

Senator Dick Durbin
Ranking Member, Senate Judiciary Committee
Written Questions for Sheria Akins Clarke
Nominee to be U.S. District Judge for the District of South Carolina
April 1, 2026

1. In 2020, you were a guest on an episode of former Congressman Trey Gowdy’s podcast to speak on the then-recent murder of George Floyd and your views on the criminal justice system. In part, you said:

[T]here are different views of the justice system depending on which community you’re in...In some communities the justice system works as it should...then there are other communities that recognize that although that is a great ideal to aspire to it doesn’t actually work that way for their community.

Please elaborate on what you meant about our criminal justice system working differently depending on which community a person is from.

Response: During the episode mentioned, I was commenting on perceptions different communities may have regarding the criminal justice system and how it works, as well as discrepancies in sentencing outcomes. These types of issues were addressed by congress in the FIRST STEP Act.

2. Officials within the Trump Administration, including then-Acting Deputy Attorney General Emil Bove and then-Interim U.S. Attorney Ed Martin, fired Assistant U.S. Attorneys who had been assigned to investigate and prosecute cases against defendants accused of committing crimes arising out of the January 6 attack on the Capitol.

- a. **Do you believe that apolitical, career civil servants should be terminated simply because they were assigned to work on certain matters?**

Response: Because this is a question that is being litigated in courts, and may come before me if I am confirmed, under the Canons of the Code of Conduct for United States Judges, it would be inappropriate for me comment.

- b. **During your tenure, the U.S. Attorney’s Office for the District of South Carolina handled several cases against January 6 rioters. Did you manage, advise, or supervise any such prosecutions or investigations?**

Response: No. I was not assigned any cases related to January 6.

3. In 2023, you received the Council of the Inspector General of Integrity and Efficiency’s (CIGIE) Award for Excellence.

Do you believe that inspectors general play a critical role in investigating waste, fraud, and abuse within the federal government?

Response: Yes. During my time as the Staff Director for the House Oversight Committee, I worked closely with the Inspector Generals to identify waste, fraud, and abuse within the federal government. I continued my work with Inspectors General during my time as a federal prosecutor.

4. You have prosecuted cases involving the *qui tam* provisions of the False Claims Act (FCA), which has been championed by Chairman Grassley for many years. Whistleblowers who bring *qui tam* actions play an important role in holding those who defraud the government accountable. In FY 2025, the Justice Department reported \$6.8 billion in total FCA settlements and judgments. *Qui tam* actions comprised a significant percentage of those cases, yielding over \$5.3 billion in recoveries. If you are confirmed to the federal bench, *qui tam* cases may come before you.

a. Do you believe whistleblowers play an important role in holding those who defraud the government accountable?

Response: Yes. Whistleblowers play an important role in ensuring that waste, fraud, and abuse in the federal government is identified and addressed. Whistleblowers are important not only in *qui tam* cases, but also in investigations conducted by Congress.

b. Do you believe the FCA's *qui tam* provisions are constitutional?

Response: As an Assistant United States Attorney, I handled many *qui tam* cases as well as *False Claims Act* cases that were not brought under the *qui tam* provisions. The *False Claims Act* is a powerful tool for the government to combat fraud in government contracts. Because this is a question that is being litigated in courts, and may come before me if I am confirmed, it would be inappropriate for me to preview any ruling that I might issue. I do however commit to conducting myself in the same manner as I have throughout my career – that is, I will faithfully and impartially apply the Fourth Circuit and Supreme Court precedent to these matters.

5. In your Questionnaire, you wrote that your most significant case involved collaboration with the Department of Justice's Environmental and Natural Resources Division (ENRD). According to public reporting, the number of attorneys in ENRD's Environmental Defense Section dropped from 120 in February 2025 to fewer than 70 by October. DOJ's budget request for Fiscal Year 2026 includes a reduction of more than \$20 million in the ENRD budget. It also seeks a 31 percent reduction in division staff, from 641 to 449. That reduction would include 79 attorneys.

a. Do you support the Administration's proposal to gut ENRD's budget and staff?

Response: Under the Canons of the Code of Conduct for United States Judges, it would be inappropriate for me to opine on the efficacy of the Administration's proposal. Generally, the allocation of resources is reserved for policymakers.

b. How does the Trump Administration's plan to reduce ENRD's budget and workforce do anything to help protect our health and environment?

Response: Please see my response to question 5a.

6. Did President Trump lose the 2020 election?

Response: Joe Biden was certified the winner of the 2020 election.

7. Where were you on January 6, 2021?

Response: I was in Greenville, South Carolina.

8. Do you denounce the January 6 insurrection?

Response: I denounce any violence against law enforcement. I am aware that pardons issued to those prosecuted for the events at the Capitol on January 6, 2021, is a matter subject to ongoing litigation and that could arise in cases that may come before you if I were confirmed as a judge. To the extent this question asks me to opine on the characterization of the events that occurred at the U.S. Capitol on January 6, 2021, as a judicial nominee, under the Canons of the Code of Conduct for United States Judges, it would be inappropriate for me to comment further.

9. 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 President is empowered by the Constitution to issue pardons. Under the Code of Conduct for United States Judges, it would be inappropriate for me to weigh in further.

10. 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: Generally, litigants may seek an injunction, stay, or to appeal the order.

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

Response: See my response to question 10a.

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

Response: See my response to question 10a.

- 11. District judges have occasionally issued non-party injunctions, which may include “nationwide injunctions” and “universal injunctions.”**

Response: The Supreme Court addressed injunctions recently in *Trump v. CASA, Inc.*, 245 S. Ct. 2540 (2025). In *Casa*, the Supreme Court held that universal injunctions likely exceeded the equitable authority given to courts. If confirmed, I would follow all Supreme Court precedent.

- a. Are non-party injunctions constitutional?**

Response: See my answer to question 11.

- b. Are non-party injunctions a legitimate exercise of judicial power?**

Response: See my answer to question 11.

- c. Is it ever appropriate for a district judge to issue a non-party injunction? If so, under what circumstances is it appropriate?**

Response: See my answer to question 11.

- 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.

- 12. 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.

- 13. Does the U.S. Constitution permit a president to serve three terms?**

Response: The 22nd Amendment provides, “No person shall be elected to the office of the President more than twice.”

14. On May 26, 2025, in a Truth Social post, President Trump referred to some judges whose decisions he disagrees with, as “USA HATING JUDGES” and “MONSTERS”, who “...SUFFER FROM AN IDEOLOGY THAT IS SICK, AND VERY DANGEROUS FOR OUR COUNTRY...”¹

a. **Do you agree that these federal judges are “USA HATING” and “MONSTERS” who “...SUFFER FROM AN IDEOLOGY THAT IS SICK, AND VERY DANGEROUS FOR OUR COUNTRY...”?**

Response: Under the Code of Conduct for United States Judges, it would be inappropriate for me to comment on political matters and ongoing litigation.

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

Response: Please see my answer to question 14a.

