

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

1. **Name**: State full name (include any former names used).

Ann Marie Donnelly

2. **Position**: State the position for which you have been nominated.

United States District Judge for the Eastern District of New York

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

Office: New York Supreme Court
 100 Centre Street
 New York, New York 10013

Residence: Brooklyn, New York

4. **Birthplace**: State year and place of birth.

1959; Royal Oak, Michigan

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

1981 – 1984, Ohio State University College of Law; J.D., 1984
1977 – 1981, University of Michigan; B.A., 1981

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

September 2014 – present
New York County Supreme Court, Criminal Term
100 Centre Street

New York, New York 10013
Judge

2013 – 2014
Kings County Supreme Court, Criminal Term
320 Jay Street
Brooklyn, New York 11201
Judge

September 2013
Special Term for Election Matters
320 Jay Street
Brooklyn, New York 11201
Judge

2009 – 2013
Bronx Supreme Court, Criminal Term
265 East 161st Street
Bronx, New York 10451
Judge

1984 – 2009
New York County District Attorney's Office
1 Hogan Place
New York, New York 10013
Bureau Chief of the Family Violence Child Abuse Bureau (2005 – 2009)
Senior Trial Counsel (1997 – 2005)
Assistant District Attorney (1984 – 1997)

Summer 1983
Chadbourne Parke Whiteside & Wolff (now Chadbourne & Parke)
30 Rockefeller Plaza, 31st Floor
New York, New York 10112
Summer Associate

Summer 1982
Bieser Greer & Landis, LLP
6 North Main Street
Dayton, Ohio 45402
Summer Associate

Summer 1981
Estabrook Finn & McKee (now Porter Wright)
Fifth Third Center
1 South Main Street

Dayton, Ohio 45402
Paralegal

Other affiliations (uncompensated)

2009 – present
Thurgood Marshall Junior Mock Trial Program
New York, New York
Advisory Board

7. **Military Service and Draft Status:** Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

I have not served in the U.S. Military. I was not required to register for Selective Service.

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

Manhattan District Attorney's Association Award (2014)

American College of Trial Lawyers Fellow (2008)

St. Luke's Roosevelt Crime Victims Treatment Center Honoree (2007)

Ohio State University Law Journal (1982 – 1984)
Staff Member (1982 – 1983)
Note and Comment Editor (1983 – 1984)

American Jurisprudence Award, Criminal Law (1983)

9. **Bar Associations:** List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

American College of Trial Lawyers (2008 – present)
Fellow

Outreach Committee (2011 – 2012)

Mayor's Advisory Committee on Child Abuse (2005 – 2009)

Mayor's Task Force on Internet Crime (2005 – 2009)

National Association of Women Judges (2010 – present)

New York City Bar Association (2010 – present)

New York State District Attorneys Association Subcommittee on Sexual Assault
(2005 – 2009)
Project Safe Childhood (2006 – 2008)

10. **Bar and Court Admission:**

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

New York State, 1985

There has been no lapse in membership.

- b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

United States Court of Appeals for the Second Circuit, 1986

United States District Court for the Southern District of New York, 1985

There have been no lapses in membership.

11. **Memberships:**

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

New York Road Runners (2013 – present)

Prospect Park Track Club (2011 – present)

Thurgood Marshall Junior Mock Trial Program (2009 – present)

Advisory Board

- b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To the best of my knowledge, the organizations listed in response to Question 11a do not currently, and did not formerly discriminate on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies.

12. Published Writings and Public Statements:

- a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

None.

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

None.

- c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

March 10, 2009: Confirmation Proceeding, New York State Senate Judiciary Committee. As part of the confirmation process for appointment to the New York Court of Claims, I appeared before the New York Senate Judiciary Committee and answered questions posed by some of the committee members. I have no notes, transcript, or recording.

December 2002: During my tenure with the Manhattan District Attorney's Office, I worked on an investigation into sexual abuse by clergy members in New York County. In addition to the criminal investigation, I worked with representatives of the Archdiocese of New York to develop and implement a reporting protocol whenever a clergy member or archdiocesan employee is accused or suspected of sexually abusing a minor. I no longer have a copy of the protocol itself, but I am providing correspondence that includes the language of the protocol from the General Counsel to the Archdiocese.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the

date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

The following list represents my best efforts, through searches of my files, records, calendars and Internet databases to identify occasions on which I made public remarks.

September 18 – 21, 2014: Faculty, International Criminal Court Trial Advocacy Training Program, International Criminal Court, The Hague, The Netherlands. I taught basic trial advocacy to groups of young attorneys. I have no notes, transcript, or recording. The address for the International Criminal Court is Maanweg 174, 2516 AB, The Hague, The Netherlands.

April 29, 2014: Honoree, Acceptance Speech, Manhattan District Attorneys' Association, New York, New York. Notes supplied.

May 2014, May 2013, May 2012, May 2011, May 2010, May 2009: Mock Trial Judge, Thurgood Marshall Junior Mock Trial Program, Bronx, New York. I have no notes, transcript, or recording. The Thurgood Marshall Junior Mock Trial Program has no physical address.

February 12, 2014 and January 28, 2013: Moot Court Judge, National Moot Court Competition, New York City Bar Association, New York, New York. I have no notes, transcript, or recordings. The address for the New York City Bar Association is 42 West 44th Street, New York, New York 10036.

April 6, 2013 and March 31, 2012: Moot Court Judge, Jerome Prince Memorial Evidence Competition, Brooklyn Law School, Brooklyn, New York. I have no notes, transcript, or recording. The address for Brooklyn Law School is 250 Joralemon Street, Brooklyn, New York 11201.

February 5, 2012: Moot Court Judge, American College of Trial Lawyers National Trial Competition, Hofstra Law School, Hempstead, New York. I have no notes, transcript or recording. The address for American College of Trial Lawyers is 19900 MacArthur Boulevard, Suite 530, Irvine, California 92612.

April 19, 2010: Presenter, Civic Spirit Award, Women's City Club of New York, New York, New York. Notes supplied.

November 28, 2007: Honoree, Acceptance Speech, St. Luke's Roosevelt Crime Victims Treatment Center, New York, New York. I thanked the organization for the award and the members of the Child Abuse and Family Violence Bureau for

the work they did. I have no notes, transcript, or recording. The address for the organization is 432 West 58th Street, Ground Floor, New York, New York 10019.

