

Responses of Jacqueline H. Nguyen
Nominee to the U.S. District Court for the Central District of California
to the Written Questions of Senator Jeff Sessions

- 1. President Obama has 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. Do you agree with President Obama’s quote?**

Response: I interpret President Obama’s comment to refer to the notion that a judge who has empathy and compassion may better be able to appreciate the burdens and challenges of the litigants, witnesses and victims who appear in her court. In the context of heavy caseloads, these qualities contribute to a better judicial demeanor and temperament, and serve as a reminder that while cases may be routine to the court, they are very important to the parties and witnesses, and that each person entering the courtroom deserves to be treated with patience and respect.

Response: I do not believe, however, that empathy should play a role in interpreting or applying the law.

- b. Do you believe that you fit President Obama’s standard as described in his quote?**

Response: I believe that I am a fair and compassionate person. However, I do not believe that these qualities have ever affected my ability to analyze and strictly apply the law to the facts of any case. If I am confirmed as a United States district court judge, I intend to continue to adhere faithfully to the law in every case.

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

Response: I do not believe that empathy should play a role in interpreting and applying the law. A judge must apply the law to the individual facts of each case.

- 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?**

- 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: In a number of cases involving young defendants charged with serious crimes or gang enhancements, I have set aside my sense of empathy for these defendants as well as their families in imposing lengthy or life sentences as called for by the law.

2. What in your view is the role of a judge?

Response: The role of a judge is to apply the law to the facts of each case and to determine facts when called upon to do so. For the district court, that law is dictated by the United States Supreme Court and the precedent within that circuit.

- a. Do you think it is ever proper for judges to indulge their own values in determining what the law means?**

Response: No.

- i. If so, under what circumstances?**
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 values and rule based solely on the law.**

Response: On several occasions in sentencing matters, my personal views have been different than the sentence called for by the law. In these instances, I did not have any difficulty setting aside my own views and apply the law.

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

Response: No.

- i. If so, under what circumstances?**
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 policy preferences and rule based solely on the law.**

Response: I have presided over cases in which I felt that the sentence called for by the statute was not fairly reflective of the crime, and that either it was too lenient or too harsh. In these instances, I did not have any difficulty setting aside my own policy preferences and apply the law.

3. How would you define “judicial activism?”

Response: Judicial activism can mean deciding issues beyond the facts of a particular case in order to create new policy, or injecting personal views into the law rather than strictly applying it. I believe that a judge must respect and apply precedent.

4. 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: I believe that the Constitution sets forth certain core principles, and that the courts must do their best to decide how these principles apply, if at all, to situations that did not exist at the time the Constitution was written. In general, I believe that judicial restraint is the most prudent approach when it comes to constitutional interpretation. At the district court level, the judge’s role is limited to applying the law as determined by the Supreme Court and the applicable circuit to the facts before the court.

5. Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit.

- a. **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.

- b. **How would you rule if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you nevertheless apply that decision of your own best judgment of the merits?**

Response: I would apply the law as determined by the Supreme Court and the Ninth Circuit Court of Appeals even if I believed that the higher court seriously erred in rendering its decision. The role of a district court judge is to apply the law, as set by binding precedent, not substitute the judge’s own judgment about what the law should be.