

**Senator Dick Durbin**  
**Ranking Member, Senate Judiciary Committee**  
**Written Questions for Evan Rikhye**  
**Nominee to be U.S. District Judge for the Virgin Islands**  
**April 1, 2026**

1. You spent approximately two decades working at the Justice Department, including as a federal prosecutor for many years. I am concerned about your representation of the government in two criminal cases. First, in *United States v. Wilson*, the Fourth Circuit found that you breached a plea agreement with a defendant by failing to argue for a sentence reduction based upon the defendant's acceptance of responsibility. Second, in *United States v. Rowan*, the district court found that you had violated the defendant's Sixth Amendment right to a speedy trial by taking three years to prepare an extradition request to bring the defendant from Canada to the United States. As a result, the district court dismissed the indictment. If confirmed, you will preside over criminal cases in the District Court for the Virgin Islands.

Why should defendants before you in criminal cases have confidence that you will treat them fairly?

Response: As to the *Wilson* matter, I believe you are referring to *United States v. Calvin Mark Wilson a/k/a "Bali," 839 F. App'x 789 (4th Cir. 2021)*. I represented the Government only on appeal. I advocated in good faith that no breach of the plea agreement had occurred; however, the Court of Appeals ruled against our position. My office fully complied with the court's decision, and Mr. Wilson was resentenced. Notably, the alleged breach of the plea agreement occurred in the District Court (See *United States v. Calvin Mark Wilson a/k/a "Bali," No. 4:17-CR-53-BO (E.D.N.C.)*) when the matter was being handled by a different attorney. I was serving overseas with DOJ-OPDAT in West Africa during the pendency of this matter in the District Court.

In *United States v. Rowan, No. 7:13-CR-122-BO (E.D.N.C.)*, the District Court accepted a defense argument regarding application of the Speedy Trial Act to extradition requests, during a period when there was no binding Fourth Circuit precedent on the timing of extradition requests. As with the *Wilson* case, an adverse ruling is a standard part of litigation and does not indicate bad faith or ethical misconduct.

Throughout my 20-year career with the Department of Justice, I handled hundreds of prosecutions with strict adherence to the law, my ethical duties, and relevant DOJ policy. I am proud of my record of ensuring accountability and securing a measure of justice for victims of crime. If I am fortunate enough to be confirmed by the United States Senate to serve as a District Judge, I understand that my role would shift from that of an advocate to that of a neutral arbiter whose job it is to follow the law and to

ensure that the legal and constitutional rights of all litigants before me are protected.

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

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

Response: Subject to relevant laws and regulations, I believe it is within the President’s authority under Article II of the U.S. Constitution—delegated through cabinet officials—to make staffing decisions for executive branch agencies. See U.S. Const. Art. II, § 1, cl. 1; id. § 2, cl. 2. As a judicial nominee, I believe it would be inconsistent with the Code of Conduct for United States Judges and relevant ethical canons for me to offer an opinion on the specific manner in which the President exercises this discretionary authority.

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

Response: No.

3. In 2025, you celebrated a post on LinkedIn which called the collaboration between the U.S. Attorney’s Office for the District of Virgin Islands and the Justice Department’s Public Integrity Section (PIN) “[y]et another successful prosecution of public corruption offenses in the Virgin Islands.” Staff at PIN has been reduced from approximately 30 prosecutors at the end of the Biden Administration to now only two attorneys. There is a longstanding requirement that prosecutions of public officials be reviewed by PIN’s career prosecutors to ensure that they are not politically motivated, but Attorney General Bondi has reportedly eliminated this requirement. This is alarming, as President Trump has called for the prosecution of a number of public officials based on his political disagreements with them.

- a. Do you agree that PIN prosecutors should review prosecutions of public officials?

Response: Subject to relevant laws and regulations, I believe it is within the President’s authority under Article II of the U.S. Constitution—delegated through cabinet officials—to make staffing decisions for executive branch agencies. See U.S. Const. Art. II, § 1, cl. 1; id. § 2, cl. 2. As a judicial nominee, I believe it would be inconsistent with the Code of Conduct for United States Judges and relevant ethical canons for me to

offer an opinion on the specific manner in which the President exercises this discretionary authority.

- b. Do you believe there is value in PIN being involved in these prosecutions?

Response: During my career with the Department of Justice, I had the opportunity to work with PIN attorneys on a number of investigations. I found value in their involvement with public corruption investigations.

4. You previously liked a LinkedIn post by former Deputy Attorney General Rod Rosenstein sharing a bipartisan letter from tax attorneys which called the disbanding of the Tax Division at the Justice Department by the Trump Administration an “‘epic failure,’ causing unfairness and hurting taxpayers.”

Do you agree that the closure of the Tax Division was an “‘epic failure’”?

Response: Subject to relevant laws and regulations, I believe it is within the President’s authority under Article II of the U.S. Constitution—delegated through cabinet officials—to make staffing decisions for executive branch agencies. *See* U.S. Const. Art. II, § 1, cl. 1; *id.* § 2, cl. 2. As a judicial nominee, I believe it would be inconsistent with the Code of Conduct for United States Judges and relevant ethical canons for me to offer an opinion on the specific manner in which the President exercises this discretionary authority.

