

**Response of Beverly R. O'Connell**  
**Nominee to be United States District Judge for the Central District of California**  
**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.

**a. If not, please explain.**

Response: The principles of the Constitution do not change over time. Only through the amendment process does the Constitution change.

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

Response: No.

**a. If not, please explain.**

Response: A lower court confronted with a Constitutional issue must follow all binding precedent. The principles of the Constitution don't change over time.

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

Response: First, I would examine the plain language of the statute. If the plain language of the statute can be interpreted as constitutional, that would end the inquiry. If not, I would then look to apply precedent from the Supreme Court, the Ninth Circuit, and other Circuit and District Courts (in that order) concerning the statute. If that did not resolve the issue, I would then look to apply precedent of analogous statutes from the Supreme Court, and the Ninth Circuit.

- 4. In *Roper v. Simmons*, 543 U.S. 551 (2005), Justice Kennedy relied in part on the “evolving standards of decency” to hold that capital punishment for any murderer under age 18 was unconstitutional. I understand that the Supreme Court has ruled on this matter and you are obliged to follow it, but do you agree with Justice Kennedy’s analysis?**

Response: I have not read *Roper v. Simmons*, 543 U.S. 551 (2005) or analyzed Justice Kennedy’s opinion. Regardless of whether I agreed or disagreed with Justice Kennedy’s analysis, I would follow all applicable Supreme Court precedent if I were confirmed.

- a. **When determining what the “evolving standards of decency” are, justices have looked to different standards. Some justices have justified their decision by looking to the laws of various American states, in addition to foreign law, and in other cases have looked solely to the laws and traditions of foreign countries. Do you believe either standard has merit when interpreting the text of the Constitution?**

Response: Foreign law should not be used to interpret the Constitution. As a district court judge, I would follow all applicable Supreme Court and Circuit Court authority.

- i. **If so, do you believe one standard more meritorious than the other? Please explain why or why not.**

Response: Not applicable.

5. **In your view, is it ever proper for judges to rely on foreign or international laws or decisions in determining the meaning of the Constitution?**

Response: No.

- a. **If so, under what circumstances would you consider foreign law when interpreting the Constitution?**

Response: Not applicable.

- b. **Do you believe foreign nations have ideas and solutions to legal problems that could contribute to the proper interpretation of our laws?**

Response: No. The bedrock of our American judicial system is stare decisis, relying upon our binding precedent in the interpretation of our laws.