Senator Dick Durbin
Ranking Member, Senate Judiciary Committee
Written Questions for Kathleen Smithgall Lane
Nominee to be U.S. District Judge for the District of Montana
April 1, 2026

1. At your hearing, Senator Schiff and Senator Coons asked you several questions about your limited legal experience. Notably, you graduated from law school less than a decade ago and you did not begin practicing law until 2020.

a. How many cases have you tried to verdict?

Response: I tried one case to final judgment in a four-day bench trial where I served as associate counsel on a small trial team. I deposed Plaintiffs' expert witness and was the lead author for summary judgment briefing. At trial, while managing all internal deadlines, disclosures, evidentiary objections, and contributing to witness outlines, I led the preparation for the direct examination of Defendants' expert witness and cross-examined a Plaintiffs' witness. I then led the effort as the lead brief writer for many hundreds of pages of post-trial briefing. My litigation practice has focused on constitutional and administrative law issues, so I have handled many cases that have been resolved at summary judgment.

b. Have you ever tried a case to verdict in which you served as chief counsel?

Response: Please see my response to Question 1(a).

c. Have you ever worked on a criminal case?

Response: I handled more than 90 criminal cases as a law clerk for the Eastern District of Tennessee, from arraignments to change of pleas to multiday trials to sentencing. Each of these cases required me to be familiar with the Federal Rules of Criminal Procedure, Federal Rules of Evidence, and the United States Sentencing Guidelines. And in my civil practice, I worked on a Brief in Opposition in *Lamoureux v. State*, No. 21-427, *cert. denied*, 142 S. Ct. 860 (Mem) (2022), challenging Montana's electronic harassment statute.

d. In light of your minimal experience, what makes you qualified for a lifetime position on the federal bench?

Response: Respectfully, I disagree with the premise of this question. The quality and relevance of my legal experience make me well suited for this important role, and I am proud of the skills and attributes I will bring to the federal bench if confirmed.

Throughout my legal career, I have earned significant responsibility and delivered results for my clients at every level of state and federal courts, including the

United States Supreme Court. At the Montana Attorney General's office, I served on small litigation teams, sometimes as solo or lead counsel, driving legal strategy, drafting dispositive motions and briefs, managing discovery, and appearing in both trial and appellate courts. At Consovoy McCarthy, I brought that same approach to high-profile litigation—again, developing strategy, authoring critical briefs, managing complex administrative records, overseeing discovery, and arguing in court.

In both roles, I owned cases from inception through appeal, building expertise at both the trial and appellate levels. I had numerous state and federal district court hearings, I argued three times in federal courts of appeals, and I served as an essential member of a trial team from discovery to pretrial preparation through the four-day bench trial and substantial post-trial briefing. I deposed Plaintiffs' expert witness and was the lead author for summary judgment briefing. At trial, while managing all internal deadlines, disclosures, evidentiary objections, and contributing to witness outlines, I led the preparation for the direct examination of Defendants' expert witness and cross-examined a Plaintiffs' witness. I then led the effort as the lead brief writer for many hundreds of pages of post-trial briefing.

As Senior Counsel for the Republican National Committee, I oversee a litigation portfolio of more than 120 cases. I direct the Committee's litigation strategy, select and supervise outside counsel, and review every filing across state and federal courts nationwide, from routine procedural motions to high-stakes dispositive briefs. I coordinate discovery and review expert reports. I help steer settlement negotiations. I am responsible for supervising every aspect of litigation, including helping attorneys prepare for oral arguments in district courts, appellate courts, and the United States Supreme Court.

My litigation practice has uniquely prepared me for the federal district bench. I have handled complex, high-stakes cases, many on an expedited basis, and many involving preliminary injunction motions and emergency appeals. If confirmed, I will bring this same rigor and decisiveness to the federal bench, resolving motions promptly and advancing cases efficiently.

2. During your time in the Montana Attorney General's office, you defended the state as it repeatedly defied a court order enjoining a state law that prevented transgender people from changing the gender listed on their birth certificates. You defended a new rule by the Montana health department that attempted to circumvent the court's ruling. When the court again blocked the enforcement of the law, Montana officials said they would disregard the ruling. The state was later found in contempt and ordered to pay attorneys' fees.

a. If a court issues an order against a party in a case, is a party permitted to defy that order?

Response: This question mischaracterizes the litigation and my role in this litigation.

As an advocate for the State, my job was to defend SB280 on behalf of the State of Montana and the Department of Public Health and Human Services. Beyond the underlying dispute challenging the statute, there were several disputes that arose after the court issued a preliminary injunction. First, the parties disputed whether the preliminary injunction of the statute meant that a prior version of an administrative rule governing the birth certificate amendment process went back into effect. Second, the parties disputed whether the preliminary injunction prohibited the agency from undertaking new and separate rulemaking on the birth certificate amendment process under its general rulemaking authority. These disputes went to core questions about legislative power, executive power, and judicial power. Indeed, in response to these questions, the district court modified its original injunction, and then the Supreme Court of Montana had to clarify the scope of the district court's authority to issue that modified injunction. *See State v. Mont. Thirteenth Jud. Dist. Ct.*, OP 22-0552, 2023 WL 142673, at *3 (Mont. Jan. 10, 2023) ("We agree that the State's petition presents a purely legal question: Whether the District Court, which determined that it did not have jurisdiction over the 2022 Rule, nonetheless exceeded its authority in the Clarification Order by directing DPHHS to reinstate the 2017 Rule….We find it appropriate to consider this question via this petition for writ."); *id.* at *4 ("…[T]he Preliminary Injunction Order requires DPHHS to maintain the status quo, which reinstates the 2017 Rule for as long as the Preliminary Injunction Order—which DPHHS did not appeal—remains in effect. However, DPHHS is entitled to relief insofar as the Clarification Order purports to enjoin DPHHS from engaging in rulemaking….").

At no point during my representation of the Department did the Department say it would "def[y]" a court order as this question suggests. And the district court made clear on the record that the lawyers in the case had followed all legal and ethical obligations. *See, e.g.*, Hearing Tr. 45:1-6, *Marquez v. Montana*, DV 21-873 (Mont. Thirteenth Jud. Dist. Ct. Sept. 12, 2022) (…"[I]t is my clear assumption that that is not a problem. I should not be concerned about that either from a legal point of view or from an ethical point of view. Fair statement?"); *id.* 58:9-17 ("Counsel is working their tail-ends off in trying to figure out how to defend this statute. That is their job. That is their responsibility …. So there is no issue with respect to contempt here."); *id.* 59:22-24 ("…[I]t is my impression that you never suggested to the Department that they could circumvent my order by implementing new rules."). I left the Montana Attorney General's Office in March 2023 before any contempt order was issued against the Department, and I have no knowledge of any statements made by the Department that it would "def[y]" a court order, as this question suggests. Contrary to a false claim made in a letter submitted to this Committee, I have never been sanctioned, held in contempt, or formally rebuked by a judge.

In my litigation practice, I have always followed court orders. If a court issues an order, that order is binding on the parties before it, and the parties must follow the order. If a party disagrees with a court order, then the party can appeal the order, move to stay the order, or otherwise seek emergency relief from the order. I am generally aware of some specific and limited scenarios where a party is permitted to disregard a court order. For example, if a court order requires disclosure of certain privileged information, a party may disregard the order for purposes of appeal while incurring court-imposed punishment. *See Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009). Or, for example, a party may violate an order if compliance is impossible. *See Shillitani v. United States*, 384 U.S. 364, 371 (1966).

b. If you are confirmed to the district court and issue a decision, would the parties before you be required to comply with your decision?

Response: If confirmed to the district court, any order I issue would be binding on the parties before me, and the parties must follow the order. If a party disagrees with my court order, then the party can appeal the order, move to stay the order, or otherwise seek emergency relief from the order.

c. If you are confirmed to the district court, will you condone or permit the kind of repeated noncompliance with court orders that you previously defended?

Response: This question mischaracterizes the litigation and my role in this litigation. Please see my response to Question 1(a).

d. Were Montana taxpayers ordered to pay tens of thousands of dollars because of the state's flagrant disregard of court orders in this litigation you helped lead?

Response: This question mischaracterizes the litigation and my role in this litigation. Please see my response to Question 1(a).

3. You have repeatedly chosen to litigate politically charged issues, including in cases in which you targeted voting rights, reproductive rights, and the rights of LGBTQ Americans.

a. Why should litigants have any expectation that you will not act in a partisan fashion if you are confirmed to the federal bench?

Response: As explained in response to Question 2(a) and Question 4(a), I disagree with the characterization of the cases I have worked on and the prior legal positions I advanced as an advocate. As an advocate, I have litigated various issues on behalf of a wide range of clients. If confirmed, my role would be to fairly and impartially decide the issues before me. If confirmed, I would consider

all the arguments raised and treat all parties, attorneys, and others who appear in my courtroom with respect.

b. Considering your record, why should any transgender person have confidence that you will treat them fairly if you are confirmed to serve as a federal judge?

Response: Please see my response to Question 3(a).

4. You represented the State of Montana against several challenges to state laws that attempted to restrict abortion access. Although Montana has constitutional protections for abortion rights, you belittled those protections in several briefs you wrote. For example, you referred to abortion rights as "so-called 'fundamental' abortion rights conjured from…the Montana Constitution." You also argued that, "in an act of pure, unbridled judicial activism," the Montana Supreme Court "made up a state constitutional right to abortion."

a. Do you acknowledge that there is a right to privacy under the U.S. Constitution?

