

Response of Colin S. Bruce
Nominee to be United States Judge for the Central District
of Illinois to the Written Questions of Senator Amy Klobuchar

1. If you had to describe it, how would you characterize your judicial philosophy?

Response: My judicial philosophy is that a judge should decide matters fairly, impartially and promptly. Further, I believe a judge should treat all parties coming before the court with courtesy and respect. In deciding any issue before the court, a judge should apply the rule of law without regard to prevailing popular opinion or personal beliefs. I also believe judges should exercise judicial restraint in all matters by deciding only the issues in controversy before them and applying the applicable precedent.

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 strongly believe that judges must be impartial and treat all parties with respect and courtesy, regardless of their socio-economic status, posture before the court or political beliefs. As an Assistant United States Attorney, I have carefully handled all the matters brought to me with an open mind, and exercised my prosecutorial discretion in such a manner that opposing counsel generally perceive me as a person who strives for fairness and justice. I fully embrace the responsibility toward fairness and justice that comes with the judiciary. I have a bedrock belief in the rule of law and equal justice under the law. If I am confirmed as a district court judge, I will treat all persons with courtesy and respect, and I will base my decisions not on the person or party appearing before me, but instead on the rule of law.

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: I believe the doctrine of *stare decisis* is fundamental to American jurisprudence. Supreme Court precedent is binding on all lower federal courts; Circuit Court of Appeals precedent is binding upon the district courts within a particular circuit. If I am confirmed as a district judge, I would faithfully apply controlling Supreme Court and Seventh Circuit Court of Appeals precedent. Further, while the Supreme Court may overturn its earlier rulings or those of a Court of Appeals, and an *en banc* panel may overturn a three-judge panel decision in the same Court of Appeals, I do not believe a district court may ever overturn a decision of the Supreme Court or Court of Appeals.

Response of Colin S. Bruce
Nominee to be United States Judge for the Central District
of Illinois to the Written Questions of Senator Chuck Grassley

- 1. You have spent your entire legal career as an Assistant United States Attorney handling both civil and criminal matters. What assurances can you give this committee that you will be able to fairly judge a case that involves the United States Attorney's Office and AUSAs that you have previously worked with and supervised?**

Response: If I am confirmed as a district court judge, I am confident that I would be fair in any case involving the United States and the United States Attorney's Office for several reasons. First, my twenty-four years in the United States Attorney's Office trained me to strive for fairness and justice, following Mr. Justice Sutherland's direction in *Berger v. United States*, 295 U.S. 88 (1935), that the United States Attorney's purpose "in a criminal prosecution is not that it shall win a case, but that justice shall be done." Second, I believe that opposing counsel generally perceive me as a person who strives for fairness and justice. Third, I fully understand the difference between a representative of the executive and a representative of the judiciary; I fully embrace the responsibility for neutrality, fairness and justice that comes with the judiciary. Finally, I have a bedrock belief in the rule of law and equal justice under the law. I intend to treat all persons with courtesy and respect, and I will base my decisions not on the person or party appearing before me, but instead on the rule of law.

- 2. What recusal policies do you plan to implement with respect to the US Attorney's Office and AUSAs with whom you have worked and supervised?**

Response: If I am confirmed as a district court judge, my intent is to recuse myself from all criminal matters for the first six months after I take the bench. Further, I intend to recuse myself from all matters which were opened in the United States Attorney's Office for the Central District of Illinois during the time when I was either the First Assistant or the branch supervisor, or any case in which I was previously involved as an Assistant United States Attorney.

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

Response: The most important attributes of a judge include the ability to apply the law fairly and impartially to all cases, while exercising judicial restraint by only addressing the issues before the court. A judge should also show humility, be courteous and respectful to all parties, and be hard working. I believe I possess these attributes.

- 4. 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: I believe a district court judge needs to be polite, patient and respectful to all parties while still maintaining control of the courtroom. A judge also needs to remain calm, show humility, listen carefully, and focus only on the issues before the court. I believe I possess all of those abilities.

- 5. 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.

