

Court Grants Air Force Officer Relief From Government Overreach

A federal district court in Georgia has granted a preliminary injunction against the Department of Defense on behalf of an Air Force officer who had been denied a religious exemption from the military COVID shot mandate. Now the Department of Defense cannot enforce any shot mandates against her or take any adverse action against her, including forcing her to retire.

On Jan. 6, 2022, the Thomas More Society filed the lawsuit, Air Force Officer v. Austin, et al., on behalf of an Air Force officer who has served her country for over 25 years and objected to the COVID shots because of the association with aborted fetal cells. The officer is and has been willing and able to work remotely, wear a mask and test periodically. However, the Air Force issued a final denial last December of the officer's military request for a religious accommodation. The lawsuit challenges how the military and civilian mandates violate the Religious Freedom Restoration Act, the First Amendment of the Constitution and the Administrative Procedure Act.

When the military denied her appeal, the Air Force gave her less than one week to make a choice from among three options: 1) Take the "vaccine"; 2) Submit a retirement request; 3) Refuse the shot in writing. Then the Air Force further informed her that "any refusal to receive a COVID-19 vaccine, absent an approved exemption, may be punishable under the Uniform Code of Military Justice" and that "continued refusal will result in involuntary reassignment to the Individual Ready Reserve without pay, benefits or regular responsibilities."

In his order, U.S. District Judge Tilman Self wrote, “‘Your religious beliefs are sincere, it’s just not compatible with military service.” That’s about as blunt as it gets. This is how the plaintiff’s chain of command paraphrased why he thought she was denied a religious exemption from a COVID-19 vaccine. True, he undoubtedly spoke for himself, but when considering the Air Force’s abysmal record regarding religious accommodations requests, it turns out he was dead on target.

The court also wrote, “Judges don’t make good generals. But, by that same token, it’s a two-way street: Generals don’t make good judges—especially when it comes to nuanced constitutional issues. It’s that simple. Whether Defendants’ COVID-19 vaccination requirement can withstand strict scrutiny doesn’t require ‘military expertise or discretion.’”

“Given ‘the Nation’s essential commitment to religious freedom,’ Plaintiff’s harm—a constitutional injury involving her right to freely exercise her religion—is not a mere trivial grievance. And, what real interest can our military leaders have in furthering a requirement that violates the very document they swore to support and defend? The Court is unquestionably confident that the Air Force will remain healthy enough to carry out its critical national defense mission even if Plaintiff remains unvaccinated and is not forced to retire. All Americans, especially the Court, want our country to maintain a military force that is powerful enough to thoroughly destroy any enemy who dares to challenge it. However, we also want a military force strong enough to respect and protect its service members’ constitutional and statutory religious rights. This ruling ensures our armed services continue to accomplish both,” Self wrote.

In *Navy SEAL 1 v. Biden*, Liberty Counsel represents plaintiffs from five branches of the military, federal employees and federal civilian contractors who have been unlawfully mandated to get the COVID shots or face punishment and discharge from the military or termination from employment. A temporary

restraining order was extended for two military members to Feb. 18 at the conclusion of last week's hearing. Federal Judge Steven Merryday has now requested more documents from several military branches regarding the denial of religious exemptions from the COVID shot mandate due tomorrow. Merryday is expected to make a ruling by this Friday.

Liberty Counsel founder and Chairman Mat Staver said, "This is a great victory for religious freedom, especially for this Air Force officer who loves God and America. We commend this court for recognizing the unconstitutional way the military is treating these honorable service members. This is the beginning of the end of such abuse of the law and of these honorable men and women." {eo}

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