

Senator Chuck Grassley, Ranking Member
Questions for the Record
Judge Karen McGlashan Williams
Judicial Nominee to the U.S. District Court for the District of New Jersey

1. **You have presided over naturalization ceremonies in your role as a Magistrate Judge. During the ceremonies, you've frequently delivered a version of the following statement:**

[t]his morning's ceremony we greet Americans who although they were born in 18 different countries have chosen to be forever more known as Americans. What does it mean to now be an American citizen? First it means that you may now Pledge Allegiance to the Flag of the United States of America and to the Republic for which it stands. Your allegiance can no longer be to the land of your ancestors. You are now part of the fabric of America, part of this increasingly multi-cultural conglomerate of people.

Several weeks ago, an editorial board member of *The New York Times* editorial board appeared on MSNBC and stated that she saw "dozens of American flags" on Long Island pickup trucks, which she described as "just disturbing." Do you agree that flying the American flag is a way to honor the United States of America? Why or why not?

Response: I am not familiar with the comment of the editorial board member referenced above. However, when conducting naturalization ceremonies, I believe that referring to the pledge of allegiance is a way to mark the transition from prior citizenship to United States citizenship.

2. **In the context of federal case law, what is super precedent? Which cases, if any, count as super precedent?**

Response: I have never used the term "superprecedent" in an opinion I have written as a magistrate judge. However, Black's Law Dictionary (11th ed. 2019) defines superprecedent as "A precedent that defines the law and its requirements so effectively that it prevents divergent holdings in later legal decisions on similar facts or induces disputants to settle their claims without litigation." I would include *Marbury v. Madison*, *McCulloch v. Maryland*, *Brown v. Board of Education*, and *Loving v. Virginia* as cases that satisfy this definition.

3. **Is it legal for police to stop and frisk someone based on a reasonable suspicion of involvement in criminal activity?**

Response: In *Terry v. Ohio*, the Supreme Court held that stop and frisks do not violate the Constitution under certain circumstances. Should I be confirmed as a district judge I will adhere to Supreme Court and Third Circuit precedent.

4. Should law firms undertake the pro bono prosecution of crimes?

Response: In the twelve years that I have served as a magistrate judge, I have never presided over a criminal matter prosecuted by a private law firm.

5. Do you agree with Judge Ketanji Brown Jackson when she said in 2013 that she did not believe in a “living constitution”?

Response: I am not familiar with the statement attributed to Judge Jackson in 2013. I believe the United States Constitution is an enduring document that has and will continue to serve the people of the United States well.

6. Is it possible for private parties—like law firms, retired prosecutors, or retired judges—to prosecute federal criminals in the absence of charges being actively pursued by federal authorities?

Response: I lack any frame of reference that would allow me to posit a response to this question. I am simply unaware of any such practice.

7. The Federalist Society is an organization of conservatives and libertarians dedicated to the rule of law and legal reform. Would you hire a member of the Federalist Society to serve in your chambers as a law clerk?

Response: As a magistrate judge, I have hired and will continue to hire law clerks based on their qualifications and have never excluded any person from consideration based on their affiliation with any organization. Should I be confirmed as a district judge, I will continue my hiring practices.

8. Absent a traditional conflict of interest, should paying clients of a law firm be able to prevent other paying clients from engaging the firm?

Response: This appears to be a matter of attorney-client relationship which is governed by the Rules of Professional Conduct.

9. Should paying clients be able to influence which pro bono clients engage a law firm?

Response: Please refer to my response to Question 8.

10. As a matter of legal ethics do you agree with the proposition that some civil clients don’t deserve representation on account of their identity?

Response: I believe that when making decisions about whether to represent a client in a civil matter, a lawyer should be guided by the Rules of Professional Conduct and attorney ethics.

- 11. You participated in an event hosted by the Department of Homeland security in honor of Women's Month on April 6, 2015. You highlighted multiple women and their accomplishments who you admired during your "coming of age" in the 1980s. These notable women include: Constance Baker Motely, Bella Abzug, Shirley Chisholm, Faye Wattleton, Geraldine Ferraro, Oprah Winfrey, and Madonna. These iconic women seem to range from liberal to extremely liberal. Which women on the conservative side of the spectrum do you admire?**

Response: I would not characterize the women that I chose to highlight as "liberal to extremely liberal". I chose these women in light of the prevalence of their work in my life in the 1980's. There were many other women who could have been recognized for their outstanding accomplishments during that time frame.

- 12. Do you admire any of the following women who rose to prominence in the 1980s? Why or why not?**

a. Justice Sandra Day O'Connor

Response: In 1981, I was aware of and still admire Justice O'Connor for becoming the first female Associate Justice of the Supreme Court.

b. Prime Minister Margaret Thatcher

Response: I was aware of and admired Prime Minister Thatcher for becoming the first woman to hold the position of Prime Minister of the United Kingdom.

c. Professor Lillian BeVier

Response: I am not familiar with Professor Lillian BeVier.

- 13. Should judicial decisions take into consideration principles of social "equity"?**

Response: Judicial decisions should only take into consideration the facts and law presented by the cases and controversies presented.

- 14. Is climate change real?**

Response: I am aware of the extensive debate surrounding “climate change” and cognizant that such a matter could culminate in litigation. Consequently I believe it would be inappropriate for me to give my opinion about whether and to what extent “climate change” is real.

15. Is racism a public-health crisis?

Response: I am not sufficiently knowledgeable about what constitutes a public-health crisis to analyze whether “racism” could be described as such.

16. Is gun violence a public-health crisis?

Response: I am not sufficiently knowledgeable about what constitutes a public-health crisis to analyze whether “gun violence” could be described as such.

17. Is the federal judiciary systemically racist?

Response: I am uncertain as to the definition of “systemic racism” as I am aware of varying definitions ascribed to that term. However, as a magistrate judge, I diligently, faithfully, and impartially adhere to the duty of my office to treat everyone who appears before me fairly and with respect.

