

Senator Dick Durbin
Ranking Member, Senate Judiciary Committee
Written Questions for Richard Wesley Bennett
Nominee to be U.S. District Judge for the Southern District of Texas
September 23, 2026

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

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

Response: I am not familiar with the reasons for the termination of the specific employees described above, and it would be inappropriate for me to comment on the management decisions other Department of Justice officials made. Further, this question likely calls for me to issue what could be construed as a political comment, which I am prohibited from doing as a sitting federal magistrate judge and judicial nominee under Canon 5 of the Code of Conduct for United States Judges.

2. You are currently a magistrate judge after a long career as a federal prosecutor, serving during both Democratic and Republican Administrations. The role of the prosecutor is one that demands great care in bringing cases supported by facts and the law—without regard to partisan politics. As a result, prosecutors are usually afforded the “presumption of regularity,” meaning that judges presume that the Executive Branch’s representations about its reasons for taking a particular action are trustworthy.

- a. **What happens when judges do not trust the representations of a party before them?**

Response: As a sitting magistrate judge, I expect all parties appearing before me to comply with the applicable rules of professional conduct, and, if there is a violation, will impose sanctions, if necessary, in accordance with the Federal Rules of Criminal or Civil Procedure.

- b. **Is it harmful to line prosecutors’ efforts to hold criminals accountable when the Justice Department loses the presumption of regularity?**

Response: Please see my previous response to 2(a).

3. During the Obama Administration, you worked at U.S. Immigration and Customs Enforcement (ICE) as an Assistant Chief Counsel within the Office of the Principal Legal Advisor. During your time at ICE, then-Director John Morton issued memos directing the agency to prioritize arresting and removing immigrants who were national security

threats, dangerous felons, and recent border crossers first, rather than those who had no criminal background and strong military, family, or educational ties to the United States.

a. Did you play any role in formulating or reviewing these policies?

Response: I did not.

b. Did focusing ICE's limited resources on the most serious threats take away from the agency's ability to go after the worst-of-the-worst noncitizens?

Response: I am not familiar with how ICE allocated its resources. Further, this question likely calls for public commentary on political or policy issues which, as a sitting federal magistrate judge and judicial nominee, is prohibited under Canon 5 of the Code of Conduct for United States Judges.

c. Do you agree with me that the Trump Administration's approach of arresting immigrants with deep roots in our communities and no prior criminal history leaves ICE with fewer resources to go after the worst of the worst?

Response: I am not currently familiar with how ICE allocates its resources. Further, this question likely calls for public commentary on political or policy issues which, as a sitting federal magistrate judge and district judge nominee, is prohibited under Canon 5 of the Code of Conduct for United States Judges.

4. Did President Trump lose the 2020 election?

Response: Congress certified Joseph R. Biden, Jr. as the winner of the 2020 election.

5. Where were you on January 6, 2021?

Response: Houston, Texas.

6. Do you denounce the January 6 insurrection?

Response: I denounce all political violence. This question calls for a response that could be seen as opining on political matters or potential future cases, and I cannot provide such an answer consistent with my ethical obligations as a sitting federal magistrate judge and judicial nominee. *See* Code of Conduct for United States Judges, Canons 3(A)(6) and 5.

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

Response: Article II, Section 2, Clause 1 of the U.S. Constitution empowers the President to issue pardons. Beyond that, this question calls for a response that could be seen as opining on political matters, pending litigation or potential future cases, and I cannot

provide such an answer consistent with my ethical obligations as a sitting federal magistrate judge and judicial nominee. *See* Code of Conduct for United States Judges, Canons 3(A)(6) and 5.

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

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

Response: Litigants who disagree with a court order may ask the court to reconsider the matter, request a stay of the order, or seek an appeal of the order.

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

Response: In almost all instances, unless a stay is granted, all parties must obey federal court orders unless and until the court's order is vacated or reversed by an appellate court. However, there are some potential exceptions to this general rule, including lack of jurisdiction or impossibility. The Supreme Court has also recognized that, in some circumstances, it may be necessary for a party to defy a court order to appeal it. *See Mohawk Indus., Inc. v. Carpenter*, 558 U.S. 100, 111 (2009) (“Another long-recognized option is for a party to defy a disclosure order and incur court-imposed sanctions Such sanctions allow a party to obtain postjudgment review without having to reveal its privileged information.”).

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

Response: The judicial branch is responsible for making such a determination, and there is a review process through which courts can evaluate whether lower court orders or their own prior orders are lawful.

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

a. Are non-party injunctions constitutional?

Response: In *Trump v. CASA*, 145 S. Ct. 2540 (2025), the Supreme Court held that injunctions granted under a court’s equitable powers are suspect when they go beyond granting complete relief to the parties before the court. There are still open legal questions about constitutional and statutory limits on the scope of

equitable relief. To the extent that this question asks for me to opine on a subject of pending litigation or a matter that could come before me as a federal judge, it would not be appropriate for me to do so under the judicial canons.

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

Response: Please see my response to Question 9(a).

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

Response: Please see my response to Question 9(a).

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

Response: No, I cannot recall doing so.

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

Response: No.

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

Response: The 22nd Amendment states, in pertinent part, “[n]o person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once.” The text of the 22nd Amendment speaks for itself.

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

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

Response: As a sitting federal magistrate judge and judicial nominee, it would be improper for me to offer an opinion on a political issue or a statement by a

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

political figure. *See* Code of Conduct for United States Judges, Canons 3(A)(6) and 5.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- a. *Brown v. Board of Education*
- b. *Plyler v. Doe*
- c. *Loving v. Virginia*
- d. *Griswold v. Connecticut*
- e. *Trump v. United States*
- f. *Dobbs v. Jackson Women's Health Organization*
- g. *New York State Rifle & Pistol Association, Inc. v. Bruen*
- h. *Obergefell v. Hodges*
- i. *Bostock v. Clayton County*
- j. *Masterpiece Cakeshop v. Colorado*
- k. *303 Creative LLC v. Elenis*
- l. *United States v. Rahimi*
- m. *Loper Bright Enterprises v. Raimondo*

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

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

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

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

Response: Please see my response to Question 18.

