

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Margaret Irene Strickland

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

United States District Judge for the District of New Mexico

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

McGraw & Strickland, LLC
165 West Lucero Avenue
Las Cruces, New Mexico 88005

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

1980; Denton, Texas

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.

2003 – 2005, New York University School of Law; J.D., 2006

2005 – 2006, WMU Cooley Law, Visiting Student from NYU; no degree

2000 – 2003, University of Texas – El Paso; B.A. Economics, 2003

1999 – 2000, New Mexico State University; no degree

1999, Cemanahuac (Spanish School in Mexico); no degree

1998, Louisiana State University; no degree

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation

from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2011 – present
McGraw & Strickland, LLC
165 West Lucero Avenue
Las Cruces, New Mexico 88005
Partner

2011
Law Office of Michael Stout
910 Lake Tahoe Court
Las Cruces, New Mexico 88007
Associate

2006 – 2011
Law Office of the Public Defender, New Mexico
505 South Main Street #700
Las Cruces, New Mexico 88001
Trial Lawyer

Summer 2005
Federal Public Defenders Office
653 Saginaw Street Suite 105
Flint, Michigan 48502
Intern

Summer 2004
Modrall Sperling
500 Fourth Street Northwest, Suite 1000
Albuquerque, New Mexico 87102
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 U.S. Military. I was not required to register for the selective service.

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

Super Lawyers (2014 – 2016 (Rising Star); 2019 – 2021)

Best Lawyers (2021)

While in college I was on the Dean's List several times.

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.

Criminal Justice Act Panel Representative for the Federal District of New Mexico (2018 – present)

New Mexico Criminal Defense Lawyers Association

Member (2006 – present)

Board member (2008 – 2019)

President (2017 – 2019)

Chair of Legislative Committee (2018 – present)

New Mexico Trial Lawyers Association

Member (2017 – present)

Civil Rights Committee Member (2021)

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.

Washington, 2006

New Mexico, 2007

In 2007, my Washington bar membership was administratively suspended when I took a job in New Mexico and stopped paying my bar dues. There have been no other lapses in membership. On April 8, 2021, I noticed my resignation from that bar.

- 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 Supreme Court, 2020

United States Court of Appeals for the Tenth Circuit, 2015

United States District Court for the District of New Mexico, 2012

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.

Action Program for Animals
Volunteer (2008 – present)

New Mexico Boston Terrier Rescue
Volunteer (2007 – present)

New Mexico Governor Lujan-Grisham's Crime Advisory Group
Member (2019 – 2020)

- 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.

I am not, nor have I ever been, a member of an organization that discriminates. None of the organizations listed in response to 11a above currently discriminate or have formerly discriminated on the basis of race, sex, religion or nation 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.

In an effort to locate this information, I have searched my files and the Internet. I have identified the instances for which I was able to locate responsive documents. However, there may be other writings that I do not recall or was unable to find through an Internet search.

State Must Reduce the Number of People Behind Bars, Santa Fe New Mexican (Oct. 25, 2020). Copy supplied.

Civil Rights Commission - Public Comments, State of New Mexico (Oct. 20, 2020). Copy supplied.

Prosecutors' Work Should not be Easy, Albuquerque J. (Aug. 26, 2019). Copy supplied.

The DA, not Court or Bail System, Failed the Victim, Albuquerque J. (May 27, 2019). Copy supplied.

President's Message, New Mexico Criminal Defense Lawyers Newsletter (Feb. 2019). Draft copy supplied.

President's Message, New Mexico Criminal Defense Lawyers Newsletter (Oct. 2018). Draft copy supplied.

Making False Confessions a Real Problem, Albuquerque J. (July 11, 2018). Copy supplied.

President's Message, New Mexico Criminal Defense Lawyers Newsletter (Apr. 2018). Draft copy supplied.

President's Message, New Mexico Criminal Defense Lawyers Newsletter (Nov. 2017). Draft copy supplied.

New Bond Rules Fix a Broken System, Alamogordo Daily News (July 8, 2017). Copy supplied.

President's Message, New Mexico Criminal Defense Lawyers Newsletter (July 2017). Draft copy supplied.

Reader View: Funding Shortage Leads to Lack of Justice, Santa Fe New Mexico (Dec. 10, 2016). Copy supplied.

With Katherine Stimpson, *Too Many Political Attacks Made on Defense Lawyers*, Albuquerque J. (Sept. 29, 2016). Copy supplied.

Reviving Death Penalty Would be a Waste of Money, Albuquerque J. (Aug. 22, 2016). Copy supplied.

