

Senator Dick Durbin
Ranking Member, Senate Judiciary Committee
Written Questions for Daniel Mack Traynor
Nominee to be U.S. Circuit Judge for the Tenth Circuit
June 17, 2026

1. You presided over *Kansas v. United States*, in which North Dakota and 19 other states challenged a Department of Homeland Security regulation which would have allowed Deferred Action for Childhood Arrivals (DACA) recipients and other immigrants with work authorization to be eligible for the Affordable Care Act. You went out of your way to claim that the continued presence of DACA recipients “creates a substantial risk North Dakota will suffer monetary harm via issuing licenses and providing education.” (Emphasis added.)

a. **What was the holding in *Plyler v. Doe*?**

Response: In *Plyler v. Doe*, the Supreme Court held “that the illegal aliens who are plaintiffs in these cases may claim the benefit of the Fourteenth Amendment’s guarantee of equal protection.” 457 U.S. 202, 215 (1982). As a result, the Court further held Texas could not deny public education to children who were illegal aliens. *Id.* at 230.

b. **Under *Plyler*, are states allowed to deny undocumented immigrants access to public education?**

Response: See my answer to Question 1.a.

DACA recipients are some of the hardest working people I have ever met. Their patriotism and dedication to our country inspire me, fuel our economy, and make our nation stronger. According to the National Immigration Forum, as of 2025, Dreamers and DACA recipients contribute \$45 billion to the economy each year through their wages and an additional \$13 billion in federal, payroll, state, and local taxes. DACA recipients’ tax contributions total \$3.4 billion more per year than they receive in benefits.¹

c. **Does that sound like monetary harm to you?**

Response: As a federal District Judge and judicial nominee, it would be improper for me to offer an opinion on this hypothetical question as it relates to matters that may come before me as a District Judge or, if confirmed, as an appellate judge. *See* Code of Conduct for United States Judges, Canons 3A(6), 5.

2. In *Catholic Benefits Association v. Burrows*, you ruled that a final rule implementing the *Pregnancy Workers Fairness Act* violated the Religious Freedom Restoration Act, the Administrative Procedure Act, the First Amendment, and Title VII of the Civil Rights Act as it applied to the plaintiffs. In your ruling, you wrote: “It is a precarious time for people of religious faith in America. It has been described as a post-Christian age.”

¹<https://forumtogether.org/article/dreamers-in-the-united-states-an-overview-of-the-dreamer-community-and-proposed-legislation/>.

a. Please define “post-Christian age.”

Response: I was referencing a viewpoint stated in *From Christendom to Apostolic Mission: Pastoral Strategies for an Apostolic Age* published by the University of Mary in 2020. Please refer to that book for how they define “post-Christian age.” Apart from that, I stand by the opinion as written.

b. Is the United States a Christian nation?

Response: As I noted in the order referenced in Question 2, the free exercise of religion is a founding principle of the United States. While there may be certain aspects of Christianity woven into our founding documents, the Constitution mandates the free exercise of religion. To the extent this question refers to anything outside of my written opinion, I stand by the opinion as written.

c. Please explain your understanding of the Establishment Clause of the First Amendment.

Response: The First Amendment to the Constitution of the United States provides “Congress shall make no law respecting an establishment of religion.” Over time, both the Supreme Court and Eighth Circuit have developed an extraordinarily large body of caselaw on this Amendment. If confirmed, I would faithfully follow all binding precedents from the Supreme Court and Eighth Circuit on the Establishment Clause of the First Amendment.

3. In *North Dakota v. United States*, you found that North Dakota was entitled to nearly \$28 million in damages arising out of protests related to construction of the Dakota Access Pipeline. In your opinion, you went out of your way to list “violent and tumultuous protests, riots, and so-called ‘movements’” that “have plagued the United States, especially during the delicate time leading up to presidential election years.” Among your list, you included: “the ‘Long, Hot Summer of 1967’ and the 1968 riots in response to the assassination of Rev. Dr. Martin Luther King, Jr.; the Rodney King Riots of 1992; the Occupy Wall Street movement in 2011; the 2015 Baltimore Protests; the George Floyd Riots and Portland Riots in 2020.” You added that “All of these led up to contested presidential elections.”

a. In modern history, has there been an uncontested presidential election?

Response: No.

b. Are people allowed to exercise their First Amendment rights leading up to presidential election years?

Response: Yes.

You characterized the DAPL protests as “yet another chronicle in the long history of violent and chaotic demonstrations.”

c. Why did you not include the January 6, 2021 attack on the U.S. Capitol as “yet another chronicle in the long history of violent and chaotic demonstrations”?

Response: I stand on what has been contained in the written opinion. To opine outside of it would be improper. *See* Code of Conduct for United States Judges, Canons 3A(6), 5.

In concluding your opinion, you wrote: “Executive agencies must scrupulously follow the law, so the rule of law is not overtaken by the political factions of the day.”

d. Must the Trump Administration scrupulously follow the law, so the rule of law is not overtaken by the political factions of the day?

Response: As a current federal judge and judicial nominee, it would be improper for me to comment on the actions or inactions of the agencies of the Executive Branch. *See* Code of Conduct for United States Judges, Canons 3A(6), 5.

4. Did President Trump lose the 2020 election?

Response: President Biden was certified as the winner of the 2020 presidential election. He served as the 46th President of the United States. Insofar as this question asks my views on any legal issue relating to the 2020 election, I agree with Justice Ketanji Brown Jackson who stated in her Questions for the Record that judicial nominees should not comment on election results pursuant to the Code of Conduct for United States Judges.

5. Where were you on January 6, 2021?

Response: Bismarck, North Dakota.

6. Do you denounce the January 6 insurrection?

Response: I unequivocally condemn the violent actions at the Capitol on January 6, 2021, especially the political violence and violence against law enforcement officers.

7. 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: This is a highly politicized issue that is subject to ongoing litigation. As such, as a current federal judge and nominee to the Eighth Circuit Court of Appeals, it would be improper for me to offer an opinion on this controversial issue. *See* Code of Conduct for United States Judges, Canons 3A(6), 5.

8. 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: Generally, litigants who disagree with a court order have the option to file an appeal of that order. Once the matter has been fully resolved by the District Court, Court of Appeals or United States Supreme Court, the final order must be followed.

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

Response: In my more than twenty years of practice and six years as a federal district judge, I have never had occasion to deal with the issue of a flagrant violation of a court order and, thus, have not done an exhaustive study of the question. I have had occasion to see lawyers ask for reconsideration where the ordered action is impossible or dangerous, for instance where the weather or road conditions do not allow travel to a hearing. Finally, it is my understanding that there is a very narrow set of circumstances in which it might be appropriate for a litigant, including an executive branch officer, to fail to follow a lower court order. It may be appropriate to secure a litigant’s appellate rights against the order to challenge it. *See Mohawk Indus., Inc. v. Carpenter*, 558 U.S. 100, 111 (2009).

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

Response: The Judicial Branch. *See* U.S. Const. Art. III.

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

a. Are non-party injunctions constitutional?

Response: In *Trump v. Casa, Inc.*, 606 U.S. 831 (2025), the United States Supreme Court held Congress has not granted courts the power to issue a universal injunction under an exercise of equitable authority but did not address the constitutionality of such injunctions. Because this issue could come before me as a district judge and, if confirmed, an appellate judge, it would be inappropriate for me to comment on the constitutionality of non-party injunctions. *See* Code of Conduct for United States Judges, Canons 3A(6).

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

Response: Please see my response to Question 9.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 9.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: Not to my recollection.

10. 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.

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

Response: The Twenty-Second Amendment to the Constitution states, “[n]o person shall be elected to the office of the President more than twice.”

12. 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...”²

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: These are political statements by an elected official and political figure. As a sitting judge, it would be improper for me to comment or opine on them. *See* Code of Conduct for United States Judges, Canons 5.

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

Response: See my answer to Question 12.a.

13. 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

² Donald J. Trump (@realDonaldTrump), TRUTH SOCIAL (May 26, 2025, 7:22 AM), <https://truthsocial.com/@realDonaldTrump/posts/114573871728757682>.

coup”³ and later reposted the images of the three judges who decided the case and wrote, “we are living under a judicial tyranny.”⁴

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

Response: See my answer to Question 12.a.

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

Response: See my answer to Question 12.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: As a judge, I have come to understand that serving the public sometimes begets criticism from the public and public officials. Such criticism has not influenced my work as a judge and, if fortunate enough to be confirmed, it will not influence my future work.

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

Response: Binding precedent from the United States Supreme Court must be followed by all lower courts.

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

Response: As a District Judge, I am required to follow all binding decisions from the Eighth Circuit Court of Appeals. If I am confirmed, I would follow the “prior panel rule” of the Eighth Circuit which states that “[o]ne panel of this Court is not at liberty to disregard a precedent handed down by another panel.” *Drake v. Scott*, 812 F.2d 395, 400 (8th Cir. 1987). Only the Court *en banc* may overrule circuit precedent, subject to a limited exception in the case of an intervening Supreme Court decision that is inconsistent with circuit precedent.” *United States v. Williams*, 546 F.3d 961, 691 (8th Cir. 2008).

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

Response: The Supreme Court has stated several factors for overturning its own precedent. See *Dobbs v. Jackson Women’s Health Organization*, 597 U.S. 215, 268-90 (2022).

³ Stephen Miller (@StephenM), X, (May 28, 2025, 7:48 PM), <https://x.com/StephenM/status/1927874604531409314>.

⁴ Stephen Miller (@StephenM), X, (May 29, 2025, 8:25 AM), <https://x.com/StephenM/status/1928065122657845516>.

17. 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: Consistent with prior nominees, ordinarily it would be improper for a judicial nominee to comment on the merits of a binding United States Supreme Court opinion. However, there are two notable exceptions to this rule. The precedent set in both *Brown v. Board of Education* and *Loving v. Virginia* have proven to be beyond any serious debate as to the correctness of their holdings. Therefore, I can say that *Brown* and *Loving* were correctly decided. The other decisions referenced in the question are binding Supreme Court precedent that I will faithfully and impartially apply both as a sitting District Judge and, if confirmed, as a judge on the Eighth Circuit Court of Appeals.

