

**Senator Chuck Grassley
Questions for the Record**

**Manish S. Shah
Nominee, U.S. District Judge for the Northern District of Illinois**

- 1. In 2008 you were panelist for an Asian Pacific American Law Students Association event where you discussed, “the role of political ideology in government services and the importance in legitimacy in federal law enforcement,” as well as “the role of a prosecutor, the benefits and drawbacks of being a government prosecutor in contrast to a litigator in private practice, and the general difficulty of reconciling differences of opinion with the administration setting policy.” You did not provide notes, transcript, or recording of the event.**

- a. What is your view of the role of political ideology in government services?**

Response: I was a panelist for a discussion of careers in government service in February 2008. Another member of the panel was a Deputy Assistant Attorney General for the Department of Justice, and he spoke about political ideology in Executive Branch decisionmaking. As I recall, my comments in response were that political ideology had no place in my position as an Assistant United States Attorney and that political neutrality was critically important to the legitimacy of federal law enforcement. I also discussed the U.S. Attorney’s Office’s well-developed culture of making prosecutorial decisions without regard to political influence.

If confirmed as a district court judge, I would make decisions without regard to political ideology.

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

Response: The most important attribute of a judge is open-mindedness. In order to fairly resolve disputes, the judge must be able to listen to all sides, appreciate the arguments being made, and fully understand the applicable legal regime. This requires an open mind and intellectual curiosity. I believe I possess these attributes.

- 3. 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 be even-keeled and patient, in order to assure the litigants that they will have their day in court before a fair tribunal. I believe I have these qualities.

- 4. 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. Please describe your commitment to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?**

Response: Our legal system depends on the stability and predictability that come from adherence to precedent. If confirmed, I would be committed to following the precedents of higher courts faithfully and giving them full force and effect, without regard to my personal views.

- 5. At times, judges are faced with cases of first impression. If there were no controlling precedent that was dispositive on 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: If there were no controlling precedent on an issue, I would start first with the text of the legal provision before me and apply the text to the facts of the case. If the text were ambiguous, I would turn next to analogous precedent from the Court of Appeals and the Supreme Court in which similar issues were decided and employ the methods used by those higher courts.

- 6. 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 best judgment of the merits to decide the case?**

Response: If I were confirmed as a district court judge, I would apply the precedential decisions of the Court of Appeals and the Supreme Court without regard to any belief I may have about how the court rendered its decision.

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

Response: Courts presume that statutes enacted by Congress are constitutional, and a court should declare a statute unconstitutional only when the issue has been presented in a proper case or controversy and only when it has been established that Congress exceeded its authority in enacting the statute.

- 8. In your view, is it ever proper for judges to rely on foreign law, or the views of the “world community”, in determining the meaning of the Constitution? Please explain.**

Response: Unless directed otherwise by a decision of the Supreme Court or binding precedent from the Court of Appeals, a district court cannot determine the meaning of the United States Constitution by looking to contemporary foreign law, and therefore, judges should not rely on foreign law when interpreting the Constitution.

- 9. What assurances or evidence can you give this Committee that, if confirmed, your decisions will remain grounded in precedent and the text of the law rather than any underlying political ideology or motivation?**

Response: Allowing political ideology or motivation to determine legal decisions would undermine the integrity of our judicial system. As a prosecutor, I have never made decisions based on political motives, and I believe the record of my service demonstrates my commitment to the rule of law.

10. What assurances or evidence can you give the Committee and future litigants that you will put aside any personal views and be fair to all who appear before you, if confirmed?

Response: A judge must put aside any personal views and apply the law as enacted by the legislature and interpreted by the Court of Appeals and the Supreme Court. The integrity of our legal system depends on litigants relying on fair and open-minded tribunals to resolve their disputes. Therefore, if confirmed, I would put aside my personal views and be fair to all who appear before me.

11. If confirmed, how do you intend to manage your caseload?

Response: If confirmed, I would manage my caseload by setting reasonable deadlines, being prepared to discuss every case when it comes before me, and narrowing disputes as early as possible for prompt resolution.

12. 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 a role in controlling the pace and conduct of litigation. If confirmed, I would control my docket by setting appropriate deadlines for the parties and for the court to issue rulings. I would meet those deadlines set for rulings, be prepared to discuss every case when it comes before me, and expect the parties to be similarly prepared to address issues comprehensively and promptly. A judge can also monitor the progress of litigation to ensure that the litigants are engaging in pretrial discovery responsibly and efficiently, and narrowing the issues in dispute early.

13. You have spent your entire legal career as an advocate for your clients, primarily as an attorney representing the United States. As a judge, you will have a very different role. Please describe how you will reach a decision in cases that come before you and to what sources of information you will look for guidance. What do you expect to be most difficult part of this transition for you?

Response: If confirmed, I would reach a decision by: paying close attention to the arguments of the parties; ensuring that I fully understand the claims and arguments being made; researching the applicable law by reference to the text of the law and binding precedent; and finally, explaining my decision and its rationale so that the parties understand how and why the outcome was reached. I expect the most difficult part of the transition from advocate to judge will be to manage a busy caseload efficiently and to learn quickly and thoroughly those substantive areas of law that will be new to me.

14. According to the website of American Association for Justice (AAJ), it has established a Judicial Task Force, with the stated goals including the following: “To increase the number of pro-civil justice federal judges, increase the level of professional diversity of federal judicial nominees, identify nominees that may have an anti-civil justice bias, increase the number of trial lawyers serving on individual Senator’s judicial selection committees”.

- a. Have you had any contact with the AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ regarding your nomination? If yes, please detail what individuals you had contact with, the dates of the contacts, and the subject matter of the communications.**

Response: No.

- b. Are you aware of any endorsements or promised endorsements by AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ made to the White House or the Department of Justice regarding your nomination? If yes, please detail what individuals or groups made the endorsements, when the endorsements were made, and to whom the endorsements were made.**

Response: No.

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

Response: I received these questions on November 20, 2013. I had previously reviewed similar questions posed to other nominees, and drafted my answers to these questions on November 20 and 21. I submitted a draft of my responses to the Department of Justice Office of Legal Policy on November 21, 2013. I received comments, and then finalized my answers on December 3, 2013.

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

Response: Yes.