

2006 Judicial Voters' Guide Questionnaire for Judicial Candidates, sponsored by: Iowans Concerned about Judges¹

Candidate Name (print or type) _____ Phone _____

District Sought _____ Fax Number _____ Email _____

In *Republican Party of Minnesota v. White*, 536 U.S. 765 (2002), the United States (U.S.) Supreme Court held that a canon of judicial ethics that prohibited candidates for elective judicial office from “announcing their views on disputed legal or political issues” was unconstitutional. The canon violated the First Amendment because it prohibited speech on the basis of content and because it burdened the free speech of candidates for public office—a category of speech at the core of First Amendment freedoms. On May 31, 2006, the Iowa Supreme Court amended the Iowa Code of Judicial Conduct in apparent response to the *White* decision. Clearly, candidates for judicial office should now be able to express their views on disputed legal and political issues without fear of being sanctioned by judicial or legal ethics authorities. Thus, we submit to you the following questionnaire.²

We believe that most Iowa judges practice judicial restraint and do not improperly legislate from the bench. However, judicial activism has crept into the American judiciary, and we hope to bring appropriate and reasonable voter accountability to the Iowa judiciary, as part of our system of merit selection and retention, to see that judicial activism does not become a problem in the future.

Currently there is an information and accountability gap, since most voters do not believe they have adequate information to make a conscientious and responsible vote for or against the retention of judges; hence this questionnaire/voters' guide.

Please answer the following survey by underlining any one of the appropriate responses (feel free to explain your answer by writing on this questionnaire or an attachment—your entire response will be made available to the public on our website).

¹An association of groups and individuals seeking openness, information, and accountability in the judicial retention process, which includes Concerned Women for America of Iowa, Focus on the Family, Iowa Christian Alliance, Iowa Family Policy Center, and Professional Educators of Iowa.

² It is understood that your responses are subject to judicial obligations to follow binding precedents of higher courts and applicable constitutional and statutory provisions, to honor stare decisis, and to decide any future case based on the law and facts of that case. It is further understood that your responses indicate your current view on issues, and do not constitute any pledge, promise, or commitment, to reach any particular result in a case. Readers of any report on your responses will be informed of the content of this paragraph.

Please send completed survey either electronically to dad007@drake.edu, or by printing it and mailing it to:

Daniel Dlouhy
704 12th Street, Apt. 3
West Des Moines, IA 50265

1. Which one of the current Justices of the U.S. Supreme Court most reflects your judicial philosophy? (underline one)

Roberts / Stevens / Scalia / Kennedy / Souter / Thomas / Ginsburg / Breyer / Alito / Decline to Respond³ / Refuse to Respond

2. Rate your judicial philosophy on a scale of 1-10 with "living document" approach being a 1 and "strict constructionist / originalist" being a 10. (underline one)

1 2 3 4 5 6 7 8 9 10

Decline to Respond³ / Refuse to Respond

3. Do you think that judges should on occasion "legislate" new laws and rights through their decisions? (underline one)

Yes / No / Undecided / Decline to Respond³ / Refuse to Respond

4. Do you support a judge's choice to display the Ten Commandments in his or her courtroom? (underline one)

Yes / No / Undecided / Decline to Respond³ / Refuse to Respond

5. In *Stone v. Graham*, 449 U.S. 39 (1980), the U.S. Supreme Court held that the posting of a copy of the Ten Commandments on the walls of a public school classroom was a violation of the U.S. Constitution. **Do you agree with the result that posting a copy of the Ten Commandments in a public school classroom violated the U.S. Constitution? (underline one)**

Yes / No / Undecided / Decline to Respond³ / Refuse to Respond

³ IMPORTANT: Please see Endnote on last page for explanation of this response.

