

**Senator Lindsey Graham, Ranking Member**  
**Questions for the Record**  
**Jonathan Hawley**  
**Nominee to be United States District Judge for the Central District of Illinois**

1. **Are you a citizen of the United States?**

Response: Yes.

2. **Are you currently, or have you ever been, a citizen of another country?**

Response: No.

- a. **If yes, list all countries of citizenship and dates of citizenship.**
- b. **If you are currently a citizen of a country besides the United States, do you have any plans to renounce your citizenship?**
  - i. **If not, please explain why.**

3. **Is it appropriate for a federal judge to consider an immutable characteristic of an attorney (such as race or sex) when deciding whether to grant oral argument? If yes, please describe in which circumstances such consideration would be appropriate.**

Response: No.

4. **Is it appropriate for a federal judge to consider an immutable characteristic of an attorney (such as race or sex) when deciding whether to grant additional oral argument time? If yes, please describe in which circumstances such consideration would be appropriate.**

Response: No.

5. **Is it ever appropriate to consider foreign law in constitutional interpretation? If yes, please describe in which circumstances such consideration would be appropriate.**

Response: Generally, it is not appropriate to consider foreign law in constitutional interpretation. However, the Supreme Court has looked to English law on occasion as it existed at the time or before the drafting of the Constitution in order to assist the Court in interpreting language in the Constitution. *See, e.g., N.Y. Rifle & Piston Ass'n v. Bruen*, 597 U.S. 1 (2022).

6. **Please explain whether you agree or disagree with the following statement: “The judgments about the Constitution are value judgments. Judges exercise their own**

**independent value judgments. You reach the answer that essentially your values tell you to reach.”**

Response: I disagree with this statement. Judges have a duty to fairly and impartially apply the law to the facts in each case before them, without regard to their own personal opinions.

7. **In a concurrence in the denial of rehearing en banc in *Al-Bihani v. Obama* then-Judge Kavanaugh wrote: “international-law norms are not domestic U.S. law in the absence of action by the political branches to codify those norms.” Is this a correct statement of law?**

Response: Yes.

8. **Please define the term “prosecutorial discretion.”**

Response: “Prosecutorial discretion” is defined in *Black’s Law Dictionary* (12th ed. 2024) as a prosecutor’s “power to choose from the options available in a criminal case, such as filing charges, prosecuting, not prosecuting, plea bargaining, and recommending a sentence to the court.”

9. **When asked why he wrote opinions that he knew the Supreme Court would reverse, Judge Stephen Reinhardt’s response was: “They can’t catch ’em all.” Is this an appropriate approach for a federal judge to take?**

Response: No.

10. **Do you consider a law student’s public endorsement of or praise for an organization listed as a “Foreign Terrorist Organization,” such as Hamas or the Popular Front for the Liberation of Palestine, to be disqualifying for a potential clerkship in your chambers? Please provide a yes or no answer. If you would like to include an additional narrative response, you may do so, but only after a yes or no answer. Failure to provide a yes or no answer will be construed as a “no.”**

Response: Yes.

11. **In the aftermath of the brutal terrorist attack on Israel on October 7, 2023 the president of New York University’s student bar association wrote “Israel bears full responsibility for this tremendous loss of life. This regime of state-sanctioned violence created the conditions that made resistance necessary.” Do you consider such a statement, publicly made by a law student, to be disqualifying with regards to a potential clerkship in your chambers? Please provide a yes or no answer. If you would like to include an additional narrative response, you may do so, but only after**

**a yes or no answer. Failure to provide a yes or no answer will be construed as a “no.”**

Response: Yes.

- 12. Please describe the relevant law governing how a prisoner in custody under sentence of a federal court may seek and receive relief from the sentence.**

Response: There are a number of different statutes which may provide a prisoner serving a federal sentence with relief, including 28 U.S.C. § 1291 (direct post-conviction appeal); 28 U.S.C. § 2255 (motion to vacate, set aside, or correct a federal sentence); 28 U.S.C. § 2241 (habeas corpus petition); 18 U.S.C. § 3582(c)(1)(A) (motion for compassionate release); Amendment 821 to the Sentencing Guidelines (petition for application of retroactive amendment to the Guidelines); and Federal Rule of Criminal Procedure 35(b) (government motion to reduce sentence based upon substantial assistance offered by a defendant in the prosecution of another individual).

- 13. Please explain the facts and holding of the Supreme Court decisions in *Students for Fair Admissions, Inc. v. University of North Carolina* and *Students for Fair Admissions Inc. v. President & Fellows of Harvard College*.**

Response: In *Students for Fair Admissions, Inc. v. University of North Carolina* and *Students for Fair Admissions, Inc. v. President & Fellows of Harvard College*, 600 U.S. 181 (2023), non-profit organization Students for Fair Admissions brought claims against the Harvard College and the University of North Carolina alleging the schools’ race-based admissions programs violated, respectively, Title VI of the Civil Rights Act of 1964 and the Fourteenth Amendment’s Equal Protection Clause. The Supreme Court held the admissions programs violated the Fourteenth Amendment’s Equal Protection Clause where they lacked “sufficiently focused and measurable objectives warranting the use of race, unavoidably employ race in a negative manner, involve racial stereotyping, and lack meaningful end points.” *Id.* at 230.

- 14. Have you ever participated in a decision, either individually or as a member of a group, to hire someone or to solicit applications for employment?**

Response: Yes.

**If yes, please list each job or role where you participated in hiring decisions.**

Response: I participated in hiring decisions as a United States magistrate judge, Federal Public Defender, Acting Federal Public Defender, First Assistant Federal Public Defender, and Appellate Division Chief for the Central District of Illinois.

15. **Have you ever given preference to a candidate for employment or for another benefit (such as a scholarship, internship, bonus, promotion, or award) on account of that candidate’s race, ethnicity, religion, sex, sexuality, or gender identity?**

Response: No.

16. **Have you ever solicited applications for employment on the basis of race, ethnicity, religion, sex, sexuality, or gender identity?**

Response: No.

17. **Have you ever worked for an employer (such as a law firm) that gave preference to a candidate for employment or for another benefit (such as a scholarship, internship, bonus, promotion, or award) on account of that candidate’s race, ethnicity, religion, sex, sexuality, or gender identity?**

Response: No.

**If yes, please list each responsive employer and your role at that employer. Please also describe, with respect to each employer, the preference given. Please state whether you played any part in the employer’s decision to grant the preference.**

18. **Under current Supreme Court and Seventh Circuit precedent, are government classifications on the basis of race subject to strict scrutiny?**

Response: Yes. *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181 (2023); *Fisher v. Univ. of Tex. at Austin*, 570 U.S. 297 (2013); see also *Dunnet Bay Constr. Co. v. Borggren*, 799 F.3d 676, 697 (7th Cir. 2015).

19. **Please explain the holding of the Supreme Court’s decision in *303 Creative LLC v. Elenis*.**

Response: In *303 Creative LLC v. Elenis*, 600 U.S. 570 (2023), the Supreme Court held that the state was prohibited by the First Amendment from compelling a website designer to create expressive designs or speech with which the designer disagreed (same-sex marriage).

20. **In *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 642 (1943), Justice Jackson, writing for the Court, said: “If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.”**

**Is this a correct statement of the law?**

Response: Yes.

**21. How would you determine whether a law that regulates speech is “content-based” or “content-neutral”? What are some of the key questions that would inform your analysis?**

Response: I would follow Supreme Court precedent to determine whether a law that regulates speech is content-based or content-neutral. In particular, the Supreme Court has explained the “commonsense meaning of the phrase ‘content-based’ requires a court to consider whether a regulation of speech ‘on its face’ draws distinctions based on the message a speaker conveys.” *Reed v. Town of Gilbert, Ariz.*, 576 U.S. 155, 163 (2015). As for whether a law is content-neutral, “If there is evidence than an impermissible purpose or justification underpins a facially content-neutral restriction . . . that restriction may be content based.” *City of Austin, Tex. v. Reagan Nat’l Adver. of Austin, LLC*, 596 U.S. 61, 76 (2022).

