

**Senator Dick Durbin**  
**Ranking Member, Senate Judiciary Committee**  
**Written Questions for David Alan Bragdon**  
**Nominee to be U.S. District Judge for the Middle District of North Carolina**  
**September 24, 2025**

1. From 1997 to 2000 you ran a personal website titled, “DAVID BRAGDON’S RADICAL Conservative, Republican, Libertarian Home page.”

- a. **Do you still identify as a “radical, conservative, Republican, libertarian?”**  
**Please respond with a yes or no answer.**

Response: No. Also, the title was the title of the website, not a personal identification of myself.

- b. **If no, please explain the evolution of your political views and how you currently identify.**

Response: I drafted this portion of my website while in college before I began law school more than 25 years ago. Many of my views have changed or developed over time, and there are few things I would write the same way now that I did then. Instrumental to that process were additional life experiences, including marriage, children, law school, living in multiple states and another country. I currently identify as a Christian, and I am a registered Republican. The word conservative has too many meanings to be a good descriptor of beliefs.

2. In a section on abortion, you stated, “Everyone is pro-choice in one way or another. Non-abortionist just believe that the choice comes before the baby.” You went on to write, “Why are we trying to give women a choice when they already have one.... Should our government make the child pay the consequences for the woman’s poor judgment[?] The woman knew the risk when she chose not to use birth control and thus must face the consequences.”

- a. **Do you stand by these statements?**

Response: I drafted this portion of my website while in college before I began law school more than 25 years ago. Many of my views have changed or developed over time, and there are few things I would write the same way now that I did then. As a judicial nominee, the canons of judicial conduct generally prohibit me from discussing matters that could come before me as a judge. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6).

- b. **Are you aware that birth control is not always 100 percent effective?**

Response: Yes.

**c. Should a woman or child who is sexually assaulted be forced to give birth?**

Response: As a judicial nominee, the canons of judicial conduct generally prohibit me from discussing matters that could come before me as a judge. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6).

- 3.** In a section of your website titled “Let’s Reform Welfare,” you posed the following question for your readers, “Why spend our tax dollars to indefinitely support those who are capable of supporting themselves?” You then argued that welfare causes immorality; encourages drug use and crime; and that children of welfare recipients are more likely to drop out of school, become addicted to drugs, end up in prison, be on welfare themselves, or have children out of wedlock.

**a. Do you stand by these statements?**

Response: I drafted this portion of my website while in college before I began law school more than 25 years ago. Many of my views have changed or developed over time, and there are few things I would write the same way now that I did then. As a judicial nominee, the canons of judicial conduct generally prohibit me from discussing matters that could come before me as a judge. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6).

**b. As a district judge, you will have litigants from all walks of life come before you, including some who receive government assistance. How can they trust they will have a fair day in court, if the judge before them holds these prejudices about them?**

Response: I have always separated my policy views from following the law. I have been a prosecutor for more than 18 years, and in that capacity, I have carefully followed the law. In a letter supporting my nomination, the Democratic and Republican U.S. Attorneys that I have worked for have said that I will “build[] trust in the community and respect[] individual rights enshrined in the Constitution.” They have also said that, “David treats all colleagues and attorneys and defendants with whom he encounters with a strong sense of humanity and collegiality.” Attorneys I have worked with most closely in the Federal Public Defender’s Office have said, David “treats everyone he encounters with respect and compassion.” Other members of the defense bar have said that “David listens patiently, treating everyone in a case with humility and respect.” I care greatly about hearing from everyone and being fair. I will do so without regard to the policy views I held over 25 years ago in college.

- 4.** In March 2025, President Trump issued an executive order that essentially shuttered the Institute of Museum and Library Studies (IMLS), the main federal supporter of public libraries around the country. President Trump’s cuts mean the loss of hundreds of millions of dollars to libraries around the country.

You previously celebrated National Library Week, noting that you have used public libraries to borrow books for your children and yourself, to learn something new, and to relax. You also shared a quote praising libraries as “a house of hope” and “a place where we all, whatever our situation, can feed our ideas and develop our dreams.”

**a. Do you stand by your prior statement?**

Response: Yes.

Between 2020 and 2024, IMLS provided over \$30 million in grants to North Carolina, with library-related grants providing services to the elderly and homebound, improving access to technical programming, and encouraging early childhood literacy.

**b. Do you support these initiatives?**

Response: As a judicial nominee, the canons of judicial conduct generally prohibit me from discussing matters that could come before me as a judge. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6).

**c. Given your past support for public libraries, do you support President Trump’s cuts to IMLS?**

Response: As a judicial nominee, the canons of judicial conduct generally prohibit me from discussing matters that could come before me as a judge. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6).

5. On his first day in office, President Trump suspended the U.S. Refugee Assistance Program, claiming that the entrance of refugees would be “detrimental to the interests of the United States.” You previously attended a festival hosted by a nonprofit that seeks to assist individuals displaced by war and natural disasters, helping them assimilate and thrive in American communities.

**a. Do you still support the work done by Refugee Hope Partners?**

Response: I am not currently involved in Refugee Hope Partners and do not receive communications from them.

**b. Do you believe that the refugees who attended the event with you were “detrimental to the interests of the United States?”**

Response: As a judicial nominee, the canons of judicial conduct generally prohibit me from discussing matters that could come before me as a judge. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6).

The organization recently noted that the Trump Administration was planning on ending Temporary Protected Status (TPS) for Afghan TPS holders, which could include those who served as translators for the U.S. Army or were persecuted for their Christian faith.

**c. Do you share the organization's concern about President Trump abandoning our Afghan allies?**

Response: As a judicial nominee, the canons of judicial conduct generally prohibit me from discussing matters that could come before me as a judge. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6).

**6. A press release issued by the U.S. Attorney's Office for the Eastern District of North Carolina listed you as the designated lead for election fraud or voting rights abuses during the 2016 election.**

**a. Was there any evidence of widespread or systemic voter fraud in North Carolina in 2016?**

Response: I lack the knowledge to answer this question. In my role, I primarily served as a point of contact to handle any election emergencies that came up on or shortly before election day. I do not recall anything of significance being brought to my attention in my role. I did not handle any election fraud matters that were not urgent or that were brought to the office's attention after election day. My role was even more limited since I left for the Philippines in March 2017 on a detail. I notified the office that I would be leaving in December 2016 or January 2017, and the office avoided assigning me cases that would be ongoing after I left.

**b. To your recollection, was there significant voter fraud with mail-in or absentee ballots?**

Response: Please see my answer to question 6.a.

**c. Based on your experience in 2016, did you find that mail-in voting was a safe and accurate way for voters to submit their ballots?**

Response: Please see my answer to question 6.a.

President Trump stated that "ELECTIONS CAN NEVER BE HONEST WITH MAIL IN BALLOTS/VOTING." North Carolina voters used mail-in ballots during the 2016 election.

**d. Do you consider the 2016 election in North Carolina to have been "honest?"**

Response: Please see my answer to question 6.a.

**7. Did President Trump lose the 2020 election?**

Response: President Joseph Biden was certified as the winner of the 2020 election.

**8. Where were you on January 6, 2021?**

Response: I was at my home in Raleigh, North Carolina, teleworking that day.

**9. Do you denounce the January 6 insurrection?**

Response: How the events at the Capitol on January 6, 2021, are characterized was the subject of litigation in *Trump v. Anderson*. And 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, it would be inappropriate for me to address this issue. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6).

**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: The Constitution empowers the President to issue pardons. But 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, it would be inappropriate for me to address this issue. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6).

**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. Alarming, 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 criticizing the order and appealing it. 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.

**b. Do you believe a litigant can ever lawfully defy an order from a lower federal court? If yes, in what circumstances?**

Treatises and cases have identified circumstances where a party can raise a defense to compliance with a court order, such as if the court lacked jurisdiction or if compliance was impossible. *See, e.g.*, 17 Corpus Juris Secundum Contempt §§ 56–65. For instance, in some circumstances, defying a court order may be necessary to appeal it, as the Supreme Court recognized in *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. . . . 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.”).

**c. Under the separation of powers, which branch of the federal government is responsible for determining whether a federal court order is lawful?**

Response: Article III of the U.S. Constitution states that “[t]he judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish,” and that this power “shall extend to all Cases, in Law and Equity, arising under the Constitution” or other federal laws, among other “Cases” and “Controversies.”

