

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Arianna Julia Freeman

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

United States Circuit Judge for the Third Circuit

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

Federal Community Defender Office, Eastern District of Pennsylvania
601 Walnut Street, Suite 540 West
Philadelphia, Pennsylvania 19106

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

1978; Boston, Massachusetts

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.

2004 – 2007, Yale Law School; J.D., 2007
1997 – 2001, Swarthmore College; B.A. (with Honors), 2001
1999, Swarthmore College Program at Université de Grenoble; no degree received

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.

2009 – present
Federal Community Defender Office, Eastern District of Pennsylvania
601 Walnut Street, Suite 540 West
Philadelphia, Pennsylvania 19106
Managing Attorney, Non-Capital Habeas Unit (2016 – present)

Assistant Federal Defender, Non-Capital Habeas Unit (2014 – 2016)
Research & Writing Specialist, Capital Habeas Unit (2009 – 2014)

2019 – 2020
Drexel University School of Law
3320 Market Street
Philadelphia, Pennsylvania 19104
Adjunct Professor

2008 – 2009
United States District Court for the Eastern District of Pennsylvania
601 Market Street
Philadelphia, Pennsylvania 19107
Law Clerk to the Honorable C. Darnell Jones, II

October 2008
United States District Court for the Eastern District of Pennsylvania
601 Market Street
Philadelphia, Pennsylvania 19107
Temporary Law Clerk to the Honorable Joel Harvey Slomsky

2007 – 2008
United States District Court for the Eastern District of Pennsylvania
601 Market Street
Philadelphia, Pennsylvania 19107
Law Clerk to the Honorable James T. Giles

Summer 2006
Federal Community Defender Office, Eastern District of Pennsylvania
601 Walnut Street, Suite 540 West
Philadelphia, Pennsylvania 19106
Intern, Capital Habeas Unit

May 2004 – August 2004
Columbia University School of Law
435 West 116th Street, Room 916
New York, New York 10027
Intern for Professor Jeffrey A. Fagan

April 2004 – May 2004
Wall Street Services
11 Broadway, Suite 632
New York, New York 10004
Temporary Employee

August 2003 – December 2003

Bureau of Justice Assistance
Pretorius Street
Pretoria, South Africa
Research Intern

January 2002 – July 2003
Center for Court Innovation
Harlem Community Justice Center
520 Eighth Avenue, 18th Floor
New York, New York 10018
Research Associate

June 2001 – December 2001
Mathematica Policy Research, Inc.
600 Alexander Park Drive
Princeton, New Jersey 08540
Research Assistant & Programmer

Other affiliations (uncompensated):

2014 – present
National Clearinghouse for the Defense of Battered Women
990 Spring Garden Street, Suite 703
Philadelphia, Pennsylvania 19123
Board Chair (2016 – present)
Board Member (2014 – present)

2012 – present
First Person Arts
245 South 16th Street
Philadelphia, Pennsylvania 19102
Board Treasurer (2021 – present)
Board Member (2016 – present)
Board Governance Committee Member (2012 – 2016)

2017 – 2021
Region 7, Inc.
15 East North Street
Dover, Delaware 19901
Recording Secretary (2017 – 2021)

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 did not serve in the military. I was not required to register for the selective service.

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

Valentine Foundation Visionary Leadership Grant, awarded in my capacity as Board Chair of the National Clearinghouse for the Defense of Battered Women (2021)

Yale Law School

Stephen J. Massey Prize (2007)

Editorial Team, Yale Journal of International Law (2005 – 2006)

Swarthmore College

B.A. with Honors (2001)

Jerry Wood Memorial Excellence and Leadership Award (2001)

Swarthmore Scholar (approximately 1997 – 2001)

National Achievement Scholar (approximately 1997 – 2001)

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.

Non-Capital Habeas Conference

Planning Committee Member (2016 – 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.

Pennsylvania, 2007

There have been no lapses in membership.

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

Supreme Court of the United States, 2015

United States Court of Appeals for the Third Circuit, 2014

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

Pennsylvania, 2007

There have been no lapses in membership.

11. **Memberships:**

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

First Person Arts

Board Treasurer (2021 – present)

Board Member (2016 – present)

Board Governance Committee Member (2012 – 2016)

National Clearinghouse for the Defense of Battered Women

Board Chair (2016 – present)

Board Member (2014 – present)

Region 7, Inc.

Recording Secretary (2017 – 2021)

Social Change Network (approximately 2007 – present)

- b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

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

12. **Published Writings and Public Statements:**

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

Terrance Williams, A Case for Clemency, Fed. Cmty. Defender Off. for E.D. Pa.

(Fall 2012). Copy supplied.

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

In my capacity as a Research Assistant and Programmer for Mathematica Policy Research, Inc., I provided programming assistance for the following reports:

Susanne James-Burdumy, *The Effect of Maternal Labor Force Participation on Child Development*, J. Labor Econ., Vol. 23, No. 1, at 177–211 (Jan. 2005). Copy supplied.

Mark Dynarski *et al.*, *When Schools Stay Open Late: The National Evaluation of the 21st-Century Community Learning Centers Program, First Year Findings*, U.S. Dep't of Educ. Off. of Under Sec'y (2003). Copy supplied.

Robert G. Wood & Debra A. Strong, *The Status of Families on Child-Only TANF Cases*, Work First N.J. Evaluation (May 2002). Copy supplied.

- 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.

- 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.

The following list reflects my best efforts to identify events responsive to this question, based on a review of my records and searches of internet databases and other publicly-available information. There may, however, be some events that I have been unable to recall or identify.

November 30, 2021: Moot Court Judge, Appellate Advocacy Course, University

of Pennsylvania Carey School of Law, Philadelphia, Pennsylvania. I served as a judge for oral arguments by University of Pennsylvania law students. I have no notes, transcript, or recording. The address for the University of Pennsylvania Carey School of Law is 3501 Sansom Street, Philadelphia, Pennsylvania 19104.

November 8, 2021: Moot Court Judge, The Morris Tyler Moot Court of Appeal, Yale Law School, New Haven, Connecticut (virtual). I served as a judge for a student moot court competition at Yale Law School. I have no notes, transcript, or recording. The address for Yale Law School is 127 Wall Street, New Haven, Connecticut 06511.

