Senator Dick Durbin
Ranking Member, Senate Judiciary Committee
Written Questions for Zachary Bluestone
Nominee to be U.S. District Judge for the Eastern District of Missouri
June 11, 2025

1. You graduated from law school only nine years ago and have been litigating for just seven years.

   What qualifies you to handle the demands of the bench, given that you have only been a litigator for seven years?

Response: The quantity, quality, and relevance of my legal experience make me uniquely qualified for this important role.

In terms of quality, as a public servant, I have been entrusted with significant responsibility throughout my legal career. During my first week as a Deputy Solicitor General, I led a major deposition; within my first month, I served on a trial team in a high-profile case; and within three months, I briefed and argued an appeal. And I have been blessed with a steady flow of high-level opportunities ever since. Moreover, I have supervised other attorneys for nearly my entire legal career, having been promoted to Appellate Chief just 9 months after joining the U.S. Attorney's Office.

As for quantity, I have worked Big Law hours in government jobs, which has resulted in the extensive court experience you referred to during the confirmation hearing. Most significantly, I have supervised more than 1,000 civil and criminal cases, which has involved reviewing at least 750 substantive filings, overseeing 150 moot courts, and spending a considerable time supervising attorneys in the courtroom. And while not expected, I have maintained a significant caseload on the side—including dozens of appeals, ten oral arguments, dispositive motions, five trials, a litany of postconviction challenges, and the prosecution of more 50 defendants.

In terms of relevance, for more than 7 years, I have worked in the same courthouse where I would sit if confirmed (in addition to meeting my wife there while clerking for the Eighth Circuit). I have had hundreds of appearances at every manner of proceeding, from arraignments to hearings on dispositive motions, guilty pleas to *Frye* hearings and trials, and sentencings to postconviction and other civil proceedings. I have also represented the U.S. Attorney's Office both at meetings on ad hoc court policies and on the Federal Practice Committee that consults on local rules—with both experiences allowing me to build relationships with various civil and criminal stakeholders in my legal community.

Lastly, prior to law school, I spent a few years earning my MBA and helping run my family's company after losing my father to leukemia. While obviously not a legal role, this experience provided me insight as a client of legal services, and it taught me many practical lessons that make me a far better lawyer than I otherwise would have been.

2. In March 2007, you were quoted in a *Georgetown Voice* article regarding a contract dispute between Georgetown University and its Department of Public Safety (DPS). DPS called for higher salaries and bulletproof vests, and some students held a rally on campus in support to the DPS. While some students expressed sympathy for the officers' cause, you called the request for bulletproof vests "humorous," and said that you believed DPS's demands were unreasonable.

    a. Why did you consider police offers requesting bulletproof requests humorous and unreasonable?

    Response: The one-word quote attributed to me was taken out of context. As noted in the same *Georgetown Voice* article, bulletproof vests were already available to DPS staff, but there was "very limited use of them." Based on my understanding from information I received at the time, the DPS negotiators' demands for bulletproof vests and other concessions were conceived as bargaining chips for a pay increase, which was the real priority. Thus, my only point was that the negotiators should focus on the issue that mattered to them rather than requesting equipment that was already available to them but not used.

    b. Do you regret your statement disregarding police officers' legitimate safety concerns?

    Response: Please see my response to Question 2(a). Additionally, during my time as a federal prosecutor, I am proud to have worked closely with dozens of federal agents, TFOs, and state and local police officers. As they would tell you, officer safety during our investigations consistently has been my top priority.

3. Did President Trump lose the 2020 election?

Response: Under Article II and the Twelfth Amendment, Congress is responsible for counting electoral votes after a presidential election. Congress certified President Biden as the victor of the 2020 election, and he served as the 46th President of the United States.

4. Where were you on January 6, 2021?

Response: I was at work at the U.S. Attorney's Office in St. Louis. That day, I attended a training on evidentiary issues for criminal litigators and oversaw a moot court for an Eighth Circuit oral argument.

5. Do you denounce the January 6 insurrection?

Response: I have served as a federal prosecutor both before and since January 6, 2021. Given that the United States is my client and that it was responsible for prosecuting individuals for their actions that day, it would be inappropriate for me to comment on the specific events that took place. However, I can say that violence directed toward law

enforcement officers is never acceptable, and having worked for the Seante, I have a profound appreciation for the national treasure that is the United States Capitol building.

6. 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 commits the pardon power to the sole discretion of the President. *See United States v. Klein*, 80 U.S. 128, 147 (1871). As a current federal prosecutor and a judicial nominee, it would not be appropriate for me to comment on the judgment of any President in exercising the pardon power.

7. 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: Ordinarily, parties who are dissatisfied with a federal court order have the option to appeal the order to higher courts, including the option to seek a stay pending appeal or, in extraordinary circumstances, mandamus relief.

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

    Response: As discussed in response to questions from you at the confirmation hearing, court orders are nearly always binding as to the parties to a case. However, the Supreme Court has explained that, under limited circumstances, "orders made by a court having no jurisdiction to make them may be disregarded without liability to process for contempt." *United States v. United Mine Workers*, 330 U.S. 258, 291 (1947). Additionally, courts have recognized several other narrow defenses to contempt proceedings depending on the particular circumstances of the case. *See* Heidi Kocher, III, *Trial Authority of the Trial Judge*, 79 Geo. L.J. 1019, 1025 & n.1869 (1991) (collecting cases).

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

    Response: While the Supreme Court has found a limited number of issues to be nonjusticiable political questions, appellate courts in the Judicial Branch are generally responsibile for determining whether a lower court order is lawful.

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

a. Are non-party injunctions constitutional?

Response: The scope of any Article III limitations on non-party or "universal" injunctions is the subject of litigation before multiple federal courts, including the Supreme Court. *See Trump v. Casa, Inc.*, No. 24A884 (argued May 15, 2025). As a judicial nominee, it would not be appropriate for me to opine on matters "pending or impending in any court." *See* CODE OF CONDUCT OF U.S. JUDGES, Canon 3A(6).

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

Response: Please see my response to Question 8(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 8(a).

d. As a litigator, have you ever sought a non-party injunction as a form of relief? If so, please list each matter in which you have sought such relief.

Response: No.

9. 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.

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

Response: The text of the Twenty-Second Amendment speaks for itself.

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

Response: A district court is always bound by Supreme Court precedent and the precedent of the relevant circuit court. A district court may not depart from Supreme Court precedent and may depart from circuit precedent only where it has been overridden by a subsequent decision of the Supreme Court.

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

Response: The Eighth Circuit has recognized the principle of horizontal stare decisis by adopting "a cardinal rule . . . that one panel is bound by the decision of a prior panel" with

only limited exceptions for intervening Supreme Court precedent or repudiation from the en banc court. *See, e.g.*, *United States v. Donath*, 107 F.4th 830, 836 (8th Cir. 2024) (quoting *Mader v. United States*, 654 F.3d 794, 800 (8th Cir. 2011) (en banc)). A district court has no ability to overturn circuit precedent.

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

Response: As the Supreme Court has recognized, "*Stare decisis* is the preferred course because it promotes the evenhanded, predictable, and consistent development of legal principles, fosters reliance on judicial decisions, and contributes to the actual and perceived integrity of the judicial process." *Janus v. Am. Fed'n of State, Cnty. & Mun. Emps.*, 585 U.S. 878, 916 (2018) (citation omitted). But this principle "is not an inexorable command." *Id.* at 917. In evaluating whether to overrule precedent, the Supreme Court considers several factors, including quality of reasoning, workability, consistency with related decisions, erosion over time, and reliance interests. *Id.* A district court has no ability to overrule Supreme Court precedent.

14. 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: As a judicial nominee, it generally would be inappropriate for me to opine on the correctness of a Supreme Court decision. However, a long line of nominees before me have recognized an exception for *Brown* given its unique role in American jurisprudence in righting the historic injustice of racial segregation. I believe the *Brown* Court was right to reject the vile separate-but-equal doctrine.

b. Plyler v. Doe

Response: As a judicial nominee, it would be inappropriate for me to opine on the correctness of a Supreme Court decision. However, if confirmed as a district judge, I commit to follow *Plyler* and all Supreme Court precedent.

c. Loving v. Virginia

Response: As a judicial nominee, it generally would be inappropriate for me to opine on the correctness of a Supreme Court decision. However, a long line of nominees before me have recognized an exception for *Loving* given its unique role in American jurisprudence in righting the historic injustice of racial segregation. I believe the *Loving* Court was right to invalidate restrictions on interracial marriage.

d. Griswold v. Connecticut

Response: As a judicial nominee, it would be inappropriate for me to opine on the correctness of a Supreme Court decision. However, if confirmed as a district judge, I commit to follow *Griswold* and all Supreme Court precedent.

e. Trump v. United States

Response: As a judicial nominee, it would be inappropriate for me to opine on the correctness of a Supreme Court decision. However, if confirmed as a district judge, I commit to follow *Trump v. United States* and all Supreme Court precedent.

f. Dobbs v. Jackson Women's Health Organization

Response: As a judicial nominee, it would be inappropriate for me to opine on the correctness of a Supreme Court decision. However, if confirmed as a district judge, I commit to follow *Dobbs* and all Supreme Court precedent.

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

Response: As a judicial nominee, it would be inappropriate for me to opine on the correctness of a Supreme Court decision. However, if confirmed as a district judge, I commit to follow *Bruen* and all Supreme Court precedent.

h. Obergefell v. Hodges

Response: As a judicial nominee, it would be inappropriate for me to opine on the correctness of a Supreme Court decision. However, if confirmed as a district judge, I commit to follow *Obergefell* and all Supreme Court precedent.

i. Bostock v. Clayton County

Response: As a judicial nominee, it would be inappropriate for me to opine on the correctness of a Supreme Court decision. However, if confirmed as a district judge, I commit to follow *Bostock* and all Supreme Court precedent.

j. Masterpiece Cakeshop v. Colorado

Response: As a judicial nominee, it would be inappropriate for me to opine on the correctness of a Supreme Court decision. However, if confirmed as a district judge, I commit to follow *Masterpiece Cake* and all Supreme Court precedent.

k. 303 Creative LLC v. Elenis

Response: As a judicial nominee, it would be inappropriate for me to opine on the correctness of a Supreme Court decision. However, if confirmed as a district judge, I commit to follow *303 Creative* and all Supreme Court precedent.

l. *United States v. Rahimi*

Response: As a judicial nominee, it would be inappropriate for me to opine on the correctness of a Supreme Court decision. However, if confirmed as a district judge, I commit to follow *Rahimi* and all Supreme Court precedent.

m. *Loper Bright Enterprises v. Raimondo*

Response: As a judicial nominee, it would be inappropriate for me to opine on the correctness of a Supreme Court decision. However, if confirmed as a district judge, I commit to follow *Loper Bright* and all Supreme Court precedent.

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

Response: The Supreme Court has instructed that, in interpreting the Constitution, the analysis begins with the text and the original meaning of the provision at issue. *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 17, 25, 28 (2022).

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

Response: While not limited to such circumstances, the *Bruen* Court emphasized the importance of a historical understanding where the constitutional text "meant to codify a *pre-existing* right." *Id.* at 25. If confirmed, I would begin addressing any question of constitutional interpretation by applying applicable precedent of the Supreme Court or the Eighth Circuit construing that provision. If such precedent does not resolve the issue, it then would be appropriate to consider the original public meaning of the provision.

17. Does the "original meaning" of the Constitution support a constitutional right to same-sex marriage?

Response: The Supreme Court recognized that the right to marriage is guaranteed to same-sex couples in *Obergefell v. Hodges*, 576 U.S. 644 (2015). If confirmed as a district judge, I would be bound by and would faithfully follow this and other Supreme Court precedent.

18. Does the "original meaning" of the Constitution support the constitutional right to marry persons of a different race?

Response: The Supreme Court recognized that the right to interracial marriage in *Loving v. Viriginia*, 388 U.S. 1 (1967). If confirmed as a district judge, I would be bound by and would faithfully follow this and other Supreme Court precedent.

