

Senator Dick Durbin
Ranking Member, Senate Judiciary Committee
Written Questions for Michael J. Hendershot
Nominee to be U.S. District Judge for the Northern District of Ohio
May 6, 2026

1. You defended Ohio in litigation involving a 2019 “heartbeat bill” that criminalized abortion after six weeks. After the law took effect in 2022, it was preliminarily enjoined and later superseded by a November 2023 referendum that enshrined reproductive rights in the Ohio Constitution. Despite voters’ approval of a state constitutional amendment to protect reproductive decision making, you continued to defend the state in its abortion litigation in December 2023. The 2019 Ohio law was permanently enjoined in October 2024.

a. Why did you continue to defend this law even after its restrictions were soundly rejected by Ohio voters?

Response: In the litigation you reference, the State appeal in the Ohio Supreme Court, after that Court framed the questions, did not involve the six-week prohibition. Nor did the State contend in that appeal that the ban continued in effect after the amendment to the Ohio Constitution.

b. In light of your handling of this case, how can litigants expect you to fairly uphold the law in cases involving reproductive rights issues?

Response: In the cases described above, as in every case I handled in my 25-year legal career, I advanced the best argument on behalf of my client’s position. But the role of the advocate is not the role of the judge. If confirmed as a judge, I would not be asked to advocate for any cause or party but instead only to apply the law. And I would apply the law without favor to party or position. I am proud of the support from Ohio lawyers and judges representing an array of policy and political positions who have spoken to my reputation for evenhandedness, integrity, and respectfulness.

2. In March 2024, you filed an amicus brief in support of President Trump in *Trump v. United States*, the Supreme Court case involving presidential immunity. In November 2020, you submitted an amicus brief to the Court challenging Pennsylvania’s administration of the 2020 election. In that brief, you wrote: “The results of such elections have profound effects and inspire passions on all sides. Those passions cool only to the extent the losers can accept the results as reflective of the People’s will.”

a. Are you willing to accept the results of the 2020 election and acknowledge that President Trump lost?

Response: Joseph Biden was certified as the winner of the 2020 presidential election and served as President of the United States. To the extent this question

asks for my opinion about political debate or political commentary regarding that election, the Code of Conduct for United States Judges prevents me from answering further.

b. Why should litigants expect you to maintain independence from President Trump if you are confirmed to a lifetime position on the federal bench?

Response: In the cases described above, as in every case I handled in my 25-year legal career, I advanced the best argument on behalf of my client's position. But the role of the advocate is not the role of the judge. If confirmed as a judge, I would not be asked to advocate for any cause or party but instead only to apply the law. And I would apply the law without favor to party or position. I am proud of the support from Ohio lawyers and judges representing an array of policy and political positions who have spoken to my reputation for evenhandedness, integrity, and respectfulness.

3. Where were you on January 6, 2021?

Response: Working from my home in Ohio.

4. Do you denounce the January 6 insurrection?

Response: I denounce any and all acts of violence. How the events at the Capitol on January 6, 2021, are characterized is a matter of public debate and subject to litigation. It is therefore inappropriate in light of my duty under the Code of Conduct for United States Judges to opine on how to characterize the events of that day.

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

Response: The question asks me to opine about a decision within the President's complete discretion. *See* Const. art. II, Sec. 2. As a nominee, it would be inappropriate for me to grade the President's use of that authority.

6. 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 dissatisfied with a court order may, among other things, request a stay of the order from the issuing court or a higher court. Litigants may also appeal any appealable order they disagree with.

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

Response: In some circumstances a case falls outside the general obligation to obey a court order. For example, a Court without jurisdiction cannot issue an order binding the parties. *See, e.g.*, 49 C.J.S. 19 (1947). If compliance is impossible, a party's noncompliance may be excused. *See, e.g., Oriel v. Russell*, 278 US 358, 366 (1929) (noting rule). Another exception, as the Supreme Court has explained, arises in the discovery context, where a party may need to disobey such an order to secure an order that may be properly appealed. *See, e.g., Mohawk Indus., Inc. v. Carpenter*, 558 U.S. 100, 111 (2009).

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

Response: Officials in every branch take an oath to abide by the Constitution. The judicial branch has authority the authority to adjudicate cases and controversies between parties to the cases brought to court.

7. 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 reserved that question in *Trump v. CASA, Inc.*, 606 U.S. 831 (2025). The question is likely to arise in litigation that could come before me if I am fortunate enough to be confirmed. It is therefore inappropriate for me to prejudge the answer to the question.

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

Response: Please see my answer to Question 7.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 answer to Question 7.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: Setting aside vacatur, which the question does not involve, to the best of my knowledge, no.

- 8. 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.

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

Response: Response: The Twenty Second Amendment prohibits any person from being “elected to the office of the President” for a third term. Const., amend. XXII. To the extent the question asks me to opine on a political controversy or preview the answer to possible litigation, I am bound to refrain from answering under my duty to follow the Code of Conduct for United States Judges.

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

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

Response: As a nominee bound by the Code of Conduct for United States Judges, it is inappropriate for me to comment on political statements by political actors.

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

Response: Please see my answer to Question 10a.

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

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

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

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

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

Response: As a nominee bound by the Code of Conduct for United States Judges, it is inappropriate for me to comment on political statements by political actors.

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

Response: Please see my answer to Question 11.a.

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

Response: Please see my answer to Question 11.a.

- 12. When, if ever, may a lower court depart from Supreme Court precedent?**

Response: Lower courts are bound to follow binding Supreme Court precedent.

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

Response: As a district court nominee, if confirmed, I would not be called on to overturn circuit precedent. A circuit court should follow its own precedent about precedent when considering whether to overrule a particular case.

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

Response: As a district court nominee, if confirmed, I would not be called on to overturn Supreme Court precedent. The Court should follow its own precedent about precedent when considering whether to overrule a particular case.

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

- a. *Brown v. Board of Education*
- b. *Plyler v. Doe*
- c. *Loving v. Virginia*
- d. *Griswold v. Connecticut*
- e. *Trump v. United States*
- f. *Dobbs v. Jackson Women’s Health Organization*
- g. *New York State Rifle & Pistol Association, Inc. v. Bruen*
- h. *Obergefell v. Hodges*
- i. *Bostock v. Clayton County*
- j. *Masterpiece Cakeshop v. Colorado*

- k. *303 Creative LLC v. Elenis*
- l. *United States v. Rahimi*
- m. *Loper Bright Enterprises v. Raimondo*

Response as to all: It is generally inappropriate for a judicial nominee to grade the Supreme Court's work. But by long tradition in this Committee nominees have opined that *Brown* and *Loving* are correctly decided. I agree that those seminal cases were correctly decided.

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

Response: The Supreme Court has repeatedly used the Constitution's original meaning to determine its application. *See, e.g., Vidal v. Elster*, 602 U.S. 286 (2024); *Crawford v. Washington*, 541 U.S. 36 (2004). I would follow those, and all binding precedent of the Supreme Court and the Sixth Circuit.

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

Response: Please see my answer to Question 16.

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

Response: The Supreme Court held in *Obergefell v. Hodges*, 576 U.S. 644 (2015), that a statute restricting same-sex marriage violated the Constitution. I would follow it as binding precedent.

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

Response. The Supreme Court in *Loving v. Virginia*, 388 U.S. 1 (1967), invalidated a statute that prohibited marriage by persons of a different race. Consistent with my answer to Question 15, I can state that *Loving* is supported by the Constitution's original meaning.

