

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

COLONEL FINANCIAL MANAGEMENT
OFFICER, et al.,

Plaintiffs,

v.

CASE NO. 8:22-cv-1275-SDM-TGW

LLOYD AUSTIN, et al.,

Defendants.

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ORDER

In a verified, emergency motion (Doc. 219), the plaintiffs move for a temporary restraining order on behalf of First Lieutenant, a Supply Officer with the Marine Expeditionary Force. (Doc. 198 ¶ 31) The motion and attachments report the following.

On September 20, 2021, the Marine Corps denied First Lieutenant's request for a religious accommodation from the COVID-19 vaccination requirement. (Doc. 198 ¶ 31) On December 27, 2021, the Marine Corps denied his appeal. (Doc. 198 ¶ 31) Yesterday — a day seven months after the denial of his appeal — the Marine Corps notified First Lieutenant of his discharge and has afforded First Lieutenant two days to absent himself and his family from the Marine Corps installation at Camp Pendleton and to return to a "home of record or to any other place you

may elect.”* (Doc. 219-3) The plaintiffs move for relief today at 2:23 p.m. and request a ruling by today at 5:00 p.m. (Doc. 219 at 1)

The plaintiffs append First Lieutenant’s religious accommodation packet, a review of which strongly suggests that the denial of First Lieutenant’s request for a religious accommodation and the denial of his appeal are subject to the same infirmities that plagued the denial of Lieutenant Colonel 2’s appeal and USMC Captain’s appeal. (Docs. 111, 122, 133, 173) Also, the denial bears an unsettling resemblance to the other appellate denials submitted. (Compare Doc. 219 at 23 with Docs. S-109-3 at 5, 29, 60, 95; S-109-4 at 19, 57, 82, 114, 166, 209; S-109-5 at 26, 52, 83, 151, 178, 207; S-109-6 at 15, 43, 74, 173, 206; and S-109-7 at 7, 40, 42)

The motion (Doc. 219) is **GRANTED-IN-PART**. To permit a reasonable but expeditious opportunity for a hearing and the preparation of an order, the defendants are temporarily enjoined (1) from enforcing against First Lieutenant any order or regulation requiring COVID-19 vaccination, (2) from separating First Lieutenant or enforcing the separation order, (3) from requiring First Lieutenant or his family and relations to vacate their residence at Camp Pendleton, and (4) from imposing any retaliatory action against First Lieutenant as a result of, or arising from, First Lieutenant’s requesting a religious accommodation, appealing the denial of a request for religious accommodation, or pursuing this action or any other action for relief under RFRA.

* The discharge order (Doc. 219-3) is dated “August 5, 2022,” which is tomorrow. But the verified motion alleges that the discharge orders were received yesterday. (Doc. 219 at 2)

A hearing by videoconference will occur **AUGUST 10, 2022, at 9:00 a.m.** on whether to convert this temporary injunctive relief into a preliminary injunction. Not later than **AUGUST 8, 2022, at 12:00 p.m.** each party must in a notice identify any witness or evidence tendered for admission during the hearing. This temporary injunction expires **AUGUST 18, 2022, at 11:59 p.m.** The courtroom deputy will transmit to counsel instruction for appearing by videoconference. Because of diversions attending the preparation for the August 10, 2022 hearing, the plaintiffs' time in which to respond to the motion (Doc. 205) to dismiss is **EXTENDED** until **AUGUST 15, 2022.**

ORDERED in Tampa, Florida, on August 4, 2022.



STEVEN D. MERRYDAY
UNITED STATES DISTRICT JUDGE