**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 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. Because the Supreme Court resolved the case on statutory grounds, it did not address whether or to what extent non-party injunctions are constitutional. If I were confirmed and this issue came before me, I would apply relevant precedent. As a judicial nominee, the canons of judicial conduct generally prohibit me from discussing matters that could come before me as a judge. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6).

**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.

- 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?**

The 22nd Amendment prohibits any person from being “elected to the office of the President” for a third term. U.S. Const., amend. XXII.

- 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...”<sup>1</sup>**

- 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: Under the Code of Conduct for United States Judges, it would be inappropriate for me to weigh in on these statements, which relate to ongoing litigation. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6).

- b. Do you believe this rhetoric endangers the lives of judges and their families?**

Response: Under the Code of Conduct for United States Judges, it would be inappropriate for me to weigh in on these statements, which relate to ongoing litigation. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6).

- 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**

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<sup>1</sup> Donald J. Trump (@realDonaldTrump), TRUTH SOCIAL (May 26, 2025, 7:22AM), <https://truthsocial.com/@realDonaldTrump/posts/114573871728757682>.

“judicial coup”<sup>2</sup> and later reposted the images of the three judges who decided the case and wrote, “we are living under a judicial tyranny.”<sup>3</sup>

- 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 relate to ongoing litigation. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6).

- b. Do you believe this rhetoric endangers the lives of judges and their families?**

Response: Under the Code of Conduct for United States Judges, it would be inappropriate for me to weigh in on these statements, which relate to ongoing litigation. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6).

- 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 16(b).

**17. When, if ever, may a lower court depart from Supreme Court precedent?**

Response: It is never appropriate for a lower court to depart from directly 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, I will not be called upon to overturn circuit court precedent. Circuit courts should follow the standards set in case law for determining whether to overturn their own precedent. In the Fourth Circuit, I believe the Fourth Circuit may only do so en banc.

**19. 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

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<sup>2</sup> Stephen Miller (@StephenM), X, (May 28, 2025, 7:48PM), <https://x.com/StephenM/status/1927874604531409314>.

<sup>3</sup> Stephen Miller (@StephenM), X, (May 29, 2025, 8:25AM), <https://x.com/StephenM/status/1928065122657845516>.



Court precedent. The Supreme Court should follow the standards set in case law for determining whether to overturn its own precedent.

**20. Please answer yes or no as to whether the following cases were correctly decided by the Supreme Court:**

Response: Consistent with the approach followed by many 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. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6). Should I be confirmed, all Supreme Court precedent would bind me.

**a. *Brown v. Board of Education***

Response: Yes. 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: *Plyler* is binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it.

**c. *Loving v. Virginia***

Response: Yes. See above.

**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.

**21. With respect to constitutional interpretation, do you believe judges should rely on the “original meaning” of the Constitution?**

Response: The Supreme Court has 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). The Supreme Court has not applied an originalist interpretation of the Constitution in all areas. *See, e.g., Roper v. Simmons*, 543 U.S. 551 (2005) (Eighth Amendment). As a district court judge, I would faithfully apply all applicable precedent of the Supreme Court and the Fourth Circuit, without regard to whether that binding precedent applied an originalist approach. In areas where the Supreme Court applies an originalist interpretation, the focus is on the public’s understanding of the meaning of the

relevant provision in context. This understanding allows an originalist interpretation to apply to new technologies or situations not anticipated at the time the provision was ratified.

**22. How do you decide when the Constitution’s “original meaning” should be controlling?**

Response: Please see my answer to Question 21. Supreme Court and Fourth Circuit precedent will control this issue.

**23. Does the “original meaning” of the Constitution support a constitutional right to same-sex marriage?**

Response: In *Obergefell v. Hodges*, 576 U.S. 644 (2015), 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. As a lower court judge, I would apply this and all Supreme Court precedents without regard to critiques about their consistency with the concept of original public meaning. If confirmed, I would faithfully follow *Obergefell* and all other precedents of the Supreme Court.

**24. Does the “original meaning” of the Constitution support the constitutional right to marry persons of a different race?**

Response: In *Loving v. Virginia*, 388 U.S. 1 (1967), the Supreme Court invalidated a state law prohibiting interracial couples from marrying. As discussed in my answers to Question 20.a and 20.c, and consistent with the answers of prior nominees, I can answer consistent with my duties under the Code of Conduct that *Loving* correctly reaffirmed *Brown*’s rejection of the “notion that the mere ‘equal application’ of a statute containing racial classifications” comports with the Fourteenth Amendment, *Loving*, 388 U.S. at 8.

**25. 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.

**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 applied these constitutional provisions to discrimination based on sex, *see, e.g., United States v. Virginia*, 518 U.S. 515 (1996), and sexual orientation, *see, e.g., Lawrence v. Texas*, 539 U.S. 558 (2003). As with all other precedents of the Supreme Court, I would faithfully apply these decisions if confirmed.

**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: Please see my answer to Question 21.

**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: Please see my answer to Question 21. To the extent this question touches on pending or impending litigation, as a judicial nominee, the canons of judicial conduct generally prohibit me from discussing such matters. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6).

**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 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).

**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: 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). “When the government targets not subject matter, but particular views taken by speakers on a subject, the violation of the First Amendment is all the more blatant.” *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995).

**31. What is the standard for determining whether a statement is protected speech under the true threats doctrine?**

Response: The Supreme Court has instructed that “[t]rue threats” of violence is [a] historically unprotected category of communications.” *Counterman v. Colorado*, 600 U.S. 66, 74 (2023) (citation omitted). In the Supreme Court’s words, “true threats are serious expressions conveying that a speaker means to commit an act of unlawful violence.” *Id.* (citation, internal quotation marks, and internal alterations omitted).

**32. 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. 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). Various precedents address the process that is due in particular contexts. As a district court judge, I would apply all Supreme Court and Fourth Circuit precedents in addressing due process claims. To the extent this question asks about hypothetical cases or matters that are the subject of pending or impending 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).

**33. 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 me as a judicial nominee to comment further on the subject of pending or impending litigation. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6).

**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: 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 me as a judicial nominee to comment further on the subject of pending or impending litigation. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6)

**35. Do you believe that demographic and professional diversity on the federal bench is important? Please explain your views.**

Response: Nobody should ever be excluded from the opportunity to serve as a judge based on race, ethnicity, sex, religion, or any other protected characteristic. I believe that having people from a variety of backgrounds, life experiences, and viewpoints adds value to any enterprise. I have seen this personally in my work with the Department of Justice and in my personal life. Being an effective lawyer or judge depends upon one's ability to intake, understand, and articulate a diverse range of methodological and legal viewpoints. If I am fortunate enough to be confirmed, I look forward to learning from and building relationships with my colleagues in the Middle District of North Carolina and other courts.

**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: As with any other source of constitutional or statutory law, judges are to faithfully and impartially apply the requirements of the First Step Act and precedents interpreting it, whenever applicable. Judges should also consider the facts and individual characteristics of defendants as the statutes direct.

**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. **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 unfamiliar with that statement, its context, or what its author intended to reference.

- 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.<sup>4</sup>**

- 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: I am not aware of what advice has or has not been proffered to the White House.

- ii. **Do you agree with President Trump that Leo is a sleazebag who probably hates America? Why or why not?**

Response: This question asks me to opine on statements made about a political figure, and under the Code of Conduct for United States Judges, it would be inappropriate for me to answer.

- iii. **If you are confirmed, do you plan to remain affiliated with the Federalist Society?**

Response: If confirmed, I will consult the canons of judicial ethics to determine generally what membership may or may not be appropriate and will make decisions in accordance with that guidance.

- 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 spoke to Leonard Leo at a group lunch. I introduced myself and talked with him briefly. We did not discuss anything related to my selection process. I did not speak to or correspond with Steven G. Calabresi. I have professional acquaintances and colleagues affiliated with the Federalist Society

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<sup>4</sup> Donald J. Trump (@realDonaldTrump), Truth Social (May 29, 2025, 8:10 PM), <https://truthsocial.com/@realDonaldTrump/posts/114593880455063168>.

and have spoken to and corresponded with some of them during my selection process.

- 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: I was invited to speak on a panel at the 2025 North Carolina Federalist Society Conference. I have declined.