6. In *Locke v. Davey*, 540 U.S. 712 (2004), the U.S. Supreme Court held that it is constitutional to specifically exclude students majoring in vocational religious studies from receiving state scholarship or loan funds. **Do you believe the Iowa Constitution permits discrimination against college students who major in vocational religious studies by specifically excluding them from state student scholarship or loan programs? (underline one)**

Yes / No / Undecided / Decline to Respond³ / Refuse to Respond

7. In *Washington v. Glucksberg*, 521 U.S. 702 (1997) and in *Vacco v. Quill*, 521 U.S. 793 (1997), the U.S. Supreme Court held that there is no right to assisted suicide under the U.S. Constitution. **Do you agree with the result that there is no Constitutional right to assisted suicide? (underline one)**

Yes / No / Undecided / Decline to Respond³ / Refuse to Respond

8. In *Roe v. Wade*, 410 U.S. 113 (1973), the U.S. Supreme Court recognized a “right to privacy” under the Constitution that includes abortion. **As a matter of constitutional law, do you agree with the result insofar as it recognizes a “right to privacy” that includes abortion? (underline one)**

Yes / No / Undecided / Decline to Respond³ / Refuse to Respond

9. In *Kelo v. City of New London*, 125 S. Ct. 2655 (2005), the U.S. Supreme Court held that a city’s use of eminent domain powers to take private property and then turn it over to a private entity serves a public purpose and so fulfills the requirement that the land be taken for public use. **As a matter of constitutional law, do you agree with the result insofar as it recognizes the government’s right to take private property from a private person and then sell it to another private party for that party’s private use? (underline one)**

Yes / No / Undecided / Decline to Respond³ / Refuse to Respond

10. In *Lawrence v. Texas*, 539 U.S. 558 (2003), the U.S. Supreme Court recognized a right to homosexual sexual relations under the U.S. Constitution. **Do you believe that the Iowa Constitution recognizes a right to homosexual sexual relationships? (underline one)**

Yes / No / Undecided / Decline to Respond³ / Refuse to Respond

³ IMPORTANT: Please see Endnote on the last page for explanation of this response.

11. In *Goodridge v. Department of Public Health*, 440 Mass. 309; 798 N.E.2d 941 (2003), the Massachusetts Supreme Judicial Court held that the Massachusetts Constitution requires that same-sex couples be permitted to enter into legal marriage. **Do you believe the Iowa Constitution requires same-sex couples be permitted to enter into legal marriage? (underline one)**

Yes / No / Undecided / Decline to Respond³ / Refuse to Respond

12. In *Baker v. State*, 744 A.2d 864 (1999), the Vermont Supreme Court held that the Vermont Constitution required that domestic partnerships or civil unions for same sex couples be established that encompass the same state benefits that attach to legal marriage. **Do you believe that the Iowa Constitution requires domestic partnerships or civil unions for same sex couples be established that encompass the same state benefits that attach to legal marriage? (underline one)**

Yes / No / Undecided / Decline to Respond³ / Refuse to Respond

13. In *In re Marriage of Brown*, Equity No. CDCD 119660 (Iowa Dist. Ct. Nov. 14, 2003), an Iowa district court judge held that he had the authority to terminate a civil union granted in Vermont between two women, thereby recognizing the civil union as a legal relationship. **Do you believe that Iowa law requires the legal recognition of same sex civil unions granted by other states?**

Yes / No / Undecided / Decline to Respond³ / Refuse to Respond

14. Which of the following former U.S. Presidents best represents your political philosophy? (underline one)

John F. Kennedy / Jimmy Carter / Ronald Reagan / George H. W. Bush / Bill Clinton / Decline to Respond³ / Refuse to Respond

15. Do you know of any recommendations and/or agreement(s), whether formal or informal, between any judges not to answer this questionnaire? Please Explain.

³ IMPORTANT: Please see Endnote on last page for explanation of this response.

Please put a check (or an "X" if done electronically) by each and every organization (national, state or local chapter) listed below which, in the last 20 years, have been applicable to you: been a member, contributed money, volunteered time, been employed by, been endorsed by for a campaign, received money from for a campaign or had any other affiliation.

