

**Responses of Jimmie V. Reyna
Nominee to be Circuit Judge for the Federal Circuit
to the Written Questions of Senator Jeff Sessions**

- 1. In a September 2007 press release on behalf of the Hispanic National Bar Association, you voiced your support for the Dream Act.**

- a. Do you believe that people whose presence in this country violates our immigration laws should be rewarded with citizenship simply because they attended school in the United States? Please explain your answer.**

Response: As National President of the Hispanic National Bar Association (HNBA), I served as the chief spokesperson and advocate on behalf of the Board of Directors and the HNBA members. HNBA press releases, such as the one cited in the question, were issued to express the official positions and views of the HNBA and do not necessarily reflect my personal views.

- b. Do you believe that the Constitution guarantees people who are here illegally a right to education, healthcare and other welfare benefits? Please explain your answer.**

Response: While I am not a constitutional scholar, I do not believe that the Supreme Court has addressed all of those issues.

- 2. In a December 2006 press release by the Hispanic National Bar Association, you called for a moratorium on “raids” conducted by Immigration and Customs Enforcement that resulted in the detention of 1,283 workers in meat packing plants in six states. You called these raids “‘drag net enforcement’ that entraps on the basis of race or color.” What tools would you suggest the government use to identify and prosecute illegal workers and their employers?**

Response: I do not have a suggestion or recommendation on the tools the government should use to identify which persons to investigate for prosecution under our immigration laws.

- 3. During your hearing, you testified that you believe that “diversity in the judiciary is very important,” one of the “very significant challenges facing the judiciary,” and is “vital . . . to our system of justice.” Please take this opportunity to explain your testimony.**

Response: My testimony concerning diversity in the legal profession reflected the work and programs undertaken by bar associations throughout the country. For example, in early 2010, the ABA Presidential Initiative Commission on Diversity issued a report entitled, “Diversity in the Legal Profession: The Next Steps.” The recommendations set out in the report were directed to all segments of the legal profession and were based on four rationales:

- Lawyers and judges have a unique responsibility for sustaining democracy.
- The profession must be diverse to thrive in a global and domestically inclusive business environment.
- Diversity is critical if the profession wishes to maintain a societal leadership role.
- Changing demographics in society compel the profession to change its own demographics.

- a. **What role do a judge's background and/or personal beliefs have on a judge's decisionmaking and how do these relate to the application of the law to the facts in a given case?**

Response: A judge's background and/or personal beliefs should have no role in the judge's decision making and should bear no relation to the application of the law to the facts in a given case.

- b. **How can litigants know that they are being treated fairly if a judge's background and/or personal beliefs, rather than the application of the law to the facts, affect legal decisions?**

Response: Litigants are not being fairly treated in any instance where a judge's background and/or personal beliefs, rather than the application of the law to the facts, affect legal decisions.

- c. **Do you believe that an individual's background and/or personal beliefs have an effect on the quality of their decisionmaking?**

Response: Judges should check their personal views and beliefs outside the courthouse door and conduct legal proceedings and render decisions solely on the basis of binding precedent and the application of law to the specific facts of a case.

4. **As you may know, President Obama has described the types of judges that he would nominate to the federal bench as follows:**

"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."

- a. **Do you believe that you fit President Obama's criteria for federal judges, as described in his quote? Please explain your answer.**

Response: I am not sure whether or not I fit the criteria articulated above. I assume that President Obama nominated me on the basis of my legal and professional qualifications and my professional reputation.

- b. What role do you believe empathy should play in a judge's consideration of a case?**

Response: None.

- c. Do you think that it is ever proper for a judge to indulge his or her own subjective sense of empathy in determining what the law means or how it should be applied to a particular set of facts? If so, under what circumstances?**

Response: No.

- d. During her confirmation hearing, Justice Sotomayor plainly rejected President Obama's empathy standard, stating: "We apply law to facts. We don't apply feelings to facts." Justice Kagan responded similarly, stating: "It's the law all the way down." Do you agree with Justices Sotomayor and Kagan?**

Response: Yes.