bertino
    p. Julian Khater

38. Have you ever spoken or corresponded with any individuals convicted and later pardoned of offenses related to the January 6, 2021 attack on the U.S. Capitol? If yes, identify the individual(s) and provide the dates, mode, and content of those discussions and communications.

    Response: To the best of my knowledge, no.

39. Have you ever been demoted, terminated, or experienced any other adverse employment action?

    Response: No.

    a. If yes, please describe the events that led to the adverse employment action.

    b. If no, please affirm that, since becoming a legal adult, you have left each place of employment voluntarily and not subject to the request or suggestion of any employer.

       Response: I affirm that, since becoming a legal adult, I have left each place of employment voluntarily and not subject to the request or suggestion of any employer.

40. Federal judges must file annual financial disclosure reports and periodic transaction reports. If you are confirmed to the federal bench, do you commit to filing these disclosures and to doing so on time?

Response: Yes.

41. Article III Project (A3P) "defends constitutionalist judges and the rule of law." According to Mike Davis, Founder & President of A3P, "I started the Article III Project in 2019 after I helped Trump win the Gorsuch and Kavanaugh fights. We saw then how relentless—and evil—too many of today's Democrats have become. They're Marxists who hate America. They believe in censorship. They have politicized and weaponized our justice systems."[9]

    a. Do you agree with the above statement?

       Response: I am not familiar with the statement described above, and I generally avoid opining on comments with which I am not familiar. I can say that as a judge, I would not prejudge any party or lawyer or their arguments based on political affiliation. To the extent that this question asks me to opine on a matter of political controversy, under the Code of Conduct for United States Judges, it would be inappropriate for me to weigh in further.

    b. Have you discussed any aspect of your nomination to the federal bench with any officials from or anyone directly associated with A3P, or did anyone do so on your behalf? If yes, identify the individual(s) and provide the dates, mode, and content of those discussions and communications.

       Response: To the best of my knowledge, no.

    c. Are you currently in contact with anyone associated with A3P? If so, who?

       Response: To the best of my knowledge, no.

    d. Have you ever been in contact with anyone associated with A3P? If so, who?

       Response: To the best of my knowledge, no.

42. Since you were first approached about the possibility of being nominated, did anyone associated with the Trump Administration or Senate Republicans provide you guidance or advice about which cases to list on your Senate Judiciary Questionnaire (SJQ)?

    Response: No. I have been in contact with the Department of Justice's Office of Legal Policy, which provided general guidance about how to complete the SJQ. But I made my own decisions about which cases to list.

    a. If so, who? What advice did they give?

       Response: Please see my answer to question 42.

[9] https://www.article3project.org/about

b. Did anyone suggest that you omit or include any particular case or type of case in your SJQ?

Response: Please see my answer to question 42.

43. During your selection process did you talk with any officials from or anyone directly associated with the Article III Project, or did anyone do so on your behalf? If so, what was the nature of those discussions?

Response: To the best of my knowledge, no.

44. During your selection process did you talk with any officials from or anyone directly associated with the Federalist Society, or did anyone do so on your behalf? If so, what was the nature of those discussions?

Response: To the best of my knowledge and recollection, I did not talk with any Federalist Society officials or employees as part of my selection process or have anyone do so on my behalf. To the extent this question asks about conversations with Federalist Society members or officials that occurred between the time of my contact with staff for Senators Tuberville and Britt and my nomination, I note that the Federalist Society has tens of thousands of members and dozens of officials. I have several friends who are members or officials, and I generally shared some information about my selection process with them.

45. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding your nomination.

Response: In November 2024, I was informed that if I was interested in being recommended by Senator Tommy Tuberville and Senator Katie Britt for a position as a federal district court judge in Alabama, that I should submit written materials to staff for each senator indicating my interest. Later that month, I emailed counsel for each senator. On December 10, 2024, I met with Mary Blanche Hankey from Senator Tuberville's office, and Drew Robinson from Senator Britt's office. In January 2025, I was asked to submit additional written materials to the Senators, which I provided that month. On March 20, 2025, I again met with Ms. Hankey and Mr. Robinson, and on April 7, we had a virtual interview. On May 7, I interviewed with Senator Tuberville and Ms. Hankey. On June 9, the White House Counsel's Office contacted me to schedule an interview. On June 23, I interviewed with lawyers from the White House Counsel's Office in Washington, DC. Since then, I have been in contact with officials from the White House Counsel's Office and the Justice Department's Office of Legal Policy regarding the nomination. On August 12, 2025, President Trump called to inform me that I had been nominated, and later that day, my nomination was announced.

46. Please explain, with particularity, the process whereby you answered these written questions.

Response: I reviewed the responses from some prior nominees to get a sense of the level of detail for appropriate responses. I also conducted legal research to confirm my answers to some questions. I drafted my responses to each question. I then received feedback from

members of the Office of Legal Policy at the Department of Justice, finalized my answers, and authorized them to be submitted to the Senate Judiciary Committee. The answers here are my own.

August 29, 2025

The Honorable Chuck Grassley
Chairman, Committee on the Judiciary
United States Senate
135 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Dick Durbin
Ranking Member, Committee on the Judiciary
United States Senate
711 Hart Senate Building
Washington, D.C. 20510

RE: Nomination of Edmund G. LaCour Jr.

Dear Chairman Grassley and Ranking Member Durbin:

We write to express our strong support for the confirmation of Alabama Solicitor General Edmund Gerard LaCour Jr. to the United States District Court for the Northern District of Alabama. We are attorneys in Alabama who are familiar with Solicitor General LaCour's character, work, and dedication to public service. Though our political views and practice areas differ, we agree that Solicitor General LaCour would be an exceptional judge.

Solicitor General LaCour was raised in Dothan, Alabama. He then graduated from Birmingham-Southern College, Trinity College Dublin, and Yale Law School. He returned to Alabama to serve as a law clerk to the Honorable William H. Pryor Jr. of the Eleventh Circuit, before moving to Houston, Texas, and later Washington, D.C., where he practiced at several of the nation's most prominent law firms. Solicitor General LaCour then returned home to serve Alabama, first as Deputy Solicitor General and now in his current role as Solicitor General.

Solicitor General LaCour has litigated a broad array of civil and criminal matters at every level of both the state and federal courts. He advises state agencies on numerous legal issues. And he has consistently proven himself to be an excellent lawyer who is always courteous, professional, and thoroughly prepared for the substantial demands of his job.

We urge you to support this well-qualified judicial nominee. He will serve the Northern District of Alabama well as a judge, just as he has served Alabama well as Solicitor General.

Respectfully,

Justin A. Barkley

Charlie G. Baxley

Noel Barnes

Stanley E. Blackmon

Lindsey C Boney IV

A. Barrett Bowdre

MaryLou Bowdre

David K. Bowsher

Dave Boyd

W. Jackson Britton

Thomas Buck, Jr.

Jason Bushby

Greg Butrus

R. Aaron Chastain

Larry B. Childs

Brad A. Chynoweth

Paul Compton

C. William Courtney

Clay Crenshaw

Jim Davis

John J. Davis

Aaron L. Dettling

Matthew R. Duggan

Benjamin D. DuPré

James L. Entrekin, Jr.

Stephen M. Frisby

Soren Geiger

Kyley Catherine Goldhagen

Anne Miles Golson

John Mark Goodman

Ed R. Haden

Brian Hale

Rudy Hill

Matthew A. Hinshaw

Maridi Thompson Huggins

Joseph ("Jody") Hunt

Wilson Hunter

Michael L. Jackson

Andrew B. Johnson

Rhon Jones

Albert L. Jordan

Rod Kanter

William R. Lunsford

Jennifer R. McCain

Allen Mendenhall

Misty S. Fairbanks Messick

Justin A. Miller

J. Parker Miller

Richard D. Mink

Spencer R. Mobley

Jared Morris

George Muirhead

Wilson Nash

Auston D. Neal

John Neiman

Randall W. Nichols

Robert M. Overing

Will Parker

Stephen Parsley

Ashlyn Payne

Joshua K. Payne

James W. Porter, III

Charles W. Prueter

Christopher S. Randolph, Jr.

Christopher R. Reader

Katherine G. Robertson

Sara D. Rogan

Kenneth M. Rosen

Paul Christian Sasser, Jr.

David I. Schoen

Benjamin M. Seiss

Brenton M. Smith

John A. Smyth III

Ferris W. Stephens

Brett J. Talley

Michael Taunton

Ethan Tidmore

Jason B. Tompkins

James N. Walter, Jr.

R. Thomas Warburton

Evan A. Ward

Christopher W. Weller

Scott Woodard

James W. Wright, Jr.

Gregory Zarzaur

* All signatories to this letter write in their personal capacities and not on behalf of any affiliated institutions.

August 29, 2025

The Honorable Charles E. Grassley, Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Richard J. Durbin, Ranking Member
Committee on the Judiciary
Untied States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Nomination of Edmund G. LaCour Jr.

Dear Chairman Grassley and Ranking Member Durbin:

We respectfully submit this letter in support of our former colleague Edmund G. LaCour Jr.'s nomination to serve as a judge on the United States District Court for the Northern District of Alabama. We are current and former lawyers at Baker Botts L.L.P.[1] During Eddie's time at the firm, he proved himself to be an exceptional lawyer and gracious colleague. While the signatories to this letter come from different backgrounds and political views, we share a common belief that Eddie will serve the Northern District of Alabama with excellence and unfailing fairness.

Eddie consistently demonstrated excellence during his time at Baker Botts. He litigated cases on a wide array of legal issues. His sound judgment, sharp intellect, and tireless commitment to excellence made him a valuable member of any litigation team, whether the case was before a Texas trial court or the United States Supreme Court. By serving his clients with zeal and integrity, Eddie earned the respect of his colleagues, clients, opposing counsel, and courts.

Eddie also demonstrated the temperament and character any lawyer would hope to find in a judge. He treats both his colleagues and opposing counsel with respect and dignity. He is always willing to listen with an open mind. And he maintains his composure even at the most difficult junctures in a high-stakes case.

To close, Eddie's legal ability, work ethic, and commitment to fairness make him an accomplished lawyer and will make him a great judge. We strongly encourage his confirmation.

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[1] This recommendation is sent in our personal capacities and does not reflect the views of Baker Botts L.L.P. or any other organization employing the signatories.

Sincerely,

Dustin Appel
Van Beckwith
Michael Cancienne
Kristin Cope
Danny David
George Fibbe
Benjamin Geslison
Michael Goldberg
Amir Halevy
Jonathan Havens
Amy Hefley
Bryan Henderson
Jeff Hollis
Kevin Jacobs
Scott Janoe
Louie Layrisson
Russell Lewis
Justin Lipe
Walter Lynch
Shane Pennington
Thomas R. Phillips
William Rothwell
Travis Sales
Macey Reasoner Stokes
Michelle Stratton
Aaron Streett

Clement & Murphy
PLLC

August 27, 2025

The Honorable Chuck Grassley
Chairman, Committee on the Judiciary
United States Senate
135 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Dick Durbin
Ranking Member, Committee on the Judiciary
United States Senate
711 Hart Senate Office Building
Washington, D.C. 20510

Re: Edmund G. LaCour Jr.

Dear Chairman Grassley and Ranking Member Durbin:

We write to recommend the confirmation of Edmund G. LaCour Jr. as a United States District Judge for the Northern District of Alabama. We had the privilege to work with Eddie at both Bancroft PLLC and Kirkland & Ellis LLP and can attest to his strong abilities as a lawyer. He has all the skills you could want in a federal judge and an unusual ability to digest and explain the most technical of legal issues. Equally important, he is a person of great character. We both recommend him highly.

We both practiced with Eddie for more than three years at two different firms. He first joined our practice at a time when we had a number of lawyers leaving to pursue clerkships. As a result, he entered multiple cases in mid-stream. He moved up all those learning curves exceptionally quickly. Eddie is not a self-promoter, but once you discuss a legal issue with him or read his work, you realize what a great talent you have. From the very beginning, Eddie took on a very heavy workload with great enthusiasm, showing a remarkable ability to multi-task and manage competing deadlines. He became a valued and sought-out colleague almost immediately.

What really set Eddie apart from his peers was his ability to master technical areas of the law and "translate" complicated details into plain English. Eddie assisted with a number of cases involving the Federal Energy Regulatory Commission and the statutes it administers. He did a marvelous job getting his head around a complex area of the law, collaborating with lawyers who specialize in the area, and producing drafts that were both technically accurate and readable; no small feat. Eddie was "rewarded" by being assigned other technical cases involving everything from telephony patents to the Transportation Department's byzantine regime for allocating slots at airports. He also handled many other, more mainstream, legal issues during his time at the firm—civil and criminal, constitutional and statutory, trial and appellate.

Eddie is a person of great character. Eddie had carved out a niche working on appellate issues for Baker Botts in Texas. He disrupted his career to move to Washington because his spouse had an opportunity to work at the Justice Department. This was not the best move for Eddie professionally, but it was the right move personally, and Eddie did not hesitate. A few years later, his wife, Alice, returned the favor by moving to Alabama with their young family so that Eddie could serve as Alabama's Solicitor General, a position he has filled with great distinction. And Eddie has continued to work as a generalist in his capacity as Solicitor General, which will serve him well in dealing with the wide range of subjects that come before a federal district court judge. Our strong suspicion, though, is that Eddie will quickly earn a reputation for handling the most complicated cases expertly and explaining technical issues in readily understandable terms that will facilitate juries discharging their important responsibilities.

In sum, we highly recommend Eddie. He has assembled a diverse legal resume that includes law firms big and small and both private practice and government service. Eddie's willingness to continue that public service and accept a position on the federal bench is commendable. He has the talent and character to make an excellent federal judge. He will tackle the most difficult of cases with enthusiasm, treat litigants and jurors with the upmost respect, and be a treasured colleague.

If we can provide any additional information about him, please do not hesitate to ask.

Yours sincerely,

Paul D. Clement

Erin E. Murphy

August 29, 2025

The Honorable Chuck Grassley
Chairman, Committee on the Judiciary
United States Senate
135 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Dick Durbin
Ranking Member, Committee on the Judiciary United States Senate
711 Hart Senate Office Building
Washington, D.C. 20510

Re: Nomination of Edmund G. LaCour Jr.

Dear Chairman Grassley and Ranking Member Durbin:

We are current and former attorneys from Kirkland & Ellis LLP ("Kirkland") who submit this letter in our personal capacities in strong support of Alabama Solicitor General Edmund Gerard LaCour Jr.'s nomination to serve as a judge on the United States District Court for the Northern District of Alabama. While we hold diverse views on political and jurisprudential issues, we are united in our belief that Eddie would be an excellent judge.

When Eddie practiced at Kirkland, first as an associate and later as a partner, we saw firsthand his relentless work ethic, sound judgment, and sharp intellect as he litigated difficult legal issues in trial and appellate courts across the country. The cases he handled were complex and spanned a breadth of issues, from constitutional questions of first impression, to federal administrative law, to important issues of criminal procedure. The many hours he dedicated to his clients equipped Eddie with a wealth of experience and amply demonstrate that he possesses the dedication and intellectual rigor to serve the Northern District of Alabama well.

And despite the demands of his practice, Eddie maintained his calm demeanor even in the most stressful situations. He is gracious and fair-minded, treating everyone with patience and respect—exactly how a judge should treat litigants.

In short, we have no doubt that Eddie will be an exceptional jurist, and we urge you to confirm him to the position of U.S. District Court Judge for the Northern District of Alabama.

Sincerely,

K. Winn Allen
H. Christopher Bartolomucci
Lauren N. Beebe
William H. Burgess
Brigham Cannon
Stuart Drake
Mark Filip

Jeffrey M. Harris
Andrew C. Lawrence
Emily Merki Long
Kasdin Mitchell
Kevin M. Neylan
Aaron Nielson
John C. O'Quinn
Craig S. Primis
Jason M. Wilcox

August 27, 2025

The Honorable Charles Grassley
Chairman, Committee on the Judiciary
United States Senate
135 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Richard Durbin
Ranking Member, Committee on the Judiciary
United States Senate
711 Hart Senate Office Building
Washington, D.C. 20510

Re: Letter of Support for the Nomination of Eddie LaCour to be United States District Judge for the Northern District of Alabama

Dear Chairman Grassley and Ranking Member Durbin:

We write as current and former state solicitors general to express our strong support for the nomination of Eddie LaCour to the United States District Court for the Northern District of Alabama. From serving as the top appellate lawyer for our States, we have unique insight into what it takes to be a federal judge. We all believe that Eddie's intellect, legal experiences, and commitment to the rule of law qualify him to serve his country as a United States District Judge.

State solicitors general regularly lead complex litigation that affects people across the United States. Success as a state solicitor general requires a deep appreciation for the rule of law and the ability to answer difficult legal questions in a fast-paced environment. Eddie has served as Alabama's Solicitor General since May 2019. During those six plus years, Eddie has excelled by every metric.

As Alabama's Solicitor General, Eddie has argued three times in the Supreme Court of the United States. He has also argued in federal district courts across Alabama, the United States Court of Appeals for the Eleventh Circuit, and the Alabama Supreme Court. To give one example of Eddie's extensive litigation experience, Eddie led the legal defense of Alabama's law protecting children from experimental medical treatments in the *Boe v. Marshall* litigation. During a two-day evidentiary hearing in that case, Eddie cross-examined a significant expert witness and gave the State's closing argument. He then successfully argued the resulting appeal before the Eleventh Circuit. The third-party discovery that Eddie conducted in the *Boe* litigation figured prominently

in an amicus brief he filed in the recent *United States v. Skrmetti* case. The *Skrmetti* majority and Justice Thomas's separate opinion both cited Eddie's brief.

In addition to being a first-rate lawyer, Eddie has the temperament necessary to serve on the federal bench. Eddie is respectful of opposing viewpoints, levelheaded, thoughtful, and principled. We are confident that every litigant who comes before Eddie will see a judge doing his level best to faithfully apply the law to the facts no matter the circumstances.

As Eddie's professional peers who have followed his work as Alabama's Solicitor General, we have no reservations in supporting his nomination to serve as a District Judge.

Sincerely,

J. Benjamin Aguiñaga (Solicitor General of Louisiana, 2024-present)

Cody Barnett (Solicitor General of Nebraska, 2025-present)

James A. Campbell (Solicitor General of Nebraska, 2020-2023)

Christian Corrigan (Solicitor General of Montana, 2022-present)

David Dewhirst (Solicitor General of Montana, 2020-2021)

Andrew Ferguson (Solicitor General of Virginia, 2022-2024)

Thomas M. Fisher (Solicitor General of Indiana, 2005-2023)

Benjamin M. Flowers (Solicitor General of Ohio, 2019-2023)

T. Elliot Gaiser (Solicitor General of Ohio, 2023-2025)

Kevin Gallagher (Solicitor General of Virginia, 2025-present)

Tyler Green (Solicitor General of Utah, 2015-2020)

Eric Hamilton (Solicitor General of Nebraska, 2023-2025)

Kyle Hawkins (Solicitor General of Texas, 2018-2021)

Melissa Holyoak (Solicitor General of Utah, 2020-2024)

Elbert Lin (Solicitor General of West Virginia, 2013-2017)

Scott A. Keller (Solicitor General of Texas, 2015-2018)

Matthew F. Kuhn (Solicitor General of Kentucky, 2021-present)

Liz Murrill (Solicitor General of Louisiana, 2016-2023)

Autumn Hamit Patterson (Solicitor General of Arkansas, 2025-present)

Stephen Petrany (Solicitor General of Georgia, 2021-present)

Anthony Powell (Solicitor General of Kansas, 2023-present)

J. Matthew Rice (Solicitor General of Tennessee, 2024-present)

Brunn (Beau) Roysden (Solicitor General of Arizona, 2020-2022)

D. John Sauer (Solicitor General of Missouri, 2017-2023)

O.H. Skinner (Solicitor General of Arizona, 2019-2020)

Mathura Sridharan (Solicitor General of Ohio, 2025-present)

Scott G. Stewart (Solicitor General of Mississippi, 2021-present)

Judd Stone (Solicitor General of Texas, 2021-2023)

Eric Wessan (Solicitor General of Iowa, 2023-present)

Michael Williams (Solicitor General of West Virginia, 2024-present)

August 29, 2025

The Honorable Chuck Grassley
Chairman, Committee on the Judiciary
United States Senate
135 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Dick Durbin
Ranking Member, Committee on the Judiciary
United States Senate
711 Hart Senate Office Building
Washington, D.C. 20510

Re: Nomination of Edmund G. LaCour Jr. to the United States District Court for the Northern District of Alabama

Dear Chairman Grassley and Ranking Member Durbin:

We write to support the nomination of Edmund G. Lacour Jr. to the United States District Court for the Northern District of Alabama. Like Eddie, we are former law clerks to Chief Judge William H. Pryor Jr. of the United States Court of Appeals for the Eleventh Circuit. We have a broad range of backgrounds, views, and beliefs. Many of us spend our days serving the public. Many of us spend our days representing American business. Many of us spend our days representing catastrophically injured Americans. Many of us spend our days doing the most important job of all—raising the next generation of Americans.

Despite our differences, we share much in common. Among those things, we all know that Eddie is an exceptional father, husband, and friend. He is an exceptional lawyer. He is an exceptional public servant. These things make Eddie an exceptional American, and Eddie will make an exceptional District Judge.

The men and women who have signed this letter know these things because we have known Eddie for years. We have worked alongside him. We have witnessed his work ethic. We have watched him do the right thing when doing the

right thing was hard. We have seen him sacrifice time and opportunity so that others could lead better lives. We have felt Eddie's faith as it carried him through good times and bad. We have drawn inspiration from his devotion to the Constitution. We have been awed by his respect for the Rule of Law.

Eddie's resume lists his many accomplishments as a student, lawyer, and public servant. Those well-deserved accomplishments were all earned the hard and honest way. Eddie's resume is as good as a lawyer's resume gets.

But Eddie's resume is not what makes him great. Throughout his life and legal career, Eddie has put his immense God-given talents to work in service to our fellow citizens. That is what makes Eddie great. Whether serving the Eleventh Circuit as a law clerk, serving clients as a partner at one of the nation's leading law firms, or serving the people of Alabama as Solicitor General, Eddie has satisfied what Theodore Roosevelt called "the first requisite of a good citizen in this Republic of ours." Time and time again, Eddie has shown that he is "able and willing to pull his weight."

As a lawyer, clients have trusted Eddie with the most complicated and complex legal problems. They know Eddie brings to bear a brilliant mind and the life experience of a lawyer raised by hardworking parents in lower Alabama. They trust Eddie because they know he will do the most important thing a lawyer can do—give everything the lawyer has got to do the very best for his client.

As a District Judge, the parties who appear before him—regardless of who they are—can trust Eddie will bring those things to bear to do the most important thing a Judge can do—follow the Rule of Law. He believes in it with every fiber of his being. Eddie will go where the law requires him to go, unflinchingly. As he has done in every other part of his life, Eddie will do his very best in this too.

If confirmed, Eddie will serve the United States as a District Judge with integrity, honor, and the utmost respect for the Constitution and the Rule of Law. There is no better person for the job. We urge you to confirm him promptly.

Natalie Simon Abbott
Bijan M. Aboutorabi
Katherine L.M. Bell
Lindsey C. Boney IV
John C. Brinkerhoff Jr.
Lauren Chambliss Boyd
Megan McGlynn Butler
Matt Capoccia
M. Alex Carver
Madeline Clark
C. William Courtney
Aly Cox
Tim Del Castillo
Gilbert Dickey
Jennifer B. Dickey
Anthony J. Enright
Molly Drake Glazner
Robert Harrington
Rudy Hill
Ellen V. Lehman
Elbert Lin
William C. Marra
Taylor Meehan
Caroline Stephens Milner
Kasdin M. Mitchell
Stephanie Morman
Cameron T. Norris
Andrew Nussbaum
Jennifer Peterson
Stephen J. Petrany
Ramsey B. Prather
Chris Randolph
Peter Steciuk
Jack Tucker
Sarah Welch

CUNNINGHAM BOUNDS

TOBY D. BROWN
GEORGE W. FINKBOHNER, III
DAVID G. WIRTES, JR.
STEVEN L. NICHOLAS
GLENN E. KUSHEL*
DAVID S. CAIN, JR.
WILLIAM E. BONNER
ROBERT L. MITCHELL
J. BRIAN DUNCAN, JR.
LUCY E. TUFTS
JOSEPH D. STEADMAN
JENNIFER JAYJOHN YORK
AMANDA H. HERREN
TYLER J. FLOWERS
JOSEPH F. MCGOWIN

OF COUNSEL
NICHOLAS C. MORAITAKIS*
CHRISTOPHER B. ESTES

MOBILE, ALABAMA
1601 DAUPHIN STREET (36604)
P.O. BOX 66705 (36660)
251-471-6191 (PH)
251-479-1031 (FAX)
* *Not Licensed in Alabama*

August 28, 2025

Senator Chuck Grassley
Chair, Judiciary Committee

Senator Dick Durbin
Ranking Member, Judiciary Committee

c/o United States Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Recommendation in Support of Alabama Solicitor General Edmund LaCour's Nomination to the United States District Court for the Northern District of Alabama

Dear Chairman Grassley and Ranking Member Durbin,

Please accept this recommendation on behalf of Edmund "Eddie" LaCour to appointment as a federal district judge for the Northern District of Alabama.

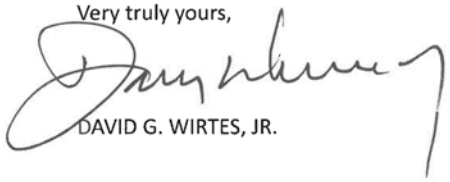
I have served alongside Eddie for a number of years as a member of the Supreme Court of Alabama's Standing Committee on the Rules of Appellate Procedure. We have advocated together for rules changes just as we have fought against one another over proposed rules changes. Through these experiences I have come to know Eddie as a student of the law, a spirited advocate and a dedicated

public servant. While we have not always seen eye-to-eye about issues, Eddie has always advocated as a gentleman and scholar. He embodies the professional principle of being able to disagree without being disagreeable.

In my experience, Eddie has always performed as a lawyer should; advancing the causes of his client thoughtfully, skillfully, and vigorously.

I believe Eddie LaCour will serve the people of Alabama, and all Americans, with integrity, honor and dedication to the rule of law.

Very truly yours,



DAVID G. WIRTES, JR.

DGWjr/arf

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

1. **Name**: State full name (include any former names used).

Billy Wayne Lewis, Jr.
Bill Lewis
William Wayne Lewis, II

2. **Position**: State the position for which you have been nominated.

United States District Judge for the Middle District of Alabama

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

Office: Supreme Court of Alabama
300 Dexter Avenue
Montgomery, Alabama 36104

Residence: Titus, Alabama

4. **Birthplace**: State year and place of birth.

1978; Darmstadt, Germany

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

2000 – 2003, Cumberland School of Law, Juris Doctorate, 2003

1996 – 2000, The University of the South, B.A. in economics and political science, 2000

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2025 – present

Alabama Supreme Court
300 Dexter Avenue
Montgomery, Alabama 36104
Associate Justice

2024 – 2025
Alabama Court of Civil Appeals
300 Dexter Avenue
Montgomery, Alabama 36104
Judge

2016 – 2024
Nineteenth Judicial Circuit
8935 U.S. Highway 231
Wetumpka, Alabama 36092
Circuit Judge

2006 – 2016
Law Office of Bill Lewis
1007 Jackson Trace Road
Wetumpka, Alabama 36092
General Practitioner

2005 – 2006
Law Office of Jeff Courtney
1881 Holtville Road
Wetumpka, Alabama 36092
Associate Attorney

2004 – 2005
Nineteenth Judicial Circuit District Attorney's Office
8935 U.S. Highway 231
Wetumpka, Alabama 36092
Assistant District Attorney

2003 – 2004
Law Clerk
Honorable John Bush
8935 U.S. Highway 231
Wetumpka, Alabama 36092

2002 – 2003
AmSouth Bank
1849 Montgomery Highway
Birmingham Alabama 35244
Teller

2001 – 2002
Darrel's Restaurant and Bar
2701 Eastern Boulevard
Montgomery, Alabama 36117
Server

1995 – 2003
Walmart
4538 U.S. Highway 231
Wetumpka, Alabama 36092
Stocker, floor worker

Other Affiliations:

2006 – present
Lewis Properties, LLC
1017 Jackson Trace Road
Wetumpka, Alabama 36092
Owner

2022 – present
University of South Alabama
307 University Boulevard, Room 130
Mobile, Alabama 36688
Trustee (Uncompensated)

7. **Military Service and Draft Status**: Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

I have not served in the military. I registered for the selective service upon turning 18.

8. **Honors and Awards**: List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

Alabama Law Foundation (2025)

Alabama Family Law Section Judge of the Year (2025)

History Maker Award, Betu Nu Omega Chapter Award (2020)

Trailblazer Award (2017)

Wetumpka Herald Best Attorney Award (2019)

Montgomery Advertiser Best of the Best Award (Lawyers) (2016)

Alabama Rising Republican Star (2013)

Leadership Award, Liberty Hill Baptist Church (2009)

Merit Scholar, Cumberland School of Law (2000 – 2003)

University of the South Football 4-year letterman (1996 – 1999), 2nd Team All-Conference (1999)

Regent's Scholar, The University of the South (1996 – 2000)

Order of Gownsmen, The University of the South (1997)

9. **Bar Associations**: List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

Elmore County Bar Association
President (2006)
Secretary (2005)

10. **Bar and Court Admission**:

a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Alabama, 2004
Tennessee, 2004

My membership to the Tennessee Bar has been inactive since 2018. Otherwise, there have been no lapses in membership.

b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

Supreme Court of the United States, 2012
United States Court of Appeals for the Eleventh Circuit, 2011
United States District Court for the Middle District of Alabama, 2004
United States District Court for the Northern District of Alabama, 2004

My memberships to the courts listed above lapsed after October 2016 when I became a Circuit Judge.

11. **Memberships**:

a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Alabama Law Foundation, 2025 – present

Hugh Maddox Inns of Court, 2024 – present

Trustee, University of South Alabama, 2022 – present

b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To the best of my knowledge, none of the organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, religion or national origin, either through formal membership requirements or the practical implementation of membership policies.

12. **Published Writings and Public Statements**:

a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply copies of all published material to the Committee.

None.

b. Supply copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

None.

c. Supply copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you

have issued or provided or that others presented on your behalf to public bodies or public officials.

None.

d. Supply copies, transcripts or recordings of all speeches or talks delivered by you including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

June 13, 2025: Panelist, "The Good, the Bad, the Ugly: State of the Judiciary," Alabama Association for Justice, Destin, Florida; Co-panelists, Chief Justice Sarah Stewart, Justice Chris McCool. Presentation supplied.

May 13, 2025: Speaker, "Finding Your Why" Edward Bell Technical Center, Tallapoosa County, Alabama. Presentation supplied.

May 1, 2025: Speaker, Alabama State Bar Law Day via Zoom. I spoke to students across the state about the structure of the court system and the role of a judge in the judiciary. I have no notes, transcript, or recording. The address for the Alabama State Bar Association is 415 Dexter Ave, Montgomery, Alabama 36104.

February 21, 2025: Speaker, Conecuh County Republican Dinner. I spoke about the structure of the Alabama Court system and the need to follow the rule of law. I have no notes, transcript, or recording. The address for the Conecuh County Republican Party is 110 Edwina Street Evergreen, Alabama 36401.

January 19, 2025: Speaker, "Alabama Courts," Madison County Men's Republican Club. I spoke about Alabama courts and my background. I have no notes, transcript, or recording. The meeting address for the Madison County Men's Republican Club is the Holiday Inn, 5903 University Drive, Huntsville, Alabama 35806 and the mailing address is P.O. Box 2301, Huntsville, Alabama, 35804.

January 17, 2025: Speaker, "Bridging the Divide: From Trial Court to the Appellate Bench and an Introduction to AI and its Potential in Constitutional Law and Originalism," Federalist Society, Huntsville Chapter. Presentation supplied.

November 8, 2024: Panelist, "A View from the Appellate Bench," Panel Discussion hosted by the Montgomery County Bar Association at the Montgomery County Courthouse. I, along with my fellow panelists, Justice Greg Cook and Justice Chris McCool, spoke on the appellate process. I have no notes, transcript, or recording. The address for the Montgomery County Bar Association is 251 S. Lawrence St,

Montgomery, Alabama 36104.

October 24, 2024: Speaker, "Worker's Compensation Annual Meeting," Alabama Association for Justice, Birmingham, Alabama. Notes supplied.

October 2, 2024: Speaker, Judicial Affairs Conference, Gulf Shores Lodge, Gulf Shores, Alabama. I spoke about my background, challenges, and the need to take a balanced approach to life. I have no notes, transcript, or recording. The address for the Alabama Association for Justice is 532 S. Perry Street, Montgomery, Alabama 36104.

September 24, 2024: Speaker, Point Clear Republican Women, Oak Hollow Farm, Fairhope, Alabama. I spoke about the structure of the state court system and our role as judges in that state court system. I have no notes, transcript, or recording. The address for the Point Clear Republican Women is Oak Hollow Farms, 14210 Greeno Road, Fairhope, Alabama 36532.

September 24, 2024: Speaker, South Baldwin Republican Women, Gift Horse Restaurant, Foley, Alabama. I spoke about the structure of the state court system and our role as judges in that state court system. I have no notes, transcript, or recording. The address for the South Baldwin Republican Women is 209 W. Laurel Ave, Foley, Alabama 36535.

August 20, 2024: Speaker, "Emerging Lawyers Lunch and Learn," Alabama Association for Justice, Birmingham, Alabama. Presentation supplied.

August 19, 2024: Speaker, Shelby County Alabama Farmers Federation Meeting, Shelby County, Alabama. Notes supplied.

June 12, 2024: Speaker, "Update on the Alabama Court of Civil Appeals." Lauderdale County Bar Association, Lauderdale County, Alabama. Presentation supplied.

May 2, 2022: Speaker, "Learning the Constitution," Pack 50 Wetumpka Boy Scouts, Wetumpka, Alabama. Presentation supplied.

January 11, 2020: Moderator "Youth Mental Health First Aid," Wetumpka, Alabama. I organized and participated in a panel with Elmore County School Board Mental Aid Specialist, Renee Blasingame, and spoke about how to identify and report issues concerning adverse juvenile mental health. I have no notes, transcript, or recording. The address for the Elmore County Board of Education is 100 H. H. Robinson Drive, Wetumpka, Alabama 36092.

February 16, 2018: Speaker, "Unity and Leadership," Prattville, Alabama. I spoke about the accomplishments of Alabamians as part of the Prattville Black History Program. I have no notes, transcript, or recording. The address for the Prattville Cultural Arts Society is 203 W. 4th Street, Prattville, Alabama 36066.

July 25, 2017: Speaker, "Alabama Judiciary." Wetumpka Rotary Club, Shoney's,

Wetumpka, Alabama. I discussed new laws and spoke about the role of the judiciary. I have no notes, transcript, or recording. The address for the Wetumpka Rotary Club is 306 S. Main Street Wetumpka, Alabama 36092.

June 8, 2017: Speaker, "Courts, Legislative Update, and Social Media," Elmore County Board of Education, Wetumpka, Alabama. Presentation included.

May 17, 2017: Speaker, "Alabama Judiciary" Millbrook Kiwanis Club, Millbrook Alabama. I spoke about the structure of the state court system and the role of judges in the state court system. I have no notes, transcript, or recording. The address for the Millbrook Kiwanis Club is 3240 Grandview Road, Millbrook, Alabama, 36054.

March 16, 2017: Speaker, "Alabama Judiciary," Prattville Lion's Club Meeting, Prattville, Alabama. I gave an introduction to the state court system and structure of courts in Alabama. I have no notes, transcript, or recording. The address for the Prattville Lion's Club is Doster Center, 424 S Northington St, Prattville, Alabama 36066.

January 15, 2017: Speaker, "Wetumpka Martin Luther King Program," Wetumpka Civic Center. I introduced keynote speaker, Fred Gray. I have no notes, transcript, or recording. The address for the City of Wetumpka is 408 S. Main St, Wetumpka, Alabama 36092.

e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and copies of the clips or transcripts of these interviews where they are available to you.

Alabama Supreme Court Justice Bill Lewis Visits Cherokee County GOP Breakfast, WEIS radio 100.5 (July 29, 2025). Copy supplied.

Heather Knight, *Elmore County Law Day 2021: Second Graders Learn About Judicial System*, Elmore Autauga News (Sept. 24, 2021). Copy supplied.

Joyanna Love, *CCS Students Attend Law Day*, Clanton Advertiser (Apr. 12, 2019). Copy supplied.

Marty Roney, *Autauga County sheriff dabbles in painting as a hobby*, Montgomery Advertiser (Jan. 18, 2019). Copy supplied.

Amalia Kortright, *Law Day teaches local students about justice system*, Wetumpka Herald (Sept. 26, 2018). Copy supplied.

Joseph Tidwell, *Judge Bill Lewis speaks at Chamber luncheon*, Clanton Advertiser (Sept. 11, 2018). Copy supplied.

Marty Roney, *New Judge on Bench*, Montgomery Advertiser (Nov. 2, 2016). Copy supplied.

Jennifer Horton, *Lewis Sworn in as Circuit Judge in 19th Circuit* (Oct. 28, 2016). Copy supplied.

Matt Okarmus, *Grand jury gets abuse case*, Montgomery Advertiser (Dec. 18, 2013). Copy supplied.

Matt Okarmus, *Candidate not guilty in assault case*, Montgomery Advertiser (Aug. 22, 2012). Copy supplied.

Matt Okarmus, *Wetumpka council candidate arrested*, Montgomery Advertiser (Aug. 9, 2012). Copy supplied.

Marty Roney, *Elmore County home invasion suspect's parole revoked,* Montgomery Advertiser (Aug. 31, 2010). Copy supplied.

McMillan guilty of killing Millbrook father, Montgomery Advertiser (June 26, 2009). Copy supplied.

13. **Judicial Office**: State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

2016 – 2024
Circuit Judge
Nineteenth Judicial Circuit

I was appointed to this position by Governor Robert Bentley and was sworn in on October 28, 2016. I ran for election in 2018 and won. In 2024, I ran unopposed for re-election.
The Circuit Court is a court of general jurisdiction with original jurisdiction over felony offenses, domestic relations cases, and civil cases with controversies over $15,000. The Nineteenth Judicial Circuit Court has appellate jurisdiction over the municipal, district, probate, and juvenile courts in Elmore, Autauga, and Chilton counties.

2024 – 2025
Judge
Alabama Court of Civil Appeals

I was appointed to this position by Governor Kay Ivey on February 28, 2024. The Court of Civil Appeals has exclusive appellate jurisdiction of all civil cases where the amount involved, exclusive of interest and costs, does not exceed $50.000, all appeals from administrative agencies other than the Alabama Public Service Commission, all appeals in workers' compensation cases, all appeals in domestic relations cases, including annulment, divorce, adoption, and child custody cases and all extraordinary writs arising from appeals in said cases.

2025 – present
Associate Justice

Alabama Supreme Court

Governor Kay Ivey appointed me to this position on May 20, 2025. The Supreme Court has exclusive appellate jurisdiction over all cases where the amount involved exceeds $50,000.00. It is the highest court in the State of Alabama.

a. Approximately how many cases have you presided over that have gone to verdict or judgment?

300.

i. Of these cases, approximately what percent were:

jury trials:	15%
bench trials:	85%

ii. Of these cases, approximately what percent were:

civil proceedings:	60%
criminal proceedings:	40%

b. Provide citations for all opinions you have written, including concurrences and dissents.

Authored Opinions:

1. *K.J.P. v. B.W.P.*, Case No. CL-2024-0809, 2025 WL 1416758 (Ala. Civ. App. May 16, 2025)

2. *Alabama State Emps. Credit Union v. Jemison*, Case No. CL-2025-0004, 2025 WL 1416781 (Ala. Civ. App. May 16, 2025)

3. *B.T. v. Jefferson Cnty. Dep't of Hum. Res.*, Case No. CL-2024-0982, 2025 WL 1198701 (Ala. Civ. App. Apr. 25, 2025)

4. *Ex parte Nucor Harris Rebar S., LLC*, Case No. CL-2025-0145, 2025 WL 1085234 (Ala. Civ. App. Apr. 11, 2025)

5. *Cornelius v. Cornelius*, Case No. CL-2024-0739. 2025 WL 938570 (Ala. Civ. App. Mar. 28, 2025)

6. *Yates v. Fed. Home Loan Mortg. Corp.*. Case No. CL-2024-0811, 2025 WL 938917 (Ala. Civ. App. Mar. 28, 2025)

7. *A.T. v. W.T.*, Case No. CL-2024-0643, 2025 WL 878421 (Ala. Civ. App. Mar. 21, 2025)

8. *J.C. v. Cullman Cnty. Dep't of Hum. Res.*, Case No. CL-2024-0763, 2025 WL 878812 (Ala. Civ. App. Mar. 21, 2025)

9. *Shires Homeowners Ass'n, Inc. v. Clark*, Case No. CL-2024-0797, 2025 WL 808305 (Ala. Civ. App. Mar. 14, 2025)

10. *Nash v. Nash*, Case No. CL-2024-0651, 2025 WL 808846 (Ala. Civ. App. Mar. 14, 2025)

11. *Alonso v. Alpha Phi Int'l, Inc.*, Case No. CL-2024-0507, 2025 WL 649349 (Ala. Civ. App. Feb. 28, 2025)

12. *Parrish v. Ratliff*, Case No. CL-2024-0552, 2025 WL 663902 (Ala. Civ. App. Feb. 28, 2025)

13. *Grant v. Cooper*, Case No. CL-2024-0564, 2025 WL 569873 (Ala. Civ. App. Feb. 21, 2025)

14. *Colbert Cnty. Bd. of Educ. v. Satchel*, Case No. CL-2024-0534, 2025 WL 496485 (Ala. Civ. App. Feb. 14, 2025)

15. *Equity Tr. Co. v. Kimbrell*, Case No. CL-2024-0510, 2025 WL 350461 (Ala. Civ. App. Jan. 31, 2025)

16. *L.S.H. v. T.J.*, Case No. CL-2024-0638, 2025 WL 63485 (Ala. Civ. App. Jan. 10, 2025)

17. *Navy Fed. Credit Union v. HMC Fin. Corp.*, Case No. CL-2024-0352, 2024 WL 5176647 (Ala. Civ. App. Dec. 20, 2024)

18. *State v. Hadley*, Case No. CL-2024-0619, 2024 WL 5100741 (Ala. Civ. App. Dec. 13, 2024)

19. *Parrish v. Ratliff*, Case No. CL-2024-0552, 2024 WL 4469962 (Ala. Civ. App. Oct. 11, 2024), *reh'g denied*, No. CL-2024-0552, 2025 WL 663902 (Ala. Civ. App. Feb. 28, 2025)

20. *Whitehurst v. Whitehurst*, Case No. CL-2024-0064, 2024 WL 4395288 (Ala. Civ. App. Oct. 4, 2024)

21. *Harrison v. Marion Reg'l Nursing Home*, Case No. CL-2023-0800, 2024 WL 4311574 (Ala. Civ. App. Sept. 27, 2024)

22. *Robinson v. Robinson*, Case No. CL-2024-0074, 2024 WL 4096263 (Ala. Civ. App. Sept. 6, 2024)

23. *B.T. v. Jefferson Cnty. Dep't of Hum. Res.*, Case No. CL-2023-0944, 2024 WL 3995990 (Ala. Civ. App. Aug. 30, 2024), *cert. denied sub nom. Ex parte Jefferson Cnty. Dep't of Hum. Res.*, Case No. SC-2024-0598, 2024 WL 4469783 (Ala. Oct. 11, 2024)

24. *White v. White*, Case No. CL-2024-0081, 2024 WL 3995991 (Ala. Civ. App. Aug. 30, 2024)

25. *J.M.L. v. Tuscaloosa Cnty. Dep't of Hum. Res.*, 402 So. 3d 832 (Ala. Civ. App. 2024)

26. *Hernandez v. Rodriguez*, 402 So. 3d 255 (Ala. Civ. App. 2024)

27. *Hamilton v. Hamilton*, 401 So. 3d 1186 (Ala. Civ. App. 2024)

Concurring & Dissenting Opinions:

1. *Alabama Bd. of Heating, Air Conditioning, & Refrigeration Contractors v. Blanchard*, 406 So. 3d 847 (Ala. Civ. App. 2024), dissenting opinion.

2. *Gartrell v. Gartrell*, Case No. CL-2024-0290, 2024 WL 4522170 (Ala. Civ. App. Oct. 18, 2024), *aff'd sub nom. Ex parte Gartrell*, Case No. SC-2024-0743, 2025 WL 1776392 (Ala. June 27, 2025), dissenting opinion.

3. *E.L.C. v. N.J.C.*, Case No. CL-2024-0147, 2024 WL 4796129 (Ala. Civ. App. Nov. 15, 2024), dissenting opinion.

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature of the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (4) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

1. *State of Alabama v. Sirjames Raby*. Case No. 04-CC-2021-242:

Criminal Defendant Raby was convicted of manslaughter after getting into an argument with the victim and shooting him and the victim's brother with an AR-15 rifle. The Defendant had four prior felony convictions. Upon his conviction in this

case, I sentenced him to 50 years in prison.

Counsel for Prosecution:
Josh Cochran
8935 US Highway 231
Wetumpka, AL 36092
(334) 531-9176

Defense Counsel:
Tom Azar
10 Cambridge Court
Wetumpka, AL 36093
(334) 324-2386.

2. *State of Alabama v. Pamella Shelton*, Case No. 29-CC-2019-875

In this criminal case, Defendant Shelton was convicted of felony murder after her grandchild was killed as a result of Defendant's aggravated child abuse. Defendant tried to hide her daughter, the key witness in the case, to prevent her from testifying against Defendant. As a result, I struck the jury, recessed them for months while the state attempted to locate Defendant's daughter, and then reconvened the case. After Defendant was convicted, I sentenced her to life in prison.

Counsel for Prosecution:
Josh Cochran
8935 US Highway 231
Wetumpka, AL 36092
(334) 567-2237

Defense Counsel:
Jennifer Holton
[address not listed]
(334) 782-6848

3. *State of Alabama v. Keon Cain*, Case No. 04-CC-2018-111

In this case, Defendant Keon Cain was a part of a robbery at barbershop on July 4, 2017. Cain and a codefendant made entry into the barbershop where the codefendant shot and killed two men by bashing them with cinderblocks. Cain used a shotgun to kill a third victim, who was injured by gunshot and trying to escape to safety. After lengthy litigation, both defendants ultimately plead guilty via plea agreement. I sentenced Defendant Cain to life in prison, without the possibility of parole.

Counsel for Prosecution:
Josh Cochran
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(334) 567-2237

Defense Counsel:
Tom Azar
10 Cambridge Court
Wetumpka, AL 36093
(334) 324-2386

4. *State of Alabama v. Cecil Green*, Case No. 29-CC-2020-495

In this criminal case, Defendant Green killed a man when he shot the man in the back after engaging in a verbal altercation regarding a woman. Defendant Green was convicted and I sentenced Defendant to 26 years in prison.

Counsel for Prosecution:
Caroline Blaylock
500 2nd Ave N, #221
Clanton, AL 35045
(334) 567-2237

Defense Counsel:
Tom Azar
10 Cambridge Court
Wetumpka, AL 36093
(334) 324-2386

5. *Headley v. Headley,* Case No. 14-DR-2019-000097

This domestic litigation involved a contentious dispute over child custody and the distribution of assets. After lengthy litigation, I entered an order dividing property and assets as equitably as possible. My order also attempted to give both parents as much time as possible with their children. My judgment was affirmed on appeal in *Headley v. Headley*, 389.So.3d 1169 (Ala.Civ.App. 2022).

Counsel:
James Cooper
312 Scott St
Montgomery, AL 36104
(334) 262-4887

Tina Moon
143 1st St.
Prattville, AL 36067
(334) 361-3339

6. *David Stinson v. Colleen Stinson*, Case No. 29-DR-2011-11.04

This case involved recurrent domestic litigation where the parties disputed child support, expenses, and numerous other issues. This case demonstrates the general contentious nature of domestic actions. To resolve this lengthy dispute, I divided the assets between the parties in the most equitable way possible. My judgment was affirmed on appeal in *Hoag v. Stinson*, 268 So.3d 66 (Ala.Civ.App. 2018).

Counsel for Plaintiff:
James Fancher
105 4th Street North
Clanton, AL 35045
(205) 530-1313.

Counsel for Defendant:
Nick Jones
320 N Hull Street
Montgomery, AL 36104
(334) 676-2133

7. *State of Alabama v. Dennis Long*, Case No. 29-CC-2018-663

In this criminal matter, Defendant Long was convicted of sexually abusing a child from the age of nine until she was eleven years old. Defendant had two prior convictions of abusing children and had been released from prison early. I sentenced him to a total of 197 years in prison.

Counsel for Prosecution:
Caroline Blaylock
500 2nd Ave N, #221
Clanton, AL 35045
(334) 567-2237

Defense Counsel:
W. Kendrick James
127 Cambridge Court
Wetumpka, AL 36093

(334) 567-8787

8. *State of Alabama v. Joseph Huffman*, Case No. 04-CC-2018-98

   In this criminal case, Defendant Huffman was convicted of murder after shooting and killing a man who was mowing the lawn on property where ownership was disputed between Hoffman and the victim's wife's family. After the jury's guilty verdict, I sentenced Defendant to life in prison.

   Counsel for Prosecution:
   Sarah Speaks
   8935 US Highway 231
   Wetumpka, AL 36092
   (334) 567-2237

   Defense Counsel:
   Richard White
   428 South Lawrance Street
   Montgomery, AL 36104
   (334) 269-1192

9. *State of Alabama v. Kevin Hill*, Case No. 14CC-2015-430

   In this criminal case, Defendant Hill was convicted by a Chilton County jury of rape, sodomy, incest, and sexual abuse for crimes against his daughter. Throughout the trial, witnesses provided testimony that Defendant engaged in substantial physical and mental abuse of his daughter. I sentenced Defendant to consecutively serve 99 years for rape, 99 years for sodomy, 50 years for sexual abuse and 50 years for incest against his minor daughter.

   Counsel for Prosecution:
   Caroline Blaylock
   500 2nd Ave N, #221
   Clanton, AL 35045
   (334) 567-2237

   Defense Counsel:
   Jessica Burkhart
   [address unlisted]
   (256) 343-6690.

10. *Rigby v. Rigby*, Case No. 29 DR 2016-900059

This case involved parties engaged in divorce proceedings. The parties had children, two of whom had special needs. Both parties wished to have primary custody of the children. Both parents were in the medical profession and received substantial income. I found that both parties had enough income from their high-paying occupations to support children. To resolve this case, I ordered joint custody between the parents. I also ordered that the parties would alternate final decision-making authority. Flexibility in final decision-making is important in domestic cases because some parents use their decision-making authority it to control the other parent, so alternating the decision-making authority provides another measure of checks-and-balances between parents. My decision was affirmed on appeal: *Rigby v. Rigby*, 268 So.3d 76 (Ala.Civ.App. 2018).

Counsel:
Judy Harrison Barganier
120 Ringold Street
New Orleans, LA 70124
(334) 549-8000.

W. Kendrick James
127 Cambridge Court
Wetumpka, AL 36093
(334) 567-8787

d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

1. *Cornelius v. Cornelius*, Case No. CL-2024-0739, 2025 WL 938570 (Ala. Civ. App. Mar. 28, 2025)

Counsel for Appellant:
Brett Austin Hamock
104 South, Main St
Boaz, AL 35957
(256) 744-6330

Counsel for Appellee:
Bonnie Anne Peavy
202 1/2 1st Ave East
Oneonta, Al. 35121
(205) 274-8537

2. *L.S.H. v. T.J.*, Case No. CL-2024-0638, 2025 WL 63485 (Ala. Civ. App. Jan. 10, 2025)

   Counsel for Appellant:
   Jerry Kilgo
   413 1st Ave SW
   Coleman, AL 35055
   (256) 734-2023

3. *J.M.L. v. Tuscaloosa Cnty. Dep't of Hum. Res.*, 402 So. 3d 832 (Ala. Civ. App. 2024)

   Counsel for Appellant:
   Nettie Cohen Blume
   2804 20th Avenue
   Northport, AL 35476
   (205) 556-6712

   Counsel for Appellee:
   Elizabeth L. Hendrix
   Alabama Department of Human Resources
   P.O. Box 304000
   Montgomery, AL 36130-4000
   (334) 242-9330

4. *B.T. v. Jefferson Cnty. Dep't of Hum. Res.*, Case No. CL-2023-0944, 2024 WL 3995990 (Ala. Civ. App. Aug. 30, 2024), *cert. denied sub nom. Ex parte Jefferson Cnty. Dep't of Hum. Res.*, No. SC-2024-0598, 2024 WL 4469783 (Ala. Oct. 11, 2024)

   Counsel for Appellant:
   Pooja Chawla
   120 19th Street North, Suite 2015
   Birmingham, AL 35203
   (205) 757-7287

   Counsel for Appellee:
   Faith Perdue Twiggs
   Alabama Department of Human Resources
   P.O. Box 304000
   Montgomery, AL 36130-4000
   (334) 242-9330

5. *Whitehurst v. Whitehurst*, Case No. CL-2024-0064, 2024 WL 4395288 (Ala. Civ. App. Oct. 4, 2024)

   Counsel for Appellant:

Carla Putman Maples
302 W Alabama St
Florence, AL 35630
(256) 764-0588

Counsel for Appellee:
Terry L. Mock
401 N. Main St.
Tuscumbia, AL 35674
(256) 386-7090

6. *Harrison v. Marion Reg'l Nursing Home*, Case No. CL-2023-0800, 2024 WL 4311574 (Ala. Civ. App. Sept. 27, 2024)

Counsel for Appellant:
James V. Green, Jr.
115 1st St N
Alabaster, AL 35007
(205) 621-0301

Counsel for Appellee:
Jonathan Lowe
1210 21st St
Haleyville, AL 35565
(205) 486-2655

7. *Robinson v. Robinson*, Case No. CL-2024-0074, 2024 WL 4096263 (Ala. Civ. App. Sept. 6, 2024)

Counsel for Appellant:
James V. Green, Jr.
115 1st St N
Alabaster, AL 35007
(205) 621-0301

8. *White v. White*, Case No. CL-2024-0081, 2024 WL 3995991 (Ala. Civ. App. Aug. 30, 2024)

Counsel for Appellant:
William K. Diver
120 East Tennessee Street
Florence, AL 35630
(256) 766-7778

9. *Hamilton v. Hamilton*, 401 So. 3d 1186 (Ala. Civ. App. 2024)

Counsel for Appellant:
Jacob E. N. Wade
112 Court Square
Evergreen, AL 36401
(334) 578-1544

Counsel for Appellee:
David Steele
50 St Emanuel St
Mobile, AL 36602
(251) 575-4021

10. *Hernandez v. Rodriguez*, 402 So. 3d 255 (Ala. Civ. App. 2024)

Counsel for Appellant:
Albert Osorio
3453 Sierra Dr
Hoover, AL 35216
(205) 637-6188

Counsel for Appellee:
Ann Derzis
2450 Valleydale Rd
Birmingham, AL 35244
(205) 980-0965

e. Provide a list of all cases in which certiorari was requested or granted.

None.

f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

1. *Shrove v. State*, 329 So. 3d 93 (Ala. Crim. App. 2020). Defendant Shrove petitioned the Circuit Court under Alabama R. Crim. P. 32 to have his 2006 conviction for soliciting a child by computer overturned. A Rule 32 petition is filed to challenge a conviction when all other post conviction remedies have been exhausted. Defendant argued that his 2006 guilty plea to soliciting a child by computer was invalid because he only communicated with an undercover officer posing as a child, not an actual child. In 2012, *Tennyson v. State*, the Alabama Court of Criminal Appeals held that the pre-2009 version of §13A-6-110 criminalized soliciting an actual child, not someone merely believed to be one, and the court found that this substantive

interpretation applies retroactively. However, I denied his Rule 32 petition on procedural grounds. The Court of Criminal Appeals reversed, explaining that because *Tennyson* narrowed the statute to exclude Shrove's conduct, his conviction was for an act the law did not criminalize, and Rule 32's procedural bars did not apply. The statute at issue was repealed in 2009.

2. *Landry v. Landry*, 276 So. 3d 684 (Ala. Civ. App. 2018). Affirmed in part, reversed in part, and remanded with instructions. This litigation involved the enforcement of a prior marital dissolution agreement. In an attempt to enforce a prior order related to the couple's divorce, the former wife asked to be listed as the owner of her son's Prepaid Affordable College Tuition ("PACT") Account. The former wife's request to be listed as the owner of the parties' son's PACT account was not enforcing the June 6, 2017, judgment but instead sought to modify it. Because the trial court lost jurisdiction to amend its judgment 90 days after her motion was filed, under Rule 59.1, Ala. R. Civ. P., its October 1, 2017, order granting that relief was an improper modification and therefore a nullity. All other aspects of the judgment were affirmed.

3. *McCrary v. Cole*, 277 So. 3d 31, 38–39 (Ala. Civ. App. 2018). Affirmed in part, reversed in part, and remanded with instructions. The owners of landlocked property brought condemnation action against adjacent landowners to obtain a right-of-way to access an unpaved road. The Autauga County Probate Court entered a judgment granting the condemnation and stating that the road at issue was a public road. The adjacent landowners appealed and I ruled that *res judicata* barred their claim. The adjacent landowners appealed to the Court of Civil Appeals, which found that the McCrarys' condemnation claim could only be filed in probate court, not in the trial court, so the trial court lacked original jurisdiction over that claim. Therefore, the second element of *res judicata* was not satisfied, and the trial court erred in barring the claim on that basis. That portion of the judgment was reversed, and the case was remanded to decide whether the McCrarys are entitled to the condemnation they sought. All of other aspects of the judgment were affirmed.

4. *Autauga Creek Craft House, LLC v. Brust*, Case No. 2180300, 2020 WL 3886178 (Ala. Civ. App. July 10, 2020). Affirmed in part, reversed in part, and remanded with instructions. A carpenter sued a company, alleging that the company did not fully compensate him for his services. The carpenter raised claims of breach of contract, account stated, and quantum meruit and asked for attorney's fees. I entered judgment for the plaintiff carpenter but denied his request for attorney's fees. The Court of Civil Appeals reversed my judgment for failing to award attorney's fees while relying on the Prompt Pay Act in awarding damages. All other aspects of the judgment were affirmed.

5. *Grantham v. Grantham-Potts*, 369 So. 3d 672 (Ala. Civ. App. 2022). Affirmed in part, reversed in part, and remanded with instructions. In a domestic dispute case, a father petitioned to modify child custody rights and a mother counter-petitioned to modify the father's required child support. I denied the father's petition and granted the mother's petition. The Court of Civil Appeals reversed and remanded the part of

my decision for failing to clarify to them how I reached the child support amount assessed. All of other aspects of the judgment were affirmed.

6. *Stewart v. Sutton*, 383 So. 3d 685 (Ala. Civ. App. 2023). Affirmed in part, reversed in part, and remanded with instructions. Formerly married parties brought this action to modify existing divorce judgment. The father sought to modify a provision that required him to pay half of his child's postsecondary education expenses while the mother counterclaimed, seeking to hold the father in contempt of court for failure to reimburse the mother for the child's education expenses. I denied the father's petition to modify, held him in contempt of court, and awarded the mother $16,324.62 in unreimbursed educational expenses. The Court of Civil Appeals reversed my judgment for failing to itemize how I came to the final amount assessed against the father for contempt. All other aspects of the judgment were affirmed.

7. *Fraiser v. Nahrstedt*, No. CL-2024-0220, 2025 WL 728658, at *14 (Ala. Civ. App. Mar. 7, 2025). Affirmed in part, reversed in part, and remanded with instructions. In a family law case, the appellate court reversed my amended judgment, holding that I was required to deduct certain expenses from father's gross receipts when calculating his monthly gross income. These deductions affected the calculation for required retroactive child support.

g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

Approximately 57% of the cases we released on the Court of Civil Appeals are affirmed by unpublished memorandum. The unpublished memoranda are released to the parties and maintained by the Clerk; however, they are not published in a Reporter.

h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

J.M.L. v. Tuscaloosa Cnty. Dep't of Hum. Res., 402 So. 3d 832 (Ala. Civ. App. 2024)

This opinion overturned Alabama Court of Civil Appeals precedent by ruling that arguments involving due process must be raised at the trial court level to be addressed on appeal. Before this opinion, the Court of Civil Appeals raised the issue *sua sponte* if no argument was made.

i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

None.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed

the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;

b. a brief description of the asserted conflict of interest or other ground for recusal;

c. the procedure you followed in determining whether or not to recuse yourself;

d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

Our Court has an automatic recusal system. I have informed them that I must recuse from anything involving the University of South Alabama because of my trustee status. I also am currently recusing from any case from the lower courts in which I had direct involvement in the case.

Ex parte Roberts, Case No. SC-2024-0804, 2025 WL 1776254 (Ala. June 27, 2025). This is an Alabama Supreme Court case and I recused due to being on a board of trustees – this case involved Auburn University Board of Trustees. I recused sua sponte.

Ex parte Gartrell, Case No. SC-2024-0743, 2025 WL 1776392 (Ala. June 27, 2025). I recused from this because I voted and wrote on this case in the Court of Civil Appeals before being elevated to the Alabama Supreme Court. I recused sua sponte.

Canaan Land Ministries v. Jones, Case No. CL-2024-0677, 2025 WL 1085235 (Ala. Civ. App. Apr. 11, 2025). This case originated in Autauga County and I had contact with it as a Circuit Judge of Autauga County. I recused sua sponte.

Chapman v. Chapman, Case No. CL-2023-0485, 2025 WL 939201 (Ala. Civ. App. Mar. 28, 2025). I handled this case as Chilton County Circuit Judge. I recused sua sponte.

Fraiser v. Nahrstedt, Case No. CL-2024-0220, 2025 WL 728658 (Ala. Civ. App. Mar. 7, 2025). I handled this case as an Elmore County Circuit Judge. I recused sua sponte.

Pinson v. Chilton Cnty. Bd. of Educ., Case No. CL-2024-0228, 2025 WL 495918 (Ala. Civ. App. Feb. 14, 2025). This case originated in Chilton County and I had contact with the parties as a Chilton County Circuit Judge. I recused sua sponte.

Merrick v. Merrick, Case No. CL-2023-0924, 2024 WL 5100655 (Ala. Civ. App. Dec. 13, 2024). I had direct contact with this case as Autauga County Circuit Judge. I recused sua sponte.

Ex parte Opp Health & Rehab., LLC, No. SC-2024-0266, 2025 WL 1479640, at *1 (Ala. May 23, 2025). The Alabama Supreme Court granted certiorari on the judgment from the Court of Civil Appeals. I recused because I was informed that I voted on the matter when I was a judge on the Court of Civil Appeals, however, after the decision was released I learned that the Court of Civil Appeals opinion was released shortly before I was appointed to the court.

15. **Public Office, Political Activities and Affiliations:**

a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

Trustee, University of South Alabama, appointed in 2022 by Governor Kay Ivey to fill the remaining term of Ken Simon. In 2025, I was reappointed by Governor Ivey to a full term, which concludes in 2031.

b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

Since 2006, I have served as a member of the Elmore County Republican Party Executive Committee. I have served as Chairman since 2018.

Since 2008, I have served on the Alabama Republican Party Executive Committee.

From 2013 to 2015, I served on the Montgomery Minority GOP.

16. **Legal Career:** Answer each part separately.

a. Describe chronologically your law practice and legal experience after graduation from law school including:

i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

From August 2003 to December 2003. I served as a law clerk for

the, Honorable John B. Bush of the Nineteenth Judicial Circuit. The job was eliminated in December 2003 due to state judiciary funding cuts.

ii. whether you practiced alone, and if so, the addresses and dates;

I was a solo practitioner from June 2006 to approximately May 2008 and from 2011 to 2016. All solo practice was done at the Law Office of Bill Lewis, 1007 Jackson Trace Road, Wetumpka, Alabama, 36092. This firm later was renamed to the Lewis Law Firm.

iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each;

2004 – 2005
Nineteenth Judicial Circuit District Attorney's Office
8935 U.S. Highway 231
Wetumpka, Alabama 36092

2005 – 2006
Law Office of Jeff Courtney
1881 Holtville Road
Wetumpka, Alabama 36092
Associate Attorney

2006 – 2016
Law Office of Bill Lewis
1007 Jackson Trace Road
Wetumpka, Alabama 36092
General/Solo Practitioner

iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

In 2016, I was a mediator for three family law cases before I was appointed to the circuit court bench. I resolved all three family law cases. The primarily disputed issues were child custody and asset distribution.

b. Describe:

i. the general character of your law practice and indicate by date

when its character has changed over the years.

As an Assistant District Attorney, I was an employee of the state and my client was the state of Alabama. After leaving the D.A.'s office in late 2005, I went to a small firm and became a general practitioner. After eight months in a small law firm, I secured criminal defense and juvenile contracts with Elmore County. Those contracts enabled me to found my own law firm. I became a solo practitioner. As a solo practitioner, I initially handled criminal defense and family law cases. As my practice grew, I began to represent clients in civil litigation, on both the plaintiff and defense sides. I also handled bankruptcy cases. In 2011, I began handling criminal defense cases primarily in federal court.

ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

Early in my legal career as a contract and appointed public defender, I handled misdemeanor and lower-class felony cases. I also handled domestic cases. While operating my solo practice from 2006 until 2016, I was retained or appointed on major felony or capital cases. Beginning in 2014, my practice shifted to civil litigation in federal courts.

c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

Since the beginning of my career, I frequently appeared in court, litigating a variety of cases. As a practicing attorney, I tried over approximately 1000 cases. From 2004 to 2010, I primarily tried and handled criminal and family law cases, in addition to some federal civil lawsuits. From approximately 2010 to 2016, my criminal practice shifted to federal courts, while maintaining my state criminal practice. From 2009 to 2012, I practiced bankruptcy law in addition to my criminal practice. Beginning in 2012, I added more civil litigation to my criminal defense work. After 2014, my practice began to shift to civil litigation.

i. Indicate the percentage of your practice in:

1. federal courts: 35%
2. state courts of record: 50%
3. other courts: 10%
4. administrative agencies: 5%

ii. Indicate the percentage of your practice in:

1. civil proceedings: 40%
2. criminal proceedings: 60%

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I have tried approximately 1000 cases to verdict. I was sole counsel in all but approximately 20 cases. I tried bench trials in circuit, district, municipal, juvenile dependency, and juvenile delinquency courts. Being the public defender in district court, juvenile delinquency court, and juvenile court, as well as being a contract public defender in circuit court and beginning my career as a prosecutor contributed to my high trial rate. I also had a large domestic caseload, and those cases had a high litigation rate. I tried 15 to 20 jury trials and bench trials in circuit court as well.

i. What percentage of these trials were:

1. jury: 5%
2. non-jury: 95%

e. Describe your practice, if any, before the Supreme Court of the United States. Supply copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have not practiced in the Supreme Court of the United States.

17. **Litigation**: Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

a. the date of representation;

b. the name of the court and the name of the judge or judges before whom the case was litigated; and

c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *State v. Charlie Washington*, , Case No. 29CC03-186; CR03-1063. Elmore County Circuit Court, Honorable John Bush presiding.
   Mr. Washington was convicted of burglarizing and murdering an elderly couple for whom he had previously done maintenance work. I served as assistant prosecutor/ law clerk from 2003 to 2004. This was one of the first major cases I assisted with

after joining the District Attorney's office. As a clerk, I supported the prosecution team in all aspects of the case outside of direct courtroom examination. The case resulted in one of the office's early capital murder convictions in which the jury recommended—and the court imposed—the death penalty.

Co-Counsel:
Sam Partridge (Deceased)

Opposing Counsel:
Wayne Perdue (Deceased)

W. Kendrick James
127 Cambridge Court
Wetumpka, AL 36093
(334) 567-8787

2. *State of Alabama v. Michael Stamper*, Case No. 29-CC-2003-325. Circuit Court of Elmore County, Honorable Sibley Reynolds presiding.

   Kenneth Miller, a known drug dealer, was killed at his home in Millbrook Alabama; for two years his killer was unknown. Eventually, the police received a tip through a jail inmate that Michael Stamper was bragging about committing the "perfect murder." Until the tip was received, the case had been deemed a "cold case."

   I served as associate counsel from May 2004 to September 2004. To prepare for trial I had to interview many people associated with a drug criminal subculture and had to go throughout the state to find and interview witnesses, whom included drug dealers, prostitutes, and other felons. We obtained a conviction and Mr. Stamper was sentenced to life in prison without the possibility of parole.

   Lead Counsel:
   Sam Partridge (deceased)

   Defense Counsel:
   Dawson Wayne Perdue (deceased).

3. *State v. McMillan*, Case No. 29CC 2006- 476. Elmore County Circuit Court, Honorable John Bush Presiding.

   Mr. McMillan was charged with capital murder for fatally shooting a man during a truck robbery at Wal-Mart, an incident captured on video that drew widespread attention in the state. The victim, a young father, had just attended a Montgomery Biscuits baseball game and was stopping to buy diapers. Despite conflicting eyewitness accounts, the video evidence led to a conviction.

I served as lead defense counsel from 2006 to 2009. As defense counsel, I presented extensive mitigation evidence showing Mr. McMillan's traumatic upbringing—abandoned by his father, abused by his mother and her boyfriends, and repeatedly failed by the child welfare system. The jury recommended life without parole (7–4), but the presiding judge overrode the recommendation and imposed the death penalty. The case raised the constitutional issue of whether judicial override violates the Eighth Amendment to the U.S. Constitution.

Co-Counsel:
W. Kendrick James
127 Cambridge Court
Wetumpka, AL 36093
(334) 567-8787

Opposing Counsel:
James Houts
300 Dexter Avenue
Montgomery, AL 36104
(334) 242-7300

4. *Charles Roberts v. City of Calera et. al.*, Case No. 2:2007 CV 00415; 2007 WL 2252206. U.S. District Court for the Northern District of Alabama, Honorable Karen Bowdre presiding.

   Charles Roberts was arrested in Calera, Alabama, during a traffic stop while riding as a passenger. The officer detained all occupants, ran Mr. Roberts's record, and arrested him for not possessing a felon identification card. However, under the law at the time, only individuals with two or more felony convictions were required to possess a felon identification card, and Mr. Roberts had only one felony conviction. Mr. Roberts was jailed for three days before release on bond.

   I served as plaintiff's counsel in 2007. As defense counsel, I successfully moved for dismissal of the criminal case due to the unlawful arrest. After Mr. Roberts's release, we filed a civil rights suit in the Northern District of Alabama under 42 U.S.C. § 1983, citing unlawful incarceration and physical abuse by law enforcement. Following discovery, the City of Calera agreed to pay a substantial settlement. The case also helped expose a pattern of misconduct by the arresting officer, who later faced additional lawsuits.

   Opposing Counsel:
   Timothy P. Donahue
   2044 Magnolia Ridge
   Vestavia, AL 35234
   (205) 531-8331

5. *State v. Travonte Keon Butler*, Case No. 29-CC-2009-514. Circuit Court of Elmore County, Honorable John Bush presiding.

   I served as defense counsel from 2009–2011. Mr. Butler was charged with capital murder for killing a man during a drug robbery. Mr. Butler was charged along with a co-defendant, Antonio Jerido. Both men claimed that the other went down the hill where the victim was and both claimed the other co-defendant committed the murder. After vigorous litigation, our client entered a plea deal for a lesser included charge and a reduced sentence in exchange for proffer and testimony against the co-defendant.

   Co-Counsel:
   W. Kendrick James
   127 Cambridge Court
   Wetumpka, AL 36093
   (334) 567-8787

   Counsel for Prosecution:
   Lee Rankin
   4848 Main Street
   Millbrook, AL 36054
   (334) 472-1098

6. *Lucille Smith v. Southern Foods*, Case No. 29-CV-2010-358. Circuit Court of Elmore County, Honorable John Bush presiding.

   I served as counsel for Plaintiff from 2009– 2016. Plaintiff Lucille Smith fell at a Food World in Millbrook and suffered injuries. On Smith's behalf, I filed suit against Food World. During the pendency of the suit, Food World filed for Chapter 13 Bankruptcy. Despite the bankruptcy, I negotiated an adequate settlement for my client.

   Opposing Counsel:
   John Elrod
   Terminus 200
   333 Piedmont Road, Suite 2500
   Atlanta, GA 30305
   (678) 553-2259

   Bankruptcy Trustee:
   William S. Kaye
   [contact information unavailable].

7. *State v. Bernard Nix,* Case No. 29-CC-2012-265. Elmore County Circuit Court, Honorable Sibley Reynolds presiding.

I served as defense counsel from 2010–2012. Mr. Nix was charged with Capital Murder. Nix and Codefendant 1 went to the victim's house at the direction of Codefendant 2. Codefendant 1 wielded an assault rifle loaded by Nix, and shot into the house numerous times injuring a victim and killing a child. After extensive litigation and investigation into the Defendant's background, my client received a reduced sentence as a result of a plea agreement.

Co-Counsel:
W. Kendrick James
127 Cambridge Court
Wetumpka, AL 36093
(334) 567-8787

Opposing Counsel:
Kristy Peoples
1801 4th Avenue North
Birmingham, AL
(205) 244-200

8. *Caspari v. State of Alabama,* 171 So. 3d 52 (Ala. Civ. App. 2015). Alabama Court of Civil Appeals.

I served as counsel for Appellant from 2012–2015. I represented Mr. Caspari in both a capital murder case and a related civil forfeiture action in which the State sought to condemn $21,600.00 seized from Caspari without a stated purpose. The State failed to notify me of the forfeiture filing until the day they moved for default judgment. I filed a timely answer the same day, but the court entered default two days later, claiming Caspari had failed to respond—despite improper service, which merely involved dropping the summons at the prison door. My motion to set aside the default was denied, and the funds were distributed even after I asked for a stay pending (mandamus) appeal. On appeal, the Attorney General's Office conceded that service was improper, and the Court of Civil Appeals reversed and remanded.

Co-Counsel:
Thomas Goggans
2030 East 2nd Street
Montgomery, AL 36106
(334) 834-2511

Opposing Counsel:
John McGavock Porter
123 East Laurel Street
Scottsboro, AL 35768
(256) 567-5156

9. *State of Alabama v. Frank Bertarelli*, Case No. 29-DC-2012-1867. District Court of Elmore County, Honorable James Glenn Goggans presiding.

   I served as Defendant's trial attorney from June 23, 2012–August 14, 2012. Mr. Bertarelli was. the case received extensive publicity. Mr. Bertarelli, a well-known business owner, community member, and candidate for the Wetumpka City Council, was charged with assault for punching the alleged victim in the victim's driveway. At the time of the incident, Mr. Bertarelli was on the alleged victim's property. At trial, we introduced character evidence of the alleged victim to prove Mr. Bertarelli's state of mind during the confrontation. Mr. Bertarelli was acquitted of the charges.

   Opposing counsel:
   James D. Cowell
   215 Centerview Drive, Suite 200
   Brentwood, TN
   (615) 567-3040

10. *United States v. Andrew Salery*, 163 F.Supp.3d 1215; Case No. 16-10570. Middle District of Alabama, Honorable Myron Thompson presiding.

    I served as defense counsel during 2016. Mr. Salery was arrested for possession with intent to distribute and three counts of felon in possession of a firearm for three separate incidents. Mr. Salery was facing 20 years in prison for these charges. I assumed representation of him after his initial attorney was permitted to withdraw due to a breakdown of the client-attorney relationship. Mr. Salery's case involved a question about the applicability of a federal sentence enhancement provision due to Mr. Salery's possession of weapons. I advocated for Mr. Salery and worked out a plea agreement that capped his sentence at ten years and gave me the ability to argue for downward departures and variances in his sentence. At sentencing, I argued that the weapons possession enhancement did not apply because the statute applies to each incident separately. The Court agreed and sentenced Mr. Salery to seven and a half years in prison.

    U.S. Attorney:
    Kevin P. Davidson
    131 Clayton Street
    Montgomery, AL 36104
    (334) 223-7280

18. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

I am very active with the local bar associations in my circuit. I created events called Law Days in Elmore and Chilton counties. Law Day brings all second-grade students from the county to the courthouse for an interactive introduction to the judicial system. The highlight is a mock trial, where students see the court process come to life. We also partner with child advocacy organizations and law enforcement agencies, who provide additional presentations and activities to help students learn about the role of the legal system in keeping communities safe. While on the Alabama Court of Civil Appeals I participated in a statewide Law Day, where we talked about the judicial branch of government by zoom to areas throughout the state that did not have attorneys available to give in class presentations.

While I was in private practice, we also launched a community service initiative through the bar, offering educational sessions on estate planning. We raised funds to give to various civic organizations to further community outreach.

I have not performed any lobbying activities in any manner.

19. **Teaching:** What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide copies to the committee.

None.

20. **Deferred Income/ Future Benefits:** List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

Because of my state government service, I have an Alabama employee pension account and a deferred compensation account.

21. **Outside Commitments During Court Service:** Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

None.

22. **Sources of Income:** List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding $500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

When my nomination is formally submitted to the Senate, I will file my mandated Financial Disclosure Report and supply a copy to this committee.

23. **Statement of Net Worth:** Please complete the attached financial net worth statement in detail (add schedules as called for).

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

I am not aware of any potential conflicts I would have as a District Judge at this time. In the event a family member was subjected to the jurisdiction of the Court I would recuse. I would also recuse from any litigation involving any organization or board I was involved with, however there is not any pending or upcoming litigation that I am aware of that would be subject to recusal.

I would have to evaluate that and other potential conflicts on a case-by-case basis according to the requirements of 28 U.S.C. § 455, the principles of the Code of Conduct for United States Judges, and any other applicable ethical or legal rules or principles. I will evaluate any other real or potential conflict, or relationship that could give rise to an appearance of a conflict, on a case-by-case basis and determine appropriate action with the advice of parties and their counsel, including recusal where necessary.

b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

If confirmed, I will carefully review and address any real or potential conflicts by reference to 28 U.S.C. § 455, Canon 3 of the Code of Conduct for United States Judges, and any and all other laws, rules, and practices governing such circumstances.

25. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

As an attorney, I volunteered to represent criminal defendants in criminal court on numerous occasions outside of my contractual obligations. From 2006 until 2016, I generally represented a minimum of five to six clients at each criminal docket on a pro bono basis. I estimate that I provided representation in those instances at least eight times per month. I also represented parents as counsel in confidential juvenile cases on multiple occasions.

26. **Selection Process:**

a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

In August 2024, I spoke with both Senators Tommy Tuberville and Katie Britt and expressed my interest in upcoming vacancies on the federal courts. In late November 2024, I contacted both Senator Tuberville's and Senator Britt's offices to express my interest in the vacancy on the U.S. District Court for the Middle District of Alabama. In March 2025, I sent an application to the offices of both Senators. On April 7, 2025, I interviewed with the chief counsels for both Senators. On April 30, 2025, I interviewed with both Senators. In May 2025, I was notified that the Senators would be submitting my name to the President for consideration. On June 2, 2025, I updated my application with both Senators to inform them that I had been appointed to the Alabama Supreme Court. They forwarded my updated application to the White House.

On June 26, 2025, I interviewed with the members of the White House Counsel's Office. On July 24, 2025, I was contacted my White House Counsel's Office and the U.S. Department of Justice to inform me that I would begin the vetting and background check process.

b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

FINANCIAL STATEMENT

NET WORTH

Provide a complete, current financial net worth statement which itemizes in detail all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

ASSETS				LIABILITIES			
Cash on hand and in banks		8	000	Notes payable to banks-secured (auto)		50	000
U.S. Government securities				Notes payable to banks-unsecured		46	530
Listed securities – see schedule		112	484	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable – see schedule		755	539
Real estate owned – see schedule	1	860	145	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		95	048				
Cash value-life insurance		100	000				
Other assets itemize:							
				Total Liabilities		852	069
				Net Worth	1	323	608
Total Assets	2	175	677	Total Liabilities and Net Worth	2	175	677
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities	
Corteva	$149
Dupont	137
Dow Chemicals	52
Ford	43
Meta	21,404
Microsoft	11,440
Pfizer	412
Viatris	17
Amazon	8590
Apple	2077
Dollar General	325
Draft Kings	437
Meta	18,750
Pfizer	370
Viatris	10
Oakmark Global Select	10,348
Franklin Global Allocation Fund	5,585
Tesla	907
Google	7,598
Amazon	8,590
American Airlines	330
Clover Health Investments	22
Delta Airlines	1,534
Disney	582
Wells Fargo	1,555
Baird Core	1,506
Double line Total Return	1,179
FMI International Fund Investor	2,180
Glenmede Disciplined U.S. Growth Equity Portfolio	3,569
TCW MetWest Total Return Bond	1,172
USA Mutuals Vice Fund	1,614
Total Listed Securities	$112,484

Real Estate Owned	
Personal Residence	$573,500
Rental Property #1	161,800
Rental Property #2	138,677
Rental Property #3	115,000
Rental Property #4	143,000
Lot #1	30,000
Rental Property #5	392,000

Rental Property #6 (50% Interest)	306,168
Total Real Estate Owned	$1,860,145

Real Estate Mortgages Payable	
Personal Residence – Mortgage	$218,584
Rental Property #5	124,508
Rental Property #1	85,224
Rental Property #6 (50% Interest)	179,242
Rental Property #4	98,129
Personal Residence Line of Credit	49,852
Total Real Estate Mortgages Payable	$755,539

AFFIDAVIT

I, Bill Lewis, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

July 31, 2025
(DATE)

(NAME)

(NOTARY)

DESIRAE LAFAY LEWIS
NOTARY PUBLIC
ALABAMA - STATE AT LARGE
My Commission Expires Feb. 21, 2027

Senator Dick Durbin
Ranking Member, Senate Judiciary Committee
Written Questions for Bill Wayne Lewis, Jr.
Nominee to be U.S. District Judge for the Middle District of Alabama
September 10, 2025

1. **In January of this year, you drafted and presented a PowerPoint presentation titled "Artificial Intelligence in the Legal Profession," where you described how AI has increasingly been used in the legal profession and the benefits and consequences of reliance on AI. In the presentation, you wrote:**

   The survival of our nation depends on the use of originalism as a judicial approach [, and] members of the legal community who don't subscribe to originalism are result oriented [which] undermines the standards of a civil society.

   Response: The characterization above of the comments on the PowerPoint slide is wrong. In that presentation, I was explaining that when courts do not follow the law as written, it undermines the rule of law itself, and that in turn undermines the foundations of a civil society. On that specific slide, "The survival of our nation depends on the use of originalism as a judicial approach"; "Members of the legal community who don't subscribe to originalism are result oriented"; "Undermines the standards of a civil society"; and "Moves the goalposts"; are all separate bullet points (not a constructed paragraph created by inserted conjunctions) on the slide which were each prefaced by separate unwritten comments, but when read and manipulated without the actual presentation they can apparently give the wrong impression. My point was not to single out individual members of the legal community, but to emphasize that adherence to the text of the law is what preserves stability, fairness, and the rule of law. The comment, "undermines the standards of a civil society," was actually prefaced by me talking about failing to follow the rule of law. The notes on the slide itself that aided me in what to say state, "You have to have a basis for your laws, if we don't have that basis then we don't have a civilization."

   a. **Please explain how the survival of our nation depends on the use of originalism as a judicial approach.**

      See above.

   b. **Please elaborate on what you meant when you wrote "…members of the legal community who don't subscribe to originalism are result oriented [which] undermines the standards of a civil society."**

      Response: See above.

2. **Did President Trump lose the 2020 election?**

Response: President Biden was certified as the victor of the Electoral College and served as the 46th President of the United States after taking the oath of office in January 2021.

3. **Where were you on January 6, 2021?**

   Response: At home in Alabama.

4. **Do you denounce the January 6 insurrection?**

   Response: The Supreme Court in *Trump v. Anderson* heard arguments about whether an insurrection occurred that day and ultimately concluded that States could not forcibly remove President Trump from the ballot. To the extent the question asks for personal political views, the judicial code of conduct prohibits any judicial nominee from providing political or policy views. I will say I denounce violence in any manner.

5. **Do you believe that January 6 rioters who were convicted of violent assaults on police officers should have been given full and unconditional pardons?**

   Response: The Supreme Court addressed presidential pardon power in *United States v. Klein* and other cases. Those cases established that the pardon power is one of the President's most plenary powers. The decision whether to extend a pardon is at the discretion of the President. To the extent the question asks for personal political or policy views, the judicial code of conduct prohibits any judicial nominee from providing political or policy views.

6. **The Justice Department is currently defending the Trump Administration in a number of lawsuits challenging executive actions taken by the Administration. Federal judges—both Republican and Democratic appointees—have enjoined some of these actions, holding that they are illegal or unconstitutional. Alarmingly, President Trump, his allies, and even some nominees before the Senate Judiciary Committee have responded by questioning whether the executive branch must follow court orders.**

   a. **What options do litigants—including the executive branch—have if they disagree with a court order?**

      Response: Litigants have many options, including stays, injunctions and outright appeals. Justice Sotomayor's majority opinion in *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100 (2009), recognizes that some circumstances require defying a court order to appeal it.

   b. **Do you believe a litigant can ever lawfully defy an order from a lower federal court? If yes, in what circumstances?**

Response: Treatises and cases have identified a number of circumstances where compliance with a court order is not required, such as if the court lacked jurisdiction or if compliance was impossible. E.g., 17 Corpus Juris Secundum Contempt §§ 56–65. The Supreme Court has identified additional circumstances, such as where an order must be violated to be appealed. As Justice Sotomayor's opinion for the Court put it, "Another long-recognized option is for a party to defy a disclosure order and incur court-imposed sanctions." *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009). "Such sanctions allow a party to obtain postjudgment review without having to reveal its privileged information. Alternatively, when the circumstances warrant it, a district court may hold a noncomplying party in contempt. The party can then appeal directly from that ruling, at least when the contempt citation can be characterized as a criminal punishment." *Id.*

c. Under the separation of powers, which branch of the federal government is responsible for determining whether a federal court order is lawful?

Response: The judiciary has authority to adjudicate cases and controversies between different parties.

7. District judges have occasionally issued non-party injunctions, which may include "nationwide injunctions" and "universal injunctions."

a. Are non-party injunctions constitutional?

Response: The Supreme Court recently held in *Trump v. CASA, Inc.* that "universal" injunctions that go beyond what is necessary to provide full relief to the parties "can be justified only as an exercise of equitable authority, yet Congress has granted federal courts no such power." 145 S. Ct. 2540, 2550 (2025). The Court's statutory holding, however, did not resolve whether the Constitution would be violated by such universal relief. The Eleventh Circuit has suggested that such relief "push[es] against the boundaries of judicial power." *Georgia v. President of the United States*, 46 F.4th 1283, 1303 (11th Cir. 2022). If confirmed, I would apply these and other relevant precedents.

b. Are non-party injunctions a legitimate exercise of judicial power?

Response: Please see my answer to Question 7(a).

c. Is it ever appropriate for a district judge to issue a non-party injunction? If so, under what circumstances is it appropriate?

Response: Justice Barrett states "A universal injunction can be justified only as an exercise of equitable authority, yet Congress has granted federal courts no such power." *Trump v. Casa, Inc.*, 606 U.S. 831, 145 S.Ct. 2540, 2550 (2025).

d. As a litigator, have you ever sought a non-party injunction as a form of relief? If so, please list each matter in which you have sought such relief.

Response: No.

8. At any point during your selection process, did you have any discussions with anyone—including individuals at the White House, the Justice Department, or any outside groups—about loyalty to President Trump? If so, please provide details.

Response: No.

9. Does the U.S. Constitution permit a president to serve three terms?

Response: Section 1 of the Twenty-Second Amendment states, in part, "No person shall be elected to the office of the President more than twice…." I am unaware of any precedent or Supreme Court interpretation of this portion of the Amendment, and I will not speculate on any particular fact pattern. To the extent the question asks about political disputes, it would be improper for a judicial nominee to promise or forecast how he or she would rule in a case that might come before him or her.

10. On May 26, 2025, in a Truth Social post, President Trump referred to some judges whose decisions he disagrees with, as "USA HATING JUDGES" and "MONSTERS", who "…SUFFER FROM AN IDEOLOGY THAT IS SICK, AND VERY DANGEROUS FOR OUR COUNTRY…"[1]

a. Do you agree that these federal judges are "USA HATING" and "MONSTERS" who "…SUFFER FROM AN IDEOLOGY THAT IS SICK, AND VERY DANGEROUS FOR OUR COUNTRY…"?

Response: It would be inappropriate for me, as a judicial nominee, to opine on the statements of any political figure or on any subject of political controversy.

b. Do you believe this rhetoric endangers the lives of judges and their families?

Response: It would be inappropriate for me, as a judicial nominee, to opine on the statements of any political figure or on any subject of political controversy. Generally, any polarizing statements are dangerous in the society we live in today, and it is hard to ascertain what specific statements endanger people because there are so many different statements made.

[1] Donald J. Trump (@realDonaldTrump), TRUTH SOCIAL (May 26, 2025, 7:22AM), https://truthsocial.com/@realDonaldTrump/posts/114573871728757682.

11. In addition to the President's own attacks on judges, his adviser Stephen Miller took to social media to call a federal trade court's ruling against President Trump's tariffs a "judicial coup"[2] and later reposted the images of the three judges who decided the case and wrote, "we are living under a judicial tyranny."[3]

a. Do you agree that these judges are engaged in a "judicial coup" and that "we are living under a judicial tyranny"?

Response: It would be inappropriate for me, as a judicial nominee, to opine on the statements of any political figure or on any subject of political controversy.

b. Do you believe this rhetoric endangers the lives of judges and their families?

Response: It would be inappropriate for me, as a judicial nominee, to opine on the statements of any political figure or on any subject of political controversy.

c. Would you feel comfortable with any politician or their adviser sharing a picture of you on social media if you issue a decision they disagree with?

Response: It would be inappropriate for me, as a judicial nominee, to opine on the statements of any political figure or on any subject of political controversy.

12. When, if ever, may a lower court depart from Supreme Court precedent?

Response: A lower court should not depart from Supreme Court precedent.

13. When, in your opinion, would it be appropriate for a circuit court to overturn its own precedent?

Response: If the precedent is exclusive to the Circuit Court and not determined by the Supreme Court, they should follow the standards set out by caselaw.

14. When, in your opinion, would it be appropriate for the Supreme Court to overrule its own precedent?

Response: When the Justices vote to overturn the prior precedent based on the standards set by Supreme Court caselaw.

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[2] Stephen Miller (@StephenM), X, (May 28, 2025, 7:48PM), https://x.com/StephenM/status/1927874604531409314.
[3] Stephen Miller (@StephenM), X, (May 29, 2025, 8:25AM), https://x.com/StephenM/status/1928065122657845516.

15. Please answer yes or no as to whether the following cases were correctly decided by the Supreme Court:

a. ***Brown v. Board of Education***

Response: As dozens of nominees have said before, it is almost always improper for judicial nominees to give a thumbs-up or thumbs-down to Supreme Court precedent. Based on prior hearings, the only two exceptions to this general rule against opining on the merits of Supreme Court cases are *Brown* and *Loving*. I agree that both of those decisions were correctly decided. As I stated at the confirmation hearing, if I am confirmed as a district judge, any precedent decided by the Supreme Court that is in place at the time I decide a case is "correctly decided" for the purposes of my role as a district judge.

b. ***Plyler v. Doe***

See above.

c. ***Loving v. Virginia***

See above.

d. ***Griswold v. Connecticut***

See above.

e. ***Trump v. United States***

See above.

f. ***Dobbs v. Jackson Women's Health Organization***

See above.

g. ***New York State Rifle & Pistol Association, Inc. v. Bruen***

See above.

h. ***Obergefell v. Hodges***

See above.

i. ***Bostock v. Clayton County***

See above.

j. ***Masterpiece Cakeshop v. Colorado***

See above.

k. ***303 Creative LLC v. Elenis***

See above.

l. ***United States v. Rahimi***

See above.

m. ***Loper Bright Enterprises v. Raimondo***

See above.

16. With respect to constitutional interpretation, do you believe judges should rely on the "original meaning" of the Constitution?

Response: When Congress passes a statute or the people enact a constitutional amendment, that law's meaning does not change until amended with new text. Judges regularly apply a law's meaning to new circumstances, such as applying the First Amendment's protection of free speech to the internet. It would be inappropriate for judges to "update" laws out of dissatisfaction that the people or Congress have chosen not to do so.

17. How do you decide when the Constitution's "original meaning" should be controlling?

Response: *See above.*

18. Does the "original meaning" of the Constitution support a constitutional right to same-sex marriage?

Response: The *Obergefell* decision holds that the Constitution includes that right.

19. Does the "original meaning" of the Constitution support the constitutional right to marry persons of a different race?

Response: Yes. The *Loving* decision holds that the Constitution includes that right. As stated above, that is one of the two decisions where it is appropriate for nominees to state whether a case was correctly decided. *Loving* is consistent with, and compelled by, the original meaning of the Constitution.

20. What is your understanding of the Equal Protection and Due Process clauses of the Fourteenth Amendment?

Response: The relevant text states, "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." There are tens of thousands of cases applying these provisions in different contexts. Generally speaking, the Equal Protection Clause requires strict or intermediate scrutiny if a State tries to classify based on a protected characteristic or quasi-protected characteristic. The Due Process Clause has been interpreted to require basic procedural protections and has also been interpreted to include a substantive component that prevents States from passing certain kinds of legislation at all.

21. How do these clauses apply to individuals that the Framers of the amendment likely did not have in mind, such as women? Or LGBTQ+ individuals?

Response: The Supreme Court has decided many cases brought by plaintiffs in those demographic groups, including the Virginia Military Institute case and *Obergefell*. The Supreme Court has interpreted those clauses to protect those groups. As always, if the people are dissatisfied with the Constitution, they can exercise their right to amend it.

22. Do you believe that judges should be "originalist" and adhere to the original public meaning of constitutional provisions when applying those provisions today?

Response: Judges should apply the text as written by Congress or the people. It is improper for judges to ever "update" or "amend" the laws by interpretation or any other means.

23. If so, do you believe that courts should adhere to the original public meaning of the Foreign Emoluments Clause when interpreting and applying the Clause today?

Response: Judges should apply the text as written by Congress or the people. That includes all provisions in the Constitution. It is improper for judges—rather than Congress or the people—to ever "update" or "amend" the laws.

24. Under the U.S. Constitution, who is entitled to First Amendment protections?

Response: The First Amendment states, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." The Supreme Court has on occasion determined that the First Amendment applies differently to different persons. For example, free-speech protections have been applied differently with respect to children. E.g., *Ginsberg v. New York*, 390 U.S. 629 (1968).

25. How would you determine whether a law that regulates speech is "content-based" or "content-neutral"? What are some of the key questions that would inform your analysis?

Response: Generally speaking, a law regulating speech is content-based if it regulates a particular kind of speech based on substance (like political speech). The Supreme Court has instructed lower courts to look at whether the law "draws distinctions based on the message a speaker conveys" such as distinguishing based on "particular subject matter" or by "function or purpose." *Reed v. Town of Gilbert*, 576 U.S. 155, 163 (2015).

26. What is the standard for determining whether a statement is protected speech under the true threats doctrine?

Response: In *Counterman v. Colorado*, the Supreme Court explained that, under the true threats doctrine, the First Amendment does not protect "serious expressions conveying that a speaker means to commit an act of unlawful violence." 600 U.S. 66, 74 (2023) (brackets adopted, quotation marks omitted).

27. Is every individual within the United States entitled to due process?

Response: The Fifth Amendment provides, in relevant part, "No person shall … be deprived of life, liberty, or property, without due process of law." The question in most cases is less about whether the doctrine of due process applies and more about how much process is due.

28. Can U.S. citizens be transported to other countries for the purpose of being detained, incarcerated, or otherwise penalized?

Response: This question is being actively litigated. Under the canons of judicial conduct, it would be improper for a judicial nominee to promise or forecast how he or she would rule in a case that might come before him or her.

29. The Fourteenth Amendment states: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside."

a. Is every person born in the United States a citizen under the Fourteenth Amendment?

Response: The text of the 14th Amendment excludes from citizenship persons not "subject to the jurisdiction" of the United States. For example, the Indian Citizenship Act of 1924 was enacted based on the understanding that individuals born into Indian tribes are not entitled to birthright citizenship under the Constitution, so Congress granted citizenship by statute.

b. Is the citizenship or immigration status of the parents of an individual born in the United States relevant for determining whether the individual is a citizen under the Fourteenth Amendment?

Response: This question is being actively litigated. Under the canons of judicial conduct, it would be improper for a judicial nominee to promise or forecast how he or she would rule in a case that might come before him or her.

30. Do you believe that demographic and professional diversity on the federal bench is important? Please explain your views.

Response: Yes. No one should ever be excluded from the opportunity to serve as a judge because of race, ethnicity, sex, religion, or any other protected characteristic. My experiences in both law and life are that, when people from diverse backgrounds come together, they bring with them diverse perspectives. That diversity broadens our understanding of others and helps us approach the work of judging with greater empathy. On the bench, empathy matters because it allows us to fully appreciate the circumstances of the cases before us and, in turn, to make the fairest and most thoughtful decisions we can. If I am fortunate enough to be confirmed, I would look forward to learning from the experiences of others and drawing on that shared wisdom to better serve the people who appear before me.

31. The bipartisan *First Step Act of 2018*, which was signed into law by President Trump, is one of the most important pieces of criminal justice legislation to be enacted during my time in Congress. At its core, the Act was based on a few key, evidence-based principles. First, incarcerated people can and should have meaningful access to rehabilitative programming and support in order to reduce recidivism and help our communities prosper. Second, overincarceration through the use of draconian mandatory minimum sentences does not serve the purposes of sentencing and ultimately causes greater, unnecessary harm to our communities. With these rehabilitative principles in mind, one thing Congress sought to achieve through this Act was giving greater discretion to judges—both before and after sentencing—to ensure that the criminal justice system effectively and efficiently fosters public safety for the benefit of all Americans.

a. How do you view the role of federal judges in implementing the *First Step Act*?

Response: The First Step Act is important because it promotes fair sentences tailored to each individual defendant and helps reduce recidivism and other inequities in the criminal justice system.

b. Will you commit to fully and fairly considering the individualized circumstances of each defendant who comes before you when imposing sentences to ensure that they are properly tailored to promote the goals of sentencing and avoid terms of imprisonment in excess of what is necessary?

Response: Yes. The law requires me to do so for each individual case that would come before me if I am confirmed as a district judge.

32. The Federalist Society seeks to "reorder[] priorities within the legal system to place a premium on individual liberty, traditional values, and the rule of law."

a. During your selection process, have you spoken to or corresponded with any individuals associated with the Federalist Society, including Leonard Leo or Steven G. Calabresi? If so, please provide details of those discussions.

Response: No.

b. Have you ever been asked to and/or provided services to the Federalist Society, including research, analysis, advice, speeches, or appearing at events?

Response: Yes, I gave a presentation on "Artificial Intelligence in the Legal Profession," in January of this year at an Alabama Federalist Society meeting in Huntsville, Alabama.

c. Have you ever been paid honoraria by the Federalist Society? If so, how much were you paid, and for what services?

Response: No.

33. The Teneo Network states that its purpose is to "Recruit, Connect, and Deploy talented conservatives who lead opinion and shape the industries that shape society."

a. During your selection process, have you spoken to or corresponded with any individuals associated with the Teneo Network, including Leonard Leo? If so, please provide details of those discussions.

Response: No.

b. Have you ever been asked to and/or provided services to the Teneo Network, including research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Have you ever been paid honoraria by the Teneo Network? If so, how much were you paid, and for what services?

Response: No.

34. The Heritage Foundation states that its mission is to "formulate and promote public policies based on the principles of free enterprise, limited government, individual freedom, traditional American values, and a strong national defense." Heritage Action, which is affiliated with the Heritage Foundation, seeks to "fight for conservative policies in Washington, D.C. and in state capitals across the country."

a. During your selection process, have you spoken to or corresponded with any individuals associated with the Heritage Foundation or Heritage Action, including Kevin D. Roberts? If so, please provide details of those discussions.

Response: No.

b. Have you ever been asked to and/or provided services to the Heritage Foundation or Heritage Action, including research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Were you ever involved in or asked to contribute to Project 2025 in any way?

Response: No.

d. Have you ever been paid honoraria by the Heritage Foundation or Heritage Action? If so, how much were you paid, and for what services?

Response: No.

35. The America First Policy Institute (AFPI) states that its "guiding principles are liberty, free enterprise, national greatness, American military superiority, foreign-policy engagement in the American interest, and the primacy of American workers, families, and communities in all we do."

a. During your selection process, have you spoken to or corresponded with any individuals associated with AFPI? If so, please provide details of those discussions.

Response: No.

b. Have you ever been asked to and/or provided services to AFPI, including research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Have you ever been paid honoraria by AFPI? If so, how much were you paid, and for what services?

Response: No.

36. The America First Legal Institute (AFLI) states that it seeks to "oppose the radical left's anti-jobs, anti-freedom, anti-faith, anti-borders, anti-police, and anti-American crusade."

a. During your selection process, have you spoken to or corresponded with any individuals associated with AFLI, including Stephen Miller, Gene Hamilton, or Daniel Epstein? If so, please provide details of those discussions.

Response: No.

b. Have you ever been asked to and/or provided services to AFLI, including but not limited to research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Have you ever been paid honoraria by AFLI? If so, how much were you paid, and for what services?

Response: No.

37. The Article III Project is an organization which claims that, "The left is weaponizing the power of the judiciary against ordinary citizens."

a. During your selection process, have you spoken to or corresponded with any individuals associated with the Article III Project, including Mike Davis, Will Chamberlain, or Josh Hammer? If so, please provide details of those discussions.

