

**Responses of J. Rodney Gilstrap**  
**Nominee to be United States District Judge for the Eastern District of Texas**  
**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 the most important attribute of a judge is to be faithful to the law and consistently adhere to applicable precedent. I believe I possess this attribute.

**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: I believe that a judge must be fair, impartial, patient and diligent. A judge should be courteous and respectful toward everyone who comes into court. I believe I possess this temperament.

**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: Yes.

**4. At times, judges are faced with cases of first impression. If there were no controlling precedent that dispositively concluded 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 the matter involved a statute, then the plain meaning of the text should be applied. If the matter did not involve a statute or the text was unclear, I would look to analogous Supreme Court authority and then analogous authority from the 5<sup>th</sup> Circuit or the Federal Circuit, as the case may be. I would seek to be guided by the doctrine of stare decisis at all times.

**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 own judgment of the merits, or your best judgment of the merits?**

Response: I would apply the existing authority from the Supreme Court or the 5<sup>th</sup> Circuit Court of Appeals, regardless of my own views.

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

Response: I believe the federal courts should declare a statute enacted by Congress to be unconstitutional only when the statute clearly violates or is in direct conflict with an express provision of the Constitution.

**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 plan to use pre-trial scheduling orders and regular status conferences to monitor and manage the docket with the aim of fairly and efficiently addressing the mounting caseload. I would also routinely use mediation and settlement conferences to move cases toward final resolution. Additionally, I would actively employ available case management systems used with success by other courts as a means of controlling the caseload.

**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: Within the parameters of providing a fair and impartial trial, I believe a judge does play a role in controlling the pace and conduct of litigation. As to the pace of litigation, I would use pre-trial scheduling orders and regular status conferences to monitor and manage the docket. I would also routinely use mediation and settlement conferences to move cases toward final resolution. Additionally, I would actively employ available case management systems used with success by other courts as a means of controlling the pace of the caseload. As to the conduct of the litigation, I would strive to be fair, courteous, prompt and impartial in all matters and as to all persons who come before the court.

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

Response: I read the questions and then drafted answers. I reviewed my answers for accuracy. I discussed them with an official in the Department of Justice and then authorized the Department of Justice to transmit my responses to the Judiciary Committee.

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

Response: Yes.

**Responses of J. Rodney Gilstrap**  
**Nominee to be United States District Judge for the Eastern District of Texas**  
**to the Written Questions of Senator Amy Klobuchar**

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

Response: My judicial philosophy is centered on fairness, impartiality and faithfulness to the rule of law. I believe a district judge in our constitutional system should strive to see that a full and fair presentation of the relevant evidence is presented through the trial process, whether before the bench or a jury. Thereafter the judge should insure that the applicable law is applied under the doctrine of stare decisis resulting in a judgment which focuses narrowly on the issues fairly raised at trial.

- 2. As the one undemocratic branch, the courts have a special responsibility to make sure they are available to those Americans most in need of the courts to protect their rights. 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: Fair treatment applied to everyone is essential to the effective operation of our judicial system. Partial fairness is much akin to partial honesty. Neither rises to the standard required by our constitutional system. Fair treatment, coupled with common courtesy, should be accorded not only to litigants, but also to witnesses, jurors, lawyers, and all persons in the courtroom. If confirmed, I will consistently strive to meet this high standard in discharging my duties. I will also insist that my law clerks, court staff and members of the bar do the same. In my view, there is no place within our justice system for consideration by judges of the political beliefs or monetary strengths or weaknesses of the parties or whether a litigant is a plaintiff or defendant.

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

Response: Trial judges must be committed to faithfully applying applicable precedent to those facts as are fully and fairly established through the trial process. This approach should not vary among the trial courts. En banc review by the applicable Circuit Court of Appeals and review by the Supreme Court may result in overturning prior precedent, but such is not appropriate at the trial court level.