October 28, 2000: Presenter, CLE Criminal Law Procedure and Evidence Seminar, Brooklyn Law School, Brooklyn, New York. I gave a presentation on legal and practical issues in prosecutions for depraved indifference homicide and the defense of extreme emotional disturbance in homicide cases. I have no notes, transcript, or recording. The address for Brooklyn Law School is 250 Joralemon Street, New York, NY 11201.

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

Eaton, Leslie, *Domestic Violence Stirs Debate in Race for Prosecutor*, New York Times, August 21, 2005. Copy supplied.

13. **Judicial Office:** State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I was appointed by Governor David Paterson to the New York Court of Claims on March 10, 2009. Upon my appointment, I was assigned to the New York Supreme Court for Bronx County, where I had jurisdiction over criminal matters in Bronx County. In January 2013, I was transferred to the Supreme Court for Kings County, where I had jurisdiction over criminal matters in Kings County. In September 2013, in addition to my duties in the criminal term, I was designated the judge to hear applications and proceedings in the Special Term for Election Matters for any issues that arose city-wide. In September 2014, I was assigned to the Supreme Court for New York County, where I have jurisdiction over criminal matters in New York County.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment?

I have presided over approximately 48 trials.

- i. Of these, approximately what percent were:

jury trials:	90%
bench trials:	10%
civil proceedings:	0%
criminal proceedings:	100%

- b. Provide citations for all opinions you have written, including concurrences and dissents.

The following is a list my opinions that are reported:

People v. Oliver, __ Misc.3d __, 991 NYS2d 260, 2014 NY Misc. Lexis 3734, 2014 Slip Op. 24228 (Kings Co. Supreme Court, July 9, 2014)

People v. Styles, 40 Misc.3d 1205(A), 975 NYS2d 369 (Kings Co. Supreme Court, June 13, 2013)

People v. Britton, 39 Misc.3d 1225(A), 971 NYS2d 73 (Kings Co. Supreme Court, February 11, 2013)

People v. Martinez et al., 36 Misc.3d 1225(A), 959 NYS2d 91 (Bronx Co. Supreme Court, August 1, 2012)

People v. Diaz, 34 Misc.3d 1211(A), 943 NYS2d 793 (Bronx Co. Supreme Court, December 22, 2011)

People v. Santiago, 32 Misc.3d 1244(A), 938 NYS2d 229, 2011 NY Slip Op. 51701(U) (Bronx Co. Supreme Court, July 26, 2011)

People v. Santiago, 32 Misc.3d 1244(A), 938 NYS2d 229, 2011 NY Slip Op. 51698(U) (Bronx Co. Supreme Court, July 18, 2011)

- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

1. *People v. Alphonso*, Indictment Number 167/13, Kings County Supreme Court

The defendant was charged with attempted murder in the second degree and assault in the first and second degrees. The defendant, enraged because he thought the victim was cheating him, drove his car into the victim, pinning him up against a fence and fracturing his leg in several places. The defendant then got out of his car and pursued the injured victim, who was trying to crawl away. A bystander prevented the defendant from inflicting further injury. The jury acquitted the defendant of the most serious charges, second degree attempted murder and first degree assault. They convicted him of assault in the second degree. I sentenced the defendant as a predicate felon to a determinate sentence of six years, with five years of post-relief supervision.

Trial dates: March 24 – April 7, 2014

Counsel for the Defendant:

Harry Dusenberry
Solo Practitioner
107 Smith Street
Brooklyn, New York 11201
(718) 625-1777

Counsel for the Prosecution:

Emily Dean
Kings County District Attorney's Office
350 Jay Street
Brooklyn, New York 11201
(718) 250-3980

2. *People v. Mena*, Indictment Number 8960/11, Kings County Supreme Court

The defendant was charged with kidnapping in the second degree and related charges. The evidence established that the defendant and an accomplice plotted the kidnapping and robbery of a man who had a bread route in Brooklyn. The defendant and his accomplice ambushed the victim at gunpoint, tried to force him to get money from his apartment, and finally pistol-whipped him, tied him up and threw him in the back of his own van. The police stopped the defendant and his accomplice before they could drive away, and found the victim in the back of the van. The jury convicted the defendant of kidnapping in the second degree. I sentenced the defendant to 17 years, with five years of post-release supervision.

Trial Dates: April 15 – May 3, 2013

Counsel for the Defendant:

Edward Mandery
Mandery & Mandery
300 Old Country Road
Suite 341
Mineola, New York 11501
(516) 741-6009

Counsel for the Prosecution:

Lindsey Gerdes
Kings County District Attorney's Office
350 Jay Street
Brooklyn, New York 11201
(718) 250-3728

3. *People v. Fountain*, Indictment Number 3527/08, Bronx County Supreme Court

The defendant was charged with stabbing a young man to death. The State presented evidence that the defendant was part of a large group that was attacking people at random. The deceased, a complete stranger to the defendant, was stabbed multiple times on his own doorstep. Much of the attack was captured on videotape, although the stabber's face was not visible. In addition, the deceased's blood was on the defendant's sweatshirt. One of the eyewitnesses refused to testify, because he feared retaliation from the defendant's gang. I held a hearing to determine whether the defendant could be linked to efforts to intimidate the witness; recorded telephone calls from the prison on Rikers Island revealed that the defendant was in contact with associates, and was directing attempts to silence the witness. I ruled that the State could introduce the witness' grand jury testimony because the evidence established that the defendant was responsible for the witness' unavailability. The defense was misidentification. The jury acquitted the defendant. The defendant subsequently pled guilty before me to a second indictment, which charged him with stabbing and injuring another person. Pursuant to a negotiated plea, I sentenced the defendant to eight years in prison.

Trial Dates: July 24 – August 7, 2012

Counsel for the Defendant:

Javier Solano
Law Office of Javier A. Solano, PLLC
350 Fifth Avenue
Suite 5900
New York, New York 10118
(212) 714-6600

Counsel for the Prosecution:

John Morabito
Bronx County District Attorney's Office
198 East 161st Street
Bronx, New York 10451
(718) 838-7258

4. *People v. Gay*, Indictment Number 787/2008, Bronx County Supreme Court

The defendant was charged with murder in the second degree and related charges for shooting an unarmed man in the back of the head. I presided over the jury trial. Identification was the critical issue in the case. The State sought to preclude the defense from eliciting evidence that the weapon used to kill the victim also was used to murder a second person at a time when the defendant was incarcerated. I denied the People's application in a written decision, which is supplied. The defendant was convicted of murder in the second degree and

related charges. After the verdict, the defendant retained new counsel, who filed a motion to set aside the verdict, claiming that the defendant's trial attorney was ineffective. I denied that application in a written decision, which is supplied. I sentenced the defendant to 25-years-to-life.