More Prisons and Longer Sentences are Not the Answer, Albuquerque J. (Feb. 14, 2016). Copy supplied.

Letters to the Editor – Tell the Government What's Yours is Not Theirs, Las Cruces Sun News (Nov. 21, 2014). Copy supplied.

Drug Courts, For the Defense Newsletter by the New Mexico Criminal Defense Lawyers Association (2009). Copy not available.

Letters to the Editor – Presumed Innocent, Las Cruces Sun News, (Apr. 12, 2009). Copy supplied.

Additionally, although they are nonresponsive to this question, I note that I have occasionally provided responses to legal questions on avvo.com.

- 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.

None.

- c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

In an effort to locate this information, I have searched my files and the Internet. I have identified the instances for which I was able to locate responsive documents. However, there may be other occasions that I do not recall or was unable to find through an Internet search.

Letter to Las Cruces Mayor and City Council regarding police accountability (June 14, 2020). Copy supplied.

Letter to Detention Centers in New Mexico regarding COVID-19 (Mar. 27, 2020). Copy supplied.

Letter to Gov. Michelle Lujan Grisham regarding COVID-19, New Mexico Criminal Defense Lawyers Association (Mar. 23, 2020). Copy supplied.

Letter to Judge Goldbaum regarding COVID-19 (Mar. 23, 2020). Copy supplied.

Letter to Governor Lujan-Grisham regarding NMCDLA's position on a constitutional amendment, New Mexico Criminal Defense Lawyers Association (May 23, 2019). Copy supplied.

Letter to Joey D. Moya, Clerk of the New Mexico Supreme Court, regarding NMCDLA's input on proposed rule changes, New Mexico Criminal Defense Lawyers Association (Apr. 3, 2019). Copy supplied.

Letter to Joey D. Moya, Clerk of the New Mexico Supreme Court regarding NMCDLA's input on the Case Management Order, New Mexico Criminal Defense Lawyers Association (Jan. 2, 2019). Copy supplied.

Letter to Joey D. Moya, Clerk of the New Mexico Supreme Court, regarding NMCDLA's input on proposed rule changes, New Mexico Criminal Defense Lawyers Association (Oct. 24, 2018). Copy supplied.

Letter to Brian VanDenzen, Chief Hearing Officer of the Administrative Hearings Office, regarding NMCDLA's input on proposed rule changes, New Mexico Criminal Defense Lawyers Association (Nov. 21, 2017). Copy supplied.

Letter to Judge Nakamura regarding NMCDLA's input on the new bail rules, New Mexico Criminal Defense Lawyers Association (Oct. 18, 2017). Copy supplied.

Response by NMCDLA to District Attorney's Report on CMO, Bernalillo County/New Mexico Criminal Defense Lawyers Association (Sept. 29, 2017). Copy supplied.

I provided input to the New Mexico Legislature's Courts, Corrections and Justice Committee during its November 16 to 18, 2016, meeting and its July 16 to 17, 2015, meeting. Copies of meeting minutes supplied.

On one occasion sometime between 2011 and 2016 I spoke at a Dona Ana County Commission meeting in support of a neighbor who rescues horses. She needed an easement on her land for the corner of her barn. I cannot recall the date and have no materials.

- 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.

February 26, 2021: Presenter, "Insurance Bad Faith Trial Themes and Defense Tactics," New Mexico Trial Lawyers Association. Copy of PowerPoint supplied.

May 29, 2020: Presenter, "Inadequate Medical Care, Rape and Solitary Confinement: How to Obtain Accountability for Civil Rights Violations During a Pandemic," New Mexico Criminal Defense Lawyers Association (NMCDLA).

Copy of video and notes supplied.

August 23, 2019: Presenter, "Are You Really Going to Go to Trial? The Arts of Avoidance and Brinksmanship: Enforcing Plea Agreements," New Mexico Criminal Defense Lawyers Association (NMCDLA). Copy of PowerPoint supplied.

Aug. 9, 2019: Presenter, "How to Bring Systemic Change Through Large Scale Verdicts in Civil Rights Cases: Jury Selection," New Mexico Criminal Defense Lawyers Association (NMCDLA). Copy of PowerPoint supplied.

2017 – 2020: I have been a guest lecturer several times for college professors at New Mexico State University and Dona Ana Community College. In those classes, I discussed constitutional rights in both the civil and criminal context. I do not have the dates related to these lectures. I did not speak from prepared notes and there were no materials. The class professors were Amanda Skinner, Jeff Ferguson, and Matt Holt. The address for New Mexico State University is 1780 East University Avenue Las Cruces, New Mexico 88003. The address for Dona Ana Community College is 2800 Sonoma Ranch Boulevard, Las Cruces, New Mexico 88011.

