

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Rosemary Marquez

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

United States District Judge for the District of Arizona

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.

55 West Franklin Street
Tucson, Arizona 85701

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

1968; Los Angeles, California

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.

1990 – 1993, University of Arizona, College of Law; J.D., 1993
1987 – 1990, University of Arizona; B.A., 1990
1986 – 1987, Cochise Community College; no degree

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

2008 – Present
Marquez Law Firm, PLLC
55 West Franklin Street
Tucson, Arizona 85701
Sole Practitioner

2000 – 2008

Montoya and Marquez, PLLC
55 West Franklin Street
Tucson, Arizona 85701
Partner

2000 – 2003

Pima County Law Enforcement Merit System Council
Pima County
Tucson, Arizona 85701
Volunteer Hearing Officer

1996 – 2000

Federal Public Defender's Office
407 West Congress Street #501
Tucson, Arizona 85701
Assistant Federal Public Defender

1994 – 1996

Pima County Legal Defender's Office
32 North Stone Avenue
Tucson, Arizona 85701
Assistant Legal Defender

1993 – 1994

Pima County Attorney's Office
33 North Stone Avenue
Tucson, Arizona 85701
Law Clerk (1993)
Deputy County Attorney (1994)

1993

Edgar and Soto, PLLC
4400 East Broadway
Tucson, Arizona 85711
Law Clerk

1992 – 1993

National Law Center for Northern America Free Trade
440 North Bonita Avenue
Tucson, Arizona 85745
Law School Externship

1992 – 1993

Law Office of Juan Perez-Medrano
360 North Court Avenue
Tucson, Arizona 85701
Law Clerk

Fall 1992

Pima County Superior Court
Honorable Gilbert Veliz, Retired
Tucson, Arizona 85701
Superior Court Judicial Clerkship

Summer 1992

Los Angeles District Attorney's Office
210 West Temple Street
Los Angeles, California 90012
Deputy District Attorney Student Program

Summer 1991

Pima County Attorney's Office
33 North Stone Avenue
Tucson, Arizona 85701
Law Clerk

Summer 1991

Council on Legal Education Opportunity
University of Arizona College of Law
1201 East Speedway Boulevard
Tucson, Arizona 85721
Assistant Director/Teaching Assistant

Other Affiliations (uncompensated unless otherwise indicated):

2008 – Present

Beacon Group
308 West Glenn
Tucson, Arizona 85703
Executive Board

2007 – Present

Pima County Bar Association
177 North Church Avenue #101
Tucson, Arizona 85701
Board Member

2004 – Present
Marquez Investments, LLC
55 West Franklin Street
Tucson, Arizona 85701
Co-owner (receive rental income)

2002 – 2003
Women's Foundation of Southern Arizona
2250 East Broadway Boulevard
Tucson, Arizona 85719
Board of Trustees

1997 – 1998
Arizona Minority Bar Association
3079 West Ina Road
Tucson, Arizona 85741
President

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

I have not served in the military. I have not registered for selective service.

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

Pima County Bar Association Dedicated Service Award, 2009
Pima County Board of Supervisors Appreciation for Dedicated Service, 2003
Florence Immigrant & Refugee Rights Project, Pro Bono Legal Services Award, 2002
Arizona Supreme Court Commission on Minorities Award, 1999
National Criminal Defense College, Trial Practice Institute Certificate Award, 1997
Courts Are Us, Lawyer-Mentor for Local Teens, Certificate of Appreciation, 1997
Council on Legal Education Fellowship, 1990 – 1993
Rosenstiel Scholarship, 1991 – 1992
Cordova A. Valdemar Scholarship, 1990 – 1991

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.