Trial Dates: July 3 – July 24, 2012

Counsel for the Defendant:

Edward Dudley
Solo Practitioner
370 East 149th Street
Office C
Bronx, New York 10455
(718) 292-9600

Counsel for Prosecution:

Joshua Gradinger
Bronx County District Attorney's Office
198 East 161st Street
Bronx, New York 10451
(718) 838-7351

5. *People v. Galarza*, Indictment Number 4542/08, Bronx County Supreme Court

The defendant was charged with murder in the second degree and related charges for shooting and killing an unarmed young man. The evidence established that the defendant was playing pool with the deceased and others. The defendant started arguing with the deceased and threatened to kill him. The defendant left the room and returned shortly thereafter, holding a gun. One of the witnesses begged her not to shoot, but the defendant shot the victim, killing him instantly. The jury convicted the defendant of murder in the second degree and related charges. I sentenced her to 25-years-to-life.

Trial Dates: March 9 – April 2, 2012

Counsel for the Defendant:

David Segal
Solo Practitioner
7 Dey Street
Room 1401
New York, New York 10007
(212) 406-9200

Counsel for the Prosecution:

Dominic DiMaggio (formerly employed at Bronx County District Attorney's Office at time of trial)

Nassau County Attorney's Office
1 West Street
Mineola, New York 11501
(516) 571-3056

6. *People v. Hamilton*, Indictment Number 1703/2009, Bronx County Supreme Court

The defendant was charged with murder in the second degree and related charges for the shooting death of a young man. I presided over the pre-trial hearing related to the admissibility of police-arranged identification procedures and the trial. At trial, the prosecution introduced evidence that the defendant, angry over money he claimed he was owed, shot the victim in the back of the head. The defendant asserted a justification defense, claiming that he was defending his grandmother from an attack by the deceased. It was necessary to charge the jury on the defense of justification, a complicated charge with multiple definitions. The jury deliberated for four days, and convicted the defendant of the top count, as well as lesser offenses. I imposed the maximum sentence of 25-years-to-life for the murder, and a concurrent 15-year term for the lesser charges. The defendant's conviction was affirmed. *People v. Hamilton*, 116 AD3d 614 (1st Dep't 2014).

Trial Dates: November 28 – December 16, 2011

Counsel for the Defendant:

Deveraux Cannick
Aiello & Cannick
6906 Grand Avenue
Maspeth, New York 11378
(718) 426-0444

Counsel for the Prosecution:

Donald Levin
Bronx County District Attorney's Office
198 East 161st Street
Bronx, New York 10451
(718) 590-2000

7. *People v. Santiago*, Indictment Number 4595/2008, Bronx County Supreme Court

The defendant, a member of the Crips gang, opened fire on a crowd of teenagers, killing a young girl and wounding two young men. At the pre-trial hearing, the defense claimed that the search of the defendant's prison cell and subsequent seizure of his personal documents were unconstitutional, and that the police employed unfairly suggestive identification procedures. I denied the motion in a

written decision. *People v. Santiago*, 32 Misc.3d 1244(A), 938 NYS2d 229, 2011 NY Slip Op. 51701(U) (Bronx Co. Supreme Court, 2011). The trial posed significant security risks and legal issues. Prior to trial, the defendant, through his associates, attempted to intimidate witnesses and ordered their executions from prison. During the trial itself, members of the defendant's gang made repeated efforts to intimidate witnesses, including in the courtroom. Shortly before one witness was to testify, the defendant's associates lured him to a secluded location and shot him. He survived, but was too terrified to testify. Prison officials searched the defendant's prison cell and found further evidence of threats. I held a mid-trial hearing to determine whether to admit the witness' prior statements into evidence. I also heard applications from the prosecution to close the courtroom for the hearing, as well as from members of the press, who wanted to be present for the hearing. I closed the courtroom for the witness' testimony on the intimidation issue, and ruled that the State could introduce the witness' prior testimony. *People v. Santiago*, 32 Misc.3d 1244(A), 938 NYS2d 229, 2011 NY Slip Op. 51698(U) (Bronx Co. Supreme Court, 2011). The defendant was convicted of murder in the second degree, two counts of attempted murder in the second degree, and criminal possession of a weapon in the second degree. I imposed consecutive sentences on the murder and attempted murder counts, totaling 75-years-to-life, and a concurrent 15-year term for the weapons possession count.

Trial Dates: May 23 – July 7, 2011

Counsel for the Defendant:

Cesar Gonzalez Jr.
Solo Practitioner
840 Grand Concourse
Suite 1BB
Bronx, New York 10451
(718) 292-3154

Counsel for the Prosecution:

Nancy Borko
Bronx County District Attorney's Office
198 East 161st Street
Bronx, New York 10451
(718) 838-7262

8. *People v. Joseph Sanchez*, Indictment Number 1793/2007, Bronx County Supreme Court

The defendant, a gang member and drug dealer, shot and killed a fellow drug dealer, and seriously injured a second man, also a drug dealer. I conducted hearings, at which the defense contended that the defendant's statements and evidence of his gunshot wound should be suppressed. I denied the motion in a

written decision, which is supplied. I then presided over the trial. From his prison cell, the defendant attempted to have the surviving victim killed. Because of the defendant's gang affiliation, the case presented security risks, especially when the surviving victim testified. The defendant was convicted of murder in the second degree, attempted murder in the second degree, and criminal possession of a weapon in the second degree. I imposed consecutive sentences of 25-years-to-life on the murder count, and a determinate term of 25 years for the attempted murder, as well as a concurrent sentence of 15 years for criminal possession of a weapon in the second degree.

Trial dates: April 25 – May 11, 2011

Counsel for Joseph Sanchez:

Geoffrey Stewart
Solo Practitioner
139 Fulton Street
Suite 508
New York, New York 10038
(212) 625-9696

Counsel for the Prosecution:

David Greenfield
Bronx District Attorney's Office
198 East 161st Street
Bronx, New York 10451
(718) 838-7224

9. *People v. Panton*, Indictment Number 3237/2007, Bronx County Supreme Court

The 28-year-old defendant and her co-defendant were charged with murder in the first degree for the murder of the co-defendant's 91-year-old neighbor. Because both defendants made statements implicating each other, they were tried separately. Another judge presided over the co-defendant's trial. The defendant and the co-defendant convinced the elderly victim to let them into her house. Once inside, they tied her up, and demanded that she give them money. Over the course of the next hour, they forced her to drink wine, rubbing alcohol, and some kind of cleaner. They then put a plastic bag over her head, and tied it with a belt. The victim died of asphyxiation. The crime went unsolved for several years, until an associate to whom the co-defendant confessed called the police. The defendant was acquitted of first degree murder, and convicted of murder in the second degree. I imposed a prison sentence of 25-years-to-life. The conviction was affirmed on appeal. *People v. Panton*, 114 AD3d 450 (1st Dep't 2014).

