

Responses of Andrea R. Wood
Nominee to be United States District Judge for the Northern District of Illinois
to the Written Questions of Senator Amy Klobuchar

1. If you had to describe it, how would you characterize your judicial philosophy?

Response: I believe that a judge should demonstrate a deep and abiding respect for the rule of law, the institution of the judiciary and its role in our constitutional system. The integrity of our judicial system depends upon judges treating all participants in the judicial process with respect and fairness, and faithfully applying the law to the facts of particular cases without regard for personal views or opinions.

2. What assurances can you give that litigants coming into your courtroom will be treated fairly regardless of their political beliefs or whether they are rich or poor, defendant or plaintiff?

Response: Over the course of my career, I believe that I have achieved a reputation among my colleagues and adversaries for professionalism, respectfulness and fairness. If confirmed as a district court judge, I would continue to treat all parties with respect and provide full, fair and thoughtful consideration to their arguments, regardless of their political beliefs, socio-economic positions or other personal characteristics. Furthermore, I would approach all cases with the same level of dedication, preparation and open-mindedness, regardless of the subject matters or dollar amounts involved.

3. In your opinion, how strongly should judges bind themselves to the doctrine of stare decisis? How does the commitment to stare decisis vary depending on the court?

Response: I believe that all judges should adhere to the doctrine of stare decisis. District court judges, in particular, are absolutely bound by controlling precedent from the Supreme Court and the Court of Appeals for the Circuit in which they sit.

Responses of Andrea R. Wood
Nominee to be United States District Judge for the Northern District of Illinois
to the Written Questions of Senator Chuck Grassley

- 1. In a response to Senator Durbin on what you think a Federal judge should be like, you responded that a judge should be “prepared to ensure a just result that is consistent with the precedent.” What is a “just result” and, as a judge, how will you know when you have achieved that result?**

Response: A just result is achieved through a judicial process that is fair, impartial and grounded in the rule of law. A federal judge promotes the integrity of the judicial process by treating all participants in the process with respect, providing parties with a full and fair opportunity to be heard, and deciding the issues presented to him or her based on a faithful application of controlling legal precedent to the facts, regardless of the judge’s own personal views and opinions.

- 2. According to your questionnaire, it does not appear that you have tried a case in federal court yet you listed that 75% of your litigation experience was in federal court.**

- a. Have you tried a case to verdict, judgment or final decision in federal court?**

Response: I have not litigated a case to final verdict after a trial in federal court. However, I have litigated many federal court cases to a final resolution on the merits. For example, I have had judgments and orders entered in my client’s favor at the motion to dismiss and summary judgment stages of litigation. In addition, I have tried two cases to final decisions in proceedings before administrative law judges of the Securities and Exchange Commission. Those administrative proceedings consisted of full bench trials with live testimony and argument. In those proceedings, I examined witnesses, argued trial motions, sought admission of evidence and presented closing arguments, in a manner analogous to practice in federal district court. Finally, I was a member of the trial team for a month-long trial in federal bankruptcy court that settled after the close of evidence and post-trial briefing. Although the case was resolved before the judge issued her ruling, all of the trial work had been completed.

- b. Can you explain your experience practicing in federal court?**

Response: I have spent the majority of my career practicing in federal court, with a focus on complex litigation. At various times, I have represented a government agency, corporations and other business entities of various sizes, and individuals. I have also represented both plaintiffs and defendants. While my work at the Securities and Exchange Commission has focused on securities litigation, during my time in private practice I worked on cases involving a variety of subject matters. My experience with federal court practice includes managing all stages of litigation, including developing strategy, drafting pleadings and briefs, conducting fact and expert discovery, engaging in motion practice, participating in evidentiary hearings

and trials, and negotiating settlements. Although my cases generally have been resolved prior to trial, I have frequently appeared and argued before federal district courts across the United States.

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

Response: I believe that a judge should always conduct himself or herself in a manner that promotes confidence in the integrity of the judicial system. To accomplish this, a federal judge must treat all participants in the process with respect, provide parties with a full and fair opportunity to be heard, and decide matters based on a faithful application of controlling legal precedent to the facts, regardless of the judge's personal views and opinions. I believe that I possess these attributes.

4. 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: I believe that the appropriate temperament for a judge is characterized by the following attributes: a calm and professional demeanor, respect for all participants in the judicial process, open-mindedness, impartiality, patience and humility. A good judge is also decisive without being rash and can maintain control of a courtroom without behaving in an unduly harsh manner. I believe that I meet this standard.