**22. What is the standard for determining whether a statement is not protected speech under the true threats doctrine?**

Response: In *Counterman v. Colorado*, 600 U.S. 66, 69 (2023), the Supreme Court explained, “True threats of violence are outside the bounds of First Amendment protection and punishable as crimes.” The Court held a statement is not protected speech under the true threats doctrine where the government shows “the defendant consciously disregarded a substantial risk that his communications would be viewed as threatening violence.” *Id.*

**23. Under Supreme Court and Seventh Circuit precedent, what is a “fact” and what sources do courts consider in determining whether something is a question of fact or a question of law?**

Response: In *U.S. Bank National Association ex rel. CWC Capital Asset Management LLC v. Village at Lakeridge, LLC*, 583 U.S. 387, 394 (2018), the Supreme Court explained “basic” or “historical” facts address the questions of “who did what, when or where, how or why.” The Supreme Court has noted “the vexing nature of the distinction between questions of fact and questions of law.” *Pullman-Standard v. Swint*, 456 U.S. 273, 288 (1982); see *Gekas v. Attorney Registration & Disciplinary Comm’n of Sup. Ct. of Ill.*, 793 F.2d 846, 849-50 (7th Cir. 1986). “[A] reviewing court should try to break [a mixed question of law and fact] into its separate factual and legal parts,” but when the question cannot be further reduced, “the standard of review for a mixed question all depends – on

whether answering it entails primarily legal or factual work.” *Google LLC v. Oracle Am., Inc.*, 593 U.S. 1, 24 (2021) (quoting *U.S. Bank Nat’l Ass’n*, 583 U.S. at 396).

**24. Which of the four primary purposes of sentencing—retribution, deterrence, incapacitation, and rehabilitation—do you personally believe is the most important?**

Response: Title 18 U.S.C. § 3553(a) sets forth the factors a court must consider when imposing a sentence, and retribution, deterrence, incapacitation, and rehabilitation are among those factors. However, the statute does not elevate the importance of any one factor over another. Both as a United States magistrate judge when imposing sentences for Class A and B misdemeanors, and if confirmed as a district judge when imposing all sentences, I would consider all of the § 3553(a) factors, fairly and impartially applying the facts of each case to the sentencing statute.

**25. Please identify a Supreme Court decision from the last 50 years that you think is particularly well-reasoned and explain why.**

Response: As a sitting United States magistrate judge to which the Code of Conduct for United States Judges applies, I am precluded from commenting on the quality of reasoning of any particular Supreme Court decision. If confirmed as a United States district judge, I will continue to follow binding Supreme Court precedent.

**26. Please identify a Seventh Circuit judicial opinion from the last 50 years that you think is particularly well-reasoned and explain why.**

Response: As a sitting United States magistrate judge to which the Code of Conduct for United States Judges applies, I am precluded from commenting on the quality of reasoning of any particular Seventh Circuit decision. If confirmed as a United States district judge, I will continue to follow binding Supreme Court and Seventh Circuit precedent.

**27. Please explain your understanding of 18 USC § 1507 and what conduct it prohibits.**

Response: This statute prohibits picketing, parading, using a sound-truck or similar device, and resorting to any other demonstration in or near a federal courthouse or any building (including a residence) used by a federal judge, juror, witness or court officer “with the intent of interfering with, obstructing, or impeding the administration of justice, or with the intent of influencing any judge, juror, witness, or court officer, in the discharge of his duty.” 18 U.S.C. § 1507.

**28. Is 18 U.S.C. § 1507 constitutional?**

Response: I am unaware of any Supreme Court or Seventh Circuit case which has held that this statute is unconstitutional, although the Supreme Court in *Cox v. Louisiana*, 379 U.S. 559 (1965), upheld the constitutionality of a similarly worded state statute. Beyond

making this factual statement, as both a sitting United States magistrate judge and judicial nominee, I am prohibited by the Code of Conduct for United States Judges from offering an opinion on issues that may come before me, but I will faithfully apply all binding Supreme Court and Seventh Circuit precedent in all cases concerning this area of the law, as well as all other areas of the law.

**29. Please answer the following questions yes or no. If you would like to include an additional narrative response, you may do so, but only after a yes or no answer:**

**a. Was *Brown v. Board of Education* correctly decided?**

Response: As a sitting United States magistrate judge and judicial nominee to which the Code of Conduct for United States Judges applies, I am precluded from providing an opinion on issues pending in any court, that may become pending before me, or otherwise commenting on whether Supreme Court precedent is correct. However, this is a limited instance where I may provide my personal view as racial segregation in public schools is an issue that is unlikely to be relitigated in the United States. In my personal view, *Brown v. Board of Education* was correctly decided.

**b. Was *Loving v. Virginia* correctly decided?**

Response: As a sitting United States magistrate judge to which the Code of Conduct for United States Judges applies, I am precluded from commenting on whether Supreme Court decisions were correctly decided. However, this is a limited instance where I may provide my personal view as anti-miscegenation laws are unlikely to be relitigated in the United States. In my personal view, *Loving v. Virginia* was correctly decided.

**c. Was *Griswold v. Connecticut* correctly decided?**

Response: As a sitting United States magistrate judge to which the Code of Conduct for United States Judges applies, I am precluded from commenting on whether Supreme Court decisions were correctly decided. If confirmed as a United States district judge, I will continue to follow binding Supreme Court precedent.

**d. Was *Roe v. Wade* correctly decided?**

Response: As a sitting United States magistrate judge to which the Code of Conduct for United States Judges applies, I am precluded from commenting on whether Supreme Court decisions were correctly decided. *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215 (2022) overruled *Roe v. Wade*. If confirmed as a United States district judge, I will continue to follow binding Supreme Court precedent.

e. **Was *Planned Parenthood v. Casey* correctly decided?**

Response: As a sitting United States magistrate judge to which the Code of Conduct for United States Judges applies, I am precluded from commenting on whether Supreme Court decisions were correctly decided. *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215 (2022) overruled *Planned Parenthood v. Casey*. If confirmed as a United States district judge, I will continue to follow binding Supreme Court precedent.

f. **Was *Gonzales v. Carhart* correctly decided?**

Response: As a sitting United States magistrate judge to which the Code of Conduct for United States Judges applies, I am precluded from commenting on whether Supreme Court decisions were correctly decided. If confirmed as a United States district judge, I will continue to follow binding Supreme Court precedent.

g. **Was *District of Columbia v. Heller* correctly decided?**

Response: As a sitting United States magistrate judge to which the Code of Conduct for United States Judges applies, I am precluded from commenting on whether Supreme Court decisions were correctly decided. If confirmed as a United States district judge, I will continue to follow binding Supreme Court precedent.

h. **Was *McDonald v. City of Chicago* correctly decided?**

Response: As a sitting United States magistrate judge to which the Code of Conduct for United States Judges applies, I am precluded from commenting on whether Supreme Court decisions were correctly decided. If confirmed as a United States district judge, I will continue to follow binding Supreme Court precedent.

i. **Was *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC* correctly decided?**

Response: As a sitting United States magistrate judge to which the Code of Conduct for United States Judges applies, I am precluded from commenting on whether Supreme Court decisions were correctly decided. If confirmed as a United States district judge, I will continue to follow binding Supreme Court precedent.

j. **Was *New York State Rifle & Pistol Association v. Bruen* correctly decided?**

Response: As a sitting United States magistrate judge to which the Code of Conduct for United States Judges applies, I am precluded from commenting on whether Supreme Court decisions were correctly decided. If confirmed as a United States district judge, I will continue to follow binding Supreme Court precedent.



whether Supreme Court decisions were correctly decided. If confirmed as a United States district judge, I will continue to follow binding Supreme Court precedent.

k. **Was *Dobbs v. Jackson Women's Health* correctly decided?**

Response: As a sitting United States magistrate judge to which the Code of Conduct for United States Judges applies, I am precluded from commenting on whether Supreme Court decisions were correctly decided. If confirmed as a United States district judge, I will continue to follow binding Supreme Court precedent.

l. **Were *Students for Fair Admissions, Inc. v. University of North Carolina and Students for Fair Admissions Inc. v. President & Fellows of Harvard College* correctly decided?**

Response: As a sitting United States magistrate judge to which the Code of Conduct for United States Judges applies, I am precluded from commenting on whether Supreme Court decisions were correctly decided. If confirmed as a United States district judge, I will continue to follow binding Supreme Court precedent.

m. **Was *303 Creative LLC v. Elenis* correctly decided?**

Response: As a sitting United States magistrate judge to which the Code of Conduct for United States Judges applies, I am precluded from commenting on whether Supreme Court decisions were correctly decided. If confirmed as a United States district judge, I will continue to follow binding Supreme Court precedent.