Trial dates: November 29 – December 8, 2010

Counsel for Nadine Panton:

Robert Johnston
Solo Practitioner
3139 Arnow Place
Bronx, New York 10461
(917) 826-0910

Counsel for the Prosecution:

Christine Scaccia
Bronx District Attorney's Office
198 East 161st Street
Bronx, New York 10451
(718) 590-2232

10. *People v. A. Santana and C. Santana*, Indictment Number 698/2008, Bronx County Supreme Court

The defendants are brothers, and were charged with murder in the second degree for the stabbing death of a 17-year-old boy. In the early morning hours of January 1, 2008, the deceased, who was intoxicated, and a group of teenagers were throwing bottles at the defendants' building. The defendants' family members came outside, and a fight broke out, during which the defendants' mother was injured. The defendants armed themselves with butcher knives, and their mother pointed out the victim, who attempted to flee. The defendants chased him down, and stabbed him to death. The defendants were acquitted of intentional murder, and convicted of manslaughter in the first degree. I imposed determinate sentences of 20 years for each defendant. Both convictions were affirmed.

People v. Alexander Santana, 114 AD3d 557 (1st Dep't 2014); *People v. Charles Santana*, 113 AD3d 504 (1st Dep't 2014).

Trial dates: May 12 – June 9, 2010

Counsel for Alexander Santana:

Fred Bittlingmaier
Tibaldi & Bittlingmaier
445 Hamilton Avenue
Suite 1102
White Plains, New York 10601
(914) 220-8385

Counsel for Charles Santana:

Robert Laureano
Solo Practitioner
910 Grand Concourse
Suite 1F

Bronx, New York 10451
(718) 588-8017

Counsel for the Prosecution:
Daniel McCarthy (deceased)

- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

1. *People v. Williams*, Indictment Number 280/2011, Kings County Supreme Court. Decision supplied.

Defense Counsel:
Jacob Rolls
The Legal Aid Society
111 Livingston Street
9th Floor
Brooklyn, New York 11201
(718) 243-6829

Counsel for the Prosecution:
Elizabeth Doerfler
Kings County District Attorney's Office
350 Jay Street
Brooklyn, New York 11201
(718) 250-2120

2. *People v. Oliver*, __ Misc.3d __, 991 NYS2d 260, 2014 NY Misc. Lexis 3734, 2014 Slip Op. 24228 (Kings Co. Supreme Court, July 9, 2014)

Defense Counsel:
David Roche
Solo Practitioner
160 Broadway, Suite 708
New York, New York 10038
(212) 430-6380

Counsel for the Prosecution:
Elizabeth Doerfler
Kings County District Attorney's Office
350 Jay Street
Brooklyn, New York 11201
(718) 250-2120

3. *People v. Styles*, 40 Misc.3d 1205(A), 975 NYS2d 369 (Kings. Co. Supreme Court, June 13, 2013)

Defense Counsel:

Adrian Leshner
The Legal Aid Society
10th Floor
111 Livingston Street
Brooklyn, New York 11201
(718) 243-6219

Counsel for the Prosecution:

Theresa Robitaille
Kings County District Attorney's Office
350 Jay Street
Brooklyn, New York 11201
(718) 250-2000

4. *People v. Trevor Mann*, Indictment Number 11211/2010, Kings County Supreme Court. Decision supplied.

Defense Counsel:

Lawrence E. Wright
Solo Practitioner
32 Court Street
Suite 707
Brooklyn, New York 11201
(718) 643-6161

Counsel for the Prosecution:

Jacqueline Kagan (formerly employed by King's County District Attorney's Office at time of hearing)
New York State Justice Center
161 Delaware Avenue
Delmar, New York 12054
(518) 549-0200

5. *People v. Britton*, 39 Misc.3d 1225(A), 971 NYS2d 73 (Kings. Co. Supreme Court, February 11, 2013)

Defense Counsel:

Benjamin Zeman
Brooklyn Defender Services
177 Livingston Street, 5th Floor
Brooklyn, New York 11201
(718) 254-0700

Counsel for the Prosecution:

Perry Cerrato (formerly employed at King's County District Attorney's Office at time of decision)

New York State Justice Center

161 Delaware Avenue

Delmar, New York 12054

(518) 549-0227

6. *People v. William Gay*, Indictment Number 787/2008, Bronx County Supreme Court. Decision previously supplied in response to 13c.

Defense Counsel (trial):

Edward Dudley

Solo Practitioner

370 East 149th Street

Office C

Bronx, New York 10455

(718) 292-9600

Defense Counsel (post-judgment motion):

Richard Langweber

The Blanch Law Firm, PC

261 Madison Avenue

New York, New York 10016

(212) 736-3938

Counsel for the Prosecution:

Joshua Gradinger

Bronx County District Attorney's Office

198 East 161st Street

Bronx, New York 10451

(718) 838-7351

7. *People v. Martinez et al.*, 36 Misc.3d 1225(A), 959 NYS2d 91 (Bronx Co. Supreme Court, August 1, 2012)

Counsel for Defendant Martinez:

Pierre Sussman

Solo Practitioner

903B Sheridan Avenue

Bronx, New York 10451

(718) 588-8122

Counsel for Defendant Paige:

Michael S. Berardino

Mangliardi & Berardino
111 North Central Avenue
Hartsdale, New York 10530
(914) 618-4167

Counsel for Defendant McCrae:

Lauren Roberts
The Legal Aid Society
260 East 161st Street
Bronx, New York 10451
(718) 579-8906

Counsel for the Prosecution:

Adam Petitt (formerly employed at Bronx County District Attorney's Office at
time of decision)
White & Williams, LLP
250 West 34th Street
Suite 4110
New York, New York 10119
(646) 766-1351

8. *People v. Diaz*, 34 Misc.2d 1211(A), 943 NYS2d 793 (Bronx Co. Supreme
Court, December 22, 2011)

Defense Counsel:

