

Response of Shelly D. Dick
Nominee to be United States District Judge for the Middle District of Louisiana
to the Written Questions of Senator Tom Coburn, M.D.

- 1. Some people refer to the Constitution as a “living” document that is constantly evolving as society interprets it. Do you agree with this perspective of constitutional interpretation?**

Response: No.

a. If not, please explain.

Response: The Constitution is the founders' expression of fundamental laws and principles that prescribe the nature, functions, and limits of the United States government. The Constitution vests certain powers in the federal government and also specifies certain limitations on the federal government.

- 2. Do you believe judicial doctrine rightly incorporates the evolving understandings of the Constitution forged through social movements, legislation, and historical practice?**

Response: No.

a. If not, please explain.

Response: The role of the judiciary is to follow and apply the rule of law as established by precedent. The role of a judge in the United States District Courts in Louisiana would be to follow the law as enunciated by the United States Supreme Court and the United States Court of Appeal for the Fifth Circuit.

- 3. What principles of constitutional interpretation would you look to in analyzing whether a particular statute infringes upon some individual right?**

Response: If confirmed as a District Court judge, I would look first to the precedent of the United States Supreme Court and then the United States Court of Appeals for the Fifth Circuit. Absent such precedent, I would carefully analyze the plain language of the statute guided by the principle that, whenever possible, the statute should be read to be harmonious with the Constitution of the United States. Lastly, I would look to the precedent of other courts as persuasive authority.

- 4. In *Roper v. Simmons*, 543 U.S. 551 (2005), Justice Kennedy relied in part on the “evolving standards of decency” to hold that capital punishment for any murderer under age 18 was unconstitutional. I understand that the Supreme Court has ruled on this matter and you are obliged to follow it, but do you agree with Justice Kennedy’s analysis?**

Response: I have not studied Justice Kennedy's opinion in *Roper v. Simmons*. In any event, I do not believe it would be appropriate for me to express my personal opinion because if confirmed it would be my duty to apply the law as enunciated by the United States Supreme Court.

- a. When determining what the “evolving standards of decency” are, justices have looked to different standards. Some justices have justified their decision by looking to the laws of various American states, in addition to foreign law, and in other cases have looked solely to the laws and traditions of foreign countries. Do you believe either standard has merit when interpreting the text of the Constitution?**

Response: If confirmed as a District Court judge it would be my duty to apply the analytical framework enunciated by the United States Supreme Court and the United States Court of Appeals for the Fifth Circuit. It is my belief that the laws of states and foreign nations do not provide binding precedent in matters involving constitutional interpretation.

- i. If so, do you believe one standard more meritorious than the other? Please explain why or why not.**

Response: Not applicable.

- 5. In your view, is it ever proper for judges to rely on foreign or international laws or decisions in determining the meaning of the Constitution?**

Response: No.

- a. If so, under what circumstances would you consider foreign law when interpreting the Constitution?**

Response: Not applicable.

- b. Do you believe foreign nations have ideas and solutions to legal problems that could contribute to the proper interpretation of our laws?**

Response: No.