

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Jeffrey James Helmick

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

United States District Judge for the Northern District of Ohio

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.

Gamso, Helmick & Hoolahan
1119 Adams Street, Second Floor
Toledo, Ohio 43604

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

1960; Toledo, Ohio

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.

1985 – 1988, Ohio State University Moritz College of Law; J.D., May 1988

1980 – 1982, 1983, University of Michigan; B.A., December 1983

1978 – 1980, University of Colorado at Denver; 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.

1998 – present
Gamso, Helmick & Hoolahan (formerly Helmick & Hoolahan; Helmick, Prajsner & Hoolahan)
1119 Adams Street, Second Floor
Toledo, Ohio 43604
Attorney

1998 – 2005
Legally Wired
1119 Adams Street, Second Floor
Toledo, Ohio 43604
Attorney/Technology Consultant

1996 – 1998
Helmick, Jacobs & Solomon
622 Adams Street, Second Floor
Toledo, Ohio 43604
Attorney

1989 – 1995
Kaplan, Richardson, Rost & Helmick
830 Spitzer Building
520 Madison Avenue
Toledo, Ohio 43604
Attorney

1993 – 1995
Department of Rehabilitation and Correction
770 West Broad Street
Columbus, Ohio 43222
Special Advisor to the Director

1988 – 1989
Marshall & Melhorn, LLC
Four SeaGate, 8th Floor
Toledo, Ohio 43604
Associate

Summer 1987
Williams & Montgomery (now Williams, Montgomery & John, Ltd.)
Willis Tower
233 South Wacker Drive, Suite 6100
Chicago, Illinois 60606
Summer Associate

1986 – 1987
Night Prosecutor Mediation Program
City of Columbus, Ohio Prosecutor's Office
375 South High Street
Columbus, Ohio 43215
Mediator for criminal cases

Summer 1986
Marshall & Melhorn, LLC
Four SeaGate, 8th Floor
Toledo, Ohio 43604
Summer Associate

1984 – 1985
United States District Court for the Southern District of Texas
United States Courthouse
515 Rusk Avenue
Houston, Texas 77002
Assistant to the Special Master, *Ruiz v. Estelle*, Civ. A. No. H-78-987

1984
United States District Court for the District of New Mexico
The Spitzer Building
520 Madison Avenue
Toledo, Ohio 43604
Assistant to the Special Master, *Duran v. Anaya*, Civ. No. 77-0721-JB

Other affiliations (uncompensated):

2009 – present
Local K-12 School
Toledo, Ohio
Trustee

1999 – 2004
The Toledo Rowing Club
8 Main Street
International Park
Toledo, Ohio 43605
Vice President (1999)
President (2000 – 2004)

1990 – 2000
David's House Compassion, Inc.
510 North Detroit Avenue
Toledo, Ohio 43607
Trustee (1990 – 2000)
President of Board of Trustees (1999 – 2000)

1989 – 1990
Pemberville Boys Ranch
1926 Kahler Road
Pemberville, Ohio 43450
Trustee

7. **Military Service and Draft Status:** Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

I have not served in the military. I registered for selective service when I turned 18.

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

Elected Editor-in-Chief, The Ohio State Journal on Dispute Resolution, 1987 – 1988
AV peer rated, Martindale-Hubbell

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.

Associations

American Bar Association
American Inns of Court, Morrison R. Waite Chapter
Maumee Valley Criminal Defense Lawyers Association, Co-Founder (1996 – present)
National Association of Criminal Defense Lawyers
Ohio Association of Criminal Defense Lawyers
Ohio State Bar Association
Toledo Bar Association

Committees

Supreme Court of Ohio
Commission on Continuing Legal Education (1990 – 1996)
Toledo Metropolitan Area Committee on Government, for recommendations regarding improvements to the Criminal Justice System in the Toledo area (2000)
U.S. Attorney's Advisory Council for the Northern District of Ohio (2009 – present)

10. **Bar and Court Admission:**

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

Ohio, 1988

I have had no lapses in membership.

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

Supreme Court of the United States, 2002

United States Court of Appeals for the Sixth Circuit, 2000

United States Court of Appeals for the Third Circuit, 2009

United States District Court for the Northern District of Ohio, 1989

I have had no lapses in membership in any of these courts.

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.

David's House Compassion, Inc.

Trustee (1990 – 2000)

President of Board of Trustees (1999 – 2000)

Laurel Hills Swim and Tennis Club (2008 – present)

Local K-12 School

Trustee (2009 – present)

Chair, Buildings & Ground Committee (2010 – present)

Chair, Technology Task Force (2010 – present)

Pemberville Boys Ranch

Trustee (1989 – 1990)

The Toledo Club (1996 – 2000)

The Toledo Rowing Club (1999 – 2005; 2009 – present)

Vice President (1999)

President (2000 – 2004)

- 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.

