

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES

PUBLIC

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

Nikolas Peter Kerest

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

United States Attorney, District of Vermont

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.

Office: U.S. Attorney's Office, District of Vermont, 11 Elmwood Avenue, Burlington, Vermont 05401

Residence: Shelburne, Vermont

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

1972, New York, New York

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

Cornell Law School, 1997-2000
J.D. - June 2000

University of Rhode Island, 1994-1996
Masters of Marine Affairs Program, No degree

Williams College, 1990-1994
B.A. Mathematics - June 1994

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.

May 2010 - Present
Assistant United States Attorney, Criminal Division: April 2019 – Present
Civil Chief: September 2014 – March 2019
Assistant United States Attorney, Civil Division: May 2010 – August 2014
United States Attorney's Office, District of Vermont
11 Elmwood Avenue, Burlington, Vermont 05401
Paid

May 2004 - April 2010
Associate
Pierce Atwood LLP
245 Commercial Street, Portland, Maine 04101 (current address)
Paid

September 2001 - May 2004
Associate
Ropes & Gray LLP
800 Boylston Street, Boston, Massachusetts 02199 (current address)
Paid

September 2000 - September 2001
Honorable Fred I. Parker, U.S. Court of Appeals for the Second Circuit
11 Elmwood Avenue, Burlington, Vermont 05401
Law Clerk
Paid

June 1999 - August 1999
Summer Associate
Ropes & Gray LLP
800 Boylston Street, Boston, Massachusetts 02199 (current address)
Paid

June 1998 - August 1998
Intern
United States Department of Justice
950 Pennsylvania Avenue NW, Washington, DC 20530
Torts Branch, Aviation and Admiralty Litigation
Unpaid

June 1996 - August 1997
Sailing News Editor
Sail Magazine
84 State Street, Boston, Massachusetts 02109 (address in 1996-1997)
Paid

June 1995 - August 1995
June 1994 - August 1994
Manager and Sailing Instructor
Block Island Club
Corn Neck Road, Block Island, Rhode Island 02807
Paid

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 U.S. military. I have registered for selective service.

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

Director's Award, Executive Office for United States Attorneys, 2020
Perseverance Award, Department of Justice Civil Division, 2017
Certificate of Commendation, Department of Justice Civil Rights Division, 2017
Certificate of Commendation, Department of Justice Environment and Natural Resources Division, 2015
Certificate of Commendation, Department of Justice Civil Rights Division, 2011

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.

Vermont Bar Association
Maine Bar Association
Massachusetts Bar Association
American Bar Association

10. **Bar and Court Admission:**

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Massachusetts, May 2001 (inactive)

Maine, October 2004 (active)

Vermont, October 2017 (active)

There have been no lapses in membership.

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

United States Court of Appeals for the First Circuit (May 2002)
United States Court of Appeals for the Second Circuit (June 2010)
United States District Court for the District of Maine (approximately June 2004)
United States District Court for the District of Massachusetts (approximately October 2001)
United States District Court for the District of Vermont (approximately September 2000)
All state courts in Maine (October 2004)
All state courts in Massachusetts (May 2001)
All state courts in Vermont (October 2017)

There have been no lapses in membership.

11. **Memberships:**

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

Lake Champlain Yacht Club, Shelburne, Vermont (2011 – Present)

Department of Justice, Civil Chiefs' Working Group (2016 – 2019)

Shelburne, Vermont Little League, volunteer coach (2011 – 2018)

Shelburne, Vermont Recreation Department, volunteer basketball coach (2013 – 2017)

Centerboard Yacht Club, South Portland, Maine (2004 – 2010)

In addition, I have made financial contributions to charitable organizations over the years. Such organizations may list me as a member by virtue of my financial contribution. I have not listed above any organization to which I gave funds and did not otherwise participate in programmatic activities.

- b. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion

or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To my knowledge, none of these organizations discriminates or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies.

12. Published Writings and Public Statements:

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

I have done my best to identify all books, articles, letters to the editor, editorial pieces and other published material, including through a review of my personal files and searches of publicly available electronic databases. Despite my searches, there may be other materials that I have been unable to identify, find, or remember. I have located the following:

Article, *Sailing the Land of Great Bears*, Sail Magazine, January 1, 1998.
Copy Supplied.

