

Senator Dick Durbin
Ranking Member, Senate Judiciary Committee
Written Questions for Matthew R. Byrne
Nominee to be U.S. District Judge for the Southern District of Ohio
July 1, 2026

1. You have an extensive record of opposing reproductive rights. In a 2020 judicial candidate survey, you stated that you opposed abortion for any reason other than to protect the life of the mother. You offered no exceptions for rape or incest, and you further wrote: “I believe the ‘life of the mother’ should be strictly defined so as to avoid creating loopholes.”

- a. **Why do you oppose abortion with no exceptions for rape or incest?**

Answer: As a federal judicial nominee, it would be inappropriate for me to opine as the question asks me to comment on a matter of political controversy. *See* Code of Conduct for United States Judges, Canons 3 and 5.

- b. **What “loopholes” did you want to avoid creating by allowing abortion when the life of the mother is at risk?**

Answer: As a federal judicial nominee, it would be inappropriate for me to opine on this issue as your question asks me to comment on a matter of political controversy. *See* Code of Conduct for United States Judges, Canons 3 and 5.

2. In 2023, you were appointed as a visiting justice on the Ohio Supreme Court to hear *Preterm-Cleveland v. Yost*, involving a challenge to a so-called “heartbeat bill” that criminalized abortion after six weeks. After the law took effect in 2022, it was preliminarily enjoined—and later superseded by a November 2023 referendum that enshrined reproductive rights in the Ohio Constitution. Despite the voters’ approval of a state constitutional amendment to protect reproductive decision making, you dissented from the Ohio Supreme Court’s December 2023 decision to dismiss the case. You did not recuse yourself despite writing in a 2020 judicial candidate survey that you had “helped arrange for some testimony in support of the Ohio Heartbeat Bill.”

- a. **At your hearing, you told Senator Hirono that you concluded there was no basis for recusal in this case. Please explain the reasoning behind this decision, given your involvement in arranging testimony in support of the legislation at issue in the case.**

Answer: First, as I explained to Senator Hirono, I merely answered someone’s question about how that person could testify in support of the legislation. The conversation was informal and brief.

Second, I considered whether to recuse in *Preterm-Cleveland v. Yost*, Ohio Supreme Court Case No. 2023-0004, as I do with any case filed in my court or to

which I am assigned. I considered Rule 2.11 of the Ohio Code of Judicial Conduct, which concerns judicial “disqualification” (more commonly referred to as “recusal”). I concluded none of the bases for recusal stated in Rule 2.11 applied.

To the extent one would now argue that my impartiality might reasonably be questioned because I expressed pro-life views in the past, this argument fails. Judges are not required to recuse in cases in which they have previously expressed policy preferences because previously expressed policy views alone do not create an appearance of partiality. *See Republican Party of Minnesota v. White*, 536 U.S. 765, 777 (2002), *quoting Laird v. Tatum*, 409 U.S. 824, 835 (1972) (memorandum opinion); *see also Disciplinary Counsel v. Grendell*, 2025-Ohio-5239, ¶ 30 (Ohio).

Given the applicable Ohio recusal standard, I was not required to recuse in *Preterm-Cleveland v. Yost*. No party to the case objected or sought my recusal or disqualification.

b. Why did you feel it was appropriate to insert your personal views in and disregard the will of the people of Ohio as expressed in the referendum?

Answer: I respectfully disagree with your characterization of *Preterm Cleveland v. Yost*. No justice voted to dismiss the case. Instead, five justices voted to dismiss the appeal “due to a change in the law,” and one justice voted to dismiss the appeal as improvidently granted. As a result of those six justices’ votes, the case was remanded to the Hamilton County Court of Common Pleas for further proceedings. My understanding is that the case is still actively being litigated before the Hamilton County Court of Common Pleas. I voted to proceed with deciding the issues that were before the Ohio Supreme Court on appeal. Those issues were procedural in nature, specifically, the appealability of a preliminary injunction and standing. Even if the court had proceeded to consider those issues, any decision would not have reached the merits regarding abortion or the Heartbeat Act. Nor did I at any point insert my political views, “disregard the will of the people,” or make any decision on the merits of the challenge to the Heartbeat Act.

c. Considering your extreme anti-abortion record on and off the bench, why should we expect you to fairly uphold the law in cases involving reproductive right.

Answer: Future litigants can trust that I will remain unbiased on reproductive rights issues because I have long and repeatedly expressed my strongly-held view that judges must set aside their personal opinions and decide cases on the factual and legal merits. In fact, I made such comments in all of the judicial candidate surveys you reference. I have also repeatedly stated that judges must be willing to reach decisions with which they personally disagree. I have done so in a

significant number of cases during my time as a judge on Ohio's Twelfth District Court of Appeals.

I have served as a Judge on Ohio's Twelfth District Court of Appeals for more than half a decade. In that time, I have decided over 800 appeals and written around 250 majority, concurring, or dissenting opinions. My body of work demonstrates my deep commitment to the Constitution, the rule of law, and stare decisis. There are no examples in any case I have decided that would suggest that I would not uphold the Constitution and protect the rights of litigants. Instead, my body of work reveals that I consistently apply binding precedent. I will continue to do so in the future.

3. You have expressed extreme views on a range of issues, including the right to privacy and same-sex marriage. In January 2020, in response to a judicial candidate survey from the Cincinnati Right to Life PAC, you wrote: "There is no reference to a 'right to privacy' in the Constitution. The Supreme Court essentially admitted this when it stated that the 'right to privacy' was found in a 'penumbra' (or shadow) of the Constitution." In that same survey, you also wrote, "I agree," in response to this statement: "The judiciary does not possess the authority to expand the definition of marriage to include anything but one man and one woman." Your response came nearly five years after the U.S. Supreme Court recognized the right to same-sex marriage in *Obergefell v. Hodges*.

a. Do you acknowledge that there is a right to privacy under the U.S. Constitution?

Answer: In a number of cases, the United States Supreme Court has held that the Constitution protects a fundamental right to privacy. *See, e.g., Griswold v. Connecticut*, 481 U.S. 479 (1965); *Eisenstadt v. Baird*, 405 U.S. 438 (1972); and *Lawrence v. Texas*, 539 U.S. 558 (2003). As a current state appellate judge, and as a federal district judge if confirmed, I am or would be bound to apply these binding precedents.

b. In light of your past statements, why should litigants expect you to uphold the Constitution and protect their rights if you are confirmed to the federal bench?

Answer: I have served as a Judge on Ohio's Twelfth District Court of Appeals for more than half a decade. In that time, I have decided over 800 appeals and written around 250 majority, concurring, or dissenting opinions. My body of work demonstrates my deep commitment to the Constitution, the rule of law, and stare decisis. There are no examples in any case I have decided that would suggest that I would not uphold the Constitution and protect the rights of litigants. Instead, my body of work reveals that I consistently apply binding precedent. I will continue to do so in the future.

c. Why should litigants expect that you will follow Supreme Court precedent on the right to privacy and same-sex marriage?

Answer: See my answer to Question 3(b) above.

4. You sought the endorsement of the National Rifle Association during your 2020 judicial campaign and described yourself as a “dues-paying NRA member” on several occasions. You wrote, in a January 2020 Buckeye Firearms Association PAC judicial candidate survey, that no-carry zones at colleges, houses of worship, government buildings, and non-secure sections of police stations should be eliminated. You also opposed universal background checks for all gun purchases and wrote: “There are numerous factors that contribute to mass shootings, and the idea that government can prevent all such tragedies is incorrect.”

a. What locations, if any, do you believe are acceptable no-carry zones?

Answer: If confirmed and this issue were presented to me, I would apply binding precedent and any applicable laws, regulations, or rules. I am unable to opine further as this question concerns matters of political controversy and legal matters that could come before me. *See* Code of Conduct for United States Judges, Canons 3 and 5.

b. Are background checks for gun purchases constitutional?

Answer: Please see my answer to Question 4(a).

c. What, in your view, would qualify as a reasonable restriction on Second Amendment rights?

Answer: The United States Supreme Court has held that the government may restrict Second Amendment rights “consistent with this Nation’s historical tradition of firearm regulation.” *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1 (2022). For example, the Supreme Court has acknowledged that “arms carrying could be prohibited consistent with the Second Amendment” in sensitive places such as “legislative assemblies, polling places, and courthouses.” *Id.* And the Supreme Court has recognized “longstanding prohibitions on the possession of firearms by felons and the mentally ill.” *District of Columbia v. Heller*, 554 U.S. 570, 626-27 (2008). Beyond that, please see my answer to Question 4(a).

5. In March 2016 you said: “I cannot see one reason why any conservative would vote for Donald Trump.” You added: “I want what is best for our country, our party and for the conservative movement. Because I care about those things, I will not vote Donald Trump in November.”¹

¹ Paula Christian, *How Local Republicans Might Help Hillary Win*, WCPO (Mar. 3, 2016), <https://www.wcpo.com/news/political/local-politics/longtime-republicans-vow-not-to-vote-if-trump-is-the-nominee>.

Do you stand by your comments about President Trump?

Answer: As a federal judicial nominee, it would be inappropriate for me to opine on this issue as your question asks me to comment on my personal political views. *See* Code of Conduct for United States Judges, Canons 3 and 5.

6. In response to Charlie Kirk’s assassination in September 2025, you wrote that “[c]elebration of an opponent’s death is pure spiritual poison.” You added: “If celebration of a political [opponent’s] death becomes acceptable—and this is not the first time we’ve seen it in recent years—our future is bleak, bleak, bleak.”²

a. Do you maintain that the celebration of a political opponent’s death is unacceptable?

Answer: When I made the statement you quote above, I was subject only to Ohio’s Code of Judicial Conduct. But now, I am a federal nominee and so I am subject to the Code of Conduct for United States Judges. As such, I am unable to opine as this question concerns matters of political controversy. *See* Code of Conduct for United States Judges, Canons 3 and 5.

b. Given your prior commentary, what was your reaction to President Trump writing of former Federal Bureau of Investigation Director Robert Mueller, “Good, I’m glad he’s dead?”³

Answer: I am unable to opine as this question concerns matters of political controversy. *See* Code of Conduct for United States Judges, Canons 3 and 5.

7. Did President Trump lose the 2020 election?

Answer: Joseph R. Biden was certified as the winner of the 2020 presidential election by a joint session of Congress after the counting of the Electoral College votes.

8. Where were you on January 6, 2021?

Answer: I was at my courthouse and home on January 6, 2021. Both are located in Ohio.

9. Do you denounce the January 6 insurrection?

Answer: I condemn all acts of violence and vandalism, including the acts of violence and vandalism that were committed at the U.S. Capitol on January 6, 2021, especially with regard to law enforcement officers. However, the term “insurrection” is legal in nature and applying it to a particular event has attendant legal consequences. *See* U.S. Const.

² Judge Matthew Byrne, @MatthewRByrne, X (Sept. 10, 2025, 10:13 PM), <https://x.com/MatthewRByrne/status/1965961839709155372>.

³ Donald J. Trump, @realDonaldTrump, Truth Social (Mar. 21, 2026, 1:26 PM), <https://truthsocial.com/@realDonaldTrump/posts/116268334535345382>.

amend. XIV, § 3. Additionally, the question of whether the events at the U.S. Capitol on January 6, 2021, were an “insurrection” has become a matter of political controversy often discussed and debated by political leaders of both parties. As a judicial nominee, it is not appropriate for me to opine on whether those events constituted an “insurrection.” *See* Code of Conduct for United States Judges, Canons 3 and 5.

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

Answer: As a judicial nominee, it is not appropriate for me to opine on whether the pardons you reference were prudent as doing so would necessarily involve commenting on policy matters and matters of political controversy. *See* Code of Conduct for United States Judges, Canons 3 and 5.

11. 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?

Answer: As a general rule, a party (including the executive branch) is required to follow a court order. Parties who disagree with a court order may seek a stay of the order, seek reconsideration, or appeal. Exceptions to this general rule are quite rare. For example, see *Mohawk Indus., Inc. v. Carpenter*, 558 U.S. 100 (2009) (describing procedure permitting non-compliance with otherwise non-appealable interlocutory order in order to obtain appeal).

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

Answer: Please see my answer to Question 11(a).

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

Answer: The judicial branch.

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

a. Are non-party injunctions constitutional?

Answer: The United States Supreme Court held in *Trump v. CASA, Inc.*, 606 U.S. 831 (2025), that injunctions offering relief to non-parties are not permitted. The opinion did not clarify whether they are unconstitutional. To the extent this question asks me to opine on that issue, I must not opine further as the issue could come before me if confirmed. *See* Code of Conduct for United States Judges, Canons 3 and 5.

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

Answer: Please see my answer to Question 12(a) above.

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

Answer: Please see my answer to Question 12(a) above.

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.

Answer: To the best of my recollection, no.

13. 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.

Answer: No.

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

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

15. 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...”⁴

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...”?

Answer: I am unable to opine as this question concerns matters of political controversy. *See* Code of Conduct for United States Judges, Canons 3 and 5.

⁴ Donald J. Trump (@realDonaldTrump), TRUTH SOCIAL (May 26, 2025, 7:22 AM), <https://truthsocial.com/@realDonaldTrump/posts/114573871728757682>.

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

Answer: Please see my answer to Question 15(a).