Response: No.

b. Have you ever been asked to and/or provided services to the Article III Project, including research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Have you ever been paid honoraria by the Article III Project? If so, how much were you paid, and for what services?

Response: No.

38. The Alliance Defending Freedom (ADF) states that it is "the world's largest legal organization committed to protecting religious freedom, free speech, the sanctity of life, marriage and family, and parental rights."

a. During your selection process, have you spoken to or corresponded with any individuals associated with ADF? If so, please provide details of those discussions.

Response: No.

b. Have you ever been asked to and/or provided services to ADF, including research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Have you ever been paid honoraria by ADF? If so, how much were you paid, and for what services?

Response: No.

39. The Concord Fund, also known as the Judicial Crisis Network, states that it is committed "to the Constitution and the Founders' vision of a nation of limited government; dedicated to the rule of law; with a fair and impartial judiciary." It is affiliated with the 85 Fund, also known as the Honest Elections Project and the Judicial Education Project.

a. During your selection process, have you spoken to or corresponded with any individuals associated with these organizations, including Leonard Leo or Carrie Severino? If so, please provide details of those discussions.

Response: No.

b. Have you ever been asked to and/or provided services to these organizations, including research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Have you ever been paid honoraria by these organizations? If so, how much were you paid, and for what services?

Response: No.

d. Do you have any concerns about outside groups or special interests making undisclosed donations to front organizations like the Concord Fund or 85 Fund in support of your nomination? Note that I am not asking whether you

have solicited any such donations, I am asking whether you would find such donations to be problematic.

Response: No. I have no concerns of any groups or special interests making donations in support of my nomination because I have no ties to any outside or special interest groups.

e. If you learn of any such donations, will you commit to call for the undisclosed donors to make their donations public so that if you are confirmed you can have this information when you make decisions about recusal in cases that these donors may have an interest in?

Response: Yes.

f. Will you condemn any attempt to make undisclosed donations to the Concord Fund or 85 Fund on behalf of your nomination?

Response: I am unaware of what the Concord Fund or the 85 Fund is, but I would not need any funds made on behalf of my nomination.

Nomination of William Wayne Lewis, Jr. to the
United States District Court for the Middle District of Alabama
Questions for the Record
Submitted September 10, 2025

QUESTIONS FROM SENATOR COONS

1. At any point during the process that led to your nomination, did you make any representations or commitments to anyone—including but not limited to individuals at the White House, at the Justice Department, or at outside groups—as to how you would handle a particular case, investigation, or matter, if confirmed? If so, explain fully.

   Response: No.

   a. At any point during the process that led to your nomination, were you asked about your opinion on any cases that involve President Trump or the Trump administration?

      Response: No.

2. How would you describe your judicial philosophy?

   Response: As a judge at the trial level, the intermediate appellate level, the Alabama Supreme Court, and—if confirmed—the Middle District of Alabama, my philosophy has always been that courts must apply the law fairly and impartially, even when the outcome does not align with a judge's personal policy preferences. Courts should be consistent and predictable based on the law and precedent. Everyone who comes before a court should be treated with dignity and respect and should leave feeling that they had the opportunity to be heard, were treated fairly, and that the decision reached in their matter was thoughtful and based on the fair and impartial application of the law.

3. During your January 17, 2025, Federalist Society presentation titled "Bridging the Divide: From Trial Court to the Appellate Bench and an Introduction to AI and its Potential in Constitutional Law and Originalism," one of the PowerPoint slides you presented included text that read: "the survival of our nation depends on the use of originalism as a judicial approach" and that lawyers who reject originalism "are result oriented" which "[u]ndermines the standards of a civil society."

   a. Do you stand by those statements?

      Response: The characterization above of the comments on the PowerPoint slide is wrong. In that presentation, I was explaining that when courts do not follow the law as written, it undermines the rule of law itself, and that in turn undermines the foundations of a civil society. On that specific slide, "The survival of our nation depends on the use of originalism as a judicial approach"; "Members of the

legal community who don't subscribe to originalism are result oriented"; "Undermines the standards of a civil society"; and "Moves the goalposts" are all separate bullet points (not a constructed paragraph created by inserted conjunctions) on the slide which were each prefaced by separate unwritten comments, but when read and manipulated without the actual presentation they can apparently give the wrong impression. My point was not to single out individual members of the legal community but to emphasize that adherence to the text of the law is what preserves stability, fairness, and the rule of law. The comment, "undermines the standards of a civil society," was actually prefaced by me talking about failing to follow the rule of law. The notes on the slide itself that aided me in what to say state, "You have to have a basis for your laws, if we don't have that basis then we don't have a civilization."

b. What did you mean by those statements?

Response: See above.

c. Do you consider yourself an originalist?

Response: I believe judges should apply the law as it was written by Congress, or by the people in the Constitution. Our duty is to give effect to the provisions as they were enacted. It is the role of Congress to change the law or by the people through the amendment process, not judges. And if there's ambiguity, I would look to the original meaning of the words at the time they were written.

d. You said during your Senate Judiciary Committee confirmation hearing that *Brown v. Board of Education* was correctly decided. Can you explain how the Court's decision in *Brown* comports with an originalist interpretation of constitutional law?

Response: The Equal Protection Clause says no State shall deny any person equal protection of the laws. The plain meaning of "equal protection" forbids separating children by race because segregation denies equal status under the law. Originalism looks to the plain meaning of the text, not just the practices and expectations at the time. The words "equal protection" forbid laws that make race the basis for denying a fundamental civil right. The conclusion in Brown aligns with the original public meaning of the Fourteenth Amendment.

e. You said during your Senate Judiciary Committee confirmation hearing that *Loving v. Virginia* was correctly decided. Can you explain how the Court's decision in *Loving* comports with an originalist interpretation of constitutional law?

Response: The Equal Protection Clause says no State shall deny any person equal protection of the laws. Originalism looks to the plain meaning of the text, not just the practices and expectations at the time. The words "equal protection" forbid laws that make race the basis for denying a fundamental civil right. A statute that prohibits marriage based solely on race is a clear denial of equal legal status. The decision is consistent with the original public meaning of the Fourteenth Amendment.

f. During your hearing, you were unwilling to answer whether you believed the Supreme Court's decision in *Obergefell v. Hodges* was correct. Why?

Response: I answered the question. My response was, "As a District Court, what does matter is binding Supreme Court precedent, and, as long as its Supreme Court precedent, looking at it analytically from a legal perspective, it is right. And, so, as long as that's the precedent, then yes, we will follow it."

g. How many times does Justice Kennedy's decision for the Supreme Court in *Obergefell* cite *Loving v. Virginia*?

Response: In reviewing the opinion, I counted nine times.

4. With respect to substantive due process, what factors do you look to when a case requires you to determine whether a right is fundamental and protected under the Fourteenth Amendment?

Response: If I were confirmed, I would faithfully apply the standards set forth in applicable Supreme Court precedent, including as appropriate the *Obergefell* and *Glucksberg* decisions.

a. Would you consider whether the right is expressly enumerated in the Constitution?

Response: Yes.

b. Would you consider whether the right is deeply rooted in this nation's history and tradition? If so, what types of sources would you consult to determine whether a right is deeply rooted in this nation's history and tradition?

Response: Yes. Cases like *Glucksberg* direct courts to take that approach. If such a case came before me, I would consult historical case law and the types of sources those decisions have relied on.

c. Would you consider whether the right has previously been recognized by Supreme Court or circuit precedent? What about the precedent of another court of appeals?

Response: Yes.

d. Would you consider whether a *similar* right has previously been recognized by Supreme Court or circuit precedent?

Response: Yes.

e. What other factors would you consider?

Response: I would consider any and all factors established by Supreme Court and Eleventh Circuit precedent.

5. In your view, is it ever appropriate for a judge to ignore, disregard, refuse to implement, or issue an order that is contrary to an order from a higher court? Please explain.

Response: No.

6. In *United States v. Virginia*, 518 U.S. 515, 536 (1996), the Court explained that in 1839, when the Virginia Military Institute was established, "[h]igher education at the time was considered dangerous for women," a view widely rejected today. In *Obergefell v. Hodges*, 576 U.S. 644, 668 (2015), the Court reasoned, "As all parties agree, many same-sex couples provide loving and nurturing homes to their children, whether biological or adopted. And hundreds of thousands of children are presently being raised by such couples. . . . Excluding same-sex couples from marriage thus conflicts with a central premise of the right to marry. Without the recognition, stability, and predictability marriage offers, their children suffer the stigma of knowing their families are somehow lesser." This conclusion rejects arguments made by campaigns to prohibit same-sex marriage based on the purported negative impact of such marriages on children.

a. When is it appropriate for a court to consider evidence that sheds light on our changing understanding of society?

Response: In every case where the evidence is available.

b. What is the role of sociology, scientific evidence, and data in judicial analysis?

Response: The role would vary depending on the case, but should be taken into consideration in any case where available.

7. I have been proud to co-lead the bipartisan *Safer Supervision Act*, a bill to reform our federal supervised release system that has received substantial conservative and law enforcement support. The premise of the bill is that our federal supervision system has strayed far from how Congress designed it, as courts impose it mechanically in essentially every case, which means that probation officers do not have time to properly supervise those who most need it. The bill reinforces courts' existing obligations under

18 U.S.C. §§ 3553 and 3583 to impose supervision as warranted by the individual facts of the case and encourages more robust use of early termination when warranted to provide positive incentives encouraging rehabilitation. At the encouragement of a bipartisan group of members of Congress, the U.S. Sentencing Commission recently finalized an amendment to supervision guidelines implementing certain parts of the bill; this amendment will go in effect in November.

a. As a sentencing judge, would you endeavor to impose supervision thoughtfully and on the basis of the individual facts of the case consistent with 18 U.S.C. § 3553 and 18 U.S.C. § 3583?

Response: Yes.

b. Would you agree that the availability of early termination under 18 U.S.C. § 3583(e)(1) can provide individuals positive incentives to rehabilitate?

Response: Yes.

c. Will you commit if confirmed to reviewing the *Safer Supervision Act* and the recent Sentencing Commission amendment and considering them as you develop your approach to sentencing of supervised release?

Response: Yes.

8. What is the remedy if the President violates his constitutional duty to faithfully execute the laws?

Response: I am not aware of any case holding that a President has violated the Article II Section 3, "Take Care Clause." When raised against President Obama, the Justice Department argued it was not justiciable, and the Supreme Court never decided the question because the case ended in a 4–4 split. The Court has also recognized the President's unique constitutional status, as in *Nixon v. Fitzgerald*. I am unaware of any court prescribing a remedy at this time, but I would work under whatever precedent is ultimately established by the Supreme Court and Eleventh Circuit if required to do so.

9. Is President Trump eligible to be elected President for a third term?

Response: Section 1 of the Twenty-Second Amendment states, in part, "No person shall be elected to the office of the President more than twice…." I am unaware of any precedent or Supreme Court interpretation of this portion of the Amendment, and I will not speculate on any particular fact pattern. To the extent the question asks about political disputes, it would be improper for a judicial nominee to promise or forecast how he or she would rule in a case that might come before him or her.

10. Who won the 2016 U.S. Presidential Election?

Response: Donald J. Trump was certified as the winner of the 2016 election.

11. Who won the 2020 U.S. Presidential Election?

Response: Joseph Biden was certified as the winner of the 2020 election.

12. Who won the 2024 U.S. Presidential Election?

Response: Donald J. Trump was certified as the winner of the 2024 election.

13. Would it be constitutional for the President of the United States to punish a private person for a viewpoint that person expresses in a newspaper op-ed?

Response: The question asks about current alleged political disputes. It would be improper for a judicial nominee to promise or forecast how he or she would rule in a case that might come before him or her.

14. Do you agree with me that the attack at the U.S. Capitol on January 6, 2021, was an insurrection? Why or why not?

Response: The Supreme Court in *Trump v. Anderson* heard arguments about whether an insurrection occurred that day and ultimately concluded that States could not forcibly remove President Trump from the ballot. To the extent the question asks for personal political views, the judicial code of conduct prohibits any judicial nominee from providing political or policy views. I will say I denounce violence in any manner.

15. Would it be constitutional for the President of the United States to terminate government contracts with a private person specifically because that person donated to members of the opposite political party?

Response: The question asks about current alleged political disputes. It would be improper for a judicial nominee to promise or forecast how he or she would rule in a case that might come before him or her.

16. Would it ever be appropriate for the President of the United States to punish a law firm for taking on a client that the President did not like?

Response: The question asks about current alleged political disputes. It would be improper for a judicial nominee to promise or forecast how he or she would rule in a case that might come before him or her.

17. Do you agree that there is a constitutional right to privacy that protects a woman's right to use contraceptives? If you do not agree, please explain whether this right is protected or not and which constitutional rights or provisions encompass it.

Response: The Supreme Court in *Griswold* held that the Constitution protects the conduct described above. As a district court judge, I will follow all controlling precedent.

18. Do you agree that the constitutional right to travel across state lines is fundamental and well established?

Response: The Supreme Court has stated that "[t]he 'right to travel' discussed in our cases embraces at least three different components. It protects the right of a citizen of one State to enter and to leave another State, the right to be treated as a welcome visitor rather than an unfriendly alien when temporarily present in the second State, and, for those travelers who elect to become permanent residents, the right to be treated like other citizens of that State." *Saenz v. Roe*, 526 U.S. 489, 500 (1999). To the extent the question asks about current political disputes, it would be improper for a judicial nominee to promise or forecast how he or she would rule in a case that might come before him or her.

a. Do you think it is constitutional for a state to restrict the interstate travel of its citizens?

Response: To the extent the question asks about current political disputes, it would be improper for a judicial nominee to promise or forecast how he or she would rule in a case that might come before him or her.

19. Do you believe that the Constitution protects a fundamental right to privacy?

Response: The Supreme Court has recognized a constitutional right to privacy in certain contexts. For example, in *Eisenstadt v. Baird*, 405 U.S. 438 (1972), the Court opined that "[i]f the right of privacy means anything, it is the right of the individual, married or single, to be free from unwarranted governmental intrusion into matters so fundamentally affecting a person as the decision whether to bear or beget a child." 405 U.S. 438, 453 (1972). To the extent the question asks about current political disputes, it would be improper for a judicial nominee to promise or forecast how he or she would rule in a case that might come before him or her.

a. Does that right extend to information about your health care and medical history?

Response: To the extent the question asks about current political disputes, it would be improper for a judicial nominee to promise or forecast how he or she would rule in a case that might come before him or her.

b. Do you agree that it is a violation of that right for states to surveil people's health care and medical history?

Response: To the extent the question asks about current political disputes, it would be improper for a judicial nominee to promise or forecast how he or she would rule in a case that might come before him or her.

20. Do you agree that there is a constitutional right to privacy that protects the right to in vitro fertilization (IVF)? If you do not agree, please explain whether this right is protected or not and which constitutional rights or provisions encompass it.

Response: While I was not on the Alabama Supreme Court when the most recent decision on this subject was issued, there continues to be outstanding issues regarding IVF before our Court, so the canons preclude me from responding to this question.

21. Do you believe that immigrants, regardless of legal status, are entitled to due process and fair adjudication of their claims?

Response: Yes. The Supreme Court has held that Fifth Amendment's "Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). In any case, there will still remain a question of what "process" is "due." To the extent this question asks me to opine on current political or legal disputes that are pending or could soon be pending before a court, under the Code of Conduct for United States Judges, it would be inappropriate for me to weigh in further.

22. Does the public's original understanding of the scope of a constitutional provision constrain its application decades later?

Response: No.

23. What sources would you employ to discern the contours of a constitutional provision?

Response: I would begin with the text of the Constitution itself, giving the words their original public meaning at the time they were adopted. I would also look to the structure of the Constitution, its history, and Supreme Court precedent interpreting the provision. Where appropriate, I would consult secondary authority and sources such as founding-era legal materials and early judicial decisions. My goal would always be to apply the Constitution as written, consistent with binding precedent.

24. What role does morality play in determining whether a challenged law or regulation is unconstitutional or otherwise illegal?

Response: Courts generally do not examine the motives of legislators in enacting laws. The Supreme Court has long held that it will not invalidate an otherwise constitutional statute based on alleged improper legislative intent. *See United States v. O'Brien*, 391 U.S. 367, 383 (1968). There are, however, limited exceptions. For example, in *Lawrence v. Texas*, the Court concluded that moral disapproval alone was not a sufficient basis for legislation.

25. What role, if any, should the practical consequences of a particular ruling play in a judge's rendering of a decision?

Response: A judge may take into account the practical consequences of a decision in limited situations, such as those involving equity. But generally, a court must make rulings based solely on the law.

26. What role, if any, should empathy play in a judge's decision-making process?

Response: A judge must not let empathy affect the decision-making process. A judge takes an oath to "administer justice without respect to persons." 28 U.S.C. § 453. In all cases, a judge must rule according to the law.

27. What role, if any, should a judge's personal life experience play in his or her decision-making process?

Response: A judge's life experiences hopefully will allow them to be fair, impartial, and kind enough to treat every party that comes before them with dignity and respect.

28. Should you be confirmed, would you ever inform parties before you that they do not need to comply with your orders?

Response: No.

a. Under what circumstances would you tell a party they could decide not to comply with your orders?

Response: I would not.

b. What would you do if a party refuses to comply with one of your orders?

Response: After a hearing, I would assess the nature of the conduct and whether any recognized defenses apply. In some circumstances, sanctions might be appropriate after a finding that a party has in fact violated an order without proper cause.

29. When it comes to conducting yourself ethically, who in the legal profession do you see as a role model?

Response: Attorney and Presidential Medal of Freedom recipient Fred Gray has been my role model and mentor for years.

30. Discuss your proposed hiring process for law clerks.

Response: I would use whatever procedure is currently in place in the Middle District of Alabama and the Eleventh Circuit.

a. Do you think law clerks should be protected by Title VII of the Civil Rights Act?

Response: As a judicial nominee, the canons of judicial ethics generally prohibit me from endorsing legislative proposals.

31. In the past year, multiple studies have revealed ongoing problems with workplace conduct policies and outcomes in the federal judiciary. In a national climate survey, hundreds of judiciary employees reported that they experienced sexual harassment, discrimination, or other forms of misconduct on the job. A study by the Federal Judicial Center and the National Academy of Public Administration found the branch has failed to set up trusted reporting systems for employees who experience misconduct or ensure those handling complaints are adequately trained.

a. If confirmed, what proactive steps would you take to ensure that the clerks and judicial assistants who work in your chambers are treated with respect and are not subject to misconduct?

Response: I would make sure everyone knows misconduct would not be tolerated and that they are familiar with any rules regarding the same in the Middle District and Eleventh Circuit.

b. What proactive steps would you take to ensure that any workplace-related concerns that your clerks and judicial assistants may have are fully addressed?

Response: I would comply with whatever reporting mandate is currently in place in the Middle District of Alabama and the Eleventh Circuit.

c. If you are confirmed and you later hear from a colleague or your chambers staff that another judge is acting inappropriately, what steps would you take to help ensure the problem is addressed?

Response: : I would comply with whatever reporting mandate is currently in place in the Middle District of Alabama and the Eleventh Circuit.

32. Some district court judges have issued standing orders indicating that the court will favor holding an oral argument when there is a representation that the argument would be handled by a junior lawyer. Such efforts are intended to provide more speaking opportunities in court for junior lawyers. Would you consider issuing a standing order that would encourage more junior lawyers to handle oral arguments? Why or why not?

Response: I understand oral argument opportunities are rare in federal court; however, as an attorney who spent most of his time involved in courtroom litigation before becoming

a judge, I believe it should be the party's decision on who they want arguing on their behalf.

a. How else would you support the skills development of junior lawyers appearing before you?

Response: I would encourage junior lawyers to be active in cases and to observe oral arguments and court proceedings as often as possible. As a judge, I also often would speak to junior lawyers and give advice on items that could help them as lawyers.

33. Do you think the individuals convicted of assaulting law enforcement officers at the Capitol on January 6, 2021, deserved to be pardoned?

Response: The Supreme Court addressed presidential pardon power in *United States v. Klein* and other cases. Those cases established that the pardon power is one of the President's most plenary powers. The decision whether to extend a pardon is at the discretion of the President. To the extent the question asks for personal political or policy views, the judicial code of conduct prohibits any judicial nominee from providing political or policy views.

34. If you were the President on January 20, 2025, would you have pardoned the individuals convicted of assaulting law enforcement officers at the Capitol on January 6, 2021?

Response: To the extent the question asks for personal political or policy views, the judicial code of conduct prohibits any judicial nominee from providing political or policy views.

35. In your Senate Judiciary Committee confirmation hearing, Senator Kennedy asked you about "the difference between notice pleading and fact pleading." You responded: "Notice pleading, of course, goes to your due process issue under the Fourteenth Amendment." You then said: "Notice pleading is based on your personal jurisdiction. Fact pleading, of course, goes to your subject matter jurisdiction."

a. Do you stand by your answers?

Response: No

b. If not, what is the difference between notice pleading and fact pleading?

Response: Notice pleading requires only a short statement giving fair notice of the claim, while fact pleading requires detailed factual allegations supporting each element of the claim.

36. Senator Kennedy also asked you whether the federal judicial system uses notice or fact pleading. You responded that the federal courts use fact pleading.

    a. Do you stand by your answer?

       Response: Federal Courts use notice pleading.

    b. Do the federal courts use fact or notice pleading?

       Response: Federal Courts use notice pleading.

    c. Do the state courts in Alabama use fact or notice pleading?

       Response: Alabama courts use notice pleading.

    d. Which states still use fact pleading?

       Response: California, Louisiana, New York, Delaware, Illinois.

Questions for the Record for Justice Bill Lewis
Submitted by Senator Richard Blumenthal
September 10, 2025

1. You drafted and presented a PowerPoint slide deck in which you stated "The survival of our nation depends on the use of originalism as a judicial approach. Members of the legal community who don't subscribe to originalism are result oriented [which] [u]ndermines the standards of a civil society."

   Response: The characterization above of the comments on the PowerPoint slide is wrong. In that presentation, I was explaining that when courts do not follow the law as written, it undermines the rule of law itself, and that in turn undermines the foundations of a civil society. On that specific slide, "The survival of our nation depends on the use of originalism as a judicial approach"; "Members of the legal community who don't subscribe to originalism are result oriented"; "Undermines the standards of a civil society"; and "Moves the goalposts"; are all separate bullet points (not a constructed paragraph created by inserted conjunctions) on the slide which were each prefaced by separate unwritten comments, but when read and manipulated without the actual presentation they can apparently give the wrong impression. My point was not to single out individual members of the legal community, but to emphasize that adherence to the text of the law is what preserves stability, fairness, and the rule of law. The comment, "undermines the standards of a civil society," was actually prefaced by me talking about failing to follow the rule of law. The notes on the slide itself that aided me in what to say state, "You have to have a basis for your laws, if we don't have that basis then we don't have a civilization."

   a. Justice Kagan is not an originalist. Do you believe Justice Kagan's judicial philosophy undermines the standards of a civil society?

      Response: No, as referenced above, people who follow the law do not undermine a civil society.

      i. If confirmed, will you follow orders issued and decisions written by Justice Kagan?

         Response: Yes.

   b. Justice Jackson is not an originalist. Do you believe Justice Jackson's judicial philosophy undermines the standards of a civil society?

      Response: No, as referenced above, people who follow the law do not undermine a civil society.

i. If confirmed, will you follow orders issued and decisions written by Justice Jackson?

Response: Yes.

c. Justice Sotomayor is not an originalist. Do you believe Justice Sotomayor's judicial philosophy undermines the standards of a civil society?

Response: No, as referenced above, people who follow the law do not undermine a civil society.

i. If confirmed, will you follow orders issued and decisions written by Justice Sotomayor?

Response: Yes.

2. If confirmed, will you recuse yourself from any case where a reasonable person, knowing all the relevant facts, might question your impartiality, even if you personally believe you can be fair?

Response: Yes.

a. If confirmed, will you recuse yourself from cases involving individuals, organizations, or entities to which you or your family members have made political contributions or provided political support?

Response: If I am confirmed, I would refer to 28 U.S.C. § 455, the Code of Conduct for United States Judges, any guidance provided by the Chief Judge and the Administrative Office for the United States Courts, and any other applicable laws, rules, and practices governing conflicts of interest

b. If confirmed, will you recuse yourself from cases involving former clients, former law firms, or organizations with which you have had significant professional relationships?

Response: See my response to question 2(a).

c. If confirmed, will you recuse yourself from cases involving personal friends, social acquaintances, or individuals with whom you have ongoing personal relationships?

Response: See my response to question 2(a).

3. If confirmed, will you commit to avoiding all *ex parte* communications about pending cases, including informal discussions at social events or professional gatherings?

Response: I will abide by all laws, rules and judicial ethical canons regarding *ex parte* communications.

d. If confirmed, will you avoid discussing pending cases or judicial business with elected officials, political appointees, or political operatives?

Response: See my response to question 3(a).

e. If confirmed, will you commit to declining meetings or communications with lobbyists, advocacy groups, or special interests seeking to influence your judicial decisions?

Response: See my response to question 3(a).

f. If confirmed, will you refrain from making public statements about legal or political issues that could reasonably be expected to come before your court?

Response: See my response to question 3(a).

4. If confirmed, will you commit to filing complete and accurate financial disclosure reports that include all required information about your financial interests and activities?

Response: If confirmed, I will abide by all laws, rules and judicial ethical canons regarding financial disclosure reports.

g. If confirmed, will you decline all gifts from parties who might appear before your court or who have interests that could be affected by your judicial decisions?

Response: Yes.

h. If confirmed, will you decline privately funded travel, hospitality, or entertainment that could create an appearance of impropriety or special access?

Response: Yes.

i. If confirmed, will you ensure that any teaching, speaking, or writing activities comply with judicial ethics requirements and do not create conflicts with your judicial duties?

Response: Yes.

5. The House Republican-authored budget reconciliation bill had included a provision that would have limited federal judges' ability to hold government officials in contempt. While the Senate Parliamentarian ruled that the provision violated the Byrd Rule, and it was, therefore, removed, it would have prohibited federal courts from issuing contempt penalties against officials who disobey preliminary injunctions or Temporary Restraining

Orders if the party seeking the order did not provide financial security to cover potential future damages for wrongful enjoining.

The contempt power was first codified in law in the Judiciary Act of 1789. In 1873, the Supreme Court described it as "inherent in all courts" and "essential to the preservation of order in judicial proceedings and to the enforcement of the judgements, orders, and writs of the courts, and consequently to the due administration of justice." Yet House Republicans are seeking to exempt government officials from this key tool for judicial enforcement.

a. Do you believe the contempt power is "essential . . . to the due administration of justice[?]"

   Response: Yes.

b. Do you believe that federal judges should be limited in their ability to hold government officials who defy court orders in contempt?

   Response: No.

6. If confirmed, you, like all other members of the federal bench, would have the ability to issue orders. On February 9, 2025, Vice President Vance posted on X that "[j]udges aren't allowed to control the executive's legitimate power." This raises an extremely concerning specter of Executive Branch defiance of court orders.

   a. If confirmed, would you have the ability to issue orders?

      Response: Yes.

      i. Would you have the ability to enforce those orders?

         Response: Yes.

      ii. What powers would you have to enforce those orders?

         Response: Contempt Powers.

   b. Does there exist a legal basis for federal Executive Branch officials to defy federal court orders? If so, what basis and in which circumstances?

      Response: Litigants have many options, including stays, injunctions and outright appeals. Justice Sotomayor's majority opinion in *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100 (2009), recognizes that some circumstances require defying a court order to appeal it.

c. Does there exist a legal basis for state officials to defy federal court orders? If so, what basis and in which circumstances?

Response: See above.

d. What would make a court order unlawful?

Response: Issuing an order without the proper jurisdiction to do so.

i. What is the process a party should follow if it believes a court order to be unlawful?

Response: A party may obtain relief through stays, injunctions, and appeals if they believe lower court orders to be unlawful. The Supreme Court has recognized that a party may defy an order, incur sanctions, and then appeal. The Court in *Mohawk Industries v. Carpenter* explained that a party may refuse compliance, accept sanctions, and then seek appellate review."

ii. Is it ever acceptable to not follow this process? When and why?

Response: The process for defying a court order in limited cases is set out in *Mohawk*.

7. Were you in Washington, D.C. on January 6, 2021?

Response: No.

a. Were you inside the U.S. Capitol or on the U.S. Capitol grounds on January 6, 2021?

Response: No.

Senator Mazie K. Hirono
Senate Judiciary Committee

Nomination Hearing
Questions for the Record for Bill Wayne Lewis

1. As part of my responsibility as a member of this committee to ensure the fitness of nominees, I ask each nominee to answer two initial questions:

    a. **Since you became a legal adult, have you ever made unwanted requests for sexual favors, or committed any verbal or physical harassment or assault of a sexual nature?**

    Response: No.

    b. **Have you ever faced discipline or entered into a settlement related to this kind of conduct?**

    Response: No.

2. In the PowerPoint presentation you drafted titled "Artificial Intelligence in the Legal Profession," you wrote that lawyers who do not adopt originalism undermine "the standards of a civil society."

    Response: The characterization above of the comments on the PowerPoint slide is wrong. In that presentation, I was explaining that when courts do not follow the law as written, it undermines the rule of law itself, and that in turn undermines the foundations of a civil society. On that specific slide, "The survival of our nation depends on the use of originalism as a judicial approach"; "Members of the legal community who don't subscribe to originalism are result oriented"; "Undermines the standards of a civil society"; and "Moves the goalposts"; are all separate bullet points on the slide which were each prefaced by separate unwritten comments, but when read and manipulated without the actual presentation they can apparently give the wrong impression. My point was not to single out individual members of the legal community, but to emphasize that adherence to the text of the law is what preserves stability, fairness, and the rule of law. The comment, "undermines the standards of a civil society," was actually prefaced by me talking about failing to follow the rule of law. The notes on the slide itself that aided me in what to say state, "You have to have a basis for your laws, if we don't have that basis then we don't have a civilization."

    a. **If Justice Sotomayor does not subscribe to originalism, does she undermine the standards of a civil society?**

    Response: No. She follows the rule of law, as I stated in the presentation, so she does not undermine the standards of a civil society.

b. **If I do not subscribe to originalism, do I undermine the standards of a civil society?**

Response: No. You follow the rule of law, as I stated in the presentation, so you do not undermine the standards of a civil society.

Nomination of William W. Lewis
United States District Court for the Middle District of Alabama
Questions for the Record
Submitted September 10, 2025

QUESTIONS FROM SENATOR BOOKER

1. In January 2025, you presented at the Huntsville, Alabama Chapter of the Federalist Society on "Bridging the Divide: From Trial Court to the Appellate Bench and an Introduction to AI and its Potential in Constitutional Law and Originalism."[1]

    a. If you are confirmed to the federal bench, what policy would you implement in your chambers regarding use of artificial intelligence (AI) for legal research, writing, and analysis, including the use of commercially available legal research databases that integrate AI?

    Response: Any policy formed would be consistent with the local rules of the Middle District of Alabama and 11th Circuit. As an Alabama Supreme Court Justice, we currently use legal research databases that integrate AI. We vet and make sure any information obtained from those databases are accurate.

    b. If you are confirmed to the federal bench, what policy would you implement regarding use of AI for legal research, writing, and analysis by lawyers representing parties before you in the courtroom?

    Response: Any policy formed would be consistent with the local rules of the Middle District of Alabama and 11th Circuit. In the absence of a set policy, lawyers would be responsible for any submissions to the court regardless of how it is generated.

2. The American Bar Association (ABA) Standing Committee on the Federal Judiciary has conducted extensive peer evaluations of the professional qualifications of a president's nominees to become federal judges for seven decades. This practice has endured through 18 presidential administrations, under Republican and Democratic presidents.

    On May 29, 2025, Attorney General Pam Bondi ended this longstanding practice when she informed the ABA that, "[T]he Office of Legal Policy will no longer direct nominees to provide waivers allowing the ABA access to nonpublic information, including bar records. Nominees will also not respond to questionnaires prepared by the ABA and will not sit for interviews with the ABA."[2]

    a. Do you agree with AG Bondi that "the ABA no longer functions as a fair arbiter of nominees' qualifications and its ratings invariably and demonstrably favor nominees put forth by Democratic administrations"?

[1] Senate Judiciary Questionnaire at 6.
[2] Letter from Attorney General Pam Bondi to William R. Bay, President, American Bar Association (May 29, 2025), https://www.justice.gov/ag/media/1402156/dl?inline.

Response: It would be inappropriate for me, as a judicial nominee, to opine on the statements of any political figure or on any subject of political controversy.

3. How would you characterize your judicial philosophy?

Response: As a judge at the trial level, the intermediate appellate level, the Alabama Supreme Court, and—if confirmed—the Middle District of Alabama, my philosophy has always been that courts must apply the law fairly and impartially, even when the outcome does not align with a judge's personal policy preferences. Courts should be consistent and predictable based on the law and precedent. Everyone who comes before a court should be treated with dignity and respect and should leave feeling that they had the opportunity to be heard, were treated fairly, and that the decision reached in their matter was thoughtful and based on the fair and impartial application of the law.

4. What do you understand originalism to mean?

Response: I understand originalism to refer to a method of constitutional interpretation that requires a judge to apply his or her best understanding of the original public meaning of a constitutional provision when adjudicating cases and controversies.

5. Do you consider yourself an originalist?

Response: In interpreting the Constitution, if confirmed, I would employ methodologies consistent with the methods of interpretation that the Supreme Court employs when it undertakes to interpret constitutional provisions. The Court has routinely interpreted various constitutional provisions by attempting to discern the original meaning of the words used as understood by the public at the time of the Founding. *See, e.g., District of Columbia v. Heller*, 554 U.S. 570 (2008); *Crawford v. Washington*, 541 U.S. 36 (2004); *Wilson v. Arkansas*, 514 U.S. 927 (1995).

6. What do you understand textualism to mean?

Response: I understand textualism to call for a judge to interpret the text as it was written, assigning the meaning it had at the time of its enactment. Context surrounding a law's passage can be probative to a textualist to the extent that context sheds light on the original public meaning of the statutory text.

7. Do you consider yourself a textualist?

Response: In approaching statutory interpretation, I would follow the methodological instructions of the Supreme Court. The Supreme Court has often instructed that the best meaning of statutory text, as assessed by the time of enactment, is generally entitled to controlling weight. That is the approach I would follow, along with any other relevant instructions.

8. Legislative history refers to the record Congress produces during the process of passing a bill into law, such as detailed reports by congressional committees about a pending bill or statements by key congressional leaders while a law was being drafted. Some federal judges consider legislative history when analyzing the meaning of a statute.

    a. If you are confirmed to serve on the federal bench, would you consult and cite legislative history to analyze or interpret a federal statute?

    Response: Reliance on legislative history is unnecessary when a statute's language is unambiguous. *See Mohamad v. Palestinian Authority*, 566 U.S. 449, 458 (2012); *see also Whitfield v. United States*, 543 U.S. 209, 215 (2005) (where the meaning of statutory text "is plain and unambiguous, we need not accept [a party's] invitation to consider the legislative history"). To the extent that legislative history may be properly considered, it "is meant to clear up ambiguity, not create it." *Milner v. Dep't of Navy*, 562 U.S. 562, 574 (2011). If confirmed, I would faithfully apply all relevant precedent of the Supreme Court and the Eleventh Circuit concerning the use of legislative history.

    b. Do you believe that congressional intent matters when interpreting a statute? Why or why not.

    Response: Congressional intent as reflected in the statute Congress enacts matters because the Constitution assigns Congress the power to legislate. "It is the statutory text … that best reflects Congress's intent." *Republic of Hungary v. Simon*, 604 U.S. 115, 137 (2025). As the Supreme Court "has repeatedly stated, the text of a law controls over purported legislative intentions unmoored from any statutory text." *Oklahoma v. Castro-Huerta*, 597 U.S. 629, 642 (2022). If confirmed to serve as a district court judge, if there is binding precedent regarding what a statute means and/or how it is to be interpreted, I would apply all binding precedent, including on issues of how to interpret particular statutes.

9. According to an academic study, Black men were 65 percent more likely than similarly-situated white men to be charged with federal offenses that carry harsh mandatory minimum sentences.[3]

    a. What do you attribute this to?

    Response: I have a great deal of concern for those disparities. However, it would be inappropriate for me, as a judicial nominee, who would be sentencing defendants if confirmed, to comment further, other than to express the belief that one of my roles as a judge is to eliminate any biases that factor into sentencing disparities.

[3] Sonja B. Starr & M. Marit Rehavi, *Racial Disparity in Federal Criminal Sentences*, 122 J. POL. ECON. 1320, 1323 (2014).

10. A recent report by the United States Sentencing Commission observed demographic differences in sentences imposed during the five-year period studied, with Black men receiving federal prison sentences that were 13.4 percent longer than white men.[4]

    a. What do you attribute this to?

    Response: I have a great deal of concern for those disparities. However, it would be inappropriate for me, as a judicial nominee, who would be sentencing defendants if confirmed, to comment further, other than to express the belief that one of my roles as a judge is to eliminate any biases that factor into sentencing disparities.

11. What role do you think federal judges, who review difficult, complex criminal cases, can play in ensuring that a person's race did not factor into a prosecutor's decision or other instances where officials exercise discretion in our criminal justice system?

    Response: It is a federal judge's responsibility to remain vigilant to the presence of bias in any form and to work diligently to eliminate it. A judge's duty is to ensure that the courts are fair and impartial, so that every person who comes before them is treated with equal justice, regardless of who they are.

12. Do you believe it is an important goal for there to be demographic diversity in the judicial branch? Why or why not.

    Response: Yes. No one should ever be excluded from the opportunity to serve as a judge because of race, ethnicity, sex, religion, or any other protected characteristic. My experiences in both law and life are that when people from diverse backgrounds come together, they bring with them diverse perspectives. That diversity broadens our understanding of others and helps us approach the work of judging with greater empathy. On the bench, empathy matters because it allows us to fully appreciate the circumstances of the cases before us and, in turn, to make the fairest and most thoughtful decisions we can. If I am fortunate enough to be confirmed, I would look forward to learning from the experiences of others and drawing on that shared wisdom to better serve the people who appear before me.

13. Please indicate whether you have ever published written material or made any public statements relating to the following topics. If so, provide a description of the written or public statement, the date and place/publication where the statement was made or published, and a summary of its subject matter. Mere reference to the list of publications and statements provided in your Senate Judiciary Questionnaire is insufficient; provide specific responses.

    If you have not disclosed a copy of the publication or a transcript of the statement to the Judiciary Committee, please attach a copy or link to the materials and please explain why you have not previously disclosed them.

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[4] U.S. SENTENCING COMM'N, DEMOGRAPHIC DIFFERENCES IN SENTENCING 2 (Nov. 2023), https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2023/20231114_Demographic-Differences.pdf.

a. Abortion
b. Affirmative action
c. Contraceptives or birth control
d. Gender-affirming care
e. Firearms
f. Immigration
g. Same-sex marriage
h. Miscegenation
i. Participation of transgender people in sports
j. Service of transgender people in the U.S. military
k. Racial discrimination
l. Sex discrimination
m. Religious discrimination
n. Disability discrimination
o. Climate change or environmental disasters
p. "DEI" or Diversity Equity and Inclusion

Response: As noted on my Senate Judiciary Questionnaire, I have spoken about the judiciary and at judicial conferences. Those discussions may have touched on the issues listed above, but I do not remember any specifically doing so. For a full accounting of the topics I have addressed, please refer to the list of the list of publications and statements provided in your Senate Judiciary Questionnaire and the corresponding recordings or attachments. To the best of my knowledge, the answers provided on my Senate Judiciary Questionnaire and supplement disclose all publications and public statements.

14. Under what circumstances would it be acceptable for an executive branch official to ignore or defy a federal court order?

Response: I have not had occasion to study these questions exhaustively; my general understanding of the relevant legal considerations is as follows:

If there is a lower court order that binds the Executive Branch or an executive official or agency, the normal course is for the bound party to follow the order and seek appellate review if the party disagrees with the outcome; if the Supreme Court issues an order upon the conclusion of appellate review, that order is to be followed. With respect to potential exceptions to that rule, I am aware of scholarly work that has posited scenarios in which parties, including the Executive Branch or one of its officers, departments, or agencies, might permissibly disregard a court order. *See generally, e.g.,* William Baude, *The Judgment Power*, 96 Geo. L.J. 1807 (2008) (lack of jurisdiction); Gary Lawson & Christopher D. Moore, *The Executive Power of Constitutional Interpretation*, 81 Iowa L. Rev. 1267, 1326 (1996) (constitutional error "so clear that it is not open to rational question"); *see also* 17 Corpus Juris Secundum Contempt §§ 56-65 (discussing contempt defenses). I am also aware of the legal distinction that parties and jurists have drawn between a court's binding "judgment[]" and its "statements in opinions." *Camreta v. Greene*, 563 U.S. 692, 704 8 (2011); *see* Abraham Lincoln, First Inaugural Address (Mar. 4, 1861) (discussing Dred Scott v. Sanford). And I am generally aware that certain interlocutory orders might be

immediately appealable only via the avenue of a contempt finding. *See, e.g.*, *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009) ("Another long-recognized option is for a party to defy a disclosure order and incur court-imposed sanctions."). In *U.S. ex rel. Pogue v. Diabetes Treatment Centers of America, Inc.*, the Sixth Circuit explained that the "general rule" is that a non-party "seeking to appeal a discovery order must first disobey the order and suffer a contempt citation." 444 F.3d 462, 471 (6th Cir. 2006) (citing *Alexander v. United States*, 201 U.S. 117, 121-22 (1906)). Because a case involving these issues could come before me if I were confirmed as a judge, it would be inappropriate to provide an answer that categorically pre-determines the validity of potential legal arguments for or against adhering to court orders. If any such issues came before me, I would commit to resolving them through the judicial process through careful consideration of the parties' arguments and application of the governing law and precedents.

a. If an executive branch official ignores or defies a federal court order, what legal analysis would you employ to determine whether that official should be held in contempt?

   Response: It is my understanding that federal courts typically seek to ensure compliance with court orders through sanctions and civil and criminal contempt procedures, as well as by requiring that parties file status reports and make court appearances to explain compliance efforts and progress. The Supreme Court, for its part, has cautioned that "the contempt power" is something that "uniquely is 'liable to abuse,'" *Int'l Union, United Mine Workers of Am. v. Bagwell*, 512 U.S. 821, 831 (1994), and that "care is needed to avoid arbitrary or oppressive conclusions." *Bloom v. Illinois*, 391 U.S. 194, 202 (1968) (citation omitted). I would apply these instructions and any other governing law and precedents to assess whether any allegations of noncompliance were correct or whether any recognized defenses apply.

b. Is there any legal basis that would allow an executive branch official to ignore or defy temporary restraining orders and preliminary injunctions issued by federal district court judges? Please provide each one and the justification.

   Response: ??

15. Does the president have the power to ignore or nullify laws passed by Congress?

Response: The Constitution gives the President the authority to veto legislation passed by Congress. Art. I, § 7, cl. 2. Additionally, the Take Care Clause in the U.S. Constitution directs that the President "shall take Care that the Laws be faithfully executed." U.S. 9 Const., art. II, § 3, cl. 5. The Supreme Court has cited the Take Care Clause as a source of the President's authority to engage in "enforcement of federal … laws passed by Congress," *Trump v. United States*, 603 U.S. 593, 627 (2024), including by "mak[ing] arrests and prosecut[ing] offenses on behalf of the United States," *United States v. Texas*, 599 U.S. 670, 678-79 (2023). The Supreme Court has further instructed that, under the Take Care Clause and the Vesting Clause, *see* Art. II, § 1, cl. 1, the Executive Branch possesses certain authority and discretion to prioritize enforcement of federal law. *See, e.g.*, *Texas*, 599 U.S. at

679; *Heckler v. Chaney*, 470 U.S. 821, 832 (1985). How these or any other legal principles apply to presidential action implicates issues that could arise before me as a judge; thus, as a judicial nominee, it would be inappropriate for me to provide further comment. *See* Code of Conduct of U.S. Judges, Canon 3A(6).

16. Does the president have the power to withhold funds appropriated by Congress?

Response: I am generally aware that the issue regarding the Executive Branch's withholding of authorized funds was addressed by the Supreme Court's decision in *Train v. City of New York*, 420 U.S. 35 (1975). I am also generally aware of the Impoundment Control Act of 1974, 2 U.S.C. § 681 et seq., which provides various procedures for addressing budget and funding issues. As this question relates to an issue that is the subject of litigation in the courts, I do not think that it would be appropriate for me to opine further. *See* Code of Conduct of U.S. Judges, Canon 3A(6).

17. Does the president have the power to discriminate by withholding funds against state or local jurisdictions based on the political party of a jurisdiction's elected officials?

Response: I am generally aware that the issue regarding the Executive Branch's withholding of authorized funds was addressed by the Supreme Court's decision in *Train v. City of New York*, 420 U.S. 35 (1975). As this question relates to an issue that is the subject of litigation in the courts, I do not think that it would be appropriate for me to opine further. *See* Code of Conduct of U.S. Judges, Canon 3A(6).Does the Supremacy Clause of the U.S. Constitution establish that federal laws supersede conflicting state laws?

Response: The Supreme Court has interpreted the Clause to establish that principle as well as provided instruction about what types of federal-state conflicts lead to preemption. *See, e.g.*, *Haaland v. Brackeen*, 599 U.S. 255, 287 (2023) (collecting cases).

18. Does the Fifth Amendment of the U.S. Constitution apply to non-citizens present in the United States?

Response: The Supreme Court has stated that "the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). The Supreme Court further has an extensive body of precedents discussing what due process requires in various contexts. The question in most cases is less about whether the doctrine of due process applies and more about the amount of process is due. If I am confirmed, I would faithfully apply the relevant precedents of the Supreme Court and the Eleventh Circuit in addressing due process claims. To the extent this question asks about hypothetical cases or matters that are the subject of ongoing litigation, it would be improper for me as a judicial nominee to comment further.

19. Is it constitutional for Congress to delegate to federal agencies the power to implement statutes through rulemaking?

Response: The Supreme Court has a body of precedents addressing the constitutional limits on legislative delegation of rulemaking authority. *See Gundy v. United States*, 588 U.S. 128, 135-36 (2019) (op. of Kagan, J.) (collecting cases). A case raising such issues, moreover, is presently before the U.S. Supreme Court. *See FCC v. Consumers' Rsch.* (U.S. No. 24-354) (argued Mar. 26, 2025). As a nominee to the Middle District of Alabama, I do not think that it would be appropriate for me to opine further on how these standards may apply, *see* Code of Conduct of U.S. Judges, Canon 3A(6), other than to commit that I will faithfully apply all applicable precedent of the Supreme Court and the Eleventh Circuit on this topic.

20. Was *Brown v. Board of Education*, 347 U.S. 483 (1954), correctly decided?

Response: *Brown* is a landmark ruling that promotes racial equality and rejected the manifestly unjust and incorrect separate-but-equal rule of *Plessy v. Ferguson*, 163 U.S. 537 (1896). Consistent with the position of prior judicial nominees, I consider *Brown* to be one of the limited exceptions to the general principle, explained by Justice Kagan and others, that a judicial nominee generally should not "grade" or give a "thumbs-up or thumbs-down" to particular precedents of the Supreme Court. I agree with prior nominees that the underlying premise of the *Brown* decision—i.e., that "separate but equal is inherently unequal"—is beyond dispute, and that judges can express their agreement with that principle without calling into question their ability to apply the law faithfully to cases raising similar issues. Therefore, just as other nominees for judicial office have done, I can confirm that *Brown* was rightly decided consistently with the Code of Conduct.

21. Is *Griswold v. Connecticut*, 381 U.S. 479 (1965), binding precedent? Please describe the facts and holding of this case.

Response: In *Griswold*, the Supreme Court held that the Fourteenth Amendment protects the use of contraceptives. *Griswold* is binding precedent, and I would faithfully follow it and all other Supreme Court precedents, if confirmed to be a judge for the Middle District of Alabama.

22. Is *Lawrence v. Texas*, 539 U.S. 558 (2003), binding precedent? Please describe the facts and holding of this case.

Response: In *Lawrence*, the Supreme Court held that laws that criminalized sexual intimacy between members of the same sex violate the Fourteenth Amendment. *Lawrence* is binding precedent, and I would faithfully follow it and all other Supreme Court precedents, if confirmed to be a judge for the Middle District of Alabama.

23. Is *Obergefell v. Hodges*, 576 U.S. 644 (2015), binding precedent? Please describe the facts and holding of this case.

Response: In *Obergefell*, the Supreme Court held that the Fourteenth Amendment requires a state to license marriages between two people of the same sex on the same terms and conditions as marriages between two people of the opposite sex. *Obergefell* is binding

precedent, and I would faithfully follow it and all other Supreme Court precedents, if confirmed to be a judge for the Middle District of Alabama.

24. Do you believe that President Biden won the 2020 election? Note that this question is not asking who was certified as president in the 2020 election.

Response: President Biden was certified as the winner of the 2020 presidential election and served as the 46th President of the United States. To the extent this question seeks to elicit an answer that could be taken as opining on the broader political or policy debate regarding the conduct of the 2020 presidential election or on statements by any political figure, my response, consistent with the position of prior judicial nominees when asked questions regarding the 2020 election, is that it would be improper to offer any such comment as a judicial nominee. See Code of Conduct of U.S. Judges, Canons 3(A)(6), 5.

a. Did Biden win a majority of the electoral vote in the 2020 election?

Response: Please see my response to Question 24.

b. Do you believe that the results of the 2020 election, meaning the vote count, were accurate? If not, please provide why not and examples.

Response: Please see my response to Question 24.

25. The 22nd Amendment says that "no person shall be elected to the office of the President more than twice."[5]

a. Do you agree that President Trump was elected to the office of the President in the 2016 election?

Response: Donald Trump was certified as the winner of the 2016 election.

b. Did Trump win a majority of the electoral vote in the 2016 election?

Response: Please see my answer to Question 25(a).

c. Do you agree that President Trump was elected to the office of the President in the 2024 election?

Response: Donald Trump was certified as the winner of the 2024 election.

d. Did Trump win a majority of the electoral vote in the 2024 election?

Response: Please see my answer to Question 25(c).

[5] U.S. CONST. amend. XXII.

e. Do you agree that the 22nd Amendment, absent a constitutional amendment, prevents President Trump from running for a third presidential term?

Response: Section 1 of the Twenty-Second Amendment states, in part, "No person shall be elected to the office of the President more than twice…." I am unaware of any precedent or Supreme Court interpretation of this portion of the Amendment, and I will not speculate on any particular fact pattern. To the extent the question asks about political disputes, it would be improper for a judicial nominee to promise or forecast how he or she would rule in a case that might come before him or her.

26. Has any official from the White House or the Department of Justice, or anyone else involved in your nomination or confirmation process, instructed or suggested that you not opine on whether any past Supreme Court decisions were correctly decided?

Response: No.

27. Have you spoken or corresponded with Elon Musk since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

28. Have you spoken or corresponded with any member of the Department of Government Efficiency (DOGE) since November 2024? If yes, identify the member(s) and provide the dates, mode, and content of those discussions and communications.

Response: No.

29. Have you spoken or corresponded with Stephen Miller since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

30. Have you spoken or corresponded with Chad Mizelle since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

31. Have you spoken or corresponded with Pam Bondi since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

32. Have you spoken or corresponded with Todd Blanche since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

33. Have you spoken or corresponded with Emil Bove since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

34. Have you spoken or corresponded with Leonard Leo since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

35. Have you—personally or through any of your affiliated companies or organizations, agents, or employees—provided financial support or other resources to any members of the Proud Boys or of the Oath Keepers for their legal fees or for other purposes? If yes, state the amount of financial support provided, dates provided, and for what purposes.

Response: No.

36. Have you ever spoken or corresponded with any of the following individuals? If yes, provide the dates, mode, and content of those discussions and communications.
    a. Enrique Tarrio
    b. Stewart Rhodes
    c. Kelly Meggs
    d. Kenneth Harrelson
    e. Thomas Caldwell
    f. Jessica Watkins
    g. Roberto Minuta
    h. Edward Vallejo
    i. David Moerschel
    j. Joseph Hackett
    k. Ethan Nordean
    l. Joseph Biggs
    m. Zachary Rehl
    n. Dominic Pezzola
    o. Jeremy Bertino
    p. Julian Khater

Response: No as to all.

37. Have you ever spoken or corresponded with any individuals convicted and later pardoned of offenses related to the January 6, 2021 attack on the U.S. Capitol? If yes, identify the individual(s) and provide the dates, mode, and content of those discussions and communications.

Response: No.

38. Have you ever been demoted, terminated, or experienced any other adverse employment action?

    Response: The action was not adverse, but I was laid off as a Clerk for Hon. John Bush in December 2003.

    a. If yes, please describe the events that led to the adverse employment action.

       Response: State budget cuts in 2003 affected the judiciary, and law clerk positions were cut from the judicial budget. My position as a law clerk was eliminated.

    b. If no, please affirm that, since becoming a legal adult, you have left each place of employment voluntarily and not subject to the request or suggestion of any employer.

39. Federal judges must file annual financial disclosure reports and periodic transaction reports. If you are confirmed to the federal bench, do you commit to filing these disclosures and to doing so on time?

    Response: Yes.

40. Article III Project (A3P) "defends constitutionalist judges and the rule of law." According to Mike Davis, Founder & President of A3P, "I started the Article III Project in 2019 after I helped Trump win the Gorsuch and Kavanaugh fights. We saw then how relentless—and evil—too many of today's Democrats have become. They're Marxists who hate America. They believe in censorship. They have politicized and weaponized our justice systems."[6]

    a. Do you agree with the above statement?

       Response: No.

    b. Have you discussed any aspect of your nomination to the federal bench with any officials from or anyone directly associated with A3P, or did anyone do so on your behalf? If yes, identify the individual(s) and provide the dates, mode, and content of those discussions and communications.

       Response: No.

    c. Are you currently in contact with anyone associated with A3P?

       Response: No.

       If so, who?

[6] https://www.article3project.org/about

Response: I have no contact with anyone associated with A3P.

d. Have you ever been in contact with anyone associated with A3P?

Response: No.

If so, who?

Response: I have no contact with anyone associated with A3P.

41. Since you were first approached about the possibility of being nominated, did anyone associated with the Trump Administration or Senate Republicans provide you guidance or advice about which cases to list on your Senate Judiciary Questionnaire (SJQ)?

Response: No.

a. Who?

Response: Not applicable.

b. What advice did they give?

Response: Not applicable.

c. Did anyone suggest that you omit or include any particular case or type of case in your SJQ?

Response: No.

42. During your selection process did you talk with any officials from or anyone directly associated with the Article III Project, or did anyone do so on your behalf? If so, what was the nature of those discussions?

Response: No.

43. During your selection process did you talk with any officials from or anyone directly associated with the Federalist Society, or did anyone do so on your behalf? If so, what was the nature of those discussions?

Response: No.

44. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding your nomination.

Response: On June 9, I was contacted by a member of the White House Counsel's Office about a potential federal judgeship. June 26, 2025, I interviewed with members of the White House Counsel's Office. On July 24, 2025, I was contacted my White House Counsel's Office and the U.S. Department of Justice to inform me that I would begin the vetting and background check process and asked to complete additional paperwork. Since July 24, I have been in contact with the Justice Department and White House Counsel's Office.

45. Please explain, with particularity, the process whereby you answered these written questions.

Response: I drafted my responses to each of these questions. After receiving feedback from persons at the Office of Legal Policy at the U.S. Department of Justice, I finalized my answers and authorized them to be submitted to this Committee. My answers are my own.

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

1. **Name**: State full name (include any former names used).

Jennifer Lee Mascott

Jennifer Lee Miller (maiden name)

2. **Position**: State the position for which you have been nominated.

Circuit Judge, United States Court of Appeals for the Third Circuit

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

Office: Eisenhower Executive Office Building
1650 17th Street, NW
Washington, DC 20006

Current Legal Residence: Chevy Chase, Maryland

4. **Birthplace**: State year and place of birth.

1976; Westminster, Maryland

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

2003 – 2006, The George Washington University Law School, J.D.; 2006

Summer 1997, University of Maryland, University College, no degree

1993 – 1997, University of Maryland at College Park, B.S. (Mathematics and Government & Politics); 1997

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job

title or description.

2025 – Present
White House Counsel's Office
Eisenhower Executive Office Building
1650 17th Street, NW
Washington, DC 20006
Senior Counsel

2024 – Present
Catholic Law School
3600 John McCormack Road, NE
Washington, DC 20064
Associate Professor of Law (June 2024 – present; tenure effective August 2024; on leave from January 2025 – present)
Founder & Director, Separation of Powers Institute and Student Litigation Clinic (June 2024 – January 2025)

2023 – Present
Mascott Holdings, LLC
103 Third Street
Bethany Beach, Delaware 19930
Manager (on behalf of my deceased husband's estate)

2023 – Present
Jeffery N. Mascott Irrevocable Trust
Trustee
4728 Dorset Ave.
Chevy Chase, MD 20815

2023 – Present
Donor Advised Fund (in memory of Jeff Mascott; this fund holds very few assets; it was established in memory of my spouse and holds primarily charitable donations given around the time of his passing for future charitable purposes)
Held Within the Greater Washington Community Foundation
Director/Officer
Washington, DC

2025
Adfero Group, LLC
1101 15th Street, NW
Washington, DC 20005
Managing Trustee

2024 – 2025
Trump Vance Transition 47

Worked remotely from the Washington, DC area
Volunteer (December 2024 – January 2025)

2018 – 2019, 2021 – 2025
Administrative Conference of the United States
1120 20th Street, NW
Suite 706 South
Washington, DC 20036
Public Member

2024
Constitutional Renewal Foundation (nonprofit organization; inactive since August 2024)
300 Pennsylvania Avenue, SE
Washington, DC 20003
Founder

2023 – 2024
NBC Universal
30 Rockefeller Plaza
New York, New York 10112
Supreme Court Contributor

2023 – 2024
Administrative Law Section, American Bar Association
1050 Connecticut Ave., NW
Washington, DC 20036
Council Member

2021 – 2024
C. Boyden Gray Center for the Study of the Administrative State
Antonin Scalia Law School
George Mason University
3301 Fairfax Drive
Arlington, Virginia 22201
Co-Executive Director

2017 – 2024
Antonin Scalia Law School
George Mason University
3301 Fairfax Drive
Arlington, Virginia 22201
Assistant Professor of Law (on leave from April 2019 – January 2021)
Faculty Director & Founder, Separation of Powers Student Litigation Clinic (December 2021 – June 2024)
Co-Director, Administrative Law & Supreme Court Clinics (August 2017 – August 2018)

2023
Adfero Advisory Board
1101 15th Street, NW
Washington, DC 20005
Member

2021 – 2023
Rockville Pregnancy Clinic
12530 Parklawn Drive
Suite 170
Rockville, Maryland 20852
Volunteer Board Member

2019 – 2021
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Associate Deputy Attorney General (May 2020 – January 2021)
Deputy Assistant Attorney General, Office of Legal Counsel (April 2019 – May 2020, November 2020 – January 2021)

2018 – 2021 (approximate dates)
Somerset Elementary School Educational Foundation
Post Office Box 30764
Bethesda, Maryland 20824
Secretary & Board Member

2017 – 2019
Consovoy McCarthy PLLC
1600 Wilson Boulevard, Suite 700
Arlington, Virginia 22209
Of Counsel

2015 – 2017
Georgetown University Law Center
600 New Jersey Avenue, NW
Washington, DC 20001
Olin/Searle Fellow

2011 – 2017
The George Washington University Law School
2000 H Street, NW
Washington, DC 20052
Olin/Searle Fellow (August 2016 – July 2017)
Professorial Lecturer in Law (January – May 2011, January – July 2012, September 2012 – May 2013, January – May 2015)

2008 – 2009
Chambers of Associate Justice Clarence Thomas
United States Supreme Court
1 First Street, NE
Washington, DC 20543
Law Clerk

2006 – 2007
Chambers of then-Judge Brett M. Kavanaugh
United States Court of Appeals for the D.C. Circuit
333 Constitution Avenue, NW
Washington, DC 20001
Law Clerk

2005
Covington & Burling
850 10th Street, NW
Washington, DC 20001
Summer Associate

2004 – 2005
The George Washington University Law School
2000 H Street, NW
Washington, DC 20052
Research Assistant for Law Professor John F. Duffy

2004
Chambers of Judge Richard Leon
U.S. District Court for the District of Columbia
333 Constitution Avenue, NW
Washington, DC 20001
Judicial Intern

2002 – 2003
U.S. Congresswoman Anne M. Northup
Longworth House Office Building
Washington, D.C. 20515
Press Secretary

1997 – 2003
Student Home
Hyattsville, Maryland
Private Piano Instructor

2001 – 2002
U.S. Congressman Eric I. Cantor
Cannon House Office Building
Washington, D.C. 20515
Communications Director/Press Secretary

1999 – 2001 (approximate start date)
U.S. Senate Republican Conference
Hart Senate Office Building
Washington, DC 20510
Deputy Press Secretary/Systems Technology Manager

1997 – 1999 (approximate end date)
U.S. Congressman John N. Hostettler
Longworth House Office Building
Washington, DC 20515
Legislative Assistant/Staff Assistant

7. **Military Service and Draft Status**: Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

I have not served in the military and have not registered for Selective Service.

8. **Honors and Awards**: List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

Joseph Story Award, Federalist Society (2023) (award given annually to young academics based on teaching, legal scholarship, a concern for students, and public impact)

Campbell Visiting Fellow, Stanford Law School and Hoover Institution (2023) (hosted by Harvard Law School professor Jack Goldsmith, Princeton University professor Keith Whittington, and Stanford Law School professor Hon. Michael McConnell)

The George Washington University Law School
With highest honors designation, J.D. (2006) (highest cumulative graduating GPA recorded at the law school)
John Bell Larner Award for the member of the graduating class who attained the highest cumulative GPA for the entire course of the degree (valedictorian) (2006)
Imogen Williford Constitutional Law Award (2006)
Jennie Hassler Walburn Award for excellence in the field of constitutional law (2006)
Kappa Beta Pi Award for the female student with the highest cumulative average (2006)
John Ordronaux Awards for the member of the graduating J.D. class who attained the highest cumulative average in the first and second year respectively (2004, 2005)

Charles Glover Award for the member of the graduating J.D. class who attained the highest cumulative average in the third year (2006)
Willard Waddington Gatchell Award for the three members of the graduating class with the highest cumulative GPA (2006)
Senior Projects Editor, George Washington University Law Review (senior editorial board) (2006 – 2007)
Dean's Fellow (2005 – 2006)
Writing Fellow (2004 – 2005)

The University of Maryland
Cum laude designation, B.S. (1997)
Distinguished graduate from the mathematics department (1997)
Phi Beta Kappa (1996)
Full 4-year merit- and need-based scholarship, awarded by the Office of Student Financial Aid (1993 – 1997)
Admitted to the University Honors Program (1993)

9. **Bar Associations**: List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

Administrative Conference of the United States
Public Member, 2018 – 2019, 2021 – 2025
Member, Agency Adjudication Committee, 2018 – 2019 (approximate dates)

American Bar Association, 2018 – 2019, 2021 – 2024
Councilmember, Administrative Law Section, 2023 – 2024
Vice Chair, Committee on the Judicial Review and Supreme Court Series of the Section on Administrative Law & Regulatory Practice, 2018 – 2019
Member, 2018 – 2019, 2021 – 2023 (approximate dates)

C. Boyden Gray Center for the Study of the Administrative State, George Mason University Antonin Scalia Law School, 2017 – 2019, 2021 – 2024
Co-Executive Director, 2021 – 2024
Affiliated Faculty, 2017 – 2019

Federalist Society, 2006 – present
Member, 2006 – present (intermittently)
Executive Committee Member, Separation of Powers Practice Group, 2021 – 2025

George Mason University Antonin Scalia Law School, 2017 – 2019, 2021 – 2023
Hiring Committee, 2018 – 2019, 2021 – 2023
Clerkship Committee, 2017 – 2019
Academic and Student Affairs Committee, 2018 – 2019

New Civil Liberties Alliance, Member of the Board of Advisors, 2018 – 2019, 2021

Separation of Powers Institute, Catholic Law School, Founder & Director, 2024 – 2025

U.S. Senate Post-*Chevron* Working Group, Member, 2024 – 2025

U.S. Supreme Court Historical Society, 2024 – present (approximate)

Virginia Bar Association, Member, 2017 – present

Yale Journal of Regulation Notice and Comment Blog, Permanent Commentator, 2017 – 2019, 2021 – 2022 (approximate dates; blog posts listed in the publications section and are available online)

10. **Bar and Court Admission**:

a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Virginia, 2017
Maryland, 2018

b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

U.S. Supreme Court, 2022
U.S. Court of Appeals for the D.C. Circuit, 2023
U.S. Court of Appeals for the First Circuit, 2020
U.S. Court of Appeals for the Third Circuit, 2025
U.S. Court of Appeals for the Fourth Circuit, 2020
U.S. Court of Appeals for the Fifth Circuit, 2022
U.S. Court of Appeals for the Ninth Circuit, 2020

11. **Memberships**:

a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

There may be some overlap between membership groups listed here and those business groups with which I held an officer or director position and listed above. To the best of my recollection, all groups with which I have had an affiliation or membership that fall under this question have been described here or otherwise on this questionnaire.

Bethesda Chapter Community Bible Study, Member (2007 – 2011) (approximate dates)

Big Mountain Homeowners Association, Member (2023 – present) (in the name of my deceased husband)

Chevy Chase Country Club, Summer Guest (July – August 2025)

Congressional Country Club, Social Guest (2025 – present)

Elk Highlands Inc Homeowners Association, Member (2023 – present) (in the name of my deceased husband)

Fourth Presbyterian Church (1994 – present)
Member of the Congregation; Adult Bible Study and Community Group Leader; Sunday School Teacher; Youth Group Volunteer (1994 – present)
Covenant Choir, Parent Volunteer & Pianist (2015 – 2020) (approximate)
Orchestra, Violinist (1996 – present, intermittently)

Georgetown University Law Center Supreme Court Institute, Volunteer (2021 – 2025)

The Metropolitan Club of the City of Washington (2024 – present)
Member (May 2024 – present)
Member, Special Events Committee (January – March 2025)

Somerset Educational Foundation (2017 – 2019)

Town of Somerset Swim Team, Parent Volunteer (2014 – present)

U.S. Tennis Association, Member (2025 – present)

b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

I have no personal knowledge of any of the groups listed above engaging in discrimination. The religious organizations I have listed, such as Fourth Presbyterian Church, condition formal membership on adherence to a traditional Protestant statement of faith but welcome attendance and participation in programs by all.

12. **Published Writings and Public Statements**:

a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply copies of all published material to the Committee.

The New Trial Right as Structural Constitutional Reform, 76 Fla. L. Rev. __ (forthcoming, expected 2025). Current draft available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4704103. Copy supplied.

Deference to Administrative Interpretations of Regulations: Auer to Kisor and Beyond, Leading Cases in Administrative Law, American Bar Association (to be published 2025). Copy of prepublication draft (2023) supplied.

With Eli Nachmany, *Answered by Text*, 48 Harv. J. of Law & Pub. Policy 33 (2025). Copy supplied.

The Heritage Guide to the Constitution, Third Edition (2025). Editor and contributor to drafts of several sections including those on Article I, Section 2, Clause 5; Article I, Section 9, Clause 5; and Article II, Section 3. Copy supplied.

With Ronald Cass, Colin Diver, Jack Beermann, ADMINISTRATIVE LAW: CASES AND MATERIALS (Aspen Publishing, 9th ed. 2024). Copy supplied.

With Ronald Cass, Colin Diver, Jack Beermann, *Teacher's Manual*, ADMINISTRATIVE LAW: CASES AND MATERIALS (Aspen Publishing, 9th ed. 2024). Copy supplied.

Text, History, Tradition, and the Kavanaugh Court, Feb. 2024. Draft, published only on SSRN. Copy supplied.

Adjudication in the Shadows, Jan. 2024. Draft, published only on SSRN. Copy supplied.

With Ronald Cass, Colin Diver, Jack Beermann, and Jody Freeman, 2023 Teacher's Update to Cass, Diver, Beermann and Freeman, ADMINISTRATIVE LAW: CASES AND MATERIALS (Aspen Publishing, 8th ed. 2020). Copy supplied.

With R. Trent McCotter, Egbert v. Boule: *Federal Officer Suits by Common Law*, 2021–22 Cato Sup. Ct. Rev. 111 (2022). Copy supplied.

With John F. Duffy, *Executive Decisions After* Arthrex, 2021 The Supreme Court Review 225–265 (2022). Copy supplied.

Private Delegation Outside of Executive Supervision, 45 Harv. J. of Law & Pub. Policy 838 (2022). Copy supplied.

With Ronald Cass, Colin Diver, Jack Beermann, and Jody Freeman, 2022 Teacher's

Update to Cass, Diver, Beermann and Freeman, ADMINISTRATIVE LAW: CASES AND MATERIALS (Aspen Publishing, 8th ed. 2020). Copy supplied.

Separation of Powers, Criminal Law, & Cert Petitions from the Second Circuit, Yale Journal on Regulation Notice & Comment Blog, Sept. 27, 2022. Copy supplied.

With Eli Nachmany, "Should Agencies Interpret the Law?," Wall Street Journal, Aug. 24, 2022. Copy supplied.

With Eli Nachmany, "'The *Chevron* Doctrine' Review: Federal Agencies and the Law," Review of ITS RISE AND FALL, AND THE FUTURE OF THE ADMINISTRATIVE STATE, Thomas W. Merrill, Harvard University Press (2022). Book Review, Wall Street Journal. Aug. 23, 2022. Copy supplied.

With Eli Nachmany, "The Supreme Court Reminds the Executive Branch: Congress Makes the Laws," Washington Post, July 1, 2022. Copy supplied.

With David B. Rivkin, Jr., "The Supreme Court Reclaims Its Legitimacy," Wall Street Journal, June 24, 2022. Copy supplied.

"Alito's Master Stroke, Between Precedent & Original Meaning," Letter to the Editor, Wall Street Journal. May 15, 2022. Copy supplied.

The Ratifiers' Theory of Officer Accountability, Mar. 16, 2022. Draft, published only on SSRN. Copy supplied. Although this draft remains preliminary and was self-published only on SSRN, I include it here because it was presented at several conferences, the early draft won an award that I mention on this form, the draft was the subject of a blog post on the Legal Theory Blog, and a D.C. Circuit opinion cited the draft.

With Daniella Efrat, *Adjudication With a Stacked Deck*, Yale Journal on Regulation Notice & Comment Blog, Feb. 18, 2022. Copy supplied.

"Text, History, and Tradition Will Likely Govern the Resolution of Dobbs," Real Clear Policy, Dec. 1, 2021. Copy supplied.

"Clarence Thomas's Monumental Legacy," National Review Online, Oct. 23, 2021. Copy supplied.

Originalism, Methodology, and the Reconstruction Amendments, Balkinization Blog, June 25, 2021. For the Symposium on Kurt Lash, The Reconstruction Amendments: The Essential Documents (University of Chicago Press, 2021) (2 vols.). Copy supplied.

DOJ: Executive Supervision or Independence? Virtual panel discussion June 17 @ noon ET with former senior officials from four administrations, Yale Journal on Regulation Notice & Comment Blog, June 10, 2021. Copy supplied.

Executive Branch Review Conference next week, from May 17 through May 20, Yale Journal on Regulation Notice & Comment Blog, May 10, 2021. Copy supplied.

The Procedural Morality of Administrative Law—To the End of the Common Good?, Review of Cass Sunstein and Adrian Vermeule, LAW AND LEVIATHAN: REDEEMING THE ADMINISTRATIVE STATE (2021), Yale Journal on Regulation Notice & Comment Blog, April 19, 2021. Copy supplied.

Early Customs Laws and Delegation, 87 Geo. Wash. L. Rev. 1387 (2019). Copy supplied.

Gundy v. United States*: Reflections on the Court and the State of the Nondelegation Doctrine*, 26 Geo. Mason L. Rev. 1 (2018). Copy supplied.

"Officers" in the Supreme Court: Lucia v. SEC, 2017–18 Cato Sup. Ct. Rev. 305 (2018). Copy supplied.

The New Supreme Court's Adjudication of Law, 44 Administrative & Regulatory Law News, vol. 1 (Fall 2018). Copy supplied.

Judge Kavanaugh: Interpretive Principles as a Way of Life, Yale Journal on Regulation Notice & Comment Blog, July 2, 2018. Copy supplied.

D.C. Circuit Review—Reviewed: A Special Judge, Kavanaugh Edition, co-authored with Aaron Nielson, Yale Journal on Regulation Notice & Comment Blog, June 28, 2018. Copy supplied.

The Constitutionality of the CFPB Again Before the Courts, Yale Journal on Regulation Notice & Comment Blog, June 25, 2018. Copy supplied.

Symposium: The Appointments Clause—A Modest Take, SCOTUSBlog, June 22, 2018. Copy supplied.

The Appointments Clause—A Modest Take, Yale Journal on Regulation Notice & Comment Blog, June 22, 2018. Copy supplied.

The Government and the Appointments Clause—Just the Facts, Yale Journal on Regulation Notice & Comment Blog, Apr. 23, 2018. Copy supplied.

Conclusion: Lucia v. SEC Symposium, Yale Journal on Regulation Notice & Comment Blog, Apr. 16, 2018. Copy supplied.

Appointments Clause Symposium, Yale Journal on Regulation Notice & Comment Blog, Apr. 2, 2018. Copy supplied.

The Dictionary as a Specialized Corpus, 2017 BYU L. Rev. 1557 (Apr. 2018). Copy

supplied.

Missing History in the Court-Appointed Amicus Brief in Lucia v. SEC, Yale Journal on Regulation Notice & Comment Blog, Mar. 28, 2018. Copy supplied.

Upcoming Symposium, 4/2-4/13: The Supreme Court's Consideration of Whether SEC ALJs are "Officers" Subject to Appointments Clause Requirements (Lucia v. SEC), Yale Journal on Regulation Notice & Comment Blog, Mar. 26, 2018. Copy supplied.

The Alternative Separation of Powers in Constitutional Coup, Review of Jon D. Michaels, CONSTITUTIONAL COUP: PRIVATIZATION'S THREAT TO THE AMERICAN REPUBLIC (2018), YALE JOURNAL ON REGULATION NOTICE & COMMENT BLOG, Mar. 9, 2018. Copy supplied.

Revisiting the Record on Removal, Yale Journal on Regulation Notice & Comment Blog, Mar. 5, 2018. Copy supplied.

Who Are "Officers of the United States"?, 70 Stanford L. Rev. 443 (Feb. 2018). Copy supplied.

Methodological Supplement, *Who Are "Officers of the United States"?*, Feb. 2018. Copy supplied.

Constitutionally Conforming Agency Adjudication, 2 Loyola Journal of Regulatory Compliance 22 (2017). Copy supplied.

New Government Position on the SEC's ALJs: They Are Article II "Officers," Yale Journal on Regulation Notice & Comment Blog, Nov. 29, 2017. Copy supplied.

Will the Supreme Court Revisit Deference Doctrines This Term?, Yale Journal on Regulation Notice & Comment Blog, Oct. 6, 2017. Copy supplied.

Register to Attend a Discussion of "The Year Ahead: Regulation in the Supreme Court and the Circuits," Yale Journal on Regulation Notice & Comment Blog, Sept. 12, 2017. Copy supplied.

If ALJs are "Officers," Who Should Appoint Them?, Yale Journal on Regulation Notice & Comment Blog, June 27, 2017. Copy supplied.

OIRA Administrator Nominee Professor Rao Sails Through her Confirmation Hearing, Yale Journal on Regulation Notice & Comment Blog, June 10, 2017. Copy supplied.

D.C. Circuit's Double-Header on Article II, Yale Journal on Regulation Notice & Comment Blog, May 26, 2017. Copy supplied.

Federal Circuit Rules that Expedited Veterans Affairs Removal Procedures Create an Appointments Clause Violation, Yale Journal on Regulation Notice & Comment Blog, May 15, 2017. Copy supplied.

Limitations on the First Amendment Right of Access to Information Controlled by the Government, 73 Geo. Wash. L. Rev. 814 (2005). Copy supplied.

b. Supply copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

With Jack M. Beermann. *Draft Research Report on Federal Agency ALJ Hiring after* Lucia *and Executive Order 13843*, Mar. 28, 2019. (I started government service before the report was finalized, so my co-authorship extends only to this pre-April 2019 draft.) Copy supplied.

c. Supply copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

To my recollection and through searches of my records and publicly available records, I have found the following responsive materials.

Hearing of the U.S. Senate Committee on the Judiciary titled "When the President Does It, that Means It's Not Illegal: The Supreme Court's Unprecedented Immunity Decision," Prepared Statement for the Minority, Presidential Immunity Doctrines, Sept. 24, 2024. Copy supplied. A video recording of the hearing is available at https://www.senate.gov/isvp/?comm=judiciary&filename=judiciary092424.

Notice, Administrative Conference of the United States, Adoption of Recommendations, 89 Fed. Reg. 56276, 56279, June 13, 2024. Administrative Conference Recommendation 2024-3, Senate-Confirmed Officials and Administrative Adjudication. The following two statements were submitted after the June plenary session of the Conference expressing disagreements with one of the recommendations approved on June 13.

> Separate Statement for Administrative Conference Recommendation 2024-3 by Public Member Jennifer L. Mascott, 89 Fed. Reg. 56284, June 28, 2024. Copy supplied.
>
> Separate Statement for Administrative Conference Recommendation 2024-3 by Public Member John F. Duffy. Joined by Public Members Jennifer B. Dickey, Jennifer L. Mascott, and Kate Todd, 89 Fed. Reg. 56283, June 27, 2024. Copy supplied.

Hearing of the U.S. House Judiciary Subcommittee on the Administrative State, Regulatory Reform, and Antitrust titled "Reining in the Administrative State: Agency Adjudication and Other Agency Action," Prepared Statement, Mar. 20, 2024. Copy supplied. A video recording of the hearing is available at https://www.youtube.com/live/b7BqmZKIRx4.

Hearing of the U.S. Senate Judiciary Subcommittee on Federal Courts, Oversight, Agency Action, and Federal Rights titled "Ensuring an Impartial Judiciary: Supreme Court Ethics, Recusal, and Transparency Act of 2023," Prepared Statement for the Minority, *Ensuring an Impartial Judiciary*, June 14, 2023. Copy supplied. A video recording of the hearing is available at https://www.senate.gov/isvp/?comm=judiciary&filename=judiciary061423p.

Hearing of the U.S. Sentencing Commission on Proposed Amendments to the Federal Sentencing Guidelines Related to Compassionate Release, Sex Abuse of a Ward, and Acquitted Conduct, Prepared Statement for the Panel on Academic Perspectives (addressing statutory interpretation), Feb. 23, 2023. Copy supplied. A video recording of the hearing is available at https://www.youtube.com/watch?v=ELmrnESRMm4.

Brief of Professor Jennifer L. Mascott, *Donziger v. United States*, No. 22-274, Nov. 16, 2022. Copy supplied.

Brief of Professor Jennifer L. Mascott, *Nordlicht v. United States*, U.S. No. 21-1319, May 4, 2022. Copy supplied.

Hearing of the U.S. Senate Judiciary Subcommittee on Federal Courts, Oversight, Agency Action, and Federal Rights titled "An Ethical Judiciary: Transparency and Accountability for 21st Century Courts," Prepared Statement for the Minority, *The Proper Role and Function of 21st-Century Courts*, May 3, 2022. Copy supplied. A video recording of the hearing is available at https://www.senate.gov/isvp/?comm=judiciary&filename=judiciary050322.

Hearing on the Nomination of Ketanji Brown Jackson to be an Associate Justice of the Supreme Court of the United States, Prepared Statement for the Minority, Mar. 24, 2022. Copy supplied. A video recording of the hearing is available at https://www.senate.gov/isvp/?comm=judiciary&filename=judiciary032422.

Hearing of the U.S. House Judiciary Subcommittee on Antitrust, Commercial, and Administrative Law titled "The Administrative Procedure Act at 75: Ensuring the Rulemaking Process is Transparent, Accountable, and Effective," Prepared Statement for the Minority, Dec. 1, 2021. Copy supplied.

Hearing of the U.S. Senate Committee on the Judiciary, titled "Texas's Unconstitutional Abortion Ban and the Role of the Shadow Docket," Prepared Statement for Testimony on Behalf of the Minority, *Jurisdiction and the Supreme Court's Orders Docket*, Sept. 29,

2021. Copy supplied. A video recording of the hearing is available at https://www.senate.gov/isvp/?comm=judiciary&filename=judiciary092921.

Hearing of the U.S. Senate Judiciary Subcommittee on Federal Courts, Oversight, Agency Action and Federal Rights titled "Breaking the Logjam: Principles and Practice of Congressional Oversight and Executive Privilege," Prepared Statement for Testimony on Behalf of the Minority, *Oversight and Executive Privilege in the Context of Separated Powers*, Aug. 3, 2021. Copy supplied. Video of the full hearing available here: https://www.senate.gov/isvp/?comm=judiciary&filename=judiciary080321p.

Memorandum Opinion for the General Counsel, Health and Human Services, *Preemption of State and Local Requirements Under a PREP Act Declaration*, Jan. 19, 2021. Copy supplied.

Memorandum Opinion for the General Counsel, Federal Bureau of Prisons, *Home Confinement of Federal Prisoners After the COVID-19 Emergency*, Jan. 15, 2021. Copy supplied.

Brief of Professor Jennifer L. Mascott, *Egbert v. Boule*, U.S. No. 21-147, Dec. 27, 2021. Copy supplied.

Brief of Professor Jennifer L. Mascott, *Lucia v. SEC*, U.S. No. 17-130, Feb. 28, 2021. Copy supplied.

Memorandum Opinion for the General Counsel, Department of Transportation, *Applicability of Section 410 of the Amtrak Reform and Accountability Act of 1997 to the Gateway Development Commission*, Feb. 13, 2020. Copy supplied.

Hearing on the Nomination of the Honorable Brett M. Kavanaugh to be an Associate Justice of the Supreme Court of the United States, Prepared Statement as a Former Law Clerk and Assistant Professor of Law at the Antonin Scalia Law School, George Mason University, September 7, 2018. Copy supplied.

Comment on Agency Adjudication, Administrative Law Clinic of the Scalia Law School, George Mason University, Consumer Financial Protection Bureau Request for Information, 2018. Copy supplied.

Comment on Surface Transportation Board Procedure, Administrative Law Clinic of the Scalia Law School, George Mason University, 2017. Copy supplied.

d. Supply copies, transcripts or recordings of all speeches or talks delivered by you including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech,

and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

Given the typically close connection between the subject matter of my public speaking and the content that I routinely teach in the classroom, typically I do not speak from a prepared text. Following is the list of all of my legal talks, speeches, panel presentations, and question-and-answer sessions as I recall them or as I or those working on my behalf have located them from publicly available databases and other resources.

May 6, 2025: Presenter, Discussion with Chief Judge Jennifer Elrod and University of Texas Law School Professor Tara Leigh Grove, Separation of Powers and the Constitution, U.S. Court of Appeals for the Fifth Circuit Judicial Conference, Miramar Beach, Florida. The topics of discussion were separation of powers principles and the role of the three federal branches in the U.S. governmental structure in an informal discussion with Chief Judge Jennifer Elrod and University of Texas Law School Professor Tara Leigh Grove. I have no notes, transcript, or recording. The address for the Fifth Circuit is 600 S. Maestri Place, Suite 115, New Orleans, LA 70130.

March 19, 2025: Presenter, "The New Trial Right as Structural Constitutional Reform," The George Washington University Law School Faculty Workshop, Washington, DC. I presented a lecture and conducted a question-and-answer period on my scholarly paper titled "The New Trial Right as Structural Constitutional Reform." I have supplied the draft remarks that form the basis for this presentation and a copy of the paper. The address of the George Washington University Law School is 2000 H St., NW, Washington, DC 20052.

March 8, 2025: Speaker, Breakout Discussion Panel on Becoming an Academic, 2025 National Student Symposium, Federalist Society, Michigan Law Hutchins Hall, Ann Arbor, Michigan. I have no notes, transcript, or recording. The address of the Federalist Society is 1776 I St., NW #300, Washington, DC 20006.

March 7, 2025: Guest, "*Humphrey's Executor*," Advisory Opinions, The Dispatch. The podcast was recorded on the University of Michigan Law School campus, Ann Arbor, Michigan. An audio recording is available at https://thedispatch.com/podcast/advisoryopinions/humphreys-executor/. The discussion occurred on March 7 even though the podcast episode did not air until March 13, 2025.

March 7, 2025: Panelist, "How We Got Here—The Supreme Court's 'Anti-Administrativist' Turn?," 2025 National Student Symposium, Federalist Society, Michigan Law Hutchins Hall, Ann Arbor, MI. A video recording of the panel discussion is available at https://www.youtube.com/watch?v=-u-dh2XsCjg.

October 23, 2024: Speaker, "Supreme Court Review: Abortion Pills, Trump on Trial & Curbing the Bureaucracy," The Buckley Institute at Yale University, New Haven, Connecticut. I delivered remarks and engaged in discussion reviewing major recent Supreme Court decisions. I have no notes, transcript, or recording, but I have provided a

description of the event as well as a press report discussing the event. The address of the Buckley Institute is 265 Church St., New Haven, CT 06511.

> Reports: October 25, 2024, "Buckley Institute hosts legal scholars for annual 'Supreme Court Term Review,' Samantha Warfel, Yale Daily News, https://yaledailynews.com/blog/2024/10/25/buckley-institute-hosts-legal-scholars-for-annual-supreme-court-term-review/
> October 23, 2024, Advisory: https://politicalscience.yale.edu/event/buckley-institute-supreme-court-review-abortion-pills-trump-trial-curbing-bureaucracy

October 23, 2024: Panelist, "A Conversation on Administrative Law," Yale Federalist Society, Yale Law School, New Haven, Connecticut. The panel discussion addressed recent and upcoming Supreme Court decisions and their predicted impact on the practice and doctrine of administrative law. The address for the Yale Federalist Society is 127 Wall St., New Haven, CT 06511.

October 22, 2024: Panelist, "*Chevron* Overruled: Administrative Law in a Post-*Loper Bright* World," Catholic Law School Federalist Society Chapter, The Catholic University of America Columbus School of Law, Washington, DC. A video recording of the discussion is available at https://www.youtube.com/watch?v=aJOA0Y96c9k.

October 3, 2024: Guest Lecturer, "The New Trial Right as Structural Constitutional Reform," Duke Public Law Colloquium hosted by Professors Paul Grimm & Ernie Young, Duke Law School, Durham, North Carolina. I presented a lecture on my scholarly paper titled "The New Trial Right as Structural Constitutional Reform." I have supplied the draft remarks that form the basis for this presentation and a copy of the paper. The address of Duke Law School is 210 Science Dr., Durham, NC 27708.

September 26, 2024: Speaker, Republican Study Committee small group meeting, U.S. Capitol Building, Washington, DC. I briefed members of the committee on the implications of the *Loper Bright* decision and the elimination of *Chevron* deference for future legislation and statutory interpretation. I have no notes, transcript, or recording. The address of the Republican Study Committee is the U.S. House of Representatives, Washington, DC 20515.

September 25, 2024: Panelist, "The Future of the Executive State," Heritage Foundation, Washington, DC. A video recording of the panel discussion is available at https://www.youtube.com/watch?v=yM8uVaGz1Ec.

September 19, 2024: Panelist, "Veterans Law in a Post-*Chevron* World: the Impact of *Loper Bright Enterprises*' Directive to Courts to Interpret and Resolve, Not Defer," U.S. Court of Appeals for Veterans Claims Sixteenth Judicial Conference, National Press Club, Washington, DC. I spoke about the implications of the *Loper Bright* decision and the elimination of *Chevron* deference for future legislation and statutory interpretation. I have no notes, transcript, or recording. The address of the U.S. Court of Appeals for Veterans Claims is 625 Indiana Ave., NW, Suite 900, Washington, DC 20004.

September 18, 2024: Panelist, Supreme Court Preview, University of Pennsylvania Law School Federalist Society Chapter, Penn Law School, Philadelphia, Pennsylvania. I participated in a panel discussion on the Supreme Court's upcoming cases and their potential impact on constitutional and administrative law doctrines. I have no notes, transcript, or recording. The address of the Penn Federalist Society is 3501 Sansom St., Philadelphia, PA 19104.

September 18, 2024: Speaker, "Daniel Webster Debate Series: Should the Court Shut Down Its 'Shadow Docket'?," Georgetown Law Federalist Society, Hotung Building, Georgetown University Law Center Campus, Washington, DC. A video recording of this discussion with Fifth Circuit Chief Judge Elrod and Georgetown Law Professor Steve Vladeck is available at https://www.youtube.com/live/xoULxv6GHYw.

July 16, 2024: Panelist, "2024 SCOTUS Review: What do the Important Cases Mean for Congress?," Capitol Hill Club, Washington, DC. A video recording of this discussion is available at https://www.youtube.com/watch?v=QFb-aZKbvT4.

July 15, 2024: Guest, "Article II and Special Counsel Jack Smith," Gray Matters Podcast, C. Boyden Gray Center for the Study of the Administrative State, George Mason University Antonin Scalia Law School (Virtual Recording). A video recording of this discussion is available at https://www.youtube.com/watch?v=4Dxt-i84JDk.

July 10, 2024: Host, "The Examination Crisis: Restoring Safety, Soundness and the Rule of Law in Banking," Constitutional Renewal Foundation, The Mayflower, Washington, DC. I hosted and organized the event and introduced the topic and Bank Policy Institute President and CEO Greg Baer. I have no notes, transcript, or recording. Details about the event are available at https://constitutionalrenewal.org/events/the-examination-crisis-restoring-safety-soundness-and-the-rule-of-law-in-banking/. The address of the Constitutional Renewal Foundation is 300 Independence Ave., SW, Washington, DC 20003.

July 10, 2024: Panelist, Staff Briefing on the Implications of the *Loper Bright* Decision, Hosted by Senate Republican Policy Committee staff, Dirksen Senate Office Building, Washington, DC. I briefed legislative and policy staff about the implications of the *Loper Bright* decision and the elimination of *Chevron* deference for future legislation and statutory interpretation. I have no notes, transcript, or recording. The address of the Senate Republican Policy Committee is 347 Russell Senate Office Building, Washington, DC 20510.

July 10, 2024: Panelist, "Scholars & Scribes, Supreme Court 2023 Term," Heritage Foundation, Washington, DC. A video recording of this panel discussion is available at https://x.com/Heritage/status/1811070088164135095.

July 2, 2024: Guest, Episode 125, Supreme Myths Podcast with Georgia State College of Law Professor Eric Segall (Virtual Recording). The podcast host and I discussed

Supreme Court decisions on presidential immunity, administrative law, and general separation of powers doctrines. An audio recording is available at https://podcasts.apple.com/us/podcast/professor-jennifer-mascott/id1523903890?i=1000660898295.

June 5, 2024: Guest Lecturer, Scalia-Ginsburg Fellows Program, New Civil Liberties Alliance, Washington, DC. I presented a lecture based on my *Stanford Law Review* article titled "Who Are 'Officers of the United States'?" I have no notes, transcript, or recording, but a copy of the article is supplied. The address of the New Civil Liberties Alliance is 4250 North Fairfax Dr., Suite 300, Arlington, VA 22203. But at the time of this event, the organization was located on 19th St., NW, in Washington, D.C., which is where I delivered my informal remarks and teaching session.

May 22, 2024: Guest Lecturer, NextGen Program, America First Legal (Virtual Presentation). My remarks to a group of fellows addressed the structural principles underlying Article II of the U.S. Constitution, in particular the Appointments Clause which my legal academic scholarship has extensively addressed. We also discussed executive supervision and the interaction between the executive's responsibility to faithfully execute the laws and statutory interpretation. I have no notes, transcript, or recording. The address of America First Legal is 611 Pennsylvania Ave., SE, Washington, DC 20003.

May 18, 2024: Panelist, Conference on "Presidents Beware: Investigations, Impeachment, Disqualification," Constitutional Law Center, Stanford Law School, Stanford, California. A video recording of the panel discussion is available at https://www.youtube.com/watch?v=JYK4t_DsiKk.

May 15, 2024: Discussant, "A Debate on the Right—Climate Lawsuits and Federalism: What is the Role of State Tort Law?," Manhattan Institute and C. Boyden Gray Center for the Study of the Administrative State, Washington, DC. A video recording of the panel discussion is available at https://www.youtube.com/watch?v=QbWWrnNg71g.

May 15, 2024: Speaker, "Corpus Linguistics as an Interpretative Tool," 2024 Continuing Legal Education and Training Program, U.S. Court of Appeals for the Armed Forces. The location of the CLE program was the George Mason University Antonin Scalia Law School, Arlington, VA. I spoke about the use of corpus linguistics as an interpretive tool for jurists. I have no notes, transcript, or recording. The address of the U.S. Court of Appeals for the Armed Forces is 450 E St, NW, Washington, DC 20442.

April 29, 2024: Panelist, "Federal Preemption and Environmental Regulation Webinar," C. Boyden Gray Center for the Study of the Administrative State (Virtual Event). A video recording of the panel discussion is available at https://www.youtube.com/watch?v=4K33QiNUZwU.

April 16, 2024: Panelist, "Is *Humphrey's Executor* Still Relevant?," Federalist Society Executive Branch Review Conference, The Mayflower, Washington, DC. A video

recording of the panel discussion is available at https://www.youtube.com/live/EnXqtaaQT8c.

April 10, 2024: Panelist, Ten-Year Anniversary Summit on Philip Hamburger's work titled Is Administrative Law Unlawful?, New Civil Liberties Alliance, Washington, DC. This discussion was about separation of powers challenges to agency practices including topics such as agency tribunals and the removal of agency officials. I have no notes, transcript, or recording. The address of the New Civil Liberties Alliance is 4250 North Fairfax Dr., Suite 300, Arlington, VA 22203.

April 3, 2024: Speaker, Remarks on a Tribute to Jeff Mascott, Public Affairs Council, Washington, DC. I gave remarks responding to a video tribute to my spouse, Jeff Mascott, regarding his death, his founding of the public affairs firm Adfero, and his leadership with the Public Affairs Council. I have no notes, transcript, or recording. The address of the Public Affairs Council is 2121 K St., NW, Suite 900, Washington, DC 20037.

February 29, 2024: Speaker, Republican Staff Director Lunch, Washington, DC. My informal remarks provided an update on how U.S. Supreme Court cases like *Loper Bright* and the potential overruling of *Chevron* deference could impact legislating and Senate business. I have no notes, transcript, or recording. I was invited to speak by staff directors for Republican senators and leadership. The event was held in the U.S. Capitol complex.

February 22, 2024: Debater, "Crossing the Line: Are Agencies Defying the Constitution?, DC-Wide FedSoc Rupe Debate," Federalist Society, Jack Morton Auditorium, The George Washington University, Washington, DC. A video recording of this debate with George Washington Law Professor Alan Morrison moderated by U.S. Court of Appeals for the Third Circuit Judge Paul Matey is available at https://www.youtube.com/watch?v=pMmjA4uoddc.

February 17, 2024: Panelist, "History & Tradition and the Kavanaugh Court," Symposium on Text & Tradition in Supreme Court Jurisprudence, *Harvard Journal of Law & Public Policy*, Harvard Law School, Cambridge, Massachusetts. I gave remarks based on the initial sketch of a potential future research piece that I did not finish drafting due to a family illness and death that spring. The early draft of the research sketch is provided. I have no other notes, transcript, or recording. The address of the *Harvard Journal of Law and Public Policy* is 1585 Massachusetts Ave., Suite 3066, Cambridge, MA 02138.

February 13, 2024: Panelist, Scalia Law Forum, George Mason University Antonin Scalia Law School, Washington, DC. This was a discussion with then-Senate Republican Leader Mitch McConnell, Reginald Brown, Member of the George Mason Board of Visitors and Kirkland & Ellis Partner, and U.S. District Court Judge Kathryn Mizelle. My remarks addressed the U.S. Senate's role in our constitutional structure and Justice Scalia and the Scalia family's generational contributions to legal and jurisprudential

theory. I have no notes, transcript, or recording. The address of the George Mason University Antonin Scalia Law School is 3301 Fairfax Dr., Arlington, VA 22201.

February 9, 2024 (approximate): Speaker, Briefing for Senate Republican Legislative Directors, Washington, DC. I spoke to Senate Republican Legislative Directors on the implications for legislation and statutory interpretation if the Supreme Court were to eliminate the *Chevron* deference doctrine in *Loper Bright*. I have no notes, transcript, or recording. I was invited to participate by lawyers in the Republican Leader's office. The event was held in the U.S. Capitol Building.

January 17, 2024: Speaker, "Remembering William Consovoy," DC Young Lawyers Chapter of the Federalist Society, George Mason Student Chapter, Antonin Scalia Law School, Hazel Hall Atrium, Arlington, VA. A video recording of this tribute discussion is available at https://www.youtube.com/watch?v=CdvF90NPR5g.

January 2024: Presenter, "Adjudication in the Shadows," *Notre Dame Law Review* Federal Courts Symposium (Virtual Presentation). I gave a presentation on the research of the early draft of this academic project, which addressed agency adjudication and the history of the growth of internal agency enforcement authority. My remarks also addressed the Supreme Court's consideration of agency adjudication and jury trial rights in *Securities and Exchange Commission v Jarkesy*. I did not ultimately publish a final draft of the project, as my mother became ill and passed away several months after this presentation and during the publication process. I have no notes, transcript, or recording of the specific remarks from the symposium but have provided a copy of the draft paper that formed the basis of the remarks. In addition, I provided testimony to the House Judiciary Committee on a similar topic in spring 2024, and access to that prepared statement has been provided to the committee. The address of the *Notre Dame Law Review* is Post Office Box 780, 1323 Biolchini Hall of Law, Notre Dame, IN 46556.

January 5, 2024: Moderator, "Stare Decisis: From the Warren Court (and Before) to the Roberts Court (and Beyond)," Association of American Law Schools Annual Conference, Marriott Marquis DC, Washington, DC. The topic was the role of precedent in Supreme Court decisions, and professors with a variety of perspectives spoke at this event. I have no notes, transcript, or recording, but a brief report and description of the panel is available here: https://administrativestate.gmu.edu/event/prof-mascott-to-serve-as-discussant-on-stare-decisis-from-the-warren-court-and-before-to-the-roberts-court-and-beyond-annual-american-association-of-law-schools-conference/. The address of the Association of American Law Schools is 1614 20th St., NW, Washington, DC 20009.

January 5, 2024: Panelist, "Independent Agencies and Financial Regulation," 25th Annual Faculty Conference, Federalist Society, Westin Washington DC Downtown, Washington, DC. A video recording of this panel discussion is available at https://www.youtube.com/watch?v=SL2JgHYL9PY.

Winter/Spring 2024: Co-Briefer, C. Boyden Gray Center's Article I Venture Separation of Powers Briefing Series, Russell Senate Office Building, Washington, DC. Hosted by

the Senate Republican Policy Committee for Senate Republican policy and legislative staff. In 2024, 2023, and 2022, the Gray Center provided this six- or seven-part educational and historical briefing series to Senate staff on principles related to the allocation of constitutional authority among the three federal branches of government, principally to Congress and the Executive. The outlines of the talks and principles provided to Senate staff have been supplied. The approximately biweekly briefing series consisted of sessions titled:

- Rulemaking and the Congressional Review Act
- The Appropriations Power, Government Shutdowns, and Statutory Emergency Authorities
- Congressional Oversight, the Accommodation Process, and Executive Privilege
- Appointments, Removal, and Congressional Supervision of Executive Branch Staffing
- Regulatory Reform
- Congressional-Executive Balance of Power in War Powers
- Congressional-Executive Balance of Power in Foreign Affairs

December 7, 2023: Moderator, Panel on Judge Silberman and the Separation of Powers, "Judge Laurence Silberman's Intellectual Legacy," American Enterprise Institute, Washington, DC. A video recording of this panel discussion is available at https://www.youtube.com/watch?v=ly6d0bgERtc.

December 1, 2023 (approximate): Presenter, "Constitutional Challenges to Agency Adjudication," American Bar Association's Administrative Law Fall Conference (Virtual Event). The panel discussion included significant analysis of the Supreme Court's oral arguments in *SEC v. Jarkesy*. I have no notes, transcript, or recording. The address of the American Bar Association is 1050 Connecticut Ave., NW, Washington, DC 20036.
November 30, 2023: Moderator, "Judicial Remedies in Administrative Law," American Bar Association's Administrative Law Fall Conference (Virtual Event). I moderated a panel discussion on judicial remedies in administrative law. I have no notes, transcript, or recording. A summary of the event is available at https://administrativestate.gmu.edu/event/prof-mascott-to-moderate-host-judicial-remedies-in-administrative-law-aba-national-administrative-law-conference/. The address of the American Bar Association is 1050 Connecticut Ave., NW, Washington, DC 20036.

October 26, 2023: Participant, Conference on Constitutional Structure and Legal Principles, Heritage Foundation, Washington, DC. I delivered informal remarks addressing agency adjudication, executive supervision, and interpretive methodology. I have no notes, transcript, or summary. The address of the Heritage Foundation is 227 Pennsylvania Ave., SE, Washington, DC 20003.

October 23, 2023: Presenter, "Legislative or Administrative Constitution? This Term Before the Supreme Court," Yale Federalist Society, Yale Law School, New Haven, Connecticut. I discussed cases that the Supreme Court would be considering during the October 2023 Term, particularly as those cases related to administrative law and

separation of powers doctrines. I have no notes, transcript, or recording. The address of this event was 127 Wall St., New Haven, CT 06511.

