No.11-7275
In the Supreme Court of the United States
TERM, 2011

NICHOLAS E. PURPURA,
PETITIONER

V.

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES;
KATHLEEN SEBELIUS, individually and in her Official Capacity as the Secretary of the United States Department of Health and Human Services;
UNITED STATES DEPARTMENT OF THE TREASURY;
TIMOTHY F. GEITHNER, individually and in his official capacity as the Secretary of the United States Department of the Treasury;
UNITED STATES DEPARTMENT OF LABOR; and HILDA L. SOLIS, individually and in her official capacity as Secretary of the United States Department of Labor,

---

Petition for a Writ of Certiorari
to the United States Supreme Court

MOTION FOR EXPEDITE REARGUMENT PURSUANT TO RULE 21
TO RECALL AND VACATE AND ALLOW PARTICIPATION ON
March 26-28, 2012 - "*Patient Protection and Affordable Care Act*" "H.R.3590"

NICHOLAS E. PURPURA
1802 Rue De La Port
Wall, New Jersey 07719
(732) 449-0856

Pro se[s] *Petitioner*
(Self-in-Law)

DONALD B. VERRILLI, JR.

Counsel for Appellee/Defendants

Justice Joseph Storey's great Commentaries on the Constitution says;

"*That although the spirit of an instrument, especially of a constitution, is to be respected not less than its letter, yet the spirit is to be collected chiefly from the letter. It would be dangerous in the extreme to infer from extrinsic circumstances that a case, for which the words of an instrument expressly provide, shall be exempt from its operation…. No construction of a given power is to be allowed which plainly defeats or impairs its avowed objectives…. This rule results from the dictates of mere commonsense, for every instrument ought to be constructed as to succeed, not fail…. While, then. we may well resort to meaning of single words to assist our inquires, we should never forget…that must be truest exposition which best harmonizes with the instrument of governments' design, objects, and general structure.*"

INTERVENING CIRCUMSTANCES OF SUBSTANTIAL CONTROLLING EFFECT THAT REQUIRES A RECALL & VACATE

"But what end is equivalent for a precedent so dangerous as that where the Constitution is disregarded by the Legislature, and that disregard is sanctioned by the judiciary? Where then, is the safety of the people, or freedom which the Constitution meant to secure? One precedent begets another, one breach will quickly be succeeded by another, and thus the giving way in the first instance to what seems to be the case of public convenience in facts prepares the way for the total overthrow of the Constitution.—State v. -----, Hayw. 28 N.C.1794

The compelling reason to "Recall and Vacate" the decision of January 9, 2012 is that it conflicts with black letter law, and ignores the Constitution contract as written[1] Not to allow Petitioner to be heard on March 26-28, 2012 is to effectively discard the text of the Constitution in favor of a system in which men decide what laws will be addressed.

Substantial Grounds Not Previously Presented:

Petitioner had presented irrefutable proof with specificity throughout each Count that required adjudicated. Now more than ever, in light of recent hearing that took place in in the great State of Georgia on January 26, 2012 before the Hon. Michael Malihi, in which the Office of State Administrative Hearing (OSAH) involving the challenge of Mr. Obama legal right to be place on the Georgia "Ballot" in November related to eligibility to hold the Office of the Presidency; goes to the heart of Petitioner's Count 6.

Now more than ever *Purpura v Sebelius*, Case No. 11-7275 must take precedent over any and all cases to be heard at oral argument scheduled for March 26-28, 2012.

Petitioner alleged and proved (*see*, Count 6) that Mr. Obama was ineligible to sign the "Act" "H.R.3590" or any other legislation into law, appoint federal judges, or make any regulation. This Honorable Court as well as those under its jurisdiction overlooked proper judicial procedure by failing to address this constitutional question that affects the entire Country.

---

1 US Supreme Court in 4 Wheat 402: "*The United States, as a whole, emanates from the people… The people, in their capacity as sovereigns, made and adopted the Constitution…"*

Please Take Special Judicial Notice: Federal Courts throughout the nation are receiving constitutional challenges on the issue of whether Mr. Obama's is eligible to be placed on the ballot in primary elections of President and Vice-President, and general elections of Presidential Electors. (Georgia is just the beginning.) This is the only comprehensive Petition that deals with both the constitutionality of the "Health-care" legislation and "eligibility" issue that is having a profound effect on the entire nation.

It is incumbent upon this Court to settle the issue of 'eligibility' post haste to afford those in the Democrat Party an opportunity to choose an "eligible" candidate to be on the ballot in November. To do otherwise disenfranchises all voters and continues the constitutional crisis that has been escalating since the Courts refused to address Hillary Clinton's 2008 Presidential campaign's challenge. To ignore this constitutional challenge will have devastating consequence which this Court bears full responsibility for failing to perform its fiduciary duty pursuant to your sworn oath taken by every Member of this Court.

Purpura v. Sibelius, Case No. 11-7275 is the only case pending before this Honorable Court that could alleviate what could be a constitutional crisis of untold consequences.

This Honorable Court is charged with the positive duty of administering the law as specifically enumerated to protect, preserve and defend the people's unalienable rights! To disregard the law is to open the door to anarchy.

Petitioner alleged 19-violations of the U.S. Constitution and 4-statutory laws in the specific text of the law that no legal expert or defendants; [who forfeited no less than three times in violation of FRCP 8(b)(d)] have been able to refute. In light of prior ruling in *Bond v the United States* and the fact that most of these constitutional challenges are not on the calendar to be considered, and the Court will be addressing inadequate briefing makes a mockery of the "Black letter law". To deprive Petitioner the right to be heard, the People of the United States are being deprived of a "*full and fair*" hearing concerning the unconstitutionality of the "Act", the "*Patient Protection and Affordable Care Act*". And, the settled question whether Mr. Obama can legally sign any legislation or make appointments to the Federal bench.

The controlling factors concerning the constitutionality of this legislation before the Court demands adjudication in there entirety or is this Court in essence is saying: it permissible for any branch of government to deviate from or alter any Article or Amendment of the Constitution? The questions presented are whether:

1. the "*Patient Protection and Affordable Care Act*" "H.R.3590" violates the United States Constitution in 19-specific incidents as cited in the original brief and recapped in this Motion to Recall and Vacate" (re-argument);

2. the "*due process*" clause and Amendment 1 grants any citizen the right to dispute an unconstitutional act that eliminates judiciary enforced boundaries;

3. the District and Circuit Courts arbitrarily and capriciously failed in their fiduciary duty by ignoring statutes and the glaring violations of the Constitution to avoid addressing specific Constitutional challenges and violations of the United States Code, in particular 28 U.S.C 455;

4. and, whether a single piece of legislation can obliterate "Black letter law" that ensured 230 years of freedom with the stroke of a pen that will hereafter deprive every citizen to judicial review concerning blatant violations of their Constitutional Rights from contesting or pursuing further litigation.

