

**Senator Grassley
Questions for the Record**

**Julien X. Neals,
Nominee, U.S. District Judge for the District of New Jersey**

- 1. What are some of the lessons you learned while serving as Chief Judge of the Newark Municipal Court that you will utilize if confirmed as a federal district court judge?**

Response: Of the many lessons that I learned as Chief Judge that I will utilize if confirmed, I offer the following as among the most significant: (1) in order to gain and to inspire the public trust, the judge, a public servant, should act with humility; (2) the judge sets the tone for the court and therefore must exhibit a balanced, fair-minded demeanor and the appropriate judicial temperament; (3) a judge must move cases quickly in the interest of justice; (4) the court must render well-reasoned, legally supported and transparent decisions in order to provide evidence of fairness and a clear record in the event of further review; (5) a judge must treat all who enter the court, whether staff, litigants or counsel, with the utmost dignity and respect; and (6) a judge must control the court proceedings, maintain order and require adherence to the appropriate standards of conduct.

- 2. During your hearing, Senator Tillis asked you what mitigating factors a judge should consider when giving a young defendant a sentence other than jail time. You mentioned housing factors, mental health, and substance addiction. Please elaborate on how these factors would affect your sentencing decisions, if confirmed. Be specific.**

Response: If confirmed as a federal district judge, I would apply the controlling constitutional provisions, statutes and binding precedent, when deciding a criminal matter involving a young defendant or any other matter. Juvenile proceedings in the district court are controlled by the Federal Juvenile Delinquency Act (18 U.S.C. §§ 5031 – 5042). The United States Supreme Court has also recognized special considerations that apply in the context of juvenile sentencing. *See e.g., Miller v. Alabama*, 132 S. Ct. 2455, 2464-66 (2012); *Graham v. Florida*, 130 S. Ct. 2011, 2026-27 (2010); *Roper v. Simmons*, 543 U.S. 551, 567, 569-70 (2005). When sentencing a young defendant, I would apply any mitigating factors in accordance with binding Supreme Court and Third Circuit precedent, statutory authority or sentencing guidelines.

- 3. Please describe your judicial philosophy.**

Response: My judicial philosophy is that a judge must in all matters do the following: (1) make an impartial and unbiased commitment to review, comprehend and apply the appropriate rule of law; (2) provide to all parties a full and fair opportunity to present facts and legal argument in all proceedings; and (3) act diligently and efficiently in all proceedings to ensure that all matters are disposed of in a timely manner.

- 4. 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 integrity. I believe that I possess the necessary integrity to faithfully execute the duties of a district judge.

- 5. 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: In my view the appropriate judicial temperament is calm, even-tempered and confident. A judge's temperament should be genuine and consistent in dealings with colleagues, court staff, litigants, attorneys and the public in general. I believe that the most important elements upon which judicial temperament is based are humility, patience, integrity, and respect for others. I believe that I meet this standard.

- 6. 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: In my view, the consistent application of the rule of law serves as the foundation of American jurisprudence. The consistent application of the rule of law cannot be achieved by the court unless judicial decisions are firmly rooted in established legal precedent. The failure to follow precedent based upon personal views would erode the foundation of the judicial system. Accordingly, if confirmed I will faithfully follow precedents of the United States Supreme Court and of the Third Circuit without consideration of any personal views.

- 7. 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: I would first examine the text of the statute to determine its meaning. If clear and unambiguous, my inquiry would end and the statute itself would serve as the source of controlling authority. If the language were ambiguous then I would review the statute as a whole in order to determine its intent. I would also review whether analogous Supreme Court or Third Circuit precedent exists on closely related questions. In the absence of analogous precedent, I would review relevant decisions of courts of appeal outside the Third Circuit and of other district courts, for guiding authority. I would then review legislative history and secondary sources such as learned treatises or other recognized authorities, consistent with binding Supreme Court and Third Circuit precedents governing statutory interpretation.

- 8. 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 be bound to apply the decision of the Supreme Court or the Court of Appeals without consideration of any personal beliefs, and I would apply the binding precedent.

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

Response: Congressional statutes maintain a presumption of constitutionality. Accordingly, a court must endeavor to uphold the constitutionality of a duly enacted statute, if possible, and to decide a case without reaching a constitutional question if there are other grounds upon which to base a decision. However, if no such ground exists, a federal court is required to declare a statute unconstitutional where the relevant provision, considered in light of applicable precedent, compels the conclusion that Congress exceeded its constitutional authority in enacting the statute or if the statute clearly violates the Constitution.

- 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: Unless United States Supreme Court or Third Circuit precedents explicitly rely on foreign court decisions, judges should not rely on foreign law or on the views of the “world community” in determining the meaning of the Constitution.

- 11. 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: It is my firm belief that the court must render well-reasoned, legally supported and transparent decisions in order to provide evidence of fairness and a clear record in the event of further review. If a judge’s decision is based upon underlying political ideology or motivation then it undermines the integrity and impartiality of the judicial system and violates the public trust and judicial ethics. As Chief Judge of the Newark Municipal Court I required that all judges and court employees adhere to this standard of conduct in all court operations. If confirmed as a federal district court judge, I would continue to follow this standard of conduct.