16. In addition to the President’s own attacks on judges, his adviser Stephen Miller took to social media to call a federal trade court’s ruling against President Trump’s tariffs a “judicial coup”⁵ and later reposted the images of the three judges who decided the case and wrote, “we are living under a judicial tyranny.”⁶

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

Answer: I am unable to opine as this question concerns matters of political controversy. *See* Code of Conduct for United States Judges, Canons 3 and 5.

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

Answer: Please see my answer to Question 16(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?

Answer: Public scrutiny and criticism are normal and expected parts of public service, including judicial service. My name and picture have been shared online by groups that oppose my nomination. *See, e.g., Matthew Byrne*, Alliance for Justice, <https://afj.org/nominee/matthew-byrne/> (accessed July 2, 2026). As an Ohio appeals court judge, and as a federal judge if I am confirmed, I understand it is my duty to decide cases impartially, without fear or favor, even when subject to public criticism.

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

Answer: A lower court may not depart from Supreme Court precedent.

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

Answer: The answer to this question varies somewhat based on the particular circuit court at issue. In the Sixth Circuit, which hears appeals from the district court to which I have been nominated, a three-judge panel may not overturn a prior three-judge panel’s decision “unless an inconsistent decision of the United States Supreme Court requires modification of the decision...” *Kerman v. C.I.R.*, 713 F.3d 849, 866 (6th Cir. 2013)

⁵ Stephen Miller (@StephenM), X, (May 28, 2025, 7:48 PM), <https://x.com/StephenM/status/1927874604531409314>.

⁶ Stephen Miller (@StephenM), X, (May 29, 2025, 8:25 AM), <https://x.com/StephenM/status/1928065122657845516>.

(quotation marks omitted). Alternatively, the full Sixth Circuit, sitting en banc, may overturn a prior three-judge panel's decision. *Id.* The Sixth Circuit does not appear to have adopted a particular standard governing how the en banc court should overturn the court's precedent.

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

Answer: The U.S. Supreme Court has adopted standards for determining when it is appropriate to overturn the court's precedent. Those standards are articulated in *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 268 (2022) (constitutional interpretation precedents), and *Kimble v. Marvel Ent., LLC*, 576 U.S. 446 (2015) (statutory interpretation precedents).

20. 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*

Answer: It is generally inappropriate for a judicial nominee to offer personal views on whether particular opinions of the United States Supreme Court were correctly decided. See Code of Conduct for United States Judges, Canons 3 and 5. Numerous judicial nominees have consistently taken this position, and so do I. However, there are two consistently recognized exceptions to this general rule: *Brown v. Board of Education* and *Loving v. Virginia*. Consistent with this precedent, I can and do state that I believe *Brown v. Board of Education* and *Loving v. Virginia* were correctly decided. In any event, if confirmed as a federal district judge, I will apply all binding Supreme Court precedent.

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

Answer: Yes. My judicial philosophy is originalism and textualism, meaning that I strive to interpret constitutional and legislative texts, respectively, based on the original public meaning of the words used in those texts. It also means that I must set aside my personal views in all cases, and decide those cases based on the facts and the law alone. I also

understand that, as a district judge, I must apply binding precedent, even if that precedent is one with which I personally disagree.

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

Answer: Please see my answer to Question 21 above.

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

Answer: The United States Supreme Court held in *Obergefell v. Hodges*, 576 U.S. 644 (2015), that “The Fourteenth Amendment requires a State to license a marriage between two people of the same sex and to recognize a marriage between two people of the same sex when their marriage was lawfully licensed and performed out-of-state.” *Id.* at syllabus. As a current state court judge and as a federal district judge if confirmed, I have and will apply all binding precedents, including *Obergefell*.

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

Answer: The United States Supreme Court held in *Loving v. Virginia*, 388 U.S. 1 (1967), that laws banning interracial marriage are unconstitutional. As I explained above in response to Question 20, I believe that *Loving* was correctly decided.

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

Answer: The Fourteenth Amendment’s Equal Protection Clause states, “nor shall any States . . . deny to any person within its jurisdiction the equal protection of the laws.” U.S. Const. amend. XIV, § 1. The United States Supreme Court has held that, through the Fifth Amendment, this equal protection guarantee also applies to the federal government. *Bolling v. Sharpe*, 347 U.S. 497, 500 (1954). The Equal Protection Clause has been litigated and applied in many contexts, so it is difficult to provide a comprehensive overview. However, many of those cases have applied the equal protection clause in determining whether government classifications that treat different groups of people differently survive constitutional scrutiny. Under this body of case law, statutes or executive orders classifying people based on race, alienage, or national origin receive strict scrutiny; laws classifying people based on sex receive intermediate scrutiny; and laws classifying people on bases that do not involve these suspect classes receive rational basis scrutiny.

The Fourteenth Amendment’s Due Process Clause states, “nor shall any State deprive any person of life, liberty, or property, without due process of law . . .” Like the Equal Protection Clause of the Fifth Amendment, this clause has been interpreted as providing both procedural and substantive protections. Procedural due process refers to the fairness

of proceedings affecting an individual's life, liberty, or property, while substantive due process refers to "heightened protection against government interference with certain fundamental rights and liberty interests." *Washington v. Glucksberg*, 521 U.S. 702, 720 (1997). Notably, most rights protections or guarantees in the Bill of Rights have been applied to the states by operation of the Fourteenth Amendment's Due Process Clause.

If confirmed, I will apply all binding precedent regarding the Fourteenth Amendment's Equal Protection Clause and Due Process Clause.

26. 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?

Answer: The Fourteenth Amendment's Equal Protection Clause and Due Process Clause apply to all persons, regardless of sex, sexual orientation, or gender identity. If confirmed, I will faithfully apply all binding precedent regarding these clauses.

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

Answer: Please see my answer to Question 21 above.

28. 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?

Answer: Please see my answer to Question 21 above.

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

Answer: The First Amendment protects freedom of speech, freedom of religion, freedom of the press, the right to assemble, and the right to petition the government. Some or all of these rights apply to individuals, associations, churches, or corporations, depending on the context. As a federal judicial nominee, it would be inappropriate for me to opine further as the question asks me to comment on legal questions that could come before me. *See* Code of Conduct for United States Judges, Canons 3 and 5.

30. 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?

Answer: If confirmed, I would faithfully apply binding precedents of the United States Supreme Court and the Sixth Circuit regarding these First Amendment questions.

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

Answer: The United States Supreme Court has held that “[t]rue threats’ of violence” are not protected by the Free Speech Clause. *Counterman v. Colorado*, 600 U.S. 66, 74 (2023). “True threats are serious expressions conveying that a speaker means to commit an act of unlawful violence.” *Id.* (quotation marks and brackets omitted). If confirmed, I would faithfully apply binding Supreme Court precedents applying the true-threats doctrine.

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

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

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

Answer: Please see my response to Question 32 above.

34. 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?

Answer: The United States Supreme Court held in *Trump v. Barbara*, 2026 U.S. LEXIS 2885 (June 30, 2026) (slip opinion), that “Children born in the United States to parents unlawfully or temporarily present are ‘subject to the jurisdiction’ of the United States and are citizens at birth under the Fourteenth Amendment’s Citizenship Clause.” *Id.* at syllabus. If the issue raised in this question comes before me, I will faithfully apply all binding precedent.

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?

Answer: Please see my answer to Question 34(a) above.

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

Answer: No one should face discrimination based on race, sex, or similar immutable characteristics in seeking to serve in the federal judiciary. Likewise, there is no one professional background that should be used to evaluate who should serve in the federal judiciary.

36. 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*?

Answer: A federal judge should faithfully apply the text of the First Step Act and any binding precedent regarding its interpretation.

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

Answer: If confirmed, I will faithfully and impartially apply the First Step Act and all applicable laws and binding precedents that apply to sentencing in criminal cases.

37. 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 a member of the Federalist Society. What is your understanding of “traditional values”?

Answer: I do not know what the Federalist Society specifically meant by its reference to “traditional values.”

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.⁷

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?

⁷ Donald J. Trump (@realDonaldTrump), TRUTH SOCIAL (May 29, 2025, 8:10 PM), <https://truthsocial.com/@realDonaldTrump/posts/114593880455063168>.

Answer: I am unable to opine as this question concerns matters of political controversy. *See* Code of Conduct for United States Judges, Canons 3 and 5.

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

Answer: Please see my answer to Question 37(b)(i).

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

Answer: Yes, as do many federal judges.

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.

Answer: During my selection process, I have not spoken to or corresponded with Leonard Leo, Steven G. Calabresi, or anyone employed by the Federalist Society, with the exception of event planning employees who asked about my application to be a federal judge when I checked-in at a Federalist Society event in Ohio earlier this year. They wished me good luck. I have also spoken to or corresponded with numerous Ohio lawyers who are members of the Federalist Society during the selection process, about a variety of topics.

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

Answer: I have spoken or moderated panels at numerous Federalist Society events, as outlined in my Senate Judiciary Questionnaire. I also co-authored one article published by the Federalist Society, also identified in my Senate Judiciary Questionnaire. Otherwise, I have not been asked to provide and/or provided other services to the Federalist Society.

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

Answer: No.

38. 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.**

Answer: To the best of my knowledge, no.

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

Answer: No.

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

Answer: No.

39. 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.**

Answer: To the best of my knowledge, no.

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

Answer: No.

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

Answer: 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?**

Answer: No.

40. 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.**

Answer: To the best of my knowledge, no.

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

Answer: No.

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

Answer: No.

- 41. 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.**

Answer: In April 2026, I met Gene Hamilton for the first time at a legal conference. We briefly exchanged pleasantries. Otherwise, to my knowledge I have not spoken or corresponded with anyone associated with AFLI during the selection process.

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

Answer: No.

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

Answer: No.

- 42. 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.

Answer: To the best of my knowledge, 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?**

Answer: No.

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

Answer: No.

- 43. 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.**

Answer: In December 2025, I was a guest speaker at a Blackstone Fellowship alumni group in Columbus, Ohio. That speech is disclosed in my Senate Judiciary Questionnaire. I also had social conversations with two or three Ohio lawyers who I believe are participants in ADF’s Attorney Network, but our conversations were social in nature and did not concern ADF or its work. Also, a law clerk at the Ohio Twelfth District Court of Appeals is a former Blackstone Fellow, and I have regularly spoken to that law clerk about our work at the Twelfth District Court of Appeals. To the best of my knowledge, I have spoken to no other individuals associated with ADF during the selection process.

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

Answer: Please see my response to Question 43(a) above. Otherwise, no.

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

Answer: No.

- 44. 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.**

Answer: To the best of my knowledge, no.

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

Answer: No.

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

Answer: 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.**

Answer: I have no knowledge of any groups or special interests making donations to any other organizations in support of my nomination. I have no concerns because I have no reason to believe any such donations have been made. If I am confirmed, no such organization’s activities will influence how I decide cases.

- 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?**

Answer: As a federal judicial nominee, it would be inappropriate for me to opine on whether such donations should be made public. If confirmed, I will refer to 28 U.S.C. § 455, the Code of Conduct for United States Judges, and other relevant laws, regulations, and rules governing judicial conflicts and recusal when considering potential conflict and recusal questions. *See* Code of Conduct for United States Judges, Canons 3 and 5.

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

Answer: Please see my answer to Question 44(d) above.

Senate Judiciary Committee
Hearing on
Nominations
June 24, 2026
Questions for the Record
Senator Amy Klobuchar

For Matthew Byrne, to be U.S. District Judge for the Southern District of Ohio

While serving as a visiting justice on the Ohio Supreme Court, you were the only judge who dissented when the Court dismissed a case defending Ohio's law that banned abortion before most people know they are pregnant, at just six weeks, and which included no exceptions for rape or incest.

- Given that you argued the court should uphold Ohio's law even after a majority of Ohio voters passed a constitutional amendment to protect the right to an abortion, what would you say to litigants who question that you can be evenhanded in applying the law, including to women trying to vindicate their rights?

Answer: I respectfully disagree with your characterization of *Preterm Cleveland v. Yost*. No justice voted to dismiss the case, which challenged Ohio's Heartbeat Act. Instead, five justices voted to dismiss the appeal "due to a change in the law," and one justice voted to dismiss the appeal as improvidently granted. As a result of those six justices' votes, the case was remanded to the Hamilton County Court of Common Pleas for further proceedings. My understanding is that the case is still actively being litigated before the Hamilton County Court of Common Pleas. I voted to proceed with deciding the issues that were before the Ohio Supreme Court on appeal. Those issues were procedural in nature, specifically, the appealability of a preliminary injunction and standing. Even if the court had proceeded to consider those issues, any decision would not have reached the merits regarding abortion or the Heartbeat Act. Nor did I at any point make any decision on the merits of the challenge to the Heartbeat Act.

Next, future litigants can trust that I will remain unbiased on reproductive rights issues because I have long and repeatedly expressed my strongly-held view that judges must set aside their personal opinions and decide cases on the factual and legal merits. I have also repeatedly stated that judges must be willing to reach decisions with which they personally disagree. I have done so in a significant number of cases during my time as a judge on Ohio's Twelfth District Court of Appeals.

