

**Responses of Catherine Caldwell Eagles
Nominee to the U.S. District Court for the Middle District of North Carolina
to the Written Questions of Senator Jeff Sessions**

- 1. Do you think it is ever proper for judges to indulge their own political views or policy preferences in determining what the law means?**

Response: No.

- a. If so, under what circumstances?**

Response: None.

- b. Please provide an example of a case in which you have done so.**

Response: None.

- c. Please provide an example of a case in which you had to set aside your own values and rule solely based on the law.**

Response: While I do not recall specific details, in making sentencing decisions I have occasionally thought a sentence required by law was too lenient for the circumstances, and I have occasionally thought a sentence required by law was too harsh for the circumstances. I have always followed the law despite any personal wish that the law might allow for a different result.

- 2. During the 2008 presidential campaign, President Obama described the types of judges that he will nominate to the federal bench as follows:**

“We need somebody who’s got the heart, the empathy, to recognize what it’s like to be a young teenage mom. The empathy to understand what it’s like to be poor, or African-American, or gay, or disabled, or old. And that’s the criteria by which I’m going to be selecting my judges.”

- a. Without commenting on what President Obama may or may not have meant by this statement, do you believe that you fit President Obama’s criteria for federal judges, as described in his quote?**

Response: By his nomination of me, I believe that I fit his criteria for selection of federal District Judges.

- b. During her confirmation hearing, Justice Sotomayor rejected this so-called “empathy standard” stating, “We apply the law to facts. We don’t apply feelings to facts.” Do you agree with Justice Sotomayor?**

Response: I agree that feelings do not drive factual decisions and that judges apply the law to facts.

- c. What role do you believe empathy should play in a judge's consideration of a case?**

Response: Empathy does not determine legal decisions. Empathy can be a valuable asset in helping a judge be a good listener, particularly when considering testimony from litigants, witnesses, and crime victims whose experience might be outside the judge's personal experience. Empathy can also help a judge listen respectfully and with an open mind.

- d. Do you think that it is ever proper for judges to indulge their own subjective sense of empathy in determining what the law means?**

Response: No.

- i. If so, under what circumstances?**

Response: None.

- ii. Please identify any cases in which you have done so.**

Response: None.

- iii. If not, please discuss an example of a case where you have had to set aside your own subjective sense of empathy and rule based solely on the law.**

Response: While I do not recall the particulars of any specific case, I have seen many people in court over the years whose personal circumstances were compelling but for whom the law did not allow relief. I have been asked by victims of violent crime to order restitution for items not allowed by state law but which seemed related to the crime. I have had cases where an injured person was hurt badly but was unable to establish negligence or whose claim was barred by a statute of limitations. More recently I have seen families with homes in foreclosure and businesspeople whose savings have been decimated by business losses. I have always ruled based on the law and not on empathy for a litigant.

- e. As you know, Justice Stevens recently announced his retirement. The President said that he will select a Supreme Court nominee with “a keen understanding of how the law affects the daily lives of the American people.” Do you believe judges should base their decisions on a desired outcome, or solely on the law and facts presented?**

Response: Decisions must be based solely on the law and facts presented and not on a desired outcome.

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

Response: I received a copy of these questions from Department of Justice staff on April 23, 2010. I prepared a draft of my answers. I discussed the draft with Department of Justice staff on April 25, 2010. I then provided a final version of my answers to Department of Justice staff for transmission to the Committee.

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

Response: Yes.