

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Matthew Walden McFarland

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

United States District Judge for the Southern District of Ohio

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.

Ohio Fourth District Court of Appeals
612 Sixth Street, Suite D
Portsmouth, Ohio 45662

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

1967; Portsmouth, Ohio

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.

1989 – 1992, Capital University Law School; J.D. (Order of the Barristers), 1992
1985 – 1989, Capital University; B.A. (cum laude), 1989

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.

2004 – present
Ohio Fourth District Court of Appeals
612 Sixth Street, Suite D
Portsmouth, Ohio 45662
Appellate Judge

2000 – present
Shawnee State University
940 Second Street
Portsmouth, Ohio 45662
Adjunct Professor

1999 – 2004
Scioto County Common Pleas Court, Probate-Juvenile Division
602 Seventh Street
Portsmouth, Ohio 45662
Magistrate

1992 – 2000
Capital University
One College Avenue
Bexley, Ohio 43209
Adjunct Professor

1995 – 1999
Ohio Attorney General of Ohio
30 East Broad Street
Columbus, Ohio 43215
Special Counsel

1995 – 1999
Matthew W. McFarland, Esq.
538 Sixth Street
Portsmouth, Ohio 45662
Solo Practitioner

1995 – 1999
Scioto County Prosecutor's Office
612 Sixth Street
Portsmouth, Ohio 45662
Assistant County Prosecutor

1994 – 1995
Licking County Prosecutor's Office
20 South Second Street
Newark, Ohio 43055
Assistant County Prosecutor

1992 – 1994
Faulkner Law Office
8055 Hayport Road
Wheelersburg, Ohio 45662

Associate Attorney

1992 – 1993

Portsmouth City Solicitor

728 Second Street

Portsmouth, Ohio 45662

Assistant City Solicitor (substituted in for court coverage on approximately 10 occasions)

1991 – 1992

Mazanec, Raskin and Ryder

500 South Front Street

Columbus, Ohio 43215

Law Clerk and Associate Attorney

Summer 1991

Ashland Oil, Inc. (now Marathon Petroleum Corp.)

539 South Main Street

Findley, Ohio 45840

Summer Legal Intern

1990 – 1991

Capital University Law School

303 East Broad Street

Columbus, Ohio 43215

Research Assistant to Dean Rodney K. Smith

Summer 1990

Ohio House of Representatives

Ohio Statehouse

Columbus, Ohio 43215

Legal Intern to the Honorable Speaker Vernal G. Riffe, Jr.

Summer 1989

Memorial Burial Park Association

10556 Old Gallia Pike

Wheelersburg, Ohio 45694

Day Laborer

Other Affiliations (uncompensated unless otherwise indicated):

2012 – 2016

Wheelersburg High School

800 Pirate Drive

Wheelersburg, Ohio 45694

Volunteer Assistant Varsity Golf Coach

2012 – 2014

Ohio Supreme Court, Board of Commissioners on Grievances and Discipline
65 South Front Street
Columbus, Ohio 43215
Commissioner

2009 – 2010

Wheelersburg Elementary School
800 Pirate Drive
Wheelersburg, Ohio 45694
Volunteer Fifth and Sixth Grade Basketball Director

2003 – 2004 (approximate)

Wheelersburg Little League
Gene Bennett Park
1731 Dogwood Ridge Road
Wheelersburg, Ohio 45694
Vice President

2001 – 2002

Wheelersburg High School
800 Pirate Drive
Wheelersburg, Ohio 45694
Freshman Basketball Coach (compensated)

2002 – 2004

Ohio Association of Magistrates
4620 Euclid Boulevard
Youngstown, Ohio 44512
Board of Trustees

1998 – 1999 (approximate)

Shawnee State University Development Board
940 Second Street
Portsmouth, Ohio 45662
Board of Trustees

1998 – 1999

Memorial Burial Park Association
10556 Old Gallia Pike
Wheelersburg, Ohio 45694
Vice President (compensated)

1996 – 1999

Portsmouth Metropolitan Housing Authority
410 Court Street

Portsmouth, Ohio 45662
Board of Trustees (1996 – 1999)
Vice President (1997 – 1999)

1994 – 1999 (approximate)
Southern Ohio Medical Center Foundation
1805 27th Street
Portsmouth, Ohio 45662
Board of Trustees

1995 – 1997 (approximate)
Ohio State Bar Association Young Lawyers
1700 Lake Shore Drive
Columbus, Ohio 43204
Board of Trustees

1993 – 1994 (approximate)
Choice Housing, Inc.
2619 Gallia Street
Portsmouth, Ohio 45662
Board of Trustees

1994
Wheelersburg Local School District
620 Center Street
Wheelersburg, Ohio 45694
Board Member (compensated)

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 never served in the United States Military. I registered for the Selective Service upon turning 18.

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.

Appointed by Ohio Chief Justice to sit as a visiting judge on the Ohio Supreme Court on four separate occasions (2006, 2007, 2011, and 2013)

Appointed by Ohio Chief Justice to sit on the Advisory Committee on Court Security and Emergency Preparedness (2006 – 2009)

Capital University Law School Young Alumnus of the Year (2008)

Ohio Association of Magistrates Judicial Award (2006)

Ohio State Bar Association District Community Service Award for Attorneys under 40 (2005)

Vernal G. Riffe Leadership Award for contributions to the Boy Scouts of America (2004)

Capital University Law School, Order of the Barristers (1992)

Capital University Moot Court Board (1990 – 1992)

Finalist, Capital University Moot Court Board First Year Voluntary Moot Court Competition (Out of 64 teams) (1990)

Addison Dewey Scholarship recipient at Capital University Law School (1989)

Order of the Arrow and Brotherhood, Boy Scouts of America (1980 – 1981)

Eagle Scout, Boy Scouts of America (1981)

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

American Bar Association (1993 – 1996)

Ohio Association of Magistrates (1999 – 2004)

Board of Trustees, Chair of Juvenile Section (2002 – 2004)

Ohio Courts of Appeals Judges Association (2004 – present)

Ohio Judicial Conference (2004 – present)

Appellate Law & Procedure Committee (2012 – 2013)

Judicial Ethics & Professionalism Committee (now the Judicial Ethics, Professionalism & Diversity Committee) (2012 – 2013, 2014 – 2015, 2016 – 2017, 2018 – present)

Magistrates Committee (2006 – 2007, 2008 – 2009, 2010 – 2011, 2016 – 2017)

Ohio State Bar Association (1993 – present)

Ohio State Bar Association Young Lawyers Board of Trustees (approximately 1995 – 1997)

Ohio Supreme Court, Board of Commissioners on Grievances and Discipline, Commissioner (2012 – 2014)

Scioto County Bar Association (1993 – present)

Scioto County Bar Association Certified Grievance Committee (1995 – 1998)

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.

Ohio, 1992

There has been no lapse in membership.

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

Supreme Court of the United States, 1996

United States District Court for the Southern District Court of Ohio, 1993

Supreme Court of Ohio, 1992

Admitted in all courts in Ohio

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.

Boy Scouts of America, Tecumseh District, Simon Kenton Council

(approximately 2001 – 2007)

Volunteer Chairman and served on United Way Board (2001 – 2003)

Choice Housing, Inc. Board of Trustees (approximately 1993 – 1994)

Federalist Society (2017 – present)

Memorial Burial Park Association (1998 – 1999)

Vice President (1998 – 1999)

National Rifle Association (2004 and 2015 – 2018)

Ohio Farm Bureau (2017)

Ohio Supreme Court, Advisory Committee on Court Security and Emergency Preparedness (2006 – 2009)

Portsmouth Elks Lodge No.154 (1992 – present)

Portsmouth Metropolitan Housing Authority Board of Trustees (1996 – 1999)
Vice President (1997 – 1999)

Portsmouth Rotary (approximately 1997 – 2005)

Scioto County Right to Life (1997)

Scioto Society, Inc. (2011 – present)

Shawnee State University Development Board (approximately 1998 – 1999)

Southern Ohio Medical Center Foundation Board of Trustees (approximately 1994 – 1999)

Scottish Rite, Valley of Cincinnati (2000 – 2003)

Western Sun Masonic Lodge No. 91 (1992 – present)

United States Golf Association (1997 – 1998)

Wheelersburg Kiwanis (approximately 2006 – 2014)

Wheelersburg Little League (approximately 2003 – 2007)
Vice President (approximately 2003 – 2004)

Wheelersburg Local School District Board of Education (1994)

Wheelersburg Local School District Citizens Advisory Board (approximately 1993)

- 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.

The Western Sun Lodge and Scottish Rite are masonic, fraternal organizations limited to men, although there is a corresponding organization for women. The Boy Scouts of America, Kiwanis, Rotary, and the Elks were formerly organizations limited to males, but they now permit women members. To my knowledge, none of the other organizations listed above 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.

Matthew W. McFarland, *How are Juveniles Tried as Adults*, Ohio State Bar Association, Law You Can Use, Monthly Magazine, 1997, and updated by Thomas J. Freeman, September 2, 2016. Copy supplied.

During my re-election campaign of 2016, my campaign committee maintained a website at www.judgematt.com. The website is no longer available and I did not keep a record of its contents, however, a copy of the homepage that I found archived on the Internet is supplied.

- 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.

While I served on the Ohio Supreme Court's Advisory Committee on Court Security and Emergency Preparedness, the committee revised Appendix C on Courtroom Security Standards. Copy supplied.

- 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.

Judicial Votes Count, University of Akron, Ray C. Bliss Institute of Applied Politics (2016), available at <https://blogs.uakron.edu/judicialvotescount/matthewmcfarland>. Copy supplied.

During my judicial election campaigns, I may have responded to a few other candidate questionnaires for union endorsements. I have not been able to locate any copies.

March 25, 2011: I spoke to the Wheelersburg Local School Board as a private citizen and former coach about the athletic programs. I have no notes, transcript, or recording.

