

Senator Dick Durbin
Ranking Member, Senate Judiciary Committee
Written Questions for Justin D. Smith
Nominee to be U.S. Circuit Judge for the Eighth Circuit
April 22, 2026

- 1. Have you ever represented a client who was found liable for sexual abuse? If so, please provide the name of your client.**

Response: I represent President Donald J. Trump in an appeal of a verdict that included what we contend was an erroneous sexual abuse finding. As two Second Circuit judges observed in a dissent from the denial of rehearing en banc, “The result was a jury verdict based on impermissible character evidence and few reliable facts. No one can have any confidence that the jury would have returned the same verdict if the normal rules of evidence had been applied.” *Carroll v. Trump*, 141 F.4th 366, 386 (2d Cir. 2025) (Menashi, J., joined by Park, J., dissenting from the denial of rehearing en banc).

- 2. Your role as a personal attorney for President Trump raises serious doubts about your ability to serve as an impartial judge, particularly if you are asked to preside over a challenge to a Trump Administration action.**

- a. Do you believe that trial by jury is a legitimate component of our legal system?**

Response: Yes.

- b. Do you believe that verdicts reached by juries are legitimate?**

Response: Post-trial motions and appeals exist to ensure that verdicts are in accordance with the law and the facts. For example, district courts may enter judgment notwithstanding the verdict. *See* FED. R. CIV. P. 50(b). Appellate courts also may reverse jury verdicts. *See, e.g., Crawford v. Washington*, 541 U.S. 36, 41 (2004); *Batson v. Kentucky*, 476 U.S. 79, 83-84 (1986); *Miranda v. Arizona*, 384 U.S. 436, 492 (1966).

- c. Do you believe the verdicts against President Trump are legitimate?**

Response: I do not believe that the verdicts in the Carroll cases are in accordance with the law or the facts. As two Second Circuit judges observed in a dissent from the denial of rehearing en banc, “No one can have any confidence that the jury would have returned the same verdict if the normal rules of evidence had been applied.” *Carroll v. Trump*, 141 F.4th 366, 386 (2d Cir. 2025) (Menashi, J., joined by Park, J., dissenting from the denial of rehearing en banc).

- 3. In a cert petition you submitted to the Supreme Court, you called E. Jean Carroll’s accusations “facially implausible, politically motivated allegations.” You also argued that**

“Carroll’s allegations are a story that precisely matches the plotline from an episode of one of admittedly her favorite TV shows, ‘Law & Order.’”

However, as both court observers and subsequent court filings have detailed, you misrepresented the details of a *Law & Order* episode.¹

Why did you submit false information to the Supreme Court?

Response: I respectfully disagree with this characterization. At trial, Ms. Carroll testified that she was aware that there was a *Law & Order* episode from 2012 that featured a woman getting raped in the Bergdorf Goodman lingerie dressing room. Tr. 575:6-10. Ms. Carroll also testified that the identity between her allegations and the *Law & Order* plotline was an “amazing coincidence” and “astonishing.” *Id.* 577:8-12. Ms. Carroll’s counsel did not disagree with the *Law & Order* summary in her Supreme Court briefing. *See* Brief in Opposition, 25-573 (U.S. Jan. 14, 2026).

4. In your Questionnaire, you noted that from 2007 to 2009—while you were in law school—you operated a blog anonymously under a pen name. You also noted that you typically wrote using the pen name “Rawhide.” A December 2007 post by “Rawhide” stated: “Abortion is murder. Gay marriage is sin.”²

a. Do you still believe that abortion is murder?

Response: I agree with the guidance that you provided when you chaired this Committee: “Members often ask [nominees] about what they personally believe... It puts a judicial nominee on the spot. The Judicial Conference of the United States has directed both sitting judges and judicial nominees not to share their personal opinions. The rationale is obvious. Offering personal opinions suggests a nominee has prejudged an issue. It suggests to future litigants that the nominee will arrive with preconceptions and will disregard their obligation to simply apply the law to the facts.” *Durbin Delivers Opening Statement During Latest Nominations Hearing*, Sept. 21, 2022, <https://www.judiciary.senate.gov/press/dem/releases/09/23/2022/durbin-delivers-opening-statement-during-latest-nominations-hearing>. Consistent with your guidance and the judicial canons, as a judicial nominee, it would be improper to offer an opinion on a political or policy issue. *See* Code of Conduct for United States Judges, Canons 3(A)(6), 5. If I were confirmed, I would decide every case

¹ Katie Herchenroeder, *The President’s Lawyers Submitted False Information About a “Law & Order” Plot to the Supreme Court*, MOTHER JONES (Feb. 7, 2026), <https://www.motherjones.com/politics/2026/02/e-jean-carroll-law-and-order-supreme-court/>; Brief of Amicus David Boyle in Support of Respondent in *Trump v. Carroll*, No. 25-573 (Jan. 8, 2026), https://www.supremecourt.gov/DocketPDF/25/25-573/391203/20260108231357405_25-573_bsac_DavidBoyle.pdf.

² Rawhide, *Primary Colors: The Republican Party needs bold colors, not pale pastels*, CR NATION (Dec. 27, 2007), <https://web.archive.org/web/20081205022838/http://crnation.com/2007/12/27/primary-colors-the-republican-party-needs-bold-colors-not-pale-pastels/>.

that may come before me fairly and impartially, regardless of the claims or the parties involved.

b. Do you still believe that gay marriage is a sin?

Response: Please see my response to Question 4.a.

In 2008, you wrote: “I am a Republican because I believe that life begins at conception.” More recently, in December 2021, you made a statement following oral arguments in *Dobbs v. Jackson Women’s Health Organization*. You said: “[W]e hope and pray that the Supreme Court [...] will allow states to protect those unborn children.”

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

Response: Federal judges must set aside any personal views and decide all cases by fairly and impartially applying the law. *See* 28 U.S.C. § 453. The rule of law depends on judges following precedent, rather than personal views. In every case, including any case involving abortion or other reproductive issues, I would faithfully and impartially apply Supreme Court and Eighth Circuit precedent to the particular claims before me.

5. You have made numerous public statements attacking the former Attorney General of Missouri, Andrew Bailey, who now serves as Deputy Director of the FBI. In one social media post, you accused Mr. Bailey of “bad lawyering” and wrote: “Bailey dropped the ball on prosecuting violent crime, sex crimes, human trafficking, and cold case murders.”³ In another post, you wrote: “Bailey is a repeat plagiarism offender.”⁴ And on another occasion, you wrote: “Andrew Bailey is not a good lawyer or manager.”⁵ These attacks go well beyond typical campaign rhetoric.

Considering your own words about Mr. Bailey’s bad lawyering and management—as well as his failures to prosecute serious violent crimes—do you think he is the best person to serve as Deputy Director of the FBI?

Response: Missouri voters disagreed with my political advocacy and elected Mr. Bailey by wide margins in the 2024 primary and general elections. Despite my political disagreements during the heat of a campaign, I have known Mr. Bailey for years as a good and decent man. As a judicial nominee, it would be improper to offer an opinion on a political or policy issue, such as whether Mr. Bailey

³ Justin Smith, @JustinSmithMO, X (Aug. 2, 2024, 11:53 AM), <https://x.com/JustinSmithMO/status/1819401231661478044>.

⁴ Justin Smith, @JustinSmithMO, X (Aug. 1, 2024, 8:20 PM), <https://x.com/JustinSmithMO/status/1819166231418614214>.

⁵ Justin Smith, @JustinSmithMO, X (July 19, 2024, 10:45 AM), <https://x.com/JustinSmithMO/status/1814310508981358598>.

should be serving in his current federal position. *See* Code of Conduct for United States Judges, Canons 3(A)(6), 5.

6. Did President Trump lose the 2020 election?

Response: Pursuant to the process set forth by the Constitution and federal law, President Biden was certified as the winner of the 2020 presidential election and served as the 46th President of the United States. President Trump was certified as the winner of the 2016 and 2024 elections.

7. Where were you on January 6, 2021?

Response: I was working in the Missouri Attorney General’s Office in Jefferson City, Missouri.

8. Do you denounce the January 6 insurrection?

Response: I denounce any and all acts of violence against law enforcement and government officials. How the events at the Capitol on January 6, 2021, are characterized is a matter of public debate and subject to litigation. *See, e.g., Trump v. Anderson*, 601 U.S. 100 (2024); *Blassingame v. Trump*, No. 1:21-cv-000858 (D.D.C.); *Straka v. NBC Universal Media, LLC*, No. 8:22CV434, 2023 WL 5041614, at *5 (D. Neb. Aug. 8, 2023).

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

Response: Based on Article II, § 2, cl. 1, the Supreme Court has held that “[t]o the executive alone is intrusted [*sic*] the power of pardon,” *United States v. Klein*, 80 U.S. 128, 147 (1871), and that “[t]he President’s authority to pardon, in other words, is ‘conclusive and preclusive.’” *Trump v. United States*, 603 U.S. 593, 608 (2024) (quoting *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 638 (1952) (Jackson, J., concurring)). As a judicial nominee, it would be improper to offer an opinion on a political or policy issue. *See* Code of Conduct for United States Judges, Canons 3(A)(6), 5.

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

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

Response: Litigants have a number of options, including appealing, moving to stay, and moving to reconsider the order.

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

Response: Generally, a litigant must follow court orders issued in the proceedings to which they are a party. However, the Supreme Court has acknowledged that, in some circumstances, an order must be violated in order to be appealed. As Justice Sotomayor’s first Supreme Court opinion explained, “Another long-recognized option is for a party to defy a disclosure order and incur court-imposed sanctions.” *Mohawk Indus., Inc. v. Carpenter*, 558 U.S. 100, 111 (2009). Some legal scholarship has identified other limited situations in which compliance may not be required. *See generally, e.g.*, William Baude, *The Judgment Power*, 96 GEO. L.J. 1807 (2008) (lack of jurisdiction); Gary Lawson & Christopher D. Moore, *The Executive Power of Constitutional Interpretation*, 81 IOWA L. REV. 1267, 1326 (1996) (constitutional error “so clear that it is not open to rational question”); *see also* 17 Corpus Juris Secundum Contempt §§ 56-65 (discussing contempt defenses).

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

Response: In general, pursuant to Article III of the Constitution, the judicial branch is responsible for making these determinations in the context of cases or controversies presented by litigants.

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

a. Are non-party injunctions constitutional?

Response: The Supreme Court addressed the lawfulness of non-party injunctions in *Trump v. CASA, Inc.*, 606 U.S. 831 (2025). Under the Judiciary Act of 1789, the Supreme Court held that “[a] universal injunction can be justified only as an exercise of equitable authority, yet Congress has granted federal courts no such power.” *Id.* at 841. I would faithfully apply this case as binding precedent of the Supreme Court. The Supreme Court “express[ed] no view on the Government’s argument that Article III forecloses universal relief.” *Id.* at 841 n.4. As a judicial nominee, it would be improper for me to opine on matters that are the subject of pending or impending litigation. *See* Code of Conduct for United States Judges, Canon 3A(6).

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

Response: Please see my response to Question 11.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 11.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: As an attorney representing government clients, I have sought injunctive relief against the implementation of agency action as well as vacatur and stays under the Administrative Procedure Act. To the best of my recollection, I have listed each matter in which I appeared as counsel: *Petersen v. EPA*, No. 24-1132 (D.C. Cir.); *Petersen v. EPA*, No. 24-1133 (D.C. Cir.); *Nebraska v. Cliff*, No. 2:24-at-00595 (E.D. Cal.); *Arizona State Legislature v. Biden*, No. 3:24-cv-08026-MTM (D. Ariz.); *Missouri v. Biden*, No. 3:22-cv-01213-TAD-KDM (W.D. La.); *Missouri v. Biden*, 4:21-cv-01300-DDN (E.D. Mo.); *Missouri v. Yellen*, No. 4:21-cv-00376-HEA (E.D. Mo.); *Missouri v. Biden*, 4:21-cv-00287-AGF (E.D. Mo.). In my roles as Chief of Staff and First Assistant in the Missouri Attorney General's Office, I was involved at a high level in other cases seeking similar relief that are not listed here.

- 12. At any point during your selection process, did you have any discussions with anyone—including individuals at the White House, the Justice Department, or any outside groups—about loyalty to President Trump? If so, please provide details.**

Response: No.

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

Response: According to the Constitution, “[n]o person shall be elected to the office of the President more than twice.” U.S. CONST. amend. XXII.

- 14. On May 26, 2025, in a Truth Social post, President Trump referred to some judges whose decisions he disagrees with, as “USA HATING JUDGES” and “MONSTERS”, who “...SUFFER FROM AN IDEOLOGY THAT IS SICK, AND VERY DANGEROUS FOR OUR COUNTRY...”⁶**

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

⁶ Donald J. Trump (@realDonaldTrump), TRUTH SOCIAL (May 26, 2025, 7:22 AM), <https://truthsocial.com/@realDonaldTrump/posts/114573871728757682>.

Response: As a judicial nominee, it would be improper for me to offer an opinion on a political issue or a statement by any political figure. *See* Code of Conduct for United States Judges, Canons 3(A)(6), 5.

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

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

15. In addition to the President’s own attacks on judges, his adviser Stephen Miller took to social media to call a federal trade court’s ruling against President Trump’s tariffs a “judicial coup”⁷ and later reposted the images of the three judges who decided the case and wrote, “we are living under a judicial tyranny.”⁸

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

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

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

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

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

Response: I understand that public service comes with public scrutiny. My photograph has been shared online by people and groups who disagree with my nomination. *See, e.g.,* Alliance for Justice, Apr. 7, 2026, <https://www.facebook.com/AllianceforJustice/posts/pfbid035jYU1o45yGxkG35mZfijezU5Tv2iBVfCJi7royoG31GL1gb9CbnGtSN77hH4Me2nl>; Demand Justice, <https://demandjustice.org/nominees/justin-smith/>. If I am fortunate enough to be confirmed, it would be my duty to not allow any public comments or social media posts to affect my impartiality and decision-making.

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

Response: A lower federal court is bound by directly controlling Supreme Court precedent and should not depart from it. “As [the Supreme] Court has explained: ‘If a precedent of this Court has direct application in a case,’ ... a lower court ‘should follow the case which directly controls, leaving to this Court the prerogative of overruling its

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

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

own decisions.” *Mallory v. Norfolk S. Ry. Co.*, 600 U.S. 122, 136 (2023) (quoting *Rodriguez de Quijas v. Shearson/American Express, Inc.*, 490 U.S. 477, 484 (1989)).

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

Response: If I am fortunate enough to be confirmed, I would follow the precedents and practices of the Eighth Circuit with respect to overturning circuit precedent. In the Eighth Circuit, “only the en banc court (or the Supreme Court of the United States) can overrule binding circuit precedent.” *United States v. Fluckes*, No. 22-1619, 2023 WL 2292270, at *1 (8th Cir. Mar. 1, 2023) (per curiam). The Eighth Circuit has found that “[o]verturning [the] circuit’s precedent is appropriate when the precedent is ‘erroneous’ and ‘perpetuate[s] unwarranted disuniformity in the law.’” *S.A.A. v. Geisler*, 127 F.4th 1133, 1136 (8th Cir. 2025) (en banc) (citation omitted); *see also* FED. R. CIV. P. 40(b)(2). “Although one panel of this court ordinarily cannot overrule another panel, this rule does not apply when the earlier panel decision is cast into doubt by a decision of the Supreme Court.” *Patterson v. Tenet Healthcare, Inc.*, 113 F.3d 832, 838 (8th Cir. 1997).