- e. 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: I have not spoken to or corresponded with any individuals associated with Teneo as part of my selection process. Please see my answer to question 37.c as to Leonard Leo.

- 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: I have not spoken to or corresponded with any individuals associated with Heritage as part of 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: 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: I have not spoken to or corresponded with any individuals associated with AFPI as part of 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: 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: I have not spoken to or corresponded with any individuals associated with AFLI as part of my selection process.

- 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: I have not spoken to or corresponded with any individuals associated with the Article III Project as part of 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.

- 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: I have not spoken to or corresponded with any individuals associated with ADF as part of my selection process. I have friends, colleagues, and

professional associates who are associated with ADF. I have spoken with some of them about other matters and have told some of them about my nomination.

- 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: I spoke to and corresponded with Carrie Severino. I asked her for advice regarding the nomination process, and she provided me with general advice regarding the process. As to Leonard Leo, see response to question 37(c). I have not spoken to or corresponded with any other individuals associated with the Judicial Crisis Network or the other organizations identified in this question as part of my selection process.

- 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 44e.

**Nomination of David Bragdon**  
**Nominee to the United States District Court for the Middle District of North Carolina**  
**Questions for the Record**  
**Submitted September 24, 2025**

**QUESTIONS FROM SENATOR WHITEHOUSE**

**Please answer each question and sub-question individually and as specifically as possible.**

1. Is it true that you ran a website entitled, “DAVID BRAGDON’S RADICAL Conservative, Republican, Libertarian Home page”?

Response: Yes. This website was available from approximately 1997 through approximately 2000.

2. On your website, did you say, “Abortion is wrong because person or not, a fetus has just as much right to life as an infant does,” and “our constitution protects the fetus”?

Response: Yes. This website was available from approximately 1997 through approximately 2000.

3. On your website, did you say, “Why are we trying to give women a choice when they already have one. Should an innocent [*sic*] child suffer for a woman’s wrong decision. Should our government make the child pay the consequences for the woman’s poor judgment. The woman knew the risk when she chose not to use birth control and thus must face the consequences [*sic*]”?

Response: Yes. This website was available from approximately 1997 through approximately 2000.

4. On your website, did you say, “Welfare was created to help people who have had a rough time get back on their feet. Instead, it is causing immorality, making people dependent on the government for support”?

Response: Yes. This website was available from approximately 1997 through approximately 2000.

5. You signed onto a letter supporting Justice Clarence Thomas and criticizing media reports after news broke about the Justice accepting millions of dollars in undisclosed gifts. The letter you signed said, “these stories are malicious, perpetuating the ugly assumption that the Justice cannot think for himself. They are part of a larger attack on the Court and its legitimacy as an institution.”

- a. Will you follow the Code of Conduct for United States Judges should you be confirmed?

Response: Yes.

- b. Will you disclose all gifts that you are required to report under federal law should you be confirmed?

Response: Yes.

- 6. You said in your questionnaire that President Trump called you regarding your nomination on August 20, 2025.

- a. What did you discuss in that call?

Response: The conversation was short, and I don't remember it word for word. In general, President Trump told me that he was going to nominate me to be a judge in the Middle District of North Carolina. He congratulated me. He told me that the position was competitive and that it was a credit to me that I had been selected. He told me that Justice Thomas spoke highly of me.

- b. Did President Trump ask you to make any commitments?

Response: No.

- 7. Have you had any conversations with President Trump or members of the Trump administration concerning your views on any policy or case law? If so, please identify with whom you spoke and describe those conversations with specificity.

Response: In interviewing for the nomination with the White House Counsel's Office and the Department of Justice, I discussed my beliefs regarding the designated role of Article III judges in our constitutional system and the importance of judges' faithfully and neutrally applying the governing laws in the cases that come before them. We also discussed my understanding of the Supreme Court's and Fourth Circuit's precedents in a handful of areas, including constitutional and statutory interpretation. I did not discuss my views about policy. If confirmed to be a district court judge, I would follow all precedent of the Supreme Court and Fourth Circuit.

- 8. You said in your questionnaire that you are a member of the Federalist Society.

- a. Do you know Leonard Leo? If so, how do you know Leo?

Response: I have seen Leonard Leo at group gatherings a couple of times and have personally talked with him at least once.

- b. Have you ever communicated with Leo? If so, state how many times and describe the communication(s).

Response: I spoke to Leonard Leo at a group lunch on May 8, 2025. I introduced myself and talked with him briefly about nothing of substance.

I emailed Leonard Leo in 2016 or 2017 about my interest in an Eastern District of North Carolina judicial opening. I remember him replying that I could have a short phone call with him. I cannot remember if we spoke on the phone or not. I have no memory of any conversation at that time.

9. Have you ever spoken with the following individuals or groups about your nomination? If so, please describe the conversation(s) with specificity.

- a. Leonard Leo?

Response: No. Please see my answer to Question 8.b.

- b. Anyone affiliated with an entity led or funded by Leonard Leo?

Response: I know people affiliated with the Federalist Society personally and professionally and consulted a significant proportion of my lawyer friends and colleagues about the nomination process, including people affiliated with the Federalist Society.

- c. Carrie Severino?

Response: I spoke to and corresponded with Carrie Severino. I asked her for advice regarding the nomination process, and she provided me with general advice regarding the process.

- d. Mike Davis?

Response: No.

- e. Anyone affiliated with The Article III Project?

Response: No.

**Nomination of David Bragdon to the  
United States District Court for the Middle District of North Carolina  
Questions for the Record  
Submitted September 24, 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: Judges should apply the law impartially and fairly. They should resolve factual issues carefully, based on the evidence, and without bias. And they should follow their oath. District court judges should carefully follow precedent of the Supreme Court and the relevant court of appeals. To the extent such precedents do not govern a case, judges should carefully consider the law as understood at the time it was passed, assessing the language at issue in the context of the statute as a whole and other related statutes, applying interpretive canons, and considering other sources that shed light on the statute's meaning.

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) (citation and internal 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. “With only a handful of exceptions, . . . 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.” *E.g.*, *Timbs v. Indiana*, 586 U.S. 146, 150 (2019). 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 any applicable precedent of the Supreme Court or the Fourth Circuit recognized the right at issue, that would control the analysis. In the absence of any such precedent, I would consult relevant decisions of other circuits 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: I would consider any other factor that the Supreme Court’s or Fourth Circuit’s precedents identify as relevant to assessing whether the Constitution protects an asserted right under a substantive-due-process theory.

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 depart from a directly controlling precedent or order from a higher court. *See Rodriguez de Quijas v. Shearson/Am. Exp., Inc.*, 490 U.S. 477, 484 (1989) (“We do not suggest that the Court of Appeals on its own authority should have taken the step of renouncing *Wilko*. 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.”).

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: 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, 561 (2005) (Eighth Amendment). If confirmed, I would apply all Supreme Court precedents and Fourth Circuit precedents 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 Fourth Circuit governing the consideration of such evidence.

6. 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: I have reviewed the *Safer Supervision Act* and the recent Sentencing Commission amendment to supervised release. If confirmed, I will carefully review and follow relevant law relating to sentencing, including supervised release. I understand the importance of considering individual factors in handling supervised release determinations.

7. 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) (“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.”) (citations and internal quotation marks omitted). 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 3(A)(6).

8. Is President Trump eligible to be elected President for a third term in 2028?

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.

9. 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.

10. 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.

11. Who won the 2024 U.S. Presidential Election?

Response: President Trump was certified as the winner of the 2024 presidential election and is serving as the 47th President of the United States.

12. 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 (1995) (“Discrimination against speech because of its message is presumed to be unconstitutional.”). 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) (“The First Amendment does not permit St. Paul to impose special prohibitions on those speakers who express views on disfavored subjects.”). “When the government targets not subject matter, but particular views taken by speakers on a subject, the violation of the First Amendment is all the more blatant.” *Rosenberger*, 515 U.S. at 829.

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: How the events at the Capitol on January 6, 2021, are characterized was the subject of litigation in *Trump v. Anderson*. And 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 come before me if I am confirmed to serve as a district court judge. Thus, it would be inappropriate for me to address these issues. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6).

14. 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 answer to question 12. To the extent that this question asks me to state an opinion on pending or impending litigation, it is inappropriate for me to do so. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6).