Please Take Judicial Notice: A Motion for the Recusal of Justices Sotomayor and Kagan was forward and accepted by this Supreme Court. At no time were Petitioners informed whether each Justice complied with law see, Title 28, United States Code, Section 455 ["Black letter law"] required Justices Sotomayor and Kagan recuse themselves due to the financial interest in outcome (see Count 6) concerning Mr. Obama eligibility to sign the "Act" into law, or appoint Federal Judges. If either or both Justices participated in any way in the decision making and denial to hear Case No. 11-7275 *Purpura v Sebelius,* to proceed is a violation of the United States Code and said decision by law, must be "Recalled and Vacated".

Indisputable Fact: Defendants at no time presented a valid argument in opposition. By the text of the law, they have legally forfeited! [Three times]. Yet, this Court refused to allow Petitioner his day in court without any legal justification or reasoning. At each level of the federal courts Petitioner has been denied procedural "due process", overlooking that the statutes were ignored. The U.S. Code and Judicial Conduct Code were blatantly violated as was prior precedent. The Supreme Court of the United States previously held:

*"…that for a full and fair hearing to have occurred, the courts must demonstrate compliance with elementary legal rules of evidence, and must "**state reasons for their determination**" and, the courts must indicate what evidence was relied on. see,* Goldberg v. Kelly, 397 U.S. 245, 271, 299.

"*We the People*" deserve our day in Court. We pray you remember your oath of office to protect the Constitution again all enemies foreign and domestic; and allow a "full and fair" hearing take place! God Bless America!

TABLE OF CONTENTS

	Page
QUESTIONS PRESENTED FOR REARGUMENT (Recall & Vacate)	i
TABLE OF CONTENTS	iv
TABLE OF AUTHORITIES	v
OPINION BELOW	1
JURIDICTION AND STATUTORY PROVISIONS INVOLVED	1
STATEMENT	1
REASONS FOR GRANTING PROVISIONS	2
Irrefutable Basis for "Amicus Curiae" Standing:	3
The Analysis of the Legislation Violations:	
Count 1 "Origination Clause"	3
Count 2 "Commerce Clause"	3
Count 3 Article 1, Section 8 Paragraph 12, "Appropriation" "*Posse Comitatus*"	5
Count 4 Article 1, Section 9, Paragraph 4 "Capitation" "Amendment 14"	6
Count 5, Article 1, section 9 Paragraphs 3,5, and 6 "Amendment 14"	6
Count 6, Article 2, Paragraph 5	6
Count 7, Amendment 5, 8, and 16 Notwithstanding Article 1, Section 9, Paragraph 3 "No bill of Attainder / "expost facto law"	9
Count 8, Amendment 4 and Health Insurance Portability and Accounting Act	10
Count 9, Amendments 5 and 13	10
Count 10, Article 4, Section 2, Amendment 14	11
Count 11, Amendment 1, "Establishment Clause"	12
Count 12, Amendments 5, 14 and Sherman Anti-Trust Act	12
Count 13, Article 4, Section 2, Paragraph 1. Title VII "Civil Rights"	13
Count 14, Article 6, section 3	14
Count 15, Amendment 10	15
Conclusion	15
Relief Requested	16
CERTIFICATION	17

TABLE OF AUTHORITIES

Cases	Page
Anderson v. Creighton, 483 US 635, 646, n.6 (1986).	1
Baker v. McCollan, 443 U.S. 137, 144 n. 3, 99 Sc.D. 2689. 2695 n.3 61 L.Ed.2d 433 (1979)	10
Bell v. Hood, 327 U.S. 678, 66 S. Ct. 733 90 L.Ed. 939	1
Bond v. United States 09-1127 /Quoting Nigro v. U.S. 276 US 332, 341 (1928)	1, 3,15
Butler v. United States, 287 U.S. 1	6, 7,
Cary v. Piphus, 435, U.S. 247, 259 (1978)	5, 10
Cohens v. Virginia, 19 U.S. 264 (1821)	2
Cuccinelli v. Sebelius, 310-cv-91 RV/Emt.	3
Dolan v. City of Tigard, 512 U.S. 374, 385 (1994)	11
Elk v. Wilkins, 112 U.S. 94 (1884)	8
Federal Election Commission v. Aklins, 524 U.S. 11, 25 (1998)	2
Flast v. Cohen, 392 U.S. 83 (1968)	3
Florida v. United States HHS, - F.3d ---, 2011 U.S. App. LEXIS 16806, at *26 (11th Cir Aug .12, 2011).	5,7,8,
Fuentes v. Shevin, 407 U.S. 67, 81 (1972)	10
Goldberg v. Kelly, 397 U.S. 245, 271, 299	iii
Hunter v. Bryant, 502 US (1991)	1
Japan Whaling Assn. v. American Cetacean Society, 478 U.S. 221, 230-231 (1986)	2
Julliard v. Greenman, 110 US 421	2
Kneipp, 95 F.3d at 1204	11
Lehr v. Roberson 463 U.S. 248 (1983)	
Marshall v. Jerrico, 446 U.S. 238, 242,(1980)	13
Massachusetts v. EPA, 549 U.S. 497, 227 S. Ct. 1439 1447 (2007)	2
Mathges v. Eldridge, 424 U.S. 319 344	5, 11
Minor v. Happersett 88 U.S. 162 (1875)	7, 8
Marbury v. Madison, 1 Cranch 163 (1903)	2,14
Parratt v. Taylor, 451 U.S. 527, 535, 101 S. Ct. 1908, 1912, 68 L.Ed2d 420 (1981)	11
PERKIN, Secretary of Labor, et al V. Elg.	8
Regents U. Cal v. Bakke, 438 US 265 (1978)	9
Ricci et al. v. DeStefano	13
Santosky, 102 S.Ct6. 1396, quote adding 441 U.S. 425, 426, 99 Sc.D. 1808, 1809	1
Scott v. Sandford,	8