October 27, 2021: Presenter, Federal Habeas Overview, Pennsylvania Innocence Project, Philadelphia, Pennsylvania. Presentation supplied.

May 13 – 14, 2021: Speaker, Welcome and Introductory Remarks, Non-Capital Habeas Conference, Defender Services Office Training Division (virtual). I welcomed attendees on behalf of the conference planning committee and introduced several speakers. I have no notes, transcript, or recording from my welcoming remarks on May 13, 2021, but videos of my welcoming remarks on May 14, 2021 and my speaker introductions on both dates are supplied. The address for the Defender Services Office Training Division is One Columbus Circle, Northeast, Suite 4-200, Washington, DC 20544.

March 31, 2021: Presenter, Federal Habeas Overview, Pennsylvania Innocence Project, Philadelphia, Pennsylvania. I used the same presentation that was provided for the presentation to the Pennsylvania Innocence Project on October 27, 2021.

December 1, 2020: Moot Court Judge, Appellate Advocacy Course, University of Pennsylvania Carey School of Law, Philadelphia, Pennsylvania (virtual). I served as a judge for oral arguments by University of Pennsylvania law students. I have no notes, transcript, or recording. The address for the University of Pennsylvania Carey School of Law is 3501 Sansom Street, Philadelphia, Pennsylvania 19104.

November 4, 2020: Presenter, Federal Habeas Overview, Pennsylvania Innocence Project, Philadelphia, Pennsylvania. I used the same presentation that was provided for the presentation to the Pennsylvania Innocence Project on October 27, 2021.

February 1, 2020: Panelist, The Decision To Go To Law School, Swarthmore College, Swarthmore, Pennsylvania. I participated in a panel for college students about the decision to attend law school. I have no notes, transcript, or recording. The address for Swarthmore College is 500 College Avenue, Swarthmore, Pennsylvania 19081.

February 13, 2019: Presenter, Federal Habeas Overview, Pennsylvania Innocence

Project, Philadelphia, Pennsylvania. Presentation supplied.

January 29, 2019: Presenter, Federal Habeas Overview, Nationalities Service Center, Philadelphia, Pennsylvania. Presentation supplied.

November 27, 2018: Panelist, Juvenile Lifer Information Session, Pennsylvania Department of Corrections, Philadelphia, Pennsylvania. From approximately 2016 to 2018, I spoke on about four to six occasions—including on November 27, 2018 and other dates I have been unable to recall or identify—to inmates at various Pennsylvania prisons about the process of seeking resentencing pursuant to the U.S. Supreme Court's decisions in *Miller v. Alabama* and *Montgomery v. Louisiana*. I have no notes, transcripts, or recordings, but press coverage regarding the November 27, 2018 event is supplied. The address for the Pennsylvania Department of Corrections is 1920 Technology Parkway, Mechanicsburg, Pennsylvania 17050.

September 28, 2018: Panelist, Managing Clients with Complex Issues, Non-Capital Habeas Conference, Defender Services Office Training Division, New Orleans, Louisiana. I discussed challenges that can arise when representing certain clients. I have no notes, transcript, or recording. The address for the Defender Services Office Training Division is One Columbus Circle, Northeast, Suite 4-200, Washington, DC 20544.

September 28, 2018: Panelist, Creating a Non-Capital Habeas Unit, Non-Capital Habeas Conference, Defender Services Office Training Division, New Orleans, Louisiana. I discussed issues relevant to creating a non-capital habeas unit within a federal defender office. I have no notes, transcript, or recording. The address for the Defender Services Office Training Division is One Columbus Circle, Northeast, Suite 4-200, Washington, DC 20544.

September 27, 2018: Co-Presenter, Are Your Client's Petition and/or Claims Timely? Does Your Client Qualify for Tolling?, Non-Capital Habeas Conference, Defender Services Office Training Division, New Orleans, Louisiana. Presentation supplied.

September 27, 2018: Speaker, Welcome and Introductory Remarks, Non-Capital Habeas Conference, Defender Services Office Training Division, New Orleans, Louisiana. I welcomed attendees on behalf of the conference planning committee. I have no notes, transcript, or recording. The address for the Defender Services Office Training Division is One Columbus Circle, Northeast, Suite 4-200, Washington, DC 20544.

August 28, 2018: Presenter, Federal Habeas Overview, Blank Rome, LLP, Philadelphia, Pennsylvania. Presentation supplied.

November 29, 2017: Presenter, Federal Habeas Overview, Pennsylvania

Innocence Project, Philadelphia, Pennsylvania. Presentation supplied.

October 23, 2017: Speaker, Federal Habeas Overview, Pennsylvania State Correctional Institution at Coal Township, Coal Township, Pennsylvania. Written materials supplied.

Fall 2017 (date unknown): Guest Speaker, Habeas Corpus Course, Temple University School of Law, Philadelphia, Pennsylvania. On one occasion in Fall 2017, I spoke to Temple University law students about the practicalities of litigating habeas corpus cases. I have no notes, transcript, or recording. The address for the Temple University School of Law is 1719 North Broad Street, Philadelphia, Pennsylvania 19122.

April 17, 2017: Panelist, Lessons from the J.L.W.O.P. Cases, Joint Annual Meeting of Pennsylvania Association of Criminal Defense Lawyers, Juvenile Defenders Association of Pennsylvania, and Public Defender Association of Pennsylvania, Harrisburg, Pennsylvania. I participated in a panel about lessons learned during resentencing hearings for juveniles sentenced to life imprisonment without the possibility of parole. I have no notes, transcript, or recording. The address for the Pennsylvania Association of Criminal Defense Lawyers is 115 State Street, Suite One, Harrisburg, Pennsylvania 17101. The address for the Juvenile Defenders Association of Pennsylvania is 914 Fifth Avenue, Pittsburgh, Pennsylvania 15219. The address for the Public Defender Association of Pennsylvania is P.O. Box 42014, Philadelphia, Pennsylvania 19104.

