

**Responses of Wendy Beetlestone,  
Nominee, United States District Court for the Eastern District of Pennsylvania  
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: If I am confirmed as a district judge, my judicial philosophy would be built on a foundation of impartiality. Each decision would be based on relevant Supreme Court and Third Circuit precedent as applied to the facts of the matter at hand. I am not sufficiently familiar with the body of work of each of the Supreme Court Justices referenced above to determine whose judicial philosophy is most analogous to what I have described.

**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: I am aware of the Supreme Court's use of originalism in *District of Columbia v. Heller*, 554 U.S. 570, 595, 605 (2008). If I am confirmed as a district judge, in interpreting a provision of the Constitution, I would follow *Heller* and all other applicable Supreme Court precedent.

**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 I were confirmed as a district judge, I would apply Supreme Court and Third Circuit precedent and have no authority to overrule such precedent.

**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 I have the honor of being confirmed as a district judge, I would faithfully follow Supreme Court and Third Circuit precedent, including *Garcia v. San Antonio Metro Transit Auth.*, 469 U.S. 528 (1985), in any case or controversy that comes before me regardless of any personal views I may have about those decisions.

**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 follow Supreme Court and Third Circuit precedent in deciding all matters before me. Accordingly, if presented with the question of Congress' power to regulate non-economic activity pursuant to the Commerce Clause in conjunction with the Necessary and Proper Clause I would look to Supreme Court case law that has evaluated whether Congress has the power to regulate non-economic activity

under the Commerce Clause. *See, e.g., Gonzales v. Raich*, 545 U.S. 1 (2005); *United States v. Morrison*, 529 U.S. 598 (2000); *United States v. Lopez*, 514 U.S. 549 (1995).

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

Response: In *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952), the Supreme Court held that the President's power to issue orders or take executive action must stem either from an act of Congress or from the Constitution itself. *Id.* at 585. If I have the honor of becoming a district judge and am presented with an issue of the judicially enforceable limits on the President's ability to issue a particular executive order or take a particular executive action, I would follow controlling Supreme Court and Third Circuit precedent recognizing that any decision must rest "on the narrowest possible ground capable of deciding the case." *Dames & Moore v. Regan*, 453 U.S. 654, 660-61 (1981).

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

Response: Supreme Court precedents have held that a right is fundamental for the purposes of the substantive due process doctrine when it is deeply rooted in the nation's history and tradition and is implicit in the concept of ordered liberty. *See, e.g., Washington v. Glucksberg*, 521 U.S. 702 (1997). If I have the honor of being confirmed as a district judge, I would follow this and all other Supreme Court precedents.

**8. When should a classification be subjected to heightened scrutiny under the Equal Protection Clause?**

Response: If confirmed as a district judge, any decision I make in a matter before me concerning whether a classification should be subjected to heightened scrutiny would be premised on controlling Supreme Court and Third Circuit precedent as to whether it is a suspect classification or a classification that burdens a fundamental right. *See, e.g. City of Cleburne v. Cleburne Living Center*, 473 U.S. 432 (1985).

**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 decide any cases that may come before me concerning racial preferences in public higher education by reference to Supreme Court and Third Circuit precedent which includes, *inter alia*, *Grutter v. Bollinger*, 539 U.S. 306 (2003) and *Fisher v. University of Texas at Austin*, 133 S. Ct. 2411 (2013), regardless of any personal views I may have.