S. Hrg. 106–591

NOMINATIONS OF ANNA BLACKBURNE-RIGSBY, THOMAS MOTLEY, AND JOHN MOTT

HEARING

BEFORE THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED SIXTH CONGRESS

SECOND SESSION

ON THE

NOMINATIONS OF ANNA BLACKBURNE-RIGSBY, THOMAS MOTLEY, AND JOHN MOTT, TO BE ASSOCIATE JUDGES OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

MAY 10, 2000

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NOMINATIONS OF ANNA BLACKBURNE-RIGSBY, THOMAS MOTLEY, AND JOHN MOTT

WEDNESDAY, MAY 10, 2000

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 9:56 a.m., in room SD–342, Dirksen Senate Office Building, Hon. George V. Voinovich presiding.

Present: Senator Voinovich.

OPENING STATEMENT OF SENATOR VOINOVICH

Senator VOINOVICH. Good morning. The hearing will come to order.

I would like to welcome everyone, especially our nominees: Anna Blackburne-Rigsby, Thomas Motley, and John Mott. And we are very happy to have Delegate Eleanor Holmes Norton with us this morning.

All of the individuals have been nominated to serve as Associate Judges for the District of Columbia Superior Court, and let me state for the record that all of our nominees have been subjected to a very thorough screening process. They were all recommended by the District's Judicial Nomination Committee, subjected to FBI background investigations, and subsequently nominated by the President of the United States. So they have gone through a lot more than some other judges go through in order to get to this table.

Since the nominations were received, the Committee staff has also conducted separate background checks and interviews with each of the nominees. I understand that Delegate Norton is here to introduce one of the nominees, and Senator Schumer should be here in just a while. But I know, Delegate Norton, you are a busy person, and so I will ask you if you will introduce Mr. Mott.

TESTIMONY OF HON. ELEANOR HOLMES NORTON, A DELEGATE IN CONGRESS FROM THE DISTRICT OF COLUMBIA

Ms. NORTON. Thank you, Mr. Chairman. It is my great pleasure to introduce two of these nominees.

First, John Mott, who has been an acting chief and is now deputy chief of the Criminal Section of the Civil Rights Division of the Justice Department. Mr. Mott has had an unusually distinguished career. For the last 2 years, he has garnered four of the Department's top awards. He continued his career there after a career of excellence at the Public Defender's Service, considered the best Public

Defender's Service in the country, where he received extensive experience with criminal defendants and juveniles. He is a member of the Hispanic Bar Association and has been especially active in committees of the D.C. Bar Association.

Mr. Mott distinguished himself in college and law school, at Northeastern Law School, where he was a teaching assistant, and at Dartmouth College, where he was a member of a senior honor society.

Mr. Mott is especially well prepared to become an associate judge of the Superior Court, and it is a very special pleasure for me to recommend him to you.

It is, indeed, a pleasure as well to recommend Thomas Motley to be an associate judge of the Superior Court. Mr. Motley, like me, is a native Washingtonian. Mr. Motley is in the tradition of African Americans, who have lived in this city since its founding and have always put a premium on education, pursued it extensively, rising to the top of the opportunities available to them.

Mr. Motley went on from Coolidge High School to Columbia College, where he won several prizes and was the class marshal, and then to Harvard Law School, where he was an editor of one of the law reviews. He went on to clerk for a Federal district court judge, and was recruited to a distinguished downtown law firm, Steptoe and Johnson.

Mr. Motley has spent most of his career as an Assistant U.S. Attorney, rising to the very top of the U.S. Attorney's Office, second only to the U.S. Attorney, herself, as Principal Assistant U.S. Attorney in the office, which is the largest and most important U.S. Attorney's Office in the country.

Mr. Motley's work there predicts that he will distinguish himself on the Superior Court. He has prosecuted 500 felony cases, including 50 jury trials in the District. We appreciate, especially, his civic service particularly to children, including his service in Big Brothers and Big Sisters as an officer and with the Catholic Youth Organization. I am especially pleased to recommend Thomas Motley to the Committee.

Senator VOINOVICH. Thank you very much. We appreciate your being here with us this morning.

Ms. Rigsby, when Senator Schumer gets here—he will be here in about 10 or 15 minutes—so when he comes, we will give you an introduction. By that time, it may be over. [Laughter.]

But I can assure everyone that we have reviewed your resume and background, and you are very qualified.

As part of the Committee's practice, I would like the three of you to stand and raise your right hand and take the oath of office. Do you solemnly swear that the testimony you will give to the Committee today will be the truth, the whole truth, and nothing but the truth, so help you, God?

Ms. BLACKBURNE-RIGSBY. I do.

Mr. MOTLEY. I do.

Mr. MOTT. I do.

Senator VOINOVICH. Let the record show that the three nominees answered in the affirmative. Thank you.

I would now like to welcome Ms. Blackburne-Rigsby. We are pleased to have you here today. Are you accompanied by any of your family members that you would like to introduce?

TESTIMONY OF ANNA BLACKBURNE-RIGSBY,[1] TO BE ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Ms. BLACKBURNE-RIGSBY. Yes, Senator, thank you. I am accompanied today by my husband, Robert Rigsby, who is seated behind me—he is a Corporation Counsel of the District of Columbia—and my mother and father. My mother, Laura Blackburne, is on the bench in New York State, the Supreme Court there, and my father, Elmer Blackburne, is a District Leader in Queens, N.Y. I am also accompanied by my sisters: Dr. Rose Blackburne, and Faith Blackburne, who serves on the House staff. My son Julian, who is two and a half, couldn't join us today.

I am also pleased to have a number of colleagues from the Federal District Court and D.C. Superior Court. Judge Ricky Roberts, from the Federal District Court, is here today, and colleagues from Superior Court, Chief Judge Eugene Hamilton, Judge Lee Satterfield, Judge Cheryl Long, and Judge Mary Terrell. My secretary, Laverne Boone, and Courtenay Nelson are also joining me from the office. Thank you.

Senator VOINOVICH. Thank you. I know that your family and husband are very proud of you today, and especially following in a family tradition.

Ms. BLACKBURNE-RIGSBY. Thank you.

Senator VOINOVICH. It is wonderful.

Would you like to make an opening statement of any sort?

Ms. BLACKBURNE-RIGSBY. Just briefly. I would first like to thank you, Senator, and the other Senators on the Committee and your Committee staff, who have done an excellent job in assisting us through this process. I am very excited and take very seriously the responsibilities that we are about to undertake if confirmed by the Senate. And if confirmed, I intend to serve the citizens of the District of Columbia with dedication and enthusiasm, and I thank you for this opportunity to be here today.

Senator VOINOVICH. Thank you.

I would like to welcome you, Mr. Motley. We are pleased to have you here today, and would you like to introduce any of your friends or family?

TESTIMONY OF THOMAS MOTLEY,[2] TO BE ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Mr. MOTLEY. Yes, I would. I would like to begin with my brother, Leutrell Michael Carlton Osborne. He is my oldest brother who I have lived with for most of my—some of my youth.

I also would like to introduce my sister, Victoria Motley Washington, who is from Durham, North Carolina, and my sister,

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[1] The biographical and professional information of Ms. Blackburne-Rigsby appears in the Appendix on page 9.

[2] The biographical and professional information of Mr. Motley appears in the Appendix on page 36.

Francine Motley Clark, who is also from Durham, North Carolina, who drove up last night to be here today.

I take special pleasure to introduce my two nephews. They are both attending college, North Carolina A&T. One is Morris Jefferson Clark, who is graduating on Saturday. The other is Jason Motley Clark, who is a rising senior.

I have colleagues who are here today. First, let me start off with my present boss, Wilma A. Lewis. She is the U.S. Attorney for the District of Columbia. And I am happy that she is here. We have a lot of work to do back at the office.

With her today is Special Counsel J. Ramsey Johnson, and I would like to thank him for being here today, and also Channing Phillips.

My second boss is here also. She is my secretary, and I would add that she is probably the best secretary in the government, Felicia People, and I would like to thank her for being here. I would like to thank Lydia Griggsby for being here, Monty Wilkinson for being here, Chief Judge Hamilton, of course, and other colleagues or future colleagues on the Superior Court bench, Lee Satterfield, Mary Terrell, and Judge Long.

I don't think I left anybody out, but if I did——

Senator VOINOVICH. Well, you certainly have a lot of support, Mr. Motley.

Mr. MOTLEY. I would like to add that Judge Ricky Roberts is here. Judge Roberts was a colleague of mine in the U.S. Attorney's Office. I think all three nominees know Judge Roberts, and he's here for all three of us.

That's it.

Senator VOINOVICH. Well, we would like to welcome all of you here. Mr. Motley, would you like to share with us your feelings about the opportunity to serve on the bench?

Mr. MOTLEY. Yes. It is an honor to appear before this Committee to discuss my qualifications to become an associate judge on the Superior Court of the District of Columbia. I would like to thank the members of the District of Columbia Nomination Commission for recommending me and the President of the United States for nominating me. I appreciate the hard work that your able staff has already performed in reviewing my nomination.

Finally, I would like to thank Delegate Eleanor Holmes Norton for her kind introduction of myself and John Mott. As you know, the Superior Court of the District of Columbia is one of the finest trial courts in the country. If I am confirmed to serve on that court, I will work diligently to continue that fine reputation.

As a native Washingtonian, I look forward to the opportunity to serve the citizens of this community as an associate judge on the Superior Court, and I'm happy to answer any other questions that the Committee may have.

Senator VOINOVICH. Thank you very much.

Mr. Mott, welcome. Are there any family members that you would like to introduce today, and friends?

TESTIMONY OF JOHN MOTT,[1] TO BE ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Mr. MOTT. I will keep my introductions short, but I'd like to introduce my wife, Cristina, who is behind me. I'm also very pleased that my old boss, the Hon. Richard Roberts from the U.S. District Court for the District of Columbia is here, and Chief Judge Hamilton is here from the Superior Court.

Senator VOINOVICH. And I am sure that they are pleased to be here with you today.

Mr. MOTT. I'd also like to thank my many colleagues and friends who are in the audience, who I will not introduce by name.

Senator VOINOVICH. I can pretty well tell who your wife was when you were introduced. Very proud.

Mr. MOTT. Thank you.

Senator VOINOVICH. Would you like to make an opening statement?

Mr. MOTT. Thank you, Senator. I'm honored to be here, and I want to thank you and thank your staff. I would echo the comments that were made earlier and thank the Committee staff for their graciousness and their professionalism through this process.

I am extremely grateful to have been nominated for a position on the D.C. Superior Court. It's the court where I learned to be a trial lawyer. It's a tremendous responsibility, and I will do everything in my power to live up to that responsibility if I'm nominated for a position on the court.

Senator VOINOVICH. Thank you. Again, I would like the record to reflect that the three nominees today have gone through a very extensive screening process, and I suspect that this hearing this morning is going to be rather short, and I wouldn't want anyone to interpret the shortness of it as an indication that the three of you haven't gone through quite a long ordeal to get to this hearing table today. And I want to publicly thank our staff for the fine work that they have done, and I want you to know that I have visited with the Justice Department in regard to all three of your nominations and have gone over them personally, and I am most impressed with your credentials.

There are some mandatory questions for the record, though, that need to be answered this morning, and I suspect that you have been familiarized with those questions. And I would like to ask each of you those questions, and, Ms. Blackburne-Rigsby, we will start with you.

The first is: Are you aware of anything in your background that might present a conflict of interest with the duties of the office to which you have been nominated?

Ms. BLACKBURNE-RIGSBY. No, sir. However, Senator, I feel I should mention something that has been previously discussed with your Committee staff, and that is that my husband, Robert Rigsby, is the Corporation Counsel of the District of Columbia, and some of the attorneys in that office practice in Superior Court. He has been in other management positions in the office while I have served on the court as a hearing commissioner, and we have dealt

[1] The biographical and professional information of Mr. Mott appears in the Appendix on page 63.

with any possible appearances of a conflict of interest by me recusing myself from cases where I thought there might be a conflict or even an appearance of a conflict. And I certainly would continue that practice if I'm confirmed as an associate judge.

Senator VOINOVICH. I appreciate your bringing that out this morning.

Do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office to which you have been nominated?

Ms. BLACKBURNE-RIGSBY. No, Senator, I do not.

Senator VOINOVICH. And do you know of any reason, personal or otherwise, that would in any way prevent you from serving the full term for the office to which you have been nominated?

Ms. BLACKBURNE-RIGSBY. No, sir.

Senator VOINOVICH. Thank you.

Mr. Motley, are you aware of anything in your background that might present a conflict of interest with the duties of the office to which you have been nominated?

Mr. MOTLEY. No, I am not.

Senator VOINOVICH. Do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office to which you have been nominated?

Mr. MOTLEY. No, I do not.

Senator VOINOVICH. And, last, do you know of any reason, personal or otherwise, that would in any way prevent you from serving the full term for the office to which you have been nominated?

Mr. MOTLEY. No, I do not.

Senator VOINOVICH. Thank you.

Mr. Mott, are you aware of anything in your background that might present a conflict of interest with the duties of the office to which you have been nominated?

Mr. MOTT. No, Mr. Chairman.

Senator VOINOVICH. Do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office to which you have been nominated?

Mr. MOTT. No, I do not.

Senator VOINOVICH. And do you know of any reason, personal or otherwise, that would in any way prevent you from serving the full term for the office to which you have been nominated?

Mr. MOTT. No, Mr. Chairman.

Senator VOINOVICH. Well, those are the mandatory questions, and as I mentioned, I have gone over your files thoroughly, and I haven't any questions for you. As many of you know, when we set these hearings, we never know what we are going to be doing at the time. And, again, I want to apologize for being late for this hearing, but we had a vote this morning and I had to be there to exercise that vote.

Do any of you have any other questions you would like to ask or any comments?

Mr. MOTT. No, thank you.

Mr. MOTLEY. No, Mr. Chairman.

Senator VOINOVICH. OK. Well, we would like to thank everyone then for coming. The Members of the full Committee will vote on your nominations at a subsequent markup. I don't know when that is going to be, but I can say that it is going to be in the next several weeks. And if the Committee approves your nominations, which I hope they will, the full Committee will consider the nominations and then the Senate will vote on them.

Ms. Rigsby, I want you to know that Senator Schumer's fine testimony to your background and to your New York connections will be in the record. We will insert them in the record.

Ms. BLACKBURNE-RIGSBY. Thank you, Senator.

Senator VOINOVICH. You can share those with posterity.

Ms. BLACKBURNE-RIGSBY. Thank you.

Senator VOINOVICH. I want to again thank you very much, and I want to thank members of the family for coming today. I know this is a very special day in the lives of your family, and it is a proud day. One of the things I have learned in life is that we rejoice and get much greater satisfaction out of the accomplishments of our children than the accomplishments that we achieve in our own right. So I know it is a big day for all of you. Thank you very much, and this hearing is adjourned.

[Pause.]

Senator VOINOVICH. Although the hearing was adjourned, Senator Schumer, I said that they would be able to read your words in the record, but I am sure they would rather hear your eloquent words. What we will do is we will reconvene the hearing so that we can get Senator Schumer's words.

Senator we are glad to have you here.

TESTIMONY OF HON. CHARLES E. SCHUMER, A U.S. SENATOR FROM THE STATE OF NEW YORK

Senator SCHUMER. I thank you, and I apologize to everybody, particularly the Blackburne-Rigsby family, for being late. And since my entire statement will be read in the record, I will be very, very brief. I am just so proud to be here for the nomination of Anna Blackburne-Rigsby to be an associate judge of the D.C. Superior Court. As I am sure has been mentioned, her experiences in law and, among other things, her devotion to helping victims of violence and child abuse make her an excellent choice to serve.

She was born and raised in our Nation's capital. D.C.'s gain was New York's loss. She attended Duke University in Durham and graduated from Howard Law School in the top 5 percent of her class. She has had wide-ranging experiences and has just done a great job as Hearing Commissioner in the Superior Court of D.C. Her experience is across the board.

In addition, she cares about her community and her kids, and she has the title of coach of the girls' basketball team at St. Gabriel Petworth Catholic Youth Organization for the last 7 years, which is just—as a father of two Little Leaguers, I understand the devotion that that takes.

Just two other words, Mr. Chairman. First, I have known the Blackburne family for a very long time. They are among leaders in New York City, and thank God, praise God that the apple has not fallen far from the tree. Both her dad and her mom have been lead-

ers in our community in New York City for 25 years. I see them smiling there in the audience, very, very proud.

And, second, I just speak on behalf, I think, of all of us. We are so glad that someone of your talent has decided to become a judge. I know there are many, many other opportunities open to you, but the fact that you will continue in public service is very meaningful to all of us. So I want to congratulate Anna, the entire Blackburne and Rigsby families, and this is just a fine day for me and even a finer day for all of you.

Thank you.

PREPARED STATEMENT OF SENATOR SCHUMER

I want to first thank Senator Voinovich, the Chairman of the Subcommittee on Oversight of Government Management, Restructuring, and the District of Columbia, for holding today's nomination hearing.

