

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Stephanos Bibas  
(Steve Bibas, Steven Bibas, Steven Alexander Bibas)

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

United States Circuit Judge for the Third Circuit

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.

University of Pennsylvania Law School  
3501 Sansom Street  
Philadelphia, Pennsylvania 19104

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

1969; Queens, New York

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.

2006 – 2011, 2013, St. Tikhon's Orthodox Theological Seminary; no degree received

2003 – 2004, University of Iowa (audited various courses); no degree received

1991 – 1994, Yale Law School; J.D., 1994

1989 – 1991, University of Oxford (University College); B.A. (Honours), 1991

1985 – 1989, Columbia University; B.A. (*summa 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.

Fall 2005; 2006 – present  
University of Pennsylvania Law School  
3501 Sansom Street  
Philadelphia, Pennsylvania 19104  
Professor of Law (2006 – present)  
Professor of Criminology by courtesy (2009 – present)  
Director, Supreme Court Clinic (2009 – present; sabbatical spring 2014; course not offered 2016 – 2017)  
Founding Affiliated Faculty Member, Quattrone Center for the Fair Administration of Justice (2013 – present)  
Visiting Associate Professor of Law (fall 2005)

Winter – Spring 2006  
University of Chicago Law School  
1111 East 60th Street  
Chicago, Illinois 60637  
Visiting Associate Professor

2001 – 2006  
University of Iowa College of Law  
Boyd Law Building  
130 Byington Road  
Iowa City, Iowa 52242  
Associate Professor

2000 – 2001  
Yale Law School  
127 Wall Street  
New Haven, Connecticut 06511  
Research Fellow

1998 – 2000  
U.S. Attorney's Office for the Southern District of New York  
One Saint Andrew's Plaza  
New York, New York 10007  
Assistant U.S. Attorney

1997 – 1998  
Supreme Court of the United States  
One First Street, N.E.  
Washington, DC 20543  
Law Clerk to the Honorable Anthony M. Kennedy

Summer 1993; 1995 – 1997  
Covington & Burling  
One CityCenter  
850 Tenth Street, N.W.  
Washington, DC 20001  
Associate (1995 – 1997)  
Summer Associate (Summer 1993)

1994 – 1995  
U.S. Court of Appeals for the Fifth Circuit  
903 San Jacinto Boulevard, Room 400  
Austin, Texas 78701  
Law Clerk to the Honorable Patrick E. Higginbotham

Summer 1994  
U.S. Department of Justice  
Civil Division  
Appellate Staff  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530  
Intern

Summer 1993  
U.S. Attorney's Office for the District of Columbia  
Judiciary Center  
555 Fourth Street, N.W.  
Washington, DC 20001  
Intern

Summer 1992  
U.S. Court of Appeals for the Ninth Circuit  
125 South Grand Avenue  
Pasadena, California 91105  
Extern to the Honorable Alex Kozinski

Summer 1989  
Columbia Student Bartending Agency  
2960 Broadway, MC 5727  
New York, New York 10027  
Student Bartender

**Other Affiliations (uncompensated):**

2011 – present  
Houston Liberty, Inc.  
c/o Millas CPA

405 West Gray  
Houston, Texas 77019  
Vice-President and Director (family business owned by my father)

2011 – present  
Noonky, Inc.  
c/o Millas CPA  
405 West Gray  
Houston, Texas 77019  
Vice-President and Director (family business owned by my father)

2011 – present  
Kythera, Inc.  
c/o Millas CPA  
405 West Gray  
Houston, Texas 77019  
Vice-President and Director (family business owned by my father)

2010 – present  
St. Elizabeth the New Martyr Orthodox Church  
38 Princeton Avenue  
Rocky Hill, New Jersey 08553  
Reader (2010 – 2012)  
Subdeacon (2012 – 2015)  
Deacon & nonvoting member of parish council (2015 – present)

2010 – present  
St. David the Builder Georgian Orthodox Church  
62 Charles Street  
Hanover Township, Pennsylvania 18706  
President of the Board of Directors

2009 – present  
St. George Georgian Orthodox Church  
412 Philmont Avenue  
Feasterville, Pennsylvania 19053  
Secretary of the Board of Directors

2007 – 2008  
Church of Our Lady, the Joy of All Who Sorrow  
560 North 20th Street  
Philadelphia, Pennsylvania 19130  
Warden

2001 – 2005  
St. Raphael of Brooklyn Orthodox Church (formerly Iowa City Orthodox Chapel)

722 East College Street  
Iowa City, Iowa 52240  
Warden (2001 – 2005)  
Director (2004 – 2005)

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 registered for the 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.

Ranked 15th in “Top 25 Law Professors by Total Judicial Citations,” Nick Farris et al., *Judicial Impact of Law School Faculties* (August 2016)

Ranked 5th in “Twenty Most Cited Criminal Law & Procedure Faculty in the United States, 2010 – 2014,” BRIAN LEITER’S LAW SCHOOL REPORTS (May 18, 2016)

“Litigator of the Week,” *AmLaw Litigation Daily* (May 22, 2014)

Jack Wasserman Award for Excellence in Litigation, American Immigration Lawyers Association (2011)

Invited by the Supreme Court of the United States to brief and argue as amicus curiae in *Tapia v. United States*, 564 U.S. 319 (2011); in announcing the opinion of the Court, Justice Kagan specifically praised me for doing “an exceptionally good job” as amicus.

“Appellate Lawyer of the Week,” *National Law Journal* (2011)

Robert A. Gorman Award for Excellence in Teaching, University of Pennsylvania Law School (2008)

Award for outstanding performance in *United States v. Duncan*, FBI & New York Police Department (S.D.N.Y. 1999)

Temple Bar Scholar, American Inns of Court (1998)

M.A. (honorary degree), University of Oxford (1998)

Symposium Editor, *Yale Law Journal* (1993 – 1994)

Annual I.H.S. – Eberhard Student Writing Competition Winner (1993 – 1994)

Claude Lamb Fellowships (1991 – 1994)

Thurman Arnold Prize (best oralist) & Potter Stewart Prize (best team), Morris Tyler Moot Court of Appeals, Yale Law School (Fall 1993)

Alan Urbach Memorial prize in jurisprudence, University College, University of Oxford (1991)

First Place Speaker, World Universities Debating Championship, Toronto (1991)

John M. Olin Scholarship (1990 – 1991)

Gibbs Book Prize in contracts, torts, and land law, University of Oxford (1990)

Summer Research Fellowship, Institute for Humane Studies (1990)

Second Place Speech, American Parliamentary Debate Association National Debate Championship (1989)

Phi Beta Kappa, early election (top 2% of class) (1988)

Dean's List, Columbia University (1985 – 1988)

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

American Inns of Court

New York County Lawyers Association American Inn of Court, Associate (circa 1998 – 2000)

Pennsylvania Bar Association

Philadelphia Bar Association

Virginia State Bar

Virginia Trial Lawyers Association

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.

Virginia (1995)  
District of Columbia (1996)  
Pennsylvania (2009)

Since approximately 2000, my Virginia bar membership has been in associate status because I no longer practice law in Virginia. There have been no lapses in membership.

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

Supreme Court of the United States (2003)  
U.S. Court of Appeals for the Second Circuit (1999)  
U.S. Court of Appeals for the Third Circuit (2017)  
U.S. Court of Appeals for the Fourth Circuit (1995)  
U.S. Court of Appeals for the Ninth Circuit (2011)  
U.S. Court of Appeals for the Tenth Circuit (2011)  
U.S. Court of Appeals for the D.C. Circuit (1996)  
U.S. District Court for the District of Columbia (1996)  
U.S. District Court for the Central District of Illinois (1996)  
U.S. District Court for the Eastern District of Virginia (1996)

My membership in the bar of the U.S. Court of Appeals for the Second Circuit lapsed in 2011 after that court instituted a periodic re-registration requirement in 2009; I reapplied and was readmitted to that bar in 2017. My membership in the bar of the U.S. District Court for the District of Columbia was changed to provisional status sometime following my 1996 admission after that court instituted a periodic re-registration requirement; I was returned to active status in 2017. Apart from these two bars, there have been no other 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.

To the best of my recollection:

Church of Our Lady, the Joy of All Who Sorrow  
Warden (2007 – 2008)

Collegium Institute  
Faculty Fellow (2015 – present)

*Criminology*

External Reviewer (2013 – present). An external reviewer is part of the submissions review process, which involves reviewing drafts submitted for publication for consideration by a submissions editor, not editing pieces that have already been selected for publication.

Federalist Society for Law & Public Policy Studies (circa 1991 – present)

Hellenic University Club (2014 – present)

Houston Liberty, Inc.  
Vice-President and Director (2011 – present)

*Journal of Empirical Legal Studies*

External Reviewer (2011 – present). See above for a description of an external reviewer's responsibilities.

Kythera, Inc.  
Vice-President and Director (2011 – present)

*Law and Society Review*

External Reviewer (2010 – present). See above for a description of an external reviewer's responsibilities.

Noonky, Inc.  
Vice-President and Director (2011 – present)

Phi Beta Kappa (1988 – present)

Philadelphia Mayor's Advisory Task Force, Ethics & Campaign Finance Reform  
Task Force Member (2008 – 2009)

Republican National Lawyers Association (circa mid-1990s)

St. David the Builder Georgian Orthodox Church  
President of the Board of Directors (2010 – present)

St. Elizabeth the New Martyr Orthodox Church



Reader (2010 – 2012)  
Subdeacon (2012 – 2015)  
Deacon & nonvoting member of parish council (2015 – present)

St. George Georgian Orthodox Church  
Secretary of the Board of Directors (2009 – present)

St. Raphael of Brooklyn Orthodox Church (formerly Iowa City Orthodox Chapel)  
Warden (2001 – 2005)  
Director (2004 – 2005)

Supreme Court Forecasting Project, Washington University St. Louis Law School  
& Department of Political Science (2002 – 2003)

University of Iowa College of Law  
Curriculum Policy Committee (2004 – 2005)  
Clerkship Advisor (2002 – 2005)  
Academic Achievement Program, participant (2002 – 2005)  
Appellate Advocacy Programs, faculty judge and reader (2002 – 2005)  
Career Services Committee (2003 – 2004)  
Academic Rules Committee (2001 – 2002)  
Teaching Improvement Committee (2001 – 2002)

University of Pennsylvania  
Open Expression Monitor (2016 – 2017)  
Committee on Open Expression (2012 – 2016; Chair, 2014 – 2015)  
Penn Fellowships Faculty Review Committee (2014 – 2016)

University of Pennsylvania Law School  
Faculty Appointments Committee (2009 – 2010, 2012 – 2013, 2014 – 2015, 2016 – 2017; Chair, 2016 – 2017)  
Academic Careers Committee (Chair, 2015 – 2016)  
Dean of Students Search Committee (2015 – 2016)  
Educational Programs Committee (2014 – 2015)  
Career Planning and Professionalism Committee (2011 – 2013, 2016 – 2017; Chair, 2011 – 2012)  
Student Conduct and Responsibility Committee (2010 – 2013)  
Building Committee (2010 – 2012)  
Co-Convener, Legal Studies (External Faculty) Workshops (2010 – 2011)  
Academic Freedom and Responsibility Committee (2008 – 2011)  
Student Conduct and Responsibility Appeals Panel (2009 – 2010)  
Co-Convener, Ad Hoc (Internal Faculty) Workshops (2008 – 2009)  
Admissions Committee (2007 – 2009)  
Academic Standing Committee (2007 – 2008)

- 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 in response to Question 11.a currently discriminates or formerly discriminated on the basis of race, sex, religion, or national origin, either through formal membership requirements or the practical implementation of membership policies.

**12. Published Writings and Public Statements:**

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

I have diligently sought to identify and obtain all items responsive to Question 12. To compile this list, I searched my electronic and paper records and worked with librarians to search Internet sources and electronic databases on Lexis, Westlaw, and Bloomberg Law.

**i. Books**

REBOOTING JUSTICE: MORE TECHNOLOGY, FEWER LAWYERS, AND THE FUTURE OF LAW (with Benjamin H. Barton) (Encounter Books, forthcoming Summer 2017). Paperback copies supplied.

THE MACHINERY OF CRIMINAL JUSTICE (Oxford Univ. Press 2012) (translated into Chinese and reprinted in other outlets). Hardcover copies supplied.

**ii. Articles and Other Scholarly Works**

With Richard A. Bierschbach, *Rationing Criminal Justice*, 116 MICH. L. REV. (forthcoming Oct. 2017). Copy supplied.

*Restoring Democratic Moral Judgment Within Bureaucratic Criminal Justice*, 111 NW. U. L. REV. (forthcoming Summer 2017). Copy supplied.

*Improve, Dynamite, or Dissolve the Criminal Regulatory State?*, in THE NEW CRIMINAL JUSTICE THINKING 61 (Sharon Dolovich & Alexandra Natapoff eds., NYU Press 2017). Copy supplied.

With Allison D. Redlich, Vanessa Edkins, & Stephanie Madon, *The Psychology of Defendant Plea Decision Making*, 72 AM. PSYCHOLOGIST 339 (2017). Copy supplied.

With Richard A. Bierschbach, *What's Wrong With Sentencing Equality?*, 102 VA. L. REV. 1447 (2016). Copy supplied.

“Justice Scalia’s Originalism and Formalism: The Rule of Criminal Law as a Law of Rules,” in *The Legacy of Justice Antonin Scalia: Remembering a Conservative Legal Titan’s Impact on the Law*, Heritage Found., special report No. 186 (Aug. 30, 2016). Copy supplied.

*Designing Plea Bargaining from the Ground Up: Accuracy and Fairness Without Trials as Backstops*, 57 WM. & MARY L. REV. 1055 (2016). Copy supplied.

*Observers as Participants: Letting the Public Monitor the Criminal Justice Bureaucracy*, 127 HARV. L. REV. F. 342 (2014). Copy supplied.

*The Limits of Textualism in Interpreting the Confrontation Clause*, 37 HARV. J.L. & PUB. POL’Y 737 (2014). Copy supplied.

*Plea Bargaining’s Role in Wrongful Convictions*, in EXAMINING WRONGFUL CONVICTIONS: STEPPING BACK, MOVING FORWARD 157 (Allison D. Redlich et al. eds., Carolina Academic Press 2014). Copy supplied.

With Richard A. Bierschbach, *Constitutionally Tailoring Punishment*, 112 MICH. L. REV. 397 (2013). Copy supplied.

*Criminal (In)justice and Democracy in America*, 126 HARV. L. REV. F. 134 (2013). Copy supplied.

*Shrinking Gideon and Expanding Alternatives to Lawyers*, 70 WASH. & LEE L. REV. 1287 (2013). Copy supplied.

*The Duties of Non-Judicial Actors in Ensuring Competent Negotiation*, 51 DUQ. L. REV. 625 (2013). Copy supplied.

*Justice Kennedy’s Sixth Amendment Pragmatism*, 44 MCGEORGE L. REV. 211 (2013). Copy supplied.

*Bulk Misdemeanor Justice*, 85 S. CAL. L. REV. POSTSCRIPT 73 (2012). Copy supplied.

*The Supreme Court, 2011 Term – Comment: Incompetent Plea Bargaining and Extra-Judicial Reforms*, 126 HARV. L. REV. 150 (2012). Copy supplied.

With Richard A. Bierschbach, *Notice-and-Comment Sentencing*, 97 MINN. L. REV. 1 (2012). Copy supplied.

- Cited with approval in *Betterman v. Montana*, 136 S. Ct. 1609, 1617 (2016).

*Taming Negotiated Justice*, 122 YALE L.J. ONLINE 41 (2012). Copy supplied.

With Benjamin H. Barton, *Triaging Appointed-Counsel Funding and Pro Se Access to Justice*, 160 U. PENN. L. REV. 967 (2012). Copy supplied.

With Thomas Nadelhoffer, Scott Grafton, Kent A. Kiehl, Andrew Mansfield, Walter Sinnott-Armstrong, and Michael Gazzaniga, *Neuroprediction, Violence, and the Law: Setting the Stage*, 5 NEUROETHICS 67 (2012). Copy supplied.

*The Myth of the Fully Informed Rational Actor*, 31 ST. LOUIS U. PUB. L. REV. 79 (2011). Copy supplied.

*Sacrificing Quantity for Quality: Better Focusing Prosecutors' Scarce Resources*, 106 NW. U. L. REV. COLLOQUY 138 (2011). Copy supplied.

*Regulating the Plea-Bargaining Market: From Caveat Emptor to Consumer Protection*, 99 CAL. L. REV. 1117 (2011). Copy supplied.

- Quoted with approval in *Lafler v. Cooper*, 566 U.S. 156, 168 (2012).

*The Pitfalls of Professionalized Prosecution: A Response to Josh Bowers's "Legal Guilt, Normative Innocence, and the Equitable Decision Not to Prosecute,"* 111 COLUM. L. REV. SIDEBAR 14 (2011). Copy supplied.

*Two Cheers, Not Three, for Sixth Amendment Originalism*, 34 HARV. J.L. & PUB. POL'Y 45 (2011). Copy supplied.

*New Perspectives on Brady and Other Disclosure Obligations: What Really Works?*, 31 CARDOZO L. REV. 1961, 1984 (2010) (reporter for Part III of symposium, on prosecutorial training and supervision). Excerpt supplied.

