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Supreme Court Will Hear Latest ACA Challenge

The Supreme Court announced yesterday that it would grant certiorari with respect to two petitions relating to a challenge to the constitutionality of the Affordable Care Act.

A district court in Texas had previously declared the ACA unconstitutional because it was not severable from the individual mandate, which the court had determined was no longer a constitutional exercise of Congress's taxing power after Congress zeroed out the tax penalty in 2017 as part of the Tax Cuts and Jobs Act. The 5th Circuit agreed that the individual mandate was no longer constitutional, but remanded for reconsideration of the district court's standing analysis.

Various states and the House of Representatives have interceded to defend the ACA, while certain other states, the individual plaintiffs, and the federal government each argue that the law should be struck down.

In addition to the constitutionality and severability issues, the Supreme Court will hear arguments regarding whether the plaintiffs had standing to bring the suit. The Supreme Court is expected to hear one hour of oral argument likely around October 2020, although a decision in the case will likely not be released until late 2020 or early 2021.