18. Is threatening Supreme Court Justices right or wrong?

Response: It is wrong to threaten anyone.

19. How do you distinguish between “attacks” on a sitting judge and mere criticism of an opinion he or she has issued?

Response: I would describe an “attack” as behavior or comments that engender physical conduct or aggressive verbiage directed at the judge herself independent of any judicial decision making. On the other hand, I would describe criticism as verbiage that is limited to the judge’s legal analysis or decision rendered.

20. Do you think the Supreme Court should be expanded?

Response: I think this is a policy question within the purview of the legislative and executive branches and as such I have not considered the issue.

21. How does implicit bias impact you in your day to day role as a judge, particularly as it pertains to your:

a. Decisions regarding pre-trial detention?

Response: Being aware of my own implicit bias enables me to ensure that the decisions I reach are fair and impartial in the application of the Bail Reform Act and 18 U.S.C. § 3142(g) factors to consider.

b. Decisions regarding sentencing?

Response: Being aware of my own implicit bias enables me to ensure that the sentences I have imposed are grounded in the sentencing guidelines and 18 U.S.C. § 3553(a) factors and applied fairly and impartially.

- 22. If the Justice Department determines that the prosecution of an individual is meritless and dismisses the case, is it appropriate for a District Judge to question the Department's motivations and appoint an amicus to continue the prosecution? Please explain why or why not.**

Response: No.

- 23. What is the legal basis for a nationwide injunction? What considerations would you consider as a district judge when deciding whether to grant one?**

Response: Fed. R. Civ. Pro. 65 Injunctions and Restraining Orders guides the application and analysis for injunctive relief. If confirmed as a district judge I will adhere to Supreme Court and Third Circuit precedent if presented with this issue.

- 24. What legal standard would you apply in evaluating whether or not a regulation or proposed legislation infringes on Second Amendment rights?**

Response: If I am confirmed as a district judge, I have a duty to adhere to Supreme Court precedent. To this end, the Supreme Court has decided that there is "an individual right to keep and bear arms" and that right is fundamental. *District of Columbia v. Heller*, 554 U.S. 570 (2008), *McDonald v. City of Chicago*, 561 U.S. 742 (2010).

- 25. In your view, is a personal philosophical or religious objection to the death penalty on the part of the President a valid justification to abandon the defense of a death sentence on direct appeal?**

Response: If confirmed as a district judge, I would be duty bound to impose sentences in accordance with the penalties deemed appropriate by Congress particularly when circumstances require the imposition of a sentence at the conclusion of a jury trial when the jury has imposed the death penalty.

- 26. In your view, is a personal philosophical or religious objection to the death penalty on the part of a District Judge a valid justification not to impose a death sentence?**

Response: No, judges must be fair and impartial. Should I be confirmed as a district judge, I have a duty to apply Supreme Court and Third Circuit precedent without regard to my personal views.

27. Do Blaine Amendments violate the Constitution?

Response: In *Espinoza v. Montana Dept of Revenue*, 140 S. Ct.2246 (2020) and *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 137 S. Ct. 2012 (2017), the Supreme Court found that the state laws violated the First Amendment. If confirmed as a district judge, I will diligently, faithfully, and impartially adhere to Supreme Court and Third Circuit precedent.

28. Please describe the selection process that led to your nomination to be a United States District Judge, from beginning to end (including the circumstances that led to your nomination and the interviews in which you participated).

Response: In March 2019, I submitted my resume to an Advisory Group for Senator Booker. In July 2019, I interviewed with the Advisory Group. On December 15, 2020, I was interviewed by members of Senator Booker's staff. On December 21, 2020, I interviewed with Senator Booker. On January 11, 2021, I interviewed with Senator Menendez and members of his staff. On February 19, 2021, I interviewed with attorneys from White House Counsel's Office. Since that time, I have been in contact with officials from the Office of Legal Policy at the Department of Justice.

29. During your selection process did you talk with any officials from or anyone directly associated with the organization Demand Justice? If so, what was the nature of those discussions?

Response: No

a. Did anyone do so on your behalf?

Response: Not to my knowledge.

30. During your selection process did you talk with any officials from or anyone directly associated with the American Constitution Society? If so, what was the nature of those discussions?

Response: No.

a. Did anyone do so on your behalf?

Response: Not to my knowledge.

- 31. During your selection process, did you talk with any officials from or anyone directly associated with Arabella Advisors? If so, what was the nature of those discussions? Please include in this answer anyone associated with Arabella's known subsidiaries the Sixteen Thirty Fund, the New Venture Fund, or any other such Arabella dark-money fund that is still shrouded.**

Response: No.

- a. Did anyone do so on your behalf?**

Response: Not to my knowledge.

- 32. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding your nomination.**

Response: On February 19, 2021, I had one interview with attorneys from the White House Counsel's office regarding my nomination. I have been in contact with individuals from White House Counsel and the Justice Department since that time.

- 33. Please explain, with particularity, the process whereby you answered these questions.**

Response: Upon receiving the written questions from the Office of Legal Policy, I reviewed each and every question submitted to me by the members of the committee. I then began drafting my responses to the questions and independently researching the substance of any question that I believe required reference to a case or subject matter presented in the question.

**Nomination of The Honorable Karen McGlashan Williams to
be United States District Judge for the District of New Jersey
Questions for the Record
Submitted July 21, 2021**

QUESTIONS FROM SENATOR COTTON

1. **Since becoming a legal adult, have you ever been arrested for or accused of committing a hate crime against any person?**

Response: No.

2. **Since becoming a legal adult, have you ever been arrested for or accused of committing a violent crime against any person?**

Response: No.