*The Right to Remain Silent*, Debate (with Charles Weisselberg), 159 U. PENN. L. REV. PENNUMBRA 69, 77, 88 (2010). Copy supplied.

*The Need for Prosecutorial Discretion*, 19 TEMP. POL. & CIV. RTS. L. REV. 369 (2010). Copy supplied.

With William W. Burke-White, *International Idealism Meets Domestic-Criminal-Procedure Realism*, 59 DUKE L.J. 637 (2010). Copy supplied.

*Prosecutorial Regulation Versus Prosecutorial Accountability*, 157 U. PA. L. REV. 959 (2009). Copy supplied.

*Restoration, But Also More Justice*, in CRIMINAL LAW CONVERSATIONS 595 (Paul H. Robinson, Kimberly Ferzan, & Stephen P. Garvey eds., Oxford Univ. Press 2009). Copy supplied.

*Political Versus Administrative Justice*, in CRIMINAL LAW CONVERSATIONS 677 (Paul H. Robinson, Kimberly Ferzan, & Stephen P. Garvey eds., Oxford Univ. Press 2009). Copy supplied.

*Invasions of Conscience and Faked Apologies*, in CRIMINAL LAW CONVERSATIONS 196 (Paul H. Robinson, Kimberly Ferzan, & Stephen P. Garvey eds., Oxford Univ. Press 2009). Copy supplied.

With Douglas A. Berman, *The Heart Has Its Value: The Justifiable Persistence of the American Death Penalty*, in CRIMINAL LAW CONVERSATIONS 643 (Paul H. Robinson, Kimberly Ferzan, & Stephen P. Garvey eds., Oxford Univ. Press 2009). Copy supplied.

*Rewarding Prosecutors for Performance*, 6 OHIO ST. J. CRIM. L. 441 (2009).  
Copy supplied.

With Max M. Schanzenbach and Emerson H. Tiller, *Policing Politics at Sentencing*, 103 NW. U. L. REV. 1371 (2009). Copy supplied.

*Exacerbating Injustice*, Response, 157 U. PA. L. REV. PENNUMBRA 53 (2008).  
Copy supplied.

With Douglas A. Berman, *Engaging Capital Emotions*, 102 NW. U. L. REV. COLLOQUY 355 (2008) (*reprinted in* THE DEATH PENALTY: DEBATING THE MORAL, LEGAL, AND POLITICAL ISSUES (Robert M. Baird & Stuart E. Rosenbaum eds., Prometheus Books 2011)). Copy supplied.

*Judicial Fact-Finding at Sentencing*, in ENCYCLOPEDIA OF THE SUPREME COURT OF THE UNITED STATES (Macmillan Reference USA 2008). Copy supplied.

With Susan R. Klein, *The Sixth Amendment and Criminal Sentencing*, 30 CARDOZO L. REV. 775 (2008). Copy supplied.

*Rita v. United States Leaves More Open Than It Answers*, 20 FED. SENTENCING REP. 28 (2007). Copy supplied.

*Forgiveness in Criminal Procedure*, 4 OHIO ST. J. CRIM. L. 329 (2007). Copy supplied.

With Douglas A. Berman, *Making Sentencing Sensible*, 4 OHIO ST. J. CRIM. L. 37 (2006). Copy supplied.

- *Cited with approval in Cunningham v. California*, 549 U.S. 270, 297 (2007) (Kennedy, J., dissenting).

*Transparency and Participation in Criminal Procedure*, 81 NYUL. REV. 911 (2006). Copy supplied.

- *Cited with approval in Kansas v. Marsh*, 548 U.S. 163, 188 n.3 (2006) (Scalia, J., dissenting).

*The Rehnquist Court's Fifth Amendment Incrementalism*, 74 GEO. WASH. L. REV. 1078 (2006). Copy supplied.

*Brady v. Maryland: From Adversarial Gamesmanship Toward the Search for Innocence?*, in CRIMINAL PROCEDURE STORIES 129 (Carol Steiker ed., Foundation Press 2006). Copy supplied.

*White-Collar Plea Bargaining and Sentencing After Booker*, 47 WM. & MARY L. REV. 721 (2005). Copy supplied.

*Originalism and Formalism in Criminal Procedure: The Triumph of Justice Scalia, the Unlikely Friend of Criminal Defendants?*, 94 GEO. L.J. 183 (2005).  
Copy supplied.

*Regulating Local Variations in Federal Sentencing*, 58 STAN. L. REV. 137 (2005).  
Copy supplied.

*The Blakely Earthquake Exposes the Procedure/Substance Fault Line*, 17 FED. SENTENCING REP. 258 (2005). Copy supplied.

- With Richard A. Bierschbach, *Integrating Remorse and Apology into Criminal Procedure*, 114 YALE L.J. 85 (2004). Copy supplied.
- Blakely's Federal Aftermath*, 16 FED. SENTENCING REP. 333 (2004) (reprinted in THE BLAKELY EARTHQUAKE (Vera Inst. of Justice 2004)). Copy supplied.
- Plea Bargaining Outside the Shadow of Trial*, 117 HARV. L. REV. 2463 (2004) (translated into Chinese and reprinted by China Legal Publishing House in 2017). Copy supplied.
- Pleas' Progress*, 102 MICH. L. REV. 1024 (2004) (book review, reviewing GEORGE FISHER, *PLEA BARGAINING'S TRIUMPH* (2003)). Copy supplied.
- The Feeney Amendment and the Continuing Rise of Prosecutorial Power to Plea Bargain*, 94 J. CRIM. L. & CRIMINOLOGY 295 (2004). Copy supplied.
- The Psychology of Hindsight and After-the-Fact Review of Ineffective Assistance of Counsel*, 2004 UTAH L. REV. 1 (2004). Copy supplied.
- Apprendi in the States: The Virtues of Federalism as a Structural Limit on Errors*, 94 J. CRIM. L. & CRIMINOLOGY 1 (2003). Copy supplied.
- Bringing Moral Values into a Flawed Plea Bargaining System*, 88 CORNELL L. REV. 1425 (2003). Copy supplied.
- Harmonizing Substantive-Criminal-Law Values and Criminal Procedure: The Case of Alford and Nolo Contendere Pleas*, 88 CORNELL L. REV. 1361 (2003). Copy supplied.
- Using Plea Procedures to Combat Denial and Minimization*, in *JUDGING IN A THERAPEUTIC KEY: THERAPEUTIC JURISPRUDENCE AND THE COURTS* 169 (Bruce J. Winick & David B. Wexler eds., Carolina Academic Press 2003). Copy supplied.
- The Real-World Shift in Criminal Procedure*, 93 J. CRIM. L. & CRIMINOLOGY 789 (2003) (book review, reviewing RONALD J. ALLEN ET AL., *COMPREHENSIVE CRIMINAL PROCEDURE* (2001) and MARC L. MILLER & RONALD F. WRIGHT, *CRIMINAL PROCEDURES* (1999)). Copy supplied.
- The Right to Remain Silent Helps Only the Guilty*, 88 IOWA L. REV. 421 (2003). Copy supplied.
- Back from the Brink*, 15 FED. SENTENCING REP. 79 (2002) (reprinted in multiple outlets). Copy supplied.
- How Apprendi Affects Institutional Allocations of Power*, 87 IOWA L. REV. 465 (2002). Copy supplied.
- Apprendi and the Dynamics of Guilty Pleas*, 54 STAN. L. REV. 311 (2001). Copy supplied.
- Judicial Fact-Finding and Sentence Enhancements in a World of Guilty Pleas*, 110 YALE L.J. 1097 (2001). Copy supplied.
- Cited and discussed extensively in *Blakely v. Washington*, 542 U.S. 296, 311, 331, 337 (2004) (Scalia, J., majority opinion & Breyer, J., dissenting).

- Cited in *Alleyne v. United States*, 133 S. Ct. 2151, 2172 – 73 (2013) (Alito, J., dissenting).

Apprendi's *Perverse Effects on Guilty Pleas Under the Sentencing Guidelines*, 13 FED. SENTENCING REP. 333 (May/June 2001). Copy supplied.

### **iii. Student-Authored Works**

Note, *The Case Against Statutes of Limitations for Stolen Art*, 103 YALE L.J. 2437 (1994), reprinted in 5 INT'L J. CULTURAL PROPERTY 73 (1996). Copy supplied.

Annual I.H.S. – Eberhard Student Writing Competition Winner, *A Contractual Approach to Data Privacy*, 17 HARV. J.L. & PUB. POL'Y 591 (1994). Copy supplied.

Comment, *The European Court of Justice and the Early U.S. Supreme Court*, 15 HASTINGS INT'L & COMP. L. REV. 253 (Winter 1992). Copy supplied.

### **iv. Shorter Works**

*Defending the Jury: Crime, Community, and the Constitution* (book review, reviewing LAURA I. APPLEMAN, *DEFENDING THE JURY: CRIME, COMMUNITY, AND THE CONSTITUTION* (2015)), RUTGERS CRIM. L. & CRIM. JUST. BOOKS, May 2016. Copy supplied.

*Shying Away from Mercy* (book review, reviewing ALEX TUCKNESS & JOHN M. PARRISH, *THE DECLINE OF MERCY IN PUBLIC LIFE* (2014)), FIRST THINGS, Jan.–Feb. 2016, at 63. Copy supplied.

With Jeffrey L. Fisher, *The Sixth Amendment*, National Constitution Center Interactive Constitutional Project (2015). Copy supplied.

*Effective Lawyering and the Vanishing Jury in a World of Plea Bargaining*, National Constitution Center Interactive Constitution Project (2015). Copy supplied.

*Prisoners Without Prisons*, NATIONAL REVIEW, Sept. 21, 2015, at 27 and Response, Oct. 19, 2015, at 2. Copies supplied.

*Mechanized Justice* (book review, reviewing NICK SMITH, *JUSTICE THROUGH APOLOGIES: REMORSE, REFORM, AND PUNISHMENT* (2014)), FIRST THINGS, Apr. 2015, at 59. Copy supplied.

With Richard A. Bierschbach, *Justice of the People, by the People, for the People*, NATIONAL REVIEW, Dec. 31, 2014, at 36. Copy supplied.

*Justice Through Apologies: Remorse, Reform, and Punishment* (book review, reviewing NICK SMITH, *JUSTICE THROUGH APOLOGIES: REMORSE, REFORM, AND PUNISHMENT* (2014)), RUTGERS CRIM. L. & CRIM. JUST. BOOKS, July 2014. Copy supplied.

*Pardon Me, On the Square*, FIRST THINGS ONLINE (Nov. 27, 2013). Copy supplied.

*Making a Federal Case Out of It*, NATIONAL REVIEW, Aug. 19, 2013, at 22. Copy supplied.

*Moral Debate, Secular Correctness, and Judge Edith Jones*, On the Square, FIRST THINGS ONLINE (June 19, 2013). Copy supplied.

*Leisure Time: Prisoners Should Work and Learn Rather Than Be Idle*, NATIONAL REVIEW, Apr. 8, 2013, at 38. Copy supplied.

*The Machinery of Criminal Justice #1: Overview*, CONCURRING OPINIONS, Dec. 9–10, 2012. Copy supplied.

*Colson's Enduring Legacy*, On the Square, FIRST THINGS ONLINE (May 2, 2012). Copy supplied.

*From Watergate to Redemption*, On Faith, WASH. POST ONLINE (Apr. 24, 2012). Copy supplied.

*The Machinery of Criminal Justice #1–7*, SENTENCING LAW AND POLICY, Mar. 20–31, 2012. Copies supplied.

*SCOTUS Recognizes Ineffective-Assistance Claims in Lafler and Frye!*, SENTENCING LAW AND POLICY, Mar. 21, 2012. Copy supplied.

*Miller and Jackson: The Court Struggles to Frame the Issue*, SENTENCING LAW AND POLICY, Mar. 20, 2012. Copy supplied.

*The Machinery of Criminal Justice #1–6*, THE VOLOKH CONSPIRACY, Mar. 12–17, 2012. Copies supplied.

*Eastern Christians and Environmentalism*, LESS THAN THE LEAST, Aug. 22, 2008. Copy supplied.

*The Blakely Revolution*, IOWA ADVOCATE 4 (Fall/Winter 2005). Copy supplied.

*The Future of American Sentencing: A National Roundtable on Blakely*, 2 OHIO ST. J. CRIM. L. 619, 636–37 (2005). Excerpt supplied.

*The Future of American Sentencing: A National Roundtable on Blakely*, 17 FED. SENTENCING REP. 115, 128 (2004). Excerpt supplied.

*Can the Supreme Court Clean Up Its Blakely Mess?* (online debate with Douglas A. Berman), *Legal Affairs*, Sept. 27–Oct. 1, 2004. Copy supplied.

*How Long? A Close Supreme Court Decision Trades Decades of Sentencing Reform for a Confusing Future*, LEGAL TIMES, July 5–6, 2004, at 52 (reprinted in various outlets). Copy supplied.

*Above the Fray: Supreme Court Should Let Judges Keep a Hand in Who Gets Executed* (op-ed essay), LEGAL TIMES, Feb. 4, 2002, at 43 (reprinted in various outlets). Copy supplied.

*Phones that Aid and Abet* (letter to the editor), N.Y. TIMES, Aug. 16, 2001, at G5. Copy supplied.



*Streamline the Process* (letter to the editor), N.Y. TIMES, Feb. 8, 1997, § 1, at 20. Copy supplied.

*More Can Be Done to Guard Your Renoirs* (letter to the editor), N.Y. TIMES, July 18, 1996, at A22. Copy supplied.

*Framers Never Intended Habeas Corpus as We Know It* (letter to the editor), N.Y. TIMES, Mar. 20, 1996, at A18. Copy supplied.

*Early Entrance to College Demands Maturity* (letter to the editor), N.Y. TIMES, Mar. 12, 1989, at E24. Copy supplied.

*Forrester's Closed Mind* (letter to the editor), COLUMBIA SPECTATOR, Oct. 14, 1987, at 4. 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.

In September 2015, the Quattrone Center for the Fair Administration of Justice submitted a report, *Improving Fairness and Addressing Racial Disparities in the Delaware Criminal Justice System*, to the Delaware Access to Justice Commission, Subcommittee on Fairness in the Adult Criminal Justice System. I coauthored Parts II and III of the report. Copy supplied.

On December 10, 2009, the Philadelphia Mayor's Task Force on Ethics and Campaign Finance Reform, of which I was a member, issued its Final Report and Recommendations. 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.

Joint Letter to the U.S. Senate Judiciary Committee supporting the nomination of Noel Francisco to become Solicitor General of the United States (May 8, 2017). Copy supplied.

Joint Letter to the U.S. Senate Judiciary Committee supporting the nomination of Neil M. Gorsuch to become an Associate Justice of the Supreme Court of the United States (Mar. 17, 2017). Copy supplied.

Joint Letter to the U.S. Senate Judiciary Committee supporting the nomination of Neil M. Gorsuch to become an Associate Justice of the Supreme Court of the United States (Feb. 25, 2017). Copy supplied.

Open Letter of law professors regarding campus free speech and Title IX procedures (May 3, 2016). Copy supplied.

Joint Letter to the U.S. Senate Appropriations Committee regarding free speech and due process on campus (Dec. 9, 2015). Copy supplied.

Testimony before the Delaware Access to Justice Commission, Subcommittee on Fairness in the Adult Criminal Justice System: Bail and Pretrial Detention; and Charging, Plea Bargaining, and Sentencing (Nov. 13, 2015). Two press reports supplied. Videos are available at <http://courts.delaware.gov/supreme/docs/November-13-1st-session.mp4> and <http://courts.delaware.gov/supreme/docs/November%2013%202nd%20session.mp4>.

Open Letter in support of Harold Hongju Koh (undated but circa Apr. 2015). Copy supplied.

Open Letter from Members of the Penn Law School Faculty, *Sexual Assault Complaints: Protecting Complainants and the Accused Students at Universities* (Feb. 18, 2015). Copy supplied.

Joint letter to the U.S. Senate Judiciary Committee supporting the nomination of Cheryl A. Krause to become a judge on the United States Court of Appeals for the Third Circuit (Mar. 7, 2014). Copy supplied.

Joint Letter to the U.S. Senate Judiciary Committee supporting the nomination of John Owens to become a judge on the United States Court of Appeals for the Ninth Circuit (Sept. 20, 2013). Copy supplied.

Joint Letter to the U.S. Senate Judiciary Committee supporting the nomination of Rachel Barkow to become a U.S. Sentencing Commissioner (May 2, 2013). Copy supplied.

Joint Letter to the U.S. Senate Judiciary Committee supporting the nomination of Srikanth Srinivasan to become a judge on the United States Court of Appeals for the District of Columbia Circuit (Apr. 4, 2013). Copy supplied.

Responses to Questions Posed by Ranking Member Senator Grassley, U.S. Senate Judiciary Committee, *Ensuring That Federal Prosecutors Meet Discovery Obligations* (July 20, 2012). Copy supplied.

Letter to, and testimony before, the U.S. Senate Judiciary Committee, *Ensuring that Federal Prosecutors Meet Discovery Obligations* (letter dated June 5, testimony delivered June 6, 2012). Transcript excerpt and letter supplied.

Joint Letter to the U.S. Senate Judiciary Committee supporting the nomination of Caitlin Halligan to become a judge on the United States Court of Appeals for the District of Columbia Circuit (Feb. 28, 2011). Copy supplied.