Response: The Supreme Court has addressed privacy in the context of several constitutional amendments, and I would follow all Supreme Court and Ninth Circuit precedent. For example, in the context of the Fourteenth Amendment, the Supreme Court in *Griswold v. Connecticut*, 381 U.S. 479 (1965) recognized a right to marital privacy. Likewise, in *Lawrence v. Texas*, 539 U.S. 558 (2003), the Supreme Court recognized a right to privacy that protects certain sexual conduct between consenting adults. In the Fourth Amendment context, the Supreme Court has recognized a right to privacy against unreasonable governmental searches and seizures. *See, e.g.*, *Katz v. United States*, 389 U.S. 347 (1967); *Mapp v. Ohio*, 367 U.S. 643, 654-56 (1961). In the First Amendment context, the Supreme Court recognized "privacy in one's associations." *NAACP v. Alabama*, 357 U.S. 449, 462 (1958). Even the Third Amendment protects privacy, that is, protection "against the unconsented peacetime quartering of soldiers." *Katz*, 389 U.S. at 350 n.5; *see also Griswold*, 381 U.S. at 484.

b. Do you believe constitutional rights recognized by the Supreme Court of the United States are "made up," as you called a right recognized by the Montana Supreme Court?

Response: As an advocate, I have litigated various issues on behalf of a wide range of clients. If confirmed, my role would be to fairly and impartially decide the issues before me. If confirmed, I would faithfully follow all Supreme Court and Ninth Circuit precedent.

c. In light of your past statements, how can litigants expect you to fairly uphold the law in cases involving reproductive rights issues?

Response: As an advocate, I have litigated various issues on behalf of a wide range of clients. If confirmed, my role would be to fairly and impartially decide the issues before me. If confirmed, I would consider all the arguments raised and treat all parties, attorneys, and others who appear in my courtroom with respect.

5. Did President Trump lose the 2020 election?

Response: Article II and the Twelfth Amendment of the Constitution prescribes that the President is elected by a vote of the electoral college and certification by Congress. Consistent with this constitutional process, President Biden was certified the winner of the 2020 election.

6. Where were you on January 6, 2021?

Response: I was in Montana.

7. Do you denounce the January 6 insurrection?

Response: I condemn all violence, including on January 6. To the extent this question asks me to characterize the events that took place on January 6, 2021, that is an issue of ongoing political debate and litigation, and it would be inappropriate for me as a judicial nominee to provide comments that could implicate issues or parties that may come before me.

8. Do you believe that January 6 rioters who were convicted of violent assaults on police officers should have been given full and unconditional pardons?

Response: Article II of the Constitution vests the President with the pardon power. Consistent with the Code of Conduct for United States Judges, it would be inappropriate as a judicial nominee for me to offer my personal political views on the exercise of this power.

9. The Justice Department is currently defending the Trump Administration in a number of lawsuits challenging executive actions taken by the Administration. Federal judges—both Republican and Democratic appointees—have enjoined some of these actions, holding that they are illegal or unconstitutional. Alarmingly, President Trump, his allies, and even some nominees before the Senate Judiciary Committee have responded by questioning whether the executive branch must follow court orders.

a. What options do litigants—including the executive branch—have if they disagree with a court order?

Response: If a court issues an order, that order is binding on the parties before it, and the parties must follow the order. If a party disagrees with a court order, then

the party can appeal the order, move to stay the order, or otherwise seek emergency relief from 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: The standard rule is that court orders bind the parties in that case. If there is disagreement with that order, the parties can appeal the order, seek to stay the order, or otherwise seek emergency relief from the order. I am generally aware of some specific and limited scenarios where a party, including an executive branch official, is permitted to disregard a court order. For example, if a court order requires disclosure of certain privileged information, a party may disregard the order for purposes of appeal while incurring court-imposed punishment. *See Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009). Or, for example, a party may violate an order if compliance is impossible. *See Shillitani v. United States*, 384 U.S. 364, 371 (1966).

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

Response: In most cases, the federal courts of appeals and the United States Supreme Court determine whether a lower court order is lawful. There are certain issues that federal courts do not review because those issues are nonjusticiable political questions not properly before the federal courts.

10. District judges have occasionally issued non-party injunctions, which may include "nationwide injunctions" and "universal injunctions."

a. Are non-party injunctions constitutional?

Response: In *Trump v. Casa, Inc.*, 606 U.S. 831 (2025), the Supreme Court held that universal injunctions are not a form of relief available to judges under the Judiciary Act of 1789.

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

Response: Please see my response to Question 10(a).

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

Response: Please see my response to Question 10(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: In my practice, I was involved in litigation, either on behalf of a state or on behalf of a multi-state coalition, challenging federal rules under the Administrative Procedure Act. In those lawsuits, which were filed before the Supreme Court's decision in *Trump v. Casa, Inc.*, 606 U.S. 832 (2025), the party or parties I represented may have sought an injunction or vacatur of the federal rule. In *Trump v. Casa, Inc.*, the Supreme Court held that universal injunctions are not a form of relief available to judges under the Judiciary Act of 1789. The Supreme Court did not address whether the "Administrative Procedure Act authorizes federal courts to vacate federal agency action." *Id.* at 847 n.10.

11. 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.

12. Does the U.S. Constitution permit a president to serve three terms?

Response: The Twenty-Second Amendment prohibits any person from being "elected to the office of the President more than twice." U.S. Const., amend. XXII.

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

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

Response: Consistent with the Code of Conduct for United States Judges, it would be inappropriate as a judicial nominee for me to comment on the political statements of public figures or the subject of political controversy.

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

Response: Please see my response to Question 13(a).

14. In addition to the President's own attacks on judges, his adviser Stephen Miller took to social media to call a federal trade court's ruling against President Trump's tariffs a

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

"judicial coup"[2] and later reposted the images of the three judges who decided the case and wrote, "we are living under a judicial tyranny."[3]

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

Response: Consistent with the Code of Conduct for United States Judges, it would be inappropriate as a judicial nominee for me to comment on the political statements of public figures or the subject of political controversy or ongoing litigation.

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

Response: Please see my response to Question 14(a).

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 14(a).

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

Response: A district court must follow Supreme Court precedent and the precedent of the circuit court in which it sits.

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

Response: "As a general rule, a panel not sitting en banc may not overturn circuit precedent." *Palmer v. Sanderson*, 9 F.3d 1433, 1437 n.5 (9th Cir. 1993). A panel can only "reexamine the earlier decision of a three-judge panel if that earlier decision has been undermined by later overriding precedent." *Id.* (internal quotations omitted). A district court has no authority to overturn circuit precedent.

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

Response: Under the doctrine of *stare decisis*, the Supreme Court reviews its prior decisions with "careful and respectful consideration." *Dobbs v. Jackson Women's Health*

[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.

Org., 597 U.S. 215, 262 (2022). But "adherence to precedent is not an inexorable command." *Id.* (internal quotations omitted). When considering whether to overrule precedent, the Supreme Court considers the quality of the prior decision's reasoning, its workability, consistency, changed understanding, reliance interests, and the age of the precedent. *Id.*; *see also Janus v. Am. Fed'n of State, Cnty. & Mun. Emps.*, 585 U.S. 878, 917 (2018).

18. 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. Consistent with the Code of Conduct for United States Judges, it is typically inappropriate for nominees to grade the Supreme Court's decisions or opine on whether precedent was correctly decided. But numerous nominees have made an exception and offered their opinions on *Brown v. Board of Education*, 347 U.S. 483 (1954) and *Loving v. Virginia*, 388 U.S. 1 (1967). Consistent with that practice, I believe it is appropriate to state for the record that both *Brown* and *Loving* were correctly decided.

b. *Plyler v. Doe*

Response: Consistent with the Code of Conduct for United States Judges, it is typically inappropriate for nominees to grade the Supreme Court's decisions or opine on whether precedent was correctly decided. If confirmed as a district judge, I would faithfully follow *Plyler v. Doe* and all Supreme Court precedent.

c. *Loving v. Virginia*

Response: Yes. Consistent with the Code of Conduct for United States Judges, it is typically inappropriate for nominees to grade the Supreme Court's decisions or opine on whether precedent was correctly decided. But numerous nominees have made an exception and offered their opinions on *Brown v. Board of Education*, 347 U.S. 483 (1954) and *Loving v. Virginia*, 388 U.S. 1 (1967). Consistent with that practice, I believe it is appropriate to state for the record that both *Brown* and *Loving* were correctly decided.

d. *Griswold v. Connecticut*

Response: Consistent with the Code of Conduct for United States Judges, it is typically inappropriate for nominees to grade the Supreme Court's decisions or opine on whether precedent was correctly decided. If confirmed as a district judge, I would faithfully follow *Griswold v. Connecticut* and all Supreme Court precedent.

e. *Trump v. United States*

Response: Consistent with the Code of Conduct for United States Judges, it is typically inappropriate for nominees to grade the Supreme Court's decisions or opine on whether precedent was correctly decided. If confirmed as a district judge, I would faithfully follow *Trump v. United States* and all Supreme Court precedent.

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

Response: Consistent with the Code of Conduct for United States Judges, it is typically inappropriate for nominees to grade the Supreme Court's decisions or opine on whether precedent was correctly decided. If confirmed as a district judge, I would faithfully follow *Dobbs v. Jackson Women's Health Organization* and all Supreme Court precedent.