- 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.

December 12, 2018: Speaker, New Judges Training, Judicial College of the Ohio Supreme Court, Columbus, Ohio. In this continuing education program, I participated in mock hearings for new judges. I have no notes, transcript or recording. The address of the Judicial College of the Ohio Supreme Court is 65 South Front Street, Columbus, Ohio 43215.

July 5, 2018: Introducer, Judicial Swearing In Ceremony of Judge Mark Kuhn, Scioto County Courthouse, Portsmouth, Ohio. I offered a general welcome and administered the oath of office. I have no notes, transcript, or recording. The address of the Scioto County Courthouse is 602 Seventh Street, Portsmouth, Ohio 45662.

April 20, 2018: Speaker, "Winning in Appellate Court", Professor Brad Smith's class on Integrated Core Curriculum for First Year Law Students, Capital University Law School, Columbus, Ohio. Outline supplied.

March 8, 2018: Speaker, New Magistrates Training, Judicial College of the Ohio Supreme Court, Columbus, Ohio. In this continuing education program, I participated in mock hearings for new magistrates. I have no notes, transcript, or recording. The address for the Judicial College of the Ohio Supreme Court is 65 South Front Street, Columbus, Ohio 43215.

October 5, 2017: Speaker, Century Club Reception, Jackson County Ohio Republican Party, Jackson, Ohio. I thanked those in attendance for their past and present support of me. The address of the Jackson County Ohio Republican Party is P.O. Box 271, Jackson, Ohio 45640.

August 16, 2017: Keynote Speaker, Convocation Ceremony, Capital University Law School. The event was sponsored by the law school, and the address is 303

E. Broad Street, Columbus, Ohio 43215. Speech supplied.

March 29, 2017: Speaker, Fall Rally, Scioto County Republican Party, South Webster, Ohio. I thanked those in attendance for their past support and introduced the next speaker. I have no notes, transcript, or recording. The address of the Scioto County Republican Party is P.O. Box 357, South Webster, Ohio 45682.

January 26, 2017: Speaker, Judicial Swearing In Ceremony, Fourth District Court of Appeals, Portsmouth, Ohio. Speech and press coverage supplied.

January 12, 2017: Speaker, Swearing In of Judge Elect Eric Mulford, Gallipolis Municipal Court, Gallipolis, Ohio. I swore in Judge Mulford and offered congratulatory remarks. I have no notes, transcript, or recording, but press coverage is supplied. The address of Gallipolis Municipal Court is 518 Second Street, Gallipolis, Ohio 45631.

December 28, 2016: Speaker, Swearing In of Scioto County Engineer Elect Darren LeBrun, Scioto County Courthouse, Portsmouth, Ohio. I administered the oath of office to Mr. LeBrun and offered brief congratulatory remarks to him and his family. I have no notes, transcript, or recording. The address of the Scioto County Courthouse is 602 Seventh Street, Portsmouth, Ohio 45662.

October 25, 2016: Speaker, Lincoln Day dinner, Scioto County Republican Party, South Webster, Ohio. I thanked those in attendance and asked for their vote in the upcoming general election based on my judicial experience. The address of the Scioto County Republican Party is P.O. Box 357, South Webster, Ohio 45682.

October 24, 2016: Speaker, Meet the Candidates Night, Bristol Village, Ohio. This was an event to meet candidates running for office and involved a brief opening statement followed by questions from the audience. I have no notes, transcript, or recording, but press coverage is supplied. I do not believe there was a sponsoring organization, but the event was organized by Dick Demlow.

October 21, 2016: Speaker, Pickaway County GOP Rally, Circleville, Ohio. I briefly spoke about my re-election campaign and thanked those in attendance. I have no notes, transcript, or recording. I do not believe there was a sponsoring organization, but the event was organized by Mike Hartley.

October 18, 2016: Speaker, Meet the Candidates Event, the League of Women Voters, Portsmouth, Ohio. This was an event to meet candidates running for office and involved a brief opening statement followed by questions from the audience. I have no notes, transcript, or recording, but press coverage is supplied. The address for the League of Women Voters is 1730 M Street NW, Suite 1000, Washington, DC 20036.

October 16, 2016: Speaker, Century Club dinner, Highland County Republican

Party, Hillsboro, Ohio. I briefly spoke about my re-election campaign. I have no notes, transcript, or recording. The address of the Highland County Republican Party is 200 West Main Street, P.O. Box 616, Hillsboro, Ohio 45133.

October 14, 2016: Speaker, Meet the Candidates Forum, Teays Valley High School, Ashville, Ohio. This was an event to meet the republican candidates running for office and involved a brief opening statement followed by questions from the students. The address of Teays Valley High School is 3887 Ohio 752, Ashville, Ohio 43103.

October 4, 2016: Speaker, Meet the Candidates Event, Ross County League of Women Voters, Chillicothe, Ohio. This was an event to meet candidates running for office and involved a brief opening statement followed by questions from the audience. I have no notes, transcript, or recording. The address for the League of Women Voters is 1730 M Street NW, Suite 1000, Washington, DC 20036.

September 28, 2016: Speaker, Meet the Candidates Luncheon, Hocking Hills Chamber of Commerce, Hocking Hills, Ohio. This was an event to meet candidates running for office and involved a brief opening statement followed by questions from the audience. I have no notes, transcript, or recording. The address of the Hocking Hills Chamber of Commerce is 95 West Hunter Street, Logan, Ohio 43138.

September 28, 2016: Panelist, Fall Conference, Ohio Association of Magistrates, Youngstown, Ohio. I participated in a panel discussion of Appellate Judges, which was a continuing education program designed to help Magistrates as to what appellate courts look at in the trial court record. I have no notes, transcript, or recording. The address of the Ohio Association of Magistrates is 4620 Euclid Boulevard, Youngstown, Ohio 44512.

September 27, 2016: Speaker, Fall Rally, Gallia County Republican Party, Gallipolis, Ohio. I spoke briefly about my campaign and asked for support in the upcoming election. I have no notes, transcript, or recording. The address of the Gallia County Republican Party is 760 Second Avenue, Gallipolis, Ohio 45631.

September 22, 2016: Speaker, Meet the Candidates Night, Concerned Citizens of Burlington, Burlington, Ohio. This was an event to meet candidates running for office and involved a brief opening statement followed by questions from the audience. I have no notes, transcript, or recording. The Concerned Citizens of Burlington has no mailing address.

September 13, 2016: Speaker, Central Committee Meeting, Scioto County Republican Party, South Webster, Ohio. I spoke briefly about my re-election campaign and the upcoming election. I have no notes, transcript, or recording. The address of the Scioto County Republican Party is P.O. Box 357, South Webster, Ohio 45682.

September 10, 2006: Speaker, Pickaway County Republican Women Club Patriot Day dinner. I introduced Brian Stewart, the recipient of their award, read a brief bio of him and information about Patriot's Day. I have no notes, transcript, or recording. The event was sponsored by the PCRWC, P. O. Box 234, Circleville, Ohio 43113.

September 6, 2016: Speaker, Gallia County Republican Headquarters Opening, located at St. Rt. 7, Gallipolis, Ohio 45631. I spoke briefly about my campaign and asked for support in the upcoming election. I have no notes, transcript, or recording. The event was sponsored by the Gallia County Republican Party, 760 2nd Avenue, Gallipolis, Ohio 45631.

August 18, 2016: Speaker, Meet the Candidates Event, AMVETS Post 23, Gallipolis, Ohio. This was an event to meet candidates running for office and involved a brief opening statement followed by questions from the audience. I have no notes, transcript, or recording, but press coverage is supplied. The address for AMVETS Post 23 is 108 Liberty Avenue, Gallipolis, Ohio 45631.

August 14, 2016: Speaker, Summer Picnic, Highland County Republican Party, Hillsboro, Ohio. I spoke briefly about my re-election campaign in the upcoming election. I have no notes, transcript, or recording. The address of the Highland County Republican Party is 200 West Main Street, P.O. Box 616, Hillsboro, Ohio 45133.

July 28, 2016: Speaker, Summer Corn Roast, Gallia County Republican Party, Gallipolis, Ohio. I spoke briefly about my campaign and asked for support in the upcoming election. I have no notes, transcript, or recording. The address of the Gallia County Republican Party is 760 Second Street, Gallipolis, Ohio 45631.

June 25, 2016: Speaker, Annual Meeting, Local Chapter of the Knights of the York Cross of Honour, Pomeroy, Ohio. I briefly spoke about the court system and my campaign. I have no notes, transcript, or recording. The address of the Knights of the York Cross of Honour is 6328 Surratt County Road, Denton, North Carolina 27239.

June 14, 2016: Speaker, Flag Day Picnic, Republican Women of Ross County, Chillicothe, Ohio. I spoke briefly about Flag Day and its origin and my campaign for re-election. I have no notes, transcript, or recording. The address of the Republican Women of Ross County is 129 East Main Street, P.O. Box 1803, Chillicothe, Ohio 45601.

June 4, 2016: Speaker, Chair Summit, Ross County Republican Party, Chillicothe, Ohio. I briefly spoke about my re-election campaign in the upcoming election. I have no notes, transcript, or recording. The address of the Ross County Republican Party is 27 West Second Street, Chillicothe, Ohio 45601.

April 21, 2016: Speaker, Scioto County Township Association, Portsmouth, Ohio. I spoke briefly about my re-election campaign in the upcoming election. I have no notes, transcript, or recording. The Scioto County Township Association has no mailing address.

April 8, 2016: Speaker, Lincoln Day Dinner, Hocking County Republican Party, Logan, Ohio. I believe I only introduced myself and do not recall making any remarks. I have no notes, transcript, or recording. The address of the Hocking County Republican Party is 40 North Market Street, Logan, Ohio 43138.