At one time, the Toledo Club discriminated on the basis of race, sex, and religion. Prior to my joining the Club in 1996, it had already instituted non-discrimination policies. To the best of my knowledge, none of the other organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, religion, or national origin.

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.

From 1996 to 2001, I served as co-editor of the Maumee Valley Criminal Defense Lawyers Association newsletter. The newsletters consisted of synopses of cases that might be of interest to members of the local defense bar. Copies 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.

None that I recall or have been able to identify.

- 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.

None that I recall or have been able to identify.

- 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 searched online resources, reviewed old calendars, and consulted with various individuals and groups to produce an answer to this question that is as complete as possible, but I still may have given other presentations that I have been unable to recall or identify.

On October 15, 2009, I participated in a small panel at the University of Toledo College of Law about plea negotiations. I have no notes, transcript, or recording. The address of the College of Law is 2801 West Bancroft, Toledo, Ohio 43606.

On November 7, 2008, I spoke at a conference entitled "A View from the Bench," a CLE program sponsored by the Toledo Bar Association. I was asked to present on the effective use of technology in the courtroom. Presentation slides supplied.

Between 2001 and 2004, I taught rowing courses for the Toledo Rowing Club's Summer Program. I may have prepared instructional materials, but I am unable to locate any copies.

In approximately the mid-1990s, I participated in a Judicial and Attorney Panel in the Toledo area with several local judges and lawyers. Questions were taken from a public audience about the courts and justice system generally. The session was not recorded and I had no prepared remarks, nor do I recall who sponsored the event. Any records I had were lost in an office fire on December 22, 1996.

- 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 searched my files and Internet databases to refresh my memory in an effort to produce as complete a list of interviews as I could, but it is still possible there are some I was not able to locate. I have identified the following newspaper articles that quoted me directly from a brief interview.

Tom Troy, *Toledo Lawyer Nominated to Become Federal Judge*, The Toledo Blade, May 12, 2011. Copy supplied.

Staff, *Helmick Endorsed for Court: Senators Brown, Voinovich Recommend Toledo Lawyer*, The Toledo Blade, Aug. 26, 2010, at B3. Copy supplied.

Erica Blake, *3 Named Finalists in Search for Federal Judge Candidate*, The Toledo Blade, July 27, 2010, at B3. Copy supplied.

Erica Blake, *Lawyers Jockey in Buildup to Trial Over Inmate Death*, The Toledo Blade, Feb. 28, 2010, at A13. Copy supplied.

Erica Blake, *Months After Terror Convictions, Local Trio Still Await Sentencing*, The Toledo Blade, Apr. 13, 2009. Copy supplied.

Erica Blake, *Sex Offender Freed After 3-Plus Years*, The Toledo Blade, Oct. 17, 2008, at B1. Copy supplied.

Erica Blake, *Killer Taken Off Death Row*, The Toledo Blade, Aug. 15, 2008, at B1. Copy supplied.

Erica Blake, *Alford Plea Cuts Prison Time for Child Assaults*, The Toledo Blade, Mar. 18, 2008, at B3. Copy supplied.

Erica Blake, *Fostoria Man Gets Life for '96 Murders; Jurors in Federal Court Split on Death Penalty*, The Toledo Blade, Dec. 15, 2007, at B1. Copy supplied.

Erica Blake, *Attorney Cleared to Defend Toledo Murder Suspect*, The Toledo Blade, Nov. 14, 2007, at B2. Copy supplied.

Erica Blake, *Death-Row Inmate in Court; Dickerson Challenges Sentence in 1985 Slayings*, The Toledo Blade, Apr. 27, 2007, at B1. Copy supplied.

Rick Halperin, *Toledoan Removed from Ohio Death Row—U.S. Panel Upholds Murder Convictions*, Death Penalty News, July 11, 2006. Copy supplied.

Matt Sanctis, *Zenowicz Gets Life*, The News-Messenger [Fremont, Ohio], June 28, 2006, at 1A. Copy supplied.

Jennifer Feehan, *Life Term for Murderer Disappoints Victims' Kin*, The Toledo Blade, June 28, 2006, at B1. Copy supplied.

Staff, *Attorney Seeks Data on Inmate Privacy*, The Toledo Blade, Mar. 18, 2006, at B1. Copy supplied.