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

Response: Consistent with the Code of Conduct for United States Judges, it is typically inappropriate for nominees to grade the Supreme Court's decisions or opine on whether precedent was correctly decided. If confirmed as a district judge, I would faithfully follow *New York State Rifle & Pistol Association, Inc. v. Bruen* and all Supreme Court precedent.

h. ***Obergefell v. Hodges***

Response: Consistent with the Code of Conduct for United States Judges, it is typically inappropriate for nominees to grade the Supreme Court's decisions or opine on whether precedent was correctly decided. If confirmed as a district judge, I would faithfully follow *Obergefell v. Hodges* and all Supreme Court precedent.

i. ***Bostock v. Clayton County***

Response: Consistent with the Code of Conduct for United States Judges, it is typically inappropriate for nominees to grade the Supreme Court's decisions or opine on whether precedent was correctly decided. If confirmed as a district judge, I would faithfully follow *Bostock v. Clayton County* and all Supreme Court precedent.

j. ***Masterpiece Cakeshop v. Colorado***

Response: Consistent with the Code of Conduct for United States Judges, it is typically inappropriate for nominees to grade the Supreme Court's decisions or opine on whether precedent was correctly decided. If confirmed as a district judge, I would faithfully follow *Masterpiece Cakeshop v. Colorado* and all Supreme Court precedent.

k. ***303 Creative LLC v. Elenis***

Response: Consistent with the Code of Conduct for United States Judges, it is typically inappropriate for nominees to grade the Supreme Court's decisions or opine on whether precedent was correctly decided. If confirmed as a district judge, I would faithfully follow *303 Creative LLC v. Elenis* and all Supreme Court precedent.

l. ***United States v. Rahimi***

Response: Consistent with the Code of Conduct for United States Judges, it is typically inappropriate for nominees to grade the Supreme Court's decisions or opine on whether precedent was correctly decided. If confirmed as a district judge, I would faithfully follow *United States v. Rahimi* and all Supreme Court precedent.

m. ***Loper Bright Enterprises v. Raimondo***

Response: Consistent with the Code of Conduct for United States Judges, it is typically inappropriate for nominees to grade the Supreme Court's decisions or opine on whether precedent was correctly decided. If confirmed as a district judge, I would faithfully follow *Loper Bright Enterprises v. Raimondo* and all Supreme Court precedent.

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

Response: I understand originalism to refer to a method of constitutional interpretation. It means that when a judge is faced with a question about the meaning of the Constitution, the judge looks to the original public meaning of the provision at issue at the time that provision was ratified. The Supreme Court has adopted this approach when addressing certain constitutional questions, *see, e.g.*, *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 36-37 (2022); *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 235 (2022); *Kennedy v. Bremerton School Dist.*, 597 U.S. 507, 536 (2022), and if confirmed, I will faithfully follow any Supreme Court precedent.

20. How do you decide when the Constitution's "original meaning" should be controlling?

Response: The Supreme Court has relied on the original meaning when interpreting certain constitutional provisions. *See, e.g.*, *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 36-37 (2022); *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 235 (2022); *Kennedy v. Bremerton School Dist.*, 597 U.S. 507, 536 (2022). If confirmed, I would follow all Supreme Court and Ninth Circuit precedent on how a constitutional provision should be interpreted.

21. 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 considered multiple challenges to state laws defining marriage as a union between one man and one woman. The Supreme Court held that under the Fourteenth Amendment, states must provide marriage licenses to same-sex couples and recognize marriages between same-sex couples that were licensed and performed in other states. If confirmed, I would faithfully apply *Obergefell* and follow all Supreme Court and Ninth Circuit precedent on how a constitutional provision should be interpreted.

22. 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 considered a challenge to Virginia's law prohibiting two people of different races from marrying. The Supreme Court held that Virginia's law violated the Fourteenth Amendment. If confirmed, I would faithfully apply *Loving* and follow all Supreme Court and Ninth Circuit precedent on how a constitutional provision should be interpreted.

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

Response: The Fourteenth Amendment states, in part, "[n]o 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." The Supreme Court has addressed each clause in numerous cases.

At a high level, the Equal Protection Clause means that the government cannot treat similarly situated individuals differently. To analyze whether the government's classification of people passes constitutional muster, courts employ different levels of scrutiny. *See, e.g.*, *Students for Fair Admissions v. Harvard*, 600 U.S. 181, 206 (2023) (race-based classifications must survive "strict scrutiny"); *United States v. Virginia*, 518 U.S. 515, 533 (1996) (sex-based classifications must survive intermediate scrutiny); *Dep't of Agriculture v. Moreno*, 413 U.S. 528 (1973) (many classifications subject only to rational-basis review).

The Due Process clause, in turn, protects both procedural and substantive rights. *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215, 237 (2022). With respect to procedural rights, the Supreme Court has held that certain procedures are owed before the government deprives an individual of a liberty or property interest. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). With respect to substantive rights, the Supreme Court looks to whether a right is "deeply rooted in this Nation's history and tradition" and "implicit in

the concept of ordered liberty." *Washington v. Glucksberg*, 521 U.S. 702, 720-21 (1997) (internal quotations omitted).

24. 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 in the context of sex discrimination, *United States v. Virginia*, 518 U.S. 515, 533 (1996), and sexual orientation, *see, e.g.*, *Obergefell v. Hodges*, 576 U.S. 644 (2015); *Lawrence v. Texas*, 539 U.S. 558 (2003); *Romer v. Evans*, 517 U.S. 620 (1996).

25. 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 19.

26. 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 19.

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

Response: The First Amendment provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." While the First Amendment applies broadly, the Supreme Court has identified specific instances when it may apply differently depending on the speaker. *See, e.g.*, *TikTok, Inc. v. Garland*, 604 U.S. 56 (2025) (entity susceptible to foreign adversary control); *Ginsberg v. New York*, 390 U.S. 629 (1968) (minors). If confirmed, I would faithfully follow the precedent of the Supreme Court and the Ninth Circuit.

28. How would you determine whether a law that regulates speech is "content-based" or "content-neutral"? What are some of the key questions that would inform your analysis?

Response: The Supreme Court has held "[t]he principal inquiry in determining content neutrality…is whether the government has adopted a regulation of speech because of disagreement with the message it conveys." *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989). Sometimes this is apparent on the face of the law because it only applies to speech "because of the topic discussed or the idea or message expressed." *Reed v. Town of Gilbert*, 576 U.S. 155, 163 (2015). Other times, the law appears neutral on its face, but it "cannot be 'justified without reference to the content of the regulated speech.'" *Id.* (quoting *Ward*, 491 U.S. at 791). If confirmed, I would faithfully apply the precedents of

the Supreme Court and Ninth Circuit, both of which regularly consider First Amendment challenges.

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

Response: The Supreme Court held in *Counterman v. Colorado*, that "[t]rue threats are serious expressions conveying that a speaker means to commit an act of unlawful violence." 600 U.S. 66, 74 (2023) (cleaned up).

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

Response: The Fifth Amendment of the Constitution states that no person shall "be deprived of life, liberty, or property, without due process of law." In interpreting this clause, the Supreme Court stated that "once an alien enters the country … 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).

31. 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 30.

32. 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 is subject to active litigation, and as a judicial nominee, it would be inappropriate for me to comment on any subject of ongoing litigation.

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

Response: Please see my response to Question 32(a).

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

Response: Yes. I believe that anyone who wishes to serve on the federal bench be considered without regard to race, sex, ethnicity, religion, or any other protected

characteristic. If confirmed, I look forward to the opportunity to work with and learn from persons with varying backgrounds, experiences, and viewpoints.

34. 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: Federal judges must faithfully apply the provisions in the First Step Act. If confirmed, I would follow the First Step Act when applicable and all Supreme Court and Ninth Circuit precedent interpreting or applying the Act.

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

Response: Yes.

35. 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 a member of the Federalist Society. What is your understanding of "traditional values"?

Response: I am not familiar with the quoted statement or the context in which it was made.

b. President Trump wrote on Truth Social that the Federalist Society gave him "bad advice" on "numerous Judicial Nominations." He also wrote that Leonard Leo is a "sleazebag" who "probably hates America." If you are not familiar with this post, please refer to it in the footnote.[4]

[4] Donald J. Trump (@realDonaldTrump), TRUTH SOCIAL (May 29, 2025, 8:10 PM), https://truthsocial.com/@realDonaldTrump/posts/114593880455063168.

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: Consistent with the Code of Conduct for United States Judges, it would be inappropriate as a judicial nominee for me to comment on the political statements of public figures or the subject of political controversy.

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

Response: Please see my response to Question 35(b)(i).

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

Response: If confirmed, I will evaluate any participation in the Federalist Society and any other organization under 28 U.S.C. § 455, the Code of Conduct for United States Judges, and any other applicable laws and rules.

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

Response: During my selection process, I did not speak to or correspond with Leonard Leo or Steven G. Calabresi. I attended events hosted by the Federalist Society, and I have numerous friends and professional acquaintances who are associated with the Federalist Society. Several of these friends and professional acquaintances knew I had been in contact with Senator Daines's office about the vacancy, and several were involved in my background check. As a result, I kept these individuals updated on developments in 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: Yes. As disclosed in my Senate Judiciary Questionnaire, I spoke at a Federalist Society student chapter event.

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

Response: No.

36. 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: During my selection process, I did not speak to or correspond with Leonard Leo. I do not know who is a member of the Teneo Network, but during my selection process, I did not speak with anyone purporting to represent the Teneo Network.

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.

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

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

Response: During my selection process, I did not speak to or correspond with Kevin D. Roberts. I attended an event hosted by the Heritage Foundation, and I have numerous friends and professional acquaintances who are associated with the Heritage Foundation. To the best of my knowledge and recollection, I did not speak with any of these individuals about 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: I participated in a panel discussion at the Heritage Foundation about federal clerkships in front of a group of law students.

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.

38. 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, not to my knowledge.

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

Response: No.

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

Response: No.

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

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

Response: During my selection process, I did not speak to or correspond with Stephen Miller, Gene Hamilton, or Daniel Epstein. I have professional acquaintances who are associated with AFLI, and I have corresponded with attorneys at AFLI about litigation matters. To the best of my knowledge and recollection, I did not speak with any of these individuals about 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.

