

Top court ruling on US health reforms hotly anticipated

June 18 2012, by Chantal Valery

With the US Supreme Court set to rule within days on the constitutionality of President Barack Obama's health care reforms many Americans are fearful of the political fallout of the decision.

While the nation's nine top justices are meant to base their decisions on the framework provided by the centuries-old US Constitution, many believe the divided bench could be swayed by their own political leanings.

"What they're afraid of is that the subjective impulse of the judge, rather than something more objective, will control the decision," Justice [Stephen Breyer](#) told AFP.

The high [court](#) is expected to render its decision on the centerpiece of Obama's [political legacy](#) by the end of June as the nation gears up the November elections.

The Democratic president is fighting to win a second White House term as his Republican challenger Mitt Romney, who has vowed to repeal the [health care](#) reforms, erodes the gap in the polls amid the sour economy.

The court will decide if the core of the law, which obliges all Americans to purchase [health care insurance](#) or face penalties, is constitutional, and if not, whether the rest of Obama's reforms hold up.

Since [oral arguments](#) were heard in March, experts have been trying to

read the tea-leaves to offer up predictions on which way the court will lean.

Many were surprised by the reactions of the conservative judges, the largest bloc on the bench, who seemed inclined to overturn the law, which aims to provide health insurance to 32 million Americans.

"A lot of us were shocked because most of the experts thought even though we have a fairly conservative court... we thought it was very unlikely that the law would be struck down," American University law professor Danny Marcus told AFP.

Overturing the law would deal a blow to Obama -- a trained constitutional lawyer -- and offer a golden opportunity for Republicans to hammer him on his credibility and leadership qualities ahead of November's vote.

Politics are "incompatible with the role of a judge, 100 percent incompatible," insists Justice Breyer, one of four progressive top court judges who has refused to comment publicly on the case.

But Americans don't buy it. Three quarters believe Supreme Court decisions are guided by judges' personal or political views. According to the recent survey for the New York Times and CBS, barely one in eight Americans believe the rulings are based solely on legal arguments.

The court's last most obvious foray into politics was in 2000, when it declared George W. Bush the winner of the presidential elections over Al Gore.

"If the Supreme Court justices follow the constitution text in history and many of their own opinions on federal power, they would easily uphold the Affordable Care Act," said lawyer Elizabeth Wydra, who is more in

favor of the administration.

"There are a number of previous decisions particularly about the Commerce Clause that the court would be ignoring if they strike down the act," she said.

But she said despite that some justices like the conservative Antonin Scalia could go "against some of their own words on the legal issue at hand."

"That makes it much more legitimate to accuse the court of acting based on political preferences when there are clear constitutional texts in history and precedents that force the law."

But a former Bush administration lawyer David Rivkin denied the ruling would be based on the judges' own political preferences.

"It's political only because it benefits political parties, (that's) the only way we can say it's political," he argued.

"The criticism that it will be political is (itself) a political criticism," suggested Randy Barnett, in favor of the plaintiffs. "What is at stake is whether our federal government has limited powers."

Marcus also did not believe the [Supreme Court](#) will base its decision on partisan politics, but rather more on ideology. Five conservative judges on the court "fear big government swallowing up and supplanting the traditional role of the states," he said.

"The court has invalidated signature pieces of political legislation before," constitutional lawyer Elizabeth Papez told AFP.

"In each case, however, the rulings themselves were not political. They

were legal rulings with political consequences, which I expect would be the case on health reform."

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