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

Response: It is common for the Supreme Court to interpret constitutional provisions by looking to the original meaning of the words as understood by the public at the time the constitutional provision or amendment was passed. See, e.g., *Gamble v. United States*, 587 U.S. 678 (2019) (the Double Jeopardy Clause); *District of Columbia v. Heller*, 554 U.S. 570 (2008) (the Second Amendment); *Crawford v. Washington*, 541 U.S. 36 (2004) (the Confrontation Clause). If confirmed, I will continue to follow these and all other binding precedents of the Supreme Court and the Eighth Circuit when interpreting constitutional provisions. This would include precedents based on an originalist interpretation.

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

Response: Please see my answer to Question 18.

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

Response: In *Obergefell v. Hodges*, 576 U.S. 644 (2015), the Supreme Court held there is a constitutional right to same-sex marriage.

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

Response: This question was decided in *Loving v. Virginia*, 388 U.S. 1 (1967), which held there is a constitutional right to marry someone of a different race.

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

Response: The Fourteenth Amendment provides in relevant part, “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.” Over time, both the Supreme Court and Eighth Circuit have developed an extraordinarily large body of caselaw on this Amendment. If confirmed, I would faithfully follow all binding precedents from the Supreme Court and Eighth Circuit on the Equal Protection and Due Process clauses of the Fourteenth Amendment.

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

Response: The Supreme Court has applied these provisions to claims based on sex discrimination and sexual orientation. See *United States v. Virginia*, 518 U.S. 515 (1996); *Romer v. Evans*, 517 U.S. 620 (1996); *Lawrence v. Texas*, 539 U.S. 558 (2003); *Obergefell v. Hodges*, 576 U.S. 644 (2015). I will continue to faithfully apply these and any other binding precedent from the Supreme Court if confirmed. Further comment, however, would be improper as there is ongoing litigation relating to the subject of this question. See Code of Conduct for United States Judges, Canons 3A(6).

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

Response: Please see my answer to Question 18.

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

Response: Please see my answer to Question 18.

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

Response: The Supreme Court has held individuals and corporations may have First Amendment protections. See, e.g., *McIntyre v. Ohio Elecs. Comm’n*, 514 U.S. 334 (1995); *First Nat’l Bank of Boston v. Bellotti*, 435 U.S. 765 (1978); *Citizens United v. Fed. Elec. Comm’n*, 558 U.S. 310 (2010). If confirmed, I would faithfully apply all binding Supreme Court precedent.

27. 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: I would look to binding Supreme Court and Eighth Circuit precedent. For example, in *Reed v. Town of Gilbert, Ariz.*, the Supreme Court stated, “[c]ontent-based laws—those that target speech based on its communicative content—are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests.” 576 U.S. 155, 163 (2015). Likewise, the Supreme Court in *City of Austin, Texas v. Reagan Nat’l Advertising of Austin, LLC*, held that “[a] regulation of speech is facially content based under the first amendment if it ‘target[s] speech based on its communicative content’—that is, if it ‘applies to particular speech because of the topic discussed or the idea or message expressed.’” 596 U.S. 61, 69 (2022) (quoting *Reed*, 576 U.S. at 163). If confirmed, I would faithfully apply these and all other Supreme Court and Eighth Circuit precedent relating to this question, resolving the issues through the deliberative judicial process.

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

Response: The Supreme Court has stated, “[t]rue threats of violence, everyone agrees, lie outside the bounds of the First Amendment’s protection. And a statement can count as such a threat based solely on its objective content.” *Counterman v. Colorado*, 600 U.S. 66, 72 (2023). These are a “historically unprotected category of communications.” *Virginia v. Black*, 538 U.S. 343, 359 (2003).

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

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

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

Response: As a sitting judge and judicial nominee, it would be improper for me to comment on this matter as it is subject to ongoing litigation. *See* Code of Conduct for United States Judges, Canon 3A(6).

31. 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: As a sitting judge and judicial nominee, it would be improper for me to offer an opinion on this question as it is subject to ongoing litigation. *See* Code of Conduct for United States Judges, Canon 3A(6).

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

Response: See my answer to Question 31.a.

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

Response: No one should be excluded from the federal bench based on their race, sex, ethnicity, religion, or any other protected characteristics.

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

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

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

b. Will you commit to fully and fairly considering appeals that come before you when reviewing sentencing law and its application to ensure that criminal sentences are properly tailored to promote the goals of sentencing and avoid terms of imprisonment in excess of what is necessary?

Response: I commit to continuing to faithfully and impartially applying all applicable laws and precedents that govern the sentencing of criminal defendants.

34. 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 this statement and have no knowledge what its author intended or the context in which it is used.

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.⁵

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: As a sitting judge and judicial nominee it would be improper for me to comment on public statements made by other people. This is particularly true when the statements concern matters of public controversy. *See* Code of Conduct for United States Judges, Canon 5.

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

Response: Please see my response to Question 34.b.i.

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

Response: Yes.

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

Response: No.

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?

⁵ Donald J. Trump (@realDonaldTrump), TRUTH SOCIAL (May 29, 2025, 8:10 PM), <https://truthsocial.com/@realDonaldTrump/posts/114593880455063168>.

Response: No.

35. 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: No.

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

Response: No.

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

Response: No.

36. 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.

37. 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.

38. 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 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.

39. 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.

40. 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: Not since I have become a Judge. I believe I was contacted by an individual affiliated with this organization while I was in private practice but have no recollection of the contents of that conversation. I believe this contact was over ten years ago.

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

Response: No.

41. 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 have no knowledge of whether outside groups or special interests might be making donations in support of my confirmation. If I am confirmed, any public advocacy for or against my confirmation will be irrelevant to my decision-making as a judge.

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

Response: As a judicial nominee, it would be inappropriate for me to comment on whether any such donations should be made public. If confirmed and I learn that any party before me made a donation in support of my nomination, even though such donations would have been completely unsolicited, I would consider any actual or potential conflicts of interest in that matter under the applicable laws, rules, and ethical canons. To the extent that this question is addressed to whether I believe such donations should be made public as a matter of public policy, it would be inappropriate as a sitting federal District Judge and judicial nominee to address such questions.

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

Response: Please see my response to Question 41.e.

Nomination of Daniel Traynor
Nominee to the U.S. Court of Appeals for the Eighth Circuit
Questions for the Record
Submitted June 17, 2026

QUESTIONS FROM SENATOR WHITEHOUSE

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

1. Do you have any matters currently pending before you directly related to the events of January 6, 2021? If so, please list each case name and docket number.

Response: Not to my knowledge.

Senate Judiciary Committee
Hearing on
Nominations
June 10, 2026
Questions for the Record
Senator Amy Klobuchar

For Daniel Traynor, to be U.S. Circuit Judge for the Eighth Circuit

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

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

Response: Typically, federal courts have several tools to ensure compliance with court orders, such as status reports, hearings, sanctions, and both civil and criminal contempt proceedings. As an appellate judge, I would employ the methods typically used by federal courts.

During Operation Metro Surge, you volunteered to preside over immigration habeas matters in Minnesota. Many of these cases concerned the administration's policy of indefinitely detaining immigrants without any bond hearing.

- Why did your decision to deny the habeas petition in *Alvacora v. Olson* deviate from the legal reasoning in the overwhelming majority of decisions made by federal district cases on this issue?

Response: I stand on the legal reasoning and holding contained in the written opinion. The Eighth Circuit ultimately agreed with the logic of my orders in *Avila v. Bondi*, 170 F.4th 1128 (8th Cir. 2026).

**Nomination of Daniel Traynor
to be United States Circuit Judge for the Eighth Circuit
Questions for the Record
Submitted June 17, 2026**

QUESTIONS FROM SENATOR COONS

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

Response: The Constitution gives the advice and consent power for judicial nominees to the Senate. I have no reason to doubt the Senators will exercise this responsibility with care as they evaluate each nominee.

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: The answers are my own. The Department of Justice Office of Legal Policy provided limited feedback on a draft of my responses. I considered the feedback and finalized the answers.

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

Response: Yes, just as it is appropriate for multiple opinions to quote the Constitution. If someone else said it correctly, repetition is necessary.

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

Response: In my preparation for this process I reviewed all publicly-available information, including previous questions for the record.

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

Response: Excepting answers like “yes” and “no,” to my knowledge, no answer is verbatim from another nominee.

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: In a very formative time of my life, I was honored to be a law clerk for Chief Justice Gerald W. VandeWalle, the longest serving Chief Justice of any state Supreme Court in the nation. He has been a mentor to me throughout my career, showing me what it means to be a good man and a great judge, devoting his life to service of his state and country.

6. How would you describe your judicial philosophy?

Response: I interpret the U.S. Constitution as an originalist, looking to the public understanding of the words and clauses at the time of adoption. I interpret statutory language as a textualist.

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: I now follow and would continue to follow binding Eighth Circuit and Supreme Court precedent. The test from *Dobbs v. Jackson Women’s Health Org.* and *Washington v. Glucksberg* requires unenumerated rights to be “deeply root in this Nation’s history and tradition” and “implicit in the concept of ordered liberty.” *Dobbs*, 597 U.S. 215, 231 (2022) (quoting *Glucksberg*, 521 U.S. 702, 721 (1997) (citation modified)).

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. I would refer to the opinions of *Dobbs* and *Glucksberg*.

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

Response: I now follow, and would continue to follow, binding Eighth Circuit and U.S. Supreme Court precedent. Absent that precedent, I would consider other Circuit precedent to the extent it is well-reasoned and persuasive.

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 apply factors that had been considered in relevant opinions from the Eighth Circuit and U.S. Supreme Court.

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

Response: As a District Judge, I am required to follow all binding decisions from the Eighth Circuit Court of Appeals. If I am confirmed, I would follow the “prior panel rule” of the Eighth Circuit which states that “[o]ne panel of this Court is not at liberty to disregard a precedent handed down by another panel.” *Drake v. Scott*, 812 F.2d 395, 400 (8th Cir. 1987). Only the Court *en banc* may overrule circuit precedent, subject to a limited exception in the case of an intervening Supreme Court decision that is inconsistent with circuit precedent.” *United States v. Williams*, 546 F.3d 961, 691 (8th Cir. 2008).