15. 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 answers to question 12. To the extent that this question asks me to state an opinion on pending or impending litigation, it is inappropriate for me to do so. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6).

16. 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 follow all binding precedent, including these.

17. Do you agree that the constitutional right to travel across state lines is fundamental and well established?

As the Supreme Court has explained, 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." *Saenz v. Roe*, 526 U.S. 489, 500 (1999). The Supreme Court has described this right as "fundamental." *See, e.g., United States v. Guest*, 383 U.S. 745, 757 (1966) ("The constitutional right to travel from one State to another, and necessarily to use the highways and other instrumentalities of interstate commerce in doing so, occupies a position fundamental to the concept of our Federal Union."). My role as a district court judge would be to faithfully apply Supreme Court and Fourth Circuit precedent. These precedents would be binding on me.

- a. Do you think it is constitutional for a state to restrict the interstate travel of its citizens?

Response: The right to travel is not unlimited. For instance, in *Sosna v. Iowa*, the Supreme Court found that a one-year residency requirement for divorce was not unconstitutional even though it discriminated against those who had recently exercised their right to travel to the state. 419 U.S. 393, 406–10 (1975).

18. Do you believe that the Constitution protects a fundamental right to privacy?

Response: The Supreme Court has recognized a right to privacy. *See Griswold v. Connecticut*, 381 U.S. 479, 485 (1965).

- a. Does that right extend to information about your health care and medical history?

Response: I am not familiar with much case law in this area, but I will carefully research and apply case law if this issue were to come before me if I am confirmed. In *Whalen v. Roe*, the Supreme Court applied the right to privacy in upholding the constitutionality of New York statutes which required that the state be provided with a copy of every prescription for certain drugs, as well as providing for security measures for that information in the state's possession. 429 U.S. 589 (1977). The right to privacy, like many other rights, is not absolute, and the context and details of the relevant law and facts will matter to resolving any case.

- b. Do you agree that it is a violation of that right for states to surveil people's health care and medical history?

Response: Under the judicial canons, it would be inappropriate for me to give my opinion on the merits of a case that could come before me. *See Code of Conduct of U.S. Judges*, Canon 3(A)(6).

- c. 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: Under the judicial canons, it would be inappropriate for me to give my opinion on the merits of a case that could come before me. *See Code of Conduct of U.S. Judges*, Canon 3(A)(6).

19. 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. 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). Various precedents address the process that is due in particular contexts. As a district court judge, I would apply all Supreme Court and Fourth Circuit precedents in addressing due process claims. To the extent this question asks about hypothetical cases or matters that are the subject of pending or impending 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).

20. You wrote on your personal website “[t]he constitution grants life, liberty, and the pursuit of happiness to all. Well the mother needs her pursuit of happiness, doesn’t she. After all she didn’t want the baby to come in the first place. Since it is in her pursuit of happiness to kill the fetus, she is protected by the constitution [sic]. If I didn’t like my new neighbor, would he be protected by the constitution if [I] killed him. After all, I didn’t want him to come in the first place. It would be in my pursuit of happiness to kill the neighbor. . . . During a hard time a mother cannot put her infant to death, just because it was in her pursuit of happiness. Our constitution guarrantees [sic] that infant his life.”

a. Do you remember writing these statements?

Response: I provided a copy of my website to this committee and acknowledge writing it. I do not remember writing these statements, as it would have been more than 25 years ago when I did so.

b. Is it still your view that abortion is comparable to killing a neighbor?

Response: I drafted this portion of my website while in college before I began law school more than 25 years ago. Many of my views have changed or developed over time, and there are few things I would write the same way now that I did then. As a judicial nominee, the canons of judicial conduct generally prohibit me from discussing matters that could come before me as a judge. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6).

c. If you are confirmed, will you recuse yourself from any future cases involving reproductive healthcare procedures like abortion?

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.

21. You wrote on your personal website that you thought the death penalty was underutilized in North Carolina and should be put “into practice more often.”

a. Do you remember writing this statement?

Response: I provided a copy of my website to this committee and acknowledge writing it. I do not remember writing these statements, as it would have been more than 25 years ago when I did so.

b. Do you still stand by this statement?

Response: I drafted this portion of my website while in college before I began law school more than 25 years ago. Many of my views have changed or developed over time, and there are few things I would write the same way now that I did

then. As a judicial nominee, the canons of judicial conduct generally prohibit me from discussing matters that could come before me as a judge. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6).

- c. If you are confirmed, will you recuse yourself from sentencing hearings where capital punishment is sought?

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.

- d. What about from hearing habeas corpus petitions from those on death row?

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.

- 22. Does the public's original understanding of the scope of a constitutional provision constrain its application decades later?

Response: The Supreme Court has not applied an originalist interpretation of the Constitution in all areas. *See, e.g., Roper v. Simmons*, 543 U.S. 551 (2005) (Eighth Amendment). As a district court judge, I would faithfully apply all applicable precedent of the Supreme Court and the Fourth Circuit, without regard to whether that binding precedent applied an originalist approach. In areas where the Supreme Court applies an originalist interpretation, the focus is not on the public's understanding of the scope but on the public's understanding of the meaning of the relevant provision in context. This understanding allows an originalist interpretation to apply to new technologies or situations not anticipated at the time the provision was ratified.

- 23. What sources would you employ to discern the contours of a constitutional provision?

Response: In most cases, the proper approach is already set out by existing Supreme Court or Fourth Circuit precedent. I would apply that precedent to the specific legal question. If I were faced with an open question, I would consult 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.

- 24. What role does morality play in determining whether a challenged law or regulation is unconstitutional or otherwise illegal?

Response: Judges should not decide cases based on their personal views or policy preferences but rather based on the laws of the United States. *See* 28 U.S.C. § 453.



25. 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 (2008) (discussing the importance of considering irreparable injury but also balancing the equities with respect to injunctive relief). In addition, judges will sometimes consider the practical consequences of an interpretation as part of explaining why a particular interpretation is consistent or inconsistent with legislative intent. As a general matter, however, judges 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.

26. What role, if any, should empathy play in a judge's decision-making process?

Response: As a general matter, judges 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. Sometimes, however, the law requires a judge to consider the personal characteristics of a party before it. For instance, in criminal sentencing, a judge must consider "the characteristics of the defendant," as well as "the need for the sentence imposed . . . to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner." 18 U.S.C. § 3553(a)(1); (a)(2)(D). These individual considerations are not based on the court's emotions, but they do require the court to consider the defendant as an individual and evaluate how his or her characteristics and needs affect the appropriate sentence.

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 may have provided the judge with the requisite legal acumen to fulfill the judicial role and the integrity to treat all others with civility, fairness, honesty, 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: 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 pending or impending 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).

- a. Under what circumstances would you tell a party they could decide not to comply with your orders?

Response: Please see my answer above.

- b. What would you do if a party refuses to comply with one of your orders?

Response: It is my understanding that federal courts typically seek to ensure compliance with court orders through sanctions and civil and criminal contempt procedures or through sanctions. The legal analysis will depend on the specific order and the nature of the violation. *See, e.g., Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009) (discussing possible sanctions for defying a disclosure order). I would apply governing law and precedents to assess whether the allegations of noncompliance were accurate, whether any recognized defenses apply, and what sanctions or penalties would be appropriate.

29. When it comes to conducting yourself ethically, who in the legal profession do you see as a role model?

Response: I have benefited from many role models. Since most of my recent work has been as a criminal prosecutor, I have admired both prosecutors and defense attorneys who carefully follow the law and ethical rules while zealously advocating for their client or the government. They strive to tell the truth to the court and all relevant parties, carefully research their briefs, and humbly admit mistakes when needed. I have seen many attorneys openly acknowledge the weaknesses in their case but persuasively argue that the result should be in their favor based on other factors. There are many aspects to ethical practice, but truthfulness, humility, and careful review of the rules and law are fundamental. Many lawyers I have practiced with have these characteristics.

30. Discuss your proposed hiring process for law clerks.

Response: I plan to hire law clerks using a merit-based system. Because I have never hired law clerks before, I have not fully developed a plan. I generally plan to accept applications from anyone who is interested, review applications, conduct interviews, and consider recommendations.

- a. Do you think law clerks should be protected by Title VII of the Civil Rights Act?

