

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Eric Earl Murphy

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

United States Court of Appeals Judge for the Sixth 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.

Ohio Attorney General's Office  
30 East Broad Street, 17th Floor  
Columbus, Ohio 43215

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

1979; Indianapolis, Indiana

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.

2002 – 2005, The University of Chicago Law School; J.D., 2005

1997 – 2001, Miami University; B.A., 2001

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.

2013 – present  
Ohio Attorney General's Office  
30 East Broad Street, 17th Floor  
Columbus, Ohio 43215  
State Solicitor of Ohio

2007 – 2013

Jones Day  
325 John H. McConnell Boulevard, Suite 600  
Columbus, Ohio 43215  
Associate

2006 – 2007

Supreme Court of the United States  
1 1st Street N.E.  
Washington, D.C. 20543  
Law Clerk to the Honorable Anthony M. Kennedy

2005 – 2006

United States Court of Appeals for the Fourth Circuit  
255 West Main Street, Room 230  
Charlottesville, Virginia 22902  
Law Clerk to the Honorable J. Harvie Wilkinson III

2004

Kirkland & Ellis LLP  
300 North LaSalle  
Chicago, Illinois 60654  
Summer Associate

2003 – 2004

Professor Richard A. Epstein  
James Parker Hall Distinguished Service Professor Emeritus of Law  
The University of Chicago Law School  
1111 East 60th Street  
Chicago, Illinois 60637  
Research Assistant  
For part of this period, I was not compensated for my research assistance

2002

Meijer  
1661 Hilliard-Rome Road  
Columbus, Ohio 43228  
Grocery Clerk

Other Affiliations (uncompensated)

2004

United States Attorney's Office for the Northern District of Illinois  
219 South Dearborn Street, 5th Floor  
Chicago, Illinois 60604  
Law Student Intern

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.

National Association of Attorneys General – “Best Brief” award four years in a row for briefing in the U.S. Supreme Court (2015, 2016, 2017, 2018)

*Ohio Super Lawyers* – “Rising Star” (2013)

*The American Lawyer* – “Litigator of the Week” (Dec. 6, 2012)

University of Chicago Law School

High Honors (2005)

Order of the Coif (2005)

Member, University of Chicago Law Review (2003 – 2005)

Miami University

*Summa cum laude* (2001)

Phi Beta Kappa (2001)

Phi Kappa Phi (2000)

Phi Eta Sigma National Honor Society (1998)

Alpha Lambda Delta National Honor Society (1998)

Gary L. Best Memorial Scholarship (2000)

Joseph M. DeNardi Scholarship (1999)

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.

Bipartisan Judiciary Advisory Commission for a vacancy on the U.S. District Court for the Southern District of Ohio (2016)

Ohio State Bar Association (2008 – 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.

Ohio (2008)

There has been no lapse in membership.

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

Supreme Court of the United States, 2013

United States Court of Appeals for the Second Circuit, 2010 and renewed 2015

United States Court of Appeals for the Fourth Circuit, 2010

United States Court of Appeals for the Sixth Circuit, 2008

United States Court of Appeals for the Ninth Circuit, 2012

United States Court of Appeals for the Tenth Circuit, 2016

United States Court of Appeals for the D.C. Circuit, 2014

United States District Court for the Northern District of Indiana, 2012

United States District Court for the Eastern District of Michigan, 2009

United States District Court for the Western District of Michigan, 2013

United States District Court for the Southern District of Ohio, 2009

I am unaware of any 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.

Creature Canyon Council (approximately 2015 – 2016)

Federalist Society for Law and Public Policy Studies

National Member (2013 – present)

Board, Columbus Lawyers Chapter (approximately 2008 – 2018)

President, Columbus Lawyers Chapter (2013 – 2014)

Treasurer, Columbus Lawyers Chapter (2010 – 2013, 2014 – 2018)

Friends of the Columbus Zoo & Aquarium (approximately 2010 – 2014)

Miami University Alumni Association (2013 – present)

- 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.

Creature Canyon Council is a group that organizes events for dads and daughters in the greater Columbus area. To the best of my knowledge, none of the other organizations listed above 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.

With Meir Feder, *Supreme Court Limits Personal Jurisdiction Over Out-of-State Defendants*, Jones Day, July 2011. Copy supplied.

Comment, *Federal Preemption of State Law Relating to an Air Carrier's Services*, 71 U. Chi. L. Rev. 1197 (2004). 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.

To the best of my knowledge, I have no responsive materials.

- 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.

To the best of my recollection:

Letter to Sens. McConnell, Schumer, Grassley, and Feinstein, *Nomination of Andrew L. Brasher for the U.S. District Court for the Middle District of Alabama*

(May 17, 2018). Copy supplied.

Letter to Sens. McConnell, Schumer, Grassley, and Feinstein, *Nomination of the Honorable Britt C. Grant to the U.S. Court of Appeals for the Eleventh Circuit* (May 16, 2018). Copy supplied.

Letter to Sens. Grassley and Feinstein, *Nomination of the Honorable Patrick R. Wyrick for the U.S. District Court for the Western District of Oklahoma* (May 1, 2018). Copy supplied.

Letter to Sens. McConnell, Schumer, Grassley, and Feinstein, *Nomination of J. Campbell Barker for the U.S. District Court for the Eastern District of Texas* (Apr. 12, 2018). Copy supplied.

Letter to Sens. McConnell, Schumer, Grassley, Feinstein, Cassidy, and Kennedy, *Nomination of Kyle Duncan for the United States Court of Appeals for the Fifth Circuit* (Nov. 16, 2017). Copy supplied.

Letter to Sens. Grassley and Feinstein, *Nomination of the Honorable Neil M. Gorsuch for the Supreme Court of the United States* (Feb. 25, 2017). 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.

To the best of my recollection:

May 3, 2018: Speaker, Law Day on Separation of Powers: Framework for Freedom, Athens County Bar Association, Athens, Ohio. Notes supplied.

April 23, 2018: Speaker, State Solicitor's Report, 26th Annual Conference for Public College & University Attorneys, Ohio Attorney General's Office, Columbus, Ohio. Notes supplied.

April 9, 2018: Speaker, Representing the State in the Supreme Court: *Ohio v. American Express*, University of Toledo Law School, Toledo, Ohio. Notes supplied.

April 6, 2018: Panelist, Introduction to Originalism and Federalism, 2018 Ohio Lawyers Chapters Conference, Federalist Society for Law & Public Policy Studies, Columbus, Ohio. Recording available at <https://fedsoc.org/conferences/2018-ohio-lawyers-chapters-conference#agenda-item-introduction-to-originalism-and-federalism-where-are-the-courts-heading>.

February 13, 2018: Speaker, Justice Scalia's Separation of Powers Jurisprudence, Ohioans for Justice, Columbus, Ohio. Notes supplied.

November 9, 2017: Guest Lecturer, Oral Argument, Appellate Advocacy Class, University of Cincinnati Law School, Cincinnati, Ohio. Notes supplied.

September 13, 2017: Speaker, Supreme Court Review and Preview, Federalist Society for Law & Public Policy Studies, Columbus, Ohio. Notes supplied.

August 9, 2017: Speaker, Supreme Court Review and Preview, Federalist Society for Law & Public Policy Studies, Cincinnati, Ohio. For this event, I used the same notes as the notes from the September 13, 2017 event, which I have supplied.

May 10, 2017: Speaker, U.S. Supreme Court Update, Inns of Court, Columbus, Ohio. I participated in a Supreme Court review in which the speakers discussed recently decided and pending cases. I have no notes, transcript, or recording. The address of the Inns of Court is 225 Reinekers Lane, Suite 770, Alexandria, Virginia 22314.

April 27, 2017: Speaker, State Solicitor's Report, 25th Annual Conference for Public College & University Attorneys, Ohio Attorney General's Office, Columbus, Ohio. Notes supplied.

April 18, 2017: Speaker, the Ohio Attorney General's Office, Federalist Society for Law & Public Policy Studies, Columbus, Ohio. I met with student members of The Ohio State University Law School's Federalist Society Chapter to discuss public service and my duties in the Ohio Attorney General's Office. I have no notes, transcript, or recording. The address of Ohio State University is The Michael E. Moritz College of Law, 55 West 12th Avenue, Columbus, Ohio 43210. The address of the Federalist Society is 1776 I Street, N.W., Suite 300, Washington, D.C. 20006.

March 31, 2017: Moderator, Fighting Federal Encroachment, 2017 Ohio Lawyers Chapters Conference, Federalist Society for Law & Public Policy Studies, Columbus, Ohio. Recording available at <https://fedsoc.org/commentary/videos/fighting-federal-encroachment-event-audio-video>.

March 30, 2017: Speaker, Federal Regulatory Update: Clean Power Plan, Waters of the U.S., Stream Protection Rule, and More, 32nd Annual Ohio Environment, Energy, and Resources Law Seminar, Ohio State Bar Association, Columbus, Ohio. PowerPoint and notes supplied.

February 13, 2017: Speaker, Justice Scalia's Opinion in *Lamb's Chapel*, Columbus, Ohio. During an event in honor of Justice Scalia, several individuals read from his opinions. I read from his concurrence in *Lamb's Chapel v. Ctr. Moriches Union Free Sch. Dist.*, 508 U.S. 384 (1993). I have no notes, transcript, or recording. I do not know the sponsoring organization (if any). This event was held at Fox in the Snow Café, 1031 North 4th Street, Columbus Ohio, 43201.

December 14, 2016: Speaker, 2015 – 2016 Ohio Supreme Court Review, Ohio State Bar Association, Columbus, Ohio. Notes supplied.

October 27, 2016: Speaker, 2015 – 2016 Ohio Supreme Court Review, Ohio Judicial Conference, Independence, Ohio. Notes supplied.

September 28, 2016: Speaker, 2015 – 2016 Ohio Supreme Court Review, Ohio Association of Magistrates Fall Conference, Columbus, Ohio. Notes supplied.

September 23, 2016: Moderator, Business in the Roberts Courts – Part 3, The Center for Business Law & Regulation, George A. Leet Business Law Conference, Case Western Reserve University School of Law, Cleveland, Ohio. Recording available at <https://law.case.edu/Lectures-Events/EventId/5/e/business-in-the-roberts-court-23-sep-2016>.

September 16, 2016: Speaker, 2015 – 2016 Ohio Supreme Court Review, Annual Conference, Ohio Judicial Conference, Columbus, Ohio. Notes supplied.

September 13, 2016: Speaker, Supreme Court Review and Preview, Federalist Society for Law & Public Policy Studies, Columbus, Ohio. Notes supplied.

September 8, 2016: Guest Lecturer, Oral Argument, Appellate Advocacy Class, University of Cincinnati Law School, Cincinnati, Ohio. I have no transcript or recording and have not retained the original notes as used in this lecture, but I used notes that would have been similar to the notes that I used for the appellate-advocacy lecture from November 9, 2017, which I have supplied. The address of the University of Cincinnati Law School is 2540 Clifton Avenue, Cincinnati, Ohio 45221.

September 8, 2016: Speaker, Supreme Court Review and Preview, Federalist Society for Law & Public Policy Studies, Cincinnati, Ohio. For this event, I used the same notes as the notes from the September 13, 2016 event, which I have supplied.



July 18, 2016: Panelist, Supreme Court Review, Ohio State Bar Association, Columbus, Ohio. Notes supplied.

April 28, 2016: Speaker, State Solicitor's Report, 24th Annual Conference for Public College & University Attorneys, Ohio Attorney General's Office, Columbus, Ohio. Outline supplied.