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

Response: As a judge, it is important to avoid partiality and the appearance of partiality. I would continue to recuse myself from any case in which I have been involved in any manner. In other cases, I would continue to consult the cited statute, the Codes of Conduct for U.S. Judges, and any other relevant rules, laws, or practices to inform my decision.

10. 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: Caselaw is useful only to the extent it is analogous to the specific details and facts of a particular case. Without those details, citing caselaw is not helpful or appropriate. I will, as you state, faithfully follow binding precedent.

11. The 22nd Amendment states: “No person shall be elected to the office of the President more than twice.”

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

Response: Congress certified President Trump as the winner of the 2016 and 2024 presidential elections.

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

Response: Three.

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

Response: The Twenty-Second Amendment prevents President Trump from being elected in 2028.

12. 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: If Congress has certified a candidate as the winner of the presidential election, that individual has been elected President.

13. At your Senate Judiciary Committee nomination hearing, Senator Blumenthal asked you who won 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: Because the question has been asked of other people, I considered what I might say in response. As part of this process, I reviewed the Constitution, the Codes of Conduct for Judges, and answers of previous nominees.

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

Response: No.

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

Response: No.

14. 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: Code of Conduct for U.S. Judges Canon 3(A)(6) counsels judges to avoid commenting on matters pending in *any* court, and Canon 5 counsels judges to avoid speaking for or against political parties. I interpret these canons to prevent me from opining on statements by a politician that are not before me in a case or controversy.

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

Response: See my answer to Question 14.a.

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

Response: See my answer to Question 14.a.

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

Response: See my answer to Question 14.a.

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

Response: See my answer to Question 14.a.

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

Response: See my answer to Question 14.a.

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

Response: See my answer to Question 14.a.

15. 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: I condemn the violence and vandalism that occurred on January 6, 2021. As I stated in my oral testimony, I have had a matter before me related to that incident, and as mentioned in my answer to Question 14.a, my interpretation of the Codes of Conduct lead me to believe I am unable to comment on this issue.

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: See my answer to Question 14.a.

16. 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: See my answer to Question 14.a.

17. 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: See my answer to Question 14.a.

18. 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: See my answer to Question 10.

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

Response: The U.S. Supreme Court has held the right is “firmly embedded in [its] jurisprudence.” *Saenz v. Roe*, 526 U.S. 489, 498 (1999).

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 refer to *Saenz* and *United States v. Guest*, 383 U.S. 745, 758 (1966), as well as *Minn. Senior Fed'n, Metro. Region v. United States*, 273 F.3d 805, 809 (8th Cir. 2001), and *Hughes v. City of Cedar Rapids*, 840 F.3d 987, 995 (8th Cir. 2016).

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

Response: The Fourth Amendment to the Constitution provides “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated.” I will apply binding Supreme Court precedent that I will faithfully and impartially apply both as a sitting District Judge and, if confirmed, as a judge on the Eighth Circuit Court of Appeals. For instance, U.S. Supreme Court precedent recognizes a right to privacy in certain contexts, such as in *Griswold v. Connecticut*, 381 U.S. 479, 485-86 (1965), but not in other contexts, like in *Katz v. United States*, 389 U.S. 347, 350 (1967).

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

Response: Current Supreme Court precedent recognizes a right to use contraception. *See, e.g., Dobbs v. Jackson Women’s Health Org.*, 597 U.S. 215, 262 (2022).

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

Response: The Supreme Court has held the Due Process Clause applies to everyone, whether present in the United States legally or illegally. *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

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

Response: Yes.

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: In this, as with other matters, I would look to the precedent of the Supreme Court. The Court in the past has used sources that existed at the time of adoption, such as dictionaries, legal works, caselaw, news articles, the Federalist Papers, and other materials. *See, e.g., District of Columbia v. Heller*, 554 U.S. 570 (2008).

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

Response: Practical consequences should be considered in some instances, including when the legal standard requires the consideration of practical consequences, such as in the case of injunctions. *See, e.g., Trump v. CASA, Inc.*, 606 U.S. 831, 860 (2025).

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

Response: Empathy should not play a role in a judge's decision-making process.

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

Response: A judge should incorporate his or her years of experience studying and practicing the law, and use those skills to research and determine the meaning of the law in future cases.

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

Response: As a judge, I have employed status conference to follow up on compliance with my orders. This process will be different on an appellate court, and if I am confirmed, I will consult with my colleagues as to the best method available, which may include sanctions and contempt proceedings.

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

Response: See my answer to Question 8.

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

Response: I had the honor of representing a developmentally disabled person who was injured due to the negligence of the persons in charge of caring for him.

29. Discuss your proposed hiring process for law clerks.

Response: Currently I consider the materials submitted by applicants and conduct interviews as needed. I do not anticipate that my process will change if I am confirmed as a circuit judge.

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

Response: I do not believe it is appropriate to comment on proposed legislation. *See* Code of Conduct for U.S. Judges, Canons 3(A)(6), 5. However, I would treat my law clerks with dignity, respect, patience, and courtesy, as I do with all I interact with on both professional and personal bases. *See* Code of Conduct for U.S. Judges, Canon 3(A)(3).

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: I have never tolerated this kind of behavior in my chambers and that would continue. I have an open door policy with my clerks and staff and strive to foster an environment where misconduct can be reported without fear of repercussion. I would also incorporate any policies and recommendations the Eighth Circuit provides.

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: See my answer to Question 30.a.

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

Response: As a new member of the Eighth Circuit, I would consult with more senior members as to the best course of action that would protect affected individuals and prevent the behavior from continuing.

31. During your nomination process for your current judicial position in the District of North Dakota in 2019, Senator Durbin asked you in written questions for the record if you had “tweeted or retweeted anything that you regret.” You replied, “None that I can think of.”

a. Do you stand by this statement?

Response: Yes.

b. Do you regret tweeting on November 9, 2016, “It feels good to be deplorable. #MAGA”?

Response: This post was made following a political election campaign while I was a private citizen. At that time supporters adopted the moniker “deplorables.”

c. Do you regret tweeting on September 29, 2018, “And a Federal Circuit Court Judge. That bunch are all drunks”?

Response: This post was made while I was a private citizen and was intended as a joke in relation to an issue of public debate concerning a judicial confirmation.

32. You presided in *North Dakota v. United States*, which concerned protests against the construction of the Dakota Access Pipeline in North Dakota. In your opinion, you wrote, “Throughout recent history violent and tumultuous protests, riots, and so-called ‘movements’ have plagued the United States, especially during the delicate time leading up to presidential election years: the ‘Long, Hot Summer of 1967’ and the 1968 riots in response to the assassination of Rev. Dr. Martin Luther King, Jr.; the Rodney King Riots of 1992; the Occupy Wall Street movement in 2011; the 2015 Baltimore Protests; the George Floyd Riots and Portland Riots in 2020. . . . Unfortunately, the events in this case are yet another chronicle in the long history of violent and chaotic demonstrations.”

a. Is it appropriate for a judge to inject his own characterization of various political matters into a judicial opinion?

Response: I stand by my opinion in that case as written.

b. Would you characterize the attack on the U.S. Capitol on January 6, 2021, as “yet another chronicle in the long history of violent and chaotic demonstrations”?

Response: As a sitting federal District Judge and judicial nominee, it would be improper for me to offer an opinion on this hypothetical question as it relates to matters that may come before me as a District Judge or, if confirmed, as an appellate judge. *See* Code of Conduct for United States Judges, Canons 3A(6), 5.

c. If you feel you cannot answer due to political controversy surrounding the January 6 attack or due to related cases you have handled, why did you feel you could thusly characterize the events actually before you in *North Dakota v. United States*, which were also the subject of significant political controversy?

Response: Because the matter was a case or controversy before me within my jurisdiction as a judge and not as a judicial nominee.

33. In a May 9, 2024, article in the *Bismarck Tribune*, you discussed a misdemeanor criminal charge you faced for allowing your dog to roam off-leash. You stated that the situation is “affecting 30-50 cases already” due to your need to recuse in cases involving Bismarck police. You also said, “I don’t think it’s appropriate for a city to charge a leash law violation as a criminal matter.”

a. Do you think it is appropriate for a federal judge to express his opinion on the wisdom of a local ordinance that applies to him?

Response: I stand by the comments made in the article. The Commentary to Canon 3A(6) expressly provides “[a] judge may comment publicly on proceedings in which the judge is a litigant in a personal capacity.”

b. After your public commentary in this case, the Bismarck City Commission revised the ordinance to a “three strikes” system in which the first two offenses are non-criminal violations. Do you think it is appropriate for a federal judge to advocate for changes to a local ordinance—especially one under which he is currently being criminally charged?

Response: See my response to Question 33a.

In response, City Attorney Jannelle Combs stated that the ordinance has been in effect as a misdemeanor since at least 1980. She said, “We had an extensive rewrite of the animal control ordinances in 2021 with many stakeholder meetings, so it is unfortunate no one has mentioned the issue until now, considering all the other defendants who have been charged with animal at large The case is being handled by a prosecutor who is treating Judge Traynor the same as every other defendant.”

c. Do you agree that, with respect to the application of this ordinance, you should be treated the same as every other defendant?

Response: I believe in equal application of the law to all persons.

The article concludes with you describing how burdensome the situation has been to you. You stated that hopefully the case will be dropped “so I can continue to do my job without this distraction. It’s been very disruptful [*sic*] for my work and the work of the federal court in Bismarck.”

d. As a general matter, do you think that the decision to drop a criminal charge should depend on the degree of burden or distraction the charge places on the defendant?

Response: See my response to Question 33a.

e. Does the defendant being a federal judge change your answer?

Response: No.

34. In May 2024, you signed and were a contributing author to a letter to Columbia University President Minouche Shafik criticizing the university’s response to protests on campus following the October 7, 2023, attacks on Israel by Hamas. The letter, also signed by 12 other federal judges, states that, “Considering recent events, and absent extraordinary change, we will not hire anyone who joins the Columbia University community—whether as undergraduates or law students—beginning with the entering class of 2024.” At your Senate Judiciary Committee nomination hearing, several senators asked you about your participation in this letter.

a. Since signing this letter, have you hired any Columbia University affiliate from the entering class of 2024 or later?