Arizona Attorneys for Criminal Justice, 1993 – 2000
Arizona Commission on Judicial Performance Review
Pima/Appellate Committee, 2000

Arizona Minority Bar Association, 1993 – Present
President, 1997 – 1998
Arizona Women Lawyers Association
Steering Committee, 2010 – Present
Social Committee, 2010 – Present
Federal Bar Association, 2009 – Present
Hispanic National Bar Association, 1993 – 2000, 2009 – Present
Los Abogados, Member, Tucson Liaison, 2009 – Present
Morris K. Udall Inn of Court, 2000 – 2005
National Institute for Trial Advocacy, Mexico Project Teacher, 2009
Pima County Bar Association
Board Member, 2007 – present
Membership Committee, 2007 – 2011
State Bar of Arizona, 1993 – Present
Conflict Case Committee, 2008 – Present
Commission on Judicial Performance, 2000

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.

Arizona, 1993

There has been no lapse in membership.

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

United States Court of Appeals for the Ninth Circuit, 1997
United States District Court for the District of Arizona, 1993
Arizona Supreme Court, 1993
Executive Office of Immigration Review, 2000

There has been no lapse 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.

Beacon Group

Executive Board, 2008 – Present

Finance Committee, 2008 – Present

Investment Committee, 2008 – Present

Nominating Committee, 2008 – Present

Citizens Advisory Committee for Tucson City Manager Recruitment, 2004

Florence Immigrant and Refugee Rights Project, Volunteer, 2000 – 2004

Tucson Hispanic Chamber of Commerce, 2010 – Present

Women's Foundation of Southern Arizona

Grants Allocation Committee, 1999 – 2000

Board of Trustees, 2000 – 2003

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

To the best of my knowledge, none of the organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, religion or national origin.

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.

In 1999, I was a guest writer for a weekly local newspaper in the Spanish language. The newspaper was published by "El Imparcial" and Aguila Publishing Company, Inc. The articles I recall and have copies of are the following:

Es Usted Deportable? El Aguila, Aug. 1999. Copy supplied.

Importancia del Censo 2000, El Aguila, Feb. 1999. Copy supplied.

Que Espera Para Hacerse Ciudadano? El Aguila, 1999. Copy supplied.

Sus Derechos Constitucionales, El Aguila, 1999. Copy 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.

Report of the Arizona Commission on Judicial Performance Review (2000).
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.

None.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

October 4, 2006: "Course on Professionalism," State Bar of Arizona. I have no notes, transcript or recording. The address of the State Bar is 4201 North 24th Street, Suite 220, Phoenix, Arizona 85016.

January 19, 2005: "Course on Professionalism," State Bar of Arizona. I have no notes, transcript or recording. The address of the State Bar is 4201 North 24th Street, Suite 220, Phoenix, Arizona 85016.

November 18, 2004: "More Sex, Murder and the Media," State Bar of Arizona. Video supplied.

June 25, 2004: "12th Annual White Mountains Trial Skills," State Bar of Arizona. I have no notes, transcript or recording. The address of the State Bar is 4201 North 24th Street, Suite 220, Phoenix, Arizona 85016.

June 8, 2002: "Course on Professionalism," State Bar of Arizona. I have no notes, transcript or recording. The address of the State Bar is 4201 North 24th Street, Suite 220, Phoenix, Arizona 85016.

July 22, 2000: "CLE by the Sea," State Bar of Arizona. I presented the year in review of federal cases. I have no notes, transcript or recording. The address of the State Bar is 4201 North 24th Street, Suite 220, Phoenix, Arizona 85016.

August 13, 1999: "The Judicial Appointment Workshop," Arizona Supreme Court Commission on Minorities. I helped plan the workshop and introduced the panel. I have no notes, transcript or recording. The address of the Supreme Court is 1501 West Washington Street, Phoenix, Arizona 85007.

- 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.

Pilar Marrero, *Juez John Roll Estaba Protegido*, La Opinion, Jan. 13, 2011. Copy supplied.

Josh Brodesky, *Conflict Diamonds' Case Nears Resolution*, Arizona Daily Star, Apr. 20, 2007 [quotes re-printed in multiple outlets]. Copy supplied.

Rhonda Bodfield Sander, *Entrepreneur Gets Probation on Securities Fraud Charges*, Arizona Daily Star, Oct. 23, 2001. Copy supplied.

Antonio L. Sharp, *Commission Gives Judges High Marks*, The Arizona Republic, June 24, 2000. Copy supplied.

