

**Public Advocate of the United States**

**First Round of Questions for Judge William J. Pryor  
U.S. Court of Appeals for the Tenth Circuit**

**Glenn v. Brumby Case**

On December 6, 2011, you joined in the Eleventh Circuit panel decision in Glenn v. Brumby, 663 F.3d 1312 (2011). In that case, you voted to overturn a district court ruling against a biological male who claimed that “she” was fired because he had “Gender Identity Disorder.” The employer testified that he fired him because he was dressing in an unnatural manner by dressing as a woman, also known as a transvestite.

1. The decision in which you joined consistently refers to the biological male plaintiff as a woman. Do you believe that a biological male becomes a woman whenever he self-identifies as a woman? If not, why did you join a decision which used female pronouns to refer to this man?

2. Do you have any second thoughts about your participation in this decision? Knowing what you know now about transgenderism, would you vote the same way as you did in Glenn. If yes, please explain why. If no, please explain.

3. Do you agree with those who say that one’s sex is assigned at birth? Do you agree that after one is born one’s sex is fixed, or is a matter of self-identification?

4. What is your understanding of “Gender Identity Disorder”? Is it a mental disease or disorder?

5. If a biological male feels like he is a female, should he have free access to restrooms that are designated for women? Free access to showers designated for women? College dormitories designated for women? Sports teams designated for women?

6. What is your understanding of the meaning of “sexual orientation”? In your opinion is one’s sexual orientation fixed at birth?

7. What is the ordinary meaning of the word “sex”? Are “sex” and “gender” equivalent terms? What is your understanding of the meaning of “transgender.”

**Carver Middle School Gay Straight Alliance Case**

On December 6, 2016, you joined in an unanimous panel decision in Carver Middle School Gay-Straight Alliance v. School Board of Lake County, Florida, 842 F.3d 1324 (11<sup>th</sup> Cir. 2016). In that decision, the court upheld a complaint filed on behalf of a homosexual student club against a school board, demanding that it be recognized by Carver Middle School. The school board had refused recognition to the club as it had failed to identify an allowed

purpose. The district court had dismissed the complaint, but the panel opinion that you authored overturned the district court decision, interpreting the term “secondary school” to include a middle school.

1. Do you believe that the homosexuality is normal condition that should be encouraged even in the middle school age range?

### **Keeton v. Anderson-Wiley**

On December 16, 2011, you concurred in a decision of a panel of the Eleventh Circuit in Keeton v. Anderson-Wiley, 664 F.3d 865 (2011), which ordered a female Christian student be expelled from August State University for refusing to engage in a “remediation plan” of her views on sexuality, including the suggestion that she attend a “Gay Pride Parade.”

1. Do you believe that the ethics code of a private organization, the American Counseling Association, has greater authority than the First Amendment of the United States constitution?

2. Do you still believe that the government may engage in “viewpoint” discrimination against a Christian student because it was not aimed against her as an individual, but rather against all Christians who accept the Biblical view about homosexuality?

### **Special Transgender Rights**

1. What do you think about sex reassignment surgery? Should such surgery be available to minors? Minors, but only with parental consent?

2. For businesses which were not at common law considered to be places of public accommodation, do you believe a business may be compelled to serve persons that it has a moral conviction not to serve?

### **Same-Sex Marriage**

1. Before the Obergefell case, what was the ordinary meaning of marriage? After the Obergefell case, what is the ordinary meaning of marriage?

2. Do you agree with the Obergefell case? If not, how do you disagree?

### **Firearms**

1. What, if any, impact should social science studies and reports concerning firearms have on the construction and application of the Second Amendment?

## **Abortion Rights**

1. You are on record, stating that Roe v. Wade is the “worst abomination of constitutional law in our history.” Are you still of the same opinion? If you are, would you explain why the decision is an abomination and why you still rank it as the worst?

2. According to the latest scientific studies, human life begins at the point of conception. Do you agree or disagree? If, as a matter of biological science, human life begins at conception, would that mean that Roe v. Wade is wrong because it is based upon a false assumption of when human life begins?

## **Religious Liberties**

1. What is the definition of the term “religion” as it appears in the First Amendment? Do you think it is necessary for a judge to search and find a definition of religion before ruling on any claim under the No Establishment Clause or Free Exercise Clause of that Amendment?

## **Judges Honoring God**

1. As Attorney General of Alabama, your questioning of Alabama Chief Justice Roy Moore indicated that you were of the view that it would be unconstitutional for him to honor God in his role as Chief Justice of the Alabama Supreme Court. Do you still feel that way?

## **Pornography**

1. Is hard-core pornography protected as “speech” or “press” under the First Amendment?

2. Justice Potter Stewart famously once said that he could not define hard-core pornography, he just knew it when he saw it. Is that a sufficient basis for a constitutional decision?

3. What, if any, impact should social science studies and reports concerning communications have on the construction and application of the First Amendment guarantees of freedom of speech? Or the freedom of the press?

## **Interpreting the United States Constitution**

1. Do you subscribe to the view that the United States Constitution should be viewed as a living document, and that the meaning of the words in the document must evolve over time?

2. Do you believe that the United States Constitution should be viewed as a document of fixed meaning, and that interpreting the U.S. Constitution is largely a search for the “authorial intent” of the Framers of that document? If you agree it is to have a fixed meaning, what Supreme Court decisions violate that principle?

3. Where in the United States Constitution is the “privacy” principle that Justice William O. Douglas identified in Griswold v. Connecticut, 381 U.S. 479 (1965)?

4. What is your jurisprudential philosophy? What is your understanding of “originalism” as it is used to describe the judicial doctrine of the late Justice Antonin Scalia?

5. Do you agree with Blackstone that God’s law is above man’s law, and that whenever man’s law violates God’s law, that it is not just bad law, but no law at all?

6. Do you believe that decisions of the United States Supreme Court constitute the Supreme Law of the Land” under the Supremacy Clause, as the Supreme Court stated in Cooper v. Aaron, 358 U.S. 1 (1958)?