

**Senator Grassley
Questions for the Record**

**Robert John Colville
Nominee, U.S. District Judge for the Western District of Pennsylvania**

1. **You have said possessing sensitivity is an essential trait in a good judge. Please elaborate and explain why this is and what it looks like for a judge to show sensitivity in the courtroom.**

Response: I do not recall the context of the statement you describe. I do, nonetheless, agree that "sensitivity" to the realities of litigants, witnesses, victims, and family members who are often bitterly embroiled in litigation is a necessary element of an appropriate temperament of a qualified judge who should extend respect, civility and courtesy to all. I do not believe, however, that "sensitivity" can ever properly influence a judge's legal rulings or judicial opinions in any respect.

2. **You have limited criminal law experience throughout your career, both as a litigator and as a judge. What steps have you taken, or plan to take, to get up to speed on criminal law?**

Response: I have studied and familiarized myself with the Federal Rules of Criminal Procedure, the Federal Sentencing Guidelines, and the federal criminal code generally. I will participate in educational programs on federal criminal law through the Administrative Office of the United States Courts, and otherwise where available. I intend to study, "shadow," and regularly consult, judicial colleagues regarding the practice, procedure, and substance of federal criminal law. Of course, it is my personal responsibility to be fully equipped to capably perform all of my duties as a District Court judge and I am fully committed to doing any and all work necessary to ensure that I am.

3. **In a judicial questionnaire you wrote that you “accept Roe v. Wade and the case law that follows it as settled law and binding legal precedent.” But considerable uncertainty remains in this area of law. For instance, do you believe that under the framework established by *Planned Parenthood v. Casey*, 505 U.S. 833 (1992) a court is constitutionally permitted to disregard the legislature’s stated purpose of promoting women’s health and instead conduct its own independent analysis of the medical merits of particular abortion-related regulations?**

Response: Pursuant to *Planned Parenthood v. Casey* courts are required to determine whether a challenged law regarding abortion "imposes an undue burden on a woman's ability to make this decision". *Planned Parenthood v. Casey*, 505 U.S. at 874. In the *Planned Parenthood v. Casey* case itself, the Court invalidated a spousal notification requirement of the challenged Pennsylvania abortion law, but it upheld other provisions of the law. I would faithfully abide by the precedent of the Supreme Court and the Third Circuit with respect to these issues.

4. **In 2014, you granted a request from a private citizen that the 19 cases he was a party to be removed from an online docket. This caused concerns that courts would be less open and accessible. Do you stand by your decision in 2014? If not, what would you have done differently?**

Response: The decision I made in the case referenced was rendered in response to an uncontested motion, with notice to all parties, and involved only the electronic docket, and not the official court docket. The decision was both within the discretion afforded the court and consistent with applicable law. Notwithstanding the legality and propriety of the ruling, I understand the general nature of the concerns subsequently raised, and I appreciate the importance of the transparency of the judicial system.

5. **What is the most important attribute of a judge, and do you possess it?**

Response: Integrity. I believe that integrity is at the center of the promise of the judicial system. Integrity can best be demonstrated by an unqualified commitment to the rule of law, a respect for the principle of *stare decisis*, and a strict adherence to precedent. I believe that my record as a judge demonstrates that I possess integrity as a jurist.

6. **Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**

Response: In my view the temperament of a judge reflects the judge's own level of respect for the judicial system and the rule of law generally. Patient, evenhanded, calm, courteous, attentive, and dispassionate consideration of the merits of each litigant's claims is required.

7. **In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Please describe your commitment to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents.**

Response: If confirmed as a District Court Judge I would be bound by precedent of the Supreme Court and the Third Circuit without qualification. I am fully committed, without reservation, to faithfully following the precedents of higher courts and to giving them full force and effect, regardless of whether I personally agree or disagree with such precedents.

8. **At times, judges are faced with cases of first impression. If there were no controlling precedent that was dispositive on an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

Response: After ensuring that there was, indeed, no binding precedential authority, I would look first to the plain meaning of the relevant statute, rule, or document. If, however, the language at issue was genuinely ambiguous, I would apply the recognized rules of construction to the specific language. I would consider decisions of the Supreme Court and the Third Circuit respecting similar and analogous language. Next, guided by case law, I would look to the express language of the broader relevant authority or document and in the case of a statute any stated goals of the over-arching legislative scheme. I would consider the decisions of courts of other circuits addressing similar and analogous statutory language.

