

EXHIBIT D

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

Declaration of

Army Chaplain (Captain) Jeremiah Botello

IN THE MATTER OF THE VACCINE MANDATE CHALLENGE

DECLARATION OF CPT, JEREMIAH BOTELLO

Pursuant to 28 U.S.C. §1746, I, Jeremiah Botello declare as follows:

1. My name is Jeremiah Botello. 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 Secretary Austin, the U.S. Army, U.S. Army National Guard, National Guard Bureau, and Arizona Army National Guard's COVID-19 vaccine mandates requiring that I be vaccinated against COVID-19. All statements made in this Declaration are true to the best of my knowledge.
3. I currently reside in Phoenix, AZ, in Maricopa County. My home of record and where I am domiciled is in Phoenix, AZ, in Maricopa County.
4. I was on an active duty status as a chaplain in the United States U.S. Army, Arizona Army National Guard, serving at the rank of CPT. I am currently assigned to the 1120th Transportation/98 ATC, 6202 W. Myrtle Rd. Glendale 85301.
5. I began my military service on June 04, 2003, when I enlisted into the U.S. Army Reserve as Private First Class to support our country's war against terrorism. After a long career of ministry in the civilian sector and serving my country in both Regular Army (RA) and Special Forces (SF), I was encouraged by my chain of command and Army various Army Chaplains to apply for the chaplaincy. Accordingly, I was commissioned on 20 NOV 2020 and entered Active Duty Operational Support (ADOS) status with the Arizona National Guard on 24 MAR 2021.
6. My promotions were as follows: 2LT on 15 May 2005, 1LT on 27 May 2007, and CPT on 20 Nov 2020. I have approximately 15 years of service as of March 1, 2022.

7 During my military career, I have had the following deployments to either combat zones or foreign areas: 06/2017-03/2017, Arabian Peninsula, 03/2021-10/2021, and two state-side mobilizations to include Task Force COVID orders, in support of COVID response.

8. I have received the following Army Commendation Medal, Joint Service Achievement Medal, National Defense Service Medal, Global War On Terrorism Expeditionary Medal, Global War On Terrorism Service Medal, Armed Forces Service Medal (AFSM), Army Service Ribbon, Army Reserve Component Overseas Training Ribbon, Armed Forces Reserve Medal W/ M Device (2nd Award), Parachutist Badge, during my military career.

9. On approximately 27 October, I submitted my Religious Accommodation Request (RAR) (or Religious exemption) see Exhibit 1, asking to be excused from Secretary Austin, the U.S. Army, U.S. Army National Guard, National Guard Bureau, Arizona Army National Guard's COVID-19 vaccine mandate based on my sincerely held religious beliefs. A summary of those reasons follows: please see attached complaints against Secretary Austin, DOD, Department of The Army, Army National Guard Arizona Army National Guard.

10. My RAR has, in effect, been denied due to failure to process Religious Accommodation according to the Law and Army Regulation. This has resulted in hundreds of soldiers being denied command positions, professional education opportunities, equitable treatment, and human dignity and is an act of discrimination of employment based on religion, which is a protected class. I have been given numerous status updates stating my RAR is "still pending."

Section 6.,(c) of the *Religious Freedom Restoration Act* (RFRA) states, "Nothing in this Act shall be construed to authorize any government to burden any religious belief." Further, the First Amendment states, "Congress shall make no law respecting the establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech." Interpreting the RFRA

as overriding the First Amendment contradicts the “self-evident” nature of our rights to the free exercise of religion inherent in the constitution.

The current Army vaccine mandate places United States Army Chaplain Center and School (USACHCS) leadership in a position using fear to force Soldiers to violate their sincere religious beliefs, which will reflect negatively on the command. The current policy places an undue burden on the Soldier and is not the least restrictive means for the free exercise of religion. The World Health Organization (WHO) Emergency Use Authorization (EUA) approved COVID-19 vaccines not sourced from unethically sourced stem cells; see Enc. “WHO” vaccines 10,11,13.

My endorser’s Bylaws (Enc.1.) discuss our beliefs; God has given everyone the right to obey God according to their conscience and the Bible (a principle held by the founding fathers). Jesus would not support the abortion industry, so neither will I. Therefore, with integrity and faithfulness to the Bible, I cannot continue to receive vaccinations with ties to the abortion industry.

The USACHCS is choosing to make the COVID-19 vaccine a religious matter when it is not. Instead, the choice is among vaccination options. The USACHCS cadre’s order “either take an FDA approved COVID-19 vaccination or submit a religious accommodation” is an act of religious discrimination. If I take an FDA-approved COVID-19 vaccination, I violate my religious beliefs. Being forced to fill out a religious accommodation ostracizes me among cadre and my peers, again punishing me for my religious beliefs with the threat of separation. COVID-19 vaccine has not yet proven to be 100% safe, effective nor without any potentially 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.