Slaughterhouse Cases	8
United States v. Salerno, 481 U.S. 739, 745 (1987)	4
United States v. Bishop, 66 F.3d 569, 576 (3d Cir.1995)	6
U.S. v. SCRAP D., 410 U.S. 614 (1973)	3
United States v. Kenny, 462 F2 1205 (3d Cir.) cet. Denied, 409 U.S. 914, 93 S. Ct. 234, 34 L.Ed.2d 176 (1972)	7, 15
United States v. Whited, 311 F.3d 259, 266 (3d Cir. 2002	6
United States v. Wong Kim Ark, 18 S.D 456 (1898)	7,10
United States v. Lopez, 515 U.S. 549, 115 Sc.D. 1624, 131 L.Ed.2d 626 (1995)	6
United States v. Morrison, 529 U.S. 598, 607 (2000)	6
United States v. Provenzano, 334 F.2d 678 (3rd Cir.) cert. denied 379 U.S. 212, 80 S. Ct. 270, 4 L.Ed.2d 544	7, 15
United States v. Salerno, 481 U.S. 739, 754 (1987)	4
United States v. Sweeney, 262 F2d 272 (3rd Cir. 1959)	7, 15
United States v. Whited, 311 F.3d 259, 266 (3d Cir. 2002)	6
Village of Willowbrook v. Olech, 528 U.S. 562	
Wash. State Grange v. Wash. State Republican Party, 552 U.S. 442, 449 (2008)	4

OPINIONS BELOW

Decision of the Supreme Court dated January 9th 2012 that denied Certoriari

1254, Certified questions is invoked 28 U.S.C. 1254(1) (2)

STATEMENT

1. Petitioner submitted the most comprehensive Petition against "H.R. 3590" "Patient Protection and Affordable Care Act" "hereafter "Act" identifying **19-specific violations of the Constitution and 4 pre-existing laws** that disregards law, precedent, and Constitution that were not disputed by Defendants who legally forfeited *see* FRCP 8(b) & (d):

> *"In short, a law "beyond the power of Congress," for any reason, is "**no law at all**." Justice Ruth B. Ginsburg Justice Breyer:* Quoting *Nigro v. United States, 276 U. S. 332, 341 (1928* [*Bond v. United States*].

2. Petitioner thoroughly scrutinized the entire "Act" citing with specificity and particularity each provision that conflicted with the U.S. Constitution. Each level of the Federal Court's failed to remedy said wrongs affirmatively linked to each deprivation.

.

3. Compelling reason to recall and vacate is simple; the fundamental requisite of "*due process of law*" is the opportunity to be heard in the interest of justice. The Court failed to show that a single Constitutional challenge put forth did not "*threaten the individual involved with 'a significant deprivation of liberty'*"' *see Santosky,* 102 S. Ct. 1396, quoting adding, 441 U.S. 425, 426, 99 S. Ct. 1808, 1809, or have a detrimental impact on the country. As a matter of law, every Constitutional challenge must be resolved in order to determine whether the "Act" violates established federal law. Inarguable, the denial the Court to hear and adjudicate is to deprive a citizen of their constitutional Civil Rights. Especially since the "Act" abrogates Amendments 5 and 14 throughout. *See*, *Hunter v. Bryant*, 502 US (1991), *Anderson v. Creighton*, 48 US 635, 646, n.6 (1986). Also see, *Bell v. Hood*, [2]327 U.S. 678, 66 S. Ct. 733 90 L.Ed. 939.

[2] "*...where federally protected rights have been invaded, it has been the rule from the beginning that courts will be alerted to adjust their remedies so as to grant the necessary relief.*" [Each court failed to do so. (my emphasis)]

Article 3, Section 2 [3], of the Constitution in relevant part says: "*The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States*". In Marbury v. Madison, the Court held:

"*Thus, the particular phraseology of the Constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, **that the law repugnant to the Constitution is void**; and that the courts, as well as other departments, are bound by that instrument*."

4. Denial to hear and adjudicate each Count constitutes a denial of "*due process*" to maintain a constitutional protection in a court of law. See, Cohens v. Virginia, 19 U.S. 264 (1821): "***To do otherwise than grant jurisdiction nullifies the United States Constitution***";

5. The analysis below demonstrates the "Act" violate the following unbreakable rules: (1) Constitutional law; (2) legislative law; (3) Supreme Court precedent; and (4) conflicting rulings by various Circuit Courts. The limited Constitutional challenges to be heard March 26-28, 2012 are inadequate and pale in comparison to this Petition related to the total unconstitutionality of the "Act" that cite 19-violations of the Constitution and 4-statutory laws would be a travesty of justice.

6. Congress and Executive branch are without authority to implement legislation not authorized by the Constitution under any circumstances. This Supreme Court held, *see* Julliard v. Greenman, 110 US 421:*"There is no such thing as a power of inherent sovereignty in the government of the United* States …." The primary function and fiduciary duty of the Supreme Court is to grant relief for any/all unconstitutional discrimination. Petitioner will proved and will prove again the controlling factors to recall and vacate the denial of Certiorari : *"no set of circumstances exist under which the Act would be valid*." *See*: United States v. Salerno, 481 U.S. 739, 745 (1987); also Wash. State Grange v. Wash. State Republican Party, 552 U.S. 442, 449 (2008).

---

3 Courts' jurisdiction in which standing is found, *Flast v. Cohen*, 392 U.S. 83 (1968); *U.S. v. SCRAP D*., 410 U.S. 614 (1973); *Japan Whaling Assn. v. American Cetacean Society*, 478 U.S. 221, 230-231 (1986); *Federal Election Commission v. Aklins*, 524 U.S. 11, 25 (1998) and *Mass. V. EPA*, (citation omitted)

7. **Count 1**. Article 1, Section 7, Paragraph 1 of the Constitution's '*Origination Clause*' was violated: To pass this unconstitutional "Act" the Congressional leadership with fraudulent intent took an unrelated House Bill - H.R. 3590, named the "*Service Members Ownership Tax Act of 2009*", extracted the entire contents of said legislation, thereafter replaced the contents with the Senate's originated bill "*America's Healthy Future Act*" (S. 1796), a precursor to the "Act" to give the appearance of Constitutional legality in passage of the "Act".

8. Thereafter the leadership[4] with fraudulent intent substituted the original name "*Service Members Ownership Tax Act of 2009*" (H.R.3590) with "*Patient Protection and Affordable Care Act"* to surreptitiously acquire a "***House Designation Number***". Constitutional law states, only the House of Representatives has **Constitutional authority to originate a revenue raising "Act**". The House accepted the Senate bill for expediency independent of any written House bill.

> Judge Roger Vinson was asked by both sides of the controversy to address the legislative history of the Act and concluded **the bill originated in the U.S. Senate**. *See*, *Florida v. U.S. Department of Health & Human Service*, ---F. Supp. 2d---, 2011 WL285683 (N.D. Fla.2011) which documents that the House of Representatives were amending a Senate Bill,[5] since it was found to have been originated in the Senate.

9. Recent precedent: see, *Bond v. U.S. a law "beyond the power of Congress," for any reason, is "**no law at all**." Nigro v. United States,* 276 U.S. 332, 341 (1928).

10. **Count 2**. "Commerce Clause": becomes either an **Issue of first impression**[6] [Again, indisputable the "Act" violates Article 1, Section 8, Paragraph 3, of the

4 This was done behind closed doors following the election of Scott Brown to the Senate replacing Senator Kennedy in order to stop a Republican filibuster.