October 20, 2023: Organizer, Moderator, & Co-Host, "*Chevron* on Trial," *George Mason Law Review* annual symposium, The Mayflower Hotel, Washington, DC. A video recording of my introductory remarks is available at https://www.youtube.com/watch?v=IRRJxUOkh8c. A video recording of my keynote discussion with former Office of Information and Regulatory Affairs Administrator Paul Ray is available at https://www.youtube.com/watch?v=gHI_04m7PMo.

October 13, 2023 (approximate): Instructor for Judicial Conference, "Original Meaning of Article II of the U.S. Constitution," Center for the Study of Constitutional Originalism, University of San Diego Law School, San Diego, California. I discussed my legal academic scholarship on Article II of the Constitution and the use of corpus linguistics empirical methodology to probe the original meaning of words and terms in legal documents. I have no notes, transcript, or recording. The address of the University of San Diego School of Law is 5998 Alcalá Park, San Diego, CA 92110.

October 10, 2023: Guest, Podcast, "Funding Frameworks Analyzing the *CFPB v. CFSA* Oral Argument w/ Jennifer Mascott," Credit Union Policy Podcast, National Association of Federally-Insured Credit Unions based in Arlington, Virginia (Virtual Recording). A video recording is available at https://www.youtube.com/watch?v=0dTmdaTE7BM.

October 5, 2023: Panelist, "Is the Consumer Financial Protection Bureau Unconstitutional?," We The People Podcast, National Constitution Center based in Philadelphia, PA (Virtual Recording). An audio recording is available at https://constitutioncenter.org/news-debate/podcasts/is-the-cfpb-unconstitutional.

October 3, 2023. Lecturer, "The Institutional Integrity of the Supreme Court," The First Annual Paul Clement Lecture Series, Georgetown University Student Chapter of the Federalist Society, Georgetown University, Washington, DC. I addressed upcoming Supreme Court cases and the role of the Supreme Court within the three-branch federal governmental system. I also discussed Supreme Court precedent and pending cases on the constitutional structure of separation of powers. I have no notes, transcript, or recording. The address of the Federalist Society is 1776 I St., NW, Suite 300, Washington, DC 20006.

September 28, 2023: Panelist, "Cases and Controversies: A Preview of the Supreme Court's 2023–2024 Term," American Enterprise Institute, Washington, DC. A video recording of this panel discussion is available at https://www.youtube.com/watch?v=VRDumj9ZcNQ.

September 26, 2023: Panelist, "Supreme Court Preview: What is in Store for October Term 2023?," Federalist Society, The Mayflower, Washington, DC. A video recording of this panel discussion is available at https://www.youtube.com/live/3WTK_KsT-zM.

July 13, 2023: Panelist, "Scholars and Scribes Review the Rulings: The Supreme Court's 2022–23 Term," Heritage Foundation, Washington, DC. I joined Jess Bravin (*Wall Street Journal*), Bob Barnes (*Washington Post*), and Supreme Court advocate Kannon Shanmugam to discuss the Supreme Court's OT22 decisions. A video recording of this panel discussion is available at https://www.youtube.com/live/QJQnzjD3hWw.

June 21, 2023: Guest Lecturer, Scalia-Ginsburg Fellows Program, New Civil Liberties Alliance, 19th St., NW, Washington, DC. I discussed the meaning of "officers" in Article II of the U.S. Constitution and the Appointments Clause's role in executive branch accountability. This talk was based primarily on my *Stanford Law Review* article, "Who Are 'Officers of the United States'?" I have no notes, transcript, or recording. A copy of the article is supplied. The address of the New Civil Liberties Alliance is 4250 North Fairfax Dr., Ste 300, Arlington, VA 22203.

May 26, 2023 (approximate): Lecturer, "The Original Meaning of Article II of the U.S. Constitution," Originalism for Law Clerks, Georgetown Center for the Constitution, Hotung Building, Georgetown Law campus, Washington, DC. I discussed the originalist interpretive methodology that I applied to interpretation of the Constitution's Appointments Clause in my 2018 *Stanford Law Review* article titled "Who Are 'Officers of the United States'?" I have no notes, transcript, or recording. A copy of the article is supplied. The address of the Georgetown University Law Center is 600 New Jersey Ave, NW, Washington, DC 20001.

May 22, 2023: Panelist, "The Shadow Docket Debate," We The People Podcast, National Constitution Center based in Philadelphia, PA (Virtual Discussion). This discussion with Adam Liptak of the *New York Times*, then-Texas Law Professor Steve Vladeck, and NCC President and CEO Jeffrey Rosen addressed trends with the Supreme Court's consideration of emergency motions. Video of the discussion is available here: https://www.youtube.com/watch?v=bFb62mJjppA. And an online report discussing the event is here: https://constitutioncenter.org/news-debate/americas-town-hall-programs/the-shadow-docket-debate.

April 5, 2023: Guest Lecturer, Professor Chris Walker & Professor Julian Mortenson's Public Law Workshop, University of Michigan Law School. Ann Arbor, Michigan. My remarks addressed my draft article titled "The New Trial Right as Structural Constitutional Reform." I have no notes, transcript, or recording. A copy of the draft article is supplied. The address of the University of Michigan Law School is 625 S State St., Ann Arbor, MI 48109.

April 5, 2023: Speaker, "Separation of Powers and the Supreme Court Term," University of Michigan Federalist Society, University of Michigan Law School, Ann Arbor, Michigan. I discussed the significant separation of powers cases before the Supreme Court in the 2022–2023 term. I have no notes, transcript, or recording. The address of the Michigan Law Federalist Society is 625 S. State St., Ann Arbor, MI 48109.

March 10, 2023: Speaker, Eulogy at the Funeral for my Spouse Jeff Mascott, Fourth Presbyterian Church, Bethesda, Maryland. A video recording has been supplied.

March 4, 2023: Speaker, "Recipient of the annual Justice Joseph Story Award," National Student Symposium, Federalist Society, Austin, Texas. A video recording of my remarks and the award presentation is available at: https://www.youtube.com/watch?v=fLF_8AmBV84.

Winter/Spring 2023: Co-Briefer, C. Boyden Gray Center's Article I Venture Separation of Powers Briefing Series, Russell Senate Office Building, Washington, DC. Hosted by the Senate Republican Policy Committee for Senate Republican policy and legislative staff. In 2024, 2023, and 2022, the Gray Center provided this six- or seven-part educational and historical briefing series to Senate staff on principles related to the allocation of constitutional authority among the three federal branches of government, principally to Congress and the Executive. The outlines of the talks and principles provided to Senate staff have been supplied. The approximately biweekly briefing series consisted of sessions titled:

- Rulemaking and the Congressional Review Act
- The Appropriations Power, Government Shutdowns, and Statutory Emergency Authorities
- Congressional Oversight, the Accommodation Process, and Executive Privilege
- Appointments, Removal, and Congressional Supervision of Executive Branch Staffing
- Regulatory Reform
- Congressional-Executive Balance of Power in War Powers
- Congressional-Executive Balance of Power in Foreign Affairs

December 1, 2022: Panelist, "Appointment, Removal, and Supervision of the Folks Who do the Work: The Constitutional Law—and Other Law—of Agency Personnel Structures," ABA Administrative Law Conference (Virtual Discussion). I participated in a panel discussion on administrative law and the President's power to appoint, remove, and supervise agency personnel. I have no notes, transcript, or recording, but an event description is available at https://www.americanbar.org/content/dam/aba/administrative/administrative_law/adminlawconference22.pdf. The address of the American Bar Association is 1050 Connecticut Ave NW, Washington, DC 20036.

December 1, 2022 (approximate): Speaker, Republican Staff Director Lunch, Washington, DC. I discussed significant cases decided the previous year by the U.S. Supreme Court like *Dobbs*, *Bruen*, and *West Virginia v. EPA* and any consequences or connected legal changes relevant to the Senate. I have no notes, transcript, or recording. I was invited to speak by staff directors for Republican senators and leadership. The event was held in the U.S. Capitol complex.

November 10, 2022: Panelist, "The Major Questions Doctrine: *West Virginia v. EPA*," National Lawyers Conference 2022, Federalist Society, The Mayflower, Washington,

DC. A video recording is available at https://www.youtube.com/watch?v=nAgFnfMZxHU.

November 1, 2022: Panelist, "Is the Administrative State Morally Legitimate?," American Enterprise Institute, Washington, DC. A video recording is available at https://www.youtube.com/watch?v=A_dZIO8e9ds. A report on the event is available at https://www.aei.org/events/is-the-administrative-state-morally-legitimate/.

October 28, 2022: Speaker, Symposium on Constitutional Interpretation, *Wisconsin Law Review*, University of Wisconsin Law School, Madison, WI. I spoke about interpretive methodology and the role of courts in interpreting statutes. I have no notes, transcript, or recording. The address of the *Wisconsin Law Review* is 975 Bascom Mall, Madison, WI 53706.

October 28, 2022: Commentator and Panelist, Panel on "The Business of the Supreme Court: Interrelationships of the Court," at the *St. Louis University Law Journal*'s conference on "The Business of the Supreme Court: The Evolution and Devolution of the Supreme Court's Docket" responding to themes from Prof. Steve Vladeck's keynote Richard J. Childress Lecture. I participated virtually and a video recording of the panel discussion is available here: https://www.youtube.com/watch?v=9mYDgj32LSc&list=PLPxHlSkQXNnkcKxJKnitZI1YNXv_IgEKt&t=2s.

October 17, 2022: Presenter, "SCOTUS Term Preview," Brown Student Chapter of the Federalist Society, Watson Institute for International and Public Affairs, Providence, Rhode Island. I addressed and summarized the subject matter areas of significant constitutional and administrative law cases before the Supreme Court in the October 2022 Term. I have no notes, transcript, or recording. The address for the Brown university Undergraduate Federalist Society is 102 Friedman Hall, Brown University, Providence, RI 02912.

October 17, 2022: Debater, "The Major Questions Doctrine: An Important Canon or Completely Made Up?," Harvard Student Chapter of the Federalist Society, Harvard Law School, Cambridge, Massachusetts. The topic of the discussion with Professor Ben Eidelson was the role of the major questions principles set forth in *West Virginia v. EPA* in statutory interpretation. I have no notes, transcript, or recording. Details and a brief description of the event are available here: https://x.com/HarvardFedSoc/status/1582175353505599488. The address for the Harvard Federalist Society is 103 Pound Hall, 1563 Mass Ave., Cambridge, MA 02138.

October 14, 2022: Panelist, "The FTC's Independence After *Seila Law v. CFPB*," C. Boyden Gray Center for the Study of the Administrative State, The Mayflower, Washington, DC. An audio recording is available at https://ricochet.com/podcast/gray-matters/the-ftcs-independence-after-seila-law-v-cfpb/.

September 26, 2022: Host, "Separation of Powers, Criminal Law, & Petitions from the Second Circuit," Pulse of the Court Podcast, C. Boyden Gray Center for the Study of the Administrative State (Virtual Discussion). A video recording of this discussion with Professor Steve Vladeck is available at https://www.youtube.com/watch?v=t3EnT3YCtro.

September 16, 2022: Panelist, "Common-Law Torts and *Bivens* Claims," Constitution Day Symposium, Cato Institute, Washington, DC. A video recording is available at https://www.cato.org/events/21st-annual-constitution-day.

August 25–26, 2022: Presenter and Discussant, 12th Annual Henry G. Manne Faculty Forum, Scalia Law School, Arlington, Virginia. I presented an early version of my research project on agency adjudication and internal enforcement procedures. A copy of the early draft of this project, which was also presented at a *Notre Dame Law Review* federal courts symposium in January 2024 and was planned for publication in that journal has been supplied. The address of the George Mason University Scalia Law School is 3301 Fairfax Drive, Arlington, VA 22201.

July 28–29, 2022 (approximate): Discussant, "Rule of Law & Democracy," Quill Project, Pembroke College, Oxford, United Kingdom. I was a participant in conversations on comparative constitutional principles and structure between the British and American legal institutions. I have no notes, transcript, or recording. The address of Pembroke College is St. Aldates, Oxford OX1 1DW, United Kingdom.

July 1, 2022: Host, "*West Virginia v. EPA* Reaction," Pulse of the Court Podcast, C. Boyden Gray Center for the Study of the Administrative State (Virtual Recording). A video recording is available at https://www.youtube.com/watch?v=PvaIpT2dRpw.

June 15, 2022 (approximate): Guest Lecturer, Scalia-Ginsburg Fellows Program, New Civil Liberties Alliance, 19th St., Washington, DC. I presented a lecture based on my *Stanford Law Review* article title "Who Are 'Officers of the United States'?" I have no notes, transcript, or recording, but a copy of the article is supplied. The address of the New Civil Liberties Alliance is 4250 North Fairfax Dr., Suite 300, Arlington, VA 22203.

June 10, 2022: Lecturer, "The Original Meaning of Article II of the U.S. Constitution and Corpus Linguistics," Originalism for Judges Seminar, Georgetown Center for the Constitution, Sarasota, FL. I discussed the originalist interpretive methodology that I applied to my interpretation of the Constitution's Appointments Clause in my 2018 *Stanford Law Review* article titled "Who Are 'Officers of the United States'?" I have no notes, transcript, or recording. A copy of the article is supplied. The address of the Georgetown University Law Center at which the Center for the Constitution is based is 600 New Jersey Ave., NW, Washington, DC 20001.

June 9, 2022: Guest, "The President's Power to Hire & Fire," The University of Virginia Law Dean's Common Law Podcast, University of Virginia School of Law based in Charlottesville, VA (Virtual Recording). An audio recording of this discussion with

then-University of Virginia Law Dean Risa Goluboff and Professor John Harrison is available at https://www.law.virginia.edu/news/202206/common-law-presidents-power-hire-and-fire. Show notes are available here: https://www.law.virginia.edu/commonlaw/show-notes-presidents-power-hire-and-fire.

May 27, 2022: Lecturer, "The Original Meaning of Article II of the U.S. Constitution," Originalism for Law Clerks, Georgetown Center for the Constitution, Hotung Building, Georgetown University Law Center, Washington, DC. I discussed the originalist interpretive methodology that I applied to my interpretation of the Constitution's Appointments Clause in my 2018 *Stanford Law Review* article titled "Who Are 'Officers of the United States'?" I have no notes, transcript, or recording. A copy of the article is supplied. The address of the Georgetown University Law Center is 600 New Jersey Ave., NW, Washington, DC 20001.

May 25, 2022: Host and Interviewer, Conference on "Congress's Interbranch Role: The Executive, The Court, and *Dobbs*," The C. Boyden Gray Center for the Study of the Administrative State, Capitol Visitors Center, Washington, DC. A video recording of my introductory remarks is available at https://www.youtube.com/watch?v=bnmJ3swf1Rg. A video recording of my interview and keynote discussion with Ambassador C. Boyden Gray is available at https://www.youtube.com/watch?v=FPQk9qlJfs4.

May 20, 2022: Panelist, "The First Congress and Executive Power," Stanford Constitutional Law Center, Stanford Law School, 559 Nathan Abbott Way, Stanford, CA 94305. A video recording of this discussion is available at https://www.youtube.com/watch?v=bWCzYRSEpNk.

May 13, 2022: Panelist, "Major Questions Doctrine," American Bar Association's Section of Administrative Law & Regulatory Practice, Administrative Law Conference (Virtual Discussion). I participated in a panel discussion about the legal and statutory interpretation issues in the Supreme Court's consideration of *West Virginia v. EPA*. I have no notes, transcript, or recording. The address of the American Bar Association is 1050 Connecticut Ave., NW, Washington, DC 20036.

May 11, 2022: Guest, Episode 60, Supreme Myths Podcast with Georgia State College of Law Professor Eric Segall (Virtual Recording). An audio recording of the podcast is available at https://podcasts.apple.com/us/podcast/professor-jennifer-mascott/id1523903890?i=1000560488850.

May 3, 2022: Guest, "FedSoc Study Break: Constitutional Law," Federalist Society (Virtual Discussion). A video recording of the discussion is available at https://www.youtube.com/watch?v=oixBp5xx1qQ.

April 20, 2022: Panelist, "*Oklahoma v. Castro-Huerta*," Native American Student Law Association, Antonin Scalia Law School, Arlington, Virginia. I discussed cases before the Supreme Court in the October 2021 Term including *Oklahoma v. Castro-Huerta*. I

have no notes, transcript, or recording. The address of the George Mason University Antonin Scalia Law School is 3301 Fairfax Dr., Arlington, VA 22201.

April 13, 2022: Panelist on the Clubhouse platform, "The Virtuous Executive" with Alan Rozenshtein, Penn Program on Regulation, University of Pennsylvania Carey Law School (Virtual Discussion). I participated in a panel discussion on whether and how presidents' personal characteristics affect the power of their office. I have no notes, transcript, or recording, but here is a brief description of the discussion: https://x.com/LawAnGovernance/status/1513511716289716229. The address of the Penn Program on Regulation is 3501 Sansom St., Philadelphia, PA 19104.

April 8, 2022: Cohost & Coordinator, Conference on "Religious Liberty & Law," C. Boyden Gray Center for the Study of the Administrative State, The Mayflower, Washington, DC. Video of my introductory remarks is available here: https://www.youtube.com/watch?v=blUPOv2fq8E

March 2022 (approximate): Presenter, "Ratifiers' Theory of Accountability," Levy Workshop, George Mason University Antonin Scalia Law School, Arlington, VA. My remarks were based on an early draft of my writing and research project titled "Ratifiers' Theory of Accountability. I have no notes, transcript, or recording. A copy of the draft of the project is supplied, and the project was briefly reviewed here: https://lsolum.typepad.com/legaltheory/2022/03/mascott-on-the-ratifiers-theory-of-officer-accountability.html. The address of the George Mason University Antonin Scalia Law School is 3301 Fairfax Dr., Arlington, VA 22201.

March 5, 2022: Panelist, "Modern Debates, Old Insights: The Federalists, Anti-Federalists, & Executive Power," 2022 National Student Symposium, Federalist Society, University of Virginia School of Law, Charlottesville, Virginia. A video recording of the panel discussion is available at https://www.youtube.com/watch?v=Tgmcqw7uUXc.

March 3, 2022: Host, "Lawsuits Against Government Officers & the February Sitting," Pulse of the Court Podcast, C. Boyden Gray Center for the Study of the Administrative State (Virtual Discussion). A video recording is available at https://podcasts.apple.com/us/podcast/the-pulse-of-the-court-lawsuits-against/id1487671665?i=1000606184628.

February 14, 2022: Discussant and Host, "Will You Be My Article I Court?, The History & Jurisdiction of the Court of Federal Claims," George Mason University Antonin Scalia Law School, Arlington, Virginia. I interviewed Court of Federal Claims Judge Eleni Roumel on the jurisdiction of the U.S. Court of Federal Claims and how its role compares to and contrasts with that of Article III courts. I have no notes, transcript, or recording. The address of the George Mason University Antonin Scalia Law School is 3301 Fairfax Dr., Arlington, VA 22201.

February 4, 2022: Moderator, "Talks with Authors: Who Decides? States as Laboratories of Constitutional Experimentation," Federalist Society (Virtual Event). A video

recording of this discussion is available at https://www.youtube.com/watch?v=VJfrV-3yuLU.

January 31, 2022: Panelist, "The Administrative State Goes to Court: A 'Halftime' Analysis of the Supreme Court's Term," C. Boyden Gray Center for the Study of the Administrative State, (Virtual Event). A video recording of this discussion is available at https://www.youtube.com/watch?v=cs2xEbrmOP4.

January 19, 2022: Guest, "Emergency Powers Kindle Emergencies," Dissed Podcast, Pacific Legal Foundation (Virtual Recording). An audio recording of the podcast is available at https://pacificlegal.org/dissed-podcast/.

January 10, 2022: Host, "Recap of the Supreme Court Arguments on the Vaccine-or-Testing Mandate," Pulse of the Court Podcast, C. Boyden Gray Center for the Study of the Administrative State (Virtual Discussion). An audio recording of the podcast is available at https://ricochet.com/podcast/gray-matters/the-pulse-of-the-court-recap-of-the-supreme-court-arguments-on-the-vaccine-or-testing-mandate/.

January 8, 2022: Panelist, "On the Brink: The Supreme Court, SB8, *Dobbs*, and the Future of Reproductive Rights," Association of American Law Schools (Virtual Event). I spoke about the current Supreme Court term and their cases dealing with Texas Senate Bill 8 and the *Dobbs* case. I have no notes, transcript, or recording, but a brief description of the virtual panel is here: https://memberaccess.aals.org/eweb/DynamicPage.aspx?webcode=SesDetails&ses_key=08bf1845-abd4-417a-a02d-fbec6e2470d5. The address of the Association of American Law Schools is 1614 20th St NW, Washington, DC 20009.

January 7, 2022: Panelist, "Originalism: New Criticisms and Defenses," Association of American Law Schools (Virtual Event). I spoke about originalism and its contemporary challenges. I have no notes, transcript, or recording, but a brief description is available here: https://x.com/NatlAssnAttysGn/status/1468234648551571459. The address of the Association of American Law Schools is 1614 20th St NW, Washington, DC 20009.

Winter/Spring 2022: Co-Briefer, C. Boyden Gray Center's Article I Venture Separation of Powers Briefing Series, Russell Senate Office Building, Washington, DC. Hosted by the Senate Republican Policy Committee for Senate Republican policy and legislative staff. In 2024, 2023, and 2022, the Gray Center provided this six- or seven-part educational and historical briefing series to Senate staff on principles related to the allocation of constitutional authority among the three federal branches of government, principally to Congress and the Executive. The outlines of the talks and principles provided to Senate staff have been supplied. In 2022, the briefing series included only six sessions; the Congressional Review Act session was added in later years. The approximately biweekly briefing series consisted of sessions titled:

- The Appropriations Power, Government Shutdowns, and Statutory Emergency Authorities
- Congressional Oversight, the Accommodation Process, and Executive Privilege

- Appointments, Removal, and Congressional Supervision of Executive Branch Staffing
- Regulatory Reform
- Congressional-Executive Balance of Power in War Powers
- Congressional-Executive Balance of Power in Foreign Affairs

December 23, 2021: Panelist with *NY Times* reporter Adam Liptak, "Constitutional Year End in Review," We The People Podcast, National Constitution Center (Virtual Discussion). An audio recording of the panel discussion is available at https://constitutioncenter.org/news-debate/podcasts//2021-a-constitutional-year-in-review.

December 7, 2021: Panelist, "Federalism in Regulatory Decisionmaking," National Association of Attorneys General Annual Conference, Washington, DC. I participated in a panel discussion on regulatory decisionmaking. I have no notes, transcript, or recording, but a brief description is available here: https://x.com/NatlAssnAttysGn/status/1468234648551571459. The address of the National Association of Attorneys General is 1850 M St, NW, 12th Floor, Washington, DC 20036.

November 12, 2021: Panelist, "The Unitary Executive, Autocracy, and American History," Syracuse Law Review Symposium titled "Executive Authoritarianism." The conference was held at the Syracuse University College of Law in Syracuse, New York, but I participated virtually. My remarks addressed the role and scope of Article II authority within the constitutional scheme and the ways in which the federal legislature was to counterbalance and frame the role of the Executive Branch. I have no notes, transcript, or recording, but a description of the panel is available here: https://law.syracuse.edu/academics/conferences-symposia/executive-authoritarianism/. The address of Syracuse University College of Law is 950 Irving Ave, Syracuse, NY 13244.

November 4, 2021: Presenter, "Regulation and Administration in American Life: Legal Historical Perspectives," Pre-Conference Discussions, 2021 Annual Meeting of the American Society for Legal History, Intercontinental Hotel, New Orleans, Louisiana. My remarks were based on a very early draft of the history of the patent office section of my project and eventual article titled "Private Delegation Outside of Executive Supervision." I have no notes, transcript, or recording, but a copy of the article is supplied and a brief description of the panel discussion is here: https://x.com/kmtani/status/1456395526400794625. The address of the American Society for Legal History is 2301 Vanderbilt Pl, PMB 351802, Nashville, TN 37325.

October 28, 2021: Commentator, Response to The John E. Sullivan Lecture on Administrative Law by Former White House Counsel Don McGahn, Capital University Law Review, Capital University Law School, Columbus, Ohio. I have no notes, transcript, or recording. But an article based on the McGahn remarks to which I responded is available here: https://www.capitallawreview.org/api/v1/articles/77565-

administrative-law-past-present-and-future.pdf. The address of Capital University Law School is 303 E. Broad St., Columbus, OH 43215.

October 21, 2021: Panelist, "The Journey and Jurisprudence of U.S. Supreme Court Justice Clarence Thomas," Orange County Bar Association (Virtual Webinar). I participated in a panel discussion with Berkeley Law Dean Chemerinsky about the life and jurisprudence of Justice Clarence Thomas. I have no notes, transcript, or recording. The address of the Orange County Bar Association is Post Office Box 6130, Newport Beach, CA 92658.

October 21, 2021: Cohost and Introductory Speaker, Evening Lecture Event with Justice Thomas, Judge Silberman, Leader McConnell, C. Boyden Gray, & Don McGahn titled "Justice Thomas's Thirty-Year Legacy on the Court," C. Boyden Gray Center for the Study of the Administrative State, George Mason University Antonin Scalia Law School. This event was cosponsored by the Heritage Foundation and occurred at the Heritage Foundation. A video of the evening event is available here: https://www.youtube.com/watch?v=kklfoM0mBOg.

October 21, 2021: Cohost and Moderator, "Advocacy in the Thomas-era Court," Daytime Symposium cohosted by the C. Boyden Gray Center for the Study of the Administrative State, George Mason University Scalia Law School. This event was cosponsored by the Heritage Foundation and held at the Heritage Foundation, Washington, DC. A video recording of my introductory remarks is available at https://www.youtube.com/watch?v=UhwvGeVnpTs. A video recording of the panel I moderated is available at https://www.youtube.com/watch?v=w0cXO9iDmas.

October 7, 2021: Panelist, "The Supreme Court's 'Shadow Docket,'" We The People Podcast, National Constitution Center based in Philadelphia, Pennsylvania (Virtual Recording). An audio recording is available at https://constitutioncenter.org/news-debate/podcasts/the-supreme-courts-shadow-docket.

October 1, 2021: Interview of U.S. Court of Appeals for the D.C. Circuit Judge Neomi Rao, Conference on "Presidential Administration in a Polarized Era," The Decatur House, Washington, DC. Hosted by the C. Boyden Gray Center for the Study of the Administrative State, George Mason University Antonin Scalia Law School. A video recording is available at https://www.youtube.com/watch?v=mQ7hKlcyTH8.

October 1, 2021: Moderator, Panel Reviewing Prakash & Yoo Scholarship on Presidential Power, Conference on "Presidential Administration in a Polarized Era," The Decatur House, Washington, DC. Hosted by the C. Boyden Gray Center for the Study of the Administrative State. A video recording is available at https://www.youtube.com/watch?v=HIN0mHYMjh4.

September 17, 2021: Moderator, "Judge Williams on Administrative Law and Regulatory Policy," Memorial Symposium in Honor of Judge Stephen F. Williams, The Decatur House, Washington, DC. Hosted by the C. Boyden Gray Center for the Study of the

Administrative State, George Mason University Antonin Scalia Law School. A video recording is available at https://www.youtube.com/watch?v=C4tW5SDg6tc.

September 15, 2021: Speaker, "A Conversation with the Center's New Co-Executive Director," Gray Matters Podcast, C. Boyden Gray Center for the Study of the Administrative State, George Mason University Antonin Scalia Law School (Virtual Recording). An audio recording is available at https://podcasts.apple.com/us/podcast/a-conversation-with-the-centers-new-co/id1487671665?i=1000606184833.

August 30, 2021: Presenter, Commentary as part of "Justice Thomas 30-Year Anniversary Symposium," *Harvard Journal of Law and Public Policy* (Virtual Symposium). A video recording is available at https://www.youtube.com/watch?v=5REOvqI3bvI.

August 27, 2021: Presenter, "*Arthrex* and the Patent Board of 1836," 11th Annual Henry G. Manne Faculty Forum, George Mason University Antonin Scalia Law School, Arlington, Virginia. This presentation was based on the draft of my project which was eventually published as "Private Delegation Outside of Executive Supervision." I have no notes, transcript, or recording. A copy of my article is supplied. The address of the George Mason University Antonin Scalia Law School is 3301 Fairfax Drive, Arlington, VA 22201.

August 17, 2021: Moderator, "*Arthrex*: The End of Patent Exceptionalism in the Administrative State?," Regulatory Transparency Project, Federalist Society (Virtual Event). A video recording is available at https://www.youtube.com/live/rROPn39WXFI.

August 11, 2021: Moderator, "Supervision by the Executive: Appointments Clause and Removal Constraints After *Collins* & *Arthrex*," American Bar Association's Section of Administrative Law & Regulatory Practice (Virtual Webinar). A video recording of the panel discussion is available at https://www.youtube.com/watch?v=MPPIuLvyzsM.

June 11, 2021: Moderator, "The Life of the Law: What Has Happened Since 1946?," Symposium on the Administrative Procedure Act's 75th Anniversary, The Decatur House, Washington, DC. Hosted by the C. Boyden Gray Center for the Study of the Administrative State, George Mason University Antonin Scalia Law School. A video recording is available at https://www.youtube.com/watch?v=K3N1_7b12Ew.

May 2021 (approximate): Lecturer, "The Economics of the Separation of Powers & Constitutional Structure," Public Law, Economics, and Policy Institute, George Mason University Antonin Scalia Law School Law & Economics Center, Amelia Island, Florida. I discussed the general structural separation of powers principles underlying the federal constitutional system and how that structure impacts the economics of regulation and individual choice. I have no notes, transcript, or recording. The address of the George Mason University Antonin Scalia Law School is 3301 Fairfax Dr., Arlington, Virginia 22201.

May 28, 2021: Lecturer, "The Original Meaning of Article II of the U.S. Constitution," Originalism for Law Clerks, Georgetown Center for the Constitution, Hotung Building, Georgetown University Law Center, Washington, DC. I discussed the originalist interpretive methodology that I applied to my interpretation of the Constitution's Appointments Clause in my 2018 *Stanford Law Review* article titled "Who Are 'Officers of the United States'?" I have no notes, transcript, or recording. A copy of the article is supplied. The address of the Georgetown University Law Center is 600 New Jersey Ave., NW, Washington, DC 20001.

May 17, 2021: Panelist, "Non-Delegation? Or No Divesting? Art. I, Sec. I at the Founding and Today," Executive Branch Review Conference, Federalist Society (Virtual Discussion). A video recording is available at https://www.youtube.com/live/L_-OSLuNOlM.

April 27, 2021: Moderator, "Alito at 15: A Panel Discussion Honoring Justice Alito's 15 Years on the Court," Federalist Society New Jersey Lawyers Chapter (Virtual Event). I hosted a discussion with four former Justice Alito clerks discussing his impact on the Supreme Court and the content of some of the Justice's most significant decisions from his first 15 years of service. I have no notes, transcript, or recording. The address of the Federalist Society is 1776 I St., NW, Suite 300, Washington, DC 20006.

March 11, 2021: Panelist, "The *Arthrex* Complex: Are Administrative Patent Judges Principal or Inferior Officers?," Texas A&M Student Chapter, Federalist Society, Online Event. This discussion addressed the likely outcome of the *Arthrex* decision and whether there were constitutional problems with the method of appointment of administrative patent judges. I have no notes, transcript, or recording. The address of the Texas A&M University School of Law is 1515 Commerce St., Fort Worth, TX 76102.

March 3, 2021: Panelist, "Courthouse Steps Oral Argument Teleforum: *Carr v. Saul*," Federalist Society (Virtual Discussion). An audio recording of the teleforum is available at https://podcasts.apple.com/us/podcast/fedsoc-forums/id325218201.

March 2021 (approximate): Presenter, "*Arthrex* and the Patent Board of 1836," Levy Workshop, George Mason University Antonin Scalia Law School (Virtual Presentation). This presentation was based on the draft of my project which was eventually published as "Private Delegation Outside of Executive Supervision." I have no notes, transcript, or recording. The address of the George Mason University Antonin Scalia Law School is 3301 Fairfax Dr., Arlington, VA 22201.

March 2, 2021: Presenter, "No. 86 Project—Continue the Conversation: Administrative Law Judges and the Supreme Court's Opinion in *Lucia v. SEC*," Federalist Society, Washington, DC. A video recording is available at https://no86.fedsoc.org/posts/administrative-law-judges-and-the-supreme-courts-opinion-in-lucia-v-sec. Please note that the mini video lecture listed here and dated to 2021 is part of a series of mini educational video lectures based on recorded remarks I provided in 2018 and 2019, to the best of my recollection. For ease of reference, all of the mini

lecture videos of which I am aware based on my earlier recorded remarks are listed here below. The lectures appear associated with a variety of dates online but were originally recorded a couple years earlier.

Additional videos associated with the No. 86 Educational Project include:

February 22, 2021: Presenter, No. 86 Project—Continue the Conversation: "Debates over the Appointments Clause in Article II," Federalist Society, Washington, DC. A video recording is available at https://no86.fedsoc.org/posts/debates-over-the-appointments-clause-in-article-ii.

August 21, 2020: Presenter, No. 86 Project—Continue the Conversation: "Judicial Power," Federalist Society, Washington, DC. A video recording is available at https://fedsoc.org/no86/module/judicial-power.

April 21, 2020: Presenter, No. 86 Project—Continue the Conversation: "Administrative Law and the Courts," Federalist Society, Washington, DC. A video recording is available at https://fedsoc.org/no86/module/Administrative-Law-and-the-Courts.

May 1, 2019: Presenter, No. 86 Project—Continue the Conversation: "What Is the Constitutional Power of Presidential Appointments?," Federalist Society, Washington, DC. A video recording is available at https://no86.fedsoc.org/posts/the-appointments-clause-and-democratic-accountability.

April 30, 2019: Presenter, No. 86 Project—Continue the Conversation: "Evidence for the Original Public Meaning of 'Officer,'" Federalist Society, Washington, DC. A video recording is available at https://www.youtube.com/watch?v=ntuYh2KQGGs.

April 30, 2019: Presenter, No. 86 Project—Continue the Conversation: "Originalism and Uncovering Meaning," Federalist Society, Washington, DC. A video recording is available at https://www.youtube.com/watch?v=iP2hXfxlyCY.

April 30, 2019: Presenter, No. 86 Project—Continue the Conversation: "What is the Original Public Meaning of 'Officer of the United States'?," Federalist Society, Washington, DC. A video recording is available at https://www.youtube.com/watch?v=810RupyzZ9w.

April 30, 2019: Presenter, No. 86 Project—Continue the Conversation: "Who is an Officer of the United States?," Federalist Society, Washington, DC. A video recording is available at https://www.youtube.com/watch?v=tx3oV70bAaA.

April 30, 2019: Presenter, No. 86 Project—Continue the Conversation: "The Appointments Clause and Democratic Accountability," Federalist Society,

Washington, DC. A video recording is available at https://www.youtube.com/watch?v=nA3IVxZodTE.

April 30, 2019: Presenter, No. 86 Project—Continue the Conversation: "Are Administrative Law Judges Constitutional?," Federalist Society, Washington, DC A video recording is available at https://www.youtube.com/watch?v=hHEQO57OC3I.

April 30, 2019: Presenter, No. 86 Project—Continue the Conversation: "Are ALJ Decisions the Last Word on Agency Policy?," Federalist Society, Washington, DC. A video recording is available at https://www.youtube.com/watch?v=737di3gd9ag.

April 30, 2019: Presenter, No. 86 Project—Continue the Conversation: "What Is an Administrative Law Judge (ALJ)?," Federalist Society, Washington, DC. A video recording is available at https://www.youtube.com/watch?v=FdqDxKn5_Lw.

April 30, 2019: Presenter, No. 86 Project—Continue the Conversation: "Where Does the Constitution Get Its Authority?," Federalist Society, Washington, DC. A video recording is available at https://www.youtube.com/watch?v=jTCduUCIRjM.

February 20, 2021: Commenter, Yale Law School Professor Nick Parrillo's "A Critical Assessment of the Originalist Case Against Administrative Regulatory Power," 12th Annual Hugh & Hazel Darling Foundation Originalism Work-in-Progress Conference, Center for the Study of Constitutional Originalism at the University of San Diego School of Law (Virtual Conference). I presented remarks in response to Professor Parrillo's project on the 19th-century federal real estate tax that he published in the Yale Law Journal in April 2021. A video recording of these remarks is available here: https://www.youtube.com/watch?v=ag-pTT-H9FQ&list=PLlMbhMguve2nwQYpqOryFgca1T8a2uagm&index=6.

February 12, 2021: Panelist, "Constitutional Principals: Administrative Adjudication and *Arthrex*," Center for Innovation Policy, Duke University School of Law (Virtual Conference). A video recording is available at https://law.duke.edu/video/constitutional-principals-administrative-adjudication-and-arthrex.

February 12, 2021: Panelist, "Originalism, Institutionalism, and the Thomas Court," University of Virginia School of Law Federalist Society Chapter (Virtual Conference). I participated in a panel discussion on methodology and critiques related to its originalism as well as the application of originalism in Supreme Court jurisprudence. I have no notes, transcript, or recording. The address of the University of Virginia School of Law is 580 Massie Rd., Charlottesville, VA 22903.

November 6, 2020: Lecturer, "Appointments Clause and Originalist Interpretation," Georgetown Center for the Constitution, Washington, DC (Virtual Event). This event addressed the research and method of my interpretation in my *Stanford Law Review* article "Who are 'Officers of the United States'?" I have no notes, transcript, or recording, but a brief law student report on the event is here: https://www.instagram.com/p/CHQZyIKJYoV/. A copy of the relevant article is supplied. The address of the Georgetown Center for the Constitution is 600 New Jersey Ave., NW, Washington, DC 20001.

November 2, 2020: Speaker, "Regulatory Reform and Transparency," Yale Law Federalist Society (Virtual Event). This event addressed steps to make administrative procedures, policies, and rules more comprehensible and accessible to the public. It addressed potential legal developments that would impact administrative law practice. The address of the Yale Federalist Society is 127 Wall St., New Haven, CT 06511.

January 5, 2020: Panelist, "Administrative Law Perspectives Beyond the Liberal/Conservative Divide: A Panel Discussion," American Association of Law Schools Annual Meeting, Washington Marriott Wardman Park Hotel, Washington, DC. My remarks addressed Professor Jeff Pojanowski's philosophical article "Neoclassical Administrative Law" that unpacks the judicial standards of review and concepts of deference in the 1946 Administrative Procedure Act. I have no notes, transcript, or recording, but a brief event description is available here: https://memberaccess.aals.org/eweb/DynamicPage.aspx?webcode=SesDetails&ses_key=c3296d71-ec6d-441c-be6b-98d245c62cee. The address of the American Association of Law Schools is 1614 20th St., NW, Washington, DC 20009.

December 6, 2019: Moderator, "Lessons from the Life of Administrative Law: What Experience Teaches about How the APA Can Be Improved," Department of Justice Summit on Modernizing the Administrative Procedure Act, Washington, DC. A video recording is available at https://www.youtube.com/watch?v=37KB-jTYKwU.

September 2019 (approximate): Panelist, "Trends in Statutory Interpretation," Georgetown Law Judicial Interpretation Institute, Georgetown University Law Center, Washington, DC. This was a session for federal judges with Prof. Bill Eskridge, Prof. Vic Nourse, and Supreme Court advocate Roman Martinez. I discussed textualist methods of statutory interpretation and how those methods could be applied to particular texts. I also touched on the empirical interpretive methodology of corpus linguistics and its application in legal practice. I have no notes, transcript, or recording. The address of the Georgetown University Law Center is 600 New Jersey Ave., NW, Washington, DC 20001.

April 2019 (approximate): Panelist, "The Intersection of *Chevron* and the Non-Delegation Doctrine," DC Bar, Washington, DC. My remarks addressed recent Supreme Court decisions and statutory interpretation methodology such as textualism. I have no notes, transcript, or recording. The address of the DC Bar is 901 4th St., NW, Washington, DC 20001.

April 2019: Guest Presenter, Seminar on "Drafting and Ratification of the Constitution," taught by then-Dean William Treanor & Professor John Mikhail, Georgetown University Law Center, Washington, DC. My guest lecture addressed the empirical research and methodology underlying my *Stanford Law Review* article on the reference to "Officers of the United States" in the Constitution's Appointments Clause. I have no notes, transcript, or recording. The address of the Georgetown University Law Center is 600 New Jersey Ave., NW, Washington, DC 20001.

March 25, 2019: Speaker, "An Unwanted Promotion: How *Lucia* Will Transform the Executive Branch," University of Virginia School of Law Federalist Society Chapter, Charlottesville, Virginia. My remarks addressed my research on the Constitution's Appointments Clause and presidential supervision of the Executive Branch. have no notes, transcript, or recording. The address of the Virginia Student Chapter of the Federalist Society is 580 Massie Rd., Charlottesville, VA 22901.

March 22, 2019: Panelist, "Changes in Administrative Law in the Courts," 2019 Davis Polk & Wardwell Administrative Law Conference: "Regulatory Change & the Trump Administrative State," The Yale Journal on Regulation, Yale Law School, New Haven, Connecticut. I have no notes, transcript, or recording, but event details are described here: https://x.com/yalejreg/status/1095012806141927426 and https://www.yalejreg.com/nc/march-22-event-2019-davis-polk-wardwell-administrative-law-conference-regulatory-change-the-trump-administrative-state/. The address of Yale Law School is 127 Wall St., New Haven, CT 06511.

March 22, 2019: Speaker, "Separation of Powers & Agency Adjudication," Yale Law Federalist Society, Yale Law School, New Haven, Connecticut. I have no notes, transcript, or recording. My discussion with Yale Law Professor Nick Parrillo discussed the role of agency adjudicators within the Executive Branch and recent Supreme Court and circuit court decisions addressing agency adjudication and executive supervision. More details are available here: https://x.com/yalefedsoc/status/1107767385329676290. The address of the Yale Federalist Society is 127 Wall St., New Haven, CT 06511.

February 2019: Presenter, "Early Customs Laws and Delegation," Levy Workshop, George Mason University Antonin Scalia Law School, Arlington, Virginia. My remarks at this workshop summarized the research and legal conclusions of my draft paper on early customs laws subsequently published in *The George Washington Law Review*'s Administrative Law issue. I have no notes, transcript, or recording, but a copy of the paper has been supplied to the committee. The address of the George Mason University Antonin Scalia Law School is 3301 Fairfax Dr., Arlington, VA 22201.

February 23, 2019: Presenter, "The Ratifiers' Theory of Officer Accountability," Tenth Annual Originalism Works-in-Progress Conference, Center for the Study of Constitutional Originalism, University of San Diego School of Law, San Diego, California. Professor Will Baude from the University of Chicago Law School provided commentary on the early-stage project. A video of my presentation is available here:

https://www.youtube.com/watch?v=-Vt7fZuXZW4. Videos of the remaining presentations are available here: https://www.sandiego.edu/law/centers/csco/originalism-conference.php. The address of the University of San Diego School of Law is 5998 Alcala Park, San Diego, CA 92110.

February 22, 2019: Panelist and Paper Presenter, "The Nondelegation Doctrine, Reconsidered," Congress and the Administrative State: Delegation, Nondelegation, and Un-Delegation," C. Boyden Gray Center for the Study of the Administrative State, George Mason University Antonin Scalia Law School, Arlington, Virginia. My remarks addressed the constitutional underpinnings and theory of the nondelegation doctrine as well as the research on statutes enacted by the First Federal Congress on customs laws that formed the basis of my *George Washington Law Review* article on early customs duties. A recording of the discussion is available here: https://www.youtube.com/watch?v=WwnQoXGKup8. The address of the George Mason University Antonin Scalia Law School is 3301 Fairfax Dr., Arlington, VA 22201.

February 7, 2019: Panelist, "Congress and the Executive Branch," Symposium on "Reclaiming—and Restoring—Constitutional Norms," American Constitution Society Student Chapter and the *Texas Law Review*, University of Texas School of Law, Austin, Texas. My remarks generally addressed the division of constitutional responsibilities between Congress and the Executive Branch. I have no notes, transcript, or recording, but a brief description of the event is available here: https://www.acslaw.org/event/reclaiming-and-restoring-constitutional-norms/. The address of the University of Texas School of Law is 727 East Dean Keeton St., Austin, TX 78705.

February 6, 2019: Speaker, "Does the Civil Service System Violate the Appointments Clause?," *Stanford Law Review* and the Stanford Law Federalist Society Chapter, Stanford Law School, Stanford, California. My remarks addressed the research in my *Stanford Law Review* article on the Appointments Clause of the Constitution and the constitutional structure of the Executive Branch. I have no notes, transcript, or recording, but event details are available here: https://x.com/slsfedsoc/status/1093558871308697600. The address of Stanford Law School is 559 Nathan Abbott Way, Stanford, CA 94305.

February 6, 2019: Moderator and Panelist, "A World Without *Chevron*?," Legislative Branch Review Conference, Federalist Society, Capitol Hill Visitors Center, Washington, DC. A video of this panel discussion is available here: https://www.youtube.com/watch?v=k8cX-_wXmro.

January 3, 2019: Panelist, "The Ratifiers' Theory of Officer Accountability," 2019 Young Legal Scholars Paper Presentations, Annual Faculty Conference, Federalist Society, New Orleans, Louisiana. I was competitively selected to give this presentation on the ratifiers' theory of officer accountability. A video of this panel discussion is available here: https://www.youtube.com/watch?v=_u6p1J0cEJI.

December 18, 2018: Panelist, "The Vacancies Act and the Attorney General: Constitutional and Statutory Issues," American Bar Association's Section of Administrative Law & Regulatory Practice, Online Event. I participated in a panel discussion on the constitutional and statutory issues surrounding the Vacancies Act. I have no notes, transcript, or recording, but details regarding this event are available here: https://www.yalejreg.com/nc/aba-adlaw-section-teleforum-12-18-3pm-est-the-vacancies-act-and-the-attorney-general/ and here: https://x.com/ajosephoconnell/status/1072181382556737536. My remarks addressed my research on the Appointments Clause and Executive Branch supervision as well as the role and appropriate place of acting officials within the Executive Branch. The address of the American Bar Association is 1050 Connecticut Ave., NW, Washington, DC 20036.

December 7, 2018: Panelist, "Do Acting Agency Heads Require the Senate's Advice and Consent?," Conference titled "New Normals? The Trump Administration, the Courts, and Administrative Law," C. Boyden Gray Center for the Study of the Administrative State, George Mason University Antonin Scalia Law School, Arlington, Virginia. A video recording of the panel discussion is available here: https://www.youtube.com/watch?v=SByqrid2tzw.

November 15, 2018: Panelist, "Independent Agencies—How Independent Is Too Independent?," 2018 Federalist Society National Lawyers Convention, The Mayflower Hotel, Washington, DC. A video of the discussion is available here: https://www.youtube.com/watch?v=u8B1Abj8kDo.

November 2, 2018: Panelist, "*Lucia*'s Aftermath: ALJ & AJ Job Security and Independence," American Bar Association's Section of Administrative Law & Regulatory Practice, Administrative Law Conference, Washington, DC. My remarks addressed implementation of the Supreme Court's decision in *Lucia v. Securities and Exchange Commission*, which had concluded that Securities and Exchange Commission administrative law judges are "officers of the United States" under constitutional Appointments Clause constraints. I have no notes, transcript, or recording, but a summary of the panel topics and conference details are available here: https://www.thecre.com/oira/wp-content/uploads/2018/11/ABAAdLawConference-AgendaNovember2018.pdf. The address of the American Bar Association is 1050 Connecticut Ave., NW, Washington, DC 20036.

November 1, 2018: Panelist, "Constitutional Constraints on Administrative Power: How History Sheds Light on Contemporary Understandings," American Bar Association's Section of Administrative Law & Regulatory Practice, Administrative Law Conference, Washington, DC. I presented the research from my project on early customs duties and the First Federal Congress statutes that was published in *The George Washington Law Review* Administrative Law issue. A copy of the publication has been supplied. I have no notes, recording, or transcript. The address of the American Bar Association is 1050 Connecticut Ave., NW, Washington, DC 20036.

October 18, 2018: Panelist, "Is There a Supreme Court Legitimacy Crisis?," We The People Podcast with New York University Law Professor Melissa Murray and National Constitution Center President Jeff Rosen, National Constitution Center (Virtual Event). An audio recording is available at https://constitutioncenter.org/debate/podcasts/is-there-a-supreme-court-legitimacy-crisis.

October 17, 2018: Panelist, "Judicial Review in a Time of Reconsideration," Conference on "The Veterans Appeals Process: A Case of Administrative Crisis and Possible Reforms," C. Boyden Gray Center for the Study of the Administrative State, George Mason University Antonin Scalia Law School, Arlington, Virginia. A video of the panel discussion is available here: https://www.youtube.com/watch?v=ejKBGxWSytI.

October 2018: Presenter, Research Roundtable on "Delegation, Nondelegation, and 'Un-delegation,'" C. Boyden Gray Center for the Study of the Administrative State, George Mason University Antonin Scalia Law School, Arlington, Virginia. This presentation consisted of informal, closed-door remarks on my early 19th-century customs laws research at a workshop designed to provide paper authors with feedback on their early drafts. The final version of this research project also formed the basis for the February 22, 2019, remarks disclosed above at the public Gray Center event presenting the research at a further stage of development. I have no notes, transcript, or recording of this workshop discussion. The address of the George Mason University Antonin Scalia Law School is 3301 Fairfax Dr., Arlington, VA 22201.

September 29, 2018: Contributor to a Video Short, "*Lucia v. SEC*, Supreme Court Roundup: October Term 2017," Federalist Society, Washington, DC. A video recording of the mini educational video is available at https://www.youtube.com/watch?v=DILinRC92XY.

September 26, 2018: Moderator, "Administrative Law Judges After *Lucia*," *The George Mason Law Review*'s First Annual Symposium on Administrative Law, C. Boyden Gray Center for the Study of the Administrative State, George Mason University Antonin Scalia Law School, Arlington, Virginia. My participation and remarks were centered on moderating a panel discussion of four authors presenting works on the ways in which the Supreme Court's decision in *Lucia v. Securities and Exchange Commission* would impact administrative agency adjudication moving forward. I possess no notes, transcript, or recording, but more details on the panel discussion are available here: https://administrativestate.gmu.edu/event/the-george-mason-law-reviews-first-annual-symposium-on-administrative-law/. The address of the George Mason University Antonin Scalia Law School is 3301 Fairfax Dr, Arlington, VA 22201.

September 25, 2018: Panelist, "Regulation in the Courts: Previewing the Year Ahead in the Supreme Court and the Circuits," The Hoover Institution, Washington, DC. Video of the full discussion is available here: https://www.youtube.com/watch?v=fu9EyeVcbjA

September 24, 2018: Panelist, 2018 Annual Seminar, Federal Administrative Law Judges Conference (FALJC), Philadelphia, Pennsylvania. I addressed significant Supreme Court

cases on administrative law practice and constitutional issues related to presidential supervision over executive branch agencies. I have no notes, transcript, or recording. The address of the FALJC is 1930 18th St., NW, Suite B2, PMB 2134, Washington, DC 20009.

September 21, 2018: Panelist, "Supreme Court Preview: What Is in Store for October Term 2018?," Federalist Society, The Mayflower, Washington, DC. Video of the panel discussion is available here: https://www.youtube.com/watch?v=3sIxV7n2dyE.

September 21, 2018: News Conference with Women Supporting Brett Kavanaugh, JW Marriott Hotel, Washington, DC. Video of the news conference is available here: https://www.c-span.org/program/news-conference/news-conference-with-women-supporting-brett-kavanaugh/512246.

September 19, 2018 (approximate): Panelist, "The Kavanaugh Nomination: A Panel Discussion," American University Washington College of Law, Washington, DC. My remarks discussed then-Judge Kavanaugh's jurisprudence on the U.S. Court of Appeals for the D.C. Circuit and his administrative law and statutory interpretation decisions. I have no notes, transcript, or recording. The address of the Washington College of Law is 4300 Nebraska Ave., NW, Washington, DC 20016.

September 18, 2018: Panelist, Webinar on "Judicial Independence and Administrative Law Judges: Is This the End of an Era?," American Bar Association's Section of Civil Rights & Social Justice (Virtual Event). I discussed the legal conclusions and constitutional analysis underlying the Supreme Court's decision in *Lucia v. Securities and Exchange Commission*, administrative law judges, and implementation of the *Lucia* decision. A video recording of the event is available here: https://www.youtube.com/watch?v=TqvrNppnv0A. Note that the ABA posted the video of this event on October 17, 2019.

September 17, 2018: Panelist and Paper Presenter, "Federalism and Government Structure," 17th Annual Constitution Day, Cato Institute, Washington, DC. Video of the panel discussion and presentation is available here: https://www.cato.org/events/17th-annual-constitution-day.

September 14, 2018: Presenter, "Administrative Law and Removal Doctrine," 8th Annual Henry G. Manne Faculty Forum, George Mason University Antonin Scalia Law School, Arlington, Virginia. A copy of the early draft research project forming the basis for my presentation has been supplied. This event was an internal faculty workshop provided for scholars to receive feedback on their summer research projects. The address of the George Mason University Antonin Scalia Law School is 3301 Fairfax Dr., Arlington, VA 22201.

September 13, 2018: Moderator, "The Future of *Chevron* Deference," Federalist Society (Virtual Teleforum). An audio recording of this discussion is available at https://fedsoc.org/events/the-future-of-chevron-deference-1.

September 12, 2018: Keynote Speaker, Judicial Conference of the Occupational Safety and Health Review Commission, Washington, DC. My remarks addressed significant administrative law cases before the Supreme Court such as *Lucia v. Securities and Exchange Commission* and *Gundy v. United States* and the potential impact of those decisions on the practice of administrative law and administration of labor and safety regulations. The commission's general counsel, Nadine Mancini, a fellow colleague on the Administrative Conference of the United States, asked me to deliver the remarks. I have no notes, transcript, or recording. The address of the commission is 1120 20th St., NW, 9th Floor, Washington, DC 20036.

August 14, 2018: Panelist, "What Kind of Judge is Brett Kavanaugh? A Closer Look at His Cases," Heritage Foundation, Washington, DC. A video is available here: https://www.heritage.org/courts/event/what-kind-judge-brett-kavanaugh-closer-look-his-cases.

July 24, 2018: "Kennedy, Kavanaugh, and the Future of National Security Before the Supreme Court," The Lawfare Podcast (Virtual Recording). An audio recording of this podcast discussion is available at https://www.lawfareblog.com/lawfare-podcast-kennedy-kavanaugh-and-future-national-security-supreme-court.

July 6, 2018: Speaker, Eulogy at the funeral of my father The Reverend John N. Miller, LifePoint Church, Reisterstown, Maryland. A copy of a draft sketch of these prepared remarks has been supplied.

July 6, 2018: Lecturer for a Short Educational Video, "Civil Service Reform," Federalist Society, Washington, DC. A video recording of the lecture is available at https://www.youtube.com/watch?v=T2aMAzVn-Ts.

June 2018: Presenter, Third Annual Administrative Law New Scholarship Roundtable, Michigan Law School, Ann Arbor, Michigan. My presentation summarized the research from the constitutional state ratification debates underlying the early stage of my research project titled "The Ratifiers' Theory of Officer Accountability." I have no notes, transcript, or recording, but details about the conference are available here: https://www.yalejreg.com/nc/call-for-papers-for-the-administrative-law-new-scholarship-roundtable/. A copy of the early draft of the research project has been supplied. I did not complete this draft paper, but a version of the early initial partial draft has been supplied, and the project was subsequently briefly reviewed here: https://lsolum.typepad.com/legaltheory/2022/03/mascott-on-the-ratifiers-theory-of-officer-accountability.html. In addition, the early-stage research project was cited in the following U.S. Court of Appeals for the D.C. Circuit concurring opinion: *Buchanan v. Barr*, 71 F. 4th 1003 (D.C. Cir. 2023) (Walker, J., concurring). The address of the University of Michigan Law School is 625 S. State St., Ann Arbor, MI 48109.

May 12, 2018: Speaker, Mother/Daughter Mother's Day Weekend Tea, Fourth Presbyterian Church, Bethesda, Maryland. Copy of remarks supplied. The requested topic for the event was the connection between music and worship.

May 1, 2018: Moderator, "Reforming Administrative Adjudication," Federalist Society (Virtual Teleforum). An audio recording of this teleforum is available at https://fedsoc.org/events/reforming-administrative-adjudication.

April 27, 2018: Panelist, "Presidential Appointment Power," Republican National Lawyers Association's 18th Annual National Policy Conference, National Press Club, Washington, DC. My remarks addressed the constitutional issues in play in the Supreme Court's consideration of the scope of the Article II Appointments Clause in *Lucia v. Securities and Exchange Commission*. I have no notes, transcript, or recording. The address of the Republican National Lawyers Association is Post Office Box 18965, Washington, DC 20036.

April 27, 2018: Panelist, "Are Administrative Law Judges Unconstitutional?," Congressional Civil Justice Academy, hosted on Capitol Hill by George Mason's Law and Economics Center, Rayburn House Office Building, Washington, DC. A video recording and event description are available here: https://masonlec.org/events/are-administrative-law-judges-unconstitutional/.

April 20, 2018: Speaker, Executive Committee Meeting and Monthly Luncheon, Federal Administrative Law Judges Conference, Washington, DC. My remarks addressed the constitutional issues at stake in the Supreme Court's consideration of *Lucia v. Securities and Exchange Commission* and the potential impact of the decision on the practice of administrative law judges. I have no notes, transcript, or recording. The address of the FALJC is 1930 18th St., NW, Suite B2, PMB 2134, Washington, DC 20009.

April 17, 2018: Panelist, "Civil Service Reform," plenary lunchtime panel at the Sixth Annual Executive Branch Review Conference, Federalist Society, The Mayflower, Washington, DC. Video of the panel discussion is available here: https://www.youtube.com/watch?v=KzY0WmcbXwg&list=PLWwcngsYgoUUZY3I8zqkKc0q91K91P63L&index=6.

April 12, 2018: Guest, "Gorsuch's Anniversary," SCOTUS 101 Podcast, Heritage Foundation, Washington, DC. An audio recording of the podcast is available at https://www.heritage.org/courts/commentary/scotus-101-gorsuchs-anniversary.

April 10, 2018: Panelist, "Are Administrative Law Judges Unconstitutional?," Heritage Foundation, Washington, DC. Video of the panel discussion is available here: https://www.heritage.org/crime-and-justice/event/are-administrative-law-judges-unconstitutional.

March 12, 2018: Guest Lecturer, "Who are 'Officers of the United States'?," Constitutional Law Colloquium, University of Illinois College of Law, Champaign,

Illinois. I gave a guest lecture about my corpus linguistics and constitutional historical research on the meaning of the Article II phrase "Officers of the United States." The lecture and discussion session was hosted by Professor Jason Mazzone, at a student colloquium that he taught at the University of Illinois law school. I have no notes, transcript, or recording, but a copy of the article underlying the student lecture has been supplied. The address of the University of Illinois College of Law is 508 E Gregory Dr, Champaign, IL 61820.

March 10, 2018: Interviewer, "A Conversation with Justice Clarence Thomas," 2018 National Student Symposium, Federalist Society, Washington, DC. Video of the discussion is here: https://www.youtube.com/watch?v=p2mID9V_PKw. A Georgetown Law report on the discussion is available here: https://www.law.georgetown.edu/news/georgetown-law-chapter-hosts-federalist-societys-2018-national-student-symposium/.

March 9, 2018: Discussion Leader, "Corpus Linguistics and Constitutional Law Panel," Third Annual Law and Corpus Linguistics Conference, Brigham Young University Law School, Sundance Mountain Resort, Utah. I have no notes, transcript, or recording. My participation consisted of moderating the panel and providing informal commentary on the use of corpus linguistics empirical methodology in interpretation of constitutional terms. The address of the J. Reuben Clark Law School is 341 E. Campus Dr., Provo, UT 84602.

February 26, 2018: Panelist, Teleconference, "Who Are You to Judge? The Supreme Court Revisits the Constitutionality of Agency Adjudication," American Bar Association's Section of Administrative Law & Regulatory Practice (Virtual Teleforum). My remarks addressed the constitutional issues present in the Supreme Court's consideration of agency adjudication and the Appointments Clause in *Lucia v. Securities and Exchange Commission*. I have no notes, transcript, or recording, but a detailed description of the event is here: https://www.americanbar.org/content/dam/aba/administrative/administrative_law/brochure_Constitutional_feb26.authcheckdam.pdf/. The address of the American Bar Association is 1050 Connecticut Ave., NW, Washington, DC 20036.

January 4, 2018: Presenter, "'Office' as Property?," New Voices in Administrative Law, Annual Meeting, Association of American Law Schools, Marriott Marquis San Diego Marina, California. My recollection is that my remarks addressed a very early version of a project on the question whether executive branch offices established in statute by Congress should be conceptualized as granting a property right to the officeholder. I have no notes, transcript, or recording. The address of the Association of American Law Schools is 1614 20th St., NW, Washington, DC 20009.

November 27, 2017: Guest Lecturer, "Who are 'Officers of the United States'?," Constitutional Public Law Colloquium, Northwestern University School of Law, Chicago, Illinois. My guest lecture consisted of a summary of the research in my draft *Stanford Law Review* project on "officers of the United States." A copy of the notes

completed in preparation for the talk as well as the published version of the related article have been supplied. The address of Northwestern University School of Law is 750 N Lake Shore Dr., Chicago, IL 60611.

November 16, 2017: Panelist, Plenary Panel, "Administrative Agencies and the Federal Judiciary," Federalist Society National Lawyers Convention, The Mayflower, Washington, DC. Video of the panel discussion is available here: https://www.youtube.com/watch?v=RKR6SRTzr8g.

October 19–20, 2017: Panelist, "Are ALJs Unconstitutionally Appointed, or Are They Mere Employees?," American Bar Association's Section of Administrative Law & Regulatory Practice, Administrative Law Conference, Capital Hilton, Washington, DC. My remarks addressed courts of appeals and pending Supreme Court consideration of the question whether agency adjudicators are "officers of the United States" subject to constitutional Appointments Clause constraints. I have no notes, transcript, or recording. The address of the American Bar Association is 1050 Connecticut Ave., NW, Washington, DC 20036.

October 19–20, 2017: Panelist, "Now What? Academic Thoughts on Judicial Remedies in Administrative Law," American Bar Association's Section of Administrative Law & Regulatory Practice, Annual Administrative Law Conference, Capital Hilton, Washington, DC. I have no notes, transcript, or recording. My recollection is that my remarks addressed the constitutional questions related to agency adjudication and the application of Appointments Clause constraints to administrative law judges as well as the complexities of remedying constitutional violations in the structure of administrative agencies. The address of the American Bar Association is 1050 Connecticut Ave., NW, Washington, DC 20036.

September 29, 2017: Panelist, "The Year Ahead: Regulation in the Supreme Court and the Circuits," Hoover Institution& The C. Boyden Gray Center for the Study of the Administrative State, at the Hoover Institution in Washington, DC. Details on the event are available here: https://www.hoover.org/events/year-ahead-regulation-supreme-court-and-circuits. Video of the full discussion is available here: https://www.youtube.com/watch?v=themlmyr4WA.

September 25, 2017: Panelist, 2017 Annual Seminar, Federal Administrative Law Judges Conference, Marriott Providence Downtown, Providence, Rhode Island. My remarks addressed the constitutional issues relevant to executive appointment of agency adjudicators and the constitutional questions arising in circuit decisions on the Article II officer status of administrative law judges. I have no notes, transcript, or recording, but more details about the event at which Senator Whitehouse delivered keynote remarks are available here: https://www.faljc.org/wp-content/uploads/2011/12/2017-FALJC_Seminar_Program_2017-9_8_17JGG.pdf. The address of the FALJC is 1930 18th St., NW, Suite B2, PMB 2134, Washington, DC 20009.

September 15, 2017: Presenter, "Equalizing Process," 7th Annual Henry G. Manne Faculty Forum, George Mason University Antonin Scalia Law School, Arlington, Virginia. The early draft project forming the basis for this presentation has been supplied. The address of the George Mason University Antonin Scalia Law School is 3301 Fairfax Dr., Arlington, VA 22201.

June 27–28, 2017: Presenter, "Who are 'Officers of the United States'?," Second Annual Administrative Law New Scholarship Roundtable, The Ohio State University's Moritz College of Law, Columbus, Ohio. I was competitively selected to deliver this presentation on my paper titled "Who are 'Officers of the United States''?" I do not have notes or a recording of the specific remarks for this event, but a copy of the draft remarks on which I generally based all of my presentations of my "officers" research and the final published version of the article have been supplied. Details about the conference are available here: https://www.thefacultylounge.org/2017/02/cfp-.html. The address of the Moritz College of Law is 55 W 12th Ave, Columbus, OH 43210.

June 23, 2017: Presenter, "Who are 'Officers of the United States'?," 2017 Junior Scholars Colloquium, Federalist Society, Annapolis, Maryland. I was competitively selected to deliver this presentation on my paper titled "Who are 'Officers of the United States'?" I do not have notes or a recording of the specific remarks for this event, but a copy of the draft remarks on which I generally based all of my presentations of my "officers" research and the final published version of the article have been supplied. Details about the colloquium are available here: https://fedsoc.org/commentary/fedsoc-blog/call-for-papers-2017-junior-scholars-colloquium. The address of the Federalist Society is 1776 I St., NW Suite 300, Washington, DC 20006.

May 1, 2017: Originalism Center Lecturer, "Who are 'Officers of the United States'?," Center for the Study of Constitutional Originalism, University of San Diego School of Law, San Diego, California. I discussed the originalist interpretive methodology that I applied to interpretation of the Constitution's Appointments Clause in my paper titled "Who Are 'Officers of the United States'?" I do not have notes or a recording of the specific remarks for this event, but a copy of the draft remarks on which I generally based all of my presentations of my "officers" research and the final published version of the related *Stanford Law Review* article have been supplied. The address of the University of San Diego School of Law is 5998 Alcala Park, San Diego, CA 92110.

April 2017: Presenter, "Who are 'Officers of the United States'?," Faculty Lunch Series, The George Washington University Law School, Washington, DC. I discussed the originalist interpretive methodology that I applied to interpretation of the Constitution's Appointments Clause in my paper titled "Who Are 'Officers of the United States'?" I do not have notes or a recording of the specific remarks for this event, but a copy of the draft remarks on which I generally based all of my presentations of my "officers" research and the final published version of the related *Stanford Law Review* article have been supplied. The address of George Washington University Law School is 2000 H St., NW, Washington, DC 20052.

April 21, 2017: Panelist, Public Policy Conference: "Rethinking Due Process," Center for the Study of the Administrative State, George Mason University Antonin Scalia Law School, Arlington, Virginia. My recollection is that my remarks addressed constitutional issues related to accountability and procedural rights in agency adjudication. I do not possess notes, a transcript, or a recording, but the remarks reflected the research and legal analysis in my publication "Constitutionally Conforming Agency Adjudication" which has been supplied to the committee. A schedule for the event is available at https://administrativestate.gmu.edu/event/rethinking-due-process/. The address of the George Mason University Antonin Scalia Law School is 3301 Fairfax Dr., Arlington, VA 22201.

April 12, 2017: Co-Speaker, Annual Women's Retreat, Fourth Presbyterian Church based in Bethesda, Maryland. Copy of remarks supplied.

February 3, 2017: Presenter, "The Dictionary as a Specialized Corpus," Law & Corpus Linguistics Symposium, *Brigham Young University Law Review*, J. Reuben Clark Law School, Provo, UT. I presented a brief lecture on my paper titled "The Dictionary as a Specialized Corpus," which makes the case for treating a dictionary as a specialized database, or corpus, to provide additional understanding of a term by looking at the term's usage in defining other words. I do not have notes, a transcript, or a recording of this particular talk, but my remarks summarized the research and legal analysis in my publication "The Dictionary as a Specialized Corpus" which has been supplied to the committee. The address of the J. Reuben Clark Law School is 341 E. Campus Dr., Provo, UT 84602.

January 5, 2017: Paper Presenter, "Who are 'Officers of the United States'?," Works in Progress Panel, 19th Annual Faculty Conference, Federalist Society, San Francisco, California. This event occurred alongside the annual Association of American Law Schools convention which was also held in San Francisco in 2017. I do not have notes or a recording of the specific remarks for this event, but a copy of the draft remarks on which I generally based all of my presentations of my "officers" research and the final published version of the related *Stanford Law Review* article have been supplied. The purpose of the panel was to receive comments from more senior scholars before completing the final draft of the relevant academic project. The address of the Federalist Society is 1776 I St., NW Suite 300, Washington, DC 20006.

June 2016: Guest Commentator, "Supreme Court Decision in *Sheriff v. Gillie*," SCOTUScast, Federalist Society, Online Recording. The audio recording of these remarks is available here: https://fedsoc.org/commentary/podcasts/sheriff-v-gillie-post-decision-scotuscast.

Finally, following is a list of several guest lectures that I recall delivering, but to my knowledge I no longer have detailed records of the exact date or year of their delivery. This is the case in only several instances. Mostly the recollection has faded because I would have been at a different institution than the university at which I am currently a

faculty member and no longer have ready access to relevant email records about the dates and times of these presentations.

Guest Lecturer, Professor Lawrence Solum's Law Student Seminar on Constitutional Interpretation, Hotung Building, Georgetown University Law Center. I have no notes, transcript, or recording, but as I recall the remarks regarded the substantive content and interpretive methodology of my 2018 *Stanford Law Review* project on the constitutional phrase "Officers of the United States."

Legal Academic Fellows Programs: In addition, from 2015 to 2017, I presented draft papers and provided commentaries on other projects as part of two academic fellows programs. In a seminar led by Georgetown University Law Center Professor Robin West, I presented both a very early stage of my *Stanford Law Review* (*SLR*) article on constitutional "officers" as well as an early project on presidential power to remove executive branch officials that I did not end up turning into a published law review article. Both the published *SLR* article and an early draft of the removal project have been supplied. But the removal project was never published nor posted on the Social Science Research Network as I recall. The second fellowship was for Olin/Searle Fellows and related affiliates conducted through the Federalist Society's academic division. Both fellowship workshop series were intended to give individuals pursuing teaching careers as tenured academics an opportunity to critique and help develop each other's work. The sessions were not public speaking sessions, but for completeness in answering the committee's question, I list here the fact of my participation in these two fellowships on a regular basis from 2015 through 2017.

Local Church Bible Study Volunteer Co-Lecturer: Finally, from 2014 to 2017, I participated as a co-instructor in a Bible study at Fourth Presbyterian Church, Bethesda, MD, the congregation where my husband and I were longtime members. The occasional lectures that I delivered typically were approximately 20 minutes in length, and they were based on the Bible Study curriculum materials that the group was studying. The teaching team consisted of several individuals including formerly of legal practice and academia affiliated with institutions like Hood College and Yale Law alum who are fellow church members. I have supplied recordings of the lectures that I delivered that the church had retained and provided upon my request. The address of the church is 5500 River Rd., Bethesda, MD 20817.

e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and copies of the clips or transcripts of these interviews where they are available to you.

Through searches of publicly available databases by persons acting on my behalf, we have found the following records of media interviews I conducted and in some cases media reports on public statements or testimony I delivered.

Clean Air Act Jurisdiction Petitions By States, Companies Granted By High Court, Mealey's News Service, Oct. 21, 2024. I did not speak with the publication for this story

on an amicus brief filed by the Separation of Powers Clinic. Copy supplied.

New evidence unsealed in Trump election case, Fox News Live Now, Oct. 19, 2024. Available at https://www.livenowfox.com/video/1534688.

Bill Mears, *SCOTUS kicks off historic term under scrutiny amid ethics code debate*, Fox News Online Article, Oct. 7, 2024. Available at https://www.foxnews.com/politics/scotus-kicks-off-historic-term-scrutiny-ethics-code-debate.

Adam Liptak, *Bruised Supreme Court Returns to Bench With Possible Election Case Looming*, New York Times, Oct. 6, 2024. Copy supplied.

Rebecca Beitsch, *Senators battle over fallout of Supreme Court Trump immunity decision*, The Hill, Sept. 24, 2024. I do not recall speaking directly with this reporter, but it references my Senate Judiciary Committee testimony on the Supreme Court's presidential immunity decision. Copy supplied.

Ashley Murray (States Newsroom), *Trump immunity decision splits U.S. Senate panel along partisan lines*, Nebraska Examiner, Sept. 24, 2024. I do not recall speaking with this reporter, but the article contains statements based on my public testimony at a Senate Judiciary subcommittee hearing. Copy supplied. The article might also have appeared in other outlets.

Katie Buehler, *How Barrett Became the High Court's Justice to Watch*, Law360, July 26, 2024. Copy supplied.

Matthew Vadum, *Panel: Recent Supreme Court decisions mean more work for lawyers, judges*, The Signal, Santa Clarita Valley, July 11, 2024. I do not recall speaking directly with this reporter, but the article reports on remarks that I delivered at a public event. Copy supplied.

Brianna Herlihy, *Amy Coney Barrett asserts her voice, carries on Scalia legacy*, Fox News Online Article, July 10, 2024. Copy supplied.

Lawrence Hurley and Gary Grumbach, *Liberal justices raise alarm about Supreme Court's weakening of federal agency power*, NBCnews.com, July 5, 2024. Copy supplied.

John Kruzel, *US Supreme Court's divisions deepened in term capped by Trump immunity ruling,* Reuters, July 3, 2024. Copy supplied.

Top Story with Tom Llamas, NBC News, July 1, 2024. Available at https://www.youtube.com/watch?v=mWRVK6EK_rY.

NBC News Special Report, NBC News, July 1, 2024. "Supreme Court rules in Trump

immunity case." Available at https://www.youtube.com/live/QndP4BfkkFc.

Josh Gerstein, *Amy Coney Barrett may be poised to split conservatives on the Supreme Court*, Politico, June 19, 2024. Copy supplied.

"Let's Talk" Podcast, 13th & Park, May 30, 2024. Available at https://www.youtube.com/watch?v=v8myg6PMaH8.

John Kruzel, *Despite consumer watchdog's US Supreme Court win, agency powers still on chopping block*, Reuters, May 17, 2024. Copy supplied.

Katie Buehler, *Thomas, Alito: Two Originalists, Two Takes on CFPB Case*, Law360, May 16, 2024. Copy supplied.

Andrea Mitchell Reports, with Andrea Mitchell, Chris Jansing, and Katy Tur, *"Extraordinary set" of arguments: Supreme Court weighs future role of the president*, MSNBC, Apr. 25, 2024. Available at https://www.msnbc.com/chris-jansing-reports/watch/-extraordinary-set-of-arguments-supreme-court-weighs-future-role-of-the-president-209711173526.

The Jeff Mascott Commons—Inspired by Shared Values, Landon Magazine, Apr. 9, 2024. Copy supplied.

Jeff Overley, *Are Justices Split 3-3-3? New Term Is Already Offering Clues*, Law360, Oct. 27, 2023. Copy supplied.

Zach Schonfeld, *Supreme Court's new term to take on federal agency powers in earnest*, The Hill, Oct. 3, 2023. Copy supplied.

Melissa Quinn, *Supreme Court begins new term with battles over agency power, guns and online speech*, CBS News, Oct. 2, 2023. I do not recall giving an interview for the story, but the quote is from remarks I gave at a public event open to the press. Copy supplied.

Lawrence Hurley, *Trump's war on federal agencies—fueled by his judges—reaches the Supreme Court*, NBCnews.com, Oct. 1, 2023. Copy supplied.

Jess Bravin, *Supreme Court in New Term Looks at Curbing Power of Federal Agencies*, Wall Street Journal, Sept. 30, 2023. Copy supplied.

Jeff Overley, *Administrative State' Attacks Soar to High Court Crescendo*, Law360, Sept. 29, 2023. Copy supplied.

Peter McGuire, *Pro-Business Interests Press Justices to End* Chevron, Law360, July 24, 2023. I did not speak with the reporter, but the story discusses a Supreme Court amicus brief filed by the Separation of Powers Clinic on behalf of Senator Cruz and other

lawmakers. Copy supplied.

Katryna Perera, *Ex-SEC Officials Tell 5th Circ. To Vacate SEC Buyback Rule*, Law360, July 19, 2023. I did not speak to the reporter, but the story references a Fifth Circuit amicus brief filed by the Separation of Powers clinic. Copy supplied.

Katie Buehler, *Senate Panel Mulls High Court Recusal Requirements*, Law360, June 14, 2023. Copy supplied. I do not recall speaking to the reporter specifically for this story, but the article discusses public testimony I provided to a Senate Judiciary subcommittee.

In little more than a year, Supreme Court conservatives reverse decades of cherished decisions, The Associated Press, July 3, 2023. Copy supplied.

Supreme Court's Affirmative Action Decision, This Week with Jonathan Karl, ABC News, July 2, 2023. Available at https://www.youtube.com/watch?v=YWQyMbWnwhE.

Mark Sherman, *In 370 days, Supreme Court conservatives dash decades of abortion and affirmative action precedents*, Associated Press, July 1, 2023. Copy supplied. Reported in multiple outlets.

Supreme Court Strikes Down Biden Loan Forgiveness Plan, MSNBC Reports with Andrea Mitchell, June 30, 2023. Available at https://www.youtube.com/watch?v=J5ErmC6irVc.

Supreme Court Rules in Favor of Web Designer Who Won't Create Same-Sex Wedding Sites, NBC News Special Report with Savannah Guthrie, June 30, 2023. Available at https://www.youtube.com/watch?v=8JNpEVEUHBI.

Supreme Court Rules Against Affirmative Action in College Admissions, MSNBC Reports with Alex Witt, June 29, 2023. Available at https://www.youtube.com/watch?v=oDjb_bm87P0.

Supreme Court Rules Against Affirmative Action in College Admissions, MSNBC Reports with Andrea Mitchell, June 29, 2023. Available at https://www.youtube.com/watch?v=wOUDDmTaDfg.

Supreme Court Severely Limits Affirmative Action in College and University Admissions, NBC News Special Report with Savannah Guthrie, June 29, 2023. Available at https://www.youtube.com/watch?v=p6m93v3UdY8.

Ufonobong Umanah, *Tough Path for Challenge to FCC Broadband Fee Revenue*, Bloomberg Law, June 20, 2023. Copy supplied.

Zach Klein, *Senate Hearing Maintains Focus on SCOTUS Ethics*, Fix the Court Blog, June 14, 2023. I did not speak with the reporter, but the piece is based on public remarks that I delivered at a Senate Judiciary subcommittee hearing. Copy supplied.

Ashley Murray (States Newsroom), *Tougher ethics rules for U.S. Supreme Court justices advocated in Senate hearing*, Kansas Reflector, June 14, 2023. I do not recall speaking with this reporter, but the article contains statements based on my public testimony at a Senate Judiciary subcommittee hearing. Copy supplied. Reported in multiple outlets.

Meet the Press with Chuck Todd, NBC News, May 28, 2023. Available at https://www.youtube.com/watch?v=LPuk_jR86zw.

Alison Knezevich, *C. Boyden Gray, Ex-Bush Administration Counsel*, Dies, Law360, May 22, 2023. Copy supplied.

Bobby Magill, *Bears Ears Monument Violates Separation of Powers, Scholars Say*, Bloomberg Law, Apr. 25, 2023. Copy supplied.
2023 Joseph Story Award Winner, Federalist Society Video Production and Interview, Apr. 1, 2023. Available at https://www.youtube.com/watch?v=cU3xnzz0ShM.

Brianna Herlihy, *Former attorney in Barr's DOJ wins award for work used to fight Biden's executive overreach*, Fox News Online, Mar. 5, 2023. Copy supplied.
Aaron L. Nielson, *Jennifer Mascott Receives the Federalist Society's Joseph Story Award*, Mar. 5, 2023. Copy supplied.

George F. Will, *Why Americans need protection from the Consumer Financial Protection Bureau*, The Washington Post, Feb. 15, 2023. My co-director of the C. Boyden Gray Center is quoted and referenced in this column. I did not give an interview related to this column, but my recollection is that I spoke with Mr. Will to verify several facts either for this column or another column related to administrative law sometime during 2023-2024. I no longer have access to records of the conversation or the precise column that the email exchange regarded. Copy supplied.

John Fritze, *Biden's ability to bypass Congress, starting with student debt relief, faces "major" legal hurdle*, USA Today, Nov. 18, 2022. Copy supplied.

Eli Nachmany, *Walmart Threads the Needle on Separation-of-Powers Remedies*, The Regulatory Review, Oct. 3, 2022. Copy supplied.

Greg Stohr, *Constitutional Accountability Center: Scalia Legacy Lives On in Supreme Court Abortion, Gun Cases*, Constitution Accountability Center, Aug. 6, 2022. Copy supplied. Reported in multiple outlets.

Jessica Gresko, *Supreme Court Justice Clarence Thomas has a lot to celebrate*, Associated Press, June 30, 2022. Copy supplied. Reported in multiple outlets.

Andrea Mitchell Reports, MSNBC, June 27, 2022. Transcript supplied. My recollection is that I provided interviews for several episodes of Andrea Mitchell Reports during late June and early June 2022, but I do not have records of any other particular appearance other than this episode.

Lawrence Hurley, *Supreme Court conservatives assert power with abortion, gun rulings*, Reuters, Jun. 27, 2022. Available at https://www.reuters.com/world/us/conservative-us-justices-show-maximalism-guns-abortion-2022-06-25/.
Conservative-leaning Supreme Court returns abortion rights to the states, Fox News Live, June 26, 2022. Available at https://www.foxnews.com/video/6308533383112.

Weekend Today Show, NBC News, June 25, 2022. Available at https://www.today.com/video/former-law-clerk-to-justice-thomas-kavanaugh-speaks-on-abortion-ruling-142822469994.

Andrew Chung, *Abortion ruling imperils gay marriage, other freedoms, liberal justices say*, Reuters, June 24, 2022. Copy supplied. Reported in multiple news outlets.
Supreme Court Overturns Roe v. Wade, NBC News Special Report with Lester Holt, June 24, 2022. Available at https://video.snapstream.net/Play/1al4BV0DDc3koIba7q6C3b?accessToken=blkwzbrdrtgte.

Justice Samuel Alito, the architect of overturning Roe v. Wade*, told senators he viewed the abortion rights landmark as "important precedent." Now he says "stare decisis" doesn't protect it*, Business Insider, June 24, 2022. Copy supplied.

Supreme Court Strikes Down New York's Handgun Law in 6-3 Ruling, Laura Jarrett, Early Start with John Berman and Zoraida Sambolin, CNN, June 24, 2022. Available at https://x.com/EarlyStart/status/1540274259834146816.

John Fritze, *How the Supreme Court's major climate case could change the course of Biden's presidency*, USA Today, June 11, 2022. Copy supplied.

Lydia Beyoud, *The SEC's Power to Police Markets Is Under Attack in Court*, Bloomberg, May 27, 2022. Copy supplied.

Tim Ryan, *5th Circ. SEC Decision Could Affect NLRB Judges*, Law360, May 25, 2022. Copy supplied.

Cara Bayles, *Could the* Dobbs *Leak Change Supreme Court Clerkships?*, Law360, May 11, 2022. Copy supplied.

Meet the Press with Chuck Todd, NBC News, May 8, 2022. Available at https://www.youtube.com/watch?v=Uqwah41Ae6Q.
Jimmy Hoover, *Chief Justice Co-Signs Kagan's Rebuke of Shadow Docket*, Law360, Apr. 6, 2022. Copy supplied.

George Cahlink & Pamela King, *Republicans weigh endgame on Supreme Court nominee*, E&E News, Mar. 25, 2022. I do not recall talking to these reporters for this story, but the article quotes from public statements I delivered at a Senate Judiciary full committee hearing. Copy supplied.

Max Jaeger, *Sens. Cruz, Lee Brief High Court in Vet's Disability Denial Row*, Law360, Mar. 8, 2022. Copy supplied.

Madeleine Carlisle, *The Supreme Court Could Soon Decide When a Federal Officer Can Be Sued*, Time, Mar. 1, 2022. Copy supplied.

Kimberly Strawbridge Robinson and Courtney Rozen, *Supreme Court Vaccine Decision Signals Trouble for Climate Rule*, Bloomberg Law, Jan. 14, 2022. Copy supplied.

Kate Riga, *Vaccine Mandate Cases May Hold Clues About Whether Supreme Court Intends to Drastically Constrain Biden's Power*, Talking Points Memo, Jan. 6, 2022. Copy supplied.
Elizabeth Slattery, *No, Congress should not codify "*Chevron*" deference*, The Hill, Dec. 20, 2021. Copy supplied.

Kimberly Strawbridge Robinson, *Thomas Keeps Asking Questions as Justices Return to Courtroom,* Bloomberg Law, Oct. 5, 2021. Copy supplied.
With Norms "Largely Broken Down," Senators Want Courts to Resolve Executive Privilege Fights, National Law Journal (Online) and Law.com, Aug. 3, 2021. I did not speak with the journal about this article, but it references public statements I delivered in Senate Judiciary subcommittee testimony. Copy supplied.

Chris Villani, *DeVos Sex Assault Rule Largely Upheld by Mass. Judge*, Law360, July 29, 2021. I do not recall speaking with this reporter, but the article addressed a case for which I argued a summary judgment motion while working at the U.S. Department of Justice in 2020. Copy supplied.

Lydia Wheeler, Chevron *Deference Scope Tested in Supreme Court Medicare Case*, Bloomberg Law, May 21, 2021. Copy supplied.

Law.com Bench Report Briefing: Why Are Double Clerkships Dominating?, The American Lawyer/Law.com (Online), May 10, 2021. Copy supplied.

Why Rehnquist Sided With Larry Flynt/Kelsi Corkran Snags Georgetown Law Post/"Golden Age of Originalism"/Headlines: Catch Up With Noel Francisco, The National Law Journal/Supreme Court Brief (Online), Feb. 17, 2021. Copy supplied.

Chris Villani, *Judge Says DeVos' Sex Assault Rule May Bar Too Much Proof*, Law360, Nov. 12, 2020. Copy supplied. I did not provide an interview for this story, but it reports on oral argument I provided on behalf of the government.

Nicholas Casey, *Passed By for Decades, Clarence Thomas Is a New Symbol of the Trump Era*, New York Times, May 18, 2020. Copy supplied.

Jack Beermann, *The Future of Administrative Law Judge Selection*, The Regulatory

Review published by the Penn Program on Regulation, Oct. 29, 2019. Copy supplied.
Ingraham Angle, Fox News, October 4, 2018. Transcript supplied. Available at https://www.youtube.com/watch?v=wle62HbO4oY.

Stand By Your Man, The American Law/Law.com (Online), Sept. 25, 2018. Copy supplied.
Ingraham Angle, Fox News Network, September 24, 2018. Transcript supplied.

Alex Witt on MSNBC, Sept. 22, 2018. Interview on the Kavanaugh confirmation process. I have not been able to locate a video or transcript of this interview.

Fox and Friends First, Fox News, Sept. 21, 2018. Available at https://www.youtube.com/watch?v=PuYbsMHL8-M.

PBS NewsHour, PBS, Sept. 20, 2018. Available at https://www.youtube.com/watch?v=iorAzmudvU0.

Velshi on MSNBC, Sept. 18, 2018. Available at https://www.msnbc.com/ali-velshi/watch/jennifer-mascott-former-law-clerk-to-kavanaugh-defends-his-character-1323540035658.

Fox News @ Night, Fox News, Sept. 18, 2018. Transcript supplied.

Kavanaugh & His Accuser Invited to Testify Before Senate Committee Next Monday, America's Newsroom, Fox News, Sept. 18, 2018. Available at https://x.com/americanewsroom/status/1042038357352697858.

Ingraham Angle, Fox News Network, Sept. 17, 2018. Interview on the Justice Kavanaugh confirmation process discussing his background and my time working for him as a law clerk. I have been unable to locate a video of this interview.

BYU Law, "BYU Law Launches First Legal Corpus Linguistics Technology Platform," PR Newswire, Sept. 17, 2018. Copy supplied.

Jessie Kokrda Kamens, *Appellate Stars Shine on Kavanaugh Day 4; Debate Rages Outside*, Bloomberg Law, Sept. 7, 2018. I do not recall speaking to this reporter, but the story references public testimony that I provided to the full Senate Judiciary Committee. Copy supplied.

Late Night with Shannon Bream, Fox News Network, on either Sept. 5 or 6, 2018. I do not have a transcript or recording of this interview.

The Praise Keeps Coming for All-Star Judge Kavanaugh, States News Service, July 18, 2018. Copy Supplied.

Washington: Judge Kavanaugh Clerks Laud Nomination to Supreme Court, Impact News

Service, July 13, 2018. Copy Supplied.

United States: The Legal Community is Giving Rave Reviews to Judge Brett Kavanaugh's Nomination to the Supreme Court, Thai News Service, July 13, 2018. Copy supplied. Reported in multiple outlets.

Fox News @ Night, Fox News Network, July 13, 2018. Transcript supplied.

Ron Brownstein, *Brett Kavanaugh Is the Antidote to Corporate America's Worries About Trump*, The Atlantic, July 12, 2018. Copy supplied.

Dave Simpson, *18 of Kavanaugh's Female Clerks Support High Court Pick*, Law360, July 12, 2018. Copy supplied.

Kavanaugh's Female Clerks Tout His Advocacy for Female Lawyers, The American Lawyer, July 12, 2018. Copy supplied. This article also appeared in Law.com (Online) and The National Law Journal.

Rachel Graf, *Kavanaugh Clings To Text And Traditions In Many Dissents*, Law360, July 12, 2018. Copy supplied.

He Gets Back to Us Right Away, EWTN News Nightly, July 11, 2018. Available at https://www.youtube.com/watch?v=e_whtvKv7VY.

Melissa Heelan Stanzione, "Kavanaugh Bats For, Runs With His Clerks," Bloomberg Law, July 11, 2018. Copy supplied.

Mark Sherman, *Kavanaugh's professional life spent in GOP legal circles*, Associated Press, July 10, 2018. Copy supplied.

New Day, CNN, July 10, 2018. Available at https://www.youtube.com/watch?v=EtiuMRVtvIs.
With J.D. Vance. Tucker Carlson Tonight, July 10, 2018 (Martha McCallum filling in for Tucker Carlson). Transcript supplied.

Supreme Court nominee Brett Kavanaugh "sticks to the law," former clerk says, CBSN Online Story, July 10, 2018. Copy supplied.

CBSN Broadcast Interview, July 10, 2018. Available at https://www.cbsnews.com/news/supreme-court-nominee-brett-kavanaugh-sticks-to-the-law-former-clerk-says/.

Social conservatives appear split over Kavanaugh pick, Outnumbered Overtime with Harris Faulkner, Fox News Network, July 10, 2018. Available at https://www.foxnews.com/video/5807625058001.

How family man Brett Kavanaugh is considered a reliable conservative who could weaken abortion rights and increase support for capital punishment, Mail Online, July 10, 2018. Copy Supplied.

Jacob Gershman, *Brett Kavanaugh Has Shown Deep Skepticism of Regulatory State; As an appellate judge in Washington, President Trump's Supreme Court pick is known for ruling against regulators he sees as having overstepped their bounds – Correction Appended*, The Wall Street Journal Online, July 10, 2018. Copy Supplied.

Kavanaugh Doesn't "Search for an Easy Answer," Former Clerks Tell Senate, The American Lawyer, July 10, 2018. This article also appeared in Law.com (Online), The National Law Journal, and Supreme Court Brief.

WMAL Radio Interview, July 9, 2018. Description available at https://www.wmal.com/2018/07/09/listen-george-mason-university-law-professor-jennifer-mascott-on-judge-brett-kavanaughs-potential-to-be-potus-nominee-he-has-one-of-the-sharpest-legal-minds-in-the-country/.

David B. Rivkin Jr. & Andrew M. Grossman, *A Champion of Constitutional Safeguards*, Wall Street Journal, July 9, 2018. Copy supplied.

Richard J. Wolf, *Brett Kavanaugh: Supreme Court nominee straight out of central casting*, USA Today, July 9, 2018. Copy supplied. This article appeared in multiple news outlets.

Interview with Melissa Francis, "Former clerk: What you see is what you get with Kavanaugh," Fox News Channel, July 5, 2018. Available at https://www.foxnews.com/video/5805782272001.

"Army" of Lawyers on Standby to Back Kavanaugh, The American Lawyer/Litigation Daily (Online), July 2, 2018. Copy supplied.

The Federalist Paper, Summer 2018, The Federalist Society, July 1, 2018. Copy Supplied.

From July through October 2018, I provided a number of interviews to broadcast and radio outlets and to print reporters about the Kavanaugh confirmation process. I have listed here each of the specific interviews, articles, and appearances of which I have records. But my recollection is that I also interviewed on several occasions on Late Night with Shannon Bream on the Fox News Network, I conducted occasional interviews with local Washington, DC television networks, I conducted several public radio networks, and I participated in a brief interview about Judge Kavanaugh aired on C-Span in addition to the appearances detailed here of which I have publicly available records. There might also be other interviews from that time of which I have no specific recollection, but the comments I provided in each interview are generally consistent with the dozens of media appearances and interviews specifically listed here.

Gordon Govier, *InterVarsity Alumni—Jeff and Jenn Mascott*, InterVarsity News Report. I do not recall the date of the interview for this piece, but I believe it occurred in approximately 2012. Copy supplied.

Laura Ewald, *The Making of a Mentor: Through student interactions and scholarly pursuits, Amanda Tyler is fast becoming a model member of the faculty*, GW Law Magazine, Fall 2005. Available at https://www2.gwu.edu/~magazine/archive/2005_law_fall/docs/feat_tyler.html.

Scheri Smith, *Official wants road in southeast widened; Councilman Peden worried*, The Courier-Journal (Louisville, Kentucky), May 7, 2003. Copy supplied.

Michael A. Lindenberger and Deborah Highland, *Bush releases $200 million for heating aid; Official says state's share of the emergency funding will only last about two weeks*, The Courier-Journal (Louisville, Kentucky), January 25, 2003. Copy supplied.

Matt Batcheldor, *Prospects for noise barriers doubtful; Kentucky, U.S. blame each other for inaction*, The Courier-Journal (Louisville, Kentucky), January 2, 2003. Copy supplied.

Kentucky: Northrup retains 3rd District, United Press International (Louisville, Kentucky), November 5, 2002. Copy supplied.

Northup staff expects Bush visit to Louisville, The Courier-Journal (Louisville, Kentucky), August 21, 2002. Copy supplied.

Carroll James, *Congress boosts local defense work; Budget could give more orders to United Defense, Raytheon*, The Courier-Journal (Louisville, Kentucky), July 18, 2002. Copy supplied.

Marcus Green, *Rally joins workers from U.S., Mexico; Expanded free trade yields job loss north of border, abuses south, speakers say*, The Courier-Journal (Louisville, Kentucky), June 8, 2002. Copy supplied.

Tyler Whitley, *U.S. Funds Asked for Terror Response*, Richmond Times Dispatch (Richmond, Virginia), February 22, 2002. Copy supplied.

In addition to the interviews listed above, I have also spoken to reporters on background as appropriate or as directed.

13. **Judicial Office**: State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I have not held judicial office.

a. Approximately how many cases have you presided over that have gone to verdict or judgment?

i. Of these cases, approximately what percent were:

jury trials: ___%
bench trials: ___%

ii. Of these cases, approximately what percent were:

civil proceedings: ___%
criminal proceedings: ___%

b. Provide citations for all opinions you have written, including concurrences and dissents.

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature of the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (4) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

e. Provide a list of all cases in which certiorari was requested or granted.

f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not previously served in a judicial capacity.

a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;

b. a brief description of the asserted conflict of interest or other ground for recusal;

c. the procedure you followed in determining whether or not to recuse yourself;

d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

15. **Public Office, Political Activities and Affiliations:**

a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

Public Member, Administrative Conference of the United States, 2018 – 2019, 2021 – 2025. Appointed by Mathew Weiner, Acting Chair of the Conference.

Associate Deputy Attorney General, United States Department of Justice, May 2020 – January 2021. Appointed by former Attorney General Bill Barr.

Deputy Assistant Attorney General, Office of Legal Counsel, United States Department of Justice, April 2019 – May 2020, November 2020 – January 2021. Appointed by former Attorney General Bill Barr.

I have never been a candidate for public elective office.

b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I have never held a position or played a role in a political party or election committee, nor in any political campaign.

16. **Legal Career:** Answer each part separately.

a. Describe chronologically your law practice and legal experience after graduation from law school including:

i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

From 2006 to 2007, I served as a law clerk to the Honorable Brett M. Kavanaugh, U.S. Court of Appeals for the D.C. Circuit.

From 2007 to 2008, I served as a law clerk to the Honorable Clarence Thomas, Supreme Court of the United States.

ii. whether you practiced alone, and if so, the addresses and dates;

I have never practiced law alone.

iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each;

Please note that some of these experiences, while consisting of the provision of legal academic instruction, occurred before I took the Maryland and Virginia bar exams.

2011 – 2017
The George Washington University Law School
2000 H Street, NW
Washington, DC 20052
Olin/Searle Fellow (August 2016 – July 2017)
Professorial Lecturer in Law (January – May 2011, January – July 2012, September 2012 – May 2013, January – May 2015)

2014 – 2017
Antonin Scalia Law School
George Mason University
3301 Fairfax Drive
Arlington, Virginia 22201
Assistant Professor of Law (August 2017 – May 2024; term position, August 2017 – August 2018; tenure track starting August 2018) (on leave from April 2019 – January 2021)

Faculty Director & Founder, Separation of Powers Student Litigation Clinic (December 2021 – June 2024)
Faculty Director, Administrative Law & Supreme Court Clinics (August 2017 – August 2018)

2015 – 2017
Georgetown University Law Center
600 New Jersey Avenue, NW
Washington, DC 20001
Olin/Searle Fellow

2017 – 2019
Consovoy McCarthy PLLC
1600 Wilson Boulevard, Suite 700
Arlington, Virginia 22209
Of Counsel

2018 – 2019, 2021 – 2025
Administrative Conference of the United States
1120 20th Street, NW
Suite 706 South
Washington, DC 20036
Public Member

2019 – 2021
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Associate Deputy Attorney General (May 2020 – January 2021)
Deputy Assistant Attorney General, Office of Legal Counsel (April 2019 – May 2020, November 2020 – January 2021)

2021 – 2024
C. Boyden Gray Center for the Study of the Administrative State
Antonin Scalia Law School
George Mason University
3301 Fairfax Drive
Arlington, Virginia 22201
Co-Executive Director

2024 – Present
Catholic Law School
3600 John McCormack Road, NE
Washington, DC 20064

Associate Professor of Law (tenure effect August 24; on leave from January 2025 – present)
Founder & Director, Separation of Powers Student Litigation Clinic (June 2024 – March 2025)

2024 – 2025
Trump Vance Transition 47
Worked remotely from the Washington, D.C. area
Volunteer

2025 – Present
White House Counsel's Office
Eisenhower Executive Office Building
1650 Pennsylvania Avenue, NW
Washington, DC 20504
Senior Counsel

iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have never served as a mediator or arbitrator in alternative dispute resolution proceedings.

b. Describe:

i. the general character of your law practice and indicate by date when its character has changed over the years.

As a law clerk from between 2006-2007 and again from 2008-2009, I helped prepare my judges for oral argument and assisted them in drafting opinions. As a clerk for Justice Thomas, I reviewed petitions for certiorari and provided written advice to the full Court about whether petitions should be granted.

In 2011, I became a professional lecturer at George Washington University Law School. For most of my career since then, I have taught courses on legal topics like administrative law, civil procedure, federal courts, and the separation of powers at George Washington University Law School, the Antonin Scalia Law School, and Catholic Law School. I have also taught numerous clinics and filed many amicus briefs at the United States Supreme Court and other federal courts.

I was Of Counsel at the law firm Consovoy McCarthy PLLC from 2017 to 2019. In addition to my academic law professor and intermittent of counsel responsibilities during this time period, I also provided significant volunteer assistance as part of the confirmation process for Justice Brett Kavanaugh.

I served in the Department of Justice from 2019 to 2021 as Deputy Assistant Attorney General for the Office of Legal Counsel and Associate Deputy Attorney General. At the Office of Legal Counsel, I provided legal advice to the Attorney General, the White House Counsel, and other executive branch officials on a wide range of legal issues. By statute, the Attorney General is tasked with giving "advice and opinion on questions of law when required by the President," 28 U.S.C. § 511, and providing "opinion[s] . . . on questions of law" that "aris[e] in the administration of [an executive] department." when asked for such opinions by the "head of an executive department," *id.* § 512. The Attorney General has a similar responsibility for military departments. *See id.* § 513. Department of Justice regulations give OLC responsibility for assisting the Attorney General in carrying out these duties. In this role, OLC is responsible for adjudicating legal questions posed within the Executive Branch. During my time with the Deputy Attorney General, I principally worked on matters related to the Federal Programs Branch and appellate department of the Civil Division, regulatory reform, immigration adjudication, and joint DOJ-Department of Homeland Security regulations related to border security. In addition, I helped in several minor capacities on a volunteer basis with the confirmation process for Justice Amy Coney Barrett. I also argued three cases on behalf of the government.

Afterwards, I returned to teaching before joining the White House Counsel's Office as Senior Counsel in 2025.

ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

At the Department of Justice, my clients included the United States government, its agencies, and its officials. At the Office of Legal Counsel, the memoranda I wrote were generally addressed to the general counsels of other executive branch agencies. In my personal capacity and my capacity as a professor filing amicus briefs, my pro bono clients have included academic clinics, United States Senators and Representatives, and private parties. I have specialized in administrative law with a particular emphasis in the Appointments Clause and the constitutional separation of powers.

c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

i. Indicate the percentage of your practice in:

1.	federal courts:	100%
2.	state courts of record:	__%
3.	other courts:	__%
4.	administrative agencies:	__%

ii. Indicate the percentage of your practice in:

1. civil proceedings: 95%
2. criminal proceedings: 5%

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

As an academic and attorney whose practice has focused primarily on appellate law, I have not served as chief counsel in a case tried to verdict or judgment.

i. What percentage of these trials were:
   1. jury: ___%
   2. non-jury: ___%

e. Describe your practice, if any, before the Supreme Court of the United States. Supply copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

As the Founder and Faculty Supervisor of two student litigation clinics related to separation of powers appellate issues, I oversaw the filing of dozens of briefs on constitutional and statutory interpretation issues in the U.S. Supreme Court and federal circuit courts. Almost all of those briefs were in an amicus capacity. Typically, I and the Clinic Director, R. Trent McCotter, filed the briefs for the clinic as a client or on behalf of other (pro bono) clients such as Members of Congress or Senators. On a handful of occasions, I filed a brief in an academic capacity serving as a sole law professor amicus.