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

Response: In determining whether to overrule precedent, the Supreme Court applies the *stare decisis* factors set out in *Dobbs v. Jackson Women’s Health Organization*, 597 U.S. 215, 268-90 (2022).

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

a. *Brown v. Board of Education*

Response: Yes. Although it is generally inappropriate for me as a judicial nominee to comment on the merits of binding Supreme Court precedent when related issues are currently pending or could come before me, consistent with the view of prior nominees, *Brown* is beyond dispute, and judges can express their agreement with that principle without calling into question their ability to apply Supreme Court precedent faithfully. Therefore, consistent with the Code of Conduct for United States Judges, I can affirm that I believe that *Brown* was rightly decided.

b. *Plyler v. Doe*

Response: *Plyler* is binding precedent of the Supreme Court, and I will faithfully and impartially apply it if I were confirmed as a judge. As a federal judicial nominee, it is generally inappropriate for me to comment on the merits of Supreme Court decisions when it is possible that cases raising related issues could come before the lower federal courts.

c. *Loving v. Virginia*

Response: Yes. Although it is generally inappropriate for me as a judicial nominee to comment on the merits of binding Supreme Court precedent when related issues are currently pending or could come before me, consistent with the view of prior nominees, *Loving* is beyond dispute, and judges can express their agreement with that principle without calling into question their ability to apply Supreme Court precedent faithfully. Therefore, consistent with the Code of Conduct for United States Judges, I can affirm that I believe that *Loving* was rightly decided.

d. *Griswold v. Connecticut*

Response: *Griswold* is binding precedent of the Supreme Court, and I will faithfully and impartially apply it if I were confirmed as a judge. As a federal judicial nominee, it is generally inappropriate for me to comment on the merits of Supreme Court decisions when it is possible that cases raising related issues could come before the lower federal courts.

e. *Trump v. United States*

Response: *Trump* is binding precedent of the Supreme Court, and I will faithfully and impartially apply it if I were confirmed as a judge. As a federal judicial nominee, it is generally inappropriate for me to comment on the merits of Supreme Court decisions when it is possible that cases raising related issues could come before the lower federal courts.

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

Response: *Dobbs* is binding precedent of the Supreme Court, and I will faithfully and impartially apply it if I were confirmed as a judge. As a federal judicial nominee, it is generally inappropriate for me to comment on the merits of Supreme Court decisions when it is possible that cases raising related issues could come before the lower federal courts.

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

Response: *Bruen* is binding precedent of the Supreme Court, and I will faithfully and impartially apply it if I were confirmed as a judge. As a federal judicial nominee, it is generally inappropriate for me to comment on the merits of Supreme Court decisions when it is possible that cases raising related issues could come before the lower federal courts.

h. *Obergefell v. Hodges*

Response: *Obergefell* is binding precedent of the Supreme Court, and I will faithfully and impartially apply it if I were confirmed as a judge. As a federal judicial nominee, it is generally inappropriate for me to comment on the merits of Supreme Court decisions when it is possible that cases raising related issues could come before the lower federal courts.

i. *Bostock v. Clayton County*

Response: *Bostock* is binding precedent of the Supreme Court, and I will faithfully and impartially apply it if I were confirmed as a judge. As a federal judicial nominee, it is generally inappropriate for me to comment on the merits of Supreme Court decisions when it is possible that cases raising related issues could come before the lower federal courts.

j. *Masterpiece Cakeshop v. Colorado*

Response: *Masterpiece Cakeshop* is binding precedent of the Supreme Court, and I will faithfully and impartially apply it if I were confirmed as a judge. As a federal judicial nominee, it is generally inappropriate for me to comment on the merits of Supreme Court decisions when it is possible that cases raising related issues could come before the lower federal courts.

k. *303 Creative LLC v. Elenis*

Response: *303 Creative* is binding precedent of the Supreme Court, and I will faithfully and impartially apply it if I were confirmed as a judge. As a federal judicial nominee, it is generally inappropriate for me to comment on the merits of Supreme Court decisions when it is possible that cases raising related issues could come before the lower federal courts.

l. *United States v. Rahimi*

Response: *Rahimi* is binding precedent of the Supreme Court, and I will faithfully and impartially apply it if I were confirmed as a judge. As a federal judicial nominee, it is generally inappropriate for me to comment on the merits of Supreme Court decisions when it is possible that cases raising related issues could come before the lower federal courts.

m. *Loper Bright Enterprises v. Raimondo*

Response: *Loper Bright* is binding precedent of the Supreme Court, and I will faithfully and impartially apply it if I were confirmed as a judge. As a federal judicial nominee, it is generally inappropriate for me to comment on the merits of Supreme Court decisions when it is possible that cases raising related issues could come before the lower federal courts.

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

Response: The Supreme Court has repeatedly interpreted constitutional provisions by discerning the original meaning of the words used as understood by the public at the time of the Founding. *See, e.g., District of Columbia v. Heller*, 554 U.S. 570 (2008); *Crawford v. Washington*, 541 U.S. 36 (2004). As a lower court judge, I would follow all applicable Supreme Court and Eighth Circuit precedent in interpreting constitutional provisions, including those originalist precedents

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

Response: Please see my response to Question 20.

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

Response: The Supreme Court in *Obergefell* concluded that the Constitution provides a constitutional right to same-sex marriage, and I would faithfully apply that precedent.

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

Response: In *Loving*, the Supreme Court invalidated a state law prohibiting interracial couples from marrying. As discussed in my response to Question 19, and consistent with the responses of prior nominees, I can respond consistent with my duties under the Code of Conduct that *Loving* correctly reaffirmed *Brown*’s rejection of the “notion that the mere ‘equal application’ of a statute containing racial classifications” comports with the Fourteenth Amendment. *Loving v. Virginia*, 388 U.S. 1, 8 (1967).

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

Response: The Fourteenth Amendment’s relevant text states that “[n]o State shall make or enforce any law which shall abridge the privilege or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” The Equal Protection Clause has been construed to prohibit laws that classify individuals based on protected characteristics unless strict or intermediate scrutiny is satisfied (depending on the characteristic at issue). *See Students for Fair Admission, Inc. v. President and Fellows of Harvard College*, 600 U.S. 181 (2023). “[I]f a law neither burdens a fundamental right nor targets a suspect class, [the Court] will uphold the legislative classification so long as it bears a rational relation to some legitimate end.” *United States v. Skrametti*, 605 U.S. 495, 510 (2025) (quoting *Romer v. Evans*, 517 U.S. 620, 631 (1996)). The Due Process Clause has been construed to require basic

procedural protections and to guarantee certain substantive rights that are “deeply rooted in this Nation’s history and tradition” and “implicit in the concept of ordered liberty.” *Dobbs v. Jackson Women’s Health Organization*, 597 U.S. 215, 231 (2022).

25. How do these clauses apply to individuals that the Framers of the amendment likely did not have in mind, such as women? Or LGBTQ+ individuals?

Response: The Supreme Court has applied the Fourteenth Amendment to individuals in those groups, such as in *United States v. Virginia*, 518 U.S. 515 (1996) and *Obergefell v. Hodges*, 576 U.S. 644 (2015). Those cases are binding precedent, and I would faithfully apply them if I were fortunate enough to be confirmed. This term, the Supreme Court is considering the application of the Fourteenth Amendment to state laws that separate sports teams on the basis of sex. *See Little v. Hecox*, 24-38 (U.S.); *West Virginia v. B.P.J.*, 24-43 (U.S.). As a judicial nominee, it would be improper for me to opine on matters that are the subject of pending or impending litigation. *See Code of Conduct for United States Judges*, Canon 3A(6).

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

Response: Please see my response to Question 20.

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

Response: Please see my response to Question 20.

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

Response: The Supreme Court has held that the First Amendment protects speech regardless of whether the government considers the speech to be right or wrong, *Hurley v. Irish-American Gay, Lesbian and Bisexual Group of Boston, Inc.*, 515 U.S. 537 (1995), and even if it is outrageous, *Snyder v. Phelps*, 562 U.S. 442 (2011); *United States v. Stevens*, 559 U.S. 460 (2010). The Supreme Court has also held that First Amendment protections may apply to individuals, *McIntyre v. Ohio Elecs. Comm’n*, 514 U.S. 334 (1995), as well as corporations, *see, e.g., Citizens United v. Fed. Elec. Comm’n*, 558 U.S. 310 (2010). As a lower court judge, I would be bound to apply all Supreme Court precedents.

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

Response: The Supreme Court has stated that a “regulation of speech is facially content based under the First Amendment if it target[s] speech based on its communicative content—that is, if it applies to particular speech because of the topic discussed or the

idea or message expressed.” *City of Austin v. Reagan Nat’l Advertising of Austin, LLC*, 596 U.S. 61, 69 (2022). By contrast, a law is content-neutral if it can be “justified without reference to the content of the regulated speech.” *Reed v. Town of Gilbert*, 576 U.S. 155, 166 (2015). As a lower court judge, I would be bound to apply all Supreme Court precedents.

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

Response: The Supreme Court has stated that “true threats are serious expressions conveying that a speaker means to commit an act of unlawful violence.” *Counterman v. Colorado*, 600 U.S. 66, 74 (2023). Such threats are a “historically unprotected category of communications.” *Id.*

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

Response: The Fifth and Fourteenth Amendments to the U.S. Constitution provide, respectively, that no person shall “be deprived of life, liberty or property, without due process of law” and that no State shall “deprive any person of life, liberty, or property, without due process of law.” U.S. Const., amends. V, XIV. 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, it would be improper for me as a judicial nominee to comment further. *See* Code of Conduct for United States Judges, Canon 3(A)(6).

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

Response: Please see my response to Question 31 above.

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

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

Response: Because this question asks about matters that are the subject of pending litigation, it would be improper for me as a judicial nominee to opine on it. *See* Code of Conduct for United States 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: Because this question asks about matters that are the subject of pending litigation, it would be improper for me as a judicial nominee to opine on it. *See* Code of Conduct for United States Judges, Canon 3A(6).

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

Response: No one should be excluded from the federal bench on the basis of his or her race, sex, ethnicity, religion, or any other protected characteristic.

- 35.** The bipartisan *First Step Act of 2018*, which was signed into law by President Trump, is one of the most important pieces of criminal justice legislation to be enacted during my time in Congress. At its core, the Act was based on a few key, evidence-based principles. First, incarcerated people can and should have meaningful access to rehabilitative programming and support in order to reduce recidivism and help our communities prosper. Second, overincarceration through the use of draconian mandatory minimum sentences does not serve the purposes of sentencing and ultimately causes greater, unnecessary harm to our communities. With these rehabilitative principles in mind, one thing Congress sought to achieve through this Act was giving greater discretion to judges—both before and after sentencing—to ensure that the criminal justice system effectively and efficiently fosters public safety for the benefit of all Americans.

- a. How do you view the role of federal judges in implementing the *First Step Act*?**

Response: As with any other constitutional or statutory provision, I would be obligated as a judge to faithfully and impartially apply the First Step Act and governing precedents interpreting it.

- 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: As a nominee to the court of appeals, I do not expect to impose criminal sentences. I commit to faithfully and impartially applying all applicable laws and precedents that govern the sentencing of criminal defendants.

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

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

Response: To the best of my knowledge, I have not spoken to or corresponded with any individuals associated with the Federalist Society as part of my selection process. I am sure that I interacted with members of the Federalist Society during the selection process.

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

Response: Yes. When I was a law student, I conducted research for a law review article for Professor Brian T. Fitzpatrick, as disclosed in my Senate Judiciary Questionnaire.

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

Response: Yes. To the best of my recollection, the Federalist Society paid me an honorarium for the research that I conducted for Professor Fitzpatrick. I recall that the amount was \$500 or \$1,000, but I have not located any records to confirm the amount.

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

- a. **In your Questionnaire, you state that you are currently or were previously a member of the Teneo Network. How many meetings have you attended since joining?**

Response: To the best of my recollection, I have attended seven meetings.

- b. **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: To the best of my knowledge, I have not spoken to or corresponded with any individuals associated with the Teneo Network as part of my selection process.

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

Response: Yes, I participated in one panel discussion, as disclosed in my Senate Judiciary Questionnaire.

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

Response: No.

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

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

Response: To the best of my knowledge, I have not spoken to or corresponded with any individuals associated with Heritage Foundation or Heritage Action as part of my selection process.

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

Response: No.

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

Response: No.

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

Response: No.

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

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

Response: To the best of my knowledge, I have not spoken to or corresponded with any individuals associated with AFPI as part of my selection process.

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

Response: No.

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

Response: No.

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

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

Response: I have had a personal and professional relationship with Gene Hamilton for many years. I have maintained my correspondence with him throughout my selection process. To the best of my knowledge, I have not spoken to or corresponded with any other individual associated with AFLI as part of my selection process.

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

Response: I serve as co-counsel with AFLI on a case currently pending in federal court in Louisiana. *See Hines v. Stamos*, 3:23-cv-000571-TAD-KDM (W.D. La.).

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

Response: No.

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

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

Response: To the best of my knowledge, I have not spoken to or corresponded with any individuals associated with the Article III Project as part of my selection process.

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

Response: No.

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

Response: No.

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

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

Response: To the best of my knowledge, I have not spoken to or corresponded with any individuals associated with ADF as part of my selection process.

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

Response: Yes, I participated in two panel discussions, as disclosed in my Senate Judiciary Questionnaire.

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

Response: Yes. I received a \$500 honorarium for participating in the May 2025 panel discussion.

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

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

Response: To the best of my knowledge, I have not spoken to or corresponded with any individuals associated with these organizations as part of my selection process.

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

Response: No.

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

Response: No.

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

Response: I am unaware of whether outside groups or special interests might be making donations in support of my confirmation. If I am confirmed, any public advocacy for or against my confirmation will be irrelevant to my decision-making as a judge.

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

Response: I believe that both the appearance of impartiality and actual impartiality are important in maintaining public confidence in our system of justice. If I am fortunate enough to be 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, as a judicial nominee, to address such policy questions.

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

Response: Please see my responses to Questions 43.d-e.

**Nomination of Justin Smith
Nominee to be U.S. Circuit Judge for the Eighth Circuit Court of Appeals
Questions for the Record
Submitted April 22, 2026**

QUESTIONS FROM SENATOR WHITEHOUSE

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

1. You are Treasurer and a Board Member for the Yorktown Fund.

Response: I resigned as Treasurer and Board Member for the Yorktown Fund on April 9, 2026. I have no continuing relationship with the Yorktown Fund.

- a. Who first contacted you about joining the Yorktown Fund? When?