April 8, 2016: Speaker, Lincoln Day Dinner, Athens County Republican Party, Athens, Ohio. I briefly spoke about my re-election campaign in the upcoming election. I have no notes, transcript, or recording. The address of the Athens County Republican Party is 5 Woodshire Court, Athens, Ohio 45701.

March 9, 2016: Speaker, New Magistrates Training, Judicial College of the Ohio Supreme Court, Columbus, Ohio. In this continuing education program, I participated in mock hearings for new magistrates. I have no notes, transcript, or recording. The address of the Judicial College of the Ohio Supreme Court is 65 South Front Street, Columbus, Ohio 43215.

March 8, 2016: Speaker, Lincoln Day Dinner, Gallia County Republican Party, Gallipolis, Ohio. I talked about my re-election campaign in the upcoming election. I have no notes, transcript, or recording. The address of the Gallia County Republican Party is 760 Second Street, Gallipolis, Ohio 45631.

March 1, 2016: Speaker, Meet the Republican Candidates Forum, Republican Women of Ross County, Chillicothe, Ohio. I did not have an opponent in the primary and was not a candidate in the forum but I believe I was introduced. I have no notes, transcript, or recording. The address of the Republican Women of Ross County is 129 East Main Street, P.O. Box 1803, Chillicothe, Ohio 45601.

January 16, 2016: Speaker, Southern Ohio Republican Chairs Association, Jackson, Ohio. At this meeting, I spoke about my candidacy, and the association unanimously endorsed me. I have no notes, transcript, or recording. The Southern Ohio Republican Chairs Association has no mailing address.

July 25, 2015: Speaker, Breakfast, Pickaway County Republican Party, Circleville, Ohio. I introduced the keynote speaker, my colleague Judge William Harsha. I have no notes, transcript, or recording. The address of the Pickaway County Republican Party is 119 South Court Street, Circleville, Ohio 43113.

April 28, 2014: Speaker, Judge James W. Kirsch retirement party, the Scioto County League of Women Voters, Portsmouth, Ohio. This was a celebration of Judge Kirsch's career, and I spoke about his life and thanked him for the

opportunity he gave me. I have no notes, transcript, or recording. The address for the League of Women Voters is 1730 M Street NW, Suite 1000, Washington, DC 20036.

April 13, 2013: Speaker, Youth in Government State Conference, YMCA, Columbus, Ohio. I briefly spoke about the judiciary and administered the oath of office to the Students of the Legislature and Student Supreme Court. I have no notes, transcript, or recording. The address of the YMCA is 40 West Long Street, Columbus, Ohio 43215.

December 2011: Speaker, Swearing In of John Haas as Portsmouth City Solicitor, Fourth District Court of Appeals, Portsmouth, Ohio 45662. I swore in Mr. Haas and offered brief congratulatory remarks. I have no notes, transcript, or recording. The address of the Fourth District Court of Appeals is 602 Seventh Street, Portsmouth, Ohio 45662.

February 21, 2011: Guest Speaker, Monthly Meeting, The League of Women Voters of Portsmouth, Portsmouth, Ohio. I believe I spoke about the judicial system in Ohio and my role as appellate judge and opened the floor for questions. I have no notes, transcript, or recording. The address for the League of Women Voters is 1730 M Street NW, Suite 1000, Washington, DC 20036.

October 18, 2010: Speaker, Meet the Candidates Event, the League of Women Voters of Scioto County, Portsmouth, Ohio. Because I was unopposed in the general election, I briefly made an opening statement and may have taken questions from the audience. I have no notes, transcript, or recording. The address for the League of Women Voters is 1730 M Street NW, Suite 1000, Washington, DC 20036.

January 18, 2010: Speaker, Southern Ohio Republican Chairs Association Meeting, Jackson, Ohio. At this meeting I spoke about my candidacy, and the association unanimously endorsed me. I have no notes, transcript, or recording. The Southern Ohio Republican Chairs Association has no mailing address.

April 2008: Speaker, Alumni Awards Luncheon, Capital University Law School, Columbus, Ohio. I gave very brief remarks upon receiving the young alumnus award and thanking those present. I have no notes, transcript, or recording. The address of Capital University Law School is 303 East Broad Street, Columbus, Ohio 43215.

June 25, 2007: Speaker, Memorial Dinner to Honor Ohio House Speaker Vernal G. Riffe, Jr., Vern Riffe Civic Fund, Portsmouth, Ohio. Notes supplied.

Approximately October 2004: Speaker, Meet the Candidates Night, Scioto County League of Women Voters, Portsmouth, Ohio. I gave an opening statement about my legal experience and responded to audience questions. I have no notes,

transcript, or recording. The address for the League of Women Voters is 1730 M Street NW, Suite 1000, Washington, DC 20036.

Approximately October 2004: Speaker, Luncheon Meeting, Washington County Bar Association, Marietta, Ohio. This was a candidates forum for the general election of 2004 and I briefly spoke about my qualifications. I have no notes, transcript, or recording. The Washington County Bar Association has no mailing address.

February 21, 2004: Speaker, Meet the Republican Candidates Forum, Athens County Republican Party, Athens, Ohio. I gave an opening statement about my legal experience and responded to audience questions before the primary election. I have no notes, transcript, or recording, but press coverage is supplied. The address of the Athens County Republican Party is 5 Woodshire Court, Athens, Ohio 45701.

February 1, 2004: Speaker, Judicial Swearing In Ceremony, Fourth District Court of Appeals, Scioto County Courthouse Rotunda, Portsmouth, Ohio. I briefly spoke at my swearing in ceremony and thanked those present and everyone that supported my election to the bench. I have no notes, transcript, or recording. The address of the Fourth District Court of Appeals, Scioto County Courthouse is 602 Seventh Street, Portsmouth, Ohio 45662.

Approximately February 2004: Speaker, Meet the Candidates Night, Hocking County Republican Party, Logan, Ohio. This was before the primary election. I gave an opening statement about my legal experience and responded to audience questions before the primary election. I have no notes, transcript, or recording. The address of the Hocking County Republican Party is 40 North Market Street, Logan, Ohio 43138.

Approximately February 2004: Speaker, Meet the Republican Candidates Night, Jackson County Optimists Club, Jackson, Ohio. I gave an opening statement about my legal experience and may have responded to audience questions before the primary election. I have no notes, transcript, or recording. The Jackson County Optimists Club has no mailing address.

My campaign committee also held private fundraising events for my election in 2004 and re-election for appellate judge in 2016. At all the events, I remember briefly thanking those in attendance. Most occurred at restaurants and private facilities in Scioto County, Ohio, but some may also have taken place in Lawrence, Athens, Jackson, Washington, Ross, or Franklin Counties. I have no notes, transcripts, or recordings. The event dates to the best of my recollection are as follows: January 3, 2004; February 1, 2004; February 15, 2004; May 25, 2004; June 25, 2004; August 5, 2004; September 26, 2004; October 22, 2004; October 28, 2004; February 24, 2016; March 15, 2016; May 5, 2016; May 23, 2016; May 25, 2016; July 9, 2016; July 19, 2016; August 5, 2016; August 30,

2016; and September 27, 2016.

- 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.

Press Release, *Portman, Brown Applaud Nomination of Judge Matt McFarland to Serve on the U.S. District Court for the Southern District of Ohio*, November 13, 2018. Copy supplied (reprinted in multiple outlets).

Tom Corrigan, *McFarland Is Nominated*, Portsmouth Daily Times (Ohio), October 11, 2018. Copy supplied.

Maddy McCain, *McFarland Recommended for Federal Judgeship*, The Herald (Circleville, Ohio), October 6, 2017. Copy supplied.

Wayne Allen, *McFarland Recommended for Federal Judgeship*, The Scioto Voice (Wheelersburg, Ohio), October 5, 2017, only front page available. Copy supplied.

Nikki Blankenship, *McFarland Recommended for District Court*, The Portsmouth Daily Times (Ohio), October 5, 2017. Copy supplied.

Press Release, *Portman, Brown Announce Recommendations for U.S. Federal District Court Judges for the Southern District of Ohio*, September 29, 2017. Copy supplied (reprinted in multiple outlets).

Steven Collins, *Fourth District Court of Appeals Makes Bi-Annual Visit to Pickaway Co.*, The Herald (Circleville, Ohio), April 1, 2017. Copy supplied.

Derrick C. Parker, *Judge Matthew McFarland Claims His Third Term*, The Scioto Voice (Wheelersburg, Ohio), November 10, 2016, only front page available. Copy supplied.

Amanda Plotts, *Voters Pick Justices for Ohio Supreme Court*, The Herald (Circleville, Ohio), November 9, 2016. Copy supplied.

Frank Lewis, *McFarland Sweeps District; McFarland is Given Another Term on the 4th District Court of Appeals*, The Portsmouth Daily Times (Ohio), November 8, 2016. Copy supplied.

Derrick C. Parker, *Election - 4th District Court of Appeals*, The Scioto Voice (Wheelersburg, Ohio), November 3, 2016, only front page available. Copy supplied.

Jennifer Bahney, *Cases Keep Appeals Court Judge Busy as He Runs for Third Term*, The Herald (Circleville, Ohio), October 28, 2016. Copy supplied.

Sara Nealeigh, *Experience Touted in Judicial Election*, Chillicothe Gazette (Ohio), October 23, 2016, at B1. Copy supplied.

Steve Robb, *Voters Face Decision in Appeals Court Race*, The Athens Messenger (Ohio), October 19, 2016. Copy supplied.

Frank Lewis, *Fourth District Race*, The Portsmouth Daily Times (Ohio), October 6, 2016. Copy supplied.

Two re-election campaign ads appearing on www.facebook.com/judgemcfarland, Fall 2016. Videos supplied.

Joe Higgins, *Appeals Court Judges Recuse Themselves from Kelly Case*, The Athens Messenger (Ohio), July 19, 2016. Copy supplied.