February 26, 2016: Co-Facilitator, Breakout Group: Investigating Innocence Cases, Non-Capital Habeas Conference, Defender Services Office Training Division, Las Vegas, Nevada. I discussed best practices for investigating post-conviction cases implicating actual innocence. I have no notes, transcript, or recording. The address for the Defender Services Office Training Division is One Columbus Circle, Northeast, Suite 4-200, Washington, DC 20544.

February 25, 2016: Co-Presenter, Habeas Discovery and Evidentiary Hearings, Non-Capital Habeas Conference, Defender Services Office Training Division, Las Vegas, Nevada. Presentation supplied.

February 1, 2016: Panelist, Handling a Juvenile Homicide Sentencing Post-*Miller v. Alabama*, Defender Association of Philadelphia, Philadelphia, Pennsylvania. I spoke about the procedural requirements that individuals must follow to seek resentencing after the U.S. Supreme Court held that its decision in *Miller v. Alabama* was retroactive. I have no notes, transcript, or recording. The address for the Defender Association of Philadelphia is 1441 Sansom Street, Philadelphia, Pennsylvania 19102.

Dates Unknown: Presenter, Federal Habeas Overview, Pennsylvania Innocence Project, Philadelphia, Pennsylvania. Approximately twice per year from about

2017 to the present, I have given a presentation to the Pennsylvania Innocence Project about federal habeas corpus. The known dates are listed above. On the other dates, I used substantially the same presentations that were provided for the presentations to the Pennsylvania Innocence Project on November 29, 2017, February 13, 2019, and October 27, 2021.

Dates Unknown: Speaker, Gathering of Law Clerks and Judicial Interns, United States District Court for the Eastern District of Pennsylvania, Philadelphia, Pennsylvania. From 2014 to 2021, I spoke on several occasions to law clerks and judicial interns about the Federal Community Defender Office's Non-Capital Habeas Unit and working as a public defender. I have no notes, transcripts, or recordings. The address for the United States District Court for the Eastern District of Pennsylvania is 601 Market Street, Philadelphia, Pennsylvania 19106.

Dates Unknown: Guest Speaker, Sentencing Course, Drexel University School of Law, Philadelphia, Pennsylvania. On two occasions between 2016 and 2018, I spoke to law students about the U.S. Supreme Court's decisions in *Miller v. Alabama* and *Montgomery v. Louisiana* and the process for resentencing juveniles in Pennsylvania who had been sentenced to life without the possibility of parole. I have no notes, transcripts, or recordings. The address for the Drexel University School of Law is 3320 Market Street, Philadelphia, Pennsylvania 19104.

Date Unknown: Moot Court Judge, Temple University School of Law, Philadelphia, Pennsylvania. On one occasion between approximately 2014 and 2019, I served as a judge for a student moot court competition at Temple University School of Law. I have no notes, transcript, or recording. The address for the Temple University School of Law is 1719 North Broad Street, Philadelphia, Pennsylvania 19122.

Dates Unknown: Moot Court Judge, Appellate Advocacy Course, University of Pennsylvania Carey School of Law, Philadelphia, Pennsylvania. On at least one occasion between approximately 2016 and 2019, I served as a judge for University of Pennsylvania law student oral arguments. I have no notes, transcript, or recording. The address for the University of Pennsylvania School of Law is 3501 Sansom Street, Philadelphia, Pennsylvania 19104.

Date Unknown: Panelist, Public Interest Career Panel, Temple University School of Law, Philadelphia, Pennsylvania. On one occasion, I spoke to Temple University law students about pursuing a career as a public defender. I have no notes, transcript, or recording. The address for the Temple University School of Law is 1719 North Broad Street, Philadelphia, Pennsylvania 19122.

Date Unknown: Panelist, Public Interest Career Panel, Drexel University School of Law, Philadelphia, Pennsylvania. On one occasion, I spoke to Drexel University law students about pursuing a career as a public defender. I have no notes, transcript, or recording. The address for the Drexel University School of

Law is 3320 Market Street, Philadelphia, Pennsylvania 19104.

- 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.

Caroline Anders, *He spent 34 years in prison. Evidence on file for decades exonerated him last month.*, Wash. Post (Aug. 1, 2021) (reprinted in multiple sources). Copy supplied.

P.J. D'Annunzio, *3rd Circuit Rules Aggravated Assault Predicate to 'Career Offender' Status*, Legal Intelligencer (June 15, 2018) (reprinted in multiple sources). Copy supplied.

Doing Time, Commonsense (June 10, 2018). Audio available at <https://acommonsense.org/doing-time/>.

Stock Photo, Associated Press (Jan. 29, 2017). Copy supplied.

Matters of Life and Death, Swarthmore Alumni Mag. (Apr. 2014). Copy supplied.

Taking on the Vigilantes, The Struggle (Oct. 2005). I am unable to locate a copy.

13. **Judicial Office:** State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I have not held judicial office.

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

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

jury trials: _____%

bench trials: _____%

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

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

I have not held judicial office.

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;
- b. a brief description of the asserted conflict of interest or other ground for recusal;

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

15. **Public Office, Political Activities and Affiliations:**

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

I have not held public office. I have had no unsuccessful candidacies for public 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.

I have not held any offices in or rendered services to any political party or election committee. I have not held a position or played a role in a political campaign.

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

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

From 2007 to 2008, I served as a law clerk to the Honorable James T. Giles of the United States District Court for the Eastern District of Pennsylvania.

In October 2008, I served as a temporary law clerk to the Honorable Joel Harvey Slomsky of the United States District Court for the Eastern District of Pennsylvania.

From 2008 to 2009, I served as a law clerk to the Honorable C. Darnell Jones, II of the United States District Court for the Eastern District of

Pennsylvania.

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

I have not practiced law alone.

