

**Senator Grassley
Questions for the Record**

**Travis Randall McDonough
Nominee, U.S. District Judge for the Eastern District of Tennessee**

- 1. Your current position is Chief of Staff for the mayor of the city of Chattanooga, a Democrat. What assurances can you give the Committee that you will be fair to all litigants who come before you, particularly those with different political beliefs than your own?**

Response: It has been an honor to spend time away from private practice to engage in public service, which has been my goal since before becoming a Truman Scholar in 1993. Although the mayor of Chattanooga is a Democrat, the City of Chattanooga's municipal officeholders, including the mayor, are chosen in nonpartisan elections, and our mayor earned a great deal of support from Republicans, Democrats, and independents both before and after the election in 2013. As his chief of staff, I have worked closely and successfully with stakeholders and officeholders from across the political spectrum and have a history of supporting candidates from both major parties. I believe strongly in doing my best at every job. When I was in private practice, I zealously represented my clients, regardless of political ideology. If confirmed, as a judge, I will faithfully execute the obligations of judicial office, without regard for litigants' and attorneys' political beliefs. Partisan politics has no place in our judicial system, and I believe that my legal career and public service record are convincing evidence that, if confirmed, I will carry out the responsibilities of judicial office without regard for politics or the identity of those who appear before the court.

- 2. What is the most important attribute of a judge, and do you possess it?**

Response: The most important attribute of a good judge is humility. Humility ensures a judge will subjugate his own preferences to controlling precedent and the rule of law, will never assume that he or she is capable of doing the job without hard work and preparation, will not prejudge the merits of a case before careful consideration of admissible facts and precedent, and will conduct courtroom proceedings in a manner that promotes efficiency and confidence in our justice system. I do believe I possess this attribute, and I will continue to adhere to these principles.

- 3. Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**

Response: A judge should be humble, decisive, fair, impartial, always prepared, and mindful of the importance of efficiency to the litigants and attorneys who appear before the court. While no judge can perfectly attain these qualities, if confirmed, I will do my very best to strive to meet these attributes. In addition, please see my response to Question 2.

4. **In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Please describe your commitment to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?**

Response: I am fully committed to applying precedent issued by the United States Supreme Court ("Supreme Court") and the United States Court of Appeals for the Sixth Circuit ("Sixth Circuit"). If confirmed, any personal beliefs will have no effect on my duty and commitment to following these courts' binding precedent.

5. **At times, judges are faced with cases of first impression. If there were no controlling precedent that was dispositive on an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

Response: If confirmed, I will apply the law as reflected in the text of the Constitution, statutes, and binding precedent. If confronted with a true issue of first impression, I will apply the plain text of the statute, contract, or constitutional provision at issue. If this approach does not settle the issue, I will turn to well accepted canons of construction approved by the Sixth Circuit and the Supreme Court, again grounding the analysis in the text at issue. Assuming this attempt at construction of the language does not resolve the matter, I will look to precedent governing analogous provisions in similar texts and persuasive authority from other courts. In doing so, I will keep in mind my obligation to discern and to apply the law as it exists rather than to legislate what I believe the law should be.

6. **What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your best judgment of the merits to decide the case?**

Response: If confirmed, I will apply binding precedent to every dispute that comes before me, without regard for whether I agree with the rationale or conclusion of that precedent.

7. **Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?**

Response: Only very rarely does a federal court's limited authority allow it to declare unconstitutional a statute enacted by Congress. Clear precedent describes the narrow circumstances in which a court should strike down a statute as inconsistent with the Constitution. This precedent, generally, provides as follows. Initially, a court should ensure that there exists a valid case or controversy that necessarily raises the issue of constitutionality. A court should also ensure that the parties before it have proper standing to bring the issue before the court. A court should review the facts and law presented very carefully to determine whether the case can be decided without determining the constitutionality of the statute. Only if there is no alternative manner of resolving the case

but to address the constitutionality of the statute may a court even consider the question of constitutionality. The Supreme Court has long held that an act of Congress enjoys a strong presumption of constitutionality. Therefore, in the event that a court must decide constitutionality, the statute must be upheld as constitutional unless there is no viable construction of the statute that would avoid conflict with the Constitution.

8. **In your view, is it ever proper for judges to rely on foreign law, or the views of the “world community”, in determining the meaning of the Constitution? Please explain.**

Response: A district court should not rely on foreign law or the views of the “world community.” It should rely on binding precedent handed down by the Supreme Court and the corresponding court of appeals.

9. **What assurances or evidence can you give this Committee that, if confirmed, your decisions will remain grounded in precedent and the text of the law rather than any underlying political ideology or motivation?**

Response: I have been a member of the bar and a litigator for nearly two decades, and I understand firsthand the critical importance of an impartial judge who applies governing precedent and the text of the law without regard for his or her political ideology. A judge who grounds decisions in personal political preferences rather than the law commits a breach of the obligations of judicial office. I have a great deal of respect for our federal system of justice and understand that, for that system to continue to work and for the citizens to continue to have confidence in that system, I must, if confirmed, make decisions that are based solely on the facts and governing law.

10. **What assurances or evidence can you give the Committee and future litigants that you will put aside any personal views and be fair to all who appear before you, if confirmed?**

Response: Please refer to my responses to Questions 1 and 9.

11. **If confirmed, how do you intend to manage your caseload?**

Response: If confirmed, I will assemble a staff that is committed to the efficient operation of the court, will use the organizational resources provided by the court clerk to ensure that the staff and I use our time wisely, will set reasonable deadlines and require compliance with them, will rule on motions in a timely manner, will refer appropriate issues to magistrate judges when they can more efficiently decide such issues, and will consult with more experienced judges in order to model successful caseload management practices.

12. **Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?**

Response: I believe that judges have a very important role in controlling the pace and conduct of litigation. A judge must strive to achieve efficiency in order to ensure justice

consistent with the rule of law. In order to achieve appropriate control of the pace and conduct of litigation, I would put into practice the principles described in response to Question 11.

- 13. President Obama said that deciding the “truly difficult” cases requires applying “one’s deepest values, one’s core concerns, one’s broader perspectives on how the world works, and the depth and breadth of one’s empathy . . . the critical ingredient is supplied by what is in the judge’s heart.” Do you agree with this statement?**

Response: I had never heard this statement prior to reviewing it in this question and am not familiar with the context surrounding the statement. If confirmed, as a judge, my core concerns and values will be the perpetuation of the rule of law through the application of governing statutes and binding precedent to facts properly before the court.

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

Response: I received the questions on June 17, 2015, from the Department of Justice. After reviewing the questions, I drafted responses on my own on June 17 and 18, 2015. I submitted these draft responses to representatives of the Department of Justice on June 18, 2015, and finalized my responses and authorized their submission to the Judiciary Committee.

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

Response: Yes.