



Written by [Bob Adelman](#) on February 3, 2022

Judge Halts Persecution of Military Officers for Requesting Religious Vax Exemption

Steven Merryday, U.S. District Judge for the Middle District of Florida, has had it with the continuing persecution of military service members requesting religious exemptions from the COVID mandates. [He ordered](#) that Secretary of Defense Lloyd Austin and “any anyone acting in concert with him” stop the persecutions of two military officers immediately.

Back in November, [he heard a lawsuit](#) from 23 service members complaining that each of their religious-exemption requests had been arbitrarily denied; that they were subject to harassment, intimidation, and threats of losing their positions for even making the requests; and concluded:



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The plaintiffs claim the regulations ... in reality disguise an unlawful and pervasive policy of the Secretary of Defense and each branch of the armed forces to deny individual consideration of each claim for a religious exemption, to instead “deny them all,” and to punish, possibly by discharge, without exemption or accommodation, those who assert a sincere religious objection and accordingly refuse the vaccine.

He called the process set up by the military services a “ruse” designed to remove anyone claiming a religious exemption from the service:

The claim that the regulations are a ruse becomes ... more convincing ... that the regulations are, shall we say, insincere and ... the less convincing is the argument that the military has a compelling reason not to grant the exemptions and accommodations.

Despite Merryday’s order that each branch of the military report to him every week on how many requests for denials were being made and how they were being handled, it’s clear that those branches have not only failed to comply, but have continued the policy of harassment, intimidation, and threats. These two senior officers were in imminent danger of losing their command positions by refusing to take the vaccine.

In the present case, after hearing of the threats of “undeployment” if the two failed to get the vaccine, Merryday concluded:

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.



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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 [Religious Freedom Restoration Act] (while simultaneously granting medical exemptions and permitting unvaccinated persons to continue in service without adverse consequence).

One struggles to imagine a wholesome and lawful explanation for the results evidenced in this record. The military is well aware of the frailty of their arguments in defense of their practices.

He wrote that the two service members are likely to prevail in a full-blown trial:

The two ... service members face either (1) a most-likely-unlawful deprivation of their accumulated status and standing in the United States military, as well as prospective advancement and benefits, or (2) deprivation of their constitutional and statutory rights to Free Exercise and the statutory right to receive a religious exemption unless the military can meet the statutory burden of proof, which the military has not and likely cannot.

Merryday said the defendants have an extraordinarily weak case supporting the continuing mandates:

On the other hand, the military faces a trivial, if any, prospect of material injury as a result of permitting the service members continued service under the same terms and conditions and with the same privileges and emoluments as currently prevail, especially because the military permits a large group of unvaccinated persons to serve without adverse consequence.

That “large group” includes 234 medical exemptions granted by the Marines and 270 medical exemptions granted by the Navy, providing more proof that those services are deliberately and intentionally targeting believers by denying religious exemptions.

Merryday has given Secretary of Defense Austin until February 11 to conjure a sufficient defense of this blatant and unconstitutional behavior. Otherwise, his ruling will become permanent, affecting every service member holding strong religious convictions against taking the vaccine.



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