

United States Senator Thom Tillis

Questions for the Record

Senate Judiciary Committee

On

Nominations

Marilyn Jean Horan

Nominee, U.S. District Judge for the Western District of Pennsylvania

Questions for All Nominees

- 1. One challenge you will face as a federal judge is managing a busy caseload. If confirmed, how will you balance competing priorities of judicial efficiency and due process to all litigants involved in the case?**

Response: I have effectively managed cases during my tenure as a state court judge. I intend to do the same if confirmed as a federal judge. Ensuring due process has always been foremost in my judicial management decisions. I expect the same will continue as I manage cases assigned to my responsibility as a federal judge.

- a. Will you give certain cases priority over others?**

Response: Where legislative or administrative rules direct prioritizing, I will afford priority. If there is no such direction for priority, I will use my discretion to afford priority in only those circumstances where considerations and resources suggest that justice will be best served by prioritizing. Examples of where I have exercised such discretion in my state court judicial management would include cases where a litigant has been terminally ill and prompt trial would bring timely resolution. In general, my efforts have always been to move all matters as promptly as possible through my courtroom such that all parties are afforded fair and equal access as a matter of course.

- 2. What is a fundamental right?**

Response: Fundamental rights are rights which have been guaranteed by the United States Constitution, and which require a high degree of protection from government encroachment.

- a. From where are these rights derived?**

Response: These rights derive from our United States Constitution and the Bill of Rights, and they have been interpreted by the United States Supreme Court through binding precedent.

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

Response: Judicial interpretation should focus on the language of the legislation at hand, the United States Constitution, and upon all binding precedent in relation thereto.

Societal pressure and popular opinion are not factors for consideration in any judicial decision-making process, including matters of legislative or constitutional interpretation.

Question for Judge Marilyn Jean Horan

1. When imposing sentences on young defendants, what types of mitigating factors do you feel necessitate a defendant serving a sentence other than active jail time?

Response: As a state court judge sentencing young defendants, I first look to the crime committed and the circumstances of that offense. I consider any specified legislative penalties and the guideline range of sentencing options for the specific offense. If the legislation or guidelines at issue direct active jail time, I comply with the legislative or guideline requirements. If there are ranges of options available, as alternatives to active jail time, I consider any mitigating factors outlined for the offense at issue. Other considerations that may impact my sentencing decision include the age of the offender, victim impact, restitution, and presentence investigation and risk assessment reports and recommendations. I also consider the educational, psychological and social needs of the offender, plus I attempt to select options that best ensure offender accountability and victim restoration. I focus upon accessing available, evidence-based, statistically successful, restrictive therapeutic programs, which promote education, counseling and vocational training.