15. In addition to the President’s own attacks on judges, his adviser Stephen Miller took to social media to call a federal trade court’s ruling against President Trump’s tariffs a “judicial coup”² and later reposted the images of the three judges who decided the case and wrote, “we are living under a judicial tyranny.”³

a. **Do you agree that these judges are engaged in a “judicial coup” and that “we are living under a judicial tyranny”?**

Response: Under the Code of Conduct for United States Judges, it would be inappropriate for me to comment on political matters and ongoing litigation.

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 comment on political matters and ongoing litigation.

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?**

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

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

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

Response: Under the Code of Conduct for United States Judges, it would be inappropriate for me to comment on political matters and ongoing litigation.

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

Response: Lower courts are bound by the precedent of the Supreme Court.

17. When, in your opinion, would it be appropriate for a circuit court to overturn its own precedent?

Response: In the Fourth Circuit, prior Fourth Circuit precedent may only be overturned when the court is sitting en banc. See *McMellon v. United States*, 387 F.3d 329 (4th Cir. 2004) (en banc).

18. When, in your opinion, would it be appropriate for the Supreme Court to overrule its own precedent?

Response: In *Dobbs v. Jackson*, 597 U.S. 215 (2022), the Supreme Court provided five considerations it undertakes when reviewing its prior precedent. As a judicial nominee, it would be inappropriate for me to weigh in on when the Supreme Court should overturn its precedent. If confirmed, I would faithfully and impartially apply all binding precedent.

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

a. *Brown v. Board of Education*

Response: Yes, *Brown v. Board of Education* was correctly decided. Although typically it would be inappropriate to opine on the correctness of any Supreme Court decision as a judicial nominee, it has been the tradition for nominees to make an exception with respect to the landmark decisions in both *Brown v. Board of Education*, and *Loving v. Virginia* and to affirmatively state that *Brown* and *Loving* were correctly decided. If confirmed, I would faithfully apply all Supreme Court precedent.

b. *Plyler v. Doe*

Response: See my response to question 19a.

c. *Loving v. Virginia*

Response: See my response to question 19a.

d. *Griswold v. Connecticut*

Response: See my response to question 19a.

e. *Trump v. United States*

Response: See my response to question 19a.

f. *Dobbs v. Jackson Women's Health Organization*

Response: See my response to question 19a.

g. *New York State Rifle & Pistol Association, Inc. v. Bruen*

Response: See my response to question 19a..

h. *Obergefell v. Hodges*

Response: See my response to question 19a.

i. *Bostock v. Clayton County*

Response: See my response to question 19a.

j. *Masterpiece Cakeshop v. Colorado*

Response: See my response to question 19a.

k. *303 Creative LLC v. Elenis*

Response: See my response to question 19a.

l. *United States v. Rahimi*

Response: See my response to question 19a.

m. *Loper Bright Enterprises v. Raimondo*

Response: See my response to question 19a.

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

Response: If confirmed, I would look to Supreme Court precedent and Fourth Circuit precedent interpreting the Constitution, including the methodology used by the Supreme Court and Fourth Circuit in interpreting novel constitutional issues.

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

Response: Please see my answer to question 20.

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

Response: In *Obergefell*, the Supreme Court held there is a constitutional right to same-sex marriage. I would faithfully apply all Supreme Court precedent if I am confirmed.

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

Response: The Supreme Court recognized the right to marry persons of a different race in *Loving v. Virginia*.

24. What is your understanding of the Equal Protection and Due Process clauses of the Fourteenth Amendment?

Response: The Fourteenth Amendment protects citizens from deprivation of life, liberty, or property by the states without due process. It also ensures that persons receive equal protection of the laws. It is the means by which many of the Bill of Rights have been incorporated against the states. The Equal Protection Clause prevents states from impacting or targeting certain classes of citizens unfairly. Laws that target certain classes of citizen are subject to scrutiny that depends on the level of classification. The Due Process clause ensures fairness of process in criminal and civil proceedings, including the right to notice and an opportunity to be heard.

25. 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 the Fourteenth Amendment’s Equal Protection Clause for the right to same-sex marriage and women’s rights. *See Obergefell v. Hodges*, 576 U.S. 644 (2015); *United States v. Virginia*, 518 U.S. 515 (1996). I would faithfully apply all Supreme Court precedent if confirmed.

26. Do you believe that judges should be “originalist” and adhere to the original public meaning of constitutional provisions when applying those provisions today?

Response: Please see my response to question 20.

27. If so, do you believe that courts should adhere to the original public meaning of the Foreign Emoluments Clause when interpreting and applying the Clause today?

Response: Please see my response to question 20.

28. Under the U.S. Constitution, who is entitled to First Amendment protections?

Response: Generally, the First Amendment prohibits Congress from making any law “respecting 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 to peaceably assemble and to petition the Government for a redress of grievances.” The First Amendment protects freedom of religion, freedom of speech, and freedom of assembly. The Supreme Court has recognized that these protections apply differently to different people. *See Ginsberg v. New York*, 309 U.S. 629 (1968). If I am fortunate enough to be confirmed, I would faithfully apply the precedents of the Supreme Court and the Fourth Circuit regarding the scope of First Amendment protections. However, this question implicates issues that are the subject of ongoing litigation, and that could come before me if I am confirmed. Therefore, it would be inappropriate for me as a nominee to further address this question.

29. 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: Content-based laws generally regulate what is being said. Content-neutral laws generally regulate when and where a statement is being made. *See Tiktok Inc. v. Garland*, 604 U.S. 56 (2025).

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

Response: In *Counterman v. Colorado*, 600 U.S. 66 (2023), the Supreme Court has determined the standard is recklessness.

31. Is every individual within the United States entitled to due process?

Response: The Supreme Court has held that Fifth Amendment due process applies to non-citizens present in the United States. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). If confirmed, I would faithfully apply all Supreme Court and Fourth Circuit precedent regarding the scope of due process for non-citizens present in the United States.

32. Can U.S. citizens be transported to other countries for the purpose of being detained, incarcerated, or otherwise penalized?

Response: Please see my response to question 31.

33. The Fourteenth Amendment states: “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.”

a. Is every person born in the United States a citizen under the Fourteenth Amendment?

Response: This question involves issues that are currently being litigated. To the extent this question asks me to opine on current legal disputes, under the Code of Conduct for United States Judges, it would be inappropriate for me to weigh in.

b. Is the citizenship or immigration status of the parents of an individual born in the United States relevant for determining whether the individual is a citizen under the Fourteenth Amendment?

Response: See my response to question 33a.

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

Response: Yes, I believe that individuals should not be excluded from service on the federal bench because of demographic considerations. I also believe the federal bench benefits from a diversity of professional backgrounds.

35. 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: A federal judge should faithfully and impartially apply the law, including considering sentencing guidelines and the sentencing factors under 18 U.S.C. § 3553(a).

b. Will you commit to fully and fairly considering the individualized circumstances of each defendant who comes before you when imposing sentences to ensure that they are properly tailored to promote the goals of sentencing and avoid terms of imprisonment in excess of what is necessary?

Response: I commit to ensuring the sentences I impose, if I am confirmed, fully take into account the factors set out in 18 U.S.C. § 3553(a).

36. The Federalist Society seeks to “reorder[] priorities within the legal system to place a premium on individual liberty, traditional values, and the rule of law.”