I have served as a Judge on Ohio's Twelfth District Court of Appeals for more than half a decade. In that time, I have decided over 800 appeals and written around 250 majority, concurring, or dissenting opinions. My body of work demonstrates my deep commitment to the Constitution, the rule of law, and stare decisis. There are no examples in any case I have decided that would suggest that I would not uphold the Constitution and protect the rights of litigants. Instead, my body of work reveals that I consistently apply binding precedent. I will continue to do so in the future.

**The Nomination of Matthew Byrne
to the United States District Court for the Southern District of Ohio
Questions for the Record
Submitted July 1, 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?

Answer: As a judge and judicial nominee, it would not be appropriate for me to opine on how the Senate Judiciary Committee performs its duties. However, I understand that the Senate has a constitutional duty with respect to the President's appointment of judges, *see* U.S. Const., art. II, § 2, and that the Senate Judiciary Committee's evaluation of judicial nominees includes asking questions for the record.

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?

Answer: Yes, within the limitations imposed by the Code of Conduct of United States Judges (which applies to me as a federal judicial nominee), the Ohio Code of Judicial Conduct (which still applies to me as a sitting Ohio appellate judge), and other applicable legal, professional, and ethical obligations.

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

Answer: 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?

Answer: I prepared an initial draft of my responses to these written questions. I asked officials at the Office of Legal Policy at the Department of Justice to review and provide comments on my initial draft responses. I considered their comments and independently finalized my 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?

Answer: I see nothing inappropriate with nominees answering your questions with the same answers if those answers are accurate and truthful.

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

Answer: Yes.

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

Answer: Some answers are exact duplicates, such as when I answer “Yes” or “No.” To the best of my knowledge, my other answers are not exact duplicates of the answers given by previous nominees.

- 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.

Answer: 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?

Answer: No.

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

Answer: I worked with many capable and ethical attorneys in private practice, but four attorneys stand out as the role models who shaped how I approach legal practice, including ethical issues. These four lawyers, who all practiced at my former law firm, Jackson Lewis P.C., taught me how to approach cases diligently and ethically; they zealously represented their clients but did not cut ethical corners, and always took care to determine and comply with their ethical obligations. I have done the same in my career and will do so if confirmed as a federal district judge.

- 6. How would you describe your judicial philosophy?

Answer: My judicial philosophy is originalism and textualism, meaning that I strive to interpret constitutional and legislative texts, respectively, based on the original public meaning of the words used in those texts. It also means that I must set aside my personal views in all cases, and decide those cases based on the facts and the law alone. I also

understand that, as a district judge, I must apply binding precedent, even if that precedent is one with which I personally disagree.

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?

Answer: As I have done as an Ohio appellate judge, if confirmed as a federal district judge, I would apply binding precedent of the United States Supreme Court and the United States Court of Appeals for the Sixth Circuit to determine whether a right is fundamental and protected under the Fourteenth Amendment.

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

Answer: Consistent with binding precedent, I would consider whether the right is expressly enumerated in the Constitution as one factor of my analysis. *See Timbs v. Indiana*, 586 U.S. 146, 149-50 (2019).

- 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?

Answer: Consistent with binding precedent, I would consider whether the right is deeply rooted in this nation's history and tradition as one factor of my analysis. *See Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215, 237-40 (2022). In conducting this analysis, I would consider any relevant source that would provide information on whether the right is deeply rooted in this nation's history and tradition. *See Obergefell v. Hodges*, 576 U.S. 644, 669 (2015) (citing Alexis de Tocqueville's *Democracy in America*).

- 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?

Answer: I would consider whether the right has previously been recognized by United States Supreme Court or Sixth Circuit precedent, as the precedents of those courts would be binding on me. I would consider the precedents of other courts of appeals as persuasive authority.

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

Answer: Yes.

- e. What other factors would you consider?

Answer: I would consider any relevant information brought to my attention by the parties.

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

Answer: I would apply relevant binding precedent, statutes, rules, and regulations in fashioning a remedy. It is not possible to answer this question more specifically than that for two reasons. First, the question is not specific in describing the violation of constitutional duty at issue or the specific circumstances, which must be considered when fashioning a remedy. Second, it would not be appropriate for me to forecast how I might structure a remedy in a particular case. See Code of Conduct of United States Judges, Canon 3(A)(6).

9. 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?

Answer: Donald J. Trump was certified as the winner of the 2016 and 2024 presidential elections by joint sessions of Congress after the counting of the Electoral College votes.

- 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?

Answer: An individual, including President Trump, may only be elected to the office of President twice, pursuant to the 22nd Amendment.

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

Answer: No.

10. 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?

Answer: The Twelfth Amendment states that the “person having the greatest number of votes for President,” as determined by a certification procedure in which the President of the Senate counts the votes of the Electoral College in the presence of both the Senate and the House of Representatives, “shall be the President.”

11. At your hearing, Senator Blumenthal asked you who won the 2020 election. You responded that “Joseph Biden was declared the winner of the 2020 election by a joint session of Congress.”

- 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)?

Answer: In advance of the hearing, I watched video recordings of past hearings to assist me in preparing answers to questions I may receive at my hearing. I also reviewed the Code of Conduct for United States Judges, the Ohio Code of Judicial Conduct, and the Twelfth Amendment, and considered how I would respond to questions such as these that have come up in past hearings.

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

Answer: No. I used the word “declare” rather than “won” because I was attempting to use a word that accurately described the relevant legal process of determining a presidential election winner. That process involves certification of Electoral College votes as described in the Twelfth Amendment.

- 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.

Answer: If I were to opine on contested political questions as a federal judicial nominee, I could potentially be subject to federal judicial disciplinary proceedings. Otherwise, I am unaware of any professional consequence I could face as a result of providing such an answer.

12. 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?

Answer: I am not aware of any law that makes it a criminal act for a judge to rule against any party in any case, including a President. As a judicial nominee, it would be inappropriate for me to opine further as the question asks me to comment on political controversies.

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

Answer: Please see my answer to Question 12(a) above.

- 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?

Answer: Yes.

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

Answer: Please see my answer to Question 12(a) above.

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

Answer: Please see my answer to Question 12(a) above.

- 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[]”?

Answer: Please see my answer to Question 12(a) above.

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

Answer: Please see my answer to Question 21(a) above.

13. 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?

Answer: If confirmed, I will consider whether to recuse myself from a case by referring to 28 U.S.C. § 455 and any other applicable canons, laws, regulations, and rules.

14. I have been proud to co-lead the bipartisan *Safer Supervision Act*, a bill to reform our federal supervised release system that has received substantial conservative and law enforcement support. The premise of the bill is that our federal supervision system has strayed far from how Congress designed it, as courts impose it mechanically in essentially every case, which means that probation officers do not have time to properly supervise those who most need it. The bill reinforces courts’ existing obligations under 18 U.S.C. §§ 3553 and 3583 to impose supervision as warranted by the individual facts of the case and encourages more robust use of early termination when warranted to provide

positive incentives encouraging rehabilitation. At the encouragement of a bipartisan group of members of Congress, the U.S. Sentencing Commission adopted an amendment to supervision guidelines implementing certain parts of the bill; this amendment went into effect on November 1.

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

Answer: Yes.

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

Answer: As a judicial nominee, it would be inappropriate for me to opine on the policy considerations behind 18 U.S.C. § 3583(e)(1).

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

Answer: Yes.

15. 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?

Answer: If confirmed and this issue were presented to me, I would apply binding precedent and any applicable laws, regulations, or rules, along with the arguments presented by the parties. I am unable to opine further as this question concerns matters of political controversy and legal matters that could come before me. *See* Code of Conduct for United States Judges, Canons 3 and 5.

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

Answer: In *Saenz v. Roe*, 526 U.S. 489 (1999), the United States Supreme Court held that “the ‘constitutional right to travel from one State to another’ is firmly embedded in our jurisprudence.” *Id.* at 498.

- 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?

Answer: If confirmed and this issue were presented to me, I would apply binding precedent and any applicable laws, regulations, or rules, along with the arguments presented by the parties. I am unable to opine further as this question concerns matters of political controversy and legal matters that could come before me. *See* Code of Conduct for United States Judges, Canons 3 and 5.

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

Answer: In a number of cases, the United States Supreme Court has held that the Constitution protects a fundamental right to privacy. *See, e.g., Griswold v. Connecticut*, 481 U.S. 479 (1965); *Eisenstadt v. Baird*, 405 U.S. 438 (1972); and *Lawrence v. Texas*, 539 U.S. 558 (2003). As a current state appellate judge, and as a federal district judge if confirmed, I am or would be required to apply these binding precedents.

- a. In a 2020 judicial candidate survey that appears to be from Cincinnati Right to Life PAC, you were asked whether you agree that: “In *Roe v. Wade*, 410 U.S. 113 (1973), the U.S. Supreme Court recognized a ‘right to privacy’ under the Constitution that includes abortion. The Constitution does not include this right.” You responded “Agree” and added, “There is no reference to a ‘right to privacy’ in the Constitution. The Supreme Court essentially admitted this when it stated that the ‘right to privacy’ was found in a ‘penumbra’ (or shadow) of the Constitution.” Do you stand by this statement?

Answer: The full sentence I wrote (in response to Question 4) was, “There is no reference to a ‘right to privacy’ in the Constitution. The Supreme Court essentially admitted this when it stated that the ‘right to privacy’ was found in a ‘penumbra’ (or shadow) of the Constitution.” In writing this, I meant that the phrase “right to privacy” does not appear in the text of the Constitution, but the United States Supreme Court has found a right to privacy nevertheless to be protected by the “penumbras” of certain constitutional provisions. *See, e.g., Griswold v. Connecticut*, 381 U.S. 479, 483 (1965). This was a purely factual point about the text of the Constitution.

Please note that I further stated in my answer to Question 9 of the 2020 Cincinnati Right to Life PAC Judicial Candidate Survey that, “...[A]s a judge I would be required to decide cases consistently with applicable precedents from higher courts.”

- b. If you do not feel you can answer Question 17(a) above due to your status as a judicial nominee, why did you feel you could make this statement while a candidate for state judicial office?

Answer: I answered Question 17(a) above.

- c. Do you agree that the right to privacy 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.

Answer: The United States Supreme Court has held that the Constitution protects a fundamental right to privacy, which includes a woman's right to use contraceptives. *See Griswold v. Connecticut*, 481 U.S. 479 (1965). As a current state appellate judge, and as a federal district judge if confirmed, I am or would be bound to apply this binding precedent.

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

Answer: If a judge is determining the meaning of a constitutional provision as a matter of first impression, then yes, the public's original understanding of the meaning of that provision should constrain the provision's application, even decades or centuries later. However, if the constitutional provision has previously been interpreted by the United States Supreme Court or a circuit court of appeals, then a district court judge is bound by that binding precedent.

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

Answer: In examining a question about the meaning of a constitutional provision as a matter of first impression, I would look to any relevant source, and in particular those types of sources that have been utilized by the United States Supreme Court or the Sixth Circuit. These could include, but would not be limited to, the Federalist Papers, dictionaries issued around the time of the constitutional provision's enactment, state constitutional convention debates, contemporaneous newspaper articles, and court decisions.

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

Answer: Immigrants, regardless of legal status, are "person[s]," and thus are entitled to due process under the Due Process Clauses of the Fifth and Fourteenth Amendments. See *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). As a current state appellate judge, and as a federal district judge if confirmed, I am or would be bound to apply this binding precedent, as well as other binding precedents on this issue.

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

Answer: If confirmed and a party refused to comply with one of my orders, I would consider the circumstances and all relevant binding laws, rules, and precedent.

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

Answer: If confirmed, I would determine whether a party was engaging in abusive litigation tactics such as those you describe by reviewing the case docket and filings, the arguments of the parties, the Federal Rules of Civil Procedure concerning discovery, and binding precedent. I am unable to opine further as this question concerns legal matters that could come before me. *See* Code of Conduct for United States Judges, Canon 3.

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

Answer: Please see my answer to Question 21 above.

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

Answer: Judges must decide cases based on the applicable law and should only consider the practical consequences of their decision in a particular matter if the applicable law requires such consideration.

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

Answer: A judge should not allow his or her personal life experience to influence the judge's decision-making process.

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

Answer: Judges should decide cases based solely on the law, not based on personal feelings or preferences, including but not limited to feelings of empathy.

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

Answer: I am proud of many cases or legal matters I have worked on in my career, so it is difficult to choose just one. If I must choose, I choose my majority opinion in *Adkins v. Middletown*, 2025-Ohio-317 (Ohio Ct. App.), which in part concerned Ohio's state law version of Title VII of the Civil Rights Act of 1964. A few months after *Adkins* was issued, the United States Supreme Court applied similar analysis to unanimously reach the same conclusion I reached, but with respect to Title VII. My court was the first and only Ohio court of appeals to reject the Sixth Circuit's standard that was reversed by the United States Supreme Court. I will note that, if confirmed as a federal district judge, I will have a duty to follow Sixth Circuit precedent. I did not have that duty as a state appellate judge in *Adkins*.

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

Answer: Yes. In fact, as a state appeals court judge, I have repeatedly encouraged lawyers to provide junior lawyers with oral argument opportunities and have noted that oral argument is always granted when requested in my court.

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

Answer: I have not yet formulated any specific steps I would take to support the skills development of junior lawyers appearing before me, but I am open to considering suggestions beyond the one described in Question 26 above.