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

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

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

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

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

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

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

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

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

Response: Please see my response to Question 18.

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

Response: Please see my response to Question 18. To the extent this question calls for a response that could be seen as opining on political matters or potential future cases, I cannot provide such an answer consistent with my ethical obligations as a sitting federal magistrate judge and judicial nominee. *See* Code of Conduct for United States Judges, Canons 3(A)(6) and 5

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

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

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

Response: Several recent Supreme Court cases have addressed speech and whether it is “content-based” or “content-neutral,” including *TikTok Inc. v. Garland*, 604 U.S. 56 (2025). According to the Supreme Court, “[c]ontent-based laws—those that target speech based on its communicative content—are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests.” *Id.* at 70 (quoting *Reed v. Town of Gilbert*, 576 U.S. 155, 163 (2015)). “Content-neutral laws, in contrast, ‘are subject to an intermediate level of scrutiny because in most cases they pose a less substantial risk of excising certain ideas or viewpoints from the public dialogue.’” *Id.* (quoting *Turner Broadcasting System, Inc. v. FCC*, 512 U.S. 622, 641 (1994)). I will apply binding precedent of the Supreme Court and the Fifth Circuit in determining whether a law that regulates speech is “content-based” or “content-neutral.”

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

Response: With respect to the true threats doctrine, the Supreme Court has held that the First Amendment does not protect “serious expressions conveying that a speaker means to commit an act of unlawful violence.” *Counterman v. Colorado*, 600 U.S. 66, 74 (2023) (internal quotation marks omitted; brackets adopted). Instead, “[t]rue treats of violence are ... punishable as crimes.” *Id.* at 69. In order to enact such punishment, the government “must prove in true-threats cases that the defendant had some understanding of his statements’ threatening character.” *Id.* at 73. True threats are distinct from “jests, ‘hyperbole,’ or other statements that when taken in context do not convey a real possibility that violence will follow....” *Id.* at 74.

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

Response: The Fifth Amendment provides that “nor shall any person ... be deprived of life, liberty or property, without due process of law....” The Supreme Court has interpreted the Due Process Clause to “appl[y] 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). Questions of due process typically relate to the question of what process is due in a given situation. Consistent with the Code of Conduct for United States Judges, it would be inappropriate for me, as a sitting federal magistrate judge and judicial nominee, to comment on such questions, which are a matter of political controversy and pending litigation.

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

Response: The answer to this question may depend on, among other things, treaties and reciprocal agreements. I am aware that the above question has been the subject of recent litigation. As a result, this question calls for a response that could be seen as opining on political matters or potential future cases or a matter that could come before me should I be confirmed, and I cannot provide such an answer consistent with my ethical obligations as a sitting federal magistrate judge and judicial nominee. *See* Code of Conduct for United States Judges, Canons 3(A)(6) and 5.

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

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

Response: In *Trump v. Barbara*, the Supreme Court held that children born in the United States to parents unlawfully or temporarily present are “subject to the jurisdiction” of the United States and are United States citizens at birth. Supreme Court precedent recognizes certain narrow exceptions to this holding, such as children born in the United States to foreign diplomats.

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

Response: Please see my response to Question 31(a). To the extent related questions remain at issue, it would be inappropriate for me, as a sitting federal magistrate judge and judicial nominee, to comment on such questions under the Code of Conduct for United States Judges.

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

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

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

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

Response: As with all statutes, judges should faithfully apply the Act in cases where it is applicable, consistent with its text and applicable precedent.

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

Response: I will faithfully apply all applicable laws governing sentencing determinations, including the sentencing factors under Title 18 U.S.C. § 3553.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Response: I have attended presentations by the Federalist Society but have never been asked to provide services, including research, analysis, advice, speeches or formal appearances.

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

Response: No.

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

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

Response: Yes. I learned the former United States Attorney for the Southern District of Texas who is now a district judge was associated with the Teneo

Network. However, I have never spoken or corresponded with him about the Teneo Network. I have never spoken with Leonard Leo.

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

Response: No.

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

Response: No.

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

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

Response: No.

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

Response: No.

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

Response: No.

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

Response: No.

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

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

Response: No.

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

Response: No.

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

Response: No.

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

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

Response: No.

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

Response: No.

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

Response: No.

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

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

Response: No.

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

Response: No.

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

Response: No.

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

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

Response: No.

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

Response: No.

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

Response: No.

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

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

Response: No.

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

Response: No.

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

Response: No.

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

Response: If confirmed, I would be guided by the Code of Conduct for United States judges, which states, “a judge should not personally participate in fundraising activities, solicit funds for any organization, or use or permit the use of the prestige of judicial office for that purpose. A judge should not personally participate in membership solicitation if the solicitation might reasonably be perceived as coercive or is essentially a fund-raising mechanism.” To the extent that this question calls for a response that could be seen as opining on political matters or potential future cases, I cannot provide such an answer consistent with my ethical obligations as a sitting federal magistrate judge and judicial nominee. *See* Code of Conduct for United States Judges, Canons 3(A)(6) and 5.

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

Response: Please see my response to Question 41(d). If confirmed, I will address all actual or potential conflicts by reference to 28 U.S.C. § 455, the Code of Conduct for United States Judges, and any other applicable laws and rules.

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

Response: Please see my response to Question 41(d).

Nomination of Richard Wesley Bennett
Nominee to the U.S. District Court for the Southern District of Texas
Questions for the Record
Submitted September 23, 2026

QUESTIONS FROM SENATOR WHITEHOUSE

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

1. You said in your questionnaire that you have been a member of the Federalist Society between 2016-17 and since 2024. Have you ever spoken with the following individuals or groups about your nomination? If so, please describe the conversation(s) with specificity.

- a. Leonard Leo?

Response: No.

- b. Anyone affiliated with an entity led or funded by Leonard Leo?

Response: I am a member of the Federalist Society, which has thousands of members, have attended presentations hosted by the Federalist Society, and have discussed my selection process and nomination with colleagues who are also members. However, I have not spoken to Leonard Leo and am unaware of any other entities he leads or funds.

