

Pennsylvania judge rules against ObamaCare

BY MICHAEL P. TREMOGLIE

HARRISBURG, Pa. (Legal Newline) - U.S. District Judge Christopher C. Conner declared that Congress exceeded its authority in passing a provision of the Patient Protection and Affordable Care Act.

The condition he declared unconstitutional was the mandate requiring American citizens to purchase health insurance.

Conner's opinion was published today in the case of Goudy-Bachman v. U.S. Department of Health and Human Services, 10-cv-763, U.S. District Court, Middle District of Pennsylvania.

"Congress's authority under the Commerce Clause of the U.S. Constitution" cannot be applied in this instance, Conner wrote.

The specific issue in this case was whether Congress could invoke the Commerce Clause power.

Conner concluded that Congress cannot compel individual citizens to buy health insurance as a condition of citizenship. He reasoned that the authority to regulate interstate commerce does not list the ability to order a lifetime financial commitment to buy health insurance.

"Without judicially enforceable limits," Conner wrote in his 52-page opinion, "the constitutional blessing of the minimum coverage provision, codified at 26 U.S.C. § 5000A, would effectively sanction Congress's exercise of police power under the auspices of the Commerce Clause, jeopardizing the integrity of our dual sovereignty structure."

The ruling makes the mandate provision constitutionality split at the federal district court level. It was struck down in three federal district courts and upheld in three others.

It is also a split at the appeals level. So far, three federal appeals courts have heard cases on Obamacare.

President Obama's record is 1-1-1. A three-judge panel in the Sixth District Appeals Court in Cincinnati ruled it legal. An Atlanta appeals court ruled it illegal. A Richmond, Va. appeals court rejected challenges on jurisdictional grounds.

An appeal of a ruling for the U.S. District Court for the Middle District of Pennsylvania would be heard by the Third Circuit U.S. Court of Appeals in Philadelphia. This court has never heard a case on the Patient Protection and Affordable Care Act.

The suit was filed by a York County, Pa. couple who are married with two kids. They are self-employed and have no health insurance. They pay whatever medical expenses they incur out of their current income and assets.

Conner said that they are typical of many who have to make a "Hobson's Choice" whether or not to purchase insurance. They have chosen not to do so. Since they are not part of any group exempted from the mandate they filed suit. Their assertion is that Congress is able to regulate but not mandate commerce, which is what the mandate provision does.

Ilya Shapiro is a Senior Fellow of Constitutional Law at the Cato Institute, a Washington D.C. think-tank. He said, "We think it is the right decision. There is nothing new that Judge Conner said. This case is most assuredly headed for the Supreme Court."

Conner anticipates this as well. He wrote in his opinion, "Should the Supreme Court determine that the Commerce Clause extends to anticipatory mandates, or, that the health care market is unique for purposes of Commerce Clause analysis, the Supreme Court will delineate clear limits to that power. Until that occurs, the minimum coverage provision of the Patient Protection and Affordable Care Act cannot withstand constitutional scrutiny."