Amicus brief of criminal law and habeas corpus scholars in support of the judgments below, *Hunter v. United States / Watts v. United States*, Nos. 09-13701-HH & 07-14422-HH (11th Cir. Sept. 17, 2010). Copy supplied.

Open Letter of Yale Law Alumni and Students in Support of Judge Alito (published as an advertisement Jan. 4, 2006 in *The Hill* and Jan. 8, 2006 in *Roll Call*). Copy supplied.

Testimony before the U.S. Sentencing Commission on the Future of the Sentencing Guidelines after *Blakely v. Washington* (Nov. 16, 2004). Copy supplied.

Open Letter of former Supreme Court clerks and appellate lawyers in response to *Vanity Fair* article, *LEGAL TIMES*, Sept. 27, 2004. Copy supplied.

- 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.

May 17, 2017: Speaker, "Mass Incarceration: The New Jim Crow or the New Big Government?," University of Chicago Law School, New York, NY. I based these remarks on *Prisoners Without Prisons*, my Sept. 21, 2015 *National Review* essay listed above and supplied in response to Question 12.a.

Apr. 2013 – Apr. 2017: Guest Lecturer, "THE MACHINERY OF CRIMINAL JUSTICE," law school classes, various cities. I made the following presentations:

Apr. 25, 2017; Apr. 25, 2016: Notre Dame Law School, South Bend, IN (via Skype).

Apr. 8 & 15, 2013; Apr. 21 & May 5, 2014; May 4 & 11, 2015: Drexel University, Philadelphia, PA.

I based these guest lectures / discussions on *THE MACHINERY OF CRIMINAL JUSTICE*, my 2012 book listed above and supplied in response to Question 12.a.

Feb. 2016 – Apr. 2017: Speaker, “Rationing Criminal Justice,” various cities. I made the following presentations:

Apr. 19, 2017: Board Meeting of the Quattrone Center for the Fair Administration of Justice, University of Pennsylvania Law School, Philadelphia, PA.

June 3, 2016: Law & Society Annual Meeting, New Orleans, LA.

Feb. 11, 2016: University of Arizona Law School, Tucson, AZ.

I based these remarks on *Rationing Criminal Justice*, my forthcoming 2017 *Michigan Law Review* coauthored article listed above and supplied in response to Question 12.a.

Mar. 27, 2017: Panelist/Questioner, Philadelphia DA Candidate Public Forum, University of Pennsylvania Law School, Philadelphia, PA. Video is available at <https://pennlaw.hosted.panopto.com/Panopto/Pages/Viewer.aspx?tid=f5ca381f-bd10-4714-aacf-c84b451a57f9>.

Mar. 20, 2017: Moderator, “What Policies Contribute to Inequality?,” symposium on inequality in criminal justice, Journal of Law & Public Affairs, University of Pennsylvania Law School, Philadelphia, PA. I have no notes, recording, or transcript. The address of the University of Pennsylvania Law School is 3501 Sansom Street, Philadelphia, PA 19104.

Nov. 18, 2016: Panelist, “De-Bureaucratization: Police and Prosecutors,” “Democratizing Criminal Justice” Symposium, Northwestern University Law School, Chicago, IL. I based these remarks on a draft of *Restoring Democratic Moral Judgment Within Bureaucratic Criminal Justice*, my forthcoming Summer 2017 *Northwestern University Law Review* symposium essay listed above and supplied in response to Question 12.a.

Nov. 17, 2016: Panelist, “Justice Scalia and the Criminal Law,” Federalist Society National Lawyers’ Convention, Washington, DC. I based these remarks on *Justice Scalia’s Originalism and Formalism: The Rule of Criminal Law as a Law of Rules*, my 2016 *Heritage Foundation* special report listed above and supplied in response to Question 12.a. Press report supplied. Video is available at <https://www.youtube.com/watch?v=dU1ZYPilAA8>.

Nov. 15, 2016: Panelist, “Post-Election Forum: The Role of Law and Legal Institutions,” University of Pennsylvania Law School, Philadelphia, PA. I have no notes, transcript, or recording. The address of the University of Pennsylvania Law School is 3501 Sansom Street, Philadelphia, PA 19104.

Oct. 24, 2016: Speaker, “Designing Plea Bargaining from the Ground Up,” Excited Utterance podcast series, done remotely from the University of Pennsylvania Law School, Philadelphia, PA. I based this talk on *Designing Plea Bargaining from the Ground Up: Accuracy and Fairness Without Trials as Backstops*, my 2016 *William & Mary Law Review* symposium essay listed above

and supplied in response to Question 12.a. Audio is available at <https://www.excitedutterancepodcast.com/listen/2016/10/24/10-stephanos-bibas>.

Sept. 29, 2016: Panelist, “Overcriminalization and Mass Incarceration,” The King’s College, New York, NY. I based these remarks on *Prisoners Without Prisons*, my Sept. 21, 2015 *National Review* essay listed above and supplied in response to Question 12.a. Videos are available at <https://www.youtube.com/watch?v=CJYIUoihXgE> and <https://www.youtube.com/watch?v=8aVue3T1RhC>.

Sept. 16, 2016: Speaker, “The Church and the Law,” continuing education session for clergy, St. Luke Orthodox Church, McLean, VA. I have no notes, transcript, or recording. The address of St. Luke Orthodox Church is 6801 Georgetown Pike, McLean, VA 22101.

Aug. 27, 2015 & Sept. 1, 2016: Panelist, “Difficult Conversations,” University of Pennsylvania Law School, Philadelphia, PA. I have no notes, transcript, or recording. The address of the University of Pennsylvania Law School is 3501 Sansom Street, Philadelphia, PA 19104.

June 13, 2016: Panelist, “Technology and the Provision of Legal Services to the Poor and Middle Class in the USA and Beyond,” International Legal Ethics Conference VII, Fordham Law School, New York, NY. I based my remarks upon a draft of *REBOOTING JUSTICE*, my forthcoming 2017 coauthored book listed above and supplied in response to Question 12.a.

May 19, 2016: Panelist, “The Legacy of Justice Scalia: Remembering a Conservative Legal Titan’s Impact on the Law,” The Heritage Foundation, Washington, DC. I based these remarks on *Justice Scalia’s Originalism and Formalism: The Rule of Criminal Law as a Law of Rules*, my 2016 *Heritage Foundation* special report listed above and supplied in response to Question 12.a. Press report supplied. Video is available at <https://www.youtube.com/watch?v=PutHkz99O1k>.

May 10, 2016: Commenter, “Debating Religious Liberty, Tolerance, and Discrimination,” James Madison Program, Princeton University, Princeton, NJ. Outline supplied.

Mar. 2, 2016: Panelist, “The Life & Legacy of Justice Antonin Scalia,” University of Pennsylvania Law School, Philadelphia, PA. I based these remarks on *Originalism and Formalism in Criminal Procedure: The Triumph of Justice Scalia, the Unlikely Friend of Criminal Defendants?*, my 2005 *Georgetown Law Journal* article listed above and supplied in response to Question 12.a.

Feb. 29, 2016: Panelist, “Land of the Free, Home of the Jailed?,” Federalist Society student chapter, Cardozo Law School, New York, NY. I have no notes, transcript, or recording. The address of the Cardozo Law School is 55 Fifth Avenue, New York, NY 10003.

Feb. 23, 2016: Speaker, “Faith and Career,” Christian Legal Society, student chapter, University of Pennsylvania Law School, Philadelphia, PA. I have no notes, transcript, or recording. The address of the Christian Legal Society student chapter is University of Pennsylvania Law School, 3501 Sansom Street, Philadelphia, PA 19104.

Jan. 26, 2016: Panelist, “Laws Without Morals Are Vain: Open Expression,” University of Pennsylvania, Philadelphia, PA. Two press reports supplied.

July – Nov. 2015: Speaker, “What’s Wrong With Sentencing Equality?,” faculty workshops, New York, NY. I made the following presentations:

Nov. 16, 2015: Cardozo Law School.

July 20, 2015: CrimFest Conference.

I based these remarks on a draft of *What’s Wrong With Sentencing Equality?*, my 2016 *Virginia Law Review* coauthored article listed above and supplied in response to Question 12.a.

Oct. 31, 2015: Panelist, “On Inequality and Family Well-Being: Mass Incarceration, Alternative Strategies, and Prison Re-Entry,” conference on “The Moynihan Report at 50: Reflections, Realities, and Prospects,” James Madison Program in American Ideals and Institutions, Princeton, NJ. I based these remarks on *Prisoners Without Prisons*, my Sept. 21, 2015 *National Review* essay listed above and supplied in response to Question 12.a.

Oct. 15, 2015: Panelist, “Guilty Pleas’ Contribution to Wrongful Convictions,” conference on “Elephants in the Courtroom: Examining Overlooked Issues in Wrongful Convictions,” NSF-NIJ Workshop, Arlington, VA. I believe I based my remarks on *Plea Bargaining’s Role in Wrongful Convictions*, my 2014 book chapter listed above and supplied in response to Question 12.a.

July 23, 2015: Discussion Leader, “College: What It Is, Was, and Should Be,” Collegium Institute, University of Pennsylvania, Philadelphia, PA. I have no notes, transcript, or recording. The address of the Collegium Institute is Leadership Hall, University of Pennsylvania, 3814 Walnut Street, Philadelphia, PA 19104.

May 26, 2015: Lecturer, “Legal Education Program for the Thai Judiciary: Introduction to Modern Criminal Procedure,” University of Pennsylvania Law School, Philadelphia, PA. Outline supplied.

May 18, 2015: Lecturer, “Legal Education Program for the Thai Judiciary: Federal Rules of Evidence: Principles and Rules of Relevance,” University of Pennsylvania Law School, Philadelphia, PA. Outline supplied.

May 13, 2015: Moderator, “Defining Quality in Prosecution,” conference on “Defining Quality in Criminal Justice,” Quattrone Center symposium, Philadelphia, PA. Video is available at <https://www.youtube.com/watch?v=FVG5CuijW2E>.

May 12, 2015: Moderator, “The Future of Religious Liberty in the Shadow of Obamacare,” University of Pennsylvania Law School Federalist Society student chapter debate, Philadelphia, PA. Video is available at <https://www.youtube.com/watch?v=y2oe9kDTLZM>.

Feb. – Apr. 2015: Speaker, “The Virtues of Inequalities?,” faculty workshops, various cities. I made the following presentations:

Apr. 21, 2015: University of Pennsylvania Law School, Philadelphia, PA.

Feb. 23, 2015: New York City Criminal Law Colloquium, New York, NY.

Feb. 11, 2015: University of Utah Law School, Salt Lake City, UT.

I based these workshops on a draft of what became *What’s Wrong With Sentencing Equality?*, my 2016 *Virginia Law Review* coauthored article listed above and supplied in response to Question 12.a.

Apr. 17, 2015: Speaker, “*Petrella v. MGM* and Laches in IP Cases,” Copyright Society of the USA presentation, Philadelphia, PA. I have no notes, transcript, or recording. The address of the Copyright Society of the USA is 1 East 53rd Street, Floor 8, New York, NY 10022.

Apr. 16, 2015: Panelist, “Civil Incarceration and the Right to Counsel,” University of Pennsylvania Law School Journal of Law and Social Change lunch discussion, Philadelphia, PA. I based these remarks on *Triaging Appointed-Counsel Funding and Pro Se Access to Justice*, my 2012 *University of Pennsylvania Law Review* coauthored article listed above and supplied in response to Question 12.a.

Mar. 31, 2015: Panelist, “Title IX Procedures,” American Constitution Society / Federalist Society student chapters, University of Pennsylvania Law School, Philadelphia, PA. I have no notes, transcript, or recording. The address of the University of Pennsylvania Law School is 3501 Sansom Street, Philadelphia, PA 19104.

Feb. 20, 2015: Panelist, “Designing Plea Bargaining from the Ground Up: Accuracy and Fairness Without Trials as Backstops,” William and Mary Law Review symposium, “Plea Bargaining Regulation: The Next Criminal Procedure Frontier,” Williamsburg, VA. I based these remarks on a draft of *Designing Plea Bargaining from the Ground Up: Accuracy and Fairness Without Trials as Backstops*, my 2016 *William & Mary Law Review* symposium essay listed above and supplied in response to Question 12.a.

Feb. 6, 2015: Moderator, “The New Leviathan: Re-Examining the Expansion of Federal Power,” University of Pennsylvania Federalist Society Student Chapter, University of Pennsylvania Law School, Philadelphia, PA. I have no notes, transcript, or recording. The address of the University of Pennsylvania Law School is 3501 Sansom Street, Philadelphia, PA 19104.

Feb. 3, 2015: Speaker, “Open Expression Committee Update,” Undergraduate Assembly Steering Committee, LGBT Center, University of Pennsylvania, Philadelphia, PA. I have no notes, transcript, or recording. The Undergraduate Assembly is part of Penn Student Government, whose address is 200 Houston Hall, 3417 Spruce Street, Philadelphia, PA 19104.

Oct. 7, 2014: Speaker, “Criminal Procedure in the Classroom, Courtroom, and Faculty Lounge: Real-World Scholarship, Teaching, and Advocacy,” Higgins Distinguished Visiting Lecture, Lewis & Clark Law School, Portland, OR. I have no notes, transcript, or recording. The address of the Lewis & Clark Law School is 10015 S.W. Terwiliger Boulevard, Portland, OR 97219.

Oct. 7, 2014: Speaker, “The Secret Ambition of Equality,” faculty workshop, Lewis & Clark Law School, Portland, OR. I based these remarks on the draft that became *What’s Wrong With Sentencing Equality?*, my 2016 *Virginia Law Review* coauthored article listed above and supplied in response to Question 12.a.

Sept. 12, 2014: Panelist, “*Petrella v. MGM*,” Supreme Court Intellectual Property Review 2014, IIT Chicago-Kent School of Law, Chicago, IL (via Skype). Video is available at <https://www.youtube.com/watch?v=y6KbavXkbj4>.

Apr. 24 – 25, 2014: Discussant, “Steering Committee Meeting Roundtable Discussion,” National Science Foundation Research Coordination Network on Guilty Pleas, University of Maryland, College Park, MD. I have no notes, transcript, or recording. The address of the National Science Foundation Research Coordination Network (RCN): Understanding Guilty Pleas is Rockefeller College of Public Affairs & Policy, University at Albany, 135 Western Avenue, Milne Hall 220, Albany, NY 12222.

Apr. 4, 2014: Moderator, “Fostering a Culture of Disclosure in Criminal Justice,” conference on “A Systems Approach to Conviction Integrity,” Quattrone Center



inaugural symposium, Philadelphia, PA. Video is available at <https://www.youtube.com/watch?v=liZGEsckeXE>.

Mar. 31, 2014: Commenter, “*Turner v. Rogers*,” Journal of Law & Social Change, University of Pennsylvania Law School, Philadelphia, PA. I have no notes, transcript, or recording. The address of the University of Pennsylvania Law School is 3501 Sansom Street, Philadelphia, PA 19104.

Nov. 2013 – Mar. 2014: Speaker / Debater, “*Gideon’s Failure*,” Federalist Society chapters, Philadelphia, PA. I made the following presentations:

Mar. 10, 2014: Philadelphia Lawyers’ chapter.

Nov. 21, 2013: Temple University Law School student chapter.

I based these remarks on *Triaging Appointed-Counsel Funding and Pro Se Access to Justice*, my 2012 *University of Pennsylvania Law Review* article listed above and supplied in response to Question 12.a.

Mar. 7, 2014: Speaker, “The Psychology of Wrongful Convictions,” panel on “Psycholegal Issues in Recent Cases,” American Psychology-Law Society Annual Conference, New Orleans, LA. I believe that I based my remarks on some combination of my 2014 book chapter *Plea Bargaining’s Role in Wrongful Convictions* and my 2017 article *The Psychology of Defendant Plea Decision-Making* in *The American Psychologist*, both listed above and supplied in response to Question 12.a.

Dec. 6, 2013: Discussant, “Roundtable Discussion on Incarceration and Economic Mobility,” The Heritage Foundation, Washington, DC. I have no notes, transcript, or recording. The address of the Heritage Foundation is 214 Massachusetts Avenue, N.E., Washington, DC 20002.

Nov. 14, 2013: Panelist, “Textualism and the Bill of Rights,” Federalist Society, National Lawyers’ Convention, Washington, DC. I based these remarks on *Originalism and Formalism in Criminal Procedure: The Triumph of Justice Scalia, the Unlikely Friend of Criminal Defendants?*, my 2012 *Georgetown Law Journal* article listed above and supplied in response to Question 12.a. Video is available at [https://www.youtube.com/watch?v=-lVBW29Dm\\_Q](https://www.youtube.com/watch?v=-lVBW29Dm_Q).

Nov. 1, 2013: Discussant, “Inaugural Dialogue,” Quattrone Center for the Fair Administration of Justice inaugural roundtable, Philadelphia, PA. Report summarizing discussion, *A Systems Approach to Error Reduction in Criminal Justice* (Feb. 1, 2014), supplied.

July 11, 2013: Speaker, “Scholars and Scribes Review the Rulings: The Supreme Court’s 2012–2013 Term,” The Heritage Foundation, Washington, DC. Two press reports supplied. Video is available at <https://www.youtube.com/watch?v=wsTwiXwN-3s>.