Article, *A Port Authority: An Improbable Solution to an Implacable Problem*, Block Island Times, March 2, 1996.
Copy Supplied.

Article, *Federal Hearing in Narragansett Seeks Answers from Oil Spill*, Block Island Times, February 17, 1996.
Copy Supplied.

Article, *Oil and the Law*, Block Island Times, February 3, 1996.
Copy Supplied.

Article, *Mary D Cup Race Draws Record Number of Boats*, Block Island Times, September 2, 1995.
Copy Supplied.

Article, *Sunfish Sailor Braves Waters Enroute to Island*, Block Island Times, August 25, 1995.
Copy Supplied.

Article, *Harbormaster Constantine Employs Grassroots Philosophy on the Great Salt Pond*, Block Island Times, August 12, 1995.

Copy Supplied.

Article, *Learning the Ropes at the Block Island Club*, Block Island Times, July 29, 1995.

Copy Supplied.

Article, *A Week on the Water*, Block Island Times, July 15, 1995.

Copy Supplied.

Article, *Race Week Closes with Temperamental Conditions*, Block Island Times, July 8, 1995.

Copy Supplied.

Article, *Light Wind Casts Pall Over Race Week '95*, Block Island Times, July 1, 1995.

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.

I have done my best to identify any reports, memoranda, or policy statements I have prepared or contributed to, including through a review of my personal files and searches of publicly available electronic databases. I have not located any responsive items.

- 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.

I have done my best to identify any testimony, official statements, or other communications related, in whole or in part, to matters of public policy or legal interpretation, including through a review of my personal files and searches of publicly available electronic databases. I have not located any responsive items.

- 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.

I have done my best to identify transcripts or recordings of all speeches or talks delivered, including through a review of my personal files and searches of publicly available electronic databases. I frequently speak without notes or speak from a handwritten outline. I did not retain the majority of the handwritten outlines and have attached all that I could find. Despite my searches, there may be other materials I have been unable to identify, find, or remember. I have not located any responsive items.

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

I have done my best to identify all interviews given, including through a review of my personal files, and searches of publicly available electronic databases. Despite my searches, there may be other materials that I have been unable to identify, find, or remember. I have located the following:

Meet Vermont's New Civil Rights Boss, Burlington Free Press, December 5, 2016. Copy supplied.

New Position at U.S. Attorney's Office in Vermont to Focus on Civil Rights Issues, Vermont Public Radio, December 5, 2016. Audio recording at <https://www.vpr.org/post/new-position-us-attorneys-office-vermont-focus-civil-rights-issues#stream/0>

Accessibility: Not All of Burlington Measures Up, Seven Days, August 13, 2014. Copy Supplied.

Feds Crack Down on Long-Ignored ADA, Seven Days, December 5, 2012. Copy Supplied.

13. Public Office, Political Activities and Affiliations:

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

I have not run for public office.

- b. List all memberships and offices held in and services rendered, whether

compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

Volunteer at Phone Bank, Obama for America, 2008

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

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

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

I served as a law clerk to Hon. Fred I. Parker, U.S. Court of Appeals for the Second Circuit, from September 2000 - September 2001.

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

I have not practiced alone.

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

September 2000 - September 2001

Law Clerk

Honorable Fred I. Parker, U.S. Court of Appeals for the Second Circuit
11 Elmwood Avenue, Burlington, Vermont 05401

September 2001 - May 2004

Associate

Ropes & Gray LLP

800 Boylston Street, Boston, Massachusetts 02199 (current address)

May 2004 - April 2010

Associate

Pierce Atwood LLP

245 Commercial Street, Portland, Maine 04101 (current address)

May 2010 - Present

Assistant United States Attorney, Criminal Division: April 2019 – Present

Civil Chief: September 2014 – March 2019

Assistant United States Attorney, Civil Division: May 2010 – August 2014

United States Attorney's Office, District of Vermont
11 Elmwood Avenue, Burlington, Vermont 05401

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

I have not served as a mediator or arbitrator.

b. Describe:

- i. the general character of your law practice and indicate by date when its character has changed over the years.
- ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

In 2001, after one year clerking for Hon. Fred I. Parker, I joined the litigation department of Ropes & Gray LLP in Boston, Massachusetts. My work at Ropes & Gray included civil litigation, internal investigations, and appellate matters. The clients I represented included publicly traded technology companies, non-profit organizations, and global insurance companies.

