

**Responses of J. Rodney Gilstrap
Nominee to be United States District Judge for the Eastern District of Texas
to the Written Questions of Senator Chuck Grassley**

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

Response: I believe the most important attribute of a judge is to be faithful to the law and consistently adhere to applicable precedent. I believe I possess this attribute.

- 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: I believe that a judge must be fair, impartial, patient and diligent. A judge should be courteous and respectful toward everyone who comes into court. I believe I possess this 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 the matter involved a statute, then the plain meaning of the text should be applied. If the matter did not involve a statute or the text was unclear, I would look to analogous Supreme Court authority and then analogous authority from the 5th Circuit or the Federal Circuit, as the case may be. I would seek to be guided by the doctrine of stare decisis at all times.

- 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 existing authority from the Supreme Court or the 5th Circuit Court of Appeals, regardless of my own views.

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

Response: I believe the federal courts should declare a statute enacted by Congress to be unconstitutional only when the statute clearly violates or is in direct conflict with an express provision of the Constitution.

- 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 confirmed, I plan to use pre-trial scheduling orders and regular status conferences to monitor and manage the docket with the aim of fairly and efficiently addressing the mounting caseload. I would also routinely use mediation and settlement conferences to move cases toward final resolution. Additionally, I would actively employ available case management systems used with success by other courts as a means of controlling the caseload.

- 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: Within the parameters of providing a fair and impartial trial, I believe a judge does play a role in controlling the pace and conduct of litigation. As to the pace of litigation, I would use pre-trial scheduling orders and regular status conferences to monitor and manage the docket. I would also routinely use mediation and settlement conferences to move cases toward final resolution. Additionally, I would actively employ available case management systems used with success by other courts as a means of controlling the pace of the caseload. As to the conduct of the litigation, I would strive to be fair, courteous, prompt and impartial in all matters and as to all persons who come before the court.

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

Response: I read the questions and then drafted answers. I reviewed my answers for accuracy. I discussed them with an official in the Department of Justice and then authorized the Department of Justice to transmit my responses to the Judiciary Committee.

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

Response: Yes.