Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

CALIFORNIA ET AL. *v*. TEXAS ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

No. 19–840. Argued November 10, 2020—Decided June 17, 2021*

The Patient Protection and Affordable Care Act as enacted in 2010 required most Americans to obtain minimum essential health insurance coverage and imposed a monetary penalty upon most individuals who failed to do so. Amendments to the Act in 2017 effectively nullified the penalty by setting its amount to $0. Subsequently, Texas (along with over a dozen States and two individuals) brought suit against federal officials, claiming that without the penalty the Act's minimum essential coverage provision, codified at 26 U. S. C. §5000A(a), is unconstitutional. They sought a declaration that the provision is unconstitutional, a finding that the rest of the Act is not severable from §5000A(a), and an injunction against enforcement of the rest of the Act. The District Court determined that the individual plaintiffs had standing. It also found §5000A(a) both unconstitutional and not severable from the rest of the Act. The Fifth Circuit agreed as to the existence of standing and the unconstitutionality of §5000A(a), but concluded that the District Court's severability analysis provided insufficient justification to strike down the entire Act. Petitioner California and other States intervened to defend the Act's constitutionality and to seek further review.

Held: Plaintiffs do not have standing to challenge §5000A(a)'s minimum essential coverage provision because they have not shown a past or future injury fairly traceable to defendants' conduct enforcing the specific statutory provision they attack as unconstitutional. Pp. 4–16.

(a) The Constitution gives federal courts the power to adjudicate

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*Together with No. 19–1019, *Texas et al.* v. *California et al.*, also on certiorari to the same court.

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only genuine "Cases" and "Controversies." Art. III, §2. To have standing, a plaintiff must "allege personal injury fairly traceable to the defendant's allegedly unlawful conduct and likely to be redressed by the requested relief." *DaimlerChrysler Corp.* v. *Cuno*, 547 U. S. 332, 342. No plaintiff has shown such an injury "fairly traceable" to the "allegedly unlawful conduct" challenged here. Pp. 4–5.

(b) The two individual plaintiffs claim a particularized individual harm in the form of past and future payments necessary to carry the minimum essential coverage that §5000A(a) requires. Assuming this pocketbook injury satisfies the injury element of Article III standing, it is not "fairly traceable" to any "allegedly unlawful conduct" of which the plaintiffs complain, *Allen* v. *Wright*, 468 U. S. 737, 751. Without a penalty for noncompliance, §5000A(a) is unenforceable. The individuals have not shown that any kind of Government action or conduct has caused or will cause the injury they attribute to §5000A(a). The Court's cases have consistently spoken of the need to assert an injury that is the result of a statute's actual or threatened enforcement, whether today or in the future. See, *e.g.*, *Babbitt* v. *Farm Workers*, 442 U. S. 289, 298. Here, there is only the statute's textually unenforceable language.

Unenforceable statutory language alone is not sufficient to establish standing, as the redressability requirement makes clear. Whether an injury is redressable depends on the relationship between "the judicial relief requested" and the "injury" suffered. *Allen*, 468 U. S. at 753, n. 19. The only relief sought regarding the minimum essential coverage provision is declaratory relief, namely, a judicial statement that the provision challenged is unconstitutional. But just like suits for every other type of remedy, declaratory-judgment actions must satisfy Article III's case-or-controversy requirement. See *MedImmune, Inc.* v. *Genentech, Inc.*, 549 U. S. 118, 126–127. Article III standing requires identification of a remedy that will redress the individual plaintiffs' injuries. *Id.*, at 127. No such remedy exists here. To find standing to attack an unenforceable statutory provision would allow a federal court to issue what would amount to an advisory opinion without the possibility of an Article III remedy. Article III guards against federal courts assuming this kind of jurisdiction. See *Carney* v. *Adams*, 592 U. S. ___, ___ . The Court also declines to consider Federal respondents' novel alternative theory of standing first raised in its merits brief on behalf the individuals, as well as the dissent's novel theory on behalf of the states, neither of which was directly argued by plaintiffs below nor presented at the certiorari stage. Pp. 5–10.