Jennifer Feehan, *3-Judge Panel Convicts Man in Double-Murder*, The Toledo Blade, Mar. 4, 2006, at B1. Copy supplied.

Christina Hall, *Scrutiny of Terror Suspects Strict*, The Toledo Blade, Feb. 25, 2006, at A1. Copy supplied.

Chuck Goudie, *Feds: Terrorists Planned to Train in Chicago*, ABC 7 News, Feb. 24, 2006. Copy supplied.

Staff, *Federal Court Goes Digital*, The Toledo Blade, Jan. 22, 2006, at B4. Copy supplied.

Mark Reiter, *Defense to Use iPods to Review Evidence in Federal Drug Case*, The Toledo Blade, Jan. 17, 2006, at A1. Copy supplied.

Mark Reiter, *Harmon to Spend Rest of Life in Prison*, The Toledo Blade, Feb. 8, 2005, at B1. Copy supplied.

Mark Reiter, *Saturday Court Hearing to Determine Killer's Fate*, The Toledo Blade, Feb. 3, 2005, at B3. Copy supplied.

Mark Reiter, *Ex-Gang Boss Sentenced to Life in Prison*, The Toledo Blade, Dec. 21, 2004, at B1. Copy supplied.

Mark Reiter, *Outlaws' Ex-Leader Facing Life in Prison*, The Toledo Blade, Dec. 18, 2004, at B1. Copy supplied.

Dale Emch, *Outlaws Trial Ends with 12 Convicted*, The Toledo Blade, June 2, 2004, at A1. Copy supplied.

Vickie Chachere, *Former Outlaws Motorcycle Gang Leader Gets 16 ½ Years in Prison*, Associated Press, Jan. 30, 2004. Copy supplied.

Shirley Levy, *Boaters Beware of Jet-Powered Craft*, The Toledo Blade, Sept. 4, 2003, at C6. Copy supplied.

John Caniglia, *Officials Break Into Notorious Biker Gang*, Plain Dealer, Apr. 19, 2003, at B1. Copy supplied.

Staff, *Holdup Suspect Changes Mind on Guilty Plea*, The Toledo Blade, Oct. 11, 2002, at B2. Copy supplied.

Dale Emch, *Attorneys Selected by Court May Get Fee Hike – Upping Cap to \$60,000 Would be Tops in State*, The Toledo Blade, June 15, 2002, at B1. Copy supplied.

Dale Emch, *Capital Case Fees Might Be Going Up*, The Toledo Blade, Apr. 25, 2002, at B1. Copy supplied.

Shirley Levy, *Boating's Lessons Helpful for a Lifetime*, The Toledo Blade, May 25, 2001, at C8. Copy supplied.

Shirley Levy, *Low Lake Erie Water Levels Won't Stop Recreational Boats*, The Toledo Blade, May 18, 2001, at C8. Copy supplied.

Dale Emch, *Court Motion Calls on Lawyer to Locate Client*, The Toledo Blade, Mar. 15, 2000, at 19. Copy supplied.

Jennifer Feehan, *2 Plead Guilty to Involvement in Girl's Assault*, The Toledo Blade, Mar. 7, 2000, at 11. Copy supplied.

Mike Sigov, *HIV/AIDS Service Body Gets New Executive Chief*, The Toledo Blade, Nov. 29, 1999, at 12. Copy supplied.

Dale Emch, *Tenace Jury Recommends Death Penalty in '94 Murder*, Oct. 8, 1999, at 13. Copy supplied.

Mike Jones, *Put Bomb in Wife's Car, Lister Confesses*, Oct. 11, 1997, at A1. Copy supplied.

Mike Jones, *Man Charged with Bombing Wife is Ruled Competent to Stand Trial*, The Toledo Blade, July 24, 1997, at 20. Copy supplied.

Staff, *Mitchell's Lawyer Appeals to Jury for Life Sentence*, The Toledo Blade, Apr. 22, 1997, at 14. Copy supplied.

Gary Pakulski, *Spilled Coffee Becomes Hot Lawsuit Topic*, The Toledo Blade, May 21, 1996, at 21. Copy available at <http://news.google.com/newspapers?id=9U8xAAAAIABAJ&sjid=awMEAAAAIABAJ&pg=4064,6327159&dq=jeff+helmick&hl=en>.

Tom Troy, *Trio Found Not Guilty for Murder*, The Toledo Blade, July 30, 1994, at 1. Copy available at <http://news.google.com/newspapers?id=EzQxAAAAIABAJ&sjid=agMEAAAAIABAJ&pg=3978,8315761&dq=jeff+helmick&hl=en>.

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 served as a judge.