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

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

Response: During my selection process, I did not speak to or correspond with Will Chamberlain or Josh Hammer. To the best of my knowledge and recollection, I spoke with Mike Davis in March 2025 and October 2025. To the best of my knowledge and recollection, we did not talk about my judicial 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.

41. 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 friends and professional acquaintances who are associated with ADF, and I have corresponded with attorneys at ADF about litigation matters. To the best of my knowledge and recollection, I did not speak with any of these individuals about my selection process.

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

Response: No.

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

Response: No.

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

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

Response: During my selection process, I did not speak to or correspond with Leonard Leo or Carrie Severino. To the best of my knowledge and recollection, I did not speak with any individuals associated with the groups listed above.

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

Response: No.

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

Response: No.

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

Response: I am not aware of any donations being made on behalf of my nomination. Consistent with the Code of Conduct for United States Judges, it would not be appropriate for me to weigh in on matters involving political controversies or policy preferences.

e. If you learn of any such donations, will you commit to call for the undisclosed donors to make their donations public so that if you are confirmed you can

have this information when you make decisions about recusal in cases that these donors may have an interest in?

Response: If confirmed, I will carefully review any actual or potential conflict of interest by referring 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. Consistent with the Code of Conduct for United States Judges, it would not be appropriate for me to weigh in on matters involving political controversies or policy preferences.

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 responses to Questions 42(d) and 42(e).

Nomination of Kathleen Smithgall Lane
Nominee to be District Judge for the District of Montana
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. How many cases have you tried to verdict or final judgment?

   Response: I tried one case to final judgment in a four-day bench trial where I served as associate counsel on a small trial team. I deposed Plaintiffs' expert witness and was the lead author for summary judgment briefing. At trial, while managing all internal deadlines, disclosures, evidentiary objections, and contributing to witness outlines, I led the preparation for the direct examination of Defendants' expert witness and cross-examined a Plaintiffs' witness. I then led the effort as the lead brief writer for many hundreds of pages of post-trial briefing. My litigation practice has focused on constitutional and administrative law issues, so I have handled many cases that have been resolved at summary judgment.

   a. Were you sole or primary counsel in any of those cases?

      Response: Please see my response to Question 1.

   b. Did any of those cases involve jury trials?

      Response: Please see my response to Question 1.

   c. Were any of those criminal proceedings?

      Response: Please see my response to Question 1.

2. While at the Montana Attorney General's Office, you argued that the Montana Supreme Court should overturn a decades-old precedent that established the state's constitutional right to abortion as a right that was "conjured" and "invented from whole cloth."

   a. Does the U.S. Constitution protect interstate travel to access abortion?

      Response: In *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215 (2022), the Supreme Court held that the U.S. Constitution does not confer a right to obtain an abortion. The Supreme Court did not address the question of whether the U.S. Constitution confers or protects a right to engage in interstate travel to access abortion. *Id.* at 346 (Kavanaugh, J., concurring) (identifying this issue as an "abortion-related legal question[] raised by today's decision"). As a judicial nominee, it would be inappropriate for me to express an opinion or take a position

on a question subject to ongoing litigation. If confirmed, I would faithfully follow any Supreme Court or Ninth Circuit precedent.

3. 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 am aware that the U.S. Marshals and the FBI each play a role in ensuring the safety of federal judges, including investigating threats against judges. I would expect that the U.S. Marshals and the FBI conduct such investigations consistent with federal law and each agency's own policies and procedures. I am not familiar with the specific requirements for any given investigation, and in the abstract, it would be inappropriate for me to opine on who the agencies should investigate and on what basis.

Nomination of Kathleen Lane to the
United States District Court for the District of Montana
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, recognizing that the Code of Conduct for United States Judges, the rules of professional conduct, or other laws and rules may limit the matters on which a nominee may comment or offer an opinion.

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

   Response: Yes.

   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 reviewed the written questions in full and then reviewed the responses of several recent nominees to familiarize myself with the general format and length of their responses. I drafted my responses to these written questions. I spoke with a few former colleagues and conducted some legal research to confirm my answers to a few questions. I submitted a draft of my responses to members of the Office of Legal Policy at the Department of Justice, and I incorporated their feedback. I then authorized them to submit my final responses to this Committee. Each response is my own.

   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: Yes, as long as the answer is truthful and reflects my own views.

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

Response: Yes.

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

Response: I am not familiar enough with answers provided by previous nominees to know whether my responses are similar or the same. All answers are my own, and to my knowledge—with the exception of one-word answers—none of my answers are exact duplicates of the answers of previous nominees.

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: The two judges for whom I clerked, Judge Thomas Varlan of the Eastern District of Tennessee and Judge Timothy Tymkovich of the Tenth Circuit Court of Appeals.

6. How would you describe your judicial philosophy?

Response: I believe that judges should follow the law as written, setting aside their own personal preferences and evaluating each case properly before them with impartiality. This means upholding their oath and obligations under the Constitution, federal law, and the Code of Conduct for United States Judges. It also means faithfully applying all precedents of the Supreme Court, governing circuit precedent, and any other laws or rules that apply to federal judges.

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 Due Process clause protects both procedural and substantive rights. *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215, 237 (2022). With respect to substantive rights, the Supreme Court first requires that courts "carefully formulat[e] the interest at stake." *Washington v. Glucksberg*, 521 U.S. 702, 722 (1997). Then courts must look to whether that right is "deeply rooted in this Nation's history and tradition" and "implicit in the concept of ordered liberty." *Id.* at 720-21 (internal quotations omitted). If confirmed to the district court, I would follow Supreme Court and Ninth Circuit precedent.

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

   Response: Yes, and I would faithfully follow all Supreme Court and Ninth Circuit precedent on interpretation of a constitutional provision.

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 consider whether a right is "deeply rooted in this Nation's history and tradition" and "implicit in the concept of ordered liberty." *Washington v. Glucksberg*, 521 U.S. 702, 720-21 (1997) (internal quotations omitted). If the Supreme Court or the Ninth Circuit determined that a right is deeply rooted in this Nation's history, then I would faithfully apply that precedent. To the extent that neither the Supreme Court nor the Ninth Circuit has expressly identified a right, I would look to the types of sources on which the Supreme Court and Ninth Circuit have relied. For example, in *Dobbs v. Jackson Women's Health Organization*, the Supreme Court looked at state laws criminalizing abortion that existed at the time the Fourteenth Amendment was ratified. 597 U.S. 215, 231, 248-49 (2022). In *Timbs v. Indiana*, the Supreme Court examined the Magna Carta, colonial-era laws, and finally state constitutions at the time the Fourteenth Amendment was ratified. 586 U.S. 146, 151-152 (2019). In *McDonald v. City of Chicago*, the Supreme Court surveyed the ratification debates over the Second Amendment as well as Blackstone's Commentaries on the Laws of England. 561 U.S. 742, 767-69 (2010). And in *Glucksberg* itself, the Supreme Court looked to both common law and modern law to conclude that there exists a "consistent and almost universal tradition" rejecting the right to assisted suicide. 521 U.S. at 710-14, 723. These are just examples, and if confirmed, I would carefully review the arguments made by the parties and evaluate any relevant Supreme Court or Ninth Circuit precedent about what sources are probative.

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: If confirmed, I would follow all Supreme Court and Ninth Circuit precedent. If no such precedent exists, then I would consider all arguments raised by the parties, including any out-of-circuit precedent as persuasive authority.

d. Would you consider whether a *similar* right has previously been recognized by Supreme Court or circuit precedent?

Response: Yes.

e. What other factors would you consider?

Response: If confirmed, I would consider any factors identified by the Supreme Court and the Ninth 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: Article II of the Constitution states that the President "shall take Care that the Laws be faithfully executed." This clause has been cited in Supreme Court decisions, *see, e.g.*, *Seila Law LLC v. CFPB*, 591 U.S. 197 (2020); *Trump v. United States*, 603 U.S. 593 (2024), but I am not aware of a case where the Supreme Court has held that the President violated that provision of the Constitution. To the extent this question asks about general remedies available to federal courts, I would look to federal statutes governing remedies and any Supreme Court or Ninth Circuit precedent interpreting the applicability of those remedies in a given case.

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 Twenty-Second Amendment prohibits any person from being "elected to the office of the President more than twice." U.S. Const., amend. XXII. The text of this amendment speaks for itself.

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: Consistent with the process set forth in Article II and the Twelfth Amendment of the Constitution, if a candidate is certified as being the winner of a presidential election, then that person becomes the President.

11. At your Senate Judiciary Committee nomination hearing, Senator Blumenthal asked you who won the 2020 election. You replied, "the Constitution outlines the process, and as a

judicial nominee, I'm here to talk about what the Constitution requires, which is an electoral vote and certification by Congress."

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 my hearing, I watched previous nomination hearings and noticed that the same question had been asked of most nominees. I reviewed statements made by members of the Senate Judiciary Committee about the answers given by previous nominees. I reviewed Article II and the Twelfth Amendment of the Constitution. And I reviewed the Code of Conduct for United States Judges. Like with other questions asked of prior nominees, I generally prepared my approach for answering questions, which was to start with the relevant constitutional or statutory provision.

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: Please see my response to Question 11(a).

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: Based on the questions asked to prior nominees and statements made by members of the Senate Judiciary Committee about their answers, I believe that commenting on any political controversy would be inconsistent with the Code of Conduct for United States Judges. Violation of the Code of Conduct for United States Judges could adversely affect my professional reputation.

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: Consistent with Code of Conduct for United States Judges, it would be inappropriate as a judicial nominee for me to comment on the political statements of public figures or the subject of political controversy.

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 12(a).

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 12(a).

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 12(a).

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 12(a).

