

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

CHRISTOPHER HARKINS, et al.,)	
)	
Plaintiffs,)	
)	No. 23-1238
v.)	(Judge Bonilla)
)	
THE UNITED STATES,)	
)	
Defendant.)	

MOTION TO STAY PROCEEDINGS

Pursuant to Rule 7 of the Rules of the United States Court of Federal Claims, defendant, the United States, respectfully requests that the Court stay further proceedings in this case for 60 days. On January 28, 2025, counsel for plaintiffs indicated that plaintiffs oppose this request for a 60-day stay of proceedings.

Good cause supports this request. On January 27, 2025, the President signed an Executive Order instructing the Secretary of Defense or the Secretary of Homeland Security to:

- (a) make reinstatement available to all members of the military (active and reserve) who were discharged solely for refusal to receive the COVID-19 vaccine and who request to be reinstated;
- (b) enable those service members reinstated under this section to revert to their former rank and receive full back pay, benefits, bonus payments, or compensation; and
- (c) allow any service members who provide a written and sworn attestation that they voluntarily left the service or allowed their service to lapse according to appropriate procedures, rather than be vaccinated under the vaccine mandate, to return to service with no impact on their service status, rank, or pay.

Exec. Order, Reinstating Service Members Discharged Under the Military’s COVID-19 Vaccination Mandate (Jan. 27, 2025) (available at <https://www.whitehouse.gov/presidential-actions/2025/01/reinstating-service-members-discharged-under-the-militarys-covid-19->

vaccination-mandate/). The Executive Order further provides that “the Secretary of Defense and the Secretary of Homeland Security shall report to the President through the Assistant to the President for National Security Affairs on their progress implementing this order” within 60 days. *Id.*

In light of the Executive Order, a stay is warranted in this case for two reasons. First, the Department of Defense, Department of Homeland Security, and relevant military Services will require time to determine how to implement the Executive Order. Second, the parties will need time to confer and discuss appropriate next steps in this case in light of the Executive Order. We respectfully request that the Court stay proceedings in this case for an initial period of 60 days. At the conclusion of the 60-day stay, if granted, the Government plans to file a status report updating the Court on the status of implementation of the Executive Order as well as proposed next steps in this case.¹

For these reasons, we respectfully request that the Court grant this motion to stay proceedings for a period of 60 days, at which point the Government will file a status report updating the Court as to appropriate next steps in this case.

¹ In the Court’s January 23, 2025 opinion and order, the Court instructs the parties to file a joint status report on or before February 13, 2025, “proposing a schedule of continued proceedings in this case, including addressing the issue of class certification and any proposed remand proceedings.” ECF No. 36 at 30. In light of the Executive Order, we respectfully request that this deadline be stayed in accordance with this motion to stay.

Respectfully submitted,

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