

# Mother Jones

## Could Immigration Sink Obamacare at the Supreme Court?

By Kevin Savage  
December 1, 2014

David Savage writes today that President Obama's executive order on immigration could have an unintended consequence: convincing Chief Justice John Roberts that Obama really is riding roughshod over the rule of law and needs to be reined in. And perhaps the latest challenge to Obamacare is [just the place to start](#):

Two years ago, the chief justice surprised many by joining liberals on the court to uphold the constitutionality of Obama's Affordable Care Act. And he probably holds the deciding vote in a second legal challenge to the healthcare law — one that seeks to eliminate government insurance subsidies to low- and middle-income enrollees in two-thirds of the nation.

But Roberts, an appointee of President George W. Bush, has shown an increasing skepticism toward what conservatives call Obama's tendency to overreach....The question now is whether the president's immigration action will influence the thinking of the justices, and particularly of Roberts, as they consider in the upcoming healthcare case whether the president exceeded his authority.

....Critics are appealing to Roberts and the court's conservatives, arguing the president and his advisors have no power to unilaterally change a law passed by Congress. Their argument echoes the criticism voiced over Obama's immigration directive, accusing the president of trying to fix a broken system by acting on his own rather than waiting for Congress.

Experts say that legally the healthcare case is a close call. If so, the outcome may turn on whether the justices are inclined to give the president the benefit of the doubt, or whether they believe it's time to rein him in.

Granted, Savage is just speculating here. He really has no evidence for this at all and quotes nobody aside from a single legal expert from the Cato Institute. Still, you have to assume that perhaps Savage has been hearing rumors that prompted him to write this. And it certainly fits into speculation that Roberts may be hunting around for an excuse to atone for his apostasy two years ago when he upheld Obamacare in the first place.

It's kind of unnerving to even suspect that Supreme Court justices might really think this way. But it's hardly inconceivable. The law itself, along with the real-world consequences of the

court's actions, don't seem to occupy a large share of the justices' minds these days. These are becoming bleak times in Supreme Court land.