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

2009 – present

Federal Community Defender Office, Eastern District of Pennsylvania

601 Walnut Street, Suite 540 West

Philadelphia, Pennsylvania 19106

Research & Writing Specialist, Capital Habeas Unit (2009 – 2014)

Assistant Federal Defender, Non-Capital Habeas Unit (2014 – 2016)

Managing Attorney, Non-Capital Habeas Unit (2016 – present)

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

I have not served as a mediator or arbitrator.

b. Describe:

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

After serving as a law clerk to judges on the United States District Court for the Eastern District of Pennsylvania, I joined the Federal Community Defender Office's Capital Habeas Unit as a Research and Writing Specialist in 2009. In that capacity, I was a member of legal teams that represented over 15 death-sentenced individuals in their post-conviction litigation. I primarily conducted legal research and drafted pleadings and memoranda. I also engaged in fact investigation by interviewing witnesses and reviewing physical evidence, and I worked with experts in a variety of areas, including medicine, neuroscience, and firearms and toolmark evidence. The majority of my work was in federal court, but I also did some work on state post-conviction cases in Pennsylvania.

From 2014 to 2016, I served as an Assistant Federal Defender in the Federal Community Defender Office's Non-Capital Habeas Unit. In that role, I was the attorney of record and lead counsel in dozens of federal habeas matters for individuals seeking post-conviction relief in non-capital cases. Since 2016, I have been the Non-Capital Habeas Unit's Managing

Attorney. As Managing Attorney, I not only maintain my individual case work, but also supervise a team of two attorneys and three staff members permanently assigned to the unit, and I supervise additional attorneys and staff from the Federal Community Defender Office who are assigned to specific non-capital habeas cases. I review every brief and substantive motion filed by the attorneys that I supervise, and I often review the full record and the relevant authorities.

For my cases in federal district court, I scrutinize voluminous records of prior trial and post-conviction proceedings, I identify the potential grounds for relief in federal court, and I research, write, and file extensive petitions and briefs regarding substantive and procedural law. I also have conducted investigation and gathered witness affidavits and expert reports in support of the claims for relief. Moreover, I have presented oral argument to the district court in at least six post-conviction cases, and I have presented live testimony at evidentiary hearings in at least four additional post-conviction matters.

Further, I frequently appear as counsel of record in the United States Court of Appeals for the Third Circuit, where I have filed merits briefs in over 15 appeals and presented oral arguments on seven occasions, including once to the court sitting *en banc*. In dozens of additional matters before the Third Circuit, I have filed substantive motions and accompanying memoranda seeking certificates of appealability or permission to file second or successive post-conviction petitions.

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

Throughout my employment at the Federal Community Defender Office, I have represented indigent individuals who are eligible for the appointment of pro bono counsel under the Criminal Justice Act, 18 U.S.C. § 3006A. My clients are typically incarcerated in state or federal prisons and subject to lengthy criminal sentences. These clients seek post-conviction relief based on violations of the United States Constitution or federal law. The most frequent claims for relief are violations of the Due Process Clauses and the Sixth Amendment right to the effective assistance of counsel.

My post-conviction practice has given me a broad knowledge of federal civil and criminal law and procedure. Post-conviction cases in federal court are civil matters, so my cases in the district court are governed by the Federal Rules of Civil Procedure along with additional rules unique to post-conviction cases. While serving as a public defender, I have built upon the experience that I obtained while serving as a law clerk in the district court for two years, where I assisted judges with all manner of civil cases, from antitrust to social security to civil rights. I remain informed

about developments from the U.S. Supreme Court and the Third Circuit in cases that have implications for post-conviction work, including, for example, immigration matters and cases involving pleading standards.

Before 2016, most of my work was on behalf of individuals subject to state criminal convictions and sentences. Thereafter, by contrast, I have spent roughly half of my time working on cases challenging federal convictions and sentences. As a result, I have become very familiar with federal criminal law and procedure in an array of cases. Many of my cases have arisen from the Supreme Court's decision in *Johnson v. United States*, 576 U.S. 591 (2015), which invalidated a portion of the Armed Career Criminal Act as unconstitutionally vague. Following *Johnson*, the United States District Court for the Eastern District of Pennsylvania appointed my office to file hundreds of post-conviction motions seeking relief from Armed Career Criminal Act sentences and the application of the *Johnson* rule to analogous provisions of law. Due to my significant experience in post-conviction litigation, I coordinated my office's work on all of these motions, and I personally litigated dozens of the motions before the district court and in the Third Circuit.

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

All of my practice has been in litigation, and the vast majority of it has taken place in federal courts, with the exception of a few matters in state court.

At the trial-court level, I have briefed numerous motions for post-conviction relief for state and federal prisoners, under 28 U.S.C. §§ 2254 and 2255, respectively. On approximately ten occasions, I have also appeared in the United States District Court for the Eastern District of Pennsylvania to examine witnesses at evidentiary hearings or to present oral argument, and on one occasion I presented oral argument to the Philadelphia County Court of Common Pleas about a state post-conviction matter.

With respect to appellate practice, I have briefed over 15 appeals and presented oral argument to the United States Court of Appeals for the Third Circuit on seven occasions, including once to the court sitting *en banc*. I have also filed substantive motions and legal memoranda in the Third Circuit in dozens of additional matters.

- i. Indicate the percentage of your practice in:
- | | |
|-----------------------------|-----|
| 1. federal courts: | 99% |
| 2. state courts of record: | 1% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 0% |

ii. Indicate the percentage of your practice in:

1. civil proceedings: 99%
2. criminal proceedings: 1%

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 not tried any cases to verdict, but I have litigated more than 100 post-conviction matters to judgment in the United States District Court for the Eastern District of Pennsylvania. I have presented live testimony during at least four evidentiary hearings in post-conviction proceedings. Additionally, I have presented pre-judgment oral argument to the district court in at least six post-conviction matters.

i. What percentage of these trials were:

1. jury: 0%
2. non-jury: 100%

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.

Thomas v. United States, 139 S. Ct. 1218 (2019) (petition for writ of certiorari) (cert. denied). Copy supplied.

Johnson v. United States, 139 S. Ct. 471 (2018) (petition for writ of certiorari) (cert. denied). Copy supplied.

Tucker v. Link, 138 S. Ct. 426 (2017) (petition for writ of certiorari) (cert. denied). Copy supplied.

Gilmore v. Brown, 137 S. Ct. 1581 (2017) (brief in opposition to petition for writ of certiorari) (cert. denied). 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. Harris*, No. 17-1861 (3d Cir.)

