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Judge Rules Health-Insurance Mandate Unconstitutional

12/13/10 at 1:40 PM 29 Comments

A federal district judge in Virginia, Bush 43 appointee Henry E. Hudson, has ruled that the provision of health-care reform that requires almost everyone to get health insurance is unconstitutional, as it exceeds the limits of Congress's power to regulate commerce.

The judge wrote that his survey of case law "yielded no reported decisions from any federal appellate courts extending the Commerce Clause or General Welfare Clause to encompass regulation of a person's decision not to purchase a product, not withstanding its effect on interstate commerce or role in a global regulatory scheme."

Hudson did not block the implementation of health-care reform, however, meaning that President Obama's signature legislative achievement is safe, for now. There will be appeals, and appeals of appeals, and it'll eventually make its way to the Supreme Court. But the mandate is a vital component of the health-care-reform package. Without it, insurers can't cover the new, sickly people on their rolls, and everything falls apart.

So what's the real significance of today's ruling? For that, we turn to legal and political reactions from around the web.

Igor Volsky, Think Progress:

[T]he decision stands alone within the broader context of existing court challenges. Since President Obama signed health reform into law on March 23, opponents have filed at least 20 separate suits against the legislation. Federal judges have dismissed 14 of these challenges, and at least two separate judges disagreed with Hudson's interpretation and questioned the merit of the plaintiffs' claim that compelling individuals to purchase insurance fell outside the purview of the Commerce Clause.

Steve Benen, Political Animal/Washington Monthly:

[A] fairly radical Republican, Virginia Attorney General Ken Cuccinelli, carefully chose a court with some fairly radical judges, hoping to get a fairly radical ruling. And that's exactly what happened this morning.

Jonathan Cohn, Citizen Cohn/New Republic:

Advocates of repeal will celebrate this case and claim vindication, just as proponents of the law (including yours truly) did after the previous decisions. And while the law has no immediate impact on implementation, state officials and others opposed to health care reform will cite the uncertainty of the law's future as reason to slow down or hold off making changes that the law will eventually require.

Abe Greenwald, Contentions/Commentary:

[T]oday's ruling, coming when it did, is important beyond its implications for the fate of the health-care overhaul. For it is one more data point in a seemingly endless narrative of administration setbacks. Every failure is now a compounded failure. Furthermore, this is yet another setback about which Obama can do precious little. After a term of ferocious activism, this administration is stuck watching its own deficiencies play out along with the rest of us



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2. You Might Be Surprised by What New Yorkers Think of Wal-Mart 73
3. A Very Sad Story, Told Through Facebook 68
4. Sarah Palin Still Thinks She Was Wronged by Katie Couric's Reading Question 43
5. Bernie Madoff's Son Mark Reported Dead 40

Ezra Klein, Washington Post:

Hudson will not have the last word on this. Anthony Kennedy will. The disagreements between the various courts virtually ensure that the Supreme Court will eventually take up the case. But right now, the range of opinions stretch from "the law is fine" to "the individual mandate is not fine, but the rest of the law is." That could create problems for the legislation if the mandate is repealed and Republicans block any attempts at a fix, but it's a far cry from a world in which the Supreme Court strikes down the whole of the health-care law.

John Hinderaker, Powerline:

The Democrats assumed, I think, that if they rammed Obamacare down our throats in spite of the bill's well-known unpopularity, it would become a fait accompli and voters would become resigned to it. So far, at least, that hasn't happened, and adverse rulings like Judge Hudson's will add fuel to the pro-repeal fire.

Josh Marshall, Talking Points Memo:

A year ago, no one took seriously the idea that a federal health care mandate was unconstitutional. And the idea that buying health care coverage does not amount to "economic activity" seems preposterous on its face. But the decision that just came down from the federal judgment in Virginia -- that the federal health care mandate is unconstitutional -- is an example that decades of Republicans packing the federal judiciary with activist judges has finally paid off.

Roger Pilon, Cato@Liberty:

A quick reading of Judge Henry Hudson's opinion today striking the "individual mandate" provision of ObamaCare gives hope to those of us who have long urged, more broadly, for a restoration of limited constitutional government. As Judge Hudson put in granting summary judgment to Virginia, "the legislative process must still operate within constitutional bounds."

Kevin Drum, Mother Jones:

I'm not sure what the legal issues are here, but there have certainly been times in the past when I've wondered why we bother going through the whole rigamarole of lower court decisions in cases like this. I mean, everyone knows this is going to end up at the Supreme Court anyway, and everyone knows that the Supreme Court quite plainly couldn't care less what any of the lower courts say about it. All those lower court decisions are no better than waste paper.

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BY REDLANDS123 on 12/13/2010 at 1:53pm Report
May it'll lose on appeal.

BY CRASS on 12/13/2010 at 1:53pm Report
If states can mandate every driver to have car insurance then why can't they mandate every person with HEALTH to have health insurance? The judge has a conflict of interest-- he owns a stake in a consulting firm that lobbied against health care.

BY FUKKYTANTANG on 12/13/2010 at 1:57pm Report
Driving is a privilege, not a right. You can choose to drive or not and if so, they you're required to buy insurance. You cannot generally "choose" your health.

BY AHOLMES on 12/13/2010 at 2:02pm Report
also the car insurance mandate only requires liability insurance. (at least in my state) if you cause an accident the other party is covered, but you don't have to cover damage you do to your own car.

BY THENEXT_MRSBASS on 12/13/2010 at 2:05pm Report
Regardless of the constitutionality of the mandatory enrollment provision, having it stricken wouldn't be the worst thing in the world. Including that provision without a corresponding means of controlling prices is basically just a windfall to the insurance companies.

BY AHOLMES on 12/13/2010 at 2:09pm Report
^ exactly, tnmb.
BY 77BC on 12/13/2010 at 2:29pm Report

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