

Responses of Scott W. Skavdahl
Nominee to be United States District Judge for the District of Wyoming
to the Written Questions of Senator Chuck Grassley

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

Response: A judge's most important attribute is fidelity to the law. I possess this attribute and have previously demonstrated it in those decisions I rendered as a Wyoming District Court judge.

2. 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: The appropriate temperament of a judge should include qualities that instill confidence, trust and faith in the integrity of our legal system. To that end, elements of judicial temperament that I would consider most important include patience, humility, impartiality and respect for the parties and the rule of law. I believe I possess the elements necessary for appropriate judicial temperament.

3. 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.

4. At times, judges are faced with cases of first impression. If there were no controlling precedent that dispositively concluded 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 faced with a case of first impression I would first look to see if there are any decisions from the Supreme Court or the United States Court of Appeals for the Tenth Circuit that may provide persuasive guidance and reasoning, indicating the likely disposition to be reached. I would also consider as persuasive any district court decisions within the Tenth Circuit that have analyzed the same or analogous issue as well as any decisions from federal Courts of Appeals. To the extent the issue involved a statute, I would look first and foremost to the statute's text, giving plain and ordinary meaning to the words used and the order of their placement.

5. 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 own judgment of the merits, or your best judgment of the merits?

Response: I would apply the binding precedent of the Supreme Court or the United States Court of Appeals for the Tenth Circuit regardless of my belief or personal views.

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

Response: A federal court should only declare a statute enacted by Congress unconstitutional if the presumption of constitutionality has been overcome, based upon a clear violation of a constitutional provision or if Congress exceeded its authority as set forth in the Constitution. In considering any constitutional challenge to a statute enacted by Congress the court would also apply the Supreme Court precedent relating to any implicated constitutional text.

7. 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: If I were to be confirmed as a district court judge I would utilize the District of Wyoming's electronic case management system to verify that cases are progressing efficiently and that pending matters are being dealt with promptly. I would make sure that a pretrial scheduling order is entered promptly for each case setting forth clear rules and deadlines for the case progression to trial and hold the parties, counsel and the court to those deadlines, absent extraordinary circumstances. I would also hold bi-weekly meetings with my judicial staff to identify any cases that are not progressing according to schedule or that have any pending matters that are delaying case progression and set deadlines to resolve those matters. I would also consider holding status conferences or requesting the assistance of the magistrate judge to address any discovery matters that may be delaying case progression.

8. 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: Judges play a critical role in controlling the pace and conduct of litigation. If confirmed, I would utilize those techniques as set forth in my response to Question No. 7. I would further note that my past experience has been that a trial court's reputation for holding fast to deadlines and timely rendering decisions on pending motions plays a significant role in getting matters to resolution, by way of settlement or trial. Thus, establishing internal deadlines and a tickler system to make sure those deadlines are met would be important.

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

Response: I read through the questions carefully and then drafted my initial responses on my computer. I then reviewed my initial responses for accuracy and completeness. I

then sent my answers to the Office of Legal Policy for submission back to the Committee.

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

Response: Yes.