

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES

PUBLIC

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

Claire McCusker Murray (née Claire Virginia McCusker)

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

Commissioner and Vice Chair, United States Sentencing Commission

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: United States Sentencing Commission
 One Columbus Circle, N.E.
 Suite 2-500
 Washington, D.C. 20002

Residence: Chevy Chase, Maryland

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

1982; New Brunswick, New Jersey

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.

2006 – 2009, Yale Law School, J.D., May 2009

2005 – 2006, Cambridge University, Trinity College, M. Phil., July 2008

2004 – 2005, L'Ecole des Hautes Etudes en Sciences Sociales, d.e.a. (*mention très bien*),
June 2005

2000 – 2004, Harvard University, A.B. (*magna cum laude*), May 2004

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.

Affiliations (Compensated)

2022 – Present

United States Sentencing Commission
One Columbus Circle, Northeast
Suite 2-500
Washington, D.C. 20002
Vice Chair and Commissioner

2019 – 2021

United States Department of Justice
950 Pennsylvania Avenue, Northwest
Washington, D.C. 20530
Acting Associate Attorney General (2021)
Principal Deputy Associate Attorney General (2019 – 2021)
Counselor to the Attorney General (2019)

2017 – 2019

The White House
1600 Pennsylvania Avenue, Northwest
Washington, D.C. 20500
Special Assistant and Associate Counsel to the President (2017 – 2019)
Associate Counsel to the President (2017)

2013 – 2017

Kirkland & Ellis LLP
1301 Pennsylvania Avenue, Northwest
Washington, D.C. 20004
Partner (2015 – 2017)
Associate (2013 – 2015)

2012 – 2013

Supreme Court of the United States
1 First Street, Northeast
Washington, D.C. 20543
Law Clerk to Associate Justice Samuel A. Alito

2010 – 2012

United States Department of Justice
950 Pennsylvania Avenue, Northwest
Washington, D.C. 20530
Trial Attorney, Appellate Section, Criminal Division

2011

United States Attorney's Office for the Eastern District of Virginia
2100 Jamieson Avenue
Alexandria, Virginia 22314
Special Assistant United States Attorney (detailee)

2009 – 2010

United States Court of Appeals for the District of Columbia Circuit
E. Barrett Prettyman United States Courthouse
333 Constitution Avenue, Northwest
Washington, D.C. 20001
Law Clerk to Judge Brett M. Kavanaugh

2009

United States Department of Justice
950 Pennsylvania Avenue, Northwest
Washington, D.C. 20530
Summer Law Intern, Office of the Solicitor General

2007 – 2009

Yale Law School
127 Wall Street
New Haven, Connecticut 06511
Coker Fellow to Professor Jack Balkin's Constitutional Law Class (2008 – 2009)
Research Assistant to Professor Kate Stith (2007 – 2008)
Research Assistant to Professor Henry Smith (2007 – 2008)

2007

Yale University
New Haven, Connecticut 06520
Teaching Assistant for Professor Akhil Amar's Undergraduate Constitutional Law Course

2008

Gibson Dunn (then Gibson Dunn & Crutcher)
1150 Connecticut Avenue, Northwest
Washington, D.C. 20036
Summer Associate

2007

Cooper & Kirk PLLC
1523 New Hampshire Avenue, Northwest
Washington, D.C. 20036
Summer Associate

2006

First Things Magazine

9 East 40th Street, 10th floor
New York, New York 10016
Senior Research Analyst

Affiliations (Uncompensated)

2004

President's Council on Bioethics (no longer in existence)
Summer Intern

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 U.S. Military. I was not required to register for the 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.

Mountain Lakes High School Alumni Hall of Fame (2016)

Kirkland & Ellis Pro Bono Service Award (2015, 2016)

Award for Outstanding Assistance and Support on Behalf of the Investigative Responsibilities of the U.S. Secret Service (2011)

Temple Bar Scholar, American Inns of Court (2010)

Articles Editor, *Yale Law Journal* (2008 – 2009)

Coker Fellow, Yale Law School (2008 – 2009)

Thurmond Arnold Semifinalist, Morris Tyler Moot Court of Appeals, Yale Law School (2009)

Submissions Editor, *Yale Law & Policy Review* (2007 – 2008)

Trinity College External Research Studentship, Cambridge University (full tuition, room, and board scholarship) (2005)

Degree from L'Ecole des Hautes Etudes en Sciences Sociales conferred with highest distinction (*mention très bien*) (2005)

Richard M. Weaver Fellow, Intercollegiate Studies Institute (2005)

Tertio Millennio Scholar, Ethics & Public Policy Center (2005)

Augustus Clifford Tower Fellowship, Harvard College (full-tuition, room, and board for post-graduate studies in France) (2004)

Degree from Harvard College conferred *magna cum laude* (2004)

Elizabeth Cary Agassiz Award, Harvard College (2000 – 2004)

John Harvard Scholar, Harvard College (2000 – 2004)

Traditio Fellow, Pew Younger Scholars Program (2003)

Publius Fellow, Claremont Institute (2002)

Honors Fellow, Intercollegiate Studies Institute (2002)

Prince of Liechtenstein Catholic Leaders Fellowship (2001)

National Alliance for Excellence Honored Scholars Award (2001)

United States Presidential Scholar (2000)

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.

Solicitor General's Resolution Committee to Honor Justice Sandra Day O'Connor (Member, 2026)

Edward Coke Appellate Inn of Court (Member, 2012 – 2016)

Maryland Bar Association (Member, 2010 – 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.

Maryland, 2010

District of Columbia, 2015

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, 2016

United States Court of Appeals for the Second Circuit, 2020 (assumed inactive status in 2025)

United States Court of Appeals for the Fifth Circuit, 2011 (assumed inactive status in 2016; readmitted in 2020; assumed inactive status in 2025)

United States Court of Appeals for the Tenth Circuit, 2011

United States District Court for the District of Maryland, 2015 (assumed inactive status in 2021)

United States District Court for the Eastern District of Michigan, 2014

United States District Court for the Eastern District of Virginia, 2011*

* Admitted to practice under a waiver for federal prosecutors.

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.

Chevy Chase Recreation Association (2015 – present)

Children’s school parent associations (2017 – present)

Greg Gannon Canned Food Drive (2021 – present)

Federalist Society for Law & Public Policy (approximately 2009 – present)

Kirkland & Ellis Legal Assistant Review Committee (2016)

Kirkland & Ellis Recruiting Committee (2014 – 2016)

Kirkland & Ellis Women’s Leadership Initiative (2013 – 2017)

Teneo Network (2008 – present)

Assistant Coach, Youth Baseball Team (2019 – 2020)

b. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminate 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, none of these organizations 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 four (4) copies of all published material to the Committee.

The following is a list of works that I authored or co-authored. I have done my best to identify all responsive published material, including through a thorough review of my personal files and searches of publicly available electronic databases. Despite these efforts, there might be other materials that I have been unable to identify, locate, or remember.

Hard Cases Make Good Law: The Intellectual History of Prior Acquittal Sentencing, 84 St. John's L. Rev. 1415 (2010). Copy supplied.

Note, *Between Natural Law and Legal Positivism: Plato's Minos and the Nature of Law*, 22 Yale J. of L. & Human. 83 (2010). Copy supplied.

Comment, *The Federalism Challenges of Impact Litigation by State and Local Government Actors*, 118 Yale L.J. 1557 (2009). Copy supplied.

Comment, *When Church and State Collide: Averting Democratic Disaffection in a Post-Smith World*, 25 Yale L. & Pol'y Rev. 391 (2007). Copy supplied.

"*Bodies, The Exhibition*" Response, First Things, Web Exclusives, Aug. 10, 2006. Copy supplied.