- a. **During your selection process, have you spoken to or corresponded with any individuals associated with the Federalist Society, including Leonard Leo or Steven G. Calabresi? If so, please provide details of those discussions.**

Response: I have not spoken to or corresponded with Leonard Leo or Steven G. Calabresi, during my selection process, or at any other time. Likewise, to my knowledge, I have not spoken to or corresponded with any other Federalist Society officials or employees. The Federalist Society boasts tens of thousands of members. I have friends and colleagues who are members of the Federalist Society with whom I discussed general information about my selection process because of their relationship with me.

- b. **Have you ever been asked to and/or provided services to the Federalist Society, including research, analysis, advice, speeches, or appearing at events?**

Response: No.

- c. **Have you ever been paid honoraria by the Federalist Society? If so, how much were you paid, and for what services?**

Response: No.

37. The Teneo Network states that its purpose is to “Recruit, Connect, and Deploy talented conservatives who lead opinion and shape the industries that shape society.”

- a. **During your selection process, have you spoken to or corresponded with any individuals associated with the Teneo Network, including Leonard Leo? If so, please provide details of those discussions.**

Response: No.

- b. **Have you ever been asked to and/or provided services to the Teneo Network, including research, analysis, advice, speeches, or appearing at events?**

Response: No.

- c. **Have you ever been paid honoraria by the Teneo Network? If so, how much were you paid, and for what services?**

Response: No.

38. The Heritage Foundation states that its mission is to “formulate and promote public policies based on the principles of free enterprise, limited government, individual freedom, traditional American values, and a strong national defense.” Heritage Action, which is affiliated with the Heritage Foundation, seeks to “fight for conservative policies in Washington, D.C. and in state capitals across the country.”

- a. During your selection process, have you spoken to or corresponded with any individuals associated with the Heritage Foundation or Heritage Action, including Kevin D. Roberts? If so, please provide details of those discussions.**

Response: No.

- b. Have you ever been asked to and/or provided services to the Heritage Foundation or Heritage Action, including research, analysis, advice, speeches, or appearing at events?**

Response: No.

- c. Were you ever involved in or asked to contribute to Project 2025 in any way?**

Response: No.

- d. Have you ever been paid honoraria by the Heritage Foundation or Heritage Action? If so, how much were you paid, and for what services?**

Response: No.

39. The America First Policy Institute (AFPI) states that its “guiding principles are liberty, free enterprise, national greatness, American military superiority, foreign-policy engagement in the American interest, and the primacy of American workers, families, and communities in all we do.”

- a. During your selection process, have you spoken to or corresponded with any individuals associated with AFPI? If so, please provide details of those discussions.**

Response: No.

- b. Have you ever been asked to and/or provided services to AFPI, including research, analysis, advice, speeches, or appearing at events?**

Response: No.

- c. Have you ever been paid honoraria by AFPI? If so, how much were you paid, and for what services?**

Response: No.

40. The America First Legal Institute (AFLI) states that it seeks to “oppose the radical left’s anti-jobs, anti-freedom, anti-faith, anti-borders, anti-police, and anti-American crusade.”

- a. **During your selection process, have you spoken to or corresponded with any individuals associated with AFLI, including Stephen Miller, Gene Hamilton, or Daniel Epstein? If so, please provide details of those discussions.**

Response: No.

- b. **Have you ever been asked to and/or provided services to AFLI, including but not limited to research, analysis, advice, speeches, or appearing at events?**

Response: No.

- c. **Have you ever been paid honoraria by AFLI? If so, how much were you paid, and for what services?**

Response: No.

41. The Article III Project is an organization which claims that, “The left is weaponizing the power of the judiciary against ordinary citizens.”

- a. **During your selection process, have you spoken to or corresponded with any individuals associated with the Article III Project, including Mike Davis, Will Chamberlain, or Josh Hammer? If so, please provide details of those discussions.**

Response: No.

- b. **Have you ever been asked to and/or provided services to the Article III Project, including research, analysis, advice, speeches, or appearing at events?**

Response: No.

- c. **Have you ever been paid honoraria by the Article III Project? If so, how much were you paid, and for what services?**

Response: No.

42. The Alliance Defending Freedom (ADF) states that it is “the world’s largest legal organization committed to protecting religious freedom, free speech, the sanctity of life, marriage and family, and parental rights.”

- a. **During your selection process, have you spoken to or corresponded with any individuals associated with ADF? If so, please provide details of those discussions.**

Response: No.

- b. **Have you ever been asked to and/or provided services to ADF, including research, analysis, advice, speeches, or appearing at events?**

Response: No.

- c. **Have you ever been paid honoraria by ADF? If so, how much were you paid, and for what services?**

Response: No.

43. The Concord Fund, also known as the Judicial Crisis Network, states that it is committed “to the Constitution and the Founders’ vision of a nation of limited government; dedicated to the rule of law; with a fair and impartial judiciary.” It is affiliated with the 85 Fund, also known as the Honest Elections Project and the Judicial Education Project.

- a. **During your selection process, have you spoken to or corresponded with any individuals associated with these organizations, including Leonard Leo or Carrie Severino? If so, please provide details of those discussions.**

Response: No.

- b. **Have you ever been asked to and/or provided services to these organizations, including research, analysis, advice, speeches, or appearing at events?**

Response: No.

- c. **Have you ever been paid honoraria by these organizations? If so, how much were you paid, and for what services?**

Response: No.

- d. **Do you have any concerns about outside groups or special interests making undisclosed donations to front organizations like the Concord Fund or 85 Fund in support of your nomination? Note that I am not asking whether you have solicited any such donations, I am asking whether you would find such donations to be problematic.**

Response: I am unfamiliar with Concord Fund or 85 Fund. If I am confirmed, advocacy for or against my confirmation will be wholly irrelevant to the decisions I make as a judge.

- e. If you learn of any such donations, will you commit to call for the undisclosed donors to make their donations public so that if you are confirmed you can have this information when you make decisions about recusal in cases that these donors may have an interest in?**

Response: See response to 43(d).

- f. Will you condemn any attempt to make undisclosed donations to the Concord Fund or 85 Fund on behalf of your nomination?**

Response: See response to 43(d).

Nomination of Sheria Clarke
Nominee to be District Judge for the District of South Carolina
Questions for the Record
Submitted April 1, 2026

QUESTIONS FROM SENATOR WHITEHOUSE

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

1. The U.S. Marshals Service is responsible for ensuring the safety of federal judges, including investigating threats against judges. In a threat investigation, would you expect the U.S. Marshals and FBI to investigate any party they have reason to believe is complicit or culpable, including under RICO and conspiracy statutes, in addition to the individual who made the threat?

Response: I expect the U.S. Marshals and FBI would conduct a fact-based investigation of specific and credible threats against judges.

**Nomination of Sheria Clarke to the
United States District Court for the District of South Carolina
Questions for the Record
Submitted April 1, 2026**

QUESTIONS FROM SENATOR COONS

1. Do you believe that the Senate Judiciary Committee has a responsibility to evaluate judicial nominees to the best of its ability, including by asking questions on the record to make each nominee's unique background and viewpoint clear to the American people?