Matthew Kluger
Solo Practitioner
184 East 161st Street
Floor 2
Bronx, New York 10451
(718) 293-4900

Counsel for the Prosecution:

Brenna Zortman, Esq. (formerly employed at Bronx District Attorney's Office at
time of hearing)
(business contact information unavailable)

9. *People v. Santiago*, 32 Misc.3d 1244(A), 938 NYS2d 229, 2011 NY Slip Op.
51701(U) (Bronx Co. Supreme Court, July 26, 2011)

Defense Counsel:

Cesar Gonzalez Jr.
Solo Practitioner
840 Grand Concourse Suite 1BB
Bronx, New York 10451
(718) 292-3154

Counsel for the Prosecution:

Nancy Borko
Bronx County District Attorney's Office
198 East 161st Street
Bronx, New York 10451
(718) 838-7262

10. *People v. Santiago*, 32 Misc.3d 1244(A), 938 NYS2d 229, 2011 NY Slip Op. 51698(U) (Bronx Co. Supreme Court, July 18, 2011)

Defense Counsel:

Cesar Gonzalez Jr.
Solo Practitioner
840 Grand Concourse
Suite 1BB
Bronx, New York 10451
(718) 292-3154

Counsel for the Prosecution:

Nancy Borko
Bronx County District Attorney's Office
198 East 161st Street
Bronx, New York 10451
(718) 838-7262

- e. Provide a list of all cases in which certiorari was requested or granted.

I am not aware of any cases in which certiorari was granted or requested.

- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

To the best of my knowledge, none of my decisions have been reversed by an appellate court, nor have there been affirmances with significant criticism of any of my rulings.

- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

I have issued approximately 800 written decisions. Approximately 99% of them are unpublished. Hard copies of the decisions are stored in the files for the cases

in which they were issued, which are maintained in the county clerks' offices.

- h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

Although federal and state constitutional issues are almost always a factor in the cases over which I preside, I have not written any significant opinions that deal with the interpretation of state or federal constitutional law.

- i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

I have never sat by designation on a federal court of appeals.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;
- b. a brief description of the asserted conflict of interest or other ground for recusal;
- c. the procedure you followed in determining whether or not to recuse yourself;
- d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

Under New York law, a judge may not take part in any matter in which she is a party, in which she has been counsel, in which she is "interested," or in which she is related "by consanguinity or affinity to any party to the controversy within the sixth degree." Judiciary Law §14. In addition, a judge is required to disqualify herself in any proceeding in which her "impartiality might reasonably be questioned." 22 NYCRR §100.3(E). I have always complied with these mandates by making a determination on a case-by-case basis. I have never recused myself sua sponte, nor have I ever been asked to recuse myself.

15. **Public Office, Political Activities and Affiliations:**

- a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

I have never held any public offices, other than a judicial office. I have never been a candidate for elected office, nor have I had any unsuccessful nominations for appointed office.

- b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I have never held any office nor given any services to any political party or election committee. I have never held a position or played a role in a political campaign.

16. **Legal Career:** Answer each part separately.

- a. Describe chronologically your law practice and legal experience after graduation from law school including:

- i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I have never served as a clerk to a judge.

- ii. whether you practiced alone, and if so, the addresses and dates;

I have never practiced alone.

- iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1984 – 2009

New York County District Attorney's Office

1 Hogan Place

New York, New York 10013

Bureau Chief, Family Violence Child Abuse Bureau (2005 – 2009)

Senior Trial Counsel (1997 – 2005)
Assistant District Attorney (1984 – 1997)

- iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have never served as a mediator or an arbitrator.

b. Describe:

- i. the general character of your law practice and indicate by date when its character has changed over the years.

I joined the New York County District Attorney's Office in 1984. I was selected to work in the Appeals Bureau, where I wrote briefs both as an appellant and a respondent. I also responded to federal habeas petitions in the Southern District of New York and in the Court of Appeals for the Second Circuit, as well as two petitions for writs of certiorari to the United States Supreme Court. From approximately 1987 to 1989, in addition to writing briefs, I edited appellate briefs written by other lawyers.

In 1989, I was assigned to the Major Offense Career Criminal Program, a specialized bureau that targeted repeat offenders and violent felons. I investigated and prosecuted violent felonies including homicides, robberies, kidnappings, and assaults. I appeared in New York Supreme Court on a regular basis, responding to motions, doing hearings and trying cases. In 1997, I was promoted to Senior Trial Counsel, a title held by fewer than 15 lawyers in the office. I also was a member of the Sex Crimes Prosecution Unit, where I investigated and tried sexual assault cases. As part of that unit, I headed the investigation into allegations of sexual abuse by clergy members.

In 2005, I was named the Bureau Chief of the Family Violence and Child Abuse Bureau. I supervised the investigations and prosecutions of all felony child abuse cases including homicides, physical and sexual assaults and Internet predators. In this role, I oversaw a bureau of 13 lawyers and nine support staff members. In addition, I supervised approximately 100 lawyers throughout the office whenever they were assigned to domestic violence cases. I also supervised the assistants in my bureau when they worked on homicides of adults. As Bureau Chief, I was a member of committees that discussed proposed legislative reforms in the area of child abuse and sexual assault.

- ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

While at the New York County District Attorney's Office, I represented the people of New York.

- c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

As an assistant district attorney, my entire practice was in litigation in both appellate and trial courts. When I was in the Appeals Bureau, I appeared perhaps twice a month in state appellate courts, and less frequently in federal court. As a trial assistant and then as Senior Trial Counsel, I appeared in state court almost every day. When I became a Bureau Chief in 2005, my court appearances were less frequent, and I appeared in court primarily to observe and assist attorneys in my bureau.

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 3% |
| 2. state courts of record: | 97% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 0% |

- ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|------|
| 1. civil proceedings: | 0% |
| 2. criminal proceedings: | 100% |

- d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I tried approximately 40 felony cases to verdict. On all but two of them, I was the sole counsel. On the other two, I was one of the chief attorneys.

- i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 98% |
| 2. non-jury: | 2% |

- e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I responded to two petitions for writs of certiorari. *People v. Thomas*, 68 NY2d 194 (1986), cert. denied sub nom. *Thomas v. New York*, 480 US 948 (1987). I have been unable to obtain a copy.

Saldana v. New York, 665 F.Supp. 271 (SDNY 1987), *rev'd*, 850 F.2d 117 (2d Cir. 1988), *cert. denied*, 488 US 1029 (1989). I have been unable to obtain a copy.

