

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES

PUBLIC

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

Carter Mitchell Stewart

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

United States Attorney for the Southern District of Ohio

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.

Residence:

[REDACTED]

Office:

**Vorys, Sater, Seymour and Pease LLP
52 East Gay Street
P.O. Box 1008
Columbus, Ohio 43216-1008**

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

1969; Boston, Massachusetts

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

Harvard Law School

Attended: 1994-1997

Degree: JD

Date of Degree: June 1997

Columbia University – Teachers College

Attended: 1993 to 1994

Degree: MA in Education

Date of Degree: February 1995

Morehouse College

Attended: Fall Semester 1989 as part of a visiting student program

Degree: N/A

Date of Degree: N/A

Stanford University

Attended: 1987 to 1991 (except Fall Semester 1989)

Degree: BA in Political Science

Date of Degree: June 1991

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.

7/2005-present -- Litigation Associate at Vorys, Sater, Seymour and Pease LLP

52 East Gay Street

Columbus, Ohio 43216-1008

2/2007-present -- Board Member of KIPP Journey Academy

1406 Myrtle Avenue

Columbus, Ohio 43211

9/2006-2/2009 -- Board Member of Contemporary American Theater Company

77 South High Street

Columbus, Ohio 43215

1/2003-6/2005 -- Assistant U.S. Attorney in the Northern District of California

150 Almaden Boulevard, Suite 900

San Jose, CA 95113

6/2004-8/2004 -- Adjunct Professor, Lincoln School of Law

1 N 1st St # 150

San Jose, CA 95113-1215

2/2004-5/2005 -- Board Member of KIPP Heartwood Academy

1250 South King Road

San Jose, California 95122-2146

11/1999-12/2002 -- Litigation Associate at Bingham McCutchen LLP

Three Embarcadero Center

1900 University Avenue

San Francisco, CA 94111-4067

East Palo Alto, CA 94303-2223

9/1998-9/1999 -- Law Clerk to the Hon. Raymond L. Finch

U.S. District Court of the Virgin Islands

3013 Estate Golden Rock, Suite 373

Christiansted, St. Croix, Virgin Islands 00820-4355

9/1997-9/1998 -- Law Clerk to the Hon. Robert L. Carter

U.S. District Court, Southern District of New York

40 Centre Street, New York, NY 10007

7/1996-8/1996 -- Summer Clerk at U.S. Department of Education

400 Maryland Avenue, SW

Washington, D.C. 20202

6/1996-7/1996 – Summer Associate at Jones Day LLP

51 Louisiana Avenue, N.W.
Washington, D.C. 20001-2113

6/1995-8/1995 – Summer Associate at Orrick Herrington & Sutcliffe LLP

405 Howard Street
San Francisco, CA 94105-2669

7/1992-8/1994 – Teacher at Friends Seminary High School

222 E. 16th St
New York, NY 10003

9/1991-6/1992 – Analyst at New York City Office of Management and Budget

75 Park Place
New York, NY 10007

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 have not served in the military. I have registered 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.

Columbus Business First's Forty Under 40 Leaders to Watch – 2008

John Mercer Langston Bar Association's Emerging Leader Award – 2008

Named by Minority Corporate Counsel Association Diversity and the Bar as one of ten African-American Attorneys to watch nationally in 2007

Columbus African American Leadership Academy Member – 2006

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.

Columbus Bar Association

American Bar Association

Santa Clara Bar Association

- Diversity Committee; 2004-2005

Bar Association of San Francisco

- Judiciary Committee; 2000-2002

- Diversity Committee; 2000-2002

- Conference of Delegates; 1999-2001

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.

Ohio; I was admitted on August 8, 2006, had no lapses in membership, and remain a member in good standing.

California; I was admitted on August 26, 1998. I am a member in good standing. My California license lapsed for two weeks in 2005 because the California Bar Association had not received/processed my CLE compliance card in time.

- 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.

Ohio state courts; I was admitted on August 8, 2006, had no lapses in membership, and remain a member in good standing.