Response: I have never had an applicant from Columbia University before or since the letter.

b. If you are confirmed to the Eighth Circuit, will you continue to adhere to this hiring policy?

Response: The boycott is still in effect. However, if a Columbia graduate should decide to apply to my chambers, I would need to potentially re-evaluate my decision based on the situation at Columbia Law at the time and the qualifications of the candidate.

c. If you plan to continue following this hiring policy, will you do so in perpetuity? If not, how long do you anticipate following it?

Response: The letter, itself, provides a limitation on the boycott.

d. At your hearing, you told Ranking Member Durbin that “the purpose of the letter was to do what little one can do as a federal judge.” Do you think that it is appropriate to leverage your ability as a judge to hire law clerks in order to influence the actions of a private entity?

Response: I do not feel that judges relinquish all First Amendment rights to freedom of speech. I also believe Federal Judges have the right to decide who works for them and can refrain from hiring those who threaten and attack others because of their religious faith.

e. Please explain why you made the decision to bar hiring *any* Columbia affiliate rather than only individuals who, as the letter states, “threatened violence, committed assaults, and destroyed property,” or otherwise engaged in objectionable behavior?

Response: The letter was directed towards the administration of the law school because Columbia has become “an incubator of bigotry.”

f. At your hearing, Senator Kennedy asked you: “When a federal judge expresses a political opinion—like you did and your colleagues did—how does that help our effort to help the public understand that judges aren’t politicians?” He went on to say, “I hope you won’t do something like that again. . . . When you adopt a political position . . . to do that as a private lawyer is one thing. To do it as a sitting federal judge is quite another. And I just don’t think it’s a good thing.”

A) In your opinion, does the act of judges publicly expressing political opinions decrease the legitimacy of the judiciary in the eyes of the public?

Response: I do not believe speaking out against violence against persons because of their religious faith falls under the category of expressing a political opinion. Inasmuch as it is a political opinion, it is one grounded in the text of the First Amendment to the Constitution.

B) If you had the opportunity to revisit your decision to sign the letter, would you change your decision?

Response: No.

g. Would you recuse yourself, either in your current position or if confirmed to the Eighth Circuit, from cases involving conduct at or by Columbia University?

Response: See my answer to Question 9. The Chief Judge of the Fifth Circuit specifically considered the decision not to hire from Columbia on this basis and concluded:

[A] refusal to hire a law clerk from a particular university whose students reportedly engaged in unlawful activity or violent acts, without more, is not evidence that the judge cannot remain impartial towards attorneys or parties who graduated from that university. Judges have many qualifications they use to determine whether a potential law clerk meets their standards for hiring. Judges may have a requirement that their potential law clerks graduate from a “top-ten” law school, which categorically excludes a large swath of candidates based solely on the judge’s assessment of the relative quality of the education provided by law schools not in the “top ten.” Many judges require background checks, and a criminal record of any kind would be disqualifying. A not uncommon requirement for some judges is that clerkship applicants’ grades place them within a certain percentile of their class. But such hiring qualifications do not mean the judge is necessarily biased against attorneys or litigants appearing before them who do not meet the specified metrics
.....

Memorandum, Judicial Council for the Fifth Circuit (Richman, C.J.) (June 21, 2024).

h. Would you recuse yourself from cases in which Columbia University is a party?

Response: See my answer to Questions 9 and 34(g).

i. Would you recuse yourself from cases involving conduct during protests at other universities?

Response: See my answer to Questions 9 and 34(g).

Questions for the Record for Judge Daniel Traynor
Submitted by Senator Richard Blumenthal
June 17, 2026

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

Response: I consider, and will continue to consider if confirmed as a circuit judge, 28 U.S.C. § 455, the Code of Conduct for United States Judges, and any other applicable laws, regulations, or rules governing conflicts and recusals when addressing all potential conflicts and recusal questions.

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 answer to Question 1.

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

Response: Please see my answer to Question 1.

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

Response: Please see my answer to Question 1.

d. In May 2024, you helped author and signed a letter to Columbia University criticizing its response to campus protests following Hamas’s October 7 attack on Israel, and you vowed not to hire as a law clerk “anyone who joins the Columbia University community...beginning with the entering class of 2024.” Even so, you refused to recuse yourself in a case brought by Columbia Law School’s Initiative for a Just Society, claiming you “lack...bias towards any [Columbia] student or Columbia’s faculty or initiatives.” Yet, in your letter, you asserted that Columbia’s “professors and administrators are on the front lines of the campus disruptions, encouraging the virulent spread of antisemitism and bigotry” and demanded “[s]ignificant and dramatic change in the composition of its faculty and administration.”

Under federal law, a federal judge “shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned,”¹ including where a judge “has a personal bias or prejudice concerning a party.”² Clearly, your impartiality and lack of

¹ 28 U.S.C. § 455(a).

² *Id.* § 455(b)(1).

bias toward a party that you accused of “encouraging the virulent spread of antisemitism and bigotry” can “reasonably be questioned.” Therefore, please explain the basis for your refusal to recuse yourself from the case brought by Columbia Law School’s Initiative for a Just Society.

Response: This case is currently on appeal and I am prohibited from commenting on it. *See* Code of Conduct for United States Judges Canon 3A(4)(6). The rationale for my decision not to recuse can be found at docket entry 181 in the case.

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: As a sitting federal judge, I faithfully adhere to all ethical rules and obligations governing judicial conduct. I will continue to do so if confirmed.

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

Response: Please see my answer to Question 2.

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

Response: Please see my answer to Question 2.

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

Response: Please see my answer to Question 2.

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

Response: Yes.

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

Response: Please see my answer to Question 2.

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

Response: Please see my answer to Question 2.

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

Response: Please see my answer to Question 2.

4. The House Republican-authored budget reconciliation bill for Fiscal Year 2026 had included a provision that would have limited federal judges' ability to hold government officials in contempt. While the Senate Parliamentarian ruled that the provision violated the Byrd Rule, and it was, therefore, removed, it would have prohibited federal courts from issuing contempt penalties against officials who disobey preliminary injunctions or Temporary Restraining Orders if the party seeking the order did not provide financial security to cover potential future damages for wrongful enjoining.

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

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

Response: The Supreme Court has described the contempt power as such. *See Ex parte Robinson*, 86 U.S. 505, 510 (1873).

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

Response: As a federal judge, I am limited by the applicable laws, rules, and precedent in deciding whether to issue a contempt order. This would include contempt orders against government officials who defy a court order.

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: As a general rule, courts can ensure compliance with their orders through civil and criminal contempt proceedings, periodic status conferences, and status reports.

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: In my more than twenty years of practice and six years as a federal district judge, I have never had occasion to deal with the issue of a flagrant violation of a court order and, thus, have not done an exhaustive study of the question. I have had occasion to see lawyers ask for reconsideration where the ordered action is impossible or dangerous, for instance where the weather or road conditions do not allow travel to a hearing. Finally, it is my understanding that there is a very narrow set of circumstances in which it might be appropriate for a litigant, including an executive branch officer, to fail to follow a lower court order. It may be appropriate to secure a litigant's appellate rights against the order to challenge it. *See Mohawk Indus., Inc. v. Carpenter*, 558 U.S. 100, 111 (2009).

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

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

d. What would make a court order unlawful?

Response: There are myriad reasons why a court order could be unlawful including the court lacking subject matter jurisdiction or the order is contrary to the law.

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

Response: Generally, litigants who disagree with a court order have the option to file an appeal of that order or move for reconsideration. Once the matter has been fully resolved by the District Court, Court of Appeals or United States Supreme Court, the final order must be followed.

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

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

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

Response: No.

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

Response: No.

7. In your 2025 opinion in *North Dakota v. United States*, you described the “‘Long, Hot Summer of 1967’ and the 1968 riots in response to the assassination of Rev. Dr. Martin Luther King, Jr.; the Rodney King Riots of 1992; the Occupy Wall Street movement in 2011; the 2015 Baltimore Protests; the George Floyd Riots and Portland Riots in 2020” as “violent and tumultuous protests, riots, and so-called ‘movements.’” You were willing to make those characterizations even though no issues related to those events were before you for adjudication and the facts and background of those events had not been briefed.

Yet, during your confirmation hearing, you refused to describe the January 6, 2021, riot at the Capitol as an attack or to characterize it in any way. Why, in your roles as a judge and judicial nominee, were you willing to characterize some events as “violent and tumultuous protests [and] riots” but not the January 6, 2021, attack on the Capitol?

Response: I stand on what has been contained in the written opinion. The characterization of those events has to be viewed in the context of that case. To comment further on the characterization of the events of January 6, 2021, would be improper under the judicial canons. *See* Code of Conduct for United States Judges, Canons 3A(6), 5.

Senator Mazie K. Hirono
Senate Judiciary Committee

Nomination Hearing
Questions for the Record for Daniel M. Traynor

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

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

Response: No.

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

Response: No.

2. In an opinion in *North Dakota v. United States* related to protests surrounding the Dakota Access Pipeline, you wrote:

In 2016, the executive branch, through the Corps, decided it did not have to play by the rule of law and permitted a lawless faction to trample, injure, and disrupt the peace and tranquility of North Dakota.

Would you agree that the characterization “a lawless faction [that] trample[d], injure[d], and disrupt[ed] the peace and tranquility” of a place also applies to at least some portion of the ultimately-convicted felons who attacked Capitol Police officers and forced their way into the United States Capitol on January 6, 2021?

Response: I unequivocally condemn the violent actions at the Capitol on January 6, 2021, especially the political violence and violence against law enforcement officers. As a sitting federal judge and judicial nominee, however, it would be improper for me to comment further on what happened that day. *See* Code of Conduct for United States Judges, Canons 3A(6), 5.

3. In an opinion in which you enjoined the EEOC from applying the Pregnant Workers Fairness Act against religious groups who feared they might in theory potentially be subject to it in some future situation, you wrote: “It is a precarious time for people of religious faith in America.” **In what way is it “a precarious time for people of religious faith in America”?** Please explain what you meant when you wrote that sentence in your opinion.

Response: I stand by the opinion in that case as written.

