

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Fred Joseph Federici III

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

United States District Judge for the District of New Mexico

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

United States Attorney's Office for the District of New Mexico
201 Third Street Northwest, Suite 900
Albuquerque, New Mexico 87102

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

1965; Raleigh, North Carolina

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

1988 – 1991, University of Virginia School of Law; J.D., 1991

1984 – 1988, The College of William and Mary in Virginia; B.A., 1988

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.

1995 – present

United States Attorney's Office for the District of New Mexico
201 Third Street Northwest, Suite 900
Albuquerque, New Mexico 87102
First Assistant (2018 – present)

Line Supervisor (2010 – 2018)
Criminal Chief (2008 – 2010)
Assistant U.S. Attorney (1995 – present)

1991 – 1995
Venable, Baetjer, Howard & Civiletti
600 Massachusetts Avenue, Northwest
Washington, D.C. 20001
Associate (1991 – 1995)

Summer 1990
Venable, Baetjer & Howard
8010 Towers Crescent Plaza, Suite 300
Tysons, Virginia 22182
Summer Associate

Summer 1989
Prince William County Attorney's Office
1 County Complex Court
Woodbridge, Virginia 22192
Law Clerk

Summer 1988
Zenith Van and Storage
7958 B Cameron Brown Court
Springfield, Virginia 22153
Furniture mover

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 upon turning 18.

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

Commendation for exceptional work and outstanding partnership, National Security Division, U.S. Department of Justice (2016)

Certificate recognizing outstanding prosecutive skills in a National Security case, Federal Bureau of Investigation (2015)

Special Act or Service Award, from the United States Attorney (2015, 2010, 2008, 2004, 2001, 1999, 1996)

On-the-Spot Award, from the United States Attorney (2012, 2010, 2008, 2008, 2007, 2000)

Time-off award, from the United States Attorney (2011, 2005)

Sustained Superior Performance Award, U.S. Department of Justice (2007, 2006, 2004, 2003, 2002, 1998, 1997)

National Award for Investigative Excellence, Federal Law Enforcement Officers' Association (2006)

Commendation for professionalism and dedication, Federal Emergency Management Agency Office of the Inspector General (2002)

Certificate of Appreciation, Organized Crime Drug Enforcement Task Force, U.S. Drug Enforcement Administration (2002)

Certificate of Appreciation, U.S. Department of Justice (1999)

Representative of the United States, First and Second Bilateral Law Enforcement Training Programs between the U.S. Department of Justice and the Attorney General's Office of the Republic of Mexico (1997, 1998)

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 (1991 – 1994)

Local Criminal Rules Advisory Committee for the U.S. District Court for the District of New Mexico (2008 – present)

New Mexico State Bar Historical Committee (2007 – present)
Co-chair (2017 – present)

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, 1991
Maryland, 1992
District of Columbia, 1992
New Mexico, 1994

I transferred my memberships in the Virginia, Maryland, and District of Columbia bars in 1995 after I moved to New Mexico because I no longer practiced law in those states. There have been no other 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, 1998
United States Court of Appeals for the Fourth Circuit, 1991
United States Court of Appeals for the Tenth Circuit, 1995
United States District Court for the District of Columbia, 1993
United States District Court for the District of New Mexico, 1995
United States District Court for the Eastern District of Virginia, 1992

There have been no lapses in membership.

11. **Memberships:**

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Inns of Court, Las Cruces, New Mexico (approximately 1995 – 2000)

- 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, the Inns of Court I attended never 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.

Book Review, "*Justice Betrayed: A Double Killing in Old Santa Fe*" by Ralph Melnick, New Mexico Lawyer, July 2007, at 8. 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.

As the co-chairman of the New Mexico State Bar Historical Committee, on September 1, 2017, I wrote a letter to the Bar Commissioners reporting on the past activities of the committee and recommending that the work of the committee should be continued. 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.

In 2018, the New Mexico Supreme Court solicited comment from members of the Bar regarding proposed revisions to the New Mexico Rules of Professional Conduct. I commented in response to that solicitation. 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.

September 10, 2019: Panelist, U.S. Attorney's Office's "Fighting Violent Crime Initiative," H. Vearle Payne Inn of Court, held at the University of New Mexico Law School, Albuquerque, New Mexico. PowerPoint supplied.

