

Senator Dick Durbin
Ranking Member, Senate Judiciary Committee
Written Questions for John George Edward Marck
Nominee to be U.S. District Judge for the Southern District of Texas
May 6, 2026

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

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

Response: I am not familiar with the reasons underlying the termination of the specific prosecutors you describe. Generally, absent ethical or legal concerns, prosecutors are expected to prosecute cases assigned to them.

- b. **During your tenure, the U.S. Attorney's Office for the Southern District of Texas handled several cases against January 6 rioters. Did you manage, advise, or supervise any such prosecutions or investigations?**

Response: No.

2. You have led the U.S. Attorney's Office for the Southern District of Texas since March of this year. As Acting U.S. Attorney, you have great discretion in deciding which cases your office prosecutes. In his second term, President Trump has completely upended the rule of law, weaponizing the Justice Department and U.S. Attorneys' Offices to engage in selective and vindictive prosecutions.

- a. **What steps have you taken to ensure that the U.S. Attorney's Office for the Southern District of Texas only prosecutes cases that follow the facts and the rule of law?**

Response: The United States Attorney's Office for the Southern District of Texas follows internal policies and the Department of Justice's Justice Manual to determine when a case should be prosecuted.

The Justice Department has also turned the rule of law on its head by taking the unprecedented step of asking the D.C. Circuit to vacate the seditious conspiracy convictions of Proud Boys and Oath Keepers leaders who were sentenced to prison terms for leading the mob of rioters who attacked the U.S. Capitol on January 6.

- b. **As a career prosecutor, do you agree with this Administration's efforts to erase these convictions?**

Response: This question calls for an answer that could be seen as opining on political issues or pending litigation or future litigation. As a judicial nominee, I cannot provide such an answer consistent with my ethical obligations. *See* Code of Conduct for United States Judges, Canons 3(A)(6) & 5.

3. Did President Trump lose the 2020 election?

Response: Joseph Biden was certified as the winner of the 2020 election.

4. Where were you on January 6, 2021?

Response: New York.

5. Do you denounce the January 6 insurrection?

Response: I denounce violence in all its forms. This question, however, calls for an answer that could be seen as opining on political issues or on pending or future litigation. As a judicial nominee, I cannot provide such an answer consistent with my ethical obligations. *See* Code of Conduct for United States Judges, Canons 3(A)(6) & 5.

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

Response: Whether to grant a pardon is a political issue solely within the discretion of the President. As such, it would be inappropriate for me to comment on the propriety of any presidential pardon. *See* Code of Conduct for United States Judges, Canon 5.

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

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

Response: If a party disagrees with a court order, the party can file a motion to stay the court's order or a motion for reconsideration, and the party may be able to appeal the court's order to a higher court.

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

Response: Generally, all parties must follow procedurally proper court orders. The U.S. Supreme Court has carved out limited exceptions to this rule, such as when a court lacked jurisdiction to issue the order.

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

Response: The Judicial Branch.

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

- a. Are non-party injunctions constitutional?**

Response: If confirmed, I would follow all U.S. Supreme Court and Fifth Circuit precedent that addresses this issue, including *Trump v. CASA*. Under the Code of Conduct for United States Judges, Canon 3(A)(6), it would be inappropriate for me to comment on this issue, which may come before me if I am confirmed.

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

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

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

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

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

Response: No.

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

Response: No.

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

Response: The 22nd Amendment states, in pertinent part, “[n]o 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.” The text of the 22nd Amendment speaks for itself.

11. 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” who “...SUFFER FROM AN IDEOLOGY THAT IS SICK, AND VERY DANGEROUS FOR OUR COUNTRY...”?**

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

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

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

12. 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

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

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

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

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

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

Response: A lower court should not depart from Supreme Court precedent.

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>.

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

Response: If confirmed as a judge for the Southern District of Texas, I would not be called upon to overturn Fifth Circuit precedent. Only when sitting *en banc* may the Fifth Circuit overturn its own precedent, based upon the standards set forth in the Fifth Circuit's caselaw.

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

Response: If confirmed as a judge for the Southern District of Texas, I would not be called upon to overturn U.S. Supreme Court precedent. When determining if Supreme Court precedent should be overruled, the Supreme Court applies the stare decisis factors set forth in *Dobbs v. Jackson Women's Health Organization*.

16. 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: If confirmed, I would faithfully and impartially apply all binding U.S. Supreme Court precedent, including those cases listed above. As a judicial nominee, it is generally inappropriate for me to opine on the merits of Supreme Court decisions. Numerous previous nominees have made exceptions for two cases listed above: *Brown v. Board of Education* and *Loving v. Virginia*. Consistent with that approach, I believe it is appropriate to offer my view that both *Brown* and *Loving* were correctly decided by the Supreme Court.

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

Response: If confirmed, I will look to all binding U.S. Supreme Court and Fifth Circuit precedent that interpret the Constitution. If I were presented with a novel issue of

constitutional interpretation, I would look toward the methods of interpretation used by the Supreme Court and the Fifth Circuit, including trying to determine the meaning of the language as originally understood by the public at the time of ratification.

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

Response: Please see my response to Question 17.

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

Response: *Obergefell v. Hodges* is binding U.S. Supreme Court precedent, and I will faithfully and impartially apply it in all cases that call for its application.

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

Response: *Loving v. Virginia* is binding U.S. Supreme Court precedent, and I will faithfully and impartially apply it in all cases that call for its application.