4. Quoting from a colleague’s statement about a judicial nominee in the Biden administration: “It has been made public that [you] have a rap sheet. . . . We expect our judges to respect the law, not disregard it. If [Judge Traynor] thought he was above the law before, imagine how he’ll conduct himself if he’s confirmed.” Although, in your case, you faced a misdemeanor charge while sitting on the bench as a federal judge rather than facing civil infractions before your nomination. **Do you have any response to my colleague’s concern about your ability to follow the law when you were charged with a misdemeanor while serving as a sitting federal judge?**

Response: I dispute any characterization that I have a rap sheet. The misdemeanor I was charged with was a leash law violation in the City of Bismarck that required no intent on the part of the owner. The case was promptly resolved and the charges were dismissed after paying fines and fees and making a donation to a local animal shelter. The city has since changed the ordinance to be an infraction.

5. At your nomination hearing, you refused to confirm who won the 2020 election.

a. **Legally, who won the 2020 election?**

Response: President Biden was certified as the winner of the 2020 presidential election. He served as the 46th President of the United States. Insofar as this question asks my views on any legal issue relating to the 2020 election, I agree with Justice Ketanji Brown Jackson who stated in her Questions for the Record that judicial nominees should not comment on election results pursuant to the Code of Conduct for United States Judges.

b. **Who won the popular vote in the 2020 election?**

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

Nomination of Daniel Traynor
United States Court of Appeals for the Eighth Circuit
Questions for the Record
Submitted June 17, 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, then-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 former Attorney General 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: I have expressed concerns regarding the political activism of the ABA and its impact on the perceived effectiveness and impartiality of the organization. Beyond what I have stated previously, as a judicial nominee, it would be inappropriate to opine on the statements of any political figure or on any subject of political controversy. *See* Code of Conduct for United States Judges, Canons 3A(6), 5.

b. Do you think it is appropriate for the Attorney General to end the longstanding practice of the Standing Committee on the Federal Judiciary?

Response: As a judicial nominee, it would be inappropriate to opine on the policy decisions of any political figure or on any subject of political controversy. *See* Code of Conduct for United States Judges, Canons 3A(6), 5.

c. Do you support an independent, non-partisan assessment of Presidential nominees for federal judicial appointments?

Response: See Response to 1(a).

2. On May 6, 2024, you joined 12 other judges in sending a letter to then-Columbia University President Minouche Shafik, criticizing the university’s response to protests on campus, asserting that “Columbia has disqualified itself from educating the future leaders of our

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>.

country.”² The letter identified three steps Columbia should undertake, including disciplinary measures for students and faculty participating in “campus disruptions.” You and the other signatories vowed not to hire “anyone who joins the Columbia University community—whether as undergraduates or law students—beginning with the entering class of 2024.”

a. Describe the process of writing and editing this letter, including how the signatures were collected. Identify all individuals and organizations involved in writing, editing, and/or collecting signatories.

Response: I did not participate in the writing or editing of the letter.

b. Describe how you learned about this letter, including from whom and the content of that discussion.

Response: The letter was presented to me by the co-authors and I agreed to sign it.

c. Did you write or edit any portion of this letter? Identify the portions you authored or edited.

Response: See Response to 2(a).

d. Do you still hold the position described in the letter that Columbia University “has disqualified itself from educating the future leaders of our country”?

Response: It is my understanding that the situation at Columbia University has improved since I signed the letter and Jewish students are no longer being targeted by the administration, staff or students. I believe the letter may have played a small part in leading to this improvement.

e. Do you still have in place a moratorium against hiring anyone who joined the Columbia University community beginning with the entering class of 2024?

Response: I have never had a Columbia Law graduate apply for a clerkship in my chambers. If one were to apply, I would need to potentially re-evaluate my decision based on the situation at Columbia Law at the time and the qualifications of the candidate. Currently, the moratorium remains in place.

f. Since May 6, 2024, has any counsel, party, or other person before you questioned your impartiality or requested your recusal in a matter associated with Columbia University?

i. If yes, identify the case name and number and disposition of such request.

² Daniel M. Traynor et al., “Letter to Columbia University President Minouche Shafik” (May 6, 2024), *available at* <https://freebeacon.com/wp-content/uploads/2024/05/letter.pdf>.

Response: I was asked to recuse in the case *Thunderhawk v. County of Morton, North Dakota*, Case No. 1:18-cv-212 (D.N.D. 2018). After assessing the request under the applicable laws, regulations, and rules, I rejected the request to recuse.

ii.If no, explain how you would evaluate whether to recuse yourself in such a case, or any case involving a party or counsel who joined the Columbia University community beginning with the entering class of 2024?

Response: Not applicable.

3. You presided over a bench trial relating to protests to the construction of the Dakota Access Pipeline. In April 2025, you issued a ruling in *North Dakota v. United States*, in which you compared Dakota Access Pipeline protests to other historical protests, such as the 2020 Black Lives Matter protests following the killing of George Floyd or the 1968 protests following the assassination of Dr. Martin Luther King, Jr. In the ruling, you referred to protests to the Dakota Access Pipeline as “yet another chronicle in the long history of violent and tumultuous riots” that “plagued the United States.”

a. Define the term “riot” as used in this ruling.

Response: I stand by the statements in the Order in the case.

b. Does assault or physical attacks on law enforcement and police officer render a “protest” or “demonstration” a “riot”?

Response: See Response to 3(a).

4. You volunteered to preside over the backlog of habeas corpus petitions filed in the District Court for the District of Minnesota during Operation Metro Surge, which began in December 2025.³

a. Describe how you were approached about assisting in these cases, including the date of the request. Identify the individual(s) who requested that you preside over these matters.

Response: On January 20, 2026, Chief Judge Patrick Schiltz of the District of Minnesota asked district judges in nearby districts (including myself) if we would be willing to assist with the backlog of habeas petitions in Minnesota. I volunteered to assist because judges from the District of Minnesota previously assisted the District of North Dakota when it was overwhelmed with cases (most commonly when vacancies occurred in the District of North Dakota). I wanted to return the courtesy by assisting with the habeas petitions. I have also been previously assigned to handle a case in the District of Minnesota and was aware of the operations in the District.

³ Tasha Carvell, *Ruling against the tide, a North Dakota judge denies emergency petitions for Minnesota ICE detainees*, TWIN CITIES PIONEER PRESS (Feb. 6, 2026), <https://www.twincities.com/2026/02/06/ruling-against-the-tide-a-north-dakota-judge-denies-emergency-petitions-for-minnesota-ice-detainees/>.

b. Were you aware you were being considered for a judicial nomination at the time you volunteered to preside over these cases in Minnesota?

Response: No.

5. Have you ever discussed with President Trump, or any person associated with him or his Administration, pursuing a nomination to the U.S. Supreme Court? Describe the nature of the discussion, the name of the individual, and the date of the discussion.

Response: No.

6. Explain the factors you would consider, if you are confirmed, to determine whether to recuse yourself in matters involving former clients, recent legal work and advocacy, and parties with whom you have had substantial financial relationships.

Response: Consistent with my current practice, if confirmed, I would evaluate conflicts and recusal issues with reference to 28 U.S.C. § 455, the Code of Conduct for United States Judges, and all other applicable laws, regulations, and rules.

7. If you are confirmed, how would you handle a request from President Trump, or anyone affiliated with him acting on his behalf, to decide a matter in a way that would benefit the President personally, financially, or politically?

Response: Consistent with my current practice, if confirmed, I will decide all cases according to the law, without regard to the identities of the parties involved. *See* 28 U.S.C. § 453 (judicial oath). If confirmed, I will continue to rigidly adhere to all ethical duties and responsibilities.

a. What ethical obligations govern your response to such a request?

Response: I would look to the relevant laws, codes of conduct, rules, regulations, and practices, including 28 U.S.C. § 455 and the Code of Conduct for U.S. Judges to see what my ethical obligations would be. I would also consult with colleagues and judicial ethics officials as appropriate.

b. Do you believe existing recusal and conduct rules are sufficient to address this scenario?

Response: As a sitting judge and judicial nominee, it would be inappropriate for me to address the sufficiency of existing recusal and conduct rules, because it is a matter of ongoing political controversy and because it would not be appropriate for me to forecast my views on matters that could come before me if I am confirmed. *See* Code of Conduct for United States Judges, Canons 3A(6), 5.

8. President Trump has repeatedly responded to adverse judicial rulings by threatening sitting judges, including calling for their impeachment and publicly disparaging them by name.

a. Do you believe those statements are consistent with the rule of law?

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

b. If you were to rule against the Administration and face similar attacks, would you take any action in response?

Response: See Response to 8(a).

c. Do you believe a President's public attacks on the judiciary constitute an attempt to interfere with the independence of the federal courts?

Response: See Response to 8(a).

d. Are you aware of any ethical obligation on the part of judges to speak out when the independence of the judiciary is threatened by the political branches?

Response: I am not aware of any statute, provision in the Code of Conduct for United States Judges, or other rule that obligates judges to "speak out when the independence of the judiciary is threatened by the political branches." If confirmed, I will rigidly adhere to all ethical duties and responsibilities.

9. 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: Decisions regarding how this Committee conducts its business and addresses such situations are for this Committee to make.

10. 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: See Response to 9.

11. How would you characterize your judicial philosophy?

Response: I am an originalist and textualist. I interpret constitutional and statutory provisions according to their original public meaning at the time of enactment. But I am (and would continue to be if confirmed as a circuit judge) bound by and faithfully apply all binding precedent regardless of whether that precedent is originalist or textualist in nature.

12. What do you understand originalism to mean?

Response: Originalism is a theory of constitutional interpretation according to which the provisions of the Constitution are interpreted in accordance with the original understanding of those provisions at the time they were adopted.

13. Do you consider yourself an originalist?

Response: See Response to 11.

14. What do you understand textualism to mean?

Response: Textualism is a theory of statutory interpretation according to which statutory provisions are interpreted in accordance with the original understanding of those provisions at the time they were adopted.

15. Do you consider yourself a textualist?

Response: See Response to 11.

16. 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: Statements of intent expressed by individual legislators are not law, but I would faithfully apply any binding precedents relating to the consideration of legislative history.

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

Response: See Response to 16(a).

17. 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.⁴

a. What do you attribute this to?

