

**Senator Grassley  
Questions for the Record**

**John Michael Vazquez,  
Nominee, U.S. District Judge for the District of New Jersey**

- 1. What role, if any, do you believe a federal judge should play in both seeking justice for victims and punishment for the offenders with the need to rehabilitate offenders? Please explain.**

Response: I believe that a federal judge must apply the relevant constitutional provisions and statutes, in light of binding precedent, in dealings with both victims and offenders. As to victims of crime, I would follow the Crime Victims' Rights Act, 18 U.S.C. § 3771. The Act requires, among other things, that victims be treated "with fairness and with respect for the victim's dignity and privacy." As to punishment and rehabilitation, those are two of the several factors that judges are required to consider by statute, 18 U.S.C. § 3553(a), when rendering a sentence.

- 2. President Obama said that deciding the "truly difficult" cases requires applying "one's deepest values, one's core concerns, one's broader perspectives on how the world works, and the depth and breadth of one's empathy . . . the critical ingredient is supplied by what is in the judge's heart." I realize you may not be aware of the specific context of this statement, but do you agree with that statement?**

Response: I am not familiar with the statement by the President or the context in which the quoted statements were made. From my perspective, a federal judge in every case must be impartial, even-handed, and apply the binding law to the facts of the particular matter before him or her.

- 3. What do you anticipate will be the most difficult part of transitioning from being a practicing attorney to federal judge? What steps are you taking to prepare yourself?**

Response: If I am fortunate enough to be confirmed, I anticipate that the most difficult part of the transition will be learning how to effectively manage a large docket of cases. I believe that a critical part of a judge's role is to not only render fair decisions but also to render timely decisions. I am hopeful that I can draw upon my prior experience as First Assistant Attorney General, in which I was responsible for managing the daily operations of an office consisting of numerous divisions with over 9,000 employees. In addition I would seek guidance and advice from my colleagues on the bench to learn how they effectively manage their dockets.

- 4. What is the most important attribute of a judge, and do you possess it?**

Response: I believe that the most important attribute of a judge is an extension of the word itself: judgment. Subsumed within sound judgment are a litany of qualities, including integrity, fairness, patience, respect, obedience to the law, humility, and diligence. I do

believe that I have good judgment as demonstrated by my experience as a practicing attorney, both for the government and in private practice.

- 5. Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**

Response: I believe that an appropriate judicial temperament consists of patience, respect, and humility. Respect extends to not only respect for the law but also respect for all those who appear in court. I believe that I meet this standard.

- 6. In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Please describe your commitment to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?**

Response: I completely agree that a trial judge must faithfully apply binding Supreme Court precedent as well as controlling law from his or her Circuit. If fortunate enough to be confirmed, I am fully committed to following the precedents established by the Supreme Court and the Court of Appeals for the Third Circuit regardless of whether I agree or disagree with them.

- 7. At times, judges are faced with cases of first impression. If there were no controlling precedent that was dispositive on an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

Response: In a case of first impression involving a statute, I would first look to the plain language of the statute itself. If the language of the statute were clear, it would end my inquiry. If not, I would apply the binding canons of statutory interpretation. If I still did not have a definitive answer, I would look to analogous cases decided by the Supreme Court of the United States and the Court of Appeals for the Third Circuit. Lastly, I would look to analogous cases decided by other federal courts for persuasive authority.

- 8. What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your best judgment of the merits to decide the case?**

Response: I would apply the decision of the Supreme Court or the Court of Appeals.

- 9. Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?**

Response: A federal judge must respect and follow the separation of powers among the three branches of government. Congress has the power to enact laws, and its laws are

presumed constitutional. Accordingly, a judge should not reach a constitutional question if there is another avenue on which to base his or her decision. However, a federal judge is required to strike down a statute if Congress exceeded its authority in passing the statute or if the statute violates the Constitution.

- 10. In your view, is it ever proper for judges to rely on foreign law, or the views of the “world community”, in determining the meaning of the Constitution? Please explain.**

Response: I do not believe that a judge should rely upon foreign law or world community views in determining the meaning of the Constitution of the United States of America.

- 11. What assurances or evidence can you give this Committee that, if confirmed, your decisions will remain grounded in precedent and the text of the law rather than any underlying political ideology or motivation?**

Response: I treat the oath of office with utmost sincerity and respect. If fortunate enough to be confirmed and upon taking the oath, I am committing myself to following the text of the law and binding precedent. In addition, I believe that my record as a practicing attorney reflects a respect for, and adherence to, the rule of law.

- 12. What assurances or evidence can you give the Committee and future litigants that you will put aside any personal views and be fair to all who appear before you, if confirmed?**

Response: I assure the Committee that I would act with integrity and fairness in all matters, and that I would administer the law and justice even-handedly without regard to any personal views.

- 13. If confirmed, how do you intend to manage your caseload?**

Response: I intend to manage my caseload as expeditiously as possible. In doing so, I would use all available tools for effective case management, set fair and reasonable deadlines by which the parties had to abide, and work with the magistrate judges. I would seek guidance and advice from my colleagues on the bench as to how they effectively manage their dockets. I also intend to draw upon my prior experience as First Assistant Attorney General, in which I was responsible for the daily operations of an office with many divisions and over 9,000 employees.