Since 2016, I have coordinated my office's litigation of over 500 post-conviction matters arising from the U.S. Supreme Court's decision in *Johnson v. United States*, 576 U.S. 591 (2015), which held that the so-called residual clause of the Armed Career Criminal Act was unconstitutionally vague. I have personally litigated many of these cases, including *Harris*. *Harris* is significant both because it led to rehearing and oral argument before the United States Court of Appeals for the Third Circuit sitting *en banc*, and because its outcome will affect numerous cases in the Third Circuit.

I assumed responsibility for the litigation of *Harris* in 2017, when the appeal was listed for oral argument before a Third Circuit panel. By that time, *Harris* had become the lead case for *Johnson* litigation in the Third Circuit. My office alone has scores of criminal sentencings, direct appeals, and post-conviction petitions that are on hold pending the resolution of *Harris*.

I presented oral argument to the panel in January 2018, and thereafter I filed numerous supplemental letters and letter briefs addressing developments in the relevant law. In June 2018—before the panel issued an opinion—the Third Circuit issued a *sua sponte* order for *en banc* rehearing of the appeal. I filed a comprehensive rehearing brief, and in October 2019, I presented oral argument to the 14 judges on the *en banc* court.

In early 2020, the Third Circuit stayed its resolution of *Harris* when the U.S. Supreme Court granted certiorari in another case to address one of the contested issues. In June 2021, the Supreme Court resolved that issue in *Borden v. United States*, 141 S. Ct. 1817 (2021). On July 26, 2021, I filed a supplemental brief addressing the impact of *Borden* on *Harris*. On September 17, 2021, in light of *Borden*, the Third Circuit vacated its order granting *en banc* rehearing and returned the *Harris* appeal to the original merits panel for disposition.

On September 22, 2021, I filed a motion seeking Mr. Harris's release on bail pending the outcome of his appeal. I argued that the panel was bound by Third Circuit precedent to conclude that Mr. Harris's Armed Career Criminal Act sentence is unconstitutional. On October 1, 2021, the Third Circuit ordered Mr. Harris released on bail pending the appeal. On January 4, 2022, the Third Circuit certified one of the questions in the appeal to the Supreme Court of Pennsylvania, and the Third Circuit retained jurisdiction of the appeal pending resolution of that certification. On January 14, 2022, I filed a motion to vacate the Third Circuit's order certifying a question to the Supreme Court of Pennsylvania. The appeal remains pending.

Third Circuit Panel:

Hon. Thomas L. Ambro
Hon. L. Felipe Restrepo
Hon. Julio L. Fuentes

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2. *Crosland v. Superintendent Phoenix SCI*, Nos. 18-3536 & 19-3743 (3d Cir.); *In re Crosland*, No. 21-1048 (3d Cir.); *Crosland v. Vaughn*, No. 21-cv-476 (E.D. Pa.)

From 2019 to 2021, I was co-counsel in this matter, which resulted in the exoneration and release of my client Mr. Crosland. The Third Circuit appointed my office to represent Mr. Crosland for the appeal from the denial of his *pro se* motion to reopen his habeas proceedings. I worked on the case alongside an attorney whom I supervise. In preparation for the appellate briefing, my colleague and I reviewed the case and identified substantial evidence of Mr. Crosland's actual innocence. We then worked with an investigator to interview the original trial witnesses and other individuals who did not testify at trial, and we presented the evidence of Mr. Crosland's innocence to the Philadelphia District Attorney's Office's Conviction Integrity Unit (CIU) for consideration. Thereafter, we received additional exculpatory evidence that had not been disclosed previously, and the CIU agreed that Mr. Crosland was entitled to relief from his conviction. We accordingly applied for authorization from the Third Circuit to file a second habeas corpus petition based on newly-discovered evidence of actual innocence. The Third Circuit authorized the filing of the second habeas petition on February 1, 2021. We then withdrew the original appeal and presented the grounds for relief to the district court, which granted habeas relief to Mr. Crosland on June 22, 2021. On June 24, 2021, the Philadelphia District Attorney's Office dropped all charges against Mr. Crosland, and he was released from custody after serving 34 years of a life-without-parole sentence.

Third Circuit Panel:

Hon. Kent A. Jordan
Hon. Cheryl Ann Krause
Hon. Peter J. Phipps

District Court Judge:
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3. *Tucker v. Wenerowicz*, 98 F. Supp. 3d 760 (E.D. Pa. 2015); *Tucker v. Superintendent Graterford SCI*, 677 F. App'x 768 (3d Cir. 2017); *Tucker v. Link*, 138 S. Ct. 426 (2017)

From 2014 to 2019, I was lead counsel in this case, in which I successfully obtained habeas relief for Mr. Tucker on the ground that his trial counsel had been constitutionally ineffective. In 2014, the district court appointed my office to represent Mr. Tucker after a magistrate judge recommended that Mr. Tucker's *pro se* habeas petition be denied. I wrote and filed objections to the magistrate judge's report and recommendation, arguing, among other things, that Mr. Tucker's direct appeal counsel was ineffective for failing to challenge a public trial violation. In June 2014, I presented oral argument to the district court, and in April 2015, the district court granted Mr. Tucker habeas relief based on the ineffective-assistance-of-direct-appellate-counsel grounds I had pressed.

The respondents appealed, and I supervised the appellate briefing by an attorney whom I supervised. When the Third Circuit scheduled oral argument for June 2016, I obtained the court's permission for my supervisee to present the oral argument, and I worked with him to ensure that he was prepared for what was his first oral argument. In February 2017, the Third Circuit reversed the grant of habeas relief and remanded the matter to the district court. I then co-drafted a petition for rehearing followed by a petition for a writ of certiorari, both of which were denied.

On remand, the district court held further proceedings on a distinct claim presented in the habeas petition: that Mr. Tucker's trial counsel was ineffective for failing to request a favorable jury instruction to which Mr. Tucker was entitled. The parties eventually

stipulated that habeas relief was warranted as to that claim, and agreed to reduce Mr. Tucker's sentence in lieu of further litigation. On December 2, 2019, the district court issued a conditional writ of habeas corpus to Mr. Tucker, and the state trial court subsequently resentenced him to 17.5 to 35 years' imprisonment.

