

Written Questions of Senator Jeff Flake
U.S. Senate Committee on the Judiciary
Judicial Nominations
May 18, 2016

Questions for Ms. Stephanie Ann Finley

1. **What is your approach to statutory interpretation? Under what circumstances, if any, should a judge look to legislative history in construing a statute?**

Response: If confirmed, my approach to statutory interpretation would be to look to the plain language of the statute, regulation, or other text at issue. If the language is clear that would be the end of the inquiry. If the language was ambiguous, I would look to the statute as a whole to determine if the intended meaning was clear from the larger context. I would also utilize established canons of statutory construction as set out by the Supreme Court and the Fifth Circuit. If these efforts did not resolve the question, I would look to Supreme Court and Fifth Circuit law interpreting the same or similar language in other contexts and if that guidance did not clarify the intended meaning, I would look to authority and reasoning from other courts. Where the text of a statute is ambiguous, I would, as a last resort, consider legislative history pursuant to Supreme Court and Fifth Circuit guidance.

2. **What is the proper scope of the 10th Amendment to the Constitution? In what circumstances should a judge apply it?**

Response: The 10th Amendment to the Constitution provides that “[t]he powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” The Supreme Court has interpreted the proper scope of the 10th Amendment in cases including *Printz v. United States*, 521 U.S. 898 (1997) and *New York v. United States*, 505 U.S. 144 (1992). If confirmed, I would faithfully follow these cases and all other binding precedent.

3. **Does current standing doctrine foster or impede the ability of litigants to obtain relief in our legal system?**

Response: The jurisdiction of federal courts is defined and limited by Article III of the Constitution. The judicial power of federal courts is constitutionally restricted to "cases" and "controversies." §2. The standing doctrine "serves to identify those disputes which are appropriately resolved through the judicial process." *Whitmore v. Arkansas*, 495 U.S. 149, 155 (1990). I have no opinion as to whether current standing doctrine fosters or impedes the ability of litigants to obtain relief. If confirmed, I would ensure that all litigants, whether represented by counsel or appearing pro se, are treated fairly and that

any issues of standing are resolved consistent with the standing doctrine as established by the Supreme Court and the Fifth Circuit.