McFarland Announces Re-election Effort, The Community Common (Portsmouth, Ohio), November 30, 2015. Copy supplied.

Two Incumbents Announce Intent to Run in 2016, Chillicothe Gazette (Ohio), November 28, 2015. Copy supplied.

Joe Higgins, *Judge McFarland Announces Bid for Re-Election*, The Athens Messenger (Ohio), November 25, 2015. Copy supplied.

Frank Lewis, *McFarland Files to Return to 4th District Court*, The Portsmouth Daily Times (Ohio), November 18, 2015. Copy supplied.

Bob Sowards and Jeff Olson Feature, Road to the PGA Championship, PGA Tour Productions, August 2, 2015. Video supplied.

Press Release, *Ohio Courts of Appeals to Convene in Scioto Co.*, U.S. Official News, (Columbus, Ohio), May 4, 2015. Copy supplied.

Frank Lewis, *4th District Judges Have Option to Carry Guns*, The Portsmouth Daily Times (Ohio), September 4, 2014. Copy supplied.

Steve Robb, *Appeals Court Authorizes Its Judges to Carry Concealed Weapons*, The Athens Messenger (Ohio), August 30, 2014. Copy supplied.

Wayne Allen, *McFarland Satisfied with Progress*, The Community Common (Portsmouth, Ohio), April 4, 2013. Copy supplied.

Wayne Allen, *Clogged Downspout Floods Court Offices*, The Community

Common (Portsmouth, Ohio), March 26, 2013. Copy supplied.

Wayne Allen, *McFarland Satisfied with Pending Office Repairs*, The Portsmouth Daily Times (Ohio), March 24, 2013. Copy supplied.

Mark Schaffer, *Water Damages Court of Appeals*, The Scioto Voice (Wheelersburg, Ohio), March 21, 2013, only front page available. Copy supplied.

Wayne Allen, *McFarland, Crabtree at Odds over Flooding Problem*, The Portsmouth Daily Times (Ohio), March 20, 2013. Copy supplied.

Frank Lewis, *McFarland Sits on Supreme Court for 4th Time*, The Portsmouth Daily Times (Ohio), February 27, 2013. Copy supplied.

Bret Crow, *Fourth District Judge McFarland Hears Supreme Court Case*, Court News Ohio, February 26, 2013. Copy supplied.

Views from the Bench - Four Ohio Judges Discuss How Capital Prepared Them for Their Careers, Capital University Law School (Columbus, Ohio), The Capital Lawyer, Winter 2013, pages 8 & 10. Copy supplied.

Frank Lewis, *McFarland Interviewed for Ohio Supreme Court Seat*, The Portsmouth Daily Times (Ohio), December 20, 2012. Copy supplied.

Frank Lewis, *Hoover Joins Scioto Judges on Appeals Court*, The Portsmouth Daily Times (Ohio), November 13, 2012. Copy supplied.

Bob Strickley, *Local Youth Golfer Experiences PGA Atmosphere*, The Portsmouth Daily Times (Ohio), August 9, 2012. Copy supplied.

Frank Lewis, *Wheelersburg Man Sits on State's High Court*, The Portsmouth Daily Times (Ohio), March 2, 2011, page A1. Copy supplied.

Appellate Judge Hears Supreme Court Case, Targeted News Service (Columbus, Ohio), March 2, 2011. Copy supplied.

Frank Lewis, *Former Congressman Dies at 89*, The Portsmouth Daily Times (Ohio), October 13, 2010, at A1, A3. Copy supplied.

Scioto County Jurist Hears Supreme Court Case, Supreme Court & Judicial Services News, September 18, 2007. Copy supplied.

Scioto County Appellate Judge Hears Supreme Court Case, Supreme Court & Judicial System News, April 11, 2006. Copy supplied.

Lori McNelly, *New Judge to Start Early*, Chillicothe Gazette (Ohio), November

18, 2004, page 3. Copy supplied.

Athens Co. Vote Not Enough to Gain Judge Victory, The Athens News (Ohio), November 4, 2004. Copy supplied.

Jim Phillips, *Long-Time Athens Judge, Scioto County Magistrate Seek Appeals Court Seat*, The Athens News (Ohio), October 18, 2004. Copy supplied.

In the interest of full disclosure, I recall talking to Sam McKibben of 99.3 WNXT radio in Portsmouth, Ohio, on the nights of the primary and general elections in 2004 and the general election in 2016 about my successful campaigns. I also spoke with him at the Scioto County Fair live on the radio about the Court of Appeals on two occasions. I spoke with Wayne Allen of The Portsmouth Daily Times about the election and my campaigns in 2004 and 2016. I also spoke with a reporter from the Dayton Daily News (I do not recall his name) regarding my primary win in 2004. I have no transcripts or recordings and I was unable to locate any articles associated with these interviews.

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.

In 1999, I was appointed to be a magistrate in the probate-juvenile division of the Scioto County Common Pleas Court. I served as a magistrate until 2004.

I was elected to be an appellate judge in the Ohio Fourth District Court of Appeals in 2004 for a six-year term. I was re-elected in 2010 and 2016. In 2006, 2011, and 2015, I served as the Administrative Judge for the 4th District. In 2007, 2010, and 2013, I served as the Presiding Judge for the 4th District. I sat as a visiting judge on the Ohio Supreme Court in 2006, 2007, 2011, 2013. I also sat as a visiting judge on the 2nd, 5th and 10th District Courts of Appeals on assigned cases since 2006.

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

At the trial level, according to the statistical records from the Scioto County Juvenile Court, it shows 251 adjudications in delinquency matters and 184 adjudications in traffic matters from 1999 to 2004 when I was serving as the Magistrate. During that same period, the records show I presided over 7,000 hearings. These hearings included arraignments, change of plea hearings, motion hearings, adjudications, and dispositions.

At the appellate level, from 2004 through December 4, 2018, I have made 2,854 panel votes on appellate cases. I have been elected the Presiding and Administrative Judge by my colleagues on multiple occasions and also have voluntarily served as a visiting judge in Ohio's 2nd, 5th, and 10th Appellate

districts.

At the Supreme Court of Ohio, I was appointed by the Ohio Chief Justice to sit as a visiting judge on four separate cases. I also served as a Commissioner on the Supreme Court of Ohio's Board of Commissioners for Grievances and Discipline from 2012 to 2014. As a Commissioner, I presided over several hearings as the panel chair regarding disciplinary matters of Ohio attorneys and judges.

The percentages below reflect the cases I presided over to verdict or judgment at the trial level.

i. Of these, approximately what percent were:

jury trials:	0%
bench trials:	100%
civil proceedings:	40%
criminal proceedings:	60%

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

Please see attached list.

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

1. *Cullen v. State Farm Mutual Insurance Company*, 137 Ohio St.3d 373, 2013-Ohio-4733, 999 N.E.2d 614 (Ohio 2013).

This case involved whether the trial court abused its discretion in certifying a class action by giving insufficient weight to arguments advanced by the insurance company regarding the merits of the plaintiffs' claims about windshield repairs. The Court reversed the appellate court, finding that the declaratory relief at issue was incidental to an individualized claim for monetary damages and Cullen has not met the certification set forth in Civ. R. 23(B)(2). Additionally, because individual questions predominate over questions common to the class, Cullen has not satisfied requirement for certification under Civ. R. 23(B)(3). I sat as a visiting judge in this case on the Supreme Court of Ohio.

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2. *The State ex rel. Baker v. Coast to Coast Manpower, Industrial Commission of Ohio*, 129 Ohio St.3d 138, 2011-Ohio-2721, 950 N.E.2d 924 (Ohio 2011).

This case involved whether a claimant was due a total loss of vision award following surgery after a workplace injury that results in the removal of his natural eye lens. The Ohio Supreme Court held that surgical removal of lens or cornea due to a workplace injury does not automatically entitle claimant to an award for total loss of vision. The loss of vision measuring less than statutory minimum of 25 percent is not compensable as a scheduled loss under R.C. 4123.57(B). Here, the Ohio Supreme Court affirmed the Court of Appeals below because it properly calculated the loss of sight based on the percentage of vision actually lost as a result of the injury, prior to any corrective surgery. Because the amount of vision lost was less than the minimum 25 percent required by R.C. 4123.57(B), the claimant was not entitled to an award for the loss of sight. I sat as a visiting judge in this case on the Supreme Court of Ohio.

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3. *Mendenhall v. City of Akron*, 117 Ohio St.3d 33, 2008-Ohio-270, 881 N.E.2d 255 (Ohio 2008).

This case was on Order from the United States District Court for the Northern District of Ohio, Eastern Division, Certifying a State Law question. The certified question was “Whether a municipality has the power under the home rule to enact civil penalties for the offense of violating a traffic signal light or for the offense of speeding, both of which are criminal offenses under the Ohio Revised Code.” There were ten amicus curiae briefs filed in this case. The Ohio Supreme Court unanimously held that an Ohio municipality does not exceed its home rule authority when it creates an automated system for enforcement of traffic laws that imposes civil liability upon violators, provided that the municipality does not alter statewide traffic regulations. I sat as a visiting judge in this case on the Supreme Court of Ohio.

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Counsel for Respondent:

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4. *Anderson v. Nationwide Insurance Co. and Cincinnati Insurance Co.*, 109 Ohio St.3d 1210, 2006-Ohio-2578, 847 N.E.2d 1220 (Ohio 2006).

This case examined whether extrinsic evidence such as an affidavit signed by a company officer is legally sufficient to prove that the employer expressly and knowingly waived uninsured/underinsured motorist coverage. The Court dismissed this case, sua sponte, as having been improvidently accepted. I sat as a visiting judge in this case on the Supreme Court of Ohio.