- 12. 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: As part of my judicial philosophy, I firmly believe that a judge must in all matters make an impartial and unbiased commitment to review, comprehend and apply the

appropriate rule of law, and provide to all parties a full and fair opportunity to present facts and legal argument in all proceedings. Personal views have no place in a fair and efficient court system. My record as Chief Judge of the Newark Municipal Court is the best evidence that I can offer that I treat all litigants fairly and put aside any personal views in judicial proceedings. If confirmed, I would continue to treat all litigants who appear before me fairly. I would put aside any personal views in judicial proceedings and would require the same of any court staff.

13. If confirmed, how do you intend to manage your caseload?

Response: If confirmed, I will manage my caseload in accordance with the Federal Rules of Civil and Criminal Procedure, the applicable Local Rules and the appropriate established practices. I will remain actively involved over the course of a given matter to ensure that it is disposed of efficiently and expeditiously. I will work closely with the magistrate judge and coordinate the efforts of our respective staffs to ensure that all matters are appropriately monitored. I will also render decisions quickly in order to preserve the court's and litigants' resources.

14. 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: I firmly believe that judges have a vital role in controlling the pace and conduct of litigation. If confirmed, I will work closely with the magistrate judge and clerk and require that our respective staffs regularly review the docket and monitor compliance with scheduling deadlines. I will make prompt rulings on any motions and pretrial issues in order to move the case to resolution. I will also take proactive steps to schedule the appropriate conferences to address any issues that may cause undue delay in any proceedings. I will also make the court available to assist counsel and litigants in resolving any unforeseen circumstances that may arise that impede the progress of any matter.

15. As a judge, you have experience deciding cases and writing opinions. Please describe how you reach a decision in cases that come before you and to what sources of information you look for guidance.

Response: When I served as judge, I obtained a firm grasp of the facts alleged in order to determine the issues properly before the court for disposition. I also thoroughly reviewed the claims asserted and the law upon which the claims were based. I then fairly and impartially evaluated the facts, and applied the relevant law according to precedent. Finally, I endeavored to communicate a decision in a clear and concise manner, based upon a detailed record, to ensure that the reasoning for any decision was apparent to the attorneys, litigants and reviewing court.

16. President Obama said that deciding the “truly difficult” cases requires applying “one’s deepest values, one’s core concerns, one’s broader perspectives on how the world works, and the depth and breadth of one’s empathy . . . the critical ingredient is supplied by what is in the judge’s heart.” Do you agree with this statement?

Response: I am not familiar with the statement by the President or the context in which the quoted statements were made. In my view, a federal judge in every case must be impartial and fair, and must apply the binding law to the facts of the particular matter before the court. A judge must also have the integrity and firmness of mind to decide difficult cases regardless of popular views or public criticism.

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

Response: I received these questions from the Office of Legal Policy (OLP) at the Department of Justice on October 7, 2015, via electronic mail. I reviewed the questions and personally prepared the answers. I submitted my answers to OLP on October 12, 2015, and discussed the same with OLP staff, after which I finalized my responses. I then authorized OLP to submit these responses on my behalf.

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

Response: Yes.

Written Questions of Senator Jeff Flake
U.S. Senate Committee on the Judiciary
Judicial Nominations
October 5, 2015

Julien X. Neals,
Nominee, U.S. District Judge for the District of New Jersey

- 1. What is your approach to statutory interpretation? Under what circumstances, if any, should a judge look to legislative history in construing a statute?**

Response: I would first examine the text of the statute to determine its meaning. If clear and unambiguous, my inquiry would end and the statute itself would serve as the source of controlling authority. If the language were ambiguous then I would review the statute as a whole in order to determine its intent. I would also review whether analogous Supreme Court or Third Circuit precedent exists on closely related questions. In the absence of analogous precedent, I would review relevant decisions of courts of appeal outside the Third Circuit and of other district courts, for guiding authority. I would then review legislative history and secondary sources such as learned treatises or other recognized authorities, consistent with binding Supreme Court and Third Circuit precedents governing statutory interpretation.

- 2. What is the proper scope of the 10th Amendment to the Constitution? In what circumstances should a judge apply it?**

Response: The 10th Amendment to the United States Constitution expresses the principle that the federal government possesses only those powers delegated to it by the Constitution. All remaining powers are reserved for the states or the people. The Supreme Court has determined that federal government action that exceeds its enumerated powers is an impermissible interference with state sovereignty. *See e.g., New York v. United States*, 505 U.S. 144 (1992). A judge should apply the 10th Amendment in accordance with precedents established by the Supreme Court and the Circuit Courts when reviewing any challenged federal action.

- 3. Does current standing doctrine foster or impede the ability of litigants to obtain relief in our legal system?**

Response: Article III of the Constitution limits the judicial power of federal courts to deciding actual “Cases” or “Controversies.” The Supreme Court has determined that in order to have standing in federal court a litigant must prove that he or she has suffered a personal and tangible harm or injury, fairly traceable to the conduct complained of, and likely to be redressed by a favorable judicial decision. *See e.g., Already, LLC v. Nike, Inc.*, 133 S. Ct. 721 (2013). I believe that the standing doctrine neither fosters nor impedes the ability of litigants to obtain relief in federal court but rather outlines the parameters of federal court jurisdiction.