- | | |
|--|--|
| <input type="checkbox"/> AFL-CIO | <input type="checkbox"/> Home School Legal Defense Association (HSLDA) |
| <input type="checkbox"/> Alliance Defense Fund (ADF) | <input type="checkbox"/> Human Rights Campaign (HRC) |
| <input type="checkbox"/> American Civil Liberties Union (ACLU) | <input type="checkbox"/> Institute for Policy Studies |
| <input type="checkbox"/> American Civil Liberties Union (ACLU)—Iowa | <input type="checkbox"/> Iowa Christian Alliance |
| <input type="checkbox"/> American Center for Law and Justice (ACLJ) | <input type="checkbox"/> Iowa Family Policy Center |
| <input type="checkbox"/> American Conservative Union | <input type="checkbox"/> Iowa Right to Life |
| <input type="checkbox"/> American Family Association | <input type="checkbox"/> Iowa State Education Association |
| <input type="checkbox"/> American Federation of Teachers (AFT) | <input type="checkbox"/> Iowans for Life |
| <input type="checkbox"/> American Life League | <input type="checkbox"/> Lambda Legal Defense Fund |
| <input type="checkbox"/> Americans United for Life (AUL) | <input type="checkbox"/> Lawyers for Life |
| <input type="checkbox"/> Americans United for Separation of Church & State | <input type="checkbox"/> League of Conservative Voters |
| <input type="checkbox"/> Anti-Defamation League (ADL) | <input type="checkbox"/> Legal Services Corporation |
| <input type="checkbox"/> Beckett Fund | <input type="checkbox"/> League of United Latin American Citizens (LULAC) |
| <input type="checkbox"/> Brookings Institution | <input type="checkbox"/> Liberty Counsel |
| <input type="checkbox"/> Cato Institute | <input type="checkbox"/> Nat'l Abortion & Reproduction Rights Action League / NARAL—Pro-choice America |
| <input type="checkbox"/> Chamber of Commerce | <input type="checkbox"/> NARAL—Pro-choice Iowa |
| <input type="checkbox"/> Children's Defense Fund | <input type="checkbox"/> National Association for the Advancement of Colored People (NAACP) |
| <input type="checkbox"/> Christian Coalition | <input type="checkbox"/> National Center for Policy Analysis |
| <input type="checkbox"/> Christian Law Association | <input type="checkbox"/> National Education Association |
| <input type="checkbox"/> Christian Legal Society | <input type="checkbox"/> National Gay / Lesbian Task Force |
| <input type="checkbox"/> Citizens Against Government Waste | <input type="checkbox"/> National Rifle Association |
| <input type="checkbox"/> Citizens for a Sound Economy | <input type="checkbox"/> National Right to Life Committee |
| <input type="checkbox"/> Common Cause | <input type="checkbox"/> National Right to Work |
| <input type="checkbox"/> Concerned Women for America | <input type="checkbox"/> National Organization for Women (NOW) |
| <input type="checkbox"/> Crisis Pregnancy Center | <input type="checkbox"/> National Taxpayers Union |
| <input type="checkbox"/> Eagle Forum | <input type="checkbox"/> Parents, Families, and Friends of Lesbians and Gays (PFLAG) |
| <input type="checkbox"/> Earth First | <input type="checkbox"/> People for the American Way |
| <input type="checkbox"/> Family Research Council | <input type="checkbox"/> People for the Ethical Treatment of Animals (PETA) |
| <input type="checkbox"/> Federalist Society | <input type="checkbox"/> Planned Parenthood |
| <input type="checkbox"/> Focus on the Family | <input type="checkbox"/> Professional Educators of Iowa |
| <input type="checkbox"/> Free Congress Foundation | <input type="checkbox"/> Rutherford Institute |
| <input type="checkbox"/> Gay, Lesbian & Straight Ed. Network (GLSEN) | <input type="checkbox"/> Sierra Club |
| <input type="checkbox"/> Gay & Lesbian Advocates and Defenders (GLAD) | |
| <input type="checkbox"/> Greenpeace | |
| <input type="checkbox"/> Handgun Control, Inc. | Church _____ |
| <input type="checkbox"/> Heritage Foundation | Other _____ |
| | Other _____ |

* ENDNOTE: This response indicates that I would answer this question, but believe that I am prohibited from doing so by Iowa Code of Judicial Conduct Canons 3A(10) and 7B(1)(d) and (e), which provide that judges or judicial candidates “should not, with respect to cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of the office.” This response also indicates that I would answer this question, but believe that if I did so, then I would be required to disqualify myself as a judge in any proceeding concerning this answer on account of Iowa Code of Judicial Conduct Canons 3C(1) and 3C(1)(e), which provide that “a judge should disqualify himself or herself in a proceeding in which the judge’s impartiality might reasonably be questioned . . .” and when, as a judge or judicial candidate, he or she “has made a public statement, other than in a prior judicial decision or opinion, that commits, or appears to commit, the judge to reach a particular result with respect to an issue in the proceeding or a controversy in the proceeding.”