Apr. 5, 2013: Commenter, “The Criminal Regulatory State,” conference on “Theorizing the Modern Criminal State: Law and Sociology in Conversation,” New York University Law School, New York, NY. I based these remarks on a draft of *Improve, Dynamite, or Dissolve the Criminal Regulatory State?*, my 2017 book chapter listed above and supplied in response to Question 12.a.

Feb. 2012 – Mar. 2013: Speaker, “THE MACHINERY OF CRIMINAL JUSTICE,” various cities. I made the following presentations:

Mar. 5, 2013: University of the Pacific McGeorge School of Law, Federalist Society chapter, Sacramento, CA.

Mar. 5, 2013: University of California at Davis, Federalist Society chapter, Davis, CA.

Dec. 13, 2012: Northern New Jersey Lawyers’ Division, Federalist Society chapter, Morristown, NJ.

Nov. 26, 2012: New York University Law School, Hoffinger Colloquium, New York, NY.

Apr. 10, 2012: Princeton University, James Madison Program workshop, Princeton, NJ. Video is available at <https://jmp.princeton.edu/events/panel-discussion-stephanos-bibass-machinery-criminal-justice-oxford-university-press-2012>.

Feb. 14, 2012: University of Pennsylvania Law School book symposium, Philadelphia, PA.

I based my remarks upon THE MACHINERY OF CRIMINAL JUSTICE, my 2012 book listed above and supplied in response to Question 12.a.

Feb. 28, 2013: Panelist, “The Duties of Non-Judicial Actors in Ensuring Competent Negotiations,” symposium on “Plea Bargaining after *Lafler* and *Frye*,” Duquesne Law School, Pittsburgh, PA. I based these remarks on *The Duties of Non-Judicial Actors in Ensuring Competent Negotiation*, my 2013 *Duquesne Law Review* article listed above and supplied in response to Question 12.a.

Sept. 2012 – Feb. 2013: Speaker / Debater, “Making Prisoners Work,” Federalist Society student chapters, various cities. I made the following presentations:

Feb. 20, 2013: Harvard Law School, Cambridge, MA.

Sept. 10, 2012: Boston University Law School, Boston, MA.

I based my remarks upon part of Chapter VI of THE MACHINERY OF CRIMINAL JUSTICE, my 2012 book listed above and supplied in response to Question 12.a.

Apr. 2007 – Feb. 2013: Speaker, “Originalism and Formalism in Criminal Procedure: The Triumph of Justice Scalia, the Unlikely Friend of Criminal Defendants?,” Federalist Society student chapters, various cities. I made the following presentations:

- Feb. 4, 2013: Boston College Law School, Boston, MA.
- Oct. 21, 2010: Duke Law School, Durham, NC.
- Sept. 8, 2010: NYU Law School, New York, NY.
- Feb. 4, 2010: University of Minnesota Law School, Minneapolis, MN.
- Sept. 10, 2009: Vanderbilt University Law School, Nashville, TN.
- Sept. 3, 2009: Georgetown University Law Center, Washington, DC.
- Nov. 11, 2008: American University Washington College of Law, Washington, DC.
- Nov. 5, 2008: Arizona State University Law School, Phoenix, AZ.
- Nov. 4, 2008: University of Arizona James E. Rogers College of Law, Tucson, AZ.
- Oct. 9, 2008: Notre Dame Law School, South Bend, IN.
- Sept. 24, 2008: Western New England College of Law, Springfield, MA.
- Apr. 1, 2008: St. Louis University Law School, St. Louis, MO.
- Mar. 31, 2008: University of Missouri at Columbia, Columbia, MO.
- Mar. 20, 2008: Penn State / Dickinson School of Law, Carlisle, PA.
- Mar. 20, 2008: Widener Law School (Harrisburg), Harrisburg, PA.
- Nov. 30, 2007: University of Delaware Legal Studies Program, Newark, DE.
- Nov. 5, 2007: New England School of Law, Boston, MA.
- Nov. 5, 2007: Northeastern Law School, Boston, MA.
- Nov. 1, 2007: Philadelphia Lawyers’ Chapter, Philadelphia, PA.
- Oct. 24, 2007: Quinnipiac University Law School, Hamden, CT.
- Oct. 24, 2007: University of Connecticut Law School, Hartford, CT.
- Oct. 10, 2007: University of Cincinnati Law School, Cincinnati, OH.
- Oct. 8, 2007: Villanova University Law School, Villanova, PA.
- Sept. 28, 2007: Willamette University Law School, Salem, OR.
- Sept. 18, 2007: Temple University Law School, Philadelphia, PA.
- Sept. 6, 2007: Rutgers University Law School–Camden, Camden, NJ.
- Apr. 13, 2007: Marquette University Law School, Milwaukee, WI.
- Apr. 12, 2007: University of Wisconsin Law School, Madison, WI.
- Apr. 11, 2007: University of Chicago Law School, Chicago, IL. Press report supplied.
- Apr. 11, 2007: Northwestern University Law School, Chicago, IL.
- Apr. 10, 2007: University of Illinois Law School, Champaign, IL.

I based all of these remarks on *Originalism and Formalism in Criminal Procedure: The Triumph of Justice Scalia, the Unlikely Friend of Criminal Defendants?*, my 2005 *Georgetown Law Journal* article listed above and supplied in response to Question 12.a.

Sept. 2011 – Jan. 2013: Presenter, “Civil *Gideon*: Why the Government Shouldn’t Have to Provide Free Lawyers for the Poor,” Federalist Society student chapters, various cities. I made the following presentations:

- Jan. 30, 2013: University of Minnesota Law School, Minneapolis, MN.
- Mar. 27, 2012: St. Louis University Law School, St. Louis, MO.
- Mar. 13, 2012: George Washington Univ. Law School, Washington, DC.
- Feb. 7, 2012: University of Georgia Law School, Athens, GA.
- Nov. 30, 2011: Wayne State University Law School, Detroit, MI.
- Nov. 29, 2011: University of Toledo Law School, Toledo, OH.
- Nov. 10, 2011: University of Michigan Law School, Ann Arbor, MI.
- Nov. 9, 2011: University of Detroit-Mercy, Detroit, MI.
- Oct. 24, 2011: Lewis & Clark Law School, Portland, OR.
- Sept. 22, 2011: Penn State Law School, Carlisle, PA.
- Sept. 20, 2011: Rutgers University–Camden Law School, Camden, NJ.

I based all of these presentations on *Triaging Appointed-Counsel Funding and Pro Se Access to Justice*, my 2012 *University of Pennsylvania Law Review* article listed above and supplied in response to Question 12.a.

Jan. 23, 2013: Debater, “Overcriminalization debate,” Federalist Society student chapter, University of Pennsylvania Law School, Philadelphia, PA. I have no notes, transcript, or recording. The address of the University of Pennsylvania Law School is 3501 Sansom Street, Philadelphia, PA 19104.

Nov. 29, 2012: Guest Lecturer, Dostoyevsky and the Law, University of Pennsylvania, Philadelphia, PA. I have no notes, transcript, or recording. The class was part of the Department of Slavic Studies, whose address is University of Pennsylvania, 745 Williams Hall, 255 South 36th Street, Philadelphia, PA 19104.

Nov. 26, 2012: Co-Presenter (with Richard A. Bierschbach), “Constitutionally Tailoring Punishment,” NYU Criminal Theory Colloquium, New York, NY. Press report supplied. We based our presentation on a draft of *Constitutionally Tailoring Punishment*, our 2013 *Michigan Law Review* article listed and supplied in response to Question 12.a.

Nov. 19, 2012: Panelist, “Incompetent Plea Bargaining and Extrajudicial Reforms,” Harvard Law Review Supreme Court Forum, Harvard Law School, Cambridge, MA. I based my remarks on *The Supreme Court, 2011 Term – Comment: Incompetent Plea Bargaining and Extra-Judicial Reforms*, my 2012 *Harvard Law Review* article listed above and supplied in response to Question 12.a.

Nov. 9, 2012: Panelist, “Shrinking *Gideon* and Expanding Alternatives to Lawyers,” symposium on “*Gideon* at 50: Reassessing the Right to Counsel,” Washington & Lee Law School, Lexington, VA. I based my remarks on a draft of *Shrinking Gideon and Expanding Alternatives to Lawyers*, my 2013 *Washington & Lee Law Review* symposium essay listed above and supplied in response to Question 12.a. Video is available at [https://youtu.be/4\\_FM9RHvA5c](https://youtu.be/4_FM9RHvA5c).

Oct. 26, 2012: Panelist, “Plea Bargaining,” American Bar Association conference on effective assistance of counsel, Washington, DC. I have no notes, transcript, or recording. The address of the American Bar Association is 321 North Clark Street, Chicago, IL 60654.

Sept. 2011 – Sept. 2012: Speaker, “It’s OK to Be a Conservative or Libertarian,” Federalist Society student chapters, various cities. I made the following presentations:

Sept. 28, 2011 & Sept. 26, 2012: University of Pennsylvania Law School, Philadelphia, PA.

Sept. 14, 2011: Seton Hall University Law School, Newark, NJ.

I have no notes, transcript, or recording of any of these talks. The address of the University of Pennsylvania Law School is 3501 Sansom Street, Philadelphia, PA 19104. The address of the Seton Hall University Law School is 1109 Raymond Boulevard, Newark, NJ 07102.

Sept. 20, 2012: Speaker, “The Legal Dimensions of Priestly Ministry: Personal, Parochial, and Pastoral,” clergy continuing education program, St. Nicholas Orthodox Church, Bethlehem, PA. Press report and videos supplied.

Sept. 13, 2012: Speaker, “A Prosecutor’s Perspective on the Use and Misuse of Neuroscience in the Courtroom,” MacArthur Foundation Law and Neuroscience Project, Cambridge, MA. I have no notes, transcript, or recording. The address of the MacArthur Foundation Law and Neuroscience Project is Vanderbilt University Law School, 131 21st Avenue South, Nashville, TN 37203.

Sept. 4, 2012: Orientation Speaker, “Welcome,” Department of Criminology, University of Pennsylvania, Philadelphia, PA. I have no notes, transcript, or recording. The address of the Department of Criminology of the University of Pennsylvania is 483 McNeil Building, 3718 Locust Walk, Philadelphia, PA 19104.

June 9, 2012: Keynote Speaker, “The Pitfalls of Assembly-Line Justice,” National Crime Victim Law Institute, 2012 Crime Victim Law Conference, Portland, OR. Press report supplied. I based my remarks upon *THE MACHINERY OF CRIMINAL JUSTICE*, my 2012 book listed above and supplied in response to Question 12.a.

June 8, 2012: Speaker, “*THE MACHINERY OF CRIMINAL JUSTICE*,” The Federalist Society Faculty Book Podcast, remotely from Philadelphia, PA. I based my

remarks upon THE MACHINERY OF CRIMINAL JUSTICE, my 2012 book listed above and supplied in response to Question 12.a.

June 6, 2012: Questioner, "Health Care Reform's Big Test: Congress and the Constitution," National Constitution Center, Philadelphia, PA. Video is available at [http://library.fora.tv/2012/06/06/Health\\_Care\\_Reforms\\_Big\\_Test\\_Commerce\\_and\\_the\\_Constitution](http://library.fora.tv/2012/06/06/Health_Care_Reforms_Big_Test_Commerce_and_the_Constitution).

June 4, 2012: Cross-examiner for the Prosecution, "Neurolaw Mock Trial," Center for Neuroscience and Society, University of Pennsylvania, Philadelphia, PA. I have no notes, transcript, or recording. The address of the Center for Neuroscience and Society is University of Pennsylvania, 3740 Hamilton Walk, Philadelphia, PA 19104.

Apr. 6, 2012: Panelist, "Justice Kennedy's Sixth Amendment Pragmatism," symposium on the evolution of Justice Kennedy's jurisprudence, University of the Pacific McGeorge School of Law, Sacramento, CA. I based my remarks upon a draft of *Justice Kennedy's Sixth Amendment Pragmatism*, my 2013 *McGeorge Law Review* symposium essay listed above and supplied in response to Question 12.a.

Posted Apr. 2, 2012: Speaker, "Stephanos Bibas analyzes key problems with American criminal justice system in latest book," University of Pennsylvania recording / podcast from Philadelphia, PA. I based my remarks upon THE MACHINERY OF CRIMINAL JUSTICE, my 2012 book listed above and supplied in response to Question 12.a. Video is available at <https://www.youtube.com/watch?v=pYQo1M2OrEg>.

Oct. 2009 – Mar. 2012: Presenter, "The Emotional Value of Capital Punishment," Federalist Society chapters, various cities. I made the following presentations:

Mar. 7, 2012: University of Miami Law School, Miami, FL.

Mar. 6, 2012: Stetson University Law School, Tampa, FL.

Oct. 22, 2009: Florida State University Law School, Tallahassee, FL.

Oct. 21, 2009: University of Florida Law School, Gainesville, FL.

I based all of these presentations on *Engaging Capital Emotions*, my 2008 *Northwestern Law Review Colloquy* coauthored essay listed above and supplied in response to Question 12.a.

Feb. 2012: Speaker, "Notice-and-Comment Sentencing," faculty workshops, various cities. I made the following presentations:

Feb. 16, 2012: Loyola University-Los Angeles, Los Angeles, CA.

Feb. 14, 2012: University of Pennsylvania Law School, Philadelphia, PA.

I based my remarks upon a draft of *Notice-and-Comment Sentencing*, my 2012 *Minnesota Law Review* coauthored article listed above and supplied in response to Question 12.a.

Feb. 2, 2012: Speaker, "Teaching by Litigation at the Supreme Court: The New World of Crimmigration," DC Alumni of the University of Pennsylvania Law School, Washington, DC. I have no notes, transcript, or recording. The address of the alumni office is University of Pennsylvania Law School, 3501 Sansom Street, Philadelphia, PA 19104.

Jan. 19, 2012: Panelist, "A Debate About Original Intent," Federalist Society, Philadelphia Lawyers' chapter. Press announcement supplied. I have no notes, transcript, or recording. The address of the Federalist Society is 1776 I Street, N.W., Suite 300, Washington, DC 20006.

Dec. 7, 2011: Panelist, "Rights in the Bargain: Developments in Plea Bargaining," Criminal Justice Theory & Practice Workshop, Yale Law School, New Haven, CT. I have no notes, transcript, or recording. The address of the Yale Law School is 127 Wall Street, New Haven, CT 06511.

Late 2004 – Nov. 2011: Speaker, "Serving and Leading with All Faithfulness," various cities. Copy supplied. I made the following presentations:

Nov. 30, 2011: University of Pennsylvania Law School, Christian Legal Society chapter, Philadelphia, PA.

Late 2004: InterVarsity Graduate Christian Fellowship, University of Iowa, Iowa City, IA.

Oct. 16, 2011: Speaker, "What Really Goes on at the Supreme Court," presentation, One Day University, New York, NY. I have no notes, transcript, or recording. The address of One Day University is 850 Seventh Avenue, Suite 600, New York, NY, 10019.

Aug. 1, 2011: Speaker, "Bullcoming v. New Mexico," Federalist Society Post-Decision SCOTUSCast, remotely from Philadelphia, PA. Audio recording available at <http://www.fed-soc.org/multimedia/detail/bullcoming-v-new-mexico-post-decision-scotuscast>.

Apr. 12, 2011: Panelist, "Prosecuting 'Smart on Crime,'" Criminal Justice Theory & Practice Workshop, Yale Law School, New Haven, CT. I have no notes, transcript, or recording. The address of the Yale Law School is 127 Wall Street, New Haven, CT 06511.

Apr. 7–9, 2011: Invited Participant, Comparative Study of Prosecution Systems, University of Minnesota Law School, Minneapolis, MN. I have no notes, transcript, or recording. The address of the University of Minnesota Law School is Walter F. Mondale Hall, 229 19th Avenue South, Minneapolis, MN 55455.

Feb. 25, 2011: Speaker, "Improving Guilty Pleas Post-*Padilla*," symposium on *The Aftermath of Padilla v. Kentucky: A New Era for Plea Bargaining and Sentencing?*, St. Louis University Law School, St. Louis, MO. I based these

remarks on a draft of *The Myth of the Fully Informed Rational Actor*, my 2011 *St. Louis University Public Law Review* symposium essay listed above and supplied in response to Question 12.a.

Jan. – Feb. 2011: Speaker, “Returning Power to Laymen in a Lawyer-Driven System,” various cities. I made the following presentations:

Feb. 24, 2011: Loyola University Chicago, faculty workshop, Chicago, IL

Jan. 22, 2011: One Day University, New York, NY. Short outline and longer outline supplied.

I based these talks on a draft of Chapter VI of *THE MACHINERY OF CRIMINAL JUSTICE*, my 2012 book listed above and supplied in response to Question 12.a.

Feb. 11, 2011: Moderator, “Profiling and Consent: Regulation and Institutional Reform in Policing,” University of Pennsylvania Department of Criminology, Philadelphia, PA. I have no notes, transcript, or recording. The address of the University of Pennsylvania Department of Criminology is 483 McNeil Building, 3718 Locust Walk, Philadelphia, PA 19104.