- 6. What assurances can you give this committee that, should you be confirmed, you will be able to eliminate any potential biases and influences, and that your courtroom decisions will not be affected by any political, economic, or philosophical influences?**

Response: If I am confirmed as a district court judge, I will decide issues presented before me based upon the facts and the law. During my twenty-four years as an Assistant United States Attorney, I have exercised prosecutorial discretion without regard to my personal beliefs and regardless of a defendant's or victim's economic status, political beliefs or any other characteristic. If confirmed as a district court judge, I would be faithful to the judicial oath and treat everyone appearing before me fairly, courteously and respectfully.

- 7. Do you believe the death penalty is an appropriate form of punishment? If called upon to do so, would you have any personal objection to imposing this sentence? Please explain your response.**

Response: The Supreme Court has held that the death penalty is constitutional, except in certain limited circumstances. If I am confirmed as a district court judge, I would apply the relevant Supreme Court and Seventh Circuit Court of Appeals precedent to any case where death is a potential punishment.

- 8. 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 I am confirmed as a district court judge and presented with a statutory interpretation case of first impression, I would look first to the express language of the statute and give the text its plain and ordinary meaning. If the language is ambiguous, I would look to controlling Supreme Court and Seventh Circuit Court of Appeals precedent and use the applicable rules of statutory construction to resolve the ambiguity. If there were no

controlling precedents from the Supreme Court or the Seventh Circuit Court of Appeals, I would look for persuasive precedent involving similar issues from those and other federal courts.

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

Response: Statutes enacted by Congress are presumed to be constitutional. A statute is only unconstitutional when Congress has exceeded its authority in enacting the statute or when the statute violates the Constitution.

10. 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? Please explain.

Response: No.

11. What is your understanding of the workload in the Central District of Illinois? If confirmed, how do you intend to manage your caseload?

Response: If I am confirmed as a district court judge, I would use the case management rules found in the Federal Rules of Civil Procedure to assure that discovery and motion practice are being completed in a timely manner. I would set firm deadlines for pretrial discovery, motions and trials. In criminal cases, I would hold regular status hearings to ensure that both sides were complying with discovery deadlines. In both civil and criminal cases, I would promptly issue decisions to expedite resolution and litigation. I would make an expectation in my courtroom that the attorneys will be held to deadlines set by the court. Lastly, I would consult with fellow judges to learn their best practices.

12. 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: I believe that judges have a role in controlling the pace and conduct of litigation. If I am confirmed as a district court judge, I would establish deadlines for specific events and after these deadlines are set, grant a continuance only upon good cause. I would also take the steps described in my response to Question 11 to control and manage my docket.

13. You have spent 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 an Assistant United States Attorney, I am an advocate for the United States. I understand that if I am confirmed as a district court judge, my role will be much different. A judge must be neutral and detached from the parties and issues, deciding cases based solely on the facts and the applicable law. If I am confirmed as a district court judge, I am confident that I can successfully make this transition. For guidance in reaching decisions, I will look to

the decisions of the United States Supreme Court, the Seventh Circuit Court of Appeals, and all applicable laws and rules of procedure.

14. 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 June 26th, 2013. On June 28th, 2013, I drafted my responses to the questions. I returned my responses to these questions and the written questions of other Senators to the Department of Justice on June 28th, 2013, and authorized the Department of Justice to submit these responses to the United States Senate.

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

Response: Yes.

Response of Colin S. Bruce
Nominee to be United States Judge for the Central District
of Illinois to the Written Questions of Senator Ted Cruz

Describe how you would characterize your judicial philosophy, and identify which US Supreme Court Justice's judicial philosophy from the Warren, Burger, or Rehnquist Courts is most analogous with yours.

Response: My judicial philosophy is that a judge should decide matters fairly, impartially and promptly. Further, I believe a judge should treat all parties coming before the court with courtesy and respect. In deciding any issue before the court, a judge should apply the rule of law without regard to prevailing popular opinion or personal beliefs. I also believe judges should exercise judicial restraint in all matters by deciding only the issues in controversy before them and applying the applicable precedent. While I have great respect and admiration for the justices of the Supreme Court, I am not familiar enough with any one Supreme Court Justice's judicial philosophy to say which is most analogous with mine.

