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APPEALS COURT EXTENDS BLOCK ON BIDEN’S EMPLOYER VACCINE MANDATE

The New Orleans Appeals court has blocked a federal mandate that all large employers

require their workers to get vaccinated against the coronavirus or submit to weekly testing starting

in January 2022. The three judges in the Appeals court are led by Republican Judge Kurt D.

Engelhard who was appointed by Donald Trump in 2018. He argued that the federal mandate was

an unlawful overreach that exceeded the authority of Congress.

Judge Kurt D. Engelhardt said that “the principles at stake when it comes to the mandate are

not reducible to dollars and cents. The public interest is also served by maintaining the liberty of

individuals to make intensely personal decisions according to their own convictions.” For him

framing the mandate as a workplace safety effort was just a pretext for the Biden administration’s

real motivation which was indeed to put pressure on Americans who have so far been reluctant to

get vaccinated.

The Justice Department argued that requiring large employers to force their workers to get

vaccinated or submit to weekly testing was well within the authority granted by Congress to the

Occupational Safety and Health Administration. It also said keeping the mandate from coming into

effect “would likely cost dozens or even hundreds of lives per day, in addition to large numbers of

hospitalizations, other serious health effects and tremendous costs. That is a confluence of harms

of the highest order.”

President Biden had announced in September that the mandate was one of several steps to

try to increase immunization rates and end the pandemic, which so far has killed about 750,000

Americans.

The mandate concerns companies with at least 100 employees. It would force them to

require unvaccinated employees to wear masks indoors starting Dec. 5. Employees who remain

unvaccinated by Jan. 4 would have to undergo weekly testing at work.

The proposed rule makes an exception for employees who do not come into close contact

with other people at their jobs, such as those who work at home or exclusively outdoors.

But among other things, the New Orleans Appeal court argued that the administration has no

power to regulate protections against exposure to disease, as opposed to workplace hazards like

asbestos, and that framing the mandate as a workplace safety effort was just a pretext for the

Biden administration’s real motivation: pressuring Americans who have been reluctant to get

vaccinated.

Some large employers have already decided on their own to impose vaccine mandates on

their workforces, including 3M, Procter & Gamble, IBM, Tyson Foods. Most workers have

complied, though a small number have quit.

The ruling by the New Orleans Appeals court is unlikely to be the final word.

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Adapted from The New York Times

November 2021

(460 words)