



SHOOTERS COMMITTEE ON POLITICAL EDUCATION S.C.O.P.E.

Judicial Questionnaire

Candidate Name: Steven J. Getman **Date:** 9/4/2019

Party: Republican nominee (also running on the Libertarian line)

Judicial Office/District: Schuyler County Court Judge

1. Do you have any experience with firearms? Yes. If yes, please explain:

- I have been around firearms my entire life.
- I have been a life member of the NRA since 1995 and am currently an endowment member (see attached membership certificate of life membership).
- I am active member of our local chapter of S.C.O.P.E. (Schuyler County).
- I have a concealed carry pistol permit with multiple firearms listed.
- I enjoy target shooting for sport, as does my girlfriend.
- I am a member of two local sportsmen's clubs.
- I took trap and skeet in college for phys ed.
- I grew up in a strong pro-Second Amendment household.
- My father was a police officer/former military, as well as an NRA-certified police firearms instructor and NYS Hunting Safety Instructor.
- My grandfather(s), uncle(s) and my mother were/are firearms owners.
- My family would take me shooting as a child.
- I was taught, as a child, proper firearms handling and that the responsibility for gun safety lies in the individual.
- In my capacity as Schuyler County Attorney, I sought—and received—from the county legislature, authorization to assist in the case *New York State Rifle & Pistol Association Inc. v. City of New York, New York*, currently pending before the Supreme Court of the United States (see attached article).

2. What do you believe are the major issues involved in the debate regarding gun control?

Currently, the major issues appear to be as follows:

- In 2008, the Supreme Court of the United States issued its ruling in *District of Columbia v. Heller*, which confirmed **the Second Amendment protects an individual right to possess a firearm unconnected with service in a militia, and to use that arm for traditionally lawful purposes, such as self-defense within the home. Further, the *Heller* court held that the individual right to bear arms, as codified in the Constitution, was a pre-existent right, not dependent on the permission of the government, as that right, through codification, "shall not be infringed."**
- Despite the language of *Heller* and the Supreme Court's subsequent decision in *McDonald v. City of Chicago*, proponents of gun control often argue that the sale, purchase, and use of firearms can be regulated. Such gun control advocates typically attempt to justify such regulations on two theories: (a) Despite the language of *Heller* and *McDonald*, they continue to argue that the right to bear arms is tied to the concept of the need for a state militia, so as to protect the security of the State; (b) Language in the *Heller* decision that discussed whether the Second Amendment is consistent with laws banning "dangerous and unusual weapons" not in common use

at the time, such as M-16 rifles and other firearms that are allegedly most useful in military service.

- There is currently pending in the United States Supreme Court, on grant of petition of certiorari, the matter of *New York State Rifle and Pistol Association, Inc. et. al. v. City of New York, State of New York et. al.* This case gives the Supreme Court an opportunity to shed some much-needed clarity on its Second Amendment jurisprudence. **As noted in the annexed article, in my position as Schuyler County Attorney, I have advised the county legislature that lower courts erred by failing to subject the gun control laws to a “strict scrutiny” test. Strict scrutiny is the highest standard of review a court may use to evaluate the constitutionality of governmental action. It is often applied when a law infringes upon a fundamental right or involves a suspect classification.** Under that test, a law must further a compelling governmental interest, and must be narrowly tailored to achieve that interest.
- Finally, I anticipate that the various “Red Flag” laws being passed nationwide, including in New York, will be challenged as violative of both the Second Amendment and the “due process” requirements of the Fifth and Fourteenth Amendments.

3. What is your interpretation of the 2nd Amendment? As noted by the U.S. Supreme Court in *District of Columbia v. Heller*, the Second Amendment codifies and restates, as part of the Bill of Rights, the natural right of the individual to keep and bear arms. Further, the intent and purpose of the Bill of Rights, including the Second Amendment, is to codify specific limits on governmental power to ensure greater constitutional protection for individual liberties and to help prevent the creation of a tyrannical government. In addition, pursuant to *McDonald v. Chicago*, the right of an individual to keep and bear arms, is incorporated by the Fourteenth Amendment against the states.