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James J. Popil (unable to find current contact information)

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Evy M. Jarrett
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5. *Fagan v. Boggs, Director of Ohio Dept. of Agriculture*, 4th Dist. Washington No. 10CA17, 2011-Ohio-5884, 2011 WL 5542091 (Ohio Ct. App. 2011).

This appeal dealt with a declaratory judgment and injunction order and a stop sale/withdraw from a distribution order regarding the sale and manufacturing/distribution of pet food. Appellants alleged violations of due

process and equal protection in applying R.C. 923.52. Our court held that manufactures were not deprived of due process or equal protection by ODA's stop sale order, but that ODA did engage in illegal rule making by interpreting a department rule in such a manner as to include a prohibition on use of raw milk as an ingredient in pet food.

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6. *State v. Beverly*, 4th Dist. Ross No. 04CA2809, 2005-Ohio-4954, 2005 WL 2293581 (Ohio Ct. App. 2005).

This appeal was by a defendant convicted of possession of cocaine and involved speedy trial issues under R.C. 2945.71. Our court reversed the trial court because R.C. 2945.71 applies and not R.C. 2941.401 as the defendant was released after indictment and held solely on pending charge. The speedy trial right of the defendant was violated when he was not brought to trial within 90 days from his release from prison.

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Counsel for Appellee:

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7. *Bobo v. Stansberry*, 162 Ohio App.3d 565, 2005-Ohio-3928, 834 N.E.2d 373 (Ohio Ct. App. 2005).

In this case, a former wife brought action against executors of her former husband's estate alleging that her former husband had made a gift of automobile loan to the extent of \$20,000 from funds he was to receive as beneficiary of third party's estate. This appeal dealt with a notarized document signed by the maker at a credit union purporting to be a gift for the benefit of a non-family member failed as a completed inter vivos gift or gift causa mortis.

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Counsel for Appellee:

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8. *Evans v. Evans*, 4th Dist. Jackson 12CA5, 12CA6, 2014-Ohio-4450, 20 N.E.3d 1139 (Ohio Ct. App. 2014).

In this case, co-trustees of trust brought action against the former trustee, his children, and his child's guardian for declaratory judgment and instructions, seeking guidance as to the interpretation and administration of the trust. The son brought various counterclaims, alleging that trust funds had been used to pay for the criminal defense of former trustee, trespassing, and destruction of hay crop. This appeal dealt with issues resulting from a murder for hire of a spouse and the resulting effect it had on a revocable trust and property and Ohio's slayer statute. We affirmed the trial court.

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9. *Buckmaster v. Buckmaster*, 4th Dist. Highland 13CA13, 2014-Ohio-793, 2014 WL 861508 (Ohio Ct. App. 2014).

This appeal addressed a denial by the trial court of a motion to terminate spousal support which was based on the fact that appellee was co-habiting with a male, over the age of 18. The issue on appeal was whether a trial court's unwritten policy and unpublished rule of court preventing children of parties in domestic relations cases to testify and in violation of due process, Evid. R. 601, Sup. R. 5, and Civ. R. 83. We reversed the trial court and found its policy violated due process.

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Counsel for Appellee:

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10. *Prokos v. Hines*, 4th Dist. Athens Nos: 10CA51, 10CA57, 2014-Ohio-1415, 2014 WL 1339676 (Ohio Ct. App. 2014).

This appeal related to a family dispute over property arising from a six-week trial. It involved claims of fraud, undue influence, conversion, fraudulent conveyances, and intentional interference with an expectancy of inheritance claims. The jury deliberated for three days and awarded several large compensatory and punitive damage awards against the various defendants. We affirmed the trial court holding that the record supported the verdicts.

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

1. *State v. Blanton*, 4th Dist. Adams No.16CA1035, 2018-Ohio-1278, 110 N.E.3d 1 (Ohio Ct. App. 2018).

Attorney for Appellant:

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2. *State v. Shuler*, 168 Ohio App.3d 183, 2006-Ohio-4336, 858 N.E.2d 1254
(Ohio Ct. App. 2006).

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Attorney for Appellee:

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3. *State v. Robson*, 165 Ohio App.3d 621, 2006-Ohio-628, 847 N.E.2d 1233
(Ohio Ct. App. 2006).

Attorney for Appellant:

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Attorney for Appellee:

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4. *State v. Lodwick*, 4th Dist. Scioto No. 17CA3812, 2018-Ohio-3710, 2018 WL 4420794 (Ohio Ct. App. 2018).

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5. *McKinley v. Ohio Bureau of Workers Compensation*, 170 Ohio App.3d 161, 2006-Ohio-5271, 866 N.E.2d 527 (Ohio Ct. App. 2006).

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6. *In re S.C.*, 189 Ohio App.3d 308, 2010-Ohio-3394, 938 N.E.2d 390 (Ohio Ct. App. 2010).

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7. *Slusher v. Ohio Valley Propane Services, et al.*, 177 Ohio App3d. 852, 2008-Ohio-41, 896 N.E.2d 715 (Ohio Ct. App. 2008).

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8. *Webb v. Edwards*, 165 Ohio App.3d 158, 22005-Ohio-6379, 845 N.E.2d 530 (Ohio Ct. App. 2005).

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9. *Onda, Lebuhn, Rankin, & Boggs Co., L.P.A. v. Johnson*, 184 Ohio App.3d 296, 2009-Ohio-4726, 920 N.E.2d 1000 (Ohio Ct. App. 2009).

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10. *State v. Simms*, 165 Ohio App.3d 83, 2005-Ohio-5681, 844 N.E.2d 1212 (Ohio Ct. App. 2005).

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Attorney for Appellee:

Eugene Long (deceased)

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

To my recollection, certiorari to the United States Supreme Court has not been requested or granted for any case over which I have presided.

- f. Provide a brief summary of and citations for all of your opinions where your

decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

To my recollection, the following is a list of opinions where my decision was subsequently reversed by a reviewing court. I am not aware of any cases I authored that were affirmed with significant criticism.

State v. Barry, 4th Dist. Scioto No. 13CA3569, 2014-Ohio-4452, *reversed by State v. Barry*, 145 Ohio St.3d 354, 2015-Ohio-5449, 49 N.E.3d 1249 (resolving conflicts between the district courts of appeals holding that actual knowledge, not constructive knowledge, of an impending criminal investigation is necessary to prove crime of tampering with evidence).

State v. Mutter & Mutter, 2016-Ohio-512, 59 N.E.3d 645, *reversed by State v. Mutter*, 150 Ohio St.3d 429, 2017-Ohio-2928, 82 N.E.3d 1141 (holding that aggravated menacing and ethnic intimidation are the same offense for purposes of double jeopardy).

Ackison v. Anchor Packing Co., 4th Dist. Lawrence No. 05CA46, 2006-Ohio-7099, *reversed by Ackison v. Anchor Packing Company*, 120 Ohio St.3d 228, 2008-Ohio-5243 (holding that statutory provisions requiring plaintiffs bringing certain asbestos-related tort claims to make a prima-facie showing of physical impairment and support that evidence with written opinion of competent medical authority are remedial and procedural and may be applied without offending Retroactivity Clause of the State Constitution).

State v. Bondurant, Highland No. 11CA27, 2012-Ohio-4912, 982 N.E.2d 1261, *reversed by State v. Stevens*, 139 Ohio St.3d 247, 2014-Ohio-1932, 11 N.E.3d 252 (holding that the threshold monetary amount stated in the Ohio Racketeer Influence and Corrupt Organization (RICO) statute applies to the individual actions of a person of the enterprise, as opposed to the actions of the enterprise as a whole).

State ex rel. Meigs County Home Rule Committee v. Cty of Meigs Board of Commissioners, Meigs No. 15CA9, 2015-Ohio-3701, 44 N.E.3d 950, *reversed by State ex rel. Meigs County Home Rule Committee v. Cty of Meigs Board of Commissioners*, 148 Ohio St.3d 63, 2016-Ohio-5658, 68 N.E.3d 781 (holding that the letter from board of electors to county board of commissioners complied with statutory certification requirements).

In re D.G., 4th Dist. Ross No. 13CA3382, 13CA3383, 2014-Ohio-650, abrogated by *State v. Morgan*, Supreme Court of Ohio, - - - N.E.3d - - -, 2017-Ohio-7565 (abrogating six other juvenile cases from Ohio Appellate courts holding that the plain error doctrine that courts apply in criminal proceedings should apply when

errors that are not preserved arise in juvenile delinquency proceedings).

State v. Howard, 4th Dist. Ross No. 08CA3086, 2009-Ohio-4496 and *State v. Irwin*, 4th Dist. Ross No. 08CA3056, 2009-Ohio-4181 reversed by *In re Cases held for Decision in State v. Williams*, 130 Ohio St.3d 254, 2011-Ohio-5348, 957 N.E.2d 289 (holding that amendment to sex offender registration statutes violated state constitutional prohibition on retroactive statutes).

State v. Netherland, 4th Dist. Ross No. 08CA3043, 2008-Ohio-7007, reversed by *In re Sexual-Offender Reclassification Cases*, 126 Ohio St.3d 322, 2010-Ohio-3753, 933 N.E.2d 8011 (resolving conflicts between the district courts of appeals holding that the provisions of statute that required the Attorney General to reclassify sex offenders who were already classified by judges violated the separation of powers).

State v. Berry, 4th Dist. Scioto No. 04CA2961, 2006-Ohio-244, reversed in part by *In re Ohio Criminal Sentencing Statutes Cases*, 109 Ohio St.3d 518, 2006-Ohio-3254, 849 N.E.2d 985 (Mem) (reversed in reliance on *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856, 845 N.E.2d 470, requiring judicial findings prior to the imposition of maximum, non-minimum, or consecutive sentences).