April 19, 2016: Panelist, How States and Public Interest Law Firms Can Better Coordinate, Heritage Foundation, Philadelphia, Pennsylvania. I was on a panel with two other state Solicitors General to discuss our previous and pending cases during a conference that the Heritage Foundation organized for public interest law firms. I have no notes, transcript, or recording. The address of the Heritage Foundation is 214 Massachusetts Avenue, N.E., Washington, D.C. 20002.

April 7, 2016: Moderator, Supreme Court Perspectives, Section Chiefs Retreat, Ohio Attorney General's Office, Perrysville, Ohio. I moderated a Supreme Court review and preview for our office's Section Chiefs Retreat. I have no notes, transcript, or recording. The address of the Ohio Attorney General's Office is 30 East Broad Street, 17th Floor, Columbus, Ohio 43215.

March 8, 2016: Panelist, What is the Legacy of Justice Antonin Scalia?, Federalist Society for Law & Public Policy Studies, Cincinnati, Ohio. I participated in a panel that discussed Justice Scalia's contributions to the law and the way in which he would be remembered by future generations of lawyers. I have no notes, transcript, or recording. The address of the Federalist Society is 1776 I Street, N.W., Suite 300, Washington, District of Columbia 20006.

March 2, 2016: Panelist, A Panel of Solicitors General, Federalist Society for Law & Public Policy Studies, Chicago, Illinois. Recording available at <https://www.law.uchicago.edu/recordings/panel-solicitors-general>.

November 30, 2015: Panelist, Preservation in Federal Court, Ohio Center for Law-Related Education, Columbus, Ohio. Notes supplied.

November 19, 2015: Guest Lecturer, Oral Argument, Appellate Advocacy Class, University of Cincinnati Law School, Cincinnati, Ohio. I have no transcript or recording and have not retained the original notes as used in this lecture, but I used notes that would have been similar to the notes that I used for the appellate-advocacy lecture from November 9, 2017, which I have supplied. The address of the University of Cincinnati Law School is 2540 Clifton Avenue, Cincinnati, Ohio 45221.

September 22, 2015: Speaker, Supreme Court Review and Preview, Federalist Society for Law & Public Policy Studies, Columbus, Ohio. Notes supplied.

September 4, 2015: Speaker, 2014 – 2015 Ohio Supreme Court Review, Annual Conference, Ohio Judicial Conference, Columbus, Ohio. Notes supplied.

August 5, 2015: Speaker, Supreme Court Review and Preview, Federalist Society for Law & Public Policy Studies, Cincinnati, Ohio. For this event, I used the same notes as the notes from the September 22, 2015 event, which I have supplied.

June 11, 2015: Speaker, Practicing Before the Ohio & U.S. Supreme Courts, 2015 Leadership Academy, Ohio State Bar Association, Columbus, Ohio. Notes supplied.

May 8, 2015: Speaker, Preemption Presentation, Statutes and Rules Seminar, Ohio Attorney General's Office, Columbus, Ohio. PowerPoint (with speaker notes embedded) supplied.

February 13, 2015: Moderator, SCOTUS Future Selfie: How Recent and Upcoming Supreme Court Decisions Will Impact Corporate America and Corporate Litigation, Corporate Counsel CLE Seminar, American Bar Association, Miami, Florida. PowerPoint and notes supplied.

November 7, 2014: Speaker, State Solicitor's Report, Legal Symposium for Two-Year College Administrators, Ohio Attorney General's Office, Columbus, Ohio. Notes supplied.

October 1, 2014: Speaker, Supreme Court Review and Preview, Federalist Society for Law & Public Policy Studies, Columbus, Ohio. Notes supplied.

August 27, 2014: Speaker, 2013 – 2014 Ohio Supreme Court Review, Columbus Bar Association, Bench/Bar Retreat, Columbus, Ohio. Notes supplied.

August 5, 2014: Speaker, The Supreme Court of the United States, Ohio Attorney General's Office, Columbus, Ohio. I spoke to high-school students about the Supreme Court as part of the Teen Ambassador Board program organized by the Ohio Attorney General's Office. I have no notes, transcript, or recording. The address of the Ohio Attorney General's Office is 30 East Broad Street, 17th Floor, Columbus, Ohio 43215.

June 3, 2014: Moderator, Debate on the Constitutional Validity of the NSA's Collection of "Metadata" from U.S. Telephone Conversations, Federalist Society for Law & Public Policy Studies, Columbus, Ohio. I introduced the speakers and asked follow-up questions after they gave their presentations. I have no notes, transcript, or recording. The address of the Federalist Society is 1776 I Street, N.W., Suite 300, Washington, D.C. 20006.

May 6, 2014: Panelist, Representing the States on Appeal, 2014 Sixth Circuit Appellate Practice Institute, Cincinnati-Northern Kentucky and Dayton Chapters of the Federal Bar Association and the Litigation Section of the Federal Bar Association, Cincinnati, Ohio. On a panel with another Solicitor General, I discussed my duties, the Appeals Section's history, and the types of cases that the section litigates on behalf of the State. I have no notes, transcript, or recording. The address of the Federal Bar Association is 1220 North Fillmore Street, Suite 444 Arlington, Virginia 22201.

April 25, 2014: Speaker, State Solicitor's Report, 22nd Annual Conference for Public College & University Attorneys, Ohio Attorney General's Office, Columbus, Ohio. Notes supplied.

March 3, 2014: Moderator, Discussion about *Burwell v. Hobby Lobby Stores*, Federalist Society for Law & Public Policy Studies, Columbus, Ohio. I introduced the speakers and the topic and asked follow-up questions after they gave their presentations. I have no notes, transcript, or recording. The address of the Federalist Society is 1776 I Street, N.W., Suite 300, Washington, D.C. 20006.

December 11, 2013: Moderator, Debate on *Schutte v. Coalition to Defend Affirmative Action*, Federalist Society for Law & Public Policy Studies, Columbus, Ohio. I introduced the speakers and the topic and asked follow-up questions after they gave their presentations. I have no notes, transcript, or recording. The address of the Federalist Society is 1776 I Street, N.W., Suite 300, Washington, D.C. 20006.

November 8, 2013: Moderator, Debate on *NLRB v. Noel Canning*, Federalist Society for Law & Public Policy Studies, Columbus, Ohio. I introduced the speakers and the topic and asked follow-up questions after they gave their presentations. I have no notes, transcript, or recording. The address of the Federalist Society is 1776 I Street, N.W., Suite 300, Washington, D.C. 20006.

October 8, 2013: Moderator, Meet the Newest Ohio Supreme Court Justices, Federalist Society for Law & Public Policy Studies, Columbus, Ohio. I introduced the Justices and may have asked them questions. I have no notes, transcript, or recording. The address of the Federalist Society is 1776 I Street, N.W., Suite 300, Washington, D.C. 20006.

December 4, 2012: Panelist, Supreme Court Review, Jones Day, Columbus, Ohio. I reviewed recent cases from the Supreme Court. I have no notes, transcript, or recording. The address of Jones Day's Columbus office is 325 John H. McConnell Boulevard, Suite 600, Columbus, Ohio 43215.

November 29, 2012: Panelist, Supreme Court Review, Jones Day, Cleveland, Ohio. I reviewed recent cases from the Supreme Court. I have no notes,

transcript, or recording. The address of Jones Day's Cincinnati office is 901 Lakeside Avenue, Cleveland, Ohio 44114.

December 8, 2011: Panelist, 2010 – 2011 Supreme Court Review, Jones Day, Columbus, Ohio. Notes supplied.

December 6, 2011: Panelist, 2010 – 2011 Supreme Court Review, Jones Day, Cleveland, Ohio. I have no transcript or recording and have not retained the original notes as used in this lecture, but I used notes that would have been similar to the notes that I used for the review on December 8, 2011, which I have supplied. The address of Jones Day in Cleveland is 901 Lakeside Avenue East, Cleveland, Ohio 44114.

May 13, 2011: Panelist, Supreme Court Review, Federal Litigation Seminar, Federal Bar Association (Columbus Chapter), Columbus, Ohio. I reviewed recent cases from the Supreme Court. I have no notes, transcript, or recording. The address of the Federal Bar Association is 1220 North Fillmore Street, Suite 444, Arlington, Virginia 22201.

While at Jones Day, I may have given additional Supreme Court reviews as part of the firm's Continuing Legal Education programs. I do not have records of the dates or materials that I would have used for any such additional reviews. Other than discussing different cases, these presentations would have been similar to, for example, the presentation on December 8, 2011. Further, in addition to the oral-argument lectures at the University of Cincinnati, I recall over the course of my career occasionally speaking to other law-school classes (typically about appellate advocacy) at Columbus law schools. I do not have records of the dates or materials that I would have used for these talks.

- 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.

Elizabeth Slattery and Tiffany Bates, *SCOTUS 101 - #215: Water Wars, Curtilage, and Voter Rolls*, Heritage Foundation, Jan. 2018. Recording available at <https://www.heritage.org/courts/commentary/scotus-101-water-wars-curtilage-and-voter-rolls>.

Mark Walsh, *Supreme Court to hear case on abuse reporting*, Education Week, Feb. 24, 2015. Copy supplied.

Deirdre Shesgreen, *SCOTUS Hears Local Free Speech Case Tuesday*, Cincinnati Enquirer, Apr. 20, 2014. Copy supplied.

Jan Wolfe, *Litigators of the Week: Michael Carvin and Eric Murphy of Jones Day*; *N.Y. Solo Jennifer McCann*, *The American Lawyer* (Online), Dec. 6, 2012. Copy supplied.

Kevin Kemper, *Jones Day Adds to Appellate Practice*, *Columbus Business First*, Oct. 29, 2007. Copy supplied.

Dasha Vinogradsky, *U of C Law School feeds high court needs*, *The Chicago Maroon*, June 2, 2006. 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 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.

State Solicitor of Ohio (2013 – present), Columbus, Ohio; appointed in September 2013 by Attorney General Mike DeWine.

- 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.

During some years in college, I was in the Miami University College Republicans, and I did limited volunteer work during the 2000 election season for local county officials and for Senator Mike DeWine.

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 2005 to 2006, I served as a law clerk to the Honorable J. Harvie Wilkinson III, Circuit Judge of the United States Court of Appeals for the Fourth Circuit.

From 2006 to 2007, I served as a law clerk to the Honorable Anthony M. Kennedy, Associate Justice of the Supreme Court of the United States.

- 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.

2007 – 2013  
Jones Day  
325 John H. McConnell Boulevard, Suite 600  
Columbus, Ohio 43215  
Associate

2013 – present  
Ohio Attorney General's Office  
30 East Broad Street, 17th Floor  
Columbus, Ohio 43215  
State Solicitor of Ohio

- 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 never 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.

From 2013 to the present, I have been the State Solicitor of Ohio. The State Solicitor is the primary appellate lawyer for the State and oversees the Appeals Section in the Ohio Attorney General's Office. In this role, I have focused primarily on briefing and arguing appellate cases in the Supreme Court of United States, the United States Court of Appeals for the Sixth Circuit, and the Ohio Supreme Court. I have also provided legal advice on trial strategy and on whether the State should join amicus briefs filed in various federal and state courts.

From 2007 to 2013, I practiced in the Issues and Appeals section of Jones Day. In that role, I regularly briefed appeals in state and federal appellate courts across the country. I also regularly focused on legal issues in the trial courts, including drafting briefs in support of motions to dismiss or for summary judgment. I occasionally worked on discovery-related issues and provided general legal advice to clients.