ISI: There at the Beginning, Campus, Fall/Winter 2003. Copy supplied.

Lux in Tenebris (column), Harv. Salient, Nov. 20, 2003. Copy supplied.

Lux in Tenebris (column), Harv. Salient, Oct. 30, 2003. Copy supplied.

With Mary R. Lawler, *Lux in Tenebris* (column), Harv. Salient, Oct. 16, 2003. Copy

supplied.

With Mary R. Lawler, *Lux in Tenebris* (column), Harv. Salient, Oct. 1, 2003. Copy supplied.

Lux in Tenebris (column), Harv. Salient, May 7, 2003. Copy supplied.

With Mary Cardinale, *Salient Points* (syndicated news compilation), Harv. Salient, March 19, 2003. Copy supplied.

With Mary R. Lawler, *Lux in Tenebris* (column), Harv. Salient, March 19, 2003. Copy supplied.

With Mary R. Lawler, *Salient Points* (syndicated news compilation), Harv. Salient, March 5, 2003. Copy supplied.

With M.A. Pakaluk, *Lux in Tenebris* (column), Harv. Salient, March 5, 2003. Copy supplied.

With Paul C. Schultz, *Informing Choice*, Harv. Crimson, Dec. 18, 2002. Copy supplied.

Salient Points (syndicated news compilation), Harv. Salient, Dec. 13, 2002. Copy supplied.

With Mary R. Lawler, *Lux in Tenebris* (column), Harv. Salient, Dec. 13, 2002. Copy supplied.

Salient Points (syndicated news compilation), Harv. Salient, Nov. 5, 2002. Copy supplied.

With Mary R. Lawler, *Lux in Tenebris* (column), Harv. Salient, Nov. 5, 2002. Copy supplied.

Salient Points (syndicated news compilation), Harv. Salient, Oct. 17, 2002. Copy supplied.

With Mary R. Lawler, *Lux in Tenebris* (column), Harv. Salient, Oct. 17, 2002. Copy supplied.

Salient Points (syndicated news compilation), Harv. Salient, Oct. 4, 2002. Copy supplied.

With Mary R. Lawler, *Lux in Tenebris* (column), Harv. Salient, Oct. 4, 2002. Copy supplied.

Homeschoolers Arrive on Campus, Insight on the News, Sept. 9, 2002. Copy supplied.

Editing “the Word” Rankles the Faithful, Insight on the News, Aug. 26, 2002. Copy supplied.

With Hans S. Nichols, *Is Cardinal Tettamanzi on Fast Track to Becoming Next Pope?*, Insight on the News, Aug. 5, 2002. Copy supplied.

With Hans S. Nichols, *Pledge is Laughing Matter to Rivers*, Insight on the News, Aug. 5, 2002. Copy supplied.

Salient Points (syndicated news compilation), Harv. Salient, May 1, 2002. Copy supplied.

Salient Points (syndicated news compilation), Harv. Salient, Apr. 11, 2002. Copy supplied.

Salient Points (syndicated news compilation), Harv. Salient, March 15, 2002. Copy supplied.

With Mary R. Lawler, *Lux in Interim* (column), Harv. Salient, March 1, 2002. Copy supplied.

Perfecting Our Palates: Plato on Food and Moderation, Harv. Salient, March 1, 2002. Copy supplied.

Just Don’t Date My Man, Harv. Salient, Feb. 14, 2002. Copy supplied.

Raunch and Relativism, Harv. Salient, Nov. 19, 2001. Copy supplied.

ROTC and Relativism, Harv. Salient, Oct. 11, 2001. Copy supplied.

The following is a list of editorials published during my tenure on the editorial board of the *Harvard Salient*. I did not research, write, or participate in the creation of these articles. Because they are signed by “The Editors,” however, I have included them here out of an abundance of caution.

The Editors, “Long Remember,” Harv. Salient, Sept. 27, 2001. Copy supplied.

The Editors, “The Choices Ahead,” Harv. Salient, Oct. 11, 2001. Copy supplied.

The Editors, “Ave, Pres. Summers,” Harv. Salient, Nov. 1, 2001. Copy supplied.

The Editors, “Our Cells, Our Selves,” Harv. Salient, Nov. 19, 2001. Copy supplied.

The Editors, “And now, Iraq,” Harv. Salient, Dec. 12, 2001. Copy supplied.

The Editors, “*West-ern Civilization*,” Harv. Salient, Feb. 14, 2002. Copy supplied.

The Editors, “Protesting Redux,” Harv. Salient, March 1, 2002. Copy supplied.

The Editors, “Summertime,” Harv. Salient, March 15, 2002. Copy supplied.

The Editors, “Into the Night,” Harv. Salient, April 11, 2002. Copy supplied.

The Editors, “A Festive Springfest,” Harv. Salient, May 1, 2002. Copy supplied.

The Editors, “Righting the UC,” Harv. Salient, Oct. 4, 2002. Copy supplied.

The Editors, “Remembering Christopher,” Harv. Salient, Oct. 17, 2002. Copy supplied.

The Editors, “Party Politics,” Harv. Salient, Nov. 5, 2002. Copy supplied.

The Editors, “Tolerance Strikes Again,” Harv. Salient, Dec. 13, 2002. Copy supplied.

The Editors, “The Tolerance Paradox,” Harv. Salient, Feb. 19, 2003. Copy supplied.

The Editors, “RICO v. Wade,” Harv. Salient, March 5, 2003. Copy supplied.

The Editors, “Freedom’s Fight,” Harv. Salient, March 19, 2003. Copy supplied.

The Editors, “Rock the CASAH,” Harv. Salient, May 7, 2003. Copy supplied.

b. Supply four (4) 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.

United States Sentencing Commission Reports and Statements:

During my tenure on the United States Sentencing Commission, the Commission has issued, on an annual basis, federal sentencing guidelines manuals, sourcebooks of federal sentencing statistics, and yearly reports. Staff have also produced training and educational materials. These materials are available at www.ussc.gov.

Below are subject matter reports approved and issued by the Commission during my tenure:

Overdoses in Federal Drug Trafficking Crimes (2025). Copy supplied.

Cyber Technology in Federal Crime (2024). Copy supplied.

Methamphetamine Trafficking Offenses in the Federal Criminal Justice System (2024). Copy supplied.

Education Levels of Federally Sentenced Individuals (2023). Copy supplied.

Demographic Differences in Federal Sentencing (2023). Copy supplied.

Federal Escape Offenses (2023). Copy supplied.

Weighing the Impact of Simple Possession of Marijuana (2023). Copy supplied.

Below are data reports issued by the Commission during my tenure:

Prison and Sentencing Impact Assessments for 2026 Guideline Amendments to the Federal Sentencing Guidelines (2026), available at https://www.ussc.gov/sites/default/files/pdf/research-and-publications/prison-and-sentencing-impact-assessments/2025-2026_Prison_and_Sentencing_Impact_Assessment.pdf.

Retroactivity Report on Part A of the 2023 Criminal History Amendment (2026), available at <https://www.ussc.gov/sites/default/files/pdf/research-and-publications/retroactivity-analyses/2023-criminal-history-amendment/202605-CH-Retro-Part-A.pdf>.

Retroactivity Report on Part B of the 2023 Criminal History Amendment (2026), available at <https://www.ussc.gov/sites/default/files/pdf/research-and-publications/retroactivity-analyses/2023-criminal-history-amendment/202605-CH-Retro-Part-B.pdf>.

Preliminary FY26 Second Quarterly Data Sentencing Update (2026), available at https://www.ussc.gov/sites/default/files/pdf/research-and-publications/federal-sentencing-statistics/quarterly-sentencing-updates/USSC_Quarter_Report_2nd_FY26.pdf.