30. **What legal standard would you apply in evaluating whether or not a regulation or statutory provision infringes on Second Amendment rights?**

Response: As stated by the Supreme Court most recently in *United States v. Rahimi*, 144 S. Ct. 1889 (2024), a regulation affecting a citizen's Second Amendment right to keep and bear arms must be "consistent with the principles that underpin the Nation's historical tradition of firearm regulation." *N.Y. State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1, 24 (2022). In conducting this analysis, a court must ascertain whether the new law is "relevantly similar" to laws that our tradition is understood to permit, "apply[ing] faithfully the balance struck by the founding generation to modern circumstances." *Rahimi*, 144 S. Ct. at 1898. As a United States magistrate judge, and if confirmed as a district judge, I will apply all binding precedent of the Supreme Court and Seventh Circuit that relate to the Second Amendment, as well as all other areas of the law.

**31. Demand Justice is a progressive organization dedicated to “restor[ing] ideological balance and legitimacy to our nation’s courts.”**

- a. Has anyone associated with Demand Justice, including Brian Fallon, Christopher Kang, Tamara Brummer, Jen Dansereau, and/or Becky Bond, requested that you provide any services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?**

Response: No.

- b. Are you currently in contact with anyone associated with Demand Justice, including, but not limited to: Brian Fallon, Christopher Kang, Tamara Brummer, Jen Dansereau, and/or Becky Bond,? If so, who?**

Response: No.

- c. Have you ever been in contact with anyone associated with Demand Justice, including, but not limited to: Brian Fallon, Christopher Kang, Tamara Brummer, Jen Dansereau, and/or Becky Bond,? If so, who?**

Response: No.

**32. The Alliance for Justice is a “national association of over 120 organizations, representing a broad array of groups committed to progressive values and the creation of an equitable, just, and free society.”**

- a. Has anyone associated with Alliance for Justice, including, but not limited to, Rakim Brooks, Betsy Miller Kittredge, Nan Aron, Jake Faleschini, and/or Zachery Morris, requested that you provide any services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?**

Response: No.

- b. Are you currently in contact with anyone associated with the Alliance for Justice including, but not limited to: Rakim Brooks, Betsy Miller Kittredge, Nan Aron, Jake Faleschini, and/or Zachery Morris? If so, who?**

Response: No.

- c. Have you ever been in contact with anyone associated with Alliance for Justice, including, but not limited to: Rakim Brooks, Betsy Miller Kittredge, Nan Aron, Jake Faleschini, and/or Zachery Morris? If so, who?**

Response: Please see my response to Question 41.

**33. Arabella Advisors is a progressive organization founded “to provide strategic guidance for effective philanthropy” that has evolved into a “mission-driven, Certified B Corporation” to “increase their philanthropic impact.”**

- a. Has anyone associated with Arabella Advisors requested that you provide any services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?**

Response: No.

- i. Please include in this answer anyone associated with Arabella’s subsidiaries, including the Sixteen Thirty Fund, the New Venture Fund, the Hopewell Fund, the Windward Fund, the North Fund, or any other such Arabella dark-money fund.**

Response: No.

- b. Are you currently in contact with anyone associated with Arabella Advisors, including, but not limited to: Eric Kessler, Himesh Bhise, Joseph Brooks, Isaiah Castilla, and/or Saurabh Gupta?**

Response: No.

- i. Please include in this answer anyone associated with Arabella’s subsidiaries, including the Sixteen Thirty Fund, the New Venture Fund, the Hopewell Fund, the Windward Fund, the North Fund, or any other such Arabella dark-money fund that is still shrouded.**

Response: No.

- c. Have you ever been in contact with anyone associated with Arabella Advisors, including, but not limited to: Eric Kessler, Himesh Bhise, Joseph Brooks, Isaiah Castilla, and/or Saurabh Gupta?**

Response: No.

- i. Please include in this answer anyone associated with Arabella’s subsidiaries, such as the Sixteen Thirty Fund, the New Venture Fund, the Hopewell Fund, the Windward Fund, the North Fund, or any other such Arabella dark-money fund that is still shrouded.**

Response: No.

**34. The Open Society Foundations is a progressive organization that “work[s] to build vibrant and inclusive democracies whose governments are accountable to their citizens.”**

- a. **Has anyone associated with Open Society Fund requested that you provide any services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?**

Response: No.

- b. **Are you currently in contact with anyone associated with the Open Society Foundations, including but not limited to: George Soros, Alexander Soros, Mark Malloch-Brown, and/or Binaifer Nowrojee?**

Response: No.

- c. **Have you ever been in contact with anyone associated with the Open Society Foundations including but not limited to: George Soros, Alexander Soros, Mark Malloch-Brown, and/or Binaifer Nowrojee?**

Response: No.

- d. **Have you ever received any funding, or participated in any fellowship or similar program affiliated with the Open Society network?**

Response: No.

**35. Fix the Court is a “non-partisan, 501(C)(3) organization that advocates for non-ideological ‘fixes’ that would make the federal courts, and primarily the U.S. Supreme Court, more open and more accountable to the American people.”**

- a. **Has anyone associated with Fix the Court requested that you provide any services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?**

Response: No.

- b. **Are you currently in contact with anyone associated with Fix the Court, including, but not limited to: Gabe Roth, and/or Josh Cohen? If so, who?**

Response: No.

- c. **Have you ever been in contact with anyone associated with Fix the Court including, but not limited to: Gabe Roth, and/or Josh Cohen? If so, who?**

Response: No.

**36. The Raben Group is a lobbying group that “champions diversity, equity, and justice as core values that ignite our mission for impactful change in corporate, nonprofit, government and foundation work.” The group prioritizes judicial nominations and its list of clients have included the Open Society Foundations, the American Civil Liberties Union, the New Venture Fund, the Sixteen Thirty Fund, and the Hopewell Fund. It staffs the Committee for a Fair Judiciary.**

- a. **Has anyone associated with The Raben Group requested that you provide any services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?**

Response: No.

- b. **Are you currently in contact with anyone associated with The Raben Group, including but not limited to: Robert Raben, Donald Walker, Patty First, Joe Onek, Gara LaMarche, Steve Sereno, Dylan Tureff and/or Katherine Huffman? If so, who?**

Response: No.

- c. **Have you ever been in contact with anyone associated with The Raben Group including but not limited to: Robert Raben, Donald Walker, Patty First, Joe Onek, Gara LaMarche, Steve Sereno, Dylan Tureff, and/or Katherine Huffman? If so, who?**

Response: No.

- d. **Has anyone associated with the Raben Group offered to assist you with your nomination, including but not limited to organizing letters of support?**

Response: No.

**37. The Committee for a Fair Judiciary “fights to confirm diverse and progressive federal judges to counter illegitimate right-wing dominated courts” and is staffed by founder Robert Raben.**

- a. **Has anyone associated with the Committee for a Fair Judiciary requested that you provide services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?**

Response: No.

- b. **Are you currently in contact with anyone associated with the Committee for a Fair Judiciary, including, but not limited to: Jeremy Paris, Erika West, Elliot Williams, Nancy Zirkin, and/or Joe Onek? If so, who?**

Response: No.

**Have you ever been in contact with anyone associated with the Committee for a Fair Judiciary, including, but not limited to: Jeremy Paris, Erika West, Elliot Williams, Nancy Zirkin, and/or Joe Onek? If so, who?**

Response: No.

38. **The American Constitution Society is “the nation’s foremost progressive legal organization” that seeks to “support and advocate for laws and legal systems that redress the founding failures of our Constitution, strengthen our democratic legitimacy, uphold the role of law, and realize the promise of equality for all, including people of color, women, LGBTQ+ people, people with disabilities, and other historically excluded communities.”**

- a. **Has anyone associated with the American Constitution Society, requested that you provide any services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?**

Response: No.

- b. **Are you currently in contact with anyone associated with the American Constitution Society including, but not limited to Russ Feingold? If so, who?**

Response: No.