Response: As a judicial nominee, it would be inappropriate to offer my view on a policy issue. See Code of Conduct for United States Judges, Canons 3A(6), 5. If confirmed, I will treat everyone equally and with respect, regardless of their race.

⁴ Sonja B. Starr & M. Marit Rehavi, *Racial Disparity in Federal Criminal Sentences*, 122 J. POL. ECON. 1320, 1323 (2014).

18. 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.⁵

a. What do you attribute this to?

Response: See Response to 17.

19. 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 must fairly apply the law to all parties without regard to race. If a criminal defendant argues that a government actor impermissibly considered the defendant's race in making a discretionary decision, courts must fairly adjudicate that claim according to the facts and the law.

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

Response: I believe that everyone should be eligible to participate in the judicial branch without regard to race, sex, ethnicity, religion, or any other protected characteristic.

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

If you have not disclosed a copy of the publication or a transcript of the statement to the Judiciary Committee, attach a copy or link to the materials and 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

⁵ 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.

- 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: To the best of my knowledge, I have not published written material or made public comments on any of these topics beyond what is already listed in my Questionnaire for Judicial Nominees.

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

Response: Generally, a litigant must follow court orders issued in a proceeding to which the litigant is a party. The normal recourse for any litigant who disagrees with a judicial order is to seek reconsideration, to appeal, to seek a stay, or to pursue some combination of these options. The same is true for litigants who are Executive Branch officials. Courts have held that parties may refuse to follow court orders only in exceptionally narrow circumstances. For example, parties may defy an order as a means of securing the appeal of an otherwise-unappealable interlocutory order. The Supreme Court recognized this exception in *Mohawk Indus., Inc. v. Carpenter*, 558 U.S. 100 (2009), which acknowledged that one “long-recognized option” for appealing interlocutory disclosure orders is to intentionally defy the order, “incur court-imposed sanctions,” and then appeal from the sanctions award. *Id.* at 111. Further, “[i]f a court order issues without personal or subject matter jurisdiction, the decree may be violated without incurring the penalty of criminal contempt.” *In re Establishment Inspection of Hern Iron Works, Inc.*, 881 F.2d 722, 726 (9th Cir. 1989); *accord Ex parte Fisk*, 113 U.S. 713, 714 (1885) (“When, however, a court of the United States undertakes, by its process of contempt, to punish a man for refusing to comply with an order which that court had no authority to make, the order itself, being without jurisdiction, is void, and the order punishing for the contempt is equally void.”). The Supreme Court has also suggested that parties may not be bound to comply with an order where it is “factually impossible” to do so. *United States v. Rylander*, 460 U.S. 752, 757 (1983).

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

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? Provide each one and the justification.

Response: See Response to 22.

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

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

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

Response: This question relates to issues that are the subject of litigation, so it is inappropriate for me to comment. *See* Code of Conduct for United States Judges, Canons 3A(6), 5.

25. 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: See Response to 24.

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

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

27. Does the U.S. Constitution apply to non-citizens present in the United States?

Response: The Supreme Court has held that “all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent” are entitled to certain levels of due process. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

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

Response: This question relates to issues that are the subject of litigation in the courts, and that could come before me if I am fortunate enough to be confirmed, it would not be appropriate for me to opine on this issue. *See* Code of Conduct for United States Judges, Canons 3A(6), 5.

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

Response: Consistent with prior nominees, ordinarily it would be improper for a judicial nominee to comment on the merits of a binding United States Supreme Court opinion. However, *Brown v. Board of Education* is a notable exception to this rule and has proven beyond any serious debate as to the correctness of its holding. Therefore, I can say that *Brown* was correctly decided.

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

Response: *Griswold* is binding Supreme Court precedent that I will faithfully and impartially apply both as a District Judge and, if confirmed, as a judge on the Eighth Circuit Court of Appeals.

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

Response: See Response to 30.

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

Response: See Response to 30.

33. Do you believe that President Biden won the 2020 election? Note that this question is not asking who was certified as president in the 2020 election. A response that references only certification will be treated as a refusal to answer.

Response: President Biden was certified as the winner of the 2020 presidential election. He served as the 46th President of the United States. Insofar as this question asks my views on any legal issue relating to the 2020 election, I agree with Justice Ketanji Brown Jackson who stated in her Questions for the Record that judicial nominees should not comment on election results pursuant to the Code of Conduct for United States Judges.

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

Response: See Response to 33.

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

Response: See Response to 33.

34. The 22nd Amendment says that “no person shall be elected to the office of the President more than twice.”⁶

⁶ U.S. CONST. amend. XXII.

a. Do you acknowledge that this is the law of the land?

Response: Yes.

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

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

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

Response: See Response to 35(b).

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

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

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

Response: See Response to 35(d).

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

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

35. 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.

36. 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.

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

Response: No.

38. 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.

39. 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.

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

Response: No.

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

Response: No.

42. 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.

43. 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.

44. 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.

45. 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.

46. 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.

47. 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.

48. 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.”⁷

- a. Do you agree with the above statement?

Response: As a sitting judge and a judicial nominee, it would be inappropriate to opine on the statements of any political figure or on any subject of political controversy. *See* Code of Conduct for United States Judges, Canons 3A(6), 5.

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

Response: No.

⁷ <https://www.article3project.org/about>

49. 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)?

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

Response: No.

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

Response: No.

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

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

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

June 10, 2026

Questions for Daniel Traynor (8th Circuit Court of Appeals):

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

a. According to Wisconsin’s certified 2020 General Election results, did Joe Biden receive more than 19,000 votes more than Donald Trump?

Response: President Biden was certified as the winner of the 2020 presidential election. He served as the 46th President of the United States. Insofar as this question asks my views on any legal issue relating to the 2020 election, I agree with Justice Ketanji Brown Jackson who stated in her Questions for the Record that judicial nominees should not comment on election results pursuant to the Code of Conduct for United States Judges.

b. According to Pennsylvania’s certified 2020 General Election results, did Joe Biden receive more than 80,000 votes more than Donald Trump?

Response: See Response to Question 1(a).

c. According to Georgia’s certified 2020 General Election results, did Joe Biden receive more than 11,000 votes more than Donald Trump?

Response: See Response to Question 1(a).

d. According to Arizona’s certified 2020 General Election results, did Joe Biden receive more than 40,000 votes more than Donald Trump?

Response: See Response to Question 1(a).

e. According to Nevada’s certified 2020 General Election results, did Joe Biden receive more than 20,000 votes more than Donald Trump?

Response: See Response to Question 1(a).

f. According to Michigan’s certified 2020 General Election results, did Joe Biden receive more than 154,000 votes more than Donald Trump?

Response: See Response to Question 1(a).

g. Are you aware of any evidence that Joe Biden did not win more votes than Donald Trump in each of the states listed above? If so, please explain.

Response: See Response to Question 1(a).

2. Some judicial nominees have stated that Joe Biden “legally” won the 2020 election or won the election “as a matter of law.” Setting aside any legal characterization: as a matter of fact, did Joe Biden win the 2020 presidential election?

Response: See Response to Question 1(a).

3. Do you have any reason to believe that the outcome of any state’s presidential vote was impacted by irregularities or fraud? If so, please explain.

Response: See Response to Question 1(a).

4. 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 state’s electoral votes?

Response: See Response to Question 1(a).

5. 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: As a judicial nominee and as a sitting federal judge, it would not be appropriate for me to assess these dismissals by courts or to weigh in on matters of political controversy. *See* Code of Conduct for United States Judges, Canons 3(A)(6) and 5.

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

Response: See Response to Question 5(a).

6. Have you ever, publicly or in an official capacity, questioned or disparaged: (i) the legitimacy of the 2020 presidential election results; (ii) Congress’s certification of those results; or (iii) any federal or state court ruling rejecting legal challenges to those results? If so, please explain.

Response: No.

7. Do you believe in a constitutional right to privacy? If so, please explain the constitutional basis for that right.

Response: The Supreme Court has recognized a right to privacy in certain settings. I abide by and, if confirmed as a circuit judge will continue to abide by, that precedent.

a. Do you believe that *Griswold v. Connecticut* was correctly decided?

Response: See Response to Question 7. Beyond that, it is not appropriate for me to “grade” the work of the United States Supreme Court.

8. 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?

Response: My former boss, Chief Justice Gerald W. VandeWalle, the longest serving Chief Justice of any state Supreme Court in the nation, is the most foundational for me. He has been a mentor to me throughout my career, showing me what it means to be a good man and a great judge, devoting his life to service of his state and country.

9. 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: By its terms, your question asks me to evaluate the merits of cases that “may come before” me. As a judicial nominee and as a sitting federal judge, it would be inappropriate to offer my opinion on matters that may come before me. As previous nominees have explained, doing so suggests a judge has already made their mind up about a legal issue before the litigants have had their opportunity to be heard.

10. 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: I try to provide opportunities to clerkship candidates who may not otherwise have the chance to serve as judicial law clerks. I consider candidates without regard to race, sex, ethnicity, religion, or any other protected characteristic.

b. When selecting your law clerks, will you commit to considering qualified applicants from a broad range of backgrounds, including candidates from a variety of law schools, from varying socioeconomic circumstances, and of differing races, ethnicities, religions, gender identities, sexual orientations, and abilities?

Response: See Response to Question 10(a).

c. Will you make your clerkship hiring criteria and application process transparent and accessible to applicants who lack the networks or institutional connections that often drive clerkship hiring?

Response: My clerkship hiring criteria and application process is transparent and accessible and will continue to be if I am confirmed to the Eighth Circuit.

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

Response: See Response to Question 10(a).

11. I want to give you an opportunity to discuss your views on the 22nd Amendment.

a. What does the 22nd Amendment state?

Response: The 22nd Amendment prohibits any person, from being “elected to the office of the President more than twice.” U.S. Const., amend. XXII.

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: President Trump was certified as the winner of the 2016 and 2024 presidential elections and served as the 45th President of the United States and is currently serving as the 47th President of the United States.

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 confirmed, I will not have any hesitation ruling against any party if that is what the law demands.

12. If confirmed, cases involving discrimination claims brought by LGBTQ+ individuals under Title VII or other federal civil rights statutes may come before you. Will you commit to treating these individuals with dignity by ensuring that your courtroom is a forum where all 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 will treat everyone equally and with respect, regardless of their background.

