

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Jennifer Prescod May-Parker
Jennifer Florizel Prescod (maiden name)

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

United States District Judge for the Eastern District of North Carolina

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.

United States Attorney's Office
Eastern District of North Carolina
310 New Bern Avenue, Suite 800
Raleigh, North Carolina 27601

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

1964; Guyana, South America

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.

1988 – 1991, State University of New York at Buffalo – School of Law; J.D., 1991
1985 – 1988, State University of New York – College at Geneseo; B.A., 1988
Fall Semester 1984, City College of New York; no degree

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.

1999 – present
United States Attorney's Office
Eastern District of North Carolina

310 New Bern Avenue, Suite 800
Raleigh, North Carolina 27601
Chief, Appellate Division (2010 – present)
Assistant United States Attorney, Appellate Division (2005 – 2010)
Assistant United States Attorney, Criminal Division (1999 – 2005)

1998 – 1999
North Carolina Department of Justice
Office of the Attorney General
114 West Edenton Street
Raleigh, North Carolina 27602
Assistant Attorney General, Civil Environmental Division

Summer 1990, 1991 – 1998
New York County District Attorney's Office
One Hogan Place
New York, New York 10013
Assistant District Attorney, Special Prosecutions Division (1995 – 1998)
Assistant District Attorney, Trial Division 30 (1991 – 1995)
Summer Associate (Summer 1990)

Summer 1989
Honorable Judge John F. O'Donnell
Erie County Family Court
25 Delaware Avenue
Buffalo, New York 14202 (current address)
Summer Law Clerk

Summer 1989
Erie County Department of Law
95 Franklin Street, Suite 1634
Buffalo, New York 14202
Summer Associate

Other affiliations (uncompensated):

2009 – present
Wakefield Family Church
231 Capcom Avenue, Suite 124
Wake Forest, North Carolina 27587
Pastoral Staff 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 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.

Sustained Superior Performance Award, United States Attorney George E.B. Holding
(2007)

Letter of Commendation, United States District Judge Malcolm J. Howard (2005)

Letter of Commendation, Tarboro Police Department, Tarboro, North Carolina (2005)

Letter of Commendation, State Employees Credit Union, Raleigh, North Carolina (2004)

Letter of Commendation, Federal Bureau of Investigations (2004)

Letter of Commendation, National Advocacy Center, Instructor (2004)

Duke Law School, Certificate of Recognition for Supervising Duke Law Students
(2003 – 2004)

Letter of Commendation, Federal Bureau of Investigation (2001)

Plaque of Appreciation, Postal Inspection Service, Mid-Atlantic Division (2001)

Community Service Award, Boys Club of New York, Harriman Clubhouse
(1993 – 1994, 1996)

Robert J. Connelly Award for Excellence in Trial Advocacy, University of Buffalo Law
School & Western New York Trial Lawyers Association (1991)

Edward Rorick Award for Outstanding Achievement in Philosophy, SUNY Geneseo
(1988)

Doty Pre-law Scholarship, SUNY Geneseo (1987)

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.

Tenth Judicial District Bar, Wake County, North Carolina (1999 – present)

National Association of Assistant United States Attorneys (2003 – 2010)

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, 1992

North Carolina, 1998

There have been no lapses 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 Fourth Circuit, 2005
United States District Court, Eastern District of North Carolina, 1999
New York State Courts, 1992

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.

Wakefield Family Church (2009 – present)
Pastoral Staff 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 my knowledge, none of the organizations listed above currently discriminates 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.

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.

None.

- 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.

February 24, 2013: I presented a sermon "Think Like The Man [Jesus Christ]" as a Pastoral Staff Board Member of Wakefield Family Church. I have no notes, transcript or recording. The address of Wakefield Family Church is 231 Capcom Avenue, Suite 124, Wake Forest, North Carolina 27587.

November 14, 2012: I spoke at the North Carolina Central University Law School during their Attorney Spotlight Series. I spoke about my experience as a state and federal prosecutor. I have no notes, transcript or recording, but press coverage is supplied. The address of North Carolina Central Law School is 031 Turner Law Building, 1801 Fayetteville Street, Durham, North Carolina 27707.

November 1, 2012: I spoke to members of Campbell University Law School's Christian Law Society about how to deal with anxiety concerning lack of employment, how to manage stress, and how to combat lack of focus. I have no notes, transcript or recording. The address of Campbell Law School is 225 Hillsborough Street, Suite 432 Raleigh, North Carolina 27603.