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 Title VII provisions to the federal judiciary. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6).

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: People should be treated with dignity and respect. I will do so myself, and I will strive to ensure that any complaints or issues are investigated and handled well and that people know who to report problems to and how to handle issues that arise. I will also be available to listen to concerns my staff has. I will also follow any rules or guidelines by the Middle District of North Carolina and the Fourth 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: Please see my answer to question 31.b.

- 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 will also follow any rules or guidelines by the Middle District of North Carolina and the Fourth Circuit, research the issue, and seek guidance as appropriate.

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 am not familiar with this practice but am open to considering it. Giving younger attorneys an opportunity to develop oral argument skills is valuable. But a private party has an interest in selecting who argues its case. In addition, judicial efficiency is also important. In considering any standing order, I would seek advice from others and attempt to balance all the relevant factors.

- 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 oral arguments and presentations to our office. If confirmed as a judge, 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. I would also do my best to be patient with junior lawyers who are making arguments before me, giving them time to develop their arguments even if their arguments are not as smooth as an experienced attorney's would be. I also hope to have the opportunity to provide some legal education for attorneys in my community. Finally, I plan to make my courtroom an environment where attorneys are allowed to make mistakes provided they are exercising good faith.

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 Constitution empowers the President to issue pardons. But 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, it would be inappropriate for me to address these issues. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6).

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: Please see my answer to question 33.

35. At your Senate Judiciary Committee confirmation hearing, you said that you were not familiar with supplemental jurisdiction because "it does not come up in criminal practice very much."

- a. You said that supplemental jurisdiction is "jurisdiction that builds on the jurisdiction of another party who's already properly before the court." Do you stand by that statement?

Response: No.

- b. If not, what is supplemental jurisdiction?

Response: Under 28 U.S.C. § 1367(a), "the district courts shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution. Such supplemental jurisdiction shall include claims that involve the joinder or intervention of additional parties." There are certain exceptions to this rule.

- c. If you are confirmed, how will you ensure that you have an accurate understanding of the law at issue even if you have not had recent experience with it?

Response: A judge should always carefully review and research the law before making any decision. A judge should also hear arguments and briefing from the parties. In addition, judges may take the time to learn areas they are not familiar with. I have always enjoyed learning new areas of the law. If I am confirmed, I look forward to learning more about civil law and other areas that I am not as familiar with.

**Questions for the Record for David Bragdon**  
**Submitted by Senator Richard Blumenthal**  
**September 24, 2025**

1. In 2024, you were part of the team of Assistant U.S. Attorneys from the Eastern District of North Carolina who represented the Government on appeal in *United States v. George*.<sup>1</sup> While the Fourth Circuit ultimately ruled that the Government’s failure to disclose a witness’s inconsistent statement was not material to the defendant’s case, the court criticized both the Government’s failure to disclose the inconsistent statement during trial and its argument on appeal—which you helped to craft—that the inconsistent statement was not actually withheld because the defendant learned about it during trial. Judge Thacker emphasized in her concurrence that the Fourth Circuit had a history of questioning your office’s “commitment to constitutional and unobtrusive discovery practices.”<sup>2</sup>

- a. If confirmed, will you commit to ensuring that federal and state prosecutors uphold their constitutional duties, including the duty to disclose evidence favorable to the accused?

Response: If confirmed as a judge, I will not be supervising federal and state prosecutors but handling issues that come before me. In that role, I will carefully apply the laws relating to the duty to disclose evidence favorable to the accused and other constitutional duties of prosecutors.

2. You have previously written in opposition to reproductive rights. The U.S. District Court for the Middle District of North Carolina hears cases dealing with reproductive rights, such as a 2023 challenge to provisions of North Carolina Senate Bill 20 that restricted access to abortion.

- a. If confirmed, will you commit to judging cases relating to reproductive rights in a manner that is fair, impartial, and in conformity with the Constitution and applicable federal law?

Response: Yes.

- b. If you are unable to judge cases relating to reproductive rights in a manner that is fair, impartial, and in conformity with the Constitution and applicable federal laws, will you commit to recusing yourself from any such case?

Response: Yes.

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<sup>1</sup> *United States v. George*, 95 F.4th 200 (4th Cir. 2024).

<sup>2</sup> *United States v. George*, 95 F.4th 200, 212 (4th Cir. 2024) (Judge Thacker, concurring) (citing *United States v. Bartko*, 728 F.3d 327, 341–2).

3. On September 15, 2025, Attorney General Pam Bondi tried to distinguish between “free speech” and “hate speech,” claiming that the Department of Justice would prosecute the latter.

Attorney General Bondi received criticism for her assertion from across the political spectrum. While hate speech is odious, it is not exempt from First Amendment protections unless it is harassment, a true threat, or an incitement to violence.

- a. Do you believe that there is a legal distinction between “free speech” and “hate speech”?

Response: Hate speech is an ambiguous term, and the exact communications matter for purposes of the First Amendment. But much communication commonly referred to as hate speech is protected by the First Amendment.

- b. Can the Department of Justice prosecute hate speech absent threats, harassment, or incitement of violence?

Response: The Department of Justice may only prosecute specific crimes that Congress has enacted. For statutes that do criminalize speech, the First Amendment protects most speech but makes exceptions for “historically unprotected categories of speech . . . of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in their proscription.” *Counterterm v. Colorado*, 600 U.S. 66, 73–74 (2023). Exceptions include incitement, defamation, obscenity, and true threats. *See id.* The specific speech and specific statute would matter in determining the authority of the Department of Justice. It would be inappropriate for me to opine on matters that are subjects of pending or impending litigation. *See* Code of Conduct of U.S. Judges, Canon 3A(6).

4. 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 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 § 455 and the Code of Conduct for United States Judges.

- 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 answer to the first part of question 4 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: Please see my answer to the first part of question 4 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: Please see my answer to the first part of question 4 above.

- 5. 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.

- 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 adhere to all ethical rules and obligations that apply to federal judges.

- 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 adhere to all ethical rules and obligations that apply to federal judges.

- 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 adhere to all ethical rules and obligations that apply to federal judges.

- 6. 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 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.

- 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.

- 7. 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: The Supreme Court has described it in that way. *See, e.g., Bessette v. W.B. Conkey Co.*, 194 U.S. 324, 326-27 (1904).

- b. Do you believe that federal judges should be limited in their ability to hold government officials who defy court orders in contempt?

Response: The Supreme Court has cautioned that the exercise of the contempt

power is “a delicate one, and care is needed to avoid arbitrary or oppressive conclusions.” *Bloom v. Illinois*, 391 U.S. 194, 202 (1968). If I am fortunate enough to be confirmed, I would faithfully apply binding precedent on this and all other issues.

8. 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: Federal courts typically seek to ensure compliance with court orders through sanctions, civil and criminal contempt procedures, and a variety of other mechanisms.

- 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.

Treatises and cases have identified circumstances where a party can raise a defense to compliance with a court order, such as if the court lacked jurisdiction or if compliance was impossible. *See, e.g.*, 17 Corpus Juris Secundum Contempt §§ 56–65. For instance, in some circumstances, defying a court order may be necessary to appeal it, as the Supreme Court recognized in *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. . . . 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.”).

- 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 answer to question 8.b.

- d. What would make a court order unlawful?

Response: A court order could be described as unlawful if it is entered without jurisdiction or if the order is based on something other than an application of relevant law to the facts of the case.

- i. What is the process a party should follow if it believes a court order to be unlawful?

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.

- e. Is it ever acceptable to not follow this process? When and why?

Response: Treatises and cases have identified circumstances where a party can raise a defense to compliance with a court order, such as if the court lacked jurisdiction or if compliance was impossible. *See, e.g.*, 17 Corpus Juris Secundum Contempt §§ 56–65. For instance, in some circumstances, defying a court order may be necessary to appeal it, as the Supreme Court recognized in *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. . . . 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.”).

9. 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 David Bragdon**

1. You used to operate a website called, “*DAVID BRAGDON’S RADICAL Conservative, Republican, Libertarian Home Page*.” In a post you published, available at page 540 of your SJQ attachments, you wrote “[e]ach mother going to get an abortion already had a choice.” You go on to say that a “woman kn[ows] the risk when she cho[oses] not to use birth control and thus must face the consequences.”