- c. Carrie Severino?

Response: No.

- d. Mike Davis?

Response: No.

- e. Anyone affiliated with The Article III Project?

Response: No.

- f. Mark Paoletta?

Response: No.

**Nomination of Richard Bennet
to the United States District Court for the Southern District of Texas
Questions for the Record
Submitted September 21, 2026**

QUESTIONS FROM SENATOR COONS

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

Response: The Senate provides advice and consent to nominees to the federal courts under Article II of the United States Constitution. I believe the Senate Judiciary Committee plays an important role in carrying out that duty by asking questions and considering each nominee's qualifications.

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

Response: Yes, to the extent allowed by law and ethical rules, such as the Code of Conduct for United States Judges and other applicable standards.

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

Response: Yes.

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

Response: I drafted responses to these questions. The Department of Justice referred me to samples of previous nominee's responses, which are publicly available, and provided general advice and limited feedback on my responses. I finalized my answers and sent them to be submitted to the Committee. All of the responses are my own.

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

Response: Yes, if the answers are consistent with the nominee's views.

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

Response: Yes.

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

Response: Yes.

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

Response: No.

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

Response: No.

5. In your Senate Judiciary Questionnaire, you note that President Trump called you on August 18, 2026, to inform you that he planned to nominate you to a judgeship.

- a. How long did the call last?

Response: I do not recall exactly but it was a short phone call probably lasting less than two minutes.

- b. What topics or issues were discussed?

Response: President Trump told me I was being nominated and congratulated me and my family. No other topics or issues were discussed.

- c. Other than you and President Trump, did anyone else join the call? If so, who?

Response: I am unaware of anyone else joining the phone call.

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

Response: I have been fortunate to practice in federal court for many years, and I admire many of the judges on the court in the Southern District of Texas who consistently and faithfully apply the law in a fair, ethical, and impartial manner. I was privileged to be a law clerk to the Honorable Marcia A. Crone in the Eastern District of Texas, whose character, temperament, and work ethic have inspired me as a judge. I admire and strive

to equal her commitment and dedication to the rule of law as well as her tireless efforts in performing her judicial duties.

7. How would you describe your judicial philosophy?

Response: My philosophy is to apply the law as written to the facts of the case before me. I evaluate each case on the merits, making decisions by faithfully and impartially applying any and all constitutional provisions, statutes and binding precedent. I believe judges must refrain from deciding cases based on their own personal opinions or preferences.

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

Response: As a magistrate judge I faithfully apply all binding Fifth Circuit and Supreme Court precedent, and if I am confirmed, I will continue to do so. Under Supreme Court precedent, the Fourteenth Amendment's Due Process Clause "has been held to guarantee some rights that are not mentioned in the Constitution, but any such right must be 'deeply rooted in this Nation's history and tradition' and 'implicit in the concept of ordered liberty.'" *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 231 (2022) (quoting *Washington v. Glucksberg*, 521 U.S. 702, 721 (1997) (internal quotation marks omitted)).

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

Response: Yes.

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

Response: Yes, the Supreme Court's decisions in *Dobbs* and *Glucksberg* provide examples of the type of sources appropriate for the court to consult.

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

Response: Yes, if confirmed, and as I currently do, I will continue to faithfully apply all relevant and binding Supreme Court and Fifth Circuit precedent. If there is no binding precedent from those courts, I would consider precedent from other circuits for any potential persuasive value.

- d. Would you consider whether a *similar* right has previously been recognized by Supreme Court or circuit precedent? If so, how does the existence of a similar right impact your analysis?

Response: Yes, I would evaluate such *similar* rights in conjunction with the Supreme Court's analysis in *Dobbs* and *Glucksberg*.

- e. What other factors would you consider?

Response: Please see my response to Question 8(d).

- 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?

Response: Yes.

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

Response: Three.

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

Response: No.

- 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?

Response: Under the Twelfth Amendment, Congress is responsible for certifying presidential election results and certifying the winner based on who received a majority of electoral votes.

- 11. At your hearing, Senator Blumenthal asked you who won the 2020 election. You echoed fellow nominee Daniel Ballou's response that "Joe Biden was certified the winner of the 2020 election."

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

Response: My answer was based on my understanding on how the Constitution and laws determine how presidential elections are decided.

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

Response: My answer was based on my understanding on how the Constitution and laws determine how presidential elections are decided. I also viewed several previous hearings of other judicial nominees.

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

Response: I do not. Please also see my response to Question 11(a).

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?

Response: No.

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

Response: This question calls for a response that could be seen as opining on political matters, and I cannot provide such an answer consistent with my ethical obligations as a magistrate judge and judicial nominee. *See* Code of Conduct of United States Judges, Canons 3(A)(6) and 5.

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

Response: Yes.

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

Response: Please see my response to Question 12(b).

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

Response: Please see my response to Question 12(b).

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

Response: Please see my response to Question 12(b).

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

Response: Please see my response to Question 12(b).

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?

Response: If confirmed, and as I do now as a magistrate judge, I will carefully review and address any real or potential conflicts by reference to 28 U.S.C. § 455, Canon 3 of the Code of Conduct for United States Judges, and any and all other laws, rules, and practices, governing such circumstances, and recuse myself from matters if I were to conclude a reasonable person could question my impartiality.

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?

Response: Yes, taking into consideration the facts of the case and the law.

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

Response: I believe that is possible but any further comment as a judicial nominee is inappropriate as such matters may come before me if I am confirmed. *See* Code of Conduct for U.S. Judges, Canon 3.

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

Response: If I am confirmed, my decisions will be based solely on the facts of the case before me and the law.

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?

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

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

Response: Yes. *See Saenz v. Roe*, 526 U.S. 489, 500–01 (1999).

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

Response: I will consider the facts of the case and arguments and briefings by the parties, and I will apply and follow all binding Supreme Court and Fifth Circuit precedent. For example, I would review and apply binding Supreme Court precedent in *Saenz v. Roe*, 526 U.S. 489, 500–01 (1999), and *United States v. Guest*, 383 U.S. 745, 757–58 (1966).