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

Response. While this answer could fill volumes, the clause can be described generally. The Equal Protection Clause requires heightened judicial scrutiny of laws that classify on race or other protected characteristics. The clause requires rational-basis scrutiny for law that classify, but do not classify by protected characteristics. The Due Process Clause generally mandates some procedures before the state may take away life, liberty, or

property. The Supreme Court has also interpreted the clause as prohibiting some deprivations regardless of process.

21. 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 these clauses to these groups. *See, e.g., Craig v. Boren*, 429 U.S. 190 (1976); *Obergefell v. Hodges*, 576 U.S. 644 (2015). Those cases, and all Sixth Circuit cases interpreting them, are binding precedent for the Northern District of Ohio.

22. 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 answer to Question 16.

23. 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 answer to Question 16.

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

Response: The Supreme Court has applied the clause to natural and corporate persons. *See, e.g., McIntyre v. Ohio Elecs. Commn.*, 514 U.S. 334 (1995); *Citizens United v. FEC*, 558 U.S. 310 (2010). It has also held that the clause may not apply identically to all. For example, schoolchildren’s rights under the clause may not be identical to adults’. *See, e.g., Mahanoy Area Sch. Dist. v. B.L.*, 594 U.S. 180, 186 (2021). Should I be confirmed, I would follow this and all other relevant precedent in assessing First Amendment claims.

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

Response: The Supreme Court has held that a law is content-based if it “applies to particular speech because of the topic discussed or the idea or message expressed.” *Reed v. Town of Gilbert, Ariz.*, 576 U.S. 155, 163 (2015). Should I be confirmed, I would follow this and all other relevant precedent in assessing an argument that a law is content based.

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

Response: The Supreme Court recently held that a true threat is a “serious expression conveying that a speaker means to commit an act of unlawful violence.” *Counterman v.*

Colorado, 600 U.S. 66, 74 (2023). Should I be confirmed, I would apply this and all other relevant precedents in evaluating true-threat questions.

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

Response: I am generally aware that the Supreme Court said that the Clause applies to all persons present in the United States. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). To the extent the question calls on me to opine about political controversies or potential litigation, the Code of Conduct for United States Judges prevents me from answering further.

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

Response: This question is in active litigation and is the subject of significant political discussion. Therefore, under the Code of Conduct for United States Judges, I am bound not to weigh in on the question.

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

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

Response: This question asks about a matter pending before the U.S. Supreme Court that is also a topic of significant political debate. Therefore, under the Code of Conduct for United States Judges, I am bound not to weigh in on the question.

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

Response: Please see my answer to Question 29.a.

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

Response: No person should be excluded from the federal bench on the basis of his or her race, sex, ethnicity, religion, or any other protected characteristic. Candidates from all backgrounds should be considered for nomination.

31. 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: Like all valid acts of Congress, a judge must apply the First Step Act and all binding 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: Yes.

32. 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. As the Federalist Society has tens-of-thousands of members, I am sure I have spoken with some during this process. Those conversations would have involved no more than me relaying that I had applied or them congratulating me on my nomination. In a few instances, I had conversations with other nominees or potential nominees about the process. Some of them are likely “associated with” the Federalist Society. I have never met the two individuals named in the question.

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: In one instance, I was asked to speak at an event. I declined.

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

Response: No.

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

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

Response: To my knowledge, no.

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

Response: No.

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

Response: No.

34. 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 my knowledge, no.

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

Response: No.

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

Response: No.

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

Response: No.

35. 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 my knowledge, no.

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

Response: No.

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

Response: No.

36. 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: To my knowledge, no.

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

Response: No.

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

Response: No.

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

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

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

Response: I was serendipitously introduced to Mike Davis while at a coffee shop in D.C. in November 2025 with a friend who happens to know Mr. Davis. We exchanged less than three sentences of pleasantries.

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.

38. 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 my knowledge, no.

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

Response: No.

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

Response: No.

39. 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 my knowledge, no.

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

Response: No.

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

Response: No.

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

Response: I have no knowledge about the conduct described in this question. If I am fortunate enough to be confirmed, any public advocacy for or against my confirmation will play no role in my judicial decision-making. And to the extent the question asks me to comment on a political controversy, my obligation to follow the Code of Conduct for United States Judges prohibits me from opining.

- 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 have no knowledge about the conduct described in this question. And to the extent the question asks me to comment on a political controversy, my obligation to follow the Code of Conduct for United States Judges prohibits me from opining. As for any possible conflicts, I will address all actual or potential conflicts of interest by applying 28 U.S.C. § 455, the Code of Conduct for United States Judges, and any and all other relevant laws, rules, or practices.

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

Response: I have no knowledge about the conduct described in this question. And to the extent this question asks me to comment on a political controversy, my obligation to follow the Code of Conduct for United States Judges prohibits me from opining.

United States District Court for the Northern District of Ohio
Questions for the Record
Submitted May 6, 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: This Committee has a constitutionally-assigned responsibility to evaluate nominees by asking questions to evaluate nominees' suitability to serve on the federal bench.

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: As a nominee, I believe I have a duty to answer questions in good faith and consistent with duties to past clients and duties under the Code of Conduct for United States Judges.

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

Response: Yes, I have answered all questions submitted consistent with my answer to Question 2.

- 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 to these questions. I did receive feedback from the Department of Justice Office of Legal Policy. I took account of that feedback when finalizing my answers. All answers are my own.

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

Response: That would depend on the question. If a question calls for a one-word or one-phrase answer, a verbatim response may be dictated by the question. For more open-ended questions, the response should represent the nominee's answer.

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

Response: At various points in the nomination process, I have read previous nominees' answers in an effort to better understand the process and what questions I might be asked.

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

Response: To my knowledge, no.

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: To my recollection, no.

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

Response: I had the great privilege to work for now-Judge Eric Murphy for almost six years. Judge Murphy is perhaps the most ethical attorney and person I have ever met.

6. How would you describe your judicial philosophy?

Response: My judicial philosophy starts with the Constitution's constraint on the judicial power. Under Article III, federal judges wield the "judicial power" and nothing more. Broadly, that power involves interpreting the law and applying that interpretation to cases or controversies before them. My philosophy also treats the words of statutes and the Constitution, as understood at the time of enactment, as a closed set for the judge to determine the relevant law. A judge's policy or moral views are not relevant to that task. Finally, my philosophy envisions the judicial task as impartially applying the meaning of these words in accordance with all binding Supreme Court and Sixth Circuit precedent.

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 confirmed and confronted with such a question, I would apply all Supreme Court and Sixth Circuit precedent. To my knowledge, that precedent generally asks courts to ask whether an asserted right is "deeply rooted in this Nation's history and

tradition’ and ‘implicit in the concept of ordered liberty,’” *Dobbs v. Jackson Women’s Health Org.*, 142 S. Ct. 2228, 2246 (2022) (quoting *Washington v. Glucksberg*, 521 U.S. 702, 721 (1997)); *see also, e.g., Chambers v. Sanders*, 63 F. 4th 1092, 1096-97 (CA6 2023).

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

Response: Yes. *See, e.g., Chambers v. Sanders*, 63 F. 4th 1092, 1096 (CA6 2023).

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

Response: Yes. I would consult the types of sources found in Supreme Court and Sixth Circuit precedent addressing these questions. *See, e.g., Dobbs v. Jackson Women’s Health Org.*, 142 S. Ct. 2228, 2246-51 (2022).