October 21, 2012: I presented a sermon "I am the Righteousness of God" as a Pastoral Staff Board Member of Wakefield Family Church. I have no notes, transcript or recording. The address of Wakefield Family Church is 231 Capcom Avenue, Suite 124, Wake Forest, North Carolina 27587.

August 12, 2012: I presented a sermon “Unconditional Obedience” as a Pastoral Staff Board Member of Wakefield Family Church. Audio supplied.

June 10, 2012: I spoke at Wakefield Family Church’s graduation celebration. Audio supplied.

May 18, 2012: I spoke at the year-end banquet of Wakefield High School’s National Achiever’s Society. Notes supplied.

November 27, 2011: I presented a sermon “On the Issue of Pride” as a Pastoral Staff Board Member of Wakefield Family Church. I have no notes, transcript or recording. The address of Wakefield Family Church is 231 Capcom Avenue, Suite 124, Wake Forest, North Carolina 27587.

November 6, 2011: I presented a sermon “He Is Coming Soon” as a Pastoral Staff Board Member of Wakefield Family Church. I have no notes, transcript or recording. The address of Wakefield Family Church is 231 Capcom Avenue, Suite 124, Wake Forest, North Carolina 27587.

June 5, 2011: I presented a sermon as a Pastoral Staff Board Member of Wakefield Family Church. Audio supplied.

April 7, 2011: I spoke at the North Carolina Central University Law School during their Attorney Spotlight Series. I spoke about my experience as a state and federal prosecutor. I have no notes, transcript or recording. The address of North Carolina Central University Law School is 031 Turner Law Building, 1801 Fayetteville Street, Durham, North Carolina 27707.

Fall 2010: I participated in Campbell University Law School’s Women in Law Panel Discussion. I was one of four female attorneys who answered questions from law students about the practice of law from a female perspective. I have no notes, transcript or recording. The address of Campbell University Law School is 225 Hillsborough Street, Suite 432 Raleigh, North Carolina 27603.

December 12, 2010: I presented a sermon “If God Said It, It Is So” as a Pastoral Staff Board Member of Wakefield Family Church. I have no notes, transcript or recording. The address of Wakefield Family Church is 231 Capcom Avenue, Suite 124, Wake Forest, North Carolina 27587.

June 28, 2010: I presented a sermon as a Pastoral Staff Board Member of Wakefield Family Church. I have no notes, transcript or recording. The address of Wakefield Family Church is 231 Capcom Avenue, Suite 124, Wake Forest, North Carolina 27587.

May 16, 2010: I presented a sermon as a Pastoral Staff Board Member of Wakefield Family Church. Audio supplied.

- 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.

Anne Blythe, *Obama to Nominate Prosecutor to Fill Judicial Vacancy in Eastern NC*, News Observer, June 21, 2013. Copy supplied.

Guy Loranger, *Opening Doors*, Lawyers Weekly, May 11, 2009. 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 have not held any judicial office

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

- i. Of these, approximately what percent were:

jury trials: _____ %
bench trials: _____ % [total 100%]

civil proceedings: _____ %
criminal proceedings: _____ % [total 100%]

- b. Provide citations for all opinions you have written, including concurrences and dissents.
- 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).
- 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.
- e. Provide a list of all cases in which certiorari was requested or granted.
- 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.

- 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.
 - 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.
 - 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.
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:

I have not served as a judge.

- 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.
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 not held public office. I have had no unsuccessful candidacies for public office or 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 office in or rendered service to any political party or election committee. I have never held a position or played any role in any 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 did not serve as a clerk for a judge after graduating from law school.

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

I have not practiced law 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.

1991 – 1998

New York County District Attorney's Office

One Hogan Place

New York, New York 10013

Assistant District Attorney, Trial Division 30 (1991 – 1995)

Assistant District Attorney, Special Prosecutions Division (1995 – 1998)

1998 – 1999

North Carolina Department of Justice

Office of the Attorney General

114 West Edenton Street

Raleigh, North Carolina 27602

Assistant Attorney General, Civil Environmental Division

1999 – present
United States Attorney's Office
Eastern District of North Carolina
310 New Bern Avenue
Raleigh, North Carolina 27601
Assistant United States Attorney, Criminal Division (1999 – 2005)
Assistant United States Attorney, Appellate Division (2005 – 2010)
Chief, Appellate Division (2010 – present)

- 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 not served as a mediator or arbitrator in alternative dispute resolution proceedings.

b. Describe:

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

I have been practicing law for over 21 years in the public service sector. The majority of my practice has been in federal district and appellate courts.

