

Questions for the Record
Senator Ted Cruz

Loretta Copeland Biggs
Nominee, U.S. District Judge for the Middle District of North Carolina

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: I would describe my judicial philosophy as one of ensuring that all parties be given the opportunity to have a full and fair hearing of their claims. This requires a fair, impartial and knowledgeable judge, adherence to legal precedent, and court management which allows for a speedy resolution and allows the attorneys to try their case consistent with the rules of the court. I do not have sufficient knowledge of the judicial philosophies of the Justices of the Warren, Burger, or Rehnquist Courts to draw the analogy requested.

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 will adhere to Supreme Court and Fourth Circuit Court of Appeals precedent, and will use the methodologies utilized therein to interpret the Constitution. An example pertinent to this question is the case of *District of Columbia v. Heller*, 554 U.S. 570 (2008), in which the Supreme Court interpreted the Second Amendment based on its ordinary public meaning of words as they were understood at the time of ratification. I will adhere to this precedent and all other Supreme Court and Fourth Circuit precedents.

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, I will follow the precedents of the Supreme Court and the Fourth Circuit and would not overrule such precedents.

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 will be bound by the Supreme Court's ruling in *Garcia* as well as more current rulings placing limitations on Congressional power, regardless of any personal opinions I may have.

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

Response: The Supreme Court has rendered a number of decisions defining the breadth of the Commerce Clause, particularly its scope and limitations as it pertains to non-economic activity. *See, e.g., United States v. Morrison*, 529 U.S. 598 (2000); and *United States v. Lopez*, 514 U.S. 549 (1995). If confirmed, I will abide by these precedents and all precedents of the Supreme Court and the Fourth Circuit.

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

Response: The President's authority to act must stem from either the Constitution or an act of Congress. *Medellin v. Texas*, 552 U.S. 491, 524 (2008). If confirmed, I will follow Supreme Court and Fourth Circuit precedents.

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

Response: The Supreme Court has stated that a right is "fundamental" for due process analysis when it is, "objectively, deeply rooted in this Nation's history and tradition," and "implicit in the concept of ordered liberty, such that neither liberty nor justice would exist if sacrificed." *Washington v. Glucksberg*, 521 U.S. 702, 720-21 (1997) (internal citations and quotations omitted). If confirmed, I will follow the precedents of the Supreme Court and the Fourth Circuit.

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

Response: The Supreme Court has held that classifications based on race, alienage, national origin, gender, and illegitimacy, as well as classifications which burden a fundamental right, are subject to heightened scrutiny under the Equal Protection Clause. *See City of Cleburne, Tex. v. Cleburne Living, Ctr.*, 473 U.S. 432, 440 (1985). If confirmed, I will follow the precedents of the Supreme Court and the Fourth Circuit.

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, I will follow the precedent set by the Supreme Court in *Grutter* and *Fisher v. University of Texas*, 133 S. Ct. 2411 (2013), as well as other Supreme Court and Fourth Circuit cases addressing the constitutionality of admissions policies based on particular classifications.