3. **Was *D.C. v. Heller*, 554 U.S. 570 (2008) rightly decided?**

Response: As a sitting magistrate judge, I do not believe it is proper for me to comment on any decisions rendered by the Supreme Court. Should I be confirmed as a district judge, I will diligently, faithfully, and impartially adhere to Supreme Court and Third Circuit precedent when applying the law to the facts of any matter before me.

4. **Is the Second Amendment right to keep and bear arms an individual right belonging to individual persons, or a collective right that only belongs to a group such as a militia?**

Response: If I am confirmed as a district judge, I have a duty to adhere to Supreme Court precedent. To this end, the Supreme Court has decided that there is “an individual right to keep and bear arms” and that right is fundamental. *District of Columbia v. Heller*, 554 U.S. 570 (2008), *McDonald v. City of Chicago*, 561 U.S. 742 (2010). If confirmed, I will diligently, faithfully, and impartially adhere to Supreme Court and Third Circuit precedent when applying the law to the facts of any matter before me.

5. **Please describe what you believe to be the Supreme Court’s holding in *Greer v. United States*, 593 U.S. ____ (2021).**

Response: In *Greer*, the Supreme Court held that the two defendants who had been convicted of felon-in-possession offenses were not entitled to the retroactive application of the plain-error relief based on the government’s failure to establish the *mens rea* requirement clarified by the Court in *Rehaif v. United States*, 588 U.S. ____.

6. **Please describe what you believe to be the Supreme Court’s holding in *Terry v. United States*, 593 U.S. ____ (2021).**

Response: In *Terry*, a case involving a defendant’s request for reduction of a sentence under the First Step Act, the Supreme Court held that “crack offenders who did not trigger a mandatory minimum” do not qualify for relief under the Act.

7. **Please describe what you believe to be the Supreme Court’s holding in *Jones v. Mississippi*, 593 U.S. ____ (2021).**

Response: In *Jones*, a case involving a mandatory life sentence for a juvenile homicide offender, the Supreme Court held that consistent with its precedent, a sentencer must “follow a certain process -considering an offender’s youth and attendant characteristics – before imposing a life without-parole sentence... and does not impose a formal factfinding requirement ...or a finding of fact regarding a child’s incorrigibility.” Citing, *Miller v. Alabama*, 567 U.S. 460 (2012), *Montgomery v. Louisiana*, 577 U.S. 190, 211 (2016).

8. **Please describe what you believe to be the Supreme Court’s holding in *Tandon v. Newsom*, 593 U.S. ____ (2021).**

Response: In *Tandon*, a case involving at-home religious exercise during the COVID-19 pandemic, the Supreme Court held: The “applicants are entitled to an injunction pending appeal” after determining the likelihood of success on the merits of the case in light of its analysis of the facts of the case and applying its precedential decisions on the Free Exercise Clause.

9. **Please describe what you believe to be the Supreme Court’s holding in *Sanchez v. Mayorkas*, 593 U.S. ____ (2021).**

Response: In *Sanchez*, a case seeking judicial review of United States Citizenship and Immigration Services decision, the Supreme Court held that Temporary Protected Status does not enable a noncitizen to obtain lawful permanent residence based on his unlawful entry into the United States.

10. **What is your view of arbitration as a litigation alternative in civil cases?**

Response: The District of New Jersey has a robust local rule adopting arbitration as an alternative to litigation. Moreover, “Arbitration as a form of alternative dispute resolution has been the subject of judicial attention in the district since the 1984 Third Circuit Judicial Conference...” In the twelve years that I have served as a magistrate

judge I have observed the efficiency that referral to the district's arbitration program provides to civil litigants.

11. Please describe with particularity the process by which you answered these questions and the written questions of the other members of the Committee.

Response: Upon receiving the written questions from the Office of Legal Policy, I reviewed each and every question submitted to me by the members of the committee. I then began drafting my responses to the questions and independently researching the substance of any questions that I believe required reference to a case or subject matter presented in the question.

12. Did any individual outside of the United States federal government write or draft your answers to these questions or the written questions of the other members of the Committee? If so, please list each such individual who wrote or drafted your answers. If government officials assisted with writing or drafting your answers, please also identify the department or agency with which those officials are employed.

Response: No.

SENATOR TED CRUZ
U.S. Senate Committee on the Judiciary

Questions for the Record for Karen McGlashan Williams, to be United States District Judge for the District of New Jersey

I. Directions

Please provide a wholly contained answer to each question. A question's answer should not cross-reference answers provided in other questions. Because a previous nominee declined to provide any response to discrete subparts of previous questions, they are listed here separately, even when one continues or expands upon the topic in the immediately previous question or relies on facts or context previously provided.

If a question asks for a yes or no answer, please provide a yes or no answer first and then provide subsequent explanation. If the answer to a yes or no question is sometimes yes and sometimes no, please state such first and then describe the circumstances giving rise to each answer.

If a question asks for a choice between two options, please begin by stating which option applies, or both, or neither, followed by any subsequent explanation.

If you disagree with the premise of a question, please answer the question as-written and then articulate both the premise about which you disagree and the basis for that disagreement.

If you lack a basis for knowing the answer to a question, please first describe what efforts you have taken to ascertain an answer to the question and then provide your tentative answer as a consequence of its reasonable investigation. If even a tentative answer is impossible at this time, please state why such an answer is impossible and what efforts you, if confirmed, or the administration or the Department, intend to take to provide an answer in the future. Please further give an estimate as to when the Committee will receive that answer.

To the extent that an answer depends on an ambiguity in the question asked, please state the ambiguity you perceive in the question, and provide multiple answers which articulate each possible reasonable interpretation of the question in light of the ambiguity.

II. Questions

1. **Judge Williams, in 2011, you oversaw the detention hearing of a man who had been previously convicted of Second Degree Sexual Assault in Rhode Island in 1996. You agreed to release the defendant back into the community if he would stay with his parents, limit travel to approved areas, and follow other normal restrictions. That man would later be convicted for child sexual assault of a 4 year old boy.**

- a. **Do you regret this decision?**

Response: In an effort to identify the case described in this question I have reviewed all of my calendar entries for the Calendar year 2011 to no avail. Further, I do not recall any defendant who I placed on pre-trial supervision pending trial violating his conditions of release by committing the reprehensible act of sexually assaulting a four year old.

