

Responses of Robin S. Rosenbaum
Nominee to be United States District Judge for the Southern District of Florida
to the Written Questions of Senator Chuck Grassley

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

Response: I believe that the most important attribute of a judge is integrity. Integrity includes fairness, intellectual honesty, and diligence. I believe that I have integrity.

2. 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: A judge should be fair, even-tempered, and patient, treating with dignity and respect all who come before the judge. I consider all of these aspects of the appropriate judicial temperament of a judge to be essential. I believe that I meet this standard.

3. 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: I am entirely committed to following faithfully the precedents of the Supreme Court and the Eleventh Circuit Court of Appeals and giving them full force and effect, even if I personally disagree with such precedents.

4. 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: In a case of first impression involving a statute, I would first examine the language of the provision. If the language were clear, my analysis would begin and end with the language. If an ambiguity in the language existed, however, I would look to the structure and framework of the statute as a whole to interpret the provision at issue. In so doing, I would be careful to avoid a construction that would result in the redundancy or meaninglessness of any portion of the statute. If the answer were still not clear, I would consider whether precedents involving any analogous statutes were instructive. Finally, if ambiguity continued to exist, I would consider plainly ascertainable legislative intent.

5. 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: My opinion about the correctness of Supreme Court and Eleventh Circuit precedent would be irrelevant to my rendering of decisions. Regardless of my personal views, I would faithfully follow the precedents of the Supreme Court and the Eleventh Circuit Court of Appeals, giving them full force and effect --- even if I personally disagreed with them.

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

Response: A statute should be declared unconstitutional only in rare circumstances where no possible fair constitutional interpretation can be discerned. Constitutional questions should be determined only if absolutely necessary and then, only in the narrowest possible way.

7. As you know, the federal courts are facing enormous pressures as their caseload mounts. If confirmed, how do you intend to manage your caseload?

Response: If confirmed, I would manage my caseload as efficiently as possible while still ensuring that each case receives the attention it deserves. As a sitting United States magistrate judge, I have developed a familiarity with the federal caseload in my district and have learned efficient ways to handle different types of matters while still giving each matter appropriate attention. If confirmed, I would continue to make these goals a priority. More specifically, I would hold conferences early in each case to schedule firm and realistic deadlines, and I would continue to meet with the parties as necessary to ensure that the deadlines are met. To further facilitate the expeditious resolution of cases, I would continue to make use of technology, particularly telephone and video-conference capabilities for non-substantive hearings.

8. 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: Judges absolutely have a role in controlling the pace and conduct of litigation. As noted above, if confirmed as a district judge, I would hold conferences early in each case to schedule firm and realistic deadlines, and I would continue to meet with the parties as necessary to ensure that the deadlines are met. To further facilitate the expeditious resolution of cases, I would continue to make use of technology, particularly telephone and video-conference capabilities for non-substantive hearings.

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

Response: I received these questions on Wednesday, March 7, 2012. After reviewing and considering them, I prepared answers to the questions and forwarded them to the Department of Justice for review, along with a letter of transmittal to the Senate Judiciary Committee.

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

Response: Yes.

Responses of Robin S. Rosenbaum
Nominee to be United States District Judge for the Southern District of Florida
to the Written Questions of Senator Amy Klobuchar

- 1. If you had to describe it, how would you characterize your judicial philosophy? How do you see the role of the judge in our constitutional system?**

Response: I believe that in determining cases, judges should diligently ascertain the applicable law and apply it faithfully to the facts of the case. In so doing, judges should be fair and impartial, treating with respect and dignity all who come before the court. In addition, in order to promote the legitimacy and fairness of the system, judges should fully explain the reasons for their decisions. Finally, judges should preside over their dockets in an efficient manner.

I see the role of the judge in our constitutional system as a limited one. Judges do not make the law; instead, the role of judges is to apply the law as it is written, impartially and fairly, ensuring compliance with our Constitution.

- 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: I can give my complete and unqualified assurances that litigants entering my courtroom will be treated fairly, regardless of their political beliefs or whether they are rich or poor, defendant or plaintiff. I hope and certainly believe that my time on the bench as a United States magistrate judge demonstrates the sincerity and completeness of my commitment in this regard.

- 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: *Stare decisis* is an important and essential doctrine in our judicial system. Adherence to binding precedent creates predictability in and lends legitimacy to our system of justice. District courts are bound by their circuit court and the United States Supreme Court. Circuit courts are bound by the United States Supreme Court and the prior rulings of the circuit court unless the *en banc* circuit overrules its own precedent. If confirmed as a United States district judge, I would faithfully apply the binding precedent of the United States Supreme Court and the Eleventh Circuit Court of Appeals, as I have as a United States magistrate judge.

Responses of Robin S. Rosenbaum
Nominee to be United States District Judge for the Southern District of Florida
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.

- a. If not, please explain.**

Response: The principles embodied in our Constitution remain constant.

- 2. Do you believe judicial doctrine rightly incorporates the evolving understandings of the Constitution forged through social movements, legislation, and historical practice?**

Response: No.

- a. If not, please explain.**

Response: The principles embodied in our Constitution remain constant.

- 3. What principles of constitutional interpretation would you look to in analyzing whether a particular statute infringes upon some individual right?**

Response: First, I would consider any applicable Supreme Court and Eleventh Circuit precedent. If none existed, I would look to the language of the statute and any applicable constitutional provisions to determine whether the question could be resolved by the plain language. If a question continued to exist, I would consider persuasive, non-binding precedent from other courts, as well as opinions involving analogous issues. In conducting this analysis, I would take care to avoid unnecessarily determining any constitutional questions and would ensure that any constitutional analysis required be limited to resolving the narrowest possible question.

- 4. 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 and you are obliged to follow it, but do you agree with Justice Kennedy’s legal analysis?**

Response: As a sitting United States magistrate judge, I am bound to follow Supreme Court precedent and would certainly do so in all cases, including in cases involving capital punishment. In *Roper v. Simmons*, 543 U.S. 551 (2005), Justice Kennedy wrote for the majority of the Supreme Court. Consequently, his decision is binding, and I could not consider any personal opinion I might have of his analysis in determining a case involving the same legal issue.

- a. When determining what the “evolving standards of decency” are, justices have looked to different standards. Some justices have justified their decision by looking to the laws of various American states, in addition to foreign law, and in other cases have looked solely to the laws and traditions of foreign countries. Do you believe either standard has merit when interpreting the text of the Constitution?**

Response: I believe that the United States Constitution should be interpreted in accordance with American law.

- i. If so, do you believe one standard more meritorious than the other? Please explain why or why not.**

Response: When construing the United States Constitution, I consider American law and standards, as the United States Constitution is a uniquely American document.

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

Response: No, it is not proper for judges to rely on foreign or international laws or decisions in determining the meaning of the Constitution, unless binding Supreme Court or Eleventh Circuit precedent requires it.

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

Response: I would consider foreign law only if binding Supreme Court or Eleventh Circuit precedent required me to do so.

- b. Do you believe foreign nations have ideas and solutions to legal problems that could contribute to the proper interpretation of our laws?**

Response: I believe that American laws should be interpreted by looking to American precedent and the United States Constitution.