5. Did President Trump lose the 2020 election?

Response: As I stated during my confirmation hearing on March 25, 2026, there is a constitutional process for election of a President, which entails a vote by the electoral college and then certification by Congress. *See* U.S. Const. Art. II, § 1. President Biden was certified as the winner of the 2020 election, and he served a 4-year term.

6. Where were you on January 6, 2021?

Response: I was in Chapel Hill, North Carolina.

7. Do you denounce the January 6 insurrection?

Response: I denounce all unlawful violence.

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: Under Article II of the Constitution, the President has plenary authority to issue pardons. *See* U.S. Const. Art. II, § 2, cl. 1. As a judicial

nominee, I believe it would be inconsistent with the Code of Conduct for United States Judges and relevant ethical canons for me to offer an opinion on the manner in which the President exercises this plenary authority.

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. Alarming, President Trump, his allies, and even some nominees before the Senate Judiciary Committee have responded by questioning whether the executive branch must follow court orders.

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

Response: If a litigant disagrees with a court order, remedies include filing a motion for reconsideration. Additionally, litigants could ask the district court to certify an interlocutory appeal under 28 U.S.C. § 1292(b), or wait until the conclusion of litigation to file an appeal.

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

Response: No.

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

Response: The judicial branch is responsible for determining whether a court order is lawful.

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

- a. Are non-party injunctions constitutional?

Response: Last year, the Supreme Court held that district judges do not have equitable authority to bind parties that are not before them. See *Trump v. Casa, Inc.*, 606 U.S. 831, 841 (2025).

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

Response: In light of the Supreme Court’s *Casa* decision, which is binding precedent, non-party injunctions are not a legitimate exercise of judicial power.

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

Response: Based upon the *Casa* decision, I cannot foresee circumstances where it would be appropriate for a district judge to issue a non-party injunction.

- 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: I have never sought a non-party injunction as a form of relief

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: I did not have any such discussions.

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

Response: The 22<sup>nd</sup> Amendment to the Constitution states that a President may serve two terms.

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...”<sup>1</sup>

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

Response: As a judicial nominee, I believe it would be contrary to the Code of Conduct for United States Judges and relevant ethical canons for me to opine on the comments of an elected official on a matter of public controversy and debate.

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

Response: As a judicial nominee, I believe it would be contrary to the Code of Conduct for United States Judges and relevant ethical canons for

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

me to opine on the comments of an elected official on a matter of public controversy and debate.

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

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

Response: As a judicial nominee, I believe it would be contrary to the Code of Conduct for United States Judges and relevant ethical canons for me to opine on the comments of an elected official on a matter of public controversy and debate.

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

Response: As a judicial nominee, I believe it would be contrary to the Code of Conduct for United States Judges and relevant ethical canons for me to opine on the comments of an elected official on a matter of public controversy and debate.

- c. Would you feel comfortable with any politician or their adviser sharing a picture of you on social media if you issue a decision they disagree with?

Response: As a judicial nominee, I believe it would be contrary to the Code of Conduct for United States Judges and relevant ethical canons for me to opine on the comments of an elected official on a matter of public controversy and debate.

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

Response: I am not aware of any circumstances in which a lower court may depart from Supreme Court precedent.

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

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

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

Response: If an appellate court chooses to overturn its own precedents, it could look to five factors enunciated by the Supreme Court for doing so, including nature of the court's error, quality of the reasoning, workability, effect on other areas of the law, and reliance interests. *See Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215, 263-90 (2022).

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

Response: In certain circumstances, it would be appropriate for the Supreme Court to do so, and, indeed, the Supreme Court has done so on occasion. For example, in *Trump v. Hawaii*, 585 U.S. 667 (2018), the Supreme Court formally overruled the infamous *Korematsu* decision, because that decision was held to be "gravely wrong on the day it was decided," as it failed to uphold the Equal Protection Clause and due process rights afforded by the Fifth Amendment.

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*
- b. *Plyler v. Doe*
- c. *Loving v. Virginia*
- d. *Griswold v. Connecticut*
- e. *Trump v. United States*
- f. *Dobbs v. Jackson Women's Health Organization*
- g. *New York State Rifle & Pistol Association, Inc. v. Bruen*
- h. *Obergefell v. Hodges*
- i. *Bostock v. Clayton County*
- j. *Masterpiece Cakeshop v. Colorado*
- k. *303 Creative LLC v. Elenis*
- l. *United States v. Rahimi*
- m. *Loper Bright Enterprises v. Raimondo*

Response: I believe that the *Brown* and *Loving* decisions were correctly decided. Both decisions are firmly and deeply rooted in American jurisprudence, and there has been no serious challenge to, or debate about, the validity of these decisions for over 60 years. As to all of the other decisions listed in your question, I acknowledge them as binding precedents issued by the Supreme Court and I commit to following all Supreme Court precedents if I am confirmed to serve as a District Judge in the District of the Virgin Islands.

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

Response: The Supreme Court has interpreted constitutional provisions by their original public meaning. If confirmed, I would follow all binding Supreme Court and Third Circuit precedents when interpreting constitutional provisions.