2025 Guideline Application Frequencies (2026), available at <https://www.ussc.gov/research/data-reports/guideline/2025-guideline-application-frequencies>.

Retroactivity Analysis of Certain 2026 Guideline Amendments (2026), available at https://www.ussc.gov/sites/default/files/pdf/research-and-publications/retroactivity-analyses/2026-amendments/2026_Amdts-Retro.pdf.

FY 2025 Compassionate Release Data Report (2026), available at <https://www.ussc.gov/sites/default/files/pdf/research-and-publications/federal-sentencing-statistics/compassionate-release/FY25-Compassionate-Release.pdf>.

2025 Federal Sentencing Statistics (2026), available at

<https://www.ussc.gov/research/data-reports/geography/2025-federal-sentencing-statistics>.

Final FY25 Quarterly Data Sentencing Update (2026), available at https://www.ussc.gov/sites/default/files/pdf/research-and-publications/federal-sentencing-statistics/quarterly-sentencing-updates/USSC_2025_Quarterly_Report_Final.pdf.

Prison and Sentencing Impact Assessments for 2025 Guideline Amendments to the Federal Sentencing Guidelines (2026), available at https://www.ussc.gov/sites/default/files/pdf/research-and-publications/prison-and-sentencing-impact-assessments/2024-2025_Prison_and_Sentencing_Impact_Assessment.pdf.

2024 Guideline Application Frequencies (2025), available at <https://www.ussc.gov/research/data-reports/guideline/2024-guideline-application-frequencies>.

Retroactivity Impact Analysis of Certain 2025 Amendments (2025), available at https://www.ussc.gov/sites/default/files/pdf/research-and-publications/retroactivity-analyses/2025-amendments/2025_Amdts-Retro.pdf.

FY 2024 Compassionate Release Data Report (2025), available at <https://www.ussc.gov/sites/default/files/pdf/research-and-publications/federal-sentencing-statistics/compassionate-release/FY24-Compassionate-Release.pdf>.

2024 Federal Sentencing Statistics (2025), available at <https://www.ussc.gov/research/data-reports/geography/2024-federal-sentencing-statistics>.

Final FY24 Quarterly Data Sentencing Update (2025), available at https://www.ussc.gov/sites/default/files/pdf/research-and-publications/federal-sentencing-statistics/quarterly-sentencing-updates/USSC_2024_Quarterly_Report_Final.pdf.

Prison and Sentencing Impact Assessments for 2024 Guideline Amendments to the Federal Sentencing Guidelines (2025), available at https://www.ussc.gov/sites/default/files/pdf/research-and-publications/prison-and-sentencing-impact-assessments/2023-2024_Prison_and_Sentencing_Impact_Assessment.pdf.

2023 Guideline Application Frequencies (2024), available at <https://www.ussc.gov/research/data-reports/guideline/2023-guideline-application-frequencies>.

Retroactivity Impact Analysis of Certain 2024 Amendments (2024), available at https://www.ussc.gov/sites/default/files/pdf/research-and-publications/retroactivity-analyses/2024-amendments/2024_Amdts-Retro.pdf.

2023 Federal Sentencing Statistics (2024), available at

<https://www.ussc.gov/research/data-reports/geography/2023-federal-sentencing-statistics>.

Final FY23 Quarterly Data Sentencing Update (2024), available at https://www.ussc.gov/sites/default/files/pdf/research-and-publications/federal-sentencing-statistics/quarterly-sentencing-updates/USSC-2023_Quarterly_Report_Final..pdf.

FY 2023 Compassionate Release Data Report (2024), available at <https://www.ussc.gov/sites/default/files/pdf/research-and-publications/federal-sentencing-statistics/compassionate-release/FY23-Compassionate-Release.pdf>.

Prison and Sentencing Impact Assessments for 2023 Guideline Amendments to the Federal Sentencing Guidelines (2024), available at https://www.ussc.gov/sites/default/files/pdf/research-and-publications/prison-and-sentencing-impact-assessments/2022-2023_Prison_and_Sentencing_Impact_Assessment.pdf.

Comparison of Retroactive Guideline Amendments (2023), available at <https://www.ussc.gov/sites/default/files/pdf/research-and-publications/retroactivity-analyses/2023-criminal-history-amendment/202307-Crim-Hist-Amdt-Retro.pdf>.

Retroactivity Impact Analysis of Parts A and B of the 2023 Criminal History Amendment (2023), available at <https://www.ussc.gov/sites/default/files/pdf/research-and-publications/retroactivity-analyses/2023-criminal-history-amendment/202305-Crim-Hist-Amdt-Retro.pdf>.

2022 Federal Sentencing Statistics (2023), available at <https://www.ussc.gov/research/data-reports/geography/2022-federal-sentencing-statistics>.

Final FY22 Quarterly Data Sentencing Update (2023), available at https://www.ussc.gov/sites/default/files/pdf/research-and-publications/federal-sentencing-statistics/quarterly-sentencing-updates/USSC-2022_Quarterly_Report_Final.pdf.

FY2020 - FY2022 Compassionate Release Data Report (2022), available at <https://www.ussc.gov/sites/default/files/pdf/research-and-publications/federal-sentencing-statistics/compassionate-release/20221219-Compassionate-Release.pdf>.

Below are educational materials issued by the Commission during my tenure that underwent Commissioner review:

First Step Act Earned Time Credits (2026), available at https://www.ussc.gov/sites/default/files/pdf/training/first-step-act/data-snapshot_FSAETC_2026.pdf.

Supervised Release Toolkit (2026), available at <https://www.ussc.gov/education/supervised-release-toolkit>.

First Step Act Earned Time Credits Toolkit (2026), available at <https://www.ussc.gov/education/first-step-act-earned-time-credits>.

Federal Sentencing: The Basics (2025), available at https://www.ussc.gov/sites/default/files/pdf/training/primers/2025_Basics.pdf.

It is important to note that while members of the Commission contribute to its guidelines, reports, briefs, letters, and other statements of the Commission, these materials are representative of the Commission as a whole, and not of any single Commissioner.

Other Reports and Statements:

Through my recollections and through searches of my records and publicly available databases, I have found the following additional responsive materials. Despite these efforts, there might be other materials that I have been unable to identify, locate, or remember.

United States Department of Justice, Office of Violence Against Women, *15th Annual Government-to-Government Tribal Consultation: Annual Report of Proceedings*, October 27 – 30, 2020. Copy supplied.

United States Department of Justice, *Modernizing the Administrative Procedure Act*, August 11, 2020. Copy supplied.

United States Department of Justice, *2020 Chief FOIA Officer Report*, March 12, 2020. Copy supplied.

Memorandum for the Environment & Natural Resources Division, “Ensuring Settlements Involving the Judgment Fund Comply with the Finality Requirement of 31 U.S.C. § 1304,” March 5, 2020. Copy supplied.

United States Department of Justice, Office of Violence Against Women, *2019 Tribal Consultation Report*, August 21 – 22, 2019. Copy supplied.

c. Supply four (4) 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.

United States Sentencing Commission Testimony and Official Statements:

Minutes of the United States Sentencing Commission’s public meetings, recordings of recent public meetings and hearings, and transcripts of select public hearings can be found at <http://www.ussc.gov/policymaking/meetings-hearings>.

Other Testimony and Official Statements:

I have done my best to identify any other testimony, official statements, or other communications related, in whole or in part, to matters of public policy or legal interpretation, including through a review of my personal files and searches of publicly available electronic databases. I have located the following:

Chief FOIA Officers Council Meeting, October 14, 2020. Minutes supplied.

Letter to Sens. Lindsey Graham and Dianne Feinstein, Nomination of Amy Coney Barrett for the United States Supreme Court, October 11, 2020. Copy supplied.