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

Response: The Equal Protection Clause guarantees equal protection under the law absent a sufficiently compelling rationale, with the level of judicial scrutiny depending on the nature of the classification. For example, racial discrimination is inherently "suspect" and thus triggers strict scrutiny, *see Students for Fair Admissions v. Harvard*, 600 U.S. 181, 206, 210 (2023); gender-based distinctions require "an exceedingly persuasive justification," *see United States v. Virginia*, 518 U.S. 515, 531 (1996); and most other classifications are subject to only rational-basis review, *City of Dallas v. Stanglin*, 490 U.S. 19, 25–27 (1989). As for the Due Process Clause, the Supreme Court has explained it "provides substantive, as well as procedural, protection for 'liberty,'" with the former including certain enumerated rights and other fundamental rights that are "deeply rooted in [our] history and tradition . . . and essential to our Nation's scheme of ordered liberty." *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 237 (2022) (citations and internal quotations omitted).

20. 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 held that equal protection applies to gender classifications, requiring an "exceedingly persuasive justification" to uphold them. *See United States v. Virginia*, 518 U.S. 515, 531 (1996). And as noted in my response to Question 17, in *Obergefell*, the Supreme Court held that the Fourteenth Amendment guarantees same-sex couples the right to marry "on the same terms accorded to couples of the opposite sex." 576 U.S. at 680. If confirmed as a district judge, I would be bound by and would faithfully follow this and other Supreme Court precedent.

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

Response: The Supreme Court has instructed that the original public meaning of a constitutional provision is highly relevant in applying it today. *See, e.g.*, *Dobbs*, 597 U.S. at 238–40 (collecting cases); *Timbs v. Indiana*, 586 U.S. 146, 150–54 (2019). As the Court recently observed, while a constitutional provision's "meaning is fixed according to the understandings of those who ratified it, the Constitution can, and must, apply to circumstances beyond those the Founders specifically anticipated." *Bruen*, 597 U.S. at 28.

22. 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: Based on recent press reports concerning the Foreign Emoluments Clause and litigation during President Trump's first term addressing this issue, I do not believe it would be appropriate for me to opine on a matter likely impending in federal court. *See* CODE OF CONDUCT OF U.S. JUDGES, Canon 3A(6).

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

Response: First Amendment protections apply broadly, with the text prohibiting Congress from making laws that restrict these rights. The precise contours of the protections would depend on the specific right at issue. For example, as discussed in my response to Question 25, true threats are not protected speech. If confirmed as a district judge, I would carefully evaluate claims concerning any First Amendment right in light of applicable precedent.

24. 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 that the principal inquiry in determining whether a law is "content based" or "content neutral" is "whether the government has adopted a regulation of speech because of agreement or disagreement with the message it conveys." *Turner Broad. Sys. v. F.C.C.*, 512 U.S. 622, 642 (1994) (citation omitted). "As a general rule, laws that by their terms distinguish favored speech from disfavored speech on the basis of the ideas or views expressed are content based." *Id.* (citations omitted). "By contrast, laws that confer benefits or impose burdens on speech without reference to the ideas or views expressed are in most instances content neutral." *Id.* (citations omitted).

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

Response: As the Supreme Court has summarized, "'True threats' encompass those statements where the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals." *Virginia v. Black*, 538 U.S. 343, 359 (2003) (citations omitted). More recently, the Supreme Court cautioned that "[t]he 'true' in that term distinguishes" serious expressions of intent to harm "from jests, 'hyperbole,' or other statements that when taken in context do not convey a real possibility that violence will follow . . . ." *Counterman v. Colorado*, 600 U.S. 66, 74 (2023). In other words, this analysis is highly dependent on the facts of a given case.

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

Response: The Fifth Amendment states that "[n]o person shall . . . be deprived of life, liberty, or property, without due process of law," and the Fourteenth Amendment provides a similar protection as to state conduct.

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

Response: This issue is the subject of litigation before federal courts. As a judicial nominee, it would not be appropriate for me to opine on matters "pending or impending in any court." *See* CODE OF CONDUCT OF U.S. JUDGES, Canon 3A(6).

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

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

    Response: The meaning of the Citizenship Clause of the Fourteenth Amendment is the subject of litigation before federal courts. As a judicial nominee, it would not be appropriate for me to opine on matters "pending or impending in any court." *See* CODE OF CONDUCT OF U.S. JUDGES, Canon 3A(6).

    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 28(a).

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

Response: Yes. While I believe merit is the most important consideration, all Americans should have an equal opportunity to serve on the bench regardless of their immutable characteristics, and I agree it is beneficial to have judges from various backgrounds and walks of life.

30. 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: During my time at the U.S. Attorney's Office, I have had extensive experience with the First Step Act, particularly its compassionate-release provisions. If confirmed, I would be bound to apply the statute like any other duly-enacted law, with the bulk of my focus likely to remain on compassionate release.

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. As a federal prosecutor, I fully appreciate that sentencing decisions require an individualized assessment of both the aggravating and mitigating factors in a particular case. *See Gall v. United States*, 552 U.S. 38, 50 (2007). If confirmed as a district judge, I would begin all sentencing hearings by calculating the advisory range under the United States Sentencing Guidelines, give the parties the opportunity to make sentencing arguments, consider the section 3553(a) factors, and then fashion a sentence accordingly.

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

a. In your Questionnaire, you state that you are currently or were previously a member of the Federalist Society. What is your understanding of "traditional values"?

Response: While I am a member of the Federalist Society, I played no role in drafting the quoted phrase and thus am in no position to opinion as to what was intended by those who did.

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.[1]

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

Response: I have no knowledge of what advice, if any, the Federalist Society provided to President Trump during his first term.

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

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

Response: While I am a member of the Federalist Society, I do not personally know Leonard Leo and cannot comment on the President's statements.

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

Response: Yes, subject to any restrictions under 28 U.S.C. § 455, the Code of Conduct for United States Judges, or other applicable laws or 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: While I am a member of the Federalist Society, I do not know Leonard Leo or Steven Calabresi, and I have not communicated about my judicial nomination with anyone in an official capacity with the organization.

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

Response: I have not provided services to the Federalist Society but was invited to speak at a joint Federal Bar Association and Federalist Society CLE on recent Supreme Court decisions (as detailed in my Senate Judiciary Questionnaire).

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

Response: No.

32. 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 am not a member of the Teneo Network and do not know Leonard Leo. I have not had any communications about my judicial nomination with anyone in an official capacity with the organization.

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.

33. 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: In 2013, I worked at the Heritage Foundation as a special assistant to Senator Jim Talent (as detailed in my Senate Judiciary Questionnaire). During the selection process, I contacted a former colleague and an HR representative for employment-verification purposes concerning my background investigation. Beyond that, I do not know Kevin D. Roberts and have not had any communications about my judicial nomination with anyone in an official capacity with of either organization.

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, aside from the prior employment noted in response to Question 33(a).

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.

34. 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 am not a member of the AFPI and have not had any communications about my judicial nomination with anyone in an official capacity with the organization.

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.

35. 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 am not a member of AFLI and do not know Stephen Miller, Gene Hamilton, or Daniel Epstein. I have not had any communications about my judicial nomination with anyone in an official capacity with the organization.

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.

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

a. During your selection process, have you spoken to or corresponded with any individuals associated with the Article III Project, including Mike Davis, Will

Chamberlain, or Josh Hammer? If so, please provide details of those discussions.

Response: I am not a member of the Article III Project and do not know Mike Davis, Will Chamberlain, or Josh Hammer. I have not had any communications about my judicial nomination with anyone in an official capacity with the organization.

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.

37. 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 am not a member of ADF and have not had any communications about my judicial nomination with anyone in an official capacity with the organization.

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.

38. 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 am not a member of the Concord Fund (or the Judicial Crisis Network) and do not know Leonard Leo or Carrie Severino. I have not had any communications about my judicial nomination with anyone in an official capacity with the organization.

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 have no knowledge of any such donations. To the extent that this question is addressed to whether I think such donations to be problematic as a policy matter, I do not believe that it would be appropriate for me to address as a judicial nominee.

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 address all actual or potential conflicts of interest by reference to 28 U.S.C. § 455, the Code of Conduct for United States Judges, and any and all other laws, rules, and practices governing such circumstances. To the extent that this question is addressed to whether I think such donations should be made public as a policy matter, I do not believe that it would be appropriate for me to address this matter as a judicial nominee.

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 Question 38(d) and (e).

Senator Mike Lee
Questions for the Record
Zachary M. Bluestone, to be United States District Judge for the Eastern District of Missouri

1. What role do the text and original meaning of a constitutional provision play when interpreting the Constitution?

Response: In *New York State Rifle and Pistol Association v. Bruen*, the Supreme Court explained that constitutional interpretation begins with looking at the text and the original meaning of the provision at issue. 597 U.S. 1, 17–18 (2022); *see also Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 238–40 (2022) (collecting cases).

2. What qualifies a particular group as a "suspect class," such that laws affecting that group must survive strict scrutiny?

Response: To determine whether a particular group qualifies as a "suspect class," the Supreme Court has assessed whether the relevant individuals "exhibit obvious, immutable, or distinguishing characteristics that define them as a discrete group," *Bowen v. Gilliard*, 483 U.S. 587, 602 (1987), as well as whether the group is "politically powerless" or has experienced a history of discriminatory treatment, *Lyng v. Castillo*, 477 U.S. 635, 638 (1986); *see also City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 440-41 (1985) (listing five protected classes).

3. How would you describe the role that checks and balances and separation of powers play in the Constitution's structure?

Response: These twin principles are of central importance to the Constitution's structure and are perhaps the key features that have allowed for the longevity and stability of our Republic. From their experience under British rule, the Framers were keenly aware that "[t]he accumulation of all powers legislative, executive and judiciary in the same hands . . . may justly be pronounced the very definition of tyranny." FEDERALIST NO. 47. To guard against this concentration of power, they adopted various structural devices aimed at ensuring that "[a]mbition [would] counteract ambition" by "giving those who administer each department, the necessary constitutional means, and personal motives, to resist encroachments of the others." FEDERALIST NO. 51. As Justice Scalia observed during his 2011 remarks before this Committee, the real genius of our Constitution lies in this balanced structure, which ensures that our rights are more than mere "parchment guarantees."

4. How would you evaluate a case in which one branch assumed an authority not granted it by the text of the Constitution?

Response: Generally, I would begin by looking to any applicable precedent of the Supreme Court or the Eighth Circuit construing the relevant provision or addressing similar scenarios of claimed authority. If such precedent does not resolve the question, then it would be appropriate to consider the original public meaning of the constitutional text as well as any structural inferences that might arise from the Constitution's separation and express

enumeration of federal powers. The Supreme Court has also instructed that "the longstanding practice of the government" can inform judicial determination "of what the law is in a separation-of-powers case." *NLRB v. Noel Canning*, 573 U.S. 513, 514 (2014) (citations omitted).

5. How would you explain the difference between judicial review and judicial supremacy?

Response: In the context of federal adjudication, I understand judicial review to refer to courts' Article III power to interpret the meaning of a constitutional or statutory provision in the course of issuing judgments in particular cases and controversies. By contrast, I understand judicial supremacy to refer to the view that courts' decisions addressing the meaning of the Constitution reflect the only permissible constitutional reading and, unless and until subsequently reversed, should control other officials' constitutional interpretations even outside of the context of particular cases and controversies or issued judgments.

Nomination of Zachary Maxwell Bluestone
Nominee to the U.S. District Court for the Eastern District of Missouri
Questions for the Record
Submitted June 11, 2025

QUESTIONS FROM SENATOR WHITEHOUSE

1. You said in your questionnaire that President Trump called you to tell you that you would be nominated.

    a. What else did he discuss on the phone call?

    Response: The phone call lasted only a few minutes. The President discussed my academic and professional credentials, congratulated me and my family on the nomination, and wished me luck in life.

    b. Did he ask you to make any commitments?

    Response: No.

2. You said in your questionnaire that you have been a member of the Federalist Society since 2013. Recently, President Trump said he was "so disappointed" with the Federalist Society's "bad advice" on nominees, calling Leonard Leo a "sleazebag" and a "bad person who, in his own way, probably hates America."

    a. Do you agree with President Trump that Leonard Leo is a "sleazebag"? Why or why not?