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

Response: If I am confirmed to serve as District Judge, I would be bound by, and would faithfully follow, all precedents of the Supreme Court.

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

Response: In the *Obergefell* decision, the Supreme Court held that the Constitution supports the right to same-sex marriage. If confirmed, I pledge to follow *Obergefell*.

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

Response: In the *Loving* decision, the Supreme Court held that the Constitution supports the right to marry people of a different race. If confirmed, I pledge to follow *Loving*.

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

Response: In general terms, the Equal Protection clause prohibits government discrimination against individuals based upon suspect classes, and the Supreme Court has established doctrines of substantive and procedural due process for individuals to protect themselves from discriminatory actions by the Government.

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: In the *Bostock* decision, the Supreme Court has held that the equal protection clause does so apply. If confirmed, I pledge to follow *Bostock*.

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: Yes.

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: Yes.

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

Response: The Supreme Court has held that individuals and corporations are entitled to First Amendment protection. If confirmed, I pledge to follow all binding precedents from the Supreme Court and the Third Circuit on questions regarding the application of the First Amendment.

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 set forth a framework for this question in *Reed v. Town of Gilbert*, 576 U.S. 155 (2015). In *Gilbert*, the Supreme Court held that a law that is content-based on its face is subject to strict scrutiny regardless of benign motive, content-neutral justification, or lack of animus toward the ideas contained. Under strict scrutiny, it must be shown that such a law is narrowly tailored to further a compelling governmental interest. By contrast, if a law is applied broadly and is content neutral, that is to say without reference to what message is being conveyed, then it would be subject to intermediate scrutiny. If confirmed, I believe that I would be bound to follow the *Gilbert* framework.

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

Response: To qualify as a true threat, speech must be such that a reasonable person would interpret the message as a serious expression of intent to cause bodily harm; and the speaker must be aware that his or her statements could be construed as threatening violence, but nevertheless went ahead and made the statements. Speech that does not meet both of these two prongs under the true threats doctrine would be protected under the First Amendment.

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

Response: Yes. The Supreme Court has stated that “the Due Process Clause applies to all persons within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

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

Response: No.

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: Because this matter is currently being litigated before the Supreme Court in *Trump v. Barbara* (Docket No. 25-365), it would be inappropriate for me as a judicial nominee to offer an opinion on this question.

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: Because this matter is currently being litigated before the Supreme Court in *Trump v. Barbara* (Docket No. 25-365), it would be inappropriate for me as a judicial nominee to offer an opinion on this question.

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

Response: Yes. Like all professionals, federal judges are shaped by their lived experiences. Throughout my career at the Department of Justice and in the private sector at Walmart, I have been privileged to work with individuals from across the globe and from diverse ethnic, racial, and socioeconomic backgrounds. I have also been privileged to work with lawyers with experiences in many different areas of the law. My experience collaborating with such colleagues has reinforced my belief that diversity of background and perspective is of immense benefit to the work of the federal judiciary.

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: After hearing arguments from the prosecutor and defense counsel, and consulting with the probation officer who has prepared the presentence report, judges have the ultimate authority at sentencing to implement the First Step Act, when it is applicable to a particular defendant.

- 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. If I am confirmed by the United States Senate to serve as District Judge, I will carefully evaluate the advisory federal sentencing guidelines, and listen to arguments from counsel about how the guidelines should be applied to each case. After arriving at the appropriate guideline range, I will look to the sentencing factors set forth at 18 U.S.C. § 3553 and impose a sentence that is fair, appropriate, and not greater than necessary under the circumstances.

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: The term “traditional values” is a matter of intense political and social debate. As a judicial nominee, I believe it would be contrary to the Code of Conduct for United States Judges and relevant ethical canons for me to opine on such matters.

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

- i. Do you agree with President Trump that the Federalist Society provided President Trump with bad advice during his first term? Why or why not?

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

Response: As a judicial nominee, I believe it would be contrary to the canons of judicial ethics for me to opine on the comments of an elected official on a matter of public controversy and debate.

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

Response: As a judicial nominee, I believe it would be contrary to the canons of judicial ethics for me to opine on the comments of an elected official on a matter of public controversy and debate.

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

Response: Yes.

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

Response: I have not.

- 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: As indicated in the Senate Judiciary Committee Questionnaire, I was invited by the Federalist Society to co-author a paper on filibusters and the constitution in relation to judicial nominations in 2003. A copy of that paper has already been provided to the Committee.

- 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: I have not.

- 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: No, I have not spoken with anyone associated with the Heritage Foundation or Heritage Action during my selection process.

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

Response: No, I have never been asked to provide services to the Heritage Foundation or Heritage Action.

- 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: I have never been paid honoraria by the Heritage Foundation or Heritage Action.

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: I have not spoken or corresponded with any individuals associated with AFPI.

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

Response: I have never been asked, nor have I ever provided any services to AFPI.

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

Response: I have never been paid honoraria by AFPI.

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: I have not spoken with any individuals associated with AFLI during 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, I have never been asked to provide any services to AFLI.

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

Response: No, I have never been paid honoraria by AFLI.