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

Response: While the words “right to privacy” do not appear in the Constitution, the Supreme Court has long recognized that certain zones of privacy are protected as fundamental liberties under the Constitution. *See Griswold v. Connecticut*, 381 U.S. 479 (1965).

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

Response: As a magistrate judge and, if I am confirmed, a district judge, I will faithfully apply the Supreme Court precedent in *Griswold v. Connecticut*, 381 U.S. 479 (1965), which held the use of contraceptives is protected under the constitutional right to privacy.

18. What specific method of analysis do you apply when interpreting constitutional provisions?

Response: I follow the Supreme Court in interpreting constitutional provisions by discerning the original meaning of the words used as understood by the public at the time the provision was enacted. *See, e.g., N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1 (2022); *District of Columbia v. Heller*, 554 U.S. 570 (2008); *Crawford v. Washington*, 541 U.S. 36 (2004). I am further bound by binding precedent of the Supreme Court and Fifth Circuit regardless of whether it complies with the original meaning of the Constitution.

- a. Why do you apply this method of analysis? On what grounds do you conclude this method is the correct one to apply?

Response: Please see my response to Question 18.

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

Response: The Supreme Court has held that “the Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). As a magistrate judge, I apply all Supreme Court and Fifth Circuit precedents in addressing due process claims, and I would continue to do so if confirmed. To the extent this question asks about hypothetical cases or matters that are the subject of pending or impending litigation, it would be improper for me as a magistrate judge and judicial nominee to comment further. *See Code of Conduct for United States Judges*, Canon 3(A)(6).

20. What was the holding of the Supreme Court’s ruling in *Trump v. Barbara*? Will you faithfully apply that precedent if confirmed?

Response: In *Trump v. Barbara*, the Supreme Court held “that children born of parents unlawfully or temporarily present in the United States are, at birth, citizens of the United States under the Fourteenth Amendment’s Citizenship Clause.” 609 U.S. ___, 146 S. Ct. 2438 (2026). If confirmed, I will, as I do now, faithfully apply all Supreme Court and Fifth Circuit binding precedent.

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

Response: If confirmed, I would expect, as I currently do, all parties to comply with court orders. If a party refuses to comply, I will issue a show cause order and hold a hearing to determine whether the party was in contempt of the original order. During the hearing, I would consider the parties' arguments and any potential defenses. In determining whether a party willfully refused to comply with the order, I would follow Supreme Court and Fifth Circuit precedent. In some circumstances, sanctions may be appropriate under the Federal Rules of Civil or Criminal Procedure.

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

Response: If a party files a motion or premotion request for a discovery hearing because another party is engaging in abusive litigation tactics, I will hold a hearing, review the briefing and the facts of the case, and listen to the parties' arguments. I would issue orders on discovery and, if not followed, would continue with either a status conference, order to show cause, or issue any sanctions applicable under binding Supreme Court and Fifth Circuit precedent, local rules, and the Federal Rules of Civil or Criminal Procedure.

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

Response: Please see my response to Question 22.

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

Response: A judge is bound by the facts and law. As such, the consequences of a particular ruling generally should not have any impact on a judge's rendering of a decision. However, the imposition of sanctions for discovery abuse, such as default judgment or striking pleadings, may impact a judge's decision.

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

Response: A judge should fairly and impartially apply the law to the facts of a case without regard to the judge's personal life experiences.

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

Response: All parties appearing before me are treated with dignity and respect. In all cases, I strive to fairly and impartially apply the law to the facts of the case before me without any regard to personal opinions.

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

Response: Throughout my career in public service, I have handled many serious and violent federal and state felony offenses. I have been proud to stand up for the rights of victims and did my best to ensure the safety of the community. If I had to pick a case, I would choose *United States v. Chambers*, which is listed in my Senate Judiciary Questionnaire, where I prosecuted multiple sex traffickers who violently trafficked young girls for sex in Houston. They were convicted and received lengthy prison sentences.

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

Response: All parties are allowed to present oral argument before me however they choose. In my Procedures Manual, I encourage experienced lawyers to allow speaking roles for lawyers licensed fewer than 7 years, particularly when those lawyers have drafted the motion or response being argued, or prepared the witness being presented.

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

Response: Please see my response to Question 27. In addition, I would participate in bar functions, CLEs, law school programs, or other training courses designed to improve oral advocacy skills of younger attorneys.

28. Discuss your proposed hiring process for law clerks.

Response: As a magistrate judge, I hire law clerks based on merit and character regardless of their background. I review their entire application, including recommendations, transcripts, writing samples, and supporting materials, as well as conduct interviews. If confirmed, I will follow the same process.

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

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

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

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

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

Response: In my chambers, I make sure that everyone is treated with respect and dignity. I ensure that my clerks are aware of policies and protocols within the judiciary to address any acts of misconduct they observe and to report them in accordance with those policies.

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

Response: Please see my response to Question 29(a).

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

Response: I would follow all the policies and protocols for reporting misconduct as established in the Southern District of Texas, the Fifth Circuit, the Administrative Office of United States Courts, and other authorities to address the issue.

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

Response: While I am aware there was violence against law enforcement, vandalism, and trespass, all of which I condemn, the events of January 6, 2021, are matters of significant political debate and controversy and it would be inappropriate for me, as a magistrate judge and judicial nominee, to answer this question or engage in any political commentary. Further, these events have been subject to litigation. *See, e.g., Trump v. Anderson*, 601 U.S. 100 (2024); *Blassingame v. Trump*, 87 F.4th 1 (D.C. Cir. 2023); *Straka v. NBC Universal Media, LLC*, No. 8:22CV434, 2023 WL 5041614, at *5 (D. Neb. Aug. 8, 2023); *see also* Code of Conduct for United States Judges, Canons 3A(6) 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.

Response: Please see my response to Question 30.

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

Response: Article II, Section 2, Clause 1 of the U.S. Constitution empowers the President to issue pardons. Beyond that, as a magistrate judge and judicial nominee, it would be inappropriate to offer an opinion on a political or policy issue. *See* Code of Conduct for United States Judges, Canons 3(A)(6) and 5.