December 8, 2017: Presenter at "Suppress It" Seminar, "Defender Wellness," New Mexico Criminal Defense Lawyers Association (NMCDLA). Copy of handout materials and video supplied.

July 28, 2017: Presenter, "A Procedural Road Map for Solitary and Jail Cases," New Mexico Criminal Defense Lawyers Association (NMCDLA). I spoke about the basic procedure for bringing a civil rights case. I have no notes, transcript, or recording. The address for NMCDLA is P.O. Box 8324, Santa Fe, New Mexico 87504.

June 7, 2017: Presenter, "Verdict Just In: Beck v. Baker et. al Teleseminar," New Mexico Trial Lawyers Association. Copy of handout materials supplied.

2016: Presenter at "Evidence & Jury Trials in the 21st Century" Seminar, "Rape Shield Laws State and Federal," New Mexico Criminal Defense Lawyers Association (NMCDLA). I spoke about the difference between state and federal rape shield laws. I have no notes, transcript, or recording. The address for NMCDLA is P.O. Box 8324, Santa Fe, New Mexico 87504.

January 27, 2016: Presenter at "The New Bail Amendment" Seminar, "Bail Reform Webinar," New Mexico Criminal Defense Lawyers Association (NMCDLA). Copy of video supplied.

May 15, 2015: Presenter, "Career Day at Desert Trail Elementary." I spoke to students about being a lawyer. I have no notes, transcript, or recording. The

address for Desert Trail Elementary School is 310 East Lisa Drive, Chaparral, New Mexico 88081.

January 28, 2015: Presenter, "Lobbying for Criminal Law," New Mexico Criminal Defense Lawyers Association (NMCDLA). Copy of PowerPoint supplied.

December 4, 2015: Presenter, "Cross Exam of Expert Witnesses," New Mexico Criminal Defense Lawyers Association (NMCDLA). I believe I spoke about cross examining police officers. I have no notes, transcript, or recording. The address for NMCDLA is P.O. Box 8324, Santa Fe, New Mexico 87504.

June 5, 2015: Presenter, "Suppression – Case Law Update," New Mexico Criminal Defense Lawyers Association (NMCDLA). I believe I spoke about suppression issues in state law. I have no notes, transcript, or recording. The address for NMCDLA is P.O. Box 8324, Santa Fe, New Mexico 87504.

July 30, 2014: Dialogist, "Las Cruces Criminal Defense Attorney Margaret Strickland 1: 'Her Criminal Law Practice,'" Matejka Marketing, Inc. on behalf of McGraw & Strickland, LLC. Video available at <https://www.youtube.com/watch?v=-DB45IWg3-s>.

July 30, 2014: Dialogist, "Las Cruces Criminal Defense Attorney Margaret Strickland 2: 'Getting Started Early on the Case,'" Matejka Marketing, Inc. on behalf of McGraw & Strickland, LLC. Video available at <https://www.youtube.com/watch?v=scZdcjrSRfU>.

July 30, 2014: Dialogist, "Las Cruces Criminal Defense Attorney Margaret Strickland 3: 'Preparing for Trial,'" Matejka Marketing, Inc. on behalf of McGraw & Strickland, LLC. Video available at <https://www.youtube.com/watch?v=m1VG9eSe95M>.

July 30, 2014: Dialogist, "Las Cruces Criminal Defense Attorney Margaret Strickland 4: 'The Grand Jury,'" Matejka Marketing, Inc. on behalf of McGraw & Strickland, LLC. Video available at <https://www.youtube.com/watch?v=QAXVbVrskgI>.

October 25, 2013: Presenter, "Alternative Discovery Methods," New Mexico Criminal Defense Lawyers Association (NMCDLA) Annual DWI Seminar. I believe I spoke about public records laws. I have no notes, transcript, or recording. The address for NMCDLA is P.O. Box 8324, Santa Fe, New Mexico 87504.

September 6, 2013: Presenter, "Witness Interview Logistics," New Mexico Criminal Defense Lawyers Association (NMCDLA). I believe I spoke about taking witness statements. I have no notes, transcript, or recording. The address

for NMCDLA is P.O. Box 8324, Santa Fe, New Mexico 87504.

2010 (date unknown): Presenter, "Advanced Cross Examination," New Mexico Criminal Defense Lawyers Association (NMCDLA). I believe I did a sample cross examination. I have no notes, transcript, or recording. The address for NMCDLA is P.O. Box 8324, Santa Fe, New Mexico 87504.

