

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA, *et al.*,

Plaintiffs,

v.

JOSEPH R. BIDEN, JR., *et al.*,

Defendants.

Case No: CIV-21-1069-G

PLAINTIFFS' RESPONSE TO DEFENDANTS' STATUS REPORT

Plaintiffs respectfully submit this response to the status report filed today by Defendants.

See Doc. 50.

1. As anticipated, the Eleventh Circuit issued its mandate in the *Georgia* case today. *See* Ex. 1. Although the mandate came out shortly before Defendants filed their status report, they did not note this fact.

2. Because neither Executive Order 14042 nor the vaccine mandate applicable to federal contractors has been withdrawn, this Court should issue a preliminary injunction to protect contractors in Oklahoma—for the same reasons that the Eleventh Circuit held that preliminary relief was proper in *Georgia*.

3. The fact that the federal government has chosen—for now—not to enforce the vaccine mandate in Oklahoma in the face of lawsuits is not a reason to withhold injunctive relief. As the Tenth Circuit explained long ago: “Equity may act to avert an impending wrong; it is not divested of power because a defendant suspends his wrongdoing when he is sued” *Vaughan v. John C. Winston Co.*, 83 F.2d 370, 373 (10th Cir. 1936); *see also* *FTC v. Accusearch Inc.*, 570 F.3d 1187, 1201 (10th Cir. 2009) (“A ‘court’s power to grant injunctive relief survives

the discontinuance of the illegal conduct.” (quoting *United States v. W.T. Grant Co.*, 345 U.S. 629, 633 (1953)); *SEC v. Mgmt. Dynamics, Inc.*, 515 F.2d 801, 807 (2d Cir. 1975) (noting that “appellate courts have repeatedly cautioned that cessation of illegal activity does not *ipso facto* justify the denial of an injunction”).

Respectfully submitted,

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Counsel for Plaintiffs

Dated: October 18, 2022

EXHIBIT 1

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

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October 18, 2022

Clerk - Southern District of Georgia
U.S. District Court
Federal Justice Center
600 JAMES BROWN BLVD
AUGUSTA, GA 30901

Appeal Number: 21-14269-BB
Case Style: State of Georgia, et al v. President of the United States, et al
District Court Docket No: 1:21-cv-00163-RSB-BKE

A copy of this letter, and the judgment form if noted above, but not a copy of the court's decision, is also being forwarded to counsel and pro se parties. A copy of the court's decision was previously forwarded to counsel and pro se parties on the date it was issued.

The enclosed copy of the judgment is hereby issued as mandate of the court. The court's opinion was previously provided on the date of issuance.

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Lois Tunstall
Phone #: (404) 335-6191

Enclosure(s)

MDT-1 Letter Issuing Mandate

In the
United States Court of Appeals
For the Eleventh Circuit

No. 21-14269

STATE OF GEORGIA,
STATE OF ALABAMA,
STATE OF IDAHO,
STATE OF KANSAS,
STATE OF SOUTH CAROLINA, et al.,

Plaintiffs-Appellees,

versus

PRESIDENT OF THE UNITED STATES,
SAFER FEDERAL WORKFORCE TASK FORCE,
UNITED STATES OFFICE OF PERSONNEL MANAGEMENT,
DIRECTOR, OFFICE OF PERSONNEL MANAGEMENT AND
CO-CHAIR
SAFER FEDERAL WORKFORCE TASK FORCE,
OFFICE OF MANAGEMENT AND BUDGET, et al.,

Defendants-Appellants.

Appeal from the United States District Court
for the Southern District of Georgia
D.C. Docket No. 1:21-cv-00163-RSB-BKE

JUDGMENT

It is hereby ordered, adjudged, and decreed that the opinion issued on this date in this appeal is entered as the judgment of this Court.

Entered: August 26, 2022

For the Court: DAVID J. SMITH, Clerk of Court