

130 Coast Guard Members Sue Federal Government Over Vaccine Mandates

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More than 130 U.S. Coast Guard members filed a class action lawsuit alleging the religious exemptions they filed in response to the Biden administration’s COVID-19 vaccine mandate for military service members were unlawfully denied.

The lawsuit, filed July 25 in the U.S. District Court for the Southern District of Texas — Galveston Division, also challenges the constitutionality of the mandate.

The number of plaintiffs exceeds 130 and will likely end up surpassing 200, according to Dale Saran, one of the attorneys representing the service members.

The suit names four defendants: Alejandro Mayorkas, secretary of the U.S. Department of Homeland Security (DHS); Linda L. Fagan, commandant of the Coast Guard; Lloyd Austin, secretary of the U.S. Department of Defense (DOD) and Dr. Janet Woodcock, acting commissioner of the U.S. Food and Drug Administration (FDA).

Plaintiffs are either active-duty or reserve members of the Coast Guard, and all “have sincerely held religious beliefs that prohibit them from receiving the COVID-19 vaccine.”

According to the complaint, under the August 24, 2021, [DOD vaccine mandate](#), the military theoretically offers “medical, administrative, and Religious Accommodation Requests (RARs) to the mandate,” while the [Coast Guard’s vaccine mandate](#), issued two days later, “incorporates the provisions of the DOD mandate.”

The suit alleges:

“In practice, only servicemembers with medical or administrative reasons for an exemption from the mandate are accommodated, and even those sparingly, while RARs are universally denied unless the requester is eligible for administrative separation – i.e. imminently leaving the Service.”

This “conclusively demonstrates that the Armed Services have systematically and willfully violated service members’ free exercise rights under RFRA [Religious Freedom Restoration Act] and the First Amendment,” the lawsuit states.

The DOD mandate stipulates that service members who do not receive the COVID-19 vaccine will be involuntarily separated. According to the lawsuit, the plaintiffs are currently at risk of involuntary separation, but also are experiencing discrimination because of their vaccination status.

The lawsuit states:

“Because of their vaccination status, Plaintiffs have been harassed, treated differently than their peers, singled out publicly by their leaders, had their normal leave and liberty restricted, been removed from senior/leadership positions, been denied promotion, received official discipline, been barred from training, travel, new assignments and permanent change of station (‘PCS’) orders, and face imminent involuntary separation, all while they have continued to perform the mission alongside their ‘vaccinated’ peers, in many cases, while their ‘vaccinated’ peers got sick with COVID-19 in large numbers.”

The plaintiffs allege the DOD and Coast Guard mandates violate several federal statutes and regulations and the U.S. Constitution.

Moreover, the lawsuit alleges that the plaintiffs’ RARs and appeals have been summarily dismissed with “formulaic language” and “nearly identical form letters” instead of “individualized evaluation.”

In addition, “none of the [original] 122 Plaintiffs who filed an RAR received their response within the required 30-day deadline.”

Claims of [natural immunity](#) by “more than 90” of the plaintiffs with “documented previous COVID-19 infections from which they have fully recovered, in many cases, quite recently,” have also been rejected across the board.

According to Saran, statistics he and his plaintiffs have access to show that in the Coast Guard, 1,308 RARs were filed, 578 were denied and none were approved. Out of 1,150 appeals, 119 were denied with no approvals.

The DOD’s vaccine mandate had a [June 30 deadline](#). According to Saran, unvaccinated Coast Guard members are already facing consequences.

Saran told The Defender:

“The Coast Guard has just posted a new policy that all those who have not yet taken the shots are to be discharged, and likely without any recourse to administrative proceedings under the ‘Good of the service’ authority of the Commandant or Secretary concerned.

“This is likely because such a high proportion of DOD enlisted AdSep [Administrative Separation] Boards and officer Boards of Inquiry have ended so unfavorably for the DOD leadership — the vast majority finding ‘no substantiation of misconduct’ by the Respondents.

“There will be high numbers who are between 18 and 20 years (or more) [of service] who will not be allowed to retire.”

The lawsuit puts forth six causes of action. These include an allegation that the plaintiffs were deprived of “their rights to free exercise of religion under the First Amendment and the [Religious Freedom Restoration Act](#).”