2009 (date unknown): Presenter, "Drug Courts and Mental Health Courts," New Mexico Criminal Defense Lawyers Association (NMCDLA). I believe I spoke about the Doña Ana County Juvenile Drug Court. I have no notes, transcript, or recording. The address for NMCDLA is P.O. Box 8324, Santa Fe, New Mexico 87504.

2009 (date unknown): Presenter, "Cross-examination of the Pseudo-Expert," New Mexico Criminal Defense Lawyers Association (NMCDLA). I believe I spoke about cross examining officers. I have no notes, transcript, or recording. The address for NMCDLA is P.O. Box 8324, Santa Fe, New Mexico 87504.

2008 (date unknown): Presenter, "Search and Seizure in New Mexico," New Mexico Criminal Defense Lawyers Association (NMCDLA). I believe this may have been a case law update. I have no notes, transcript, or recording. The address for NMCDLA is P.O. Box 8324, Santa Fe, New Mexico 87504.

- 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.

In an effort to locate instances in which I spoke to a reporter, I have searched my files and the Internet. I have identified the instances for which I was able to locate articles. However, there may be other occasions that I do not recall or was unable to find through an Internet search.

Matthew Reisen, *Otero Prison Cases Out of Control*, Albuquerque J., June 25, 2020. Copy supplied.

Matthew Reisen, *Inmates Fear Surge in Virus Cases*, Albuquerque J., May 22, 2020. Copy supplied.

Elise Kaplan, *21 Held at Otero Prison Test Positive for Virus*, Albuquerque J., May 18, 2020. Copy supplied.

Algernon D'Ammassa, *Lawsuit Alleges Officer's Gunshot at Picacho Middle School Harmed Student*, Las Cruces Sun News, Mar. 23, 2020. Copy supplied. (Reprinted in multiple outlets.)

Algernon D'Amassa, *Las Cruces High Graduate Sues Ex-Teacher, School District Over Sexual Harassment Claims*, Las Cruces Sun News, Mar. 5, 2020. Copy supplied.

Katy Barnitz, *DAs Call for Stiffer Penalties for Threats, Gun Violence*, Albuquerque J., Nov. 20, 2019. Copy supplied.

Andy Lyman, *Legislator Wants to Let Metro Court Convene Grand Juries*, The NM Political Report, Feb. 15, 2019. Copy supplied.

Colin Doyle, Chiraag Bains & Brook Hopkins, *Bail Reform, a Guide for State and Local Policy Makers*, Harvard Law School, Feb. 2019. Copy supplied.

Xchelzin Pena, *Luna County Employee Linked to Alleged Corruption Moved to District Court*, Deming Headlight, Oct. 22, 2018. Copy supplied.

Jeff Proctor & Justin Horwath, *Analysis: Pardons Have Plummeted in New Mexico Under Gov. Martinez*, The NM Political Report, May 24, 2018. Copy supplied. (Reprinted in multiple outlets.)

Carlos Andres Lopez, *Judge 'Convinced' Bev Courtney Petition Altered, Rules She Can Stay on Ballot*, Las Cruces Sun News, Apr. 2, 2018. Copy supplied.

Carlos Andres Lopez, *City Settles Police Brutality Case for \$1.4 Million*, Las Cruces Sun News, Feb. 25, 2018. Copy supplied.

Maggie Shepard, *The Constitution Guarantees Legal Defense, New Mexico Barely Delivers*, www.davemarsh.com, Feb. 12, 2018. Copy supplied.

Susan Montoya Bryan, *Police Shooting in Farmington Spurs Criticism of New Mexico's Bail Reform*, Las Cruces Sun News, Aug. 28, 2017. Copy supplied.

Carlos Andres Lopez, *Catch and Release: New Rules Affect How Courts Issue Bonds*, Las Cruces Sun News, July 1, 2017. Copy supplied.

Carlos Andres Lopez, *City Expected to Appeal \$1.6M Verdict Against LCPD Officers*, Las Cruces Sun News, Mar. 8, 2017. Copy supplied.

Editorial: Las Cruces Brutality Verdict Needs Explanation, Las Cruces Sun News, Feb. 19, 2017. Copy supplied.

Carlos Andres Lopez, *Jury Awards Couple \$1.6M in Suit Against LCPD Officers*, Las Cruces Sun News, Feb. 13, 2017. Copy supplied.

Joline Gutierrez Krueger, *Cautionary Tale of Romance and Fraud; Upfront*, Albuquerque J., Oct. 1, 2016. Copy supplied.

