

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Victoria Marie Calvert  
Victoria Marie Stubbs

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

United States District Judge for the Northern District of Georgia

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

Federal Defender Program, Inc.  
101 Marietta Street, Northwest, Suite 1500  
Atlanta, Georgia 30303

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

1981; Bronx, New York

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

2003 – 2006, New York University School of Law; J.D., 2006

1999 – 2003, Duke University; B.A., 2003

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2012 – present  
Federal Defender Program, Inc.  
101 Marietta Street, Northwest, Suite 1500  
Atlanta, Georgia 30303

Staff Attorney

2006 – 2012; summer 2005  
King & Spalding LLP  
1180 Peachtree Street, Northeast, Suite 1600  
Atlanta, Georgia 30309  
Associate (2006 – 2012)  
Summer Associate (summer 2005)

Summer 2005  
Nelson Mullins Riley & Scarborough LLP  
1320 Main Street, 17th Floor  
Columbia, South Carolina 29201  
Summer Associate

Summer 2004  
Arnall Golden Gregory LLP  
171 17th Street Northwest, Suite 2100  
Atlanta, Georgia 30363  
Summer Associate

Summer 2003  
LeBoeuf Lamb Greene & MacRae (defunct)  
New York, New York 10019  
SEO Corporate Law Intern

Other Affiliations (Uncompensated):

2005 – 2006  
NAACP Legal Defense and Educational Fund  
40 Rector Street  
New York, New York 10006  
NYU School of Law New York Capital Defender Clinic Student

Spring 2005  
New York University School of Law  
40 Washington Square South  
New York, New York 10012  
Teaching Assistant for Professor Jacqueline Jones-Peace

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

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

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

King & Spalding Pro Bono Service Award (2007 – 2012)

New York University School of Law

REVIEW OF LAW & SOCIAL CHANGE, Senior Articles Editor (2005 – 2006)

Dean's Scholarship Recipient (2003 – 2006)

Duke University

Outstanding America Reads Tutor (2003)

Yorkey-Randall Scholarship (2002)

Duke University Alumni Scholarship (1999 – 2000)

9. **Bar Associations:** List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

Georgia Association of Black Women Attorneys

10. **Bar and Court Admission:**

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

Georgia, 2006

There have been no lapses in membership.

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

Supreme Court of the United States, 2019

United States Court of Appeals for the Eleventh Circuit, 2019

United States District Court for the Northern District of Georgia, 2007

Supreme Court of Georgia, 2007

There have been no lapses in membership.

11. **Memberships:**

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which

you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Clarence Cooper Inn of Court (2020 – present)

Informed Georgians for Justice (2020 – present)

Parkside Elementary School Parent Teacher Association (2020 – present)

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

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

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

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

*Acquittals, acquittals everywhere*, The Blue Notes Blog, Dec. 6, 2019. Copy supplied.

*Amanda Clark Palmer 1, USA 0*, The Blue Notes Blog, May 27, 2019. Copy supplied.

*The 11th Circuit Board*, The Blue Notes Blog, Sept. 17, 2018. Copy supplied.

*Acquittals, acquittals everywhere*, The Blue Notes Blog, May 15, 2018. Copy supplied.

*The 11th Circuit Board*, The Blue Notes Blog, May 3, 2018. Copy supplied.

*The 11th Circuit Board*, The Blue Notes Blog, Jan. 29, 2018. Copy supplied.

*The 11th Circuit Board*, The Blue Notes Blog, Oct. 6, 2017. Copy supplied.

*A Preview of St. Crispin's Day Award Recipients*, The Blue Notes Blog, Sept. 29, 2017. Copy supplied.

*Eleventh Circuit Disagrees Claims Procedurally Barred, but Reaches the Merits and Denies Relief*, The Federal Blues, Oct. 2012. Copy supplied.

*Prior Judgment of Acquittal was Inadmissible Hearsay*, The Federal Blues, Sept. 2012. Copy supplied.

