

EXHIBIT 1
(Part 1 of 2)

IN THE MATTER OF THE VACCINE MANDATE CHALLENGE

DECLARATION OF LT ISRAEL ALVARADO

Pursuant to 28 U.S.C. §1746, I, ISRAEL ALVARADO declare as follows:

1. My name is ISRAEL ALVARADO. I am over 18 years of age and have personal knowledge of and am competent to testify on the matters stated herein.
2. I make this declaration in support of my challenge to the Department of Defense and Department of the Navy mandates requiring that I be vaccinated against COVID-19. All statements made in this Declaration are true to the best of my own personal knowledge.
3. I currently reside in Chesapeake VA. My home of record and where I am domiciled is Wyoming, Kent County, MI.
4. I am an active duty chaplain in the United States Navy serving at the rank of Lieutenant. I am currently assigned to Commander Destroyer Squadron TWO SIX, located at 9727 Avionics Loop Suite 100, BLDG LF-18, Norfolk, VA 23511.
5. I began my military service when I commissioned on 29 July 2020 and entered active duty on 31 August 2020.
6. I was promoted to the rank of Lieutenant in July 2021. I will have 2 years of service as of September 2022.
7. During my military career, I have done one deployment to the 4th Fleet, The Caribbean/Panama Canal on 01/2021-03/2021
8. I submitted my Religious Accommodation Request (RAR) at Exhibit 1 asking to be excused from the NAVY's COVID-19 vaccine mandate based on my sincerely held religious beliefs. A summary of those reasons follows:

My request is based on my religious belief that my body is the temple of the Holy Spirit purchased with the blood of Christ which the Apostle Paul teaches in 1 Corinthians 6:19-20, therefore I am not my own, but belong, body and soul, to my God. God calls me to honor him with my body, therefore, it would be sinful and foolish to inject a new type of vaccine technology into my body, such as the mRNA, whose long term serious side effects are unknown and a likelihood exists that genetic elements, known as retro-transposons, hijack cellular mRNA, convert it into DNA and insert that DNA back into my genetic material, altering my DNA, thus tampering God's temple which is my body.

It is also my belief that unborn children are living creatures created in the image of God. Since conception they are the objects of God's providence, care and sacrificial love. Therefore, we are obligated to treat the unborn children as human persons in all decisions and actions involving them. It is publicly known that fetal cell lines were used to produce COVID-19 vaccines. Abortion is murder and Exodus 20:13, the sixth commandment, forbids us to murder, thus receiving the Covid-19 or any other vaccine that has used fetal cell lines for its production, development or testing would make me morally complicit in the act of abortion, conveying a sense of approval for the killing of the unborn, which is immoral, sinful and forbidden in the sixth commandment.

Finally, the liberty of conscience God has given me was purchased with a high price, the life of his only begotten son. Dismissing this sacrifice by surrendering my liberty of conscience would be a sin before God as stated by Romans 14:23 "For whatever does not proceed from faith is sin". I sincerely hold the religious belief that the COVID-19 vaccines were produced, developed or tested in violation of God's commandment not to murder, and allowing aborted fetal tissue or a new vaccine technology to be injected into my body, against my conscience, would be sinful, immoral and a violation of the Sacred Texts of my faith tradition.

9. I also have developed natural immunity after I caught the COVID-19 virus on 10 January 2022.

10. My RAR was denied on 26 October 2021, Exhibit 2. I submitted my RAR appeal, Exhibit 3, on 12 November 2021, which was denied on 25 January 2022, Exhibit 4. Because I became infected with the COVID-19 virus in January 2022, per BUPERSINST 1730.11A, I submitted a new RAR on 10 February 2022, Exhibit 5. My second RAR was denied on 24 February 2022, Exhibit 6. I submitted an appeal to the denial of my new RAR on 9 March 2022, Exhibit 7, which my command did not forward for consideration, Exhibit 8.

11. Even though I have had no allergic reactions to vaccines in the past, I have serious objections to injecting my body with a rapidly developed “experimental use only” vaccine without long-term studies that could potentially change my DNA and whose effects have been suppressed. Also I object to the COVID-19 vaccination because the COVID-19 vaccines are not legitimate vaccines as that term has been historically and medically defined and presented to the public, “Vaccine” used to mean a medical procedure that protected you from the disease against which you were being vaccinated against whereas COVID vaccines do not protect you but are in reality are gene therapy, altering my DNA to “fight” the virus in order to lessen the effects of the disease and not guaranteeing protection as traditional vaccines do.

12. Another reason why I reject this “treatment” (COVID-19 vaccine) is because I believe it is unnecessary. The age bracket of our service members is the least affected by this virus. Our service members go through a demanding physical screening before they join the service, thus most of them, unless they have a medical waiver, are young and healthy. The current number of COVID-19 related deaths in the Navy since the beginning of this pandemic is 17. The Navy has a total active duty and reserve force of about 450,000 members. This means that the COVID-19 in the whole Navy has a death rate of .037%, which means that there is a 99.96 probability of

surviving this virus. There have been 89,231 cases of which 87,074 have recovered and 2,150 are active cases. These numbers clearly prove that this virus is not deadly as it has been advertised, thus no need for a fully vaccinated force. I believe that vaccination against COVID-19 should be voluntary and not mandatory. Even though I have acquired natural immunity, I am still required to show proof of vaccination when entering buildings on base. Also there is a weekly testing requirement for unvaccinated sailors, when fully vaccinated sailors continue contracting the virus, getting sick and spreading the virus without a testing requirement. This only proves that the Navy's main goal is not to stop the spread of the virus and protect the force but simply to have every single service member fully vaccinated. I believe that I have not received orders for my next duty station based on the fact that I have refused the COVID-19 vaccine. I should have received them in January of this year and I am still waiting for my detailer to get back to me. Also I have to fill out a COVID-19 travel risk assessment every time I request leave when fully vaccinated sailors don't have to do that even though they continue getting sick with the virus.

13. The following retaliatory, career damaging, negative, punitive or administrative actions have been taken against me for refusing the alleged COVID vaccine and requesting a religious accommodation request: I have received a report of misconduct and an adverse FITREP because, on the basis of my sincerely held religious belief, I refused to comply with the order to get vaccinated. In the Adverse FITREP I received from my Commanding Officer, he stated "LT Alvarado is not recommended for promotion or retention" because of my religious belief. I have been removed from operational status, not allowing me to visit the ships that are under my care, thus I can't get underway with the 4 destroyers we have in the waterfront, and I won't be able to deploy with the one I was scheduled to deploy in July 2022. I have received Temporary Additional Duty orders to Commander, Naval Surface Force Atlantic Ministry Center, where I was confined for 2 weeks to an office with no tasks to do. Because of the lack of office space and

working stations, I was allowed to muster from home Tuesday- Thursdays. While it was convenient to be at home spending time with my family, this fight to defend my religious freedom psychologically affects me and my family. It is demoralizing and it's taking its toll in my wellness. This is nothing but a punishment meant to break my mind and spirit. There is not a single day when I don't experience some sort of anxiety caused by the vaccine mandate. Every time I check my email my heartbeat raises as I worry that I may have another email from my command with negative news regarding my pending separation. I can't currently search for employment outside of the Navy because I don't know when/if I will be separated. Lastly, I have to compile a package for a career status board that meets in September 2022 which will determine if I am retained in Active Duty service. One of the documents I have to compile is a letter of recommendation from my Commander Officer, which he already stated in my last FITREP that he does not recommend me for retention. I am not recommended for retention because of my religious beliefs.

14. In December 2021, my supervisory chaplain verbally presented me an offer to resign my commission in order that I could get an honorable discharge and thus retain any VA benefits that I may be entitled to. This happened while I had an Appeal pending and I opted to wait for adjudication. Now that my appeal was denied, I have been told that, if I am separated, I will receive a General Discharge Under Honorable Conditions. This poses a problem to my future as I will be searching for chaplaincy jobs in corrections, jails, VA hospitals, civilian hospitals and this type of discharge may hinder any future employer from hiring me. This type of discharge does not reflect my conduct, character and behavior during my time of service in the Navy. Also, a General Discharge Under Honorable Conditions will not allow me to receive the GI educational benefit, which I have worked hard to earn and I am planning on using as I continue receiving the education I need to improve my knowledge and skills in the professional

chaplaincy field. This being said, this discharge may close doors for me to use my gifts, skills, experience and knowledge as a chaplain.

15. Lastly, there is a shortage of chaplains in the Navy. Every other chaplain I have talked to about my situation can't understand why the Navy is getting rid of chaplains and not granting their religious accommodation when the Navy can't recruit enough chaplains to meet the demand for chaplains. As a matter of fact, my detailer expressed that there were a large number of billets gapped waiting for chaplains to fill them. As an example, my command, Destroyer Squadron TWO SIX has 2 chaplains that cover 4 ships. Now this command is down to one chaplain covering 4 ships because I have been removed from my command.

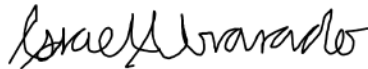
16. It would be a mistake for the Navy to separate me from service based upon the false allegation of misconduct for disobeying a lawful order and it would negatively impact command readiness, result in the loss of the Navy's investment in my training and the expertise I possess. The loss of my contribution to the command would result in a great loss to the readiness of the ships in my command and the Navy as a whole as the biggest problem the Navy faces on the ships pertains to mental health, and chaplains help bridge that gap. Given that destroyers do not have a permanent psychologist or behavior health trained personnel, chaplains fill that role and help improve the mental, spiritual, and emotional wellbeing of our sailors.

17. I am a skilled chaplain. I have significant experience in the mental health field, especially working with young adults who have been diagnosed with severe anxiety and depression, suicidal ideation, substance and drug abuse. My experience working with interdisciplinary medical teams provides me with vast knowledge, resources and skills to care for sailors with suicidal ideation and support them in their recovery. As a safeTALK trainer, I can assist in providing suicide prevention programs and as a trained facilitator for the Warrior Toughness initiative, I can help support the goal of the Navy to have a mission ready force by building

resilience in our local commands. I am a gifted facilitator with 7+ years of proven experience leading learning groups. I have substantial experience in leadership development, coaching, counseling, conflict resolution, character development and anger management. I have 4 units of Clinical Pastoral Education, and speak fluent Spanish. I also have vast experience in cross cultural ministry and I am cultural intelligence competent. I am willing to provide references to validate my claims.

I make this declaration under penalty of perjury, it is true and accurate to the best of my ability, and it represents the testimony I would give if called upon to testify in a court of law.

May 07, 2022

A handwritten signature in black ink that reads "Israel Alvarado". The signature is written in a cursive style with a large initial "I".

Israel Alvarado

EXHIBIT 2



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON DC 20350-2000

1730
Ser N1/ 114388
26 Oct 21

From: Deputy Chief of Naval Operations (Manpower, Personnel, Training and Education) (N1)
To: LT Israel Alvarado, USN, CHC
Via: Commander, Destroyer Squadron TWO SIX

Subj: REQUEST FOR RELIGIOUS ACCOMMODATION THROUGH WAIVER OF IMMUNIZATION REQUIREMENTS

Ref: (a) 42 U.S.C. §2000bb-1
(b) DoD Instruction 1300.17 of 1 September 2020
(c) SECNAVINST 1730.8B
(d) ASN (M&RA) memo of 6 Jun 13
(e) MILPERSMAN 1730-020
(f) United States Attorney General memo of 6 Oct 17
(g) Your ltr of 10 Sep 21 w/ends
(h) BUMED ltr 6320 Ser M44/21UM40516 of 13 Oct 21

1. Pursuant to references (a) through (h), your request for religious accommodation through waiver of immunization requirements is disapproved. You must receive all required vaccines. However, you are free to request from your healthcare provider alternative vaccines that are available and meet the Navy's immunization requirements, as determined by a credentialed military healthcare provider. You are free to choose which COVID-19 vaccine to take. If you choose a COVID-19 vaccine that requires two doses, you must receive your first dose within five calendar (5) days upon receipt of this letter and complete the series as prescribed. If you choose a one-dose vaccine you must meet the established vaccination timeline or receive the vaccine within five calendar (5) days upon receipt of this letter, whichever is later.
2. In line with references (b) through (d), I am designated as the approval authority for requests for religious accommodation.
3. Reference (a), the Religious Freedom Restoration Act (RFRA), states that the Government may substantially burden an individual's exercise of religion only if it demonstrates that application of the burden to the person is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. Reference (b) incorporates the RFRA and notes that the Government has a compelling interest in mission accomplishment, to include military readiness, unit cohesion, good order and discipline, health and safety, on both individual and unit levels. Additionally, unless it will have an adverse impact on mission accomplishment, including military readiness, unit cohesion and good order and discipline, the Navy will accommodate individual expressions of sincerely held beliefs of Sailors. Reference (f)

Subj: REQUEST FOR RELIGIOUS ACCOMMODATION THROUGH WAIVER OF IMMUNIZATION REQUIREMENTS

emphasizes that only those interests of the highest order can overbalance legitimate claims to the free exercise of religion.

4. All requests for accommodation of religious practices are assessed on a case-by-case basis. In line with references (b) and (c), determination of a request for religious accommodation requires consideration of the following factors:

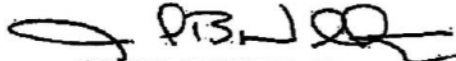
- a. Impact on military readiness, unit cohesion, good order and discipline, health and safety
- b. Religious importance of the request
- c. Cumulative impact of repeatedly granting similar requests
- d. Whether there are alternatives available to meet the requested accommodation and
- e. How other such requests have been treated

5. In making this decision, I reviewed reference (g), including the endorsements from your chain of command, the local chaplain and the advice of Chief, Bureau of Medicine and Surgery in reference (h).

a. A waiver of immunizations would have a predictable and detrimental effect on your readiness and the readiness of the Sailors who serve alongside you in both operational and non-operational (including training) environments. Primary prevention of disease through immunizations has been a key enabler for maintaining force health and avoiding disease-related non-battle injury. Granting your request will have a direct and foreseeable negative impact on the compelling Government interests of military readiness and health of the force.

b. While serving in the U.S. Navy, you will inevitably be expected to live and work in close proximity with your shipmates. I find that disapproval of your request for a waiver of immunization requirements is the least restrictive means available to preserve the Department of Defense's compelling interest in military readiness, mission accomplishment and the health and safety of military Service Members.

6. The Navy is a specialized community governed by a discipline separate from that of the rest of society. While every Sailor is welcome to express a religion of choice or none at all, our greater mission sometimes requires reasonable restrictions. You have my sincere best wishes for your continued success in your Navy career.


JOHN B. NOWELL, JR

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OPNAV (N131, N0975)
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EXHIBIT 4



DEPARTMENT OF THE NAVY
CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON DC 20350-2000

1730
Ser N00
25 Jan 22

From: Chief of Naval Operations
To: LT Israel Alvarado, CHC, USN
Via: Commander, Destroyer Squadron TWO SIX

Subj: APPEAL OF RELIGIOUS ACCOMMODATION FOR IMMUNIZATION
REQUIREMENT

Ref: (a) DCNO (N1) ltr 1730 Ser N1/114388 of 26 Oct 21
(b) DoD Instruction 1300.17 of 1 Sep 2020
(c) SECNAVINST 1730.8B
(d) ASN (M&RA) memo of 6 Jun 13
(e) BUPERSINST 1730.11A
(f) CHBUMED 6320 Ser M44/21UM40516 of 13 Oct 21
(g) NAVADMIN 190/21

Encl: (1) Director, Military Personnel Plans and Policy (N13) memo Ser N13/306 of 17 Nov 21

1. Your appeal of reference (a) is disapproved. I am disapproving your appeal due to the Navy's compelling governmental interest in preventing infection and spread of diseases to support mission accomplishment, including military readiness, unit cohesion, good order and discipline, and health and safety, at the individual, unit, and organizational levels. A waiver of immunizations would have a predictable and detrimental effect on the readiness of you and the Sailors who serve alongside you. Granting your request will have a direct and foreseeable negative impact on the compelling governmental interest in military readiness and health of the force. I further find that there are no less restrictive means to achieve the Navy's compelling governmental interest.
2. References (b) through (e) designate me as the final appeal authority for requests for religious accommodation.
3. I considered your original request, your appeal, and the endorsements on your correspondence. I also considered your current assignment, which requires spending time underway on surface ships. In reviewing your appeal, I evaluated the request under the assumption that your religious beliefs are sincere and would be substantially burdened. As explained in reference (f), while no vaccine is 100 percent effective, vaccines with lower effectiveness still reduce disease incidence in the population, reduce an individual's risk of contracting the disease, and generally reduce the severity of disease for those who do contract the illness. In addition, the current coronavirus disease 2019 (COVID-19) pandemic further highlights the importance of vaccination in both individual and unit force health protection.

Subj: APPEAL OF RELIGIOUS ACCOMMODATION FOR IMMUNIZATION
REQUIREMENT

4. Vaccination of Navy personnel can impact both individual and unit mission accomplishment. It reduces the risk to the individual for disease-related performance impairment, and it reduces the risk to the unit for disease outbreaks of contagious diseases such as COVID-19. While non-pharmacologic measures such as personal hygiene, mask wearing, and social distancing can also reduce the risk of disease outbreaks, they too are not 100 percent effective and must be implemented in conjunction with immunization to reduce the risk of mission failure. As explained in reference (f), these measures are not as effective as vaccination in maintaining military readiness and the health of the force.
5. Your appeal addressed to me specific questions related to the Navy's compelling governmental interest and certain lesser restrictive means. Enclosure (1) answers many of your questions.
6. You must now become fully vaccinated against COVID-19 in accordance with reference (g). You are free to choose which authorized COVID-19 vaccine to take, but you must receive a vaccine within five calendar days upon receipt of this letter. If you choose a COVID-19 vaccine that requires two doses, you must complete the series as prescribed. You must also receive all other required immunizations as directed by your command and/or primary care manager.
7. This letter applies only to your request for accommodation from the COVID-19 vaccine. I did not consider your request, raised for the first time in paragraph 11 of your appeal, for accommodation from all routine and non-routine vaccinations. You are free to properly submit a request for accommodation from these vaccines to DCNO (N1).
8. The Navy welcomes people of all faiths and no faith to join our ranks in patriotic service. Our greater mission sometimes requires reasonable restrictions. You have my sincere best wishes for your continued success in your Navy career.


M. M. GILDAY

Copy to:
ASN (M&RA)
OPNAV (N131)
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EXHIBIT 6.



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON DC 20350-2000

1730
Ser NI/118243
24 Feb 22

From: Deputy Chief of Naval Operations (Manpower, Personnel, Training and Education) (N1)
To: LT Israel Alvarado, CHC, USN
Via: Commander, Destroyer Squadron TWO SIX

Subj: REQUEST FOR WAIVER OF POLICY IN SUPPORT OF RELIGIOUS PRACTICE

Ref: (a) LT Israel Alvarado, CHC, USN ltr of 10 Feb 22 w/ends
(b) BUPERSINST 1730.11A
(c) DCNO/NI RA Response ltr of 26 Oct 21
(d) CNO Appeal RA Response ltr of 25 Jan 22

1. Your request in reference (a) is denied. Contrary to your assertion, there have been no substantive changes to the physical environment since your original request and appeal. The compelling government interest in ensuring mission accomplishment, to include military readiness, unit cohesion, good order and discipline, health and safety, on both individual and unit levels remains the same.

2. As provided in reference (b), members are afforded the opportunity to renew requests when the physical, operational, or geographical environment in which they work or operate has changed. In your case, the environment has not materially changed. Specifically, and as already noted in references (c) and (d), you remain a Chaplain and serve a critical fleet support role and also must maintain readiness to deploy at any time. Further, a waiver of the COVID-19 immunization would continue to have a predictable and detrimental effect on your readiness and the readiness of the Sailors who serve alongside you in both operational and non-operational environments. Granting your request would still have a direct and foreseeable negative impact on the compelling government interests of military readiness and health of the force. Finally, while no vaccine is completely effective, vaccines reduce disease incidence and disease severity.

NOWELL,JOHN,BL
ACKWELDER,JR,1
057611835

Digitally signed by
NOWELL,JOHN,BLACKWELDER
JR,1057611835
Date: 2022.02.24 20:44:21 -0500

JOHN B. NOWELL, JR

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OPNAV (N131, N0975)
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EXHIBIT 8



DEPARTMENT OF THE NAVY
COMMANDER DESTROYER SQUADRON TWO SIX
9727 AVIONICS LOOP
BLDG LF-18 RM 102
NORFOLK, VA 23511-3729

IN REPLY REFER TO
1730
N00
11 Mar 22

From: Commander, Destroyer Squadron TWO SIX
To: LT Israel Alvarado, USN, CHC

Subj: RESPONSE TO SECOND APPEAL REQUEST FOR WAIVER OF POLICY IN
SUPPORT OF RELIGIOUS PRACTICE IN CONSIDERATION OF LIEUTENANT
ISRAEL ALVARADO

Ref: (a) LT Israel Alvarado, CHC, USN ltr of 9 March 2022

1. Receipt of reference (a) is acknowledged and returned without action.
2. In speaking with OPNAV 131B Branch Head, CDR Diane Cua, it has been further confirmed that your request should not be forwarded for consideration.


F. E. BRANDON

IN THE MATTER OF THE VACCINE MANDATE CHALLENGE

DECLARATION OF CHAPLAIN, LT COL STEVEN WEYMAN BARFIELD

Pursuant to 28 U.S.C. §1746, I, STEVEN WEYMAN BARFIELD declare as follows:

1. My name is STEVEN WEYMAN BARFIELD. I am over 18 years of age and have personal knowledge of and am competent to testify on the matters stated herein.
2. I make this declaration in support of my challenge to the Department of Defense and Department of the Air Force mandates requiring that I be vaccinated against COVID-19. All statements made in this Declaration are true to the best of my own personal knowledge.
3. I currently reside at [REDACTED], Ashland, KY 41101. My home of record and where I am domiciled is Ashland, KY.
4. I am an IMA reserve duty chaplain in the United States Air Force serving at the rank of Lt Col. I am currently assigned to the 88th ABW, AFMC, Wright-Patterson AFB, OH, 45433.
5. I began my military service on 25 Aug 2005 when I was commissioned as an Air Force Chaplain, Captain where I served as active duty until 3 Oct 2011, both at Mountain Home AFB, ID and the United States Air Force Academy, CO. I was commissioned and began service in the Reserves on 4 Oct 2011 where I continued to serve as an IMA reserve Chaplain at USAFA until 2013 and then transferred to Wright-Patterson AFB, OH where I continue to serve.
6. My promotions were as follows: Major on 1 Oct 2012 and Lt Col on 1 Oct 2019. I have approximately 17 years of service as of April 29, 2022, where six years were on active-duty where I received an honorable discharge.
7. During my active-duty military career, I deployed to Afghanistan from 08/2009-12/2009.
8. I have received the Meritorious Service Medal with one Oak Leaf Cluster and the Joint Commendation Service Medal along with other medals and awards during my military career.

9. I submitted my Religious Accommodation Request (RAR) (or Religious exemption) on 22 Sept 2021, Exhibit 1, asking to be excused from the Air Force's COVID-19 vaccine mandate based on my sincerely held religious beliefs. I submitted an RAR to the Air Force because I believed it was wrong for me to receive a vaccine that I knew was developed using aborted fetal cell tissue. I also provided a letter of support from my Southern Baptist Convention military chaplain endorser, Exhibit 2.

10. My RAR was denied on 22 Feb 2022, Exhibit 3. I submitted my RAR appeal, Exhibit 4, on 1 Mar 2022, which was denied on 31 Mar 2021, Exhibit 5. In my appeal I focused on the issue of my readiness since the Air Force didn't place any weight on my religious beliefs but denied my RAR based on the needs of the government and their belief that vaccination was required for a fully ready force. In order to focus on the issue of my readiness I provided medical proof of my infection and recovery from COVID-19 as evidenced by the presence of antibodies over the course of two tests nearly one year apart (Exhibits 6 and 7) therefore showing I had natural immunity equal to or greater than those vaccinated with the two shots required by the Air Force. I also wanted to provide a recommendation from one of my doctors (Exhibit 8) stating that due to my long-term antibodies, validated by my antibody tests, receiving the vaccination presented more risks than benefits to me personally. I believe I was infected with COVID-19 during the first week of April 2021, from which I recovered without need of medical attention or hospitalization and have not missed work due to COVID-19 symptoms since. In my appeal denial letter, the Air Force did not directly address any of my concerns presented therein or those of my medical doctor, but instead provided a form letter with no indication that my information was actually read or taken into consideration.