Rhonda Bodfield, *Ex-Inmate to Fight Death Penalty*, Tucson Citizen, Nov. 9, 1996. Copy supplied.

Sarah Mayhew Schlosser, *Death Row Prisoner is Freed in 2nd Trial*, Arizona Daily Star, Nov. 7, 1996. Copy supplied.

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

I have not held a judicial office.

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

i. Of these, approximately what percent were:

jury trials:	____%
bench trials:	____% [total 100%]
civil proceedings:	____%
criminal proceedings:	____% [total 100%]

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

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

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

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

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

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

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

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

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system

by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not served as a judge.

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

15. Public Office, Political Activities and Affiliations:

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

I have not held public office. I have had no unsuccessful candidacies for elected office or unsuccessful nominations for appointed office.

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

I have not been a member or officer of, or rendered services to, any political party or election committee.

I lent my home for a fundraiser for Congressman Grijalva in 2002. I also lent my home for an introduction/fundraiser for a local city council member, Regina Romero, in 2009.

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;

Fall 1992

Pima County Superior Court

Honorable Gilbert Veliz, Retired

This clerkship was for school credit for the fall semester of my third year of law school.

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

2008 – Present

Marquez Law Firm, PLLC

55 West Franklin Street

Tucson, Arizona 85701

- 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.

1993

Edgar and Soto, PLLC

4400 East Broadway

Tucson, Arizona 85711

Law Clerk

1993 – 1994

Pima County Attorney's Office

33 North Stone Avenue, 17th Floor

Tucson, Arizona 85701

Law Clerk (1993)

Deputy County Attorney (1994)

1994 – 1996

Pima County Legal Defender's Office

32 North Stone Avenue

Tucson, Arizona 85701

Assistant Legal Defender

1996 – 2000
Federal Public Defender's Office
407 West Congress Street #501
Tucson, Arizona 85701
Assistant Federal Public Defender

2000 – 2008
Montoya and Marquez, PLLC
55 West Franklin Street
Tucson, Arizona 85701
Partner

2008 – Present
Marquez Law Firm, PLLC
55 West Franklin Street
Tucson, Arizona 85701
Sole Practitioner

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

I have not served as a mediator or arbitrator.

b. Describe:

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

In 1993, I worked as a law clerk at Edgar and Soto, PLLC, while I studied for the bar exam. From 1993 to August 1994, my law practice was with the Pima County Attorney's office, first as a law clerk and later as a Deputy County Attorney. As a Deputy County Attorney I handled an average of 650 cases at a time, prosecuting indictments of driving under the influence, domestic violence and other misdemeanor charges. In that capacity I tried over 10 jury trials and over 30 bench trials.

In 1994, I joined the Office of the Legal Defender. As an Assistant Legal Defender, I represented indigent clients the Public Defender's Office could not represent due to conflict. I represented defendants accused of murder, violent crimes, and felony aggravated driving under the influence charges. I made daily court appearances and tried over 20 felony jury trials.

In 1996, I joined the Arizona Federal Public Defender's Office. As an Assistant Federal Defender, I represented indigent clients accused of

government fraud, bank fraud, money laundering, immigration offenses, and drug conspiracies. By 1998, the majority of my cases consisted of assaults and sexual abuse crimes in the Tohono O'odham Nation. I also briefed and argued appeals in the Ninth Circuit Court of Appeals.

Since 2000, I have been in private practice, first as a partner in a small law firm with two associates and later as a sole practitioner. My practice has centered on criminal defense in both state and federal courts and the Ninth Circuit Court of Appeals. I have also litigated civil personal injury matters, civil forfeitures, immigration and deportation matters and appeals to the Board of Immigration Appeals.

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

As a prosecutor, my clients were the people of the State of Arizona. As a state and federal public defender, I was appointed by the court to represent indigent defendants. While in private practice, the majority of my clients accused of criminal offenses have been through appointments pursuant to the Criminal Justice Act. In addition to representing criminal defendants, I have represented individual clients in civil matters, including immigration, deportation, forfeiture, school expulsion and personal injury matters.