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

As the State Solicitor of Ohio, my clients have included the State of Ohio, state agencies, and state officers and employees. My current position specializes in appellate advocacy, but covers many different substantive legal areas that affect the State of Ohio. On the civil side, I have litigated cases in areas such as antitrust law, administrative law, civil-rights law, consumer-protection law, constitutional law, environmental law, and voting and election law. I have also participated in cases raising questions concerning criminal law or procedure. The Attorney General's Office defends against federal habeas petitions. While civil in nature, these petitions often raise criminal-procedure questions. In addition, the office regularly assists county prosecutors in criminal appeals in the Ohio Supreme Court. The Appeals Section has handled appeals as special counsel to prosecutors and, more frequently, has filed amicus briefs supporting prosecutors.

In private practice, representative clients included Abbott Laboratories, the



American Hospital Association, AstraZeneca L.P., CBIZ, Inc., The Christ Hospital, The Cleveland Clinic, Goodyear Tires, Proctor & Gamble, and R.J. Reynolds Tobacco Co. As an associate in the Issues and Appeals section, I focused on appellate advocacy and law-related issues more generally. I also worked on matters touching upon many substantive legal areas, including constitutional law, contract law, criminal procedure, labor and employment, products liability, and trademark law.

- 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.

Both in private practice and in public service, almost 100% of my practice has focused on litigation and litigation strategy. During my career, I have presented oral arguments over 20 times in federal or state appellate courts, including 5 times in the U.S. Supreme Court. Either as counsel of record or as supporting counsel, I have also filed hundreds of briefs in federal and state appellate courts.

- i. Indicate the percentage of your practice in:

- |                             |      |
|-----------------------------|------|
| 1. federal courts:          | 65%  |
| 2. state courts of record:  | 35%  |
| 3. other courts:            | ___% |
| 4. administrative agencies: | ___% |

- ii. Indicate the percentage of your practice in:

- |                          |     |
|--------------------------|-----|
| 1. civil proceedings:    | 80% |
| 2. criminal proceedings: | 20% |

- 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.

Because my legal practice has focused primarily on appellate advocacy, I have not served as the sole or chief counsel in any case tried to verdict or judgment. I did participate in trial-level work while in private practice, predominately by offering legal advice about litigation strategy or by drafting dispositive motions such as summary-judgment motions. I have also assisted in managing the discovery process during pre-trial proceedings. Finally, as co-lead counsel, I conducted an evidentiary hearing in a federal habeas proceeding.

- i. What percentage of these trials were:

- |              |   |
|--------------|---|
| 1. jury:     | ___%  |
| 2. non-jury: | 100% (the evidentiary hearing referenced above) |

- 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 presented oral argument and was counsel of record on merits-stage and certiorari-stage briefs in the following cases:

*Ohio v. Am. Express Co.*, 138 S. Ct. 2274 (2018) (No. 16-1454) (pet. for cert., 2017 U.S. S. Ct. Briefs LEXIS 2029; reply in support of cert., 2017 U.S. S. Ct. Briefs LEXIS 3245; brief of petitioners, 2017 U.S. S. Ct. Briefs LEXIS 4781; reply brief, 2018 U.S. S. Ct. Briefs LEXIS 580). Oral argument transcript supplied.

*Husted v. A. Philip Randolph Inst.*, 138 S. Ct. 1833 (2018) (No. 16-980) (pet. for cert., 2017 U.S. S. Ct. Briefs LEXIS 424; reply in support of cert., 2017 U.S. S. Ct. Briefs LEXIS 1382; brief of petitioner, 2017 U.S. S. Ct. Briefs LEXIS 2704; reply brief, 2017 U.S. S. Ct. Briefs LEXIS 3977). Oral argument transcript supplied.

*Nat'l Ass'n of Mfrs. v. Dep't of Def.*, 138 S. Ct. 617 (2018) (No. 16-299) (brief of state respondents at cert. stage, 2016 U.S. S. Ct. Briefs LEXIS 3662; brief of state respondents, 2017 U.S. S. Ct. Briefs LEXIS 1490; reply brief of state respondents, 2017 U.S. S. Ct. Briefs LEXIS 3423). Oral argument transcript supplied.

*Sheriff v. Gillie*, 136 S. Ct. 1594 (2016) (No. 15-338) (pet. for cert., 2015 U.S. S. Ct. Briefs LEXIS 3267; reply in support of cert., 2015 U.S. S. Ct. Briefs LEXIS 3862; brief of petitioners, 2016 U.S. S. Ct. Briefs LEXIS 359; reply brief, 2016 U.S. S. Ct. Briefs LEXIS 1201). Oral argument transcript supplied.

*Susan B. Anthony List v. Driehaus*, 134 S. Ct. 2334 (2014) (No. 13-193) (brief in opp., 2013 U.S. S. Ct. Briefs LEXIS 4862; brief of state respondents, 2014 U.S. S. Ct. Briefs LEXIS 1199). Oral argument transcript supplied.

I was counsel of record for a petitioner or respondent in the following cases that were resolved on the merits:

*Jenkins v. Hutton*, 137 S. Ct. 1769 (2017) (No. 16-1116) (pet. for cert., 2017 U.S. S. Ct. Briefs LEXIS 953; reply in support of cert., 2017 U.S. S. Ct. Briefs LEXIS 1683).

*Obergefell v. Hodges*, 135 S. Ct. 2584 (2015) (No. 14-556) (brief in response to cert., 2014 U.S. S. Ct. Briefs LEXIS 4349; brief of respondent, 2015 U.S. S. Ct. Briefs LEXIS 1200).

I was counsel of record on amicus briefs in the following cases:

*Gillette Co. v. Cal. Franchise Tax Bd.*, 137 S. Ct. 294 (2016) (No. 15-1442) (cert. amicus, 2016 U.S. S. Ct. Briefs LEXIS 2552).

*Walker v. Tex. Div., Sons of Confederate Veterans*, 135 S. Ct. 2239 (2015) (No. 14-144) (merits amicus, 2015 U.S. S. Ct. Briefs LEXIS 31).

*Plumhoff v. Rickard*, 134 S. Ct. 2012 (2014) (No. 12-1117) (merits amicus, 2014 U.S. S. Ct. Briefs LEXIS 36).

*Horne v. Isaacson*, 134 S. Ct. 905 (2014) (No. 13-402) (cert. amicus, 2013 U.S. S. Ct. Briefs LEXIS 4413).

I was counsel of record on a stay application or a petition for certiorari in the following cases:

*Shoop v. Hill*, No. 18-56 (pending) (pet. for cert., 2018 U.S. S. Ct. Briefs LEXIS 2527).

*Hooks v. Langford*, 137 S. Ct. 2187 (2017) (No. 16-886) (pet. for cert., 2017 U.S. S. Ct. Briefs LEXIS 129; reply in support of cert., 2017 U.S. S. Ct. Briefs LEXIS 1150).

*Eppinger v. McCarley*, 136 S. Ct. 2508 (2016) (No. 15-1026) (pet. for cert., 2016 U.S. S. Ct. Briefs LEXIS 701; reply in support of cert., 2016 U.S. S. Ct. Briefs LEXIS 2246).

*Ohio v. Sierra Club*, 136 S. Ct. 1491 (2016) (No. 15-684) (pet. for cert., 2015 U.S. S. Ct. Briefs LEXIS 4345; reply in support of cert., 2015 U.S. S. Ct. Briefs LEXIS 5027).

*Cook v. Barton*, 136 S. Ct. 1449 (2016) (No. 15-580) (pet. for cert., 2015 U.S. S. Ct. Briefs LEXIS 3948; reply in support of cert., 2016 U.S. S. Ct. Briefs LEXIS 42).

*Hooks v. Langford*, 135 S. Ct. 2888 (2015) (No. 14-983) (pet. for cert., 2015 U.S. S. Ct. Briefs LEXIS 545; reply in support of cert., 2015 U.S. S. Ct. Briefs LEXIS 1507).

*Kelly v. McCarley*, 135 S. Ct. 2887 (2015) (No. 14-430) (pet. for cert., 2014 U.S. S. Ct. Briefs LEXIS 3588; reply in support of cert., 2015 U.S. S. Ct. Briefs LEXIS 280).

*Husted v. Ohio State Conference of the NAACP*, 135 S. Ct. 42 (2014) (No. 14A336) (application for a stay and reply in support of application) (Copy of stay briefs supplied).

*Robinson v. Drummond*, 134 S. Ct. 1934 (2014) (No. 13-496) (pet. for cert., 2013 U.S. S. Ct. Briefs LEXIS 4243; reply in support of cert., 2014 U.S. S. Ct. Briefs LEXIS 63).

*McCarthy v. Hughes*, 134 S. Ct. 1765 (2014) (No. 13-898) (pet. for cert., 2014 U.S. S. Ct. Briefs LEXIS 305; reply in support of cert., 2014 U.S. S. Ct. Briefs LEXIS 1069).

I was counsel of record for the respondent on certiorari-stage briefs in opposition to certiorari and/or a stay in the following cases:

*Tibbetts v. Kasich*, No. 18-5096 (pending) (Copy of brief supplied).

*Hutton v. Shoop*, No. 17-8686 (pending) (Copy of brief supplied).

*Hutton v. Shoop*, No. 17-8421 (pending) (Copy of brief supplied).

*Group v. Shoop*, No. 17-8188 (June 25, 2018) (Copy of brief supplied).

*Hand v. Shoop*, No. 17-7463 (Apr. 23, 2018) (Copy of brief supplied).

*Tibbetts v. Jenkins*, No. 17-6449 (Jan. 8, 2018) (Copy of brief supplied).

*Moore v. Mitchell*, No. 17-6239 (Jan. 8, 2018) (Copy of brief supplied).

*Campbell v. Jenkins*, 138 S. Ct. 466 (2017) (Nos. 17-6688, 17A505) (Copy of brief supplied).

*Franklin v. Jenkins*, 138 S. Ct. 396 (2017) (No. 17-5808) (Copy of brief supplied).

*Tibbetts v. DeWine*, 138 S. Ct. 301 (2017) (No. 16-9014) (Copy of brief supplied).

*Fears v. Kasich*, 138 S. Ct. 191 (2017) (No. 17-5010) (Copy of brief supplied).

*Bryan v. Jenkins*, 138 S. Ct. 179 (2017) (No. 16-9680) (Copy of brief supplied).

*Williams v. Jenkins*, 138 S. Ct. 179 (2017) (No. 16-9678) (Copy of brief supplied).

*Hill v. Mitchell*, 138 S. Ct. 82 (2017) (No. 16-9016) (Copy of brief supplied).

*Ne. Ohio Coal. for the Homeless v. Husted*, 137 S. Ct. 2265 (2017) (No. 16-1068) (brief in opp., 2017 U.S. S. Ct. Briefs LEXIS 1612).

*Otte v. Morgan*, 137 S. Ct. 2238 (2017) (Nos. 17-5198, 17A78) (Copy of brief supplied).

*Franklin v. Jenkins*, 137 S. Ct. 2188 (2017) (No. 16-8009) (Copy of brief supplied).

*Brinkley v. Sheldon*, 137 S. Ct. 2118 (2017) (No. 16-7984) (Copy of brief supplied).

*Sheppard v. Robinson*, 137 S. Ct. 1201 (2017) (No. 15-9638) (Copy of brief supplied).