California state courts; I was admitted on August 26, 1998. I am a member in good standing. My California license lapsed for two weeks in 2005 because the California Bar Association had not received/processed my CLE compliance card in time.

U.S. District Court for the Southern District of Ohio; I was admitted on January 22, 2007, had no lapses, and remain a member in good standing.

U.S. Court of Appeals for the Sixth Circuit; I was admitted on April 25, 2008, had no lapses, and remain a member in good standing.

U.S. District Court for the Northern District of California; I was admitted on August 24, 2000, had no lapses, and remain a member in good standing.

U.S. Court of Appeals for the Ninth Circuit; I was admitted August 1, 2002, had no lapses, and remain a member in good standing.

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.

Alpha Phi Alpha Fraternity, Inc. – Joined December 1988 and was active through June 1991 as a college student. I also was active for one year (1998/1999) in a graduate chapter in St. Croix, U.S.V.I.

5/2005-present – Harrison Pond Homeowner’s Association

2/2007-present -- Board Member of KIPP Journey Academy

9/2006-2/2009 -- Board Member of Contemporary American Theater Company

2/2004-5/2005 -- Board Member of KIPP Heartwood Academy

- b. 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.

While I was in college, I was a member of an all-male fraternity. The college also had sororities.

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.

Co-Author with S. Felicita Torres: "Limiting Federal Court Power To Impose School Desegregation Remedies -- *Missouri v. Jenkins*, 115 S. Ct. 2038," *Harvard Civil Rights-Civil Liberties Law Review*, 1996 (31 Harv. C.R.-C.L. L.Rev. 241).

- 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.

None

- 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.

I have done my best to identify all items called for in this question, including through a review of my personal files and searches of publicly available electronic databases. I have located the following:

The Columbus Dispatch, Jack Torry, "U.S. Attorney For Southern District; Columbus lawyer seeks federal post," 3/17/09

The Pueblo Chieftan, Peter Roper, "Clinton rallies delegates," 8/27/08

AP, Phillip Elliot, "Clinton looks for March 4 comeback as she and Obama launch big-state TV ads," 2/12/08

San Francisco Chronicle, Lance Williams and Mark Fainaru-Wada, "Judge rejects USADA bid for secret transcripts," 7/10/04

International Herald Tribune, Edward B. Fiske, "'Black' Colleges Are Luring Back Their Own From the Ivy," 2/9/98

13. 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.

Ohio representative for Barack Obama's presidential campaign to the Democratic National Committee; At-Large Delegate for Barack Obama at 2008 Democratic National Convention

14. 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 clerked for Judge Robert L. Carter in the U.S. District Court, Southern District of New York, 40 Centre Street, New York, NY 10007. My dates of employment in the Southern District of New York were from September 1997 until September 1998.

I clerked for Judge Raymond L. Finch in the U. S. District Court of the Virgin Islands, 3013 Estate Golden Rock, Suite 373, Christiansted, St. Croix, Virgin Islands 00820-4355. My dates of employment in the Virgin Islands were from September 1998 until September 1999.

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

I have not practiced alone.

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

From November 1999 until December 2002, I worked as a litigation associate at McCutchen, Doyle, Brown & Enersen LLP (now Bingham McCutchen LLP) in their San Francisco and East Palo Alto, California offices (Three Embarcadero Center, San Francisco, CA 94111-4067 and 1900 University Avenue, East Palo Alto, CA 94303-2223, respectively).

From January 2003 until June 2005, I worked as an Assistant U.S. Attorney in the Northern District of California, 150 Almaden Blvd., Suite 900, San Jose, CA 95113.

From July 29, 2005 to the present, I have been employed as a litigator at Vorys, Sater, Seymour and Pease LLP, 52 East Gay Street, Columbus, Ohio 43216-1008.

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

I have not served as a mediator or arbitrator.

b. Describe:

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

My first two years after law school were spent clerking for federal district court judges. During these clerkships, I researched and wrote memoranda relating to a wide variety of civil and criminal matters.