State v. Johnson, 4th Dist. Washington No. 04CA23, 2005-Ohio-3943, reversed by *In re Criminal Sentencing Statutes Cases*, 109 Ohio St.3d 313, 2006-Ohio-2109, 847 N.E.2d 1174 (holding that statutes requiring judicial findings prior to the imposition of maximum, non-minimum, or consecutive sentences violated the Sixth Amendment right to jury trial on facts relied upon in enhancing sentence).

- 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.

All our appellate opinions are published on the Supreme Court of Ohio's website, <http://www.supremecourt.ohio.gov/rod/docs>, and assigned an Ohio citation and also available on Westlaw or Lexis.

- 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.

State v. Colley, 4th Dist. Scioto No. 16CA3740, 2017-Ohio-4080, 92 N.E.3d 1.

State v. Bradford, 4th Dist. Ross No. 16CA3531, 2017-Ohio-3003, 91 N.E.3d 10.

State v. Shifflet, 4th Dist. Athens No. 13CA23, 2015-Ohio-4250, 44 N.E.3d 966.

State v. Chamblin, 4th Dist. Adams No. 14CA991, 2016-Ohio-595, 59 N.E.3d

537 (McFarland, J., dissenting.).

Wray v. Frank, 4th Dist. Pickaway No. 14CA2, 2015-Ohio-4248, 44 N.E.3d 998.

Jacobs v. Highland County Board of Commissioners, 4th Dist. Highland No. 13CA20, 2014-Ohio-4194, 20 N.E.3d 300.

State v. Grube, 4th Dist. Gallia No. 12CA7, 2013-Ohio-692, 987 N.E.2d 287.

State v. Kasler, 4th Dist. Athens No. 13CA4, 2013-Ohio-3850, 995 N.E.2d 262.

State v. Garvin, 197 Ohio App.3d 453, 2011-Ohio-6617, 967 N.E.2d 1277 (4th Dist.).

State v. Gibson, 164 Ohio App.3d 558, 2005-Ohio-6380, 843 N.E.2d 224 (4th Dist.).

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

I have not sat by designation on any federal court.

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

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

As a sitting Appellate Judge I am bound by the Ohio Code of Judicial Conduct, Jud. Cond. R. 2.11, which states in part: "A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned...."

Accordingly, I have followed this rule and sua sponte recused myself where I felt it appropriate and necessary. Under Ohio law, Ohio judges are not required to disclose the reasons for any recusal to anyone, and I have kept no records of the individual reasons in each case. A list of the cases in which I have recused myself since joining the appellate bench is supplied.

I can recall only one case in which a motion was filed seeking my recusal by a party to the proceeding. The basis for the recusal was a prior unfavorable appellate decision. In that case, my colleagues on the Fourth District Court of Appeals and I all recused ourselves.

I also do not have any records of the cases where I may have recused myself as the Scioto County Probate-Juvenile Magistrate.

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.

Wheelersburg Local Board of Education School Board Member; elected 1993, served in 1994

Portsmouth Metropolitan Housing Authority Board Member; appointed 1996 by Judge James W. Kirsch of the Scioto County Common Pleas Court, Probate-Juvenile Division (served 1996 – 1999)

Scioto County Republican Central Committee Member; elected 1997 (served 1997 – 1999)

- 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 volunteered for and served on the campaign committee of my now deceased father Walden E. ("Mac") McFarland for the Wheelersburg Local School Board and as a Porter Township Trustee from 1985 to 1999.

Prior to my judicial service in 1999, I volunteered for the reelection campaigns for Scioto County Common Pleas Judge James W. Kirsch (1996) and for the election of Betty D. Montgomery for Ohio Attorney General (1994).

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

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

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

I have not served as a judicial clerk.

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

From 1995 to 1999, I had a solo practice at 538 Sixth Street, Portsmouth, Ohio 45662.

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.

1992

Mazanec, Raskin & Ryder
500 South Front Street
Columbus, Ohio 43215
Associate Attorney

1992 – 1994

Portsmouth City Solicitor
728 Second Street
Portsmouth, Ohio 45662
Substitute Assistant City Solicitor

1992 – 1994

Faulkner Law Office
8055 Hayport Road
Wheelersburg, Ohio 45694
Associate Attorney

1994 – 1995

Licking County Prosecutor's Office
20 South Second Street
Newark, Ohio 43055
Assistant County Prosecutor

1995 – 1999

Scioto County Prosecutor's Office
602 Seventh Street

Portsmouth, Ohio 45662
Assistant County Prosecutor

1995 – 1999
Office of Ohio Attorney General
30 East Broad Street
Columbus, Ohio 43215
Special Counsel

- 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 worked part-time as a mediator in the Columbus City Attorney, Night Prosecutor's Program from 1987 to 1989. In this program, I mediated misdemeanor complaints. I do not have any specific recollection of the matters I handled.

b. Describe:

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

My legal career began in 1992 working for an insurance defense firm in Columbus, Ohio that I clerked for and briefly worked for as an associate. I then returned to my hometown of Wheelersburg in December of 1992 and worked for a general practice firm. I began taking cases as a court appointed criminal defense attorney. I would occasionally fill in as a city prosecutor during vacations and sickness. This general practice firm handled cases involving probate, domestic relations, personal injury, criminal defense, business litigation, and real estate.

In 1994, I moved back to Columbus and took a job as an assistant county prosecutor in Licking County. In this job, I was a felony prosecutor and handled all aspects of prosecuting cases from grand jury to appeals, and I stayed with each case from beginning to end.

In 1995, I moved back to my home of Scioto County and began working as a part-time Scioto County Assistant Prosecutor and in juvenile court. I handled all prosecutions in juvenile court and filled in where needed on other cases. At the same time, I opened my solo practice of law focusing on noncriminal matters and real estate. I also worked with a IV-D contracting attorney on child support/arrears collection. In 1996, I was appointed Special Counsel by the Ohio Attorney General in the revenue recovery section pursuing collections owed to the State of Ohio. I remained in these positions until I was appointed Magistrate in November

of 1999. I worked as the Scioto County Probate-Juvenile Magistrate until being elected Appellate Judge in November 2004.

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

From 1992 to 1994, I was in a general practice law firm of three attorneys. At that time, we handled cases involving criminal matters (both misdemeanors and felonies), probate (wills, trusts and estates), domestic relations (divorce and dissolutions), and juvenile matters (delinquency and unruly matters), and a fair amount of commercial and residential real estate closings.

From 1994 to 1995, I was a full-time assistant county prosecutor in the Licking County Prosecutor's office assigned to the adult felony division. I handled all aspects of prosecutions (grand jury, motion hearings, bench/jury trials, and appellate work).

From 1995 to 1999, while working as a solo practitioner, my typical clients were banks and my cases involved commercial and residential real estate transaction and probate work. I also served as a part-time Assistant County Prosecutor in the Scioto County Prosecutor's Office assigned to the juvenile division, and I did child support enforcement and collection work for the state.

- 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 each such variance, providing dates.

I was a criminal defense attorney from 1992 to 1994 and then an assistant prosecutor from 1994 to 1999. I would estimate that 80% of my time was spent in court. I appeared in court frequently as both a defense attorney and then as a criminal prosecutor.

- i. Indicate the percentage of your practice in:

1. federal courts:	0%
2. state courts of record:	100%
3. other courts:	0%
4. administrative agencies:	0%

- ii. Indicate the percentage of your practice in:

1. civil proceedings:	40%
2. criminal proceedings:	60%

- d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather

than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I tried nine cases to a verdict, five as co-counsel and four as lead counsel. I also tried many juvenile delinquency and traffic matters and child support contempt hearings from 1995 to 1999. The Scioto County Juvenile court records are no longer available for those years so I do not have an exact number.

I also appeared in one case in the Ohio Supreme Court as an assistant prosecutor and one case in the court of appeals as counsel of record.

i. What percentage of these trials were: (estimates)

- | | |
|--------------|-----|
| 1. jury: | 25% |
| 2. non-jury: | 75% |

- 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. *State v. Barnett*, Scioto County Common Pleas Court Case No. 93CR6, 1/11/93.

The defendant was indicted for Complicity to Aggravated Murder with a firearm specification for the death of her husband. After a week-long trial at which I represented the defendant as co-counsel, the jury returned a verdict of not guilty on all counts. The case was tried in front of Scioto County Common Pleas Court Judge Walter Lytten.

Co-counsel for the Defendant:

Rick L. Faulkner
Ken Porter
Faulkner Law Office
8055 Hayport Road
Wheelersburg, Ohio 45662
(740) 574-4311

Counsel for the State:

Lynn Grimshaw
William K. Shaw
Scioto County Prosecutor's Office
612 6th Street
Portsmouth, Ohio 45662
(740) 981-3112

2. *State v. Blanton*, Scioto County Common Pleas Court Case No.: 93CR307, 10/4/93.

The defendant was indicted for murder with a firearm specification. I served as co-counsel with Rick L. Faulkner and Ken Porter for the defendant. After a week-long jury trial before Judge Walter Lytten, the jury returned a verdict of not guilty on all counts.

Co-counsel for Defendant:

Rick L. Faulkner
Ken Porter
Faulkner Law Office
8055 Hayport Road
Wheelersburg, Ohio 45662
740-574-4311

Counsel for the State:

Lynn Grimshaw (retired)
William K. Shaw (retired)
Scioto County Prosecutor's Office
612 6th Street
Portsmouth, Ohio 45662
(740) 981-3112

3. *State v. Cheatwood, Jr.*, Jackson County Common Pleas Court Case No.: 92CR10.

The defendant was indicted for Aggravated Burglary, and after a several day jury trial, the jury returned a verdict of not guilty before Judge Warren Lotz. I served as co-counsel with Rick L. Faulkner and Ken Porter for the defendant.