27. Discuss your proposed hiring process for law clerks.

Answer: I have not yet formulated a hiring process for law clerks. In general, I plan to hire law clerks based on a written application, writing sample, references, and an interview.

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

Answer: As a judicial nominee, it would be inappropriate for me to opine on the policy question of whether Congress should amend Title VII of the Civil Rights Act to apply to federal judicial law clerks. However, if confirmed, I will not engage in or tolerate discrimination or harassment in my chambers.

28. 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?

Answer: I would treat all clerks and judicial assistants in my chambers with respect and dignity. I treated supervisors, co-workers, and subordinates in this manner in my legal practice and have continued to do so as a state appellate judge. Additionally, when I became a state appellate judge, I took a year to

observe the policies, practices, and procedures in our court's workplace, and to identify problems. I then began taking proactive steps to improve those issues I identified, including by advocating changes to policies and practices at my court and by having conversations with my judicial colleagues and our court administrators. I will take the same approach to the Southern District of Ohio if confirmed.

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

Answer: Please see my answer to Question 28(a). In addition, I would inform all my clerks and judicial assistant that they should feel free to approach me about any issue of concern, and that if they do not feel comfortable talking to me about the issue, they are free to approach another judge or a court administrator.

- 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?

Answer: As an attorney in private practice focusing on employment law, I trained many employees and managers on compliance with Title VII of the Civil Rights Act of 1964, and other such laws. This included harassment training. If I am confirmed and learn that a colleague or an individual in my chambers staff is acting inappropriately, I would take steps consistent with the recommendations I gave to private employers. These steps could include ensuring that a neutral investigation is conducted, separating the complaining employee from an offending employee, disciplining an offending employee, etc. Given the unique employment status of federal judges, if the allegedly offending individual were a federal judge, I would consult my colleagues and the Administrative Office of the United States Courts regarding how to address the situation. Regardless of the specific steps that may be appropriate in a particular situation, I can state in broad terms that I would act and not simply allow the issue to continue unaddressed.

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

Answer: I condemn all acts of violence and vandalism, including the acts of violence and vandalism that were committed at the U.S. Capitol on January 6, 2021, especially with regard to law enforcement officers. However, the term "insurrection" is legal in nature and applying it to a particular event has legal consequences. *See* U.S. Const. amend. XIV, § 3. Additionally, the question of whether the events at the U.S. Capitol on January 6, 2021, were an "insurrection" has become a matter of political controversy often discussed and debated by political leaders of both parties. As a judicial nominee, it is thus not appropriate for me to opine on whether those events constituted an "insurrection." *See* Code of Conduct for United States Judges, Canons 3 and 5.

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

Answer: Please see my answer to Question 29 above.

30. 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.

Answer: As a judicial nominee, it is not appropriate for me to opine on whether the pardons you reference were prudent as doing so would necessarily involve commenting on policy matters and disputed political questions. *See* Code of Conduct for United States Judges, Canons 3 and 5.

31. 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.

Answer: Please see my answer to Question 30.

32. You have a long history of anti-abortion views. In a 2020 judicial candidate survey from Ohio Right to Life PAC, you were asked, “Do you personally agree that an unborn child should not die by means of abortion throughout the entire nine months of pregnancy for any reason other than the preserve the life of the mother?” You checked “Yes” and added, “I strongly agree. However, I believe the ‘life of the mother’ should be strictly defined so as to avoid creating loopholes.” In additional comments, you wrote, “My family was always committed to the pro-life cause, and I became interested in politics in part because of my family’s interest in life issues. I have remained involved in pro-life efforts throughout my career.” After listing multiple such efforts, you concluded, “In other words, my pro-life credentials cannot be questioned.”

- a. Would you agree that these statements create at least the appearance of partiality with respect to cases involving reproductive healthcare procedures like abortion?

Answer: In general, no. Judges are not required to recuse in cases in which they have previously expressed policy preferences because previously expressed policy views do not create an appearance of partiality. *See Republican Party of Minnesota v. White*, 536 U.S. 765, 777 (2002), quoting *Laird v. Tatum*, 409 U.S.

824, 835 (1972) (memorandum opinion); *see also Disciplinary Counsel v. Grendell*, 2025-Ohio-5239, ¶ 30 (Ohio).

Future litigants can trust that I will remain unbiased on reproductive rights issues because I have long and repeatedly expressed my strongly-held view that judges must set aside their personal opinions and decide cases on the factual and legal merits. In fact, I made such comments in the judicial candidate survey you reference. I have also repeatedly stated that judges must be willing to reach decisions with which they personally disagree. I have done so in a significant number of cases during my time as a judge on Ohio's Twelfth District Court of Appeals.

This is not to say that I would never recuse myself in a case involving abortion. Such a case may exist. I will evaluate potential recusal on a case-by-case basis if confirmed.

- b. Are you currently recusing yourself from cases involving reproductive healthcare procedures, given your stated beliefs?

Answer: No, because there are no cases before me involving reproductive healthcare procedures. However, should such a case come before me in my current role as an Ohio appellate judge or as a federal district judge if confirmed, I would apply the relevant standard for recusal in considering whether to recuse.

- c. If you are confirmed, will you recuse yourself from cases involving reproductive healthcare procedures?

Answer: I strongly believe in the importance of actual impartiality and the appearance of impartiality in the judicial branch. If confirmed, I will refer to 28 U.S.C. § 455, the Code of Conduct for United States Judges, and other relevant laws, regulations, and rules governing judicial conflicts and recusal when considering potential conflict and recusal questions. However, as a judicial nominee, I may not at this time prejudge whether recusal may be merited in a particular case or circumstance.

- 33. In a 2020 primary endorsement questionnaire from the Brown County, Ohio Republican Party, you wrote, "I am a social, fiscal, national security, and constitutional conservative, and I have been a conservative since I first became interested in politics and the law in high school." In the same survey, you said, "I have stood strong for conservative values in many, many situations. I quit the American Bar Association because of its left-wing advocacy. I have publicly associated myself with the Federalist Society and many conservative organizations. As a result I have a reputation for conservatism within the legal community, and that reputation has a real professional cost—a cost I am willing to pay."

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

Answer: No, and I have never done so. I also did not state that I would do so in the Brown County Republican Party's 2020 Primary Endorsement Questionnaire. Instead, I stated, "...as a judge I would decide cases based on the requirements of the law, not based on my own policy preferences."

- b. What would you say to a litigant with liberal views that does not think he or she would receive a fair process from you, given your deeply held conservative views?

Answer: Current and future litigants know that I am and will remain unbiased on any issue that comes before me because I have for many years repeatedly expressed my strongly-held view that judges must set aside their personal opinions and decide cases based solely on the factual and legal merits before them, and that I have a duty to apply both statutes and binding precedent regardless of whether I agree with them. I have also repeatedly stated that judges must be willing to reach decisions with which they personally disagree.

I have served as a Judge on Ohio's Twelfth District Court of Appeals for more than half a decade. In that time, I have decided over 800 appeals and written around 250 majority, concurring, or dissenting opinions. My body of work demonstrates my deep commitment to the Constitution, the rule of law, and stare decisis. There are no examples in any case I have decided that would suggest that I would not uphold the Constitution and protect the rights of litigants. Instead, my body of work reveals that I consistently apply binding precedent. I will continue to do so in the future.

34. You have been deeply involved in Republican politics, including membership in multiple Republican organizations in Ohio and serving as the Vice President of the Cincinnati chapter of the Republican National Lawyers Association. You have also sought endorsements from various local Republican organizations. Canon 5 of the Code of Conduct for federal judges says that judges should refrain from all political activity. If confirmed, do you plan to discontinue any relationship you may have with these or other political organizations?

Answer: Yes, if confirmed I plan to discontinue any relationship I may have with any partisan political organization. I will comply with the Code of Conduct for United States Judges.

35. On September 10, 2025, you wrote on X in reference to Charlie Kirk that "[c]elebration of an opponent's death is pure spiritual poison. . . . If celebration of a political opponent's death becomes acceptable—and this is not the first time we've seen it in recent years—our future is bleak, bleak, bleak."

Former Special Counsel Robert Mueller was the second-longest serving Director of the Federal Bureau of Investigation, held several government positions across five decades including U.S. Attorney and U.S. Assistant Attorney General, and received a Bronze Star and a Purple Heart for his service as a U.S. Marine Corps officer during the Vietnam War. On March 21, 2026, President Trump posted on Truth Social, “Robert Mueller just died. Good, I’m glad he’s dead.” Would you agree that President Trump’s post was a “[c]elebration of an opponent’s death”?

Answer: I am unable to opine as this question concerns matters of political controversy. See Code of Conduct for United States Judges, Canons 3 and 5.

36. In your Senate Judiciary Questionnaire, you note that 0% of your practice has involved criminal proceedings.

- a. Why do you think you are qualified to serve as a federal judge overseeing a substantial criminal docket if you have little to no experience with criminal cases at the trial level?

Answer: I gained extensive experience overseeing and deciding criminal appeals in my five and a half years as a Judge on Ohio’s Twelfth District Court of Appeals. In fact, an estimated 55% of my court’s docket is criminal, which means I have participated in deciding an estimated 450-500 criminal appeals. I have been exposed to and learned about the full spectrum of legal issues arising in criminal cases, including issues arising in the indictment, discovery, pre-trial motions, jury selection, trial, sentencing, and post-conviction relief. This work has required me to review documents filed at all stages of criminal proceedings, including hundreds of criminal hearing and trial transcripts, and to assess evidence. This body of knowledge leaves me well-prepared to handle a federal criminal docket, particularly when combined with my demonstrated ability to quickly learn new areas of law and my experience litigating civil cases in federal court. To the extent issues arise in criminal cases that I have not yet confronted, I will diligently research the issue and bring myself up to speed on the current law. I am also willing to consult my judicial colleagues for advice and to participate in seminars or trainings offered to federal judges with respect to criminal matters.

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

Answer: Please see my answer to Question 36(a) above.

37. You also note in your Questionnaire that you have only tried three cases to verdict and that “[i]n one of these cases, a federal jury trial, [you were] associate counsel. In two of those cases, both state court bench trials, [you were] chief counsel.” How will you manage trials in the courtroom when you have so little experience conducting them yourself?

Answer: If confirmed, I will take my duty to conduct trials seriously. The experience I gained from the three previous civil trials you mentioned serves as a baseline. In addition, I intend to participate in trial practice trainings offered for federal judges, to consult my colleagues on the bench in advance of trials, and to diligently prepare for trials. I have no concerns about my ability to do so.

Questions for the Record for Judge Matthew Byrne
Submitted by Senator Richard Blumenthal
July 1, 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?

Answer: I strongly believe in the importance of actual impartiality and the appearance of impartiality in the judicial branch. If confirmed, I will refer to 28 U.S.C. § 455, the Code of Conduct for United States Judges, and other relevant laws, regulations, and rules governing judicial conflicts and recusal when considering potential conflict and recusal questions. However, as a judicial nominee, I may not at this time prejudge whether recusal may be merited in a particular case or circumstance.

- 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?

Answer: Please see my answer to Question 1 above.

- 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?

Answer: Please see my answer to Question 1 above.

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

Answer: Please see my answer to Question 1 above.

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

Answer: If confirmed, I will comply with all applicable rules governing judicial conduct.

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

Answer: Please see my answer to Question 2 above.

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

Answer: Please see my answer to Question 2 above.

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

Answer: Please see my answer to Question 2 above.

- 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?

Answer: Yes.

- a. 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?

Answer: If confirmed, I will comply with all applicable rules governing judicial conduct, including those regarding gifts.

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

Answer: If confirmed, I will comply with all applicable rules governing judicial conduct, including those regarding privately funded travel, hospitality, or entertainment.

- c. 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?

Answer: If confirmed, I will comply with all applicable rules governing judicial conduct, including those regarding teaching, speaking, or writing activities.

- 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[?]”

Answer: As a judicial nominee, I should not opine as to the wisdom of the legislation referred to in your question. *See* Code of Conduct for United States Judges, Canons 3 and 5. However, the United States Supreme Court stated, in *Ex parte Robinson*, 86 U.S. 505, 510 (1873), that the contempt power is “essential . . . to the due administration of justice.” If confirmed, I will apply United States Supreme Court precedents, including regarding the contempt power.

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

Answer: As a judicial nominee, I am not permitted to opine as to the wisdom of proposed legislative changes to the contempt power. *See* Code of Conduct for United States Judges, Canons 3 and 5.

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

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

Answer: Yes.

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

Answer: Yes.

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

Answer: Judges have multiple tools at their disposal regarding the enforcement of court orders. Those tools include, but are not limited to, the ability to conduct contempt proceedings and impose sanctions.

- 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?

Answer: I have not studied this issue. However, in general, I understand that executive branch officials are bound by court orders when they are a party to the case, unless the order is stayed, reversed, or vacated on appeal. As a judicial nominee, I am not permitted to opine further as a matter involving an executive branch official’s decision not to follow a court order could come before me. *See* Code of Conduct for United States Judges, Canons 3 and 5.

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

Answer: Please see my answer to Question 5(b) above.

- d. What would make a court order unlawful?

Answer: It is difficult to provide a comprehensive answer to this question, however, in general, court orders are unlawful if the court that issued the order lacked jurisdiction to do so or if the court committed a reversible error in rendering judgment.

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

Answer: Speaking generally, a party who believes a court order is unlawful may seek reconsideration, a stay, or appellate review.