Do you believe originalism should be used to interpret the Constitution? If so, how and in what form (i.e., original intent, original public meaning, or some other form)?

Response: If I am confirmed as a district court judge, I would apply the precedent from the United States Supreme Court and the Seventh Circuit Court of Appeals in decisions interpreting the Constitution. This includes Supreme Court decisions which interpreted the Constitution using originalism such as *District of Columbia v. Heller*, 554 U.S. 570 (2008).

If a decision is precedent today while you're going through the confirmation process, under what circumstance would you overrule that precedent as a judge?

Response: If I am confirmed as a district court judge, I will apply precedential authority issued by the Supreme Court and the Seventh Circuit Court of Appeals. Thus, I would not overrule precedent as a district court judge.

Explain whether you agree that "State sovereign interests . . . are more properly protected by procedural safeguards inherent in the structure of the federal system than by judicially created limitations on federal power." *Garcia v. San Antonio Metro Transit Auth.*, 469 U.S. 528, 552 (1985).

Response: The decision by the United States Supreme Court in *Garcia v. San Antonio Metro Transit Auth.*, 469 U.S. 528, 552 (1985), is precedential and binding on district courts. Thus, if I am confirmed as a district court judge, I believe any agreement or disagreement I may have involving such an issue is irrelevant to any decision which I may be called upon to make.

Do you believe that Congress' Commerce Clause power, in conjunction with its Necessary and Proper Clause power, extends to non-economic activity?

Response: Under the Supreme Court's holding in *United States v. Lopez*, 514 U.S. 549, 558–59 (1995), Congress "may regulate the use of the channels of interstate commerce," "may regulate and protect the instrumentalities of interstate commerce, or persons or things in interstate commerce" even if threatened only by "intrastate activities," and may "regulate those activities having a substantial relation to interstate commerce, i.e., . . . that substantially affect interstate commerce." If I am

confirmed as a district court judge and presented with a case involving the scope of Congress's Commerce Clause power, I would follow the analysis and binding precedent of the United States Supreme Court, including *United States v. Lopez*, 514 U.S. 549 (1995), *United States v. Morrison*, 529 U.S. 598 (2000), *Gonzales v. Raich*, 545 U.S. 1, 37 (2005), and any other subsequent relevant precedential decisions from the Supreme Court or the Seventh Circuit Court of Appeals addressing this issue.

What are the judicially enforceable limits on the President's ability to issue executive orders or executive actions?

Response: In *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 585 (1952), the United States Supreme Court held that the President's power to issue executive orders or actions "must stem either from an act of Congress or from the Constitution itself." If the President exceeds the stated authority as explained and defined in *Youngstown*, and the relevant executive order or action is challenged in court before me, if I am confirmed as a district court judge, I believe it would be my responsibility and duty to invalidate the executive order or action at issue.

When do you believe a right is "fundamental" for purposes of the substantive due process doctrine?

Response: The Supreme Court has stated that the "Due Process Clause specially protects those fundamental rights and liberties which are, objectively, 'deeply rooted in this Nation's history and tradition,' and 'implicit in the concept of ordered liberty,' such that 'neither liberty nor justice would exist if they were sacrificed.'" *Washington v. Glucksberg*, 521 U.S. 702, 720 (1997) (citations omitted). If confirmed as a district court judge, I will apply this precedent, as well as any other relevant precedent from the Supreme Court or the Seventh Circuit Court of Appeals.

When should a classification be subjected to heightened scrutiny under the Equal Protection Clause?

Response: The Supreme Court has held that a classification should be subjected to heightened scrutiny under the Equal Protection Clause when it targets a suspect class (e.g., race, alienage, national origin, or gender) or involves a fundamental right. If confirmed as a district court judge, I would follow this analysis on this issue.

Do you "expect that [15] years from now, the use of racial preferences will no longer be necessary" in public higher education? *Grutter v. Bollinger*, 539 U.S. 306, 343 (2003).

Response: If confirmed as a district court judge, I would strictly follow and apply the Supreme Court's holding in *Grutter v. Bollinger*, 539 U.S. 306, 343 (2003), and any other Supreme Court or Seventh Circuit Court of Appeals decisions addressing this issue.