Mr. Chairman, I am here today to introduce to the Committee Anna Blackburne-Rigsby, who has been nominated by the President to be an Associate Judge of the District of Columbia Superior Court. I hope that the Committee will look favorably upon her nomination and that the Senate as a whole will confirm her soon.

Ms. Blackburne-Rigsby's experiences in the law and, among other things, her devotion to helping victims of violence and child abuse make her an excellent choice to serve on the District of Columbia Superior Court.

Ms. Blackburne-Rigsby was born and raised in our Nation's capital. She attended Duke University in Durham, North Carolina, and after receiving her Bachelors of Arts in Political Science, she returned to her hometown of Washington, DC, to enroll at Howard University School of Law. She graduated in 1987 in the top 5 percent of her class.

After law school, she worked as an associate at the prominent law firm of Hogan and Hartson, where she litigated before State and Federal courts and administrative agencies in the areas of real estate, commercial law, employment discrimination law and education law.

After 5 years as an associate, Ms. Blackburne-Rigsby accepted the position of Special Counsel in the Office of Corporation Counsel in Washington, DC. In that capacity, she managed a staff of more than 300 individuals, and gave legal guidance regarding vital District of Columbia government programs.

Two years later, she was promoted to Deputy Corporate Counsel within the Family Services Division, where she supervised the prosecution of child abuse and neglect cases, child support enforcement actions, domestic violence cases, and elder abuse cases. In particular she served as lead counsel in the case of *LaShawn A. v. Barry,* a class action lawsuit that led to significant reforms in the District's child welfare system.

Since 1995, she has served as a Hearing Commissioner in the Superior Court of the District of Columbia. She presides over and adjudicates proceedings in the Civil, Criminal, and Family Divisions, and the Domestic Violence Unit of the Superior Court. It seems that, in many respects, she has already been performing the duties that she would take on as an Associate Judge. And she's been doing it for 5 years.

Somehow, Anna also finds the time to serve her community and the bar on numerous professional associations. She has also given back to her law school as a mentor to law students at Howard University's law school. And, as importantly, she has held the title of Coach of the Girls Basketball Team at St. Gabriel's Petworth Catholic Youth Organization for the last 7 years. (I don't have her win-loss record however).

Mr. Chairman, Anna Blackburne-Rigsby is a dedicated and hard-working individual whose outstanding professional and personal accomplishments will make her a wonderful Associate Judge on the Superior Court in the District of Columbia. I urge the Committee to speedily approve her nomination, so that the Senate can soon do the same.

Ms. BLACKBURNE-RIGSBY. Thank you, Senator.

Senator VOINOVICH. Thank you, Senator.

The hearing is adjourned.

[Whereupon, at 10:16 a.m., the Committee was adjourned.]

APPENDIX

QUESTIONNAIRE FOR NOMINEES TO THE DISTRICT OF COLUMBIA COURTS
COMMITTEE ON GOVERNMENTAL AFFAIRS, UNITED STATES SENATE

I. BIOGRAPHICAL AND PROFESSIONAL INFORMATION

1. Full name (include any former names used).

Anna Blackburne-Rigsby
Anna Elizabeth Blackburne-Rigsby
Anna Elizabeth Blackburne
Anna Blackburne Rigsby

2. Citizenship (if you are a naturalized U.S. citizen, please provide proof of your naturalization).

United States Citizen

3. Current office address and telephone number.

Office of Hearing Commissioners
Superior Court of the District of Columbia
500 Indiana Avenue, N.W., Room 4450
Washington, DC 20001
(202) 879-0055

4. Date and place of birth.

May 6, 1961
Washington, DC

5. Marital status (if married, include maiden name of wife, or husband=s name). List spouse=s occupation, employer=s name and business address(es).

Married to Robert R. Rigsby
Interim Corporation Counsel
District of Columbia Office of the Corporation Counsel
441 4th Street, N.W., 10th Floor North
Washington, DC 20001

6. Names and ages of children. List occupation and employer=s name if appropriate.

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7. Education. List secondary school(s), college(s), law school(s), and any other institutions of higher education attended; list dates of attendance, degree received, and dates each degree was received. Please list dating back from most recent to earliest.

Howard University School of Law, Washington, DC
1984 – 1987
Juris Doctor, 1987

Duke University, Durham, NC
1979 – 1983
Bachelor of Arts, Political Science, 1983

State University of New York, Stony Brook
Association of Public Policy and Management Fellowship
Summer 1982

American University, Washington, DC
Washington Semester Exchange Program
Spring 1982

Jamaica High School
Jamaica, NY
High School Diploma, 1979

8. Employment record. List all jobs held since college, including the dates of employment, job title or description of job, and name and address of employer. Please list dating back from most recent to earliest.

Hearing Commissioner
Superior Court of the District of Columbia
500 Indiana Avenue, N.W.
Room 4450
Washington, DC 20001
November 1995 - Present

Deputy Corporation Counsel, Family Services Division
Office of the Corporation Counsel
441 4th Street, N.W.
Washington, DC 20001
October 1994- November 1995

Special Counsel to the Corporation Counsel
Office of the Corporation Counsel
441 4th Street, N.W.
Washington, DC 20001
June 1992 - October 1994

Associate, Hogan and Hartson
555 13th Street, N.W.
Washington, DC 20004
September 1987 - June 1992

Summer Associate
Hogan and Hartson
555 13th Street, N.W.
Washington, DC 20004
May 1986 - August 1986

Congressman Joseph Addabbo (Deceased)
U.S. House of Representatives
Washington, DC
Legislative Intern
May 1985 – July 1985

Coro Foundation
690 Market Street
San Francisco, CA 94120
Fellow, Public Affairs Program
August 1983 - June 1984

Borough of Manhattan Community College
Summer Enrichment Program
199 Chambers Street
New York, NY
Counselor and Administrator
June 1984 – August 1984

9. 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.

Duke University Presidential Leadership Award, Spring 1983
National Association of Black Women Attorney's Scholarship, Fall 1984
American Jurisprudence Award for the highest grade in Property, Spring 1985
Academic Distinction in Legal Writing, Spring 1985
Howard University School of Law, Law Journal,1985 – 1986
Co-Captain of the Charles Hamilton Houston Moot Court Team, 1986 – 1987
Howard University School of Law, Graduated in the top 5% of the class, Spring 1987

10. Business relationships. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, or educational or other institution.

D.C. Rape Crisis Center, Board Member 1994-1998
Washington Council of Lawyers, Board Member 1994-Present
Greater Washington Area Chapter Woman Lawyers Division of the National Bar Association, Board Member 1997 - 1998

11. Military service. Indicate whether you have served in the US military and, if so, list dates of service, branch of service, rank or rate, serial number, and type of discharge received.

None.

12. Bar associations. List all bar associations, legal or judicial-related committees, conferences, or organizations of which you are or have ever been a member, and provide titles and dates of any offices which you have held in such groups.

District of Columbia Mayor's Inter-Governmental Advisory Board on Children and Families (1993)

District of Columbia Court of Appeals Task Force on Families and Violence (1994-1996)

Superior Court of the District of Columbia Child Abuse and Neglect Task Force (1995 – 1996)

Superior Court of the District of Columbia Domestic Violence Coordinating Council (1994 – Present)

New York State Bar - 1988-Present

District of Columbia Bar – 1989 to Present
- International Law Section – 1989
- Arts and Entertainment Section – 1989
- Children's Initiative Committee – 1994
- Family Law Section – 1995
  - Panelist, Family Law Section's "Dialogue Between Bench and Bar" Annual program – 1996, 1998
- D.C. Affairs Section

Greater Washington Area Chapter
Women's Lawyers Division of the National Bar Association (GWAC)
Law Firm/Corporate Counsel Committee 1989-1992
Board Member 1997–1998
Program Committee Member 1998–1999

Charlotte E. Ray Inn of Court
Master 1997-1999

Washington Council of Lawyers
Board Member 1994 – Present
Judge for Mock Trial Program 1994 – Present

National Planning Committee
Lawyer's Committee for Civil Rights Under the Law
African-American Women and the Law Conference 1994-1995

Hispanic Bar Association 1993

13. Other memberships. List all memberships and offices currently and formerly held in professional, business, fraternal, scholarly, civic, public, charitable, or other organizations, other than those listed in response to Question 12. Please indicate whether any of these organizations formerly discriminated or currently discriminates on the basis of race, sex, or religion.

NAACP	
Member	1975-Present
President, Jamaica, NY Youth Council	1977-1979
National Board of Directors Youth Member	1979-1980
Chair of the National Youth Work Committee	1979-1980
Alpha Kappa Alpha Sorority, Inc.	1982-Present
St. Gabriel's Petworth Catholic Youth Organization Program	
Girl's Basketball Coach/Mentor	1993-Present
Shiloh Baptist Church, Washington, DC	
Member	1993-Present

Co-Chair, Couples Ministry	1998-Present
Co-Chair, Homecoming Committee	1995-1997
Co-Chair, Service of Remembrance	1996-1998
D.C. Rape Crisis Center	
Board Member	1994-1998
Member of the Executive Committee	1994-1995
Chair of the Nominating Committee	1996-1998

14. Court admissions. List all courts in which you have been admitted to practice, with dates of admission and lapses in admission if any such memberships have lapsed. Please explain the reason for any lapse in membership. Please provide the same information for any administrative bodies which require special admission to practice.

New York State Court of Appeals	Admitted March 16, 1988
District of Columbia Court of Appeals	Admitted May 17, 1989
United States District Court for the District of Columbia	Admitted April 6, 1992
United States Supreme Court	Admitted November 9, 1993

15. Published writings. List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited.

"The Rights of Tenants When the Landlord Defaults on the Mortgage." 29 Howard Law Journal 27 (1986).

"The Nuts and Bolts of Evaluating Current and Proposed Drug Testing Policies for Municipal Employees." Presented at the Annual Spring Meeting of the National Institute of Municipal Law Officers, April 1993. Excerpts of the paper were also Published in the National Institute of Municipal Law Officers Journal.

16. Speeches. List the titles of any formal speeches you have delivered during the last five (5) years and the date and place where they were delivered. Please provide the Committee with three (3) copies of any of these speeches.

"The Nuts and Bolts of Evaluating Current and Proposed Drug Testing Policies for Municipal Employees." Presented at the Annual Spring Meeting of the National Institute of Municipal Law Officer, April 1993. Excerpts of the paper were also Published in the National Institute of Municipal Law Officers

Journal.

Remarks to the D.C. Bar Winter Convention Seminar: *"Effective Advocacy or Litigious Community?" Legal Intervention in D.C. Government Programs.* Wednesday, March 2, 1994

"Seek Truth, Encourage Unity, Promote Change" Xi Rho Omega Chapter of Alpha Kappa Alpha Sorority, Inc. 14th Annual Human Rights Banquet, Ahoskie, NC, Saturday, March 15, 1997

17. Legal career.

a. Describe chronologically your law practice and experience after graduation from law school, including:

(1) Whether you served as a law clerk to a judge, and if so, the name of the judge, the court, and the dates of your clerkship;

(2) Whether you practiced alone, and if so, the addresses and dates;

(3) The dates, names, and address of law firms, companies, or governmental agencies with which you have been employed.

Associate, Hogan and Hartson
555 13th Street, N.W.
Washington, DC 20002
1987 – 1992

Special Counsel to the Corporation Counsel
Office of the Corporation Counsel
441 4th Street, N.W.
Washington, DC 20001
1992 – 1994

Deputy Corporation Counsel, Family Services Division
Office of the Corporation Counsel
441 4th Street, N.W.
Washington, DC 20001
1994 – 1995

Hearing Commissioner
Superior Court of the District of Columbia
500 Indiana Avenue, N.W. , Room 4450
Washington, DC 20001
1995 – Present

b. Describe the general character of your law practice, dividing it into periods with dates if its character has changed over the years.

Hogan and Hartson

From September 1987 until June 1992, I was an associate at the law firm of Hogan and Hartson. The general character of my practice during my tenure at the law firm was civil litigation. As a member of the Litigation Group, I litigated cases ranging from real estate, commercial law, employment law, and civil rights law.

Because of the firm's diverse clientele, I was able to work on a broad cross-section of cases including complex multi-party cases and smaller cases, appellate and trial level cases, state and federal court cases and administrative proceedings. As a second -year associate, I was selected as part of a five-lawyer team, headed by a court appointed special master, to review the Securities and Exchange Commission Equal Employment Opportunity Program. The nationwide audit resulted in a 400-page report that evaluated the Commission's EEO program and set forth numerous recommendations for changes in the structure of the program.

Throughout my tenure at Hogan and Hartson, I was an active participant in the firm's *pro bono* program. I represented a refugee from El Salvador and conducted a full evidentiary hearing before an Immigration and Naturalization Service Administrative Law Judge, which resulted in a grant of political asylum, at a time when less than 3% of cases involving refugees from El Salvador resulted in grants of asylum. I performed legal work for AIDS patients at the Whitman Walker Clinic such as writing wills. I also participated in the Georgetown University Law School Street Law program by coaching students for their moot court arguments.

Special Counsel to the Corporation Counsel

I left Hogan and Hartson in June of 1992 to become Special Counsel to the Corporation Counsel and I served in that capacity until October 1994. As Special Counsel, I was part of the senior management team for the Office of the Corporation Counsel. I was responsible for supervising sensitive and complex litigation and policy matters. I provided legal advice and policy guidance to the Office of the Corporation Counsel, the Office of the Mayor, the Office of the City Administrator and District of Columbia agency heads. As Special Counsel, I was responsible for facilitating inter-agency coordination on the broad range of policy and legal issues affecting vital District of Columbia programs.

Deputy Corporation Counsel, Family Services Division

Office of the Corporation Counsel

In October of 1994, I was appointed Deputy Corporation Counsel for the Family Services Division. I was responsible for managing and supervising the Family Services Division staff of 65 attorneys, paralegals, investigators and support staff. I supervised the prosecution of child abuse and neglect cases, child support enforcement cases, domestic violence cases and elder abuse cases.

I provided legal advice and policy guidance to the Department of Human Services. In addition to my management responsibilities, I served as lead counsel for the District of Columbia in the implementation phase of the *LaShawn A. v. Barry* class action lawsuit involving the District of Columbia's child welfare program.

Hearing Commissioner, Superior Court of the District of Columbia

In November of 1995, I was appointed as a Hearing Commissioner for the Superior Court. As a Commissioner, I have presided over matters in the Criminal, Civil and Family Divisions as well as the Domestic Violence Unit of the Court. My jurisdiction as Hearing Commissioner is similar to that of municipal and state district court judges. I have the authority to issue final judgments and orders which are appealable first to a Superior Court Judge and then to the Court of Appeals.

In the Civil Division of the Superior Court, where I was assigned at different intervals during 1996, I presided over small claims cases as well as non-jury civil cases involving amounts in controversy of up to $25,000. In the Criminal Division, I determined bond and conditions of release in arraignments and presentments for misdemeanor and felony cases. I made probable cause

determinations at preliminary hearings and conducted preventive detention hearings where critical decisions regarding the pretrial liberty interests of defendants are weighed against the safety of the community. I was assigned to the Preliminary Hearing and Non-Jury Misdemeanor Trial Calendar from January 1997 until October 1997. In the Family Division, I am authorized to conduct initial hearings in juvenile and child abuse and neglect cases where I am required to make critical decisions regarding the liberty interests of juveniles prior to trial. I am authorized to make decisions regarding the removal of children from their parent or guardian in abuse and neglect cases. In addition, I heard uncontested divorce cases, made initial paternity and child support determinations, and adjudicated contested motions to modify or terminate child support. I was assigned to the uncontested divorce and paternity and child support calendars from December 1995 until October 1996. I was also responsible for conducting court reviews to monitor the cases of mentally retarded adults who are committed to the District of Columbia 's Mental Retardation System. I was assigned to the mental retardation calendar from January 1997 through December 1997.

Since its inception in 1996, I have been integrally involved with the work of the Domestic Violence Unit of the Court. In the Domestic Violence Unit, I enter consent Civil Protection Orders (CPO's) as well as conduct full evidentiary hearings in contested CPO cases. I resolve custody, visitation and child support disputes that arise in the context of domestic violence cases. In addition, I conduct probable cause hearings, make bond determinations and accept guilty pleas in the criminal misdemeanor cases assigned to the Domestic Violence Unit (currently felony matters are not assigned to the unit). I was assigned to the Domestic Violence Unit from October 1997 until December 1997 and from January 1999 to September 1999.

In addition to handling the cases on my assigned calendars, I have actively participated in Court administration through my work on various Court committees. In January of 1996, the Chief Judge appointed me to the Neglect Task Force. The Task Force was instituted to monitor neglect and abuse cases of children who are removed from their homes and placed with relatives who are not licensed foster parents. The Court and the other agencies involved in the child welfare system, adopted many of the Task Force's recommendations.

I currently serve on the Court's Intra-Family Rules Committee which is revising the Court rules to reflect changes brought about by the creation of the Court's Domestic Violence Unit in 1996.