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

Response: This question would require me to express an opinion on political issues or potential future cases. As a sitting magistrate judge and judicial nominee, it would be improper for me to express such an opinion. *See* Code of Conduct for United States Judges, Canons 3(A)(6) and 5.

Questions for the Record for Justice Richard Wesley Bennett
Submitted by Senator Richard Blumenthal
September 23, 2026

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

Response: If I am fortunate to be confirmed, I will follow what I do as a federal magistrate judge, and make recusal decisions in accordance with 28 U.S.C. § 455, the Code of Conduct for United States Judges, and any other applicable laws, rules, ethics opinions, and practices governing conflicts of interest. In that regard, 28 U.S.C. § 455(a) states that “[a]ny justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.” Similarly, Canon 3(C) of the Code of Conduct for United States Judges states that “[a] judge shall disqualify himself or herself in a proceeding in which the judge’s impartiality might reasonably be questioned, including but not limited to” several specific circumstances.

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

Response: Please see my response to Question 1.

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

Response: Please see my response to Question 1.

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

Response: Please see my response to Question 1.

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

Response: If confirmed, I will, as I currently do, faithfully follow all ethical rules and obligations governing judicial conduct.

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

Response: Please see my response to Question 2.

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

Response: Please see my response to Question 2.

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

Response: Please see my response to Question 2.

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

Response: Yes.

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

Response: If confirmed, I will, as I do now, faithfully follow all ethical rules and obligations that govern the federal judiciary.

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

Response: Please see my response to Question 3(g).

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

Response: Please see my response to Question 3(g).

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

The contempt power was first codified in law in the Judiciary Act of 1789. In 1873, the Supreme Court described it as "inherent in all courts" and "essential to the preservation of order in judicial proceedings and to the enforcement of the judgements, orders, and

writs of the courts, and consequently to the due administration of justice.” Yet House Republicans are seeking to exempt government officials from this key tool for judicial enforcement.

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

Response: This quote was made by the United States Supreme Court in *Ex parte Robinson*, 86 U.S. 505, 510 (1873). I will faithfully follow and apply all binding Supreme Court precedent regarding the contempt power of federal courts.

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

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

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

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

Response: Yes.

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

Response: Yes.

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

Response: Federal courts can enforce orders through hearings and status conferences, orders to show cause, and various sanctions, including monetary, default judgments, and adverse inferences. Courts can also impose civil and criminal contempt in more serious cases.

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

Response: All litigants before a federal court must follow and comply with court orders. There are certain well-established exceptions to this rule, such as when a court lacks jurisdiction or if compliance is impossible. *See, e.g., United States v. United Mine Workers of Am.*, 330 U.S. 258, 291 (1947).

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

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

- d. What would make a court order unlawful?

Response: A court order would be unlawful, for example, if the court lacks jurisdiction to issue the order. There may be additional circumstances where a court order would be unlawful, but it is not feasible to provide an exhaustive list here.

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

Response: If a party believes a court order is unlawful, that party could file a motion to reconsider, move for a stay or deferral, or appeal the order.

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

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

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

Response: No.

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

Response: No.

7. From 2010 to 2016 you worked as the Assistant Chief Counsel within the Office of the Principal Legal Advisor (OPLA) for Immigration and Customs Enforcement (ICE).

- a. During that time, did you advise officers on the constitutional limitations of warrantless entry?

Response: As an Assistant Chief Counsel, my duties were to represent the Department of Homeland Security in immigration removal proceedings in immigration court. I do not believe I advised officers on the constitutional limitations of warrantless entry.

- i. What did you understand the constitutional contours of warrantless entry to be?

Response: As a federal magistrate judge and judicial nominee, it is inappropriate for me to make a public comment on legal issues that may come before me for a decision. Such comments are prohibited under

Canons 2 and 3(A)(6) of the Code of Conduct for United States Judges as they would opine on matters of current litigation, compromise judicial impartiality, and undermine public confidence in the judiciary.

- b. During that time, did you advise officers on restrictions on their presence at election sites?

Response: No.

8. Do you believe ICE's current practice of warrantless entry is constitutional?

Response: There has been recent and ongoing litigation in many courts throughout the country on this issue. As such, I am precluded under Canon 3(A)(6) of the Code of Conduct for United States Judges from making any public comment on any matter pending or impending in any court or that may come before me as a magistrate judge or, if confirmed, as a district judge.

9. Do you believe that the deployment of federal law enforcement to directly oversee and monitor election sites would violate the First and Fifteenth Amendments?

Response: The First Amendment states: "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." The Fifteenth Amendment provides: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude." I do, and will continue, to faithfully adhere to and apply the Constitution and all binding precedent. To the extent this question asks about hypothetical cases, matters that may come before me, or matters that are the subject of pending or impending litigation, it would be improper for me as a federal magistrate judge and judicial nominee to provide an advisory opinion or comment further. *See* Code of Conduct for United States Judges, Canons 2(A) and 3(A)(6).

10. If confirmed, can litigants count on you to protect their right to vote in cases where the official acts of federal law enforcement have unduly interfered with such right?

Response. If confirmed, I will faithfully adhere to and apply the Constitution and all binding precedent.

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

September 16, 2026

Questions for Richard Wesley Bennett (U.S. District Court for the Southern District of Texas):

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

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

Response: I have no personal knowledge of this matter so I cannot answer it with a simple yes or no. My understanding from public reporting is that this state's Secretary of State certified more votes for Joe Biden, and, as such, certified the state's electoral votes on that basis.

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

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

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

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

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

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

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

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

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

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

- 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?

Response: Based on public reporting, my understanding is that officials in each of those states certified presidential electors for Joe Biden. As stated in my response to Question 1(a), I have no personal factual knowledge that would be responsive to the question.

- 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.

Response: Please see my response to Question 1(g).

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

Response: Congress certified Joseph R. Biden as the winner of the 2020 election in accordance with the Twelfth Amendment.

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

Response: This question asks me to opine on how the elections were administered in each of these states. This questions calls for a response that could be seen as opining on political matters, and I cannot provide such an answer consistent with my ethical obligations as a sitting magistrate judge and judicial nominee. *See* Code of Conduct for United States Judges, Canon 5.