4. What would disqualify a pistol license applicant from receiving a concealed carry license? Unless the applicant is specifically prohibited by state or federal law from receiving a concealed carry license, or is found to have committed a separate wrongful act during the licensing process (for example, intentionally lying on the application) I cannot think of a valid reason to deny a license to a qualified applicant.

5. Would you be inclined to add restrictions to pistol licenses? Why? The proper role of the court is to interpret the law, not legislate from the bench. I do not envision any proper scenario where I would add restrictions to a license not mandated by controlling and binding legal authority.

6. What is your view of NY State’s “Red Flag Law” Section 100.5(A)(4)(d) of the Rules of Judicial Conduct directs that a candidate may not: (i) make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office; (ii) make statements that commit or appear to commit the candidate with respect to cases, controversies, or issues that are likely to come before the court; or (iii) knowingly make any false statement or misrepresent the identity, qualifications, current position or other fact concerning the candidate or an opponent. As aspects of the “Red Flag Law” could come before me while a judge, I am generally constrained from providing specific comment on this law. However, in interpreting this (or any other) statute, I would be guided by adherence to constitutional principles, including original intent. I also respectfully direct your attention to my earlier answers, especially to Questions 1- 3.

7. Do you believe the current system for disciplining lawyers and judges is effective? Why, or why not? Having never been disciplined as an attorney or judge, it is difficult to answer this question with any sort of insight.

8. As a prospective judge, what do you consider your greatest strengths?

- An attorney since 1992, I have practiced in each of the courts over which the County Court Judge presides: County Criminal, Civil, Family and Surrogate's.
- I have also handled dozens of criminal and civil appeals in the New York State Supreme Court Appellate Division.
- As Schuyler County Attorney, I am the chief legal advisor to approximately 250 county employees, including the County Administrator and County Legislature. I and my staff have handled thousands of cases, prosecuted and defended civil actions, appeared in numerous courts, and drafted legislation. In addition, my office prosecutes family court cases involving child abuse and neglect, juvenile delinquency and child support violations.
- In addition to interpreting the law, I have written various local laws and ordinances, giving me insight into the doctrines of "original intent."
- Beyond my service as an attorney, I have taught criminal justice and constitutional law as an Adjunct Instructor at Keuka College for the past eight years.
- I am a graduate of Hofstra University, Ithaca College and Cornell University, holding the following degrees: Juris Doctor; Master of Science; Bachelor of Science.

Weaknesses? Lack of prior judicial experience. However, it is respectfully noted that there is a long history of attorneys graduating to the county court bench without prior judicial service (see., e.g., *Harvey v. Finnick* [discussing the intent of Judiciary Law § 183-a]).

9. What has been your greatest accomplishment(s) in your legal career? I am hesitant to single out one particular accomplishment or accomplishments in my twenty-seven-year legal career. I prefer to think of each day of my career as an opportunity to learn, grow as an attorney and serve my community.

10. Who are your judicial role models, and why? Rehnquist, Scalia and Thomas, as the U.S. Supreme Court's leading constitutionalists during my lifetime.

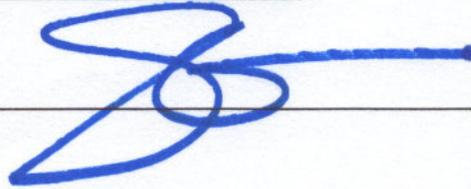
11. While serving on the bench, do you believe you have a role in bringing important legal or judicial issues before the public or the legislature? Why? Yes, to the extent allowed by the Rules of Judicial Conduct. Pursuant to those rules:

- Judges may discuss the law in general, provided the comments are made in a professional manner, outside the courtroom.
- Judges may teach classes on the law, not inconsistent with the rules.
- Judges may attend meetings with lawyers to discuss the functioning and improvement of the court system.
- Judges may respond to factual inquiries from the media seeking information as to the status of a case before the judge, involving matters of record, but the judge may not comment on the case or attempt to repeat or summarize courtroom testimony.
- However, judges may not comment publicly on a pending matter, even if the judge's only intention is to correct the false, inaccurate and misleading nature of statements being made by the litigant involved in a case in which the judge is presiding.

12. What do you perceive as the greatest obstacle to justice, if any?

When public officials making, enforcing and/or interpreting laws fail to understand and abide by the original intent of the United States Constitution.

Candidate's Signature: _____



Date: 9/4/19