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

Response: The 14th Amendment states, in pertinent part, that “[n]o State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” The Equal Protection Clause requires states to treat similarly situated people alike. The Due Process Clause requires states to follow fair procedures and respect fundamental rights before depriving anyone of their life, liberty, or property.

22. 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?

The U.S. Supreme Court has provided guidance on when these clauses apply. I would faithfully apply such binding precedent and their progeny if confirmed. To the extent this question asks for any further elaboration on these clauses, I cannot provide such an answer consistent with my ethical obligations as a judicial nominee. *See* Code of Conduct for U.S. Judges, Canon 3(A)(6).

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

Response: Please see my response to Question 17.

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

Response: Please see my response to Question 17.

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

Response: The First Amendment states, “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” The U.S. Supreme Court has provided guidance on when these protections apply. I would faithfully apply such binding precedent and their progeny if confirmed. To the extent that this question asks for any further elaboration on these clauses, I cannot provide such an answer consistent with my ethical obligations as a judicial nominee. *See* Code of Conduct for U.S. Judges, Canon 3(A)(6).

26. 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: To determine whether a law that regulates speech is “content-based” or “content-neutral,” I would review all binding U.S. Supreme Court and Fifth Circuit precedent.

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

Response: According to the U.S. Supreme Court in *Counterman v. Colorado*, true threats of violence are “serious expressions” that the speaker intends “to commit an act of unlawful violence.”

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

Response: The U.S. Supreme Court has stated that the “Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). However, the U.S. Supreme Court “has firmly and repeatedly endorsed the proposition that Congress may make rules as to aliens that would be unacceptable if applied to citizens.” *Demore v. Kim*, 538 U.S. 510, 522 (2003). If I am fortunate enough to be confirmed, I would faithfully apply all binding precedent of the U.S. Supreme Court and the Fifth Circuit.

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

Response: This question requests a response on an issue that is currently being litigated and that could also come before me if I am confirmed. As a judicial nominee, I cannot provide such an answer consistent with my ethical obligations. *See* Code of Conduct for U.S. Judges, Canon 3(A)(6).

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

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

Response: The application of the Citizenship Clause of the Fourteenth Amendment is the subject of pending litigation. As a judicial nominee, I cannot provide such an answer consistent with my ethical obligations. *See* Code of Conduct for U.S. Judges, Canon 3(A)(6).

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

Response: Please see my response to Question 30.a.

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

Response: Yes, I believe it is important that the federal judiciary be comprised of qualified individuals without regard to race, sex, ethnicity, religion, or any other protected characteristic. Above all, I believe that merit and character are the most important considerations for selecting individuals to serve in the judicial branch.

32. 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: Judges must faithfully apply the provisions set forth in all applicable statutes, including the First Step Act. If confirmed, I would follow the First Step Act when applicable and all U.S. Supreme Court and Fifth Circuit precedent applying the Act.

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

Response: If confirmed, I will faithfully apply all applicable laws regarding sentencing.

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

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

Response: I am unfamiliar with the above quote, and unaware of the context in which it was published.

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

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

Response: It would be inappropriate for me, as a judicial nominee, to comment on political disputes under the Code of Conduct for United States Judges.

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

Response: It would be inappropriate for me, as a judicial nominee, to comment on political disputes under the Code of Conduct for United States Judges.

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

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

Response: If confirmed, I would evaluate all my associations in accordance with Title 28, United States Code, Section 455; the Code of Conduct for United States Judges; and other applicable laws or rules.

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

Response: I have never spoken with Leonard Leo or Steven Calabresi. I have personal friends who are members of the Federalist Society and offered congratulations upon my nomination.

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

Response: No.

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

Response: No.

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

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

Response: I have never spoken with Leonard Leo. A former colleague of mine is a member of the Teneo Network. We discussed the general nomination and selection process.

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.

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

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

Response: No.

- 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.

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

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

Response: No.

- 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.

37. 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: 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.

38. 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: No.

- 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.

39. 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: 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.

40. 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: 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 am unaware of any such donations in support of my nomination. As a judicial nominee, I am bound by the Canon 4(C) of Code of Conduct for U.S. Judges, which states, “a judge should not personally participate in fundraising

activities, solicit funds for any organization, or use or permit the use of the prestige of judicial office for that purpose. A judge should not personally participate in membership solicitation if the solicitation might reasonably be perceived as coercive or is essentially a fund-raising mechanism.” If I am confirmed, any advocacy or donations for or against my nomination will be irrelevant to my decisions as a judge. To the extent this question asks for an opinion on legal or policy issues related to any such donations, I cannot provide an answer consistent with my ethical obligations. *See* Code of Conduct for U.S. Judges, Canons 3(A)(6) & 5.

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

Response: If I am confirmed, any advocacy or donations for or against my nomination will be irrelevant to my decisions as a judge. And if I am confirmed, I will follow Title 28, United States Code, Section 455; all ethical requirements found within the Code of Conduct for United States Judges; and all other applicable laws or rules whenever recusal could be appropriate. To the extent this question asks for an opinion on legal or policy issues related to any such donations, I cannot provide an answer consistent with my ethical obligations. *See* Code of Conduct for U.S. Judges, Canons 3(A)(6) & 5.

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

Response: Please see my responses to Questions 40.d. and 40.e.

