

**Responses of Diana Saldaña
Nominee to be United States District Judge for Southern District of Texas
to the Written Questions of Senator Jeff Sessions**

- 1. When Justice Stevens announced his retirement, the President said that he would select a Supreme Court nominee with “a keen understanding of how the law affects the daily lives of the American people.”**

- a. Do you believe judges should ever base their decisions on a desired outcome?**

Response: No. I believe that judges should base their decisions solely on the law and facts presented.

- i. If so, under what circumstances?**

Response: None.

- ii. Please identify any cases in which you have done so.**

Response: None.

- iii. Please discuss an example of a case where you have had to set aside your own desired outcome and rule based solely on the law.**

Response: I do not have a desired outcome when I enter the courtroom. As a Magistrate Judge, I have ruled according to the law and facts of each case.

- b. Do you believe a judge should consider his or her own values or policy preferences in determining what the law means?**

Response: I do not believe that a judge should consider her or her own values or policy preferences in determining what the law means.

- i. If so, under what circumstances?**

Response: None.

- ii. Please identify any cases in which you have done so.**

Response: None.

- iii. If not, please discuss an example of a case where you have had to set aside your own values or policy preferences and rule based solely on the law.**

Response: None.

- c. **During her confirmation hearings, Justice Sotomayor rejected President Obama's so-called "empathy standard" stating, "We apply the law to facts. We don't apply feelings to facts." Do you agree with Justice Sotomayor?**

Response: Yes.

2. **Do you believe that the death penalty constitutes cruel and unusual punishment under the Constitution? Please explain your answer.**

Response: No. The Supreme Court has ruled that the death penalty does not constitute cruel and unusual punishment under the Constitution except under narrow circumstances, such as those addressed in Roper v. Simmons, 125 S. Ct. 1183 (2005) (for defendants who committed crimes before the age of 18), Atkins v. Virginia, 536 U.S. 304 (2002) (for defendants determined to be mentally retarded) and Kennedy v. Louisiana, 128 S. Ct. 2641 (2008) (cases involving non-homicide felonies).

3. **Do you believe that the death penalty is an acceptable form of punishment? Please explain your answer.**

Response: Yes. Should I be confirmed as a district judge, I would follow the law regarding imposition of the death penalty, as directed by statute and in binding precedent from the Supreme Court and the United States Court of Appeals for the Fifth Circuit.

4. **What is your view of the role of a judge?**

Response: The role of a judge is to apply the law to the facts.

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

Response: After reviewing the legal issues presented, I prepared my answers after careful consideration of each question. I discussed my answers with representatives of the Department of Justice. I thereafter finalized my responses and forwarded these to the Justice Department for transmission to the Committee.

6. **Do these answers reflect your true and personal views?**

Response: Yes.