**a. Please explain or elaborate on what you meant by this statement.**

Response: I wrote my website more than 25 years ago. I have no independent memory of what I meant at the time beyond what is written on the website itself.

**b. Does this statement still accurately represent your point of view on this matter?**

**i. If not, why not?**

Response: I drafted this portion of my website while in college before I began law school more than 25 years ago. Many of my views have changed or developed over time, and there are few things I would write the same way now that I did then. As a judicial nominee, the canons of judicial conduct generally prohibit me from discussing matters that could come before me as a judge. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6).

**c. Given your apparently strongly held personal belief on this issue, if a case involving reproductive rights comes before you, will you recuse yourself?**

**i. If no, please explain how you believe you would be able to be impartial in such a case.**

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.

2. You published in a post, available at pages 558-559 of your SJQ attachments, that “[b]y implementing capital punishment more seriously, we are fighting the war to protect our freedom.”

**a. Please explain or elaborate on what you meant by this statement.**

Response: I wrote my website more than 25 years ago. I have no independent

memory of what I meant at the time beyond what is written on the website itself.

**b. Does this statement still accurately represent your point of view on this matter?**

**i. If not, why not?**

Response: I drafted this portion of my website while in college before I began law school more than 25 years ago. Many of my views have changed or developed over time, and there are few things I would write the same way now that I did then. As a judicial nominee, the canons of judicial conduct generally prohibit me from discussing matters that could come before me as a judge. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6).

**3. In *United States v. George*, 95 F.4th 200 (4th Cir. 2024), a case in which you represented the government on appeal, a Fourth Circuit judge concurred to reprimand the U.S. Attorney’s office at which you work for its conduct during discovery. The concurring opinion mentions a “confluence of cases” in which your office had “breached its discovery standards.”**

**a. When did you first become involved in the *George* case?**

Response: After trial, Defendant filed a motion for mistrial and dismissal with prejudice or a new trial, raising a discovery claim. Following the filing of this motion, as a part of our office’s management team, I was consulted in deciding how to respond to the motion for a new trial.

**b. Were you responsible for any aspect of the discovery at issue in the *George* appeal aside from briefing and arguing the case on appeal?**

Response: I was not involved in the case during the discovery or trial phase, but I did participate in advising the office on how to handle Defendant’s motion for a mistrial, dismissal, and new trial.

**c. Did you or anyone in your office take any action to address the judge’s concerns expressed in *George*?**

Response: Yes.

**i. If yes, what were those actions?**

Response: In a public filing with the Fourth Circuit, the government identified some of the actions it had taken to resolve the concerns raised by the Fourth Circuit. *See Petition for Panel Rehearing*, at 14–15, *United States v. Garrett*, 22-4407 Cir. March 5, 2025). It provided the chart below as examples of actions it had taken to improve its discovery practice:

2022	Installed one of our most experienced attorneys to lead all office training
	Installed new office discovery coordinator
	Criminal discovery training (March, December)
	New AUSA discovery training (June, July, October)
	Participated in discovery pilot developing new procedures which were approved by DOJ
	Discovery update emails (February, March, April, June, August)
2023	Criminal discovery training
	Discovery update email
2024	E-litigation AUSA joined office and introduced new platform to aid discovery processing
	Appellate Chief trained on lessons learned from this case [Garrett], <i>George</i> , No. 22-4617, and <i>Milam</i> , No. 23-4427
	Updated discovery manual
	Presentation by National Criminal Discovery Coordinator
	Criminal discovery training (August, October, November)
	New AUSA discovery training
	Discovery update emails (May, July, September)
	Review of discovery manual by National Criminal Discovery Coordinator
	Debuted new discovery intake procedures; trained office and law enforcement partners
2025	Began pilot program for discovery intake/production
	Criminal discovery training

**ii. If not, why not?**

**4. Which financial disclosure laws, rules, and/or guidelines are federal district court judges bound to follow?**

Response: Federal judges are subject to a variety of rules and financial rules and

guidelines on financial disclosure, including the Ethics in Government Act of 1978, the Courthouse Ethics and Transparency Act, and the STOCK Act, which extended by CETA to federal judges. If confirmed, I will carefully examine and follow these and any other laws, rules, and guidelines relating to financial disclosure.

**a. Which laws, rules, and/or guidelines governs whether and when a federal district court judge is allowed to accept gifts?**

Response: Federal judges are subject to a variety of rules and guidelines related to gifts, including the Code of Judicial Conduct, the Foreign Relations Authorization Act, 22 U.S.C. § 2694, the Foreign Gifts and Decorations Act, 5 U.S.C. § 7342, the Judicial Conference Regulations on Gifts, and the Ethics Reform Act of 1989. I will carefully examine these and any other relevant rules and guidelines before accepting any gift.

**b. Under applicable laws, rules, and/or guidelines, when must a federal district court judge disclose gifts?**

Response: Please see my answer to question 4.a. There are a variety of rules and laws that cover different situations. I will carefully examine all relevant rules and guidelines before accepting any gift to ensure that I comply with rules for accepting any gift, disclosing or reporting it, and recusing where appropriate.

**5. Do you believe *Brown v. Board of Education* was 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. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6). 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.

**6. Do you believe *Loving v. Virginia* was correctly decided?**

Response: Yes. Please see my answer to question 5.

**7. Do you believe *Obergefell v. Hodges* was correctly decided?**

Response: Please see my answer to question 5. *Obergefell* is binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it.

**8. If you answered “yes” to any of the above questions (5-7) but did not similarly answer any others, please explain how you determined you could answer some questions and not others.**

Please see my answer to question 5.

- a. **If you have declined to answer 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 declining to answer the question(s).**

Based on a Westlaw search I conducted, *Obergefell* has been cited in over 170 United States appellate briefs and 100 federal opinions in the last three years. While I am not familiar with the specifics of these cases and opinions, the fact that it is still being cited so often suggests that its scope and application is being actively litigated.



**Nomination of David A. Bragdon**  
**United States District Court for the Middle District of North Carolina**  
**Questions for the Record**  
**Submitted September 23, 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."<sup>1</sup>

- 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: I have not closely followed the ABA's role in evaluating nominees to become federal judges. I do not have sufficient information to have an opinion on this question.

2. How would you characterize your judicial philosophy?

Response: Judges should apply the law impartially and fairly. They should resolve factual issues carefully, based on the evidence, and without bias. And they should follow their oath. District court judges should carefully follow precedent of the Supreme Court and the relevant court of appeals. To the extent such precedents do not govern a case, judges should carefully consider the law as understood at the time it was passed, assessing the language at issue in the context of the statute as a whole and other related statutes, applying interpretive canons, and considering other sources that shed light on the statute's meaning.

3. What do you understand originalism to mean?

Response: Originalism means that the Court interprets the Constitution, a Constitutional Amendment, or a statute "in accord with the ordinary public meaning of its terms at the time of its enactment." *See, e.g., Bostock v. Clayton Cnty., Georgia*, 590 U.S. 644, 654 (2020).

4. Do you consider yourself an originalist?

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<sup>1</sup> 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: Yes, I consider myself an originalist. The Supreme Court “normally interprets a statute in accord with the ordinary public meaning of its terms at the time of its enactment.” *Bostock v. Clayton Cnty., Georgia*, 590 U.S. 644, 654 (2020). In certain contexts, the Supreme Court has utilized a different approach. *See, e.g., Roper v. Simmons*, 543 U.S. 551 (2005) (Eighth Amendment). As a district court judge, I would faithfully apply all applicable precedents of the Supreme Court and the Fourth Circuit, without regard to whether they applied an originalist approach.

5. What do you understand textualism to mean?

Response: Textualism means that in interpreting a statute, a judge looks to the text of the statute as the primary source of meaning, ending its analysis if the language is plain and unambiguous. *Carcieri v. Salazar*, 555 U.S. 379, 387 (2009) (“This case requires us to apply settled principles of statutory construction under which we must first determine whether the statutory text is plain and unambiguous. If it is, we must apply the statute according to its terms.”) (citations omitted).

6. Do you consider yourself a textualist?

Response: Yes. The text of a statute is what Congress enacts and the President signs. It is the primary source for interpreting a statute’s meaning and governs interpretation where the statutory provision is plain and unambiguous.

