

Supreme Court Hears Challenges to Vaccine Mandates, Level of Disinformation Absolutely Astonishing



The Supreme Court of the United States today [heard oral arguments](#) pertaining to two of the Biden administration's [COVID vaccine mandates](#). The focus of the hearing was whether to stay or to grant temporary injunctions requested by plaintiffs in a number of lawsuits challenging the emergency mandates for millions of Americans.

The two cases pertain to the mandates imposed on private businesses with 100 or more employees, and on healthcare facilities participating in the Medicare or Medicaid programs.

The Court did not issue a ruling and gave no indication as to how quickly an opinion will be rendered, but mandate penalties enforced by the Occupational Safety and Health Administration

(OSHA) are scheduled to begin next week for large private employers.

During the emergency hearing, members of the Supreme Court's conservative majority appeared to question the Biden administration's legal authority to impose a mandate requiring the nation's large employers to require workers to be vaccinated against COVID or wear facemasks and submit to frequent testing.

In a separate challenge regarding the U.S. Department of Health and Human Services' Centers for Medicare & Medicaid Services (CMS) mandate for healthcare workers and facilities, some justices appeared more open to vaccine requirements for certain healthcare workers, while others expressed concern over what appeared to be a breach of authority and lack of public comment session in issuing the rule.

The liberal justices defended the government's ability to impose vaccine mandates, citing concerns over Omicron, which Justice Sonya Sotomayor falsely claimed was more [deadly to the unvaccinated](#) than the Delta variant.

Sotomayor also [expressed concern](#) over the 100,000 children she said were hospitalized, many of whom are on ventilators.

"We have over 100,000 children," Justice Sotomayor said, "which we've never had before, in serious condition and many on ventilators. So saying it's a workplace variant just underscores the fact that without some workplace rules with respect to vaccines or encouraging vaccines because this is not a vaccine mandate."

Yet, the [national pediatric COVID census](#) per HHS is 3,342 (not 100,000), and most children are not vaccinated for COVID but test positive for COVID after being admitted for other conditions. From Dec. 26, 2021 – January 1, 2022, among the 41% of children admitted with but not primarily for COVID, the [most common reasons for admission](#) were acute and chronic

medical conditions.

The liberal justices said vaccine mandates were a needed response to the public health crisis, which [Justice Stephen Breyer said](#) caused 750,000 million new COVID cases yesterday in the U.S. – [more than double](#) the U.S. population.

“We know the best way to prevent spread is for people to get vaccinated,” Justice Elena Kagan said.

Chief Justice John Roberts, Jr. and Justice Neil Gorsuch said the states and Congress, rather than a federal agency, were better equipped to address the pandemic in the nation’s workplaces.

Justice Amy Coney Barrett [said](#) the OSHA regulation appeared to reach too broadly in covering all large employers, while Justices Gorsuch and Justice Brett Kavanaugh suggested the governing statute had not authorized the agency to impose the mandate clearly, given what was at stake politically and economically.

Justice Sotomayor aggressively pushed back on the term “vaccine mandate” during the hearing on OSHA’s regulations, issued through a “Vaccination and Testing Emergency Temporary Standard” (ETS), which covers employers with 100 or more employees.

“There’s no requirement here. It’s not a vaccine mandate,” [Justice Sotomayor said](#) during the oral arguments. “It’s something totally different.”

Justice Sotomayor appeared to be tapping into the idea that, because the mandate allows for mandatory vaccinations to be substituted by weekly testing and facemasks, it is not a mandate.

According to OSHA, “The ETS requires covered employers to establish, implement and enforce a written mandatory COVID-19

vaccination policy with an exception for employers that instead establish, implement and enforce a written policy that requires unvaccinated employees to undergo weekly COVID-19 testing and wear a face covering at the workplace instead of vaccination.”

Scott Keller, attorney for the National Federation of Independent Business, [argued](#) the OSHA regulations had originally been passed to protect workers from unvaccinated coworkers and were now obsolete due to “CDC guidance contradicting foundational assumptions” of the regulations.

“Yes, that may be true, but we are now having deaths at an unprecedented amount, catching COVID keeps people out of the workplace for extraordinary periods of time,” Justice Sotomayor responded.

Justice Elena Kagan [suggested](#) getting a COVID vaccine reduces the spread of COVID, a claim questioned by the rising number of breakthrough cases worldwide. Justice Kagan’s opinion is that “this is the policy that is most geared to stopping all this.”

“There’s nothing else that will perform that function better than incentivizing people strongly to vaccinate themselves,” Justice Kagan said. “So, you know, whatever necessary means, whatever grave means, why isn’t this necessary and grave?”

Justice Stephen Breyer suggested being vaccinated would stop people from transmitting the virus to others, and the idea that more people would leave the workforce due to the mandates was moot because “more may quit when they discover they have to work together with unvaccinated people because that means they may get the disease.”

Justice Breyer said he would find it “unbelievable that it would be in the public interest to stop these vaccinations.”

The [second hearing](#) addressed the CMS vaccine mandate. Justice

Gorsuch [asked a series of questions](#) to Brian Fletcher, principal deputy solicitor general for the Biden administration, about the impact of the vaccine mandates and how it can be viewed as potentially controlling the employment of healthcare workers, which is not allowed by the law.