- c. **Have you ever been in contact with anyone associated with the American Constitution Society including, but not limited to Russ Feingold? If so, who?**

Response: No.

39. **Please describe the selection process that led to your nomination to be a United States District Judge, from beginning to end (including the circumstances that led to your nomination and the interviews in which you participated).**

On February 5, 2024, Senators Durbin and Duckworth issued a press release announcing the application process for the position of United States District Judge for the Central District of Illinois, which will become vacant upon the incumbent

taking senior status. I submitted my application to the screening committee on February 7, 2024. I had an in-person interview with the screening committee on March 26, 2024. I learned the following day that the committee had recommended me for an interview with the Senators. I thereafter had an interview with Senator Durbin on April 2, 2024, and an interview with Senator Duckworth on April 9, 2024. On April 11, 2024, I received a call informing me that the Senators were sending my name, along with others, for consideration by the President. The following morning, I was invited to interview with attorneys from the White House Counsel's Office, which happened later that day. I was then informed that the White House intended to move forward with the vetting process. Since April 12, 2024, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On July 3, 2024, the President announced his intent to nominate me, and my nomination was submitted to the Senate on July 8, 2024.

40. **During your selection process did you talk with any officials from or anyone directly associated with the organization Demand Justice or did anyone do so on your behalf? If so, what was the nature of those discussions?**

Response: No.

41. **During your selection process, did you talk with any officials from or anyone directly associated with Alliance for Justice, or did anyone do so on your behalf? If so, what was the nature of those discussions?**

Response: Yes. In March of 2024, after Senators Durbin and Duckworth announced the application process for the position for which I am being considered, Vasu Abhirama contacted me and asked if I would be willing to speak with him. I agreed to speak with him, and we had a call. During that call, he asked if I intended to apply for the position and asked if I had any questions about the nomination process. I did not have any questions for him about the nomination process, but I did ask him to explain what his organization was, as I had never heard of the Alliance for Justice before. That was the only call I had with anyone associated with the Alliance for Justice.

42. **During your selection process, did you talk with any officials from or anyone directly associated with Arabella Advisors, or did anyone do so on your behalf? If so, what was the nature of those discussions? Please include in this answer anyone associated with Arabella's known subsidiaries the Sixteen Thirty Fund, the New Venture Fund, the Hopewell Fund, the Windward Fund, the North Fund, or any other such Arabella dark-money fund that is still shrouded.**

Response: No.

**43. During or leading up to your selection process did you talk with any officials from or anyone directly associated with the Open Society Foundations, or did anyone do so on your behalf? If so, what was the nature of those discussions?**

Response: No.

**44. During or leading up to your selection process did you talk with any officials from or anyone directly associated with Fix the Court, or did anyone do so on your behalf? If so, what was the nature of those discussions?**

Response: No.

**45. During or leading up to your selection process, did you talk with any officials from or anyone directly associated with The Raben Group or the Committee for a Fair Judiciary, or did anyone do so on your behalf? If so, what was the nature of those discussions?**

Response: No.

**46. During your selection process did you talk with any officials from or anyone directly associated with the American Constitution Society, or did anyone do so on your behalf? If so, what was the nature of those discussions?**

Response: No.

**47. Since you were first approached about the possibility of being nominated, did anyone associated with the Biden administration or Senate Democrats give you advice about which cases to list on your committee questionnaire?**

- a. If yes,
  - i. Who?
  - ii. What advice did they give?
  - iii. Did they suggest that you omit or include any particular case or type of case in your questionnaire?

Response: Yes. Although the decision regarding which cases to list on my committee questionnaire were entirely my own, attorneys in the Office of Legal Policy at the Department of Justice offered me general advice on the types of cases to include in the questionnaire so as to best demonstrate the nature of my legal career as both a lawyer and United States magistrate judge.

**48. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding your nomination.**



Response: Attorneys from the White House Counsel's office interviewed me on April 12, 2024, after Senators Durbin and Duckworth recommended me to the President. Since that interview, I have been in contact with attorneys from the White House Counsel's Office and the Office of Legal Policy at the Department of Justice regarding my nomination and the confirmation process.

**49. Please explain, with particularity, the process whereby you answered these questions.**

Response: On August 7, 2024, I received the Questions for the Record from the Office of Legal Policy at the Department of Justice. I then read through all of the questions, conducted both legal and other research, and prepared my responses to the questions. I provided my draft responses to the Office of Legal Policy at the Department of Justice and received limited feedback. I then finalized my responses before submitting them.

**Senate Judiciary Committee  
Nominations Hearing  
July 31, 2024  
Questions for the Record  
Senator Amy Klobuchar**

**For Jonathan Hawley, nominee to be U.S. District Judge for the Central District of Illinois**  
**In 2012, you were appointed as a magistrate by the sitting Article III judges of the Central District of Illinois. In this capacity you have managed over approximately 4,300 cases.**

- **How will your experiences as a magistrate inform your approach to working as a federal district court judge?**

Response: Having had the privilege of working as a United States magistrate judge for over ten years, I have learned many lessons on how to preside over cases fairly and impartially.

First, I have learned to always remember that every case, issue, and hearing before me matters greatly to the parties involved, no matter how routine something may seem to me as the judge. For this reason, I always read everything the lawyers give me, research the applicable law thoroughly, and carefully apply the facts to the law. If confirmed as a district judge, I will continue to have this mindset and use this approach with all of my cases.

Second, I have learned the importance of explaining my decisions, whether orally or in writing, in a way that both the lawyers and the parties can understand. An essential feature of our justice system is transparency, and a critical part of transparency is providing clear, understandable reasons for the decisions I make as a judge. By explaining my decisions in clear, understandable terms, I strive to promote respect for our justice system, even if a party may disagree with the outcome on a particular issue or case. I will continue to use this approach to transparency if I am confirmed as a district judge.

Finally, I have learned the importance of rendering decisions promptly. Although rendering a correct decision under existing law and the facts presented in the case is of primary importance, avoiding undue delay in making decisions is also vitally important. As William Gladstone famously said, "Justice delayed is justice denied." In nearly every case, there are some uncontrollable events which can and do cause delay in the final disposition of a case. For this reason, it is all the more important as a judge to avoid unnecessary delay which is controllable, namely, the time it takes me as a judge to rule upon matters before me. If I am confirmed as a district judge, I will continue to be mindful of the need to render correct, fair, and impartial decisions in a timely manner.

**Senator Hirono Questions for the Record for the July 31, 2024, Hearing in the Senate Judiciary Committee entitled “Nominations.”**

**QUESTIONS FOR JONATHAN EUGENE HAWLEY**

***Sexual Harassment***

**As part of my responsibility as a member of this committee to ensure the fitness of nominees, I ask each nominee to answer two questions:**

**QUESTIONS:**

- 1. Since you became a legal adult, have you ever made unwanted requests for sexual favors, or committed any verbal or physical harassment or assault of a sexual nature?**

Response: No.

- 2. Have you ever faced discipline or entered into a settlement related to this kind of conduct?**

Response: No.

**SENATOR TED CRUZ**  
**U.S. Senate Committee on the Judiciary**

**Questions for the Record for Jonathan Eugene Hawley nominated to serve as U.S. District Judge for the Central District of Illinois.**

**I. Directions**

Please provide a wholly contained answer to each question. A question's answer should not cross-reference answers provided in other questions. Because a previous nominee declined to provide any response to discrete subparts of previous questions, they are listed here separately, even when one continues or expands upon the topic in the immediately previous question or relies on facts or context previously provided.

If a question asks for a yes or no answer, please provide a yes or no answer first and then provide subsequent explanation. If the answer to a yes or no question is sometimes yes and sometimes no, please state such first and then describe the circumstances giving rise to each answer.

If a question asks for a choice between two options, please begin by stating which option applies, or both, or neither, followed by any subsequent explanation.

If you disagree with the premise of a question, please answer the question as-written and then articulate both the premise about which you disagree and the basis for that disagreement.

If you lack a basis for knowing the answer to a question, please first describe what efforts you have taken to ascertain an answer to the question and then provide your tentative answer as a consequence of its reasonable investigation. If even a tentative answer is impossible at this time, please state why such an answer is impossible and what efforts you, if confirmed, or the administration or the Department, intend to take to provide an answer in the future. Please further give an estimate as to when the Committee will receive that answer.