In 2004, I joined the litigation department of Pierce Atwood LLP in Portland, Maine. My work at Pierce Atwood included civil litigation, internal investigations, class action defense, and contract drafting for builders, architects, and other construction industry clients.

In 2010, I joined the U.S. Attorney's Office for the District of Vermont in the Civil Division. As an Assistant United States Attorney in the Civil Division, I represented federal agencies in defensive and affirmative litigation in federal court in Vermont. I handled cases involving, among others, the following statutes: the Federal Tort Claims Act, National Environmental Policy Act, Title VII, False Claims Act, and the Americans with Disabilities Act.

In 2014, I became the Civil Chief for the United States Attorney's Office for the District of Vermont. In this role, I continued to represent federal agencies as described above and also was the leader of the Civil Division as part of the Office's management team.

In 2019, I moved to the Criminal Division of the United States Attorney's Office for the District of Vermont. Since 2019, I have represented the United States in a variety of criminal cases including those involving violations of the Controlled Substances Act, bank robbery, and immigration

fraud.

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

My practice has been almost entirely in litigation. As described above, part of my practice at Pierce Atwood LLP included contract drafting for various clients in the construction industry. Aside from this contract drafting work, all of my practice has been in litigation. I have appeared in court frequently since I joined the Criminal Division of the United States Attorney's Office for the District of Vermont in 2019. Before that, as a civil litigator, I appeared in court occasionally.

- i. Indicate the percentage of your practice in:

1. federal courts;

Since 2010, 100% of my practice has been in federal court.

Between 2004 and 2010, approximately 40% of my practice was in federal court.

Between 2001 and 2004, approximately 60% of my practice was in federal court.

2. state courts of record;

Since 2010, I have not appeared in state court.

Between 2004 and 2010, I appeared in state court in approximately 40% of my cases.

Between 2001 and 2004, I appeared in state court in approximately 40% of my cases.

3. other courts;

I rarely appeared in other courts besides federal or state court. I did appear in United States Immigration Court a handful of times on behalf of political asylum clients I represented pro bono.

4. administrative agencies

Between 2004 and 2010, approximately 20% of my cases included appearances in front of State of Maine rate-setting, administrative agencies.

ii. Indicate the percentage of your practice in:

1. civil proceedings;

Before 2019, with the exception of one criminal trial, 100% of my cases were civil proceedings.

Since 2019, I have handled one civil matter so approximately 1% of my cases have been civil proceedings.

2. criminal proceedings.

Before 2019, approximately 1% of my cases were criminal proceedings.

Since 2019, approximately 99% of my cases have been criminal proceedings.

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

I have tried one, federal criminal jury trial to verdict. I was co-counsel with another Assistant United States Attorney in the United States Attorney's Office for the District of Vermont.

I have tried one, state civil bench trial to verdict. I was lead counsel in this matter.

I have tried one political asylum matter to conclusion in front of an immigration judge in United States Immigration Court. I was sole counsel for this matter.

i. What percentage of these trials were:

1. Jury: 33%;
2. non-jury: 67%.

e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have not argued orally before the Supreme Court of the United States.

15. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe

in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

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

1. United States of America, ex rel. Brendan Delaney v. Eclinicalworks, LLC

Case No. 2:15-cv095-wks
United States District Court for the District of Vermont
The Honorable William K. Sessions, III
2014-2017

Along with AUSA Foster and DOJ Civil Frauds attorneys Crooke and Hauser, I represented the United States in this first of its kind case in which the government contended that Eclinicalworks (ECW) falsely obtained certification for its electronic health record software when it concealed from its certifying entity that its software did not comply with the requirements for certification. ECW's software also did not accurately record user actions in an audit log and in certain situations did not reliably record diagnostic imaging orders or perform drug interaction checks. In addition, ECW's software failed to satisfy data portability requirements intended to permit healthcare providers to transfer patient data from ECW's software to the software of other vendors. As a result of these and other deficiencies in its software, ECW caused the submission of false claims for federal incentive payments based on the use of ECW's software. ECW and certain of its employees agreed to pay \$155 million to resolve the government's claims. Along with AUSA Foster and DOJ Civil Frauds attorneys Crooke and Hauser, among other things, I investigated all aspects of ECW's electronic health record software, participated in presentations to and from ECW during months-long settlement negotiations, drafted and edited the government's mediation statement, drafted and edited the government's complaint to be filed post-settlement, and participated in a two-day mediation that resulted in the \$155 million resolution.

