News

Protesters demonstrate outside the New York City Department of Health offices on Dec. 6, 20

Protesters demonstrate outside the New York City Department of Health offices on Dec. 6, 2021. (CNS photo/Mike Segar, Reuters)



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The Supreme Court turned down emergency requests Dec. 13 from New York health care workers seeking a religious exemption from the state's COVID-19 vaccine mandate for its health care employees.

The Supreme Court denied the requests from the two groups in a brief written order without explanation. Justices Clarence Thomas, Samuel Alito and Neil Gorsuch said they would have allowed the religious exemption.

The workers brought their case to the nation's high court after the U.S. Court of Appeals for the 2nd Circuit refused to stop the vaccine mandate this fall. The groups

said the "punitive treatment of religious objectors" violates the free exercise clause of the Constitution.

A report by New York state estimates that about 4% of its health care work force — or 37,000 workers — have left their jobs over the vaccine mandate.

The mandate was issued in August by Gov. Kathy Hochul and went into effect at the end of September. Because of the pending court cases, workers who asked for religious exemptions were allowed to work until Nov. 22, but then had to get vaccinated, go on leave or resign.

The state report said it was unclear how many health care workers left because of religious objections to the vaccine mandate, but that about 4,000 additional health care workers have left or been put on leave for not being vaccinated since the ban on religious exemptions went into effect.

New York is not alone on this. In October, the Supreme Court denied a similar appeal from health care workers in Maine seeking a religious exemption from the state's vaccination requirements for its health care workers, which lower courts had rejected. The same three justices also dissented in that case.

In Rhode Island, a group of health care workers is similarly seeking relief from a federal judge from the state's vaccine mandate for health care employees that does not have a religious exemption.

The lawsuits filed by the New York nurses, doctors and other health care workers said their religious reasons for not wanting the COVID-19 vaccinations were due to a link to cells from aborted fetuses that were used in the development or testing of the vaccines.

One group challenging the mandate said it "imposes an unconscionable choice on New York health care workers: abandon their faith or lose their careers and their best means to provide for their families."

In response, the state's brief said the vaccines do not contain aborted fetal cells but that an abortion-derived cell line was used during the research and development of Pfizer and Moderna vaccines. It added that the "use of fetal cell lines for testing is common, including for the rubella vaccination, which New York's health care workers are already required to take."

It also pointed out that Pope Francis and other Catholic leaders have approved of the COVID-19 vaccines being administered and the U.S. Conference of Catholic Bishops called the connection between the vaccines and abortion "very remote."

Gorsuch, joined by Alito, filed a 14-page dissent emphasizing that the court's majority failed to respect the free exercise of religion. Thomas said he would have blocked the vaccine mandate but didn't give an explanation.

Gorsuch wrote that the health care workers seeking an exemption "are not 'anti-vaxxers' who object to all vaccines" and said "no one questions the sincerity of their religious beliefs."

He said they explained their reasoning was "because their religion teaches them to oppose abortion in any form and because each of the currently available vaccines has depended upon abortion-derived fetal cell lines in its production or testing."

He also pointed out that "nearly every other state has found that it can satisfy its COVID-19 public health goals without coercing religious objectors to accept a vaccine."

Christopher Ferrara, special counsel to the Thomas More Society, a national nonprofit law firm based in Chicago that is representing one of the groups of New York health care workers, said Gorsuch's dissent was "clearly written for the history books" and praised the justice for expressing frustration over the court's refusal to help those seeking relief.

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In a statement, he said it is "astonishing that the court tolerates this blatant invasion of religious freedom" and said he hopes the court's majority "will finally do what it did last year in striking down New York's absurd church closures in the name of 'public health' — the right thing."

Gorsuch also wrote a dissent in the Maine health care workers' case, joined by Thomas and Alito, which said the state's refusal to grant religious exemptions "borders on the irrational."

The Supreme Court has turned away other challenges seeking emergency relief from COVID-19 vaccine mandates including a challenge by students from Indiana University and from public school employees in New York City. Both of these mandates had religious exemptions.

This summer, Mercy Sister Mary Haddad, president of the Catholic Health Association, issued a statement encouraging all health care workers to get vaccinated, saying they would be doing their part to "protect themselves, their co-workers, their patients, their loved ones and their neighbors."

She also said the association, which supports more than 2,200 Catholic hospitals, health care systems, nursing homes and long-term care facilities across the country, "strongly supports member health systems as they take necessary steps toward ensuring as many health care workers as possible receive the vaccines."

She told Catholic News Service that some Catholic health systems are mandating their employees be vaccinated for COVID-19, while others have said they are awaiting the U.S. Food and Drug Administration's full approval of the vaccines. Currently the Pfizer vaccine is the only one with full FDA approval for adults.

Most Catholic health systems, at the very least, have encouraged employees to get vaccinated and some are offering incentives for them to do so.

The vaccination policies for Catholic and other major health systems include exemptions for medical or religious reasons.

Sister Haddad said Catholic health workers "have to set the example" and should be vaccinated because they are "serving people at a vulnerable time of sickness; the thought that they could infect someone is unconscionable."