My next three years at Bingham McCutchen served as excellent training in the basics of commercial litigation. As a young associate, I was tasked with handling discovery matters, document review, and extensive legal research. I was immersed in the fast-pace of a major law firm which had Fortune 500 clients who expected only the best lawyering. My clients were major corporations involved in litigation with other companies or facing investigation by the government. In addition to representing hospitals, accounting firms, and a major cannery, I represented pro bono clients in cases that afforded me the opportunity for depositions and arguing motions in state and federal court. The vast majority of my time was spent on civil matters, though I also participated in two criminal investigations

representing corporations that were the subject of inquiry by the FBI.

As a federal prosecutor, I relished my role as a trial attorney. I was in court almost every day on sentencing hearings, motions, and trials. I prosecuted seven trials, six of them as first chair. I also led teams of law enforcement personnel during various investigations of gang and drug-related activity. I handled general crimes, including drug and gun possession, social security fraud, obstruction of justice, environmental crimes, the illegal distribution of steroids to professional athletes, and illegal immigration.

Presently, as a lawyer at Vorys focusing on commercial litigation and white collar defense, I have returned to the fast-paced culture of a major law firm, but at a more senior level than my first law firm experience. I now help lead major litigation by counseling clients directly, developing and implementing litigation strategies, and drafting and arguing substantive motions. I recently participated in a large civil trial which lasted for two months and involved multi-million dollar claims. My practice remains general commercial litigation, but my focus is white collar defense. In that capacity, I interact with AUSAs and federal law enforcement agents in the Columbus area and nation-wide. I have participated in and helped lead multiple internal investigations for clients who were the subject of government scrutiny. I also counsel clients who are the focus of federal grand jury investigations and companies responding to grand jury subpoenas.

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

At Bingham, my clients primarily were large companies, often in the Fortune 500, and my practice was general commercial litigation. In pro bono matters, I also represented minority school children in a school desegregation case and a single mother in a small business dispute.

My clients as an AUSA were the people of the Northern District of California and the United States Government.

At Vorys, my clients have included large and small companies, colleges, wealthy individuals, middle-class parents of a teenager expelled from school, and a destitute prisoner facing federal drug charges. My current focus is on white collar defense, though I continue to handle commercial matters.

- 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.

As an AUSA, I was in federal court almost every day, arguing motions, attending hearings, or trying cases.

At Vorys, I helped litigate a two month civil trial before Judge Reese in Franklin County Common Pleas Court. Beyond that trial experience, my appearances in court as a civil attorney have been sporadic. I have argued a half dozen motions in state and federal courts in both Ohio and California.

- i. Indicate the percentage of your practice in:
 1. federal courts; 65%
 2. state courts of record; 35%
 3. other courts;
 4. administrative agencies
- ii. Indicate the percentage of your practice in:
 1. civil proceedings; 30%
 2. criminal proceedings. 70%
- 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 8 cases to verdict. I was sole counsel on 6 of those cases; second chair on one case; and third chair on one case.

What percentage of these trials were:

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

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 practiced before the Supreme Court of the United States.

15. **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. *The American Chemical Society (ACS) v. Leadscope, Inc., Paul Blower, Wayne Johnson, Glenn Myatt; Franklin County Court of Common Pleas; Judge Guy Reese; Case No. 02-CVC-07-7653 (2007-Present).*

I represented the American Chemical Society (ACS) which sued the defendants for breaching their employment contracts and misappropriating trade secrets. The defendants counter-sued for defamation, tortious interference, and unfair competition.

ACS retained two law firms, Vorys and Paul Hastings. Vorys was primary counsel and handled the defense against defendants' counter-claims. Paul Hastings litigated ACS's intellectual property claims. The trial lasted approximately two months from early January through early March 2008. ACS lost the case, and the jury awarded a total of \$26.5 million to the four defendants.