District Court Judge:

Hon. James Knoll Gardner (deceased)

Hon. Anita B. Brody

Third Circuit Panel:

Hon. Michael A. Chagares

Hon. Cheryl Ann Krause

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4. *Velazquez v. Superintendent Fayette SCI*, 937 F.3d 151 (3d Cir. 2019)

From 2018 to 2019, I was lead counsel in this appeal, where I successfully obtained habeas relief for Mr. Velazquez. In 2018, the Third Circuit granted a certificate of appealability as to Mr. Velazquez's claim that his trial counsel was ineffective when he advised Mr. Velazquez to plead guilty to aggravated assault. The court then appointed my office to represent Mr. Velazquez.

I worked with a junior colleague who sought experience in appellate litigation, and together we drafted a motion to expand the certificate of appealability to include an additional claim: that Mr. Velazquez's trial counsel was ineffective for failing to pursue an adequate plea process, which denied Mr. Velazquez the opportunity to plead guilty but

mentally ill. The Third Circuit granted the motion. My junior colleague and I then co-drafted Mr. Velazquez's opening and reply briefs on appeal. In order to provide my junior colleague with her first oral argument, I obtained the Third Circuit's permission for her to present the oral argument, and I worked closely with her to prepare for that argument in June 2019. In September 2019, the Third Circuit unanimously ruled for Mr. Velazquez, issuing a precedential opinion holding that trial counsel failed to properly enable Mr. Velazquez to plead guilty but mentally ill. On remand, the district court granted habeas relief to Mr. Velazquez, and the case returned to the state court, where Mr. Velazquez entered into a more favorable negotiated guilty plea to approximately ten years' imprisonment.

Third Circuit Panel:

Hon. D. Brooks Smith
Hon. Michael A. Chagares,
Hon. Joseph A. Greenaway, Jr.

District Court Judge:

Hon. Edward G. Smith

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5. *In re Matthews*, 934 F.3d 296 (3d Cir. 2019)

In this consolidated case I litigated from 2018 to 2019, I successfully obtained the Third Circuit's authorization for five lead petitioners (Mr. Dupree, Mr. Williams, Mr. Smith, Mr. McNeill, and Mr. Matthews) to file second or successive post-conviction petitions raising due process challenges to their convictions. As a result of the court's decision in this case, the Third Circuit also authorized the filing of approximately 200 similar post-conviction petitions, and several of those petitioners ultimately won relief from unconstitutional convictions, as well.

Following the Supreme Court's decision in *Johnson v. United States*, 576 U.S. 591 (2015), which invalidated the residual clause of the Armed Career Criminal Act, numerous defendants sought to apply the *Johnson* rule to similar residual clauses in other

statutes. One such statute is 18 U.S.C. § 924(c). Approximately 200 defendants in the Third Circuit who were convicted of § 924(c) violations petitioned for authorization to file second or successive post-conviction motions based on *Johnson*. I participated in the preparation of several such petitions on behalf of my office.

In 2018, the Third Circuit designated the cases of the five individuals listed above as the lead cases and ordered briefing on whether the proposed post-conviction petitions should be authorized. My office represented Mr. Smith and Mr. Matthews, and Federal Defender Offices in three other districts represented the other three lead petitioners. I worked with colleagues in my office to write the joint merits briefs on behalf of all five lead petitioners. My public defender colleagues designated me to present oral argument for all five lead petitioners, and I orally argued the case before the Third Circuit on October 9, 2018.

After the oral argument but before the Third Circuit issued its opinion, the Supreme Court decided *United States v. Davis*, 139 S. Ct. 2319 (2019), and resolved one of the *Matthews* issues in favor of the petitioners. Even after *Davis*, however, the government opposed authorization of post-conviction petitions for three of the five petitioners based on the government's interpretation of the authorization standards.

On August 14, 2019, the Third Circuit ruled in favor of all five petitioners. The court authorized the lead petitioners' second or successive post-conviction petitions, and noted that it also would authorize the approximately 200 other such petitions that were pending at that time. In addition, the court's opinion clarified an important procedural issue relevant to second or successive post-conviction petitions: that whether the petitioners' convictions fall under § 924(c)'s residual clause is a merits inquiry that it would be improper for the Third Circuit to address at the authorization stage.

Third Circuit Panel:

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Hon. Michael A. Chagares
Hon. Joseph A. Greenaway, Jr.

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6. *Jones v. Gavin*, Civ. No. 14-804 (E.D. Pa.)

From 2014 to 2019, I served as lead counsel in this habeas case that resulted in post-conviction relief for Mr. Jones. In addition to raising complex habeas issues, the case required significant motions practice and the presentation of evidence at an evidentiary hearing.

In December 2014, a magistrate judge appointed my office to Mr. Jones's case and ordered an evidentiary hearing on the claim that Mr. Jones's Sixth Amendment right to the effective assistance of counsel was violated when his trial counsel failed to present available exculpatory evidence to the jury. In February 2015, I wrote and filed a memorandum of law in support of that claim, and I argued that there was cause and prejudice under U.S. Supreme Court precedent that could overcome Mr. Jones's procedural default of this claim in the state court. Thereafter, I filed a supplemental memorandum of law addressing an alternative means to overcome the procedural default.

In May 2015, I worked with a colleague to prepare and file a motion for discovery of additional evidence relevant to Mr. Jones's constitutional claim. The magistrate judge granted the discovery motion over the respondents' opposition, and I obtained evidence that further supported Mr. Jones's claim.

In June 2015, one week before the scheduled evidentiary hearing, the respondents filed a motion seeking an order compelling my office to produce the entire case file of Mr. Jones's prior defense counsel. I drafted and filed a response in opposition to the motion, arguing, among other things, that many of the documents in prior counsel's file were protected by the attorney-client privilege. Following a conference with the court, my office was not required to produce any additional documents. The court then held an evidentiary hearing at which it heard testimony from two of Mr. Jones's prior defense attorneys and received numerous exhibits in evidence. I provided the opening statement and addressed questions from the court, and my colleague examined the witnesses. After the hearing, I worked with a colleague to prepare a post-hearing memorandum.

