

Responses of Roy B. Dalton, Jr.
Nominee to be United States District Judge for the Middle District of Florida
to the Written Questions of Senator Charles Grassley

- 1. Although you have been a practicing attorney for over 30 years, you have had very little experience when it comes to criminal law. What steps do you plan to take, if confirmed, to prepare yourself to handle criminal cases, which will comprise a substantial portion of your docket?**

Response: I am well acquainted with the federal judges serving in my district. They are a great resource and I will do all I can to learn from their many years of collective experience. In addition, the Federal Judicial Center has a wide range of resources available to provide a new judge with ongoing education in areas where they might lack experience in private practice. I will avail myself of all these resources in order to augment my lack of experience in both criminal law and elsewhere.

- 2. You have spent your entire career as an advocate. How do you anticipate making the transition from advocate to a neutral arbiter?**

Response: Although I have not had any experience as a judge, I have served in a number of positions where I was an arbiter or consensus builder. I have served as a designated member of arbitration panels in claims for uninsured motorist benefits where the panel listened to evidence, weighed arguments and rendered decisions. Additionally, I have served as chairman of various committees such as the Florida 5th District Court of Appeal Judicial Nominating Commission and the 9th Circuit Grievance Committee where my responsibilities included weighing facts and listening to arguments before making a decision. I recognize the distinction between advocacy for a client or cause and the role of arbiter and feel confident I can assume the role of a fair and impartial arbiter if I am confirmed as a district judge.

- 3. At a speech in 2005, Justice Scalia said, “I think it is up to the judge to say what the Constitution provided, even if what it provided is not the best answer, even if you think it should be amended. If that's what it says, that's what it says.” Do you agree with Justice Scalia?**

Response: I am not aware of the context of Justice Scalia’s statement. As a district judge I am bound to interpret the Constitution in accordance with controlling precedent from the 11th Circuit and the Supreme Court of the United States.

- 4. Do you believe it is proper for a judge, consistent with governing precedent, to strike down an act of Congress that it deems unconstitutional? If so, under what circumstances?**

Response: Yes. When an act of Congress exceeds the bounds of its constitutional authority, it is the obligation of the judicial branch to fulfill its constitutional role of providing a check and balance on acts of the legislature.

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

Response: When I served as chair of the Judicial Nominating Commission for the 5th District Court of Appeal, and again in my role as counsel to then Senator Mel Martinez in the Senate, we utilized the acronym I.I.I.T. for evaluating candidates for judgeships. A candidate should possess integrity, intellect, impartiality and temperament in addition to the appropriate educational and professional experience criteria. I believe that my professional and personal background demonstrate these qualities.

6. 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 must have patience, perseverance and a commitment to treat all who come into court as litigants, lawyers, jurors, witnesses or court personnel with civility and respect. I believe I have a record of civility, respect and cooperation in working with opposing counsel, the bench and members of the community in my years of private practice and that I will carry these qualities to the district court if I am fortunate enough to be confirmed.

7. 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. Are you committed to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?

Response: Yes.

8. At times, judges are faced with cases of first impression. If there were no controlling precedent that dispositively concluded 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: In the absence of controlling precedent I would look to the text of the statute, regulation or constitutional authority initially and then to any analogous authority from the 11th Circuit, the Supreme Court or other federal circuits. To the extent that this inquiry was not sufficient it may be appropriate to look at the historical information surrounding the passage of the legislative act to develop insight into legislative intent.

9. 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 own judgment of the merits, or your best judgment of the merits?

Response: As a district judge I would be obligated to follow the law as determined by the 11th Circuit or the Supreme Court and, if confirmed, I would do so.

10. As you know, the federal courts are facing enormous pressures as their caseload mounts. If confirmed, how do you intend to manage your caseload?

Response: As a practicing lawyer I am well aware of the need for litigants to have their cases handled in a fair but timely manner. I would expect to be hands on in terms of case management conferences, setting reasonable but proactive schedules for case progress and using all available alternative dispute resolution mechanisms available to move cases to resolution in an efficient manner by either settlement or trial.

11. 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: Yes. Judges have an important role in controlling the pace of litigation. If confirmed, I would educate myself on the methods used by the most effective sitting trial judges, both in the middle district and elsewhere, to develop a detailed pre-trial scheduling order with definitive deadlines for discovery, expert disclosure, pre-trial motions, dispositive motions, referral to mediation and the establishment of firm, predictable trial dates.

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

Response: Powers enumerated to the Congress under the Constitution are limited. When an act of Congress exceeds its constitutional authority it is appropriate for the courts to declare the act unconstitutional.

13. Please describe with particularity the process by which these questions were answered.

Response: Questions were received on March 9, 2011. Answers were prepared on March 10, 2011. I discussed my responses with a Justice Department official, finalized my responses and authorized their communication to the Committee.

14. Do these answers reflect your true and personal views?

Response: Yes.