- b. **What is your approach to bond, detention, and sentencing determinations?**

Response: In considering whether a defendant should be detained pending trial, and in the absence of a rebuttable presumption, in accordance with the Bail Reform Act, the defendant is entitled to the presumption of innocence and must be released prior to trial unless no conditions or combination of conditions exist which will “reasonably assure” the appearance of the defendant or “reasonably assure” the safety of any other person in the community. In considering whether to set conditions of release or detain a defendant prior to trial, I am guided by the factors Congress has set forth in 18 U.S.C. §3142(g). Similarly, as a magistrate judge my sentencing determinations have been limited to misdemeanor offenses and guided by the factors set forth in 18 U.S.C. §3553(a). If confirmed as a district judge, I will diligently, faithfully, and impartially adhere to all relevant federal statutes regarding bail and sentencing.

2. **Describe how you would characterize your judicial philosophy, and identify which U.S. Supreme Court Justice’s philosophy from Warren, Burger, Rehnquist, or Robert’s Courts is most analogous with yours.**

Response: As a magistrate judge, I have an obligation to decide matters presented diligently, faithfully, and impartially. If confirmed as a district judge, I will continue to address cases and controversies presented by reviewing the facts of each case as they are presented, ascertaining and applying the appropriate legal standard, and rendering a decision on the matter without regard to my personal views. In addition, I have not studied the jurisprudence of any individual Supreme Court Justice. My admiration is for the Supreme Court itself and the judicial independence reflected in its opinions, concurrences and dissents.

**Questions for the Record for Karen McGlashan Williams
From Senator Mazie K. Hirono**

1. As part of my responsibility as a member of the Senate Judiciary Committee and to ensure the fitness of nominees, I am asking nominees to answer the following two questions:

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

Response: No.

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

Response: No.

Senator Mike Lee
Questions for the Record
Karen Williams, D.N.J.

1. How would you describe your judicial philosophy?

Response: As a magistrate judge, I have an obligation to decide matters presented to me diligently, faithfully, and impartially. I fulfill this duty by reviewing the facts of each case as they are presented, ascertaining and applying the appropriate legal standard, and rendering a decision on the matter without regard to my personal views. Should I be confirmed as a district judge, I will diligently, faithfully, and impartially discharge the duties of the office.

2. What sources would you consult when deciding a case that turned on the interpretation of a federal statute?

Response: As a magistrate judge, I employ a three-step process when deciding any matters before me. To this end, when interpreting a federal statute I begin by reviewing the statutory language at issue. If the plain meaning is unambiguous my analysis is complete and the plain meaning is applied to the facts presented. If the statutory language is ambiguous, and there is no binding precedent from the Supreme Court or Third Circuit then I consider persuasive authority and apply the canons of interpretation. Should I become a district judge, I will employ the same approach to statutory interpretation.

3. What sources would you consult when deciding a case that turned on the interpretation of a constitutional provision?

Response: Should I be confirmed as a district judge, I would review and apply Supreme Court and Third Circuit precedent when interpreting a constitutional provision.

4. What role do the text and original meaning of a constitutional provision play when interpreting the Constitution?

Response: Should I be confirmed as a district judge, I would review and apply Supreme Court and Third Circuit precedent if a case before me requires me to determine the role of text and original meaning of a constitutional provision.

5. How would you describe your approach to reading statutes? Specifically, how much weight do you give to the plain meaning of the text?

Response: Please refer to my response to question 2 above.

- a. **Does the “plain meaning” of a statute or constitutional provision refer to the public understanding of the relevant language at the time of enactment, or does the meaning change as social norms and linguistic conventions evolve?**

Response: Should I be confirmed as a district judge, I have a duty to apply binding Supreme Court and Third Circuit precedent to any matter before me.

6. **What are the constitutional requirements for standing?**

Response: In *Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992), the Supreme Court instructs that “Over the years, our cases have established that the irreducible constitutional minimum of standing contains three elements. First, the plaintiff must have suffered an ‘injury in fact’...Second, there must be a causal connection between the injury and the conduct complained of...Third, it must be ‘likely’, as opposed to merely speculative that the injury will be redressed by a favorable decision.” (internal citations omitted)

7. **Do you believe Congress has implied powers beyond those enumerated in the Constitution? If so, what are those implied powers?**

Response: In *McCulloch v. Maryland*, 17 U.S. 316, 411-412 (1819), the Supreme Court held the Constitution gives the federal government certain implied powers, as may be “necessary and proper” to carry out the business of the government.

8. **Where Congress enacts a law without reference to a specific Constitutional enumerated power, how would you evaluate the constitutionality of that law?**

Response: Should I be confirmed as a district judge, I will adhere to Supreme Court and Third Circuit precedent.

9. **Does the Constitution protect rights that are not expressly enumerated in the Constitution? Which rights?**

Response: The Supreme Court has held that certain rights, although not specifically identified in the Constitution, are indeed protected by the Constitution. See for example, the right to marry who we choose as explained in *Loving v. Virginia*, 388 U.S. 1 (1967), and the right to privacy in our marriages as explained in *Griswold v. Connecticut*, 381 U.S. 479 (1965). Should I be confirmed as a district judge, I will adhere to Supreme Court and Third Circuit precedent.

10. **What rights are protected under substantive due process?**

Response: The rights protected under substantive due process are those deemed fundamental by the Supreme Court. For example, in *Washington v. Glucksberg*, 521 U.S. 702 (1997) the Supreme Court reiterated that the “Due Process Clause ‘protects

individual liberty against certain government actions regardless of the fairness of the procedures used to implement them”. The Court further underscored that substantive due process includes the right to marry, to have children, to direct the education and upbringing of one’s children; and to marital privacy. (internal citations omitted).

