

2020 Judicial Survey : Entry # 12758**First Name**

Sean E.

Last Name

Brearcliffe

1. Which of the following Justices from the U.S. Supreme Court most reflects your judicial philosophy (choose one)? Alito / Breyer / Ginsburg / Gorsuch / Kagan / Kavanaugh / Roberts / Sotomayor / Thomas

Thomas

2. Please rate your judicial philosophy on a scale of 1 to 10, with "strict constructionism"(1) being a "1" and "noninterpretivism"(2) being a "10."

1

Comments for Question 2:

"Strict constructionism" is not the term I would use to describe the legal philosophy embraced in footnote 1 to the survey. "Textualism" and "originalism" are more appropriate terms embracing that philosophy. Specifically, a judge should construe a statute or constitutional provision based on the words used, as those words would have been commonly understood at the time the statute or the constitutional provision was enacted.

3. Please state if you AGREE or DISAGREE with the following statement from Chief Justice of the United States John Roberts (choose one): "Judges and justices are servants of the law, not the other way around. Judges are like umpires. Umpires don't make the rules; they apply them. The role of an umpire and a judge is critical. They make sure everybody plays by the rules. But it is a limited role. Nobody ever went to a ball game to see the umpire."(3)

AGREE

4. Do you AGREE or DISAGREE that courts in the United States should look to the laws of other countries and international law to interpret the U.S. Constitution? (choose one)

DISAGREE

Comments for Question 4:

The only exception being in cases where the given provision of the U.S. Constitution was based on that foreign source. For example, many of our Constitutional provisions were based on or in reaction to English common law. In that very narrow case, that source -- predating the adoption of the U.S. Constitution -- may need to be consulted to fully understand the later-adopted constitutional provision.

5. Do you AGREE or DISAGREE with the reasoning in this statement from the U.S. Supreme Court (choose one): "These matters, involving the most intimate and personal choices a person may make in a lifetime, choices central to personal dignity and autonomy, are central to the liberty protected by the Fourteenth Amendment. At the heart of liberty is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life."(4)

DISAGREE

Comments for Question 5:

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I respond to this with the caveat that, as a judge of an inferior court, I am bound to apply precedent from the Arizona Supreme Court and the United States Supreme Court whether or not I agree with it. The "due process" clause of the Fourteenth Amendment (the subject of the quoted passage) has long been incorrectly applied as a substantive provision rather than as a merely procedural provision. The "privileges or immunities" clause of the Fourteenth Amendment is the provision dealing with the application of substantive rights, and that should have been the clause addressed by the court in that opinion.

6. Do you AGREE or DISAGREE with this statement from former U.S. Supreme Court Associate Justice James Iredell (choose one): "If the Legislature of the Union, or the Legislature of any member of the Union, shall pass a law, within the general scope of their constitutional power, the Court cannot pronounce it to be void, merely because it is, in their judgment, contrary to the principles of natural justice."(5)

AGREE

Comments for Question 6:

With the same caveat as above, as an almost exclusive matter (leaving open only some hypothetical circumstance that I haven't contemplated yet), it is not the place of the courts to interfere with the constitutional exercise of authority of independent, co-equal branches of government. Just as the judiciary demands "judicial independence" when acting within its constitutional sphere, so should the legislative and executive branches be left to exercise their authority under the constitution.

Candidate Signature**Notes****Admin Notification (ID: 5f0ce8cce637f)**

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