Co-counsel:

AUSA Owen C.J. Foster
U.S. Attorney's Office for the District of Vermont
11 Elmwood Avenue
Burlington, VT 05401
(802) 951-6725

Edward Crooke
Kelley Hauser
Attorneys, Civil Division
United States Department of Justice
P.O. Box 261, Ben Franklin Station
Washington, D.C. 20044
(202) 514-6831

Opposing counsel:

R. Joseph Burby, IV
Alston & Bird
One Atlantic Center, 1201 West Peachtree Street, Suite 4900
Atlanta, GA 30309-3424
(404) 881-7670

Aaron Katz
Ropes & Gray LLP
Prudential Tower
800 Boylston Street
Boston, MA 02199-3600
(617) 951-7000

2. United States v. Greenway Health, LLC

Case No. 2:19-cv-00020-cr
United States District Court for the District of Vermont
The Honorable Christina Reiss
2017-2019

Along with AUSA Foster and DOJ Civil Frauds attorneys Crooke and Hauser, I represented the United States in this case against Greenway Health, in which the government contended that Greenway falsely obtained certification for its electronic health record product Prime Suite when it concealed from its certifying entity that Prime Suite did not fully comply with the requirements for certification. Among other things, Greenway's product did not incorporate the standardized clinical terminology necessary to ensure the reciprocal flow of information concerning patients and the accuracy of electronic prescriptions. In addition, the

government alleged that Greenway was aware that an earlier version of Prime Suite did not correctly calculate the percentage of office visits for which its users distributed clinical summaries and thereby caused certain Prime Suite users to falsely attest that they were eligible for electronic health record incentive payments. The government also alleged that Greenway violated the Anti-Kickback Statute by paying money and incentives to its client providers to recommend Prime Suite to prospective new customers. Greenway agreed to pay \$57.25 million to resolve the government's allegations. Along with AUSA Foster and DOJ Civil Frauds attorneys Crooke and Hauser, I investigated Greenway's Prime Suite product, researched novel Anti-Kickback Statute claims, participated in settlement negotiations, and provided guidance and oversight to the team as Civil Chief of the U.S. Attorney's Office.

Co-counsel:

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U.S. Attorney's Office for the District of Vermont
11 Elmwood Avenue
Burlington, VT 05401
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Edward Crooke
Kelley Hauser
Attorneys, Civil Division
United States Department of Justice
P.O. Box 261, Ben Franklin Station
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Opposing Counsel:

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Greenberg Traurig, P.A.
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Joseph W. Swanson
Adam P. Schwartz
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Corporate Center Three at International Plaza
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Tampa, FL 33607-5780
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3. Vermonters for a Clean Environment, Inc., et al. v. Madrid, et al.

Case No. 1:12-cv-73
United States District Court for the District of Vermont
The Honorable J. Garvan Murtha
2012-2015

I represented the United States Forest Service in this National Environmental Policy Act case challenging the Forest Service's decision to permit a commercial wind farm on Forest Service land in Vermont. With co-counsel Cynthia Huber, I litigated various motions in the District Court including a motion to exclude extra-record evidence and cross-motions for summary judgment. The District Court granted the Forest Service summary judgment, and the wind farm project was allowed to proceed.