*Adams v. Jenkins*, 137 S. Ct. 814 (2017) (No. 16-6642) (Copy of brief supplied).

*Carter v. Jenkins*, 137 S. Ct. 637 (2017) (No. 16-6467) (Copy of brief supplied).

*Landrum v. Jenkins*, 137 S. Ct. 333 (2016) (No. 16-5203) (Copy of brief supplied).

*Henderson v. Robinson*, 137 S. Ct. 145 (2016) (No. 15-9846) (Copy of brief supplied).

*In re Moreland*, 137 S. Ct. 42 (2016) (No. 15-8902) (Copy of brief supplied).

*McClain v. Kelly*, 137 S. Ct. 42 (2016) (No. 15-8901) (Copy of brief supplied).

*Trimble v. Jenkins*, 137 S. Ct. 41 (2016) (No. 15-8826) (Copy of brief supplied).

*Ohio Democratic Party v. Husted*, 137 S. Ct. 28 (2016) (No. 16A223) (Copy of brief supplied).

*Libertarian Party of Ohio v. Husted*, 137 S. Ct. 27 (2016) (No. 16A181) (Copy of brief supplied).

*Ne. Ohio Coal. for the Homeless v. Husted*, 137 S. Ct. 14 (2016) (No. 16A405) (Copy of brief supplied).

*Drummond v. Robinson*, 136 S. Ct. 2012 (2016) (No. 15-8135) (Copy of brief supplied).

*LaMar v. Houk*, 136 S. Ct. 1715 (2016) (No. 15-8255) (Copy of brief supplied).

*Franklin v. Lazaroff*, 136 S. Ct. 1493 (2016) (No. 15-7581) (Copy of brief supplied).

*Cassano v. Ohio*, 136 S. Ct. 1158 (2016) (No. 15-6258) (Copy of brief supplied).

*Loza v. Jenkins*, 135 S. Ct. 2892 (2015) (No. 14-9041) (Copy of brief supplied).

*Frazier v. Jenkins*, 135 S. Ct. 2859 (2015) (No. 14-8969) (Copy of brief supplied).

*Esparza v. Jenkins*, 135 S. Ct. 2806 (2015) (No. 14-8665) (Copy of brief supplied).

*Hardin v. Ohio*, 135 S. Ct. 2379 (2015) (No. 14-1008) (brief in opp., 2015 U.S. S. Ct. Briefs LEXIS 1599).

*Henness v. Bagley*, 135 S. Ct. 1708 (2015) (No. 14-8109) (Copy of brief supplied).

*Scott v. Forshey*, 135 S. Ct. 1552 (2015) (No. 14-7874) (Copy of brief supplied).

*Liberty Coins, LLC v. Porter*, 135 S. Ct. 950 (2015) (No. 14-403) (brief in opp., 2014 U.S. S. Ct. Briefs LEXIS 4258).

*Tyler v. Lazaroff*, 135 S. Ct. 370 (2014) (No. 14-5723) (Copy of brief supplied).

*Goins v. Lazaroff*, 135 S. Ct. 144 (2014) (No. 13-1517) (Copy of brief supplied).

*O'Neal v. Bagley*, 135 S. Ct. 69 (2014) (No. 13-10044) (Copy of brief supplied).

*Dixon v. Robinson*, 135 S. Ct. 63 (2014) (No. 13-9977) (Copy of brief supplied).

*In re Esparza*, 134 S. Ct. 2842 (2014) (No. 13-9474) (Copy of brief supplied).

*Coast Candidates PAC v. Ohio Elections Comm'n*, 134 S. Ct. 2840 (2014) (No. 13-1066) (Copy of brief supplied).

*Fitzpatrick v. Robinson*, 134 S. Ct. 1939 (2014) (No. 13-8394) (Copy of brief supplied).

*Mason v. Johnson*, 134 S. Ct. 1937 (2014) (No. 13-8148) (Copy of brief supplied).

*Trimble v. Bobby*, 134 S. Ct. 1299 (2014) (No. 13-7778) (Copy of brief supplied).

*McGuire v. Robinson*, 134 S. Ct. 998 (2014) (Nos. 13-8165, 13A720) (Copy of brief supplied).

*Esparza v. Robinson*, 134 S. Ct. 906 (2014) (No. 13-6656) (Copy of brief supplied).

*Stumpf v. Robinson*, 134 S. Ct. 905 (2014) (No. 13-6567) (Copy of brief supplied).

*Moore v. Robinson*, 134 S. Ct. 693 (2013) (No. 13-6519) (Copy of brief supplied).

*Coley v. Robinson*, 134 S. Ct. 513 (2013) (No. 13-5005) (Copy of brief supplied).

I was a supporting counsel (not counsel of record) on certiorari-stage briefs, merits briefs, or amicus briefs in the following cases:

*Whole Woman's Health v. Hellerstedt*, 136 S. Ct. 2292 (2016) (No. 15-274) (merits amicus, 2016 U.S. S. Ct. Briefs LEXIS 551).

*United States v. Texas*, 136 S. Ct. 2271 (2016) (No. 15-674) (brief in opp., 2015 U.S. S. Ct. Briefs LEXIS 4929; brief of state respondents, 2016 U.S. S. Ct. Briefs LEXIS 1422).

*U.S. Army Corps of Engineers v. Hawkes Co.*, 136 S. Ct. 1807 (2016) (No. 15-290) (merits amicus, 2016 U.S. S. Ct. Briefs LEXIS 992).

*Ohio v. Clark*, 135 S. Ct. 2173 (2015) (No. 13-1352) (pet. for cert., 2014 U.S. S. Ct. Briefs LEXIS 1798; reply in support of cert., 2014 U.S. S. Ct. Briefs LEXIS 2575; brief of petitioner, 2014 U.S. S. Ct. Briefs LEXIS 4051; reply brief, 2015 U.S. S. Ct. Briefs LEXIS 447).

*Autocam Corp. v. Burwell*, 134 S. Ct. 2901 (2014) (No. 13-482) (cert. amicus, 2013 U.S. S. Ct. Briefs LEXIS 4639).

*Burwell v. Hobby Lobby Stores, Inc.*, 134 S. Ct. 2751 (2014) (Nos. 13-354, 13-356) (cert. amicus, 2013 U.S. S. Ct. Briefs LEXIS 4301; merits amicus, 2014 U.S. S. Ct. Briefs LEXIS 339).

*McQuiggin v. Perkins*, 569 U.S. 383 (2013) (No. 12-126) (brief of respondent, 2013 U.S. S. Ct. Briefs LEXIS 217).

*FTC v. Phoebe Putney Health Sys., Inc.*, 568 U.S. 216 (2013) (No. 11-1160) (merits amicus, 2012 U.S. S. Ct. Briefs LEXIS 4323).

*Icicle Seafoods, Inc. v. Clausen*, 568 U.S. 823 (2012) (Nos. 11-1475, 11A1176) (pet. for cert., 2012 U.S. S. Ct. Briefs LEXIS 2562; reply in support of cert., 2012 U.S. S. Ct. Briefs LEXIS 3366) (Copy of stay briefs supplied).

*Arizona v. United States*, 567 U.S. 387 (2012) (No. 11-182) (merits amicus, 2012 U.S. S. Ct. Briefs LEXIS 1233).

*R.J. Reynolds Tobacco Co. v. Martin*, 566 U.S. 905 (2012) (No. 11-754) (pet. for cert., 2011 U.S. S. Ct. Briefs LEXIS 2696; reply in support of cert., 2012 U.S. S. Ct. Briefs LEXIS 989).

*R.J. Reynolds Tobacco Co. v. Gray*, 566 U.S. 905 (2012) (No. 11-752) (pet. for cert., 2011 U.S. S. Ct. Briefs LEXIS 2682; reply in support of cert., 2012 U.S. S. Ct. Briefs LEXIS 988).

*R.J. Reynolds Tobacco Co. v. Hall*, 566 U.S. 905 (2012) (No. 11-755) (pet. for cert., 2011 U.S. S. Ct. Briefs LEXIS 2697; reply in support of cert., 2012 U.S. S. Ct. Briefs LEXIS 990).

*R.J. Reynolds Tobacco Co. v. Campbell*, 566 U.S. 905 (2012) (No. 11-756) (pet. for cert., 2011 U.S. S. Ct. Briefs LEXIS 2683; reply in support of cert., 2012 U.S. S. Ct. Briefs LEXIS 991).

*Goodyear Dunlop Tires Operations, S. A. v. Brown*, 564 U.S. 915 (2011) (No. 10-76) (brief of petitioners, 2010 U.S. S. Ct. Briefs LEXIS 2038; reply brief, 2011 U.S. S. Ct. Briefs LEXIS 1).

*Baum v. AstraZeneca LP*, 562 U.S. 896 (2010) (No. 10-160) (brief in opp., 2010 U.S. S. Ct. Briefs LEXIS 4377).

To the best of my recollection, during my tenure as State Solicitor, the State of Ohio, through Ohio Attorney General Mike DeWine, joined the following multi-State briefs:

*Kisor v. O'Rourke*, No. 18-15 (pending) (cert. amicus, 2018 U.S. S. Ct. Briefs LEXIS 2836).

*Maryland-Nat'l Capital Park & Planning Comm'n v. Am. Humanist Ass'n*, Nos. 17-1717 & 18-18 (pending) (cert. amicus, 2018 U.S. S. Ct. Briefs LEXIS 2763).

*Franchise Tax Bd. of Cal. v. Hyatt*, No. 17-1299 (pending) (cert. amicus, 2018 U.S. S. Ct. Briefs LEXIS 1556).

*Andersen v. Planned Parenthood of Kan. and Mid-Mo.*, No. 17-1340 (pending) (cert. amicus, 2018 U.S. S. Ct. Briefs LEXIS 1699).

*Nev. Dep't of Wildlife v. Smith*, No. 17-1348 (pending) (cert. amicus, 2018 U.S. S. Ct. Briefs LEXIS 1729).

*Gee v. Planned Parenthood of Gulf Coast, Inc.*, No. 17-1492 (pending) (cert. amicus, 2018 U.S. S. Ct. Briefs LEXIS 2166).

*Kansas v. Garcia*, No. 17-834 (pending) (cert. amicus, 2018 U.S. S. Ct. Briefs LEXIS 95).

*Weyerhaeuser Co. v. U.S. Fish & Wildlife Serv.*, Nos. 17-71 & 17-74 (pending) (cert. amicus, 2017 U.S. S. Ct. Briefs LEXIS 2869; merits amicus, 2018 U.S. S. Ct. Briefs LEXIS 1822).

*Rowan Cty. v. Lund*, 138 S. Ct. 2564 (2018) (No. 17-565) (cert. amicus, 2017 U.S. S. Ct. Briefs LEXIS 4496).



*Trump v. Hawaii*, 138 S. Ct. 2392 (2018) (Nos. 17A550; 17-965) (merits amicus, 2018 U.S. S. Ct. Briefs LEXIS 1671; stay amicus, copy supplied).

*Nat'l Instit. of Family & Life Advocates v. Becerra*, 138 S. Ct. 2361 (2018) (No. 16-1140) (merits amicus, 2018 U.S. S. Ct. Briefs LEXIS 115).

*Abbott v. Perez*, 138 S. Ct. 2305 (2018) (Nos. 17-586, 17-626, 17A225, 17A245) (jur. amicus, 2017 U.S. S. Ct. Briefs LEXIS 4600 & 2017 U.S. S. Ct. Briefs LEXIS 4730; merits amicus, 2018 U.S. S. Ct. Briefs LEXIS 1014; stay amicus, copy supplied).