Jolie Gutierrez Krueger, *Willing Sugar Daddy or Elderly Victim of Fraud?*; *Upfront*, Albuquerque J., Jan. 13, 2016. Copy supplied.

Carlos Andres Lopez, *Case Against Las Cruces Animal Shelter Director Dismissed at Trial*, Las Cruces Sun News, July 21, 2015. Copy supplied.

Diane Alba Soular, *Judge Sets Trial Date for City-County Animal Shelter Director*, Las Cruces Sun News, June 10, 2015. Copy supplied.

Elise Kaplan, *'Just a Piece of Paper'; Woman, Says Police Say Protection Order Doesn't Deter Ex-Boyfriend*, Albuquerque J., Apr. 19, 2015. Copy supplied.

Carlos Andres Lopez, *Animal Shelter Director Pleads Not Guilty to Misdemeanors, Including County Ordinance Violation*, Las Cruces Sun News, Mar. 20, 2015. Copy supplied.

James Staley, *Doña Ana County Grand Jury Indicts 3 Men in New Year's Home Invasion*, Las Cruces Sun News, Jan. 17, 2014. Copy supplied.

James Staley, *Autopsy: Las Cruces Man Shot in the Back*, Las Cruces Sun News, Dec. 3, 2013. Copy supplied.

Anne Constable, *Public Defender Cuts May Hike Costs, Jeopardize Justice*, The Santa Fe New Mexican, July 14, 2013. Copy supplied.

Diana Alba Soular, *Las Cruces Man Gets 27-Year Sentence for Drugging, Raping Man in 2009*, Las Cruces Sun News, June 29, 2012. 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 cases, approximately what percent were:

jury trials: _____ %
bench trials: _____ % [total 100%]

- ii. Of these cases, approximately what percent were:

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 (4) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
 - d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.
 - e. Provide a list of all cases in which certiorari was requested or granted.
 - f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.
 - g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.
 - h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.
 - i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.
14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not held judicial office.

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you

recused yourself sua sponte;

- b. a brief description of the asserted conflict of interest or other ground for recusal;
- c. the procedure you followed in determining whether or not to recuse yourself;
- d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

15. Public Office, Political Activities and Affiliations:

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

I have never held public office. I have not been an unsuccessful candidate for an elective office or unsuccessful nominee for any appointed offices.

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

I have done volunteer voter protection work for the Democratic Party of New Mexico during general and presidential elections. (2008 – 2020).

In 2020, I contacted members of the Democratic Party's State Central Committee and asked them to select Judge Casey Fitch as the party's candidate for District Court Judge. Judge Fitch was not selected as the candidate.

16. Legal Career: Answer each part separately.

- a. Describe chronologically your law practice and legal experience after graduation from law school including:
 - i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I have not clerked.

- 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;

2006 – 2011

Law Office of the Public Defender, New Mexico

505 South Main Street #700

Las Cruces, New Mexico 88001

Trial Lawyer

2011

Law Office of Michael Stout

910 Lake Tahoe Court

Las Cruces, New Mexico 88007

Associate Lawyer

2011 – present

McGraw & Strickland, LLC

165 West Lucero Avenue

Las Cruces, New Mexico 88005

Partner

- 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 worked 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.

My law practice is split equally at about fifty percent each between criminal defense and plaintiff civil rights. I started my career as a New Mexico public defender. When I went into private practice, I continued criminal defense work and started civil rights work. About half of my criminal defense practice is representing indigent defendants in federal court. Almost all of my civil cases are in federal court.

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

When I was a public defender my typical client was an indigent person. In

private practice, I represent individuals charged with state and federal crimes and those who have been the victim of a civil rights violation and/or a state or federal tort.

- 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.

All of my practice is litigation. I appear in court frequently. I normally have multiple court appearances each week. When I was a New Mexico public defender, I typically had multiple court appearances each day. That number decreased in 2011, when I started in private practice, to several court appearances each week.

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 75% |
| 2. state courts of record: | 20% |
| 3. other courts: | 4% |
| 4. administrative agencies: | 1% |

- ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 25% |
| 2. criminal proceedings: | 75% |

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

I estimate that as a public defender I tried 60 cases to a jury either as sole counsel or with co-counsel. While in private practice, I estimate I have tried 30 cases, including small administrative cases, almost all as sole counsel. I have never tried a case as an associate.