Response: To the best of my recollection, Oramel Skinner contacted me about joining the Yorktown Fund Board of Directors in December 2025.

- b. Who decided to start the Yorktown Fund?

Response: To the best of my knowledge, Mr. Skinner.

- c. Who decided to locate the Yorktown Fund in Tennessee?

Response: To the best of my knowledge, Mr. Skinner.

- d. Have you ever spoken to Leonard Leo about the Yorktown Fund? If so, when did those conversations occur, and what did you discuss?

Response: No.

- e. Have you ever spoken to Oramel Skinner about the Yorktown Fund? If so, when did those conversations occur, and what did you discuss?

Response: Yes. To the best of my recollection, as previously mentioned, Mr. Skinner contacted me about joining the Yorktown Fund Board of Directors in December 2025. I told Mr. Skinner that I was willing to serve on the Board, but that I would resign from the Board if I was nominated for the Eighth Circuit. Mr. Skinner and I may have discussed the Yorktown Fund in passing on a handful of occasions in early 2026, but I do not recall dates or specific content discussed. On April 9, 2026, I provided Mr. Skinner with my letter of resignation from the Yorktown Fund Board, as we had previously discussed. After my resignation from the Board, a journalist contacted me for comment about the Yorktown Fund. I spoke with Mr. Skinner on April 10, 2026, about the request for comment and related Yorktown Fund issues in the event that I was questioned about the Yorktown Fund at my nomination hearing.

- f. Have you ever spoken to Carrie Severino about the Yorktown Fund? If so, when did those conversations occur, and what did you discuss?

Response: No.

- g. Have you ever spoken to Gary Marx about the Yorktown Fund? If so, when did those conversations occur, and what did you discuss?

Response: No.

- h. Have you ever spoken to Chris Jankowski about the Yorktown Fund? If so, when did those conversations occur, and what did you discuss?

Response: No.

- i. Have you ever spoken to Peter Bisbee about the Yorktown Fund? If so, when did those conversations occur, and what did you discuss?

Response: No.

- j. How many times have you met with other Yorktown Fund Board members to discuss its activities? When did those meetings occur, and what did you discuss?

Response: I participated in one Yorktown Fund Board meeting. The Board held an organizational board meeting electronically in December 2025, at which the board elected officers, authorized officers to enter contracts and open bank accounts, and adopted bylaws and internal corporate governance policies. I resigned before the Board held any other meetings.

- k. How many times have you met with Yorktown Fund officers to discuss its activities? When did those meetings occur, and what did you discuss?

Response: Please see my responses to Questions 1.e and 1.j.

- l. Have you ever spoken to anyone affiliated with the Lexington Fund regarding your or anyone else's work at the Yorktown Fund? If so, with whom, when did those conversations take place, and what did you discuss?

Response: No one other than Mr. Skinner. My conversations with Mr. Skinner related to the Yorktown Fund and not to the Lexington Fund. Please see my response to Question 1.e.

- m. Have you ever spoken to anyone affiliated with The 85 Fund regarding your or anyone else's work at the Yorktown Fund? If so, with whom, when did those conversations take place, and what did you discuss?

Response: No one other than Mr. Skinner. My conversations with Mr. Skinner related to the Yorktown Fund and not to The 85 Fund. Please see my response to Question 1.e.

- n. While it was a registered entity in Virginia, did you ever speak to anyone affiliated with The Concord Fund regarding your or anyone else's work at the Yorktown Fund, including any plans to start the Yorktown Fund? If so, with whom, when did those conversations take place, and what did you discuss?

Response: No.

- o. Have you ever spoken to anyone affiliated with the Marble Freedom Trust regarding your or anyone else's work at the Yorktown Fund? If so, with whom, when did those conversations take place, and what did you discuss?

Response: No.

- p. Have you ever spoken to anyone affiliated with CRC Advisors regarding your or anyone else's work at the Yorktown Fund? If so, with whom, when did those conversations take place, and what did you discuss?

Response: No.

- q. Has the Yorktown Fund contracted with or otherwise paid CRC Advisors for services? If so, what were the nature and dates of those services, and how much was paid to CRC Advisors?

Response: Not to my knowledge.

- r. Has the Yorktown Fund contracted with or otherwise paid Pervinco LLC for services? If so, what were the nature and dates of those services, and how much was paid to Pervinco LLC?

Response: No.

- s. What role did you have in registering Honest Election Project Action as an assumed name of the Yorktown Fund? What role do you have in the activities associated with that assumed name?

Response: None.

- t. What role did you have in registering Alliance for Consumers Action Fund as an assumed name of the Yorktown Fund? What role do you have in the activities associated with that assumed name?

Response: None.

- u. Will you recuse if the Yorktown Fund, whether under that name or any assumed name, or anyone associated with the Fund or its assumed names, appears before you as a party, counsel, or amicus curiae?

Response: If I am fortunate enough to be 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. At the current time, it would be inappropriate for me to prejudge any hypothetical recusal motion.

2. You were Secretary and a Board Member for the Publius Fund.

- a. Who first contacted you about joining the Publius Fund? When?

Response: To the best of my recollection, Oramel Skinner contacted me about joining the Publius Fund Board of Directors in early 2024.

- b. Who decided to start the Publius Fund?

Response: To the best of my knowledge, Mr. Skinner.

- c. Who decided to locate the Publius Fund in Virginia?

Response: To the best of my knowledge, Mr. Skinner.

- d. Who decided to terminate and dissolve the Publius Fund in Virginia?

Response: The Publius Fund Board of Directors voted to terminate and dissolve the Fund in Virginia in December 2025.

- e. Why did the Publius Fund terminate and dissolve in Virginia?

Response: The Publius Fund had not been adequately successful in its objective to implement grassroots fundraising through direct contact strategies.

- f. Have you ever spoken to Leonard Leo about the Publius Fund? If so, when did those conversations occur, and what did you discuss?

Response: No.

- g. Have you ever spoken to Oramel Skinner about the Publius Fund? If so, when did those conversations occur, and what did you discuss?

Response: Yes. To the best of my recollection, as previously mentioned, Mr. Skinner contacted me about joining the Publius Fund Board of Directors in early 2024. I spoke with Mr. Skinner in March 2024 and December 2024 at Publius Fund Board of Directors meetings. I also spoke with Mr. Skinner in December 2025 about dissolving the Publius Fund. Mr. Skinner and I had other conversations in 2024 and 2025 about the Publius Fund's progress, but I do not remember any specific dates or the specific contents of those conversations. When I spoke with Mr. Skinner on April 10, 2026, about the request for comment relating to the Yorktown Fund, I also discussed the Publius Fund in the event that I was questioned about the Publius Fund at my nomination hearing.

- h. Have you ever spoken to Carrie Severino about the Publius Fund? If so, when did those conversations occur, and what did you discuss?

Response: No.

- i. Have you ever spoken to Gary Marx about the Publius Fund? If so, when did those conversations occur, and what did you discuss?

Response: No.

- j. Have you ever spoken to Chris Jankowski about the Publius Fund? If so, when did those conversations occur, and what did you discuss?

Response: No.

- k. Have you ever spoken to Peter Bisbee about the Publius Fund? If so, when did those conversations occur, and what did you discuss?

Response: No.

- l. How many times did you meet with other Publius Fund Board members to discuss its activities? When did those meetings occur, and what did you discuss?

Response: I participated in three Publius Fund Board meetings. The Board held a board meeting in March 2024, at which the Board elected officers. The Board held a board meeting in December 2024, at which the Board reviewed the previous year's activities. The Board held a board meeting electronically in December 2025, at which the Board voted to dissolve and terminate the Publius Fund.

- m. How many times did you meet with other Publius Fund officers to discuss its activities? When did those meetings occur, and what did you discuss?

Response: Please see my responses to Questions 2.g and 2.i.

- n. While the Publius Fund was a registered entity in Virginia, did you ever speak to anyone affiliated with the Lexington Fund regarding your or anyone else's work at the Publius Fund? If so, with whom, when did those conversations take place, and what did you discuss?

Response: No one other than Mr. Skinner. My conversations with Mr. Skinner related to the Publius Fund and not to the Lexington Fund. Please see my response to Question 2.g.

- o. While the Publius Fund was a registered entity in Virginia, did you ever speak to anyone affiliated with the Yorktown Fund regarding your or anyone else's work at the Publius Fund? If so, with whom, when did those conversations take place, and what did you discuss?

Response: No.

- p. While the Publius Fund was a registered entity in Virginia, did you ever speak to anyone affiliated with The 85 Fund regarding your or anyone else's work at the Publius Fund? If so, with whom, when did those conversations take place, and what did you discuss?

Response: No one other than Mr. Skinner. My conversations with Mr. Skinner related to the Publius Fund and not to The 85 Fund. Please see my response to Question 2.g.

- q. While the Publius Fund was a registered entity in Virginia, did you ever speak to anyone affiliated with The Concord Fund regarding your or anyone else's work at the Publius Fund? If so, with whom, when did those conversations take place, and what did you discuss?

Response: No.

- r. While the Publius Fund was a registered entity in Virginia, did you ever speak to anyone affiliated with the Marble Freedom Trust regarding your or anyone else's work at the Publius Fund? If so, with whom, when did those conversations take place, and what did you discuss?

Response: No.

- s. While the Publius Fund was a registered entity in Virginia, did you ever speak to anyone affiliated with CRC Advisors regarding your or anyone else's work at the Publius Fund? If so, with whom, when did those conversations take place, and what did you discuss?

Response: No.

- t. Did the Publius Fund contract with or otherwise pay CRC Advisors for services? If so, what were the nature and dates of those services, and how much was paid to CRC Advisors?

Response: No.

- u. Did the Publius Fund contract with or otherwise pay Pervinco LLC for services? If so, what were the nature and dates of those services, and how much was paid to Pervinco LLC?

Response: No.

- v. What role did you have in registering Judicial Education Project Fund as a fictitious name of the Publius Fund? What role did you have in the activities associated with that fictitious name?

Response: None.

- w. What role did you have in registering Honest Elections Project Fund as a fictitious name of the Publius Fund? What role did you have in the activities associated with that fictitious name?

Response: None.

- x. What role did you have in registering Alliance for Consumers Fund as a fictitious name of the Publius Fund? What role did you have in the activities associated with that fictitious name?

Response: None.

- y. What role did you have in registering American Parents Coalition Fund as a fictitious name of the Publius Fund? What role did you have in the activities associated with that fictitious name?

Response: None.

- z. What role did you have in registering Save Our States Fund as a fictitious name of the Publius Fund? What role did you have in the activities associated with that fictitious name?

Response: None.

- aa. Will you recuse if the Publius Fund, whether under that name or any fictitious name, or anyone associated with the Fund or its assumed names, appears before you as a party, counsel, or amicus curiae?

Response: Publius Fund has been terminated and dissolved. If I am fortunate enough to be 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. At the current time, it would be inappropriate for me to prejudge any hypothetical recusal motion.

3. You are a Board Member for First Principles Action.

Response: I resigned as Board Member for First Principles Action on April 9, 2026. I have no continuing relationship with First Principles Action.

- a. Who first contacted you about joining First Principles Action? When?

Response: To the best of my recollection, Peter Bisbee contacted me about joining the First Principles Action Board of Directors in November or December 2024.

- b. Who decided to start First Principles Action?

Response: To the best of my knowledge, Mr. Bisbee.

- c. Who decided to locate First Principles Action in Tennessee?

Response: To the best of my knowledge, Mr. Bisbee.

- d. Have you ever spoken to Leonard Leo about First Principles Action? If so, when did those conversations occur, and what did you discuss?

Response: No.

- e. Have you ever spoken to Oramel Skinner about First Principles Action? If so, when did those conversations occur, and what did you discuss?

Response: To the best of my knowledge, I informed Mr. Skinner in November or December 2024 that I had been invited to join the First Principles Action Board of Directors to confirm that there would not be a conflict of interest with my service at the time on the Publius Fund Board of Directors.

- f. Have you ever spoken to Carrie Severino about First Principles Action? If so, when did those conversations occur, and what did you discuss?

Response: No.

- g. Have you ever spoken to Gary Marx about First Principles Action? If so, when did those conversations occur, and what did you discuss?

Response: No.

- h. Have you ever spoken to Chris Jankowski about First Principles Action? If so, when did those conversations occur, and what did you discuss?

Response: No.

- i. How many times have you met with other First Principles Action Board members to discuss its activities? When did those meetings occur, and what did you discuss?

Response: I participated in two First Principles Action Board meetings. The Board held an organizational board meeting electronically in December 2024, at which the board elected officers, authorized officers to enter contracts and open bank accounts, and adopted bylaws and internal corporate governance policies. The Board held a board meeting electronically in December 2025, at which the Board elected directors and officers, as well as affirmed receipt and review of corporate policies.

- j. How many times have you met with First Principles Action officers to discuss its activities? When did those meetings occur, and what did you discuss?

Response: Please see my response to Questions 3.i.

- k. Have you ever spoken to anyone affiliated with the Lexington Fund regarding your or anyone else's work at First Principles Action? If so, with whom, when did those conversations take place, and what did you discuss?

Response: No one other than Mr. Skinner. My conversation with Mr. Skinner was limited to the issue in my response to Question 3.e.

- l. Have you ever spoken to anyone affiliated with The 85 Fund regarding your or anyone else's work at First Principles Action? If so, with whom, when did those conversations take place, and what did you discuss?

Response: No one other than Mr. Skinner. My conversation with Mr. Skinner was limited to the issue in my response to Question 3.e.

- m. While it was a registered entity in Virginia, did you ever speak to anyone affiliated with The Concord Fund regarding your or anyone else's work at First Principles Action? If so, with whom, when did those conversations take place, and what did you discuss?

Response: No.

- n. Have you ever spoken to anyone affiliated with the Marble Freedom Trust regarding your or anyone else's work at First Principles Action? If so, with whom, when did those conversations take place, and what did you discuss?

Response: No.

- o. Have you ever spoken to anyone affiliated with CRC Advisors regarding your or anyone else's work at First Principles Action? If so, with whom, when did those conversations take place, and what did you discuss?

Response: No.

- p. Has First Principles Action contracted with or otherwise paid CRC Advisors for services? If so, what were the nature and dates of those services, and how much was paid to CRC Advisors?

Response: Not to my knowledge.

- q. Has First Principles Action contracted with or otherwise paid Pervinco LLC for services? If so, what were the nature and dates of those services, and how much was paid to Pervinco LLC?

Response: No.

- r. What is the relationship between First Principles Action and First Principles PAC? Have you ever spoken to anyone affiliated with First Principles PAC about your or anyone else's work at First Principles Action? If so, with whom, when did those conversations take place, and what did you discuss?

Response: I am not a board member of First Principles PAC and do not have any knowledge of its relationships or affiliations.

- s. What is the relationship between First Principles Action and First Principles Foundation? Have you ever spoken to anyone affiliated with First Principles Foundation about your or anyone else's work at First Principles Action? If so, with whom, when did those conversations take place, and what did you discuss?