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 12(d).

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

Response: Please see my response to Question 12(d).

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

Response: If confirmed, I would follow the requirements set forth in 28 U.S.C. § 455, the Code of Conduct for United States Judges, and any other applicable laws or rules. 28 U.S.C. § 455(b) outlines specific circumstances in which a judge must recuse and § 455(c) imposes on judges an ongoing duty to stay informed about financial interests. I would also consult with my colleagues on the District of Montana when appropriate.

14. You have worked for the Republican National Committee since 2025. Canon 5 of the Code of Conduct for federal judges says that judges should refrain from all political activity. If confirmed, do you plan to discontinue any relationship you may have with the Republican National Committee or other political organizations?

Response: If confirmed, I will evaluate any relationships with political organizations, including the Republican National Committee, under 28 U.S.C. § 455, the Code of Conduct for United States Judges, and any other applicable laws and rules. Canons 4 and 5 of the Code of Conduct address a judge's involvement in extrajudicial activity, including political activity.

15. 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.

    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, in appropriate cases.

    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.

16. 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: Consistent with Code of Conduct for United States Judges, it would be inappropriate as a judicial nominee for me to comment on ongoing litigation.

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

Response: In *United States v. Guest*, the Supreme Court explained that the "constitutional right to travel from one State to another… occupies a position fundamental to the concept of our Federal Union" and "has been firmly established and repeatedly recognized." 383 U.S. 745, 757 (1966).

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: The right to travel across state lines is fundamental and well established. *United States v. Guest*, 383 U.S. 745, 757 (1966). At a high level, I would first review the nature of the challenged restriction and identify the specific interest at issue. *See id.*; *Saenz v. Roe*, 526 U.S. 489, 500-503 (1999). For example, I would consider whether the right to travel was altogether impeded, *see Edwards v. California*, 314 U.S. 160 (1941), or whether individuals crossing state lines were treated differently under a state law, *Saenz*, 526 U.S. at 501-503 (collecting example cases).

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

Response: The Supreme Court has addressed privacy in the context of several constitutional amendments, and I would follow all Supreme Court and Ninth Circuit precedent. For example, in the context of the Fourteenth Amendment, the Supreme Court in *Griswold v. Connecticut*, 381 U.S. 479 (1965) recognized a right to marital privacy. Likewise, in *Lawrence v. Texas*, 539 U.S. 558 (2003), the Supreme Court recognized a right to privacy that protects certain sexual conduct between consenting adults. In the Fourth Amendment context, the Supreme Court has recognized a right to privacy against unreasonable governmental searches and seizures. *See, e.g.*, *Katz v. United States*, 389 U.S. 347 (1967); *Mapp v. Ohio*, 367 U.S. 643, 654-56 (1961). In the First Amendment context, the Supreme Court recognized "privacy in one's associations." *NAACP v. Alabama*, 357 U.S. 449, 462 (1958). Even the Third Amendment protects privacy, that is, protection "against the unconsented peacetime quartering of soldiers." *Katz*, 389 U.S. at 350 n.5; *see also Griswold*, 381 U.S. at 484.

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 has held that the Constitution protects the use of contraceptives. In *Griswold v. Connecticut*, 381 U.S. 479 (1965), the Supreme Court recognized a right to marital privacy and held that Connecticut's law forbidding the use of contraceptives violated the Fourteenth Amendment.

Following *Griswold*, the Supreme Court held that a "prohibition on contraception per se" violates the Fourteenth Amendment. *Eisenstadt v. Baird*, 405 U.S. 438, 443 (1972).

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

Response: I understand originalism to mean that when a judge is faced with a question about the meaning of the Constitution, the judge looks to the original public meaning of the provision at issue at the time that provision was ratified. In several cases, the Supreme Court has employed this method of interpretation, looking to the original public meaning of a particular provision as evidence of the meaning of that provision. *See, e.g.*, *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 36-37 (2022); *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 235 (2022); *Kennedy v. Bremerton School Dist.*, 597 U.S. 507, 536 (2022). But this is not a rigid exercise. Rather, the Supreme Court has said that courts look to the "principles that underpin our regulatory tradition." *United States v. Rahimi*, 602 U.S. 680, 691 (2024). If confirmed, I would look to the Supreme Court and the Ninth Circuit for instruction on how to interpret any given provision of the Constitution.

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 first look to the text of the provision at issue. I would then look to how the Supreme Court or Ninth Circuit has interpreted a given constitutional provision, including the sources and method for interpreting that provision. I also would look to the surrounding constitutional provisions to determine whether the structural underpinnings of the Constitution provide insight into a provision's meaning. I also would look to contemporaneous writings from the time the provision was ratified. For some provisions, this would mean considering the records from the constitutional convention or the Federalist Papers. But in looking to each of these sources, the objective is to understand the meaning of the text.

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

Response: The Fifth Amendment of the Constitution states that no person shall "be deprived of life, liberty, or property, without due process of law." In interpreting this clause, the Supreme Court stated that "once an alien enters the country … 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).

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

    Response: If confirmed, I expect parties to follow my court orders. If any party ignores or defies a federal court order, I would issue a show cause order and consider the party's arguments and any defenses raised. I would follow Supreme Court and Ninth Circuit precedent on whether their action or inaction is justified or otherwise excused.

22. 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: District court judges have a number of tools available to address abusive litigation tactics, including the Federal Rules of Civil Procedure and local rules. If confirmed, I would consider all the relevant facts, any arguments made by the parties, and any applicable rules, law, or precedent.

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

       Response: If confirmed, I would consider all the relevant facts, any arguments made by the parties, and any applicable rules, law, or precedent. I would consider whether sanctions would be appropriate in a given case. And I would employ any case management tools to ensure that abusive tactics did not persist and cause further delay.

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

    Response: The role of a judge is to fairly and impartially decide cases properly before the court. This means considering all relevant facts and doing what the law requires. In some instances, the law requires a judge to consider the practical consequences of a decision. For example, when deciding a preliminary injunction motion, the court must consider the balance of hardships and the public interest in issuing an injunction. *See Winter v. Nat. Res. Def. Council*, 555 U.S. 7 (2008).

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

    Response: I believe that judges should follow the law as written, setting aside their own personal preferences and evaluating each case properly before them with impartiality. This means upholding their oath and obligations under the Constitution, federal law, and the Code of Conduct for United States Judges. It also means faithfully applying all precedents of the Supreme Court, governing circuit precedent, and any other laws or rules that apply to federal judges.

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

Response: A judge's responsibility is to do what the law requires and "administer justice without respect to persons." 28 U.S.C. § 453. If confirmed, I will seek to fulfill this obligation and still be respectful to any person appearing in my court.

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

Response: I had the opportunity to work on a pro bono matter for a client who alleged that an apartment building had discriminated against him based on his source of income—a housing voucher. I interviewed the client multiple times, developed a legal strategy, drafted the complaint, and negotiated a settlement agreement. This case sharpened my legal skills early in my career and delivered a tangible result for my client. Throughout my career, I have had the privilege of working on behalf of many wonderful clients, but I will never forget this client for entrusting me fully and expressing genuine joy when we reached a settlement.

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

Response: If confirmed, I would consider issuing a standing order that encourages more junior lawyers to handle oral arguments. I would also consider other ways to encourage the involvement of junior lawyers, recognizing that clients may prefer more senior lawyers to handle arguments in certain cases, and it is the role of the lawyers to advance their clients' interests.

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

Response: I have mentored law students and junior attorneys by giving them room to work through complex legal issues on their own while providing meaningful feedback and guidance. If confirmed, I would take this same approach with me, allowing junior lawyers time to work through their prepared arguments, giving them time to respond to questions from the bench, and offering feedback as necessary.

28. Discuss your proposed hiring process for law clerks.

Response: As a judicial nominee, I have not yet proposed a hiring process for law clerks. At a high level, if confirmed, I would consider an applicant's resume, transcript, writing sample, and recommendations, and I would likely seek to interview any potential candidate.

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

Response: Consistent with the Code of Conduct for United States Judges, it would be inappropriate for me to comment on pending legislation. If confirmed, I would work hard to ensure a safe workplace and follow the District of Montana's Employment Dispute Resolution Policy and any relevant federal law.

29. 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: If confirmed, I would lead by example, treating everyone with respect, not just clerks and judicial assistants, but all individuals who work in the courthouse or appear in my courtroom. I would also ensure that those who work for me are familiar with District of Montana Employment Dispute Resolution Policy and court resources for reporting potential misconduct. I would also work with other judges on the District of Montana to ensure that the court is regularly reviewing its policies and procedures.

b. What proactive steps would you take to ensure that any workplace-related concerns that your clerks and judicial assistants may have are fully addressed?

Response: If confirmed, I would lead by example and take any workplace-related concerns seriously. I would also ensure that if a workplace-related concern involved me, that my clerks and judicial assistants are aware that they could report their concerns to another court employee, such as the Employment Dispute Resolution Coordinator.

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: If confirmed, I would review all relevant policies and procedures to determine the appropriate process for addressing the problem. If no such process existed, I would seek guidance from the Chief Judge of the District Court. Once the problem was addressed, I would work with the Chief Judge and other members of the court to determine whether the court needed to update any of its policies and procedures.

30. Do you agree with me that the attack at the U.S. Capitol on January 6, 2021, was an insurrection? Why or why not?

    Response: The word "insurrection" appears in both the United States Constitution and statutory law. The use of that word in context of January 6, 2021, is a subject of ongoing debate and litigation. Indeed, the characterization of January 6 was an issue before the Supreme Court in *Trump v. Anderson*, 601 U.S. 100 (2024). Under the Code of Conduct for United States Judges, it would be inappropriate to offer an opinion on an issue of ongoing political debate and litigation.