40. The Article III Project is an organization which claims that, “The left is weaponizing the power of the judiciary against ordinary citizens.” Mike Davis is the founder and president of the Article III Project. He posted on social media that you are “a long-time friend and former colleague.” You have liked a number of Mr. Davis’s posts on LinkedIn.

- a. Is Mike Davis your friend?

Response: Yes, Mike Davis and I have been friends for 20 years.

- b. 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: Yes, I have spoken with Mike Davis during my selection process. Mike Davis and I are in touch on a regular basis.

- c. 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.

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

Response: No.

Mr. Davis has made overtly racist remarks on numerous occasions. For example, in an October 2023 social media post, he wrote, “[t]he violent Black underclass is a danger to America” and “[t]hese monsters will kill.”<sup>5</sup>

- a. Do you condemn these offensive statements by Mr. Davis?

Response: I do not agree with this statement by Mr. Davis.

In September 2023, regarding President Trump’s immigration policy that separated families, Mr. Davis said: “We’re gonna put kids in cages. It’s gonna be glorious.”<sup>6</sup>

- b. Do you condemn this offensive statement by Mr. Davis?

Response: I do not agree with this statement by Mr. Davis.

Mr. Davis referred to Anita Hill, Christine Blasey Ford, and E. Jean Carroll as “three Democrat women who let Democrat operatives use them like cheap whores. (And liked it).”<sup>7</sup>

- c. Do you condemn this offensive statement by Mr. Davis?

Response: I do not agree with this statement by Mr. Davis.

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.”

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<sup>5</sup> Mike Davis (@mrddmia), X (Sept. 9, 2025, 11:44 PM), <https://x.com/mrddmia/status/1965622331067519071>.

<sup>6</sup> *Dems RAGE As Republicans EXPOSE Biden Crimes, DNC in PANIC to REPLACE Joe | Sen. Feinstein DEAD, THE BENNY SHOW* (Sept. 29, 2023), <https://www.youtube.com/watch?v=-s9-SotiUkI>.

<sup>7</sup> Mike Davis (@mrddmia), X (Jan. 17, 2024, 8:22 PM), <https://x.com/mrddmia/status/1747791643057565944>.

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

Response: I have not spoken to or corresponded with anyone associated with the ADF.

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

Response: No, I have not.

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

Response: No, I have not.

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: I have not spoken with any of the above-mentioned individuals during my selection process.

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

Response: No, I have not.

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

Response: No, I have not.

- 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 outside groups making donations to the Concord Fund or 85 Fund in support of my nomination. I have no opinion regarding any individual or group of individuals who make lawful donations to the Concord Fund or the 85 Fund.

- 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: By definition, if an undisclosed donation is made, I would have no awareness nor knowledge regarding that donation. As to recusal, I will follow 28 U.S.C. § 455, the federal recusal statute, and the Code of Conduct for United States Judges in assessing whether I need to recuse myself from a particular matter.

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

Response: I have not solicited any such donations, nor am I aware of any such donations being made to the Concord Fund or the 85 Fund. As a judicial nominee, it would be contrary to the Code of Conduct for United States Judges to express an opinion regarding any such donations.

**Nomination of Evan Rikhye  
Nominee to be District Judge for the District of the Virgin Islands  
Questions for the Record  
Submitted April 1, 2026**

**QUESTIONS FROM SENATOR WHITEHOUSE**

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

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

Response: In any threat investigation conducted by the U.S. Marshals Service, the FBI, or other federal law enforcement entities, I would expect a thorough and comprehensive investigation into threats against judges or other federal officials. During my 20-year career with the Department of Justice, I had the opportunity to prosecute cases involving threats and assaults against federal officials. In every instance, I worked alongside dedicated teams of agents whose professional and exhaustive investigations were essential to securing successful prosecutions and ensuring the safety of those who serve our justice system.

**Nomination of Evan Rikhye to the  
United States District Court of the Virgin Islands  
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

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: Before writing my responses, I watched the confirmation hearings of other district court nominees, and I reviewed answers to QFRs submitted by other judicial nominees to this committee. Thereafter, I drafted responses to each question posed by you and the other members of the Senate Judiciary Committee, after conducting my own case law research. After drafting my responses, I received feedback from officials with the DOJ Office of Legal Policy, and subsequently authorized submission of my QFR's to the Senate Judiciary Committee.

- 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, if the answer to a question accurately represents that nominee's 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 have not cut and pasted responses provided by previous nominees, but some answers that I have provided are materially similar to the answers provided by other 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: Throughout my career, I have looked to two primary role models for ethical conduct in the legal profession. The first is Paul Murphy, who was the United States Attorney for the District of the Virgin Islands. The second is retired Assistant U.S. Attorney Kim Lindquist, who served as Criminal Chief and my direct supervisor during my initial tenure with that office. As career prosecutors, both men provided essential mentorship in the complexities of criminal litigation and established a rigorous standard for strict adherence to the law and professional ethics. The lessons I learned from Mr. Murphy and Mr. Lindquist have informed my work every day of my legal practice.

- 6. How would you describe your judicial philosophy?

Response: I consider myself to be an originalist and a textualist. As such, I believe that District Judges should maintain a rigorous and practical focus upon the rules of evidence and procedure, and faithfully follow binding circuit and Supreme Court precedents.