May 14, 2019: Speaker, To Honor the Memory of New Mexico State Police Officer Robert Rosenbloom, National Police Week, Federal Bureau of Investigation, Albuquerque, New Mexico. Copy supplied.

August 29, 2018: Speaker, Brief Overview of Crime Fighting Initiatives of the U.S. Attorney's Office, Kiwanis Club of Albuquerque, Albuquerque, New Mexico. This panel presentation included the USAO's partnership with the Albuquerque District Attorney's Office and the USAO's co-sponsoring of "Camp Fearless" for at-risk youth in the city. I have no notes, transcript, or recording. The address of the Kiwanis Club of Albuquerque is 1000 Woodward Place Northeast, Albuquerque, New Mexico 87102.

August 29, 2018: Panelist, "Overview of Albuquerque Serial Arsonist Case," New Mexico Homeland Security & Emergency Management Conference, Albuquerque, New Mexico. PowerPoint supplied.

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

Press release, *Man From Las Vegas, N.M. Faces Federal Charges of Cocaine Possession and Robbery*, U.S. Department of Justice, Sept. 19, 2019. Copy supplied.

Press release, *Man From Santa Fe County Faces Federal Charges of Being a Felon in Possession of a Firearm and Ammunition*, U.S. Department of Justice, Sept. 19, 2019. Copy supplied.

Rob Nikolewski, *Miffed Aide Who Hacked Into NM Governor's Emails Gets 9-Month Sentence*, Say Anything (Blog), Oct. 9, 2014. Copy supplied.

Former Lab Worker Sentenced in Stalking of Linkin Park Singer, Associated Press, Feb. 21, 2008. Copy supplied. Reprinted in multiple outlets.

Adam Rankin, *2 Indicted in LANL Purchase Scandal*, Albuquerque J., May 28, 2004. Copy supplied.

Jeremy Pawloski, *Woman Says She's Innocent in Fire Fraud*, Albuquerque J., Feb. 8, 2004. Copy supplied.

Guillermo Contreras, *3 Years Given in Fraud Case*, Albuquerque J., Jan. 30, 2003. Copy supplied.

Jeremy Pawloski, *Woman Guilty in Cerro Grande Scam*, Albuquerque J., Jan. 15,

2002. Copy supplied.

Geoff Grammer, *Juror: "There is No Price Tag on Principle,"* Santa Fe New Mexican, Jan. 15, 2002. Copy supplied.

Scott Sandlin, *Ex-Army Officer Faces Fed Charges of Gun Running,* Albuquerque J., Nov. 17, 1996. Copy supplied.

Scott Sandlin, *Ex-Firefighter Pleads Guilty,* Albuquerque J., July 17, 1996. Copy supplied.

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

I have not held any judicial office.

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

- i. Of these, approximately what percent were:

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

- b. Provide citations for all opinions you have written, including concurrences and dissents.
- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.
- e. Provide a list of all cases in which certiorari was requested or granted.
- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If

any of the opinions listed were not officially reported, provide copies of the opinions.

- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.
 - h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.
 - i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.
14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not 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 never held any public office.

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

I have not played a role in any political campaigns.

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

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

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

I never served as a law clerk.

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

I have not practiced law alone.

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

1991 – 1995

Venable, Baetjer, Howard & Civiletti
600 Massachusetts Avenue, Northwest
Washington, D.C. 20001
Associate (1991 – 1995)

1995 – present

United States Attorney's Office for the District of New Mexico
201 Third Street Northwest, Suite 900
Albuquerque, New Mexico 87102
Assistant U.S. Attorney (1995 – present)
Criminal Chief (2008 – 2010)
Line Supervisor (2010 – 2018)
First Assistant (2018 – 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 any 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.

From 1991 to 1995, I worked as a litigation associate handling complex civil litigation at a large law firm in Washington, D.C. We did work for both civil plaintiffs and civil defendants.