Response: Yes.

2. Do you believe that you, as a judicial nominee, have a responsibility to the American people to give full and complete answers to the Committee's questions to the best of your ability and in good faith?

Response: Yes, subject to any restrictions that are compelled by the Canons of the Code of Conduct for United States Judges.

3. Do you believe you fulfilled this responsibility with the answers you have provided to my questions for the record?

Response: Yes, to the best of my ability and in accordance with any restrictions compelled by the Canons of the Code of Conduct for United States Judges.

- a. Did you receive assistance from staff in the White House, the Department of Justice, or any other organization in writing your responses to these questions? If so, from whom did you receive assistance and what was the nature of the assistance you received?

Response: I drafted my own responses. I received feedback from the Office of Legal Policy at the U.S. Department of Justice. After reviewing the feedback, I finalized my answers.

- b. Do you believe it is appropriate for a nominee to answer my questions for the record with the verbatim answers of previous nominees who answered the same questions?

Response: I have answered each question to the best of my ability. The answers provided herein are my own.

- c. Did you review the answers to my questions for the record submitted by previous judicial nominees before answering these questions?

Response: Yes. I reviewed questions for the record submitted by judicial nominees across multiple administrations.

- d. To your knowledge, are any of your answers to these questions for the record exact duplicates of answers provided by previous nominees?

Response: With the exception of questions that may have elicited “yes” or “no” responses, to my knowledge, all of my answers are unique. Most importantly, the answers I have provided are given to the best of my ability and in good faith.

4. 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 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.

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

Response: I have had the great fortune of working with many members of the legal profession whom I hold in high regard for setting the standard for ethical conduct. I have great respect and admiration for Judge Wanda Bryant, whom I clerked for on the North Carolina Court of Appeals. I watched with admiration and respect many members of the House Ethics Committee including Rep. G.K. Butterfield, Rep. Susan Brooks, Rep. Anthony Brown and many others. I also count numerous colleagues at the U.S. Attorney’s Office for the District of South Carolina as ethical role models. The Federal District Court of the District of South Carolina boasts remarkable judges whom I greatly admire and respect. Finally, I have many colleagues at Nelson Mullins including Sam Outten and Ambassador David Wilkins whom I believe model ethics in the legal profession.

6. How would you describe your judicial philosophy?

Response: I believe that a judge should faithfully and impartially apply the law to the cases before him or her. A judge should be measured, temperate, and humble.

7. 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 Supreme Court recently described the analysis to determine whether a right is fundamental and protected under the Fourteenth Amendment in *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215 (2022). *Dobbs* is binding Supreme Court precedent which I would faithfully apply.

- a. Would you consider whether the right is expressly enumerated in the Constitution?

Response: Yes.

- b. Would you consider whether the right is deeply rooted in this nation's history and tradition? If so, what types of sources would you consult to determine whether a right is deeply rooted in this nation's history and tradition?

Response: Yes. I would follow Supreme Court precedent and would consider sources such as state statutes and common law.

- c. Would you consider whether the right has previously been recognized by Supreme Court or circuit precedent? What about the precedent of another court of appeals?

Response: Yes, I would consider rights previously recognized by the Supreme Court as that binding precedent would control and I would consider any binding precedent from the Fourth Circuit. If there were no binding precedent from the Supreme Court or the Fourth Circuit, and to the extent other circuits had considered the issue, I would consider precedent from another court of appeals.

- 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 factors that are consistent with binding Supreme Court precedent and binding precedent of the Fourth Circuit.

8. If you concluded that the President had violated his constitutional duty to faithfully execute the laws and then had to determine the remedy, what process would you use to perform that analysis? I assume you would faithfully follow binding precedent, but what specific precedents and/or other sources of law would you look to?

Response: I am not aware of any cases that have squarely decided that a President has failed to faithfully execute the laws as required by the Take Care Clause. I would consider relevant statutes, arguments of the parties, and principles regarding justiciability, redressability, separation of powers, and immunity. Because these issues may come before me if I am confirmed, under the Code of Conduct for United States Judges, it would be inappropriate for me to comment further. See Code of Conduct of U.S. Judges, Canon 5.

9. Is President Trump eligible to be elected President for a third term in 2028? Assume that I know what the text of the 22nd Amendment says. I am interested in your application of that text to whether or not President Trump can be elected President in 2028.

Response: The text of the 22nd Amendment prohibits any person from being “elected to the office of the President more than twice.”

10. If Congress certifies a candidate as being the winner of a presidential election, does that mean that the candidate won the election? If not, what does it mean?

Response: As prescribed by the Constitution, the final step in the process by which the presidential election is determined is certification by Congress.

11. At your Senate Judiciary Committee nomination hearing, Senator Blumenthal asked you who won the 2020 election. You began to reply, “under our Constitution, the mechanism for electing a president is”

- a. In advance of the hearing, did you prepare a potential answer or set of answers to question(s) you might receive related to who won the 2020 election? If so, what information or sources did you use to develop your answer(s)?

Response: In advance of the nomination hearing, I reviewed prior hearings of nominees from multiple administrations and considered potential questions that may be asked of me. In doing so, I also considered potential responses to those questions to ensure that any response I provided did not violate the Canons of the Code of Conduct for United States Judges.

- b. Prior to the hearing, did anyone instruct, suggest, imply, or otherwise represent that you should avoid directly answering questions about who won the 2020 election?

Response: No.

- c. Do you believe that you would face any adverse professional consequences if you directly stated, during your hearing or otherwise on the record, that President Trump lost the 2020 election, or that President Biden won the 2020 election? Please explain.

Response: No.

12. On the same day as your nomination hearing, March 25, 2026, the *New York Times* reported that President Trump stated the following at a National Republican Congressional Committee event: “The time has also come for Republicans to pass a tough new crime bill that imposes harsh penalties for dangerous repeat offenders, cracks down on rogue judges. We got rogue judges that are criminals. They are criminals, what they do to our country. The decisions that they hand down and hurt our country.”

- a. Is it a crime for a judge to rule against President Trump’s desired outcome in a particular case?

Response: I would be remiss to comment on statements made by the President because the question calls for a response that requires me to express an opinion on a political matter. As a judicial nominee, it would be impermissible for me to opine on this issue. *See* Code of Conduct of U.S. Court Judges, Canon 5. In general, I will state that an adverse ruling against a party is not a crime.

- b. Do you think that judges ruling against President Trump’s desired outcome should be “crack[ed] down on”?

Response: Please see my response to Question 12a.

- c. Is it possible for a judge’s decision to be correct, as a matter of fact and law, even if it differs from President Trump’s desired outcome?

Response: Please see my response to Question 12a.

- d. Do you agree with President Trump that we need a “tough new crime bill” that “cracks down on rogue judges”?

Response: Please see my response to Question 12a.

- e. Do you think that rhetoric like the example quoted above could discourage a judge from ruling against President Trump’s desired outcome?

Response: Please see my response to Question 12a.

- f. If you were confirmed and you ruled against President Trump’s desired outcome in a case, would you consider yourself a “rogue judge[]” and a “criminal[]”?

Response: Please see my response to Question 12a.

