



Supreme Court Declines To Block Maine COVID-19 Vaccine Mandate For Health Workers

Description

USA: The court's decision not to grant the immediate relief for the health care workers until it decides to review the case, means the state's COVID-19 vaccine mandate will take effect while litigation continues in lower courts.

The Supreme Court did not explain its action—typical in emergency appeals. But three conservative-leaning justices provided a dissenting opinion saying they would have granted the emergency request.

Maine is not offering a religious exemption to its COVID-19 mandate in hospital and nursing homes, which means if workers opt to not take the vaccine, they risk losing their jobs. The deadline for health care workers to be vaccinated in the state was by the [start of October](#), but the state government said it would not enforce the mandate until Friday.

“This case presents an important constitutional question, a serious error, and an irreparable injury. Where many other States have adopted religious exemptions, Maine has charted a different course,” Justice Neil Gorsuch wrote in a dissenting opinion ([pdf](#)), joined by Justice Clarence Thomas and Justice Samuel Alito.

“There, health care workers who have served on the front line of a pandemic for the last 18 months are now being fired and their practices shuttered,” he added.

“All for adhering to their constitutionally protected religious beliefs. Their plight is worthy of our attention.”

Justice Amy Coney Barrett in a concurring opinion said that the court has “discretionary judgment” about whether to take up an emergency appeal, adding that she believes the case at hand, which is the first of its kind, would benefit from a full briefing.

“Were the standard otherwise, applicants could use the emergency docket to force the Court to give a merits preview in cases that it would be unlikely to take—and to do so on a short fuse without benefit of full briefing and oral argument,” she wrote in an opinion joined by Justice Brett Kavanaugh.

“In my view, this discretionary consideration counsels against a grant of extraordinary relief in this case, which is the first to address the questions presented.”

Since 1989, Maine had required health care workers be vaccinated against various diseases. But state removed all non-medical exemptions, including religious exemptions, from mandated vaccines in 2019 because of falling vaccination rates. A referendum challenging the law in 2020 was rejected.

Lawyers for the health care workers who challenged the vaccine mandate in Maine argued that having no religious exemption was a violation of their right to free exercise of religion under the First Amendment of the U.S. Constitution.

They said their objection was in part because the vaccine was developed with the involvement of “fetal cell lines that originated in elective abortions.” While published data of the composition of the Pfizer, Moderna, and Johnson & Johnson COVID-19 vaccines show no fetal cells, the companies used fetal cell lines in either the testing stages for production stages of their vaccines.

The Liberty Counsel, which filed the lawsuit, says it is representing more than 2,000 Maine health care workers, some of whom were fired from their jobs Friday. There are nine unnamed plaintiffs in the suit.

A federal judge had [earlier rejected](#) the bid for an exemption, and later, a three-judge panel of the 1st U.S. Circuit Court of Appeals earlier in October [let the ruling stand](#).

Apart from Maine, two other states—New York and Rhode Island—have vaccine mandates for healthcare workers that do not have religious exemptions.

Liberty Counsel, in a [statement](#), noted that the states’ executive orders banned employers “from even considering the sincere religious beliefs of employees.” The group said that Maine Governor Janet Mills “threatened to revoke the business license of any employer that granted an employee a religious exemption.”

“Gov. Mills has ordered employers to disobey the federal law known as [Title VII](#) . However, states do not have the authority to order employers to disobey Title VII federal employment law that prohibits religious discrimination,” the group said Friday.

Mills, a Democrat, [said in a statement](#) in August when announcing the vaccine mandate, “Health care workers perform a critical role in protecting the health of Maine people, and it is imperative that they take every precaution against this dangerous virus, especially given the threat of the highly transmissible Delta variant.

“With this [COVID-19 vaccine] requirement, we are protecting health care workers, their patients, including our most vulnerable, and our health care capacity.”

Gorsuch, in his dissent, challenged the state’s mandate, writing, ***“No one questions that protecting patients and health care workers from contracting COVID–19 is a laudable objective. But Maine does not suggest a worker who is unvaccinated for medical reasons is less likely to spread or contract the virus than someone who is unvaccinated for religious reasons.”***

“Nor may any government blithely assume those claiming a medical exemption will be more willing to wear protective gear, submit to testing, or take other precautions than someone seeking a religious exemption.”

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