Response: I am not a board member of First Principles Foundation and do not have any knowledge of its relationships or affiliations.

- t. Will you recuse if First Principles Action, whether under that name or any assumed name, or anyone associated with First Principles Action or its assumed names, appears before you as a party, counsel, or amicus curiae?

Response: If I am fortunate enough to be 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. At the current time, it would be inappropriate for me to prejudge any hypothetical recusal motion.

- u. Will you recuse if First Principles PAC, whether under that name or any assumed name, or anyone associated with First Principles PAC or its assumed names, appears before you as a party, counsel, or amicus curiae?

Response: If I am fortunate enough to be 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. At the current time, it would be inappropriate for me to prejudge any hypothetical recusal motion.

- v. Will you recuse if First Principles Foundation, whether under that name or any assumed name, or anyone associated with First Principles Foundation or its assumed names, appears before you as a party, counsel, or amicus curiae?

Response: If I am fortunate enough to be 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. At the current time, it would be inappropriate for me to prejudge any hypothetical recusal motion.

4. You were a Board Member for American Patriot Fighters.

- a. Who first contacted you about joining American Patriot Fighters? When?

Response: Chris Jankowski contacted me in or around June 2023.

- b. Who decided to start American Patriot Fighters?

Response: To the best of my knowledge, Mr. Jankowski.

- c. Who decided to locate American Patriot Fighters in Delaware?

Response: I do not recall.

- d. Have you ever spoken to Leonard Leo about American Patriot Fighters? If so, when did those conversations occur, and what did you discuss?

Response: No.

- e. Have you ever spoken to Oramel Skinner about American Patriot Fighters? If so, when did those conversations occur, and what did you discuss?

Response: No.

- f. Have you ever spoken to Carrie Severino about American Patriot Fighters? If so, when did those conversations occur, and what did you discuss?

Response: No.

- g. Have you ever spoken to Gary Marx about American Patriot Fighters? If so, when did those conversations occur, and what did you discuss?

Response: No.

- h. Have you ever spoken to Chris Jankowski about American Patriot Fighters? If so, when did those conversations occur, and what did you discuss?

Response: Yes. To the best of my recollection, as previously mentioned, Mr. Jankowski contacted me about joining American Patriot Fighters in or around June 2023. I recall exchanging a handful of emails in 2023 and 2024 with Mr. Jankowski about issues relating to the group's formation and expenses. In May 2024, Mr. Jankowski and I dissolved American Patriot Fighters.

- i. How many times have you met with other American Patriot Fighters Board members to discuss its activities? When did those meetings occur, and what did you discuss?

Response: I participated in two American Patriot Fighters Board meetings. The American Patriot Fighters Board held a meeting in July 2023, at which the board elected officers, authorized officers to enter contracts and open bank accounts, and adopted bylaws and internal corporate governance policies. The Board held a board meeting electronically in May 2024 to dissolve American Patriot Fighters.

- j. How many times have you met with American Patriot Fighters officers to discuss its activities? When did those meetings occur, and what did you discuss?

Response: Please see my responses to Questions 4.h and 4.i.

- k. Have you ever spoken to anyone affiliated with the Lexington Fund regarding your or anyone else's work at American Patriot Fighters? If so, with whom, when did those conversations take place, and what did you discuss?

Response: No.

- l. Have you ever spoken to anyone affiliated with The 85 Fund regarding your or anyone else's work at American Patriot Fighters? If so, with whom, when did those conversations take place, and what did you discuss?

Response: No.

- m. While it was a registered entity in Virginia, did you ever speak to anyone affiliated with The Concord Fund regarding your or anyone else's work at American Patriot

Fighters? If so, with whom, when did those conversations take place, and what did you discuss?

Response: No.

- n. Have you ever spoken to anyone affiliated with the Marble Freedom Trust regarding your or anyone else's work at American Patriot Fighters? If so, with whom, when did those conversations take place, and what did you discuss?

Response: No.

- o. Have you ever spoken to anyone affiliated with CRC Advisors regarding your or anyone else's work at American Patriot Fighters? If so, with whom, when did those conversations take place, and what did you discuss?

Response: No.

- p. Has American Patriot Fighters contracted with or otherwise paid CRC Advisors for services? If so, what were the nature and dates of those services, and how much was paid to CRC Advisors?

Response: Not to my knowledge.

- q. Has American Patriot Fighters contracted with or otherwise paid Pervinco LLC for services? If so, what were the nature and dates of those services, and how much was paid to Pervinco LLC?

Response: No.

- r. Will you recuse if American Patriot Fighters, whether under that name or any assumed name, or anyone associated with American Patriot Fighters or its assumed names, appears before you as a party, counsel, or amicus curiae?

Response: American Patriot Fighters has been terminated and dissolved. If I am fortunate enough to be 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. At the current time, it would be inappropriate for me to prejudge any hypothetical recusal motion.

- 5. You were Treasurer for Club for Growth Action – Missouri Federal Committee.

Note: All subparts to this question refer to “Club for Growth Action – Missouri,” which, to my knowledge, is not an entity that exists. I have answered all subparts to this question as if they had correctly stated “Club for Growth Action – Missouri Federal Committee.”

- a. Who first contacted you about joining Club for Grown Action - Missouri? When?

Response: I was contacted by Brendan Jaspers in April or May 2023.

- b. Who decided to start Club for Grown Action - Missouri?

Response: My understanding is Club for Growth.

- c. Have you ever spoken to Leonard Leo about Club for Grown Action - Missouri? If so, when did those conversations occur, and what did you discuss?

Response: No.

- d. Have you ever spoken to Oramel Skinner about Club for Grown Action - Missouri? If so, when did those conversations occur, and what did you discuss?

Response: I spoke with Mr. Skinner about the Missouri Attorney General's race in 2023 and 2024. Mr. Skinner and I discussed various topics, including race dynamics, communications, and on-the-ground observations. I do not recall the dates of these conversations.

- e. Have you ever spoken to Carrie Severino about Club for Grown Action - Missouri? If so, when did those conversations occur, and what did you discuss?

Response: No.

- f. Have you ever spoken to Gary Marx about Club for Grown Action - Missouri? If so, when did those conversations occur, and what did you discuss?

Response: No.

- g. Have you ever spoken to Chris Jankowski about Club for Grown Action - Missouri? If so, when did those conversations occur, and what did you discuss?

Response: I spoke with Mr. Jankowski about the Missouri Attorney General's race in 2023 and 2024. Mr. Jankowski and I discussed various topics, including race dynamics, communications, and on-the-ground observations. I do not recall the dates of these conversations.

- h. How many times did you meet with Club for Grown Action - Missouri officers to discuss its activities? When did those meetings occur, and what did you discuss?

Response: Club for Growth Action – Missouri was a political action committee under Missouri law. To the best of my recollection, the committee had a treasurer but no other officers.

- i. Have you ever spoken to anyone affiliated with the Lexington Fund regarding your or anyone else's work at Club for Grown Action - Missouri? If so, with whom, when did those conversations take place, and what did you discuss?

Response: No one other than Mr. Skinner. My conversations with Mr. Skinner related to the Missouri Attorney General's Race and not to the Lexington Fund. Please see my response to Question 5.d.

- j. Have you ever spoken to anyone affiliated with The 85 Fund regarding your or anyone else's work at Club for Grown Action - Missouri? If so, with whom, when did those conversations take place, and what did you discuss?

Response: No one other than Mr. Skinner. My conversations with Mr. Skinner related to the Missouri Attorney General's Race and not to The 85 Fund. Please see my response to Question 5.d.

- k. While it was a registered entity in Virginia, did you ever speak to anyone affiliated with The Concord Fund regarding your or anyone else's work at Club for Grown Action - Missouri? If so, with whom, when did those conversations take place, and what did you discuss?

Response: No.

- l. Have you ever spoken to anyone affiliated with the Marble Freedom Trust regarding your or anyone else's work at Club for Grown Action - Missouri? If so, with whom, when did those conversations take place, and what did you discuss?

Response: No.

- m. Have you ever spoken to anyone affiliated with CRC Advisors regarding your or anyone else's work at Club for Grown Action - Missouri? If so, with whom, when did those conversations take place, and what did you discuss?

Response: Not to my knowledge.

- n. Has Club for Grown Action - Missouri contracted with or otherwise paid CRC Advisors for services? If so, what were the nature and dates of those services, and how much was paid to CRC Advisors?

Response: No.

- o. Has Club for Grown Action - Missouri contracted with or otherwise paid Pervinco LLC for services? If so, what were the nature and dates of those services, and how much was paid to Pervinco LLC?

Response: In April 2023, Pervinco LLC began providing consulting services to Defend Missouri, a Missouri political action committee, relating to the Missouri Attorney General primary election in 2023 and 2024. When Brendan Jaspers contacted me about Club for Growth Action – Missouri Federal Committee in May 2023, he informed me that the new committee would have a similar consulting services arrangement with Pervinco LLC. In 2023 and 2024, Club for Growth Action – Missouri Federal Committee paid Pervinco LLC \$40,000 for consulting services relating to the Missouri Attorney General primary election.

6. Have you ever assisted, advised, or otherwise been associated with the Lexington Fund? If so, what was your role and on what dates did you provide those services?

Response: No.

- a. Has the Lexington Fund ever contracted with or otherwise paid services to Pervinco LLC? If so, what were the nature and dates of those services, and how much was paid to Pervinco LLC?

Response: No.

- b. Will you recuse if the Lexington Fund, whether under that name or any assumed, fictitious, or trade name, or anyone associated with the Lexington Fund or its various names, appears before you as a party, counsel, or amicus curiae?

Response: If I am fortunate enough to be 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. At the current time, it would be inappropriate for me to prejudge any hypothetical recusal motion.

7. Have you ever assisted, advised, or otherwise been associated with The 85 Fund? If so, what was your role and on what dates did you provide those services?

Response: No.

- a. Has The 85 Fund ever contracted with or otherwise paid services to Pervinco LLC? If so, what were the nature and dates of those services, and how much was paid to Pervinco LLC?

Response: No.

- b. Will you recuse if The 85 Fund, whether under that name or any assumed, fictitious, or trade name, or anyone associated with The 85 Fund or its various names, appears before you as a party, counsel, or amicus curiae?

Response: If I am fortunate enough to be 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. At the current time, it would be inappropriate for me to prejudge any hypothetical recusal motion.

8. Have you ever assisted, advised, or otherwise been associated with The Concord Fund? If so, what was your role and on what dates did you provide those services?

Response: No.

- a. Did The Concord Fund ever contract with or otherwise pay services to Pervinco LLC? If so, what were the nature and dates of those services, and how much was paid to Pervinco LLC?

Response: No.

9. Have you ever assisted, advised, or otherwise been associated with Marble Freedom Trust? If so, what was your role and on what dates did you provide those services?

Response: No.

- a. Has the Marble Freedom Trust ever contracted with or otherwise paid services to Pervinco LLC? If so, what were the nature and dates of those services, and how much was paid to Pervinco LLC?

Response: No.

- b. Will you recuse if the Marble Freedom Trust, whether under that name or any assumed, fictitious, or trade name, or anyone associated with the Marble Freedom Trust or its various names, appears before you as a party, counsel, or amicus curiae?

Response: If I am fortunate enough to be 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. At the current time, it would be inappropriate for me to prejudge any hypothetical recusal motion.

10. When they were registered entities in Virginia, The Concord Fund and the Publius Fund were registered to the same address.

- a. Were you aware of this information before today?

Response: No.

- b. Why did the Publius Fund register at the same address as The Concord Fund?

Response: I am not aware of the reason.

11. First Principles Action and the Yorktown Fund share an address with the First Principles PAC and First Principles Foundation.

a. Were you aware of this information before today?

Response: No.

b. Why did First Principles Action register at the same address as First Principles PAC and First Principles Foundation?

Response: I am not aware of the reason.

c. Why did the Yorktown Fund register at the same address as First Principles PAC and First Principles Foundation?

Response: I am not aware of the reason.

12. Have you ever spoken to President Trump about Leonard Leo? If so, when, and what did you discuss?

Response: No.

a. Have you ever disclosed to President Trump your affiliation with the Yorktown Fund? If so, when, and what did you discuss?

Response: No.

b. Have you ever disclosed to President Trump your affiliation with the Publius Fund? If so, when, and what did you discuss?

Response: No.

c. Have you disclosed to President Trump that many of the organizations you have been affiliated with have received substantial funding from organizations affiliated with Leonard Leo? If so, when, and what did you discuss?

Response: I disagree with the assertions in the question, but in response, no.

d. Have you ever disclosed to President Trump that many of the organizations you have been affiliated with have shared names with organizations affiliated with Leonard Leo? If so, when, and what did you discuss?

Response: I disagree with the assertions in the question, but in response, no.

- e. Have you ever disclosed to President Trump that many of the organizations you have been affiliated with share personnel with organizations affiliated with Leonard Leo? If so, when, and what did you discuss?

Response: I disagree with the assertions in the question, but in response, no.

Senate Judiciary Committee
Hearing on
Nominations
April 15, 2026
Questions for the Record
Senator Amy Klobuchar

For Justin Daniel Smith, to the U.S. Court of Appeals for the Eighth Circuit

1. The Republican-appointed chief judge in Minnesota found the Department of Homeland Security violated at least 97 court orders just in the month of January. And judges in Minnesota, appointed by presidents of both parties, have ruled against the administration's unconstitutional actions.

- If confirmed as an appellate judge, how will you ensure that all parties, including the executive branch, comply with court orders issued by district courts?

Response: Generally, federal courts seek to ensure compliance with court orders through tools like status reports and hearings, sanctions, and civil and criminal contempt proceedings. I anticipate employing the methods typically used by federal courts.

2. You represented President Trump's effort to overturn the election result in several states in 2020. In Minnesota, we've made it easier - not harder - for all eligible voters to exercise their constitutional right to vote. And our state consistently leads the nation in voter turnout because we have things like no-excuse vote by mail, 46 days of early voting, and same-day registration.

The President issued an executive order to overhaul our nation's elections and assert federal control over state-run elections. Minnesota and 18 other states sued and won a preliminary injunction.

- Do you agree with what a judge wrote: "the Constitution does not grant the President any specific powers over elections"?

Response: As a judicial nominee, it would be improper for me to opine on matters that are the subject of pending or impending litigation. *See* Code of Conduct for United States Judges, Canon 3A(6).

3. You have supported efforts in Missouri that would lead to the closure of Planned Parenthood clinics.

- Are you aware that in 2023, Planned Parenthood health centers in Missouri provided critical preventive health care services, including 1,125 breast exams and 1,316 cervical cancer screenings that detected 252 abnormal results requiring further diagnosis and treatment?

Response: I was not aware of these specific statistics.

**Nomination of Justin Smith to be
United States Circuit Judge for the Eighth Circuit
Questions for the Record
Submitted April 22, 2026**

QUESTIONS FROM SENATOR COONS

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

Response: The Constitution assigns the Senate with the advice and consent responsibility for judicial nominees. I trust that the Senate will appropriately exercise its advice and consent responsibility as it carefully considers each judicial nominee's qualifications.