Letter to Sens. Lindsey Graham and Dianne Feinstein, Nomination of Stephen Vaden for the United States Court of International Trade, November 12, 2019. Copy supplied.

Letter to Sens. Lindsey Graham and Dianne Feinstein, Nomination of Sarah Pitlyk to the United States District Court for the Eastern District of Missouri, September 23, 2019. Copy supplied.

Letter to Sens. Lindsey Graham and Dianne Feinstein, Nomination of Steven Menashi for the United States Court of Appeals for the Second Circuit, September 3, 2019. Copy supplied.

Letter to Sens. Charles E. Grassley and Dianne Feinstein, Nomination of Brett M. Kavanaugh for the United States Supreme Court, July 12, 2018. Copy supplied.

d. Supply four (4) 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.

I have done my best to identify transcripts or recordings of all speeches or talks delivered, including through a review of my personal files and searches of publicly available electronic databases. I frequently speak without notes or speak from a handwritten outline. I did not retain all of the handwritten outlines and have attached all that I could find. Despite my searches, there may be other materials I have been unable to identify, find, or remember. I have located the following:

June 16, 2026: Panelist, plenary Commission panel, 2026 Annual National Training Seminar on the Federal Sentencing Guidelines, San Diego, California. PowerPoint slides and talking points supplied.

October 8, 2025: Moderator, "Political Violence as a Threat to Judicial Independence and

the Rule of Law,” Federalist Society for Law & Public Policy Virtual Discussion. Video available at <https://fedsoc.org/events/political-violence-as-a-threat-to-judicial-independence-and-the-rule-of-law>.

June 26, 2025: Panelist, plenary Commission panel, 2025 Annual National Training Seminar on the Federal Sentencing Guidelines, Chicago, Illinois. PowerPoint slides and talking points supplied.

November 14, 2024: Guest Speaker, Criminal Law class, Notre Dame Law School, South Bend, Indiana. Power Point supplied.

June 13, 2024: Panelist, plenary Commission panel, 2024 Annual National Training Seminar on the Federal Sentencing Guidelines, New Orleans, Louisiana. PowerPoint slides and talking points supplied.

February 7, 2024: Moderator, United States Sentencing Commission Roundtable on the Categorical Approach and the Career Offender Guidelines, Washington, D.C. Notes supplied.

June 22, 2023: Panelist, plenary Commission panel, 2023 Annual National Training Seminar on the Federal Sentencing Guidelines, Seattle, Washington. Notes supplied.

December 13, 2022: Panelist, “The Penalty Phase: Developments in Sentencing, Forfeiture, and Clawbacks on the Global Stage,” Women in White Collar Defense Association’s Global Enforcement Series, Washington, DC. Notes supplied.

June 11, 2021: Panelist, “Jurisprudence Panel,” Pro Civitate Dei Summer Seminar, Alexandria, Virginia. I participated in a panel discussion of originalism, legal positivism, and common good constitutionalism. I have no notes, transcript, or recording. The address for Pro Civitate Dei is rue Joseph Laure, La Londe-des-Maures, France.

December 17, 2020: Speaker, “Life is Winning Event,” Washington, DC. Prepared remarks supplied.

November 16, 2020: Speaker, “Introductory Remarks,” United States Department of Justice Elder Justice Conference, Washington, DC (by video). Copy supplied.

November 2, 2020: Speaker, “Closing Remarks for the 2020 Violence Against Women Tribal Consultation,” Washington, DC. Copy supplied.

November 2, 2020: Speaker, “Remarks at Environment and Natural Resources Division Annual Awards Ceremony,” Washington, DC (by video). Remarks supplied.

October 27, 2020: Panelist, Webinar on “Religious Freedom in the Age of COVID-19 and Beyond,” Washington, DC (by video). Transcript supplied.

April 22, 2020: Speaker, “Environment and Natural Resources Division Video Commemorating the 50th Anniversary of Earth Day,” Washington, DC (by video). Transcript supplied.

March 12, 2020: Speaker, “Remarks at the U.S. Department of Justice Sunshine Week Celebration,” Washington, DC. Copy supplied.

February 19, 2020: Moderator, “Litigating Section 230,” United States Department of Justice Colloquium on “Section 230 – Nurturing Innovation or Fostering Unaccountability?,” Washington, DC. Notes supplied.

January 16, 2020: Introductory Speaker, United States Department of Justice Rev. Dr. Martin Luther King, Jr. Commemorative Program, Washington, DC. Copy supplied.

December 20, 2019: Speaker, Introductory Remarks, United States Department of Justice EOIR Investiture Ceremony, Washington, DC. Prepared remarks supplied.

December 11, 2019: Speaker, Department of Justice American Indian and Alaska Native Heritage Month Program, Washington, DC. Prepared remarks supplied.

December 6, 2019: Speaker, “Introductory Remarks,” Summit on the Administrative Procedure Act, United States Department of Justice, Washington, DC. Prepared remarks supplied.

December 3, 2019: Speaker, Introduction of Attorney General Barr at the 3rd Annual Attorney General’s Award for Distinguished Service in Policing, Washington, DC. Copy supplied.

November 12, 2019: Speaker, Remarks at Department of Justice Georgia Human Trafficking Grant Announcement, Atlanta, Georgia. Prepared remarks supplied.

October 30, 2019: Speaker, Tax Division Awards Ceremony, Washington, DC. Prepared remarks supplied.

October 24, 2019: Speaker, 67th Annual Attorney General’s Awards Ceremony, Kavanaugh Team Distinguished Service Award Recognition, Washington, DC. Remarks Supplied.

October 23, 2019: Host, 67th Attorney General’s Awards, Washington, DC. Video available at www.justice.gov/opa/video/2019-attorney-general-awards.

September 25, 2019: Speaker, DOJ Hispanic Heritage Month Observance Program, Washington, DC. Remarks supplied.

September 19, 2019: Speaker, Environment and Natural Resources Division Annual Awards Ceremony, Washington, DC. Remarks supplied.

August 20, 2019: Speaker, Remarks at the 2019 Office of Violence Against Women Tribal Consultation, New Buffalo, Michigan. Copy supplied.

July 15, 2019: Moderator, “Anti-Semitism on Campus,” United States Department of Justice Summit on “Combatting Anti-Semitism,” Washington, DC. Video available at www.justice.gov/opa/video/summit-combatting-anti-semitism-part-2.

June 24, 2019: Speaker, Attorney General’s Volunteer and Community Service Awards, Washington, DC. Copy supplied.

June 17, 2019: Speaker, Office of Justice Programs All-Staff Meeting, Washington, DC. Copy supplied.

May 20, 2019: Keynote Speaker, Compliance Week Annual Conference, Washington, DC. Copy supplied.

August, 2018: Speaker, “Judge Kavanaugh’s Record,” stakeholder calls and meetings through the White House Office of Public Liaison, Washington, DC. I gave a series of short speeches about my experience clerking for then-Judge Kavanaugh and about key cases he had decided while on the U.S. Court of Appeals for the District of Columbia Circuit to agricultural groups and to two separate groups of leaders in the faith community. I have no notes, transcripts, or recordings. The address of the Office of Public Liaison is 1600 Pennsylvania Avenue, NW, Washington, D.C. 20500.

April 7, 2016: Speaker, Kirkland & Ellis’s *Pro Bono* Litigation on Behalf of African Hair Braiders, Harvard Law School, Cambridge, Massachusetts. I spoke to the Harvard Federalist Society about *pro bono* litigation I had worked on, speaking in place of one of my partners, Michael Williams, who had been scheduled to speak before a conflict arose. I have no notes, transcripts, or recordings. The address of the Harvard Federalist Society is 103 Pound Hall, 1563 Massachusetts Avenue, Cambridge, Massachusetts 02138.