In April 2016, the magistrate judge recommended denying habeas relief. At that point, I was sole counsel on the case, and I prepared and filed objections to the magistrate judge's recommendation. In January 2019, I presented oral argument to the district court about the objections. In August 2019, the district court granted habeas relief, ordering the Commonwealth of Pennsylvania to retry Mr. Jones or release him from custody. The case then returned to state court, where Mr. Jones pleaded no contest to a lesser offense and received a substantially reduced sentence of two-and-one-half to five years' imprisonment.

Magistrate Judge:

Hon. Lynne A. Sitarski

District Court Judge:

Hon. Timothy J. Savage

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7. *Brown v. Folino*, Civ. No. 09-3970 (E.D. Pa.); *Brown v. Superintendent Greene SCI*, 834 F.3d 506 (3d Cir. 2016); *Gilmore v. Brown*, 137 S. Ct. 1581 (2017)

In *Brown*, a case I litigated from 2015 to 2017, I briefed and argued the appeal in the Third Circuit, obtained a favorable outcome in a precedential opinion, and defended the decision against the Commonwealth of Pennsylvania's petition for a writ of certiorari.

In 2015, the Third Circuit appointed my office to represent Mr. Brown for claims asserting that his Confrontation Clause rights were violated when the trial court admitted a statement made by Mr. Brown's non-testifying co-defendant and when the prosecutor's closing argument revealed that the co-defendant's statement implicated Mr. Brown. I was sole counsel for the appeal. After briefing, I presented oral argument to the Third Circuit on June 16, 2016. On August 22, 2016, the court held that the prosecutor's closing arguments violated Mr. Brown's Confrontation Clause rights and that the state appellate court unreasonably applied U.S. Supreme Court law when it rejected this claim.

The Commonwealth of Pennsylvania filed a petition for a writ of certiorari, arguing that the Third Circuit violated the restrictions of the habeas corpus statute when it granted relief. In January 2017, I filed a brief in opposition to certiorari, contending (among other things) that the Supreme Court should not review the case because the Third Circuit properly applied the requisite deference. The Supreme Court denied certiorari in April 2017. Thereafter, the case returned to the district court, which issued a conditional writ of habeas corpus. Mr. Brown was subsequently retried and convicted of a lesser offense, resulting in a sentence of 17 to 34 years' imprisonment—a reduction from a sentence of life imprisonment.

Third Circuit Panel:

Hon. Thomas L. Ambro
Hon. Cheryl Ann Krause
Hon. Richard L. Nygaard

District Court Judge:

Hon. C. Darnell Jones, II

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8. *Rivera-Rodriguez v. Wenerowicz*, No. 13-cv-4299 (E.D. Pa.); *Rivera-Rodriguez v. Att'y Gen. of Pa.*, 684 F. App'x 129 (3d Cir. 2017)

From 2014 to 2017, I was lead counsel in this habeas proceeding where I sought habeas corpus relief for Mr. Rivera-Rodriguez based on his history of intellectual disability and other impairments. After analyzing the record in Mr. Rivera-Rodriguez's case and obtaining voluminous documents relevant to his mental impairments, I filed a brief and extensive appendix of documents in support of the claims for relief as well as a threshold issue: that the district court should grant equitable tolling and consider the merits of the petition, even though it had been filed after the statute of limitations expired. In September 2015, a magistrate judge held an evidentiary hearing on the equitable-tolling issue. I presented testimony from a neuropsychologist who opined that Mr. Rivera-Rodriguez's severe cognitive deficiencies prevented him from timely filing a habeas corpus petition, and my colleague presented lay witness testimony from an individual with whom Mr. Rivera-Rodriguez was incarcerated. After the hearing, I researched and co-drafted a lengthy post-hearing brief.

In February 2015, the magistrate judge concluded that Mr. Rivera-Rodriguez qualified for equitable tolling. Turning to the merits of the petition, however, the magistrate judge recommended that Mr. Rivera-Rodriguez's constitutional claims be denied. I co-authored objections to the report and recommendation, and in April 2016, the district court adopted the magistrate judge's recommendation but certified an appeal as to one constitutional claim. I worked with a supervisee to draft and file Mr. Rivera-Rodriguez's opening and reply briefs on appeal. In April 2017, the Third Circuit affirmed the district court's decision in a non-precedential opinion.

Magistrate Judge:

Hon. Elizabeth T. Hey

District Court Judge:

Hon. James Knoll Gardner (deceased)

Third Circuit Panel:

Hon. Thomas M. Hardiman
Hon. Cheryl Ann Krause
Hon. Lawrence F. Stengel (U.S. District Judge, sitting by designation)

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Opposing Counsel:

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9. *Bentley v. Llamas*, Civ. No. 13-6045 (E.D. Pa.)

From 2014 to 2017, I was lead counsel in this case, where I successfully obtained habeas relief for my client, Mr. Bentley, based on a violation of his constitutional right to effective assistance of counsel. After my office was appointed to represent Mr. Bentley for his habeas corpus proceedings, I co-drafted an amended habeas petition and a memorandum of law arguing that Mr. Bentley's trial counsel was ineffective for failing to present available exculpatory evidence. In December 2015, I presented oral argument to a magistrate judge, who, in January 2016, recommended that habeas relief be granted.

The Commonwealth of Pennsylvania objected to the magistrate judge's report and recommendation. I co-drafted a response to the objections, and in March 2016, I presented oral argument to the district court. Following argument, the parties stipulated that habeas relief should be granted, that Mr. Bentley's conviction should be vacated, and that Mr. Bentley would return to state court and plead guilty to a lesser offense. The district court accepted the terms of the stipulation and issued a conditional writ of habeas corpus in February 2017. In state court, Mr. Bentley pleaded guilty to a lesser offense and received a sentence of 16 to 36 years' imprisonment—a reduction from a sentence of life imprisonment.