I joined the trial team during the last phase of trial preparation and was able to participate in all phases of pre-trial preparation, including taking and defending numerous depositions, helping to formulate trial strategy, drafting dispositive motions, and counseling the client regarding trial strategy. I drafted and argued five motions in limine during the trial, including a motion that successfully excluded one of defendants' damages experts. I also prepped and directly examined six witnesses, including all three of ACS's damages experts. I then cross-examined one of defendants' fact witnesses.

Plaintiff's Counsel:

Michael Long, Kimberly Herlihy, Carter Stewart
Vorys, Sater, Seymour and Pease LLP
52 East Gay Street
P.O. Box 1008
Columbus, OH 43216-1008
(614) 464-6400

Robert Masters, Erin Sears, John Shin
Paul, Hastings, Janofsky & Walker LLP
875 15th Street, NW
Washington, DC 20005
(202) 551-1700

Defense Counsel

Allan Brigs, Keith Shumate, Aneca Lasley, Aaron Brogden
Squire Sanders & Dempsey LLP
2000 Huntington Center
41 South High Street
Columbus, OH 43215
(614) 365-2799

2. *Ronnie Hager vs. ABX Air, Inc., et al.*, United States District Court for Southern District of Ohio (Eastern Division); Judge James L. Graham; Case No. 2:07-CV-317 (2006-2008).

I represented ABX Air, Inc. against a class action suit by Mr. Hager alleging that ABX intentionally conspired to hire illegal temporary labor in order to reduce ABX's salaries for its regular employees in violation of the Racketeer Influenced and Corrupt Organizations Act (RICO). This civil case followed a federal investigation into ABX's hiring practices after a temporary labor company that supplied labor to ABX was found to have used a significant number of illegal immigrants.

I was the lead fact-gatherer during the internal investigation of the company, conducting dozens of interviews and organizing thousands of pages of documents

obtained from the client. I analyzed the factual findings from a criminal law perspective and participated in case strategy discussions directly with the client.

I helped research and draft a motion to dismiss which successfully eliminated the majority of plaintiff's case. After the motion to dismiss was decided, the plaintiff voluntarily dismissed the complaint prior to class certification.

Plaintiff's Counsel:

Molly O'Neil
Murray & Murray Co., L.P.A.
111 E. Shoreline Drive
Sandusky, OH 44870
(419) 624-3000

Defense Counsel for ABX Inc., Joseph Hete, Gene Rhodes

Sandy Anderson, Jim Phillips, Carter Stewart
Vorys, Sater, Seymour and Pease LLP
52 East Gay Street
P.O. Box 1008
Columbus, OH 43216-1008
(614) 464-6400

Dan Buckley, Whitney Gibson
Vorys, Sater, Seymour and Pease LLP
221 East Fourth Street
Suite 2000, Atrium Two
P.O. Box 0236
Cincinnati, OH 45201-0236
(513) 723-4000

Defense Counsel for Doug Steele

James Tyack
Tyack, Blackmore & Liston Co., L.P.A.
536 South High Street
Columbus, Ohio 43215
(614) 221-1341

3. *U.S. v. Balco Laboratories*; U.S. District Court for the Northern District of California, Judge Susan Illston, Case No. CR 04-0044 (2003-2005).

I helped investigate and prosecute Victor Conte and others at Balco Laboratories for violations of 21 USC 846 and 841(b)(1)(D) (Conspiracy to distribute and possess with intent to distribute anabolic steroids).

This case originally involved the illegal distribution of steroids to professional and Olympic athletes. All defendants pled guilty. The case later developed into perjury cases against several of the athletes who testified before the grand jury, including Marion Jones and Barry Bonds. Ms. Jones pled guilty and Mr. Bonds is currently scheduled for trial.

I served as second chair on this case which entailed questioning witnesses before the grand jury, arguing motions related to evidentiary issues (at issue today in Mr.

Bonds' perjury case), interviewing potential witnesses, and helping to develop the strategy for further investigation of other steroid distribution rings.