*South Dakota v. Wayfair, Inc.*, 138 S. Ct. 2080 (2018) (No. 17-494) (cert. amicus, 2017 U.S. S. Ct. Briefs LEXIS 4288; merits amicus, 2018 U.S. S. Ct. Briefs LEXIS 948).

*Benisek v. Lamone*, 138 S. Ct. 1942 (2018) (No. 17-333) (merits amicus, 2018 U.S. S. Ct. Briefs LEXIS 808).

*Gill v. Whitford*, 138 S. Ct. 1916 (2018) (No. 16-1161) (merits amicus, 2017 U.S. S. Ct. Briefs LEXIS 2748).

*Azar v. Garza*, 138 S. Ct. 1790 (2018) (No. 17-654) (cert. amicus, 2017 U.S. S. Ct. Briefs LEXIS 4740).

*Colorado v. Fuentes-Espinoza*, 138 S. Ct. 1698 (2018) (No. 17-1084) (cert. amicus, 2018 U.S. S. Ct. Briefs LEXIS 952).

*March v. Mills*, 138 S. Ct. 1545 (2018) (No. 17-689) (cert. amicus, 2017 U.S. S. Ct. Briefs LEXIS 4910).

*Byrd v. United States*, 138 S. Ct. 1518 (2018) (No. 16-1371) (merits amicus, 2017 U.S. S. Ct. Briefs LEXIS 5112).

*Murphy v. Nat'l Collegiate Athletic Ass'n*, 138 S. Ct. 1461 (2018) (No. 16-476) (merits amicus, 2017 U.S. S. Ct. Briefs LEXIS 3239).

*Daleiden v. Nat'l Abortion Fed'n*, 138 S. Ct. 1438 (2018) (No. 17-202) (cert. amicus, 2017 U.S. S. Ct. Briefs LEXIS 3437).

*Salt River Project Agric. Improvement & Power Dist. v. Tesla Energy Operations, Inc.*, 138 S. Ct. 1323 (2018) (No. 17-368) (merits amicus, 2018 U.S. S. Ct. Briefs LEXIS 257).

*Wilson v. Sellers*, 138 S. Ct. 1188 (2018) (No. 16-6855) (merits amicus, 2017 U.S. S. Ct. Briefs LEXIS 3062).

*United States v. Microsoft Corp.*, 138 S. Ct. 1186 (2018) (No. 17-2) (cert. amicus, 2017 U.S. S. Ct. Briefs LEXIS 2616; merits amicus, 2017 U.S. S. Ct. Briefs LEXIS 4950).

*Garco Constr. v. Speer*, 138 S. Ct. 1052 (2018) (No. 17-225) (cert. amicus, 2017 U.S. S. Ct. Briefs LEXIS 3474).

*Murphy v. Smith*, 138 S. Ct. 784 (2018) (No. 16-1067) (merits amicus, 2017 U.S. S. Ct. Briefs LEXIS 4326).

*People for the Ethical Treatment of Prop. Owners v. U.S. Fish and Wildlife Serv.*, 138 S. Ct. 649 (2018) (No. 17-465) (cert. amicus, 2017 U.S. S. Ct. Briefs LEXIS 4196).

*Murray Energy Corp. v. Pruitt*, 138 S. Ct. 649 (2018) (No. 17-478) (cert. amicus, copy supplied).

*Artis v. District of Columbia*, 138 S. Ct. 594 (2018) (No. 16-460) (merits amicus, 2017 U.S. S. Ct. Briefs LEXIS 2977).

*District of Columbia v. Wesby*, 138 S. Ct. 577 (2018) (No. 15-1485) (cert. amicus, 2016 U.S. S. Ct. Briefs LEXIS 2657; merits amicus, 2017 U.S. S. Ct. Briefs LEXIS 1689).

*Kolbe v. Hogan*, 138 S. Ct. 469 (2017) (No. 17-127) (cert. amicus, 2017 U.S. S. Ct. Briefs LEXIS 3073).

*City of Bloomfield v. Felix*, 138 S. Ct. 357 (2017) (No. 17-60) (cert. amicus, 2017 U.S. S. Ct. Briefs LEXIS 2776).

*Trump v. Int'l Refugee Assistance Project*, 138 S. Ct. 353 (2017) (Nos. 16-1436, 16-1540, 16A1190) (cert. amicus, 2017 U.S. S. Ct. Briefs LEXIS 2083; merits amicus, 2017 U.S. S. Ct. Briefs LEXIS 2965).

*Colo. State Bd. of Educ. v. Taxpayers for Pub. Educ.*, 137 S. Ct. 2325 (2017) (No. 15-558) (cert. amicus, 2015 U.S. S. Ct. Briefs LEXIS 4477).

*Fla. Dep't of Revenue v. Gonzalez*, 137 S. Ct. 2293 (2017) (No. 16-1013) (cert. amicus, 2017 U.S. S. Ct. Briefs LEXIS 1103).

*Sterling v. United States*, 137 S. Ct. 2212 (2017) (No. 16-814) (cert. amicus, 2017 U.S. S. Ct. Briefs LEXIS 272).

*Davila v. Davis*, 137 S. Ct. 2058 (2017) (No. 16-6219) (merits amicus, 2017 U.S. S. Ct. Briefs LEXIS 1284).

*Trinity Lutheran Church of Columbia, Inc. v. Comer*, 137 S. Ct. 2012 (2017) (No. 15-577) (cert. amicus, 2015 U.S. S. Ct. Briefs LEXIS 4525; merits amicus, 2016 U.S. S. Ct. Briefs LEXIS 1769).

*Peruta v. California*, 137 S. Ct. 1995 (2017) (No. 16-894) (cert. amicus, 2017 U.S. S. Ct. Briefs LEXIS 575).

*Lee v. United States*, 137 S. Ct. 1958 (2017) (No. 16-327) (merits amicus, 2017 U.S. S. Ct. Briefs LEXIS 944).

*Weaver v. Massachusetts*, 137 S. Ct. 1899 (2017) (No. 16-240) (merits amicus, 2017 U.S. S. Ct. Briefs LEXIS 1239).

*Filson v. Tarango*, 137 S. Ct. 1816 (2017) (No. 16-1000) (cert. amicus, 2017 U.S. S. Ct. Briefs LEXIS 1079).

*TC Heartland LLC v. Kraft Foods Grp. Brands LLC*, 137 S. Ct. 1514 (2017) (No. 16-341) (merits amicus, 2017 U.S. S. Ct. Briefs LEXIS 398).

*Binno v. ABA*, 137 S. Ct. 1375 (2017) (No. 16-796) (cert. amicus, 2017 U.S. S. Ct. Briefs LEXIS 189).

*Gloucester Cty. Sch. Bd. v. G.G.*, 137 S. Ct. 1239 (2017) (No. 16-273) (cert. amicus, 2016 U.S. S. Ct. Briefs LEXIS 3503; merits amicus, 2017 U.S. S. Ct. Briefs LEXIS 113).

*Coventry Health Care of Mo., Inc. v. Nevils*, 137 S. Ct. 1190 (2017) (No. 16-149) (merits amicus, 2017 U.S. S. Ct. Briefs LEXIS 290).

*Czyzewski v. Jevic Holding Corp.*, 137 S. Ct. 973 (2017) (No. 15-649) (cert. amicus, 2015 U.S. S. Ct. Briefs LEXIS 4801; merits amicus, 2016 U.S. S. Ct. Briefs LEXIS 3231).

*NLRB v. SW Gen., Inc.*, 137 S. Ct. 929 (2017) (No. 15-1251) (merits amicus, 2016 U.S. S. Ct. Briefs LEXIS 3513).

*Manuel v. City of Joliet*, 137 S. Ct. 911 (2017) (No. 14-9496) (merits amicus, 2016 U.S. S. Ct. Briefs LEXIS 2971).

*Bennie v. Munn*, 137 S. Ct. 812 (2017) (No. 16-452) (cert. amicus, 2016 U.S. S. Ct. Briefs LEXIS 4090).

*Building Indus. Ass'n of the Bay Area & Bay Planning Coal. v. U.S. Dep't of Commerce*, 137 S. Ct. 328 (2016) (No. 15-1350) (cert. amicus, 2016 U.S. S. Ct. Briefs LEXIS 2236).

*Arkansas v. Delaware*, 137 S. Ct. 266 (2016) (No. 22O146) (original action).

*Ryan v. McKinney*, 137 S. Ct. 39 (2016) (No. 15-1222) (cert. amicus, 2016 U.S. S. Ct. Briefs LEXIS 1906).

*Nevada v. Torres*, 136 S. Ct. 2505 (2016) (No. 15-5) (cert. amicus, 2015 U.S. S. Ct. Briefs LEXIS 2791).

*Michigan v. EPA*, 136 S. Ct. 2463 (2016) (No. 15-1152) (cert. pet., 2016 U.S. S. Ct. Briefs LEXIS 1210; reply in support of cert., 2016 U.S. S. Ct. Briefs LEXIS 2087).

*Utah v. Strieff*, 136 S. Ct. 2056 (2016) (No. 14-1373) (cert. amicus, 2015 U.S. S. Ct. Briefs LEXIS 2223; merits amicus, 2015 U.S. S. Ct. Briefs LEXIS 4621).

*Ross v. Blake*, 136 S. Ct. 1850 (2016) (No. 15-339) (merits amicus, 2016 U.S. S. Ct. Briefs LEXIS 644).

*Johnson v. Lee*, 136 S. Ct. 1802 (2016) (No. 15-789) (cert. amicus, 2016 U.S. S. Ct. Briefs LEXIS 313).

*Betterman v. Montana*, 136 S. Ct. 1609 (2016) (No. 14-1457) (merits amicus, 2016 U.S. S. Ct. Briefs LEXIS 886).

*United Student Aid Funds, Inc. v. Bible*, 136 S. Ct. 1607 (2016) (No. 15-861) (cert. amicus, 2016 U.S. S. Ct. Briefs LEXIS 666).

*Zubik v. Burwell*, 136 S. Ct. 1557 (2016) (No. 14-1418 et al.) (cert. amicus, 2015 U.S. S. Ct. Briefs LEXIS 2909; merits amicus, 2016 U.S. S. Ct. Briefs LEXIS 167).

*Franchise Tax Bd. of Cal. v. Hyatt*, 136 S. Ct. 1277 (2016) (No. 14-1175) (cert. amicus, 2015 U.S. S. Ct. Briefs LEXIS 1667; merits amicus, 2015 U.S. S. Ct. Briefs LEXIS 3205).

*Am. Farm Bureau Fed'n v. EPA*, 136 S. Ct. 1246 (2016) (No. 15-599) (cert. amicus, 2015 U.S. S. Ct. Briefs LEXIS 4568).

*Duncan v. Owens*, 136 S. Ct. 651 (2016) (No. 14-1516) (merits amicus, 2015 U.S. S. Ct. Briefs LEXIS 4308).

*Bruce v. Samuels*, 136 S. Ct. 627 (2016) (No. 14-844) (merits amicus, 2015 U.S. S. Ct. Briefs LEXIS 3513).

*Friedman v. City of Highland Park*, 136 S. Ct. 447 (2015) (No. 15-133) (cert. amicus, 2015 U.S. S. Ct. Briefs LEXIS 2996).