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: “Reliance on legislative history is unnecessary in light of the statute’s unambiguous language.” *Mohamad v. Palestinian Auth.*, 566 U.S. 449, 458 (2012). But the Supreme Court sometimes looks at legislative history to evaluate or confirm its interpretation even when the statutory language seems clear. *See id.* 459 (“Indeed, although we need not rely on legislative history given the text’s clarity, we note that the history only supports our interpretation of ‘individual.’”). 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) (“When presented, on the one hand, with clear statutory language and, on the other, with dueling committee reports, we must choose the language.”). If confirmed, I would faithfully apply all relevant precedent of the Supreme Court and the Fourth Circuit concerning the use of legislative history. I would also evaluate all arguments made by the parties.

- b. Do you believe that congressional intent matters when interpreting a statute? Why or why not.

Response: As a general matter, the focus of statutory interpretation is the original public meaning of a statutory text. *United States v. Locke*, 471 U.S. 84, 95 (1985) (“[D]eference to the supremacy of the Legislature, as well as recognition that Congressmen typically vote on the language of a bill, generally requires us to assume that the legislative purpose is expressed by the ordinary meaning of the words used.”) (citation and internal quotation marks omitted). But Congressional intent may shed light on that meaning, particularly if Congressional intent is clear and the language of the statutory text is ambiguous.

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.<sup>2</sup>

a. What do you attribute this to?

Response: Any unfair treatment of people based on 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). A district court’s role is to consider the parties before it without any bias and to apply the law fairly. I am not familiar with the study cited or the broader scholarship, statistics, and research in this area, so I am not able to answer this question, which is a difficult one.

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.<sup>3</sup>

a. What do you attribute this to?

Response: Please see my response 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: The law provides a variety of mechanisms to raise concerns about discrimination. Defense counsel can raise these issues with the court. Judges may ask questions or raise concerns on their own. Finally, judges have a duty to apply the law and facts fairly and

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<sup>2</sup> Sonja B. Starr & M. Marit Rehavi, *Racial Disparity in Federal Criminal Sentences*, 122 J. POL. ECON. 1320, 1323 (2014).

<sup>3</sup> 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](https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2023/20231114_Demographic-Differences.pdf).

without discrimination. Judges should take advantage of all available tools to ensure that they do their part for justice to be imposed without discrimination.

11. Do you believe it is an important goal for there to be demographic diversity in the judicial branch? Why or why not.

Response: Nobody should ever be excluded from the opportunity to serve as a judge based on race, ethnicity, sex, religion, or any other protected characteristic. I believe that having people from a variety of backgrounds, life experiences, and viewpoints adds value to any enterprise. I have seen this personally in my work with the Department of Justice and in my personal life. Being an effective lawyer or judge depends upon one's ability to intake, understand, and articulate a diverse range of methodological and legal viewpoints. If I am fortunate enough to be confirmed, I look forward to learning from and building relationships with my colleagues in the Middle District of North Carolina and other courts.

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.

Response: As noted on my Senate Judiciary Questionnaire, I have spoken at different times, written a website on a variety of topics, and reviewed or edited other materials that were made public. Some of these materials may have touched on the issues listed below, but I may not recall every instance that does. 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. Below, I have identified materials I remember that specifically address these topics.

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: My website, *David Bragdon's Home Page*, provided to the Judiciary Committee, discussed abortion.

In late 2005 or early 2006, Campbell University interviewed me and did a press release about my receiving a Supreme Court Clerkship. I have no notes, transcript, or recording, and I cannot find this interview online. I recall expressing my opinion that *Roe v. Wade* was unlikely to be overruled by the Supreme Court at that time.

- b. Affirmative action.

Response: None that I can remember.

c. Contraceptives or birth control.

Response: My website, *David Bragdon's Home Page*, provided to the Judiciary Committee, briefly discussed birth control in the context of discussing abortion.

d. Gender-affirming care:

Response: None that I can remember.

e. Firearms.

Response: Some of the press releases identified in my Senate Judiciary Questionnaire discussed my prosecutions in firearms cases. The following are the ones I recall:

Press Release, Clayton Felon Receives Federal Sentence, United States Attorney's Office, Eastern District of North Carolina, Feb. 4, 2011.

Press Release, Rocky Mount Man Pleads Guilty to Machine Gun Charges, United States Attorney's Office, Eastern District of North Carolina, Dec. 14, 2010.

Press Release, Aurora Man Receives Federal Sentence for Weapons Charge, United States Attorney's Office, Eastern District of North Carolina, Apr. 14, 2010.

Press Release, [Untitled], United States Attorney's Office, Eastern District of North Carolina, Sept. 17, 2008.

f. Immigration

Response: Some of the press releases identified in my Senate Judiciary Questionnaire discussed my prosecutions relating to illegal aliens. The following are the ones I recall:

Press Release, Sentencing for Four More Illegal Aliens in False ID Production Organization, United States Attorney's Office, Eastern District of North Carolina, Oct. 9, 2008.

Press Release, Printer in ID Fraud Ring Sentenced, United States Attorney's Office, Eastern District of North Carolina, Sept. 29, 2008.

Press Release, Sentencing for Eight Illegal Aliens in False ID Production Organization, United States Attorney's Office, Eastern District of North Carolina, Sept. 19, 2008.

Press Release, Four Illegal Aliens to Pled [sic] Guilty in Document Counterfeiting Ring, United States Attorney's Office, Eastern District of North Carolina, Apr. 7, 2008.

g. Same-sex marriage

Response: None that I can remember.

h. Miscegenation

Response: None that I can remember.

i. Participation of transgender people in sports

Response: None that I can remember.

j. Service of transgender people in the U.S. military

Response: None that I can remember.

k. Racial discrimination

Response: My website, *David Bragdon's Home Page*, provided to the Judiciary Committee, discussed racial discrimination in the context of the death penalty and redistricting.

In addition, one press release, 2016 Eastern District Election Officer Appointed, United States Attorney's Office, Eastern District of North Carolina, Oct. 25, 2016, quoted United States Attorney Bruce as saying, "Every citizen must be able to vote without interference or discrimination and to have that vote counted without it being stolen because of fraud. The Department of Justice is dedicated to protecting the integrity of the election process."

l. Sex discrimination

The press release, 2016 Eastern District Election Officer Appointed, United States Attorney's Office, Eastern District of North Carolina, Oct. 25, 2016, quoted United States Attorney Bruce as saying, "Every citizen must be able to vote without interference or discrimination and to have that vote counted without it being stolen because of fraud. The Department of Justice is dedicated to protecting the integrity of the election process."

m. Religious discrimination

Response: None that I can remember.

- n. Disability discrimination

Response: None that I can remember.

- o. Climate change or environmental disasters

Response: None that I can remember.

- p. “DEI” or Diversity Equity and Inclusion

Response: None that I can remember.

13. Under what circumstances would it be acceptable for an executive branch official to ignore or defy a federal court order?

Response: Treatises and cases have identified 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. The Supreme Court also explained that defying a court order is sometimes necessary for a party to appeal it without revealing privileged information. *See 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. . . . 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.”).

- 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 or through sanctions. The legal analysis will depend on the specific order and the nature of the violation. *See, e.g., Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009) (discussing possible sanctions for defying a disclosure order). I would apply governing law and precedents to assess whether the allegations of noncompliance were accurate, whether any recognized defenses apply, and what sanctions or penalties would be appropriate.

- 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: Treatises and cases have identified 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. The Supreme Court also explained that defying a court order is sometimes necessary for a party to appeal it without revealing privileged information. *See 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. . . . 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.”).

14. 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, e.g., United States v. Texas*, 599 U.S. 670, 678 (2023) (“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.”) (citations and internal quotation marks omitted). 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 3(A)(6).

15. Does the president have the power to withhold funds appropriated by Congress?

Response: Congress passed the Impoundment Control Act in 1974. I have not reviewed any case law or other authorities addressing or interpreting this statute, nor formed an opinion on how it might apply it to any particular facts. To the extent the question asks about current legal disputes, it would be improper for me as a judicial nominee to forecast how I would rule in a case that might come before me. *See Code of Conduct of U.S. Judges*, Canon 3(A)(6).

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: 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 3(A)(6).