5Further evidence that the House of Representatives were aware of their authority and the limited authority of the Senate is illustrated by their recent rejection of S-510 because it contained "revenue rising" provisions. There is no difference in either instance.

6 Judge Vinson (Fla.) and Judge Hudson (Va.) are quoted as saying the government's claim that the mandate to purchase of Health Insurance is based upon prior Supreme Court precedent. Judge Vinson wrote: "*governments claim is not even a close call*" Judge Hudson was quoted as saying *"[N]o reported case from any federal appellate court*" has ever ruled that Congress' power "included the regulation of a person's decision not to purchase a product." Even Judge Steeh (Michigan) hedge his decision by stating this case the "*issue of first impression*" existed.

Constitution]; or, (2) the "Act" as written is ***stare decisis*** since it creates "*Specific Welfare"* see *Butler v. U.S.* (citation omitted).

11. The government argues a "non-activity", has now become an 'act of commerce'. If the "Act" is found to be Constitutional it will be used as precedent. Especially since the "Act" as written unconstitutionally prohibits any and all judicial review:

(a). The power to regulate interstate commerce does not subsume the power to dictate a lifetime financial commitment to health insurance coverage. Without judicially enforceable limits, the constitutional blessing of the minimum coverage provision, codified at 26 U.S.C. § 5000A, would effectively sanction Congress' exercise of police power under the auspices of the Commerce Clause, destroying our dual sovereignty structure [Amendment 10 violation].

(b). The Legislature attempt to distorted the "*Commerce Clause*" is nothing new, this very Court had to rectify the apparent unfamiliarity Congress has with the Constitution.

Legal Note: In *United States v. Lopez*, 515 U.S. 549, 115 Sc.D. 1624, 131 L.Ed.2d 626 (1995) and *United States v. Morrison*, 529 U.S. 598, 607 (2000); id. (stating that a court should "*invalidate a congressional enactment only upon a plain showing that Congress has exceeded its constitutional bounds*"); also relevant, see *United States v. Whited,* 311 F.3d 259, 266 (**3d Cir**. 2002); *United States v. Bishop*, 66 F.3d 569, 576 (**3d Cir**.1995) "[The court] in reaching their decision took various tests; (i) the channels of interstate commerce; (ii) persons or things in interstate commerce or instruments of interstate commerce; and, (iii) activities that have "a substantial relation to interstate commerce i.e. those activities that substantially affect interstate commerce.

12. Secondly, the issue is ***stare decisis;*** if one reads the bill it becomes abundantly clear provisions within the "Act" create "*Specific Welfare*" **not** "*General Welfare*". "*Specific Welfare*" was previously found to be unconstitutional in 1936, *see*, *United States v. Butler*, 287 U.S. 1, and prohibits the type of activities being promulgated by the "Act" because it levies taxes, fines, and fees specifically to supply a product to one specific group by taxing another specific group in-of-itself should have been enough to render the "Act" "null and void".

13. To raise revenues to fund the "Act" ["***Specific Welfare***"] the government inserted provisions that employs *extortion* and *intimidation* under the "*color of law*"[7] to force

[7] The Third Circuit alone for example, held: "*The wrongful use of threatening…or fear of economic harm… to surrender a federally protected rights constitutes extortion within the meaning of 18 U.S.C. 1951 (b)(1)*"

individuals and Corporations comply and/or purchase or offer Health-Insurance or suffer the consequence. This is clearly an unlawful tactic being used under the "*color of law*". These above facts are nowhere to be found in the brief to be heard on March 26-28, 2012 that must be considered for a "full and fair" hearing to take place.

14. **Count 3**. The "Act" violates Article 1, Section 8, Paragraph, 12 of the Constitution: Appropriation. Provisions in "Act" appropriate monies for an Army for four (4) years not two (2) years. No further argument is needed. It unambiguously violates the Constitution not addressed in any other Petition, nor refuted by defendants.

15. The second violation **not previously presented** addresses statutory law; the "Act" specifically abrogates the "*Posse Comitatus*"[8] granting the President unfettered authority to create a new "military" Ready Reserve Corps (the members of which shall receive weapons training) with unfettered authority to deploy said Corps [federal troops in civilian law enforcement] without consent of the State governor [violation of State

---

United States v. Sweeney, 262 F2d 272 (3rd Cir. 1959) United States v. Kenny, 462 F2 1205 (3d Cir.) cet. Denied, 409 U.S. 914, 93 S. Ct. 234, 34 L.Ed.2d 176 (1972) United States v. Provenzano, 334 F.2d 678 (3rd Cir.) cert. denied 379 U.S. 212, 80 S. Ct. 270, 4 L.Ed.2d 544 (*fear or wrongfully threaten economic lose also satisfies the Hobbs Act"*).

Intimation violates **Supreme Court precedent**, see, Mathges v. Eldridge, 424 U.S. 319 344:
"*The rules "minimize substantively unfair treatment or mistake, deprivation by enabling a person to contest the basis upon which a state proposes to deprive them of protected interest*."

Also See, Cary v. Piphus, 435 U.S.: Procedural due process rules are meant to protect persons not, from deprivation, but to contest from the mistake or justified deprivation of life, liberty or property. Provisions throughout "H.R.3590" preclude judicial review. How can this "Act" be Constitutional? The Court must mandate Defendants dispute the above facts with specificity and particularity.

[8] **Not previously addressed:** Recently signed into law, National Defense Authorization Act, (S.1867) notwithstanding violates the "Posse Comitatus "Act authorizing the President to use Military force on American citizens, without State approval, retention of American citizens without judicial due process for an unlimited period and the transfer of Americans to overseas detention camps. The reason I bring this to this Courts attention, we see the continual erosion of rights by an administration gone wild. I ask this Court to be cognizant of the fact that "H.R.3590" the so-called healthcare legislation creates a private Presidential Army that violates the Constitution see, paragraph 21 in Stalinist Russian fashion! Even two days before Christmas Mr. Obama told the Congress in no uncertain terms he will decide what's constitutional when referring to provisions in the trillion dollar omnibus spending bill that prevented monies to be used for his anti-gun agenda: I quote: "*I have advised Congress that I will not construe these provisions as preventing me from fulfilling my constitutional responsibility to recommend to the Congress's consideration such measures as I shall judge necessary and expedient*" Therefore Congress will be allowed to institute legislation but he'll decide what is or isn't Constitutional. One would wonder; did Mr. Obama decided you should not address the unconstitutionality of "H.R.3590" as outlined in *Purpura v. Sebelius*?

sovereignty]. Provisions allow for the President to activate State National Guard troops circumventing Congress void an emergency declaration of law, and to implement a draft on what he perceives to be a national emergency under his direct control. Again, not addressed by any Petition to be heard in March.