The character of my practice changed in 1995, when I was appointed to be an Assistant U.S. Attorney in Las Cruces, New Mexico, near the United States' border with Mexico, primarily prosecuting drug cases. In 1999, the character of my practice changed again when I transferred to the Albuquerque office of the USAO and began prosecuting white collar crimes. In 2008, I also began to handle national security cases. Throughout my tenure as an AUSA, I have prosecuted a wide variety of cases, and I have handled scores of appeals. I have also held a variety of supervisory positions. I currently serve as the First Assistant U.S. Attorney, where I help to administer the office and oversee the Criminal, Civil, and Appellate Divisions of the office.

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

In private practice, the clients I represented ranged from large corporations involved in commercial lawsuits to individual personal injury plaintiffs (*e.g.*, the widow of a man killed in a crane accident at a construction site), as well as a pro bono client in a landlord tenant dispute. At the U.S. Attorney's Office, our client is the people of the United States, but I have worked closely with a wide variety of federal agencies involved in investigating crimes as a prosecutor.

- 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.

During my entire career, I have been either a litigator or a trial attorney. Throughout my career as a federal prosecutor from 1995 to the present, I have frequently appeared in court. As a civil litigator at a large law firm from 1991 to 1995, I occasionally appeared in court.

- i. Indicate the percentage of your practice in:
- | | |
|--------------------|-----------------------|
| 1. federal courts: | 100% (1995 – present) |
| | 75% (1991 – 1995) |

- 2. state courts of record: 25% (1991– 1995)
- 3. other courts: 0%
- 4. administrative agencies: 0%

The percentage of my practice in federal courts changed when I left private practice to join the U.S. Attorney’s Office in 1995 and became a federal prosecutor.

- ii. Indicate the percentage of your practice in:
 - 1. civil proceedings: 10% (1995 – present)
95% (1991 – 1995)
 - 2. criminal proceedings: 90% (1995 – present)
5% (1991 – 1995)

The breakdown of the percentage of my practice in criminal and civil proceedings also changed when I left private practice and became a federal prosecutor in 1995.

- 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 estimate that I have tried twelve cases to verdict. I believe I have tried two solo cases. In the remaining ten cases, I estimate that I was chief counsel in half, and associate counsel in half. Over the course of my time at the U.S. Attorney’s Office, I have also handled innumerable evidentiary hearings on a solo basis.

- i. What percentage of these trials were:
 - 1. jury: 100%
 - 2. non-jury: ___%

- 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 never had the opportunity to practice before the Supreme Court of the United States.

- 17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- 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. Mascheroni, et al.*, Cr. No. 10-2626 (D.N.M. 2010); 612 F. App'x 504 (10th Cir., June 1, 2015)

I was the lead prosecutor in this case brought against a nuclear physicist who worked in the "X," or nuclear weapons, division of Los Alamos National Laboratory (LANL) in the 1980's but lost his job as part of a reduction-in-force. The defendant and his wife, who continued to work at LANL as a technical editor after the defendant left, were prosecuted for crimes including unlawfully communicating Restricted Data about nuclear weapons. The defendant told a federal agent posing as an intelligence agent of Venezuela that he could develop a nuclear weapons capability for Venezuela, and he passed classified weapons information to the agent. The defendants were indicted in September 2010 and pled guilty in June 2013. My involvement in the case began during the investigation in 2008 and included handling the appeal that was filed. My work ended with the dismissal of the defendant's last post-conviction motion in 2017.

At the trial level, United States District Judge Bruce Black originally presided over the case. Chief United States District Judge William Johnson later presided over the case.

Co-counsel:

Hon. Dean Tuckman (formerly of the U.S. Attorney's Office)
Executive Office for Immigration Review
U.S. Department of Justice
8915 Montana Avenue, Suite 100
El Paso, Texas 79925
(915) 771-1600

Holland Kastrin
U.S. Attorney's Office
201 Third Street Northwest, Suite 900
Albuquerque, New Mexico 87102
(505) 224-1523

Principal Counsel for Defendant:

Robert R. Cooper
Robert R. Cooper Law Firm, P.C.
1011 Lomas Boulevard Northwest
Albuquerque, New Mexico 87102

(505) 842-8494

Principal Counsel for Co-defendant:

Erlinda Ocampo Johnson
Law Office of Erlinda Ocampo Johnson
620 Roma Avenue Northwest
Albuquerque, New Mexico 87102
(505) 792-4048