To the extent that an answer depends on an ambiguity in the question asked, please state the ambiguity you perceive in the question, and provide multiple answers which articulate each possible reasonable interpretation of the question in light of the ambiguity.

## II. Questions

1. **Is racial discrimination wrong?**

Response: Yes.

2. **Are there any unenumerated rights in the Constitution, as yet unarticulated by the Supreme Court that you believe can or should be identified in the future?**

Response: As a sitting United States magistrate judge, I faithfully follow binding Supreme Court and Seventh Circuit precedent regarding the identification of unenumerated rights in the Constitution. If I am confirmed as a district judge, I will proceed in the same manner. Specifically, I would refer to *Washington v. Glucksberg*, 521 U.S. 702, 720-21 (1997), which set forth that an unenumerated right “deeply rooted in this Nation’s history and tradition,” and “implicit in the concept of ordered liberty” is entitled to constitutional protection. The Code of Conduct for United States Judges precludes me from commenting further on any right that may be identified in the future by the Supreme Court.

3. **How would you characterize your judicial philosophy? Identify which U.S. Supreme Court Justice’s philosophy out of the Warren, Burger, Rehnquist, and Roberts Courts is most analogous with yours.**

Response: I would describe my judicial philosophy as a commitment to a process for making judicial decisions. It can be broadly summarized as always asking myself two questions, to wit, “Can I do this?” and “Should I do this?” The “Can I do this?” part of my process consists of determining the source of authority for what a party is asking me to do. Because federal courts are courts of limited jurisdiction, every decision I make in a case must have a source of authority in the Constitution, a statute, rule, or binding precedent. If and when I identify the proper source of authority, I then read the submissions by the party, conduct my own research, and determine what the applicable law is on the issue before me. The “Should I do this?” part of my process consists of determining what the facts are in the case necessary for me to apply the law and then applying those facts fairly and impartially without regard to my personal views or feelings to the law applicable in the case. Finally, I render my decision promptly, either orally or in writing, clearly and in a manner understandable to both the attorneys and the parties in the case. Commitment to this process is my judicial philosophy. I am not familiar enough with the judicial philosophies of the all the Justices on the Warren, Burger, Rehnquist, and Roberts Courts to determine which Justices’ philosophies are most analogous to my own.

4. **Please briefly describe the interpretative method known as originalism. Would you characterize yourself as an “originalist”?**

Response: *Black’s Law Dictionary* defines “originalism” as the “doctrine that words of

a legal instrument are to be given the meanings they had when they were adopted.” BLACK’S LAW DICTIONARY (12th ed. 2024). The Supreme Court utilizes originalism when interpreting the Second Amendment. *See, e.g., N.Y. State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1, 28 (2022) (stating the Constitution’s “meaning is fixed according to the understandings of those who ratified it[.]”) Interpretation of the Sixth Amendment’s right to confrontation is another context where the Supreme Court has used originalism to interpret the Constitution. *See, e.g., Crawford v. Washington*, 541 U.S. 36 (2004). As a sitting United States magistrate judge, I apply all binding Supreme Court and Seventh Circuit precedent, including that which pertains to appropriate methods of constitutional interpretation. If confirmed as a United States district judge, I will continue to follow applicable Supreme Court and Seventh Circuit precedent.

5. **Please briefly describe the interpretive method often referred to as living constitutionalism. Would you characterize yourself as a ‘living constitutionalist’?**

Response: *Black’s Law Dictionary* defines “living constitutionalism” as the “doctrine that the Constitution should be interpreted and applied in accordance with changing circumstances and, in particular, with changes in social values.” BLACK’S LAW DICTIONARY (12th ed. 2024). I am unaware of any Supreme Court precedent which utilized “living constitutionalism” to interpret the Constitution. As a sitting United States magistrate judge, I apply all binding Supreme Court and Seventh Circuit precedent, including that which pertains to appropriate methods of constitutional interpretation. If confirmed as a United States district judge, I will continue to follow applicable Supreme Court and Seventh Circuit precedent.

6. **If you were to be presented with a constitutional issue of first impression— that is, an issue whose resolution is not controlled by binding precedent—and the original public meaning of the Constitution were clear and resolved the issue, would you be bound by that meaning?**

Response: Yes. *See Bostock v. Clayton Cnty.*, 590 U.S. 644, 654 (2020) (“This Court normally interprets a statute in accord with the ordinary public meaning of its terms at the time of its enactment”).

7. **Is the public’s current understanding of the Constitution or of a statute ever relevant when determining the meaning of the Constitution or a statute? If so, when?**

Response: In *District of Columbia v. Heller*, 554 U.S. 570, 576-77 (2008), the Supreme Court explained it was guided in its interpretation of the Second Amendment’s text by the principle that the Constitution’s words and phrases were used “in their normal and ordinary” meaning at the time Constitution was written. (quoting *United States v. Sprague*, 282 U.S. 716, 731 (1931)). In *Bostock v. Clayton County*, 590 U.S. 644, 654 (2020), the Supreme Court explained it “normally interprets a statute in accord with the ordinary public meaning of its terms at the time of its enactment.” As a sitting United

States magistrate judge, I apply all binding Supreme Court and Seventh Circuit precedent, including that which pertains to appropriate methods of constitutional and statutory interpretation. If confirmed as a United States district judge, I will continue to follow applicable Supreme Court and Seventh Circuit precedent.

8. **Do you believe the meaning of the Constitution changes over time absent changes through the Article V amendment process?**

Response: No. “Although its meaning is fixed according to the understandings of those who ratified it, the Constitution can, and must, apply to circumstances beyond those the Founders specifically anticipated.” *N.Y. State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1, 28 (2022). The Constitution’s meaning does not change absent amendment pursuant to Article V.

9. **Is the Supreme Court’s ruling in *Dobbs v. Jackson Women’s Health Organization* settled law?**

Response: Yes.

a. **Was it correctly decided?**

Response: As a sitting United States magistrate judge to which the Code of Conduct for United States Judges applies, I am precluded from commenting on whether Supreme Court decisions were correctly decided. If confirmed as a United States district judge, I will continue to follow binding Supreme Court precedent.

10. **Is the Supreme Court’s ruling in *Cooper v. Aaron* settled law?**

Response: Yes.

a. **Was it correctly decided?**

Response: As a sitting United States magistrate judge to which the Code of Conduct for United States Judges applies, I am precluded from commenting on whether Supreme Court decisions were correctly decided. If confirmed as a United States district judge, I will continue to follow binding Supreme Court precedent.

11. **Is the Supreme Court’s ruling in *New York Rifle & Pistol Association v. Bruen* settled law?**

Response: Yes.

a. **Was it correctly decided?**

Response: As a sitting United States magistrate judge to which the Code of Conduct for United States Judges applies, I am precluded from commenting on

whether Supreme Court decisions were correctly decided. If confirmed as a United States district judge, I will continue to follow binding Supreme Court precedent.

**12. Is the Supreme Court's ruling in *Brown v. Board of Education* settled law?**

Response: Yes.

**a. Was it correctly decided?**

Response: As a sitting United States magistrate judge, to which the Code of Conduct for United States Judges applies, and a judicial nominee, I am precluded from providing an opinion on issues pending in any court or that may become pending before me, or otherwise commenting on whether Supreme Court precedent is correct. However, this is a limited instance where I may provide my personal view as racial segregation in public schools is an issue that is unlikely to be relitigated in the United States. In my personal view, *Brown v. Board of Education* was correctly decided.

**13. Is the Supreme Court's ruling in *Students for Fair Admissions v. Harvard* settled law?**

Response: Yes.

**a. Was it correctly decided?**

Response: As a sitting United States magistrate judge to which the Code of Conduct for United States Judges applies, I am precluded from commenting on whether Supreme Court decisions were correctly decided. If confirmed as a United States district judge, I will continue to follow binding Supreme Court precedent.

**14. Is the Supreme Court's ruling in *Gibbons v. Ogden* settled law?**

Response: Yes.

**a. Was it correctly decided?**

Response: As a sitting United States magistrate judge to which the Code of Conduct for United States Judges applies, I am precluded from commenting on whether Supreme Court decisions were correctly decided. If confirmed as a United States district judge, I will continue to follow binding Supreme Court precedent.