Magistrate Judge:

Hon. Timothy R. Rice

District Court Judge:

Hon. Edward G. Smith

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10. *Cox v. Horn*, Civ. No. 00-5188 (E.D. Pa.); *Cox v. Horn*, 757 F.3d 113 (3d Cir. 2014)

From 2012 to 2014, I was co-counsel in Mr. Cox's case, which resulted in a significant Third Circuit opinion that has been cited in over 400 cases on Westlaw, including 17 precedential opinions from federal courts of appeals. The case pertained to the standards for motions pursuant to Federal Rule of Civil Procedure 60(b)(6), under which a party can seek to reopen a final judgment. Previous Third Circuit precedent established that extraordinary circumstances are required for Rule 60(b)(6) relief. The question in *Cox* was whether a new Supreme Court decision—specifically, *Martinez v. Ryan*, 566 U.S. 1 (2012)—could be considered among the factors establishing extraordinary circumstances.

In 2012, my colleague and I filed a Rule 60(b)(6) motion seeking to reopen Mr. Cox's habeas proceedings in the district court. We argued that *Martinez* evinced a complete reversal of settled law with regard to certain habeas procedures and thus constituted an extraordinary circumstance supporting relief from judgment. In May 2013, the district court denied the motion but granted a certificate of appealability.

On appeal, I co-authored the merits briefs with my colleague, who orally argued the matter. In August 2014, the Third Circuit held that *Martinez*, in combination with other factors, could support relief from judgment under Rule 60(b)(6). The Third Circuit remanded the matter with instructions that the district court reconsider Mr. Cox's motion for relief from judgment following a more comprehensive analysis. My involvement in the case ended at that point. Thereafter, the district court denied relief again, and no further appeal was certified.

District Court Judge:

Hon. Anita B. Brody

Third Circuit Panel:

Hon. Thomas L. Ambro
Hon. Maryanne Trump Barry
Hon. Jane A. Restani (U.S. Court of International Trade Judge, sitting by designation)

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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.)

In addition to the significant litigation experience discussed above, I was part of the legal team in the Capital Habeas Unit of the Federal Community Defender Office that helped a client, Mr. Williams, pursue clemency from the Governor of Pennsylvania in 2012. I assisted in developing the arguments and materials in support of commuting Mr. Williams's death sentence to a sentence of life imprisonment without the possibility of parole. Among the bases for clemency was the sexual abuse that Mr. Williams endured from the age of six years old and which led to the crime for which he was sentenced to death. The clemency efforts were supported by the victim's wife as well as numerous state coalitions against sexual violence, former prosecutors and judges, law professors, mental health professionals, and faith leaders from across Pennsylvania. Although the Pennsylvania Board of Pardons did not provide the unanimous approval vote that would have permitted the clemency application to proceed to the Governor, Mr. Williams obtained a stay of execution from a Pennsylvania court. Mr. Williams's death sentence was subsequently overturned by the U.S. Supreme Court in *Williams v. Pennsylvania*, 579 U.S. 1 (2016), and he was then resentenced to life imprisonment without the possibility of parole.

I have demonstrated a commitment to legal practice and the legal system in other ways, as well. For instance, I have served as a volunteer judge for student moot courts on various occasions at Yale Law School, the University of Pennsylvania Carey School of Law, and the Temple University School of Law. I also have supervised dozens of interns at the Federal Community Defender Office, and I have spoken numerous times to groups

of law students about working as a public defender. Further, as a co-convenor of the Drexel Summer Theory Institute at the Drexel University School of Law in the summers of 2011 through 2014, I met weekly with students who had public interest summer internships and discussed their everyday experiences practicing public interest law.

Additionally, I have served as a sponsor and resource for various attorneys. For example, I have provided several junior attorneys in my office with the opportunity to work on habeas corpus appeals under my close supervision. In three such cases, the United States Court of Appeals for the Third Circuit granted oral argument, and I obtained the court's permission for the junior attorney to present the oral argument while I remained counsel of record. Each case was the junior attorney's first oral argument, and I provided each attorney with intensive preparation. Similarly, I regularly provide guidance and support to private attorneys and law school clinics who are appointed under the Criminal Justice Act to represent individuals for post-conviction proceedings in the United States District Court for the Eastern District of Pennsylvania and the Third Circuit.

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.

In the fall semesters of 2019 and 2020, I co-taught a course at the Drexel University School of Law entitled "Death Penalty Law." The course discussed substantive and procedural issues presented in cases where prosecutors seek the death penalty and in collateral challenges to death sentences. Syllabi supplied.

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.

None.

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.

None.

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).

When my nomination is formally submitted to the Senate, I will file my Financial Disclosure Report and will supplement this Questionnaire with a copy of that 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.

I am not aware of any individual or entity with whom I have a personal, financial, or professional relationship that is likely to present a conflict of interest when I first assume the position to which I have been nominated. If confirmed, I would recuse myself from any case with which I previously had been involved, any case involving any individual whom I had personally represented, and any other case in which I had an interest raising an appearance of bias or which presented a ground on which my impartiality might reasonably be questioned. If a potential conflict arose, I would apply the standards of 28 U.S.C. § 455 and the Code of Conduct for United States Judges, as well as any other pertinent rules and canons, to determine whether to recuse.

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

I would resolve any potential conflict of interest by applying the standards of 28 U.S.C. § 455, the Code of Conduct for United States Judges, and other applicable rules, canons, and opinions. I would also consult with other judges as necessary and appropriate.

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.

My entire legal career has been dedicated to public service and serving the disadvantaged. Since 2009, I have worked as an attorney at the Federal Community Defender Office, where I represent indigent individuals convicted of state or federal crimes who are eligible for the appointment of pro bono counsel under the Criminal Justice Act, 18 U.S.C. § 3006A.

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.

On February 8, 2021, I submitted an application to the judicial nomination advisory panel established by Senators Bob Casey and Pat Toomey to be considered for a position on the United States District Court for the Eastern District of Pennsylvania. On May 19, 2021, I interviewed with the advisory panel. On September 15, 2021, I interviewed with Senator Casey's staff regarding a district court position. Later that day, I interviewed with Senator Casey and his staff regarding a position on the United States Court of Appeals for the Third Circuit. On September 21, 2021, I interviewed with attorneys from the White House Counsel's Office about a Third Circuit position. Since November 2, 2022, I have been in contact with attorneys from the Office of Legal Policy at the United States Department of Justice. On November 16, 2021, I interviewed with Senator Toomey's staff. On November 23, 2021, I interviewed with Senator Toomey. On January 19, 2022, my nomination was submitted to the Senate.

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

No.