

UAHuntsville professor explains logic behind healthcare ruling, shares top five Supreme Court decisions

July 20 2012, By Joyce Anderson-Maples

Thanks to the speed of media archivists, on June 28, right after The U.S. Supreme Court announced its decision upholding the majority of President Obama’s controversial Affordable Healthcare Act, America was reminded of Chief Justice John Roberts’ words during his nomination hearings in 2005 when he said, “judges and justices are servants of the law, not the other way around. Judges are like umpires. Umpires don't make the rules; they apply them. The role of an umpire and a judge is critical. They make sure everybody plays by the rules.”

Last month, Roberts determined that every American must play by the rules when it comes to healthcare, and obtain minimum health insurance coverage or be personally penalized by paying additional taxes beginning in 2014. Roberts broke rank with fellow conservative justices and joined four liberal judges, writing the majority opinion that upholds the individual mandate — the heart of the healthcare law.

Conservatives are outraged, and liberals for now are savoring a victory, said Dr. Clarke Rountree, Chair and Professor of Communication Arts at UAHuntsville. But know this, he said, although the highest court in the nation has rendered one of its most historic edicts — the healthcare fight is far from over.

“Republicans now have a new cause — repealing this law. Democrats now have a focus on this law that allows them to talk about it,” said Dr.

Rountree. “Both parties will grapple with what the new law means — Democrats emphasizing the benefits (no refusal to insure because of pre-existing illnesses, students can stay on parents' insurance until they are 26, no lifetime caps on benefits, etc.). Republicans will talk about the mandate, but they're going to be pressed to explain why those good things in the existing bill should be done away with (particularly since some have already kicked in, such as the 26-year old extension, and no rejecting children with pre-existing illnesses).”

Rountree noted that although some recent polls claim independents slightly disfavor the healthcare mandate. “It's a long way to November 6, and the economy is still the number one issue.” Rountree said before the General Election in November, Romney still has to find a way to successfully distance himself from the Affordable Healthcare Act — which is similar to a healthcare plan he supported while governor of Massachusetts.

While some may consider the boldness of Roberts' decision as controversial, Rountree doesn't agree. “I'm not sure this is a controversial decision in terms of the merits. Remember, a very conservative federal judge already ruled that the ACC was constitutional, so this wasn't a surprise.

“What was surprising was that Roberts didn't go along with his Republican colleagues and vote the party line,” Rountree explained. “Chief Justice Earl Warren was a Republican governor whose liberal decisions shocked President Eisenhower (who appointed him). Warren oversaw an activist court that made great strides in supporting civil rights for minorities.”

Rountree noted that Roberts has overseen a court that is decidedly conservative, yet activist as well. “For example, their decision in *Citizens United vs. FEC*, which struck down parts of the McCain-Feingold

Campaign Finance Reform law, was anti-majoritarian (because most Americans wanted to limit corporate spending in elections) and it reached conclusions that were unnecessarily broad and disruptive. A recent example, the court reaffirmed this ruling by overturning a Montana provision that restricted corporate contributions in elections — that law had stood for 100 years.”

Rountree also noted there is some speculation that Roberts may have worried that his court was going to lose credibility if it continued to run against popular opinion and Congressional actions. “I think that's possible. It's also possible that Roberts thought this was a tax and, therefore, something Congress could impose on the people. Roberts has tended to be very supportive of the power of the federal government.”

Just how will history remember Justice John Roberts?

“Republicans may be wary of Roberts, but they may also respect him more as an independent voice (as judges are supposed to be). Memories tend to be short,” Rountree said. “However, next term the Supreme Court is taking up a gay marriage case, so that might make opponents worried. It's too early to answer the question of how he will be remembered, since he'll probably be on the bench another 30 years. They'll remember this ruling as marking him as an independent voice willing to go against prevailing party preferences.”

Rountree shared his top five controversial Supreme Court decisions. They are:

- Dred Scott vs. Sandford — Just before the Civil War, the Supreme Court's 1857 Dred Scott decision said that "persons of African descent" were not citizens under the federal constitution and had no standing to sue to gain their freedom. Furthermore, Congress could not ban slavery in the federal territories.

- **Brown vs. Board of Education** — In the landmark 1954 civil-rights case, the Supreme Court ruled segregation in public schools unconstitutional under the 14th Amendment.
- **Roe vs. Wade** —In the 1973 decision, the Supreme Court justices protected women's access to abortions by guaranteeing a right to privacy.
- **Bush vs. Gore** —With the 2000 presidential election hanging in the balance, the Supreme Court ordered Florida officials to stop a manual ballot recount on Dec. 12. The close 5-4 decision effectively delivered the election to Republican candidate, Texas Gov. George W. Bush.
- **Citizens United vs. Federal Election Commission** — In 2010 the [Supreme Court](#) ruled that a provision of the McCain-Feingold campaign-finance law violated the First Amendment rights of corporations, labor unions and other entities' to engage in political speech, allowing them to spend unlimited money on elections.

Provided by University of Alabama in Huntsville

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