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

Answer: Such circumstances are very narrow and rare. For example, see *Mohawk Indus., Inc. v. Carpenter*, 588 U.S. 100 (2009), where the U.S. Supreme Court acknowledged that a “long recognized option” for appealing interlocutory disclosure orders is to intentionally defy the order, “incur court-imposed sanctions,” and then appeal the sanctions award.

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

Answer: No.

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

Answer: No.

7. Throughout your career, you have made no secret of your views about reproductive rights.

In 2023, the Ohio Supreme Court heard arguments in a challenge to the state’s six-week abortion ban. Before the decision was issued, Ohio’s voters approved an amendment to the state constitution that guaranteed a right to abortion. Five justices voted to dismiss the case due to the change in law, but you, serving as a visiting justice, dissented.

In a series of judicial candidate surveys you completed while running for judge in 2020, you repeatedly laid out your anti-abortion views. In one survey, you opposed abortion—with no exceptions for rape or incest—for any reason other than to protect the life of the

mother and wrote “I believe the ‘life of the mother’ should be strictly defined so as to avoid creating loopholes.”

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

Answer: I respectfully disagree with your characterization of *Preterm Cleveland v. Yost*. No justice voted to dismiss the case. Instead, five justices voted to dismiss the appeal “due to a change in the law,” and one justice voted to dismiss the appeal as improvidently granted. As a result of those six justices’ votes, the case was remanded to the Hamilton County Court of Common Pleas for further proceedings. My understanding is that the case is still actively being litigated before the Hamilton County Court of Common Pleas. I voted to proceed with deciding the issues that were before the Ohio Supreme Court on appeal. Those issues were procedural in nature, specifically, the appealability of a preliminary injunction and standing. Even if the court had proceeded to consider those issues, any decision would not have reached the merits regarding abortion or the Heartbeat Act.

Next, future litigants can trust that I will remain unbiased on reproductive rights issues because I have long and repeatedly expressed my strongly-held view that judges must set aside their personal opinions and decide cases on the factual and legal merits. In fact, I made such comments in all of the judicial candidate surveys you reference. I have also repeatedly stated that judges must be willing to reach decisions with which they personally disagree. I have done so in a significant number of cases during my time as a judge on Ohio’s Twelfth District Court of Appeals.

I have served as a Judge on Ohio’s Twelfth District Court of Appeals for more than half a decade. In that time, I have decided over 800 appeals and written around 250 majority, concurring, or dissenting opinions. My body of work demonstrates my deep commitment to the Constitution, the rule of law, and stare decisis. There are no examples in any case I have decided that would suggest that I would not uphold the Constitution and protect the rights of litigants. Instead, my body of work reveals that I consistently apply binding precedent. I will continue to do so in the future.

8. In a 2020 judicial candidate survey, you wrote “I agree” in response to the statement “The judiciary does not possess the authority to expand the definition of marriage to include anything but one man and one woman.” This was nearly five years after the Supreme Court recognized the right to same-sex marriage in *Obergefell v. Hodges*.

- a. Do you believe *Obergefell* was correctly decided?

Answer: *Obergefell* is binding precedent of the United States Supreme Court. As a current state court judge, and as a federal district judge if confirmed, I have applied and will apply all binding precedents. As to whether *Obergefell* was correctly decided, as many prior federal judicial nominees have stated, it would

not be appropriate for me to comment on or “grade” the merits of a U.S. Supreme Court decision.

- b. If confirmed, how can litigants in same-sex marriages expect you to remain unbiased?

Answer: Litigants in same-sex marriages, and all litigants, will receive equal treatment in my courtroom. Throughout my career as a practicing attorney and as a judge, I have treated everyone equally and with dignity and respect. As a current state court judge, and if confirmed as a federal district judge, I have decided and will decide cases fairly and impartially, setting aside my personal moral and religious views in all cases. In my five and a half years on the Ohio appellate bench, no individual in a same-sex marriage has raised any concerns about me being biased. I can be trusted to remain unbiased because I believe strongly in the principal of impartiality and that is how I have already acted on the bench.

**Senator Mazie K. Hirono
Senate Judiciary Committee**

**Nomination Hearing
Questions for the Record for Matthew Byrne**

1. In 2023, you served as a visiting justice in an Ohio Supreme Court case concerning Ohio’s Heartbeat Act. This was despite your previous involvement helping organize testimony in support of the same legislation. During your nomination hearing, you stated, “the statement to me arranging for testimony was not something I was actively involved in, I believe someone asked me about how to testify and I told them how they could do so, I did not think that was a reason that would merit my recusal in the case.”

- a. Does the quote included above accurately represent your sworn testimony?**

Answer: Yes.

- b. How many people approached you on how to testify in support of the Heartbeat Act?**

Answer: To the best of my recollection, one.

- c. Who approached you on how to testify in support of the Heartbeat Act?**

Answer: The referenced conversation about testimony was so informal and brief that I have little recollection of the details. I am uncertain whom I discussed the matter with.

- d. What was your professional or personal relationship with this individual or these individuals at the time?**

Answer: Please see my response to Question 1(c) above.

- e. Did you have any past or existing relationship or experiences with the Ohio legislature that would make you qualified to advise on how to testify? If so, explain.**

Answer: During law school, I participated in the Legislation Clinic and worked as an extern in the office of an Ohio state senator. However, there are no qualifications necessary to advise on how to testify before the Ohio General Assembly. The Ohio General Assembly’s committees frequently hear testimony on legislation by members of the public interested in that legislation. Generally, members of the public may show up at the committee meeting on the day of the committee hearing and sign up to speak, though some committee chairs enforce rules that require the submission of testimony 24 hours before a hearing begins.

- f. If not, is it your testimony that your only involvement with any testimony regarding the Heartbeat Act was answering a single, unsolicited question about the logistics of how to testify?**

Answer: To the best of my recollection, my only involvement with any testimony on the Heartbeat Bill was as I described in my June 24, 2026 testimony and above.

- g. Are you familiar with Rule 2.11 of the Ohio Code of Judicial Conduct?**

Answer: Yes.

- h. Did you write down your analysis, or create any internal memorandum documenting your reasoning not to recuse from the Ohio Supreme Court case on the Heartbeat Act?**

Answer: No. Judges of my court do not write down any analysis or create any internal memoranda regarding their reasoning for either recusing or not recusing from a particular case. I applied the same practice when serving as a visiting justice on the Ohio Supreme Court.

- i. Explain your reasoning for not recusing from the Ohio Supreme Court case on the Heartbeat Act.**

Answer: I considered whether to recuse in *Preterm-Cleveland v. Yost*, Ohio Supreme Court Case No. 2023-0004, as I do with any case filed in my court or to which I am assigned. I considered Rule 2.11 of the Ohio Code of Judicial Conduct, which concerns judicial “disqualification” (more commonly referred to as “recusal”). I concluded none of the bases for recusal stated in Rule 2.11 applied.

To the extent one would now argue that my impartiality might reasonably be questioned because I expressed pro-life views in the past, this argument fails. Judges are not required to recuse in cases in which they have previously expressed policy preferences because previously expressed policy views do not create an appearance of partiality. *See Republican Party of Minnesota v. White*, 536 U.S. 765, 777 (2002), *quoting Laird v. Tatum*, 409 U.S. 824, 835 (1972) (memorandum opinion); *see also Disciplinary Counsel v. Grendell*, 2025-Ohio-5239, ¶ 30 (Ohio).

Given the applicable Ohio recusal standard, I was not required to recuse in *Preterm-Cleveland v. Yost*. No party to the case objected or sought my recusal or disqualification.

- 2. While serving as a District Court Judge, you responded to a Judicial Candidate Survey in January 2020. In response to a question stating “The judiciary does not possess the**

authority to expand the definition of marriage to include anything but one man and one woman,” you selected “Agree” and added “I agree. That being said, as a judge I would be required to decide cases consistently with applicable precedents from higher courts.” **Is this summary of the facts correct? If not, please explain.**

Answer: You accurately quote my response to Question 9 of the 2020 Cincinnati Right to Life PAC Judicial Candidate Survey.

- a. Are you aware of the Supreme Court’s ruling in *Obergefell v. Hodges*, which legalized same-sex marriage?**

Answer: Yes.

- b. You responded to this survey five-years after *Obergefell v. Hodges* was decided, correct?**

Answer: Yes.

- c. Did the Supreme Court have the authority to issue *Obergefell*?**

Answer: Yes. If confirmed, I will follow all binding U.S. Supreme Court and Sixth Circuit precedent including *Obergefell*.

- d. Was *Obergefell* correctly decided? If your answer is anything other than “yes,” please explain.**

Answer: *Obergefell* is binding precedent of the United States Supreme Court. As a current state court judge, and as a federal district judge if confirmed, I have and will apply all binding precedents. As to whether *Obergefell* was correctly decided, as a federal judicial nominee it would not be appropriate for me to grade United States Supreme Court decisions. *See* Code of Conduct of United States judges, Canons 3 and 5.

- e. If your answer to subpart d is to the effect that you are precluded from commenting on political issues, live controversies, or issues that may come before you as a judge, please explain why you were able to comment on the January 2020 survey but are not permitted to do so here.**

Answer: My response to the January 2020 survey was as a private citizen and a candidate for judicial office. Additionally, note that the rules applicable to Ohio judges and judicial candidates are different from the rules applicable to federal judges and nominees. For example, Ohio judges and judicial candidates are permitted to endorse candidates for political office, speak at political gatherings, testify before the General Assembly to offer their personal opinions on policy matters, and more, while federal judges and judicial nominees are not permitted to do these things. Thus, as a recent federal judicial nominee, I am now subject to

(federal) rules that are different from the (Ohio) rules that were applicable when I responded to the 2020 candidate survey.

3. At your nomination hearing, you refused to acknowledge that Joe Biden won the 2020 presidential election.

a. Who won the 2020 presidential election?

Answer: In her answers to questions for the record filed after her confirmation hearing, Justice Ketanji Brown Jackson stated, when asked about commenting on the results of the 2016 and 2020 elections:

Consistent with the Code of Conduct for United States Judges and the positions taken by prior nominees, as a pending judicial nominee and a sitting federal judge, it would be inappropriate for me to publicly weigh in [on] any subject of political debate.

See Ketanji Brown Jackson, Nominee to be Associate Justice of the Supreme Court of the United States at 136-37, <https://perma.cc/77Z7-H69H>. Questions involving who won the popular vote in the 2020 election have become matters of political controversy often discussed and debated by political leaders of both parties, and are also related to ongoing litigation. Consistent with the precedent established by Justice Jackson, as a judicial nominee it would therefore be inappropriate for me to comment on those disputed political and legal questions. I must comply with the ethical limitations to which I am subject. However, I can state that Joseph R. Biden was certified as the winner of the 2020 presidential election by a joint session of Congress after the counting of the Electoral College votes.

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

Answer: Please see my answer to Question 3(a) above.

Nomination of Matthew Richard Byrne
United States District Court for the Southern District of Ohio
Questions for the Record
Submitted July 1, 2026

QUESTIONS FROM SENATOR BOOKER

1. In March 2026, you authored the majority opinion in *In re S.B.*, in which you affirmed a juvenile court’s grant of permanent custody of a teenaged minor, “Sara,” to a county children services agency.¹ In the footnotes, you referenced that—despite “Sara’s” gender identity and preferred pronouns—you would refer to “Sara” “accurately, as a female.”²

Previously, at a May 2021 Federalist Society event,³ you referred to “debates over transgenderism,” which GLAAD has defined as an anti-LGBTQ hate term.⁴

- a. If a married woman wishes not to be addressed by her husband’s surname, would you respect her wishes?

Answer: Yes.

- b. If a party recently changed their surname to their adoptive family’s, would anything prevent you from addressing them by their new surname?

Answer: No.

- c. If a party or counsel in your court identifies as transgender or nonbinary and has preferred pronouns, would you have a problem addressing them using their preferred pronouns?

Answer: As a person and as a judge, I treat all people with dignity and respect. I will continue to do so if confirmed as a federal district judge. In *In re S.B.*, the child had changed preferred pronouns and gender identity on multiple occasions, and it was not clear in the record which pronouns the child preferred. Should a case come before me in which a party or counsel identifies as transgender or nonbinary and has preferred pronouns, I will act in accord with applicable judicial ethics canons and binding precedent. I may also consult my judicial colleagues as to how they have addressed this issue.

- d. Will you treat LGBTQ parties and counsel in your courtroom fairly and impartially?

¹ *In re S.B.*, Nos. 2025-10-040, 2025-10-041 (12th App. Dist. 2026), available at <https://www.supremecourt.ohio.gov/rod/docs/pdf/12/2026/2026-Ohio-947.pdf>.

² *Id.* at 4 n.3.

³ *Interpreting State Constitutions [2021 Ohio Chapters Conference]*, FEDERALIST SOC’Y (May 7, 2021), <https://www.youtube.com/watch?v=RqPcVgiQGDc>, at 2:09.

⁴ *Online Anti-LGBTQ Hate Terms Defined: “Transgenderism”*, GLAAD, <https://glaad.org/transgenderism-definition-meaning-anti-lgbt-online-hate/>.

Answer: Yes.