In 1991, upon graduating from law school, I was appointed as an Assistant District Attorney with the New York County District Attorney's Office. I was initially assigned to a trial division where I handled a broad spectrum of violent criminal cases from the inception of the criminal complaints to sentencing phases. After five years in the trial division, in 1995, I transferred to the Special Prosecutions Division where the nature of my prosecutions included fraud, counterfeit, and arson.

In 1998, I moved to North Carolina and was appointed as an Assistant Attorney General with the North Carolina Department of Justice. I was assigned to the Environmental Division, Underground Storage Tank Section. In this capacity, I litigated the enforcement of the Department's rules and regulations and negotiated with large corporations to ensure the safety of the ground water systems in North Carolina. I also handled some employment discrimination cases.

In 1999, I was appointed as an Assistant United States Attorney in the Eastern District of North Carolina. I was initially assigned to the general crimes section of the Criminal Division, where I was responsible for prosecuting a broad spectrum of cases from violent crimes to white collar crimes. During this time, I specialized in handling the office's arson

prosecutions. In 2005, I transferred to the Appellate Division in the United States Attorney's Office for the Eastern District of North Carolina. I researched and wrote a large number of criminal appellate briefs, as well as some civil briefs, and argued cases before the Fourth Circuit Court of Appeals. In 2010, I was appointed chief of the Appellate Division. In my capacity as Appellate Chief, I review all criminal and civil appellate briefs. My office files between 130 and 150 appellate briefs each year. I have also continued to argue criminal cases before the Fourth Circuit.

- 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 served the people of the State of New York in New York County. I interacted with victims of crimes, law enforcement personnel, and individuals who were accused of committing crimes. I specialized as a trial attorney.

As an Assistant Attorney General in North Carolina, I represented the citizens of North Carolina through my work with the Department of Environment and Natural Resources. I also interacted with small and large businesses in North Carolina. I specialized in enforcement related to underground storage tanks.

As an Assistant United States Attorney, my client is the United States. When I was a trial attorney in the Criminal Division, I interacted with victims, witnesses, law enforcement, the courts, and persons accused of committing crimes. In my position as Appellate Chief, I interact mainly with the courts and appellate counsel. I specialize as a criminal trial and appellate attorney.

- 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.

While practicing as a trial attorney, I appeared in court frequently. Given the nature of appellate work, I appear in court less frequently, but I regularly appear before the Fourth Circuit during its oral argument sessions.

- i. Indicate the percentage of your practice in:
 - 1. federal courts: 75%
 - 2. state courts of record: 24%
 - 3. other courts: 0%
 - 4. administrative agencies: less than 1%
- ii. Indicate the percentage of your practice in:
 - 1. civil proceedings: 2%

2. criminal proceedings: more than 97%

- 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 have tried 28 to 30 cases to verdict, either as sole counsel or co-counsel. A little more than half of the cases were with the United States Attorney's Office, two were with the North Carolina Attorney General's Office, and the rest were with the New York County District Attorney's Office.

- i. What percentage of these trials were:

1. jury:	99%
2. non-jury:	less than 1%

- 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 have not practiced before the United States Supreme Court.

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. Carroll v. North Carolina Department of Environment and Natural Resources, 98 OSP 0914 (North Carolina Office of Hearings 1999) (Administrative Law Judge Beecher R. Gray).

I served as co-counsel in this state personnel action that was tried before an Administrative Law Judge. The action commenced because North Carolina's Department of Environment and Natural Resources (DENR) demoted Carroll for improperly using his blue lights in connection with a personal matter, speeding in

excess of 20 miles per hour in a state vehicle, and violating written work rules. Carroll was working when he learned that his elderly mother had collapsed and was being taken to the hospital, and the hospital needed to speak with him about her condition. While en route, other law enforcement officers saw Carroll traveling with his blue lights on, and believing there to be an emergency and consistent with policy, they followed to provide assistance. Carroll's and the law enforcement officers' stories differed significantly as to the tenor of their interaction later at the hospital. Carroll appealed the demotion to the North Carolina Office of Administrative Hearings. Co-counsel and I presented the case to Judge Gray, who reversed the agency's decision to demote Carroll.

The administrative ruling was appealed several times, to the Superior Court of Wake County, to the North Carolina Court of Appeals, 157 N.C. App. 717 (2003), and ultimately to the North Carolina Supreme Court, 358 N.C. 649 (2004), which reinstated the administrative judgment. I was not involved in the appeals.