Prosecutors:

Jeff Nedrow, Carter Stewart
U.S. Attorneys Office – Northern District of California (San Jose Branch)
150 Almaden Boulevard, Suite 900
San Jose, CA 95113
(408) 535-5061

Defense Counsel for Victor Conte:

Ed Swanson
Swanson McNamara & Haller LLP
300 Montgomery St #1100
San Francisco, CA 94104
(415) 477-3800

4. *U.S. v. Cheatham*, United States District Court for the Northern District of California, Magistrate Judge Harold Lloyd; Case No. 03-CR-20164-HLR (2005).

I was the sole AUSA prosecuting this case which involved a violation of 16 USC 742j-1(a)(2) (airborne harassment of wildlife). Specifically, a stunt pilot was using his helicopter to scare birds called the “common murre” from their nests along the coast of California. These disturbances threatened the sustainability of the bird population due to the high risk of nest destruction resulting from such disturbances.

I consulted with law enforcement agents, interviewed witnesses, gathered evidence, and presented the case to the grand jury. I then selected the jury, gave opening and closing arguments, presented evidence, and examined/cross-examined all the witnesses during a three-day trial. Although this case was challenging because one key witness was missing in Canada and another was very reluctant to testify, the jury convicted the defendant.

Defense Counsel:

James Dozier
325 Cayuga St
Salinas, CA 93901
(831) 758-1031

5. *U.S. v. Ramon Romero Martinez*, United States District Court for the Northern District of California, Judge Ronald Whyte; Case No. 04-CR-20100-RMW (2005).

I was the sole AUSA prosecuting this case which involved a violation of 18 USC 922(g)(1) (felon in possession of gun). The defendant was a convicted felon who was arrested at a bar while brandishing a firearm. The defendant pled guilty to the crime of possessing a weapon, but contested any upward adjustment of his sentence based upon the *U.S. v. Booker*, 543 U.S. 220 (2005) decision.

I consulted with law enforcement, interviewed witnesses, gathered evidence, and presented the case to the grand jury. I then selected the jury, gave opening and closing statements, and examined/cross-examined all of the witnesses during a one-day trial. The jury found that the defendant was subject to the higher sentencing range.

Defense Counsel:

Jay Rorty
Federal Public Defenders
160 W Santa Clara St # 575
San Jose, CA 95113
(408) 291-7753

6. *U.S. v. Guillermo Valencia*, United States District Court for the Northern District of California, Judge Jeremy Fogel, Case No. 04-CR-20011-JF (2005).

I was the sole AUSA prosecuting this case which involved a defendant who was charged with possessing heroin with the intent to distribute (21 USC 841(a)(1)) and possessing a weapon during the commission of a drug offense (18 USC 925).

I consulted with law enforcement, interviewed witnesses, gathered evidence, and presented the case to the grand jury. I then selected the jury, made opening and closing statements, presented evidence, examined lay and expert witnesses, cross-examined defendant's witnesses and the defendant himself. The defendant was convicted of possessing heroine with the intent to distribute after a four-day trial. The government dropped the remaining charges.

Defense Counsel:

Jay Rorty
Laura Vinnard
Federal Public Defenders
160 W Santa Clara St # 575
San Jose, CA 95113
(408) 291-7753

7. *U.S. v. Felipe Blanco-Loya*, United States District Court for the Northern District of California, Judge James Ware, Case No. 04-CR-20019-JW (2004).

I was the sole AUSA prosecuting this case which involved a defendant charged with re-entering the United States following his conviction of a violent felony and deportation (8 USC 1326).

I consulted with law enforcement agents, interviewed witnesses, gathered evidence, and presented the case to the grand jury. I then selected the jury, made opening and closing statements, presented evidence, and examined/cross-examined witnesses during a three-day trial. The biggest difficulty in this case was the need to call multiple law enforcement agents from across the country to prove the prior deportation and to verify the defendant's identity. The high number of agents increased the room for procedural error. The defendant was convicted.

