

Senate Judiciary Committee  
“Nominations”  
Questions for the Record  
February 14, 2018  
Senator Amy Klobuchar

Questions for Joel Carson, Nominee to the United States Court of Appeals for the Tenth Circuit

- How do you view the importance of adhering to precedent, and how would you approach a case in which there was a relevant precedent that you felt was wrongly decided if you are confirmed to the Tenth Circuit?

I strongly believe in strict adherence to precedent. The doctrine of stare decisis is critical in our judicial system. As a practitioner who has represented clients in matters from complex commercial transactions to federal criminal matters, I believe certainty and consistency are of the utmost importance to the persons involved in the judicial process. Circuit Judges on the United States Court of Appeals for the Tenth Circuit are bound by all precedent from the Supreme Court of the United States and the Tenth Circuit. Circuit Judges cannot overturn decisions of the Supreme Court and must follow those decisions – even if the Judges believe a decision is wrongly decided. One panel of the Tenth Circuit cannot overrule a decision of another panel absent en banc reconsideration or a superseding contrary decision by the United States Supreme Court. *See Burlington Northern & Santa Fe Ry. Co. v. Burton*, 270 F.3d 942, 947 (10th Cir. 2001).

- If you are confirmed, you will be hearing cases as part of a panel of judges. In your view, is there value to finding common ground – even if it is slightly narrower in scope – to get to a unanimous opinion on appellate courts?

Yes.