    Response: While I am a member of the Federalist Society, I do not personally know Leonard Leo. I am not familiar with the topic this asks about, and it would be inappropriate for a judicial nominee to wade into political disputes.

    b. Do you agree with President Trump that Leonard Leo is a "bad person who, in his own way, probably hates America"? Why or why not?

    Response: Please see my response to Question 2(a).

3. Have you had any conversations with members of the Trump administration concerning your personal views on any policy or case law? If so, please describe those conversations with specificity.

Response: No.

4. Do you believe it is appropriate to impeach judges solely for ruling against the executive branch?

Response: Article I of the Constitution grants Congress the impeachment power, with the House of Representatives entrusted with "the sole Power of Impeachment" and the Senate entrusted

with "the sole Power to try all impeachments." In light of these "textually demonstrable commitment[s]," the Supreme Court has clarified that impeachments are political questions not subject to judicial involvement. *See Nixon v. United States*, 506 U.S. 224, 228, 233–38 (1993).

5. Please explain your understanding of existing case law regarding:

a. The executive branch's obligation to comply with federal court orders.

Response: As discussed in response to questions from Ranking Member Durbin at the confirmation hearing, court orders are nearly always binding as to government officials and other parties to a case. However, the Supreme Court has explained that, under limited circumstances, "orders made by a court having no jurisdiction to make them may be disregarded without liability to process for contempt." *United States v. United Mine Workers*, 330 U.S. 258, 291 (1947). Additionally, courts have recognized several other narrow defenses to contempt proceedings depending on the particular circumstances of the case. *See* Heidi Kocher, III, *Trial Authority of the Trial Judge*, 79 Geo. L.J. 1019, 1025 & n.1869 (1991) (collecting cases).

b. Remedies available to a federal court to ensure executive branch compliance with a court order.

Response: Courts have a variety of methods to ensure compliance by any litigant with court orders. A common one is discovery sanctions. Courts sometimes draw adverse inferences from discovery failures or require one party to cover the costs of others. In more extreme cases, courts can dismiss a case or engage in contempt proceedings.

c. Federal government lawyers' duty of candor to federal courts before which those lawyers appear.

Response: Any lawyer representing any party has a duty of candor to the courts.

d. The president's legal obligations under the Constitution's Take Care Clause.

Response: The Constitution provides that the President "shall take Care that the Laws be faithfully executed." The Supreme Court has often discussed this clause in the context of the appointment and removal power.

e. The limits of the executive branch's power under the anti-commandeering doctrine.

Response: The Supreme Court has held that Congress cannot compel the States or their officials to participate in federal regulatory programs, partly based on separation-of-powers concerns for impact on the Executive Branch. *Printz v. United States*, 521 U.S. 898, 922–23, 935 (1997).

f. The president's ability or inability to impound congressionally appropriated funds.

Response: Congress passed the Impoundment Control Act in 1974. I have not had occasion to form an opinion on how this statute might apply it to any particular facts. To the extent the question asks about current legal disputes, it would be improper for me to comment on a matter that is pending or impending in any court. *See* CODE OF CONDUCT OF U.S. JUDGES, Canon 3A(6).

g. The federal government's ability to enact laws or regulations that burden Second Amendment rights.

Response: When a law or regulation affects conduct protected by the Second Amendment, the Government bears the burden of showing that the restriction "is consistent with the Nation's historical tradition of firearm regulation." *United States v. Rahimi*, 602 U.S. 680, 692 (2024) (citation omitted). The court then must decide whether the challenged provision is "relevantly similar" to Founding Era regimes, focusing chiefly on "why and how" the regulation burdens the Second Amendment right. *Id.* at 698.

h. The federal government's ability to enact generally applicable laws that are not motivated by animus but nonetheless burden religious practices.

Response: In *Employment Division v. Smith*, the Supreme Court concluded that as a constitutional matter, the government may enact neutral, generally applicable laws even if they burden religious practice. That decision proved controversial, and Congress passed the Religious Freedom Restoration Act in response, subjecting those laws to strict scrutiny. Under the *Lukumi* and *Tandon* decisions, a government regulation is not neutral or generally applicable if, though facially nondiscriminatory, it is gerrymandered to target a religion, as in *Lukumi*, or if it "treat[s] *any* comparable secular activity more favorably than religious exercise," as in *Tandon*.

6. As a practicing attorney, have you ever sought a nationwide injunction or similar relief in federal court, or, as a judge, have you ever issued a nationwide injunction or similar relief? If yes, please list and describe each case.

Response: No.

a. Have you ever publicly voiced support or opposition regarding a federal court's issuance of a nationwide injunction or similar relief? If yes, please describe.

Response: No.

b. Do you believe that a federal judge issuing a nationwide injunction or similar relief against the executive branch is equivalent to a coup d'etat?

Response: The scope of any Article III limitations on non-party or "nationwide" injunctions is the subject of litigation before multiple federal courts, including the Supreme Court. *See Trump v. Casa, Inc.*, No. 24A884 (argued May 15, 2025). As a judicial nominee, it would not be appropriate for me to opine on matters "pending or impending in any court." *See* Code of Conduct of U.S. Judges, Canon 3A(6).

c. Do you believe that a federal judge who issues a nationwide injunction or similar relief against the executive branch is equivalent to insurrection?

Response: Please see my response to Question 6(b).

d. Do you believe that a federal judge who issues a nationwide injunction or similar relief against the executive branch is an activist judge?

Response: Please see my response to Question 6(b).

7. Please describe your understanding of natural law.

Generally speaking, natural law is a legal theory that recognizes certain principles as morally inherent and universal, in contrast to positive laws that are created by society or government. For example, from a natural-law perspective, murder would be wrong even if not expressly proscribed by statute, while it would be permissible from a positive-law view.

a. What authority does natural law carry in federal case law?

Response: Natural-law principles are central to our Nation's foundational documents, including the Declaration of Independence's recognition "that all men are created equal [and] are endowed by their Creator with certain unalienable Rights" and the Due Process Clauses' protections for "life, liberty, or property" (inspired by Lokean political philosophy). As a result, the Supreme Court has relied on this perspective in interpreting the Constitution. *See, e.g.*, *303 Creative LLC v. Elenis*, 600 U.S. 570, 584 (2023) (observing that "the freedom to think and speak is among our inalienable human rights"); *District of Columbia v. Heller*, 554 U.S. 570, 128 (2008) (explaining that some constitutional provisions were understood to have "codified a *pre-existing* right").

b. When do you think it is appropriate for a federal judge to rely on natural law?

Response: As noted in my response to Question 7(b), the Supreme Court has relied on natural-law reasoning in interpreting several constitutional rights.

c. If confirmed, do you plan to incorporate natural law into your decisions?

Response: If confirmed, I would follow Supreme Court and Eighth Circuit precedent regarding the incorporation of natural law into judicial decisions.

8. Please describe your understanding of originalism.

Response: Originalism is a method of constitutional interpretation that requires a judge to apply their best understanding of the original public meaning of a constitutional provision.

a. Do you consider yourself an originalist?

Response: In interpreting the Constitution, I would employ methodologies consistent with the methods of interpretation that the Supreme Court employs when it undertakes to interpret constitutional provisions. The Court has routinely interpreted various constitutional provisions by attempting to discern the original meaning of the words used as understood by the public at the time of the Founding.

b. Do you believe that people who do not support or adhere to originalism do not like America?

Response: Consistent with the Code of Conduct and positions taken by prior nominees, it would be inappropriate for me, as a judicial nominee, to comment on jurists, statements by political figures, or the broader political debate regarding the permissible criticism of judges.

c. Based on your understanding of originalism, was *Citizens United v. Federal Election Commission* an originalist decision? Why or why not?

Response: The opinion in *Citizens United v. FEC* discusses the evidence and sources of authority on which the respective opinions relied. I have not had occasion to study whether *Citizens United* is consistent with originalism, and in any event, I would follow that and other binding precedents of the Supreme Court.

d. Based on your understanding of originalism, was *Trump v. United States* an originalist decision? Why or why not?

Response: The opinion in *Trump v. United States* discusses the evidence and sources of authority on which the respective opinions relied. I have not had occasion to study whether *Trump* is consistent with originalism, and in any event, I would follow that and other binding precedents of the Supreme Court.

9. Please describe your understanding of textualism.

Response: Textualism calls for a judge to interpret the text as it was written, assigning the meaning it had at the time of its enactment. Context surrounding a law's passage can be probative to a textualist to the extent that context sheds light on the original public meaning of the statutory text.

a. Do you consider yourself a textualist?

Response: In approaching statutory interpretation, I would follow the methodological instructions of the Supreme Court and Eighth Circuit. The Supreme Court has instructed that the best meaning of statutory text, as assessed by the time of enactment, is generally entitled to controlling weight. That is the approach I would follow, along with any other relevant instructions.

b. How should a court analyzing a federal statute account for the "Findings" or "Purposes" sections of such statutes?

Response: The Supreme Court has instructed that such sections, as well as other indicia of meaning like section titles or captions, can permissibly factor as inputs when interpreting the best meaning of a statutory provision. *See, e.g.*, *Yates v. United States*, 574 U.S. 528, 539 (2015); A. SCALIA & B. GARNER, READING LAW: THE INTERPRETATION OF LEGAL TEXTS 217 (discussing "prefatory-materials canon"). It would be inappropriate for me, as a pending judicial nominee, to comment further on particular hypotheticals about how a "Findings" or "Purposes" section might or might not affect a statutory analysis.

10. Please describe your understanding of the different roles of district and appellate courts with respect to fact-finding.

Response: My general understanding is that district courts, as the trial courts, maintain primary responsibility for resolving questions of fact and credibility. In contrast to legal questions, which are reviewed *de novo*, district courts' resolution of disputed questions of fact or credibility are generally reviewed by appellate courts under more lenient standards such as "clear error" or "abuse of discretion." Under those standards, appellate courts generally "may not set those findings aside unless, after examining the entire record," the court is "left with the definite and firm conviction that a mistake has been committed." *Alexander v. South Carolina State Conf. of the NAACP*, 602 U.S. 1, 18 (2024) (citation omitted).

a. What deference should courts grant facts found by Congress when reviewing legislation expanding or limiting individual rights?

Response: Depending upon the constitutional status of the right at issue, courts engage in varying levels of review of legislative facts. Laws that do not implicate fundamental rights or any suspect characteristic, for instance, are subject to rational-basis review. Under that standard, courts are to afford legislation a "strong presumption of validity," and may uphold rational legislation even in "the absence of 'legislative facts.'" *FCC v. Beach Communications, Inc.*, 508 U.S. 307, 314 (1993). By contrast, courts engage in a more stringent assessment of lawmakers' rationales and evidentiary bases under heightened standards of constitutional review like intermediate and strict scrutiny.

b. Separate from legal holdings, are lower courts bound to adhere to factual findings by the Supreme Court?

Response: Whether the Supreme Court's treatment of given facts would bind lower courts in other cases would turn on a case-specific analysis on which it would be inappropriate for me, as a judicial nominee, to opine in the abstract.

c. What standard will you use to determine when it is appropriate to depart from otherwise binding appellate case law because of differences in the facts of a case?

Response: I would consult the parties' briefs regarding the binding import of any cited precedent, as well as any governing caselaw from the Supreme Court and the Eighth Circuit or decisions discussing the role of precedents in analogous contexts with asserted factual differences. My general understanding of the standard of this area is that, "[f]or one decision to be precedent for another, the facts in the two cases need not be identical" but "must be substantially similar, without material difference." B. GARNER ET AL., THE LAW OF JUDICIAL PRECEDENT 93 (2016).

11. If confirmed, how will you conduct historical analyses under *New York State Rifle & Pistol Association v. Bruen*?

Response: Under *Bruen*, when a law affects conduct protected by the Second Amendment, the Government bears the burden of showing that the restriction "is consistent with the Nation's historical tradition of firearm regulation." *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 17 (2022). Since that decision, the Supreme Court has explained that the relevant historical analysis requires courts to decide whether the challenged provision is "relevantly similar" to Founding Era regimes, focusing chiefly on "why and how" the regulation burdens the Second Amendment right. *United States v. Rahimi*, 602 U.S. 680, 698 (2024) (citation omitted).

a. As part of these historical analyses, will you solicit input from amici curiae?