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

Response: Yes. I would apply the relevant precedents of the Supreme Court and the Sixth Circuit on these questions. If neither court had issued binding precedent on the precise question, I would consider cases from other courts when evaluating the claims in the case.

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

Response: Yes. Reasoning by analogy is one of the long-established methods of approaching a question not controlled by binding precedent.

- e. What other factors would you consider?

Response: I would consider any factor in Supreme Court or Sixth Circuit precedent analyzing similar questions.

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

Response: I am generally aware that the Supreme Court held long ago that it has no jurisdiction to review a claim that the President failed to faithfully execute the laws. *See Mississippi v. Johnson*, 71 U.S. 475 (1867). I am also generally aware that the Supreme Court has held that citizens lack standing to raise a claim that the President has not

faithfully executed the laws. *See United States v. Texas*, 143 S. Ct. 1964, 1967 (2023). To the extent the question calls for me to address a matter of political dispute or a question that might arise in litigation, the Code of Conduct for United States Judges prevents me from opining further.

9. Do you believe that part of the role of a federal judge is to apply the text of the U.S. Constitution, including its amendments?

Response: Yes.

10. At your Senate Judiciary Committee nomination hearing, I asked you and your fellow nominees to apply the plain text of the 22nd Amendment to the question of whether President Trump can run for President again in 2028. Here is the text of the relevant section of the 22nd Amendment: “No person shall be elected to the office of the President more than twice.”

- a. Was President Trump elected to the office of the President twice?

Response: Yes.

- b. If President Trump were elected again in 2028, how many times in total would he have been elected to the office of the President?

Response: Three.

- c. Is President Trump eligible to be elected President for a third term in 2028?

Response: No.

11. 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 the Constitution’s Article II, sec. 1 and the Twelfth Amendment, Congress is empowered to certify the winners of presidential elections.

12. At your hearing, Senator Blumenthal asked you who won the 2020 election. You replied that “President Biden was certified the winner of the 2020 election.”

- 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: Before the hearing, I prepared for potential questions by reviewing past hearings.

- 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: To the best of my recollection, no person instructed, suggested, implied, or represented that I should avoid answering this question. My answer reflects the process specified in the Constitution to determine who will serve as President.

- 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: To my knowledge, no.

13. At the hearing, I asked you about the *New York Times*' reporting 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." Below are additional questions about President Trump's statement.

- a. I was heartened by your statement that a judge's decision can be correct, as a matter of fact and law, even if it differs from President Trump's desired outcome. You also stated that "any citizen can criticize what a judge has done." Do you think that President Trump's statement quoted above is simply a "citizen . . . criticiz[ing] what a judge has done"?

Response: As a nominee, under the Code of Conduct for United States Judges, I am bound not to comment on political statements by political figures.

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

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

- c. Do you think that judges ruling against President Trump's desired outcome should be "crack[ed] down on"?

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

- 14. 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: Faith in the judiciary depends on both actual impartiality and the appearance of impartiality. If I am fortunate enough to be confirmed, I will recuse from any case in which I have been involved. For all other cases, I will address all actual or potential conflicts of interest by applying 28 U.S.C. § 455, the Code of Conduct for United States Judges, and any and all other relevant laws, rules, or practices.

- 15. I have been proud to co-lead the bipartisan *Safer Supervision Act*, a bill to reform our federal supervised release system that has received substantial conservative and law enforcement support. The premise of the bill is that our federal supervision system has strayed far from how Congress designed it, as courts impose it mechanically in essentially every case, which means that probation officers do not have time to properly supervise those who most need it. The bill reinforces courts' existing obligations under 18 U.S.C. §§ 3553 and 3583 to impose supervision as warranted by the individual facts of the case and encourages more robust use of early termination when warranted to provide positive incentives encouraging rehabilitation. At the encouragement of a bipartisan group of members of Congress, the U.S. Sentencing Commission adopted an amendment to supervision guidelines implementing certain parts of the bill; this amendment went into effect on November 1.
 - a. As a sentencing judge, would you endeavor to impose supervision thoughtfully and on the basis of the individual facts of the case consistent with 18 U.S.C. § 3553 and 18 U.S.C. § 3583?

Response: Yes. I will follow all statutory directives. And all sentencing should be approached thoughtfully.

- b. Would you agree that the availability of early termination under 18 U.S.C. § 3583(e)(1) can provide individuals positive incentives to rehabilitate?

Response: That subsection reflects Congress's judgment that early termination of supervised release is appropriate for some supervisees.

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

Response: Yes.

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

Response: This question asks me to opine about a current political controversy that is also being actively litigated. As such, under the Code of Conduct for United States Judges, I cannot offer a view on this question.

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

Response: I am generally aware that the Supreme Court has said that "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) (internal punctuation omitted).

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

Response: I would approach that question by applying all Supreme Court and Sixth Circuit precedent on the question. That includes, for example, *Saenz* and *LULAC v. Bredesen*, 500 F.3d 523 (CA6 2007).

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

Response: I am generally aware that the Supreme Court has grounded some decisions in a right of privacy in the circumstances of the case. See, e.g., *Lawrence v. Texas*, 539 U.S. 558, 579 (2003). At the same time, in the Fourth Amendment context, the Court has noted that

the Constitution lacks “a general ... right to privacy.” *Katz v. United States*, 389 U.S. 347, 350 (1967) (internal punctuation omitted).

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

Response: The Supreme Court has described *Griswold* as protecting that right. See, e.g., *Dobbs v. Jackson Women’s Health Org.*, 142 S. Ct. 2228, 2257, 2280 (2022). To the extent the question calls for me to address a matter of political dispute or a question that might arise in litigation, the Code of Conduct for United States Judges prevents me from opining further.

19. 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 used the Constitution’s original meaning to determine its application. See, e.g., *Vidal v. Elster*, 602 U.S. 286 (2024); *Crawford v. Washington*, 541 U.S. 36 (2004). I would follow those, and all binding precedent of the Supreme Court and the Sixth Circuit.

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

Response: I would consult the kinds of sources found in Supreme Court and Sixth Circuit precedent addressing questions of original meaning. Such sources include historical and modern treatises, historical dictionaries, and the common law. See, e.g., *Vidal v. Elster*, 602 U.S. 286 (2024); *District of Columbia v. Heller*, 554 U.S. 570 (2008).

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

Response: I am generally aware that the Supreme Court said that the Clause applies to all persons present in the United States. See, e.g., *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). To the extent the question calls on me to opine about political controversies or potential litigation, the Code of Conduct for United States Judges prevents me from answering further.

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

Response: I would begin by asking the parties to address whether the allegation of noncompliance was accurate and whether any defenses would apply. If the parties

proved noncompliance and lack of a defense, I would evaluate whether a sanction would be appropriate.

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

Response: I would apply all relevant statutes and rules as well as Supreme Court and Sixth Circuit precedent. I would then consult similar circumstances in the Northern District of Ohio or other district courts because these circumstances may present situations not covered in binding appellate precedent.

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

Response: After consulting any relevant statutes, rules, and precedent, I would consider a sanction commensurate with any tactic that breached those statutes, rules, or precedents.

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

Response: The words of the relevant constitutional provision, statute, or regulation are the law and control the case before a judge. Those words, as interpreted in any binding Supreme Court or Sixth Circuit precedent set the boundaries for deciding the case. Extra-legal factors are not one of the tools available to a judge to determine the relevant law in a case before the court.

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

Response: Please see my answer to Question 23. That said, some judicial tasks, such as credibility determinations, may draw on a judge's life experience.