Co-counsel: Edwin L. Gavin, then with the North Carolina Department of Justice, now retired.

Opposing counsel: J. Michael McGuinness, The McGuinness Law Firm, 2034 Highway 701 North, Lakewood Plaza, Post Office Box 952, Elizabethtown, NC 28337-0952, (910) 862-7087.

2. United States v. Carter, 564 F.3d 325 (4th Cir. 2009).
(Judge Wilkinson; joined by Judge Motz and Judge Gregory).

I served as sole appellate counsel and briefed and argued this appeal before the Fourth Circuit Court of Appeals on behalf of the United States. This appeal was initiated by the United States based on the following facts: Carter pleaded guilty to one count of unlawful possession of a firearm as a felon, in violation of 18 U.S.C. § 922(g)(1), in exchange for the government's dismissal of the remaining charges. At sentencing, the district court calculated Carter's advisory guidelines range to be 37 to 46 months' imprisonment. After stating that it had considered the 18 U.S.C. § 3553(a) sentencing factors, the court varied from the guidelines range and imposed a five-year term of probation, 2000 hours of community service, and a \$1000 fine.

The government appealed, arguing that Carter's sentence was both procedurally and substantively unreasonable. The Fourth Circuit agreed that the sentence was procedurally unreasonable and remanded on that basis. The significance of this case lays in the Fourth Circuit's unequivocal insistence that a district court conduct—and place on the record—an individualized assessment of the defendant in the context of the § 3553(a) sentencing factors, rather than a general reference to the § 3553(a) factors. Thus, the sentencing court must apply the relevant § 3553(a) sentencing factors to the specific circumstances of the case before it, and it must do so in a manner that permits meaningful appellate review. Upon

resentencing, the district court imposed a five-year term of probation and 150 hours of community service. The district court placed on the record its specific consideration of the § 3553(a) factors, including individualized facts about Carter's case.

Opposing Counsel: Terry F. Rose, Attorney & Counselor at Law, 212 Bridge Street, Post Office Box 2847, Smithfield, NC 27577, (919) 938-1616.

3. United States v. Cavillo-Rojas, Nos. 10-4033(L), 10-4063, 10-4067, 10-4072, 2013 WL 563885 (4th Cir. Feb. 15, 2013) (unpublished). (Judge Niemeyer; joined by Chief Judge Traxler and Judge Motz).

I served as sole appellate counsel and briefed and argued this appeal before the Fourth Circuit on behalf of the United States. This was a consolidated appeal of five defendants who were jointly tried and convicted of various drug, firearm, and immigration offenses. The appeal and oral argument were unique because of the number and breadth of challenges to the trial and sentences, which included challenges grounded in the Second, Fourth, and Fifth Amendments. This case also presented the interesting legal issue of when the statute of limitations begins to run for the offense of illegal entry into the United States, in violation of 8 U.S.C. § 1325(a). The five-year clock might be read to commence upon completion of the illegal entry, or to remain tolled until the federal government discovers (or reasonably should have discovered) the defendant in the country as a result of that illegal entry. The Fourth Circuit decided it was the former (the time of entry) and distinguished 8 U.S.C. § 1325(a) from 8 U.S.C. § 1326, which contains a "found in" the country element.

Opposing counsel:

For Cavillo-Rojas: Paul K. Sun, Ellis & Winters, LLP, Post Office Box 33550, Raleigh, NC 27636, (919) 865-7014.

For Lara-Salgado: Jeorgelina E. Araneda, Araneda Law Firm, 4600 Marriott Drive, Suite 350, Raleigh, NC 27612, (919) 788-8287.

For A. Jaimes-Cruz: Mitchell G. Styers, Banzet, Thompson & Styers, PLLC, Post Office Box 535, Warrenton, NC 27589, (252) 257-3166.

For F. Jaimes-Cruz: Slade C. Trabucco, The Trabucco Law Firm, P.A., 2840 Rue Sans Famille, Raleigh, NC 27607, (919) 794-5661.

For L. Jaimes-Cruz: Seth A. Neyhart, Stark Law Group, PLLC, 6011 Farrington Road, Suite 300, Raleigh, NC 27517, (919) 490-5550.

4. United States v. Hassan, 280 F. App'x 271 (4th Cir. 2008) (unpublished). (Judge King, Judge Hamilton, and Judge Floyd, then a United States District Court Judge for the District of South Carolina, sitting by designation).