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

My practice has always focused on litigation at the trial level. I handle an average of two appeals to the Ninth Circuit per year. I appear in court almost every day.

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 90% |
| 2. state courts of record: | 5% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 5% |

- ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 10% |
| 2. criminal proceedings: | 90% |

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

I have tried 35 cases to a jury. I was co-counsel on three cases, and sole counsel in the rest. I have tried over 40 cases before administrative law judges, immigration judges, hearing officers and justice court and city court judges.

- i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 46% |
| 2. non-jury: | 54% |

- 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 Supreme Court of the United States.

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:

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

1) *United States v. Diane*, CR07-0302-DCB (D. Ariz., closed Apr. 24, 2007)

I represented the defendant Diane. He was charged with Conspiracy to Smuggle Goods into the United States, Contrary to Law and Aiding and Abetting in violation of 18 U.S.C. §§ 371, 545, 2. I believe that this was the first charge in the country under a statute created to prevent "Blood Diamonds" from entering the United States from certain countries in Africa. In this case, the quality of the diamonds and the certification requirement was at issue. Diane eventually pled to a civil citation and received a sentence of probation. United States Magistrate Judge Glenda Edmonds presided over this case.

Opposing Counsel: Danny Roetzel
United States Attorney's Office
405 West Congress Street, #4800
Tucson, Arizona 85701
(520) 620-7445

2) *United States v. Juarez*, CR06-1703-RCC (D. Ariz., closed Mar. 2, 2009)

This was a 55-defendant case with an over 500-count indictment. The charges related to an alien smuggling organization rooted in Arizona with ties throughout the United States. I represented defendant Leyva-Perez, who was charged with money laundering counts. We were able to prove to the prosecution that the majority of the funds in question stemmed from legitimate means. Leyva-Perez was a Legal Permanent Resident Alien and any type of criminal conviction would have rendered him deportable. Leyva-Perez pled guilty to a civil violation and was sentenced to a term of probation. United States District Judge John M. Roll presided over the case.

Opposing Counsel: Michael LoGalbo
United States Attorney's Office
405 West Congress Street, #4800
Tucson, Arizona 85701
(520) 620-7300

Lead Defense Counsel: Bates Butler
250 North Meyer Avenue
Tucson, Arizona 85701
(520) 624-6200

3) *United States v. Brandon*, CR99-920 (D. Ariz., closed Oct. 22, 2001)

The defendant was indicted in 1999 on eight counts of securities fraud. This case was declared a complex case by the court. I was appointed to represent the defendant. Brandon founded Work Recovery, Inc. ("WRI"), a company that manufactured and licensed products that evaluated people's recovery from injury and measured their ability to return to the work force. WRI stock was publicly traded on NASDAQ and such stock was regulated by the Securities and Exchange Commission. In 1995 the SEC began an investigation of WRI as a result of allegations regarding a scheme to defraud WRI due to a publication in the Wall Street Journal which caused the price of WRI stock to fall dramatically. Brandon pled guilty to one count of obstruction of justice and received 5 years probation. This case was heard by United States District Judge Frank R. Zapata.

Opposing Counsel: Robert L. Miskell
United States Attorney's Office
405 West Congress Street, #4800
Tucson, Arizona 85701
(520) 620-7300

4) *United States v. Evans*, CR99-1267-FRZ (D. Ariz., closed Aug. 30, 2002)

I represented defendant Evans. He was indicted on 18 counts of embezzlement and theft from an Indian tribal organization, theft or bribery concerning programs receiving federal funds, wire fraud, frauds and swindles. Due to severe flooding in 1993, the Federal Emergency Management Agency (FEMA) granted the Tohono O'odham Nation ("the Nation") an award in excess of \$4,000,000 to repair its flood-damaged San Lucy Farm. FEMA's grant supplied 75% of the monies to be expended on the San Lucy restoration, and the Nation itself was responsible for 25% of the funds. Evans was accused of engaging in a scheme to defraud the tribe and misapply funds received from FEMA and profits from the restoration project. It was alleged Evans was responsible for authorizing the payment of those funds to a company he owned, which constituted a conflict of interest and unauthorized self-dealing. Evans pled guilty to one count of filing fraudulent tax returns and all other charges were dismissed. Evans was sentenced to serve 15 months in custody. This case was heard before United States District Judge Frank R. Zapata.