2. In a January 2020 response to a judicial candidate survey from Cincinnati Right to Life, you wrote “I agree.” in response to the statement “The judiciary does not possess the authority to expand the definition of marriage to include anything but one man and one woman.”⁵ Your response came five years after the U.S. Supreme Court recognized the constitutional right to same-sex marriage in *Obergefell v. Hodges*, 576 U.S. 644 (2015).

- a. Is *Obergefell* binding precedent? Describe the facts and holding of this case.

Answer: Yes, *Obergefell v. Hodges* is binding precedent of the United States Supreme Court. As a current state court judge, and as a federal district judge if confirmed, I have and will apply all binding precedents.

In *Obergefell*, the United States Supreme Court held that “The Fourteenth Amendment requires a State to license a marriage between two people of the same sex and to recognize a marriage between two people of the same sex when their marriage was lawfully licensed and performed out-of-state.” *Obergefell v. Hodges*, 576 U.S. 644, syllabus (2015).

- b. Is it still your view that “[t]he judiciary does not possess the authority to expand the definition of marriage to include anything but one man and one woman”?

Answer: My response to a 2020 judicial candidate survey was made in my capacity as a private citizen and a candidate for office. I was not providing legal analysis. In recognition of the different roles of a candidate and a judge, the very next sentence that I wrote was, “That being said, as a judge I would be required to decide cases consistently with applicable precedents from higher courts.” If confirmed, I would follow all binding U.S. Supreme Court and Sixth Circuit precedent, including precedent on the definition of marriage.

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

Answer: No.

4. 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.

⁵ Attachments to Senate Judiciary Questionnaire.

Answer: If confirmed, I will refer to 28 U.S.C. § 455, the Code of Conduct for United States Judges, and other relevant laws, regulations, and rules governing judicial conflicts and recusal when considering potential conflict and recusal questions.

5. 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?

Answer: If confirmed, I will not entertain requests by any person outside of the normal legal process to decide a matter in a way that would benefit that person personally, financially, or politically. If anyone made such a request outside of the normal legal process, I would consult the Code of Conduct for United States Judges and other applicable laws, as well as judicial colleagues, to determine how to handle such a communication.

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

Answer: See my answer to Question 5 above.

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

Answer: As a federal judicial nominee it would not be appropriate for me to offer personal views on the adequacy of existing recusal and conduct rules, as this is a matter of political controversy. It would also be inappropriate to comment because this issue could come before me as a judge. *See* Code of Conduct for United States Judges, Canons 3 and 5.

6. 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?

Answer: As a federal judicial nominee, it would not be appropriate for me to offer personal views on this issue as it is a matter of political controversy. It would also be inappropriate to comment because this issue could come before me as a judge. *See* Code of Conduct for United States Judges, Canons 3 and 5.

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

Answer: See my answer to Question 6(a) above.

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

Answer: See my answer to Question 6(a) above.

- 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?

Answer: I am not aware of any such ethical obligations. However, if confirmed, I will comply with all applicable rules governing judicial conduct.

7. 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?

Answer: I assume there are procedures or practices in place to deal with the situation you describe if it arose, and I defer to the Committee on how it would address such a circumstance. As a federal judicial nominee, it would not be appropriate for me to offer personal views on this hypothetical political and legal dispute. *See* Code of Conduct for United States Judges, Canons 3 and 5.

8. 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?

Answer: Please see my answer to Question 7.

9. How would you characterize your judicial philosophy?

Answer: My judicial philosophy is originalism and textualism, meaning that I strive to interpret constitutional and legislative texts, respectively, based on the original public meaning of the words used in those texts. It also means that I must set aside my personal views in all cases, and decide those cases based on the facts and the law alone. I also understand that, as a district judge, I must apply binding precedent, even if that precedent is one with which I personally disagree.

10. What do you understand originalism to mean?

Answer: Please see my answer to Question 9 above.

11. Do you consider yourself an originalist?

Answer: Please see my answer to Question 9 above.

12. What do you understand textualism to mean?

Answer: Please see my answer to Question 9 above.

13. Do you consider yourself a textualist?

Answer: Please see my answer to Question 9 above.

14. 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?

Answer: Statements made by individual legislators are not law, however, the Sixth Circuit held that in certain cases legislative history may provide evidence of the original public meaning of a word's meaning when it was adopted. See *United States v. Wilkes*, 78 F.4th 272, 283 (6th Cir. 2023). If confirmed as a district court judge, I would be bound by U.S. Supreme Court and Sixth Circuit precedent.

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

Answer: As an Ohio appellate judge, I am bound by Ohio Supreme Court precedent stating that a court's "duty in construing a statute is to determine and give effect to the intent of the General Assembly as expressed in the language it enacted." *State ex rel. Moore v. Fornshell*, 2025-Ohio-65, ¶ 14 (Ohio Ct. App.), quoting *Pelletier v. Campbell*, 2018-Ohio-2121, ¶ 14 (Ohio). However, this is done by looking to "the words used in the statute." *State ex rel. Moore* at ¶ 14, citing *Caldwell v. Whirlpool Corp.*, 2024-Ohio-1625, ¶ 13 (Ohio). If confirmed as a district court judge, I would be bound by U.S. Supreme Court and Sixth Circuit precedent.

15. 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.⁶

- a. What do you attribute this to?

Answer: I am not familiar with the referenced academic study, so I cannot comment on it, other than to say that discrimination based on race in the legal system is unacceptable. As a federal judicial nominee it would not be appropriate for me to opine further on this issue as it is a matter of political controversy and policy. See Code of Conduct for United States Judges, Canons 3 and 5.

16. 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.⁷

⁶ Sonja B. Starr & M. Marit Rehaavi, *Racial Disparity in Federal Criminal Sentences*, 122 J. POL. ECON. 1320, 1323 (2014).

⁷ 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.

- a. What do you attribute this to?

Answer: Please see my answer to Question 15(a).

17. 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?

Answer: Federal judges should apply the law fairly to all, without regard to race. If a defendant in a criminal case raises a concern about racial discrimination in their case, the judge should adjudicate that claim in accord with applicable law.

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

Answer: No one should face discrimination based on race, sex, or similar immutable characteristics in seeking to serve in the federal judiciary.

19. 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
- 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

Answer: To the best of my knowledge, I previously provided all responsive information in my Senate Judiciary Questionnaire or the supplements thereto.

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

Answer: I have not studied this issue. However, in general, I understand that executive branch officials are bound by court orders when they are a party to the case, unless the order is stayed, reversed, or vacated on appeal. Exceptions to this general principle are very narrow and rare. For example, see *Mohawk Indus., Inc. v. Carpenter*, 588 U.S. 100 (2009). As a judicial nominee, I am not permitted to opine further as a matter involving an executive branch official's decision not to follow a court order could come before me. See Code of Conduct for United States Judges, Canons 3 and 5.

- 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?

Answer: If an executive branch official ignored or defied a federal court order, I would conduct the same legal analysis I would employ to determine whether any other person who defied a court order should be held in contempt; specifically, I would consider the circumstances and consult all relevant binding laws, rules, and precedents.

- 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.

Answer: See my answer to Question 20 above.

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

Answer: The President has the constitutional authority to veto legislation passed by Congress. U.S. Const. art. I, § 7, cl. 2. Also, under Article II, § 3 of the United States Constitution, the president is required to "take Care that the Laws be faithfully executed." As a judicial nominee, I am not permitted to opine further as disputes about presidential power could come before me or are currently being litigated in court. See Code of Conduct for United States Judges, Canons 3 and 5.

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

Answer: As a judicial nominee, I am not permitted to opine on matters of political controversy, that are the subject of current litigation, or that could come before me. See Code of Conduct for United States Judges, Canons 3 and 5.

23. 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?

Answer: As a judicial nominee, I am not permitted to opine on matters of political controversy, that are pending in court, or that could come before me. *See* Code of Conduct for United States Judges, Canons 3 and 5.

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

Answer: The Supremacy Clause of the U.S. Constitution says that the Constitution, federal laws, and treaties “shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.” U.S. Const. Art. VI, § 2. If confirmed, I will faithfully apply the Constitution and all binding precedents.

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

Answer: Whether the U.S. Constitution applies to non-citizens present in the United States depends on the context. For example, the United States Supreme Court has held that the Fifth Amendment’s due process protections apply to all “persons” in the United States, including non-citizens. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). However, other provisions, such as the right to vote after the age of 18 guaranteed by the Twenty Sixth Amendment, only apply to citizens. U.S. Const. Amend. XXVI, § 1. If confirmed and presented with the question of whether the U.S. Constitution applies to non-citizens present in the United States, I will apply the text of the U.S. Constitution and all binding precedent.

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

Answer: Binding United States Supreme Court precedent establishes that Congress may not delegate the power to legislate, but may delegate the ability to make administrative rules implementing legislation, within certain parameters. *Whitman v. Am. Trucking Ass’n*, 531 U.S. 457, 472 (2001). If I am confirmed, I will apply all binding precedent.

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

Answer: In most cases, it is inappropriate for a federal judicial nominee to opine on the merits of United States Supreme Court opinions. However, there is an established practice of nominees offering their views on two opinions, one of which is *Brown v. Board of Education*. Given that precedent, I am permitted to answer this question, and state that, yes, I believe that *Brown v. Board of Education* was correctly decided.

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

Answer: Yes, *Griswold v. Connecticut* is binding precedent. In *Griswold*, the United States Supreme Court held that there is an individual right to use contraceptives protected by the

Equal Protection Clause of the Fourteenth Amendment. As a current state court judge, and as a federal district judge if confirmed, I have and will apply all binding precedents.

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

Answer: Yes, *Lawrence v. Texas* is binding precedent. In *Lawrence*, the United States Supreme Court held that laws prohibiting same-sex sexual acts are unconstitutional under the Fourteenth Amendment. As a current state court judge, and as a federal district judge if confirmed, I have and will apply all binding precedents.

30. 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.

Answer: In her answers to questions for the record filed after her confirmation hearing, Justice Ketanji Brown Jackson stated, when asked about commenting on the results of the 2016 and 2020 elections:

Consistent with the Code of Conduct for United States Judges and the positions taken by prior nominees, as a pending judicial nominee and a sitting federal judge, it would be inappropriate for me to publicly weigh in [on] any subject of political debate.

See Ketanji Brown Jackson, Nominee to be Associate Justice of the Supreme Court of the United States at 136-37, <https://perma.cc/77Z7-H69H>. Questions involving who won the popular vote in the 2020 election have become matters of political controversy often discussed and debated by political leaders of both parties, and are also related to ongoing litigation. Consistent with the precedent established by Justice Jackson, as a judicial nominee it would be inappropriate for me to comment on those disputed political and legal questions. However, I can state that Joseph R. Biden was certified as the winner of the 2020 presidential election by a joint session of Congress after the counting of the Electoral College votes.

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

Answer: Please see my answer to Question 30 above.

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

Answer: Please see my answer to Question 30 above.

31. The 22nd Amendment says that “no person shall be elected to the office of the President more than twice.”⁸

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

Answer: Yes.

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

Answer: Donald J. Trump was certified as the winner of the 2016 presidential election by a joint session of Congress after the counting of the Electoral College votes.

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

Answer: Please see my answer to Question 31(b) above.

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

Answer: Donald J. Trump was certified as the winner of the 2024 presidential election by a joint session of Congress after the counting of the Electoral College votes.

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

Answer: Please see my answer to Question 31(d) above.

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

Answer: Yes.

32. 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?

Answer: Department of Justice officials provided me with samples of how past nominees have answered Questions for the Record. However, I independently determined how I would answer all questions, including questions asking whether past Supreme Court decisions were correctly decided.

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

⁸ U.S. CONST. amend. XXII.

Answer: No.

34. 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.

Answer: To the best of my knowledge, no.

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

Answer: No.

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

Answer: No.

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

Answer: No.

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

Answer: No.

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

Answer: In late 2025 and early 2026, I drafted multiple letters of recommendation for a law student who worked for my court, Ohio's Twelfth District Court of Appeals, as an extern in the fall of 2025. The letters recommended the law student for state and federal clerkship opportunities. One of those letters was addressed to Judge Bove. However, I have never communicated with Judge Bove personally.

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

Answer: No.

41. 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.

Answer: No.

42. Have you ever spoken or corresponded with any of the following individuals? If yes, provide the dates, mode, and content of those discussions and communications.
- a. Enrique Tarrio
 - b. Stewart Rhodes
 - c. Kelly Meggs
 - d. Kenneth Harrelson
 - e. Thomas Caldwell
 - f. Jessica Watkins
 - g. Roberto Minuta
 - h. Edward Vallejo
 - i. David Moerschel
 - j. Joseph Hackett
 - k. Ethan Nordean
 - l. Joseph Biggs
 - m. Zachary Rehl
 - n. Dominic Pezzola
 - o. Jeremy Bertino
 - p. Julian Khater

Answer: No as to all persons listed in Question 42.

43. 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.

Answer: To the best of my knowledge, no.

44. 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?

Answer: Yes.

45. 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.”⁹

- a. Do you agree with the above statement?

⁹ <https://www.article3project.org/about>

Answer: As a federal judicial nominee, it would be inappropriate for me to opine on public comments by other people, especially comments that involve matters of political controversy. *See* Code of Conduct of United States judges, Canon 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.

Answer: To the best of my knowledge, no.

46. 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)?

