

Response of Shelly D. Dick
Nominee to be United States District Judge for the Middle District of Louisiana
to the Written Questions of Senator Amy Klobuchar

- 1. If you had to describe it, how would you characterize your judicial philosophy? How do you see the role of the judge in our constitutional system?**

Response: I believe that a judge should be fair, impartial, tolerant, and even tempered. A judge must apply the rule of law to the facts of the particular case before the court and treat every litigant with dignity and respect, regardless of color, race, creed, position, or means. A judge's role is to resolve disputes in a just, timely, efficient, and professional manner in accord with the rule of law and the rules of procedure.

- 2. What assurances can you give that litigants coming into your courtroom will be treated fairly regardless of their political beliefs or whether they are rich or poor, defendant or plaintiff?**

Response: I believe that a judge's demeanor should instill trust, confidence, and faith in the legal system. If confirmed, I will apply the rule of law and the rules of procedure equally to all parties and treat all litigants with dignity and respect regardless of their background, political beliefs, or financial means.

- 3. In your opinion, how strongly should judges bind themselves to the doctrine of stare decisis? How does the commitment to stare decisis vary depending on the court?**

Response: As a District Court judge I would be obliged to apply the doctrine of stare decisis. The doctrine of stare decisis is the bedrock of consistency and predictability in the law and, as such, it is a principle of particular importance at the District Court level.

Response of Shelly D. Dick
Nominee to be United States District Judge for the Middle District of Louisiana
to the Written Questions of Senator Chuck Grassley

- 1. You have very limited criminal law experience. If you are confirmed, how will you prepare yourself to handle the criminal issues that will appear before you?**

Response: I would study criminal law statutes, United States Supreme Court precedent, and the Federal Rules of Criminal Procedure. I would attend criminal proceedings presided over by my District Court colleagues. Most importantly, I would thoroughly familiarize myself with facts and issues in each case *before* it comes before me for hearing or other determination in order to fully research the relevant law applicable to that particular case.

- 2. What is the most important attribute of a judge, and do you possess it?**

Response: A judge should be fair, impartial and tolerant. A judge should apply the rule of law equally without bias or sympathy and treat every litigant, regardless of color, race, creed, position, or means, with dignity and respect. In addition a judge should walk humbly, by which I mean to never allow the power of the office to influence decisions or the manner in which litigants are treated.

Yes. I believe I possess these attributes.

- 3. Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**

Response: Foremost, a judge should be a student of law. A judge should display an even temper, exercise patience, listen carefully, and strive to provide a timely and efficient process to the litigants. I believe that the most important quality of a judge is to carefully research and discern the rule of law to be applied to the particular facts of the case and to uphold the rule of law in a fair, impartial, and unbiased manner.

- 4. In general, Supreme Court precedents are binding on all lower federal courts, and Circuit Court precedents are binding on the district courts within the particular circuit. Are you committed to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?**

Response: Yes.

- 5. At times, judges are faced with cases of first impression. If there were no controlling precedent that was dispositive on an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

Response: If the application or interpretation of a statute is at issue, I would apply the plain and clear words of the statute. I would also look to analogous case law and precedent from the United States Supreme Court and the United States Court of Appeals for the Fifth Circuit to provide guidance.

- 6. What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your best judgment of the merits to decide the case?**

Response: As a District Court Judge, it would be my solemn duty to apply the law as set forth by the United States Supreme Court and United States Court of Appeals for the Fifth Circuit, regardless of any disagreements I might have with the decisions of those courts.

- 7. Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?**

Response: A statute is unconstitutional if it violates an express prohibition or limitation in the Constitution or exceeds the enumerated powers of Congress.

- 8. In your view, is it ever proper for judges to rely on foreign law, or the views of the “world community”, in determining the meaning of the Constitution?**

Response: No.

- 9. As you know, the federal courts are facing enormous pressures as their caseload mounts. If confirmed, how do you intend to manage your caseload?**

Response: In my view the best way to manage the caseload is to enforce the Federal Rules of Procedure and court rules and implement a docket management protocol, including the issuance of scheduling orders. It has been my experience that adherence to uniform rules of procedure and compliance with court scheduling orders encourages efficiency by the litigants and, as a result, promotes expeditious resolution of disputes.

- 10. Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?**

Response: Docket management is a critical task for a District Court judge. As a litigator in private practice, I recognize that litigation can be very costly to the litigants; therefore efficiency and expedience are of paramount importance. If confirmed I would issue scheduling orders, set and adhere to pre-trial deadlines, decide pre-trial motions expeditiously, encourage the parties to streamline issues for trial, and set firm trial dates.

