

Questions for the Record
Senator Ted Cruz

Beth Bloom,
Nominee: U.S. District Judge for the Southern District of Florida

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 judge for nearly 20 years has been to approach each case with an open and unbiased mind and to faithfully apply the law to the facts. I ensure that I listen patiently, rule promptly, explain my decisions clearly and treat all parties with the dignity and respect each deserves. I have not studied each Supreme Court Justice's judicial philosophy but, to the extent that any or all Justices share my beliefs set forth above, then our philosophies would be aligned.

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: The Supreme Court has used "original public meaning" when interpreting the Constitution in certain cases. See, e.g., *District of Columbia v. Heller*, 554 U.S. 570 (2008). I would faithfully follow that precedent and all other precedents relating to constitutional interpretation.

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 United States District Court Judge, there are no circumstances under which I would overrule precedent. I would faithfully follow controlling precedent from the Supreme Court and the Eleventh Circuit Court of Appeals.

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: The *Garcia* case is binding precedent and if I am confirmed as a United States District Court Judge, I would apply that precedent and the precedent of all Supreme Court and Eleventh Circuit Court of Appeals cases fairly and impartially to the facts of each case.

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 in *United States v. Lopez*, 514 U.S. 549, 558 (1995) has identified three general categories of activity that Congress may regulate under its Commerce Clause power: (1) the use of the channels of interstate commerce; (2) instrumentalities of interstate commerce and persons or things in interstate commerce; and (3) activities that substantially affect interstate commerce. In *United States v. Lopez, supra*, and *United States v. Morrison*, 529 U.S. 598 (2000), the Supreme Court has also articulated limitations to the reach of the Commerce Clause to certain non-economic activity. If confirmed as a United States District Court Judge and presented with a challenge to a law on the grounds that it impermissibly extended to non-economic activity, I would apply controlling precedent.

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

Response: The power of the President to issue executive orders or executive actions must stem either from an act of Congress or from the Constitution itself. *Medellin v. Texas*, 552 U.S. 491, 524 (2008) (internal citations omitted); *Youngstown Sheet and Tube Co. v. Sawyer*, 343 U.S. 579, 585 (1952). If confirmed, I would follow and apply precedent of the Supreme Court and the Eleventh Circuit Court of Appeals in deciding issues relating to the President's ability to issue executive orders or executive actions.

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

Response: The Supreme Court has stated that the "Due Process Clause protects those fundamental rights and liberties which are, 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 they were sacrificed.'" *Washington v. Glucksberg*, 521 U.S. 702, 720 (1997) (internal citations and quotations omitted). If confirmed, I would follow and apply precedent of the Supreme Court and the Eleventh Circuit Court of Appeals in deciding issues concerning fundamental rights.

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

Response: The Supreme Court has ruled that "equal protection analysis requires strict scrutiny of a legislative classification when the classification impermissibly interferes with the exercise of a fundamental right or operates to the peculiar disadvantage of a suspect class." *Mass. Board of Retirement v. Murgia*, 427 U.S. 307, 312 (1976). The Supreme Court in *City of Cleburne v. Cleburne Living Center*, 473 U.S. 432, 440 (1985) has stated that strict scrutiny applies to classifications based on "race, alienage or national origin" or when "laws impinge on personal rights protected by the Constitution"; otherwise intermediate scrutiny applies to classifications based on gender and illegitimacy.

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 United States District Court Judge, I will apply *Grutter v. Bollinger*, *Fisher v. University of Texas*, 133 S. Ct. 2411 (2013), and any other binding precedent in this area of the law. During my nearly 20 years as a state court judge, any personal views or expectations have been irrelevant to my decisions and they will continue to play no role. I will faithfully follow and apply the precedent of the Supreme Court and the Eleventh Circuit Court of Appeals.