Nov. 30, 2010: Speaker, Developing as a Scholar, Legal Scholarship Seminar, University of Pennsylvania Law School, Philadelphia, PA. I have no notes, transcript, or recording. The address of the University of Pennsylvania Law School is 3501 Sansom Street, Philadelphia, PA 19104.

Nov. 14, 2009 & Nov. 23, 2010: Panelist, panel of former Supreme Court Clerks, Supreme Court Practice and Process Seminar, University of Pennsylvania Law School, Philadelphia, PA. I have no notes, transcript, or recording. The address of the University of Pennsylvania Law School is 3501 Sansom Street, Philadelphia, PA 19104.

Oct. 22, 2010: Panelist, “Fourth Amendment Limits on Mandatory DNA Testing: North Carolina House Bill 1403,” Campbell University Federalist Society, Raleigh, NC. Press report supplied. I have no notes, transcript, or recording. The address of the Norman Adrian Wiggins School of Law at Campbell University is 225 Hillsborough Street, Suite 102, Raleigh, NC 27603.

Mar. 31, 2010: Speaker, Temple Ambler Criminal Justice Society at the campus in Ambler, PA. I have no notes, transcript, or recording. The address of Temple University Ambler Campus Criminal Justice Society is 580 Meetinghouse Road, Ambler, PA 19002.

Jan. – Mar. 2010: Speaker, “Popular Moral Discourse Versus Assembly-Line Efficiency,” faculty workshops, various cities. I made the following presentations:

Mar. 1, 2010: Rutgers University–Camden Law School, Camden, NJ.

Feb. 4, 2010: University of Minnesota, Minneapolis, MN.

Jan. 20, 2010: University of Pennsylvania Law School, Philadelphia, PA.



I based all of these presentations on a draft of chapter V of THE MACHINERY OF CRIMINAL JUSTICE, my 2012 book listed above and supplied in response to Question 12.a.

Feb. 27, 2010: Panelist, “Originalism in Criminal Procedure: Ancient Checks or Newfangled Rights?,” Originalism 2.0 Federalist Society National Student Symposium, University of Pennsylvania Law School, Philadelphia, PA. I based my remarks on a draft of *Two Cheers, Not Three, for Sixth Amendment Originalism*, my 2011 *Harvard Journal of Law and Public Policy* symposium essay listed above and produced in response to Question 12.a. Videos are available at <https://www.youtube.com/watch?v=MpILd41pGcY>, [https://www.youtube.com/watch?v=Bd1Ur1\\_Xk-Q](https://www.youtube.com/watch?v=Bd1Ur1_Xk-Q), and <https://www.youtube.com/watch?v=3VcsIsIT5c>.

Feb. 3, 2010: Speaker, “Popular Moral Discourse Versus Assembly-Line Efficiency,” distinguished criminal law lecture, and “The Emotional Value of Capital Punishment,” debate, Federalist Society student chapter, University of Houston Law Center, Houston, TX. Press report covering both presentations supplied. I based the first presentation on a draft of chapter V of THE MACHINERY OF CRIMINAL JUSTICE, my 2012 book listed above and supplied in response to Question 12.a. I based the second presentation on *Engaging Capital Emotions*, my 2008 *Northwestern University Law Review Colloquy* coauthored essay listed above and supplied in response to Question 12.a.

Jan. 19, 2010: Commenter, book symposium on RACE, WRONGS, AND REMEDIES, University of Pennsylvania Law School, Philadelphia, PA. Outline supplied.

Nov. 17, 2009: Panelist, “The Dangers of Excessive Originalism,” symposium on originalism and the jury, The Moritz College of Law at The Ohio State University, Columbus, OH. I believe I based my remarks on *Originalism and Formalism in Criminal Procedure*, my 2005 *Georgetown Law Journal* article listed above and supplied in response to Question 12.a.

Nov. 15 – 16, 2009: Reporter, breakout session on prosecutorial training and supervision, conference on “New Perspectives on *Brady* and Other Disclosure Obligations: What Really Works?,” Cardozo School of Law, Yeshiva University, New York, NY. I was the reporter for what became Part III of *New Perspectives on Brady and Other Disclosure Obligations: What Really Works?*, my 2010 *Cardozo Law Review* article / report listed above and supplied in response to Question 12.a.

Oct. 17, 2009: Presenter, “The Need for Prosecutorial Discretion,” symposium on modern approaches to prosecutorial discretion, Temple University James E. Beasley School of Law, Philadelphia, PA. Press report supplied. I based my remarks upon an early version of *The Need for Prosecutorial Discretion*, my 2010

*Temple Political & Civil Rights Law Review* symposium essay listed above and supplied in response to Question 12.a.

Sept. – Oct. 2009: Speaker, “Whose Voices Belong in Criminal Justice?,” faculty workshops, various cities. I made the following presentations:

Oct. 23, 2009: Florida State University Law School, Tallahassee, FL.

Sept. 21, 2009: University of Pennsylvania Law School, faculty retreat, held off-site in Villanova, PA.

Sept. 4, 2009: American University Washington College of Law, Washington, DC.

I based all of these presentations on a draft of chapter IV of *THE MACHINERY OF CRIMINAL JUSTICE*, my 2012 book listed above and supplied in response to Question 12.a.

June – Sept. 2009: Presenter, “Corporal Punishment, Not Imprisonment,” workshops, various cities. Last draft supplied. I made the following presentations:

Sept. 12, 2009: Vanderbilt Criminal Justice Roundtable, Nashville, TN.

July 20, 2009: George Washington Univ. Law School, Washington, DC.

June 8, 2009: University of Pennsylvania Law School, Philadelphia, PA.

Aug. 11 – 12, 2009: Moderator/Discussant, *Retribution and Justice: Federalist Society Faculty Colloquium*, Aspen, CO. I have no notes, transcript, or recording. The address of the Federalist Society for Law and Public Policy Studies is 1776 I Street, N.W., Suite 300, Washington, DC 20006.

Mar. 20, 2009: Moderator, “Does the Punishment Fit the Crime? A Debate on Sentencing Practices,” Sparer Symposium, University of Pennsylvania Law School, Philadelphia, PA. Press report supplied. I have no notes, transcript, or recording. The address of the University of Pennsylvania Law School is 3501 Sansom Street, Philadelphia, PA 19104.

Feb. 19, 2009: Moderator and Questioner, Philadelphia DA Candidate Debate, University of Pennsylvania, Philadelphia, PA. I have no notes, transcript, or recording. The address of the University of Pennsylvania Law School is 3501 Sansom Street, Philadelphia, PA 19104.

Jan. 17, 2009: Speaker, “Criminal Justice in America: Are Lawyers Subverting Criminal Justice in Our Courts?,” One Day University, Wellesley, MA. Outline supplied. I based my presentation on a draft of chapter II of *THE MACHINERY OF CRIMINAL JUSTICE*, my 2012 book listed above and supplied in response to Question 12.a.

Nov. 12, 2008: Co-Presenter (with William W. Burke-White), “International Idealism Meets Domestic-Criminal-Procedure Realism,” faculty workshop, University of Pennsylvania Law School, Philadelphia, PA. I based this workshop upon an early draft of *International Idealism Meets Domestic-Criminal-*

*Procedure Realism*, my 2010 *Duke Law Journal* article listed above and supplied in response to Question 12.a.

Nov. 2008: Speaker, “Opaque, Unresponsive Criminal Justice,” faculty workshops, various cities. I made the following presentations:

Nov. 5, 2008: Arizona State University. Sandra Day O’Connor College of Law, Phoenix, AZ.

Nov. 3, 2008: University of Arizona James E. Rogers College of Law, Tucson, AZ.

I based these presentations on a draft of chapter II of *THE MACHINERY OF CRIMINAL JUSTICE*, my 2012 book listed above and supplied in response to Question 12.a.

Oct. 31, 2008: Presenter, “The Long Drift from Morality Play to Assembly Line,” faculty workshop, Notre Dame Law School, South Bend, IN. I based this presentation on a draft of chapter I of *THE MACHINERY OF CRIMINAL JUSTICE*, my 2012 book listed above and supplied in response to Question 12.a.

July 19, 2008: Presenter, “Law and Justice in America – a 250 Year History,” One Day University, New York, NY. PowerPoint slides, outline, and press report supplied. I based this presentation on a draft of chapters I and II of *THE MACHINERY OF CRIMINAL JUSTICE*, my 2012 book listed above and supplied in response to Question 12.a.

July 2, 2008: Presenter, “Paying Prosecutors for Performance,” Ohio State Journal of Criminal Law roundtable discussion, Moritz College of Law at the Ohio State University, Columbus, OH. I based my remarks upon an early draft of *Rewarding Prosecutors for Performance*, my 2009 *Ohio State Journal of Criminal Law* symposium essay listed above and supplied in response to Question 12.a.

Mar. 3, 2008: Co-Presenter (with Susan R. Klein), “The Sixth Amendment and Criminal Sentencing,” *Cardozo Law Review* symposium on the future of self-incrimination: the Fifth Amendment, confessions, and guilty pleas, Cardozo Law School, New York, NY. We based our joint presentation upon an early draft of *The Sixth Amendment and Criminal Sentencing*, our 2008 *Cardozo Law Review* coauthored symposium essay listed above and supplied in response to Question 12.a.

Dec. 17, 2007: Presenter, “*Kimbrough v. United States and Gall v. United States*,” The Federalist Society, SCOTUSCast, remotely from Philadelphia, PA. Audio recording available at <http://www.fed-soc.org/multimedia/detail/scotuscast-12-17-07-featuring-stephanos-bibas>.

Oct. 3, 2007: Moderator, debate on the United States military’s “Don’t Ask, Don’t Tell” policy, University of Pennsylvania Law School, Federalist Society student chapter, Philadelphia, PA. I have no notes, transcript, or recording. The address

of the University of Pennsylvania Law School is 3501 Sansom Street, Philadelphia, PA 19104.

Sept. 28, 2007: Speaker, "Restoring Values and Relationships to Criminal Procedure," Willamette University College of Law, Salem, OR. I based this presentation on a draft of chapter III of *THE MACHINERY OF CRIMINAL JUSTICE*, my 2012 book listed above and supplied in response to Question 12.a.

Sept. 27, 2007: Speaker, "The Gulf Between Insiders and Outsiders in Criminal Justice," Willamette Center for Law and Government, Willamette University College of Law, Salem, OR. I based this presentation on a draft of chapter II of *THE MACHINERY OF CRIMINAL JUSTICE*, my 2012 book listed above and supplied in response to Question 12.a.

July 12, 2007: Speaker, "Sentencing After *Rita*," Eighth and Tenth Circuit Judges' Conference, Vail, CO. Copy supplied. I based this presentation on *Rita v. United States Leaves More Open Than It Answers*, my 2007 *Federal Sentencing Reporter* essay listed above and supplied in response to Question 12.a.

May 3, 2007: Speaker, "Forgiveness in Criminal Procedure," colloquium on justice and mercy in Jewish and Christian tradition and American criminal law, Harvard Law School and Harvard Divinity School, Cambridge, MA. I based my remarks on *Forgiveness in Criminal Procedure*, my 2007 *Ohio State Journal of Criminal Law* article listed above and supplied in response to Question 12.a.

Apr. 14, 2007: Commenter, "The Effects of Cognitive Biases on Plea Negotiations," conference on understanding and improving dispute resolution in criminal law, Marquette Law School, Milwaukee, WI. I have no notes, transcript, or recording. The address of the Marquette Law School is 1215 West Michigan Street, Milwaukee, WI 53222.

Oct. 28, 2006: Presenter, "The Rehnquist Court's Fifth Amendment Incrementalism," panel on criminal justice, George Washington Law Review symposium on the legacy of the Rehnquist Court, George Washington University Law School, Washington, DC. I based my presentation upon a draft of *The Rehnquist Court's Fifth Amendment Incrementalism*, my 2006 *George Washington University Law Review* symposium essay listed above and supplied in response to Question 12.a.

Oct. 21, 2006: Discussant, "Roundtable discussion on the future of *Miranda v. Arizona*," conference on Cautions and Confessions: *Miranda v. Arizona* After 40 Years, University of Colorado Law School, Boulder, CO. I have no notes, transcript, or recording. The address of the University of Colorado Law School is Wolf Law Building, 401 UCB, 3450 Kittredge Loop Road, Boulder, CO 80309.

Summer 2005 – Feb. 2006: Speaker, “Transparency and Participation in Criminal Procedure,” faculty workshops, various cities. I made the following presentations:

Feb. 9, 2006: University of Chicago Law School, Chicago, IL.

Oct. 26, 2005: Temple University Law School, Philadelphia, PA.

Fall 2005: University of Pennsylvania Law School, Philadelphia, PA.

Summer 2005: University of Iowa College of Law, Iowa City, IA.

I based my remarks upon a draft of *Transparency and Participation in Criminal Procedure*, my 2006 *NYU Law Review* article listed above and supplied in response to Question 12.a.

Apr. 20, 2005: Speaker, “*Roper v. Simmons*, *Booker v. United States*, and the Divergence of Capital and Non-Capital Sentencing Law,” Seasongood Foundation College Visitor Series Speech, University of Cincinnati College of Law, Cincinnati, OH. I have no notes, transcript, or recording. The address of the University of Cincinnati College of Law is P.O. Box 210040, Clifton Avenue & Calhoun Street, Cincinnati, OH 45221.

Mar. 25, 2005: Speaker, “White-Collar Plea Bargaining and Sentencing After *Booker*,” Symposium, Institute of Bill of Rights Law, William & Mary Law School, Williamsburg, VA. I based my remarks upon a draft of *White-Collar Plea Bargaining and Sentencing After Booker*, my 2005 *William & Mary Law Review* article listed above and supplied in response to Question 12.a.

Feb. 4, 2005: Panelist, “Faith in the Contemporary University,” Finding God at Iowa, University of Iowa, Iowa Memorial Union, Iowa City, IA. Press report supplied. I have no notes, transcript, or recording. The address of the Iowa Memorial Union is 125 North Madison Street, Iowa City, IA 52242.

Sept. 2003 – Jan. 2005: Speaker, “Plea Bargaining Outside the Shadow of Trial,” faculty workshops, various cities. I made the following presentations:

Jan. 31, 2005: University of Nebraska Law School, Lincoln, NE.

Jan. 14, 2005: University of Chicago Law School Colloquium on Crime & Punishment, Chicago, IL.

Dec. 13, 2004: University of Pennsylvania Law School, Philadelphia, PA.

Sept. 12, 2003: University of Iowa College of Law, Iowa City, IA.

I based all of these presentations upon *Plea Bargaining Outside the Shadow of Trial*, my 2004 *Harvard Law Review* article listed above and supplied in response to Question 12.a.

Jan. 2005: Speaker, “Will Originalism and Formalism Save Criminal Procedure or Destroy It?,” Federalist Society panels, various cities. I made the following presentations:

Jan. 27, 2005: Duke Law School student chapter, debate with Professor Sara Sun Beale, Durham, NC. Video is available at <https://www.youtube.com/watch?v=a-WashkGadQ>.

Jan. 7, 2005: Federalist Society Faculty Conference, panelist, San Francisco, CA.

I based all of these remarks on a draft of *Originalism and Formalism in Criminal Procedure: The Triumph of Justice Scalia, the Unlikely Friend of Criminal Defendants?*, my 2005 *Georgetown Law Journal* article listed above and supplied in response to Question 12.a.

Oct. 9, 2004: “*Blakely v. Washington* and the Crumbling Divide Between Criminal Procedure and Substantive Law,” at *The Future of American Sentencing: A National Roundtable on Blakely*, Stanford Law School, Stanford, CA. My remarks are excerpted in *The Future of American Sentencing: A National Roundtable on Blakely*, the 2004 *Federal Sentencing Reporter* and 2005 *Ohio State Journal of Criminal Law* partial transcripts listed above and supplied in response to Question 12.a.

July 14, 2004: Speaker, “*Blakely’s* Federal Aftermath,” Eighth Circuit Judicial Conference, Rapid City, SD. I based my remarks upon a draft of *Blakely’s Federal Aftermath*, my 2004 *Federal Sentencing Reporter* essay listed above and supplied in response to Question 12.a.

May 30, 2004: Speaker, “*Apprendi* Updates” Panel, Federal Bar Association & U.S. Sentencing Commission National Seminar on the Federal Sentencing Guidelines, Miami, FL. I have no notes, transcript, or recording. The address of the Federal Bar Association is 1220 North Fillmore Street, Suite 444, Arlington, VA 22201. The address of the U.S. Sentencing Commission is One Columbus Circle, NE, Suite 2-500, South Lobby, Washington, DC 20002.

Feb. 20, 2004: Speaker, “Integrating Remorse and Apology into Criminal Procedure,” faculty workshop, University of Iowa College of Law, Iowa City, IA. I based my remarks on a draft of *Integrating Remorse and Apology into Criminal Procedure*, my 2004 *Yale Law Journal* essay listed above and supplied in response to Question 12.a.

July 19, 2003: Speaker, “*Apprendi* in the States: The Virtues of Federalism as a Structural Limit on Errors,” Council of Appellate Staff Attorneys, Columbia, SC. I based my remarks on a draft of *Apprendi in the States: The Virtues of Federalism as a Structural Limit on Errors*, my 2003 *Journal of Criminal Law & Criminology* article listed above and supplied in response to Question 12.a.

