

Questions for the Record
Senate Judiciary Committee
Senator Thom Tillis

Questions for Ms. Stephanie Ann Finley

1. **Some individuals have argued that the United States Constitution is a “living document,” subject to different interpretations as society changes. Do you subscribe to this point of view?**

Response: The Constitution provides a permanent framework for resolving legal matters, and it is not the role of a judge to interpret the Constitution for the purpose of addressing societal change. If confirmed, I would follow both the language of the Constitution and the precedent of the Supreme Court, as well as the Fifth Circuit.

2. **What role, if any, should societal pressure or popular opinion play in interpreting statutes or the United States Constitution?**

Response: Societal pressure or popular opinion should not play a role in interpreting statutes or the Constitution. A judge’s obligation is to be true to the rule of law when interpreting statutes and to apply binding constitutional and statutory precedent.

3. **Please define judicial activism. Is judicial activism ever appropriate?**

Response: While different definitions of judicial activism exist, I believe it relates to jurists who seek to apply their personal views rather than deferring to the precedent of higher courts. Judicial activism is never appropriate.

4. **When, if ever, is it appropriate for a federal court to rule that a statute is unconstitutional?**

Response: The statutes enacted by Congress are presumed to be constitutional. Initially, a district court should attempt to resolve a case without addressing constitutional issues, however, if an enactment violates the Constitution or exceeds congressional authority, it should be declared unconstitutional.

5. What is a fundamental right? From where are these rights derived?

Response: Fundamental rights are those rights protected by the Due Process Clause of the Constitution. Many of these rights are derived from the Bill of Rights, but the Supreme Court has noted that rights may be deemed fundamental if they are “ ‘deeply rooted in this Nation's history and tradition,’ and ‘implicit in the concept of ordered liberty,’ such that ‘neither liberty nor justice would exist if they were sacrificed[.]’ ” *Washington v. Glucksberg*, 521 U.S. 702, 720-21 (1997) (citations omitted).

6. Do you believe the First Amendment or any other provision of the United States Constitution protects private citizens and businesses from being required to perform services that violate their sincerely held religious beliefs?

Response: The Supreme Court has held: “[t]he principle that government may not enact laws that suppress religious belief or practice is so well understood that few violations are recorded in our opinions.” *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 523 (1993). In addition, in its recent consideration of the Religious Freedom Restoration Act, the Supreme Court affirmed that private citizens and businesses shall not be substantially burdened in the exercise of their sincerely held religious beliefs. *Burwell v. Hobby Lobby Stores, Inc.*, 134 S. Ct. 2751 (2014).

7. What level of scrutiny is constitutionally required when a statute or regulation related to firearms is challenged under the Second Amendment of the United States Constitution?

Response: The Supreme Court’s decision in *District of Columbia v. Heller*, 554 U.S. 570 (2008), held that the level of scrutiny was higher than rational basis, but did not specify what the level of scrutiny should be, or even if it would be the same for all potential challenges to regulation under the Second Amendment.

8. Do you believe it is constitutional for states to require voters to show photo identification before being eligible to cast their vote?

Response: The Supreme Court has held that states may require voters to present photo identification before casting ballots. *Crawford v. Marion County Election Board*, 553 U.S. 181 (2008). If confirmed, I would apply the precedent faithfully.

9. One challenge you will face as a federal judge is managing a demanding caseload. If confirmed, how will you balance competing priorities of judicial efficiency and due process to all litigants involved in the cases on your docket? Will you give certain cases priority over others? If so, please describe the process you will use to make these decisions.

Response: If confirmed, I will work very hard to immediately implement case management systems and practices to manage cases efficiently and fairly. I will utilize the Local Rules of the Western District of Louisiana and the case management system already in place in the District. I would have early case management conferences, resolve discovery issues and dispositive motions timely, have mechanisms in place for the sequencing of discovery, and set time limits for all phases of cases. I would also utilize in civil cases, when appropriate, alternative dispute resolution and would delegate matters to magistrate judges as authorized and appropriate under 28 U.S.C. § 636. My goal would be to ensure that the entire docket advances efficiently. I would focus and give priority to cases requiring prompt and immediate attention, such as parties seeking injunctive and/or declaratory relief or cases with Speedy Trial Act issues.

10. Do you believe the death penalty is constitutional? Would you have a problem imposing the death penalty?

Response: The Supreme Court has held that capital punishment is constitutional. *Gregg v Georgia*, 428 U.S. 153 (1976). If confirmed, I would faithfully apply settled law in this area, as in all others.