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- a. the date of representation;
- b. the name of the court and the name of the judge or judges before whom the case was litigated; and
- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *People v. Kozlowski and Swartz*, New York County Supreme Court

The defendants, formerly the CEO and CFO of Tyco International, were charged with multiple counts of grand larceny, conspiracy, securities fraud, and related crimes. They had stolen millions of dollars from Tyco through a variety of complex schemes. I joined the prosecution team shortly before jury selection in the first trial. My responsibilities in that six-month trial included presenting evidence and delivering half of the closing argument for the prosecution. The first trial ended in a mistrial after a juror reported receiving a threatening letter. My role increased at the second trial, which also lasted for six months. I presented many of the major witnesses, I cross-examined one of the defendants, and I delivered half the closing argument. The defendants were convicted of multiple counts of grand larceny, falsifying business records, securities fraud and conspiracy. I also handled half of the sentencing presentation. Each defendant was sentenced to indeterminate prison terms ranging from 8 1/3 to 25 years in prison and ordered to pay almost \$240 million in fines and restitution. Their convictions were affirmed on appeal. *People v. Kozlowski and Swartz*, 47 A.D. 3d 111(1st Dep't 2007), *aff'd*, 11 N.Y.3d 223 (2008), *cert. denied sub nom. Kozlowski v. New York*, 556 U.S. 1282 (2009).

First Trial: September 2003 – April 2004

Second Trial: January – June 2005

Judge: Hon. Michael Obus

Co-counsel:

Owen Heimer (formerly at New York County District Attorney's Office at time of trial)

Marsh, Inc.

1166 Avenue of the Americas
New York, New York 10036
(212) 345-1890

Connie Fernandez
New York County District Attorney's Office
1 Hogan Place
New York, New York 10013
(212) 335-4059

Marc Scholl
New York County District Attorney's Office
1 Hogan Place
New York, New York 10013
(212) 335-9324

Kenneth Chalifoux (formerly at New York County District Attorney's Office at time
of trial)
State Oil
31366 North Route 45
Libertyville, Illinois 60048
(847) 680-5831

Counsel for Defendant Kozlowski:

Stephen E. Kaufman.
Stephen E. Kaufman, P.C.
277 Park Avenue
47th Floor
New York, New York 10172
(212) 826-0820

Austin V. Campriello
Bryan Cave LLP
1290 Avenue of the Americas
New York, New York 10104
(212) 541-2065

Counsel for Defendant Swartz:

Charles Stillman
Stillman & Friedman, P.C. (now Ballard Spahr Stillman & Friedman)
425 Park Avenue
New York, New York 10022
(212) 223-0200

2. *People v. Farrell*, New York County Supreme Court

The defendant, a predicate violent felon, committed multiple gunpoint robberies of small newsstands and grocery stores on Manhattan's Upper East Side. Police officers saw him driving a car he had stolen at gunpoint earlier that day and attempted to pull him over. The defendant sped away, colliding with a livery car, seriously injuring the driver and two passengers. The most gravely injured, a young woman from Israel, suffered serious brain damage, and never regained consciousness. I was the only prosecutor on the case, conducting the pre-trial suppression hearing and the trial. Approximately 30 witnesses testified, including the robbery victims, police officers and detectives, and two of the people in the car that the defendant struck. The defendant testified at the trial, claiming that he was the victim of mistaken identity and police brutality. The defendant was convicted of multiple counts of first degree robbery, weapons possession, assault and reckless endangerment. He was sentenced to serve an aggregate sentence of 125-years-to-life in prison. The defendant's conviction was affirmed on appeal. *People v. Farrell*, 28 AD3d 244 (1st Dep't 2006).

Trial: January, 2003

Judge: Hon. Budd Goodman (retired)

Defense counsel:

Howard Meyer (deceased)

3. *People v. Madera*, New York County Supreme Court

The defendant, a predicate felon, forced his way into the apartment of an 89-year-old woman and assaulted her. Neighbors heard her screams and called the police, who arrived within minutes. They forced open the door, and stopped the defendant as he was attempting to climb out the window. The victim, who was traumatized, was unable to remember certain details of the assault. The defendant's guilt was established by the testimony of the neighbors and the officers. The defendant testified, admitting that he went into the victim's apartment, but claimed that he was in the throes of a cocaine-induced psychosis, and that the victim let him into her apartment. The defense called additional witnesses to testify about his drug use. The defendant was convicted of burglary and sentenced to a determinate prison term of ten years. I tried this case by myself. The defendant's conviction was reversed on appeal; the appellate court ruled that the trial court improperly denied the defendant's request to call a psychiatrist. *People v. Madera*, 24 AD3d 278 (1st Dep't 2005). Although I did not handle the plea, I understand that the defendant subsequently pled guilty in exchange for a reduced sentence.

Trial: March, 2002

Judge: Hon. Carol Berkman (retired)

Defense Counsel:

Renee Leviton
The Legal Aid Society
49 Thomas Street
New York, New York 10013
(212) 298-5000

4. *People v. S. Kimes and K. Kimes*, New York County Supreme Court

Mr. and Ms. Kimes, a mother and son team responsible for at least three other homicides in California, the Bahamas and Hawaii, murdered an 82-year-old woman in her home on the Upper East Side of Manhattan, and successfully disposed of her body. Because there was no body, no DNA from the victim or the defendants, and no admission from the defendants, it was necessary to build a trial case entirely from circumstantial evidence. The process was a painstaking one: we gathered evidence from scores of sources around the city, across the country and overseas, often in partnership with other law enforcement agencies, including the FBI, ATF, and law enforcement personnel in Los Angeles, Nevada, Utah, Bermuda and the Bahamas. I was responsible for handling many of the unique legal issues in the case, which included the sufficiency of the circumstantial evidence, the constitutionality of seizing Ms. Kimes' personal diaries, and the legality of compelling the defendants' private investigator to testify before the grand jury and at trial. At the trial, I presented many of the major witnesses, including detectives, experts, and civilian witnesses. I prepared the cross-examinations of both defendants, although ultimately neither testified. I delivered half of the closing argument. The defendants were convicted after a lengthy trial, and both defendants were sentenced to prison terms totaling over 120 years. The case was affirmed on appeal. *People v. Kimes*, 37 A.D.3d 1(1st Dep't 2006).