I am also a member of the Court's Pre-Trial Mental Examination Committee, which is currently reviewing and updating the procedures for evaluating and screening defendants to ensure that they are mentally competent and understand the criminal proceedings.

c. Describe your typical former clients and describe the areas of practice, if any, in which you have specialized.

See Response to question 17(a) and (b) above.

d. Describe the general nature of your litigation experience, including:

(1) Whether you have appeared in court frequently, occasionally, or not at all. If the frequency of your court appearances has varied over time, please describe in detail each such variance and give applicable dates.

Since 1995 I have been a Hearing Commissioner. As a Commissioner, it would be inappropriate for me to appear in Court on behalf of clients. As a Hearing Commissioner, I preside over matters in the Court on a daily basis.

From 1994–1995, I was the Deputy Corporation Counsel for the Family Services Division of the Office of the Corporation Counsel. In addition, I served as the lead counsel in the implementation phase of the *LaShawn A. v Barry* case [89-CV-1754, U.S. District Court, D.C.]. The *LaShawn A.* case was a class action lawsuit which involved the District of Columbia's child welfare program. During the time I was lead counsel, the implementation phase of the case was extremely active and involved a number of complex legal issues as well as practical implementation issues. I appeared in the U.S District Court for the District of Columbia on a regular basis.

As Deputy of the Family Division. I appeared in Superior Court occasionally, in a supervisory capacity, to observe the work of the attorneys in my division.

As an associate at Hogan and Hartson from 1987 to 1992, my appearances in court were less frequent. I worked on a number of complex cases involved in protracted litigation. I was responsible for writing memoranda and pleadings, conducting depositions and other discovery; however, many of the cases settled or continued in litigation after my involvement with the case was completed. On a number of smaller cases, and cases before administrative agencies, I appeared in court or before administrative tribunals.

(2) What percentage of these appearances was in:
(a) Federal courts (including Federal courts in D.C.);

(b) State courts of record (excluding D.C. courts);
(c) D.C. courts (Superior Court and D.C. Court of Appeals only);
(d) other courts and administrative bodies.

As a Hearing Commissioner, I do not appear in Court on behalf of clients. However, 100% of the matters over which I preside are in Superior Court. When I was lead counsel in the implementation phase of the *LaShawn A.* case, 100% of my appearances were in the Federal District Court for the District of Columbia. As Deputy of the Family Division , 100% of my appearances, in which I observed attorneys from my division, were in Superior Court.

While the majority of the larger cases I litigated, either settled or continued in protracted litigation, I had greater responsibility in smaller cases. For example, I tried as lead counsel a "lemon law" case in the Circuit Court of Fairfax County, Virginia, but the case settled before judgment. I also tried a political asylum case to favorable judgment before an Administrative Law Judge at the Immigration and Naturalization Service.

Some of the litigation I worked on at Hogan and Hartson was appellate litigation before the District of Columbia Court of Appeals.

(3) What percentage of your litigation has been:
(a) civil;
(b) criminal.

Since my appointment as a Hearing Commissioner in 1995, approximately 30% of the matters I have presided over have been criminal. From January 1997 to September of 1997, I was assigned to the Criminal Division of the Court, where I handled the preliminary hearing calendar and non-jury misdemeanor calendar. I conducted probable cause hearings and I heard non-jury misdemeanor cases. In the Domestic Violence Unit, I also heard guilty pleas in the criminal misdemeanor cases that arose during my assignment to the Unit from October 1997 to December 1997 and from January 1999 to September 1999.

The remaining two-thirds of the time I handled civil matters in the Family and Civil Divisions and the Domestic Violence Unit.

While at Corporation Counsel, 100% of the matters I litigated were civil matters.

Although the majority of the cases I worked on while at Hogan and Hartson were litigated in federal courts, I made fewer court appearances there than I have in the last

five years. However, all of my litigation was civil and all involved non-jury trials.

(4) What is the total number of cases in courts of record you tried to verdict or judgment (rather than settled or resolved, but may include cases decided on motion if they are tabulated separately). Indicate whether you were sole counsel, lead counsel, or associate counsel in these cases.

As a Commissioner, it would be inappropriate for me to represent clients before the Court. However, since becoming a Hearing Commissioner in 1995, I have presided over and tried more than 200 cases to verdict or judgment. During the nine months I was assigned to the Criminal Division, I presided over numerous non-jury misdemeanor cases to judgment. In the Civil Division, I presided over numerous small claims cases and other civil matters (involving amounts in controversy up to $25,000) to final judgment. Finally, I have tried to final judgment numerous family and intra-family cases involving issues such as child support, domestic violence, child custody, and visitation.

From 1994 to 1995, while I was lead counsel in the implementation phase of the *LaShawn A.* case, I litigated several motions in the case for which a final judgment was rendered. However the case is a complex class action lawsuit, which has been in protracted litigation since 1989, and the remedy phase of the case continues to date.

(5) What percentage of these trials was to
(a) a jury;
(b) the court (include cases decided on motion but tabulate them separately).

As a Hearing Commissioner, 100% of the matters I have presided over have been non-jury matters. Prior to my appointment as a Hearing Commissioner, all of the matters I litigated were non-jury matters.

18. Describe the five (5) most significant litigated matters which you personally handled. Provide citations, if the cases were reported, or the docket number and date if unreported. Give a capsule summary of the substance of each case and a succinct statement of what you believe was of particular significance about the case. Identify the party/parties you represented and describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case, (a) the date of representation; (b) the court and the name of the judge or judges before whom the case was litigated; and (c) the name(s) and address(es) and telephone number(s) of co-counsel and of the principal counsel for the other parties.

LaShawn A. v Barry – I was lead counsel for the District of Columbia during the implementation phase of this class action lawsuit, which involved the District of Columbia's child welfare program. The lawsuit was originally filed in 1989 and the parties entered into a consent decree in 1991, whereby the District agreed to reform its child welfare program in accordance with a detailed Implementation Plan. I became counsel in this case in October 1994 during the implementation phase of the consent decree. The case was extremely active and involved a number of complex legal issues as well as numerous practical implementation issues.

The case is significant because it directly impacts the lives of the District of Columbia's children who are involved in the child welfare system. Additionally, it has a major impact on the manner in which a critical government program functions, and the case therefore has a substantial impact on the overall budget of the District of Columbia. The litigation is still ongoing.

LaShawn A. v. Barry 89-CV-1754
U.S. District Court for the District of Columbia
Judge Thomas F. Hogan
Lead Counsel for Plaintiffs:
Marcia Robinson Lowry & Christopher T. Dunn
American Civil Liberties Union
132 West 43rd Street.
New York, NY 10036
(212) 683-2210

Local Counsel for Plaintiffs:
Arthur Spitzer and Elizabeth Symonds
American Civil Liberties Union Fund
122 Maryland Avenue, N.E.
Washington, DC 20002
(202) 544-1681

Elaine McKoy, et al. V. Don W. Wilson, United States Archivist – In 1992, I had primary responsibility for this case prior to leaving Hogan and Hartson. The case involved race and sex discrimination claims on the part of three African-American women employees against the National Archives and Records Administration. Hogan and Hartson was appointed by the U.S District Court for the District of Columbia as *pro bono* counsel, after the plaintiffs dismissed their previous counsel. I was selected to try the case on behalf of the firm.

I conducted extensive discovery to develop a compelling factual case and I also developed the legal argument. This enabled me to prevail in a discovery dispute, which allowed me to depose the senior management of the National Archives and Records Administration, including the Archivist, Don W. Wilson. This case, which initially did not appear to be

winnable, was settled favorably for the plaintiffs (the terms of the settlement are confidential). This case is significant to me because my pretrial discovery work and legal arguments were critical factors leading to the settlement (which occurred after I left the firm).

Elaine McKoy, et. al. v. Don W. Wilson, Archivist of the U.S. National *Archives and Records Administration* – 91-0702
U.S. District Court for the District of Columbia
Judge Louis Oberdorfer

Counsel for Defendant
Jeffrey T. Sprung
Former Assistant U.S. Attorney for the District of Columbia
555 4th Street, N.W.
Washington, DC 20001
(H) (206) 224-9329

Theresa Conway v. Homer Betts – I presided over and adjudicated this protracted child support case in 1996. Both parties were represented by counsel. I conducted a full evidentiary hearing and established a permanent prospective child support order. I directed the parties to file post-hearing motions on the issue of retroactive support and attorney's fees. In the post-hearing motions, the petitioner, the mother of the child, sought to determine whether she was entitled to three years of retroactive child support and attorney fees from the respondent, the child's father.

This case is significant because child support is a crucial issue that can vitally impact a child's quality of life. In this case, I determined from the evidence that the minor child was only receiving 40% of the child support he was entitled to receive from his father. As a result, the child's standard of living was drastically below that of his father. This is contrary to the letter and intent of District of Columbia child support law. Furthermore, the respondent demonstrated a pattern of evading and prolonging payment of child support. In addition, despite the emotional and volatile nature of the parties in this case, I established a tone of civility and respect, which was maintained throughout the proceeding.

This case is also significant in a broader context because it is representative of a significant number of protracted, contested child support cases for which I am responsible for adjudicating. In many of these protracted child support cases the parties are not represented by counsel. Where the parties are unrepresented, I have the additional responsibility of explaining the process, the law and the basis for my factual determinations so that the parties can understand and effectively participate in the proceedings and represent their interests. Although the parties had the right to appeal this decision, no appeal was sought.

Theresa Conway v. Homer Betts, PS-1806-95
Superior Court of the District of Columbia, Family Division
Paternity and Support Branch
[See attached Order]

Counsel for Petitioner:
Arthur Frank, Esq.
1700 K Street, N.W., Suite 700
Washington, DC 20006
(202) 223-9300

Counsel for Respondent:
Marion E Baurley, Esq.
514 Tenth Street, N.W., Suite 900
Washington, DC 20004
(202) 783-2500

Gloria Romero v. Jose Romero – I presided over this case in 1996. Both parties were represented by counsel and I conducted a full evidentiary hearing. This case required the services of a Spanish language interpreter. I determined that the applicable law, the history of domestic violence, and the other facts supported a child support award greater than the statutory guideline amount. There was a well documented history of domestic violence by the respondent against the petitioner and a civil protection order had previously been entered against the respondent. The matter came before me for a hearing to determine *pendente lite* (temporary) child support.

The civil protection order in the related domestic violence case ordered the respondent to allow the petitioner and the two minor children to occupy the two-bedroom rent-free apartment which was part of the respondent's compensation from the building management company where he was employed. The value of the rent-free apartment was $613.00 per month. The amount exceeded the calculated guideline amount of child support based on the respondent's income. I determined that it would be unjust to reduce the child support and order the petitioner and the two minor children to vacate this apartment, particularly since the respondent's violence toward the petitioner and children caused their need for child support.

Under District of Columbia Law, the goal of a child support award is to secure the best interests of the child. The guideline amount of child support is based on the formula promulgated by the City Council. The guideline child support amount may be disregarded where the needs of the minor children are exceptional and require more than average expenditures. I reasoned that the domestic violence that the children had witnessed being perpetrated by respondent against their mother, traumatized the children and created an exceptional need for the children. In order to escape the circumstances created by the

domestic violence, the children needed a place to live in addition to cash child support payments. I ordered the respondent to allow the children and the petitioner to stay in the apartment and I also ordered him to make an additional cash payment for child support. My order also provided that after a reasonable period of time when the petitioner was able to secure another apartment, the child support payment would be reduced to the guideline amount.

This case is significant for several reasons. First, it involved the use of a Spanish language interpreter. Many of the cases that I handle involve the use of a foreign language or hearing impaired interpreters. In cases where an interpreter is used, I believe that it is my responsibility to ensure that the parties understand the nature of the proceedings as well as the literal translation of the proceedings.

Secondly, this case is significant because it illustrates that in a domestic violence case, child support is vitally important to a child's well-being and standard of living. It is in the best interest of the children to receive the child support they are entitled to so that the custodial parent is not forced to stay in a violent relationship in order to support the children.

Finally, this case is significant in a broader context because it is representative of a larger and rapidly expanding number of cases which I am responsible for adjudicating. Without considering the unique impact of domestic violence on the children the outcome of this case could have been different. This is one of the concerns the Court sought to address when the cutting-edge Domestic Violence Unit was created in 1996. Although the parties had the right to appeal my decision in this case, no appeal was sought. In subsequent contested divorce proceedings before a Superior Court Judge, my findings and order on the issue of child support were incorporated into the Judge's final order.

While assigned to the Domestic Violence Unit from January 1999 to September 1999 (I was also previously assigned to the Unit for periods in 1997 and 1998), I adjudicated numerous domestic violence cases involving issues of child support. As a result of my work in this area, I was invited to the 1996, 1997, and 1999 Eastern Regional Interstate Child Support Association (ERICSA) annual training conferences to conduct workshops on the issue of child support in domestic violence cases.

Gloria Romero v. Jose Romero DR-3049-94d
IF-2909-94 (see attached order)
Superior Court of the District of Columbia, Family Division
Domestic Relations Branch

Counsel for Petitioner:
Suzanne Jackson, Esq.
American University

Washington School of Law
Washington, DC
(202) 274-4154

Counsel for Respondent:
Josselin Saint-Preux, Esq.
1818 11th Street, N.W.
Washington, DC 20001
(202)588-9300

Thomas L. Schmitz v. Robert G. Webster – In November 1996, I presided over this Small Claims case which involved a landlord-tenant dispute over the conditions of a rental unit. Only the landlord, the defendant in this case, was represented by counsel. At the trial, I credited the testimony of the plaintiff, the tenant, that he had made numerous requests to the defendant, to make certain repairs to the apartment prior to the lease date. The repairs were not satisfactorily completed and the plaintiff filed suit to void the lease and recover his security deposit and first month's rent. The defendant landlord argued that satisfactory repairs had been made. I applied the reasonable person standard and concluded that the repairs were not satisfactory and the lease was void. I also reasoned that the implied warranty of habitability applied to the lease agreement and could appropriately be measured by the standards of the Housing Code Regulations for the District of Columbia. I awarded judgment in favor of the plaintiff in the amount of $1,441.41 for the security deposit, first month's rent and phone installation, less the reasonable value of the plaintiff's possession of the unit for four days.

Counsel for the defendant filed a Motion for Review of my decision, as permitted by Superior Court Rules. As grounds for the appeal, counsel for the defendant argued, among other things, that I incorrectly relied on the District of Columbia Housing Code Regulations. Judge Brook Hedge denied the defendant's Motion for Review and affirmed my decision stating in her Order, "the Commissioner issued thorough and detailed Findings of Fact and Conclusions of Law." (Judge Hedge's Order is attached.) This case is significant because it is representative of a number of cases that I have handled on the Small Claims calendar. The defendant exercised his right to request review of my decision, but my decision was affirmed.

19. Describe the most significant legal activities you have pursued, including significant litigation which did not proceed to trial or legal matters that did not involve litigation. Describe the nature of your participation in each instance described, but you may omit any information protected by the attorney-client privilege (unless the privilege has been waived).

Domestic Violence Coordinating Council – The DVCC was formally chaired by Judge Rufus King, and is currently chaired by Judge Lee Satterfield. My work on the DVCC contributed to the formation of the Court's Domestic Violence Unit. I worked closely with the consultant hired by the Court on the issue of combining Corporation Counsel's resources with those of the District Office of Paternity and Child Support Enforcement to allow victims of domestic violence to initiate a permanent child support case at the same time the domestic violence case is initiated. In addition to my work on the formation of the Domestic Violence Unit, I worked with the Teen Dating Violence Committee and the Community Outreach and Education Committee of the DVCC. For the past four years, I have conducted Teen Dating Violence Workshops with students involved in the Georgetown University Law School Street Law Program, at the School Without Walls High School, Eastern High School and the Luke Moore Academy. This year I was appointed Chair of the Community Outreach and Education Committee of the DVCC and I have initiated quarterly community forums on domestic violence.

Neglect Task Force – Judge George Mitchell and Judge Zinora Mitchell-Rankin chaired this Task Force. In December 1995, shortly after my appointment as a Commissioner, the Chief Judge created a special Neglect Task Force and appointed me as one of the members. The Task Force was formulated to make recommendations for monitoring children in the neglect system who have been removed from their homes and placed in the unlicensed "foster" homes of relatives. The Chief Judge formulated the Task Force in the aftermath of the tragic case of two young girls who were taken from the custody of their mothers and sexually abused by their step-grandfather. Previously, the homes of relatives were not licensed or monitored in the same way as foster homes.

I formulated a checklist for the Judge and Commissioners to use at neglect proceedings when placement issues are decided. The checklist was developed to serve as a guide to ensure that appropriate information is obtained from the parties as soon as possible to assist the Judge in making decisions to place children in the temporary care of other relatives. The checklist was included in the final recommendations of the Task Force and circulated to Judges and Commissioners.

Pre-Trial Mental Examination Committee – Judge Ann Keary chairs this committee. I have been a member of this committee since 1998. The committee is currently proposing changes to the policies and procedures that govern pre-trial mental examinations for defendants with mental competency issues.