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

Response: Please see my answer to Question 23.

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

Response: Picking a single case from a 25-year career is not easy. My criteria for picking are not the position or argument I made, as those were not my decision alone. I am most proud of my handling of the argument in *State v. Aalim*, because both my opposing counsel and members of the Court later complimented me about how I handled the questions and the characterization of the opposing argument fairly and clearly.

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

Response: After considering factors such as the effect on other cases and fairness to all involved, I would entertain entering such an order.

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

Response: I plan to continue my long involvement in speaking to the bar about practice and procedure. I also plan to investigate whether I can continue any mentorship participation in the program I have served in for the last 12 years. I also plan to welcome into my chambers as many externs as possible.

28. Discuss your proposed hiring process for law clerks.

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

Response: I have not researched or considered the question, and would hesitate to opine on it without doing so.

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

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

Response: I believe in leading by example. As I always have, I will continue to treat all people, including litigants, lawyers, and staff with the respect that all people deserve. I am proud that in my 15 years as a manager, all level of employees have felt comfortable confiding in me with any workplace concerns. I am also proud that in my personal life I have frequently had to remind others to show respect to my daughter with special needs when people have failed to show her basic respect because of her differences. Throughout my career, I have been praised as an innovator. If I think that any change in practice or procedure would help avoid or correct misconduct, I will fully explore whether I can help catalyze or implement that change.

- 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 answer to Question 29.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 likely start by approaching the judge personally. In my life experience, such peer-to-peer conversations are often beneficial. I would also consult all relevant policies and procedures for reporting such misconduct.

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

Response: The description of the events of that date is both the subject of political debate and ongoing litigation. As a nominee, the Code of Conduct for United States Judges prevents me from commenting on the question.

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

Response: Please see my answer to Question 30.

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

Response: As a nominee bound by the Code of Conduct for United States Judges, I cannot comment on whether political decisions by political actors are prudent.

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

Response: Please see my answer to Question 31.

33. In his April 1, 2026, Truth Social post announcing your nomination, President Trump wrote: “As Chief Deputy State Solicitor, Mike has strongly, and successfully, represented Ohio in Election Law cases, and challenged the Radical Left Policies of the Obama and Biden Administrations.”

- a. Do you agree with President Trump’s statement that you “challenged the Radical Left Policies of the Obama and Biden Administrations”? If so, which “Radical Left Policies” did you challenge?

Response: As a nominee bound by the Code of Conduct for United States Judges, I cannot comment on political statements by political actors.

34. In your Senate Judiciary Questionnaire, you note in the section describing your pro bono work that you “analyzed a possible California initiated constitutional amendment for a political entrepreneur.” What was the nature of this project, and what was your conclusion?

Response: To the best of my recollection, this project from 2003 sought advice about the mechanics of getting a popular referendum on the California ballot. I do not recall the precise subject matter or if the client even revealed the subject he wanted to submit to voters.

Questions for the Record for Michael Jason Hendershot
Submitted by Senator Richard Blumenthal
April 29, 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: 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.

- 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. At present, there are no such organizations or entities of which I am aware.

- 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: I have never represented President Trump.

- 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 confirmed, I will adhere to all ethical rules and obligations that apply to federal judges.

- 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. If confirmed, I will adhere to all ethical rules and obligations that apply to federal judges.

- 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 3.

- 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 3.

- 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 3.

- 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: As a nominee, the Code of Conduct for United States Judges prohibits me from answering this question as it raises an issue that could come before me if I am confirmed. And to the extent the question solicits my views on questions of policy or political disputes, the Code places a second prohibition on me answering the question. The Supreme Court has said that “[t]he power to punish for contempts is inherent in all courts; its existence is essential to the preservation of order in judicial proceedings, and to the enforcement of the judgments, orders, and writs of the courts, and, consequently to the due administration of justice.” *Ex Parte Robinson*, 86 U.S. 505, 510 (1873). If confirmed, I will faithfully apply this, and all other, binding precedent.

- 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 a nominee, the Code of Conduct for United States Judges prohibits me from answering this question as it both involves an ongoing political dispute and because the issue raised could come before me if I am confirmed to serve as a federal judge.

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. If I had jurisdiction over the case and the parties, I could issue orders in the case. If I did not have jurisdiction, I could issue an order dismissing the case.

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

Response: If I had jurisdiction over the case and the parties, I could enforce orders entered in the case against the parties.

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

Response: Generally, federal courts have the power to order sanctions, including through contempt proceedings, to enforce compliance with their orders.

- 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, any party seeking relief from a court order may seek a stay of that order from the issuing court or a higher court. If the order is not stayed, the normal course is for the party to comply with the order unless the order has been vacated by a higher court.

Some circumstances take a case out of the generality described above. For example, a Court without jurisdiction cannot issue an order binding the parties. *See, e.g.*, 49 C.J.S. 19 (1947). If compliance is impossible, a party's noncompliance may be excused. *See, e.g., Oriel v. Russell*, 278 US 358, 366 (1929) (noting rule). Another exception, as the Supreme Court has explained, arises in the discovery context, where a party may need to disobey such an order to secure an order that may be properly appealed. *See, e.g., Mohawk Indus., Inc. v. Carpenter*, 558 U.S. 100, 111 (2009).

- 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 answer to Question 5.b.

- d. What would make a court order unlawful?

Response: An order entered by a court without jurisdiction or an order later shown to be wrong on the law might be described as unlawful.

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

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

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

Response: Please see the answer to Question 5.b.

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

Response: I was not; I was working at my home in Ohio.

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

Response: Please see my answer to Question 6.

7. In 2020, you joined an amicus brief urging the U.S. Supreme Court to block Pennsylvania from counting absentee ballots received after Election Day. And between 2021 and 2023, you defended Ohio's gerrymandered congressional and state legislative maps, which the Ohio Supreme Court struck down five times.

If confirmed, how can future litigants trust that you will remain unbiased on voting rights issues?

Response: In the cases described above, as in every case I handled in my 25-year legal career, I advanced the best argument on behalf of my client's position. But the role of the advocate is not the role of the judge. If confirmed as a judge, I would not be asked to advocate for any cause or party but instead only to apply the law. And I would apply the law without favor to party or position. I am proud of the support from Ohio lawyers and judges representing an array of policy and political positions who have spoken to my reputation for evenhandedness, integrity, and respectfulness.

Nomination of Michael J. Hendershot
United States District Court for the Northern District of Ohio
Questions for the Record
Submitted May 6, 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 nominee, the Code of Conduct for United States Judges prevents me from opining on matters of political or policy debate. It would therefore be inappropriate to comment on this political statement.

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: As a nominee, it would be inappropriate for me to opine on this hypothetical political dispute. It would also be inappropriate for me to comment on this hypothetical because it might generate litigation.

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

Response: Please see my answer to Question 2.

4. How would you characterize your judicial philosophy?

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

Response: My judicial philosophy starts with the Constitution’s constraint on the judicial power. Under Article III, federal judges wield the “judicial power” and nothing more. Broadly, that power involves interpreting the law and applying that interpretation to cases or controversies before them. My philosophy also treats the words of statutes and the Constitution, as understood at the time of enactment, as a closed set for the judge to determine the relevant law. A judge’s policy or moral views are not relevant to that task. Finally, my philosophy envisions the judicial task as impartially applying the meaning of these words in accordance with all binding Supreme Court and Sixth Circuit precedent.

