Supreme Court: Obama Is Out of Order

By: Matthew Vadum
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The Supreme Court has wrapped up its 2013-2014 term by handing stinging defeats to the increasingly unpopular President Obama.

Doing its job for a change, the high court reined in the power of the Executive Branch of the federal government, striking down a forced unionization scheme, an abortifacient mandate, and improper recess appointments. The Court also rejected the Obama administration's contention that police be allowed to search Americans' cellphones without warrants.

In the nearly five and a half years Obama has been president, the Supreme Court has now ruled against the government 9-0 an astonishing 20 times, as Sen. Ted Cruz (R-Texas) points out. George W. Bush and Bill Clinton lost on unanimous votes 15 times and 23 times, during their respective eight years in the Oval Office.

This means that as measured by judicial losses, the Obama administration is on track to surpass its two immediate predecessors.

"The importance of the unanimous cases is that you can't say, 'Well, there are five Republican appointees on the court and four Democrats,'" said Ilya Shapiro, a senior fellow in constitutional studies at the Cato Institute.

"These cases where they haven't gotten the votes of either of the two Obama nominees means the arguments being presented by the Justice Department to the court are just out of left field," he said.

Justices Elena Kagan and Sonia Sotomayor were appointed by Obama. Kagan served as Obama's solicitor general, arguing cases before the Supreme Court.

In a ruling that has sent shock waves through Big Labor, the Supreme Court struck down a scam that was being run by the grifters at the president's favorite labor union, Service Employees International Union (SEIU).

The Court ruled 5-4 in *Harris v. Quinn* that SEIU cannot compel people who care for their loved ones to become union members. Nor can SEIU deduct member dues from the government checks of the people for whom they care.

"The practice has gone on for several years in a handful of states, creating a lucrative stream of cash for the powerful labor organization, which represents more than 2 million workers and takes in about $300 million per year," according to one commentator.

If this sounds like a sleazy ACORN scam, there is a reason for that. Local 880 of SEIU was an affiliate of the now-defunct Association of Community Organizations for Reform Now. The local, which was headed by ACORN insider Keith Kelleher, was absorbed into a larger collective bargaining unit a few years ago, as I detailed in my book *Subversion Inc.*

That bargaining unit was SEIU Healthcare Illinois & Indiana (SEIU-HII) whose actions gave rise to the Supreme Court case.

The people forced to become SEIU members may now sue the union to get back the money that was stolen from them.

"The whole point of the decision was that the folks milked by the SEIU weren't really public employees and should not be forced to pay union dues at all," said Hans Bader, senior attorney at the Competitive Enterprise Institute. "So they should be able to sue for refund of their compelled union dues back as far as the statute of limitations will allow."

"It could have a large effect," he added.

In an era of declining union membership, home health aides had become a big part of SEIU's base, making up about a fifth of the union's total membership. In Illinois and other states, they have been deemed public sector workers. The ruling applies to an estimated 26,000 home health care workers in the Land of Lincoln but it could eventually affect many more in other states.

SEIU President Mary Kay Henry was unrepentant and non-responsive, totally ignoring the health care workers' rights.

"No court case is going to stand in the way of home care workers coming together to have a strong voice for good jobs and quality home care," she said. "At a time when wages remain stagnant and income inequality is out of control, joining together in a union is the only proven way home care workers have of improving their lives and the lives of the people they care for."

On Monday the Court delivered a tiny, relentlessly overhyped setback to Obamacare, ruling that closely held for-profit companies can refuse on religious grounds to cover abortifacients (i.e. pregnancy-terminating) birth control methods in their employee health care plans.

Although the decision is a victory for religious liberty, contrary to media reports it is not about contraceptives at all.

Treatments that prevent an already fertilized human egg from developing further do not have to be covered but 16 out of 20 approved methods that prevent conception still have to be covered. The ruling by itself will not do much to halt the ongoing destruction of the American health care system mandated by the Affordable Care Act, a.k.a. Obamacare.

The 5-4 opinion in *Burwell v. Hobby Lobby* led to an immediate eruption of manic leftist apoplexy from Greenwich Village to San Francisco as social media websites were swamped with the usual death threats and inarticulate expressions of rage from the freeloader lobby and those who don't understand the difference between contraceptives and abortifacients.

Sandra Fluke echoed false media reports that decried the ruling as an assault on women's rights or as an outright ban on health care coverage of contraceptives. Spewing nonsense on "The O'Reilly Factor," she characterized the ruling as an attempt "to limit women's access to reproductive health care."

On her own show, Fox News anchor Megyn Kelly slapped down Fluke.