*Interpreting 18 U.S.C. § 3292, Tolling Statute of Limitations*, The Federal Blues, Aug. 2012. Copy supplied.

*Amendment to the Base Offense Level Guideline Does Not Entitle Career Offenders to § 3582(c)(2) Sentence Reduction*, The Federal Blues, July 2012. Copy supplied.

*Due Process Does Not Entitle a Defendant to the Psychiatrist of His Choice*, The Federal Blues, July 2012. Copy supplied.

*No Ineffectiveness of Counsel Where Defendant Was Informed of Plea Offer and Opted for Trial Instead*, The Federal Blues, July 2012. Copy supplied.

*First Petition Challenging an Intervening Judgment is Not a Second or Successive Petition*, The Federal Blues, July 2012. Copy supplied.

*Federal Courts Confronted with Giglio Claims in Habeas Petitions May Examine Harmlessness Issues Before Establishing a Giglio Violation*, The Federal Blues, June 2012. Copy supplied.

*Technical Approach is Used to Determine Whether a Jury Instruction on Parole Ineligibility is Required*, The Federal Blues, June 2012. Copy supplied.

*The Safety-Valve Provision Does Not Apply to Title 46 Offenses Penalized Under 21 U.S.C. § 960*, The Federal Blues, May 2012. Copy supplied.

*Date Current Petition Filed Controls Applicability of AEDPA*, The Federal Blues, May 2012. Copy supplied.

*Petition Survives Procedural Default and Failure to Exhaust Challenge*, The Federal Blues, May 2012. Copy supplied.

*District Court Abused Its Discretion in Denying Evidentiary Hearing on Penalty Phase IAC Claim*, May 2012. Copy supplied.

*Letter: Financial aid efforts merit Carter as leader of DSG, THE CHRONICLE* (Duke University), Feb. 28, 2001. Copy supplied.

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

None.

- c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

None.

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

July 19, 2021: Panelist, Meet a Prosecutor and Criminal Defense Attorney, State Bar of Georgia, Atlanta, Georgia. I sat on a panel and discussed my work as a criminal defense attorney. I have no notes, recording, or transcript. The address for the State Bar of Georgia is 104 Marietta Street, Northwest, Suite 100, Atlanta, Georgia 30303.

April 30, 2021: Panelist, Hot Topics, Federal Defender Program, Atlanta, Georgia (Virtual Appearance). I gave brief remarks to local criminal defense attorneys about federal jury trial procedures in light of COVID-19 and the Due Process Protections Act. I have no notes, recording, or transcript. The address for the Federal Defender Program, Inc. is 101 Marietta Street, Northwest, Suite 1500, Atlanta, Georgia 30303.

February 9, 2021: Guest Speaker, Career Discussion, Emory University School of Law Advanced Criminal Trial Advocacy Class, Atlanta, Georgia (Virtual Appearance). Transcript supplied.

November 14, 2002: Student Curator, "Pedro Figari (1861-1938): Lines of Uruguayan Life, A Student Curated Exhibition," Duke University Museum of Art, Durham, North Carolina. The exhibit explored the cultural implications and artistic style of the drawings and paintings of Pedro Figari. I have no notes, transcript, or recording, but press coverage is supplied. The address for the Nasher Museum of Art at Duke University is 2001 Campus Drive, Durham, North Carolina 27705.

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

None.

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

I have not held judicial office.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment? \_\_\_\_\_
  - i. Of these cases, approximately what percent were:
    - jury trials: \_\_\_\_\_%
    - bench trials: \_\_\_\_\_% [total 100%]
  - ii. Of these cases, approximately what percent were:
    - civil proceedings: \_\_\_\_\_%
    - criminal proceedings: \_\_\_\_\_% [total 100%]
- b. Provide citations for all opinions you have written, including concurrences and dissents.
- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature of the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (4) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys

who played a significant role in the case.