Response: As a federal prosecutor, I have had significant experience litigating *Bruen* challenges to various statutes. Generally speaking, at least at the district court level, this litigation has not necessitated input from amici curiae. As the Supreme Court explained, "discerning and developing the law [by way of historical analogy] is a commonplace task for any lawyer or judge." *Id.* at 692; *see also Bruen*, 597 U.S. at 26 n.6 (emphasizing that, in our adversarial system, courts are generally "entitled to decide a case based on the historical record compiled by the parties"). This observation is particularly true for a district court judge, as the Eighth Circuit issued binding precedent on many of the most common restrictions on possessing a firearm. *See, e.g.*, *United States v. Jackson*, 110 F.4th 1120, 1125 (8th Cir. 2024) (rejecting both facial and as-applied challenges to the felon-dispossession provision in 18 U.S.C. § 922(g)(1)).

b. How will you assess the veracity of historical claims made by parties?

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

c. How will you assess the veracity of historical claims made by amici curiae?

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

12. The U.S. Sentencing Commission recently prioritized the "[c]ompilation and dissemination of information on court-sponsored programs relating to diversion, alternatives-to-incarceration, and reentry." Courts can tailor these programs to meet specific needs of defendants before them. These include programs focused on mental health, substance use disorder, veterans, and juveniles.

a. Do you support the use of programs such as these?

Response: As a federal prosecutor, I have had some experience with the Eastern District of Missouri's court-sponsored programs relating to diversion, alternatives-to-incarceration, and reentry. If confirmed, I would be open to participating in these programs in appropriate cases.

b. If confirmed, what steps will you take to participate in or support programs such as these within the jurisdiction to which you would be confirmed?

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

13. If confirmed, will you attend, to the extent possible, any trainings provided by the Federal Judicial Center for newly appointed judges—including on abiding with federal ethics laws and the Code of Conduct for United States Judges?

Response: Yes, to the extent my schedule permits me to do so.

14. If confirmed, you will be called upon to maintain impartiality, which requires being open to legal arguments that may lead to outcomes you dislike.

a. If confirmed, what steps will you take to ensure that you are exposed and open to a range of ideological and legal viewpoints outside of the courtroom—in particular, those that you do not agree with?

Response: Since at least high school, I have made it a priority to engage with ideas and viewpoints that are different from my own. The desire to learn from different perspectives is why I attended Georgetown for college; my curiosity about the world led me to live in several different countries; I have friends across the political spectrum; I seek out news from sources that have different worldviews; and I certainly have been exposed to divergent judicial philosophies during my legal career. Probably the most concrete step I plan to take in this regard moving forward is to continue attending CLEs hosted by various groups, including both the Federal Bar Association and the Federalist Society—both of which invite speakers who have divergent views.

b. During your time as a legal professional, including as a sitting judge, if applicable, what steps have you taken to ensure that you are exposed and open to a range of ideological and legal viewpoints—in particular, those that you do not agree with?

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

c. If confirmed, do you plan to hire qualified law clerks who do not share your ideological or legal viewpoints?

Response: If confirmed, I plan to consider all clerkship applications I receive and hire the most qualified applicants who are also a good personality fit for chambers.

15. If confirmed, do you plan to "boycott" the hiring of law clerks from any specific schools? If so, which schools and why?

Response: No. At least initially, I plan to consider applications from any accredited law school, as I believe it is important to cast a wide net with respect to clerkship opportunities.

a. Do you believe such boycotts are appropriate?

Response: I am not familiar with such boycotts and thus cannot comment on them.

16. If confirmed, you will be responsible for managing and exercising authority over law clerks and other court personnel.

a. What professional experience do you have overseeing and managing others?

Response: I have supervised other attorneys for nearly my entire legal career, helping manage the State of Missouri's appellate caseload as a Deputy Solicitor General and having been promoted to Appellate Chief just 9 months after joining the U.S. Attorney's Office. Between the two, I have supervised more than 1,000 civil and criminal cases. Additionally, prior to law school, I spent a few years earning my MBA and helping run my family's company after losing my father to leukemia.

b. How do you plan to recruit and hire law clerks?

Response: Given that my nomination is still pending before the Judiciary Committee, I have made no concrete plans with respect to clerkship hiring. However, my goal would be to find the most competent and qualified clerks, casting a wide net in terms of law schools, professional background, and life experience.

17. If confirmed, do you have plans to integrate artificial intelligence into your work as a federal judge? If so, how?

Response: I do not currently have plans to incorporate artificial intelligence into my work, although I recognize this technology is emerging as an important tool and that it may well be useful to me down the road, subject to any relevant ethical considerations.

18. Have you ever deleted any posts or publications originally published under your name or an account associated with you? If so, please provide those posts or publications in full.

Response: No, not to the best of my recollection, although I either deleted or deactivated nearly all of my social media accounts during my prior work experience in national security positions.

19. Have you ever asked for your name to be removed from any publication which previously bore your name? If so, please provide these publications in full.

Response: No, not to the best of my recollection. However, as reflected in my Senate Judiciary Questionnaire, I did write several blogposts for *Lawfare* under a staff account to avoid any attribution of my views to my employer at the time.

20. Have you ever been accused, in any setting, of the following? If so, please describe the accusation with specificity, the actions you took in response, and how the accusation was resolved.

Response: No.

a. Sexual harassment?

Response: No.

b. Sex-based discrimination?

Response: No.

c. Race-based discrimination?

Response: No.

d. Discrimination on the basis of national origin?

Response: No.

e. Discrimination on the basis of religion?

Response: No.

f. Workplace misconduct of any kind?

Response: No.

21. Have you ever spoken with the following individuals or groups about your nomination? If so, please describe your conversations with them with specificity.

a. Leonard Leo

Response: No.

b. Carrie Severino

Response: No.

c. Mike Davis

Response: No.

d. The Article III Project

Response: No.

22. Do the Fifth and Fourteenth Amendments protect individuals' substantive, as well as procedural, rights?

Response: The Supreme Court has held that the Fourteenth Amendment's Due Process Clause "provides substantive, as well as procedural, protection for 'liberty,'" with the former including certain enumerated rights and other fundamental rights that are "deeply rooted in [our] history and tradition . . . and essential to our Nation's scheme of ordered liberty." *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 237 (2022) (citations and internal quotations omitted).

23. What rights does the Constitution protect that are not expressly enumerated in the Constitution?

Response: The Supreme Court has held that the liberty component of the Due Process Clause of the Fourteenth Amendment protects various rights not further enumerated in the constitutional text. *See, e.g.*, *Meyer v. Nebraska*, 262 U.S. 390 (1923); *Pierce v. Society of Sisters*, 268 U.S. 510 (1925). Such rights include a constitutional right to privacy that protects a woman's right to use contraceptives, *see Griswold v. Connecticut*, 381 U.S. 479 (1965), and *Eisenstadt v. Baird*, 405 U.S. 438 (1972); a constitutional right to privacy that protects intimate relations between consenting adults, *see Lawrence v. Texas*, 539 U.S. 558 (2003), and the right to enter into a same-sex marriage, *see Obergefell v. Hodges*, 576 U.S. 644 (2015).

24. Is it ever lawful for the President to punish lawyers because of who they represent or what positions they take? If so, when?

Response: The President has authority to take care that the laws be executed. That power has generally been understood to ensure that those who work for the President carry out the President's directions. The President, like any other client, generally can fire lawyers who do not to advocate the interests of the client.

25. Can the federal government deport immigrants with lawful status solely because of those immigrants' expression of a political view?

Response: Because this question asks about matters that are the subject of ongoing litigation, it would be improper for me as a judicial nominee to opine on it. *See* CODE OF CONDUCT OF U.S. JUDGES, Canon 3A(6).

26. What protections does the Constitution offer to safeguard the freedom of the press?

Response: The First Amendment prohibits laws that impermissibly "abridge[e] the freedom of speech, or of the press," among other things. U.S. CONST., amend. I. The Supreme Court has interpreted the First Amendment as imposing distinct limits on the government's ability to restrict or compel speech of the press and has required heightened judicial scrutiny in the case of content- or viewpoint-based regulations of speech. *See, e.g.*, *Miami Herald Pub. Co. v. Tornillo*, 418 U.S. 241 (1974),

27. Can the federal government fire its employees for the sole reason that they espouse a disfavored political opinion?

Response: The Supreme Court has addressed the First Amendment rights of public employees in cases including *Pickering v. Board of Ed. of Township High School Dist. 205*, 391 U.S. 563 (1968); *Garcetti v. Ceballos*, 547 U.S. 410 (2006); and *Kennedy v. Bremerton School District*, 597 U.S. 507 (2022). If confirmed, I would follow those and any other relevant precedents of the Supreme Court and the Eighth Circuit. Consistent with the Code of Conduct for United States Judges and the positions taken by prior nominees, it would be inappropriate for me, as a pending judicial nominee, to comment further on abstract legal issues or hypotheticals.

28. Do you agree that campaign finance donor disclosure requirements "impose no ceiling on campaign-related activities" and "do not prevent anyone from speaking," as Justice Kennedy wrote for an 8-1 majority in *Citizens United*?

Response: If confirmed as a district judge, all Supreme Court pronouncements would be binding on me including any portions of the majority opinion in *Citizens United*. Consistent with the Code of Conduct and positions taken by prior nominees, it would be inappropriate for me, as a pending judicial nominee and a sitting federal judge, to comment on the merits or demerits of the Supreme Court's binding precedents

29. Was *Korematsu v. United States* egregiously wrong the day it was decided?

Response: The Supreme Court has stated that "*Korematsu* was gravely wrong the day it was decided, has been overruled in the court of history, and—to be clear—has no place in law under the Constitution." *Trump v. Hawaii*, 585 U.S. 667, 710 (2018).

a. Do you agree with Chief Justice Roberts that "[t]he forcible relocation of U.S. citizens to concentration camps, solely and explicitly on the basis of race, is objectively unlawful"?

Response: I would follow *Trump v. Hawaii* like I would follow every other binding precedent of the Supreme Court, including the Supreme Court's determination that *Korematsu* "was gravely wrong."

30. The Seventh Amendment ensures the right to a jury "in suits at common law."

a. What role does the civil jury play in our constitutional system?

Response: Juries play an integral role in safeguarding our rights, which is why a broad right to civil juries is enshrined in the Seventh Amendment.

b. Should the Seventh Amendment be a concern to judges when adjudicating issues related to the enforceability of mandatory pre-dispute arbitration clauses?

Response: Questions related to the enforcement of arbitration clauses frequently arise in litigation. As a judicial nominee, it would not be appropriate for me to opine on matters likely to arise in pending or future cases. *See* CODE OF CONDUCT OF U.S. JUDGES, Canon 3A(6).

c. Should an individual's Seventh Amendment rights be a concern to judges when adjudicating issues surrounding the scope and application of the Federal Arbitration Act?

Response: Please see my response to Question 30(b).

31. Did Joe Biden win the 2020 presidential election?

Response: Under Article II and the Twelfth Amendment, Congress is responsible for counting electoral votes after a presidential election. Congress certified President Biden as the victor of the 2020 election, and he served as the 46th President of the United States.

32. Yes or no: Was the U.S. Capitol attacked by a violent mob on January 6, 2021?

Response: I have served as a federal prosecutor both before and since January 6, 2021. Given that the United States is my client and that it was responsible for prosecuting individuals for their actions that day, it would be inappropriate for me to comment on the specific events that took place. However, I can say that violence directed toward law enforcement officers is never

acceptable, and having worked for the Seante, I have a profound appreciation for the national treasure that is the United States Capitol building.

a. Where were you on January 6, 2021?

Response: I was at work at the U.S. Attorney's Office in St. Louis. That day, I attended a training on evidentiary issues for criminal litigators and oversaw a moot court for an Eighth Circuit oral argument.

33. Yes or no: Does the 22nd Amendment permit a president to be elected more than twice?

Response: The text of the Twenty-Second Amendment speaks for itself.

Senate Judiciary Committee
Nomination Hearing
June 4, 2025
Questions for the Record
Senator Amy Klobuchar

For Zachary Maxwell Bluestone, nominee to be U.S. District Judge for the Eastern District of Missouri

1. When you were working in the Attorney General's Office you argued a case seeking to invalidate the University of Missouri's gun-free school zone. I led the *STOP School Violence Act* with Senator Hatch in 2018, and have worked on a bipartisan basis to secure over $400 million in federal funding to stop gun violence in our schools.

