

Response of Colin S. Bruce
Nominee to be United States Judge for the Central District
of Illinois to the Written Questions of Senator Ted Cruz

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

Response: My judicial philosophy is that a judge should decide matters fairly, impartially and promptly. Further, I believe a judge should treat all parties coming before the court with courtesy and respect. In deciding any issue before the court, a judge should apply the rule of law without regard to prevailing popular opinion or personal beliefs. I also believe judges should exercise judicial restraint in all matters by deciding only the issues in controversy before them and applying the applicable precedent. While I have great respect and admiration for the justices of the Supreme Court, I am not familiar enough with any one Supreme Court Justice's judicial philosophy to say which is most analogous with mine.

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 I am confirmed as a district court judge, I would apply the precedent from the United States Supreme Court and the Seventh Circuit Court of Appeals in decisions interpreting the Constitution. This includes Supreme Court decisions which interpreted the Constitution using originalism such as *District of Columbia v. Heller*, 554 U.S. 570 (2008).

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 am confirmed as a district court judge, I will apply precedential authority issued by the Supreme Court and the Seventh Circuit Court of Appeals. Thus, I would not overrule precedent as a district court judge.

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 decision by the United States Supreme Court in *Garcia v. San Antonio Metro Transit Auth.*, 469 U.S. 528, 552 (1985), is precedential and binding on district courts. Thus, if I am confirmed as a district court judge, I believe any agreement or disagreement I may have involving such an issue is irrelevant to any decision which I may be called upon to make.

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

Response: Under the Supreme Court's holding in *United States v. Lopez*, 514 U.S. 549, 558–59 (1995), Congress "may regulate the use of the channels of interstate commerce," "may regulate and protect the instrumentalities of interstate commerce, or persons or things in interstate commerce" even if threatened only by "intrastate activities," and may "regulate those activities having a substantial relation to interstate commerce, i.e., . . . that substantially affect interstate commerce." If I am

confirmed as a district court judge and presented with a case involving the scope of Congress's Commerce Clause power, I would follow the analysis and binding precedent of the United States Supreme Court, including *United States v. Lopez*, 514 U.S. 549 (1995), *United States v. Morrison*, 529 U.S. 598 (2000), *Gonzales v. Raich*, 545 U.S. 1, 37 (2005), and any other subsequent relevant precedential decisions from the Supreme Court or the Seventh Circuit Court of Appeals addressing this issue.

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, 585 (1952), the United States Supreme Court held that the President's power to issue executive orders or actions "must stem either from an act of Congress or from the Constitution itself." If the President exceeds the stated authority as explained and defined in *Youngstown*, and the relevant executive order or action is challenged in court before me, if I am confirmed as a district court judge, I believe it would be my responsibility and duty to invalidate the executive order or action at issue.

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 specially 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) (citations omitted). If confirmed as a district court judge, I will apply this precedent, as well as any other relevant precedent from the Supreme Court or the Seventh Circuit Court of Appeals.

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 under the Equal Protection Clause when it targets a suspect class (e.g., race, alienage, national origin, or gender) or involves a fundamental right. If confirmed as a district court judge, I would follow this analysis on this issue.

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 strictly follow and apply the Supreme Court's holding in *Grutter v. Bollinger*, 539 U.S. 306, 343 (2003), and any other Supreme Court or Seventh Circuit Court of Appeals decisions addressing this issue.