

Judge Rebukes Military as Service Members Score Huge Victory for Religious Freedom

Last Friday evening, Judge Steven Merryday issued a stinging rebuke to the military for violating the federal Religious Freedom Restoration Act by denying the Religious Accommodation Requests of service members. I will share what happened and what comes next for religious freedom for our heroic service members.

Merryday issued a powerful order protecting the first two of our clients, Lt. Col. Mary* and Commander Charles,* both of whom were about to be disciplined by their respective military branches after their religious accommodation requests were denied.

We previously won a temporary injunction protecting these two distinguished service members. On Friday, Merryday extended the injunction for the duration of the case. He will soon rule on our remaining 29 plaintiffs and the entire class of service members.

The judge shredded Biden's mandate, first by ruling "the defendants fail to articulate why Navy commander's and lieutenant colonel 2's sincerely held religious practice must yield to the requirement to accept COVID-19 vaccination."

The order then goes into one of the best defenses of the First Amendment and the Religious Freedom Restoration Act I have ever seen in a court decision.

The religious accommodation request denial letters submitted by members of the various branches in our case showed that the military has been violating RFRA by issuing blanket "rubber-stamp" denials using "magic words."

"A blanket or categorical grant no more satisfies RFRA's individualized assessment than does a blanket or categorical denial," wrote the judge.

He added that using these blanket denials "illustrates that the military fails to afford an applicant an actual 'case-by-case assessment' as required by RFRA."

"Requiring a service member either to follow a direct order contrary to a sincerely held religious belief or to face immediate processing for separation or other punishment undoubtedly causes irreparable harm," wrote the court.

Then the judge went on to inform the Department of Defense that "the 'harm' suffered by defendants results only from the defendants' own failure to comply with RFRA." In other words, had Joe Biden and the DOD followed the law in the first place, they would not be in this position.

In a move that bodes well for rulings to come for the rest of the plaintiffs and the entire class of military members, the judge rejected the military's argument that it had a compelling interest and that separating these skilled service members was the least restrictive means available.

Merryday ruled the military must prove "to the individualized person" that it has a compelling interest to vaccinate, and that separation is the least restrictive means to accomplish this alleged interest.

Since the Marines and the Navy failed to present evidence "to the individualized person" of Lt. Col. Mary and Commander Charles, they may: 1) continue to serve without the shots; and 2) the military may not take adverse or retaliatory action against them for refusing the COVID shots, filing their appeals or participating in this litigation.

This is a huge victory for military members and religious freedom!

This order vindicates the rule of law, which the DOD and every military branch have violated with this unlawful COVID shot mandate. These brave service members give their lives to defend the Constitution and, sadly, the freedom they fight to preserve was denied them—until now.

The abusive actions against these military heroes under the guise of a vaccine mandate carried out by unlawful orders have now collided with the rule of law—and the law won. Freedom is still alive for those who fight to defend her.

The bravery of these military warriors to fight the enemy on foreign soil is equally, if not more, demonstrated when they are willing to fight unlawful orders emanating from the Department of Defense. This order proves these service members can love God and love country while continuing to serve in their respective military branches. They no longer must choose between their Christian convictions and their service to our nation.

Even given this victory, our work fighting for religious freedom against Joe Biden's shot mandates is far from over. Please be in prayer that Merryday extends this same protection to all the plaintiffs in our case, as well as to the entire United States military. And please be in prayer for all our other shot mandate and religious freedom cases. {eo}

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