11. I then submitted a MFR for a medical waiver on 19 Apr 2022, Exhibit 9, which was denied on 29 Apr 2022, Exhibit 10. The purpose of the medical waiver was to seek an

appointment with an Air Force medical provider so that I could express my concerns about the benefits and risks of receiving the COVID-19 vaccine due to the presence of antibodies. I was able to speak with a tech and doctor at Wright-Patterson AFB to discuss the scientific studies provided by the CDC, Cleveland Clinic and a study in Israel that pointed to the power of natural immunity compared to those who only had two shots, which is the only requirement of the Air Force. I expressed my concern that I was being asked to take more risks and be more vaccinated than my fellow Airmen who had never contracted COVID-19 but had only received two shots to meet the mandate. Studies have shown that natural immunity can have more robust antibodies than two shots. The Air Force medical tech and provider said that I provided valid points, but that their hands were tied by Air Force policy and as such denied my waiver. Other medical concerns mentioned in my MFR were not mentioned by either the tech or the medical provider. Both kept referring to the policy preventing them from approving a waiver or even offering a recommendation for a waive based on the science behind my request. Within one hour of my phone consultation, I received the form denial letter that did not address my concerns directly, had my incorrect rank and mentioned items in section 2 that were not even discussed such as the risk and benefits of the COVID-19 vaccine or the risk of contracting COVID-19. In my opinion, the Air Force is so overwhelmed with RAR and medical waiver requests that they do not take the time to carefully consider and address individual concerns and conditions and have already made up their mind how they will reply to any and all requests for waivers with no regard for the specific circumstances of each request.

12. The following retaliatory, career damaging, negative, punitive or administrative action has been taken against me for refusing the COVID-19 vaccine and requesting a religious accommodation request: I was given a letter of individual counseling in which I was instructed that failure to get the vaccine could negatively impact my career (Exhibit 11). The Air Force

Reserve Command has denied a duty title change to “IMA to the Wing Chaplain” because of my vaccination status. This duty title change is a one-page form that take a few minutes to fill out by my commander and be approved by the AFRC Chaplain office. IMA is the type of reservist that I am in the Air Force Reserves. The Air Force Reserve Command Chaplain leadership told me and my Wing Chaplain commander that my pending RAR request and unvaccinated status was the main reason that I was disqualified to have the new duty title. I was told that they wanted to see how that played out first. When I told them that this was discriminatory, they said that it wasn’t and that again, they wanted to see how the RAR process played out. I expressed my disagreement as did my active-duty Wing Chaplain who was advocating for me to have the duty title. It is important to note that this duty title would potentially help advance my career and is traditionally given to the highest ranked IMA on staff, which I am, which is why my Wing Chaplain wanted me to have this title along with him seeing me fit for the title.

This has been an incredibly trying time for me and my family as we have discussed this issue ad nauseum. I have spent countless hours drawing up paperwork and sending appeals. My family, friends and other military members going through this same ordeal have been incredibly supportive, but this has been a hardship we have endured together.

13. I am currently working on an appeal to my medical waiver denial. I must submit this appeal by midnight on 4 May 2022. Therefore, no disciplinary action has been taken by my Squadron Commander at this time.

I make this declaration under penalty of perjury, it is true and accurate to the best of my ability, and it represents the testimony I would give if called upon to testify in a court of law.

April 29, 2022

Steven W. Barfield

Steven Weyman Barfield



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE MATERIEL COMMAND
WRIGHT-PATTERSON AIR FORCE BASE OHIO

22 February 2022

MEMORANDUM FOR LT COL STEVEN W. BARFIELD

FROM: AFMC/CC

SUBJECT: Request for Immunization Exemption – Lt Col Steven W. Barfield, 88 ABW/HC

1. I have received your request for an exemption from the COVID-19 vaccine based on your sincerely held beliefs. After carefully considering the specific facts and circumstances of your request, along with the recommendations from your chain of command and functional experts, I **disapprove** your request for exemption from the COVID-19 immunization requirement.

2. I understand your concerns about receiving vaccines and appreciate the gravity of these immunization requirements in light of your beliefs. However, when evaluating your request, I also had to consider the risk your exemption would pose for mission accomplishment, including readiness, unit cohesion, good order, discipline, and the health and safety of you and other Airmen. As a Chaplain, your duties require you to come into close contact with personnel across the installation. Furthermore, as an IMA, your role requires you to be able to deploy or provide backfill support in a contingency. Not being vaccinated increases the impact on others in your unit, tends to diminish unit cohesion, and limits your ability to fully respond to mission or contingency requirements. Not being vaccinated also increases your risk for serious illness, hospitalization, or even death from contracting COVID-19, and/or spreading it to others in the workplace. This increased health risk elevates the threat to your unit's ability to accomplish its mission. I therefore find your vaccination furthers a compelling government interest. I also find that less restrictive means than vaccination are insufficient because the totality of mitigation measures like 100% telework, social distancing and masking at all times afford less health protection than vaccination, while delayed readiness due to the time needed to become fully vaccinated and other mobility restrictions limit your role and degrade the operational effectiveness of your unit.

3. You have five (5) calendar days to begin a COVID-19 vaccination regimen, submit an appeal, or apply for voluntary separation or retirement if eligible. If you wish to appeal, you must provide your written appeal request to your unit commander. Your unit commander will route your appeal to the Air Force Surgeon General for processing. A copy of this memorandum will be placed in your automated personnel records.

BUNCH.ARN
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ARNOLD W. BUNCH, JR.
General, USAF
Commander

1st Ind, Lt Col Steven W. Barfield

MEMORANDUM FOR 88 CPTS/CC

I acknowledge receipt of decision on my religious accommodation request on
_____ (DATE).

STEVEN W. BARFIELD, Lt Col, USAF



**DEPARTMENT OF THE AIR FORCE
HEADQUARTERS UNITED STATES AIR FORCE
WASHINGTON DC**

MAR 31 2022

MEMORANDUM FOR LIEUTENANT COLONEL STEVEN W. BARFIELD

**FROM: HQ USAF/SG
1780 Air Force Pentagon
Washington, DC 20330-1780**

SUBJECT: Decision on Religious Accommodation Appeal

Your final appeal is denied. In accordance with Department of the Air Force Instruction (DAFI) 52-201, *Religious Freedom in the Department of the Air Force*, paragraph 3.2, I have carefully reviewed your request for religious accommodation, specifically for an exemption from the COVID-19 immunization.

The Department of the Air Force has a compelling government interest in requiring you to comply with the requirement for the COVID-19 immunization because preventing the spread of disease among the force is vital to mission accomplishment. In light of your circumstances, your present duty assignment requires intermittent to frequent contact with others and is not fully achievable via telework or with adequate distancing. In addition, your duties require parishioner contact. Your leadership role was also taken into consideration. While some of these duties may be completed remotely, institutionalizing remote completion of those duties permanently would be detrimental to readiness, good order and discipline, and unit cohesion. We must be able to leverage our forces on short notice as evidenced by recent worldwide events. Your health status as a non-immunized individual in this dynamic environment, and aggregated with other non-immunized individuals in steady state operations, would place health and safety, unit cohesion, and readiness at risk. Foregoing the above immunization requirement would have a real adverse impact on military readiness and public health and safety. There are no less restrictive means available in your circumstance as effective as receiving the above immunization in furthering these compelling government interests.

A copy of this decision memorandum will be placed in your automated personnel records. Please contact your unit leadership with questions or concerns.

A handwritten signature in cursive script that reads "Robert Miller".

**ROBERT I. MILLER
Lieutenant General, USAF, MC, SFS
Surgeon General**

IN THE MATTER OF THE VACCINE MANDATE CHALLENGE

DECLARATION OF CHAPLAIN (1LT) WALTER DOMINO BROBST

Pursuant to 28 U.S.C. §1746 I, Chaplain (1LT) Walter Domino Brobst, declare as follows:

1. My name is Walter Domino Brobst. I am over 18 years of age and have personal knowledge of and am competent to testify on the matters stated herein.
2. I make this declaration in support of my challenge to the Department of Defense and Department of Air Force mandates requiring that I be vaccinated against COVID-19. All statements made in this Declaration are true to the best of my own personal knowledge.
3. I live at [REDACTED], Temecula, CA 92592. This is my home of record.
4. I am a chaplain in the United States Air Force Reserve endorsed by the Associated Gospel Churches (“AGC”). I am serving at the rank of First Lieutenant and currently assigned to the 452 AMW/HC, 2145 Graeber Street, March ARB, CA 92518.
5. My military history is as follows.
 - a. I served in the United States Navy as an enlisted Religious Program Specialist from June 2008 to March 2016 and left at the enlisted rank of First Class Petty Officer, pay grade E-6.
 - b. I was commissioned as a chaplain in the Air Force Reserve at the grade of First Lieutenant March 24, 2020.
 - c. I have had COVID-19 twice, the second time I was asymptomatic, not showing any symptoms. Under Air Force Instruction 48-110 IP, Immunizations and Chemoprophylaxis for the Prevention of Infectious Diseases, my prior COVID exposure and recovery is supposed to “provide immunization credit for pre-existing immunity”, which has not happened.

6. During my prior Naval service, I had the following deployments to the foreign areas: Seventh Fleet Deployment to RIMPAC and WESTPAC.

7. I have received the following Navy and Air Force medals, awards, and professional education: Navy and Marine Corps Achievement (4), Meritorious Unit Commendation, Navy E Ribbon, Navy Good Conduct Medal (2), National Defense Service Medal, Global War on Terrorism Service Medal, Humanitarian Service Medal, Sea Service Deployment Ribbon, and the Enlisted Surface Warfare Specialist Breast Insignia. During my military career I attended Officer Training School and was selected to attend Basic Chaplain Course. I received a Bachelor of Science in Religious Studies at Liberty University (Lynchburg, VA) and a Master of Divinity at Westminster Seminary (Escondido, CA).

8. I submitted my Religious Accommodation Request (RAR) at Exhibit 1 asking to be excused from the Air Force's COVID-19 vaccine mandate based on my sincerely held religious beliefs. A summary of those reasons follows: My religious accommodation request is related to my sincerely held belief and convictions founded on the matters of religious conviction, conscience, and moral principle that I find in the Bible. I serve as a chaplain for the Air Force and a pastor at a church. I have prayed and sought counsel about this issue and I am unable to reconcile within my personal faith, conscience, and moral principles to put this vaccine in my body. The mandate is a violation and overreach of the governmental authority and jurisdiction which violates my freedom of religious rights. I hold to a strong conviction that the right to choose what to put in my body is my God-given right and if I were to take it my conscience would lead me to believe that it would dishonor my God and Maker. I had COVID and my natural immunity, which I believe is part of God's wonderful and beautiful design, was efficient to combat the virus and restore me to good health. I have gotten COVID twice and the second

time I got the virus I was asymptomatic. Please see Exhibit 2 of Chaplain Matthew Nelson's Memorandum recommendation to grant my Religious Accommodation Request.

9. On Wednesday, November 17, 2021 I was notified, by Lieutenant Colonel Mark S. Baker 452 AMW/DS via telephone, that my RAR was denied. The denial letter was dated on Tuesday, November 16, 2021, Exhibit 3. I submitted my RAR appeal, Exhibit 4, on Saturday, November 20, 2021, which was denied on Friday, January 28, 2022. However, I was not notified that my appeal was denied until Friday, February 11, 2022, via telephone by Lieutenant Colonel Baker. I did not receive a copy of the denial letter until Monday, February 14, 2022, Exhibit 5. At the time of writing this declaration I received an LOR and a Notification of Involuntary Reassignment-Non-Participating Individual Ready Reserve (IRR). It is my intention to object and provide reasons why my appeal should be granted. I believe that the COVID-19 vaccine has not yet proven to be 100% safe, effective nor without any potential harmful side effects, see <https://www.cdc.gov/vaccinesafety/ensuringsafety/sideeffects/index.html>; https://www.algora.com/Algora_blog/2021/10/02/dod-data-analysis-shatters-official-vaccine-narrative.

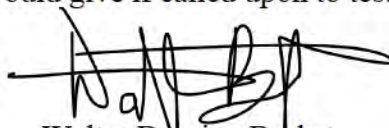
10. To further state, I had no problems with "sterilized vaccines" like measles, mumps, polio, but have serious objections to a rapidly developed "experimental use only" vaccine without long-term studies that changes your DNA and whose effects have been suppressed. I object to the COVID-19 vaccination because the COVID-19 vaccines are not legitimate vaccines as that term has been historically and medically defined and presented to the public, so state. *I.e.*, "Vaccine" used to mean a medical procedure that protected you from the disease against which you were being vaccinated against whereas COVID vaccines do not protect you but are in reality a treatment.

12. I was ordered to provide proof of negative results for COVID prior to serving in reserve status. I was also ordered to always wear a mask because I was not fully vaccinated regardless of no proof that unvaccinated spread the virus more than fully vaccinated. While at Officer Training School, my roommate tested positive for COVID and he was quarantined for 10 days. I did not show any signs or symptoms of COVID but was forced to be in isolation for 14 days which resulted in low morale and negatively impacted my training experience.

13. The following retaliatory, career damaging, negative, punitive, and administrative actions have been taken against me for refusing the alleged COVID vaccine and requesting a religious accommodation request: I was denied attending Basic Chaplain Course, request for any annual tour was denied, I was forced to be isolated from working on base, received a Letter of Reprimand, loss of benefits, and restrictions on travel due to my vaccination status. During UTA, I was verbally told on Sunday February 27, 2022 not to return to the following UTA because I will be placed on an involuntary Individual Ready Reserve (IRR) but not given any written documents regarding it. I planned accordingly but was told on Thursday, March 10, 2022 to come to UTA because the paperwork has not been processed. I reported to UTA 12-13 March but was directed to telework and I was not provided any guidance or direction on my duties. I felt I was isolated who I worked with and that my chain of command was avoiding me until the Letter of Reprimand (LOR) was signed. Prior to receiving my LOR, I was denied my request to attend annual tour 14-15 March because my chain of command anticipated my LOR to be submitted. In addition, I felt ostracized by my chain of command by not receiving a text regarding my birthday on January 2022 when everybody else got one with whom I work with.

I make this declaration under penalty of perjury, it is true and accurate to the best of my ability, and it represents the testimony I would give if called upon to testify in a court of law.

March 29, 2022



Walter Domino Brobst



DEPARTMENT OF THE AIR FORCE
AIR FORCE RESERVE COMMAND

NOV 16 2021

MEMORANDUM FOR 1ST LT WALKER BROBST

FROM: HQ AFRC/CC
555 Robins Parkway, Suite 250
Robins AFB GA 31098-2005

SUBJECT: Request for Immunization Exemption

1. I have reviewed your request for religious exemption from the recently approved COMIRNATY®/ Pfizer-BioNTech COVID-19 vaccine, the EUA COVID-19 vaccines that include Johnson’s Janssen and the Moderna COVID-19 vaccines. I understand your concerns, which are based on your sincerely held beliefs. After carefully considering the specific facts and circumstances of your request, the recommendation of your chain of command and the MAJCOM Religious Resolution Team, I **disapprove** your request for religious exemption for the COVID-19 vaccine.

2. I do not doubt the sincerity of your beliefs. However, when evaluating your request for religious exemption, I also had to consider the risk to our mission. All immunizations, including those listed above, are an important element of mission accomplishment, as they contribute to the health, safety, and readiness of the force. Given the importance of our mission, the Department of Defense and the Department of the Air Force have a compelling government interest in maintaining a healthy and ready military force through vaccination. Specifically regarding the COVID-19 vaccination, since less restrictive means of protecting our force from COVID-19 are unavailable, all uniformed Airmen must be fully vaccinated against COVID-19 and other infectious diseases. Individual medical readiness is a critical requirement for maintaining a healthy and ready force.

3. If you choose to appeal this decision, please submit your written request to your unit commander within 72 hours of receiving notice of my decision.

4. A copy of this decision memorandum will be placed in your online personnel records. My point of contact is Ch, Lt Col Stacey Hanson, stacey.hanson@us.af.mil, DSN 497-1221.

RICHARD W. SCOBEE
Lieutenant General, USAF
Commander

cc:
4 AF/CC
452 AW/CC
452 AMW/CC



**DEPARTMENT OF THE AIR FORCE
HEADQUARTERS UNITED STATES AIR FORCE
WASHINGTON DC**

JAN 28 2022

MEMORANDUM FOR FIRST LIEUTENANT WALTER D. BROBST

**FROM: HQ USAF/SG
1780 Air Force Pentagon
Washington, DC 20330-1780**

SUBJECT: Decision on Religious Accommodation Appeal

Your final appeal is denied. In accordance with Department of the Air Force Instruction (DAFI) 52-201, *Religious Freedom in the Department of the Air Force*, paragraph 3.2, I have carefully reviewed your request for religious accommodation, specifically for an exemption from the COVID-19 immunization.

The Department of the Air Force has a compelling government interest in requiring you to comply with the COVID-19 immunization requirement because preventing the spread of disease among the force is vital to mission accomplishment. Specifically, in light of your circumstances, your present duty assignment as a chaplain requires intermittent to frequent contact with others and is not fully achievable via telework or with adequate distancing. Upon attending your Basic Chaplain's Course, you would be in frequent contact and immersion with multiple individuals, which would significantly impact training accomplishment if you, your instructors, or your fellow trainees were exposed or actively infected. We must be able to leverage our forces on short notice as evidenced by recent worldwide events. Your health status as a non-immunized individual in this dynamic environment, and aggregated with other non-immunized individuals in steady state operations, would place health and safety, unit cohesion, and readiness at risk. Foregoing the above immunization requirement would have a real adverse impact on military readiness and public health and safety. There are no less restrictive means available in your circumstance as effective as receiving the above immunization in furthering these compelling government interests.

A copy of this decision memorandum will be placed in your automated personnel records. Please contact your unit leadership for questions or concerns.

**ROBERT I. MILLER
Lieutenant General, USAF, MC, SFS
Surgeon General**

IN THE MATTER OF THE VACCINE MANDATE CHALLENGE

DECLARATION OF JUSTIN ELISHA BROWN

Pursuant to 28 U.S.C. §1746, I, Justin Elisha Brown declare as follows:

1. My name is Justin Brown. I am over 18 years of age and have personal knowledge of and am competent to testify on the matters stated herein.
2. I make this declaration in support of my challenge to the Department of Defense and Department of the Navy and United States Coast Guard mandates requiring that I be vaccinated against COVID-19. All statements made in this Declaration are true to the best of my own personal knowledge.
3. I currently reside in League City, Galveston County, TX. My home of record and where I am domiciled is the same address.
4. I am an active duty chaplain in the United States Navy serving at the rank of Lieutenant. I am currently assigned to as the Sector Chaplain with US Coast Guard for Sector Houston-Galveston and Sector Corpus Christi covering 46 Coast Guard units from Lake Charles, Louisiana to Albuquerque New Mexico, with my home office based at 13411 Hillard St Houston Texas, 77034.
5. I began my military service on March 18th 2013 when I became a Chaplain Candidate. I was re-commissioned on November 5th 2018 and entered active duty in April of 2019.
6. My promotions were as follows: November 2019. I have approximately 6 years of service as a Chaplain Candidate and 3 years of service on active duty as of March 1,2022.
7. During my military career, I have had the following deployments to following areas: Atlantic ocean operational area June-July of 2020, Various locations throughout Louisiana and Texas June 2021-present day.

8. I have received the following awards: Navy Commendation Medal, Navy Achievement Medal, and Armed Forces Service Medal during my military career. Prior to active duty service I completed a Chaplain Residency earning 4 units of Clinical Pastoral Education. I passed my board and became a Board Certified Chaplain with the Association of Professional Chaplains in April of 2016. With these advanced clinical skills and credentials I have a 1440N sub-specialty code and an additional qualification designation in Pastoral Counseling, enabling me to serve in specialized BUMED (hospital) billets throughout the Navy and Marine Corps. My undergraduate degree is in Psychology with a minor in sociology and my Master's of Divinity was specifically focused on Chaplaincy, with advanced classes in counseling and ethics. My 6 years of experience as a hospital and hospice chaplain enabled me to develop a skill set and expertise in crisis and grief counseling. I maintain advanced Suicide prevention training credentials that enable me to train our members in Suicide prevention, enhancing the safety of our units, saving lives.

9. I submitted my Religious Accommodation Request (RAR) (or Religious exemption) 15 Oct 2021 at Exhibit 1 asking to be excused from the Coast Guard's COVID-19 vaccine mandate based on my sincerely held religious beliefs. A summary of those reasons follows: I hold a God given conviction to abstain from any vaccine that utilizes or benefits from fetal cells from murdered (aborted) children in any manner or form¹. I hold a God given conviction that my body is a temple of God and I am not my own and I am to steward my body diligently honoring God with my whole being. Taking these vaccines would be a violation of my God given conviction to steward my body as God's temple². Finally God has given me the faculties of reason and

1 Genesis 1:26, Psalm 139:13-16

2 1st Corinthians 3:16-20

discernment that I am convicted to use in “living soberly and righteously in this present age³” and given my age and recovery from Covid I have a greater risk of harm and injury from the Covid shots than I do from any strain of Covid.

10. I contracted Covid in March of 2020 while assigned to the USS Vicksburg in Norfolk Virginia. After recovering I have not tested positive for Covid nor exhibited Covid like symptoms since my recovery, all while executing a PCS move to Texas, supporting units throughout my area of Responsibility (Louisiana, Texas, and New Mexico), traveling to Cleveland to conduct a funeral for a Coast Guard member, gotten underway on Coast Guard Cutters and have not caused any member to contract Covid. In October of 2021 I took an antibody test and I still have antibodies to Covid. In January of 2022 I took a more in depth T-Cell test that determined my T-Cells are able to make antibodies to the Covid infection. According to AR 40-562 I should receive a medical exemption due to my natural immunity just as I have for Chicken Pox and other such virus’.

11. My RAR denial letter, Exhibit 2, was signed on 26 FEB 2022, I received this denial on 8 March 2022 and given 10 business days to appeal. I requested an extension to this deadline as operational needs, particularly the suicide of one of my members and the suicidal ideation of another prevented me from writing my appeal. I further requested an extension as I was informed I would have to submit a FOIA in order to receive the documentation delineating the specific reasons my appeal was denied, the denial letter is a standard letter all denials receive with our job description placed at the beginning of paragraph 4. I submitted my RAR appeal, Exhibit 3, on 1 April 2022, which is still pending.

12. My appeal is based upon several factors including the approval of some permanent medical waivers in the Coast Guard, if those folks can be accommodated so can I. The blanket denial that was issued to every RAR and the clear communication from leadership through numerous mediums and at various times that no RAR would be approved and even if one was approved we would be separated from service. I am appealing due to having remained healthy and Covid free through natural immunity, while many of my colleagues who have taken the Covid shots have contracted Covid again. Further viewing the DMED data presented to Senator Johnson by Attorney Thomas Rentz it is clear my health is at greater risk from the Covid shot than from Covid itself. The Coast Guard has failed to take into account my particular circumstances let alone demonstrate a compelling government interest, that overrides my God given rights. Just recently the Coast Guard enacted a policy that will allow members seeking Religious Accommodations an administrative exemption if they are separating or retiring on or before October 1st. I have continued to serve in my role with no negative to impact to operations whatsoever since arriving at my duty station in June of 2021.

13. Finally, I am appealing because God has called me to serve our women and men in uniform and their families. At minimum it will take a year to have a replacement in place for me, during that time our members and their families will suffer without a chaplain. My particular skill set is tailored for military service, my background in Psychology, MDIV in Chaplaincy, unique skill set and credentials make me an invaluable asset to the Navy and Coast Guard. It is a joy to serve our people and nation, all I ask is to be able to serve honorably without having to compromise the tenets of my faith.

14. While seeking a religious accommodation I have had to provide proof health via negative Covid test, in spite of having no symptoms when other individuals have not, even though they can still get and spread Covid. I have been compelled to wear a mask in spite of CDC, DOD,

DHS, and Safer Federal Workforce guidance stating mask wear is based upon local transmission rates regardless of vaccination status, leaving me to feel singled out for my faith, my mask a scarlet letter. I have been denied the presumption of natural immunity as established by AR 40-562, in spite of having an antibody test and T-cell test indicating I am immune to Covid.

15. The following retaliatory actions have been taken against me for seeking a Religious accommodation to the alleged COVID vaccine: I am prevented from traveling more than 50 miles from my place of work or home⁴. While helping our members through the Religious Accommodation process I was reprimanded for sending members to legal or civil rights when they had questions outside of my purview. It is standard practice and the responsibility of the Chaplain to direct members to the appropriate resources when they are in need of assistance. I received a negative recommendation from my CO for my Religious Accommodation request, which was a predetermined and blanket negative endorsements everyone seeking a religious accommodation received. At the beginning of the mandate I was asked if I would resign my commission or face discharge under article 92 of the UCMJ which carries a maximum punishment of 2 years in jail. These scare tactics among others were employed to compel compliance.