- g. Do you think statements like those made by President Trump quoted above make federal judges more or less safe?

Please see my response to Question 12a.

13. Under 28 U.S.C. § 455, “[a]ny justice, judge, or magistrate judge of the United States shall disqualify [themselves] in any proceeding in which [their] impartiality might reasonably be questioned.” As a general matter, what criteria would you use when deciding whether to recuse yourself from a case?

Response: As a general matter, I would use the criteria set forth in 28 U.S.C. § 455, as well as the guidance found in the Canons of the Code of Conduct for United States Judges. I would also consult with my colleagues on best practices for determining whether I should recuse.

14. 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 adopted an amendment to supervision guidelines implementing certain parts of the bill; this amendment went into effect on November 1.

- a. As a sentencing judge, would you endeavor to impose supervision thoughtfully and on the basis of the individual facts of the case consistent with 18 U.S.C. § 3553 and 18 U.S.C. § 3583?

Response: Yes. I would follow the factors set forth in 18 U.S.C. § 3553 and 18 U.S.C. § 3583 as well as any binding Supreme Court and Fourth Circuit precedent.

- 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, I agree that positive incentives can motivate individuals to rehabilitate. I would faithfully and impartially apply the factors as prescribed in 18 U.S.C. § 3553 and 18 U.S.C. § 3583

- c. Will you commit if confirmed to reviewing the *Safer Supervision Act* and the recent Sentencing Commission amendment and considering them as you develop your approach to sentencing of supervised release?

Response: Yes.

15. If you had to determine whether it is appropriate for the President of the United States to punish a law firm for taking on a client that the President did not like, what process would you use to perform that analysis? I assume you would faithfully follow binding precedent, but what specific precedents and/or other sources of law would you look to?

Response: Respectfully, this is a question related to ongoing litigation, and under the Canons of the Code of Conduct for United States Judges, I should not comment. However, I would faithfully follow any binding precedent of the Supreme Court and the Fourth Circuit.

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

Response: The Supreme Court has held the right to travel is “firmly embedded in our jurisprudence.” *Saenz v. Roe*, 526 U.S. 489, 498 (1999).

- a. If you had to determine whether it is constitutional for a state to restrict the interstate travel of its citizens, what process would you use to perform that analysis? I assume you would faithfully follow binding precedent, but what specific precedents and/or other sources of law would you look to?

Response: I would consider the arguments made by the parties, review the facts of the case, and apply and follow all binding Supreme Court precedent such as *Saenz v. Roe*, and *United States v. Guest*, 383 U.S. 745 (1966) and Fourth Circuit precedent.

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

Response: The Supreme Court has held the Constitution protects a right to privacy. *See Eisenstadt v. Baird*, 405 U.S. 438 (1972).

- a. Do you agree that that right protects a woman’s right to use contraceptives? If you do not agree, please explain whether this right is protected or not and which constitutional rights or provisions encompass it.

Response: The Supreme Court confirmed a woman’s right to use contraceptives in *Griswold v. Connecticut*, 381 U.S. 479 (1965). If confirmed, I would faithfully follow binding precedent of the Supreme Court.

18. Does the public’s original understanding of the meaning of a constitutional provision constrain its application decades or centuries later?

Response: The public’s original understanding of the meaning of the words of a constitutional provision provides guidance to courts on the meaning of those provisions.

- a. What specific sources would you employ to discern the public's original understanding of the meaning of a constitutional provision? Please provide three examples of sources you consider reliable in this regard.

Response: I would follow Supreme Court precedent with respect to reliable sources used to determine the original understanding of a constitutional provision. Those sources include state statutes that were in effect at the relevant time, common law, and historical sources that shed light on the broader context of the provision that could help me discern the meaning of the text. *See N.Y. State Rifle & Pistol Ass'n, Inc. v. Bruen, 142 S. Ct. 2111* (2022).

19. Do you believe that immigrants, regardless of legal status, are entitled to due process and fair adjudication of their claims?

Response: The Supreme Court has held that Fifth Amendment due process applies to non-citizens present in the United States. *Zadvydas v. Davis, 533 U.S. 678, 693* (2001). If confirmed, I would faithfully apply all Supreme Court and Fourth Circuit precedent regarding the scope of due process for non-citizens present in the United States.

20. Should you be confirmed, what would you do if a party refuses to comply with one of your orders?

Response: A judge has a number of tools to ensure a party complies with an order. If I were a federal judge, I would consider an order to show cause whereby a party would be required to provide information about compliance with the order, and any steps taken to abide by the order. If I determine, based on the information provided by the parties, that a party has failed to comply with an order, I would consider appropriate potential sanctions, such as those available under Rule 37(b) of the Federal Rules of Civil Procedure. I would consider any arguments made by the non-compliant party regarding a valid defense or excusable non-compliance. Finally, I would consider, based on all the information before me, whether sanctions, up to and including civil or criminal contempt, should be imposed.

21. What criteria would you use to determine whether a party was engaging in abusive litigation tactics, such as excessive discovery requests, repeatedly or frivolously filing motions, or other procedural delays?

Response: If confirmed, I would consider any local rules adopted by the District of South Carolina, the Federal Rules of Civil Procedure, as well as Fourth Circuit precedent, and any Supreme Court rulings related to litigation tactics.

- a. If you determined that a party was engaging in such tactics, how would you address it?

Response: I would consider how to address abusive litigation tactics on a case by case basis, and determine whether to impose sanctions against the party and/or attorneys representing the parties.

22. What role, if any, should the practical consequences of a particular ruling play in a judge's rendering of a decision?

Response: A judge is constrained by the facts of the case and the law as applied to those facts. In most cases, the consequences of a ruling that is required by the law, should have no impact on the judge's decision.

23. What role, if any, should a judge's personal life experience play in his or her decision-making process?

Response: A judge's personal life experience would hopefully have prepared her for the role of a judge, including experience as a lawyer, experience practicing patience, temperance, respect and courtesy. A judge cannot be divorced from her life experiences, but should endeavor to ensure that her decision-making process is fair and impartial and adheres to precedent and the law.

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

Response: The role of a judge is to consider legal claims brought by parties in light of Supreme Court precedent, binding circuit precedent, and the particular statute or legal provision involved. A judge should not consider his or her personal views, or preference for one party over another, but should fulfill his or her duty by being impartial and doing "equal right to the poor and to the rich." 28 U.S.C. § 453.

25. What case or legal matter are you most proud of having worked on during your career?

Response: I am very proud of the work that I did as counsel on the U.S. House Ethics Committee. Much of the work is confidential, but is important to upholding the credibility of the U.S. House of Representatives and its processes. I am also especially proud of the cases I handled as an AUSA.

26. Some district court judges have issued standing orders indicating that the court will favor holding an oral argument when there is a representation that the argument would be handled by a junior lawyer. Such efforts are intended to provide more speaking opportunities in court for junior lawyers. Would you consider issuing a standing order that would encourage more junior lawyers to handle oral arguments? Why or why not?

Response: If I am confirmed, I would be hesitant to connect the decision about whether or not to hold an oral argument to whether a junior lawyer is arguing. I believe the decision about who presents the oral argument should be made by the lawyers and the parties, without influence from the court. I would encourage members of the bar who

appear before me to proactively identify opportunities for junior lawyers to have a speaking role in court appearances.