   - **What is your current understanding of the state of the law regarding the ability of Congress to enact legislation to protect campuses from gun violence?**

   Response: Respectfully, I disagree with the above description of the referenced litigation. The State's role in that case was initiated by then-Attorney General Chris Koster, who intervened in an action brought by a University of Missouri law professor seeking a limited exception for university employees to store firearms in a locked vehicle while on campus. The Missouri Court of Appeals later held that the University violated state law by prohibiting vehicle storage for staff, as its regulation was expressly preempted by state law. *State ex rel. Schmitt v. Choi*, 627 S.W.3d 1 (Mo. Ct. App. 2021). As such, this litigation in no way affects the authority of Congress to enact firearms legislation regarding campuses or otherwise.

   When a firearm regulation affects conduct protected by the Second Amendment, the Government bears the burden of showing that the restriction "is consistent with the Nation's historical tradition of firearm regulation." *United States v. Rahimi*, 602 U.S. 680, 692 (2024) (citation omitted). The court then must decide whether the challenged provision is "relevantly similar" to Founding Era regimes, focusing on "why and how" the regulation burdens the Second Amendment right. *Id.* at 698. At the same time, the Supreme has recognized certain "presumptively lawful regulatory measures," including "laws forbidding the carrying of firearms in sensitive places such as schools." *District of Columbia v. Heller*, 554 U.S. 570, 626–27 & n.26 (2008).

2. Chief Justice John Roberts wrote in his most recent end-of-year report that disregarding federal court rulings is "dangerous" and "must be soundly rejected."

   - **Do you agree with Chief Justice Roberts that any suggestion of disregarding a court's ruling "must be soundly rejected"?**

   Response: I have not reviewed Chief Justice Roberts' most recent end-of-year report on the federal judiciary. Generally speaking, if confirmed, I would expect parties appearing before me to comply with court orders.

3. Our criminal justice system must ensure the fair administration of justice and keep our communities safe. Many on this Committee have been working for years to reform our sentencing laws, including giving trial court judges additional discretion.

   - **How will you approach sentencing decisions?**

   Response: As a federal prosecutor, I fully appreciate that sentencing decisions require an individualized assessment of both the aggravating and mitigating factors in a particular case. *See Gall v. United States*, 552 U.S. 38, 50 (2007). If confirmed as a district judge, I would begin all sentencing hearings by calculating the advisory range under the United States Sentencing Guidelines, give the parties the opportunity to make sentencing arguments, consider the section 3553(a) factors, and then fashion a sentence accordingly.

   - **Will you commit to sentencing in a fair manner that is consistent across all similarly situated defendants?**

   Response: Yes, consistent with section 3553(a)(6), I would strive to avoid unwarranted sentencing disparities across similarly situated defendants.

Nomination of Zachary Bluestone to the
United States District Court for the Eastern District of Missouri
Questions for the Record
Submitted June 11, 2025

QUESTIONS FROM SENATOR COONS

1. **At any point during the process that led to your nomination, did you make any representations or commitments to anyone—including but not limited to individuals at the White House, at the Justice Department, or at outside groups—as to how you would handle a particular case, investigation, or matter, if confirmed? If so, explain fully.**

   Response: No.

   a. **At any point during the process that led to your nomination, were you asked about your opinion on any cases that involve President Trump or the Trump administration?**

      Response: No.

2. In your Senate Judiciary Questionnaire, you note that, on May 6, 2025, President Trump called you to tell you that you would be nominated to the federal bench.

   a. **How long did that call last?**

      Response: The call lasted only a few minutes.

   b. **Who else, if anyone, participated in the call other than you and President Trump?**

      Response: To my knowledge, no one else participated in the call.

   c. **What was discussed on the call?**

      Response: The President indicated he intended to nominate me as a district judge, discussed my academic and professional credentials, congratulated me and my family on the nomination, and wished me luck in life.

   d. **What questions, if any, were you asked by President Trump during the call and how did you answer them?**

      Response: The President did not ask me any substantive questions or anything specific that I can recall.

3. **How would you describe your judicial philosophy?**

Response: Broadly speaking, I believe judges should strive to follow the law as written, applying it fairly and impartially to parties before the court.

4. **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?**

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

   Response: Yes. The Supreme Court has consistently considered this as a factor in determining whether a right is fundamental. *See Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 237–40 (2022) (collecting cases).

   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. The Supreme Court recently reinforced the importance of considering whether a right is "deeply rooted in our history and tradition and whether it is essential to our Nation's scheme of ordered liberty," both for enumerated and unenumerated rights. *Id.*

   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 as a district judge, I would faithfully apply any applicable precedent of the Supreme Court and the Eighth Circuit. In the absence of such precedent, I would consider relevant decisions from other circuits 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: I would consider and follow all of the relevant factors set forth by the Supreme Court and Eighth Circuit in this area and would consider the decisions of other circuits as potentially persuasive.

5. **In your view, is it ever appropriate for a judge to ignore, disregard, refuse to implement, or issue an order that is contrary to an order from a higher court? Please explain.**

Response: A district court is always bound by Supreme Court precedent and the precedent of the relevant circuit court. A district court may not depart from Supreme Court precedent and may depart from circuit precedent only where it has been overridden by a subsequent decision of the Supreme Court.

6. In *United States v. Virginia*, 518 U.S. 515, 536 (1996), the Court explained that in 1839, when the Virginia Military Institute was established, "[h]igher education at the time was considered dangerous for women," a view widely rejected today. In *Obergefell v. Hodges*, 576 U.S. 644, 668 (2015), the Court reasoned, "As all parties agree, many same-sex couples provide loving and nurturing homes to their children, whether biological or adopted. And hundreds of thousands of children are presently being raised by such couples. . . . Excluding same-sex couples from marriage thus conflicts with a central premise of the right to marry. Without the recognition, stability, and predictability marriage offers, their children suffer the stigma of knowing their families are somehow lesser." This conclusion rejects arguments made by campaigns to prohibit same-sex marriage based on the purported negative impact of such marriages on children.

    a. When is it appropriate for a court to consider evidence that sheds light on our changing understanding of society?

    Response: If confirmed as an inferior court judge, I would follow all Supreme Court precedent and Eighth Circuit precedent. If those precedents require courts to consider evidence about changing understanding of society, I would faithfully do so.

    b. What is the role of sociology, scientific evidence, and data in judicial analysis?

    Response: If confirmed, I would faithfully apply relevant precedent of the Supreme Court and the Eighth Circuit governing the consideration of such evidence. The admissibility of scientific, technical, or other specialized knowledge in the determination of adjudicative facts is governed by Federal Rule of Evidence 702 and the applicable precedent construing that rule.

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

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

    Response: Yes. Similar to terms of imprisonment, the United States Sentencing Guidelines provide advisory ranges for terms of supervised release, which I would consider in addition to the statutory sentencing factors for every defendant.

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. Based on my conversations with the United States Probation Office as a federal prosector, the possibility of early termination in appropriate cases can be a valuable incentive for compliance with supervision and rehabilitation.

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.

8. What is the remedy if the President violates his constitutional duty to faithfully execute the laws?

Response: I am unfamiliar with any case that has squarely held that the President has violated the Take Care Clause. The Department of Justice has argued in the past that claims under that clause are not justiciable. In *United States v. Texas*, the argument was raised, but the Supreme Court never issued an opinion addressing that question because the case was affirmed by an evenly divided 4-4 vote without opinion. 579 U.S. 547 (2016). I am unaware of any court that has ruled on what the remedy would be in such a case.

9. Is President Trump eligible to be elected President for a third term?

Response: The text of the Twenty-Second Amendment speaks for itself.

10. Who won the 2020 U.S. Presidential Election?

Response: Under Article II and the Twelfth Amendment, Congress is responsible for counting electoral votes after a presidential election. Congress certified President Biden as the victor of the 2020 election, and he served as the 46th President of the United States.

11. Would it be constitutional for the President of the United States to punish a private person for a viewpoint that person expresses in a newspaper op-ed?

Response: This hypothetical provides insufficient information to assess the question. The question does not provide the content of the "viewpoint," describe what the purported punishment is, or how it is carried out. As a judicial nominee, I believe that drawing a legal conclusion regarding whether it would be constitutional for the President to punish a private person for a viewpoint that person expresses in a newspaper op-ed would be inappropriate, particularly considering this is an abstract question of law that could arise in the future.

12. Would it be constitutional for the President of the United States to terminate government contracts with a private person specifically because that person donated to members of the opposite political party?

Response: This question asks about a current political dispute that may be the subject of litigation in federal court. As a judicial nominee, I do not believe it would be appropriate for me to opine on this matter. *See* CODE OF CONDUCT OF U.S. JUDGES, Canon 3A(6).

13. Would it ever be appropriate for the President of the United States to punish a law firm for taking on a client that the President did not like?

Response: This question asks about a current political dispute that may be the subject of litigation in federal court. As a judicial nominee, I do not believe it would be appropriate for me to opine on this matter. *See* CODE OF CONDUCT OF U.S. JUDGES, Canon 3A(6).

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

Response: In *Griswold v. Connecticut*, the Supreme Court held that that there is a right to marital privacy that includes the use of contraceptives. 381 U.S. 479, 485–86 (1965). If confirmed, I would faithfully follow that decision and other Supreme Court precedent.

15. Do you agree that there is a constitutional right to privacy that protects the right to in vitro fertilization (IVF)? If you do not agree, please explain whether this right is protected or not and which constitutional rights or provisions encompass it.

Response: The only case I am aware of that addresses that question is *Morrissey v. United States*, which decided the question in the negative. 871 F.3d 1260 (11th Cir. 2017). I am not aware of a court addressing that question in the Eighth Circuit. To the extent the question asks about current political disputes, as a judicial nominee, I do not believe it would be appropriate for me to opine on the matter. *See* CODE OF CONDUCT OF U.S. JUDGES, Canon 3A(6).

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

Response: Judges are to adjudicate all claims fairly, regardless of the identity of the party. *See* 28 U.S.C. § 453. As for due process, the Fifth and Fourteenth Amendments to the U.S. Constitution provide, respectively, that no person shall "be deprived of life, liberty or property, without due process of law" and that no State shall "deprive any person of life, liberty, or property, without due process of law." U.S. CONST., amends. V, XIV. 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). The Supreme Court further has an extensive body of precedents discussing what due process requires in various contexts. If I am confirmed, I would faithfully apply the relevant precedents of the Supreme Court and the Eighth Circuit in addressing due process claims. To the extent this question asks about

hypothetical cases or matters that are the subject of ongoing litigation, as a judicial nominee, it would be improper for me to comment further. *See* CODE OF CONDUCT OF U.S. JUDGES, Canon 3A(6).

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

Response: The proper role of a judge in our constitutional system is to evaluate legal claims and to determine the merits of those claims based on arguments presented by the parties, in light of applicable law, including the binding precedents of the Supreme Court and the text of the relevant constitutional provision, statute, or regulation. Judges should not decide cases based on their personal views regarding morality or policy preferences. Judges are not policymakers; they have limited judicial authority. Abiding that role is essential to maintaining public confidence in the rule of law.

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

Response: In certain contexts, such as in assessing the propriety and scope of injunctive relief, a court's application of the relevant legal standards requires consideration of the practical consequences of a particular order on the parties and the public. *See, e.g.*, *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Outside of those contexts, though, a court must apply the relevant legal standards faithfully and impartially, even if he or she might think that the practical consequences of following the law are undesirable as a policy matter.

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

Response: A judge should never lose sight of the fact that litigation is not an academic exercise; it has immediate and often profound consequences in the lives of real people. For district judges in particular, a sense of empathy can help ensure that all parties feel that they are being treated with respect and decency. At the same time, a judge takes an oath to "administer justice without respect to persons," 28 U.S.C. § 453, and a judge must apply the law to the facts of a given case without favor or prejudice.

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

Response: Please see my response to Question 19.

