

**Fifth Circuit Court of Appeals**

John J. Dierlam

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versus

NO. 18-20440

Donald Trump, President, et. al.  
USDC No. 4:16-CV-307



**Letter of Response to the Government's FRAP 28(j) Letter**

The government makes two basic assertions which they claim constitute sufficient changes to cause this court to end the abeyance and bring this case to decision. In the first assertion, the Government is factually incorrect. The reduction of the Individual Mandate penalty to \$0 by the TCJA does not eliminate the harm this penalty causes to my rights under the Constitution. It as well as government regulation such as the HHS Mandate interfere with ethical and religious decision making, privacy in making health care choices, and insurance availability. I remain fearful to obtain or seek any health coverage due to known or unknown government regulations which violate my ethical and religious standards. The ACA remains intact and Congress need not reenact it. The penalty amount may be modified as it has done in the past. The mere fact that one of the intervenors in the *Texas* case is the United States House of Representatives, which is currently under Democrat Party control, strongly suggests an intent to raise the penalty if they gain

sufficient power. See Reply Brief of the Appellant p.2-3.

It is true I did not think of the effect that reducing the Individual Mandate Penalty to \$0 by the TCJA would invalidate the Supreme Court's support for the legislation under Congressional power to tax. My original complaint does contain two separate requests to declare the ACA unconstitutional. The first request (See Claim VI of the First Amended Complaint) involves violations stemming from the Individual Mandate. The second (See Claim VII) involves other violations in the ACA. In order to declare the ACA unconstitutional as requested, it can be deduced it was my intention and belief the offending sections can not be severed from the ACA for reasons independent of the *Texas* case. See Reply Brief of the Appellant p.25-26.

However, although I disagree with the Government's reasons, I agree with their conclusion. This case should proceed to decision. I believe the court's decision to place this case in abeyance was in error. See my Letter of Response to the Decision to Place this Case in Abeyance.



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Certificate of Service

I certify I have on January 13, 2020 mailed a copy of the above document to the clerk of the court at:

FIFTH CIRCUIT CLERK'S OFFICE  
600 South Maestri Place  
New Orleans, LA 70130

as I do not have access to the Court's electronic filing system. I have also mailed a copy to Apellee's Counsel at:

Lowell Sturgill  
U.S. Department of Justice, Room 7241  
950 Pennsylvania Ave NW  
Washington, DC 20530

I have emailed courtesy copies to the Defendant's counsel at  
Lowell.Sturgill@usdoj.gov and Emily.S.Newton@usdoj.gov

  
Date: January 13, 2020  
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