

Response of Gregory Alan Phillips
Nominee to be United States Circuit Judge for the Tenth Circuit
to the Written Questions of Senator Amy Klobuchar

- 1. If you had to describe it, how would you characterize your judicial philosophy? How do you see the role of the judge in our constitutional system?**

Response: My judicial philosophy is that judges must confine themselves to their constitutional and statutory role and exercise that limited role. Judges administer justice by fully advising themselves on applicable law and fully examining the record. I believe that policy-making belongs to the other two branches of government. I believe that by using strong legal reasoning and by exhibiting professional conduct in the courtroom judges promote our citizens' faith in our government.

I believe that Chief Justice Marshall stated the role of judges in our constitutional system well and succinctly when he said in *Marbury v. Madison* that it is "emphatically the province and duty of the judicial department to say what the law is."

- 2. What assurances can you give that litigants coming into your courtroom will be treated fairly regardless of their political beliefs or whether they are rich or poor, defendant or plaintiff?**

Response: The best assurance I can give is from my history of having applied laws and rules to people without any regard for any of those characteristics. I have done so as a federal prosecutor, a state prosecutor, a lawyer in private practice, a state legislator, Wyoming's attorney general, and a member of community boards. If confirmed as a circuit court judge, I would continue to do so. I believe in the rule of law.

- 3. In your opinion, how strongly should judges bind themselves to the doctrine of stare decisis? How does the commitment to stare decisis vary depending on the court?**

Response: The Supreme Court has legal standards by which it can reconsider its precedents. Only it can decide in a given case how tightly to bind itself to its own precedents. If confirmed as a circuit court judge, I would apply all Supreme Court precedents and reconsider circuit precedents only in the circumstances allowing *en banc* consideration. I would recognize that my circuit disfavors *en banc* review and considers it an extraordinary procedure. Accordingly, complying with circuit rules, I would recognize that *en banc* review is intended to focus the entire court upon an issue of exceptional public importance or on a panel decision that conflicts with an earlier decision of the Supreme Court or the Tenth Circuit. District courts must apply stare decisis to decisions of the Supreme Court and their circuit court.