2. *United States v. Sample*, Cr. No. 15-4265 (D.N.M. 2015); 901 F.3d 1196 (10th Cir. 2018); cert. denied, 139 S.Ct. 1545 (2019)

I was the sole prosecutor of this case that involved a former licensed broker and serial fraudster who operated a hedge fund through which he stole more than \$1 million from his investors to fund an extravagant lifestyle. The Investors lost their retirement funds. The defendant pled guilty in December 2015 and was sentenced to 5 years of probation. The United States appealed and the sentence was overturned. My involvement in the case began with the investigation prior to the defendant's guilty plea in December 2015, included handling the appeal, and ended after the defendant's resentencing in 2019.

United States District Judge Judith Herrera presided over the case.

Counsel for Defendant:

Ray, Twohig
Twohig Law Firm
8998 Rio Grande Boulevard Northwest
Albuquerque, New Mexico 87114
(505) 898-0400

3. *United States v. Glasrud*, Cr. No. 17-2966 (D.N.M. 2017)

I was the lead prosecutor in a case against a defendant who founded and administered several state charter schools in Albuquerque. Over the course of years, the defendant embezzled millions of dollars from the schools despite regular state audits. The defendant pled guilty to multiple felony counts of fraud on October 25, 2017, and was sentenced on October 12, 2018. The case involved extensive pre-indictment litigation in 2015 through 2016, and sentencing litigation in 2018.

Senior United States District Judge James Parker presided over the case.

Co-counsel:

Holland Kastrin
U.S. Attorney's Office
201 Third Street Northwest, Suite 900
Albuquerque, New Mexico 87102
(505) 224-1523

Principal Counsel for Defendant:

Peter Schoenberg
Rothstein Donatelli LLP
500 Fourth Street Northwest, Suite 400
Albuquerque, New Mexico 87102
(505) 243-1443

4. *United States v. Hickman*, Cr. No. 16-4711 (D.N.M. 2016)

I was the sole prosecutor in this case against a serial arsonist who terrorized Albuquerque residents in a series of nightly fires over a two-week period in November 2016, causing over \$10 million in damages to Albuquerque businesses. The defendant was charged by complaint in November 2016, and pled guilty to multiple counts of arson on October 11, 2017. Intensive sentencing litigation followed. The defendant was sentenced to a statutory maximum 20-year term of imprisonment. My involvement in the case extended from the real-time investigation in 2016 through the defendant's sentencing in 2018.

United States District Judge Judith Herrera presided over the case.

Principal Counsel for Defendant:

Zachary Ives (formerly of the Zach Ives Law Firm)
New Mexico Court of Appeals
237 Don Gaspar Avenue
Santa Fe, New Mexico 87504
(505) 837-4925

5. *United States v. Cai, et al.*, Cr. No. 13-4044 (D.N.M. 2013)

I was co-counsel on this case, which was brought against two Chinese nationals who were charged under the Arms Export Control Act for conspiring to export defense articles with military applications to the People's Republic of China. Both the defendants pled guilty in 2014. My involvement extended through the case investigation prior to indictment until after the sentencing in 2015.

United States District Judge Martha Vazquez presided over the case.

Co-counsel:

Hon. Dean Tuckman (formerly of the U.S. Attorney's Office)
Executive Office for Immigration Review
U.S. Department of Justice
8915 Montana Avenue, Suite 100
El Paso, Texas 79925
(915) 771-1600

Principal Counsel for Defendant:

Robert Darren Cornforth
Law Office of R. Darren Cornforth
510 West Sixth Street, Suite 1210
Los Angeles, California 90014
(213) 514-5123

Principal Counsel for Co-defendant:

Angelica Hall
Federal Public Defender's Office
111 Lomas Boulevard, Suite 501
Albuquerque, New Mexico 87102
(505) 346-2489

6. *United States v. Estrada*, Cr. No. 13-1877 (D.N.M. 2013)

I was initially associate counsel in this matter, but became lead counsel after my co-counsel left the U.S. Attorney's Office. The defendant was a former campaign manager for then-New Mexico Governor Susana Martinez. The defendant was indicted on May 29, 2013, for illegally intercepting e-mails intended for the Governor and her staff and passing them to the Governor's political opponents. The defendant pled guilty and was sentenced in 2014. My involvement in the case extended through extensive pre-trial and sentencing litigation from 2013 through 2014.