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

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

Response: In accordance with Article II and the Twelfth Amendment of our Constitution, Congress certified Joseph R. Biden as the winner of the 2020 election.

- 5. On January 6, 2021, a mob attacked the United States Capitol and more than 140 law enforcement officers were assaulted. President Trump has repeatedly described that day as "a day of love."

- a. Do you believe that January 6, 2021 was a "day of love"?

Response: I cannot speak as to what the President might have meant. Consistent with the Code of Conduct for United States Judges, it would be inappropriate for me, as a sitting federal magistrate judge and judicial nominee, to publicly comment upon a matter of political controversy. I do condemn the violence against law enforcement, vandalism, and trespass that occurred that day.

6. More than 60 federal and state lawsuits, including those presided over by judges appointed by Republican presidents, dismissed legal challenges to the 2020 presidential election results for lack of evidence, lack of standing, or lack of merit.

- a. Do you have any reason to believe that any of those courts reached the wrong conclusion?

Response: This question calls for a response that could be seen as opining on political matters or assessing the decisions of other courts. Accordingly, I cannot provide such an answer consistent with my ethical obligations as a sitting magistrate judge and judicial nominee. *See* Code of Conduct for U.S. Judges, Canons 3(A)(6) and 5.

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

Response: Please see my response to Question 6(a).

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

Response: No.

8. 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.

Response: Federal judges and judicial nominees, including now-Justice Ketanji Brown Jackson, have consistently adopted the position that the 2020 presidential election results are a matter of political debate and it would thus be inappropriate under the Code of Conduct for United States Judges for a sitting federal judge and judicial nominee to weigh in on the matter. I join them in this conclusion.

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

Response: The Supreme Court has recognized a right to privacy in certain contexts, including with respect to contraceptives in *Griswold v. Connecticut*, 381 U.S. 479 (1965). Other privacy rights can be found in the Fourth Amendment's right to be free from unreasonable search and seizures without a warrant supported by probable cause.

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

Response: *Griswold* is binding Supreme Court precedent and I will faithfully follow and apply it. Other than a few widely recognized exceptions, it is improper for sitting federal judges and judicial nominees to opine on whether the Supreme Court correctly decided a case.

10. What judges or justices would you consider foundational to your judicial philosophy, and why?

Response: I have practiced in front of and have been inspired by many judges over the course of my career. I admire judges who are prepared, knowledgeable in the law, treat the parties with respect and dignity, and apply the law to the facts fairly and impartially. One judge who has been a role model to me over the course of my career has been Judge Marcia A. Crone, for whom I clerked.

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

Response: The Supreme Court has held that there is a constitutionally protected right to certain reproductive healthcare decisions. For example, the Supreme Court has extended constitutional protection to the use of contraceptives. *See Eisenstadt v. Baird*, 405 U.S. 438, 453-54 (1972); *Griswold v. Connecticut*, 381 U.S. 479, 485 (1965). However, in *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215 (2022), the Supreme Court held that there is not a constitutionally protected right to obtain an abortion and returned the issue of how abortion should be regulated to the democratic process in the states. As a sitting magistrate judge, and, if confirmed, as a district judge, I will continue to faithfully apply binding Supreme Court precedent. Beyond following such precedent, this question asks me to opine on political matters or potential future litigation, and it is inappropriate for me to answer consistent with my ethical obligations as a sitting magistrate judge and judicial nominee. *See* Code of Conduct for U.S. Judges, Canons 3(A)(6) and 5.

12. Judicial clerkships serve several important professional roles. They are a meaningful opportunity for recent law graduates to learn from an experienced mentor, and they serve as an important -- and often necessary -- step toward the highest levels of our legal

profession. Too often, students from diverse backgrounds are overlooked for these opportunities despite equivalent qualifications.

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

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

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

Response: Yes. I will continue to hire my law clerks as I currently do, based on merit and character regardless of their background. I will review all applications, consider all supporting materials, and hire the best qualified candidate.

- c. Please describe how you plan to find and hire law clerks. Will you consider candidates from various law schools and backgrounds, including first-generation lawyers?

Response: Currently I accept and consider applications from interested candidates using the OSCAR system, which is broadly accessible. Yes, I will consider all qualified applicants.

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

Response: Please see my response to Question 12(c).

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

Response: Please see my responses to Questions 12(a) through 12(d).

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

- a. What does the 22nd Amendment state?

Response: The 22nd Amendment states:

Section 1. No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term.

Section 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

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

Response: No.

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

Response: Twice.

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

Response: No.

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

Response: No.

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

Response: If confirmed, I will continue, as I now do, to treat all parties before me with dignity and respect and will consider all cases respectfully and impartially.

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

Response: The Supreme Court has held that “the Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). As a magistrate judge and judicial nominee, I apply binding Supreme Court and Fifth Circuit precedents in addressing due process claims. To the extent this question asks about hypothetical cases or matters that are the subject of pending or impending litigation, it would be improper for me as a magistrate judge and judicial nominee to comment further. *See* Code of Conduct for United States Judges, Canon 3(A)(6).

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

Response: Yes.

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

Response: Federal courts can enforce orders through hearings and status conferences, orders to show cause, and various sanctions, including monetary, default judgments, and adverse inferences. Courts can also impose civil and criminal contempt in more serious cases.

18. In the documents you provided the Senate Judiciary Committee, have you identified every publicly accessible -- or previously publicly accessible -- social media, blog, forum, or other online account that you have created, maintained, controlled, contributed to, or posted under, on any platform?

If not, 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. 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).

Response: I have disclosed all responsive materials in my Senate Judiciary Questionnaire.

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

Response: No.

20. Article III states that federal courts decide "cases" and "controversies."

- a. What do you look for when deciding whether a matter before you is actually a dispute constituting a "case" or "controversy?"

Response: The doctrine of standing serves as a “landmark” for identifying disputes that are cases and controversies and thus appropriately resolved through the judicial process. *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992). The “irreducible constitutional minimum of standing” requires a plaintiff to have suffered (1) injury in fact that is (2) fairly traceable to the challenged action of the defendant, and (3) redressable by a favorable decision by the court. *Id.* at 560-61.