May 30, 2003: Panelist, “Plea Bargaining Under the Federal Sentencing Guidelines,” Federal Bar Association & U.S. Sentencing Commission National Seminar on the Federal Sentencing Guidelines, Miami Beach, FL. I have no notes, transcript, or recording. The address of the Federal Bar Association is 1220 North Fillmore Street, Suite 444, Arlington, VA 22201. The address of the U.S. Sentencing Commission is One Columbus Circle, NE, Suite 2-500, South Lobby, Washington, DC 20002.

May 17, 2003: Speaker, "Ineffective Assistance of Counsel," Lexis/Nexis Criminal Procedure Discussion Forum, Washington & Lee University Law School, Lexington, VA. I based my remarks on a draft of *The Psychology of Hindsight and After-the-Fact Review of Ineffective Assistance of Counsel*, my 2004 *Utah Law Review* article listed above and supplied in response to Question 12.a.

Sept. – Oct. 2002: Speaker, "Harmonizing Substantive Criminal Law Values and Criminal Procedure: The Case of *Alford* and Nolo Contendere Pleas," faculty workshops, various cities. I made the following presentations:

Oct. 31, 2002: Northwestern University Law School, Chicago, IL.

Oct. 3, 2002: University of Kansas Law School, Lawrence, KS.

Sept. 20, 2002: University of St. Thomas Law School, Minneapolis, MN.

Sept. 5, 2002: University of Iowa College of Law, Iowa City, IA.

I based all of these presentations on a draft of *Harmonizing Substantive-Criminal-Law Values and Criminal Procedure*, my 2003 *Cornell Law Review* article listed above and supplied in response to Question 12.a.

2002: Speaker, presentation on Greek Orthodox Christianity, Iowa City, IA. I made the following presentations:

Oct. 16, 2002: St. Thomas More Catholic Church. Press report supplied.

Winter/Spring 2002: Lecture series on a similar topic to the

Congregational United Church of Christ; I cannot recall the exact dates.

I have no notes, transcript, or recording. The St. Thomas More Catholic Church has now moved to 3000 12th Avenue, Coralville, IA 52241. The Congregational United Church of Christ is at 30 N. Clinton St., Iowa City, IA 52245.

Feb. 14, 2002: Speaker (two presentations), "Judicial Restrictions on Judicial Sentencing," Loyola University Chicago Law School, Chicago, IL. I based my remarks on *Judicial Fact-Finding and Sentence Enhancements in a World of Guilty Pleas*, my 2001 *Yale Law Journal* article listed above and supplied in response to Question 12.a.

June 2, 2001: "Apprendi's Perverse Effects on Guilty Pleas Under the Federal Sentencing Guidelines," National Symposium on the Federal Sentencing Guidelines, University of Iowa, Iowa City, IA. Outline and press report supplied. I based my remarks on *Judicial Fact-Finding and Sentence Enhancements in a World of Guilty Pleas*, my 2001 *Yale Law Journal* article listed above and supplied in response to Question 12.a.

Nov. 2000 – Jan. 2001: Speaker, "Judicial Fact-Finding and Sentence Enhancements in a World of Guilty Pleas," law school job talks, various cities. I made the following presentations:

Nov. 2000: University of Iowa College of Law, Iowa City, IA.

Nov. 2000: University of Florida Levin College of Law, Gainesville, FL.

Nov. or Dec. 2000: George Washington University Law School, Washington, DC.

Nov. or Dec. 2000: Boston College Law School, Boston, MA.

Nov. or Dec. 2000: Ave Maria Law School, Ann Arbor, MI.

Nov. or Dec. 2000: Yeshiva University Cardozo School of Law, New York, NY.

Nov. or Dec. 2000 or Jan. 2001: University of Arizona Law School, Tucson, AZ.

Nov. or Dec. 2000 or Jan. 2001: Loyola University Chicago Law School, Chicago, IL.

Dec. 2000 or Jan. 2001: Hofstra University Law School, Hempstead, NY.

I based all of these presentations on drafts of *Judicial Fact-Finding and Sentence Enhancements in a World of Guilty Pleas*, my 2001 *Yale Law Journal* article listed above and supplied in response to Question 12.a.

- 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.

I exclude one article that quotes my cousin with the same name (Greg Wilson, *News E-Poll Finds Huge Support for a Third Rudy Term*, DAILY NEWS, Sept. 25, 2001).

*Penn Law Prof. Stephanos Bibas to Be Nominated to U.S. Third Circuit Court of Appeals*, PENN LAW (June 7, 2017) (reprinted in multiple outlets). Copy supplied.

Cherri Gregg, *Gorsuch Sworn In: Expert Analysis on His Impact on Supreme Court*, CBS PHILLY (Apr. 10, 2017). Copy supplied.

Keith L. Alexander, *A Question*, WASH. POST, Mar. 26, 2017, at A27. Copy supplied.

Keith L. Alexander, *32 Years after a Horrific Murder, One Man Wants Justice. Another Just Wants an Ending; Supreme Court to Hear Appeal from Men Convicted of Killing Catherine Fuller*, WASH. POST BLOGS (Mar. 22, 2017). Copy supplied.

Jody Godoy, *Justices to Decide if Guilty Plea Ends Constitutional Claims*, LAW360 (Feb. 21, 2017). Copy supplied.

Stephanos Bibas, Kimberly Robinson, & Felicia Lin, *Neil Gorsuch and Beyond: Trump's Supreme Court picks*, CASE IN POINT (Feb. 20, 2017). Video is available at <http://www.caseinpoint.org/live/news/6845-neil-gorsuch-and-beyond-trumps-supreme-court-picks#.WRsALty1taR>.



*Penn Law Faculty Comment on Supreme Court Nominee Neil Gorsuch*, PENN LAW FACULTY PERSPECTIVES (Jan. 31, 2017). Copy supplied.

On Jan. 31, 2017, I also gave interviews on the nomination of Neil Gorsuch to Fox News and ABC 6 in Philadelphia, and know that at least one of these interviews aired on television, but I cannot locate clips of these interviews.

Cherri Gregg, *Local Expert Weighs in on Potential SCOTUS Picks*, CBS PHILLY (Jan. 30, 2017). Copy supplied.

The Federalist Society, *Justice Scalia and the Criminal Law*, YOUTUBE (Nov. 17, 2016). Video is available at <https://youtu.be/dU1ZYPiAA8>.

Adam Duvernay & Jeff Mordock, *Trump's Impact on Abortion, Gun Rights Could Grow in Time*, NEWS J., Nov. 10, 2016, at A5. Copy supplied.

Sean Fine, *Trump Has Chance to Leave Mark on Supreme Court, Create Legacy on Policies; The President-Elect Is Expected to Fill Decisive Vacancy with Conservative Appointment, but Other Seats Could Soon Be Open as Well*, GLOBEANDMAIL.COM (Nov. 9, 2016). Copy supplied.

*Penn Law Faculty Respond to Presidential Election Result*, PENN LAW FACULTY PERSPECTIVES (Nov. 9, 2016). Copy supplied.

George Joseph, *Eric Holder Wants to End Bail as We Know It*, ATLANTIC CITIES (Nov. 8, 2016). Copy supplied.

Steph Barron, *Read with Caution*, 34TH STREET MAGAZINE (Oct. 13, 2016). Copy supplied.

David G. Savage, *U.S. Lawyers Take Aim at Money Bail; A Georgia Case Argues the Bond System Unconstitutionally Punishes Poor People*, L.A. TIMES, Aug. 26, 2016, at A6. Copy supplied.

Real Clear Radio Hour, *Fighting Injustice in the Justice System*, YOUTUBE (June 6, 2016). Audio is available at <https://youtu.be/l8m7KXQaNno>.

Tom Giovanetti, *Conservatives Should Celebrate Obama's Commutations*, DALLAS NEWS, June 2, 2016. Copy supplied.

Bobby Allyn, *Judging the Place of Hearsay Testimony During Pa. Preliminary Hearings*, NEWSWORKS (June 2, 2016). Copy supplied.

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I have not held 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 held judicial office.

- 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 any public offices. I have not had any unsuccessful candidacies for elective 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.

In 2012, I served as an election-day volunteer for the Republican Party in Philadelphia, assisting with poll watching and (I believe) as a standby legal advisor. In 1996, I did several days' electioneering during the presidential primary as a volunteer for the Dole campaign. Later that year, I worked on a crime policy advisory committee for the Dole presidential campaign, researching and writing policy memoranda. In 1992, I volunteered for the motor pool at the Republican National Convention in Houston.

**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;

From 1994 to 1995, I served as a law clerk to the Honorable Patrick E. Higginbotham on the United States Court of Appeals for the Fifth Circuit.

From 1997 to 1998, I served as a law clerk to the Honorable Anthony M. Kennedy on the Supreme Court of the United States.

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

I have not practiced alone.



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

Summer 1994  
U.S. Department of Justice  
Civil Division  
Appellate Staff  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530  
Intern

1995 – 1997  
Covington & Burling  
One CityCenter  
850 Tenth Street, N.W.  
Washington, DC 20001  
Associate

1998 – 2000  
U.S. Attorney's Office for the Southern District of New York  
One Saint Andrew's Plaza  
New York, NY 10007  
Assistant U.S. Attorney

2000 – 2001  
Yale Law School  
127 Wall Street  
New Haven, Connecticut 06511  
Research Fellow

2001 – 2006  
University of Iowa College of Law  
Boyd Law Building  
130 Byington Road  
Iowa City, Iowa 52242  
Associate Professor

Winter – Spring 2006  
University of Chicago Law School  
1111 East 60th Street  
Chicago, Illinois 60637  
Visiting Associate Professor

Fall 2005; 2006 – present

University of Pennsylvania Law School  
3501 Sansom Street  
Philadelphia, Pennsylvania 19104  
Visiting Associate Professor of Law (Fall 2005)  
Professor of Law (2006 – present)  
Professor of Criminology by courtesy (2009 – present)  
Director, Supreme Court Clinic (2009 – present; sabbatical spring 2014;  
course not offered 2016 – 2017)  
Founding Affiliated Faculty member, Quattrone Center for the Fair  
Administration of Justice (2013 – present)

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

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

b. Describe:

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

Immediately after law school, I spent the summer of 1994 interning at the U.S. Department of Justice, Civil Division, Appellate Staff, engaged exclusively in federal civil appellate litigation, researching, drafting, and editing appellate briefs.

After clerking for Judge Higginbotham on the U.S. Court of Appeals for the Fifth Circuit, I joined the Washington D.C. office of Covington & Burling, where from 1995 to 1997 I worked on a wide array of projects, mostly civil litigation. Among other matters, I assisted in defending a white-collar criminal trial, litigated on both sides in employment cases, litigated and conducted discovery in an insurance-coverage lawsuit, litigated a tort suit, advised on and prepared to litigate a First Amendment case, researched and drafted appellate briefs, and worked on Medicaid-reimbursement litigation. I also engaged in significant *pro bono* litigation, seeking out court appointments. As part of that *pro bono* work, I personally tried a plaintiff's employment discrimination case before a federal jury, and personally briefed and argued in support of a plaintiff's discrimination appeal to the U.S. Court of Appeals for the D.C. Circuit, winning a unanimous reversal.

After clerking for Justice Kennedy on the Supreme Court, I joined the U.S. Attorney's Office for the Southern District of New York, where from 1998 to 2000 my practice consisted exclusively of prosecuting federal

criminal cases. I regularly appeared in court for everything from arraignments and bail hearings to guilty pleas to sentencing hearings, as well as occasional special proceedings such as extraditions. I worked closely with the FBI and other law-enforcement agencies in investigating criminal cases. I served in the General Crimes and Narcotics Units, prosecuting a wide range of cases involving, for example, narcotics rings, armed robberies, and frauds. I briefed and argued three appeals before the U.S. Court of Appeals for the Second Circuit. I tried three cases in federal district court to juries and one to a bench trial. My most notable trial involved successfully investigating, prosecuting, and persuading a jury to convict the world's leading expert in Tiffany stained glass for hiring a grave robber to steal priceless Tiffany windows from tombs in cemeteries and for buying another previously-stolen Tiffany window from the grave robber and exporting it to a wealthy Japanese art collector. I received an award from the FBI and New York Police Department for my performance in that case.

Starting in 2000, I transitioned to academia, focusing my teaching and scholarship on criminal law and procedure. After earning tenure, I joined forces with the PaulHastings law firm and several other former Supreme Court clerks to start the University of Pennsylvania Law School Supreme Court Clinic in 2009. The bulk of my work with the Clinic has involved *pro bono* representation of clients who could not afford experienced Supreme Court counsel.

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

As a summer intern at the U.S. Department of Justice, my client was the United States, including federal agencies. I engaged exclusively in appellate litigation, mostly federal, spanning a broad array of issues.

As an associate at Covington and Burling, my clients were mostly private corporations, although I also represented individuals, including in *pro bono* matters. I worked almost entirely in litigation but avoided specializing in any one subject area, maintaining a general litigation practice addressing a broad array of legal issues and subjects at pretrial, trial, and appellate stages.

As an Assistant U.S. Attorney for the Southern District of New York, my client was the United States and I worked exclusively on federal criminal prosecutions.

As a law professor, my teaching and scholarship have focused on criminal law and procedure, though I also teach and write about the Supreme Court of the United States.

As director of the University of Pennsylvania Law School Supreme Court Clinic, I have specialized in federal appellate litigation, mostly before the Supreme Court of the United States but also sometimes before U.S. Courts of Appeals. Our clinic has not specialized in any particular subject area, but has handled a wide array of both criminal and civil matters. Our clients have mostly been poor and middle-class individuals who could not afford experienced Supreme Court counsel, but have also included a labor union pension fund, a municipality, professors, and nonprofit organizations.

- 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.

Almost all of my practice has involved litigation. From 1995 to 1997, at Covington & Burling, I appeared in court occasionally, most notably for a *pro bono* employment discrimination trial in the U.S. District Court for the Eastern District of Virginia in the spring of 1996 and for a *pro bono* employment appeal in the U.S. Court of Appeals for the D.C. Circuit in the spring of 1997. I also assisted partners who defended a federal white-collar criminal case at trial in early 1996.

From 1998 to 2000, as an Assistant U.S. Attorney, I appeared in federal court frequently, often daily, for criminal pretrial and trial litigation, including bail hearings, motions, guilty-plea hearings, and sentencings in the U.S. District Court for the Southern District of New York. I tried four cases over the summer of 1999. I also argued three appeals in the U.S. Court of Appeals for the Second Circuit.

From 2009 to the present, my practice has consisted almost entirely of federal appellate litigation, mostly in the Supreme Court of the United States but also on occasion in U.S. Courts of Appeals. Over the last six years, I have presented an average of one oral argument per year in the Supreme Court of the United States. Over the last eight years, I have also second-chaired other lawyers in their Supreme Court arguments a few times per year and participated in multiple moot courts for Supreme Court counsel in most years.

From 1998 to 2000 my practice consisted entirely of criminal matters, but before and after that it has been predominantly civil. These estimates below do not include my teaching and scholarship, which have concentrated on criminal law and procedure.

- i. Indicate the percentage of your practice in:
1. federal courts: approximately 98%
  2. state courts of record: approximately 2%

- 3. other courts: 0%
- 4. administrative agencies: 0%

ii. Indicate the percentage of your practice in:

- 1. civil proceedings: approximately 70%
- 2. criminal proceedings: approximately 30%

- 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 five cases to verdict, judgment, or final decision. As a prosecutor, I was chief counsel in three jury trials and sole counsel in one bench trial. In private practice, I was chief counsel in one jury trial. I do not include in these numbers at least two other matters from my time in private practice: one federal criminal jury trial on which I assisted but did not enter an appearance in court, and at least one civil matter on which we obtained judgment on the pleadings.

i. What percentage of these trials were:

- 1. jury: 80%
- 2. non-jury: 20%

- 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 orally argued six cases and filed more than ninety briefs in more than fifty cases before the Supreme Court of the United States, most of them as the director of the University of Pennsylvania Supreme Court Clinic and most of them on behalf of poor or middle-class people who could not have afforded experienced Supreme Court counsel.