11. You have spent most of your entire legal career as an advocate for your clients. As a judge, you will have a very different role. Please describe how you will reach a decision in cases that come before you and to what sources of information you will look for guidance. What do you expect to be most difficult part of this transition for you?

Response: As a District Court judge I would be an advocate for the rule of law and not for a particular position or viewpoint. I would reach decisions first, by reading the pleadings filed in order to understand the facts and issues in question, second, by listening earnestly and with tolerance to the arguments of the parties, third, by researching and analyzing the applicable precedent and laws and, finally, by applying the law to the facts before the court.

I anticipate that the most challenging part of transition will be the need to quickly gain a solid working knowledge of criminal law and procedure. I believe that I am intellectually equipped to meet this challenge.

12. Please describe with particularity the process by which these questions were answered.

Response: I received these questions via e-mail from the Department of Justice on December 19, 2012. On December 20th, I drafted my responses to the questions. I returned responses to these questions and the written questions of other Senators to the Department of Justice on the afternoon of December 20, 2012 and the morning of December 21, 2012. I discussed my responses with a representative of the Department of Justice on December 23, 2012 and authorized the Department of Justice to submit these responses to the United States Senate.

13. Do these answers reflect your true and personal views?

Response: Yes.

Response of Shelly D. Dick
Nominee to be United States District Judge for the Middle District of Louisiana
to the Written Questions of Senator Tom Coburn, M.D.

- 1. Some people refer to the Constitution as a “living” document that is constantly evolving as society interprets it. Do you agree with this perspective of constitutional interpretation?**

Response: No.

a. If not, please explain.

Response: The Constitution is the founders' expression of fundamental laws and principles that prescribe the nature, functions, and limits of the United States government. The Constitution vests certain powers in the federal government and also specifies certain limitations on the federal government.

- 2. Do you believe judicial doctrine rightly incorporates the evolving understandings of the Constitution forged through social movements, legislation, and historical practice?**

Response: No.

a. If not, please explain.

Response: The role of the judiciary is to follow and apply the rule of law as established by precedent. The role of a judge in the United States District Courts in Louisiana would be to follow the law as enunciated by the United States Supreme Court and the United States Court of Appeal for the Fifth Circuit.

- 3. What principles of constitutional interpretation would you look to in analyzing whether a particular statute infringes upon some individual right?**

Response: If confirmed as a District Court judge, I would look first to the precedent of the United States Supreme Court and then the United States Court of Appeals for the Fifth Circuit. Absent such precedent, I would carefully analyze the plain language of the statute guided by the principle that, whenever possible, the statute should be read to be harmonious with the Constitution of the United States. Lastly, I would look to the precedent of other courts as persuasive authority.

- 4. In *Roper v. Simmons*, 543 U.S. 551 (2005), Justice Kennedy relied in part on the “evolving standards of decency” to hold that capital punishment for any murderer under age 18 was unconstitutional. I understand that the Supreme Court has ruled on this matter and you are obliged to follow it, but do you agree with Justice Kennedy’s analysis?**

Response: I have not studied Justice Kennedy's opinion in *Roper v. Simmons*. In any event, I do not believe it would be appropriate for me to express my personal opinion because if confirmed it would be my duty to apply the law as enunciated by the United States Supreme Court.

- a. **When determining what the “evolving standards of decency” are, justices have looked to different standards. Some justices have justified their decision by looking to the laws of various American states, in addition to foreign law, and in other cases have looked solely to the laws and traditions of foreign countries. Do you believe either standard has merit when interpreting the text of the Constitution?**

Response: If confirmed as a District Court judge it would be my duty to apply the analytical framework enunciated by the United States Supreme Court and the United States Court of Appeals for the Fifth Circuit. It is my belief that the laws of states and foreign nations do not provide binding precedent in matters involving constitutional interpretation.

- i. **If so, do you believe one standard more meritorious than the other? Please explain why or why not.**

Response: Not applicable.

5. **In your view, is it ever proper for judges to rely on foreign or international laws or decisions in determining the meaning of the Constitution?**

Response: No.

- a. **If so, under what circumstances would you consider foreign law when interpreting the Constitution?**

Response: Not applicable.

- b. **Do you believe foreign nations have ideas and solutions to legal problems that could contribute to the proper interpretation of our laws?**

Response: No.