**Nomination of John Marck to the
United States District Court for the Southern District of Texas
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: Yes.

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

Response: Yes.

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

Response: Yes.

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

Response: I drafted the answers herein. Staff from the U.S. Department of Justice, Office of Legal Policy, reviewed those drafts for completeness and compliance with Committee requirements. All answers submitted 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: So long as the answers fully and accurately reflect a nominee's views on the question, I believe it is appropriate.

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

Response: Yes.

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

Response: Yes.

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

Response: No.

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

Response: No.

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

Response: The judges whom I appeared before as an Assistant United States Attorney in the Southern District of Texas have served as my role models for ethical legal conduct. They have demonstrated how to preside over a case ethically and professionally, treating all litigants with respect. If confirmed, I hope to bring that same high standard of integrity to the bench.

6. How would you describe your judicial philosophy?

Response: I believe all parties should be treated fairly, respectfully, and given the opportunity to present their arguments in a court that will faithfully follow the rule law.

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 confirmed, I would faithfully apply the standards set forth in applicable U.S. Supreme Court precedent, including *Obergefell v. Hodges* and *Washington v. Glucksberg*.

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

Response: Yes.

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

Response: Yes. If the U.S. Supreme Court or the Fifth Circuit determined that a right is deeply rooted in this Nation’s history and tradition, then I would faithfully apply that binding precedent. To the extent that neither the Supreme Court nor the Fifth Circuit has expressly identified a right, I would look to the types of sources on which the Supreme Court and Fifth Circuit have relied.

- 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.

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

Response: Yes.

- e. What other factors would you consider?

Response: I would consider all other relevant factors identified by controlling U.S. Supreme Court and Fifth Circuit precedent.

- 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: As a judicial nominee, it would be improper for me to address potential remedies in an abstract hypothetical scenario. Furthermore, such a question likely calls for an opinion on a potential political issue, in violation of the Code of Conduct for United States Judges, Canon 5.

- 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, I believe that part of the role of a federal judge is to apply the text of the U.S. Constitution, including its amendments.

- 10. At your Senate Judiciary Committee nomination hearing, I asked you about what the 22nd Amendment provides. You replied that your “career has mostly been in criminal prosecution” and “you haven’t had an opportunity to use that one specifically.”

- a. If you are confirmed, how will you ensure that you have an accurate understanding of the Constitution and the relevant law even if you have not had recent experience with it?

Response: If confirmed, I will carefully study all issues and matters that come before me. I would consult the text of the Constitution, review controlling U.S. Supreme Court and Fifth Circuit precedent, thoroughly read the briefs of counsel, and conduct additional research as necessary.

I then asked you if President Trump is eligible to run for President again in 2028. You replied that “without considering all the facts and looking at everything, depending on what the situation is, this to me strikes as more of a hypothetical.”

- b. What additional facts would you need to know to determine if President Trump is eligible to run for President again in 2028?

Response: I understood your question at the hearing to ask me to opine on a legal hypothetical. My answer reflected my effort to not violate my obligations as judicial nominee under the judicial canons. The 22nd Amendment to the United States Constitution states that “[n]o person shall be elected to the office of the President more than twice.” The text of the 22nd Amendment speaks for itself. I am unaware of any provision of the Constitution, federal statute, or judicial precedent that would permit a person to be elected to the office of the President more than twice.

A judge’s fundamental responsibility is to fairly decide every case based solely on the law, facts, and arguments presented before the court. To the extent that this question calls for a response that could be understood as opining on a potential future case, it would be inappropriate for me to provide such an answer. *See* Code of Conduct for United States Judges, Canons 3(A)(6) & 5.

When I asked you again, you said you “would have to review the actual wording of it,” presumably referring to the 22nd Amendment. Even though I quoted it at the hearing, 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.”

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

Response: Yes.

- d. 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.

- e. 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: When Congress certifies a candidate as being the winner of a presidential election, it means Congress has formally counted and certified the electoral votes submitted by the states and confirmed a majority winner. The candidate certified as the winner becomes President of the United States.

12. At your hearing, Senator Blumenthal asked you who won the 2020 election. You echoed fellow nominee Michael Hendershot's response 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: In advance of the hearing, I prepared to answer questions by watching previous hearings before the Senate Judiciary Committee, reading other nominees' answers to Questions for the Record, and conducting legal research.

- b. Prior to the hearing, did anyone instruct, suggest, imply, or otherwise represent that you should avoid directly answering questions about who won the 2020 election? 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: No. In advance of the hearing, I prepared to answer questions by watching previous hearings before the Senate Judiciary Committee, reading other nominees' answers to Questions for the Record, and conducting legal research.

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

Response: No.

13. As I discussed at your hearing, the *New York Times* reported that on March 25, 2026, President Trump stated the following at a National Republican Congressional Committee event: "The time has also come for Republicans to pass a tough new crime bill that imposes harsh penalties for dangerous repeat offenders, cracks down on rogue judges. We got rogue judges that are criminals. They are criminals, what they do to our country. The decisions that they hand down and hurt our country."

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

Response: No.

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

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

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

Response: Yes.

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

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

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

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

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

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

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

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

14. You note in your Senate Judiciary Questionnaire that you were a member from 2025 to 2026 of the Republican National Lawyers Association, an organization which according to its website “builds the Republican Party goals and ideals through a nationwide network of supportive lawyers who understand and directly support Republican policy, agendas and candidates.”

a. Why did you join the Republican National Lawyers Association in 2025?