- a. How else would you support the skills development of junior lawyers appearing before you?

Response: I would encourage junior lawyers to attend court proceedings at any opportunity available to them to observe. I would also be willing to participate in appropriate events to discuss the practice of law with junior lawyers.

27. Discuss your proposed hiring process for law clerks.

Response: I would seek to identify potential law clerks based on academic achievement, merit, and background by posting openings in OSCAR and at law schools.

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

Response: The Judiciary is a separate, co-equal branch of the government. I understand that legislation has been proposed to extend Title VII to the judicial branch. Under the Canons of the Code of Conduct for United States Judges, it would be inappropriate for me to comment on the efficacy of such legislation, as a judicial nominee. However, if confirmed, I commit to ensuring that my chambers are free of harassment, misconduct, or discrimination.

28. Recently, 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: Allegations of harassment and misconduct are serious and should be treated as such. Throughout my career, I have handled and investigated many allegations of harassment and misconduct. I treat everyone with respect and, if confirmed, I would expect that anyone who works in my chambers does the same. I would consult with the Chief Judge regarding identifying and handling misconduct, and I would ensure anyone who works for me feels confident that if an issue arises, it will be addressed appropriately.

- 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 response to Question 28b.

- c. If you are confirmed and you later hear from a colleague or your chambers staff that another judge is acting inappropriately, what steps would you take to help ensure the problem is addressed?

Response: Please see response to Question 28b.

29. 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: As a judicial nominee, it would be inappropriate for me to comment on the characterization of the events that occurred at the U.S. Capitol on January 6, 2021, because it is a significant matter of political debate and also involves cases that are currently being litigated.

- a. If you think this question would require you to express an opinion on “political” matters, as some judicial nominees have responded when asked this question, please explain why labeling the events of January 6, 2021, as either “an insurrection” or “not an insurrection” requires you to opine on a “political” matter.

Response: The term “insurrection” has legal ramifications which are currently being litigated in court. Under the Canons of the Code of Conduct for United States Judges, it would be inappropriate for me to comment further.

30. As you know, the President has the power under the Constitution to grant executive clemency relief. Even so, in your opinion, do you think the individuals convicted of assaulting law enforcement officers at the Capitol on January 6, 2021, deserved to be pardoned? I am asking for your opinion about whether the pardons were prudent, not whether the President has the authority to issue them.

Response: The question as posed presents an issue that is both being litigated in court, and also asks for me to opine on the prudence of an executive action which the Supreme Court has determined is a plenary power. As a judicial nominee, I must “refrain from commenting on the merits of a matter pending or impending in any court.” *See* Canon 3(A)(6), Code of Conduct for United States Judges.

31. 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? Again, I know that the President has the power under the Constitution to grant executive clemency relief. I want to know whether you—if serving as President on January 20, 2025—would have chosen to issue pardons to those convicted of assaulting law enforcement officers at the Capitol on January 6, 2021.

Response: Please see my answer to question 30.

32. On an episode of the *Trey Gowdy Podcast* on June 10, 2020, in the aftermath of the death of George Floyd, you said, “In some communities the justice system works as it should where there is the blind lady of justice and it doesn’t matter who you are, who you know, or where you come from, you will get the same outcome as the person beside you. And then there are other communities that recognize that although that is a great ideal to aspire to, it doesn’t actually work that way for their community. And so I think that you see that now, you see the people who are protesting and want the justice system to work more as we all want it to do and that is to be equal justice for everyone. And it doesn’t depend on who you are, who you know, or what you look like but just the facts and the circumstances around whatever the issue is that’s being determined.”

- a. Do you still believe that the justice system should strive for “equal justice for everyone,” not depending on “who you are, who you know, or what you look like” but rather “the facts and the circumstances” of the case?

Response: Yes.

33. In a November 23, 2018, interview in *Politico*, you were asked, “How is the Trump presidency going?” You replied, “As expected.” What did you mean by this statement?

Response: To the best of my recollection, I did not assign any particular meaning to the statement. It was a non-answer to an unexpected question during an interview about my birthday.

34. In your Senate Judiciary Questionnaire, you discussed your representation in *Roque, M.D. v. Encompass Health Corp., et al*, in which the “[p]laintiff-relator brought a *qui tam* action on behalf of the United States against Defendants alleging violations of the False Claims Act.” You wrote that you “helped investigate the allegations plaintiff raised in his complaint to determine whether the United States would elect to intervene,” though it did not ultimately do so.

- a. Do you think the *qui tam* provision of the *False Claims Act* is constitutional?

Response: As an Assistant United States Attorney, I handled many *qui tam* cases as well as *False Claims Act* cases that were not brought under the *qui tam* provisions. The *False Claims Act* is a powerful tool for the government to combat fraud in government contracts. Because this is a question that is being litigated in courts, and may come before me if I am confirmed, it would be inappropriate for me to preview any ruling that I might issue. I do however commit to conducting myself in the same manner as I have throughout my career – that is, I will faithfully and impartially apply the Fourth Circuit and Supreme Court precedent to these matters.

- b. In September 2024, Judge Kathryn Mizelle of the U.S. District Court for the Middle District of Florida ruled that the *qui tam* provision of the *False Claims Act* was unconstitutional. Do you agree with Judge Mizelle's ruling?

Response: I have not reviewed Judge Mizelle's order. If confirmed, I would be bound by Fourth Circuit and Supreme Court precedent regarding the constitutionality of *qui tam* provisions in the *False Claims Act*. It is my understanding that neither the Fourth Circuit nor the Supreme Court has ruled that the *qui tam* provisions are unconstitutional.

- c. If the *False Claims Act's* *qui tam* provision is invalidated, would that make it easier or harder to combat fraud in government services and contracting?

Response: The *qui tam* provision of the *False Claims Act* allows whistleblowers to bring a claim on behalf of the United States. There are many aspects of the FCA that are complicated, and many cases are brought directly by the United States, without a whistleblower, to combat fraud in government services. Whistleblowers certainly can play an important role in helping to identify and highlight fraud.

Senator Mazie K. Hirono
Senate Judiciary Committee

Nomination Hearing
Questions for the Record for Sheria Akins Clarke

1. In the aftermath of George Floyd’s murder, you spoke about the need for healing racial divisions and acknowledged that many people and communities feel the justice system treats them as less than equal.

a. How have these views shaped your career path?

Response: I have endeavored to treat everyone with courtesy and respect. When I was a prosecutor, it was important to me that I be fair and impartial with respect to cases I brought, the sentences I recommended, and the plea agreements that I sought. As a congressional staffer, I endeavored to be fair and courteous to the members and staff that interacted with, whether or not we agreed on legislation or issues that we were considering.

b. How will these views inform your role as a judge?

Response: I believe the role of a judge, as described in the Judge’s Oath, is to “administer justice without respect to persons, and do equal right to the poor and to the rich” and to do so “faithfully and impartially.” 28 U.S.C. § 453. These principles ensure that all people and communities will be treated equally.