5. 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. Are you committed to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?

Response: Yes.

6. What assurances can you give this committee that, should you be confirmed, you will be able to eliminate any potential biases and influences, and that your courtroom decisions will not be affected by any political, economic, or philosophical influences?

Response: While I believe that all attorneys should conduct themselves with integrity and professionalism, I have always felt that those qualities are particularly important for attorneys representing the government because we are not only advocates but also public servants. Similarly, I believe judges have an obligation to conduct themselves in a manner that promotes confidence in the integrity of the judicial system. Thus, if confirmed as a district court judge, I assure the Committee that I will decide all issues presented to me based on the facts and the law, and not based on any personal opinions, biases or influences.

7. Do you believe the death penalty is an appropriate form of punishment? If called upon to do so, would you have any personal objection to imposing this sentence? Please explain your response.

Response: The Supreme Court has held that the death penalty is constitutional, except in certain limited circumstances. If confirmed, I would faithfully apply controlling Supreme

Court and Seventh Circuit precedent in any case in which the death penalty is a potential punishment.

- 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: If confirmed as a district court judge, I would approach cases of first impression by looking first to the text of the statute or provision at issue. If the meaning of the provision could not be ascertained from its plain language, then I would consider the purpose and structure of the statutory scheme as a whole, determine whether identical language appears in other parts of the same statute, and employ traditional tools of statutory interpretation established by Supreme Court and Seventh Circuit precedent. If the issue presented did not involve interpretation of a text, I would look to Supreme Court and Seventh Circuit precedent regarding analogous legal issues and, if necessary, consider precedent from other Circuits as persuasive authority.

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

Response: Federal statutes are presumed to be constitutional. When presented with a case questioning the constitutionality of a federal statute, a judge should first determine whether the case can be resolved without reaching the constitutional issue. If the judge determines that it is necessary to address the constitutional issue, then it would be appropriate for the judge to declare the statute unconstitutional if Congress exceeded its constitutional authority or enacted the statute in contravention of a constitutional provision. If confirmed as a district court judge, I would faithfully apply Supreme Court and Seventh Circuit precedent in evaluating whether Congress had done so.

- 10. 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, I do not believe it is proper for a judge to rely on foreign law, or the views of the “world community,” in determining the meaning of the Constitution. If confirmed as a district court judge, I would rely on Supreme Court and Seventh Circuit precedent in deciding such matters.

- 11. What is your understanding of the workload in the Northern District of Illinois? If confirmed, how do you intend to manage your caseload?**

Response: My understanding is that the judges in the Northern District of Illinois have a heavy workload. During my career, I have had the privilege of appearing before judges in many different Districts across the United States, including the Northern District of Illinois. If confirmed, I would adopt the best practices that I have observed for effective and efficient case management. Among other things, I would issue clear standing orders regarding scheduling and pre-trial procedures so that there is no confusion regarding expectations. I would also work with parties from the outset to establish a realistic but firm schedule,

including setting trial dates as soon as practicable, and hold regular status conferences to make sure cases remain on track. Finally, I would lead by example by always being prepared, resolving motions promptly, and offering my own services and those of the magistrate judges to assist parties in resolving cases short of trial.

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: In my experience, an engaged and diligent district court judge can make a significant difference when it comes to resolving litigation in an expeditious manner. If confirmed, I would follow the approach outlined in my response to Question 11 above in order to control the pace and conduct of litigation.

13. You have spent your entire legal career as an advocate for your clients. 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 the most difficult part of this transition for you?

Response: If confirmed as a district court judge, I would decide legal issues by faithfully applying any controlling Supreme Court or Seventh Circuit precedent. When required to make factual determinations, I would listen carefully to the evidence, keep an open mind and make determinations based strictly on the evidence. In all circumstances, I would give full, fair and thoughtful consideration to the arguments presented by the litigants, conduct my own legal research when appropriate, and rule promptly. I expect that one of the most difficult parts of transitioning into the role of judge would be quickly getting up to speed on the substantial docket of cases in all stages of litigation that I would inherit on the first day. With the help of chambers staff, I would implement case management procedures immediately to gain control of my docket.

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

Response: I received these questions on June 26, 2013. I read each question carefully and drafted my responses. I then discussed my responses with an official at the Department of Justice. Thereafter, I finalized my responses and authorized the Department of Justice to transmit them to the Committee.

