

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
CINCINNATI DIVISION**

HUNTER DOSTER, et al.,

Plaintiffs,

v.

FRANK KENDALL, et al.,

Defendants.

No. 1:22-cv-00084

Hon. Matthew W. McFarland

**NOTICE OF SUPPLEMENTAL AUTHORITY
RELATED TO DEFENDANTS' OPPOSITION TO
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

Defendants respectfully provide notice that the Supreme Court has granted the government's application for a partial stay in *Austin v. U.S. Navy SEALs 1-26*, No. 21A477 (U.S. Mar. 25, 2022).

The plaintiffs in *U.S. Navy SEALs 1-26*, like plaintiffs in this case, are military service members who contend that they are entitled to exemptions from military COVID-19 vaccination requirements under the Religious Freedom Restoration Act (RFRA). The district court in *U.S. Navy SEALs 1-26* granted a preliminary injunction similar to the injunction that plaintiffs request here, prohibiting the military from applying its COVID-19 vaccination policies to the plaintiffs and "from taking any adverse action against Plaintiffs on the basis of Plaintiffs' requests for religious accommodation." *U.S. Navy SEALs 1-26 v. Biden*, No. 21-cv-1236, 2022 WL 34443, at *14 (N.D. Tex. Jan. 3, 2022); *see also* Plaintiffs' Motion for an Emergency Temporary Restraining Order and Preliminary Injunction, Doc. No. 13 at 1, PageID 578 (requesting this Court "enjoin[] the Government Defendants from taking punitive actions against all Plaintiffs"). The Supreme

Court granted the government’s request to stay that injunction “insofar as it precludes the Navy from considering respondents’ vaccination status in making deployment, assignment, and other operational decisions.” Order 1, *Austin v. U.S. Navy SEALs 1-26*, 595 U.S. ____ (2022). Justice Kavanaugh observed in a concurring opinion that a stay was warranted because the district court had “in effect inserted itself into the Navy’s chain of command, overriding military commanders’ professional military judgments,” and because “even accepting that RFRA applies in this particular military context, RFRA does not justify judicial intrusion into military affairs in this case.” *Id.* at 2 (Kavanaugh, J., concurring). The Supreme Court’s decision granting a partial stay in *U.S. Navy SEALs 1-26* necessarily rejected the reasoning of the district court in entering preliminary injunctive relief in that case, and confirms that this Court should deny Plaintiffs’ similar request for a preliminary injunction.

Dated: March 28, 2022

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CERTIFICATE OF SERVICE

I hereby certify that on March 28, 2022, I electronically filed the foregoing paper with the Clerk of Court using this Court's CM/ECF system, which will notify all counsel of record of such filing.

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