Response: I joined for networking opportunities and legal education opportunities.

b. Why did you end your membership in the Republican National Lawyers Association in 2026?

Response: I ended my membership upon becoming the Acting United States Attorney for the Southern District of Texas.

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

Response: I do not currently have a relationship with the organization. I do not have a relationship with any other political organization.

15. 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: If confirmed, I will follow Title 28, United States Code, Section 455; all ethical requirements found within the Code of Conduct for United States Judges; and all other applicable laws or rules. Additionally, I would consult with other judges of the Southern District of Texas.

16. 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 would endeavor to impose supervision thoughtfully and on the basis of the individual facts.

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

Response: Yes, I agree that early termination of supervision can provide positive incentives to rehabilitate.

- 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.

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

Response: As a judicial nominee, it would be improper for me to opine on political issues or potential future cases. *See* Code of Conduct for United States Judges, Canons 3(A)(6) & 5.

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

Response: Yes, the constitutional right to travel across state lines is fundamental and well established.

- 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 look to all the binding precedent of the U.S. Supreme Court and the Fifth Circuit.

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

Response: The U.S. Supreme Court has recognized a fundamental right to privacy.

- 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: If confirmed, I would faithfully follow all binding precedent of the Fifth Circuit and the U.S. Supreme Court, including *Griswold v. Connecticut* and *Lawrence v. Texas*.

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

Response: The public's original understanding of the meaning of a constitutional provision can assist a court when applying that provision in an absence of clear language or binding precedent.

- 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 other provisions within the Constitution, dictionaries and reference materials from the period of drafting, and contemporaneous legal materials.

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

Response: The U.S. Supreme Court has stated that the "Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). However, the U.S. Supreme Court "has firmly and repeatedly endorsed the proposition that Congress may make rules as to aliens that would be unacceptable if applied to citizens." *Demore v. Kim*, 538 U.S. 510, 522 (2003). If I am fortunate enough to be confirmed, I would faithfully apply all binding precedent of the U.S. Supreme Court and the Fifth Circuit.

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

Response: If confirmed, I would expect all parties to comply with court orders. If a party ignored or defied any order, I would issue an order to show cause and hold a hearing to determine whether the party was in contempt of the original order. During the hearing, I would consider all parties' arguments and any potential defenses raised. In determining whether a party willfully refused to comply with the order, I would follow Supreme Court and Fifth Circuit precedent. In some circumstances, sanctions may be appropriate.

23. 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: If confirmed, I would seek to actively manage my docket and monitor case activity, such as discovery requests, motion filings, and requests for continuances. When making such a determination, I would faithfully apply and follow the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, and all binding U.S. Supreme Court and Fifth Circuit precedent.

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

Response: If I learned that a party was engaging in such tactics, I would bring it to the attention of all parties and schedule a hearing. During the hearing, I would consider all parties' arguments and any potential defenses raised. In determining whether a party was engaged in abusive litigation tactics, I would follow the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, and all binding U.S. Supreme Court and Fifth Circuit precedent. In certain circumstances, sanctions may be appropriate.

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

Response: Judges should strive to fairly and impartially apply the rule of law to the facts of each individual case before the court. In certain circumstances, the practical consequences of a particular ruling may be appropriate for the court's consideration, such as when determining equitable relief or imposing criminal sentences.

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

Response: Judges should strive to fairly and impartially apply the rule of law to the facts of each individual case before the court without regard to the judge's personal life experience.

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

Response: Judges should strive to fairly and impartially apply the rule of law to the facts of each individual case before the court without regard to personal opinions. All parties appearing before the court should be treated professionally with respect and dignity.

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

Response: During my career in public service, specifically as a criminal prosecutor, I have been proud of my ability to seek justice for victims while ensuring the integrity of the criminal justice system. I am also extremely proud of my time serving as Acting United States Attorney for the Southern District of Texas. The matters that are most meaningful to me are those involving the prosecution of violent crimes, where the work had the most direct impact on the safety of the communities I serve.

28. 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: I would allow the parties to properly decide who is best able to handle any oral argument within a matter, but I would also entertain and encourage creating additional opportunities for junior lawyers to advocate and be involved in the litigation process.

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

Response: Unfortunately, many junior lawyers do not even attend the hearings or oral arguments for matters on which they have worked; I would encourage attendance of junior lawyers at these hearings. I would also work with local bar associations to create or grow litigation training programs for junior lawyers.

29. Discuss your proposed hiring process for law clerks.

Response: If confirmed, I would hire law clerks solely based upon merit and character.

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

Response: As a judicial nominee, it would be inappropriate for me to address policy questions relating to the existing exemption for federal judiciary employees found in Title VII of the Civil Rights Act and to opine on potential legislation.

30. 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: Throughout my tenure as a supervisor and executive at the U.S. Attorney's Office, I have remained firmly committed to treating employees with respect and dignity. During this time, I have overseen numerous employee complaints and internal investigations. Through all of this, I learned the importance of fostering a respectful, professional workplace, and I intend to foster such a workplace if I am fortunate enough to be confirmed.

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

Response: I would work to establish an environment of open communication within chambers. By allowing clerks and judicial assistants to openly report any workplace-related concerns, I would work towards an atmosphere of sharing with early intervention of any concerns. Additionally, I would regularly schedule one-on-one meetings with clerks and judicial assistants to not only discuss workload but also create a safe environment in which to discuss the workplace.