April 3, 2009: Panelist, “Natural Law, Objectivity, and Phenomenology,” Association for the Study of Law, Culture & the Humanities, Boston, Massachusetts. I discussed my research on philosophy of law in Plato’s *Minos*. I have no notes, transcript, or recording. The address of the Association for the Study of Law, Culture & the Humanities is Department of Law, Jurisprudence and Social Thought, Amherst College, 220 South Pleasant Street, Amherst, Massachusetts 01002.

November 21, 2008: Speaker, “The State of the Yale Federalist Society,” Yale Law School Alumni Breakfast, Federalist Society 2008 National Lawyers Convention, Washington, DC. I spoke to alumni about the state of the Yale Law School Federalist Society chapter at this annual breakfast. I have no notes, transcript or recording. The address of the Federalist Society is 1776 I Street, Northwest, Suite 300, Washington, D.C. 20006.

November 16, 2007: Speaker, “The State of the Yale Federalist Society,” Yale Law School Alumni Breakfast, Federalist Society 2007 National Lawyers Convention, Washington, D.C. I spoke to alumni about the state of the Yale Law School Federalist Society chapter at this annual breakfast. I have no notes, transcript or recording. The address of the Federalist Society is 1776 I Street, Northwest, Suite 300, Washington, D.C. 20006.

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 four (4) copies of the clips or transcripts of these interviews where they are available to you.

I have done my best to identify all interviews given, including through a review of my personal files, and searches of publicly available electronic databases. Despite my searches, there may be other materials that I have been unable to identify, find, or remember. I have located the following:

Mollie Hemingway, *Alito: The Justice Who Reshaped the Supreme Court and Restored the Constitution* (2026). Copy supplied.

Press Release, Department of Justice Announces Guidance on Religious Liberty Protections in Grant Programs, July 27, 2020. Copy supplied.

Press Release, Indivior Solutions Pleads Guilty to Felony Charge and Indivior Entities Agree to Pay \$600 Million to Resolve Criminal and Civil Investigations as Part of DOJ’s Largest Opioid Resolution, July 24, 2020. Copy supplied.

Press Release, U.S. Attorney Erin Nealy Cox Names Prerak Shah First Assistant, July 21, 2020. Copy supplied.

Press Release, On 50th Anniversary of Earth Day, the Justice Department’s Environment and Natural Resources Division Celebrates Achievements in Environmental Law, United States Department of Justice, April 22, 2020. Copy supplied.

Press Release, Department of Justice Awards Nearly \$153 Million to Reduce Crime and Improve Public Safety in Georgia, November 12, 2019. Copy supplied.

Press Release, Justice Department Obtains \$1.4 Billion from Reckitt Benckiser Group in Largest Recovery in a Case Concerning an Opioid Drug in United States History, July 11, 2019. Copy supplied.

Press Release, Opioid Manufacturer Insys Therapeutics Agrees to Enter \$225 Million Global Resolution of Criminal and Civil Investigations, June 5, 2019. Copy supplied.

Mollie Hemingway & Carrie Severino, *Justice on Trial: The Kavanaugh Confirmation and the Future of the Supreme Court* (2019). Copy supplied.

On July 10, 2018, I participated in a series of approximately 10 to 12 back-to-back interviews with reporters for major new outlets (e.g., *Washington Post*, *Wall Street Journal*, *NBC News*), on behalf of the White House Counsel's Office, discussing then-Judge Kavanaugh's qualifications and my experience clerking for him. All interviews were conducted on background. No notes or transcripts are available.

Nina Reyes, "Claire McCusker, Michael Murray," N.Y. Times, Sept. 3, 2010. Copy supplied.

Brian C. Anderson, *South Park Conservatives: The Revolt Against Liberal Media Bias* (2005). Copy supplied.

Romina Garber, "Salient Elects Two Women to Top Posts," Harv. Crimson, Feb. 10, 2003. Copy supplied.

Sarah M. Seltzer, "Letter Draws Students' Anger," Harv. Crimson, Dec. 12, 2002. Copy supplied.

Tom Fischgrund, *1600 Perfect Score: The 7 Secrets of Acing the SAT*, 2000. Copy supplied.

Jonathan Casiano, Mountain Lakes Student Named Presidential Scholar, Star-Ledger (Newark, N.J.), July 30, 2000. Copy supplied.

Kimberly Brown, Presidential Scholar, Star-Ledger (Newark, N.J.), July 20, 2000. Copy supplied.

13. **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 run for public office.

I have held the following appointed positions:

Commissioner and Vice Chair, United States Sentencing Commission, August 5, 2022 to present. I was appointed by President Joseph Biden.

Principal Deputy Associate Attorney General, United States Department of Justice, May 2019 to January 2021, appointed by Attorney General William P. Barr. For the entirety of my tenure as Principal Deputy Associate Attorney General, I was delegated the

functions and duties of the Associate Attorney General by order of the Attorney General. Pursuant to the operation of 5 U.S.C. §§ 3345(a)(1) and 3349a, I served as Acting Associate Attorney General on January 20, 2021.

Counselor to the Attorney General, United States Department of Justice, March 2019 to May 2019, appointed by Attorney General William P. Barr.

Special Assistant and Associate Counsel to the President, The White House, December 2017 to March 2019, appointed by President Donald Trump.

Associate Counsel to the President, The White House, January 2017 to December 2017, appointed by President Donald Trump.

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 not held a position or played a formal role in a political campaign or with any political party.

On November 4, 2008, I served as a poll watcher in New Hampshire on behalf of the Republican Party.

In January of 2017, I performed pro bono legal work for the Trump/Pence Transition.

14. **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 2009 to 2010, I served as a law clerk to the Honorable Brett M. Kavanaugh, then-Judge on the United States Court of Appeals for the District of Columbia Circuit.

From 2012 to 2013, I served as a law clerk to the Honorable Samuel A. Alito, Associate Justice of the Supreme Court of the United States.

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.

Summer 2009
Office of the Solicitor General
United States Department of Justice
950 Pennsylvania Avenue, Northwest
Washington, DC 20001
Summer Law Intern

2009 – 2010
United States Court of Appeals for the D.C. Circuit
333 Constitution Avenue, Northwest
Washington, D.C. 20001
Law Clerk

2010 – 2012
Criminal Appellate Section
U.S. Department of Justice
950 Pennsylvania Avenue, Northwest
Washington, D.C. 20530
Trial Attorney

2011
United States Attorney's Office for the Eastern District of Virginia
2100 Jamieson Avenue
Alexandria, Virginia 22314
Special Assistant United States Attorney

2012 – 2013
Supreme Court of the United States
1 First Street, Northeast
Washington, D.C. 20002
Law Clerk

2013 – 2017
Kirkland & Ellis LLP
1301 Pennsylvania Avenue, Northwest
Washington, D.C. 20004
Partner (2015 – 2017)
Associate (2013 – 2015)

2017 – 2019
The White House
1600 Pennsylvania Avenue, Northwest
Washington, D.C. 20500

Special Assistant and Associate Counsel to the President (2017 – 2019)
Associate Counsel to the President (2017)

2019 – 2021

United States Department of Justice
950 Pennsylvania Avenue, Northwest
Washington, D.C. 20530
Acting Associate Attorney General (2021)
Principal Deputy Associate Attorney General (2019 – 2021)
Counselor to the Attorney General (2019)

2022 – Present

United States Sentencing Commission
One Columbus Circle, Suite 2-500
Washington, D.C. 20002
Commissioner and Vice Chair

- 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 graduating from law school, I served as a law clerk to Judge Brett M. Kavanaugh of the U.S. Court of Appeals for the District of Columbia Circuit.