Intra-Family Rules Committee – Judge Lee Satterfield chairs this Committee. This Committee has the responsibility for proposing changes to the Superior Court Intra-Family Rules so that the Rules are reflective of the changes resulting from the creation of the new Domestic Violence Unit. I have been a member of this committee since January 1999.

20. Have you ever held judicial office? If so, please give the details of such service, including the court(s) on which you served, whether you were elected or appointed, the dates of your service, and a description of the jurisdiction of the court. Please provide three (3) copies of all opinions you wrote during such service as a judge.

Although I am not a Judge, I have been a Hearing Commissioner for the Superior Court of the District of Columbia since 1995. I was appointed by the Chief Judge. I am authorized by statute and Superior Court Rules to handle matters that would otherwise be handled by the Associate Judges of the Superior Court. I adjudicate matters in the criminal, civil and family divisions and domestic violence unit of the Court. As a Commissioner, I am also bound by the code of Judicial Ethics. My responses to questions 17 and 18 above , describe my duties as a Commissioner in more detail.

In the majority of the cases that I handle as a Hearing Commissioner, I rule from the Bench, or enter my order on the designated Court forms. Therefore, although I have adjudicated hundreds of cases, I have only written detailed opinions in a small percentage of the cases. I have attached copies of all of the significant opinions that I was able to locate. See Tab 2

a. List all court decisions you have made which were reversed or otherwise criticized on appeal.

I am not aware of any of my decisions that have been reversed or otherwise criticized on appeal.

21. Have you ever been a candidate for elective, judicial, or any other public office? If so, please give the details, including the date(s) of the election, the office(s) sought, and the results of the election(s).

In 1994, I was a candidate for the District of Columbia Bar Board of Governors.

22. Political activities and affiliations.

a. List all public offices, either elected or appointed, which you have held or sought as a candidate or applicant.

See question #21 above

b. List all memberships and offices held in and services rendered to any political party or election committee during the last ten (10) years.

I am a registered Democrat. In 1995, I distributed campaign literature on election day for my mother's election as Judge for the Queens County Civil Court in Queens, NY.

c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity during the last ten (10) years.

For the past five years, I have purchased tickets and attended the Elmer H. Blackburne Regular Democratic Club Annual Luncheon Fundraiser, however, tickets have never exceeded $45.00.

23. Have you ever been investigated, arrested, charged, held or convicted (include pleas of *nolo contendere*) by federal, State, local, or other law enforcement authorities for violations of any federal, State, county, or municipal law, regulation, or ordinance other than for a minor traffic offense?

No.

24. Have you or any business of which you are or were an officer ever been a party or otherwise involved as a party in any other legal or administrative proceedings. If so, give the particulars. Do not list any proceedings in which you were merely a guardian ad litem or stakeholder. Include all proceedings in which you were a party in interest, a material witness, were named as a coconspirator or co-respondent, and list any grand jury investigation in which you appeared as a witness.

During each year of my four-year tenure at the Office of the Corporation Counsel, on average, approximately 1500 new lawsuits were filed against the District of Columbia. It is the responsibility of the Office of the Corporation Counsel to represent the District of Columbia and its agencies in all legal matters.

From 1994 to 1995, I was the lead counsel for the District of Columbia for the remedy implementation phase of the *LaShawn A. v. Barry* class action lawsuit against the District's child welfare agency.

I was the complaining witness in a simple assault case in Prince George's County, Maryland. The case was dismissed at trial for lack of jurisdiction. To

the best of my recollection the case was in the Circuit Court of Prince George's County in 1993. I do not recall the exact date.

25. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, bar or professional association, disciplinary committee, or other professional group? If so, please provide the details.

No. None of which I am aware.

II. POTENTIAL CONFLICTS OF INTEREST

1. Will you sever all connections with your present employer(s), business firm(s), business association(s), or business organization(s) if you are confirmed?

Since 1995, I have been a Hearing Commissioner in the Superior Court of the District of Columbia, where I have presided over criminal, civil, and family law matters. As an Associate Judge of the Superior Court of the District of Columbia, I would expand and increase my current jurisdiction. Therefore, I would not be able to sever connections with my present employer, which is the Superior Court.

2. Describe all financial arrangements, deferred compensation agreements, or other continuing dealings with your law firm, business associates, or clients.

As an employee of the Superior Court, I am eligible for and participate in the Federal Thrift Savings Plan. I would not be eligible to participate in the Thrift Savings Plan as an Associate Judge of the Court. When I was employed with the Office of the Corporation Counsel, I participated in the D.C Government Deferred Compensation Program (Nationwide Retirement Services) and the D.C. Government 401(a) Defined Contribution Plan (Aetna Financial Services).

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest.

I have no investments, obligations or liabilities that could cause a potential conflict of interest. The only financial investments I have are: 1) Fidelity Destiny Mutual Fund and IRA account; 2) T.Rowe Price Mutual Fund; 3) a rental property (220 Madison Street, N.W., Washington, DC 20011); 4) Federal Thrift Savings Plan; 5) D.C. Government 401(a) Defined Contribution Program; 6) D.C Government Deferred Compensation Program.

My husband Robert R. Rigsby is currently and has been employed with the Office of the Corporation Counsel, in various management positions, since 1993. In 1995, when I became a Hearing Commissioner, he was the Deputy of the Enforcement Division, which was responsible for prosecuting certain juvenile offenses and certain adult misdemeanor cases in Superior Court. As a result, there are certain cases that I have recused myself from, in order to avoid any appearance of impropriety. My husband is currently the Interim Corporation Counsel, and is responsible for the management of the entire Office of the Corporation Counsel. As an Associate Judge, I would recuse myself from cases that might result in the appearance of any impropriety or possible conflict of interest.

4. Describe any business relation, dealing, or financial transaction which you have had in the last ten (10) years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest.

None.

5. Describe any activity during the last ten (10) years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of legislation or affecting the administration and execution of law or public policy.

As Special Counsel to the Corporation Counsel, I testified on behalf of the Executive Branch before the Council of the District of Columbia. As Deputy Corporation Counsel for the Family Services Division, I also testified on behalf of the Executive Branch. I was responsible for presenting the views of the Executive Branch, not my personal views. Copies of my testimony are attached.

6. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service as a judge? If so, explain.

I do not have any plans, commitments or agreements to pursue outside employment. However, I would consider teaching Law School if an appropriate opportunity were presented and my schedule and responsibilities as an Associate Judge permitted.

7. Explain how you will resolve any potential conflicts of interest, including any that may have been disclosed by your responses to the above items. Please provide three (3) copies of any trust or other relevant agreements.

See response to question # 3 above.

8. If confirmed, do you expect to serve out your full term?

Yes.

III. FINANCIAL DATA

Financial Data - On file with the Committee on Governmental Affairs.

IV. DISTRICT OF COLUMBIA REQUIREMENTS

Supplemental questions concerning specific statutory qualifications for service as a judge in the courts of the District of Columbia pursuant to the District of Columbia Court Reform and Criminal Procedure Act of 1970, D.C. Code Section 11-1501(b), as amended.

1. Are you a citizen of the United States?

Yes.

2. Are you a member of the bar of the District of Columbia?

Yes.

3. Have you been a member of the bar of the District of Columbia for at least five (5) years? Please provide the date you were admitted to practice in the District of Columbia.

Yes. I was admitted to the District of Columbia Bar on May 17, 1989.

4. If the answer to Question 3 is no--

a. Are you a professor of law in a law school in the District of Columbia?

Not applicable.

b. Are you a lawyer employed in the District of Columbia by the United States or the District of Columbia?

Not Applicable.

c. Have you been eligible for membership in the bar of the District of Columbia for at least five (5) years?

Not applicable.

d. Upon what grounds is that eligibility based?

Not Applicable.

5. Are you a *bona fide* resident of the District of Columbia?

Yes.

6. Please list the addresses of your actual places of abode (including temporary residences) with dates of occupancy for the last five (5) years.

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7. Have you maintained an actual place of abode in such area for at least five (5) years?

Yes.

8. Are you a member of the District of Columbia Commission on Judicial Disabilities and Tenure or the District of Columbia Judicial Nominating Commission?

No.

9. Have you been a member of either of these Commissions within the last 12 months?

No.

AFFIDAVIT

Anna Blackburne-Rigsby being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.

Anna Blackburne-Rigsby

SUBSCRIBED and SWORN TO before me this 19th day of January, 2000

Leonard Strachan
Notary Public

My Commission Expires April 14, 2001
Leonard Strachan

QUESTIONNAIRE FOR NOMINEES TO THE DISTRICT OF COLUMBIA COURTS
COMMITTEE ON GOVERNMENTAL AFFAIRS, UNITED STATES SENATE

I. BIOGRAPHICAL AND PROFESSIONAL INFORMATION

1. Full name (include any former names used).

   Thomas John Motley

2. Citizenship (if you are a naturalized U.S. citizen, please provide proof of your naturalization).

   USA

3. Current office address and telephone number.

   United States Attorney's Office
   555 4th Street, N.W., Rm 5810
   Washington, D.C. 20001
   (202) 514-6919

4. Date and place of birth.

   July 2, 1954
   Washington, D.C.

5. Marital status (if married, include maiden name of wife, or husband's name). List spouse's occupation, employer's name and business address(es).

   I am not married.

6. Names and ages of children. List occupation and employer's name if appropriate.

   I do not have any children.

7. Education. List secondary school(s), college(s), law school(s), and any other institutions of higher education attended; list dates of attendance, degree received, and dates each degree was received. Please list dating back from most recent to earliest.

Harvard Law School
Cambridge, Massachusetts
August 1976 - June 1979
Juris Doctor awarded in 1979

Columbia College
New York, New York
September 1972 - May 1976
Bachelor of Arts, Philosophy, awarded in 1976

The New Hampton School
New Hampton, New Hampshire
September 1970 - May 1972
Diploma, 1972

Calvin Coolidge High School
Washington, D.C.
February 1970 - June 1970

Cheraw High School
Cheraw, SC
August 1968 - February 1970

8. Employment record. List all jobs held since college, including the dates of employment, job title or description of job, and name and address of employer. Please list dating back from most recent to earliest.

01/98 - present	Principal Assistant United States Attorney United States Attorney's Office 555 4th Street, N.W., Rm 5810 Washington, D.C. 20001
12/97 - 01/98	Acting Chief, Public Corruption Section United States Attorney's Office 555 4th Street, N.W. Washington, D.C. 20001
03/83 - 12/97	Assistant United States Attorney United States Attorney's Office 555 4th Street, N.W. Washington, D.C. 20001
09/80 - 02/83	Associate Steptoe & Johnson 1330 Connecticut Avenue, N.W. Washington, D.C. 20036
07/79 - 09/80	Law Clerk Judge Robert F. Collins U.S. District Court 500 Camp Street New Orleans, LA 70130
06/79 - 07/79	Summer Associate Steptoe & Johnson 1330 Connecticut Avenue, N.W. Washington, D.C. 20036
02/79 - 05/79	Student Attorney Cambridge/Sommerville Legal Services 432 Columbia Street Cambridge, MA 021411
06/78 - 08/78	Summer Associate Steptoe & Johnson 1330 Connecticut Avenue, N.W. Washington, D.C. 20036

09/77 - 12/77	Legal Intern Office of the Attorney General Massachusetts 1 Ashburton Place Boston, MA 02108
06/77 - 08/77	Law Clerk Office of the Architect of the Capitol United States Capitol Washington, D.C. 20515
06/76 - 09/76	Clerk U.S. Senate, Sergeant at Arms United States Capitol Washington, D.C. 20510

9. 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.

United States Attorney's STAR Award: 1999
Senior Litigation Counsel: 1997
United States Department of Justice Director's Award: 1996
The Harold J. Sullivan Award: 1996
The National Big Brother of the Year: 1995
Washington Area Big Brother of Year: 1993
Certificate of Commendation, Department of Transportation: 1991
United States Department of Justice Special Achievement Award: 1983; 1987; 1989; 1990; 1991; 1992; 1993; and 1996.
Staff Editor, Harvard Civil Rights/Civil Liberties Law Review: 1978-1979
Member of Honorary Senior Society: 1976
Class Marshal: 1976
Dean's List: 1975
Rosenthal Prize: 1975
Van Am Prize Medal: 1974

10. Business relationships. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, or educational or other institution.

None

11. Military service. Indicate whether you have served in the US military and, if so, list dates of service, branch of service, rank or rate, serial number, and type of discharge received.

I have never served in the military.

12. Bar associations. List all bar associations, legal or judicial-related committees, conferences, or organizations of which you are or have ever been a member, and provide titles and dates of any offices which you have held in such groups.

The District of Columbia Bar Association
The Washington Bar Association
The Thurgood Marshall American Inn of Court

13. Other memberships. List all memberships and offices currently and formerly held in professional, business, fraternal, scholarly, civic, public, charitable, or other organizations, other than those listed in response to Question 12. Please indicate whether any of these organizations formerly discriminated or currently discriminates on the basis of race, sex, or religion.

Big Brothers/Big Sisters of the National Capitol Area (Big Brother from 1990 - present); Member of the Board of Directors and Secretary of the Executive Board (1996 - present)
Sigma Pi Phi (Epsilon Boule)(1997-present) (The membership of this fraternal organization is predominately African American men.)
Potomac Coalition (1996 - present)
Catholic Youth Organization Basketball, Coach (1980 - 1982)
Black Ski of the Washington Area (1996 - 1998) (I am no longer a member of this group. The membership is predominately African American. The primary purpose of this group was to arrange recreational ski trips. Attendance at these ski trips included individuals from various racial and ethnic groups.)

14. Court admissions. List all courts in which you have been admitted to practice, with dates of admission and lapses in admission if any such memberships have lapsed. Please explain the reason for any lapse in membership. Please provide the same information for any administrative bodies which require special admission to practice.

District of Columbia Court of Appeals - June 19, 1981
United States Court of Appeals - August 10, 1995
for the District of Columbia

15. Published writings. List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited.

I have not published any writings.

16. Speeches. List the titles of any formal speeches you have delivered during the last five (5) years and the date and place where they were delivered. Please provide the Committee with three (3) copies of any of these speeches.

I have lectured on a variety of topics for the United States Attorney's Office over the past five years. These lectures, which were training lectures, were from notes that are not preserved in any formal manner. The topics of these lectures included, in large part, specific aspects of trial advocacy and were delivered at various Department of Justice training programs.

17. Legal career.

a. Describe chronologically your law practice and experience after graduation from law school, including:

(1) Whether you served as a law clerk to a judge, and if so, the name of the judge, the court, and the dates of your clerkship;

07/79 - 09/80 Law Clerk
Judge Robert F. Collins
U.S. District Court for the
Eastern District of Louisiana

(2) Whether you practiced alone, and if so, the addresses and dates;

I have never practiced alone.

(3) The dates, names, and address of law firms, companies, or governmental agencies with which you have been employed.

01/98 - present	Principal Assistant U.S. Attorney United States Attorney's Office 555 4th Street, N.W., Rm 5810 Washington, D.C. 20001
12/97 - 01/98	Acting Chief, Public Corruption Section United States Attorney's Office 555 4th Street, N.W. Washington, D.C. 20001
03/83 - 12/97	Assistant United States Attorney United States Attorney's Office 555 4th Street, N.W. Washington, D.C. 20001
09/80 - 02/83	Associate Steptoe & Johnson 1330 Connecticut Avenue, N.W. Washington, D.C. 20036

b. Describe the general character of your law practice, dividing it into periods with dates if its character has changed over the years.

1980-1983 **While I was an associate at Steptoe & Johnson, my practice was generally civil litigation. I wrote memoranda of law, researched projects and took a few depositions for corporate clients. I had one pro bono trial matter in which I represented a child in a termination of parental rights case in the Superior Court of the District of Columbia.**

1983-1997 **As an Assistant United States Attorney, I have prosecuted well over five hundred (500) felony cases, including robbery and murder cases in the Superior Court of the District of Columbia and complex fraud and public corruption cases in the United States District Court for the District of Columbia. In addition, I have tried to verdict over fifty (50) jury trials. As an Assistant United States Attorney, I have served in several sections of the United States Attorney's Office, as noted below.**

(1) Between 1983 and 1987, I successfully completed assignments in the Misdemeanor Trial Section, the Grand Jury Section, the Felony Trial Section, and the Chronic Offender Unit of the United States Attorney's Office, prosecuting cases in the Superior Court of the District of Columbia. Between July 1985 and April 1986, I successfully completed a rotational assignment in the Appellate Division, writing briefs and arguing cases before the District of Columbia Court of Appeals and the United States Court of Appeals for the District of Columbia.

(2) Between 1987 and 1989, I served in the Trial/Grand Jury Section of the Criminal Division where I was responsible for investigating and prosecuting cases in federal court, such as credit card fraud, drug distribution, and theft of government property.

(3) Between 1989 and December 1997, I was a line Assistant in the Public Corruption/Government Fraud Section, Criminal Division. My primary responsibilities involved investigating violations of federal criminal laws which adversely affect the integrity of both the federal and the local governments.

