

**Questions for Judicial Nominees
Senator Ted Cruz**

**George Jarrod Hazel
Nominee, U.S. District Court for the District of Maryland**

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

Response: If confirmed to the bench, I would adhere to judicial precedent, treat all parties with civility and respect and manage my docket in an efficient manner. However, I have not studied the judicial philosophies of specific Supreme Court Justices with sufficient attention to identify one whose judicial philosophy is most analogous to mine.

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: In the case of *District of Columbia v. Heller*, 554 U.S. 570, 605 (2008), the Supreme Court held that the meaning of the words written as they were commonly understood at the time of their writing should be given great consideration when interpreting provisions of the Constitution. If confirmed, I would faithfully apply this and all other binding precedent.

If a decision is precedent today while you're going through the confirmation process, under what circumstance would you overrule that precedent as a judge?

Response: Under no circumstances would I overrule binding precedent as a judge.

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: *Garcia v. San Antonio Metro Transit Authority*, 469 U.S. 528, 552 (1985), is binding precedent and I would be obliged to follow that precedent regardless of any personal view I might have.

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 ruled that Congress' power under the Commerce Clause does extend to local, non-economic activity that "exerts a substantial economic effect on interstate commerce." *Wickard v. Filburn*, 317 U.S. 111, 125 (1942); *see also Gonzales v. Raich*, 545 U.S. 1, 18-19 (2005). Congress' power under the Commerce Clause is not unlimited, however, and the Supreme Court has invalidated statutes that it ruled went beyond that power. *See, e.g., United States v. Morrison*, 529 U.S. 598, 610-11 (2000); *United States v. Lopez*, 514 U.S. 549

(1995). If confirmed as a District Judge, I would follow all binding Supreme Court precedent regarding the issue of Congressional powers.

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

Response: The Supreme Court has held that the President's authority to issue executive orders or take executive actions must be derived from either an act of Congress or the Constitution. *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952). Justice Jackson's concurring opinion in *Youngstown* established a three-part analysis for determining the constitutionality of executive action or executive orders, *see id.* at 635 (Jackson, J., concurring), and that analysis remains the framework by which such cases are decided. *See Medellin v. Texas*, 552 U.S. 491, 523-29 (2008). If confirmed as a District Judge, I would follow all binding Supreme Court precedent on this issue.

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

Response: The Supreme Court has stated that "only fundamental rights and liberties which are 'deeply rooted in this Nation's history and tradition' and 'implicit in the concept of ordered liberty' qualify for [substantive due process] protection." *Chavez v. Martinez*, 538 U.S. 760, 775 (2003) (internal citation omitted). If confirmed as a District Judge, I would follow this and all binding precedent regarding the substantive due process doctrine.

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

Response: The Supreme Court has held that "equal protection analysis requires strict scrutiny of a legislative classification only when the classification impermissibly interferes with the exercise of a fundamental right or operates to the peculiar disadvantage of a suspect class." *Mass. Bd. Of Retirement v. Murgia*, 427 U.S. 307, 312 (1976). Classifications based on gender are to be reviewed under an immediate level of scrutiny requiring justification for such classifications to be "exceedingly persuasive." *See United States v. Virginia*, 518 U.S. 515, 531-33 (1995). If confirmed, I would follow this and all binding precedent.

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: In *Grutter v. Bollinger*, 539 U.S. 306, 343 (2003), the Supreme Court made a prediction that by 2028 it would no longer be necessary to use racial preferences to further the interest of diversity in public institutions of higher education. Without regard to whether I personally agree with that prediction, if confirmed, I would apply all binding Supreme Court precedent in analyzing the constitutionality of considerations of race in university admissions programs including the Supreme Court's decision in *Fisher v. University of Texas*, 133 S. Ct. 2411 (2013).