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

i. Of these, approximately what percent were:

jury trials: _____%

bench trials: _____%

civil proceedings: _____%

criminal proceedings: _____%

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

an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not served as a judge.

- 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 had no unsuccessful candidacies for elective office or unsuccessful nominations for appointed office.

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

Over the years, I have served on campaign committees for several area judges. Although there may be others, the specific campaigns that I recall were on behalf of: (1) Mary Grace Trimboli, candidate for Toledo Municipal Court Judge, in 1991; (2) Gary Cook, candidate for Lucas County Common Pleas Court Judge, in 2004; (3) William Skow, candidate for Judge in the Sixth District Court of Appeals, in 2004; and (4) William Connelly, Jr., candidate for Toledo Municipal Court Judge, in 2009. My involvement included placing signs in my yard and attending fundraisers, and in one instance providing technology support to the candidate. I did not hold any office in these campaigns and was not compensated.

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 did not serve as a clerk to a judge.

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

I have never 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.

1988 – 1989
Marshall & Melhorn, LLC
Four SeaGate, 8th Floor
Toledo, Ohio 43604
Associate

1989 – 1996
Kaplan, Richardson, Rost & Helmick
830 Spitzer Building
520 Madison Avenue
Toledo, Ohio 43604
Attorney

1993 – 1995
Department of Rehabilitation and Correction
770 West Broad Street
Columbus, Ohio 43222
Special Advisor to the Director

1996 – 1997
Helmick, Jacobs & Solomon
622 Adams Street, Second Floor
Toledo, Ohio 43604
Attorney

1998 – 2005
Legally Wired
1119 Adams Street, Second Floor
Toledo, Ohio 43604
Attorney/Technology Consultant

1998 – present
Gamso, Helmick & Hoolahan
(formerly Helmick & Hoolahan; Helmick, Prajsner & Hoolahan)
1119 Adams Street, Second Floor
Toledo, Ohio 43604
Attorney

- 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 since my work as a mediator in the Columbus Night Prosecutor Mediation Program during law school.

b. Describe:

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

As an associate at Marshall & Melhorn (1988-1989), I was a civil litigator representing small and large businesses in several areas, including contracts, torts and labor law.

Between 1989 and 2001, I had a general practice, including plaintiff's personal injury cases and employment litigation on behalf of both small companies and individuals. During this time, I also began to take on defense of criminal and traffic offenses, eventually including capital cases.

Since 2001, my practice has expanded to include federal habeas corpus cases, post-conviction litigation and defense of more complex federal criminal charges. My civil practice gradually has declined as I have become busier in criminal courts, especially federal court.

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

In my first two years of practice, I represented both small and large companies, including Libbey Owens Ford and Champion Spark Plugs. Since I was a general litigator, I had no specific area of expertise.

Since that time, I have represented civil clients including small businesses, persons injured in accidents, and those asserting claims of employment discrimination. I also have represented a wide variety of criminal defendants, including law enforcement officers, business persons, working-class men and women, and indigent individuals. I have worked as retained counsel and as appointed counsel, particularly as appointed counsel in death penalty cases and in some federal criminal prosecutions.

- 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.

Overall, litigation has been 100% of my practice. From 1988 to the present, my practice has been:

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 25% |
| 2. state courts of record: | 75% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 0% |

- ii. Indicate the percentage of your practice in:

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

- 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 approximately 40 cases to verdict or judgment. I was sole counsel in 20 of those cases, chief counsel in 16 cases, and associate counsel in four cases.

- i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 58% |
| 2. non-jury: | 42% |

- 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.

Eley v. Houk, Case No. 10-6499 (Petition for Writ of Certiorari filed Sept. 17, 2010). 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. *United States v. Gray*, Case No. 3:09-cr-00182-DAK (Hon. David A. Katz, United States District Court for the Northern District of Ohio; 2009 – 2011).

After an investigation by the Department of Justice, four current or former employees of the Lucas County Sheriff's Department, including the county sheriff, were indicted for various charges surrounding the alleged assault and the death of an inmate held in pretrial detention at the Lucas County Corrections Center in Toledo, Ohio. All four were also charged with covering up those actions. I was appointed by the court to represent defendant Schmeltz, a retired deputy sheriff. The case involved review of voluminous medical records and other discovery, and consultations with and preparation of testimony by medical specialists and other experts. I drafted a questionnaire for use by the court and the parties to expedite the individual sequestered voir dire process used in selecting the jury. I participated in all facets of the case, including preparation and argument of pretrial motions, jury selection, direct and cross-examination of witnesses and closing argument. The jury acquitted two of the defendants of all charges. My client was convicted of one count of submission of a false report, and was acquitted of the other three counts, including assault, giving a false statement to the FBI and another count of submission of a false report. Schmeltz was sentenced to one year plus one day in federal custody. His case is currently on appeal to the U.S. Court of Appeals for the Sixth Circuit.