5. What do you understand originalism to mean?

Response: That label has many meanings to many people. Please see my answer to Question 4.

6. Do you consider yourself an originalist?

Response: That label has many meanings to many people. Please see my answer to Question 4.

7. What do you understand textualism to mean?

Response: That label has many meanings to many people. Please see my answer to Question 4.

8. Do you consider yourself a textualist?

Response: That label has many meanings to many people. Please see my answer to Question 4.

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 fortunate enough to be confirmed, I would follow all Supreme Court and Sixth Circuit precedent about legislative history. Very generally, the Supreme Court has said that “legislative history is not the law,” *Azar v. Allina Health Servs. Systems Corp. v. Lewis*, 587 U.S. 566, 579 (2019), although such history might be relevant “to clear up ambiguity,” *Milner v. Dep’t of Navy*, 1562 U.S. 562, 574 (2011).

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

Response: Only the enacted text has the force of law. *See* generally Const. Art. I, Sec. 7. The intent of any member of Congress or any group of them is not. Please also see my answer 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: I am not familiar with this study, and would not feel comfortable weighing in on its conclusions. And to the extent the question calls for me to address a matter of political dispute or a question that might arise in litigation, the Code of Conduct for United States Judges prevents me from opining about the subject,

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 answer 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: A federal statute requires judges to "avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct." 18 U.S.C. § 3553(a). The Supreme Court has interpreted equal-protection principles to prohibit prosecutions based on characteristics like race or religion. *See, e.g., United States v. Armstrong*, 517 U.S. 456, 464 (1996). If confirmed, I would faithfully apply this statute and this precedent.

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

Response: No person should be excluded from the judicial branch based on 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

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

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

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: Excluding briefs filed in courts, and excluding the speeches and articles disclosed in my Senate Judiciary Questionnaire, to the best of my knowledge, I have not spoken about or published on any of these topics.

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

Response: Generally, any party seeking relief from a court order may seek a stay of that order from the issuing court or a higher court. If the order is not stayed, the normal course is for the party to comply with the order unless the order has been vacated by a higher court.

Some circumstances take a case out of the generality described above. For example, a Court without jurisdiction cannot issue an order binding the parties. *See, e.g., 49 C.J.S. 19 (1947)*. If compliance is impossible, a party’s noncompliance may be excused. *See, e.g., Oriel v. Russell, 278 US 358, 366 (1929) (noting rule)*. Another exception, as the Supreme Court has explained, arises in the discovery context, where a party may need to disobey such an order to secure an order that may be properly appealed. *See, e.g., Mohawk Indus., Inc. v. Carpenter, 558 U.S. 100, 111 (2009)*.

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

Response: If confirmed and faced with this scenario, I would consider the alleged noncompliance, call for the parties to brief the question, and apply all relevant precedent and law. That includes the Supreme Court's recognition that judges must wield the contempt power carefully to "avoid arbitrary or oppressive conclusions." *Bloom v. Illinois*, 391 U.S. 194, 202 (1968). To the extent the question calls on me to opine about political controversies or potential litigation, the Code of Conduct for United States Judges prevents me from answering further.

- 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 answer to Question 16.

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

Response: Generally, the President has constitutional power to veto bills passed by Congress and to exercise discretion in carrying out the constitutional role to "take care that the laws be faithfully executed." See Const. art. I, sec. 7; art. II, sec. 3; *United States v. Texas*, 599 U.S. 670, 679 (2023). To the extent the question calls on me to opine about political controversies or potential litigation, the Code of Conduct for United States Judges prevents me from answering further.

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

Response: I am generally aware that the Supreme Court addressed one aspect of this question in *Train v. City of New York*, 420 U.S. 35 (1975), and that Congress passed the Impoundment Control Act of 1974 (2 U.S.C. §681) in response to that litigation. To the extent the question calls on me to opine about political controversies or potential litigation, the Code of Conduct for United States Judges prevents me from answering further.

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 answer to Question 17.

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

Response. Yes. See Const. art. VI.

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

Response: I am generally aware that the Supreme Court said that the Clause applies to all persons present in the United States. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). To the extent the question calls on me to opine about political controversies or potential litigation, the Code of Conduct for United States Judges prevents me from answering further.

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

Response: I am generally aware that the Supreme Court recently confronted this question in the context of one challenged delegation. *See FCC v. Consumers' Research*, 606 U.S. 656 (2025). To the extent the question calls on me to opine about potential litigation, the Code of Conduct for United States Judges prevents me from answering further.

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

Response: While it is generally inappropriate for a nominee to grade the Supreme Court's decisions, the longstanding tradition of nominees before this Committee has been to make an exception for this seminal case. I agree that *Brown* was correctly decided.

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

Response: Please see my answer to Question 22. *Griswold* held that a statute restricting access to contraception violated the Constitution. *Griswold* is binding precedent.

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

Response: Please see my answer to Question 22. *Lawrence* held that a statute penalizing same-sex sexual conduct violated the Constitution. *Lawrence* is binding precedent.

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

Response: Please see my answer to Question 22. *Obergefell* held that a statute refusing to issue marriage licenses to same-sex couples violated the Constitution. *Obergefell* is binding precedent.

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: Joseph Biden was certified as the winner of the 2020 presidential election and served as President of the United States. To the extent this question asks for my opinion about political

debate or political commentary regarding that election, the Code of Conduct for United States Judges prevents me from answering further.

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

Response: Please see my answer 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 answer 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: Donald Trump was certified as the winner of the 2016 presidential election and served as President of the United States.

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

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

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

Response: Donald Trump was certified as the winner of the 2024 presidential election and serves as President of the United States.

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

Response: Please see my answer 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 Twenty Second Amendment prohibits any person from being “elected to the office of the President” for a third term. Const., amend. XXII. To the extent the question calls on me to opine about political controversies or potential litigation, the Code of Conduct for United States Judges prevents me from answering further.

⁴ 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: In preparing for my hearing, there were general discussion of responses that prior nominees have provided. But my answers here are my own, and are informed of my understanding of my ethical duties under the Code of Conduct for United States Judges.

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: To my knowledge, no.

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: No.

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: No.

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: As to all, 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: To my knowledge, 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 nominee, I understand my duty under the Code of Conduct for United States Judges prohibits me from commenting on political statements such as this.

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: To my knowledge, no.

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

Response: To my knowledge, no.

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

Response: I was serendipitously introduced to Mike Davis while at a coffee shop in D.C. in November 2025 with a friend who happens to know Mr. Davis. We exchanged less than three sentences of pleasantries.

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: Like other nominees, I have been in contact with members of the Office of Legal Policy, who provided me with guidance on how to fill out a Senate Judiciary Questionnaire. I made the final decisions about which cases to list on that document.

a. If so, who? What advice did they give?

Response: Members of the Office of Legal Policy encouraged me to list cases that reflected the breadth of my litigation experience. I made the final decision about what cases to list on the Questionnaire.

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

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

Response: No.

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

Response: Please see my answer to Question 41.d.

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: I know many people “associated with” the Federalist Society. I talked with many of them merely to tell them that I had applied for the vacancy and, after the nomination was announced, to receive congratulations. I have no knowledge if anyone talked to anyone “associated with” the Federalist Society on my behalf.

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: Before receiving these questions, I reviewed previous nominees’ responses. After receiving these questions, I drafted responses, received feedback from members of the Office of Legal Policy, finalized my answers and authorized them to be submitted to this Committee. My answers are my own.

