

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	)	
	)	No. 2:15-cr-155
v.	)	Hon. William H. Walls
	)	
ROBERT MENENDEZ and	)	
SALOMON MELGEN,	)	
	)	
Defendants.	)	
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**UNITED STATES' RESPONSE TO COURT ORDER**

On September 7, 2017, the Court ordered the parties to brief the meaning of “constituent under the circumstances of this case.” *See* Sept. 7, 2017, Tr. at 49–50. The straightforward answer is that Senator Menendez’s constituents are the New Jerseyans that he was elected to represent in the United States Senate.

Black’s Law Dictionary defines a constituent as (1) “[s]omeone who gives another the authority to act as a representative; a principal who appoints an agent,” or (2) “[s]omeone who is represented by a legislator or other elected official.”<sup>1</sup> Bryan A. Garner, BLACK’S LAW DICTIONARY (10th ed. 2014), Westlaw (constituency). Only the people of New Jersey can elect someone to represent the State of New Jersey in the United States Senate. U.S. Const. amend. XVII (“The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote.”).

The definition of “constituency” sheds light on the meaning of the term “constituent” in the context of a legislative district’s elected representative. Black’s Law Dictionary defines “constituency” as (1) “[t]he body of citizens dwelling in a defined area and entitled to elect a

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<sup>1</sup> Black’s Law’s third definition is “[o]ne part of something that makes up a whole; an element.” *Id.*

representative,” (2) “[t]he residents of an electoral district, esp. those who vote,” or (3) “[a]n area of a country that elects a representative to the legislature.” BLACK’S LAW DICTIONARY, Westlaw (constituency); *accord Constituency*, MERIAM-WEBSTER ONLINE DICTIONARY, (last visited Sept. 18, 2017) (defining “constituency” as “a body of citizens entitled to elect a representative (as to a legislative or executive position),” or “the residents in an electoral district”).

Consistent with Black’s Law Dictionary’s definition, courts’ use of “constituent” in relation to an elected representative implies the understanding that the term include only residents of the area that a legislator represents. *See, e.g., Lewis v. Guadagno*, 837 F. Supp. 2d 404, 417 (D.N.J. 2011) (explaining that a durational residency requirement for state senators “assumes that the requisite manner and degree of familiarity between citizen and candidate cannot occur unless . . . the senatorial office seeker lives in the State and among its people, where the candidate can experience with his or her constituents hardship and prosperity, challenge and accomplishment, disappointment and pride”); *Daly v. Hunt*, 93 F.3d 1212, 1226 (4th Cir. 1996) (“The second power in representative government is the power actually exercised by the representative in the governing body, on behalf of his or her constituents. Arguably this power would be nonexistent for constituents if they had no control over their representatives through the right to vote.”); *Nipper v. Smith*, 39 F.3d 1494, 1534 (11th Cir. 1994) (“Legislators are generally viewed as advocates, or ‘representatives’ in the conventional sense of the word, of their constituents. Their loyalties lie, first and foremost, with the people in their districts.”).

Finally, the manner in which Senator Menendez himself has used the word “constituent” is consistent with a meaning in this case limited to New Jerseyans. *See, e.g., U.S. Senator Robert Menendez’s Office Hosts “Constituent Day” in Morris County*, SENATOR BOB MENENDEZ (Mar. 27, 2012), <https://www.menendez.senate.gov/news-and-events/press/us-senator-robert->

menendezs-office-hosts-constituent-day-in-morris-county (“Providing constituent services to residents in the state is important and necessary. My staff, in both of my state offices, works diligently to help New Jerseyans obtain information and resources from various federal departments and agencies. It is an honor to have the opportunity to help residents obtain the information they need.”); Letter from Sen. Bob Menendez to Andrew C. von Eschenbach, Commissioner, Food and Drug Administration (June 27, 2008), <https://votesmart.org/public-statement/357868/letter-to-andrew-c-von-eschenbach-md-commissioner-food-and-drug-administration/?search=constituent> (“On behalf of my constituents in New Jersey, I write today seeking the answers to these questions and a plan to prevent these instances in the future.”).

Based on the foregoing, the meaning of constituents in this case is the New Jerseyans who Senator Menendez was elected to represent.

ANNALOU TIROL  
ACTING CHIEF  
PUBLIC INTEGRITY SECTION

By: s/ Peter Koski  
Peter Koski  
Deputy Chief  
J.P. Cooney  
Deputy Chief  
Monique Abrishami  
Trial Attorney  
Amanda Vaughn  
Trial Attorney  
Public Integrity Section  
1400 New York Ave. NW  
Washington, D.C. 20005  
Telephone: (202) 514-1412  
Facsimile: (202) 514-3003

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this date, I electronically filed the foregoing pleading with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the attorneys of record for the defendants.

Dated: September 19, 2017

*s/ Peter Koski*  
Peter Koski  
Deputy Chief  
Public Integrity Section  
Criminal Division  
U.S. Department of Justice