

Supreme Court Nominee 1:

- 9 years as Judge on 3<sup>rd</sup> Circuit (this is one of the Courts of Appeals-see slides from class)
  - Circuit includes PA, DE, NJ
- JD from Harvard Law School
- Clerked for Justice Antonin Scalia
- Worked in Reagan's DOJ
- Originalist/Textualist judicial philosophy
- Age: 60

Questions you might be asked and talking points. **You should be more forthcoming in your presidential interviews and more guarded before the judiciary committee. Remember that nominees typically avoid appearing political or ideological when they are answering questions before the Senate Judiciary Committee. Questions about your ideology may be answered with a non-answer such as: "I will follow the Constitution, and my ideology will not affect my decisions."**

- 1) Please elaborate on your judicial philosophy
  - You are a very conservative justice
  - You can choose to be as open about your belief in originalism/textualism as you want. You should emphasize you believe that the Constitution means that the founders/framers say it means that you would interpret the Constitution in this way. This is originalism-you believe that we should interpret the Constitution based upon the meaning of words at the time they were written.
    - For example, an originalist would say there is no right to privacy because it was not mentioned by the framers or written in the Constitution
    - In your presidential interviews, you should be very open about your originalist beliefs than you are with Congress
    - Here is a link for more information on originalism:
      - <https://www.youtube.com/watch?v=v7FlrII27zk>
- 2) You may be asked about specific types of cases, such as abortion, affirmative action, the scope of federal power, states' rights, campaign finance, or the rights of criminal defendants/police power.
  - As with the first question, you can go into as much detail as you like but for the purposes of our simulation, you should give some impression of your leanings (you favor limiting federal power, no right to privacy, for example)
  - For the president, be very forthcoming about how you would rule. This is a private interview (in theory)
  - For the judiciary committee, you can be noncommittal but also give important signals. For example, you might say that you agree with the Court's previous rulings on campaign finance, but you cannot say how

you rule on a specific case because each case presents a different question and series of facts. **You can also be a complete proponent of your belief that the Constitution does not grant a right to privacy and campaign finance should not be regulated**

- 3) Tell us more about your experience
  - Talk about clerking for Justice Scalia as a formative legal experience
    - Really impressed by his clarity of vision and devotion to the Constitution
      - Really emphasize your devotion to Constitution
      - Might indicate that you learned from Scalia it's ok to go your own way on the Court
- 4) Where do you stand on federal/state power?
  - For president, tell him/her firmly that you believe in limited role for federal government
  - For Senate, imply that you believe in state power but dance around the question
- 5) Scandals
  - You have an image that has remained clean in legal and political circles. However, about a year ago you did receive a tip from your college friend, a lawyer for a large pharmaceutical company, that this company was about to file for bankruptcy. This information was known only to a few higher-ups in the company. This friend has also argued cases in your court that you've issued decisions on.
    - Acting on this information, you sold a fair amount of your stock in this company prior to the bankruptcy announcement. The stock of the company plummeted after the announcement.
  - No one, not even your close friends and family, know about this, which under the law would be considered illegal insider trading. It is best not to mention this in your interview.
  - If asked about this in your hearing, it is up to you how you choose to answer.