Should I be confirmed as a district judge, I will adhere to Supreme Court and Third Circuit precedent.

11. **If you believe substantive due process protects some personal rights such as a right to abortion, but not economic rights such as those at stake in *Lochner v. New York*, on what basis do you distinguish these types of rights for constitutional purposes?**

Response: Should I be confirmed as a district judge, my determinations relating to substantive due process will be in accordance with Supreme Court and Third Circuit precedent and not based on any personal beliefs I may have.

12. **What are the limits on Congress’s power under the Commerce Clause?**

Response: In *U.S. v. Lopez*, 514 U.S. 549 (1995), although the Supreme Court recognized the broad power of Congress to “legislate under the Commerce Clause”, it held that the Gun-Free School Zones Act of 1990 exceeded Congress’ Commerce Clause authority. Further, in *Lopez*, the Supreme Court noted that it has “identified three broad categories of activity that Congress may regulate under its Commerce power” including the use of channels of interstate commerce, the instrumentalities of interstate commerce and activities having a substantial relation to interstate commerce. (internal citations omitted).

13. **What qualifies a particular group as a “suspect class,” such that laws affecting that group must survive strict scrutiny?**

Response: The Supreme Court has held that alienage, race and ancestry are suspect classes and any regulation of same must survive strict scrutiny. *Graham v. Richardson*, 403 U.S. 365 (1971), *McLaughlin v. Florida*, 379 U.S. 184 (1964), *Oyama v. California*, 332 U.S. 633 (1948).

14. **How would you describe the role that checks and balances and separation of powers play in the Constitution’s structure?**

Response: The Constitution is structured to ensure the balance of power between the separate and independent branches of government to serve the people in accordance with each branch’s ascribed power.

15. **How would you go about deciding a case in which one branch assumed an authority not granted it by the text of the Constitution?**

Response: Should I be confirmed as a district judge and be presented with the issue identified in this question, I will adhere to my duty to apply Supreme Court and Third Circuit precedent in any decision I would render.

16. **What role should empathy play in a judge's consideration of a case?**

Response: Although empathy is an admirable humanitarian quality, it has no role in judicial decision making. As a magistrate judge empathy has not played a role in my judicial decision making. Should I be confirmed as a district judge, empathy will not play a role in my judicial decision making.

17. **What's worse: Invalidating a law that is, in fact, constitutional, or upholding a law that is, in fact, unconstitutional?**

Response: Invalidating a law that is constitutional or upholding a law that is unconstitutional equally violate the principles of justice.

18. **From 1789 to 1857, the Supreme Court exercised its power of judicial review to strike down federal statutes as unconstitutional only twice. Since then, the invalidation of federal statutes by the Supreme Court has become significantly more common. What do you believe accounts for this change? What are the downsides to the aggressive exercise of judicial review? What are the downsides to judicial passivity?**

Response: I have never undertaken an analysis of the Supreme Court's power of judicial review of federal statutes and therefore have not formed a belief about the change in the Supreme Court jurisprudence as described in this question. However, should I be confirmed as a district judge, I will continue to fulfill my duty to adhere to Supreme Court and Third Circuit precedent.

19. **How would you explain the difference between judicial review and judicial supremacy?**

Response: I would explain the differences between judicial review and judicial supremacy by referencing Black's Law Dictionary (11th ed. 2019) which defines these terms as follows:

Judicial review: "A court's power to review the actions of other branches or levels of government; esp., the courts' power to invalidate legislative and executive actions as being unconstitutional."

Judicial supremacy: "The doctrine that interpretations of the Constitution by the federal judiciary in the exercise of judicial review, esp. U.S. Supreme Court interpretations, are binding, on the coordinate branches of the federal government and the states."

20. **Abraham Lincoln explained his refusal to honor the Dred Scott decision by asserting that “If the policy of the Government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court . . . the people will have ceased to be their own rulers, having to that extent practically resigned their Government into the hands of that eminent tribunal.” How do you think elected officials should balance their independent obligation to follow the Constitution with the need to respect duly rendered judicial decisions?**

Response: I think the rule of law dictates that no one is above the law. Therefore, everyone, including elected officials, is bound by duly rendered judicial decisions.

21. **In Federalist 78, Hamilton says that the courts are the least dangerous branch because they have neither force nor will, but only judgment. Explain why that’s important to keep in mind when judging.**

Response: This phrase reminds me that it is important to keep in mind that (1) judicial independence allows judges the ability to render fair and impartial decisions and (2) the necessity of the interdependence of all three branches of government.

22. **As a district court judge, you would be bound by both Supreme Court precedent and prior circuit court precedent. What is the duty of a lower court judge when confronted with a case where the precedent in question does not seem to be rooted in constitutional text, history, or tradition and also does not appear to speak directly to the issue at hand? In applying a precedent that has questionable constitutional underpinnings, should a lower court judge extend the precedent to cover new cases, or limit its application where appropriate and reasonably possible?**

Response: It is the duty of a lower court judge to adhere to precedent without regard to her own independent analysis of the issue(s) presented.

23. **When sentencing an individual defendant in a criminal case, what role, if any, should the defendant’s group identity(ies) (e.g., race, gender, nationality, sexual orientation or gender identity) play in the judges’ sentencing analysis?**

Response: As a magistrate judge, I adhere to my duty to apply 18 U.S.C. § 3553(a) when making sentencing determinations. An individual defendant’s group identity does not have a role in sentencing. If I am confirmed as a district court judge, I will diligently, faithfully, and impartially adhere to the sentencing guidelines.

24. **The Biden Administration has defined “equity” as: “the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons,**

Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.” Do you agree with that definition? If not, how would you define equity?