Co-counsel:
Neil McElroy
1119 Adams Street, Second Floor
Toledo, OH 43604
(419) 243-3800

For the government:
Kristy Parker
U.S. Department of Justice
Criminal Section, Suite 5528
601 D Street, NW
Washington, DC 20005
(202) 353-8260

For defendant Gray:
Spiros P. Cocoves
610 Adams Street, Second Floor
Toledo, OH 43604
(419) 241-5506

For defendant McBroom:
Richard S. Walinski
Cooper & Walinski, LPA
900 Adams Street
Toledo, OH 43604
(419) 241-1200

For defendant Telb:
Richard S. Kerger
Kerger & Hartman, LLC
33 South Michigan Street, #100
Toledo, OH 43604
(419) 255-5990

2. *United States v. Amawi*, Case No. 3:06-cr-00719-JGC (Hon. James G. Carr, United States District Court for the Northern District of Ohio; 2006 – 2009).

This was the first terrorism-related criminal case that the government brought in the Northern District of Ohio. Three defendants were charged with, among other crimes, conspiring to kill or maim persons outside of the United States and to provide material support to terrorists. I was court-appointed counsel for defendant Mazloun, and was active in every facet of pretrial, trial, and sentencing proceedings. This case was significant and challenging in many respects. Discovery in the case was voluminous and the government contended that some of the material that the defendants sought in discovery was classified information.

One problem was simply finding a way to get discovery to the defendants for their review so they could assist counsel in preparation of their defense. Because of the nature of the charges, all three defendants were held in a detention center 45 minutes away instead of at the local jail. Under normal practices of the Bureau of Prisons, the defendants could only review discovery during visits with counsel, which were restricted to only a few days a week and then only for limited daytime hours. These restrictions afforded the

defendants insufficient time to review the evidence, and it would have been inordinately expensive for appointed counsel to make the daily drive only to sit with the defendants while they reviewed the discovery. I proposed that the court allow the defendants to use the iPod digital media players that had been purchased in *United States v. Martinez* (the sixth case listed in response to this question), with the discovery loaded onto the iPods. This had never been permitted before, but I negotiated an exception to Bureau practice for this case. This arrangement saved the government literally hundreds of thousands of dollars in attorneys' fees and expenses.

The trial lasted for several weeks. In addition to working extensively on the jury selection process, I also cross-examined government witnesses, conducted the examination of several defense witnesses, and argued questions regarding the admissibility of evidence, jury instructions, and other issues. I also gave closing argument for my client. The jury convicted all defendants of all charges. Appeal is currently pending before the U.S. Court of Appeals for the Sixth Circuit.

Co-counsel:
David L. Doughten
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Cleveland, OH 44103
(216) 361-1112

Mohammed Abdrabboh
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3. *United States v. Galan*, 3:06-cr-00730-JGC (Hon. James G. Carr, United States District Court for the Northern District of Ohio; 2006 – 2008).

This was the first federal capital murder case indicted and eventually tried in the Northern District of Ohio. I was court-appointed counsel for defendant Galan, who was charged with involvement in a drug conspiracy and a double murder. The murders, which the government contended Galan committed to extinguish a drug debt, occurred ten years before he was indicted. Discovery consisted of witnesses' statements, ballistics evidence, and involved other scientific evidence, including blood spatter analysis. My court-appointed co-counsel and I filed numerous motions and drafted a jury questionnaire. We later conducted several days of individual, sequestered voir dire.

Trial included several lay witnesses, a deputy coroner, a ballistics expert, a crime-scene investigator, as well as other law enforcement officers. I delivered the closing argument in the case. The jury convicted the defendant of both murders and the drug conspiracy charge. At the time, the federal capital-sentencing law was relatively new. My co-counsel and I persuaded the court to bifurcate the sentencing proceeding: in the first phase, we argued the applicable aggravating factors; in the second phase we presented mitigation evidence. The jury determined that Galan should spend life in prison without possibility of parole.

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4. *Dickerson v. Bagley*, 1:00-cv-02356-DKA (Hon. David A. Katz, United States District Court for the Northern District of Ohio); *Dickerson v. Bagley*, 453 F.3d 690 (6th Cir. 2006) (Circuit Judges Merritt, Martin and Siler); *State of Ohio v. Dickerson*, Case No.