Trial: January – May, 2000

Judge: Hon. Rena Uviller (retired)

Co-counsel:

Hon. John Carter (formerly at New York County District Attorney's Office at time of trial)
Bronx Supreme Court
265 East 161st Street
Bronx, New York 10451
(718) 618- 3635

Connie Fernandez
New York County District Attorney's Office
1 Hogan Place
New York, New York 10013
(212) 335-4059

Owen Heimer (formerly at New York County District Attorney's Office at time of trial)

Marsh, Inc.
1166 Avenue of the Americas
New York, New York 10036
(212) 345-1890

Counsel for Defendant S. Kimes:

Michael Hardy
National Action Network
106 West 145th Street
New York, New York 10039
(212) 690-3070

Jose Muniz
(current contact information unavailable)

Counsel for Defendant K. Kimes:

Mel Sachs
(Deceased)

5. *People v. Moyd*, New York County Supreme Court

Within days of his release from state prison, the defendant, a persistent violent felony offender, raped and robbed one victim at knifepoint, and robbed a second woman as she walked into her building. The first victim was walking to her car in lower Manhattan. The defendant held a knife to her side, ordered her into her car, and forced her to drive to a deserted location where he raped her. Shortly thereafter, he robbed a second woman in the lobby of her apartment building. After his arrest, he gave written and videotaped confessions to the crimes. I handled the suppression hearing and the trial by myself. The defendant pled guilty during the trial to kidnapping in the first degree, rape in the first degree and robbery in the first degree, and he was sentenced to 23-years-to-life in prison. He did not appeal his conviction.

Trial: October, 1997

Judge: Hon. Rena Uviller (retired)

Defense Counsel:

William J. Alford III
Solo Practitioner
325 Broadway
Room 404
New York, New York 10007
(347) 423-6397

6. *People v. Givens*, New York County Supreme Court

The defendant, after spending the day drinking, drove his car in a busy neighborhood in West Harlem. At one intersection, he turned his car into oncoming traffic and collided with a motorcycle; both the driver and his passenger were thrown from the motorcycle. The defendant sped away and was stopped by the police several blocks away from the scene of the collision. The driver of the motorcycle suffered serious brain damage and was unable to remember the incident. The passenger, a mother of a six-week-old baby, lived for about five weeks, but she ultimately died from her injuries. I tried this case by myself and called approximately 15 witnesses. The defendant was acquitted of manslaughter, but convicted of criminally negligent homicide and leaving the scene of an incident without reporting, as well as some misdemeanor counts. He was sentenced as a predicate felon to consecutive terms of two to four years for the felonies, to run concurrently with one year terms for the misdemeanors. The conviction was affirmed on appeal, although the appellate court reduced the sentence on the leaving the scene count to one and a third to four years because it did not qualify as a predicate felony conviction under New York law. *People v. Givens*, 268 AD2d 240 (1st Dep't 2000).

Trial: March – April, 1997

Judge: Hon. Renee White (retired)

Defense Counsel:

Oleh Dekajlo
Dekajlo Law Offices
1975 Hempstead Turnpike
Suite 101
New York, New York 11554
(516) 542-9300

7. *People v. Bradley*, New York County Supreme Court

The defendant and an accomplice went into a sporting goods store in West Harlem, pulled out guns, and ordered the employees into a bathroom. They tied up the employees, and began stealing money and merchandise. A neighborhood resident who was familiar with the store saw the defendant and the accomplice, realized something was wrong, and telephoned the police. The defendant managed to get away before the police arrived, but the accomplice was arrested. The defendant was subsequently arrested and identified in line-ups by several witnesses. I was the only prosecutor on the case. I handled the suppression hearings and the trial. The defendant was convicted of first and second degree robbery and sentenced to concurrent, determinate prison terms of 12 years and ten years. The conviction was affirmed on appeal. *People v. Bradley*, 250 AD2d 502 (1st Dep't 1998).

Trial: November – December, 1996

Judge: Hon. Bonnie Wittner

Defense Counsel:

Franklyn Gould
(deceased)

8. *People v. Rowe*, New York County Supreme Court

The defendant was standing outside a high school in Harlem, waiting for his girlfriend. The victim and several friends were also outside. The defendant took offense at something one of the victim's friends said or did. He pulled out a gun and started firing at the group of young men, all of whom ran away. One of his bullets struck the 19-year-old victim in the lower back, killing him. The defendant fled to Baltimore, Maryland, and was not apprehended for several years. I prosecuted this case by myself. I handled the pre-trial suppression hearings, as well as the trial. Multiple witnesses testified for the prosecution, and the defendant also called witnesses. The defendant was acquitted of second degree murder, and convicted of manslaughter in the first degree and criminal possession of a weapon in the second degree. He was sentenced to consecutive prison sentences of 8 1/3 to 25 years for the manslaughter, and five to 15 years for the weapons possession. He subsequently pled guilty to murder in the second degree for another shooting, and was sentenced to 20-years-to-life in prison. His conviction was affirmed on appeal. *People v. Rowe*, 271 AD2d 217 (1st Dep't 2000).

Trial: August – September 1994

Judge: Hon. John A.K. Bradley (retired)

Defense Counsel:

Bruce Menken
Beranbaum & Menken, LLP
80 Pine Street
Floor 33
New York, New York 10005
(212) 509-1616

9. *People v. Boddie and Randall*, New York County Supreme Court

The defendants were smoking crack cocaine with the victim, a 27-year-old woman from New Jersey. At one point, Mr. Randall pulled out a shotgun, pointed it at the woman, and ordered her to undress. He and Mr. Boddie took turns raping and sodomizing her before finally letting her leave. The victim immediately reported the attack to the police, who arrested the defendants. I was the sole prosecutor on this case and conducted the pre-trial suppression hearings and the trial. Multiple

witnesses testified for the prosecution, including the victim, detectives and medical professionals. Both defendants also testified. Mr. Boddie claimed he had never seen the victim, while Mr. Randall claimed that the victim consented to have sex with him. Both defendants were convicted of multiple counts of rape, sodomy and sexual abuse. Randall was sentenced as a predicate violent felon to an indeterminate sentence of 11 to 22 years. Boddie was sentenced to an indeterminate sentence of six to 18 years. Both convictions were affirmed on appeal. *People v. Randall*, 227 AD2d 131 (1st Dep't 1996); *People v. Boddie*, 226 AD2d 120 (1st Dep't 1996).

Trial: January – February 1993

Judge: Hon. Howard Bell (deceased)

Counsel for Defendant Boddie:

Frank Davis

(current contact information unavailable).