Answer: I asked Department of Justice officials in the Office of Legal Policy questions about the criteria that the Senate asked nominees to apply in choosing the cases to list in their SJQ. I was told that it was my choice which cases to list.

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

Answer: See my answer to Question 46 above.

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

Answer: No.

47. 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.

Answer: I prepared an initial draft of my responses to these written questions. In doing so, I consulted my SJQ, my personal and business records, case law, the text of the United States Constitution and statutes, applicable codes of judicial conduct, and responses to similar Questions for the Record responses submitted by past judicial nominees. I asked officials at the Office of Legal Policy at the Department of Justice to review and provide comments on my initial draft responses. I considered their comments and independently finalized my answers.

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

June 24, 2026

Questions for Matthew Richard Byrne (Nominee to the U.S. District Court for the Southern District of Ohio):

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?

Answer: In her answers to questions for the record filed after her confirmation hearing, Justice Ketanji Brown Jackson stated, when asked about commenting on the results of the 2016 and 2020 elections:

Consistent with the Code of Conduct for United States Judges and the positions taken by prior nominees, as a pending judicial nominee and a sitting federal judge, it would be inappropriate for me to publicly weigh in [on] any subject of political debate.

See Ketanji Brown Jackson, Nominee to be Associate Justice of the Supreme Court of the United States at 136-37, <https://perma.cc/77Z7-H69H>. Questions involving who won the popular vote in the 2020 election have become matters of political controversy often discussed and debated by political leaders of both parties, and are also related to ongoing litigation. Consistent with the precedent established by Justice Jackson, as a judicial nominee it would therefore be inappropriate for me to comment on those disputed political and legal questions. Moreover, even if I were permitted to answer this Question 1(a), I do not have firsthand knowledge of the election results in any particular state.

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

Answer: Please see my answer to Question 1(a) above.

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

Answer: Please see my answer to Question 1(a) above.

- d. According to Arizona's certified 2020 General Election results, did Joe Biden receive more than 10,000 votes more than Donald Trump?

Answer: Please see my answer to Question 1(a) above.

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

Answer: Please see my answer to Question 1(a) above.

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

Answer: Please see my answer to Question 1(a) above.

- g. Setting aside the precise vote totals, do you accept that, according to each state's certified results, Joe Biden received more votes than Donald Trump in Wisconsin, Pennsylvania, Georgia, Arizona, Nevada, and Michigan in the 2020 General Election?

Answer: Please see my answer to Question 1(a) above.

- h. 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.

Answer: Please see my answer to Question 1(a) above.

- 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?

Answer: Joseph R. Biden was certified as the winner of the 2020 presidential election by a joint session of Congress after the counting of the Electoral College votes. Beyond that, please see my answer to Question 1(a) above.

- 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.

Answer: Please see my answer to Question 1(a) above.

- 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?

Answer: Please see my answer to Question 1(a) above.

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?

Answer: Please see my answer to Question 1(a) above.

- 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?

Answer: Please see my answer to Question 1(a) above.

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.

Answer: No.

7. To the extent you would decline to answer any election-related question on the ground that the 2020 result is a "subject of political debate," please identify what you believe remains genuinely debatable about whether Joe Biden received more votes than Donald Trump in the states at issue, given that those results were certified by the responsible state officials and upheld in more than sixty state and federal proceedings.

Answer: Please see my answer to Question 1(a) above.

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

Answer: In a number of cases, the United States Supreme Court has held that the Constitution protects a fundamental right to privacy. *See, e.g., Griswold v. Connecticut*, 481 U.S. 479 (1965); *Eisenstadt v. Baird*, 405 U.S. 438 (1972); and *Lawrence v. Texas*, 539 U.S. 558 (2003). As a current state appellate judge, and as a federal district judge if confirmed, I am or would be bound to apply these binding precedents.

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

Answer: *Griswold v. Connecticut* is binding precedent of the United States Supreme Court. As a current state court judge, and as a federal district judge if confirmed, I have and will apply all binding precedents. As to whether *Griswold* was correctly decided, as a federal judicial nominee it would not be appropriate for me to grade the merits of United States Supreme Court decisions.

9. 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?

Answer: While I never met him in person, Justice Antonin Scalia is the judge who was most foundational to my judicial philosophy. I read his book *A Matter of Interpretation* at a young age and in law school was influenced by the clarity of his writing and reasoning. I was also inspired by Justice Scalia’s heartfelt commitment to the Constitution and the system of separation of powers it enshrines, alongside his appreciation for stare decisis. Finally, I appreciated that Justice Scalia consistently communicated that life is about more than work, as illustrated by his deep commitment to his family.

10. 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.

Answer: The United States Supreme Court has held that individuals have the right to use contraceptives under the United States Constitution. *See Griswold v. Connecticut*, 381 U.S. 479, 485-86 (1965). While the United States Supreme Court has held that the United States Constitution does not guarantee a federal abortion right, *see Dobbs v. Jackson Women’s Health Org.*, 597 U.S. 215 (2022), some states legally guarantee abortion or reproductive rights. If confirmed, I will faithfully apply all binding precedent.

11. 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.

Answer: No one should face discrimination based on race, sex, or similar immutable characteristics in seeking to serve in the federal judiciary.

- 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?

Answer: Yes.

- 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?

Answer: Yes.

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

Answer: I have not yet developed the particular hiring procedures that I will follow if confirmed, but I strongly hold the views expressed in my answer to Question 11(a) above and will develop procedures accordingly.

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

- a. What does the 22nd Amendment state?

Answer: The 22nd Amendment is best summarized by the first part of its first sentence: “No person shall be elected to the office of the President more than twice . . .”

- 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?

Answer: No.

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

Answer: Donald J. Trump was certified as the winner of the 2016 and 2024 presidential elections by joint sessions of Congress after the counting of the Electoral College votes.

- 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?

Answer: 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?

Answer: If confirmed, I will resolve all cases without regard to the political standing of any individuals involved in the case and without regard to any

political consequences of my decision.

13. 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?

Answer: If confirmed, I will treat all litigants and counsel with respect and dignity.

14. 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.

Answer: The United States Supreme Court held in *Zadvydas v. Davis*, 533 U.S. 678 (2001), that “the Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” If confirmed, I will faithfully apply all binding precedent.

15. 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?

Answer: Yes.

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

Answer: Judges have multiple tools at their disposal regarding the enforcement of court orders. Those tools include, but are not limited to, the ability to conduct contempt proceedings and impose sanctions.

17. 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 over the past 10 years, 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:

- a. the platform or service;
- b. the username, handle, screen name, and any display name associated with the account;

- c. the approximate dates the account was active;
- d. whether the account was maintained in your own name, under a pseudonym, or anonymously; and
- e. the account's current status (active, deactivated, deleted, or set to private).

Answer: All responsive accounts used for work or campaign-purposes were disclosed in my Senate Judiciary Questionnaire.

18. 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.

Answer: My consideration for nomination began in October 2025—approaching one year ago. During that time I used both my private and non-private social media accounts. My usage may have included some of the actions described in your questions, but I do not have records of any specific such actions. I am confident that since the President announced his intention to nominate me, I have not deleted any content on my social media accounts or changed any settings.

19. Nearly five years after the Supreme Court decided *Obergefell v. Hodges*, you were asked in a January 2020 survey to respond to the statement: “The judiciary does not possess the authority to expand the definition of marriage to include anything but one man and one woman.” You answered, “I agree.”

- a. Do you still hold this view?

Answer: My comments on the January 2020 survey was made in my capacity as a private citizen and a candidate for judicial office. If confirmed to the district court, I understand that *Obergefell v. Hodges* is binding precedent of the United States Supreme Court and that I would be bound to follow it.

- b. Same-sex couples and their families will appear in your courtroom. If confirmed, can a same-sex couple before you be confident they will receive equal treatment from you?

Answer: Yes. Same-sex couples, and all litigants, will receive equal treatment in my courtroom.

20. In a January 2020 survey, you wrote that no-carry zones at colleges, houses of worship, government buildings, and the non-secure areas of police stations should be eliminated.

You also stated that you opposed universal background checks and with regards to mass-shootings wrote that “the idea that government can prevent all such tragedies is

incorrect.” You have also described yourself as a “dues-paying NRA member.”

- a. Given the categorical policy positions you’ve previously taken, can any party defending a gun-law be confident you will approach their case with an open mind and decide it on the law?

Answer: Yes, I believe strongly that judges should be impartial, not pre-determine the outcome of a case, and should follow all binding precedent.

Senator Peter Welch
Senate Judiciary Committee
Written Questions for Matthew Byrne
Hearing on “Nominations”
June 24, 2026

1. In 2020, you completed a judicial candidate survey with the Right to Life Action Committee of Ohio.

- a. In that survey, you wrote that “[t]here is no reference to a ‘right to privacy’ in the Constitution.” Please explain what you meant by this statement.

Answer: The language you quote appears in my response to the 2020 Cincinnati Right to Life PAC Judicial Candidate Survey, not the 2020 Right to Life Action Coalition of Ohio survey.

The full sentence I wrote (in response to Question 4) was, “There is no reference to a ‘right to privacy’ in the Constitution. The Supreme Court essentially admitted this when it stated that the ‘right to privacy’ was found in a ‘penumbra’ (or shadow) of the Constitution.” In writing this, I meant that the phrase “right to privacy” does not appear in the text of the Constitution, but the United States Supreme Court has found a right to privacy nevertheless to be protected by the “penumbras” of certain constitutional provisions. *See, e.g., Griswold v. Connecticut*, 381 U.S. 479, 483 (1965). This was a purely factual point about the text of the Constitution.

I also stated in my answer to Question 9 of the 2020 Cincinnati Right to Life PAC Judicial Candidate Survey that, “...[A]s a judge I would be required to decide cases consistently with applicable precedents from higher courts.”

- b. In that survey, you also wrote that “[t]he judiciary does not possess the authority to expand the definition of marriage to include anything but one man and one woman.” Please explain (1) what you meant by this statement and (2) your understanding of the Supreme Court’s decision in *Obergefell v. Hodges* (2015).

Answer: My agreement with that statement was made in my capacity as a private citizen and a candidate for judicial office. I was not providing legal analysis. *Obergefell v. Hodges* is binding precedent of the United States Supreme Court. As a current state court judge, and as a federal district judge if confirmed, I have and will apply all binding precedents.

2. In *Preterm-Cleveland v. Yost* (2023), you participated in hearing and deciding the case despite previously stating in a judicial candidate survey that you had “helped arrange for some testimony in support of the Ohio Heartbeat Bill.” Please explain the factor(s) led you to conclude that recusal was not warranted.

Answer: First, as I explained to Senator Hirono, I merely answered someone's question about how that person could testify in support of the legislation. The conversation was informal and brief.

Second, I considered whether to recuse in *Preterm-Cleveland v. Yost*, Ohio Supreme Court Case No. 2023-0004, as I do with any case filed in my court or to which I am assigned. I considered Rule 2.11 of the Ohio Code of Judicial Conduct, which concerns judicial "disqualification" (more commonly referred to as "recusal"). I concluded none of the bases for recusal stated in Rule 2.11 applied.

To the extent one would now argue that my impartiality might reasonably be questioned because I expressed pro-life views in the past, this argument fails. Judges are not required to recuse in cases in which they have previously expressed policy preferences because previously expressed policy views do not create an appearance of partiality. *See Republican Party of Minnesota v. White*, 536 U.S. 765, 777 (2002), quoting *Laird v. Tatum*, 409 U.S. 824, 835 (1972) (memorandum opinion); *see also Disciplinary Counsel v. Grendell*, 2025-Ohio-5239, ¶ 30 (Ohio).

Given the applicable Ohio recusal standard, I was not required to recuse in *Preterm-Cleveland v. Yost*. No party to the case objected or sought my recusal or disqualification.

3. You were a member of the advisory board for Pregnancy Center East. Please explain the nature of your role and responsibilities with the organization.

Answer: During my time as a member of the advisory board at Pregnancy Center East from 2015 to 2019, there were two boards: (1) a board of trustees, and (2) an advisory board. The board of trustees (of which I was *not* a member) had the ability to make governance and fiduciary decisions for the organization, such as choosing an executive director or approving expenditures. The advisory board (of which I was a member) was a separate body that met, to the best of my recollection, six times per year, discussed issues facing the organization, and provided input and suggestions, but did not make final decisions. I also served on various committees, which were identified in my Senate Judiciary Questionnaire. From 2018 to 2019, I held "in name only" status which meant that I was technically a member of the advisory board but was not expected to attend meetings.

Questions for the Record

Matthew R. Byrne – Nominee to be United States District Court Judge for the Southern District of Ohio

Sen. Adam Schiff (CA)

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

Answer: Under federal law, public corruption can be prosecuted under statutes that define bribery, embezzlement, fraud, among other things, by government employees or elected officials. In any case involving public corruption that may come before me, I would consult the applicable statutes.

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

Answer: In the general sense, I would view the actions you describe as wrong and would report such actions to the appropriate legal authorities. To the extent you are asking for a legal conclusion, I would need more information to determine exactly what type of wrongdoing occurred.

- 2) Which of the two general election candidates lost the 2020 election?

Answer: Joseph R. Biden was certified as the winner of the 2020 presidential election by a joint session of Congress after the counting of the Electoral College votes.

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

Answer: Yes.

