

**Elon Law Billings, Exum & Frye National Moot Court Competition
Fall 2019
Sept. 17, 2019**

Below are the BEF Competition's responses to the questions and requests for clarification received by the September 11 deadline.

Teams may insert this page in the problem/record as a new page 18 and may cite this information, if necessary, to page 18 of the record.

Responses to Requests for Problem Clarification/Questions

1. Issue #1 before the Court is: "Whether the United States Constitution includes a right of privacy, as recognized in *Casey*, that precludes a state's restricting or banning abortion prior to viability?" Does this issue use "restricting" and "banning" synonymously or should we address both whether a state's restricting abortion prior to viability is precluded and whether a state's banning abortion prior to viability is precluded?

Response: Teams should interpret the question as they see fit based on the Court's language and the issues raised by the problem.

2. Should we assume that Family Planning Services brings facial challenges to the Abortion Ban and the Fetal Remains Provisions?

Response: Family Planning Services is bringing a facial challenge to the provisions.

3. Page 3 of the problem states "[a] violation of the statute by a physician constitutes a Class B felony, which carries a maximum sentence of 20 years, and an attempted violation of the statute constitutes a Class D felony, which carries a potential sentence of up to 10 years in prison."

Page 16 of the problem lists the statute, which in Subsection (c) states "A violation of subsection (a) of this Section constitutes a Class A felony. An attempted violation of subsection (a) of this section constitutes a Class C felony."

Which statement is correct? And what is the applicable range of punishment for a violation and for an attempted violation?

Response: The problem text controls, so the violation of the statute by a physician is a Class B felony, which carries a potential maximum prison sentence of 20 years, and the attempted violation is a Class D felony, which carries a potential sentence of up to 10 years in prison.

4. Is the medical facility a private entity or a public entity?

Response: FPS is a private organization.