

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Rebecca Louise Pennell

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

United States District Judge for the Eastern District of Washington

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.

Washington State Court of Appeals Division Three
500 North Cedar Street
Spokane, Washington 99201

Residence: Yakima, Washington

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

1971; Boulder, Colorado

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.

1996, University del Mayab (Now Anahuac Mayab University), Merida, Mexico; no degree

1993 – 1996, Stanford Law School; J.D. (with distinction, Order of the Coif), 1996

1989 – 1993, University of Washington; B.A. (*summa cum laude*), 1993

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.

2016 – present

Washington State Court of Appeals Division Three
500 North Cedar Street
Spokane, Washington 99201
Judge

2000 – 2016

Federal Defenders of Eastern Washington and Idaho
306 East Chestnut Avenue
Yakima, Washington 98901
Attorney

1999 – 2000

TeamChild
32 North Third Street Suite 410
Yakima, Washington 98901
Fellowship Attorney

1997 – 1999

United States District Court for the Eastern District of Washington
710 United States Courthouse
720 Riverside Avenue
Spokane, Washington 99210-1493
Law Clerk to the Honorable Robert H. Whaley

Summer 1996

Island and San Juan County Public Defender
P.O. Box 914
Coupeville, Washington 98239
Summer Intern

1995 – 1996

Stanford Law School
Crown Quadrangle
559 Nathan Abbott Way
Stanford, California 94305
Research Assistant to Professor Kim Taylor-Thompson

Summer 1995

Federal Public Defender, Western District of Washington
1331 Broadway, Suite 400
Tacoma, Washington 98402
Summer Intern

Summer 1994

Evergreen Legal Services (no longer in operation)

Seattle, Washington 98101
Summer Intern

Summer 1993
Pacific Northwest National Laboratory
902 Battelle Boulevard
Richland, Washington 99352
Secretary

Other Affiliations (uncompensated):

2016 – present
Yakima Rotary Club
1704 West Nob Hill Boulevard
Yakima, Washington 98907
Member, Board of Directors (2023 – present)

2020 – present
Federal Defenders of Eastern Washington and Idaho
601 West Riverside Avenue Suite 900
Spokane, Washington 99201
Board of Directors

2003 – present
Yakima Area Arboretum
1401 Arboretum Drive
Yakima, Washington 98901
Member, Board of Directors (2003 – 2008)

2006 – 2012
Yakima YWCA
818 West Yakima Avenue
Yakima, Washington 98902
Board of Directors

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.

Judge William Nevins Award for outstanding contribution to youth education and/or the public understanding of the law and the role of the judiciary in American society, presented to the Judges of Division Three, Washington State Court of Appeals (2023)

Board Member of the Year, Yakima YWCA (2011)

Skadden Fellowship (1999)

Stanford Law School

Order of the Coif (1996)

Public Service Fellow (1996)

University of Washington

Phi Beta Kappa (1993)

Undergraduate Scholars Award (1990 – 1993)

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.

Court of Appeals Task Force on Criminal Case Processing, Chair (2022 – 2023)

Federal Bar Association, Eastern District of Washington (2010 – 2015)

Secretary (2011) (approximately)

Trustee (2010 – 2011) (approximately)

National Association of Federal Defenders (2010 – 2016) (approximately)

National Association of Women Judges (2016) (approximately)

Ninth Circuit Judicial Conference

Lawyer Representative (2009 – 2012)

Lawyer Representative Coordinating Committee (2012 – 2015)

Recovery Task Force Appellate Committee (2020)

Remote Jury Trials Work Group, Chair (2020)

United States Magistrate Judge Selection Committee for the Eastern District of Washington (2007)

Washington Office of Civil Legal Aid Oversight Committee (2018 – present)

Washington State Bar Association (1998 – present)

Washington State Bar Association Young Lawyers Division Pre-Law Student Leadership

Conference (1999 – 2004 (approximately))
Conference Chair (2004)

Washington State Board for Judicial Administration (2020 – present)
Court Education Committee
Chair (2023 – present)
Selection Committee for Innovating Justice Award

Washington State Court of Appeals Rules Committee (2020 – present)

Word Count Workgroup (2018 – 2019)

Yakima County Bar Association (2014 (approximately) – 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.

Washington, 1998

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, 2010
United States Court of Appeals for the Ninth Circuit, 2000
United States District Court for the Eastern District of Washington, 2000

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.

Chi Omega Sorority, Member (1989 – present) (inactive)

Dispute Resolution Center of Yakima, Yakima County Community Response

Team Addressing Missing and Murdered Indigenous Persons (2019 – 2020)

Girl Scout Troop 4205 (2014 – 2018)

Occasional troop leader

Yakima Area Arboretum (2003 – present)

Board member (2003 – 2008)

Board Secretary (year uncertain)

Yakima Rotary Club (2016 – present)

Board Member assigned to service group “A” – Membership (2023 – present)

Ad Hoc Committee on Racial Justice, Co-Chair (2023 – present)

Academic Scholarships Committee

Chronicler Committee

Fellowship and Fireside/Scholarship Dinners

Greeters Committee

Membership Development

Rotary Education

Women in Rotary Committee

Youth Exchange Committee (Co-Chair, 2019 – 2023)

Yakima YWCA (2006 – 2012)

Board Secretary (2008 – 2010)

Fundraising Chair (2011)

- 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.

Chi Omega sorority restricts membership to women. Our Girl Scout troop was limited to girls. At the time of my involvement, the YWCA restricted board membership to women. During my tenure, the local board inquired as to whether that policy could be changed. This effort was unsuccessful. Before 1989 and prior to my membership, Rotary International restricted membership to men.

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

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

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

I have searched my files and electronic databases in an effort to provide information material to this question. I have located the references listed below, but there may be some minor publications I have been unable to recall or identify.

Candidate Statement, Washington State Voters Guide, 2020 General Election.
Copy supplied.

Candidate Statement, Washington State Voters Guide, 2016 General Election.
Copy supplied.

Letter to the Editor, YAKIMA HERALD (September 27, 2010). Copy supplied.

Letter to the Editor, YAKIMA HERALD (October 29, 2009). Copy supplied.

Federal Defenders of Eastern Washington and Idaho, My Little Red Rules Book. I helped publish this annotated guide to the Federal Rules of Evidence and selected portions of the Federal Rules of Criminal Procedure from approximately 2007 to 2015. The book is updated annually. I have not been able to locate editions of the book from my period of involvement.

Federal Defenders of Eastern Washington and Idaho, Blog. From approximately 2007 to 2011, the Federal Defenders of Eastern Washington and Idaho hosted a blog providing Ninth Circuit case summaries and other news directed at the Criminal Justice Act panel. I was responsible for coordinating the blog and writing many of the entries. The blog is no longer available, but I have been able to access the following posts attributed to me.

Making the Collective Knowledge Doctrine Work for the Defense, FEDERAL DEFENDERS OF EASTERN WASHINGTON AND IDAHO BLOG (April 25, 2011). Copy supplied.

Supreme Court's Fourth Amendment Cases, FEDERAL DEFENDERS OF EASTERN WASHINGTON AND IDAHO BLOG (February 24, 2011). Copy supplied.

Introduction to Federal Sentencing, FEDERAL DEFENDERS OF EASTERN WASHINGTON AND IDAHO BLOG (June 29, 2010). Copy supplied.

Yakima STEP Court Celebrates First Graduates, FEDERAL DEFENDERS OF

EASTERN WASHINGTON AND IDAHO BLOG (January 8, 2010). Copy supplied.

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

I have searched my files and electronic databases in an effort to identify materials responsive to this question. I have located the materials listed below, but there may be some more materials that I have been unable to recall or identify. The following list includes items that I have participated in authoring as well as those that have been issued by organizations over which I had voting authority.

Board for Judicial Administration, BJA Goals for 2023 – 2025 (2023). Copy supplied.

Board for Judicial Administration, Task Force Rewind: A Snapshot of Success (2023). Copy supplied.

Board for Judicial Administration's Court Education Committee, Court Education Standing Committee Charter (May 19, 2023). Copy supplied.

Board for Judicial Administration, Bylaws (November 18, 2022). Copy supplied.

Board for Judicial Administration's Court Education Committee, Administrative Rule for Limited Jurisdiction 14 (November 18, 2022). Copy supplied.

Board for Judicial Administration, Public Trust and Confidence Committee Charter (September 16, 2022). Copy supplied.

Board for Judicial Administration, In Support of Language Access in Court (March 18, 2022). Copy supplied.

Board for Judicial Administration's Court Education Committee, Diversity, Equity and Inclusion Guidelines (November 10, 2021). Copy supplied.

Board for Judicial Administration, Resolution of the Board for Judicial Administration of the State of Washington in Support of the Importance of Court Security (September 17, 2021). Copy supplied.

Remote Jury Trials Workgroup, Best Practices in Response to Frequently Asked Questions (FAQ) (2021). Copy supplied.

Office of Civil Legal Aid Oversight Committee, Statement on Racism, White Supremacy, and Justice (July 20, 2020). Copy supplied.

Yakima YWCA, 2009 – 2010 Annual Report (2010). Copy supplied.

Yakima YWCA, 2008 – 2009 Annual Report (2009). Copy supplied.

The Yakima YWCA issued additional annual reports during my tenure on the board from 2006 to 2012. I have been unable to locate copies of those reports.

I have served as a board member of the Yakima Rotary Club since July 2023. The club issues a newsletter called the Tooter, issued on a near weekly basis. I am not involved in preparation of the Tooter.

Yakima Rotary, Tooter (March 21, 2024). Copy supplied.

Yakima Rotary, Tooter (March 14, 2024). Copy supplied.

Yakima Rotary, Tooter (March 7, 2024). Copy supplied.

Yakima Rotary, Tooter (February 29, 2024). Copy supplied.

Yakima Rotary, Tooter (February 22, 2024). Copy supplied.

Yakima Rotary, Tooter (February 15, 2024). Copy supplied.

Yakima Rotary, Tooter (February 1, 2024). Copy supplied.

Yakima Rotary, Tooter (January 25, 2024). Copy supplied.

Yakima Rotary, Tooter (January 18, 2024). Copy supplied.

Yakima Rotary, Tooter (January 11, 2024). Copy supplied.

Yakima Rotary, Tooter (January 4, 2024). Copy supplied.

Yakima Rotary, Tooter (December 7, 2023). Copy supplied.

Yakima Rotary, Tooter (November 30, 2023). Copy supplied.

Yakima Rotary, Tooter (November 23, 2023). Copy supplied.

Yakima Rotary, Tooter (November 16, 2023). Copy supplied.

Yakima Rotary, Tooter (November 9, 2023). Copy supplied.

Yakima Rotary, Tooter (November 2, 2023). Copy supplied.

Yakima Rotary, Tooter (October 26, 2023). Copy supplied.

Yakima Rotary, Tooter (October 12, 2023). Copy supplied.

Yakima Rotary, Tooter (October 5, 2023). Copy supplied.

Yakima Rotary, Tooter (September 28, 2023). Copy supplied.

Yakima Rotary, Tooter (September 14, 2023). Copy supplied.

Yakima Rotary, Tooter (September 7, 2023). Copy supplied.

Yakima Rotary, Tooter (August 31, 2023). Copy supplied.

Yakima Rotary, Tooter (August 24, 2023). Copy supplied.

Yakima Rotary, Tooter (August 17, 2023). Copy supplied.

Yakima Rotary, Tooter (August 10, 2023). Copy supplied.

Yakima Rotary, Tooter (August 3, 2023). Copy supplied.

Yakima Rotary, Tooter (July 27, 2023). Copy supplied.

Yakima Rotary, Tooter (July 18, 2023). Copy supplied.

Yakima Rotary, Tooter (July 13, 2023). Copy supplied.

Yakima Rotary, Tooter (July 6, 2023). 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.

I have searched my files and electronic databases in an effort to identify materials responsive to this question. I have located the materials listed below, but there may be some more materials that I have been unable to recall or identify.

Brief for National Association of Federal Defenders as Amicus Curiae Supporting Petitioner, *Davis v. United States*, 564 U.S. 229 (December 23, 2010) (No. 09-11328). Copy supplied.

Letter from Rebecca L. Pennell, Federal Defenders of Eastern Washington and

Idaho, to Peter G. McCabe, Committee on Rules of Practice and Procedure (February 13, 2004). Copy supplied.

I have served on the Washington Courts Board for Judicial Administration since 2020. Minutes from the meetings at which I participated are supplied.

Board for Judicial Administration (BJA), Meeting (February 16, 2024). Meeting minutes supplied.

Board for Judicial Administration (BJA) and Court Management Council (CMC), Joint Meeting (November 17, 2023). Meeting minutes supplied.

Board for Judicial Administration (BJA), Meeting (October 20, 2023). Meeting minutes and approved letter to legislature supplied.

Board for Judicial Administration (BJA), Meeting (May 19, 2023). Meeting minutes supplied.

Board for Judicial Administration (BJA), Meeting (March 17, 2023). Meeting minutes supplied.

Board for Judicial Administration (BJA) and Court Management Council (CMC), Joint Meeting (November 18, 2022). Meeting minutes supplied.

Board for Judicial Administration (BJA), Meeting (October 21, 2022). Meeting minutes supplied.

Board for Judicial Administration (BJA), Meeting (September 16, 2022). Meeting minutes supplied.

Board for Judicial Administration (BJA), Meeting (May 20, 2022). Meeting minutes supplied.

Board for Judicial Administration (BJA), Meeting (March 18, 2022). Meeting minutes supplied.

Board for Judicial Administration (BJA), Meeting (February 18, 2022). Meeting minutes supplied.

Board for Judicial Administration (BJA), Meeting (November 19, 2021). Meeting minutes supplied.

Board for Judicial Administration (BJA), Meeting (October 15, 2021). Meeting minutes supplied.

Board for Judicial Administration (BJA), Meeting (September 17, 2021).

Meeting minutes and approved changes to General Rule 26 supplied.

Board for Judicial Administration (BJA), Meeting (May 21, 2021).
Meeting minutes supplied.

Board for Judicial Administration (BJA), Meeting (March 19, 2021).
Meeting minutes supplied.

Board for Judicial Administration (BJA), Meeting (February 19, 2021).
Meeting minutes and approved letter to legislature supplied.

Board for Judicial Administration (BJA), Meeting (November 20, 2020).
Meeting minutes supplied.

Board for Judicial Administration (BJA), Meeting (October 15, 2020).
Meeting minutes supplied.

Board for Judicial Administration (BJA), Meeting (September 18, 2020).
Meeting minutes supplied.

Board for Judicial Administration (BJA), Meeting (June 19, 2020).
Meeting minutes supplied.

I have served on the oversight committee for the Washington State Office of Civil Legal Aid since 2018. Minutes from the meetings at which I participated are supplied.

Office of Civil Legal Aid (OCLA) Oversight Committee, Meeting (September 28, 2023). Meeting minutes supplied.

Office of Civil Legal Aid (OCLA) Oversight Committee, Meeting (June 30, 2023). Meeting minutes supplied.

Office of Civil Legal Aid (OCLA) Oversight Committee, Meeting (September 23, 2022). Meeting minutes supplied.

Office of Civil Legal Aid (OCLA) Oversight Committee, Meeting (June 10, 2022). Meeting minutes supplied.

Office of Civil Legal Aid (OCLA) Oversight Committee, Meeting (December 17, 2021). Meeting minutes supplied.

Office of Civil Legal Aid (OCLA) Oversight Committee, Meeting (December 11, 2020). Meeting minutes supplied.