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

April 29, 2026

Questions for Michael Hendershot (ND-OH):

1. In *Husted v. A. Philip Randolph Institute*, you represented the State of Ohio in defense of its voter-roll maintenance policy. That policy used failure to vote in two federal elections as a trigger to remove registered voters from the rolls.

- a. In your cert petition, you characterized this case as implicating “election integrity.” Do you believe that registered voters who do not vote in a given federal election pose a threat to election integrity?

Response: In this case, as in all cases in my 25-year career, the briefs I filed represented arguments in support of my client’s litigation position. Beyond that, this question asks me to opine about a matter of political controversy and a matter that might come before if I am so fortunate to be confirmed. Under the Code of Conduct for United States Judges, I cannot further opine on this question.

- b. As you are likely aware, research has documented that aggressive voter roll purges disproportionately impact communities of color. Were you aware of such disparate impacts during your representation of Ohio in this litigation? If so, how did that factor into the legal positions you advocated?

Response: Please see my answer to Question 1.a.

- c. If confirmed, cases involving the National Voter Registration Act and state voter roll maintenance policies could come before you. Please explain how you would assess claims that a voter was improperly removed from the rolls, and what standard of review you would apply.

Please my answer to Question 1.a.

2. You represented Ohio in defense of state and congressional maps that were found unconstitutional by Ohio’s own Supreme Court five separate times. In your view, was the Ohio Redistricting Commission’s continued submission of maps that the Ohio Supreme Court had already found unconstitutional consistent with the rule of law?

Response: My clients’ position in that case is stated in the filed briefs. Beyond those filings, the Code of Conduct for United States Judges makes prevents me from opining further on the question.

3. In 2024, you filed an amicus brief on behalf of Ohio, Alaska, and Wyoming in *Trump v. United States*, urging the Supreme Court to hold that presidential immunity should turn on

“the alleged act’s nexus to Article II power and the urgency of the alleged act.” Your brief also acknowledged that presidential immunity is “not limitless.”

- a. In your view, would a president's direction to the Department of Justice to investigate a political opponent qualify as immune official conduct considering the act’s “nexus to Article II power?”

Response: As a nominee bound by the Code of Conduct for United States Judges, I am bound not to comment either on political controversies or questions that may arise in litigation should I be so fortunate to be confirmed. I cannot opine on this hypothetical.

- b. You are now a nominee of the president whose personal immunity you directly argued for. If confirmed, cases involving the scope of his executive power or presidential immunity could come before you. Under the current administration, will you commit to recusing yourself from any cases that directly implicate the legal theories you advanced in your *Trump v. United States* amicus brief?

Response: Faith in the judiciary depends on both actual impartiality and the appearance of impartiality. If I am fortunate enough to be confirmed, I will recuse from any case in which I have been involved in any capacity while serving in the Attorney General’s Office. For all other cases, I will address all actual or potential conflicts of interest by applying 28 U.S.C. § 455, the Code of Conduct for United States Judges, and any and all other relevant laws, rules, or practices.

4. Following the 2020 election, you joined an amicus brief submitted to the U.S. Supreme Court on behalf of Ohio in *Republican Party of Pennsylvania v. Boockvar* and *Scarnati v. Pennsylvania Democratic Party*, asking the Court to grant certiorari and reverse a Pennsylvania Supreme Court decision that allowed the counting of absentee ballots received after Election Day. In part, your brief stated: “The results of such elections have profound effects and inspire passions on all sides. Those passions cool only to the extent the losers can accept the results as reflective of the People's will.”

- a. Had the Supreme Court granted the relief you sought and reversed the Pennsylvania Supreme Court’s decision, votes that had already been cast and counted by Pennsylvania voters would have been discarded. Do you believe that attempting to discard validly cast ballots after an election has been called is consistent with democratic principles?

Response: As a nominee bound by the Code of Conduct for United States Judges, I am bound not to comment either on political controversies or questions that may arise in litigation should I be so fortunate to be confirmed. I cannot opine on this hypothetical.

- b. Had the relief you sought been granted, it would not have changed the outcome in Pennsylvania, as regardless of the absentee votes at issue, Biden won Pennsylvania by

more than 80,000 votes. Were you aware at the time you joined the brief that the relief sought would not have altered the outcome in Pennsylvania?

Response: This brief like every brief I have ever filed represents the litigating position of a client. That said, I have no recollection of whether I knew what effect would follow from the Supreme Court granting the party petition.

- c. You quoted in your brief that public confidence in elections depends on “the losers” accepting results “as reflective of the People's will.” In the 2020 presidential election, Donald Trump was the losing candidate. Do you believe Donald Trump publicly accepted the results of the 2020 election as reflective of the People's will?

Response: As a nominee bound by the Code of Conduct for United States Judges, I am bound to refrain from commenting on political statements by political actors.

- d. Do you believe that filing frivolous legal challenges to election procedures after votes have been counted and a winner rightfully declared -- without evidence of fraud or irregularity -- undermines public confidence in democratic institutions?

Response: As a nominee bound by the Code of Conduct for United States Judges, I am bound to refrain from commenting on political statements by political actors.

5. On January 7, 2021, a joint session of Congress certified 306 electoral votes for Joseph Biden and 232 electoral votes for Donald Trump. Joe Biden received more votes than Donald Trump across 25 states, DC, and NE-02 in the 2020 election.

- a. Do you have any reason to believe that Congress was wrong to certify each of these state's electoral votes?

Response: Under the Constitution's Article II, sec. 1 and the Twelfth Amendment, Congress is empowered to decide questions of certification. I have no direct knowledge of the relevant facts. To the extent the question asks me to opine on a political controversy, I am bound by the Code of Conduct for United States Judges, not to comment on political controversies.

- b. Members of Congress have the right to object to slates of electors under federal law. Do you contend that members of Congress were justified in doing so on January 6th?

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

6. How do you define whether a candidate “wins” a presidential election?

Response: Under the Constitution's Article II, sec. 1 and the Twelfth Amendment, Congress is empowered to certify the winners of presidential elections.

7. The following are yes or no questions related to the 2020 election:

- a. Did Joe Biden receive over 19,000 more votes than Donald Trump in the state of Wisconsin in the 2020 General Election?

Response: My understanding based on public reporting is that the relevant election officials determined that Joseph Biden received more votes and therefore certified the state's presidential electors for Joe Biden. I have no personal knowledge of the facts interrogated in this question.

- b. Did Joe Biden receive over 80,000 more votes than Donald Trump in the state of Pennsylvania in the 2020 General Election?

Response. Please see my answer to Question 7.a.

- c. Did Joe Biden receive over 11,000 more votes than Donald Trump in the state of Georgia in the 2020 General Election?

Response. Please see my answer to Question 7.a.

- d. Did Joe Biden receive over 40,000 more votes than Donald Trump in the state of Arizona in the 2020 General Election?

Response. Please see my answer to Question 7.a.

- e. Did Joe Biden receive over 20,000 more votes than Donald Trump in the state of Nevada in the 2020 General Election?

Response. Please see my answer to Question 7.a.

- f. Did Joe Biden receive over 154,000 more votes than Donald Trump in the state of Michigan in the 2020 General Election?

Response. Please see my answer to Question 7.a.

- g. Based on your answers to questions 7(a) through 7(f), did Joe Biden win more votes than Donald Trump in each of those six states?

Response. Based on public reporting, my understanding is that officials in each of these states certified their presidential electors for Joe Biden. I have no personal knowledge of the facts interrogated in this question.

- h. Do you have any reason to believe that the outcome of any of the listed states was impacted by irregularities or fraud?

