

United States Senator Thom Tillis
Questions for the Record
Senate Judiciary Committee
On
Nominations

Question for Judge Robert John Colville

1. In my written questions to you, I asked the following question: “A number of states, including North Carolina, have passed or introduced laws to protect women’s health. You have characterized *Roe v. Wade* and its progeny as settled law. Please address whether you consider the following settled law:
 - a. That a state can require a consultation with a physician or qualified professional at least 24 hours prior to an abortion procedure,
 - b. That a state can forbid an abortion if a significant factor in the woman’s decision is related to the gender of the unborn child,
 - c. That a state can require abortion facilities to meet the same standards as ambulatory surgical centers, and
 - d. That a state can require an ultrasound be made available to the woman before permitting an abortion.”

In response, you stated:

It is my understanding that each of the scenarios described above is either presently a matter subject to pending litigation and/or potentially subject to impending litigation. As such it would be inappropriate for me to express a view as to the issues involved. I would like to assure the Committee that I would faithfully abide by the precedent of the Supreme Court and the Third Circuit if any of these issues came before me as a District Court Judge.

Your answer was non-responsive, and I would like to give you an opportunity to provide a responsive answer. Because you have opined on and characterized *Roe v. Wade* and its progeny as settled law, I would like to

have a more comprehensive understanding of your views in this area of law. If *Roe v. Wade* and its progeny are in fact settled constitutional law, please address and answer individually the question and subparts stated above.

Response: To my knowledge the Supreme Court has not ruled on any of the matters about which you inquire, and each is in some measure the subject of pending litigation or potentially the subject of impending litigation; accordingly, to the extent that litigation is ongoing and not yet resolved by the Supreme Court these matters are, in my view, not settled law. I would also add that I did not intend the phrase "settled law" to carry any specialized legal meaning beyond the simple recognition that *Roe v. Wade*, 410 U.S. 113 (1973) has been long decided and not substantially reversed by the Supreme Court. Of course, *Roe* remains the subject of ongoing legal challenges and is, in that respect, subject to review. However, until or unless reversed, as a trial court judge I would recognize it, and cases that have followed, including those that have, in some respects, narrowed *Roe's* applicability, such as *Planned Parenthood v. Casey*, 505 U.S. 833 (1997) and *Gonzales v. Carhart*, 550 U.S. 124 (2007) as binding precedent. I would like to assure the Committee that I would faithfully abide by the precedent of the Supreme Court and the Third Circuit if any of these issues came before me as a District Court Judge.