The plaintiffs’ “rights to due process under the Fifth Amendment” pertaining to bodily integrity also were violated, according to the lawsuit, “because the mRNA shots being forced on servicemen and women are not vaccines, but instead are (gene-therapy) treatments that meet none of the statutory and historical definitions to be considered ‘vaccines.’”

According to the complaint, “Plaintiffs object to taking the gene therapies because all of the existing ‘vaccines’ used aborted fetal cell lines either in their manufacturing or development,” and the COVID-19 vaccines are “critically dependent on, and could not exist but for, the use of aborted fetal cell tissue.”

In all, the lawsuit alleges:

- Violation of the Religious Freedom Restoration Act.
- Violation of the Free Exercise Clause of the First Amendment.
- Violation of the Fifth Amendment’s Due Process clause, pertaining to substantive due process.
- Violation of the Fifth Amendment’s Due Process clause, pertaining to procedural due process.
- Violations of informed consent laws and the [Public Health Service Act](#).
- Violations of the [Administrative Procedure Act](#).

The lawsuit also questions the DOD’s claim — which has come under [judicial scrutiny](#) — that the Pfizer-BioNTech COVID-19 vaccine, issued under an Emergency Use Authorization (EUA), is “interchangeable” with the [FDA-licensed Pfizer Comirnaty vaccine](#).

Arguing that the plaintiffs “will suffer concrete and particularized harm” from these mandates, including potential involuntary separation, forced retirement, removal from senior or leadership positions, duty and promotion restrictions, PCS restrictions, letters of reprimand or counseling, loss of pay and benefits or other adverse actions, the service members are requesting from the court to:

- Declare the DOD and Coast Guard mandates “unlawful and unconstitutional” and to vacate those orders.
- Declare the defendants’ “no accommodation policy” is unconstitutional under the First and Fifth Amendments and violates the Religious Freedom Restoration Act.
- Enjoin the implementation of the DOD and Coast Guard mandates with respect to the plaintiffs and all service members.
- Enjoin any adverse or retaliatory action against the plaintiffs.
- Award all legal, court and attorneys’ fees as well as other relief to the plaintiffs.

Remarking on the recent [block](#) placed on the vaccine mandate for the Air Force, Space Force and Air National Guard by a federal judge in Ohio, and the recent \$10.3 million [settlement](#) awarded to over 500 Illinois healthcare workers over the denial of religious

exemptions to a COVID-19 vaccine mandate, Travis Miller, one of the attorneys representing the plaintiffs in the Coast Guard lawsuit, told The Defender:

“The latest ruling against the Air Force COVID-19 vaccine mandate is further proof that the military has violated — and continues to violate — the rights of religious service members.

“Courts around the country have recognized this fact, and yet President Biden and Secretary Austin continue targeting the faithful for discipline and removal. It’s an indictment of leadership.

“The \$10.3 million class action settlement will hopefully lead the way for other successful challenges to employer COVID-19 vaccine mandates that discriminate against those with sincerely held religious beliefs.”

Saran described the Coast Guard as “the forgotten branch of the Armed Services,” which has been largely overshadowed as mandate-related cases from other branches attained more public prominence.

Saran told The Defender:

“They are being treated at least as badly as any of the other Armed Services — arguably worse — in part because they get little to no publicity about what they’re enduring, in part because they number less than 30% of the personnel of the Marine Corps, itself the smallest of the overseas warfighting forces [~45,000 active duty compared to ~175,000 active duty].

“These folks represent some of the most dedicated, selfless defenders of American lives here at home ... They deserve better, they deserve advocates for their rights and that’s why we’re filing on their behalf.”

Service members forced to get vaccinated ‘under duress’

The lawsuit includes written testimony from several service members who shared their experiences in attempting to secure religious exemptions from the Coast Guard.

Sabrina Wilder is an operations specialist from Rosharon, Texas, serving at the Coast Guard Vessel Traffic Service in Houston/Galveston, Texas. She first joined the Coast Guard in 2016. In September 2021, she submitted a RAR, and received the following email in response:

“For both processes [medical or religious] we were told that you are still likely to be Administratively Separated if you receive either exemption.

“The exemption will just permit you to not receive the vaccine before you are ... processed. Please do not think you will be allowed to continue to serve if you are exempted.

“This was the official communication in the brief today with the Sector Commander, Chaplin, and Medical present.”

