

**Responses of Judge Tanya Walton Pratt
Nominee to the U.S. District Court for the Southern District of Indiana
to the Written Questions of Senator Tom Coburn, M.D.**

- 1. Some people refer to the Constitution as a “living” document that is constantly evolving as society interprets it. Do you agree with this perspective of constitutional interpretation?**

Response: No. I do not agree with the perspective that the Constitution is a “living” document.

- 2. Since at least the 1930s, the Supreme Court has expansively interpreted Congress’ power under the Commerce Clause. Recently, however, in the cases of *United State v. Lopez*, 514 U.S. 549 (1995) and *United States v. Morrison*, 529 U.S. 598 (2000), the Supreme Court has imposed some limits on that power.**

- a. Generally speaking, are *Lopez* and *Morrison* consistent with the Supreme Court’s earlier Commerce Clause decisions?**

Response: Yes

- b. Why or why not?**

Response: In *Gonzales v. Raich*, 545 U.S. 1, 23 (2005), the Supreme Court indicated that the *Lopez* and *Morrison* decisions are consistent with prior Supreme Court Commerce Clause decisions.

- 3. In *Roper v. Simmons*, 543 U.S. 551 (2005), Justice Kennedy relied in part on the “evolving standards of decency” to hold that capital punishment for any murderer under age 18 was unconstitutional. I understand that the Supreme Court has ruled on this matter, but do you agree with Justice Kennedy’s analysis?**

Response: The decision in *Roper v. Simmons* is the law of the land. I will follow the Supreme Court’s ruling and apply the applicable law as dictated by the doctrine of *stare decisis*.

- a. How would you determine what the evolving standards of decency are?**

Response: I would apply the analysis established by Supreme Court law.

- b. Do you think that a judge could ever find that the “evolving standards of decency” dictated that the death penalty is unconstitutional in *all* cases?**

Response: No, a District Court Judge is bound by Supreme Court rulings and could never find that the “evolving standards of decency” dictated that the death penalty is unconstitutional in *all* cases.

c. What factors do you believe would be relevant to the judge's analysis?

Response: If confirmed by the Senate to serve as a District Court Judge for the Southern District of Indiana my role would be to follow legal precedent, and to respect the doctrine of *stare decisis*. The factors relevant to judicial analysis would be those set out by the Supreme Court and the 7th Circuit.

4. In your view, is it ever proper for judges to rely on contemporary foreign or international laws or decisions in determining the meaning of the Constitution?

Response: No, The Supreme Court has not said that Federal Courts should rely on contemporary foreign or international law or decisions in determining the meaning of the Constitution.

a. If so, under what circumstances would you consider foreign law when interpreting the Constitution?

Response: Not applicable.

b. Would you consider foreign law when interpreting the Eighth Amendment? Other amendments?

Response: No, the Supreme Court has not found that Federal judges should consider foreign law when interpreting the Eighth Amendment or any other amendments of the U.S. Constitution.