

**EXHIBIT A**

**ALVARADO, et al., v. AUSTIN, et al.**

**Declaration of**

**Navy Chaplain LCDR Brenton C. Asbury**

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

ISRAEL ALVARADO, et al., :  
 :  
 *Plaintiffs,* :  
 :  
 v. :  
 :  
 LLOYD AUSTIN, III, et al., :  
 :  
 *Defendants.* :  
 \_\_\_\_\_ :

Case No.: 8:22-CV-1149

Pursuant to 28 U.S.C. §1746, I, Lieutenant Commander Brenton C. Asbury, United States Navy Chaplain, declare as follows:

1. My name is Brenton C. Asbury. 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 Washington DC. My home of record is Crescent City, Putnam County, Florida.
4. I am an active duty chaplain in the United States Navy serving at the rank of Lieutenant Commander. I am currently assigned to the Navy District Washington and my office is located on Bolling AFB (JBAB).
5. I am a native of Crescent City, FL and was ordained as a Baptist Minister in 1995. I have a Bachelor's of Arts Degree in Justice and Public Policy (Pre-Law) from North Carolina Wesleyan College in Rocky Mount, NC, two Masters Degrees in Pastoral Theology from Hyles-

Anderson Seminary in Crown Point, IN and Great Plains Baptist Divinity School in Sioux Falls, SD, and a Doctorate Degree in Ministry from Great Plains Baptist Divinity School in Sioux Falls, SD. Prior to my military service as a Naval Officer, I served as a Senior Pastor at three different churches in NC and FL from 1995 to 2010. I was also involved in foreign missionary work to West Bengal, India from 2007-2012.

I enlisted in the U.S. Air Force in 1989 and served from 1989 to 1993 as an Active Duty Flight Medicine Medical Technician with the 336<sup>th</sup> F-15E Fighter Squadron at Seymour Johnson AFB, NC, completing a Persian Gulf deployment in Dhahran, Saudi Arabia in support of Desert Shield/Desert Storm. I was commissioned into the United States Navy, February 2010, completed Officers Development School June 2010, and Naval Chaplaincy School August 2010. Since my commission, I have served as the Command Chaplain for 3<sup>rd</sup> Radio Battalion, USMC Kaneohe Bay, HI, 2010-2013, where I earned my Fleet Marine Force Qualification; Staff Chaplain for Naval Special Warfare Group One, Coronado, CA, during which time I completed the SPEC-OPS Chaplain's Qualification at the Joint Special Operations University, MacDill AFB, FL, and deployed with SEAL Teams Seven and Five to the Middle East ISO OEF and OIR, 2013-2015; Command Chaplain for NSA Mid-South, Millington, TN, 2015-2017, where I acted as the first response chaplain ISO of the Chattanooga Active Shooter incident and provided follow-on support and care to members and families affected by the tragedy; Command and Supervisory Chaplain for USCG Base and AIRSTA Kodiak, Alaska, as well as all Kodiak-based USCG Cutters and the Naval SPEC-OPS Winter Warfare Detachment, Kodiak, AK, 2017-2021. I currently serve as a Staff Chaplain at Navy District Washington, DC, where I conduct burials at Arlington National Cemetery for America's finest warriors and patriots who have faithfully served our nation in uniform.

6. As a Chaplain, I assist members in their free exercise of religion. I serve to provide religious rites and services in accordance with the tenets of my faith and provide for the religious and spiritual needs of all through referral, counseling, and other services to ensure their care. As a Chaplain, I advise leadership at many levels on a variety of religious needs as well as ethical, moral, and morale issues. I will have approximately 16 years of service as of September 2022. I have not pursued anything other than honorably serving 20+ years of military service. I plan to continue serving God in this capacity on behalf of our nation in the Navy as long as God leads me to do so.

7. My personal awards include three Navy Commendation Medals, two USCG Commendation Medals, an Army Commendation Medal, a Navy Achievement Medal, a Humanitarian Service Medal, a NATO medal, along with numerous other unit and campaign awards, and the Fleet Marine Force Officer Qualification Badge.

8. I have been married to my wife Carrie for 32 years. We have four daughters and two sons. Kaylyn (30), Seth (27) (AD TSGT USAF Air Traffic Controller), and Brianna (23) are all happily married. Elijah (19) just completed his first year at Golden State Baptist College, CA. Hannah (17) and Selah (9) (adopted from China and special needs) are still living at home. We are the proud grandparents of five beautiful grandchildren.

