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In NCLA *Amicus* Win, en Banc Fifth Circuit Rules Against Biden’s Federal Employee Vaccine Mandate

Feds for Medical Freedom, et al. v. Joseph R. Biden, Jr., et al.

Washington, DC (March 27, 2023) – The New Civil Liberties Alliance and its class-action clients in [James Joseph Rodden, et al. v. Dr. Anthony Fauci, et al.](#), praise the [decision](#) of the *en banc* U.S. Court of Appeals for the Fifth Circuit to protect the fundamental rights of government workers to refuse unwanted medical treatment as a condition of their employment. Late last week the full bench affirmed the U.S. District Court for the Southern District of Texas’s original injunction stopping President Biden’s unprecedented order. His vaccine mandate had required federal civilian employees to be jabbed, forcing an unwanted medical procedure on them that provides no benefit to those with naturally acquired immunity to Covid-19 and serves no legitimate need of their employer.

NCLA filed an [amicus brief](#) in this case asking the Fifth Circuit to reinstate a lower court decision that paused the Covid-19 vaccine mandate for federal workers that a split Fifth Circuit panel had [vacated](#) in April 2022. That panel ruled that the Civil Service Reform Act of 1978 precludes district court review of the federal employees’ challenge. The panel’s flawed decision shielded unlawful government mandates against federal employees from judicial review, permitting only case-by-case administrative adjudication of class-wide constitutional violations. The mandate robbed more than 10 million federal employees and contractors of their healthcare autonomy.

NCLA commends the *en banc* Fifth Circuit’s decision to vindicate the Judiciary’s role in policing the boundary between the executive and legislative branches. It thereby protected the rights of employee members of *Feds for Medical Freedom*—and the rights of NCLA’s clients—to remain free from unwanted medical treatment and violation of their bodily autonomy.

NCLA released the following statements:

“The Fifth Circuit has correctly analyzed Supreme Court precedent and held that the existence of the Civil Service Reform Act does not mean the government can make unconstitutional decisions sweeping across the entire federal workforce and then make employees fight for their civil rights in an administrative process individual by individual before a tribunal that can’t make constitutional decisions. NCLA is happy for our clients in *Rodden v. Fauci*.”

— **John J. Vecchione, Senior Litigation Counsel, NCLA**

“The *en banc* Fifth Circuit recognized that the President is not a King, and that he cannot single-handedly, and absent any judicial review, deny millions of federal employees’ ability to direct their own healthcare decisions.”

— **Greg Dolin, Senior Litigation Counsel, NCLA**

For more information, visit the *amicus* brief page [here](#).

ABOUT NCLA

[NCLA](#) is a nonpartisan, nonprofit civil rights group founded by prominent legal scholar [Philip Hamburger](#) to protect constitutional freedoms from violations by the Administrative State. NCLA’s public-interest litigation and

other pro bono advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans' fundamental rights.

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