

**Responses of Steve CarMichael Jones
Nominee to be United States District Judge for the Northern District of Georgia
to the Written Questions of Senator Jeff Sessions**

- 1. Under the Supreme Court’s decision in *United States v. Booker*, the federal sentencing guidelines are now advisory, rather than mandatory.**
- a. Do you agree that the sentence a defendant receives for a particular crime should not depend on the judge he or she happens to draw?**

Response: Yes.

- b. Under what circumstances do you believe it appropriate for a district court judge to depart downward from the sentencing guidelines?**

Response: The sentencing guidelines should be the starting point in any sentencing proceeding and should be downwardly departed from by the sentencing judge only when supported by statutory factors as set by Congress, factual circumstances, and applicable Supreme Court and Eleventh Circuit precedent.

- 2. According to an October 28, 2010 article in the *Legal Intelligencer*, there is a recent trend among federal judges to reject the sentencing guidelines for child pornography crimes as “too harsh.” What are your views with respect to these guidelines?**

Response: The sentencing guidelines are designed to enhance uniformity and consistency in issuing reasonable sentences and should be given substantial deference by a federal judge.

- 3. In 2008, President Obama said,**

“We need somebody who’s got the heart, the empathy, to recognize what it’s like to be a young teenage mom. The empathy to understand what it’s like to be poor, or African-American, or gay, or disabled, or old. And that’s the criteria by which I’m going to be selecting my judges.”

Do you agree with the President’s statement?

Response: Empathy is defined as the ability to understand another person’s feelings. I think that a trial judge should have the ability to understand the feelings of other persons; however, in terms of judicial decision-making, empathy has no role. A judge should be impartial and decide cases based solely upon the law and the facts presented – not upon feelings or emotions.

4. **When Justice Stevens announced his retirement, the President said that he would select a Supreme Court nominee with “a keen understanding of how the law affects the daily lives of the American people.” Do you believe judges should base their decisions on a desired outcome, or solely on the law and facts presented?**

Response: Judges should base their decisions solely on the law and the facts.

5. **During her confirmation hearings, Justice Sotomayor rejected President Obama’s so-called “empathy standard” stating, “We apply the law to facts. We don’t apply feelings to facts.” Do you agree with Justice Sotomayor?**

Response: Yes.

6. **Have you ever expressed an opinion regarding whether the death penalty constitutes cruel and unusual punishment under the Constitution? If so, what opinion did you express?**

Response: I have presided over three death penalty cases as a Superior Court judge. In each case, the constitutionality of the death penalty was challenged on cruel and unusual punishment grounds. In deciding each challenge, I reviewed applicable United States Supreme Court and Georgia Supreme Court precedent, upholding the constitutionality of the death penalty in Georgia. I thereafter denied the challenges.

7. **Do you have a personal view regarding whether the death penalty is constitutional?**

Response: While I believe that the death penalty is constitutional, my judicial decisions on the constitutionality of the death penalty will be based upon the precedent of the United States Supreme Court and the Eleventh Circuit.

8. **Do you believe that the death penalty is an acceptable form of punishment?**

Response: Yes, I believe that the death penalty is an acceptable form of punishment. I will follow applicable law in deciding death penalty cases.

9. **Do you hold any personal views that would preclude you from enforcing the death penalty?**

Response: No.

10. **At your hearing, Senator Whitehouse asked for your comments on the following:**

“It is my belief that judges must do a number of things. One is to respect the role of Congress as the duly elected representatives of the American people in our system of American democracy. Two is to decide cases based on the facts and the law, nothing else. Three is to not prejudge any case, but listen to every party that comes before you, powerful or weak, rich or poor, irrespective of station or position; to respect

the precedent that the Supreme Court and the circuit courts for your districts have laid down and the precedent that exists within your own district; and, finally, to limit yourself in your decisions to the issues that the court must decide that are properly presented before it. It is my belief that those disciplines, which must be self-imposed by judges, are key to the successful operation of the carefully balanced system of government that the Founding Fathers created and that we all honor and enjoy the fruits of.

You responded:

“Senator Whitehouse, I agree with what you said and it is important, because if we fail to do that, then the communities we serve or preside over lose confidence in our courts and, as judges, we will not have credibility.”

Do you also agree that when Congress, in its role as the legislative branch, enacts a law that is contrary to the Constitution or takes action not authorized by some enumerated power therein, a court must either invalidate the Congressional action or, where appropriate, limit its application on an “as applied” basis?

Response: Yes.

- 11. Please describe with particularity the process by which these questions were answered.**

Response: I received the questions from the Department of Justice on Tuesday, November 23, 2010 and carefully drafted my answers. I reviewed those answers with representatives from the Department of Justice and requested that the Department of Justice submit my final answers to the Senate Judiciary Committee.

- 12. Do these answers reflect your true and personal views?**

Response: Yes.