



WIND EXCLUSIVE

## JUDGE SAYS OBAMA APPROACHING TOTALITARIANISM

Napolitano says White House now 'dangerously close'

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Not many weeks ago, Barack Obama announced that Congress was being uncooperative, so he would have to go it alone with executive orders to make changes he wanted for America.

Then he stated he is confident that the Supreme Court would not choose to overturn his health care law, through which the government requires Americans to buy a product approved by the federal bureaucracy or face fines.

His diminishment of two of the three co-equal branches of government has caught the attention many citizens, and now a legal expert has weighed in with a stark warning about the future of the nation.

“I think the president is dangerously close to totalitarianism,” Judge Andrew Napolitano, a Fox News analyst, said. “A few months ago he was saying the Congress doesn’t count. The Congress doesn’t mean anything. I am going to rule by decree and by administrative regulation. Now he’s basically saying the Supreme Court doesn’t count. It doesn’t matter what they think. They can’t review our legislation.

“That would leave just him as the only branch of government standing,” he said.

His comments came recently on Neil Cavuto’s program, when the discussion turned to the U.S. Supreme Court’s discussion of the unconstitutionality of Obamacare and Obama’s verbal attack on the court shortly after the oral arguments.

“I think he has some problems with understanding the Constitution, or accepting limitations on his power,” said Napolitano. “Look, they’re equal branches of government, but with respect to what the law means and what the Constitution means, the court is superior to the president.

“No president in modern times has questioned [the Supreme Court's] authority. They have questioned the way the authority has been exercised,” he said. “Not their right to make the decision.

“This is an extreme view of the Supreme Court and the Constitution, one that has not been articulated since Andrew Jackson was in the White House,” he said.

Napolitano is the youngest life-tenured Superior Court judge in the history of the state of New Jersey. He tried more than 150 jury trials during his time on the bench from 1987 to 1995, including criminal, civil, equity and family cases.

For 11 years, he served as an adjunct professor of constitutional law at Seton Hall Law School, where he provided instruction in constitutional law and jurisprudence. Napolitano returned to private law practice in 1995 and began television broadcasting in the same year.

He's written “[Constitutional Chaos: What Happens When the Government Breaks Its Own Laws](#)”; a New York Times bestseller, “[The Constitution in Exile: How the Federal Government Has Seized Power by Rewriting the Supreme Law of the Land](#)”; and “[A Nation of Sheep](#).”

[According to an extensive report in Bloomberg](#), Obama has been lavish with his use of executive orders.

The report cited his decision to kill work on the Keystone XL pipeline, changing the focus of deportation of illegal aliens and student loan repayment procedures.

The report noted the perspective of Tad Devine, a Democratic strategist, that such manipulation of executive power “can generate enthusiasm among Democratic voters at a time when the Republican Party base is fired up about defeating the president.”

It also cited the opinion from Gene Healy of the Cato Institute, who said, “Even the president’s supporters ought to remember that the presidency periodically changes hands and it’s undemocratic and unhealthy to lodge this much power in one person’s hands.”

Among the the most controversial of Obama’s orders is one that extends the White House’s power to seize authority in a national emergency.

The president has cited the need to mobilize technological and industrial resources “capable of meeting national defense requirements” to ensure “technological superiority of its national defense equipment in peace time and in times of national emergency.”

The executive order requires Cabinet agencies to determine military and civilian staffing levels needed and evaluate access to suppliers and materials. The goal is to have the government prepared “in the event of a potential threat to the security of the United States.”

Specifically, it grants authority to Washington to tell agencies how to activate and run a National Defense Executive Reserve plan that would in many ways take control of certain segments of industry.

It was Obama’s comments about the Supreme Court that brought the issue into focus recently.

He said the justices “will not take what would be an unprecedented, extraordinary step of overturning a law that was passed by a strong majority of a democratically elected Congress.” That’s even though Obamacare passed without any GOP support and barely passed the House by a couple of votes.

He said if the court chooses to rule on Obamacare any way other than his – it will be exhibiting “judicial activism or a lack of judicial restraint.”

He continued, “The point I was making is that the Supreme Court is the final say on our Constitution and our laws, and all of us have to respect it, but it’s precisely because of that extraordinary power that the court has traditionally exercised significant restraint and deference to our duly elected legislature.”

[At the Washington Post](#), Josh Hicks wrote, “Many of the right-leaning legal experts we talked to acknowledged that the modern Supreme Court has largely – but not entirely – shown deference to Congress when it comes to such matters. But some noted that the court has shown no such restraint when deciding whether statutes involve commerce in the first place.”

He explained, “Critics of the health law say the insurance mandate represents an entirely unique form of economic regulation that potentially warrants a new legal precedent.”

He concluded it wouldn’t be ‘necessarily true’ that a court decision to reject Obamacare “would be acting in extreme fashion.”

“Some would say that invalidating an economic regulation isn’t extraordinary at all,” he said.