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

Answer: Article III of the United States Constitution provides that “[t]he judicial Power” of federal courts extends to “Cases” and “Controversies.” The United States Supreme Court has explained that, to have standing under Article III, a plaintiff “must have (1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision.” *Spokeo, Inc. v. Robins*, 578 U.S. 330, 338 (2016). An analysis of whether a federal court may hear a case under Article III also involves questions of ripeness, mootness, and whether the case involves a political question. *See DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 352 (2006).

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

Answer: Article III requires a concrete dispute between opposing parties. *See United States v. Windsor*, 570 U.S. 744, 755 (2013).

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

Answer: I have not encountered this situation and I am not aware of any binding precedent on point. I cannot opine further as this question asks about legal matters that could come before me. *See* Code of Conduct for United States Judges, Canons 3 and 5.

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

Answer: Federal district courts have several tools to determine if a lawsuit is frivolous, for example, the procedures outlined in Rule 11 of the Federal Rules of Civil Procedure, sanctions against parties or counsel engaged in frivolous litigation, and the ability to refer counsel to disciplinary proceedings.

- 4) How would you describe your judicial philosophy?

Answer: My judicial philosophy is originalism and textualism, meaning that I strive to interpret constitutional and legislative texts, respectively, based on the original public meaning of the words used in those texts. It also means that I must set aside my personal views in all cases, and decide cases based on the facts and the law alone. I also understand that, as a district judge, I must apply binding precedent, even if that precedent is one with which I personally disagree.

- 5) During your nomination hearing, you expressed to Senator Grassley that “the role of a judge is limited.” Please describe how you view your role as a judge and the bounds of your authority.

Answer: Federal judges are limited to exercising those powers granted to the judiciary by Article III of the Constitution. Thus a federal judge exercises judicial power, but never legislative or executive power. This means that the role of a judge is to interpret and apply the relevant law in all cases or controversies before the judge, adhering to binding precedent. The same principles apply to Ohio state court judges.

- 6) How would you describe your philosophy regarding statutory interpretation?

Answer: I consider myself a textualist.

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

Answer: See my answer to Question 4 above.

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

Answer: Statements made by individual legislators are not law, however, the Sixth Circuit held that in certain cases legislative history may provide evidence of the original public meaning of a word's meaning when it was adopted. See *United States v. Wilkes*, 78 F.4th 272, 283 (6th Cir. 2023). If confirmed as a district court judge, I would be bound by U.S. Supreme Court and Sixth Circuit precedent.

- 8) In response to a question from Sen. Grassley, you answered that you always apply “the principles of textualism and originalism” and strive to apply the “original meaning as understood by the public.” Do you agree that, occasionally, the original public meaning of legal terms is unclear?

Answer: Yes.

- a) What does “original meaning as understood by the public” mean given that America is, and has always been, a diverse and socially stratified society.

Answer: When interpreting words in a constitutional or legislative text, a judge should determine how those words would have been understood by the average member of the public, without regard to questions of race, sex, or other immutable characteristics.

- b) Originalists often refer to centuries-old texts to determine the original public meaning. What formal historical training empowers you to evaluate the historical accuracy of evidence when interpreting the original public meaning of terms?

Answer: No such training is required. Just as members of the public may read about and analyze historical events through primary and secondary source historical materials, so too may a judge.

- c) How would you respond to a situation where the evidence supports conflicting original public meanings of terms?

Answer: In general, if the evidence supports the existence of conflicting original public meanings of a constitutional or statutory term, the meaning that is more likely to have been held by the majority of the public should be preferred. However, other factors may be relevant. I am unable to be more specific in my answer because this question asks about legal matters that could come before me. See Code of Conduct for United States Judges, Canons 3 and 5.

- d) Do you agree that, in some situations, originalists apply a degree of subjectivity in interpreting historical evidence?

Answer: The value of originalism is that it is the tool of interpretation that most reduces opportunities for subjectivism. It also protects democracy by reducing opportunities for judges to replace the requirements of law with their own personal preferences.

- e) How will you ensure you apply your interpretive approach without reading historical text through the lens of your subjective preferences?

Answer: My commitment to originalism and textualism provides the best possible risk protection against subjective preferences being injected into a case.

- 9) How do you define judicial activism?

Answer: “Judicial activism” refers to the practice of judges deciding cases based on their preferred outcome due to personal policy or moral preferences, especially when the judge’s ruling creates new law, rather following applicable law and binding precedent.

- 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?

Answer: I would not describe Justice Thomas as advocating overruling past Supreme Court precedent that is demonstrably erroneous “regardless of stare decisis,” but I am aware of the argument to which you refer. *See Gamble v. United States*, 587 U.S. 678 (2019) (Thomas, J., concurring). In a concurring opinion I authored as an Ohio appellate judge, I stated that “Ohio courts should consider whether the standard for overruling precedent outlined by Justice Clarence Thomas in his concurring opinion in *Gamble* . . . is a better approach than the multi-factor approach currently in use [in Ohio courts].” *State v. Beatty*, 2022-Ohio-2329, ¶ 41 (Ohio Ct. App.) (Byrne, J., concurring). I then described Justice Thomas’ approach and explained how it interacts with stare decisis. *See id.* While I raised this issue for consideration by Ohio courts, I did not apply Justice Thomas’ standard but instead applied the multi-factor test that the Ohio Supreme Court applies when determining whether to overrule precedent. *See id.* at ¶ 35-40 (applying standard set forth by Ohio Supreme Court in *Westfield Ins. Co. v. Galatis*, 2003-Ohio-5849, ¶ 48 (Ohio)). Whatever merit Justice Thomas’ position may have, I understand that it is not currently binding precedent of the United States Supreme Court or the Ohio Supreme Court, and that federal district court judges are bound to follow binding precedent.

- b) If confirmed, how would you determine whether precedent is “demonstrably erroneous?”

Answer: If confirmed, as a federal district court judge, I would not have the authority to create or overturn precedent. *See Camreta v. Greene*, 563 U.S. 692, 709 n. 7, 131 S. Ct. 2020, 179 L. Ed. 2d 1118 (2011) (“A decision of a federal district court judge is not binding precedent in either a different judicial district, the same judicial district, or even upon the same judge in a different case.”)

(cleaned up); *Hollis v. Erdos*, 480 F. Supp. 3d 823, 831-32 (S.D. Ohio May 12, 2020) (district court bound by Sixth Circuit precedent).

- 11) In a 2020 survey from Cincinnati Right to Life, you checked “I agree” for the statement, “The judiciary does not possess the authority to expand the definition of marriage to include anything but one man and one woman.”

- a) Please explain your response to this statement.

Answer: My agreement with that statement in the 2020 candidate survey, was made in my capacity as a private citizen and a candidate for judicial office. I was not providing legal analysis.

- b) How do you reconcile your statement with the precedent established by the Supreme Court in *Obergefell v. Hodges*?

Answer: *Obergefell* is binding precedent of the United States Supreme Court. As a current state court judge, and as a federal district judge if confirmed, I have and will apply all binding precedents.

- c) How can you ensure to this committee that you will enforce *Obergefell*’s holding rather than narrow its application?

Answer: I recognize the different roles of a judicial candidate and a sitting federal district court judge. As a current state court judge, and as a federal district judge if confirmed, I have decided and will continue to decide cases fairly and impartially, without reference to my personal views in all cases. During my five and a half years on the bench, no individual in a same-sex marriage has raised any concern about me being biased. In short, I can be trusted to remain unbiased because that is how I have already acted on the bench.

- 12) In a 2020 survey from Cincinnati Right to Life, you wrote “There is no reference to a ‘right to privacy’ in the Constitution. The Supreme Court essentially admitted this when it stated that the ‘right to privacy’ was found in a ‘penumbra’ (or shadow) of the Constitution.”

- a) Do you believe the Due Process Clause of the Fourteenth Amendment protects certain unenumerated rights?

Answer: Yes. *See, e.g., Loving v. Virginia*, 388 U.S. 1 (1967); *Griswold v. Connecticut*, 481 U.S. 479 (1965).

- b) In *Griswold v. Connecticut*, the Supreme Court held the constitution extends a right of privacy for decisions involving the use of contraception. Do you believe this case was wrongly decided?

Answer: *Griswold v. Connecticut* is binding precedent of the United States Supreme Court. As a current state court judge, and as a federal district judge if confirmed, I have applied and will apply all binding precedents. As to whether *Griswold* was correctly decided, as a federal judicial nominee it would not be appropriate for me to grade United States Supreme Court decisions. See Code of Conduct of United States judges, Canons 3 and 5.

- c) In *Lawrence v. Texas*, the Supreme Court held the constitutional right to privacy extends to intimate choices. Do you believe this case was wrongly decided?

Answer: *Lawrence v. Texas* is binding precedent of the United States Supreme Court. As a current state court judge, and as a federal district judge if confirmed, I have applied and will apply all binding precedents. As to whether *Lawrence* was correctly decided, as a federal judicial nominee it would not be appropriate for me to grade United States Supreme Court decisions. See Code of Conduct of United States judges, Canons 3 and 5.

- d) If confirmed, will you faithfully apply Supreme Court precedent, including *Griswold* and *Lawrence*?

Answer: If confirmed, I will faithfully apply all binding precedents of the United States Supreme Court.

- 13) In a 2020 survey ahead of your judicial campaign, you wrote “I believe the ‘life of the mother’ should be strictly defined so as to avoid creating loopholes.”

- a) If confirmed, would you apply a strict interpretation of the life of the mother in cases before your chambers?

Answer: As a judicial nominee, it would be inappropriate for me to comment on legal issues that could come before me, and that are also matters of political controversy. See Code of Conduct for United States Judges, Canons 3 and 5.

- b) How would you strictly interpret the “life of the mother”?

Answer: Please see my answer to Question 13(a) above.

- c) What loopholes do you seek to avoid creating?

Answer: Please see my answer to Question 13(a) above.

- 14) In *Preterm-Cleveland v. Yost*, you were the only judge on a seven-judge panel who refused to dismiss the case following the approval of an amendment to Ohio’s state constitution on reproductive rights.

- a) Please explain your decision to dissent rather than join your colleagues in dismissing the case.

Answer: I respectfully disagree with your characterization of *Preterm Cleveland v. Yost*. No justice voted to dismiss the case, which challenged Ohio's Heartbeat Act. Instead, five justices voted to dismiss the appeal "due to a change in the law," and one justice voted to dismiss the appeal as improvidently granted. As a result of those six justices' votes, the case was remanded to the Hamilton County Court of Common Pleas for further proceedings. My understanding is that the case is still actively being litigated before the Hamilton County Court of Common Pleas. I voted to proceed with deciding the issues that were before the Ohio Supreme Court on appeal. Those issues were procedural in nature, specifically, the appealability of a preliminary injunction and standing. Even if the court had proceeded to consider those issues, any decision would not have reached the merits regarding abortion or the Heartbeat Act. Nor did I at any point make any decision on the merits of the challenge to the Heartbeat Act.

- 15) In your questionnaire, you stated that you voluntarily adopted two recusal rules beyond what was required under the Ohio Code of Judicial Conduct.

- a) As a district court judge, would you consider adopting additional recusal rules besides those outlined in 28 U.S.C. § 455, 28 U.S.C. § 144, and the Code of Conduct for United States Judges?

Answer: Yes.

- b) If so, what additional rules would you consider adopting?

Answer: I have not yet determined if I will adopt any recusal rules beyond those required by the Code of Conduct for United States Judges if I am confirmed.

- 16) What is the legal standard for determining a "threat" under federal criminal law?

Answer: I am uncertain as to which federal criminal law you are referring to. There are multiple federal criminal statutes that use the word "threat." If you are referring to the "true threats" doctrine, the United States Supreme Court has explained that under the true threats doctrine, "true threats" are not protected by the First Amendment. The Supreme Court has held that "[t]rue threats" of violence are not protected by the Free Speech Clause. *Counterman v. Colorado*, 600 U.S. 66, 74 (2023). "True threats are serious expressions conveying that a speaker means to commit an act of unlawful violence." *Id.* (quotation marks and brackets omitted). If confirmed, I would faithfully apply binding Supreme Court precedents applying the true-threats doctrine.

- 17) In 2012, you wrote a blog post under the pseudonym "Righting" and stated, "Vice President Joe Biden, former Speaker Nancy Pelosi, Senator John Kerry, Governor Andrew

Cuomo, and the pro-abortion majority of Catholics in Congress can be counted on to consistently oppose the Church's teaching on nonnegotiable moral issues."

- a) How would you define a "nonnegotiable moral issue"?

Answer: The blog post you reference was religious commentary on a Catholic blog. The term you reference was a Catholic term. If confirmed, my judicial decisions will be based on the law, including binding precedent, not my personal religious views.

- b) Will you commit to applying the law, rather than your personal morals, when faced with a case involving a "nonnegotiable moral issue" in your chambers?

Answer: Yes.

18) Please describe your campaign platform when you launched your judicial campaign in 2020.

- a) Did your platform include opposition to same-sex marriage?

Answer: No.

- b) Did you receive any donations from organizations that oppose same-sex marriage?

Answer: To the best of my knowledge, no.

19) Do you believe your opposition to same-sex marriage was a factor in your nomination by the Trump administration?

Answer: I believe that my experience and my qualifications led to my nomination by President Trump.