Office of Civil Legal Aid (OCLA) Oversight Committee, Meeting (June

19, 2020). Meeting minutes supplied.

Office of Civil Legal Aid (OCLA) Oversight Committee, Meeting (March 27, 2020). Meeting minutes supplied.

Office of Civil Legal Aid (OCLA) Oversight Committee, Meeting (September 20, 2019). Meeting minutes supplied.

Office of Civil Legal Aid (OCLA) Oversight Committee, Meeting (June 20, 2019). Meeting minutes supplied.

Office of Civil Legal Aid (OCLA) Oversight Committee, Meeting (December 7, 2018). Meeting minutes supplied.

Office of Civil Legal Aid (OCLA) Oversight Committee, Meeting (September 14, 2018). Meeting minutes supplied.

I have served on the Washington Court of Appeals Rules Committee since 2020. The committee regularly submits proposed rules and rule changes to the Washington Supreme Court. The committee also occasionally files comments on proposed rules. Copies of submissions by the Court of Appeals Rules Committee are supplied.

Court of Appeals Rules Committee, Proposed Changes to RAP 9.5 – Filing and Service of Report of Proceedings (January 2024). Copy supplied.

Court of Appeals Rules Committee, Proposed Changes to RAP 9.6 – Designation of Clerk’s Papers and Exhibits (January 2024). Copy supplied.

Court of Appeals Rules Committee, Proposed Changes to RAP 9.7 – Preparing Clerk’s Papers and Exhibits for Appellate Court (January 2024). Copy supplied.

Court of Appeals Rules Committee, Proposed Changes to RAP 10.2 – Time for Filing Briefs (January 2024). Copy supplied.

Court of Appeals Rules Committee, Proposed Changes to RAP 10.4 – Preparing and Filing of Brief by Party (January 2024). Copy supplied.

Court of Appeals Rules Committee, Proposed Changes to RAP 16.7 – Personal Restraint Petition – Form of Petition (January 2024). Copy supplied.

Court of Appeals Rules Committee, Proposed Changes to RAP 18.5 –

Service and Filing of Papers (January 2024). Copy supplied.

Court of Appeals Rules Committee, Proposed Changes to RAP 18.6 – Computation of Time (January 2024). Copy supplied.

Court of Appeals Rules Committee, Proposed Changes to RAP 18.8 – Waiver of Rules and Extensions and Reduction of Time (January 2024). Copy supplied.

Court of Appeals Rules Committee, Proposed Changes to RAP 14.3 – Expenses Allowed as Costs (January 2023). Copy supplied.

Court of Appeals Rules Committee, Proposed Changes to RAP 17.4 – Filing and Service of Motion (January 2023). Copy supplied.

Court of Appeals Rules Committee, Proposed Changes to RAP 10.5 – Reproduction and Service of Briefs (November 2022). Copy supplied.

Court of Appeals Rules Committee, Proposed Changes to RAP 2.2 – Decisions of the Superior Court That May be Appealed (October 2022). Copy Supplied.

Court of Appeals Rules Committee, Comments on proposed RAP 10.2, RAP 10.10, RAP 5.3 (December 2, 2021). Copy supplied.

Court of Appeals Rules Committee, Proposed Changes to RAP 9.2 – Verbatim Report of Proceedings (December 2021). Copy supplied.

Court of Appeals Rules Committee, Proposed Changes to RAP 10.4 – Preparation and Filing of Brief by Party (December 2021). Copy supplied.

Court of Appeals Rules Committee, Proposed Changes to RAP 16.9 – Personal Restraint Petition – Response to Petition (December 2021). Copy supplied.

Court of Appeals Rules Committee, Proposed Changes to RAP 17.2 – Who Decides a Motion (December 2021). Copy supplied.

Court of Appeals Rules Committee, Proposed Changes to RAP 18.9 – Violation of Rules (December 2021). Copy supplied.

Court of Appeals Rules Committee, Proposed Changes to RAP 10.8 – Additional Authorities (October 2021). Copy supplied.

I have occasionally participated in meetings of the Washington State Bar Association's Small Town and Rural Committee. Minutes from the meetings at

which I participated are supplied.

Washington State Bar Association, Small Town and Rural Committee, Meeting (July 8, 2023). Meeting minutes supplied.

Washington State Bar Association Small Town and Rural Committee, Meeting (March 22, 2023). Meeting minutes supplied.

I have served on two ad hoc committees tasked with proposing court rules. Copies of the committee submissions are supplied.

Court of Appeals and Court Recovery Task Force Appellate Committee, Proposed Amendments to RAP 6.3, 6.4, 9.7 (April 2021). Copy supplied.

Word Count Workgroup, Proposed Changes to RAP – 4.2, 4.3, 10.4, 10.8, 10.10, 12.4, 13.4, 13.5, 13.7, 16.7, 16.10, 16.16, 16.17, 16.21, 16.22, 17.4, 18.3A, 18.14 (November 2019). Copy supplied.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

I have searched my files and electronic databases in an effort to identify events responsive to this question. I have located the events listed below, but there may be some more events that I have been unable to recall or identify.

November 30, 2023: Speaker introduction, Yakima Rotary Club, Yakima, Washington. Video available at <https://www.facebook.com/YakimaRotary/videos/1007608567207507>.

November 15, 2023: Speaker introduction, “The History of Immigration in the Yakima Valley and the work of La Casa Hogar,” Elish Villa Malone, Yakima Rotary Club, Yakima, Washington. I introduced the speaker. I have no notes, transcript, or recording. The address of the Yakima Rotary Club is 1704 West Nob Hill Boulevard, Yakima, Washington 98902.

November 9, 2023: Panelist, “Introduction to Courts CLE” Spokane County Bar Association, Spokane, Washington. I spoke to new attorneys about case processing in the court of appeals. I have no notes, transcript, or recording. The address of the Spokane County Bar Association is 1116 Broadway Avenue,

Spokane, Washington 99260.

November 6 and 9, 2023: Speaker, "The Judicial Branch, El Poder Judicial," La Casa Hogar Citizenship Class, Yakima, Washington. I gave the same presentation on two separate nights. PowerPoint supplied.

October 30, 2023: Speaker, "ICWA Framing," Casey Family Programs, Yakima ICWA Court Kickoff Event, Wapato, Washington. Notes supplied.

October 24, 2023: Panelist, Washington State Court of Appeals Division Three, Wenatchee, Washington. The Court of Appeals accepted questions from the public on non-case related matters after a special court session at Wenatchee High School. I have no notes, transcript, or recording. The address for the Washington State Court of Appeals Division Three is 500 North Cedar Street, Spokane, Washington 99201.

October 18, 2023: Panelist, "Introduction to Appellate Courts," Wenatchee High School, Wenatchee, Washington. PowerPoint supplied.

October 4, 2023: Closing thoughts, "The Who, What, Where, and Why of Voting Rights Litigation in Yakima County," by Professor Josué Q. Estrada of Central Washington University, Yakima Rotary Club, Yakima, Washington. Video available at <https://www.facebook.com/YakimaRotary/videos/573257581552799>.

September 23, 2023: Panelist, "Handling Race in the Courtroom Trial Duties, Ethical Duties," Washington State Bar Association Solo and Small Firm Conference, Seattle, Washington. PowerPoint supplied.

June 22, 2023: Speaker and Facilitator, "Personal Statement and Resume Workshop," Law School Admissions Council Pre-Law Undergraduate Scholars Program, Toppenish, Washington. Notes supplied.

June 22, 2023: Presenter, Yakima Rotary Club's Unsung Hero Award to Kathy Tierney, Yakima Rotary Club, Yakima, Washington. Video available at <https://www.facebook.com/YakimaRotary/videos/1189846992408597>.

June 15, 2023: Speaker introduction, "Historical Perspectives: Reverend Robert Trimble Interviewed by Joshua Jaiyeola," Rotary Club of Yakima, Yakima, Washington. I introduced the speakers for a discussion of Dr. Martin Luther King, Jr. I have no notes, transcript, or recording. The address of the Rotary Club of Yakima is 1704 West Nob Hill Boulevard, Yakima, Washington 98902.

May 23, 2023: Speaker introduction, "Historical Perspectives: Dismantling the Doctrine of Discovery," Sarah Augustine, Rotary Club of Yakima, Yakima, Washington. Notes supplied.

May 18, 2023: Speaker, "Washington Courts and the Right to Jury Trial," Davis High School Civics Class, Yakima, Washington. PowerPoint supplied.

April 24, 2023: Panelist, Washington State Court of Appeals Division Three, Pasco, Washington. The Court of Appeals accepted questions from the public on non-case related matters after a special court session at Chiawana High School. I have no notes, transcript, or recording. The address for the Washington State Court of Appeals Division Three is 500 North Cedar Street, Spokane, Washington 99201.

April 18, 2023: Speaker, "Introduction to Appellate Courts," Pasco High School, Pasco, Washington. PowerPoint supplied.

April 3, 2023: Panelist, "Judicial Externships and Post Graduate Clerkships," Gonzaga Law School, Spokane, Washington. I spoke with Gonzaga Law School students about the benefits of externships and clerkships. I have no notes, transcript, or recording. The address for Gonzaga Law School is 721 North Cincinnati Street, Spokane, Washington 99202.

November 16, 2022: Speaker introduction, "Historical Perspectives on Indian Allotments," by Tom Zeilman, Rotary Club of Yakima, Yakima, Washington. I introduced the speaker. I have no notes, transcript, or recording. The address for the Rotary Club of Yakima is 1704 West Nob Hill Boulevard, Yakima, Washington 98902.

November 10, 2022: Speaker, Investiture of Yakima County Superior Court Judge Sonia Rodriguez-True, Yakima Superior Court, Yakima, Washington. I provided comments welcoming Judge Rodriguez-True to the bench. I have no notes, transcript, or recording, but press coverage is supplied. The address for Yakima County Superior Court is 128 North Second Street, Yakima, Washington 98901.

October 24, 2022: Panelist, Washington State Court of Appeals Division Three, Yakima, Washington. The Court of Appeals accepted questions from the public on non-case-related matters after a special court session at Eisenhower High School. I have no notes, transcript, or recording. The address for the Washington State Court of Appeals Division Three is 500 North Cedar Street, Spokane, Washington 99201.

October 20, 2022: Panelist, "Introduction to Appellate Courts," Eisenhower High School, Yakima, Washington. PowerPoint supplied.

September 22, 2022: Speaker, "How to Lose an Appeal Before It's Even Filed: Error Preservation Pitfalls for Prosecutors," Washington Association of Prosecuting Attorneys Conference Tacoma, Washington. Video available at https://us02web.zoom.us/rec/share/A03rN8cB1ckoFkf_ntonZs0jDk-

6_h1YVVegE_A9xGuBGak0Tp7Okmjl-KJ0NIRS.Xk--
3axJOjW85UAZ?startTime=1663880549000.

September 15, 2022: Speaker, Swearing-in Ceremony to the Washington State Bar Association, Yakima County Superior Court, Yakima, Washington. I administered the oath to a new attorney. I have no notes, transcript, or recording. The address for Yakima County Superior Court is 128 North Second Street Yakima, Washington 98901.

September 21, 2022: Facilitator, "Historical Perspectives on Reconstruction," Rotary Club of Yakima, Yakima, Washington. I facilitated a discussion about the post-Civil War reconstruction era. I have no notes, transcript, or recording. The address of the Rotary Club of Yakima is 1704 West Nob Hill Boulevard, Yakima, Washington 98902.

August 18, 2022: Panelist, "Effective Advocacy: A Judicial Perspective," Washington Attorney General's Office, Appellate Practice CLE, virtual. Notes supplied.

June 23, 2022: Moderator, "U.S. Supreme Court's Year in Review," Board for Judicial Education's Court Education Committee, virtual. Video available at <https://rise.articulate.com/share/TcjLypnq4wOfFKsiQxP9VivwAGPWGfx4#>.

June 2, 2022: Facilitator, "Client Counseling Role Play," Law School Admission Council Pre-Law Undergraduate Scholars Program, Toppenish, Washington. Notes supplied.

May 20, 2022: Presenter, Investiture of Yakima County Superior Court Judge Elisabeth Tutsch, Yakima County Superior Court, Yakima, Washington. I presented Judge Tutsch for her formal oath. I have no notes, transcript, or recording, but press coverage is supplied. The address for Yakima County Superior Court is 128 North Second Street, Yakima, Washington 98901.

March 17, 2022: Moot Court Judge, Gonzaga Law School, 87th Annual Linden Cup Competition, Spokane, Washington. I served as a judge for a moot court competition. I have no notes, transcript, or recording. The address for Gonzaga Law School is 721 North Cincinnati Street Spokane, Washington 99202.

March 15, 2022: Panelist, "Persuasive Appellate Brief Writing," Pincus Professional Education, virtual. Video available at https://www.pincusproed.com/catalog/download/Pincus.AV220315_WEB_Brief_Writing_WA_Video_Package.Part-1.zip.

March 11, 2022: Panelist, "A Trial Lawyer's Guide to Error Preservation in Federal and State Court," Benton Franklin County Bar Association, Federal Criminal Seminar, Richland, Washington. PowerPoint supplied.

February 24, 2022: Moderator, “Youth Exchange Student Panel,” Rotary Club of Yakima, Yakima, Washington. Video available at <https://www.facebook.com/YakimaRotary>.

November 17, 2021: Panelist, “Judicial Notice,” and “Oral Advocacy and the Future of Online Oral Arguments,” Pincus Professional Education, 6th Annual Advanced Appellate Program (Civil), virtual. Video available at https://www.pincusproed.com/catalog/download/Pincus.AV2101116-17_WEB_Adv_Appellate_WA_Video_Package.Part-1.zip and https://www.pincusproed.com/catalog/download/Pincus.AV2101116-17_WEB_Adv_Appellate_WA_Video_Package.Part-2.zip.

November 9, 2021: Panelist, “Judicial Externships and Post Graduate Clerkships,” Gonzaga Law School, Spokane, Washington. I spoke with Gonzaga Law School students about the benefits of externships and clerkships. I have no notes, transcript, or recording. The address for Gonzaga Law School is 721 North Cincinnati Street Spokane, Washington 99202.

October 20, 2021: Speaker, “Ethical Issues Facing Defense Attorneys and Judges,” Central Washington University, Law and Justice Class, Ellensburg, Washington. PowerPoint supplied.

September 14, 2021: Panelist, “Don’t Get Reversed: Permissible and Impermissible Community Custody Conditions,” Washington Courts, 62nd Washington Judicial Conference, virtual. Video available at <https://rise.articulate.com/share/Mo8jjHaF3ZuStRJnV6Io5JAuaaE0H-m6#>.

August 27, 2021: Moderator, “EmPOWER Advocates and Survivors,” United States District Courts for the Eastern and Western Districts of Washington POWER Act presentation, virtual. I moderated a judges panel on domestic violence cases and a survivors panel. I have no notes, transcript, or recording. The address of the United States District Court for the Eastern District of Washington is 999 West Riverside Avenue, Suite 401, Spokane, Washington 99210. The address of the United States District Court for the Western District of Washington is 700 Stewart Street, Suite 2310, Seattle, Washington 98101.

July 27, 2021: Speaker, Spokane Eastside Reunion Association’s Youth Basketball Camp, Spokane, Washington. I talked to camp participants about the court system and answered questions. I have no notes, transcript, or recording. The address of the Spokane Eastside Reunion Association is 3001 East Fifth Avenue, Spokane, Washington 99202.