1997-present I have served in two Supervisory positions in the United States Attorney's Office in the past two years:

(1) Between December 1997 and January 1998, I served as the Acting Chief of the Public Corruption/Government Fraud Section, where I briefly supervised nine Assistant United States Attorneys.

(2) I am presently the Principal Assistant United States Attorney. In this position, I am second-in-command at the United States Attorney's Office for the District of Columbia, the largest United States Attorney's Office in the country with nearly 340 attorneys and an equal number of support staff. I participate in and contribute to all major decisions regarding policies, initiatives, personnel, supervision, and the evaluation of major criminal and civil cases in the Office.

c. Describe your typical former clients and describe the areas of practice, if any, in which you have specialized.

As an associate at Steptoe & Johnson, I represented primarily corporate companies in civil litigation, such as Southern Pacific Railroad, the National Geographic Society, and various insurance companies.

At Steptoe & Johnson, I had one notable exception to representing corporations. In 1982, I represented a child in a pro bono case in Superior Court involving the termination of parental rights, which was my first, and only, trial as an associate at Steptoe & Johnson. (This experience was similar to the rewarding experience I had as a student attorney at the Cambridge/Somerville Legal Aid Society, where I represented indigent clients in civil matters.)

As an Assistant United States Attorney since 1983, I represented the interests of the United States. As a prosecutor, I have no clients in the traditional sense, however, I represent the public interests and have the responsibility of investigating and prosecuting criminal matters in a thorough, fair, and impartial manner.

My primary area of specialization has been in criminal law, including both white collar and street crime.

d. Describe the general nature of your litigation experience, including:

(1) Whether you have appeared in court frequently, occasionally, or not at all. If the frequency of your court appearances has varied over time, please describe in detail each such variance and give applicable dates.

From 1980 to 1983 while I was an associate with the firm of Steptoe & Johnson, I appeared in Superior Court on three occasions: two motions and one pro bono trial.

From 1983 to 1987, I served as an Assistant United States Attorney in the Superior Court of the District of Columbia. I appeared in Court virtually daily for trials and hearings, initially on misdemeanor matters and later on felony matters.

From 1987 to December 1997, I was an Assistant United States Attorney serving in the federal court prosecuting criminal cases. I appeared in court frequently on trials, hearings and grand jury matters.

From December 1997 to the present, I have served as a supervisor in the United States Attorney's Office. In this capacity, my court appearances are infrequent.

(2) What percentage of these appearances was in:

(a) Federal courts (including Federal courts in D.C.);
(b) State courts of record (excluding D.C. courts);
(c) D.C. courts (Superior Court and D.C. Court of Appeals only);
(d) other courts and administrative bodies.

From April 1987 to the present, 95% of my court appearances were before the federal courts.

From March 1983 through April 1987, my court appearances were 95% in Superior Court and the D.C. Court of Appeals. I also argued two cases before the United States Court of Appeals for the District of Columbia Circuit.

(3) What percentage of your litigation has been:

(a) civil;
(b) criminal.

While a practicing student in law school and as an Associate at Steptoe & Johnson, 100% of my litigation was civil. Between March 1983 and January 1998, 100% of my litigation was criminal. From January 1998, most of my time is spent on managerial issues. However, I am involved in the management of major criminal and civil cases at the United States Attorney's Office.

(4) What is the total number of cases in courts of record you tried to verdict or judgment (rather than settled or resolved, but may include cases decided on motion if they are tabulated separately). Indicate whether you were sole counsel, lead counsel, or associate counsel in these cases.

Between 1987 and January 1998, I have tried to verdict eleven (11) jury trials, ten in the District Court for the District of Columbia and one in the District Court for the Southern District of Texas. I tried three cases with co-counsel and was the sole counsel in the other eight trials.

Between 1983 and 1987, I tried seventeen (17) misdemeanor trial matters (10 jury trials and 7 non-jury trials) in Superior Court and thirty-six (36) felony trial matters (35 jury trial and 1 non-jury trial) in Superior Court. I was the sole counsel in all 53 of these trials.

Between 1980-1983, I tried one pro bono non-jury trial as an Associate at Steptoe & Johnson.

(5) What percentage of these trials was to

(a) a jury;
(b) the court (include cases decided on motion but tabulate them separately).

Of the 65 cases I tried to verdict, 86% of them have been jury trials and 14% have been non-jury.

18. Describe the five (5) most significant litigated matters which you personally handled. Provide citations, if the cases were reported, or the docket number and date if unreported. Give a capsule summary of the substance of each case and a succinct statement of what you believe was of particular significance about the case. Identify the party/parties you represented and describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case, (a) the date of representation; (b) the court and the name of the judge or judges before whom the case was litigated; and (c) the name(s) and address(es) and telephone number(s) of co-counsel and of the principal counsel for the other parties.

1. **United States v. Russo, 104 F.3d 431 (D.C. Cir. 1997) (affirmed)**
Criminal No. 95-097 (NHJ)
District Court of the District of Columbia
The Honorable Norma Holloway Johnson
October 23, 1995 - November 8, 1995

Opposing Counsel: Robert L. Tucker, Esquire
Assistant Federal Public Defender
625 Indiana Avenue, N.W.
Suite 550
Washington, D.C. 20004
(202) 208-7500

During the extensive grand jury investigation of the U.S. House of Representatives Post Office, allegations arose that Congressman Daniel Rostenkowski had placed employees on the congressional payroll who performed little or no work. In 1993, the grand jury subpoenaed defendant Robert Russo, a congressional employee who worked part-time for Congressman Rostenkowski from 1976 to 1987. During those 11 years, defendant Russo received congressional wages totaling approximately $90,000. When defendant Russo was questioned about the nature of his work, defendant Russo replied that he spent several hours cleaning the congressman's district office five days a week, every other week. He also denied knowing anyone else who cleaned the Chicago office in those years. The government developed evidence that both of those statements were false and indicted him for perjury and obstruction of justice.

Assistant United States Attorney Larry R. Parkinson and I tried this case as co-counsel, dividing the work equally. Mr. Parkinson gave the opening statement and I gave the closing argument. This prosecution was challenging because opposing counsel, Robert Tucker, Esq., was an experienced and extremely able adversary. His client, a frail 60 year-old man suffering from uncontrollable shaking as a result of Parkinson's disease, presented a pathetic defendant. Mr. Tucker marshaled a vigorous defense, using expert testimony in support of his position that at the time Mr. Russo had testified in the grand jury, the mental effects of his disease had caused him not to understand fully the questions asked by the prosecutor and therefore Mr. Russo gave inaccurate answers. However, the testimony of the individuals who actually cleaned the office who did four times the amount of work as defendant Russo and received 1/3 the amount of pay convinced the jury that Mr. Russo had given false testimony. Mr. Russo never answered the $90,000 question -- why had Congressman Rostenkowski paid him for doing little or no work? Instead of telling the truth, Mr. Russo prevaricated.

This case is significant for two important reasons, one practical and the other idealistic. First, it convinced other defendants under indictment in the House Post Office investigation to plead guilty. Of the twelve individuals convicted in the House Post Office investigation, Mr. Russo was the only defendant who went to trial. The Russo trial demonstrated the government's ability to present its case in a concise, organized, and persuasive manner. Our ability to prevail at trial against Mr. Russo was undeniably an important factor in convincing Congressman Rostenkowski to plead guilty, preventing a four-month trial and saving valuable court-time and government resources.

Second, this prosecution underscored the importance of immunized witnesses testifying truthfully before the grand jury -- without truthful testimony, our system of justice can not work. The perjury and obstruction of justice convictions in the Russo case demonstrated what should occur when immunized witnesses choose to testify falsely to protect powerful individuals and withhold valuable information.

2. Price v. United States, 545 A.2d 1219 (D.C. 1988) (affirmed)
Criminal No. F270-84
Superior Court of the District of Columbia
The Honorable Sylvia Bacon
May 3, 1985 - May 9, 1985

Opposing Counsel: Irving Foster, Esquire
5853 Jackson's Oak Court
Burke, Virginia 22015
(703) 256-8530

As the sole prosecutor in this matter, I faced the challenge of trying a shooting case where the victim survived, but could not identify the defendant. Success in this case ultimately rested on understanding the rules of evidence and knowing the facts of the case.

The victim met Cheryl Wilson and consummated a sexual relationship on the second date. On the third date, as the victim drove his car to her house, he saw Ms. Wilson arguing with a stranger and before the victim could get out of his vehicle, he saw the stranger push Ms. Wilson to the ground. The stranger then took out a pistol, pointed it, and fired five (5) shots at the victim. The victim drove off, but two of the bullets had seriously wounded him, causing the victim's family to take him to the emergency room of George Washington University Hospital. The victim was unable to identify his assailant.

Ms. Wilson, an eighteen year-old woman, proved to be a reluctant witness; but she finally admitted in her grand jury testimony that Theodore Price shot the victim. Ms. Wilson said she was reluctant to identify the assailant because she still loved Mr. Price, who was the father of her 15 month-old baby. At trial, Ms. Wilson's story changed dramatically. She testified that she did not know who shot the victim -- the person who pushed her to the ground was a man unknown to her, who was attempting to rob her. Even after the Court appointed a lawyer for her and she was impeached by her prior sworn grand jury testimony, Ms. Wilson persisted in the story about a robber. Our essential witness had changed her testimony and could not be dissuaded from the path she had chosen. Because at that time District of Columbia law did not permit impeachment by prior sworn testimony to be used as substantive evidence, there was no "evidence" of identification. Thus, Judge Bacon would be forced to grant the defense's motion for judgment of acquittal. Two of my supervisors suggested that I should dismiss the case. But, I believed the jurors would convict the defendant if we gave them an opportunity.

With the help of our appellate section, I developed a theory that would give the court a legal basis to permit the case to go to the jury. Because the victim had driven off, Ms. Wilson did not know that he had been shot until the victim's brother called her from the hospital. When she heard about the victim's life-threatening situation, Ms. Wilson began to cry and admitted that Theodore Price had shot the victim. I argued to the Court

that this statement was an excited utterance, which is substantive evidence under District of Columbia law. Judge Bacon permitted the case to go to the jury -- the jury quickly convicted Mr. Price. In affirming the conviction, the Court of Appeals agreed with our position regarding the excited utterance.

This case is typical of many criminal cases in Superior Court and the problems that arise during trial. The case is significant because it demonstrates how one's knowledge of the law and the facts can be used to reach a just result, despite what appear to be insurmountable obstacles.

3. United States v. Bouchey
961 F.2d 964 (D.C. Cir. 1992) (affirmed without a reported opinion)
Criminal No. 90-424 (SSH)
District Court of the District of Columbia
The Honorable Stanley S. Harris
January 17, 1991 - February 7, 1991

Opposing Counsel: Neil Hurley, Esquire
Hurley & Mina
12 City Center
Portland, Maine 04101
(207) 772-6805

I was the sole prosecutor in this pubic corruption case in which Amparo Bouchey, the former Director of the Office of Small and Disadvantaged Business Utilization (OSDBU) of the Department of Transportation was convicted of conspiracy and conflict of interest. John E. Ricche, a part-time consultant with OSDBU for six years, who was indicted with Ms. Bouchey, pleaded guilty before trial to conspiracy to commit bribery.

The evidence at trial established that in the winter of 1988, Ms. Bouchey and Mr. Ricche began to discuss a joint business arrangement in order for Ms. Bouchey to have some income when she left government service. After budgetary constraints forced the elimination of Mr. Ricche's part-time position with OSDBU, Ms. Bouchey, Mr. Ricche, and a third OSDBU employee devised a scheme to continue his employment by making Ricche a subcontractor on an existing OSDBU contract. In order to provide an income for Ms. Bouchey when she left government service, the three OSDBU employees conspired to increase Mr. Ricche's employment contract from $30,000 to $150,000 per year for the same work.

During the investigative stage of this case, I obtained the testimony of several reluctant witnesses and streamlined the evidence to be used at trial. I was forced to immunize the least culpable coconspirator to obtain the evidence to indict Ms. Bouchey and Mr. Ricche. After Mr. Ricche pleaded guilty, I obtained a compulsion order to secure his trial testimony.

At trial, I successfully rebutted Ms. Bouchey's defense that if there was any corruption, it was between Mr. Ricche and the government's immunized witness -- not Ms. Bouchey. Mr. Hurley, counsel for Ms. Bouchey, did a masterful job of highlighting the inconsistencies in the testimony of the government's two primary witnesses, and argued that their motive for testifying falsely was to save themselves by implicating a high-ranking government official. By convicting Ms. Bouchey on two of the four felony charges, the jury rejected Ms. Bouchey's testimony that she was an overworked detached administrator who was unaware of the conspiracy by her employee and Mr. Ricche. This case was affirmed in an unpublished opinion.

This case was significant because it assisted the Department of Transportation in its effort to prosecute government fraud and corruption. It also highlighted the fact that the process of selecting and administering large government contracts is a fertile area for corruption and fraud. Hopefully, in a broad sense, this case, and other cases like it, will discourage other individuals from violating the law. In recognition of my efforts, Secretary of Transportation Samuel Skinner presented me with a Certificate of Commendation.

4. Comber v. United States, 584 A.2d 26 (D.C. 1990) (en banc) (reversed)
Criminal No. F969-86
Superior Court of the District of Columbia
The Honorable Nan R. Shuker
April 4, 1986 - April 16, 1986

Opposing Counsel: Allie J. Sheffield, Esquire
1875 Mintwood Place, N.W.
Washington, D.C. 20009
(Current number is a non-published listing)

I was the sole prosecutor in this murder trial. On February 4, 1986, the decedent resumed his relationship with his old girlfriend, Mary Comber, defendant Comber's sister. Mr. Comber, who had an antagonistic relationship with the decedent, became angry when he was told that his sister and the decedent had renewed their romance, had gotten married, and intended to move back into the family home. Upon seeing the decedent in the alley with his sister walking with a package of beer, Mr. Comber hit the decedent in front of several witnesses. With one blow, the decedent was knocked unconscious and died. The medical examiner testified that the cause of death was one or more extremely forceful blows to the face which caused brain hemorrhaging, bleeding in the part of the brain which controls the heartbeat and respiration. The decedent's extreme intoxication (.33% blood alcohol level) contributed to his death.

Almost all of the government witnesses were alcoholics, including Mary Comber. The government's most credible witness was Mr. Comber's nephew, an eleven year-old

boy, who testified that his uncle hit the decedent. Mr. Comber testified that he was acting in self-defense alleging that he hit the decedent because he believed that the decedent was reaching for the pocketknife which the decedent always kept in his back pocket. In closing, I argued that the decedent's knife was found closed in his back pocket and Mr. Comber had struck the decedent in anger while the drunken decedent held on to the pack of beer with one hand and to Mary Comber's hand with his other hand. Although the jurors rejected the defendant's self-defense testimony, they found that the government's evidence was insufficient to show malice -- convicting the defendant of voluntary manslaughter instead of murder in the second degree.

This case is notable because of what occurred on appeal. The District of Columbia Court of Appeals, en banc, reversed the conviction because of instructional error. Although the trial court and the parties attempted to draft an appropriate instruction concerning the different degrees of homicide, the erroneous instruction in the "Redbook" (The Criminal Jury Instructions for the District of Columbia) did not assist our efforts. In clarifying the different degrees of homicide in the District of Columbia, the appellate court held that one who kills in the commission of a misdemeanor which is inherently dangerous is guilty of involuntary manslaughter. The "Redbook" now reflects this clarification of the law.

5. United States v. Ferguson, 788 F. Supp. 580 (D.D.C. 1992) (pretrial ruling);
1 F.3d 45 (D.C. Cir. 1997) (affirmed without a reported opinion)
Criminal No. 91-605 (GAG)
District Court of the District of Columbia
The Honorable Gerhard A. Gesell
March 30, 1992 - April 2, 1992

Opposing Counsel: Robert E. Sanders, Esquire
12051 Marlboro Pike
Upper Marlboro, MD 20772
(301) 574-3400

I was the sole prosecutor in this case in which two government employees stole drugs and weapons from the mail room of the United States Department of State where they worked and then sold the weapons on the streets of the District of Columbia. The State Department determined that over 25 weapons, including sawed-off shot guns and Uzi machine guns, were stolen from its mail system from January through September of 1991. In addition, numerous drug samples which had been shipped by the Drug Enforcement Agency from posts around the world to the United States for chemical analysis were also stolen. In order to apprehend the individuals responsible for these thefts, I, along with Special Agents from the United States Department of State, Office of the Inspector General (OIG), developed a "sting" operation.

On September 25, 1991, a package was placed in the mail system of the Department of State by OIG Special Agents. The package consisted of a Sig Sauer pistol, which had been rendered inoperable by removing the firing pin. Electronic tracking devices were installed in the butt of the pistol and the shipping container, which enabled Special Agents to monitor the whereabouts of the package. The weapon was also dusted with a fluorescent powder which would stain the hands of any individual handling the weapon.