**15. What sort of offenses trigger a presumption in favor of pretrial detention in the federal criminal system?**

Response: According to 18 U.S.C. § 3142(e)(3), the following types of offenses carry a presumption that no conditions or combination of conditions will reasonably assure the



appearance of the defendant as required and the safety of the community, sometimes also colloquially referred to as a presumption of pretrial detention:

“(A) an offense for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or chapter 705 of title 46;

(B) an offense under section 924(c), 956(a), or 2332b of this title;

(C) an offense listed in section 2332b(g)(5)(B) of title 18, United States Code, for which a maximum term of imprisonment of 10 years or more is prescribed;

(D) an offense under chapter 77 of this title for which a maximum term of imprisonment of 20 years or more is prescribed; or

(E) an offense involving a minor victim under section 1201, 1591, 2241, 2242, 2244(a)(1), 2245, 2251, 2251A, 2252(a)(1), 2252(a)(2), 2252(a)(3), 2252A(a)(1), 2252A(a)(2), 2252A(a)(3), 2252A(a)(4), 2260, 2421, 2422, 2423, or 2425 of this title.”

**a. What are the policy rationales underlying such a presumption?**

Response: I am not aware of any Supreme Court or Seventh Circuit precedent which address the policy rationales underlying the presumption set forth in 18 U.S.C. § 3142(e)(3). Whatever the policy rationales are that underly the presumption, as a United States magistrate judge, and if confirmed as a district judge, it is my duty to faithfully apply the law, which includes applying the presumption in cases where the charge include an offense listed in § 3142(e)(3).

**16. Are there identifiable limits to what government may impose—or may require—of private institutions, whether it be a religious organization like Little Sisters of the Poor or small businesses operated by observant owners?**

Response: Yes. In *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 688-690 (2014), the Supreme Court held that the United States Department of Health and Human Services’ regulations that imposed a contraceptive mandate on closely held corporations violated the Religious Freedom Restoration Act of 1993. *See also Little Sisters of the Poor Saints Peter and Paul Home v. Pa.*, 591 U.S. 657 (2020) (holding the Religious Freedom Restoration Act (RFRA) protects religious organizations’ free exercise rights from being substantially burdened by the federal government unless justified by strict scrutiny). In *303 Creative LLC v. Elenis*, 600 U.S. 570 (2023), the Supreme Court held that the state was prohibited by the First Amendment from compelling a website designer to create expressive designs or speech with which the designer disagreed.

**17. Is it ever permissible for the government to discriminate against religious organizations or religious people?**

Response: Government regulations burdening religion which are not neutral and of general applicability must satisfy strict scrutiny. *Roman Catholic Diocese of Brooklyn v. Cuomo*, 592 U.S. 14, 18 (2020). The Supreme Court “has repeatedly confirmed that denying a generally available benefit solely on account of religious identity imposes a penalty on the free exercise of religion that can be justified only by a state interest of the highest order.” *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 582 U.S. 449, 458 (2017).

18. **In *Roman Catholic Diocese of Brooklyn v. Cuomo*, the Roman Catholic Diocese of Brooklyn and two Orthodox Jewish synagogues sued to block enforcement of an executive order restricting capacity at worship services within certain zones, while certain secular businesses were permitted to remain open and subjected to different restrictions in those same zones. The religious organizations claimed that this order violated their First Amendment right to free exercise of religion. Explain the U.S. Supreme Court’s holding on whether the religious entity-applicants were entitled to a preliminary injunction.**

Response: In *Roman Catholic Diocese of Brooklyn v. Cuomo*, 592 U.S. 14 (2020), the Governor of New York issued an executive order during COVID which imposed restrictions on attendance at religious services within particular zones. The Supreme Court enjoined enforcement of the executive order, finding the plaintiffs were likely to succeed on the merits because the COVID restrictions did not survive strict scrutiny. Specifically, the restrictions on the religious organizations were not neutral where secular business were subject to lesser restrictions. The Court also determined that irreparable injury resulted from the burden on religious freedom. Lastly, the state failed to show that granting the requested preliminary injunction would harm the public.

19. **Please explain the U.S. Supreme Court’s holding and rationale in *Tandon v. Newsom*.**

Response: In *Tandon v. Newsom*, 593 U.S. 61 (2021), the petitioners wished to gather together for at-home religious exercise and therefore sought to enjoin the state’s restriction on private gatherings during the COVID pandemic. The Supreme Court held the petitioners were entitled to injunctive relief where they were likely to succeed on the merits; the petitioners were irreparably harmed by the loss of their free exercise rights, and the state did not show employing less restrictive measures would imperil public health.

20. **Do Americans have the right to their religious beliefs outside the walls of their houses of worship and homes?**

Response: Yes. In *Kennedy v. Bremerton School District*, 597 U.S. 507 (2022), the Supreme Court held the First Amendment’s Free Exercise and Free Speech Clauses protect an individual engaged in a personal religious observance, such as on a football field, from government reprisal. The Court stated the the Constitution neither mandated

nor tolerated the government's suppression of religious observances.

21. **Explain your understanding of the U.S. Supreme Court's holding in *Masterpiece Cakeshop v. Colorado Civil Rights Commission*.**

Response: In *Masterpiece Cakeshop v. Colorado Civil Rights Commission*, 584 U.S. 617 (2018), the Supreme Court held the state's public accommodations law violated the Free Exercise Clause of the First Amendment where it compelled a baker, with sincerely held religious beliefs against same sex marriage, to create a cake for a same-sex wedding.

22. **Under existing doctrine, are an individual's religious beliefs protected if they are contrary to the teaching of the faith tradition to which they belong?**

Response: Yes. See *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 725 (2014) (“[I]t is not for us to say that [one's] religious beliefs are mistaken or insubstantial.”).

a. **Are there unlimited interpretations of religious and/or church doctrine that can be legally recognized by courts?**

Response: In *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 725 (2014), the Supreme Court stated its “narrow function” in the context of one's religious beliefs is to determine whether those beliefs reflect “an honest conviction.”

b. **Can courts decide that anything could constitute an acceptable “view” or “interpretation” of religious and/or church doctrine?**

Response: In *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 725 (2014), the Supreme Court stated its “narrow function” in the context of one's religious beliefs is to determine whether those beliefs reflect “an honest conviction.” See also *Frazee v. Ill. Dep't of Emp't Sec.*, 489 U.S. 829, 834 (1989) (“[W]e reject the notion that to claim the protection of the Free Exercise Clause, one must be responding to the commands of a particular religious organization. Here, Frazee's refusal was based on a sincerely held religious belief. Under our cases, he was entitled to invoke First Amendment protection.”).

c. **Is it the official position of the Catholic Church that abortion is acceptable and morally righteous?**

Response: According to my understanding of the Roman Catholic Church's position on abortion, direct abortion is morally impermissible, although under certain circumstances, an indirect abortion may be morally permissible so long as the four conditions of the principle of double effect are met.

23. **In *Our Lady of Guadalupe School v. Morrissey-Berru*, the U.S. Supreme Court reversed the Ninth Circuit and held that the First Amendment's Religion Clauses**

**foreclose the adjudication of employment-discrimination claims for the Catholic school teachers in the case. Explain your understanding of the Court’s holding and reasoning in the case.**

Response: In *Our Lady of Guadalupe School v. Morrissey-Berru*, 591 U.S. 732 (2020), Catholic elementary school teachers sought relief for employment discrimination against their former employers. The Supreme Court held that the teachers’ claims were barred by the “ministerial exception” grounded in the First Amendment’s Religion Clauses. “When a school with a religious mission entrusts a teacher with the responsibility of educating and forming students in the faith, judicial intervention into disputes between the school and the teacher threatens the school’s independence in a way that the First Amendment does not allow.” *Id.* at 762.

24. **In *Fulton v. City of Philadelphia*, the U.S. Supreme Court was asked to decide whether Philadelphia’s refusal to contract with Catholic Social Services to provide foster care, unless it agrees to certify same-sex couples as foster parents, violates the Free Exercise Clause of the First Amendment. Explain the Court’s holding in the case.**

Response: In *Fulton v. City of Philadelphia*, 593 U.S. 522 (2021), the Supreme Court held the City of Philadelphia’s refusal to contract with Catholic Social Services (CSS) to provide foster care services unless the latter agreed to certify same-sex couples as foster parents could not survive strict scrutiny and thus violated the First Amendment. The Court explained the City offered no compelling reason why it had a particular interest in denying CSS an exception for religious exercise while the City made exceptions available to others. *Id.* at 542.