Following my clerkship, I joined the Appellate Section of the U.S. Department of Justice's Criminal Division. During my time at Criminal Appellate, I briefed and argued four appeals in federal courts of appeals, authored four Supreme Court briefs in opposition to certiorari, and authored numerous memoranda advising the Solicitor General whether to authorize an appeal after the United States received an adverse judgment.

During my tenure at the Justice Department, I was also detailed to the U.S. Attorney's Office for the Eastern District of Virginia, where I served as a Special Assistant United States Attorney. During my detail, I tried a handful of misdemeanor bench trials and one felony jury trial. I was also sole counsel in prosecuting – from indictment and initial appearance through sentencing – several oxycodone pill-mill rings and the illegal reentry of several violent felons; indicted a large-scale drug conspiracy; argued a number of pre-trial motions and motions to suppress; handled dozens of detention hearings and several supervised-release

violation hearings; and assisted in motions practice for a securities fraud prosecution.

In 2012, I left the Justice Department to serve as a law clerk to Justice Samuel A. Alito on the Supreme Court of the United States.

Following my clerkship on the Supreme Court, I began working as an associate at Kirkland & Ellis LLP, where my practice focused on appellate litigation, white-collar defense, and commercial litigation. I successfully briefed and/or argued several dispositive motions and appeals, was part of a number of internal investigation or corporate monitor teams, undertook two individual criminal representations, briefed (and second-chaired the argument in) a Supreme Court case, and was part of a trial team in a commercial dispute. I was promoted to partner in 2015.

In 2017, I left Kirkland to join the White House Counsel's Office as Associate Counsel to the President (and, later, Special Assistant and Associate Counsel to the President). In the White House, I worked primarily on the nomination of federal judges and U.S. Attorneys, rulemaking, and client-side management of litigation matters involving White House equities.

In 2019, I rejoined the Justice Department as Counselor to the Attorney General. In that capacity, I primarily advised the Attorney General regarding civil litigation, the First Amendment, and Supreme Court matters.

Two months later, I was appointed by the Attorney General to be the Principal Deputy Associate Attorney General. Because the Department did not have a Senate-confirmed Associate Attorney General, I served as the head of the Office of the Associate Attorney General and the third-ranking official in the Justice Department for the duration of my tenure. (Under the Vacancies Reform Act, I held the title of "Acting Associate Attorney General" for only a small portion of that tenure.) In that role, I was responsible for both criminal and civil matters handled by five litigating divisions: the Antitrust Division, Civil Division, Civil Rights Division, the Environment and Natural Resources Division, and the Tax Division. At that time, each of these divisions handled both civil and criminal matters: the Antitrust Division prosecuted price fixing, market allocation, and bid rigging; the Civil Division's Consumer Protection Branch then prosecuted fraud and other crimes committed against consumers; the Civil Rights Division prosecuted hate crimes; the Environment and Natural Resources Division prosecuted environmental crimes; and the Tax Division then prosecuted tax fraud and other tax crimes. I also supervised three grantmaking components—the Office of Justice Programs, the Office of Violence Against Women, and the Office of Community Oriented Policing—that distributed \$7 billion in law-enforcement grants annually and played a significant policy role in the Department's law-enforcement efforts. My portfolio also included a number of smaller components like the Executive Office of the Trustee, the Foreign Claims

Settlement Commission, the Office of Information Policy, and the Community Relations Service. By virtue of my position, I was also the Government's Chief FOIA Officer, the Department's Regulatory Reform Officer, and the chair or vice-chair of a number of task forces, including task forces on Religious Liberty, Regulatory Reform, Puerto Rico, and Mark Integrity and Consumer Fraud. I also personally argued two appeals on behalf of the United States.

In 2022, I was nominated, confirmed, and appointed to the United States Sentencing Commission. I have served as Vice Chair and Commissioner of that body since that time. In that capacity, I assist in formulating sentencing policy for the federal courts.

ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

At the Sentencing Commission, where I have served since 2022, I work primarily on criminal law and policy, and to a lesser extent on administrative and constitutional law.

At the Department of Justice, where I worked in the summer of 2009, from 2010 to 2012 and again from 2019 to 2021, I represented the United States and federal agencies in the federal district courts, courts of appeals, and the Supreme Court. From 2010 to 2012, my practice was exclusively criminal. From 2019 to 2021, I worked on constitutional, administrative, statutory, and criminal cases.

At the White House Counsel's Office, where I worked from 2017 to 2019, my principal client was the President of the United States. My practice focused primarily on constitutional and administrative law.

At Kirkland & Ellis, where I worked from 2013 to 2017, my practice focused on appellate litigation, white-collar defense, and commercial litigation. I handled cases for companies, individuals, and state, local, and territorial governments raising constitutional questions, statutory interpretation issues, substantive criminal procedure and sentencing matters, and regulatory issues. I also prioritized pro bono work, including on behalf of a veteran whose benefits had been wrongly denied.

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.

A significant portion of my practice has been in litigation. During my tenure at Main Justice, I argued on average two cases a year in the federal courts of appeals. At the U.S. Attorney's Office, I was typically in court two to three days a week. During my time at Kirkland, I engaged in extensive motions practice and appeared occasionally in lower courts to argue dispositive motions. At the White House, I did not personally litigate, but

served as the Department of Justice’s “client” in many cases in which the President had been sued or his equities were otherwise impacted. During my most recent tenure at the Justice Department, I personally argued two appeals and spent a significant portion of my time managing litigation. I have not appeared in court in my capacity as a Sentencing Commissioner, but I have been involved in developing litigation strategy in the few cases in which the Commission itself has been involved in litigation.

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: | 55% |
| 2. | criminal proceedings: | 45% |

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 at least five cases to verdict. In four, I was sole counsel. In the fifth, I served as second chair. This does not include cases that were resolved via dispositive motion or trials in which I merely assisted with motions practice.

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 four (4) 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 filed 8 briefs before the Supreme Court, both at the certiorari and merits stages (listed below). I also served as second chair in one Supreme Court argument, *Puerto Rico v. Franklin California Tax-Free Trust*, No. 15-233. Throughout my practice, I have participated in dozens of moot courts for Supreme Court practitioners preparing for argument. Finally, while still in law school and immediately following graduation, I worked on Supreme Court briefs as part of a law school clinic, as a summer associate at Gibson Dunn & Crutcher, and as a summer law intern in the Department of Justice’s Office of the Solicitor General.

Briefs filed (copies supplied):

Reply Brief of Petitioners Commonwealth of Puerto Rico, et al., *Puerto Rico v. Franklin California Tax-Free Trust*, No. 15-233 (March 14, 2016).

Brief of Petitioners Commonwealth of Puerto Rico, et al., *Puerto Rico v. Franklin California Tax-Free Trust*, No. 15-233 (Jan. 19, 2016).

Reply Brief for Petitioners in Support of Writ of Certiorari, *Puerto Rico v. Franklin California Tax-Free Trust*, No. 15-233 (Nov. 9, 2015).

Petition for Writ of Certiorari, *Puerto Rico v. Franklin California Tax-Free Trust*, No. 15-233 (Aug. 21, 2015).

Brief in Opposition to Certiorari, *Al Kassar v. United States*, No. 11-784 (Apr. 6, 2012).

Brief in Opposition to Certiorari, *Henderson v. United States*, No. 10-918 (March 21, 2011).

Brief in Opposition to Certiorari, *Setser v. United States*, No. 10-7387 (Feb. 11, 2011).

Brief in Opposition to Certiorari, *Vargas-Solis v. United States*, No. 10-6866 (Feb. 11, 2011).

15. **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. *Nat'l Coal. for Men v. Selective Serv. Sys.*, 969 F.3d 546 (5th Cir. 2020) (Wiener, Stewart, Willett, JJ.). Dates of Representation: 2020.