Defense Counsel:

Alfredo Martin Morales
Morales & Leanos
75 E Santa Clara St #250
San Jose, CA 95113
(408) 294-5400

8. ***US v. Harvey Morales, United States District Court for the Northern District of California, Judge James Ware, Case No. 04-CR-20041-JW (2005).***

I was the sole AUSA prosecuting this case which involved a small ring of counterfeiters who went on a crime spree at a shopping mall. Two of the defendants pled guilty, but Mr. Morales went to court on charges of violating 18 USC 513(a) (counterfeiting and forgery).

I consulted with law enforcement personnel, interviewed witnesses who were spread across the country, worked with the U.S. Secret Service to identify counterfeit traveler's checks and to gather the evidence supporting identity theft. I presented the case to the grand jury for indictment, selected the trial jury, made opening and closing statements, introduced evidence, and examined/cross-examined witnesses during a three day trial. The biggest challenge in this case was getting the jury to believe a cooperating witness who already had pled guilty to the underlying crime. The jury found the defendant not guilty.

Defense Counsel:

Cynthia Lie
Federal Public Defenders
160 W Santa Clara St # 575
San Jose, CA 95113
(408) 291-7753

9. ***U.S. v. Torres, United States District Court for the Northern District of California, Judge James Ware, Case No. 02-CR-20008-JW(2003).***

I served as second chair in this case where the defendant was charged with vehicular manslaughter while intoxicated, a state crime that applied in this instance because the crime occurred on federal property.

I joined the case immediately prior to trial. I participated in the final fact gathering and interviewing of law enforcement personnel. At trial, I examined/cross-examined a half-dozen witnesses including expert witnesses for both the government and the defendant. After the defendant was convicted, I argued the government's position at the sentencing hearing and successfully obtained the sentence which the government sought.

Defense Counsel:

David Grunbaum
Federal Public Defenders
160 W Santa Clara St # 575
San Jose, CA 95113
(408) 291-7753

10. ***San Francisco NAACP v. San Francisco Unified School District; Brian Ho v. San Francisco Unified School District (Related Case); United States District***

Court for the Northern District of California; Judge Orrick; Case No. C-94-2418-WHA (2001).

In 1994, the San Francisco Asian American Legal Foundation (“Ho Plaintiffs”) challenged the San Francisco public school system’s desegregation consent decree on the basis that it imposed unlawful racial quotas. The San Francisco NAACP joined with the school district to defend the consent decree.

In 2001, I was an associate at Bingham McCutchen (then McCutchen Doyle) which had been co-counsel with the San Francisco NAACP when it won the first consent decree in the 1970s. I joined the case when the San Francisco NAACP moved for attorneys’ fees for its work defending the consent decree against the Ho Plaintiffs.

I drafted and argued the motion for attorneys’ fees on behalf of the San Francisco NAACP in federal district court, arguing that the original prevailing party status should not be affected by an amendment to the consent decree which the prevailing party successfully obtained. We lost the motion, but succeeded in keeping an amended version of the consent decree in place.

Counsel for San Francisco NAACP:

Peter Cohn
315 Keokuk St.
Petaluma, CA 94952
(707) 778-6945

Counsel for San Francisco Unified School District:

David Campos
555 Franklin Street, Third Floor
San Francisco, CA 94102
(415) 241-6163

Counsel for Ho Plaintiffs:

Daniel C. Girard
601 California Street, Suite 1400
San Francisco, CA 94108
(415) 981-4800

16. **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.)

At Bingham, I helped conduct an internal investigation for a hospital that the federal government suspected of fraudulently over-charging for Medicaid reimbursements. Ultimately, the government decided not to prosecute the hospital because of the results of our internal investigation and our client’s cooperation.

I also helped represent a cooperating witness in a federal public corruption

case. The witness participated in a sting operation in which he was filmed paying money to a local city councilman in return for the councilman's vote on a government contract. As part of this case, I participated in witness briefings and debriefings, and the subsequent effort to quell any civil litigation over our client's contracts with the city.