March 20, 2021: Moot Court Judge, Gonzaga Law School, 86th Annual Linden Cup Competition, virtual. I served as a judge for a moot court competition. I have no notes, transcript, or recording. The address for Gonzaga Law School is 721

North Cincinnati Street, Spokane, Washington 99202.

February 18, 2021: Speaker, "Effective Appellate Advocacy," Training for Northwest Justice Project Attorneys, virtual. Notes supplied.

October 14, 2020: Speaker, "Welcome and Introduction to Chief Justice Debra Stephens," Seattle University School of Law, Pathways to the Bench, virtual. Notes supplied.

September 9, 2020: Speaker, "Open Door Doctrine and Harmless Error," Washington Association of Prosecuting Attorneys, District Court Training Program, Zoom webinar. Video available at https://us02web.zoom.us/rec/component-page?hasValidToken=false&clusterId=us02&action=play&filePlayId=&componentName=recording-register&meetingId=y0Lq-AiEZpJT8nY-Ebz5jNzq3BEbysRpAPV-GViYF6y1laHr1P4il9m6xG0h6qC6.XbU7-VHBoCuz_6HV&originRequestUrl=https%3A%2F%2Fus02web.zoom.us%2Frec%2Fshare%2F-HihZxLi-oDJ61AEgO0KWm5tO6t2zZSQSr4hFfs3cS9ZzUOIyTplx5ZHURSIr59H.SUjcauYPSMh_tBus.

June 15, 2020: Panelist, "Error Preservation Issues Facing Prosecutors," Washington Association of Prosecuting Attorneys, Zoom webinar. Video available at https://us02web.zoom.us/rec/component-page?hasValidToken=false&clusterId=us02&action=play&filePlayId=&componentName=recording-register&meetingId=7L-xPQiPSPN20xWBSp7xqWC9GOE70ZhsixWmuRmgAKVlzLdWgv-6EarK4WR8ztbJ.CD4q7LaFP78RFV9k9&originRequestUrl=https%3A%2F%2Fus02web.zoom.us%2Frec%2Fshare%2FpUZ2oc_UMC4KKSltvqllS_QpCkeJuzrXTpNKXE1-1eKKwYjv-cBsgsw5dfvrzSaC.alQn7wqFebjEOsuV.

May 29, 2020: Speaker, "How to Lose an Appeal Before Even Filing: Pitfalls in Error Preservation 2020 Edition," Yakima County Bar Association, virtual. PowerPoint supplied.

February 28, 2020: Panelist, "Legal Financial Obligation Reform," Yakima County Bar Association Lunch CLE, virtual. Notes supplied.

February 21, 2020: Facilitator, "Listening Session," Dispute Resolution Center of Yakima's Community Response Team, Yakima, Washington. I facilitated a presentation by individuals impacted by crimes on Indian reservations to a group of law enforcement officers, federal prosecutors, and federal judges. I have no notes, transcript, or recording. The address for the Dispute Resolution Center of Yakima is 132 North First Avenue, Yakima, Washington 98902.

February 7, 2020: Speaker, "Information Night," Rotary Club of Yakima, Yakima, Washington. I spoke to parents and students interested in youth exchange. I have no notes, transcript, or recording. The address of the Yakima Rotary Club is 1704 West Nob Hill Boulevard Yakima, Washington 98902.

November 19, 2019: Moot Court Judge, Gonzaga Law School, 70th Annual National Moot Court Competition, Spokane, Washington. I served as a judge for a moot court competition. I have no notes, transcript, or recording. The address for Gonzaga Law School is 721 North Cincinnati Street, Spokane, Washington 99202.

November 8, 2019: Panelist, "Ethics and the Art of Persuasion," Yakima Volunteer Attorney Services, Evidence and Ethics CLE, Yakima, Washington. PowerPoint supplied.

October 1, 2019: Speaker, University of Washington School of Law, Seattle, Washington. I spoke to law students about the value of judicial clerkships. I have no notes, transcript, or recording. The address for the University of Washington School of Law is 4293 Memorial Way Northeast, Seattle, Washington 98195.

September 26, 2019: Speaker, "Information Night," Rotary Club of Yakima, Yakima, Washington. PowerPoint supplied.

June 14, 2019: Listening session participant, ABA Women in Criminal Justice Task Force, Spokane, Washington. I participated in a listening session, sharing my experiences as a woman working in the legal profession. I have no notes, transcript, or recording. The address for the American Bar Association is 321 North Clark Street, Chicago, Illinois 60654.

March 22, 2019: Speaker, "A Case Study Approach Comparing and Contrasting Obligations Surrounding Fiduciary Duties and Communication of Guardians as Opposed to the RPC's," Aging and Adult Care of Central Washington, The North Central Washington 2019 Guardianship Forum, Wenatchee, Washington. PowerPoint supplied.

November 29, 2018: Speaker introduction, Keynote address by Washington State Bar Association President Bill Pickett, Yakima Rotary Club, Yakima, Washington. Notes supplied.

November 16, 2018: Moot Court Judge, Gonzaga Law School, National Moot Court Competition, Spokane, Washington. I served as a judge for a moot court competition. I have no notes, transcript, or recording. The address for Gonzaga Law School is 721 North Cincinnati Street, Spokane, Washington 99202.

November 15, 2018: Speaker, "A View from the Bench," Young Lawyers Division for the Spokane County Bar Association, Introduction to Courts,

Spokane, Washington. Notes supplied.

November 9, 2018: Panelist, "Persuasive Writing," Yakima Volunteer Attorney Services, Evidence and Ethics CLE, Yakima, Washington. Notes supplied.

November 2, 2018: Panelist, Superior Court Judges Association, Color of Justice Program, Yakima County Juvenile Court, Yakima, Washington. I spoke to high school students about how I became a judge in Yakima, Washington. I have no notes, transcript, or recording. The address for the Superior Court Judges Association is P.O. Box 41170 Olympia, Washington 98504-1170.

October 21, 2018: Mock Trial Judge, Gonzaga Law School's Second Annual Bulldog Brawl, Spokane, Washington. I served as a judge for a mock trial competition. I have no notes, transcript, or recording. The address for Gonzaga Law School is 721 North Cincinnati Street, Spokane, Washington 99202.

October 8, 2018: Panelist, "Judicial Clerkships," Gonzaga Law School, Spokane, Washington. I spoke with Gonzaga Law School students about the benefits of externships and clerkships. I have no notes, transcript, or recording. The address for Gonzaga Law School is 721 North Cincinnati Street Spokane, Washington 99202.

October 9, 2018: Panelist and Speaker, "Fundamental Principles of Appellate Advocacy: Know your court, your audience, advocacy goals and how to get there;" and "Taking Advantage of Opportunities: Gaps in the Law, Binding Precedent, and Lessons Learned (Do's and Don'ts);" Statewide Legal Advocates Training, Tools for Adaptive Lawyering. I spoke about recent case law and provided tips for effective briefing and oral advocacy. I have no notes, transcript, or recording. The address for the Washington Office of Civil Legal Aid is 711 Capitol Way, Suite 605, P.O. Box 41183, Olympia, Washington 98504. The address for the Legal Foundation of Washington is 1325 Fourth Avenue, Suite 1335, Seattle, Washington 98101.

September 24, 2018: Speaker, "Information Night," Rotary Club of Yakima, Yakima, Washington. I spoke to parents and students interested in youth exchange. I have no notes, transcript, or recording. The address of the Yakima Rotary Club is 1704 West Nob Hill Boulevard, Yakima, Washington 98902.

September 17, 2018: Speaker, "Constitution Day 2018," Toppenish High School, Toppenish, Washington. PowerPoint supplied.

July 21, 2018: Panelist, "A View from the Bench: Things We Wish We Knew While Practicing Before the Appellate Courts," Washington Defense Trial Lawyers, Annual Meeting and Convention, Winthrop, Washington. Notes supplied.

June 1, 2018: Speaker, "How to Lose an Appeal Before Even Filing Pitfalls in Error Preservation," Spokane Bar Association, Appellate Law/Appellate Practice CLE, Spokane, Washington. PowerPoint supplied.

May 12, 2018: Panelist, "A View from the Bench: Things We Wish We Knew While Practicing Before Appellate Courts," Washington State Bar Association, 2018 Environmental and Land Use Law Section Midyear Meeting and Conference, Cle Elum, Washington. PowerPoint supplied.

May 1, 2018: Panelist, Washington State Court of Appeals Division Three, Ellensburg, Washington. The Court of Appeals accepted questions from the public on non-case-related matters after a special court session at Central Washington University. I have no notes, transcript, or recording. The address for the Washington State Court of Appeals Division Three is 500 North Cedar Street, Spokane, Washington 99201.

April 19, 2018: Speaker introduction, Keynote address by Ninth Circuit Court of Appeals Judge Richard Tallman, Yakima Rotary Club, Yakima, Washington. Notes supplied.

April 12, 2018: Panelist, "Civic Leadership on Campus, in the Community, and in your Career: Perspectives from Women in the Legal Profession," Heritage University, Toppenish, Washington. I participated on a panel for Heritage University students. I have no notes, transcript, or recording. The address for Heritage University is 3240 Fort Road, Toppenish, Washington 98948.

March 16, 2018: Speaker, Gilbert Elementary School, Yakima, Washington. I spoke to a fourth-grade class about the court system and facilitated a brainstorm of general legal issues. I have no notes, transcript, or recording. The address for Gilbert Elementary School is 4400 Douglas Drive Yakima, Washington 98908.

November 13, 2017: Speaker, "Washington State Court of Appeals," West Valley Kiwanis Club, Yakima, Washington. Notes supplied.

October 19, 2017: Panelist, Washington State Court of Appeals Division Three, Walla Walla, Washington. The Court of Appeals accepted questions from the public on non-case-related matters after a special court session at Walla Walla College. I have no notes, transcript, or recording. The address for the Washington State Court of Appeals Division Three is 500 North Cedar Street, Spokane, Washington 99201.

October 5, 2017: Panelist, "A Female's Perspective from the Bench," Washington Women Lawyers Southeast Division, Kennewick, Washington. I participated in a judicial panel, discussing experiences as female judges. I have no notes, transcript, or recording. The address for Washington Women Lawyers is P.O. Box 46107, Seattle, Washington 98146.

July 25, 2017: Speaker, "How to Lose an Appeal Before Even Filing: Pitfalls in Error Preservation," Snohomish County Prosecutors Office and Snohomish County Public Defender Association, Everett, Washington. I have no notes, transcript, or recording, but the presentation would have been substantially similar to the one on May 11, 2017, for which a PowerPoint has been supplied.

June 1, 2017: Speaker, "Lunchtime remarks," and "Trial Practice Judge," JustLead Washington, Statewide Legal Advocate Training, Yakima, Washington. I spoke during a lunchtime break about the importance of including Washington appellate judges on task forces and work groups. I also provided feedback during advocacy practice sessions. I have no notes, transcript, or recording. JustLead Washington's address is 101 Yesler Way Suite 300, Seattle, Washington 98104.

May 11, 2017: Speaker, "How to Lose an Appeal Before Even Filing: Pitfalls in Error Preservation," Kittitas County Bar Association, lunch meeting, Ellensburg, Washington. PowerPoint supplied.

April 3, 2017: Panelist, "Appellate Practice and Case Management in the Ninth Circuit," Washington Courts, Appellate Spring Program, Walla Walla, Washington. PowerPoint supplied.

March 22, 2017: Panelist, "Judicial Panel," League of Women Voters, Spokane, Washington. Notes supplied.

March 21, 2017: Panelist, Washington State Court of Appeals Division Three, Ephrata, Washington. The Court of Appeals accepted questions from the public on non-case-related matters after a special court session at the Grant County Courthouse. I have no notes, transcript, or recording. The address for the Washington State Court of Appeals Division Three is 500 North Cedar Street, Spokane, Washington 99201.

March 14, 2017: Speaker, "How to Lose an Appeal Before Evening Filing: Pitfalls in Error Preservation," Chelan-Douglas Bar Association, Bar Lunch, Wenatchee, Washington. PowerPoint supplied.

February 24, 2017: Speaker, "How to Lose an Appeal Before Even Filing: Pitfalls in Error Preservation," Yakima County Bar Association, Bar Lunch, Yakima, Washington. Notes supplied.

December 6, 2016: Panelist, Washington State Court of Appeals Division Three, Wenatchee, Washington. The Court of Appeals accepted questions from the public on non-case-related matters after a special court session at the Chelan County Courthouse. I have no notes, transcript, or recording. The address for the Washington State Court of Appeals Division Three is 500 North Cedar Street, Spokane, Washington 99201.

December 2, 2016: Speaker and panelist, “Technology in the Courtroom,” “Preservation of Error,” “Criminal Law Presentation,” and “Division III – WALA Roundtable,” Washington Appellate Lawyers Association, Appellate Practice CLE, Spokane, Washington. Materials Supplied.

November 11, 2016: Panelist, “Judges Panel,” Yakima Volunteer Attorney Services, Evidence and Ethics CLE, Yakima, Washington. I participated in panel of judges discussing tips for effective advocacy. I have no notes, transcript, or recording. The address for Volunteer Attorney Services of Yakima is 315 Holton Avenue Suite 202, Yakima, Washington 98902.

July 22, 2016: Panelist, “Making Tough Choices: Balancing Family, Personal Development and Controlling Your Career,” University of Washington School of Law, Washington Leadership Institute. I talked to new lawyers about my legal career. I have no notes, transcript, or recording. The address for the University of Washington School of Law is 4293 Memorial Way Northeast Seattle, Washington 98195

May 20, 2016: Speaker, “*Miranda*, More than Words,” Chelan Douglas Bar Association, Law Day, Wenatchee, Washington. Notes supplied.

February 19, 2016: Speaker, Investiture of Washington State Court of Appeals Judge Rebecca Pennell, Yakima County Courthouse, Yakima, Washington. I provided a response at my investiture to the court of appeals. I have no notes, transcript, or recording, but press coverage is supplied. The address for the Washington State Court of Appeals Division Three is 500 North Cedar Street, Spokane, Washington 99201.

2023 – present: Speaker, administration of oath of attorney. During my time at the court of appeals I have occasionally helped administer oaths of attorney, primarily for court employees. I do not have specific dates. I have no notes, transcripts, or recordings. The address for the Washington State Court of Appeals Division Three is 500 North Cedar Street, Spokane, Washington 99201.

October 22, 2015: Speaker, Central Washington University, Legal Environment of Business Class, Ellensburg, Washington. I do not recall the details of this presentation, other than it involved a general introduction to law. I have no notes, transcript, or recording. The address of Central Washington University is 400 East University Way, Ellensburg, Washington 98926.

July 2015 (specific date unknown): Video Presenter, “2015 WSBA Outstanding Judge Award – Hon. James P. Hutton,” Yakima, Washington. Video available at <https://www.youtube.com/watch?v=PBGHtb2SXTk>.

July 15, 2015: Panelist, “Conversation with The Honorable Anthony M. Kennedy,

United States Supreme Court,” 2015 Ninth Circuit Judicial Conference, San Diego, California. U.S. Bankruptcy Judge Margaret Mann and I interviewed Justice Kennedy for the Ninth Circuit Judicial Conference. I have no notes, transcript, or recording, but press coverage is supplied. The address for the Ninth Circuit Executive is P.O. Box 193939, San Francisco, California 94119.

July 14, 2015: Panel introduction, “How the Ninth Circuit Can Meet the Challenges of Global Demographic Change and Become a Model for the Rest of the World,” Ninth Circuit Judicial Conference, San Diego, California. Video available at https://www.youtube.com/watch?v=M_lebdDY3bg.