- 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 take whatever steps are necessary to help ensure that the problem is addressed, which may include referring the alleged misconduct to the chief judge for the district and the appropriate authorities.

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

Response: The characterization of the events that occurred on January 6, 2021, is a subject of significant political debate and is currently involved in pending litigation, and it could also form the basis of future litigation that could come before me if I am confirmed. As a judicial nominee, it would be improper for me to offer an opinion on the matter. *See* Code of Conduct for United States Judges, Canons 3(A)(6) & 5.

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

Response: Please see my response to Question 31.

32. 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: Whether any particular pardon is considered prudent is a subject of political debate and controversy. As a judicial nominee, it would be improper for me to express such an opinion on a political controversy. *See* Code of Conduct for United States Judges, Canon 3(A)(6).

33. 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: Any answer to this question would require me to express an opinion on political issues or potential future cases. As a judicial nominee, it would be improper for me to express such an opinion. *See* Code of Conduct for United States Judges, Canons 3(A)(6) & 5.

34. I am concerned about the lack of legal experience you would bring to this lifetime position. The American Bar Association Standing Committee on the Federal Judiciary recommends a minimum of 12 years of legal experience to consider a nominee qualified for judicial office.

- a. After graduating from law school, how many years have you practiced law?

Response: I have practiced law for more than 12 years since graduating from law school.

- b. In your Questionnaire, you note that just 2% of your practice has involved civil proceedings.

- A) Why do you think you are qualified to serve as a federal judge overseeing a substantial civil docket if you have so little experience with civil cases?

Response: During my time as an Assistant District Attorney and Assistant United States Attorney, I have handled many highly complex legal matters, including criminal investigations and trials. Many of the skills I accumulated during this period, such as using the Federal Rules of Evidence, are relevant to civil practice.

Additionally, as Acting United States Attorney, and previously as First Assistant United States Attorney, for the Southern District of Texas, I oversee one of the largest civil divisions of any U.S. Attorney's Office.

During my time in these roles, I have actively worked to learn more about civil practice, including reviewing the Federal Rules of Civil Procedure and taking continuing education courses related to federal practice. If confirmed, I would continue this course of study.

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

Response: If confirmed, I will carefully study all issues and matters that come before me. I will consult the Federal Rules of Civil Procedure, review controlling U.S. Supreme Court and Fifth Circuit precedent, thoroughly read the briefs of counsel, attend trainings at the Federal Judicial Center, and confer with other judges of the Southern District of Texas.

- c. Additionally, you are nominated to the Southern District of Texas, but you have only worked in Texas since 2021, and you only joined the Texas bar in 2025.

- A) Why did you join the Texas bar in 2025? Did you do so in anticipation of your nomination to this position?

Response: I joined the Texas bar because I reside and work in Texas. I began the process of admission to the Texas bar in February 2025, eight months before Senators John Cornyn and Ted Cruz announced that they were accepting applications for candidates to fill a federal judicial vacancy in the Southern District of Texas. I did not join the Texas bar in anticipation of my nomination to this position.

Questions for the Record for John George Edward Marck
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 confirmed, I will carefully review and address any real or potential conflicts by reference to 28 U.S.C. § 455, Canon 3 of the Code of Conduct for United States Judges, and any and all other laws, rules, and practices governing such circumstances relating to real or potential conflicts of interest.

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

Response: Please see my response to Question 1.

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

Response: I would recuse myself from any case in which I have been personally involved. For any other matter, I will address 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.

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

Response: Respectfully, this question is incorrect. I have not represented President Trump in a personal capacity. As an attorney with the U.S. Department of Justice, my client is the United States. Please see my response to Question 1.b.

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

Response: Please see my response to Question 1.b.

- 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: I will faithfully comply with all applicable ethics rules, published opinions, and codes of conduct concerning *ex parte* communications, including the Code of Conduct for United States Judges, Canon 3(A)(4).

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

Response: I will faithfully comply with all applicable ethics rules, published opinions, precedent, and the Code of Conduct for United States Judges.

- 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: I will faithfully comply with all applicable ethics rules, published opinions, precedent, and the Code of Conduct for United States Judges.

- 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: I will faithfully comply with all applicable ethics rules, published opinions, precedent, and the Code of Conduct for United States Judges.

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: If confirmed, I will comply with all applicable ethics rules, published opinions, precedent, and the Code of Conduct for United States 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: If confirmed, I will comply with all applicable ethics rules, published opinions, precedent, and the Code of Conduct for United States Judges.

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

Response: If confirmed, I will comply with all applicable ethics rules, published opinions, precedent, and the Code of Conduct for United States Judges.

- 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: If confirmed, I will comply with all applicable ethics rules, published opinions, precedent, and the Code of Conduct for United States Judges.

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: Yes. To the extent this question asks about a political or policy dispute, as a judicial nominee, it would be inappropriate for me to comment further. *See* Code of Conduct for United States Judges, Canon 5.

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

Response: No.

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

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

Response: Yes.

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

Response: Yes.

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

Response: Sanctions, civil contempt, and criminal contempt can be used to enforce court 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, all parties must follow procedurally proper court orders. The U.S. Supreme Court has carved out limited exceptions to this rule.

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

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

- d. What would make a court order unlawful?