Opposing Counsel: Thomas L. Fink
Former Assistant United States Attorney
1220 North Hohokam Drive, Suite 2
Nogales, Arizona 85621
(520) 281-1338

5) *United States v. Alvarez-Zavala*, CR 07-0518-TUC-RCC (D. Ariz., closed Apr. 3, 2008)

I represented defendant, Alvarez-Zavala. He was arrested in a vehicle that was transporting large quantities of marijuana in the United States. While agents attempted to stop the vehicle, Alvarez-Zavala was shot in the nose. The agents alleged the driver attempted to run them over as they ordered the vehicle to stop. Based on my investigation of evidence in the vehicle and where the bullet entered the vehicle, the government allowed my client to plead to the possession of the marijuana and dismissed the aggravated assault charges. Alvarez-Zavala was sentenced to a term of time served. This case was presided over by United States District Judge Raner C. Collins.

Opposing Counsel: Celeste B. Corlett
Assistant United States Attorney
405 West Congress Street, #4800
Tucson, Arizona 85701
(520) 620-7300

6) *United States v. Abril-Molina*, CR07-1166-DCB (D. Ariz., closed July 14, 2008)

I represented the defendant, Abril-Molina. He was charged under 8 U.S.C. § 1324(a)(1)(A)(ii)(a)(1)(B)(i) with Bringing in and Harboring Aliens. After an evidentiary hearing, the judge ruled there was no reasonable suspicion for the stop of my client and suppressed all evidence. Charges against my client were dismissed. Motions were heard by United States District Judge Glenda E. Edmonds.

Opposing Counsel: Munish Sharda
Assistant United States Attorney
405 West Congress Street, #4800
Tucson, Arizona 85701
(520) 620-7300

7) *United States v. Golden State Transp.*, CR 01-1969-RCC (D. Ariz., closed May 6, 2001)

I represented defendant, Ortiz-Maciel. Ortiz-Maciel was accused of being one of the many drivers used by Golden State Transportation to move undocumented aliens throughout the United States. This case involved numerous superseding indictments with over 50 counts, as well as separate forfeiture issues. Based on my investigation of the evidence and trial preparation, the government allowed my client to plead guilty to a non-deportable, lower class felony. He was sentenced to a term of probation. This case was presided over by United States District Judge Raner C. Collins.

Opposing Counsel: Danny Roetzel
United States Attorney's Office
405 West Congress Street, #4800
Tucson, Arizona 85701
(520) 620-7445

Co-Counsel: Walter Nash
110 South Church, Suite 4297
P.O. Box 2310
Tucson, Arizona 85702
(520) 792-1613

8) *United States v. Zarate-Martinez*, 133 F.3d 1194 (9th Cir. 1998)

I was co-counsel for defendant on this appeal and argued the case in the Ninth Circuit. The defendant was convicted of Illegal Re-Entry after Deportation pursuant to 18 U.S.C. § 1326. This case held that in a prosecution for Illegal Re-entry, due process requires meaningful opportunity for judicial review of the underlying deportation. If that deportation fails to provide this opportunity or violates due process the validity of the deportation may be collaterally attacked. The case was heard by Judge Ruggero J. Aldisert (of the Third Circuit, sitting by designation), Judge Dorothy W. Nelson, and Judge A. Wallace Tashima.

Co-Counsel: Maria Borbon
1311 East Miles Street
Tucson, Arizona 85719
(520) 383-2028

Opposing Counsel: John Leader
Former Assistant United States Attorney
1715 East Skyline Drive, Suite 121
Tucson, Arizona 85718
(520) 575-9040

9) *State of Arizona v. Grannis* (Pima County Superior Court, 1996-1997)

In 1991, defendant Grannis and a co-defendant were found guilty of the 1989 murder of a Tucson investment banker; they both received the death penalty. On appeal, the Arizona Supreme Court found that the trial court erred in its jury instructions and in the admission of certain evidence. 900 P.2d 1 (Ariz. 1995). Myself and co-counsel retried the case to a jury and the court granted our motion for a directed verdict. My client, Grannis, was released that evening. Superior Court Judge Bernardo Velasco presided over the re-trial.

