

**Responses of Sharon Johnson Coleman
Nominee to the United States District Court for the Northern District of Illinois
to the Written Questions of Senator Jeff Sessions**

- 1. As you may know, President Obama has described the types of judges that he will nominate to the federal bench as follows:**

“We need somebody who’s got the heart, the empathy, to recognize what it’s like to be a young teenage mom. The empathy to understand what it’s like to be poor, or African-American, or gay, or disabled, or old. And that’s the criteria by which I’m going to be selecting my judges.”

- a. I recognize that you do not know what President Obama may or may not have meant by this statement, do you believe that you fit President Obama’s criteria for federal judges, as described in his quote?**

Response: I believe that President Obama’s decision to nominate me to serve on the United States District Court indicates that I fit his criteria for selection of federal judges.

- b. What role do you believe that empathy should play in a judge’s consideration of a case?**

Response: A judge should make a sincere effort to understand and respect the positions of all litigants and litigators, even if the applicable law does not permit them to receive the relief they seek.

- c. Do you think that it is ever proper for judges to indulge their own subjective sense of empathy in determining what the law means?**

Response: No

- i. If so, under what circumstances?**

Response: None

- ii. Please provide an example of a case in which you have done so.**

Response: None

- iii. Please provide an example of a case in which you had to set aside your own subjective sense of empathy and rule solely based on the law.**

Response: In a case that I presided over in the trial court, a civil jury granted a six figure award to the parents of a 7 year old girl who had drowned in a retention pond. Despite my empathy for the family’s grief

and loss, I entered a judgment notwithstanding the verdict in favor of the defendant company where the jury's special interrogatory answer indicated that the case for negligence had not been made.

2. Do you think it is ever proper for judges to indulge their own values in determining what the law means?

Response: No

a. If so, under what circumstances?

Response: None

b. Please provide an example of a case in which you have done so.

Response: None

c. Please provide an example of a case in which you had to set aside your own value and rule solely based on the law.

Response: I can recall no case in which the law was inconsistent with my values.

3. Do you think it is ever proper for judges to indulge their own policy preferences in determining what the law means?

Response: No

a. If so, under what circumstances?

Response: None

b. Please provide an example of a case in which you have done so.

Response: None

c. Please provide an example of a case in which you had to set aside your own policy preferences and rule solely based on the law.

Response: I can recall no case in which the law was inconsistent with my policy preferences.

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

Response: I received the Questions for the Record from Senators Sessions and Coburn on March 17, 2010, by electronic transmission from the Office of Legal Policy (OLP). I drafted my answers to those questions. I consulted with the OLP regarding my answers. I then transmitted the answers back to the Office of Legal Policy with the understanding that they would be forwarded to the Committee.

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

Response: Yes

**Responses of Sharon Johnson Coleman
Nominee to the United States District Court for the Northern District of Illinois
to the Written Questions of Senator Tom Coburn, M.D.**

- 1. As a candidate for the Appellate Court, you stated that you would bring “sensitivity and ‘global’ experience” to the court, something you felt it was lacking. You also stated that she would bring “empathy and fairness” to the bench. Can you please explain these comments?**

Response: My comments as a candidate for the Appellate Court focused on my position that my “global” or “well-rounded” experience as a civil and criminal litigator and trial judge handling civil jury trials as well as child abuse and neglect cases would be a helpful addition to the court. No sitting justice had the variety of legal experience that I had at that time. As a judge who had to preside over parental termination cases, I believed I had a sensitivity to the proceedings that the current members of the court did not possess. My comments regarding empathy and fairness referred to how I treat the litigants and litigators who come before me in any situation. People who come before me are treated with respect no matter what their background. I apply the relevant law to the facts with fairness to every case. This is how I have attempted to comport myself as a state jurist for the last 13 years and how I will continue to judge if honored to be confirmed as a district court judge.

- 2. 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.

- 3. Since at least the 1930s, the Supreme Court has expansively interpreted Congress’ power under the Commerce Clause. Recently, however, in the cases of *United States v. Lopez*, 514 U.S. 549 (1995) and *United States v. Morrison*, 529 U.S. 598 (2000), the Supreme Court has imposed some limits on that power.**

- a. Do you believe *Lopez* and *Morrison* consistent with the Supreme Court’s earlier Commerce Clause decisions?**

Response: Yes

b. Why or why not?

Response: In *Gonzales v. Raich*, 545 U.S. 1, 23-25 (2005), the Supreme Court held that *Lopez* and *Morrison* are consistent with the Supreme Court's earlier decisions on the Commerce Clause.

- 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, but do you agree with Justice Kennedy’s analysis?**

Response: Justice Kennedy's analysis in *Roper* is precedent that, if confirmed as a district court judge, I would be bound to follow.

a. How would you determine what the evolving standards of decency are?

Response: I believe that the Supreme Court has looked to the consensus among the states to determine those standards and, if confirmed as a district court judge, I would be bound to follow precedent in determining whether a specific punishment violated the Eighth Amendment.

b. Do you think that a judge could ever find that the “evolving standards of decency” dictated that the death penalty is unconstitutional in all cases?

Response: I cannot conceive of any circumstances that would make such a finding proper by any other federal court without prior direction from the Supreme Court.

c. What factors do you believe would be relevant to the judge’s analysis?

Response: For a district court judge, the analysis would be controlled by precedents from the Supreme Court and Court of Appeals.

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

Response: No

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

Response: I know of no circumstances under which I would consider foreign law when interpreting the Constitution.

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

Response: No

- c. Would you consider foreign law when interpreting the Eighth Amendment? Other amendments?**

Response: No as to any of the Amendments.