

Alvarado v. Austin

22-cv-00876-AJT-JFA

Exhibit 1

Congressional Letter to

**Admiral Linda L. Fagan,
Coast Guard Commandant**

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051
MINORITY (202) 225-5074
<https://oversight.house.gov>

October 18, 2022

Admiral Linda L. Fagan
Commandant of the Coast Guard
U.S. Coast Guard
2703 Martin Luther King Jr. Ave. SE
Washington, D.C. 20593

Dear Admiral Fagan,

We write to conduct oversight over the U.S. Coast Guard (USCG) process for reviewing religious accommodation exemption applications for the COVID-19 vaccine mandate. Religious freedom is protected by the U.S. Constitution¹ and federal law.² Despite these protections, information received by Committee Republicans indicates that the adjudication process for exemption applications was a *pro forma* exercise designed to reach predetermined conclusions—to deny requests and appeals—in nearly every single case. The USCG even created a digital tool to assist in more efficiently denying appeals of the vaccine mandate instead of focusing on the merits of each individual case.³ We request a staff-level briefing to assist Committee on Oversight and Reform Republicans in understanding the Coast Guard’s implementation of a process which potentially deprived over 1,300 members of a fair adjudication of their exemption request.

On August 24, 2021, Secretary of Defense Lloyd Austin issued a COVID-19 vaccine mandate as a Force Health Protection (FHP) measure for “all members of the Armed Forces under Department of Defense authority on active duty or in the Ready Reserve, including the National Guard.”⁴ Then-Commandant of the USCG, Admiral Karl Schultz, implemented that mandate with respect to the USCG on August 26, 2021.⁵ Regardless of the ultimate decision to approve or deny these requests, the USCG and the other branches of the U.S. Armed Forces must

¹ U.S. Const. amend I.

² Religious Freedom Restoration Act of 1993, Pub. L. No. 103-141.

³ “RAAG” Database Screenshots, *on file with committee staff*.

⁴ Memorandum from the Secretary of Defense to Senior Pentagon Leadership Commanders of the Combatant Commands Defense Agency and DoD Field Activity Directors, *Mandatory Coronavirus Disease 2019 Vaccination of Department of Defense Service Members* (August 24, 2021).

⁵ U.S. Coast Guard, Dep’t. of Homeland Security, Press Release, *Covid-19 vaccine mandated for all military members* (Aug. 27, 2021).

Admiral Linda L. Fagan

October 18, 2022

Page 2 of 5

afford members the opportunity to have their religious accommodations claim heard on the merits along with the right to appeal an adverse decision.⁶

On June 2, 2022, DoD Acting Inspector General Sean O'Donnell wrote an internal memo to Secretary Austin regarding his office's investigation into DoD's review of service members' requests for religious exemptions. According to news reports, the acting Inspector General stated: "The volume and rate at which decisions were made to deny requests is concerning... Assuming a 10-hour workday with no breaks or attention to other matters, the average review period was about 12 minutes for each package. Such a review period seems insufficient to process each request in an individualized manner and still perform the duties required of their position."⁷ This analysis is unfortunately echoed by information obtained by Committee Republicans showing that USCG's review system was similarly stood up to reach predetermined conclusions with the goal of rejecting applications.

Committee Republicans have learned that the USCG denied virtually all religious exemption requests and dismissed appeals *en masse* with the help of computer-assisted technology, indicating that no case-by-case determinations were taking place. While the USCG did charge a dedicated headquarters team with adjudicating over 1,300 requests for exemption to the COVID-19 vaccine mandate and appeals, the system was set up to reject the applications and appeals.⁸ Less than a handful of these requests were ultimately approved, and all of those approvals were for service members who were already scheduled to separate from service. In addition, predetermined language was distributed to the adjudications team encompassing every possible USCG duty station, with reasons why the nature of each duty station was not amenable to an exemption, yet no approval language was ever provided.⁹

Just as troubling, appeals of initial denials were denied with the assistance of a computer-generated form-filler tool called the "Religious Accommodations Appeal Generator," or RAAG.¹⁰ This Microsoft Access-based program permitted Coast Guard adjudicators to select from a pre-populated list of two dozen possible religious objections or noted defects that applicants had raised in the initial dismissal decision. Upon clicking the "Submit" button, the tool generated a dismissal letter populated with a predetermined reason why that argument was insufficient to overcome a denial. This tool permitted adjudicators to quickly dispose of appeals without considering their merits, even when legitimate defects in the initial decision were identified.

⁶ See COMDTINST 1000.15, *Military Religious Accommodations* (Aug. 30, 2021).

⁷ Steve Beynon and Konstantin Toropin, *Pentagon Likely Rushed Denials of COVID-19 Vaccine Religious Exemption Requests, Watchdog Finds*, MILITARY.COM (Sept. 19, 2022).