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: To determine whether a right is fundamental and protected under the Fourteenth Amendment, I would look to the plain text of the Amendment, as well as the relevant Supreme Court and Circuit precedents which elucidate upon the issue of fundamental rights.

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

Response: Yes.

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

Response: In considering whether a right is deeply rooted in this nation's history and tradition, I would be required to follow the analysis set forth in Supreme Court in *Washington v. Glucksberg*, 521 U.S. 702 (1997).

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

Response: I would be bound to follow Supreme Court or circuit precedent when considering whether a particular right has been previously recognized. I could potentially consider the precedents of other circuits as persuasive authority, so long as the precedent from another circuit does not conflict with the precedents of the Third Circuit, which would be binding upon me.

- 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?

If confirmed as a District Judge, I would not look to my own personal sense of what should be a right. Instead, I would follow the binding precedent of the Supreme Court. Under the *Glucksberg* framework, I would conduct a rigorous analysis to determine if the asserted right is deeply rooted in our Nation's history and tradition and implicit in the concept of ordered liberty. My inquiry would be guided by the historical

record as it existed at the time of the Fourteenth Amendment's ratification, ensuring that I am interpreting the Constitution as it is written and understood, rather than expanding it based on modern policy preferences

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: In the event that such a question would come before me as a District Judge, I would carefully consider the precedents of the Supreme Court and Third Circuit. I would also carefully consider the arguments of counsel made orally and in their respective briefs.

9. Is President Trump eligible to be elected President for a third term in 2028? Assume that I know what the text of the 22<sup>nd</sup> 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 22<sup>nd</sup> Amendment states that a President may only be elected twice.

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

Response: During my appearance before the Senate Judiciary Committee and in written responses to QFRs from other members of the committee, I have described the constitutional mechanism for the election of the president. I believe that it would be inappropriate for me, as a judicial nominee, to express opinions on matters of political debate or controversy.

11. At your Senate Judiciary Committee nomination hearing, Senator Blumenthal asked you who won the 2020 election. You replied, "as my colleagues have stated, the process we have under the Constitution is a vote by the electoral college followed by certification."

- 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 prepared to answer a number of topics by watching prior confirmation hearings before the Senate Judiciary Committee, reading answers to QFR's submitted by other nominees and conducting my own legal research.

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

Response: No.

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

Response: No. I am mindful that the 2020 election remains a subject of intense public debate. As a judicial nominee, I believe it is essential to remain above political controversy. Therefore, I believe the most appropriate course of action is to refrain from engaging in such debate and instead provide a response that is neutral and factually accurate.

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: No.

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

Response: As a judicial nominee, I believe it would be contrary to the canons of judicial ethics for me to opine on the comments of an elected official on a matter of public controversy and debate.

- 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: As a judicial nominee, I believe it would be contrary to the canons of judicial ethics for me to opine on the comments of an elected official on a matter of public controversy and debate.

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

Response: As a judicial nominee, I believe it would be contrary to the canons of judicial ethics for me to opine on the comments of an elected official on a matter of public controversy and debate.

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

Response: As a judicial nominee, I believe it would be contrary to the canons of judicial ethics for me to opine on the comments of an elected official on a matter of public controversy and debate.

- 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: As a judicial nominee, I believe it would be contrary to the canons of judicial ethics for me to opine on the comments of an elected official on a matter of public controversy and debate.

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

Response: As a judicial nominee, I believe it would be contrary to the canons of judicial ethics for me to opine on the comments of an elected official on a matter of public controversy and debate.

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

Response: I would follow the recusal statute, 28 U.S.C. § 455, the judicial Code of Conduct, along with any relevant case law in the Third Circuit. I would also consult with my judicial colleagues, and I would carefully consider the arguments made by a party, if they sought my recusal from a particular matter.

- 14. I have been proud to co-lead the bipartisan *Safer Supervision Act*, a bill to reform our federal supervised release system that has received substantial conservative and law enforcement support. The premise of the bill is that our federal supervision system has strayed far from how Congress designed it, as courts impose it mechanically in essentially every case, which means that probation officers do not have time to properly supervise those who most need it. The bill reinforces courts’ existing obligations under 18 U.S.C. §§ 3553 and 3583 to impose supervision as warranted by the individual facts of the case and encourages more robust use of early termination when warranted to provide positive incentives encouraging rehabilitation. At the encouragement of a bipartisan group of members of Congress, the U.S. Sentencing Commission adopted an amendment

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

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

Response: Yes.

- 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, depending upon the circumstances of a particular defendant. Over the course of my 20-year career as a prosecutor, I saw how many criminal defendants benefitted greatly from the structure and support provided during periods of supervised release. I also observed other circumstances where a lengthy term of such supervision was cumbersome and ultimately unnecessary.

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

Response: Yes.

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

Response: As a judicial nominee, I believe it would be contrary to the canons of judicial ethics for me to opine on the comments of an elected official on a matter of public controversy and debate.