- e. Provide a list of all cases in which certiorari was requested or granted.
- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.
- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.
- h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.
- i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not served as a judge.

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;
- b. a brief description of the asserted conflict of interest or other ground for recusal;
- c. the procedure you followed in determining whether or not to recuse yourself;
- d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

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



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

None.

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

None.

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

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

- i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I never served as a law clerk to a judge.

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

I have never practiced alone.

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

August 2006 – June 2012  
King & Spalding LLP  
1180 Peachtree Street, Northeast, Suite 1600  
Atlanta, Georgia 30309  
Associate

June 2012 – present  
Federal Defender Program, Inc.  
101 Marietta Street, Northwest, Suite 1500  
Atlanta, Georgia 30303  
Staff Attorney

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

I have never served as a mediator or arbitrator.

b. Describe:

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

I began my law practice in 2006 as an associate in the Special Matters / Government Investigations Practice Group at King & Spalding LLP. I represented entities that were either conducting internal investigations or being investigated by federal authorities for possible violations of federal laws. Many of the matters I worked on involved *qui tam* actions filed under the False Claims Act. As an associate, I conducted legal research, assisted with document collections, reviews and productions, participated in witness interviews, and prepared for and attended meetings with clients and prosecutors. In addition to my billable practice, I also spent hundreds of pro bono hours representing two individuals on Georgia's death row.

In 2012, I joined the Federal Defender Program, Inc. as a staff attorney. As a federal defender, I have represented and advised hundreds of clients accused of federal crimes at their initial appearances, bond hearings, evidentiary hearings, trials or pleas, and sentencing. I have litigated pretrial detention motions, motions to suppress and dismiss, motions in limine, and sentencing enhancements. I have also prepared memoranda in support of reasonable sentences and appealed convictions and/or sentences to the United States Court of Appeals for the Eleventh Circuit.

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

As a federal defender, my clients are individuals who are unable to afford private counsel. They are charged with a variety of federal offenses, including fraud, narcotics, firearms, violent crimes, sex offenses, and immigration offenses. I specialize in federal criminal law and procedure, federal trial practice, and the federal sentencing guidelines.

When I was in private practice, my clients were entities, such as pharmaceutical and medical device manufacturers, healthcare providers, and private institutions, facing criminal and civil liability for possible violations of the law. I specialized in internal corporate investigations, False Claims Act cases, and the defense of regulatory enforcement actions. My pro bono practice largely consisted of post-conviction representation

of two men under death sentence in Georgia.

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

Since becoming a federal public defender in 2012, I appear in court frequently. Prior to 2012, I only appeared in court three times because the matters I worked on were usually resolved outside of court.

- i. Indicate the percentage of your practice in:

- |                             |     |
|-----------------------------|-----|
| 1. federal courts:          | 98% |
| 2. state courts of record:  | 1%  |
| 3. other courts:            | 0%  |
| 4. administrative agencies: | 1%  |

- ii. Indicate the percentage of your practice in:

- |                          |     |
|--------------------------|-----|
| 1. civil proceedings:    | 25% |
| 2. criminal proceedings: | 75% |

- d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I have tried seventeen criminal cases to verdict. I was sole counsel in one of these cases, chief counsel in nine cases, and associate counsel in the remaining seven cases.

- i. What percentage of these trials were:

- |              |     |
|--------------|-----|
| 1. jury:     | 88% |
| 2. non-jury: | 12% |

- e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have not argued before the Supreme Court of the United States, but I have filed briefs supporting certiorari in the following cases:

*Lewallyn v. United States*, 139 S. Ct. 1321 (2019) (petition for certiorari; reply in support of petition for certiorari). Copies supplied.

*Hector v. United States*, 577 U.S. 1240 (2016) (petition for certiorari). Copy supplied.

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

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

1. *United States v. Arias-Herrera*, 1:19-cr-463-TWT-RGV (N.D. Ga.)

