



SUPREME COURT

OF THE UNITED STATES

No. 09-1158

Title: Toby Douglas, Director, California Department of Health Care Services,
Petitioner

v.

California Pharmacists Association, et al.

Docketed: March 24, 2010

Lower Ct: United States Court of Appeals for the Ninth Circuit

Case Nos.: (09-55532)

Decision Date: March 3, 2010

Rule 12.4

Questions Presented

~~~Date~~~ ~~~~~Proceedings and Orders~~~~~

Mar 24 2010 Petition for a writ of certiorari filed. (Response due April 23, 2010)

Apr 9 2010 Order extending time to file response to petition to and including May 24, 2010, for all respondents.

May 18 2010 Order further extending time to file response to petition to and including May 27, 2010.

May 24 2010 Brief of respondents Independent Living Center of Southern California, Inc., et al. in opposition filed.

May 27 2010 Brief of respondents Lydia Dominguez, et al in opposition filed.

May 27 2010 Brief of respondents California Pharmacists Association, et al. in opposition filed.

Jun 7 2010 Reply of petitioners David Maxwell-Jolly, Director, California Department of Health Care Services, et al. filed. (Distributed)

Jun 8 2010 DISTRIBUTED for Conference of June 24, 2010.

Dec 15 2010 DISTRIBUTED for Conference of January 7, 2011.

Dec 16 2010 Joint supplemental brief of respondents California Pharmacists Association, et al. filed. (Distributed)

Dec 20 2010 Supplemental brief of petitioners David Maxwell-Jolly, Director, California Department of Health Care Services, et al. filed. (Distributed)

Jan 10 2011 DISTRIBUTED for Conference of January 14, 2011.

Jan 18 2011 Petition GRANTED limited to Question 1 presented by the petitions. The petitions for certiorari in No. 09-958 and No. 10-283 are granted limited to Question 1 presented by the petitions. The cases are consolidated and a total of one hour is allotted for oral argument. VIDED.

Feb 17 2011 The time to file the joint appendix and petitioners' briefs on the merits is extended to and including April 14, 2011. VIDED.

Feb 17 2011 The time to file respondents' briefs on the merits is extended to and including June 24, 2011. VIDED.

Apr 7 2011 The time to file the joint appendix and petitioners' briefs on the merits is further extended to and including May 19, 2011. VIDED.

Apr 7 2011 The time to file respondents' briefs on the merits is further extended to and including July 29, 2011. VIDED.

May 19 2011 Joint appendix filed. VIDED. (Statement of costs filed)

May 19 2011 Brief of petitioner Toby Douglas, Director, California Department of Health Care Services filed. VIDED.

May 25 2011 Brief amici curiae of National Governors Association, et al. filed. VIDED.

May 26 2011 Brief amicus curiae of the United States filed. VIDED.

May 26 2011 Brief amicus curiae of APA Watch filed. VIDED.

May 26 2011 Brief amici curiae of Michigan and 30 Other States filed. VIDED.

Jul 15 2011 CIRCULATED.

Jul 19 2011 SET FOR ARGUMENT ON Monday, October 3, 2011.

Jul 29 2011 Brief of respondents California Pharmacists, et al. filed. VIDED. (Distributed)

Jul 29 2011 Brief of respondents Santa Rosa Memorial Hospital, et al. filed. VIDED. (Distributed)

Jul 29 2011 Brief of respondents Dominguez, et al. filed. VIDED. (Distributed)

Jul 29 2011 Brief of respondents Independent Living Center of Southern California, Inc., et al. filed. VIDED. (Distributed)

Aug 4 2011 Brief amici curiae of National Association of Chain Drug Stores, et al. filed. VIDED. (Distributed)

Aug 5 2011 Brief amicus curiae of Chamber of Commerce of the United States of America filed. VIDED. (Distributed)

Aug 5 2011 Motion of the Solicitor General for leave to participate in oral argument as amicus curiae and for divided argument filed. VIDED.

Aug 5 2011 Brief amici curiae of Members of Congress filed. VIDED. (Distributed)

Aug 5 2011 Brief amici curiae of American Medical Association, et al. filed. VIDED. (Distributed)

Aug 5 2011 Brief amici curiae of American Civil Liberties Union, et al. filed. VIDED. (Distributed)

Aug 5 2011 Brief amici curiae of American Health Care Association, et al. filed. VIDED. (Distributed)

Aug 5 2011 Brief amici curiae of Former HHS Officials filed. VIDED. (Distributed)

Sep 1 2011 Reply of petitioners Toby Douglas, Director, California Department of Health Care Services filed. VIDED. (Distributed)

Sep 23 2011 Record received from U.S.C.A. for 9th Circuit. (1 envelope)

Sep 23 2011 Record from U.S.D.C. for Central District of California is electronic.

Sep 27 2011 Motion of the Solicitor General for leave to participate in oral argument as amicus curiae and for divided argument GRANTED. VIDED.

Oct 3 2011 Argued. For petitioner: Karin S. Schwartz, Supervising Deputy Attorney

General, San Francisco, Cal.; and Edwin S. Kneedler, Deputy Solicitor General, Department of Justice, Washington, D. C. (for United States, as amicus curiae.) For respondents: Carter G. Phillips, Washington, D. C.)

Oct 28 2011 Letter with attachments received from the Solicitor General. VIDED. (Distributed)

Nov 4 2011 The parties and the Solicitor General are directed to file supplemental briefs addressing the following question: "What should be the effect, if any, of the developments discussed in the letter submitted by the Solicitor General on October 28, 2011, on the proper disposition of this case?" The briefs, in letter format, limited to 10 pages, are to be filed simultaneously with the Clerk and served upon opposing counsel on or before 2 p.m., Friday, November 18, 2011. VIDED.

Nov 18 2011 Supplemental brief of petitioner Toby Douglas, Director, California Department of Health Care Services filed. VIDED. (Distributed)

Nov 18 2011 Supplemental brief of respondents Independent Living Center of Southern California, Inc., et al. filed. VIDED. (Distributed)

Nov 18 2011 Supplemental brief of United States filed. VIDED. (Distributed)