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

Response: Yes, the Supreme Court has so held in *United States v. Guest*, 383 U.S. 745 (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: As an initial matter, I would assess the source of the right to interstate travel such as a privileges and immunities clause, or the commerce clause, for example. Then, I would consult binding precedent, such as the Guest decisions referenced above, or other applicable Supreme Court decisions, and finally I would determine the level of scrutiny, which in the case of interstate travel which is a fundamental right, would be strict scrutiny.

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

Response: Yes, the Supreme Court has so held.

- 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: In *Griswold v. Connecticut*, 81 U.S. 479 (1965), the Supreme Court held that there is a privacy right that protects a married woman's right to use contraceptives. The Supreme Court expanded the scope of *Griswold* in *Eisenstadt v. Baird*, 405 U.S. 438 (1972). If confirmed, I would faithfully follow all applicable Supreme Court precedents.

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

Response: Yes, I believe that it does, because a written constitution should serve as an anchor of stability that doesn't shift with changes in society, politics or culture. This stability is an important mechanism to maintain legitimacy. Furthermore, I believe that remaining focused upon the original public meaning of constitutional provisions prevents judges from substituting their own personal view and preferences for the law as it was written.

- 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: Among the sources that could be consulted are Blackstone's commentaries, and other treatises of that era. Also, I believe that it important to distinguish between an analysis of fixed meaning of particular clauses of the constitution with how those fixed meanings would be applied to modern circumstances.

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

Response: Yes. The Supreme Court has stated that “the Due Process Clause applies to all persons within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

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

Response: I would hold that party in contempt of court.

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

Response: I would look to any precedents from the Third Circuit addressing this question, and I would carefully consider the arguments of counsel.

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

Response: I would turn to the binding precedents of the Third Circuit to address this question, and I would also consult with judicial colleagues to see how they addressed similar circumstances.

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

Response: In some circumstances, perhaps a Judge could consider the practical consequences of rendering a decision. However, Judges must ensure that they abide by binding precedents and relevant statutes.

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

Response: I do not believe a judge’s personal life experience should play a role in judicial decision-making.

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

Response: Empathy is an important consideration in all aspects of life, and certainly, as a federal judge, I would seek to bring a measure of empathy to my work, especially as it relates to victims of crime. However, empathy is a nebulous and subjective term, and the use of empathy in the judicial decision-making process should not detract from the necessary focus upon the rules of procedure, statutes and binding case law.

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

Response: I remain most proud of a prosecution I led in the Virgin Islands in 2010: *United States v. Franklin Xavier* (1:08-CR-08-WAL). The defendant, a career criminal, was charged with being a felon in possession of a firearm. The case was complex, relying on a theory of constructive possession regarding a .38 caliber revolver recovered from his mother-in-law's home. We ultimately secured the testimony of Mr. Xavier's wife, a survivor of his violent abuse, which included being pistol-whipped and subjected to 'Russian roulette.' Despite facing imminent and credible threats to her life from the defendant and his associates, she displayed immense courage by testifying in open court. A decade later, I encountered her by chance on St. Croix. She had since divorced Franklin Xavier, remarried, and built a stable career. She expressed her deep appreciation to the trial team, sharing that the prosecution had afforded her a second chance to rebuild her life

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

Response: Yes, I would certainly consider issuing such a standing order. Throughout my career, I was fortunate to have many opportunities to present oral arguments, each of which was foundational to my growth as an attorney. I believe it is vital for the next generation of advocates to gain that same experience. If confirmed, I would welcome the opportunity to encourage and provide a platform for junior attorneys to argue motions and gain essential courtroom experience.

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

Response: If I have a case with a junior attorney as counsel of record, I would also ask for written briefs on various matters in the pretrial phase to give that attorney the opportunity to engage in motions practice.

27. Discuss your proposed hiring process for law clerks.

Response: If confirmed, I would post clerkship vacancies on the court's OSCAR website and select potential candidates for interviews based on applications submitted on that platform.

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

Response: I have always prioritized treating every coworker with dignity and respect. As for whether Title VII should be extended to protect law clerks, I respectfully decline to answer, as providing an opinion on pending or potential legislation would be inappropriate for a judicial nominee.

28. Recently, multiple studies have revealed ongoing problems with workplace conduct policies and outcomes in the federal judiciary. In a national climate survey, hundreds of judiciary employees reported that they experienced sexual harassment, discrimination, or other forms of misconduct on the job. A study by the Federal Judicial Center and the National Academy of Public Administration found the branch has failed to set up trusted reporting systems for employees who experience misconduct or ensure those handling complaints are adequately trained.

- a. If confirmed, what proactive steps would you take to ensure that the clerks and judicial assistants who work in your chambers are treated with respect and are not subject to misconduct?

Response: I would not tolerate mistreatment or discrimination of any kind directed toward clerks or court personnel. Upon confirmation, I would prioritize a review of the district's established personnel policies. My goal would be to work alongside the Chief Judge and the rest of the bench to maintain a professional environment that fully protects the rights and dignity of all court employees.

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

Response: I would give a clear and unequivocal message to all court staff regarding my expectation of fair and dignified treatment and I would strive to create an environment where people know that they can come forward to express concerns without any fear of retaliation.

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

Response: I would report such allegations to the appropriate authorities.