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

Response: I am humbled and deeply grateful to be a judicial nominee. I believe that I have the responsibility to demonstrate to this Committee, the Senate, and the American people that I should be confirmed for this position, and that this includes giving my best efforts in the advice and consent process. I have endeavored to provide full and complete answers to the Committee's questions to the best of my ability and in good faith.

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

Response: Yes.

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

Response: I drafted every response that I am providing to you. I received limited feedback on my proposed responses from the Department of Justice Office of Legal Policy. I finalized the answers, all of which are mine.

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

Response: Yes, if the response is consistent with the nominee's views.

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

Response: In 2025, I reviewed answers to your questions for the record submitted by previous judicial nominees to understand what to expect from the nomination process. I may have done so again around the time that President Trump decided to nominate me for this position. After I drafted my responses to your questions, I reviewed the answers of other judicial nominees to ensure that I had not misunderstood any questions.

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

Response: I understand the question to be asking about responses that are longer than “yes” or “no” or referring to a previous response. With that understanding, not to my knowledge.

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

Response: No.

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

Response: No.

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

Response: I was privileged to work with United States Solicitor General John Sauer for more than six years, first in the Missouri Attorney General’s Office, and then at the James Otis Law Group, LLC. John is the most ethical attorney with whom I have ever worked. I have observed John in many different situations in many important cases. Every time an ethics question has been presented, John has chosen the most ethical option. On top of his brilliance and unrivaled work ethic, John’s character makes him a truly great attorney and role model.

- 6. How would you describe your judicial philosophy?

Response: Federal judges exercise the Article III judicial power by interpreting and applying the law to cases or controversies before them, rather than making or changing the law. To carry out that obligation, judges must faithfully and impartially apply any governing constitutional, statutory, or regulatory text, as well as follow all Supreme Court

precedent and binding circuit precedent. Judges must refrain from deciding cases based on their own policy or moral preferences.

7. With respect to substantive due process, what factors do you look to when a case requires you to determine whether a right is fundamental and protected under the Fourteenth Amendment?

Response: If I am fortunate enough to be confirmed, I would faithfully apply the relevant precedents of the Supreme Court and the Eighth Circuit. According to the Supreme Court, the Fourteenth Amendment's Due Process Clause "has been held to guarantee some rights that are not mentioned in the Constitution, but any such right must be 'deeply rooted in this Nation's history and tradition' and 'implicit in the concept of ordered liberty.'" *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 231 (2022) (quoting *Washington v. Glucksberg*, 521 U.S. 702, 721 (1997) (internal quotation marks omitted)).

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

Response: Yes.

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

Response: Yes. The Supreme Court's decisions in *Dobbs* and *Glucksberg* provide examples of the types of sources that are appropriate for a court to consult.

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

Response: Yes. If I am fortunate enough to be confirmed, I would faithfully apply the relevant precedents of the Supreme Court and the Eighth Circuit. If the Supreme Court and the Eighth Circuit do not have binding precedent relating to the right that has been asserted, then I would consider precedent of another court of appeals as I studied the issue.

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

Response: Yes.

- e. What other factors would you consider?

Response: If I am fortunate enough to be confirmed, I would apply the factors set forth in the relevant precedents of the Supreme Court and the Eighth Circuit.

8. When, if ever, is it permissible for a circuit court to overturn its own precedent? Please explain.

Response: If I am fortunate enough to be confirmed, I would follow the precedents and practices of the Eighth Circuit with respect to overturning circuit precedent. In the Eighth Circuit, “only the en banc court (or the Supreme Court of the United States) can overrule binding circuit precedent.” *United States v. Fluckes*, No. 22-1619, 2023 WL 2292270, at *1 (8th Cir. Mar. 1, 2023) (per curiam). The Eighth Circuit has found that “[o]verturning [the] circuit’s precedent is appropriate when the precedent is ‘erroneous’ and ‘perpetuate[s] unwarranted disuniformity in the law.’” *S.A.A. v. Geisler*, 127 F.4th 1133, 1136 (8th Cir. 2025) (en banc) (citation omitted); *see also* Fed. R. Civ. P. 40(b)(2). “Although one panel of this court ordinarily cannot overrule another panel, this rule does not apply when the earlier panel decision is cast into doubt by a decision of the Supreme Court.” *Patterson v. Tenet Healthcare, Inc.*, 113 F.3d 832, 838 (8th Cir. 1997).

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

Response: Both actual impartiality and the appearance of impartiality are important to maintain the public’s confidence in our system of justice. If I am fortunate enough to be confirmed, as disclosed in my Senate Judiciary Questionnaire, I would recuse from any case in which I have been involved. For all other matters, I will address all actual or potential conflicts of interest by reference to the statute that you cited, 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

10. You have represented President Trump in multiple legal matters, including in front of the U.S. Supreme Court.

- a. Because you have weighed in explicitly on President Trump’s side in multiple legal matters, will you recuse yourself from cases involving challenges to President Trump’s actions?

Response: Please see my response to Question 9.

- b. President Trump wrote in his Truth Social post announcing your nomination that you played a “BIG role in securing a Supreme Court Landmark Victory in Presidential Immunity.”

- A) Is his description accurate?

Response: I was grateful to contribute to the successful outcome at the Supreme Court.

- B) Given your role in this case, will you recuse yourself from any cases that might arise about the limits of presidential immunity?

Response: Please see my response to Question 9.

11. You note in your Senate Judiciary Questionnaire that you have been associated with several political groups, including the True Conservative Political Action Committee, the MAKE JEFFCO GREAT AGAIN Political Action Committee, and Club for Growth Action. Canon 5 of the Code of Conduct for federal judges says that judges should refrain from all political activity. If confirmed, do you plan to discontinue any relationship you may have with these or other political organizations?

Response: Yes. My association with the Club for Growth Action committee ended in 2024. I voluntarily ended my involvement with the other political groups mentioned in this question earlier this month.

12. On your X account, you reposted a May 29, 2025, post by America First Legal President Gene Hamilton saying, “JUDICIAL OVERREACH: Why are we seeing lawfare and rule by judicial decree, despite a resounding victory in the 2024 election by @realDonaldTrump? More reasons than seconds in an hour—but here’s a big one.” Hamilton argues later in the thread that “we have an imperial judiciary that views itself as the ultimate arbiter of EVERYTHING. And legions of so-called conservative lawyers who are thrilled to adjust their behavior and say ‘okay—just stop hitting me.’”

- a. Why did you repost Hamilton’s X post?

Response: I have had a personal and professional relationship with Mr. Hamilton for many years. Since he had recently served in the White House, I thought his perspective on the separation of powers was informative and worthy of consideration by others.

- b. When you reposted this post, what examples of “lawfare and rule by judicial decree” were you thinking about?

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

- c. Do you agree with Hamilton that “we have an imperial judiciary that views itself as the ultimate arbiter of EVERYTHING”? If so, which judges do you believe view themselves that way? If not, why did you post this statement?

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

13. The *New York Times* reported that on March 25, 2026, President Trump stated the following at a National Republican Congressional Committee event: “The time has also come for Republicans to pass a tough new crime bill that imposes harsh penalties for

dangerous repeat offenders, cracks down on rogue judges. We got rogue judges that are criminals. They are criminals, what they do to our country. The decisions that they hand down and hurt our country.”

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

Response: As a judicial nominee, it would be improper for me to offer an opinion on a political issue or a statement by any political figure. *See* Code of Conduct for United States Judges, Canons 3(A)(6), 5.

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

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

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

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

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

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

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

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

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

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

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

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

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

Response: As the question assumes, if I am fortunate enough to be confirmed, I would faithfully apply the relevant binding precedents of the Supreme Court and the Eighth Circuit. Supreme Court decisions like *Marbury v. Madison*, *Youngstown Sheet & Tube Co. v. Sawyer*, including Justice Robert Jackson’s concurring opinion, *United States v. Texas*, and *Trump v. United States* are important decisions that may be relevant depending on the issue at hand.

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

Response: Under the 22nd Amendment, no person may be “elected to the office of the President” for a third term. U.S. Const., amend. XXII.

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

Response: Under Article II, “[t]he Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed.” U.S. Const. art. II, § 1, cl. 3. After the 1800 election, the country adopted the 12th Amendment, which provides that “[t]he person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed.” U.S. Const., amend. XII. Thus, when Congress counts the electoral votes and certifies the election, it means that the person with the greatest number of votes for president becomes the president on January 20. *See* U.S. Const., amend. XX, § 1.

17. At your Senate Judiciary Committee nomination hearing, Ranking Member Durbin, Senator Blumenthal, and Senator Welch asked you about who won the 2020 election. You answered that Congress certified Joe Biden as President.

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

Response: I studied the Constitution and Supreme Court precedents to be prepared for any questions the Committee might ask. As part of this process, I reviewed the Electors Clause in Article II and the 12th Amendment, which govern how the president is elected.

- b. Prior to the hearing, did anyone instruct, suggest, imply, or otherwise represent that you should avoid directly answering questions about who won the 2020 election? If so, please explain. If not, please explain how you, without any outside input, made the decision to reply with who was *certified* the winner when asked about who *won* the 2020 election.

Response: I respectfully disagree with the premise that citing to the process set forth in the Constitution for electing the president is not a direct answer. No one instructed, suggested, implied, or otherwise represented that I should avoid directly answering questions about who won the 2020 election. As part of my hearing preparation, I watched past hearings of judicial nominees from both President Trump and President Biden. After observing the answers of other nominees, I re-reviewed the applicable constitutional provisions before forming my view on the issue.

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

Response: No. As mentioned in response to Question 17.b, no one advised me to answer questions about the 2020 election in a certain manner or warned me of any possible adverse professional consequences.

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

Response: The characterization of the events at the U.S. Capitol on January 6, 2021, has been the subject of litigation. *See, e.g., Trump v. Anderson*, 601 U.S. 100 (2024); *Smith v. Trump*, No. 25-CV-03602 (CJN), 2026 WL 1034931, at *1 (D.D.C. Apr. 16, 2026); *Boardman v. Trump*, No. 25-CV-0513-BHL, 2025 WL 2926187, at *1 (E.D. Wis. Oct. 15, 2025); *Radin v. Trump*, No. 25-CV-00385-LTB-RTG, 2025 WL 4662122, at *1 (D. Colo. Mar. 25, 2025); *Lilly v. Trump*, No. 3:25-CV-215-HL, 2025 WL 895394, at *1 (D. Or. Mar. 24, 2025); *Bros. v. Trump*, No. CIV-25-00166-JD, 2025 WL 699935, at *1 (W.D. Okla. Mar. 4, 2025); *Gross v. Trump*, No. CV SAG-25-463, 2025 WL 487370, at *1 (D. Md. Feb. 13, 2025); *Castro v. Fontes*, No. CV-23-01865-PHX-DLR, 2023 WL 8436435, at *1 (D. Ariz. Dec. 5, 2023) (reporting that “[t]his case is one of at least 27 filed across the country by Plaintiff”). As a judicial nominee, it would be improper for me to opine on matters that are the subject of pending or impending litigation. *See Code of Conduct for United States Judges*, Canon 3A(6).

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

Response: Not applicable.

19. You note in your Senate Judiciary Questionnaire: “From 2017-2018, I led the [Missouri] Governor’s clemency and pardon review. When the Governor took office in 2017, more than 3,000 clemency and pardon applications awaited answers. . . . As a result of the team’s thorough review, the Governor granted clemency and pardons to several Missourians.”

- a. Please list the Missourians who received clemency or a pardon after your “team’s thorough review”; the offenses for which those individuals had been previously convicted; and the sentences those individuals had previously received before being pardoned or receiving clemency.

Response: A press release issued by the Missouri Governor’s Office identifies the individuals who received clemency or a pardon and contains at least some of the other information requested. *See Greitens issues pardons and commuted sentences hours before stepping down*, The Missouri Times (June 1, 2018), <https://themissouritimes.com/greitens-issues-pardons-and-commuted-sentences-hours-before-stepping-down/>. I do not have possession of the clemency files needed to provide all of the information requested, and I have provided this information to the best of my knowledge.

Judy Henderson – granted clemency (sentence commuted to time served) and a pardon. As I recall, she was convicted of capital murder and sentenced to serve 50 years in prison without the possibility of parole.

Alvis Williams – granted clemency (sentence commuted to time served). As I recall, he was convicted of second-degree burglary and stealing for the theft of a Walkman, VCR, and other electronics and sentenced to 80 years in prison.

Rodney Lincoln – granted clemency (sentence commuted to time served). As I recall, he was convicted of capital murder and sentenced to serve 50 years in prison without the possibility of parole.

Jessie McKim – granted clemency (sentence commuted to time served). As I recall, he was convicted of murder and sentenced to life in prison.

Verdia Miller – granted clemency (sentence commuted to time served). As I recall, she was convicted of capital murder and sentenced to serve 50 years in prison without the possibility of parole.

Stacey Lannert – pardoned. As I recall, she was convicted of first-degree murder and armed criminal action and sentenced to life without parole. Former Missouri Governor Matt Blunt commuted her sentence in 2009.

Mark Whittle – pardoned. As I recall, Mr. Whittle was pardoned for a DWI offense that had occurred more than 20 years earlier and for which he had completed a sentence of probation.

Gary Thomas – pardoned. I do not recall the specific charge or sentence. The Governor’s Office press release references a fistfight.

Betty Coleman – pardoned. As I recall, she was convicted of murder, but I do not recall her sentence. Former Missouri Governor Bob Holden commuted her sentence in 2004.

- b. What criteria did you establish for when the governor should grant clemency or a pardon in a given case?

Response: The decision to grant clemency or a pardon is at the discretion of the Governor. Mo. Const. art. IV, § 7. The process that I oversaw used objective criteria to prioritize deserving cases, followed by a careful, substantive review of the often extensive files. Even if I could recall all of the specific criteria without the benefit of files in the Governor’s Office, the criteria used to advise the Governor would be subject to attorney-client privilege. The Governor’s Office press release cited in response to Question 19.a, and the Governor’s Office press release announcing the commutation of Judy Henderson’s sentence, provide insight into the criteria that the Governor considered when reaching his decisions. *See Woman’s sentence commuted in 1981 murder of Springfield jeweler*, KY3 (Dec. 20, 2017), <https://www.ky3.com/content/news/Womans-murder--465494313.html> (containing the full press release).

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

Response: The question recognizes the President’s authority to issue the pardons. *See* U.S. Const. art. II, § 2; *see also Trump v. United States*, 603 U.S. 593, 608 (2024) (quoting *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 638 (1952) (Jackson, J., concurring)); *United States v. Klein*, 80 U.S. 128, 147 (1871). As a judicial nominee, it would be improper to offer an opinion on a political or policy issue. *See* Code of Conduct for United States Judges, Canons 3(A)(6), 5.

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

Response: Please see my response to Question 20.