Chief United States District Judge William Johnson presided over the case.

Co-counsel for the United States:

John Anderson
U.S. Attorney's Office
201 Third Street Northwest, Suite 900
Albuquerque, New Mexico 87102
(505) 346-6900

Jeremy Pena
U.S. Attorney's Office
201 Third Street Northwest, Suite 900
Albuquerque, New Mexico 87102
(505) 224-1451

Principal Counsel for Defendant:

Zachary Ives (formerly of the Zach Ives Law Firm)
New Mexico Court of Appeals
237 Don Gaspar Avenue
Santa Fe, New Mexico 87504
(505) 837-4925

7. *United States v. Hudson*, Cr. No. 12-1250 (D.N.M. 2012); 556 F. App'x 688,

(10th Cir. 2014)

Daryl Hudson is a former Securities and Exchange Commission Enforcement Division attorney who was tried and convicted of carrying out an advance fee scheme by falsely representing that he had access to project financing for start-up businesses in the green energy sector. The defendant's convictions and sentences were upheld on appeal. My involvement in the case extended from acting as co-counsel at trial in 2012 through sentencing, and co-authoring the government's brief on appeal in 2014.

Senior United States District Judge James Parker presided over the case.

Co-counsel for the United States:

John Anderson
U.S. Attorney's Office
201 Third Street Northwest, Suite 900
Albuquerque, New Mexico 87102
(505) 346-6900

Counsel for Defendant:

David Streubel
Cunningham, Vogel & Rost, P.C.
333 South Kirkwood Road, Suite 300
Saint Louis, Missouri 63122
(314) 446-0800

8. *United States v. Bussolini, et al.*, Cr. No. 04-1020 (D.N.M. 2004)

In this case, I was the sole prosecutor of two managers at Los Alamos National Laboratory for a large scale fraud scheme that extended over a period of several years. Both defendants pled guilty to fraud and theft charges. I was involved in the case during the investigation pre-indictment through the sentencing in 2015.

Senior United States District Judge James Parker presided over the case.

Counsel for Defendant:

Douglas Couleur
1640 Old Pecos Trail, Suite A
Santa Fe, New Mexico 87505
(505) 984-1962

Counsel for Co-defendant:

Joe Cruz Castellano (deceased)

9. *United States vs. Medley*, Cr. No. 01-043 (D.N.M. 2001); 130 F. App'x 248, (10th Cir. 2005); 476 F.3d 835 (10th Cir. 2007)

I was the lead prosecutor in a trial in which the defendant was tried and convicted for 21 felony crimes arising from a fraud scheme in which the defendant pretended to be a victim of the May 2000 Cerro Grande fire that consumed more than 400 structures in Los Alamos, New Mexico. The defendant also posed as a federal prosecutor in an effort to gain information into the ongoing investigation of her underlying crimes. The defendant's conviction was upheld on appeal, and her final post-conviction challenge in the case was dismissed by the Tenth Circuit. My involvement in the case dated from the investigation before the case was indicted in 2001 until the defendant's final, post-conviction appeal was dismissed in 2010.

United States District Judge Martha Vazquez presided over the case.

Co-counsel:

Hon. Steven Yarbrough (formerly of the U.S. Attorney's Office)
United States District Court for the District of New Mexico
333 Lomas Boulevard Northwest, Suite 670
Albuquerque, New Mexico 87102
(505) 348-2270

Principal Counsel for Defendant:

Jacquelyn Robins (the last attorney to represent Medley)
812 Marquette Avenue Northwest
Albuquerque, New Mexico 87102
(505) 242-5359.