I was appointed to represent Mr. Arias in November 2019. He was charged with assaulting deportation officers on a commercial flight. Mr. Arias's first trial ended in a mistrial due to a deadlocked jury. His second trial in September 2021 resulted in an acquittal. As lead counsel at both trials, I conducted voir dire, cross-examined the majority of the government's witnesses, delivered the closing argument, and responded to inquiries from District Judge Thomas W. Thrash related to the jury's questions during deliberations.

Co-counsel

Melissa McGrane  
Federal Defender Program, Inc.  
101 Marietta Street, Northwest, Suite 1500  
Atlanta, GA 30303  
(404) 688-7530

Opposing counsel

Radka Nations  
Phyllis Clerk  
United States Attorney's Office for the Northern District of Georgia  
75 Ted Turner Drive, Southwest, Suite 600  
Atlanta, GA 30303  
(404) 581-6000

2. *United States v. Frazier*, 703 F. App'x 849 (11th Cir. 2017) (Chief Judge Ed Carnes and Circuit Judges Tjoflat and William Pryor); 1:15-cr-423-ELR-RGV (N.D. Ga.)

Mr. Frazier was charged with four Hobbs Act robberies and four counts of brandishing a firearm during those robberies. I was appointed to represent him in December 2015. I negotiated Mr. Frazier's guilty plea to all four robberies and one firearm count in order to

reduce his mandatory minimum sentence. At sentencing, I successfully argued against an enhancement for obstruction of justice. District Judge Eleanor L. Ross sentenced Mr. Frazier to 240 months of imprisonment. I appealed his sentence, which the Court of Appeals for the Eleventh Circuit affirmed. Last year, I filed a motion for Mr. Frazier's compassionate release, which was denied by Judge Ross.

Opposing counsel

Mary Webb

United States Attorney's Office for the Northern District of Georgia

75 Ted Turner Drive, Southwest, Suite 600

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3. *United States v. Hood*, 846 F. App'x 825 (11th Cir. 2021) (Circuit Judges Wilson, Lagoa, and Brasher); 1:17-cr-421-SCJ-LTW (N.D. Ga.)

Mr. Hood was charged with four Hobbs Act robberies, use of a firearm during those robberies, and felon in possession of a firearm. I joined Mr. Hood's case in 2018 to second chair his 2019 jury trial before District Judge Steve C. Jones. My role at the trial was to assist lead counsel with voir dire, cross-examination and closing argument. I also delivered the opening statement and handled the *Daubert* hearing on fingerprint evidence. Mr. Hood was convicted of all the robbery and related gun counts and the government dismissed the felon in possession of a firearm charge. I also worked with lead counsel on Mr. Hood's appeal of his convictions and 468-month sentence, both of which were affirmed by the United States Court of Appeals for the Eleventh Circuit.

Co-counsel

Allison Dawson

Federal Defender Program, Inc.

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(404) 688-7530

Opposing counsel

Dashene Cooper

Joseph Plummer

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4. *United States v. Bates*, 960 F.3d 1278 (11th Cir. 2020) (Circuit Judges Branch and Marcus, and District Judge Huck (sitting by designation)); 1:13-cr-501-ELR-CMS (N.D. Ga.)

I represented Mr. Bates in January 2014 and then again from September 2015 to May

2020. Mr. Bates was charged with assaulting a federal officer, discharge of a firearm during and in relation to that assault, possession of a firearm by a convicted felon, possession of marijuana with intent to distribute, and discharge of a firearm during and in relation to possession of marijuana with intent to distribute. Mr. Bates entered a guilty plea with his prior counsel, but I successfully moved to withdraw that plea so that he could proceed to trial. Prior to trial, Mr. Bates entered guilty pleas to felon in possession of a firearm and possession of marijuana with intent to distribute. District Judge Eleanor L. Ross presided over Mr. Bates's four-day trial, which ended with a guilty verdict on assault of a federal officer and discharge of a firearm during and in relation to that assault and an acquittal on discharge of a firearm during and in relation to the possession of marijuana with intent to distribute. At trial, I questioned the government's witnesses, argued motions in limine, and delivered the closing argument. At sentencing, I argued against various sentencing enhancements and made arguments for a reasonable sentence. I wrote the appeal briefs and argued the case before a panel of the United States Court of Appeals for the Eleventh Circuit, which affirmed Mr. Bates's convictions and 360-month sentence.