February 20, 2015: Speaker, “Nuts and Bolts of Initiating an Appeal,” Spokane County Bar Association, Advanced Techniques in Trial and Appellate Law, Spokane, Washington. I was on a panel discussing federal appellate practice. I have no notes, transcript, or recording. The address of the Spokane County Bar Association is 1116 Broadway Avenue, Spokane, Washington 99260.

July 16, 2014: Facilitator, “Criminal Breakout Session,” Ninth Circuit Judicial Conference, Monterey, California. I led a small group discussion addressing *Brady* issues in practice. I have no notes, transcript, or recording. The address for the Ninth Circuit Executive is P.O. Box 193939, San Francisco, California 94119.

July 15, 2014: Panel introduction, “Access to Justice in Civil Cases 50 Years After Gideon,” Ninth Circuit Judicial Conference, Monterey, California. Video available at <https://www.youtube.com/watch?v=7FCPTsyybNI>.

September 27, 2012: Speaker, “Recent U.S. Supreme Court Decisions in Review,” 19th Annual Criminal Justice Institute, Washington State Bar Association Criminal Law Section and Washington State Bar Association Continuing Legal Education, Burien, Washington. Materials supplied.

April 27, 2012: Speaker, “Violent Felonies, Crimes of Violence, and Aggravated Felonies,” Nuts and Bolts of Federal Criminal Defense, Federal Defenders of Eastern Washington and Idaho, Spokane, Washington. I presented a discussion of case law regarding federal sentencing. I have no notes, transcript, or recording. The address of the Federal Defenders of Eastern Washington and Idaho is 601 West Riverside Avenue Suite 900, Spokane, Washington 99201.

September 30, 2011: Speaker, “Ethics: Detecting and Disclosing Mental Impairments of Clients and Witnesses,” Federal Bar Association Conference, Spokane, Washington. I provided an ethics discussion on mental health. I have no notes, transcript, or recording. The current contact for the Federal Bar Association of the Eastern District of Washington is Darren Digiacinto, Winston and Cashatt, 601 West Riverside Avenue, Suite 1900, Spokane, Washington 99201.

September 17, 2011: Speaker, “Keynote address,” Yakima Valley Voices of

Recovery, Yakima, Washington. I spoke about my work with people in recovery. I have no notes, transcript, or recording. My participation was organized by Merit Resource Services, 315 North Second Street Yakima, Washington 98901.

June 23, 2011: Speaker, "CJA Panel Meeting," Federal Defenders of Eastern Washington and Idaho, Yakima, Washington. I spoke to CJA panel attorneys about dissecting plea agreements. I have no notes, transcript, or recording. The address of the Federal Defenders of Eastern Washington and Idaho is 306 East Chestnut Avenue, Yakima, Washington 98901.

September 16, 2010: Speaker, "U.S. Supreme Court Decisions in Review," 17th Annual Criminal Justice Institute, Washington State Bar Association Criminal Law Section and Washington State Bar Association Continuing Legal Education, Seattle, Washington. Materials supplied.

August 26, 2010: Speaker, "CJA Panel Meeting," Federal Defenders of Eastern Washington and Idaho, Yakima, Washington. I spoke to CJA panel attorneys about recent U.S. Supreme Court cases. I have no notes, transcript, or recording. The address of the Federal Defenders of Eastern Washington and Idaho is 306 East Chestnut Avenue, Yakima, Washington 98901.

April 4, 2010: Speaker, "CJA Panel Meeting," Federal Defenders of Eastern Washington and Idaho, Yakima, Washington. I spoke to CJA panel attorneys about predicate conviction enhancements. I have no notes, transcript, or recording. The address of the Federal Defenders of Eastern Washington and Idaho is 306 East Chestnut Avenue, Yakima, Washington 98901.

January 17, 2010: June 23, 2011: Speaker, "CJA Panel Meeting," Federal Defenders of Eastern Washington and Idaho, Yakima, Washington. I spoke to CJA panel attorneys about how to use the internet to enhance district court practice. I have no notes, transcript, or recording. The address of the Federal Defenders of Eastern Washington and Idaho is 306 East Chestnut Avenue, Yakima, Washington 98901.

October 22, 2009: Speaker, "CJA Panel Meeting," Federal Defenders of Eastern Washington and Idaho, Yakima, Washington. I spoke to CJA panel attorneys about Washington's Public Records Act. I have no notes, transcript, or recording. The address of the Federal Defenders of Eastern Washington and Idaho is 306 East Chestnut Avenue, Yakima, Washington 98901.

September 24, 2009: Speaker, "CJA Panel Meeting," Federal Defenders of eastern Washington and Idaho, Yakima, Washington. I spoke to CJA panel attorneys about improving district court motions practice. I have no notes, transcript, or recording. The address of the Federal Defenders of Eastern Washington and Idaho is 306 East Chestnut Avenue, Yakima, Washington 98901.

September 10, 2009: Speaker, "U.S. Supreme Court Update," 16th Annual Criminal Justice Institute, Washington State Bar Association Criminal Law Section and Washington State Bar Association Continuing Legal Education, Seattle, Washington. Materials supplied.

2009 (specific date unknown): Speaker, "Ninth Circuit Update," Thrills and Skills Seminar, Federal Defenders of Eastern Washington and Idaho, Spokane, Washington. I provided a summary of recent criminal cases from the Ninth Circuit Court of Appeals. I have no notes, transcript, or recording. The address of the Federal Defenders of Eastern Washington and Idaho is 601 West Riverside Avenue Suite 900 Spokane Washington 99201.

July 20, 2008: Speaker, "CJA Panel Meeting," Federal Defenders of Eastern Washington and Idaho, Yakima, Washington. I spoke to CJA panel attorneys about defendants' rights during guilty plea proceedings. I have no notes, transcript, or recording. The address of the Federal Defenders of Eastern Washington and Idaho is 306 East Chestnut Avenue, Yakima, Washington 98901.

2008 (specific date unknown): Speaker, Kiwanis Club of Pasco, Pasco, Washington. I spoke about federal sentencing law. I have no notes, transcript, or recording. The address of the Kiwanis Club of Pasco is P.O. Box 556, Pasco, Washington 99301.

2008 – 2015 (specific dates unknown): Speaker, Department of Social and Health Services (DSHS), Yakima, Washington. I spoke with individuals enrolled in DSHS programming about criminal re-entry myths, based on documents published by the U.S. Department of Justice. I have no notes, transcripts, or recordings. The address of DSHS is 1002 North 16th Avenue Suite One, Yakima, Washington 98902.

2008 – 2015 (specific dates unknown): Speaker, Federal Defenders of Eastern Washington and Idaho, Criminal Justice Act Panel Meetings, Yakima, Washington. I facilitated regular lunchtime training meetings for members of the Criminal Justice Act panel, addressing information regarding federal law and procedure. I have no notes, transcripts, or recordings. Known speaking dates have been listed, but there may have been others. The address of the Federal Defenders of Eastern Washington and Idaho is 306 East Chestnut Avenue, Yakima, Washington 98901.

2006 (specific date unknown): Speaker, Washington State Bar Association, Seattle, Washington. I discussed federal sentencing law and my career as a federal defender at a leadership development seminar. I have no notes, transcript, or recording. The address of the Washington State Bar Association is 1325 Fourth Avenue Suite 600, Seattle, Washington 98101.

2005 (specific date unknown): Speaker, Washington State Bar Association,

Seattle, Washington. I discussed my career as a federal defender and federal sentencing law at a leadership development seminar. I have no notes, transcript, or recording. The address of the Washington State Bar Association is 1325 Fourth Avenue Suite 600, Seattle, Washington 98101.

- 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.

Press Release, Washington Courts, *Court of Appeals Division III Will Hear Cases at a Yakima High School October 24* (October 19, 2022). Copy supplied.

Allen Brecke, *Judge Rebecca Pennell's Lifetime of Civil Justice Work*, WASHINGTON STATE ASSOCIATION FOR JUSTICE TRIAL NEWS, December 2021. Copy supplied.

Press Release, Washington Courts, *Washington Court of Appeals Div. III to Hear Cases with Three Women Judges for the First Time* (April 27, 2021). Copy supplied.

Tammy Ayer, *Social media campaign honors Yakima Valley women for their contributions*, Yakima Herald-Republic (March 11, 2020). Copy supplied.

Crystal Bui, *After Heavy Rain, Volunteers Spruce up Yakima Area Arboretum*, KIMA NEWS, March 12, 2016. Video available at <https://kimatv.com/news/local/after-heavy-rain-volunteers-spruce-up-yakima-area-arboretum>.

Addy Logsdon, *Work Life Balance*, YAKIMA MAGAZINE, 2016 (approximately). Text of article supplied.

Mark Morey, *Yakima Public Defender Named to State Appeals Court*, YAKIMA HERALD, December 31, 2015. Copy supplied.

Adriana Janovich, *Future Lawyers Attend Pre-Law Conference*, YAKIMA HERALD, May 25, 2004. Copy supplied.

Maria Garriga, *McVeigh's Date with Death – A Life for a Life: Right or Wrong? Both Sides' Views on Death Penalty Grow from Moral, Practical Roots*, YAKIMA HERALD, June 11, 2001. Copy supplied.

Mike Prager, *Caregivers Volunteers Offer Their Time and Hearts to Patients at Shriners Hospital for Children*, SPOKESMAN REVIEW, July 8, 1999. Copy supplied.

Claudia H. Deutsch, *While Bar's Glitter Has Faded, Desire to Join Hasn't*, N.Y. TIMES, September 2, 1994. Copy supplied.

From approximately 1999 to 2000 I participated in one or two radio presentations on Radio KDNA 91.1 in Granger, Washington. The presentations related to my child advocacy work for TeamChild. I am unable to locate any transcripts or recordings.

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.

Since January 2016 I have served as a judge on the Washington State Court of Appeals. I was initially appointed by Governor Jay Inslee and then was re-elected to office in 2016 and 2020. The Washington State Court of Appeals is an intermediate appellate court, handling direct appeals from Washington State Superior Courts. The Court of Appeals has three divisions. I serve in Division Three, which is headquartered in Spokane, Washington. My electoral district consists of Chelan, Douglas, Kittitas, Klickitat, and Yakima Counties.

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

As a court of appeals judge I do not preside over trials.

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

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

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

civil proceedings: _____%
criminal proceedings: _____% [total 100%]

- b. Provide citations for all opinions you have written, including concurrences and dissents.

See attached list of opinions.

- 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).

1. *Marriage of Gharst*, 25 Wash. App. 2d 752, 525 P.3d 250 (2023)

Ms. Converse (formerly Gharst) filed a motion for relief from judgment after she failed to appear for her divorce trial. The trial court denied the motion, reasoning notice of the trial date had been properly sent to Ms. Converse's address of record. The court did not consider mitigating circumstances regarding Ms. Converse's diminished mental health and pro se status. I authored the court's unanimous decision reversing the trial court and remanding for further proceedings to consider Ms. Converse's circumstances. There have been no filings in the superior court since issuance of the mandate.

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2. *Little v. Rosauers Supermarkets*, 24 Wash. App. 2d 898, 521 P.3d 298 (2022)

Ms. Little was injured after she slipped and fell on an icy supermarket parking lot. She sued, but her claim was denied on summary judgment under the theory she was aware of the icy conditions and therefore assumed the risk of injury. I wrote the court's unanimous opinion, reversing the summary judgment order. The decision explained that if the supermarket was aware patrons would assume the risk of walking across the parking lot despite the icy conditions, a complete defense based on assumption of the risk could not apply. Because there were issues of material fact, the matter was remanded for trial. On remand, the parties entered into a stipulated order of dismissal, the result of an apparent settlement.

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3. *Stevens County ex rel. Rasmussen v. Travelers Surety & Cas. Co.*, 21 Wash. App. 2d 574, 507 P.3d 417, review denied, 200 Wash. 2d 1002 (2022)

The Stevens County Prosecutor sued the Stevens County Commissioners on their official bonds, claiming the commissioners were individually liable for voting to approve unconstitutional gifts of public funds. The trial court ruled in favor of the prosecutor. I authored the court's unanimous opinion reversing the trial court, holding that the county commissioners were not acting in their individual capacities when they voted to approve the funds. The Supreme Court denied review. On remand, the former county commissioners were granted restitution and the trial court entered an order of dismissal with prejudice.

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4. *Western Rivers Conservancy v. Stevens County*, 18 Wash. App. 2d 84, 490 P.3d 249, *review denied*, 198 Wash. 2d 1023 (2021)

Western Rivers sued Stevens County after it was assessed taxes for a sale of land to the United States Forest Service. The trial court ruled in favor of Western Rivers, reasoning the tax assessment violated the doctrine of intergovernmental tax immunity under the supremacy clause of the United States Constitution. I wrote the court's unanimous decision affirming the trial court. The Supreme Court denied review.

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5. *Wells v. Nespelem Valley Electric Cooperative, Inc.*, 13 Wash. App. 2d 148, 462 P.3d 855, *review denied*, 196 Wash. 2d 1027 (2020)

Mr. Wells sued the Nespelem Valley Electric Cooperative (NVEC) after a fire that started on NVEC's equipment destroyed his residence and property. The case went to a jury trial, but before the jury could render a decision, the trial court issued a directed verdict in favor of NVEC. I wrote the court's unanimous opinion reversing the trial court's decision, holding there were material issues of fact as to negligence and application of *res ipsa loquitur*. The matter was remanded for trial. The Supreme Court denied review. On remand, the parties engaged in an

unsuccessful settlement conference and the case proceeded to trial. The jury rendered a verdict favor of NVEC. No further appeal was filed.

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6. *State v. Rushworth*, 12 Wash. App. 2d 466, 458 P.3d 1192 (2020)

Ms. Rushworth was convicted after a jury trial of possessing a stolen motor vehicle. On appeal, she made two claims of evidentiary error. First, she argued the trial court should have ordered testimony stricken after sustaining an objection. Second, she claimed the state improperly introduced evidence under the “open door doctrine.” I authored the court’s unanimous opinion agreeing with Ms. Rushworth on both legal claims. Nevertheless, we affirmed Ms. Rushworth’s conviction due to lack of prejudice.

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7. *State v. Fairley*, 12 Wash. App. 2d 315, 457 P.3d 1150, *review denied*, 195 Wash. 2d 1027 (2020)

Mr. Fairley was charged with multiple offenses after law enforcement found incriminating evidence on third party's cell phone. The evidence was obtained pursuant to a warrant that authorized seizure of the phone, but the warrant did not specifically authorize a search of the phone. Mr. Fairley filed a motion to suppress the search of the phone, claiming it violated the Fourth Amendment to the United States Constitution. The trial court determined Mr. Fairley had standing to challenge the search of the cell phone, but denied the motion to suppress. On appeal, standing was not contested. I authored a majority opinion reversing the denial of the suppression motion and remanding the case for further proceedings. The Supreme Court denied review. On remand, the case was dismissed.

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8. *Espindola v. Apple King*, 6 Wash. App. 2d 244, 430 P.3d 663 (2018), *review denied*, 193 Wash. 2d 1004 (2019)

Ms. Espindola was fired from her job at Apple King for missing too many days at work. Ms. Espindola subsequently sued under the federal and state family medical leave acts. She argued discrimination and retaliation based on serious health conditions. The trial court denied Ms. Espindola's claims on summary judgment. I authored the court's unanimous decision reversing, holding there were issues of fact as to whether Apple King was on notice that Ms. Espindola was invoking the right to protected leave related to her condition. The Supreme Court denied review. There have been no filings in superior court after issuance of the mandate.