16. While pursuing my own religious accommodation I have conducted interviews and written memos for over 100 religious accommodation requests, totaling well over 500 man hours not including the time spent, assisting members in the appeal process. It has been disheartening to hear from Command and Chaplain leadership that none of the religious accommodations will be approved and even if they were that we would still be discharged from service⁵. My heart has

4 The travel restriction only applies to Leave and Liberty, I can and do travel beyond 50 miles on a regular basis for work to visit units in my Area of Responsibility.

5 See emails

been burdened for our members seeking to exercise their sincere faith only to be told they're issue is not religious but political, that they are a threat to others, and selfish. It is one thing to comfort Sailors, Marines, and Coast guardsmen when they suffer at the hands of a tragedy or the enemy, however it is soul rending to see their suffering caused by the leaders who should care for their well-being.

17. I received my religious accommodation denial just like so many of our members, a form letter with our job description in paragraph 4. The routing instructions for the appeal are not in alignment with the instruction and serve only to obfuscate the appeal process. I and others face the daunting task of appealing in 10 days, appealing to the specific reasons our religious accommodation was denied even though no such reasons are listed, and told to submit a FOIA request to receive our own personal documents, contrary to how other religious accommodation requests are treated. The FOIA takes at minimum 30 days to be processed and our appeal authority will not issue an extension to the appeal timeline based upon the FOIA timeline, leaving myself and our members in a no win situation.

18. The toll this has taken on me and my family is nearly overwhelming. The administrative burden and counseling load have been substantial. Mental health and moral in the Coast Guard are suffering greatly. To date there have been six suicides in the Coast Guard, of which I have supported the families of two of these Coast Guard members. One member and his wife both sought religious accommodations, both were denied. They faced the same no win situation regarding the appeal and just over a week after receiving his denial he ended his life. In order to officiate his funeral I had to route a travel waiver, in spite of being within the travel policy for work. His family and coast guard family are devastated, as am I. In the past week another member I counseled was preparing to receive his religious accommodation, he is now in

inpatient treatment for suicidal ideation. Whenever my duty phone rings my heart races and I fear it will be another call of a member I care deeply for, who has reached a breaking point.

19. I have met the needs of the members entrusted to my care to the best of my ability. I have struggled and wrestled with serving our people in the midst of a futile religious accommodation process, yet I have not failed to honorably discharge my duties. Yet the specter of an unknown discharge looms over me. I wake up each day not knowing how much longer I will get to serve God and country. My wife and children face an uncertain future and I have no answers I can give. I have been told to expect a general discharge, which is punitive at best and likely will prevent any future employment as a chaplain. Such a discharge mischaracterizes my service and denies VA benefits. I forced into the impossible choice of violating my faith and God given convictions or facing a discharge that will lead to poverty.

20. If force readiness is truly the goal of the DoD and Coast Guard then my continued service is paramount to readiness. My experience, education, and skill set are 14 years in the making. My specialized clinical credentials and ability to teach and train others in suicide prevention are a vital asset now more than ever. My efforts aiding others in seeking religious accommodation, formulation of individualized care plans and Sector wide suicide prevention care plans, have prevented further tragedy from occurring. Chaplains save lives and multiply force readiness and getting a replacement for my billet amid an already undermanned chaplain corps is a substantially greater threat to force readiness than me receiving a religious accommodation. My father served as a Navy chaplain for 26 years, I have known God called me to serve as a chaplain since I was in 1st Grade. I have done all in my power to serve and continue to serve honorably, however without relief from the court I will be removed from service. The Nation, Navy, Coast Guard, and my family will be the worse if such a removal should occur.

I make this declaration under penalty of perjury, it is true and accurate to the best of my ability, and it represents the testimony I would give if called upon to testify in a court of law.

March 28, 2022


JUSTIN ELISHA BROWN

1300
08 Mar, TUE

U.S. Department of
Homeland Security

United States
Coast Guard



Commandant
United States Coast Guard

2703 Martin Luther King Jr. Ave. S.E.
Washington, DC 20593-7907
Staff Symbol: CG-133
Phone: (202) 475-5388
Fax: (202) 372-8470
Email: HQSPolicyandStandards@uscg.mil

6230

MEMORANDUM

Digitally signed by ROSCHELMICHAEL R 1034148011
Date 2022.02.16.16:21:01 -0500'

From: M. R. Roschel, CAPT
ADJUDICATION AUTHORITY

To: J. E. Brown, LT
CG SECTOR Houston-Galveston

8 Mar 2022

Subj: REQUEST FOR RELIGIOUS ACCOMMODATION FROM THE COAST
GUARD'S COVID-19 VACCINATION MANDATE

- Ref:
- (a) Your memo 1000 of 15 OCT 21
 - (b) ALCOAST 305/21 R 262212Z AUG 21
 - (c) ALCOAST 315/21 R 072247Z SEP 21
 - (d) Military Religious Accommodations, COMDTINST M1000.15 (series)
 - (e) Immunizations and Chemoprophylaxis for the Prevention of Infectious Diseases, COMDTINST M6230.4 (series)
 - (f) 42 U.S.C. §§ 2000bb et seq., Religious Freedom Restoration Act of 1993 (RFRA)
 - (g) U.S. Coast Guard Civil Rights Manual, COMDTINST M5350.4 (series)

1. Reference (a) is your request that the Coast Guard accommodate a religious practice so that you will not be required to receive the COVID-19 vaccine, as required by references (b) and (c). I have been delegated the adjudication authority to act on this request by CG-1 pursuant to reference (d). I have carefully reviewed your request in accordance with references (d)-(f). **Your request is denied.**

2. I made this decision after considering your right to free exercise of your religion or religious beliefs and the government's compelling interest in mission accomplishment, to include military readiness; unit cohesion; good order and discipline; and the health and safety of you, the members assigned to your unit and within the Coast Guard, and the public with whom the Coast Guard regularly interacts. I then considered whether requiring you to receive the COVID-19 vaccine is the least restrictive means available to achieve this compelling interest. It was your burden to establish the religious nature and sincerity of your beliefs and that receiving the vaccine would substantially burden your religious belief or practice. For the purpose of this administrative decision, I do not question the sincerity of your religious belief or whether vaccine requirements substantially burden your religious practice. The Coast Guard reserves the opportunity to make these determinations, but I do not need to address them here to resolve your request.

3. I have concluded that there are no lesser restrictive means available other than vaccination to achieve the compelling government interest here. In assessing your request, I considered that the Coast Guard is a military service that must be ready at all times to perform its military and other missions. The military nature of the Coast Guard and the readiness obligations of military service would likely suffice to require vaccination. In addition, the Coast Guard is unique amongst the military services because of the nature of its missions that include support of the

Subj: REQUEST FOR RELIGIOUS ACCOMMODATION FROM THE 6230
COAST GUARD'S COVID-19 VACCINATION MANDATE

Department of Defense (DoD), homeland security, and non-homeland security missions, specified in law. The Coast Guard's unique nature is relevant when considering whether there are less restrictive means available to achieve the compelling government interest here. In addition to meeting the military readiness demands confronting the DoD military services, the Coast Guard also conducts its missions on a 24 hours/7 days a week basis and must also be prepared to respond to domestic emergencies. Given the small size of the Coast Guard's work force and geographic dispersion of its units, many of which are small, any impact on the readiness of one Coast Guard unit has cascading effects on the entire Coast Guard. The service is not structured to have multiple layers of coverage that would allow another unit to fill the void left by the impacted unit. Moreover, we need as many members as possible, regardless of rating or assignment, to be prepared to deploy without significant notice to meet emergent needs. Further, Coast Guard members have much greater and more frequent interactions with members of the public than our DoD counterparts. The Coast Guard's eleven statutory missions require Coast Guard personnel to work at times amongst and with the public, and the Coast Guard has an obligation to ensure the safety of both its own personnel as well as those in the communities we serve or with whom we otherwise interact.

4. I also considered the billet to which you are assigned. In your current duties as the Chaplain assigned to Sector Houston-Galveston, your responsibilities make you an integral member of the command staff, requiring routine interaction with your shipmates, their families, and the extended community. Furthermore, your responsibilities include performing religious services, providing confidential counseling and advising commanders on religious, spiritual, and moral matters. As a Chaplain, you must be ready to deploy wherever there are military members in spiritual need or crisis, to include normal and disaster response operations. These interactions place you inside offices, vessels, and other communal meeting locations with insufficient options to consistently maintain compliance with the recommended Center for Disease Control social distancing guidelines.

a. Due to the operational nature of your billet, social distancing measures such as isolation, quarantine, and telework are inadequate to mitigate the spread of COVID-19 throughout your unit and the public. As a member assigned to an operational unit, you are unable to accomplish your daily missions or contingency operations while in isolation, in quarantine, or at home. Your assignment requires your daily physical presence, which renders teleworking without unacceptable loss of mission effectiveness, impossible. The close working quarters of your unit prevents the Coast Guard from isolating or quarantining you away from your shipmates. Moreover, the close working quarters renders social distancing impracticable as you are unable to remain six feet away from your shipmates throughout the day, while completing the mission.

b. Other safety and risk mitigation measures such as masking are also inadequate due to the nature of your billet. Wearing masks, washing hands, and practicing other hygienic techniques do not provide the same level of protection against COVID-19 as full vaccination. Relying solely upon these less effective means of protection poses a greater risk to the mission because you are significantly more vulnerable to contracting COVID-19 while interacting with the public. The inefficacy of preventative hygiene and masking means your failure to be vaccinated poses a substantial risk to your shipmates and the members of the public we are charged with protecting or with whom we interact.

c. Testing is insufficient to mitigate the risk of COVID-19 due to inaccuracy of rapid antigen tests and the window of time necessary to receive the results of a positive COVID-19 test. By the time you receive your results, there is a high likelihood you would have already exposed other members of the Coast Guard and the public.

Subj: REQUEST FOR RELIGIOUS ACCOMMODATION FROM THE COAST GUARD'S COVID-19 VACCINATION MANDATE 6230

d. COVID-19 antibodies developed as a result of infection do not adequately mitigate the risk of you contracting the disease in the future and spreading it throughout your unit, the Coast Guard, and the public. There is insufficient evidence that the development of COVID-19 antibodies attributed to infection provides immunity comparable to vaccination against COVID-19. Studies show unvaccinated personnel who already contracted COVID-19 are more likely than fully vaccinated people to contract COVID-19 a second time. COVID-19 antibodies developed as a result of infection may also fail to provide sustained protection against the disease. According to analyses by both the CDC and the Defense Health Agency, the risk of COVID-19 re-infection increases with time due to the waning of any natural immunity conferred after contracting COVID-19. Thus, COVID-19 antibodies do not provide the same continuous level of protection as full vaccination and therefore lack of full vaccination poses a substantial risk to your unit's mission.

5. Ultimately, unvaccinated Coast Guard members place not only themselves at risk, but also hold at risk every other member in the unit and the public. Your inability to practice social distancing at your unit and the ineffectiveness of other preventative safety measures pose a substantial risk of you contracting or spreading COVID-19. This in turn decreases the military readiness of the unit and the Coast Guard as a whole. You must be medically ready and able to perform your duties for your unit to function effectively.

6. I therefore find that there are no means less restrictive than full vaccination to achieve the Coast Guard's compelling governmental interest because of the conditions under which the Coast Guard executes its missions and your role within that execution. **Your request for a religious accommodation to the Coast Guard's COVID-19 vaccine mandate is denied.**

7. You have 10 business days after receipt of this decision to receive your first dose of a two-dose vaccine or the single dose of a single-dose vaccine.

8. If you wish to appeal this decision, you must do so within 10 business days after receipt of this decision. The appeal authority for this matter is the Assistant Commandant for Human Resources (CG-1) at HQSPolicyandStandards@uscg.mil. The appeal must include the specific basis on which you believe the initial denial was in error.

9. You have the right to file an Equal Opportunity complaint by contacting a Civil Rights Service Provider within 45 calendar days of any denial. For complaint processing, see Chapter 5 of Reference (g).

10. If you do not begin the COVID-19 regimen or submit an appeal within 10 business days after the receipt of this decision, you will be in violation of the lawful order in reference (c), as well as any other order that you received from competent authority to become vaccinated against COVID-19, and will be subject to all punitive and administrative consequences for failing to comply.

#

Copy: CG SECTOR Houston-Galveston
COMDT (CG-00A)
COMDT (CG-00H)
COMDT (CG-112)

IN THE MATTER OF THE VACCINE MANDATE CHALLENGE

DECLARATION OF Captain David Andrew Calger

Pursuant to 28 U.S.C. §1746, I, David Andrew Calger declare as follows:

1. My name is David A. Calger. I am over 18 years of age and have personal knowledge of and am competent to testify on the matters stated herein. I make this declaration in support of my challenge to the Department of Defense and Department of Army mandates requiring that I be vaccinated against COVID-19. All statements made in this Declaration are true to the best of my own personal knowledge.
2. My home of record and where I am domiciled is Port Charlotte, Charlotte County, Florida.
3. I am a reserve chaplain in the United States Army serving at the rank of Captain (O3). I am currently assigned to the 841st Engineer Battalion, 11700 NW 27th AVE. Miami, FL.
4. I began my military service on April 2008 when I commissioned as a Chaplain Candidate with the rank of 2nd LT. As a Candidate I completed CH-BOLC in August 2011, served a practicum at Army ROTC LTC at Fort Knox, served with two units and was promoted to 1st LT (2009) and then to Captain (2013). I was honorably discharged in April 2014 after hitting the six year max for the Candidate program. After completing seminary and being ordained I was commissioned on 13 OCT 2017 as a Captain and entered reserve duty with the 841st in December 2017. I have approximately 11 years of service as of March 1,2022.
5. Although I have not deployed and am not on active duty, I have received the following Army Service Medal, and Army Commendation Medal during my career.

6. I submitted my Religious Accommodation Request (RAR) (or Religious exemption) on 5 December 2021 at Exhibit 1 asking to be excused from the Army's COVID-19 vaccine mandate based on my sincerely held religious beliefs. A summary of those reasons follows:

a. It is a violation of my conscience as it relates to bodily autonomy, seeming human experimentation, and seeming political maneuvering. I could not in good faith square my conscience with the idea that I was being used by politicians and medical personal as an unwilling subject in a national vaccine experiment.

b. My faith believes that our consciences are given to us by God as a warning that something isn't right, to violate the conscience is to sin, and to risk deadening the conscience. I find it odd that the U.S. Army would desire Chaplains and Officers who are willing to violate their consciences for the sake of a mandate.

c. Additionally, I had covid in December of 2020 and according to AR 40-562 I have natural immunity which should exempt me from a vaccine.

7. While my RAR has not yet been denied, the fact that I have been counselled and flagged show that the Army is behaving in a way that is hostile to even the idea of a religious accommodation.

8. During my military career I have received the other vaccines the Army requires because they are not experimental and have had years of testing and refinement. I'm not opposed to vaccines; I'm opposed to forced human experimentation with a n experimental vaccine.

9. To date the punitive actions taken against me have been that I'm flagged by Brigade so that I cannot transfer. I was seeking the transfer at the advice of the Reserve Chaplain Career Advisor. Additionally Brigade intends to issue GOMARs to soldiers who are denied the RAR and who do not get the vaccine within a month of the denial. Appeals will not be received. I have also been denied the presumption of natural immunity established by AR 40-562.

I make this declaration under penalty of perjury, it is true and accurate to the best of my ability, and it represents the testimony I would give if called upon to testify in a court of law.

April 24, 2022

A handwritten signature in black ink, appearing to read "David A. Calger". The signature is fluid and cursive, with a long horizontal stroke at the end.

David A. Calger

IN THE MATTER OF THE VACCINE MANDATE CHALLENGE

DECLARATION OF CDR MARK D. COX, CHAPLAIN, US NAVY

Pursuant to 28 U.S.C. §1746, I, **Mark D. Cox** declare as follows:

1. I, **Mark D. Cox**, am over 18 years of age and have a personal knowledge of the following declaration and the competency to testify on the matters stated herein.
2. I make this declaration in support of my challenge to the Department of Defense and Department of Navy mandates requiring that I be vaccinated against COVID-19. All statements made in this Declaration are true to the best of my own personal knowledge.
3. I currently reside at 202 Old Graysville Road, Dayton, TN 37321. My home of record and where I am domiciled is in the city of Dayton, of Rhea county, in the state of TN.
4. I am a currently a Reservist Chaplain in the United States Navy serving at the rank of Commander (O-5). I am currently assigned to the Navy Reserve Center Chattanooga, VTU Unit, at 4051 Annicola Hwy Chattanooga, TN 37406.
5. Prior to my Military Career of 18 years, I had a rewarding Professional Civilian Ministry career for 20 years. During this time, I earned a Bachelor of Arts degree in 1987, a Masters of Divinity in 1990, and was Ordained in 1995. My experience spanned the scope of pastoral ministry as well as humanitarian mission around the world.
6. My military Career is as follows:

2004 - February 2, at the age of 41, commissioned as a Lieutenant in the United State Navy and began my service on **May 27, 2004** in the Select Reserves Marine Expeditionary Fleet Religious Unit 122 in Spokane, WA, and completed Chaplain Basic Training at the War College.

2006 - Entered **Active Duty** in May. Served three Coast Guard Commands: Sector Mobile AL, Aviation Training Center Mobile, AL, and Primary & Advanced Flight Training at NAS Whiting Field FL. Provided ASIST Training and CISM support during hurricane recovery efforts, developed leadership course based on the life of Sir Ernest Shackleton.

2009 - Served as Command Chaplain, 1st Battalion 12th Marines, 3RD MARDIV DET Hawaii. Participated in three Lava Vipers, one Mohave Viper, and deployed to Afghanistan in April 2011. Based at Fiddler's Green, regularly visited artillery positions throughout the Helmand Province. Provided Combat Operational Stress Control Training and Warrior Transition Training.

2012 - Served as Command Chaplain, NIOC Hawaii, National Security Agency CSS Joint Command and NCTAMS PAC. Maintained TS/SCI clearance. DOD CAF - Certified Adjunct Faculty Instructor. Took special interest in Submarine community, provided VIP tours and went underway on a four-day check ride, providing Chaplain support on the USS Hawaii.

2015 - Transitioned back to **Select Reserves**, NOSC Pearl Harbor. Assisted Navy Seal Foundation to provide summer camp experience for Gold Star Children. Transferred to NOSC Chattanooga in July. Cross-assigned to COMSEVENTHFLT Yokosuka, Japan on

the Flag staff of the USS Blue Ridge. Attended Naval War College Maritime Staff Operators Course (MSOC). Completed Senior Leadership Course - Navy Leadership and Ethic Center. Participated in preparations for Talisman Saber, and fulfilled the Components Chaplain Role in KR (Key Resolve) 17.

2017 - Cross Assigned In - CFA Chinhae HQ South Korea. War-gaming OIC during COMFLEACT KR18 and acting Base Chaplain.

2019 - Cross-assigned to NSA Bahrain DET A - Office support, led Divine Services and provided religious accommodation for Muslim Community during Ramadan. Strong supporting officer of NOSC Chattanooga - special boards & investigations.

2020 - Returned to Active Duty on two-year ADSW (Active Duty Special Work) orders with Navy Special Warfare Group Four, Stennis MS. Serving four NSW Units: Special Boat Team 22, NAVSCIATES, DET Stennis, SOTM (Special Operations Trauma Medic School). Requested by Commander SBT22 to extend a third year, however, my orders were unexpectedly defunded.

2021, October 1, returned to Navy Reserve Center Chattanooga.

7. My promotions were as follows: I joined at the age of 41 with 20 years of experience in civilian ministry and was given the rank of Lieutenant (O-3) February 2, 2004. January 2016, I put on Lieutenant Commander (O-4), and September 2021, I put on the rank of Commander (O-5). There are three dates that effect my service record:

1. Commissioned on February 2, 2004
2. Born on March 26, 1962
3. Entered service on May 27, 2004.

I will have 18 years of service on May 27, 2022, with approximately 13 years of Active Duty and 5 years of Reserve Duty.

8. During my military career, I have had the following deployments to combat zones and/or foreign areas:

Afghanistan, 2011 May - November

Yokosuka, Japan, 2017 - Annual Training

Chinhae, South Korea, 2018 - Annual Training

Bahrain, 2019 - Annual Training

Singapore, 2019 - Annual Training

9. Authorized to wear the following Awards: Fleet Marine Force Chaplain Insignia, Defense Meritorious Service Medal, Joint Service Commendation Medal, Navy & Marine Corps Commendation Medal (x2), Coast Guard Commendation Medal (x2), Navy Achievement Medal (x2), Coast Guard Achievement Medal.

10. Schooling: I joined the Military with a Masters in Divinity 1990 and Ordination 1995. Throughout my Navy Chaplaincy Career I have had opportunity to attend a Senior Leadership Course with fellow Officers, and Advanced Leadership Training with fellow Chaplains. Navy Chaplaincy Professional Development Training continues annually throughout our career, both with the Chaplain Corps and with our Endorsing Agency. One of my favorite and most beneficial training experiences helping me understand the bigger picture was at the War College, called MSOC, Maritime Staff Operator's Course. A five-week training course of operational war planning.

11. I originally submitted my RA (Religious Accommodation) request on September 27, 2021, declining the COVID-19 Vaccine, based on my sincerely-held religious beliefs. At the time, I was on Active Duty with Navy Special Warfare Group Four, out of Stennis MS - Special Boat Team 22. My ADSW/ADOS follow-on orders were to begin October 1, 2021; instead, they were unexpectedly defunded. I was forced to return to my Navy Reserve Center Chattanooga. It was then decided that my package would be resubmitted by the Reserve Center Commander. The date on my letter remained the same - September 27, 2021.

Exhibits

1. Original RA (Religious Accommodation) request submitted while on Active Duty by CDR Schoultz but not sent. The document was forwarded to Commander, Navy Reserve Center Chattanooga. Titled: COX MARK (RELIGIOUS EXEMPTION REQUEST - VACCINE)_UPDATED UNSIGNED

2. RA request resubmitted by Commander, Navy Reserve Center Chattanooga, via Commander, Navy Region Southeast Reserve Component Command, Jacksonville. Titled: 2 - CUI - RELIGIOUS ACC ICO CDR COX

12. I did not enumerate my religious beliefs in my RA. This is a moot point. My beliefs are not on trial, it is my Constitutional rights that are being abrogated. Following my Conscience and taking responsibility for what goes into my body is a God-given responsibility and right protected by our Constitution.

13. I received word that my RA request was denied January 8, 2022, when I arrived at Navy Reserve Center Chattanooga for Drill Weekend. When I read the disapproval letter from the Commander, Reserve Region Readiness and Mobilization Command Jacksonville, it appeared

that my RA, in fact, had not been read at all. The letter I received implied that I refused the COVID-19 vaccine based on the utilization of fetal cells in the testing and/or production of the vaccine. My RA simply stated that “I am declining the COVID-19 vaccination because of my religious beliefs”. I did not enumerate my beliefs. I may have “95” reasons to decline the vaccine, but the utilization of fetal cells is not one of them. This appeared to be a form letter and not an individual consideration of my case. Initially, I refused to send an Appeal and instead sent a letter to my CO expressing that there seemed to be no good reason to Appeal the RA disapproval because my RA, evidently, was not even read. However, on the recommendation of my Commanding Officer, I submitted an appeal letter on March 24, 2022. Also during this time I refused to be tested for COVID-19 before entering the Reserve Center as I see testing as contributing to the propaganda of the COVID Pandemic and I cannot participate in this deception. I was sent home with Unexcused Absences. On the advice of council I reconsidered but found the individual discrimination an insult since anyone, vaccinated or unvaccinated can contract the virus, mask or no mask. The incident was reported to Commander, Navy Region Southeast Reserve Component Command, Jacksonville, for which I received a letter CAPT Anthony “Tony” J. Gareffa.

Exhibits

1. My Denial Letter from Deputy Chief of Naval Operations. Titled: 1 - RA Response Letter ICO Cox, Mark CDR
2. Personal letter CDR Jones, my Reserve Center CO, regarding my reaction to the Appeal Process. Titled: PERSONAL LETTER TO CDR JONES

3. Letter from CAPT Anthony “Tony” J. Gareffa. For refusing to be tested for Covid before entering the Reserve Center. Titled: Untitled 2

4. My subsequent Appeal Letter on March 24, 2022. Titled: APPEAL RA
DISAPPROVAL - COX

14. The letter I received from the Deputy Chief of Naval Operations, referenced the Religious Freedom Restorations Act (RFRA) as the justification for disapproval of my RA, stating “compelling government interest” and implying that taking the vaccine is the “least restrictive means of furthering that interest.” I would submit that the government cannot simply state these claims without “compelling justification”. In this matter, the government has been decidedly cagey and not transparent. However, evidence continues to come to light in the public record that shows the government’s argument to mandate the COVID-19 vaccine cannot be substantiated and is without cause to burden an individual’s free exercise of religion.

