

**Responses of James E. Shadid
Nominee to be United States District Judge for the Central District of Illinois
to the Written Questions of Senator Jeff Sessions**

- 1. In your questionnaire for judicial candidates submitted to the *Peoria Journal Star* in 2002, you explained your judicial philosophy this way:**

“If we are going to be trial judges then at the end of our day, or task, some human being is going to be affected and if our rulings will affect people’s lives and people may change their lives because of what we do, we had better use every power of our minds and our hearts and our beings to get those rulings right.”

You then went on to compare your judicial philosophy to Justices O’Connor, Souter and Stevens. Does this statement accurately reflect your judicial philosophy?

Response: My judicial philosophy is to apply the law to the facts in each case, one case at a time, on a level playing field, then clearly articulate those findings of fact and conclusions of law to the parties.

- 2. 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 base their decisions on a desired outcome, or solely on the law and facts presented?**

Response: I believe judges should base their decisions solely on the law and facts presented.

- i. 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: None.

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

Response: No.

- 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.

3. **Under the Supreme Court's decision in *United States v. Booker*, the federal sentencing guidelines are now advisory, rather than mandatory.**

- a. **If confirmed, how much deference will you afford the Sentencing Guidelines?**

Response: I will give the Sentencing Guidelines great deference.

- b. **Do you agree that the sentence a defendant receives for a particular crime should not depend on the judge he or she happens to draw?**

Response: Yes

- c. **Under what circumstances do you believe it appropriate for a district court judge to depart downward from the sentencing guidelines?**

Response: The Supreme Court requires that district judges consider the Guidelines as "the starting point and the initial benchmark" in every sentencing, *Gall v United States*, 552 U.S. 38, 49 (2007), in order to achieve Congress's "basic goal in passing the Sentencing Act . . . in the direction of increased uniformity," *Booker v United States*, 543 U.S. 220, 253 (2005).

I would review a defendant's request for departure after a determination of the appropriate guideline range and consideration of relevant Supreme Court and Seventh Circuit cases that might indicate special circumstances warranting departure.

4. **Do you believe that the Second Amendment is an individual right or a collective right? Please explain your answer.**

Response: I believe the Second Amendment is an individual right. The Supreme Court has stated the Second Amendment is an individual right in *District of Columbia v. Heller*, 128 S. Ct. 2783 (2008). See also *McDonald v. Chicago*, 130 S. Ct. 3020, 3048 (2010) (describing “the individual right that *Heller* recognized”).

- a. What standard of scrutiny do you believe is appropriate in a Second Amendment challenge against a Federal or State gun law?

Response: The Supreme Court in *District of Columbia v. Heller*, 128 S. Ct. 2783 (2008) stated that a heightened standard of scrutiny should be applied to challenges against gun laws.

5. What is your view of the role of a judge?

Response: My view of the role of a judge is to first remember that the case is not about the judge. It is about the parties appearing before the judge. I believe the judge sets the tone for the public's confidence in the judicial system and by treating all litigants fairly, on a level playing field, and making rulings based on the facts and the law of the particular case, the public's confidence in the system is maintained.

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

Response: No. The United States Supreme Court has ruled that as a general matter the death penalty does not constitute cruel and unusual punishment.

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

Response: Yes. The United States Supreme Court has ruled that the death penalty is constitutional and acceptable except in those limited instances in which the Supreme Court has ruled otherwise.

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

Response: I received the Questions for the Record from the Department of Justice on September 22, 2010. I drafted answers to the questions and then consulted with members from the Department of Justice. Thereafter, I provided a final version for transmittal to the Committee.

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

Response: Yes