



Written by [Rebecca Terrell](#) on April 8, 2022

## Judges Reinstate Federal Employee Vax Mandate

A panel of federal judges has [upheld](#) President Joe Biden's Covid vaccine [mandate](#) for federal employees. On Thursday the Fifth Circuit Court of Appeals overturned a lower court's ruling that blocked the president's requirement for all executive-branch employees without medical or religious exemptions to get the job.

In January, a Trump-appointed U.S. district judge in Texas, Jeffrey Brown, issued a nationwide [injunction](#) against Biden's September 9 executive order [14043](#), which threatens termination for unvaccinated workers and offers no [alternative](#) for regular testing. The president issued it along with several other onerous [dictates](#), all [described](#) by various state officials as "flagrantly unconstitutional" and "outrageous overreach." Those officials in turn issued a deluge of [lawsuits](#) and [pushback](#). Federal workers representing most executive level agencies [sued](#) in October, followed by a [suit](#) brought by the 6,000 member Feds for Medical Freedom along with a government employees union and other organizations and individuals. It was in response to the latter that Brown issued his January injunction.



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The Associated Press (AP) [calls](#) Thursday's 2-1 [ruling](#) "a rare win for the [Biden] administration at the New Orleans-based appellate court." The prevailing judges, Clinton appointees Carl Stewart and James Dennis, found that Brown did not have jurisdiction in the case, noting that his colleagues in "at least twelve district courts previously rejected challenges to Executive Order 14043 for various reasons." Stewart and Dennis said the federal workers should instead exploit "a comprehensive administrative remedial system" established under the Civil Service Reform Act (CSRA).

Dissenting in the decision was Senior Judge Rhesa Barksdale, who was appointed by President George H.W. Bush in 1990. She argued that "CSRA does not cover pre-enforcement employment actions" and that the district court did have jurisdiction.

AP notes the strict "ideological divides" that mark this case. Two Republican-nominated judges, Jerry Smith (Reagan) and Don Willett (Trump), handed down a previous Fifth Circuit Court [ruling](#) in February. They refused without commentary to block Brown's injunction. The lengthy dissent from Judge Stephen Higginson, an Obama appointee, claimed, "Immunization requirements have proven



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extremely effective in the private sector.” He labeled Biden the “CEO of the federal workforce” and claimed that Brown had no place telling the president not to implement “livesaving workplace safety measures” just as CEOs of private corporations have done.

Meanwhile, [data](#) from the U.S. Centers for Disease Control and Prevention (CDC) reveals that counties in the United States with the highest rates of Covid vaccination are also [experiencing](#) the highest Covid case rates. Likewise, The Expose [published](#) a recent analysis of data from the U.K. Health Security Agency “confirming the fully vaccinated now account for 92% of Covid-19 deaths in England.” CDC has also [issued](#) its strictest Level 4 advisory against travel to Gibraltar because of that country’s high “level of COVID-19.” Major media [acclaims](#) Gibraltar as the most vaccinated place on earth.

Most recently, the U.S. Food and Drug Administration noted the waning efficacy of boosters during a [meeting](#) of Biden’s vaccine advisory committee on Wednesday. Members met to discuss the possibility of authorizing a second booster for all Americans, after its [thumbs up](#) last week for additional doses “for older and immunocompromised individuals,” a decision that bypassed regulatory [precedent](#) of independent panel review or public deliberation.

Biden’s committee discussed Pfizer vaccine data from the Israeli Ministry of Health [published](#) Tuesday in the *New England Journal of Medicine*. [Reporting](#) for Children’s Health Defense, Madhava Setty, M.D. said this was the data that prompted FDA’s booster authorization last week and that it showed vaccine effectiveness waning less than a month after the second booster.





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