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

- 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: As stated during my confirmation hearing, I respectfully decline to characterize the events of January 6, 2021. These events have been described variously as an insurrection, a riot, or a legitimate protest, and these competing narratives remain the subject of significant public debate. As a judicial nominee, it would be inappropriate for me to adopt any particular characterization of these events, as doing so could be perceived as compromising my commitment to impartiality.

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

Response: Under Article II of the Constitution, the President has plenary authority to issue pardons. *See* U.S. Const. Art. II, § 2, cl. 1. As a judicial nominee, I believe it would be inconsistent with the Code of Conduct for United States Judges and relevant ethical canons for me to offer an opinion on the manner in which the President exercises this plenary authority.

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

Response: Please see my answer to question 30.

**Senator Mazie K. Hirono**  
**Senate Judiciary Committee**

**Nomination Hearing**  
**Questions for the Record for Evan Rikhye**

1. At the hearing, you did not recall “liking” a LinkedIn post with a link to an April 2025 Frontline interview where Mike Davis stated, “I have no problem with President Trump pardoning almost all of those Jan. 6 defendants because they’ve suffered enough.”
  - a. Now that you have had an opportunity to review your social media account history, please confirm that you “liked” the post referenced above.

Response: LinkedIn provides a specific feature allowing users to review their account history by navigating to their profile, selecting 'Activity,' and filtering for 'Reactions,' which includes all 'Likes.' I performed a diligent search of my profile using these parameters and found no record of having 'liked' the post in question. Furthermore, I located the specific content I believe you are referencing: a July 2025 post by Mr. Davis featuring a link to his April 2025 PBS Frontline interview. I can definitively confirm that I did not 'like' that post.

**Nomination of Evan Rikhye**  
**United States District Court for the District of the Virgin Islands**  
**Questions for the Record**  
**Submitted April 1, 2026**

**QUESTIONS FROM SENATOR BOOKER**

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

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

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

Response: The role of the ABA in rating qualifications of judicial nominees is a matter of debate and public controversy. I do not believe that it would be appropriate me to opine on this question. Furthermore, the question of how or if the Department of Justice shares information about judicial nominees with any outside group is a matter solely within the discretion of the Attorney General. As such, I believe it would be inappropriate for me to comment.

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

Response: Out of respect for the separation of powers, I believe it would be inappropriate for me, as a judicial nominee, to opine on the question of how a Senate Committee should address the scenario of a nominee knowingly providing false information.

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

Response: Please see my answer to Question 2.

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

4. How would you characterize your judicial philosophy?

Response: I consider myself to be an originalist and a textualist. In practice, this means that if confirmed as a district judge, I will maintain a rigorous focus on the plain text of the law and the original public meaning of the Constitution. Furthermore, I recognize that a trial judge's primary duty is the disciplined application of the Rules of Evidence and Procedure, alongside a strict adherence to binding Circuit and Supreme Court precedent. These are the essential tools I will use to impartially resolve the complex legal questions that will undoubtedly come before the court

5. What do you understand originalism to mean?

Response: I understand originalism to refer to a mode of analysis that looks to the original public meaning to understand and interpret the Constitution.

6. Do you consider yourself an originalist?

Response: Yes.

7. What do you understand textualism to mean?

Response: I understand textualism to refer to a mode of legal analysis that looks to the plain text of a statute, rather than the intent of the legislators who drafted that statute.

8. Do you consider yourself a textualist?

Response: Yes.

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

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: If there is ambiguity in the plain text of a statute and if there is no controlling Circuit or Supreme Court precedent, I would on a limited basis consult legislative history.

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

Response: I believe that Courts must, first and foremost, look to the plain text of the statute at issue. Congressional intent could arguably be seen as subjective and variable, while the plain text of the statute is not.

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

a. What do you attribute this to?

Response: I do not have sufficient independent knowledge or basis upon which to answer this question.

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

a. What do you attribute this to?

Response: I do not have a sufficient independent knowledge or basis upon which to answer this question.

12. 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: In our federal criminal system, the government maintains broad prosecutorial discretion. However, that discretion must be exercised within the limits of the law; racial considerations in charging decisions constitute a gross violation of bedrock constitutional principles. Should a defendant claim that invidious racial bias influenced their prosecution, I would carefully evaluate such claims in light of prevailing Supreme Court and Circuit Court precedents

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

Response: Like all professionals, federal judges are shaped by their lived experiences. Throughout my career at the Department of Justice and in the private sector at Walmart, I have been privileged to work with individuals from across the globe and from diverse ethnic, racial, and socioeconomic backgrounds. I have also been privileged to work with lawyers with experiences in many different areas of the law. My experience collaborating with such colleagues has reinforced my belief that diversity of background and perspective is of immense benefit to the work we do.

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

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

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

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

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

Response: I have never written anything, nor made any public statements pertaining to these topics.

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

Response: Court orders must be obeyed by all litigants.

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

Response: I would commence contempt proceedings against that official.

- 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: In general, no, there is no basis that would allow an executive branch official to ignore or defy a TRO or preliminary injunction, absent an appeal or stay of that ruling by a higher court.

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

Response: No.