Co-Counsel: Isabel Garcia
Pima County Legal Defender
32 North Stone Avenue
Tucson, Arizona 85701
(520) 740-5775

Opposing Counsel: Kenneth Peasley
33 North Stone Avenue
Tucson, Arizona 85701
(520) 327-1121

10) Matter of *Cruz* (Executive Office for Immigration Review, 2003)

I represented respondent Cruz during her removal proceedings in Immigration Court in Florence, Arizona. After a Bond Hearing, Cruz was released on bond. After a motion for change of venue, Cruz' case was transferred to Immigration Court in Tucson, Arizona. Cruz had never had legal permission to live in the United States, but had resided in Tucson, Arizona for over ten years. During that time, she had a child. That child died from a rare disease at the age of nine. Cruz' younger child also suffered from the same disease and needed extensive medical treatment that was not available in Mexico. I filed an application for relief (EOIR-42A). The Immigration Court granted the cancellation of removal. Cruz is now a permanent resident alien and resides in the United States with her child. This case was tried before Immigration Judge Richard H. Knuck.

Opposing Counsel: John Seaman
BCIS District Counsel
6431 South Country Club
Tucson, Arizona 85706
(520) 670-4773

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.)

Throughout my career, I have been actively involved with the State Bar of Arizona. I have served on State Bar committees and have prepared and presented continuing education seminars. Since 2008, I have served on the State Bar Conflict Case Committee. Our committee reviews and prosecutes ethical complaints against lawyers, where the state bar has a conflict. In that capacity, I investigate the alleged ethical violation, make factual and legal determinations and decide what sanctions should be imposed. This requires researching the applicable professional code and ethical cannons, and preparing orders.

For over two years, I was a hearing officer for the Pima County Law Enforcement Merit System Council. I presided over administrative hearings and prepared orders in relation to the termination and disciplinary actions of Pima County employees.

As a Beacon Group board member, I manage investment funds as part of the finance committee. The Beacon Group is an organization that provides services and employment opportunities for mentally and physically disabled people.

My practice is very active in the defense of clients accused of having entered the United States illegally after having been deported. The vast majority of these cases are resolved by non-trial disposition. In addition, I have handled various civil matters, such as immigration, property forfeitures and personal injury. Although, these matters have settled, they involved significant litigation.

I have not performed lobbying activities on behalf of any client or organization.

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

I have not taught any courses.

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

I have no deferred income arrangements or future benefits.

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.

None.

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.

My husband is an attorney in private practice. My sister is an Assistant Federal Public Defender, habeas unit. If I am confirmed as a judge, I expect to recuse myself from any case in which they represent a party.

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

If confirmed as a judge, I will apply all relevant guidelines, including the Code of Conduct for United States Judges, relevant Canons and statutory provisions to avoid any actual 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.

Throughout my legal career, I have regularly performed legal services at no charge or on a reduced fee basis for financially disadvantaged clients. I have provided pro bono representation for many different clients in diverse areas of practice. Most recently, I represented a student athlete at the University of Arizona. I represented this client in both his criminal case and the expulsion proceedings from school. This case required lengthy witness interviews, extensive administrative hearings and a trial before a panel. Additionally, collateral issues existed such as his athletic scholarships and release from his eligibility-to-play contract.

I have also represented high school students in expulsion proceedings. I have represented clients in employment termination and demotion administrative proceedings without charge. I have represented clients in contract disputes with their landlords and contract disputes with their builders. Through the Florence Project and on a private level, I have filed briefs in immigration courts on behalf of clients who cannot afford an attorney but have potential relief from deportation available. I have also filed appeals of those decisions free of charge.

