

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

**AMANDA BOSARGE, individually and on
behalf of their minor children, et al.,**

Plaintiffs,

-against-

**DANIEL P. EDNEY, in his official capacity as
the State Health Officer, et al.,**

Defendants.

Civil Action No. 1:22-cv-00233-
HSO-BWR

**ORDER GRANTING PLAINTIFFS’
MOTION FOR SUMMARY JUDGMENT
AND PERMANENT INJUNCTION**

The Court finds that there are no genuine issues of material fact and Plaintiffs are entitled to judgment as a matter of law. Because Mississippi affords a discretionary medical exemption process by statute, it must similarly afford a religious accommodation process. *Fulton v. City of Philadelphia*, 141 S. Ct. 1868, 1876 (2021). For these reasons, and those set forth in the Court’s preliminary injunction order (Dkt. 77), Miss. Code § 41-23-37 (“Compulsory Vaccination Law”) is DECLARED unconstitutional as applied to Plaintiffs, who have sincerely held religious beliefs about vaccination.

The relief herein is limited to the enjoined parties: Daniel P. Edney, in his official capacity as the State Health Officer; Ashley Blackman, in her official capacity as Principal of East Central Lower Elementary School; Allison Merit, in her official capacity as Principal of North Bay Elementary School; and Dr. Ashley Allred, in her official capacity as Principal of Vancleave Upper

Elementary School; and their officers, agents, servants, and employees, and anyone acting in active concert or participation with them (the “Enjoined Parties”).

Plaintiffs have further demonstrated that the requirements for a permanent injunction are met, namely, that Plaintiffs have succeeded on the merits, that they will suffer irreparable harm unless the injunction issues, that threatened injury to them outweighs that to the state, and that the injunction is not adverse to the public interest. *Louisiana v. Biden*, 55 F.4th 1017, 1022 (5th Cir. 2022) (standard); *Amoco Prod. Co. v. Vill. of Gambell, Ark.*, 480 U.S. 531, 546 n.12, 107 S. Ct. 1396, 94 L. Ed. 2d 542 (1987) (standard); *Elrod v. Burns*, 427 U.S. 347, 373 (1976) (loss of First Amendment freedoms for any period of time constitute irreparable harm); *Navy Seals 1-26 v. Biden*, 27 F.4th 336, 348 (5th Cir. 2022) (same); *Louisiana*, 55 F.4th 1017, 1035 (no public interest in perpetuation of unlawful policy).

The Enjoined Parties are PERMANENTLY ENJOINED as follows:

1. Effective from the date of this order, the Enjoined Parties shall be enjoined from enforcing the Compulsory Vaccination Law unless they provide an option for requesting a religious exemption. The Court finds that the current process offered and developed by Dr. Edney (Dkt. 82-1) satisfies this requirement.

2. Thereafter, while this permanent injunction remains in effect, a person may seek a religious exemption to the Compulsory Vaccination Law by requesting a religious exemption pursuant to the process developed by the Mississippi State Department of Health.

3. The Court retains jurisdiction to enforce this permanent injunction.

4. Defendant Edney, without waiving his positions as stated in his Notice of Compliance with Preliminary Injunction Order (Dkt. 82), and the Attorney General have advised that they will

not be filing an opposition to Plaintiffs' Motion for Summary Judgment and Permanent Injunction (Dkt. 83).

This is a final order pursuant to Fed. R. Civ. Proc. 54.

SO ORDERED AND ADJUDGED, this the 29th day of August, 2023.

s/ Halil Suleyman Ozerden

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE

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