On September 26, 1991, the electronic monitoring equipment indicated that Brian Stevens, a contract employee of the United States Department of State working in the mail room, was attempting to steal the pistol. He had secreted the pistol in a desk draw; an ultraviolet light revealed fluorescent powder on Mr. Stevens' hands. After being caught red-handed, Stevens confessed to stealing the missing weapons and selling them. He also admitted to stealing the drug samples. In his statement, Stevens implicated another Department of State employee, Ralph Ferguson, as being an accomplice in stealing five shot guns and nine machine guns on May 30, 1991. On January 9, 1992, Stevens pled guilty to three counts of an indictment, including the lead count of the indictment involving Possession of Unregistered Firearms (machine guns).

Even though Stevens pleaded guilty, his co-defendant Mr. Ferguson exercised his right to have a jury decide his fate. At trial, Mr. Ferguson admitted to assisting Mr. Stevens in taking the crates containing nine (9) machine guns and five (5) shotguns on May 30, 1991. However, Ferguson testified that he was an unwitting accomplice of Mr. Stevens because he did not know that the packages were stolen and that the packages contained weapons. The jury convicted Mr. Ferguson of conspiracy and embezzlement of government property.

This case is significant because it involved working closely with other government agencies in a sensitive area in order to reach an appropriate resolution. During the course of the investigation, I worked closely with officials at the Department of State not only to obtain their cooperation in conducting a "sting operation" at the State Department, but also to ensure their willingness to prosecute this case even though several aspects of this case had the potential of revealing both sensitive and classified information. I utilized procedures established by the Classified Information Procedures Act to protect against the unauthorized disclosure of classified information during both the investigation and the trial. This required me to obtain top secret clearance and to work closely with the Internal Security Section of the Department of Justice. By working together with other government agencies, I successfully prosecuted those responsible for placing weapons of mass destruction on the streets of the District of Columbia.

19. Describe the most significant legal activities you have pursued, including significant litigation which did not proceed to trial or legal matters that did not involve litigation. Describe the nature of your participation in each instance described, but you may omit any information protected by the attorney-client privilege (unless the privilege has been waived).

In addition to the individual cases described above, I have participated in the investigation and prosecution of a number of complex and sometimes sensitive official corruption cases. For example, in January 1992, I was assigned to investigate allegations that stamp tellers were stealing money from their stamp drawers at the United States House of Representatives Post Office, which became known as the House Post Office (HPO) investigation. This four-year investigation culminated in obtaining guilty pleas from two congressmen. Over 200 witnesses and thousands of documents were presented to the grand jury. Several motions related to grand jury issues were litigated before the Chief Judge of the U.S. District Court for the District of Columbia.

The HPO investigation resulted in a dozen convictions in cases against various public officials, including:

1. U.S. v. Daniel Rostenkowski (on April 9, 1996, the defendant pleaded guilty to two felony counts of mail fraud).

2. U.S. v. Joseph Kolter (the defendant, a former congressman, pleaded guilty to conspiracy to steal money from the House Post Office by exchanging stamps and vouchers for cash).

3. U.S. v. Gerald Weaver (the defendant, a lawyer and former Congressional Administrative Assistant, pleaded guilty to distribution of cocaine on Capitol Hill and to obstruction of justice).

4. U.S. v. Robert Rota (the defendant, the former House Postmaster, pleaded guilty to conspiracy to embezzle funds from the House Post Office and theft).

5. U.S. v. James Nedza (the defendant, a former Rostenkowski "ghost employee," pleaded guilty to obstruction of justice).

The Honorable Norma Holloway Johnson of the United States District Court for the District of Columbia presided over all of these cases.

These successful prosecutions were the result of a lengthy and intensive investigation by the HPO prosecution team, which included the Chief of Public Corruption/Government Fraud Section and three other Assistant U.S. Attorneys. I, like most of the prosecution team, worked almost exclusively on the HPO investigation during this time-period. This investigation was similar to the work of an Independent Counsel charged with investigating high ranking executive officials. In recognition of our efforts, each member of the team received a U.S. Department of Justice Director's Award, one of the highest honors presented to an Assistant United States Attorney.

Between 1988 and 1990, I participated in several major investigations involving allegations of contract fraud in the District of Columbia government. I was co-counsel with Assistant United States Attorney Rhonda C. Fields (then Chief of the Economic Crimes Section) in two of these trials: U.S. v. David Rivers and John Clyburn, Crim. No. 89-141 (JHG) (a four-month trial in 1990 in which the defendants were acquitted of bribery and contract fraud charges involving the District of Columbia Department of Human Services); U.S. v. Gladys Baxley and Michael Davis, Crim. No. 89-172 (JHG) (a five-week trial in 1990 in which the defendants were acquitted of federal bribery charges and the jury deadlocked on the conspiracy to defraud charge against Mr. Davis). One published opinion relates to these trial matters: U.S v. Davis, 755 F. Supp. 580 (D.D.C. 1991) (after Mr. Davis was acquitted of federal bribery charges, the trial court exercised its discretion in dismissing the local charge of conspiracy to defraud the District of Columbia, a count in the indictment upon which the jury was unable to reach a unanimous verdict).

I have also participated in numerous other significant cases as a line Assistant United States Attorney and as the Principal Assistant United States Attorney. Some of these cases have resulted in successful prosecutions such as U.S. v. Ronald L. Stokes, Crim. No. 97-351 (CKK)(D.D.C.)(the former Chief of the Office of Taxi Cabs was convicted of fraud) and cases against corrupt police officers. Others have been closed out, when, for a variety of reasons, prosecution was not appropriate.

20. Have you ever held judicial office? If so, please give the details of such service, including the court(s) on which you served, whether you were elected or appointed, the dates of your service, and a description of the jurisdiction of the court. Please provide three (3) copies of all opinions you wrote during such service as a judge.

I have never held judicial office.

a. List all court decisions you have made which were reversed or otherwise criticized on appeal.

Not applicable.

21. Have you ever been a candidate for elective, judicial, or any other public office? If so, please give the details, including the date(s) of the election, the office(s) sought, and the results of the election(s).

I have never been a candidate for elective, judicial, or other public office.

22. Political activities and affiliations.

a. List all public offices, either elected or appointed, which you have held or sought as a candidate or applicant.

None.

b. List all memberships and offices held in and services rendered to any political party or election committee during the last ten (10) years.

None.

c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity during the last ten (10) years.

(1) **In 1991, I contributed $25.00 to the Judicial Campaign in New York City of a former classmate.**

(2) **In 1992, I contributed $50.00 to the Senate Campaign of Carol Mosley Braun, Democratic Candidate for the United States Senate from Illinois.**

(3) **In 1998, I contributed $100.00 to the Congressional Campaign of Representative Harold Ford, Jr.**

(4) **In 1998, I contributed $50.00 to the Congressional Campaign of Representative Jessie Jackson, Jr.**

(5) **In 1999, I contributed $100.00 to the Gubernatorial Campaign of Representative William Jefferson.**

(6) **I have been a member of the Potomac Coalition since 1996. The organization seeks to develop policies that can positively impact the urban working community and align these policies with current and future business trends. This organization has yearly dues of $250.00 and contributes most of these funds to various federal political campaigns.**

To the best of my knowledge, these are the only political contributions that I have made in the last ten years.

23. Have you ever been investigated, arrested, charged, held or convicted (include pleas of nolo contendere) by federal, State, local, or other law enforcement authorities for violations of any federal, State, county, or municipal law, regulation, or ordinance other than for a minor traffic offense?

I have never been investigated, arrested, charged, held or convicted of a violation of any federal, state, county, or municipal law, regulation, or ordinance.

24. Have you or any business of which you are or were a officer ever been a party or otherwise involved as a party in any other legal or administrative proceedings. If so, give the particulars. Do not list any proceedings in which you were merely a guardian ad litem or stakeholder. Include all proceedings in which you were a party in interest, a material witness, were named as a coconspirator or co-respondent, and list any grand jury investigation in which you appeared as a witness.

Yes.

1. **Brenda Kay Morris v. Thomas John Motley, Case No. DR1603-95, (divorce proceeding)(District of Columbia Superior Court, July 1995).**

2. **Interstate General Corporation v. Thomas Motley, Case No.: LT 53031-83, (District of Columbia Superior Court, 1983). This involved a dispute in 1983 with my landlord over a late payment of rent by several days. The management refused to accept the late payment because it had already forwarded the matter to its attorneys. The total amount was $501.40 ($468.00 rent amount and $33.40 late payment). The matter was resolved quickly and the case was dismissed.**

3. **I have been a witness in two other matters, both in a professional capacity as an Assistant United States Attorney.**

   (a) **In January 1984, I testified in the District of Columbia Superior Court in Darab v. U.S., 623 A.2d 127 (D.C. 1993). I was government counsel in a ten-week trial in which the jury convicted thirty-two (32) co-defendants of unlawful entry at the Islamic Center Mosque located on Massachusetts Avenue, N.W. One of the defendants testified that the Islamic Center was the only Mosque for him to attend in the Washington, D.C. area. On cross-examination I asked the defendant about several other mosques located in the Washington, D.C. area. Defense counsel Mark Lane, Esq., then called me as his next witness claiming that I did not have a "good faith" basis for asking questions concerning other mosques. The trial judge required me to testify outside the presence of the**

jury. Following my testimony, the court ruled that my questions on cross-examination were proper because I had relied on the list of mosques located in the Bell Atlantic Yellow Pages.

(b) On December 4, 1997, I was deposed in a civil action filed in the United States District Court for the District of Columbia in the case of Gerald W. Weaver, II and Katherine Brewer v. Mundy, Holt & Mance, and the Estate of R. Kenneth Mundy, Civ. Action No. 96-1889 (TFH). I was one of four Assistant United States Attorneys who testified by deposition. In 1992, Mr. Weaver, then a lawyer and a former Congressional Administrative Assistant to Congressman Joseph Kolter, pleaded guilty to distribution of cocaine on Capitol Hill and to obstruction of justice. U.S. v. Weaver, Crim. No. 92-453 (D.D.C. 1992). Attorney R. Kenneth Mundy, Esq. represented Mr. Weaver at his sentencing. In 1996, Mr. Weaver and his wife filed a legal malpractice action against the Estate of Mr. Mundy and his law firm alleging Mr. Mundy had a conflict of interest when he represented Mr. Weaver in his criminal case. Specifically, Mr. Weaver claimed that Mr. Mundy began to represent Congressman Daniel Rostenkowski instead of continuing to represent Mr. Weaver by attempting to obtain a reduction of Mr. Weaver's sentence in exchange for testimony against Congressmen Kolter and Rostenkowski. I testified about my knowledge concerning the underlying criminal prosecutions.

25. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, bar or professional association, disciplinary committee, or other professional group? If so, please provide the details.

I have never been disciplined or cited for a breach of ethics or unprofessional conduct. I believe that two claims alleging prosecutorial misconduct have been made against me.

(1) In In Re Grand Jury Investigation, Misc. No. 93-82 (JGP) (DDC 1993) (under seal), allegations of grand jury abuse were made against me (and other prosecutors). Chief Judge John G. Penn found no merit to these allegations. Because this matter is under seal and involved matters before a grand jury, Fed. R. Crim. P. 6(e) prohibits me from providing any further information.

(2) In 1983, in the Mosque protest case, Darab v.U.S., 623 A.2d 127 (D.D.C. 1993) (discussed in response to question no. 24), Mark Lane,

Esq., counsel for the 32 co-defendants, alleged prosecutorial misconduct throughout the trial. I believe these accusations were baseless and part of Mr. Lane's trial strategy. The Honorable W. Byron Sorrell, the trial judge, did not find any instances of prosecutorial misconduct.

II. POTENTIAL CONFLICTS OF INTEREST

1. Will you sever all connections with your present employer(s), business firm(s), business association(s), or business organization(s) if you are confirmed?

   Yes, I will.

2. Describe all financial arrangements, deferred compensation agreements, or other continuing dealings with your law firm, business associates, or clients.

   I have paid into the federal retirement system from which I expect to receive benefits when I retire.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest.

   I know of no investments, obligations, liabilities or other relationships that would present me with a conflict of interest. If any matter came before me that involved a company in which I have financial interest, I would recuse myself.

4. Describe any business relation, dealing, or financial transaction which you have had in the last ten (10) years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest.

   None.

5. Describe any activity during the last ten (10) years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of legislation or affecting the administration and execution of law or public policy.

   I have engaged in no such activity beyond the extent to which my ordinary duties as the Principal Assistant United States Attorney include providing advice and counsel on legislative and public policy matters, usually involving matters concerning District of Columbia laws.

6. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service as a judge? If so, explain.

   No, I do not.

7. Explain how you will resolve any potential conflicts of interest, including any that may have been disclosed by your responses to the above items. Please provide three (3) copies of any trust or other relevant agreements.

I will recuse myself from considering or participating in any matter in which there is an actual conflict or a perceived appearance of one. I will always be sensitive to potential conflicts and will seek to avoid even the appearance of one. Even when there is, in my view, no actual or substantial apparent conflict, I will put on the record any relationship at all between myself and any of the parties in any matter before me.

8. If confirmed, do you expect to serve out your full term?

Yes, I do.

III. FINANCIAL DATA

Financial Data - On file with the Committee on Governmental Affairs.

IV. DISTRICT OF COLUMBIA REQUIREMENTS

Supplemental questions concerning specific statutory qualifications for service as a judge in the courts of the District of Columbia pursuant to the District of Columbia Court Reform and Criminal Procedure Act of 1970, D.C. Code Section 11-1501(b), as amended.

1. Are you a citizen of the United States?

   Yes.

2. Are you a member of the bar of the District of Columbia?

   Yes.

3. Have you been a member of the bar of the District of Columbia for at least five (5) years? Please provide the date you were admitted to practice in the District of Columbia.

   Yes. I have been a member of the District of Columbia Bar since May 1981.

4. If the answer to Question 3 is "no"--

   a. Are you a professor of law in a law school in the District of Columbia?

   b. Are you a lawyer employed in the District of Columbia by the United States or the District of Columbia?

   c. Have you been eligible for membership in the bar of the District of Columbia for at least five (5) years?

   d. Upon what grounds is that eligibility based?

5. Are you a *bona fide* resident of the District of Columbia?

   Yes.

6. Please list the addresses of your actual places of abode (including temporary residences) with dates of occupancy for the last five (5) years.

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7. Have you maintained an actual place of abode in such area for at least five (5) years?

   Yes.

8. Are you a member of the District of Columbia Commission on Judicial Disabilities and Tenure or the District of Columbia Judicial Nominating Commission?

   No.

9. Have you been a member of either of these Commissions within the last 12 months?

   No.

AFFIDAVIT

Thomas J. Motley being duly sworn, hereby states that he has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his knowledge, current, accurate, and complete.

Thomas J. Motley

SUBSCRIBED and SWORN TO before me this 21st day of January, 2002.

Notary Public

QUESTIONNAIRE FOR NOMINEES TO THE DISTRICT OF COLUMBIA COURTS
COMMITTEE ON GOVERNMENTAL AFFAIRS, UNITED STATES SENATE

I. BIOGRAPHICAL AND PROFESSIONAL INFORMATION

1. Full name (include any former names used).

John McAdam Mott

2. Citizenship (if you are a naturalized U.S. citizen, please provide proof of your naturalization).

United States

3. Current office address and telephone number.

United States Department of Justice
Civil Rights Division, Criminal Section
601 D Street, N.W., Room 5538
Washington, D.C. 20004

202-514-6347

4. Date and place of birth.

March 20, 1959

New York, New York

5. Marital status (if married, include maiden name of wife, or husband's name). List spouse's occupation, employer's name and business address(es).

Cristina Marciano

Investigator

Office of the Federal Public Defender
for the District of Maryland, Southern Division
6411 Ivy Lane, Suite 710
Greenbelt, Maryland 20770

6. Names and ages of children. List occupation and employer's name if appropriate.

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7. Education. List secondary school(s), college(s), law school(s), and any other institutions of higher education attended; list dates of attendance, degree received, and dates each degree was received. Please list dating back from most recent to earliest.

Northeastern University School of Law, Boston, Massachusetts (September 1985 - June 1988; J.D., 1988)

Dartmouth College, Hanover, New Hampshire (September 1977 - June 1981; B.A. History, 1981)

Pittsford Sutherland High School, Pittsford, New York (Graduated 1977)

8. Employment record. List all jobs held since college, including the dates of employment, job title or description of job, and name and address of employer. Please list dating back from most recent to earliest.

