

Response of Judge John Milton Younge
Nominee, United States District Judge for the Eastern District of Pennsylvania
To the Written Questions of Senator Grassley

- 1. You have said that diversity on the bench is important because, though justice is colorblind, different points of view are crucial. Specifically, you have said, “I don’t think there is black justice, I don’t think there is white justice...But, it’s important to have that perspective.”**

- a. Please elaborate on why various perspectives are important.**

Response: I do not believe there is black justice or white justice. Every jurist takes an oath to defend the Constitution and apply the law fairly and understands there is an obligation to perform our duties in a manner that ensures that the public feels it receives justice when it enters the courthouse. The judiciary is responsible for instilling in the public at large a sense of confidence that its concerns are taken seriously and will be dealt with fairly. Our great country is a very diverse one and a diverse bench that reflects the public at large helps reassure the public that it will receive fairness. If confirmed, I will endeavor to conduct myself in a manner that ensures the public that I have rendered a decision that is consistent with precedent and fairness.

- b. Do you think empathy should play a role in judicial decision making?**

Response: My responsibility as a jurist is to faithfully and impartially apply the law according to precedent established by higher courts. As a state court trial judge for the last 20 years, there is a final instruction that I give to jurors that reflects my viewpoint: “. . . You should not allow sympathy or prejudice to influence your deliberations. You should not be influenced by anything other than the law and the evidence of the case. All the parties stand equally before this Court and each is entitled to the same fair and impartial treatment at your hands.”

- 2. You have served for the past 19 years as an elected state court judge, and have run for higher judicial office a few times as a Democrat. What assurances can you provide this committee, and any future litigants who may appear before you, that your political leanings and affiliations will have no bearing on decisions you may have to make as a federal district court judge, if confirmed?**

Response of Judge John Milton Younge

Questions of Sen. Grassley

Page 2

Response: My entire tenure as an elected jurist has been secured in primarily nonpartisan fashion and political ideology has played no part in my rulings. If confirmed, I will continue to perform my duties without regard to the political party of the litigants.

- 3. In response to a question asking you to describe your judicial philosophy on access to legal abortion, you stated “It is a settled matter of law that a woman has a right to choose and the ultimate right over what happens to her body, which I support.” Please describe your understanding of current federal law, with respect to abortion.**

Response: As a state court jurist, I have had no occasion to interpret or apply case law dealing with any aspect of abortion. I am aware that the United States Supreme Court has set forth the parameters for guidance for the review of abortion cases in *Gonzales v. Carhart*, 550 U.S. 124 (2007) and *Planned Parenthood v. Casey*, 505 U.S. 833 (1992). If confirmed, I will faithfully apply the rulings handed down by the United States Supreme Court and the Third Circuit Court of Appeals.

- 4. At your hearing, Senator Tillis asked you about the death penalty. In response you said, “I have already presided over death penalty cases, and if confirmed, I will apply the law, as I have always.” Has the death penalty been imposed in any case over which you presided?**

Response: No.

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

Response: The most important attribute of a judge is personal integrity that carries with it an openness or transparency and honesty that demonstrates a commitment to fundamental fairness in the dispensing of justice and a respect for the rule of law as handed down by precedent. I believe that I possess these qualities.

- 6. 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: Respect for the litigants as well as the cases they bring before the court, courtesy, patience and civility are important to the proper judicial temperament that should be displayed by a jurist. I believe that I have displayed appropriate judicial temperament during my 20 years on the bench.

- 7. 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: I am firmly committed to faithfully following the precedents of higher courts. Any personal opinion I might hold is irrelevant to my responsibility to faithfully give full force and effect to precedent.

- 8. 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: I would first look to see if the language of the statute was clear. If so, my analysis would end with the plain meaning of the language passed by Congress. If the language was unclear or ambiguous, I would consider the same type of statutory interpretation utilized by the United States Supreme Court and Third Circuit in similar cases as persuasive authority. Finally, if I found no guidance from either of those sources, I would look to opinions of the other Circuit Courts of Appeals and District Courts as persuasive authority.

- 9. 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: No matter my personal feelings, the only view to apply is the view handed down by the Supreme Court or the Court of Appeals. If confirmed, I will faithfully apply the law as handed down by the higher courts.

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

Response: All federal statutes are presumed to be constitutional. The only situations wherein the Court may declare a federal statute to be unconstitutional is if Congress has exceeded its authority or where the statute violates a constitutional right.

11. 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: No. There are no situations wherein it would be appropriate to rely on foreign law or the views of the world community in the interpretation of our own United States Constitution.

12. 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: As a state court trial judge for 20 years I am now and have been firmly committed to upholding, without qualification, my oath to protect and defend the Constitution of the United States as well as to protect and defend the Constitution of Pennsylvania. I assure the Committee that if confirmed, my decisions will remain grounded in precedent and the text of the law without any regard to political ideology or motivation.

13. 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: Please see my answer to Question 12.

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

Response: Working with the Clerk of Court, I will be actively involved in the management of my caseload by employing policies and procedures that would ensure disposition of my caseload in an efficient manner. I will also consult with seasoned jurists from my district to learn of best practices that have been utilized with good results.

15. 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 do have a role in controlling the pace and conduct of litigation. I would utilize early case management conferences to ensure that cases move ahead toward disposition in an orderly fashion. Additionally, I would take the steps mentioned in Question 14.

16. As a judge, you have experience deciding cases and writing opinions. Please describe how you reach a decision in cases that come before you and to what sources of information you look for guidance.

Response: When a case comes to me during the pretrial phase, I consider all controversies that arise during the discovery phase. I review and determine all pretrial discovery motions with an eye on pleadings, the applicable law and the applicable rules of civil procedure and rules of evidence. After the completion of discovery, I consider pretrial dispositive motions utilizing the pleadings, precedential case law and the arguments of counsel. Once the pretrial discovery stage is complete, I consider all pretrial motions in limine, case law and rules of evidence that may be implicated. I then issue rulings that apply to the conduct of the case. At the conclusion of the trial, I consider and weigh the issues that have been preserved for appeal, reviewing the pleadings, case law, arguments of counsel as well as the trial transcript. Thereafter, I issue my opinion.

17. President Obama said that deciding the “truly difficult” cases requires applying “one’s deepest values, one’s core concerns, one’s broader perspectives on how the world works, and the depth and breadth of one’s empathy. . . the critical ingredient is supplied by what is in the judge’s heart.” Do you agree with this statement?

Response: I am not familiar with this quote or its context. I can reiterate the statement I made in Question 1b. That is, my responsibility as a trial judge is to apply the law without regard to sympathy or prejudice and to consider nothing but the law and the evidence adduced at trial and to ensure that all parties understand they have the absolute right to expect fair and impartial treatment in my courtroom.

18. 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.

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

Response: On December 17, 2015, the Office of Legal Policy forwarded a series of Questions for the Record issued by members of the Senate Judiciary Committee. I personally drafted my answers to these questions. Thereafter, I reviewed a draft of my response with an official of the Office of Legal Policy before submitting these to the Committee.

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

Response: Yes, these answers reflect my true and personal views.