Response: I am not familiar with the definition captured in this question. In addition, I have not undertaken the task of developing a working definition of equity. However, as a magistrate judge, it is my duty to ensure that everyone who appears before me is treated with respect and that my decisions reflect my diligent efforts, as well as fair and impartial determinations. Should I be confirmed as a district judge, I will continue to conduct myself in accordance with these principles.

25. Is there a difference between “equity” and “equality?” If so, what is it?

Response: I have not considered whether there is a difference between equity and equality. However, Merriam Webster’s Collegiate Dictionary (11th ed. 2007) defines equity as “justice according to natural law or right, specifically freedom from bias or favoritism.” Whereas, equality is defined as “the quality or state of being equal.”

26. Does the 14th Amendment’s equal protection clause guarantee “equity” as defined by the Biden Administration (listed above in question 24)?

Response: If confirmed as a district judge, I will diligently, faithfully, and impartially adhere to Supreme Court and Third Circuit precedent if called upon to interpret or apply the Fourteenth Amendment to a matter before me.

27. How do you define “systemic racism?”

Response: I am aware of various definitions being proffered on the phrase “systemic racism”. I have not had any occasion to adopt any definition or espouse one of my own. As a sitting magistrate judge, I am diligent with respect to treating each and every person who appears before me respectfully and impartially. If confirmed as a district judge, I will continue to treat all who appear before me in the same manner.

28. How do you define “critical race theory?”

Response: Please refer to my response to Question 27.

29. Do you distinguish “critical race theory” from “systemic racism,” and if so, how?

Response: Please refer to my response to Question 27.

Senator Ben Sasse
Questions for the Record
U.S. Senate Committee on the Judiciary
Hearing: “Nominations”
July 21, 2021

For all nominees:

- 1. Since becoming a legal adult, have you participated in any events at which you or other participants called into question the legitimacy of the United States Constitution?**

Response: No.

- 2. Since becoming a legal adult, have you participated in any rallies, demonstrations, or other events at which you or other participants have willfully damaged public or private property?**

Response: No.

For all judicial nominees:

- 1. How would you describe your judicial philosophy?**

Response: As a magistrate judge, I have an obligation to decide matters presented to me diligently, faithfully, and impartially. I fulfill this duty by reviewing the facts of each case as they are presented, ascertaining and applying the appropriate legal standard, and rendering a decision on the matter without regard to my personal views. Should I be confirmed as a district judge, I will diligently, faithfully and impartially discharge the duties of the office.

- 2. Would you describe yourself as an originalist?**

Response: No.

- 3. Would you describe yourself as a textualist?**

Response: No.

- 4. Do you believe the Constitution is a “living” document? Why or why not?**

Response: I believe that the Constitution is an enduring document that has enabled all three branches of government to serve the people of the United States of America in accordance with their respective powers.

5. Please name the Supreme Court Justice or Justices appointed since January 20, 1953 whose jurisprudence you admire the most and explain why.

Response: I have not studied the jurisprudence of any individual Supreme Court Justice, My admiration is for the Court itself and the judicial independence reflected in its opinions, concurrences and dissents.

6. Was *Marbury v. Madison* correctly decided?

Response: Generally, as a sitting magistrate judge, I do not believe it is proper for me to comment on any decisions rendered by the Supreme Court. However, there are a limited number of cases that are so ingrained in our jurisprudence that the decisions rendered by the Supreme Court will endure and are extremely unlikely to be presented for any further legislative, executive or judicial review. *Marbury v. Madison* is one of these cases. Should I be confirmed as a district judge, I will adhere to Supreme Court precedent.

7. Was *Lochner v. New York* correctly decided?

Response: As I previously stated, generally as a sitting magistrate judge, I do not believe it is proper for me to comment on any decisions rendered by the Supreme Court. Should I be confirmed as a district judge, I will adhere to Supreme Court precedent.

8. Was *Brown v. Board of Education* correctly decided?

Response: Generally, as a sitting magistrate judge, I do not believe it is proper for me to comment on any decisions rendered by the Supreme Court. However, there are a limited number of cases that are so ingrained in our jurisprudence that the decisions rendered by the Supreme Court will endure and are extremely unlikely to be presented for any further legislative, executive or judicial review. *Brown v. Board of Education* is one of these cases. Should I be confirmed as a district judge, I will adhere to Supreme Court precedent.

9. Was *Bolling v. Sharpe* correctly decided?

Response: Please refer to my response to Question 7.

10. Was *Cooper v. Aaron* correctly decided?

Response: Please refer to my response to Question 7.

11. Was *Mapp v. Ohio* correctly decided?

Response: Please refer to my response to Question 7.

12. Was *Gideon v. Wainwright* correctly decided?

Response: Please refer to my response to Question 7.

13. Was *Griswold v. Connecticut* correctly decided?

Response: Please refer to my response to Question 7

14. Was *South Carolina v. Katzenbach* correctly decided?

Response: Please refer to my response to Question 7.

15. Was *Miranda v. Arizona* correctly decided?

Response: Please refer to my response to Question 7.

16. Was *Katzenbach v. Morgan* correctly decided?

Response: Please refer to my response to Question 7.

17. Was *Loving v. Virginia* correctly decided?

Response: Generally, as a sitting magistrate judge, I do not believe it is proper for me to comment on any decisions rendered by the Supreme Court. However, there are a limited number of cases that are so ingrained in our jurisprudence that the decisions rendered by the Supreme Court will endure and are extremely unlikely to be presented for any further legislative, executive or judicial review. *Loving v. Virginia* is one of these cases. Should I be confirmed as a district judge, I will adhere to Supreme Court precedent.

18. Was *Katz v. United States* correctly decided?

Response: Please refer to my response to Question 7.

19. Was *Roe v. Wade* correctly decided?

Response: Please refer to my response to Question 7.

20. Was *Romer v. Evans* correctly decided?

Response: Please refer to my response to Question 7.