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9. *State v. Aljaffar*, 198 Wash. App. 75, 392 P.3d 1070, *review denied*, 188 Wash. 2d 1021 (2017)

Mr. Aljaffar was tried and convicted of several felony offenses without the services of a certified interpreter. He appealed, arguing a violation of Washington's court interpreter statute. Upon receipt of the appeal, my court issued an order referring the case for an evidentiary hearing to determine whether the lack of a certified interpreter impacted the outcome of the case. After the completion of the evidentiary hearing, I authored the court's unanimous decision holding that the use of an uncertified interpreter violated Washington's court interpreter statute, but that the lack of a certified interpreter did not impact the outcome of trial. The judgment of conviction was therefore affirmed. The Supreme Court denied review.

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10. *Matter of I.M.M.*, 196 Wash. App. 914, 385 P.3d 268 (2016)

I.M.M.'s mother appealed a court order terminating her parental rights. She argued she was not provided necessary and available services to avoid termination, as required by Washington statute, because the State failed to provide services tailored to her cognitive impairment. I authored the court's majority decision reversing the termination of parental rights, holding there was insufficient evidence the Department and Social and Health Services had accommodated the mother's impairment. The case was then remanded for further proceedings. After remand, the superior court vacated the order terminating parental rights and reinstated the dependency proceedings.

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- 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.

The following is a list of 10 significant cases I have written, separate from the 10 cases listed in response to Question 13(c), above.

1. *Jewels Helping Hands v. Hansen*, __ Wash. App. 2d __, 539 P.3d 68 (2023)

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2. *Dependency of R.D.*, 27 Wash. App. 2d 219, 532 P.3d 201 (2023)

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3. *Kiemle & Hagood Company v. Daniels*, 26 Wash. App. 2d 199, 528 P.3d 834 (2023)

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4. *Futurewise v. Spokane County*, 23 Wash. App. 2d 690, 517 P.3d 519 (2022), *review denied*, 1 Wash. 2d 1003 (2023)

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5. *Glenrose Association v. Spokane County*, 22 Wash. App. 2d 293, 511 P.3d 110 (2022)

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6. *Marriage of Leaver*, 20 Wash. App. 2d 228, 499 P.3d 222 (2021)

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7. *Lewis v. Zanco*, 16 Wash. App. 2d 819, 483 P.3d 836, *review denied*, 198 Wash. 2d 1004 (2021)

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8. *Curtin v. City of East Wenatchee*, 12 Wash. App. 2d 218, 457 P.3d 470, *review denied*, 195 Wash. 2d 1022 (2020)

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9. *SVN Cornerstone, LLC v. N. 807 Inc.*, 10 Wash. App. 2d 72, 447 P.3d 220 (2019), *review denied*, 194 Wash. 2d 1018 (2020)

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10. *Brewer v. Lake Easton Homeowners Ass'n*, 2 Wash. App. 2d 770, 413 P.3d 16 (2018)

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- e. Provide a list of all cases in which certiorari was requested or granted.

I have separated opinions authored by me from those where I was on a panel. According to my records, the following is a list of majority opinions I authored that are responsive to this question.

In re Custody of C.S., No. 28056-4, noted at 22 Wash. App. 2d 1018, *review denied sub nom. Janke v. Simon*, 200 Wash. 2d 1012 (2022), *cert. denied sub nom. Simon v. Janke*, 144 S. Ct. 76 (2023).

Wall Street Apartments v. All Star Property Management, No. 37512-9, noted at 21 Wash. App. 2d 1057, *review denied*, 200 Wash. 2d 1013 (2022), *cert. denied*, 143 S. Ct. 2639 (2023).

U.S. Bank National Ass'n v. Plumb, No. 37687-7, noted at 19 Wash. App. 2d 1010 (2021), *review denied*, 199 Wash. 2d 1016 (2022), *cert denied sub nom. Plumb v. U.S. Bank National Ass'n*, 143 S. Ct. 746 (2023).

State v. Moore, No. 37989-2, noted at 19 Wash. App. 2d 1005 (2021), *review denied*, 198 Wash. 2d 1041, *cert. denied sub nom. Moore v. Washington*, 143 S. Ct. 129 (2022).

State v. Espejo, No. 36788-6, noted at 16 Wash. App. 2d 1029, *review denied* 198 Wash. 2d 1010, *review denied* 198 Wash. 2d 1010 (2021), *cert. denied sub nom. Espejo v. Washington* 142 S. Ct. 1670 (2022).

State v. Ramirez, 5 Wash. App. 2d 118, 425 P.3d 534 (2018), *review denied*, 192 Wash. 2d 1026, 435 P.3d 266, *cert. denied sub nom. Ramirez v. Washington*, 140 S. Ct. 329 (2019).

U.S. Bank National Ass'n v. Plumb, No. 34615-3, noted at 1 Wash. App. 2d 1045 (2017), *review denied*, 190 Wash. 2d 1010, *cert. denied sub nom. Plumb v. U.S. Bank National Ass'n* 139 S. Ct. 227 (2018).

According to my records, the following is a list of opinions responsive to this question where I did not author the majority or lead opinion.

In re Custody of SA-M, 17 Wash. App. 2d 939, 489 P.3d 256, *review denied*, 198 Wash. 2d 1021 (2021), *cert denied sub nom. Alvarez v. Pinon*, 142 S. Ct. 1232 (2022).

State v. Murry, 13 Wash. App. 2d 542, 465 P.3d 330, *review denied*, 13 Wash. 2d 1018 (2020), *cert. denied sub nom. Murry v. Washington*, 141 S. Ct. 1502 (2021).

Corrigan v. Grant County, No. 36244-2, noted at 11 Wash. App. 2d 1034 (2019), *review denied*, 195 Wash. 2d 1017, *cert. denied*, 141 S. Ct. 852 (2020).

In re Pers. Restraint of Peppin, No. 34866-1, noted at 4 Wash. App. 2d 1066 (2018), *cert. denied sub nom. Peppin v. Washington*, 140 S. Ct. 557 (2019).

State v. Biggs, No. 33721-9, noted at 3 Wash. App. 2d 1017, *review denied*, 191 Wash. 2d 1015 (2018), *cert. denied sub nom. Biggs v. Washington*, 139 S. Ct. 2642 (2019).

In re Pers. Restraint of Martinez, No. 33246-2, noted at 193 Wash. App. 1006 (2016), *cert. denied sub nom. Martinez v. Washington*, 138 S. Ct. 225 (2017).

- 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.

The following is a list of majority opinions I authored that are responsive to this question.

State v. Westwood, 20 Wash. App. 2d 582, 500 P.3d 182 (2021), *rev'd*, 2 Wash. 3d 157, 534 P.3d 1162 (2023). Under Washington's Sentencing Reform Act, two or more crimes may be considered the same criminal conduct for purposes of calculating a defendant's offender score if they require the same criminal intent, are committed at the same time and place, and involve the same victim. At issue in *Westwood* was what is meant by "same criminal intent." Writing for a unanimous panel in the court of appeals, I reasoned that sentencing judges have discretion to assess same criminal conduct on a case-by-case basis. In a 5-4 decision, the Supreme Court reversed, holding that whether the offenses had the "same criminal intent" is determined by statute.

Pers. Restraint of Ayerst, 17 Wash. App. 2d 356, 486 P.3d 943 (2021), *aff'd in part*, 200 Wash. 2d 848, 523 P.3d 760 (2023), and *Pers. Restraint of Lewis*, No. 37284-7, noted at 17 Wash. App. 2d 1040 (Wash. Ct. App. 2017), *aff'd in part*, 200 Wash. 2d 848, 523 P.3d 760 (2023). *Ayerst* and *Lewis* involved the same operative facts and law. Both defendants were represented by a court-appointed attorney who was a member of the Idaho bar, but was not licensed in Washington. The issue on appeal was a matter of first impression, asking whether representation by an attorney without a Washington license meant the defendants were deprived of legal counsel for purposes of the Sixth Amendment. Writing for a unanimous panel in the court of appeals, I reasoned that the defendants had not been afforded "counsel," as that term had been defined by a previous case issued by the Supreme Court. Nevertheless, the defendants were not entitled to reversal under a theory of structural error. And because the defendants could not show they were prejudiced by the fact that their attorney lacked a state bar license, the convictions were affirmed. In a 6-3 decision, the Supreme Court affirmed the outcome but held that the defendants had not been deprived of the right to

counsel.

Parental Rights to A.L.K., No. 36621-9, noted at 12 Wash. App. 2d 1074 (Wash. Ct. App. 2020), *aff'd in part, rev'd in part, remanded*, 196 Wash. 2d 686, 478 P.3d 63 (2020). In *A.L.K.*, I issued a unanimous unpublished opinion holding that, under the doctrine of invited error, a parent appealing a child dependency hearing could not raise objections under the Indian Child Welfare Act that were contrary to the position taken at trial. In a case of first impression, the Supreme Court reversed, holding that the doctrine of invited error does not apply in the dependency context.

State v. Loughbom, No. 35668-0, noted at 9 Wash. App. 2d 1015 (Wash. Ct. App. 2018), *rev'd*, 196 Wash. 2d 64, 470 P.3d 499 (2020). The defendant in *Loughbom* appealed his drug trafficking conviction, arguing the prosecutor engaged in misconduct by repeatedly referencing the “war on drugs” throughout trial. My majority decision held that the prosecutor’s comments were improper, but the defendant was not entitled to relief because he failed to object at trial. The Supreme Court reversed, holding that repeated references to the “war on drugs” constituted flagrant and ill-intentioned misconduct, warranting reversal on appeal despite the lack of error preservation.

State v. Barboza-Cortes, 5 Wash. App. 2d 86, 425 P.3d 856 (2018), *aff'd in part, rev'd in part*, 194 Wash. 2d 639, 451 P.3d 707 (2019). *Barboza-Cortes* was a splintered decision asking whether the crimes of unlawful possession of a firearm and identity theft were singular offenses or alternative means crimes. If an offense is a singular offense, a general verdict is sufficient. But if an offense is an alternative means crime, the jury must make specific unanimous finding as to which alternative means formed the basis of the conviction unless the state presents sufficient evidence to support each of the alternative means. I wrote the opinion that formed the majority of the three-judge panel on appeal for both issues. Under my ruling, unlawful possession of a firearm was not an alternative means crime, but identity theft was. Because there were no express findings as to the identity theft conviction or sufficient evidence as to each of the means, I reasoned that the identity theft conviction must be reversed. The Supreme Court accepted review and agreed with my opinion that unlawful possession of a firearm was not an alternative means crime. But the court also held that identity theft was not an alternative means crime. The defendants’ convictions were therefore affirmed.

State v. Tellvick, No. 34525-4, noted at 4 Wash. App. 2d 1018 (Wash. Ct. App. 2018), *rev'd*, 194 Wash. 2d 148, 449 P.3d 235 (2019). *Tellvick* involved a challenge to a warrantless inventory search of a vehicle. Writing for a unanimous panel, I reasoned that law enforcement had conducted an improper inventory search, pursuant to a related decision written by my colleague in *State v. Peck*, No. 3449607, noted at 3 Wash. App. 3d 1053 (Wash. Ct. App. 2018). The Supreme Court granted consolidated review of *Tellvick* and *Peck*. In a 5-4

decision, the court held the inventory search was valid.

Hendrickson v. Moses Lake School District, 199 Wash. App. 244, 398 P.3d 1199 (2017), *rev'd in part*, 192 Wash. 2d 269, 359 P.3d 1197 (2018). This was a negligence action brought by a student against her school. The issue was whether the student was entitled to a jury instruction on the school district's heightened duty of care. In the court of appeals, the parties agreed the trial court should have given the instruction, but disagreed as to prejudice. Writing for the panel majority, I reasoned that the error was prejudicial and the student was entitled to a new trial. On review to the Supreme Court, the school district changed course and argued that it would have been improper for the trial court to instruct the jury on a heightened duty of care. The Supreme Court agreed and affirmed the jury verdict.

State v. Curry, 199 Wash. App. 43, 398 P.3d 1146 (2017), *rev'd*, 191 Wash. 2d 475, 423 P.3d 179 (2018). *Curry* involved the question of whether a criminal defendant had validly waived his right to self-representation. Writing for a unanimous panel on appeal, I reasoned that the defendant had never made an unequivocal request for self-representation and, thus, the purported waiver of counsel was invalid. The Supreme Court accepted review and reversed, holding that substantial evidence supported the trial court's decision that the defendant made an unequivocal request for self-representation.

Pers. Restraint of Arnold, 198 Wash. App. 842, 396 P.3d 375 (2017), *rev'd*, 190 Wash. 2d 136, 410 P.3d 1133 (2018). *Arnold* was a splintered decision involving the question of whether the doctrine of horizontal stare decisis applies to the court of appeals. I issued a decision holding that the doctrine does apply. The Supreme Court reversed, holding horizontal stare decisis does not apply within the court of appeals. Rather, panels within the court of appeals need only give respectful consideration to prior court of appeals decisions.

Estate of Rathbone, No. 34051-1, noted at 197 Wash. App. 1067 (Wash. Ct. App. 2017), *rev'd*, 190 Wash. 2d 332, 412 P.3d 1283 (2018). This case involved Washington's Trust and Estate Dispute Resolution Act. A named beneficiary filed a petition seeking construction of a nonintervention will. The trial court reasoned it had statutory authority to intervene and construe the will to address allegations of self-dealing and breach of fiduciary duties. On appeal, I authored an unpublished unanimous opinion, holding the trial court had jurisdiction to construe the will. The Supreme Court reversed, holding the trial court lacked authority to intervene.

Douglass v. Shamrock Paving, 196 Wash. App. 849, 384 P.3d 673 (2016), *rev'd in part*, 189 Wash. 2d 733, 406 P.3d 1155 (2017). This case largely involved the question of what constitutes remedial action for purposes of the Model Toxics Control Act. I authored a unanimous decision holding that preliminary testing of contaminated soil is included in the definition of remedial action. The Supreme Court accepted review and agreed with the core holding of my opinion, but

reversed as to a prevailing party designation because the case was not yet complete.

The following is a list of opinions responsive to this question where I did not author the majority or lead opinion.

State v. Martinez, 22 Wash. App. 2d 621, 512 P.3d 1 (2022) and *State v. Martinez*, No. 37344-4, noted at 22 Wash. App. 2d 1039 (2022), *rev'd*, ___ Wash. 2d ___, 541 P.3d 970 (2024). The Martinez brothers were charged with rape of their minor-aged stepbrothers. The trial court granted the state's motion to join the brothers' cases and, after some mistrials, the brothers were convicted. The brothers appealed, arguing improper joinder. The court of appeals held the trial court did not abuse its discretion in joining the cases. The Supreme Court reversed, holding that because the brothers did not rape the children at the same time and because there was no evidence of collusion, joinder was improper under CrR 4.3(b)(3). The court went on to hold that joinder was prejudicial as to one of the brothers, but not the other. Thus, only one conviction was reversed.

Dalton M. LLC v. North Cascade Trustee Svs. Inc., 20 Wash. App. 2d 914, 504 P.2d 834 (2022), *rev'd*, 2 Wash. 3d 36, 534 P.3d 339 (2023). Dalton M sued U.S. Bank for slander of title after it improperly foreclosed on his property. Dalton M prevailed in the trial court and was awarded attorney fees. On appeal, we held Dalton M failed to meet all the elements of a slander of title claim. Nevertheless, we upheld the attorney fee award, ruling sua sponte and after supplemental briefing, that U.S. Bank's pre-litigation bad faith warranted an equitable award of attorney fees. The Supreme Court reversed, holding the court of appeals improperly based our ruling on a claim that had not been raised by the parties. The court also ruled that pre-litigation bad faith was not a basis for an award of attorney fees and that the court of appeals had misconstrued the elements of a slander of title claim as requiring less than intentional misconduct.