In the instances where I filed a brief serving as the amicus in my academic capacity, I treated the brief as reflecting my personal academic understanding of the relevant legal question before the Court. In contrast, where a brief was filed on behalf of a clinic client, I treated the arguments as reflecting the client's position. But I approved clinic filings only on matters in which the case involved a separation of powers or legal interpretation question that merited student involvement and time and that reflected an important question before the Court. In such cases, not necessarily every argument in the briefs aligned with my personal academic position on the constitutional or statutory question at hand. During my time overseeing the new clinic at Catholic Law School, the clinic filed briefs only in the federal circuit courts and not the U.S. Supreme Court. The briefs filed in the U.S. Supreme Court for the Separation of Powers Clinic at Antonin Scalia Law School have been posted here at https://administrativestate.gmu.edu/separation-of-powers-clinic/.

With R. Trent McCotter as the attorney of record, I joined him as co-counsel in a petition for a writ of certiorari and reply brief in the following case:

Petition for Writ of Certiorari, *Lewis County, Kentucky v. Julie Helphenstine*, U.S. No. 23-259. Copy supplied.

Reply Brief for Petitioners, *Lewis County, Kentucky v. Julie Helphenstine*, U.S. No. 23-259. Copy supplied.

I filed an amicus curiae brief as lead counsel in the following cases:

Brief of Professor Jennifer L. Mascott, *Donziger v. United States*, No. 22-274. Copy supplied.

Brief of Professor Jennifer L. Mascott, *Nordlicht v. United States*, U.S. No. 21-1319. Copy supplied.

With R. Trent McCotter as lead counsel and counsel of record, I participated in filing an amicus curiae brief in the following cases:

Brief of United States Senators Mike Lee, Cynthia Lummis, Roger Marshall, and Ted Budd, *Oklahoma v. EPA*, U.S. No. 23-1067. Copy supplied.

Brief of Mountain States Legal Foundation, *U.S. Food and Drug Administration v. Alliance for Hippocratic Medicine*, *Danco Laboratories, L.L.C. v. Alliance for Hippocratic Medicine*; U.S. Nos. 23-235, 23-236. Copy supplied.

Brief of Separation of Powers Clinic, *Calcutt v. Federal Deposit Insurance Corporation*, U.S. No. 22-714. Copy supplied.

Brief of 128 U.S. Representatives, Including 25 Members of the House Committee on Education & the Workforce, *Department of Ed v. Brown*, *Biden v. Nebraska*; U.S. Nos. 22-506, 22-535. Copy supplied.

Brief of United States Senator Ted Cruz, Congressman Mike Johnson, and 34 Other Members of Congress, *Loper Bright Enterprises v. Raimondo*, U.S. No. 22-451. Copy supplied.

Brief of 132 Members of Congress, *Consumer Financial Protection Bureau v. Community Financial Services Association of America, Limited*, U.S. No. 22-448. Copy supplied.

Brief of Separation of Powers Clinic, *Lindsey Graham v. Fulton County Special Purpose Grand Jury*, U.S. No. 22A337. Copy supplied.

Brief of United States Senators Ted Cruz and Mike Lee, *George v. McDonough*, U.S. No. 21-234. Copy supplied.

Brief of Professor Jennifer L. Mascott, *Egbert v. Boule*, U.S. No. 21-147. Copy supplied.

Brief of Separation of Powers Clinic at Antonin Scalia Law School, *Axon v. FTC*, U.S. No. 21-86. Copy supplied.

Brief of Separation of Powers Clinic at Antonin Scalia Law School, *Torres v. Texas Department of Public Safety*, U.S. No. 20-603. Copy supplied.

Although not listed as counsel, I drafted and assisted in the preparation of an amicus curiae brief in the following case. This amicus curiae brief is essentially entirely based on my legal academic research and constitutional legal analysis:

Brief of Professor Jennifer L. Mascott, *Lucia v. SEC*, U.S. No. 17-130. Copy supplied.

In addition to the participation in filing briefs described above, my academic work has been extensively cited by the U.S. Supreme Court and federal circuit courts.

17. **Litigation**: Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

a. the date of representation;

b. the name of the court and the name of the judge or judges before whom the case was litigated; and

c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *Tacuri-Tacuri v. Garland*, 1st Cir. No. 19-1687 (representation 2020). Case citation: *Tacuri-Tacuri v. Garland*, 998 F.3d 466 (1st Cir. 2021) (Thompson, Kayatta, Torruella, JJ.) (Torruella, J., heard oral argument, but did not participate in the panel's issuance of the case).

In this case, I served as counsel during the later stages of this litigation defending an order of the Board of Immigration Appeals reversing an Immigration Judge's (IJ's) grant of an application for cancellation of removal. The petitioner had entered the United States without inspection and, while in the United States, had frequent contact with local police, including approximately eighteen charges for driving with a suspended license or driving under the influence. After the IJ granted petitioner's application for cancellation of removal, the Department of Homeland Security appealed to the BIA, who concluded that the IJ erred. Petitioner appealed to the First Circuit, where I argued this case for the Government on October 6, 2020. The First Circuit ruled in favor of the Government.

Co-counsel

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2. *Aliyyi v. Rosen*, 9th Cir. No. 19-71826 (representation 2020). Case citation: *Aliyyi v. Rosen*, 836 Fed. Appx. 567 (9th Cir. 2021) (Hawkins, N.R. Smith, R. Nelson, JJ.).

In this case, I served as counsel during the later stages of this litigation defending an order of the Board of Immigration Appeals affirming an Immigration Judge's denial of the petitioner's application for asylum, withholding of removal, and protection against the Convention Against Torture. The IJ found that the petitioner was not credible, so it denied the petitioner's claim, and the BIA concluded that the IJ's finding was not clearly erroneous. The petitioner appealed to the Ninth Circuit, where I presented oral argument for the Government on October 20, 2021, that the administrative finder of fact is entitled to a deferential standard of review and that the burden is on the petitioner to prove that he is eligible for relief. The Ninth Circuit ruled in favor of the Government.

Co-counsel:

Katherine Ann Smith (retired)
[Then U.S. Department of Justice]
No phone number available

Counsel for Petitioner:

Evangeline G. Abriel
Director, Legal Analysis, Research, and Writing

Santa Clara University School of Law
500 El Camino Real
Santa Clara, CA 95053
(408) 554-5368

3. Victim Rights Law Center v. Devos, No. 1:20-cv-11104 (District of Massachusetts, Judge William G. Young) (representation 2020). Case citation: *Victim Rights Law Center v. Cardona*, 552 F. Supp. 3d 104 (D. Mass. 2021) (Young, J.); *Victim Rights Law Center v. Cardona*, 2021 WL 3516475 (D. Mass. Aug. 10, 2021) (clarification order).

In this case, I served as counsel in the later stages of a bench trial before Judge Young (District of Massachusetts) in defense of the Final Rule promulgated by the Department of Education titled "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 85 Fed. Reg. 30,026. The Rule set new standards for actionable sexual harassment under Title IX, new procedures for Title IX investigations, and procedural safeguards for those accused of sexual harassment. Several advocacy organizations and individuals challenged the Rule under the Administrative Procedure Act and Fifth Amendment equal-protection doctrine. After a bench trial, the court held that with the exception of one section, the Rule did not violate the APA or Fifth Amendment.

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Lewis Brisbois Bisgaard & Smith LLP
One International Place, Suite 350
Boston, MA 02110
(857) 313-3936

Counsel for Plaintiffs:

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Morrison and Foerster LLP
2000 Pennsylvania Avenue, NW, Suite 6000
Washington, DC 20006
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4. *Egbert v. Boule*, No. 21-147 (U.S. Supreme Court). Case citation: *Egbert v. Boule*, 596 U.S. 482 (2022). Brief of Professor Jennifer L. Mascott as Amicus Curiae in Support of Petitioner filed on December 27, 2021.

In this case, I was counsel on an amicus brief in my personal capacity in which I argued that the holding in *Bivens v. Six Unknown Named Agents* is ahistoric and violates key separation of powers principles by creating a new federal damages action despite Article I vesting Congress alone with the legislative power. The Supreme Court held in favor of the petitioner and declined to extend *Bivens*.

Co-counsel:

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5. *George v. McDonough*, U.S. No. 21-234. Case citation: *George v. McDonough*, 596 U.S. 740 (2022). Brief of United States Senators Ted Cruz and Mike Lee as Amici Curiae in Support of Petitioner filed March 7, 2022.

In this case, I was counsel on an amicus brief for Senator Ted Cruz and Senator Mike Lee. The amicus brief argued that an invalid and vacated regulation is not "the law" and therefore cannot retrospectively constitute an "interpretation of the law." This was a statutory argument in support of veterans beneficiary relief. Justice Gorsuch asked a question at oral argument of the Biden Administration based on the "Mascott" brief. See Transcript of Oral Argument at page 49, available at https://www.supremecourt.gov/oral_arguments/argument_transcripts/2021/21-234_j0ei.pdf. The Supreme Court affirmed.

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6. *Nordlicht v. United States*, No. 21-1319 (U.S. Supreme Court). Case citation: *Nordlicht v. United States*, 143 S. Ct. 86 (2022). Brief of Professor Jennifer L. Mascott as Amicus Curiae in Support of Petitioners filed on May 4, 2022.

In this case, I was counsel of record on an amicus brief filed in my personal academic capacity addressing the history of jury trial rights. I argued that there was a common-law tradition of courts granting new criminal trials where the verdict was contrary to evidence and that the Federal Rules of Criminal Procedure codified this historic practice by incorporating the contrary-to-evidence standard of the 1789 Judiciary Act and British Common Law.

Co-counsel:

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7. *Axon v. FTC*, U.S. No. 21-86. Case citation: *Axon v. FTC*, 598 U.S. 175 (2023). Brief of Separation of Powers Clinic at Antonin Scalia Law School as Amicus Curiae in Support of Petitioner filed May 16, 2022.

In this case, I was counsel on an amicus brief for the Separation of Powers Clinic at Antonin Scalia Law School. The amicus brief argued that Article III courts should have immediate review of constitutional challenges related to agency structure and existence. The Supreme Court held in favor of the petitioner that the statutory review schemes set out in the Securities Exchange Act and Federal Trade Commission Act do not displace a district court's federal-question jurisdiction over claims challenging as unconstitutional the structure and existence of the SEC or FTC.

Co-counsel:

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8. *Department of Education v. Brown/Biden v. Nebraska*, U.S. Nos. 22-506, 22-535. Case citation: *Biden v. Nebraska*, 600 U.S. 477 (2023). Brief of 128 U.S. Representatives, Including 25 Members of the U.S. House Committee on Education & the Workforce, as Amici Curiae in Support of Respondents filed February 3, 2023.

In this case, I was counsel on an amicus brief for 128 U.S. Representatives, including 25 Members of the U.S. House Committee on Education & the Workforce. The amicus brief argued that the Biden Administration lacked statutory authority to issue a blanket cancellation of student loan debt and that Supreme Court precedent requires clear statutory authority for blanket student loan debt forgiveness. The Supreme Court held in favor of respondents, concluding that the HEROES Act provided no authorization for the debt-forgiveness plan.

Co-counsel:

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9. *Loper Bright Enterprises, Inc. v. Raimondo*, No. 22-451. Case citation: *Loper Bright Enterprises, Inc. v. Raimondo*, 603 U.S. 369 (2024). Brief of U.S. Senator Ted Cruz, Congressman Mike Johnson, and 34 Other Members of Congress as Amici Curiae in Support of Petitioners filed July 24, 2023.

In this case, I was counsel on an amicus brief for Senator Ted Cruz, Congressman Mike Johnson, and 34 other Members of Congress. The amicus brief argued that the *Chevron* doctrine is in tension with the Article III judicial role and the Constitution's structural separation of powers, and that the Administrative Procedure Act requires courts to determine legal interpretations without deference to agencies' interpretations. The Supreme Court held in favor of the petitioners and explicitly overturned *Chevron*.

Co-counsel:

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10. *Oklahoma v. EPA*, U.S. No. 23-1067. Case citation: *Oklahoma v. EPA*, 145 S. Ct. 1720 (2025). Brief of United States Senators Mike Lee, Cynthia Lummis, Roger Marshall, and Ted Budd as Amici Curiae in Support of Petitioners filed May 1, 2024.

In this case, I was counsel on an amicus brief for Senators Mike Lee, Cynthia Lummis, Roger Marshall, and Ted Budd. The amicus brief argued that a proper interpretation of the Clean Air Act's venue provisions guarantees regional review of EPA approvals and denials of State Implementation Plan cases. The Supreme Court held in favor of the petitioners that the EPA's disapprovals of the Oklahoma and Utah State Implementation Plans were locally or regionally applicable actions reviewable in a regional court of appeals.

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18. **Legal Activities**: Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

I would consider my service as a Deputy Assistant Attorney General (DAAG) in the U.S. Department of Justice's Office of Legal Counsel from 2019 through 2021 to represent one of the most significant areas of my legal practice. At the time, DAAGs in the Office were charged with carrying out the Attorney General's statutory duty to provide constitutional advice and the

Executive Branch position on questions of law to executive branch agencies, officials, and White House staff. It was a great privilege to serve in the Office. I also consider my work as an Associate Deputy Attorney General during the COVID-19 pandemic one of my most significant time periods of legal service. In that capacity, I served as the Deputy Attorney General's liaison to DOJ's Federal Programs division, helping to defend the President's policies, deregulatory efforts, and actions to counter the pandemic. In addition, I was the Deputy Attorney General's point person on border-related security, which involved significant regulatory and policy work during the pandemic and the development and defense of Title 42 authorities. Finally, I consider my instruction of law students at three law schools in the Washington, D.C. area across a span of 14 years to be a significant endeavor helping to mentor and train a generation of students in legal skills, legal reasoning, appreciation for the rule of law, and a systematic understanding of the constitutional system of separated powers, liberty, and limited government.

I have never served as a lobbyist.

19. **Teaching**: What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide copies to the committee.

For courses I taught several times, I regularly reused or updated existing syllabi without retaining copies of older versions. I have provided copies of the syllabi for which I continue to have records.

Catholic Law School
Administrative Law, Catholic Law School, January 2025. I taught this course for only a couple of weeks in January because I went on leave to serve in the federal government. This course covered separation-of-powers issues related to the federal administrative agencies' position within the three-branch governmental structure, Article II appointments and removal requirements, nondelegation principles, due process, and standing, mootness, and ripeness issues related to acquiring judicial review of agency action. It also emphasized the Administrative Procedure Act, with particular attention devoted to agency adjudicative and rulemaking powers and statutory requirements for judicial review of agency action. Syllabus provided.

Federal Courts, Catholic Law School, fall 2024. This course covered the scope of the judicial power under Article III of the Constitution and federal jurisdiction as defined by the Constitution and statute. It also examined how federal judicial decisions bind or impact private parties as well as governmental actors, including actors within the Executive Branch and Congress and at the state level. Syllabus provided.

Separation of Powers in the Political Branches, with former Assistant Attorney General Steve Engel, Catholic Law School, fall 2024. This course was an advanced seminar examining the separation of powers between the legislative and executive branches building on the structural topics addressed in the basic Constitutional Law course. Syllabus provided.

Senate Republican Conference Separation of Powers Briefing Series
Separation of Powers Briefing Series for Policy and Legal Staff, Senate Republican Conference, winter 2022, winter 2023, and winter 2024, and the House Judiciary Committee, spring 2022. This course was a series of six (and sometimes seven) sessions on the separation of powers. The seven sessions were Rulemaking and the Congressional Review Act; the Appropriations Power, Government Shutdowns, and Statutory Emergency Authorities; Congressional Oversight, the Accommodation Process, and Executive Privilege; Appointments, Removal, and Congressional Supervision of Executive Branch Staffing; Regulatory Reform; Congressional-Executive Balance of Power in War Powers; Congressional-Executive Balance of Power in Foreign Affairs. Copies of session outlines provided.

George Mason University Antonin Scalia Law School
Administrative Law, Antonin Scalia Law School, spring 2024, spring 2021, fall 2018, and spring 2018. This course covered separation-of-powers issues related to the federal administrative agencies' position within the three-branch governmental structure, Article II appointments and removal requirements, nondelegation principles, due process, and standing, mootness, and ripeness issues related to acquiring judicial review of agency action. It also emphasized the Administrative Procedure Act, with particular attention devoted to agency adjudicative and rulemaking powers and statutory requirements for judicial review of agency action. Syllabus provided.

Separation of Powers in the Political Branches, with former Assistant Attorney General Steve Engel, Antonin Scalia Law School, fall 2023, fall 2022, and fall 2021. This course was an advanced seminar examining the separation of powers between the legislative and executive branches building on the structural topics addressed in the basic Constitutional Law course. Syllabus provided.

Constitutional Law I, Antonin Scalia Law School, fall 2023, fall 2022, and fall 2021. This course covered the United States Constitution with an emphasis on its structural provisions. We studied the doctrine and original understanding of many constitutional provisions. Syllabus provided.

Supreme Court Term, with Justice Brett M. Kavanaugh, Antonin Scalia Law School, summer 2022 and summer 2021. This seminar, co-taught with Justice Kavanaugh, covered cases from the contemporary Supreme Court term as well as six historically significant cases. The Summer 2021 syllabus is provided. I have been unable to locate the Summer 2022 syllabus, but it is similar to the Summer 2021 syllabus albeit updated with several October Term 2021 decisions from the Supreme Court.

Seminar: History & Foundations of the Administrative State, with Justice Clarence Thomas, Antonin Scalia Law School, spring 2022 and spring 2019. This course covered the history and foundation of the American administrative state and relevant administrative law cases. Syllabus provided.

Civil Procedure I, Antonin Scalia Law School, spring 2022. This course covered the constitutional provisions, statutes, and rules governing procedure in federal civil suits. Major

topics included personal jurisdiction, subject matter jurisdiction, pleading, discovery, joinder, and preclusion. Syllabus provided.

Federal Courts, Antonin Scalia Law School, spring 2019. This course covered the scope of the judicial power under Article III of the Constitution and federal jurisdiction as defined by the Constitution and statute. It also examined how federal judicial decisions bind or impact private parties as well as governmental actors, including actors within the Executive Branch and Congress and at the state level. Syllabus provided.

Supreme Court Clinic, Antonin Scalia Law School, spring 2018 and fall 2017. This course covered the Supreme Court's original and appellate jurisdiction, merits briefs, oral argument, how the Supreme Court decides cases, Supreme Court private practice, dispositions other than on the merits, and the role of law clerks. Students were required to work on at least two briefs over the course of the year. Syllabus provided.

Administrative Law Clinic, Antonin Scalia Law School, fall 2018 and spring 2018. This course covered comments in informal rulemaking, internal agency processes for evaluating comments, informal agency adjudication processes, the role of OIRA and OMB, accountability within agencies, and proposals for administrative-law reforms. Syllabus provided.

George Washington University Law School

Administrative Law, George Washington University Law School, spring 2015, summer 2012, and spring 2011. This course covered separation-of-powers issues related to the federal administrative agencies' position within the three-branch governmental structure, Article II appointments and removal requirements, nondelegation principles, due process, and standing, mootness, and ripeness issues related to acquiring judicial review of agency action. It also emphasized the Administrative Procedure Act, with particular attention devoted to agency adjudicative and rulemaking powers and statutory requirements for judicial review of agency action. Syllabus provided.

Adjudicatory Criminal Procedure, substitute instructor for a single session on plea-bargaining, George Washington University Law School, fall 2014 and fall 2013. I was a substitute instructor for one lesson of Professor Jeanne Hauck's Adjudicatory Criminal Procedure Course in fall 2013 and fall 2014. This course covered adjudicatory criminal procedure topics, including charging decisions, grand juries and preliminary hearings, the right to counsel, the right to a speedy trial, bail, plea bargaining, discovery, juries, defendants' rights, and sentencing. Syllabus provided.

Advanced Field Placement Program, George Washington University Law School, spring 2013, fall 2012, and spring 2012. This course involved advising students in externship on professionalism and the practice of law within executive branch agencies. Syllabus provided.

Independent Legal Writing Advisor, George Washington University Law School, fall 2012. I served as an independent legal writing advisor for one semester, during which I helped students improve their legal writing proficiency. Because this course involved advising a single student on her paper topic of choice, the course instruction did not include development of a syllabus. I have been unable to locate the syllabus.

20. **Deferred Income/ Future Benefits**: List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

None.

21. **Outside Commitments During Court Service**: Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

No, other than my trustee roles described above.

22. **Sources of Income**: List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding $500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

When my nomination is formally transmitted to the Senate, I will file my Financial Disclosure Report and supplement this Questionnaire with a copy of that Report.

23. **Statement of Net Worth**: Please complete the attached financial net worth statement in detail (add schedules as called for).

See attached Net Worth Statement.

24. **Potential Conflicts of Interest**:

a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

No family members are likely to present conflicts of interest. My late husband's estate contains a public affairs firm, and I would recuse myself from any matter involving the public affairs firm (which is unlikely to arise as the firm has never been involved in litigation and is small to midsize). I would also recuse myself from any litigation involving a firm client.

Cases most likely to present conflicts issues would be those related to my service as a government lawyer or as a private practitioner. If confirmed, I would recuse myself in any matter in which, during my government service, I had participated as counsel,

adviser, or material witness or had expressed an opinion concerning the merits. *See* 28 U.S.C. § 455(b)(3). To determine whether I would need to recuse in other situations, I would consult 28 U.S.C. § 455(a) & (b), Canon 3C of the Code of Conduct for United States Judges, and all other applicable rules or canons. I would also consult any judicial decisions or Judicial Conference opinions addressing similar factual circumstances as those raised in the particular case. I will evaluate any other real or potential conflict, or a relationship that could give rise to an appearance of conflict, on a case-by-case basis and take appropriate action, including recusal where necessary.

b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

In general, if I am confirmed, I would refer to 28 U.S.C. § 455, the Code of Conduct for United States Judges, any guidance provided by the Chief Judge of the Third Circuit and the Administrative Office for the United States Courts, and any other applicable laws, rules, and practices governing conflicts of interest.

25. **Pro Bono Work**: An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

At both Scalia Law School and the Catholic Law School, I founded student litigation clinics that provided pro bono legal services for amici in constitutional law cases. The hours that I devoted to litigation with both clinics was on a pro bono basis and averaged several hours per month across the span of several years.

26. **Selection Process**:

a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

I was interviewed by a group of lawyers with the White House Counsel's Office and interviewed with both a Deputy White House Counsel and the White House Counsel who inquired about my availability and fitness for the potential judicial nomination. The circumstances that led to my nomination included my expression of interest in serving in the federal judiciary or any other governmental position in which the President or the Administration would be interested in having me serve. On May 14, 2025, I interviewed

with the White House Counsel and an official from the White House Counsel's office. Since then, I have been in contact with officials from the White House Counsel's Office and officials from the Office of Legal Policy. On July 2, 2025, I met with President Donald Trump regarding my possible nomination.

b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

FINANCIAL STATEMENT

NET WORTH

Provide a complete, current financial net worth statement which itemizes in detail all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

ASSETS				LIABILITIES			
Cash on hand and in banks		281	911	Notes payable to banks-secured (auto)			
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule	10	961	976	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable – see schedule	4	243	091
Real estate owned – see schedule	9	615	700	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		210	050				
Cash value-life insurance							
Other assets itemize – see schedule							
Adfero Group LLC No. 1 (24.6548% interest)	3	226	999				
Adfero Group LLC No. 2 (75.3452% interest)	9	861	726	Total Liabilities	4	243	091
Alleviate Care Holdings, LLC		185	000	Net Worth	30	562	359
DFW Capital Partners VII LP		617	753				
OurCrowd General Partner LP (est.)		114	335				
Total Assets	34	805	450	Total Liabilities and Net Worth	34	805	450
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities	
American Funds College 2027 Fund (CSTAX)	$117,251.22
American Funds College 2030 Fund (CTHAX) No 2.	112,916.04
American Funds College 2030 Fund (CTHAX) No. 1	37,369.20
American Funds College 2030 Fund (CTHAX) No. 3	10,740.90
American Funds College Enrollment Fund (CENAX) No 3.	16,038.07
American Funds College Enrollment Fund (CENAX) No. 1	24,075.27
American Funds College Enrollment Fund (CENAX) No. 2	18,799.35
American Funds College Enrollment Fund (CENAX) No. 4	146,339.74
American Funds College Enrollment Fund (CENAX) No. 5	18,878.84
Artisan High Income Fund Cl Inst No. 1	13,393
Artisan High Income Fund Cl Inst No. 2.	122
Artisan International Value Fund Cl Inst No. 1	111,707
Artisan International Value Fund Cl Inst No. 2	23,486
Artisan International Value Fund Cl Inst No. 3	2,016
Artisan International Value Fund Cl Inst No. 4	3,085
Artisan International Value Fund Cl Inst No. 5	49,909
Artisan International Value Fund Cl Inst No. 6	40,046
BA - Beutel Goodman Large-Cap Value Fund Cl Inst No. 1	268,546
BA - Beutel Goodman Large-Cap Value Fund Cl Inst No. 2	104,503
BA - Beutel Goodman Large-Cap Value Fund Cl Inst No. 3	3,445
BA - Beutel Goodman Large-Cap Value Fund Cl Inst No. 4	4,240
BA - Beutel Goodman Large-Cap Value Fund Cl Inst No. 5	156,522
BA - Beutel Goodman Large-Cap Value Fund Cl Inst No. 6	172,292
BA - WMC Strategic European Equity Fund Cl Inst No. 1	64,924
BA - WMC Strategic European Equity Fund Cl Inst No. 2	52,360
BA - WMC Strategic European Equity Fund Cl Inst No. 3	2,177
BA - WMC Strategic European Equity Fund Cl Inst No. 4	3,623
BA - WMC Strategic European Equity Fund Cl Inst No. 5	154,794
BA - WMC Strategic European Equity Fund Cl Inst No. 6	90,371
Brown Advisory Emerging Markets Select Fund Cl Inst No. 1	139,663
Brown Advisory Emerging Markets Select Fund Cl Inst No. 2	90,778
Brown Advisory Emerging Markets Select Fund Cl Inst No. 3	2,662
Brown Advisory Emerging Markets Select Fund Cl Inst No. 4	3,162
Brown Advisory Emerging Markets Select Fund Cl Inst No. 5	190,853
Brown Advisory Emerging Markets Select Fund Cl Inst No. 6	119,384
Brown Advisory Flexible Equity ETF No. 1	363,519
Brown Advisory Flexible Equity ETF No. 2	285,390
Brown Advisory Flexible Equity Fund Cl Inst No. 1	227,287
Brown Advisory Flexible Equity Fund Cl Inst No. 2	293,851

Brown Advisory Flexible Equity Fund Cl Inst No. 3	10,805
Brown Advisory Flexible Equity Fund Cl Inst No. 4	13,084
Brown Advisory Flexible Equity Fund Cl Inst No. 5	74,357
Brown Advisory Global Leaders Fund Cl Inst	34,916
Brown Advisory Small-Cap Fundamental Value Fund Cl Inst No. 1	132,146
Brown Advisory Small-Cap Fundamental Value Fund Cl Inst No. 2	76,096
Brown Advisory Small-Cap Fundamental Value Fund Cl Inst No. 3	2,539
Brown Advisory Small-Cap Fundamental Value Fund Cl Inst No. 4	3,305
Brown Advisory Small-Cap Fundamental Value Fund Cl Inst No. 5	199,803
Brown Advisory Small-Cap Fundamental Value Fund Cl Inst No. 6	122,399
Brown Advisory Small-Cap Growth Fund Cl Inst No. 1	81,984
Brown Advisory Small-Cap Growth Fund Cl Inst No. 2	48,458
Brown Advisory Small-Cap Growth Fund Cl Inst No. 3	1,435
Brown Advisory Small-Cap Growth Fund Cl Inst No. 4	2,385
Brown Advisory Small-Cap Growth Fund Cl Inst No. 5	128,031
Brown Advisory Small-Cap Growth Fund Cl Inst No. 6	78,387
Brown Advisory Sustainable Bond Fund Cl Inst	665
Brown Advisory Tax Exempt Bond Fund Cl Inst No. 1	228,659
Brown Advisory Tax Exempt Bond Fund Cl Inst No. 2	1,358,815
Brown Advisory Tax Exempt Bond Fund Cl Inst No. 3	844,404
First American Government Obligations Fund Cl Z (Income) No. 1	92,812
First American Government Obligations Fund Cl Z (Income) No. 2	24
First American Government Obligations Fund CL Z No. 1	6,609
First American Government Obligations Fund CL Z No. 2	125,514
First American Government Obligations Fund CL Z No. 3	2,614,970
First American Government Obligations Fund Cl Z No. 4	2,134
First American Government Obligations Fund Cl Z No. 5	$469.00
First American Government Obligations Fund Cl Z No. 6	16,102
First American Government Obligations Fund Cl Z No. 7	596
First American Government Obligations Fund Cl Z No. 8	469
FiscalNote Holdings, Inc	317,240
GMU Retirement Account	50,000
International Core Equity 2 Portfolio No. 1	5,977
International Core Equity 2 Portfolio No. 2	41,442
International Core Equity 2 Portfolio No. 3	144,290
International Core Equity 2 Portfolio No. 4	73,522
Metropolitan West Unconstrained Bond Fund Cl I No. 1	26,210
Metropolitan West Unconstrained Bond Fund Cl I No. 2	202
Tiger Global LP (Taxable)	92,854
Tiger Global LP (Taxable) - 11/30/2024 Redeemers	3,470
Tiger Global LP (Taxable) - 6/30/2024 Redeemers	3,726
Voya Intermediate Bond Fund Cl I	90,152
Total Listed Securities	$10,691,976

Real Estate Owned	
Personal Residence	$5,654,700
Property #1	1,605,000
Property #2	1,757,600
Property #3 (Undeveloped Land)	598,400
Total Real Estate Owned	$9,615,700
Real Estate Mortgages Payable	
Personal Residence – Mortgage	$2,830,089
Property #1 – Mortgage	767,364
Property #2 – Mortgage	587,127
Property #3 (Undeveloped Land) – Mortgage	58,511
Total Real Estate Mortgages Payable	$4,243,091

AFFIDAVIT

I, Jennifer Lee Mascott, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

8/5/2025
(DATE)

Jennifer Lee Mascott
(NAME)

District of Columbia

Signed and sworn to (or affirmed) before me on 8/05/2025 by JENNIFER LEE MASCOTT

(Notary Public Signature)

NOTARY PUBLIC THE WOOLSTORE #166
Title of Office

My Commission Expires: 09/30/2027

ORETHIA FREEMAN NOTARY PUBLIC DISTRICT OF COLUMBIA EXP. 09/30/2027

Senator Dick Durbin
Ranking Member, Senate Judiciary Committee
Written Questions for Jennifer Lee Mascott
Nominee to be U.S. Circuit Judge for the Third Circuit Court of Appeals
September 10, 2025

1. I am troubled by your lack of ties to Delaware since you have been nominated to a Delaware seat on the U.S. Court of Appeals for the Third Circuit.

a. Have you ever lived in the state? Have you ever lived in any state within the Third Circuit?

Response: As a public servant and law professor at Washington, D.C.-area schools, I have been living in Maryland. We have a long-time home in Delaware, and if I am confirmed, I will comply with all statutory residency requirements applicable to the Third Circuit.

b. Have you ever practiced in Delaware? Have you ever practiced in the Third Circuit?

Response: I have been nominated to a federal appeals court seat in the Third Circuit and have not practiced law in the State of Delaware. I am admitted to practice law in the Third Circuit and have participated in litigation within the circuit.

c. Are you licensed to practice in Delaware? If so, when were you admitted to the bar?

Response: As a public servant and law professor at Washington, D.C.-area schools, I am licensed to practice law in Maryland and Virginia, not Delaware.

d. According to your Questionnaire, you were only admitted to the Third Circuit in 2025. In which month you were admitted?

Response: May 2025.

2. In your Questionnaire, you stated: "I was interviewed by a group of lawyers with the White House Counsel's Office and interviewed with both a Deputy White House Counsel and the White House Counsel who inquired about my availability and fitness for the potential judicial nomination."

a. Please provide the date/s you interviewed with each of these individuals.

Response: I interviewed with the White House Counsel on May 14, 2025.

b. Did the topic of Third Circuit vacancies—including the one to which the President has nominated you—come up in this discussion?

Response: Yes.

3. It is unsurprising that President Trump has nominated you, given your longstanding and expansive view of presidential power. President Trump has been quite clear that he wants to rule without regard for checks and balances. As far back as 2018, at a Federalist Society event, you agreed with John Eastman—one of the architects of President Trump's efforts to overturn the 2020 election—that any independence for independent agencies is, "too much." In March of this year, you asserted that *Humphrey's Executor* was wrongly decided because "the president needs to be able to…get rid of folks who don't follow his instructions."

Recently, President Trump has used unproven mortgage fraud allegations to try to terminate Federal Reserve Board Member Lisa Cook, all because he is unhappy that the Fed has exerted its independence and refused to do his bidding.

Your views suggest that, if confirmed, you would uphold the legality of President Trump's troubling actions. Why should any party who comes before you with a challenge to the Trump Administration have confidence that you will treat them fairly in court?

Response: The U.S. Supreme Court has repeatedly indicated that the vesting of executive authority in the President of the United States means that the President must be able to exercise adequate supervision over officials wielding a portion of executive power. *See, e.g.*, *Seila Law v. Consumer Financial Protection Bureau*, 591 U.S. 197, 204 (2020) ("The President's power to remove—and thus supervise—those who wield executive power on his behalf follows from the text of Article II, was settled by the First Congress, and was confirmed in the landmark decision *Myers v. United States*."). *See also Trump v. Wilcox*, 145 S. Ct. 1415, 1415 (2025) (referring to the Court's "judgment that the Government faces greater risk of harm from an order allowing a removed officer to continue exercising the executive power than a wrongfully removed officer faces from being unable to perform her statutory duty"). If I am confirmed, I will faithfully and with impartiality apply all binding U.S. Supreme Court precedent.

4. When then-Judge Kavanaugh was nominated to the Supreme Court, you said that he sought out "diverse perspectives from a diverse group of law clerks," noting that among other things, your clerk class came from diverse racial backgrounds and distinct religious traditions. You also praised then-Judge Kavanaugh as "somebody who's going to be a powerful voice helping to make sure women get equal career opportunities."

In contrast, the Trump Administration has repeatedly attacked the importance of diversity.

a. Is diversity within the legal profession important? If it is no longer important, why was it important when you were hired by then-Judge Kavanaugh?

Response: Nobody should ever be excluded from the opportunity to serve and thrive in the legal profession based on race, ethnicity, sex, religion, or any other protected characteristic. It is valuable for the legal profession to be open to persons of varying backgrounds, life experiences, and viewpoints. Being an effective lawyer depends upon one's ability to effectively intake, understand, and articulate a broad range of methodological and legal viewpoints. Lawyers and indeed all professionals should be evaluated based on merit rather than based on a particular racial or otherwise protected classification.

b. If you are confirmed to the bench, will diversity in your selection of clerks be an important criterion?

Response: If I am confirmed, I will seek to hire law clerks with respect to merit rather than on the basis of membership in a particular protected classification.

In December 2021, you testified before the House Judiciary Committee on the Administrative Procedure Act. In an exchange with then-Representative Ken Buck, you agreed with him that affirmative action programs discriminate against Asian students. You added that you "[did] not think that imposing a particular view of racial justice should be done by the Executive Branch."

c. Given President Trump's attacks on diversity, are you willing to say the same today—that the Executive Branch should not impose a particular view of racial justice?

Response: In 2023, the U.S. Supreme Court indicated that racial classifications are an impermissible ground for admission into private and public universities. *See generally Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*, 600 U.S. 181 (2023). As a prospective judicial nominee, it would be improper for me to express my views on executive branch policies, but consistent with constitutional requirements as explained by the Supreme Court, evaluation of individuals should be based on merit or otherwise permissible considerations and not based on one's racial classification.

5. In your Questionnaire, you state that you have served in the White House Counsel's Office since 2025, but you provide little information about your role.

a. On what date did you begin your position as Senior Counsel in the White House Counsel's Office?

Response: March 12, 2025.

b. What issue areas do you work on and what is the nature of your work in the White House Counsel's Office?

Response: I have worked on statutory interpretation questions and matters related to the constitutional structural separation of powers. I have also participated on teams of White House Counsel lawyers interviewing potential judicial nominees.

6. Recently, failed U.S. Attorney nominee and current Pardon Attorney Ed Martin reposted a message that "the jury trial is a great example of how an Anglo-Saxon tradition gets short-circuited by multiculturalism."[1]

As an academic who has studied the jury trial system, do you agree with this statement? Why or why not?

Response: The jury system is a fundamental feature of our constitutional system of accountability and separated powers. The right to a criminal jury trial was established in the original text of the U.S. Constitution and the civil jury trial right confirmed soon thereafter in the text of the Seventh Amendment. *See* U.S. Const. art. III, § 2, cl. 3; *id.* amend. VII. As a pending judicial nominee, it would be inappropriate for me, and consistent with past practice not to comment on others' personal policy and political views.

7. During President Trump's first term, you were appointed by then-Attorney General Bill Barr to positions in the U.S. Department of Justice.

a. During your time serving under former Attorney General Barr, did you trust his judgment, legal analysis, and leadership?

Response: I was very honored to have the opportunity to serve under President Trump at the Department of Justice led by Attorney General Barr during President Trump's first Administration. I had the honor of serving as both a Deputy Assistant Attorney General in the Office of Legal Counsel and as Associate Deputy Attorney General during President Trump's first term.

b. President Trump later attacked Attorney General Barr as a "disgruntled former employee," "lazy," "weak," and "totally ineffective."[2] Is this an accurate characterization of your former boss?

Response: As a pending judicial nominee, and consistent with the past practice of prior nominees, it would be inappropriate for me to comment on others' personal statements and policy views.

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[1] Eagle Ed Martin (@EagleEdMartin), X (July 28, 2025, 10:58 AM), https://x.com/EagleEdMartin/status/1949846838321856827.
[2] Donald J. Trump (@realDonaldTrump), Truth Social (June 11, 2023, 2:54 PM), https://truthsocial.com/@realDonaldTrump/posts/110527097618810290.

8. Did President Trump lose the 2020 election?

Response: President Biden was certified the winner of the 2020 election. President Trump was certified the winner of the 2016 and 2024 elections.

9. Where were you on January 6, 2021?

Response: On January 6, 2021, I was in Washington, D.C., working at the Department of Justice.

10. Do you denounce the January 6 insurrection?

Response: I denounce any and all acts of violence against law enforcement and government officials. How the events at the Capitol on January 6, 2021, are characterized is a matter of political debate and was the subject of litigation in *Trump v. Anderson*, 601 U.S. 100 (2024). Moreover, the effect of pardons issued to those prosecuted for actions taken related to the events at the Capitol on January 6, 2021, is subject to ongoing litigation that could arise in cases that could come before me if I am confirmed to serve as a district court judge. Thus, under the Code of Conduct for United States Judges, it would be inappropriate for me to address these issues.

11. Do you believe that January 6 rioters who were convicted of violent assaults on police officers should have been given full and unconditional pardons?

Response: As an Article III judicial nominee, it would not be appropriate for me to comment on the application of the pardon power wielded by a separate but equal branch of government in Article II of the United States Constitution. Furthermore, the pardons themselves are the subject of ongoing litigation, and I may not comment on any matter that is or may come before me as a judge.

12. The Justice Department is currently defending the Trump Administration in a number of lawsuits challenging executive actions taken by the Administration. Federal judges—both Republican and Democratic appointees—have enjoined some of these actions, holding that they are illegal or unconstitutional. Alarmingly, President Trump, his allies, and even some nominees before the Senate Judiciary Committee have responded by questioning whether the executive branch must follow court orders.

a. What options do litigants—including the executive branch—have if they disagree with a court order?

Response: Generally, if there is a lower-court order that binds the Executive Branch or an executive official or agency, the normal course is for the party to follow the order and seek appellate review if the party disagrees with the outcome.

b. Do you believe a litigant can ever lawfully defy an order from a lower federal court? If yes, in what circumstances?

Response: All proper parties to federal court proceedings including federal executive officials have a responsibility to comply with lawful court orders. The standard process for challenging an order that one concludes is unlawful is to appeal that order. There might be rare circumstances such as a lack of jurisdiction or the complete impossibility of compliance with the terms of a particular order that would make compliance untenable, but it is hard to imagine such a situation.

c. Under the separation of powers, which branch of the federal government is responsible for determining whether a federal court order is lawful?

Response: If the Supreme Court issues an order upon the conclusion of appellate review, that order is to be followed. If the order relates to the interpretation of a statute with which a party might disagree, the party also might push for legislative amendment of the statute. Similarly, if a party or Congress or a state legislature believes a Supreme Court order has incorrectly applied the Constitution, such parties could push for a constitutional amendment. Congress also has legislative power to shape Supreme Court jurisdiction and authority related to the issuance of orders.

13. District judges have occasionally issued non-party injunctions, which may include "nationwide injunctions" and "universal injunctions."

a. Are non-party injunctions constitutional?

Response: The lawfulness of universal injunctions was addressed by the Supreme Court in *Trump v. CASA*, 145 S. Ct. 2540 (2025), which held that "[a] universal injunction can be justified only as an exercise of equitable authority, yet Congress has granted federal courts no such power." *Id.* at 2550. As described in *Trump v. CASA*, the equitable power of courts generally extends only to granting complete relief to the parties before the court.

b. Are non-party injunctions a legitimate exercise of judicial power?

Response: Please see the response to question 13(a).

c. Is it ever appropriate for a district judge to issue a non-party injunction? If so, under what circumstances is it appropriate?

Response: Please see the response to question 13(a).

d. As a litigator, have you ever sought a non-party injunction as a form of relief? If so, please list each matter in which you have sought such relief.

Response: No.

14. At any point during your selection process, did you have any discussions with anyone—including individuals at the White House, the Justice Department, or any outside groups—about loyalty to President Trump? If so, please provide details.

Response: No.

15. Does the U.S. Constitution permit a president to serve three terms?

Response: The 22nd Amendment provides that presidents may serve up to two terms.

16. On May 26, 2025, in a Truth Social post, President Trump referred to some judges whose decisions he disagrees with, as "USA HATING JUDGES" and "MONSTERS", who "…SUFFER FROM AN IDEOLOGY THAT IS SICK, AND VERY DANGEROUS FOR OUR COUNTRY…"[3]

a. Do you agree that these federal judges are "USA HATING" and "MONSTERS" who "…SUFFER FROM AN IDEOLOGY THAT IS SICK, AND VERY DANGEROUS FOR OUR COUNTRY…"?

Response: It is important for all federal judges to abide by all constitutional, statutory, and equitable limits on their authority to exercise the "judicial Power" under Article III of the U.S. Constitution, and I would seek to abide by those limits if confirmed. Consistent with the Code of Conduct for federal judges and positions taken by prior nominees, it would be inappropriate for me, as a pending judicial nominee, to comment further on the statements of any political figure or on any subject of political controversy. *See* Code of Conduct of U.S. Judges, Canon 5.

b. Do you believe this rhetoric endangers the lives of judges and their families?

Response: Consistent with the Code of Conduct for U.S. Judges and positions taken by prior nominees, in would be inappropriate for me, as a pending judicial nominee, to comment on the statements of any political figure or on any subject of political controversy. *See* Code of Conduct of U.S. Judges, Canon 5.

17. In addition to the President's own attacks on judges, his adviser Stephen Miller took to social media to call a federal trade court's ruling against President Trump's tariffs a

[3] Donald J. Trump (@realDonaldTrump), TRUTH SOCIAL (May 26, 2025, 7:22AM), https://truthsocial.com/@realDonaldTrump/posts/114573871728757682.

"judicial coup"[4] and later reposted the images of the three judges who decided the case and wrote, "we are living under a judicial tyranny."[5]

a. Do you agree that these judges are engaged in a "judicial coup" and that "we are living under a judicial tyranny"?

Response: It is important for all federal judges to abide by all constitutional, statutory, and equitable limits on their authority to exercise the "judicial Power" under Article III of the U.S. Constitution, and I would seek to abide by those limits if confirmed. Consistent with the Code of Conduct for federal judges and positions taken by prior nominees, it would be inappropriate for me, as a pending judicial nominee, to comment further on the statements of any political figure or on any subject of political controversy. *See* Code of Conduct of U.S. Judges, Canon 5.

b. Do you believe this rhetoric endangers the lives of judges and their families?

Response: Consistent with the Code of Conduct for federal judges and positions taken by prior nominees, it would be inappropriate for me, as a pending judicial nominee, to comment further on the statements of any political figure or on any subject of political controversy. *See* Code of Conduct of U.S. Judges, Canon 5.

c. Would you feel comfortable with any politician or their adviser sharing a picture of you on social media if you issue a decision they disagree with?

Response: Please see my response to Question 17(b).

18. When, if ever, may a lower court depart from Supreme Court precedent?

Response: Lower courts must follow directly controlling Supreme Court precedent. *See Rodriguez de Quijas v. Shearson/American Express, Inc.*, 490 U.S. 477, 484 (1989) ("If a precedent of this Court has direct application in a case, yet appears to rest on reasons rejected in some other line of decisions, the Court of Appeals should follow the case which directly controls, leaving to this Court the prerogative of overruling its own decisions."); *United States v. Morosco*, 822 F.3d 1, 7 (1st Cir. 2016).

19. When, in your opinion, would it be appropriate for a circuit court to overturn its own precedent?

Response: I would follow the practices and precedents of the Third Circuit with respect to evaluation of whether to reverse circuit precedent. In general, the Third Circuit standard

[4] Stephen Miller (@StephenM), X, (May 28, 2025, 7:48PM), https://x.com/StephenM/status/1927874604531409314.
[5] Stephen Miller (@StephenM), X, (May 29, 2025, 8:25AM), https://x.com/StephenM/status/1928065122657845516.

is that is inappropriate for a circuit panel to conflict with the precedential decision of a priori panel and reversal of an earlier decision would need to be undertaken by the en banc circuit court. Federal Rule of Appellate Procedure 40 also provides relevant guidance

20. When, in your opinion, would it be appropriate for the Supreme Court to overrule its own precedent?

Response: In determining whether to overrule precedent, the Supreme Court applies stare decisis factors such as those set forth in *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215, 268-90 (2022), and *Janus v. AFSCME, Council 31*, 585 U.S. 878, 916-29 (2018).

21. Please answer yes or no as to whether the following cases were correctly decided by the Supreme Court:

Response: Consistent with the approach explained by Justice Kagan and followed by many other judicial nominees from various administrations, it is generally not appropriate for a judicial nominee to grade or give a thumbs up or down to particular Supreme Court decisions. Should I be confirmed, all Supreme Court precedent would bind me.

a. *Brown v. Board of Education*

Response: Consistent with the practice of past nominees, the decision in *Brown* is so canonical and deeply rooted that the correctness of the judgment in the decision is clear and beyond question.

b. *Plyler v. Doe*

Response: *Plyler* is binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it.

c. *Loving v. Virginia*

Response: Consistent with the practice of past nominees, the decision in *Loving* is so canonical and deeply rooted that the correctness of the judgment in the decision is clear and beyond question.

d. *Griswold v. Connecticut*

Response*: Griswold* is binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it.

e. *Trump v. United States*

Response: *Trump v. United States* is binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it.

f. *Dobbs v. Jackson Women's Health Organization*

Response: *Dobbs* is binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it.

g. *New York State Rifle & Pistol Association, Inc. v. Bruen*

Response*: Bruen* is binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it.

h. *Obergefell v. Hodges*

Response*: Obergefell* is binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it.

i. *Bostock v. Clayton County*

Response*: Bostock* is binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it.

j. *Masterpiece Cakeshop v. Colorado*

Response*: Masterpiece Cakeshop* is binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it.

k. *303 Creative LLC v. Elenis*

Response*: 303 Creative* is binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it.

l. *United States v. Rahimi*

Response*: Rahimi* is binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it.

m. *Loper Bright Enterprises v. Raimondo*

Response*: Loper Bright* is binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it.

22. With respect to constitutional interpretation, do you believe judges should rely on the "original meaning" of the Constitution?

Response: Consistent with the past practice of the Supreme Court in cases like *District of Columbia v. Heller*, 554 U.S. 570 (2008), I believe that lower court judges should faithfully apply all binding precedent of the Supreme Court and then apply an originalist methodology to address any unanswered and open questions of constitutional interpretation. But those questions are likely to be infrequent at the circuit court level.

23. How do you decide when the Constitution's "original meaning" should be controlling?

Response: Please see my answer to Question 22.

24. Does the "original meaning" of the Constitution support a constitutional right to same-sex marriage?

Response: The Supreme Court in *Obergefell* concluded that the Constitution provides a constitutional right to same-sex marriage, and I would faithfully apply that precedent.

25. Does the "original meaning" of the Constitution support the constitutional right to marry persons of a different race?

Response: The Supreme Court in *Loving* concluded that the Constitution provides a constitutional right to marry persons of a different race, and I would faithfully apply that precedent.

26. What is your understanding of the Equal Protection and Due Process clauses of the Fourteenth Amendment?

Response: Based on my understanding of these principles as established by the Supreme Court, the Equal Protection Clause (1) requires that all persons similarly situated by treated alike, *see City of Cleburne v. Cleburne Living Ctr*., 473 U.S. 432, 439 (1985), and (2) prevents discrimination based on suspect and quasi-suspect classifications, *see, e.g.*, *Students for Fair Admission, Inc. v. President and Fellows of Harvard College*, 600 U.S. 181 (2023); United States v. Virginia, 518 U.S. 515 (1996); *Nyquist v. Mauclet*, 432 U.S. 1 (1977). Under Supreme Court precedent, the Fourteenth Amendment Due Process Clause establishes both procedural protections, *see, e.g.*, *Mathews v. Eldridge*, 424 U.S. 319 (1976), and substantive rights, *see, e.g., Meyer v. Nebraska*, 262 U.S. 390 (1923). Justice Thomas in concurring opinions has indicated that history suggests substantive rights might be more properly situated under Privileges and Immunities Clause, although that conclusion does not reflect contemporary controlling Supreme Court precedent.

27. How do these clauses apply to individuals that the Framers of the amendment likely did not have in mind, such as women? Or LGBTQ+ individuals?

Response: The Supreme Court has held that these constitutional provisions prevent discrimination based on sex, *see, e.g.*, *Untied States v. Virginia*, 518 U.S. 515 (1996), and sexual orientation, *see, e.g.*, *Romer v. Evans*, 517 U.S. 620 (1996). As a lower court

judge, I would be bound to apply all Supreme Court precedents, including these decisions. Because matters related to this question are the subject of ongoing litigation, it would be improper for me as judicial nominee to further comment.

28. Do you believe that judges should be "originalist" and adhere to the original public meaning of constitutional provisions when applying those provisions today?

Response: Please see my answer to Question 22.

29. If so, do you believe that courts should adhere to the original public meaning of the Foreign Emoluments Clause when interpreting and applying the Clause today?

Response: Please see my answer to Question 22.

30. Under the U.S. Constitution, who is entitled to First Amendment protections?

Response: Generally speaking, the U.S. Supreme Court has held that the First Amendment protects speech regardless of whether the government considers the speech to be right or wrong, *Hurley v. Irish-American Gay, Lesbian and Bisexual Group of Boston, Inc.*, 515 U.S. 537 (1995), and even if it is outrageous, *Snyder v. Phelps*, 562 U.S. 442 (2011); *United States v. Stevens*, 559 U.S. 460 (2010). The Supreme Court has also held that First Amendment protections may apply to individuals, *McIntyre v. Ohio Elecs. Comm'n*, 514 U.S. 334 (1995), as well as corporations, *see, e.g.*, *Citizens United v Fed. Elec. Comm'n*, 558 U.S. 310 (2010); *Miami Herald Publishing Co. v. Tornillo*, 418 U.S. 241 (1974). As a lower court judge, I would be bound to apply all Supreme Court precedents.

31. How would you determine whether a law that regulates speech is "content-based" or "content-neutral"? What are some of the key questions that would inform your analysis?

Response: The Supreme Court has addressed this issue in cases such as *City of Austin, Texas v. Reagan Nat'l Advertising of Austin, LLC*, 596 U.S. 61 (2022), and *Reed v. Town of Gilbert*, 576 U.S. 155 (2015). Among other things, those cases instruct that a "regulation of speech is facially content based under the First Amendment if it target[s] speech based on its communicative content—that is, if it applies to particular speech because of the topic discussed or the idea or message expressed." *City of Austin*, 596 U.S. at 69 (quoting *Reed*, 576 U.S. at 163). By contrast, a law is content-neutral if it can be "justified without reference to the content of the regulated speech." *Reed*, 576 U.S. at 166 (quotation omitted). As a lower court judge, I would be bound to apply all Supreme Court precedents.

32. What is the standard for determining whether a statement is protected speech under the true threats doctrine?

Response: The Supreme Court has addressed this issue in cases such as *Counterman v. Colorado*, 600 U.S. 66, 74 (2023), and *Virginia v. Black*, 538 U.S. 343 (2003). Among other things, these cases instruct that "'[t]rue threats' of violence is [a] historically unprotected category of communications." *Counterman*, 600 U.S. at 74. These cases establish that "true threats are serious expressions conveying that a speaker means to commit an act of unlawful violence." *Id.*; *see Black*, 538 U.S. at 359. As a lower court judge, I would be bound to apply all Supreme Court precedents.

33. Is every individual within the United States entitled to due process?

Response: The Fifth and Fourteenth Amendments to the U.S. Constitution provide, respectively, that no person shall "be deprived of life, liberty or property, without due process of law" and that no State shall "deprive any person of life, liberty, or property, without due process of law." U.S. Const. amends. V, XIV. The Supreme Court has stated that "the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *see Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 107 (2020); *Agency for Int'l Dev. v. All. For Open Soc'y Int'l, Inc.*, 591 U.S. 430 (2020). The Supreme Court has an extensive body of precedents discussing what due process requires in various contexts. As a lower court judge, I would be bound to apply all Supreme Court precedents in addressing due process claims.

34. Can U.S. citizens be transported to other countries for the purpose of being detained, incarcerated, or otherwise penalized?

Response: Please see my answer to Question 33.

35. The Fourteenth Amendment states: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside."

a. Is every person born in the United States a citizen under the Fourteenth Amendment?

Response: The Citizenship Clause of the 14th Amendment to the United States Constitution provides that "[a]ll persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." The meaning of this provision and its application in certain circumstances has been addressed in cases such as *United States v. Wong Kim Ark*, 169 U.S. 649 (1898). As a lower court judge, I would be bound to apply all Supreme Court precedents, including this decision, in addressing any citizenship claims. Because this question asks about matters that are the subject of ongoing litigation, it would be improper for me as a judicial nominee to further comment. *See* Code of Conduct of U.S. Judges, Canon 3A(6).

b. Is the citizenship or immigration status of the parents of an individual born in the United States relevant for determining whether the individual is a citizen under the Fourteenth Amendment?

Response: Please see my answer to Question 35(a).

36. Do you believe that demographic and professional diversity on the federal bench is important? Please explain your views.

Response: It is inappropriate for any person to be excluded from the opportunity to serve in the judicial branch simply based on, for example, that person's race, sex, or religion. In addition, it is valuable for the federal bench to benefit from a wide variety of professional experiences.

37. The bipartisan *First Step Act of 2018*, which was signed into law by President Trump, is one of the most important pieces of criminal justice legislation to be enacted during my time in Congress. At its core, the Act was based on a few key, evidence-based principles. First, incarcerated people can and should have meaningful access to rehabilitative programming and support in order to reduce recidivism and help our communities prosper. Second, overincarceration through the use of draconian mandatory minimum sentences does not serve the purposes of sentencing and ultimately causes greater, unnecessary harm to our communities. With these rehabilitative principles in mind, one thing Congress sought to achieve through this Act was giving greater discretion to judges—both before and after sentencing—to ensure that the criminal justice system effectively and efficiently fosters public safety for the benefit of all Americans.

a. How do you view the role of federal judges in implementing the *First Step Act*?

Response: As with any other constitutional or statutory provision, I would be obligated as a judge to faithfully and impartially apply the First Step Act, and governing precedents interpreting it.

b. Will you commit to fully and fairly considering appeals that come before you when reviewing sentencing law and its application to ensure that criminal sentences are properly tailored to promote the goals of sentencing and avoid terms of imprisonment in excess of what is necessary?

Response: I commit to faithfully and impartially applying all applicable laws and precedents that govern the sentencing of criminal defendants.

38. The Federalist Society seeks to "reorder[] priorities within the legal system to place a premium on individual liberty, traditional values, and the rule of law."

a. In your Questionnaire, you state that you are currently or were previously a member of the Federalist Society. What is your understanding of "traditional values"?

Response: As a pending judicial nominee, it would be inappropriate for me to express cultural or policy views. If I am confirmed, I will seek to apply the law fairly and impartially without respect to any individual policy views.

b. President Trump wrote on Truth Social that the Federalist Society gave him "bad advice" on "numerous Judicial Nominations." He also wrote that Leonard Leo is a "sleazebag" who "probably hates America." If you are not familiar with this post, please refer to it in the footnote.[6]

As a pending judicial nominee, it is inappropriate for me to comment on others' public statements.

i. Do you agree with President Trump that the Federalist Society provided President Trump with bad advice during his first term? Why or why not?

Response: Please see my response to Question 38(b).

ii. Do you agree with President Trump that Leo is a sleazebag who probably hates America? Why or why not?

Response: Please see my response to Question 38(b).

iii. If you are confirmed, do you plan to remain affiliated with the Federalist Society?

Response: If I am confirmed, I would plan to remain affiliated to the extent consistent with any obligations under judicial ethics and conflicts of interest rules.

c. During your selection process, have you spoken to or corresponded with any individuals associated with the Federalist Society, including Leonard Leo or Steven G. Calabresi? If so, please provide details of those discussions.

Response: I have had a number of professional acquaintances and colleagues affiliated with the Federalist Society for a number of years and would have maintained correspondence with these individuals during my selection process.

[6] Donald J. Trump (@realDonaldTrump), Truth Social (May 29, 2025, 8:10 PM), https://truthsocial.com/@realDonaldTrump/posts/114593880455063168.

d. Have you ever been asked to and/or provided services to the Federalist Society, including research, analysis, advice, speeches, or appearing at events?

Response: Yes, please see my more detailed response at Question 38(e).

e. Have you ever been paid honoraria by the Federalist Society? If so, how much were you paid, and for what services?

Response: Yes, I have received honoraria for speaking to student chapters of the Federalist Society. There may also have been a handful of national events for which I received honoraria, but I frequently spoke at national organization conferences without the payment of honoraria. Separately, I received a stipend from a fellowship affiliated with the Federalist Society before starting my full-time academic career.

39. The Teneo Network states that its purpose is to "Recruit, Connect, and Deploy talented conservatives who lead opinion and shape the industries that shape society."

a. During your selection process, have you spoken to or corresponded with any individuals associated with the Teneo Network, including Leonard Leo? If so, please provide details of those discussions.

Response: I have had a number of professional acquaintances and colleagues affiliated with Teneo for a number of years and would have maintained correspondence with these individuals in the ordinary course during my selection process.

b. Have you ever been asked to and/or provided services to the Teneo Network, including research, analysis, advice, speeches, or appearing at events?

Response: No, not to my knowledge.

c. Have you ever been paid honoraria by the Teneo Network? If so, how much were you paid, and for what services?

Response: No, not to my knowledge.

40. The Heritage Foundation states that its mission is to "formulate and promote public policies based on the principles of free enterprise, limited government, individual freedom, traditional American values, and a strong national defense." Heritage Action, which is affiliated with the Heritage Foundation, seeks to "fight for conservative policies in Washington, D.C. and in state capitals across the country."

a. During your selection process, have you spoken to or corresponded with any individuals associated with the Heritage Foundation or Heritage Action, including Kevin D. Roberts? If so, please provide details of those discussions.

Response: I have had a number of professional acquaintances and colleagues affiliated with Heritage for a number of years and would have maintained correspondence with these individuals in the ordinary course during my selection process.

b. Have you ever been asked to and/or provided services to the Heritage Foundation or Heritage Action, including research, analysis, advice, speeches, or appearing at events?

Response: Yes, I have participated in a number of conferences and events at Heritage as disclosed on my Senate Judiciary Questionnaire.

c. Were you ever involved in or asked to contribute to Project 2025 in any way?

Response: Yes, I was asked to contribute. As I recall, I was unable to do so because most of the project's ongoing efforts occurred during the time period when an immediate family member was terminally ill.

d. Have you ever been paid honoraria by the Heritage Foundation or Heritage Action? If so, how much were you paid, and for what services?

Response: I do not believe I have been paid honoraria by the Heritage Foundation or Heritage Action.

41. The America First Policy Institute (AFPI) states that its "guiding principles are liberty, free enterprise, national greatness, American military superiority, foreign-policy engagement in the American interest, and the primacy of American workers, families, and communities in all we do."

a. During your selection process, have you spoken to or corresponded with any individuals associated with AFPI? If so, please provide details of those discussions.

Response: I have had a number of professional acquaintances and colleagues affiliated with AFLI for a number of years and would have maintained correspondence with these individuals in the ordinary course during my selection process.

b. Have you ever been asked to and/or provided services to AFPI, including research, analysis, advice, speeches, or appearing at events?

Response: I have at times provided advice to AFPI or participated in internal meetings or discussion groups hosted by the organization.

c. Have you ever been paid honoraria by AFPI? If so, how much were you paid, and for what services?

Response: No.

42. The America First Legal Institute (AFLI) states that it seeks to "oppose the radical left's anti-jobs, anti-freedom, anti-faith, anti-borders, anti-police, and anti-American crusade."

a. During your selection process, have you spoken to or corresponded with any individuals associated with AFLI, including Stephen Miller, Gene Hamilton, or Daniel Epstein? If so, please provide details of those discussions.

Response: I have had a number of professional acquaintances and colleagues affiliated with AFLI for a number of years and would have maintained correspondence with these individuals in the ordinary course during my selection process.

b. Have you ever been asked to and/or provided services to AFLI, including research, analysis, advice, speeches, or appearing at events?

Response: Yes, the principal appearance that I recall providing for AFLI is the provision of a lecture during an annual educational fellows program that AFLI provides, as disclosed in my Senate Judiciary Questionnaire.

c. Have you ever been paid honoraria by AFLI? If so, how much were you paid, and for what services?

Response: No.

43. The Article III Project is an organization which claims that, "The left is weaponizing the power of the judiciary against ordinary citizens."

a. During your selection process, have you spoken to or corresponded with any individuals associated with the Article III Project, including Mike Davis, Will Chamberlain, or Josh Hammer? If so, please provide details of those discussions.

Response: No.

b. Have you ever been asked to and/or provided services to the Article III Project, including research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Have you ever been paid honoraria by the Article III Project? If so, how much were you paid, and for what services?

Response: No.

Less than an hour after President Trump announced your nomination, Mr. Davis posted on social media that the Article III project will "ensure she is confirmed," referring to you.[7] You reposted Mr. Davis's social media post and wrote, "I'm very grateful for your gracious words of support."[8]

d. What is your familiarity with Mr. Davis?

Response: I have known Mr. Davis as a professional acquaintance for a number of years.

Mr. Davis has made offensive comments on numerous occasions. For example, in an October 2023 social media post, he wrote, "[t]he violent Black underclass is a danger to America" and, "[t]hese monsters will kill."[9]

e. Do you condemn this offensive statement by Mr. Davis?

Response: Consistent with the Code of Conduct for federal judges and positions taken by prior nominees, it would be inappropriate for me, as a pending judicial nominee, to comment on others' public statements. *See* Code of Conduct of U.S. Judges, Canon 5.

Mr. Davis referred to Anita Hill, Christine Blasey Ford, and Jean Carroll as "three Democrat women who let Democrat operatives use them like cheap whores. (And liked it.)."[10]

f. Do you condemn this offensive statement by Mr. Davis?

Response: Consistent with the Code of Conduct for federal judges and positions taken by prior nominees, it would be inappropriate for me, as a pending judicial nominee, to comment on others' public statements. *See* Code of Conduct of U.S. Judges, Canon 5.

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[7] Mike Davis (@mrddmia), X (July 16, 2025, 7:36 PM), https://x.com/mrddmia/status/1945628668329447749.
[8] Jenn Mascott (@jennmascott), X (July 17, 2025, 5:31 PM), https://x.com/jennmascott/status/1945959624454107581.
[9] Mike Davis (@mrddmia), X (Oct. 1, 2023, 4:01 PM), https://x.com/mrddmia/status/1708572983944523811.
[10] Mike Davis (@mrddmia), X (Jan. 17, 2024, 8:22 PM), https://x.com/mrddmia/status/1747791643057565944.

Mr. Davis has also made offensive statements about immigrants. For example, in September 2023, he called the children of immigrants "anchor babies" and said: "We're gonna put kids in cages. It's gonna be glorious."[11]

g. Do you condemn this offensive statement by Mr. Davis?

Response: Consistent with the Code of Conduct for federal judges and positions taken by prior nominees, it would be inappropriate for me, as a pending judicial nominee, to comment on the statements of others' public statements. *See* Code of Conduct of U.S. Judges, Canon 5.

44. The Alliance Defending Freedom (ADF) states that it is "the world's largest legal organization committed to protecting religious freedom, free speech, the sanctity of life, marriage and family, and parental rights."

a. During your selection process, have you spoken to or corresponded with any individuals associated with ADF? If so, please provide details of those discussions.

Response: I have a number of professional acquaintances affiliated with ADF and would have spoken with them in the ordinary course before and during the selection process.

b. Have you ever been asked to and/or provided services to ADF, including research, analysis, advice, speeches, or appearing at events?

Response: I have not provided research, analysis, advice, a speech, or an appearance to ADF.

c. Have you ever been paid honoraria by ADF? If so, how much were you paid, and for what services?

Response: No.

45. The Concord Fund, also known as the Judicial Crisis Network, states that it is committed "to the Constitution and the Founders' vision of a nation of limited government; dedicated to the rule of law; with a fair and impartial judiciary." It is affiliated with the 85 Fund, also known as the Honest Elections Project and the Judicial Education Project.

a. During your selection process, have you spoken to or corresponded with any individuals associated with these organizations, including Leonard Leo or Carrie Severino? If so, please provide details of those discussions.

Response: I have a number of professional and personal acquaintances affiliated with these organizations and would have spoken with them in the ordinary course before and during the selection process.

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[11] *Dems RAGE As Republicans EXPOSE Biden Crimes, DNC in PANIC to REPLACE Joe | Sen. Feinstein DEAD*, THE BENNY SHOW (Sept. 29, 2023), https://www.youtube.com/watch?v=-s9-SotiUkI.

b. Have you ever been asked to and/or provided services to these organizations, including research, analysis, advice, speeches, or appearing at events?

Response: To my knowledge, I have not been asked to provide research, speeches, or appearances to the Concord Fund or the Judicial Education Project. I do maintain professional and personal ties to individuals in these organizations and as part of those ongoing relationships I may have engaged in legal discussions and advice over the years.

c. Have you ever been paid honoraria by these organizations? If so, how much were you paid, and for what services?

Response: To my knowledge I have not been paid honoraria by these organizations. I have been paid honoraria for student chapter Federalist Society events.

d. Do you have any concerns about outside groups or special interests making undisclosed donations to front organizations like the Concord Fund or 85 Fund in support of your nomination? Note that I am not asking whether you have solicited any such donations, I am asking whether you would find such donations to be problematic.

Response: I am unaware of whether outside groups or special interests might be making donations in support of my confirmation. If I am confirmed, any public advocacy for or against my confirmation will be irrelevant to my decision-making as a judge.

e. If you learn of any such donations, will you commit to call for the undisclosed donors to make their donations public so that if you are confirmed you can have this information when you make decisions about recusal in cases that these donors may have an interest in?

Response: Both the appearance of impartiality and actual impartiality are important in maintaining public confidence in our system of justice. If confirmed, I will address all actual or potential conflicts of interest by reference to 28 U.S.C. § 455, the Code of Conduct for United States Judges, and any and all other laws, rules, and practices governing such circumstances.

f. Will you condemn any attempt to make undisclosed donations to the Concord Fund or 85 Fund on behalf of your nomination?

Response: Please see my answers to questions 45(a) through (e).

Nomination of Jennifer Mascott
Nominee to the United States Court of Appeals for the Third Circuit
Questions for the Record
Submitted September 10, 2025

QUESTIONS FROM SENATOR WHITEHOUSE

Please answer each question and sub-question individually and as specifically as possible.

1. Did you or someone else first raise with the Trump Administration the possibility of your nomination to the Delaware seat on the Third Circuit? If not you, who first raised the subject?

    a. When did you first discuss with any member of the Administration the possibility of your nomination to the Delaware seat on the Third Circuit?

    Response: Congress has allocated at least one seat to each state within a circuit. By custom, there are two Third Circuit seats in Delaware. The White House Counsel first inquired about whether I was interested in consideration for this Third Circuit seat in April or May 2025. I interviewed with the White House Counsel on May 14, 2025.

    b. Did you discuss with any member of the Administration the possibility of being nominated to fill any other judicial vacancies? If so, which vacancies?

    Response: I conveyed to White House Counsel staff a general interest in judicial service along with service in any other appointed role in which the President might want me to serve. I am unaware of any additional vacancies for which I may or may not have been under consideration.

2. What issues have you worked on during your time in the Office of White House Counsel?

    Response: I have worked on statutory interpretation questions and matters related to the constitutional structural separation of powers. I also participated on teams of White House Counsel lawyers interviewing potential judicial nominees.

3. You said in your questionnaire that you met with President Trump regarding your possible nomination on July 2, 2025.

    a. What did you discuss in that meeting?

    Response: The President congratulated me on the nomination, and we discussed my professional background and my understanding of the proper role of an Article III judge.

    b. Did President Trump ask you to make any commitments? If yes, please describe.

Response: No.

Nomination of Jeniffer Mascott to the
United States Circuit Court for the Third Circuit
Questions for the Record
Submitted September 10, 2025

QUESTIONS FROM SENATOR COONS

1. At any point during the process that led to your nomination, did you make any representations or commitments to anyone—including but not limited to individuals at the White House, at the Justice Department, or at outside groups—as to how you would handle a particular case, investigation, or matter, if confirmed? If so, explain fully.

    a. At any point during the process that led to your nomination, were you asked about your opinion on any cases that involve President Trump or the Trump administration?

    Response: No.

2. Are you a member of the Delaware Bar?

    a. Why not?

    Response: As a public servant and law professor at Washington, D.C.-area schools, I am licensed to practice law in Maryland and Virginia, not Delaware. I have been nominated to a federal appeals court based in the Third Circuit and am admitted to that court as well as admitted to the Supreme Court and a number of other circuit courts consistent with the federal appellate practice that is the focus of the docket for the Third Circuit.

    b. If confirmed to the Delaware-based seat on the U.S. Court of Appeals for the Third Circuit, do you plan to sit for the Delaware Bar?

    Response: My understanding is that admission to the Delaware Bar includes a requirement of clerking for a judge on a Delaware state court, and my service on the Third Circuit if I am confirmed would preclude my service in such a clerkship.

    c. If not, why not?

    Response: Please see my response to Question 2(b).

3. Have you ever practiced law in Delaware?

    a. Have you ever presented oral argument in any state or federal court in Delaware? If so, please list the name of the case, the party you were representing, and the date of the argument.

Response: No. As a public servant in federal government and a long-time academic, my principal practice has involved teaching and working in federal government positions.

b. Have you ever filed a brief in any state or federal court in Delaware? If so, please list the name of the case, the party you were representing, and the date the brief was filed.

Response: No. As a public servant in federal government and a long-time academic, my principal practice has involved teaching and working in federal government positions.

4. Are you admitted to practice law in the U.S. Court of Appeals for the Third Circuit?

a. When were you admitted to the Third Circuit bar?

Response: Yes, and I was admitted in May 2025.

b. Why did you apply for admission on that date? Was it because you had been told by the White House that you were under consideration for the nomination to Judge Kent Jordan's seat?

Response: As is standard practice of lawyers, I applied for admission to the Third Circuit when I had reason to believe I would be engaging in regular legal work within the Third Circuit in particular. As a long-time academic and public servant, my practice has been principally teaching and the filing of briefs at the Supreme Court level, rather than practicing within any particular regional circuit court. The federal appellate issues considered by all regional circuits is generally similarly, as only the Federal Circuit and the D.C. Circuit to a much lesser degree have specialized dockets.

c. Have you ever presented oral argument in the Third Circuit? If so, please list the name of the case, the party you were representing, and the date of the argument.

Response: No, as a long-time academic and federal public servant, my practice has principally consisted of teaching, the filing of briefs in the Supreme Court, and legal work on behalf of the federal government within various appointed executive branch positions, rather than oral argument within any particular regional circuit court.

d. Have you ever filed a brief in the Third Circuit? If so, please list the name of the case, the party you were representing, and the date the brief was filed.

Response: Yes. *CFPB v National Collegiate Master Student Loan Trust*, on behalf of the Separation of Powers Clinic at Scalia Law School on October 3, 2022.

5. If confirmed to the Delaware-based seat on the Third Circuit to which you have been nominated, where will you establish your chambers?

   a. How many days per week do you intend to work in your chambers?

      Response: If I am confirmed, my intention would be to establish chambers in the Wilmington Courthouse directly following confirmation. I would intend for my law clerks to work in Wilmington as well, and we would all comply with any mandatory residency requirements. The location of the work from day to day would depend on the assignments received within the Third Circuit, such as assignment to circuit court panels which as I understand it typically involve oral argument in the Third Circuit's main courthouse in Philadelphia.

   b. Where do you intend for your law clerks to work?

      Response: Please see my response to Question 5(a).

   c. How many days per week do you expect that your law clerks will work in chambers?

      Response: Please see my response to Question 5(a).

6. Where is your current primary residence?

   a. If confirmed, will you move to Delaware full time?

      Response: As a public servant and law professor at Washington, D.C.-area schools, I have been living in Maryland. We have a long-time home in Delaware, and if I am confirmed, I will comply with all statutory residency requirements applicable to the Third Circuit.

   b. Will you change your primary residence to Delaware?

      Response: Please see my response to Question 6(a).

   c. Will you register to vote in Delaware?

      Response: Please see my response to Question 6(a).

   d. Will you obtain a Delaware driver's license?

      Response: Please see my response to Question 6(a).

7. How would you respond to the members of the Delaware Bar—many of whom have contacted me—who are upset that a Washington, D.C.-based law professor with minimal ties to Delaware has been nominated to this Third Circuit seat instead of a member of the legal community in Delaware?

   Response: I would not presume to comment on communication with your constituents. Since the announcement of my nomination, I have met with many members of the Delaware bar, including the leadership of the University of Wilmington at which I have indicated interest in teaching at the law school in addition to my judicial service in the area. In addition, I have met with the leadership of many Delaware-based firms and received significant positive encouragement and welcoming to the Delaware legal community in which I would enthusiastically desire to participate if I am confirmed.

8. How would you describe your judicial philosophy?

   Response: My judicial philosophy is that judges should be carefully to apply the rule of law impartially and fairly, consistent with their constitutional oath. Article III of the Constitution intentionally and plainly permits only a limited judicial role—contained to resolution of discrete cases and controversies with jurisdiction in the "inferior" courts that is regulated and delimited by Congress through legislation. My role as a lower court judge would be to faithfully apply Supreme Court precedent and follow the stare decisis rules and principles of the Third Circuit. To the extent such precedents do not govern a case before me, I would apply textualist and originalist approaches to address interpretive questions consistent with the role of the judge and the significance of the text and structure of positive law within the federal constitutional scheme.

9. What sources would you employ to discern the contours of a constitutional provision?

   Response: I would apply an originalist methodology to the extent there was a concrete open constitutional question before me, not governed by preexisting Supreme Court or Third Circuit precedent. If I were faced with an open question, I would consult the range of sources unpacked in my interpretive originalist academic work on "officers of the United States" in the *Stanford Law Review*. Such sources include the constitutional text, surrounding provisions, the constitutional structure, and a range of sources unpacking the public understanding of the relevant phrase or term at the time. Those sources could include Founding-era dictionaries, the ratification and drafting debates, the Federalist and anti-Federalist Papers, historical sources, Continental Congress debates and practice, among a number of other sources.

10. You testified during your Senate Judiciary Committee confirmation hearing that the Constitution should be interpreted according to its "original public meaning," which you defined as "the meaning of the text that was understood by the public at the time it became law." You also testified that you believe that *Brown v. Board of Education* was correctly decided.

a. Do you consider yourself an originalist?

Response: Yes.

b. Can you explain how the Court's decision in *Brown* comports with an originalist interpretation of constitutional law?

Response: The Fourteenth Amendment of the Constitution requires equal protection of all citizens under the laws, which is consistent with *Brown*'s requirement that schools be integrated as segregation was causing inequality. *See* U.S. Const. amend. xiv ("[N]or shall any state . . . deny to any person within its jurisdiction the equal protection of the laws.").

11. With respect to substantive due process, what factors do you look to when a case requires you to determine whether a right is fundamental and protected under the Fourteenth Amendment?

a. Would you consider whether the right is expressly enumerated in the Constitution?

Response: If I were confirmed, I would apply the standards set forth in applicable Supreme Court precedent, such as *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215 (2022). Supreme Court precedent has identified express enumeration as a relevant consideration. *See, e.g.*, *Timbs v. Indiana*, 586 U.S. 146, 150 (2019); *McDonald v. City of Chicago*, 561 U.S. 742, 763-66 (2010).

b. Would you consider whether the right is deeply rooted in this nation's history and tradition? If so, what types of sources would you consult to determine whether a right is deeply rooted in this nation's history and tradition?

Response: The Supreme Court has identified history and tradition as a relevant consideration. *See, e.g.*, *Timbs*, 586 U.S. at 151-54; *McDonald*, 561 U.S. at 767-78. The Supreme Court has explained the types of sources to be considered in cases such as *Dobbs*, 597 U.S. at 215, and *Washington v. Glucksberg*, 521 U.S. 702 (1997).

c. Would you consider whether the right has previously been recognized by Supreme Court or circuit precedent? What about the precedent of another court of appeals?

Response: As a judge, should I be confirmed, any applicable precedent of the Supreme Court or the Third Circuit that recognized the right at issue would be

controlling precedent. In the absence of controlling precedent, relevant decisions of other circuits may be consulted for their persuasive value.

d. Would you consider whether a *similar* right has previously been recognized by Supreme Court or circuit precedent?

Response: Yes.

e. What other factors would you consider?

Response: As a judge, should I be confirmed, I would consider any other factor identified by Supreme Court or Third Circuit precedents as relevant to assessing whether a right is fundamental and protected by the Fourteenth Amendment.

12. When, if ever, is it permissible for a circuit court to overturn its own precedent? Please explain.

Response: Under the rules of the Third Circuit, a panel of the circuit court may not overturn the precedent of a previous panel decision. The court must sit en banc to overturn circuit precedent.

13. Under 28 U.S.C. § 455, "[a]ny justice, judge, or magistrate judge of the United States shall disqualify [themself] in any proceeding in which [their] impartiality might reasonably be questioned."

a. Given your service in the White House Counsel's Office, would you recuse yourself from cases challenging executive orders promulgated by the Trump administration?

Response: The statute cited above lists a number of specific provisions governing recusals. The particular provision addressing government service requires recusal where, during that governmental employment, the individual "participated as counsel, adviser or material witness concerning [a] proceeding or expressed an opinion concerning the merits of the particular case in controversy." 28 U.S.C. 455 § (b)(2). If I were confirmed, I would fully comply with these requirements.

b. What about cases challenging other Trump administration executive actions?

Please see my response to Question 13(a).

c. Given your statement to me that you provided the Trump administration with advice on its obligations vis-à-vis spending money appropriated by Congress, would you recuse yourself from cases challenging how and whether the Trump administration is obligated to spend money appropriated by Congress?

Please see my response to Question 13(a).

14. In your view, is it ever appropriate for a judge to ignore, disregard, refuse to implement, or issue an order that is contrary to an order from a higher court? Please explain.

Response: It would not be appropriate for a lower court judge to depart from controlling precedent from a higher court. A court of appeals judge must follow controlling Supreme Court precedent. *See Rodriguez de Quimas v. Shearson/American Express, Inc.*, 490 U.S. 477, 484 (1989).

15. In *United States v. Virginia*, 518 U.S. 515, 536 (1996), the Court explained that in 1839, when the Virginia Military Institute was established, "[h]igher education at the time was considered dangerous for women," a view widely rejected today. In *Obergefell v. Hodges*, 576 U.S. 644, 668 (2015), the Court reasoned, "As all parties agree, many same-sex couples provide loving and nurturing homes to their children, whether biological or adopted. And hundreds of thousands of children are presently being raised by such couples. . . . Excluding same-sex couples from marriage thus conflicts with a central premise of the right to marry. Without the recognition, stability, and predictability marriage offers, their children suffer the stigma of knowing their families are somehow lesser." This conclusion rejects arguments made by campaigns to prohibit same-sex marriage based on the purported negative impact of such marriages on children.

    a. When is it appropriate for a court to consider evidence that sheds light on our changing understanding of society?

    Response: In certain contexts, the Supreme Court has considered "evolving standards" in determining the meaning of a constitutional provision. *See, e.g.*, *Roper v. Simmons*, 543 U.S. 551 (2005) (Eighth Amendment). If confirmed, I would be bound to apply all Supreme Court precedents and Third Circuit precedent in these contexts.

    b. What is the role of sociology, scientific evidence, and data in judicial analysis?

    Response: Generally, the admissibility of scientific, technical, or other specialized knowledge in the determination of adjudicative facts is governed by Federal Rule of Evidence 702. If confirmed, I would faithfully apply any relevant precedents of the Supreme Court and the Third Circuit governing the consideration of such evidence.

16. What is the remedy if the President violates his constitutional duty to faithfully execute the laws?

Response: Generally, the Take Care Clause provides that the President "Shall take Care that the Laws be faithfully executed." Art. II, § 3, cl. 3. Under this provision, the Executive Branch has certain authority to prioritize enforcement of federal law. *United States v. Texas*, 599 U.S. 670, 679 (2023). How these or any other legal principles apply in presidential action, and what the remedy is for any violation of the Take Care Clause,

implicates issues that could arise before me as a judge. Thus, as a judicial nominee, it would be inappropriate for me to further comment. *See* Code of Conduct of U.S. Judges, Canon 3A(6).

17. Is President Trump eligible to be elected President for a third term?

Response: The 22nd Amendment to the U.S. Constitution provides that "[n]o person shall be elected to the office of the President more than twice . . . ."

18. Who won the 2016 U.S. Presidential Election?

Response: President Trump was certified as the winner of the 2016 presidential election and served as the 45th President of the United States.

19. Who won the 2020 U.S. Presidential Election?

Response: President Biden was certified as the winner of the 2020 presidential election and served as the 46th President of the United States.

20. Who won the 2024 U.S. Presidential Election?

Response: President Trump was certified as the winner of the 2024 presidential election is serving as the 47th President of the United States.

21. Do you agree with me that the attack at the U.S. Capitol on January 6, 2021, was an insurrection? Why or why not?

Response: Because the conduct of persons at the U.S. Capitol on January 6, 2021, generated significant political debate and because the import of pardons issued to individuals prosecuted for involvement in the activities at the Capitol on January 6, 2021, is subject to ongoing litigation, it would be inappropriate for me to provide comment as a judicial nominee. *See* Code of Conduct of U.S. Judges, Canons 3(A)(6), 5.

22. Do you think the individuals convicted of assaulting law enforcement officers at the Capitol on January 6, 2021, deserved to be pardoned?

Response: Please see my response to Question 21.

23. If you were the President on January 20, 2025, would you have pardoned the individuals convicted of assaulting law enforcement officers at the Capitol on January 6, 2021?

Response: Please see my response to Question 21.

24. Would it be constitutional for the President of the United States to punish a private person for a viewpoint that person expresses in a newspaper op-ed?

Response: Generally speaking, the Supreme Court has recognized that the First Amendment prohibits the government from engaging in viewpoint discrimination. *See, e.g.*, *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U.S. 819, 828-29 (1995). The Supreme Court has further recognized that viewpoint discrimination is proscribed even if the speech (fighting words, for instance) generally would be categorically unprotected. *R.A.V. v. City of St. Paul*, 505 U.S. 377, 391 (1992). Viewpoint discrimination occurs when the government "targets not subject matter, but particular views taken by speakers on a subject." *Rosenberger*, 515 U.S. at 829.

25. Would it be constitutional for the President of the United States to terminate government contracts with a private person specifically because that person donated to members of the opposite political party?

Response: Please see my response to Question 24.

26. Would it ever be appropriate for the President of the United States to punish a law firm for taking on a client that the President did not like?

Response: Please see my response to Question 24. To the extent this question asks about hypothetical cases or particular matters that are the subject of ongoing litigation, it would be inappropriate for me as a judicial nominee to further comment. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6).

27. Do you agree that there is a constitutional right to privacy that protects a woman's right to use contraceptives? If you do not agree, please explain whether this right is protected or not and which constitutional rights or provisions encompass it.

Response: The Supreme Court has recognized a right to privacy protecting the use of contraceptives. *See Eisenstadt v. Baird*, 405 U.S. 438, 453-54 (1972); *Griswold v. Connecticut*, 381 U.S. 479, 485 (1965). If confirmed, I would faithfully apply relevant precedents of the Supreme Court and the Third Circuit relating to privacy.

28. Do you agree that there is a constitutional right to privacy that protects the right to in vitro fertilization (IVF)? If you do not agree, please explain whether this right is protected or not and which constitutional rights or provisions encompass it.

Response: As my answer to Question 27 indicates, the Supreme Court has recognized a right to privacy in certain contexts. Whether that right extends to IVF has been the subject of litigation and therefore it would be inappropriate for me to opine on that particular question. *See* Code of Conduct of U.S. Judges, Canon 3A(6).

29. Do you believe that immigrants, regardless of legal status, are entitled to due process and fair adjudication of their claims?

Response: The Fifth and Fourteenth Amendments to the U.S. Constitution provide, respectively, that no person shall "be deprived of life, liberty or property, without due

process of law" and that no State shall "deprive any person of life, liberty, or property, without due process of law." U.S. Const. amends. v, xiv. The Supreme Court has stated that "the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *see Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 107 (2020); *Agency for Int'l Dev. v. All. For Open Soc'y Int'l, Inc.*, 591 U.S. 430 (2020). The Supreme Court has an extensive body of precedents discussing what due process requires in various contexts. As a lower court judge, I would be bound to apply all Supreme Court precedents in addressing due process claims.

30. Does the public's original understanding of the scope of a constitutional provision constrain its application decades later?

Response: Generally speaking, the original public meaning of a provision constrains its application decades later, consistent with the Supreme Court's application of originalist methodology in resolving open constitutional questions. *See, e.g.*, *District of Columbia v. Heller*, 554 U.S. 570 (2008). But the Constitution includes general as well as specific terms, which governs how much discretion governmental actors have in exercising authority under the Constitution. Further, many of the Constitution's requirements are procedural rather than substantive, establishing rules for how governmental actors are to make decisions responsive to the needs and political will of the current and contemporary electorate. That said, as a lower court judge, I would be bound to faithfully apply all applicable precedent of the Supreme Court and the Third Circuit without regard to whether that binding precedent comports with the original public meaning of the Constitution.

31. What role does morality play in determining whether a challenged law or regulation is unconstitutional or otherwise illegal?

Response: As a general matter, a judge should not decide cases based on their personal views or policy preferences but rather based on the Constitution and laws of the United States. *See* 28 U.S.C. § 453. Judges should apply judgment, not will. The Federalist No. 78. Accordingly, judges must evaluate legal claims and determine the merits of those claims based on a fidelity to the legal text of any applicable constitutional or statutory provision, as well as any binding precedents.

32. What role, if any, should the practical consequences of a particular ruling play in a judge's rendering of a decision?

Response: There may be certain contexts in which a judge will be required to consider the practical consequences of a particular order on the parties and the public. *See, e.g.*, *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008) (injunctive relief). As a general matter, however, a judge should not decide cases based on their personal views or policy preferences but rather based on the Constitution and laws of the United States. *See* 28 U.S.C. § 453.

33. What role, if any, should empathy play in a judge's decision-making process?

Response: As a general matter, a judge should not decide cases based on their personal views or policy preferences but rather based on the Constitution and laws of the United States. *See* 28 U.S.C. § 453. Judges should apply judgment, not will. The Federalist No. 78. Accordingly, judges must evaluate legal claims and determine the merits of those claims based on a fidelity to the legal text of any applicable constitutional or statutory provision, as well as any binding precedents.

34. What role, if any, should a judge's personal life experience play in his or her decision-making process?

Response: A judge's life experiences hopefully will have provided the judge with the requisite legal acumen to fulfill the judicial role as well as the integrity to treat all others with civility, fairness, honesty, and respect.

35. Should you be confirmed, would you ever inform parties before you that they do not need to comply with your orders?

a. Under what circumstances would you tell a party they could decide not to comply with your orders?

Response: The rules governing civil and appellate proceedings allow for mechanisms by which a party may request that a judge stay or defer a party's obligation to comply with a judicial order. *See, e.g.*, Fed. R. App. P. 8, 41; Fed. R. Civ. P. 62. To the extent this question asks about hypothetical cases or matters that are the subject of ongoing litigation, it would be improper for me as a judicial nominee to comment further. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6).

b. What would you do if a party refuses to comply with one of your orders?

Response: As a circuit judge, any issue relating to refusal to comply with a court order would likely be taken up by a panel of Third Circuit judges, so I would consult with my colleagues regarding the appropriate remedy.

36. When is it appropriate for an en banc federal appellate court to reconsider a panel decision?

Response: Generally speaking, to determine when the Third Circuit should sit en banc to reconsider a panel decision, I would need to consult factors and considerations like those set forth in Federal Rule of Appellate Procedure 40. One relevant consideration would be whether the earlier panel decision conflicts with binding Supreme Court precedent.

37. When it comes to conducting yourself ethically, who in the legal profession do you see as a role model?

Response: I see as role models the judges, academics, and private practitioners who transparently and fully comply with ethical obligations and serve with humility, mindful of the modest and limited role of the judiciary to resolve concrete cases and controversies and the legal profession's general role more broadly to help facilitate the fair and impartial administration of justice.

38. Discuss your proposed hiring process for law clerks.

    a. Do you think law clerks should be protected by Title VII of the Civil Rights Act?

    Response: I plan to hire law clerks using a merit-based system, based on recommendations from practitioners, judges, and academics whose judgment I trust. Regarding Title VII, judges should treat everyone including law clerks and judicial staff with dignity, courtesy, respect, and fairness. If confirmed, I will seek to ensure that discrimination has no place in my chambers. That said, as a pending judicial nominee, I cannot speak to any particular policy questions regarding congressional application of general Title VII provisions to the federal judiciary.

39. In the past year, multiple studies have revealed ongoing problems with workplace conduct policies and outcomes in the federal judiciary. In a national climate survey, hundreds of judiciary employees reported that they experienced sexual harassment, discrimination, or other forms of misconduct on the job. A study by the Federal Judicial Center and the National Academy of Public Administration found the branch has failed to set up trusted reporting systems for employees who experience misconduct or ensure that those handling complaints are adequately trained.

    a. If confirmed, what proactive steps would you take to ensure that the clerks and judicial assistants who work in your chambers are treated with respect and are not subject to misconduct?

    Response: Fundamentally, people should be treated with dignity. If confirmed to serve as a judge, I will have the responsibility and duty to set the tone for my chambers. I would seek to facilitate and preserve an atmosphere of respect and humility by example.

    b. What proactive steps would you take to ensure that any workplace-related concerns that your clerks and judicial assistants may have are fully addressed?

    Response: If confirmed, I will ensure that any rules and internal policies of the Third Circuit be followed. I will also foster an open-door policy to ensure that any workplace-related concerns are fully addressed.

c. If you are confirmed and you later hear from a colleague or your chambers staff that another judge is acting inappropriately, what steps would you take to help ensure the problem is addressed?

Response: Please see my response to Question 39(b).

40. Do you think Congress can constitutionally restrict the removal of any official within the Executive Branch?

Response: Under Supreme Court precedent, Congress cannot restrict the removal of officials who exercise executive power in a manner that would curtail the President's ability to take care that the laws be faithfully executed. *See, e.g.*, *Seila Law LLC v. Consumer Financial Protection Bureau*, at 203-04 (2020) (observing that without supervisory and removal authority the President "could not be held fully accountable for discharging his own responsibilities" (quotation omitted)). According to the Court, as "a general matter," the Constitution provides the President with "the authority to remove those who assist him in carrying out his duties." *Free Enter. Fund v. Public Co. Accounting Oversight Bd.*, 561 U.S 477, 513-14 (2010).

Questions for the Record for Professor Jennifer Mascott
Submitted by Senator Richard Blumenthal
September 10, 2025

1. The Trump Administration is facing litigation and opposition in a wide variety of jurisdictions for successively appointing the same individuals to serve as interim or acting U.S. Attorney—essentially bypassing Senate confirmation and the role of district judges in naming acting head prosecutors.

   In a 2024 briefing on appointments, removals, and congressional supervision of executive branch staffing, you discussed the federal Vacancies Reform Act. Specifically, your notes stated that "Congress could encourage Presidents to fill vacant offices more quickly and with more politically palatable candidates by tightening the vacancies provisions that permit a multiple succession of acting officials in key roles" and that the Act could be "tightened to enhance this function by reducing the number of positions from which the President can select acting officials, or the 210-day time period for which acting officers can serve without Senate consent."

   a. Do you still believe that Congress should "encourage Presidents to fill vacant offices more quickly and with more politically palatable candidates by tightening the vacancies provisions that permit a multiple succession of acting officials in key roles[?]"

      Response: The quoted excerpts above are included in outline notes that I developed in connection with a separation of powers briefing series that I used to conduct in my academic capacity for Senate legal and policy staff. Those statements are part of a series of observations stating the potential legislative powers that Congress possesses related to temporary vacancies in certain federal Senate-confirmed positions under the Vacancies Reform Act. Those statements do not necessarily express any view of mine about particular action that Congress should take. Rather, they describe measures Congress could choose to take if Congress had the legislative will and policy desire to provide more detailed guidance and limitations on the temporary filling of acting executive branch offices. Notably, the particular vacancies provisions that I was referencing in the excerpts are part of the general Vacancies Reform Act structure, 5 U.S.C. §§ 3345-3349e. Vacancies in U.S. Attorney positions are also governed by the separate provisions directed to the Department of Justice in 28 U.S.C. § 546.

   b. Do you support the Administration's current actions regarding vacancy U.S. Attorney positions?

      Response: Consistent with the Code of Conduct for United States Judges and positions taken by prior nominees, it would be inappropriate for me, as a pending judicial nominee, to comment on a political issue. *See* Code of Conduct of U.S. Judges, Canon 5.

2. If confirmed, will you recuse yourself from any case where a reasonable person, knowing all the relevant facts, might question your impartiality, even if you personally believe you can be fair?

    a. If confirmed, will you recuse yourself from cases involving individuals, organizations, or entities to which you or your family members have made political contributions or provided political support?

    Response: I will address all actual or potential conflicts of interest by reference to 28 U.S.C. § 455, the Code of Conduct for United States judges, and any and all other laws, rules, and practices governing such circumstances. I will comply with all recusal requirements in section 455 and the code of conduct.

    b. If confirmed, will you recuse yourself from cases involving former clients, former law firms, or organizations with which you have had significant professional relationships?

    Response: I will address all actual or potential conflicts of interest by reference to 28 U.S.C. § 455, the Code of Conduct for United States judges, and any and all other laws, rules, and practices governing such circumstances. I will comply with all recusal requirements in section 455 and the code of conduct.

    c. If confirmed, will you recuse yourself from cases involving personal friends, social acquaintances, or individuals with whom you have ongoing personal relationships?

    Response: I will address all actual or potential conflicts of interest by reference to 28 U.S.C. § 455, the Code of Conduct for United States judges, and any and all other laws, rules, and practices governing such circumstances. I will comply with all recusal requirements in section 455 and the code of conduct.

3. If confirmed, will you commit to avoiding all *ex parte* communications about pending cases, including informal discussions at social events or professional gatherings?

    d. If confirmed, will you avoid discussing pending cases or judicial business with elected officials, political appointees, or political operatives?

    Response: If confirmed, I will faithfully adhere to all ethical rules and obligations governing judicial conduct.

    e. If confirmed, will you commit to declining meetings or communications with lobbyists, advocacy groups, or special interests seeking to influence your judicial decisions?

Response: If confirmed, I will faithfully adhere to all ethical rules and obligations governing judicial conduct.

f. If confirmed, will you refrain from making public statements about legal or political issues that could reasonably be expected to come before your court?

Response: If confirmed, I will faithfully adhere to all ethical rules and obligations governing judicial conduct.

4. If confirmed, will you commit to filing complete and accurate financial disclosure reports that include all required information about your financial interests and activities?

g. If confirmed, will you decline all gifts from parties who might appear before your court or who have interests that could be affected by your judicial decisions?

Response: If confirmed, I will faithfully adhere to all ethical rules and obligations governing judicial conduct. I will file all required reports and comply with all requirements related to potential conflicts of interest and gifts.

h. If confirmed, will you decline privately funded travel, hospitality, or entertainment that could create an appearance of impropriety or special access?

Response: If confirmed, I will faithfully adhere to all ethical rules and obligations governing judicial conduct. I will inform myself of all relevant requirements and comply with all rules and obligations related to privately funded travel, hospitality, or entertainment.

i. If confirmed, will you ensure that any teaching, speaking, or writing activities comply with judicial ethics requirements and do not create conflicts with your judicial duties?

Response: If confirmed, I will faithfully adhere to all ethical rules and obligations governing judicial conduct. I will comply with all rules and obligations including any that impact teaching, speaking, or writing activities.

5. The House Republican-authored budget reconciliation bill had included a provision that would have limited federal judges' ability to hold government officials in contempt. While the Senate Parliamentarian ruled that the provision violated the Byrd Rule, and it was, therefore, removed, it would have prohibited federal courts from issuing contempt penalties against officials who disobey preliminary injunctions or Temporary Restraining Orders if the party seeking the order did not provide financial security to cover potential future damages for wrongful enjoining.

The contempt power was first codified in law in the Judiciary Act of 1789. In 1873, the Supreme Court described it as "inherent in all courts" and "essential to the preservation of order in judicial proceedings and to the enforcement of the judgements, orders, and

writs of the courts, and consequently to the due administration of justice." Yet House Republicans are seeking to exempt government officials from this key tool for judicial enforcement.

a. Do you believe the contempt power is "essential . . . to the due administration of justice[?]"

Response: Historically, the contempt power has been viewed as an aspect of "judicial Power," which the U.S. Constitution vests in the U.S. Supreme Court and "inferior courts as the Congress may from time to time ordain and establish." U.S. Const. art. III, § 1. Through Article III and the express power to create "inferior" tribunals that the Constitution allocates to Congress via its legislative authority in Article I sections 7 and 8, Congress has the ability to create rules and regulations relevant to the contempt authority. As a pending judicial nominee, it would be inappropriate for me to express an opinion on the manner in which Congress should exercise this legislative authority. The Supreme Court opinion passage quoted above regarding the inherent role of contempt authorities is followed in that same opinion by the observation that an 1831 legislative act had "limited and defined" that power. *See* Ex Parte Robinson, 86 U.S. 505, 510 (1873). The opinion continued on to observe that it was an open constitutional question the degree to which Congress could limit the contempt authority of the U.S. Supreme Court, which Article III directly vests with judicial power (a principle analogous to my testimony before the committee on June 14, 2023 and on September 3, 2025 regarding enforcement of Supreme Court recusal determinations). *See id.* But the opinion expressly stated that "there can be no question" the congressional authority to limit contempt powers "applies to the Circuit and District Courts" as "[t]hese courts were created by act of Congress." *Id.* at 510-11. The powers and duties of those courts "depend upon the act calling them into existence, or subsequent acts extending or limiting their jurisdiction." *Id.* at 511.

b. Do you believe that federal judges should be limited in their ability to hold government officials who defy court orders in contempt?

Response: As explained more fully in my answer to Question 5a, Congress has the legislative and policy authority under Article I and III of the Constitution to regulate the contempt authority of "inferior" federal courts. As a pending judicial nominee and consistent with the practice of past nominees and the Code of Judicial Conduct, it would be inappropriate for me to opine on how Congress should use its legislative and policy authorities.

6. If confirmed, you, like all other members of the federal bench, would have the ability to issue orders. On February 9, 2025, Vice President Vance posted on X that "[j]udges aren't allowed to control the executive's legitimate power." This raises an extremely concerning specter of Executive Branch defiance of court orders.

a. If confirmed, would you have the ability to issue orders?

Response: Yes.

i. Would you have the ability to enforce those orders?

Response: It is my understanding that federal courts typically seek to ensure compliance with court orders through sanctions, civil and criminal contempt procedures as appropriate, and requirements that parties file status reports and make appearances to explain compliance efforts and progress.

ii. What powers would you have to enforce those orders?

Response: See previous answer.

b. Does there exist a legal basis for federal Executive Branch officials to defy federal court orders? If so, what basis and in which circumstances?

