

11-393 NATIONAL FEDERATION OF INDEPENDENT BUSINESS V. SEBELIUS

DECISION BELOW: 648 F.3d 1235

LOWER COURT CASE NUMBER: 11-11021, 11-11067

QUESTION PRESENTED:

Congress effected a sweeping and comprehensive restructuring of the Nation's health-insurance markets in the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, 124 Stat. 119 (2010), as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 109 (2010) (collectively, the "ACA" or "Act"). But the Eleventh Circuit and the Sixth Circuit now have issued directly conflicting final judgments about the facial constitutionality of the ACA's mandate that virtually every individual American must obtain health insurance. 26 U.S.C. § 5000A. Moreover, despite the fact that the mandate is a "requirement" that Congress itself deemed "essential" to the Act's new insurance regulations, 42 U.S.C. § 18091(a)(2)(I), the Eleventh Circuit held that the mandate is severable from the remainder of the Act.

The question presented is whether the ACA must be invalidated in its entirety because it is non-severable from the individual mandate that exceeds Congress' limited and enumerated powers under the Constitution.

CONSOLIDATED WITH 11-400 FOR A TOTAL OF 90 MINUTES ORAL ARGUMENT.

ORDER OF NOVEMBER 18, 2011

H. BARTOW FARR, III, ESQ. IS INVITED TO BRIEF AND ARGUE THESE CASES, AS *AMICUS CURIAE*, IN SUPPORT OF THE JUDGMENT OF THE COURT OF APPEALS THAT THE MINIMUM COVERAGE PROVISION OF THE PATIENT PROTECTION AND AFFORDABLE CARE ACT, 26 U.S.C. §5001, IS SEVERABLE FROM THE ENTIRETY OF THE REMAINDER OF THE ACT.

CERT. GRANTED 11/14/2011