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

Response: Yes.

Responses of Andrea R. Wood
Nominee to be United States District Judge for the Northern District of Illinois
to the Written Questions of Senator Ted Cruz

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

Response: I believe that a judge should demonstrate a deep and abiding respect for the rule of law, the institution of the judiciary and its role in our constitutional system. I further believe that the integrity of our judicial system depends upon judges treating all participants in the judicial process with respect and fairness, and faithfully applying the law to the facts of particular cases regardless of their own personal views or opinions. Although I hold all Supreme Court Justices in the highest regard, I do not consider myself to be a scholar of their judicial philosophies such that I can identify one whose judicial philosophy is analogous to my own.

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: If confirmed as a district court judge, I would faithfully apply Supreme Court and Seventh Circuit precedent regarding constitutional interpretation. In a number of cases, the Supreme Court has used originalism to interpret certain Constitutional provisions. *See, e.g., District of Columbia v. Heller*, 554 U.S. 570 (2008). I would faithfully apply all such precedents.

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 as a district court judge, I would have no authority to overrule Supreme Court or Seventh Circuit decisions. I would faithfully apply controlling precedent in all circumstances. Correspondingly, if a decision that is precedent today were to be overturned by the Supreme Court or the Seventh Circuit in the future, I would follow the precedent that exists at the time of my ruling.

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: As a judicial nominee, I do not feel it is appropriate to express a personal view regarding the quoted statement from *Garcia v. San Antonio Metro Transit Authority*, 469 U.S. 528 (1985). *Garcia* is binding Supreme Court precedent. If confirmed, I would follow it regardless of any personal views.

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 identified three areas that the federal government may regulate under its Commerce Clause power: (1) the use of the channels of interstate commerce, (2) the instrumentalities of interstate commerce, or persons or things in interstate commerce even if threatened only by intrastate activities, and (3) those activities having a substantial relation to interstate commerce, *i.e.*, those activities that substantially affect interstate commerce. *United States v. Lopez*, 514 U.S. 549, 558-59 (1995). In *Lopez* and *United States v. Morrison*, 529 U.S. 598 (2000), the Court focused on the non-economic nature of the conduct that Congress sought to regulate pursuant to its Commerce Clause power in finding the statutes at issue to be unconstitutional. If confirmed as a district court judge, I would faithfully follow Supreme Court and Seventh Circuit precedent in this area, including *Lopez*, *Morrison* and *Gonzales v. Raich*, 545 U.S. 1 (2005).

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

Response: The President's ability to issue executive orders or executive actions is limited to those powers authorized by the Constitution and acts of Congress. *See Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 585 (1952). If confirmed as a district court judge, I would faithfully apply Supreme Court and Seventh Circuit precedent in determining whether the President had exceeded the limits of his authority.

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

Response: The Supreme Court has described "fundamental" rights protected by the Due Process Clause as including "those fundamental rights and liberties which are, 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, 721 (1997) (internal citations and quotations omitted). If confirmed as a district court judge, I would faithfully apply Supreme Court and Seventh Circuit precedent to determine whether a right is "fundamental" for purposes of the substantive due process doctrine.

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

Response: According to Supreme Court precedent, a classification should be subjected to heightened scrutiny when it differentiates based on certain characteristics such as race, alienage, national origin or gender. *See City of Cleburne, Tex. v. Cleburne Living Center*, 473 U.S. 432, 440 (1985). Heightened scrutiny also applies when a state law impinges on personal rights protected by the Constitution, *see id.*, or when legislation affects "fundamental" rights, *see Washington v. Glucksberg*, 521 U.S. 702, 720 (1997). If confirmed as a district court judge, I would faithfully apply Supreme Court and Seventh Circuit precedent regarding this issue.

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: As a judicial nominee, I do not feel it is appropriate to express a personal view regarding the quoted passage from *Grutter v. Bollinger*, 539 U.S. 306 (2003). If confirmed as a district court judge, I would faithfully apply controlling precedent regarding the use of racial preferences in public higher education – including the Supreme Court’s decisions in *Grutter*, *Regents of University of California v. Bakke*, 438 U.S. 265 (1978), *Gratz v. Bollinger*, 539 U.S. 244 (2003), and *Fisher v. University of Texas at Austin*, ___ S.Ct. ___, 2013 WL 3155220 (June 24, 2013) – regardless of any personal views or expectations.