Wilder proceeded with the RAR. According to Wilder, while the exemption requests of unvaccinated service members were pending, they were required to “walk around base with

masks on, thus identifying them to the entire command,” while their travel was restricted to no more than 50 miles from base. Vaccinated members were under no such restrictions.

Wilder’s RAR was denied in January 2022, as was her appeal, on June 2, 2022. On June 15, she “was ordered to go to the nearest Walgreen’s to receive the vaccine.” When she refused, she received a counseling form and is now at risk of being discharged.

Timothy Jordan is a maritime enforcement specialist stationed in Houston. He has been on active duty in the Coast Guard since 2016, and previously served in the Marine Corps for four years.

His RAR was initially denied on Dec. 3, 2021. On Dec. 9, 2021, he submitted a request for all of the pertinent documentation relating to the denial and on Dec. 17, 2021, he submitted an appeal. He never received a response to his initial request, but received a “form denial” to his appeal five months later, despite a Coast Guard requirement that a response be granted within 30 days.

According to the lawsuit, the denial he received “was identical to those of other Coast Guard members he knows, despite being from different commands.”

In the meantime, like Wilder, Jordan was “restricted to within 50 miles of his base — in violation of military law,” and was required to wear a mask on base while those who were “vaccinated” were not. His previously approved leave to visit his family was revoked.

Despite these restrictions and initially being told “he was non-deployable because of his vaccination status,” he was almost immediately notified “he would have to be part of a Presidential security detail.” As the lawsuit states:

“Plaintiff Jordan has his leave and liberty restricted as a general matter, and was told he was non-deployable, but the very next day when his particular expertise was necessary to support missions around the country, including a Presidential protective detail, his ‘threat’ to others instantly evaporated.

“This is just one instance of many showing that the entire framework and claims about the unvaccinated are nothing more than facade.”

Michael Bazzrea is a senior chief party officer from Ardmore, Oklahoma, serving in Galveston, Texas. He has been enlisted in the Coast Guard since 1994. He remained on active duty until 1998, and remained part of the Reserve since then.

In July 2021, Bazzrea tested positive for COVID-19 and subsequently submitted a RAR, which was denied, as was his appeal. He was told that once an “FDA-approved” vaccine was available, he would be ordered to take it “regardless of any civil rights complaints” he might have.

On July 6, 2022, Bazzrea was ordered to get vaccinated within 10 days. In his own words:

“I stated in my appeal that I did not want to take the vaccine and that being forced to do so would put me in duress. However, I was ordered to do so regardless.

“An email was sent out from [my] Chief of Staff stating anyone with a denied RA appeal that had not received the vaccination would NOT be eligible for advancement or

promotion and that this email would serve as official policy.

“I was told I would be facing removal from the advancement eligibility list and the inability to take positions such as silver or gold badge positions as well as separation from the Coast Guard.”

The lawsuit states that “under great duress, moral conflict, and now with great remorse,” Bazzrea “took the first shot ... against [his] religious and personal beliefs,” as “it was his last chance at advancement to Master Chief (E-9),” a promotion which entailed “a large financial difference in retirement to his family.”

Aaron Cheatum is a First Class Petty Officer in the Coast Guard Reserve, stationed in Galveston. He first enlisted in the Coast Guard in 2000, and was on active duty for 11 years before joining the Reserve.

Cheatum submitted his RAR on Nov. 29, 2021. It was denied on Jan. 31, 2022, despite stating that the Coast Guard did “not question the sincerity of [his] religious belief or whether vaccine requirements would substantially burden [his] religious practice.”

His appeal also was denied, even though in the meantime, Cheatum tested positive for COVID-19 on Jan. 28, 2022. In his own words:

“On July 8, 2022, facing a loss of earned retirement, loss of VA benefits, inability to advance in rank, loss of medical insurance, being processed for discharge with a less than Honorable discharge after 22 years, and under duress, I violated my own religious conviction by receiving the initial COVID-19 vaccine.”

Caleb Wadsworth is a lieutenant in the Coast Guard, assigned to the Coast Guard Sector/Air Station in Corpus Christi, Texas. He has been a member of the Coast Guard since 2013.

Wadsworth submitted his RAR on Sept. 28, 2021. It was denied on Dec. 2, 2021, despite affirming that his religious beliefs were “sincere.” Despite an appeal submitted on May 17, 2022, he was “officially counseled” on June 2 and ordered to receive a “fully FDA-approved COVID-19 vaccine” by June 8, under threat of disciplinary action.