CR85-5931 (Lucas County Common Pleas, Aug. 14, 2008) (Judges Richard W. Knepper, Charles J. Doneghy and George M. Glasser); 2000 – 2008.

In 1985, a three-judge panel convicted defendant Dickerson of a double murder and a related charge of aggravated burglary and sentenced him to death. After exhausting all direct appeal and post-conviction remedies available under Ohio law, Mr. Dickerson was eligible to file a federal petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Judge David Katz appointed me and my co-counsel to represent Mr. Dickerson. He was the first of seven death-row petitioners I was appointed to represent in federal habeas corpus actions by various judges in the Northern District of Ohio.

The district court permitted discovery regarding the effectiveness of Mr. Dickerson's trial counsel, whom we deposed. Significantly, trial counsel related a conversation that took place between himself and the presiding judge of the panel concerning Mr. Dickerson's choice of a jury versus a three-judge panel. Trial counsel incorrectly believed that the presiding judge strongly implied he was unlikely to vote to sentence Mr. Dickerson to death, and therefore Mr. Dickerson may wish to waive a jury. The district court eventually dismissed the habeas corpus petition and Dickerson appealed. The Sixth Circuit reversed, finding that Mr. Dickerson was denied effective assistance of counsel because his counsel did not adequately investigate and prepare for the sentencing phase of his trial.

My co-counsel and I were appointed to represent Mr. Dickerson at the resentencing hearing in state court, which was conducted before the same three-judge panel that sentenced him to death twenty-three years earlier. Although the aggravating circumstances were the same, we presented mitigation evidence that should have been presented at his first trial. After considering the newly presented evidence, the panel imposed a life sentence.

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5. *Leu v. Telb*, 2007 WL 1884602 (Ohio Ct. App. June 29, 2007) (Judges Singer, Handwork and Pietrykowski, Sixth District Court of Appeals; 2007).

Leu was charged with a misdemeanor count of domestic violence in the Toledo Municipal Court. After the alleged victim failed for the second time to appear on the scheduled date for trial, Mr. Leu's trial counsel moved to dismiss the case for want of prosecution, and the state requested more time. The trial judge denied the defense motion and granted the state more time. The judge also stated that he did not like the way Mr. Leu looked at him, and therefore summarily revoked his bond and ordered him into custody.

At the request of Mr. Leu and his trial counsel, I filed a petition for writ of habeas corpus in the state court of appeals. In a hearing on the petition, I argued that the court's conduct was improper and Mr. Leu's confinement unlawful. A unanimous court held that the trial judge had abused his discretion in revoking Mr. Leu's bond, reinstated the original bond, and ordered Mr. Leu's immediate release. I later challenged the trial judge's insistence on remaining as judge in Mr. Leu's case. The reviewing court ordered reassignment of the case to another judge.

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6. *United States v. Martinez*, 3:05-cr-00781-DAK (Hon. David A. Katz, United States District Court for the Northern District of Ohio; 2005 – 2006).

This was a large conspiracy case charging 21 defendants with conspiracy in trafficking in narcotics. I represented defendant Vargas. As with many of these cases, the government gathered nearly one hundred hours of audio recordings using wire taps and other means.

Due to budget constraints, the government provided all of the defendants with only one set of audio CDs, and the court received an estimate that it would cost \$100,000 to reproduce CDs for all counsel and their clients. I suggested a less expensive alternative – I converted the first set of CDs to smaller digital files and transferred them to my iPod. I then demonstrated to the trial judge and magistrate how an iPod works and urged the court to purchase iPods as an alternative to ordering the expensive reproductions.

The court agreed and purchased six iPods, at a total cost of less than \$2,000. I then transferred all of the discovery to the new iPods, which the court made available to defendants, including those in custody. The iPods proved easy to use, saved a great deal of money, and assured that the defendants could not tamper with the original digital files. My idea and the resultant cost savings were made the subject of an article and editorial in *The Toledo Blade*, listed in question 12(e), above. The digital players have since been made available for other cases, as well, including *United States v. Amawi*, listed above.

After discovery review and motion practice, my client eventually entered into a negotiated plea with the government and was sentenced accordingly.

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7. *United States v. Wheeler*, 3:03-cr-00739-DAK (Hon. David A. Katz, United States District Court for the Northern District of Ohio; 2003 – 2005).