21. In your Senate Judiciary Questionnaire, you disclosed that you are a member of the Federalist Society, a group whose members often advocate an "originalist" interpretation of the Constitution. In his opinion for the unanimous Court in *Brown v. Board of Education*, 347 U.S. 483 (1954), Chief Justice Warren wrote that although the "circumstances surrounding the adoption of the Fourteenth Amendment in 1868 . . . cast some light" on the amendment's original meaning, "it is not enough to resolve the problem with which we are faced. At best, they are inconclusive . . . . We must consider

public education in the light of its full development and its present place in American life throughout the Nation. Only in this way can it be determined if segregation in public schools deprives these plaintiffs of the equal protection of the laws." 347 U.S. at 489, 490-93. **Do you consider *Brown* to be consistent with originalism even though the Court in *Brown* explicitly rejected the notion that the original meaning of the Fourteenth Amendment was dispositive or even conclusively supportive?**

Response: I am generally aware that there has been robust scholarly discussion on this issue with prominent scholars such as Alexander Bickel and Michael McConnell reaching opposite conclusions. From my perspective, it is an academic point because *Brown* and other Supreme Court decisions are binding, and I would follow them faithfully if confirmed as a district judge.

a. Should the public's understanding of a constitutional provision's meaning at the time of its adoption ever be dispositive when interpreting that constitutional provision today?

Response: The Supreme Court has instructed that the original public meaning of a constitutional provision is highly relevant in interpreting it today. *See, e.g.*, *Dobbs*, 597 U.S. at 238–40 (collecting cases); *Timbs v. Indiana*, 586 U.S. 146, 150–54 (2019). As the Court recently observed, while a constitutional provision's "meaning is fixed according to the understandings of those who ratified it, the Constitution can, and must, apply to circumstances beyond those the Founders specifically anticipated." *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 28 (2022).

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

Response: Please see my response to Question 21(a).

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

Response: If confirmed as a district judge, first and foremost, I would look to applicable Supreme Court and Eighth Circuit precedent interpreting the Constitution. If that does not resolve the question, I would examine the text, structure, and original public meaning of the relevant provision, as instructed by the Supreme Court.

22. Should you be confirmed, would you ever inform parties before you that they do not need to comply with your orders?

Response: If confirmed, I cannot imagine a scenario in which I would inform a party that they do not need to comply with a court order, which I would expect them to follow.

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

Response: Please see my response to Question 22.

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

Response: A district court has inherent power to enforce compliance with its lawful orders that can be either expanded or limited by statute and rule, varying significantly based on the context. *See, e.g.*, *Fisher v. Marubeni Cotton Corp.*, 526 F.2d 1338, 1340–41 (8th Cir. 1975) (collecting cases with a focus on authority for subpoena compliance); *United States v. Yielding*, 657 F.3d 722, 726–29 (8th Cir. 2011) (affirming the issuance of a TRO in a criminal case to enforce a restitution order while reversing other orders); *see also Chambers v. NASCO, Inc.*, 501 U.S. 32, 42–47 (discussing interplay between inherent and express authority).

23. Discuss your proposed hiring process for law clerks.

Response: Given that my nomination is still pending before the Judiciary Committee, I have made no concrete plans with respect to clerkship hiring. However, my goal would be to find the most competent and qualified clerks, casting a wide net in terms of law schools, professional background, and life experience.

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

Response: According to the Administrative Office of the United States Courts, Employment Dispute Resolution (EDR) plans often provide similar protections to Title VII of the Civil Rights Act. For example, the Eastern District of Missouri's EDR Plan defines "wrongful conduct" to include violations of Title VII. *See* E.D. Mo. Employment Dispute Resolution Plan (revised Feb. 14, 2025), *available at* https://www.moed.uscourts.gov/sites/moed/files/documents/EDR-Plan.pdf. As to policy changes like the last year's proposed Judiciary Accountability Act, I defer to the political branches as to the propriety of such legislation.

24. 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 adding language to my standing order that encourages firms to allow junior lawyers to appear for oral argument. Alternatively, I would consider encouraging more experienced lawyers to involve junior associates in both briefing and arguments for the court.

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

Response: Up to this point in my legal career, I have provided mentorship to law students and junior attorneys when possible, and I would certainly be open to giving

advice and feedback to younger lawyers appearing before me. Additionally, pro bono work and court appointments can be a great opportunity for attorneys to gain valuable, first-chair experience.

Questions for the Record for Mr. Zachary M. Bluestone
Submitted by Senator Richard Blumenthal
June 11, 2025

1. The House Republican-authored budget reconciliation bill currently pending in the Senate includes a provision that would limit federal judges' ability to hold government officials in contempt. The bill would prohibit federal courts from issuing contempt penalties against officials who disobey preliminary injunctions or temporary restraining orders if the party seeking the order did not provide financial security to cover potential future damages for wrongful enjoining.

   The contempt power was first codified in law in the Judiciary Act of 1789. In 1873, the Supreme Court described it as "inherent in all courts" and "essential to the preservation of order in judicial proceedings and to the enforcement of the judgements, orders, and writs of the courts, and consequently to the due administration of justice." Yet House Republicans are seeking to exempt government officials from this key enforcement tool.

   a. Do you believe the contempt power is "essential . . . to the due administration of justice[?]"

   Response: In *Ex parte Robinson*, the Supreme Court found the contempt power to be "inherent in all courts," emphasizing that "its existence is essential to the preservation of order in judicial proceedings . . . and consequently to the due administration of justice." 86 U.S. 505, 511 (1873). As a judicial nominee, it would be inappropriate for me to opine on the correctness of a Supreme Court decision.

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

   Response: The *Robinson* Court also recognized that the contempt power can be "limited and defined by [an] act of Congress," at least with respect to circuit and district court judges. *Id.* at 510. More recently, in reaffirming *Robinson*, the Supreme Court recognized other limitations on a court's ability to impose contempt sanctions, including procedural protections for indirect contempts, particularly for "widespread, ongoing, out-of-court violations of a complex injunction." *United Mine Workers v. Bagwell*, 512 U.S. 821, 831, 837–39 (1994). While I commit to following this and other applicable precedent related to contempt sanctions, I defer to the political branches as to the propriety of the above-referenced legislative proposal that is currently pending before Congress.

2. If confirmed, you, like all other members of the federal bench, would have the ability to issue orders. On February 9, 2025, Vice President Vance posted on X that "[j]udges aren't allowed to control the executive's legitimate power." This raises an extremely concerning specter of executive defiance of court orders.

a. If confirmed, would you have the ability to issue orders?

Response: Yes.

i. Would you have the ability to enforce those orders?

Response: Yes.

ii. What powers would you have to enforce those orders?

Response: A district court has inherent power to enforce compliance with its lawful orders that can be either expanded or limited by statute and rule, varying significantly based on the context. *See, e.g.*, *Fisher v. Marubeni Cotton Corp.*, 526 F.2d 1338, 1340–41 (8th Cir. 1975) (collecting cases with a focus on authority for subpoena compliance); *United States v. Yielding*, 657 F.3d 722, 726–29 (8th Cir. 2011) (affirming the issuance of a TRO in a criminal case to enforce a restitution order while reversing other orders); *see also Chambers v. NASCO, Inc.*, 501 U.S. 32, 42–47 (discussing interplay between inherent and express authority).

b. Does there exist a legal basis for state executive officials to defy federal court orders? If so, what basis and in which circumstances?

Response: As discussed in response to questions from Ranking Member Durbin at the confirmation hearing, court orders are nearly always binding as to government officials and other parties to a case. However, the Supreme Court has explained that, under limited circumstances, "orders made by a court having no jurisdiction to make them may be disregarded without liability to process for contempt." *United States v. United Mine Workers*, 330 U.S. 258, 291 (1947). Additionally, courts have recognized several other narrow defenses to contempt proceedings depending on the particular circumstances of the case. *See* Heidi Kocher, III, *Trial Authority of the Trial Judge*, 79 GEO. L.J. 1019, 1025 & n.1869 (1991) (collecting cases).

c. Does there exist a legal basis for federal executive officials to defy federal court orders? If so, what basis and in which circumstances?

Response: Please see my response to Question 2(b).

d. What would make a court order unlawful?

Response: Please see my response to Question 2(b).

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

Response: Please see my response to Question 2(b). Ordinarily, parties who are dissatisfied with a federal court order have the option to appeal the order to higher courts, including the option to seek a stay pending appeal or, in extraordinary circumstances, mandamus relief.

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

Response: Please see my response to Question 2(b).

3. Were you in Washington, D.C. on January 6, 2021?

Response: No.

a. Were you inside the U.S. Capitol or on the U.S. Capitol grounds on January 6, 2021?

Response: No.

Senator Mazie K. Hirono
Questions for the Record
Zachary M. Bluestone
Nominee to the U.S. District Court for the Eastern District of Missouri

1. As part of my responsibility as a member of this committee, to ensure the fitness of nominees, I ask each nominee to answer two initial questions:

    a. Since you became a legal adult, have you ever made unwanted requests for sexual favors, or committed any verbal or physical harassment or assault of a sexual nature?

    Response: No.

    b. Have you ever faced discipline or entered into a settlement related to this kind of conduct?

    Response: No.

2. Federal district court judges have the power to issue court orders. If confirmed for this position, you will issue many such orders.

    a. As a federal district court judge, what tools would be at your disposal to ensure compliance with your court orders? Please list all such tools with which you are familiar.

    Response: If confirmed, I would expect parties appearing before me to comply with court orders. That said, a district court has inherent power to enforce compliance with lawful orders that can be either expanded or limited by statute and rule, varying significantly based on the context. *See, e.g.*, *Fisher v. Marubeni Cotton Corp.*, 526 F.2d 1338, 1340–41 (8th Cir. 1975) (collecting cases with a focus on authority for subpoena compliance); *United States v. Yielding*, 657 F.3d 722, 726–29 (8th Cir. 2011) (affirming the issuance of a TRO in a criminal case to enforce a restitution order while reversing other orders); *see also Chambers v. NASCO, Inc.*, 501 U.S. 32, 42–47 (discussing interplay between inherent and express authority).

        i. When should each of these tools be used?

        Response: As noted in my response to Question 2(a), the application of a court's enforcement powers varies significantly based on the circumstances of a case and the specific nature of a violation.

    b. Is it ever permissible for a party in a case to disregard a court order?

    Response: As discussed in response to questions from Ranking Member Durbin at the confirmation hearing, court orders are nearly always binding as to the parties to a

case. However, the Supreme Court has explained that, under limited circumstances, "orders made by a court having no jurisdiction to make them may be disregarded without liability to process for contempt." *United States v. United Mine Workers*, 330 U.S. 258, 291 (1947). Additionally, courts have recognized several other narrow defenses to contempt proceedings depending on the particular circumstances of the case. *See* Heidi Kocher, III, *Trial Authority of the Trial Judge*, 79 GEO. L.J. 1019, 1025 & n.1869 (1991) (collecting cases).

i. How should a federal judge respond if a party disregards an order issued by the judge?

Response: Please see my responses to Questions 2(a), 2(a)(i), and 2(b).

ii. Is the President of the United States allowed to disregard a court order?

Response: Please see my response to Question 2(b).

iii. Would the response(s) outlined in response to question (i) be appropriate if the President disregarded a court order? Why or why not?

Response: Please see my responses to Questions 2(a), 2(a)(i), and 2(b).

c. What does it mean for a judge to hold a party in contempt of court?

Response: While the distinction is not always readily apparent, there are two types of contempt: civil and criminal. *United Mine Workers v. Bagwell*, 512 U.S. 821, 827 (1994); *see generally* Kocher, *supra*, at 1024–31. "Criminal contempt is a crime in the ordinary sense," necessitating "the protections that the Constitution requires of such criminal proceedings." *Bagwell*, 512 U.S. at 826 (citations omitted). "In contrast, civil contempt sanctions, or those penalties designed to compel future compliance with a court order, are considered to be coercive and avoidable through obedience, and thus may be imposed in an ordinary civil proceeding upon notice and an opportunity to be heard." *Id.* at 827.

i. Do federal judges have the authority to hold the federal government in contempt of court?

Response: Please see my responses to Questions 2(a) through (c) and their subparts. To the extent these responses do not answer the question, this issue is the subject of litigation before federal courts, and as a judicial nominee, it would not be appropriate for me to opine on matters "pending or impending in any court." *See* CODE OF CONDUCT OF U.S. JUDGES, Canon 3A(6).

