

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

NAVY SEAL # 1, et al.,

Plaintiffs,

v.

JOSEPH R. BIDEN, JR., in his official
capacity as President of the United States, et al.,

Defendants.

Case No. 8:21-cv-02429-SDM-TGW

**DEFENDANTS' NOTICE OF EXTENSION OF
DEADLINE FOR COMPLIANCE**

Defendants hereby inform the Court that Plaintiff United States Marine Corps (USMC) Captain's orders to receive the vaccine have been extended for three weeks, up through and including March 24, 2022. As a result, there is no emergency, and the Court need not issue any ruling on the TRO pending full briefing of the motion for a preliminary injunction. Defendants respectfully request up through and including March 11, 2022, to respond to Plaintiff's motion for a preliminary injunction, which should give the Court sufficient time to consider these issues before USMC Captain is required to receive his vaccination.

On February 28, 2022, 3:43 p.m., in response to Defendants' meet and confer regarding their emergency stay motion, Plaintiff's counsel notified Defendants' counsel that they would be seeking emergency relief later in the week as to some plaintiffs in the above captioned case. Plaintiff's counsel did not inform Defendants'

counsel of the specific plaintiffs that would be seeking relief or the type of relief they would be seeking. On March 2, 2022, Plaintiff filed an Emergency Motion for a Temporary Restraining Order and supporting declarations. Doc. 121. Plaintiffs' counsel did not inform Defendants' counsel of the specific plaintiff who was seeking relief until March 2, 2022, 11:15 a.m. and demanded a reply by 1:00 p.m. Given less than two hours, it was not possible for Defendants to investigate Plaintiff's allegations or to determine whether an extension of USMC Captain's deadline was possible. Defendants' counsel notified Plaintiff's counsel that they would inquire if Plaintiff's command was willing to extend Plaintiff's compliance deadline to allow for full briefing on a motion for preliminary injunction and asked if they would be willing to wait one day before filing their motion. Plaintiff declined. With the benefit of a day, Defendants are now able to confirm that USMC Captain's deadline for compliance will be extended for three weeks.

Because Plaintiff's compliance deadline has been extended there is no danger of imminent separation or other discipline. Moreover, even if such processes were to be initiated following expiration of Plaintiff's new compliance date such process typically takes many months, and are not accurately described in Plaintiff's submissions. *See* Furness Decl. ¶¶ 14-23, ECF No. 23-19 (Marines process). Accordingly, there is no threat of imminent or irreparable harm to Plaintiff, which Plaintiff must establish to be entitled to an immediate restraining order or that would necessitate a more truncated briefing schedule than Defendants propose.

Dated: March 3, 2022

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Respectfully submitted,

/s/ Amy E. Powell

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