I argued this Fifth Circuit appeal on behalf of the United States and secured reversal of an adverse district court decision. Under the Military Selective Service Act, all male citizens and immigrants ages 18 to 26 must register with the Selective Service System to facilitate their conscription in the event of a military draft. That male-only requirement was upheld by the Supreme Court against an Equal Protection challenge in *Rostker v. Goldberg*, 453 U.S. 57

(1981). Plaintiffs, a men’s advocacy organization, argued that changing circumstances—in particular, the integration of women into combat roles in the military—meant that *Rostker* no longer controlled. The district court agreed and granted summary judgment declaring that the male-only registration requirement was unlawful. The Fifth Circuit reversed, accepting the United States’ argument that *Rostker* continued to control unless and until it was reversed by the Supreme Court.

Counsel for Appellee

Mark Etienne Angelucci
(deceased)

2. *A.H. v. French*, 985 F.3d 165 (2nd Cir. 2021) (Walker, Menashi, JJ.).* Dates of Representation: 2020 to 2021.

I argued this Second Circuit appeal as an *amicus curiae* on behalf of the United States in support of the Plaintiff-Appellant. The case presented a challenge by a student in Vermont who sought to enroll in the State’s “Dual Enrollment Program,” which pays tuition for high school juniors and seniors to take up to two courses at approved Vermont colleges. To be eligible for the program, a student must demonstrate that his or her high school is “publicly funded.” Plaintiff-appellant, who attended a religious school, was denied access to the Dual Enrollment Program because her school did not meet the “publicly funded” criterion. She contended that her exclusion from the program violated the Free Exercise Clause of the First Amendment and sought a preliminary injunction, which the district court denied. In this appeal, she contended that the district court had abused its discretion. The United States agreed, arguing that her exclusion from the program fell afoul of *Trinity Lutheran Church of Columbia v. Comer*, 137 S. Ct. 2012, 528 U.S. __ (2017). The Second Circuit agreed and reversed the district court.

Counsel for Appellant

Jacob P. Warner
Alliance Defending Freedom
15100 North 90th Street
Scottsdale, Arizona 85260
(800) 835-5233

Counsel for Appellee

John T. Alexander
Formerly with the Office of the Vermont Attorney General
Professional Responsibility Board
109 State Street
Montpelier, Vermont 05609
(802) 859-3000

Hon. Benjamin D. Battles
Formerly with the Office of the Vermont Attorney General
c/o Office of the Court Administrator
111 State Street

Montpelier, Vermont 05609
(802) 828-3278

Rachel E. Smith
Formerly with the Office of the Vermont Attorney General
Current address unknown

* Judge Winter also heard this appeal but passed away before the opinion was issued.

3. *Franklin California Tax-Free Trust v. Puerto Rico*, 85 F. Supp. 3d 577 (D.P.R. 2015) (Besosa, J.), *aff'd*, 805 F.3d 322 (1st Cir.) (Howard, Torruella, Lynch, JJ.), *aff'd*, 579 U.S. 115 (2016). Dates of Representation: 2015 to 2016.

I was part of a team that represented the Commonwealth of Puerto Rico and its Governor in defending the constitutionality of the Puerto Rico Public Corporation Debt Enforcement and Recovery Act (“Recovery Act”). Because of the serious fiscal crisis facing Puerto Rico, its public utilities risked becoming insolvent. A state or locality in a similar position would restructure, but Puerto Rico—because it is not a “State”—is not eligible to authorize its utilities to seek bankruptcy relief under Chapter 9 of the U.S. Bankruptcy Code. Accordingly, Puerto Rico enacted the Recovery Act, a municipal bankruptcy law, in an effort to permit its utilities to restructure their debt in an orderly way. Several bondholders brought suit, arguing that 11 U.S.C. § 903(1) of the Bankruptcy Code preempted the Recovery Act and that the Recovery Act was barred by the Contracts and Takings Clause of the U.S. Constitution. The Commonwealth argued that Section 903(1), which only applies to “States,” was inapplicable to Puerto Rico and that the Contracts and Takings Clauses posed no obstacle. The District Court and the First Circuit agreed with plaintiff-bondholders. Following our successful cert petition, the Supreme Court also ruled in favor of the bondholders, holding that the Recovery Act was preempted by Section 903(1) of the Bankruptcy Code. In the district court, I was part of a sizable team briefing summary judgment. On appeal, I was one of two attorneys who drafted all appellate briefs and petitions in the case, and I second-chaired arguments in both the First Circuit and the Supreme Court.

Co-Counsel

Martin J. Bienenstock
Proskauer Rose LLP
Eleven Times Square
New York, New York 10036
(212) 969-3000

Opposing Counsel

Matthew D. McGill
King & Spalding LLP
1700 Pennsylvania Avenue, N.W., Suite 900
Washington, DC 20006
(202) 626-2644

4. *Church v. Accretive Health*, No. 14-cv-57, 2015 WL 7572338 (S.D. Ala.) (Steele, J.), *aff'd*, 654 F. App'x 990 (11th Cir. 2016) (Carnes, Dubina, Huck, JJ.). Dates of Representation: 2015 to 2016.

I represented the defendant in this putative nationwide class action. Plaintiff was a former hospital patient whose surgery bills were discharged in bankruptcy. Following an administrative error, the hospital failed to correctly record that her debts had been discharged and sent them to defendant—a third-party that managed revenue services for hospitals, including by following up on outstanding, non-defaulted balances—for follow-up. Defendant sent plaintiff a one-page letter requesting payment, which did not include a disclaimer required of debt collections agencies under the Fair Debt Collection Practices Act. Plaintiff then brought a putative nationwide class action under the FDCPA, seeking millions of dollars in damages. Defendant moved for summary judgment on the grounds that it did not service defaulted debt and was not a “debt collector” covered by the FDCPA. The district court granted summary judgment and the Eleventh Circuit affirmed. I briefed summary judgment, managed discovery, deposed the plaintiff, and briefed the appeal. (I was unable to argue the appeal because argument was scheduled for the day my third child was due.)

Opposing Counsel

Earl Price Underwood
Underwood & Riemer PC
166 Government Street, Suite 100
Mobile, Alabama 36606
(251) 432-9212

5. *Dye v. Accretive Health* (Mich. Cir. Ct. filed December 15, 2015) (Druzinski, J.). Dates of Representation: 2015 to 2016.

I represented the defendant in this putative statewide class action. Plaintiff was a former hospital patient who alleged that defendant—who managed revenue services for hospitals, including by following up on non-defaulted, outstanding balances—had misrepresented the purpose of its communications with plaintiff and thereby violated the Michigan Occupation Code when it failed to identify itself as a “debt collector” for purposes of the FDCPA. (Plaintiff did not allege that he himself had been misled by any communications made by Defendant.) Plaintiff sought to certify a statewide class and sought \$225 million in damages. Defendant moved to dismiss on the grounds that it did not service defaulted debt and was not a “debt collector” covered by the FDCPA—and thus had not been misleading in its communications. The court granted the motion and dismissed the case. I briefed and argued the motion.

Opposing Counsel

Michelle E. Vocht
Roy, Shechter & Vocht, P.C.
707 South Eton Street
Birmingham, Michigan 48009
(248) 540-0321

6. *United States v. Gordon*, 710 F.3d 1124 (10th Cir. 2013) (Hartz, O’Brien, Holmes, JJ.).
Dates of Representation: 2011 to 2012.