Response. This question asks me to opine on the administration of elections in those states. As a nominee bound by the Code of Conduct for United States Judges, I am bound to refrain from commenting on political disputes or the merits of litigation.

8. More than 60 federal and state courts, including courts presided over by judges appointed by Republican presidents, dismissed legal challenges to the 2020 presidential election results for lack of evidence, lack of standing, or lack of merit.
- a. Do you have any reason to believe that any of those courts reached the wrong conclusion?

Response. Please see my answer to Question 7.h.

- b. Do you believe those judges -- many of whom were appointed by Republican presidents, including President Trump -- acted improperly or in bad faith in dismissing those challenges?

Response. Please see my answer to Question 7.h.

9. If confirmed, cases involving the administration of federal elections, including absentee and mail ballot procedures, may come before you. Why should the American trust that you will rule impartially considering your intensely partisan legal record on this issue?

Response: I reject the premise that representing clients reflects partisanship. In the cases described above, as in every case I handled in my 25-year legal career, I advanced the best argument on behalf of my client's position. But the role of the advocate is not the role of the judge. If confirmed as a judge, I would not be asked to advocate for any cause or party but instead only to apply the law. And I would apply the law without favor to party or position. I am proud of the support from Ohio lawyers and judges representing an array of policy and political positions who have spoken to my reputation for evenhandedness, integrity, and respectfulness.

10. You represented the State of Ohio in defending the state's 2019 Heartbeat Act, which prohibited abortion after approximately six weeks of pregnancy -- before many women know they are pregnant. The law took effect in June 2022 following the Supreme Court's *Dobbs* decision and was preliminarily enjoined in September 2022. In November 2023, Ohio voters approved Issue 1, with approximately 57 percent of the vote in November 2023, amending the Ohio Constitution to protect reproductive freedom. After that vote, you continued to litigate in support of the Heartbeat Act.
- a. In your view, why was continued litigation over a statute effectively superseded by a constitutional amendment consistent with the interests of the people of Ohio?

Response: In the litigation you reference, the State appeal in the Ohio Supreme Court, after that Court framed the questions, did not involve the six-week ban. Nor did the State contend in that appeal that the six-week prohibition continued in effect

after the amendment to the Ohio Constitution.

11. Do you believe in a constitutional right to privacy as recognized in *Griswold v. Connecticut* and was *Griswold* correctly decided?

Response. As a nominee, it is generally inappropriate to grade Supreme Court precedents. That decision is binding precedent, and I would follow it and all binding Sixth Circuit interpretations of *Griswold*.

12. At a recent speaking event at Catholic University, Justice Kavanaugh stated that “I consider myself, in many ways, a Bork, Scalia, Rehnquist guy” when discussing his judicial role models. What judges or justices would you consider foundational to your judicial philosophy?

Response. I do not pattern my judicial philosophy after any one judge or set of judges.

13. If confirmed, cases involving reproductive rights -- including access to abortion, contraception, and assisted reproductive technology -- may come before you. Do you believe that individuals have any constitutionally protected right to make reproductive healthcare decisions? Explain.

Response. As a nominee bound by the Code of Conduct for United States Judges it is inappropriate for me to opine about any hypothetical litigation matter.

14. You have represented Ohio in several death penalty habeas cases. You will hear federal habeas petitions, including capital cases, from state prisoners across the Northern District of Ohio.

- a. Will you commit to recusing yourself from any federal habeas case arising from matters you personally litigated on behalf of the Ohio Attorney General's Office?

Response: Consistent with my answer in the Senate Judiciary Questionnaire, yes.

- b. In *In re Ohio Execution Protocol Litigation*, you defended Ohio's lethal injection drug protocol against Eighth Amendment challenges. If confirmed, challenges to execution protocols could come before you. Will you commit to recusing yourself from any such challenge arising from that litigation or from the protocol you personally defended?

Response: Consistent with my answer in the Senate Judiciary Questionnaire, yes.

- c. Explain how you will evaluate whether a method of execution violates the Eighth Amendment.

Response. I would apply all relevant Supreme Court and Sixth Circuit precedent. Among those precedents is *Bucklew v. Precythe*, 587 U.S. 119 (2019).

15. In *Boley v. Goodyear Tire Co.*, you successfully argued on behalf of Goodyear that its liability for asbestos exposure should be limited because Mary Adams, who was diagnosed with mesothelioma and died as a result, was never herself directly present on Goodyear's premises. Mrs. Adams was exposed to asbestos through contact with her husband's work clothes, as her husband worked with asbestos-tainted materials at Goodyear's facility for ten years.

- a. In *Boley*, you argued that an employer's duty of care does not extend to family members of employees who bring toxic substances home. Do you believe tort law should recognize a duty of care running from employers to foreseeable bystanders harmed by toxic exposures?

Response: In this case, as in all cases I handled in my 25-year career, the position you describe was my client's litigating position. To the extent the question asks me to opine about the answer to a hypothetical case that might come before me, should I be confirmed, the Code of Conduct for United States Judges prevents me from weighing in.

- b. As a district judge, how will you ensure that your prior professional experience representing multiple corporate interests against consumers and employees does not affect your impartiality, especially in cases involving individuals pursuing tort, consumer protection, or civil rights claims against corporate defendants?

The role of the advocate is not the role of the judge. If confirmed as a judge, I would not be asked to advocate for any cause or party but instead only to apply the law. And I would apply the law without favor to party or position. I am proud of the support from Ohio lawyers and judges representing an array of policy and political positions who have spoken to my reputation for evenhandedness, integrity, and respectfulness. While the question identifies cases in which my clients were corporations, I also handled several cases in which my client's position supported the interests of labor, the environment, and the consumer against corporate interests.

16. President Trump announced your nomination in a Truth Social post in which he stated, in part, that you "strongly, and successfully, represented Ohio in Election Law cases, and challenged the Radical Left Policies of the Obama and Biden Administrations."

- a. Is President Trump's statement an accurate characterization of your legal career, and do you agree with that framing?

Response: As a nominee bound by the Code of Conduct for United States Judges, I am bound to refrain from commenting on political statements by political actors.

- b. Did you ever discuss, directly or indirectly, the legal or policy positions you would take as a judge with anyone involved in the nomination process, including White House Counsel's Office staff, Senator Moreno's office, Senator Husted's office, or any intermediary?

Response: No.

17. Federal law (28 U.S.C. § 455) requires a judge to recuse when their impartiality “might reasonably be questioned.” Given the breadth of your prior representation and advocacy, how will you assess recusal in cases where your stated policy positions are implicated even if the Ohio Attorney General’s office is not formally a party?

Response: I reject the premise in the question that my advocacy for my clients equates to my “stated policy positions.” That said, faith in the judiciary depends on both actual impartiality and the appearance of impartiality. If I am fortunate enough to be confirmed, I will recuse from any case in which I have been involved. For all other cases, I will address all actual or potential conflicts of interest by applying 28 U.S.C. § 455, the Code of Conduct for United States Judges, and any and all other relevant laws, rules, or practices.

18. In notes from a November 2024 speech you gave to the Ohio Association of Civil Trial Attorneys, you described *FDA v. Alliance for Hippocratic Medicine*, as part of a “trend pushing back against lower courts using expansive standing to allow cause litigation from the right.” As I understand it, this observation implicitly acknowledges that federal courts have permitted ideologically motivated conservative plaintiffs to advance causes through expansive standing doctrines.

a. Do you agree that lower courts have, in some instances, granted standing to ideologically motivated plaintiffs in ways that are inconsistent?