⁸ *Supra*, n.3.

⁹ Duty Station Denial Justification, *on file with committee staff*.

¹⁰ *Supra*, n.3.

Admiral Linda L. Fagan
October 18, 2022
Page 3 of 5

In anticipation of USCG service members raising concerns about their applications not being reviewed individually, a RAAG drop-down menu offered a response option for the assertion that “the Coast Guard did not provide an individualized assessment of the Member’s request.”¹¹ But ironically, it appears that the USCG afforded almost no one an individualized assessment. Although a dropdown menu included an overall “Recommendation for Appeal,” none of the computer-assisted form language included text that would justify granting an appeal, indicating that the officials who designed the tool did not contemplate granting an appeal in the first place.

The USCG performs vital life-saving missions like rescuing people during Hurricane Ian. Unfortunately, some rescue swimmers will be discharged in 30 to 60 days because they were denied their requests for religious accommodation and their subsequent appeals.¹² President Biden even called to personally thank USCG rescue swimmers for saving lives in Hurricane Ian, but he did not acknowledge their impending discharge because of the vaccine mandate.¹³ In light of the USCG not meeting its recruiting goals since 2018 and the urgency for rescue swimmers to save lives during natural disasters like Hurricane Ian,¹⁴ it is essential that the USCG afford its service members fair adjudication before they face discharge.

To assist Committee Republicans in conducting oversight over USCG’s apparent failure to provide due process to members requesting religious exemptions to the COVID-19 vaccine mandate, we request a staff-level briefing as soon as possible, but no later than October 25, 2022.

Thank you for your consideration of this important issue. To make arrangements to schedule the briefing or ask any related follow-up questions, please contact Committee on Oversight and Reform Republican Staff at (202) 225-5074. The Committee on Oversight and Reform is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X. Thank you in advance for your cooperation with this inquiry.

¹¹ *Id.*

¹² Stephen Sorace, *Biden thanks Coast Guard rescuer for hurricane heroics days before firing over vaccine policy*, FOX NEWS (Oct. 2, 2022).

¹³ The White House, Statements and Releases, *Readout of President Joe Biden’s Call with Lieutenant Commander Christopher Hooper and Aviation Survival Technician Second Class Zach Loesch of the U. S. Coast Guard* (Sept. 30, 2022).

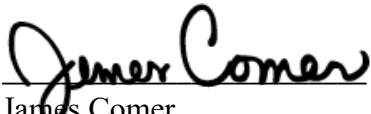
¹⁴ Patricia Kime, *Coast Guard Turns Eye Toward Recruitment, Retention as It Misses Goals*, MILITARY.COM (July 18, 2022).

Admiral Linda L. Fagan

October 18, 2022

Page 4 of 5

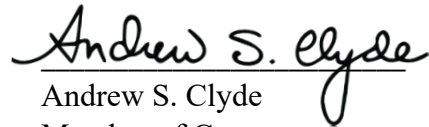
Sincerely,



James Comer

Ranking Member

Committee on Oversight & Reform



Andrew S. Clyde

Member of Congress



Glenn S. Grothman

Ranking Member

Subcommittee on National Security



Michael Cloud

Ranking Member

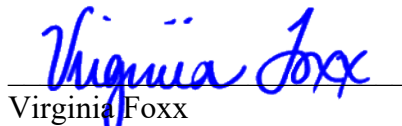
Subcommittee on Economic and
Consumer Policy



Nancy Mace

Ranking Member

Subcommittee on Civil Rights and
Civil Liberties



Virginia Foxx

Member of Congress



Bob Gibbs

Member of Congress



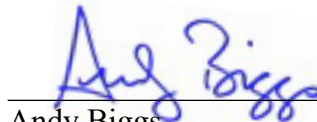
Ralph Norman

Member of Congress



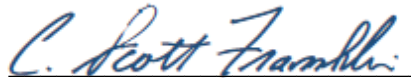
Fred Keller

Member of Congress



Andy Biggs

Member of Congress



C. Scott Franklin

Member of Congress



Jake LaTurner

Member of Congress

Admiral Linda L. Fagan

October 18, 2022

Page 5 of 5



Pat Fallon
Member of Congress



Byron Donalds
Member of Congress



Mike Flood
Member of Congress

cc: The Honorable Carolyn B. Maloney, Chairwoman
Committee on Oversight and Reform

The Honorable Stephen F. Lynch, Chairman
Subcommittee on National Security

The Honorable Raja Krishnamoorthi, Chairman
Subcommittee on Economic and Consumer Policy

The Honorable Jamie Raskin, Chairman
Subcommittee on Civil Rights and Civil Liberties