15. Additionally it is untrue that the COVID-19 vaccine is the “least restrictive means” to deal with the COVID-19 virus. Currently, there are many remedies available that are safe and effective. Combined with a healthy lifestyle, the virus can be defeated and natural immunity improved. People that contract the virus still have a 99% survivability rate. As more and more evidence comes to light in the public record, it is becoming clear that the vaccine is neither safe or effective and should not be called a vaccine. I would go on to say the COVID-19 vaccine has become burdensome to the military and a compromise to mission accomplishment. It is not the “least restrictive means” for the military or the individual. This entire rollout of the vaccine and the mandate is racked with suspicion.

16. The compelling government interest stated for our military is, “mission accomplishment, to include military readiness, unit cohesion, good order and discipline, health and safety, on both individual and unit levels.” Nothing new here. These are the compelling interests of our military. However, in the hierarchy of compelling government interest, none of these rise above **Liberty of Conscience** and **Individual Autonomy** and the right to make voluntary and **Informed Consent** for medical treatment. These values have far more compelling interest to our country and far greater impact on mission accomplishment than the aforementioned list.

17. Our oath is founded on these high ideals and based on **Trust**. If this Trust is violated by the government, then the government is in breach of the Constitution. The government fails to meet the high bar set by the RFRA of “compelling justification”. I submit my Oath for your reference.

Officer Oath of Office: “I, Mark D. Cox, having been appointed an officer in the Navy of the United States, as indicated above in the grade of LT do solemnly swear (or affirm) that **I will support and defend the Constitution of the United States against all enemies, foreign or domestic**, that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservations or purpose of evasion; and that I will well and faithfully discharge the duties of the office upon which I am about to enter; So help me God.”

18. As a Chaplain, I have taken special interest in this Vaccine Mandate because of the impact on individual’s Liberty of Conscience and Individual Autonomy. I have done research, made observations of the commands I serve, dialogued with civilian lawyers, doctors and nurses, and in the last year and a half, I have spoken to roughly a thousand military service members

regarding their experience with the COVID-19 Vaccine Mandate, to include: Medical Officers, JAGs, Chaplains, Commanding Officers, common Soldier and Sailors, two Admirals and a General. I would say over 95% of them expressed a conscientious objection to the mandate. Not that it is problematic, but that it is morally wrong.

19. Not everyone I spoke with could articulate their thoughts in well-organized religious ideas, but they knew in their hearts there was something wrong with the mandate and the methods being implemented. Most expressed their impressions that the COVID-19 Vaccine Mandate is morally wrong, unconstitutional, unlawful and ethically mishandled. They felt coerced, threatened and manipulated, and many who received the shot ultimately regretted getting it. Those who still refuse to get the shot do so with deep uncompromising conviction that it violates their God-given rights that they serve their country to protect. Others, still in the valley of decision, are facing moral struggles between being true to their conscience and being compliant and/or complicit to the mandate.

20. It is important to acknowledge that the conscience is the avenue by which mankind has the most intimate conversations with God. Often there are no words, only impressions, that God is revealing Himself in what is right and wrong, truth and error, love or selfishness, etc. Impressions can be compelling or restraining and the individual may even experience a visceral affect within their body. When God speaks to an individual, most likely it is not in a well-written doctrinal statement from an institutional church that they memorized, but rather through the conscience. One knows when God speaks to the heart. This is not an unfamiliar idea to our country. In fact, it is the core of our constitutional identity. I share with you the following quote from our Congressional Documents.

“The framers of the Constitution recognized the eternal principle that man’s relation with his God is above human legislation, and his rights of conscience inalienable. **Reasoning was not necessary to establish this truth; we are conscious of it in our own bosoms.** It is this consciousness which, in defiance of human laws, has sustained so many martyrs in tortures and flames. They felt that their duty to God was superior to human enactments, and that man could exercise no authority over their consciences. It is an inborn principle which nothing can eradicate.”—**Congressional Documents (U.S.A.), serial No. 200, document No. 271.**

21. It was in defense of the Individual Conscience that the Declaration of Independence was written and the first war of America was fought. Following the victory of our independence, the writing of the Constitution confirmed our mutual belief in the Individual Conscience and specifically addressed it in the Religious Clauses. Our success in the American Revolutionary War did not come at the expense of violating the conscience, but rather in the defense of it. We win wars because we believe in the cause. George Washington shared with American patriots the Declaration of Independence as the cause for the conflict before them. This resonated in the soul, as true and God-given, and sustained Americans in the long and costly war. America did not make men free. Free-minded men made America. These men knew in their bosom that their freedoms and liberties come from our Creator and not from man-made governments. I submit the following quotes:

“**The cause of America is in a great measure the cause of all mankind.** Many circumstances hath, and will arise, which are not local, but universal, and through which the principles of all Lovers of Mankind are affected, and in the Event of which, their Affections are interested.” **Thomas Paine - *Common Sense***

“In that grand old document which our forefathers set forth as their bill of rights—the **Declaration of Independence**—they declared: ‘We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness.’ And the **Constitution** guarantees, in the most explicit terms, the **inviolability of conscience**: ‘No religious test shall ever be required as a qualification to any office or public trust under the United States.’ ‘**Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.**’ *Great Controversy 295.2*

22. The Religious Clauses of the Constitution are based on the “**Inviolability of Conscience**”. This is a Natural Law that cannot be violated without inherent consequences. It is as true and sound as the law of gravity. The use of compelling power against the conscience creates slaves and rebels of good men. The **Inviolability of Conscience** is the **Law of Liberty**. It is our nation’s highest value and why we are willing to make the ultimate sacrifice. Violate the Religious Clauses in the military, and tyranny will follow in society.

23. O-5 Chaplains are encouraged to write a “Philosophy of Leadership in Military Ministry.” I submit the following paragraphs from my paper for further explanation of the importance of the Law of Liberty that is so dear to our country:

Confronted with tyranny, our forefathers’ declaration of war was the Declaration of Independence. Here the writers declare that there are “**powers of the earth,**” “**laws of nature**” subject to “**nature’s God,**” “**truth**” that is “**self-evident,**” that men are “**created equal,**” “**endowed by their Creator with certain unalienable rights**” of “**life, liberty, and the pursuit of happiness.**” These are declarations of universal laws, protocols for life, designed into our existence, that cannot be ignored without inherent consequences. These laws of cause-to-affect have no exemptions, exceptions or exclusions. Three are superior:

1. **The Law of Love: Disinterested Benevolence.** The “**pursuit of happiness**” is no trivial pursuit of self-gratification, rather, the right and responsibility to become “**a good soul**”, to produce good without ulterior motives, and when necessary, resist or restrain evil at one’s own risk, peril or sacrifice.

2. **The Law of Life: Reciprocal Service.** When love is reciprocal, “**life**” is created and sustained. All creation is designed on the great commandment, “**Love your neighbor as yourself.**” Love unreciprocated is death.

3. **The Law of Liberty: Inviolability of Conscience.** **Liberty** is essential for Love and Life. Compelling power cannot elevate man to the image designed by his maker. This law cannot be broken. To violate this law is to cause inherent damage to the soul, creating a defiant rebel or a captive in bondage. It is only by **Liberty of Conscience** that man has the power of self-determination, self-governance and self-reliance. Our Constitution was written to protect these Liberties for which life, safety and security are worthy sacrifices.

24. The Religious Clauses of the Constitution are not, as some think, referring to religious institutions, but rather, individual belief and practice. An Atheist or Secularist requires, and is entitled to Religious Accommodation, as is any Christian, Muslim, Jew, etc... It is the positive regard for the Religious Clauses that allows for diversity in religions and creeds to live and serve in mutual regard for one another. Every American, and indeed, all mankind, requires and is entitled to Religious Accommodation. Our Declaration of Independence declares it and the Constitution confirms it.

25. There are indicators everywhere that this Vaccine Mandate violates human rights without compelling justification. The global outcry over the past few months and the demonstrations around the world protesting the mandates are clear indicators that human rights are being ignored or violated in the absence of any substantial evidence that would justify mandates. An argument could be made that many governments around the world have failed to give **Informed Consent** or respect the **right to not consent**.

26. The narrative regarding the Vaccine Mandates and the state of Religious Accommodation is changing. There are lawsuits from reputable firms on the constitutionality of the mandates.

There are studies and reports, mountains of evidence coming to light, subject matter experts, (researchers, scientists, doctors, politicians, lawyers, and even insurance companies) all speaking out against the vaccine and the unconstitutional methods used to enforce the vaccine. At this point in the story it makes no sense to mandate vaccines, particularly if it violates the Constitution and risks the health and safety of service members.

27. My own observation, as a Navy Chaplain, regarding the effects of the Vaccine Mandate on our military, is that we have caused more harm than good. And instead of “mission accomplishment, military readiness, unit cohesion, good order and discipline, health and safety, on either the individual or unit levels” we are seeing low morale, and good men pitted against one another causing division among the troops at all levels. Recruiting numbers have pitched down, members are jumping ship if convenient, others are striving to stay afloat, good healthy competent people are being separated against their will, careers have been shattered, and retirements are threatened. There has been an increase in mental health issues, relationship issues, financial issues, unexplained deaths, and recently military whistle blowers have come forward with evidence that shows health and safety has been severely compromised. This does not support the “compelling government interest” argument.

28. As I consider the scope of problems threatening our nation and our military, I find it outrageous that the government would think to violate Religious Liberty over a virus that is the least of our concerns. To the conscientious man, it is clear that this Vaccine Mandate is more about political gain and power than it is about mission accomplishment or the health and safety of our military men and women. Time will reveal the truth, and when it does, the evidence will be convincing that there is no compelling justification for what is happening. We will all be held

accountable. I recommend that the Constitutional freedoms and liberties of our service members be respected without reservation, that vaccinations be *offered*, without force, coercion, or manipulation; not *mandated*. Informed Consent and the right to not consent must be an uncompromising standard.

29. Victory over the COVID-19 Vaccine Mandate must also include any and all vaccines. There is currently no federal law that allows even the annual Flu shot to be forced on service members. Yet the military has relied on the ignorance of service members regarding their rights. The Military has used compelling power to coerce, and manipulate service members into getting the flu shot without informing them of their right to decline. Over time we have just come to accept it as law and legitimized it by being compliant and complicit. It is not legal and most assuredly not constitutional, which brings up another point regarding the annual Flu shot requirement. There are concerns that the annual Flu shot will be replaced with the mRNA COVID-19 Vaccine. This is unacceptable and must also be addressed. The military assumes that just because they've informed you, you are therefore expected and required to get these shots. This lie must be exposed and not perpetuated any longer. Reeks

30. In reference to the FDA-approved vaccine, Comirnaty, I would still not take this vaccine. The entire pandemic is suspect and reeks of corruption, greed and a grab for power. The health and welfare of the world has been politicized and has had nothing to do with "Mission Accomplishment" or the health and safety of our service members. The pandemic is proving to be a hoax and the COVID-19 virus appears to be weaponized.

31. The fact that ivermectin, hydroxychloroquine, and other over-the-counter remedies are available, but ignored or censored, makes this pandemic suspect. And the evidence of serious

adverse reactions to the COVID-19 vaccines, including death, also makes this pandemic suspect. The enormous amount of money made by pharmaceutical companies and politicians at the cost of human life is reprehensible. My conscience tells me, “do not be deceived and do not deceive”. I will have nothing to do with taking this vaccine or promoting it.

32. From October 1, 2019 until September 30, 2021, I served as Chaplain to the Navy’s elite fighting force, Navy Special Warfare. Unexpectedly, my follow on orders were defunded and I was forced to return to the Navy Reserve Center Chattanooga. As a consequence of my decision to not get (or refuse) the COVID-19 Vaccine, I was refused funding and all opportunities for Annual Training, Active Duty Training, the opportunity to provide Funeral Honors or reschedule Drill dates, and any other opportunities to serve. However, I was still forced to show up for mandatory Drills, while everyone else was allowed to telecommute. As a matter of circumstance, I missed the Apply Board and was transferred from Select Reserve to unpaid VTU, Volunteer Status. This is similar to *administrative leave* in the civilian world where the Navy puts you to quietly disappear. This all happened in less than six months. Furthermore, as a result of being unvaccinated, I was singled-out from the herd, given a nasal swab, and forced to wear a mask which everyone knows does not protect from viral infection. For the record, I am in excellent health, with natural immunity that has protected me from many viruses. Science and history both confirm Natural Immunity is superior to vaccines. Natural immunity, along with a healthy lifestyle creates a winning combination. Our bodies were created to heal themselves. Feed it right, and it will do its part. “Let your food be your medicine and your medicine be your food.” Hypocrites.

33. The following retaliatory, career damaging, negative, punitive and administrative actions have been taken against me for refusing the alleged COVID-19 vaccine and for requesting a religious accommodation request: I received a report of misconduct, an Article 92 and was required to sign an Adverse Fitness Report.

34. The consequences of resisting the vaccine has not been determined. Currently, punitive measures have been put on hold due to current litigation; however, this could easily change. On February 12, 2022, I received an Adverse Fit Rep and an Article 92, or a Misconduct report for refusing the COVID-19 vaccine. This is on-hold at the moment. If it should go forward, I could very well be separated from the Navy with a general discharge, no separation pay, no retirement pay and no VA Benefits. Furthermore, as a result of this Mandate, I was unexpectedly unemployed on October 1, 2021. I have been applying myself to a new business, but it takes time to generate cash.

35 I make this declaration under penalty of perjury, that it is true and accurate to the best of my knowledge, and it represents the testimony I would give if called upon to testify in a court of law.

March 21, 2022

A handwritten signature in black ink that reads "Mark D. Cox". The signature is written in a cursive, slightly slanted style.

Mark Devin Cox



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON DC 20350-2000

1730
Ser N1/117438
21 Dec 21

From: Deputy Chief of Naval Operations (Manpower, Personnel, Training and Education) (N1)
To: CDR Mark D. Cox, CHC, USN
Via: Commanding Officer, Navy Operational Support Center Chattanooga

Subj: REQUEST FOR RELIGIOUS ACCOMMODATION THROUGH WAIVER OF IMMUNIZATION REQUIREMENTS

Ref: (a) 42 U.S.C. §2000bb-1
(b) DoD Instruction 1300.17 of 1 September 2020
(c) SECNAVINST 1730.8B
(d) ASN (M&RA) memo of 6 Jun 13
(e) MILPERSMAN 1730-020
(f) United States Attorney General memo of 6 Oct 17
(g) Your ltr of 27 Sep 21 w/ends
(h) BUMED ltr 6320 Ser M44/21UM43526 of 15 Dec 21

1. Pursuant to references (a) through (h), your request for religious accommodation through waiver of immunization requirements is disapproved. You must receive all required vaccines. However, you are free to request from your healthcare provider alternative vaccines that are available and meet the Navy's immunization requirements, as determined by a credentialed military healthcare provider. You are free to choose which COVID-19 vaccine to take. If you choose a COVID-19 vaccine that requires two doses, you must receive your first dose within five calendar (5) days upon receipt of this letter and complete the series as prescribed. If you choose a one-dose vaccine you must receive the vaccine within five calendar (5) days upon receipt of this letter.

2. In line with references (b) through (d), I am designated as the approval authority for requests for religious accommodation.

3. Reference (a), the Religious Freedom Restoration Act (RFRA), states that the Government may substantially burden an individual's exercise of religion only if it demonstrates that application of the burden to the person is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. Reference (b) incorporates the RFRA and notes that the Government has a compelling interest in mission accomplishment, to include military readiness, unit cohesion, good order and discipline, health and safety, on both individual and unit levels. Additionally, unless it will have an adverse impact on mission accomplishment, including military readiness, unit cohesion and good order and discipline, the Navy will accommodate individual expressions of sincerely held beliefs of Sailors. Reference (f) emphasizes that only those interests of the highest order can overbalance legitimate claims to the free exercise of religion.

Subj: REQUEST FOR RELIGIOUS ACCOMMODATION THROUGH WAIVER OF IMMUNIZATION REQUIREMENTS

4. All requests for accommodation of religious practices are assessed on a case-by-case basis. In line with references (b) and (c), determination of a request for religious accommodation requires consideration of the following factors:

- a. Impact on military readiness, unit cohesion, good order and discipline, health and safety
- b. Religious importance of the request
- c. Cumulative impact of repeatedly granting similar requests
- d. Whether there are alternatives available to meet the requested accommodation and
- e. How other such requests have been treated

5. In making this decision, I reviewed reference (g), including the endorsements from your chain of command, the local chaplain and the advice of Chief, Bureau of Medicine and Surgery in reference (h).

a. A waiver of immunizations would have a predictable and detrimental effect on your readiness and the readiness of the Sailors who serve alongside you in both operational and non-operational (including training) environments. Primary prevention of disease through immunizations has been a key enabler for maintaining force health and avoiding disease-related non-battle injury. Granting your request will have a direct and foreseeable negative impact on the compelling Government interests of military readiness and health of the force.

b. While serving in the U.S. Navy, you will inevitably be expected to live and work in close proximity with your shipmates. I find that disapproval of your request for a waiver of immunization requirements is the least restrictive means available to preserve the Department of Defense's compelling interest in military readiness, mission accomplishment and the health and safety of military Service Members.

6. The Navy is a specialized community governed by a discipline separate from that of the rest of society. While every Sailor is welcome to express a religion of choice or none at all, our greater mission sometimes requires reasonable restrictions. You have my sincere best wishes for your continued success in your Navy career.

NOWELL.JOHN.BL
ACKWELDER.JR.1
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JR.1057611835
Date: 2021.12.31 21:11:00 -05'00'

JOHN B. NOWELL, JR

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OPNAV (N131, N0975)
BUMED
NAVREGSERCC Jacksonville

IN THE MATTER OF THE VACCINE MANDATE CHALLENGE

DECLARATION OF CDR JOHN JACOB ISMACH-EASTMAN, CHC, USN

Pursuant to 28 U.S.C. §1746 I, John Jacob Ismach-Eastman, declare as follows:

1. My name is John Jacob Ismach-Eastman. I am over 18 years of age and have personal knowledge of and am competent to testify on the matters stated herein.
2. I make this declaration in support of my challenge to the Department of Defense and Department of Navy mandates requiring that I be vaccinated against COVID -19. All statements made in this Declaration are true to the best of my own personal knowledge.
3. I reside in Pensacola, FL 32506. This is my home of record, and I am domiciled in the state of Florida.
4. I am an active-duty chaplain in the United States Navy endorsed by the Associated Gospel Churches (“AGC”). I am serving at the rank of Commander and currently assigned to the Information Warfare Training Command, Pensacola, FL.
5. My military promotion and assignment history is as follows.
 - a. I served in the United States Air Force Reserve from February 1983 to February 1989 and left at the rank of Senior Airman (“SRA”), pay grade E-4.
 - b. I was a chaplain candidate in 2003. Upon graduation and commissioning, I was assigned to Marine Corps School of Infantry- East, Camp Geiger, NC as Battalion Chaplain. A year later, I reported to Courthouse Bay, Camp Lejeune, NC as Area Chaplain for the Marine Corps Engineer & Scout Sniper School, and Coast Guard Special Missions Training Center. In 2009, I deployed with 2nd Battalion, 2nd Marines to Helmand Province, Southern Afghanistan where my unit received meritorious commendation. I deployed again in 2011 with the 22nd Marine Expeditionary Unit (MEU) in support of operations Odyssey Dawn/Unified Protector- JOA Libya and National Tasking. In 2012, I was selected as the Command Chaplain for the

Coast Guard Training Center in Yorktown, VA. In 2014, I was selected for the Navy Advanced Education Program and earned a Th.M. in Ethics from Southeastern Baptist Theological Seminary, Wake Forest, NC. In 2015, I was selected as a “Plank Owner” and Personal Assistant to the Ship’s Chaplain aboard the USS GERALD R. FORD (CVN-78) as it underwent sea trials. In 2017, I deployed overseas as CREDO’ Deputy Director for Bahrain, UAE, and Djibouti. In 2019, I reported to my current position as the Command Chaplain for the Center for Information Warfare Training, and Information Warfare Training Command in Pensacola, FL, possessing top-secret clearance.

c. I was commissioned as a chaplain at the grade of Lieutenant Junior Grade (“LTJG”) April 25, 2004. I was promoted to Lieutenant in May 2006, Lieutenant Commander in September 2013, and Commander in May 2019.

6. As of March 1, 2022, I have over 18 years of active service. The Navy has opened an investigation to evaluate my broken/prior service to determine my total time of service and potential or actual retirement date. Ordinarily this would place me in what is called the “Sanctuary” zone meaning I am protected and would be allowed to reach 20 years of retirement absent a significant event that was a clear and serious threat to good order and discipline such as a major crime. The Navy has made it clear “Sanctuary” means nothing as I have been threatened with separation with a General Discharge and no separation pay for making a religious accommodation request.

7. My personal awards include the Navy and Marine Corps Commendation Medal (4 gold stars), Coast Guard Commendation medal (1 gold star), Navy and Marine Corps Achievement Medal and the National Bible Association’s 2007 Witherspoon Award.

8. I was selected by the Navy for postgraduate education with a concentration in Ethics and while assigned to the Fleet Marine Forces, I was selected to be a Warrior Toughness trainer.

9. On October 18, 2021, I submitted my Religious Accommodation Request (RAR) (or Religious exemption) at Exhibit 1 asking to be excused from taking the COVID-19 vaccination. That RAR was denied November 22, 2021.

10. A summary of those reasons in my RAR follows:

My Judeo – Christian religious beliefs inform and protect my conscience from *forcibly* receiving *any* substance from entering my body, in this case the COVID-19 vaccine, which has not yet proven to be 100% safe, effective nor without any potential harmful side effects especially for someone diagnosed with heart-related issues, as I am:

<https://www.cdc.gov/vaccinesafety/ensuringsafety/sideeffects/index.html>;

https://www.algora.com/Algora_blog/2021/10/02/dod-data-analysis-shatters-official-vaccine-narrative <https://www.health.harvard.edu/blog/new-information-for-parents-on-myocarditis-and-covid-19-vaccines-20210701252>; <https://thetexan.news/wp-content/uploads/2021/09/Peter-Chambers-affadavit.pdf>.

It should be noted that a FOIA suit recently forced the CDC and FDA to reveal data showing major issues and medical complications in the vaccine trials. “When Pfizer applied for FDA approval, they were aware of almost 158,000 adverse events. This really does not paint them in a favorable light. And now, a 38-page report features an appendix with a list that says Pfizer’s COVID vaccine has 1,291 side effects.” <https://www.riotimesonline.com/brazil-news/modern-day-censorship/pfizer-covid-vaccine-has-1291-side-effects-reveals-official-documents>

11. I submitted my appeal of my RAR denial December 21, 2021. As far as I know it is still pending.

12. My medical record reveals that I am not opposed to vaccines. In the past, I have voluntarily submitted to the Anthrax vaccine which at the time was considered to pose numerous

risk factors. I have since received vaccines for yellow fever, flu and a host of others required to deploy overseas in both combat and non-combat zones without protest.

13. I object to the COVID-19 vaccination because the COVID-19 vaccines are not legitimate vaccines as that term has been historically and medically defined and presented to the public. Vaccine used to mean a medical procedure that protected you from the disease against which you were being vaccinated against. For example, the measles, shingles, and polio vaccines protect you from catching those specific diseases. These used to be called sterilizing vaccines, they prevent the vaccine recipient from contracting or spreading the disease they are vaccinated against (<https://pubmed.ncbi.nlm.nih.gov/31590667/>); (<https://www.verywellhealth.com/covid-19-vaccines-and-sterilizing-immunity-5092148#toc-what-is-sterilizing-immunity>).

14. The Covid-19 Vaccine does not immunize the vaccinated from Covid-19. Unlike sterilizing vaccines, which the COVID-19 vaccine recipients are widely known to continue to contract and spread the SARS-COV-2 virus which causes Covid-19 infections. The Associated Press reported on December 27, 2021, the fully vaccinated USS Milwaukee had “[a]bout two dozen sailors or roughly 25% of the crew — have now tested positive for COVID-19[.]” “Officials: Nearly 25% [of fully vaccinated] Navy warship crew has COVID-19”, Lolita C. Baldor, <https://apnews.com/article/coronavirus-pandemic-health-jacksonville-us-navycb7d190b7c1c1c52f5441b56740d44de>. The Navy also reported “the USS Halsey, a destroyer, delayed its homeport move from Pearl Harbor, in Hawaii, to San Diego because a significant number of the crew became infected with COVID-19. *Id.* The Navy further reported “roughly one-third of the Halsey crew tested positive for the virus” although “the crew was nearly 100% vaccinated.” *Id.*

15. Faced with the realization the COVID-19 vaccine would not provide classical immunity to the vaccinated and has not stopped the contraction or spread of COVID-19 among fully

vaccinated individuals, CDC changed the “vaccination” definition in 2021 from “The act of introducing a vaccine into the body to produce *immunity* to a specific disease.” (emphasis added) to “The act of introducing a vaccine into the body to produce *protection* from a specific disease.” (emphasis added). The change has made these two formerly different definitions equal. This change has legal implications without input from or notice to the public or Congress.