- b. What harms could arise if a court were to decide a dispute that fails to meet the case-or-controversy requirement?

Response: The cases-and-controversies requirement of Article III is generally intended to prevent courts from exceeding their constitutional authority and infringing on the legislative and executive powers held by the elected branches of government. *See Lujan*, 504 U.S. at 559-60.

- c. If neither party raises that requirement — even if both parties are satisfied with their positions or purported settlement agreements — does a judge still have an independent obligation to ensure that any case before them meets all constitutional requirements?

Response: While judges have an obligation to *sua sponte* determine whether subject-matter jurisdiction exists, parties are always able to voluntarily settle their claims without involving the court. Accordingly, a court's obligation will depend on the status of the case.

- d. What recourse is available to a judge who concludes the parties before them are not adverse as constitutionally required?

Response: Please see my response to Questions 20(a) through (c).

21. In 2024, the Judicial Conference issued guidance urging the random district-wide assignment of cases that seek statewide or nationwide injunctions. Several district courts have not adopted that guidance. This has led litigants filing in single-judge divisions to essentially select their judge before filing.

- a. Does the practice of judge-shopping hurt public confidence in the federal court system?

Response: This question asks me to comment on a matter of public or political controversy which is inappropriate for me to do so as a sitting magistrate judge and judicial nominee. *See* Code of Conduct for United States Judges, Canons 2(A) and 5.

- b. If confirmed, will you support the adoption of the Judicial Conference's random-assignment policy?

Response: If confirmed, I will follow, as I do now, all binding precedent and policies and procedures adopted by general orders in the Southern District of Texas concerning assignment of cases.

- c. If you believe that litigants filed a case with the intent of obtaining you as a judge in their case, do you believe you have the authority to transfer it? Under what circumstances would you consider doing so?

Response: If confirmed, I will faithfully and impartially apply, as I do now, all binding Supreme Court and Fifth Circuit precedent and statutory grounds concerning any legal basis for transferring venue, including Title 28 U.S.C. §§ 1391 and 1404.

22. During your confirmation hearing, Senator Blumenthal asked whether the U.S. Capitol was attacked on January 6, 2021. Judge Ballou, a sitting Kentucky state circuit court judge, answered first: "I did watch enough to see it certainly appeared like there were people attacking the Capitol. When you're slinging around barriers, breaking glass and punching cops ... it appeared like some people were attacking the Capitol."

After Judge Ballou's answer, you declined to say the Capitol was attacked and instead

stated that "characterizing it as an attack, I believe, weighs into a matter of political controversy, and it's inappropriate for me to comment on that under the canons."

- a. Which specific canon of the Code of Conduct for United States Judges do you believe barred you from answering whether the Capitol was attacked?

Response: While I am aware there was violence against law enforcement, vandalism, and trespass, all of which I condemn, providing further comments on the characterization of the events of January 6, 2021, which are matters of significant political debate and controversy, it would be inappropriate for me, as a magistrate judge and judicial nominee, to answer that question or engage in any political commentary. Further, these events have been subject to litigation. *See, e.g., Trump v. Anderson*, 601 U.S. 100 (2024); *Blassingame v. Trump*, 87 F.4th 1 (D.C. Cir. 2023); *Straka v. NBC Universal Media, LLC*, No. 8:22CV434, 2023 WL 5041614, at *5 (D. Neb. Aug. 8, 2023); *see also* Code of Conduct for United States Judges, Canons 3A(6) and 5.

- b. Do you believe Judge Ballou's answer was inconsistent with the canons of judicial ethics? If not, explain why the canons barred you from giving the same answer.

Response: It would be inappropriate for me to comment on another nominee's answers. However, as a sitting federal judge and judicial nominee, I believe it is inappropriate for me to comment on matters of political controversy as stated in my response to Question 22(a).

Questions for the Record

Richard Bennett – Nominee to be United States District Judge for the Southern District of Texas

Sen. Adam Schiff (D-CA)

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

Response: Public corruption under federal law is addressed in many criminal statutes involving bribery, fraud, theft of services or funds, and extortion by public officials. For the precise legal definition, I would consult federal statutes, legal authorities, and precedent, depending on the circumstances.

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

Response: In answering this question, I would have to review the law and facts as public corruption encompasses many different activities as stated in my response to Question 1.

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

Response: Yes.

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

Response: Article III of the Constitution extends the judicial power of the United States to “Cases” and “Controversies.” The doctrine of standing serves as a “landmark” for identifying disputes that are cases and controversies and thus appropriately resolved through the judicial process. *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992). The “irreducible constitutional minimum of standing” requires a plaintiff to have suffered (1) injury in fact that is (2) fairly traceable to the challenged action of the defendant, and (3) redressable by a favorable decision by the court. *Id.* at 560-61.

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

Response: I understand that this issue is the subject of pending litigation and ongoing political controversy. Accordingly, consistent with the Code of Conduct for United States Judges, it would be inappropriate for me, as a sitting federal magistrate judge and judicial nominee, to publicly comment on the issue.

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

Response: Please see my response to Question 2(b).

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

Response: When a party files a frivolous lawsuit, the court can impose sanctions under federal statutes and Rule 11 of the Federal Rules of Civil Procedure, including monetary and nonmonetary sanctions, attorney's fees, and dismissal.

3. How would you describe your judicial philosophy?

Response: My judicial philosophy is to apply the law as written to the facts of the case before me. I evaluate each case on the merits, making decisions by faithfully and impartially applying any and all constitutional provisions, statutes and binding precedent. I believe judges must refrain from deciding cases based on their own personal opinions or preferences.

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

Response: As a magistrate judge, I faithfully follow and apply all binding Supreme Court and Fifth Circuit precedent. If there is no precedent, I follow the principles of textualism and originalism to discern the meaning of the statutory text at the time the law was enacted.

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

Response: Please see my response to Question 4.