This was a complex conspiracy case brought against 38 members of the Outlaw Motorcycle Club. In what was likely the largest conspiracy trial of its kind, 14 of the defendants were tried before a single jury. The allegations were varied and included drug conspiracy, firearms conspiracy, RICO violations, and RICO conspiracy charges. I was appointed by the court to represent lead defendant Wheeler, who was the International President of the Outlaw Motorcycle Club. The discovery consisted of nearly 400 audio CDs, plus photographs, thousands of pages of written discovery and numerous items seized from Outlaw club houses in various cities.

The trial lasted approximately three months, one of the lengthiest trials of its kind. The trial court looked to me, as counsel for the lead defendant, to help it preserve an orderly and efficient trial by coordinating the actions of seventeen defense counsel. My client was acquitted of the firearms conspiracy charge but convicted of drug conspiracy, RICO and RICO conspiracy charges. Because my client previously had been tried and convicted elsewhere on very similar federal charges, my co-counsel and I filed a double jeopardy challenge to those three charges. The trial court denied relief. I asked the court to appoint Dayton, Ohio attorney Gary Crim to represent Mr. Wheeler on appeal to the Sixth Circuit. The court of appeals reversed the trial court in part, dismissing both the

RICO and RICO conspiracy charges, but affirmed his conviction on the drug conspiracy charge. *United States v. Wheeler*, 535 F.3d 446 (6th Cir. 2008).

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8. *State of Ohio v. Cook*, CR98-1950; CR98-1336 (Hon. Charles Wittenberg (retired), Lucas County Common Pleas Court; 1998 – 2000).

Two brothers were charged with murder and attempted murder in one of the first cold-case prosecutions in Lucas County, Ohio. I was court-appointed counsel for one of them. Because any possible eyewitness identifications in the case were constitutionally tainted, the case turned primarily on DNA evidence. But because of the questionable reliability of the relatively new DNA testing used, I retained a nationally-known DNA expert to review the prosecution's DNA analysis. Eventually, I negotiated a plea for my client and his brother. Through the plea agreement, the State of Ohio was able to clear nine unsolved, long-cold murder cases which the state could not have likely pursued against the brothers due to lack of physical evidence. My client was already serving a life sentence for an unrelated homicide. He received additional life sentences.

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9. *Martin v. Walmart Stores, Inc.*, 95-CV-766 (Hon. Margaret Weaver (retired), Sandusky County Common Pleas Court; 1996 – 1998).

Plaintiff Martin was the personnel manager at a Walmart store in Fremont, Ohio. Over a period of months, the store manager belittled her and repeatedly made racially offensive remarks in her presence. Plaintiff finally complained to the district manager, who responded by auditing her personnel files and then demoting her. She was reassigned as a cashier, albeit at the same hourly pay rate. Eventually, the manager was fired for his misconduct. Plaintiff filed a civil action in state court, and later asked me to take over the case. I asked another attorney in my office to serve as co-counsel with me, and immediately became active in taking and defending depositions.

After completion of discovery, Walmart moved for summary judgment. The court found, as we urged, that genuine issues of fact required trial. The matter was heard by a jury, which returned a verdict in favor of the plaintiff. Although I was unable to participate in much of the trial itself due to an illness, I afterwards persuaded Walmart not to appeal.

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10. *State of Ohio v. Saunders*, Case No. CR92-6976 (Hon. Ruth Ann Franks, Lucas County Common Pleas Court; 1992 – 1995).

Ms. Saunders was charged with murder in the stabbing death of her boyfriend, a former college and professional football player. Ms. Saunders did not deny stabbing the victim but argued the stabbing was in self defense. She turned herself in after the stabbing but, when police tried to question her, she invoked her right to remain silent and right to counsel. I was chief counsel at trial, having been appointed by the trial judge, and conducted much of the cross-examination and direct examination, as well as closing argument. During closing argument to the jury, the prosecutor twice attempted to impeach her credibility, arguing that she had not told the police her self-defense story

after she turned herself in. The trial court sustained my objections to both attempts, finding that the prosecution's attack was an unconstitutional comment on her post-arrest silence. Nonetheless, the court denied the defendant's motion for a mistrial based on prosecutorial misconduct. Ms. Saunders was acquitted of the murder charge but was convicted of a lesser charge of manslaughter, the jury having found that she was seriously provoked before she stabbed the victim.

On appeal, I wrote the brief and argued the case. The appellate court reversed her conviction, holding that the trial court should have granted the motion for a mistrial. *State v. Saunders*, 98 Ohio App. 3d 355, 648 N.E.2d 587 (1994) (Judges Handwork, Resnick, and Sherck). On retrial, Ms. Saunders was again convicted of manslaughter, and was sentenced to 8 to 25 years.

