



U.S. Department of Justice
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March 28, 2022

VIA CM/ECF

David J. Smith, Clerk of Court
U.S. Court of Appeals for the Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, GA 30303

RE: *Navy Seal 1, et al v. Secretary of the United States Department of Defense, et al.*,
No. 22-10645 (11th Cir.)
Response to Rule 28(j) Notice of Supplemental Authority

Dear Mr. Smith:

I write in response to plaintiffs' letter of March 24, 2022, submitting for consideration the Supreme Court's decision in *Ramirez v. Collier*, No. 21-5592 (Mar. 24, 2022).

Plaintiffs make no effort to explain how *Ramirez* supports their position in this case. They instead provide a numbered list of quotations and general principles drawn from *Ramirez*. As the government's stay motion establishes, the Navy's decision to deny plaintiffs' requests for religious exceptions from the COVID-19 vaccination requirement is consistent with the Religious Freedom Restoration Act. It is also consistent with the principles articulated in *Ramirez*, which applied the Religious Land Use and Institutionalized Persons Act to an inmate's request that his pastor be permitted to touch and pray over him during his execution.

As the government's stay motion makes clear, the Navy has provided a robust and individualized explanation of why it is necessary that Navy Commander and Lieutenant Colonel be vaccinated, given their specific roles and responsibilities. *See, e.g.*, Stay Mot. 9-14 (describing the military's interests with respect to Navy Commander and Lieutenant Colonel specifically); *id.* at 18-21 (describing the individualized assessment that the military conducted as to Navy Commander and Lieutenant Colonel). The Navy and the Marine Corps decisions here are supported both by military-wide policy choices

and by plaintiff-specific findings, as declarations from high-level military officials describe in detail. *See, e.g., id.* at 4-5, 9-14, 17-21. And plaintiffs’ insinuation that the Navy and Marine Corps have imposed a “categorical” requirement is inconsistent with the military’s case-by-case system for adjudicating requests for religious exceptions, which requires military decisionmakers to evaluate (among other things) whether vaccination is the least restrictive means of furthering the military’s compelling interests with respect to each individual service member who requests a religious exception. *See, e.g., id.* at 18-21. *Ramirez* therefore fails to advance plaintiffs’ claims.

Sincerely,

/s/ Sarah J. Clark
Sarah J. Clark
Counsel for the United States

cc: Counsel of Record (via CM/ECF)

**IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

NAVY SEAL 1, ET AL.,
Plaintiffs-Appellees,

v.

SECRETARY OF THE UNITED STATES
DEPARTMENT OF DEFENSE, ET AL.,
Defendants-Appellants,

No. 22-10645

**CERTIFICATE OF INTERESTED PERSONS AND
CORPORATE DISCLOSURE STATEMENT**

Pursuant to Eleventh Circuit Rule 26.1-1, counsel for Defendants-Appellants certify that the following persons have an interest in the outcome of this appeal.

Avallone, Zachary A.

Boynton, Brian M.

Carmichael, Andrew E.

Carroll, Sarah

Clark, Sarah J.

Coppolino, Anthony J.

Dover, Marleigh D.

Enlow, Courtney D.

Gannam, Roger K.

Haas, Alexander K.

Handberg, Roger B.

Harrington, Sarah E.

Macik, Thomas More

Mast, Jr., Richard L.

Merritt, R. Charles

Merryday, Hon. Steven D.

Mihet, Horatio G.

Porcelli, Hon. Anthony E.

Powell, Amy E.

Ross, Casen B.

Scarborough, Charles W.

Schmid, Daniel Joseph

Staver, Anita

Staver, Mathew D.

Sturgill Jr., Lowell V.

Wilson, Hon. Thomas G.

Counsel for Defendants-Appellants further certifies that no publicly traded company or corporation has an interest in the outcome of the case or appeal.

Dated: March 28, 2022

/s/ Sarah J. Clark
SARAH J. CLARK