

CA v. TX: An Overview

18 Republican AGs/Govs
Two individuals in Texas
Department of Justice

vs.

21 Democratic AGs/Govs
House of Representatives

What is at Stake?

Timeline

- In 2018 Judge Reed O'Connor agreed with plaintiffs and struck down entire ACA
- On appeal, the Fifth Circuit agreed that the mandate was unconstitutional, but asked Judge O'Connor to reconsider how much of the ACA should be invalidated.
- Oral argument on Nov. 10th
- No decision until 2021 – as early as spring or as late as summer 2021

Issues in Case

1. Are Texas and the Individual plaintiffs injured sufficiently by an unenforceable mandate to have standing to sue?
2. Is the unenforceable mandate an unconstitutional command since it no longer collects any revenue as a tax?
3. If the plaintiffs have standing and mandate is unconstitutional, how much of the remainder of the ACA can be severed from it and saved and how much must be invalidated?

CA v. TX: Potential Outcomes

Spectrum of decisions, each with its own implications

Status Quo

- No standing/subject matter jurisdiction
- Mandate is constitutional
- Mandate is unconstitutional but fully severable

**Some
Disruption**

- Preexisting condition protections are struck down
- Title I of ACA is struck down

**Severe
Disruption**

- Entire ACA is struck down