State v. Bagby, No. 36530-1, noted at 17 Wash. App. 2d 1023 (2021), *rev'd*, 200 Wash. 2d 777, 522 P.3d 982 (2023). Mr. Bagby was convicted of residential burglary, fourth degree assault, and harassment. Mr. Bagby is a Black American citizen. At trial, the prosecuting attorney had witnesses identify Mr. Bagby by asking about his "nationality." Witnesses responded by stating Mr. Bagby was either Black or African American. The defense did not object. On appeal, Mr. Bagby argued the prosecutor engaged in misconduct by appealing to racial bias through use of the term "nationality." The court of appeals held that while the term was misused, there was not an inference of racial bias. The Supreme Court reversed. The court explained that a heightened objective standard applies to race-based prosecutorial misconduct claims. Under this standard, the prosecutor's subjective intent does not matter. Instead, the test is whether an objective observer could view the prosecutor's questions and comments as an appeal to bias or stereotypes. The court held that the prosecutor's use of the term "nationality" met this standard. The court also ruled Mr. Bagby's convictions must be reversed

because this type of error results in prejudice per se.

State v. Zamora, No. 37019-4, noted at 17 Wash. App. 2d 1073 (2021), *rev'd*, 199 Wash. 2d 698, 512 P.3d 512 (2022). Mr. Zomora was convicted of assaulting a law enforcement officer. During voir dire, the prosecutor discussed the topics of border security, illegal immigration, and crimes committed by undocumented immigrants. Defense counsel did not object. Outside the presence of the jury, the trial court raised concern about the prosecutor's comments. Defense counsel explained he did not object because he thought the prosecutor's comments might be detrimental to the state. The parties agreed Mr. Zamora was a U.S. citizen and defense counsel mentioned Mr. Zamora's citizenship in opening statement. On appeal, Mr. Zamora argued that the prosecutor's statements during voir dire were an improper appeal to ethnic bias, requiring reversal. The court of appeals disagreed, reasoning that although the subjects of border security and illegal immigration were irrelevant and improper, relief was unwarranted because the defense did not object at trial. The Supreme Court reversed. The court noted that a heightened objective standard applies to allegations of prosecutorial misconduct that involves racial or ethnic bias. The court held the prosecutor's statements during voir dire met this standard. The court went on to hold that harmless error does not apply in this context. Thus, Mr. Zamora's convictions were reversed.

State v. Waits, 20 Wash. App. 2d 800, 502 P.3d 878 (2022), *rev'd in part*, 200 Wash. 2d 507, 520 P.3d 49 (2022). Mr. Waits was convicted of child molestation. The audio recording of the trial was deficient, which necessitated creation of a narrative or agreed report of proceedings under rules of appellate procedure, RAP 9.3 and RAP 9.4. Mr. Waits appealed his conviction and asked our court to bifurcate his claims so that he could litigate a speedy trial issue while the trial court worked on reconstructing the record. We denied the motion to bifurcate. We also specified the procedure for reconstructing the record under RAP 9.3 and RAP 9.4. These rules state it is the party seeking review that is to prepare a narrative report of proceedings. Based on this language, we tasked appellate counsel with the role of shepherding the process for creating a report of proceedings. The Supreme Court accepted review and reversed in part. The court agreed with our decision not to bifurcate the appeal. But, in a case of first impression, the court held that in a criminal case, the State must bear the primary burden of reconstructing the record, though trial counsel and the court are obliged to help.

State v. I.A.S., No. 37166-2, noted at 15 Wash. App. 2d 634 (2020), *rev'd in part sub nom. State v. M.Y.G.*, 199 Wash. 2d 528, 509 P.3d 818 (2022). This case addressed whether a juvenile who has been granted a deferred disposition has been convicted of an offense requiring collection of DNA. The court of appeals held that a deferred adjudication qualifies as a conviction and that the defendant was therefore required to submit a DNA sample. The Supreme Court accepted review and, in a fractured opinion, reversed in part. Three justices ruled that a juvenile adjudication is a conviction, but that the DNA collection statute did not apply to the defendant's offense of conviction. Three justices ruled that a juvenile

adjudication is a conviction and that the defendants' offense of conviction qualified for collection. Three justices ruled that the DNA collection statute did not apply to the defendant's offense, but that a deferred adjudication is not a conviction.

State v. M.N.H., 19 Wash. App. 2d 281, 495 P.3d 263 (2021), *rev'd*, 199 Wash. 2d 337, 505 P.3d 548 (2022). The defendant was convicted of misdemeanor assault in juvenile court and placed on community supervision. She repeatedly violated supervision and was sentenced to various terms of confinement. By the time the defendant's case was presented to the court of appeals, it was technically moot. Nevertheless, we chose to address issues of burdens of proof and authorized penalties, as they were matters of first impression that might otherwise evade review. We affirmed the trial court's order pursuant to these two issues. We did not address the defendant's unpreserved claim regarding absence of counsel during some of her hearings because that alleged error could be addressed in future proceedings by a timely objection. The Supreme Court accepted review and exercised its discretion to address the defendant's claims regarding the absence of counsel. The court did not address the two issues that had been decided by the court of appeals. The Supreme Court ruled the defendant had been denied her statutory right to counsel at hearings where she proceeded without counsel. The court also ruled that the defendant did not waive the right to counsel by failing to object.

Seven Hills LLC v. Chelan County, No. 36439-9, noted at 13 Wash. App. 2d 1030 (2020), *rev'd in part*, 198 Wash. 2d 371, 495 P.3d 778 (2021). This case involved a land use dispute over a proposed cannabis production facility in Chelan County. Although cannabis production is allowable under Washington law, Chelan County imposed a temporary moratorium in 2015 and a permanent moratorium in 2016. Seven Hills obtained a state-issued license to manufacture cannabis shortly before the 2016 moratorium. Seven Hills began operations and was cited for code violations and ordered to cease production. Seven Hills objected, arguing its operation preceded the moratorium and was therefore a lawful nonconforming use. This claim was rejected by the county hearing officer, as well as the superior court. We also rejected this argument on appeal, reasoning that a moratorium was in place at the time Seven Hills received its state permit. The Supreme Court reversed in a 5 to 4 decision. The court held that the 2015 moratorium only applied to the siting of a cannabis processing and growing operation. Although the court largely reversed the court of appeals decision, it upheld one of the code violations against Seven Hills.

State ex Re. Haskell v. Spokane County Dist. Ct., 13 Wash. App. 2d 573, 465 P.3d 343 (2020), *rev'd*, 198 Wash. 2d 1, 491 P.3d 119 (2021). This case involved a defendant who organized a climate protest on the Burlington Northern Santa Fe railroad tracks. He was charged with misdemeanor offenses related to trespass and he raised a necessity defense, arguing his actions were necessary to prevent the imminent harm of climate change and train derailment. The state district court

granted the defendant's right to present a necessity defense after holding an evidentiary hearing. The state superior court (which handles appeals from district court) reversed. The defendant obtained discretionary review from the court of appeals. We affirmed the superior court in a 2 to 1 decision, reasoning the defendant had reasonable legal alternatives and therefore could not raise a necessity defense. The Supreme Court reversed, holding the defendant had raised a question of fact as to whether there were reasonable legal alternatives to his conduct.

State v. Escalante, No. 35812-7, noted at 8 Wash. App. 2d 1064 (2019), *rev'd*, 195 Wash. 2d 526, 461 P.3d 1183 (2020). Mr. Escalante was convicted of unlawfully possessing controlled substances that were discovered during a border checkpoint search. Prior to trial, Mr. Escalante unsuccessfully moved to suppress an incriminating statement, arguing he had been subjected to custodial interrogation without the benefit of *Miranda* warnings. The court of appeals upheld the trial court's denial of the motion to suppress. We explained that the questioning took place in the lobby of a border crossing station and that this context was not the equivalent of a custodial setting. The Supreme Court reversed. The court held that the length and circumstances of Mr. Escalante's detention were sufficiently coercive to transform a typical border checkpoint stop into custodial detention. Thus, *Miranda* warnings were required and Mr. Escalante's statement should have been suppressed. His conviction was reversed.

State v. Hugdahl, No. 35428-8, noted at 8 Wash. App. 2d 1021 (2019), *rev'd*, 195 Wash. 2d 319, 458 P.3d 760 (2020). Ms. Hugdahl was convicted of delivery of a controlled substance and received a sentencing enhancement for committing her offense within 1,000 feet of a school bus "stop." For the first time on appeal Ms. Hugdahl argued that the state's charging document was insufficient because it alleged her offense took place within 1000 feet of a school bus "route." I joined the court's majority opinion rejecting this claim. The opinion reasoned that because Ms. Hugdahl had not preserved an objection, the language in the charging document must be liberally construed in favor of validity. We determined this standard had been met. The Supreme Court reversed in a 6 to 3 decision, reasoning that, because a school bus "route" is broader than a bus "stop," the charging document was insufficient.

State v. Brown, 7 Wash. App. 2d 121, 432 P.3d 1241, *rev'd*, 194 Wash. 2d 972, 454 P.3d 870 (2019). This case involved an issue of statutory interpretation and whether a driver who is in a turn-only lane is required to use a turn signal before making a turn. I joined the court's majority decision, holding that the language of the statute does not invariably require use a turn signal and that no turn signal was required in Mr. Brown's case. The Supreme Court reversed, holding that the statutory language requires drivers to use their turn signals every time they turn or change lanes.

State v. T.J.S.-M., No. 35130-1, noted at 5 Wash. App. 2d 1019 (2018), *rev'd*, 193

Wash. 2d 450, 441 P.3d 1181 (2019). This case involved the question of whether a juvenile has an immediate right to appeal an above-guideline manifest injustice sentence if the sentence is suspended to allow for participation in a sentencing alternative program. Following an earlier court of appeals case, *State v. J.B.*, 102 Wash. App. 2d 583, 9 P.3d 890 (2000), we determined the manifest injustice sentence was not ripe for review and dismissed the appeal. The Supreme Court reversed. The court disagreed with the reasoning in *State v. J.B.*, explaining a manifest injustice sentence is ripe for review once it has been imposed, even though it has not yet been executed. The court went on to affirm the defendant's sentence.

State v. Sims, 1 Wash. App. 2d 472, 406 P.3d 649 (2017), *rev'd in part*, 193 Wash. 2d 86, 441 P.3d 262 (2019). The trial court summarily imposed monetary sanctions against the Department of Social and Health Services for failing to timely complete mental health evaluations for criminal defendants. In a 2 to 1 opinion on appeal, the panel reasoned the trial court was authorized to orally impose remedial sanctions, even though there was necessarily a delay between oral imposition and the issuance of a written ruling. We also held that the trial court was authorized to impose post judgment interest because the state had impliedly waived sovereign immunity. The Supreme Court agreed with our analysis as to the effectiveness of an orally-imposed sanction, but the court reversed as to the waiver of sovereign immunity.

State v. Yancey, 3 Wash. App. 2d 735, 418 P.3d 157 (2018), *rev'd*, 193 Wash. 2d 26, 434 P.3d 518 (2019). This case involved a defendant's eligibility for a residential drug offender sentencing alternative (DOSA). The applicable statute prohibits a residential DOSA if the midpoint of a defendant's standard sentencing range exceeds two years. Mr. Yancey's mid-range sentence exceeded two years based on sentencing enhancements. Nevertheless, the trial court waived the enhancements and awarded a DOSA. A majority of the court of appeals affirmed, reasoning that under *State v. Mohamed*, 187 Wash. App. 630, 350 P.3d 671 (2015), the trial court could waive sentencing enhancements in deciding whether to impose a DOSA. One of the panel members dissented, arguing *Mohamed* was wrongly decided. The Supreme Court accepted review and reversed, holding that neither the statute nor *Mohammed* allowed the trial court to waive enhancements when determining eligibility for a DOSA.

State v. Farnworth, 199 Wash. App. 185, 398 P.3d 1172 (2017), *rev'd*, 192 Wash. 2d 468, 430 P.3d 1127 (2018). Mr. Farnworth was convicted of two counts of first-degree theft based on falsely obtaining workers' compensation checks. First-degree theft is a felony offense that requires proof of value in excess of \$5,000. The lesser offense of felony second-degree theft involves a value of over \$750 up to \$5,000. Each of the individual checks purloined by Mr. Farnworth fell within the range for second-degree theft. Nevertheless, the state obtained first degree theft charges by aggregating the individual thefts into two groups that each exceeded the \$5,000 threshold. The lead opinion held that the manner in which

Mr. Farnworth was charged required the state to prove each of Mr. Farnworth's offenses constituted a separate plan or scheme. Because the evidence only justified one common plan or scheme, only one first degree theft conviction could be sustained. The dissenting opinion argued the state had exercised its common law authority to aggregate felony theft offenses based solely on timing. Thus, there was no need to prove a common plan or scheme. I issued a concurring opinion reasoning that prosecutors no longer had common law authority to aggregate felony thefts based purely on timing, thus only one felony theft conviction could stand. The Supreme Court granted review and reversed, reasoning that prosecutors retained their common law authority to aggregate felony theft offenses, so long as aggregation is governed by separate and distinct time periods.

Martin v. Gonzaga University, 200 Wash. App. 332, 402 P.3d 294, *rev'd in part*, 191 Wash. 2d 712, 425 P.3d 837 (2018). Mr. Martin sued Gonzaga university for wrongful discharge based on whistleblower status. He also asserted a private cause of action for destruction of his personnel file in violation of state law. The trial court granted summary judgment in favor of Gonzaga on both issues and Mr. Martin appealed. We issued a splintered decision, reversing in part. The lead opinion reasoned Mr. Martin failed to establish a claim for wrongful discharge based on a four-part framework known as the *Perritt* test. I wrote a concurring opinion, disagreeing with the lead opinion's reasoning and explaining that Mr. Martin's claim for wrongful discharge failed for lack of causation. The lead opinion also held Mr. Martin was entitled to reversal on his personnel file claim, based on outstanding issues of fact. I concurred with this disposition. The third judge on the panel dissented on the personnel file claim, reasoning it was not justiciable. The Supreme Court affirmed the disposition of the wrongful discharge claim and reversed the personnel file claim. The court explained the four-part *Perritt* test does not apply to a claim of wrongful discharge in violation of public policy. Instead, a three-part burden shifting test applies. The court held that Mr. Martin failed at each stage of the three-part test, noting there was no evidence linking Mr. Martin's purported whistleblowing activity with his discharge. With respect to the personnel file claim, the court ruled Mr. Martin needed to pursue administrative remedies before seeking relief in court. Because he had not done so, summary judgment was proper.