Response: The statement you reference was merely descriptive of some cases I was summarizing for this audience. Beyond that the question asks me to opine about the correctness of an undefined universe of cases. I cannot opine in light of my obligations under the Code of Conduct for United States Judges.

b. Will you commit to applying the same standing analysis identically to all parties, regardless of whether their cause is politically aligned with the administration that nominated you or the state government you served?

Response: I will neutrally and faithfully apply all binding precedent of the U.S. Supreme Court and the Sixth Circuit that bears on any case before me, should I be fortunate enough to be confirmed.

19. Judicial clerkships serve several important professional roles: they are a wonderful opportunity for recent law graduates to learn about the profession from an experienced mentor, and they serve as an important, and often a necessary, step towards the highest ranks of our legal profession.

Too often, students from diverse backgrounds are overlooked for these important opportunities, despite having the same level of qualification as their peers. As we work to

ensure that our judicial bench accurately reflects the population that it serves, it is important to ensure that our ranks of federal clerks reflect the legal profession.

- a. Do you believe that diversity at all levels of the federal judiciary is important? Please explain your view.

Response: No person should be excluded from the judicial branch based on race, sex, ethnicity, religion, or any other protected characteristic.

- b. If confirmed, how will you personally ensure diversity among your law clerk classes?

Response: Please see my response to Question 19.a.

20. During your confirmation hearing, there was a brief discussion regarding the 22nd Amendment of the Constitution.

- a. What does the 22nd Amendment state?

Response: That amendment reads as follows:

Section 1

No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term.

Section 2

This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

- b. Under the text of that amendment, is there any reason that an individual who has been elected twice could be elected for a subsequent term?

Response: No.

- c. Donald Trump was elected President in 2016 and in 2024. How many times has Donald Trump been elected President?

Response: Twice.

- d. Are you aware of any provision of the Constitution, federal statute, or judicial precedent that would permit Donald Trump to be elected to a third term?

Response: No.

- e. If a case came before you challenging the eligibility of any individual to appear on a presidential ballot in violation of the 22nd Amendment and you concluded a candidate was ineligible to run for under that amendment, would you have any hesitation in ruling against them regardless of that individual's political standing or the political consequences of your decision?

Response: I would faithfully apply the 22nd Amendment regardless of that person's political standing or the political consequences of the decision.

21. If confirmed, cases involving discrimination claims brought by LGBTQ+ individuals under Title VII or other federal civil rights statutes may come before you. Will you commit to treating these individuals with dignity by ensuring that your courtroom is a forum where all litigants, witnesses, and counsel are addressed respectfully -- including by use of their correct name and gender identity -- and where their claims receive the same full and fair consideration afforded to all parties?

Response: I am committed to treating all people with dignity and respect, including in any courtroom I may preside in should I be so fortunate to be confirmed.

22. Do you believe that individuals in immigration removal proceedings, including those who entered the United States without authorization, are entitled to the due process protections guaranteed under the US Constitution? Please explain.

Response: I am generally aware that the Supreme Court said that the Clause applies to all persons present in the United States. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). To the extent the question calls on me to opine about political controversies or potential litigation, the Code of Conduct for United States Judges prevents me from answering further.

23. If confirmed, will you commit to ensuring that every person who appears before you is treated with dignity and afforded the full protections of the Constitution and federal law regardless of their immigration status, national origin, or language?

Response: Please see my answer to question 21. To the extent the question asks for an answer about the precise reach of the Due Process Clause to a hypothetical case, I am bound by the Code of Conduct for United States Judges, not to opine.

24. Do you believe the executive branch is bound to comply with court orders? What recourse do you believe is available to a federal judge whose orders are not followed?

Response: Generally, any party seeking relief from a court order may seek a stay of that order from the issuing court or a higher court. If the order is not stayed, the normal course is for the party to comply with the order unless the order has been vacated by a higher court.

Some circumstances take a case out of the generality described above. For example, a Court without jurisdiction cannot issue an order binding the parties. *See, e.g.*, 49 C.J.S. 19 (1947). If compliance is impossible, a party's noncompliance may be excused. *See, e.g., Oriel v. Russell*, 278 US 358, 366 (1929) (noting rule). Another exception, as the Supreme Court has explained, arises in the discovery context, where a party may need to disobey such an order to secure an order that may be properly appealed. *See, e.g., Mohawk Indus., Inc. v. Carpenter*, 558 U.S. 100, 111 (2009).

Senator Peter Welch
Senate Judiciary Committee
Subcommittee on the Constitution
Written Questions for Michael Hendershot
Hearing on “Nominations”
Wednesday, April 29, 2026

1. As the Chief Deputy Solicitor General in the Ohio Attorney General’s Office, you joined an amicus brief on behalf of the Republican Party of Pennsylvania in *Republican Party of Pennsylvania v. Boockvar*. You argued that the Supreme Court should “make clear that, under Article II’s Elections Clause . . . state legislatures, not state courts, set the rules for picking presidential electors.”

- a. In the brief, you argued that “doubts will continue to linger about whether the vote count in Pennsylvania was performed in conformity with the Constitution.” Please explain what you meant by this statement.

Response: This statement, like all briefs I filed in my 25-year career, represents the litigating position of the client I represented in the case. That brief urged the Court to address a then-unsettled question about the scope of state legislative power to set election rules for elections conducted in that state.

- b. Do you consider the results of the 2020 presidential election to be settled or not? Please explain.

Joseph Biden was certified as the winner of the 2020 presidential election and served as President of the United States. To the extent this question asks for my opinion about political debate or political commentary regarding that election, the Code of Conduct for United States Judges prevents me from answering further.

2. Since 2019, you have represented the Ohio Warden against a habeas-corpus challenge to a death sentence. In your words, the appeal of the case raised “tricky questions” about the execution of people with intellectual disabilities. In *Hill v. Anderson*, 960 F.3d 260 (6th Cir. 2020), the Sixth Circuit noted that the IQ of the death-row inmate ranged from 55-68 at the time of his trial and that his moral development reached “essentially that of a two-year- old.”

- a. Do you believe there are circumstances when a prosecutor should forego pursuing a death-penalty sentence based on the defendant’s intellectual disabilities? If so, please describe those circumstances.

Response: Prosecutors have wide discretion in their charging decisions. As a nominee for a judicial position that would not evaluate such decisions, it would be inappropriate to comment on the factors a political actor should use to make that decision.

3. You filed an amicus brief on behalf of Ohio, Alaska, and Wyoming supporting Donald Trump in *Trump v. United States* (2024).

- a. Your brief stated that “[t]he Constitution’s structure and history demand broad, but not limitless presidential immunity.” Please explain what you meant by this statement.

Response: This statement, like all briefs I filed in my 25-year career, represents the litigating position of the client I represented in the case. That brief urged the Court to adopt a framework for presidential immunity that accounted for the many circumstances in which immunity might be claimed. Beyond what the brief urged, as a nominee bound by the Code of Conduct for United States Judges, it would be inappropriate to opine on hypothetical cases that might arise.

- b. You argued that President Trump’s immunity claim “should turn on the alleged acts’ nexus to Article II power and the urgency of the alleged acts.” Under this theory, if President Trump took a bribe in exchange for a pardon, would he be immune from prosecution?

Response: As a nominee bound by the Code of Conduct for United States Judges, it would be inappropriate to opine on hypothetical cases that might arise.