

Responses of Rosanna Malouf Peterson
Nominee to the U.S. District Court for the Eastern District of Washington
to the Written Questions of Senator Tom Coburn, M.D.

- 1. President Obama has described the types of judges that he will nominate to the federal bench as those who have “empathy,” as “someone 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.” While the ability to empathize is an admirable human trait, there is serious concern about a judge who empathizes with one litigant over another based on their circumstances. This is why the judicial oath requires judges to do equal justice to the rich and the poor.**

In *U.S. v. Torres-Sanchez*, you represented an illegal alien in deportation proceedings. The defendant not only was previously deported, but also had been convicted of a prior drug offense. Notwithstanding, in your questionnaire, you stated that this case was significant to you because you:

“gained a new level of understanding of the issues illegal aliens face in trying to return to the United States after a prior deportation even though they have lived their entire lives in the United States.”

- a. That sounds a lot like empathy towards a defendant even though that defendant had repeatedly broken the law. Can you explain why your statement should not be concerning when the Senate is trying to determine whether you will be a neutral arbiter in a lifetime appointment?**

Response: I assisted Ms. Torres-Sanchez as her attorney, and therefore her advocate, in entering a plea of guilty to the charge of being in the U.S. after a prior deportation. My statement of understanding that you cite was based on the facts of her case, which included her attempts to seek approval to re-enter the U.S. legally prior to her re-entry into the U.S. illegally. If I am confirmed to serve as a district court judge, I would become a neutral arbiter and not an advocate, which I fully comprehend are very different roles. If I were confirmed, I would be committed as a neutral arbiter to apply the established law to the facts in any case and arrive at the conclusion dictated by that law with those facts.

- b. Do you think that it is ever proper for judges to indulge their own values in determining what the law means? If so, under what circumstances?**

Response: No.

- c. If confirmed, what assurances can you provide that you will enforce immigration laws as they pertain to persons illegally present in the United States?**

Response: If confirmed, I would take the oath of office to uphold the Constitution and the laws of the United States, including all immigration law. My background and character provide assurance that I do not violate my oaths.

- d. **Do you think it is ever proper for judges to indulge their own policy preferences in determining what the law means? If so, under what circumstances? Please explain your answer.**

Response: No.

2. **The case of *U.S. v. Uriel Silva Rivas* raises a similar concern. In that case, you represented a defendant who, along with most of his family, was indicted for conspiracy to distribute controlled substances. You stated that the case was important to you because**

“it demonstrated the impact of criminal charges on the entire family.”

- a. **Doesn't that statement indicate empathy towards multiple defendants who were charged with breaking the law?**

Response: I intended that statement to indicate an understanding of how criminal activity by some family members destroys the entire family, including those who have not participated in any criminal activity.

- b. **Again, why should we not be concerned about that statement?**

Response: My ability to comprehend the destruction that occurs as a result of criminal activity applies to victims' families as well as defendants' families and would not undermine my commitment to applying the established law to the facts in any case and arriving at the conclusion dictated by that law with those facts.

- c. **If confirmed, would you take into consideration the impact on a defendant's family in sentencing a defendant?**

Response: If confirmed, I would follow the relevant statutes, sentencing guidelines, and established law. I would only take into consideration the impact of a sentence on a defendant's family if the established law, including the sentencing guidelines, called for such consideration.