Nomination of Sheria Akins Clarke
United States District Court for the District of South Carolina
Questions for the Record
Submitted April 1, 2026

QUESTIONS FROM SENATOR BOOKER

1. The American Bar Association (ABA) Standing Committee on the Federal Judiciary has conducted extensive peer evaluations of the professional qualifications of a president's nominees to become federal judges for seven decades. This practice has endured through 18 presidential administrations, under Republican and Democratic presidents.

On May 29, 2025, Attorney General Pam Bondi ended this longstanding practice when she informed the ABA that, "[T]he Office of Legal Policy will no longer direct nominees to provide waivers allowing the ABA access to nonpublic information, including bar records. Nominees will also not respond to questionnaires prepared by the ABA and will not sit for interviews with the ABA."¹

- a. Do you agree with AG Bondi that "the ABA no longer functions as a fair arbiter of nominees' qualifications and its ratings invariably and demonstrably favor nominees put forth by Democratic administrations"?

Response: As a judicial nominee, it would be inappropriate for me to comment on statements made by any political figure or that involve matters of political controversy.

2. If this Committee were to establish that a sitting federal judge knowingly provided false testimony to this Committee, what do you believe the appropriate process and consequences should be?

Response: Generally, the Constitution establishes federal judges hold their offices during good behavior and provides the process by which federal judges may be removed. To the extent this question seeks for me to opine on matters of political controversy, as a judicial nominee, it would be inappropriate for me to do so.

3. If this Committee were to establish that a political appointee knowingly provided false testimony to this Committee, what do you believe the appropriate process and consequences should be?

Response: Generally, political appointee's serve at the pleasure of the President. To the extent this question seeks for me to opine on matters of political controversy, as a judicial nominee, it would be inappropriate for me to do so.

4. How would you characterize your judicial philosophy?

¹ Letter from Attorney General Pam Bondi to William R. Bay, President, American Bar Association (May 29, 2025), <https://www.justice.gov/ag/media/1402156/dl?inline>.

Response: I believe that a judge should faithfully and impartially apply the law to the cases before him or her. A judge should be measured, temperate, and humble.

5. What do you understand originalism to mean?

Response: Originalism, as I understand it, is a theory of interpretation that interprets the Constitution based on the original public meaning of the words at the time of ratification.

6. Do you consider yourself an originalist?

Response: Yes, I consider myself an originalist. If I am confirmed, I would impartially and faithfully apply the precedent of the Supreme Court and the Fourth Circuit with respect to interpreting the Constitution.

7. What do you understand textualism to mean?

Response: As I understand it, textualism is a theory of interpretation that interprets laws or statutes based on the original public meaning of the words at the time of enactment. If I am confirmed, I would impartially and faithfully apply the precedent of the Supreme Court and the Fourth Circuit with respect to the interpretation of any particular statute that comes before me.

8. Do you consider yourself a textualist?

Response: Yes, I consider myself a textualist. If I am confirmed, I would impartially and faithfully apply the precedent of the Supreme Court and the Fourth Circuit with respect to the interpretation of any particular statute that comes before me.

9. 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.

Response: I would follow Supreme Court precedent and precedent from the Fourth Circuit regarding the use of legislative history in determining the meaning of ambiguous text.

- 10.

- 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: Please see my response to question 9.

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

Response: Please see my response to question 9.

11. According to an academic study, Black men were 65 percent more likely than similarly-situated white men to be charged with federal offenses that carry harsh mandatory minimum sentences.²

a. What do you attribute this to?

Response: I am not familiar with the specific study cited. However, the FIRST STEP Act endeavored to address evidence-based discrepancies in sentencing, including mandatory minimums. It also addressed discrepancies related to mandatory minimum sentencing for illicit drug charges related to crack cocaine versus powder cocaine.

12. A recent report by the United States Sentencing Commission observed demographic differences in sentences imposed during the five-year period studied, with Black men receiving federal prison sentences that were 13.4 percent longer than white men.³

a. What do you attribute this to?

Response: I am unfamiliar with the report and the basis for its findings. If confirmed, I would carefully consider the sentencing guidelines issued by the United States Sentencing Commission to fairly and impartially issue sentences for similar crimes.

13. What role do you think federal judges, who review difficult, complex criminal cases, can play in ensuring that a person's race did not factor into a prosecutor's decision or other instances where officials exercise discretion in our criminal justice system?

Response: It is the role of the judge to ensure that the law is applied faithfully and impartially without respect to a person's race.

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

Response: A person should not be excluded from serving in the judicial branch because of a person's immutable characteristics, such as race or sex.

15. Please indicate whether you have ever published written material or made any public statements relating to the following topics. If so, provide a description of the written or public statement, the date and place/publication where the statement was made or published, and a summary of its subject matter. Mere reference to the list of publications and statements provided in your Senate Judiciary Questionnaire is insufficient; provide specific responses.

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

³ U.S. SENTENCING COMM'N, DEMOGRAPHIC DIFFERENCES IN SENTENCING 2 (Nov. 2023), https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2023/20231114_Demographic-Differences.pdf.

If you have not disclosed a copy of the publication or a transcript of the statement to the Judiciary Committee, please attach a copy or link to the materials and please explain why you have not previously disclosed them.

- a. Abortion
- b. Affirmative action
- c. Contraceptives or birth control
- d. Gender-affirming care
- e. Firearms
- f. Immigration
- g. Same-sex marriage
- h. Miscegenation
- i. Participation of transgender people in sports
- j. Service of transgender people in the U.S. military
- k. Racial discrimination
- l. Sex discrimination
- m. Religious discrimination
- n. Disability discrimination
- o. Climate change or environmental disasters
- p. “DEI” or Diversity Equity and Inclusion

Response: I have not published written materials or made any public statements relating to the topics listed above, with the exception of racial discrimination. As disclosed in my Senate Judiciary Questionnaire, I was a guest speaker on the Trey Gowdy podcast episode entitled, “Difficult Yet Simple Steps to Heal the Racial Divide.”

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

Response: Generally, all parties must follow court orders. However, there may be exceptions. Typically, a party would seek a stay or injunction of a court order, and when appealable, an appeal of the order.

- 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: I would follow all binding Supreme Court precedent and Fourth Circuit precedent related to contempt for failing to comply with a court order.

- 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: See my response to question 16.

17. Does the president have the power to ignore or nullify laws passed by Congress?

Response: Article II of the Constitution provides that the President must “take Care that the Laws be faithfully executed.” The Constitution also gives the President the authority to veto legislation passed by Congress. How these principles interact is a matter of ongoing litigation. Under Canon 5 of the Code of Conduct for United States Judges, it would be inappropriate for me to comment further.

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

Response: It is my understanding that litigation is currently pending with respect to this question. Canon 3A of the Code of Conduct for United States Judges prohibits judges from offering public comments on the merits of any matter pending or impending in any court. As a judicial nominee, I am bound by this same Code of Conduct and should also refrain from comment.

19. Does the president have the power to discriminate by withholding funds against state or local jurisdictions based on the political party of a jurisdiction’s elected officials?