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

Response: The 1974 Budget Control and Impoundment Act stands for the proposition that the President may not do so.

18. 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: Because this question is a matter of ongoing political debate and controversy, I believe it would be contrary to the canons of judicial ethics for me to comment.

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

Response: Yes.

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

Response: In *Mathews v. Diaz*, 426 U.S. 67 (1976), the Supreme Court has held that it does.

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

Response: The Congress may delegate to federal agencies the power to implement statutes through rulemaking, subject to the Administrative Procedures Act. The Supreme Court has held such delegation is appropriate in a handful of different contexts. For example, in *Mistretta v. United States* 488 U.S. 361 (1989), the Supreme Court upheld the delegation of Congressional power to the U.S. Sentencing Commission for purposes of establishing the federal sentencing guidelines.

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

Response: Yes, *Brown* was correctly decided.

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

Response: Yes, *Griswold* is binding precedent. In *Griswold*, the Supreme Court struck down a Connecticut statute that prohibited the use of contraceptives by married couples, and it did so by finding that there is a right to privacy in the Constitution.

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

Response: Yes, *Lawrence* is binding precedent. In *Lawrence*, the Supreme Court struck down a Texas statute that prohibited consensual same sex activity among adults. The Court found a Fourteenth amendment substantive due process right that protects individuals' intimate, private conduct.

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

Response: Yes, *Obergefell* is binding precedent. In *Obergefell*, the Supreme Court found a constitutional right to same-sex marriage under the due process clause and the equal protection clause of the Fourteenth Amendment.

26. 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.

- a. Did Biden win a majority of the electoral vote in the 2020 election?
- b. Do you believe that the results of the 2020 election, meaning the vote count, were accurate? If not, please provide why not and examples.

Response: As I stated during my confirmation hearing on March 25, 2026, there is a constitutional process for election of a President, which entails a vote by the electoral college and then certification by Congress. *See* U.S. Const. Art. II, § 1. President Biden was certified as the winner of the 2020 election, and he served a 4-year term. I am mindful that the 2020 election remains a subject of intense public debate. As a judicial nominee, I believe it is essential to remain above political controversy. Therefore, I believe the most appropriate course of action is to refrain from engaging in such debate and instead provide a response that is neutral and factually accurate.

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

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

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

Response: President Trump was certified as the winner of the 2016 election, and he served a four-year term in office.

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

Response: Please see my response to 27(a).

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

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

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

Response: Please see my response to 27(c).

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

Response: The 22<sup>nd</sup> Amendment to the Constitution states: “No person shall be elected to the office of the President more than twice.” U.S. Const. amend. XXII, § 1.

28. 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.

29. 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: I have never spoken or corresponded with Elon Musk.

30. 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: I have never spoken or corresponded with any member of DOGE.

31. 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: I have never spoken or corresponded with Stephen Miller.

32. 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: I have never spoken or corresponded with Chad Mizelle.

33. 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: I have never spoken or corresponded with Pam Bondi.

34. 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: I have never spoken or corresponded with Todd Blanche.

35. 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: I have never spoken or corresponded with Emil Bove.

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

Response: I have not spoken or corresponded with Leonard Leo since November 2024.

37. 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.

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

- a. Enrique Tarrío
- b. Stewart Rhodes
- c. Kelly Meggs
- d. Kenneth Harrelson
- e. Thomas Caldwell
- f. Jessica Watkins
- g. Roberto Minuta
- h. Edward Vallejo
- i. David Moerschel
- j. Joseph Hackett

- k. Ethan Nordean
- l. Joseph Biggs
- m. Zachary Rehl
- n. Dominic Pezzola
- o. Jeremy Bertino
- p. Julian Khater

Response: I have never spoken or corresponded with any of these individuals.

39. 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: I have never spoken or corresponded with any such individual.

40. Federal judges must file annual financial disclosure reports and periodic transaction reports. If you are confirmed to the federal bench, do you commit to filing these disclosures and to doing so on time?

Response: Yes.

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

- a. Do you agree with the above statement?

Response: I do not agree with the above statement.

- 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: Mike Davis is a longtime friend whom I speak to on a regular basis.

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

Response: Aside from my friendship with Mike Davis noted above, I am not in contact with anyone else associated with A3P.

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

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

Response: Aside from my friendship with Mike Davis noted above, I have never been in contact with anyone else associated with A3P.

42. Since you were first approached about the possibility of being nominated, did anyone associated with the Trump Administration or Senate Republicans provide you guidance or advice about which cases to list on your Senate Judiciary Questionnaire (SJQ)?

Response: No.

- a. If so, who? What advice did they give?
- b. Did anyone suggest that you omit or include any particular case or type of case in your SJQ?

Response: No.

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

Response: Please see my answers above to question 42.

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

Response: No.

45. 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 began by watching the confirmation hearings of other district court nominees and reviewing answers to QFRs submitted by other nominees to this committee. Thereafter, I drafted responses to each of questions posed by you and the other members of the Senate Judiciary Committee, after conducting my own case law research. After drafting my responses, I received feedback from officials with the DOJ Office of Legal Policy, and subsequently authorized submission of my QFR's to the Senate Judiciary Committee.