16. **Count 4.** The "Act" violates Article 1, Section 9, Paragraph, 4, "*Capitation taxes*", by explicitly taxing individuals and states discriminately.[9] This interrelates to a Amendment 14 violation. At all time keeping in mind the "Act" itself unconstitutionally originated (see Count1) in the Senate. Overall each in-of-it-themselves are unconstitutional provisions. Not a single one of the above violations are to be found or adequately framed in the pleading to be argued in March of 2012.

17. **Count 5**. Violation of Article 1, Section 9, Paragraphs 3, 5, and 6, imposes taxes or duties on articles exported from State to State[10] that has already caused immediate and future devastating injury. Secondly, Article 1, of the Constitution is explicit, "special preference" is prohibited! Inarguable various States were granted waivers over other States. As written the "Act" grants specific financial incentives and special treatment to selective States due to the blatant bribery that took place for the needed votes for passage". Again, exists an Amendment 14 violation. (**Footnote not previously presented**.)

18. **Count 6** Violation Article 2, Section 1, Paragraph 5; No Constitutional question before this Honorable Court surpasses the importance concerning this issue that must be adjudicated. Petitioner has never stated Mr. Obama is not a citizen of the United States. That being said, the Constitutional question exists: is Mr. Obama a "natural born Citizen", if not; how can he exercise the authority of the office of President? Failure to

---

9 The Honorable Chief Judge Roger Vinson in his previous finding, *see*, Case 3:10-cv-00091, noting that Section 10907 of "H.R.3590" explicitly imposed taxes on indoor tanning salon on individuals as a "service" tax which is clearly a violation of the Constitution "*capitation*" provision.

10 The new Medical Device Excise Tax scheduled to begin in 2013 has already caused 1000 employees at Stryker Corp. will be losing their jobs as a direct result of a medical device fee included in Obama-care according to Reuters (Nov.1, 2011). AdavaMed, the Advanced Medical Technology Association estimates that 43,000 U.S. jobs would be lost as the Medical device Excise Tax as companies move to more productive Nations.

address this Count would constitute a desertion from ones sworn fiduciary duty and betrayal of the United States Constitution. (*See* Article 6, Paragraph 2). The Court must consider during the years Mr. Obama was developing a power base and running for President Congress 8-times attempted to remove the Constitution's requirement that a president be a "natural-born citizen," suggesting an organized strategy. [Bill Summary, HJR 59, 67, SB 2128, 2078, HJR 104, 2, 4, and 42]. If Mr. Obama was/is eligible why would such this legislation be introduced? (**Not previously presented**.)

19. Therefore, the question still exists whether Mr. Obama was eligible to sign "Act" in law, make appointments, institute regulations or hold the office of president?

20. These two Constitutional challenges that must be addressed, (1). Is this Supreme Court bound by the principles of ***stare decisis?*** And (2) if not, is this an issue of "**first impression**"? Up until now, our spineless federal courts have avoided this issue. By so doing this current administration has repeatedly place itself above the law, legislature and judiciary. [Currently, in contempt of Court Drilling leases, Recently, refused to adhere to a Court ordered subpoenaed to submit documents in the Georgia matter]. I could go on, but what took place in Georgia **now mandates this issue be addressed**.

Please Take Special Judicial Notice: The issue of whether Mr. Obama, or Presidential Electors pledged to vote for him, is/are eligible to be placed on the ballot this spring or fall (e.g. Georgia) will continue to come before the courts in state after state, [Illinois, New Hampshire etc.]. This is the only comprehensive Petition that deals with the two most important issues facing this country. The constitutionality of the "Act" and "eligibility" are pending before this Court. No legal excuse exists not to address these issues. Failure not to address eligibility will disenfranchise the voters and will deprive the Democrat Party an opportunity to vet an eligible candidate[s] to be placed on the ballot in November if Mr. Obama is found to be ineligible. To prolong adjudication abandon your fiduciary duty is to create a constitutional crisis and have our courts inundated with unnecessary litigation on this matter that can be settle in March of this year once and for all.

21. Petitioner says, this matter is "***stare decisis et no movere***" the Supreme Court has previous adjudicated this question numerous times setting forth established precedent; *see*, *Minor v. Happersett* 21 Wall, 162, 166-168; U.S. v. *Wong Kim Ark*, 18 Sc.D. 456

(1898); Perkins, Secretary of Labor, et al. v. Elg. 59 S. Ct. 884 (1939) Elk v. Wilkins, 112 U.S. 94 (1884); *THE VENUS*, 12 US 253 (1814) ….

Take Special Notice: Another controlling effect not previously presented. Recently uncovered unknown individual[s] in a premeditated criminal act removed all reference to Supreme Court precedent from the website "*Jusatia.com*" corrupting no less than 25-Supreme Court authorities erasing reference to the words "*Minor v. Happersett*" to other relevant cases. Thereafter inserting misleading numerical citations concerning the proper meaning of "*natural born citizen*" as found by the Supreme Court.

- Thus far uncovered; actual text was removed in the landmark decision *United States v. Wong Kim Ark*, with reference to *Scott v. Sandford*, and the *Slaughterhouse Case*s. Attached as Exhibit 1, is a comprehensive treatises citing precedent, and detailed history of what constitutes a "*natural born citizen*". Mr. Obama was/is ineligible to exercise Presidential authority to sign "H.R.3590" into law.
- The Congressional Research Service distorted what a "natural born citizen" is in their "reports" by carefully quoting various rulings using "…" to obscure their distortions. What is being perpetrated on the public is the claim the dictionary does not define the meaning of words. "Law of Nations" it is the common law of the US that defines the various terms. It is even referenced by name in Article 1, Section 8, Paragraph, 10 of the US Constitution. [Noah Webster's Dictionary 1828 remind us: *It is not only important, but, in a degree necessary, that the people of this country, should have an American Dictionary of the English language; for, although the body of the language is the same as in England, and it is desirable to perpetuate sameness, yet some differences must exist. Language is the expression of ideas; and if the people of one country cannot preserve an identity, they cannot retain an identity of language."*].That being said:

22. The Supreme Court "*Minor v Happersett*" when deciding an issue of citizenship issued a decision on March 29, 1875 specifically held:

"The Constitution does not, in words, say who shall be natural-born citizens. Resort must be had elsewhere to ascertain that. At common-law, with the nomenclature of which the framers of the Constitution were familiar, it was never doubted that all children born in a country of parents who were its citizens became themselves, upon their birth, citizens also. These were natives, or natural-born citizens, as distinguished from aliens or foreigners. Some authorities go further and include as citizens children born within the jurisdiction without reference to the citizenship of their [p168] parents. As to this class there have been doubts, but never as to the first. For the purposes of this case it is not necessary to solve these doubts. It is sufficient for everything we have now to consider that all children born of citizen parents within the jurisdiction are themselves citizens. The words "all children" are certainly as comprehensive, when used in this connection, as "all persons," and if females are included in the

last they must be in the first. That they are included in the last is not denied. In fact the whole argument of the plaintiffs proceeds upon that idea".

