

12-1281 NLRB V. NOEL CANNING

DECISION BELOW: 705 F.3d 490

LOWER COURT CASE NUMBER: 12-1115

QUESTION PRESENTED:

The Recess Appointments Clause of the Constitution provides that "[t]he President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session." Art. II, § 2, C1. 3. The questions presented are as follows:

1. Whether the President's recess-appointment power may be exercised during a recess that occurs within a session of the Senate, or is instead limited to recesses that occur between enumerated sessions of the Senate.

2. Whether the President's recess-appointment power may be exercised to fill vacancies that exist during a recess, or is instead limited to vacancies that first arose during that recess.

IN ADDITION TO THE QUESTIONS PRESENTED BY THE PETITION, THE PARTIES ARE DIRECTED TO BRIEF AND ARGUE THE FOLLOWING QUESTION: WHETHER THE PRESIDENT'S RECESS-APPOINTMENT POWER MAY BE EXERCISED WHEN THE SENATE IS CONVENING EVERY THREE DAYS IN *PRO FORMA* SESSIONS.

CERT. GRANTED 6/24/2013