

## US Attorneys Preparing Argument That Natural Immunity Is Valid Exemption from Vaccine Mandate

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Governments around the world are compelling and coercing more people to receive Coronavirus Disease 2019 (COVID-19) injections, including countless federal workers and health care workers in the United States. Biden has announced that it will be mandatory for companies with more than 100 employees to vaccinate their staff, a mandate that would affect over 100 million Americans.

The requirement has been met with fierce criticism and pushback. Many lawyers are working to make U.S. courts recognize natural immunity against COVID-19 from a previous infection as a valid legal exemption against mandatory vaccination.

Erik Eisenmann, an attorney specializing in labor and employment law, said: “I think that a judge might reject a rule that’s been issued by a body, like the U.S. Department of Labour or by a state, that has not been sufficiently thought through as it relates to the science.”

He added, “Right now, I think it’s been easy for employers and the medical community to say the vaccine is always better... But the science evolves and there are new strains.”

One report ([pdf](#)) from Israel that Eisenmann and other lawyers cited suggests that natural immunity provides significantly better protection against COVID-19 than the Pfizer vaccines. Professor Todd Zywicki, a senior fellow at the Cato Institute and an associate professor at George Mason University, weighed in on the issue.

According to Zywicki, the state vaccine mandate for smallpox is grounded in *Jacobson v. Massachusetts* ([pdf](#)), a decision by the Supreme Court in 1905. He believes it might be challenged if enough legal and scientific evidence is presented to the Supreme Court. “That was a different medical era,” Zywicki said. “There was no way to confirm whether you had a prior infection and recovery, which is obviously the case now.”

Using another Supreme Court decision from 1927, *Buck v. Bell*, would be helpful for modern legal analysis, according to Professor Zywicki. *Buck vs Bell* proved individuals have the right to make medical decisions concerning their bodies. The ruling states that even prisoners cannot be compelled to take medications against their will.

Professor Zywicki said, “Understandably, we are repulsed by that sort of attitude: that the government can do anything to you just because they think it’s a convenient way of dealing with some social problem.”

Republicans in Congress are making attempts to pressure the CDC to recognize natural immunity, while lawyers are joining forces to fight for it in the courts. Republican Sen. Roger Marshall of Kansas sent a letter to Centers for Disease Control and Prevention (CDC) Director Dr. Rochelle Walensky calling for the CDC to recognize natural immunity against COVID-19. The GOP Doctors Caucus, which Marshall leads, warned in the letter that not acknowledging natural immunity could have grave consequences.

Senator Marshall’s letter read, “The U.S. Department of Defence vaccine mandate has the potential to lead a national security crisis by separating up to 20 percent of our military personnel, many of whom likely have natural immunity...Published and submitted journal articles verify immunity from natural infection and innate immunity in measuring an individual’s level of protection to COVID-19. One study examining this found that patients who recovered from COVID-19 could produce a long-term immune response.”

The GOP Doctors Caucus believes the CDC should use all of the available data to establish “better patient-centered solutions” that can prove a person’s natural immunity to COVID-19 is “sufficient.”