United States Department of Justice
Civil Rights Division, Criminal Section
601 D Street, N.W., Room 5538
Washington, D.C. 20004

(April 1995 - Present)

Deputy Chief (and Professional Responsibility Officer)

(Previously, Senior Trial Attorney: April 1995 - January 1998; Acting Deputy Chief: February 1998 - August 1998; Acting Chief: August 1998 - February 1999)

Public Defender Service for the District of Columbia
451 Indiana Avenue, N.W
Washington, D.C. 20001

(October 1988 - April 1995)

Staff Attorney

Massachusetts Senate Ways and Means Committee
State House, Boston, Massachusetts
(Spring 1988)

Law Clerk

Shea and Gardner
1800 Massachusetts Avenue, N.W., Washington, D.C. 20036

(Fall 1988)

Law Clerk

Judge Vincent Broderick, United States District Court for the Southern District of New York
Foley Square, New York, New York 10007

(Spring 1987)

Student Law Clerk

United States Attorney's Office for the Southern District of New York
St. Andrews Square, New York, New York 10007

(Fall 1986)

Law Clerk

Institute for International Studies and Training
Fujinomiya-shi, Kamiide-ken, Japan

(June - August 1985)

English Teacher

Neighborhood Legal Services
701 4th Street, N.W., Washington, D.C. 20001

(Fall 1984)

Volunteer

National Counsel of La Raza
20 F Street, N.W., 2nd Floor, Washington, D.C. 20002

(Summer 1983)

Volunteer

Quebec Labrador Foundation
41 Main Street, Ipswich, Massachusetts 01938

(Summer 1982)

Co-pilot; Camp Counselor

Holderness School
Plymouth, New Hampshire 03264

(September 1981 - June 1984)

High School Teacher; Coach

9. 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.

United States Department of Justice: Special Achievement Award (1999); Meritorious Award (1999); Special Commendation Award (1998); Meritorious Award (1997); Letter of Commendation (1997)

Teaching Assistant, Northeastern University School of Law and School of Criminal Justice

Casque and Gauntlet Senior Honor Society, Dartmouth College

10. Business relationships. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, or educational or other institution.

None

11. Military service. Indicate whether you have served in the US military and, if so, list dates of service, branch of service, rank or rate, serial number, and type of discharge received.

No

12. Bar associations. List all bar associations, legal or judicial-related committees, conferences, or organizations of which you are or have ever been a member, and provide titles and dates of any offices which you have held in such groups.

Committee on Unauthorized Practice of Law (1994 - Present) — Member

Hispanic Bar Association (1997 - Present) — Member

D.C. Bar: Courts, Lawyers and the Administration of Justice Section (Present) -- Steering Committee Co-chair; Criminal Law and Individual Rights Section, District of Columbia Affairs Section, Litigation Section -- Member

13. Other memberships. List all memberships and offices currently and formerly held in professional, business, fraternal, scholarly, civic, public, charitable, or other organizations, other than those listed in response to Question 12. Please indicate whether any of these organizations formerly discriminated or currently discriminates on the basis of race, sex, or religion.

Pioneer A.C. Track Program (1996 - Present) — Assistant Coach

Charlotte E. Ray, American Inn of Court (1997 - Present) — Officer

Assembly of Petworth (1998 - Present) — Board Member

D.C. Coalition Against Drugs and Violence (1995 - Present) — Chair, Youth Task Force

None of these organizations formerly discriminated or currently discriminates on the basis of race, sex, or religion

14. Court admissions. List all courts in which you have been admitted to practice, with dates of admission and lapses in admission if any such memberships have lapsed. Please explain the reason for any lapse in membership. Please provide the same information for any administrative bodies which require special admission to practice.

Massachusetts
November 1988

New York
February 1989

District of Columbia
July 1989

15. Published writings. List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited.

None

16. Speeches. List the titles of any formal speeches you have delivered during the last five (5) years and the date and place where they were delivered. Please provide the Committee with three (3) copies of any of these speeches.

None

17. Legal career.

a. Describe chronologically your law practice and experience after graduation from law school, including:

(1) Whether you served as a law clerk to a judge, and if so, the name of the judge, the court, and the dates of your clerkship;

(2) Whether you practiced alone, and if so, the addresses and dates;

(3) The dates, names, and address of law firms, companies, or governmental agencies with which you have been employed.

I did not clerk for a judge after law school. While in law school, in the Spring of 1987, I served as a student law clerk to The Honorable Vincent Broderick, United States District Court for the Southern District of New York.

I have never practiced alone.

I have been employed by the following governmental agencies:

Public Defender Service for the District of Columbia
451 Indiana Avenue, N.W
Washington, D.C. 20001

(October 1988 - April 1995)

United States Department of Justice
Civil Rights Division, Criminal Section
601 D Street, N.W., Room 5538
Washington, D.C. 20004

(April 1995 - Present)

b. Describe the general character of your law practice, dividing it into periods with dates if its character has changed over the years.

Criminal Defense
(October 1988 - April 1995)

Federal Prosecution
(April 1995 - Present)

c. Describe your typical former clients and describe the areas of practice, if any, in which you have specialized.

Public Defender Service for the District of Columbia

Upon graduation from law school, I began my practice of law as a Staff Attorney at the District of Columbia Public Defender Service ("PDS"), where I represented indigent criminal defendants and juvenile respondents in all stages of court proceedings in the District of Columbia Superior Court and Court of Appeals. My work included the trial and appeal of juvenile delinquency and criminal matters. Most of my clients were charged with serious felony offenses. Throughout my nearly seven years at PDS, I supervised and participated in all aspects of the criminal investigation of my cases. On hundreds of occasions, I accompanied investigators and attorney colleagues to crime scenes and witness interviews. In addition, I managed investigators and law clerks and, during my last three years at PDS, supervised junior lawyers.

My work at PDS may be grouped into the following areas of practice:

Appellate: for one year, during 1988 and 1989, I researched and wrote appellate briefs and argued several cases before the District of Columbia Court of Appeals;

Family Court: for approximately one year, during 1989 and 1990, I represented juvenile respondents in the Family Division of the Superior Court in bench trials, including several juvenile homicide trials;

Adult Court: from 1990 until 1992 (during which time I had one misdemeanor and multiple felony trials), I represented adult clients in jury trials in the D.C. Superior Court;

Felony One Calendar: from 1992 to 1995, I represented adult defendants charged primarily with homicide offenses in jury trials in the D.C. Superior Court.

United States Department of Justice, Civil Rights Division, Criminal Section

As a federal prosecutor at the Civil Rights Division, Criminal Section, since April 1995, I have investigated, tried, and supervised federal criminal civil rights cases.

My work at the Department of Justice has involved the following responsibilities:

Senior Trial Attorney: from 1995 to 1998, I investigated and prosecuted criminal cases, including allegations of official misconduct, incidents of racially motivated violence, and violations of the Fair Housing Act rights of victims. Per Section practice, I coordinated investigation by the FBI and participated with case agents in multiple interviews and interrogations of police officers and other witnesses. In addition, I drafted motions, memoranda, plea agreements, jury instructions and other written work. Finally, I presented matters to grand juries and trial juries around the United States.

Acting Chief: from August 1998 to February 1999, I managed a staff of 53 trial attorneys and support personnel in all aspects of their official duties, authorized investigations, assigned and approved indictments and plea offers, and made all hiring, personnel, and budget-related decisions for the Criminal Section.

Deputy Chief: I currently serve as Deputy Chief of the Criminal Section, where my responsibilities include the management of all Criminal Section matters in the northeast and mid-west regions of the United States. I authorize investigations, assign cases, and supervise all matters out of my region of coverage. I also supervise the operations of the Worker Exploitation Task Force.

Professional Responsibility Officer: I serve as the Section's point of contact on all ethical matters.

d. Describe the general nature of your litigation experience, including:

(1) Whether you have appeared in court frequently, occasionally, or not at all. If the frequency of your court appearances has varied over time, please describe in detail each such variance and give applicable dates.

(2) What percentage of these appearances was in:

(a) Federal courts (including Federal courts in D.C.);
(b) State courts of record (excluding D.C. courts);
(c) D.C. courts (Superior Court and D.C. Court of Appeals only);
(d) other courts and administrative bodies.

(3) What percentage of your litigation has been:

(a) civil;
(b) criminal.

(4) What is the total number of cases in courts of record you tried to verdict or judgment (rather than settled or resolved, but may include cases decided on motion if they are tabulated separately). Indicate whether you were sole counsel, lead counsel, or associate counsel in these cases.

(5) What percentage of these trials was to

(a) a jury;
(b) the court (include cases decided on motion but tabulate them separately).

From 1989 to 1995, after a year of briefing and arguing cases in the D.C. Court of Appeals, I appeared regularly in the Family and Trial Divisions of the D.C. Superior Court as a Staff Attorney at the Public Defender Service for the District Columbia. During a typical week, I would appear in court between three to five days for conferences, hearings, and trials.

In April 1995, I began my current service at the Civil Rights Division, Criminal Section, of the United States Department of Justice. From April 1995 to July 1998, I worked as a Senior Trial Attorney and then as Acting Deputy Chief for the Criminal Section, during which time I practiced regularly and exclusively in federal district courthouses around the country, and tried cases to verdict in Mississippi, New Jersey, and California. From August 1998 to the present, I have served as Acting Chief and Deputy Chief of the Criminal Section, managing and supervising all aspects of the Section's work. This latest management phase of my work has involved appearances in federal court on an infrequent basis.

Since April 1995, all of my court appearances have been in federal district court. All of my work from 1988 to 1995 was before D.C. Superior Court and D.C. Court of Appeals. I have never practiced in State court outside the District of Columbia or before an administrative body.

One hundred percent of this litigation has been criminal. I have tried over 30 trials to verdict. Of that number, I served as associate counsel on two, co-counsel on four, and lead counsel on approximately 25 matters. Between 20 - 25 of these matters were jury trials. I have handled eight to ten bench trials and have prevailed twice in motions hearings as a defense attorney where, as a result, all charges were dismissed.

18. Describe the five (5) most significant litigated matters which you personally handled. Provide citations, if the cases were reported, or the docket number and date if unreported.

Give a capsule summary of the substance of each case and a succinct statement of what you believe was of particular significance about the case. Identify the party/parties you represented and describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case, (a) the date of representation; (b) the court and the name of the judge or judges before whom the case was litigated; and (c) the name(s) and address(es) and telephone number(s) of co-counsel and of the principal counsel for the other parties.

United States v. Giannantonio, et. al., Criminal No. 97-368

District:	District of New Jersey
Presiding Judge:	The Honorable William H. Walls
Co-counsel:	Lisa Russell-Charles, Esq. (Former Assistant U.S. Attorney) 140 Wyoming Avenue Maplewood, New Jersey 07040 (973) 762-7523
Case Involvement:	September 1996 - Present
Trial Dates:	January 6 - 27, 1998
Defense Counsel:	Larry McClure, Esq. 210 River Street, Hackensack, NJ 07601 (201) 489-3555 Paul Cecere, Esq. and Paul Faugno, Esq. 58 Main Street, Hackensack, NJ 07601 (201) 489-7011

United States v. Giannantonio, et. al., involved the successful prosecution of John Giannantonio, a former police detective with the Palisades Park, New Jersey Police Department, two civilian accomplices, and various patrol officer co-conspirators who, for several years, operated a police officer burglary ring in the town of Palisades Park. Through their actions, the defendants violated the right of residents and small business owners to be free from unreasonable searches and seizures, and their right against deprivation of property without due process of law. The defendants and co-conspirators used their official status to effectuate the burglaries and to cover up their actions.

This case involved significant litigation over the redaction and introduction of taped inculpatory statements by two of the defendants. In each of the statements (which were surreptitiously recorded by a cooperating police officer witness), the declarant primarily inculpated himself but, at times, referred to the involvement of his co-defendants. At trial, Judge Walls balanced the government's interest in introducing the incriminating evidence against the co-defendants' Confrontation Clause rights. Ultimately, the trial

court accepted the government's position and permitted the introduction of these statements, redacted in compliance with Bruton v. United States, 391 U.S. 123 (1968), Richardson v. Marsh, 481 U.S. 200 (1987), and their progeny.

In this matter, the government charged and proved the element of color of law where the substantive acts themselves (in this case, the actual burglaries) were not committed by on-duty law enforcement officers. Rather, on certain occasions patrol officers gathered information on duty which the defendants utilized when they returned off-duty to burglarize the very homes and businesses they had previously inspected; on other occasions, on-duty officers provided backup while the civilian accomplices perpetrated the burglaries. The ability of the government to charge civilian accomplices of police officers with acting under color of law is well-settled. See United States v. Price, 383 U.S. 787, 794 (1966) (where civilians conspired with police officers to murder three civil rights workers in Mississippi). On appeal, however, the defense argued that the instant matter may be distinguished from Price because the civilians did not actually participate in the officers' on-duty activities and because for most of the incidents, the police officers themselves were not the actual burglars. The government's appellate attorney argued, as we argued below, that the over-arching nature of the conspiracy, and the mutual agreement between officers and civilians as to its objectives, subsumed the behavior of all participants under color of law. A decision in this matter is pending before the Third Circuit.

United States v. Burton: Case No. 97-3304-IEG

District:	Southern District of California
Presiding Judge:	The Honorable Irma E. Gonzalez
Co-counsel:	Assistant United States Attorney Amalia Meza United States Attorney's Office for the Southern District of California 880 Front Street San Diego, CA 92101-8893 (619) 557-6992
Case Involvement:	May 1997 - Present
Trial Dates:	June 12, 1998 - July 7, 1998

Defense Counsel: Michael Roake, Esq.
Roake & Roake, APC
2870 4th Avenue
San Diego, CA 92103
(619) 299-8132

On August 1, 1994, a group of armed United States Marine Corps Military Police Officers assaulted and injured undocumented migrant workers living near Camp Pendleton, California. Although suspicion at the time of the incident focused on this elite group, the subjects conspired to lie to investigators and covered up the incident. As a result, the matter was closed. In May of 1997, however, one of the subjects confessed to the beating during the course of an interview for a police officer position. Authorities notified the FBI. The matter was assigned to me, and I worked with an Assistant U.S. Attorney and two case agents from San Diego to reinvigorate the investigation, indict the matter, and secure guilty pleas from five of the seven defendants.

We proceeded to trial against the two remaining defendants: Mark Burton, who participated in the beating and subsequent cover up, and Charles Byrne, who was charged with acting as an accessory after the fact and with conspiracy to commit false statements. At the conclusion of the government's case, Byrne moved for a judgment of acquittal under Rule 29 on the accessory after the fact count, arguing that the count should not be sent to the jury where insufficient evidence existed that Byrne had knowledge that his co-defendants acted under color of law during the beating. The trial court initially ruled in Byrne's favor but immediately granted the government's request to reconsider based on the need to transcribe and review prior trial testimony. When the judge subsequently reversed herself upon review of that testimony and denied the defendant's Rule 29 motion, Byrne requested, and was granted, dismissal of the single count from the trial and an interlocutory appeal of the court's ruling. The Ninth Circuit affirmed the trial court, holding that the court was permitted to reconsider its ruling and that by doing so the court did not violate the Double Jeopardy Clause. United States v. Byrne, 203 F.3d 671 (9th Cir. 2000). Byrne's request for en banc reconsideration is currently pending before the Ninth Circuit.

Trial proceeded, however, on the remaining counts of the indictment, and Burton was convicted on multiple counts while Byrne was acquitted on the remaining charge against him. Burton's conviction was affirmed on appeal in an unpublished opinion (reported in the Table at 191 F.3d 461). On February 8, 2000, Burton filed a petition for a writ of certiorari arguing that the district court erred in denying his challenge for cause and peremptory challenge of an

Hispanic juror pursuant to Batson v. Kentucky, 476 U.S. 79 (1986). The United States has argued that the judgement of the appellate court is correct, that it does not conflict with the judgement of the Supreme Court or any other circuit, and that the matter does not present a question of recurring significance.

United States v. Ronald J. Clayton, Criminal No.: 2:97CR074

District:	Northern District of Mississippi
Presiding Judge:	The Honorable Neil Biggers
Co-counsel:	Assistant United States Attorney John Hailman Criminal Chief United States Attorney's Office P.O. Drawer 886 Oxford, Mississippi 38655 (601) 234-3351
Involvement:	Approximately July 1996 - December 1999
Trial Dates:	July 14 - 18, 1997
Opposing Counsel:	Mike R. Wall, Esq. 1127 Jackson Avenue P.O. Box 1216 Oxford, Mississippi 38655 (601) 281-1144

This case arose out of an incident which occurred on January 13, 1994, in which Ronald Clayton, former Chief Deputy Sheriff with the DeSoto County, Mississippi Sheriff's Department, assaulted a young couple on the roadside in northwestern Mississippi, causing bodily injury to both. After a high speed chase, officers stopped the couple's car and ordered the victims to get out. Both complied, and were placed on the ground. The young woman victim was handcuffed. Clayton then approached the two victims and beat them, kicking the female victim in the head. After the assault, while still on the scene, Clayton told the officers words to the effect that "if I had to worry about what you would say, you wouldn't be working for me." Clayton subsequently lied to the FBI in a detailed statement in which he claimed to have merely supervised the actions of his men on the scene.

