



Written by [David Kelly](#) on August 21, 2022

## Judge Blocks Marine Corps From Discharging Unvaccinated Marines

U.S. District Court Judge Steven Merryday has halted the discharge of hundreds of Marines who were denied religious exemptions from the military's requirement that they receive the experimental Covid-19 "vaccine" shots, which have not prevented infection and the spread of the virus as the government pledged.

In a lawsuit filed against the Secretary of Defense over the department's Covid-19 vaccine mandate, the 48-page ruling issued on Thursday grants class action status for all active and reserve U.S. Marine Corps servicemen and women. Merryday, a George. H.W. Bush appointee, ruled Thursday that the Corps has failed to adhere to the Religious Freedom Restoration Act.



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The [Religious Freedom Restoration Act](#) of 1993 (RFRA) requires the federal government to prove that a compelling governmental interest requires a certain action and that no less-restrictive alternatives exist.

Judge Merryday also [issued](#) a classwide preliminary injunction against the Department of Defense and the U.S. Marine Corps prohibiting them "from enforcing against a member of the class any order, requirement, or rule to accept COVID-19 vaccination; from separating or discharging from the Marine Corps a member of the class who declines COVID-19 vaccination; and from retaliating against a member of the class for the member's asserting statutory rights under RFRA."

According to [The Epoch Times](#), Merryday said that none of the exemption denials demonstrated that "accommodating a particular applicant will meaningfully impede the health and readiness of the 95% vaccinated force or meaningfully impede the military's operations and duties." Only 11 requests for religious accommodation had been approved by August 4, with none having been approved before February.

This new ruling came about after a Marine reached out to [Liberty Counsel](#) on August 3, seeking help when his and another Marine's young families were notified they would be kicked out of the Marine Corps military housing in just 48 hours.

Liberty Counsel, who is representing the Marines in this case, reported:

Normally when an armed forces member leaves the military, the military pays to move the member and his family back to their home of record. But Joe Biden's Department of Defense (DOD) has changed the rules for Christians who insist on exercising their religious rights. The DOD is making those service members pay their own way—and with as little notice as



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possible, to make yet another example of those who dare to demand their legal rights.

Within just two hours of our pleading to the court filed on August 4, Judge Steven Merryday issued a temporary restraining order preventing the military from firing or evicting [the Marine] and his family....

Judge Merryday specifically mentioned the Marine's plight in his order, stating: "And the resort to two-day warnings of discharge (and, in the instance of First Lieutenant and undoubtedly others, suddenly charging daily rent of more than \$100 to remain in military housing while packing one's family and searching for civilian housing) suggests retribution and retaliation, the existence of which detracts from the Marine Corps' claim elsewhere in this action to good faith treatment of a religious objector."

"Our courageous U.S. Marines finally have relief from these unlawful COVID shot mandates," Mat Staver, chairman and founder of Liberty Counsel, said in a statement.

"The Department of Defense has relentlessly violated the law and ignored their religious freedom. Today, that lawlessness ends," he added.

The Marine Corps has to date discharged 3,299 Marines for refusing to get a vaccine. In a recent update, 3,722 Marines who asked for religious accommodation were either denied or have not yet had their request adjudicated.

Critical of the unconstitutional vaccine mandates, Merryday added, "When Congress acts to preserve liberty, especially a liberty historically and constitutionally fundamental to the United States, the courts — the intended preserve of liberty — must not evade or equivocate, must not, so to speak, sacrifice the fundamental right of thousands of privates to Free Exercise in order to gratify the preference of a few generals."

Per the [San Francisco Examiner](#):

Government attorneys have argued the federal court doesn't have jurisdiction to rule on military decisions. The Marine Corps has repeatedly asserted that, "The Supreme Court has made clear: 'Judges are not given the task of running the Army,'" citing [Orloff v. Willoughby](#), 345 U.S. 83, 93 (1953), which was decided 40 years before RFRA was enacted.

Secretary of Defense Lloyd Austin maintains the mandate is necessary for military preparedness. He ordered that noncompliance could result in discharge from service, court martial, other disciplinary procedures and consequences.

While the court is "certainly not 'given the task of running the Army,'" [Merryday] responded, the courts "are entrusted to ensure that those who run the Marine Corps (and the military in general and every other component of the federal government) conform their actions to the governing law, to RFRA, to which the admirals and the generals and the commandants are unquestionably subordinate...."

As this new ruling winds its way through the courts, the Marines in question will be protected from the oppression of the Biden administration's usurpation of the Constitution. The truth here is that these Marines live up to their motto — "Semper fidelis," or Semper Fi — which translated means "always



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faithful." They are faithful to God, the Corps, and the Constitution.

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