23. The Supreme Court specifically referenced and acknowledged the meaning of "natural born citizen" as defined by Monsieur De Vattel's "Law of Nations" Book 1.

Note: *See*, [Pl. (A-132-134; A-283-4;A-249-257) and **attached Exhibit 5** to original Petition citing authorities]. E,g. The Supreme Court in "PERKINS," *Secretary of Labor, et al. V ELG. ELG v. PERKINS, Secretary of Labor, et al*." (1939) "*THE VENUS*, 12 U. S. 253 (1814)" the Supreme Court referenced the definition of "*natural born citizen*" and cited Book 1, Chapter 19, Paragraph Number 212 of Vattel's Law of Nations.

24. Indisputable, Barack Hussein Obama Sr. was a British citizen and gave his son British citizenship, Mr. Obama, II now occupying the oval office does not meet the "natural born citizen" requirement of Article 2, Section 1, Paragraph 5. Mr. Obama is a native born or statutory citizen period! Therefore ineligible to exercise the authority of the office of President nor legally sign bills into law or appoint federal judges. [**Justices Sotomayor and Kagan by law, must recuse themselves from all proceeding dealing with this matter due to a vested interest, see, 28 U.S.C. 455**.]. Noteworthy; John Jay's correspondence to George Washington during the convention that created the contract represented by the Constitution:

> "*Permit me to hint, whether it would be wise and reasonable to provide a strong check to the admission of Foreigners into the administration of our national Government; and to declare expressly that the Commander in Chief of the American army shall not be given to nor devolve on, any but a natural born Citizen*."

25. The intervening circumstances are substantial and a controlling effect not addressed whether the issue is ***stare decisis***, ***first impression, and whether Justices Sotomayor or Kagan took part in the 1/9/ 20 12decision***? (Not addressed by Court)

26. **Count 7**. Violation of Amendment 16, though Constitutional was expanded without authority that instigated violations of Amendment 5, (due process) and 8, (excess fines). **The controlling effect and reason to "recall and vacate" was the failure of the Court to recognized "proper judicial procedure" as set forth by "Black letter law" had been violated**: Of the upmost importance, Defendants on no less than 6-counts forfeited by failing to respond automatically '*deems to have admitted the averment' See*,

Fed. R. Civ. P. 8(d); See, complete explanation (A-135;A-284-285) was supported by authorities.

27. Not a single federal court addressed whether a tax of the same income a second time as well as levy taxes on phantom income that was never existed was constitutional or that provisions in the "Act" constitute extortion under the "color of law" Whether excessive fines disproportionate in amounts violated Amendment 8? Notwithstanding a violation of Article 1, Section 9 paragraph 3; "No bill of attainder or "ex post facto" law shall be passed.

28. **Count 8**. It is incontrovertible the "Act" abrogates Amendment 4, and "HIPAA" legislation. Complete with explanation and legal authorities see, (A-136-137; A-286-287) that cite with specificity and particularity section and pages numbers.

Legal: Substantial grounds not presented or considered that must have a controlling factor. This Court recently ruled on that the monitoring of GPS violated Amendment 4, This Court recently held GPS surveillance requires search warrant is there any difference concerning the Health-care "Act' in which the government has unfretted access to all medical records without a search warrant, at the same time abrogating the 'HIPPA' statute. (1) Section 1128J pp. 1687-1692ff which creates an "Integrated Data Repository" …the Inspector General's Office will have total access to any medical record;…(without a search legal warrant) titles XVIII and XIX, allows the government to obtain information from any individual including beneficiaries. (2) Section 1128B(f) allows the government access to all records pertaining to medical device and who payments have been made to. (3) Provisions in Part 6 of the act allows the government access to individual bank accounts and financial records; (4) also allow the government the ability to transfer funds electronically to or from an individual's bank account for the purpose of debiting his or her account for fees and penalties. And, (5) without prior judicial review.

29. **Count 9**. Violation of Amendments 5 and 13. The "Act" contains such violations as; "illegal takings", [See[11], pages 630, 653, 676, 680, 725, 738, 772, 831, 1013, 1415,

---

11 Procedural due process rules are meant to protect persons not from the deprivation, but from the mistakes or unjustified deprivation of life, liberty, or property. *Cary v. Piphus,* 435 U.S. 247, 259 (1978). The rules minimize substantively unfair or mistaken deprivations" **by enabling persons to contest the basis upon which a State proposes to deprive them of protected interests**. *Fuentes v Shevin,* 407 U.S. 67, 81 (1972). At all times, **the court has also stressed the dignity importance of procedural rights, the worth of being able to defend one's interests** even if one cannot change the results. *Cary v Piphus*, 435 U.S. 247, 266-67 (1978) *Marshall v Jerrico*, Inc., 446 U.S. 238, 242 (1980).

The right of procedural "*due process*" and "*equal protection*" is fundamental! 42 U.S.C. 1983 provides a remedy for violations of those rights created by the Constitution. In *Baker v. Mccollan,* 443 U.S. 137, 144

1679, and 2303. (2) "extortion" A "taking" effected by "persuasion, enticement, or inducement"[12] under the "color of law", "servitude" By law, only an incarcerated ward of the State may be ordered to perform a service against their will, and mandates "*Specific Welfare*". Provisions set forth in the 'Act" require every individual to buy a product (Healthcare Insurance, except the select few that are granted immunity from the "Act") under the threat penalty of law for which **no judicial review is permitted.** These are unconstitutional components" similar to the "Jim Crow Laws" all to create "*Specific Welfare*" an issue that was held to be unconstitutional [*stare decisis*]. See explanation (pl. A-137-8; A-287-290). **Controlling factor Defendants forfeited see FRCP 8(b)(d)**.