*Arizona v. Ashton Co.*, 136 S. Ct. 30 (2015) (No. 14-1019) (cert. amicus, 2015 U.S. S. Ct. Briefs LEXIS 1170).

*Nevada v. Superior Ct. of Cal.*, 135 S. Ct. 2937 (2015) (No. 14-1073) (cert. amicus, 2015 U.S. S. Ct. Briefs LEXIS 1390).

*Hickenlooper v. Kerr*, 135 S. Ct. 2927 (2015) (No. 14-460) (cert. amicus, 2014 U.S. S. Ct. Briefs LEXIS 4063).

*Michigan v. EPA*, 135 S. Ct. 2699 (2015) (No. 14-46) (pet. for cert., 2014 U.S. S. Ct. Briefs LEXIS 2542; reply in support of cert., 2014 U.S. S. Ct. Briefs LEXIS 3799; brief of petitioners, 2015 U.S. S. Ct. Briefs LEXIS 211; reply brief, 2015 U.S. S. Ct. Briefs LEXIS 1107).

*Oneok, Inc. v. Learjet, Inc.*, 135 S. Ct. 1591 (2015) (No. 13-271) (merits amicus, 2014 U.S. S. Ct. Briefs LEXIS 4208).

*Armstrong v. Exceptional Child Ctr., Inc.*, 135 S. Ct. 1378 (2015) (No. 14-15) (cert. amicus, 2014 U.S. S. Ct. Briefs LEXIS 2726; merits amicus, 2014 U.S. S. Ct. Briefs LEXIS 4095).

*N.C. State Bd. of Dental Examiners v. FTC*, 135 S. Ct. 1101 (2015) (No. 13-534) (cert. amicus, 2013 U.S. S. Ct. Briefs LEXIS 4870; merits amicus, 2014 U.S. S. Ct. Briefs LEXIS 2057).

*Colorado v. Schauffele*, 135 S. Ct. 945 (2015) (No. 14-266) (cert. amicus, 2014 U.S. S. Ct. Briefs LEXIS 3494).

*Heien v. North Carolina*, 135 S. Ct. 530 (2014) (No. 13-604) (merits amicus, 2014 U.S. S. Ct. Briefs LEXIS 2646).

*Carroll v. Carman*, 135 S. Ct. 348 (2014) (No. 14-212) (cert. amicus, 2014 U.S. S. Ct. Briefs LEXIS 3212).

*Rocky Mountain Farmers Union v. Corey*, 134 S. Ct. 2875 (2014) (Nos. 13-1148, 13-1149) (cert. amicus, 2014 U.S. S. Ct. Briefs LEXIS 1608).

*Campbell-Ponstingle v. Kovacic*, 134 S. Ct. 2696 (2014) (No. 13-933) (cert. amicus, copy supplied).

*Oklahoma v. EPA*, 134 S. Ct. 2662 (2014) (No. 13-921) (cert. amicus, 2014 U.S. S. Ct. Briefs LEXIS 1094).

*North Dakota v. EPA*, 134 S. Ct. 2662 (2014) (No. 13-940) (cert. amicus, 2014 U.S. S. Ct. Briefs LEXIS 980).

*Mt. Soledad Mem'l Ass'n v. Trunk*, 134 S. Ct. 2658 (2014) (No. 13-1061) (cert. amicus, 2014 U.S. S. Ct. Briefs LEXIS 1439).

*NLRB v. Noel Canning*, 134 S. Ct. 2550 (2014) (No. 12-1281) (merits amicus, 2013 U.S. S. Ct. Briefs LEXIS 4716).

*McCullen v. Coakley*, 134 S. Ct. 2518 (2014) (No. 12-1168) (merits amicus, 2013 U.S. S. Ct. Briefs LEXIS 3961).

*Util. Air Regulatory Grp. v. U.S. EPA*, 134 S. Ct. 2427 (2014) (Nos. 12-1146 et al.) (merits amicus, 2013 U.S. S. Ct. Briefs LEXIS 5133).

*Abramski v. United States*, 134 S. Ct. 2259 (No. 12-1493) (merits amicus, 2013 U.S. S. Ct. Briefs LEXIS 4918).

*Republic of Argentina v. NML Capital, Ltd.*, 134 S. Ct. 2250 (2014) (No. 12-842) (merits amicus, 2014 U.S. S. Ct. Briefs LEXIS 1269).

*Drake v. Jerejian*, 134 S. Ct. 2134 (2014) (No. 13-827) (cert. amicus, copy supplied).

*Octane Fitness, LLC v. Icon Health & Fitness, Inc.*, 134 S. Ct. 1749 (2014) (No. 12-1184) (merits amicus, 2013 U.S. S. Ct. Briefs LEXIS 5030).

*Paroline v. United States*, 134 S. Ct. 1710 (2014) (No. 12-8561) (merits amicus, 2013 U.S. S. Ct. Briefs LEXIS 4920).

*Navarette v. California*, 134 S. Ct. 1683 (2014) (No. 12-9490) (merits amicus, 2013 U.S. S. Ct. Briefs LEXIS 5179).

*EPA v. EME Homer City Generation, L.P.*, 134 S. Ct. 1584 (2014) (Nos. 12-1182, 12-1183) (brief of state respondents, copy supplied).

*Mingo Logan Coal Co. v. EPA*, 134 S. Ct. 1540 (2014) (No. 13-599) (cert. amicus, 2013 U.S. S. Ct. Briefs LEXIS 5385).

*Judd v. Libertarian Party of Va.*, 134 S. Ct. 681 (2013) (No. 13-231) (cert. amicus, 2013 U.S. S. Ct. Briefs LEXIS 4001).

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. *Ohio v. Am. Express Co.*, 138 S. Ct. 2274 (2018).

This case involved an antitrust suit brought by the United States and various States against American Express under Section 1 of the Sherman Act. The suit challenged the “anti-steering provisions” that American Express imposed on merchants that accept its credit cards. Those provisions barred merchants from, among other things, offering retail customers discounts for using cheaper credit cards. The U.S. District Court for the Eastern District of New York (Judge Garaufis) ruled for the United States and the States, finding that the anti-steering provisions led to higher prices for merchants and consumers. *United States v. Am. Express Co.*, 88 F. Supp. 3d 143 (E.D.N.Y. 2015). In an opinion written by Judge Wesley and joined by Judges Winter and Droney, the Second Circuit reversed and directed judgment for American Express. *United States v. Am. Express Co.*, 838 F.3d 179 (2d Cir. 2016). The United States opted not to seek the Supreme Court’s review, but Ohio and other States successfully did so. In a decision written by Justice Thomas, and joined by Chief Justice Roberts, and Justices Kennedy, Alito, and Gorsuch, the Court affirmed the Second Circuit, and ruled that the Government failed to present an initial anticompetitive case under the rule of reason. Justice Breyer wrote a dissent, joined by Justices Ginsburg, Sotomayor, and Kagan.

I represented the State of Ohio in the Supreme Court proceedings. I was counsel of record on the States’ petition for certiorari and on their merits briefs. I also argued before the Supreme Court on behalf of the States.

Co-counsel:

Michael J. Hendershot  
Chief Deputy Solicitor  
Hannah C. Wilson  
Deputy Solicitor  
Ohio Attorney General’s Office  
30 East Broad Street, 17th Floor  
Columbus, Ohio 43215  
(614) 466-8980

Principal Counsel for American Express:

Evan R. Chesler  
Cravath, Swaine & Moore LLP  
825 8th Avenue  
New York, New York 10019  
(212) 474-1000

Principal Counsel for the United States:

Noel J. Francisco  
Solicitor General  
Malcolm L. Stewart  
Deputy Solicitor General  
United States Department of Justice  
950 Pennsylvania Avenue N.W., Room 5616  
Washington, D.C. 20530  
(202) 514-2203

2. *Husted v. A. Philip Randolph Inst.*, 138 S. Ct. 1833 (2018).

This case involved a statutory challenge under the National Voter Registration Act (NVRA) to the manner in which Ohio Secretary of State Jon Husted and former Secretaries of State maintained Ohio's voter rolls. Under the Supplemental Process, boards of election send a notice to registrants who have not voted over a two-year period and remove those registrants from the rolls if they do not respond to the notice or vote over two more general federal elections. The U.S. District Court for the Southern District of Ohio (Judge Smith) held that the NVRA permitted this process. *A. Philip Randolph Inst. v. Husted*, No. 2:16-cv-00303, 2016 WL 3542450 (S.D. Ohio June 29, 2016). In an opinion by Judge Clay and joined by Judge Gibbons, the Sixth Circuit reversed and held that this process violated the NVRA. *A. Philip Randolph Inst. v. Husted*, 838 F.3d 699 (6th Cir. 2016). Judge Siler dissented on this issue. Secretary Husted successfully sought the Supreme Court's review. In a decision written by Justice Alito, and joined by Chief Justice Roberts and Justices Kennedy, Thomas, and Gorsuch, the Supreme Court reversed the Sixth Circuit and held that the Supplemental Process complied with the NVRA. Justice Thomas wrote a concurrence. Justice Breyer wrote a dissent joined by Justices Ginsburg, Sotomayor, and Kagan. Justice Sotomayor wrote a separate dissent.

I represented Secretary Husted. I was listed on the brief in the Sixth Circuit and oversaw the litigation there. I was also counsel of record on the certiorari-stage and merits-stage briefs in the Supreme Court, and argued before that Court.



Co-counsel:

Michael J. Hendershot  
Chief Deputy Solicitor  
Ohio Attorney General's Office  
30 East Broad Street, 17th Floor  
Columbus, Ohio 43215  
(614) 466-8980

Steven T. Voigt  
Principal Assistant Attorney General  
Ohio Attorney General's Office  
30 East Broad Street, 16th Floor  
Columbus, Ohio 43215  
(614) 466-2872

Principal Counsel for Plaintiffs:

Paul M. Smith  
Campaign Legal Center  
1411 K Street N.W., Suite 1400  
Washington, D.C. 20005  
(202) 736-2200

Brenda Wright  
Dêmos  
1340 Centre Street, Suite 209  
Newton, Massachusetts 02459  
(617) 232-5885

Stuart C. Naifeh  
Dêmos  
80 Broad Street, 4th Floor  
New York, New York 10004  
(212) 485-6055

3. *Nat'l Ass'n of Mfrs. v. Dep't of Def.*, 138 S. Ct. 617 (2018), and *In re U.S. Dep't of Def. & U.S. EPA Final Rule*, 817 F.3d 261 (6th Cir. 2016).

This case involved challenges to the rule redefining the “waters of the United States” covered by the Clean Water Act. Clean Water Rule: Definition of “Waters of the United States,” 80 Fed. Reg. 37,054 (June 29, 2015). Many States filed lawsuits challenging the rule in district courts. Simultaneously, they also filed petitions for review in circuit courts because of the federal government’s position that the circuit courts had exclusive jurisdiction over these challenges. The Sixth Circuit issued a divided 1-1-1 opinion agreeing with the federal

government that it had exclusive jurisdiction. Judge McKeague issued the lead opinion; Judge Griffin concurred in the judgment; Judge Keith dissented. The National Association of Manufacturers successfully sought the Supreme Court's review. In an opinion written by Justice Sotomayor and joined by Chief Justice Roberts and Justices Kennedy, Thomas, Ginsburg, Breyer, Alito, Kagan, and Gorsuch, the Supreme Court reversed. It held that circuit courts lacked jurisdiction over challenges to the rule.