13. 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: In *Zadvydas v. Davis*, the Supreme Court held, "the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." 533 U.S. 678, 693 (2001).

14. 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: See Response to Question 12.

15. What recourse do you believe is available to a federal judge whose orders are not followed?

Response: Federal judge might be able to enforce orders through various means, including one or more of the following: sanctions, civil and criminal contempt proceedings, and criminal referrals.

16. In your opinions you have used language that goes well beyond resolving the dispute before you. In *North Dakota v. United States*, you opened a judicial decision by cataloguing what you called "violent and tumultuous protests, riots, and so-called 'movements,'" listing the George Floyd protests among them, and described the DAPL protests as belonging among those listed in the United States' "long history of violent and chaotic demonstrations."

In *Catholic Benefits Ass'n v. Burrows*, you wrote that "[i]t is a precarious time for people of religious faith in America," noted that the current era has been described as a "post-Christian

age,” and characterized the government’s posture as a potential search for “new ways to infringe on religious believers’ fundamental rights.”

a. Canon 3 of the Code of Conduct for United States Judges directs judges to avoid conduct that creates the appearance that their impartiality is impaired. How is rhetoric of this kind consistent with that obligation?

Response: The rationale for my ruling is contained in the Order referenced in the question. I stand by the Order as written.

b. Similarly, while these statements seemingly represent dicta, how do you square these portions of your opinions with the principles of constitutional avoidance and judicial restraint?

Response: See Response to Question 16(a).

c. In *North Dakota v. United States*, you demonstrated a willingness to characterize historical events in sweeping moral terms from the bench, describing the protests you listed as “violent and tumultuous” without apparent concern for how such characterizations might bear on your obligations under the judicial canons. Applying that same willingness: would you describe the events at the United States Capitol on January 6, 2021 in similar terms? Were those events a “violent and tumultuous” riot?

Response: The rationale for my ruling is contained in the Order referenced in the question. I stand by the Order as written. With regards to the events on January 6, 2021, as a federal judge and as a judicial nominee, it would not be appropriate for me to weigh in on matters of political controversy. See Code of Conduct for United States Judges, Canons 3(A)(6) and 5.

17. You were a signatory of a 2024 letter vowing not to hire “anyone who joins the Columbia University community,” advocating for the hiring of additional conservative faculty members, and stating that the university had “disqualified itself from educating the future leaders of our country.” You subsequently declined to recuse yourself from litigation involving a Columbia Law School clinic (*Thunderhawk v. County of Morton*).

a. Going forward, will you recuse yourself from matters involving Columbia or its clinics, students, or affiliated counsel? If not, why not?

Response: I harbor no bias against Columbia or its graduates. It is my understanding that the situation at Columbia University has improved since I signed the letter and Jewish students are no longer being targeted by the administration, staff or students. I believe the letter may have played a small part in leading to this improvement. Although I have not had any clerkship applications from graduates of Columbia University, if a Columbia graduate were to apply for a clerkship in my chambers, I would need to potentially re-evaluate my decision based on the situation at Columbia Law at the time. Currently, the moratorium remains in place.

b. What limiting principles, if any, do you apply when deciding whether to join public campaigns, boycotts, or coordinated efforts designed to influence the private conduct of institutions or individuals?

Response: During the protests at Columbia, the protestors, including faculty and administrators, were engaged in violent conduct and subjected Jewish students to harassment and intimidation. At the time, the school's administration did not adequately address these issues and create a safe learning environment. I believe the letter may have played a small part in leading to the improvement that has occurred since.

c. Do you commit, going forward, to refraining from public statements, letters, or pledges that invoke the institutional authority of your judicial office to advance positions on contested political or social questions?

Response: See Response to Question 17(b).

18. *Employment Division v. Smith* is binding Supreme Court precedent. Do you commit to applying it faithfully, despite your stated view that it should be re-examined?

Response: If confirmed, I would faithfully apply all binding Supreme Court precedent, including *Smith*.

19. You were active on social media in the years preceding your district-court confirmation and posted about a wide range of political issues and candidates.

a. Please identify any publicly accessible social media, blog, forum, or other online account that you have created, maintained, controlled, contributed to, or posted under, on any platform while serving as a district court judge, if any. Please include any non-private (or any previously non-private) accounts on Twitter/X, Facebook, Instagram, LinkedIn, YouTube, TikTok, Truth Social, Substack, Reddit, any personal blogs or websites, or any comparable platforms. For each account, please state:

i. the platform or service;

ii. the username, handle, screen name, and any display name associated with the account;

iii. the approximate dates the account was active;

iv. whether the account was maintained in your own name, under a pseudonym, or anonymously; and

v. the account's current status (active, deactivated, deleted, or set to private).

Response: During my service as a district judge I have not created, maintained, controlled, contributed to, or posted under any publicly accessible social media, blog, forum, or other online account.

b. Since you were first under consideration for this nomination, have you deleted, deactivated, archived, restricted the visibility of, or removed content from any online account, or directed or requested that anyone do so on your behalf? If so, please identify the account and describe what was changed or removed and when.

Response: See response to Question 19(b).

Senator Peter Welch
Senate Judiciary Committee
Written Questions for Daniel Traynor
Hearing on “Nominations”
June 10, 2026

1. On May 6, 2024, you were a contributing author and signatory to a letter to then-Columbia University President Minouche Shafik that vowed not to hire “anyone who joins the Columbia University community...beginning with the entering class of 2024.” During your hearing, you testified that you believe the letter which you and your judicial colleagues sent to the president of Columbia University was “appropriate and consistent with your role as a public official.”

a. Please explain your understanding of Canon 5(C) of the Code of Conduct for United States Judges.

Response: Canon 5C states, “[a] judge should not engage in any other political activity. This provision does not prevent a judge from engaging in activities described in Canon 4.”

b. The letter you signed says that you and your judicial colleagues “have lost confidence in Columbia as an institution of higher education” and “absent extraordinary change, [you] will not hire anyone who joins the Columbia University community—whether as an undergraduates or law students—beginning with the entering class of 2024.” Please explain why you decided to sign the letter.

Response: As I indicated at my confirmation hearing, I signed onto the letter in hopes of effectuating positive change at Columbia University in light of their response to the aftermath of October 7 that left Jewish students in fear for their life and having to shelter in place due to the violence and tumultuous behavior occurring on campus against the Jewish people.

c. In *Thunderhawk v. County of Morton, North Dakota*, a suit brought by Columbia Law School’s Initiative for a Just Society, you denied a recusal motion and claimed you lacked bias “towards any student or Columbia’s faculty or initiatives of its law school.” How did you arrive at that decision?

Response: The rationale for denying the motion to recuse is set forth in the Order referenced by the Question. I stand by the Order as written.

2. You were a volunteer judge hearing *habeas corpus* petitions during Operation Metro Surge. According to an analysis by InForum, of the 236 *habeas corpus* petitions that came before judges between January 22 and January 31, there were 8 denials of petitions, and you authored 7 of them.

a. Please explain why you denied the petitions for these cases.

Response: I stand on the legal reasoning and holding contained in the written opinion. The Eighth Circuit ultimately agreed with the logic of my orders in *Avila v. Bondi*, 170 F.4th 1128 (8th Cir. 2026).

b. In *Alvacora v. Olson*, you decided that, even though that 700 judges had ruled an undocumented immigrant apprehended in the interior of the United States was entitled to a hearing before an immigration judge, and to not remain in mandatory detention without bond, you wrote that “someone does not suddenly become right simply because they have held onto a wrong belief for decades.” Please explain how you determined that 700 judges were incorrect.

Response: Please see my answer to Question 2.a.

c. In the same case, you argue that “[t]he executive branch must be permitted sufficient flexibility to ensure our nation’s borders are secure and to have enough authority to conduct thorough inspections and removals.” Please explain how this comment pertains to an individual who is mandatorily detained by Immigration and Customs Enforcement (ICE) officials.

Response: Please see my answer to Question 2.a.

3. In *Cervantes v. Morton County*, a photojournalist complained that, during a February 2017 protest in Morton County, North Dakota, law enforcement, at the direction of the county’s unified command, arrested her and seized her camera, phone, photographs, among other photographic equipment. She alleged that she was wearing a fluorescent green vest and bright yellow poncho, both emblazoned with “press.”

a. You held that the plaintiff either failed to state a claim upon which relief could be granted or that the defendants were entitled to qualified immunity and dismissed the complaint with prejudice. Please explain the reasoning of your ruling.

Response: The rationale for my ruling is contained in the Order referenced in the question. I stand by the Order as written.

b. When the plaintiff asked to make a phone call once she arrived at the Devils Lake jail, the officer denied her request, allegedly stating, “criminals don’t have rights.” Please explain whether you believe this statement is accurate.

Response: Please see my answer to Question 3.a.

c. Another officer allegedly told the plaintiff that she “was in North Dakota now and they could do whatever they wanted to.” Officers had already used zip ties to handcuff the plaintiff, which were reportedly so tight that they had to be reapplied. They had also forced her to remove all but one layer of clothing in the presence of male and female officers and had exposed her to sub-zero degree winds. Please explain whether you believe these activities are lawful and why.

Response: Please see my answer to Question 3.a.

4. On November 9, 2016, you posted on X (formerly known as Twitter) that “It feels good to be deplorable. #MAGA.” Please explain what you meant by this statement and whether you agree with it today.

Response: The post referenced by the question was made following a political election campaign while I was a private citizen. Since I became a District Judge I have abided by the Code of Conduct for United States Judges and its prohibition on Judges engaging in political activity. *See* Code of Conduct for United States Judges Canon 5.

Questions for the Record

Daniel Traynor – Nominee to the Eighth Circuit Court of Appeals

Sen. Adam Schiff (D-CA)

1. How would you define public corruption as a matter of federal law?

Response: I am not aware of a single definition of public corruption. Federal law provides different definitions under different contexts such as honest-services fraud and bribery cases. If confirmed, I would adhere to the definition as set forth by the relevant statute or precedent.

- a. If one of your law clerks used their position to give or steer money to their friends, would you consider that public corruption?

Response: Yes.

