

3 September 2021

MEMORANDUM

From: Seaman XXXXXXX
To: Captain XXXXX
Via: Captain XXXXX
Master Chief XXXXX
Lieutenant Commander XXX

Subj: COMPLAINT OF WRONGS

Ref: JAGMAN, Chapter III, para 0306b.

Encl: COVID-19 Vaccination Administrative Counseling/Warning (copy of unsigned form)

1. I, XXXXXXX, a sailor under your command aboard the XXXXXXX, under the advice of counsel, am availing myself of the my right of Redress under the reference listed above.

a. The alleged wrongs include an **unlawful order** for mandatory vaccination as outlined in the COVID-19 Vaccination Administrative Counseling/Warning memo, under the authority of BUMEDINST 6230.15B ALNAV 62021, NAVADMMIN, 190-21, that:

- (1) "On XXXXXXX 2021 all U.S. service members were mandated to be vaccinated against COVID-19."
- (2) "Before XXXXXXX 2021, you will complete receipt of the COVID-19 vaccination using an FDA approved vaccine."
- (3) "Proof of vaccination is required and must be entered into your medial record."
- (4) "Unless medically or administratively exempt" (and no avenue was offered to me on how I would obtain such medical or administrative exemption), "refusal to be vaccinated may constitute a Failure to Obey a Lawful Order and may be punishable under the Uniform Code of Military Justice (UCMJ) and/or administrative action for Failure to Obey a Lawful Order (UCMJ, Article 92)."
- (5) Under duress and without legal counsel present, I was made to choose elections and sign the "page 13" form, but was not provided a copy of the signed form with "Member Signature Date/Signed", "Commanding Officer", and Witness' Signature Date/Signed", per Navy regulations.

b. This order is **legally distinguishable** from the order of SECDEF Austin dtd 24 August 2021, and is **unlawful** for the following reasons:

- (1) In the COVID-19 Vaccination Administrative Counseling/Warning, para 3 mandated the "COVID-19 vaccination using an FDA approved vaccine. Of note, the Pfizer vaccine is a two-shot series."
- (2) Currently the only COVID-19 vaccine that has been approved is Pfizer Comirnaty vaccine, which as the CDC say, is "legally distinguishable" from the Pfizer BioNTech vaccine. It is unclear as to whether Comirnaty is available in the U.S.
- (3) The Experimental Use Authority (EUA) (10 U.S.C. § 1107a) law specifically states that if an approved vaccine is available, those under the EUA **are not lawful to administer**.
- (4) Therefore, any vaccine other than the Pfizer Comirnaty, **may not lawfully be utilized or ordered to be utilized**.

(5) This **unlawful order** was followed by a threat of disciplinary or administrative action and says nothing about the lawful exemptions available, such as religious or natural immunity per AR40-562 (a joint regulation), (“Immunizations and Chemoprophylaxis for the Prevention of Infectious Diseases,”) which remain in effect and may not be summarily dismissed.

2. I request the following relief under JAGMAN, Chapter III, para. 0306b:

a. That the current order be rescinded and clarified to include that vaccination at this time is voluntary.

b. That the EUA strictly requires “informed consent,” that all sailors be informed of the ingredients in all vaccines, be informed of all potential side effects and reactions to include death, and how many negative reactions and deaths have currently occurred. (Per 21 U.S.C. § 360bbb-3(e)(1)(A)(ii)(I-III), “Federal Food, Drug, and Cosmetic Act.”)

c. That all sailors be made aware of their right to refuse any experimental vaccine, unless the President signs an Executive Order outlining the need for emergency vaccination.

d. That all sailors be made aware of their right to seek religious and natural immunity exemptions (AR 40-562, para. 2-6(b)), from the vaccine.

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Copy to:

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