

Response of John W. deGravelles
Nominee, United States District Court for the Middle District of Louisiana
To the Written Questions for the Record by Senator Ted Cruz

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

Response: If I am confirmed, my judicial philosophy would be to work hard, listen carefully to all of the evidence, research the law thoroughly, and decide the case fairly and impartially based on the binding precedent of the Supreme Court and Fifth Circuit. I have not researched or studied the judicial philosophies of the justices of the Supreme Court but am confident that many share these characteristics.

2. **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 confirmed, I would faithfully adhere to precedent and the appropriate methodologies for interpreting the Constitution as set forth by the Supreme Court and the Fifth Circuit, including originalism. For instance, in *District of Columbia v. Heller*, 554 U.S. 570 (2008) the Supreme Court interpreted the Second Amendment based on the normal and ordinary meaning of the words of the Second Amendment as they were understood at the time of ratification.

3. **If a decision were precedent today while you're going through the confirmation process, under what circumstances would you overrule that precedent as a judge?**

Response: If confirmed, I would always apply and never overrule Supreme Court or Fifth Circuit precedent.

4. **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: If confirmed, I would be bound by and apply the Court's *Garcia* decision as well as all other Supreme Court and Fifth Circuit decisions placing constitutional limitations on Congressional power.

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

Response: The Supreme Court has rendered a number of decisions defining the breadth and limitations of the Commerce Clause and, particularly, its scope and limitations as it pertains to non-economic activity. *See, e.g., Gonzales v. Raich*, 545 U.S. 1 (2005); *United*

States v. Morrison, 529 U.S. 598 (2000); and *United States v. Lopez*, 514 U.S. 549 (1995). If I am confirmed, I will apply these and all other Supreme Court and Fifth Circuit precedents regarding the extent of Congress' power under the Commerce Clause.

6. What are the judicially enforceable limits on the President's ability to issue executive orders of executive actions?

Response: The President's authority to act must stem from either the Constitution or an act of Congress. *Medellin v. Texas*, 552 U.S. 491, 525 (2008). The Supreme Court has set out the proper judicial analysis which must be conducted in order to determine whether the President's executive order or executive action is authorized by the Constitution or an act of Congress. See, e.g., *Youngstown Sheet and Tube Co. v. Sawyer*, 343 U.S. 579 (1952). If I am confirmed, I will follow Supreme Court and Fifth Circuit precedent in deciding whether a challenged executive order is within that authority.

7. When do you believe a right is "fundamental" for purposes of the substantive due process doctrine?

Response: The Supreme Court has stated that a right is "fundamental" for due process purposes when it is "objectively, deeply rooted in this Nation's history and tradition" and is "implicit in the concept of ordered liberty, such that neither liberty nor justice would exist if [it was] sacrificed," *Washington v. Gluckberg*, 521 U.S. 702, 720-721 (1997) (internal citations and quotations omitted). If confirmed, I would follow the precedent of the Supreme Court and Fifth Circuit in deciding whether a right is fundamental under the due process doctrine.

8. When should a classification be subjected to heightened scrutiny under the Equal Protection Clause?

Response: When a law creates a "suspect classification" (e.g. one that is based upon race, religion, or national origin) or burdens a fundamental right, then the Equal Protection Clause requires that the classification be subjected to strict scrutiny. See, e.g., *Cleburne v. Cleburne Living Ctr., Inc.*, 473 U.S. 432, 339-441 (1985). If I am confirmed, I will follow Supreme Court and Fifth Circuit precedent to decide issues under the Equal Protection Clause.

9. 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: I do not have any expectations, one way or the other, in this regard. If confirmed, I will follow all Supreme Court and Fifth Circuit precedent on the use of racial preferences in public higher education, including *Grutter* and *Fisher v. University of Texas at Austin*, 133 S. Ct. 2411 (2013).