

**Senator Grassley
Questions for the Record**

**Leslie Joyce Abrams,
Nominee, U.S. District Judge for the Middle District of Georgia**

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

Response: The most important attribute of a judge is the ability to listen and apply the law impartially to the individual facts of each case. If a judge is able to do this, each party will have an opportunity to be heard and will receive justice through a fair and impartial process. 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: The appropriate temperament of a judge is measured and decisive. The most important elements of such a temperament are patience, an open mind, humility, devotion to justice, and a strong work ethic. I meet this standard.

- 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. Please describe your commitment to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?**

Response: Adherence to the rule of law is the cornerstone of our legal system and a principle I hold dear. If lower courts failed to follow the precedents of higher courts, our system would fail. I am wholly committed to following the precedents of higher courts and giving them full force and effect.

- 4. 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: In a case of first impression involving the interpretation of a statute, I would first look to the text of the statute to determine if the plain language could resolve the issue. If not, I would then look to relevant or analogous Supreme Court or Eleventh Circuit precedent. If necessary, I would review the precedents of other circuits for persuasive authority. Lastly, I would look to the sources of legislative history deemed appropriate for consideration by the Supreme Court and the Eleventh Circuit. In non-statutory cases, I would be guided first by relevant and analogous Supreme Court and

Eleventh Circuit precedent and, if necessary, relevant and analogous precedent of other circuits.

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 best judgment of the merits to decide the case?**

Response: If confirmed as a district judge, I would apply Supreme Court and Eleventh Circuit precedent without regard to my own opinion as to whether such precedent was rightly or wrongly decided.

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

Response: Federal statutes are presumed to be constitutional. If a question of constitutionality arises, a federal judge should first determine whether the case is properly cognizable and whether it can be resolved without reaching the constitutional issue. If the judge determines that the constitutional question must be addressed, then it would be appropriate for her to declare a statute unconstitutional if the statute contravenes a constitutional provision or if Congress exceeded its constitutional authority.

7. **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: The laws of other countries and international authority are never controlling when determining the meaning of the Constitution.

8. **What assurances or evidence can you give this Committee that, if confirmed, your decisions will remain grounded in precedent and the text of the law rather than any underlying political ideology or motivation?**

Response: Political ideology and motivation have no place in a courtroom. Rather, the application of relevant law to a given set of facts is the only appropriate consideration of a judge. While I recognize that my role as an advocate is vastly different than the role I will have if I am confirmed, the legal arguments I have made during my career in private practice and as a prosecutor have been grounded in the relevant law and facts of each case rather than in any personal motivation. I assure the Committee that I will continue to follow this practice if I am confirmed.

9. **What assurances or evidence can you give the Committee and future litigants that you will put aside any personal views and be fair to all who appear before you, if confirmed?**

Response: I believe that the attorneys who have worked with me as co-counsel or opposing counsel would attest to the fact that I have been fair in all of my cases, and I

assure the Committee that I will put aside any personal views and be fair to all who appear before me if confirmed.

10. If confirmed, how do you intend to manage your caseload?

Response: If confirmed, I would adopt the best practices that I have observed in my practice in federal court to manage my caseload. One method I would employ to ensure effective and efficient case management would be to issue clear standing orders regarding scheduling and pre-trial procedures so that advocates know what to expect. I would also establish a realistic but firm schedule to make sure cases remain on track. Most importantly, I would strive to be prepared for court sessions, resolve motions promptly, and rule in a timely manner.

11. 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: Yes. Judges are central to controlling the pace and conduct of litigation. If confirmed, I would establish a realistic but firm pretrial schedule and strive to resolve motions promptly and issue rulings in a timely manner.

12. 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: If confirmed, I will reach decisions in cases that come before me by reviewing the facts as presented by each side, reviewing the relevant law, and then applying that law to the facts in an impartial manner. My primary sources will be Supreme Court and Eleventh Circuit precedent. The other judges of my court will also be invaluable sources of information.

The most difficult part of the transition, if I am confirmed, will be moving from the highly collaborative environments of a large firm and the U.S. Attorney's Office to the more isolated chambers of a judge; however, I have met all of the judges in the Middle District and I believe that the collegiality of the bench will ease my transition.

13. Please list your representation of any Guantanamo Bay detainees, including the clients' names and the dates on which your representation began and terminated. Please include Westlaw citations to all court submissions you made on their behalf and/or submit copies thereof.

Response: As an associate at Kilpatrick Stockton LLP (now Kilpatrick Townsend, LLP), I was part of a team of attorneys representing several detainees at Guantanamo Bay in *Mohammon et al v. Bush*, 1:05-CV-02386 (D.D.C., Jan. 13, 2005). While I entered appearances on behalf of three detainees, all of whom were represented by Kilpatrick, I actually represented and worked only on Sharaf al Sanani's case. I did not represent al

Sanani in court, nor did I ever meet or speak to him. I have listed all three detainees for whom I entered a notice of appearance and the dates of representation in the chart below, and I have provided copies of the Notice of Appearance and the Notices of Withdrawal. I note that Petitioner Ali Sher Hamidullah's name is included on the Notice of Withdrawal entered on December 13, 2007; but I never entered a Notice of Appearance to represent Hamidullah, and I believe his name was included in error. I also note that my work on al Sanani's case ceased when I left Kilpatrick in June 2007.