Specialty Asphalt & Constr., LLC v. County of Lincoln, No. 34480-1, noted at 200 Wash. App. 1034 (2017), *rev'd in part*, 191 Wash. 2d 182, 421 P.3d 925 (2018). Specialty Asphalt is a female-owned construction company. Specialty bid on a county paving contract and received the award. When the county sent Specialty the written contract, Specialty declined to sign because the written contract required a bond and the county notice of bid had not included this requirement. The county withdrew the bid award and called for new bids with a bond requirement. Specialty then sent the county a demand letter, requesting it maintain the bid award. The county responded by offering to work with Specialty and reimburse the bond. Specialty was not responsive. After approximately two years,

Specialty filed suit, alleging gender discrimination, negligent misrepresentation, and breach of contract. The trial court granted summary judgment to the county on the gender discrimination and negligent misrepresentation claims. The contract claim was dismissed as moot because Specialty declined the county's offer to perform on the contract. We affirmed the trial court, reasoning Specialty had not produced evidence of disparate treatment in support of gender discrimination and the negligent misrepresentation claim failed because Specialty had not suffered any damages. We also affirmed the contract claim on mootness. The Supreme Court reversed as to the gender discrimination and negligent misrepresentation claims. The court reasoned there was some evidence indicating Specialty was treated differently from non-female owned businesses, thus summary judgment on gender discrimination was improper. One justice dissented on this point. The court also held Specialty had produced evidence of pre-performance reliance damages. The court affirmed the court of appeals regarding the breach of contract claim.

State v. Nelson, No. 34032-5, noted at 198 Wash. App. 1067 (2017), *aff'd on other grounds*, 191 Wash. 2d 61, 419 P.3d 410 (2018). Mr. Nelson appealed his conviction for attempted second-degree robbery, arguing the jury instructions did not include a nonstatutory element that the victim had a possessory or ownership interest in the property, as required by *State v. Richie*, 191 Wash. App. 916, 365 P.3d 770 (2015). A majority of the court agreed with this assignment of error, but held that it was harmless. I wrote a concurring opinion, I reasoned that *Richie* was inapplicable because Mr. Nelson was charged with attempted robbery. The Supreme Court accepted review and ruled that *Richie* was wrongly decided. The court held that the state is not required to prove possessory or ownership interest to prove robbery. The court affirmed.

Schibel v. Eymann, 193 Wash. App. 534, 372 P.3d 712 (2016), *rev'd*, 189 Wash. 2d 93, 399 P.3d 1129 (2017). The Schibels filed a legal malpractice claim after their attorneys withdrew from representation on the eve of trial. Withdrawal had been granted under CR 71(c)(4), which requires a court order for withdrawal if a timely objection is served. The attorneys moved for summary judgment on the malpractice claim, arguing collateral estoppel. The trial court denied summary judgment and we affirmed on interlocutory review. Our decision noted that Washington courts had yet to decide whether a CR 71(c)(4) order bars a malpractice action predicated on counsel's allegedly improper withdrawal. Other states to address the issue had come to conflicting results. We reasoned that a court order authorizing withdrawal does not necessarily decide whether there was actually an ethical problem that justified counsel's withdrawal. Thus, collateral estoppel did not apply. The Supreme Court accepted review and reversed in a 6 to 3 decision. In a case of first impression, the court held that the CR 71(c)(4) order resolved the issue of the propriety of withdrawal and the Schibels had received an adequate opportunity to challenge the order. Thus, the court determined collateral estoppel applied. The court noted that its decision did not preclude malpractice claims based on conduct unrelated to the court-sanctioned withdrawal.

Rodriguez v. Zavala, No. 33649-2, noted at 195 Wash. App. 1047, *rev'd*, 188 Wash. 2d 586, 398 P.3d 1071 (2017). The trial court granted a Ms. Rodriguez a protection order against her former boyfriend, Mr. Zavala. The court did not include the parties' minor child as a protected party and Ms. Rodriguez appealed, arguing this exclusion was an abuse of discretion. We affirmed the trial court, reasoning that the child did not meet the statutory requirements for protection and Ms. Rodriguez had relied on facts outside the record to support her argument that children living in domestic violence households necessarily suffer harm. The Supreme Court accepted review and reversed. The court ruled the child met the statutory criteria for protection and the court held, as a matter of law, that exposure to domestic violence constitutes the type of harm that qualifies for a protection order.

- 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.

I have personally authored approximately 568 opinions, of which 442 were unpublished, around 78 percent of all my opinions. All court of appeals decisions, published and unpublished, are available on the Washington Courts website at <https://www.courts.wa.gov/opinions>, as well as through independent online databases such as Westlaw.

- 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.

Pers. Restraint of Knight, 2 Wash. 3d 345, 538 P.3d 263 (2023)

Glenrose Association v. Spokane County and Spokane Youth Sports Assoc., 22 Wash. App. 2d 293 (2022)

Stevens County ex rel. Rasmussen v. Travelers Surety & Cas. Co., 21 Wash. App. 2d 574, 507 P.3d 417 (2022)

State v. Anderson, 19 Wash. App. 2d 556, 497 P.3d 880 (2021)

Western Rivers Conservancy v. Stevens County, 18 Wash. App. 2d 84, 490 P.3d 249 (2021)

State v. Lahman, 17 Wash. App. 2d 925, 488 P.3d 881 (2021)

State v. Hancock, 17 Wash. App. 2d 113, 484 P.3d 514 (2021)

State v. Morrell, 16 Wash. App. 2d 965, 482 P.3d 295 (2021)

State v. Gonzalez, 17 Wash. App. 2d 64, 484 P.3d 9 (2021)

State v. Fairley, 12 Wash. App. 2d 315, 457 P.3d 1150 (2020)

State v. D.R.C., 13 Wash. App. 2d 818, 467 P.3d 994 (2020)

State v. Stevens County District Court Judge, 7 Wash. App. 2d 927, 436 P.3d 430 (2019)

State v. Hernandez, 6 Wash. App. 2d 422, 431 P.3d 126 (2018)

State v. Ramirez, 5 Wash. App. 2d 118, 425 P.3d 534 (2018)

State v. Stutzke, 2 Wash. App. 2d 927, 413 P.3d 1037 (2018)

State v. Townsend, 2 Wash. App. 2d 434, 409 P.3d 1094 (2018)

State v. Sosa, 198 Wash. App. 176, 393 P.3d 796 (2017)

State v. Cruz, 195 Wash. App. 120, 380 P.3d 599 (2016)

Alvarado v. Department of Licensing, 193 Wash. App. 171, 371 P.3d 549 (2016)

- 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.

I have never sat by designation on any federal court of appeals.

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:

- 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.

I am bound by Washington State's Code of Judicial Conduct. Rule 2.11 governs when a judicial officer must recuse themselves from a matter. I consult this rule when determining whether I should disqualify myself from a given case. Where the need for disqualification appears debatable, I consult my colleagues on the issue. In addition, my court employs an automatic recusal system, whereby I may be recused from a particular case without my knowledge. I have provided court staff with a list of conflicts. If a case involves a person or entity on my conflicts list, I am automatically recused from the case.

I have only had one experience where a party has requested my recusal from a case. In *Cebert v. Kennedy*, No. 36468-2 (Wash. Court of Appeals), the plaintiff's attorney requested my recusal because he was involved in a judicial campaign, and I had endorsed his opponent. I granted the recusal request after consulting with my colleagues.

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 any other public office other than my judicial office. I have had no unsuccessful candidacies for public office.

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

In Washington, state court judges are permitted to work on judicial campaigns and endorse judicial candidates. In addition to my own uncontested judicial campaigns in 2016 and 2020, I have served on planning committees and participated in campaign activities for the following judicial candidates: Judge Sonia Rodriguez-True, Yakima County Superior Court (2023); Judge Tracy Staab, Washington State Court of Appeals Division Three (2020); and Judge Elisabeth Tutsch, Yakima County Superior Court (2020). Although I was not engaged in campaign planning, I participated in public events supporting the candidacy of Judge Brian Sanderson for Yakima County District Court (2010). In addition to these campaigns, I have endorsed numerous candidates for judicial office. The following is a list of endorsements that I have gathered from my review of my records and internet searches. There may be some endorsements I

have inadvertently missed.

- Justice Sheryl Gordon McCloud, Supreme Court of Washington (2024, 2018)
- Judge Cecily Hazelrigg-Hernandez (2024)
- Judge Meng Li Che, Washington State Court of Appeals Division Two (2023)
- Judge Sonia Rodriguez-True, Yakima County Superior Court (2023)
- Judge Ian Birk, Washington State Court of Appeals Division One (2022)
- Judge Janet Chung, Washington State Court of Appeals Division One (2022)
- Judge Norma Rodriguez, Benton-Franklin County Superior Court (2022)
- Judge Gary Hintze, Yakima County District Court (2022)
- Justice Raquel Montoya-Lewis, Supreme Court of Washington (2020)
- Justice Helen Whitener, Supreme Court of Washington (2020)
- Judge Tracy Staab, Washington State Court of Appeals Division Three (2020)
- Judge Elisabeth Tutsch, Yakima County Superior Court (2020)
- Justice Steven Gonzalez, Supreme Court of Washington (2018)
- Justice Mary Yu, Supreme Court of Washington (2018)
- Judge Shelley Szambelan, Spokane County Superior Court (2018)
- Judge David Mann, Washington State Court of Appeals Division One (2017)
- Justice Charles Wiggins, Washington State Supreme Court (2016)
- Judge George Fearing, Washington State Court of Appeals Division Three (2016)
- Judge Alex Ekstrom, Benton-Franklin County Superior Court (2016)
- Judge David Estudillo, Grant County Superior Court (2016)
- Judge Brian Sanderson, Yakima County District Court (2010)
- Judge Salvador Mendoza Jr., Benton-Franklin County Superior Court (2008)

Before becoming a judge, I recall involvement in the following non-judicial political campaigns:

In 2008, I engaged in limited canvassing on behalf of the 14th Legislative District Democratic Party in Yakima, Washington.

In 2004, I helped organize a fundraising event for Friends of Sandy Matheson in support of Ms. Matheson's candidacy for Washington's fourth congressional district.

Although I do not recall specific instances, it is possible that I participated in other occasional events or activities.

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

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

the court and the dates of the period you were a clerk;

I served as a law clerk to the Honorable Robert H. Whaley in the United States District Court for the Eastern District of Washington from 1997 to 1999.

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

I have not practiced alone.

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

Summer 1996
Island and San Juan County Public Defender
P.O. Box 914
Coupeville, Washington 98239
Summer Intern

1999 – 2000
TeamChild
32 North Third Street, Suite 410
Yakima, Washington 98901
Fellowship Attorney

2000 – 2016
Federal Defenders of Eastern Washington and Idaho
306 East Chestnut Avenue
Yakima, Washington 98901
Attorney

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

I have never 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 clerking, I received a fellowship from the Skadden Foundation to work for a legal services organization called TeamChild in Yakima, Washington. My fellowship focused on advocacy regarding special

education, guardianship, emancipation, and mental health services for at-risk youth.

From 2000 to 2016 I worked as an attorney for the Federal Defenders of Eastern Washington and Idaho in Yakima, Washington. For the first eight years of my practice, I worked as a trial and appellate attorney, handling cases in federal district court and the United States Court of Appeals for the Ninth Circuit. From 2008 until 2012, I worked as a research and writing attorney. In this role, my litigation work was focused solely on appeals. During the 2008 to 2012 time period, I helped establish two re-entry drug courts in the Eastern District of Washington and I served as the defense attorney representative to the teams. In 2012, I returned to a mix of trial and appellate practice. I also maintained my role as the defense representative on the re-entry drug court teams.

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

During my practice, I always represented low-income individuals who could not otherwise afford the assistance of counsel.

- 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.

While working for TeamChild, I did not engage in formal litigation. Once I joined the Federal Defenders, my practice became solely focused on litigation. During the periods I was splitting my time between trial and appellate work (2000 to 2008 and 2012 to 2016) I appeared in court several times a week. During the time my practice was focused solely on appellate litigation I appeared before the Ninth Circuit Court of Appeals several times a year.

- i. Indicate the percentage of your practice in:

1. federal courts:	100%
2. state courts of record:	0%
3. other courts:	0%
4. administrative agencies:	0%

- ii. Indicate the percentage of your practice in:

1. civil proceedings:	0%
2. criminal proceedings:	100%

- 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 recall taking 13 cases to trial. I served as chief counsel or co-chief counsel in 12 cases. In six cases, I was accompanied by co-counsel. In one case I served primarily as supervising counsel. Additionally, I handled more than 100 cases in the U.S. Court of Appeals for the Ninth Circuit.

i. What percentage of these trials were:

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

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.

During my work as a federal defender, I assisted clients with filing numerous *in forma pauperis* petitions to the U.S. Supreme Court. A case list based on internet research is supplied. In addition, I have been involved in the following two cases before the United States Supreme Court:

United States v. Gonzalez, Case No. 08-16654 (brief in opposition to petition for writ of certiorari), *cert. granted, vacated, and remanded*, 564 U.S. 1032 (2011). The brief was filed *in forma pauperis*. I am unable to obtain a copy of the brief.

Davis v. United States, No. 08-16654 (brief of amicus curiae National Association of Federal Defenders in support of petitioner). Copy previously supplied in response to Question 12c.

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:

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

1. *United States v. Gomez*, 757 F.3d 885 (9th Cir. 2014)

Mr. Gomez was charged with being an alien in the United States after deportation in

violation of 8 U.S.C. § 1326. He qualified for appointed counsel, and the Federal Defenders filed a notice of appearance. Mr. Gomez entered a conditional guilty plea to the charge, allowing him to appeal the court's denial of a dismissal motion. Starting in 2011, I represented Mr. Gomez on appeal, challenging Mr. Gomez's conviction and his sentence. The Ninth Circuit ruled the procedure used to deport Mr. Gomez violated his due process rights. Nevertheless, the court affirmed Mr. Gomez's conviction, reasoning the error was harmless. The court also found there was sentencing error and remanded for resentencing. I appeared for Mr. Gomez at the resentencing hearing in 2014. I reported that Mr. Gomez had completed his term of imprisonment and had already been deported from the United States. The court then affirmed the sentence subject to a motion for resentencing if the defendant finds himself within the motion of the court. No further action has been taken on Mr. Gomez's case.

U.S. Court of Appeals for the Ninth Circuit

The Honorable Richard A. Paez
The Honorable Ronald M. Gould
The Honorable Raymond C. Fisher

Counsel for the Government

The Honorable Alexander C. Ekstrom (formerly an Assistant U.S. Attorney)
United States District Court
P.O. Box 2706
Yakima, WA 98907
(509) 573-6670

2. *United States v. Hart*, CR-09-2014-SAB (EDWA)

Mr. Hart was charged with two counts of possession of controlled substances with intent to deliver in violation of 21 U.S.C. § 841(a)(1). Mr. Hart qualified for appointed counsel and a Criminal Justice Act attorney was appointed to represent him at trial. The jury returned a guilty verdict. At sentencing, Mr. Hart discovered he was facing a mandatory life term of imprisonment based on the drug quantities and his criminal history. Mr. Hart's attorney had not advised him of this fact before trial despite the government's compliance with the notice requirement of 21 U.S.C. § 851. I had represented Mr. Hart in the past and Mr. Hart asked the court to appoint me to help with his sentencing. I filed a notice of appearance on January 12, 2010. I filed legal challenges to the applicability of a life sentence and then negotiated an agreement with the government that Mr. Hart would waive an appeal of his conviction and sentence in return for an agreed recommendation of 30 years in prison. The court accepted this agreement and imposed 30 years.

U.S. District Court for the Eastern District of Washington

The Honorable Fred Van Sickle

Counsel for the Government

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3. *United States v. Gonzalez*, No. CR-06-2112-EFS (EDWA), *aff'd*, No. 07-30098, noted at 290 F. App'x 41 (9th Cir. 2008), *vacated sub nom. Quintana v. United States*, 129 S. Ct. 2156, *rev'd*, 578 F.3d 1130 (9th Cir. 2009), *vacated*, 131 S. Ct. 3055, *r'hrq denied*, 132 S. Ct. 63, *aff'd*, No. 07-30098, noted at 450 Fed. App'x 662 (2011).