- i. What percentage of these trials were:

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

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

I have filed a petition for a writ of certiorari to the United States Supreme Court in the case of *Contreras v. Dona Ana*. The petition was denied. No. 20-811, 2021 WL 666438 (U.S. Feb. 22, 2021). (Copy supplied)

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. *Murphy v. New Mexico Children, Youth & Families Department*, D-101-CV-2019-00642, First Judicial District Court, Santa Fe County (Judge Maria Sanchez-Gagne)

From 2019 to present, I have represented Mr. Murphy (personal representative of the estate) in a wrongful death case against New Mexico's Children Youth and Family Department (CYFD). CYFD had taken a two-year-old child (A.G.J.) from his mother and placed him in foster care. A.G.J.'s mother had a severe drug addiction, and her parental rights had been terminated for all of her children. A.G.J.'s step-grandfather, who had fostered another child, was in the process of becoming certified to foster A.G.J. as well.

CYFD knowingly placed A.G.J. back in his mother's custody, despite the fact that she was still using drugs heavily and associating with other drug addicts. There was no evidence that A.G.J.'s mother had a safe home for the defenseless child. While at this mother's home, A.G.J. was murdered by his mother's friend.

A.G.J.'s estate has sued CFYD. The case is currently in discovery.

For CYFD:

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Co-Counsel:

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Julio Ramirez

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2. *Contreras on Behalf of A.L. v. Dona Ana Cty. Bd. of Cty. Commissioners*, No. CV 18-156 GBW/GJF, 2018 WL 5832152 (D.N.M. Nov. 7, 2018), *aff'd*, 965 F.3d 1114 (10th Cir. 2020), *cert. denied sub nom. Contreras v. Dona Ana Cty. Bd.*, No. 20-811, 2021 WL 666438 (U.S. Feb. 22, 2021)

From 2016 to present, I have represented Ms. Contreras, who brought suit against the Dona Ana County jail for an attack that occurred on her 14-year-old son. The attack occurred after inmates at the jail were able to access the control panel, which was located inside the housing areas with the inmates and opened the child's door to attack him. The child was beaten unconscious and found bleeding from both ears. Evidence showed attacks like this had occurred in the past.

This case was dismissed on the basis of qualified immunity. The trial court found the law did not clearly establish that jailers are required to keep jail doors locked to protect child detainees. On appeal the Tenth Circuit affirmed. The United States Supreme Court denied a petition for writ of certiorari. Along with co-counsel I briefed all of the appeals.

Counsel for Defendant:

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Co-Counsel (for appellate issues only)

Katherine Wray
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3. *United States v. DeLeon*, Case No. 2:15-cr-04268-JB (D.N.M.) (Judge James O. Browning)

From 2015 to present, I have worked on this federal RICO death penalty case in which I represent one of many co-defendants charged with several homicides, and other crimes, in furtherance of organized crime. My client was specifically charged with the murder of a fellow prison inmate and gang member.

My client pleaded guilty and testified for the prosecution in several trials in which many gang members were convicted. These convictions crippled one of the most notorious prison gangs in New Mexico.

I briefed and litigated discovery motions and motions regarding appointment of learned counsel in the case. Along with co-counsel I worked on trial preparation, mitigation, and sentencing.

For the Government:

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Randy M. Castellano
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Co-Counsel:

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Osborn Maledon PA
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Co-Defendants' Counsel:

See Appendix 17c

4. *New Mexico v. Castro*, Case No. D-307-CR-2009-00562, Third Judicial District Court, Dona Ana County (Judge Conrad Perea); *rev'd*, 2016-NMCA-085, 381 P.3d 694, *rev'd*, 2017-NMSC-027, 402 P.3d 688.

From 2013 to present, I have represented Mr. Castro on direct and collateral appeal after he was convicted at trial of a sex offense. His trial attorney continued the case for several years without his client's consent. At trial, it became clear that Mr. Castro's attorney did not investigate or prepare for the case. At one point during expert testimony, Mr. Castro's lawyer left the courtroom. Mr. Castro's lawyer did little to defend his client: he failed to object to improper evidence; failed to impeach the prosecutor's witnesses; and did not make argument to the jury. Mr. Castro's lawyer told the trial judge he did not have enough time to try the case because he was busy the next day, and Mr. Castro's lawyer strongly insinuated to the jury that his client had in fact committed this crime.

I briefed and argued all of the direct and collateral appeals. This case was appealed first to the New Mexico Supreme Court on the defense lawyer's many continuances, which created speedy trial issues. The New Mexico Court of Appeals granted Mr. Castro's appeal on speedy trial issues. However, the New Mexico Supreme Court ruled against Mr. Castro. The trial court then granted Mr.

Castro's petition or a writ of habeas corpus to vacate his conviction based on his lawyer's misconduct at trial.