Response: All proper parties to federal court proceedings including federal executive officials have a responsibility to comply with lawful court orders. The standard process for challenging an order that one concludes is unlawful is to appeal that order. There might be rare circumstances such as a lack of jurisdiction or the complete impossibility of compliance with the terms of a particular order that would make compliance untenable, but it is hard to imagine such a situation.

c. Does there exist a legal basis for state officials to defy federal court orders? If so, what basis and in which circumstances?

Response: The U.S. Constitution's Supremacy Clause directs that the U.S. Constitution, federal laws, and treaties "shall be the supreme Law of the Land … any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." U.S. Const., art. VI, cl. 2. Article VI of the U.S. Constitution continues on to require that "the Judges in every State shall be bound" by this supreme federal law. *Id.* And all federal and state executive, legislative, and judicial officers take a constitutionally required oath to support the U.S. Constitution. U.S. Const. art. VI, cl. 3. Consequently, state officials are bound by lawful federal judicial orders. If there is a lower court order that binds a party, including a state executive official, the normal course is for the party to follow the order and seek appellate review if the party disagrees with the outcome. That said, treatises and cases have identified a number of circumstances where compliance with a court order is not required, such as if the court lacked jurisdiction or if compliance was impossible. *E.g.*, 17 Corpus Juris Secundum Contempt §§ 56-65. The Supreme Court has identified additional circumstances, such as where an order must be violated to be appealed. *See Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009) (opinion of Sotomayor, J.) (listing

defiance of a disclosure order and the consequent incursion of court-imposed sanctions as a potential triggering mechanism for review of a challengeable mandatory disclosure order to avoid improper disclosure of privileged information).

d. What would make a court order unlawful?

i. What is the process a party should follow if it believes a court order to be unlawful?

Response: The standard process for challenging court orders is appeal. If the U.S. Supreme Court has issued a final judgment and there is no more recourse for appeal, certain federal policies could be altered or changed through the legislative or constitutional amendment processes. The finality of a federal court judgment is one of the principal reasons why the drafters and ratifiers of the U.S. Constitution fashioned Article III with significant limits on the contours of federal judicial power limiting it to the resolution of cases and controversies subject to congressional regulation of federal jurisdiction.

ii. Is it ever acceptable to not follow this process? When and why?

Response: Please see my answers to Questions 6(b), 6(c), and 6(d)(i).

7. Were you in Washington, D.C. on January 6, 2021?

a. Were you inside the U.S. Capitol or on the U.S. Capitol grounds on January 6, 2021?

Response: I was in Washington, D.C. on January 6, 2021. I was not inside the U.S. Capitol or on the U.S. Capitol grounds on January 6, 2021.

Senator Mazie K. Hirono
Senate Judiciary Committee

Nomination Hearing
Questions for the Record for Jennifer Mascott

1. As part of my responsibility as a member of this committee to ensure the fitness of nominees, I ask each nominee to answer two initial questions:
    a. **Since you became a legal adult, have you ever made unwanted requests for sexual favors, or committed any verbal or physical harassment or assault of a sexual nature?**

        Response: No.

    b. **Have you ever faced discipline or entered into a settlement related to this kind of conduct?**

        Response: No.

2. Before the *Dobbs* argument, you wrote an article in which you contended that "the most constitutionally correct outcome in *Dobbs* would be for the Court to conclude that the Fourteenth Amendment Due Process Clause—a guarantee of process protections—contains no substantive right."
    a. In *Pierce v. Society of Sisters*, the Supreme Court grounded the right to control the education of one's children in substantive due process. **Was that ruling "constitutionally correct"?**
        i. **If yes, please explain how you square this position with what you wrote in the article referenced above.**

            Response: As Justice Kagan explained and many other judicial nominees across administrations have reiterated, it is generally not appropriate for a judicial nominee to "grade" or give a "thumbs-up or thumbs-down" to particular precedents of the Supreme Court. Were I confirmed as a judge, all of the Supreme Court's pronouncements would be binding on me. Under the Code of Conduct for United States Judges, I have a duty as a judicial nominee to refrain from commenting on the merits or demerits of the Supreme Court's binding precedents, because doing so creates the impression that I would have difficulty applying binding law to adjudicate parties' cases.

        ii. **If no, do you believe parents have the right under the Constitution to control the education of their children?**
            1. **If yes, from where in the Constitution does this right derive?**
            2. **If no, do you believe overturning *Pierce* would be "constitutionally correct"? Why or why not?**

            Response: *Pierce* is binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it. Otherwise, please see my answer to Question 2(a)(i).

iii. **If you have declined to answer any of the questions above on the basis that the issue may come before you (or another court), please identify the case(s) currently pending in the federal courts that raise this issue. If you cannot identify any such cases, please explain your basis for believing that this is a "live" issue that is before or that may come before the courts.**

Response: Please see my answer to Question 2(a)(i) on the Code of Conduct for United States Judges and my role as a lower court judge in faithfully applying, and consequently not grading, Supreme Court precedent. Under longstanding principles of vertical stare decisis, I would be bound by and would faithfully apply all of that precedent.

b. In *Loving v. Virginia*, the Supreme Court grounded the right to interracial marriage in substantive due process, explaining "[t]he freedom to marry has long been recognized as one of the vital personal rights essential to the orderly pursuit of happiness by free men" and describing marriage as a "basic civil right[] of man, fundamental to our very existence and survival" (citation omitted). **Was that ruling "constitutionally correct"?**

i. **If yes, please explain how you square this position with what you wrote in the article referenced above.**

Response: The Loving decision is constitutionally correct and represents a canonical decision.

ii. **If no, do you believe people have the right under the Constitution to marry those of other races?**

1. **If yes, from where in the Constitution does this right derive?** (If you identify the Equal Protection Clause in your response, please explain whether the right to interracial marriage would be different in scope under the Equal Protection Clause alone than under both the Equal Protection Clause and the Due Process Clause, on which it was grounded in *Loving*.)

Response: Please see my responses to Question 2(b).

2. **If no, do you believe overturning *Loving* would be "constitutionally correct"? Why or why not?**

Response: Please see my responses to Question 2(b).

iii. **If you have declined to answer any of the questions above on the basis that the issue may come before you (or another court), please identify the case(s) currently pending in the federal courts that raise this issue. If you cannot identify any such cases, please explain your basis for believing that this is a "live" issue that is before or that may come before the courts.**

Response: Please see my responses to Question 2(b).

c. In *Lawrence v. Texas*, the Supreme Court overturned state laws criminalizing private intimacy by same sex couples, holding "their right to liberty under the Due Process Clause gives them the full right to engage in their conduct without intervention of the government." **Was that ruling "constitutionally correct"?**
   i. **If yes, please explain how you square this position with what you wrote in the article referenced above.**

      Response: Please see my responses to Question 2(a).

   ii. **If no, do you believe states have the ability under the Constitution to outlaw private intimate relations between consenting adults of the same sex?**
      1. **If no, what part of the Constitution prohibits such laws?**

         Response: Please see my responses to Question 2(a).

      2. **If yes, do you believe overturning *Lawrence* would be "constitutionally correct"? Why or why not?**

         Response: Please see my responses to Question 2(a).

   iii. **If you have declined to answer any of the questions above on the basis that the issue may come before you (or another court), please identify the case(s) currently pending in the federal courts that raise this issue. If you cannot identify any such cases, please explain your basis for believing that this is a "live" issue that is before or that may come before the courts.**

      Response: Please see my responses to Question 2(a).

d. In *Obergefell v. Hodges*, the Supreme Court grounded the right to same sex marriage in substantive due process. **Was that ruling "constitutionally correct"?**
   i. **If yes, please explain how you square this position with what you wrote in the article referenced above.**

      Response: Please see my responses to Question 2(a).

   ii. **If no, do you believe states have the ability under the Constitution to prohibit same sex marriage (or to define marriage as only being between a man and a woman)?**

      Response: Please see my responses to Question 2(a).

1. **If no, what part of the Constitution prohibits such laws?** (If you identify the Equal Protection Clause in your response, please explain whether the right to same sex marriage would be different in scope under the Equal Protection Clause alone than under both the Equal Protection Clause and the Due Process Clause as it was grounded in *Obergefell*.)

   Response: Please see my responses to Question 2(a).

2. **If yes, do you believe overturning *Obergefell* would be "constitutionally correct"? Why or why not?**

   Response: Please see my responses to Question 2(a).

iii. **If you have declined to answer any of the questions above on the basis that the issue may come before you (or another court), please identify the case(s) currently pending in the federal courts that raise this issue. If you cannot identify any such cases, please explain your basis for believing that this is a "live" issue that is before or that may come before the courts.**

   Response: Please see my responses to Question 2(a).

3. On the day of the *Dobbs* argument in 2021, you "reposted" a tweet from conservative commentator Hugh Hewitt paraphrasing Chief Justice Roberts:

(For the record, the Chief Justice was misstating how our laws compared to those of other countries.) **Do you believe a judge should apply as a tool of judicial interpretation an evaluation of the laws of "countries we keep company with?" If no, what caused you to "repost" the tweet excerpted above?**

Response: Under Supreme Court precedent interpreting and applying the Due Process Clause in the Fourteenth Amendment, any right not explicitly mentioned in the constitutional text is "implicitly protected" only if it is "'deeply rooted in this Nation's history and tradition' and 'implicit in the concept of ordered liberty.'" *See Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215, 231 (2023); *see also Washington v. Glucksberg*, 521 U.S. 702, 721 (1997). Under that precedent, sources that unpack the relevant history and tradition would be appropriate for consideration. The context of the interpretive question would impact whether such sources would ever include rules and practices from other countries. As an academic, I posted thousands of tweets on legal issues, often when a tweet was of interest or relevant to constitutional interpretive doctrines that were the subject of my research or teaching.

4. You co-authored a brief in 2023 supporting a challenge to the validity of the CFPB's appropriations under the Appropriations Clause. The argument was so far outside the legal mainstream that even *this* Supreme Court rejected it 7 to 2. Subsequently you have been working in the White House Counsel's office as we've seen attempts to dramatically curtail the power and scope of the CFBP.
    a. **While serving in the White House, have you worked on or advised on any matters related to the CFPB?**

        Response: Yes, I have advised on several discrete matters related to statutory interpretation or the separation of powers and the CFPB. Notably, the brief referenced in the question above was filed on behalf of 123 Members of Congress and does not necessarily reflect my personal academic views on the Constitution. The brief was a pro bono matter handled by the student separation of powers clinic at the Scalia Law School of George Mason University.

    b. **While serving in the White House, have you worked or advised on any matters surrounding impoundment of congressionally appropriated funds?**

        Response: Yes, I have advised on a handful of discrete questions related to appropriated funds and impoundment.

    c. **Given your evident animosity toward the CFPB, will you recuse yourself from any cases related to the CFPB if confirmed?**

        Response: I do not have animosity toward the CFPB. As explained above, the relevant brief was a product of pro bono legal representation of more than one hundred Members of Congress and thus constituted a relatively widely held view of a significant portion of a federal institution coequal to the Supreme Court. If confirmed, I will follow all recusal requirements, which include the requirement in 28 U.S.C. § 455 that government lawyers recuse from cases in which during their government employment they "participated as counsel, adviser or material witness concerning the proceeding or expressed an opinion concerning the merits of the particular case in controversy." *Id.* § 455(b)(3).

Nomination of Jennifer Mascott
United States Court of Appeals for the Third Circuit
Questions for the Record
Submitted September 10, 2025

QUESTIONS FROM SENATOR BOOKER

1. Traditionally, home state senators for nominees for the federal appellate courts have a significant role in the nomination process, largely due to their connections with the local legal community, connections which the President and Administration may not have. The presumption is that a nominee will have strong ties to the state in which they will serve. The judicial vacancy to which you have been nominated is in Wilmington, Delaware. Yet, you do not reside in Delaware, you are not a member of the Delaware State Bar Association, and you have no prior experience practicing in Delaware courts.

    a. What are the benefits of selecting a federal appellate judge with professional ties and practice experience in the state where a judicial seat is located?

    Response: The nomination and advise and consent authorities are held entirely by the President and the Senate. I defer to those political actors on weighing the benefits and qualifications of particular judicial nominees. Under Article I section 8 of the Constitution and Article III, Congress has authority to create "inferior" courts, vest those courts with jurisdiction, and establish the numbers of various seats on those courts. I have been nominated by President Trump to a seat within the federal appeals court for the Third Circuit, and if confirmed I will comply with all relevant statutory residency and service requirements.

    b. If you are confirmed to the federal bench, will you move to Delaware?

    Response: Please see my response to Question 1(a).

    c. Why are you interested in a federal appellate judgeship in Delaware as opposed to Viriginia or the District of Columbia or any other jurisdiction with which you have any connection or ties to?

    Response: The federal judicial nomination authority belongs exclusively to the President. I am very grateful for the President's nomination to a seat on the Third Circuit. When asked by the White House Counsel about interviewing for a nomination to a seat on the court, I expressed willingness to do so. Previously I had indicated willingness and interest in serving generally in the federal judiciary.

2. During the century before President Trump's first term, the Senate had *never* confirmed a judicial nominee over the objections of *both* home-state Senators, according to the

Congressional Research Service.[1] The departure from that longstanding Senate tradition of respect for the views of home-state Senators through the blue slip process first occurred in 2017 during the first Trump Administration.[2]

a. Do you think the Trump Administration meaningfully consulted with your home-state Senators about your nomination?

Response: The presidential nomination authority is fullsome and it is not for me or anyone else to evaluate how a president is to exercise that authority within his constitutional discretion. I leave it to the Senate to evaluate the proper exercise of its advise and consent authority on this nomination. I am very grateful for the Senate and the Judiciary Committee's consideration.

b. Did you indicate any objection or concerns to anyone in the Administration or on the majority side of the Senate Judiciary Committee about consultations with your home-state Senators? If yes, describe the content of that communication and identify to whom it was communicated.

Response: Please see my response to Question 2(a).

3. In a 2018 Stanford Law Review article titled *Who Are Officers of the United States*, you argued that the president must maintain control over all executive officers.[3] In 2023, you filed an amicus brief on behalf of Republican lawmakers arguing that the Supreme Court should "Overrule the Remnants of *Humphrey's Executor*," citing Article II concerns and arguing for accountability to the President.[4] During a 2025 Federalist Society panel, you expressed concern about *Humphrey's Executor* and remarked that "some of us . . . have reason to be concerned" regarding the inability of the president to remove FTC commissioners.[5]

a. If you are confirmed to the federal bench, will you recuse yourself from any case that relates to the continuing viability of *Humphrey's Executor*?

Response: If I am confirmed, I will comply with all statutory recusal requirements in 28 U.S.C. § 455. The amicus brief referenced above was filed on behalf of the Member clients of the student Separation of Powers Clinic and does not necessarily represent my personal academic research. As a judge, if I were confirmed, I will faithfully apply Supreme Court precedent and prior academic views in areas of the law where I teach will not be relevant to the extent they are distinct from Supreme Court precedent that would bind me as a lower court judge.

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[1] *See generally* BARRY J. MCMILLION, CONG. RESEARCH SERV., R44975, THE BLUE SLIP PROCESS FOR U.S. CIRCUIT AND DISTRICT COURT NOMINATIONS (2023), http://www.crs.gov/Reports/pdf/R44975.
[2] *Id.* at 12.
[3] Jennifer L. Mascott, *Who Are Officers of the United States?*, 70 Stan. L. Rev. 443 (2018)
[4] Br. for Sens. Cruz et al. as Amici Curiae at 7, *Consumers' Research*, No. 23-1323 (U.S. July 18, 2024).
[5] Jennifer L. Mascott, Remarks at the Federalist Society Panel on the Unitary Executive (2025).

4. During your testimony to the House Judiciary Committee on the Administrative Procedure Ac in December 2021, you stated that you do not believe that Executive Branch should "[impose] a particular view of racial justice."[6]

    a. Can you define "racial justice" as you intended it in this statement?

    Response: The statement that you are referencing was about the constitutional separation of powers. Whatever one's concept of "racial justice," it is not directly relevant to the scope of constitutional authority to execute the laws.

    b. Please elaborate what you meant by "imposing a particular view."

    Response: Please see my response to Question 4(a).

    c. Is it still your view that the Executive Branch should not impose a particular view on racial justice?

    Response: Please see my response to Question 4(a). Additionally, as a judge my personal policy views would not be relevant. I will faithfully apply the rule of law as set forth in statutes, the Constitution, and binding judicial precedent.

    d. Do President Trump's executive actions relating to diversity, equity, and inclusion impose a particular view on racial justice?

    Response: As a pending judicial nominee, and consistent with the past practice of nominees, it would be inappropriate for me to opine on executive branch policies. Further, this question touches on legal questions and executive actions that could come before me if I were confirmed to the judiciary, and it would be inappropriate for me to comment on them.

5. The American Bar Association (ABA) Standing Committee on the Federal Judiciary has conducted extensive peer evaluations of the professional qualifications of a president's nominees to become federal judges for seven decades. This practice has endured through 18 presidential administrations, under Republican and Democratic presidents.

    On May 29, 2025, Attorney General Pam Bondi ended this longstanding practice when she informed the ABA that, "[T]he Office of Legal Policy will no longer direct nominees to provide waivers allowing the ABA access to nonpublic information, including bar records. Nominees will also not respond to questionnaires prepared by the ABA and will not sit for interviews with the ABA."[7]

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[6] *The Administrative Procedure Act at 75: Ensuring the Rulemaking Process is Transparent, Accountable, and Effective:* Hearing Before the Subcomm. On Antitrust, Commercial & Admin. L. of the H. Comm. On the Judiciary, 117th Cong. 89 (2021) (statement of Jennifer Mascott).

[7] Letter from Attorney General Pam Bondi to William R. Bay, President, American Bar Association (May 29, 2025), https://www.justice.gov/ag/media/1402156/dl?inline.

a. Do you agree with AG Bondi that "the ABA no longer functions as a fair arbiter of nominees' qualifications and its ratings invariably and demonstrably favor nominees put forth by Democratic administrations"?

Response: It would be inappropriate for me, as a judicial nominee, to opine on the statements of any political figure or on any subject of political controversy. *See* Code of Conduct of U.S. Judges, Canon 5.

6. How would you characterize your judicial philosophy?

Response: My judicial philosophy is that judges should be carefully to apply the rule of law impartially and fairly, consistent with their constitutional oath. Article III of the Constitution intentionally and plainly permits only a limited judicial role—contained to resolution of discrete cases and controversies with jurisdiction in the "inferior" courts that is regulated and delimited by Congress through legislation. My role as a lower court judge would be to faithfully apply Supreme Court precedent and follow the stare decisis rules and principles of the Third Circuit. To the extent such precedents do not govern a case before me, I would apply textualist and originalist approaches to address interpretive questions consistent with the role of the judge and the significance of the text and structure of positive law within the federal constitutional scheme.

7. What do you understand originalism to mean?

Response: I understand originalism to refer to a method of interpretation that requires a judge to interpret a constitutional provision in accordance with his or her best understanding of the original public meaning of that provision. Original public meaning is the meaning that words conveyed to reasonable people at the time when they were written, viewed in their full context. As a general matter, seeking the original public meaning of a constitutional text does not involve a subjective inquiry into the intent of the drafters of that text.

8. Do you consider yourself an originalist?

Response: Yes, I consider myself an originalist. In many cases involving interpretation of a constitutional provision, the Supreme Court has sought to give words their original public meaning. This approach has routinely been used by the Supreme Court when interpreting the Constitution. *See, e.g.*, *District of Columbia v. Heller*, 554 U.S. 570 (2008) (Second Amendment); *Crawford v. Washington*, 541 U.S. 36 (2004) (Sixth Amendment). In certain contexts, the Supreme Court has utilized other approaches. *See, e.g.*, *Roper v. Simmons*, 543 U.S. 551 (2005) (Eighth Amendment). As a lower court judge, I would be bound to faithfully apply all applicable precedent of the Supreme Court and the Third Circuit, without regard to whether that binding precedent did or did not comport with the original public meaning of the Constitution.

9. What do you understand textualism to mean?

Response: Textualism refers to a method of interpretation that requires a judge to interpret a statutory provision in accordance with his or her best understanding of the original public meaning of that provision. Original public meaning is the meaning that the term or phrase conveyed to reasonable people at the time the statute became law. Seeking the original public meaning of the text does not include a subjective inquiry into the intent of the drafters of the text.

10. Do you consider yourself a textualist?

Response: Yes, I consider myself a textualist. This interpretive methodology is consistent with Supreme Court precedent. The Court has regularly sought to "confine [a] provision's meaning to its words," when viewed in full context, consistent with textualism. *See Milner v. Dep't of Navy*, 562 U.S. 562, 572 (2011). That said, as a lower court judge, I would faithfully follow all applicable precedent of the Supreme Court and Third Circuit whether or not the methodology of that binding precedent had comported with analysis of the original public meaning of a statutory provision.

11. Legislative history refers to the record Congress produces during the process of passing a bill into law, such as detailed reports by congressional committees about a pending bill or statements by key congressional leaders while a law was being drafted. Some federal judges consider legislative history when analyzing the meaning of a statute.

    a. If you are confirmed to serve on the federal bench, would you consult and cite legislative history to analyze or interpret a federal statute?

    Response: As a general matter, reliance on legislative history is unnecessary when a statute is unambiguous. *See Carcieri v. Salazar*, 555 U.S. 379, 392 (2009). Even where the meaning of a statute with respect to the particular question before the court is not immediately clear, I would consult the context of the statute and a broad base of evidence of the communicative content of the term under interpretation. I would not rely on the subjective intent of individual legislators as set forth in bits of legislative history. The subject intent of a sole legislator can never definitively set the meaning of a statute that becomes law only when a majority of legislators has approved it via the bicameralism and presentment procedures set forth in Article I, Section 7 of the Constitution.

    b. Do you believe that congressional intent matters when interpreting a statute? Why or why not.

    Response: As a general matter, seeking the original public meaning of a statutory text does not involve a subjective inquiry into the intent of the drafters of that text. Courts "do not inquire what the legislature meant; [courts] ask only what the statute means." *Schwegmann Brothers v. Calvert Distillers Corp.*, 341 U.S. 384, 396 (1951) (Jackson, J., concurring) (quoting Justice Holmes). Thus, to the extent that congressional intent is relevant, it is generally determined from the plain language of the statute. *United States v. Locke*, 471 U.S. 84, 95 (1985).

12. According to an academic study, Black men were 65 percent more likely than similarly-situated white men to be charged with federal offenses that carry harsh mandatory minimum sentences.[8]

    a. What do you attribute this to?

    Response: Any unfair treatment of individuals on the basis of race is a significant cause for concern. The Supreme Court has held that the "core purpose" of the Fourteenth Amendment was "doing away with all governmentally imposed discrimination based on race." *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*, 600 U.S. 181, 206 (2023). Should I be confirmed as judge, it would be important to be aware of the possibility for bias and endeavor to conduct all judicial duties free from such bias. Otherwise, the cause of racial disparities, and the solution for such disparities, are important issues for consideration by the political branches. As such, it would be inappropriate for me, as a judicial nominee, to comment further on a subject of political controversy. See Code of Conduct of U.S. Judges, Canon 5.

13. A recent report by the United States Sentencing Commission observed demographic differences in sentences imposed during the five-year period studied, with Black men receiving federal prison sentences that were 13.4 percent longer than white men.[9]

    a. What do you attribute this to?

    Response: Please see my response to Question 12.

14. What role do you think federal judges, who review difficult, complex criminal cases, can play in ensuring that a person's race did not factor into a prosecutor's decision or other instances where officials exercise discretion in our criminal justice system?

    Response: It is the obligation of all judges, and government officials, to be aware of the possibility of bias and to endeavor to minimize any bias in the conduct of their duties.

15. Do you believe it is an important goal for there to be demographic diversity in the judicial branch? Why or why not.

    Response: I welcome diversity in the judicial branch and in all walks of life. It is never appropriate for any person to be excluded from the opportunity to serve based on, for example, a person's race, sex, or religion. The Supreme Court has held that racial preferences are an unconstitutional basis for classifications of individual and everyone should

[8] Sonja B. Starr & M. Marit Rehavi, *Racial Disparity in Federal Criminal Sentences*, 122 J. POL. ECON. 1320, 1323 (2014).
[9] U.S. SENTENCING COMM'N, DEMOGRAPHIC DIFFERENCES IN SENTENCING 2 (Nov. 2023), https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2023/20231114_Demographic-Differences.pdf.

have equal opportunities irrespective of race. *See Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*, 600 U.S. 181 (2023).

16. Please indicate whether you have ever published written material or made any public statements relating to the following topics. If so, provide a description of the written or public statement, the date and place/publication where the statement was made or published, and a summary of its subject matter. Mere reference to the list of publications and statements provided in your Senate Judiciary Questionnaire is insufficient; provide specific responses. If you have not disclosed a copy of the publication or a transcript of the statement to the Judiciary Committee, please attach a copy or link to the materials and please explain why you have not previously disclosed them.

    a. Abortion

    Response: I have not written about the policy of abortion, but I spoke publicly a number of times to explain the contours of the *Dobbs* decision after it was handed down and the *Dobbs* decision impacted abortion. In addition, I wrote columns and provided congressional testimony and other analysis of the Supreme Court's likely methodological approach in the Dobbs litigation prior to the release of the decision.

    b. Affirmative action

    Response: I have not written or spoken expressing a policy view on affirmative action, but I had a number of public appearances explaining the Supreme Court's *Student for Fair Admissions* decision, which impacted affirmative action.

    c. Contraceptives or birth control

    Response: To my recollection I have not specifically spoken or written about contraception and birth control.

    d. Gender-affirming care

    Response: To my recollection I have not specifically spoken or written about gender-affirming care.

    e. Firearms

    Response: I have not written or spoken expressing a policy view on firearms, but I had a number of public appearances discussing the interpretive methodology and holding of the Supreme Court's decision in *Bruen*.

    f. Immigration

Response: I do not recall any public writing or appearance directed specifically toward immigration, but I may have talked about immigration statutes and policy actions in passing when discussing my work at the Department of Justice.

g. Same-sex marriage

Response: To my recollection I have not specifically spoken or written about same-sex marriage.

h. Miscegenation

Response: To my recollection I have not specifically spoken or written about miscegenation.

i. Participation of transgender people in sports

Response: To my recollection I have not specifically spoken or written about transgender participation in sports.

j. Service of transgender people in the U.S. military

Response: To my recollection I have not specifically spoken or written about transgender participation in the U.S. military.

k. Racial discrimination

Response: I have not written or spoken on racial discrimination in particular, but I had a number of public appearances explaining the Supreme Court's *Student for Fair Admissions* decision.

l. Sex discrimination

Response: To my recollection I have not specifically spoken or written about sex discrimination.

m. Religious discrimination

Response: I hosted and provided introductory remarks at a C. Boyden Gray Center conference on religious liberty in 2022.

n. Disability discrimination

Response: To my recollection I have not specifically spoken or written about disability discrimination.

o. Climate change or environmental disasters

Response: To my recollection I have not specifically spoken or written about climate change or environmental disasters.

p. "DEI" or Diversity Equity and Inclusion

Response: To my recollection I have not specifically spoken or written about DEI.

17. Under what circumstances would it be acceptable for an executive branch official to ignore or defy a federal court order?

Response: Generally, judicial orders are binding on the parties before the court. Relief from a lower court order generally must be pursued through the appellate process. The Supreme Court's decision, at the conclusion of appellate review, provides the final resolution and is binding. I am aware that certain interlocutory orders might be immediately appealable only via the avenue of a contempt finding, following defiance of the court order. *See, e.g.*, *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009); *Gill v. Gulfstream Park Racing Ass'n*, 399 F.3d 391, 397 (2005). In addition, there could be instances where a federal court has entirely lacked jurisdiction to issue the order or compliance with the order is a physical impossibility.

a. If an executive branch official ignores or defies a federal court order, what legal analysis would you employ to determine whether that official should be held in contempt?

Response: As an appellate judge, if confirmed, my primary role would be to review orders issued by district court judges on appeal. As a general matter, district courts may seek to enforce compliance with court orders civil and criminal contempt procedures. *See Int'l Union, United Mine Workers of Am. v. Bagwell*, 512 U.S. 821, 831 (1994); *Michaelson v. United States ex rel. Chicago, St. P., M., & O.R. Co.*, 266 U.S. 42, 45 (1924). But the Supreme Court has cautioned that "the contempt power" is something that "uniquely is 'liable to abuse,'" *Bagwell*, 512 U.S. at 831, and that "care is needed to avoid arbitrary or oppressive conclusions," *Bloom v. Illinois*, 391 U.S. 194, 202 (1968) (citation omitted).

b. Is there any legal basis that would allow an executive branch official to ignore or defy temporary restraining orders and preliminary injunctions issued by federal district court judges? Please provide each one and the justification.

Response: Please see my answer to Question 17.

18. Does the president have the power to ignore or nullify laws passed by Congress?

Response: The President has the constitutional authority to veto legislation passed by Congress. U.S. Const. art. I, § 7, cl. 2. Otherwise, the Take Care Clause provides that the President "shall take Care that the Laws be faithfully executed." U.S. Const. art. II, § 3, cl. 5.

Under this provision, the Executive Branch has discretion to prioritize enforcement and prosecution of federal law. *See United States v. Texas*, 599 U.S. 670, 679 (2023); *United States v. Nixon*, 418 U.S. 683, 693 (1974). The application of these legal principles implicates issues that could arise before me as a judge; thus, as a judicial nominee, it would be inappropriate for me to provide further comment. *See* Code of Conduct of U.S. Judges, Canon 3A(6).

19. Does the president have the power to withhold funds appropriated by Congress?

Response: This question relates to an issue that is the subject of litigation, so it is inappropriate for me to comment. See Code of Conduct of U.S. Judges, Canon 3A(6).

20. Does the president have the power to discriminate by withholding funds against state or local jurisdictions based on the political party of a jurisdiction's elected officials?

Response: This question raises general issues related to impoundment and appropriations on which it is inappropriate for me to comment in case a matter raising these issues were to come before me.

21. Does the Supremacy Clause of the U.S. Constitution establish that federal laws supersede conflicting state laws?

Response: The Supremacy Clause provides that the Constitution, along with federal laws and treaties made under its authority, constitutes the "supreme Law of the Land." Art. VI, cl. 2. Under Supreme Court precedent, federal laws may preempt state law either expressly or implicitly through field or conflict preemption. *Murphy v. Nat'l Collegiate Athletic Ass'n*, 584 U.S. 453, 476-79 (2018); *Altria Grp., Inc. v. Good*, 555 U.S. 70, 76-77 (2008). As a lower court judge, I would be bound to apply all Supreme Court precedents, including these decisions, in addressing preemption claims.

22. Does the Fifth Amendment of the U.S. Constitution apply to non-citizens present in the United States?

Response: According to the Supreme Court, "the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *see Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 107 (2020); *Agency for Int'l Dev. v. All. For Open Soc'y Int'l, Inc.*, 591 U.S. 430 (2020). Various Supreme Court precedents address the process that is due in particular contexts. As a lower court judge, I would be bound to apply all Supreme Court precedents, including these decisions, in addressing due process claims. To the extent this question asks about hypothetical cases or matters that are the subject of ongoing litigation, it would be improper for me as a judicial nominee to comment further. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6).

23. Is it constitutional for Congress to delegate to federal agencies the power to implement statutes through rulemaking?

Response: The Supreme Court has held that it is lawful for Congress to delegate power to federal agencies so long as Congress provides an "intelligible principle" to guide the action. *See, e.g.*, *J.W. Hampton, Jr., & Co. v. United States*, 276 U.S. 394 (1928).

24. Was *Brown v. Board of Education*, 347 U.S. 483 (1954), correctly decided?

Response: Yes.

25. Is *Griswold v. Connecticut*, 381 U.S. 479 (1965), binding precedent? Please describe the facts and holding of this case.

Response: In *Griswold*, the Supreme Court held that the Fourteenth Amendment protects the use of contraceptives. Griswold is a binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it.

26. Is *Lawrence v. Texas*, 539 U.S. 558 (2003), binding precedent? Please describe the facts and holding of this case.

Response: In *Lawrence*, the Supreme Court held that laws that criminalized sexual intimacy between members of the same sex violate the Fourteenth Amendment. Lawrence is a binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it.

27. Is *Obergefell v. Hodges*, 576 U.S. 644 (2015), binding precedent? Please describe the facts and holding of this case.

Response: In *Obergefell*, the Supreme Court held that the Fourteenth Amendment requires a state to license marriages between two people of the same sex on the same terms and conditions as marriages between two people of the opposite sex. *Obergefell* is a binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it.

28. Do you believe that President Biden won the 2020 election? Note that this question is not asking who was certified as president in the 2020 election.

Response: President Biden was certified as the winner of the 2020 presidential election and served as the 46th President of the United States. To the extent this question seeks to elicit an answer that could be taken as opining on the broader political or policy debate regarding the conduct of the 2020 presidential election or on statements by any political figure, my response, consistent with the position of prior judicial nominees when asked questions regarding the 2020 election, is that it would be improper to offer any such comment as a judicial nominee. *See* Code of Conduct of U.S. Judges, Canons 3(A)(6), 5.

a. Did Biden win a majority of the electoral vote in the 2020 election?

Response: Please see my response to Question 28.

b. Do you believe that the results of the 2020 election, meaning the vote count, were accurate? If not, please provide why not and examples.

Response: Please see my response to Question 28.

29. The 22nd Amendment says that "no person shall be elected to the office of the President more than twice."[10]

a. Do you agree that President Trump was elected to the office of the President in the 2016 election?

Response: President Trump was certified as the winner of the 2016 presidential election and served as the 45th President of the United States.

b. Did Trump win a majority of the electoral vote in the 2016 election?

Response: Please see my response to Question 29(a).

c. Do you agree that President Trump was elected to the office of the President in the 2024 election?

Response: President Trump was certified as the winner of the 2024 presidential election and served as the 47th President of the United States.

d. Did Trump win a majority of the electoral vote in the 2024 election?

Response: Please see my response to Question 29(c).

e. Do you agree that the 22nd Amendment, absent a constitutional amendment, prevents President Trump from running for a third presidential term?

Response: The 22nd Amendment prohibits any person from being "elected to the office of the President" for a third term. U.S. Const., amend. XXII.

30. Has any official from the White House or the Department of Justice, or anyone else involved in your nomination or confirmation process, instructed or suggested that you not opine on whether any past Supreme Court decisions were correctly decided?

Response: No.

31. Have you spoken or corresponded with Elon Musk since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

[10] U.S. CONST. amend. XXII.

Response: I am a lawyer on White House staff and have talked to a number of the people referenced in questions 31 through 37 in the course of my governmental duties. Consistent with general principles of confidentiality in public service and the discussion or provision of legal advice, I cannot disclose details about those conversations.

32. Have you spoken or corresponded with any member of the Department of Government Efficiency (DOGE) since November 2024? If yes, identify the member(s) and provide the dates, mode, and content of those discussions and communications.

33. Have you spoken or corresponded with Stephen Miller since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

34. Have you spoken or corresponded with Chad Mizelle since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

35. Have you spoken or corresponded with Pam Bondi since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

36. Have you spoken or corresponded with Todd Blanche since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

37. Have you spoken or corresponded with Emil Bove since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

38. Have you spoken or corresponded with Leonard Leo since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: I do not believe that I have.

39. Have you—personally or through any of your affiliated companies or organizations, agents, or employees—provided financial support or other resources to any members of the Proud Boys or of the Oath Keepers for their legal fees or for other purposes? If yes, state the amount of financial support provided, dates provided, and for what purposes.

Response: No.

40. Have you ever spoken or corresponded with any of the following individuals? If yes, provide the dates, mode, and content of those discussions and communications.

Response: I do not know any of the individuals listed below and do not believe I have spoken with any of them. If I have, I would not have known their identity at the time.

a. Enrique Tarrio
b. Stewart Rhodes
c. Kelly Meggs
d. Kenneth Harrelson

e. Thomas Caldwell
f. Jessica Watkins
g. Roberto Minuta
h. Edward Vallejo
i. David Moerschel
j. Joseph Hackett
k. Ethan Nordean
l. Joseph Biggs
m. Zachary Rehl
n. Dominic Pezzola
o. Jeremy Bertino
p. Julian Khater

41. Have you ever spoken or corresponded with any individuals convicted and later pardoned of offenses related to the January 6, 2021 attack on the U.S. Capitol? If yes, identify the individual(s) and provide the dates, mode, and content of those discussions and communications.

Response: To my knowledge I have not spoken or corresponded with anyone convicted and pardoned of offenses committed on January 6, 2021.

42. Have you ever been demoted, terminated, or experienced any other adverse employment action?

Response: No.

a. If yes, please describe the events that led to the adverse employment action.

Response: There has been no such action.

b. If no, please affirm that, since becoming a legal adult, you have left each place of employment voluntarily and not subject to the request or suggestion of any employer.

Response: Yes.

43. Federal judges must file annual financial disclosure reports and periodic transaction reports. If you are confirmed to the federal bench, do you commit to filing these disclosures and to doing so on time?

Response: Yes, unless I seek and obtain a permissible and lawful extension.

44. Article III Project (A3P) "defends constitutionalist judges and the rule of law." According to Mike Davis, Founder & President of A3P, "I started the Article III Project in 2019 after I helped Trump win the Gorsuch and Kavanaugh fights. We saw then how relentless—and

evil—too many of today's Democrats have become. They're Marxists who hate America. They believe in censorship. They have politicized and weaponized our justice systems."[11]

a. Do you agree with the above statement?

Response: As a judicial nominee it would be inappropriate for me to comment on others' public statements, consistent with principles under the Code of Judicial Conduct and the past practice of nominees.

b. Have you discussed any aspect of your nomination to the federal bench with any officials from or anyone directly associated with A3P, or did anyone do so on your behalf? If yes, identify the individual(s) and provide the dates, mode, and content of those discussions and communications.

Response: No.

c. Are you currently in contact with anyone associated with A3P? If so, who?

Response: No.

d. Have you ever been in contact with anyone associated with A3P? If so, who?

Response: I have known Mike Davis as a professional acquaintance since his time working in the Senate on judicial nominations.

45. Since you were first approached about the possibility of being nominated, did anyone associated with the Trump Administration or Senate Republicans provide you guidance or advice about which cases to list on your Senate Judiciary Questionnaire (SJQ)?

a. If so, who? What advice did they give?

Response: No.

b. Did anyone suggest that you omit or include any particular case or type of case in your SJQ?

Response: No.

46. During your selection process did you talk with any officials from or anyone directly associated with the Federalist Society, or did anyone do so on your behalf? If so, what was the nature of those discussions?

Response: I have known a number of people affiliated with the Federalist Society personally and professionally over the years and consulted a significant proportion of my lawyer friends

[11] https://www.article3project.org/about

and colleagues about the nomination process including individuals affiliated with the Federalist Society.

47. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding your nomination.

Response: As a member of the White House legal staff, I had a number of discussions with White House and Department of Justice staff in preparation for my nomination hearing. In addition, on May 14, 2025, I interviewed with the White House Counsel regarding the nomination following a formal interview with a broader group of White House Counsel staff. In addition, I had a number of information conversations with colleagues about the Third Circuit and other judicial openings.

48. Please explain, with particularity, the process whereby you answered these written questions.

Response: I prepared a draft response to these questions consulting my records, legal precedent, statutory text, constitutional text, and responses addressing similar questions and issues submitted by other judicial nominees. After receiving feedback from persons at the Office of Legal Policy at the U.S. Department of Justice, I finalized my answers and authorized them to be submitted to the Senate Judiciary Committee.

September 1, 2025

The Honorable Charles E. Grassley
Chairman, Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Richard J. Durbin
Ranking Member, Committee on the Judiciary
United States Senate
Washington, DC 20510

(via email and USPS)

Re: Nomination of Jennifer Mascott to the Third Circuit

Dear Senators Grassley and Durbin:

We respectfully submit this letter in strong support of the nomination of Jennifer Mascott to the United States Court of Appeals for the Third Circuit. Ms. Mascott, together with her late husband, Jeff, and their four children, has long demonstrated an unwavering commitment to fostering a safe, cohesive, and supportive community. We urge her prompt confirmation.

Ms. Mascott and her late husband have been pillars of the Town of Somerset in Chevy Chase, Maryland. For many years, they jointly supported the community swim team - a vital institution for our children and by extension their parents. Ms. Mascott was part of our automation team and worked tirelessly at swim meets to ensure all times were recorded correctly and results tabulated with rigor. She brought the same dedication to this effort as she would to any professional effort and we were all the better for it.

Equally significant is Ms. Mascott's example during her husband's courageous battle with terminal pancreatic cancer, diagnosed in August 2022. Throughout this period of profound personal loss, she conducted herself with grace, integrity, and fortitude. She supported her four children and extended family while also

guiding a grieving community with steadiness and faith. Her conduct during this time, and since, reflects the highest qualities of character.

Following Jeff's untimely passing, Ms. Mascott has continued to serve as a source of strength and connection for her neighbors. She has consistently welcomed community members into her home for both social and service-oriented gatherings, demonstrating generosity, leadership, and a sincere commitment to the well-being of others.

Ms. Mascott has devoted her professional career to public service and has done the same within her community. Her leadership, integrity, and dedication to others make her exceptionally well-qualified to serve on the federal bench. On behalf of our community, we wholeheartedly endorse her nomination and respectfully urge the Senate to confirm her.

Sincerely,

Peter Bryce

Ann Kelly Bolten

Joshua Bolten

Kirsten Darling

Brendan Doherty

Erlinda Doherty

Britt Speyer Fleming

Sean Fleming

Fiona Fox

Andri Haraldsson

Anne Hawkins

Michele High

Peter High

Nancy Jardini

Nancy Kadowitz, M.D.

Alan Kaplan, M.D.

Lisa Krochmal

Andrew Lewis, PhD

Jane Maruszewski

Robert Maruszewski

Gina Pack

Michael Pack

David J. Panner

Morris Panner

Jacqueline Quan

Michele Scurfield

Rick Scurfield

Elisabeth Smith

Perry Smith

Carina Veksler

Michael Veksler

Dexter Walker

Missy Walker

Howard Waltzman

Kathryn Sellig Williams

September 1, 2025

The Honorable Charles Grassley, Chairman
Committee on the Judiciary, United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Richard Durbin, Ranking Member
Committee on the Judiciary, United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Grassley and Ranking Member Durbin,

We, the signatories below, are all former U.S. Department of Justice officials who write in support of the confirmation of Jennifer Mascott to be a judge on the U.S. Court of Appeals for the Third Circuit.

Ms. Mascott's credentials are impeccable: she graduated first in her class from The George Washington University Law School with the highest GPA on record and clerked for then-Judge Brett Kavanaugh and Justice Clarence Thomas. Her academic scholarship has been cited in Supreme Court opinions, she has argued high-stakes federal cases, and she has submitted scores of briefs in courts across the country.

Equally impressive is her commitment to public service. As a professor at George Mason University's Scalia Law School and now The Catholic University of America's Columbus School of Law, Ms. Mascott has been a world-class mentor to hundreds of aspiring lawyers. She was also a standout attorney at the Department of Justice, where she worked in the Office of the Deputy Attorney General and the Office of Legal Counsel, sometimes pulling double duty to help her colleagues. She later created the Separation of Powers Clinic, which lets students gain experience working on real briefs in high-profile cases raising core constitutional questions.

Above all else, Ms. Mascott is a genuine friend and great mother. She is never too busy to offer help. She is eternally positive. And her judgment is beyond reproach.

The Nation is fortunate that stars like Ms. Mascott are willing to put forward their names for public service. She will make an excellent judge. We respectfully urge the Senate Judiciary Committee and the full Senate to move expeditiously to process and confirm her nomination.

Sincerely,

R. Trent McCotter, Assistant U.S. Attorney, Eastern District of Virginia (2017-20); Deputy Associate Attorney General (2020-21)

William R. Levi, Chief of Staff and Senior Counselor to the Attorney General (2020); Counselor to the Attorney General (2018-19)

Gene Hamilton, Counselor to the Attorney General (2017-21)

James Burnham, Senior Counsel (2017-18); Deputy Assistant Attorney General (2018-20); Counselor to the Attorney General (2020)

Stephen J. Cox, U.S. Attorney, Eastern District of Texas (2020-21); Deputy Associate Attorney General (2017-20)

G. Zachary Terwilliger, U.S. Attorney, Eastern District of Virginia (2018-21)

Brian T. Moran, U.S. Attorney, Western District of Washington (2019-21)

Josh J. Minkler, U.S. Attorney, Southern District of Indiana (2014-20)

Peter E Deegan, Jr., U.S. Attorney, Northern District of Iowa (2017-21)

Matthew Krueger, U.S. Attorney, Eastern District of Wisconsin (2018-21)

Jay Town, U.S. Attorney, Northern District of Alabama (2017-20)

D. Michael Hurst, Jr., U.S. Attorney, Southern District of Mississippi (2017-21)

Charles Peeler, U.S. Attorney, Middle District of Georgia (2017-20)

Ryan Patrick, U.S. Attorney, Southern District of Texas (2018-21)

Trent Shores, U.S. Attorney, Northern District of Oklahoma (2017-21)

John C. Anderson, U.S. Attorney, District of New Mexico (2018-21)

John Bash, U.S. Attorney, Western District of Texas (2017-20)

Hon. Scott C. Blader, U.S. Attorney, Western District of Wisconsin (2021-21)

Mark A. Klaassen, U.S. Attorney, District of Wyoming (2017-21)

Erin Nealy Cox, U.S. Attorney, Northern District of Texas (2017-21)

William M. McSwain, U.S. Attorney, Eastern District of Pennsylvania (2018-21)

Robert Brewer, U.S. Attorney, Southern District of California (2019-21)

David J. Freed, U.S. Attorney, Middle District of Pennsylvania (2017-21)

Jessie K. Liu, U.S. Attorney, District of Columbia (2017-20)

Robert K. Hur, Special Counsel (2023-24); U.S. Attorney, District of Maryland (2018-21); Principal Associate Deputy Attorney General (2017-18)

Don Cochran, U.S. Attorney, Middle District of Tennessee (2017-21)

Timothy J. Shea, DEA Administrator (2020-21)

Tim Garrison, U.S. Attorney, Western District of Missouri (2018-21)

Ronald A. Parsons, Jr., U.S. Attorney, District of South Dakota (2018-21)

Brian Pandya, Deputy Associate Attorney General (2019-21)

Roman Martinez, Assistant to the Solicitor General (2013-16)

Christopher G. Michel, Assistant to the Solicitor General/Chief of Staff and Counselor to the Attorney General (2017-22)

Austin M. Lipari, Senior Counsel, Office of Legal Policy (2019-21)

Anthony M. Shults, Acting Deputy Assistant Attorney General and Senior Counsel, Office of Legal Policy (2019-21); Attorney-Advisor, National Security Division (2017-2019, 2021)

John V. Coghlan, Deputy Assistant Attorney General (2020-21); Assistant U.S. Attorney (2018-19)

Eric J. Soskin, Counsel to the Assistant Attorney General (2017-18)

Bethany Pickett Shah, Counsel to the Assistant Attorney General (2017-19); Special Assistant U.S. Attorney, Eastern District of Texas (2020-21)

Douglas Rathbun, Counsel, Office of Legal Policy (2018-21)

Daniel D. Mauler, Trial Attorney, Federal Programs Branch (2018-21)

Scott G. Stewart, Deputy Assistant Attorney General, Civil Division (2017-21)

Jordan L. Von Bokern, Senior Counsel, Office of Legal Policy (2018- 20); Trial Attorney, Federal Programs Branch (2020-22)

Jared M. Kelson, Attorney-Adviser, Office of Legal Counsel (2018-21)

Jennifer B. Dickey, Principal Deputy Assistant Attorney General, Civil Division (2020-21); Deputy Associate Attorney General (2019-20); Counsel, Office of Legal Policy (2017-18)

Michael Murray, Principal Deputy Assistant Attorney General, Antitrust Division; Associate Deputy Attorney General, Office of the Deputy Attorney General (2017-21)

Prerak Shah, Acting U.S. Attorney, Northern District of Texas (2021); First Assistant U.S. Attorney, Northern District of Texas (2020-21); Deputy Assistant Attorney General (2020); Deputy Associate Attorney General (2019-20)

David K. Suska, Attorney-Adviser (2019-22)

Drew Hudson, Counsel to the Assistant Attorney General (2017-19)

Christine M. Buzzard, Office of Legal Counsel Attorney-Adviser (2017-22)

The C. Boyden
GRAY CENTER
Center for the Study of the Administrative State
Antonin Scalia Law School . George Mason University

August 20, 2025

The Hon. Chuck Grassley
Chairman
COMMITTEE ON THE JUDICIARY
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

The Hon. Dick Durbin
Ranking Member
COMMITTEE ON THE JUDICIARY
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Re: Nomination of Prof. Jennifer Mascott for the U.S. Court of Appeals for the Third Circuit

Dear Chairman Grassley and Ranking Member Durbin,

I write to support Professor Jennifer Mascott's nomination for the U.S. Court of Appeals for the Third Circuit. She would be an ideal judge.

For three years, Professor Mascott and I co-directed a major legal research center at George Mason University: the Antonin Scalia Law School's C. Boyden Gray Center for the Study of the Administrative State. The center was founded in 2016 by then-Professor (now Judge) Neomi Rao, to encourage academic research and dialogue on administrative law and related constitutional issues.

Professor Mascott joined as co-executive director in 2021, when she returned to the law school's faculty after serving in the Justice Department. As many have already noted for this committee, Professor Mascott's research on the Constitution's separation of powers and administrative law has been excellent and impactful. Her articles highlight and explain major points of constitutional law on the relationship between courts and agencies.

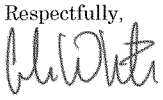
At the Gray Center, she organized a wide variety of academic conferences, dialogues, and debates. She also built a Separation of Powers Clinic, so that students could learn constitutional law firsthand through direct experience in legal brief writing.

The clinic was only one way in which Professor Mascott connected her academic work to real-world governance. As this committee knows, she testified often before congressional committees on major issues of constitutional law.

My own enormous respect for Professor Mascott long predates our time working together. We first met many years ago, at a conference for lawyers interested in academic careers. From our very first conversation—about the research idea that would eventually become her landmark work on the Constitution's provision for "Officers"—it was clear to me that she would be a genuinely brilliant and significant legal scholar. I continue to learn from her work and to enjoy our friendship.

As her friend and colleague, I have seen firsthand how clerkships for Justice Thomas and now-Justice Kavanaugh shaped her understanding of the judicial office—its profound responsibilities, and the qualities of character that our Constitution's judiciary requires. With that in mind, I urge the Senate to confirm her nomination to the Third Circuit.

Respectfully,



Adam White
Executive Director
THE C. BOYDEN GRAY CENTER FOR THE
STUDY OF THE ADMINISTRATIVE STATE
Antonin Scalia Law School
George Mason University

August 19, 2025

The Honorable Chuck Grassley
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Dick Durbin
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Chairman Grassley and Ranking Member Durbin:

We are pleased to support the nomination of Professor Jennifer Mascott to serve as a judge on the United States Court of Appeals for the Third Circuit.

We do so on the basis of her service as a public member and later as a senior fellow of the Administrative Conference of the United States (ACUS). One of us (Fois) served as the chair of ACUS from 2022 to 2025, by appointment of President Biden, and the other (Wiener) as its acting chair and vice chair from 2017 to 2022, first by appointment of President Obama and then by President Biden. Both of us remain affiliated with ACUS—one of us as a senior fellow (Fois), the other as a special counsel (Wiener). This letter reflects only our own views, not those of ACUS (or its Council, committees, or members) or the federal government.

ACUS is small agency within the executive branch that makes recommendations to Congress, the President, federal agencies, and Judicial Conference of the United States to improve administrative procedures and processes and judicial review of administrative action. Recommendations are issued by ACUS's assembly, which comprises approximately one hundred members—roughly sixty of them agency officials and forty of them "public members."

Public members are selected by the chair, with the consent of the ACUS Council, "in a manner which will provide broad representation of the views of private citizens and utilize diverse experience. The members shall be members of the practicing bar, scholars in the field of administrative law or government, or others specially informed by knowledge and experience with respect to Federal administrative procedure." (5 U.S.C. § 593(b)(6).)

Professor Mascott was appointed for and served three terms as a public member—the maximum number allowed under ACUS's by-laws—and then was appointed as a senior fellow of ACUS. Like all public members, Professor Mascott served ACUS without compensation, and she did so while working as a full-time professor (first at Antonin Scalia Law School of George Mason University and then at Columbus School of Law of Catholic University).

During her distinguished service to ACUS, Professor Mascott consistently demonstrated her first-rate legal mind and impressive command of constitutional and administrative law. ACUS benefitted enormously from her incisive analysis of the

complex legal and policy issues that came before ACUS during its committee meetings and plenary sessions. She always comported herself in a collegial and professional way in her dealings with other ACUS members, including members who held different perspectives, and with the utmost integrity.

In addition to serving as a public member, Professor Mascott served as research consultant to ACUS for the project that resulted in Recommendation 2019-2, *Agency Recruitment and Selection of Administrative Law Judges*, 84 Fed. Reg. 38,930 (Aug. 8, 2109). What is most notable about her work as a consultant is that she teamed up with Professor Beermann, the Philip S. Beck Professor of Law of Boston University School of Law, to write the extensive research report that underlay Recommendation 2019-2.

Professors Mascott and Beermann hold some very different views on the administrative state, including the proper constitutional domain of administrative adjudication and presidential powers. Yet they bracketed their differences and worked collaboratively to write a thoroughly fact- and consensus-based report that would become the blueprint for Recommendation 2019-2's "guidelines and procedures to ensure the hiring of [administrative law judges] who will carry out the functions of the office with impartiality and maintain the appearance of impartiality." Professor Mascott, along with Professor Beermann, then worked collaboratively, collegially, and skillfully with ACUS members of many different perspectives to draft Recommendation 2019-2.

We are confident that, if confirmed, Professor Mascott will bring the same admirable qualities to the Third Circuit that she brought to ACUS and that she will serve the court and the country with great distinction.

Thank you for considering our views.

Sincerely yours,

Andrew Fois

Matthew Lee Wiener

Office of the Dean
Hazel Hall
3301 Fairfax Drive, MS 1G3
Arlington, Virginia 22201
703.993.8800

August 5, 2025

The Honorable Chuck Grassley
Chair
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Dick Durbin
Ranking Member
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Nomination of Professor Jennifer Mascott

Dear Chairman Grassley and Ranking Member Durbin:

Professor Mascott, nominated by President Trump to serve on the U.S. Court of Appeals for the Third Circuit, was a faculty member at the Antonin Scalia Law School at George Mason University during 2017 to 2024. (She was on leave part of 2019/21 while employed in the Office of Legal Counsel). Professor Mascott also served as the Co-Executive Director of the C. Boyden Gray Center for the Study of the Administrative State, at our school.

I served as Professor Mascott's dean at Scalia for about four years (2021-2024), until she departed to become the Founder of a Separation-of-Powers Center at another area law school.

I wish Professor Mascott had stayed at Scalia. She was an asset to our law school. Professor Mascott brought great energy and commitment to all aspects of her position as a faculty member. She did an outstanding job teaching large sections of students in subject areas involving Constitutional and other federal law. Outside the classroom, she was accessible to students and helped them with employment. She ran our Supreme Court Clinic. She was an impactful, prolific scholar. She contributed effective institutional service. Her value to our law school was especially high.

But Professor Mascott did not insulate herself in academe. She frequently spoke to alumni groups and to the general public. She spoke on the media about the law, making it accessible to non-lawyers. She conducted herself in a professional, civil, and positive manner. In every capacity and role, she always demonstrated intellectual honesty and integrity. It gave me institutional pride that she was a member of the Scalia law faculty.

Professor Mascott's record demonstrates that she possesses a brilliant legal mind. She achieved the highest GPA ever recorded by a JD student in the history of the George Washington law school. She clerked for Justice Clarence Thomas and for then-Judge Brett Kavanaugh. She has starred as a

lawyer in private practice and in government, in various positions. Professor Mascott has excelled in a variety of roles. She has worked at the pinnacle of the legal profession.

Professor Mascott's varied experiences and abundant achievements should translate into her becoming a top-tier jurist. She has what we might call a "judicial temperament," being calm and reflective, and listening and thinking before speaking. She is a good person and cares about those around her. I have seen her interact with her family, to whom she is devoted. She is simply one of those rare individuals about whom you shake your head and wonder how she can juggle so many things so well, all while staying positive. She is devoted to our great nation and to the Rule of Law.

I cannot think of a more qualified lawyer or legal academic to serve on the federal bench than Professor Jennifer Mascott.

Respectfully,

Ken Randall
Allison and Dorothy Rouse Dean
George Mason University Professor of Law

GW | LAW

August 26, 2025

The Honorable Charles E. Grassley
Chairman, Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Richard J. Durbin
Ranking Member, Committee on the Judiciary
United States Senate
Washington, DC 20510

(via email and USPS)

Re: Nomination of Jennifer Mascott to the Third Circuit

Dear Senators Grassley and Durbin:

We are members of the George Washington University Law School faculty and are writing to express our support of Jennifer Mascott's nomination to the United States Court of Appeals for the Third Circuit. Ms. Mascott is a distinguished lawyer and law professor with excellent credentials. In addition to teaching law at GW, many of the undersigned have substantial professional experience in private practice, government, and non-profit organizations where we have regularly advocated for clients before the judiciary. Thus, we understand the importance of appointing highly qualified individuals to the bench. Ms. Mascott has consistently performed at the highest level and demonstrated remarkable intellect, leadership, and ability. We do not all share the same judicial philosophy, and no doubt some of us disagree with aspects of hers, but we have no doubt that she possesses the requisite qualifications, judicial temperament, and impartiality to be an outstanding judge.

Ms. Mascott attended GW Law School after obtaining her undergraduate degree from the University of Maryland, where she earned a B.S. in Mathematics and Govt & Politics and was a member of *Phi Beta Kappa*. Upon entering GW Law School, she quickly stood out, compiling an incredible academic record in each of her three years. She never received a grade lower than an A, and approximately two-thirds of her grades were A+s. In fact, in her third year, she earned all A+ grades, and graduated with an astounding 4.22 cumulative G.P.A. This was, and remains, the highest G.P.A. anyone has ever earned in the history of GW Law School. In fact, several of her professors reported that upon grading her exams, they thought to themselves that her answers were better than their answer keys. Not surprisingly, Ms. Mascott graduated first in the Class of 2006, collecting almost all of the top academic awards given out at graduation. In addition, due to her remarkable humility, kindness, and professionalism, she was, in our recollection, universally liked and respected by her peers from across the ideological spectrum.

Ms. Mascott's post-graduation experiences are as impressive as her achievements in law school. After graduating, Ms. Mascott clerked for Judge Brett Kavanaugh on the United States Court of Appeals for the D.C. Circuit and then for Justice Clarence Thomas on the Supreme Court of the United States. After taking some time off to have children, she returned to GW Law as an Adjunct Professor from 2011-15 to teach Administrative Law to our students. She was well-liked and a natural teacher. After completing a two-year Fellowship at Georgetown Law Center, Ms. Mascott was hired as an Assistant Professor of Law at George Mason University's Scalia Law School where she taught a variety of courses including Administrative Law. Constitutional Law, Federal Courts, and Separation of Powers. Most recently, she joined Catholic University's Columbus School of Law as a tenured Associate Professor of Law. She has also been a prolific and impactful scholar in the field of Administrative Law, authoring a casebook, several book chapters, and a number of widely-cited law review articles.

What makes Ms. Mascott all the more remarkable is that she has accomplished all of this while dealing with a recent personal tragedy. She has four minor children and several years ago her husband was diagnosed with late-stage cancer and passed away within months. She has done a remarkable job of continuing her career and caring for her children during this difficult period. It is a testament to her strength of character.

In sum, Jennifer Mascott is one of the finest graduates that GW Law School has ever produced and is very well qualified to serve as a judge on the United States Court of Appeals for the Third Circuit. We urge your Committee to approve her nomination.

Sincerely,

Michael Abramowicz
Oppenheim Professor of Law

Robert Brauneis
Michael J. McKeon Professor of Intellectual Property Law

Arturo J. Carrillo
Professor of Clinical Law

W. Burlette Carter
Professor Emerita of Law

Bradford R. Clark
William Cranch Research Professor of Law

Thomas Colby
John Theodore Fey Research Professor

Robert J. Cottrol
Harold Paul Green Research Professor of Law

Lawrence A. Cunningham
Henry St. George Tucker III Research Professor of Law Emeritus

Theresa A. Gabaldon
Lyle T. Alverson Professor of Law

Aram A. Gavoor
Associate Professor of Law

Robert L. Glicksman
J. B. and Maurice C. Shapiro Professor of Environmental Law

David M. Johnson
Assistant Dean for Advocacy Programs; Professorial Lecturer in Law

F. Scott Kieff
Stevenson Bernard Professor of Law

Laird Kirkpatrick
Louis Harkey Mayo Research Professor Emeritus of Law

Laurie S. Kohn
Jeffrey & Martha Kohn Senior Associate Dean for Academic Affairs; Professor of Law

William E. Kovacic
Global Competition Professor of Law and Policy

Renée Lettow Lerner
Donald Phillip Rothschild Research Professor

Dayna Bowen Matthew
Dean and Harold H. Greene Professor of Law

Thomas D. Morgan
Oppenheim Professor Emeritus of Antitrust and Trade Regulation Law

Sean D. Murphy
Manatt/Ahn Professor of International Law

Anne K. Olesen
Professor Emerita of Clinical Law

Todd D. Peterson
Carville Dickinson Benson Research Professor

Stephen A. Saltzburg
Wallace and Beverley Woodbury University Professor of Law

Steven L. Schooner
Nash & Cibinic Professor of Government Procurement Law

Joshua I. Schwartz
E.K. Gubin Professor Emeritus of Government Contracts Law

Jonathan R. Siegel
F. Elwood and Eleanor Davis Professor of Law

Roger H. Trangsrud
James F. Humphreys Professor of Complex Litigation and Civil Procedure

Jonathan Turley
J.B. and Maurice C. Shapiro Professor of Public Interest Law

Robert W. Tuttle
David R. and Sherry Kirschner Berz Research Professor of Law and Religion

Arthur E. Wilmarth
Professor Emeritus of Law

Senator Charles Grassley
Chairman
Committee on the Judiciary
United States Senate
135 Hart Senate Office Building
Washington, D.C. 20510

Senator Richard Durbin
Ranking Member
Committee on the Judiciary
United States Senate
711 Hart Senate Office Building
Washington, D.C. 20510

August 29, 2025

Dear Chairman Grassley and Ranking Member Durbin:

We write in support of the nomination of Professor Jennifer Mascott to be a judge on the United States Court of Appeals for the Third Circuit. We are scholars of a wide range of legal fields, including administrative law, constitutional law, and regulation. We also have a wide range of legal and political perspectives. We are united in our view that Professor Mascott would be an outstanding addition to the federal judiciary. Based on our years of experience interacting and working with Professor Mascott—and in some instances, coauthoring with her—we know that she is brilliant, hard-working, conscientious, and collegial.

Professor Mascott's impressive legal career includes service in all three branches of the federal government, in private practice, and in the legal academy. She is a *phi beta kappa* graduate of the University of Maryland, which she attended on a full scholarship, and the George Washington University Law School, from which she graduated first in her class and with the highest cumulative GPA then on record in the Law School's history. While in law school, Professor Mascott served as a Senior Projects Editor of the *George Washington Law Review*, as well as a Fellow in the Legal, Research, and Writing Program.

Following her graduation from law school, Professor Mascott served as a law clerk to Judge Brett M. Kavanaugh of the United States Court of Appeals for the D.C. Circuit and Justice Clarence Thomas of the Supreme Court of the United States.

In the legal academy, Professor Mascott has served on the faculty of the Columbus School of Law at Catholic University and the Antonin Scalia Law School at George Mason University. She has also served as a fellow at Georgetown University Law Center. In those capacities, she has taught classes dealing with many of the most technical issues confronting federal courts today, including Administrative Law, Civil Procedure, Constitutional Law, and Federal Courts, as well as seminars on Separation of Powers in the Political Branches and the History and Foundations of the Administrative State.

Professor Mascott also founded and directed the Separation of Powers Institute at the Columbus School of Law and, before that, served as co-director of the C. Boyden Gray Center for the Study of the Administrative State at the Antonin Scalia School of Law, where she hosted symposia and directed a clinic for several years. She has served as a Public Member of the Administrative Conference of the United States and in various leadership positions with the American Bar Association's Section of Administrative Law and Regulatory Practice. While on leave from her positions in the legal academy, she served in a high-level capacity within the federal government, where she argued cases in federal appellate and trial courts on behalf of the United States.

Professor Mascott's contributions to legal scholarship are equally impressive. She is a coauthor of a leading casebook on administrative law, and she has authored or coauthored influential articles. Her work has been cited not just by many scholars, but also by judges at every level of the federal judiciary, including the Supreme Court of the United States. Of special note, Professor Mascott has explored both the history and the present implications of constitutional issues relating to the separation of powers, especially the Appointments Clause. Some of us agree with her analysis of these topics; others do not. We agree that, on the whole, Professor Mascott's academic work demonstrates the sort of intellectual rigor and depth that will serve her well during a career as a judge.

Based on our experience, Professor Mascott is well qualified to serve as a judge on the United States Court of Appeals for the Third Circuit.

Sincerely,*

Michael Abramowicz
Oppenheim Professor of Law
George Washington University Law School

Jonathan H. Adler
Tazewell Taylor Professor of Law
William & Mary Law School

J. Joel Alicea
St. Robert Bellarmine Professor of Law
The Catholic University of America

Aditya Bamzai
Professor of Law
University of Virginia School of Law

Stephanie Barclay
Professor of Law
Georgetown University Law Center

* Each of us signs this letter in a personal capacity and not on behalf of any current or former employer.

Randy E. Barnett
Patrick Hotung Professor of Constitutional Law
Georgetown University Law Center

William Baude
Harry Kalven, Jr. Professor of Law
University of Chicago Law School

Josh Blackman
Centennial Chair of Constitutional Law
South Texas College of Law Houston

Emily S. Bremer
Professor of Law
Notre Dame Law School

Henry N. Butler
Henry G. Manne Professor of Law & Economics
Antonin Scalia Law School

Terrence R. Chorvat
Professor of Law
Antonin Scalia Law School

Bradford R. Clark
William Cranch Research Professor of Law
George Washington University Law School

Barry Cushman
John P. Murphy Foundation Professor of Law
Notre Dame Law School

Marc O. DeGirolami
St. John Henry Newman Professor of Law
The Catholic University of America, Columbus School of Law

Christopher DeMuth
Distinguished Fellow in American Thought
The Heritage Foundation

John F. Duffy
Samuel H. McCoy II Professor of Law
Class of 1966 Research Professor of Law
University of Virginia School of Law

E. Donald Elliott
Winter Doyle Distinguished Visiting Professor of Law (2025–2026)
Yale Law School

Richard Epstein
Laurence A. Tisch Professor of Law
New York University School of Law

Elizabeth Price Foley
Professor of Law
Florida International University College of Law

Nicole Stelle Garnett
John P. Murphy Foundation Professor of Law
Notre Dame Law School

Richard W. Garnett
Paul J. Schierl Professor of Law
Notre Dame Law School

Sherif Girgis
Professor of Law
Notre Dame Law School

Justin (Gus) Hurwitz
Senior Fellow
University of Pennsylvania Carey Law School

Ben Johnson
Professor of Law
University of Florida, Levin College of Law

William M. M. Kamin
Assistant Professor of Law
The Catholic University of America

Adam I. Klein
Director, Robert Strauss Center for International Security and Law
University of Texas at Austin

Elizabeth R. Kirk
Assistant Professor of Law
The Catholic University of America

Kurt T. Lash
Distinguished Professor of Law
University of Richmond School of Law

Renée Lettow Lerner
Donald Phillip Rothschild Research Professor
George Washington University Law School

Steven J. Lindsay
Assistant Professor of Law
The Catholic University of America

Robert Luther III
Associate Professor of Law
Antonin Scalia Law School

Daniel A. Lyons
Professor of Law and Dean's Distinguished Scholar
Boston College Law School

Julia D. Mahoney
John S. Battle Professor of Law
University of Virginia School of Law

Michael W. McConnell
Richard and Frances Mallery Professor of Law
Stanford Law School

Marah Stith McLeod
Professor of Law
Notre Dame Law School

Derek T. Muller
Professor of Law
Notre Dame Law School

Aaron L. Nielson
Charles I. Francis Professor in Law
University of Texas School of Law

Jeffrey A. Pojanowski
Biolchini Family Professor of Law
Notre Dame Law School

Joseph Postell
Allison and Dorothy Rouse Chair in Politics
Hillsdale College

Saikrishna Prakash
James Monroe Distinguished Professor of Law
Horace W. Goldsmith Research Professor of Law
University of Virginia School of Law

Haley N. Proctor
Associate Professor of Law
Notre Dame Law School

Philip A. Pucillo
Professor
Michigan State University College of Law

Michael D. Ramsey
Warren Distinguished Professor of Law
University of San Diego School of Law

Michael Rappaport
Hugh & Hazel Darling Foundation Professor of Law
University of San Diego School of Law

Richard M. Re
Professor of Law
Harvard Law School

Stephen E. Sachs
Antonin Scalia Professor of Law
Harvard Law School

Natalie R. Schmidt
Assistant Professor of Law
The Catholic University of America

Chad Squitieri
Assistant Professor of Law
The Catholic University of America

John F. Stinneford
Edward Rood Eminent Scholar Chair
Professor of Law
University of Florida, Levin College of Law

Lee J. Strang
Professor of Law
Moritz College of Law, The Ohio State University

Christopher J. Walker
Professor of Law
University of Michigan Law School

Derek A. Webb
Assistant Professor of Law
Catholic University of America School of Law

Todd Zywicki
George Mason University Foundation Professor of Law
Antonin Scalia Law School

September 1, 2025

Chairman Chuck Grassley
Ranking Member Dick Durbin
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Grassley and Ranking Member Durbin:

I write in strong support of the nomination of Professor Jennifer Mascott to serve as a judge for the U.S. Court of Appeals for the Third Circuit. President Trump has made an excellent choice in nominating her to serve as a circuit judge.

I have known Professor Mascott since she joined the Department of Justice during the first Trump Administration to work for me as a Deputy Assistant Attorney General in the Office of Legal Counsel. Professor Mascott came to our office with a sterling resume, having graduated first in her law school class, clerked for Justice Kavanaugh and Justice Thomas, and having written an important article on the original understanding of the Appointments Clause.

As the Assistant Attorney General for the Office of Legal Counsel, I worked closely with her for two years, and I saw every day the dedication, enthusiasm, and intelligence she brought to the Office's work. The work of the Office requires detailed and principled consideration of complicated questions relating to the separation of powers and the appropriate interpretation of federal statutes. It often calls for creative thinking, and sometimes candid conversations, to find the best way to meet policymakers' objectives, within the boundaries of the law. Professor Mascott performed that work admirably, and I expect her to bring that same commitment to the law when she serves as a federal judge.

Over the past four years, I have continued my professional and personal relationship with Professor Mascott by co-teaching a seminar on the separation of powers and by working with her at the C. Boyden Gray Center for the Study of the Administrative State. Our constitutional law seminar involved consideration of a wide range of cases, legal opinions, and academic articles related to the constitutional division of power between the Executive Branch and Congress. Professor Mascott is an engaging and skilled professor, who is admired by her students for mastery of the subject matter, and who takes seriously her responsibility to provide them with perspectives from all sides of areas of constitutional debate. In addition to teaching and writing, Professor Mascott devoted her impressive energies to organizing Gray Center programming, which included educational seminars for congressional staffers and panel discussions analyzing the landmark Supreme Court decisions transforming the structure of the administrative state. Professor Mascott's academic work provides still more evidence of her exceptional qualifications for judicial service.

In all of this work, Professor Mascott has approached difficult legal questions with intellectual rigor and a strong commitment to getting the law right. She has all the makings of an excellent judge, and I believe that the Third Circuit, and the country as whole, stand to benefit from her decades of service.

I recommend her to this Committee without reservation.

Sincerely,

Steven A. Engel

Aug. 22, 2025

The Honorable Chuck Grassley
Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Dick Durbin
Ranking Member
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Re: Nomination of Prof. Jennifer Mascott

Dear Chairman Grassley and Ranking Member Durbin:

We write in support of Prof. Jennifer Mascott's nomination to the U.S. Court of Appeals for the Third Circuit.

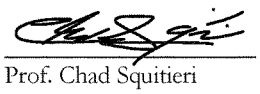
Both of us previously served as law clerks on the Third Circuit. Prof. Squitieri clerked on the court during the 2017–18 term, and Prof. Schmidt clerked on the court during the 2022–23 term. As former Third Circuit clerks, we hold the Third Circuit in high regard. And we think that Prof. Mascott would make for a wonderful addition to the court.

We currently serve as colleagues of Prof. Mascott at the Catholic University of America, where we also serve as Director (Prof. Squitieri) and Fellow (Prof. Schmidt) of the Separation of Powers Institute. The Separation of Powers Institute, which was founded by Prof. Mascott, serves as a hub for academic research and debate on legal and constitutional questions related to the roles and functions of the three federal branches of government within the U.S. constitutional system. The Separation of Powers Institute's continued commitment to academic research is just one of the ways that Prof. Mascott's hard work and respect for the rule of law should continue to influence the legal academy well into the future.

As Prof. Mascott's colleagues and friends, we have observed Prof. Mascott to have demonstrated the legal acumen and collegiality that would make her an excellent judge on the Third Circuit. Her scholarly achievements and related experiences—such as her expert testimony before members of Congress and her status as a national legal commentator—are extraordinary. And her kindness to others, including both her colleagues and students, is additionally noteworthy.

We urge the Senate to confirm Prof. Mascott's nomination to the Third Circuit.

Respectfully,



Prof. Chad Squitieri
Director, SPI

Prof. Natalie Schmidt
Fellow, SPI

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

1. **Name**: State full name (include any former names used).

James Donald Maxwell II

2. **Position**: State the position for which you have been nominated.

United States District Judge for the Northern District of Mississippi

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

Office: Mississippi Supreme Court
450 High Street
Jackson, Mississippi 39201

Residence: Oxford, Mississippi

4. **Birthplace**: State year and place of birth.

1975; Metairie, Louisiana

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

1999 – 2001, University of Mississippi School of Law; J.D., 2001

1998 – 1999, Mississippi College School of Law; no degree

1993 – 1997, University of Mississippi; B.B.A, 1997

1996, Holmes Community College; no degree

1995, Northwest Mississippi Community College; no degree

1994, Delgado Community College; no degree

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships,

institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2016 – present
Mississippi Supreme Court
450 High Street
Jackson, Mississippi 39201
Associate Justice

2009 – 2015
Mississippi Court of Appeals
450 High Street
Jackson, Mississippi 39201
Judge

2002 – 2009
United States Attorney's Office, Northern District of Mississippi
900 Jefferson Avenue
Oxford, Mississippi 38655
Assistant United States Attorney (Criminal Division)

2001 – 2002
Daniel Coker Horton and Bell, P.A.
4400 Old Canton Road, Suite 400
Jackson, Mississippi 39215
Associate

Summer 2000
Lemle & Kelleher, L.L.P.
601 Poydras Street
New Orleans, Louisiana 70130
Law Clerk

Summer 2000
Daniel Coker Horton and Bell, P.A.
111 East Capitol Street
Jackson, Mississippi 39201
Law Clerk

Summer 1999
Mississippi Office of the Attorney General
Carroll Gartin Justice Building
450 High Street, Box 220
Jackson, Mississippi 39201

Law Clerk

1997 – 1998
Physician Sales and Services
4526 South 140th Street
Omaha, Nebraska 68137
Sales Consultant

Fall 1997
City of Kenner, Clerk of Court
1801 Williams Boulevard
Kenner, Louisiana 70062
Clerk Assistant

7. **Military Service and Draft Status**: Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

I did not serve in the military. I registered for selective service upon turning 18.

8. **Honors and Awards**: List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

Fellow, Mississippi Bar Foundation (2023)

Fellow, Young Lawyers Division of the Mississippi Bar (2014)

Mississippi Business Journal, "Top 40 Under 40" (2007)

Mississippi Economic Council, "Leadership Mississippi" (2007)

United States Department of Justice, Organized Crime Drug Enforcement Task Force Case of the Year Award, NDMS "Operation Icebreaker" (2007)

Bureau of Alcohol, Tobacco, Firearms and Explosives, Commendation, Gun Crime Reduction in Clarksdale, Mississippi (2003)

Bureau of Alcohol, Tobacco, Firearms and Explosives, Commendation, Trial and Conviction of Violent Gang Leader (2003)

Mississippi Bar Association General Litigation Award, "Outstanding Student Federal Trial Practice" (2001)

Winner, Steen, Reynolds and Dalehite Trial Competition (2001)

University of Mississippi School of Law National Trial Competition Team (2001)

9. **Bar Associations**: List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

Mississippi Supreme Court
Chair, Mississippi Supreme Court Rules Committee on Criminal Practice and Procedure (2025 – present)
Chair, Mississippi Supreme Court Committee on Judicial Education (2017 – present)

Mississippi Bar Association
Mississippi Bar Foundation, Fellow (2023 – present)
President, Young Lawyers Division (2009 – 2010)
Mississippi Bar Foundation, Trustee (2009 –2010)
Board of Bar Commissioners (2008 – 2011)
Delegate to American Bar Association, Young Lawyers Division (2008 – 2010)
Strategic Planning Committee (2008)
Local Affiliates Chairman, Young Lawyers Division (2006 – 2007)
Diversity in the Law Committee, Young Lawyers Division (2006 – 2007)

Lafayette County Bar Association
President (2007 – 2008)
Vice President (2006 – 2007)
Secretary (2005 – 2006)

Tri-County Young Lawyers (Lafayette, Yalobusha, and Calhoun Counties)
President (2006 – 2007)

Mississippi Prosecutors Association
Board of Directors (2007 – 2008)

American Bar Association (intermittent membership from 2001 to approximately 2011)

10. **Bar and Court Admission**:

a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Mississippi, 2001

There have been no lapses in my membership.

b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special

admission to practice.

United States Court of Appeals for the Fifth Circuit, 2003 until my appointment to the Mississippi Court of Appeals in 2009

United States District Court for the Northern District of Mississippi, 2001 until my appointment to the Mississippi Court of Appeals in 2009

Mississippi Supreme Court, 2001

11. **Memberships**:

a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Oxford Rotary Club, 2009 – 2012

Irwin Province Court of Honor, 2014 – present

Oxford Country Club, 2013 – 2022

b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

Prior to the United States Supreme Court decision *Board of Directors of Rotary International v. Rotary Club of Duarte*, Rotary Clubs were all male, except for honorary memberships. I have been advised the Oxford Rotary Club began admitting female members in November 1988, twenty years before I became a member.

The Irwin Province Court of Honor consists of alumni of Kappa Alpha Order, an all-male national fraternity with more than 120 chapters. Membership is comprised of alumni from the University of Mississippi, Mississippi State University, the University of Southern Mississippi, Delta State University, and Millsaps College. These universities have co-ed Greek systems that include all-female sororities.

12. **Published Writings and Public Statements**:

a. List the titles, publishers, and dates of books, articles, reports, letters to the editor,

editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply copies of all published material to the Committee.

With James L. Roberts and Elizabeth F. Archer, *The Court System*, in *County Government in Mississippi*, at 145–50 (7th ed. 2023). Copy supplied.

With Jacqueline E. Mask and Daniel R. McKittrick, *Tributes to Chief Judge Sharion Aycock*, 39 Miss. C. L. Rev. 395 (2021). Copy supplied.

Tribute to Dean Samuel M. Davis, 85 Miss. L.J. 951 (2016). Copy supplied.

And Stay Out! A Look at Judicial Banishment in Mississippi, 82 Miss. L.J. Supra 1 (2012). Copy supplied.

Young Lawyers Division News, LVI The Mississippi Lawyer, no. 4, May - July 2010, at 42. Copy supplied.

Young Lawyers Division News, LVI The Mississippi Lawyer, no. 3, Mar. - Apr. 2010, at 42. Copy supplied.

Young Lawyers Division News, LVI The Mississippi Lawyer, no. 1, Jan. - Feb. 2010, at 33. Copy supplied.

Young Lawyers Division News, LVI The Mississippi Lawyer, no. 1, Oct. - Dec. 2009, at 61. Copy supplied.

b. Supply copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

July 9, 2010, President's Report, Young Lawyers Division General Assembly, Mississippi Bar Convention, Destin, Florida. Transcript supplied.

c. Supply copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

To the best of my knowledge, I have not issued any official statements or communications relating to matters of public policy or legal interpretation to any public body or public officials.

d. Supply copies, transcripts or recordings of all speeches or talks delivered by you including commencement speeches, remarks, lectures, panel discussions, conferences,

political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

To the best of my recollection, below are the speeches and presentations I have given. Over the past sixteen years, I have used several versions of the PowerPoint titled "Mississippi's Court System." The various slides used in presentations from July 2009 to January 2014, February 2014 to December 2015, and January 2016 to 2025 are attached. I also gave the "Legal Writing" PowerPoint presentation multiple times from 2015 to 2016 using the supplied PowerPoint slides.

May 29, 2025, Speaker, "Mississippi Supreme Court," Mississippi American Legion Boys State, Oxford, Mississippi. PowerPoint supplied.

April 25, 2025, Panelist, "Analysis of Opening Statements," American College of Trial Lawyers, Mississippi Chapter, Jackson, Mississippi. Participated in analysis of mock opening statements. I have no notes, transcript, or recording. The address for American College of Trial Lawyers, Mississippi Chapter is 240 Trace Colony Park Drive, Ridgeland, Mississippi 39157.

April 16, 2025, Speaker, "Mississippi's Court System," Mississippi Economic Council's Leadership Mississippi, Jackson, Mississippi. PowerPoint supplied.

February 3, 2025, Speaker, "Leadership in Law," University of Mississippi School of Law, University, Mississippi. I spoke about my personal and professional experiences and important leadership traits for judges. I have no notes, transcript, or recording. The address of the University of Mississippi School of Law is 481 Chucky Mullins Drive, University, Mississippi 38677.

January 6, 2025, Speaker, Public Remarks, Swearing-In Ceremony for the Justices of the Mississippi Supreme Court, Gartin Justice Building, Jackson, Mississippi. After taking the oath of office, I thanked my family and friends and reflected upon my time at the Mississippi Supreme Court. I have no notes, transcript, or recording. The address of the Gartin Justice Building is 450 High Street, Jackson, Mississippi 39201.

September 23, 2024, Speaker, "Mississippi Supreme Court Update," Calhoun County Republican Women, Bruce, Mississippi. PowerPoint supplied.

December 4, 2023, Speaker, "Justice Court Judges Orientation," Jackson, Mississippi. PowerPoint supplied.

October 24, 2023, Speaker, "Mississippi Supreme Court Update, CLE On Demand" Mississippi Bar Association, Jackson, Mississippi. Recording supplied.

February 22, 2023, Speaker, "Mississippi Supreme Court Update," Circuit Clerks Conference, Ridgeland, Mississippi. PowerPoint supplied.

February 8, 2023, Speaker, "Mississippi Supreme Court Update," Chancery Clerks Conference, Ridgeland, Mississippi. PowerPoint supplied.

November 16, 2022, Speaker, "Mississippi Supreme Court Update," Rankin County Bar Association, Brandon, Mississippi. PowerPoint supplied.

October 20, 2022, Speaker, "Mississippi Supreme Court Update," Mississippi Defense Lawyers Association, Flowood, Mississippi. PowerPoint supplied.

September 16, 2022, Speaker, "Mississippi's Court System," Mississippi Economic Council's Leadership Mississippi, Jackson, Mississippi. PowerPoint supplied.

July 22, 2022, Speaker, "Court on the Road," Prentiss County Bar, Iuka, Mississippi. PowerPoint supplied.

March 7, 2022, Speaker, "Mississippi's Court System," Lafayette County Chamber of Commerce Junior Leadership, Oxford, Mississippi. PowerPoint supplied.

October 29, 2021, Speaker, "Mississippi Caselaw Update," Trial and Appellate Judges Conference, Jackson, Mississippi. PowerPoint supplied.

August 20, 2021, Panelist, James O. Dukes Professionalism Program, University of Mississippi School of Law, University, Mississippi. I participated in discussions about professionalism and civility with first-year law students. I have no notes, transcript, or recording. The address of the University of Mississippi School of Law is 481 Chucky Mullins Drive, University, Mississippi 38677.

May 18, 2021, Speaker, "Covid and the Courts," Greenwood Rotary Club, Greenwood, Mississippi. PowerPoint supplied.

December 19, 2019, Speaker, "Appellate Tips," Lafayette County Bar Christmas CLE, University of Mississippi School of Law, University, Mississippi. Justice Josiah Coleman and I spoke about appellate advocacy. I have no notes, transcripts, or recordings. The address of the University of Mississippi School of Law is 481 Chucky Mullins Drive, University, Mississippi 38677.

September 9, 2019, Speaker, "Mississippi's Court System," Trent Lott Leadership Institute, University of Mississippi, University, Mississippi. PowerPoint supplied.

May 17, 2019, Speaker, "Court on the Road CLE," Mississippi Bar Association, Tupelo, Mississippi. PowerPoint supplied.

April 4, 2019, Speaker, "The Constitutional Convention," Daughters of the American Revolution, Oxford, Mississippi. PowerPoint supplied.

February 7, 2019, Speaker, "Mississippi's Court System," Mississippi Economic Council's Leadership Mississippi, Jackson, Mississippi. PowerPoint supplied.

December 5, 2018, Speaker, "Mississippi Tort Claims Act," New Circuit Judges, Jackson, Mississippi. PowerPoint supplied.

August 31, 2018, Speaker, "Mississippi's Court System," University of Mississippi, University, Mississippi. PowerPoint supplied.

July 7, 2018, Speaker, "Pro Se Day," Mississippi Access to Justice Commission, Lafayette County Chancery Court, Oxford, Mississippi. I gave welcoming remarks to attorneys who were providing pro bono service in chancery court. I have no notes, transcript, or recording. The address of the Lafayette County Chancery Court is 300 North Lamar Boulevard, Oxford, Mississippi 38655.

April 27, 2018, Speaker, "Mississippi's Court System," Trent Lott Leadership Institute, University of Mississippi, University, Mississippi. PowerPoint supplied.

March 8, 2018, Speaker, "Mississippi's Court System," University of Mississippi School of Law, University, Mississippi. PowerPoint supplied.

December 17, 2017, Speaker, "Mississippi's Court System," Gulfport Rotary Club, Gulfport, Mississippi. PowerPoint supplied.

October 16, 2017, Speaker, "Legal Writing," University of Mississippi School of Law, University, Mississippi. PowerPoint supplied.

September 17, 2017, Speaker, "The Constitutional Convention," Calhoun County Courthouse, Pittsboro, Mississippi. PowerPoint supplied.

August 17, 2017, Panelist, James O. Dukes Professionalism Program, University of Mississippi School of Law, University, Mississippi. I participated in discussions about professionalism and civility with first year law students. I have no notes, transcript, or recording. The address of the University of Mississippi School of Law is 481 Chucky Mullins Drive, University, Mississippi 38677.

February 13, 2017, Speaker, "Legal Writing," University of Mississippi School of Law, University, Mississippi. PowerPoint supplied.

February 2, 2017, Speaker, "Mississippi's Court System," Mississippi Economic Council's Leadership Mississippi, Jackson, Mississippi. PowerPoint supplied.

January 26, 2017, Speaker, Bar Leadership Forum, Mississippi Bar Association, Jackson, Mississippi. I spoke about networking and goal setting for young lawyers. I have no notes, transcript, or recording. The address of the Mississippi Bar Association is 643 North State Street, Jackson, Mississippi 39202.

January 4, 2017, Speaker, Public Remarks, Swearing-In Ceremony for the Justices of the Mississippi Supreme Court, Gartin Justice Building, Jackson, Mississippi. After taking the oath of office, I thanked my family and friends and reflected upon my first year at the Mississippi Supreme Court. I have no notes, transcript, or recording. The address of the Gartin Justice Building is 450 High Street, Jackson, Mississippi 39201.

October 20, 2016, Speaker, "Meet the Candidates," Desoto County Republican Women, Southaven, Mississippi 38671. I spoke about my candidacy for the Mississippi Supreme Court. I have no notes, transcript, or recording. No physical address.

October 18, 2016, Speaker, Response, The Mississippi Bar Memorial Service, Gartin Justice Building, Jackson, Mississippi. Transcript supplied.

October 7, 2016, Speaker, "Bar on the Road CLE," Mississippi Bar Association, Columbus, Mississippi. PowerPoint supplied.

August 20, 2016, Speaker, "Candidate Introduction," First District Republican Women's Meeting, New Albany, Mississippi. I spoke about my candidacy for the Mississippi Supreme Court. I have no notes, transcript, or recording. No physical address.

April 26, 2016, Speaker, "Mississippi's Court System," Mississippi State Extension Service, Jackson, Mississippi. PowerPoint supplied.

April 12, 2016, Speaker, "Mississippi's Court System," Colonial Dames, Oxford, Mississippi. PowerPoint supplied.

April 12, 2016, Speaker, "Mississippi's Court System," Prentiss County Republicans, Boonville, Mississippi. PowerPoint supplied.

April 11, 2016, Speaker, "Mississippi's Court System," Rotary Club of Tupelo, Tupelo, Mississippi. PowerPoint supplied.

April 11, 2016, Speaker, "Mississippi's Court System," Lee County Republican Party, Tupelo, Mississippi. PowerPoint supplied.

April 8, 2016, Speaker, "Mississippi's Court System," Aberdeen Rotary Club, Aberdeen, Mississippi. PowerPoint supplied.

March 24, 2016, Speaker, "Mississippi's Court System," Amory Rotary Club, Amory, Mississippi. PowerPoint supplied.

March 21, 2016, Speaker, "Mississippi's Court System," Winson County Republican Women, Louisville, Mississippi. PowerPoint supplied.

March 17, 2016, Speaker, "Mississippi's Court System," Desoto County Republican Women, Southaven, Mississippi. PowerPoint supplied.

March 10, 2016, Speaker, "Mississippi's Court System," Tunica Rotary Club, Tunica, Mississippi. PowerPoint supplied.

February 23, 2016, Speaker, "Mississippi's Court System," Tishomingo County Republicans, Iuka, Mississippi. PowerPoint supplied.

February 18, 2016, Speaker, "Mississippi's Court System," Corinth Rotary Club, Corinth, Mississippi. PowerPoint supplied.

February 15, 2016, Speaker, "Legal Writing," University of Mississippi School of Law, University, Mississippi. PowerPoint supplied.

February 8, 2016, Speaker, "Mississippi's Court System," Military Officers Association of America, Tupelo, Mississippi. PowerPoint supplied.

February 5, 2016, Speaker, "Mississippi's Court System," Mississippi Economic Council's Leadership Mississippi, Jackson, Mississippi. PowerPoint supplied.

February 3, 2016, Speaker, "Mississippi's Court System," Rankin County Rotary Club, Flowood, Mississippi. PowerPoint supplied.

January 21, 2016, Speaker, Bar Leadership Forum, Mississippi Bar Association, Jackson, Mississippi. I spoke about networking and goal setting for young lawyers. I have no notes, transcript, or recording. The address of the Mississippi Bar Association is 643 North State Street, Jackson, Mississippi 39202.

January 4, 2016, Speaker, Public Remarks, Swearing-In Ceremony for the Justices of the Mississippi Supreme Court, Gartin Justice Building, Jackson, Mississippi. After taking the oath of office, I thanked my family and friends and briefly discussed my transition from the Court of Appeals to the Mississippi Supreme Court. I have no notes, transcript, or recording. The address of the Gartin Justice Building is 450 High Street, Jackson, Mississippi 39201.

October 21, 2015, Speaker, "Mississippi's Court System," Clarksdale Bar Association, Clarksdale, Mississippi. PowerPoint supplied.

October 20, 2015, Speaker, Desoto County Circuit Court Drug Court Graduation, Hernando, Mississippi. I commended participants on their graduation from drug court. I have no notes, transcript, or recording. The address of the Desoto County Circuit Court is 2535 Highway 51 South, Hernando, Mississippi 38632.

October 15, 2015, Speaker, "Mississippi's Court System," Pontotoc Rotary Club, Pontotoc, Mississippi. PowerPoint supplied.

September 15, 2015, Speaker, "Mississippi's Court System," Flowood Rotary Club, Flowood, Mississippi. PowerPoint supplied.

August 20, 2015, Panelist, James O. Dukes Professionalism Program, University of Mississippi School of Law, University, Mississippi. I participated in discussions about professionalism and civility with first year law students. I have no notes, transcript, or recording. The address of the University of Mississippi School of Law is 481 Chucky Mullins Drive, University, Mississippi 38677.

August 18, 2015, Speaker, "Best Practice Tips," Capital Area Bar Association, Jackson, Mississippi. I spoke about appellate practice tips. I have no notes, transcript, or recording. The address of the Capital Area Bar Association is Post Office Box 14065, Jackson, Mississippi 39236.

July 7, 2015, Panelist, Mississippi Bar Association, Appellate Practice Section, Jackson, Mississippi. I participated in a panel discussion with other judges about appellate issues. I have no notes, transcript, or recording. The address of the Mississippi Bar Association is 643 North State Street, Jackson, Mississippi 39202.

May 15, 2015, Speaker, "Bar on the Road CLE," Mississippi Bar Association, Tupelo, Mississippi. PowerPoint supplied.

May 11, 2015, Speaker, "Mississippi's Court System," Starkville Rotary Club, Starkville, Mississippi. PowerPoint supplied.

May 7, 2015, National Day of Prayer, Oxford, Mississippi. Led prayer on courthouse lawn. I have no notes, transcript, or recording.

April 29, 2015, Speaker, "Mississippi's Court System," Louisville Rotary Club, Louisville, Mississippi. PowerPoint supplied.

April 27, 2015, Speaker, "Mississippi's Court System," Greenwood Rotary Club, Greenwood, Mississippi. PowerPoint supplied.

April 16, 2015, Panelist, Mississippi Workers' Compensation Commission Conference, Biloxi, Mississippi. I participated in a panel discussion with other judges about workers compensation issues. I have no notes, transcript, or recording. The address of the Mississippi Workers' Compensation Commission is 1428 Lakeland Drive, Jackson, Mississippi 39216.

March 23, 2015, Speaker, "Legal Writing," University of Mississippi School of Law, University, Mississippi. PowerPoint supplied.

February 10, 2015, Speaker, Lafayette County Circuit Court Drug Court Graduation, Oxford, Mississippi. I commended participants on their drug court graduation. I have no notes, transcript, or recording. The address of the Lafayette County Circuit Court is 1 Courthouse Square, Oxford, Mississippi 38655.

February 5, 2015, Speaker, "Mississippi's Court System," Mississippi Economic Council's Leadership Mississippi, Jackson, Mississippi. PowerPoint supplied.

January 5, 2015, Speaker, Public Remarks, Swearing-In Ceremony for the Judges of the Court of Appeals of Mississippi, Court, Gartin Justice Building, Jackson, Mississippi. After taking the oath of office, I thanked my family and friends and reflected upon my time at the Court of Appeals. I have no notes, transcript, or recording. The address of the Gartin Justice Building is 450 High Street, Jackson, Mississippi 39201.

December 9, 2014, Speaker, "Mississippi's Court System," Eupora Rotary Club, Eupora, Mississippi. PowerPoint supplied.

October 21, 2014, Moderator, Judicial Candidate Forum, Lafayette County Bar Association, Oxford, Mississippi. Moderated judicial candidate forum for local judicial elections. I have no notes, transcript, or recording. No physical address.

June 25, 2014, Speaker, "The Hand Down: An Inside Look at the Appellate Process," Mississippi Bar Association, Destin, Florida. PowerPoint supplied.

June 10, 2014, Speaker, "Mississippi's Court System," Columbus Republican Women, Columbus, Mississippi. PowerPoint supplied.

May 13, 2014, Speaker, "Why Do People Like Doctors But Not Lawyers—A Look at the Perception of Our Profession," Lunch and Learn in Oxford, Mississippi, hosted by the Mississippi Association for Justice. I spoke about public perception of lawyers. I have no notes, transcript, or recording. The address of the Mississippi Association for Justice is 727 North Congress Street, Jackson, Mississippi 39202.

May 2, 2014, Panelist, "Civics, Civility, Access to Justice, Politics, and Trends Impacting Our Courts," Southeastern Chapters of the American Board of Trial Advocates, Nashville, Tennessee. I participated in a panel discussion with eight other judges and discussed the public perception of lawyers. I have no notes, transcript, or recording. The address of the American Board of Trial Advocates is 2001 Bryan Street, Suite 3000, Dallas, Texas 75201.

April 4, 2014, Panelist, "Panel Discussion with Appellate Judges," Mississippi Bar Association, Appellate Practice & Litigation Section, Jackson, Mississippi. I participated in a panel discussion with other judges about appellate advocacy. I have no notes, transcript, or recording. The address of the Mississippi Bar Association is 643 North State Street, Jackson, Mississippi 39202.

March 27, 2014, Panelist, "Mississippi Appellate Practice," Young Lawyers Division, Mississippi Bar Association, Midyear Conference. I participated in a panel discussion with other judges about appellate advocacy. I have no notes, transcript, or recording. The address of the Mississippi Bar Association is 643 North State Street, Jackson, Mississippi 39202.

January 30, 2014, Speaker, "Mississippi's Court System," Mississippi Economic Council's Leadership Mississippi, Jackson, Mississippi. PowerPoint supplied.

January 23, 2014, Speaker, Bar Leadership Forum, Mississippi Bar Association, Jackson, Mississippi. I spoke about networking and goal setting for young lawyers. I have no notes, transcript, or recording. The address of the Mississippi Bar Association is 643 North State Street, Jackson, Mississippi 39202.

August 22, 2013, Panelist, James O. Dukes Professionalism Program, University of Mississippi School of Law, University, Mississippi. I participated in discussions about professionalism and civility with first-year law students. I have no notes, transcript, or recording. The address for the University of Mississippi School of Law is 481 Chucky Mullins Drive, University, Mississippi 38677.

August 14, 2013, Panelist, James O. Dukes Professionalism Program, Mississippi College School of Law, Jackson, Mississippi. I participated in discussions about professionalism and civility with first year law students. I have no notes, transcript, or recording. The address of Mississippi College School of Law is 151 East Griffith Street, Jackson, Mississippi, 39201.

March 7, 2013, "Mississippi's Court System," Leadership Jackson County, Jackson, Mississippi. PowerPoint supplied.

January 31, 2013, Speaker, "Mississippi's Court System," Mississippi Economic Council's Leadership Mississippi, Jackson, Mississippi. PowerPoint supplied.

October 18, 2012, "Mississippi's Court System," Mississippi Defense Lawyer's Association, Flowood, Mississippi. PowerPoint supplied.

August 16, 2012, James O. Dukes Professionalism Program, University of Mississippi School of Law, University, Mississippi. I participated in discussions about professionalism and civility with first year law students. I have no notes, transcript, or recording. The address of the University of Mississippi School of Law is 481 Chucky Mullins Drive, University, Mississippi 38677.

June 8, 2012, Panelist, "Appellate Advocacy," Mississippi Bar Association, Litigation Section, Jackson, Mississippi. I participated in a panel discussion about appellate advocacy. I have no notes, transcript, or recording. The address of the Mississippi Bar Association is 643 North State Street, Jackson, Mississippi 39202.

April 22, 2012, Speaker, "Reaching Your Potential," Phi Delta Phi, University of Mississippi School of Law, University, Mississippi. I gave brief remarks to law students about networking and goal setting. I have no notes, transcript, or recording. The address of the University of Mississippi School of Law is 481 Chuckie Mullins Drive, University, Mississippi 38677.

March 1, 2012, Speaker, "Mississippi's Court System," Markow Walker CLE, Jackson, Mississippi. PowerPoint supplied.

January 26, 2012, Speaker, "Mississippi's Court System," Mississippi Economic Council's Leadership Mississippi, Jackson, Mississippi. PowerPoint supplied.

January 12, 2012, Speaker, Bar Leadership Forum, Mississippi Bar Association, Jackson, Mississippi. I spoke to young lawyers about networking and goal setting. I have no notes, transcript, or recording. The address of the Mississippi Bar Association is 643 North State Street, Jackson, Mississippi 39202.

November 16, 2011, Panelist, "Innovations and Expansion of the Court System," Mississippi Association for Justice and Christian Legal Society, Mississippi College School of Law, Jackson, Mississippi. I participated in a panel discussion with other judges about innovations and technology in Mississippi courts. I have no notes, transcript, or recording. The address of Mississippi College School of Law is 151 East Griffith Street, Jackson, Mississippi 39201.

August 30, 2011, Speaker, "Mississippi's Court System," Clarksdale Rotary Club, Speaker, Clarksdale, Mississippi. PowerPoint supplied.

August 23, 2011, Speaker, "Mississippi's Court System," Indianola Rotary Club, Indianola, Mississippi. PowerPoint supplied.

August 18, 2011, Panelist, James O. Dukes Professionalism Program, University of Mississippi School of Law, University, Mississippi. I participated in discussions about professionalism and civility with first year-law students. I have no notes, transcript, or recording. The address of the University of Mississippi School of Law is 481 Chucky Mullins Drive, University, Mississippi 38677.

August 10, 2011, Panelist, James O. Dukes Professionalism Program, Mississippi College School of Law, Jackson, Mississippi. I participated in discussions about professionalism and civility with first-year law students. I have no notes, transcript, or recording. The address of Mississippi College School of Law is 151 East Griffith Street, Jackson, Mississippi 39201.

January 20, 2011, Speaker, "Mississippi's Court System," Calhoun County Development Foundation, Calhoun City, Mississippi. PowerPoint supplied.