**i. Argued cases:**

*Encino Motorcars, LLC v. Navarro*, No. 15–415, 136 S. Ct. 2117 (2016) (brief in opposition, respondent’s merits brief, and transcript of oral argument)

*Bank of America v. Caulkett*, No. 13-1421 / *Bank of America v. Toledo-Cardona*, No. 14–163, 135 S. Ct. 1995 (2015) (brief in opposition for each of two respondents, respondents’ merits brief, and transcript of oral argument)

*Petrella v. Metro-Goldwyn-Mayer, Inc.*, No. 12–1315, 134 S. Ct. 1962 (2014) (certiorari petition, reply brief, petitioner’s merits brief, reply brief, and transcript of oral argument)

*Vartelas v. Holder*, No. 10–1211, 566 U.S. 257 (2012) (petitioner’s merits brief, petitioner’s reply brief, and transcript of oral argument)

*Tapia v. United States*, No. 10–5400, 564 U.S. 319 (2011) (amicus brief invited by the Court and transcript of oral argument)

*Turner v. Rogers*, No. 10–10, 564 U.S. 431 (2011) (brief in opposition, respondent’s merits brief, and transcript of oral argument)

**ii. Briefed cases:**

*Texas v. Villarreal*, No. 15–1063 (brief in opposition)

*SCA Hygiene Prods. Aktiebolag v. First Quality Baby Prods., LLC*, No. 15–927, 137 S. Ct. 954 (2017) (petitioner’s merits brief and reply brief)

*Aurelius Capital Mgmt., L.P. v. Tribune Media Co.*, No. 15–891 (certiorari-stage amicus brief of former federal judges in support of petitioner)

*Cowser-Griffin v. Griffin*, No. 14–1531 (brief in opposition)

*Alvarez v. United States*, No. 14–456 (certiorari petition and reply brief)

*Bank of America v. Bello*, No. 14–235 (brief in opposition)

*Herald v. Steadman*, No. 14–131 (brief in opposition)

*Bullard v. Blue Hills Bank*, No. 14–116, 135 S. Ct. 1686 (2015) (certiorari petition, petitioner’s merits brief, and petitioner’s reply brief)

*Gordon v. Bank of America*, No. 13–1416 (certiorari petition)

*Gomez v. Texas*, No. 13–1036 (certiorari reply brief)

*Kellogg Brown & Root Svcs., Inc. v. Harris*, No. 13–817 (brief in opposition, supplemental brief of respondents, and second supplemental brief of respondents)

*Stroud v. McIntosh*, No. 13–635 (certiorari petition and reply brief)

*Underwood v. Harkins*, No. 12–1367 (certiorari petition and reply brief)

*Ray Haluch Gravel Co. v. Cent. Pension Fund of the Int’l Union of Operating Engineers & Participating Employers*, No. 12–992, 134 S. Ct. 773 (2014) (brief in opposition and brief for respondents)

*Amy & Vicky v. Kennedy*, No. 12–651 (certiorari-stage amicus brief in support of petitioner)

*United States Forest Service v. Pacific Rivers Council*, No. 12–623 (brief in opposition, motion to vacate judgment below and dismiss as moot)

*Peugh v. United States*, No. 12–62, 133 S. Ct. 2072 (2013) (certiorari petition, reply brief, petitioner’s merits brief, and reply brief)

*Jones v. Missouri*, No. 11–9036 (certiorari-stage amicus brief in support of petitioner)

*Overton v. United States*, No. 11–5408 (certiorari petition and reply brief)

*Ketterer v. Yellow Transport., Inc.*, No. 11–1361 (certiorari petition and reply brief)

*Levin v. United States*, No. 11–1351, 568 U.S. 503 (2013) (court-appointed amicus brief in support of petitioner and reply brief)

*Chafin v. Chafin*, No. 11–1347, 568 U.S. 165 (2013) (petitioner’s merits brief and reply brief)

*Velasquez-Otero v. Holder*, No. 11–1321 (certiorari petition and reply brief)

*Rhodes v. Judiscak*, No. 11–1177 (certiorari petition and reply brief)

*Holder v. Pimentel-Ornelas*, No. 11–831 (brief in opposition)

*Nielson v. Ketchum*, No. 11–680 (brief in opposition)

*Holder v. Camacho*, No. 11–103 (brief in opposition)

*Holder v. Mojica*, No. 11–99 (brief in opposition)

*Garcia v. Holder*, No. 11–79 (certiorari petition, reply brief, supplemental brief, and second supplemental brief)

*Holder v. Gutierrez*, No. 10–1542, 566 U.S. 583 (2012) (brief in opposition, respondent’s merits brief, and supplemental brief)

*Estalita v. Holder*, No. 10–517 (certiorari petition and reply brief)

*Ashcroft v. Al-Kidd*, No. 10–98, 563 U.S. 731 (2011) (amicus brief of legal history and criminal procedure professors in support of respondent)

*Mitchell v. United States*, No. 09–10053 (certiorari petition and reply brief)

*Svete v. United States*, No. 09–7576 (certiorari petition and certiorari reply brief)

*Ohio v. Smith*, No. 09–1377 (brief in opposition)

*City of Reno v. Conn*, No. 09–1361 (certiorari petition, reply brief, and supplemental brief)

*Yuma Anesthesia Med. Svcs. LLC v. Fleming*, No. 09–1146 (brief in opposition)

*Robinson v. Lehman*, No. 09–697 (certiorari reply brief)

*Connick v. Thompson*, No. 09–571, 563 U.S. 51 (2011) (amicus brief of the National League of Cities et al. in support of petitioners)

*Abbott v. United States*, No. 09–479 / *Gould v. United States*, No. 09–7073, 562 U.S. 8 (2010) (amicus brief of Families Against Mandatory Minimums in support of petitioners)

*United States v. Williams*, No. 09–466 (brief in opposition)

*Hunter v. United States*, No. 09–122 (certiorari-stage amicus brief of criminal law and habeas scholars in support of neither party)

*Astrue v. Ratliff*, No. 08–1322, 560 U.S. 586 (2010) (respondent’s merits brief)

*Padilla v. Kentucky*, No. 08–651, 559 U.S. 356 (2010) (certiorari-stage amicus brief of criminal and immigration law professors in support of petitioner, petitioner’s merits brief, and petitioner’s merits reply brief)

*Abbott v. Abbott*, No. 08–645, 560 U.S. 1 (2010) (respondent’s merits brief)

*Oregon v. Ice*, No. 07–901, 555 U.S. 160 (2009) (amicus brief of sentencing law scholars in support of petitioner)

*Iowa v. Tovar*, No. 02–1541, 541 U.S. 77 (2004) (amicus brief for the National District Attorneys Association in support of petitioner)

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) *United States v. Duncan*, No. 99 Cr. 493 (TPG) (S.D.N.Y. trial Aug. 2–12, 1999) (then-Chief Judge Thomas P. Griesa)

As an Assistant U.S. Attorney, I supervised the FBI's undercover investigation of this case and served as chief counsel for the prosecution at trial. After receiving a tip that a grave robber had been stealing priceless Tiffany stained-glass windows and other objects from mausolea (tombs) in New York City-area cemeteries, the FBI introduced an undercover agent to the grave robber who posed as a potential buyer of stolen art. The grave robber, Casamassina, soon made incriminating statements to the undercover agent. He was arrested and admitted that he had sold one Tiffany window via art dealer and middleman Zinzi to Duncan, the world's leading expert in Tiffany stained-glass (and also a former vice president of Christie's and consultant to Sotheby's and the FBI), so Duncan could export the window to a wealthy Japanese art collector. Duncan had also hired grave robber Casamassina to look for a second large Tiffany window to steal in order to export it to the same Japanese collector. With Casamassina's help, agents recorded middleman Zinzi also making incriminating statements. FBI agents arrested him and Zinzi likewise agreed to cooperate. In a series of recorded conversations with Zinzi, Duncan admitted that he had known the large window they had bought and exported was stolen, but attempted to persuade Zinzi to deny their knowledge and blame it all on the grave robber.

After a seven-day trial and two days of deliberation, a federal jury convicted Duncan of all five counts: two counts of conspiracy to export stolen property, one count of actually exporting stolen property, one count of structuring a financial transaction to avoid triggering a financial report to the government, and one count of attempting to persuade a potential witness to lie.

The case received extensive media coverage, *see, e.g.*, David Rohde, *Expert Guilty in Scheme to Steal Tiffany Glass from Tombs*, N.Y. TIMES, Aug. 13, 1999, <http://www.nytimes.com/1999/08/13/nyregion/expert-guilty-in-scheme-to-steal-tiffany-glass-from-tombs.html>, and later became the subject of a BBC/Bravo documentary, *Art Crimes and Mysteries: Tiffany Tomb Raiders* (Aug. 4, 2003), <http://www.bobbentley.co.uk/tiffany-tomb-raiders.html>. As a result of my work on this case, I received an award for outstanding performance from the FBI and the New York Police Department.

Co-Counsel:  
Peter G. Neiman (then Assistant United States Attorney)

Wilmer Cutler Pickering Hale and Dorr LLP  
7 World Trade Center  
250 Greenwich Street  
New York, NY 10007  
(212) 295-6487

Opposing counsel:  
Benjamin Brafman, chief counsel  
Brafman & Associates, P.C.  
767 Third Avenue  
26th Floor  
New York, NY 10017  
(212) 750-7800

2) *Padilla v. Kentucky*, No. 08–651, 559 U.S. 356 (2010)

I wrote a certiorari-stage amicus brief that helped to persuade the Supreme Court to grant review, and then joined as co-counsel for Mr. Padilla at the merits stage, working on the brief and second-chairing the oral argument at the Supreme Court. This was the first case handled by the University of Pennsylvania Law School Supreme Court Clinic, which Stephen Kinnaird and I had established after Mr. Kinnaird invited me to participate in this case. Mr. Padilla was a lawful permanent resident (green-card holder) who had lived in this country since the 1960s and served honorably in the U.S. military during the Vietnam War. He lived with his family in California and worked as a truck driver. He was arrested for transporting a quantity of marijuana in his truck. Mr. Padilla's defense lawyer advised him to plead guilty to misdemeanor and felony marijuana charges and assured him that he "did not have to worry about immigration status since he had been in the country so long." That advice was dead wrong; his nonviolent felony drug conviction automatically made him deportable. Mr. Padilla relied on that erroneous advice and pleaded guilty not only to the misdemeanor but also the marijuana felony.

As the brief for forty-six criminal and immigration law professors and several other groups argued, immigration law has changed from an area of judicial discretion to a set of mandatory rules that automatically make lawful permanent residents deportable upon certain convictions. Competent defense lawyers must therefore know these rules and advise their clients accurately, or at least avoid giving mistaken advice. As my co-counsel and I then explained in petitioner's brief on the merits, courts had confused the obligations of judges at plea hearings (who need not delve into immigration law) with the obligations of defense lawyers, who under the Sixth Amendment must competently advise their clients of the predictable immigration consequences of their guilty pleas. The Supreme Court agreed 7–2; five Justices issued a landmark ruling for Mr. Padilla, guaranteeing noncitizen defendants a Sixth Amendment right to accurate information about deportation (removal) before they plead guilty.

For our role in bringing and winning this watershed case, my co-counsel and I received the 2011 Jack Wasserman Memorial Award for Excellence in Litigation from the

American Immigration Lawyers Association. I have since written about the *Padilla* case in my articles *Regulating the Plea-Bargaining Market* and *Justice Kennedy's Sixth Amendment Pragmatism*, listed and supplied in response to Question 12.a.

Co-Counsel:

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Alexander M.R. Lyon  
D. Scott Carlton  
Mitchell A. Mosvick  
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Richard E. Neal (then of U'Sellis & Kitchen)  
Administrative Law Judge  
Department of Workers' Claims  
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Opposing counsel:

For respondent  
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Office of Criminal Appeals  
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For the United States as amicus curiae supporting affirmance  
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3) *Turner v. Rogers*, No. 10–10, 564 U.S. 431 (2011)

I served as counsel of record and arguing counsel for respondents at both the certiorari and merits stages, briefing and orally arguing this case at the Supreme Court. For nearly eight years, Mrs. Rogers, a waitress, had tried to collect child support from Mr. Turner, the father of their daughter. Mrs. Rogers repeatedly proceeded *pro se* against him for civil contempt to enforce child-support orders. On four occasions, just before or after being confined, he quickly produced many hundreds of dollars to avoid or end confinement. The fifth and sixth times, he did not pay and was confined. He argued that the Constitution provided a right to appointed counsel before any nonsupporting father is confined for civil contempt. In response, we argued on behalf of Mrs. Rogers and her father that child-support civil-contempt proceedings, often brought by *pro se* mothers, are straightforward and informal, so lawyers are unnecessary. Moreover, introducing lawyers on only one side would disadvantage *pro se* mothers, tilting what is now a level playing field between a mother and a father who are both usually proceeding *pro se*.

The Court unanimously agreed with our position that the Due Process Clause of the Fourteenth Amendment does not create an across-the-board right to appointment of counsel for nonsupporting fathers threatened with confinement for civil contempt. A narrow 5–4 majority, however, adopted the United States’ suggestion that, if counsel is not appointed, trial courts must provide alternative procedural safeguards, including notice that the father’s ability to pay is a critical issue, forms to elicit financial information, questioning at the hearing on financial status and an opportunity for the father to respond, and an express finding that the father can pay the child support.

This case was the impetus for my coauthored book REBOOTING JUSTICE as well as the articles *Triaging Appointed-Counsel Funding and Pro Se Access to Justice* and *Shrinking Gideon and Expanding Alternatives to Lawyers*, listed and supplied in response to Question 12.a.

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Opposing counsel:

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For the United States as amicus curiae supporting reversal  
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4) *Tapia v. United States*, No. 10–5400, 564 U.S. 319 (2011)

I was appointed by the Supreme Court of the United States at the merits stage to brief and orally argue this case as amicus curiae in support of the position that 18 U.S.C. § 3582(c), a provision of the Sentencing Reform Act, “allows district courts to consider rehabilitative need in setting the length and term of imprisonment.” As the *New York Times* has observed, being invited by the Court to brief and argue a position abandoned by the government is a “great honor” (Adam Liptak, *Court Chooses Guardians for Orphaned Arguments*, N.Y. TIMES, Dec. 13, 2010, <http://www.nytimes.com/2010/12/14/us/14bar.html>).

In *Tapia*, the defendant was convicted of smuggling unauthorized aliens into the United States and sentenced to a term of imprisonment. At the sentencing hearing, the judge made comments suggesting that he had considered the role that petitioner’s drug use had played in her criminal history and referred to her need for drug treatment in prison in the course of formulating her term of imprisonment. The defendant appealed the sentence, arguing that the judge had violated the Sentencing Reform Act’s instruction that judges “recogniz[e] that imprisonment is not an appropriate means of promoting . . . rehabilitation.” 18 U.S.C. § 3582(a).

Before the Supreme Court, the government agreed with the defendant. As amicus, I argued that the language of Section 3582(a) did not forbid judges to consider targeted treatment programs in setting prison sentences. Rather, I argued, the language only cautioned judges against imposing imprisonment as a way to induce isolation and thus rehabilitation and penitence—an approach that was prominent in the nineteenth century but discredited by the time of the Sentencing Reform Act. As the government noted in its

reply brief, the argument that I advanced was novel and had not previously been seen or advanced.

The Supreme Court ruled for petitioner, reversing the judgment below. In announcing the opinion of the Court, Justice Kagan commented that I had done “an exceptionally good job” as amicus (*Tapia v. United States*, Oyez, <https://www.oyez.org/cases/2010/10-5400>, click “opinion announcement”).

One commentator on the Sentencing Law and Policy blog observed: “Bibas [was] exceptionally well prepared. He knew what he was going to get asked and had his answers direct, succinct and well organized. He had great presence of mind, something it’s easy to lose in the pressure of a SCOTUS argument.” [http://sentencing.typepad.com/sentencing\\_law\\_and\\_policy/2011/04/oral-argument-transcript-in-scotus-tapia-case.html](http://sentencing.typepad.com/sentencing_law_and_policy/2011/04/oral-argument-transcript-in-scotus-tapia-case.html).

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5) *Vartelas v. Holder*, No. 10–1211, 566 U.S. 257 (2012)

I served as counsel of record for petitioner, briefing and orally arguing this case at the merits stage in the Supreme Court. Our client, Mr. Vartelas, is a lawful permanent resident (green-card holder) and lives in the United States with his wife and children. In the early 1990s, years after becoming a green-card holder, marrying a U.S. citizen, and starting a family, he pleaded guilty to a small role in a counterfeiting scheme and was sentenced to four months' incarceration, but retained the right to make short trips to visit his elderly parents in Greece and then return to his wife and children in the United States. Thereafter, in 1996, an immigration law known as IIRIRA allegedly changed the rule regarding this kind of short-term international travel, which if retroactive would have made Mr. Vartelas excludable upon his return from visiting his parents. As we argued in our brief and orally, IIRIRA contained no clear statement mandating retroactivity, and so must be read in light of the strong presumption against retroactivity even in civil cases.

The Supreme Court agreed 6–3, holding that applying the 1996 statute would attach a “new disability” to pre-1996 criminal conduct, in violation of the canon against retroactive application. Congress had not unambiguously made IIRIRA retroactive to deprive Mr. Vartelas of his pre-IIRIRA right to make brief, innocent, casual trips to see his elderly parents abroad.

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6) *Petrella v. Metro-Goldwyn-Mayer, Inc.*, No. 12–1315, 134 S. Ct. 1962 (2014)

I served as counsel of record for petitioner, briefing this case at both the certiorari and merits stages and orally arguing it before the Court. The father of our client, Ms. Petrella, had written the screenplay to the critically acclaimed film *Raging Bull* about the life of his friend, boxing champion Jake LaMotta. In the movie, which was directed by Martin Scorsese, LaMotta was played by actor Robert DeNiro. In 1991, Ms. Petrella validly renewed the copyright in the screenplay. The movie studios continued to market the film, and, after intermittent correspondence between the two sides' lawyers, Ms. Petrella sued for copyright infringement in 2009. The three-year statutory limitations period barred her from recovering damages for pre-2006 sales of the film that infringed her copyright but did not bar damages or injunctive relief for infringements in 2006 or later. Nevertheless, the lower courts had granted summary judgment for the movie studios, holding her suit barred by the equitable defense of laches.