Counsel for the State of New Mexico:

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3rd Judicial District Attorney's Office
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5. *McElmurry v. USAA*; Case No. D-307-CV-2017-03687, Third Judicial District Court, Dona Ana County (Judge James T. Martin)

From 2012 to 2020, my law partner and I represented Plaintiff McElmurry. Ms. McElmurry was severely injured in a car crash. She was rear-ended by an underinsured driver and left with injuries to her neck that required surgery and left her with permanent damage. Ms. McElmurry had purchased insurance from her own carrier to pay in case she was injured by an underinsured driver. Ms. McElmurry had faithfully paid her insurance premiums for this coverage for over twenty years. When she was injured, Plaintiff alleged her insurance declined to pay her full damages.

This case went to a jury trial. The jury awarded \$400,000 for damages and found the insurer had acted in bad faith. Based on the bad faith conduct, the court awarded an additional \$500,000 in attorney fees.

In the trial I briefed and argued motions in limine, conducted jury selection, directed and crossed approximately half of the witnesses, including defense experts, presented closing argument, worked on jury instructions, and briefed post-verdict motions.

Counsel for Defendant:

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Co-Counsel:

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6. *Landau and Landau v. Las Cruces Public Schools*, D-307-CV-2014-01923, Third Judicial District Court, Dona Ana County (Judge Douglas R. Driggers)

From 2013 to 2016, my law partner and I represented the Landaus, an elderly couple, in a lawsuit against Las Cruces Public Schools in a premises liability case where Mrs. Landau was severely injured in a middle school parking lot. The parking lot was not properly maintained and was the direct cause of Mrs. Landau's serious injuries. Mrs. Landau's injuries also led to a loss of consortium claim by her husband.

This case was vigorously litigated through a jury trial. The jury found that while the Defendants were negligent, there was no causation.

In the trial I argued motions in limine, conducted jury selection, directed and crossed approximately half of the witnesses, worked on jury instructions, defended the directed verdict motion, presented the rebuttal closing, and briefed post-verdict motions.

For Las Cruces Public Schools:

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Co-Counsel:

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7. *State of New Mexico v. Garcia*, Case No. D-619-CR-2012-00109, Sixth Judicial District Court, Luna County (Judge Daniel Viramontes and Judge Jarod K. Hofacket); Case No. A-1-CA-33249, Court of Appeals of New Mexico; Case No. S-1-SC-35451, New Mexico Supreme Court

From 2012 to 2018, I represented Ms. Garcia as her criminal defense attorney on appeal. New Mexico charged Ms. Garcia with second-degree felony fraud and computer access with intent to defraud or embezzle, also a second-degree felony. The case involved complex factual and legal issues, including statutory interpretation and double jeopardy. Ms. Garcia was convicted and sentenced to significant prison time. I began working on the matter post-conviction. I obtained an appellate bond on my client's behalf and appealed her conviction.

Following my briefing and oral argument, the New Mexico Court of Appeals reversed with instructions to vacate Ms. Garcia's convictions based on sufficiency. It was then heard by the New Mexico Supreme Court which reinstated one count of conviction and ordered a full restitution hearing. On remand the case settled for a suspended sentence.

I briefed and argued all appeals and the final sentencing in this case.

Counsel for the State of New Mexico:

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Appellate Division Attorney General
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8. *Beck v. Baker*, Case No. 2:14-cv-00067-KG/WPL (D.N.M.) (Judge Kenneth Gonzales)

From 2013 to 2017, I represented Ms. Beck and her husband in their civil rights lawsuit against police officers after they were beaten and arrested by local law enforcement.

At trial there were numerous factual disputes. Both sides called multiple witnesses including experts, eyewitnesses who were not parties and investigators. The jurors were given a special verdict form with interrogatories to resolve several key facts. The jury found for the Plaintiffs and awarded \$1.6 million in total to my clients.

In this trial I briefed and argued motions in limine, I directed and crossed about half of the witnesses, defended the directed verdict motion, did jury instructions, presented the closing argument and wrote post-verdict motion briefing.

For Defendants:

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(Formerly of Miller Stratvert)
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Co-Counsel:

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9. *New Mexico v. Le Mier*, Case No. D-0911-CR-2012-00075, Ninth Judicial District Court, Curry County (Judge Donna Mowrer). Published Opinion: 2017-NMSC-017, 394 P.3d 959.

From 2013 to 2014, I represented Defendant Le Mier. She was charged with smuggling contraband (her anti-depression medication and other things) into a detention facility. As trial counsel for Defendant, I attempted repeatedly to obtain the names and addresses of the prosecution's witnesses so that I could investigate the case. After the Court ordered the prosecution to provide this information, and the prosecution repeatedly failed to do so, the trial judge excluded the prosecution's witnesses. The case was dismissed.