Co-counsel

Millie Dunn

Federal Defender Program, Inc.

101 Marietta Street, Northwest, Suite 1500

Atlanta, GA 30303

(404) 688-7530

Opposing counsel

Phyllis Clerk

Ryan Buchanan

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Atlanta, GA 30303

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5. *United States v. Williams*, 1:18-cr-247-TCB-LTW (N.D. Ga.)

I was appointed to represent Mr. Williams, who was charged with possessing a firearm after being convicted of a felony, in 2018. District Judge Timothy C. Batten, Sr. presided over Mr. Williams's two-day trial, which ended when Mr. Williams decided to enter a guilty plea. At the trial, I cross-examined the government's witnesses. At sentencing, Mr. Williams received a 44-month sentence, which was six months below the parties' joint recommendation and three years below Mr. Williams's advisory guideline range.

Co-counsel

Molly Parmer

Parmer Law

1201 West Peachtree Street

Atlanta, GA 30309

(404) 795-5060

Opposing counsel

Michael Herskowitz

Jessica Morris

United States Attorney's Office for the Northern District of Georgia

75 Ted Turner Drive, Southwest, Suite 600

Atlanta, GA 30303

(404) 581-6000

6. *Butts v. Georgia*, 138 S. Ct. 1975 (2018); *Butts v. GDCP Warden*, 850 F.3d 1201 (11th Cir. 2017) (Chief Judge Ed Carnes and Circuit Judges Tjoflat and Hull); *Butts v. Warden*, 5:13-cv-194-MTT, 2015 WL 61263802 (M.D. Ga. Oct. 16, 2015)

Mr. Butts was convicted of a murder in Baldwin County, Georgia and sentenced to death in 1998. I represented him from 2007 to 2012 and then from 2017 to 2018. Initially, I assisted with document review and witness interviews for the evidentiary hearing in support of Mr. Butts's petition for a writ of habeas corpus in the Superior Court of Butts County. I examined witnesses at the evidentiary hearing and drafted portions of the post-hearing briefs. After the petition was denied, I drafted the application for a certificate of probable cause to appeal to the Supreme Court of Georgia. From 2017 to 2018, I attended meetings to prepare for lead counsel's oral argument before the Court of Appeals for the Eleventh Circuit Court. I also helped prepare witnesses and documents for the clemency hearing before the Georgia Board of Pardons & Parole, and participated in that hearing. Mr. Butts was executed in 2018.

Co-counsel

William A. Clineburg Jr. (retired)

Philip E. Holladay, Jr. (retired)

Scott Ferber

McDermott Will & Emery

The McDermott Building

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Josh C. Toll

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Lynette McNeil

Delta Air Lines

1020 Delta Boulevard, Dept. 955

Atlanta, GA 30320  
(404) 677-5446

Gerald King  
Federal Public Defender for the Western District of North Carolina  
129 West Trade Street, Suite 300  
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(704) 374-0720

Patrick Mark Mulvaney  
Southern Center for Human Rights  
83 Poplar Street, Northwest  
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Opposing counsel

Beth Burton  
Sabrina Graham  
Georgia Office of the Attorney General  
40 Capital Square, Southwest  
Atlanta, GA 30334  
(404) 458-3570

7. *United States v. Kowalewski*, 708 F. App'x 605 (11th Cir. 2017) (Circuit Judges Tjoflat and Jordan, and District Judge Huck (sitting by designation)); 2:13-cr-45-RWS-JCF (N.D. Ga)