We argued that because Congress had provided the express three-year timeliness provision in the 1957 Copyright Act, 17 U.S.C. § 507(b), it left no room for the nonstatutory doctrine of laches to further restrict the time for filing suit. That is particularly true for damages, a remedy at law that historically has not been subject to the equitable defense of laches. If the Court had, for the very first time, allowed laches to shorten an express statute of limitations, it could have clouded a wide range of federal statutes, encouraging a race to the courthouse and cutting short efforts to negotiate settlements. The Supreme Court agreed, holding 6–3 that, where Congress enacts a statute of limitations, laches cannot bar legal relief and can be a threshold bar to equitable relief only in “extraordinary circumstances.”

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7) *Bank of America, N.A. v. Caulkett*, No. 13–1421 &  
*Bank of America, N.A. v. Toledo-Cardona*, No. 14–163  
135 S. Ct. 1995 (2015)

I served as counsel of record for respondents, the homeowners, filing briefs at both the certiorari and merits stages and presenting oral argument in the Supreme Court. The case involved homeowners whose houses plummeted in value after the financial crisis. The second mortgages at issue in the case were “completely underwater”; each home was now worth less than the balance owed on its first mortgage, so there was no value left over to secure its second mortgage. Nonetheless, the bank that held the second mortgages argued that it was entitled in bankruptcy to liens on the homes.

The Bankruptcy Code, 11 U.S.C. § 506, differentiates among claims depending on whether they are allowed and whether they are secured. Under Section 506(d), “[t]o the

extent that a lien secures a claim against the debtor that is not an allowed secured claim, such lien is void.” Nevertheless, in *Dewsnup v. Timm*, 502 U.S. 410 (1992), the Supreme Court had held that a claim in a Chapter 7 bankruptcy proceeding remains an “allowed secured claim” under Section 506(d) – and a lien securing the claim therefore remains valid – even if the claim is only partially secured under Section 506(a). Our clients faced claims based on liens – second mortgages – that were completely (not just partially) unsecured, because the value of their houses had dropped below the value of even the first mortgages on the houses. The question presented was whether, in Chapter 7 bankruptcy, a claim remains an “allowed secured claim” under Section 506(d) even if it becomes completely *unsecured* under Section 506(a).

We argued that because our clients’ second mortgages were completely underwater, there was no value left over after the first mortgages to give the mortgage lenders any security to their claims under Section 506(a), so under Section 506(d) “such lien is void.” Assessing this oral argument, Amy Howe of SCOTUSBlog described both me and my opposing counsel as “excellent advocates.” <http://www.scotusblog.com/2015/03/argument-analysis-navigating-between-scylla-and-charybdis-on-underwater-mortgages/>.

The Supreme Court acknowledged that the text of “[t]he Code suggests that the Bank’s claims are not secured” and that the liens accordingly should be void. But the Court held that it was bound by its prior decision in *Dewsnup*: “Unfortunately for the debtors, this Court has already adopted a construction of the term ‘secured claim’ in § 506(d) that forecloses this textual analysis.” 135 S. Ct. at 1999 (citing *Dewsnup*).

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8) *Encino Motorcars, LLC v. Navarro*, No. 15–415, 136 S. Ct. 2117 (2016)

I served as counsel of record for respondents, service advisors at car dealerships, briefing the case at both the certiorari and merits stages and orally arguing the case before the Supreme Court. The Fair Labor Standards Act guarantees most employees time-and-a-half overtime pay, but exempts from overtime “any salesman, partsman, or mechanic primarily engaged in selling or servicing automobiles” at a dealership. 29 U.S.C. § 213(b)(10)(A). For a time, the Department of Labor took the position that service advisors fell within this exemption, but in 2011 promulgated a regulation providing that they do not qualify for the exemption.

We argued that service advisors were entitled to overtime because the statute exempts salesmen primarily engaged in selling automobiles, not service advisors primarily engaged in selling services. The noun “salesman” naturally pairs with the etymologically related gerund “selling,” just as the noun “mechanic” naturally pairs with the gerund “servicing.” A service advisor is not exempt because a service advisor is neither “a salesman . . . primarily engaged in selling . . . automobiles” nor a “partsman or mechanic . . . primarily engaged in . . . servicing automobiles.” The statute is clear, but at a minimum, the Department of Labor’s regulation was entitled to *Chevron* deference.

The Court did not resolve the interpretation of the statute. Because the Department of Labor had inadequately explained its change of position, the regulation did not qualify for *Chevron* deference, so the Court vacated and remanded to allow the court of appeals to interpret the statute without controlling deference in the first instance.

On remand, the court of appeals again agreed with our interpretation of the statute. The car dealership has just filed a second certiorari petition on the same question of statutory interpretation, which is currently pending.

Prof. Ronald Mann of SCOTUSBlog praised our merits brief in this case as “a *tour de force* of close linguistic analysis.” <http://www.scotusblog.com/2016/04/argument-preview-justices-to-consider-whether-a-car-dealers-service-advisor-is-a-salesman-exempt-from-overtime-rules-under-the-fair-labor-standards-act/>.

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9) *Kellogg Brown & Root Svcs., Inc. v. Harris*, No. 13–817 (2014–15)

I served as counsel of record for respondents at the certiorari stage, where my colleagues and I successfully opposed certiorari. Our clients were the mother and father of Staff Sergeant Ryan Maseth, an Army Ranger and Green Beret from the Pittsburgh area who served in Iraq. He was electrocuted while showering in his barracks because the water pump and electrical panel installed in the barracks were not bonded and grounded as required by long-settled, standard practice in the electrical field. His parents brought a state-law wrongful death suit against Kellogg Brown & Root (KBR), the private military contractor that had allegedly negligently installed and repaired the equipment. KBR sought review on the ground that the political-question doctrine or the combatant-

activities exception to the Federal Tort Claims Act allegedly made it immune from liability for any negligence, even if it resulted in Staff Sergeant Maseth's death.

After we submitted the ordinary certiorari-stage briefing and supplemental briefs, the Supreme Court called for the views of the Solicitor General. My colleagues and I advocated that the government recommend denying review, and the Solicitor General did so. After further supplemental briefing, the Court did deny review, and the parties reached a settlement.

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10) *Caison v. Virginia Dep't of Transport.*, Civ. Action No. 95-1104-A (now-Senior Judge Claude M. Hilton, E.D. Va. 1996)

While a first-year associate at Covington & Burling, I solicited and accepted this *pro bono* court appointment to represent a *pro se* discrimination plaintiff in his Title VII suit, successfully opposing summary judgment and thereafter trying his case to a federal jury as lead counsel, conducting the opening statement and examining witnesses. My client was Mr. Caison, an African-American man who worked for the Virginia Department of Transportation. While there, he alleged, his supervisors made derogatory comments, physically threatened him, interfered with his job performance, offered him less training and experience, and, after he filed discrimination charges, retaliated against him. The district court found genuine issues of material fact and denied summary judgment, but

after hearing the plaintiff's witnesses, the court granted judgment as a matter of law for the defense.

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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.)

In addition to my litigation experience, I have, on a number of occasions, consulted ad hoc and confidentially with professionals seeking to understand or predict developments in the Supreme Court or criminal procedure, usually in telephone calls of an hour or less. I am currently retained as an expert witness in a non-public matter to provide expert testimony in a European court regarding U.S. white-collar criminal prosecutions. On two occasions, I have provided consulting services involving Supreme Court or other appellate litigation: in late June 2014, I advised PaulHastings LLP's New York and Washington D.C. offices on possible appellate arguments in one of their cases; and between May and November 2016, I consulted with Dechert LLP's Philadelphia office on the merits briefing and oral argument of *SCA Hygiene Prods. Aktiebolag v. First Quality Baby Prods., LLC*, No. 15-927, 137 S. Ct. 954 (2017).

I have also sought to contribute to the law through my scholarship and teaching. For the past sixteen years, I have taught, trained, advised, and mentored many hundreds of students in classrooms, seminar rooms, a clinic, externships, and moot courts, encouraging many of them to consider careers in government or public service or to represent indigent clients *pro bono*.

I have also written extensively about criminal law and procedure, publishing two books and more than sixty articles and other scholarly works in most of the leading law reviews. I strive to make my scholarship clear, accessible, and useful to practicing lawyers as well as judges, and my scholarship is frequently cited by courts, litigators, and academics.

I also engage in significant efforts to improve the law. I was the reporter for a working group at Cardozo Law School on efforts to improve prosecutors' disclosure of *Brady* material to the defense. I served on Philadelphia Mayor Michael Nutter's Ethics and Campaign Finance Task Force and have testified before this Committee, the United States Sentencing Commission, and the Delaware Access to Justice Commission's Subcommittee on Fairness in the Adult Criminal Justice System. The last of these, for instance, involved recommendations to improve Delaware's bail system to avoid needless pretrial detention of the poor.

I am a founding faculty member of the Quattrone Center for the Fair Administration of Justice at the University of Pennsylvania Law School. The Quattrone Center is a nonpartisan, national research and policy hub that produces and disseminates research designed to prevent, diagnose, and remedy errors in the criminal justice system, such as wrongful convictions. It takes an interdisciplinary, data-driven approach to identifying and analyzing systemic issues in criminal justice and proposing best practices. It works with all stakeholders, ranging from police and prosecutors to judges and defense counsel, to research, implement, and evaluate criminal justice reforms.

I have not performed lobbying on behalf of any client or organization, and I am not and have never been a registered lobbyist.

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

From 2001 through 2004 at the University of Iowa College of Law, I taught Criminal Law; in 2006, I taught the same course at the University of Chicago Law School. That first-year course covered the nuts and bolts of criminal law, including justifications for punishment, legality and vagueness, *actus reus*, *mens rea*, causation, attempt, complicity, conspiracy, homicide, and defenses including necessity, self-defense, mistake, and insanity. While at Iowa, I usually taught the course as a small section, which gave me the opportunity to use criminal law to introduce students to the basics of legal research and writing. Syllabi provided.

From 2002 through 2004 at the University of Iowa College of Law, I taught Criminal Procedure: Prosecution and Adjudication; in 2005, 2008, 2010, and 2012 through 2016, I taught the same course at the University of Pennsylvania Law School. That upper-level course covered the right to counsel, bail, charging, double jeopardy and joinder, forfeiture, discovery, plea bargaining, trials, sentencing, appeals, and habeas corpus. Syllabi provided.

In 2007 and 2009 at the University of Pennsylvania Law School, I taught Criminal Procedure: Investigation. That upper-level course covered policing, searches and seizures, arrests, interrogations, and identification procedures. Syllabi provided.

In 2003 and 2004, I taught a seminar on Plea Bargaining and Sentencing at the University of Iowa College of Law; in 2005 I taught the same seminar at the University of Pennsylvania Law School. That seminar covered the legal, practical, and normative aspects of plea bargaining and sentencing. Syllabi provided.

In 2007, I taught a seminar on Punishment and Crime in Dostoyevsky. That seminar engaged students in close reading of Fyodor Dostoyevsky's *Crime and Punishment* and *The Brothers Karamazov*. Syllabus provided.

In 2009, I co-taught a combined law school and undergraduate seminar entitled Legal Imagination: Criminals and Justice Across Literature. That seminar compared and contrasted visions of justice across time and space, considered the psychology of the criminal, and addressed the state institutions of criminal justice, through classic works of literature. Syllabus provided.

From 2009 through the present (with breaks in spring 2014 and 2016 – 2017), I have co-taught a Supreme Court Clinic, which gives students hands-on experience identifying, recruiting, researching, strategizing, briefing, and preparing for oral argument in real cases that are or may go before the Supreme Court. There is no syllabus for this course because it is not a traditional lecture or seminar. A description of the course is available online at <https://www.law.upenn.edu/clinic/supremecourt/course-description.php>. The briefs provided in response to Question 16.e survey the range of matters covered in the course over the years.

In 2016, I co-taught a directed reading group on Fyodor Dostoyevsky's *The Brothers Karamazov*. There was no syllabus for the course.

In 2016 – 2017, I co-taught a year-long seminar on Conservative Political and Legal Thought. The first half of the seminar focused on classic texts and thinkers; the second half invited discussion about how different people might apply those ideas to modern issues. Syllabus provided.

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 participate in the University of Pennsylvania's 401(a) and 403(b) defined-contribution retirement plans. I also have accumulated savings in my PayFlex Health Savings



Account through the University of Pennsylvania. I may also remain eligible for a tuition benefit from the University of Pennsylvania for my dependent children if and when they attend college, but need to confirm that. I have an agreement with Oxford University Press to receive royalties from sales of my book THE MACHINERY OF CRIMINAL JUSTICE. I have an agreement with Foundation Press (since acquired by West Academic) to receive royalties from sales of the edited volume CRIMINAL PROCEDURE STORIES, for which I wrote a chapter. I have an agreement with Encounter Books to receive royalties from sales of my forthcoming coauthored book REBOOTING JUSTICE. I have an agreement with New York University Press to receive royalties in the event that the press licenses separate use of my book chapter in a new edited volume THE NEW CRIMINAL JUSTICE THINKING.

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 I am so fortunate as to be confirmed, after acclimating to my judicial responsibilities for a period of time, I hope to resume teaching part-time, perhaps one course per semester, if my judicial duties permit and if the Chief Judge of the U.S. Court of Appeals for the Third Circuit approves. Apart from that, I have no other plans to pursue outside employment, with or without compensation, during my service with the court. I have made no commitments or agreements to do so.

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 Statement of Net Worth.

24. **Potential Conflicts of Interest:**

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

If confirmed, I would recuse myself from every case in which I had previously participated as a lawyer or played any other role. Cases involving the University of Pennsylvania or its Supreme Court Clinic would raise potential conflict issues,

at least initially, and I would recuse myself for a time. Apart from that, I am unaware of any family members, other persons, parties, categories of litigation, or financial arrangements that are likely to present potential conflicts of interest.

I would review, case by case, the existence of a potential conflict of interest arising from any personal or former client relationships or financial interests, and would apply the general ethical rules and principles, as well as those specific to conflicts of interest, in determining whether to recuse myself.

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

If confirmed, I would consult applicable rules, canons, and judicial and bar authorities' decisions addressing conflicts of interest, including 28 U.S.C. § 455 and the Code of Conduct for United States Judges. I would compile a list of all cases, matters, clients, and other persons whose involvement could raise potential conflicts of interest or otherwise create the appearance of impropriety, and instruct the clerk's office and my staff to assist me by flagging any such cases. In close cases, I would consult with the Chief Judge of my court, other judges, and others designated by the court to offer impartial advice.

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 professional career, I have endeavored to serve the public and those in need. While in private practice, I wrote to the clerk's office of every regional federal court of appeals (I believe) as well as several federal district courts in my area, volunteering for *pro bono* appointments. As a result, I accepted a court appointment to try a *pro bono* employment discrimination case and another court appointment as *amicus curiae* to brief and argue in support of a *pro se* appellant in the U.S. Court of Appeals for the District of Columbia Circuit.

As director of the University of Pennsylvania Law School's Supreme Court Clinic, I have worked almost exclusively *pro bono* on behalf of poor and middle-class individuals who otherwise could not have afforded experienced Supreme Court counsel. For instance, I briefed and argued: *Turner v. Rogers*, on behalf of a custodial mother (and her father), a waitress who had been pursuing a nonsupporting father for child support for nearly eight years; *Vartelas v. Holder*, on behalf of a lawful permanent resident (green-card holder), a roofing sales manager who was seeking to remain with his wife and children in this country; *Petrella v. MGM*, on behalf of a woman who had been battling a major movie studio for years for the rights to her father's artistic legacy; *Bank of America v. Caulkett*, on behalf of homeowners in bankruptcy seeking to keep their homes; and *Encino*

*Motorcars v. Navarro*, on behalf of automobile service advisors whose employer did not pay them overtime pay.

I also took part in briefing, among many other cases: *KBR v. Harris*, on behalf of a father and mother whose son, Staff Sergeant Ryan Maseth, an Army Ranger and Green Beret, was electrocuted while showering in his barracks in Iraq because of the alleged negligence of a private defense contractor, and *Velasquez-Otero v. Holder* and *Estalita v. Holder*, in which immigrants fleeing foreign persecution sought asylum in the United States.

In my scholarship, I have built on my experience litigating *Turner v. Rogers* to advocate ways to improve access to justice. Thus, in my forthcoming coauthored book *REBOOTING JUSTICE*, as well as several articles, I have advocated ways to use technology, alternative dispute resolution, *pro se* legal assistance, more active judicial involvement, and more flexible, lower-cost approaches to legal education to ensure that poor and middle-class people have better access to justice. I have also written about the underfunding of indigent criminal defense. I have advocated increased funding and resources and reduced caseloads to improve the quality of felony criminal defense for the poor.

As a member of the board of several charitable organizations, I have assisted nonprofits with incorporation, tax exemption, land use, and immigration issues, as well as offering more general advice.

**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.

On March 1, 2017, I was contacted by an official from the White House Counsel's Office, who inquired whether I would be willing to interview for a vacancy on the U.S. Court of Appeals for the Third Circuit. I responded that I would and had follow-up communications with this official shortly thereafter. On March 3 and 7, I was contacted by Senator Patrick Toomey's staff to arrange an interview with him. On March 9, I was interviewed by attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C., and on March 10, I was interviewed by Senator Patrick Toomey and his general counsel in Washington, D.C. After that date, I was in contact with officials from the White House Counsel's Office and officials working for the Office of Legal

Policy at the U.S. Department of Justice. On June 7, the President announced his intent to nominate me, and on June 19, he 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.