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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 co-founded the Maumee Valley Criminal Defense Lawyers Association in 1996 for purposes of organizing the criminal defense bar and increasing the level of professionalism in a notoriously fractious bar. This informal organization has persevered, and now has more than 80 members. We assist and support one another through occasional meetings and an email list server. We previously published a case update newsletter for defense lawyers and area judges.

Additionally, in 2002, attorney Jeff Gamso and I led an effort to encourage the Lucas County Commissioners to increase the fees for attorneys appointed to state capital murder cases. At that time, the two attorneys appointed to such cases were each paid only \$50

per hour, with a total cap on fees for both lawyers of \$25,000. We helped convince the Commissioners to raise fees to \$90 out-of-court and \$100 in-court, and raise the cap to \$60,000. Lucas County went from being one of the lower paying counties in Ohio to one of the higher paying counties.

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

I have not taught any courses.

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

I anticipate no receipts from deferred income arrangements, stock, options, uncompleted contracts, or other future benefits.

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

If I am confirmed, I have no plans, commitments, or agreements to pursue outside employment, with or without compensation, during my service with the Court. As appropriate, I hope to serve in bar association and law-related continuing education programs.

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.

It is possible that conflicts of interest could arise in cases involving my former clients, in particular the criminal defendants I have represented. In such a case, I would follow the federal recusal statutes and the Code of Conduct for United States Judges.

- 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 were to be confirmed, I would follow the federal recusal statutes and the Code of Conduct for United States Judges. If any issue of a potential conflict were to arise, I would seek advice from the Code of Conduct Committee of the Judicial Conference. In cases of uncertainty, I would err on the side of recusal.

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.

I regularly volunteer my time to clients who cannot afford to hire counsel. I also work actively through the Maumee Valley Criminal Defense Lawyers Association to assist other lawyers with challenges in the trial and appellate courts. My volunteer work includes mentoring young lawyers by serving as co-counsel if needed, as well as offering suggestions on motions, briefs and other filings. I also often provide samples of work to other counsel. I would estimate I devote between one hundred and two hundred hours a year to such work.

Recently, I provided pro bono representation to a young man charged in federal court for multiple bank robberies in the Northern and Southern Districts of Ohio. I was able to resolve all of the cases here in the Northern District. Although I was initially appointed under the Criminal Justice Act, I chose not to submit a bill. I devoted approximately 30 to 40 hours to the case.

For twenty years, much of my practice has consisted of accepting appointments by judges in state and federal courts to represent indigent defendants at sub-market rates. For example, the hourly appointed rate for representation of defendants in Lucas County Common Pleas Court has been between \$40 and \$50 per hour. This was true even for capital murder cases until about 2002, when the rate was raised to \$90 to \$100 per hour.

I served as a trustee of the Pemberville Boys Ranch, which provided a comfortable environment for troubled young men who needed a home.

In addition, I served as a board member for approximately ten years, and as board president, of David's House Compassion, Inc., a Northwest Ohio organization dedicated to providing housing, medical treatment and social services support to men, women and children living with HIV/AIDS.

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 telephoned Senator Sherrod Brown's Cleveland office in April 2010, to inquire about the selection process for this seat and to express my interest in applying. In early May, I received notification by e-mail of the availability of the application for the position from Senator Brown's web site. I submitted my application to Senator Brown's Cincinnati office on June 4, 2010.

My jurisdiction has a 17-member bipartisan selection commission whose members were selected by Senator Brown and now-retired Senator Voinovich. Nancy Rogers, the chair of the commission, sent me a letter dated June 14, 2010, acknowledging receipt of my application, and another letter, dated June 28, 2010, asking whether I would like to be interviewed by the commission and suggesting a date and time.

On July 22, 2010, I interviewed with all 17 members of the Commission in Columbus, Ohio. On July 26, 2010, I received a telephone call from a staffer in Senator Brown's office informing me I had been selected by the Commission as one of three finalists for the Senators' recommendation and that I would have an interview with Senator Brown. I met with Senator Brown in his Cleveland office on August 17, 2010. The following week, I received a telephone call from Senator Brown informing me that he and Senator Voinovich were recommending me to the President for nomination.

Since late August 2010, I have been in contact with pre-nomination officials at the Department of Justice. On October 29, 2010, I met with attorneys from the White House Counsel's Office and the Department of Justice in Washington. On May 11, 2011, the President submitted my nomination to the Senate.

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

No.

AFFIDAVIT

I, **JEFFREY JAMES HELMICK**, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

May 9, 2011
(DATE)

Jeffrey James Helmick
(NAME)

Samantha M. Silver
(NOTARY)
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my commission expires 5/31/15