On appeal to the New Mexico Supreme Court affirmed the trial court's exclusion order and clarified the standards for evidence exclusion in New Mexico.

Counsel for the State of New Mexico:

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10. United States v. Antillion, Case No. 2:13-cr-3668-RB (D.N.M.) (Judge Robert Brack)

In 2013, Ms. Antillion was charged in federal court with trafficking heroin. She was a very young woman who had become severely addicted to heroin. Drug traffickers exploited her addiction, abused her, and used her to transport drugs across the United States-Mexico border.

I was able to secure Ms. Antillion's release from jail while the case was pending. I worked with her and United States Pretrial Services to get her drug treatment that she desperately needed. She struggled with her addiction, but she was able to overcome it while the case was pending.

In the end I was able to secure Ms. Antillion a sentence that involved no more jail time, and instead ensured she would continue to get drug treatment and mental health treatment.

Counsel for the Government:

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

I am a litigation attorney, but most of my cases do not result in a trial. I have defended hundreds of criminal cases, resulting in either a dismissal or a plea. I have brought dozens of civil cases that resulted in settlement at mediation.

When I was a state public defender, my caseload was consistently over one hundred cases. Managing this caseload required discipline and organization. I kept a consistent routine that allowed me to meet with clients, attend court hearings, investigate cases, meet with the prosecution and interview their witnesses, conduct legal research, draft motions, and try cases both as first chair and as second chair, when another public defender had a trial. I also handled a large probation violation docket, which required tremendous organizational skills. In New Mexico, probation violations must be resolved or tried to the bench in a very short amount of time. In addition to meeting these deadlines as required by the court, most clients facing probation violations desired to have their case resolved expeditiously. Other than litigation, my time at the public

defender office was dedicated to moving a large caseload in an efficient manner.

When I left the public defender's office, my case load was reduced, and the nature of my cases changed. I began to do grand jury practice, administrative hearings for license revocations, habeas and direct appeals, and plaintiffs' cases, which were mostly in the area of civil rights, and federal court practice.

I have never been a lobbyist. However, since 2018 I have been chair of the New Mexico Criminal Defense Lawyers Association's legislative committee. As chair, I have helped advocate for criminal justice reform, reducing the use of solitary confinement in our prisons and jails, and passing a New Mexico civil rights bill. As chair, I have presented at committee interim meetings twice on the topics of drug driving laws and the price of incarceration.

I have also assisted New Mexico Trial Lawyers Association with their advocacy efforts regarding passing the 2021 New Mexico civil rights bill. The New Mexico Criminal Defense Lawyers Association is a member of NMSafe, and as the chair of the legislative committee, I have also been associated with this group.

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

I have not taught any courses at any educational institutions.

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

I have no anticipated deferred income arrangements, stock, options, uncompleted contracts or other future benefits. I have not made arrangements for future financial or business interests. I have no financial interests that should cause any conflicts. My only business interest is my law firm. If confirmed, I would leave my law firm and pursuant to the partnership agreement receive whatever compensation resulted from my departure.

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.

My husband is an Assistant Federal Public Defender. My understanding is that an analogous potential conflict in the District of New Mexico is handled through screening during the case assignment process. If confirmed, I would work with the clerk's office to establish a similar process to avoid conflicts. If the conflict could not be handled in that manner, my husband would move positions.

- 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 address any potential conflict of interest by consulting the Code of Conduct for United States Judges and 28 U.S.C. § 455.

25. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

Throughout my legal career, I have represented indigent and disadvantaged clients. Even after I left the state public defender's office, my workload has always involved representing indigent clients through my Criminal Justice Act appointment work in federal court. This has been a deliberate choice on my part, and it has involved turning down higher paying work to represent those in our community who are disadvantaged.

I have also consistently participated in our local district court's annual free legal clinic, where community members can seek legal advice without charge.

I have taken several small pro-bono civil cases while in private practice.

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.

I sent an initial application to the office of Senator Heinrich. After that I was interviewed twice by my home-state senators' offices and asked to send in a second application. The dates of the interviews were January 8, 2021, with Senator Heinrich's office and January 19, 2021, with both Senator Heinrich's and Senator Lujan's office.

After the interviews with my senators' offices, I interviewed with attorneys from the White House Counsel's Office on February 9, 2021. Since February 10, 2021, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On March 30, 2021, the President announced his intent to nominate me. On April 19, 2021, my nomination was submitted 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.