1. If so, where does that authority come from?

Response: Please see my response to Question 2(c)(i).

2. If not, why not?

Response: Please see my response to Question 2(c)(i).

ii. What tools does a judge possess to punish contumacious conduct?

Response: Please see my response to Question 2(c).

1. Do those tools apply when the federal government or individual federal officers or employees are held in contempt?

Response: Please see my response to Question 2(c)(i).

2. If not, why not?

Response: Please see my response to Question 2(c)(i).

Nomination of Zachary M. Bluestone
Nominee to be U.S. District Judge for the Eastern District of Missouri
Questions for the Record
Submitted June 11, 2025

QUESTIONS FROM SENATOR CORY A. 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 2016, you have about 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 the question. The quantity, quality, and relevance of my legal experience exceeds that of many judges who have been confirmed in recent years and makes me uniquely qualified for this important role.

    In terms of quality, as a public servant, I have been entrusted with significant responsibility throughout my legal career. During my first week as a Deputy Solicitor General, I led a major deposition; within my first month, I served on a trial team in a high-profile case; and within three months, I briefed and argued an appeal. And I have been blessed with a steady flow of high-level opportunities ever since. Moreover, I have supervised other attorneys for nearly my entire legal career, having been promoted to Appellate Chief just 9 months after joining the U.S. Attorney's Office.

    As for quantity, I have worked Big Law hours in government jobs, which has resulted in the extensive court experience Ranking Member Durbin acknowledged during the confirmation hearing. Most significantly, I have supervised more than 1,000 civil and criminal cases, which has involved reviewing at least 750 substantive filings, overseeing 150 moot courts, and spending time supervising attorneys in the courtroom. And while not expected, I have maintained a significant caseload on the side—including dozens of appeals, ten oral arguments, dispositive motions, five trials, a litany of postconviction challenges, and the prosecution of more 50 defendants.

    In terms of relevance, for more than 7 years, I have worked in the same courthouse where I would sit if confirmed (in addition to meeting my wife there while clerking for the Eighth Circuit). I have had hundreds of appearances at every manner of proceeding, from arraignments to hearings on dispositive motions, guilty pleas to *Frye* hearings and trials, and sentencings to postconviction and other civil proceedings. I have also represented the U.S. Attorney's Office both at meetings on ad hoc court policies and on the Federal Practice Committee that consults on local rules—with both experiences allowing me to build relationships with various civil and criminal stakeholders in my legal community.

Lastly, prior to law school, I spent a few years earning my MBA and helping run my family's company after losing my father to leukemia. While obviously not a legal role, this experience provided me insight as a client of legal services, and it taught me many practical lessons that make me a far better lawyer than I otherwise would have been.

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: As a judicial nominee, I do not believe it would be appropriate for me to comment on this political issue under Canon 5 of the Code of Conduct for United States Judge, particularly given that the ABA may be in the process of evaluating my nomination.

   b. How many years of legal experience in the practice of law does the ABA recommend a federal judicial nominee have prior to their nomination?

   Response: I cannot speak to the years of legal experience the ABA currently recommends.

3. How would you characterize your judicial philosophy?

Response: Broadly speaking, I believe judges should strive to follow the law as written, applying it fairly and impartially to parties before the court.

4. Do you consider yourself an originalist? If so, what do you understand originalism to mean?

Response: The term "originalism" has different meanings to different people. The most common usage refers to interpreting a text based on its original public meaning. In this respect, originalism is akin to textualism. The Supreme Court has instructed that, in interpreting the Constitution, the analysis begins with the text and the original meaning of the provision at issue. *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 17, 25, 28 (2022); *see*

[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.

also Dobbs v. Jackson Women's Health Org., 597 U.S. 215, 238–40 (2022) (collecting cases). Lower court judges must follow the precedents of the Supreme Court without regard to whether they were decided with an originalist approach or not. That is what I would do if confirmed as a district judge.

5. Do you consider yourself a textualist? If so, what do you understand textualism to mean?

Response: As noted above, textualism is similar to originalism. The main difference is that people tend to use the term "textualism" when talking about statutes and "originalism" when talking about the Constitution. I agree with Justice Kagan that "we're all textualists now."

6. 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. The basic idea is that by consulting these documents, a judge can get a clearer view about Congress's intent. Some federal judges consider legislative history when analyzing the meaning of a statute.

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

   Response: Reliance on legislative history is unnecessary when a statute's language is unambiguous. *Whitfield v. United States*, 543 U.S. 209, 215 (2005) (where the text "is plain and unambiguous, we need not accept [a party's] invitation to consider the legislative history"). To the extent that legislative history may be properly considered, it "is meant to clear up ambiguity, not create it." *Milner v. Dep't of Navy*, 562 U.S. 562, 574 (2011). If confirmed, I would faithfully apply all relevant precedent of the Supreme Court and the Eighth Circuit concerning the use of legislative history, and I would consider any arguments raised by the parties concerning legislative history in accordance with such precedent.

7. According to a Brookings Institution study, Black people and white people use drugs at similar rates, yet Black people are 3.6 times more likely to be arrested for selling drugs and 2.5 times more likely to be arrested for possessing drugs than their white peers.[2] Notably, the same study found that whites are actually *more likely* than Black people to sell drugs.[3] This disparity still persists. Even though rates of illicit drug use do not substantially differ by race and ethnicity,[4] a 2023 study reports that one in four people

[2] Jonathan Rothwell, *How the War on Drugs Damages Black Social Mobility*, BROOKINGS INST. (Sept. 30, 2014), https://www.brookings.edu/blog/social-mobility-memos/2014/09/30/how-the-war-on-drugs-damages-black-social-mobility.
[3] *Id.*
[4] SUBSTANCE ABUSE & MENTAL HEALTH SERVICES ADMINISTRATION, BEHAVIORAL HEALTH BY RACE AND ETHNICITY: RESULTS FROM THE 2021–2023 NATIONAL SURVEYS ON DRUG USE AND HEALTH 6 (2024).

arrested for drug law violations were Black, although Black people make up only 14 percent of the U.S. population.[5]

These statistics are reflected in our nation's prisons and jails. Black people are roughly five times more likely than white people to be incarcerated in state prisons.[6] In my home state of New Jersey, "the rate of imprisonment among Black people is more than nine times" that of white people.[7]

a. To what do you attribute the statistics above?

Response: I am not familiar with these studies and thus cannot offer an informed view on this question. However, from a quick look, it appears that the studies cited above are merely descriptive and do not attempt to test for any causal relationships.

8. According to an academic study, Black men were 65 percent more likely than similarly-situated white men to be charged with federal offenses that carry harsh mandatory minimum sentences.[8] What do you attribute this to?

Response: Please see my response to Question 7.

9. A recent report by the United States Sentencing Commission observed demographic differences in sentences imposed during the five-year period studied, with Black men receiving federal prison sentences that were 13.4 percent longer than white men.[9] What do you attribute this to?

Response: Please see my response to Question 7.

10. What role do you think federal judges, who review difficult, complex criminal cases, can play in addressing implicit racial bias in our criminal justice system?

Response: In all cases, it is the duty of a judge to treat all litigants with dignity, fairness, respect, and equal justice. Judges must continually strive to strictly comply with that duty.

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[5] Nazgol Ghandnoosh, Ph.D. & Celeste Barry, *One in Five: Disparities in Crime and Policing*, THE SENTENCING PROJECT 18 (Nov. 2, 2023), https://www.sentencingproject.org/press-releases/new-report-on-racial-disparities-in-policing-and-crime-from-the-sentencing-project/.

[6] Ashley Nellis, *The Color of Justice: Racial and Ethnic Disparity in State Prisons*, SENTENCING PROJECT (Oct. 13, 2021), https://www.sentencingproject.org/app/uploads/2022/08/The-Color-of-Justice-Racial-and-Ethnic-Disparity-in-State-Prisons.pdf.

[7] *Id.* at 9.

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

[9] 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.

11. Do you believe it is valuable for America to have demographic diversity in the judicial branch? If not, please explain your views.

Response: Yes. While I believe merit is the most important consideration, all Americans should have an equal opportunity to serve on the bench regardless of their immutable characteristics, and I agree it is beneficial to have judges from various backgrounds and walks of life.

12. Would you honor the request of a plaintiff, defendant, or witness in a case before you who is transgender to be referred to in accordance with that person's gender identity?

Response: If confirmed, I would be committed to showing respect, civility, and empathy to all parties appearing before me.

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

Response: As discussed in response to questions from Ranking Member Durbin at the confirmation hearing, court orders are nearly always binding as to government officials and other parties to a case. However, the Supreme Court has explained that, under limited circumstances, "orders made by a court having no jurisdiction to make them may be disregarded without liability to process for contempt." *United States v. United Mine Workers*, 330 U.S. 258, 291 (1947). Additionally, courts have recognized several other narrow defenses to contempt proceedings depending on the particular circumstances of the case. *See* Heidi Kocher, III, *Trial Authority of the Trial Judge*, 79 GEO. L.J. 1019, 1025 & n.1869 (1991) (collecting cases).

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

Response: While the distinction is not always readily apparent, there are two types of contempt: civil and criminal. *United Mine Workers v. Bagwell*, 512 U.S. 821, 827 (1994); *see generally* Kocher, *supra*, at 1024–31. "Criminal contempt is a crime in the ordinary sense," necessitating "the protections that the Constitution requires of such criminal proceedings." *Bagwell*, 512 U.S. at 826 (citations omitted). "In contrast, civil contempt sanctions, or those penalties designed to compel future compliance with a court order, are considered to be coercive and avoidable through obedience, and thus may be imposed in an ordinary civil proceeding upon notice and an opportunity to be heard." *Id.* at 827.

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?

Response: Please see my response to Question 13.

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

Response: Under the Presentment Clause in Article I, the President has the power to veto bills passed by Congress, subject to a veto override and other limitations.

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

Response: Congress passed the Impoundment Control Act in 1974. I have not had occasion to form an opinion on how this statute might apply it to any particular facts. To the extent the question asks about current legal disputes, it would be improper for me to comment on a matter that is pending or impending in any court. *See* Code of Conduct of U.S. Judges, Canon 3A(6).

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

Response: If federal and state law conflict, under Article VI, federal law displaces or preempts contrary state law.

a. The Emergency Medical Treatment and Labor Act (EMTALA) is a federal law enacted in 1986 that requires hospitals to provide emergency care, including emergency abortion care. **Do you agree that EMTALA, as a federal law, supersedes conflicting state laws?**

   Response: Based on recent press reports regarding the rescinding of Executive Branch guidance related to EMTALA preemption, I do not believe it would be appropriate for me to opine on a matter that is likely impending in federal court. *See* Code of Conduct of U.S. Judges, Canon 3A(6).

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

Response: The Fifth Amendment provides, in relevant part, "No person shall … be deprived of life, liberty, or property, without due process of law." 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). The Supreme Court further has an extensive body of precedents discussing what due process requires in various contexts. The question in most cases is less about whether the doctrine of due process applies and more about how much process is due. I would faithfully apply the precedent of the Supreme Court and Eighth Circuit on this point.

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

Response: In *Whitman v. American Trucking*, the Supreme Court held that the text of the Constitution "permits no delegation" but that no delegation has occurred when Congress

"lay[s] down by legislative act an intelligible principle to which the person or body authorized to act is directed to conform." 531 U.S. 457, 472 (2001) (brackets omitted).

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

Response: As a judicial nominee, it generally would be inappropriate for me to opine on the correctness of a Supreme Court decision. However, a long line of nominees before me has recognized an exception for *Brown* given its unique role in American jurisprudence in righting the historic injustice of racial segregation. I believe the *Brown* Court was right to reject the vile separate-but-equal doctrine.

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

Response: Yes. In *Griswold*, the Supreme Court held that that there is a right to marital privacy that includes the use of contraceptives.

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

Response: Yes. In *Lawrence*, the Supreme Court overruled its prior holding in *Bowers v. Hardwick* and found that state laws criminalizing sodomy between consenting adults were unconstitutional.

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

Response: Yes. In *Obergefell*, the Supreme Court held that the right to marriage is guaranteed to same-sex couples.

