

**Senator Vitter  
Questions for the Record**

**John Michael Vazquez,  
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.