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

Response: As the question assumes, if I am fortunate enough to be confirmed, I would faithfully apply the relevant binding precedents of the Supreme Court and the Eighth Circuit. The analysis would depend on the claims asserted by the parties, which may include the separation of powers, procedural due process, void for vagueness, equal protection, freedom of speech and freedom of association under the First Amendment, and claims under the Fifth and Sixth Amendments relating to the right to counsel. *See, e.g.,* Doc. 1, *Perkins Coie LLP v. U.S. Dep't of Justice*, No. 1:25-cv-00716-BAH (D.D.C. Mar. 11, 2025). Arguments relating to these claims are pending in the courts, with the D.C. Circuit expected to hear arguments next month on a consolidated case involving claims by law firms against the President. *See Perkins Coie LLP v. U.S. Dep't of Justice*, Nos. 25-5241, 25-5265, 25-5277, 25-5310 (D.C. Cir.). The briefs in these cases highlight Supreme Court and D.C. Circuit precedents relating to the issues in these cases. As a judicial nominee, it would be improper for me to opine on matters that are the subject of pending or impending litigation. *See* Code of Conduct for United States Judges, Canon 3A(6).

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

Response: According to the Supreme Court, “the ‘constitutional right to travel from one State to another’ is firmly embedded in our jurisprudence.” *Saenz v. Roe*, 526 U.S. 489, 498 (1999). Indeed, “freedom to travel throughout the United States has long been recognized as a basic right under the Constitution.” *United States v. Guest*, 383 U.S. 745, 758 (1966).

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

Response: As the question assumes, if I am fortunate enough to be confirmed, I would faithfully apply the relevant binding precedents of the Supreme Court and the Eighth Circuit. To evaluate right-to-travel claims, the Eighth Circuit has analyzed whether the claim “fall[s] within the three components identified in *Saenz*.” *Minnesota Senior Fed’n, Metro. Region v. United States*, 273 F.3d 805, 809 (8th Cir. 2001); *see also Hughes v. City of Cedar Rapids*, 840 F.3d 987, 995 (8th Cir. 2016). In *Saenz*, the Court explained that the right to travel “protects the right of a citizen of one State to enter and to leave another State, the right to be treated as a welcome visitor rather than an unfriendly alien when temporarily present in the second State, and, for those travelers who elect to become

permanent residents, the right to be treated like other citizens of that State.” *Saenz*, 526 U.S. at 500. The Eighth Circuit’s opinion in *Hughes* provides analysis, precedents, and sources to evaluate whether a law violates any of the three components. *See Hughes*, 840 F.3d at 995-97. The Eighth Circuit also considered whether the legislation at issue was state or federal legislation to determine the appropriate level of scrutiny. *See Minnesota Senior Fed’n, Metro. Region*, 273 F.3d at 810.

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

Response: If I am fortunate enough to be confirmed, I would faithfully apply the relevant precedents of the Supreme Court and the Eighth Circuit. The Supreme Court has recognized a constitutional right to privacy in certain contexts. For example, the Supreme Court based its decisions in *Griswold* on a “right of privacy” and in *Lawrence v. Texas* on a “right to privacy.” *See Obergefell v. Hodges*, 576 U.S. 644, 701 (2015) (Roberts, C.J., dissenting) (identifying *Griswold* and *Lawrence* in “a line of cases discussing an implied fundamental ‘right of privacy’”). However, the Court has declined to find “a general constitutional ‘right to privacy’” under the Fourth Amendment. *Katz v. United States*, 389 U.S. 347, 350 (1967).

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

According to the Supreme Court, *Griswold* recognized a right to use contraception. *See, e.g., Dobbs v. Jackson Women’s Health Org.*, 597 U.S. 215, 262 (2022); *Washington v. Glucksberg*, 521 U.S. 702, 720 (1997).

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

Response: The Supreme Court has 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). However, the Supreme Court “has firmly and repeatedly endorsed the proposition that Congress may make rules as to aliens that would be unacceptable if applied to citizens.” *Demore v. Kim*, 538 U.S. 510, 522 (2003). The Supreme Court has an extensive body of precedents discussing what due process requires in various contexts. If I am fortunate enough to be 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, it would be improper for me as a judicial nominee to comment further. *See Code of Conduct for United States Judges*, Canon 3(A)(6).

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

Response: The Supreme Court has repeatedly interpreted constitutional provisions by discerning the original meaning of the words used as understood by the public at the time of the Founding. See, e.g., *District of Columbia v. Heller*, 554 U.S. 570 (2008); *Crawford v. Washington*, 541 U.S. 36 (2004). In *Heller*, the Supreme Court explained that "the fact that modern developments have limited the degree of fit between the prefatory clause and the protected right cannot change our interpretation of the right." *Heller*, 554 U.S. at 627-28. As a lower court judge, I would follow all applicable Supreme Court and Eighth Circuit precedent in interpreting constitutional provisions, including those originalist precedents.

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

Response: If I am fortunate enough to be confirmed, I would faithfully follow all applicable Supreme Court and Eighth Circuit precedent in constitutional interpretation. As examples of sources that the Supreme Court has considered reliable, in *Heller*, the Court interpreted the original public meaning of the Second Amendment by looking to sources such as contemporaneous dictionaries, legal treatises, news publications, the Federalist Papers, state constitutional amendments, legislation, and court decisions.

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

Response: A judge should decide cases based on the rule of law, which means applying binding precedent from the Supreme Court and Eighth Circuit and the relevant constitutional, statutory, or regulatory provisions to the case before the court. Non-legal factors should not play a role.

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

Response: Please see my response to Question 27.

29. 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 27.

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

Response: Generally, federal courts seek to ensure compliance with court orders through tools like status reports and hearings, sanctions, and civil and criminal contempt proceedings. The Supreme Court has cautioned that the exercise of the contempt power is “a delicate one, and care is needed to avoid arbitrary or oppressive conclusions.” *Bloom v. Illinois*, 391 U.S. 194, 202 (1968). If I am fortunate enough to be confirmed, I would follow all governing rules and precedents relating to the issue of judicial contempt orders should a case implicating the issue come before me as a judge.

31. When is it appropriate for an en banc federal appellate court to reconsider a panel decision?

Response: Please see my response to Question 8.

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

Response: Because I am proud of many cases and legal matters on which I have worked, choosing just one is like picking a favorite child. But if I could choose only one, I am most proud of my part in Missouri Governor Eric Greitens’ decision to grant clemency to Judy Henderson. Judy spent more than 35 years in prison for her minor role in a murder in which she did not pull the trigger and was hit by a bullet, and the person who did pull the trigger was acquitted. Judy’s lawyer also did not tell her about a plea offer.

Even though she had every reason to be bitter, Judy is one of the kindest people you could ever meet. Her love and joy are inspiring. Judy has impacted many lives since her release from prison.

33. Discuss your proposed hiring process for law clerks.

Response: If I am fortunate enough to be confirmed, I plan to approach hiring clerks like I did interviewing judicial candidates in the Missouri Governor’s Office or prospective attorneys in the Missouri Attorney General’s Office. I will solicit recommendations from other judges and lawyers whom I highly respect. I will carefully read application materials and written work product and scholarship. I will meet in-person or virtually, and perhaps both, with clerk candidates. I will seek candidates of high character—honest, hard-working, respectful, and dependable—who love the Constitution and want to do justice fairly and impartially in each case.

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

Response: I have not studied the issue and do not have an opinion.

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

reporting systems for employees who experience misconduct or ensure those handling complaints are adequately trained.

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

Response: If I am fortunate enough to be confirmed, I would work hard to ensure that every person who works in my chambers is treated with respect and is not subject to misconduct. I would start by leading by example. I strive to treat everyone with dignity and respect, and I would make clear to each person hired by how I act that dignity and respect are non-negotiable expectations. I would verbally reinforce those expectations to each team member. By prioritizing character in my hiring process, I would seek to avoid hiring individuals who might threaten those non-negotiable expectations. I would work hard to build trust so that any person who was not treated with dignity or respect felt comfortable bringing it to my attention, and I would swiftly and professionally address any issues that arose. Finally, I would coordinate with the Eighth Circuit and the Administrative Office of the Courts to implement appropriate policies and practices.

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

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

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

Response: I would first do everything that I could to ensure that all affected individuals are safe going forward. I would then assess how to best address the situation without putting in jeopardy the affected individual or the person who brought the issue to my attention. I also would consult any existing procedures and policies of the circuit or other judicial entities, such as the Administrative Office of the Courts. Depending on the situation, I may speak directly to the judge, one of that judge's colleagues, the chief judge, or other officials within the judicial branch.

35. You submitted a brief to the U.S. Supreme Court arguing against the participation of transgender women in women's scholastic sports, referring to them as "males." In an amicus brief for *Little v. Hecox/West Virginia v. B.P.J.*, you wrote, "[g]irls in Arizona and elsewhere have suffered harm by being defeated and displaced by biological males."

- a. Would you agree that your work on these matters creates at least the appearance of partiality with respect to cases involving the rights of transgender people?

Response: No. I understand the difference between litigating as an advocate and serving as a judge. If I am fortunate enough to be confirmed, I will faithfully and impartially apply the applicable law and binding precedents to the cases before me. I understand that judges must refrain from deciding cases based on their own policy or moral preferences.

- b. What would you say to a transgender litigant who feels they would not receive a fair process from you, given your stated beliefs about transgender identity?

Response: I respectfully disagree that I have “stated beliefs about transgender identity” simply by advocating for my clients. In these matters, I have depended on federal judges before whom I appeared being fair, impartial, and following the law. That is the type of judge that I would be if I am fortunate enough to be confirmed. If I were confirmed, I would decide every case that may come before me fairly and impartially, regardless of the claims or the parties involved.

- c. If you are confirmed, will you recuse yourself from cases involving the rights of transgender people?

Response: If I am fortunate enough to be confirmed, I will recuse in any litigation in which I have been involved. In all other matters, 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. At the current time, it would be inappropriate for me to prejudge any hypothetical recusal motion.

- 36. You explain in your Senate Judiciary Questionnaire that in law school, you and your roommate operated a blog “anonymously under pen names, and [you] typically wrote using the pen name ‘Rawhide.’” A post by “Rawhide” from December 27, 2007, stated: “The Republican Party must have positions painted in bold colors on the critical issues that face this country. Abortion is murder. Gay marriage is sin.”

- a. Do you recall writing this post?

Response: As I disclosed in my Senate Judiciary Questionnaire, I authored “rawhide” posts.

- b. Do you still believe that a woman’s desire to end her pregnancy is “murder”?

Response: I agree with the guidance that the Ranking Member provided when he chaired this Committee: “Members often ask [nominees] about what they personally believe... It puts a judicial nominee on the spot. The Judicial Conference of the United States has directed both sitting judges and judicial nominees not to share their personal opinions. The rationale is obvious. Offering personal opinions suggests a nominee has prejudged an issue. It suggests to

future litigants that the nominee will arrive with preconceptions and will disregard their obligation to simply apply the law to the facts.” *Durbin Delivers Opening Statement During Latest Nominations Hearing*, Sept. 21, 2022, <https://www.judiciary.senate.gov/press/dem/releases/09/23/2022/durbin-delivers-opening-statement-during-latest-nominations-hearing>. Consistent with the Ranking Member’s guidance and the judicial canons, as a judicial nominee, it would be improper to offer an opinion on a political or policy issue. *See* Code of Conduct of U.S. Judges, Canons 3(A)(6), 5. If I were fortunate enough to be confirmed, I would decide every case that may come before me fairly and impartially, regardless of the claims or the parties involved.

- c. Do you still believe that “[g]ay marriage is sin”?

Response: Please see my response to Question 36.b.

- d. Would you agree that these statements create at least the appearance of partiality with respect to cases involving these issues?

Response: No. If I were fortunate enough to be confirmed, I would decide every case that may come before me fairly and impartially, regardless of the claims or the parties involved.

- e. Would you recuse yourself from cases involving reproductive rights, given your past remarks?

Response: If I am fortunate enough to be confirmed, I will recuse in any litigation in which I have been involved. In all other matters, 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. At the current time, it would be inappropriate for me to prejudge any hypothetical recusal motion.

- f. Would you recuse yourself from cases involving the rights of LGBTQ+ people, given your past remarks?

Response: Please see my response to Question 36.e.

37. In a July 30, 2024, article in Breitbart, you wrote, “Republican attorneys general are critical in the fight against the radical left. We need true conservatives to defeat the abortion industrial complex, the lawlessness plaguing blue cities, and the woke ideology invading our schools. . . . I have worked to advance conservative values in Missouri for 30 years, and I recently served as then-Attorney General Eric Schmitt’s chief of staff. Based on issues that matter to conservatives, Will Scharf is the clear choice for Attorney General.”

- a. Do you stand by your statement that “[w]e need true conservatives to defeat the abortion industrial complex, the lawlessness plaguing blue cities, and the woke ideology invading our schools”?

Response: As a judicial nominee, it would be improper for me to offer an opinion on a political or policy issue. *See* Code of Conduct for United States Judges, Canons 3(A)(6), 5.

- b. When you wrote this article, what did you mean by “the fight against the radical left”?

Response: Please see my response to Question 37.a.

- c. When you wrote this article, what did you mean by “the abortion industrial complex”?

Response: Please see my response to Question 37.a.

- d. When you wrote this article, what did you mean by “the lawlessness plaguing blue cities”?

Response: Please see my response to Question 37.a.

- e. When you wrote this article, what did you mean by “the woke ideology invading our schools”?

Response: Please see my response to Question 37.a.

- f. If you are confirmed, will you continue “work[ing] to advance conservative values,” as you have done “for 30 years”?

Response: The Code of Conduct for United States Judges provides that “A Judge Should Refrain From Political Activity.” Code of Conduct for United States Judges, Canon 5. According to this canon, among other things, a judge should not “make speeches for a political organization or candidate, or publicly endorse or oppose a candidate for public office,” and “should not engage in any other political activity.” *Id.* at Canons 5(A)(2), (C). If I am fortunate enough to be confirmed, I would adhere to the Code of Conduct.

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

Response: A federal judge should make decisions based on the rule of law and the merits of a particular case, not ideology or political leanings.

- h. What would you say to a litigant with liberal views that does not think they would receive a fair process from you, given your rhetoric promoting your conservative views?

Response: When I was in the Missouri Governor's Office, Governor Greitens appointed more than 30 state court judges. The Governor's legal team was responsible for interviewing candidates and making recommendations. In most Missouri counties, trial court judges are elected on a partisan basis. In some Missouri counties and all Missouri appellate courts, judges are appointed through a non-partisan system. Whenever the Governor's legal team was interviewing candidates for vacancies, whether for partisan or non-partisan positions, we sought the best candidate who would faithfully and impartially follow the rule of law.

My entire life, I have made strong friendships with people who do not agree with me politically. I was grateful to receive letters supporting my nomination that were signed by people across the political spectrum. If I am fortunate enough to be confirmed, I would decide every case that may come before me fairly and impartially, regardless of the claims or the parties involved.

38. In your Questionnaire, you note that you have been a member since 2023 of the Teneo Network, an organization that "exist[s] to Recruit, Connect, and Deploy talented conservatives who lead opinion and shape the industries that shape society."