In *United States v. Mine Workers*, for example, the U.S. Supreme Court explained that “orders made by a court having no jurisdiction to make them may be disregarded without liability to process for contempt.”

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

Response: If a party believes a court order is unlawful, the party can file a motion to reconsider or appeal the court’s order.

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

Response: Generally, parties should follow the above process.

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

Response: No.

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

Response: No.

- 7. You have spent your career as a member of law enforcement. Many of those pardoned by President Trump for their roles in the January 6, 2021, attack on the Capitol engaged in assaults on law enforcement.

- a. Do you support President Trump’s pardon of Daniel Ball, who threw an explosive device into a tunnel filled with law enforcement officers?

Response: The President of the United States has the power to pardon any individual for offenses against the United States. As a judicial nominee, it would be inappropriate for me to comment on any use of the pardon power, which is a subject of political debate and controversy and which could be litigated before me if I am fortunate enough to be confirmed. *See* Code of Conduct for United States Judges, Canons 3(A)(6) & 5.

- b. Do you support President Trump’s pardon of Jacob Lang, who was filmed hitting law enforcement officers with a baseball bat and riot shield?

Response: Please see my response to Question 7.a.

- c. Do you support President Trump’s pardon of Jeffrey McKellop, who stabbed a law enforcement officer in the face with a flagpole?

Response: Please see my response to Question 7.a.

- d. Do you support President Trump’s pardon of Daniel “D.J.” Rodriguez, who plunged a stun gun into the neck of Metropolitan Police Officer Michael Fanone and repeatedly shocked him, and then was sentenced to more than 12.5 years in prison?

Response: Please see my response to Question 7.a.

- e. Do you support President Trump’s pardon of Julian Khater, who sprayed U.S. Capitol Police Officer Brian Sicknick with pepper spray, pled guilty to assaulting officers with a deadly weapon, and was sentenced to more than 6.5 years in prison?

Response: Please see my response to Question 7.a.

- f. Do you support President Trump’s pardon of Ryan Nichols, who sprayed officers with pepper spray, pushed the crowd against officers defending a door to the Capitol, and was sentenced to more than five years in prison?

Response: Please see my response to Question 7.a.

8. Since 2011, you have been a member of the Christian Legal Society, an organization that has opposed legislation seeking to codify the right to obtain and provide contraceptives. The organization has also opposed the Equality Act, which would prohibit discrimination against LGBTQ+ individuals in a variety of areas.

If confirmed, how can future litigants trust that you will remain unbiased on issues of reproductive health and LGBTQ+ rights?

Response: If confirmed, I will treat all litigants before me fairly and professionally with dignity and respect. All parties will have the opportunity to be heard fully. I will approach all cases and matters before me with an open mind, basing my decisions solely on the facts as they are presented and the law as it is written.

**Nomination of John George Edward Marck
United States District Court for the Southern District of Texas
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 judicial nominee, it would be inappropriate to give an opinion about the statements of any political figure or on any subject of political controversy. *See* Code of Conduct for United States Judges, Canon 5.

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

Response: I would defer to this Committee as to the appropriate remedy in such a situation.

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: I would defer to this Committee as to the appropriate remedy in such a situation.

4. How would you characterize your judicial philosophy?

Response: I believe all parties should be treated fairly, respectfully, and given the opportunity to present their arguments in a court that will faithfully follow the rule law.

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

5. What do you understand originalism to mean?

Response: I understand originalism to be a method of judicial interpretation that interprets the Constitution based on the original, public meaning of the language at the time of ratification.

6. Do you consider yourself an originalist?

Response: If confirmed, I will look to all binding U.S. Supreme Court and Fifth Circuit precedent that interprets the Constitution. If I were presented with a novel issue of constitutional interpretation, I would look toward the methods of interpretation used by the Supreme Court and the Fifth Circuit, including trying to determine the original, public meaning of the language at the time of ratification.

7. What do you understand textualism to mean?

Response: I understand textualism to be a method of judicial interpretation that interprets statutes based on the plain, ordinary meaning of the text at the time of its adoption.

8. Do you consider yourself a textualist?

Response: If confirmed, I will look to all binding U.S. Supreme Court and Fifth Circuit precedent that interprets a particular statute. If I were presented with a novel issue of statutory interpretation, I would look toward the methods of interpretation used by the Supreme Court and the Fifth Circuit, including trying to determine the plain, ordinary meaning of the text at the time of its adoption.

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

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

Response: If confirmed, I would faithfully apply all binding precedent of the U.S. Supreme Court and the Fifth Circuit concerning the use of legislative history. I would consider any arguments raised by the parties concerning legislative history consistent with such precedent.

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

Response: If confirmed, I would faithfully apply all binding precedent of the U.S. Supreme Court and the Fifth Circuit concerning the use of legislative history.

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 unfamiliar with the above-mentioned study. Therefore, any response would be purely speculative. If confirmed, I will treat all criminal defendants before me fairly and consistently.

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: I am unfamiliar with the above-mentioned study. Therefore, any response would be purely speculative. If confirmed, I will treat all criminal defendants before me fairly and consistently.

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: Federal judges play a critical role in ensuring that all parties, including defendants, are treated fairly in our criminal justice system.

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

Response: Yes, I believe it is important that the federal judiciary be comprised of qualified individuals without regard to race, sex, ethnicity, religion, or any other protected characteristic. Above all, I believe that merit and character are the most important considerations for selecting individuals to serve in the judicial branch.