17. 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. *See, e.g., Murphy v. Nat’l Collegiate Athletic Ass’n*, 584 U.S. 453, 476-79 (2018). As a district court judge, I would apply all Supreme Court and Fourth Circuit precedents in addressing preemption claims.

18. 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). Various precedents address the process that is due in particular contexts. As a district court judge, I would apply all Supreme Court and Fourth Circuit precedents in addressing due process claims. To the extent this question asks about hypothetical cases or matters that are the subject of pending or impending 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).

19. 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., Fed. Commc’ns Comm’n v. Consumers’ Rsch.*, 145 S. Ct. 2482, 2491 (2025).

20. Was *Brown v. Board of Education*, 347 U.S. 483 (1954), correctly decided?

Response: Yes.

21. Is *Griswold v. Connecticut*, 381 U.S. 479 (1965), binding precedent? Please describe the facts and holding of this case.

Response: *Griswold* is a binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it. In *Griswold*, defendants were convicted of violating the Connecticut birth control law. The Supreme Court held that the Fourteenth Amendment protects the use of contraceptives.

22. Is *Lawrence v. Texas*, 539 U.S. 558 (2003), binding precedent? Please describe the facts and holding of this case.

Response: *Lawrence* is a binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it. In *Lawrence*, defendants were convicted of engaging in homosexual conduct under a Texas law that criminalized sexual intimacy by same-sex couples but not identical behavior by different-sex couples. The Supreme Court held that the law was

unconstitutional under the Fourteenth Amendment as applied to defendants who engaged in sexual intimacy in the home.

23. Is *Obergefell v. Hodges*, 576 U.S. 644 (2015), binding precedent? Please describe the facts and holding of this case.

Response: *Obergefell* is a binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it. In *Obergefell*, the Michigan Marriage Amendment prohibited same-sex marriage. 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. It also held that states must recognize lawful same-sex marriages performed in other states.

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: 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 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: I have no personal knowledge as to whether vote counts for the 2020 election were accurate. Otherwise, please see my answer to question 24.

25. The 22nd Amendment says that “no person shall be elected to the office of the President more than twice.”<sup>4</sup>

- 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 answer to Question 25(a).

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<sup>4</sup> U.S. CONST. amend. XXII.

- 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 is serving 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 answer to Question 25(c).

- e. Do you agree that the 22nd Amendment, absent a constitutional amendment, prevents President Trump from running for a third presidential term?

The 22nd Amendment prohibits any person from being “elected to the office of the President” for a third term. 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: As part of the process for preparing for the hearing, there was general discussion of the universe of responses the committee has previously received to various questions. I was specifically encouraged to read and follow the Code of Conduct for United States Judges. 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.

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: I spoke to Leonard Leo at a group lunch on May 8, 2025. I introduced myself and talked with him briefly about nothing of substance. I did not speak with him about my interest in a judicial position or the selection process.

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.

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.
- 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.

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.”<sup>5</sup>

- a. Do you agree with the above statement?

Response: I am not familiar with the statement described above, so I cannot comment on it specifically. As a judge, I would not prejudge any party or lawyer or their arguments based on political affiliation. I am friends and colleagues with many Democrats and have a high opinion of them. I believe that collegiality and dialogue are important.

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<sup>5</sup> <https://www.article3project.org/about>

- 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.

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: No.

- b. Did anyone suggest that you omit or include any particular case or type of case in your SJQ?

Response: I recall receiving general advice that some members of the Senate Judiciary Committee valued trial experience and that including cases that went to trial could be valuable.

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: I know people affiliated with the Federalist Society personally and professionally and consulted a significant proportion of my lawyer friends and colleagues about the nomination process, including people affiliated with the Federalist Society.

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 July 10, 2025, I received an email from White House Counsel's office asking for dates for an interview. We scheduled an interview for July 28, 2025. I interviewed then with attorneys from the White House Counsel's Office and the Office of Legal Policy at the Department of Justice in Washington, D.C. Since that interview, I have been in contact with officials from the Justice Department's Office of Legal Policy regarding the nomination and the submittal of required paperwork to the Federal Bureau of Investigation and the Senate. Those communications occurred over the course of August 2025. In addition, in September 2025, I communicated with the White House Counsel's Office and the Justice Department's Office of Legal Policy to prepare for the hearing before the Judiciary Committee. I have also been in communication with the Office of Legal Policy in connection with these questions.

45. Please explain, with particularity, the process whereby you answered these written questions.

Response: I prepared a draft response to these questions by 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 people 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.

**Senator Peter Welch**  
**Senate Judiciary Committee**  
**Written Questions for David Alan Bragdon**  
**Hearing on “Nominations”**  
**Wednesday, September 17, 2025**

1. From 1997 to 2000, you ran a personal website titled “DAVID BRAGDON’S RADICAL Conservative, Republican, Libertarian Home page.” In a section on abortion on that website, you wrote: “Why are we trying to give women a choice when they already have one. Should an inocent [sic] child suffer for a woman’s wrong decision. Should our government make the child pay the consequences for the woman’s poor judgment. The woman knew the risk when she chose not to use birth control and thus must face the consequenses [sic].”

- a. Can you explain why you asked readers to consider a woman’s decision to end a pregnancy a form of “poor judgment?”

Response: I wrote my website more than 25 years ago. I have no independent memory of what I meant at the time beyond what is written on the website itself.

- b. Can you explain why you characterized a woman’s decision over her pregnancy the “wrong decision?”

Response: I wrote my website more than 25 years ago. I have no independent memory of what I meant at the time beyond what is written on the website itself.

- c. Can you articulate what consequences you were thinking about at the time you wrote that women “must face” them?

Response: I wrote my website more than 25 years ago. I have no independent memory of what I meant at the time beyond what is written on the website itself.

- d. Do you continue to agree with the statements in the post you made? Why or why not?

Response: I drafted this portion of my website while in college before I began law school more than 25 years ago. Many of my views have changed or developed over time, and there are few things I would write the same way now that I did then. As a judicial nominee, the canons of judicial



conduct generally prohibit me from discussing matters that could come before me as a judge. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6).

- e. Have you publicly expressed other views on abortion or women's healthcare issues since you ran your personal website? If so, please list the occasion(s) and summarize the comments you made.

Response: In late 2005 or early 2006, Campbell University interviewed me and did a press release about my receiving a Supreme Court Clerkship. I have no notes, transcript, or recording, and I cannot find this interview online. I recall expressing my opinion that *Roe v. Wade* was unlikely to be overruled by the Supreme Court at that time.

In my senate judiciary questionnaire, to the best of my knowledge, I identified my public writings, speeches, and statements. I do not believe that I made other public statements on abortion or women's health care issues since I ran my personal website.

- 2. In a section of your website titled "Let's Reform Welfare," you wrote: "[Welfare] is causing immorality, making people dependent on the government for support, and costing honest, hard-working taxpayers billions of dollars per year."

- a. Can you explain why you stated that welfare programs are "causing immorality?"

Response: I wrote my website more than 25 years ago. I have no independent memory of what I meant at the time beyond what is written on the website itself.

- f. Do you continue to agree with the statements in the post you made? Why or why not?

Response: I drafted this portion of my website while in college before I began law school more than 25 years ago. Many of my views have changed or developed over time, and there are few things I would write the same way now that I did then. As a judicial nominee, the canons of judicial conduct generally prohibit me from discussing matters that could come before me as a judge. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6).

- g. Have you expressed other views on welfare or welfare programs since you ran your personal website? If so, please list the occasion(s) and summarize the comments you made.

Response: In my senate judiciary questionnaire, to the best of my knowledge, I identified my public writings, speeches, and statements. I do not believe that I made other public statements on welfare or welfare programs since I ran my personal website.

3. On the topic of “Capitalism and Freedom,” you wrote in one page that “In order to be free we have to limit the government, legally and economically!!!” and that “Americans need to realize that our freedom is being taken piece by piece through government control over the economy.”

- a. Can you explain what “government control” meant to you at the time you created your post?

Response: I wrote my website more than 25 years ago. I have no independent memory of what I meant at the time beyond what is written on the website itself.

- b. Have you expressed other views on the role of government since you ran your personal website? If so, please list the occasion(s) and summarize the comments you made.

Response: In my senate judiciary questionnaire, to the best of my knowledge, I identified my public writings, speeches, and statements. I do not believe that I made other public statements on the role of government since I ran my personal website.