

19-1019 TEXAS V. CALIFORNIA

DECISION BELOW: 945 F.3d 355

LOWER COURT CASE NUMBER: 19-10011

QUESTION PRESENTED:

Congress passed the Patient Protection and Affordable Care Act ("ACA"), Pub. L. No. 111-148, 124 Stat. 119 (Mar. 23, 2010), with the express goal of achieving near-universal health-insurance coverage. To achieve that goal, Congress found it was "essential" to require healthy Americans to ensure that they have what Congress considered minimum essential coverage. In 2012, this Court held that "[t]he Federal Government does not have the power to order people to buy health insurance." *Nat'l Fed'n of Indep. Bus. v. Sebelius* ("*NFIB*"), 567 U.S. 519, 575 (2012) (op. of Roberts, C.J.). The Court upheld the minimum-essential-coverage requirement, however, because it was "fairly possible" to construe the mandate as a tax. *Id.* at 574. In 2017, Congress eliminated that alternative construction by zeroing out any penalty. That legislative act rendered the individual mandate unconstitutional, as the court below correctly held.

The Court should deny the petitions in Nos. 19-840 and 19-841. But if it grants them, it should grant this conditional cross-petition, as well, which presents the following questions:

1. Whether the unconstitutional individual mandate to purchase minimum essential coverage is severable from the remainder of the ACA.

2. Whether the district court properly declared the ACA invalid in its entirety and unenforceable any-where.

CONSOLIDATED WITH 19-840 FOR ONE HOUR ORAL ARGUMENT.

CERT. GRANTED 3/2/2020