As with most federal criminal civil rights cases, the investigation phase of this matter was of particular significance. Assistant U.S. Attorney John Hailman and I were actively involved with the FBI in every stage of the investigation. Since the victims of Clayton's beating did not adequately see their attacker, it was impossible to build a case around their account alone. Focused investigation, however, exposed false statements of five officers who had been on the scene of the beating but initially claimed to have seen nothing. Those officers testified for the government at trial, providing an account of the beating. As a result, the jury convicted Clayton of violating the female victim's Fourth Amendment right against unreasonable seizure, and of making a false statement to the FBI. The jury acquitted Clayton, however, of beating the male victim. At sentencing, the trial judge imposed the lightest possible sentence on Clayton and refused to apply certain sentencing enhancements. Both the defendant and government appealed.

Judge Biggers' sentencing decision created the primary legal issue raised by the government in its cross-appeal: whether the trial court erred in its application of the Federal Sentencing Guidelines by failing to enhance the Guidelines calculation by two levels because the handcuffed female victim was physically restrained at the time Clayton kicked her in the head, and by failing to enhance the Guidelines by two levels where Clayton obstructed a federal investigation by his threats to junior officers on the scene of the crime. The Fifth Circuit affirmed Clayton's conviction and denied the government's Sentencing Guidelines claim based on the obstruction of the administration of justice. The Fifth Circuit reversed, however, on the restraint issue, finding that the trial court abused its discretion by failing to apply the two point enhancement. (United States v. Clayton, No. 97-60712 (April 12, 1999). Clayton was re-sentenced and is currently incarcerated.

United States v. Charlie Webb, et al., Case No. F-5646-93 (Appellate No. 99-CO1341)

District:	D.C. Superior Court
Presiding Judge:	The Honorable Colleen Kollar-Kotelly
Government Counsel:	Assistant United States Attorney Oscar Mayers, Jr., Esq. United States Attorney's Office 555 Fourth Street, N.W. Washington, D.C. 20001 (202) 514-7566
Involvement:	Approximately June 1993 - May 1994.
Dates of Trial:	April 5 - April 20, 1994
Co-defendants' Attorneys:	Mr. Leroy Nesbitt, Esq. (deceased)
	Mr. Michael Dowd, Esq. 601 Pennsylvania Avenue, N.W., #700 Washington, D.C. 20006 (202) 508-8251

A jury convicted my client, Charlie Webb, and his two co-defendants of first degree premeditated murder and related charges for their alleged roles in a shooting on Q Street, N W., on May 10, 1993. The matter is currently on appeal. In this matter, one citizen was killed and two other victims injured by gunshots fired from a station wagon. The vehicle was then chased by squad cars, and crashed into the front steps of a house in Northeast Washington. Mr. Webb's co-defendants were arrested within hours of the incident, on the scene of the crash. Several weeks later, officers arrested Mr. Webb after paper tags, registered to Mr. Webb, were found on the back of the suspects' car. One of the victims of the shooting died in the hospital after struggling to survive for several weeks. During his hospitalization, but over 24 hours before his death, the decedent allegedly made statements implicating the defendants.

This matter involved several contested evidentiary issues, the most significant of which involved whether the trial court erred by admitting the decedent's out-of-court statements under the dying declaration exception to the hearsay rule. At trial, I moved in limine to exclude the statements as inadmissible hearsay. The statements at issue were made while the victim was hospitalized, in pain, and in an uncomfortable setting. No evidence existed, however, that the decedent believed his death to be imminent at the time he spoke. Although such a subjective showing appears to be a prerequisite to admissibility under a line of D.C. authority beginning with McFadden v. United States, 395 A. 2d 14 (D.C. 1978), the Court, in admitting the statements, reasoned that such a subjective state of mind could be inferred from the circumstances. This matter is currently pending before the District of Columbia Court of Appeals.

United States v. Christopher Cole, Case No. F-7460-92

District:	D.C. Superior Court
Presiding Judge:	The Honorable George Mitchell
Government Counsel:	Kirby Behre, Esq. (Former Assistant U.S. Attorney) Paul Hastings Janofsky & Walker 1299 Pennsylvania Avenue, N.W. Washington, D.C. (202) 508-9544
Involvement:	Approximately March 1993 - September 24, 1993
Dates of Trial:	September 21 - 24, 1993

A jury found Mr. Cole not guilty of first degree felony murder and related charges for his alleged involvement in the shooting of the victim during an aborted robbery attempt. The shooting took place in a dark alley behind the 1300 block of Savannah Street, S.E., on March 8, 1992. After the murder, the medical examiner recovered a .22 caliber slug from the decedent. Prosecution witnesses claimed Mr. Cole was the shooter and that he had bragged about his crime after the incident. The defense claimed that another young man was, in fact, responsible for the victim's death.

The case involved an important evidentiary issue: whether the Court would permit introduction of testimony from government witnesses that a .22 caliber bullet was seized by the police in Mr. Cole's bedroom, and that the defendant had been observed with a .22 caliber pistol some weeks prior to the shooting and a Derringer pistol afterwards. Defense investigation revealed that, in fact, the .22 caliber bullet recovered from Mr. Cole's home was of a different type from the one that killed the decedent. In addition, the defense elicited testimony regarding the uncertainty in matching the weapons allegedly seen in Mr. Cole's possession with the murder weapon.

This matter posed the routine, but critical, requirement that the court assess relevance and balance the probative value of the evidence in question (here, physical evidence) against its potential to create unfair prejudice. After an extensive hearing, the trial court refused to admit the challenged evidence, ruling that any link to the alleged murder weapon was too remote to be relevant, and that its introduction would therefore be unfairly prejudicial to the defendant.

19. Describe the most significant legal activities you have pursued, including significant litigation which did not proceed to trial or legal matters that did not involve litigation. Describe the nature of your participation in each instance described, but you may omit any information protected by the attorney-client privilege (unless the privilege has been waived).

United States v. Maravilla, Civil No. 94-2514(HL); (Crim no. 87-161HL)

On November 1, 1994, petitioner Daniel Maravilla filed a 28 U.S.C. Section 2255 request alleging, among other claims, that he was entitled to a new trial because the government failed to disclose certain physical evidence to the defense, pursuant to Brady v. Maryland, 373 U.S. 83 (1963). I was assigned to respond to this claim soon after I joined the Criminal Section. As with any allegation of prosecutorial misconduct, this claim required serious consideration. I investigated the allegations, conducting extensive factual and legal research, and I prepared the written response to the petition. The trial court agreed with the government, finding that while the Brady doctrine requires the government to disclose evidence in its possession that is both favorable to the accused and material to the issue of guilt or punishment, since no reasonable probability existed that disclosure would have affected the trial's outcome in this case, the evidence was not material and the petition lacked merit. The First Circuit affirmed the trial judge's decision.

In re Leland, Mississippi

The shooting death of a young African-American man on October 17, 1996, allegedly at the hands of a white police officer, sparked rioting and weeks of unrest in the town of Leland, Mississippi. In addition, the already tense situation was exacerbated by contradictory preliminary statements by local authorities about the manner of the death. I handled the Criminal Section's response to the crisis (the Assistant United States Attorney contributed the bulk of prosecutorial effort on this matter). Working in conjunction with the Assistant and an FBI agent, we coordinated the immediate investigation into the shooting, which included the interview by the FBI of over 100 potential witnesses. The forensic aspects of the investigation, and all other evidence, revealed that the subject police officer had not shot the victim; rather, the victim shot himself accidentally when his pistol discharged as he crawled through underbrush to avoid arrest. The primary focus then turned to the community response. We sought involvement from the Community Relations Service, which played a critical role in rebuilding the community. A biracial Committee was established in an effort to avoid any further violence. The matter was peacefully resolved and presents a model for the benefits of a cooperative approach between local and federal law enforcement and community members.

Darius Smith v. United States, 709 A.2d 78 (D.C. 1998)

The matter of Darius Smith v. United States, 709 A.2d 78 (D.C. 1997) (en banc), which I tried from December 2 - 10, 1993, presents a jury instruction issue of central importance in the Superior Court for the District of Columbia: whether D.C. Superior Court judges must use the standard Criminal Jury Instructions for the District of Columbia (4th ed. 1993) ("Redbook") instruction on the meaning of "reasonable doubt". At trial, I strenuously objected to the trial court's use of the Federal Judicial Center, Pattern Criminal Jury Instruction (1988 ed.) on "reasonable doubt", arguing that it impermissibly shifted the burden of proof to the defense. The Court denied my motion and subsequent request to re-instruct. The jury then reached a verdict, acquitting Smith of first degree premeditated murder, but convicting him of second degree murder and related charges. In a Motion For A New Trial, filed after the verdict, I argued that the Court erred in its selection and use of the Federal Judicial Center instruction on "reasonable doubt." The motion stressed that the instruction was flawed, in part, because it omitted the words "pause and hesitate" and other critical explanatory language included in the Redbook instruction. In addition, the motion emphasized that the Redbook instruction on reasonable doubt had recently been expressly approved by the D.C. Court of Appeals in Foreman v. United States, 633 A.2d 792 (D.C. 1993). After the filing of additional pleadings by both parties, the Court held a hearing on the issue where it denied the request for a new trial and stated that the issue would likely be resolved by the Court of Appeals. On June 18, 1997, the District of Columbia Court of Appeals vacated its previous published decision, see Darius Smith v. United States, 687 A.2d 1356 (D.C. 1997), and granted the defense petition for rehearing en banc. The Court of Appeals found that the trial court's instruction did not deprive Smith of due process, but it concluded that a modified Redbook instruction on reasonable doubt should be provided in all future cases in the Superior Court..

20. Have you ever held judicial office? If so, please give the details of such service, including the court(s) on which you served, whether you were elected or appointed, the dates of your service, and a description of the jurisdiction of the court. Please provide three (3) copies of all opinions you wrote during such service as a judge.

No

a. List all court decisions you have made which were reversed or otherwise criticized on appeal.

N/A

21. Have you ever been a candidate for elective, judicial, or any other public office? If so, please give the details, including the date(s) of the election, the office(s) sought, and the results of the election(s).

No

22. Political activities and affiliations.

a. List all public offices, either elected or appointed, which you have held or sought as a candidate or applicant.

None

b. List all memberships and offices held in and services rendered to any political party or election committee during the last ten (10) years.

None

c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity during the last ten (10) years.

None

23. Have you ever been investigated, arrested, charged, held or convicted (include pleas of nolo contendere) by federal, State, local, or other law enforcement authorities for violations of any federal, State, county, or municipal law, regulation, or ordinance other than for a minor traffic offense?

Yes. In January of 1984, while working as a school teacher in Plymouth, New Hampshire, I received a telephone call from a Hanover, New Hampshire police officer who asked me to come in to speak with him about an automobile towing charge. Approximately one week later, I traveled to Hanover and was told by the officer that on the request of a local towing company a complaint had been lodged against me for theft of services relating to failure to pay for towing. While the officer processed me on the complaint, I spoke with him, explaining that I had not known I owed any fee. (My car had been towed earlier that winter, when a main street in town was cleared of vehicles, and left in an open lot with no ticket or notice of fee). The officer advised that, given the circumstances, I should simply talk with the tow truck operator. I did so, and we came to an agreement on a towing fee. I then explained the agreement to the officer, and he told me that the matter was closed and the complaint was dismissed. The record was later expunged. This matter involved no court appearances by anyone and no fine or penalty of any kind.

24. Have you or any business of which you are or were a officer ever been a party or otherwise involved as a party in any other legal or administrative proceedings. If so, give the particulars. Do not list any proceedings in which you were merely a guardian ad litem or stakeholder. Include all proceedings in which you were a party in interest, a material witness, were named as a coconspirator or co-respondent, and list any grand jury investigation in which you appeared as a witness.

Yes. I have been a plaintiff in two small claims matters. In the first, in 1990, I brought an action in the D.C. Superior Court (SC-24008-89), along with another plaintiff, against defendants Stuart Snyder and Chincoteague Vacation Rentals for fraudulent misrepresentations regarding a vacation rental. The Court entered a default judgment against Snyder. To date, that judgment has not been collected. The second small claims action, also brought with another party, in approximately 1992, alleged breach of contract in the sale of an automobile in Arlington, Virginia. The Court found in favor of the defendant and closed the case. I have no records relating to this second matter.

In addition, I was named as a party in February of 1999 in *Ted Poole v. United States, et. al.* (99CV00427). Poole, an inmate in a Michigan facility, filed *pro se* in the U.S. District Court for the District of Columbia, alleging that the United States violated his rights by not prosecuting his complaint that he had been the victim of alleged misconduct by law enforcement. I was named as a defendant in my official and individual capacities because, at the time a decision was made on Poole's complaint, I served as Acting Chief of the Criminal Section and was ultimately responsible for all prosecution decisions. I have had no role in the actual suit. In fact, I was not even notified that I had been named as one of the parties in this matter until June 1999. The matter has been handled entirely by the United States Attorney's Office for the District of Columbia. On March 31, 2000, United States District Judge James Robertson dismissed the matter with prejudice as to all defendants.

Finally, while the question does not necessarily appear to call for the following answers, they are provided in the interest of full disclosure:

In 1995, as a member of the Committee on Unauthorized Practice of Law, I handled a complaint made against Mr. DeAngelo Starnes. Over two years later, the Office of Bar Counsel initiated an investigation of Mr. Starnes (Docket No. 454-97). On February 19, 1999, I was called by the Office of Bar Counsel to testify at a hearing about the conclusions previously reached by the Committee on Unauthorized Practice of Law and representations previously made to Mr. Starnes about his use of letterhead and maintenance of his principal law office in the District of Columbia.

In the Fall of 1984, I paid a $100 fine for missing a court date in traffic court for a ticket that I had misplaced relating to a moving traffic violation.

25. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, bar or professional association, disciplinary committee, or other professional group? If so, please provide the details.

I have never been disciplined or cited for a breach of ethics for unprofessional conduct by any court, administrative agency, bar or professional association, disciplinary committee, or other professional group. On one occasion, however, I was the subject of a complaint to the Board of Professional Responsibility by a former client who suffered from mental illness, Mr. Kamran Tavakoli-Nouri. My former client alleged, among other things, that I was a C.I.A. agent who caused the disappearance of his briefcase and personal papers. The complaint was dismissed. Mr. Tavakoli-Nouri also brought a small claims action against me in the D.C Superior Court on the same grounds. Commissioner Byrd found in my favor, as did Judge Richter, who reviewed the Commissioner's finding, and the D.C. Court of Appeals to whom Mr. Tavakoli-Nouri appealed the decisions below.

II. POTENTIAL CONFLICTS OF INTEREST

1. Will you sever all connections with your present employer(s), business firm(s), business association(s), or business organization(s) if you are confirmed?

Yes

2. Describe all financial arrangements, deferred compensation agreements, or other continuing dealings with your law firm, business associates, or clients.

None

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest.

None

4. Describe any business relation, dealing, or financial transaction which you have had in the last ten (10) years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest.

None

5. Describe any activity during the last ten (10) years in which you have engaged for the

purpose of directly or indirectly influencing the passage, defeat, or modification of legislation or affecting the administration and execution of law or public policy.

During the course of the last two years, I have provided advice and assistance to the Assistant Attorney General for Civil Rights and his staff, upon request, on various legislation, including matters involving trafficking in women and children, hate crime enforcement, and enforcement of police misconduct.

6. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service as a judge? If so, explain.

No

7. Explain how you will resolve any potential conflicts of interest, including any that may have been disclosed by your responses to the above items. Please provide three (3) copies of any trust or other relevant agreements.

N/A

8. If confirmed, do you expect to serve out your full term?

Yes

III. FINANCIAL DATA

Financial Data - On file with the Committee on Governmental Affairs.

IV. DISTRICT OF COLUMBIA REQUIREMENTS

Supplemental questions concerning specific statutory qualifications for service as a judge in the courts of the District of Columbia pursuant to the District of Columbia Court Reform and Criminal Procedure Act of 1970, D.C. Code Section 11-1501(b), as amended.

1. Are you a citizen of the United States?

   Yes

2. Are you a member of the bar of the District of Columbia?

   Yes

3. Have you been a member of the bar of the District of Columbia for at least five (5) years? Please provide the date you were admitted to practice in the District of Columbia.

   Yes

4. If the answer to Question 3 is "no"--

   a. Are you a professor of law in a law school in the District of Columbia?

   N/A

b. Are you a lawyer employed in the District of Columbia by the United States or the District of Columbia?

N/A

c. Have you been eligible for membership in the bar of the District of Columbia for at least five (5) years?

N/A

d. Upon what grounds is that eligibility based?

N/A

5. Are you a *bona fide* resident of the District of Columbia?

Yes

6. Please list the addresses of your actual places of abode (including temporary residences) with dates of occupancy for the last five (5) years.

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7. Have you maintained an actual place of abode in such area for at least five (5) years?

Yes

8. Are you a member of the District of Columbia Commission on Judicial Disabilities and Tenure or the District of Columbia Judicial Nominating Commission?

No

9. Have you been a member of either of these Commissions within the last 12 months?

No

AFFIDAVIT

John McAdam Mott being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.

SUBSCRIBED and SWORN TO before me this 4th day of April, 2000.

Notary Public
My Commission Expires February 14, 2001