I argued this Tenth Circuit criminal appeal on behalf of the United States. Defendant was a former securities attorney convicted of multiple criminal charges relating to his alleged participation in a “pump-and-dump” scheme where he violated the federal securities laws and defrauded investors of millions of dollars by artificially inflating the value of various stocks, before turning around and selling them for a substantial profit. On appeal, he argued that the United States improperly seized his assets, substantially depriving him of his Sixth Amendment right to counsel; that the evidence presented at trial was insufficient to support his conviction; that the district court erred in permitting the United States to (he claimed) insinuate that he was guilty by introducing evidence that infringed his Fifth Amendment right to remain silent; that the district court erred in excusing a petit juror without adequate cause; that the district court violated the Speedy Trial Act when it continued the date for commencement of the trial; that the district court erred in calculating the loss and gain amounts at sentencing; and that the district court erred in imposing joint and several liability for the illicit stock sales he was involved in. The Tenth Circuit disagreed and affirmed both the defendant’s conviction and his sentence.

Opposing Counsel

William D. Lunn
320 South Boston Avenue, Suite 1801
Tulsa, Oklahoma 74103
(918) 582-9977

7. *United States v. Avalos*, 458 F. App’x 530 (6th Cir. 2012) (Merritt, Moore, Mays, JJ.).
Dates of Representation: 2010 to 2012.

I briefed and argued this Sixth Circuit criminal appeal on behalf of the United States. The defendant, who had been convicted of conspiracy to distribute methamphetamine, argued that the district court erred in allowing the government to introduce evidence of her prior convictions at trial. The Sixth Circuit disagreed, holding that evidence of her prior convictions was properly admitted to demonstrate knowledge and intent, both of which were at issue in her case.

Opposing Counsel

Frank Dennis Alerding
303 Greenup Street, Suite 300
Covington, Kentucky 41011
(859) 431-8100

8. *Edwards v. DeWalt*, 681 F.3d 780 (6th Cir. 2012) (Daughtry, Cole, Rogers, JJ.). Dates of Representation: 2011 to 2012.

I briefed and argued this Sixth Circuit habeas appeal on behalf of the United States. Petitioner was a cocaine distributor who had been sentenced in 1985 to 15 years’ imprisonment followed by a mandatory ten-year term of “special parole.” Special parole was a mandatory form of supervised release imposed for federal drug crimes committed before 1987, under which a

defendant forfeited credit for time spent in non-custodial supervision if his special parole was revoked due to, *e.g.*, the commission of an additional crime during his term of special parole. Petitioner challenged the re-imposition of his ten-year special-parole restrictions following the revocation of his special parole. He argued that the U.S. Parole Commission's special-parole regulations were invalid; that the Parole Commission lacked the authority to impose a new term of special parole when a defendant's initial term of special parole was revoked; and that the Commission had erred in calculating the appropriate prison time that should precede his re-parole. The Sixth Circuit disagreed, upholding the Parole Commission's special-parole regulations and its broad discretion thereunder, reserving the question of whether a term of special parole may be reimposed, and holding Petitioner's challenge to the calculation of his prison time to be moot in light of his release. Accordingly, it affirmed the denial of habeas relief.

Opposing Counsel

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9. *United States v. Hale*, 685 F.3d 522 (5th Cir. 2012) (Jolly, DeMoss, Stewart, JJ.). Dates of Representation: 2011 to 2012.

I briefed and argued this Fifth Circuit criminal appeal on behalf of the United States. The defendant was a Laredo police officer who abused his position by serving as an escort for cocaine shipments and helping the traffickers to evade police surveillance, in exchange for "easy money." He was convicted at trial of conspiracy to possess with intent to distribute more than 5 kilograms of cocaine and of carrying a firearm in relation to a drug trafficking offense. On appeal, the defendant raised a Speedy Trial Act claim; challenged the exclusion of several out-of-court statements; raised several challenges to the jury instructions and answers to juror questions used at his trial; challenged the sufficiency of the evidence used to convict him of the firearms charge; and challenged several sentencing enhancements that had been applied to him. The Fifth Circuit affirmed the defendant's conviction and sentence.

Opposing Counsel

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10. *United States v. Njike*, 1:11-cr-00294 (E.D. Va. 2011) (Trenga, J.). Dates of Representation: 2011.

I represented the United States in this jury trial of defendants charged with attempting to defraud a small business. Defendants attempted to perpetrate a "black money" counterfeiting scam whereby they would steal the victim's money after promising to use chemicals to darken it and then replicate it. After the victim reported the attempted crime to the Secret Service, the Secret

Service set up a sting in which the victim introduced the defendants to an undercover officer, whom the defendants also attempted to defraud. Following trial, two of the defendants were convicted and sentenced to 2 to 4 years in prison. I second-chaired the trial, gave the opening statement, directed several witnesses, and briefed and argued numerous pretrial motions.

Opposing Counsel

Shannon Quill
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16. **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 litigation that proceeded to trial (or other in-court resolution), my practice in the Criminal Division of the Department of Justice involved evaluating adverse decisions sustained by the Government in order to advise the Solicitor General whether to pursue an appeal. A significant portion of my practice at Kirkland & Ellis involved white-collar defense (including advice to clients) and internal investigations. In addition, one of my largest cases while at Kirkland ended in a settlement that I negotiated. During my time in the White House, a substantial portion of my practice involved evaluating potential rulemakings and other executive actions with an eye to mitigating potential vulnerabilities in litigation. While serving as Principal Deputy Associate Attorney General, I provided legal advice to the Attorney General and other high-ranking Government officials and was responsible for approving certain high-dollar settlement agreements and litigating positions taken by the United States. Finally, while serving as Vice Chair and Commissioner of the Sentencing Commission, I have engaged in rulemaking to amend the federal Sentencing Guidelines.

I have never acted or registered as a lobbyist.

17. **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 four (4) copies to the committee.

None.

18. **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 have no arrangements in the future to be compensated for any financial or business interest.

19. **Outside Commitments During Service:** Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service? If so, explain.

If confirmed, I do not have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during my service.

20. **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).

Please see my Financial Disclosure Report.

21. **Statement of Net Worth:** Please complete the attached financial net worth statement in detail (add schedules as called for).

See attached Net Worth Statement.

22. **Potential Conflicts of Interest:**

a. Identify the family members or other persons, parties, affiliations, pending and categories of litigation, financial arrangements or other factors 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.

My husband works for Paul Hastings, LLP, a law firm. If confirmed, I would recuse myself from any matters in which Paul Hastings is directly involved. I am not aware of any other potential conflicts of interest that would be likely to arise during my service were I to be confirmed.

In the event of a potential conflict of interest, I would consult with my colleagues and the Sentencing Commission's Designated Agency Ethics Official and recuse myself where necessary. In all circumstances, I would comply with all applicable statutes, policies, and practices relative to this office.

b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

In the event of a potential conflict of interest, I would consult with my colleagues and the

Sentencing Commission's Designated Agency Ethics Official. In all circumstances, I would comply with all applicable statutes, policies, and practices relative to this office.

23. **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 work load, 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. If you are not an attorney, please use this opportunity to report significant charitable and volunteer work you may have done.

I have spent a significant portion of my legal career in public service. While in private practice, I also performed substantial *pro bono* legal service. In recognition of that service, I received the Kirkland & Ellis LLP Pro Bono Service Award in both 2015 and 2016. Each year, I performed over 100 hours of *pro bono* service. For example, I filed—and won—an appeal in the United States Court of Appeals for Veterans Claims on behalf of a veteran of the Iraq War who had erroneously been denied access to health benefits. I also successfully secured dismissal of criminal charges against an African hair braider from New Jersey who was charged under an unconstitutional licensing statute. Finally, I performed direct services on behalf of the indigent by doing monthly intake of impoverished clients at Catholic Charities Legal Services.

AFFIDAVIT

I, Claire McAusker Murray, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

8/13/26
(DATE)

Claire McAusker Murray
(NAME)

DK
(NOTARY)

8/13/2026