(c) Texas and the other state plaintiffs have similarly failed to show that the pocketbook injuries they allege are traceable to the Government's allegedly *unlawful* conduct. *DaimlerChrysler Corp.* v. *Cuno*,

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Syllabus

547 U. S. 332, 342. They allege two forms of injury: one indirect, one direct.

(1) The state plaintiffs allege indirect injury in the form of increased costs to run state-operated medical insurance programs. They say the minimum essential coverage provision has caused more state residents to enroll in the programs. The States, like the individual plaintiffs, have failed to show how that alleged harm is traceable to the Government's actual or possible action in enforcing §5000A(a), so they lack Article III standing as a matter of law. But the States have also not shown that the challenged minimum essential coverage provision, without any prospect of penalty, will injure them by leading more individuals to enroll in these programs. Where a standing theory rests on speculation about the decision of an independent third party (here an individual's decision to enroll in a program like Medicaid), the plaintiff must show at the least "that third parties will likely react in predictable ways." *Department of Commerce* v. *New York*, 588 U. S. ___, ___. Neither logic nor evidence suggests that an unenforceable mandate will cause state residents to enroll in valuable benefits programs that they would otherwise forgo. It would require far stronger evidence than the States have offered here to support their counterintuitive theory of standing, which rests on a "highly attenuated chain of possibilities." *Clapper* v. *Amnesty Int'l USA*, 568 U. S. 398, 410–411. Pp. 11–14.

(2) The state plaintiffs also claim a direct injury resulting from a variety of increased administrative and related expenses allegedly required by §5000A(a)'s minimum essential coverage provision. But other provisions of the Act, not the minimum essential coverage provision, impose these requirements. These provisions are enforced without reference to §5000A(a). See 26 U. S. C. §§6055, 6056. A conclusion that the minimum essential coverage requirement is unconstitutional would not show that enforcement of these other provisions violates the Constitution. The other asserted pocketbook injuries related to the Act are similarly the result of enforcement of provisions of the Act that operate independently of §5000A(a). No one claims these other provisions violate the Constitution. The Government's conduct in question is therefore not "fairly traceable" to enforcement of the "allegedly unlawful" provision of which the plaintiffs complain—§5000A(a). *Allen*, 468 U. S., at 751. Pp. 14–16.

945 F. 3d. 355, reversed and remanded.

BREYER, J., delivered the opinion of the Court, in which ROBERTS, C. J., and THOMAS, SOTOMAYOR, KAGAN, KAVANAUGH, and BARRETT, JJ., joined. THOMAS, J., filed a concurring opinion. ALITO, J., filed a dissenting opinion, in which GORSUCH, J., joined.

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SUPREME COURT OF THE UNITED STATES

Nos. 19–840 and 19–1019

CALIFORNIA, ET AL., PETITIONERS
19–840 *v.*
TEXAS, ET AL.

TEXAS, ET AL., PETITIONERS
19–1019 *v.*
CALIFORNIA, ET AL.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

[June 17, 2021]

JUSTICE BREYER delivered the opinion of the Court.

As originally enacted in 2010, the Patient Protection and Affordable Care Act required most Americans to obtain minimum essential health insurance coverage. The Act also imposed a monetary penalty, scaled according to income, upon individuals who failed to do so. In 2017, Congress effectively nullified the penalty by setting its amount at $0. See Tax Cuts and Jobs Act of 2017, Pub. L. 115–97, §11081, 131 Stat. 2092 (codified in 26 U. S. C. §5000A(c)).

Texas and 17 other States brought this lawsuit against the United States and federal officials. They were later joined by two individuals (Neill Hurley and John Nantz). The plaintiffs claim that without the penalty the Act's minimum essential coverage requirement is unconstitutional. Specifically, they say neither the Commerce Clause nor the

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Tax Clause (nor any other enumerated power) grants Congress the power to enact it. See U. S. Const., Art. I, §8. They also argue that the minimum essential coverage requirement is not severable from the rest of the Act. Hence, they believe the Act as a whole is invalid. We do not reach these questions of the Act's validity, however, for Texas and the other plaintiffs in this suit lack the standing necessary to raise them.

I

A

We begin by describing the provision of the Act that the plaintiffs attack as unconstitutional. The Act says in relevant part:

> **"(a) Requirement to maintain minimum essential coverage**
>
> "An applicable individual shall . . . ensure that the individual, and any dependent . . . who is an applicable individual, is covered under minimum essential coverage . . . .
>
> **"(b) Shared responsibility payment**
>
> **"(1) In general**
>
> "If a taxpayer who is an applicable individual . . . fails to meet the requirement of subsection (a) . . . there is hereby imposed on the taxpayer a penalty . . . in the amount determined under subsection (c).
>
> **"(2) Inclusion with return**
>
> "Any penalty imposed by this section . . . shall be included with a taxpayer's return . . . for the taxable year . . . ." 26 U. S. C. §5000A.

The Act defines "applicable individual" to include all taxpayers who do not fall within a set of exemptions. See §5000A(d). As first enacted, the Act set forth a schedule of penalties applicable to those who failed to meet its minimum essential coverage requirement. See §5000A(c)

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