11. “Vaccine” used to mean a medical procedure that protected you from the disease against which you were being vaccinated against. In contrast, COVID vaccines do not protect you but are, in reality, a treatment.

12. I requested to take a vaccination with no ties to aborted stem cells, and, I was told if I did so, I would be denied medical coverage both on Active Duty and the Arizona National guard because of my religious beliefs.

13. I have been verbally threatened with separation from the Army, not getting promoted, not being allowed to be a chaplain, receiving a General Officer Letter of Reprimand (GOMAR), verbally threatened with negative career-ending evaluations, not being allowed to promote, or take a command position. My supervisory chaplain told me that my “religious beliefs” are a problem and that I was not fit to serve in the Arizona National Guard. I was told that if I wanted to be a Chaplain, I needed to comply with my supervisory chaplain recommendations, outlined in the attached complaint against him. I informed my supervisory Chaplain that the CDC was listing “Spontaneous Abortion” as a side effect of the COVID-19 vaccination there was no way to treat both genders equally as men only risk sterility; single mothers, on the other hand, are being asked to risk murdering their only child. I informed my chain of command that the vaccine mandate discriminates based on religion and gender. I was told, “If it was the other way around and the Republicans were enforcing the vaccination mandate, “you would have no problem with it” (I am not a Republican). I was told that if I did not receive the vaccination, I would not have a full-time job in the Arizona Army National Guard since MEB Commander and the powers that be had decided so. I was told that if I requested to take a vaccination on the EU emergency

authorized use list, with no ties to aborted stem cells, the Army would not pay for any negative medical repercussions. I informed them my life and religious beliefs were not treated equally to others. I have been harassed repeatedly, being asked to take the vaccination to see if I have changed my religious beliefs. Muslims, Buddhists, Wiccan, and soldiers of other religions are not being verbally assaulted and threatened with separation in this way. Muslims and Wiccans are not constantly being harassed by asking if they no longer hold their sincerely held religious beliefs. Jewish peers in my CHBOLC class had their Religious Accommodations approved (for Sabbath observances, per timelines stipulated by Army Regulations and law), yet, the United States Army Chaplain Center and School (USACHCS) refused to process my religious accommodation according to timelines and processes stipulated in Army Regulation and law.

I was told by the State Chaplain that I could not function as a Chaplain, that I could not process religious accommodations, even though my peers are allowed to do their job. Secretary Austin, the U.S. Army, National Guard Bureau, and Arizona Army National Guard have striped soldiers from their constitutionally afforded religious protections by fostering a non-functional and toxic Religious Accommodation process, a toxic work environment, prohibiting me from conducting Religious Accommodations. They have promoted a hostile command climate, singling out non-vaccinated soldiers and informally investigating their medical status. My current leadership has done nothing when prior complaints were filed regarding religious discrimination by Arizona National Guard Chaplains. I was not allowed to handle any religious accommodations requests (RAR) because of my position on the vaccination. I have been blacklisted from positions of promotion, deployments, and active-duty opportunities because of my religious beliefs. We Chaplain BOLC class 21-002 & 21-003 were threatened not to be allowed to take leave, see our families, and subject to weekly nose jabs if we refused the COVID-19 vaccination. My soldiers and I have been denied pay for falling sick to the virus even

though we were told everyone who fell ill would be paid and allowed to stay home. Members of my unit ministry team who are against the vaccine have been verbally and emotionally abused, discriminated against, not paid, delayed in paying paychecks, and not allowed to care for sick family members who had COVID-19. I have officially filed DOD and Department of the Army, and Arizona National level complaints alleging religious discrimination against myself and other members of the National Guard, Active Duty, and Army Reserve. The Arizona Army National Guard refused to process my complaint of religious discrimination and reprisal according to Army doctrine, denying me justice and discriminating against me based on my religious beliefs.

14. The following retaliatory, career-damaging, adverse, punitive, or administrative actions have been taken against me for refusing the alleged COVID vaccine and requesting a religious accommodation request: I have been denied employment for not taking the vaccination, told to prepare for separation, assignments denied, demeaned in front of staff or in private, removal from duty or special assignments, I was given “counselings” threatened with reprimands which I took to be a GOMOR, loss of benefits, restrictions on travel, told I was not a team player, singled out for unfair special treatment or denied same accommodations as other people, etc. The issue is retaliation, an adverse employment action in response to exercising a protected right to coerce me into agreeing to something against my religious beliefs.

15. Secretary Austin, U.S. Army, U.S. Army National Guard, National Guard Bureau, and Arizona Army National Guard have made it clear that resisting the vaccine, like not offering the pinch of incense to Caesar, comes with the high price of dehumanization, inequitable treatment, a lack of acknowledging my human dignity and worth, discrimination, separation, and ostracism. I was told to accept the vaccine or agree to an unqualified resignation or face discharge, depriving my elderly parents of the financial stability they need from the retirement income I would receive. 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

 /S/
Jeremiah Botello