21. Was *United States v. Virginia* correctly decided?

Response: Please refer to my response to Question 7

22. Was *Bush v. Gore* correctly decided?

Response: Please refer to my response to Question 7.

23. Was District of Columbia v. Heller correctly decided?

Response: Please refer to my response to Question 7.

24. Was Crawford v. Marion County Election Board correctly decided?

Response: Please refer to my response to Question 7.

25. Was Boumediene v. Bush correctly decided?

Response: Please refer to my response to Question 7.

26. Was Citizens United v. Federal Election Commission correctly decided?

Response: Please refer to my response to Question 7.

27. Was Shelby County v. Holder correctly decided?

Response: Please refer to my response to Question 7.

28. Was United States v. Windsor correctly decided?

Response: Please refer to my response to Question 7.

29. Was Obergefell v. Hodges correctly decided?

Response: Please refer to my response to Question 7.

30. In the absence of controlling Supreme Court precedent, what substantive factors determine whether it is appropriate for an appellate court to reaffirm its own precedent that conflicts with the original public meaning of the Constitution?

Response: An appellate court can only review its own precedent either *en banc* or if necessitated by action taken by the Supreme Court.

31. In the absence of controlling Supreme Court precedent, what substantive factors determine whether it is appropriate for an appellate court to reaffirm its own precedent that conflicts with the original public meaning of the text of a statute?

Response: Please refer to my response to Question 30.

32. If defendants of a particular minority group receive on average longer sentences for a particular crime than do defendants of other racial or ethnic groups, should that disparity factor into the sentencing of an individual defendant? If so, how so?

Response: As a magistrate judge, I adhere to my duty to apply 18 U.S.C. § 3553(a) when making sentencing determinations. An individual defendant's racial or ethnic identity does not have a role in sentencing. If I am confirmed as a district judge, I will diligently, faithfully, and impartially adhere to the sentencing guidelines.

Questions from Senator Thom Tillis
for Karen McGlashan Williams
Nominee to be United States District Judge for the District of New Jersey

- 1. Do you believe that a judge's personal views are irrelevant when it comes to interpreting and applying the law?**

Response: Yes

- 2. What is judicial activism? Do you consider judicial activism appropriate?**

Response: Black's Law Dictionary (11th ed. 2019) defines "judicial activism" as "a philosophy of judicial decision making whereby judges allow their personal views about public policy, among other factors, to guide their decisions...." As a sitting magistrate judge, I have not and do not render decisions based on my personal views. Should I be confirmed as a district judge, I will not allow my personal views to enter into my judicial decision making process.

- 3. Do you believe impartiality is an aspiration or an expectation for a judge?**

Response: I believe impartiality is an expectation for judges.

- 4. Should a judge second-guess policy decisions by Congress or state legislative bodies to reach a desired outcome?**

Response: No.

- 5. Does faithfully interpreting the law sometimes result in an undesirable outcome? How, as a judge, do you reconcile that?**

Response: Yes, faithfully interpreting the law sometimes results in an undesirable outcome for a party. However, I reconcile any perceived undesirable outcome with the knowledge that I diligently, faithfully, and impartially apply the law.

- 6. Should a judge interject his or her own politics or policy preferences when interpreting and applying the law?**

Response: No. As a magistrate judge, I have not interjected my own politics or policy preferences when interpreting and applying the law. Should I be confirmed as a district judge, I will not interject my own politics or policy preferences when interpreting and applying the law.

- 7. What will you do if you are confirmed to ensure that Americans feel confident that their Second Amendment rights are protected?**

Response: If I am confirmed as a district judge, I have a duty to adhere to Supreme Court precedent. To this end, the Supreme Court has decided that there is “an individual right to keep and bear arms” and that right is fundamental. *District of Columbia v. Heller*, 554 U.S. 570 (2008), *McDonald v. City of Chicago*, 561 U.S. 742 (2010). I will diligently, faithfully, and impartially apply this law to any case before me on the matter.

- 8. How would you evaluate a lawsuit challenging a Sheriff’s policy of not processing handgun purchase permits? Should local officials be able to use a crisis, such as COVID-19 to limit someone’s constitutional rights? In other words, does a pandemic limit someone’s constitutional rights?**

Response: During this unprecedented time of the COVID-19 pandemic, the Supreme Court has addressed a number of issues that arose as a result of measures instituted by government officials in response to the pandemic. See e.g. *Roman Catholic Diocese of Brooklyn v. Cuomo*, 141 S. Ct. 63 (2020). If I am confirmed as a district judge, I will adhere to Supreme Court and Third Circuit precedent.

- 9. What process do you follow when considering qualified immunity cases, and under the law, when must the court grant qualified immunity to law enforcement personnel and departments?**

Response: As a magistrate judge, I have employed a three-step process when analyzing legal issues presented in any case before me. I review the language at issue, I ascertain whether there is binding precedent from the Supreme Court and/or the Third Circuit, I then apply the facts to the established law. If confirmed as a district judge, I will utilize the same approach. To this end, in *Pearson v. Callahan*, 555 U.S. 223 (2009), the Supreme Court reiterated that “The doctrine of qualified immunity protects government officials “from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known” citing *Harlow v. Fitzgerald*, 457 U.S. 800 818 (1982). In addition, the Court confirmed that the *Saucier* method mandates a two-step sequence for resolving government officials’ qualified immunity claims. *Saucier v. Katz*, 533 U.S. 194 (2001). Should I be confirmed as a district judge, I will diligently, faithfully, and impartially adhere to Supreme Court and Third Circuit precedent on this and every other issue.

- 10. Do you believe that qualified immunity jurisprudence provides sufficient protection for law enforcement officers who must make split-second decisions when protecting public safety?**

Response: If confirmed, as a district judge I have a duty to adhere to Supreme Court and Third Circuit precedent.