Justice Gorsuch asked:

“This regulation affects, we’re told, 10 million healthcare workers and will cost over a billion dollars for employers to comply with. So what’s your reaction to that, why isn’t this a regulation that effectively controls the employment and tenure of healthcare workers at hospitals? An issue Congress said the agency didn’t have the authority and that should be left to the states to regulate.”

Fletcher said the government interprets the relevant statute to mean the secretary cannot dictate particular hiring decisions: “That’s what control and supervision means.”

Elizabeth Murrill, Louisiana solicitor general, [reminded the court](#) the case is not about whether “vaccines are effective, useful or a good idea. It’s about whether this federal executive branch agency has the power to force millions of people working for or with a Medicare or Medicaid provider to undergo an invasive, irrevocable forced medical treatment – a COVID shot.”

Murrill also raised concern over the lack of informed consent and the negative effects lifting the stay on the CMS mandate could have on healthcare providers and patients.

In the end, the concerns expressed by the conservative side of the court centered around whether CMS followed procedure in issuing its rule and whether it even had the authority to impose it.

Twitter erupts over disinformation ignored by mainstream media during SCOTUS hearing

Twitter erupted over what some considered to be disinformation perpetuated [during the hearing](#) and over concerns false information would influence the Supreme Court's decision.

Mike Cernovich, producer and attorney said, "Today was a bad day for the Court's legitimacy, with multiple justices spreading disinformation about children on ventilators and daily cases exceeding total US population."

SCOTUS is the last remaining ☐☐ institution with mystique.

Today was a bad day for the Court's legitimacy, with multiple justices spreading disinformation about children on ventilators and daily cases exceeding total US population.

– Cernovich (@Cernovich) [January 7, 2022](#)

Jenin Younis, a civil liberties attorney, said in a Tweet, "Justice Kagan, in questioning [the] attorney arguing against CMS mandate, again insists that vaccines stop transmission. This lack of knowledge as to basic facts about the vaccines and covid is concerning."

Kagan, in questioning attorney arguing against CMS mandate, again insists that vaccines stop transmission. This lack of knowledge as to basic facts about the vaccines- and covid- is concerning.

– Jenin Younes (@Leftylockdowns1) [January 7, 2022](#)

Dr. Benjamin Bradock reminded the world why a single-payer

healthcare system is a bad idea when he tweeted a quote made by Justice Kagan during the hearing:

Kagan: "the government is paying for the medical services so they have the right to dictate details of those services"

– Dr. Benjamin Braddock (@GraduatedBen) [January 7, 2022](#)

Greg Price, a senior digital strategist, said during oral arguments Justice Sotomayor made the following false statements: COVID deaths are at an all-time high, Omicron has been deadlier than Delta, 100,000 children are hospitalized with COVID and OSHA's regulatory authority is a federal "police power."

The disinformation didn't end there. Justice Sotomayor also claimed hospitals were at capacity and compared humans spewing "blood-borne viruses" to machines spewing sparks.

Justice Sotomayor also claimed that hospitals are nearing capacity.

She also asked "Why is a human spewing a virus not like a machine spewing sparks?"

Incredible performance all around.

– Greg Price (@greg_price11) [January 7, 2022](#)

Price also tweeted the clip of Sotomayor saying "hospitals are almost all full capacity" and there are "over 100,000 children" hospitalized with COVID "many on ventilators."

Here is Justice Sotomayor saying that "hospitals are almost all full capacity" and there are "over 100,000 children" hospitalized with covid "many on ventilators."

None of those things are true. Not even close.

pic.twitter.com/MqWEL2UvJg

– Greg Price (@greg_price11) [January 7, 2022](#)

Ilya Shapiro, vice president and director of the Robert A. Levy Center for Constitutional Studies, called Sotomayor's performance 'mind-boggling.'

Sotomayor claims not to understand distinction between state and federal power. Mind-boggling. Calls OSHA's regulatory authority to be a "police power." OH SG tries to explain con law 101, eventually Roberts rescues the embarrassing discourse.

– Ilya Shapiro (@ishapiro) [January 7, 2022](#)

The Supreme Court's move to hold oral arguments in deciding whether or not to issue an emergency stay is unusual. Typically, such cases are [placed](#) on the "[shadow docket](#)" and parties are not given the opportunity to provide a full briefing or oral arguments.

What the Supreme Court ultimately decides will provide a strong indication for employers about what they will or won't need to do to come into compliance, and how the cases may go in the lower courts.

The Biden administration's ETS [mandating employers](#) with over 100 employees get vaccinated, or if unvaccinated, wear a mask and get tested weekly, has faced many court challenges. The cases were consolidated and the 6th Circuit Court of Appeals recently lifted a stay on the mandate imposed by the 5th Circuit, prompting the case to make its way to the Supreme Court.

CMS [announced](#) Dec. 29, 2021, it will begin enforcing its COVID vaccine mandate in the 26 states where it is not blocked. A

modified enforcement timeline accompanied this announcement: Healthcare workers will now be required to receive the first dose of a COVID vaccine by Jan. 27, and the second dose by Feb. 28.

Millions of American citizens are hoping SCOTUS will base its ruling on the Constitution and laws of the United States, not the misinformation and mainstream media talking points that appear to have been adopted by several justices on the Court.

Oral arguments on OSHA and CMS vaccine mandates can be accessed on C-SPAN [here](#).