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National Labor Relations Board v. Noel Canning

Docket No.	Op. Below	Argument	Opinion	Vote	Author	Term
12-1281	D.C. Cir.	Jan 13, 2014	Jun 26, 2014	9-0	Breyer	OT 2013
Tr. Aud.						

Holding: The Recess Appointments Clause authorizes the president to fill any existing vacancy during any recess – whether occurring during or between sessions of Congress – of sufficient length. However, for purposes of the clause, the Senate is in session whenever it indicates that it is, as long as – under its own rules – it retains the capacity to transact Senate business.

Judgment: [Affirmed](#), 9-0, in an opinion by Justice Breyer on June 26, 2014. Justice Scalia filed an opinion concurring in the judgment, which Chief Justice Roberts, Justice Thomas, and Justice Alito joined.

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- [President's appointment power curbed \(UPDATED\)](#)

Date

Proceedings and Orders

Apr 25 2013	Petition for a writ of certiorari filed. (Response due May 28, 2013)
May 13 2013	Brief of respondent International Brotherhood of Teamster Local 760 in support filed.
May 23 2013	Brief of respondent Noel Canning filed.
May 23 2013	Brief amicus curiae of Coalition for a Democratic Workplace filed.

May 28 2013	Brief amicus curiae of Constitutional Accountability Center filed.
May 28 2013	Brief amicus curiae of Professor Victor Williams filed.
May 28 2013	Brief amici curiae of Senate Republican Leader, Mitch McConnell, et al. filed.
Jun 4 2013	DISTRIBUTED for Conference of June 20, 2013.
Jun 6 2013	Reply of petitioner National Labor Relations Board filed. (Distributed)
Jun 24 2013	Petition GRANTED 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.
Jul 12 2013	The time to file the joint appendix and petitioner's brief on the merits is extended to and including September 13, 2013.
Jul 12 2013	The time to file respondents' brief on the merits is extended to and including November 18, 2013.
Aug 26 2013	Application (13A209) to exceed the word limits of the parties briefs on the merits, submitted to The Chief Justice.
Aug 28 2013	Application (13A209) granted by The Chief Justice to exceed the word limits of the parties briefs on the merits, provided that each opening brief does not exceed 18,000 words, and that the reply brief does not exceed 7,200 words.
Sep 3 2013	Consent to the filing of amicus curiae briefs in support of either party or neither party received from counsel for the respondent International Brotherhood of Teamsters Local 760.
Sep 12 2013	Consent to the filing of amicus curiae briefs, in support of either party or neither party, received from counsel for petitioner National Labor Relations Board.
Sep 13 2013	Brief of petitioner NLRB filed.
Sep 13 2013	Motion to dispense with printing the joint appendix filed by petitioner NLRB.
Sep 13 2013	Brief of respondent International Brotherhood of Teamsters Local 760 in support of the petitioner filed.
Sep 20 2013	Brief amicus curiae of The Brennan Center for Justice filed.
Sep 20 2013	Brief amicus curiae of Constitutional Accountability Center filed.
Sep 20 2013	Brief amicus curiae of Professor Victor Williams filed.
Oct 7 2013	Motion to dispense with printing the joint appendix filed by petitioner GRANTED.
Nov 4 2013	SET FOR ARGUMENT ON Monday, January 13, 2014.
Nov 5 2013	CIRCULATED
Nov 12 2013	Consent to the filing of amicus curiae briefs, in support of either party or of neither party, received from counsel for Noel Canning.
Nov 18 2013	Brief of respondent Noel Canning filed. (Distributed)
Nov 19 2013	Record from the U.S.C.A. District of Columbia Circuit is electronic and located on PACER.
Nov 21 2013	Brief amicus curiae of Landmark Legal Foundation filed.
Nov 22 2013	Brief amicus curiae of Southeastern Legal Foundation filed. (Distributed)
Nov 25 2013	Administrative record received from the National Labor Relations Board. (1Box)
Nov 25 2013	Brief amici curiae of Senate Parliamentary Experts Robert B. Dove and Martin B. Gold filed. (Distributed)
Nov 25 2013	Brief amicus curiae of Speaker of the United States House of Representatives, John Boehner filed.
Nov 25 2013	Brief amici curiae of Coalition for a Democratic Workplace, et al. filed. (Distributed)
Nov 25 2013	Brief amicus curiae of Daycon Products Company, Inc. filed. (Distributed)
Nov 25 2013	Brief amici curiae of Citizens United, et al. filed. (Distributed)
Nov 25 2013	Brief amicus curiae of International Longshore and Warehouse Union filed. (Distributed)
Nov 25 2013	Brief amicus curiae of American Civil Rights Union filed. (Distributed)
Nov 25 2013	Brief amici curiae of Constitutional Law Scholars filed. (Distributed)
Nov 25 2013	Brief amicus curiae of Cato Institute filed. (Distributed)
Nov 25 2013	Brief amici curiae of Originalist Scholars filed. (Distributed)