Detainee	Notice of Appearance Filed	Notice of Withdrawal Filed
Sharaf al Sanani (Sami Muhydeen, Next Friend)	June 28, 2006	December 13, 2007
Fahd Abu Hafsa (Jamal Kiyemba, Next Friend)	June 28, 2006	January 18, 2007
Omar Ramah (Omar Deghayes, Next Friend)	June 28, 2006	January 18, 2007

I performed Westlaw and Lexis searches and reviewed the *Mohammon* docket to identify the submissions made on behalf of al Sanani, Hafsa and Ramah by Kilpatrick during the period of my representation. I have provided copies of these submissions to the Committee.

- 14. Every nominee who comes before this Committee assures me that he or she will follow all applicable precedent and give them full force and effect, regardless of whether he or she personally agrees or disagrees with that precedent. With this in mind, I have several questions regarding your commitment to the precedent established in *United States v. Windsor*. Please take any time you need to familiarize yourself with the case before providing your answers. Please provide separate answers to each subpart.**

- a. In the penultimate sentence of the Court's opinion, Justice Kennedy wrote, "This opinion and its holding are confined to those lawful marriages."¹**

- i. Do you understand this statement to be part of the holding in *Windsor*? If not, please explain.**

Response: Yes. The statement that the "opinion and its holding are confined to those lawful marriages," *id.*, is part of the holding in *Windsor*.

- ii. What is your understanding of the set of marriages to which Justice Kennedy refers when he writes "lawful marriages"?**

¹ *United States v. Windsor*, 133 S.Ct. 2675 at 2696.

Response: I understand the phrase "lawful marriages" to refer to "those persons who are joined in same-sex marriages made lawful by the State." *United States v. Windsor*, 133 S. Ct. 2675, 2695 (2013).

iii. Is it your understanding that this holding and precedent is limited only to those circumstances in which states have legalized or permitted same-sex marriage?

Response: Yes. The Court explicitly stated, "[t]his opinion and its holding are confined to those lawful marriages." *Id.* at 2696.

iv. Are you committed to upholding this precedent?

Response: Yes. If I am confirmed, I am committed to faithfully upholding this and all Supreme Court precedent.

b. Throughout the Majority opinion, Justice Kennedy went to great lengths to recite the history and precedent establishing the authority of the separate States to regulate marriage. For instance, near the beginning, he wrote, "By history and tradition the definition and regulation of marriage, as will be discussed in more detail, has been treated as being within the authority and realm of the separate States."²

i. Do you understand this portion of the Court's opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.

Response: Yes. The entirety of *Windsor*, including this portion, is binding Supreme Court precedent entitled to full force and effect by the lower courts.

ii. Will you commit to give this portion of the Court's opinion full force and effect?

Response: Yes. If I am confirmed, I am committed to giving full force and effect to the entirety of *Windsor* and all Supreme Court opinions.

c. Justice Kennedy also wrote, "The recognition of civil marriages is central to state domestic relations law applicable to its residents and citizens."³

i. Do you understand this portion of the Court's opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.

Response: Yes. The entirety of *Windsor*, including this portion, is binding Supreme Court precedent entitled to full force and effect by the lower courts.

² *Id.* 2689-2690.

³ *Id.* 2691.

- ii. **Will you commit to give this portion of the Court’s opinion full force and effect?**

Response: Yes. If I am confirmed, I am committed to giving full force and effect to the entirety of *Windsor* and all Supreme Court opinions.

- d. **Justice Kennedy wrote, “The definition of marriage is the foundation of the State’s broader authority to regulate the subject of domestic relations with respect to the ‘[p]rotection of offspring, property interests, and the enforcement of marital responsibilities.’”⁴**

- i. **Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.**

Response: Yes. The entirety of *Windsor*, including this portion, is binding Supreme Court precedent entitled to full force and effect by the lower courts.

- ii. **Will you commit to give this portion of the Court’s opinion full force and effect?**

Response: Yes. If I am confirmed, I am committed to giving full force and effect to the entirety of *Windsor* and all Supreme Court opinions.

- e. **Justice Kennedy wrote, “The significance of state responsibilities for the definition and regulation of marriage dates to the Nation’s beginning; for ‘when the Constitution was adopted the common understanding was that the domestic relations of husband and wife and parent and child were matters reserved to the States.’”⁵**

- i. **Do you understand this portion of the Court’s opinion to be binding Supreme Court precedent entitled to full force and effect by the lower courts? If not, please explain.**

Response: Yes. The entirety of *Windsor*, including this portion, is binding Supreme Court precedent entitled to full force and effect by the lower courts.

- ii. **Will you commit to give this portion of the Court’s opinion full force and effect?**

Response: Yes. If I am confirmed, I am committed to giving full force and effect to the entirety of *Windsor* and all Supreme Court opinions.

- 15. **According to the website of American Association for Justice (AAJ), it has established a Judicial Task Force, with the stated goals including the following: “To increase the number of pro-civil justice federal judges, increase the level of professional diversity of federal judicial nominees, identify nominees that may have an anti-civil justice**

⁴ *Id.* (internal citations omitted).

⁵ *Id.* (internal citations omitted).

bias, increase the number of trial lawyers serving on individual Senator's judicial selection committees".

- a. Have you had any contact with the AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ regarding your nomination? If yes, please detail what individuals you had contact with, the dates of the contacts, and the subject matter of the communications.**

Response: No.

- b. Are you aware of any endorsements or promised endorsements by AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ made to the White House or the Department of Justice regarding your nomination? If yes, please detail what individuals or groups made the endorsements, when the endorsements were made, and to whom the endorsements were made.**

Response: No.

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

Response: On May 20, 2014, I received these Questions for the Record. I prepared my answers, forwarded my responses to an attorney in the Office of Legal Policy of the Department of Justice for review, and revised my responses where I believed it was appropriate.

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

Response: Yes.