From January 2014 to September 2017, I represented Mr. Kowalewski, an investment advisor charged with using a hedge fund of funds to defraud several institutional investors and obstructing a proceeding before the Securities and Exchange Commission. Prior to trial, I reviewed thousands of business records in order to produce a privilege log to the government and the co-defendant's counsel, and litigated a motion on waiver of the attorney-client privilege. I was lead counsel at Mr. Kowalewski's six-day trial before District Judge Richard W. Story, which ended with a guilty verdict on all counts. At trial, I cross-examined witnesses and delivered the closing argument. At sentencing, the government requested 360 months, but Judge Story imposed a 209-month sentence. I wrote the briefs for Mr. Kowalewski's appeal and argued the case before a panel of the United States Court of Appeals for the Eleventh Circuit. Mr. Kowalewski's convictions and sentence were affirmed.

Co-counsel

Millie Dunn  
Federal Defender Program, Inc.  
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(404) 688-7530



Co-defendant's counsel

Carl Lietz  
Finch McCranie LLP  
225 Peachtree Street, Northeast, #1700  
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(404) 658-9070

Opposing counsel

Russell Phillips  
Stephen McClain  
United States Attorney's Office for the Northern District of Georgia  
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8. *United States v. Durham*, 1:14-cr-395-TCB-CMS (N.D. Ga.)

I represented Mr. Durham from October 2014 to May 2016. He was charged with assaulting a task force officer, brandishing a firearm during that assault, felon in possession of a firearm, conspiracy to possess with intent to distribute at least ten kilograms of cocaine, and brandishing a firearm in furtherance of a drug trafficking crime. However, the government dismissed the drug charge and related gun charge on the eve of trial. I was lead counsel at Mr. Durham's jury trial before Judge Timothy C. Batten, Sr., which resulted in convictions on all remaining counts. At trial, I cross-examined witnesses, handled jury charge issues, and delivered the closing argument. At sentencing, I successfully argued that Mr. Durham was not an Armed Career Criminal. Mr. Durham was sentenced to 20 years' imprisonment, which was five years less than the mandatory minimum he would have faced if he was found to be an Armed Career Criminal.

Co-counsel

United States Magistrate Judge Regina Cannon  
75 Ted Turner Drive, Southwest, Suite 909  
Atlanta, GA 30303  
(404) 215-1385

Co-defendants' counsel

Charles Brant  
Colum and Brant, Attorneys at Law  
191 Peachtree Tower, Suite 330  
Atlanta, GA 30303  
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9. *United States v. Hector*, 577 U.S. 1240 (2016); 611 F. App'x 632 (11th Cir. 2015)  
(Circuit Judges Tjoflat, William Pryor, and Barksdale (sitting by designation))

Mr. Hector was charged with conspiracy to commit armed bank robbery and use of a handgun during that robbery. I represented him from 2013 to 2016 and was lead counsel at his jury trial before District Judge Thomas W. Thrash. My role at trial was to deliver the opening statement and closing argument, cross-examine witnesses, and handle the charge conference. Mr. Hector was convicted on both counts after a three-day jury trial. I briefed and argued his appeal before a panel of the United States Court of Appeals for the Eleventh Circuit. After Mr. Hector's convictions and 163-month sentence were affirmed by the panel, the Eleventh Circuit denied a petition for rehearing en banc and a petition for rehearing. I then filed a petition for a writ of certiorari to the Supreme Court of the United States, which was denied.

Co-counsel

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10. *Bryant v. State*, 288 Ga. 876, 708 S.E.2d 362 (2011)

In 2007, a jury in Douglas County, Georgia sentenced Mr. Bryant to death for two murders. I represented Mr. Bryant from 2010 to 2011 on the appeal of his convictions and sentence to the Supreme Court of Georgia. I assisted with legal research, wrote portions of the appeal brief, edited the briefs, and met with Mr. Bryant to discuss his case. I helped prepare co-counsel for oral argument before the Supreme Court of Georgia. Mr. Bryant's convictions were affirmed but his death sentence was overturned and he is now serving a life sentence without the possibility of parole.