January 4, 2011, Speaker, Public Remarks, Swearing-In Ceremony for the Judges of the Court of Appeals of Mississippi, Gartin Justice Building, Jackson, Mississippi. After taking the oath of office, I thanked my family and friends and reflected upon my time at the Court of Appeals. I have no notes, transcript, or recording. The address of the Gartin Justice Building is 450 High Street, Jackson, Mississippi 39201.

November 11, 2010, Speaker, Veterans Day Celebration on the Calhoun City Square, Calhoun City, Mississippi. Addressed crowd about Slate Spring native Major General Fox Conner. I have no notes, transcript, or recording.

October 27, 2010, Speaker, "Mississippi's Court System," Charleston Rotary Club, Charleston, Mississippi. PowerPoint supplied.

October 20, 2010, Speaker, "Mississippi's Court System," Lee County Bar Association, Tupelo, Mississippi. PowerPoint supplied.

October 19, 2010, Speaker, "Mississippi's Court System," Boonville Rotary Club, Boonville, Mississippi. PowerPoint supplied.

October 13, 2010, Speaker, "Mississippi's Court System," Lafayette County Republican Women, Oxford, Mississippi. PowerPoint supplied.

September 24, 2010, Speaker, "Mississippi's Court System," Lawyer in the Classroom, University of Mississippi School of Law, University, Mississippi. PowerPoint supplied.

August 19, 2010, Panelist, James O. Dukes Professionalism Program, University of Mississippi School of Law, University, Mississippi. I participated in discussions about professionalism and civility with first-year law students. I have no notes, transcript, or recording. The address of the University of Mississippi School of Law is 481 Chucky Mullins Drive, University, Mississippi 38677.

July 9, 2010, Moderator, "What I Wish I Knew Then: Lessons From a Lifetime in the Courtroom, with Jack Dunbar and Charlie Merkel," Young Lawyers Division, Mississippi Bar Association, Destin, Florida. Transcript supplied.

May 18, 2010, Speaker, "Mississippi's Court System," Mississippi Association for Justice, Oxford, Mississippi. PowerPoint supplied.

April 21, 2010, Speaker, "Mississippi's Court System," Amory Kiwanis Club, Amory, Mississippi. PowerPoint supplied.

April 6, 2010, Speaker, "Mississippi's Court System," Houston Rotary Club, Houston, Mississippi. PowerPoint supplied.

March 19, 2010, Speaker "Mississippi's Court System," New Albany Rotary Club, New Albany, Mississippi. PowerPoint supplied.

March 18, 2010, Speaker, "Mississippi's Court System," Baldwyn Rotary Club, Baldwyn, Mississippi. PowerPoint supplied.

March 16, 2010, Speaker, "Mississippi's Court System," Ripley Rotary Club, Ripley, Mississippi. PowerPoint supplied.

March 10, 2010, Speaker, "Mississippi's Court System," Iuka Rotary Club, Iuka, Mississippi. PowerPoint supplied.

March 9, 2010, Speaker, "Mississippi's Court System," Olive Branch Rotary Club, Olive Branch, Mississippi. PowerPoint supplied.

March 8, 2010, Speaker, Boys and Girls Club, Ripley, Mississippi. I have no notes, transcript, or recording. The address of the Boys and Girls Club of Ripley is 750 South Line Street, Ripley, Mississippi 38663.

March 4, 2010, Speaker, "Mississippi's Court System," Southaven Rotary Club, Southaven, Mississippi. PowerPoint supplied.

February 24, 2010, Speaker, "Mississippi's Court System," Hernando Rotary Club, Hernando, Mississippi. PowerPoint supplied.

February 19, 2010, Speaker, "Mississippi's Court System," Senatobia Rotary Club, Senatobia, Mississippi. PowerPoint supplied.

February 18, 2010, Speaker, "Mississippi's Court System," Madison County Bar Association, Madison, Mississippi. PowerPoint supplied.

February 12, 2010, Speaker, "Mississippi's Court System," Lee County Kiwanis Club, Tupelo, Mississippi. PowerPoint supplied.

February 12, 2010, Speaker, "Mississippi's Court System," Lawyer in the Classroom, University of Mississippi School of Law, University, Mississippi. PowerPoint supplied.

November 18, 2009, Speaker, "Mississippi's Court System," Lee County Bar Association, Tupelo, Mississippi. PowerPoint supplied.

November 2, 2009, Speaker, "Mississippi's Court System," Greenwood Rotary Club, Greenwood, Mississippi. PowerPoint supplied.

October 29, 2009, Speaker, "Mississippi's Court System," Certified Fraud Examiners, Madison, Mississippi. PowerPoint supplied.

September 29, 2009, Speaker, Mississippi Bar Association, Bar Admissions Ceremony, Jackson, Mississippi. I welcomed newly admitted lawyers. I have no notes, transcript, or

recording. The address of the Mississippi Bar Association is 643 North State Street, Jackson, Mississippi 39202.

September 17, 2009, Speaker, "Mississippi's Court System," West Point Rotary Club, Westpoint, Mississippi. PowerPoint supplied.

August 20, 2009, James O. Dukes Professionalism Program, University of Mississippi School of Law, University, Mississippi. I participated in discussions about professionalism and civility with first-year law students. I have no notes, transcript, or recording. The address of the University of Mississippi School of Law is 481 Chucky Mullins Drive, University, Mississippi 38677.

July 24, 2009, Speaker, "Mississippi's Court System," Prentiss County Bar Association, Iuka, Mississippi. PowerPoint supplied.

June 12, 2009, Panelist, Mississippi Association of Justice, New Orleans, Louisiana. I participated in a panel discussion with other judges about appellate advocacy. I have no notes, transcript, or recording. The address of the Mississippi Association for Justice is 727 North Congress Street, Jackson, Mississippi 39202.

May 29, 2009, Speaker, "Perspectives of a New Judge," Mississippi Bar Association, Jackson, Mississippi. I reflected on my perspectives as a newly appointed judge. I have no notes, transcript, or recording.

May 15, 2009, Response, "Investiture of Judge James D. Maxwell," Oxford, Mississippi. Recording supplied.

April 2, 2009, "Jere Nash and Andy Taggart," Lafayette County Bar Association, Oxford, Mississippi. Introduced Jere Nash and Andy Taggart who shared stories about Mississippi politics. I have no notes, transcript, or recording. No physical address.

March 2, 2009, Speaker, Public Remarks, Swearing-In Ceremony for the Judges of the Court of Appeals of Mississippi, Gartin Justice Building, Jackson, Mississippi. After taking the oath of office, I thanked my family and friends as I began my service on the Court of Appeals. I have no notes, transcript, or recording. The address of the Gartin Justice Building is 450 High Street, Jackson, Mississippi 39201.

September 23, 2008, Moderator, Lafayette County Bar Association, "Supreme Court Candidate Forum," Oxford, Mississippi. I moderated a Mississippi Supreme Court candidate luncheon at a local Bar association. I have no notes, transcript, or recording. No physical address.

August 23, 2008, James O. Dukes Professionalism Program, University of Mississippi School of Law, University, Mississippi. I participated in discussions about professionalism and civility with first-year law students. I have no notes, transcript, or

recording. The address of the University of Mississippi School of Law is 481 Chucky Mullins Drive, University, Mississippi 38677.

March 20, 2008, Speaker, "I'm Going to Trial, Now What do I do?" Mississippi Bar Association, Jackson, Mississippi. I was one of several attorneys who spoke about trial tactics. I have no notes, transcript, or recording. The address of the Mississippi Bar Association is 643 North State Street, Jackson, Mississippi 39202.

e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and copies of the clips or transcripts of these interviews where they are available to you.

Retired Court of Appeals Judge Eugene Fair died Dec. 2, STATE OF MISS. JUDICIARY WEBSITE (Dec. 3, 2020). Copy supplied.

MSSC Justice Maxwell announces campaign committee, MAGNOLIA TRIBUNE, (Mar. 3, 2016). Copy supplied.

Judge Maxwell to take Supreme Court oath January 4 in Jackson, STATE OF MISS. JUDICIARY WEBSITE (Dec. 29, 2015). Copy supplied.

James D. Maxwell appointed to Miss. Supreme Court, THE CLARION LEDGER (Dec. 23, 2015). Copy supplied.

Court of Appeals Judge Jimmy Maxwell speaks to Greenwood, Louisville and Starkville Rotary Clubs, STATE OF MISS. JUDICIARY WEBSITE (May 13, 2015). Copy supplied.

Rumored, running or out for #MS01 congressional race, THE CLARION LEDGER (Feb. 11, 2015, updated Mar. 9, 2025). Copy supplied.

From the Perspective of Mississippi Appellate Judges, LX THE MISSISSIPPI LAWYER, no. 3, Spring 2014, at 24–26. Copy supplied.

Judge Maxwell investiture in Lafayette County Courthouse, MISS. COURTS UPDATE (Miss. Admin. Office of Courts, Jackson), Aug. 2009, at 6. Copy supplied.

James Maxwell appointed to Court of Appeals, MISS. COURTS UPDATE (Miss. Admin. Office of Courts, Jackson, Miss.), Feb. 2009, at 14. Copy supplied.

Salesman found guilty in failed beef plant venture, MAGNOLIA TRIBUNE (July 25, 2008). Copy supplied.

13. **Judicial Office**: State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

Associate Justice, Mississippi Supreme Court, District 3, Place 2
January 1, 2016 (Appointed)
November 8, 2016 (Elected unopposed)
November 5, 2024 (Elected unopposed)

Jurisdiction: The Mississippi Supreme Court is a constitutional court. It reviews decisions of law and fact made by Mississippi's chancery, circuit, and county courts. The Supreme Court may review decisions of the Mississippi Court of Appeals. The Supreme Court is Mississippi's court of last resort. It has exclusive appellate jurisdiction over annexations, bond issues, constitutionality challenges, death penalty cases, disciplinary matters involving attorneys and judges, election contests, certified questions from federal court, utility rate cases, matters of first impression, and issues of broad public interest. Each of the nine justices participates in its decisions, which are made by majority vote.

Judge, Mississippi Court of Appeals
February 2, 2009 (Appointed)
November 2, 2010 (Elected unopposed)
November 4, 2014 (Elected unopposed)

Jurisdiction: The Court of Appeals is an error-correction court. The Legislature created the Court of Appeals to relieve a backlog of cases before the Mississippi Supreme Court. It began hearing cases in 1995. The Court of Appeals hears appeals from trial courts as assigned by the Supreme Court. The Supreme Court may also review the Court of Appeals' decisions. If the Supreme Court declines review, the Court of Appeals' decision stands. Each of the court's ten judges participates in its decisions, which are made by majority vote.

a. Approximately how many cases have you presided over that have gone to verdict or judgment?

Because I have not served as a trial judge, I have not presided over any cases. As a member of the Mississippi Court of Appeals and Mississippi Supreme Court, I have participated in the disposition on appeal of approximately 4,688 cases through July 31, 2025.

i. Of these cases, approximately what percent were:

jury trials:	0%
bench trials:	100%

ii. Of these cases, approximately what percent were:

civil proceedings:	70%
criminal proceedings:	30%

b. Provide citations for all opinions you have written, including concurrences and

dissents.

As a justice on the Mississippi Supreme Court and judge on the Mississippi Court of Appeals, I have authored more than 500 majority opinions. All decisions of the Mississippi Supreme Court and Mississippi Court of Appeals are published.

Below are the majority opinions I have written as a justice on the Mississippi Supreme Court, as of July 31, 2025:

Allen v. State, 411 So. 3d 146 (Miss. 2025)
McKay v. Miss. State Bd. of Health (In re Petition of S.M.-B.), 407 So. 3d 1050 (Miss. 2025).
Housing Auth. of Yazoo City v. Billings, 404 So. 3d 1148 (Miss. 2025).
Lee v. City of Pascagoula, 402 So. 3d 752 (Miss. 2025).
Barnett v. State, 401 So. 3d 1014 (Miss. 2025).
J.J.B. v. Monroe Cnty. Child Prot. Servs., 400 So. 3d 403 (Miss. 2025).
Corrothers, Caleb v. State (Corrothers IV), 404 So. 3d 112 (Miss. 2024).
Stribling Equipment v. Eason Propane, LLC, 395 So. 3d 373 (Miss. 2024).
Howard v. State, 396 So. 3d 1088 (Miss. 2024).
Johnson v. State, 396 So. 3d 1073 (Miss. 2024).
McClain v. State, 393 So. 3d 1007 (Miss. 2024).
Mississippi Bar v. Rogers, 386 So. 3d 494 (Miss. 2024).
City of Jackson v. Jones, 393 So. 3d 1002 (Miss. 2024).
Am. Comp. Ins. Co. v. Ruiz, 389 So. 3d 1060 (Miss. 2024).
Harris v. State, 389 So. 3d 296 (Miss. 2024).
Jones v. Miss. Dep't of Child Prot. Servs., 391 So. 3d 172 (Miss. 2024).
Miss. Div. of Medicaid v. Women's Pavilion of S. Miss, PLLC, 381 So. 3d 351 (Miss. 2024).
Garth v. State, 380 So. 3d 933 (Miss. 2024).
Toolpushers Supply Co. v. Miss. Dep't of Rev., 379 So. 3d 333 (Miss. 2024).
Gibson v. Provenza (In re Est. of Provenza), 383 So. 3d 1200 (Miss. 2024).
Stewart v. State, 378 So. 3d 379 (Miss. 2024).
Breal v. Downs Law Group, 376 So. 3d 1221 (Miss. 2023).
Dampier v. State, 375 So. 3d 1149 (Miss. 2023).
Malouf & Malouf, PLLC v. Ivison (In re Est. of Ivison), 371 So. 3d 172 (Miss. 2023).
Saunders v. State of Miss., 371 So. 3d 604 (Miss. 2023).
Gilmer v. Biegel, 385 So. 3d 1189 (Miss. 2023).
Turner v. State, 366 So. 3d 855 (Miss. 2023).
Dolgencorp LLC v. Payton, 366 So. 3d 838 (Miss. 2023).
Chisholm v. State, 365 So. 3d 229 (Miss. 2023).
Alpha Management v. Harris, 362 So. 3d 25 (Miss. 2023).
Shows v. Garner, 360 So. 3d 962 (Miss. 2023).
Garcia v. State (Garcia IV), 369 So. 3d 511 (Miss. 2023).
Wagner v. Andreacchio, 368 So. 3d 287 (Miss. 2023).
WBL SPO I, LLC v. W. Town Bank & Trust, 359 So. 3d 1069 (Miss. 2023).
Belhaven Senior Care, LLC v. Smith, 359 So. 3d 612 (Miss. 2023).

Scruggs v. Farmland Mut. Ins. Co., 359 So. 3d 1045 (Miss. 2023).
Garcia v. State (Garcia III), 356 So. 3d 101 (Miss. 2023).
Lee v. State Farm Mut. Auto. Ins. Co., 355 So. 3d 229 (Miss. 2023).
TransMontaigne Operating Co. v. Loresco I, LLC, 361 So. 3d 89 (Miss. 2023).
Saunders v. Nat'l Collegiate Athletic Assn., 352 So. 3d 618 (Miss. 2022).
Watercolor Salon LLC v. Hixon, 353 So. 3d 453 (Miss. 2022).
Scioto Props. SP-16, LLC v. Graf, 349 So. 3d 172 (Miss. 2022).
Miss. Dep't of Rev. v. EKB, Inc., 348 So. 3d 968 (Miss. 2022).
Scott v. State, 347 So. 3d 1173 (Miss. 2022).
Green v. State, 344 So. 3d 854 (Miss. 2022).
Garcia v. State (Garcia II), 344 So. 3d 273 (Miss. 2022).
Strickland v. Rankin County Sch. Dist., 341 So. 3d 941 (Miss. 2022).
Lairy v. Chandler, 341 So. 3d 919 (Miss. 2022).
McGee v. Comprehensive Radiology Servs., PLLC, 340 So. 3d 328 (Miss. 2022).
Webb v. State, 339 So. 3d 118 (Miss. 2022).
Est. of Bakarich v. Bakarich, 337 So. 3d 1078 (Miss. 2022).
Weeks, Inc. v. Lewis, 335 So. 3d 1049 (Miss. 2022).
Mississippi Bar v. Henderson, 364 So. 3d 603 (Miss. 2022).
Williams v. State, 336 So. 3d 1068 (Miss. 2022).
McGlasten v. State, 328 So. 3d 101 (Miss. 2021).
Pulliam v. State, 328 So. 3d 93 (Miss. 2021).
Parker v. State, 328 So. 3d 111 (Miss. 2021).
Obert Law Group, P.A. v. Holt, 328 So. 3d 622 (Miss. 2021).
Hughes v. Shipp, 324 So. 3d 286 (Miss. 2021).
Nevels v. State, 325 So. 3d 627 (Miss. 2021).
Mujahid v. State, 324 So. 3d 275 (Miss. 2021).
Woodard v. Miller, 326 So. 3d 439 (Miss. 2021).
White v. Nationwide Mut. Ins., Co., 323 So. 3d 494 (Miss. 2021).
Andreacchio v. Coleman, 322 So. 3d 441 (Miss. 2021).
Henderson v. State, 323 So. 3d 1020 (Miss. 2021).
Briggs v. Hughes, 316 So. 3d 193 (Miss. 2021).
Carr v. Miss. Lottery Corp., 314 So. 3d 108 (Miss. 2021).
City of Biloxi v. Sec. of State (In re Public Trust Tidelands), 312 So. 3d 1187 (Miss. 2021).
Nash v. State, 293 So. 3d 265 (Miss. 2020) (modified on rehearing).
Richards v. Wilson, 306 So. 3d 686 (Miss. 2020).
Tucker v. Mississippi Bar, 326 So. 3d 407 (Miss. 2020).
Miss. Dep't of Child Prot. Servs. v. Bynum, 305 So. 3d 1158 (Miss. 2020).
Williams v. State, 305 So. 3d 1122 (Miss. 2020).
Small v. State, 303 So. 3d 704 (Miss. 2020).
City of Petal v. Gulf South Pipeline Co., LP (In re City of Petal), 301 So. 3d 591 (Miss. 2020).
S. Farm Bureau v. Thomas, 299 So. 3d 752 (Miss. 2020).
Parker v. Mallett, 298 So. 3d 994 (Miss. 2020).
Boatright v. A & H Techs., Inc., 296 So. 3d 687 (Miss. 2020).
Garcia v. State (Garcia I), 300 So. 3d 945 (Miss. 2020).

State of Miss. v. Yazaki N. Am., Inc., 294 So. 3d 1178 (Miss. 2020).
Peak v. Cohee, 294 So. 3d 604 (Miss. 2020).
Mut. of Omaha Ins. Co. v. Driskell, 293 So. 3d 261 (Miss. 2020).
Mark v. City of Hattiesburg, 289 So. 3d 294 (Miss. 2020).
McGilberry v. State, 292 So. 3d 199 (Miss. 2020).
Oak Grove Marketplace, LLC v. Lamar Cnty. Sch. Dist., 287 So. 3d 924 (Miss. 2020).
Taylor v. State, 287 So. 3d 202 (Miss. 2020) (Part II).
Bernard v. State, 288 So. 3d 301 (Miss. 2018).
Williams v. State, 285 So. 3d 156 (Miss. 2019).
Hinton v. Sportsman's Guide, Inc., 285 So. 3d 142 (Miss. 2019).
Bowman v. State, 283 So. 3d 154 (Miss. 2019).
Fogleman v. State, 283 So. 3d 685 (Miss. 2019).
Liberty Mut. Ins. Co. v. State of Miss., 277 So. 3d 542 (Miss. 2019).
Green Hills Dev. Co., LLC v. Secretary of State, 275 So. 3d 1077 (Miss. 2019).
Garner v. Smith, 277 So. 3d 536 (Miss. 2019).
Parker v. State, 273 So. 3d 695 (Miss. 2019).
Miss. Comm'n on Judicial Performance v. Burton, 268 So. 3d 565 (Miss. 2019).
McGrath v. State, 271 So. 3d 437 (Miss. 2019).
Genesis Hospice Care, LLC v. Miss. Div. of Medicaid, 267 So. 3d 779 (Miss. 2019).
Malouf v. Evans, 267 So. 3d 272 (Miss. 2019).
Mississippi Bar v. Plunkett, 277 So. 3d 544 (Miss. 2019).
Hyde v. Martin, 264 So. 3d 730 (Miss. 2019).
Thomas v. State, 277 So. 3d 532 (Miss. 2019).
Jackson County v. KPMG, LLP, 278 So. 3d 1124 (Miss. 2019).
Anderson v. Mississippi Bar, 269 So. 3d 109 (Miss. 2018).
Campbell Props., Inc. v. Cook, 258 So. 3d 273 (Miss. 2018).
Webster v. Miss. Dep't of Wildlife, Fisheries and Parks, 257 So. 3d 277 (Miss. 2018).
Fairley v. Total Transp. of Miss., LLC, 255 So. 3d 1278 (Miss. 2018).
Cummins v. Goolsby, 255 So. 3d 1257 (Miss. 2018).
Blake v. State, 256 So. 3d 1161 (Miss. 2018).
Montgomery v. State, 253 So. 3d 305 (Miss. 2018).
City of Clinton v. Tornes, 252 So. 3d 34 (Miss. 2018).
Elliott v. AmeriGas Propane, L.P., 249 So. 3d 389 (Miss. 2018).
Sanderson v. Sanderson, 245 So. 3d 421 (Miss. 2018).
M.A.S. v. Miss. Dep't of Human Servs. (In re M.A.S.), 245 So. 3d 410 (Miss. 2018).
Wilcher v. Lincoln Cnty. Bd. of Supervisors, 243 So. 3d 177 (Miss. 2018).
Brown v. McKee, 242 So. 3d 121 (Miss. 2018).
Lofton v. State, 248 So. 3d 798 (Miss. 2018).
KD Hattiesburg 1128, Inc. v. Turtle Creek Crossing, LLC, 237 So. 3d 157 (Miss. 2018).
McKinney v. Hamp, 268 So. 3d 470 (Miss. 2018).
Gary v. State (Gary II), 237 So. 3d 140 (Miss. 2018).
Griffin v. Griffin, 237 So. 3d 743 (Miss. 2018).
Carter v. Davis, 241 So. 3d 614 (Miss. 2018).
Smith v. Doe, 268 So. 3d 457 (Miss. 2018).
Christmas v. State, 241 So. 3d 616 (Miss. 2018).
Ray v. State, 238 So. 3d 1118 (Miss. 2018).

Terrell v. State, 237 So. 3d 717 (Miss. 2018).
State v. Russell, 238 So. 3d 1105 (Miss. 2017).
High v. Kuhn (High II), 240 So. 3d 1198 (Miss. 2017).
Smith v. Miss. Dep't of Mental Health, 233 So. 3d 308 (Miss. 2017).
Darby v. Combs, 229 So. 3d 108 (Miss. 2017).
Perkins v. McAdams, 234 So. 3d 413 (Miss. 2017).
Little v. State, 233 So. 3d 288 (Miss. 2017).
Regan v. S. Cent. Reg'l Med Ctr., 234 So. 3d 1242 (Miss. 2017).
Univ. of Miss. Med. Ctr. v. Oliver, 235 So. 3d 75 (Miss. 2017).
Hatfield v. Bd of Supervisors of Madison Cnty., 235 So. 3d 18 (Miss. 2017).
Groundworx, LLC v. Blanton, 234 So. 3d 363 (Miss. 2017).
Shinstock v. State, 220 So. 3d 967 (Miss. 2017).
Mississippi Bar v. Shands, 255 So. 3d 164 (Miss. 2017).
Johnson v. Henderson (In re Est. of Johnson), 233 So. 3d 265 (Miss. 2017).
State v. Scott, 233 So. 3d 253 (Miss. 2017).
Mouton v. State, 227 So. 3d 1079 (Miss. 2017).
Lenoir v. State, 222 So. 3d 273 (Miss. 2017).
Doe v. Hallmark Partners, LP, 227 So. 3d 1052 (Miss. 2017).
Routh v. State, 277 So. 3d 959 (Miss. 2017).
Baptist Mem'l Hosp.-Desoto v. Miss. State Dep't of Health, 214 So. 3d 277 (Miss. 2017).
Pioneer Cmty. Hosp of Newton v. Roberts, 214 So. 3d 259 (Miss. 2017).
Martin v. State, 214 So. 3d 217 (Miss. 2017).
Ground Control, LLC v. Capsco Indus. Inc., 214 So. 3d 232 (Miss. 2017).
Rylee v. Progressive Gulf Ins, Co., 224 So. 3d 535 (Miss. 2017).
Swartzfager v. Saul, 213 So. 3d 55 (Miss. 2017).
Corrothers v. State (Corrothers III), 255 So. 3d 99 (Miss. 2017).
Est. of Davis v. Blaylock, 212 So. 3d 755 (Miss. 2017).
Harris v. State, 224 So. 3d 76 (Miss. 2017).
Gary v. State (Gary I), 237 So. 3d 100 (Miss. 2016).
Smith v. Smith, 206 So. 3d 502 (Miss. 2016).
Taylor v. Taylor, 201 So. 3d 420 (Miss. 2016).
Doe v. Smith, 200 So. 3d 1028 (Miss. 2016).
N. Am. Midway Ent., LLC v. Murray, 200 So. 3d 437 (Miss. 2016).
Roberts v. Boots Smith Oilfield Servs., LLC, 200 So. 3d 1022 (Miss. 2016).
Darnell v. Darnell, 199 So. 3d 695 (Miss. 2016).
Linde Health Care Staffing, Inc. v. Claiborne Cnty. Hosp., 198 So. 3d 318 (Miss. 2016).
H.A.S. Elec. Contractors, Inc. v. Hemphill Constr. Co., Inc., 232 So. 3d 117 (Miss. 2016).
Pekin Ins. v. Hinton, 192 So. 3d 996 (Miss. 2016).
High v. Kuhn (High I), 191 So. 3d 113 (Miss. 2016).
Brown v. Collections Inc., 188 So. 3d 1171 (Miss. 2016).

As of July 31, 2025, I have also authored the following separate opinions as a justice on the Mississippi Supreme Court:

Miss. Apartment Ass'n v. City of Jackson, 407 So. 3d 1061, 1069-74 (Miss. 2025) (Maxwell, J., dissenting).

J.S. v. Ocean Springs Sch. Dist., 2025 WL 999088, at *15 (Miss. Apr. 3, 2025) (Maxwell, J., specially concurring) (rehearing denied July 31, 2025).
Pitts v. State, 405 So.3d 1238, 1255 (Miss. March 20, 2025) (Maxwell, J., concurring in result only).
Radco Fishing and Rental Tools, Inc. v. Commercial Resources, Inc., 407 So.3d 167, 196-98 (Miss. 2025) (Maxwell, J., specially concurring joined by a majority of the court).
United Sers. Auto. Assn. v. Minor, 2024 WL 4985302, at **14-17 (Miss. Dec. 5, 2024) (Maxwell, J., concurring in part and dissenting in part) (motion for rehearing pending).
Allen v. Dickerson, 385 So. 3d 1209, 1277 (Miss. 2024) (Maxwell, J., specially concurring).
Saxton v. State, 385 So. 3d 753, 762-63 (Miss. 2024) (Maxwell, J., specially concurring).
McDowell v. State, 385 So. 3d 747, 751-52 (Miss. 2024) (Maxwell, J., concurring in part and in result).
Lindsey v. Butts, 382 So. 3d 1140, 1151 (Miss. 2024) (Maxwell, J., concurring in part and dissenting in part).
Smith v. Minier, 380 So. 3d 889, 899 (Miss. 2024) (Maxwell, J., dissenting).
Virden v. Campbell Delong, LLP, 371 So. 3d 1256, 1273 (Miss. 2023) (Maxwell, J., dissenting).
Jenkins v. State, 371 So. 3d 593, 599-601 (Miss. 2023) (Maxwell, J., specially concurring).
Beachy v. Miss. Dist. Council for Assemblies of God, 371 So. 3d 1237, 1247 (Miss. 2023) (Maxwell, J., specially concurring).
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As judge on the Mississippi Court of Appeals, I authored the following majority opinions:

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Lacoste v. Sys. & Servs. Techs., Inc., 126 So. 3d 111 (Miss. Ct. App. 2013).
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Hogan v. State, 89 So. 3d 36 (Miss. Ct. App. 2011).
Rose v. Upshaw, 69 So. 3d 74 (Miss. Ct. App. 2011).
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Simoneaux v. State, 29 So. 3d 26 (Miss. Ct. App. 2009).

I also authored the following separate opinions while serving as judge on the Mississippi Court of Appeals:

Howell v. Bd. Of Supervisors of Jefferson Davis Cnty., 179 So. 3d 34, 45-46 (Miss. Ct. App. 2015) (Maxwell, J., dissenting), *cert. denied*, 178 So. 3d 729 (Miss. 2015).
Nunnery v. Nunnery, 195 So. 3d 809, 813-15 (Miss. Ct. App. 2015) (Maxwell, J., concurring in result only), *aff'd*, 195 So. 3d 747 (Miss. 2016).
Tinseltown Cinema, LLC v. City of Olive Branch, 158 So. 3d 367, 378-79 (Miss. Ct. App 2015) (Maxwell, J., dissenting).
Galanis v. CMA Management, Co., 176 So. 3d 85, 97-99 (Miss. Ct. App. 2014) (Maxwell, J., dissenting), *rev'd*, 175 So. 3d 1213 (Miss. 2015).
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Taylor v. State, 122 So. 3d 742, 747-50 (Miss. Ct. App. 2011) (Maxwell, J., specially concurring), *aff'd*, 122 So. 3d 707 (Miss. 2013).
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Fred's Stores of Tenn, Inc. v. Pratt, 67 So. 3d 820, 828 (Miss Ct. App. 2011) (Maxwell, J., concurring in part and in result).
Crosthwait v. S. Health Corp. of Houston, Inc., 94 So. 3d 1126, 1133-37 (Miss. Ct. App. 2011) (Maxwell, J., dissenting), *aff'd*, 94 So. 3d 1070 (Miss. 2012).
Reeves v. City of Crystal Springs, 54 So. 3d 322, 329-31 (Miss. Ct. App. 2011) (Maxwell, J., dissenting).
Shaffer v. State, 72 So. 3d 1090, 1104-07 (Miss. Ct. App. 2010) (Maxwell, J., specially concurring), *rev'd*, 72 So. 3d 1070 (Miss. 2011).
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c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature of the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (4) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

1. *Saunders v. State*, 371 So. 3d 604 (Miss. 2023).

Three local residents sued the State of Mississippi, the Chief Justice of the Mississippi Supreme Court, and others, challenging legislation aimed at addressing Jackson, Mississippi's crime problem. House Bill 1020, which was signed into law by the Governor in 2023, expanded the boundaries and overall footprint of the Capitol Complex Improvement District—a legislatively created district within the city of Jackson. The bill also established a new inferior court to serve the Capitol Complex Improvement District. And it directed the Chief Justice to appoint four additional (and unelected) circuit judges to an already existing circuit court district encompassing Jackson and Hinds County. The residents claimed the new inferior court and the mandate that the Chief Justice appoint unelected circuit judges to a set term, in the existing district, violated Mississippi's constitution. I authored the majority opinion holding the provision that created a statutory inferior court, akin to a municipal court, to serve the Capitol Complex Improvement District, did not run afoul of Mississippi's Constitution. In fact, our

constitution directs the Legislature to establish and abolish inferior courts, like this one, as needed. Miss. Const. art. 6, § 172. But the Legislature could not direct the Chief Justice to appoint four additional circuit judges to the Seventh Circuit Court District encompassing Jackson for a set, almost four-year-term. That is because the plain text of Mississippi's Constitution requires election of circuit judges to four-year terms. Miss Const. art 6, § 153. That said, the Mississippi Supreme Court unanimously held there is no constitutional impediment to an older statute granting the Chief Justice discretionary authority to *temporarily* appoint special judges either sua sponte or at the request of a court to assist any Mississippi judicial district facing *exigent circumstances or overcrowded dockets.* For the past thirty years, these temporary, specifically tailored appointments had been made at the discretion of various Chief Justices, most recently during the COVID-19 pandemic.

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2. *McGlasten v. State*, 328 So. 3d 101 (Miss. 2021).

This case presented a question of first impression involving the rule of lenity: Under Mississippi's felon-in-possession statute, is simultaneous possession of multiple firearms one crime or multiple crimes? Mississippi's felon-in-possession statute criminalizes a felon's possession of "any" firearm. But "any" could mean just one firearm or multiple firearms. Because of this ambiguity, the rule of lenity mandated the Court interpret the statute in the accused's favor. So McGlasten's simultaneous possession of four firearms constituted one crime, not the multiplicitous four charged counts. We remanded the case

to the circuit court to vacate McGlasten's sentences and merge the four counts of conviction into one before resentencing him. The majority opinion aligns with the way other state and federal courts handle the unit of prosecution issue for simultaneously possessed firearms under similar statutes prohibiting felons from possessing "any" firearm.

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3. *Nevels v. State*, 325 So. 3d 627 (Miss. 2021).

The Mississippi Supreme Court announced that circumstantial evidence instructions are no longer required in Mississippi. The jury was properly instructed to weigh all evidence before it and only convict if it found the State proved Nevels guilty beyond a reasonable doubt. But on appeal, Nevels claimed he was entitled to a separate circumstantial evidence instruction—an instruction implying a stricter burden of proof applied to circumstantial evidence cases. But Mississippi courts, like all other American courts, recognize just one burden of proof in criminal cases—guilt beyond a reasonable doubt. Considering this judicial certainty and Mississippi's longstanding precedent that the law makes no distinction between circumstantial and direct evidence, we overruled previous case law requiring a special instruction ramping up the burden of proof in circumstantial evidence cases. Juries should instead weigh and consider *all* evidence presented when deciding if the State has met its burden of proof. Because in Nevels's case the jury did just that, no reversible error occurred.

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4. *McGilberry v. State*, 292 So. 3d 199 (Miss. 2020).

The United States Supreme Court has ruled that a life-without-parole sentence may only be imposed on a juvenile offender following an individualized sentencing hearing addressing certain factors. *Miller v. Alabama*, 567 U.S. 460 (2012). *Miller* applied retroactively to McGilberry's life-without-parole sentence, which had been imposed without discretion based on Mississippi's capital-murder statute. So the Mississippi Supreme Court granted his post-conviction request for a *Miller* hearing to evaluate his life-without-parole sentence. Once before the trial court, McGilberry claimed he had a right to jury sentencing based on Mississippi's statute. The trial judge proceeded with a bench hearing. After applying the *Miller* factors, the trial judge found McGilberry's life-without-parole sentence was appropriate. On appeal, the Mississippi Supreme Court held that the statute entitling someone upon conviction of capital murder to a jury-imposed sentence applied at the time of conviction—it did not apply to retroactive *Miller* hearings. Further, while *Miller* clearly entitles a juvenile offender to an individualized decision by the sentencer, nowhere has the United States Supreme Court mandated the sentencer be a jury. Since *Miller*, the Mississippi Supreme Court has been clear that prospectively any juvenile offender convicted of capital murder must have a jury decide, based on the *Miller* factors, if his life sentence should be with or without parole. But retroactively, a *Miller* sentencing decision will be made by the trial court. Notably, the Mississippi Legislature recently amended the sentencing statute to clearly align with this case and its progeny. *Johnson v. State*, 396 So. 3d 1073, 1076-77 (Miss. 2024).

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5. *Reeves v. Gunn*, 307 So. 3d 436, 442-447 (Miss. 2020) (concurrence in part and in result joined in part by four other justices).

The Mississippi Supreme Court decided a dispute between two Mississippi legislators who voted to pass a bill distributing federal CARES Act funds and Mississippi's

Governor who exercised his veto power to nix several specific allocations. While the bill passed overwhelmingly, the Legislature did not attempt to override the Governor's veto. Instead, just two legislators filed for declaratory relief in court. The two legislators claimed the Governor's veto was essentially an unconstitutional "line-item" veto. The Mississippi Supreme Court rejected their claim. While the majority opinion questioned the two legislators' standing and even went so far as to *prospectively* overrule past precedent suggesting individual lawmakers have standing, the majority opinion stopped short of ruling the two lone legislators in this case lacked standing. I authored a partial concurrence zeroing in on the standing issue. Past Mississippi precedent presumed individual lawmakers were personally injured if a bill they voted to pass was vetoed. My opinion asks the question that precedent did not consider: How can two individual legislators bring a lawsuit asserting an injury to the entire legislative branch when the legislative branch, through subsequent actions, has neither signaled it has perceived any injury nor authorized the individual legislators to advance this cause? I wrote that they should not be allowed to. In their complaint for declaratory action, the lawmakers asserted no individual colorable interest or adverse effect arising from the Governor's actions. They merely asserted a general claim that the Governor exceeded his constitutional authority in violation of separation of powers. So any alleged injury was to the co-equal legislative branch, and not just two individual members displeased with their colleagues' decision not to attempt to override the Governor's veto. I concluded my separate opinion by suggesting, as both a practical and logical safeguard, individual legislators should be required to establish standing—as opposed to merely assuming they have a colorable interest based on their role as legislators. This would protect against judicial intervention and resulting interference in political disputes between the legislative and executive branch—especially ones that lack obvious backing of the legislative branch.

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6. *Taylor v. State*, 287 So. 3d 202 (Miss. 2020) (Part II).

This case involved a trial court's denial of a defendant's self-defense theory. I authored Part II of the Mississippi Supreme Court's opinion, which abolished Mississippi's long-criticized use of "pre-arming instructions." Mississippi allows its citizens to stand their ground and defend against attacks to themselves and others. But for years, pre-arming instructions have estopped defendants from pursuing self-defense theories. As this

routinely condemned instruction stood, if a judge, not the jury, personally thought an already armed person provoked a "difficulty," even lawfully armed persons could find themselves estopped from advancing a valid self-defense theory when defending themselves. The Mississippi Supreme Court acknowledged our adherence to *stare decisis*. But we pointed out the doctrine does not trump "reason and justice" and must be departed from to avoid a "pernicious error." *Hye v. State*, 162 So. 3d 750, 755 (Miss. 2015). A century of legal precedent had denounced pre-arming instructions as exceedingly unwise and dangerous. And with no legitimate rationale to continue the instruction, we abolished it. Thus, the instruction was not available on remand.

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7. *Wilcher v. Lincoln County Board of Supervisors*, 243 So. 3d 177 (Miss. 2018).

The Mississippi Supreme Court corrected the discretionary-function immunity test for governmental entities facing tort claims. Even though the Mississippi Tort Claim Act is modeled after the Federal Tort Claim Act, in 2014 the Mississippi Supreme Court wholly abandoned the federal two-part, public-policy function test for determining discretionary-function immunity. The replacement test instead required litigants to scour rules and regulations to find "ministerial duties." This in turn led to increased tort claims based on alleged failures to follow such regulations—despite clear precedent that regulations do not create tort duties. In other words, though the Mississippi Tort Claims Act is about conferring immunity, it was increasingly being used to create liability. What the Legislature intended as a shield was being wielded as a sword. The Mississippi Supreme Court abandoned the newly crafted test and returned to the federal two-part, public-policy function test. This realigned Mississippi's sovereign-immunity law with the federal act it was based on, and it also clarified that "policy" means decisions made at the policy level, not simply any decision made by a state employee.

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8. *Little v. State*, 233 So. 3d 288 (Miss. 2017).

The Mississippi Supreme Court reinforced the distinction between a jury's decision and appellate review of it. Little's criminal appeal was first assigned to the Mississippi Court of Appeals, which granted him a new trial. That court relied on the Mississippi Supreme Court's previous incorrect suggestion that appellate courts sit as the "thirteenth juror" when reviewing motions for a new trial. On certiorari review, we explained how the "thirteenth juror" concept erroneously crept into Mississippi's jurisprudence and why the concept should be abandoned. We reversed the court of appeals and reinstated Little's guilty verdict, making clear that appellate courts do not act like jurors and re-weigh evidence or re-evaluate witness credibility. Instead, appellate courts must view evidence in the light most favorable to the jury's verdict. And a verdict should only be disturbed if it is contrary to the overwhelming weight of the evidence and if allowed to stand would sanction an unconscionable injustice.

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9. *Clarksdale Municipal School District v. State*, 233 So. 3d 299, 306–308 (Miss. 2017) (special concurrence joined fully by three other justices and joined in part by a fourth justice).

The Mississippi Supreme Court unanimously rejected a request by twenty-one school districts that the judiciary direct more than $235 million in public funds to public schools. The districts sought injunctive relief based on a statute the Legislature had not followed for six years—a statute directing legislators to fully fund public education using a set formula. The districts requested the money they would have received had the Legislature

followed the formula. Our unanimous court found the funding statute was not mandatory because it did not bind the governor's right to veto funding bills. I wrote separately to explain the simpler and more fundamental truth that the districts were essentially asking the judiciary to appropriate unappropriated money. And to do so would require we cross the constitutional divide and untie the State's purse strings. This we were constitutionally restrained from doing because the judicial branch "has no influence over . . . the purse[.]" The Federalist No. 78 (Alexander Hamilton). That power lies instead with the representatives of the people, who during the years in question, opted against appropriating the money necessary to fully fund public education.

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10. *Bates v. State*, 172 So. 3d 805 (Miss. Ct. App. 2014).

Mississippi's assault statute reflects our special interest in protecting law enforcement officers acting within the scope of their duties. As a matter of first impression, I authored the Court of Appeals' opinion holding that a defendant who shot at an off-duty deputy working security at a private business was subject to enhanced penalties for assaulting a law enforcement officer.

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d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

1. *Saunders v. State*, 371 So. 3d 604 (Miss. 2023).

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2. *McGlasten v. State*, 328 So. 3d 101 (Miss. 2021).

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3. *Nevels v. State*, 325 So. 3d 627 (Miss. 2021).

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4. *McGilberry v. State*, 292 So. 3d 199 (Miss. 2020).

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5. *Reeves v. Gunn*, 307 So. 3d 436, 442–447 (Miss. 2020) (concurrence in part and in result joined in part by four other justices).

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6. *Taylor v. State*, 287 So. 3d 202 (Miss. 2020) (Part II).

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7. *Wilcher v. Lincoln County Board of Supervisors*, 243 So. 3d 177 (Miss. 2018).

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8. *Little v. State*, 233 So. 3d 288 (Miss. 2017).

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9. *Clarksdale Municipal School District v. State*, 233 So. 3d 299, 306-308 (Miss. 2017) (special concurrence joined fully by three other justices and joined in part by a fourth justice).

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10. *Bates v. State*, 172 So. 3d 805 (Miss. Ct. App. 2014).

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e. Provide a list of all cases in which certiorari was requested or granted.

I authored the following decisions by the Mississippi Supreme Court, for which certiorari review by the United States Supreme Court was requested and denied:

Garcia v. State, 300 So. 3d 945 (Miss. 2020), *cert. denied*, 141 S. Ct. 2706 (2021).
Fogleman v. State, 283 So. 3d 685 (Miss. 2019), *cert. denied*, 141 S. Ct. 138 (2020).
Jackson County v. KPMG, LLP, 278 So. 3d 1124 (Miss. 2019), *cert. denied*, 140 S. Ct. 128 (2019).
Lofton v. State, 248 So. 3d 798 (Miss. 2018), *cert. denied*, 587 U.S. 948 (2019).
H.A.S. Elec. Contractors, Inc. v. Hemphill Constr. Co., Inc., 232 So. 3d 117 (Miss. 2016), *cert. denied*, 585 U.S. 1004 (2018).

I authored the following decisions by the Mississippi Court of Appeals, for which certiorari review by the United States Supreme Court was requested and denied after the Mississippi Supreme Court denied certiorari review or affirmed the decision without opinion:

Jordan v. State, 212 So. 3d 836 (Miss Ct. App. 2015), *cert. granted*, 209 So. 3d 429 (Miss. 2015), *aff'd without opinion by equally divided court*, 212 So. 3d 817 (Miss. 2016), *cert. denied*, 583 U.S. 854 (2017).
Johnson v. City of Canton, 194 So. 3d 161 (Miss. Ct. App. 2015), *cert. denied*, 202 So. 3d 1266 (Miss. 2016), *cert. denied*, 580 U.S. 1020 (2016).
Brown v. State, 198 So. 3d 325 (Miss Ct. App. 2015), *cert. granted*, 186 So. 3d 854 (Miss. 2016), *dismissed after grant* (Miss. Aug. 30, 2016), *cert. denied*, 580 U.S. 1063 (2017).
Breeden v. State, 168 So. 3d 975 (Miss. Ct. App. 2012), *cert. granted*, 121 So. 3d 918 (Miss. 2013), *cert. dismissed after grant* (Miss. Oct. 23, 2013), *cert. denied*, 572 U.S. 1036 (2014).
Simoneaux, Richard A. v. State, 29 So. 3d 26 (Miss. Ct. App. 2009), *cert. denied*, 27 So. 3d 774 (Miss. 2010), *cert. denied*, 562 U.S. 836 (2010).

I authored the following decisions by the Mississippi Court of Appeals, for which certiorari review by the Mississippi Supreme Court was requested and either denied, dismissed, granted, or dismissed after grant:

Holmes v. State, 201 So. 3d 491 (Miss Ct. App. 2015), *cert. denied*, 203 So. 3d 1132 (Miss. 2016).
Zales v. State, 194 So. 3d 182 (Miss Ct. App. 2015), *cert. denied*, 209 So. 3d 428 (Miss. 2016).
Eaves v. Gatlin, 194 So. 3d 171 (Miss Ct. App. 2015), *cert. denied*, 202 So. 3d 1268 (Miss. 2016).
Malone v. State, 196 So. 3d 1003 (Miss Ct. App. 2015), *cert. denied*, 202 So. 3d 614 (Miss. 2016).
Dingler v. Ferguson, 193 So. 3d 644 (Miss Ct. App. 2015), *cert. denied*, 202 So. 3d 1265 (Miss. 2016).
Holmes v. Turner, 188 So. 3d 1229 (Miss Ct. App. 2015), *cert. denied*, 188 So. 3d 575 (Miss. 2016).
Chipley v. Chipley, 210 So. 3d 1030 (Miss Ct. App. 2015), *cert. denied*, 202 So. 3d 1265 (Miss. 2016).
Graves v. State, 187 So. 3d 173 (Miss Ct. App. 2015), *cert. denied*, 186 So. 3d 854 (Miss. 2016).
Smith v. Compfirst/L.C. Indus., 186 So. 3d 873 (Miss Ct. App. 2015), *cert. denied*, 186 So. 3d 854 (Miss. 2016).
Miss. Div. of Medicaid v. Pittman, 171 So. 3d 583 (Miss Ct. App. 2015), *cert. dismissed* (Miss. Aug. 6, 2015).
Fillingame v. Miss. Ins. Dep't, 186 So. 3d 155 (Miss Ct. App. 2015), *cert. denied*, 185 So. 3d 854 (Miss. 2016).
Crossley v. Moore, 182 So. 3d 462 (Miss. Ct. App. 2015), *cert. denied*, 181 So. 3d 1010 (Miss. 2016).
Burnham v. Kwentus, 174 So. 3d 286 (Miss. Ct. App. 2015), *cert. denied* (Miss. Aug. 20, 2015).

Vaughn v. Pub. Emps. Ret. Sys., 182 So. 3d 446 (Miss. Ct. App. 2015), *cert. granted*, (Miss. Aug. 13, 2015), *aff'd*, 182 So. 3d 334 (Miss. 2015).
Sharp v. State, 152 So. 3d 1212 (Miss. Ct. App. 2014), *cert. denied*, 168 So. 3d 962 (Miss. 2015).
Sylvester v. State, 171 So. 3d 529 (Miss. Ct. App. 2014), *cert. denied* (Miss. Aug. 6, 2015).
Moseley v. Smith, 180 So. 3d 667 (Miss. Ct. App. 2014), *cert. granted* (Miss. Aug. 13, 2015), *cert. dismissed upon further review* (Miss. Dec. 17, 2015).
Watkins v. State, 170 So. 3d 582 (Miss. Ct. App. 2014), *cert. denied*, 163 So. 3d 301 (Miss. 2015).
Trotter v. State, 212 So. 3d 829 (Miss. Ct. App. 2014), *cert. granted*, 178 So. 3d 333 (Miss. 2015), *aff'd without opinion by an equally divided court* (Miss. Sept. 15, 2016).
McCoy v. State, 160 So. 3d 705 (Miss. Ct. App. 2014), *cert. dismissed*, 160 So. 3d 704 (Miss. 2015).
Allen v. State, 177 So. 3d 1148 (Miss. Ct. App. 2014), *cert. dismissed*, 152 So. 3d 1176 (Miss. 2014).
Kittrell v. W.S. Red Hancock, 162 So. 3d 857 (Miss. Ct. App. 2014), *cert. denied*, 163 So. 3d 301 (Miss. 2015).
Paty v. State, 162 So. 3d 850 (Miss. Ct. App. 2014), *cert. denied*, 163 So. 3d 301 (Miss. 2015).
Kennedy v. Est. of Kennedy, 166 So. 3d 1033 (Miss. Ct. App. 2014), *cert. denied*, 166 So. 3d 68 (Miss. 2015).
Norris v. State, 162 So. 3d 833 (Miss. Ct. App. 2014), *cert. denied*, 163 So. 3d 301 (Miss. 2015).
Calonkey v. Amory Sch. Dist., 163 So. 3d 940 (Miss. Ct. App. 2014), *cert. denied*, 163 So. 3d 301 (Miss. 2015).
Donelson v. State, 158 So. 3d 1154 (Miss. Ct. App. 2014), *cert. denied*, 158 So. 3d 1153 (Miss. 2014).
Bates v. State, 172 So. 3d 805 (Miss. Ct. App. 2014), *cert. granted*, 157 So. 3d 835 (Miss. 2015), *aff'd*, 172 So. 3d 695 (Miss. 2015).
Cleveland v. Heritage Props., Inc., 150 So. 3d 735 (Miss. Ct. App. 2014), *cert. denied*, 150 So. 3d 708 (Miss. 2014).
Williams v. State, 158 So. 3d 330 (Miss. Ct. App. 2014), *cert. granted*, 152 So. 3d 1176 (Miss. 2014), *vacated*, 158 So. 3d 309 (Miss. 2015).
Porter v. Grand Casino of Miss., Inc.-Biloxi, 138 So. 3d 952 (Miss. Ct. App. 2014), *cert. granted*, 154 So. 3d 33 (Miss. 2015), *aff'd*, 181 So. 3d 980 (Miss. 2016).
Rickman v. State, 150 So. 3d 983 (Miss. Ct. App. 2014), *cert. denied*, 150 So. 3d 708 (Miss. 2014).
Culpepper v. State, 148 So. 3d 386 (Miss. Ct. App. 2014), *cert. denied*, 151 So. 3d 1017 (Miss. 2014).
Atkins v. Old River Supply, Inc., 150 So. 3d 976 (Miss. Ct. App. 2014), *cert. denied*, 150 So. 3d 708 (Miss. 2014).
Bell v. State, 168 So. 3d 1151 (Miss. Ct. App. 2014), *cert. denied*, 152 So. 3d 1176 (Miss. 2014).
Jennings v. Shuler, 147 So. 3d 847 (Miss. Ct. App. 2014), *cert. denied*, 146 So. 3d 981 (Miss. 2014).

Cappaert Manufactured Housing, Inc. v. Thronson, 139 So. 3d 100 (Miss. Ct. App. 2013), *cert. denied*, 139 So. 3d 74 (Miss. 2014).
J.S.W. v. A.W.R. (In re V.D.W.), 152 So. 3d 336 (Miss. Ct. App. 2013), *cert. granted*, 145 So. 3d 674 (Miss. 2014), *rev'd, In re Waites*, 152 So. 3d 306 (Miss. 2014).
Prestenbach v. Collins, 159 So. 3d 555 (Miss. Ct. App. 2013), *cert. granted*, 145 So. 3d 674 (Miss. 2015), *rev'd*, 159 So. 3d 531 (Miss. 2014).
Noble v. Wellington, 145 So. 3d 714 (Miss. Ct. App. 2013), *cert. denied*, 145 So. 3d 674 (Miss. 2014).
Conwill v. State, 168 So. 3d 1080 (Miss. Ct. App. 2013), *cert. denied*, 140 So. 3d 940 (Miss. 2014).
Irle v. Foster, 176 So. 3d 25 (Miss. Ct. App. 2013), *cert. granted*, 160 So. 3d 704 (Miss. 2012), *aff'd*, 175 So. 3d 1232 (Miss. 2015).
Stokes v. State, 141 So. 3d 421 (Miss. Ct. App. 2013), *cert. denied*, 141 So. 3d 947 (Miss. 2014).
Grindle v. State, 134 So. 3d 330 (Miss. Ct. App. 2013), *cert. denied*, 133 So. 3d 818 (Miss. 2014).
Blount v. State, 126 So. 3d 927 (Miss. Ct. App. 2013), *cert. dismissed*, 131 So. 3d 578 (Miss. 2014).
Davis v. State, 130 So. 3d 1141 (Miss. Ct. App. 2013), *cert. denied*, 131 So. 3d 578 (Miss. 2014).
Ravenstein v. Community Trust Bank, 141 So. 3d 396 (Miss. Ct. App. 2013), *cert. granted*, 132 So. 3d 579 (Miss. 2014), *dismissed after grant* (Miss. June 25, 2013).
Drake v. Drake (In re Est. of Drake), 134 So. 3d 328 (Miss. Ct. App. 2013), *cert. denied*, 133 So. 3d 818 (Miss. 2014).
W.R. Berkley Corp. v. Rea's Country Lane Constr., Inc., 140 So. 3d 437 (Miss. Ct. App. 2013), *cert. denied*, 139 So. 3d 74 (Miss. 2014).
Grossley v. State, 127 So. 3d 1143 (Miss. Ct. App. 2013), *cert. denied*, 131 So. 3d 577 (Miss. 2014).
Britton v. State, 130 So. 3d 90 (Miss. Ct. App. 2013), *cert. denied*, 131 So. 3d 577 (Miss. 2014).
Caplin Enters., Inc. v. Arrington, 145 So. 3d 675 (Miss. Ct. App. 2013), *cert. granted*, 125 So. 3d 658 (Miss. 2013), *aff'd in part and rev'd in part*, 145 So. 3d 608 (Miss. 2014).
Jones v. Jones, 155 So. 3d 856 (Miss. Ct. App. 2013), *cert. denied*, 131 So. 3d 577 (Miss. 2014).
Ray v. State, 124 So. 3d 80 (Miss. Ct. App. 2013), *cert. denied*, 123 So. 3d 450 (Miss. 2013).
Webb v. State, 113 So. 3d 592 (Miss. Ct. App. 2012), *cert. denied*, 121 So. 3d 918 (Miss. 2013).
Pub. Emps. Retirement Sys. v. Walker, 126 So. 3d 904 (Miss. Ct. App. 2012), *cert. granted*, 121 So. 3d 918 (Miss. 2013), *aff'd in part and rev'd in part*, 126 So. 3d 892 (Miss. 2013).
Magee v. State, 124 So. 3d 71 (Miss. Ct. App. 2012), *cert. granted*, 119 So. 3d 328 (Miss. 2013), *aff'd*, 124 So. 3d 64 (Miss. 2013).
McCoy v. State, 111 So. 3d 673 (Miss. Ct. App. 2012), *cert. dismissed*, 117 So. 3d 330 (Miss. 2013).

Parisi v. State, 119 So. 3d 1061 (Miss. Ct. App. 2012), *cert. denied*, 119 So. 3d 328 (Miss. 2013).
State v. Parkman, 106 So. 3d 378 (Miss. Ct. App. 2012), *cert. denied*, 105 So. 3d 326 (Miss. 2013).
Miles v. Paul Moak of Ridgeland, Inc., 113 So. 3d 580 (Miss. Ct. App. 2012), *cert. denied*, 116 So. 3d 1072 (Miss. 2013).
Alexander v. Epps, 106 So. 3d 841 (Miss. Ct. App. 2012), *cert. dismissed*, 110 So. 3d 789 (Miss. 2013).
Moore v. State, 105 So. 3d 390 (Miss. Ct. App. 2012), *cert. denied*, 109 So. 3d 567 (Miss. 2013).
Federick v. State, 109 So. 3d 121 (Miss. Ct. App. 2012), *cert. denied*, 109 So. 3d 567 (Miss. 2013).
Chapell v. State, 107 So. 3d 1003 (Miss. Ct. App. 2012), *cert. denied*, 107 So. 3d 998 (Miss. 2013).
Hughes v. State, 106 So. 3d 836 (Miss. Ct. App. 2012), *cert. denied*, 105 So. 3d 326 (Miss. 2013).
Bolton v. State, 113 So. 3d 573 (Miss. Ct. App. 2012), *cert. granted*, 107 So. 3d 998 (Miss. 2013), *rev'd*, 113 So. 3d 542 (Miss. 2013).
Gebbin v. State, 108 So. 3d 956 (Miss. Ct. App. 2012), *cert. denied*, 109 So. 3d 567 (Miss. 2013).
Hudson v. WLOX, Inc., 108 So. 3d 429 (Miss. Ct. App. 2012), *cert. denied*, 107 So. 3d 998 (Miss. 2013).
Wilbourn v. Wilbourn, 106 So. 3d 360 (Miss. Ct. App. 2012), *cert. denied*, 105 So. 3d 326 (Miss. 2013).
Cates v. Swain, 116 So. 3d 1073 (Miss. Ct. App. 2012), *cert. granted*, 101 So. 3d 1171 (Miss. 2012), *aff'd in part and rev'd in part*, 215 So. 3d 492 (Miss. 2013).
Crook v. State, 105 So. 3d 353 (Miss. Ct. App. 2012), *cert. granted*, 101 So.3d 1171 (Miss. 2012), *cert. dismissed after grant* (Jan. 17, 2013).
Van Wagner v. State, 116 So. 3d 138 (Miss. Ct. App. 2012), *cert. granted*, 109 So. 3d 567 (Miss. 2013), *dismissed after grant* (June 27, 2013).
Greer v. State, 94 So. 3d 1237 (Miss. Ct. App. 2012), *cert. denied*, 96 So. 3d 732 (Miss. 2013).
Johnson v. State, 94 So. 3d 1209 (Miss. Ct. App. 2011), *cert. denied*, 96 So. 3d 732 (Miss. 2012).
Wilkerson v. State, 89 So. 3d 610 (Miss. Ct. App. 2011), *cert. denied*, 95 So. 3d 654 (Miss. 2012).
Smith v. Smith, 90 So. 3d 1259 (Miss. Ct. App. 2011), *cert. denied*, 95 So. 3d 654 (Miss. 2012).
Hogan v. State, 89 So. 3d 36 (Miss. Ct. App. 2011), *cert. denied*, 94 So. 3d 290 (Miss. 2012).
Jones v. State, 122 So. 3d 725 (Miss. Ct. App. 2011), *cert. granted*, 97 So. 3d 79 (Miss. 2012), *aff'd in part and rev'd in part*, 122 So. 3d 698 (Miss. 2013).
Patton v. State, 75 So. 3d 586 (Miss. Ct. App. 2011), *cert. dismissed* (Miss. Nov. 29, 2012).
Pegues v. State, 65 So. 3d 351 (Miss. Ct. App. 2011), *cert. dismissed as untimely* (Miss. Jan. 10, 2017).

Matthies v. State, 85 So. 3d 872 (Miss. Ct. App. 2011), *cert. granted*, 76 So. 3d 169 (Miss. 2011), *aff'd*, 85 So. 3d 838 (Miss. 2012).
Magee v. State, 73 So. 3d 1183 (Miss. Ct. App. 2011), *cert. denied* (Miss. Nov. 3, 2011).
Evans v. Evans, 75 So. 3d 1083 (Miss. Ct. App. 2011), *cert. denied*, 76 So. 3d 169 (Miss. 2011).
Simpson Cnty., Miss. v. McElroy, 82 So. 3d 621 (Miss. Ct. App. 2011), *cert. granted*, 76 So.3d 169 (Miss. 2011), *cert. dismissed after further review* (Miss. Mar. 15, 2012).
Melton v. Smith's Pecans, Inc., 65 So. 3d 853 (Miss. Ct. App. 2011), *cert. denied* (Miss. Nov. 3, 2011).
Stone Cnty., Miss. v. Stone Cnty. Hosp. Ambulance Serv., 64 So. 3d 507 (Miss. Ct. App. 2010), *cert. denied*, 63 So. 3d 1229 (Miss. 2011).
Perry v. Perry (In re Estate of Perry), 61 So. 3d 193 (Miss. Ct. App. 2010), *cert. denied*, 62 So. 3d 974 (Miss. 2011).
Heidelberg v. State, 45 So. 3d 730 (Miss. Ct. App. 2010), *cert. denied*, 71 So. 3d 1207 (Miss. 2011).
Killen v. Killen, 54 So. 3d 869 (Miss. Ct. App. 2010), *cert. denied*, 56 So. 3d 760 (Miss. 2011).
Jenkins v. Jenkins, 55 So. 3d 1094 (Miss. Ct. App. 2010), *cert. denied*, 56 So. 3d 574 (Miss. 2011).
Chapman v. State, 47 So. 3d 203 (Miss. Ct. App. 2010), *cert. denied*, 63 So. 3d 1228 (Miss. 2011).
Madden v. State, 52 So. 3d 411 (Miss. Ct. App. 2010), *cert. denied*, 50 So. 3d 1003 (Miss. 2011).
Noblin v. Burgess, 54 So. 3d 282 (Miss. Ct. App. 2010), *cert. denied*, 53 So. 3d 760 (Miss. 2011).
Holmes v. Campbell Props., Inc., 47 So. 3d 721 (Miss. Ct. App. 2010), *cert. denied*, 49 So. 3d 1139 (Miss. 2010).
Smith v. Johnston Tombigbee Furniture Manuf. Co., 43 So. 3d 1159 (Miss. Ct. App. 2010), *cert. denied*, 49 So. 3d 106 (Miss. 2010).
Cole v. State (In re S. and S.C.), 47 So. 3d 715 (Miss. Ct. App. 2010), *cert. denied*, *Cole v. Lauderdale Cnty. Dep't of Human Servs.*, 49 So. 3d 1139 (Miss. 2010).
Banks v. State, 45 So. 3d 676 (Miss. Ct. App. 2010), *cert. denied*, 49 So. 3d 636 (Miss. 2010).
Timmons v. State, 44 So. 3d 1021 (Miss. Ct. App. 2010), *cert. denied*, 49 So. 3d 106 (Miss. 2010).
Clark v. Clark, 43 So. 3d 496 (Miss. Ct. App. 2010), *cert. denied*, 49 So. 3d 106 (Miss. 2010).
Means v. State, 43 So. 3d 461 (Miss. Ct. App. 2009), *cert. granted*, 29 So. 3d 774 (Miss. 2010), *rev'd*, 43 So. 3d 438 (Miss. 2010).

f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

Vaughn v. Pub. Emps. Ret. Sys., 182 So. 3d 446 (Miss. Ct. App. 2015). I authored an opinion affirming the decision of the Public Employees' Retirement System (PERS) that, when a designated beneficiary predeceases the retiree, the retiree's remaining benefits go to the retiree's heirs and not the deceased beneficiary's heirs. While the Supreme Court affirmed the decision, *Vaughn v. Pub. Emps. Ret. Sys.*, 182 So. 3d 433 (Miss. 2015), it pointed out that PERS, the circuit court, and the Court of Appeals should not have relied on the statutes in place when the retiree died. Instead, the statute in place when the retiree elected her benefits coverage controlled. But because the outcome would have been the same, the error was harmless.

Williams v. State, 158 So. 3d 330 (Miss. Ct. App. 2014). I authored an opinion finding the trial court lacked jurisdiction to entertain Antonio Williams's motion to vacate—which the trial court treated as a post-conviction-relief motion aimed at his murder conviction and habitual-offender sentence to life without parole—because Williams did not first seek permission from the Mississippi Supreme Court to file his motion. The Supreme Court vacated my opinion, *Williams v. State*, 158 So. 3d 309 (Miss. 2015), holding that the trial court did have jurisdiction. In the Mississippi Supreme Court's view, Williams's motion was not seeking post-conviction relief in his murder case. Rather, Williams's motion challenged his underlying, separate burglary convictions, used to support his habitual-offender sentence for his murder conviction. Because Williams pled guilty in the burglary cases, he did not have to get the Mississippi Supreme Court's permission before seeking relief in the trial court, as would have been required to attack his murder conviction. Still, the Mississippi Supreme Court affirmed the trial court's summary dismissal of Williams's motion.

J.S.W. v. A.W.R. (In re V.D.W.), 152 So. 3d 336 (Miss. Ct. App. 2013). During a custody dispute between a divorcing couple, the husband—who had raised the child since birth—learned for the first time he was not the child's biological father. The uninvolved biological father intervened. And the chancellor awarded the mother custody, granted the biological father visitation, and granted the mother's ex-husband visitation. The ex-husband appealed. I authored an opinion holding the ex-husband stood *in loco parentis* to the child, overcoming the natural parent presumption, and stood on equal footing with mother and biological father when determining child custody and visitation. The Supreme Court reversed, *Waites v. Ritchie (In re Waites)*, 152 So. 3d 306 (Miss. 2014), holding the ex-husband did not rebut the presumption that it was in the child's best interest for the biological parents to have custody even though the ex-husband had stood *in loco parentis* to the child and raised the child as his own since birth.

Prestenbach v. Collins, 159 So. 3d 555 (Miss. Ct. App. 2013). I authored the Court of Appeals opinion affirming the trial court's judgment in favor of a property owner because the would-be holder of an options contract lacked sufficient funding to purchase the property when he tried to exercise his option. The Mississippi Supreme Court reversed, *Prestenbach v. Collins*, 159 So. 3d 531 (Miss. 2014), holding the prospective purchaser had the right to specifically enforce the options contract, regardless of whether he was able to demonstrate his ability to actually pay the purchase price before closing.

Caplin Enterprises., Inc. v. Arrington, 145 So. 3d 675 (Miss. Ct. App. 2013). This case involved contracts between a lender and a borrower. The borrower claimed the arbitration provisions in the contracts were unconscionable. I authored an opinion holding the arbitration agreement in an earlier version of the loan contract was procedurally unconscionable but the one in a later version was neither procedurally nor substantively unconscionable. The Mississippi Supreme Court affirmed in part and reversed in part, *Caplin Enterprises, Inc. v. Arrington*, 145 So. 3d 608 (Miss. 2014), holding the arbitration agreement in the later version of the contract was also unconscionable.

Wilson v. Davis, 111 So. 3d 1280 (Miss. Ct. App. 2013). This case is only mentioned because Westlaw has red-flagged it. The Mississippi Supreme Court affirmed the opinion I authored, reversing and remanding a child-custody decision, finding the chancellor failed to first consider whether the natural-parent presumption had been rebutted before awarding a grandmother custody instead of the father. *Wilson v. Davis*, 111 So. 3d 1280 (Miss. Ct. App. 2013). Following remand, the father appealed again, and the Court of Appeals issued a second opinion—authored by a different appellate judge—affirming the chancellor's decision that the natural-parent presumption had been rebutted and the child's best interest required the grandmother receive custody. *Wilson v. Davis*, 111 So. 3d 1280 (Miss. Ct. App. 2013) (Griffis, J., for the court). On certiorari review, the Mississippi Supreme Court consolidated the two appeals. The Supreme Court affirmed in part and reversed in part. *Wilson v. Davis*, 181 So. 3d 991 (Miss. 2016). The Court agreed with my opinion that, as between a grandmother and father, the natural parent presumption must first be rebutted. But the Supreme Court disagreed with the second judge's opinion that the evidence on remand supported the natural parent presumption had been rebutted.

Public Employees' Retirement System v. Walker, 126 So. 3d 904 (Miss. Ct. App. 2012). This case involved whether a member of Mississippi's Public Employees' Retirement System (PERS) was entitled to disability benefits. After weighing conflicting medical testimony, PERS denied disability benefits. The circuit court, sitting as an appellate court, reversed PERS. The agency further appealed, and I authored an opinion reinstating PERS's decision based on the existence of sufficient evidentiary support. The Mississippi Supreme Court reversed in part, *Public Employees' Retirement System v. Walker*, 126 So. 3d 892 (Miss. 2013), agreeing the evidence supported denial of duty-related disability benefits, but that PERS should not have denied regular disability benefits.

Cleveland v. Hamil, 155 So. 3d 829 (Miss. Ct. App. 2012). This was a medical-malpractice case against two physicians—a surgeon and a gastroenterologist. I authored the Court of Appeals opinion reversing and rendering in favor of the gastroenterologist because the plaintiff failed to present an expert in that field. As to the surgeon, while the plaintiff had presented a surgical expert, the expert's opinion was not previously disclosed, leading to a "trial by ambush." So the opinion reversed and remanded for a new trial on the claim against the surgeon. The Mississippi Supreme Court affirmed in part and reversed in part. *Cleveland v. Hamil*, 119 So. 3d 1020 (Miss. 2013). The Court

affirmed my rendering judgment in the gastroenterologist's favor. But instead of granting a new trial for the surgeon, that court rendered judgement for him.

Bolton v. State, 113 So. 3d 573 (Miss. Ct. App. 2012). I authored the Court of Appeals opinion affirming the defendant's conviction for house burglary. The Mississippi Supreme Court reversed, *Bolton v. State*, 113 So. 3d 542 (Miss. 2013), holding the burglary instruction's omission of the element of the intent to commit a specific crime, versus any crime, was plain error, despite the defendant's failure to object. The Mississippi Supreme Court initially denied certiorari review. But before the mandate issued, that Court handed down, *Daniels v. State*, 107 So. 3d 961 (Miss. 2013), "holding that the State must offer proof of the intent to commit some specific crime as the second element of burglary." Citing *Daniels*, the Mississippi Supreme Court vacated its denial of certiorari review and reversed based on this intervening decision.

Cates v. Swain, 116 So. 3d 1073 (Miss. Ct. App. 2012). One partner in a recently ended same-sex relationship sued the other, seeking part of the equity of their shared home, which was solely titled in the other partner's name. There was no written contract between the two. And the chancellor had found no express agreement beyond mere cohabitation that would support the claim for repayment of financial contributions made during their relationship. This case predated *Obergefell v. Hodges*, 576 U.S. 644 (2015). And the complaining partner was still married to a man and could not have validly married the homeowner even in a jurisdiction that then recognized same-sex marriage. I authored the Court of Appeals opinion rejecting the non-owning partner's implied contract claims. In doing so, I applied Mississippi's law that public policy questions of this stature should be left to the legislative process and the judicial branch should avoid fashioning implied contractual remedies that would essentially resurrect common-law marriage, which had been abolished by the Legislature. The Mississippi Supreme Court had previously found this principle applicable to unmarried opposite-sex partners who co-habit. *Estate of Alexander*, 445 So.2d 836, 839 (Miss.1984) (citations omitted). The Mississippi Supreme Court affirmed in part and reversed in part. *Cates v. Swain*, 215 So. 3d 492 (Miss. 2013). The Court agreed there was no constructive or resulting trust, but it found, without addressing the Court of Appeals' reasoning, the non-owning partner was entitled under these facts to seek an implied contractual remedy and reinstated the chancellor's award based on unjust enrichment.

T.C.B. Construction Co., Inc. v. W.C. Fore Trucking, Inc., 134 So. 3d 752 (Miss. Ct. App. 2012). I authored the Court of Appeals opinion estopping a contractor from denying its obligation to a subcontractor. The Court of Appeals found the subcontractor was entitled to full contract damages. But based on the plain text of Mississippi's punitive damages statute, the subcontractor was not entitled to punitive damages. The Mississippi Supreme Court affirmed in part and reversed in part. *T.C.B. Construction Co., Inc. v. W.C. Fore Trucking, Inc.* 134 So. 3d 701 (Miss. 2013). The Court affirmed the full-contract damages award but reversed the denial of punitive damages, citing pre-statute common law instead of the plain text of the punitive damages statute.

Jones v. State, 122 So. 3d 725 (Miss. Ct. App. 2011). I authored the Court of Appeals opinion affirming the trial court's denial of post-conviction relief. The Mississippi Supreme Court reversed in part, *Jones v. State*, 122 So. 3d 698 (Miss. 2013), holding that the intervening United States Supreme Court decision, *Miller v. Alabama*, 557 U.S. 460 (2012)—handed down after I had authored the Court of Appeals opinion—applied retroactively to petitioner's collateral attack on his sentence.

Means v. State, 43 So. 3d 461 (Miss. Ct. App. 2009). I authored the Court of Appeals opinion affirming the trial court's dismissal of defendant's successive and procedurally barred post-conviction relief petition. The Mississippi Supreme Court reversed and remanded, *Means v. State*, 43 So. 3d 438 (Miss. 2010), finding the defendant's procedurally barred challenge to a condition of his release met an exception to the bar.

g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

All opinions of the Mississippi Court of Appeals and Mississippi Supreme Court are published.

h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

Saunders v. State, 371 So. 3d 604 (Miss. 2023) (Miss. Const. art. 6, §§ 153, 165, and 172).
Wagner v. Andreacchio, 368 So. 3d 287 (Miss. 2023) (U.S. Const. amend. I).
Green v. State, 344 So. 3d 854 (Miss. 2022) (U.S. Const. amend. IV—Exclusionary Rule).
Woodard v. Miller, 326 So. 3d 439 (Miss. 2021) (U.S. Const. amend. I—Establishment Clause / Ecclesiastical Abstention Doctrine).
McGilberry v. State, 292 So. 3d 199 (Miss. 2020) (U.S. Const. amend. VIII—application of *Miller v. Alabama*, 567 U.S. 460 (2012)).
Oak Grove Marketplace, LLC v. Lamar Cnty. Sch. Dist., 287 So. 3d 924, 930 (Miss. 2020) (Miss. Const. art. 4, § 95).
M.A.S. v. Miss. Dep't of Humans Servs. (In re M.A.S.), 245 So. 3d 410 (Miss. 2018) (Miss. Const. art. 6, § 159(d)).
Ward v. Colom, 253 So. 3d 265, 271 (Miss. 2018) (special concurrence) (Miss. Const. art. 3, § 2—constitutionally conferred legislative authority to regulate concealed firearms).
Clarksdale Mun. Sch. Dist. v. State, 233 So. 3d 299, 306-308 (Miss. 2017) (special concurrence) (Miss. Const. art. 1, §§ 1–2; Miss. Const. art. 4, § 33—Separation of Powers).
High v. Kuhn, 191 So. 3d 113 (Miss. 2016) (Miss. Const. art. 4, § 110).
Jamison v. State, 73 So. 3d 567 (Miss. Ct. App. 2011) (Miss. Const. art. 3, § 27).

i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

I have not sat by designation on a federal court of appeals.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;

b. a brief description of the asserted conflict of interest or other ground for recusal;

c. the procedure you followed in determining whether or not to recuse yourself;

d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

In Mississippi, judicial recusals are governed by Article 6, § 165 of the Mississippi Constitution of 1890, Miss. Code Ann. § 9-1-11, Rule 1.15 of the Mississippi Uniform Rules of Circuit and County Court Practice, and Canon 3(e) of the Mississippi Code of Judicial Conduct.

I have served in the judiciary since 2009. In my more than sixteen years as a judge, first on the Mississippi Court of Appeals, then on the Mississippi Supreme Court, I have been requested to recuse seven times. Only one motion to recuse was directed solely at me. In *Tracie Hardy v. Xanitos, Inc.*, No. 2019-CT-00016-SCT, all nine justices agreed to deny Hardy's petition for writ of certiorari. Because I signed the order denying certiorari review, Hardy moved that I recuse. As this is not a basis for recusal, I denied the motion. In three other matters— *Williams v. State*, No. 2022-M-00752; *Morris v. State*, No. 2017-M-01070; and *Warner v. State*, No. 2016-M-00069—the motions to recuse were directed to the three-justice panels, on which I served, that had previously denied the petitioners relief. Because this is not a valid basis to recuse, I along with the other two panel members did not recuse. In another matter, *Wallace v. State*, No. 2019-M-1279, the Mississippi Supreme Court denied several *pro se* post-conviction-relief motions. In doing so, the Court warned the petitioner that he could be sanctioned for any future frivolous filing. Williams then moved that the seven justices, including myself, who issued the sanctions warning recuse. Neither I nor the other six justices recused, as there

was no merit to the recusal motion. Finally, in two other matters—*Crawford v. The Miss Bd. of Bar Admissions*, No. 2018-CC-00959, and *Woodard v. Miller*, No. 2020-IA-00031 (consolidated with *Miss. Ann. Conf. of the United Methodist Church v. Miller*, No. 2020-IA-00056 and *Johnson v. Miller*, No. 2020-IA-00238)—the petitioners sought recusal of all nine justices of the Mississippi Supreme Court. *Crawford* involved a law-school graduate aggrieved that she did not pass Mississippi's Bar Exam. She filed four lengthy separate motions to recuse, all of which lacked merit. All nine justices denied recusal in response to all four motions. *Woodard* included claims against the United Methodist Church and a clergy member. The recusal motion asked each justice to examine his or her relationships with the denomination, clergy, and members, if any. Because I found no reason to recuse, I denied recusal, as did the other eight justices.

The bulk of appeals in which I did not participate *sua sponte* involved matters where circulation for voting had already occurred before I joined the appellate courts, cases involving members of my former law firm, and the Mississippi Supreme Court's appellate review of cases in which I participated as a Court of Appeals judge. Appellate judges are not required to state a reason for their *sua sponte* non-participation in cases, but I have set out my reasons below to the best of my recollection.

Mississippi Supreme Court cases in which I did not participate because circulation for voting had already occurred before I joined the Court in 2016:

Atwood v. State, No. 2015-CA-00190
Batiste v. State, No. 2013-DR-01624
Bradley v. Jordan, No. 2014-CA-01710
Burgess v. Patterson, No. 2015-CA-00260
Crum v. City of Corinth, No. 2013-CA-01977
Jones v. Miss. Emp. Sec. Comm'n, No. 2014-CC-01142
Moore v. State, No. 2015-KA-00207
Quality Diesel Serv. v. Tiger Drilling Co., No. 2014-CA-01587
Roby v. State, No. 2014-KA-00621
Stribling Invs., LLC Mike Rozier Constr. Co., No. 2013-CA-2145
Thrash v. Deutsch, Kerrigan & Stiles, LLP, No. 2014-CA-01472

Mississippi Supreme Court cases in which I did not participate because they reviewed Court of Appeals decisions in which I had participated as a Court of Appeals judge:

Bester v. State, No. 2013-CT-00058
Carter v. Carter, No. 2014-CT-00041
City of Tchula v. Miss. Pub. Serv. Comm'n, No. 2014-UR-01447
Collins v. Westbrook, No. 2013-CT-00408
Estes v. Estes, No. 2014-CT-01533, consolidated with No. 2011-CT-1451
Finnie v. Lee Cnty. Bd. of Supervisors, No. 2014-SA-01480
Green v. State, No. 2013-CT-01228
Hudspeth Reg'l Ctr. v. Mitchell, No. 2014-CT-01730
Johnson v. State, No. 2014-CT-00664

Jordan v. State, No. 2014-CT-00615
Kuebler v. State, No. 2012-CT-01825
McGinty v. Grand Casinos of Miss., Inc.-Biloxi, No. 2012-CT-01777
McKean v. Yates Eng'g Corp., No. 2013-CT-01807
Miss. Dep't of Audit v. Gulf Publ'g Co., No. 2013-CT-02002
Nunnery v. Nunnery, No. 2014-CT-00260
Overton v. State, No. 2013-CT-01236
Pittman v. Pittman, No. 2013-CT-00149
Porter v. Mullins, No. 2012-CT-01793, consolidated with *Porter v. Grand Casino of Miss.-Biloxi*, No. 2010-CT-00307
Springer v. Ausbern Constr. Co., No. 2014-CT-01190
Stanley v. Scott Petroleum Corp., No. 2013-CT-01238
Stratton v. McKey, No. 2014-CT-01443
Walden v. State, No. 2014-CT-00165
Warren v. State, No. 2013-CT-00926
White v. State, No. 2013-CT-02132
Wilson v. Davis, No. 2012-CT-00196, consolidated with No. 2013-CT-01244

Mississippi Supreme Court cases in which I did not participate because of relationships with parties, attorneys, entities, or others:

Adams v. Graceland Care Ctr. of Oxford, No. 2013-CT-00724
Eubanks v. Huber (In re Est. of Eubanks), No. 2016-CA-01274
Gunasekara v. Barton, No. 2023-EC-00377
Health Mgmt. Assocs., Inc. v. Weiner, No. 2017-IA-01435
Holcomb, Dunbar, Watts, Best, Masters & Golmon, P.A. v. 400 S. Lamar Oxford Mad Hatter Partners, LLC, No. 2019-CT-01702
Hyundai Motor Am. v. Applewhite, No. 2015-CA-01886
Hyundai Motor Am. v. Hutton, No. 2015-CA-01013
In re McClure, No. 2022-IA-00319
James v. Westbrooks, No. 2018-EC-00469
Jones v. Rebel Rags, No. 2017-M-01529
Lane v. Lampkin, No. 2016-CA-00941
Lewis v. Rebel Rags, No. 2017-M-01546
Nat'l Collegiate Athletic Ass'n v. Farrar, No. 2023-IA-00282
Parsons v. Walters, No. 2018-CA-01272
Phillips v. City of Oxford, No. 2021-CT-00639
Russell v. Mississippi Bar, No. 2016-BR-01807
Sharkey Issaquena Cmty. Hosp. v. Anderson, No. 2014-IA-00465
Shumake v. Shumake, No. 2015-CA-01622
Stewart v. Mississippi Bar, No. 2017-BR-01553
Stewart v. Mississippi Bar, No. 2022-BR-00382
The Door Shop, Inc. v. Alcorn Cnty. Elec. Power Ass'n, No. 2017-CA-00956
Tommy Brooks Oil Co. v. Wilburn, No. 2016-IA-01356, consolidated with No. 2016-IA-1400
Tommy Brooks Oil Co. v. Wilburn, No. 2022-CA-00551

Mississippi Court of Appeals cases in which I did not participate because circulation for voting had already occurred before I joined the Court in 2009:

Ames v. State, No. 2007-KA-01834
Anderson v. Anderson, No. 2007-CA-00879
APAC Miss. Inc. v. Johnson, No. 2007-CA-01009
Banyard v. State, No. 2006-KA-01843
Bennett v. State, No. 2008-KA-00153
Brown v. General Motors Corp., No. 2007-CA-01591
Butler v. State, No. 2007-KA-01915
Campbell v. Davis, No. 2007-CA-01627
Carreiro v. State, No. 2007-CA-02280
Didon v. State, No. 2008-CA-00928
Duncan v. Johnson, No. 2008-CP-00055
Eley v. State, No. 2007-KA-02220
Ellzey v. McCormick, No. 2007-CA-01420
Est. of Fedrick ex rel. Sykes v. Quorum Health Res., Inc., No. 2007-CA-00465
Farrior v. Kittrell, No. 2007-CA-01868
Fisher v. Lauderdale Cnty. Bd. of Supervisors, No. 2008-CA-00359
Fraise v. State, No. 2007-KP-01626
Funderberg v. Ponotoc Elec. Power Ass'n, No. 2008-CA-00235
Gober v. Lee, No. 2007-CP-01214
Gulf South Pipeline v. Pitre, No. 2007-CA-01308
Hairston v. State, No. 2007-KA-01964
Harper v. Cal-Maine Foods, Inc., No. 2008-CA-00529
Harris v. State, No. 2007-CP-01602
Henderson v. State, No. 2008-KA-00551
Jackson v. State, No. 2007-CP-01470
Jones v. Jones, No. 2008-CA-00035
Kambule v. State, No. 2006-CA-01497
Lewis v. Progressive Gulf Ins. Co., No. 2008-CA-00781
Marshall v. Lindsly, No. 2007-CA-01737
McMillan v. State, No. 2007-KA-01999
Miller v. State, No. 2007-KA-02019
Moore v. State, No. 2007-CP-01548
Miss. Empl. Sec. Comm'n v. Johnson, No. 2007-CC-02236
Miss. State Univ. v. Panuska, No. 2008-WC-00340
Morf v. N. Central Miss. Bd. of Realtors, Inc., No. 2007-CA-00839
Neal v. State, No. 2007-KA-02198
Niolet v. Rice, No. 2008-CA-00922
Omnova Solutions, Inc. v. Lipa, No. 2008-WC-00500
Pace v. Pace, No. 2007-CP-01052
Peavey Electronics Corp. v. Baan U.S.A., Inc., No. 2007-CA-00341
Perryman v. State, No. 2007-KA-01670
Pittman v. Pittman, No. 2007-CP-02091

Poe v. Summers, No. 2007-CA-02278
Price v. Price, No. 2007-CA-00981
Radford v. CCA-Delta Corr. Facility, No. 2007-WC-02270
Rebuild America, Inc. v. Milner, No. 2008-CA-00121
Robinson v. State, No. 2007-KA-02202
Ross v. State, No. 2007-CP-02192
Sessums v. Vance, No. 2008-CA-00198
Shies v. State, No. 2007-CP-01187
Silliman v. State, No. 2008-CP-00140
Singleton v. State, No. 2008-KA-00508
Smith v. Smith, No. 2007-CA-01920
Smith v. State, No. 2008-KA-00375
Spratt v. State, No. 2007-CA-00791
Stevens v. Estate of Smith, No. 2007-CA-01664
Thames v. State, No. 2007-KA-01573
Thomas v. State, No. 2007-KA-01781
Trim v. Trim, No. 2007-CA-01648
Tucker v. Rees-Memphis, Inc., No. 2007-CA-01776
Tucker v. Williams, No. 2007-CA-02223
United Plumbing & Heating Co. v. AmSouth Bank, No. 2007-CA-01944
Via v. Miss. Farm Bureau Fed'n, No. 2008-CA-00782, consolidated with No. 2008-CA-00783
Webster v. City of D'Iberville City Council, No. 2008-CA-00203
Williams v. State, No. 2007-CP-02029
Williams v. State, No. 2007-CP-02143
Williams v. State, No. 2008-KA-00695
Woodham v. Woodham, No. 2007-CA-01940
Young v. State, No. 2007-KA-02026

Mississippi Court of Appeals cases in which I did not participate because my former law firm served as counsel:

Alexander v. AIG Agency Auto, No. 2012-CA-01166
Aultman v. Lawrence Cnty., No. 2011-CA-00540
Baldwin v. Kelly Servs., No. 2012-CA-00813
Ball v. Ashley Furniture Indus., No. 2010-WC-01627
Banks v. Brinker Miss., Inc., No. 2013-CA-00521
Bates v. Dedicated Mgmt. Group, LLC, No. 2010-WC-00792
Brown v. Ill. Tool Works, No. 2012-WC-00803
Business Comms. v. Banks, No. 2009-CA-00407
Carpenter v. Kenneth Thompson Builder, Inc., No. 2011-CA-01028
Chandler v. Mary Mahoney's, Inc., No. 2012-CA-00745
Clark v. Spherion Corp., No. 2008-WC-01202
Davis v. Biloxi Pub. Sch. Dist., No. 2007-CP-02155
Davis v. Biloxi Pub. Sch. Dist., No. 2010-CP-00338
Davis v. Jones Cnty. Sch. Dist., No. 2014-CA-00857

Durbin v. Brown, No. 2012-WC-00232
Durr v. City of Picayune, No. 2013-CA-01845
FFE Transp. Services v. Brown, No. 2011-WC-01766
Ford v. Magnolia Franchise Holdings, No. 2012-WC-00096
Forrest Gen. Hosp. v. Humphrey, No. 2013-WC-00424
Frazier v. McDonald's Restaurants of Miss., Inc., No. 2011-CA-01221
Gas v. Edmonds, No. 2013-WC-01942
Gray Props. v. Utility Constructors, Inc., No. 2012-CA-01939
Guthrie v. Jones Cnty. Sch. Dist., No. 2011-CA-00945
Howell v. Holiday, No. 2011-CA-01789
Jones v. Mullen, No. 2011-CA-01087
K.N. v. Moss Point Sch. Dist., No. 2013-CA-01388
Kaigler v. City of Bay St. Louis, No. 2008-CA-00640
Kukor v. Northeast Tree Serv., No. 2010-WC-01280
Land v. Attala Cnty., No. 2011-CA-01105
Liberty Mut. Ins. v. Shoemake, No. 2011-CA-00179
Lockhart v. Stirling Props., No. 2013-CA-00973
Madison v. Geico Gen. Ins. Co., No. 2009-CA-01723
Marbly v. Manuel, No. 2014-CA-01171
Martin ex rel. Heirs of Martin v. B & B Concrete Co., No. 2010-CA-00145
Matthies v. Reed, No. 2012-CA-00497
McElroy v. City of Brandon, No. 2014-CA-00927
Misskelley v. Carroll Cnty., No. 2009-CA-01054
Mixon v. Greywolf Drilling Co., No. 2009-WC-01536
Odom v. Fedex Ground Package Sys., No. 2009-WC-00444
Palermo v. LifeLink Found., Inc., No. 2012-CA-01228
Pearl River Cnty. v. Bethea, No. 2014-CA-00892
Perkins v. Wal-Mart Stores, Inc., No. 2008-CA-01406
Pulliam v. Miss. State Hudspeth Reg'l Ctr., No. 2013-WC-00409
Q.A. v. Pearl Public Sch. Dist., No. 2010-CA-01610
Quarter Dev., LLC v. Hollowell, No. 2010-CA-02076
Rebuild America, Inc. v. Johnson, No. 2008-CA-02123
River Region Health v. Adams, No. 2012-WC-00961
Singley v. Trinity Highway Prods, LLC., No. 2013-CA-01944
Smith v. City of Saltillo, No. 2009-CA-01003
Springfield v. Members 1st Cmty. Fed. Credit Union, No. 2010-CA-00359
Swindle v. Neshoba Cnty. Sch. Dist., No. 2012-CA-00758
Telecom Tower Group, LLC v. Honeysuckle Creek Holdings, Inc., No. 2012-CA-00493
Tew v. Siemens Power Transmission, No. 2009-WC-01150
Trull v. Magnolia Hill, LLC, No. 2013-CA-01041
Wooten v. Franklin Corp., No. 2008-WC-00858

Mississippi Court of Appeals cases in which I did not participate because they concerned either parties, judges, related family members, or other individuals who had been prosecuted by the United States Attorney's Office, individuals about whom I had

previous knowledge of or interactions with while a federal prosecutor, or for which I have no recollection of any basis for recusal:

Abraham v. State, No. 2009-CP-01759
Alexander v. Alexander, No. 2010-CA-01765
Alias v. City of Oxford, No. 2009-CA-00301
Alston v. Pope, No. 2010-CA-01760
Anderson v. State, No. 2007-KA-02137
BancorpSouth Bank v. Brantley, No. 2011-CA-00475
Barfield v. Miss. State Hosp., No. 2011-WC-01577
Battle v. Cooper, No. 2010-CP-00530
Berry v. State, No. 2008-KA-02092
Beverly Healthcare v. Hare, No. 2009-WC-00344
Blackston v. Epps, No. 2009-CA-00824
Boatwright v. Boatwright, No. 2009-CA-01412
Boatwright v. Boatwright, No. 2014-CA-00060
Brunner v. State, No. 2008-KA-00469
Century Constr. Co. v. BancorpSouth Bank, No. 2011-CA-01853
Clark v. State, No. 2007-KA-02233
Corkern v. Corkern, No. 2009-CA-01083
Covenant Health & Rehabilitation of Picayune, LP v. Lumkin ex rel. Lumpkin, No. 2007-CA-00449
Dogan v. Dogan, No. 2011-CA-01104
Elliot v. State, No. 2009-KA-01516
Est. of Hynes v. Ambling Mgmt. Co., No. 2009-CA-01629
Ewing v. State, No. 2008-CP-00123
Fortenberry v. City of Jackson, No.2008-CA-00270, consolidated with No. 2008-CA-00271
Gray v. State, No. 2008-CA-00682
Hanshaw v. Hanshaw, No. 2005-CA-01680
Harness v. State, No. 2007-KA-01415
Hawkins v. City of Morton, No. 2011-CA-01047
Hillside Terrace, L.P. ex rel. Hills Terrace I LLC v. City of Gulfport, No. 2008-SA-00350
Holly Springs Realty Group, LLC v. BancorpSouth Bank, No. 2009-CA-00923
Howell v. USAA Cas. Ins., No. 2012-CA-00132
Ill. Central R. Co. v. Broussard, No. 2007-CA-01010
J.M. ex rel. V.M. v. Bailey, No. 2009-CA-00893
Jackson v. Lowe, No. 2010-CP-00062
Johnson v. State, No. 2011-CA-00939
Jones v. State, No. 2009-CP-01890
Long Meadow Homeowners' Ass'n v. Harland, No. 2009-CT-1775
McCray v. State, No. 2009-KA-00509
Miller v. Provident Advertising & Marketing, No. 2012-CA-01198
Misita v. Conn, No. 2011-CA-01865
Miss. Baptist Med. Ctr. & Reciprocal of Am. v. Murphy, No. 2010-WC-2019
Mize v. Westbrook Constr. Co. of Oxford, LLC, No. 2012-CA-00610

Moore v. Miss. Gaming Comm'n, No. 2009-CA-00235
Murray v. State, No. 2008-KA-00298
Neilson v. Dawson, No. 2012-CA-01792
Nelson v. Baptist Mem'l Hosp.-N. Miss., Inc., No. 2009-CA-00081
Nicholson v. Intern'l Paper Co., No. 2009-WC-00943
Payton v. Boomtown Casino, No. 2010-CC-00046
Paige v. Miss. Baptist Med. Ctr., No. 2008-CA-00328
Peters v. Belk, Inc., No. 2010-WC-00438
Pierce v. Gibson, No. 2011-CA-01077
Rhoda v. Weathers, No. 2010-CA-00797
Rigdon v. Miss. Farm Bureau Fed., No. 2008-CA-00777
Richard v. Garma-Fernandez, No. 2012-CA-00007
Salter v. Johnson, No. 2011-CA-01179
Scruggs v. Bd. of Supervisors Alcorn Cnty., No. 2010-CP-01775
Weeks v. Weeks, No. 2006-CA-01287
Wells Fargo Advisors, LLC v. Pritchard, No. 2012-CA-00646
Wilson v. Highpointe Hospitality, No. 2010-CA-00193
Wood v. Cooley, No. 2010-CA-00395

15. **Public Office, Political Activities and Affiliations**:

a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

Other than my service as a justice on the Mississippi Supreme Court and as a judge on the Mississippi Court of Appeals, I have held no other public offices.

I have had no unsuccessful candidacies for elected office or unsuccessful nominations for appointed office.

b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

In March 2009, I was appointed to serve as a judge on the Mississippi Court of Appeals. I ran in a non-partisan election in November 2010 to retain my seat. I formed a campaign committee, which raised funds for my twenty-three-county campaign. I was elected unopposed.

In November 2014, I ran unopposed in a non-partisan election to retain my seat on the Mississippi Court of Appeals.

In January 2016, I was appointed to serve as a justice on the Mississippi Supreme Court. I ran in a non-partisan election in November 2016 to retain my seat. I formed a campaign committee, which raised funds for my thirty-three-county campaign. I was elected unopposed.

In November 2024, I ran unopposed in a non-partisan election to retain my seat on the Mississippi Supreme Court.

16. **Legal Career:** Answer each part separately.

a. Describe chronologically your law practice and legal experience after graduation from law school including:

i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I have not served as a clerk to a judge.

ii. whether you practiced alone, and if so, the addresses and dates;

I have not practiced alone.

iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each;

2001 – 2002
Daniel Coker Horton and Bell, P.A.
4400 Old Canton Road, Suite 400
Jackson, Mississippi 39215-1084

2002 – 2009
United States Attorney's Office, Northern District of Mississippi
900 Jefferson Avenue
Oxford, Mississippi 38655
Assistant United States Attorney (Criminal Division)

2009 – 2015
Mississippi Court of Appeals
450 High Street
Jackson, Mississippi 39201
Judge

2016 – present
Mississippi Supreme Court
450 High Street

Jackson, Mississippi 39201
Associate Justice

iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have not served as a mediator or arbitrator.

b. Describe:

i. the general character of your law practice and indicate by date when its character has changed over the years.

For the past sixteen years, I have served in the judiciary as either a justice on the Mississippi Supreme Court or judge on the Mississippi Court of Appeals. Immediately before joining the judiciary, my legal practice focused on trial work, primarily in federal court. After law school, I spent a year at a large civil litigation firm, practicing mostly civil defense work. I handled discovery, argued motions, and tried cases in state and federal court. In 2002, I accepted a position as an Assistant United States Attorney in the criminal division of the United States Attorney's Office for the Northern District of Mississippi. As a federal prosecutor, I tried cases exclusively in United States District Court. I worked closely with federal and state investigative agencies, conducted federal grand jury investigations, and handled hundreds of criminal prosecutions. I served as lead counsel, associate counsel, and sole counsel in numerous jury and bench trials of a wide variety of federal offenses. I also handled appeals and argued before the United States Court of Appeals for the Fifth Circuit. In 2009, I was appointed to the Mississippi Court of Appeals where I served as a judge until my appointment to the Mississippi Supreme Court in 2016. I have served as a Mississippi Supreme Court justice since then.

ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

My clients in private practice typically included businesses, individuals, insurance companies, and governmental entities. I handled litigation involving personal injury defense, automobile and trucking accidents, premises liability, and professional liability.

As an Assistant United States Attorney, my client was the United States of America. I worked closely with investigative agencies, including: the Federal Bureau of Investigation, Drug Enforcement Administration, Bureau of Alcohol, Tobacco, Firearms and Explosives, United States Immigration and Customs Enforcement, United States Marshals Service, United States Secret Service, United States Department of Agriculture Office of Inspector General, United

States Postal Inspection Service, Internal Revenue Service Criminal Investigation and state and local law enforcement investigators, prosecutors, and victims.

During my time as a federal prosecutor, I handled investigations, prosecutions, and jury trials of: public corruption, large-scale and complex drug trafficking conspiracies, firearms and explosives offenses, white-collar fraud, money laundering, mail fraud, wire fraud, federal programs fraud, bank fraud, tax fraud, social security fraud, theft, embezzlement, extortion, bribery, obstruction of justice, Hobbs Act robbery, bank robbery, smuggling, and gang and immigration crimes. I served as the district's Corporate Fraud Coordinator and was a member of the Organized Crime Drug Enforcement Task Force and the Project Safe Neighborhoods Task Force.

c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

i. Indicate the percentage of your practice in:

1.	federal courts:	95 %
2.	state courts of record:	5 %
3.	other courts:	%
4.	administrative agencies:	%

ii. Indicate the percentage of your practice in:

1.	civil proceedings:	10%
2.	criminal proceedings:	90%

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I have tried 21 cases to verdict in courts of record. I was either sole counsel, lead counsel, or associate counsel in all cases.

i. What percentage of these trials were:

1.	jury:	90%
2.	non-jury:	10%

e. Describe your practice, if any, before the Supreme Court of the United States. Supply copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have not practiced before the United States Supreme Court.

17. **Litigation**: Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

a. the date of representation;

b. the name of the court and the name of the judge or judges before whom the case was litigated; and

c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *United States v. Garrison*, 380 Fed. App'x 423 (5th Cir. 2010); *United States v. Garrison*, 2:08 CR058-P-S (N.D. Miss. Jul. 30, 2008).

I served as lead counsel in the investigation and jury trial, which led to the convictions of an outlet store owner who smuggled and trafficked counterfeit goods. I made opening statements, examined witnesses, and made closing arguments.

Presiding Judge: United States District Judge W. Allen Pepper Jr. (deceased)

Co-Counsel
Robert J. Mims
900 Jefferson Avenue
Oxford, MS 38655-3609
662-234-3351

Opposing Counsel
Thomas Levidiotas
Post Office Box 1617
Oxford, MS 38655-1617
662-234-1070

2. *United States v. Blockett*, 324 Fed. App'x 402 (5th Cir. 2009); *United States v. Tutwiler and Blockett*, No. 2:06 CR00149-GHD (N.D. Miss. May 25, 2007).

I participated in the investigation and jury trial of a mayor and contractor charged with conspiracy to commit government program fraud, theft, and misappropriation of $1.3 million in federal funds allocated for construction of Mound Bayou Chemical Company. The jury convicted both. At trial, I made the

opening statement, examined witnesses, cross-examined a defendant, and made closing arguments.

Presiding Judge: Senior United States District Judge Glen H. Davidson

Co-Counsel
John Marshall Alexander
112 North Pearman Avenue
Cleveland, MS 38732
662-843-3631

Opposing Counsel
Steven E. Farese, Jr.
122 Church Avenue
Ashland, MS 38603
662-224-3229

Robert Shuler Smith (deceased)

3. *United States v. Moultrie, et al.*, No. 3:08 CR014 (N.D. Miss. Aug. 12, 2008).

I participated in the investigation and prosecution of officers of a design engineering firm the State of Mississippi hired to manage construction of Mississippi Beef Processors, LLC. The firm's CEO and president both pled guilty to paying a gratuity intended to influence a public official involving the firm's overseeing construction of the beef plant. The company's vice president pled guilty to concealing material facts from a federal agency investigating the failed project.

Presiding Judge: Senior United States District Judge Michael P. Mills

Lead Counsel
W. Chadwick Lamar
1004 Darden North
Myrtle, MS 38650-9121
601-510-3655

Opposing Counsel
Craig A. Gillen
400 Galleria Parkway Southeast, Suite 1920
Atlanta, GA 30339
404-842-9700

Jerome J. Froelich Jr.
1360 Peachtree Street Northwest
One Midtown Plaza, Suite 910
Atlanta, GA 30309

404-881-1111

Thomas D. Bever
1105 West Peachtree Street Northeast, Suite 1000
Atlanta, GA 30309
404-815-3574

4. *United States v. Draper*, No. 3:07 CR 194-01 (N.D. Miss. Jul. 23, 2008).