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

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.

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

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

Response: I have never published any written material or made any public statements relating to those topics.

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

Response: Generally, all parties to a case, including executive branch officials, must follow procedurally proper court orders.

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

Response: If confirmed, I would apply the standards set forth by binding U.S. Supreme Court and Fifth Circuit precedent regarding civil and criminal contempt.

- 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: Subject to a very few narrow exceptions, such as a court lacking jurisdiction, the executive branch, like all other litigants, is bound to comply with lawful court orders.

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

Response: Any answer to this question would require me to express an opinion on political issues, along with issues that are subject to current litigation and may be subject to future litigation. As a judicial nominee, it would be improper for me to express such an opinion. *See* Code of Conduct for United States Judges, Canons 3(A)(6) & 5.

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

Response: Any answer to this question would require me to express an opinion on political issues, along with issues that are subject to current litigation and may be subject to future litigation. As a judicial nominee, it would be improper for me to express such an opinion. *See* Code of Conduct for United States Judges, Canons 3(A)(6) & 5.

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: Any answer to this question would require me to express an opinion on political issues, along with issues that are subject to current litigation and may be subject to future litigation. As a judicial nominee, it would be improper for me to express such an opinion. *See* Code of Conduct for United States Judges, Canons 3(A)(6) & 5.

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

Response: Yes.

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

Response: The U.S. Supreme Court has stated that the "Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). However, the U.S. Supreme Court "has firmly and repeatedly endorsed the proposition that Congress may make rules as to aliens that would be unacceptable if applied to citizens." *Demore v. Kim*, 538 U.S. 510, 522 (2003). If I am fortunate enough to be confirmed, I would faithfully apply binding precedent of the U.S. Supreme Court and the Fifth Circuit.

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

Response: As a general matter, Article I of the Constitution exclusively vests Congress with the legislative power. As the Supreme Court has recognized, Congress, in turn, may "use officers of the executive branch within defined limits, to secure the exact effect intended by its acts of legislation." *See J.W. Hampton, Jr. v. United States*. To the extent that this question calls for a response that could be understood as opining on a pending or potential future case, it would be inappropriate for me to provide such an answer. *See* Code of Conduct for United States Judges, Canon 3(A)(6).

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

Response: As a judicial nominee, it is generally inappropriate for me to opine on the merits of Supreme Court decisions. Numerous previous nominees have made exceptions for two cases listed above: *Brown v. Board of Education* and *Loving v. Virginia*. Consistent with that approach, I believe it is appropriate to offer my view that both *Brown* and *Loving* were correctly decided by the Supreme Court.

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

Response: Yes, it is binding precedent. *Griswold* involved a challenge to a state law that forbids the use of contraceptives. The U.S. Supreme Court recognized a right to marital privacy and held that Connecticut's law violated the Fourteenth Amendment.

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

Response: Yes, it is binding precedent. *Lawrence* involved a challenge to a state law that criminalized sexual activity between members of the same sex. The U.S. Supreme Court held such laws to be unconstitutional under the Fourteenth Amendment.

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

Response: Yes, it is binding precedent. *Obergefell* involved a challenge to state laws that defined marriage as a union between a man and woman. The U.S. Supreme Court held such laws to be unconstitutional under the Fourteenth Amendment, protecting a same-sex couple's right to marry.

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 election.

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

Response: Please see my response to Question 26.

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

Response: Please see my response to Question 26.

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

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

Response: President Trump was certified by Congress as the winner of the 2016 election.

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

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

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

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

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

Response: Please see my response to 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: Under the text of the 22nd Amendment, “[n]o person shall be elected to the office of the President more than twice.” I am unaware of any provision of the Constitution, federal statute, or judicial precedent that would permit a person to be elected to the office of the President more than twice.

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

Response: No.

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

Response: No.

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

⁴ U.S. CONST. amend. XXII.

Response: 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: As Acting United States Attorney, I spoke with then-Attorney General Pam Bondi about Department of Justice business in March 2026.

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: As Acting United States Attorney and First Assistant United States Attorney, I have spoken with now-Acting Attorney General Todd Blanche on multiple occasions about Department of Justice business between January and May 2026.

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: No.

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

Response: No.

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

Response: Yes.

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

- a. Do you agree with the above statement?

Response: I am unfamiliar with the Article III Project and the above quote. Furthermore, as a judicial nominee, it would be inappropriate for me to comment on political disputes.

- 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

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

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

Response: No.

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

Response: No.

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

Response: No.

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

Response: No.

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

Response: Please see my response to Question 42.

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

Response: No.

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

Response: No.

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 did not speak with any officials or executives associated with the Federalist Society. I have personal friends who are members of the Federalist Society and offered congratulations upon my nomination.

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

Response: I drafted answers to the enclosed questions. Staff from the U.S. Department of Justice, Office of Legal Policy, reviewed those drafts for completeness and compliance with Committee requirements. All answers submitted are my own.

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

April 29, 2026

Questions for John Marck (SD-TX):

1. 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 states' electoral votes?

Response: Members of Congress are empowered under the Twelfth Amendment to decide questions of certification of electoral votes. It would be inappropriate for me, as a judicial nominee, to opine further. *See* Code of Conduct for United States Judges, Canon 5.

- 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? If so, please explain.