2. Which of the two general election candidates lost the 2020 election?

Response: President Biden was certified as the winner of the 2020 presidential election. He served as the 46th President of the United States. Insofar as this question asks my views on any legal issue relating to the 2020 election, I agree with Justice Ketanji Brown Jackson who stated in her Questions for the Record that judicial nominees should not comment on election results pursuant to the Code of Conduct for United States Judges.

3. Do you agree that Article III Courts are courts of limited subject-matter jurisdiction?

Response: The Supreme Court has held federal courts “are courts of limited jurisdiction. Limited first by the Constitution, to only the kinds of ‘Cases’ and ‘Controversies’ listed in Article III. And for all lower federal courts, limited as well by statute. Congress determines, through its grants of jurisdiction, which suits those courts can resolve. So, for example, Congress has always given federal courts power to decide ‘diversity’ cases, between ‘citizens of different States’ whose dispute involves more than a stated sum (the so-called amount-in-controversy). § 1332(a). And of special importance here, Congress has long conferred jurisdiction on federal courts to resolve cases ‘arising under’ federal law. § 1331.” *Royal Canin USA, Inc. v. Wullschleger*, 604 U.S. ___ (2025).

- a. Describe the Article III cases and controversies requirement.

Response: The Supreme Court has stated that Article III generally requires a concrete dispute between parties with adverse legal interests. *See United States v. Windsor*, 570 U.S. 744 (2013).

- b. Are federal courts limited to cases and controversies where the parties have adverse legal interests?

Response: See Response to Question 3(a).

c. Would a lawsuit where the plaintiff and defendant are the same individual be frivolous?

Response: As a judicial nominee, it would not be appropriate for me to comment on matters that are the subject of pending litigation. *See* Code of Conduct for United States Judges, Canon 3(a)(6), 5.

d. How does the legal profession typically respond to frivolous lawsuits?

Response: Courts and parties have a variety of tools they may use to respond to frivolous litigation. One example is Rule of 11 of the Federal Rules of Civil Procedure which empowers courts to sanction parties engaged in frivolous litigation.

4. You were deeply involved in Republican politics for years. You have served as the Chair of the North Dakota Republican Party and described yourself in your questionnaire as a “volunteer and activist” on many political campaigns.

a. Will you recuse yourself from future cases involving the Republican Party?

Response: Consistent with my current practice, if confirmed to the Eighth Circuit, I will continue to evaluate conflicts and recusal issues with reference to 28 U.S.C. § 455, the Code of Conduct for United States Judges, and all other applicable laws, regulations, and rules. It would not be appropriate for me, as a judicial nominee, to state how I would resolve any particular conflict or recusal issue were I to be confirmed. *See* Code of Conduct for United States Judges, Canons 3A(6), 5.

5. In *Catholic Benefits Association v. Burrows*, you issued an order including the following statement, “It is a precarious time for people of religious faith in America. It has been described as a post-Christian age.”

a. Is this statement a holding or dicta?

Response: I was simply referencing a viewpoint stated in *From Christendom to Apostolic Mission: Pastoral Strategies for an Apostolic Age* published by the University of Mary in 2020. Please refer to that book for how they define “post-Christian age.” Apart from that, I stand by the opinion as written.

b. Please explain what you meant by this statement.

Response: See Response to Question 5(a).

c. What is the factual basis for this statement? If this statement was adopted from the record in that case, please identify the source of the information with a citation to the docket or transcript.

Response: See Response to Question 5(a).

d. Do you still agree with this statement?

Response: See Response to Question 5(a).

6. How would you describe your judicial philosophy?

Response: I am an originalist and textualist. I interpret constitutional and statutory provisions according to their original public meaning at the time of enactment. But as a circuit court judge (as I presently am as a district court judge), I would be bound by and faithfully apply all binding precedent regardless of whether that precedent is originalist or textualist in nature. I would continue to resolve the cases that come before me impartially.

7. How would you describe your philosophy regarding statutory interpretation?

a. What methodology do you use to ensure your rulings are predictable and properly constrained within the bounds of the law?

Response: See Response to Question 6.

8. When confronted with an ambiguous statute, how do you consider legislative history in your decision-making process?

Response: Statements of intent expressed by individual legislators are not law, but I would continue to faithfully apply any binding precedents relating to the consideration of legislative history.

9. How do you define judicial activism?

Response: Judicial activism is a judicial philosophy in which judges, guided by their personal beliefs, interpret the law to reach a desired outcome.

10. Supreme Court Justice Clarence Thomas has argued that a judge has a constitutional duty to overrule past Supreme Court precedent if it is “demonstrably erroneous,” regardless of stare decisis.

a. Do you agree with this argument? Why or why not?

Response: As a district court judge I follow all binding precedents of the Supreme Court and the Eighth Circuit when interpreting constitutional provisions. I would continue to do so as a circuit judge. In the event I considered a question where circuit precedent might be overturned, I would follow the “prior panel rule” of the Eighth Circuit which holds that, “[o]ne panel of this Court is not at liberty to disregard a precedent handed down by another panel.” *Drake v. Scott*, 812 F.2d 395, 400 (8th Cir. 1987). Only the Court *en banc* may overrule circuit precedent, subject to a limited exception in the case of

an intervening Supreme Court decision that is inconsistent with circuit precedent.”
United States v. Williams, 546 F.3d 961, 691 (8th Cir. 2008).

11. During the nomination process for your current position on the district court, you wrote, “The Voting Rights Act is a historic and landmark law.” Do you still agree with that statement?

Response: I stand by the statement and believe that it comment speaks for itself.

a. Why was the Voting Rights Act a historic and landmark law?

Response: See Response to Question 11.

12. During the nomination process for your current position on the district court, you noted: “Justice O’Connor famously wrote in her majority opinion in *Hamdi v. Rumsfeld* that: ‘We have long since made clear that a state of war is not a blank check for the President when it comes to the rights of the Nation’s citizens.’”

a. Do you still agree that a state of war is not a blank check for the President?

Response: I stand by the statement and believe that it speaks for itself.

b. What government branch or branches have the authority to say what the law is?

Response: In *Marbury v. Madison*, the Supreme Court held “it is emphatically the province and duty of the judicial department to say what the law is.” 5 U.S. 137, 177 (1803).

13. During the nomination process for your current position on the district court, you wrote “The Supreme Court made clear long ago that it is ultimately “the province and duty of the judicial department to say what the law is[.]” citing to *Marbury v. Madison*.

a. Do you still agree “it is ultimately ‘the province and duty of the judicial department to say what the law is’”?

Response: Yes.

b. Are you aware that a judicial nominee before this committee recently argued that each branch is entitled to interpret the law, until or unless there is a direct Supreme Court opinion on the particular dispute?

Response: No.

c. Would you agree with that opinion?

Response: It is certainly true that each branch is entitled to interpret the law. It would be impossible, for example, for the executive branch to enforce laws passed by Congress if it

did not “interpret” the law. It is also true that lower court decisions interpreting the law are not always binding on all parts of the federal government. For example, my interpretation of criminal law as a district judge in North Dakota would not be binding on a U.S. Attorney’s office interpretation of the same law when prosecuting a case in California, whereas an interpretation of the same law by the Supreme Court would be binding.

14. Is it ever appropriate for a federal prosecutor or other party before a federal judge to disobey or otherwise fail to comply with a court order?

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

a. As a district court judge, how have you responded when a party disobeyed or otherwise failed to comply with your court order?

Response: See Response to Question 14.

b. Have you ever entered an oral order in a federal case, whether or not you subsequently entered a written order? Please list any orders you have entered orally.

Response: In my time as a federal district judge, I have routinely entered oral orders, most notably during trials, sentencing hearings, and change of plea hearings. To the best of my knowledge, the parties have complied with those orders.

c. Did you expect the litigant and/or their counsel to comply with the oral order?

Response: See Response to Question 14(b).

d. If confirmed, how would you respond if a party before you disobeyed or otherwise failed to comply with an order of the Eighth Circuit?

Response: See Response to Question 14.

15. In the past, you have used social media to express your personal opinions about politics and immigration in particular. How have your political views on immigration influenced your adjudication of these cases?

Response: I do not recall expressing personal opinions about immigration on social media. Nevertheless, the posts I made more than ten years ago were when I was a private citizen. Since I became a district judge, I have abided by the Code of Conduct for United States Judges and its

prohibition on Judges engaging in political activity. See Code of Conduct for United States Judges Canon 5.

- a. How can you assure this panel that your personal opinions will not continue to influence your decisions in future cases?

Response: I would continue to resolve the cases that come before me fairly and impartially.

16. In *United States v. Litson*, the Eighth Circuit found you committed a “significant procedural error” by relying on unproven allegations when making a sentencing determination.

- a. What is your understanding of the Eighth Circuit’s reasoning and conclusion in reversing your decision in that case?

Response: In *Litson*, Eighth Circuit held the Defendant’s objection was sufficiently specific and clear and alerted the district court and the Government to the specific facts the Government needed to prove at the hearing. Since the disputed allegations were never proven, the Eighth Circuit held it was “significant procedural error” by relying on unproven allegations when making the sentencing determination.

- b. Given your history of procedural errors, why should this Committee trust you to supervise the procedural decisions of district courts?

Response: I take issue with your characterization of my record. As set forth in my Questionnaire, over the course of my tenure as a district court judge I have issued more than 4,000 orders and opinions and I have been reversed 13 times. I do not believe this is an abnormal reversal rate given the length of my service. No district judge (or any judge for that matter) likes when a decision is reversed, but I am unaware of a district judge who has a “perfect batting average” when it comes to having their decisions reviewed by higher courts. Indeed, both sitting Supreme Court justices who served as district judges had decisions reversed by their circuit courts.

17. In *United States v. Dickson*, the Eighth Circuit found you committed a significant procedural error when you failed to “at least [give] defense counsel an opportunity to be heard” before you decided to increase the defendant’s sentence from the recommended 78 months to 120 months. On remand, you gave the same sentence.

- a. Why did you make this error?

Response: The rationale for my ruling is contained in the Order referenced in the question.

- b. If confirmed to the circuit court, do you think that district court judges should make the exact same decision even if after a reversal for error?

Response: District judges should review decisions remanding cases carefully and take the steps set forth in the opinion and order of remand.