I participated in the investigation and jury trial of a refrigeration vendor who devised a scheme to defraud the State of Mississippi and laundered money in connection with Mississippi Beef Processors, LLC. At trial, I made the opening statement, conducted witness examinations, cross examined the defendant, and made closing arguments. The jury found the defendant guilty on all charges.

Presiding Judge: Senior United State District Judge Michael P. Mills

Lead-Counsel
W. Chadwick Lamar
1004 Darden North
Myrtle, MS 38650-9121
601-510-3655

Opposing Counsel
Ken Coghlan (retired, no contact information)

5. *United States v. Robinson*, et al., No. 4:06CR013-02 (N.D. Miss. Oct. 26, 2007).

Lead Counsel. I participated as lead prosecutor in an undercover investigation of the Ruleville Mississippi chief of police and assistant chief of police. Both were charged with and pled guilty to extorting bribe payments to protect crack cocaine dealers.

Presiding Judge: United States District Judge W. Allen Pepper Jr. (deceased)

Opposing Counsel
John H. Daniels, III
149 North Edison Street
Greenville, MS 38701
662-378-2626

Martin Kilpatrick (deceased)

6. *United States v. Conely*, No. 3:07CR032 (N.D. Miss. Apr. 2, 2007).

I served as lead prosecutor in a federal undercover investigation of the Ripley Mississippi chief of police. He pled guilty to possessing marijuana with intent to distribute and to

distributing hydrocodone.

Presiding Judge: W. Allen Pepper Jr. (deceased)

Opposing Counsel
Anthony L. Farese
122 Church Avenue
Ashland, MS 38603
662-224-3229

7. *United States v. Butler, et al.*, No. 3:06CR14 (N.D. Miss. 2006).

I served as lead prosecutor in a joint federal and state undercover investigation, "Operation Icebreaker," utilizing a law enforcement officer to play the role of a "dirty cop." The purported dirty cop infiltrated a multi-state, large-scale "ice" methamphetamine trafficking organization, spanning from Arizona to Mississippi. The investigation led to the convictions of defendants on drug trafficking and firearms offenses. "Operation Icebreaker" received the Organized Crime Drug Enforcement Task Force (OCDETF) Case of the Year award in 2007.

Presiding Judge: Senior United States District Judge Michael P. Mills

Opposing Counsel
Anthony L. Farese
122 Church Avenue
Ashland, MS 38603
662-224-3229

Ronald Michael (suspended - discipline)
1700 North 2nd Street
Booneville, MS 38829-7759

Kenneth H. Coghlan (retired, no contact information)

Robert W. Davis, Jr.
542 Jefferson Street
Tupelo, MS 38804
662-586-9279

Robert Sneed Laher
320 Green Street
Tupelo, MS 38804
662-841-0391

8. *United States v. Wilson*, 197 Fed. App'x 359 (5th Cir. 2006).

I was lead prosecutor in the federal and state investigation and jury trial resulting in convictions in a multi-defendant Hobbs Act conspiracy to rob Grand Casino Tunica. The conspirators used a hoax bomb and a casino insider to carry out the heist. I made the opening statement, examined witnesses, and made closing arguments. I also handled an appeal to the United States Court of Appeals for the Fifth Circuit.

Presiding Judge: Senior United States District Judge Michael P. Mills

Co-Counsel
David A. Sanders
United States Magistrate Judge
301 West Commerce Street
Aberdeen, MS 39730
662-369-2138

Opposing Counsel
William F. Travis
8619 U.S. 51 North
Southaven, MS 38671
662-393-9295

Luscious Edwards
165 West South Street, Number 204
Hernando, MS 38632
662-429-5786

9. *United States v. Hall*, No. 3:06CR023 (N.D. Miss. Jan. 25, 2006).

I participated in the investigation and prosecution of Richard Hall, owner of Mississippi Beef Processors, LLC. Hall pled guilty to a money laundering and mail fraud scheme against the State of Mississippi.

Presiding Judge: Senior United States District Judge Neil B. Biggers, Jr. (deceased)

Lead Counsel
W. Chadwick Lamar
1004 Darden North
Myrtle, MS 38650-9121
601-510-3655

Opposing Counsel
Michael N. Watts
400 Enterprise Drive
Oxford, MS 38655-2763
662-234-8775

10. *United States v. Starnes*, 157 Fed. App'x. 687 (5th Cir. 2005).

I participated in the investigation and jury trial leading to the convictions of a Clarksdale gang leader on complex drug trafficking, conspiracy, and firearms charges. At trial, I made the opening statement, examined witnesses, and made closing arguments. I also participated in the appeal and made oral arguments to the United States Court of Appeals for the Fifth Circuit.

Presiding Judge: United States District Judge W. Allen Pepper Jr. (deceased)

Lead Counsel
Charles W. Spillers
3847 Majestic Oaks Drive
Oxford, MS 38655
662-801-8490

Opposing Counsel
Robert W. Davis Jr.
542 Jefferson Street
Tupelo, MS 38804
662-586-9279

18. **Legal Activities**: Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

Before joining the judiciary, my legal practice was devoted to federal trial work and litigation. However, many cases were resolved before indictment or after indictment by guilty plea. I also reviewed criminal leads and referrals that I determined should not be investigated further or presented for indictment. And I counseled federal and state law enforcement officers about proper investigative techniques to ensure compliance with the United States Constitution and relevant federal laws.

I have never acted or registered as a lobbyist.

19. **Teaching**: What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide copies to the committee.

I have not taught any courses.

20. **Deferred Income/ Future Benefits**: List the sources, amounts and dates of all

anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

Based on my years of service in state government, I am vested in and will receive a government pension through the Mississippi's Public Employees' Retirement System (PERS).

21. **Outside Commitments During Court Service**: Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

I have no plans, commitments, or agreements to pursue outside employment during my service with the court.

22. **Sources of Income**: List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding $500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

When my nomination is formally submitted to the Senate, I will file my Financial Disclosure Report and will supplement this Questionnaire with a copy of that report.

23. **Statement of Net Worth**: Please complete the attached financial net worth statement in detail (add schedules as called for).

See attached Net Worth Statement.

24. **Potential Conflicts of Interest**:

a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

I am unaware of any financial arrangements or categories of litigation, family members or other persons or parties, likely to present potential conflicts-of-interest. Cases that may present conflict issues would be those related to my service as a justice on the Mississippi Supreme Court or as a government lawyer. If confirmed, I would recuse in any matter which I reviewed while on the Mississippi Supreme Court. And I would recuse in any matter which, during government service, I participated as counsel, advisor, or material witness, or expressed an opinion concerning the merits. 28 U.S.C. § 455(b)(3). I will evaluate any real or potential conflict, or relationship that could give

rise to the appearance of a conflict, on a case-by-case basis, and determine appropriate action, including recusal where necessary.

b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

If confirmed, I will evaluate and address any real or potential conflict, or relationship that could give rise to the appearance of a conflict on a case-by-case basis and determine appropriate action, including recusal where necessary, 28 U.S.C. § 455(b)(3), Canon 3 of the Code of Judicial Conduct for United States Judges, and any other laws, rules, and practices governing such circumstance.

25. **Pro Bono Work**: An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

While Mississippi's Code of Judicial Conduct § 4(G)(1) expressly prohibits judges from practicing law and providing pro bono legal advice or service to non-family members, I have traveled throughout Mississippi educating our youth, undergraduate and law students, and the public about Mississippi's court system and the rule of law.

Through my work on the Mississippi Supreme Court's Rules Committee on Criminal Practice and Procedure, the Supreme Court revised Mississippi Rule of Criminal Procedure 7.2. The rule now provides for continuous representation of criminal defendants, thus closing Mississippi's so-called "dead zone"—a period in which some indigent felony defendants lacked representation between arrest and arraignment following indictment.

In addition, while president of the Mississippi Bar Association's Young Lawyers Division, I implemented three service-oriented programs. The first was a disaster relief hotline to assist tornado victims in presidentially declared disaster areas. The second involved initiating efforts to reestablish the "Lawyer in Every Classroom" program in Mississippi's 82 counties to inform school children about law as a profession. And the third initiative was "Wills for Heroes"—a state-wide program that provides free wills to Mississippi's first responders.

26. **Selection Process**:

a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your

nomination.

On November 21, 2024, I forwarded Senators Wicker and Hyde-Smith a letter and resume, expressing my interest in an existing vacancy on the United States District Court for the Northern District of Mississippi. On January 15, 2025, I forwarded Congressman Kelly a letter and resume, expressing my interest in the vacant judgeship. On January 29, 2025, I interviewed with Senators Wicker and Hyde-Smith separately. On April 17, 2024, I was contacted by the White House Counsel's Office to schedule an interview. On April 24, 2025, I interviewed with attorneys from the White House Counsel's Office and the Justice Department's Office of Legal Policy. On May 29, 2025, I was notified by the White House Counsel's Office that the President was considering nominating me for the United States District Court for the Northern District of Mississippi. Since then, I have remained in contact with officials from the White House Counsel's Office and the Office of Legal Policy.

b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

FINANCIAL STATEMENT

NET WORTH

Provide a complete, current financial net worth statement which itemizes in detail all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

ASSETS				LIABILITIES			
Cash on hand and in banks		15	275	Notes payable to banks-secured (auto)		37	691
U.S. Government securities				Notes payable to banks-unsecured		48	603
Listed securities – see schedule	1	263	529	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
				Real estate mortgages payable – see schedule		342	088
Real estate owned – see schedule		750	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		10	000	– Student Loans		58	096
Cash value-life insurance				– Tuition Assistance		16	500
Other assets itemize:							
				Total Liabilities		502	978
				Net Worth	1	535	826
Total Assets	2	038	804	Total Liabilities and Net Worth	2	038	804
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (See schedule)	NO		
On leases or contracts		6	600	Are you defendant in any suits or legal actions?	NO		
Legal Claims				Have you ever taken bankruptcy?	NO		
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities	
NVIDIA Stock	$11,580
Thrift Savings Plan	993,797
Roth IRA:	
AFLAC INCORPORATED	8,309
ABBOTT LABS	7,132
ABBVIE INCORPORATED	6,079
ADVANCED MICRO DEVICES INCORPORATED	2,768
ALLSTATE CORPORATION	2,998
ALPHABET INCORPORATED CAP STK CLASS A	6,889
AMAZON COM INCORPORATED	4,510
AMERICAN TOWER CORPORATION NEW REIT	2,408
ANALOG DEVICES INCORPORATED	3,448
APPLE INCORPORATED	13,982
BANK AMERICA CORPORATION	3,667
BECTON DICKINSON & COMPANY	2,607
CATERPILLAR INCORPORATED	7,998
CHEVRON CORPORATION NEW	7,939
CITIGROUP INCORPORATED COM NEW (C)	4,103
COMCAST CORPORATION NEW CLASS A	2,628
CONOCOPHILLIPS	2,134
CROWN CASTLE INCORPORATED REIT	1,823
DEERE & COMPANY	5,934
DIAMONDBACK ENERGY INCORPORATED	1,822
META PLATFORMS INCORPORATED CLASS A	6,504
GENERAL DYNAMICS CORPORATION	5,811
HOME DEPOT INCORPORATED	4,079
ILLINOIS TOOL WKS INCORPORATED	6,377
INTERCONTINENTAL EXCHANGE INCORPORATED	4,212
JPMORGAN CHASE & COMPANY	5,648
JOHNSON & JOHNSON	5,140
L3HARRIS TECNOLOGIES	5,492
LOWES COMPANIES INCORPORATED (LOW)	3,556
MCDONALDS CORPORATION	4,150
MICROSOFT CORPORATION	11,999
NVIDIA CORPORATION	9,733
PALANTIR TECHNOLOGIES INCORPORATED CLASS	7,248
PAYCHEX INCOPORATED	8,052
PHILLIPS 66	5,280
PROLOGIS ICORPORATED REIT	2,330
RTX CORPORATION	5,515
SALESFORCE INCORPORATED	1,868
SHAKE SHACK INCORPORATED CLASS A	2,596

STARBUCKS CORPORATION	2,059
TJX COMPANIES INCORPORATED NEW	3,213
T-MOBILE US INCORPORATED	5,896
TESLA INCORPORATED	5,197
TEXAS INSTRS INCORPORATED	5,502
TRACTOR SUPPLY COMPANY	3,522
UBER TECHNOLOGIES INCORPORATED	4,797
VERIZON COMMUNICATIONS INCORPORATED	3,681
VULCAN MATLS COMPANY	2,132
WALMART INCORPORATED	11,445
ZOETIS INCORPORATED	2,561
CHUBB LIMITED (Switzerland) CB	3,379
Total Listed Securities	$1,263,529

Real Estate Owned	
Personal Residence	$750,000
Total Real Estate Owned	$750,000

Real Estate Mortgages Payable	
Personal Residence – Mortgage	$342,088
Total Real Estate Mortgages Payable	$342,088

AFFIDAVIT

I, James O. Maxwell II, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

July 31, 2025 (DATE)

James O Maxwell II (NAME)

Katie Pearson (NOTARY)

STATE OF MISSISSIPPI NOTARY PUBLIC ID # 127848 KATIE PEARSON Commission Expires May 19, 2027 LAFAYETTE COUNTY

Senator Dick Durbin
Ranking Member, Senate Judiciary Committee
Written Questions for James Donald Maxwell
Nominee to be U.S. District Judge for the Northern District of Mississippi
September 10, 2025

1. In *Nash v. State*, you wrote for the majority in upholding a 12-year sentence for a defendant convicted of possessing a cell phone while in jail on a misdemeanor offense. You wrote, "While obviously harsh, [the] sentence…is not grossly disproportionate."

Although Justice King agreed with your decision, he wrote separately to highlight how the case, "seem[ed] to demonstrate a failure of our criminal justice system on multiple levels." In that concurrence, he referenced the fact that Nash had a wife and three children that depended on him; had stayed out of trouble with the law for nearly a decade since his prior conviction; that the crime was victimless; and the facts suggested that his crime was accidental and likely caused by a failure in booking procedures.

Justice King criticized the prosecution for not exercising prosecutorial discretion in this case and declining to prosecute or offering Nash a plea deal, and the trial judge for not exercising judicial discretion and imposing a lesser sentence within the statutory range, given the facts at hand.

a. **Do you agree with Justice King that the case, "seem[ed] to demonstrate a failure of our criminal justice system on multiple levels?" Please explain why or why not.**

Response: The Mississippi Supreme Court unanimously affirmed Nash's sentence. *Nash v. State*, 293 So.3d 265, 267 (Miss. 2020). A jury convicted Nash of "possessing a cell phone in a correctional facility"—a *felony* offense. *See* Mississippi Code Section 47-5-193 (Rev. 2015). Nash's twelve-year sentence fell clearly within the parameters set by the Legislature, which required that convicted defendants "shall be punished by confinement in the Penitentiary for not less than three (3) years nor more than fifteen (15) years . . . ." *Id.* In Mississippi, "the general rule . . . is that a sentence cannot be disturbed on appeal so long as it does not exceed the maximum term allowed by statute." *Id.* at 267 (quoting *Fleming v. State*, 604 So. 2d 280, 302 (Miss. 1992)). All nine members of the Mississippi Supreme Court agreed the sentence was lawful and affirmance was the correct legal result. I limited my appellate review to the legal question before the Court and did not join Justice King's separate concurrence.

b. **Had you been the trial judge in this case, would you have sentenced Mr. Nash to 12 years in prison for this victimless crime caused by an accidental failure by an officer to follow proper booking procedure**

Response: As a sitting justice on an appellate court, "[a]bsent specific authority, it is not the role of an appellate court to substitute its judgment for that of

the sentencing court as to the appropriateness of a particular sentence[.]" *Solem v. Helm*, 463 U.S. 277, 290 fn 16 (1983).

c. **If confirmed, in addition to applying federal sentencing guidelines, how will you exercise judicial discretion to ensure that defendants receive a just sentence?**

Response: If confirmed as a district judge, I will follow congressional directives, individually assess aggravating and mitigating factors, consult the advisory sentencing guidelines range, consider the parties sentencing arguments, and address the Title 18 § 3553(a) factors, when imposing a fair and just sentence.

2. Earlier this year, you authored the majority opinion in *McKay v. Mississippi State Board of Health*, a case involving a minor who sought a legal name change to assist in the gender transition process. The lower court denied the 16-year-old's petition, despite having the consent and support of both parents, because the court believed the petitioner should mature before the name change would be determined by the court. On appeal, you affirmed the lower court's decision.

Justice King wrote separately in dissent. He found the record to be so deficient that it rendered the Mississippi Supreme Court unable to determine whether the lower court properly denied the petition. In support of this position, Justice King cited the lack of evidence of the minor's maturity level, and the fact that the minor and the parents were prepared to testify but were apparently not afforded the opportunity to do so.

a. Was Justice King's assessment of the sufficiency of the record inaccurate?

Response: The majority of the Mississippi Supreme Court (by an 8-1 vote) agreed with the petitioner's representation that the record was sufficient for appellate review.

b. If there was no evidence of the minor's maturity level in the record, and the minor and their parents were present to testify but not called to do so, why did you think there was enough evidence in the record to make a determination?

Response: See above.

3. In your Senate Judiciary Questionnaire, you stated that "as an Assistant United States Attorney, my client was the United States of America." Do you still believe that the client for all Justice Department lawyers is the United States of America?

Response: The Department of Justice is a federal executive department within the Executive Branch. Justice Department lawyers represent the United States of America in both civil and criminal matters.

4. Your campaign for Mississippi Supreme Court donated hundreds of dollars to New Beginnings, an adoption agency that makes prospective parents sign a pledge agreeing that marriage is between one man and one woman. As a member of the Congressional

Coalition on Adoption, I believe in the importance of providing a safe, supportive home for all children.

a. Do you believe that same-sex couples should be allowed to adopt children?

Response: My campaign also contributed to nonprofit children's services organizations, including the Boys and Girls Club and the Tupelo Regional Rehabilitation Center. I am not familiar with the above-mentioned pledge. To my knowledge, New Beginnings is a Christian service ministry to birth mothers and adoptive parents, licensed by the Mississippi Department of Human Services. As a sitting judge and a judicial nominee, it is not appropriate to comment on policy and political issues.

b. Do you believe that an adoption agency should discriminate against same-sex couples, even if it might be to the detriment of prospective adoptees?

Response: As a sitting judge and a judicial nominee, it is not appropriate to comment on political and policy issues.

c. What would you say to a prospective adoptee who was not able to be adopted because a qualified same-sex couple was turned away by an organization like New Beginnings?

Response: See above.

5. As an Assistant U.S. Attorney, you received two commendations from the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) for your trial and enforcement work.

a. Do you support proposals by President Trump and congressional Republicans to reduce the ATF's funding by 29 percent and fire over 1,000 agency employees?

Response: As a sitting judge and a judicial nominee, it is not appropriate to comment on political and policy views of the President.

b. Do you support merging ATF with the Drug Enforcement Administration, as the Trump Administration has proposed?

Response: See above.

6. From 2006 to 2007, you served on the Diversity in the Law Committee of the Mississippi Bar Association.

a. What was the purpose of the Diversity in the Law Committee?

Response: To the best of my recollection, during that period, the Diversity in the Law Committee educated Bar members from diverse backgrounds about opportunities in

the legal profession and participation in the Mississippi Bar Association's various committees, CLE programs, governance, sections, and divisions.

b. What work did the Committee undertake?

Response: See above.

c. Who benefitted from the work of the Committee?

Response: See above.

d. Do you stand by the work of the Committee?

Response: Yes. I stand by the above-mentioned work.

7. Did President Trump lose the 2020 election?

Response: President Biden was certified by Congress as the winner of the 2020 election. He served as President from January 2021 to January 2025.

8. Where were you on January 6, 2021?

Response: On January 6, 2021, my father was hospitalized on his eleventh day on a ventilator, suffering from COVID-19. To the best of my recollection, I was in Mississippi helping my mother draft a petition for a conservatorship to handle his affairs. My father died on January 15, 2021.

9. Do you denounce the January 6 insurrection?

Response: The events and characterization of the conduct of persons at the Capitol on January 6, 2021, have become a topic of significant political debate. As a sitting judge and a judicial nominee, it is not appropriate for me to comment or give personal views on political issues.

10. Do you believe that January 6 rioters who were convicted of violent assaults on police officers should have been given full and unconditional pardons?

Response: Article II of the Constitution confers to the President the power to pardon. I am aware of legal challenges to pardons granted to those prosecuted for involvement in events at the Capitol on January 6, 2021. As a sitting judge and judicial nominee, it is not appropriate to comment on pending litigation or to give personal views on political issues.

11. The Justice Department is currently defending the Trump Administration in a number of lawsuits challenging executive actions taken by the Administration. Federal judges—both Republican and Democratic appointees—have enjoined some of these actions, holding

that they are illegal or unconstitutional. Alarmingly, President Trump, his allies, and even some nominees before the Senate Judiciary Committee have responded by questioning whether the executive branch must follow court orders.

a. What options do litigants—including the executive branch—have if they disagree with a court order?

Response: Aggrieved litigants have several options. If the order is final, a litigant may seek a stay and appeal that order to a higher court. If the order is non-final, the litigant may ask the court to reconsider its ruling. The litigant may also seek permission to file an interlocutory appeal with a higher court. As the Supreme Court has also acknowledged, extraordinary circumstances may exist in which a writ of mandamus may be sought or situations where a litigant may choose to defy a court order to prevent disclosure of confidential information, triggering the right to appeal any resulting contempt ruling. *Mohawk Indus. v. Carptenter*, 558 U.S. 100 (2009).

b. **Do you believe a litigant can ever lawfully defy an order from a lower federal court? If yes, in what circumstances?**

Response: Generally, litigants must follow all court orders, though rare scenarios exist where a court lacks jurisdiction or, as mentioned above, a litigant strategically chooses to defy an order, notably a discovery order, to keep certain information confidential, hoping the discovery order will be overturned on appeal. *Mohawk Indus. v. Carpenter*, 558 U.S. 100 (2009).

c. **Under the separation of powers, which branch of the federal government is responsible for determining whether a federal court order is lawful?**

Response: Under the Constitution, public officials of all three branches are sworn to uphold the Constitution. In the context of federal court orders, typically, if a party questions the lawfulness of an order the party either will ask the issuing court to reconsider the order or, if the order is final, appeal it to a higher court, advancing the reasons why the party believes the order is unlawful.

12. District judges have occasionally issued non-party injunctions, which may include "nationwide injunctions" and "universal injunctions."

a. Are non-party injunctions constitutional?

Response: The United States Supreme Court recently addressed a related issue in *Trump v. CASA, Inc.*, 145 S. Ct. 2540 (2025), holding that the universal injunctions likely exceed the equitable authority granted to courts by Congress. If confirmed as a district court judge, I will follow all Supreme Court precedent.

b. Are non-party injunctions a legitimate exercise of judicial power?

Response: See above.

c. Is it ever appropriate for a district judge to issue a non-party injunction? If so, under what circumstances is it appropriate?

Response: See above.

d. As a litigator, have you ever sought a non-party injunction as a form of relief? If so, please list each matter in which you have sought such relief.

Response: No.

13. At any point during your selection process, did you have any discussions with anyone—including individuals at the White House, the Justice Department, or any outside groups—about loyalty to President Trump? If so, please provide details.

Response: No.

14. Does the U.S. Constitution permit a president to serve three terms?

Response: According to the Twenty-Second Amendment, Section 1, "No person shall be elected to the office of the President more than twice."

15. On May 26, 2025, in a Truth Social post, President Trump referred to some judges whose decisions he disagrees with, as "USA HATING JUDGES" and "MONSTERS", who "…SUFFER FROM AN IDEOLOGY THAT IS SICK, AND VERY DANGEROUS FOR OUR COUNTRY…"

a. Do you agree that these federal judges are "USA HATING" and "MONSTERS" who "…SUFFER FROM AN IDEOLOGY THAT IS SICK, AND VERY DANGEROUS FOR OUR COUNTRY…"?

Response: As a sitting judge and a judicial nominee, it is not appropriate to comment on political statements made by the President on social media.

b. Do you believe this rhetoric endangers the lives of judges and their families?

Response: See above.

16. In addition to the President's own attacks on judges, his adviser Stephen Miller took to social media to call a federal trade court's ruling against President Trump's tariffs a "judicial coup" and later reposted the images of the three judges who decided the case and wrote, "we are living under a judicial tyranny."

a. Do you agree that these judges are engaged in a "judicial coup" and that "we are living under a judicial tyranny"?

Response: As a sitting judge and a judicial nominee, it is not appropriate to comment on political statements made by the President's adviser on social media.

b. Do you believe this rhetoric endangers the lives of judges and their families?

Response: See above.

c. Would you feel comfortable with any politician or their adviser sharing a picture of you on social media if you issue a decision they disagree with?

Response: See above.

17. When, if ever, may a lower court depart from Supreme Court precedent?

Response: Supreme Court precedent is binding. Lower courts should never depart from controlling Supreme Court precedent.

18. When, in your opinion, would it be appropriate for a circuit court to overturn its own precedent?

Response: As a district court nominee, it is not appropriate for me to advise the Fifth Circuit what standard it should apply when reviewing its own precedent. The Fifth Circuit issues opinions as three-judge panels. One three-judge panel cannot overturn the ruling of another three-judge panel. Only the Fifth Circuit sitting *en banc* may overrule its own precedent, based on standards set forth in its caselaw.

19. When, in your opinion, would it be appropriate for the Supreme Court to overrule its own precedent?

Response: As a district court nominee, it is not appropriate for me to advise the Supreme Court what standards it should apply when reviewing precedent. Only the Supreme Court may overrule its precedent. The Supreme Court has identified several factors to consider when it is deciding whether to overrule past precedent. They include the quality of the prior decision's reasoning, the workability of the rule the decision established, the consistency between the decision and other related decisions, developments since the decision was handed down, and reliance on that decision. *Janus v. Am. Fed'n of State, Cnty., and Mun. Emps., Council*, 31, 585 U.S. 878 (2018).

20. Please answer yes or no as to whether the following cases were correctly decided by the Supreme Court:

a. ***Brown v. Board of Education***

b. ***Plyler v. Doe***
c. ***Loving v. Virginia***
d. ***Griswold v. Connecticut***
e. ***Trump v. United States***
f. ***Dobbs v. Jackson Women's Health Organization***
g. ***New York State Rifle & Pistol Association, Inc. v. Bruen***
h. ***Obergefell v. Hodges***
i. ***Bostock v. Clayton County***
j. ***Masterpiece Cakeshop v. Colorado***
k. ***303 Creative LLC v. Elenis***
l. ***United States v. Rahimi***
m. ***Loper Bright Enterprises v. Raimondo***

Response: Consistent with my testimony on September 3, 2025, it is not appropriate for judicial nominees to publicly opine whether particular Supreme Court precedents were correctly decided. To my knowledge, past nominees have only made exceptions for two decisions—*Brown v. Board of Education* and *Loving v. Virginia*. Consistent with my testimony on September 3, I agree both decisions were correctly decided. If confirmed, I will faithfully apply both decisions. I will also apply each of the above-listed binding Supreme Court precedents.

21. With respect to constitutional interpretation, do you believe judges should rely on the "original meaning" of the Constitution?

Response: If confirmed as a district court judge, I will look to binding Supreme Court and Fifth Circuit precedent interpreting the Constitution's text. If faced with a novel constitutional issue, I will employ the Supreme Court's and Fifth Circuit's interpretive methodologies. Both courts routinely interpret constitutional provisions according to the meaning of the text as originally understood by the public at ratification. *Crawford v. Washington*, 541 U.S. 36 (2004); *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 17, 25, 28 (2022); *Abbott v. Biden*, 70 F.4th 817, 823 (5th Cir. 2023).

22. How do you decide when the Constitution's "original meaning" should be controlling?

Response: See above.

23. Does the "original meaning" of the Constitution support a constitutional right to same-sex marriage?

Response: The United States Supreme Court held in *Obergefell* that same-sex marriage is a constitutionally protected right. As stated above, it is not appropriate for judicial nominees to publicly opine whether particular Supreme Court precedents were correctly decided. If confirmed, I will apply *Obergefell* as binding precedent.

24. Does the "original meaning" of the Constitution support the constitutional right to marry persons of a different race?

Response: Yes. The United States Supreme Court recognized in *Loving v. Virginia* the constitutional right to marry someone of a different race. As stated above, *Loving* is one of two cases in which past nominees have opined on whether the case was rightly decided. I agree that *Loving* was correctly decided and is consistent with the original meaning of the Constitution.

25. What is your understanding of the Equal Protection and Due Process clauses of the Fourteenth Amendment?

Response: The relevant text of the Fourteenth Amendment says, states shall not "deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." The Equal Protection Clause ensures a state's laws do not impact or target certain protected classes unfairly. When challenged, the court will review or scrutinize the law. The level of scrutiny depends on the classification impacted. Strict or intermediate scrutiny applies when protected characteristics or quasi-protected characteristics are affected—like race and gender. The Due Process clause ensures fairness, particularly in criminal procedure, due process also requires civil litigants receive notice and an opportunity to be heard. Notably, it is the Fourteenth Amendment's Due Process Clause through which many of the rights contained in the Bill of Rights have been incorporated to the States. The Supreme Court has also acknowledged a substantive aspect to constitutional due process.

26. How do these clauses apply to individuals that the Framers of the amendment likely did not have in mind, such as women? Or LGBTQ+ individuals?

Response: The Supreme Court has relied on the Fourteenth Amendment's Equal Protection Clause when deciding women's rights and same-sex marriage rights. *E.g., Obergefell v. Hodges*, 576 U.S. 644 (2015); *United States v. Virginia*, 518 U.S. 515 (1996). If confirmed as a district judge, I would apply these Supreme Court precedents and other binding Supreme Court precedent.

27. Do you believe that judges should be "originalist" and adhere to the original public meaning of constitutional provisions when applying those provisions today?

Response: If confirmed as a district court judge, I will look to binding Supreme Court and Fifth Circuit precedent interpreting the Constitution's text. If faced with a novel constitutional issue, I will employ the Supreme Court's and Fifth Circuit's interpretive methodologies. Both courts routinely interpret constitutional provisions according to the meaning of the text as originally understood by the public at ratification. *Crawford v. Washington*, 541 U.S. 36 (2004); *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 17, 25, 28 (2022); *Abbott v. Biden*, 70 F.4th 817, 823 (5th Cir. 2023).

28. If so, do you believe that courts should adhere to the original public meaning of the Foreign Emoluments Clause when interpreting and applying the Clause today?

Response: See above.

29. Under the U.S. Constitution, who is entitled to First Amendment protections?

Response: The First Amendment states, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." The Supreme Court has in some instances determined the First Amendment applies differently to different persons. *Ginsburg v. New York*, 390 U.S. 629 (1968).

30. How would you determine whether a law that regulates speech is "content-based" or "content-neutral"? What are some of the key questions that would inform your analysis?

Response: Broadly speaking, a law aimed at *what* is being said is content-based, while a law that targets the *manner* in which speech is delivered (including time and place) is content-neutral. If confirmed as a district court judge, when faced with a First Amendment challenge, I would apply controlling Supreme Court and Fifth Circuit precedent to the facts before me.

31. What is the standard for determining whether a statement is protected speech under the true threats doctrine?

Response: According to the Supreme Court, the standard is recklessness—meaning the speaker is aware that others could regard his statements as threatening violence but delivers them anyway. *Counterman v. Colorado*, 600 U.S. 66 (2023).

32. Is every individual within the United States entitled to due process?

Response: Under the Fifth Amendment, "No person shall . . . be deprived of life, liberty, or property, without due process of law." Similarly, the Fourteenth Amendment provides that no State shall "deprive any person of life, liberty, or property, without due process of law[.]" In most cases, the question is less involved with whether due process applies and more with how much process is due.

33. Can U.S. citizens be transported to other countries for the purpose of being detained, incarcerated, or otherwise penalized?

Response: I understand this issue is currently being litigated in federal courts. As a sitting judge and a judicial nominee, it would not be appropriate for me to provide a legal opinion on a pending matter.

34. The Fourteenth Amendment states: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside."

a. Is every person born in the United States a citizen under the Fourteenth Amendment?

Response: I understand this issue is currently being litigated in federal courts. As a sitting judge and a judicial nominee, it would not be appropriate for me to provide a legal opinion on a pending matter.

b. Is the citizenship or immigration status of the parents of an individual born in the United States relevant for determining whether the individual is a citizen under the Fourteenth Amendment?

Response: See above.

35. Do you believe that demographic and professional diversity on the federal bench is important? Please explain your views.

Response: Yes. Nobody should be excluded from the opportunity to serve as a judge based solely on race, ethnicity, sex, religion, or any other protected characteristic. Having qualified and experienced judges from various legal backgrounds makes for a well-rounded judiciary.

36. The bipartisan *First Step Act of 2018*, which was signed into law by President Trump, is one of the most important pieces of criminal justice legislation to be enacted during my time in Congress. At its core, the Act was based on a few key, evidence-based principles. First, incarcerated people can and should have meaningful access to rehabilitative programming and support in order to reduce recidivism and help our communities prosper. Second, overincarceration through the use of draconian mandatory minimum sentences does not serve the purposes of sentencing and ultimately causes greater, unnecessary harm to our communities. With these rehabilitative principles in mind, one thing Congress sought to achieve through this Act was giving greater discretion to judges—both before and after sentencing—to ensure that the criminal justice system effectively and efficiently fosters public safety for the benefit of all Americans.

a. How do you view the role of federal judges in implementing the *First Step Act*?

Response: Judges must follow congressional directives when sentencing defendants. This includes applying the *First Step Act*, the advisory Sentencing Guidelines, and the 18 U.S.C. § 3553(a) factors. In line with the First Step Act, judges must exercise discretion fairly, consistently, and in-step with congressional intent. If confirmed as a district judge, I would be bound to apply the statute.

b. Will you commit to fully and fairly considering the individualized circumstances of each defendant who comes before you when imposing sentences to ensure that they are properly tailored to promote the goals of sentencing and avoid terms of imprisonment in excess of what is necessary?

Response: Yes.

37. The Federalist Society seeks to "reorder[] priorities within the legal system to place a premium on individual liberty, traditional values, and the rule of law."

a. During your selection process, have you spoken to or corresponded with any individuals associated with the Federalist Society, including Leonard Leo or Steven G. Calabresi? If so, please provide details of those discussions.

Response: To the best of my knowledge, no.

b. Have you ever been asked to and/or provided services to the Federalist Society, including research, analysis, advice, speeches, or appearing at events?

Response: To the best of my knowledge, no. As shown in responses in my questionnaire, I have given dozens of speeches and presentations to legal, civic, and school groups over the years. I do not recall ever giving a speech for a Federalist Society group.

c. Have you ever been paid honoraria by the Federalist Society? If so, how much were you paid, and for what services?

Response: No.

38. The Teneo Network states that its purpose is to "Recruit, Connect, and Deploy talented conservatives who lead opinion and shape the industries that shape society."

a. During your selection process, have you spoken to or corresponded with any individuals associated with the Teneo Network, including Leonard Leo? If so, please provide details of those discussions.

Response: To the best of my knowledge, no.

b. Have you ever been asked to and/or provided services to the Teneo Network, including research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Have you ever been paid honoraria by the Teneo Network? If so, how much were you paid, and for what services?

Response: No.

39. The Heritage Foundation states that its mission is to "formulate and promote public policies based on the principles of free enterprise, limited government, individual freedom, traditional American values, and a strong national defense." Heritage Action, which is affiliated with the Heritage Foundation, seeks to "fight for conservative policies in Washington, D.C. and in state capitals across the country."

a. During your selection process, have you spoken to or corresponded with any individuals associated with the Heritage Foundation or Heritage Action, including Kevin D. Roberts? If so, please provide details of those discussions.

Response: To the best of my knowledge, no.

b. Have you ever been asked to and/or provided services to the Heritage Foundation or Heritage Action, including research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Were you ever involved in or asked to contribute to Project 2025 in any way?

Response: No.

d. Have you ever been paid honoraria by the Heritage Foundation or Heritage Action? If so, how much were you paid, and for what services?

Response: No.

40. The America First Policy Institute (AFPI) states that its "guiding principles are liberty, free enterprise, national greatness, American military superiority, foreign-policy engagement in the American interest, and the primacy of American workers, families, and communities in all we do."

a. During your selection process, have you spoken to or corresponded with any individuals associated with AFPI? If so, please provide details of those discussions.

Response: To the best of my knowledge, no.

b. Have you ever been asked to and/or provided services to AFPI, including research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Have you ever been paid honoraria by AFPI? If so, how much were you paid, and for what services?

Response: No.

41. The America First Legal Institute (AFLI) states that it seeks to "oppose the radical left's anti-jobs, anti-freedom, anti-faith, anti-borders, anti-police, and anti-American crusade."

a. During your selection process, have you spoken to or corresponded with any individuals associated with AFLI, including Stephen Miller, Gene Hamilton, or Daniel Epstein? If so, please provide details of those discussions.

Response: To the best of my knowledge, no.

b. Have you ever been asked to and/or provided services to AFLI, including but not limited to research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Have you ever been paid honoraria by AFLI? If so, how much were you paid, and for what services?

Response: No.

42. The Article III Project is an organization which claims that, "The left is weaponizing the power of the judiciary against ordinary citizens."

a. During your selection process, have you spoken to or corresponded with any individuals associated with the Article III Project, including Mike Davis, Will Chamberlain, or Josh Hammer? If so, please provide details of those discussions.

Response: To the best of my knowledge, no.

b. Have you ever been asked to and/or provided services to the Article III Project, including research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Have you ever been paid honoraria by the Article III Project? If so, how much were you paid, and for what services?

Response: No.

43. The Alliance Defending Freedom (ADF) states that it is "the world's largest legal organization committed to protecting religious freedom, free speech, the sanctity of life, marriage and family, and parental rights."

a. During your selection process, have you spoken to or corresponded with any individuals associated with ADF? If so, please provide details of those discussions.

Response: To the best of my knowledge, no.

b. Have you ever been asked to and/or provided services to ADF, including research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Have you ever been paid honoraria by ADF? If so, how much were you paid, and for what services?

Response: No.

44. The Concord Fund, also known as the Judicial Crisis Network, states that it is committed "to the Constitution and the Founders' vision of a nation of limited government; dedicated to the rule of law; with a fair and impartial judiciary." It is affiliated with the 85 Fund, also known as the Honest Elections Project and the Judicial Education Project.

a. During your selection process, have you spoken to or corresponded with any individuals associated with these organizations, including Leonard Leo or Carrie Severino? If so, please provide details of those discussions.

Response: To the best of my knowledge, no.

b. Have you ever been asked to and/or provided services to these organizations, including research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Have you ever been paid honoraria by these organizations? If so, how much were you paid, and for what services?

Response: No.

d. Do you have any concerns about outside groups or special interests making undisclosed donations to front organizations like the Concord Fund or 85 Fund in support of your nomination? Note that I am not asking whether you have solicited any such donations, I am asking whether you would find such donations to be problematic.

Response: I am unfamiliar with the Concord Fund or 85 Fund. I am unaware whether any organizations have made undisclosed donations on behalf of my nomination. And I have no information about whether this has occurred with other nominees so as to form an opinion.

e. If you learn of any such donations, will you commit to call for the undisclosed donors to make their donations public so that if you are confirmed you can have this information when you make decisions about recusal in cases that these donors may have an interest in?

Response: If confirmed, I will follow the recusal standards set forth in 28 U.S.C. § 455, and I "shall disqualify [my]self in any proceeding in which [my] impartiality might reasonably be questioned."

f. Will you condemn any attempt to make undisclosed donations to the Concord Fund or 85 Fund on behalf of your nomination?

Response: I am unaware of any attempt to make undisclosed donations on behalf of my nomination. To the extent this question asks me to comment on political activity, as a sitting judge and a judicial nominee, it would be not be appropriate to provide my personal view on a political issue.

Nomination of James Donald Maxwell to the
United States District Court for the Northern District of Mississippi
Questions for the Record
Submitted September 10, 2025

QUESTIONS FROM SENATOR COONS

1. **At any point during the process that led to your nomination, did you make any representations or commitments to anyone—including but not limited to individuals at the White House, at the Justice Department, or at outside groups—as to how you would handle a particular case, investigation, or matter, if confirmed? If so, explain fully.**

   Response: No.

   a. **At any point during the process that led to your nomination, were you asked about your opinion on any cases that involve President Trump or the Trump administration?**

      Response: No.

2. **How would you describe your judicial philosophy?**

   Response: When applying a statute or constitutional provision, the text should be interpreted according to its plain language and applied as written, consistent with any binding precedent from higher courts. As I shared with the Committee on September 3, 2025, I believe a trial judge should not only call "balls and strikes" but maintain a consistent strike zone. This way all litigants—civil and criminal—who appear before the court know what to expect and are assured they will be treated fairly.

3. **What sources would you employ to discern the contours of a constitutional provision?**

   Response: If confirmed as a district judge, I will look to binding Supreme Court and Fifth Circuit precedent interpreting the Constitution's text. If faced with a novel constitutional issue, I will employ the Supreme Court's and Fifth Circuit's interpretive methodologies. Both courts routinely interpret constitutional provisions according to the meaning of the text as originally understood by the public at ratification. *E.g.*, *Crawford v. Washington*, 541 U.S. 36 (2004); *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 17, 25, 28 (2022); *Abbot v. Biden*, 70 F.4th 817, 827-29 (5th Cir. 2023).

      i. **How do you determine whether a statute's text is ambiguous?**

         Response: A statute is ambiguous if it is susceptible to more than one meaning. The paramount consideration is the text of the statute itself and the language used in context.

ii. **After you've determined that the text is ambiguous, what extrinsic sources—like legislative history or intent—do you look to when interpreting the statute's meaning?**

Response: Related statutes on the same subject are an important source in interpreting an ambiguous statute. Related statutes should not be construed together as to render one statute absurd or meaningless. Precedent interpreting the text is also pertinent.

iii. **What are your criteria for using extrinsic sources to aid in the interpretation of statutory or constitutional provisions?**

Response: If confirmed, I will follow all Supreme Court and Fifth Circuit guidance on using extrinsic sources to aid in interpretation.

4. **With respect to substantive due process, what factors do you look to when a case requires you to determine whether a right is fundamental and protected under the Fourteenth Amendment?**

Response: If confirmed as a district court judge, I would look to binding Supreme Court and Fifth Circuit precedent interpreting the Constitution's text and the standards set forth in applicable Supreme Court precedent, including, when appropriate, *Obergefell* and *Glucksberg*.

a. **Would you consider whether the right is expressly enumerated in the Constitution?**

Response: Yes.

b. **Would you consider whether the right is deeply rooted in this nation's history and tradition? If so, what types of sources would you consult to determine whether a right is deeply rooted in this nation's history and tradition?**

Response: Yes. Many Supreme Court cases require courts to consider whether the right is deeply rooted in the nation's history and tradition.

c. **Would you consider whether the right has previously been recognized by Supreme Court or circuit precedent? What about the precedent of another court of appeals?**

Response: As a district judge, I would be bound to apply all controlling Supreme Court and Fifth Circuit precedent. If an issue has not been addressed by either of those courts, other circuits' decisions may possibly be persuasive.

d. Would you consider whether a *similar* right has previously been recognized by Supreme Court or circuit precedent?

Response: Yes.

e. What other factors would you consider?

Response: As district judge, I would consider any other factors identified by Supreme Court and Fifth Circuit precedent.

5. In your view, is it ever appropriate for a judge to ignore, disregard, refuse to implement, or issue an order that is contrary to an order from a higher court? Please explain.

Response: No. District court judges must follow all orders from the respective circuit court and Supreme Court.

6. In *United States v. Virginia*, 518 U.S. 515, 536 (1996), the Court explained that in 1839, when the Virginia Military Institute was established, "[h]igher education at the time was considered dangerous for women," a view widely rejected today. In *Obergefell v. Hodges*, 576 U.S. 644, 668 (2015), the Court reasoned, "As all parties agree, many same-sex couples provide loving and nurturing homes to their children, whether biological or adopted. And hundreds of thousands of children are presently being raised by such couples . . . . Excluding same-sex couples from marriage thus conflicts with a central premise of the right to marry. Without the recognition, stability, and predictability marriage offers, their children suffer the stigma of knowing their families are somehow lesser." This conclusion rejects arguments made by campaigns to prohibit same-sex marriage based on the purported negative impact of such marriages on children.

a. When is it appropriate for a court to consider evidence that sheds light on our changing understanding of society?

Response: Courts often consider changing facts when deciding cases. For instance, an older regulation may not necessarily abridge speech as it might today when applied to the internet or emerging technologies. The relevance of such changing facts are decided on a case-by-case basis.

b. What is the role of sociology, scientific evidence, and data in judicial analysis?

Response: Evidentiary rules permit an expert's scientific, technical, or specialized testimony if it is based on sufficient data, is the product of reliable principles and methods, and reflects a reliable application of the principles and methods to the facts of the case. As with all other evidence, to be admissible, expert testimony must be relevant to the subject case.

7. I have been proud to co-lead the bipartisan *Safer Supervision Act*, a bill to reform our federal supervised release system that has received substantial conservative and law enforcement support. The premise of the bill is that our federal supervision system has strayed far from how Congress designed it, as courts impose it mechanically in essentially every case, which means that probation officers do not have time to properly supervise those who most need it. The bill reinforces courts' existing obligations under 18 U.S.C. §§ 3553 and 3583 to impose supervision as warranted by the individual facts of the case and encourages more robust use of early termination when warranted to provide positive incentives encouraging rehabilitation. At the encouragement of a bipartisan group of members of Congress, the U.S. Sentencing Commission recently finalized an amendment to supervision guidelines implementing certain parts of the bill; this amendment will go in effect in November.

   a. **As a sentencing judge, would you endeavor to impose supervision thoughtfully and on the basis of the individual facts of the case consistent with 18 U.S.C. § 3553 and 18 U.S.C. § 3583?**

      Response: Yes. Judges must follow congressional directives in each case when sentencing defendants, including the need to consider supervised release, the advisory Sentencing Guidelines, and the Title 18 U.S.C. § 3553(a) factors.

   b. **Would you agree that the availability of early termination under 18 U.S.C. § 3583(e)(1) can provide individuals positive incentives to rehabilitate?**

      Response: When enacting this statute, Congress determined in some instances early termination of supervised release is appropriate. If confirmed as a district judge, in line with the *Safer Supervision Act*, I will consider early termination when appropriate based on Title 18 U.S.C. § 3583 and the individual circumstances.

   c. **Will you commit if confirmed to reviewing the *Safer Supervision Act* and the recent Sentencing Commission amendment and considering them as you develop your approach to sentencing of supervised release?**

      Response: Yes.

8. **What is the remedy if the President violates his constitutional duty to faithfully execute the laws?**

   Response: To my knowledge, no court has recognized a private right of action based on the Take Care Clause found in Article II, Section 3, of the Constitution. If this question was ever presented to me, I would fairly and impartially consider the parties' briefs and arguments.

9. **Is President Trump eligible to be elected President for a third term?**

Response: According to the Twenty-Second Amendment, Section 1, "No person shall be elected to the office of the President more than twice."

10. Who won the 2016 U.S. Presidential Election?

Response: Congress certified President Trump as winner of the 2016 election. President Trump served as the 45th President from January 2017 to January 2021.

11. Who won the 2020 U.S. Presidential Election?

Response: Congress certified President Biden as winner of the 2020 election. President Biden served as 46th President from January 2021 to January 2025.

12. Who won the 2024 U.S. Presidential Election?

Response: Congress certified President Trump as winner of the 2024 election. President Trump is currently serving as the 47th President.

13. Do you agree with me that the attack at the U.S. Capitol on January 6, 2021, was an insurrection? Why or why not?

Response: The events and characterization of the conduct of persons at the Capitol on January 6, 2021, have become a topic of significant political debate. As a sitting judge and a judicial nominee, it is not appropriate for me to provide my personal views on political issues. I do not condone violence, especially directed toward law enforcement. Also, a close family member, early in her career, worked for the Sergeant at Arms for the Senate. So I have a personal and deep regard for those tasked with keeping safe the United States Capitol Building and the people who work there.

14. Do you think the individuals convicted of assaulting law enforcement officers at the Capitol on January 6, 2021, deserved to be pardoned?

Response: Article II of the Constitution confers to the President the power to pardon. I am aware of legal challenges to pardons issued for those prosecuted for involvement in events at the Capitol on January 6, 2021. As a sitting judge and a judicial nominee, it is not appropriate to comment on pending litigation or to give personal political views.

15. If you were the President on January 20, 2025, would you have pardoned the individuals convicted of assaulting law enforcement officers at the Capitol on January 6, 2021?

Response: As a sitting judge and a judicial nominee, it is not appropriate for me to opine on what I would do if I were President.

16. Would it be constitutional for the President of the United States to punish a private person for a viewpoint that person expresses in a newspaper op-ed?

Response: Without more detail, I am unable to answer this hypothetical. Free Speech is protected under the First Amendment. But what constitutes free speech as opposed to a true threat or actionable liable is fact and context specific.

17. Would it be constitutional for the President of the United States to terminate government contracts with a private person specifically because that person donated to members of the opposite political party?

Response: My understanding is that this issue is currently being litigated. As a sitting judge and a judicial nominee, it would not be appropriate for me to weigh in and provide a legal opinion.

18. Would it ever be appropriate for the President of the United States to punish a law firm for taking on a client that the President did not like?

Response: This question asks about current political disputes. As a sitting judge and a judicial nominee, it would not be appropriate for me to weigh in or provide a legal opinion.

19. Do you agree that there is a constitutional right to privacy that protects a woman's right to use contraceptives? If you do not agree, please explain whether this right is protected or not and which constitutional rights or provisions encompass it.

Response: The Supreme Court held in *Griswold* that laws banning contraceptives violate the fundamental constitutional right to privacy. If confirmed as a district judge, I would be bound to follow *Griswold* and all binding precedents.

20. Do you agree that the constitutional right to travel across state lines is fundamental and well established?

Response: The Constitution does not explicitly mention a "right to travel." But in *Saenz v. Roe*, 526 U.S. 489, 500 (1999), the Supreme Court acknowledged the "right to travel" "embraces at least three different components. It protects the right of a citizen of one State to enter and to leave another State, the right to be treated as a welcome visitor rather than an unfriendly alien when temporarily present in the second State, and, for those travelers who elect to become permanent residents, the right to be treated like other citizens of that State."

a. Do you think it is constitutional for a state to restrict the interstate travel of its citizens?

Response: See above.

21. Do you believe that the Constitution protects a fundamental right to privacy?

Response: See answer to question 19.

a. Does that right extend to information about your health care and medical history?

Response: Precedent suggests the answer to that question depends on the context. For example, for medical records of prisoners, there is a consensus among the United States Courts of Appeal that prisoners have no absolute constitutional right in the privacy of their medical records.

b. Do you agree that it is a violation of that right for states to surveil people's health care and medical history?

Response: The Fourth Amendment prohibits the government from unreasonable searches and seizures, but without more detail, I am unable to fully answer the hypothetical. And as a sitting judge and judicial nominee, it would not be appropriate for me to provide an advisory legal opinion.

22. Do you agree that there is a constitutional right to privacy that protects the right to in vitro fertilization (IVF)? If you do not agree, please explain whether this right is protected or not and which constitutional rights or provisions encompass it.

Response: I am not aware of any Supreme Court or Fifth Circuit decision that has addressed IVF in the context of the fundamental right to privacy. My understanding is that this is an emerging legal issue. As a sitting judge and a judicial nominee, it would not be appropriate for me to give an advisory legal opinion. If confirmed, I will apply all binding Supreme Court and Fifth Circuit precedent on the fundamental right to privacy to any relevant claims before me.

23. Do you believe that immigrants, regardless of legal status, are entitled to due process and fair adjudication of their claims?

According to the Fifth Amendment, "No person shall . . . be deprived of life, liberty, or property, without due process of law." In most cases, the question is less involved with whether due process applies and more with how much process is due. I understand presidents of both parties have sought expedited deportation in some circumstances that include fewer procedures than a full trial.

24. Does the public's original understanding of the scope of a constitutional provision constrain its application decades later?

Both the Supreme Court and the Fifth Circuit in various cases have interpreted constitutional provisions according to the meaning of the text as originally understood by the public at ratification. *Crawford v. Washington*, 541 U.S. 36 (2004); *N.Y. State Rifle*

& Pistol Ass'n v. Bruen, 597 U.S. 1, 17, 25, 28 (2022); *Abbott v. Biden*, 70 F.4th 817, 823 (5th Cir. 2023). If confirmed, I will follow Supreme Court and Fifth Circuit precedent.

25. What role does morality play in determining whether a challenged law or regulation is unconstitutional or otherwise illegal?

Response: A district judge must look to the language of the law or regulation and apply binding precedent to determine if the law or regulation is unconstitutional or illegal. A judge cannot uphold or strike a law based on personal views. That would be a legislative act and violate Separation of Powers.

26. What role, if any, should the practical consequences of a particular ruling play in a judge's rendering of a decision?

Response: Under Article III, Section 2, federal judges may only adjudicate actual cases and controversies. Federal judicial rulings always have practical consequences to the parties impacted by the rulings. Judges should not be outcome determinative. Neither can judges ignore the real-world impact of their rulings, especially for criminal defendants.

27. What role, if any, should empathy play in a judge's decision-making process?

Responses: Judges must be fair and impartial and respectful to all litigants. Law is not applied in a vacuum. And as mentioned above, rulings always have practical consequences that affect real people's lives and livelihoods. Even so, judges must apply the law to the facts of the case before them, regardless if they are sympathetic to a litigant.

28. What role, if any, should a judge's personal life experience play in his or her decision-making process?

Responses: Judges must be fair and impartial. Their task is to apply the law to the facts of the case in front of them. Ideally, a judge's personal and professional experiences will aid him or her in gaining the wisdom, knowledge, and integrity necessary to apply the law fairly and impartially.

29. Should you be confirmed, would you ever inform parties before you that they do not need to comply with your orders?

Response: I cannot envision a scenario in which I would tell a party they need not comply with an order I issued. Generally, litigants must follow all court orders, though rare scenarios exist where a court lacks jurisdiction or a litigant strategically chooses to defy an order, notably a discovery order, to keep certain information confidential, hoping the discovery order will be overturned on appeal. *Mohawk Indus. v. Carptenter*, 558 U.S. 100 (2009).

a. Under what circumstances would you tell a party they could decide not to comply with your orders?

Response: See above.

b. What would you do if a party refuses to comply with one of your orders?

Response: I would determine if the circumstances warranted holding the party in civil or criminal contempt.

30. When it comes to conducting yourself ethically, who in the legal profession do you see as a role model?

Response: My father, the late James D. Maxwell, who practiced law until his death in 2021.

31. Discuss your proposed hiring process for law clerks.

Response: As an appellate judge, I have hired multiple law clerks over the past sixteen years. My process is to carefully consider all applicants. Obtaining a writing sample and conducting an in-person interview are key, as strong written and oral communication skills are critical to a law clerk's success.

a. Do you think law clerks should be protected by Title VII of the Civil Rights Act?

Response: No law clerk should face discrimination based on race, color, religion, sex, or national origin. To the extent the question asks for a personal view on the scope of legislation, it is not appropriate for me, as a sitting judge and a judicial nominee, to weigh in on a legislative matter.

32. In the past year, multiple studies have revealed ongoing problems with workplace conduct policies and outcomes in the federal judiciary. In a national climate survey, hundreds of judiciary employees reported that they experienced sexual harassment, discrimination, or other forms of misconduct on the job. A study by the Federal Judicial Center and the National Academy of Public Administration found the branch has failed to set up trusted reporting systems for employees who experience misconduct or ensure that those handling complaints are adequately trained.

a. If confirmed, what proactive steps would you take to ensure that the clerks and judicial assistants who work in your chambers are treated with respect and are not subject to misconduct?

Response: I have overseen a judicial staff for more than sixteen years. We work as a team. That means we respect one another. If confirmed, I will lead my federal staff like my state court staff, with each member knowing that I care for

their best interest and well-being and will act swiftly if someone disrespects a staff member.

b. What proactive steps would you take to ensure that any workplace-related concerns that your clerks and judicial assistants may have are fully addressed?

Response: See above.

c. If you are confirmed and you later hear from a colleague or your chambers staff that another judge is acting inappropriately, what steps would you take to help ensure the problem is addressed?

Response: I would report the allegations to the court's employment dispute resolution contact and the chief judge.

33. Some district court judges have issued standing orders indicating that the court will favor holding an oral argument when there is a representation that the argument would be handled by a junior lawyer. Such efforts are intended to provide more speaking opportunities in court for junior lawyers. Would you consider issuing a standing order that would encourage more junior lawyers to handle oral arguments? Why or why not?

Response: If confirmed, I would be open to creating opportunities for new lawyers to gain valuable court experience.

a. How else would you support the skills development of junior lawyers appearing before you?

Response: I would encourage young lawyers to attend court often—either on their client's behalf or to observe other proceedings. As I mentioned during my committee hearing, my father often drove me to school as a child listening to cassette recordings of Racehorse Haynes, Moe Levine, Percey Foreman, and Melvin Belli—some of our nation's preeminent trial lawyers. These sources helped me understand and appreciate trial work. With fewer opportunities for young lawyers to gain trial experience, I would suggest similar resources as well as developing mentorships with seasoned trial attorneys practicing in the community.

34. Do you consider yourself an originalist?

Response: If confirmed as a district court judge, I will look to binding Supreme Court and Fifth Circuit precedent interpreting the Constitution's text. If faced with a novel constitutional issue, I will employ the Supreme Court's and Fifth Circuit's interpretive methodologies. Both courts routinely interpret constitutional provisions according to the meaning of the text as originally understood by the public at ratification. *Crawford v.*

Washington, 541 U.S. 36 (2004); *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 17, 25, 28 (2022); *Abbott v. Biden*, 70 F.4th 817, 823 (5th Cir. 2023).

a. You said during your Senate Judiciary Committee confirmation hearing that *Brown v. Board of Education* was correctly decided. Can you explain how the Court's decision in *Brown* comports with an originalist interpretation of constitutional law?

Response: Many well-respected scholars who have addressed this topic, have concluded *Brown v. Board of Education* is consistent with an originalist interpretation. *E.g.*, Michael W. McConnell, *Originalism and the Desegretation Decision*, 81 Va. L. Rev. 947, 1140 (1995) ("This Article shows . . . that school segregation was understood during Reconstruction to violate the principles of equality of the Fourteenth Amendment."). As stated in my committee hearing, I believe *Brown v. Board of Education* was correctly decided and is binding precedent.

b. You said during your Senate Judiciary Committee confirmation hearing that *Loving v. Virginia* was correctly decided. Can you explain how the Court's decision in *Loving* comports with an originalist interpretation of constitutional law?

Response: Scholars have explained how *Loving* is consistent with originalism—as influenced by Justice Scalia—which looks to the original *public meaning* of the text, not just the subjective intent of the drafters. *E.g.*, Steven G. Calabresi and Andrea Matthews, *Originalism and Loving v. Virginia*, 2012 B.Y.U. L. Rev. 1393 (2012) ("The Fourteenth Amendment and the Civil Rights Act of 1866 gave African Americans the same right as is enjoyed by white citizens either to marry a white citizen . . . ."). *Loving v. Virginia* was correctly decided based on an originalist interpretation of the Fourteenth Amendment and is binding precedent.

c. During your hearing, you were unwilling to answer whether you believed the Supreme Court's decision in *Obergefell v. Hodges* was correct. Why?

Response: Consistent with my testimony on September 3, 2025, it is not appropriate for judicial nominees to publicly opine whether particular Supreme Court precedents were correctly decided. To my knowledge, past nominees have only made exceptions for two decisions—*Brown v. Board of Education* and *Loving v. Virginia*. If confirmed, I will faithfully apply both decisions and all binding Supreme Court precedent.

d. How many times does Justice Kennedy's decision for the Supreme Court in *Obergefell* cite *Loving v. Virginia*?

Response: By my count, the majority opinion in *Obergefell* referenced *Loving* eight times.

Questions for the Record for Justice James Maxwell
Submitted by Senator Richard Blumenthal
September 10, 2025

1. You served as a federal prosecutor for seven years in the United States Attorney's Office for the Northern District of Mississippi. During that time, you served as a member of both the Organized Crime Drug Enforcement Task Force and the Project Safe Neighborhoods Task Force.

    a. **Please describe the work you did as part of each above-mentioned task force.**

    Response: As a member of the Organized Crime Drug Enforcement Task Force, I worked with federal, state, and local law enforcement agencies to investigate and prosecute drug trafficking cases assigned to me by the Northern District of Mississippi's OCDETF Chief. As a member of the Project Safe Neighborhoods Task Force, I worked with federal, state, and local law enforcement agencies to investigate and prosecute gun crimes affecting Mississippi communities.

2. **If confirmed, will you recuse yourself from any case where a reasonable person, knowing all the relevant facts, might question your impartiality, even if you personally believe you can be fair?**

    Response: If confirmed, I will follow the recusal standards set forth in 28 U.S.C. § 455, and I "shall disqualify [my]self in any proceeding in which [my] impartiality might reasonably be questioned."

    a. **If confirmed, will you recuse yourself from cases involving individuals, organizations, or entities to which you or your family members have made political contributions or provided political support?**

    Response: See above.

    b. **If confirmed, will you recuse yourself from cases involving former clients, former law firms, or organizations with which you have had significant professional relationships?**

    Response: See above.

    c. **If confirmed, will you recuse yourself from cases involving personal friends, social acquaintances, or individuals with whom you have ongoing personal relationships?**

    Response: See above.

3. **If confirmed, will you commit to avoiding all *ex parte* communications about pending cases, including informal discussions at social events or professional gatherings?**

Response: Yes. If confirmed, I will follow Judicial Code of Conduct 3(a)(4) concerning ex parte communications.

d. If confirmed, will you avoid discussing pending cases or judicial business with elected officials, political appointees, or political operatives?

Response: Yes. If confirmed, I will follow the Code of Conduct for United States Judges, and any other laws, rules, and procedures governing these circumstances.

e. If confirmed, will you commit to declining meetings or communications with lobbyists, advocacy groups, or special interests seeking to influence your judicial decisions?

Response: Yes. If confirmed, I will follow the Code of Conduct for United States Judges, and any other laws, rules, and procedures governing these circumstances.

f. If confirmed, will you refrain from making public statements about legal or political issues that could reasonably be expected to come before your court?

Response: Yes. If confirmed, I will follow the Code of Conduct for United States Judges, and any other laws, rules, and procedures governing these circumstances.

4. **If confirmed, will you commit to filing complete and accurate financial disclosure reports that include all required information about your financial interests and activities?**

Response: Yes. If confirmed, I will follow the Code of Conduct for United States Judges, and any other laws, rules, and procedures governing these circumstances.

g. If confirmed, will you decline all gifts from parties who might appear before your court or who have interests that could be affected by your judicial decisions?

Response: Yes. If confirmed, I will follow the Code of Conduct for United States Judges, and any other laws, rules, and procedures governing these circumstances.

h. If confirmed, will you decline privately funded travel, hospitality, or entertainment that could create an appearance of impropriety or special access?

Response: Yes. If confirmed, I will follow the Code of Conduct for United States Judges, and any other laws, rules, and procedures governing these circumstances.

i. If confirmed, will you ensure that any teaching, speaking, or writing activities comply with judicial ethics requirements and do not create conflicts with your judicial duties?

Response: Yes. If confirmed, I will follow the Code of Conduct for United States Judges, and any other laws, rules, and procedures governing these circumstances.

5. The House Republican-authored budget reconciliation bill had included a provision that would have limited federal judges' ability to hold government officials in contempt. While the Senate Parliamentarian ruled that the provision violated the Byrd Rule, and it was, therefore, removed, it would have prohibited federal courts from issuing contempt penalties against officials who disobey preliminary injunctions or Temporary Restraining Orders if the party seeking the order did not provide financial security to cover potential future damages for wrongful enjoining.

The contempt power was first codified in law in the Judiciary Act of 1789. In 1873, the Supreme Court described it as "inherent in all courts" and "essential to the preservation of order in judicial proceedings and to the enforcement of the judgements, orders, and writs of the courts, and consequently to the due administration of justice." Yet House Republicans are seeking to exempt government officials from this key tool for judicial enforcement.

a. Do you believe the contempt power is "essential . . . to the due administration of justice[?]"

Response: As the question acknowledges, the Supreme Court has declared the contempt power essential to the due administration of justice.

b. Do you believe that federal judges should be limited in their ability to hold government officials who defy court orders in contempt?

Response: As the question suggests, this issue appears to involve recent proposed legislation. As a sitting judge and a judicial nominee, it would not be appropriate for me to give a legal opinion, especially on a question that may appear in federal court one day.

6. If confirmed, you, like all other members of the federal bench, would have the ability to issue orders. On February 9, 2025, Vice President Vance posted on X that "[j]udges aren't allowed to control the executive's legitimate power." This raises an extremely concerning specter of Executive Branch defiance of court orders.

a. If confirmed, would you have the ability to issue orders?

Response: If confirmed, I will have the ability to issue orders in matters before the Northern District of Mississippi assigned to me.

i. Would you have the ability to enforce those orders?

Response: Yes. District judges have the ability to enforce their orders.

ii. What powers would you have to enforce those orders?

Response: If confirmed, if any party subject to the district court's jurisdiction appears to ignore or defy an order issued by the court, I would apply the standards set forth in Supreme Court and Fifth Circuit precedent regarding contempt. Contempt may be civil or criminal. To hold a respondent in civil contempt, it must be found by clear and convincing evidence that "(1) a court order was in effect, (2) the order required specified conduct by the respondent, and (3) the respondent failed to comply with the court's order." *United States v. City of Jackson*, 359 F.3d 727, 731 (5th Cir.2004). To be found guilty of criminal contempt, the contemptuous conduct must be proven beyond a reasonable doubt. *Gompers v. Buck's Stove & Range Co.*, 221 U.S. 418 (1911).

b. Does there exist a legal basis for federal Executive Branch officials to defy federal court orders? If so, what basis and in which circumstances?

Response: Aggrieved litigants have several options. If the order is final, a litigant may seek a stay and appeal that order to a higher court. If the order is non-final, the litigant may ask the court to reconsider its ruling. The litigant may also seek permission to file an interlocutory appeal with a higher court. As the Supreme Court has also acknowledged, extraordinary circumstances may exist in which a writ of mandamus may be sought or situations where a litigant may choose to defy a court order to prevent disclosure of confidential information, triggering the right to appeal any resulting contempt ruling. *Mohawk Indus. v. Carptenter*, 558 U.S. 100 (2009).

c. Does there exist a legal basis for state officials to defy federal court orders? If so, what basis and in which circumstances?

Response: Generally, litigants must follow all court orders, though rare scenarios exist where a court lacks jurisdiction or, as mentioned above, a litigant strategically chooses to defy an order, notably a discovery order, to keep certain information confidential, hoping the discovery order will be overturned on appeal. *Mohawk Indus. v. Carpenter*, 558 U.S. 100 (2009).

d. What would make a court order unlawful?

Response: An issuing Court's lack of jurisdiction would be the most obvious reason a court order is unlawful.

i. **What is the process a party should follow if it believes a court order to be unlawful?**

Response: Typically, if a party questions the lawfulness of an order, the party either will ask the issuing court to reconsider the order or, if the order is final, appeal the order to a higher court, advancing the reasons why the party believes the order is unlawful.

ii. **Is it ever acceptable to not follow this process? When and why?**

Response: Generally, litigants must follow all court orders, though rare scenarios exist where a court lacks jurisdiction or, as mentioned above, a litigant strategically chooses to defy an order, notably a discovery order, to keep certain information confidential, hoping the discovery order will be overturned on appeal. *Mohawk Indus. v. Carpenter*, 558 U.S. 100 (2009).

7. **Were you in Washington, D.C. on January 6, 2021?**

Response: No. On January 6, 2021, my father was hospitalized on his eleventh day on a ventilator, suffering from COVID-19. To the best of my recollection, I was in Mississippi helping my mother draft a petition for a conservatorship to handle his affairs. My father died January 15, 2021.

a. **Were you inside the U.S. Capitol or on the U.S. Capitol grounds on January 6, 2021?**

Response: See above.

Senator Mazie K. Hirono
Senate Judiciary Committee

Nomination Hearing
Questions for the Record for James Donald Maxwell

1. As part of my responsibility as a member of this committee to ensure the fitness of nominees, I ask each nominee to answer two initial questions:

   a. Since you became a legal adult, have you ever made unwanted requests for sexual favors, or committed any verbal or physical harassment or assault of a sexual nature?

   Response: No.

   b. Have you ever faced discipline or entered into a settlement related to this kind of conduct?

   Response: No.

2. In *Brown v. Board of Education*, the Supreme Court established that a doctrine of "separate but equal" has no place in public education, because separate is inherently unequal.

   a. Do you believe the case was rightly decided?

   Response: Consistent with my testimony on September 3, 2025, it is not appropriate for judicial nominees to publicly opine whether particular Supreme Court precedents were correctly decided. To my knowledge, past nominees have only made exceptions for two decisions—*Brown v. Board of Education* and *Loving v. Virginia*. Consistent with my testimony on September 3, I agree *Brown v. Board of Education* was correctly decided. If confirmed, I will faithfully apply *Brown v. Board of Education* and all binding Supreme Court precedent.

3. In *Obergefell v. Hodges*, the Supreme Court held that "same-sex couples may exercise the fundamental right to marry in all States," and that "there is no lawful basis for a State to refuse to recognize a lawful same-sex marriage performed in another State on the ground of its same-sex character."

   a. **Do you believe the case was rightly decided?**

   Response: Consistent with my testimony on September 3, 2025, it is not appropriate for judicial nominees to publicly opine whether particular Supreme Court precedents were correctly decided. To my knowledge, past nominees have only made exceptions for two decisions—*Brown v. Board of Education* and

Loving v. Virginia. If confirmed, I will faithfully apply all binding Supreme Court precedent.

b. **If you have not answered this question with a "yes" or "no" but did answer question 2 above, explain why you feel the cases are differently situated such that you chose to answer them differently.**

Response: Consistent with my testimony on September 3, 2025, it is not appropriate for judicial nominees to publicly opine whether particular Supreme Court precedents were correctly decided. To my knowledge, past nominees have made exceptions for two decisions—*Brown v. Board of Education* and *Loving v. Virginia*. As Justice Ketanji Brown Jackson wrote in response, *Brown* warrants this special status because that decision overruled the manifest injustice of *Plessy v. Ferguson*, 163 U.S. 537 (1896), and the underlying premise of the *Brown* decision—i.e., that "separate but equal is inherently unequal"—is beyond dispute. *Loving* is a direct outgrowth of *Brown*. If confirmed, I will faithfully apply all binding Supreme Court precedent.

Nomination of James Donald Maxwell II
United States District Court for the Northern District of Mississippi
Questions for the Record
Submitted September 10, 2025

QUESTIONS FROM SENATOR BOOKER

1. In 2025, you authored a majority opinion of the Mississippi Supreme Court that upheld a ruling that denied a transgender teen's name change despite his parents' consent. The majority opinion repeatedly identified and referred to the transgender teen as a female and affirmed the chancellor's conclusion that "it [is] in the minor's best interest to wait until [he] was more mature to decide to legally change [his] name as part of a gender transition."

   a. **According to the majority's reasoning, under what circumstances would a minor ever be able to legally change their name as part of a gender transition?**

      Response: In *McKay*, a minor biological female's trial attorney referred to her young client as "she" and "her" when appearing before a chancellor and petitioning the court to change the minor's name as part of a gender transition. The chancellor dismissed the name change petition to be refiled when the minor is more mature. On review, the Mississippi Supreme Court affirmed, holding (in an 8-1 opinion)—that based on longstanding Mississippi precedent—chancellors "have discretionary authority to grant or deny a minor's requested name change. In fact, a chancellor may only grant a petition to change a minor's name when it is 'clearly in the best interest of the child.'" *S.M.-B. by & through McKay v. Miss. State Bd. of Health*, 407 So. 3d 1050, 1055 (Miss. 2025) (quoting *Marshall v. Marshall*, 230 Miss. 719, 93 So. 2d 822, 825 (1957). Thus, the chancellor did not manifestly err by dismissing the name change petition to be refiled when the minor is more mature. *Id.* To the extent this question asks for an advisory opinion, or to comment on future matters that may come before the Court, it is not appropriate for a sitting judge and judicial nominee to so opine.

   b. **According to the majority's reasoning, under what circumstances would a non-transgender minor be able to legally seek a name change?**

      Response: See above.

2. The American Bar Association (ABA) Standing Committee on the Federal Judiciary has conducted extensive peer evaluations of the professional qualifications of a president's nominees to become federal judges for seven decades. This practice has endured through 18 presidential administrations, under Republican and Democratic presidents.

   On May 29, 2025, Attorney General Pam Bondi ended this longstanding practice when she informed the ABA that, "[T]he Office of Legal Policy will no longer direct nominees to provide waivers allowing the ABA access to nonpublic information, including bar

records. Nominees will also not respond to questionnaires prepared by the ABA and will not sit for interviews with the ABA."

a. Do you agree with AG Bondi that "the ABA no longer functions as a fair arbiter of nominees' qualifications and its ratings invariably and demonstrably favor nominees put forth by Democratic administrations"?

Response: As a sitting judge and a judicial nominee, it would not be appropriate to comment on personal statements of Attorney General Bondi or her perception of the nomination process.

3. How would you characterize your judicial philosophy?

Response: When applying a statute or constitutional provision, the text should be interpreted according to its plain language and applied as written, consistent with any binding precedent from higher courts. As I shared with the Committee on September 3, 2025, I believe a trial judge should not only call "balls and strikes" but maintain a consistent strike zone. This way all litigants—civil and criminal—who appear before the court know what to expect and are assured they will be treated fairly.

4. What do you understand originalism to mean?

Response: As I understand originalism, constitutional provisions should be interpreted according to the meaning of the text as originally understood by the public at ratification.

5. Do you consider yourself an originalist?

Response: If confirmed as a district court judge, I will look to binding Supreme Court and Fifth Circuit precedent interpreting the Constitution's text. If faced with a novel constitutional issue, I will employ the Supreme Court's and Fifth Circuit's interpretive methodologies. Both courts routinely interpret constitutional provisions according to the meaning of the text as originally understood by the public at ratification. *E.g.*, *Crawford v. Washington*, 541 U.S. 36 (2004); *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 17, 25, 28 (2022); *Abbot v. Biden*, 70 F.4th 817, 827-29 (5th Cir. 2023).

6. What do you understand textualism to mean?

Response: As I understand it, textualism calls for a judge to interpret the text as written, according to its meaning at the time of enactment.

7. Do you consider yourself a textualist?

Response: In approaching statutory interpretation, I would follow the methodological instructions of the Supreme Court and Fifth Circuit.

8. Legislative history refers to the record Congress produces during the process of passing a bill into law, such as detailed reports by congressional committees about a pending bill or statements by key congressional leaders while a law was being drafted. Some federal judges consider legislative history when analyzing the meaning of a statute.

a. If you are confirmed to serve on the federal bench, would you consult and cite legislative history to analyze or interpret a federal statute?

Response: See answer to question 7.

b. Do you believe that congressional intent matters when interpreting a statute? Why or why not.

Response: As the Supreme Court has said, "Legislative history is not the law." *Epic Sys. Corp. v. Lewis*, 584 U.S. 497, 523 (2018). Once Congress passes a statute, the task of the court is to determine, not what Congress meant, but what the statute means. *Id.*

9. According to an academic study, Black men were 65 percent more likely than similarly-situated white men to be charged with federal offenses that carry harsh mandatory minimum sentences.

a. What do you attribute this to?

Response: Not being familiar with this study, any opinion on the above-cited statistics would be speculative. As a district judge nominee, if confirmed, I will treat all criminal defendants before me fairly and consistently, without regard to color, race, or ethnicity.

10. A recent report by the United States Sentencing Commission observed demographic differences in sentences imposed during the five-year period studied, with Black men receiving federal prison sentences that were 13.4 percent longer than white men.

a. What do you attribute this to?

Response: I am unfamiliar with the above-mentioned report and any insight the report gives as to observed sentencing disparities. As a district judge nominee, if confirmed, I will treat all criminal defendants before me fairly and consistently, without regard to color, race, or ethnicity.

11. What role do you think federal judges, who review difficult, complex criminal cases, can play in ensuring that a person's race did not factor into a prosecutor's decision or other instances where officials exercise discretion in our criminal justice system?

Response: Each criminal case should be considered fairly and individually on its merits. And as I shared with the Committee on September 3, 2025, I believe a trial judge's role is

to not only call "balls and strikes" but to maintain a consistent strike zone. Among the sentencing factors judges must assess, is "the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct." Title 18 U.S.C. § 3553(a).

12. Do you believe it is an important goal for there to be demographic diversity in the judicial branch? Why or why not.

Response: Yes. Nobody should be excluded from the opportunity to serve as a judge based solely on race, ethnicity, sex, religion, or any other protected characteristic. Having qualified and experienced judges from various legal backgrounds makes for a well-rounded judiciary.

13. Please indicate whether you have ever published written material or made any public statements relating to the following topics. If so, provide a description of the written or public statement, the date and place/publication where the statement was made or published, and a summary of its subject matter. Mere reference to the list of publications and statements provided in your Senate Judiciary Questionnaire is insufficient; provide specific responses.

If you have not disclosed a copy of the publication or a transcript of the statement to the Judiciary Committee, please attach a copy or link to the materials and please explain why you have not previously disclosed them.

a. Abortion
b. Affirmative action
c. Contraceptives or birth control
d. Gender-affirming care
e. Firearms
f. Immigration
g. Same-sex marriage
h. Miscegenation
i. Participation of transgender people in sports
j. Service of transgender people in the U.S. military
k. Racial discrimination
l. Sex discrimination
m. Religious discrimination
n. Disability discrimination
o. Climate change or environmental disasters
p. "DEI" or Diversity Equity and Inclusion

Response: To the best of knowledge, I have never published any articles or made any public statements related to the above topics.

14. Under what circumstances would it be acceptable for an executive branch official to ignore or defy a federal court order?

Response: Generally, litigants must follow all court orders, though rare scenarios exist where a court lacks jurisdiction or, a litigant strategically chooses to defy an order, notably a discovery order, to keep certain information confidential, hoping the discovery order will be overturned on appeal. *Mohawk Indus. v. Carpenter*, 558 U.S. 100 (2009).

a. If an executive branch official ignores or defies a federal court order, what legal analysis would you employ to determine whether that official should be held in contempt?

Response: If confirmed, if any party subject to the district court's jurisdiction appears to ignore or defy an order issued by the court, I would apply the standards set forth in Supreme Court and Fifth Circuit precedent regarding contempt. Contempt may be civil or criminal. To hold a respondent in civil contempt, it must be found by clear and convincing evidence that "(1) a court order was in effect, (2) the order required specified conduct by the respondent, and (3) the respondent failed to comply with the court's order." *United States v. City of Jackson*, 359 F.3d 727, 731 (5th Cir.2004). To be found guilty of criminal contempt, the contemptuous conduct must be proven beyond a reasonable doubt. *Gompers v. Buck's Stove & Range Co.*, 221 U.S. 418 (1911).

b. Is there any legal basis that would allow an executive branch official to ignore or defy temporary restraining orders and preliminary injunctions issued by federal district court judges? Please provide each one and the justification.

Response: Generally, litigants must follow all court orders, though rare scenarios exist where a court lacks jurisdiction or, a litigant strategically chooses to defy an order, notably a discovery order, to keep certain information confidential, hoping the discovery order will be overturned on appeal. *Mohawk Indus. v. Carptenter*, 558 U.S. 100 (2009). Seeking a stay and appealing a temporary restraining order or preliminary injunction is the most common way to avoid immediate compliance with a TRO or injunction.

15. Does the president have the power to ignore or nullify laws passed by Congress?

Response: According to the Constitution, the President "shall take Care that the Laws be faithfully executed . . . ." U.S. Const., Art. II, § 3. The President has the authority to object to and not sign into law bills presented to him. U.S. Const., Art. I, § 7.

16. Does the president have the power to withhold funds appropriated by Congress?

Response: My understanding is that this issue is currently being litigated. As a sitting judge and a judicial nominee, it would not be appropriate to provide a legal opinion.

17. Does the president have the power to discriminate by withholding funds against state or local jurisdictions based on the political party of a jurisdiction's elected officials?

Response: My understanding is that this issue is currently being litigated. As a sitting judge and a judicial nominee, it would not be appropriate to provide a legal opinion.

18. Does the Supremacy Clause of the U.S. Constitution establish that federal laws supersede conflicting state laws?

Response: Yes.

19. Does the Fifth Amendment of the U.S. Constitution apply to non-citizens present in the United States?

Response: According to the Fifth Amendment, "No person shall . . . be deprived of life, liberty, or property, without due process of law." In most cases, the question is less involved with whether due process applies and more with how much process is due. I understand presidents of both parties have sought expedited deportation in some circumstances that include fewer procedures than a full trial.

20. Is it constitutional for Congress to delegate to federal agencies the power to implement statutes through rulemaking?

Response: Article I, Section 1 of the Constitution provides that "[a]ll legislative Powers herein granted shall be vested in a Congress of the United States." According to the Supreme Court, congress cannot delegate this power. *Fed. Commc'ns Comm'n v. Consumers' Rsch.*, 145 S. Ct. 2482, 2491 (2025). My understanding is that the extent the non-delegation doctrine impacts an agency's rule-making ability is currently being litigated. As a sitting judge and a judicial nominee, it would not be appropriate for me to provide a legal opinion.

21. Was *Brown v. Board of Education*, 347 U.S. 483 (1954), correctly decided?

Response: Consistent with my testimony on September 3, 2025, it is not appropriate for judicial nominees to publicly opine whether particular Supreme Court precedents were correctly decided. To my knowledge, past nominees have only made exceptions for two decisions—*Brown v. Board of Education* and *Loving v. Virginia*. Consistent with my testimony on September 3, I agree *Brown* was correctly decided.

22. Is *Griswold v. Connecticut*, 381 U.S. 479 (1965), binding precedent? Please describe the facts and holding of this case.

Response: *Griswold* is binding precedent. That case concerned persons convicted under Connecticut's birth-control law. The Supreme Court held that Connecticut's law forbidding use of contraceptives unconstitutionally intrudes upon the right of marital privacy.

23. Is *Lawrence v. Texas*, 539 U.S. 558 (2003), binding precedent? Please describe the facts and holding of this case.

Response: *Lawrence* is binding precedent. That case concerned criminal convictions for sodomy. The Supreme Court struck down the Texas law under which they were convicted, ruling it violated the petitioners' fundamental right to liberty.

24. Is *Obergefell v. Hodges*, 576 U.S. 644 (2015), binding precedent? Please describe the facts and holding of this case.

Response: *Obergefell* is binding precedent. That case concerned state same-sex marriage bans and their impact on couples who wished to marry and officials issuing licenses and certificates. The Supreme Court held that, under the Due Process and Equal Protection Clauses of the Fourteenth Amendment, same-sex couples may not be deprived of the fundamental right to marry.

25. Do you believe that President Biden won the 2020 election? Note that this question is not asking who was certified as president in the 2020 election.

Response: Congress certified President Biden as the winner of the 2020 election. Certification is the method of determining the result of the election. President Biden served as the 46th President from January 2021 to January 2025.

a. Did Biden win a majority of the electoral vote in the 2020 election?

Response: Congress certified President Biden as the winner of the 2020 election.

b. Do you believe that the results of the 2020 election, meaning the vote count, were accurate? If not, please provide why not and examples.

Response: I have never personally inquired into the vote counts for the 2020 election. As a sitting judge and judicial nominee, it is not appropriate to provide a personal view of the accuracy of a political election.

26. The 22nd Amendment says that "no person shall be elected to the office of the President more than twice."

a. Do you agree that President Trump was elected to the office of the President in the 2016 election?

Response: Congress certified President Trump as winner of the 2016 election. He served as President from January 2017 to January 2021.

b. Did Trump win a majority of the electoral vote in the 2016 election?

Response: Constitutionally, the winner of the presidential election is selected by the electoral college. To win a majority of the electoral college, a candidate needs at

least 270 votes. According to the National Archives, in the 2016 election, President Trump received 304 electoral college votes.

c. Do you agree that President Trump was elected to the office of the President in the 2024 election?

Response: As a result of the 2024 election, President Trump is currently serving as the 47th President of the United States.

d. Did Trump win a majority of the electoral vote in the 2024 election?

Response: Constitutionally, the winner of the presidential election is selected by the electoral college. To win a majority of the electoral college, a candidate needs at least 270 votes. According to the National Archives, in the 2024 election, President Trump received 312 electoral college votes.

e. Do you agree that the 22nd Amendment, absent a constitutional amendment, prevents President Trump from running for a third presidential term?

Response: According to the Twenty-Second Amendment, Section 1, "No person shall be elected to the office of the President more than twice…."

27. Has any official from the White House or the Department of Justice, or anyone else involved in your nomination or confirmation process, instructed or suggested that you not opine on whether any past Supreme Court decisions were correctly decided?

Response: In preparation for the confirmation hearing, I met with Department of Justice attorneys who provided guidance on what questions the committee has asked to nominees in the past and my ethical obligations as a judicial nominee bound by the Code of Conduct for United States Judges. The answers I gave at the confirmation hearing were my own.

28. Have you spoken or corresponded with Elon Musk since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

29. Have you spoken or corresponded with any member of the Department of Government Efficiency (DOGE) since November 2024? If yes, identify the member(s) and provide the dates, mode, and content of those discussions and communications.

Response: No.

30. Have you spoken or corresponded with Stephen Miller since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

31. Have you spoken or corresponded with Chad Mizelle since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

32. Have you spoken or corresponded with Pam Bondi since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

33. Have you spoken or corresponded with Todd Blanche since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

34. Have you spoken or corresponded with Emil Bove since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

35. Have you spoken or corresponded with Leonard Leo since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

36. Have you—personally or through any of your affiliated companies or organizations, agents, or employees—provided financial support or other resources to any members of the Proud Boys or of the Oath Keepers for their legal fees or for other purposes? If yes, state the amount of financial support provided, dates provided, and for what purposes.

Response: No.

37. Have you ever spoken or corresponded with any of the following individuals? If yes, provide the dates, mode, and content of those discussions and communications.

a. Enrique Tarrio
b. Stewart Rhodes
c. Kelly Meggs
d. Kenneth Harrelson
e. Thomas Caldwell

f. Jessica Watkins
g. Roberto Minuta
h. Edward Vallejo
i. David Moerschel
j. Joseph Hackett
k. Ethan Nordean
l. Joseph Biggs
m. Zachary Rehl
n. Dominic Pezzola
o. Jeremy Bertino
p. Julian Khater

Response: No. I do not know any of the individuals listed, and to the best of my knowledge, I have not communicated with any of them.

38. Have you ever spoken or corresponded with any individuals convicted and later pardoned of offenses related to the January 6, 2021 attack on the U.S. Capitol? If yes, identify the individual(s) and provide the dates, mode, and content of those discussions and communications.

Response: To the best of my knowledge, I have never spoken or corresponded with anyone convicted and later pardoned in connection with the events at the Capitol on January 6, 2021.

39. Have you ever been demoted, terminated, or experienced any other adverse employment action?

Response: No.

a. If yes, please describe the events that led to the adverse employment action.

b. If no, please affirm that, since becoming a legal adult, you have left each place of employment voluntarily and not subject to the request or suggestion of any employer.

Response: I affirm that I have left each place of employment voluntarily and not subject to the request or suggestion of any employer.

40. Federal judges must file annual financial disclosure reports and periodic transaction reports. If you are confirmed to the federal bench, do you commit to filing these disclosures and to doing so on time?

Response: Yes.

41. Article III Project (A3P) "defends constitutionalist judges and the rule of law." According to Mike Davis, Founder & President of A3P, "I started the Article III Project

in 2019 after I helped Trump win the Gorsuch and Kavanaugh fights. We saw then how relentless—and evil—too many of today's Democrats have become. They're Marxists who hate America. They believe in censorship. They have politicized and weaponized our justice systems."

a. Do you agree with the above statement?

Response: I am not involved with A3P and am unfamiliar with its founder's reason for starting the organization. To the extent this question asks for my personal political views, it is not appropriate for me as a sitting judge and a judicial nominee to give my personal opinion on political issues.

b. Have you discussed any aspect of your nomination to the federal bench with any officials from or anyone directly associated with A3P, or did anyone do so on your behalf? If yes, identify the individual(s) and provide the dates, mode, and content of those discussions and communications.

Response: To the best of my knowledge, no.

c. Are you currently in contact with anyone associated with A3P? If so, who?

Response: No.

d. Have you ever been in contact with anyone associated with A3P? If so, who?

Response: To the best of my knowledge, no.

42. Since you were first approached about the possibility of being nominated, did anyone associated with the Trump Administration or Senate Republicans provide you guidance or advice about which cases to list on your Senate Judiciary Questionnaire (SJQ)?

Response: No.

a. If so, who? What advice did they give?

Response: During the nomination process, I have been in contact with various individuals with the Office of Legal Policy. While they advised me generally on various types of information required to complete the SJQ, I determined what cases to include.

b. Did anyone suggest that you omit or include any particular case or type of case in your SJQ?

Response: No. I decided what cases to include in my SJQ, based on what was asked.

43. During your selection process did you talk with any officials from or anyone directly associated with the Article III Project, or did anyone do so on your behalf? If so, what was the nature of those discussions?

Response: To the best of my knowledge, no.

44. During your selection process did you talk with any officials from or anyone directly associated with the Federalist Society, or did anyone do so on your behalf? If so, what was the nature of those discussions?

Response: To the best of my knowledge, no.

45. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding your nomination.

Response: On April 17, 2025, I was contacted by the White House Counsel's Office to schedule an interview. On April 24, 2025, I interviewed with attorneys from the White House Counsel's Office and the Justice Department's Office of Legal Policy. On May 29, 2025, I was notified by the White House Counsel's Office that the President was considering nominating me for the United States District Court for the Northern District of Mississippi. Since then, I have been in regular contact with the Office of Legal Policy to discuss required submissions, logistics, preparing for the committee hearing, and my responses to written questions.

46. Please explain, with particularity, the process whereby you answered these written questions.

Response: In answering these written questions, I looked over past nominees' responses and reviewed the Constitution, Supreme Court and Fifth Circuit Precedent, and relevant legal topics. I wrote responses to each question submitted. I submitted my draft responses to the Office of Legal Policy, which in turn provided feedback. I then finalized my answers before submitting them.

September 1, 2025

The Honorable Charles Grassley
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Richard Durbin
Ranking Member, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Re: Nomination of James D. Maxwell II for the U.S. District Court for the Northern District of Mississippi

Dear Chairman Grassley and Ranking Member Durbin:

We write as current and former Mississippi Bar Association Presidents elected from North Mississippi and attorneys from the district to express our strong support for the nomination of James D. Maxwell II of Oxford, Mississippi, to the United States District Court for the Northern District of Mississippi.

Our two groups represent a wide range of political affiliations, legal practices, and judicial philosophies. But we all agree on one thing—that Justice Maxwell's extensive judicial and federal trial experience, commitment to justice, and leadership in Mississippi's legal profession uniquely qualify him to serve on the Northern District bench. We are united in support of his nomination.

For over sixteen years, Justice Maxwell has served as a judge on Mississippi's highest courts—first on the Mississippi Court of Appeals, then on the Mississippi Supreme Court. He has authored over 500 majority opinions and participated in more than 4,600 appeals, deciding all facets of criminal and civil law. And he has been elected four times, unopposed, in non-partisan elections, from judicial districts largely mirroring the Northern District—a testament to his standing among the bench and bar and reputation as a public servant.

Justice Maxwell is also intimately familiar with this specific federal district court. Before becoming a judge, he served the Northern District of Mississippi as Assistant United States Attorney, trying and prosecuting hundreds of federal criminal offenses. From public corruption and white-collar fraud to drug trafficking, money laundering, and gang crimes, he has handled all aspects of federal criminal trial and appellate practice.

Justice Maxwell has also served in various leadership roles in the Mississippi Bar Association and local bar associations. He is a Past President of the Young Lawyers Division of the Mississippi Bar, the Lafayette County Bar, and Tri-County Young Lawyers. And his peers

selected him Fellow of the Mississippi Bar Foundation, an honor reserved for lawyers exemplifying the highest level of professionalism and legal competence.

For these reasons, we are confident Justice Maxwell will serve the Northern District of Mississippi with integrity, distinction, and a continued commitment to justice. We strongly support his nomination to the Northern District bench and urge the Senate to confirm him without delay.

Sincerely,

Mississippi Bar Association Presidents (District 1, Encompassing the Northern District of Mississippi)

J. Rhea Tannehill, Current
Blake Teller, 2022
Amanda Jones Tollison, 2019
W. Briggs Hopson, III, 2016
Guy W. Mitchell, III, 2013
Nina Stubblefield Tollison, 2010
Robert R. Bailess, 2007
Charles J. Swayze, Jr., 2004
W.C. "Cham" Trotter, III, 2001
Guthrie T. Abbott, 1998
L.F. Sams, Jr., 1995
Frank O. Crosthwait, Jr., 1989

Attorneys from the Northern District of Mississippi

John Marshall Alexander, Former Criminal Chief, United States Attorney's Office, Northern District of Mississippi
Gwendolyn Baptist-Rucker
Wilton V. "Trey" Byars, III
The Honorable George C. Carlson, Former Justice, Mississippi Supreme Court
Edward "Ted" P. Connell, Jr.
John H. Daniels, III
Thomas W. Dawson, Former First Assistant United States Attorney, Northern District of Mississippi
Anthony L. Farese
Steven E. Farese, Sr.
The Honorable Jim M. Greenlee, Former Judge, Mississippi Court of Appeals
The Honorable Andrew K. Howorth, Former Judge, Third Circuit Court District
Tom Levidiotis
J. Cal Mayo, Jr.
John D. Mayo
Floyd Melton, III
William C. Murphree
Fred C. Permenter, Jr.
Harris F. Powers, III
Rodney A. Ray
William F. Travis
Rachel Pierce Waide
The Honorable William L. Waller, Jr., Former Chief Justice, Mississippi Supreme Court
James "Jay" Lowe Weir
John Wheeler

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

1. **Name**: State full name (include any former names used).

Harold "Hal" Dean Mooty III

2. **Position**: State the position for which you have been nominated.

United States District Judge for the Northern District of Alabama

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

Bradley Arant Boult Cummings LLP
200 Clinton Avenue West
Suite 900
Huntsville, Alabama 35801

4. **Birthplace**: State year and place of birth.

1983; Tuscaloosa, Alabama

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

2005 – 2008, University of Alabama School of Law; J.D., 2008

2001 – 2005, University of Alabama; B.S., 2005

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2012 – present
Bradley Arant Boult Cummings LLP
200 Clinton Avenue West
Suite 900

Huntsville, Alabama 35801
Partner (2017 – present)
Associate (2012 – 2016)

Summer 2006, Summer 2007, 2008 – 2012
Lanier Ford Shaver & Payne PC
2101 West Clinton Avenue
Suite 102
Huntsville, Alabama 35805
Associate (2008 – 2012)
Summer Associate (Summer 2006, Summer 2007)

Spring 2008
The University of Alabama
College of Communication & Information Sciences
P.O. Box 870172
Instructor, COM-123

Summer 2006
Ball Ball Matthews & Novak PA
Summer Associate
445 Dexter Avenue
Suite 9045
Montgomery, Alabama 36104

Summer 2005
Mooty & Associates PC
Runner
600 Clay Street
Montgomery, Alabama 36104

Other Affiliations (Uncompensated):

2016 – present
Alabama Defense Lawyers Association
P.O. Box 3240
Auburn, Alabama 36831-3240
Member, Board of Directors (2017 – 2020, 2023 – present)
Faculty Member, Deposition Boot Camp (2021 – present)
President, Young Lawyers Section (2016 – 2017)

2010 – 2014
Crisis Services of North Alabama, Inc.
P.O. Box 368
Huntsville, Alabama 35804
President, Board of Directors (2013 – 2014)

Member, Board of Directors (2010 – 2013)

7. **Military Service and Draft Status**: Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

I did not serve in the military. I registered for the selective service upon turning 18.

8. **Honors and Awards**: List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

The Best Lawyers in America, Commercial Litigation (2026)

The Best Lawyers in America: Ones to Watch, Commercial Litigation, Litigation Intellectual Property (2021 – 2025)

Mid-South Super Lawyers, "Rising Star" in Business Litigation (2016 – 2018)

Alabama Access to Justice Commission, Pro Bono Exemplar (2015)

Alabama Super Lawyers, "Rising Star" in Civil Litigation: Defense (2014 – 2015)

Madison County Volunteer Lawyers Program, Volunteer of the Month (July 2014)

Order of Barristers (2008)

Bench and Bar Legal Honor Society (2008)

Campbell Moot Court Board (2008)

George Peach Taylor Award for Excellence in Trial Advocacy (2008)

University of Alabama Student Government Association, President (2004 – 2005)

Jason's Honor Society (2004 – 2005)

National Champion in Congressional Debate (DSR-TKA) (2002)

Alabama Forensic Educator Association
State Champion in International Extemporaneous Speaking (2001)
State Champion in Impromptu Speaking (2001)

National Speech and Debate Association, National Qualifier, Lincoln Douglas Debate and International Extemporaneous Speaking (2001)

9. **Bar Associations**: List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

Alabama Defense Lawyers Association
Board Member (2017 – 2020, 2023 – present)
Deposition Boot Camp Faculty Member (2021 – present)
President of Young Lawyers Section (2016 – 2017)

Alabama State Bar
Digital Communications Committee (2015 – 2017)
Leadership Forum (2015)
Young Lawyers Executive Committee (2012 – 2015)

American Bar Association (2008 – present)

International Association of Defense Counsel
Trial Academy at Stanford University School of Law (2016)

Huntsville/Madison County Bar Association (2008 – present)

Supreme Court of Alabama
Alabama Access to Justice Commission (2023 – present)

10. **Bar and Court Admission**:

a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Alabama, 2008. There have been no lapses in membership.

b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

United States Court of Appeals for the Eleventh Circuit, 2018

United States District Court for the Northern District of Alabama, 2010

United States District Court for the Middle District of Alabama, 2019

United States District Court for the Southern District of Alabama, 2012

Supreme Court of Alabama, 2008

There have been no lapses in membership.

11. **Memberships**:

a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Alabama Leadership Initiative (2016)

Children's Hospital of Alabama
Committee of the Future (2016)

Crisis Services of North Alabama, Inc.
Board President (2013 – 2014)
Board Member (2010 – 2013)

Hudson Alpha Institute of Biotechnology
Ambassador (2015 – 2025)

Huntsville Hospital
Development Council (2018 – 2021)

Huntsville Madison County Bar Association (2008 – present)

Huntsville Rotary Club (2024 – present)

Leadership Greater Huntsville
Connect Class 9 (2009)
Flagship Class 33 (2019 – 2020)

Madison County Volunteer Lawyers Program (2008 – present)

The Ledges (2020 – present)

b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To the best of my knowledge, none of the organizations listed above currently

discriminates or formerly discriminated on the basis of race, sex, religion or national origin, either through formal membership requirements or the practical implementation of membership policies.

12. **Published Writings and Public Statements**:

a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply copies of all published material to the Committee.

A.I. in Modern Law Practice: Past the Point of No Return, ADLA Spring Journal (April 2025). Copy supplied.

Cybersecurity 101: What Every Defense Lawyer Should Know, ADLA Spring Journal (April 2020). Copy supplied.

SGA wants your fall break input, Crimson White (January 24, 2005). Copy supplied.

UA students: Make your voice be heard, Crimson White (November 5, 2004). Copy supplied.

b. Supply copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

None.

c. Supply copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

None.

d. Supply copies, transcripts or recordings of all speeches or talks delivered by you including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

August 5, 2024: Speaker, "IP & AI: What Does a Gov't Contractor Really Own?" Bradley Government Contracts Seminar, Huntsville, Alabama. PowerPoint supplied.
June 14, 2024: Speaker, "Digital Advocacy: Transforming Trial and Depositions with Advanced Tech," Alabama and Tennessee Defense Lawyers Associations, Orange Beach, Alabama. PowerPoint supplied.

December 12, 2023: Speaker, "Demonstrating the Legal and Ethical Implications of Generative Artificial Intelligence," Attorneys Insurance Mutual of the South, Webinar. PowerPoint supplied.

September 21, 2023: Speaker, "Weaponizing A.I. in Legal Practice: From History to Generative Power," Birmingham Bar Association, Webinar. Video recording supplied.

June 16, 2023: Speaker, "Weaponizing Artificial Intelligence in the Practice of Law: a Shield and a Sword?" Alabama and Tennessee Defense Lawyers Associations, Miramar Beach, Florida. PowerPoint supplied.

June 18, 2022: Speaker, "Top 10 Technology Traps," Alabama and Tennessee Defense Lawyers Associations, Miramar Beach, Florida. PowerPoint supplied.

May 8, 2020: Speaker, "Ways to Improve Oral Advocacy in the Age of Video Conferencing," Birmingham Bar Association Young Lawyers Section, Webinar. PowerPoint supplied.

March 23, 2020: Speaker, "The Bare Necessities – Practicing Law Away from the Office," Alabama Defense Lawyers Association, Webinar. Video recording supplied.

December 6, 2019: Speaker, "Cyber Security in Alabama: How to Protect Your Clients," Huntsville Madison County Bar Association, Huntsville, Alabama. PowerPoint supplied.

December 3, 2019: Speaker, "Cybersecurity in Alabama: How to Protect Your Clients," Alabama Defense Lawyers Association, Webinar. Video recording supplied.

July 25, 2019: Speaker, "Strategies and Best Practices for Protecting Your Business from Data Breaches," Bradley Government Contracts Seminar, Huntsville, Alabama. PowerPoint supplied.

May 18, 2019: Speaker, "Tools for Practicing Law More Efficiently in the Digital Age," Alabama State Bar Young Lawyers, Orange Beach, Alabama. PowerPoint supplied.