- 11. What do you believe should be the proper scope of qualified immunity protections for law enforcement?**

Response: The proper scope of qualified immunity protections for law enforcement is a matter for the legislative and executive branches to address as part of their policy making function. In my current role and if confirmed as a district judge, I will diligently, faithfully, and impartially adhere to Supreme Court and Third Circuit precedent.

12. Throughout the past decade, the Supreme Court has repeatedly waded into the area of patent eligibility, producing a series of opinions in cases that have only muddled the standards for what is patent eligible. The current state of eligibility jurisprudence is in abysmal shambles. What are your thoughts on the Supreme Court's patent eligibility jurisprudence?

Response: Generally, as a sitting magistrate judge it is improper for me to comment on Supreme Court jurisprudence. I can say that as a magistrate judge I have not yet heard any patent eligibility cases. However, over the past twelve years serving the District of New Jersey I have regularly confronted areas of the law that I was not previously familiar with. When presented with a new area of law, I have considered the facts, the record before me, the arguments of the parties and conducted my own independent legal research to reach a conclusion. I would do the same if a patent eligibility case came before me as a district judge.

13. How would you apply current patent eligibility jurisprudence to the following hypotheticals. Please avoid giving non-answers and actually analyze these hypotheticals.

- a. *ABC Pharmaceutical Company* develops a method of optimizing dosages of a substance that has beneficial effects on preventing, treating or curing a disease or condition for individual patients, using conventional technology but a newly-discovered correlation between administered medicinal agents and bodily chemicals or metabolites. Should this invention be patent eligible?**

Response: Generally, as a sitting magistrate judge, it is improper for me to analyze hypotheticals particularly where the issue concerns pharmaceuticals. The District of New Jersey leads the nation in pending patent litigation and has a significant number of cases that relate to pharmaceutical patents. However, in the twelve years that I have been a magistrate judge I approach cases and controversies that come before me by diligently considering the facts, faithfully applying the law and impartially reaching a conclusion.

- b. *FinServCo* develops a valuable proprietary trading strategy that demonstrably increases their profits derived from trading commodities. The strategy involves a new application of statistical methods, combined with predictions about how trading markets behave that are derived from insights into human psychology. Should *FinServCo*'s business method standing alone be eligible? What about the business method as practically applied on a computer?**

Response: Generally, as a sitting magistrate judge, it is improper for me to analyze hypotheticals. However, in the twelve years that I have been a magistrate judge I approach cases and controversies that come before me by diligently considering the facts, faithfully applying the law and impartially reaching a conclusion.

- c. ***HumanGenetics* Company wants to patent a human gene or human gene fragment as it exists in the human body. Should that be patent eligible? What if *HumanGenetics* Company wants to patent a human gene or fragment that contains sequence alterations provided by an engineering process initiated by humans that do not otherwise exist in nature? What if the engineered alterations were only at the end of the human gene or fragment and merely removed one or more contiguous elements?**

Response: Please refer to my response to b.

- d. ***BetterThanTesla ElectricCo* develops a system for billing customers for charging electric cars. The system employs conventional charging technology and conventional computing technology, but there was no previous system combining computerized billing with electric car charging. Should *BetterThanTesla*'s billing system for charging be patent eligible standing alone? What about when it explicitly claims charging hardware?**

Response: Please refer to my response to b.

- e. ***Natural Laws and Substances, Inc.* specializes in isolating natural substances and providing them as products to consumers. Should the isolation of a naturally occurring substance other than a human gene be patent eligible? What about if the substance is purified or combined with other substances to produce an effect that none of the constituents provide alone or in lesser combinations?**

Response: Please refer to my response to b.

- f. **A business methods company, *FinancialServices Troll*, specializes in taking conventional legal transaction methods or systems and implementing them through a computer process or artificial intelligence. Should such implementations be patent eligible? What if the implemented method actually improves the expected result by, for example, making the methods faster, but doesn't improve the functioning of the computer itself? If the computer or artificial intelligence implemented system does actually improve the expected result, what if it doesn't have any other meaningful limitations?**

Response: Please refer to my response to b.

- g. ***BioTechCo* discovers a previously unknown relationship between a genetic mutation and a disease state. No suggestion of such a relationship existed in the**

prior art. Should *BioTechCo* be able to patent the gene sequence corresponding to the mutation? What about the correlation between the mutation and the disease state standing alone? But, what if *BioTech Co* invents a new, novel, and nonobvious method of diagnosing the disease state by means of testing for the gene sequence and the method requires at least one step that involves the manipulation and transformation of physical subject matter using techniques and equipment? Should that be patent eligible?

Response: Please refer to my response to b.

- h. Assuming *BioTechCo*'s diagnostic test is patent eligible, should there exist provisions in law that prohibit an assertion of infringement against patients receiving the diagnostic test? In other words, should there be a testing exemption for the patient health and benefit? If there is such an exemption, what are its limits?

Response: Please refer to my response to b.

- i. *Hantson Pharmaceuticals* develops a new chemical entity as a composition of matter that proves effective in treating TrulyTerribleDisease. Should this new chemical entity be patent eligible?

Response: Please refer to my response to a.

- j. *Stoll Laboratories* discovers that superconducting materials superconduct at much higher temperatures when in microgravity. The materials are standard superconducting materials that superconduct at lower temperatures at surface gravity. Should *Stoll Labs* be able to patent the natural law that superconductive materials in space have higher superconductive temperatures? What about the space applications of superconductivity that benefit from this effect?

Response: Please refer to my response to b.

14. Based on the previous hypotheticals, do you believe the current jurisprudence provides the clarity and consistency needed to incentivize innovation? How would you apply the Supreme Court's ineligibility tests—laws of nature, natural phenomena, and abstract ideas—to cases before you?

Response: As a sitting magistrate judge, and if confirmed as a district judge, I will diligently, faithfully, and impartially adhere to Supreme Court and Third Circuit precedent.