- a. Do you think it is appropriate for a federal judge to be a member of such an organization?

Response: Yes.

- b. If you are confirmed, will you discontinue your membership in the Teneo Network?

Response: No.

39. In your Questionnaire, you note that just 5% of your practice has involved criminal proceedings.

- a. Why do you think you are qualified to serve as a federal judge overseeing a substantial number of criminal cases if you have so little experience with criminal matters?

Response: I have handled complex cases, including appeals, for my entire career. At Shook, Hardy & Bacon, I was the lead associate on at least six cases that had nine- or ten-figure exposure for our clients involving a wide range of issues like federal and state environmental laws, antitrust, construction, and torts. At the James Otis Law Group, LLC, I have served as lead counsel on significant

constitutional cases, including several before the appellate courts. I also supervised the criminal division in the Attorney General's Office and led the clemency review in the Governor's Office. I am more than ready to receive any type of case as a federal judge.

- b. If you are confirmed, what resources will you use to get up to speed on criminal proceedings?

Response: If I am fortunate enough to be confirmed, for any case that I am presented, I will study the authorities cited in the parties' briefs and conduct independent legal research. To the extent that I encounter unfamiliar subject matter, I will review Supreme Court and Eighth Circuit precedent, legal treatises, law review articles, and any other sources that would be helpful to understanding the issue.

Questions for the Record for Justin Smith
Submitted by Senator Richard Blumenthal
April 22, 2026

1. If confirmed, will you recuse yourself from any case where a reasonable person, knowing all the relevant facts, might question your impartiality, even if you personally believe you can be fair?

Response: I believe that both actual impartiality and the appearance of impartiality are important in maintaining public confidence in our system of justice. 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. At the current time, it would be inappropriate for me to prejudge any hypothetical recusal motion.

- a. If confirmed, will you recuse yourself from cases involving individuals, organizations, or entities to which you or your family members have made political contributions or provided political support?

Response: Please see my response to Question 1.

- b. If confirmed, will you recuse yourself from cases involving former clients, former law firms, or organizations with which you have had significant professional relationships?

Response: Please see my response to Question 1.

- i. You have represented President Trump in multiple cases. Will you recuse yourself from matters involving President Trump?

Response: Please see my response to Question 1.

- ii. Will you recuse yourself from matters involving President Trump's administration?

Response: Please see my response to Question 1.

- c. If confirmed, will you recuse yourself from cases involving personal friends, social acquaintances, or individuals with whom you have ongoing personal relationships?

Response: Please see my response to Question 1.

2. If confirmed, will you commit to avoiding all *ex parte* communications about pending cases, including informal discussions at social events or professional gatherings?

Response: If I am fortunate enough to be confirmed, I would faithfully adhere to all ethical rules and obligations governing judicial conduct.

- d. If confirmed, will you avoid discussing pending cases or judicial business with elected officials, political appointees, or political operatives?

Response: Please see my response to Question 2.

- e. If confirmed, will you commit to declining meetings or communications with lobbyists, advocacy groups, or special interests seeking to influence your judicial decisions?

Response: Please see my response to Question 2.

- f. If confirmed, will you refrain from making public statements about legal or political issues that could reasonably be expected to come before your court?

Response: Please see my response to Question 2.

- 3. If confirmed, will you commit to filing complete and accurate financial disclosure reports that include all required information about your financial interests and activities?

Response: Yes, to the best of my ability.

- g. If confirmed, will you decline all gifts from parties who might appear before your court or who have interests that could be affected by your judicial decisions?

Response: Please see my response to Question 2.

- h. If confirmed, will you decline privately funded travel, hospitality, or entertainment that could create an appearance of impropriety or special access?

Response: Please see my response to Question 2.

- i. If confirmed, will you ensure that any teaching, speaking, or writing activities comply with judicial ethics requirements and do not create conflicts with your judicial duties?

Response: Please see my response to Question 2.

- 4. The House Republican-authored budget reconciliation bill for Fiscal Year 2026 had included a provision that would have limited federal judges' ability to hold government officials in contempt. While the Senate Parliamentarian ruled that the provision violated the Byrd Rule, and it was, therefore, removed, it would have prohibited federal courts from issuing contempt penalties against officials who disobey preliminary injunctions or

Temporary Restraining Orders if the party seeking the order did not provide financial security to cover potential future damages for wrongful enjoining.

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

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

Response: The Supreme Court has described it in that way. *See, e.g., Ex parte Robinson*, 86 U.S. 505, 510 (1873).

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

Response: As the Supreme Court has explained, courts have “embraced an inherent contempt authority as a power ‘necessary to the exercise of all others.’” *Int’l Union, United Mine Workers of Am. v. Bagwell*, 512 U.S. 821, 831-832 (1994) (quoting *United States v. Hudson*, 7 Cranch 32, 34 (1812)). But the Supreme Court also has cautioned that the exercise of the contempt power is “a delicate one, and care is needed to avoid arbitrary or oppressive conclusions.” *Bloom v. Illinois*, 391 U.S. 194, 202 (1968). If I am fortunate enough to be confirmed, I would follow all governing rules and precedents relating to the issue of judicial contempt orders should a case implicating the issue come before me as a judge. At the current time, consistent with the Code of Conduct and positions taken by prior nominees, it would be inappropriate for a judicial nominee to comment on any subject of political controversy or to express a position regarding matters of public policy or any ongoing litigation. See Code of Conduct for United States Judges, Canons 3(A)(6), 5.

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

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

Response: Yes.

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

Response: Yes.

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

Response: Generally, federal courts seek to ensure compliance with court orders through tools like status reports and hearings, sanctions, and civil and criminal contempt proceedings.

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

Response: Generally, a litigant must follow court orders issued in the proceedings to which they are a party. However, the Supreme Court has acknowledged that, in some circumstances, an order must be violated in order to be appealed. As Justice Sotomayor's first Supreme Court opinion explained, "Another long-recognized option is for a party to defy a disclosure order and incur court-imposed sanctions." *Mohawk Indus., Inc. v. Carpenter*, 558 U.S. 100, 111 (2009). Some legal scholarship has identified other limited situations in which compliance may not be required. *See generally, e.g.,* William Baude, *The Judgment Power*, 96 *Geo. L.J.* 1807 (2008) (lack of jurisdiction); Gary Lawson & Christopher D. Moore, *The Executive Power of Constitutional Interpretation*, 81 *Iowa L. Rev.* 1267, 1326 (1996) (constitutional error "so clear that it is not open to rational question"); *see also* 17 *Corpus Juris Secundum Contempt* §§ 56-65 (discussing contempt defenses).

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

Response: Please see my response to Question 5.b.

- d. What would make a court order unlawful?

Response: Although it is not feasible to provide an exhaustive list here, a court order could be unlawful, for example, if the court lacked jurisdiction to issue it.

- 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 5.b.

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

Response: Please see my response to Question 5.b.

- 6. 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.

7. You signed an amicus brief in *Texas v. Pennsylvania* seeking to challenge the results of the 2020 election.

- a. Did President Trump win the 2020 election?

Response: Pursuant to the process set forth by the Constitution and federal law, President Biden was certified as the winner of the 2020 presidential election and served as the 46th President of the United States. President Trump was certified as the winner of the 2016 and 2024 elections.

- b. Was the 2020 election stolen?

Response: I agree with the guidance that the Ranking Member provided when he chaired this Committee: “Members often ask [nominees] about what they personally believe... It puts a judicial nominee on the spot. The Judicial Conference of the United States has directed both sitting judges and judicial nominees not to share their personal opinions. The rationale is obvious. Offering personal opinions suggests a nominee has prejudged an issue. It suggests to future litigants that the nominee will arrive with preconceptions and will disregard their obligation to simply apply the law to the facts.” *Durbin Delivers Opening Statement During Latest Nominations Hearing*, Sept. 21, 2022, <https://www.judiciary.senate.gov/press/dem/releases/09/23/2022/durbin-delivers-opening-statement-during-latest-nominations-hearing>. Consistent with the Ranking Member’s guidance and the judicial canons, as a judicial nominee, it would be improper to offer an opinion on a political or policy issue. *See* Code of Conduct of U.S. Judges, Canons 3(A)(6), 5.

8. During your time at the Missouri Solicitor General’s Office, you defended Missouri against several challenges to the state’s abortion restrictions. If confirmed, how can litigants expect you to be unbiased in reproductive rights cases?

Response: I understand the question to relate to my time in the Missouri Attorney General’s Office. Federal judges must set aside any personal views and decide all cases by fairly and impartially applying the law. *See* 28 U.S.C. § 453. The rule of law depends on judges following precedent, rather than personal views. In every case, including any case involving abortion or other reproductive issues, I would faithfully and impartially apply Supreme Court and Eighth Circuit precedent to the particular claims before me.

Senator Mazie K. Hirono
Senate Judiciary Committee

Nomination Hearing
Questions for the Record for Justin Smith

1. In a July 30, 2024, post on Breitbart, you endorsed a Missouri Attorney General candidate. In that post, you wrote “Republican attorneys general are critical in the fight against the radical left. We need true conservatives to defeat the abortion industrial complex, the lawlessness plaguing blue cities, and the woke ideology invading our schools.” At the hearing, you acknowledged that you authored that post.

- a. At the hearing, you could not elaborate on what you define as “woke.” Even though I asked you for a simple definition of a single term, you claimed that commenting on political views as a judicial nominee would be inappropriate. However, if confirmed as a judge, you will get cases that involve these terms. **Once again, please define what you meant when using that term.**

Response: As a judicial nominee, it would be improper for me to offer an opinion on a political or policy issue. *See* Code of Conduct for United States Judges, Canons 3(A)(6), 5. In addition, the question predicts that I “will get cases that involve these terms.” As a judicial nominee, it would be improper for me to opine on matters that are the subject of pending or impending litigation. *See* Code of Conduct for United States Judges, Canon 3A(6).

- b. The term “DEI” is a similar dog whistle.
 - i. **Please define the term “DEI.”**

Response: My understanding is that DEI is an abbreviation for “Diversity, Equity, and Inclusion.” To the extent that the question seeks a definition for each of these terms, as a judicial nominee, it would be improper for me to offer an opinion on a political or policy issue. *See* Code of Conduct for United States Judges, Canons 3(A)(6), 5. In addition, as a judicial nominee, it would be improper for me to opine on matters that are the subject of pending or impending litigation. *See* Code of Conduct for United States Judges, Canon 3A(6).

- ii. **Have you ever used this term? If so, please explain (or provide a link or reference to) the context.**

Response: I am sure that I have used the term, such as, for example, when discussing current events like actions by federal or state government officials relating to the topic.

2. In the nomination hearing, multiple senators asked you who won the 2020 Presidential Election. You could not clearly state that President Biden won the 2020 Presidential Election. My colleague, Senator Blumenthal, stated that “if you don’t have the courage

now to state your independent judgment on a clear factual issue, I don't know how the United States Senate can confirm you as a member of one of the most powerful courts in the country." **Given that the outcome of the 2020 Presidential election is a clear factual issue, how would you address the concern that you lack the strength of character to make independent factual judgements on issues of importance to President Trump if confirmed to be a judge?**

Response: I respectfully disagree with the characterization of my testimony at the nomination hearing. I repeatedly provided the factually accurate response that pursuant to the process set forth by the Constitution, President Biden was certified as the winner of the 2020 presidential election and served as the 46th President of the United States.

If I am fortunate enough to be confirmed, I will take an oath to "administer justice without respect to persons," "do equal right to the poor and to the rich," and "faithfully and impartially discharge and perform all the duties incumbent upon me" under the Constitution and laws of the United States. 28 U.S.C. § 453. I will honor that oath by fairly and impartially applying the law, regardless of who the parties are before the court. *See id.* The rule of law depends on judges following precedent, rather than personal views. In every case, I would faithfully and impartially apply Supreme Court and Eighth Circuit precedent to the particular claims before me.

3. On your questionnaire, you identified yourself as a member of the Board of Directors and the Treasurer of the "Yorktown Fund." This organization was chartered in December 2025. Other registered names for the Yorktown Fund are "Honest Election Project Action" and "Alliance for Consumer Action Fund."
 - a. **What is the mission of the Yorktown Fund?**

Response: The organization's stated purpose is "to engage in any lawful act or activity for which a nonstock corporation may be organized under the Tennessee Nonprofit Corporation Act and as permitted under Section 501(c)(4) of the Internal Revenue Code." During its first few months, my understanding is that the Yorktown Fund's goals were to support state legislative efforts relating to consumer protection and elections.

- b. As the organization's treasurer, you must be familiar with the Yorktown Fund's donors. **Please list the Yorktown Fund's five largest donors.**

Response: I resigned as Treasurer and Board Member for the Yorktown Fund on April 9, 2026. I have no continuing relationship with the Yorktown Fund. During my time with the Yorktown Fund, I was not involved in fundraising efforts and do not know the identity of any donor. The only Board meeting held while I was on the Board related to organizing the Yorktown Fund, and thus I did not attend a Board meeting at which specific finances or donors were discussed.

- c. **If a case comes before you involving any of Yorktown Fund's interests and/or the interests of Yorktown Fund's donors, will you recuse yourself?** Note, the

Code of Conduct for United States Judges is available online at <http://www.uscourts.gov>. Rather than saying you will consult that code in the future, please do so now and provide your response based on your good faith interpretation of the Code's requirements.

Response: I believe that both the appearance of impartiality and actual impartiality are important in maintaining public confidence in our system of justice. If I am fortunate enough to be 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. At the current time, it would be inappropriate for me to prejudge any hypothetical recusal motion.

Nomination of Justin D. Smith
United States Court of Appeals for the Eighth Circuit
Questions for the Record
Submitted April 22, 2026

QUESTIONS FROM SENATOR BOOKER

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

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

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

Response: As a judicial nominee, it would be inappropriate to opine on the statements of any political figure or on any subject of political controversy.

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

Response: I would defer to the Committee on the appropriate process to pursue in that situation. Because such a situation could give rise to litigation, as a judicial nominee, it would be inappropriate to opine.

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

Response: Please see my response to Question 2.

4. How would you characterize your judicial philosophy?

Response: Under Article III, federal judges exercise the "judicial power of the United States." That judicial power is limited to interpreting and applying the law to cases or controversies before them, rather than making or changing the law. To carry out that

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>.

obligation, judges must neutrally and impartially apply any governing constitutional, statutory, or regulatory text, as well as follow all Supreme Court precedents and binding circuit precedent. Judges must refrain from deciding cases based on their own policy or moral preferences.

5. What do you understand originalism to mean?

Response: Originalism is a method of constitutional interpretation that focuses on the original public meaning of constitutional provisions.

6. Do you consider yourself an originalist?

Response: The Supreme Court has repeatedly interpreted constitutional provisions by discerning the original meaning of the words used as understood by the public at the time of the Founding. *See, e.g., District of Columbia v. Heller*, 554 U.S. 570 (2008); *Crawford v. Washington*, 541 U.S. 36 (2004). As a lower court judge, I would follow all applicable Supreme Court and Eighth Circuit precedent in interpreting constitutional provisions, including those originalist precedents.

