

Responses of Edward J. Davila
Nominee to be United States District Judge for the Northern District of California
to the Written Questions of Senator Jeff Sessions

- 1. When Justice Stevens announced his retirement, the President said that he would select a Supreme Court nominee with “a keen understanding of how the law affects the daily lives of the American people.”**

- a. Do you believe judges should ever base their decisions on a desired outcome?**

Response: No. Judges should make decisions based solely on the law and facts of each case.

- i. If so, under what circumstances?**

Response: Under no circumstances should judges base their decisions on a desired outcome.

- ii. Please identify any cases in which you have done so.**

Response: I have not done so.

- iii. Please discuss an example of a case where you have had to set aside your own desired outcome and rule based solely on the law.**

Response: There are none.

- b. Do you believe a judge should consider his or her own values or policy preferences in determining what the law means?**

Response: No.

- i. If so, under what circumstances?**

Response: Under no circumstances should a judge consider his or her own values or policy preferences in determining what the law means.

- ii. Please identify any cases in which you have done so.**

Response: I have not done so.

- iii. **If not, please discuss an example of a case where you have had to set aside your own values or policy preferences and rule based solely on the law.**

Response: In my nine years on the bench, I have consistently made my rulings based solely on the law and the facts presented. I cannot recall any case where I set aside my personal values or policy preferences in making a decision.

- c. **During her confirmation hearings, Justice Sotomayor rejected President Obama's so-called "empathy standard" stating, "We apply the law to facts. We don't apply feelings to facts." Do you agree with Justice Sotomayor?**

Response: Yes.

2. **Do you believe that the death penalty constitutes cruel and unusual punishment under the Constitution? Please explain your answer.**

Response: The Supreme Court of the United States has held that the death penalty is not per se cruel and unusual except in certain specific circumstances. If confirmed as a district court judge I would follow the binding precedent of the Supreme Court of the United States and appellate court decisions pursuant to the doctrine of stare decisis.

3. **Do you believe that the death penalty is an acceptable form of punishment? Please explain your answer.**

Response: Congress has legislated that defendants convicted of certain federal crimes are eligible for punishment by the death penalty. The Supreme Court has held that the death penalty does not per se violate the Eighth Amendment. Should I be confirmed as a district court judge I would follow the law regarding the imposition of the death penalty as dictated by statute, and by the binding precedent of the Supreme Court of the United States.

4. **What is your view of the role of a judge?**

Response: The role of a judge is to apply the law to the facts of a case fairly, with careful consideration and impartiality. In addition to rendering decisions in a fair and neutral manner, a judge should ensure that all parties, witnesses and victims are treated with respect and dignity under the law.

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

Response: I received written questions on October 6, 2010. I completed draft answers to the questions. I consulted with the Justice Department Office of Legal Policy regarding

my answers. I then returned my answers to the Justice Department Office of Legal Policy and asked that they be forwarded to the Committee.

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

Response: Yes.