Co-counsel:

Cynthia S. Huber
Department of Justice, Environment and Natural Resources
Division
Assistant Section Chief
Natural Resources Section
601 D St. NW
Washington, DC 20004
(202) 514-5273

Opposing Counsel:

Stephen L. Saltonstall
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Manchester Center, VT 05255
(802) 362-7077

Patrick J. Bernal
Robert E. Woolmington
P.O. Box 2748
Manchester Center, VT 05255
(802) 362-2560

4. Zbitnoff et al. v. James

Case No. 5:14-cv-132-gwc

United States District Court for the District of Vermont
The Honorable Geoffrey W. Crawford
2014-2017

I represented the United States Air Force in this National Environmental Policy Act case challenging the Air Force's decision to base F-35 jets with the Vermont Air National Guard at the Burlington International Airport. With co-counsel David Gehlert, I litigated various motions in the District Court including a motion to exclude extra record evidence and cross-motions for summary judgment. The District Court ruled in the Air Force's favor on the cross-motions for summary judgment thereby upholding the Air Force's basing decision. On appeal, the Second Circuit upheld the District Court's ruling.

Co-Counsel:

David Gehlert
U.S. Department of Justice
Environmental and Natural Resources Division
999 18th Street, South Terrace, Suite 370
Denver, CO 80202
(303) 844-1386

Opposing Counsel:

James A. Dumont
Law Office of James Dumont
15 Main Street
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Bristol, VT 05443-0229
(802) 453-7011

Laura J. Hill-Eubanks
2364 Route 12A
Northfield, VT 05683
(802) 552-0197

5. United States v. Patricia Merz

Case No. 5:14-cr-32
United States District Court for the District of Vermont
The Honorable Christina Reiss
2014-2016

AUSA Gregory Waples and I represented the United States at trial

in this case in which the jury in Burlington, Vermont found Patricia Merz guilty on charges of conspiracy, interstate transportation of stolen money, wire fraud and forgery. AUSA Waples and I shared the direct examinations of government witnesses at trial. I handled the closing arguments for the government. The Court sentenced Merz to time served plus three years supervised release. The week before trial, Christopher McGuigan, Merz's brother and co-defendant, pleaded guilty to the conspiracy charge. According to the indictment, the defendants' mother, Annelise McGuigan, died in Bennington in 2009. She left no will. In late 2009, the Bennington probate court appointed Merz and McGuigan as co-administrators of their mother's estate. As administrators, they had a legal duty to prepare an inventory of estate assets, pay the estate's debts and render an accounting to the court. According to the indictment, Annelise McGuigan owned a house in Rupert, Vermont at the time of her death. With the court's permission, Merz and McGuigan sold the house in 2010, a sale which netted the estate about \$180,000. Although Merz and McGuigan had received claims against the estate totaling more than \$88,000 -- debts incurred for funeral expenses, property maintenance, credit card expenses and nursing home and medical care -- Merz and McGuigan never paid any of those obligations. Instead, they used virtually all of the estate funds to benefit themselves, expending all the estate funds within about one year. Merz also withdrew about \$50,000 from the estate account by forging McGuigan's signatures on numerous banking withdrawal slips.

Co-Counsel:

AUSA Gregory L. Waples
U.S. Attorney's Office for the District of Vermont
11 Elmwood Avenue
Burlington, VT 05401
(802) 951-6725

Opposing Counsel:

Michael Desautels
Office of the Federal Public Defender
District of Vermont
126 College Street, Suite 410
Burlington, VT 05401
(802) 557-6215

6. United States v. Sharifshoble, et al.

Case No. 2:19-cr-148-cr
United States District Court for the District of Vermont
The Honorable Christina Reiss
2019-2021

I represented the United States in this methamphetamine distribution conspiracy case involving collaboration between Homeland Security Investigations and the Vermont Drug Task Force. In April 2019, the Vermont Drug Task Force (VDTF) began an investigation into the distribution of methamphetamine in the Chittenden County area. During April and May 2019, the VDTF arranged purchases of methamphetamine from Sharifshoble's co-defendants, Shane Casey and Kimberly Jones. Eventually, a joint Homeland Security Investigations and VDTF investigation showed that Sharifshoble was distributing methamphetamine himself and also supplying Casey and Jones with methamphetamine. Homeland Security Investigations and VDTF, working together, then arranged four purchases of methamphetamine directly from Sharifshoble. Sharifshoble conspired to distribute over 90 grams of high-purity methamphetamine, a highly addictive and dangerous stimulant. All three defendants pleaded guilty. The Court sentenced Sharifshoble to 60 months of imprisonment, Jones to 45 months of imprisonment, and Casey to 35 months of imprisonment. In this case, I handled all aspects of the case from pre-indictment investigation, to indictment, to plea negotiations and sentencing for the three defendants.