Counsel for Defendant Randall:

Stanley Siegal

(deceased)

10. *People v. Feliz*, New York County Supreme Court

The defendant and an accomplice went into an exclusive boutique on Manhattan's Upper East Side, where two sisters were shopping. They ordered the clerk and one of the women to lie on the ground. The accomplice pistol-whipped the customer and stole her diamond ring. Unbeknownst to the assailants, the woman's sister had crawled into a dressing room with the store's telephone and called 911. Both men fled the store. One defendant ran through Central Park and was apprehended there, while the second man escaped. I was the sole prosecutor on the case and did the pre-trial suppression hearings and the trial. The defendant was convicted of robbery in the first degree and related crimes. He was sentenced as a predicate violent felon to eight to 16 years in prison. His conviction was affirmed on appeal. *People v. Feliz*, 251 AD2d 134 (1st Dep't 1998).

Trial: May – June, 1992

Judge: Hon. Rena Uviller (retired)

Defense Counsel:

Raymond Sussman

Solo Practitioner

4523 Avenue H

Brooklyn, New York 11234

(718) 338-3302

18. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

Investigation into Allegations of Sexual Abuse by Clergy Members:

Between April and November 2002, during my tenure in the Manhattan District Attorney's Office, I was assigned to investigate allegations of child sexual abuse by clergy members in New York County. The Archdiocese of New York provided the District Attorney's Office with extensive information regarding past allegations of sexual abuse, some dating back to the 1960s. I oversaw a team of prosecutors who reviewed these complaints and established a hotline for victims of sexual abuse. Although prosecution was barred in most of the cases by New York's then-existing statute of limitations, we were able to establish a reporting policy whenever a clergy member or archdiocesan employee is accused or suspected of sexually abusing a minor. That protocol has been a model for other jurisdictions.

Legislative Reforms:

As a member of the New York State District Attorneys Association Subcommittee on Sexual Assault and of the Mayor's Advisory Committee on Child Abuse, I was involved in discussions regarding possible legislative recommendations and sometimes helped draft proposed language. The recommendations addressed issues in the areas of child abuse and sexual assault. The New York State District Attorneys Association Subcommittee on Sexual Assault forwarded any recommendations to the New York State District Attorneys Association. In addition, sometime in the spring of 2006, other Subcommittee members and I provided an informal briefing to staff members of New York State legislators on a proposal to make the crime of endangering the welfare of a child a felony in certain circumstances. The proposed reforms were not ultimately adopted. I have never performed lobbying or registered as a lobbyist.

19. **Teaching:** What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

I have not taught any courses.

20. **Deferred Income/ Future Benefits:** List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or

customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

The only future benefit I expect to receive is my pension. I have no deferred income arrangements from any business relationships, former employers, clients, customers, or professional services.

21. **Outside Commitments During Court Service:** Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

I have no plans, commitments or agreements to pursue outside employment during my service with the court.

22. **Sources of Income:** List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding \$500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

See attached Financial Disclosure Report.

23. **Statement of Net Worth:** Please complete the attached financial net worth statement in detail (add schedules as called for).

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

If confirmed, I would not participate in any cases in which I had played a role, either as a state court judge or as a prosecutor. My husband and I have investments in accounts that might reasonably be perceived as presenting a conflict. Similarly, if my husband's employer were involved in any way in any litigation, that could also pose a conflict. I am not aware of any other associations of mine or of the members of my family that would present a conflict.

- b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

If confirmed, I will be guided by 28 U.S.C. section 455 and Canon 3 of the Code

of Conduct for United States Judges, as well as any other relevant ethical canons, statutes or rules. I will take steps to ensure that I am well informed about any financial or professional interest of mine or of any of my family members that might present a conflict or create the appearance of partiality or impropriety. I will recuse myself from any matter in which my impartiality could reasonably be questioned.

25. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

Since my graduation from law school, I have been employed in public service, first as an assistant district attorney, and now as a judge. As a prosecutor, I was not permitted to engage in any outside legal work. Similarly, as a judge, I am not permitted to practice law. I have, however, provided educational classes. In September 2014, I was part of a group of lawyers and one federal judge who taught trial advocacy at the International Criminal Court in The Hague. As a fellow in the American College of Trial Lawyers, I judge mock trial and moot court competitions. I also serve as a judge for the Jerome Prince Memorial Moot Court Evidence Competition at Brooklyn Law School. I am on the advisory board for the Thurgood Marshall Junior Mock Trial Program, in which 7th and 8th grade students, primarily from Bronx public schools, prepare and try a criminal case. As a board member, I recruit lawyers to coach the teams, and judge rounds of the competition.

26. **Selection Process:**

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

In 2007, I submitted a judicial application to Senator Schumer's screening committee, met with the committee, and interviewed with Senator Schumer. In September 2007, I was informed by Senator Schumer that my name would not be submitted to the White House at that time. In December 2011 and February 2014, I submitted updated applications to Senator Schumer's screening committee. On June 6, 2014, I received a telephone call from Senator Schumer's counsel informing me that my name would be submitted to the White House. Since that date, I have been in contact with officials from the Office of Legal Policy at the

Department of Justice. On October 28, 2014, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On November 20, 2014, the President submitted my nomination to the Senate.

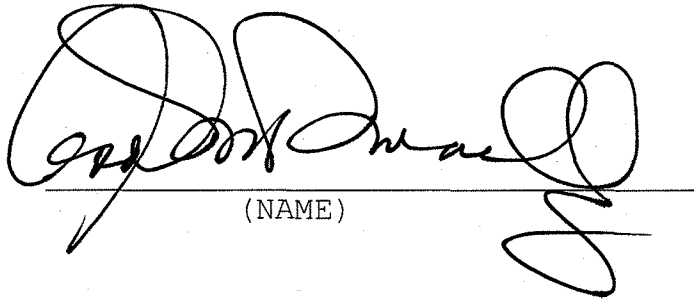
- b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

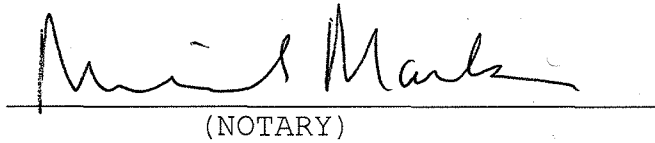
No.

AFFIDAVIT

I, Ann Marie Donnelly, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

November 21, 2014
(DATE)


(NAME)


(NOTARY)

MICHAEL MARKS
Notary Public, State of New York
No. 31-4742715
Qualified in New York County
Commission Expires Jan 31, 2018