



Written by [Raven Clabough](#) on August 12, 2021

Ohio Judge Orders Defendant to Get COVID Vaccine as Condition of Probation

A Hamilton County, Ohio, judge has ordered a man to get vaccinated against COVID-19 as a condition of his probation or risk jail time.

On August 4, Common Pleas Judge Christopher Wagner ordered Brandon Rutherford to be vaccinated within 60 days as a condition of his probation for possession of fentanyl, [WCPO reports](#). If Rutherford fails to follow the conditions of his probation, he could face up to 18 months in state prison.

"I'm just a judge, not a doctor, but I think the vaccine's a lot safer than fentanyl, which is what you had in your pocket," said Wagner during the hearing, according to WCPO. "You're going to maintain employment. You're not going to be around a firearm. I'm going to order you, within the next two months, to get a vaccine and show that to the probation office. Okay?"

According to the [Epoch Times](#), Wagner was made aware of Rutherford's vaccination status during the hearing because Rutherford appeared in the courtroom wearing a mask.

And though Rutherford did not dispute Wagner's order during the hearing, he later told CNN that he would refuse the vaccine and believed he was in an unfair position.

"Because I don't take a shot, they can send me to jail? I don't agree with that," Rutherford said. "I'm just trying to do what I can to get off this as quickly as possible, like finding a job and everything else. But that little thing (COVID vaccine) can set me back."

But Wagner is not backing down and continues to defend his ruling, comparing it to other court orders pertaining to the defendant's health.

"The court's responsibility when issuing a community control sanction is to rehabilitate the defendant and protect the community," Wagner wrote in a statement to WCPO. "Judges make decisions regularly regarding a defendant's physical and mental health, such as ordering drug, alcohol, and mental health treatment."

In response to Rutherford's opposition to the condition, Wagner added, "We might have to hold a hearing if the defendant has good reason not to take the vaccine. The defendant's attorney, as of now, is not asking for a hearing."

Wagner later told the *Enquirer* that Rutherford's case was the first in which he imposed vaccination and



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would wait to see “how this develops” before doing so again, *USA Today* reported.

Rutherford’s attorney, Carl Lewis, believes Wagner is acting outside of his jurisdiction by mandating the vaccine as a condition of Rutherford’s probation.

“When you hear that, you’re like ‘whoa,’” Lewis said August 5. “I don’t think the judges are within their powers to do that.”

Unfortunately, Wagner was not the first to do so, and likely will not be the last. According to *USA Today*, Franklin County Common Pleas Judge Richard Frye mandated the vaccine as a condition of probation in two cases in Ohio. Likewise, two Cuyahoga County judges offered defendants lesser probation terms if they opted to get vaccinated.

Lewis said he does not intend to challenge Wagner’s order since he does not expect that the judge will take action if Rutherford does not get vaccinated. In the event Wagner does take action, Lewis believes it will “open the door for lawyers to litigate the issue.”

“I just don’t believe he can do this, legally,” he said.

Ohio Supreme Court spokeswoman Anne Yeager said the court has not created any guidance on this issue, so it has fallen to the judgement of the courts.

“Local courts have a great deal of discretion in crafting probation terms,” Yeager said. The Supreme Court “does not generally get involved in those matters except through cases brought before it through its appellate docket.”

Sadly, this discretionary overreach is not limited to the courts. Discriminating policies against unvaccinated individuals are frighteningly becoming the “new norm.”

Colleges across the country, for example, have announced penalties for unvaccinated students. At Rhodes College in Memphis, unvaccinated students who have not obtained a waiver will be charged a health and safety fee of \$1,500. [West Virginia Wesleyan College](#) opted against mandating vaccines but will be charging unvaccinated students a non-refundable \$750 COVID fee for the fall 2021 semester, officials announced in its COVID-19 update for the fall. Dean James Moore told WDTV that “the fee is going to be used to cover the expenses that will come with increased testing and other resources that the college will have to utilize and deploy to keep every student safe.”

Employers are also starting to charge unvaccinated workers higher healthcare costs, according to global consulting firm Mercer.

“If an employee is unvaccinated and contracts a COVID-19 infection that requires hospitalization and creates higher claims costs, this could impact the employer’s bottom line, and mean higher future contributions for other employees,” the consulting firm said in a statement to FOX News on Monday.

Meanwhile, COVID [outbreaks amongst the vaccinated](#) are affecting professional sports games. The New York Yankees’ July 15 series opener against the Boston Red Sox, for example, was abruptly postponed after three *fully vaccinated* Yankees tested positive for the virus.

Six fully vaccinated Democratic Texas lawmakers who traveled to Washington, D.C., to avoid a vote on priority voting bills during a special legislative session [tested positive](#) for COVID.

In Israel, considered a “[poster child](#)” of sorts for COVID vaccination, has seen a rise in cases, with most of the COVID-positive individuals having been [vaccinated](#).



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As of August 2, the CDC reported more than 7,000 breakthrough COVID cases resulting in hospitalization or death, a number that could be significantly higher as it seems the medical community is [hesitant](#) to contribute causes of death and/or injury to vaccines (and this [phenomenon](#) is not just limited to the COVID vaccines). And still, there are many more breakthrough COVID cases that are not being record by the CDC because they have not resulted in hospitalization or death, Life Site News reported.



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