Response: It is my understanding that litigation is currently pending with respect to this question. Canon 3A Code of Conduct for United States Judges prohibit judges from offering public comments on the merits of any matter pending or impending in any court. As a judicial nominee, I am bound by this same Code of Conduct and should also refrain from comment.

20. Does the Supremacy Clause of the U.S. Constitution establish that federal laws supersede conflicting state laws?

Response: The Supremacy Clause provides that federal laws are “the supreme Law of the Land.” In *Arizona v. United States*, 567 U.S. 387 (2012), the Supreme Court held that “state laws are preempted when they conflict with federal law.”

21. Does the Fifth Amendment of the U.S. Constitution apply to non-citizens present in the United States?

Response: The Supreme Court has held that Fifth Amendment due process applies to non-citizens present in the United States. *Zadvydas v. Davis*, 533 U.S. 678 (2001). I would faithfully apply all Supreme Court and Fourth Circuit precedent regarding the scope of due process for non-citizens present in the United States.

22. Is it constitutional for Congress to delegate to federal agencies the power to implement statutes through rulemaking?

Response: In *FCC v. Consumers’ Rsch.*, 145 S. Ct. 2482, 2496-97 (2025), the Supreme Court reaffirmed that “Congress may vest discretion in executive agencies to implement and

apply the laws it has enacted—for example, by deciding on the details of their execution.” However, Congress must “set out an ‘intelligible principle’ to guide what it has given the agency to do.” *Id.* at 2497.

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

Response: Yes. Although it is generally not appropriate for a judicial nominee to comment on the correctness of a prior judicial decision, it has been the tradition of past nominees to affirmatively answer this question.

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

Response: Yes, *Griswold* is binding Supreme Court precedent. In *Griswold*, the State of Connecticut criminalized the use of contraceptives. The Supreme Court held that the Connecticut statute violated a married couple’s right to privacy.

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

Response: Yes, *Lawrence v. Texas* is binding Supreme Court precedent. In *Lawrence*, the state of Texas made it a crime for persons of the same sex to engage in certain sexual conduct. The Supreme Court held the Texas statute was unconstitutional under the Due Process clause of the Fourteenth Amendment.

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

Response: Yes, *Obergefell* is binding Supreme Court precedent. In *Obergefell*, the Supreme Court held that the right to marry extends to same-sex couples.

27. Do you believe that President Biden won the 2020 election? Note that this question is not asking who was certified as president in the 2020 election.

Response: President Biden was certified as the winner of the 2020 election. It is my understanding that litigation is currently pending with respect to this question. Canon 3A of the Code of Conduct for United States Judges prohibits public comments on the merits of any matter pending or impending in any court. As a judicial nominee, I am bound by this same Code of Conduct and should also refrain from further comment.

a. Did Biden win a majority of the electoral vote in the 2020 election?

Response: Please see response to question 27.

b. Do you believe that the results of the 2020 election, meaning the vote count, were accurate? If not, please provide why not and examples.

Response: Please see response to question 27.

28. The 22nd Amendment says that “no person shall be elected to the office of the President more than twice.”⁴

a. Do you agree that President Trump was elected to the office of the President in the 2016 election?

Response: Donald Trump was certified as the winner of the 2016 election and served four years as president.

b. Did Trump win a majority of the electoral vote in the 2016 election?

Response: Please see response to question 28.

c. Do you agree that President Trump was elected to the office of the President in the 2024 election?

Response: Donald Trump was certified as the winner of the 2024 election.

d. Did Trump win a majority of the electoral vote in the 2024 election?

Response: Please see response to question 28c.

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

Response: The text of the 22nd Amendment prohibits any person from being “elected to the office of the President more than twice.”

29. Has any official from the White House or the Department of Justice, or anyone else involved in your nomination or confirmation process, instructed or suggested that you not opine on whether any past Supreme Court decisions were correctly decided?

Response: No.

30. Have you spoken or corresponded with Elon Musk since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

31. Have you spoken or corresponded with any member of the Department of Government Efficiency (DOGE) since November 2024? If yes, identify the member(s) and provide the dates, mode, and content of those discussions and communications.

⁴ U.S. CONST. amend. XXII.

Response: No.

32. Have you spoken or corresponded with Stephen Miller since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

33. Have you spoken or corresponded with Chad Mizelle since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

34. Have you spoken or corresponded with Pam Bondi since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

35. Have you spoken or corresponded with Todd Blanche since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

36. Have you spoken or corresponded with Emil Bove since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

37. Have you spoken or corresponded with Leonard Leo since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

38. Have you—personally or through any of your affiliated companies or organizations, agents, or employees—provided financial support or other resources to any members of the Proud Boys or of the Oath Keepers for their legal fees or for other purposes? If yes, state the amount of financial support provided, dates provided, and for what purposes.

Response: No.

39. Have you ever spoken or corresponded with any of the following individuals? If yes, provide the dates, mode, and content of those discussions and communications.

- a. Enrique Tarrío
- b. Stewart Rhodes
- c. Kelly Meggs
- d. Kenneth Harrelson

- e. Thomas Caldwell
- f. Jessica Watkins
- g. Roberto Minuta
- h. Edward Vallejo
- i. David Moerschel
- j. Joseph Hackett
- k. Ethan Nordean
- l. Joseph Biggs
- m. Zachary Rehl
- n. Dominic Pezzola
- o. Jeremy Bertino
- p. Julian Khater

Response: No, as to all.

40. Have you ever spoken or corresponded with any individuals convicted and later pardoned of offenses related to the January 6, 2021 attack on the U.S. Capitol? If yes, identify the individual(s) and provide the dates, mode, and content of those discussions and communications.

Response: No.

41. 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.

42. Article III Project (A3P) “defends constitutionalist judges and the rule of law.” According to Mike Davis, Founder & President of A3P, “I started the Article III Project in 2019 after I helped Trump win the Gorsuch and Kavanaugh fights. We saw then how relentless—and evil—too many of today’s Democrats have become. They’re Marxists who hate America. They believe in censorship. They have politicized and weaponized our justice systems.”⁵

- a. Do you agree with the above statement?

Response: No.

- b. Have you discussed any aspect of your nomination to the federal bench with any officials from or anyone directly associated with A3P, or did anyone do so on your behalf? If yes, identify the individual(s) and provide the dates, mode, and content of those discussions and communications.

Response: No.

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

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.

43. 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?

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

Response: No. The Department of Justice's Office of Legal Policy provided general guidance about how to complete the SJQ. However, I made my own decisions about which cases to list.

44. 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.

45. During your selection process did you talk with any officials from or anyone directly associated with the Federalist Society, or did anyone do so on your behalf? If so, what was the nature of those discussions?

Response: No, not to my knowledge. According to its website, the Federalist Society has over 65,000 legal professionals and over 10,000 law students as members. To the extent I spoke with anyone directly associated with the Federalist Society, I did not do so because of their association.

46. Please explain, with particularity, the process whereby you answered these written questions, including whether you personally drafted initial responses and whether anyone helped draft, review, or edit the answers.

Response: I reviewed the questions, and personally drafted initial response to the questions. I provided a draft to the Department of Justice's Office of Legal Policy, and received feedback on that draft. The answers I have provided herein are my own.