

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

**NOTICE OF SUPPLEMENTAL AUTHORITY**

Defendants respectfully notify the Court of the attached order by the Supreme Court on April 18, 2022, in *Dunn v. Austin*, 596 U.S. ---, No. 21A599 (attached as Ex. 1) denying a preliminary injunction pending appeal in that case, and the underlying decisions.

Jonathan Dunn, a member of the Air Force Reserve, challenged the Air Force's COVID-19 vaccination requirement under the Religious Freedom Restoration Act and the First Amendment. Compl., *Dunn v. Austin, et al.*, No. 2:22-cv-288, ECF No. 1 (E.D. Cal.). Dunn moved for a temporary restraining order and preliminary injunction similar to the emergency relief sought here, *id.* ECF No. 14, which the district court denied, *Dunn v. Austin, et al.*, No. 2:22-cv-288, ECF No. 16 (E.D. Cal.). Dunn then appealed to the Ninth Circuit and moved for an injunction pending appeal. March 9, 2022, Emer. Mot. for Inj., *Dunn v. Austin, et al.*, 22-15286 (9th Cir.). While

the Ninth Circuit temporarily granted Dunn interim relief, the Court of Appeals ultimately denied Dunn's request for an injunction pending appeal. Order, *Dunn v. Austin, et al.*, 22-15286 (April 1, 2022 9th Cir.).

Dunn then applied for the same emergency relief from the Supreme Court, seeking an injunction pending appeal and any further review. App. For Inj. Pending Appeal, *Dunn v. Austin*, No. 21A599, Doc. 1 (U.S. Apr. 18, 2022). Dunn's application for an injunction was presented to Justice Kagan, who called for a response from the government. In its response, the government advanced many of the same arguments that it has advanced in this case. See Defs.' Resp. to App., *Dunn v. Austin*, No. 21A599, Doc. 7 (U.S. Apr. 15, 2022). The Court received the government's response on Friday, April 15, and denied Dunn's application the following Monday, April 18, without awaiting a reply or issuing an opinion. See Ex. 1. Justices Thomas, Alito, and Gorsuch noted that they would have granted the application for an injunction pending appeal, but also did not issue any opinion. *Id.*

Dated: April 20, 2022

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Respectfully submitted,

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(ORDER LIST: 596 U.S.)

MONDAY, APRIL 18, 2022

ORDER IN PENDING CASE

21A599 DUNN, JONATHAN V. AUSTIN, SEC. OF DEFENSE, ET AL.

The application for an injunction pending appeal presented to Justice Kagan and by her referred to the Court is denied.

Justice Thomas, Justice Alito, and Justice Gorsuch would grant the application for an injunction pending appeal.