

The Florida Family Policy Council's
2008 Statewide Judicial Candidate Questionnaire

By answering and signing this Questionnaire, you warrant that you understand that, as a judge, your decisions will follow binding precedents and that your answers do not constitute a promise to rule in a certain way in a case. You are free to offer further explanations of your answers on this or in a separate document, and your comments will be made available. Any comments should be analytical, informed, respectful, and dignified. See Florida Supreme Court Judicial Ethics Advisory Committee Opinion, No. 06-18 (August 7, 2006).

Full Name (please print) Susan Lynn Gardner

- 1. What is your current marital status? While my husband and I divorced fifteen years ago, we have always remained close friends and allies in our role as parents to our children.
2. If you have children, how many? 3 sons, ages 18, 18, 16
3. Do you have any military experience? [X] No \_\_\_ Yes If yes, what branch?
4. Of what charitable, community, civic, fraternal, or religious organizations are you a member?

Our Lady of Lourdes Catholic Church - 20 yrs; American Mensa; Fla. Assoc. of Criminal Defense Att

5. To what charitable, community, civic, fraternal or religious organizations have you made contributions in the past three (3) years? Decline to respond\*

6. Which of the current Justices of the U.S. Supreme Court most reflects your judicial philosophy? [X] Decline to respond\* \_\_\_ Refuse to respond

7. Which of the current Justices of the Florida Supreme Court most reflects your judicial philosophy? [X] Decline to respond\* \_\_\_ Refuse to respond

8. Do you agree with the following statement? "The Florida Constitution recognizes a right to same-sex marriage."
\_\_\_ Agree \_\_\_ Disagree \_\_\_ Undecided [X] Decline to respond\* \_\_\_ Refuse to respond

9. In re: TW, 551 So. 2d 1186 (Fla. 1989), held that a Florida law requiring parental consent before a minor child can undergo an abortion surgery was unconstitutional under Art. I, Sec. 23 of the Florida Constitution. The Florida Supreme Court held that the challenged statute fails because it intrudes upon the privacy of the pregnant minor from conception to birth. The TW court also ruled that "where parental rights over a minor child are concerned," neither the state's interest in protecting a minor child nor the preservation of the family unit is sufficiently compelling under Florida law to override Florida's privacy amendment. Do you agree with the Court's ruling In re: TW?
\_\_\_ Agree \_\_\_ Disagree \_\_\_ Undecided [X] Decline to respond\* \_\_\_ Refuse to respond

This response indicates that I would answer this question, but believe that if I did so, then I would be required to recuse myself as a judge in any proceeding concerning this answer because of Florida Canons 3E(1) and 3E(1)(f), which require a judge to disqualify himself or herself when "the judge's impartiality might reasonably be questioned ..." or when he or she "has made a public statement that commits, or appears to commit, the judge with respect to: (i) parties or classes of parties in the proceeding; (ii) an issue in the proceeding; or (iii) the controversy in the proceeding." In this regard, my opinion is informed by Florida Supreme Court Judicial Ethics Advisory Committee Opinion No. 06-18 (Aug. 7, 2006), which states that "it must be remembered that when considering motions for disqualification, the 'eye of the beholder' is the primary focus. . . . [T]he dispositive question is . . . whether the individual 'beholder's' fear of partiality is reasonable, reasonableness being determined by a neutral and objective standard. . . . The [judicial] candidate must not furnish answers that appear to bind the candidate if such issues arise once the candidate has assumed judicial office." (Emphasis in original.)

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10. In *Krischer v. McIver*, 697 So. 2d 97 (Fla. 1997), the Florida Supreme Court held that a statute prohibiting assisted suicide did not violate Art. I, Sec. 23 (the Privacy Clause) of the Florida Constitution, because any asserted privacy interest in assisted suicide was outweighed by State's compelling interests in preserving life, preventing suicide, and maintaining integrity of medical profession. Do you agree with the court's decision in *Krischer*?

Agree  Disagree  Undecided  Decline to respond\*  Refuse to respond

11. *Lofson v. Kearney*, 157 F. Supp. 2d 1372 (Fla. 2001), held that a Florida law prohibiting homosexual adoption does not violate the Equal Protection Clause of the U.S. Constitution. Do you agree with this holding?

Agree  Disagree  Undecided  Decline to respond\*  Refuse to respond

12. *Bush v. Holmes*, 919 So. 2d 392 (Fla. 2006), held that Florida's educational voucher program (the "Florida Opportunity Scholarship Program") violated the Florida Constitution because it "diverts public dollars into separate private systems parallel to and in competition with the free public schools that are the sole means set out in the Florida Constitution for the State to provide for the education of Florida's children." Do you agree with the reasoning of *Bush v. Holmes*?

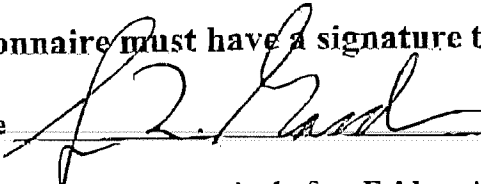
Agree  Disagree  Undecided  Decline to respond\*  Refuse to respond

13. In *Delgado v. State*, 776 So. 2d 233 (Fla. 2000), the Florida Supreme Court relied upon legal precedent in New York and other states and added the new element of "surreptitiously" to Florida's statutory definition of burglary. The text of the Florida's Statute on burglary, Fla. Stat. § 810.02(1) (1989), does not contain the term "surreptitiously" in its definition: "Entering or remaining in a structure or a conveyance with the intent to commit an offense therein, unless the premises are at the time open to the public or the defendant is licensed or invited to enter or remain." Do you agree with the court's addition of the required element of "surreptitiously" to Florida's burglary statute?

Agree  Disagree  Undecided  Decline to respond\*  Refuse to respond

(Questionnaire must have a signature to be valid)

Signature



Date

7/23/08

Please return this questionnaire before **Friday, August 8, 2008** by one of three ways:

1. PDF this questionnaire with your original signature and e-mail it to [Info@FLfamily.org](mailto:Info@FLfamily.org)
2. Send via Facsimile to (407) 251-0023
3. Send by Overnight Mail to: Florida Family Policy Council 4853 South Orange Avenue Suite C, Orlando FL, 32806

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