- 14. Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?**

Response: I do believe that judges have such a role. Reaching a fair and correct decision is crucial, but so is rendering a timely decision. To do so, a judge must be active in case management from the inception of a matter. For example, at the outset of a case, a judge should discuss with the parties the potential complexities of a case as well as anticipated issues. A judge should provide the parties with adequate and reasonable time to prepare

their cases, but a judge must also ensure that the parties abide by a fair and reasonable timetable.

**15. Do you believe there is a right to privacy in the U.S. Constitution?**

**a. Where is it located?**

Response: The Supreme Court of the United States has held that there is a right to privacy, in certain contexts, in the Constitution. For example, in Katz v. United States, 389 U.S. 347 (1967), the Supreme Court decided that there is a right against unreasonable searches and seizures pursuant to the Fourth Amendment.

**b. From what does it derive?**

Response: The Supreme Court of the United States has determined that the right to privacy stems from the Constitution, such as the Fourth Amendment as discussed above.

**c. What is your understanding, in general terms, of the contours of that right?**

Response: My understanding is that the Supreme Court of the United States has viewed the right of privacy in light of protection from certain governmental action and has defined the contours through its precedent. In my practice as an attorney, both as a federal prosecutor and defense counsel, this issue has arisen most often in connection with the Fourth Amendment, specifically as to when law enforcement need, or need not, obtain a warrant.

**16. Please describe with particularity the process by which these questions were answered.**

Response: I received these questions from the Department of Justice, Office of Legal Policy (OLP) on July 29, 2015. I reviewed the questions, thought about them, and drafted my responses. I then submitted my responses to OLP and after some discussion with OLP, I finalized my responses and authorized their submission to the Committee on my behalf.

**17. Do these answers reflect your true and personal views?**

Response: Yes.

**Senator Vitter**  
**Questions for the Record**

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**Nominee, U.S. District Judge for the District of New Jersey**

- 1. What is your opinion of the constitutionality of the majority ruling NLRB v. Canning and what would be your allowable time frame between pro forma sessions of the senate before the president can soundly exercise his recess appointment power? Is it 3 days? 4? 5?**

Response: The majority's ruling in NLRB v. Canning, 134 S. Ct. 2550 (2014) is binding precedent which must be followed by all lower federal courts. As to the allowable time frame between *pro forma* sessions before the President can exercise his recess appointment power, the recess must be of "substantial length." Id. at 2561. A period of 3 days or less is not sufficient. Id. at 2566. In addition, a recess of more than 3 days but less than 10 days is "presumptively too short to fall within the [Recess Appointments] Clause." Id. at 2567. This presumption can only be overcome in a "very unusual circumstance – a national catastrophe, for instance, that renders the Senate unavailable but calls for an urgent response." Id.

- 2. In your opinion, is it an undue burden on a woman seeking an abortion under Planned Parenthood v. Casey if a state requires that doctors performing the procedures have admitting privileges at one of the hospitals in the state to protect women's health and, as a result, all abortion clinics in the state are shut down?**

Response: To my knowledge, neither the Supreme Court of the United States nor the Court of Appeals for the Third Circuit has addressed this issue. Cognizant of the legal and ethical responsibility to not pre-judge matters and to not offer a final opinion until having heard the factual evidence and reviewed all necessary legal sources, I can say that if presented with such a case, I would follow the analysis required by the Supreme Court of the United States as set forth in Planned Parenthood v. Casey, 505 U.S. 833 (1992) and its progeny.

- 3. The Court's ruling on the right to privacy in Griswold v. Connecticut laid the foundation for Roe v. Wade. From your perspective, is Roe v. Wade settled law?**

Response: Roe v. Wade, as well as later Supreme Court decisions that modified it (such as Casey, cited in the previous response, and Gonzales v. Carhart, 550 U.S. 124 (2007)), is binding precedent on all lower courts.

- 4. What is your philosophy on judicial precedent and would you apply prior binding case law that resulted in a court decision that you personally disagree with?**

Response: My philosophy on judicial precedent is that a trial judge must faithfully apply binding Supreme Court precedent as well as controlling law from his or her Circuit. If fortunate enough to be confirmed, I am fully committed to following the precedents established by the Supreme Court and the Court of Appeals for the Third Circuit regardless of whether I agree or disagree with them.

5. **How do you reconcile the 2<sup>nd</sup> Amendment basic right under the Constitution to keep and bear arms made applicable to states under the 14<sup>th</sup> Amendment in McDonald v. City of Chicago with the more recent crop of lower federal court rulings upholding gun control laws, such as laws requiring gun registration, laws making it illegal to carry guns near schools and post offices, and laws banning bottom loading semi-automatic pistols for protection?**

Response: In McDonald v. City of Chicago, 130 S. Ct. 3020 (2010), the Supreme Court of the United States held that the Second Amendment was fully applicable to the states by way of the Fourteenth Amendment. In doing so, the Supreme Court cited to its prior opinion in District of Columbia v. Heller, 554 U.S. 570 (2008), which interpreted the scope of the Second Amendment and found that “the Second Amendment protects the right to keep and bear arms for the purpose of self-defense[.]” McDonald, 130 S. Ct. at 3026. This fundamental right includes the ability “to possess a handgun in the home for the purpose of self-defense.” Id. at 3050. As to the scope of the Second Amendment, the Supreme Court in Heller observed that “nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms.” Heller, 554 U.S. at 626-27. If fortunate enough to be confirmed, I would apply binding precedent from the Supreme Court and the Third Circuit to all cases, including those relating to the Second Amendment.