Nov 18 2011 Supplemental brief of respondents' counsel Carter Phillips, Deanne E. Maynard, and Stephen P. Berzon filed. VIDED. (Distributed)

Jan 17 2012 Letter, dated January 17, 2012, received from Attorney General of California informing the Court of recent preliminary injunctions. (Distributed) VIDED.

Jan 20 2012 Letter, dated January 20, 2012, received from counsel for the respondents in response to the State of California's letter of January 17, 2012. (Distributed) VIDED.

Feb 22 2012 Judgment VACATED and case REMANDED. Breyer, J., delivered the opinion of the Court, in which Kennedy, Ginsburg, Sotomayor, and Kagan, JJ., joined. Roberts, C. J., filed a dissenting opinion, in which Scalia, Thomas, and Alito, JJ., joined.

Mar 26 2012 JUDGMENT ISSUED.

---

~~Name~~~~~Address~~~~~Phone~~~

**Attorneys for Petitioner:**

|                   |                                     |                |
|-------------------|-------------------------------------|----------------|
| Karin S. Schwartz | Supervising Deputy Attorney General | (415) 703-1382 |
|                   | 455 Golden Gate Avenue, Suite 11000 |                |
|                   | San Francisco, CA 94102-7004        |                |
|                   | Karin.Schwartz@doj.ca.gov           |                |

Party name: Toby Douglas, Director, California Department of Health Care Services

**Attorneys for Respondents:**

|                   |                             |                |
|-------------------|-----------------------------|----------------|
| Stephen P. Berzon | Altshuler Berzon LLP        | (415) 421-7151 |
| Counsel of Record | 177 Post Street, Suite 300  |                |
|                   | San Francisco, CA 94108     |                |
|                   | sberzon@altshulerberzon.com |                |

Party name: Dominguez, et al.

|                   |                                                                  |                |
|-------------------|------------------------------------------------------------------|----------------|
| Lynn S Carman     | Medicaid Defense Fund                                            | (415) 927-4023 |
| Counsel of Record | 8 Waterbury Lane<br>Novato, CA 94949<br>lynns carman@hotmail.com |                |

Party name: Independent Living Center of Southern California, Inc., et al.

|                   |                                                                             |                |
|-------------------|-----------------------------------------------------------------------------|----------------|
| Deanne E. Maynard | Morrison & Foerster LLP                                                     | (202) 887-8740 |
| Counsel of Record | 2000 Pennsylvania Avenue, N.W.<br>Washington, DC 20006<br>DMaynard@mofo.com |                |

Party name: California Pharmacists, et al.

|                    |                                                                     |                |
|--------------------|---------------------------------------------------------------------|----------------|
| Carter G. Phillips | Sidley Austin LLP                                                   | (202) 736-8000 |
| Counsel of Record  | 1501 K Street, N.W.<br>Washington, DC 20005<br>cphillips@sidley.com |                |

Party name: Santa Rosa Memorial Hospital, et al.

|                   |                                                                                        |                |
|-------------------|----------------------------------------------------------------------------------------|----------------|
| Craig J. Cannizzo | Hooper, Lundy & Bookman, Inc.                                                          | (415) 875-8511 |
|                   | 575 Market Street<br>Suite 2300<br>San Francisco, CA 94105<br>ccannizzo@health-law.com |                |

Party name: California Pharmacists Association

|                  |                                                                                      |                |
|------------------|--------------------------------------------------------------------------------------|----------------|
| Stacey M. Leyton | Altshuler Berzon LLP                                                                 | (415)-421-7151 |
|                  | 177 Post Street, Suite 300<br>San Francisco, CA 94108<br>sleyton@altshulerberzon.com |                |

Party name: Lydia Dominguez, et al

**Other:**

|                   |                                                           |                |
|-------------------|-----------------------------------------------------------|----------------|
| Frederick R. Ball | Duane Morris LLP                                          | (312)-499-6720 |
|                   | 190 South LaSalle Street, Suite 3700<br>Chicago, IL 60603 |                |

Party name: National Association of Chain Drug Stores, et al.

|                  |                                  |                |
|------------------|----------------------------------|----------------|
| Louis W. Bullock | Bullock Bullock & Blakemore      | (918) 584-2001 |
|                  | 110 W. Seventh Street, Suite 707 |                |
|                  | Tulsa, OK 74119                  |                |
|                  | lbullock@bullock-blakemore.com   |                |

Party name: American Medical Association, et al.

|                |                                         |                |
|----------------|-----------------------------------------|----------------|
| John J. Bursch | Michigan Solicitor General              | (517) 373-1124 |
|                | Michigan Department of Attorney General |                |
|                | P.O. Box 30212                          |                |
|                | Lansing, MI 48909                       |                |
|                | BurschJ@michigan.gov                    |                |