30. **Count 10**. Violates Article 4, Section 2, and Amendment 14. Provision in "Act" grants special exemptions and waivers (Exceeding 1000) to select classes of citizens, based upon union affiliation, corporations, religious affiliation, and/or State residency that were granted for the needed votes for passage of the 'Act". Again precludes the right to judicial review (Amendment 5). The "Act" violates Amendment 1, the respecting one religion over another which is unconstitutional. See, Section 1420(g) to be addressed further in Count 11, the "establishment clause". To include "Discriminatory Taxation" that selectively punishes homeowners in violation of Amendment 14 "equal protection and treatment". The "Act" turns over partial ownership of a citizens home[13] by taxation by imposing a 3.8 percent fixed tax (illegal taking) on the gross amount of the sale of

---

n. 3, 99 S. Ct. 2689, 2695 n.3, 61 L.Ed.2d 433 (1979): *Kneipp*, 95 F.3d at 1204. Defendants herein, acted under the "*color of law*," to deprived plaintiff[s] of rights secured by the constitution or laws of the United States, also see, *Parratt v. Taylor,* 451 U.S. 527, 535, 101 S. Ct. 1908, 1912, 68 L.Ed2d 420 (1981).

12 The wrongful use of threatening… or fear of economic harm…to surrender a federally protected rights constitutes extortion within the meaning of 18 USC 1951(b)(2) *United states v. Sweeney*, 262 F2d 272 (3rd Cir. 1959 *United States v Kenny*, 462 F2 1205 (3d Cir.) cert. denied, 409 US 914, 93 S. Ct. 234 34 L.Ed.2d 176 (1972) *U.S. v. Provenzano*, 334, F.2d 678 (3d Cir.) cert denied 379 U.S. 212, 80 S. Ct. 270, 4L.Ed.2 544 *fear or wrongfully threaten economic lose also satisfies Hobbs Act).* Such intimation violates Supreme Court precedent, see *Mathges v. Eldridge*, 424 US 319 344: "*The rules 'minimizes substantially unfair treatment or mistake, deprivation by enabling a person to contest the basis upon which a state proposes to deprive them of a protected interest." See Cary v Piphus, 435 US 259 "procedural due process rules are meant to protect persons not from deprivation, but to contest from mistake or justified deprivation of life, liberty or property.*

13 According to the U.S. Supreme Court, if the Amendment 5 is to have meaning, "it must include the right to prevent the government from gaining an ownership interest in one's property outside the procedures of the "Taking" Clause. Dolan v. City of Tigard, 512 U.S. 374, 385 (1994)

their residence after tax dollars in addition to a capital gains tax to raise the monies for unconstitutional "*specific welfare*" and also precludes judicial review

31. Neutrality in application requires an "equal protection" mode analysis. Defendants must be made to explain how the above disparities concerning 'unequal treatment' is not a violation of Article 4, Section 2 and Amendments 1, 5, and 14. [Pl. (A-140-141; A-290-293].

32. **Count 11**. The "Act" violates the "Establishment Clause", Amendment 1, interrelated with violations of Amend. 5 and 14. A review of page 326 and page 2105 of the "Act" grants "religious conscience exemptions" in a very specific unconstitutional manner. Preferential treatment is granted based upon membership or participation in selected establishment of religion (Islam)[14] that does not apply to all religious groups. Again, violates neutrality. It is inarguable the "Act" favors and respects one religion over another by its privileged exemptions, see [Pl. A-142; A-293-296]. Any individual not a member of the favorite religion are subject to fines, and or additional punishment without any appeal or judicial recourse violating Amendment 5.

33. **Count 12**. Violations of Amendments 5 and 14, renders the judiciary irrelevant and also interconnects with violation of the Anti-Trust Laws. It is important to first address the language set forth in the "Act" "*There shall be no administrative or judicial review under section 1869, section 1878, or otherwise, of [any various procedures described earlier.* This Re-Argument Brief demonstrates the seriousness of this violation. and the relationship to the violation of the Anti-Trust Law, 15 U.S.C. 1 enjoins only anti-competition conduct "effected by a contract, combination, or conspiracy," *see*, (Pl. A-143-144;A-296-299] authorities and page numbers on how the Act violates the anti-trust, and Amendment 5 and 14.

---

14 If the exemption from the mandate to purchase "health Insurance" (regardless of the unconstitutionality of the "Act") is upheld to those in the Islamic faith this Court will be setting a precedent that establishes Sharia law above Constitutional law. Such special privileges places are taking place every day, prayer rooms at Airports, stadiums, pray time allotted at schools, dress codes at schools, businesses and Corporations exempting Muslim's from standard work procedure all unavailable to non-Muslims. The question exists are we an equal society or do we now have a privileged class?

34. **<u>Count 13</u>**. The "Act" violates Title VII, "Civil Rights" Law, Amendment 14[15], and Article 4, Section 2, Paragraph1. In the "Act' "H.R.3590" *see*, Title V Section 5201 and 5202 include provisions allocating federal funds for student loans. Section 10908 state loans, in violation of Title VII of the Civil Rights legislation, are to be granted. Provisions specifically maneuvers loan monies to "historically black and minority colleges" (see, footnote 13) to the tune of 2.55 billion dollars which also violates "*Equal treatment*". It is inarguable granting monies based upon race or ethnicity is "reverse discrimination"[16] Further discrimination (taxation), is demonstrated by a 10-percent Tax on select individuals for a service in Tanning Salons, not the business itself. More importantly, such a tax violates "Capitation prohibitions" (see Article 1, Section 9, Paragraph 4) "*No Capitation, or other direct,, Tax shall be laid, ...*" and Article 4, Section 2, Paragraph 1 "*the citizens of each State shall be entitled to all privileges and immunities of the Citizens in several States*".

35. The "Act" discriminates regarding the size of a business or corporation, those with more than 10-operating facilities are subject to stringent regulation while those with less than 10-operating facilities are exempt; deliberately exempts all federal branches of government from the same healthcare mandates forced upon citizens violates "equal protection and treatment" mandated by Amendment 14. Grants special benefits to select groups of citizens, and subsidizes all Union Retirees, Community Organizations health-care plans at the expense of the taxpayer, that is arguably an unconstitutional use of the taxpayers monies for "*specific welfare*". Along with the "unequal treatment" to the taxpayers of States not granted these special immunities or financial assistance and could

---

15 The equal protection Clause bars a governing body from applying a law dissimilarly to people who are similarly situated. The purpose of the clause is to secure every person within its jurisdiction against arbitrary discrimination, whether occasioned by the expressed terms of a statute or by its improper execution through government agents. See, Village of Willowbrook v. Olech, 528 U.S. 562. In short, to govern impartially, and it may not draw distinctions between individuals solely on differences that are irrelevant to a governmental objective. See, *<u>Lehr v. Roberson</u>*, 463 U.S. 248 (1983).

