

In Majority Ruling, Federal Appeals Court Again Blocks Biden's COVID Vaccine Mandate for Federal Workers

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A federal appeals court on Thursday blocked President Biden's executive order mandating federal workers nationwide get vaccinated against COVID-19 in a majority ruling that said the president does not have the authority to mandate the vaccines.

by [Brenda Baletti](#), Ph.D., [The Defender](#)

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A federal appeals court on Thursday blocked President Biden's executive order mandating federal workers nationwide get vaccinated against COVID-19.

[The decision](#) by the 5th U.S. Circuit Court of Appeals in New Orleans reverses an [April 2022 ruling](#) by a three-judge panel, from the same court, which upheld the federal mandate.

Thursday's decision keeps a [preliminary injunction](#) – issued in January 2022 by a Texas judge – in place while the case is litigated.

The decision was made in an [en banc hearing](#), meaning the full 16-judge court ruled on the case, rather than a panel of judges selected from the bench. A 10-judge majority ruled to uphold the injunction.

[Feds for Medical Freedom](#), the plaintiffs in the case, said in a [press statement](#):

“Our members have always argued that federal law does not permit the federal government to force federal workers – or any law-abiding citizen – to inject their bodies with something against their will. ...

“It was incredibly vindicating to hear the court echo those arguments and to draw clear limits around federal authority as it relates to forced vaccinations and medical freedoms.”

Marcus Thornton, president and co-founder of the group told [The Defender](#):

“This is a huge win but we’re just getting warmed up. We demand accountability. We need a bureaucracy reflective of our nation’s political diversity – which serves the whole country, and not just one party. We must ensure this never happens again – not to us, and not to future generations.

“There is so much more at stake than a question of vaccines. This fight is about the survival of the country and the ideals established by our founding fathers.”

Thornton said that since Feds for Medical Freedom was founded, the group has been “censored, shadow-banned, de-platformed too many times to count.”

He credited Thursday’s win to “the bravery and tenacity of those who were willing to put their careers on the line to defend our freedoms.”

The White House, which continues to defend the mandate, citing the high compliance rate among the federal workforce, issued a statement Friday saying that “Vaccination remains one of the most important tools to protect people from serious illness and hospitalizations” against COVID-19, [The Associated Press reported](#).

Executive order was contentious from the start

Biden introduced [Executive Order 14043](#) in September 2021, requiring more than 3.5 million federal executive branch workers to undergo COVID-19 vaccination unless they secured [approved medical or religious exemptions](#).

Those who didn't comply were threatened with disciplinary action, including termination.

In December 2021, Feds for Medical Freedom, a nonprofit representing more than 8,500 federal employees who don't want the vaccine, [sued the Biden administration](#) and several federal agencies.

Other parties to the lawsuit include [AFGE Local 918](#), a union representing employees in the U.S. Department of Homeland Security's Federal Protective Service and several other individuals and federal contractors.

The groups sought to block two COVID-19 vaccine mandates: one covering [federal employees](#) and the other for federal contractors. They also asked for injunctions against both orders.

The court declined to enjoin the contractor mandate because it was already under a [nationwide injunction](#).

Lawyers representing the Biden administration argued the Constitution gives the president, as head of the federal workforce, the same authority as the CEO of a private corporation, and that therefore mandating vaccination was under the president's authority.

The plaintiffs disagreed, countering that such action oversteps a president's powers, [The Defender reported](#).

U.S. District Judge Jeffrey Brown, in Jan. 2022, issued an injunction blocking the federal mandate. [Judge Brown ruled](#) that the Biden administration did not have the authority

to impose the mandate.

At that time, the administration said nearly 98% of federal employees had been vaccinated against COVID-19, [the AP reported](#).

From there, the case moved to the 5th Circuit.

In February 2022, a 5th Circuit panel of judges [declined to block Brown's ruling](#) and instead asked both parties to file arguments to the court in March.

The majority ruling by a [three-judge panel in April](#) reinstated the mandate, determining that the court did not have the jurisdiction to rule in the case.

The panel ordered the district court to dismiss the case, arguing that under the [Civil Service Reform Act](#) of 1978, the plaintiffs should have [filed their complaints elsewhere](#), such as in administrative venues like the Merit Systems Protection Board.

In [June 2022](#), the federal appeals court agreed to reconsider its decision to reinstate the mandate and scheduled the en banc oral arguments, leading to Thursday's ruling.

Biden administration exceeded its authority, judges rule

The 16-judge appeals court ruled on Thursday that the court does in fact have jurisdiction over the case.

The judges said the Civil Service Reform Act did not apply in this case because the workers were challenging the mandates on the grounds that the administration exceeded its authority.

Judge Andrew Oldham, nominated to the court by then-President Donald Trump, wrote the 10-member majority opinion.

Oldham and the majority said that federal law does not apply to "private, irreversible medical decisions made in

consultation with private medical professionals outside the federal workplace.”

They added:

“The fact that the President ordered employees to make medical decisions outside of the workplace – and to live with those irrevocable decisions even after they leave the federal workforce – bolsters plaintiffs’ argument that the mandate is not a ‘working condition.’”

Judge Stephen Higginson, a nominee of President Barack Obama, wrote the main dissenting opinion.

“For the wrong reasons, our court correctly concludes that we do have jurisdiction,” Higginson wrote.

“But contrary to a dozen federal courts – and having left a government motion to stay the district court’s injunction pending for more than a year – our court still refuses to say why the President does not have the power to regulate workplace safety for his employees.”

In the next district court arguments, Oldham wrote:

“The plaintiffs will have to prove that whatever injunction they request is broad enough to protect against their proven injuries and no broader.

“And the Government will have another chance to show that any permanent injunction should be narrower than the preliminary one.

“And both sides will have to grapple with the White House’s announcement that the COVID emergency will finally end on May 11, 2023.”

The government may also have to contend with more lawsuits. Feds for Medical Freedom said it intends to file new suits in federal court “for violations of our members’ rights,

including under the Religious Freedom Restoration Act and the U.S. Constitution. We will be fighting for justice for those whom the vaccine has injured.”

The group added:

“As this decision makes clear today, many in the government overstepped their legal bounds, and we are going to hold them accountable.”

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