16. In other words, CDC changed the “vaccine” definition in 2021 from a medical procedure that protected the vaccinated against the disease by producing immunity to one that merely stimulates the immune system and provides partial protection.

Before the change [the Centers for Disease Control and Prevention modification of ‘its definition of the words “vaccine” and “vaccination” on its website’], the definition for “vaccination” read, “the act of introducing a vaccine into the body to produce immunity to a specific disease.” Now, the word “immunity” has been switched to “protection.” The term “vaccine” also got a makeover. The CDC’s definition changed from “a product that stimulates a person’s immune system to produce immunity to a specific disease” to the current “a preparation that is used to stimulate the body’s immune response against diseases.” Some people have speculated that the unannounced changes were the CDC’s attempt to hide the fact COVID-19 vaccines are not 100% effective at preventing corona virus infection.

<https://www.miamiherald.com/news/corona-virus/article254111268.html>.

CDC has effectively made two formerly completely different terms the same, destroying the old understanding of “vaccine”, one that protected a person from disease. I am not aware of any other disease for which this has been done. Under the pre-COVID-19 standard, the COVID-19 treatment would be called a prophylactic or a treatment, not a vaccine because it does not provide classic immunity.

17. This change appears to have been made by government medical or public health bureaucrats to cover up their own failure to provide the protection formally given by classic vaccines and yet it has been applied in a punitive manner contrary to well-established law.

18. I would gladly comply with vaccination requests to protect not only myself, but my fellow service members **if** the COVID-19 vaccines were a legitimate vaccine, *i.e.*, a sterilizing vaccine, as that term was formerly known and understood, and without the many known side effects established by the medical community, *e.g.*, myocarditis and pericarditis, *see* FDA Press Release dated August 23, 2021, that are a special danger to someone such as myself diagnosed with an athletic heart.

19. Since my father is one of the oldest living Holocaust survivors, I am keenly aware and sensitive to coerced, forced medical procedures that are experimental in nature and especially those imposed without consent which is what may have already occurred in my case. My medical record reflects that I received the first dose of the Pfizer vaccine on January 15, 2021, instead of the requested flu vaccine. If this is proven to be true it is a clear violation of what was established in the Nuremberg code.

20. The following retaliatory, career damaging, negative, punitive or administrative actions have been taken against me for refusing the alleged COVID vaccine:

a. My next assignment as the command chaplain of Pensacola Naval Air Station was cancelled, and I was told by my detailer to prepare for separation from the Navy this June.

b. My permanent change of station (“PCS”) orders were placed on hold causing major stress to my family as we are currently in limbo with orders expiring in May 2022.

c. My Commanding Officer’s (“CO”) written consideration for or comment on my appeal tarnished my reputation and contains error by denying his superiors issued, *blanket denial policy to subordinate commanders*; which has since proven to be false by Fox News contributor Liz Peek etc.

d. After being described as a *passionate, humble, and devoted to God* chaplain, my CO acknowledges the command's loss due to my presumed separation will only be impacted until my relief arrives in 05/22, just a few months from this writing, in other words I am of little value to the command.

21. The Command exerted significant pressure on me to ignore my religious and medical concerns, disrespecting my beliefs and ignoring concerns making it clear I was not a team player. I was just granted a "temporary" medical exemption due to my "athletic heart" condition I mentioned in ¶18.

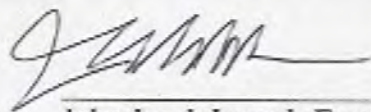
22. During the height of the pandemic when there were no vaccines, the prior school CO sent an 'All Hands' email to the command stating we had achieved 100% mission readiness.

23. Currently, with over 98% vaccination rates, somehow the unvaccinated are being accused of preventing mission readiness. This accusation sounds illogical, is not supported by science and facts, *e.g.*, USS Milwaukee, and is evidence there is a kind of psychosis occurring in the minds of those normally thought to be intelligent and thinking leaders.

24. My experience indicates to me Top Naval leadership have left no doubt that the mandate is not about the health and safety of service members but political objectives that are discriminatory and a grave danger to religious liberty.

I make this declaration under penalty of perjury, it is true and accurate to the best of my ability, and it represents the testimony I would give if called upon to testify in a court of law.

March 9th, 2022



John Jacob Ismach-Eastman



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON DC 20350-2000

1730
Ser NI/115657
22 Nov 21

From: Deputy Chief of Naval Operations (Manpower, Personnel, Training and Education) (N1)
To: CDR John J. Ismach-Eastman, USN
Via: Commanding Officer, Center for Information Warfare Training

Subj: REQUEST FOR RELIGIOUS ACCOMMODATION THROUGH WAIVER OF IMMUNIZATION REQUIREMENTS

Ref: (a) 42 U.S.C. §2000bb-1
(b) DoD Instruction 1300.17 of 1 September 2020
(c) SECNAVINST 1730.8B
(d) ASN (M&RA) memo of 6 Jun 13
(e) MILPERSMAN 1730-020
(f) United States Attorney General memo of 6 Oct 17
(g) Your ltr of 18 Oct 21 w/ends
(h) BUMED ltr 6320 Ser M44/21UM41771 of 4 Nov 21

1. Pursuant to references (a) through (h), your request for religious accommodation through waiver of immunization requirements is disapproved. You must receive all required vaccines. However, you are free to request from your healthcare provider alternative vaccines that are available and meet the Navy's immunization requirements, as determined by a credentialed military healthcare provider. You are free to choose which COVID-19 vaccine to take. If you choose a COVID-19 vaccine that requires two doses, you must receive your first dose within five calendar (5) days upon receipt of this letter and complete the series as prescribed. If you choose a one-dose vaccine you must receive the vaccine within five calendar (5) days upon receipt of this letter.

2. In line with references (b) through (d), I am designated as the approval authority for requests for religious accommodation.

3. Reference (a), the Religious Freedom Restoration Act (RFRA), states that the Government may substantially burden an individual's exercise of religion only if it demonstrates that application of the burden to the person is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. Reference (b) incorporates the RFRA and notes that the Government has a compelling interest in mission accomplishment, to include military readiness, unit cohesion, good order and discipline, health and safety, on both individual and unit levels. Additionally, unless it will have an adverse impact on mission accomplishment, including military readiness, unit cohesion and good order and discipline, the Navy will accommodate individual expressions of sincerely held beliefs of Sailors. Reference (f)

Subj: REQUEST FOR RELIGIOUS ACCOMMODATION THROUGH WAIVER OF
IMMUNIZATION REQUIREMENTS

emphasizes that only those interests of the highest order can overbalance legitimate claims to the free exercise of religion.

4. All requests for accommodation of religious practices are assessed on a case-by-case basis. In line with references (b) and (c), determination of a request for religious accommodation requires consideration of the following factors:

- a. Impact on military readiness, unit cohesion, good order and discipline, health and safety
- b. Religious importance of the request
- c. Cumulative impact of repeatedly granting similar requests
- d. Whether there are alternatives available to meet the requested accommodation and
- e. How other such requests have been treated

5. In making this decision, I reviewed reference (g), including the endorsements from your chain of command, the local chaplain and the advice of Chief, Bureau of Medicine and Surgery in reference (h).

a. A waiver of immunizations would have a predictable and detrimental effect on your readiness and the readiness of the Sailors who serve alongside you in both operational and non-operational (including training) environments. Primary prevention of disease through immunizations has been a key enabler for maintaining force health and avoiding disease-related non-battle injury. Granting your request will have a direct and foreseeable negative impact on the compelling Government interests of military readiness and health of the force.

b. While serving in the U.S. Navy, you will inevitably be expected to live and work in close proximity with your shipmates. I find that disapproval of your request for a waiver of immunization requirements is the least restrictive means available to preserve the Department of Defense's compelling interest in military readiness, mission accomplishment and the health and safety of military Service Members.

6. The Navy is a specialized community governed by a discipline separate from that of the rest of society. While every Sailor is welcome to express a religion of choice or none at all, our greater mission sometimes requires reasonable restrictions. You have my sincere best wishes for your continued success in your Navy career.

NOWELL JOHN B. Digitally signed by
ACKWELDER, JR. 1 7039911 JOHN.B.ACKWELDER
057611825 dn: cn=JOHN B. NOWELL, o=USN, ou=USN, email=jnowell@navy.mil

JOHN B. NOWELL, JR.

Copy to:
OPNAV (N131, N0975)
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IN THE MATTER OF THE VACCINE MANDATE CHALLENGE

DECLARATION OF Ch, Maj Thomas E. Fussell Jr

Pursuant to 28 U.S.C. §1746, I, Ch, Maj Thomas E. Fussell Jr declare as follows:

1. My name is Ch, Maj Thomas E. Fussell Jr. I am over 18 years of age and have personal knowledge of and am competent to testify on the matters stated herein.

2. I make this declaration in support of my challenge to the Department of Defense and Department of the Air Force mandates requiring that I be vaccinated against COVID-19. All statements made in this Declaration are true to the best of my own personal knowledge.

3. I currently reside in Tipp City, Miami County, Ohio. My home of record is Georgia and am a legal resident of Alaska.

4. I am an active-duty Chaplain in the United States Air Force, serving in the rank of Major. I am currently assigned to the 88th Air Base Wing, Air Force Material Command, Wright-Patterson Air Force Base, Ohio.

5. I began my military service on 5 October 2005 when I commissioned into the USAF Reserves as an Individual Mobilization Augmentee (IMA) as a Chaplain in the rank of 1st Lieutenant. I served in the United States Air Force Reserves until 5 October 2007 when I was accessed into USAF Active Duty as a Chaplain in the rank of Captain.

6. My promotions were as follows:

1st Lieutenant – 5 October 2005

Captain – 5 October 2007

Major – 1 April 2018

I have approximately 14 years of service as of March 1, 2022.

7. During my military career, I have had the following deployment to a combat zone or foreign area: 1) 07/2010 – 01/2011 Ali al Salem, Kuwait.

8. I have received the following awards during my military career: Air Force Commendation Medal with four oak leaf clusters, Meritorious Unit Award, Air Force Outstanding Unit Award, National Defense Service Medal, Global War on Terrorism Expeditionary Medal, Global War on Terrorism Service Ribbon, Nuclear Deterrence Operations Service Medal, Air Force Overseas Ribbon – Short, Air Force Expeditionary Service Ribbon with gold border.

9. I attended Commissioned Officer Training (2006), Basic Chaplain Course (2007), Squadron Officer School by correspondence (2009), Squadron Officer School in residence (2013), Chaplain Spiritual Leadership Course (2015), Deputy Wing Chaplain Course (2018), and Air Command and Staff College on-line (2018).

10. I submitted my Religious Accommodation Request (RAR) at Exhibit 1 asking to be excused from the Air Force's COVID-19 vaccine mandate based on my sincerely held religious beliefs. A summary of those reasons follows: I am religiously opposed to vaccines and other vaccine requirements that were developed with, tested on, or contain aborted human fetal cells based upon my understanding that vaccines and medicines that contain, were developed with, or used in testing, aborted human fetal tissue violates the principles of God's Word and my conscience. I was tested and confirmed to be positive for COVID-19 in February 2021. As such, I now have natural immunity from COVID-19.

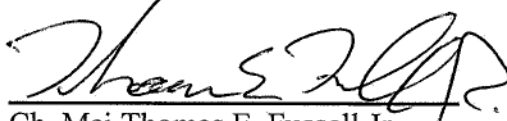
11. My RAR was denied on 27 April 2022, Exhibit 2. I submitted my RAR appeal, Exhibit 3, on 2 May 2022, which is "still pending".

12. The negative actions that have been taken against me for refusing the COVID vaccine and requesting a religious accommodation request: I was removed from being an alternate Religious Resolution Team (RRT) member due to my unvaccinated status. I was told that if I did not get vaccinated, I may have to separate from the Air Force, ending my 14-year Chaplaincy

career. I am restricted from traveling on Temporary Duty (TDY), even though I would be permitted to take ordinary leave to the same location, and therefore affecting my career progression.

13. I make this declaration under penalty of perjury, it is true and accurate to the best of my ability, and it represents the testimony I would give if called upon to testify in a court of law.

May 2, 2022


Ch, Maj Thomas E. Fussell Jr



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 88TH AIR BASE WING (AFMC)
WRIGHT-PATTERSON AIR FORCE BASE OHIO

20 September 2021

MEMORANDUM FOR AFMC/CC

FROM: Thomas E Fussell, Chaplain, Major, 88 ABW/HC, Wright Patterson AFB, OH

SUBJECT: Religious Accommodation Request re: Vaccine Waiver

1. I request an accommodation waiver of the COVID-19 vaccine requirement and other vaccine requirements that were developed with, tested on, or contain aborted human fetal cells based upon my understanding that vaccines and medicines that contain, were developed with, or used in testing, aborted human fetal tissue violates the principles of God's Word and my conscience.

- a. My DoD ID number is 1286532027.
- b. My Specialty Code is 52R3 - Chaplain.
- c. My unit of assignment is 88 ABW/HC.
- d. My faith group of preference is Christian.

2. This request is based on the fact that vaccines that use aborted human fetal tissue are morally reprehensible as it is using cells from a life that was killed for the sake of harvesting its parts. I believe, God our creator and the author of life, will hold me in judgement for knowingly participating in a vaccine program that destroys life for the sake of using its parts for my benefit. I have a sincerely held belief that vaccines and medicines that contain, were developed with, or used in testing, human fetal tissue violates the principles of God's Word and my conscience. Knowingly taking a vaccine that has anything to do with aborted fetal cells has significant spiritually condemning implications for me. There has to be a better way than harvesting baby parts to make anything. The end does not justify the means. I learned of this information in the Spring '21 from Dr Anthony Fauci, Chief Medical Advisor to the President, and the CDC.

3. Here are a few scriptures that teach that life is precious to God and how I form my perspective:

Jerimiah 1:5 "Before I formed you in the womb, I knew you". We were intentionally created for a great purpose of God's choosing. He knew our name and everything about us before we were formed in our mother's womb.

Psalms 139:13-14 "For you created my inmost being; you knit me together in my mother's womb. ¹⁴I praise you because I am fearfully and wonderfully made; your works are wonderful, I know that full well." God knew us from the very beginning.

In Matthew 18:6, there is a warning to those who take advantage of 'little ones': "But if you cause one of these little ones who trusts in me to fall into sin, it would be better for you to have a large millstone tied around your neck and be drowned in the depths of the sea." (NLT) When we treat babies as spare parts for ourselves, we invite the judgement of God, not only upon ourselves, but also onto our nation.

In Luke 18:6, 'Jesus called them to Him and said, "Let the little children come to Me, and do not forbid them; for of such is the kingdom of God.'" Children are very precious in the sight of God.

4. All my life, I have trusted my medical providers to have my best interest at heart. I am disturbed to discover that there are many more vaccines that contain cells, cellular debris, protein and DNA from aborted babies. There has to be a better way than to use aborted human fetal cells, or derivatives thereof, to create medicines and vaccines. I wish I had this information years ago. I may have made different choices back then.
5. I understand I must arrange an in-person interview with a Department of the Air Force chaplain and an in-person appointment with an appointed Air Force medical provider as part of the process for requesting a religious accommodation.
6. I understand that I am not required to receive this vaccine while I await a decision on my request. If my request is disapproved, I understand I must comply with the aforementioned vaccine requirement. If my request is approved, I understand I remain subject to COVID-19 screening testing. The point of contact for this request is the undersigned at 937-713-3006 and thomas.fussell.2@us.af.mil.

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FUSSELL.THOMAS.E.JR.1286532027
.JR.1286532027 Date: 2021.09.20 19:18:53 -04'00'
THOMAS E FUSSELL, Ch Maj, USAF



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE MATERIEL COMMAND
WRIGHT-PATTERSON AIR FORCE BASE OHIO

22 April 2022

MEMORANDUM FOR MAJ THOMAS E. FUSSELL

FROM: AFMC/CC

SUBJECT: Request for Immunization Exemption – Major Thomas E. Fussell, 88 ABW/HC

1. I have received your request for an exemption from Air Force immunization requirements based on your sincerely held beliefs. After carefully considering the specific facts and circumstances of your request, along with the recommendations from your chain of command and functional experts, I **disapprove** your request for exemption from immunization requirements, including the COVID-19 vaccine.
2. I understand your concerns about receiving vaccines and appreciate the gravity of these immunization requirements in light of your beliefs. However, when evaluating your request, I also had to consider the risk your exemption would pose for mission accomplishment, including readiness, unit cohesion, good order, discipline, and the health and safety of you and other Airmen. As a Chaplain, your duties require frequent and direct contact with Airmen and other personnel in large gatherings and private meetings. You are also subject to deployment and travel. Not being vaccinated restricts your role, increases the impact on others, tends to diminish unit cohesion, and limits your unit's ability to fully respond to mission or contingency requirements. Not being vaccinated also increases your risk for serious illness, hospitalization, or even death from contracting COVID-19, and/or spreading it to other vulnerable individuals in the workplace. This increased health risk elevates the threat to your unit's ability to accomplish its mission. I therefore find your vaccination furthers a compelling government interest. I also find that less restrictive means than vaccination are insufficient because the totality of mitigation measures like 100% telework, social distancing and masking at all times afford less health protection than vaccination and are not feasible considering your duties, while delayed readiness due to the time needed to become fully vaccinated and other mobility restrictions limit your role and degrade the operational effectiveness of your unit.
3. You have five (5) calendar days to begin a COVID-19 vaccination regimen, submit an appeal, or apply for voluntary separation or retirement if eligible. If you wish to appeal, you must provide your written appeal request to your unit commander. Your unit commander will route your appeal to the Air Force Surgeon General for processing. A copy of this memorandum will be placed in your automated personnel records.

BUNCH.ARNOLD.W.JR.1
107808708
ARNOLD W. BUNCH, JR.
General, USAF
Commander

Digitally signed by
BUNCH.ARNOLD.
W.JR.1107808708
Date: 2022.04.22
15:09:35 -04'00'

1st Ind, Maj Thomas E. Fussell

MEMORANDUM FOR 88 CPTS/CC

I acknowledge receipt of decision on my religious accommodation request on
_____ (DATE).

FUSSELL.THOMAS
.E.JR.1286532027
THOMAS E. FUSSELL, Maj, USAF

Digitally signed by
FUSSELL.THOMAS.EJR.12865320
27
Date: 2022.04.28 15:53:30 -04'00'



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 88TH AIR BASE WING (AFMC)
WRIGHT-PATTERSON AIR FORCE BASE OHIO



2 May 2022

MEMORANDUM FOR AF/SG

FROM: Ch Maj Thomas E. Fussell Jr, 88 ABW/HC

SUBJECT: Religious Accommodation Request Appeal re: Vaccine Waiver

1. I hereby appeal the denial of my request for a religious accommodation waiver from the COVID-19 vaccine requirement based upon my religious beliefs.

- a. My DoD ID number is 1286532027.
- b. My Specialty Code is 52R3.
- c. My unit of assignment is 88 ABW/HC.
- d. My faith group of preference is Christian.

2. I am disappointed to learn that General Bunch, AFMC/CC, chose to deny my Religious Accommodation Request. I am appealing this decision on the basis that my First Amendment religious rights as an American citizen, an Airman, and a Chaplain were not fully considered and are in opposition to a vaccine that was developed using human embryos. If anyone should be able to receive a religious accommodation, it ought to be a chaplain. Chaplains were, in fact, purposefully recruited specifically for their faith and the skills that it brings. I raised my hand to swear an oath to uphold and protect the constitution. I ought not have to lay my American rights down in order to fight to maintain my American rights.

3. In March 2020, the U.S. went into lockdown due to the Coronavirus. There was great fear in America, as well as the world, over a new and little-known virus that was sweeping the land. Terror gripped the country as we placed our trust in the government to help keep us safe. We were told it would be a two-week lockdown. Most people thought, "Ok, we can do this for two weeks". Two years later, the Orwellian mandates remain in place even though we have learned much of the virus and a vaccine was quickly produced. Thankfully the emergency is over. All of the Covid numbers are down and the nation is back to as normal as allowed. But the military remains in the dark ages. Fear, confusion, and hypocrisy caused more damage than the virus itself – sharp rise in anxiety, domestic violence, academic progress for students stalls, spike in suicide, etc.

4. When the vaccine was initially offered to Americans in December of 2020, the media's mantra was the same across all platforms -- that it was "safe and effective". If it were truly so, it would be like other vaccines and it would effectively inoculate people from the virus. Case closed. As time progressed, it was discovered that the Covid-19 vaccine was neither safe nor effective. Thousands of vaccine-induced injuries we observed, per VAERS reporting – moreso than any other vaccine. We have all know someone who was fully vaccinated and boosted contract Covid, showing the shot to be ineffective. Even the current vaccine that is available is reportedly for the original Corona-19 virus and is not supposed to be effective against the variants.


Strength Through Support

5. The standard method of treatment was 1) if someone contracted the virus, they should get tested. 2) If they tested positive, they were sent home to quarantine for 14 days. No medicines given. No treatments. Just stay away from others at home. 3) If it got bad, they were to go to the Emergency Room at a hospital. If they could still breathe fairly well, they were sent home and told that if they went into respiratory distress, then they could return. 4) If they returned to the Emergency Room in respiratory distress, they would then be put on a ventilator and given Remdesivir. If someone recovered at this point, they were very weak and had multiple complications. Many died. This was the narrative that the media presented. It was not challenged by the administration, regardless of the logical statistics that if someone contracted the virus, they had less than a 1% chance of dying from the virus. Also regardless of the fact that many doctors were showing effective traditional medical treatments for virus recovery when offered at early onset of the illness.

6. Much has been learned about the virus. We have learned that when the virus mutates, although the new variant may become more contagious, it also becomes less potent. Once a person contracts it, their body creates antibodies to fight the virus. The body also remembers that virus and is able to fight future viruses. This miracle of the human body is natural immunity. I do not know why the American government will not recognize natural immunity with Covid-19 when they do recognize it with other illnesses. As a Christian, I trust the natural immune system God provided for our bodies to fight a common virus, even if it is a new common virus.

7. Spiritually speaking, fear and faith cannot reside in the same place. They are diametrically opposed to each other. I refuse to live in fear of coronavirus. I will not live recklessly. I will follow appropriate safety measures in all things. But the coronavirus is not something to fear. I and my family have all had the virus. With help from medicines, we recovered quickly and fully. In Gen Bunch's memo to me, he states that by not getting the vaccine, I could die. I am not concerned about death. I know where I am going after I die. Every person will eventually die of something. It is highly unlikely I will die of a virus which I have survived and now have antibodies against, and which has a greater than 99% chance of survival.

8. The point of contact for this request is the undersigned at 229-254-1867 and thomas.fussell.2@us.af.mil.


Thomas E. Fussell Jr, Ch Maj, USAF

IN THE MATTER OF THE VACCINE MANDATE CHALLENGE

DECLARATION OF LT NATHANAEL A. GENTILHOMME, CHC, USN

Pursuant to 28 U.S.C. §1746, I, LT Nathanael A. Gentilhomme, CHC, USN, declare as follows:

1. My name is Nathanael A. Gentilhomme. I am over 18 years of age and have personal knowledge of and am competent to testify on the matters stated herein.
2. I make this declaration in support of my challenge to the Department of Defense and Department of Navy mandates requiring that I be vaccinated against COVID-19. All statements made in this Declaration are true to the best of my own personal knowledge.
3. I live in Spotsylvania County, VA. My home of record is Travelers Rest, Greenville County, SC.
4. I am an active duty Chaplain in the United States Navy endorsed by the Associated Gospel Churches (“AGC”). I am serving at the rank of Lieutenant and currently assigned to the Marine Corps Air Facility (“MCAF”), Quantico, Virginia.
5. I began my military service on 18 February 2009 when I was commissioned an Ensign in the Navy into the Chaplain Candidate Program Officer Program. I was later commissioned on 31 July 2014 and entered active duty in August 2014.
6. My promotions were as follows: Lieutenant (Junior Grade) O-2 with date of rank and effective date of 2/12/2011; Lieutenant O-3 with date of rank and effective date of 8/1/2015. I have approximately 13 years of service as of March 23, 2022.
7. During my military career, I have had the following deployments to foreign areas: 05/2015-07/2015 Japan, South Korea; 06/2016-08/2016 Philippines, Diego Garcia, India, Sri Lanka; 03/2017-04/2017 Marshall Islands; Hawaii; 10/2018-11/2018 TRIDENT JUNCTURE in Norway.