Opposing Counsel:

Karen Shingler, Esq.
30 Main Street, Suite 323
Burlington, VT 05401
(802) 865-0654

Brooks G. McArthur
Jarvis, McArthur & Williams
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Burlington, VT 05402
(802) 658-9411

John C. Mabie
Corum, Mabie, Cook, Prodan, Angell & Secrest, PLC
45 Linden Street
Brattleboro, VT 05301
(802) 257-5292

7. United States v. Luis Luna, et al.

Case No. 5:19-cr-00110-gwc
United States District Court for the District of Vermont
The Honorable Geoffrey W. Crawford
2019-2021

Along with co-counsel AUSA Van de Graaf, I represented the United States in this fentanyl and cocaine base distribution conspiracy case involving collaboration between the Federal Bureau of Investigation and the Vermont Drug Task Force (VDTF). Edwin Martinez was Luis Luna's fentanyl source in Hartford, Connecticut, and Luis Luna supplied Samuel Fuller with the fentanyl that originated with Mr. Martinez. After making regular trips to Hartford, Connecticut and purchasing fentanyl from Luis Luna, Samuel Fuller would return to Vermont and split the fentanyl with James Bassett, who had provided the money for the purchase from Luis Luna. In addition, Mr. Luna was Mr. Fuller's cocaine base source and would sell cocaine base to Mr. Fuller, who would then sell it in Vermont. All four defendants pleaded guilty. The Court sentenced Luna to 72 months of imprisonment, Martinez to 72 months of imprisonment, Fuller to 24 months of imprisonment, and Bassett to one year and one day of imprisonment. In this case, I handled all aspects of the case from pre-indictment investigation, to indictment, to plea negotiations and sentencing.

Co-Counsel:

AUSA Paul J. Van de Graaf
U.S. Attorney's Office for the District of Vermont
11 Elmwood Avenue
Burlington, VT 05401
(802) 951-6725

Opposing Counsel:

Natasha Sen
2 Chipman Heights
Middlebury, VT 05753
(802) 825-6385

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Jarvis, McArthur & Williams
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Burlington, VT 05402
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Kevin M. Henry
Primmer Piper Eggleston & Cramer P.C.
30 Main Street, Suite 500
P.O. Box 1489
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Mark D. Oettinger
Montroll, Backus & Oettinger, P.C.
126 College Street, Suite 400
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8. United States v. Gregory Moody

Case No. 2:19-cr-00063
United States District Court for the District of Vermont
The Honorable William K. Sessions, III
2019-2020

I represented the United States in this case involving two Vermont bank robberies occurring within one week. On March 22, 2019, Moody entered the T.D. Bank in St. Albans and demanded money from a bank teller. The bank teller gave Moody \$2,500 in cash, and he left the bank. Less than one week later, on March 28, 2019, Moody stole an unoccupied minivan and drove to the Community Bank, NA in South Burlington. Moody entered the Community Bank and, again, demanded money from a bank teller. The bank teller gave Moody \$830 in cash, and Moody walked out of the bank to the stolen minivan, which was located later in Hinesburg, Vermont. After coordination between the St. Albans Police Department and the South Burlington Police Department, Moody was identified as the bank robber for both robberies. Moody pleaded guilty and admitted committing both bank robberies. The Court sentenced Moody to 54 months of imprisonment. In this reactive case, I handled all aspects of the litigation following Moody's indictment through and including his sentencing.

Opposing Counsel:

Steven Barth
Office of the Federal Public Defender

District of Vermont
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Burlington, VT 05401
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9. United States v. Jessica Speed, et al.