"Hobby Lobby, which is an evangelical company, came out and said, 'Alright we'll do it. We'll do it for all of them except for four that end a fertilized egg from going forward,' " said Kelly, who practiced law as a corporate litigator at the Jones Day law firm for nine years before becoming a journalist.

"What happened was we passed Obamacare. And then [former Secretary of Health and Human Services] Kathleen Sebelius had some of her HHS minions go down in the basement and write a regulation that said as part of Obamacare, you have to cover 20 out of 20 birth-control drugs."

Kelly noted that the high court invoked the Clinton-era Religious Freedom Restoration Act of 1993 as the basis for its ruling.

As the Court states in *Burwell v. Hobby Lobby*, that law prohibits the "Government [from] substantially burden[ing] a person's exercise of religion even if the burden results from a rule of general applicability" unless the Government "demonstrates that application of the burden to the person—(1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest." The statute was amended by the Religious Land Use and Institutionalized Persons Act of 2000 which covers "any exercise of religion, whether or not compelled by, or central to, a system of religious belief."

"That law protects you, Hobby Lobby," Kelly said, "and Kathleen Sebelius's minions in the basement don't get to take your rights away from you."

Predictably, Benghazi bungler Hillary Clinton weighed in on the indignity of female employees having to pay for their own abortifacients, calling the Supreme Court's ruling "deeply disturbing."

Revealing her ignorance of basic human biology, Clinton opined that "it's the first time that our court has said that a closely held corporation has the rights of a person when it comes to religious freedom, which means the corporation's … ['closely held'] employers can impose their religious beliefs on their employees, and, of course, denying women the right to *contraceptives* as part of a health care plan is exactly that." [emphasis added]

"I find it deeply disturbing that we are going in that direction," she said, despite the fact that we are not actually going in that direction.

"It's very troubling that a sales clerk at Hobby Lobby who needs *contraception*, which is pretty expensive, is not going to get that service through her employer's health care plan because her employer doesn't think she should be using *contraception*," Clinton said, ignoring the actual facts of the case which is about mandated coverage of abortifacients. [emphasis added]

By contrast, Speaker of the House John Boehner (R-Ohio) hailed the ruling.

"Today's decision is a victory for religious freedom and another defeat for an administration that has repeatedly crossed constitutional lines in pursuit of its big government objectives," said Boehner who recently filed a lawsuit against President Obama aimed at curbing his almost daily overreaches.

The Supreme Court also unanimously struck down a Massachusetts law that prevented protests within 35 feet of abortion clinics, affirming the free speech rights of pro-life activists. The state "buffer zone" law imposed "serious burdens" on protesters wanting to talk with arriving patients, the high court found.

The ruling in *McCullen v. Coakley*, "effectively overturns about 10 fixed-buffer-zone laws across the country, from San Francisco to Portland, Maine, but offers a framework for more limited restrictions around clinic demonstrations," the *Boston Globe* reports.

The state law was ridiculously overbroad, as Chief Justice John Roberts wrote in the opinion of the Court: The "Massachusetts statute makes it a crime to knowingly stand on a 'public way or sidwalk' within 35 feet of an entrance or driveway to any place, other than a hospital, where abortions are performed."

Massachusetts Gov. Deval Patrick, a left-wing Democrat and close friend of President Obama, pledged new legislation that abridges the First Amendment on behalf of Bay State abortionists but details of it have not yet emerged.

The Supreme Court also unanimously rejected the Obama administration's insidious argument that police should be allowed to search cellphones without a warrant.

The Court's ruling in *Riley v. California* brings "the Fourth Amendment into the digital age," according to SCOTUSblog.

As Chief Justice Roberts writes in the Court's opinion, "Cell phones differ in both a quantitative and a qualitative sense from other objects that might be kept on an arrestee's person." The ruling will no doubt affect the NSA's bulk record collection program at some point.

Last week the Supreme Court rebuked President Obama by invalidating three recess appointments the president made in an attempt to unconstitutionally manipulate federal labor relations policy.

Justices held unanimously in *National Labor Relations Board v. Noel Canning* that Obama overreached in 2012 when he recess-appointed three members to the NLRB without bothering to wait for the U.S. Senate to recess. Obama's goal was to pack the under-staffed NLRB with likeminded leftists and give the board the quorum it previously lacked to conduct official business. The ruling calls into question every order issued by the NLRB since the date the appointments were made.

As usual, the Obama White House refuses to admit that things aren't going well.

"I'd hesitate to make a broad assessment like that from this podium," newly minted White House press secretary Josh Earnest told reporters.

A few more terrible weeks for our despotic president and maybe, just maybe, America has a fighting chance of avoiding the fundamental transformation he and his Marxist ilk are working so hard to bring about.