9. I submitted a religious exemption request to the COVID-19 vaccination mandate based on my sincerely held religious beliefs in October of 2021. Additionally, I contracted and recovered from COVID-19 in late November 2021, proving that my God-given immune system is healthy and adequate enough to combat the virus itself, as it was designed to do. I believe that I was created in the image of God, Who, as my Creator, designed my immune system intricately and exactly as He intended, able to combat viruses when the body is healthy and in optimal condition, as mine is. I believe that some of our modern-day medical advancements are a

blessing from God to our generation, but I also believe that men are fallen in this sinful world, and that because of that, men are prone to fail, and yet still, because of pride, fear, or selfish reasons, cling to failed and damaging intentions and plans, as they have so done in reference to the Covid vaccine mandates. I do not believe that it is God's will for anyone to inject another person with a foreign substance against that individual's will, nor is it God's will to introduce any substance, especially an experimental substance, which taints, or could potentially taint, corrupts, defiles, and/or manipulates a person's immune system without their consent and/or against their individual will; to inject that substance into a person's body compromises the God-given bodily temple of that individual, which is to remain holy, pure, and undefiled. I do not believe that it is man's right to do so against God's perfect intent of the natural immune system, nor is it man's right to force or coerce another person to receive an injection without that individual's complete consent and full understanding and awareness of the potential side effects before making that personal decision after reflection, consideration, and prayer. That has not been the case concerning the Covid-19 mandate in the military. Military members have been coerced, threatened, ostracized, discriminated against, sidelined, minimized, and more. As a chaplain, I have not only felt this pressure under much duress because of the DOD threatening to dishonorably discharge any member who would not comply with the mandate, but I have also heard many personal accounts during confidential, privileged counseling sessions with other members seeking care from me, who have faced discrimination, ostracization, threats, and even been coerced into receiving the Covid vaccines to their regret, shame, and emotional agony. I believe from my interaction with many members that they are in an emotional state of depression, and many are at the point of potential suicide because of the direct correlation to these unjust, wicked, and evil mandates. If those I have spoken with in private, confidential conversations are a microcosm of the whole military, then I believe that the Covid-19 vaccine

mandate has seriously, directly, and negatively affected and damaged the mental and spiritual health and wellness of our military members. The DOD's Covid-19 vaccine mandate is unconstitutional and unethical. Military members swear or pledge to uphold and defend the Constitution. Our Forefathers, fleeing the many injustices and inequalities of Europe, penned the Constitution. The very first amendment that they penned addressed the Freedom of Speech and the Freedom of Religion because it was their first priority. This vaccine mandate being forced upon all military members is not only unconstitutional, but it aligns with the end time prophecies of the Bible concerning the Antichrist system which will gradually take root and grow in the last days of this world. Everything surrounding this Covid-19 pandemic points to fulfilled prophecy concerning the end times written of in the Bible and is a prelude of the Mark of the Beast Antichrist system which will continue to unfold across the world. I work for two bosses: the DOD and GOD, but the first mentioned does not trump the second. God is the ultimate author of my life, and that means that He is the ultimate "author"ity over my life. I believe that I am to always obey the highest authority. If I were to comply with this mandate and receive the Covid vaccine, I would be endorsing and complying with a course of action that is in direct alignment with the future Antichrist world system. To do so would violate my conscience and be in direct violation of what I believe God would have me to do. The DOD is forcing me to choose between obeying them or obeying God. They have left me no other alternative choice, and because I have chosen to obey God rather than the government, they have threatened me, my livelihood, and that of my family's as well.

12. 2 September 2021 – While en-route to my new duty assignment at Naval District Washington (NDW) DC, I emailed my Chaplain Supervisor, CAPT Rodriguez, my intent to submit a Religious Accommodation (RA) request for exemption from the Covid-19 vaccines.

7 October 2021 - I submitted a RA request for exemption from the COVID-19 vaccination mandate and subsequent policies to my chain of command, through my supervisory chaplain.

13 Oct 2021 – I received a copy of the required chaplain’s interview submission, which indicated my recognized sincerity of religious conviction by another Navy chaplain.