I represented the State of Ohio in this litigation. I briefed and argued the jurisdictional question in the Sixth Circuit. In the Supreme Court, I was counsel of record on briefs that were filed on behalf of many States at the certiorari and merits stages. I also argued before the Supreme Court.

Co-counsel:

Peter T. Reed  
[then Deputy Solicitor in the Ohio Attorney General's Office]  
Missouri Attorney General's Office  
815 Olive Street, Suite 200  
St. Louis, Missouri 63101  
(314) 340-7366

Principal Counsel for the National Association of Manufacturers:

Timothy S. Bishop  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, Illinois 60606  
(312) 782-0600

Principal Counsel for the U.S. Army Corps of Engineers and EPA:

Jeffrey B. Wall  
Deputy Solicitor General  
[then Acting Solicitor General]  
Rachel P. Kovner  
Assistant to the Solicitor General  
United States Department of Justice  
950 Pennsylvania Avenue N.W., Room 5616  
Washington, D.C. 20530  
(202) 514-2203

Amy J. Dona  
Martha C. Mann  
Environmental & Natural Resources Division  
United States Department of Justice

Post Office Box 7611  
Washington, D.C. 20044  
(202) 514-2664

4. *In re Ohio Execution Protocol (Fears v. Morgan)*, 860 F.3d 881 (6th Cir. 2017) (en banc), *certiorari & stay denied by Otte v. Morgan*, 137 S. Ct. 2238 (2017).

This case involved challenges to the three-drug execution method that Ohio prison officials adopted in October 2016. Three capital inmates asserted Eighth Amendment and judicial-estoppel claims against that method. The U.S. District Court for the Southern District of Ohio (Magistrate Judge Merz) issued a preliminary injunction against the execution method. The state defendants filed an expedited appeal in the Sixth Circuit. In an opinion written by Judge Moore and joined by Judge Stranch, a panel initially affirmed. Judge Kethledge dissented. The state defendants then obtained en banc review. The en banc court reversed the injunction. Judge Kethledge wrote the opinion, which was joined by Judges Batchelder, Gibbons, Rogers, Sutton, McKeague, Griffin, and Thapar. Judge Moore wrote a dissent that was joined by Chief Judge Cole and Judges Clay, Stranch, and Donald, and by Judge White in part. Judge Stranch wrote a separate dissent. The inmates filed a petition for certiorari and a stay application in the Supreme Court. The Supreme Court denied review, over a dissent by Justice Sotomayor that was joined by Justice Ginsburg.

I was counsel of record on the briefs filed in the Sixth Circuit and in the Supreme Court. I also argued both before the original panel and before the en banc court.

Co-counsel:

Peter T. Reed  
[then Deputy Solicitor in the Ohio Attorney General's Office]  
Missouri Attorney General's Office  
815 Olive Street, Suite 200  
St. Louis, Missouri 63101  
(314) 340-7366

Thomas E. Madden  
Charles L. Wille  
Assistant Attorneys General  
Criminal Justice Section  
Ohio Attorney General's Office  
150 East Gay Street, 16th Floor  
Columbus, Ohio 43215  
(614) 728-7055

Jocelyn K. Lowe  
Staff Counsel

[then Assistant Attorney General in the Ohio Attorney General's Office]  
Ohio Department of Rehabilitation and Correction  
770 West Broad Street  
Columbus, Ohio 43222  
(614) 752-1603

Katherine E. Mullin  
Assistant Prosecutor  
[then Assistant Attorney General in the Ohio Attorney General's Office]  
Cuyahoga County Prosecutor's Office  
1200 Ontario Street, 8th Floor  
Cleveland, Ohio 44113  
(216) 443-7800

Principal Counsel for the Plaintiffs:

Mark E. Haddad  
Sidley Austin LLP  
555 West 5th Street, Suite 4000  
Los Angeles, California 90013  
(213) 896-6000

Erin G. Barnhart  
Assistant Federal Public Defender  
Office of the Federal Public Defender, Southern District of Ohio  
10 West Broad Street, Suite 1020  
Columbus, Ohio 43215  
(614) 469-2999

5. *Ohio Democratic Party v. Husted*, 834 F.3d 620 (6th Cir. 2016), and *Husted v. Ohio State Conference of the NAACP*, 135 S. Ct. 42 (2014).

These cases involved challenges under the Fourteenth Amendment and Section 2 of the Voting Rights Act to a law that shortened Ohio's 35-day early-voting calendar by about a week. In 2014, the U.S. District Court for the Southern District of Ohio (Judge Economus) granted a preliminary injunction requiring Ohio to reinstate this week for the 2014 election. In an expedited appeal, a Sixth Circuit panel affirmed the injunction. Judge Moore wrote an opinion joined by Judges Clay and Keith. *Ohio State Conference of the NAACP v. Husted*, 768 F.3d 524 (6th Cir. 2014). The Supreme Court then granted a stay of the injunction, over the dissent of Justices Ginsburg, Breyer, Sotomayor, and Kagan. In 2016, the law was challenged again. While rejecting other claims, the U.S. District Court for the Southern District of Ohio (Judge Watson) granted a permanent injunction requiring Ohio to reinstate the eliminated week. The Sixth Circuit reversed. Judge McKeague wrote the opinion, which was joined by Judge Griffin. Judge Stranch dissented. The plaintiffs filed an application to stay the

Sixth Circuit's decision in the Supreme Court. The Supreme Court denied the application with no noted dissent. *Ohio Democratic Party v. Husted*, 137 S. Ct. 28 (2016).

I was counsel of record on the briefs in the Sixth Circuit and in the Supreme Court in these cases. I also argued in the Sixth Circuit in the 2016 case.

Co-counsel:

Michael J. Hendershot  
Chief Deputy Solicitor  
Stephen P. Carney  
Deputy Solicitor  
Ohio Attorney General's Office  
30 East Broad Street, 17th Floor  
Columbus, Ohio 43215  
(614) 466-8980

Steven T. Voigt  
Principal Assistant Attorney General  
Ohio Attorney General's Office  
30 East Broad Street, 16th Floor  
Columbus, Ohio 43215  
(614) 466-2872

Principal Counsel for plaintiffs in *Ohio State Conference of the NAACP*:

Dale E. Ho  
American Civil Liberties Union Foundation  
125 Broad Street, 18th Floor  
New York, New York 10004  
(212) 549-2611

Freda J. Levenson  
ACLU of Ohio Foundation, Inc.  
4506 Chester Avenue  
Cleveland, Ohio 44103  
(216) 472-2220

Principal Counsel for plaintiffs in *Ohio Democratic Party*:

Marc E. Elias  
Perkins Coie LLP  
700 13th Street N.W., Suite 600  
Washington, D.C. 20005  
(202) 654-6200

6. *Sheriff v. Gillie*, 136 S. Ct. 1594 (2016).

This case involved a challenge under the Fair Debt Collection Practices Act. The Ohio Attorney General appoints special counsel to collect state debts, and they use Ohio Attorney General letterhead when doing so. The plaintiffs alleged that special counsel's use of that letterhead violated the Act. Attorney General Mike DeWine intervened in the litigation in support of the special counsel. The U.S. District Court for the Southern District of Ohio (Judge Graham) granted summary judgment to the defendants. In an opinion written by Judge Clay and joined by Judge Gilman, the Sixth Circuit reversed. *Gillie v. Law Office of Eric A. Jones*, 785 F.3d 1091 (6th Cir. 2015). Judge Sutton dissented. The Sixth Circuit later denied en banc review, over a dissent by Judge Sutton that was joined by Judges Boggs, Batchelder, Cook, and McKeague. The defendants successfully sought Supreme Court review, and the Supreme Court reversed the Sixth Circuit. Justice Ginsburg wrote the opinion that was joined by Chief Justice Roberts and Justices Kennedy, Thomas, Breyer, Alito, Sotomayor, and Kagan.

I represented Attorney General Mike DeWine. I was a counsel listed on the petition for en banc rehearing in the Sixth Circuit, and also was counsel of record on the certiorari-stage and merits-stage briefs in the Supreme Court. I argued the case in the Supreme Court.

Co-counsel:

Michael J. Hendershot  
Chief Deputy Solicitor  
Samuel C. Peterson  
Deputy Solicitor  
Ohio Attorney General's Office  
30 East Broad Street, 17th Floor  
Columbus, Ohio 43215  
(614) 466-8980

Peter T. Reed  
[then Deputy Solicitor in the Ohio Attorney General's Office]  
Missouri Attorney General's Office  
815 Olive Street, Suite 200  
St. Louis, Missouri 63101  
(314) 340-7366

Counsel for Defendants Wiles, Boyle, Burkholder & Bringardner, LPA,  
Sheriff, and Sheriff:

Michael L. Close  
Mark Landes

Dale D. Cook  
Isaac Wiles  
2 Miranova Place, Suite 700  
Columbus, Ohio 43215  
(614) 221-2121

Counsel for Defendants Eric Jones and the Law Office of Eric A. Jones, LLC:

Boyd W. Gentry  
Law Office of Boyd W. Gentry  
4031 Colonel Glenn Highway  
Beavercreek, Ohio 45431  
(937) 839-2881

Principal Counsel for the Plaintiffs:

E. Joshua Rosenkranz  
Orrick, Herrington & Sutcliffe LLP  
51 West 52nd Street  
New York, New York 10019  
(212) 506-5000

7. *Ohio v. Clark*, 135 S. Ct. 2173 (2015).

This case involved a Confrontation Clause claim. An Ohio criminal defendant challenged the admission at trial of a three-year-old child's hearsay statements to his teachers. The teachers testified that the child told them that the defendant had caused his injuries. The defendant was convicted. A state appellate court reversed, holding that the Confrontation Clause prohibited the introduction of the child's hearsay statements. The Ohio Supreme Court affirmed the appellate court in an opinion written by Justice O'Donnell and joined by Justices Pfeifer, Kennedy, and O'Neill. *State v. Clark*, 137 Ohio St. 3d 346 (2013). Chief Justice O'Connor wrote a dissent joined by Justices Lanzinger and French. The State of Ohio successfully sought the U.S. Supreme Court's review. The U.S. Supreme Court reversed in an opinion written by Justice Alito and joined by Chief Justice Roberts and Justices Kennedy, Breyer, Sotomayor, and Kagan. Justice Scalia filed an opinion concurring in the judgment in which Justice Ginsburg joined. Justice Thomas filed an opinion concurring in the judgment.

I was supporting counsel in the U.S. Supreme Court on behalf of the State of Ohio. In that capacity, I was the primary author of the State's certiorari-stage and merits-stage briefs.

Co-Counsel:

Katherine E. Mullin  
Matthew E. Meyer  
Assistant Prosecutors  
Cuyahoga County Prosecutor's Office  
1200 Ontario Street, 8th Floor  
Cleveland, Ohio 44113  
(216) 443-7800

Samuel C. Peterson  
Deputy Solicitor  
Ohio Attorney General's Office  
30 East Broad Street, 17th Floor  
Columbus, Ohio 43215  
(614) 466-8980

Principal Counsel for the Defendant:

Jeffrey L. Fisher  
Stanford Law School Supreme Court Litigation Clinic  
559 Nathan Abbott Way  
Stanford, California 94305  
(650) 724-7081

8. *DeBoer v. Snyder*, 772 F.3d 388 (6th Cir. 2014), *reversed by Obergefell v. Hodges*, 135 S. Ct. 2584 (2015).