I also have engaged in pro bono work in areas that educate the community about the legal justice system. Through the State Bar of Arizona I have volunteered to answer legal questions for homeless veterans and people looking to become United States citizens. Through the Arizona Minority Bar Association, I assist in coordinating fundraisers to provide scholarship money to University of Arizona, College of Law students.

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.

There is no selection commission in Arizona. In February 2010, I expressed my interest in a letter and sent my resume to all the members of the Arizona Democratic Delegation in the House of Representatives. At the same time, I also expressed my interest in a letter and sent my resume to Senator Kyl and Senator McCain. In March 2010, I expressed my interest in a letter and sent my resume to White House Counsel Robert Bauer. In mid-March 2010, I was interviewed by Congresswoman Kirkpatrick, Congressman Pastor and Congressman Grijalva. I was also interviewed telephonically by Congresswoman Giffords. In July 2010, I met with Senator Kyl.

Since February 10, 2011, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On March 14, 2011, I met with representatives of the White House Counsel's Office and the Department of Justice in Washington, DC. On June 23, 2011, the President submitted my nomination to the Senate.

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

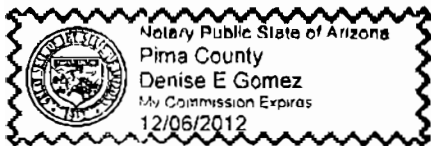
No.

AFFIDAVIT

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

6/21/11
(DATE)

R Márquez
(NAME)



Denise E Gomez
(NOTARY)

MÁRQUEZ LAW FIRM, P.L.L.C.



January 3, 2012

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Chairman Leahy:

I have reviewed the Senate Questionnaire I previously filed in connection with my nomination on June 23, 2011 for the position on the United States District Court for the District of Arizona. Incorporating the additional information below, I certify that the information contained in that document is, to the best of my knowledge, true and accurate.

- My service as a board member on the Pima County Bar Association ended in May of 2012 (Question 9).
- My service as a steering committee member of the Arizona Women Lawyers Association ended in December 2011 (Question 9).
- In my capacity as board member of The Beacon Group, I serve as Treasurer and also Chairperson of the Finance Committee (Question 11a).
- I have tried 36 cases before a jury (Question 16d).
- Since I filed my Senate Questionnaire in July 2011, I have handled many important cases, including the following argument before the Ninth Circuit Court of Appeals that I would consider one of the ten most significant matters that I have personally handled (Question 17):

United States v. Aguilar-Balbuena, CA 08-10503, 475 Fed. Appx. 222 (9th Cir. 2012)

I prepared the briefs and argued the case before the Ninth Circuit Court of Appeals. Appellant, Aguilar-Balbuena appealed a 30-month sentence following his guilty-plea conviction for illegal re-entry after deportation. The first issue was whether Mr. Aguilar-Balbuena's waiver of appellate rights was enforceable. The second issue was whether his prior burglary conviction qualified as a "crime of violence" justifying the trial court's enhanced sentence. The Ninth Circuit held that Mr. Aguilar-Balbuena did not knowingly waive his right to appeal and further found that his burglary conviction was not categorically a "crime of violence." As a result, the Ninth Circuit vacated the sentence

and remanded the matter to the district court. I continued to represent Mr. Aguilar-Balbuena at the re-sentencing phase. District Court Judge David C. Bury, amended Mr. Aguilar-Balbuena's sentence to the eight months incarceration that he had already served, with no term of supervised release imposed.

Opposing Appellate Counsel: Bruce M. Ferg
Assistant United States Attorney
405 West Congress, Suite 4800
Tucson, Arizona 85701
(520) 620-7300

Opposing Trial Counsel: Angela W. Woolridge
Assistant United States Attorney
405 West Congress Street, Suite 4800
Tucson, Arizona 85701
(520) 620-7300

Additionally, I am forwarding an updated Net Worth Statement and Financial Disclosure Report, as requested in the Questionnaire. I thank the Committee for its consideration of my nomination.

Sincerely,

A handwritten signature in dark ink, appearing to read "R. Márquez", with a stylized flourish at the end.

Rosemary Márquez

cc: The Honorable Chuck Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510