- 9. What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your best judgment of the merits to decide the case?**

Response: I would apply the binding precedential authorities of the Supreme Court and the Third Circuit regardless of my personal views, without qualification.

- 10. Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?**

Response: Acts of Congress are presumed constitutional. Only when necessary to resolve a justiciable case or controversy and after careful examination and upon conviction that, consistent with applicable precedential authority, a statute either impermissibly infringes upon a right granted by the Constitution or that a statute exceeds the authority granted Congress under the Constitution, should such a statute be declared unconstitutional.

- 11. In your view, is it ever proper for judges to rely on foreign law, or the views of the "world community", in determining the meaning of the Constitution? Please explain.**

Response: In interpreting and applying the Constitution, I would abide by all decisions of the Supreme Court and the Third Circuit. I am aware of no extant legal authority permitting the consideration of "foreign law" or "views of the 'world community'" in determining the meaning of the Constitution.

- 12. What assurances or evidence can you give this Committee that, if confirmed, your decisions will remain grounded in precedent and the text of the law rather than any underlying political ideology or motivation?**

Response: I am, without qualification, committed to the rule of law, the principle of *stare decisis* and adherence to precedent. I will apply the precedent of the Supreme Court and the Third Circuit, without hesitation, and without regard to political ideology or motivation. I believe that my record as a state court judge for 16 years demonstrates this ability.

- 13. What assurances or evidence can you give the Committee and future litigants that you will put aside any personal views and be fair to all who appear before you, if confirmed?**

Response: I am, without qualification, committed to the rule of law, the principle of *stare decisis* and adherence to precedent. I will apply the precedent of the Supreme Court and the Third Circuit, without hesitation, and without regard to any personal views I might hold. I believe that my record as a state court judge for 16 years demonstrates this ability.

- 14. If confirmed, how do you intend to manage your caseload?**

Response: As a state trial court judge I am familiar with, and I am comfortable with, a substantial work/case load. I will work with judicial colleagues, court staff, and internal chambers staff to ensure that the work of the court is moved at an appropriate and professionally responsible pace. I fully accept my personal responsibility to diligently, efficiently, and effectively manage my caseload.

- 15. Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?**

Response: Yes. I believe a District Court Judge does have an important role in controlling the pace and conduct of litigation, in all cases, but particularly in criminal matters which involve speedy trial rights. Through thoughtful and reasonable use of a combination of case management conferences, scheduling orders, judicious assignments to Magistrate Judges, and regular internal-chambers case reviews, I am confident that I can ensure the appropriate and reasonable progress of my caseload.

- 16. As a judge, you have experience deciding cases and writing opinions. Please describe how you reach a decision in cases that come before you and to what sources of information you look for guidance.**

Response: I ensure that I have a full and complete grasp of the facts of the case. I ensure that I have available all of the relevant statutory authority. I take time to study the available decisional law. I review all submission of the parties and conduct independent legal research when necessary. I entertain oral argument when requested and warranted. I then perform any necessary outstanding independent legal research in the context of a final review and consideration of all of the above.

- 17. President Obama said that deciding the “truly difficult” cases requires applying “one’s deepest values, one’s core concerns, one’s broader perspectives on how the world works, and the depth and breadth of one’s empathy . . . the critical ingredient is supplied by what is in the judge’s heart.” Do you agree with this statement?**

Response: I am not familiar with the context of the President's comments. I believe that the role of a judge is to apply the governing law to the facts of the case. If confirmed as a District Court Judge I will faithfully apply the precedent of the Supreme Court and the Third Circuit.

18. Please describe with particularity the process by which these questions were answered.

Response: I received these questions from the Office of Legal Policy at the Department of Justice on December 17, 2015. I reviewed the questions and personally prepared answers to them. I submitted my answers to the Office of Legal Policy for review and authorized their submission to the Senate Judiciary Committee.

19. Do these answers reflect your true and personal views?

Response: Yes.