

No. 21A293

IN THE

Supreme Court of the United States

AARON ABADI,

Applicant,

v.

OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION,

Respondent.

On Application for an emergent motion to STAY vaccine mandate specifically for those with natural immunity pending review, denied by **United States Court of Appeals for the Sixth Circuit.**

**APPLICANT'S REPLY TO RESPONDENT'S
RESPONSE TO THE EMERGENCY APPLICATION**

Applicant:

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To the Honorable Brett M. Kavanaugh,
Associate Justice of the Supreme
Court of the United States and
Circuit Justice for the Sixth Circuit

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SUPREME COURT, U.S.

**TO THE HONORABLE BRETT M. KAVANAUGH, ASSOCIATE
JUSTICE OF THE SUPREME COURT OF THE UNITED STATES AND
CIRCUIT JUSTICE FOR THE SIXTH CIRCUIT;**

Applicant, Aaron Abadi, hereby replies to the response filed by the Occupational Safety & Health Administration, (“OSHA”), in defense of its emergency temporary standard (“ETS”) entitled COVID-19 Vaccination and Testing, 86 Fed. Reg. 61402 (Nov. 5, 2021).

As clarified in the Application, this particular Applicant is focusing SPECIFICALLY AND EXCLUSIVELY WITH REGARD TO THOSE WHO ALREADY HAD THE COVID VIRUS, and thus now have NATURAL IMMUNITY. Applicant argues that requiring someone who already has equal or better immunity to those that are vaccinated, to go out and get vaccinated or not have a job, is ARBITRARY AND CAPRICIOUS.

In the Respondent’s Response filed today, January 6, 2022, Respondent addresses the issue of natural immunity in one paragraph, on pages 37 and 38. The basis of OSHA considering those with natural immunity the same as the unvaccinated seems to be because there isn’t enough data to show the strength of natural immunity.

The problem with that premise is that there is the same lack of data to show the strength of the vaccine immunity. We started out thinking it was 95% effective, now in many studies we are down to 70% or less.

There is significant data showing that natural immunity has been a stronger protection than the vaccine. The idea that only the vaccinated can work is not to suggest that there will be no transmission of Covid. On the contrary, they expect transmission to continue, but hope to have it reduced. The same result would exist whether vaccinated or naturally immune.

Choosing to allow vaccinated people to work and to not allow the ones with natural immunity, is arbitrary and capricious, and it seems to show the true motivation of the ETS, which may be forced vaccinations, not workplace safety.

The simple fix for this issue is for OSHA to allow employers to accept a POSITIVE PCR TEST in place of a proof of vaccine. They do that in Israel, as it follows the science.

The one other issue that Applicant would like to address in this reply is this idea that Respondent reiterates multiple times, that OSHA's ETS will save 6,500 lives, reduce thousands of hospitalizations, etc. This is "Fuzzy Math," (as coined by President George W. Bush.)

The premise of the reduction of cases by not allowing employees to go to work, relies on the false premise that the overwhelming majority will thus stay home, or that everyone will have no choice but to get vaccinated. Both premises are incorrect.

People stopped staying home a long time ago. Even those politicians with the party affiliation to excess lockdowns, quarantines, and maskings, are themselves getting caught in the sun in Florida, unlocked and unmasked, violating their own

stringent rules. People who cannot work will most likely be spending time with family and friends, seeing even more people than in their work environments.

There's no indication that there will be any reduction of exposures. OSHA is just moving the issue from workplace to homeplace, with no provable health or safety results at all. There may be 6,500 lives saved at the workplace, but there will be an increase of the same 6,500 people dying instead while at home. Again, arbitrary and capricious.

The idea that suddenly all of us unvaccinated people will just get vaccinated, if OSHA wins, is an incorrect assumption, and an underestimation of the American people's need for freedom.

Every American was harassed ad nauseum to get vaccinated. We know it's free, we know there will be rewards, we know that smiling beautiful women on TV really want us to get vaccinated, and we know that we will be punished if we don't. We value our rights much more than that. Whomever held out this long, will most likely continue to hold out.

OSHA's ETS will provide no measurable benefit to the workplace. It's just bells and whistles to justify another government overreach. Statistics in the hands of a person or entity that has a particular bias can easily be presented to show what they want it to show. As I said, it's fuzzy math.

WHEREFORE, petitioner requests this Court issue an order before the ETS becomes in effect, or as soon as physically possible, to STAY THE ETS WITH REGARDS TO THOSE WHO PREVIOUSLY HAD COVID.

Respectfully submitted on January 6, 2021



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