    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: Please see my response to Question 30.

31. 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: In *United States v. Klein*, 80 U.S. 128 (1871), the Supreme Court held that the discretion to issue pardons belongs solely to the President. Under the Code of Conduct for United States Judges, it would be inappropriate to offer an opinion on an issue of ongoing political debate and litigation.

32. 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: Under the Code of Conduct for United States Judges, it would be inappropriate to offer an opinion about what I would do in a hypothetical scenario.

33. On behalf of former national security professionals, you submitted an amicus brief to the U.S. Supreme Court in *TikTok Inc. v. Garland*. You argued that TikTok presents a "critical foreign national security threat," which Congress addressed by enacting a law forcing TikTok to divest from its Chinese ownership (the *Protecting Americans from Foreign Adversary Controlled Applications Act* (PAFACA)). You argued that "compelling national security interests are narrowly tailored to overcome any applicable

level of First Amendment scrutiny." In January 2025, the Supreme Court unanimously upheld PAFACA. Yet TikTok's American operations were only recently spun off into a new venture after President Trump repeatedly delayed the divestment date required in the law.

a. Which provision in PAFACA permits the President to unilaterally delay TikTok's divestment date?

Response: Article II of the Constitution governs the President's executive power. With respect to the brief I filed in *TikTok, Inc. v. Garland* on behalf of a group of bipartisan national security experts, the purpose of the brief was to highlight the national security concerns that existed at the time of litigation. To my knowledge, there have been developments in the ownership and control of TikTok since that brief was filed, and because those are live issues, the Code of Conduct of United States Judges prevents me from commenting on the current legal status of TikTok.

b. Who has standing to challenge President Trump's actions in repeatedly delaying the divestment date?

Response: Article III of the Constitution limits federal jurisdiction to cases and controversies. The Supreme Court has addressed questions about standing in numerous cases, and I would follow all binding precedent.

c. Do you think these repeated divestment date delays hurt our national security?

Response: Please see my response to Question 33(a).

d. Do presidents have the ability to pick and choose which statutes to enforce?

Response: Please see my response to Question 33(a).

34. In *Marquez v. Montana*, you represented the state against a challenge to SB 280, which made it much more difficult for transgender Montanans to update the sex listed on their birth certificates. But when the court ordered the state to halt enforcement of that law, the state's health department, in the judge's words, "circumvented" his order by adopting a new rule essentially barring any changes to the sex listed on a person's birth certificate. Then, the department kept the new rule in place even after the judge clarified that it violated his preliminary injunction. In his final order holding the defendants in contempt, the judge wrote that the defendants "repeatedly disobeyed" the court's order, "showing their contempt for this judicial body and the judicial system as a whole."

a. Please clarify the scope of your representation in this case, including your specific responsibilities and when your representation began and ended.

Response: As an advocate for the State, my job was to defend SB280 on behalf of the State of Montana and the Department of Public Health and Human Services. I worked on the litigation from its inception to when I departed the Montana Attorney General's office in March 2023.

Beyond the underlying dispute challenging the statute, there were several disputes that arose after the court issued a preliminary injunction. First, the parties disputed whether the preliminary injunction of the statute meant that a prior version of an administrative rule governing the birth certificate amendment process went back into effect. Second, the parties disputed whether the preliminary injunction prohibited the agency from undertaking new and separate rulemaking on the birth certificate amendment process under its general rulemaking authority. These disputes went to core questions about legislative power, executive power, and judicial power. Indeed, in response to these questions, the district court modified its original injunction, and then the Supreme Court of Montana had to clarify the scope of the district court's authority to issue that modified injunction. *See State v. Mont. Thirteenth Jud. Dist. Ct.*, OP 22-0552, 2023 WL 142673, at *3 (Mont. Jan. 10, 2023) ("We agree that the State's petition presents a purely legal question: Whether the District Court, which determined that it did not have jurisdiction over the 2022 Rule, nonetheless exceeded its authority in the Clarification Order by directing DPHHS to reinstate the 2017 Rule….We find it appropriate to consider this question via this petition for writ."); *id.* at *4 ("…[T]he Preliminary Injunction Order requires DPHHS to maintain the status quo, which reinstates the 2017 Rule for as long as the Preliminary Injunction Order—which DPHHS did not appeal—remains in effect. However, DPHHS is entitled to relief insofar as the Clarification Order purports to enjoin DPHHS from engaging in rulemaking….").

At no point during my representation of the Department did the Department say it would "def[y]" a court order as this question suggests. And the district court made clear on the record that the lawyers in the case had followed all legal and ethical obligations. *See, e.g.*, Hearing Tr. 45:1-6, *Marquez v. Montana*, DV 21-873 (Mont. Thirteenth Jud. Dist. Ct. Sept. 12, 2022) (…"[I]t is my clear assumption that that is not a problem. I should not be concerned about that either from a legal point of view or from an ethical point of view. Fair statement?"); *id.* 58:9-17 ("Counsel is working their tail-ends off in trying to figure out how to defend this statute. That is their job. That is their responsibility …. So there is no issue with respect to contempt here."); *id.* 59:22-24 ("…[I]t is my impression that you never suggested to the Department that they could circumvent my order by implementing new rules."). I left the Montana Attorney General's Office in March 2023 before any contempt order was issued against the Department.

Contrary to a false claim made in a letter submitted to this Committee, I have never been sanctioned, held in contempt, or formally rebuked by a judge.

b. In his order, the judge wrote that at a hearing on June 1, 2023, "[n]ew defense counsel came before the Court with 'hat in hand' to explain his clients' actions. . . . After this Court clarified the intentions behind that Order yet again, defense counsel apologized and indicated that such contempt 'is not going to happen again'. The Court respects the candor of the new defense counsel to finally come before this Court with 'hat in hand'. However, defense counsel could not provide a legitimate explanation or an explanation of any kind for the continued noncompliance of his clients. There is no legal justification for Defendants' continued refusal to follow Court orders after numerous clarifications by this Court and by the Supreme Court of Montana." It appears that you left your role as Deputy Solicitor General of Montana in March 2023. What role, if any, did you have in assisting, supporting, facilitating, advising on, or defending defendants' actions for which the defendants were held in contempt?

Response: Please see my response to Question 34(a).

35. Your former co-clerk Josh Craddock, who is now a Deputy Assistant Attorney General in the Office of Legal Counsel at the Department of Justice, posted on X in support of your nomination to the bench February 12, 2026. He wrote that you "will be a conservative stalwart for decades to come."

a. Do you consider yourself "a conservative stalwart"?

Response: I am not familiar with that statement, and I do not know what Mr. Craddock meant when he posted it.

b. Do you think it is appropriate for a judge to make decisions based on her ideology or political leaning rather than on the merits of a particular case?

Response: I believe that judges should follow the law as written, setting aside their own personal preferences and evaluating each case properly before them with impartiality. This means upholding their oath and obligations under the Constitution, federal law, and the Code of Conduct for United States Judges. It also means faithfully applying all precedents of the Supreme Court, governing circuit precedent, and any other laws or rules that apply to federal judges.

36. As I said at your nomination hearing, I am deeply concerned about the lack of legal experience you would bring to this lifetime position. The American Bar Association Standing Committee on the Federal Judiciary recommends a minimum of 12 years of legal experience to consider a nominee qualified for judicial office. The jurist you are nominated to replace, Judge Susan Watters, had 25 years of legal experience, including 15 years as a state court judge in Montana, when President Obama nominated her.

a. After graduating from law school and aside from your two clerkships, how many years have you practiced law?

Response: In just seven years of practice, I have represented clients in complex litigation at every level of state and federal courts, including the United States Supreme Court. The quality and relevance of my legal experience make me well suited for this important role, and I am proud of the skills and attributes I will bring to the federal bench if confirmed.

A) When I asked you this same question at your nomination hearing, you did not answer with a specific number of years, instead saying that you had been "very fortunate to have practiced law since graduating law school and after [your] clerkships." Why did you choose not to answer my question with a specific number of years that you have been practicing?

Response: My litigation record speaks for itself in terms of depth, volume, and complexity, independent of my years in practice.

b. As you confirmed during your hearing, you have only tried one case to final decision (a bench trial in which you were associate counsel), you have only cross-examined one witness and taken one deposition, and you have never conducted a direct examination of a witness or conducted jury selection. How will you manage trials in the courtroom when you have so little experience conducting them yourself?

Response: Respectfully, I disagree with the premise of this question. The quality and relevance of my legal experience make me well suited for this important role, and I am proud of the skills and attributes I will bring to the federal bench if confirmed.

Throughout my legal career, I have earned significant responsibility and delivered results for my clients at every level of state and federal courts, including the United States Supreme Court. At the Montana Attorney General's office, I served on small litigation teams, sometimes as solo or lead counsel, driving legal strategy, drafting dispositive motions and briefs, managing discovery, and appearing in both trial and appellate courts. At Consovoy McCarthy, I brought that same approach to high-profile litigation—again, developing strategy, authoring critical briefs, managing complex administrative records, overseeing discovery, and arguing in court.

In both roles, I owned cases from inception through appeal, building expertise at both the trial and appellate levels. I had numerous state and federal district court hearings, I argued three times in federal courts of appeals, and I served as an essential member of a trial team from discovery to pretrial preparation through the four-day bench trial and substantial post-trial briefing. I deposed Plaintiffs' expert

witness and was the lead author for summary judgment briefing. At trial, while managing all internal deadlines, disclosures, evidentiary objections, and contributing to witness outlines, I led the preparation for the direct examination of Defendants' expert witness and cross-examined a Plaintiffs' witness. I then led the effort as the lead brief writer for many hundreds of pages of post-trial briefing.

