

**Senator Grassley, Chairman
Questions for the Record**

**Waverly D. Crenshaw, Jr.
Nominee, United States District Judge for the Middle District of Tennessee**

- 1. Since 1998 you have been a registered lobbyist for numerous organizations, representing interests across a broad spectrum of industries, from insurance brokerage to vacation time-shares to telecommunications. If confirmed, how will you handle cases in which these organizations, or specific industries, are litigants in your courtroom?**

Response: If any of the organizations or specific industries for which I served as a lobbyist appear as a litigant, my conduct will be governed by the statutory rules and the Code of Conduct for United States Judges. I will recuse myself when the law and Code require me to do so. I will also recuse myself if my impartiality may be reasonably questioned. My goal will be transparency so I will disclose my prior relationship with the organization when appropriate. As a general rule, I will err in favor of disclosure to the litigants and seek their consent.

- 2. You have been involved in fundraising and campaigning for partisan candidates for public office in Tennessee. If you are confirmed, what assurances can you give the Committee that you will be fair to all litigants who come before you, particularly those with different political beliefs than your own?**

Response: In my practice, the political beliefs of my clients are never a factor. The oath for federal judges requires that I be impartial. Separately, I am bound to follow the statutory rules and the Code of Conduct for United States Judges. The oath and the governing rules prohibit all political activities, if I am confirmed as a district judge. I will do so. I pledge to this Committee to make decisions based upon the rule of law.

- 3. Please describe your involvement with the American Constitution Society.**

Response: In 2006, I served on the board of the local chapter. I only recall attending one meeting and did not hold any office or have any responsibilities other than my board position. I never made any presentations to or on behalf of the American Constitution Society.

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

Response: The most important attribute of a judge is to be fair and impartial because it shows respect to the parties, commitment to the rule of law, and assures the parties that they have had an equal chance to be fully heard by the Court. I believe that I am able to do that and as a trial attorney I know the importance of an impartial judiciary.

- 5. 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: A judge should demonstrate patience at all times. This is important because patience shows respect to the litigants, witnesses, attorneys, jurors and court staff. When a judge exercises patience it contributes to the judicial system being and appearing to be fair and deliberate to the public. I have exercised patience in my practice with clients, attorneys, staff and court personnel. This is important to me because as a young lawyer I benefited from the patience of judges, court staff, clients and attorneys.

- 6. 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: I am committed to the rule of law that includes adherence to the decisions of the Supreme Court and the Sixth Circuit Court of Appeals. Respect for the rule of law advances uniformity, stability and predictability in the legal system. The oath of office requires that I be impartial in my duties and set aside any personal views, which have no place in the judicial decision making process.

- 7. 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: In a case of first impression, I will look first to the plain language of the statute, rule or regulation at issue, which typically resolves the issue presented. When there is some ambiguity in the statute, rule or regulation, I will apply rules of statutory construction and, if necessary, look for guidance from decisions of the Supreme Court, Sixth Circuit Court of Appeals or other Circuit Courts of Appeal on the same or analogous issues.

- 8. 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: A district judge has no discretion on whether to follow the decisions of the Supreme Court or the controlling Circuit Court of Appeals. I will do so without regard to any personal opinions, which have no place in the judicial decision making process.

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

Response: The statutes enacted by Congress are presumed to be constitutional. Only when Congress creates a statute and when doing so exceeds its authority under the Constitution or the statute violates a constitutional provision should the statute be declared unconstitutional. If the issue can be resolved without addressing the constitutional issue, then I would do so. As a last resort, I would address the constitutional issue and make a decision on the most narrow or limited grounds.

10. 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: No.

11. 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: A core pillar of the legal system is respect for and adherence to the rule of law. A district judge’s personal views, opinions or politics have no role in the judicial decision making process. The oath of office requires that I be impartial in performing my duties. I promise the Committee that my decisions will comport with the rule of law and be based on legal precedent and the plain language of the law. As a trial attorney, I know that this is important to the stability of the legal system.

12. 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: It would be a violation of my oath of office if I allowed any personal views to play any part in the judicial decision making process. I believe that the public’s confidence and trust in the judicial system depends upon impartiality. I pledge to do so, if I am fortunate to be confirmed.

13. If confirmed, how do you intend to manage your caseload?

Response: If confirmed, I will manage my caseload by setting case deadlines and enforcing them because I know as a trial attorney that deadlines make lawyers work to resolve cases. I plan to combine case deadlines with prompt rulings on discovery and dispositive motions so that the parties can make an informed case assessment and prepare for trial or use mediation to resolve the case without a trial. I believe that effective and efficient case management requires that the judge stay abreast of the status of cases. I will do that and work diligently to move cases promptly.

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

Response: Yes, as explained in the previous answer, I believe that judges have an important role in controlling the pace and conduct of litigation.

15. 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 this statement. If confirmed I believe that the oath of office requires me to make my decisions based on binding precedent of the Supreme Court and the Sixth Circuit Court of Appeals. Any personal views will have no place in the judicial decision making process.

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

Response: The Office of Legal Policy at the Department of Justice forwarded these questions to me on June 15, 2015. I reviewed the questions and did research as necessary. I then drafted my answers, discussed them with an attorney for the Office of Legal Policy, and then finalized them for submission to the Committee.

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

Response: Yes.