25. **In *Carson v. Makin*, the U.S. Supreme Court struck down Maine’s tuition assistance program because it discriminated against religious schools and thus undermined Mainers’ Free Exercise rights. Explain your understanding of the Court’s holding and reasoning in the case.**

Response: In *Carson v. Makin*, 596 U.S. 767 (2022), the Supreme Court held the “nonsectarian” requirement of Maine’s tuition assistance program for private secondary schools violated the Free Exercise Clause of the First Amendment. The “nonsectarian” requirement did not survive strict scrutiny where Maine’s program disqualified otherwise eligible schools on the basis of their religious exercise. *Id.* at 789.

26. **Please explain your understanding of the U.S. Supreme Court’s holding and reasoning in *Kennedy v. Bremerton School District*.**

Response: In *Kennedy v. Bremerton School District*, 597 U.S. 507 (2022), the Supreme Court held the First Amendment’s Free Exercise and Free Speech Clauses protect an individual engaged in a personal religious observance, such as on a sports field, from government reprisal. The Court stated the the Constitution neither mandated nor

tolerated the government's suppression of religious observances.

27. **Explain your understanding of Justice Gorsuch's concurrence in the U.S. Supreme Court's decision to grant certiorari and vacate the lower court's decision in *Mast v. Fillmore County*.**

Response: In *Mast v. Fillmore County*, 141 S. Ct. 2430 (2021), an Amish community sought an exception to an ordinance requiring the installation of septic systems, the County filed an enforcement action against the community, the community thereafter filed a declaratory judgment action alleging the septic-system mandate violated the federal Religious Land Use and Institutionalized Persons Act (RLUIPA) which a Minnesota court rejected. In his concurrence, Justice Gorsuch explained RLUIPA required the application of strict scrutiny to the County's application of its ordinance, strict scrutiny "demands more than supposition," and, "[i]n this country, neither the Amish nor anyone else should have to choose between their farms and their faith." *Id.* at 2432-34.

28. **Some people claim that Title 18, Section 1507 of the U.S. Code should not be interpreted broadly so that it does not infringe upon a person's First Amendment right to peaceably assemble. How would you interpret the statute in the context of the protests in front the homes of U.S. Supreme Court Justices following the *Dobbs* leak?**

Response: 18 U.S.C. § 1507 states in relevant part, "Whoever, with the intent of interfering with, obstructing, or impeding the administration of justice, or with the intent of influencing any judge, juror, witness, or court officer, in the discharge of his duty, pickets or parades in or near a building housing a court of the United States, or in or near a building or residence occupied or used by such judge, juror, witness or court officer, or with such intent uses any sound-truck or similar device or resorts to any other demonstration in or near any such building or residence, shall be fined under this title or imprisoned not more than one year, or both." As a sitting United States magistrate judge and judicial nominee, I am precluded by the Code of Conduct for United States Judges from commenting on how I would interpret the statute in the context identified. If confirmed, I will faithfully apply all binding Supreme Court and Seventh Circuit precedent, including precedent that relates to the interpretation of statutes generally and that text specifically.

29. **Would it be appropriate for the court to provide its employees trainings which include the following:**

- a. **One race or sex is inherently superior to another race or sex;**

Response: No.

- b. **An individual, by virtue of his or her race or sex, is inherently racist, sexist, or oppressive;**

Response: No.

- c. **An individual should be discriminated against or receive adverse treatment solely or partly because of his or her race or sex; or**

Response: No.

- d. **Meritocracy or related values such as work ethic are racist or sexist?**

Response: No.

30. **Will you commit that your court, so far as you have a say, will not provide trainings that teach that meritocracy, or related values such as work ethic and self-reliance, are racist or sexist?**

Response: Yes.

31. **Will you commit that you will not engage in racial discrimination when selecting and hiring law clerks and other staff, should you be confirmed?**

Response: Yes.

32. **Is it appropriate to consider skin color or sex when making a political appointment? Is it constitutional?**

Response: Political appointments are a political decision, for the Constitution gives the President the power to make political appointments, subject to the advice and consent of the Senate. United States Constitution, Article II, Section 2. Accordingly, as a United States magistrate judge and judicial nominee, I am prohibited by the Code of Conduct for United States Judges from offering an opinion on the appropriateness or constitutionality of this political question.

33. **If a program or policy has a racially disparate outcome, is this evidence of either purposeful or subconscious racial discrimination?**

Response: Racially disparate impact of a program or policy is insufficient, without more, to prove purposeful racial discrimination. *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 265 (1977).

34. **Do you believe that Congress should increase, or decrease, the number of justices on the U.S. Supreme Court? Please explain.**

Response: As both a sitting United States magistrate judge and judicial nominee, I am prohibited from offering an opinion of a political decision by the Code of Conduct for United States Judges. Given that the number of justices on the Supreme Court is a

question for policymakers, it is therefore it is inappropriate for me to offer an opinion on this question.

**35. In your opinion, are any currently sitting members of the U.S. Supreme Court illegitimate?**

Response: No.

**36. What do you understand to be the original public meaning of the Second Amendment?**

Response: According to Supreme Court precedent, the original public meaning of the Second Amendment confers an individual right to law-abiding citizens to keep and bear arms, regardless of whether such individuals are serving in the military or a militia. *McDonald v. City of Chi.*, 561 U.S. 742 (2010); *District of Columbia v. Heller*, 554 U.S. 570 (2008). As a United States magistrate judge, and if confirmed as a district judge, I will apply all binding precedent of the Supreme Court and Seventh Circuit that relate to the Second Amendment, as well as all other areas of the law.

**37. What kinds of restrictions on the Right to Bear Arms do you understand to be prohibited by the U.S. Supreme Court's decisions in *United States v. Heller*, *McDonald v. Chicago*, and *New York State Rifle & Pistol Association v. Bruen*?**

Response: These cases, along with the Supreme Court's most recent Second Amendment case of *United States v. Rahimi*, 144 S. Ct. 1889 (2024), require that a regulation affecting a citizen's Second Amendment right to keep and bear arms must be "consistent with the principles that underpin the Nation's historical tradition of firearm regulation." *N.Y. State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1, 24 (2022). In conducting this analysis, a court must ascertain whether the new law is "relevantly similar" to laws that our tradition is understood to permit, "apply[ing] faithfully the balance struck by the founding generation to modern circumstances." *Rahimi*, 144 S. Ct. at 1898. As a United States magistrate judge, and if confirmed as a district judge, I will apply all binding precedent of the Supreme Court and Seventh Circuit that relate to the Second Amendment, as well as all other areas of the law.

**38. Is the ability to own a firearm a personal civil right?**

Response: Yes. See *United States v. Rahimi*, 144 S. Ct. 1889 (2024); *N.Y. State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1, 28 (2022); *McDonald v. City of Chi.*, 561 U.S. 742 (2010); and *District of Columbia v. Heller*, 554 U.S. 570 (2008).

**39. Does the right to own a firearm receive less protection than the other individual rights specifically enumerated in the Constitution?**

Response: No.

40. **Does the right to own a firearm receive less protection than the right to vote under the Constitution?**

Response: No.

41. **Is it appropriate for the executive under the Constitution to refuse to enforce a law, absent constitutional concerns? Please explain.**

Response: According to the Supreme Court, Article II of the Constitution confers on the Executive Branch the authority to decide “how to prioritize and how aggressively to pursue legal actions against defendants who violate the law.” *United States v. Tex.*, 599 U.S. 670, 678 (2023) (quoting *TransUnion LLC v. Ramirez*, 594 U.S. 413, 429 (2021)). As both a sitting United States magistrate judge and judicial nominee, I am prohibited by the Code of Conduct for United States Judges from offering an opinion on issues that may come before me, but I will faithfully apply all binding Supreme Court and Seventh Circuit precedent in all cases concerning this area of the law, as well as all other areas of the law.