8. I have received the following during my military career: Two Navy and Marine Corps Commendation Medals and the Fleet Marine Force Qualified Officer pin.

9. I submitted my Religious Accommodation Request (RAR) (or Religious exemption) at Exhibit 1 on 16 September 2021, asking to be excused from the Navy's COVID-19 vaccine mandate based on my sincerely held religious beliefs. A summary of those reasons follows: I hereby state that my request is based upon the fact that this particular vaccine was made possible from research which utilized cell lines from aborted babies. Early in the development of mRNA vaccine technology, cells from aborted babies were used as "proof of concept" (to demonstrate how a cell could take up mRNA and produce the SARS-CoV-2 spike protein) or to characterize the SARS-CoV-2 spike protein. As a Christian, I believe the murder of babies at any stage of development within a woman's womb is wrong, and using medicine, pills, or vaccines directly or indirectly linked to aborted babies should be avoided at all costs. As a Christian, my body is the temple of the Holy Spirit and by getting any FDA approved COVID-19 vaccine, I would be defiling my body. Receiving the COVID-19 vaccine would go against my deeply held religious and moral beliefs causing me to sin against God and my conscience.

10. My RAR was denied on 09 November 2021 Exhibit 2. I submitted my RAR appeal, Exhibit 3, on 02 December 2021, which still "remains under consideration."

11. "Vaccine" used to mean a medical procedure that protected you from the disease against which you were being vaccinated against whereas COVID-19 vaccines do not protect you but are in reality a treatment. In December 2020, I was diagnosed with COVID-19, got pretty sick and recovered. Later in October 2021, my wife was diagnosed with COVID-19, got pretty sick and recovered. During that same time, though we did not get them tested, five of our six children also got sick, most likely COVID, and recovered. All while my wife and children were sick, I continued to live and interact closely with them, and did not get COVID a second time. I

strongly believe since I had previously had COVID, I had developed strong, natural immunity against COVID. It is now March 2022 and I still have not been re-infected with COVID-19, though our own Navy Doc who is himself fully vaccinated, has already had COVID twice. Ironically, even though there are multiple authoritative studies concluding that natural immunity is as good as if not better than the shots, the Navy/Marine Corps still requires me to get the COVID shot and is actively trying to prevent me from obtaining religious exemption from the shot mandate.

12. In the spring of 2021, the DoD came out with a new, yet short-lived policy, based on the Center for Disease Control's "recommendation" that said Americans who were vaccinated, no longer needed to wear masks indoors, while those who remained unvaccinated, still had to wear masks indoors. This was prior to the DoD officially enforcing the COVID-19 shot mandate, but those of us with religious beliefs or matters of conscience that would not permit us to get the shot, immediately began to be publicly discriminated against. I would walk into meetings where most personnel were not wearing masks, but I had to wear one. Immediately, my private medical information was visibly on display since most knew I was not wearing the mask by choice. It was an intrusion on my medical privacy, and worse it was Government approved discrimination and "mask shaming." The military prides itself in combatting discrimination at all levels, yet when it comes to COVID mitigation policies and the vaccinated vs. unvaccinated, they did not bat an eye at the humiliating mask discrimination policies. It was done all in the name of "public health and safety" even though most people I talked to acknowledged that all the COVID "mitigations/restrictions" at that point were primarily political.

14. Thankfully, I have not experienced any retaliatory or punitive actions from my command for submitting a religious accommodation request, however, I have experienced negative actions for questioning COVID "mitigation" policies and also for informing our Marines/Sailors of their

right to utilize the Religious Accommodation Request process. In March 2021, the COVID-19 shot was still voluntary in the Navy and Marine Corps. When I learned that unvaccinated Marines were being barred from going on trips, I asked the Commanding Officer (CO) of one of the commands I provide Chaplain Support to why he was penalizing his Marines for not getting a shot that was presently voluntary. His response was to kick me out of his office and accuse me of “not supporting the mission.” He claimed “I am not penalizing my Marines. If they don’t want to get vaccinated, they can stay in the rear with the gear.” When September 2021 came along, and the COVID-19 shot became mandatory throughout the DoD, this same command would not permit me to be the interviewing Chaplain for their Marines/Sailors during the Religious Accommodation interview process. They thought I would simply “rubber stamp” recommend for approval all RARs. This was a false assumption on their part and an improper handling of the whole matter. It is my job, during the Religious Accommodation Request Chaplain Interview, to assess the sincerity of a service member’s belief, not whether I agree with it or not, and that is exactly what I do during every interview. They were trying their best to prevent their Marines from getting any kind of support in their pursuits of seeking exemption from the COVID-19 shot via the RAR process. They reached out to another Chaplain, who is actually an Army Chaplain, to conduct around 25 Religious Accommodation Request Interviews, instead of me, the Navy Chaplain assigned to cover down on their unit. It has almost been one year, and even though there is a new CO at this one command, he has never attempted to speak with me, and I am still not permitted to provide Chaplain Ministry of presence throughout his command spaces.

Next, recently I had to submit my annual LT Fitness Report (FITREP). Prior to this one, I had twelve excellent FITREPS signed by previous COs all with the promotion recommendation code ‘EP’ for ‘Early Promote.’ My present CO gave me a promotion recommendation of only ‘P’ which is ‘Promotable.’ Further, he downgraded most of the language highlighting my

accomplishments during the previous evaluation period, ensuring that I will not get promoted in the spring of 2023 (when I will be in-zone for promotion for the first time). He mentioned that one of the primary reasons for giving me such low scores on my FITREP was due to the fact that I am significantly underutilized, not having access to more than 80% of the personnel I am supposed to be providing Chaplain Ministry support to. This is a direct result of continuing to be barred from carrying out deckplate ministry to our primary tenant command as a result of the old CO erupting at me for daring to ask him why he was penalizing Marines not getting the then voluntary COVID-19 shot. Had that never happened, I have no doubt my present CO would have given me much higher scores on my most recent FITREP. I believe the two are directly linked.

Additionally, around the time the COVID-19 shot mandate was implemented, I sent out two ALL HANDS e-mails to each of the commands I cover sharing the policy about how to go about submitting a Religious Accommodation Request and what might qualify a service member to submit one. A couple Marines ended up complaining about my e-mail, so my CO had a meeting to let me know that he and some others were concerned that it appeared I was encouraging Marines/Sailors to seek exemption from the COVID-19 shot mandate. My CO explained that when it comes to publishing messages connected with policy, he wanted to be included so he could help craft the message. I believe it is because my wording was not “politically correct” in that it did not promote the vaccine, but rather gave Marines/Sailors with sincerely held beliefs a possibility of not getting the shot. I firmly believe that if I had sent out an e-mail with the policy about Chaplains and Confidentiality, nobody would have said a thing to me, but since my e-mail served to advocate for Marines/Sailors with religious beliefs or matters of conscience at odds with the COVID-19 shot mandate, I was targeted and it was made clear that my attempt to advocate for Marines/Sailors was not permitted. The only messaging that has been allowed at the two commands I serve is “get the shot,” “wear your mask,” and “social

distance.” Any attempt on my part to question past COVID policies and advocate for those not wanting the shot was only met with accusations of not upholding Navy/Marine Corps policy and that I was risking “the health and wellbeing of personnel” assigned to our commands. However, not at any point have I risked “the health and wellbeing of personnel.” Marines/Sailors all around me got COVID from other people and places, but never from me. As a direct result of the fact that I have not wholeheartedly embraced and supported COVID-19 policy restrictions and the COVID-19 shot mandate, I received one Letter of Instruction (LOI) and one Record of Informal Counseling from my past and present COs.

15. The Navy has put out guidance in the recent past that essentially said Navy Officers whose RARs are denied may elect to waive their right to a Board of Inquiry (BOI) and resign or retire to guarantee receiving an Honorable Discharge and not a General Discharge. According to LT Stephanie Moore at PERS-834, Navy Officers may elect a BOI, but at that point an Honorable Discharge could not be guaranteed, though she could not say for certain it was not possible. There is great uncertainty for Navy Officers in my position. If our appeals get denied, right now it seems the only way to be assured of an Honorable Discharge is to resign, and waive our right to a BOI.

I make this declaration under penalty of perjury, it is true and accurate to the best of my ability, and it represents the testimony I would give if called upon to testify in a court of law.

March 25, 2022

/S/ Nathanael A. Gentilhomme
Nathanael A. Gentilhomme, CHC, USN



DEPARTMENT OF THE NAVY
HEADQUARTERS, UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

1730
MRA

NOV 09 2021

From: Deputy Commandant for Manpower and Reserve Affairs
To: Lieutenant Nathanael A. Gentilhomme 1382899306/4100 USN

Subj: REQUEST FOR IMMUNIZATION EXEMPTION

1. I have carefully considered your request for an immunization waiver. Your request is denied.
2. In making this determination, I considered your request dated 16 September 2021, the command endorsements, advice from the Director, Health Services, Headquarters, U.S. Marine Corps, and the recommendation of the Religious Accommodation Review Board. Additionally, I considered your right to observe the tenets of your sincerely held religious beliefs, and the government's compelling interests in mission accomplishment, including military readiness and the health and safety of the Total Force. I also considered whether an exception to the vaccination requirement is the least restrictive means of furthering the government's compelling interest. Finally, I consulted with legal counsel.
3. Per DoDI 1300.17, my decision must be consistent with mission accomplishment, including consideration of potential medical risks to other persons comprising the unit or organization. Immunizations are a critical component of individual and unit readiness. This compelling interest is not unique to the COVID-19 vaccination, and cannot be accomplished with the requested exception. I find that there is no less-restrictive way of accommodating your request that ensures military readiness and the preservation of the health of the force.
4. You have the right to appeal this decision to the Commandant of the Marine Corps. Should you decide to appeal this decision, your appeal should be in naval letter format, from you, addressed to the Commandant of the Marine Corps. Forward your appeal to the point of contact below, for delivery to the Commandant.
5. Point of contact on this matter is Mr. Bill McWaters at (703) 784-9386 or william.mcwaters@usmc.mil.

A handwritten signature in black ink, appearing to read "DAVID A. OTTIGNON".

DAVID A. OTTIGNON

Copy to:
Cmndr, MCINCR-MCBQ
CO, MCAF

IN THE MATTER OF THE VACCINE MANDATE CHALLENGE

DECLARATION OF CH (CPT) DOYLE G. HARRIS

Pursuant to 28 U.S.C. §1746, I, Chaplain (CPT) Doyle G. Harris declare as follows:

1. My name is Doyle G. Harris. I am over 18 years of age and have personal knowledge of and am competent to testify on the matters stated herein.

2. I make this declaration in support of my challenge to the Department of Defense and Department of the U.S. Army mandates requiring that I be vaccinated against COVID-19. All statements made in this Declaration are true to the best of my own personal knowledge.

3. I currently reside on Okinawa, Japan. My home of record is Indiana (Howard County) according to my official military file. My current residency is held in the state of Georgia, where I was last stationed. Georgia is where I hold a valid driver's license and where I vote.

4. I am an active duty chaplain in the United States Army, serving at the rank of Captain. I am currently assigned as the battalion chaplain for 78th SIG battalion, which falls under 516th SIG brigade and 311th SIG command, both located in Hawaii. I am stationed on Okinawa, Japan.

5. I began my military service on the 23rd of March 2003, in the U.S. Army Reserves while I was a seminary student at Asbury Theological Seminary. During the last 2 summers of seminary, I attended the Chaplain School house at Ft. Jackson. After graduation and marriage, I served in the local church as my denomination requires years of service for ordination. Upon ordination in 2010, I began actively drilling with the 983rd Engineer Battalion in Monclova, OH. In 2012, I submitted my accessioning packet with the hopes of transitioning to the active duty Army. I was selected in late 2012 and entered active duty service at Fort Carson, CO, on 13 May 2013.

6. My promotions were as follows: I swore into the Reserves as a 2nd Lieutenant and gained promotion to Captain on 23 March 2010, while still in the Reserves. I am currently in the promotion zone for possible selection to Major. The board met in March 2022, and the results are yet to be released. My time in the reserves, have earned me 5 years which will count toward the military's 20yr pension retirement. On 13 May 2022, I will have an additional 9 years of active duty service. These years combined, put me at 14 years of service.

7. During my military career, my family and I have been stationed at Fort Carson, Colorado (2013-2016); Fort Stewart, Georgia (2016-2019); and Okinawa, Japan (2019-present). I have had the following deployments to either combat zones or foreign areas: Kuwait/Jordan (October 2013-July 2014); Bulgaria/Romania (July 2016-October 2016); Korea (February 2018-October 2018).

8. During my military career, I have received 4 Army Commendation Medals, an Army Achievement Medal, a National Defense Service Medal, a Global War on Terrorism Service medal, a Global War on Terrorism Expeditionary Medal, the Korea Defense Service medal, an Armed Forces Service Medal, an Army Service Ribbon, and an Overseas Service Ribbon. Regarding postgraduate schooling, I have completed Captains Career Course, and 4 units of ACPE, CPE (Clinical Pastoral Education-while serving at a hospital).

9. I submitted my Religious Accommodation Request (RAR), **Exhibit 1**, asking to be excused from the Army's COVID-19 vaccine mandate based on my sincerely held religious beliefs, to my immediate commander (per the AR 600-20 defined process) on 13 September, 2021. My RAR is based on three significant foundations, a summary follows: 1st) Scriptural Foundation, 2nd) Medical history, and 3rd) Dilemma of Conscience.

1st) I have always believed that I need to be careful what is put in my body. I have always held conservative religious beliefs that are tied to my Nazarene Holiness roots. I do not drink

alcohol or smoke, and I try to live a healthy life. In this, I am living out the call I sincerely believe God has placed in my heart confirmed through scripture. 1 Corinthians 6 and 10 issue cautions to recognize that our bodies are temples of the Holy Spirit and that what we choose to put in them should not be taken lightly. This scriptural foundation convicts me to abstain from these new COVID vaccines with their lack of long-term data, and divergence from the historical long standing vaccine approval process. Medical information continues to surface showing troubling and adverse side effects from these vaccines. As I stated in my original RAR, this vaccine mandate requires me to violate my personal religious conviction to treat my body “as a temple of the Holy Spirit” (1 Corinthians 6).

2nd) My Army medical file will show that I am currently being treated by the Army for an autoimmune disease (Chronic Pain/Chronic Fatigue linked to Fibromyalgia). Autoimmune diseases are not the same as immune deficiency diseases. Autoimmune diseases do not make their host more susceptible to infections, rather the body is in some ways attacking itself. My conviction was, and still is, that allowing this new vaccine into my body could exasperate my existing medical condition. This mandate requires me to accept unknown, and potentially detrimental, future effects concerning my autoimmune disease.

3rd) Army DODI 1300.17 section 1.2 (Policy) states, “Service members have the right to observe the tenets of their religion...” furthermore, para b, states “...The DOD Components will accommodate individual expressions of sincerely held beliefs (conscience, moral principles, religious beliefs)...” While I have had many vaccines during my Army career, those vaccines were all proven through the long-standing multi-year FDA approval process. I believe it is morally and ethically wrong to impose any vaccine that does not have the backing of this historically followed approval process. This process was demonstrably shortened for any and all COVID vaccines which exist on our market. Therefore, this mandate places me in an ethical and

moral dilemma of conscience, which the Army's own regulations and instructions provide me an accommodation process for. After consulting with my primary care physician at the Naval Hospital on Okinawa, I submitted the required documents to request a medical exemption from the COVID vaccine as well. I do not have an approximate timeline this process will follow, but have been advised that most are either not approved or approved on a short-term basis.

10. In the days after I submitted my original RAR to my immediate commander (CPT Ryan Pidcock), I also obtained an official chaplain interview with CH (MAJ) Pottinger, who then submitted his official memo, concurring that my religious beliefs in this matter are sincere and stating that he deemed a denial of my RAR would significantly burden my sincerely held faith, forcing me into a position of moral compromise, (**Exhibit #2**). The required medical counseling was completed by my PCM, P.A. Sarah Begley, (**Exhibit #3**). The final document included in my initial RAR submission (more docs have been added since, that I do not have access to) was the counseling from my company commander, CPT Pidcock. When CPT Pidcock presented this document to me, I was asked to initial that I was refusing the vaccine. I found this self-incriminating statement to be an intolerable affront to my 1st Amendment, Free Exercise rights to seek a Religious Accommodation as outlined in Army Regulations and Policy. Therefore, I petitioned to have the statement changed to state that I "wished to seek an administrative exemption for Religious Accommodation" (as outlined in AR 600-20). These changes were made, and I signed (**Exhibit #4**). As my RAR packet made its way up the chain of command, I received a copy of my company commander's official memo. In this memo, dated 27 September, 2021, Captain Pidcock recommended denial of my religious accommodation (**Exhibit #5**). In a personal phone conversation, he shared with me that he did believe that I was completely sincere in my sincerely held religious belief, however, he had recommended denial on the basis of safety, health, and mission accomplishment, stating that my unvaccinated status "risk[ed] the

health of his team, peers, and community.” In stark contradiction to this argument in his memo, during my final TDY to his location on mainland Japan (Camp Zama) less than 2 months later (15-20 November 2021), he and his 1SG (Clyde Vaughan) picked me and my Religious Affairs Specialist up. Upon getting in his car, he informed us that we could remove our masks because, “Up in Zama, they were not needed anymore.” This was during the time of the “Delta-Variant” surge. In knowing that my mission for that trip was Battlefield Circulations, face to face time with Soldiers, and teaching marriage classes, his response shows the lack of sincerity of his memo arguments regarding health and safety of the overall force. It is ludicrous that he would recommend that I not wear a mask around Soldiers, if he truly felt my unvaccinated status made me a danger to those around me. It is this type of inconsistency between written word and action, that demonstrates pressure from high levels to come up with artificial reasoning for denial of RA requests. The lack of validity of CPT Pidcock’s argument is also demonstrated in the fact that from March 2020 (when infections started to hit Japan) until April 2022, I remained COVID free. During this same period of time, thousands of Soldiers and dependents in the USARJ footprint, many of whom were fully vaccinated (and some “boosted”), contracted and spread COVID. In this real-life situation, I was not the one who posed a “risk to [my] team, peers, and community.” In addition to these points, his argument that my unvaccinated status would remove me from “the human element” eventually resulting “in mission failure,” has never had any credible support. There has not been any circumstances in which I have been removed from face to face interactions any more than my vaccinated peers have been. Additionally, masks are not required on our military installation for unvaccinated and vaccinated alike.

11. While conducting a routine pre-operative COVID test on 13 April 2022, I tested positive and was immediately put into quarantine. I remained asymptomatic throughout the 10-day home isolation period. Should my original RAR be denied, I do plan on including this updated

information into my appeal as I now have natural immunity, and had no ill effects from the COVID infection. **Exhibit #6** is the Memorandum from US Naval Hospital Okinawa, documenting my recent COVID positive.

12. Even though my RAR was officially submitted to my immediate commander on 13 September 2021, I have recently found out that it was finally submitted to the Office of the Surgeon General (OTSG) on 8 March 2022. A USARJ legal representative stated in an e-mail that the USARJ commanding general recommended in writing to the OTSG that he recommended denial of my RAR, (**Exhibit #7**). (The opinion expressed in this email also gives some insight into the punitive mindset of the Army regarding those who are attempting to have their religious freedoms protected). I have not yet received any communication from the OTSG and furthermore have been told that it could take several more months. If denied, I do plan to submit an appeal as outlined in FRAGO 17 to HDQA 225.21.

13. In regard to the COVID vaccines themselves, I believe it is untenable and immoral that the DOD knowingly continues to push use of the “experimental use only” vaccines to fulfill this mandate in the absence of availability of the only officially mandated and labeled Comirnaty vaccine. Many locations in the US and abroad still do not have access to the Comirnaty-labeled vaccine. This is true for Okinawa, Japan as well; as of 26 April 2022, the Comirnaty vaccine is not available (**Exhibit #8**). This particular vaccine itself was artificially rushed through the FDA process for full approval in less than a year. This, combined with the shift away from the definition of vaccine that has been historically and medically accepted, to one that does not protect you from contraction of illness but simply lessens the symptoms in some cases, is abhorrent. Real time evidence of cases in the USARJ footprint shows that my vaccinated peers have continued to not only contract COVID, but have demonstrated symptoms that took them away from work for 10 to 14 days at a time. I, on the other hand, remained COVID free much

longer than most of my vaccinated peers, and upon finally contracting it in April 2022, I had no symptoms whatsoever.

14. Though I have never officially refused, but rather filed a RAR, I have been discriminated against in various ways. Beginning on 18 January 2022, I was required to arrive at work 30 minutes early on the first day of every work week to submit to a supervisor-witnessed “Antigen Nasal Test” prior to allowing me to work. This was an order directed in FRAGO 10 (19 November 2021). I have uncomfortably complied each week if not on Leave. This blatant discrimination which targets the few who have chosen to file for a religious accommodation, has proven futile. Vaccinated service members and other employees are not preemptively tested in this manner, but rather are allowed to work until they begin exhibiting symptoms. Literally thousands of vaccinated persons have tested positive during these months after beginning to experience symptoms. Yet somehow I am a threat to their health and safety without testing negative before each work week begins?

In May 2021 (a full 3 months before the FDA approved the Comirnaty vaccine) our outgoing battalion commander LTC Temko was visiting Okinawa from Camp Zama on his farewell tour. During this trip, a group formation of approximately 125 Soldiers, DACS, and Japanese Locals (LN’s) were gathered outside headquarters for a photograph and LTC Temko’s/CSM Stollings final words. Before those comments, LTC Temko walked up to me in public and asked me in the presence of other Soldiers and officers why I hadn’t taken the vaccine. This was a very public conversation initiated by my commander who far outranks me, which forced me to release personal and private medical information (regarding my autoimmune disease) to those around me who had no right or need to know my Personal Health Information (PHI). This is a HIPPA violation and one which I understood to be coercive in nature. As proof of this occurrence, I am including an e-mail which I sent to the USARJ/USARPAC IG hotline,

and the IG Update they emailed back to me (Exhibit #9). In that guidance it states that no one can “order or coerce their personnel to take the vaccine, nor create the perception that their personnel have to be vaccinated” among other guidelines. I believe the public shaming and intimidation involved in this public encounter with my commander was coercive. The IG SGM called me in response to my email, and during that conversation she told me that no less than 3 additional complaints had been filed regarding either that meeting or a similar meeting LTC Temko conducted at Camp Zama a few days prior.

Additionally, the element of coercion was used in the truncated timeline given to Soldiers in the official Order (78-2109-03) to begin the vaccination sequence (Exhibit #10). As per the Japan Standard Time date stamp on this order, it was disseminated at 1700 (Close of Business) on 20 September 2021. This order states that all first doses should be complete no later than 22 September 2021. As a battalion chaplain, I fielded multiply phone calls on 21 September as frustrated Soldiers first read this official order giving them only until the following day to get their first dose of the vaccination.

15. The following career damaging and negative situations have applied to my personal situation. To date I have been denied the opportunity to submit a TDY request at least four separate times. In late February 2022, there was a Leaders Week at Camp Zama on mainland Japan. All staff officers, company command elements, and a few key DAC’s traveled to Camp Zama for team building activities and meetings. I was told in late January that I would not be going because, “it would be too much trouble” to submit an unvaccinated travel memo to the appropriate level. Similarly, I was denied the ability to attend the late April 2022, ARCYBER UMT training in Georgia, because of my unvaccinated status. Due to this issue, I have also been denied twice the ability to travel to the Soldiers from my command that are stationed in Guam and Camp Zama. The Army order that leads to these denials has hurt my ability to minister to

Soldiers, to be a team player, and to enhance the operability and relationships between myself and other ARCYBER UMT teammates.