I served as sole appellate counsel and briefed and argued this appeal before the Fourth Circuit on behalf of the United States. Hassan was convicted by a jury of conspiracy to transport stolen property (baby formula), four counts of transporting stolen property (baby formula), and five counts of trafficking in goods bearing a counterfeit mark (counterfeit Viagra pills). His convictions stemmed from a 2004 investigation by the Wilson, North Carolina, Police Department into the trafficking of stolen goods by local convenience store owners, in which Hassan sold these pills to undercover officers. On appeal, Hassan only challenged the sufficiency of the evidence that he knew the pills were counterfeit, as they were remarkably good counterfeits. The government argued—and the Fourth Circuit agreed—that the circumstances surrounding the sale of the pills amply demonstrated Hassan's knowledge that he was not dispensing a true Pfizer product.

Opposing Counsel: Stephen Clayton Gordon, Assistant Federal Public Defender, 150 Fayetteville Street, Suite 450, Raleigh, NC 27601, (919) 856-4236.

5. United States v. Midgette, 478 F.3d 616 (4th Cir. 2007). (Judge Niemeyer; joined by Judges Traxler and Shedd).

I served as sole appellate counsel and briefed and argued this appeal before the Fourth Circuit on behalf of the United States. Midgette entered a conditional guilty plea to drug and firearms charges, reserving his right to appeal the denial of his motion to suppress. The magistrate judge had issued a report and recommendation denying the motion to suppress, and the district court had ultimately denied the motion. On appeal, Midgette unsuccessfully challenged the district court's resolution of his objection based on compliance with state law. Midgette also sought to challenge the suppression ruling on several grounds that he had not presented to the district court by way of objections to the magistrate judge's report. The Fourth Circuit agreed with the government's position, holding "that to preserve for appeal an issue in a magistrate judge's report, a party must object to the finding or recommendation on that issue with sufficient specificity so as reasonably to alert the district court of the true ground for the objection."

Opposing counsel: Devon L. Donahue, Assistant Federal Public Defender, 150 Fayetteville Street, Suite 450, Raleigh, NC 27601, (919) 856-4236.

6. United States v. Parker, 272 F. App'x 289 (4th Cir. 2008) (unpublished). (Chief Judge Williams, Judge Shedd, and Judge Osteen, United States District Court Judge for the Middle District of North Carolina, sitting by designation).

I served as sole appellate counsel and authored the appellate brief on behalf of the United States. Parker engaged in a pattern of filing false 1040 tax return forms and eventually refused to file tax returns. On appeal, Parker raised no fewer than ten appellate issues ranging from lack of personal jurisdiction to constructive amendment of the indictment to the court's evidentiary rulings at trial to claims of sentencing error. The Fourth Circuit affirmed the decision below on all counts.

Opposing Counsel: Joe Alfred Izen, Jr., Attorney for Appellant, 5222 Spruce Street, Bellaire, Texas 77401, (713) 668-8815.

7. United States v. Powell, No. 5:04-cr-445 (E.D.N.C.).
(District Court Judge James C. Fox).

United States v. Powell, 225 F. App'x 138 (4th Cir. 2007) (unpublished), (first appeal). (Judges Wilkins, Wilkinson, and Neimeyer).

United States v. Powell, 330 F. App'x 433 (4th Cir. 2009) (unpublished), (second appeal). (Judges Wilkinson, Niemeyer, and Motz).

I served as sole counsel representing the United States in all phases of this case, from the 2004 investigation and indictment through the conclusion of the second appeal in 2009. Following a jury trial, Powell was convicted of aiding and abetting the possession with intent to distribute 50 grams or more of cocaine base (crack) and a quantity of cocaine (Count One); conspiring to possess with intent to distribute 50 grams or more of crack and a quantity of cocaine, (Count Two); possessing with intent to distribute marijuana (Count Three); possessing a firearm during and in relation to a drug trafficking crime (Count Four); and unlawful possession of a firearm as a felon (Count Five). At his original sentencing, the court held Powell accountable for more than 21 kilograms of cocaine, 18 kilograms of cocaine base (crack), and 3.5 kilograms of marijuana. Upon recommendation of the government, the court varied downward from Powell's advisory guidelines range of 292 to 365 months' imprisonment on Counts One and Two to 240 months' imprisonment. He received concurrent 60- and 120-month sentences on Counts Two and Five and a 60-month sentence on Count Four to be served consecutively to all remaining counts, for a total of 300 months' imprisonment.

