

**Responses of James E. Graves, Jr.
Nominee to be United States Circuit Judge for the Fifth Circuit
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.

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

Response: I would look to the principles of constitutional interpretation which are set forth in U.S. Supreme Court precedent.

- 3. As a judge, what approach do you take when interpreting a statute? Please describe your analysis process.**

Response: I would look first to the plain meaning of the statute. Where it is clear and unambiguous, there is no need for further interpretation. If it is unclear, then I would apply the rules of statutory construction as set forth by the U.S. Supreme Court.

- 4. Do you believe judges should look to the original intent of those who wrote the Constitution when determining the meaning of words and phrases?**

Response: I believe judges should look to U.S. Supreme Court precedent when determining the meaning of words and phrases.

- a. Should they be limited to only looking to the text and the original intent of the founders? If not, why?**

Response: No. See preceding response.

- 5. Justice William Brennan once said: “Our Constitution was not intended to preserve a preexisting society but to make a new one, to put in place new principles that the prior political community had not sufficiently recognized.” Do you agree with him that constitutional interpretation today must take into account this supposed transformative purpose of the Constitution?**

Response: No.

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

Response: I do not agree with the premise that there are, “evolving understandings of the Constitution.”

- 7. Do you believe empathy is an essential ingredient for arriving at just decisions and outcomes and should play a role in a judge’s consideration of a case?**

Response: No.

- 8. What limitations remain on the individual Second Amendment right now that it has been incorporated against the States?**

Response: The most recent U.S. Supreme Court decisions on the Second Amendment are *District of Columbia v. Heller*, 128 S. Ct. 2783, 171 L. Ed. 2d 637 (2008), and *McDonald v. Chicago*, 130 S. Ct. 3020, 177 L. Ed. 2d 894 (2010). These cases did not specify what limitations remain on the individual Second Amendment right. I would look to U.S. Supreme Court precedent in my analysis of any Second Amendment issue.

- a. Is it limited only to possession of a handgun for self-defense in the home, since both *Heller* and *McDonald* involved cases of handgun possession for self-defense in the home?**

Response: As regards limitations on the individual Second Amendment right, I would examine the U.S. Supreme Court precedent in *Heller* and *McDonald* and any subsequent cases which may emanate from the Fifth Circuit Court of Appeals.