Additionally, my ability to PCS at all this Summer is growing slimmer and slimmer. I will complete my 3-year orders for my current position with 78th SIG in Okinawa, this July. I have been informed that due to the “pending” status of my RAR, I am required to receive an Exception To Policy (ETP) in order to action any PCS orders given to me. As of 25 April 2022, the Senior Army Mission Commander on Okinawa (COL Paone) has recommended denial of this ETP for no other reason than my non-vaccinated status, (**Exhibit #11**). Furthermore, I am being told that my RAR may not be adjudicated for several more months, at which point I will have to also wait through the separate RAR Appeals process if my original RAR is denied, further lengthening the time I am unallowed to PCS. The denial of my ETP to PCS means that I will be unable to leave this position, even though my replacement has already been identified and placed on orders to report early July 2022. This leaves me in a double-slotted position, which is disadvantageous for both myself and the incoming chaplain, as we will attempt to share the same job and get rated for one battalion chaplain slot. This will have a negative effect on my OER, with direct negative implications for my possibility of future promotion. This is also a detriment to the battalion I would have PCS'd to at Ft. Carson, CO, as they will now not have a chaplain assigned to their soldiers and families. The inability to PCS also places undue stress on my family. We have now served overseas, far away from extended family, for nearly 3 years. If I were allowed to PCS this summer, we would be able to visit family whom we have not seen since July 2019, enroute to our new duty station. (These family members have not been allowed to visit us here in Okinawa due to Japan's closed country status for tourists). In addition, the inability to PCS along with the upcoming end date of my current orders, prevents me from enrolling my children for the 2022-23 school year in any location. Army Regulation 600-20-24

requires that “[a] commander must then demonstrate how/why the government action furthers a compelling government interest and is the least restrictive means of furthering that interest.”

Denying an unvaccinated Soldier the ability to PCS, is not the least restrictive means available. Especially in light of the current worldwide COVID situation as its scope and severity continues to decrease, and the lack of any extra mitigation or restrictive requirements for unvaccinated personnel to travel other than providing proof of a negative test, which fully vaccinated personnel are required to do as well. To further illustrate the illogical and punitive nature of not allowing unvaccinated Service Members to PCS, is the fact that these same unvaccinated Service Members are freely allowed to take personal Leave for vacations both here in Japan and abroad, to any country currently open to tourist travel, to include the U.S. I pose the question: How am I such a risk and danger so as not to be allowed to PCS, but yet I can travel to the same places for vacation?

Exhibit #12 is a name-redacted e-mail from another USARJ Legal person who desires anonymity, and suggests that they would be retaliated against if placed into the spotlight. I will let this email stand on its own merits as it sheds light on the coercive, petulant and penalizing nature that is being exhibited from command levels (and higher) toward unvaccinated Soldiers within the USARJ footprint, that are attempting to follow their sincerely held religious beliefs while following Army guidelines for requesting a Religious Accommodation.

16. All of the above instances of retaliation and prejudice against me and my family because of my status as an unvaccinated chaplain who exercised his constitutional and statutory rights to file a Religious Accommodation Request are also violations of the National Defense Authorization Act (NDAA). It is the duty and obligation of the Government to follow the laws they pass, and they have not done so. Section 533 of the 2013 National Defense Authorization Act (NDAA) is officially named “PROTECTION OF RIGHTS OF CONSCIENCE OF

MEMBERS OF THE ARMED FORCES AND CHAPLAINS OF SUCH MEMBERS.” Para A: states “The Armed Forces shall accommodate the beliefs of a member of the armed forces reflecting the conscience, moral principles, or religious beliefs of the member and, in so far as practicable, may not use such beliefs as the basis of any adverse personnel action, discrimination, or denial of promotion, schooling, training, or assignment.”

The actions toward me by the Department of Defense are Religious Discrimination, and are anything but the “accommodation” spoken of in NDAA 2013, section 533. Senior Army Leadership is willfully blind to statutes protecting religious liberty and their obligation to obey the duly passed laws of the United States.

17. Throughout my years in the Chaplaincy, I have assisted Muslim Soldiers approaching Ramadan as they expressed their constitutionally protected right to free exercise. I have assisted Norse Pagans in their search for a higher power. I have met with Wiccan’s, and Sikh Soldiers to discuss how I can be of assistance to them in the practice of their chosen religion. I have assisted soldiers and families of various faiths, as well as no faiths at all, to provide for their needs when asked. I have assisted soldiers in receiving all manner of Religious Accommodations for needs related to their held beliefs. I have done this in good faith, always believing that Free Exercise for one means Free Exercise for all. Never in my wildest dreams did I believe that I would be filing for a Religious Accommodation of my own, to be allowed to abstain from having an unproven substance forcibly placed into my body in order to continue serving America with honor. **Exhibit 12** referenced above, describes in vivid detail the direction the Army is heading for those who will not “bend the knee.” Leaders from the SECARMY all the way down have stated their intentions. Army commanders are being pressured from above to make this as painful and punitive as they possibly can.

My annual Officer Evaluation Rating for the 2019-2020 year and the 2020-2021 year showed that I receive the highest rating of "Most Qualified," for both (2021-2022 not yet concluded), yet there is now a very real possibility that I will receive a negative evaluation, General Officer Memorandums of Record (GOMOR), and a less than honorable discharge/dishonorable discharge when there is nothing in my record to warrant that characterization of my service. Should this happen, it would not only end my career, but would also have a significant impact upon future benefits such as the Post 9-11 GI Bill and future VA benefits. While my RAR has not been returned from the OSTG, I have been told that once it does, I will have 7 days to either begin the course of vaccination or file an appeal. If I file an appeal no one knows how long that will take, meanwhile I will remain locked into a no PCS status that continues to have negative consequences.

These last two years plus have taught me just how much can change while nothing changes at all. Seemingly every day there is updated news on masks, news regarding how breakthrough case numbers continue to rise, news on surging Cancer/Heart disease rates/and other conditions (DMED stats) which are way up among young healthy vaccinated military personnel. We have been told that vaccination is the key to full protection, then it changed to taking a second dose, and now an unforeseen number of boosters for protection. This begs the question: Where does this end? My office currently sits 15 miles from Hacksaw ridge where during the battle of Okinawa (WWII) a brave man named Desmond Doss saved 75 lives during one battle. For his bravery, President Harry S. Truman awarded him the Presidential Medal of Honor. Interestingly, nearly a year prior to that awful night the Army was ready to kick him out for following his conscience which was informed by his devoutly held religious faith. If the U.S. Army does not see the error of their ways and relent on this persecution then truly, we have not learned from our history and we will be doomed to repeat it.

These last two years I have seen the Army go to great lengths to accommodate the free exercise of sexuality. They have gone to great lengths to accommodate the free exercise of gender dysphoria. They have gone to great lengths to validate the voices of the victims of sexual abuse and assault. Yet in all of these strides toward equal opportunity for all, they seem to have no tolerance for those who hold genuine expressions of sincerely held religious beliefs. We have been labeled “anti-vaxxers” or “anti-science.” I feel I am neither, yet I have been made to feel like I am the dirty, unclean one over and over again. When I raised my hand and swore an oath to serve this country, I was not swearing to support any particular president. I have served under both liberal and conservative alike. I swore to uphold and defend the Constitution of the United States against all enemies foreign and domestic. Today, our country certainly has foreign enemies, but our most significant fight is not against the foreign but against the domestic. Our founding fathers were wise enough to see times like this coming. Our country was built upon free exercise of religion, and if we do not get this right, we will be changed to the core. If free exercise is allowed to die, the very foundation our nation was built upon will crack and disintegrate. May God help us. Pro Deo Et Patria!

I make this declaration under penalty of perjury, it is true and accurate to the best of my ability, and it represents the testimony I would give if called upon to testify in a court of law.

April 27, 2022


Doyle G. Harris
CH (CPT) USA

IN THE MATTER OF THE VACCINE MANDATE CHALLENGE

DECLARATION OF CH, CAPT JEREMIAH HENDERSON

Pursuant to 28 U.S.C. §1746, I, **JEREMIAH P. HENDERSON** declare as follows:

1. My name is **JEREMIAH P. HENDERSON**. I am over 18 years of age and have personal knowledge of and am competent to testify on the matters stated herein.
2. I make this declaration in support of my challenge to the Department of Defense and Department of the **United States Air Force (USAF)** mandates requiring that I be vaccinated against COVID-19. All statements made in this Declaration are true to the best of my own personal knowledge.
3. I currently reside at **ALAMOGORDO, OTERO COUNTY, NM 88310**. My home of record and where I am domiciled is **ALAMOGORDO, OTERO COUNTY, NM 88310**.
4. I am an active duty chaplain in the United States **AIR FORCE** serving at the rank of **CAPTAIN**. I am currently assigned to the **HOLLOMAN AIR BASE, HOLLOMAN, NM, 88330**.
5. I began my military service on 26 AUGUST 2004 when I enlisted in the New York Air National Guard as a Chaplain Assistant. I served as an enlisted member until 12 JUL 2019 and left at the rank of Master Sergeant, pay grade E-7. I was commissioned on 13 JUL 2019 without a break in Service and entered Active Duty.
6. My promotions were as follows: **Airmen First Class (26 AUG 2004), Senior Airman (11 MAY 2006), Staff Sergeant (25 FEB 2009), Technical Sergeant (25 MAY 2011), Master Sergeant (21 AUG 2017), First Lieutenant (13 JUN 2018), Captain (13 JUN 2020)**. I have approximately 17.5 years of service as of 1 MAR 2022.

7 During my military career, I have had the following deployments to either combat zones or foreign areas: **06/2008-08/2008 – Aeromedical Evacuation Mission Ramstein AB, Germany, 04/2021-10/2021 – Al-Udeid AB, Qatar and Undisclosed location, Jordan.**

8. For my service, I have received the following: **Meritorious Service Medal, Air and Space Commendation Medal with two devices, Air and Space Achievement Medal, Meritorious Unit Award, Air and Space Outstanding Unit Award with four devices, Air Reserve Forces Meritorious Service Medal with three devices, Air and Space Recognition Ribbon, National Defense Service Medal, Armed Forces Expeditionary Medal, Global War on Terrorism Service Medal, Humanitarian Service Medal with device, Air and Space Expeditionary Service Medal with Gold Border with device, Air and Space Longevity Service Award with three devices, Armed Forces Reserve Medal with ‘M’ Device, USAF NCO PME Graduate Ribbon with device, Basic Military Training Honor Graduate Ribbon, Small Arms Expert Marksmanship Ribbon, Air and Space Training Ribbon with device, as well as the 2018 Minuteman Award given to the Most Outstanding Air National Guard Chaplain Assistant, 2018 109th Airlift Wing Wing Staff Non-Commissioned Officer of the Year, 2020 4th Quarter 49th Wing Staff Company Grade Office of the Quarter, 332nd Expeditionary Wing Staff Company Grade Officer of the Month (2x - June 2021/August 2021), and the 109th Command Chiefs Master Sergeant’s Guardian Award given for community service and professional development. I have been selected for and graduated Airmen Leadership School (Aug 2008), Air Force Non-Commissioned Officer Academy (Jun 2016), and Air Force Senior Non-Commissioned Officer Academy (Mar 2019).**

9. I submitted my Religious Accommodation Request (RAR) (or Religious exemption) on **18 Oct 21**, and was asked to resubmit with adjusted verbiage from a template on **19 Oct 21**, Exhibit 1 asking to be excused from the **USAF’s** COVID-19 vaccine mandate based on my

sincerely held religious beliefs. A summary of those reasons follows: 1) **the sanctity of human life and the use of aborted fetal cells, 2) the stewardship of my body as God's temple, 3) the sanctity of the human conscience and the call for the just to live by faith.**

10. My RAR was denied on **4 Mar 2022, served to me on 28 Mar 2022 upon return from leave**, Exhibit 2. I submitted my RAR appeal, Exhibit 3, on **6 Apr 2022**, which is **still pending**.

11. The following discriminatory, retaliatory, career damaging, negative, punitive or administrative actions have been taken against me for refusing the alleged COVID vaccine and requesting a religious accommodation request: COVID-19 testing only for unvaccinated members, masks only for unvaccinated members.


12. I was denied a Permanent Change of Station despite being on the Final Vulnerable to Move List (VML) due to guidance given by AF/A1 (23 Nov 2021). I contacted assignments and was told that the reason was my pending religious accommodation request. I was also advised that I am unable to attend my Chaplain Endorser-mandated training due to my vaccination status **(AFI 52-101, 3.1.1.5.2.1. Endorser-Mandated Events. When endorsing organization mandate attendance at trainings, meetings, consultations, or other events, the event is an Air Force requirement and temporary duty is authorized...3.1.1.5.1 Chaplains must comply with the requirements of their ecclesiastical endorsing organization (T-0)).** Further, DAFI 52-201, **"1.3 A Member's expression of sincerely held beliefs may not be used as the basis for any adverse personnel action, discrimination, or denial of promotion; and may not be used as a basis for making schooling, training, or assignment decision (T-0)."**

13. In my initial Commander counseling (20 Oct 22), I was informed that the vaccination was condition of employment and that "noncompliance with immunization requirements may adversely impact (my) ability to deploy, (receive) assignment, or international travel." I was also

informed “that if, after a thorough analysis of (my) request, the religious accommodation could not be met, administrative actions may be considered (to) include reassignment, reclassification, or separation.” **The Services have made it clear that resisting the vaccine, comes with a high price, including progressive discipline from Letter of Reprimand until administrative separation from the Department of Defense. A general discharge in this case is a punitive discharge because it is associated with people with discipline problems, will follow you all your life, demeans and mischaracterizes your service and denies VA benefits. That could be a problem for chaplains seeking to continue to do ministry as a civilian in addition to the loss of major veterans’ benefits and retirement. If given the choice, *i.e.*, accept vaccine or agree to an unqualified resignation or face discharge, this would threaten my calling as a Chaplain, and my ability to financially care for my wife and six children. This followed a more than ten-year journey of higher education (over 200 higher education credit hours) and a more than three year pastoral ordination process.**

I make this declaration under penalty of perjury, it is true and accurate to the best of my ability, and it represents the testimony I would give if called upon to testify in a court of law.

April 8, 2022


JEREMIAH P. HENDERSON
Ch, Capt, USAF



**DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND**

4 March 2022

MEMORANDUM FOR CAPTAIN JEREMIAH P. HENDERSON

FROM: HQ AETC/CC
1 F Street, Suite 1
JBSA Randolph TX 78150-4324

SUBJECT: Decision Regarding Religious Accommodation Request

I have received your accommodation request for exemption from the COVID-19 immunization requirement based on your religious beliefs. After careful consideration of the specific facts and circumstances, I deny your request for exemption from Air Force COVID-19 immunization standards based on the recommendations from your chain of command and the Religious Resolution Team (any other religious exemption that you seek must be addressed in a separate, specific request). A copy of this decision memorandum will be placed in your automated personnel records.

I thoroughly reviewed your request, examined the comments and recommendations from the functional and legal experts, and considered the impact on you personally, the Airmen with whom you work and the mission. I find that your request, while sincere, does not meet the threshold necessary for an exemption.

First, the Air Force's compelling government interest outweighs your individual belief and no lesser means satisfy the government's interest. For the past 18 months, the Air Education and Training Command fought through the COVID pandemic by implementing several extreme measures and processes to ensure the health, safety and welfare of our Airmen. These measures included maximum telework, workplace occupancy limitations, extreme adjustments to Basic Military Training to include multiple training sites and modified training, and remote learning for most Professional Military Education to name just a few actions. Similar measures for the medical community included telehealth consultations and reduced in-person appointments. Despite these efforts, the Air Force remained in this posture until vaccinations became available and administered, and only then did our pandemic numbers begin to decrease. Continuing to implement these drastic measures detracts from the readiness, efficiency, good order and discipline of the force, and is unsustainable as the long-term solution.

When I reviewed your request, I used the same method as I did for requests from other similarly situated individuals, taking into account factors such as your duty position and rank. In your particular position as a Chaplain, there is a compelling government interest for you to receive the vaccine. Specifically, your job requires you to perform religious rites, conduct worship services, provide confidential counseling and advise commanders on religious, spiritual, and moral matters. An exemption will negatively impact unit cohesion as you must interact with the entire base populace, including elderly retirees. Your personal lack of readiness will impact

your ability to deploy, perform temporary duties away from your home station, and be transferred overseas. Even if you are permitted to travel on official orders with an exemption, your ability to perform the mission may be limited due to restriction of movement and isolation requirements that are inapplicable to vaccinated members. Finally, failure to get the vaccine increases the risk to both your own health and safety and that of those you interact with, including operators, support personnel, and the public.

Lesser means to accomplish the government's compelling interest are insufficient. You cannot accomplish your duties via telework as you are required to have close contact with others. Further, your ability to lead and mentor subordinates is not as effective if you must interact virtually or while remaining socially distanced. Finally, mask wear alone is an insufficient intervention.

Upon receipt of this decision, I expect you will take every action necessary to comply with the requirement for COVID-19 immunization as soon as possible. You have five (5) calendar days from receipt of this memorandum to accomplish one of the following: (1) receive an approved COVID-19 vaccination and provide proof of vaccination to your commander; (2) submit for retirement or separation; or (3) appeal this decision to the Air Force Surgeon General. Should you elect to appeal this decision, follow the procedures in AFI 52-201, *Religious Freedom in the Department of the Air Force*, Chapter 6. If you appeal this decision, submit your appeal to your commander in writing. Include in your appeal any additional matters you wish for the AF/SG to consider. Your commander will forward your appeal and any additional matters to HQ AETC/SG for further processing.

If you have any questions, contact HQ AETC/HC at 210-652-3822 (DSN 487), or email at aetc.hc@us.af.mil.



MARSHALL B. WEBB
Lieutenant General, USAF
Commander

cc:

Member's Unit

Member's Servicing FSS

IN THE MATTER OF THE VACCINE MANDATE CHALLENGE

DECLARATION OF Chaplain (CPT) Andrew Hirko

Pursuant to 28 U.S.C. §1746, I, **Andrew Michael Hirko** declare as follows:

1. My name is **Andrew Hirko**. I am over 18 years of age and have personal knowledge of and am competent to testify on the matters stated herein.
2. I make this declaration in support of my challenge to the Department of Defense and Department of **The US Army** mandates requiring that I be vaccinated against COVID-19. All statements made in this Declaration are true to the best of my own personal knowledge.
3. I currently reside at [REDACTED] **Fort Campbell, KY 42223**. My home of record and where I am domiciled is **St. Augustine, St. John's County, Florida**.
4. I am an active duty chaplain in the United States **Army** serving at the rank of **Captain**. I am currently assigned to the **1-502D IN REGT, 2BCT, 101ST ABN DIV (AASLT) BLDG 7071 Fort Campbell, KY 42223**.
5. I began my military service on **21 JAN 2021** when I started my training at **Chaplain Basic Officer Leadership Course (CHBOLC)**. I was commissioned on **21 JAN 2021** and entered active duty on **21 JAN 2021**.
6. I have approximately **14 Months** years of service as of March 1, 2022.
8. I have received the following **a coin from the Chief of Chaplains (Maj. General for my work at CHBOLC and I was ranked the #1 active duty chaplain in my CHBOLC class that graduated in April 2021**.
9. I submitted my Religious Accommodation Request (RAR) (or Religious exemption) at Exhibit 1 asking to be excused from the **Army's** COVID-19 vaccine mandate based on my sincerely held religious beliefs. A summary of those reasons follows: **My Religious**

accommodation and appeal is on the grounds that the COVID-19 vaccinations: a) utilize mRNA's unscriptural design; b) utilize aborted fetal tissue during the testing phase and c) the long term side effects are unknown. Also the current short term side effects from the current COVID vaccines (d) do present a real adverse impact to force readiness. DoD data suggests three-fold and 10-fold increased risk of cancer and neurological disorders, respectively, during COVID vaccine implementation. Additionally, a recent peer-review study from Lund University shows the mRNA Covid-19 vaccine does become DNA in liver cell. All of these facts violate my conscience.

Scripturally, this appeal is based on my strong Christian belief that: a) all humans are made in the image of God (Genesis 1:27); b) God creates humans who, have meaning even in the womb. (Psalm 139:13); c) I am fearfully and wonderfully made (Psalm 139:14) and my physical body is created by God and is the temple of the Holy Spirit (1 Corinthians 6:19-20). My Denominational Endorser also affirms that my objection is based on my firm religious beliefs.

10. **My RAR was denied on Feb 23, 2022 but I wasn't notified until March 15, 2022 Exhibit 2. I submitted my RAR appeal, Exhibit 3, on March 17, 2022, which is "still pending." I believe the appeal should be approved because Chaplains like myself, play a vital role in maintaining this all-important structure. One of the main roles of a chaplain is to provide pastoral counsel support to Soldiers of all faiths enabling them through counsel and encouragement, to act according to their conscience, especially when faced with apparent conflicts between doing what is right and following orders. Forcing chaplains to violate their own conscience renders them effectively useless to the men and women who look to them for support in maintaining their moral integrity. Congress has clearly demonstrated its intent to specially protect chaplains' rights of conscience in Section 533 of the National**

Defense Authorization Act of 2013. Forcing me to take a COVID-19 vaccine against my conscience tramples on this clear Congressional intent and severely undermines the effectiveness of my chaplaincy. Reference DoDI 1300.17, Religious Liberty in the Military Services 1.2.e states that the “burden of proof is placed upon the Department of Defense (DoD) Component, not the individual requesting the exemption” to show that the requirement to vaccinate is “the least restrictive means of furthering that compelling governmental interest. In fact, the denial is the most means of furthering the supposed governmental interest. Having been effectually accommodated for the past 14 months of the pandemic (since I joined the Army), the Chain of Command’s claim that least restrictive means short of vaccination (social distancing, mask wearing, testing) are not sufficient to the furtherance of compelling governmental interests, is untrue. I am successfully exercising these least restrictive means to complete all my duties; to not pose any transmission health risk to others; to remain healthily force ready; and to continuously support mission accomplishment. I also have natural immunity from contracting the virus which, the CDC has stated is superior to the vaccine.

11. **As stated above I have a serious conviction about taking vaccines that may alter my DNA. A recent peer-review study from Lund University shows the mRNA Covid-19 vaccine does become DNA in liver cell. This facts violates my conscience.**

12. I have been absolutely denied the presumption of natural immunity established by AR 40-562. The following retaliatory, career damaging, negative, punitive or administrative actions have been taken against me for refusing the alleged COVID vaccine and requesting a religious accommodation request:

I was removed at the last minute from our unit’s external evaluation training at the Joint Readiness Training Center (JRTC). All of the unvaccinated soldiers including myself were

removed at the last minute for maximum embarrassment and coercion. This left our unit without a chaplain and without a plan for religious support because it was done within hours of us leaving for training. During that training period I was also denied leave to go pursue other job opportunities because of the prospect of being kicked out of the Army. This leave was then approved at 1900 on the first day that I requested after had already cancelled my flights. Additionally, I am required to submit a robust leave packet anytime that I want to take leave. This leave packet has to go through the division surgeon and be approved by the Brigade Commander. Also I have be publically and privately ridiculed and questions by other chaplains questioning the sincerity of my convictions. My wife and children have been deeply affected through this process of taking a stand against the vaccine. My wife has severe anxiety about me not being able to provide for my family and she cries on a daily basis due to the stress of the situation. There have been many situations that she has been excluded from chaplain's wife's events because they know that I am not vaccinated. My children have been under great stress because they have been told that we are going to get kicked out of the Army. Overall, this process has caused great angst, anxiety and stress on our marriage and or lives.

I deeply desire to continue to serve my country, and support and defend its sovereign Constitution, as I have for the last 14 months. I respectfully request that this appeal be approved, so that I may continue to honor my God and patriotically serve my country. If approved, the Army will retain a passionate chaplain and leader with over 20 years of ministry training, and experience. If denied, I may be involuntarily separated due to my sincerely held religious beliefs.

I make this declaration under penalty of perjury, it is true and accurate to the best of my ability, and it represents the testimony I would give if called upon to testify in a court of law.

March 30, 2022



Digitally signed by
HIRKO.ANDREW.M.1588463601
Date: 2022.03.30 17:22:49 -05'00'

Andrew Hirko



DEPARTMENT OF THE ARMY
OFFICE OF THE SURGEON GENERAL
7700 ARLINGTON BOULEVARD
FALLS CHURCH, VA 22042-5140

DASG-ZA

23 FEB 2022

MEMORANDUM THRU Commanding General, 101st Airborne Division (Air Assault)
and Fort Campbell, Fort Campbell, KY 42223

FOR Chaplain (CH) (Captain) Andrew Hirko, Headquarters and Headquarters
Company, 1-502d Infantry Regiment, 2d Brigade Combat Team, 101st Airborne Division
(Air Assault), Fort Campbell, KY 42223

SUBJECT: Denial of Request for Religious Accommodation

1. I reviewed your religious accommodation request for an immunization exemption from the COVID-19 vaccine mandate. Your request for exemption from the Army's COVID-19 vaccine mandate is denied.
2. I considered your request, based on your Presbyterian faith, and reviewed your specific case. This included an examination of your chain of command recommendations, your chaplain findings of a sincere religious belief, and your current military duties as a Chaplain. Your chain of command noted that your duties often require working in close proximity to other Soldiers while performing religious rites, conducting worship services, providing confidential counseling, and advising commanders on religious, spiritual, and moral matters. Additionally, remaining unvaccinated would impact deployability, risking other service-members and requiring potential evacuation in combat zones, as well as risking exposure to host-nation personnel.
3. COVID-19 is a grave risk to the readiness of the force, and in your case, I find that vaccination is the least restrictive means to further the Department of the Army's compelling government interests, which also includes protecting your health, the health of the force, and ensuring mission accomplishment.
4. You may appeal this decision through your chain of command to the Assistant Secretary of the Army for Manpower & Reserve Affairs. If you choose to appeal, you have seven calendar days from notification of my decision to submit matters.