Party name: Michigan and 30 Other States

|                            |                                          |                |
|----------------------------|------------------------------------------|----------------|
| Douglas Hallward-Driemeier | Ropes & Gray LLP                         | (202) 508-4600 |
|                            | One Metro Center                         |                |
|                            | 700 12th Street, NW, Suite 900           |                |
|                            | Washington, DC 20005                     |                |
|                            | Douglas.Hallward-Driemeier@ropesgray.com |                |

Party name: American Health Care Association, et al.

|                    |                           |                |
|--------------------|---------------------------|----------------|
| Lawrence J. Joseph | 1250 Connecticut Ave., NW | (202) 355-9452 |
|                    | Suite 200                 |                |
|                    | Washington, DC 20036      |                |
|                    | ljoseph@larryjoseph.com   |                |

Party name: APA Watch

|                   |                                     |                |
|-------------------|-------------------------------------|----------------|
| Edwin S. Kneedler | Deputy Solicitor General            | (202) 514-2217 |
|                   | United States Department of Justice |                |
|                   | 950 Pennsylvania Avenue, N.W.       |                |
|                   | Washington, DC 20530-0001           |                |

Party name: Toby Douglas, Director, California Department of Health Care Services v. California Pharmacists Association, et al.

|                                                                 |                                                                                                                                |                |
|-----------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|----------------|
| Michael W. McConnell                                            | Kirkland & Ellis LLP                                                                                                           | (202) 879-5000 |
|                                                                 | 655 Fifteenth Street, N.W.<br>Washington, DC 20005<br>michael.mcconnell@kirkland.com                                           |                |
| Party name: National Governors Association, et al.              |                                                                                                                                |                |
| Paul M. Smith                                                   | Jenner & Block LLP                                                                                                             | (202) 639-6000 |
|                                                                 | 1099 New York Avenue, N.W., Suite 900<br>Washington, DC 20001<br>psmith@jenner.com                                             |                |
| Party name: Members of Congress                                 |                                                                                                                                |                |
| Alan E. Untereiner                                              | Robbins, Russell, Englert, Orseck,<br>Untereiner & Sauber LLP                                                                  | (202) 775-4500 |
|                                                                 | 1801 K Street, N.W., Suite 411<br>Washington, DC 20006<br>auntereiner@robbinsrussell.com                                       |                |
| Party name: Chamber of Commerce of the United States of America |                                                                                                                                |                |
| Donald B. Verrilli Jr.                                          | Solicitor General                                                                                                              | (202) 514-2217 |
|                                                                 | United States Department of Justice<br>950 Pennsylvania Avenue, N.W.<br>Washington, DC 20530-0001<br>SupremeCtBriefs@USDOJ.gov |                |
| Party name: the United States                                   |                                                                                                                                |                |
| Stephen I. Vladeck                                              | 4801 Massachusetts Ave., N.W.                                                                                                  | (202)-274-4241 |
|                                                                 | Washington, DC 20016<br>svladeck@wcl.american.edu                                                                              |                |
| Party name: Former HHS Officials                                |                                                                                                                                |                |
| Paul R.Q. Wolfson                                               | Wilmer Cutler Pickering Hale and Dorr LLP                                                                                      | (202) 663-6390 |
|                                                                 | 1875 Pennsylvania Avenue, N.W.<br>Washington, DC 20006<br>paul.wolfson@wilmerhale.com                                          |                |
| Party name: American Civil Liberties Union, et al.              |                                                                                                                                |                |