Co-counsel for Defendant:

Rick L. Faulkner
Ken Porter
Faulkner Law Office
8055 Hayport Road
Wheelersburg, Ohio 45662
(740) 574-4311

Counsel for the State:

Tim Forshey
Joe Kirby
Jackson County Prosecutor's office,
295 Portsmouth Street, Suite 100
Jackson Ohio 45690
(740) 286-5006

4. *State v. Wilkins*, Licking County Common Pleas Court Case No.: 94CR-209, 7/5/95.

The defendant was indicted for Kidnapping, Rape, Aggravated Assault, and Torture involving a 13-year-old girl. After a week-long trial, the jury returned a verdict of guilty on all counts in front of Judge Gregory L. Frost. The defendant was sentenced to an indeterminate sentence of 5-25 years on count 1, a Life sentence on count 2, an indeterminate sentence of 5 to 15 years on count 3, and an indeterminate sentence of 5-15 years on count 4, concurrently, in the Ohio Reformatory for women. I served as an Assistant Licking County Prosecutor and assisted the Licking County Prosecutor Robert Becker for the state of Ohio.

Counsel for the State:

Robert Becker (retired)
Licking County Prosecutor's Office
20 South 2nd Street
Newark, Ohio 43055
(740) 670-5255

Counsel for the Defendant:

Kristen Burkett

73 North 6th Street
Newark, Ohio 43055
(740) 345-0417

5. *State v. Revy*, Licking County Common Pleas Court Case No.: 94CR164,
5/27/94.

The defendant was indicted for Aggravated Burglary of the PIME Mission Center (Seminary). After a bench trial before Judge Jon R. Spahr, the court found him guilty. The defendant was sentenced to a suspended 6 to 25 year sentence in the Orient Correctional Reception Center and placed on probation for 5 years. I served as an Assistant Licking County Prosecutor and assisted Licking County Prosecutor Robert Becker for the state of Ohio.

Counsel for the State:

Robert Becker (retired)
Licking County Prosecutor's Office
20 South 2nd Street
Newark, Ohio 43055
(740) 670-5255

Counsel for the Defendant:

Paul Cain
391 West State Street
Rockford, Illinois 61101
(815) 962-9980

6. *State v. Bateman*, Licking County Common Pleas Court Case No.: 94-CR-78, 10/5/94.

The defendant was indicted for trafficking in marijuana and was found guilty after a jury trial in front of Judge Gregory L. Frost. The defendant was sentenced to one year in the Orient Receiving Center. I was lead counsel in this case as Assistant Licking County Prosecutor.

Counsel for the Defendant:

Harry Reinhart
One Americana
400 South 5th Street, Suite 301
Columbus, Ohio 43215
(614) 228-7771

7. *State v. Siegle*, Licking County Common Pleas Court Case No.: 94CR203,

7/5/95.

The defendant was indicted for Tampering with Evidence, with a specification for a prior assault conviction and a firearm specification. This case involved a weapon used in the shooting of a woman in the chest. After a jury trial in front of Judge Gregory L. Frost, the jury returned a verdict on a lesser-included offense of complicity to tampering with evidence. The court sentenced the defendant to an indeterminate sentence of 3 to 10 years at the Correctional Receiving Center. I was lead counsel in this case as Assistant Licking County Prosecutor.

Counsel for the Defendant:

Raymond Luther (deceased)

8. *Reinhardt v. Kaut*, Portsmouth Municipal Court Case No.: CVE9300137, 3/8/94.

This was a civil case I tried involving negligence and property damage where I represented the plaintiff. After a jury trial in front of Judge Howard Harcha, III, a verdict was returned in favor of the plaintiff. I was lead counsel in this case and tried it alone while I was an associate in the Rick L. Faulkner Law Office.

Counsel for the Defendant:

Daniel Ruggiero
630 6th Street
Portsmouth, Ohio 45662
(740) 355-9000

9. *State, ex rel. Scioto County Child Support Enforcement Agency, ex rel. Walton v. Adams*, 4th Dist. Scioto No. 98CA2617, 1999 WL 597257.

This was an appeal I handled on behalf of the Scioto County Child Support Enforcement Agency. The legal issue was whether the trial court was correct in ordering the appellant to continue to pay child support until his daughter reached the age of 21. Appellant alleged three assignments of error relating to the trial court's application of New York law on emancipation, the adoption of the magistrate's decision, and the questions of which state law applied. The 4th District Court of Appeals affirmed the trial court in toto.

Counsel for Appellant:

Jay S. Willis
612 6th Street
Portsmouth, Ohio 45662
(740) 981-3112

10. *State v. Erwin*, Supreme Court of Ohio Case No.: 1994-1685, 8/5/1994.

This was an appeal I handled as an Assistant Licking County Prosecutor for the appellee on an inmate appeal seeking an App.R.26(B) Application for Re-Opening (Murnahan Appeal). The defendant-appellant was convicted of felonious sexual imposition and sentenced to eight to 25 years in prison. It was appealed from the Ohio 5th District Court of Appeals, and their decision was unanimously affirmed by the Ohio Supreme Court in a 7-0 opinion reported at 71 Ohio St.3d 290, 1994-Ohio-57. The defendant-appellant acted pro se.

Defendant appeared *pro se*

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.)

As an Assistant Licking County Prosecutor, I handled all aspects of felony cases for the state of Ohio. This included preparing and presenting cases to the grand jury, preparing/reviewing search warrants, preparing discovery, witness preparation, motion hearings, trying cases to the bench and jury, and handling cases through the appellate process.

As an Assistant Scioto County Prosecutor, I assisted in the arrest of a "Deadbeat Dad" living and working in another state on an outstanding warrant for felony nonsupport of dependents. This defendant had evaded authorities for years and with the help of another prosecutor's office, we were able to get him extradited back to Ohio. As a result of his arrest, this defendant was set for a trial but then changed his plea and made a lump sum payment of \$71,000 for child support arrears. At the time, it was one of the largest lump sum child support arrears payments in Ohio history.

From 2012 to 2014, I was appointed by the Ohio Chief Justice as a Commissioner on the Board of Commissioners on Grievances and Discipline. This 28-member board is responsible for handling the disciplinary complaints filed against Ohio attorneys and judges and making recommendations to the Ohio Supreme Court for a sanction. During my tenure on the Board, I served as panel chair several times for trials and wrote the panel reports involving violations of the Ohio Code of Judicial Conduct and Ohio Rules of Professional Responsibility.

I now serve as an instructor for the Ohio Supreme Court, Judicial College in the training of new judges and magistrates. In this role, I have assisted in mock trials to help educate and expose new jurists to the ever-changing activities and decorum issues that they may

encounter in their new courtrooms.

I have not served 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.

Syllabi for the below courses (where available) have been attached as an Appendix to Q. 19 and is incorporated by reference herein.

Over the years, I have taught a number of courses at Shawnee State University. A full list and the approximate dates of teaching are below.

Business Ethics (2008 – 2012) – This course covered business ethics and its application in the business environment. Syllabi supplied.

Business Law I & II (2008 – 2009) – This course provided a general overview of business law affecting individuals and corporations, particularly contract law. Syllabi supplied.

Evidence Law for Paralegals (2008 – present) – This course focuses on trial preparation using the Federal Rules of Evidence. Representative syllabi supplied.

Family Law for Paralegals (2012 – 2018) – This course focused on family law as it relates to paralegals. Representative syllabi supplied.

Introduction to Civil Litigation (2006) – This course focused on drafting motions and pleadings. I do not have a copy of the syllabus.

Legal Assisting Practicum (approximately 2008 – 2013, 2015, 2018 – present) – This course is designed for an upper-level paralegal student to perform 160 hours of internship in a legal office of his or her selection. Representative syllabi supplied.

Legal Environment of Business (approximately 2004, 2008 – 2009, and 2012 – 2014, and 2017 – 2018) – This course provided an overview of areas of law that affect business. Syllabi supplied.

Legal Ethics (approximately 2002 – 2004, 2008, 2014, 2016 and 2018) – This course focused on the Model ABA Ethical Rules and their application to paralegals. Syllabi supplied.

Legal Research and Writing (2008 – 2011) – This course focused on Bluebook citation writing and online and hardcopy research. Representative syllabus supplied.

Real Estate Law (2003 – 2007) – This course covered basic real estate matters for new brokers. Representative syllabi supplied.

Senior Seminar (2006) – This course was designed for the graduating senior to write and present a major paper in his or her field of study. I do not have a copy of the syllabus.

Sports Law (2005) – This course focused on all areas of liability for stakeholders in various aspects of sports, including players, owners, and schools. I do not have a copy of the syllabus.

Tort Law (2000 – 2018) – This course provided an overview of tort law with a focus on personal injury and negligence. Representative syllabi supplied.

In addition, from 1992 to 2000, I taught Constitutional Law at Capital University. This course provided an introduction to constitutional law, including Articles I, II, III and all Amendments of the United States Constitution. I do not have a copy of the syllabus.

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.

I have a State of Ohio deferred compensation account. These funds will not be available until I reach retirement age and the amount is to be determined at that time. I have no other deferred income arrangements.

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 would like to continue teaching college law classes and/or at a law school. I have no commitments or agreements to do so, and no other plans for outside activities.

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 I am fortunate to be confirmed, I will recuse myself in any case involving Porter Township where my wife is currently employed. I will also recuse in any case involving Shawnee State University so long as I continue to be employed as an adjunct professor, and in any cases arising from appeals that I participated in while serving on the Ohio 4th District Court of Appeals. I will evaluate any other real or potential conflict, or relationship that could give rise to appearance of conflict, on a case by case basis and determine appropriate action, including recusal where necessary.

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

I will carefully review 28 U.S.C. section 455, Canon 3 of the Code of Conduct for United States Judges and apply it to any real or potential conflicts.

- 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.

Under the Ohio Code of Judicial Conduct, as a full-time judge I am prohibited from engaging in the practice of law. I do find other ways to contribute to my community and profession by coaching youth sports, volunteering to train new judges and magistrates, and mentoring when asked. For many years, I served as the mock trial legal advisor for my high school in the Ohio Center for Law Related Activities program. Now, I very much enjoy being a judge for those competitions.