A handwritten signature in black ink, appearing to read "R. S. Dingle", written over the typed name.

RAYMOND S. DINGLE
Lieutenant General, U.S. Army
The Surgeon General and
Commanding General, USAMEDCOM

IN THE MATTER OF THE VACCINE MANDATE CHALLENGE

DECLARATION OF CHAP, MAJ KRISTA DANIELLE INGRAM

Pursuant to 28 U.S.C. §1746, I, Krista Danielle Ingram declare as follows:

1. My name is Krista Danielle Ingram. I am over 18 years of age and have personal knowledge of and am competent to testify on the matters stated herein.
2. All statements made in this Declaration are true to the best of my own personal knowledge.
3. I currently reside at [REDACTED], Fairborn, Oh, 45324. My home of record and where I am domiciled is [REDACTED], Cedar Park, TX, 78613.
4. I am an active duty chaplain in the United States Air Force serving at the rank of Major. I am currently assigned to the 88th Air Base Wing, Air Force Material Command, at Wright Patterson Air Force Base, Ohio.
5. On 18 June, 2007, I was commissioned as a 2nd Lieutenant and Chaplain Candidate in the Air Force Reserves. I completed the Chaplain Candidate program and became an Individual Mobilization Augmentee (IMA) reservist in 2009. I continued to serve as a reservist until I entered active duty on 05 March 2012.
6. I have approximately 15 years of total federal commissioned service and over 10 years on active duty. My promotion dates are as follows:

2 nd Lieutenant	18 Jun 2007
1 st Lieutenant	05 Nov 2008
Captain	05 Nov 2010
Major	01 Mar 2021
7. During my military career, I have had the following assignments:

November 2009 – March 2012, IMA Chaplain, 37th Training Wing, Lackland AFB, Texas

March 2012 – June 2013, Chaplain, 375th Air Mobility Wing, Scott AFB, Illinois

June 2013 – April 2015, Chaplain, 8th Fighter Wing, Kunsan AB, Republic of Korea

June 2015 – July 2018, Chaplain, 30th Space Wing, Vandenberg AFB, Calif.

July 2018 – February 2019, Chaplain 35th Fighter Wing, Misawa AB, Japan

March 2019 – Present, Branch Chief, 88th Air Base Wing, Wright Patterson AFB, Ohio

8. During my military career, I have had the following deployments:

July 2017 – January 2018, Installation Chaplain, 407th Air Expeditionary Group, Ahmed Al Jaber AB, Kuwait

June 2020 – October 2020, Chaplain, 380th Expeditionary Wing, Al Dhafra AB, United Arab Emirates

9. I have received the following awards and decorations during my military career:

Air and Space Commendation Medal w/3 Oak Leaf Clusters

Air and Space Achievement Medal

Air and Space Outstanding Unit Award

Korean Defense Service Medal

Humanitarian Service Medal

Military Outstanding Volunteer Service Medal

Air and Space Longevity Service Award w/2 Oak Leaf Clusters

10. I submitted my Religious Accommodation Request (RAR) on 20 September, 2021, asking to be excused from the Air Force's COVID-19 vaccine mandate based on my sincerely held religious beliefs. My primary argument is the use of a fetal cell line in the testing, development, and/or production of the COVID-19 vaccines; this usage conflicts with my beliefs on the sanctity of life. Please see my included memo for additional information.

11. My RAR has been pending for over 7 months; I anticipate receiving the initial denial in May 2022. I intend to submit an appeal.

12. Until the recent downgrade to HPCON levels, I was required to complete two COVID-19 home tests per week. This practice negated any hope of maintaining privacy on the subject with peers or subordinates because 1) another staff member was required to observe the test, and 2) tests had to be obtained from the chapel superintendent's office on a regular basis.

Additionally, I contracted COVID in January 2022, but am still ordered to receive a COVID-19 vaccine and denied the presumption of natural immunity established by AR 40-562.

13. The following retaliatory, career damaging, negative, punitive or administrative actions have been taken against me for refusing the alleged COVID vaccine and requesting a religious accommodation request:

- Denied new assignment f/summer 2022

- Denied Professional Development Education f/summer 2022

14. As a ministry professional and ordained clergy, I must submit to rigorous background checks for any employment in the civilian sector. Anything other than an honorable discharge will result in many difficult conversations where I am forced to discuss/reveal confidential medical information with potential employers. Worse still, I will be eliminated from the candidate pool before ever getting to have those difficult conversations. Thus, the DoD's COVID-19 vaccine mandate, and the resulting consequences, effectively render me unemployable in ministry settings and substantially increase the difficulty of finding employment elsewhere.

15. Additionally, I am one of perhaps forty female Air Force Chaplains. I was the only female recruited in 2007, and remain the only female in my year (promotion) group. I am also an ordained elder in The United Methodist Church (UMC). Our clergy are valuable to the military due to the breadth of ministry we are able to provide and the training and experience required by our endorser prior to ordination and military service.

16. I make this declaration under penalty of perjury, it is true and accurate to the best of my ability, and it represents the testimony I would give if called upon to testify in a court of law.

April 23, 2022


Krista Danielle Ingram



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 88TH AIR BASE WING (AFMC)
WRIGHT-PATTERSON AIR FORCE BASE, OHIO

20 September 2021

MEMORANDUM FOR AFMC/CC

FROM: CH, MAJ KRISTA D. INGRAM, 88 ABW/HC

SUBJECT: Religious Accommodation Request re: Vaccine Waiver

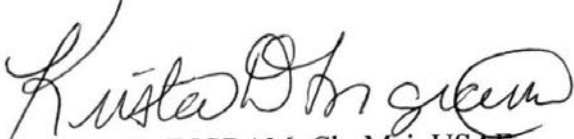
1. I request an accommodation waiver of the COVID-19 vaccine requirement based upon my sincerely held religious beliefs.
 - a. My DoD ID number is 1168686729.
 - b. My Specialty Code is 52R3.
 - c. My unit of assignment is 88 ABW/HC.
 - d. My faith group of preference is Methodist.

2. While attempting to educate myself about the advantages and disadvantages of the multiple COVID-19 vaccines, I discovered that a fetal cell line obtained from an aborted child was used in either the development or testing phase of each vaccine. As a devout Christian and ordained military chaplain, I believe in the sacredness of human life from date of conception to date of death. Abortion is morally reprehensible and a sin in the eyes of God, in whose image we are all created. The Global Methodist Church, in its *Transitional Book of Doctrine and Discipline*, paragraph 202.2, states the following, "We believe that life is a holy gift of God whose beginnings and endings are set by God, and that it is the particular duty of believers to protect those who may be powerless to protect themselves, **including the unborn**, those with disabilities or serious illness, and the aged (*Genesis 2:7, Leviticus 19:32, Jeremiah 1:5, Luke 1:41-44*)."

My ordination as a United Methodist pastor requires rigorous theological training and an eight year ordination track; during this time my beliefs were routinely questioned, examined, and determined to be sincere. As an active duty Air Force chaplain for the past 10 years, the depth and sincerity of my beliefs has been on display since I was accepted into the Chaplain Corps over 14 years ago. The current USAF COVID-19 immunization requirements substantially burden my free exercise of religion by coercing me to support both the practice of abortion (regardless of the date of procedure) and the consumption of products brought to market through aborted fetal cell lines. As ordained clergy not only do I find this an impossible task, but I am required to stand against such sinful practices. The Case Fatality Rate of 1.62% for COVID-19 in the United States does **NOT** provide sufficient medical necessity for me to abandon my beliefs, my faith, or my God (<https://ourworldindata.org>), and I am fully prepared to leave military service if necessary.

3. I understand I must arrange an in-person interview with a Department of the Air Force chaplain and an in-person appointment with an appointed Air Force medical provider as part of the process for requesting a religious accommodation.

4. I understand that I am not required to receive this vaccine while I await a decision on my request. If my request is disapproved, I understand I must comply with the aforementioned vaccine requirement. If my request is approved, I understand I remain subject to COVID-19 screening testing. The point of contact for this request is the undersigned at 937-904-0524 and krista.ingram.1@us.af.mil.


KRISTA D. INGRAM, Ch, Maj, USAF
Branch Chief, 88 ABW/HC

IN THE MATTER OF THE VACCINE MANDATE CHALLENGE

DECLARATION OF Chaplain, Captain Ryan Peter Jackson

Pursuant to 28 U.S.C. §1746, I, Ryan Peter Jackson declare as follows:

1. My name is Ryan Peter Jackson. I am over 18 years of age and have personal knowledge of and am competent to testify on the matters stated herein.
2. I make this declaration in support of my challenge to the Department of Defense and Department of the Air Force mandates requiring that I be vaccinated against COVID-19. All statements made in this Declaration are true to the best of my own personal knowledge.
3. My home of record and where I am domiciled is Wilmington, New Castle County, Delaware.
4. I am an active-duty chaplain in the United States Air Force serving at the rank of Captain. I am currently assigned to the 509th Bomb Wing, Whiteman AFB, Air Force Global Strike Command (AFGSC).
5. I began my military service on 24 February 1999 when I enlisted and served six years as a crew chief for F-15 aircraft and then two years as a loadmaster on C-17 aircraft after cross-training. Following my active-duty service commitment, I served eight years as a C-17 loadmaster in the Air Force Reserve. I was commissioned as a Second Lieutenant in the Chaplain Candidate program in 2015 and served two summer tours, followed by my re-appointment in 2018 and stationing at McConnell Air Force Base as an Individual Mobilization Augmentee Reservist. I was appointed to Active-Duty Regular Air Force August 2020.
6. My promotions were as follows: Senior Airman (Below the Zone) 2001, Staff Sergeant 2003, Technical Sergeant 2009, Second Lieutenant 21 February 2015, First Lieutenant 31 May

2018, Captain 31 May 2019. I have approximately 23 years total of active and reserve service as of March 2022. My Total Active Federal Military Service (TAFMS) is 13 years and 2 months.

7. During my military career, I have traveled on missions to combat zones and foreign areas: 07/2005-02/2015, I flew multiple missions on a C-17 crew in support of Operation Iraq Freedom and Operation Enduring Freedom (Afghanistan) as well as many other world-wide missions to include several presidential support missions.

8. I have received the two Air Force Commendation Medals, two Air Force Achievement Medals, four Air Force Outstanding Unit Awards, Basic Loadmaster Class Distinguished Graduate & Top Graduate awards, and Commissioned Officer Training Honor Flight during my military career.

9. I submitted my Religious Accommodation Request (RAR) on 16 September 2021 at Exhibit 1 asking to be excused from the COVID-19 vaccine mandate based on my sincerely held religious beliefs. A summary of those reasons follows: All vaccines do not burden my faith, but the COVID-19 vaccines substantially burden my practice of good faith and integrity before God; therefore, I cannot receive them into my body (Romans 14:23; 1 Timothy 1:18-19, 3:9).

According to the Word of God, if I went against my conscience after prayer and deliberation with God, it is sin for me. "If anyone, then, knows the good they ought to do and doesn't do it, it is sin for them," and "Each of them should be fully convinced in their own mind. Whoever eats meat does so to the Lord, for they give thanks to God; and whoever abstains does so to the Lord and gives thanks to God...Blessed is the one who does not condemn himself by what he approves. But whoever has doubts is condemned if they eat [or take something into their body], because their eating is not from faith; and everything that does not come from faith is sin" (James 4:17; Romans 14:5-23). The Scripture also states that our bodies, as believers in Jesus Christ, are the Holy temple of a Holy Lord. "Don't you know that you yourselves are God's temple and that

God's Spirit lives in you?" and "Do you not know that your body is a temple of the Holy Spirit, who is in you, whom you have received from God? You are not your own; you were bought at a price. Therefore, honor God with your body" (1 Corinthians 3:16-17; 6:19-20). These Scriptures tell me I am to treat my own body as a house or resting place for the Almighty God. If I were to receive the new vaccines, knowing the adverse effects and acknowledging the unknown long-term effects to my body, I would be knowingly causing potential harm to my body.

10. My RAR was denied/disapproved on 28 February 2022, Exhibit 2. I submitted my RAR appeal, Exhibit 3, on 5 March 2022, which was also denied/disapproved 19 April 2022. I stated in my RAR that the experimental short-term testing and use of the vaccines, combined with their inability to prevent covid-19 or stop the spread create an unwise risk and substantial burden upon my faith for stewarding my body which belongs to God. For more information see Exhibit 1, attachment 1.

11. The AFGSC Commander disapproved my request, stating that the Department of Defense and the Department of the Air Force have a compelling interest in maintaining a healthy and ready military force through vaccination. The commander states that less restrictive means of ensuring military readiness for mission accomplishment, such as masking, physical distancing, and teleworking are insufficient and would not be as effective as vaccination because my duties require regular face-to-face counseling, spiritual care, spiritual resilience coaching, and conducting weekly religious services. The disapproval states that my job cannot be accomplished by teleworking or other remote means, and that I must physically interact with others on a frequent basis where I cannot always maintain adequate physical distancing.

12. My actions and personal state of readiness demonstrate the inaccuracy of the above conclusions. And respectfully, the statements about my duties are simply not true. My job never requires me to touch another person or be within 6 feet of them during in-person face-to-face

counseling, providing spiritual care, resiliency coaching, or conducting weekly religious services. There is no regulation requiring me to touch another individual or be within 6 feet of them. In reality, over the course of the pandemic, I have indeed operated with adequate distance and completed all my mission taskings successfully, conducting 204 face-to-face counseling sessions, conducting 13 weekly religious services (shared with other chaplains), engaging 6442 Airmen with spiritual care, and leading 160 spiritual resiliency events—all while maintaining social distance and without the need to telework. Before and since the mandate inception, my mission accomplishments have not been hindered with my unvaccinated status. However, my counseling load increased to accommodate the masses of distressed airmen uncomfortable with the new vaccine.

13. While the disapproval letter states that I cannot complete my job or the mission remotely, this holds no bearing on my COVID-19 vaccination status because I have not had to do my job remotely. In fact, I have been safer, healthier, and more ready than the majority of my coworkers during the pandemic, losing no time due to ROM or sickness. In January 2022, five fully vaccinated chapel staff members were out of work simultaneously due to COVID (either testing positive or contact-traced). Being one of the only chaplains in a state of readiness, I was able to happily carry the majority of their workload (including the weekly religious service I was not scheduled to preach) in addition to my daily tasks. Unvaccinated members of Whiteman's 20th ATK Squadron and 72nd Test and Eval Squadron report similar experiences: their health and readiness enabled mission execution while vaccinated Airmen missed work due to COVID.

14. The inferences made in my disapproval are *theoretical*—based neither on DAFI mission requirements nor demonstrative proof. In fact, during January 2022, the nation at large, and my surrounding co-workers in my squadron and base have seen that the less restrictive means have been not only been effective and adequate, but seemingly more effective. As stated before, there

is no regulation stating I must touch another airman or be within 6 feet to counsel them (even the smallest counseling rooms allow for 6 feet of separation). Regulation does, however, clearly state that the government's compelling interest must be real and not theoretical:

Commanders may only impose limits on such expressions when there is a *real (not theoretical)* adverse impact on military readiness, unit cohesion, good order and discipline, health or safety of the member or the unit. Any imposed limitations will employ the least restrictive means possible on expressions of sincerely held religious beliefs. (T-0). DAFI52-201 para 2.1 23 JUNE 2021

The Department of the Air Force will approve a member's request for religious accommodation unless the request would have a *real (not theoretical)* adverse impact on military readiness, unit cohesion, good order, discipline, health, or safety. DAFI52-201 para 2.3 23 JUNE 2021

15. To address travel, during the pandemic I have been TDY for 30 days with the 393rd BS (they did not require us to ROM before or after), taken leave via commercial air 5 times, and traveled 8 hours away by car on pass 2 times and never contracted COVID or missed work upon return. I followed all Public Health guidelines, finding these least restrictive means to be effective at safeguarding my health and readiness. The policy of vaccination for COVID-19 on paper is the only limiting factor. An approved exemption would check the vaccination box on my Individual Medical Readiness (IMR), while the military has the requirement, allow me to practice my sincerely held beliefs, not compromising my conscience before God, and allow me to travel freely on military orders. The purpose of a religious exemption is to give an exemption for what would normally be required by policy. If real (and not theoretical) reasons for compelling government interest and safety were presentable then an exemption would not be feasible. However, that is not the case here.

16. The appeal denial I received on 19 April 2022 did not address my appeal at all, but rather completely ignored my rebuttal and evidence that I did not work remote, take any time off, or have any issues with social distancing hindering my mission accomplishment (see appeal denial document). The appeal simply repeated what the initial denial read and added “real” to the government compelling interest. This is plainly a blanket denial utilizing verbiage of my job to give the appearance of substantiation.

17. The following retaliatory, career damaging, negative, punitive, or administrative actions have been taken against me for refusing the alleged COVID vaccine and requesting a religious accommodation request: I have been told repeatedly by my leadership that my RAR will be disapproved, the appeal will be disapproved, and that my request to separate will be denied, and that I will receive disciplinary action for disobeying a “lawful” order. I was made to sign two documents stating that if my RAR is disapproved, I can face Uniform Code of Military Justice (UCMJ) legal punishment for not receiving the COVID-19 vaccination (see Exhibits 4 and 5). I was told to prepare for separation before April 1, 2022, and that separation after this time would result in disciplinary paperwork and therefore a less than honorable discharge for disobeying an order. I have been told I cannot deploy or go TDY or to any schools even stateside, even if I had a negative covid test. Despite traveling around the US via air travel and by car multiple times over the last 2 years (including one 30 day TDY in Jan-Feb 2021), I have been barred from even a one-week-long TDY for chaplain training at Maxwell AFB, AL. The coercion on our base has been extremely strong and many have abandoned their convictions for fear of losing their jobs. My fiancé has listened to me countless nights after work and prayed hours with me over the distress and internal turmoil from the threats that have been made to the security of my chaplain position and livelihood in the AF, and disregard of my sincerely held religious beliefs. I have stressed to the point of despair and even physical chest pain and sleepless anxiety over what will


happen to my reputation and plans for future with my family. If even a chaplain cannot practice his or her faith in the military, who can?

18. As stated above, I have a combined service time in the AF of 23 years. Because I do not have enough active-duty time (cumulatively 13 years and 10 months), I cannot retire on active-duty. With 23 years, I could retire with a reserve retirement but, Air Force Personnel Center (AFPC) states that I cannot retire with a reserve retirement while on active-duty; I must transition into the reserves to retire with a reserve retirement of which I will not receive until 59 years old. Furthermore, I cannot transition into the reserves until my Active-Duty Service Commitment (ADSC) has ended (29 Oct 2022). If I am forced out of Air Force active-duty and I am unable to rejoin the Air Force Reserves, I will lose *all 23 years* of my Service time and receive nothing for retirement now or later. The United States military would be terminating a 23-year veteran with no retirement compensation whatsoever. I serve in the USAF because God has been preparing me my whole adult life to be an AF chaplain and He made my calling confirmed. I entered the AF at age 18 and served as an F-15 crew chief for 6 years, then as a C-17 loadmaster for 10 years before commissioning to be a chaplain. I have previously experienced much of what Airmen go through in the AF. I counsel airmen and build them up for spiritual fitness in their personal faith and morale to be fit for duty. As I have been ministering to the airmen, God has shown me that my 23 years of service to our country has been vital to relating to airmen on a personal level. Furthermore, if I am forced out of the AF with nothing to show for my 23 years of service but a less-than-honorable discharge, I will face hardship in finding a professional ministry position or a job outside of ministry because of my record. Even if I were to get an honorable discharge, they would be denying me retirement I am entitled to for serving 20 years of military service and the benefits promised thereof.

19. I am grateful to serve with a deep faith in our nation and in God. Our nation was founded by our forefathers who sought religious freedom, and thus our nation's First Amendment is fundamental to our heritage. The First Amendment protects our religious freedom against government infringement. I have been honored to serve at home, on transport to Forward Operating Bases in the Area of Response (FOB AOR) and all over the world in defense of these fundamental liberties. I am honored and proud to be an American, where I am still free to worship God. Whereas I have had well over 204 counseling sessions and at least 8 suicide preventions just in the last two years, it would not benefit the AF to eliminate a seasoned prior-enlisted 23-year chaplain for an ineffective emergency use vaccination (that is no longer an emergency) and has proved itself *not* the least restrictive means to my faith. Not only would the AF lose a seasoned chaplain they have invested in for 23 years, but I would also be losing the livelihood for my family and me, now and also into our retirement years.

20. I make this declaration under penalty of perjury, it is true and accurate to the best of my ability, and it represents the testimony I would give if called upon to testify in a court of law.

April 20, 2022


Chaplain, Captain Ryan P. Jackson



**DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE GLOBAL STRIKE COMMAND**



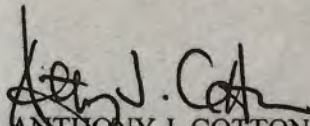
MEMORANDUM FOR CAPT RYAN JACKSON

FEB 28 2022

FROM: AFGSC/CC

SUBJECT: Decision Regarding Religious Accommodation Request – Capt Ryan Jackson, 509 BW/HC

1. I have received your request for religious accommodation to be exempt from the following Air Force immunization requirements: the COVID-19 vaccine.
2. After careful consideration of the specific facts and circumstances, I disapprove your request for the enumerated immunizations requirements listed above in paragraph 1.
3. I have disapproved your request for accommodation from the aforementioned immunization requirements because given the importance of our mission, the Department of Defense and the Department of the Air Force have a compelling government interest in maintaining a healthy and ready military force through vaccination. Any less restrictive means of ensuring military readiness for mission accomplishment, such as masking, physical distancing, and teleworking are insufficient and would not be as effective as vaccination because your duties require regular face-to-face contact with others. In your role as a Chaplain, you are required to provide in-person counseling, spiritual care, spiritual resilience coaching, and conduct weekly religious services. This job cannot be accomplished by telework or other remote means. It requires that you physically interact with others on a frequent basis where you cannot always maintain adequate physical distancing. You are also expected to maintain the ability to deploy at all times, which requires both medical readiness and to be free from limitations on travel. Failure to do so will create an additional burden on members of your unit and career field.
4. If you choose to appeal this decision, please address your written appeal to the appeal authority, AF/SG, and submit your written appeal to your unit commander. You have five (5) calendar days from receipt of this decision to file any appeal. The servicing FSS will ensure a copy of this decision is included in your automated personnel record. You should direct any questions to your squadron commander.


ANTHONY J. COTTON
General, USAF
Commander

cc:
509 BW/CC
509 FSS



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS UNITED STATES AIR FORCE
Washington DC



APR 19 2022

MEMORANDUM FOR CAPTAIN RYAN P. JACKSON

FROM: HQ USAF/SG
1780 Air Force Pentagon
Washington, DC 20330-1780

SUBJECT: Decision on Religious Accommodation Appeal

Your final appeal is denied. In accordance with Department of the Air Force Instruction (DAFI) 52-201, *Religious Freedom in the Department of the Air Force*, paragraph 3.2, I have carefully reviewed your request for religious accommodation, specifically for an exemption from the COVID-19 immunization.

The Department of the Air Force has a compelling government interest in requiring you to comply with the requirement for the COVID-19 immunization because preventing the spread of disease among the force is vital to mission accomplishment. In light of your circumstances, your present duty assignment requires intermittent to frequent contact with others and is not fully achievable via telework or with adequate distancing. In addition, your duties require parishioner contact. Your leadership role was also taken into consideration. While some of these duties may be completed remotely, institutionalizing remote completion of those duties permanently would be detrimental to readiness, good order and discipline, and unit cohesion. We must be able to leverage our forces on short notice as evidenced by recent worldwide events. Your health status as a non-immunized individual in this dynamic environment, and aggregated with other non-immunized individuals in steady state operations, would place health and safety, unit cohesion, and readiness at risk. Foregoing the above immunization requirement would have a real adverse impact on military readiness and public health and safety. Masking, social distancing, and testing mitigate risk but not as effectively as vaccination in combination with additional measures determined by local spread. There are no less restrictive means available in your circumstance as effective as receiving the above immunization in furthering these compelling government interests.

A copy of this decision memorandum will be placed in your automated personnel records. Please contact your unit leadership with questions or concerns.

ROBERT I. MILLER
Lieutenant General, USAF, MC, SFS
Surgeon General