23. Do you believe that President Trump won the 2020 election? Please describe the facts and holding of this case.

Response: Under Article II and the Twelfth Amendment, Congress is responsible for counting electoral votes after a presidential election. Congress certified President Biden as the victor of the 2020 election, and he served as the 46th President of the United States. And I cannot offer a description of any particular case without more information.

24. The 22nd Amendment says that "no person shall be elected to the office of the President more than twice."[10]

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

    Response: Yes.

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

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

Response: Yes.

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

Response: The text of the Twenty-Second Amendment speaks for itself.

25. 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: Prior to the confirmation hearing, like most nominees, I met with attorneys at the Department of Justice, who provided guidance on questions that have been asked of other nominees and on the provisions of the Code of Conduct for United States Judges. The answers that I have provided are my own.

26. 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, not to my knowledge.

27. 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: As a current federal employee, I have sent weekly emails to the Office of Personnel Management summarizing my accomplishments from the past week.

28. 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, not to my knowledge.

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

Response: No, not to my knowledge.

30. 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: As a current employee at the Department of Justice, I have received widely circulated correspondence from Attorney General Bondi, but I have not communicated with her directly.

31. 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: As a current employee at the Department of Justice, I have received widely circulated correspondence from Deputy Attorney General Blanche, but I have not communicated with him directly.

32. 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: As a current employee at the Department of Justice, I have received widely circulated correspondence from then Acting Deputy Attorney General Bove, but I have not communicated with him directly.

33. 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, not to my knowledge.

34. 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.

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

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

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

Response: No, not to my knowledge.

36. 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.

37. Have you ever been demoted, terminated, or experienced any other adverse employment action?

Response: No.

a. If yes, please describe the events that led to the adverse employment action.

b. If no, please affirm that, since becoming a legal adult, you have left each place of employment voluntarily and not subject to the request or suggestion of any employer.

Response: I so affirm.

38. 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: If confirmed, I intend to file both annual and periodic financial disclosures in conformance with the requirements of the Ethics in Government Act.

39. 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."[11]

a. 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

[11] *See* https://www.article3project.org/about.

your behalf? If yes, identify the individual(s) and provide the dates, mode, and content of those discussions and communications.

Response: I have not had any communications about my judicial nomination with anyone in an official capacity with A3P.

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

Response: I am not now nor have I have been in contact with anyone in an official capacity with A3P.

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

Response: Please see my response to Question 39(b).

40. According to its Form 990 filed in 2024,[12] the mission of The Concord Fund (formerly known as the Judicial Crisis Network and the Judicial Confirmation Network) "is to promote the vision of liberty and justice in America, fidelity to the principles of federalism and the rule of law, to educate and organize citizens in this mission, and to encourage reforms that achieve these ends."

a. Have you discussed any aspect of your nomination to the federal bench with any officials from or anyone directly associated with The Concord Fund, 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 have not had any communications about my judicial nomination with anyone in an official capacity with the Concord Fund.

b. Are you currently in contact with anyone associated with The Concord Fund? If so, who?

Response: I am not now nor have I have been in contact with anyone in an official capacity with the Concord Fund.

c. Have you ever been in contact with anyone associated with The Concord Fund? If so, who?

Response: Please see my response to Question 40(b).

41. Please describe the selection process that led to your nomination to be a United States federal judge, from beginning to end (including the circumstances that led to your nomination and the interviews in which you participated).

[12] The Concord Fund, Form 990 (filed on May 13, 2024), *available at* https://projects.propublica.org/nonprofits/organizations/202303252/202411359349301886/full.

Response: Senator Schmitt's office originally contacted me on November 21, 2024. I met with his General Counsel in Saint Louis five days later, and we discussed the judicial vacancies in the Eastern District of Missouri. On December 10, Senator Schmitt's office invited me to submit a set of application materials, which I sent on December 20. I also submitted a similar set of materials to Senator Hawley's office on December 23 after a brief email exchange. I then received an email from Senator Hawley's office on January 23, 2025 and met with several members of his staff in Saint Louis on February 3.

Starting on February 7, I have been in contact with officials from the White House Counsel's Office. I interviewed with several attorneys from that office in Washington, D.C. on February 12 and was informed of my tentative selection on March 26. Since then, I have been in regular contact with the Office of Legal Policy at the Department of Justice in preparation for a potential nomination. On May 6, the President called to tell me I would be nominated to the Eastern District of Missouri, and my nomination was transmitted to the Senate on May 12.

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. Who?

Response: Please see my response to Question 42.

b. What advice did they give?

Response: Please see my response to Question 42.

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

Response: Please see my response to Question 42.

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 response to Question 39(a).

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: While I am a member of the Federalist Society, I have not had any communications about my judicial nomination with anyone in an official capacity with the organization.

45. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding your nomination.

Response: Please see my response to Question 41. Additionally, I communicated regularly with the Office of Legal Policy in completing my Senate Judiciary Questionnaire and other paperwork for the confirmation hearing. I have been in regular contact with the White House Counsel's Office and the Office of Legal Policy to discuss logistics and prepare for the hearing, and I have been in contact with the Office of Legal Policy to prepare my responses to these written questions.

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

Response: I received these questions from the Office of Legal Policy on June 11, 2025. I read each question, reviewed applicable Supreme Court and Eighth Circuit caselaw, and drafted responses. I provided the draft responses to lawyers at the Office of Legal Policy, who provided limited feedback, and then I finalized my responses before submitting them.

Questions for the Record from Senator Alex Padilla
Senate Judiciary Committee
"Nominations"

June 4, 2025

Questions for Mr. Bluestone:

1. **Please identify any and all situations where it is permissible for a party, including the Executive Branch or one of its officers, departments, or agencies, to defy a court order.**

Response: As discussed in response to questions from Ranking Member Durbin at the confirmation hearing, court orders are nearly always binding as to government officials and other parties to a case. However, the Supreme Court has explained that, under limited circumstances, "orders made by a court having no jurisdiction to make them may be disregarded without liability to process for contempt." *United States v. United Mine Workers*, 330 U.S. 258, 291 (1947). Additionally, courts have recognized several other narrow defenses to contempt proceedings depending on the particular circumstances of the case. *See* Heidi Kocher, III, *Trial Authority of the Trial Judge*, 79 GEO. L.J. 1019, 1025 & n.1869 (1991) (collecting cases).

2. **Please identify any and all situations in which you would advise a client to ignore or defy a court order.**

Response: I have never advised a client to ignore or defy a court order and cannot think of a specific scenario in which I would do so given the risks of noncompliance.

3. **Is it appropriate for the President of the United States to threaten or harass a judge when he disagrees with the outcome of a case over which that judge is presiding, or disagrees with aspects of a judge's decision or order?**

Response: Like all Americans, the President's right to free speech is protected under the First Amendment. If confirmed, I would be prepared to withstand public criticism, which is the reason the Framers insulated the Judiciary from the political process.

4. **In the process of applying to become a judge, did you have any conversations with President Trump, a member of his staff, or a member of an outside group about policy or personal positions or beliefs you would have on the bench, or decisions you would make on the bench?**

Response: No.

Questions for the Record
Sen. Adam Schiff (CA)

Zachary M. Bluestone, Nominee to the United States District Court for the Eastern District of Missouri

1. You have been a member of the Federalist Society since 2013. Additionally, you clerked for United States Court of Appeals for the Eighth Circuit Judge Raymond W. Gruender, who is also a current or former member of the Board of Advisors for the St. Louis Lawyers Chapter of the Federalist Society. President Trump recently decried the Federalist Society for its "bad advice" on judicial nominations and called Leonard Leo, its Co-Chairman, a "real sleazebag."

    a. **Did the Federalist Society, or any current or former members of the Federalist Society, recommend you to the White House for nomination to the United States District Court for the Eastern District of Missouri?**

    Response: While I do not have any direct knowledge, my understanding is that the only individuals who recommended me to the White House were Senator Josh Hawley, Senator Eric Schmitt, and Solicitor General John Sauer.

    b. **Do you believe the Federalist Society provided "bad advice" to President Trump on judicial nominations?**

    Response: I have no knowledge of what advice, if any, the Federalist Society provided to President Trump regarding judicial nominations during his first term.

2. The Republican-sponsored spending bill contains a provision that would impede the ability of federal judges to enforce contempt orders. The provision states: "No court of the United States may enforce a contempt citation for failure to comply with an injunction or temporary restraining order if no security was given when the injunction or order was issued." **In your estimation, would this provision, if enacted, impede your ability as a United States District Judge to enforce contempt orders against the government or government officials?**

Response: In *Ex parte Robinson*, the Supreme Court found the contempt power to be "inherent in all courts," emphasizing that "its existence is essential to the preservation of order in judicial proceedings . . . and consequently to the due administration of justice." 86 U.S. 505, 511 (1873). The *Robinson* Court also recognized that the contempt power can be "limited and defined by [an] act of Congress," at least with respect to circuit and district court judges. *Id.* at 510. While I commit to following this and other applicable precedent related to contempt sanctions, I defer to the political branches as to the propriety of the above-referenced legislative proposal that is currently pending before Congress.

3. **Given your previous position as an Assistant U.S. Attorney for the Eastern District of Missouri and your work for the Missouri Attorney General's office, do you commit to faithfully abiding by all relevant conflict of interest and judicial disqualification policies and procedures during your potential tenure as a District Judge in the Eastern District of Missouri?**

Response: Yes, as indicated in my Senate Judiciary Questionnaire, I commit to carefully reviewing and addressing any real or potential conflicts by referring to 28 U.S.C. § 455; Canon 3 of the Code of Conduct for United States Judges; and any other laws, rules, and practices governing such circumstances.

4. The governing statute of the United States Marshals Service requires: "the United States Marshals Service ***shall*** execute ***all lawful writs, process, and orders*** issued under the authority of the United States." Additionally, the "primary . . . mission" of the Service is to "provide for the security and to obey, execute, and enforce all orders of the United States District Courts . . . [.]" 28 U.S.C. § 566.

    a. **Based on the Service's governing statute, would it be unlawful for an executive branch official to command the Service to disregard, or otherwise not execute, any "writ[], process [or] order[]" issued by a United States District Judge?**

    Response: "Ordinarily, the marshals and the federal courts which they serve have a close and harmonious relationship." *Penn. Bureau of Correction v. U.S. Marshals Serv.*, 474 U.S. 34, 43 (1985) (Stevens, J., dissenting). "Open disputes between the marshals and the courts are rare, and appropriately so." *Id.* at 44. But sometimes "administrative problems" come up. *Id.* "Customarily such problems are resolved on a voluntary, cooperative basis, either in the individual court or circuit, or in high-level discussions between the Executive and Judicial Branches." *Id.* at 44. *Pennsylvania Bureau of Correction v. U.S. Marshals Service* was "an exceptional case" because it "involve[d] a dispute between the Marshals Service and a Federal District Court." *Id.* at 43. In resolving that dispute, the Supreme Court held that, "at least in the absence of an express finding of exceptional circumstances, that neither a magistrate nor a district court has authority to order the Marshals to transport state prisoners to the federal courthouse to testify in an action brought by a state prisoner under 42 U.S.C. § 1983 against county officials." *Pennsylvania Bureau of Correction v. U.S. Marshals Serv.*, 474 U.S. 34, 43 (1985).

    Consistent with the Code of Conduct and positions taken by prior nominees, it would be inappropriate for me, as a pending judicial nominee, to opine on how the cited statute might apply to a hypothetical set of facts. If any such issues came before me as a judge, I would commit to resolving them through the judicial process through careful consideration and application of the parties' arguments and the governing law and precedents.

b. If the Service were to obey an executive branch command to disregard, or otherwise not execute, one of your orders, what other mechanisms would you consider employing, as a United States District Judge, to ensure compliance?

Response: As the Supreme Court explained, "Customarily such problems are resolved on a voluntary, cooperative basis, either in the individual court or circuit, or in high-level discussions between the Executive and Judicial Branches." *Id.* at 44. As a judicial nominee, I do not think it would be appropriate for me to comment on this abstract and hypothetical scenario about non-compliance with a court order. *See* CODE OF CONDUCT OF U.S. JUDGES, Canon 3A(6). If I am confirmed and if such a scenario were to come before me, I would carefully examine the relevant authorities that may bear upon this question.