15 October 2021 – I re-submitted my RA directly to my NDW Commandant, Admiral Steffen, as directed by my supervisory chaplain.

25 October 2021 (Approx.) – I met with my NDW Commandant, per his request, to personally discuss my RA and beliefs associated with it. I was asked to reconsider before making my final decision to formally submit my RA because of the probable consequences, based upon the voiced intentions of the DOD’s leadership to military personnel.

26 October 2021 – I received an email, forwarded from the NDW Command JAG (CDR Kennedy), requesting my signature on a pg-13 document. I signed it as directed approx. the same day.

28 October 2021(Approx.) – I had an email exchange between myself and my NDW Commandant confirming that my intent to submit my RA had not changed and I asked him to proceed with its submission.

4 November 2021 – I received an email from the NDW JAG with the Commandant’s required endorsement, which accompanies the RA exemption request package. My Commandant recommended that my RA request be disapproved.

29 November 2021 – I received OPNAV’s denial of my RA request. I was diagnosed with Covid-19 the same day that I was contacted by my command that my RA was denied. I had just started my quarantine status. I was given five days to appeal, if I chose to do so, once I returned to work off of quarantine status.

10 December 2021 – I received an email from the JAG requesting that I sign that I acknowledged receiving my RA request denial, and that I understood I had 5 days to submit an appeal. I requested an extension due to residual symptoms from Covid-19.

13 December 2021 – I received a denial for an extension to submit my appeal, in spite of my lingering Covid symptoms.

15 December 2021 – I submitted my RA appeal.

20 December 2021 – I received a copy of my Commandant's endorsement to my appeal, which once again recommended disapproval.

There have been numbers of other emails between myself and the command requesting information on the status of my appeal since it was submitted. Each time, the JAG or someone else has indicated that it is still in process.


25 July 2022 - I submitted an addendum to be added to my initial appeal. After receiving the denial of my initial request for Religious Accommodation (RA), I requested specific deliberation documents from the deciding board on my RA so that I could adequately respond to the proposed discussions and objections from the panel of those members who deliberated over my accommodation request and how they arrived at a conclusion to deny my religious request. I was given a 5-day period to submit my appeal but was never provided the requested documents or information to assist in my legal rebuttal for my appeal. I was contacted by CDR Kennedy (JAG) on 12 July 2022 indicating that HMC Beatriz Regina Schulmeister from N131 RA Processing at OPNAV N131 had sent me an undelivered email. The email was concerning these documents which I had requested 8 months before. After reviewing the documents she had submitted in the forwarded email, I noted that what I had requested was not provided or available. Nothing from the actual board deliberations was provided, such as notes. I have to assume therefore that the only considerations were based upon my Commandant's (CMDT)



recommendation to deny, as well as the BUMED's recommendation to deny. I can only assume that the Deputy CNO's (N1) denial of my RA was strictly a formality, as I indicated in my appeal. I have seen other member's denials and they are all cookie-cutter templates. In the forwarded email from HMC Schulmeister from N131 RA Processing at OPNAV N131, mentioned above, I was informed that I had 5 days to submit a new appeal or an amendment to my appeal. I informed the command of my intent to submit an amendment to my appeal. I submitted my appeal on 25 July 2022. It was an added amendment to accompany my original appeal.

13. My non-vaccination status has not prevented me from executing my mission as a chaplain while serving with the United States Coast Guard or the United States Navy over the past two years during the 'pandemic.' I have completed all of my mission-essential work, obligations, and responsibilities of caring for Sailors, Marines, and Coast Guardsmen and women.

I declare under penalty of perjury, under the laws of the United States, that the foregoing statements are true and correct to the best of my knowledge. Executed this 4<sup>th</sup> of August 2022.

 /S/  
\_\_\_\_\_  
LCDR Brenton Asbury, CHC, USN



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

1730  
Ser N1/115764  
23 Nov 21

From: Deputy Chief of Naval Operations (Manpower, Personnel, Training and Education) (N1)  
To: LCDR Brenton C. Asbury, USN  
Via: Commandant, Naval District Washington

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 15 Oct 21 w/ends  
(h) BUMED ltr 6320 Ser M44/21UM42299 of 9 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.

JOHN B. NOWELL, JR

Copy to:  
OPNAV (N131, N0975)  
BUMED