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.

Senators Rob Portman and Sherrod Brown had a bipartisan judicial search commission, and I submitted my application to that commission on April 11, 2017. On August 23, 2017, I was interviewed by the commission and soon thereafter learned I was one of the finalists recommended by the commission. On September 6, 2017, I interviewed with Senator Portman's staff and on September 15, 2017, I interviewed with Senator Portman. I received a call from Senator Portman on September 28, 2017, informing me that he was recommending my name to the President for nomination.

On October 6, 2017, I received a call from the White House Counsel's Office to set up an interview. On October 11, 2017, I interviewed with representatives from the White House Counsel's Office and the Office of Legal Policy of the Department of Justice. On April 6, 2018, I was informed by the White House Counsel's Office that I had been selected for the vacancy, pending completion of the required background checks. Since that time, I have been in contact with the Office of Legal Policy and the White House Counsel's Office. The President announced his intention to nominate me on October 10, 2018, and submitted my nomination to the Senate on November 13, 2018.

- 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.

FINANCIAL DISCLOSURE REPORT NOMINATION FILING

Report Required by the Ethics
in Government Act of 1978
(5 U.S.C. app. §§ 101-111)

1. Person Reporting (last name, first, middle initial) McFarland, Matthew W.	2. Court or Organization U.S. District Court, Southern District of Ohio	3. Date of Report 11/15/2018
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) Judge Nominee	5a. Report Type (check appropriate type) ☒ Nomination Date 11/13/2018 ☐ Initial ☐ Annual ☐ Final 5b. ☐ Amended Report	6. Reporting Period 1/1/2016 to 11/13/2018
7. Chambers or Office Address 612 6th Street, Suite D. Portsmouth, Ohio 45662		
IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information.		

I. POSITIONS. (Reporting individual only; see pp. 9-13 of filing instructions.)

☐ NONE (No reportable positions.)

<u>POSITION</u>	<u>NAME OF ORGANIZATION/ENTITY</u>
1. Appellate Judge	Ohio 4th District Court of Appeals
2. Adjunct Professor	Shawnee State University
3.	
4.	
5.	

II. AGREEMENTS. (Reporting individual only; see pp. 14-16 of filing instructions.)

☒ NONE (No reportable agreements.)

<u>DATE</u>	<u>PARTIES AND TERMS</u>
1.	
2.	
3.	

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

McFarland, Matthew W.

Date of Report

11/15/2018

III. NON-INVESTMENT INCOME. (Reporting individual and spouse; see pp. 17-24 of filing instructions.)**A. Filer's Non-Investment Income**☐ NONE (No reportable non-investment income.)

<u>DATE</u>	<u>SOURCE AND TYPE</u>	<u>INCOME</u> (yours, not spouse's)
1. 2018	State of Ohio, Appellate Judge	\$127,735.00
2. 2018	Adjunct Professor, Shawnee State University	\$11,678.85
3. 2017	State of Ohio, Appellate Judge	\$145,550.00
4. 2017	Adjunct Professor, Shawnee State University	\$13,288.00
5. 2016	State of Ohio, Appellate Judge	\$138,600.00
6. 2016	Adjunct Professor, Shawnee State University	\$14,232.00
7.		

B. Spouse's Non-Investment Income - If you were married during any portion of the reporting year, complete this section.

(Dollar amount not required except for honoraria.)

☐ NONE (No reportable non-investment income.)

<u>DATE</u>	<u>SOURCE AND TYPE</u>
1. 2018	Assistant to the Fiscal Officer/Administrative Asst., Porter Township
2. 2017	Assistant to the Fiscal Officer/Administrative Asst. Porter Township
3.	
4.	

IV. REIMBURSEMENTS -- transportation, lodging, food, entertainment.

(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)

☐ NONE (No reportable reimbursements.)

<u>SOURCE</u>	<u>DATES</u>	<u>LOCATION</u>	<u>PURPOSE</u>	<u>ITEMS PAID OR PROVIDED</u>
1. Exempt				
2.				
3.				
4.				

Name of Person Reporting	Date of Report
McFarland, Matthew W.	11/15/2018

5. _____

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

McFarland, Matthew W.

Date of Report

11/15/2018

V. GIFTS. *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*☐NONE *(No reportable gifts.)*

	<u>SOURCE</u>	<u>DESCRIPTION</u>	<u>VALUE</u>
1.	Exempt		
2.			
3.			
4.			
5.			

VI. LIABILITIES. *(Includes those of spouse and dependent children; see pp. 32-33 of filing instructions.)*☐NONE *(No reportable liabilities.)*

	<u>CREDITOR</u>	<u>DESCRIPTION</u>	<u>VALUE CODE</u>
1.	Fifth Third Bank	Mortgage/Rental Home	N
2.	Bank of America	Credit Card	J
3.	Citizens Bank	Student Loan	K
4.			
5.			

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

McFarland, Matthew W.

Date of Report

11/15/2018

VII. INVESTMENTS and TRUSTS – income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

☐ NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
1. OPERS Retirement	F	Interest	N	T	Exempt				
2. STRS Retirement	B	Interest	K	T	Exempt				
3. Ohio Deferred Comp:Fidelity ContraFund CP	B	Int./Div.	J	T	Exempt				
4. OPERS Retirement	D	Interest	K	T	Exempt				
5. Ohio Deferred Comp: Fidelity ContraFund CP	A	Int./Div.	J	T	Exempt				
6. Walt Disney Common Stock (1)	A	Dividend	J	T	Exempt				
7. Rental Property #1, Portsmouth, Ohio	D	Rent	J	T	Exempt				
8.									
9.									
10.									
11.									
12.									
13.									
14.									
15.									
16.									
17.									

1. Income Gain Codes:
(See Columns B1 and D4)

2. Value Codes
(See Columns C1 and D3)

3. Value Method Codes
(See Column C2)

A = \$1,000 or less

F = \$50,001 - \$100,000

J = \$15,000 or less

N = \$250,001 - \$500,000

P3 = \$25,000,001 - \$50,000,000

Q = Appraisal

U = Book Value

B = \$1,001 - \$2,500

G = \$100,001 - \$1,000,000

K = \$15,001 - \$50,000

O = \$500,001 - \$1,000,000

R = Cost (Real Estate Only)

V = Other

C = \$2,501 - \$5,000

I11 = \$1,000,001 - \$5,000,000

L = \$50,001 - \$100,000

P1 = \$1,000,001 - \$5,000,000

P4 = More than \$50,000,000

S = Assessment

W = Estimated

D = \$5,001 - \$15,000

I12 = More than \$5,000,000

M = \$100,001 - \$250,000

P2 = \$5,000,001 - \$25,000,000

T = Cash Market

E = \$15,001 - \$50,000

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

McFarland, Matthew W.

Date of Report

11/15/2018

VIII. ADDITIONAL INFORMATION OR EXPLANATIONS. *(Indicate part of report.)*

FINANCIAL DISCLOSURE REPORT

Page 7 of 7

Name of Person Reporting

McFarland, Matthew W.

Date of Report

11/15/2018

IX. CERTIFICATION.

I certify that all information given above (including information pertaining to my spouse and minor or dependent children, if any) is accurate, true, and complete to the best of my knowledge and belief, and that any information not reported was withheld because it met applicable statutory provisions permitting non-disclosure.

I further certify that earned income from outside employment and honoraria and the acceptance of gifts which have been reported are in compliance with the provisions of 5 U.S.C. app. § 501 et. seq., 5 U.S.C. § 7353, and Judicial Conference regulations.

Signature: s/ Matthew W. McFarland

NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILLFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. app. § 104)

Committee on Financial Disclosure
Administrative Office of the United States Courts
Suite 2-301
One Columbus Circle, N.E.
Washington, D.C. 20544

FINANCIAL STATEMENT

NET WORTH

Provide a complete, current financial net worth statement which itemizes in detail all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

ASSETS				LIABILITIES			
Cash on hand and in banks		8	014	Notes payable to banks-secured (auto)		98	258
U.S. Government securities				Notes payable to banks-unsecured		72	778
Listed securities – see schedule		16	279	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:		7	000	Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others		95	409	Other unpaid income and interest			
Doubtful				Real estate mortgages payable – see schedule		473	630
Real estate owned – see schedule		585	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		269	778				
Cash value-life insurance							
Other assets itemize:							
Ohio Public Employees Retirement System #1		393	724				
Ohio Public Employees Retirement System #2		46	011				
Ohio State Teacher Retirement System		23	860	Total Liabilities		644	666
				Net Worth		800	409
Total Assets	1	445	075	Total Liabilities and Net Worth	1	445	075
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)			No
On leases or contracts				Are you defendant in any suits or legal actions?			No
Legal Claims				Have you ever taken bankruptcy?			No
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities

Ohio Deferred Compensation - Fidelity Contra Fund CP	\$10,549.03
Ohio Deferred Compensation - Fidelity Contra Fund CP	\$5,625.66
Walt Disney Stock - 1 share	\$104.00
Total Listed Securities	\$16,278.69

Real Estate Owned

Personal Residence	\$385,000
Rental Property	\$200,000
Total Real Estate Owned	\$585,000

Real Estate Mortgages Payable

Personal Residence – Mortgage	\$289,470
Rental Property – Mortgage	\$112,168
Personal Home Equity Line of Credit	\$71,992
Total Real Estate Mortgages Payable	\$473,630

AFFIDAVIT

I, Matthew Walden McFarland, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

December 10, 2018

(DATE)

Matthew Walden McFarland

Matthew Walden McFarland

Margaret Apel Miller

(NOTARY)

MARGARET APEL MILLER
Attorney At Law
Notary Public, State of Ohio
My Commission Has No Expiration Date
Section 147.03 Ohio Revised Code