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

2. How do you define whether a candidate "wins" a presidential election?

Response: When Congress certifies a candidate as being the winner of a presidential election, it means Congress has formally counted and certified the electoral votes submitted by the states and confirmed a majority winner. The candidate certified as the winner becomes President of the United States.

3. 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: Based on public reporting, the Wisconsin Secretary of State certified more votes for Joe Biden and certified the state's presidential electors on that basis. I have no independent factual knowledge about the number of votes cast in the 2020 election.

- 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 response to Question 3.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 response to Question 3.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 response to Question 3.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 response to Question 3.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 response to Question 3.a.

- g. Based on your answers to questions 3(a) through 3(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 independent factual knowledge responsive to this question.

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

Response: This question asks me to opine on the administration of elections in those states. As a judicial nominee, it would be inappropriate for me to comment on political disputes or such matters of public controversy. *See* Code of Conduct for United States Judges, Canon 5.

- 4. 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: Under the Code of Conduct for United States Judges, as a judicial nominee, it would be inappropriate for me to comment on political controversies or

grade the decisions of other courts.

- 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 response to Question 4.a.

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

Response: The U.S. Supreme Court has recognized a fundamental right to privacy. If confirmed, I would faithfully follow all binding precedent of the Fifth Circuit and the U.S. Supreme Court, including *Griswold v. Connecticut*.

6. At a recent speaking event at Catholic University, Justice Kavanaugh stated that he considers himself “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, and why?

The judges who have most impacted my judicial philosophy are those whom I appeared before as an Assistant United States Attorney in the Southern District of Texas, who demonstrated how to preside over a case professionally and how to treat all litigants with respect and patience.

7. 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? Please explain.

Response: As a judicial nominee, it would be inappropriate for me to opine on any potential issues that may come before me should I be confirmed. *See Code of Conduct for United States Judges, Canon 3(A)(6)*. If confirmed, I would faithfully follow all binding precedent of the Fifth Circuit and the U.S. Supreme Court.

8. Judicial clerkships serve several important professional roles. They are a meaningful opportunity for recent law graduates to learn from an experienced mentor, and they serve as an important -- and often necessary -- step toward the highest levels of our legal profession. Too often, students from diverse backgrounds are overlooked for these opportunities despite equivalent qualifications.

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

Response: Yes, I believe it is important that the federal judiciary be comprised of qualified individuals without regard to race, sex, ethnicity, religion, or any other

protected characteristic. Above all, I believe that merit and character are the most important considerations for selecting individuals to serve in the federal judiciary.

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

Response: If confirmed, I would hire the best possible law clerks based upon merit and character.

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

- a. What does the 22nd Amendment state?

Response: The 22nd Amendment states, in pertinent part, “[n]o 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.”

- b. Under the text of that amendment, is there any basis on which an individual who has already been elected President twice could lawfully be elected to a third term?

Response: No.

- c. Donald Trump was elected President in 2016 and again 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: If I am fortunate enough to be confirmed, I will faithfully apply the 22nd Amendment, regardless of an individual party’s political standing or the political consequences of the decision.

10. 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 LGBTQ+ 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: If confirmed, I commit to treating all parties with dignity and respect. I also commit to addressing all individuals respectfully.

11. Article III judges serve during good behavior and are insulated from political pressure precisely so they can rule impartially, including against the interests of the branch that appointed them.

- a. If the administration that nominated you directed a federal agency to take an action that you concluded was unlawful, would you have any hesitation in ruling against that administration?

Response: No.

- b. If confirmed, will you commit to deciding every case before you solely on the basis of the law and facts, without regard to the preferences of the executive branch, the political party of the president who appointed you, or the anticipated reaction of any political actor to your ruling?

Response: Yes.

12. President Trump announced your nomination by describing your work as helping “deport Criminal Illegal Immigrants.”

- a. 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: The U.S. Supreme Court has stated that the “Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). However, the U.S. Supreme Court “has firmly and repeatedly endorsed the proposition that Congress may make rules as to aliens that would be unacceptable if applied to citizens.” *Demore v. Kim*, 538 U.S. 510, 522 (2003). If I am fortunate enough to be confirmed, I would faithfully apply all binding precedent of the U.S. Supreme Court and the Fifth Circuit.

- b. Will you maintain impartiality when immigrants appear before you as petitioners rather than defendants?

Response: I will maintain impartiality as to all parties and litigants before me.

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

Response: If confirmed, I commit to ensuring that every person who appears before me is treated with dignity and afforded his or her full protection under the U.S. Constitution and federal law.

13. 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: Subject to a very few narrow exceptions, such as a court lacking jurisdiction, the executive branch, like all other litigants, is bound to comply with lawful court orders. Federal judges have various enforcement mechanisms to enforce court orders, such as sanctions, civil contempt, and criminal contempt.

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

1. During your nominations hearing, you testified to Senator Coons that “without considering all the facts,” you could not comment on whether President Trump would be eligible for a third term in office. Please explain what additional facts you would need to determine whether President Trump can be elected to a third term in office.

Response: I understood Senator Coons’ question to ask me to opine on a legal hypothetical. My answer reflected my effort to not violate my obligations as judicial nominee under the judicial canons. The 22nd Amendment to the United States Constitution states that “[n]o person shall be elected to the office of the President more than twice.” The text of the 22nd Amendment speaks for itself. As I noted in responses to your colleagues, I am unaware of any constitutional provision or law that would permit President Trump to be elected to a third term.