Mr. Gonzalez was charged with unlawful possession of a firearm in violation of 18 U.S.C. § 922(g)(1). Mr. Gonzalez qualified for appointed counsel, and I filed a notice of appearance on August 16, 2006. During the pretrial phase of the case, Mr. Gonzalez moved to suppress the gun that formed the basis of the government's charges, arguing it had been seized pursuant to an unconstitutional vehicle search. The district court denied the motion and the case proceeded to trial. I was sole counsel at trial and the jury returned a guilty verdict. Mr. Gonzalez exercised his right to appeal, and I continued my representation. On appeal, Mr. Gonzalez challenged the district court's denial of the motion to suppress. The Ninth Circuit initially denied relief in an unpublished decision. Mr. Gonzalez filed a petition for certiorari in forma pauperis with the United States Supreme Court. Certiorari was granted and the case was remanded for further consideration in light of *Arizona v. Gant*, 556 U.S. 332 (2009). On remand, the Ninth Circuit issued a published decision holding that the vehicle search violated the Fourth Amendment rule set forth in *Gant* and that evidence seized during the search must be suppressed. The government filed for reconsideration and reconsideration en banc, arguing that because the vehicle search occurred prior to the Supreme Court's decision in *Gant*, the evidence was admissible pursuant to the good faith exception to the exclusionary rule. The Ninth Circuit denied rehearing and rehearing en banc over a seven-judge dissent. The government filed a petition for writ of certiorari with the United States Supreme Court, and I filed a brief in opposition on behalf of Mr. Gonzalez. The Supreme Court deferred ruling on the petition and instead granted review in a related case, *Davis v. United States*. After *Davis* was decided, the Supreme Court granted review, vacated the Ninth Circuit's judgment, and remanded for further consideration in light of *Davis v. United States*, 564 U.S. 229 (2011). Mr. Gonzalez moved for rehearing, which was denied. On remand, the Ninth Circuit affirmed Mr. Gonzalez's conviction.

U.S. District Court for the Eastern District of Washington

The Honorable Edward F. Shea

U.S. Court of Appeals for the Ninth Circuit

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4. *United States v. Adams*, CR-05-2109-LRS (EDWA)

Mr. Adams was charged with unlawful possession of a firearm in violation of 18 U.S.C. § 922(g)(1). Mr. Adams was arrested after a gun was found in his car. An officer saw two males running from the car and believed one of them looked like Mr. Adams. Mr. Adams appeared in federal court in April 2006 and qualified for appointed counsel. I was sole legal counsel for Mr. Adams throughout trial and conducted all pretrial motions and all aspects of trial. Trial turned on the credibility of the law enforcement officer's identification of Mr. Adams. The jury returned a not guilty verdict.

U.S. District Court for the Eastern District of Washington

The Honorable Lonny R. Suko

Counsel for the Government

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5. *United States v. Holstrom*, No. CR-05-6026-EFS (EDWA), *aff'd*, No. 06-30008, noted at 242 F. App'x 397 (9th Cir. 2007) (unpublished)

Ms. Holstrom was charged with making a false statement in the jurisdiction of the United States in violation of 18 U.S.C. § 1001. The charges stemmed from allegations Ms. Holstrom falsified her time cards while working for a government contractor. Ms. qualified for appointed counsel, and I filed a notice of appearance on August 22, 2005. During pretrial proceedings, Ms. Holstrom moved to dismiss the indictment, arguing that because she worked for a private company the allegedly false statements did not fall within the federal government's jurisdiction. The district court agreed and ordered dismissal. The government appealed and I represented Ms. Holstrom on appeal. The Ninth Circuit affirmed the district court's decision in an unpublished opinion.

U.S. District Court for the Eastern District of Washington

The Honorable Edward F. Shea

U.S. Court of Appeals for the Ninth Circuit

The Honorable Betty Fletcher
The Honorable M. Margaret McKeown
The Honorable William W. Schwarzer (sitting by designation)

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6. *United States v. Young*, No. CR-05-2007-FVS (EDWA), *rev'd*, 458 F.3d 998 (9th Cir. 2006), *cert. denied*, 127 S. Ct. 1305 (2007)

Mr. Young was charged with possession of a firearm by a prohibited person in violation of 18 U.S.C. § 922(g)(8) (possession by a person who is subject to a domestic violence restraining order). He qualified for appointed counsel, and I filed a notice of appearance on January 19, 2005. During pretrial proceedings, Mr. Young moved to dismiss the indictment, arguing that the restraining order in place at the time of the offense did not qualify for firearms prohibition under § 922(g)(8). The district court deferred ruling on the motion, reasoning there were issues of fact for trial. I represented Mr. Young at trial

as sole legal counsel and the jury rendered a guilty verdict. The court then issued a post-verdict judgment of acquittal under Fed. R. Crim. P. 29(a). The government appealed. I represented Mr. Young on appeal. The district court's decision was reversed. I represented Mr. Young in filing a petition for certiorari with the U.S. Supreme Court and certiorari was denied. Mr. Young's case was scheduled for sentencing and I represented Mr. Young at sentencing. The court imposed a sentence of five months' imprisonment, followed by three years' supervised release.

U.S. District Court for the Eastern District of Washington

The Honorable Fred Van Sickle

U.S. Court of Appeals for the Ninth Circuit

The Honorable Diarmuid F. O'Scannlain
The Honorable Barry G. Silverman
The Honorable Ronald M. Gould

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7. *United States v. Smiskin*, CR-04-2108-EFS (EDWA), *aff'd*, 487 F.3d 1260 (9th Cir. 2007)

Mr. Smiskin and his father were charged with violations of the Contraband Cigarette Trafficking Act, 18 U.S.C. § 2342(b). Mr. Smiskin qualified for appointed counsel, and I filed a notice of appearance on September 1, 2004. Mr. Smiskin and his father are enrolled members of the Confederated Tribes and Bands of the Yakama Nation. Mr. Smiskin moved to dismiss the indictment, arguing his activities were protected by the Yakama Treaty of 1855. The district court granted the motion to dismiss and the government appealed. I represented Mr. Smiskin on appeal. In a published opinion, the Ninth Circuit affirmed the order of dismissal.

U.S. District Court for the Eastern District of Washington

The Honorable Edward F. Shea

U.S. Court of Appeals for the Ninth Circuit

The Honorable Richard A. Paez
The Honorable D.W. Nelson
The Honorable David R. Thompson

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8. *United States v. Murillo*, CR-04-2074-EFS (EDWA), *rev'd*, 422 F.3d 1152 (2005), *cert. denied* 126 S.Ct. 1928 (2006)

Mr. Murillo was charged with unlawful possession of a firearm in violation of 18 U.S.C.

§ 922(g)(1). He qualified for appointed counsel, and I filed a notice of appearance on May 18, 2004. During pretrial proceedings, Mr. Murillo moved to dismiss the indictment, arguing he had not been convicted of a predicate crime punishable by imprisonment for a term exceeding one year. Although Mr. Murillo had previously been convicted of two Washington state felonies, the maximum guideline sentences for each of these offenses was only 12 months. Mr. Murillo argued that, pursuant to *Blakely v. Washington*, 542 U.S. 296 (2004), the maximum of his mandatory guideline range constituted the statutory maximum sentence for purposes of 18 U.S.C. § 922(g)(1). The trial court agreed with this analysis and dismissed the indictment. The government appealed and the Ninth Circuit reversed. I represented Mr. Murillo in filing a petition for certiorari with the U.S. Supreme Court and certiorari was denied. On remand to the district court, the government dismissed the indictment without prejudice. The Ninth Circuit has since overruled *Murillo*, recognizing it is inconsistent with the Supreme Court's decisions in *Carachuri-Rosendo v. Holder*, 560 U.S. 563 (2010) and *Moncrieffe v. Holder*, 569 U.S. 184 (2013). See *United States v. Valencia-Mendoza*, 912 F.3d 1215 (9th Cir. 2019).

U.S. District Court for the Eastern District of Washington

The Honorable Edward F. Shea

U.S. Court of Appeals for the Ninth Circuit

The Honorable David R. Thompson
The Honorable G. Thomas Nelson
The Honorable Kim M. Wardlaw

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9. *United States v. George*, CR-03-2250-LRS (EDWA)

Mr. George was charged with crime on an Indian reservation, arson, in violation of 18 U.S.C. §§ 1151 and 81. Mr. George qualified for appointed counsel, and I filed a notice of appearance on February 5, 2004. I was sole legal counsel for all aspects of Mr. George's case. The matter went to trial on an initial setting, without extensive motions practice. The theory of defense at trial was that someone else had started the fire that resulted in the arson allegation. The jury returned a verdict of not guilty.

U.S. District Court for the Eastern District of Washington

The Honorable Lonny R. Suko

Counsel for the Government

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10. *United States v. Sanchez-Cisneros*, CR-03-2131-LRS (EDWA)

Mr. Sanchez-Cisneros and two co-defendants were charged with conspiracy to manufacture a controlled substance (marijuana) and manufacture of a controlled substance (marijuana) in violation of 21 U.S.C. § 846(1) and (2). Mr. Sanchez-Cisneros qualified for appointed counsel, and I filed a notice of appearance on July 29, 2003. I was lead counsel during pretrial motions practice and at trial. I presented an opening statement and questioned several witnesses. The theory of defense was that Mr. Sanchez-Cisneros and his co-defendants were merely present near the scene of the marijuana grow and were not involved. At the close of the government's case-in-chief the district judge dismissed the charges under Fed. R. Crim. P. 29(a) based on failure of proof.

U.S. District Court for the Eastern District of Washington

The Honorable Lonny R. Suko

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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.)

The most significant activities I have pursued during my legal career are my service as a judge on the Washington State Court of Appeals, establishing two federal re-entry drug courts, and my work with the Ninth Circuit Judicial Conference.

One of the most challenging experiences I have had as an appellate judge was my time as chief judge of my division. The role of chief judge is assigned by rotation. My time to serve started on March 11, 2020. Hours after receiving my turn at the gavel, I was tasked with reimagining court operations in the wake of the COVID-19 pandemic. My court went from in-person work and hearings at our courthouse to remote work and Zoom proceedings. During the height of the pandemic, I worked creatively with my court administrator to develop strategies for engaging employees and improving morale. My court gained valuable lessons during the pandemic. We now make video hearings an option in all cases. And all court hearings are now broadcast over TVW, Washington's public affairs network.

During my time as an attorney, I helped establish federal re-entry drug court teams (known as STEP teams) in Yakima and Richland, Washington. The Sobriety Treatment and Education Program (STEP) is a re-entry program for individuals on federal supervision who have substance addictions. During my tenure, the STEP teams consisted of a federal judge, Assistant U.S. Attorney, probation officer, treatment provider, and me as defense counsel. There was no specific statute authorizing the STEP teams. Nor did we have any designated funding. Instead, we found a way to operate within existing court structures to develop an evidence-based support system for individuals with substance abuse disorders who were transitioning out of federal prison.

In 2009, the federal judges for the Eastern District of Washington selected me to serve a three-year term as a lawyer representative to the Ninth Circuit Judicial Conference. Lawyer representatives serve as liaisons between the federal bench and the bar. They also help plan the federal district court conference and are invited to attend the annual circuit conference. At the end of my tenure as a lawyer representative, I was elected by my peers to serve as vice chair of the Lawyer Representative Coordinating Committee (LRCC). From vice chair I transitioned to chair elect and then chair. As part of my leadership in the LRCC, I was a member of the Ninth Circuit Judicial Conference Executive Committee. I helped plan educational programs not only for the circuit conference, but also the chief judges conference.

I have not performed any lobbying activities or registered as a lobbyist.

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.

None.

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.

My husband is an attorney and occasionally practices in federal court in the Eastern District of Washington on behalf of the Yakama Indian Nation. I would

recuse myself from any cases involving him and the Yakama Nation. Otherwise, I am not aware of any persons, parties, categories of litigation, or financial arrangements that are likely to present potential conflicts of interest when I first assume the position to which I have been nominated. If confirmed, I will evaluate any actual or potential conflicts of interest by applying 28 U.S.C. § 445, Canon 3 of the Code of Conduct for United States Judges, and all other applicable laws, canons, and rules.

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

If confirmed, I will evaluate any actual or potential conflicts of interest by applying 28 U.S.C. § 445, Canon 3 of the Code of Conduct for United States Judges, and all other applicable laws, canons, and rules.

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.

In my roles as an attorney with the federal defenders and as a judge, I have been prohibited from taking on legal representation outside the scope of my employment. However, as a public defender, my primary role was providing access to justice for individuals unable to afford legal counsel. I have also undertaken community service work focused on improving equitable access to the legal system.

My experience as a public defender impressed upon me the importance of access to services for crime victims. From 2006 to 2012, I was a board member of the Yakima YWCA. The YWCA is my county's primary provider of domestic violence services. I knew from my client work that one reason many individuals do not leave abusive environments is that they perceive shelters as unsafe and unsanitary. During my term with the YWCA, we conducted a capital campaign to open a new domestic violence shelter in Yakima with safe and private rooms for all clients. We also opened a transitional housing facility for families escaping domestic violence, who were in need of long term housing assistance.

I have also organized events to elevate the voices of individuals whose lives have been impacted by crime and violence. In 2019, I organized a listening session through the Dispute Resolution Center of Yakima at which a panel of individuals who had been impacted by crimes on Indian reservations shared their experiences with a group of law enforcement officers, federal prosecutors, and federal judges. In 2021, I helped organize the joint Pro Bono Work to Empower and Represent (POWER) Act session for the United States District Courts for the Eastern and Western Districts of Washington. At the session, I facilitated a presentation by women who had struggled to obtain justice for domestic violence offenses in state courts. The audience for that presentation included

judges and lawyers.

I am also actively engaged in public outreach regarding the law. My community in eastern Washington is facing a lawyer shortage that is rapidly becoming a crisis. I have participated in meetings of the Washington State Bar Association's Small Town and Rural Committee to identify solutions. This past summer, I organized a series of events for law students interning in Yakima, Washington with the goal of fostering connections with the community so that the students might decide to return to eastern Washington after graduation. In addition, for the past two summers, I have participated in the Law School Admission Counsel's Pre-Law Undergraduate Scholars Program at Heritage University in Toppenish, Washington. The Scholars Program is focused on helping local residents from historically underrepresented communities navigate the law school admissions process.

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 1, 2021, the United States Senators for Washington State announced a vacancy for a United States District Judge position. I submitted an application to the Merit Selection Committee established by Senators Patty Murray and Maria Cantwell later that month. On March 25, 2021, I interviewed with the Merit Selection Committee. I was advised that my name was forwarded by the Committee to the Senators' Offices. On April 21, 2021, I interviewed with staff from Senator Murray's Office. On April 23, 2021, I interviewed with staff from Senator Cantwell's Office. On May 13, 2021, I interviewed with Senator Murray. On May 26, 2021, I interviewed with attorneys from the White House Counsel's Office. In February 2022, I was contacted by staff from Senator Murray's office with a request for additional information. I provided the requested information over the course of the next month. On December 8, 2023, I was contacted by a representative of Senator Murray's office regarding my continued interest in a position with the Eastern District of Washington. On January 4, 2024, I interviewed with attorneys from the White House Counsel's Office. Since that date, I have been in contact with the officials from the Office of Legal Policy at the Department of Justice. On March 20, 2024, the President announced his intent to nominate me.

- 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.