

Senator Chuck Grassley
Questions for the Record
George Jarrod Hazel
Nominee, U.S. District Judge for the District of Maryland

- 1. Please explain what your understanding is of the rights and restrictions for individual citizens under the Second Amendment.**

Response: The Supreme Court has ruled that the Second Amendment guarantees an individual right to possess and to use firearms for traditional lawful purposes, including self-defense within a home. *See District of Columbia v. Heller*, 554 U.S. 570, 592 (2008). In *McDonald v. Chicago*, 561 U.S. 3025, 3036 (2010), the Supreme Court further ruled that this right was a fundamental one applicable to the states. The Supreme Court has also noted that its holding should not be interpreted as casting doubt on longstanding prohibitions on the possession of firearms by felons or the mentally ill, restrictions on carrying firearms in sensitive places such as schools or government buildings, or laws regulating the commercial sale of firearms. *Heller*, 554 U.S. at 626-627.

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

Response: The most important attribute of a judge is the ability to consistently apply the law to the relevant facts of the case. I believe I possess that ability.

- 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: Judges should treat everyone in their courtroom with respect, courtesy and dignity. Throughout my career, I have made every effort to comply with that standard and would continue to do so if confirmed to the bench.

- 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: I am committed to following the precedents of higher courts faithfully and giving them full force and effect, even if I personally disagree with such precedents.

- 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 faced with an issue of first impression, I would begin by examining the text of the statute or regulation at issue. If the plain language of the provision did not adequately address the issue before me, I would look to precedent from the Supreme Court or the Fourth Circuit involving analogous provisions. If there were no such precedent, I would look to relevant cases in other circuits or district courts as persuasive authority.

- 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: I would apply binding precedent of the Supreme Court or the Fourth Circuit without regard to whether I believed the court erred in the decision.

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

Response: Statutes enacted by Congress are presumed constitutional and federal courts should only find them to be unconstitutional “upon a plain showing that Congress has exceeded its constitutional bounds.” *United States v. Morrison*, 529 U.S. 598, 607 (2000). I would follow precedent of the Supreme Court on this issue.

- 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: No.

- 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: In my years as a civil lawyer, I advocated on behalf of clients who held a range of political views. As a prosecutor, I have served under both Democratic and Republican leadership. At no point have I ever allowed political ideology or motivation to influence my decisions. I can assure the Committee that if confirmed as a judge, I would base my decisions on the law and the relevant facts and not on any political ideology or motivation.

- 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: I am committed to deciding each case impartially after a fair and open hearing, by applying precedent to the facts of the case before me and will do so without regard to any personal views I may have.

- 11. 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 and manage your caseload?**

Response: I believe that judges do have a role in controlling the pace and conduct of litigation. If confirmed, I will schedule case management conferences, set reasonable but firm deadlines for the filing of motions, decide motions in a thoughtful but efficient manner and encourage mediation or settlement conferences where appropriate.

- 12. 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 most difficult part of this transition for you?**

Response: In reaching a decision in a case before me, I would carefully review the arguments made by the parties, analyze the text of the appropriate statute or regulation at issue, review controlling precedent from the Supreme Court or the Fourth Circuit and apply the law to the relevant facts. I do not believe that adopting this approach will be a difficult transition for me. As a more general matter, I do believe that working with a small chambers staff will be an adjustment for me after spending most of my career in larger offices.

- 13. 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.

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

Response: I received a copy of the questions from a Justice Department attorney of the Office of Legal Policy. I drafted responses and submitted them to the same attorney, made revisions and then submitted them in final form.

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

Response: Yes.

**Questions for Judicial Nominees
Senator Ted Cruz**

**George Jarrod Hazel
Nominee, U.S. District Court for the District of Maryland**

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: If confirmed to the bench, I would adhere to judicial precedent, treat all parties with civility and respect and manage my docket in an efficient manner. However, I have not studied the judicial philosophies of specific Supreme Court Justices with sufficient attention to identify one whose judicial philosophy is most analogous to mine.

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: In the case of *District of Columbia v. Heller*, 554 U.S. 570, 605 (2008), the Supreme Court held that the meaning of the words written as they were commonly understood at the time of their writing should be given great consideration when interpreting provisions of the Constitution. If confirmed, I would faithfully apply this and all other binding precedent.

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: Under no circumstances would I overrule binding precedent as a judge.

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: *Garcia v. San Antonio Metro Transit Authority*, 469 U.S. 528, 552 (1985), is binding precedent and I would be obliged to follow that precedent regardless of any personal view I might have.

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 ruled that Congress' power under the Commerce Clause does extend to local, non-economic activity that "exerts a substantial economic effect on interstate commerce." *Wickard v. Filburn*, 317 U.S. 111, 125 (1942); *see also Gonzales v. Raich*, 545 U.S. 1, 18-19 (2005). Congress' power under the Commerce Clause is not unlimited, however, and the Supreme Court has invalidated statutes that it ruled went beyond that power. *See, e.g., United States v. Morrison*, 529 U.S. 598, 610-11 (2000); *United States v. Lopez*, 514 U.S. 549

(1995). If confirmed as a District Judge, I would follow all binding Supreme Court precedent regarding the issue of Congressional powers.

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 issue executive orders or take executive actions must be derived from either an act of Congress or the Constitution. *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952). Justice Jackson's concurring opinion in *Youngstown* established a three-part analysis for determining the constitutionality of executive action or executive orders, *see id.* at 635 (Jackson, J., concurring), and that analysis remains the framework by which such cases are decided. *See Medellin v. Texas*, 552 U.S. 491, 523-29 (2008). If confirmed as a District Judge, I would follow all binding Supreme Court precedent on this issue.

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

Response: The Supreme Court has stated that "only fundamental rights and liberties which are 'deeply rooted in this Nation's history and tradition' and 'implicit in the concept of ordered liberty' qualify for [substantive due process] protection." *Chavez v. Martinez*, 538 U.S. 760, 775 (2003) (internal citation omitted). If confirmed as a District Judge, I would follow this and all binding precedent regarding the substantive due process doctrine.

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

Response: The Supreme Court has held that "equal protection analysis requires strict scrutiny of a legislative classification only when the classification impermissibly interferes with the exercise of a fundamental right or operates to the peculiar disadvantage of a suspect class." *Mass. Bd. Of Retirement v. Murgia*, 427 U.S. 307, 312 (1976). Classifications based on gender are to be reviewed under an immediate level of scrutiny requiring justification for such classifications to be "exceedingly persuasive." *See United States v. Virginia*, 518 U.S. 515, 531-33 (1995). If confirmed, I would follow this and all binding precedent.

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: In *Grutter v. Bollinger*, 539 U.S. 306, 343 (2003), the Supreme Court made a prediction that by 2028 it would no longer be necessary to use racial preferences to further the interest of diversity in public institutions of higher education. Without regard to whether I personally agree with that prediction, if confirmed, I would apply all binding Supreme Court precedent in analyzing the constitutionality of considerations of race in university admissions programs including the Supreme Court's decision in *Fisher v. University of Texas*, 133 S. Ct. 2411 (2013).