On his first appeal, Powell unsuccessfully challenged the court's calculation of drug weight. Powell also argued that the court plainly erred by not varying from Powell's guidelines range on the basis that it reflected the 100:1 crack/powder cocaine ratio. The Fourth Circuit affirmed Powell's conviction and sentence. The Supreme Court granted Powell's petition for a writ of certiorari, vacated the sentence, and remanded for consideration of the then recently decided opinion of Kimbrough v. United States, 552 U.S. 85 (2007).

On remand, the district court imposed the same sentence. Powell appealed, arguing that his sentence was unreasonable in light of the need to avoid unwarranted sentencing disparities under 18 U.S.C. § 3553(a)(6). The Fourth Circuit upheld the sentence, holding that Powell's codefendant roommate was not similarly situated because, unlike Powell, the roommate timely pleaded guilty, cooperated with the government, and testified against Powell.

Opposing counsel for trial: Bridgett Britt Aguirre, Aguirre Law Office, P.A., Post Office Box 1167, Fuquay-Varina, NC 27526, (919) 557-0211.

Opposing counsel for post-trial matters and sentencing: Arthur Greenspan, 20700 Ventura Boulevard, Suite 301, Woodland Hills, CA 91364, (818) 313-6871; Neil David Weber, 401 Chestnut Street, Barristers Row, Suite K, Wilmington, NC 28401, (910) 762-0602.

Opposing counsel on first appeal: Arthur Greenspan, 20700 Ventura Boulevard, Suite 301, Woodland Hills, CA 91364, (818) 313-6871.

Opposing counsel on remand and for second appeal: Geoffrey W. Hosford, Hosford & Hosford, P.C., 401 Chestnut Street, Suite L, Wilmington, NC 28401, (910) 251-8333.

8. United States v. Powell, 303 F. App'x 138 (4th Cir. 2008) (unpublished). (Judge Wilkinson, District Court Judges Wilson (Western District of Virginia) and Hudson (Eastern District of Virginia), sitting by designation).

I served as sole appellate counsel and briefed and argued this appeal before the Fourth Circuit on behalf of the United States. Powell pled guilty to bank larceny pursuant to a plea agreement wherein the government agreed that he should receive a three-level reduction for acceptance of responsibility pursuant to USSG §3E1.1. Based on Powell's adjusted offense level of 12, the guidelines calculation in the presentence investigation report only awarded him two points for acceptance of responsibility. At sentencing, the court adopted this calculation, departed upward by eight offense levels to better represent Powell's criminal history and likelihood of recidivism, and sentenced Powell to 71 months' imprisonment.

On appeal, Powell argued that he should have received the third point for acceptance of responsibility because the plea agreement contemplated him getting three points and because his offense level exceeded the 16-level threshold for the third point after the departure. The Fourth Circuit noted that this was the first time it had formally addressed whether eligibility for a third-level reduction of responsibility was determined by the offense level before any variances or departures. The court agreed with the government and concluded that the pre-departure or variance offense level must exceed 16 for a defendant to be eligible for the additional point. Therefore, Powell was not eligible.

Opposing counsel: James B. Craven III, Esquire, Attorney at Law, Post Office Box 1366, Durham, NC 27702, (919) 688-8295.

9. United States v. Terry, No. 5:00-cr-162 (N.C.E.D.).
(District Court Judge James C. Fox).

United States v. Terry, 257 F.3d 366 (4th Cir. 2001), (first appeal).
(Chief Judge Wilkinson; joined by Judges Michael and King.)

United States v. Terry, 61 F. App'x 847 (4th Cir. 2003) (unpublished), (second Appeal). (Chief Judge Wilkinson; joined by Judges Michael and King)

United States v. Terry, 471 F. App'x 248 (4th Cir. 2012) (unpublished),
(supervised release appeal). (Judges Niemeyer, Shedd, and Floyd).

I served as sole counsel representing the United States at the dismissal hearing, and briefed and argued the case before the Fourth Circuit in the first appeal. I was lead counsel at the trial. I also served as sole appellate counsel on the supervised release revocation appeal. Terry and Williams broke into First Baptist Church of Raleigh, North Carolina, and stole checks from the office of a daycare center operating within the church building. They used the daycare's typewriter to draft checks to themselves. In an effort to conceal the break-in, they started two fires in the church, one in the daycare center and the other in a 100-year-old sanctuary. The building suffered some damage, but did not burn down. Terry and Williams were charged federally with arson and conspiracy to commit arson.