16 See, *<u>Regents U. Cal. V. Bakke</u>*, 438 US 265 (1978) also see most recent ruling by this honorable Court, *<u>Ricci et al. v DeStefano</u>*, (citation omitted) in the case of the New Haven, Conn. In which Firefighters with higher test scores were passed over for promotion because they were of the wrong race for firefighters with lower test scores. [Such behavior divides the races].

be considered to violate Article 1, Section 9, Paragraph 6. and Article 4, Section 2 Paragraph 1. See Pl. (A-145147: A-299-300)

36. **Count 14**. Violation of Article 6, Section 3, the Oath[17] of Office. When incorporated with the proven allegation above and below that the entire "Act" totally fails to comply with the U.S. Constitution, those that voted for this "Act" admittedly[18] failed in their fiduciary duty to scrutinize the bill prior to passage in violation of their sworn oath. Also The legislature's behavior has cost the American people untold 100's of millions of dollars thus far and still counting on a piece of legislation that was drafted by outside non-governmental organization[19] that admittedly favor a Socialist/Marxist form of government. See, Pl. (A-148: A-300-301).

37. **Count 15**. Issue of first impression Amendment 10, no State has yet surrendered their Sovereignty to federal government. The "Act" usurps the contractual agreement between the States and Federal government effectively eviscerates the limits of power held by the Federal Government specifically restricted by the Sovereign States is

---

17 *Marbury v. Madison*, concerning the oath of Office. "…it's apparent that the framers of the Constitution contemplated that the instrument as a rule of government of the courts, as well as the legislature. Why otherwise does it direct the judges to take an a oath to support it? This oath certainly applies in an especial manner to their conduct in the office and character. How immoral to impose it on them if they were to be used as the instrument , and the knowing instruments for violating what they swore to support. The oath of office, too, imposed by the legislature, is completely demonstrative of the legislative opinion on the subject. It is the words: "I do solemnly swear, that I will administer justice, without respect to persons, and do equal right to the rich and poor; and that I will faithfully and impartially discharge all the duties incumbent on me as – according to the best of my abilities and understanding, agreeably to the constitution of the laws of the united states. Why does a judge swear top discharge his duties agreeably to the constitution of the United States, if that Constitution forms no rule of for his government? If it is closed upon him, and cannot be inspected by him? If such a real state of things , this is worse than solemn –mockery. To prescribe, or take an oath, becomes equally a crime."

18 The Chairman of the House publically admitted he didn't understand it, yet voted for passage. The speaker of the House Nancy Pelosi publically stated; "We have to pass the "Act" to find out what was in it". Congressman John Conyers on public Television stated: "I love these members who get up and say 'read a bill'. What good is reading the bill if it's 1000 pages and you don't have two days two lawyers to find out what it means after you read the bill". explain what's in it". Senator Thomas Carper /(D-DE) Carper described the language the actual text of the bill would finally be drafted in as "arcane", confusing", "hard stuff to understand", and "incomprehensible". He likened it to "gibberish" used in credit card disclosure forms."

19 Senator Reid, on the floor of the Senate, personally thanked the Apollo Group of NY, for creating and writing the Obama-care bill. The Apollo group is a progressive - socialist group owned and financed by George Soros and have planned Obama-care for many years. [prior to Mr Obama's illicit and election].

inconsistent with the dual sovereignty system that jeopardizes the integrity of our dual structure of government. In Machiavellian fashion, the act in essence mandates involuntary servitude to the general government by requiring (1) each State to provide oversight of the newly created insurance markets; (2) to include *inter alia*, instituting regulation, consumer protections, rate reviews, solvency, and reserve fund requirements to include premium taxes.

38. The power to regulate interstate commerce does not subsume the power to dictate a lifetime financial commitment to health insurance coverage. Without judicially enforceable limits, the constitutional blessing of the minimum coverage provision, codified at 26 U.S.C. § 5000A, would effectively sanction Congress's exercise of police power under the auspices of the Commerce Clause, jeopardizing the integrity of our dual sovereignty structure [Amendment 10 violation].

39. Total discretion of the State is eliminated; in derogation of the core Constitutional principle of federalism upon which this Nation was founded by the mere fact the "Act" exceeds the vested powers granted by the Constitution, violating Article 1, Section 8, and Amendment 10 incorporated therein. The Federal Government only has those powers that the States of the Union ceded to the Federal Government via the Constitution and no others.

CONCLUSION

40. The magnitude of the Constitutional violations in "H.R.3590" is unprecedented in American jurisprudence is the substantial controlling effect for this Court to "Recall and vacate" notwithstanding the "Act" effectively eliminates the Constitution, and effectively removes all judicial review. To dismiss this Petitioners Writ of Certiorari makes a mockery of a Citizen's standing to challenge the Constitutionality of a law, *Government for redress of grievances.*", and make a mockery of the recent precedent held in "*Bond v. the United States"* that would disenfranchises directly the privileges and immunities of all citizens.

WHEREFORE, Petitioner prays this Honorable Court Recall and Vacate the Order issued on January 9, 2012 thereafter schedule *Purpura v Sebelius* to be heard in March 26-28 of 2012 on the Constitutionality of "Act" to set forth precedent on all 19-violations and 4-statutory laws to protect the nation against any and all future attempts to usurp the United States Constitution and the liberty and freedom of every American.

God Bless America
Respectfully Submitted,

Nicholas E. Purpura, January 27, 2012
pro se (Self-in-Law)

CERTIFICATON of *PRO SE* (SELF IN LAW)

Justice delayed is justice denied!

Petitioner submits this certification and states that this re-argument to recall and vacate is presented in good faith and sets forth argument that is irrefutable. The intervening circumstances are of substantial merit that will affect every American now and for generations to come. This Honorable Court by established law must address each Constitutional challenge set forth in the "Act" that will damage the Republic by provisions set forth in "H.R.3590" the "Act". Failing to allow Petitioner to participate during the March 26-28, 2012 oral argument would be to say the Constitution is irrelvent!

The facts set forth in the above 15-pages more than satisfy Rule 44, and the grounds not previously presented should not have been necessary, there were more than enough grounds to be heard.

The recent judicial hearing concerning Mr. Obama's eligibility that took place in the great State of Georgia enhance further the obligation for this Honorable Court to grant Certiorari and "recall and vacate" the order of January 9th 2012.

The argument scheduled for March 26-28, 2012 without the participation of Case No. 11-7275 *Purpura v. Sebelius*, would be to patently unfair, since it is the most comprehensive argument against the unconstitutionality of the "Act". No other Writ, or Amicus Brief lists fully with specificity and particularity the blatant violations set forth in Petitioners papers.

This Re-argument to recall and vacate to allow Certiorari is submitted in good faith.

Special Note: Again, Petitioner respectfully reminds this Honorable Court that by law, see Title 28 USC Section 455 requires the Honorable Justices Sotomayor and Kagan to recuse themselves and are not allowed take part in any proceedings related to *Purpura v. Sebelius*. There previous participation is/was another valid reason to "recall and vacate".

Respectfully submitted,

Nicholas E. Purpura,
Pro se, (*Self in law*)