In his own words:

“On this form I annotated that taking a COVID-19 vaccine was against my well-documented religious beliefs and that there was no FDA-approved vaccine available for administration, which would negate the legality of the order to vaccinate.

“On 03 JUN2022, I reported to the Air Station Corpus Christi Clinic, as ordered, and documented what vaccines were available for administration ... I learned that Air Station Corpus Christi did not have any COVID-19 vaccines ... [my flight doctor] was unable to locate an FDA Approved vaccine.

“On 06-07 June 2022, I visited four separate clinics in our area in an attempt to gain access to an FDA-approved/labeled vaccine. At each clinic I had health care professionals document NDC’s [National Drug Code] and lot numbers for the vaccines they had in stock, all of which were labeled as EUA vaccines.

“These details were captured in photos, documented in memo format, signed by health

care professionals and a witness, and forwarded to my commanding officer.”

Wadsworth was told the EUA vaccines “could be administered interchangeably.” He subsequently received negative counseling on June 8, and has been told that “he is now no longer eligible to promote.”

As Wadsworth describes it, he was “treated poorly by my command and they flagrantly admitted to trying to coerce me into vaccinating, which was against my religious beliefs.”

Expert testimony questions myocarditis risks

The lawsuit also goes into extensive detail about the differences between EUA vaccines and fully approved vaccines, arguing that “publicly available information indicates that there are differences in the composition of the EUA and licensed products.”

According to the lawsuit, “there are significant differences between licensed vaccines and those subject to EUA that render them ‘legally distinct.’” This includes lower efficacy requirements and “minimal” safety requirements for EUA products.

According to the lawsuit, “EUA products are exempt from certain manufacturing and marketing standards, enjoy broader product liability protections, and cannot be mandated due to informed consent laws and regulations.”

And despite the DOD’s claim that the EUA and fully approved vaccines are “interchangeable,” the lawsuit argues, “the [U.S. Food and Drug Administration] FDA has never asserted that the EUA and licensed versions are legally interchangeable.” Instead, the FDA has “consistently acknowledged that the two vaccines are ‘legally distinct.’”

In two appendices containing expert testimony accompanying the lawsuit, cardiologist and immunologist Dr. Peter McCullough stated:

“The Pfizer, Moderna, and JNJ [Johnson & Johnson] vaccines are considered ‘genetic vaccines’, or vaccines produced from gene therapy molecular platforms, which according to U.S. FDA regulatory guidance are classified as gene delivery therapies and should be under a 15-year regulatory cycle with annual visits for safety evaluation by the research sponsors.”

“The current COVID-19 vaccines are not sufficiently protective against contracting COVID-19 to support their use beyond the current voluntary participation in the CDC-sponsored program.”

McCullough placed particular emphasis on the risk of [vaccine-induced myocarditis](#), especially among young adults:

“COVID-19 vaccine-induced myocarditis has a predilection for young males below age 30 years.

“Multiple recent studies and news reports detail people aged 18-29 dying from myocarditis after receiving the COVID-19 vaccine.

“The FDA found that people 12-24 account for 8.8% of the vaccines administered, but 52% of the cases of myocarditis and pericarditis were reported.”

Active-duty members of the Coast Guard are [required](#) to be between the ages of 17-35, and Reservists between the ages of 17-40, placing a significant number of service members within the age range at highest risk for vaccine-induced myocarditis.

McCullough referenced a July 29, 2021 [report](#) in the Journal of the American Medical Association (JAMA) by the Defense Health Agency, which found that “previously healthy service members have developed myocarditis, a severe and life-threatening inflammation of the heart, within an average of just four days of receiving their first shot of either the Pfizer-BioNTech or the Moderna vaccine.”

McCullough pointed out that in addition to the “superiority” of natural immunity conferred by COVID-19 infection, vaccination following infection is “dangerous,” according to recent research.

In reference to the military context, McCullough concluded:

“Vaccination is not the best way to minimize the risk posed by COVID-19 to military readiness. COVID-19 vaccination has led to record fatal and nonfatal organ injury syndromes according to over 1,000 publications in the preprint and PUBMED citation systems.

“Because U.S. military readiness depends on the health of our service men and women, and these data suggest the COVID-19 vaccines markedly decrease health and lead to disability and death, COVID-19 vaccination is not the best way to protect our military.”

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