As Senior Counsel for the Republican National Committee, I oversee a litigation portfolio of more than 120 cases. I direct the Committee's litigation strategy, select and supervise outside counsel, and review every filing across state and federal courts nationwide, from routine procedural motions to high-stakes dispositive briefs. I coordinate discovery and review expert reports. I help steer settlement negotiations. I am responsible for supervising every aspect of litigation, including helping attorneys prepare for oral arguments in district courts, appellate courts, and the United States Supreme Court.

My litigation practice has uniquely prepared me for the federal district bench. I have handled complex, high-stakes cases, many on an expedited basis, and many involving preliminary injunction motions and emergency appeals. If confirmed, I will bring this same rigor and decisiveness to the federal bench, resolving motions promptly and advancing cases efficiently.

c. Additionally, in your Senate Judiciary Questionnaire, you note that 0% of your practice has involved criminal proceedings.

    A) Why do you think you are qualified to serve as a federal judge overseeing a substantial criminal docket if you have little to no experience with criminal cases?

    Response: I handled more than 90 criminal cases as a law clerk for the Eastern District of Tennessee, from arraignments to change of pleas to multiday trials to sentencing. Each of these cases required me to be familiar with the Federal Rules of Criminal Procedure, Federal Rules of Evidence, and the United States Sentencing Guidelines. And in my civil practice, I worked on a Brief in Opposition in *Lamoureux v. State*, No. 21-427, *cert. denied*, 142 S. Ct. 860 (Mem) (2022), challenging Montana's electronic harassment statute.

    B) If you are confirmed, what resources will you use to get up to speed on criminal proceedings?

    Response: If confirmed, I would use the same resources available to every judge confirmed to the bench, including Supreme Court and circuit precedent, federal rules and statutes, and the experience of my colleagues on the federal bench.

Senator Mazie K. Hirono
Senate Judiciary Committee

Nomination Hearing
Questions for the Record for Kathleen Smithgall Lane

1. You currently work as Senior Counsel to the Republican National Committee where you manage litigation strategy. On February 12, 2026, President Trump posted on Truth Social about your work in election law and in August 2025, you sat on a Republican National Lawyers Association panel to discuss election litigation.
    a. **If you are sworn in as a federal judge, do you intend to recuse yourself from election law matters involving the Republican party?**

    Response: If sworn in as a federal judge, I will take recusal very seriously, and I will put aside my personal beliefs, previous clients, and prior positions to ensure that I apply the law fairly and faithfully in each case. Consistent with the Code of Conduct for United States Judges and 28 U.S.C. § 455(b)'s specific provision about lawyers in private practice, I would recuse myself from any proceeding or case in which I served as a lawyer or have personal knowledge of disputed evidentiary facts. Otherwise, I will address each actual or potential conflict of interest by referring to 28 U.S.C. § 455, the Code of Conduct for United States Judges, and any other laws, rules, and practices governing such circumstances.

Nomination of Kathleen S. Lane
United States District Court for the District of Montana
Questions for the Record
Submitted April 1, 2026

QUESTIONS FROM SENATOR BOOKER

1. If you are confirmed to the federal bench, you would be one of the least experienced federal district judges in the nation. Having graduated from law school in 2017, you have almost nine years of legal experience; of those nine years, you have only seven years of legal practice experience, excluding judicial clerkships.

    a. If you are confirmed, what concrete and affirmative steps do you plan to take to try to overcome the relative experience gap with your colleagues?

    Response: Respectfully, I disagree with the premise of this question. The quality and relevance of my legal experience make me well suited for this important role, and I am proud of the skills and attributes I will bring to the federal bench if confirmed.

    Throughout my legal career, I have earned significant responsibility and delivered results for my clients at every level of state and federal courts, including the United States Supreme Court. At the Montana Attorney General's office, I served on small litigation teams, sometimes as solo or lead counsel, driving legal strategy, drafting dispositive motions and briefs, managing discovery, and appearing in both trial and appellate courts. At Consovoy McCarthy, I brought that same approach to high-profile litigation—again, developing strategy, authoring critical briefs, managing complex administrative records, overseeing discovery, and arguing in court.

    In both roles, I owned cases from inception through appeal, building expertise at both the trial and appellate levels. I had numerous state and federal district court hearings, I argued three times in federal courts of appeals, and I served as an essential member of a trial team from discovery to pretrial preparation through the four-day bench trial and substantial post-trial briefing. I deposed Plaintiffs' expert witness and was the lead author for summary judgment briefing. At trial, while managing all internal deadlines, disclosures, evidentiary objections, and contributing to witness outlines, I led the preparation for the direct examination of Defendants' expert witness and cross-examined a Plaintiffs' witness. I then led the effort as the lead brief writer for many hundreds of pages of post-trial briefing.

    As Senior Counsel for the Republican National Committee, I oversee a litigation portfolio of more than 120 cases. I direct the Committee's litigation strategy, select and supervise outside counsel, and review every filing across state and federal courts nationwide, from routine procedural motions to high-stakes dispositive briefs. I coordinate discovery and review expert reports. I help steer settlement negotiations. I am responsible for supervising every aspect of litigation, including helping attorneys

prepare for oral arguments in district courts, appellate courts, and the United States Supreme Court.

My litigation practice has uniquely prepared me for the federal district bench. I have handled complex, high-stakes cases, many on an expedited basis, and many involving preliminary injunction motions and emergency appeals. If confirmed, I will bring this same rigor and decisiveness to the federal bench, resolving motions promptly and advancing cases efficiently.

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

   On May 29, 2025, Attorney General Pam Bondi ended this longstanding practice when she informed the ABA that, "[T]he Office of Legal Policy will no longer direct nominees to provide waivers allowing the ABA access to nonpublic information, including bar records. Nominees will also not respond to questionnaires prepared by the ABA and will not sit for interviews with the ABA."[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: Consistent with the Code of Conduct for United States Judges, it would not be appropriate for me to weigh in on the statements of elected officials regarding matters of political controversy.

3. 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: Consistent with the Code of Conduct for United States Judges, it would not be appropriate for me to recommend specific action by this Committee, particularly as it relates to a hypothetical situation. To the best of my knowledge, every nominee appearing before this committee takes an affirmative oath that the testimony given to this Committee will be truthful.

4. 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: Please see my answer to question 3.

[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.

5. How would you characterize your judicial philosophy?

   Response: I believe that judges should follow the law as written, setting aside their own personal preferences and evaluating each case properly before them with impartiality. This means upholding their oath and obligations under the Constitution, federal law, and the Code of Conduct for United States Judges. It also means faithfully applying all precedents of the Supreme Court, governing circuit precedent, and any other laws or rules that apply to federal judges.

6. What do you understand originalism to mean?

   Response: I understand originalism to refer to a method of constitutional interpretation. It means that when a judge is faced with a question about the meaning of the Constitution, the judge looks to the original public meaning of the provision at issue at the time that provision was ratified.

7. Do you consider yourself an originalist?

   Response: I generally consider myself an originalist to the extent it means that in the absence of binding precedent, when faced with a question about the meaning of the Constitution, I look to the original public meaning of the provision at issue at the time that provision was ratified. But if confirmed as a district court judge, I would follow any Supreme Court or Ninth Circuit precedent regarding what the constitutional provision at issue means or how a judge should interpret that provision.

8. What do you understand textualism to mean?

   Response: I understand textualism to refer to a method of statutory interpretation. It means that when a judge is faced with a question about the meaning of a particular statute, the judge looks to the text of the statute and seeks to understand what those words meant at the time the law was enacted.

9. Do you consider yourself a textualist?

   Response: I generally consider myself a textualist to the extent it means that in the absence of binding precedent, when faced with a question about the meaning of a particular statute, I look to the text of the statute and try to understand what those words meant at the time the law was enacted. But if confirmed as a district court judge, I would follow any Supreme Court or Ninth Circuit precedent regarding what a statute means or how a judge should approach the method of interpreting that statute.

10. Legislative history refers to the record Congress produces during the process of passing a bill into law, such as detailed reports by congressional committees about a pending bill or statements by key congressional leaders while a law was being drafted. Some federal judges consider legislative history when analyzing the meaning of a statute.

a. If you are confirmed to serve on the federal bench, would you consult and cite legislative history to analyze or interpret a federal statute?

Response: When a statute's text is clear, the Supreme Court has said that reliance on legislative history is unnecessary. *See, e.g.*, *Whitfield v. United States*, 543 U.S. 209, 215 (2005) (when a statute's text "is plain and unambiguous, we need not accept [a party's] invitation to consider the legislative history"). To the extent a statute's text is not clear, legislative history may be used to help understand the meaning of the text at the time the law was enacted. If confirmed, I would consider all the parties' arguments, including arguments about the use of legislative history. I also would faithfully apply all Supreme Court and Ninth Circuit precedent about how a statute should be interpreted and when and how to use legislative history.

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

Response: As the Supreme Court has said, the text of the statute "best reflects" congressional intent. *Republic of Hungary v. Simon*, 604 U.S. 115, 137 (2025). If confirmed, I would consider Congress's intent to the extent it is reflected in the statutory text, and I would faithfully follow all Supreme Court and Ninth Circuit precedent regarding what a statute means or how a judge should approach the method of interpreting that statute.

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 have not read the cited study, and as a judicial nominee, it would be inappropriate for me to opine on any causal links. If confirmed, I will carefully consider each case before me, understanding the weighty responsibility of imposing a sentence on any individual appearing before me.

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: Please see my response to Question 11a.