These cases involved challenges under the Fourteenth Amendment to the Ohio constitutional and statutory provisions prohibiting the recognition of same-sex marriages that were performed in other States. Two cases were brought in Ohio. In both cases, the U.S. District Court for the Southern District of Ohio (Judge Black) held that Ohio's prohibition on recognizing out-of-state, same-sex marriages violated the Fourteenth Amendment. In an appeal that consolidated the Ohio challenges with other challenges from Michigan, Kentucky, and Tennessee, the Sixth Circuit reversed and upheld the marriage laws of all four States. Judge Sutton wrote the opinion joined by Judge Cook. Judge Daughtrey dissented. The plaintiffs successfully sought Supreme Court review. The Supreme Court reversed in an opinion written by Justice Kennedy and joined by Justices Ginsburg, Breyer, Sotomayor, and Kagan. Chief Justice Roberts dissented, joined by Justices Scalia and Thomas. Justices Scalia, Thomas, and Alito also filed separate dissents.

I represented the Director of Ohio's Department of Health. In the Sixth Circuit, I participated in the briefing and argument on behalf of the Director. In the



Supreme Court, I was counsel of record for the Director on the certiorari-stage and merits-stage briefs.

Co-counsel:

Stephen P. Carney  
Deputy Solicitor  
Ohio Attorney General's Office  
30 East Broad Street, 17th Floor  
Columbus, Ohio 43215  
(614) 466-8980

Peter T. Reed  
[then Deputy Solicitor in the Ohio Attorney General's Office]  
Missouri Attorney General's Office  
815 Olive Street, Suite 200  
St. Louis, Missouri 63101  
(314) 340-7366

Bridget E. Coontz  
Zachery P. Keller  
Assistant Attorneys General  
Ohio Attorney General's Office  
30 East Broad Street, 16th Floor  
Columbus, Ohio 43215  
(614) 466-2872

Principal Counsel for the Plaintiffs:

Alphonse A. Gerhardstein  
Gerhardstein & Branch Co. LPA  
441 Vine Street, Suite 3400  
Cincinnati, Ohio 45202  
(513) 621-9100

9. *Susan B. Anthony List v. Driehaus*, 134 S. Ct. 2334 (2014).

This case involved a First Amendment challenge to Ohio's false-statement laws. The laws prohibited false statements during political campaigns and allowed the Ohio Elections Commission to hear third-party complaints about alleged violations. Before the 2010 election, the Susan B. Anthony List sought to criticize Congressman Steve Driehaus for his vote for the Affordable Care Act, asserting that the Act permits taxpayer-funded abortion. Driehaus argued that this allegation was false and filed a complaint with the Ohio Elections Commission. The Ohio Elections Commission found probable cause of a violation, but the case was dismissed after the 2010 election. The plaintiffs then brought a First

Amendment challenge to the false-statement laws in federal court against various state defendants, including the Ohio Elections Commission and its members. The U.S. District Court for the Southern District of Ohio (Judge Black) dismissed the suit on ripeness grounds. In an opinion written by Judge Stranch and joined by Judges Rogers and Pearson, the Sixth Circuit affirmed. *Susan B. Anthony List v. Driehaus*, Nos. 11-3894, 11-3925, 2013 WL 1942821 (6th Cir. May 13, 2013). The plaintiffs successfully petitioned for Supreme Court review. The Supreme Court reversed in an opinion written by Justice Thomas and joined by Chief Justice Roberts and Justices Scalia, Kennedy, Ginsburg, Breyer, Alito, Sotomayor, and Kagan.

I was counsel of record for the state defendants on their certiorari-stage and merits-stage briefs in the Supreme Court. I also argued in the Supreme Court.

Co-Counsel:

Samuel C. Peterson  
Deputy Solicitor  
Ohio Attorney General's Office  
30 East Broad Street, 17th Floor  
Columbus, Ohio 43215  
(614) 466-8980

Peter K. Glenn-Applegate  
[then Deputy Solicitor in the Ohio Attorney General's Office]  
Assistant U.S. Attorney  
United States Attorney's Office for the Southern District of Ohio  
303 Marconi Boulevard, Suite 200  
Columbus, Ohio 43215  
(614) 469-5715

Principal Counsel for the Plaintiffs:

Michael A. Carvin  
Jones Day  
51 Louisiana Avenue, N.W.  
Washington, D.C. 20001  
(202) 879-3939

10. *United States v. Caronia*, 703 F.3d 149 (2d Cir. 2012).

This case involved a First Amendment challenge to a criminal conviction under the federal Food, Drug, and Cosmetic Act. The defendant, Alfred Caronia, was convicted based on his alleged promotion of an FDA-approved prescription drug for an off-label use. The U.S. District Court for the Eastern District of New York (Judge Vitaliano) rejected the defendant's First Amendment arguments. *United*

*States v. Caronia*, 576 F. Supp. 2d 385 (E.D.N.Y. 2008). The Second Circuit reversed and held that the conviction violated the defendant's free-speech rights under the First Amendment. Judge Chin wrote the opinion joined by Judge Raggi. Judge Livingston dissented.

I was a supporting counsel for an amicus curiae, the Washington Legal Foundation, in the Second Circuit proceedings. In that capacity, I assisted in the drafting of the amicus brief, and also presented the First Amendment arguments to the Second Circuit.

Co-counsel:

Michael A. Carvin  
Jones Day  
51 Louisiana Avenue, N.W.  
Washington, D.C. 20001  
(202) 879-3939

Daniel J. Popeo  
Richard A. Samp  
Washington Legal Foundation  
2009 Massachusetts Avenue, N.W.  
Washington, D.C. 20036  
(202) 588-0302

Principal Counsel for the Defendant:

Jennifer L. McCann  
Law Office of Jennifer L. McCann, P.C.  
132 Nassau Street, Suite 423  
New York, New York 10038  
(646) 524-5761

Principal Counsel for the United States:

Douglas N. Letter  
[then with the United States Department of Justice]  
Georgetown Law's Institute for Constitutional Advocacy and Protection  
Georgetown University Law Center  
600 New Jersey Avenue N.W.  
Washington, D.C. 20001  
(202) 662-9000

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.)

My practice has focused almost exclusively on state and federal litigation. That said, while in private practice, I occasionally advised clients about potential litigation and litigation strategy, and also provided general legal advice. To the best of my recollection, that advice arose in a variety of substantive areas, ranging from contract law and interpretation to the interpretation of federal constitutional, statutory, and regulatory provisions.

As State Solicitor of Ohio, I have again occasionally provided advice to state clients regarding potential litigation, and I have also offered general legal advice to state clients. To the best of my recollection, this advice again would have covered many substantive areas, including federal and state constitutional and statutory law. I have occasionally represented state clients in mediation as well.

I have not performed lobbying activities.

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 never taught a course.

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

I have a 401k from my time in private practice at Jones Day. Based on my years of service for the State of Ohio, I will also receive benefits through a defined-contribution plan from the Ohio Public Employees Retirement System.

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.

No.

22. **Sources of Income:** List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries,

fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding \$500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

See attached Financial Disclosure Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

Cases most likely to raise conflict questions would be those related to my current service as a government lawyer for the State of Ohio. To determine whether I would need to recuse for matters in which the State of Ohio or a state officer, agency, or employee is a party, I would consult 28 U.S.C. § 455(a) & (b)(3) and Canon 3C of the Code Of Conduct for United States Judges. I would also consult any judicial decisions or Judicial Conference opinions addressing similar factual circumstances as those raised in the particular case. I will evaluate any other real or potential conflict, or relationship that could give rise to an appearance of conflict, on a case-by-case basis and take appropriate action, including recusal where necessary.

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

If confirmed, I would generally determine whether I need to recuse on a case-by-case basis by consulting 28 U.S.C. § 455 and Canon 3 of the Code Of Conduct for United States Judges, and any other laws, rules, and practices governing such circumstances.

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 regularly undertook pro bono work. This pro bono work ranged from briefing and arguing appeals in the circuit courts to handling matters in

federal district courts. I also participated in moot courts for lawyers who had pro bono arguments in the circuit courts.

My pro bono matters have included:

*McQuiggin v. Perkins*, 569 U.S. 383 (2013). In the Supreme Court, I substantially assisted in drafting the merits-stage respondent's brief on behalf of a federal habeas petitioner. This case asked whether habeas petitioners could be excused from their failure to file a timely habeas petition if they made a sufficient showing that they were actually innocent of the crime of conviction. In a 5-4 decision written by Justice Ginsburg, the Court ruled that a sufficient showing of innocence could excuse an untimely petition. I devoted approximately 140 hours to this case.

*Arizona v. United States*, 567 U.S. 387 (2012). I substantially assisted in drafting an amicus brief in this matter on behalf of the United States Conference of Catholic Bishops, the Evangelical Lutheran Church in America, Lutheran Immigration and Refugee Service, and Rev. Gradye Parsons, as Stated Clerk of the General Assembly of the Presbyterian Church (U.S.A.). The amicus brief supported the United States' position that federal immigration law preempted various Arizona immigration laws. I devoted approximately 105 hours to this case.

*Brockington v. Boykins*, 637 F.3d 503 (4th Cir. 2011). I argued this appeal in the Fourth Circuit on behalf of the plaintiff. He brought a civil-rights claim under 42 U.S.C. § 1983 against a Baltimore police officer and the Baltimore Police Department, alleging that the police officer had used excessive force in violation of the Fourth Amendment. On appeal, the officer sought qualified immunity. The court unanimously held that he was not entitled to that immunity. I devoted approximately 75 hours to this case.

*Kirk v. United States*, No. 11-3337 (6th Cir. July 27, 2012). I represented a federal habeas petitioner in a proceeding under 28 U.S.C. § 2255. The petitioner asserted that his lawyer provided ineffective assistance of counsel because the lawyer failed to object to an enhanced sentence under the Armed Career Criminal Act. After I filed the appellant's brief, the United States confessed error, conceding that the petitioner did not qualify as an armed career criminal. In an unpublished decision, the Sixth Circuit thus remanded for a new sentencing hearing. On remand, I represented the petitioner in the new sentencing hearing, successfully arguing that the United States had waived any contention that the petitioner should receive the enhanced sentence when the United States attempted to impose that sentence again. I devoted approximately 200 hours to this case.

*Brown v. McKee*, 340 F. App'x 254 (6th Cir. 2009); *Brown v. McKee*, 882 F. Supp. 2d 915 (E.D. Mich. 2012). I represented a federal habeas petitioner in a proceeding under 28 U.S.C. § 2254. The petitioner asserted that his guilty plea in Michigan state court violated the Due Process Clause because it was not knowing and voluntary. I assisted in the appellate briefing and argued the appeal in the Sixth Circuit. The Sixth Circuit held that the state-court transcript did not prove a knowing-and-voluntary plea, and remanded for the district court to conduct an evidentiary hearing on the issue. On remand, I helped

conduct the evidentiary hearing and assisted in drafting additional briefing. The district court concluded that the plea had been unknowing and granted habeas relief. I devoted approximately 335 hours to this case.

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.

In September 2017, I communicated with individuals in the White House Counsel's Office about interviewing for a potential appointment to the U.S. Court of Appeals for the Sixth Circuit. On September 22, 2017, I interviewed with individuals in the White House Counsel's Office and in the U.S. Department of Justice. On November 8, 2017, I participated in separate interviews with Senator Sherrod Brown and his staff and Senator Rob Portman and his staff. Since those interviews, I have communicated with individuals in the White House Counsel's Office and in the Department of Justice regarding the potential appointment. On June 18, 2018, the President submitted my nomination to the Senate.

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

No.