

Court Victories Continue for Military Members Wrongfully Denied Religious Exemptions

In the temporary restraining order granted in the U. S. District Court of Florida in Tampa last night, federal Judge Steven Merryday acknowledged the Department of Defense's unlawful discriminatory actions by allowing medical exemptions while denying religious exemptions.

Merryday granted a temporary restraining order for two service members pending a hearing, as a result of Liberty Counsel's request for an emergency injunction in *Navy SEAL 1 v. Biden*. One plaintiff is a U.S. Marine Corps lieutenant colonel whose appeal for religious exemption from the COVID shot was denied and on Feb. 2, she was to be added to the Officer Disciplinary Notebook, and her command selection withdrawn, irreparably damaging her career. This lieutenant colonel would have been ultimately discharged from the Marine Corps. The second plaintiff, a U.S. Navy command surface warfare officer, was denied a religious exemption from the COVID shot and faced immediate discipline today when he would have been removed from command as Captain of his ship, irreparably damaging his career.

Merryday wrote: "The record in this action establishes that the two service members are very likely to prevail on their claim that their respective branch of the military has wrongfully denied a religious exemption from COVID-19 vaccination. The record creates a strong inference that the services are discriminatorily and systematically denying religious exemptions without a meaningful and fair hearing and without the showing required under RFRA" *(while simultaneously granting medical exemptions and permitting unvaccinated persons to continue in service without adverse consequence)*

(emphasis added).

In yesterday's order, Merryday prohibited Secretary of Defense Lloyd Austin "from diminishing or altering in any manner and for any reason the current status of Navy Commander and Lieutenant Colonel, including their assignment, privileges, rank, or the like. In short, Navy Commander and Lieutenant Colonel must remain 'as is' throughout the duration of this injunctive relief" until Feb. 11.

Liberty Counsel returns to court for a hearing in the U.S. District Court in Tampa on Feb. 10 to extend this emergency injunction and to obtain the same for all the military plaintiffs. Then Liberty Counsel will continue to seek to certify the class of all military service members, federal employees and federal civilian contractor plaintiffs to obtain the same protection for everyone.

Merryday ordered each branch of the military to file a detailed report regarding religious exemptions from the COVID-19 shot every 14 days beginning Friday, Jan. 7, 2022. The filings received by the court, as of , 2022, show that out of 22,951 religious exemption requests received, only three were granted, and those were questionable since at least two of those service members were already scheduled to leave the military. However, 3,449 medical exemptions have been granted. The reports confirm the military continues to deny religious exemptions while granting medical exemptions.

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. While the current order applies to two of the many military plaintiffs because of the immediate harm, the lawsuit includes members from all branches of the military and also requests class certification to cover every member whose religious exemptions has been denied.

Liberty Counsel founder and Chairman Mat Staver said, “The court acknowledges that while the military is allowing unvaccinated service members with medical exemptions, it is unlawfully denying religious exemptions. Yesterday’s order is a positive step toward finally putting an end to this abuse of the law and of our military personnel.” {eo}

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