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

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

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: Every judge takes a judicial oath to "administer justice without respect to persons." 28 U.S.C. § 453. To fulfill this oath, each judge has an obligation to ensure that each litigant appearing before them—criminal or civil—is treated fairly and without regard to that litigant's race. This means considering all the parties' arguments and consistently following the federal rules in each proceeding. In the criminal context, specifically, this also means that at sentencing, a judge must ensure that defendants with similar records and similar convictions face similar sentences. 18 U.S.C. § 3553(a)(6). It also means that if a criminal defendant brings a claim that the prosecution charged that defendant because of that defendant's race, a judge must fairly adjudicate that claim consistent with federal law.

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

Response: Yes, I believe that anyone who wishes to serve in the judicial branch should be considered without regard to race, sex, ethnicity, religion, or any other protected characteristic. If confirmed, I look forward to the opportunity to work with and learn from persons with varying backgrounds, experiences, and viewpoints.

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

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

Response: Where I recall specifically addressing the issues mentioned below, I have listed out those talks or statements. For a full accounting of the topics I have addressed, please refer to the list provided in my 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 public statements I have made.

a. Abortion

Response: Interview, Mike Dennison, Two-decade-old decision looms large in Montana abortion court fight, KTVH (Jan. 26, 2022) (Estimated Interview Date). I spoke about Montana's ongoing litigation in *Planned Parenthood of Montana v. Montana*.

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: March 18, 2025: Panelist, Georgetown Law Federalist Society, "Daniel Webster Debate Series: Do DEI Programs Violate Equal Protection," Washington, District of Columbia. I filled in for a colleague in a debate hosted by Georgetown Law's Federalist Society chapter. I discussed the Supreme Court's opinion in *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*, 600 U.S. 181 (2023), and argued that various programs that give opportunities to some but not others on the basis of race are unconstitutional in light of the Supreme Court's decision.

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

Response: The standard rule is that court orders bind the parties in that case. If there is disagreement with that order, the parties can appeal the order, seek to stay the order, or otherwise seek emergency relief from the order. I am generally aware of some specific and limited scenarios where a party, including an executive branch official, is permitted to disregard a court order. For example, if a court order requires disclosure of certain privileged information, a party may disregard the order for purposes of appeal while incurring court-imposed punishment. *See Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009). Or, for example, a party may violate an order if compliance is impossible. *See Shillitani v. United States*, 384 U.S. 364, 371 (1966).

a. If an executive branch official ignores or defies a federal court order, what legal analysis would you employ to determine whether that official should be held in contempt?

Response: If confirmed, I expect parties to follow my court orders. If any party ignores or defies a federal court order, I would issue a show cause order and consider the party's arguments and any defenses raised. I would follow Supreme Court and

Ninth Circuit precedent on whether their action or inaction is justified or otherwise excused.

b. Is there any legal basis that would allow an executive branch official to ignore or defy temporary restraining orders and preliminary injunctions issued by federal district court judges? Please provide each one and the justification.

Response: Please see my responses to Questions 16 and 16a.

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

Response: Article II of the Constitution vests the President with the "executive Power" and requires that the President "take Care that the Laws be faithfully executed." Art. II, § 3. Article I separately instructs that the President is responsible for signing bills to become law or vetoing laws with which he disapproves. U.S. Const., art. I, § 7. To the extent there are questions about what happens when these or other constitutional powers conflicts, those questions are subject to ongoing litigation and debate, and it would be inappropriate for me as a judicial nominee to weigh in on those questions. If confirmed, my general approach would be to examine the constitutional provision at issue, consider all arguments raised by the parties, and faithfully follow any Supreme Court and Ninth Circuit precedent interpreting or applying that provision.

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

Response: I am generally aware of the Impoundment Control Act of 1974, 2 U.S.C. § 681, which addresses the President's authority to impound appropriated funds. To the extent there are questions about the contours of the President's authority, those questions are subject to ongoing litigation and debate, and it would be inappropriate for me as a judicial nominee to weigh in on those questions. If confirmed, my general approach would be to examine the relevant constitutional provisions about the powers of the President and Congress as well as the text of the Impoundment Control Act itself. I would consider all arguments raised by the parties and faithfully follow any Supreme Court and Ninth Circuit precedent addressing the question raised.

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

Response: Please see my response to Question 18.

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

Response: Article VI of the Constitution states that "This Constitution, and the Laws of the United States … shall be the supreme Law of the Land." In interpreting this provision, the Supreme Court stated that "[courts] must not give effect to state laws that conflict with federal laws." *Armstrong v. Exceptional Child Center, Inc.*, 575 U.S. 320, 325 (2015).

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

    Response: The Fifth Amendment of the Constitution states that no person shall "be deprived of life, liberty, or property, without due process of law." In interpreting this clause, the Supreme Court stated that "once an alien enters the country … 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).

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

    Response: Article I of the Constitution exclusively vests Congress with the legislative power. Congress, in turn, may "use officers of the executive branch within defined limits, to secure the exact effect intended by its acts of legislation." *J.W. Hampton, Jr. v. United States*, 276 U.S. 394, 406 (1928). To utilize the executive branch in this way, though, Congress must set forth an "intelligible principle" to help steer the agency's action. *Id.* at 409. The Supreme Court recently spoke on this question in *FCC v. Consumers' Research*, 606 U.S. 656, 672 (2025).

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

    Response: Yes. Consistent with the Code of Conduct for United States Judges, it is typically inappropriate for nominees to grade the Supreme Court's decisions or opine on whether precedent was correctly decided. But numerous nominees have made an exception and offered their opinions on *Brown v. Board of Education*, 347 U.S. 483 (1954) and *Loving v. Virginia*, 388 U.S. 1 (1967). Consistent with that practice, I believe it is appropriate to state for the record that both *Brown* and *Loving* were correctly decided.

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

    Response: Yes, *Griswold v. Connecticut* is binding precedent. In *Griswold*, the Supreme Court considered a challenge to Connecticut's law forbidding the use of contraceptives. The Supreme Court recognized a right to marital privacy and held that Connecticut's law violated the Fourteenth Amendment.

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 precedent. In *Lawrence*, the Supreme Court considered a challenge to Texas's law prohibiting certain sexual conduct between consenting adults of the same sex. The Supreme Court held that Texas's law violated 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 v. Hodges* is binding precedent. In *Obergefell*, the Supreme Court considered multiple challenges to state laws defining marriage as a union between one man and one woman. The Supreme Court held that under the Fourteenth Amendment, states must provide marriage licenses to same-sex couples and recognize marriages between same-sex couples that were licensed and performed in other states.

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: Article II and the Twelfth Amendment of the Constitution prescribes that the President is elected by a vote of the electoral college and certification by Congress. Consistent with this constitutional process, President Biden was certified the winner of the 2020 election.

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

       Response: Please see my response to Question 27.

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

       Response: I have no personal knowledge about the accuracy of the vote counts for the 2020 election.

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: I agree that President Trump was certified as the winner of the 2016 election.

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

       Response: Please see my response to Question 28a.

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

       Response: I agree that President Trump was certified as the winner of the 2024 election.

[4] U.S. CONST. amend. XXII.

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

Response: Please see my 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 Twenty-Second Amendment prohibits any person from being "elected to the office of the President more than twice." U.S. Const., amend. XXII. The text of this amendment speaks for itself.

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. Prior to my confirmation hearing on March 25, 2026, I met with attorneys at the Department of Justice, who provided guidance on the Code of Conduct for United States Judges as well as questions that have been asked of other nominees by this Committee. All answers that I have provided are my own based on my understanding of the Code of Conduct and my observation of prior nominees.

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

Response: No.

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

Response: No, not to my knowledge.

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: Yes. In October 2025, I saw Mr. Mizelle in Washington, DC, and spoke with him about his move back to Florida and several of our mutual friends. In February 2026, after my nomination was made public, I saw Mr. Mizelle in Alexandria, Virginia, and caught up with him about my nomination.

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, not to my knowledge.

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.

    Response: No.

    a. Enrique Tarrio
    b. Stewart Rhodes
    c. Kelly Meggs
    d. Kenneth Harrelson
    e. Thomas Caldwell
    f. Jessica Watkins
    g. Roberto Minuta
    h. Edward Vallejo
    i. David Moerschel
    j. Joseph Hackett
    k. Ethan Nordean
    l. Joseph Biggs
    m. Zachary Rehl
    n. Dominic Pezzola

o. Jeremy Bertino
p. Julian Khater

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, not to my knowledge.

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: Consistent with the Code of Conduct for United States Judges, it would be inappropriate for me as a judicial nominee to comment on the political statements of public figures or the subject of political controversy.

    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: I spoke with Mike Davis in person in February 2026 after I was nominated. He congratulated me on my nomination.

    c. Are you currently in contact with anyone associated with A3P? If so, who?

       Response: No, not to my knowledge.

    d. Have you ever been in contact with anyone associated with A3P? If so, who?

       Response: I have known Mike Davis for several years.

[5] https://www.article3project.org/about

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?

        Response: Please see my response to Question 43.

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

        Response: No.

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: To the best of my knowledge and recollection, I spoke with Mike Davis in March 2025 and October 2025. To the best of my knowledge and recollection, we did not talk about my judicial selection process.

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: During my selection process, I attended events hosted by the Federalist Society, and I have numerous friends and professional acquaintances who are associated with the Federalist Society. Several of these friends and professional acquaintances knew I had been in contact with Senator Daines's office about the vacancy, and several were involved in my background check. As a result, I kept these individuals updated on developments in my selection process.

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 written questions in full and then reviewed the responses of several recent nominees to familiarize myself with the general format and length of their responses. I drafted my responses to these written questions. I spoke with a few former colleagues and conducted some legal research to confirm my answers to a few questions. I submitted a draft of my responses to members of the Office of Legal Policy at the Department of Justice, and I incorporated their feedback. I then authorized them to submit my final responses to this Committee. Each response is my own.