Nov 25 2013	Brief amici curiae of Political Scientists and Historians filed. (Distributed)
Nov 25 2013	Brief amicus curiae of Council on Labor Law Equality filed. (Distributed)
Nov 25 2013	Brief amici curiae of Alabama, et al. filed. (Distributed)
Nov 25 2013	Brief amicus curiae of Independence Institute filed. (Distributed)
Nov 25 2013	Brief amici curiae of Judicial Watch, Inc., et al. filed. (Distributed)
Nov 25 2013	Brief amicus curiae of National Federation of Independent Business Small Business Legal Center filed. (Distributed)
Nov 25 2013	Brief amicus curiae of Mountain States Legal Foundation filed. (Distributed)
Nov 25 2013	Brief amici curiae of Brian W. Bulger, et al. filed. (Distributed)
Nov 25 2013	Brief amici curiae of Atlantic Legal Foundation, et al. filed. (Distributed)
Nov 25 2013	Brief amici curiae of State National Bank of Big Spring, et al. filed. (Distributed)
Nov 25 2013	Brief amici curiae of Senate Republican Leader Mitch McConnell and 44 Other Members of the United States Senate filed. (Distributed)
Nov 25 2013	Brief amicus curiae of Professor Tuan Samahon filed. (Distributed)
Nov 25 2013	Motion of Senate Republican Leader Mitch McConnell and 44 Other Members of the United States Senate for leave to participate in oral argument as amici curiae, for divided argument, and for additional argument time filed.
Nov 25 2013	Brief amici curiae of National Right to Work Legal Defense and Education Foundation, Inc., and Jeanette Geary. filed. (Distributed)
Nov 25 2013	Motion of Professor Victor Williams for leave to participate in oral argument as amicus curiae and for divided argument filed.
Nov 25 2013	Response of Noel Canning, et al. to motion of Senate Republican Leader Mitch McConnell, et al. for leave to participate in oral argument as amici curiae, for divided argument, and for additional argument time filed.
Dec 9 2013	Motion of Senate Republican Leader Mitch McConnell, et al., for leave to participate in oral argument as amici curiae and for divided argument GRANTED, the time is to be divided as follows: 45 minutes for petitioner, 30 minutes for respondent Noel Canning, and 15 minutes for amici curiae Senate Republican Leader Mitch McConnell, et al.,
Dec 9 2013	Motion of Professor Victor Williams for leave to participate in oral argument as amicus curiae and for divided argument DENIED.
Dec 13 2013	Letter received from counsel of record for amicus for The Brennan Center for Justice. (Distributed).
Dec 18 2013	Reply of petitioner National Labor Relations Board filed. (Distributed)
Dec 18 2013	Reply of respondent International Brotherhood of Teamsters Local 760 in support of petitioner filed. (Distributed)
Jan 13 2014	Argued. For petitioner: Donald B. Verrilli, Jr., Solicitor General, Department of Justice, Washington, D. C. For respondents: Noel J. Francisco, Washington, D. C.; and Miguel A. Estrada, Washington, D. C. (for Senate Republican Leader Mitch McConnell, et al., as amici curiae).
Jun 26 2014	Adjudged to be AFFIRMED. Breyer, J., delivered the opinion of the Court, in which Kennedy, Ginsburg, Sotomayor, and Kagan, JJ., joined. Scalia, J., filed an opinion concurring in the judgment, in which Roberts, C. J., and Thomas and Alito, JJ., joined.
Jul 28 2014	JUDGMENT ISSUED.
Jul 28 2014	Record returned for U.S.C.A. for District of Columbia Circuit.