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

Response: In interpreting a statute, I follow the plain ordinary meaning of the statutory text. If a statute is ambiguous, I would apply the canons of statutory interpretation and consider legislative history and statutory history to the extent they can assist in understanding the meaning of the text. However, I would not rely on those to override or change the plain meaning of the statutory language enacted by Congress.

6. How do you define judicial activism?

Response: Judicial activism is where judges reach decisions based on their personal preferences or policy beliefs rather than law.

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

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

Response: As a sitting magistrate judge and judicial nominee, it would be inappropriate for me, under the Code of Conduct for United States Judges, to publicly comment or opine on statements of a Supreme Court Justice.

- b. If you do agree, what factors would you consider to determine if precedent is “demonstrably erroneous”?

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

- c. What is your approach to considering *stare decisis*?

Response: As a magistrate judge and judicial nominee, I will continue to follow and be bound by any and all binding Supreme Court and Fifth Circuit precedent regardless of my personal views on the correctness of any decision.

8. You worked as an Assistant Chief Counsel in the Office of the Principal Legal Advisor at U.S. Immigration and Customs Enforcement (ICE) for several years. As part of your role, you worked on detained immigration removal proceedings, including bond hearings. There has been a historic surge in immigration-related habeas cases due to the Administration’s misreading of the law to require the detention without bond of immigrants who are apprehended by ICE and who entered the country without inspection. Under what circumstances do you think immigrants in removal proceedings should be placed in detention?

Response: As a magistrate judge and judicial nominee, I am bound by Fifth Circuit precedent, particularly the Fifth Circuit opinion in *Buenrostro v. Bondi*, 166 F.4th 494 (5th Cir. 2026). Further, similar issues are also presently pending in the Fifth Circuit and it would be inappropriate for me to comment on any pending or impending matters in any court. *See* Code of Conduct for United States Judges, Canon 3(A)(6).

9. President Trump announced your nomination by describing you as “a true warrior for Public Safety, Border Security, and our Constitution” who “will deliver strong results in his new role.”
- a. Do you see yourself as “a true warrior for Public Safety, Border Security, and our Constitution?”

Response: I cannot speak as to what the President might have meant. As a magistrate judge and judicial nominee, I will faithfully uphold my oath to the Constitution, apply all binding Supreme Court and Fifth Circuit precedent, and will fairly and impartially consider and rule on all matters before me. I treat all parties before with dignity and respect.

- b. Do you understand your role as a federal judge to include “deliver[ing] strong results”?

Response: Please see my response to Question 9(a).

10. At your Senate Judiciary Committee nomination hearing, Senator Blumenthal asked you which candidate won the 2020 election. You responded that Joe Biden was certified the winner but refused to say which candidate won the election as a matter of fact. You also stated that the question of which presidential candidate won the popular vote in the 2020 presidential election was a “matter of political controversy” and that you could not respond “under the canons of judicial ethics.”

- a. As a matter of fact, which of the two general election candidates lost the 2020 election?

Response: In the 2020 presidential election, Joe Biden was certified as the winner.

- b. As a matter of fact, which of the two general election candidates lost the 2024 presidential election?

Response: In the 2024 presidential election, Donald Trump was certified as the winner.

- c. As a matter of fact, did Donald Trump lose the 2020 election? Yes or no.

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

- d. Aside from the Electoral College and the certification of the election, who received the most recorded votes in the 2020 presidential election?

Response: The popular vote does not play a role in determining the outcome of presidential elections. Article II, section 1, and the Twelfth Amendment of the United States Constitution provide for the Electoral College as the process by which the president and vice president are certified in each presidential election. In the 2020 presidential election, Joe Biden was certified as the winner.

- e. Who won the majority of the electoral college votes in the 2020 presidential election?

Response: Please see my response to Question 10(d).

- f. Do you have any doubts about the outcome or integrity of the 2020 presidential election results?

Response: Following a count of the Electoral College votes for the 2020 election, Joe Biden was certified the winner and served four years as president. Consistent

with the Code of Conduct for United States Judges, it would be inappropriate for me, as a sitting federal magistrate judge and judicial nominee, to publicly comment upon a matter of political controversy. Federal judges and judicial nominees, including now-Justice Ketanji Brown Jackson, have consistently adopted this position on such matters, including the 2020 presidential election results, and I join them.

11. At your Senate Judiciary Committee nomination hearing, Senator Blumenthal asked you whether the U.S. Capitol was attacked on January 6, 2021. You refused to describe the events of January 6, 2021, as an attack on the U.S. Capitol.

a. Was there violence at the U.S. Capitol on January 6, 2021?

Response: Yes.

b. If yes, what violence are you aware of that occurred on January 6, 2021, at the U.S. Capitol? Please list any events that you recall reading about, watching, or seeing in subsequent media reports.

Response: From media reports, I am generally aware there was violence committed against law enforcement officers and I condemn those acts of violence. I also recall viewing acts of vandalism and trespass, which I also condemn. I do not recall specific incidents.

c. What level of violence would constitute an “attack” in your view? Do you consider the actions taken against law enforcement officers on January 6th at the U.S. Capitol to constitute an “attack”?

Response: Please see my response to Questions 11(a) through (b).

12. At your Senate Judiciary Committee nomination hearing, you answered Senator Blumenthal’s questions about the 2020 presidential election and the January 6, 2021, attack on the U.S. Capitol with a response that was substantially similar, if not identical, to the responses of recent nominees.

a. In preparing for your hearing and your written responses, did anyone, formally or informally, direct, advise, coach, suggest, or recommend how you should answer questions about the 2020 election and the January 6, 2021, attack on the U.S. Capitol? If so, who provided that guidance?

Response: In preparing for my hearing and written responses, the Department of Justice provided general advice and referred me to view hearings and samples of previous nominees’ hearings and responses. I watched several hearings and reviewed other nominees’ responses. Nobody instructed me on how I should answer questions. All responses provided herein are my own.

- b. In preparing for your hearing and your written responses, were you directed, encouraged, or advised to review the hearing testimony or written responses of previous nominees about the 2020 election and the January 6, 2021, attack on the U.S. Capitol? If so, who provided that guidance?

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