10. *United States v. Barajas-Chavez*, 162 F.3d 1285 (10th Cir. 1999) (en banc); 358 F.3d 1263 (10th Cir. 2004)

This case was an appellate matter that a colleague and I volunteered to handle after a panel of the Tenth Circuit had already ruled against the government. We received approval to seek rehearing en banc, which the Tenth Circuit then granted. The question presented involved the proper legal test approach for ascertaining when the "in furtherance" element of an alien transporting offense under 8 U.S.C. § 1324(a)(1)(A)(i) is satisfied. On rehearing en banc, the Tenth Circuit unanimously reversed the panel decision and held that the evidence was sufficient to support the trial convictions because: (1) the "in furtherance of" element of the offense is not limited solely to those who support the presence of undocumented aliens in this country through a smuggling operation or some other form of illicit transportation; and (2) in determining whether the government has proved this element, a factfinder may consider any and all relevant evidence.

All of the active members of the Tenth Circuit presided over the en banc proceeding.

Co-counsel:

John Kelly (formerly the U.S. Attorney)
Bauman & Dow PC

7309 Indian School Road Northeast
Albuquerque, New Mexico 87110

Jason Bowles
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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 litigation at the trial level, during my tenure at the U.S. Attorney's Office, I have enjoyed responsibility for a significant amount of appellate work. I have appeared as counsel in the Tenth Circuit on 40 separate occasions.

As the supervisor of the White Collar Crimes Section from May 2010 to July 2014, I was also responsible for advising senior managers and the U.S. Attorney with regard to all manner of white collar crime investigations, including investigations that did not result in charges in court.

As the supervisor of the National Security Section at the U.S. Attorney's Office, from July 2014 to March 2018, I was further responsible for overseeing all ongoing national security matters handled by the U.S. Attorney's Office for the District of New Mexico. The nature of national security work often involves close coordination with the National Security Division at Main Justice, the FBI, and other Joint Terrorism Task Force (JTTF) law enforcement partners, both in intelligence gathering and other proactive activities. Here again, many of these matters may involve intense work, but are never charged in court.

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

I have not taught any courses.

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

None.

21. **Outside Commitments During Court Service**: Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

Should I be confirmed to serve on the court, I do not have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during any service with the court.

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).
23. **Statement of Net Worth**: Please complete the attached financial net worth statement in detail (add schedules as called for).

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.

I am unaware of any family members or other persons, parties, categories of litigation, or financial arrangements that are likely to present potential conflicts of interest. However, if confirmed, I will recuse myself in any litigation where I have played a role in representing or advising any party to the litigation. I will also recuse myself in matters involving my family or financial interests. I will remain vigilant for real or potential conflicts or relationships that could give rise to an appearance of a conflict. Potential conflicts must be evaluated on a case-by-case basis. I will determine the appropriate action after review of the canons of ethics and consultation with the parties. If necessary, I will recuse.

- b. Explain how you will resolve any potential conflict of interest, including the

procedure you will follow in determining these areas of concern.

When confronted by any potential conflict of interest, I will comply with the Code of Conduct for United States Judges and applicable statutes, including 28 U.S.C. § 455. I will be further guided by Tenth Circuit precedent, procedures and policies. If appropriate, I would notify all parties of the potential conflict of interest, and consult with them about it, to determine the appropriate resolution. If appropriate, I will recuse.

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.

During my time in private practice, I handled pro bono cases. During my time at the U.S. Attorney's Office prosecuting criminal cases, and serving the people of the United States from all walks of life, including overseeing the section that prosecutes cases involving victims in Indian Country, I have not engaged in any practice of law outside of the government.

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 June 28, 2019, I wrote to Senator Tom Udall and Senator Martin Heinrich expressing my interest in serving as a United States District Judge in the District of New Mexico. My correspondence included a completed questionnaire that I believe I downloaded from Senator Udall's website. On August 29, 2019, I was contacted by Senator Udall's office for an interview with Senator Udall and staffers from both his office and Senator Heinrich's office. On April 2, 2020, I received a call from both Senator Udall's and Senator Heinrich's offices and was informed that my name would be included on a list of potential judicial nominees being recommended to the White House for consideration. On April 8, 2020, I interviewed with attorneys from the White House Counsel's Office and the Office of Legal Policy of the Department of Justice. On April 23, 2020, the President authorized the White House Counsel's Office to initiate appropriate clearance processes for my possible nomination. Since April 3, 2020, I have been in contact

with officials from the White House Counsel's Office and the Office of Legal Policy.

- 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.