

Response of Jorge Luis Alonso
Nominee, United States District Court for the Northern District of Illinois
To the Written Questions for the Record by Senator Ted Cruz

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

Response: My judicial philosophy as a state court trial judge for the past 11 years has been to approach each matter before me with an open and unbiased mind, and to decide cases fairly and promptly by applying the law to the facts. Additionally, I ensure that I treat all persons who appear before me with courtesy and respect. I do not possess sufficient knowledge of the judicial philosophy of the justices who served on the Warren, Burger, or Rehnquist Courts to comment as to whose philosophy might be described as most analogous with mine.

- 2. 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 confirmed, I would faithfully follow Seventh Circuit and Supreme Court precedent regarding methodologies for interpreting the Constitution. The Supreme Court has employed original public meaning to interpret the Constitution in cases including *District of Columbia v. Heller*, 554 U.S. 570 (2008).

- 3. 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 confirmed as a district court judge, there are no circumstances under which I would overrule precedent. I would be bound by precedent of the Seventh Circuit and the Supreme Court.

- 4. 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: If confirmed, I would be bound to follow Supreme Court precedent without regard to my personal feelings, if any, on the issue. I would follow the Supreme Court's holding in *Garcia v. San Antonio Metro Transit Auth.*, 469 U.S. 528 (1985).

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

Response: If confirmed, I would apply the controlling precedent regarding questions of Congress' power under the Commerce Clause. My personal views, if any, would play no part in the decision making process.

The Supreme Court in *U.S. v. Lopez*, 514 U.S. 549 (1995) identified three categories of activity that Congress may regulate under its Commerce Clause power. These categories include: (1) the use of the channels of interstate commerce; (2) the instrumentalities of interstate commerce; and (3) activities having a substantial relation to interstate commerce. The Supreme Court has issued other decisions further defining the breadth of Congress' power under the Commerce Clause, particularly as it pertains to non-economic activity. See e.g., *Gonzales v. Raich*, 545 U.S. 1 (2005); *U.S. v. Morrison*, 529 U.S. 598 (2000). I would follow all Supreme Court and Seventh Circuit precedent regarding the extent of Congress' power under the Commerce Clause.

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

Response: The President's authority must stem from either the Constitution or an act of Congress. *Medellin v. Texas*, 552 U.S. 491, 525 (2008). The proper analysis, to determine whether the President's order or action is authorized, is contained in *Youngstown Sheet and Tube Co. v. Sawyer*, 343 U.S. 579 (1952) (Jackson, J., concurring). If confirmed, I would follow the precedent of the Supreme Court and Seventh Circuit in deciding whether a challenged action or order is authorized.

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

Response: The Supreme Court in *Washington v. Glucksberg*, 521 U.S. 702, 720-21 (1997) defined a right as "fundamental" for the purposes of substantive due process protection when it is, as an objective matter, "deeply rooted in the 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" (internal citations and quotations omitted).

8. 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 when it differentiates based on certain characteristics such as race, alienage, national origin or gender. See *City of Cleburne, Tex. v. Cleburne Living Center*, 473 U.S. 432, 440 (1985). Courts will also apply heightened scrutiny when a law impinges on a fundamental constitutional right.

9. 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 follow the controlling precedent of the Supreme Court regarding the permissible use of racial preferences in public higher education including *Grutter v. Bollinger*, 539 U.S. 306 (2003), and *Fisher v. University of Texas*, 133 S. Ct. 2411 (2013). I do not have an expectation as to whether the use of racial preferences in public higher education will be necessary 15 years from now.