42. **Explain your understanding of what distinguishes an act of mere ‘prosecutorial discretion’ from that of a substantive administrative rule change.**

Response: *Black’s Law Dictionary* defines “prosecutorial discretion” as a “prosecutor’s power to choose from the options available in a criminal case, such as filing charges, prosecuting, not prosecuting, plea-bargaining, and recommending a sentence to the court.” BLACK’S LAW DICTIONARY (12th ed. 2024). *Black’s Law Dictionary* defines an “administrative rule” as an “officially promulgated agency regulation that has the force of law.” *Id.* As both a sitting United States magistrate judge and judicial nominee, I am prohibited by the Code of Conduct for United States Judges from offering an opinion on issues that may come before me, but I will faithfully apply all binding Supreme Court and Seventh Circuit precedents in all cases concerning this area of the law, as well as all other areas of the law.

43. **Does the President have the authority to abolish the death penalty?**

Response: No. Congress authorized the death penalty for certain crimes at 18 U.S.C. § 3591. The President cannot unilaterally repeal this statute. *See Clinton v. City of New York*, 524 U.S. 417, 438 (1998) (“There is no provision in the Constitution that authorizes the President to enact, to amend, or to repeal statutes”).

44. **Explain the U.S. Supreme Court’s holding on the application to vacate stay in *Alabama Association of Realtors v. HHS*.**

Response: In *Alabama Association of Realtors v. Department of Health and Human Services*, 594 U.S. 758 (2021), the Supreme Court determined the Centers for Disease Control and Prevention (CDC) exceeded its statutory authority under the Public Health Service Act when it extended a nationwide eviction moratorium during the COVID



pandemic. The Court vacated the nationwide eviction moratorium, stating, “We expect Congress to speak clearly when authorizing an agency to exercise powers of vast economic and political significance.” *Id.* at 764 (internal quotations and citations omitted).

45. **Is it appropriate for a prosecutor to publicly announce that they are going to prosecute a member of the community before they even start an investigation as to that person’s conduct?**

Response: As both a sitting United States magistrate judge and judicial nominee, I am prohibited by the Code of Conduct for United States Judges from offering an opinion on issues that may come before me, but I will faithfully apply all binding Supreme Court and Seventh Circuit precedent in all cases concerning this area of the law, as well as all other areas of the law.

**Questions from Senator Thom Tillis**  
**For Jonathan E. Hawley, nominated to serve as U.S. District Judge for Central District of Illinois**

- 1. Can a judge's personal views and background benefit them in interpreting and applying the law, or would you say that they are irrelevant?**

Response: The duty of a judge is to fairly and impartially apply the law consistent to the facts of the case, and, therefore, a judge's personal views and background should be irrelevant to the decision-making process.

- 2. Do you believe impartiality is an aspiration or an expectation for a judge?**

Response: Impartiality is an expectation for a judge, not an aspiration. It is the duty of every judge to decide cases fairly and impartially.

- 3. What is judicial activism? Do you consider judicial activism appropriate?**

Response: Different people define judicial activism differently, but I define judicial activism as outcome-based decision making. In other words, judicial activism occurs when a judge bends the facts and or law to fit an outcome that he or she personally desires. Judicial activism is always inappropriate. A judge is duty bound to apply the law consistent with binding precedent to the facts of the case, fairly and impartially, without regard to his or her personal opinions or desires concerning the outcome of the case.

- 4. Should a judge second-guess policy decisions by Congress or state legislative bodies to reach a desired outcome?**

Response: No.

- 5. Does faithfully interpreting the law sometimes result in an undesirable outcome? How, as a judge, do you reconcile that?**

Response: Yes. Fairly and impartially applying the law to the facts in a case can sometimes lead to outcomes which the parties, the public, or even the judge on a personal level finds undesirable. However, the act of fulfilling one's obligations as a judge is not a personal endeavor; it is a public duty in which the judge is sworn to uphold and defend the Constitution and laws of the United States. A judge must fulfill that duty, even if as a result of the fulfillment of that duty the outcome may be considered by some as undesirable.

- 6. What will you do if you are confirmed to ensure that Americans feel confident that their Second Amendment rights are protected?**

Response: In cases related to the Second Amendment, I will fairly and impartially apply the facts in each case to the binding precedent of both the Supreme Court and Seventh Circuit related to Second Amendment rights as most recently articulated in *United States v. Rahimi*, 144 S. Ct. 1889 (2024); *New York State Rifle & Pistol Association, Inc. v. Bruen*, 597 U.S. 1, 28 (2022); *McDonald v. City of Chicago*, 559 U.S. 902 (2010); and *District of Columbia v. Heller*, 554 U.S. 570 (2008).

**7. What process do you follow when considering qualified immunity cases, and under the law, when must the court grant qualified immunity to law enforcement personnel and departments?**

Response: As a general matter, in cases involving qualified immunity, I would use the same process I follow in every case, *i.e.* fairly and impartially applying the facts in the case to the binding precedent of both the Supreme Court and Seventh Circuit. More specifically, law enforcement officers are entitled to qualified immunity from a claim made against them in a § 1983 suit unless they violated a clearly established federal statutory or constitutional right at the time of the alleged conduct, such that a reasonable officer would have understood his or her conduct to be unlawful. *See, e.g., District of Columbia v. Wesby*, 583 U.S. 48 (2018).

**8. Do you believe that qualified immunity jurisprudence provides sufficient protection for law enforcement officers who must make split-second decisions when protecting public safety?**

Response: As a United States magistrate judge and judicial nominee, I am prohibited by the Code of Conduct for United States Judges from expressing an opinion on whether binding Supreme Court and Seventh Circuit precedent on the law of qualified immunity provide sufficient protection for law enforcement officers given that such issues might come before me as a judge. I will, however, follow all binding precedent in the Supreme Court and Seventh Circuit in cases involving qualified immunity, as well as all other areas of the law.

**9. What do you believe should be the proper scope of qualified immunity protections for law enforcement?**

Response: As a United States magistrate judge and judicial nominee, I am prohibited by the Code of Conduct for United States Judges from expressing an opinion on what should be the proper scope of qualified immunity protections for law enforcement officers given that such issues might come before me as a judge. I will, however, follow all binding precedent in the Supreme Court and Seventh Circuit cases involving qualified immunity, as well as all other areas of the law.

**10. What are your thoughts regarding the importance of ensuring that all IP rights are in fact enforced?**

Response: Article II, Section 8 of the Constitution gives Congress the power to “promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.” This explicit reference to IP rights in our Constitution demonstrates the importance of IP rights. As a sitting United States magistrate judge and, if confirmed, as a United States district judge, I have a duty to ensure that in the cases before me involving IP rights, I fairly and impartially apply the facts of the case to the laws enacted by Congress, as well as apply any binding precedent related thereto.

**11. In the context of patent litigation, in some judicial districts plaintiffs are allowed to request that their case be heard within a particular division. When the requested division has only one judge, this allows plaintiffs to effectively select the judge who will hear their case. What are your thoughts on this practice, which typically is referred to as “forum shopping” and/or “judge shopping?”**

Response: In March of 2024, the Judicial Conference of the United States adopted a policy to address random case assignments in districts which have single-judge divisions. That policy provides that district courts should apply district-wide assignment to:

- a. civil actions seeking to bar or mandate statewide enforcement of a state law, including a rule, regulation, policy, or order of the executive branch or a state agency, whether by declaratory judgment and/or any form of injunctive relief; and
- b. civil actions seeking to bar or mandate nationwide enforcement of a federal law, including a rule, regulation, policy, or order of the executive branch or a federal agency, whether by declaratory judgment and/or any form of injunctive relief.

The implementation of this policy in the district courts around the country, including the Central District of Illinois, through the adoption of local rules effectuating this policy should support the random assignment of cases and ensure that district judges remain generalists.

**12. The Supreme Court has repeatedly waded into the area of patent eligibility, producing a series of opinions in cases that have only muddled the standards for what is patent eligible. The current state of eligibility jurisprudence is in shambles. What are your thoughts regarding the Supreme Court’s patent eligibility jurisprudence?**

Response: As a United States magistrate judge and as a judicial nominee, I am prohibited by the Code of Conduct for United States Judges from expressing an opinion on the binding Supreme Court decisions concerning patent eligibility given that such issues might come before me as a judge. I will, however, follow all binding precedent in the Supreme Court and Seventh Circuit in cases involving patent eligibility, as well as all other areas of the law.