Case No. 2:20-cr-00089-cr
United States District Court for the District of Vermont
The Honorable Christina Reiss
2020-present

I represent the United States in this ongoing case, which includes charges of possession with intent to distribute fentanyl and cocaine base against Jessica Speed and Cody Sanders. On September 14, 2020, Cody Sanders and Jessica Speed travelled from Springfield, MA to Vermont on I-91 north in a rental car rented by Speed. Before leaving Springfield, MA, an FBI agent observed Sanders check under the hood of the rental car. Law enforcement agents then surveilled the rental car driven by Speed as it travelled northbound into Vermont. Vermont State Police troopers witnessed the rental car driven by Speed pull over to the side of Route 5 in Barnet, Vermont. VSP then approached the rental car and Speed and Sanders. Following Speed's consent to search the rental car and an alert by a canine trained to detect illegal narcotics, VSP searched the rental car, including under the hood where Sanders had checked multiple times during the drive, and discovered a t-shirt that was wrapped in duct tape located in the engine compartment of the rental car. Located inside the t-shirt package were approximately 3,265 glassine wax baggies containing fentanyl and approximately 53 grams of cocaine base with packaging. Both defendants pleaded guilty to possession with intent to distribute fentanyl and cocaine base. Sanders has and Speed is awaiting sentencing. In this case, I have handled all aspects of the case from pre-indictment investigation, to indictment, to plea negotiations and sentencing.

Opposing Counsel:

David McColgin
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(802) 557-6215

Jason J. Sawyer
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Burlington, VT 05401
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10. United States v. Edgerly

Case No. 5:18-cr-00124-gwc
United States District Court for the District of Vermont
The Honorable Geoffrey Crawford
2019-2021

I handled this child pornography possession case beginning at the pretrial motions stage. I briefed and successfully defeated suppression arguments related to the status of the National Center for Missing and Exploited Children serving as a government agent. Following the denial of Edgerly's motion to suppress, Edgerly pleaded guilty, and the Court sentenced him to 84 months of imprisonment.

Opposing counsel:

Steven Barth
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126 College Street, Suite 410
Burlington, VT 05401
(802) 557-6215

16. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

As an Assistant United States Attorney and Civil Rights Coordinator in the Civil Division of the U.S. Attorney's Office for the District of Vermont, I was lead counsel on numerous matters with Vermont places of public accommodation enforcing the Americans with Disabilities Act. None of these matters progressed to trial or involved litigation. Instead, my office entered into settlement agreements with these Vermont places of public accommodation to make improvements so that their businesses would be in compliance with the ADA.

As Civil Chief, I helped the division evolve from focusing mostly on defensive litigation

to building an affirmative practice with a national reputation, most notably in the areas of health care fraud and civil rights. In particular, I helped create an AUSA position whose primary focus is enforcing federal civil rights law. I also helped initiate efforts to grow our affirmative civil enforcement practice and, as a result, we added an AUSA to focus on affirmative civil fraud cases.

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

I have not taught any courses.

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

I have no arrangements in the future to be compensated for any financial or business interest.

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

None.

20. **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).

Please see my SF-278 as provided by the Office of Government Ethics.

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

See attached Net Worth Statement.

22. **Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, affiliations, pending and categories of litigation, financial arrangements or other factors 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.

During the nomination process, I consulted with the Department of Justice's ethics office and Designated Ethics Officer to identify any potential conflicts. If I am confirmed, I will continue to consult with that office and will recuse myself from any matter in which recusal is required.

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

If I am confirmed, any potential conflict of interest will be resolved in accordance with the terms of an ethics agreement that I have entered with the Department's designated agency ethics official. If confirmed, I will continue to consult with the Department of Justice's ethics office and will recuse myself from any matter in which recusal is required.

23. **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. If you are not an attorney, please use this opportunity to report significant charitable and volunteer work you may have done.

Throughout my career I have been committed to performing *pro bono* legal service. When I was in private practice in Boston at Ropes & Gray and in Maine at Pierce Atwood, I focused on representing individuals seeking political asylum in the United States. In Boston, I worked with the PAIR (Political Asylum/Immigration Representation) Project and represented an individual from Cameroon who was seeking political asylum. In Maine, I worked with Immigrant Legal Advocacy Project and represented an individual from Somalia who was seeking political asylum. Since 2010, in my role as a career Assistant United States Attorney devoted to public service, I have had the opportunity to work with and assist victims of crime, many of whom have been disadvantaged. I have not undertaken any outside legal activities since 2010.