As an AUSA, I led groups of agents investigating the wide-ranging criminal activity of the Norteno gang in the Silicon Valley area. These task forces were comprised of agents from the ATF, FBI, and local police. I regularly met with these agents and officers to discuss investigation strategy and to map out the most effective means of shutting down the gang activity from the roots. Not all of the investigations resulted in criminal charges while I worked at the U.S. Attorney's Office, but the information gathered was useful for future investigations and prosecutions after I left.

At Vorys, I have participated in internal investigations of two colleges and two multi-million dollar companies. These investigations resulted from government scrutiny of these entities for potential criminal behavior. The investigations involved interviewing key witnesses, analyzing any potential liability, counseling clients regarding the best options to pursue, and interfacing with law enforcement personnel. As a result of these internal investigations and our cooperation with the government, none of these entities have been charged with criminal activities.

17. **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.

Friends Seminary High School from July 1992-August 1994; At Friends Seminary, I organized the school's diversity outreach efforts which involved meeting regularly with parents of color and the school's administration to establish and implement strategies for increasing the number of minority students at Friends Seminary. I also taught and supervised several classrooms of 20 to 30 high school students on a daily basis. I taught World Civilizations to entire ninth grade. Designed and taught electives in African-American History, New York City Politics, and International Comparative Politics for eleventh and twelfth grades. No syllabus is available for these courses.

I taught Schools and the Law at Lincoln Law School in San Jose, CA. I taught this class one semester in 2004. Class focused on constitutional issues relevant to K-12 public education. Specific areas of instruction included the First Amendment rights of students and teachers, the separation between church and state in public schools, and legal challenges to school financing policies. No syllabus is available for this course.

18. **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.

I have no deferred income arrangements of any sort, other than a 401(k) plan with my lawfirm. If I am confirmed, I plan to remain vested in the 401(k), however neither I nor my firm will make any additional contributions.

19. **Outside Commitments During 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.

No.

20. **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).

Financial Disclosure report is attached.

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

See attached Net Worth Statement.

22. **Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, affiliations, pending and categories of litigation, financial arrangements or other factors 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.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Justice's designated agency ethics official to identify potential conflicts of interest. Any potential conflict of interest will be resolved in accordance with the terms of an ethics agreement that I have entered with the Department's designated agency ethics official.

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

In the event of a potential conflict of interest, I will consult with the ethics officials for the Executive Office for United States Attorneys, Department of Justice.

23. **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. If you are not an

attorney, please use this opportunity to report significant charitable and volunteer work you may have done.

At Bingham, I had two pro bono cases. First, I was co-counsel with the San Francisco NAACP in their efforts to maintain the desegregation consent decree that applied to San Francisco's public schools. I participated in strategy sessions, helped negotiate the contours of the revised consent decree, and argued a motion in federal court to support the award of attorney's fees for our efforts. Second, I represented a single mother who sued her business partner after he tried to improperly take her share of the business. I successfully won sanctions against her former partner after demonstrating that he destroyed evidence. Unfortunately, the defendant declared bankruptcy to avoid trial and judgment.

At Vorys, I represented an individual pro bono who was appealing a criminal conviction of disorderly conduct. I argued the case before the Second Appellate District of Ohio.

I also represented an indigent individual facing federal drug charges during his sentencing. I successfully obtained a downward departure that significantly reduced his prison term.

My additional community service activities include serving as a Court Appointed Special Advocate (CASA) for two brothers in the Franklin County foster care system. I serve on the board of KIPP Journey Academy, a high performing charter school. I recently stepped down from the Contemporary American Theater Company (CATCO) Board where I had served for two years.

AFFIDAVIT

I, Carter M Stewart, do swear
that the information provided in this statement is, to the best
of my knowledge, true and accurate.

7/13/09
(DATE)

Carter M Stewart
(NAME)

Carolyn G. Williams
(NOTARY)



CAROLYN G. WILLIAMS
Notary Public, State of OH
My Commission Expires
August 31, 2010