April 16, 2019: Speaker, "Quick Term Searches Across Multiple Documents," Alabama Defense Lawyers Association, Webinar. Video recording supplied.

March 12, 2019: Speaker, "Stop Using Same Password," Alabama Defense Lawyers Association, Webinar. Video recording supplied.

March 12, 2019: Speaker, "Conquer To-Do Lists," Alabama Defense Lawyers Association, Webinar. Video recording supplied.
January 29, 2019: Speaker, "Dictating from Mobile Device," Alabama Defense Lawyers Association, Webinar. Video recording supplied.

January 14, 2019: Speaker, "Quickly Scanning Documents," Alabama Defense Lawyers Association, Webinar. Video recording supplied.

December 6, 2018: Speaker, "From the Cabinet to the Cloud: How Law Office Technology has Transformed Access to Information," Attorneys Insurance Mutual of the South, Webinar, PowerPoint supplied.

June 7, 2018: Speaker, "Protecting the Interests of Your Business BEFORE the Storm," Bradley Government Contracts Seminar, Huntsville, Alabama. PowerPoint supplied.

February 7, 2017: Speaker, "Speech & Debate Coach Jay Rye Inducted into Alabama Speech & Debate Association Hall of Fame," Mountain Brook High School. I have no notes, transcript, or recording. The address of Mountain Brook High School is 3650 Bethune Dr, Mountain Brook, AL 35223.

April 12, 2005: Speaker, "SGA Banquet," The University of Alabama Student Government Association, Tuscaloosa, Alabama. Notes supplied.

August 24, 2004: Speaker, "Capstone Convocation," The University of Alabama, Tuscaloosa, Alabama. Notes supplied.

While participating in student organizations in college and law school, I gave remarks on various occasions in connection with introducing speakers, moderating panel discussions, and otherwise facilitating or participating in student events. I do not have a record of or recall the specific occasions and contents of these introductory remarks.

e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and copies of the clips or transcripts of these interviews where they are available to you.

Huntsville Times Editorial Board, *Go! >> get a job*, Huntsville Times, July 2, 2009. Copy supplied.

Marlin Caddell, *Mooty: Witt approves fall break plan for 2006-07 school year*, Crimson White, April 29, 2005. Copy supplied.

Mike Faulk, *'Phase One' of Marr's Pond restoration completed, UA and SGA officials say*, Crimson White, April 27, 2005. Copy supplied.

Marlin Caddell, *Witt likely to announce fall break for 2006-07*, Crimson White, April 13, 2005. Copy supplied.

Kathryn Tuggle, *Mooty plans Marr's Pond revitalization*, Crimson White, April 6, 2005. Copy supplied.

Marlin Caddell, *Minorities: UA does not represent us*, Crimson White, February 24, 2005. Copy supplied.

Malcolm Ifekauche, *UA helps with tsunami relief*, Crimson White, February 9, 2005. Copy supplied.

Megan Nichols, *Mooty sings Auburn's praises*, Crimson White, January 27, 2005. Copy supplied.

Megan Nichols, *Break poll out this week*, Crimson White, January 26, 2005. Copy supplied.

Megan Nichols, *GTA parking resolution dies*, Crimson White, January 14, 2005. Copy supplied.

Malcolm Ifekauche, *UA campus organizations unite for tsunami victim relief effort*, Crimson White, January 13, 2005. Copy supplied.

Caitlin Tudzin, *SGA Web site update in works*, Crimson White, November 23, 2004. Copy supplied.

Kathryn Tuggle, *Students show up to cheer on candidates*, Crimson White, November 3, 2004. Copy supplied.

CW Editorial Board, *Why not a fall break?* Crimson White, October 25, 2004. Copy supplied.

Caitlin Tudzin, *Thanksgiving break still a bit longer*, Crimson White, October 22, 2004. Copy supplied.

Marlin Caddell, *Alabama/Auburn Better Relations Day draws U.S. Sen. Richard Shelby*, Crimson White, October 21, 2004. Copy supplied.

Kevin Taylor, *UA trustees OK $483M 2005 budget*, Montgomery Advertiser, October 2, 2004. Copy supplied.

Jack Stripling, *Drunk Bus: While many college towns do, AU has no current plans for sober ride program*, Opelika-Auburn News, August 29, 2004. Copy supplied.

Caitlin Tudzin, *Mooty, new SGA officers made official Tuesday night*, Crimson White, April 14, 2004. Copy supplied.

Regan Loyola Connolly, *Debate ace now SGA leader*, Montgomery Advertiser, March 27, 2004. Copy supplied.

Caitlin Tudzin and Nick Beadle, *Mooty solves Riddle, wins SGA presidency*, Crimson White, March 15, 2004. Copy supplied.

Press release, *UA students elect Montgomery man*, The Birmingham News, March 14, 2004. Copy supplied.

Associated Press, *Student from Montgomery elected Alabama SGA head*, Huntsville, Times, March 14, 2004. Copy supplied.

Press release, *Montgomery native is UA's SGA president*, Montgomery Advertiser, March 14, 2004. Copy supplied.

Press release, *Montgomery man elected SGA president at UA*, Opelika-Auburn News, March 14, 2004. Copy supplied.

Jenny Thompson, *SGA candidates have their own 'Super Tuesday' at RHA debate*, Crimson White, March 3, 2004. Copy supplied.

Caitlin Tudzin, *All systems are go for 2004 SGA elections*, Crimson White, February 19, 2004. Copy supplied.

Caitlin Tudzin, *Candidates hit the road to election*, Crimson White, February 11, 2004. Copy supplied.

Nick Beadle and Chris Otts, *Vandalism investigation still without suspects*, Crimson White, January 21, 2004. Copy supplied.

Associated Press, *Racist message left at UA spurs reaction*, Huntsville Times, January 17, 2004. Copy supplied.

Heather Henderson, *Night Trolley to run through spring semester*, Crimson White, January 14, 2004. Copy supplied.

Caitlin Tudzin, *Boyd, other executives outline spring plans*, Crimson White, December 3, 2003. Copy supplied.

Joan Garrett, *Night Trolley fades*, Crimson White, November 21, 2003. Copy supplied.

Joan Garrett, *SGA gauging student opinion with input boxes, Web site*, Crimson White, November 10, 2003. Copy supplied.

Joan Garrett, *Student Government hosts Trolley Day*, Crimson White, October 29, 2003. Copy supplied.

Joan Garrett, *Route change causes trolley ridership drop as UA plays catch-up with other campuses*, Crimson White, October 6, 2003. Copy supplied.

Marlin Caddell, *SGA holds town hall meeting*, Crimson White, September 5, 2003. Copy supplied.

Kelly M. Kober, *Student groups recruiting incoming freshmen during summer*, Crimson White, July 2, 2003. Copy supplied.

Ken L Spear, *Bridge vital part of expansion*, Montgomery Advertiser, November 7, 2000. Copy supplied.

13. **Judicial Office**: State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I have not held judicial office.

a. Approximately how many cases have you presided over that have gone to verdict or judgment? _____

i. Of these cases, approximately what percent were:

jury trials: ___%
bench trials: ___%

ii. Of these cases, approximately what percent were:

civil proceedings: ___%
criminal proceedings: ___%

b. Provide citations for all opinions you have written, including concurrences and dissents.

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature of the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (4) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

e. Provide a list of all cases in which certiorari was requested or granted.

f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not held judicial office.

a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;

b. a brief description of the asserted conflict of interest or other ground for recusal;

c. the procedure you followed in determining whether or not to recuse yourself;

d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

15. **Public Office, Political Activities and Affiliations**:

a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or

unsuccessful nominations for appointed office.

I have not held public office.

b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

Campaign Finance Chair for Madison County Circuit Judge Claude Hundley (2018 – present)

16. **Legal Career:** Answer each part separately.

a. Describe chronologically your law practice and legal experience after graduation from law school including:

i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I have not served as a clerk to a judge.

ii. whether you practiced alone, and if so, the addresses and dates;

I have not practiced law alone.

iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each;

2008 – 2012
Lanier Ford Shaver & Payne PC
2101 West Clinton Avenue
Suite 102
Huntsville, Alabama 35805
Associate

2012 – present
Bradley Arant Boult Cummings LLP
200 Clinton Avenue West
Suite 900
Huntsville, Alabama 35801
Partner (2017 – present)
Associate (2012 – 2016)

iv. whether you served as a mediator or arbitrator in alternative dispute

resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have not served as a mediator or arbitrator.

b. Describe:

i. the general character of your law practice and indicate by date when its character has changed over the years.

From 2008 until 2012, I had a general litigation practice at a medium-sized law firm. As an associate, I supported lead counsel in a variety of matters including medical malpractice litigation and commercial litigation. I also regularly accepted pro bono representation through the Madison County Volunteer Lawyers Program. From 2012 until 2017, I had a general litigation practice at a large law firm. As an associate, I handled my own cases in a variety of matters as well as supported lead counsel in others. These cases included more business and commercial litigation with less emphasis on medical malpractice. I also continued to support the Madison County Volunteer Lawyers Program. Since 2017, I have regularly handled business and commercial litigation matters as lead counsel and also support the Madison County Volunteer Lawyers Program.

ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

While associated with a medium-sized law firm from 2008 until 2012, I specialized in medical malpractice litigation, and I defended a wide range of clients, including physicians, nurses, hospitals, medical practices, and long-term care facilities. I also represented numerous individuals and small businesses in commercial disputes. While associated with a large law firm from 2012 until the present, I have specialized in business and commercial litigation and represented a wide range of clients including publicly traded companies, government contractors, small businesses, employees, and business owners. In the course of my pro bono work, I represented several indigent individual parties with contract, real estate, and employment disputes.

c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

While associated with law firms from 2008 through the present, nearly my entire practice is in litigation. I have appeared in court frequently, generally at least once a month and on occasion, multiple times a week.

i. Indicate the percentage of your practice in:

1.	federal courts:	45%
2.	state courts of record:	50%
3.	other courts:	1%
4.	administrative agencies:	4%

ii. Indicate the percentage of your practice in:

1.	civil proceedings:	100%
2.	criminal proceedings:	0%

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I estimate that I have tried 12 cases to verdict, judgment or final decision (other than settlement). In approximately six of these cases I was chief counsel, in approximately two I was associate counsel, and in approximately four I was sole counsel.

i. What percentage of these trials were:

1.	jury:	17%
2.	non-jury:	83%

e. Describe your practice, if any, before the Supreme Court of the United States. Supply copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have never appeared before the Supreme Court of the United States.

17. **Litigation**: Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

a. the date of representation;

b. the name of the court and the name of the judge or judges before whom the case was litigated; and

c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *Robert Elliott, as personal Representative of the Estate of Nikki Listau v. Arthur M. Williams, M.D., et al.*, No. 5:14-cv-01309 (N.D. Ala. July 8, 2014) (Smith, L. presiding)

2. *Carolyn Jefferson, as personal Representative of the Estate of Tanisha Jefferson v. Arthur M. Williams, M.D., et al.*, No. 5:14-cv-01959 (N.D. Ala. Oct. 14, 2014) (Kallon, A. presiding)

3. *Tanyatta Woods, as the personal Representative of the Estate of Deundrez Woods v. Arthur M. Williams, M.D., et al.*, No. 5:14-cv-01964 (N.D. Ala. Oct. 14, 2014) (Bowdre, K. presiding)

4. *Whitney Elizabeth Foster v. Arthur M. Williams, M.D., et al.*, No. 5:16-cv-00521 (N.D. Ala. March 30, 2016) (Haikala, M. presiding)

5. *Roy Lee Davis v. Arthur M. Williams, M.D., et al.*, No. 5:16-cv-01166 (N.D. Ala. July 14, 2016) (Kallon, A. presiding)

Arthur M. Williams, M.D. hired Bradley Arant to defend multiple lawsuits stemming from the care delivered to certain inmates at the Madison County Jail while he served as its Medical Director. The lawsuits alleged federal civil rights violations as well as state law medical malpractice claims. In *Elliott*, the patient allegedly died from complications she suffered due to a fall from her bunk while incarcerated at the jail. In *Jefferson*, the patient allegedly died from complications related to abdominal pain and a potential bowel obstruction which she complained of while incarcerated at the jail. In *Woods*, the patient allegedly died from a pulmonary embolism suffered by him while incarcerated at the jail. In *Foster*, the patient allegedly became permanently blind and partially paralyzed as a result of a medical complication she suffered while incarcerated at the jail. In *Davis*, the patient allegedly spent several days in the hospital suffering from symptoms of confusion/delusions/hallucinations related to the alleged negligent care he received while incarcerated at the jail. I was the primary working attorney in all five cases and was responsible for developing the facts of each case, drafting all pleadings, discovery responses, identifying expert witnesses and preparing their disclosure statements, as well as preparing Dr. Williams and the experts for their testimony. All five cases ultimately settled prior to trial after extensive discovery and motion practice.

Co-Counsel:

H. Harold Stephens
Bradley Arant Boult Cummings, LLP
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Huntsville, AL 35801
(256) 517-5100

Counsel for Plaintiff:

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Henry F. Sherrod, III, P.C.
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William R. Andrews
Richard J. Riley
Marsh Rickard & Bryan, P.C.
800 Shades Creek Parkway, Suite 600-D
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(205) 879-1981

Counsel for Defendants:

George W. Royer, Jr.
David J. Canupp
L. Franklin Corley, IV
Lanier Ford Shaver & Payne, P.C.
2101 Clinton Avenue West, Suite 102
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(256) 535-1100

T. Kelly May
Hugh Cannon Lawley
Clark, May, Price, Lawley, Duncan & Paul, LLC
3070 Green Valley Road
Birmingham, AL 35243
(205) 267-6601

Horace Cecil Ireland, III
Porterfield Harper Mills Motlow & Ireland, P.A.
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(205) 980-5000

Christie J. Estes
QCHC, Inc.
200 Narrows Parkway, Suite A
Birmingham, AL 35242
(205) 437-1512

Jennifer Reid Egbe
Huie Fernambucq & Stewart, LLP

3291 Highway 280 South, Suite 200
Birmingham, AL 35243
(205) 251-1193

James Bradley Emmons
500 Westover Drive, Suite 11238
Sanford, NC 27330
(256) 655-8956

6. *Dennis Wright v. Keith P. Young, M.D.*, No. 50-cv-2016-900226

Dr. Young hired Bradley Arant to defend allegations of defamation and medical malpractice brought by a former patient. I was the primary working attorney and was responsible for developing the facts, drafting all pleadings, discovery responses, identifying expert witnesses and preparing their disclosure statements, as well as preparing Dr. Young and the experts for their testimony. I tried the case to jury verdict with my partner and authored all pre-trial and trial briefing. Marshall County Circuit Judge Abel presided.

Co-Counsel/Defense Counsel:

H. Harold Stephens
Bradley Arant Boult Cummings, LLP
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Huntsville, AL 35801
(256) 517-5100

George M. Barnett
Attorney at Law
431 Gunter Avenue
Guntersville, AL 35976
(256) 582-0133

Counsel for Plaintiff:

Charles A. Dauphin
Beverly Diane Paris
Dauphin Paris, LLC
300 Vestavia Parkway, Suite 3700
Birmingham, AL 35216
(205) 518-6822

7. *Southern Heating & Cooling, Inc. v. Marsh & McLennan Agency, LLC, et al.*, No. 39-cv-2019-900247

Marsh & McLennan Agency, LLC, J. Smith Lanier & Company, and Hamlin L. Caldwell hired Bradley Arant to defend allegations of negligent failure to procure insurance. The case stemmed from a separate wrongful death action filed in DeKalb County against Southern Heating & Cooling, Inc. (No. 28-cv-2019-900036) which was carefully monitored and jointly mediated. I was lead counsel and negotiated dismissal of the insurance case against my clients. Jackson County Circuit Judge Graham presided.

Co-Counsel/Defense Counsel:

Hunter W. Pearce
Bradley Arant Boult Cummings LLP
200 Clinton Avenue West, Suite 900
Huntsville, AL 35801
(256) 517-5100

Counsel for Plaintiff:

James H. Richardson
Jacob A. Maples
Richardson Maples, P.C.
301 Holmes Avenue NE, Suite 100
Huntsville, AL 35801
(256) 533-2440

8. *The Trade Group, Inc. v. BTC Media, LLC, and BTC, Inc.*, No. 4:23-cv-00555 (N.D. Tex. June 5, 2024)

BTC hired Bradley Arant to defend contract claims brought by a general contractor at an international conference in Miami, Florida. BTC also asserted counterclaims. The case involved extensive party, third-party, and expert witness discovery. I was lead counsel and tried the case to jury verdict with local counsel in Fort Worth, Texas. U.S. District Judge Pittman presided.

Co-Counsel/Defense Counsel:

Scott Burnett Smith
Hunter W. Pearce
Schyler Burney
Bradley Arant Boult Cummings LLP
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(256) 517-5100

E. Sawyer Neely
Bradley Arant Boult Cummings LLP
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Dallas, TX 76102
(214) 257-9822

David J. Drez, III
Colin Patrick Benton
Wicks Phillips Gould Martin, LLP
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(817) 332-7788

Counsel for Plaintiff:

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Joseph Andrew Magliolo
Lindsey Marsh Brown
Sarah Jane Starr
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Trevor Paul
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Fort Worth, TX 76102
(817) 334-7200

Michael Halley Bernick
Jackson Walker, LLP
1401 McKinney, Suite 1900
Houston, TX 77010
(713) 752-4200

Counsel for Non-Parties:

Lee Elms
Bryan Stone
Elms Macchia PLLC
2707 Treble Creek
San Antonio, TX 78258

(210) 349-8888

Blair Grant Francis
Thomas G. Seidler
Francis & Toutsek, LLP
500 N. Akard Street, Suite 1830
Dallas, TX 75201
(214) 740-4250

9. *Amanda Howard Real Estate, LLC v. Clair Lee and JRHBW Realty, Inc.*, 387 So.3d 120 (Ala. June 30, 2023)

Amanda Howard Real Estate hired Bradley Arant to pursue contract and tort claims against a former officer and her new employer. An interlocutory appeal was granted after summary judgment ruling in the underling case in the Circuit Court of Madison County, Alabama (47-cv-19-000067). I was lead counsel who filed the initial complaint, handled the depositions, argued the motions, and ultimately negotiated the final settlement at mediation post-appeal. Madison County Circuit Judge Comer presided.

Co-Counsel/Plaintiff's Counsel:

Hunter W. Pearce
Scott Burnett Smith
Bradley Arant Boult Cummings LLP
200 Clinton Avenue West, Suite 900
Huntsville, AL 35801
(256) 517-5100

Counsel for Defendants:

E. Glenn Waldrop, Jr.
Lightfoot Franklin & White, LLC
400 20th Street North
Birmingham, AL 35203
(205) 581-0700

Robert V. Wood
Wilmer & Lee, P.A.
Washington Street NE, Suite 200
Huntsville, AL 35801
(256) 533-0202

J. Michael Cooper
Porterfield, Harper, Mills, Motlow & Ireland, P.A.

22 Inverness Center Pkwy, Suite 600
Birmingham, AL 35242
(205) 980-5000

Patrick F. Smith
Smith Kessler Smith, LLC
1550 West 2nd Street, Suite A-4
Gulf Shores, AL 36542
(251) 215-7090

10. *SGC Engineering, LLC v. Scot A. Macdonald*, No. 2:24-cv-00086 (D. Me. March 20, 2024)

SGC hired Bradley Arant to pursue breach of contract claims against a former vice-president for violations of certain non-solicitation provisions. The complaint sought injunctive relief as well as monetary damages. I was lead counsel and argued the case in Portland, Maine with local counsel. The litigation resulted in a settlement and consent judgment. U.S. District Judge Woodcock presided.

Co-Counsel/Plaintiff's Counsel:

Nolan L. Reichl
Pierce Atwood LLP
254 Commercial Street
Portland, ME 04101
(207) 791-1100

Counsel for Defendant:

William Cyrus Baker
Shaheen & Gordon, PA
353 Central Avenue, Suite 200
Dover, NH 03821
(603) 609-0697

18. **Legal Activities**: Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

In addition to the matters described above, I have frequently advised corporate clients on various employment and personnel matters. Many of these issues are resolved early and save clients the time and expense associated with litigation, including, for instance, disputes between

shareholders or partners.

Moreover, I have served on my firm's recruiting committee for nine years and helped both recruit and retain new legal talent. I am actively involved with mentoring young litigation associates inside and outside the firm, including teaching effective deposition skills and techniques.

I have never acted or registered as a lobbyist.

19. **Teaching**: What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide copies to the committee.

During my final semester of law school, I taught two sections of COM-123 Public Speaking at The University of Alabama. This course served as an introduction to public speaking for undergraduate students at the College of Communication and Information Sciences. Many of these students began the course with a significant fear of speaking even in front of the class. I do not have any syllabi for the course.

20. **Deferred Income/ Future Benefits**: List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

I do not have any deferred income or future benefits outside of fully vested retirement accounts.

21. **Outside Commitments During Court Service**: Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

If confirmed, I hope that I will be able to teach a law school seminar once a year. I have no commitments or agreements to do so, and no other plans for outside activities.

22. **Sources of Income**: List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding $500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

When my nomination is formally submitted to the Senate, I will file my mandated Financial Disclosure Report and supply a copy to this committee.

23. **Statement of Net Worth**: Please complete the attached financial net worth statement in detail (add schedules as called for).

See attached Net Worth Statement.

24. **Potential Conflicts of Interest**:

a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

If confirmed, I will recuse in any litigation where I have ever played a role. For a period, I anticipate recusing in all cases where my current firm, Bradley Arant Boult Cummings LLP, represents a party. I will also recuse in any case where Katie Mooty, my wife and a practicing attorney, or her law firm represents any party. I will also recuse in any case where Dean Mooty, my father and a practicing attorney, or his law firm represents any party. I will also recuse in any case where Robert Mooty, my brother and a practicing attorney, or his law firm represents any party. Lastly, I will evaluate any other real or potential conflict, or relationship that could give rise to appearance of conflict, on a case by case basis and determine appropriate action with the advice of parties and their counsel including recusal where necessary.

b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

If confirmed, I will carefully review and address any real or potential conflicts by reference to 28 U.S.C. § 455, Canon 3 of the Code of Conduct for United States Judges, and any and all other laws, rules, and practices governing such circumstances.

25. **Pro Bono Work**: An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

My pro bono work has primarily been facilitated through the Madison County Volunteer Lawyers Program (MCVLP) located in Huntsville, Alabama. While I have accepted individual cases assigned by the MCVLP, most of my recent work has been on Law Day. Specifically, the MCVLP hosts Lawyers in the Library where local lawyers volunteer their time to meet in-person with individuals for 30 minutes to help answer their general legal questions. I have also previously volunteered at Law Call where comparable questions are answered on Law Day but over the phone.

26. **Selection Process**:

a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

In December 2024, I received a telephone call from Senator Katie Britt, and later her chief of staff, inquiring about a vacancy in the Northern District of Alabama. On April 7, 2025, I interviewed with staff from both Senator Britt and Senator Tuberville. On June 26, 2025, I interviewed with attorneys from the White House Counsel's Office and the Office of Legal Policy. Since then I have been in contact with officials from the White House Counsel's Office and the Office of Legal Policy.

b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

FINANCIAL STATEMENT

NET WORTH

Provide a complete, current financial net worth statement which itemizes in detail all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

ASSETS				LIABILITIES			
Cash on hand and in banks		128	909	Notes payable to banks-secured (auto)		21	499
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule		748	089	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable – see schedule		459	500
Real estate owned – see schedule	1	000	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		39	632				
Cash value-life insurance		30	535				
Other assets itemize:							
Brokerage Money Market Account		12	570				
Money Market Account		143	542				
				Total Liabilities		480	999
				Net Worth	1	622	278
Total Assets	2	103	277	Total Liabilities and Net Worth	2	103	227
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities	
Select Sector Spdr Technology Stock	$40,394
MSCI USA MTUM Stock	9,689
Materials Select Spdr Stock	8,800
O'Reilly Automotive Stock	7,432
NVIDIA Stock	6,231
Dell Technologies Stock	3,337
Capital Group/American Retirement Fund	55,606
T.Rowe Price Growth Fund C	182,128
Charles Schwab Retirement Fund	434,472
Total Listed Securities	$748,089
Real Estate Owned	
Personal Residence	$1,000,000
Total Real Estate Owned	$1,000,000
Real Estate Mortgages Payable	
Personal Residence – Mortgage	$459,500
Total Real Estate Mortgages Payable	$459,500

AFFIDAVIT

I, Harold Dean Mooty III, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

August 4, 2025 (DATE)

(NAME)

Stephanie A. Ely (NOTARY)

Commission expires: 02-02-26

NOTARY PUBLIC STATE OF ALASKA

Senator Dick Durbin
Ranking Member, Senate Judiciary Committee
Written Questions for Harold D. Mooty III
Nominee to be U.S. District Judge for the Northern District of Alabama
September 10, 2025

1. You seem to have taken an interest in the use of artificial intelligence in modern legal practice, especially the legal and ethical implications of its use.

   a. **In your view, what are some of the pitfalls of the use of AI in the context of legal proceedings?**

      Response: The primary pitfall of generative artificial intelligence is the heightened risk of hallucinations and other errors if attorneys or parties use such tools to prepare court filings. Courts have found many factual and legal errors in pleadings, motions, briefs, etc. that were not carefully reviewed for accuracy prior to filing. As a result, lawyers across the country have been sanctioned for their failure to follow Rule 11 of the Federal Rules of Civil Procedure. A related pitfall is the increased use of generative artificial intelligence by *pro se* litigants who lack the necessary education, training, and experience to evaluate the accuracy of similar work product. Both pitfalls increase the need for courts to review filings for such errors to preserve the fair and efficient administration of justice.

   b. **If confirmed, how would you limit the use of AI in your courtroom?**

      Response: I would first consult with my peers in the Northern District of Alabama as well as in the Eleventh Circuit. Their experiences limiting the use of artificial intelligence in the courtroom will prove valuable. Moreover, I would comply with all applicable district, circuit, and national guidelines governing the use artificial intelligence. My general practice would be to prohibit the use of any recording devices, including, for instance, artificial intelligence chatbots. I would also prohibit any such chatbot from addressing the court, whether directly or indirectly. All parties and their counsel would be required to comply with the Federal Rules of Evidence governing the authentication and admissibility of evidence. No artificially generated exhibit or demonstrative would be allowed outside the normal rules of federal practice and procedure.

2. You have significant experience in civil litigation, especially medical malpractice and business and commercial litigation. However, less than half of your practice has been in federal courts, and you have no experience working on criminal proceedings at all.

   a. **If you are confirmed, how would you get up to speed on federal and criminal proceedings?**

      Response: I have extensive experience litigating in federal court, including, for instance, trying a complex commercial case to jury verdict last year as lead

counsel. The primary cause of my slightly higher percentage of state court litigation is the favorable state court venue in Madison County, Alabama where I live and work. Our local state court judges are experienced with business and commercial litigation cases which decreases the frequency of removal to federal court.

With respect to criminal proceedings, I am well-versed in the Federal Rules of Civil Procedure and the Federal Rules of Evidence. The Federal Rules of Criminal Procedure were modeled after the civil rules. It is also common for judicial nominees in private practice to focus on either civil or criminal work instead of both. When I was asked to potentially serve on the federal bench, I spent significant time studying criminal procedure, including, but not limited to, analyzing the Federal Sentencing Guidelines, Federal Rules of Criminal Procedure, and relevant materials from the Federal Judicial Center. I also observed multiple criminal proceedings in federal court. Indeed, most of my time preparing for this position has been spent getting up to speed on the criminal docket in the Northern District of Alabama even though criminal cases constitute only one third or less of the total cases filed. I will continue to prepare for the criminal caseload while my nomination is pending.

b. If you are confirmed, how would you ensure that litigants—including criminal defendants—feel they have received a fair hearing before you?

Response: As I expressed during my confirmation hearing, in seventeen years of private practice, my goal has always been to be the most prepared in the courtroom. If I am fortunate enough to confirmed as a federal judge, I would ensure that all litigants perceive my level of preparedness and fairness when I take the bench each day. I will treat all litigants with dignity and respect. I will give each criminal defendant the attention their case deserves and nothing less.

3. During your time at the University of Alabama, you worked with the school's African American Foundation (now the Black Student Union) and the NAACP on an anti-racism messaging campaign. In 2024, the university took away the Black Student Union's office due to the passage of state legislation banning public funding of diversity, equity, and inclusion (DEI) initiatives.

Given your prior work with this organization to counter racism, do you support the organization being targeted by Alabama lawmakers?

Response: I am unaware of the facts and circumstances that form the basis of this question. I left the University of Alabama's undergraduate campus more than twenty years ago and have not kept abreast of which student groups remain active or maintain office space. I have and will, however, continue to oppose racism in my personal and professional life.

4. Did President Trump lose the 2020 election?

Response: Joe Biden was certified as the 46th President of the United States. President Trump was certified as the 45th and 47th President. If this question asks me to comment on the broader political or policy debate regarding the 2020 presidential election, it would be inappropriate for me to do so as a judicial nominee.

5. **Where were you on January 6, 2021?**

Response: I was in Huntsville, Alabama.

6. **Do you denounce the January 6 insurrection?**

Response: I denounce any and all acts of violence against law enforcement and government officials; however, the characterization of the events of January 6 is subject to ongoing political debate. It would be inappropriate for me to comment on such a political debate as a judicial nominee.

7. **Do you believe that January 6 rioters who were convicted of violent assaults on police officers should have been given full and unconditional pardons?**

Response: As an Article III judicial nominee, it would not be appropriate for me to comment on the application of the pardon power wielded by a separate but equal branch of government in Article II of the United States Constitution. Furthermore, the pardons themselves are the subject of ongoing litigation and I may not comment on any matter that is or may come before me as a judge.

8. The Justice Department is currently defending the Trump Administration in a number of lawsuits challenging executive actions taken by the Administration. Federal judges—both Republican and Democratic appointees—have enjoined some of these actions, holding that they are illegal or unconstitutional. Alarmingly, President Trump, his allies, and even some nominees before the Senate Judiciary Committee have responded by questioning whether the executive branch must follow court orders.

   a. **What options do litigants—including the executive branch—have if they disagree with a court order?**

   Response: Federal litigants should comply with district court orders and proceed under the Federal Rules of Civil Procedure and Federal Rules of Appellate Procedure. Generally, the available mechanism is to appeal the district court order as well as seek a stay of the order while the appeal is pending.

   b. **Do you believe a litigant can ever lawfully defy an order from a lower federal court? If yes, in what circumstances?**

   Response: I have not litigated this issue in my career, nor have I carefully studied or written on the subject. It is my general understanding that, under extremely

limited circumstances, a litigant could lawfully disregard an order from a lower federal court if, for instance, the court lacked subject matter jurisdiction. The most appropriate method, however, of challenging such an order is to comply pending appellate review.

c. Under the separation of powers, which branch of the federal government is responsible for determining whether a federal court order is lawful?

Response: Generally, the power to interpret the legality of Article III federal district court orders is vested in the Article III federal appellate courts.

9. District judges have occasionally issued non-party injunctions, which may include "nationwide injunctions" and "universal injunctions."

a. Are non-party injunctions constitutional?

Response: The Supreme Court recently held in *Trump v. CASA, Inc.* that "universal" injunctions that go beyond what is necessary to provide full relief to the parties "can be justified only as an exercise of equitable authority, yet Congress has granted federal courts no such power." 145 S. Ct. 2540, 2550 (2025). The Court's statutory holding, however, did not resolve whether the Constitution would be violated by such universal relief. The Eleventh Circuit has suggested that such relief "push[es] against the boundaries of judicial power." *Georgia v. President of the United States*, 46 F.4th 1283, 1303 (11th Cir. 2022). If confirmed, I would apply these and other relevant precedents. As a judicial nominee, it would be inappropriate for me to comment on either pending or impending cases in the federal court system.

b. Are non-party injunctions a legitimate exercise of judicial power?

Response: Please see my answer to question 9(a).

c. Is it ever appropriate for a district judge to issue a non-party injunction? If so, under what circumstances is it appropriate?

Response: Please see my answer to question 9(a).

d. As a litigator, have you ever sought a non-party injunction as a form of relief? If so, please list each matter in which you have sought such relief.

Response: While I have extensive experience litigating cases involving injunctive relief, I have never sought a non-party injunction as a form of relief.

10. At any point during your selection process, did you have any discussions with anyone—including individuals at the White House, the Justice Department, or any outside groups—about loyalty to President Trump? If so, please provide details.

Response: No.

11. Does the U.S. Constitution permit a president to serve three terms?

Response: The 22nd Amendment to the U.S. Constitution specifies a two-term limit for the Office of President.

12. On May 26, 2025, in a Truth Social post, President Trump referred to some judges whose decisions he disagrees with, as "USA HATING JUDGES" and "MONSTERS", who "...SUFFER FROM AN IDEOLOGY THAT IS SICK, AND VERY DANGEROUS FOR OUR COUNTRY..."[1]

a. Do you agree that these federal judges are "USA HATING" and "MONSTERS" who "...SUFFER FROM AN IDEOLOGY THAT IS SICK, AND VERY DANGEROUS FOR OUR COUNTRY..."?

Response: As an Article III judicial nominee, it would be inappropriate for me to comment on the political rhetoric from the Article II branch which is a separate but equal branch of government. It would be improper for a judicial nominee to comment on statements by any political figure as part of a broader political debate.

b. Do you believe this rhetoric endangers the lives of judges and their families?

Response: As an Article III judicial nominee, it would be inappropriate for me to comment on the political rhetoric from the Article II branch which is a separate but equal branch of government. It would be improper for a judicial nominee to comment on statements by any political figure as part of a broader political debate.

13. In addition to the President's own attacks on judges, his adviser Stephen Miller took to social media to call a federal trade court's ruling against President Trump's tariffs a "judicial coup"[2] and later reposted the images of the three judges who decided the case and wrote, "we are living under a judicial tyranny."[3]

a. Do you agree that these judges are engaged in a "judicial coup" and that "we are living under a judicial tyranny"?

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[1] Donald J. Trump (@realDonaldTrump), TRUTH SOCIAL (May 26, 2025, 7:22AM), https://truthsocial.com/@realDonaldTrump/posts/114573871728757682.
[2] Stephen Miller (@StephenM), X, (May 28, 2025, 7:48PM), https://x.com/StephenM/status/1927874604531409314.
[3] Stephen Miller (@StephenM), X, (May 29, 2025, 8:25AM), https://x.com/StephenM/status/1928065122657845516.

Response: As an Article III judicial nominee, it would be inappropriate for me to comment on the political rhetoric from the Article II branch which is a separate but equal branch of government. It would be improper for a judicial nominee to comment on statements by any political figure as part of a broader political debate.

b. Do you believe this rhetoric endangers the lives of judges and their families?

Response: As an Article III judicial nominee, it would be inappropriate for me to comment on the political rhetoric from the Article II branch which is a separate but equal branch of government. It would be improper for a judicial nominee to comment on statements by any political figure as part of a broader political debate.

c. Would you feel comfortable with any politician or their adviser sharing a picture of you on social media if you issue a decision they disagree with?

Response: My photograph is currently available on social media.

14. When, if ever, may a lower court depart from Supreme Court precedent?

Response: A district judge may not depart from binding U.S. Supreme Court precedent.

15. When, in your opinion, would it be appropriate for a circuit court to overturn its own precedent?

Response: I am not a nominee to a circuit court vacancy; therefore, it would be inappropriate for me to comment on a circuit court's decision-making process.

16. When, in your opinion, would it be appropriate for the Supreme Court to overrule its own precedent?

Response: I am not a nominee to the U.S. Supreme Court; therefore, it would be inappropriate for me to comment on the U.S. Supreme Court's decision-making process.

17. Please answer yes or no as to whether the following cases were correctly decided by the Supreme Court:

a. *Brown v. Board of Education*

Response: During her confirmation process, Justice Kagan wisely pointed out that it would be inappropriate to weigh in with a "thumbs-up or thumbs down" on prior decisions or to "grade the homework" of the U.S. Supreme Court. Other judicial nominees have adopted Judge Kagan's guidance. *Brown v. Board of Education*, however, has historically been an exception to this guiding principle.

Therefore, I am comfortable sharing my belief that this case was correctly decided. If confirmed as a district court judge, I would faithfully follow all binding precedent of the U.S. Supreme Court, including *Brown*.

b. ***Plyler v. Doe***

Response: During her confirmation process, Justice Kagan wisely pointed out that it would be inappropriate to weigh in with a "thumbs-up or thumbs down" on prior decisions or to "grade the homework" of the U.S. Supreme Court. Other judicial nominees have adopted Judge Kagan's guidance. Therefore, it would be inappropriate for me to answer this question. If confirmed as a district court judge, I would faithfully follow all binding precedent of the U.S. Supreme Court, including *Plyler*.

c. ***Loving v. Virginia***

Response: During her confirmation process, Justice Kagan wisely pointed out that it would be inappropriate to weigh in with a "thumbs-up or thumbs down" on prior decisions or to "grade the homework" of the U.S. Supreme Court. Other judicial nominees have adopted Judge Kagan's guidance. *Loving v. Virginia*, however, has historically been an exception to this guiding principle. Therefore, I am comfortable sharing my belief that this case was correctly decided. If confirmed as a district court judge, I would faithfully follow all binding precedent of the U.S. Supreme Court, including *Loving*.

d. ***Griswold v. Connecticut***

Response: During her confirmation process, Justice Kagan wisely pointed out that it would be inappropriate to weigh in with a "thumbs-up or thumbs down" on prior decisions or to "grade the homework" of the U.S. Supreme Court. Other judicial nominees have adopted Judge Kagan's guidance. Therefore, it would be inappropriate for me to answer this question. If confirmed as a district court judge, I would faithfully follow all binding precedent of the U.S. Supreme Court, including *Griswold*.

e. ***Trump v. United States***

Response: During her confirmation process, Justice Kagan wisely pointed out that it would be inappropriate to weigh in with a "thumbs-up or thumbs down" on prior decisions or to "grade the homework" of the U.S. Supreme Court. Other judicial nominees have adopted Judge Kagan's guidance. Therefore, it would be inappropriate for me to answer this question. If confirmed as a district court judge, I would faithfully follow all binding precedent of the U.S. Supreme Court, including *Trump*.

f. ***Dobbs v. Jackson Women's Health Organization***

Response: During her confirmation process, Justice Kagan wisely pointed out that it would be inappropriate to weigh in with a "thumbs-up or thumbs down" on prior decisions or to "grade the homework" of the U.S. Supreme Court. Other judicial nominees have adopted Judge Kagan's guidance. Therefore, it would be inappropriate for me to answer this question. If confirmed as a district court judge, I would faithfully follow all binding precedent of the U.S. Supreme Court, including *Dobbs*.

g. ***New York State Rifle & Pistol Association, Inc. v. Bruen***

Response: During her confirmation process, Justice Kagan wisely pointed out that it would be inappropriate to weigh in with a "thumbs-up or thumbs down" on prior decisions or to "grade the homework" of the U.S. Supreme Court. Other judicial nominees have adopted Judge Kagan's guidance. Therefore, it would be inappropriate for me to answer this question. If confirmed as a district court judge, I would faithfully follow all binding precedent of the U.S. Supreme Court, including *Bruen*.

h. ***Obergefell v. Hodges***

Response: During her confirmation process, Justice Kagan wisely pointed out that it would be inappropriate to weigh in with a "thumbs-up or thumbs down" on prior decisions or to "grade the homework" of the U.S. Supreme Court. Other judicial nominees have adopted Judge Kagan's guidance. Therefore, it would be inappropriate for me to answer this question. If confirmed as a district court judge, I would faithfully follow all binding precedent of the U.S. Supreme Court, including *Obergefell*.

i. ***Bostock v. Clayton County***

Response: During her confirmation process, Justice Kagan wisely pointed out that it would be inappropriate to weigh in with a "thumbs-up or thumbs down" on prior decisions or to "grade the homework" of the U.S. Supreme Court. Other judicial nominees have adopted Judge Kagan's guidance. Therefore, it would be inappropriate for me to answer this question. If confirmed as a district court judge, I would faithfully follow all binding precedent of the U.S. Supreme Court, including *Bostock*.

j. ***Masterpiece Cakeshop v. Colorado***

Response: During her confirmation process, Justice Kagan wisely pointed out that it would be inappropriate to weigh in with a "thumbs-up or thumbs down" on prior decisions or to "grade the homework" of the U.S. Supreme Court. Other judicial nominees have adopted Judge Kagan's guidance. Therefore, it would be inappropriate for me to answer this question. If confirmed as a district court

judge, I would faithfully follow all binding precedent of the U.S. Supreme Court, including *Masterpiece*.

k. ***303 Creative LLC v. Elenis***

Response: During her confirmation process, Justice Kagan wisely pointed out that it would be inappropriate to weigh in with a "thumbs-up or thumbs down" on prior decisions or to "grade the homework" of the U.S. Supreme Court. Other judicial nominees have adopted Judge Kagan's guidance. Therefore, it would be inappropriate for me to answer this question. If confirmed as a district court judge, I would faithfully follow all binding precedent of the U.S. Supreme Court, including *303 Creative*.

l. ***United States v. Rahimi***

Response: During her confirmation process, Justice Kagan wisely pointed out that it would be inappropriate to weigh in with a "thumbs-up or thumbs down" on prior decisions or to "grade the homework" of the U.S. Supreme Court. Other judicial nominees have adopted Judge Kagan's guidance. Therefore, it would be inappropriate for me to answer this question. If confirmed as a district court judge, I would faithfully follow all binding precedent of the U.S. Supreme Court, including *Rahimi*.

m. ***Loper Bright Enterprises v. Raimondo***

Response: During her confirmation process, Justice Kagan wisely pointed out that it would be inappropriate to weigh in with a "thumbs-up or thumbs down" on prior decisions or to "grade the homework" of the U.S. Supreme Court. Other judicial nominees have adopted Judge Kagan's guidance. Therefore, it would be inappropriate for me to answer this question. If confirmed as a district court judge, I would faithfully follow all binding precedent of the U.S. Supreme Court, including *Loper Bright*.

18. With respect to constitutional interpretation, do you believe judges should rely on the "original meaning" of the Constitution?

Response: If there is ambiguity, I believe a district judge should look to the original public meaning of the words in the U.S. Constitution in the absence of binding precedent from the U.S. Supreme Court or the Eleventh Circuit.

19. How do you decide when the Constitution's "original meaning" should be controlling?

Response: If there is ambiguity, the original public meaning of the words in the U.S. Constitution would control in the absence of binding precedent from the U.S. Supreme Court or the Eleventh Circuit.

20. Does the "original meaning" of the Constitution support a constitutional right to same-sex marriage?

Response: As a judicial nominee, it would be inappropriate for me to comment on either pending or impending cases in the federal court system. I would faithfully apply all binding U.S. Supreme Court precedent, including *Obergefell*.

21. Does the "original meaning" of the Constitution support the constitutional right to marry persons of a different race?

Response: *Loving* is binding precedent of the U.S. Supreme Court, and I would faithfully apply it.

22. What is your understanding of the Equal Protection and Due Process clauses of the Fourteenth Amendment?

Response: The U.S. Supreme Court has interpreted the Equal Protection Clause of the Fourteenth Amendment to restrict the government's ability to classify persons in a way that either lacks a rational basis or infringes fundamental rights on the basis of suspect or quasi-suspect characteristics. The Court has interpreted the Due Process Clause to establish both substantiative rights and procedural rules.

23. How do these clauses apply to individuals that the Framers of the amendment likely did not have in mind, such as women? Or LGBTQ+ individuals?

Response: As a judicial nominee, it would be inappropriate for me to comment on either pending or impending cases in the federal court system. I would faithfully apply all binding U.S. Supreme Court precedent, including *Virginia*, *Lawrence*, and *Obergefell*.

24. Do you believe that judges should be "originalist" and adhere to the original public meaning of constitutional provisions when applying those provisions today?

Response: Please see my response to Question 18.

25. If so, do you believe that courts should adhere to the original public meaning of the Foreign Emoluments Clause when interpreting and applying the Clause today?

Response: Please see my response to Question 18.

26. Under the U.S. Constitution, who is entitled to First Amendment protections?

Response: The "people" as that word is used in the First Amendment to the U.S. Constitution. I would apply all binding precedent of the U.S. Supreme Court and the Eleventh Circuit regarding the proper scope of First Amendment protections.

27. How would you determine whether a law that regulates speech is "content-based" or "content-neutral"? What are some of the key questions that would inform your analysis?

Response: I would apply all binding precedent of the U.S. Supreme Court and the Eleventh Circuit regarding the designation of certain regulations as either "content-based" or "content-neutral".

28. What is the standard for determining whether a statement is protected speech under the true threats doctrine?

Response: According to the U.S. Supreme Court, "'[t]rue threats' of violence is [a] historically unprotected category of communications." *Counterman v. Colorado*, 660 U.S. 66, 74 (2023) (citations omitted). The words must be "serious expressions" that the speaker intends "to commit an act of unlawful violence." *Id.*

29. Is every individual within the United States entitled to due process?

Response: Due process protections stem from the Fifth and Fourteenth Amendments to the U.S. Constitution. Due process applies to all "'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). The question typically at issue is what process is due in specific circumstances. I would apply all binding precedent of the U.S. Supreme Court and the Eleventh Circuit regarding what due process is required in specific contexts. To the extent this asks me to opine on current political or legal disputes, as a judicial nominee, it would be inappropriate for me to comment on either pending or impending cases in the federal court system.

30. Can U.S. citizens be transported to other countries for the purpose of being detained, incarcerated, or otherwise penalized?

Response: Please see my answer to Question 29.

31. The Fourteenth Amendment states: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside."

a. Is every person born in the United States a citizen under the Fourteenth Amendment?

Response: As a judicial nominee, it would be inappropriate for me to comment on either pending or impending cases in the federal court system.

b. Is the citizenship or immigration status of the parents of an individual born in the United States relevant for determining whether the individual is a citizen under the Fourteenth Amendment?

Response: As a judicial nominee, it would be inappropriate for me to comment or either pending or impending cases in the federal court system.

32. Do you believe that demographic and professional diversity on the federal bench is important? Please explain your views.

Response: Yes, because the legal profession includes demographic and professional diversity to provide legal services to a demographically and professionally diverse population. I have had the privilege of representing clients from all walks of life, including volunteering my time to counsel indigent parties. Our judges should want to serve the public by administering justice fairly and impartially to all persons, regardless of their backgrounds. My desire to continue to serve is what led me to this nomination process.

33. The bipartisan *First Step Act of 2018*, which was signed into law by President Trump, is one of the most important pieces of criminal justice legislation to be enacted during my time in Congress. At its core, the Act was based on a few key, evidence-based principles. First, incarcerated people can and should have meaningful access to rehabilitative programming and support in order to reduce recidivism and help our communities prosper. Second, overincarceration through the use of draconian mandatory minimum sentences does not serve the purposes of sentencing and ultimately causes greater, unnecessary harm to our communities. With these rehabilitative principles in mind, one thing Congress sought to achieve through this Act was giving greater discretion to judges—both before and after sentencing—to ensure that the criminal justice system effectively and efficiently fosters public safety for the benefit of all Americans.

a. How do you view the role of federal judges in implementing the *First Step Act*?

Response: I view all statutory authority equally and will apply the same impartially. The First Step Act is no different and would receive the requisite attention and application in the event a case on my docket raised the Act.

b. Will you commit to fully and fairly considering the individualized circumstances of each defendant who comes before you when imposing sentences to ensure that they are properly tailored to promote the goals of sentencing and avoid terms of imprisonment in excess of what is necessary?

Response: I will fully and fairly apply all applicable laws and precedent that control the sentencing process.

34. The Federalist Society seeks to "reorder[] priorities within the legal system to place a premium on individual liberty, traditional values, and the rule of law."

a. During your selection process, have you spoken to or corresponded with any individuals associated with the Federalist Society, including Leonard Leo or Steven G. Calabresi? If so, please provide details of those discussions.

Response: No, but certain members of my current law firm are members of the Federalist Society. I speak and correspond with such persons in furtherance of my professional duties to my clients, not as part of the selection process to become a federal judge.

b. Have you ever been asked to and/or provided services to the Federalist Society, including research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Have you ever been paid honoraria by the Federalist Society? If so, how much were you paid, and for what services?
Response: No.

35. The Teneo Network states that its purpose is to "Recruit, Connect, and Deploy talented conservatives who lead opinion and shape the industries that shape society."

a. During your selection process, have you spoken to or corresponded with any individuals associated with the Teneo Network, including Leonard Leo? If so, please provide details of those discussions.

Response: Not to my knowledge.

b. Have you ever been asked to and/or provided services to the Teneo Network, including research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Have you ever been paid honoraria by the Teneo Network? If so, how much were you paid, and for what services?

Response: No.

36. The Heritage Foundation states that its mission is to "formulate and promote public policies based on the principles of free enterprise, limited government, individual freedom, traditional American values, and a strong national defense." Heritage Action, which is affiliated with the Heritage Foundation, seeks to "fight for conservative policies in Washington, D.C. and in state capitals across the country."

a. During your selection process, have you spoken to or corresponded with any individuals associated with the Heritage Foundation or Heritage Action, including Kevin D. Roberts? If so, please provide details of those discussions.

Response: Not to my knowledge.

b. Have you ever been asked to and/or provided services to the Heritage Foundation or Heritage Action, including research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Were you ever involved in or asked to contribute to Project 2025 in any way?

Response: No.

d. Have you ever been paid honoraria by the Heritage Foundation or Heritage Action? If so, how much were you paid, and for what services?

Response: No.

37. The America First Policy Institute (AFPI) states that its "guiding principles are liberty, free enterprise, national greatness, American military superiority, foreign-policy engagement in the American interest, and the primacy of American workers, families, and communities in all we do."

a. During your selection process, have you spoken to or corresponded with any individuals associated with AFPI? If so, please provide details of those discussions.

Response: Not to my knowledge.

b. Have you ever been asked to and/or provided services to AFPI, including research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Have you ever been paid honoraria by AFPI? If so, how much were you paid, and for what services?

Response: No.

38. The America First Legal Institute (AFLI) states that it seeks to "oppose the radical left's anti-jobs, anti-freedom, anti-faith, anti-borders, anti-police, and anti-American crusade."

a. During your selection process, have you spoken to or corresponded with any individuals associated with AFLI, including Stephen Miller, Gene Hamilton, or Daniel Epstein? If so, please provide details of those discussions.

Response: Not to my knowledge.

b. Have you ever been asked to and/or provided services to AFLI, including but not limited to research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Have you ever been paid honoraria by AFLI? If so, how much were you paid, and for what services?

Response: No.

39. The Article III Project is an organization which claims that, "The left is weaponizing the power of the judiciary against ordinary citizens."

a. During your selection process, have you spoken to or corresponded with any individuals associated with the Article III Project, including Mike Davis, Will Chamberlain, or Josh Hammer? If so, please provide details of those discussions.

Response: Not to my knowledge.

b. Have you ever been asked to and/or provided services to the Article III Project, including research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Have you ever been paid honoraria by the Article III Project? If so, how much were you paid, and for what services?

Response: No.

40. The Alliance Defending Freedom (ADF) states that it is "the world's largest legal organization committed to protecting religious freedom, free speech, the sanctity of life, marriage and family, and parental rights."

a. During your selection process, have you spoken to or corresponded with any individuals associated with ADF? If so, please provide details of those discussions.

Response: Not to my knowledge.

b. Have you ever been asked to and/or provided services to ADF, including research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Have you ever been paid honoraria by ADF? If so, how much were you paid, and for what services?

Response: No.

41. The Concord Fund, also known as the Judicial Crisis Network, states that it is committed "to the Constitution and the Founders' vision of a nation of limited government; dedicated to the rule of law; with a fair and impartial judiciary." It is affiliated with the 85 Fund, also known as the Honest Elections Project and the Judicial Education Project.

a. During your selection process, have you spoken to or corresponded with any individuals associated with these organizations, including Leonard Leo or Carrie Severino? If so, please provide details of those discussions.

Response: Not to my knowledge.

b. Have you ever been asked to and/or provided services to these organizations, including research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Have you ever been paid honoraria by these organizations? If so, how much were you paid, and for what services?

Response: No.

d. Do you have any concerns about outside groups or special interests making undisclosed donations to front organizations like the Concord Fund or 85 Fund in support of your nomination? Note that I am not asking whether you have solicited any such donations, I am asking whether you would find such donations to be problematic.

Response: I have no knowledge of any such donations. I am similarly unaware of any outside groups or special interests either supporting or opposing my nomination.

e. If you learn of any such donations, will you commit to call for the undisclosed donors to make their donations public so that if you are confirmed you can have this information when you make decisions about recusal in cases that these donors may have an interest in?

Response: I will commit to complying with all applicable ethics rules and codes of conduct. As a judicial nominee, it would not be appropriate for me to address policy questions concerning what the ethics rules or codes of conduct should be.

f. Will you condemn any attempt to make undisclosed donations to the Concord Fund or 85 Fund on behalf of your nomination?

Response: I have no knowledge of any such donations. I am similarly unaware of the Concord Fund or the 85 Fund.

Nomination of Harold Mooty to the
United States District Court for the Northern District of Alabama
Questions for the Record
Submitted September 10, 2025

QUESTIONS FROM SENATOR COONS

1. At any point during the process that led to your nomination, did you make any representations or commitments to anyone—including but not limited to individuals at the White House, at the Justice Department, or at outside groups—as to how you would handle a particular case, investigation, or matter, if confirmed? If so, explain fully.

   Response: No.

   a. At any point during the process that led to your nomination, were you asked about your opinion on any cases that involve President Trump or the Trump administration?

      Response: No.

2. How would you describe your judicial philosophy?

   Response: If I am confirmed as a district judge, I would faithfully and impartially apply the U.S. Constitution, all governing laws, all applicable rules, and all binding precedent from the U.S. Supreme Court and Eleventh Circuit. I would treat all persons who appear before me with dignity and respect. I would give each case or controversy the time and attention that it is due. I would not attempt to legislate from the bench and would put aside my own personal opinions or policy preferences. I would also move my docket along efficiently to avoid unnecessary delay in the fair administration of justice.

3. With respect to substantive due process, what factors do you look to when a case requires you to determine whether a right is fundamental and protected under the Fourteenth Amendment?

   Response: As a district judge, I would faithfully apply the standards set forth by the U.S. Supreme Court in analyzing rights under the Fourteenth Amendment.

   a. Would you consider whether the right is expressly enumerated in the Constitution?

      Response: Yes.

   b. Would you consider whether the right is deeply rooted in this nation's history and tradition? If so, what types of sources would you consult to determine whether a right is deeply rooted in this nation's history and tradition?

      Response: Yes. I would first consult the applicable U.S. Supreme Court precedent before consulting those sources relied upon by the Court in its analysis.

c. Would you consider whether the right has previously been recognized by the Supreme Court or a circuit precedent? What about the precedent of another court of appeals?

Response: As a district court judge, if the right is recognized in binding U.S. Supreme Court or Eleventh Circuit precedent, then my role would be to faithfully apply the precedent's analysis to the case or controversy before me. If there is no such binding precedent, I would carefully consider persuasive authority from other courts of appeal.

d. Would you consider whether a *similar* right has previously been recognized by the Supreme Court or a circuit precedent?

Response: Yes.

e. What other factors would you consider?

Response: I would carefully consider any relevant factor identified by either the U.S. Supreme Court or the Eleventh Circuit.

4. In your view, is it ever appropriate for a judge to ignore, disregard, refuse to implement, or issue an order that is contrary to an order from a higher court? Please explain.

Response: As a district court judge, it would never be appropriate for me to disregard, refuse to implement, or issue an order that is contrary to binding U.S. Supreme Court or Eleventh Circuit precedent.

5. In *United States v. Virginia*, 518 U.S. 515, 536 (1996), the Court explained that in 1839, when the Virginia Military Institute was established, "[h]igher education at the time was considered dangerous for women," a view widely rejected today. In *Obergefell v. Hodges*, 576 U.S. 644, 668 (2015), the Court reasoned, "As all parties agree, many same-sex couples provide loving and nurturing homes to their children, whether biological or adopted. And hundreds of thousands of children are presently being raised by such couples. . . . Excluding same-sex couples from marriage thus conflicts with a central premise of the right to marry. Without the recognition, stability, and predictability marriage offers, their children suffer the stigma of knowing their families are somehow lesser." This conclusion rejects arguments made by campaigns to prohibit same-sex marriage based on the purported negative impact of such marriages on children.

a. When is it appropriate for a court to consider evidence that sheds light on our changing understanding of society?

Response: As a district judge, I would apply U.S. Supreme Court and Eleventh Circuit precedent governing when such evidence is relevant and admissible, recognizing that certain doctrines and equitable remedies may call for consideration of real-world facts established in the record.

b. What is the role of sociology, scientific evidence, and data in judicial analysis?

Response: As a district court judge, I would faithfully apply all binding precedents from the U.S. Supreme Court and Eleventh Circuit concerning the role of such evidence in a particular case or controversy. Generally, potential scientific, technical, or other specialized knowledge is evaluated pursuant to Rule 702 of the Federal Rules of Evidence for relevance and reliability prior to admissibility as evidence.

6. In your Senate Judiciary Questionnaire, you noted that your legal practice involves no criminal proceedings.

a. Do you have any experience in criminal law?

Response: I have not practiced criminal law. I have advised clients with criminal-law issues and referred them to specialized counsel.

b. Why are you qualified to serve as a district judge in a court with a substantial criminal docket?

Response: I am well-versed in the Federal Rules of Civil Procedure and the Federal Rules of Evidence. The Federal Rules of Criminal Procedure were modeled after the civil rules. I have been studying the Federal Rules of Criminal Procedure, the Federal Sentencing Guidelines, and Federal Judicial Center materials. I have observed multiple federal criminal proceedings. I will continue preparing for the Northern District of Alabama's criminal caseload.

c. What training or education do you intend to pursue to bolster your criminal law knowledge?

Response: I will continue the training and education I began in December 2024, including careful review of the Sentencing Guidelines, the Criminal Rules, and FJC resources, and I will keep observing criminal proceedings in the district. I will also seek mentorship from experienced colleagues on the bench, including judges with extensive criminal-law experience.

7. I have been proud to co-lead the bipartisan *Safer Supervision Act*, a bill to reform our federal supervised release system that has received substantial conservative and law enforcement support. The premise of the bill is that our federal supervision system has strayed far from how Congress designed it, as courts impose it mechanically in essentially every case, which means that probation officers do not have time to properly supervise those who most need it. The bill reinforces courts' existing obligations under 18 U.S.C. §§ 3553 and 3583 to impose supervision as warranted by the individual facts of the case and encourages more robust use of early termination when warranted to provide positive incentives encouraging rehabilitation. At the encouragement of a bipartisan group of members of Congress, the U.S. Sentencing Commission recently finalized an

amendment to supervision guidelines implementing certain parts of the bill; this amendment will go in effect in November.

a. As a sentencing judge, would you endeavor to impose supervision thoughtfully and on the basis of the individual facts of the case consistent with 18 U.S.C. § 3553 and 18 U.S.C. § 3583?

Response: Yes.

b. Would you agree that the availability of early termination under 18 U.S.C. § 3583(e)(1) can provide individuals positive incentives to rehabilitate?

Response: Yes.

c. Will you commit if confirmed to reviewing the *Safer Supervision Act* and the recent Sentencing Commission amendment and considering them as you develop your approach to sentencing of supervised release?

Response: Yes.

8. What is the remedy if the President violates his constitutional duty to faithfully execute the laws?

Response: As a judicial nominee, it would be inappropriate for me in the abstract to formulate potential judicial remedies in a hypothetical case or controversy.

9. Is President Trump eligible to be elected President for a third term?

Response: The 22nd Amendment to the U.S. Constitution includes a two-term limit for U.S. Presidents.

10. Who won the U.S. Presidential Election in 2016?

Response: Our system of government determines who won an election to the Office of President of the United States by who is certified as the winner based on the electoral college vote. This process resulted in Donald Trump serving as the 45th President of the United States.

11. Who won the U.S. Presidential Election in 2020?

Response: Our system of government determines who won an election to the Office of President of the United States by who is certified as the winner based on the electoral college vote. This process resulted in Joe Biden serving as the 46th President of the United States.

12. Who won the U.S. Presidential Election in 2024?

Response: Our system of government determines who won an election to the Office of President of the United States by who is certified as the winner based on the electoral college vote. This process resulted in Donald Trump serving as the 47th President of the United States.

13. Do you agree with me that the attack at the U.S. Capitol on January 6, 2021, was an insurrection? Why or why not?

Response: I denounce any and all acts of violence against law enforcement and government officials; however, the characterization of the events of January 6 is subject to ongoing political debate. It would be inappropriate for me to comment on such a political debate as a judicial nominee.

14. Do you think the individuals convicted of assaulting law enforcement officers at the Capitol on January 6, 2021, deserved to be pardoned?

Response: As an Article III judicial nominee, it would not be appropriate for me to comment on the application of the pardon power wielded by a separate but equal branch of government in Article II of the United States Constitution. Furthermore, the pardons themselves are the subject of ongoing litigation and I may not comment on any matter that is or may come before me as a judge.

15. If you were the President on January 20, 2025, would you have pardoned the individuals convicted of assaulting law enforcement officers at the Capitol on January 6, 2021?

Response: As an Article III judicial nominee, it would not be appropriate for me to comment on the application of the pardon power wielded by a separate but equal branch of government in Article II of the United States Constitution. Furthermore, the pardons themselves are the subject of ongoing litigation, and I may not comment on any matter that is or may come before me as a judge.

16. Would it be constitutional for the President of the United States to punish a private person for a viewpoint that person expresses in a newspaper op-ed?

Response: As an Article III nominee, it would be inappropriate for me in the abstract to evaluate the constitutionality of actions by an Article II governmental official in a hypothetical case or controversy.

17. Would it be constitutional for the President of the United States to terminate government contracts with a private person specifically because that person donated to members of the opposite political party?

Response: As an Article III nominee, it would be inappropriate for me in the abstract to evaluate the constitutionality of actions by an Article II governmental official in a hypothetical case or controversy.

18. Would it ever be appropriate for the President of the United States to punish a law firm for taking on a client that the President did not like?

    Response: As a judicial nominee, it would be inappropriate for me to comment on either pending or impending cases in the federal court system.

19. Do you agree that there is a constitutional right to privacy that protects a woman's right to use contraceptives? If you do not agree, please explain whether this right is protected or not and which constitutional rights or provisions encompass it.

    Response: Yes, the U.S. Supreme Court has determined that the use of contraceptives is protected by the U.S. Constitution. Accordingly, as district judge, I would faithfully apply *Giswold* and all other precedents from the U.S. Supreme Court.

20. Do you agree that the constitutional right to travel across state lines is fundamental and well established?

    Response: Yes, the U.S. Supreme Court has repeatedly recognized a fundamental right to interstate travel. Accordingly, as district judge, I would faithfully apply that precedent from the U.S. Supreme Court.

    a. Do you think it is constitutional for a state to restrict the interstate travel of its citizens?

       Response: As a judicial nominee, it would be inappropriate for me in the abstract to evaluate the constitutionality of actions by states in a hypothetical case or controversy. Generally, restrictions by states of fundamental rights are subject to strict scrutiny analysis.

21. Do you believe that the Constitution protects a fundamental right to privacy?

    Response: As I referenced in a preceding answer, the U.S. Supreme Court has recognized a constitutional right to privacy in cases such as *Griswold*. I would faithfully apply *Griswold* and all other precedents from the U.S. Supreme Court.

    a. Does that right extend to information about your health care and medical history?

       Response: As a judicial nominee, it would be inappropriate for me to comment on either pending or impending cases in the federal court system.

    b. Do you agree that it is a violation of that right for states to surveil people's health care and medical history?

       Response: As a judicial nominee, it would be inappropriate for me to comment on either pending or impending cases in the federal court system.

22. Do you agree that there is a constitutional right to privacy that protects the right to in vitro fertilization (IVF)? If you do not agree, please explain whether this right is protected or not and which constitutional rights or provisions encompass it.

Response: As a judicial nominee, it would be inappropriate for me to comment on either pending or impending cases in the federal court system.

23. Do you believe that immigrants, regardless of legal status, are entitled to due process and fair adjudication of their claims?

Response: Due process protections stem from the Fifth and Fourteenth Amendments to the U.S. Constitution. Due process applies to all "'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). I would apply all binding precedent of the U.S. Supreme Court and the Eleventh Circuit regarding what due process is required in specific contexts.

24. Does the public's original understanding of the scope of a constitutional provision constrain its application decades later?

Response: If there is ambiguity, I believe a district judge should look to the original public meaning of the words in the U.S. Constitution in the absence of binding precedent from the U.S. Supreme Court or the Eleventh Circuit.

25. What sources would you employ to discern the contours of a constitutional provision?

Response: As a district judge, I would first consult the applicable U.S. Supreme Court and Eleventh Circuit precedent before consulting those sources relied upon by those courts in the formulation of their opinions.

26. What role does morality play in determining whether a challenged law or regulation is unconstitutional or otherwise illegal?

Response: Article III judges do not decide cases or controversies based on their own personal beliefs or morals. Judges must not attempt to legislate from the bench. Instead, they must impartially evaluate the parties' claims and defenses based on the arguments and evidence presented, applying governing law and binding precedent.

27. What role, if any, should the practical consequences of a particular ruling play in a judge's rendering of a decision?

Response: Practical consequences can matter when the governing legal standard makes them relevant – such as the factors for preliminary injunctive relief or other equitable remedies. But a judge's task is to apply the law to the facts. Practical consequences cannot override controlling statutes or binding precedent.

28. What role, if any, should empathy play in a judge's decision-making process?

Response: The primary role empathy can play is when a district court judge explains a particular decision or ruling to an individual party in a civil or criminal proceeding. Administering justice fairly and impartially sometimes requires judges to explain in greater detail the reason for a decision than might otherwise be required. Generally, however, it would be inappropriate for judges to rely on their own personal beliefs or feelings when adjudicating specific cases or controversies. Instead, a judge should evaluate the legal merits of the parties' claims and defenses using applicable law and binding precedent.

29. What role, if any, should a judge's personal life experience play in his or her decision-making process?

Response: Every judge brings personal life experience to the bench. That experience can help a judge manage proceedings and communicate decisions with clarity and respect. It should not guide the judge's decision-making at the expense of applicable law and binding precedent.

30. Should you be confirmed, would you ever inform parties before you that they do not need to comply with your orders?

Response: No. Court orders are binding. Absent a stay, modification, or reversal by a higher court, parties must comply.

a. Under what circumstances would you tell a party they could decide not to comply with your orders?

Response: None. If a party seeks relief from an order, the proper course is to request a stay or other appropriate relief. Until granted, the order must be obeyed.

b. What would you do if a party refuses to comply with one of your orders?

Response: I would follow the Federal Rules and applicable precedent, which may include directing compliance, awarding fees or sanctions where warranted (e.g., under Rules 16(f) or 37), or initiating contempt proceedings after providing notice and an opportunity to be heard. The response would depend on the circumstances and the governing law.

31. When it comes to conducting yourself ethically, who in the legal profession do you see as a role model?

Response: My father.

32. Discuss your proposed hiring process for law clerks.

Response: If I am confirmed as a district court judge, I would comply with all applicable ethics rules, published opinions, and codes of conduct concerning the hiring of law clerks. I would consult with other judges in the Northern District of Alabama regarding their processes. I would speak with colleagues, former law professors, and other contacts regarding potential candidates. Generally, I anticipate that I will receive and review applications from candidates, then determine which candidates to interview. I anticipate multiple interviews as well as discussions with various references associated with the candidate. The final decision will be based on merit and overall fit within my chambers.

a. Do you think law clerks should be protected by Title VII of the Civil Rights Act?

Response: Every employee should work in a safe, respectful, and nondiscriminatory environment. Whether Title VII applies is a question for Congress and the courts. Regardless, I will follow all applicable laws and the judiciary's Employment Dispute Resolution (EDR) Plan, and I will maintain chambers policies that prohibit discrimination and harassment and strictly forbid retaliation.

33. In the past year, multiple studies have revealed ongoing problems with workplace conduct policies and outcomes in the federal judiciary. In a national climate survey, hundreds of judiciary employees reported that they experienced sexual harassment, discrimination, or other forms of misconduct on the job. A study by the Federal Judicial Center and the National Academy of Public Administration found the branch has failed to set up trusted reporting systems for employees who experience misconduct or ensure those handling complaints are adequately trained.

    a. If confirmed, what proactive steps would you take to ensure that the clerks and judicial assistants who work in your chambers are treated with respect and are not subject to misconduct?

    Response: I will (1) adopt and share written chambers policies that mirror the judiciary's EDR Plan; (2) provide clear, multiple reporting avenues – including outside my chambers – with anti-retaliation assurances; (3) require annual training for myself and staff on anti-harassment, EEO, and bystander intervention; (4) hold an expectations meeting on day one and periodic check-ins; (5) document and address issues promptly and, where necessary, escalate to the Chief Judge or appropriate office.

    b. What proactive steps would you take to ensure that any workplace-related concerns that your clerks and judicial assistants may have are fully addressed?

    Response: I will ensure concerns can be raised confidentially, are acknowledged promptly, and are addressed under established procedures. If a concern implicates me, I will immediately recuse from handling it and refer it to the Chief Judge or the appropriate office.

    c. If you are confirmed and you later hear from a colleague or your chambers staff that another judge is acting inappropriately, what steps would you take to help ensure the problem is addressed?

    Response: I would follow all applicable ethics rules, opinions, and codes of conduct regarding reporting. Where appropriate, I would consult the Chief Judge and otherwise ensure the concern is addressed through the judiciary's established processes.

34. Some district court judges have issued standing orders indicating that the court will favor holding an oral argument when there is a representation that the argument would be handled by a junior lawyer. Such efforts are intended to provide more speaking opportunities in court for junior lawyers. Would you consider issuing a standing order that would encourage more junior lawyers to handle oral arguments? Why or why not?

    Response: I would consider issuing guidance – after consulting colleagues – encouraging opportunities for junior lawyers where client consent and case needs allow. In my courtroom, I intend to: (1) welcome reasonable requests to allocate a portion of argument

to a junior lawyer; (2) invite junior counsel to address discrete issues at conferences; (3) be flexible with scheduling to promote participation; and (4) offer brief, constructive feedback when feasible. I would not require any client to use a particular lawyer.

a. How else would you support the skills development of junior lawyers appearing before you?

Response: Please see my preceding answer. If I am confirmed as a district court judge, I would do my utmost to engage with young lawyers in my courtroom, but not to the detriment of the strategic decisions counsel and their client have made.

35. Do you believe there are differences in access to representation between indigent and affluent litigants?

Response: Yes, there can be situations where, for instance, a party's socioeconomic status prevents them from retaining counsel and instead must appear *pro se*. On other occasions, a party's socioeconomic status may enable them to afford more capable counsel, whether in quantity or quality.

a. If confirmed, what would you do to ensure equal access to justice in your courtroom?

Response: Equal justice begins with each judge applying the law faithfully and impartially, regardless of a party's background. If confirmed as a district court judge, I would treat all parties who appear before me with dignity and respect. I would exercise patience with *pro se* litigants and suggest the assistance of volunteer legal services or public defenders where appropriate.

36. Do you consider yourself an originalist?

Response: If there is ambiguity, I believe a district judge should look to the original public meaning of the words in the U.S. Constitution in the absence of binding precedent from the U.S. Supreme Court or the Eleventh Circuit.

a. You said during your Senate Judiciary Committee confirmation hearing that *Brown v. Board of Education* was correctly decided. Can you explain how the Court's decision in *Brown* comports with an originalist interpretation of constitutional law?

Response: During her confirmation process, Justice Kagan wisely pointed out that it would be inappropriate to weigh in with a "thumbs-up or thumbs down" on prior decisions or to "grade the homework" of the U.S. Supreme Court. Other judicial nominees have adopted Judge Kagan's guidance. *Brown v. Board of Education*, however, has historically been an exception to this guiding principle.

Therefore, I am comfortable sharing my belief that this case was correctly decided. If confirmed as a district court judge, I would faithfully follow all binding precedent of the U.S. Supreme Court, including *Brown*.

The Fourteenth Amendment of the Constitution requires equal protection of all citizens under the laws. *See* U.S. Const. amend. xiv ("[N]or shall any state . . . deny to any person within its jurisdiction the equal protection of the laws."). This topic has been the subject of significant scholarly attention and that many well-renowned scholars believe the decision is consistent with originalist principles. *See, e.g.*, Michael W. McConnell, *Originalism and the Desegregation Decision*, 81 Va. L. Rev. 947, 1140 (1995) ("This Article shows ... that school segregation was understood during Reconstruction to violate the principles of equality of the Fourteenth Amendment.").

b. You said during your Senate Judiciary Committee confirmation hearing that *Loving v. Virginia* was correctly decided. Can you explain how the Court's decision in *Loving* comports with an originalist interpretation of constitutional law?

Response: During her confirmation process, Justice Kagan wisely pointed out that it would be inappropriate to weigh in with a "thumbs-up or thumbs down" on prior decisions or to "grade the homework" of the U.S. Supreme Court. Other judicial nominees have adopted Judge Kagan's guidance. *Loving v. Virginia*, however, has historically been an exception to this guiding principle. Therefore, I am comfortable sharing my belief that this case was correctly decided. If confirmed as a district court judge, I would faithfully follow all binding precedent of the U.S. Supreme Court, including *Loving*.

The Fourteenth Amendment of the Constitution requires equal protection of all citizens under the laws. *See* U.S. Const. amend. xiv ("[N]or shall any state . . . deny to any person within its jurisdiction the equal protection of the laws."). This topic has been the subject of significant scholarly attention and that many well-renowned scholars believe the decision is consistent with originalist principles. *See, e.g.*, David R. Upham, *Interracial Marriage and the Original Understanding of the Privileges or Immunities Clause*, 42 Hastings Constitutional Law Quarterly 213 (2015); Steven G. Calabresi and Andrea Matthews, *Originalism and Loving v. Virginia*, 2012 BYU L. Rev. 1393 (2012).

c. During your hearing, you were unwilling to answer whether you believed the Supreme Court's decision in *Obergefell v. Hodges* was correct. Why?

Response: During her confirmation process, Justice Kagan wisely pointed out that it would be inappropriate to weigh in with a "thumbs-up or thumbs down" on prior decisions or to "grade the homework" of the U.S. Supreme Court. Other judicial nominees have adopted Judge Kagan's guidance. Therefore, it would be inappropriate for me to answer this question. If confirmed as a district court judge, I would faithfully follow all binding precedent of the U.S. Supreme Court, including *Obergefell*.

d. How many times does Justice Kennedy's decision for the Supreme Court in *Obergefell* cite *Loving v. Virginia*?

Response: I believe *Loving v. Virginia* is cited five times in Justice Kennedy's majority opinion.

Questions for the Record for Harold Mooty
Submitted by Senator Richard Blumenthal
September 10, 2025

1. If confirmed, will you recuse yourself from any case where a reasonable person, knowing all the relevant facts, might question your impartiality, even if you personally believe you can be fair?

   Response: I will faithfully comply with all applicable ethics rules, published opinions, and codes of conduct concerning recusals.

   a. If confirmed, will you recuse yourself from cases involving individuals, organizations, or entities to which you or your family members have made political contributions or provided political support?

      Response: I will faithfully comply with all applicable ethics rules, published opinions, and codes of conduct concerning recusals.

   b. If confirmed, will you recuse yourself from cases involving former clients, former law firms, or organizations with which you have had significant professional relationships?

      Response: I will faithfully comply with all applicable ethics rules, published opinions, and codes of conduct concerning recusals.

   c. If confirmed, will you recuse yourself from cases involving personal friends, social acquaintances, or individuals with whom you have ongoing personal relationships?

      Response: I will faithfully comply with all applicable ethics rules, published opinions, and codes of conduct concerning recusals.

2. If confirmed, will you commit to avoiding all *ex parte* communications about pending cases, including informal discussions at social events or professional gatherings?

   Response: I will faithfully comply with all applicable ethics rules, published opinions, and codes of conduct concerning *ex parte* communications.

   d. If confirmed, will you avoid discussing pending cases or judicial business with elected officials, political appointees, or political operatives?

      Response: I will faithfully comply with all applicable ethics rules, published opinions, and codes of conduct concerning my interactions with non-parties.

e. If confirmed, will you commit to declining meetings or communications with lobbyists, advocacy groups, or special interests seeking to influence your judicial decisions?

Response: I will faithfully comply with all applicable ethics rules, published opinions, and codes of conduct concerning my interactions with non-parties.

f. If confirmed, will you refrain from making public statements about legal or political issues that could reasonably be expected to come before your court?

Response: I will faithfully comply with all applicable ethics rules, published opinions, and codes of conduct concerning public statements.

3. If confirmed, will you commit to filing complete and accurate financial disclosure reports that include all required information about your financial interests and activities?

Response: I will faithfully comply with all applicable ethics rules, published opinions, and codes of conduct concerning financial disclosures.

g. If confirmed, will you decline all gifts from parties who might appear before your court or who have interests that could be affected by your judicial decisions?

Response: I will faithfully comply with all applicable ethics rules, published opinions, and codes of conduct concerning the receipt of gifts.

h. If confirmed, will you decline privately funded travel, hospitality, or entertainment that could create an appearance of impropriety or special access?

Response: I will faithfully comply with all applicable ethics rules, published opinions, and codes of conduct concerning travel, hospitality, and entertainment.

i. If confirmed, will you ensure that any teaching, speaking, or writing activities comply with judicial ethics requirements and do not create conflicts with your judicial duties?

Response: I will faithfully comply with all applicable ethics rules, published opinions, and codes of conduct concerning outside teaching, speaking, and writing activities.

4. The House Republican-authored budget reconciliation bill had included a provision that would have limited federal judges' ability to hold government officials in contempt. While the Senate Parliamentarian ruled that the provision violated the Byrd Rule, and it was, therefore, removed, it would have prohibited federal courts from issuing contempt penalties against officials who disobey preliminary injunctions or Temporary Restraining Orders if the party seeking the order did not provide financial security to cover potential future damages for wrongful enjoining.

The contempt power was first codified in law in the Judiciary Act of 1789. In 1873, the Supreme Court described it as "inherent in all courts" and "essential to the preservation of order in judicial proceedings and to the enforcement of the judgements, orders, and writs of the courts, and consequently to the due administration of justice." Yet House Republicans are seeking to exempt government officials from this key tool for judicial enforcement.

a. Do you believe the contempt power is "essential . . . to the due administration of justice[?]"

Response: I believe in equally and impartially applying the applicable federal rules of both criminal and civil procedure, including the specific rules governing contempt proceedings.

b. Do you believe that federal judges should be limited in their ability to hold government officials who defy court orders in contempt?

Response: I believe in equally and impartially applying the applicable federal rules of both criminal and civil procedure, including the specific rules governing contempt proceedings. If such a case came before me, I would similarly follow binding precedent from the U.S. Supreme Court and Eleventh Circuit. To the extent the question asks me to comment on the subject of political controversy or ongoing litigation, it would be inappropriate for me to do so as a judicial nominee.

5. If confirmed, you, like all other members of the federal bench, would have the ability to issue orders. On February 9, 2025, Vice President Vance posted on X that "[j]udges aren't allowed to control the executive's legitimate power." This raises an extremely concerning specter of Executive Branch defiance of court orders.

a. If confirmed, would you have the ability to issue orders?

Response: Yes.

i. Would you have the ability to enforce those orders?

Response: The Federal Rules of Criminal and Civil Procedure include mechanisms to enforce a district court's orders.

ii. What powers would you have to enforce those orders?

Response: Federal district courts typically enforce their orders using the applicable rules of criminal and civil procedure, including available sanctions and contempt procedures.

b. Does there exist a legal basis for federal Executive Branch officials to defy federal court orders? If so, what basis and in which circumstances?

Response: According to the Federal Rules of Civil Procedure as well as the Federal Rules of Appellate Procedure, a federal official could seek relief from a district court order by moving for a stay during the pendency of the official's appeal to the appropriate appellate court. As a judicial nominee, it would be inappropriate for me to go any further and attempt to pre-determine or validate certain legal arguments given that such a federal official could come before me. It would likewise be inappropriate for me to comment on pending or impending litigation in the federal courts.

c. Does there exist a legal basis for state officials to defy federal court orders? If so, what basis and in which circumstances?

Response: According to the Federal Rules of Civil Procedure as well as the Federal Rules of Appellate Procedure, a state official could seek relief from a district court order by moving for a stay during the pendency of the official's appeal to the appropriate appellate court. As a judicial nominee, it would be inappropriate for me to go any further and attempt to pre-determine or validate certain legal arguments given that such a state official could come before me. It would likewise be inappropriate for me to comment on pending or impending litigation in the federal courts.

d. What would make a court order unlawful?

Response: Generally, the absence of subject matter jurisdiction would prohibit a district court from lawfully entering an order.

i. What is the process a party should follow if it believes a court order to be unlawful?

Response: Please see my answer to question 5. b-c.

ii. Is it ever acceptable to not follow this process? When and why?

Response: Please see my answer to question 5. b-c.

6. Were you in Washington, D.C. on January 6, 2021?

Response: No.

a. Were you inside the U.S. Capitol or on the U.S. Capitol grounds on January 6, 2021?

Response: No.

Senator Mazie K. Hirono
Senate Judiciary Committee

Nomination Hearing
Questions for the Record to Harold Dean Mooty III

1. As part of my responsibility as a member of this committee to ensure the fitness of nominees, I ask each nominee to answer two initial questions:
   a. **Since you became a legal adult, have you ever made unwanted requests for sexual favors, or committed any verbal or physical harassment or assault of a sexual nature?**

      Response: No.

   b. **Have you ever faced discipline or entered into a settlement related to this kind of conduct?**

      Response: No.

2. The Trump Administration is continuing its wholesale assault on the value of multiculturalism. Through executive orders, he has attempted to dismantle decades of work to promote equal opportunity and inclusion in a multicultural society. While you were at the University of Alabama, you spoke on a panel sponsored by the NAACP encouraging the construction of a "multicultural center on campus."
   a. **Do you still believe, as you did then, that multiculturalism in schools is a benefit to the educational system?**

      Response: Yes. In my experience, students benefit when a campus welcomes individuals from a wide range of backgrounds and life experiences. During my time at the University of Alabama, I served in student leadership and worked with many student groups. At that time, I expressed support for a student-initiated proposal to create a multicultural center. If confirmed, my personal views would not influence my decisions. I would apply the law to the facts of each case, consistent with binding precedent.

   b. **If your answer to (2)(a) was anything other than "yes," what considerations have influenced you to change your position?**

      Response: Not applicable; my answer to 2.a. is "Yes."

Nomination of Harold D. Mooty III
United States District Court for the Northern District of Alabama
Questions for the Record
Submitted September 10, 2025

QUESTIONS FROM SENATOR BOOKER

1. The American Bar Association (ABA) Standing Committee on the Federal Judiciary has conducted extensive peer evaluations of the professional qualifications of a president's nominees to become federal judges for seven decades. This practice has endured through 18 presidential administrations, under Republican and Democratic presidents.

   On May 29, 2025, Attorney General Pam Bondi ended this longstanding practice when she informed the ABA that, "[T]he Office of Legal Policy will no longer direct nominees to provide waivers allowing the ABA access to nonpublic information, including bar records. Nominees will also not respond to questionnaires prepared by the ABA and will not sit for interviews with the ABA."[1]

   a. Do you agree with AG Bondi that "the ABA no longer functions as a fair arbiter of nominees' qualifications and its ratings invariably and demonstrably favor nominees put forth by Democratic administrations"?

      Response: As an Article III judicial nominee, it would be inappropriate for me to comment on the political rhetoric from the Article II branch which is a separate but equal branch of government. It would be improper for a judicial nominee to comment on statements by any political figure as part of a broader political debate.

2. How would you characterize your judicial philosophy?

   Response: If I am confirmed as a district judge, I would faithfully and impartially apply the U.S. Constitution, all governing laws, all applicable rules, and all binding precedent from the U.S. Supreme Court and Eleventh Circuit. I would treat all persons who appear before me with dignity and respect. I would give each case or controversy the time and attention that it is due. I would not attempt to legislate from the bench and would put aside my own personal opinions or policy preferences. I would also move my docket along efficiently to avoid unnecessary delay in the fair administration of justice.

3. What do you understand originalism to mean?

   Response: My understanding is that originalism is the view that the U.S. Constitution's meaning was fixed at the time it was adopted and should be interpreted today according to its original public meaning. As a district judge, my task would be to apply that law – faithfully and neutrally – under binding U.S. Supreme Court and Eleventh Circuit precedent.

[1] Letter from Attorney General Pam Bondi to William R. Bay, President, American Bar Association (May 29, 2025), https://www.justice.gov/ag/media/1402156/dl?inline.

4. Do you consider yourself an originalist?

   Response: If there is ambiguity, I believe a district judge should look to the original public meaning of the words in the U.S. Constitution in the absence of binding precedent from the U.S. Supreme Court or the Eleventh Circuit.

5. What do you understand textualism to mean?

   Response: My understanding is that textualism is the view that courts interpret statutes by focusing on the words Congress enacted – their ordinary public meaning at the time of enactment – read in context and as part of the whole statutory scheme. A textualist's goal is to apply the law as written, not to implement policy preferences or individual will.

6. Do you consider yourself a textualist?

   Response: In the absence of ambiguity, I believe a district judge should look to the ordinary meaning of the words in a statute and not to the legislative history or other materials that were not made law through the process of bicameralism and presentment.

7. Legislative history refers to the record Congress produces during the process of passing a bill into law, such as detailed reports by congressional committees about a pending bill or statements by key congressional leaders while a law was being drafted. Some federal judges consider legislative history when analyzing the meaning of a statute.

   a. If you are confirmed to serve on the federal bench, would you consult and cite legislative history to analyze or interpret a federal statute?

      Response: In the absence of ambiguity, no. I would faithfully apply all binding precedent of the U.S. Supreme Court and the Eleventh Circuit concerning the use of legislative history.

   b. Do you believe that congressional intent matters when interpreting a statute? Why or why not.

      Response: If a statute is ambiguous in a particular case or controversy, I would first look to the surrounding sections of the statute and applicable U.S. Supreme Court and Eleventh Circuit precedent. I would also consult the Canons of Statutory Construction. Generally, I would not attempt to discern congressional intent outside the four corners of the law that was passed through bicameralism and presentment. I would consider congressional intent when instructed to do so by the U.S. Supreme Court or Eleventh Circuit precedent.

8. According to an academic study, Black men were 65 percent more likely than similarly-situated white men to be charged with federal offenses that carry harsh mandatory minimum sentences.[2]

   a. What do you attribute this to?

      Response: I am not an expert in racial disparity in the criminal justice system or the history of criminal justice reform. The underlying cause of those and other troubling disparities is subject to ongoing public debate. As a judicial nominee, it would be inappropriate for me to comment on this debate or otherwise speculate. I can, however, commit to applying the law faithfully and impartially regardless of someone's race. The oath of office for a district court judge requires nothing less.

9. A recent report by the United States Sentencing Commission observed demographic differences in sentences imposed during the five-year period studied, with Black men receiving federal prison sentences that were 13.4 percent longer than white men.[3]

   a. What do you attribute this to?

      Response: Please see my answer to Question 8.a.

10. What role do you think federal judges, who review difficult, complex criminal cases, can play in ensuring that a person's race did not factor into a prosecutor's decision or other instances where officials exercise discretion in our criminal justice system?

    Response: Every role in the criminal justice system requires an awareness of the potential for bias of any sort to interfere with the fair and impartial administration of justice. Judges, in particular, must endeavor to reduce the risk that bias could play in the performance of their duties in criminal cases.

11. Do you believe it is an important goal for there to be demographic diversity in the judicial branch? Why or why not.

    Response: Yes, because the legal profession includes demographic and professional diversity to provide legal services to a demographically and professionally diverse population. I have had the privilege of representing clients from all walks of life, including volunteering my time to counsel indigent parties. Our judges should want to serve the public by administering justice fairly and impartially to all persons, regardless of their backgrounds. My desire to continue to serve is what led me to this nomination process.

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[2] Sonja B. Starr & M. Marit Rehavi, *Racial Disparity in Federal Criminal Sentences*, 122 J. POL. ECON. 1320, 1323 (2014).

[3] U.S. SENTENCING COMM'N, DEMOGRAPHIC DIFFERENCES IN SENTENCING 2 (Nov. 2023), https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2023/20231114_Demographic-Differences.pdf.

12. Please indicate whether you have ever published written material or made any public statements relating to the following topics. If so, provide a description of the written or public statement, the date and place/publication where the statement was made or published, and a summary of its subject matter. Mere reference to the list of publications and statements provided in your Senate Judiciary Questionnaire is insufficient; provide specific responses.

    If you have not disclosed a copy of the publication or a transcript of the statement to the Judiciary Committee, please attach a copy or link to the materials and please explain why you have not previously disclosed them.

    a. Abortion

        Response: No.

    b. Affirmative action

        Response: No.

    c. Contraceptives or birth control

        Response: No.

    d. Gender-affirming care

        Response: No.

    e. Firearms

        Response: No.

    f. Immigration

        Response: No.

    g. Same-sex marriage

        Response: No.

    h. Miscegenation

        Response: No.

    i. Participation of transgender people in sports

        Response: No.

j. Service of transgender people in the U.S. military

Response: No.

k. Racial discrimination

Response: No.

l. Sex discrimination

Response: No.

m. Religious discrimination

Response: No.

n. Disability discrimination

Response: No.

o. Climate change or environmental disasters

Response: No.

p. "DEI" or Diversity Equity and Inclusion

Response: No.

13. Under what circumstances would it be acceptable for an executive branch official to ignore or defy a federal court order?

Response: I have not litigated this issue in my career, nor have I carefully studied or written on the subject. It is my general understanding that, under extremely limited circumstances, a litigant could lawfully disregard an order from a lower federal court if, for instance, the court lacked subject matter jurisdiction. The most appropriate method, however, of challenging such an order is to comply pending appellate review. Otherwise, if the party fails to comply with the order, court-imposed sanctions and contempt proceedings may be triggered.

a. If an executive branch official ignores or defies a federal court order, what legal analysis would you employ to determine whether that official should be held in contempt?

Response: The federal rules of civil and criminal procedure govern contempt proceedings, in addition to binding precedent from the U.S. Supreme Court and Eleventh Circuit. As a judicial nominee, it would be inappropriate for me in the abstract to formulate potential judicial remedies in a hypothetical case or controversy.

b. Is there any legal basis that would allow an executive branch official to ignore or defy temporary restraining orders and preliminary injunctions issued by federal district court judges? Please provide each one and the justification.

Response: Please see my preceding answers to Question 13.

14. Does the president have the power to ignore or nullify laws passed by Congress?

Response: As a judicial nominee, it would be inappropriate for me to comment on either pending or impending cases in the federal court system.

15. Does the president have the power to withhold funds appropriated by Congress?

Response: As a judicial nominee, it would be inappropriate for me to comment on either pending or impending cases in the federal court system.

16. Does the president have the power to discriminate by withholding funds against state or local jurisdictions based on the political party of a jurisdiction's elected officials?

Response: As a judicial nominee, it would be inappropriate for me to comment on either pending or impending cases in the federal court system.

17. Does the Supremacy Clause of the U.S. Constitution establish that federal laws supersede conflicting state laws?

Response: Yes, according to binding U.S. Supreme Court precedent. I would faithfully apply all applicable U.S. Supreme Court and Eleventh Circuit precedent when determining the specific types of conflicting federal and state laws that trigger federal preemption.

18. Does the Fifth Amendment of the U.S. Constitution apply to non-citizens present in the United States?

Response: Due process applies to all "'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). I would apply all binding precedent of the U.S. Supreme Court and the Eleventh Circuit regarding what due process is required in specific contexts.

19. Is it constitutional for Congress to delegate to federal agencies the power to implement statutes through rulemaking?

Response: The Supreme Court recently reaffirmed that while "[l]egislative power … belongs to the legislative branch, and to no other, … Congress may seek assistance from its coordinate branches to secure the effect intended by its acts of legislation. And in particular, Congress may vest discretion in executive agencies to implement and apply the laws it has enacted—for example, by deciding on the details of their execution." *FCC v. Consumers'*

Rsch., 145 S. Ct. 2482, 2496-97 (2025) (cleaned up). For a delegation to be permissible, Congress must "set out an 'intelligible principle' to guide what it has given the agency to do." *Id.* at 2497. I would faithfully apply all binding U.S. Supreme Court and Eleventh Circuit Precedent concerning the limits of such delegation authority.

20. Was *Brown v. Board of Education*, 347 U.S. 483 (1954), correctly decided?

Response: During her confirmation process, Justice Kagan wisely pointed out that it would be inappropriate to weigh in with a "thumbs-up or thumbs-down" on prior decisions or to "grade the homework" of the U.S. Supreme Court. Other judicial nominees have adopted Justice Kagan's guidance. *Brown v. Board of Education*, however, has historically been an exception to this guiding principle. Therefore, I am comfortable sharing my belief that this case was correctly decided. As a district court judge, I would faithfully follow all binding precedent of the U.S. Supreme Court.

21. Is *Griswold v. Connecticut*, 381 U.S. 479 (1965), binding precedent? Please describe the facts and holding of this case.

Response: Yes, *Griswold* is binding precedent of the U.S. Supreme Court. The Court held that the Fourteenth Amendment protects the use of contraceptives. I would faithfully apply *Griswold* and all other binding precedent if confirmed as a district court judge.

22. Is *Lawrence v. Texas*, 539 U.S. 558 (2003), binding precedent? Please describe the facts and holding of this case.

Response: Yes, *Lawrence* is binding precedent of the U.S. Supreme Court. The Court held that laws that criminalize sexual intimacy between members of the same sex violate the Fourteenth Amendment. I would faithfully apply *Lawerence* and all other binding precedent if confirmed as a district court judge.

23. Is *Obergefell v. Hodges*, 576 U.S. 644 (2015), binding precedent? Please describe the facts and holding of this case.

Response: Yes, *Obergefell* is binding precedent of the U.S. Supreme Court. The Court held that the Fourteenth Amendment requires a state to license marriages between two people of the same sex on the same terms and conditions as marriages between two people of the opposite sex. I would faithfully apply *Obergefell* and all other binding precedent if confirmed as a district court judge.

24. Do you believe that President Biden won the 2020 election? Note that this question is not asking who was certified as president in the 2020 election.

Response: Our system of government determines who won an election to the Office of President of the United States by who is certified as the winner based on the electoral college vote. This process resulted in Joe Biden serving as the 46th President of the United States.

a. Did Biden win a majority of the electoral vote in the 2020 election?

Response: Please see my prior response to Question 24 above.

b. Do you believe that the results of the 2020 election, meaning the vote count, were accurate? If not, please provide why not and examples.

Response: Please see my prior responses to Question 24 above. As a judicial nominee, it would be inappropriate for me to comment on the broader political or policy debate concerning the conduct of the 2020 presidential election or the statements by political figures.

25. The 22nd Amendment says that "no person shall be elected to the office of the President more than twice."[4]

a. Do you agree that President Trump was elected to the office of the President in the 2016 election?

Response: Yes.

b. Did Trump win a majority of the electoral vote in the 2016 election?

Response: Our system of government determines who won an election to the Office of President of the United States by who is certified as the winner based on the electoral college vote. This process resulted in Donald Trump serving as the 45th President of the United States.

c. Do you agree that President Trump was elected to the office of the President in the 2024 election?

Response: Yes.

d. Did Trump win a majority of the electoral vote in the 2024 election?

Response: Our system of government determines who won an election to the Office of President of the United States by who is certified as the winner based on the electoral college vote. This process resulted in Donald Trump serving as the 47th President of the United States.

e. Do you agree that the 22nd Amendment, absent a constitutional amendment, prevents President Trump from running for a third presidential term?

Response: As written, the 22nd Amendment of the U.S. Constitution currently limits any president to two terms in office.

[4] U.S. CONST. amend. XXII.

26. Has any official from the White House or the Department of Justice, or anyone else involved in your nomination or confirmation process, instructed or suggested that you not opine on whether any past Supreme Court decisions were correctly decided?

    Response: No.

27. Have you spoken or corresponded with Elon Musk since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

    Response: No.

28. Have you spoken or corresponded with any member of the Department of Government Efficiency (DOGE) since November 2024? If yes, identify the member(s) and provide the dates, mode, and content of those discussions and communications.

    Response: No.

29. Have you spoken or corresponded with Stephen Miller since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

    Response: No.

30. Have you spoken or corresponded with Chad Mizelle since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

    Response: No.

31. Have you spoken or corresponded with Pam Bondi since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

    Response: No.

32. Have you spoken or corresponded with Todd Blanche since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

    Response: No.

33. Have you spoken or corresponded with Emil Bove since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

    Response: No.

34. Have you spoken or corresponded with Leonard Leo since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

    Response: No.

35. Have you—personally or through any of your affiliated companies or organizations, agents, or employees—provided financial support or other resources to any members of the Proud Boys or of the Oath Keepers for their legal fees or for other purposes? If yes, state the amount of financial support provided, dates provided, and for what purposes.

    Response: Not to my knowledge.

36. Have you ever spoken or corresponded with any of the following individuals? If yes, provide the dates, mode, and content of those discussions and communications.
    a. Enrique Tarrio

       Response: No.

    b. Stewart Rhodes

       Response: No.

    c. Kelly Meggs

       Response: No.

    d. Kenneth Harrelson

       Response: No.

    e. Thomas Caldwell

       Response: No.

    f. Jessica Watkins

       Response: No.

    g. Roberto Minuta

       Response: No.

    h. Edward Vallejo

       Response: No.

    i. David Moerschel

       Response: No.

j. Joseph Hackett

Response: No.

k. Ethan Nordean

Response: No.

l. Joseph Biggs

Response: No.

m. Zachary Rehl

Response: No.

n. Dominic Pezzola

Response: No.

o. Jeremy Bertino

Response: No.

p. Julian Khater

Response: No.

37. Have you ever spoken or corresponded with any individuals convicted and later pardoned of offenses related to the January 6, 2021 attack on the U.S. Capitol? If yes, identify the individual(s) and provide the dates, mode, and content of those discussions and communications.

Response: No.

38. Have you ever been demoted, terminated, or experienced any other adverse employment action?

Response: No.

a. If yes, please describe the events that led to the adverse employment action.

Response: Not applicable.

b. If no, please affirm that, since becoming a legal adult, you have left each place of employment voluntarily and not subject to the request or suggestion of any employer.

Response: I affirm that, since becoming a legal adult, I have left each place of employment voluntarily and not subject to the request or suggestion of any employer.

39. Federal judges must file annual financial disclosure reports and periodic transaction reports. If you are confirmed to the federal bench, do you commit to filing these disclosures and to doing so on time?

Response: I commit to following all applicable ethics rules and codes of conduct.

40. Article III Project (A3P) "defends constitutionalist judges and the rule of law." According to Mike Davis, Founder & President of A3P, "I started the Article III Project in 2019 after I helped Trump win the Gorsuch and Kavanaugh fights. We saw then how relentless—and evil—too many of today's Democrats have become. They're Marxists who hate America. They believe in censorship. They have politicized and weaponized our justice systems."[5]

a. Do you agree with the above statement?

Response: I am unfamiliar with the Article III Project. I am also unfamiliar with Mike Davis. Therefore, I cannot speak to the beliefs or opinions of either.

b. Have you discussed any aspect of your nomination to the federal bench with any officials from or anyone directly associated with A3P, or did anyone do so on your behalf? If yes, identify the individual(s) and provide the dates, mode, and content of those discussions and communications.

Response: Not to my knowledge.

c. Are you currently in contact with anyone associated with A3P? If so, who?

Response: Not to my knowledge.

d. Have you ever been in contact with anyone associated with A3P? If so, who?

Response: Not to my knowledge.

41. Since you were first approached about the possibility of being nominated, did anyone associated with the Trump Administration or Senate Republicans provide you guidance or advice about which cases to list on your Senate Judiciary Questionnaire (SJQ)?

Response: No.

a. If so, who? What advice did they give?

Response: Not applicable.

[5] https://www.article3project.org/about

b. Did anyone suggest that you omit or include any particular case or type of case in your SJQ?

Response: No.

42. During your selection process did you talk with any officials from or anyone directly associated with the Article III Project, or did anyone do so on your behalf? If so, what was the nature of those discussions?

Response: Not to my knowledge.

43. During your selection process did you talk with any officials from or anyone directly associated with the Federalist Society, or did anyone do so on your behalf? If so, what was the nature of those discussions?

Response: Not to my knowledge.

44. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding your nomination.

Response: To the best of my recollection, on June 26, 2025, I interviewed with attorneys from the White House Counsel's Office and the Office of Legal Policy. I later communicated with the White House Counsel's Office and the Office of Legal Policy on July 24, 2025, regarding those documents and forms necessary to complete the nomination process. Since July 24, 2025, I have been in contact with the Office of Legal Policy and the White House Counsel's Office.

45. Please explain, with particularity, the process whereby you answered these written questions.

Response: To the best of my recollection, I received these written questions on September 11, 2025. I printed the questions out and made handwritten notes. Then on September 12 and 13, I typed my answers into the electronic version of the questions. I reviewed and revised my answers on September 14, then submitted the final version on September 15.

A P P E N D I X

The following submissions are available at:

https://www.govinfo.gov/content/pkg/CHRG-119shrg61890/pdf/CHRG-119shrg61890-add1.pdf

Submitted by Ranking Member Durbin:

Alliance for Justice, Opposition to Chamberlin, letter 2
Alliance for Justice, Opposition to LaCour, letter 4
Alliance for Justice, Opposition to Mascott, letter 6
National Women's Law Center, Opposition to Mascott (NWLC), letter 9
People For the American Way (PFAW), Opposition to LaCour, letter 17
People For the American Way (PFAW), Opposition to Mascott, letter 21