

11-400 FLORIDA V. DEPARTMENT OF HEALTH AND HUMAN SERVICES

DECISION BELOW: 648 F.3d 1235

LOWER COURT CASE NUMBER: 11-11021, 11-11067

QUESTION PRESENTED:

1. Does Congress exceed its enumerated powers and violate basic principles of federalism when it coerces States into accepting onerous conditions that it could not impose directly by threatening to withhold all federal funding under the single largest grant-in-aid program, or does the limitation on Congress's spending power that this Court recognized in *South Dakota v. Dole*, 483 U.S. 203 (1987), no longer apply?

2. May Congress treat States no differently from any other employer when imposing invasive mandates as to the manner in which they provide their own employees with insurance coverage, as suggested by *Garcia v. San Antonio Metropolitan Transit Authority*, 469 U.S. 528 (1985), or has Garcia's approach been overtaken by subsequent cases in which this Court has explicitly recognized judicially enforceable limits on Congress's power to interfere with state sovereignty?

3. Does the Affordable Care Act's mandate that virtually every individual obtain health insurance exceed Congress's enumerated powers and, if so, to what extent (if any) can the mandate be severed from the remainder of the Act?

GRANTED LIMITED TO THE ISSUE OF SEVERABILITY PRESENTED BY QUESTION 3 OF THE PETITION. CONSOLIDATED WITH 11-393 FOR A TOTAL OF 90 MINUTES ORAL ARGUMENT.

PETITION ALSO GRANTED LIMITED TO QUESTION 1 PRESENTED BY THE PETITION (ADDITIONAL 60 MINUTES ORAL ARGUMENT ALLOTTED).

H. BARTOW FARR, III, ESQ. IS INVITED TO BRIEF AND ARGUE THESE CASES, AS *AMICUS CURIAE*, IN SUPPORT OF THE JUDGMENT OF THE COURT OF APPEALS THAT THE MINIMUM COVERAGE PROVISION OF THE PATIENT PROTECTION AND AFFORDABLE CARE ACT, 26 U.S.C. §5001, IS SEVERABLE FROM THE ENTIRETY OF THE REMAINDER OF THE ACT.

CERT. GRANTED 11/14/2011