Co-counsel

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18. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

As a federal public defender, the majority of my cases are resolved with a guilty plea; however, there have been instances where pretrial litigation resulted in dismissals. I also spend a significant amount of time preparing for sentencing hearings and constructing arguments for a reasonable sentence under 18 U.S.C. § 3553(a). In order to make effective arguments, I spend time getting to know my clients and their backgrounds. We obtain records, speak with family members, and where appropriate, hire experts for mitigation purposes. My advocacy has led to numerous sentences that are below the advisory guideline range and/or lower than what the government requested.

As an associate at King & Spalding, the majority of my matters did not progress to court or trial. In those matters, the government would notify the client of its investigation and use civil investigative demands to obtain documents. In defending the client, we had to comply with those document requests while simultaneously investigating the allegations and advising clients about potential liability. As an associate, I traveled to clients' offices to collect and review documents, conduct interviews of employees, and assist with document reviews. Since we were producing documents to the government, I often researched issues related to the attorney-client privilege and work product doctrine and prepared privilege logs. I participated in meetings with in-house counsel and attended meetings with, or presentations to, government counsel. Although many of the matters I worked on ended with a civil settlement, most of the clients and their employees were able to avoid criminal liability.

Although the nature of my work changed when I became a federal public defender, I have always been involved in mentoring others. At King & Spalding, I mentored the assistant paralegals in my practice group who aspired to become lawyers. As a member of the Associates Committee, I interviewed applicants for the summer program and mentored the summer associates who rotated through my practice group. As a mid-level associate, I became a resource for the junior associates. In my current position, I have a similar role. For the past seven years, I have assisted with the selection, training, and mentoring

of our law school interns. I also provide guidance to newer attorneys in the office. I have not performed any lobbying activities or registered as a lobbyist.

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

None.

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

None.

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

None.

22. **Sources of Income:** List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding \$500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

See attached Financial Disclosure Report.

23. **Statement of Net Worth:** Please complete the attached financial net worth statement in detail (add schedules as called for).

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

If confirmed, I would initially have a conflict with any cases assigned to attorneys

at the Federal Defender Program, Inc. during my time of employment there. I would follow the Code of Conduct for United States Judges, the standards set forth in 28 U.S.C. § 455, and all other applicable principles governing recusal.

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

I would apply the rules and standards set forth in the Code of Conduct for United States Judges and 28 U.S.C. § 455. I would also consult relevant judicial decisions and opinions by the Judicial Conference of the United States.

25. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

Since 2012 when I became a federal public defender, my entire practice has been devoted to serving the disadvantaged. When I was in private practice before becoming a federal defender, I devoted approximately 200 hours a year to pro bono representation of two men under death sentence in Georgia. My representation of the first pro bono client included meeting with the client, interviewing witnesses, mitigation investigation, examining witnesses at a hearing in state court, and drafting briefs and other documents. My representation of the second pro bono client involved meeting with the client, reviewing transcripts and conducting legal research, writing portions of the brief submitted to the Supreme Court of Georgia, and assisting with preparation for the oral argument. Based on our work, that client's death sentence was eventually reduced to life without parole.

26. **Selection Process:**

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

On March 17, 2021, I submitted my application to become a district court judge to the Federal Nomination Advisory Commission in my district. The Commission interviewed me on April 12, 2021. I met with Senator Jon Ossoff on April 23, 2021, and Senator Raphael Warnock on May 4, 2021. On June 1, 2021, I interviewed with attorneys from the White House Counsel's Office. Since June 7,

2021, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On September 30, 2021, my nomination was submitted to the Senate.

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

No.