The defendants moved to dismiss the indictment on the ground that the church was not "used in" interstate commerce as required by 18 U.S.C. § 844(i). The government argued that various facts demonstrated that the church bore the requisite connection to interstate commerce. The court granted the defendants' motion to dismiss the indictment, and the government appealed. Applying Jones v. United States, 529 U.S. 848 (2000), the Fourth Circuit determined that the interstate commerce nexus was satisfied. The Court determined that the daycare center by itself transformed the building into one that was being actively employed for commercial purposes. The defendants' convictions were upheld on appeal.

Within a year of his release, Terry violated the terms of his supervised release by breaking into the Veterans Administration Medical Center in Raleigh, North Carolina, to obtain or destroy some records. The district court revoked Terry's term of supervised release and sentenced him to 24 months' imprisonment, a sentence upheld on appeal.

Co-counsel at trial: Felice Corpening, Deputy Assistant United States Attorney, United States Attorney's Office, Eastern District of North Carolina, 310 New Bern Avenue, Raleigh, North Carolina 27601, (919) 856-4530.

Opposing counsel in district court and on first appeal:

For Terry: Arthur C. Zeidman (then with the Federal Public Defender's Office in Raleigh, North Carolina; current contact information unknown).

For Williams: David W. Venable, 205 West Martin Street, Raleigh, North Carolina 27601, (919) 833-2241.

Opposing counsel for Terry's supervised release revocation appeal: Stephen Clayton Gordon, Assistant Federal Public Defender, 150 Fayetteville Street, Suite 450, Raleigh, North Carolina, (919) 856-4236.

10. United States v. Whitaker, No. 4:04-cr-56 (E.D.N.C.).
(District Court Judge Malcolm J. Howard).

I served as sole counsel for the United States and tried three of the defendants in two separate trials. Codefendants Whitaker and Petway, along with two other men (Speight and Fobbs), committed an armed robbery of a credit union in Tarboro, North Carolina. The investigation led to the arrest of the four men, and Speight and Fobbs gave full and partial confessions, respectively. I made a strategic decision to pursue charges first against Speight and Fobbs. Speight pleaded guilty, and Fobbs was convicted by a jury. Thereafter, I pursued charges against Whitaker and Petway, both of whom proceeded to trial. DNA evidence was used at trial to connect the defendants to the crime. As part of trial preparation, I met extensively with the expert to learn about the forensic examination process and DNA and how to present this type of evidence to the jury in an understandable manner. The presentation format developed in this case has become a guide for subsequent cases. Whitaker and Petway were convicted of conspiracy to commit armed bank robbery, armed bank robbery, and using and carrying firearms during and in relation to a crime of violence. Whitaker was also convicted of unlawful possession of a firearm by a felon. Whitaker was sentenced to a total of 192 months' imprisonment. Petway, a career offender, was sentenced to 300 months' imprisonment. Their convictions and sentences were affirmed on appeal.

Opposing counsel:

For Whitaker: Mark A. Ward, Attorney at Law, 105 Commerce Street, Greenville, North Carolina 27858, (252) 752-7529.

For Petway: David Campbell Sutton, Sutton Law Office, P.A., 105-B Regency Boulevard, Greenville, NC 27834, (252) 756-7124.

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.)

Over the course of my career, I have settled or resolved a number of issues before trial:

Environmental cases: From 1998 to 1999, at the Attorney General's Office in North Carolina, I settled numerous cases involving the cleanup of petroleum spills that entered into the groundwater systems of North Carolina. Through these settlements, I was able to promote the enforcement of the rules of the Department of Environment and Natural Resources, ensure that violators paid the cost of clean-up and penalties associated with oil spills, and deter other companies from neglecting insurance premiums associated with the underground storage tank fund.

Robbery cases: From 1999 to 2005, as an Assistant United States Attorney for the Eastern District of North Carolina, I prosecuted a large number of bank robbery cases that were resolved by plea agreements. During this period, bank robberies were frequent in the Eastern District of North Carolina, and I was able to achieve closure for the victims who were often traumatized and send a message to future robbers that the penalties for committing such violent acts were severe.

Appellate practice: In my role as Chief of the Appellate Division in the Eastern District of North Carolina, I dispose of a number of appeals where appellants have legitimate claims of error. If there is a legitimate claim of error, I motion the Fourth Circuit Court of Appeals to remand the case to the district court to correct the error. Additionally, numerous cases are disposed of by motions to dismiss, if the appellant has signed a plea agreement that includes an appeal waiver.

I have also participated in various legal outreach programs, including the United States Attorney's internship program and community outreach program:

Internship program: From 2001 to 2008, I was assigned as the intern supervisor at the United States Attorney's Office in the Eastern District of North Carolina. I was responsible for teaching our interns the relevant procedures and law, assigning written projects and ensuring a timely response, and supervising interns during court appearances.