7. What do you understand textualism to mean?

Response: Textualism is a method of interpreting law that focuses on the text as it is written, with the meaning it had at the time of its enactment.

8. Do you consider yourself a textualist?

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

9. Legislative history refers to the record Congress produces during the process of passing a bill into law, such as detailed reports by congressional committees about a pending bill or statements by key congressional leaders while a law was being drafted. Some federal judges consider legislative history when analyzing the meaning of a statute.
- a. If you are confirmed to serve on the federal bench, would you consult and cite legislative history to analyze or interpret a federal statute?

Response: If confirmed, I would faithfully apply all relevant precedent of the Supreme Court and the Eighth Circuit concerning the use of legislative history. According to the Supreme Court, “legislative history is not the law.” *Epic Systems Corp. v. Lewis*, 584 U.S. 497, 523 (2018). The Supreme Court also has explained that “[w]hether or not legislative history is ever relevant, it need not be consulted when, as here, the statutory text is unambiguous.” *United States v. Woods*, 571 U.S. 31, 46 (2013). The Supreme Court has approvingly cited a treatise “recognizing that courts

may use legislative history ‘for the purpose of establishing linguistic usage.’” *Delligatti v. United States*, 604 U.S. 423, 443 (2025) (quoting A. Scalia & B. Garner, *Reading Law: The Interpretation of Legal Texts* 388 (2012)).

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

Response: The intentions of individual legislators do not have the force of law, which is enacted through the bicameralism and presentment requirements of Article I, Section 7. For use of legislative history, please see my response to Question 9.a.

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

- a. What do you attribute this to?

Response: As a judicial nominee, it would be improper to offer an opinion on a policy issue. *See Code of Conduct for United States Judges, Canons 3(A)(6), 5.*

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

- a. What do you attribute this to?

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

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

Response: “[T]he ‘core purpose’ of the Equal Protection Clause is ‘do[ing] away with all governmentally imposed discrimination based on race.’” *Students for Fair Admissions v. President and Fellows of Harvard College*, 600 U.S. 181, 206 (2023) (citation omitted). In a case presenting the question of whether government officials (including prosecutors) engaged in race discrimination, a federal judge would be required to uphold the Clause’s command.

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

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

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

Response: No one should be excluded from the federal bench on the basis of his or her race, sex, ethnicity, religion, or any other protected characteristic.

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

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

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

Response: As noted on my Senate Judiciary Questionnaire, I have spoken or written about the law. Those discussions and writings may have touched on the issues listed above.

For a full accounting of the topics I have addressed, please refer to the list of publications and statements provided in my Senate Judiciary Questionnaire and the corresponding recordings or attachments. To the best of my knowledge, the answers provided on my Senate Judiciary Questionnaire and supplement disclose all publications and public statements.

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

Response: Generally, a litigant must follow court orders issued in the proceedings to which they are a party. However, the Supreme Court has acknowledged that, in some circumstances, an order must be violated in order to be appealed. As Justice Sotomayor’s first Supreme Court opinion explained, “Another long-recognized option is for a party to

defy a disclosure order and incur court-imposed sanctions.” *Mohawk Indus., Inc. v. Carpenter*, 558 U.S. 100, 111 (2009). Some legal scholarship has identified other limited situations in which compliance may not be required. *See generally, e.g.*, William Baude, *The Judgment Power*, 96 Geo. L.J. 1807 (2008) (lack of jurisdiction); Gary Lawson & Christopher D. Moore, *The Executive Power of Constitutional Interpretation*, 81 Iowa L. Rev. 1267, 1326 (1996) (constitutional error “so clear that it is not open to rational question”); *see also* 17 Corpus Juris Secundum Contempt §§ 56-65 (discussing contempt defenses).

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

Response: As an appellate judge, if confirmed, my primary role would be to review orders issued by district court judges. As a general matter, district courts may seek to enforce compliance with court orders through civil and criminal contempt procedures. *See Int’l Union, United Mine Workers of Am. v. Bagwell*, 512 U.S. 821, 831 (1994); *Michaelson v. United States ex rel. Chicago, St. P., M., & O.R. Co.*, 266 U.S. 42, 45 (1924). The exercise of the contempt power is “a delicate one, and care is needed to avoid arbitrary or oppressive conclusions.” *Bloom v. Illinois*, 391 U.S. 194, 202 (1968). I would follow all governing rules and precedents relating to the issue of judicial contempt orders should a case implicating the issue come before me.

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

Response: Please see my response to Question 15.

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

Response: The President has the constitutional authority to veto legislation passed by Congress. U.S. Const. art. I, § 7, cl. 2. Otherwise, the Take Care Clause provides that the President “shall take Care that the Laws be faithfully executed.” U.S. Const. art. II, § 3, cl. 5. Under this provision, the Executive Branch has discretion to prioritize enforcement and prosecution of federal law. *See, e.g., United States v. Texas*, 599 U.S. 670, 679 (2023).

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

Response: This question relates to issues that are the subject of litigation, so it is inappropriate for me to comment. *See* Code of Conduct for United States Judges, Canon 3A(6).

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

Response: Please see my response to Question 17.

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

Response: The Supreme Court has interpreted the Supremacy Clause to establish that principle. *See, e.g., Haaland v. Brackeen*, 599 U.S. 255, 287 (2023).

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

Response: 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). As this question relates to issues that are the subject of litigation in the courts, and that could come before me if I am fortunate enough to be confirmed, it would not be appropriate for me to opine on this issue.

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

Response: The Supreme Court has a body of precedents addressing the constitutional limits on legislative delegation of rulemaking authority. *See Gundy v. United States*, 588 U.S. 128, 135-36 (2019). As this question relates to issues that are the subject of litigation in the courts, and that could come before me if I am fortunate enough to be confirmed, it would not be appropriate for me to opine on this issue.

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

Response: Yes. Although it is generally inappropriate for me as a judicial nominee to comment on the merits of binding Supreme Court precedent when related issues are currently pending or could come before me, consistent with the view of prior nominees, *Brown* is beyond dispute, and judges can express their agreement with that principle without calling into question their ability to apply Supreme Court precedent faithfully. Therefore, consistent with the Code of Conduct for United States Judges, I can affirm that I believe that *Brown* was rightly decided.

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

Response: In *Griswold*, the Supreme Court held that the Fourteenth Amendment protects the use of contraceptives. *Griswold* is binding precedent and I would faithfully follow it.

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

Response: In *Lawrence*, the Supreme Court held that laws that criminalized sexual intimacy between members of the same sex violate the Fourteenth Amendment. *Lawrence* is binding precedent and I would faithfully follow it.

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

Response: In *Obergefell*, the Supreme Court held that the Fourteenth Amendment requires a state to license marriages between two people of the same sex on the same terms and conditions as marriages between two people of the opposite sex. *Obergefell* is binding precedent and I would faithfully follow it.

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

Response: President Biden was certified as the winner of the 2020 presidential election and served as the 46th President of the United States. To the extent this question seeks to elicit an answer that could be taken as opining on the broader political or policy debate regarding the conduct of the 2020 presidential election or on statements by any political figure, my response, consistent with the position of prior judicial nominees when asked questions regarding the 2020 election, is that it would be improper to offer any such comment as a judicial nominee. See Code of Conduct for United States Judges, Canons 3(A)(6), 5.

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

Response: Please see my response to Question 26.

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

Response: Please see my response to Question 26.

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

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

Response: President Trump was certified as the winner of the 2016 presidential election and served as the 45th President of the United States.

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

Response: Please see my response to Question 27.a.

⁴ U.S. CONST. amend. XXII.

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

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

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

Response: Please see my response to Question 27.c.

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

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

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

Response: No.

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

Response: No.

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

Response: I have known James Burnham for years. Since November 2024, we have occasionally exchanged messages regarding matters unrelated to DOGE. I met Sam Corcos at a conference in October 2025, and we discussed personal lives, professional backgrounds, and current professional responsibilities.

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

Response: No.

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

Response: No.

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

Response: No.

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

Response: I met then-Deputy Attorney General Blanche at a swearing-in ceremony in Washington, D.C. in April 2025. I introduced myself and thanked him for his public service.

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

Response: I met then-Principal Associate Deputy Attorney General Bove at a swearing-in ceremony in Washington, D.C. in April 2025. I introduced myself and thanked him for his public service.

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

Response: No.

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

Response: No.

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

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

- o. Jeremy Bertino
- p. Julian Khater

Response: No.

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

Response: No.

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

Response: Yes.

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

- a. Do you agree with the above statement?

Response: As a judicial nominee it would be inappropriate for me to comment on others’ public statements or political debates, consistent with the principles of the Code of Judicial Conduct and the past practice of nominees.

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

Response: Not to my knowledge.

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

Response: No.

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

Response: I corresponded with Mr. Davis in October 2025 regarding an amicus brief by the Article III Project in *Trump v. Carroll*.

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

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

Response: No.

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

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 41.

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: Not to my knowledge.

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

Response: I prepared a draft response to these questions consulting my records, legal precedent, and responses addressing similar questions and issues submitted by other judicial nominees. After receiving limited feedback from persons at the Office of Legal Policy at the U.S. Department of Justice, I finalized my answers and authorized them to be submitted to the Senate Judiciary Committee.

Senator Peter Welch
Senate Judiciary Committee
Written Questions for Justin Smith
Hearing on “Nominations”
Wednesday, April 22, 2026

1. During oral arguments for the Supreme Court case *Trump v. United States* (2024), D. John Sauer, now Solicitor General of the United States, said that an order to the military to assassinate a political rival could “well be an official act.” He is the founder of the James Otis Law Group, of which you are now a co-owner.
 - a. Do you agree that a president could have absolute immunity from prosecution if they ordered the assassination of a political opponent while in office?

Response: I respectfully disagree with the characterization of the oral argument. Mr. Sauer said that “[i]t would depend on the hypothetical,” Tr. 9:22-23, and that “where there’s a whole series of, you know, sort of guidelines against that, so to speak, like the UCMJ -- prohibits the military from following a plainly unlawful act, if one adopted Justice Alito’s test, that would fall outside,” *id.* 41:17-22.

Any hypothetical issue of presidential immunity would be evaluated under the analysis set forth in *Trump v. United States*, 603 U.S. 593 (2024). How that analysis is applied to assertions of presidential immunity is subject to pending litigation. *See, e.g., Carroll v. Trump*, No. 24-644 (2d Cir.); *Blassingame v. Trump*, No. 1:21-cv-000858 (D.D.C.). As a judicial nominee, it would be improper for me to opine on matters that are the subject of pending or impending litigation. *See* Code of Conduct for United States Judges, Canon 3A(6).

- b. You listed in your questionnaire that you assisted with preparing briefs and oral arguments in *Trump v. United States*. Please explain (1) which briefs you worked on and (2) the nature and extent of your assistance.

Response: I assisted with each of the briefs that President Trump filed in *Trump v. United States*. My assistance consisted of conducting legal and factual research relating to issues in the briefs as well as editing and proofreading the briefs. I participated in moot courts and provided advice regarding oral argument strategy.

2. Please list all current and former Executive Branch and judicial nominees and appointees of the first and second Trump Administrations who have been employed by the James Otis Law Group.

Response: John Sauer; Will Scharf; Michael Talent; and myself.

3. On May 30, 2024, you reposted a tweet from President Trump’s son, Donald Trump, Jr. The tweet said: “The left is willing to destroy our Republic to stop Trump and keep their power.” That retweet occurred in 2024. Do you believe it will be appropriate for you to retweet posts of a political nature if you are confirmed to be an Article III judge?

Response: The Code of Conduct for United States Judges provides that “A Judge Should Refrain From Political Activity.” Code of Conduct for United States Judges, Canon 5. According to this canon, among other things, a judge should not “make speeches for a political organization or candidate, or publicly endorse or oppose a candidate for public office,” and “should not engage in any other political activity.” *Id.* at Canons 5(A)(2), (C). If I am fortunate enough to be confirmed, I would adhere to the Code of Conduct and would not retweet posts of a political nature.

4. You reported in your Questionnaire that you operated a blog under the username “rawhide” between 2007 and 2009.

- a. In December 2007, that account wrote that “abortion is murder.” Please confirm whether or not you authored this post and, if so, what you meant by this statement.

Response: As I disclosed in my Senate Judiciary Questionnaire, I authored posts under the penname “rawhide.” I agree with the guidance that the Ranking Member provided when he chaired this Committee: “Members often ask [nominees] about what they personally believe... It puts a judicial nominee on the spot. The Judicial Conference of the United States has directed both sitting judges and judicial nominees not to share their personal opinions. The rationale is obvious. Offering personal opinions suggests a nominee has prejudged an issue. It suggests to future litigants that the nominee will arrive with preconceptions and will disregard their obligation to simply apply the law to the facts.” *Durbin Delivers Opening Statement During Latest Nominations Hearing*, Sept. 21, 2022, <https://www.judiciary.senate.gov/press/dem/releases/09/23/2022/durbin-delivers-opening-statement-during-latest-nominations-hearing>. Consistent with the Ranking Member’s guidance and the judicial canons, as a judicial nominee, it would be improper to offer an opinion on a political or policy issue. *See* Code of

Conduct of U.S. Judges, Canons 3(A)(6), 5. If I were confirmed, I would decide every case that may come before me fairly and impartially, regardless of the claims or the parties involved.

- b. Again, in December 2007, that account wrote that “gay marriage is sin.” Please confirm whether or not you authored this post and, if so, what you meant by this statement.

Response: Please see my response to Question 4.a.

5. In December 2020, you were listed as the Deputy Attorney General in the Missouri Attorney General’s amicus brief on behalf of the plaintiffs in *Texas v. Pennsylvania*. You argued that Pennsylvania “undermined confidence in the [2020] election.” The Supreme Court decided that a state lacks standing to challenge another state’s regulation of presidential elections under the Electors Clause. Please explain what factors you considered in deciding to sign onto the brief.

Response: The amicus brief raised important issues and arguments that 17 States believed should be brought to the Supreme Court’s attention. I was proud to add my name.

6. During your confirmation hearing, you told Senator Schmitt that representing President Trump was a “decision that my colleagues at the firm and I . . . thought was so important to the Constitution . . . and we were very proud to have done so[.]”

- a. Do you currently serve as counsel for President Trump in *Trump v. Carroll* or in any other matter?

Response: Yes.

- b. Title 28, Section 455 of the U.S. Code provides rules pertaining to the disqualification of federal judges. Subsection (a) states that “Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.” Subsection (b) states, in part, that “He shall also disqualify himself . . . (1) Where he has a personal bias or prejudice concerning a party . . .” During your nomination hearing, you stated that you would “strive to be” a judge that “sets aside their personal views” and “appl[ies] the law and the facts.” Should you be confirmed, will you commit to recusing yourself from cases in which President Trump is a named party?

Response: If I am fortunate enough to be confirmed, I will recuse in any litigation in which I have been involved. In all other matters, 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. At the current time, it would be inappropriate for me to prejudge any hypothetical recusal motion.