

Questions for the Record
Senator Ted Cruz

Ronnie L. White
Nominee, U.S. District Judge for the Eastern District of Missouri

Describe how you would characterize your judicial philosophy, and identify which U.S. Supreme Court Justice’s judicial philosophy from the Warren, Burger, or Rehnquist Courts is most analogous with yours.

Response: During my previous service as a judge, my judicial philosophy was to treat all members of the public, lawyers, and court personnel with respect. If confirmed, this would continue to be my judicial philosophy. I am confident that many Supreme Court Justices have had a similar philosophy.

Do you believe originalism should be used to interpret the Constitution? If so, how and in what form (i.e., original intent, original public meaning, or some other form)?

Response: Yes. If confirmed, I would follow binding Supreme Court and Eighth Circuit precedents interpreting the United States Constitution, including that provided in *District of Columbia v. Heller*, 554 U.S. 570 (2008), where the Court explained that the public understanding of the text of the Constitution when it was enacted plays an important role in constitutional interpretation.

If a decision is precedent today while you're going through the confirmation process, under what circumstance would you overrule that precedent as a judge?

Response: If confirmed, I would not overrule any precedent. I would adhere to my oath of office in following the precedent of the Supreme Court and Eighth Circuit.

Explain whether you agree that “State sovereign interests . . . are more properly protected by procedural safeguards inherent in the structure of the federal system than by judicially created limitations on federal power.” *Garcia v. San Antonio Metro Transit Auth.*, 469 U.S. 528, 552 (1985).

Response: The Supreme Court’s decision in *Garcia v. San Antonio Metropolitan Transit Authority*, 469 U.S. 528 (1985), is binding precedent. If confirmed, I would follow and apply the holding in *Garcia* as I would all other binding precedent.

Do you believe that Congress’ Commerce Clause power, in conjunction with its Necessary and Proper Clause power, extends to non-economic activity?

Response: The Supreme Court has held that Congress’ Commerce Clause power extends to regulating: (1) the use of the channels of interstate commerce; (2) the instrumentalities of interstate commerce; and (3) activities having a substantial relation to interstate commerce. *See*

United States v. Morrison, 529 U.S. 598, 608-09 (2000); *United States v. Lopez*, 514 U.S. 549, 558-59 (1995). If confirmed, I would follow Supreme Court and Eighth Circuit precedent regarding the extent of Congress' power under the Commerce Clause.

What are the judicially enforceable limits on the President's ability to issue executive orders or executive actions?

Response: The Supreme Court has held that the President's authority to act "must stem either from an act of Congress or from the Constitution itself." *Medellin v. Texas*, 552 U.S. 491, 524 (2008). The applicable judicial analysis that must be conducted in order for a court to determine whether a particular executive order or action is authorized by an act of Congress or the Constitution is set forth in *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952). If confirmed, I would follow Supreme Court and Eighth Circuit precedent in deciding challenges to executive action.

When do you believe a right is "fundamental" for purposes of the substantive due process doctrine?

Response: The Supreme Court has held that a right is fundamental for purposes of substantive due process when it is "objectively, deeply rooted in this Nation's history and tradition, and implicit in the concept of ordered liberty, such that neither liberty nor justice would exist if they were sacrificed." *Washington v. Glucksberg*, 521 U.S. 702, 720-21 (1997) (internal citations and quotations omitted). If confirmed, I would follow all applicable Supreme Court and Eighth Circuit precedent in addressing issues involving fundamental rights.

When should a classification be subjected to heightened scrutiny under the Equal Protection Clause?

Response: The Supreme Court has held that strict scrutiny under the Equal Protection Clause is appropriate when a classification burdens a fundamental right or when it operates to the disadvantage of a suspect class. See, e.g., *City of Cleburne, Texas v. Cleburne Living Center*, 473 U.S. 432, 440-41 (1985). If confirmed, I would follow the precedent of the Supreme Court and Eighth Circuit in deciding issues under the Equal Protection Clause.

Do you "expect that 15 years from now, the use of racial preferences will no longer be necessary" in public higher education? *Grutter v. Bollinger*, 539 U.S. 306, 343 (2003).

Response: I have not formed an expectation concerning the use of racial preferences 15 years from now in public higher education. If confirmed, I would apply and follow the holding in *Grutter v. Bollinger*, 539 U.S. 306, 343 (2003), *Fisher v. University of Texas*, 133 S. Ct. 2411 (2013) and all other precedent of the Supreme Court and Eighth Circuit.