Community outreach: I have been the chairman of the Diversity Committee in my office since 2010. I have participated in numerous events that were geared toward improving the relationship between the United States Attorney's Office, the law enforcement community, and the communities they serve. For example, in 2012, the Committee

sponsored the first event where members of the Sikh community visited our office, met members of the staff, and made a presentation about some of the issues they faced with law enforcement. Thereafter, I participated in an office-sponsored event which brought together members of the Sikh community with members of the law enforcement community in an effort to foster understanding between the two groups. I arranged for members of the Sikh community to attend the Transportation Security Administration (TSA) Diversity Day at the Raleigh Durham Airport. At this event, Sikhs made a presentation to TSA employees about the meaning and use of certain religious items. In 2012, the Committee and other staff members met with Turkish Americans interested in improving the relationships between the Turkish community and law enforcement. The Committee also sponsors food donations to the Raleigh Rescue Mission, a shelter located directly behind the United States Attorney's Office. Further, the Committee has been actively working with local colleges, such as North Carolina State University, Saint Augustine's University, and Shaw University, to hire student interns and to mentor the interns while they are interning at our office. Committee members attend job fairs and career days at these institutions on an ongoing basis.

I have never performed lobbying activities 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.

From 2008 to 2010, I taught Saturday classes at my local church to middle and high school students. These free classes taught public speaking and interviewing skills. I did not have a formal syllabus. I taught based on my litigation experience and interaction with my office's internship program. The classes were geared toward getting upper middle and high school students comfortable with speaking in public, writing a resume, and performing well at a job interview. The courses typically lasted for five to eight weeks on Saturday mornings at the Wakefield Family Church.

From October 13 to 15, 2004, I participated as facilitator/instructor in a seminar called Working with Cooperators and Confidential Informants at the National Advocacy Center (NAC) in Columbia, South Carolina. The NAC provides training for Assistant United States Attorneys, among others. My role was to facilitate a break-out session, work with a given scenario, facilitate discussion, and draw on my experience in this subject matter to clarify any confusion. I worked with the materials that were provided by the course and did not retain copies for myself.

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.

None.

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.

If confirmed, I have no plans, commitments, or agreements to pursue outside employment, with or without compensation.

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 recuse myself from any matter over which I presided during my employment as an Assistant United States Attorney and from any matters handled by any person whom I supervised in the Appellate Division. In general, I will scrutinize all matters before me for potential conflicts and not hesitate to recuse myself if the potential for or the appearance of conflict is evident.

- 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 strictly adhere to 28 U.S.C. Sections 144 and 455, the Code of Conduct for United States Judges, and any other conflict rules.

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

Because I have been in public service for my entire career, my pro bono activities have been restricted. I have, however, organized a number of programs to teach legal and professional skills on a pro bono basis.

While I was an Assistant District Attorney at the New York County District Attorney's Office, I volunteered with the Boys Club of New York, Harriman Club House from 1993 to 1996. I created the Legal Eagles Mock Trial Program designed to educate middle and high school students about the justice system and inspire their interest in the law. Each program would consist of two teams of students (prosecution and defense). They were taught how to conduct an opening statement, direct examination, cross-examination, re-direct examination, and closing arguments for a specific mock trial.

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 the spring of 2009, Senator Kay Hagan appointed a committee to consider and recommend candidates for the position of United States District Judge for the Eastern District of North Carolina. I submitted an application for the position and was interviewed by the committee in Raleigh, North Carolina, on May 19, 2009. On July 12, 2009, I received a telephone call from Senator Hagan's office informing me that I was one of three candidates who were recommended to the President. Since February 19, 2013, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On May 2, 2013, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, DC. On June 20, 2013, 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.

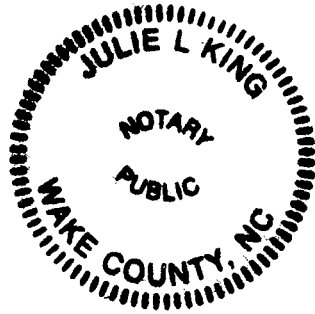
No.

AFFIDAVIT

I, Jennifer Prescod May-Parker, do swear
that the information provided in this statement is, to the best
of my knowledge, true and accurate.

June 21, 2013
(DATE)

Jennifer Prescod May-Parker
(NAME)



Julie L. King
(NOTARY) Julie L. King

Expires June 28, 2014
Wake County