

TBWS Episode 148: Todd Zywicki and Jenin Younes

Speaker 1 ([00:04](#)):

Welcome to the Bill Walton Show, featuring conversations with leaders, entrepreneurs, artists and thinkers, fresh perspectives on money, culture, politics and human flourishing. Interesting people. Interesting things.

Bill Walton ([00:25](#)):

Welcome to the Bill Walton Show. I'm Bill Walton. In the United States District Court for the Eastern District of Virginia, a civil action Professor Todd Zywicki, plaintiff versus defendants Gregory Washington in his official capacity as president of George Mason University, and all the individuals of the George Mason University Board of Directors in their official capacity. So what's at stake?

Bill Walton ([01:00](#)):

On June 28th 2021, George Mason University announced the reopening policy related to the COVID-19 for the fall 2021 semester. The policy requires all unvaccinated and staff members including those who can demonstrate natural immunity from prior COVID-19 infections, to wear masks on campus, physically distance and undergo frequent COVID-19 testing. Professors Zywicki respectfully believes the policy violates both his constitutional and federal statutory rights hence the lawsuit. Todd, welcome back. My warrior friend, it's good to see you.

Todd Zywicki ([01:45](#)):

Thank you Bill.

Bill Walton ([01:46](#)):

Todd Zywicki I've introduced him before on this show, he's a GMU Foundation, Professor of Law. Mouthful. GMU foundation Professor of Law at the Antonin Scalia law school. He's been with GMU for over 20 years, except for occasional service as a visiting professor at other law schools and high level service in the US government. He's one of the most law schools most frequently cited and influential scholars, and has been serving the community and the university his entire time there. Representing Todd in the case is Jenin Younes, litigation counsel for the New Civil Liberties Alliance, a nonprofit, nonpartisan civil rights group founded to protect our constitutional freedoms from violations by the administrative state. She's a graduate of NYU law school and Cornell University. Todd, Jenin, be thrilled you guys are here. And I'm glad you're doing what you're doing. But Todd, you're suing your employer.

Todd Zywicki ([02:53](#)):

That's right Bill.

Bill Walton ([02:55](#)):

Tell us what led you to that?

Todd Zywicki ([02:59](#)):

Well, I didn't want to sue my employer Bill. And in fact, after I first reached out to the NCLA, we contacted George Mason, we sent them a long letter explaining this issue, we attached medical affidavits, and they didn't listen. And instead of responding to our letter, basically the next day, they

rushed out this policy. And sometime after that they deign to actually respond to us. And in the letter, what we did was we basically provided the proof.

Todd Zywicki ([03:34](#)):

And let me make it clear, in this case we're not questioning in this case, whether or not George Mason, or any university has the right to or the power to take reasonable precautions against what they consider to be necessary to prevent spread of infectious disease in this case, at least. What we're saying is, if you're going to do that, it has to make sense and it has to be consistent with the Constitution. So the letter we sent them said that I have natural immunity. I can prove it through an antibodies test that my immunologist, filed an affidavit where he says that my immunity level is anybody's levels comparable to somebody who's been vaccinated. And then we filed an affidavit with two very leading and notable scholars who I'm sure, you know of Jay Bhattacharya from Stanford Medical School and the great Martin Kulldorff from Harvard Medical School.

Bill Walton ([04:31](#)):

They're both doing the Barrington statement right?

Todd Zywicki ([04:33](#)):

Exactly, and they provided an affidavit in support that provided all the evidence that shows that natural immunity is at least as protective as vaccination, and more protective than some of the less effective vaccines, such as the Johnson & Johnson vaccine. And what really turned my head Bill and really kind of made me kind of drop my jaw was the George Mason policy didn't just provide protection for the normal vaccines, the ones that had emergency approval from the FDA, the George Mason policy approved of any vaccine that was approved by the World Health Organization. So they included vaccines like the Chinese vaccines, like Sinovac and Sinopharm but not natural immunity is how far this obsession with vaccination rather than looking at actual levels of immunity protection is.

Bill Walton ([05:30](#)):

Jenin didn't the university lawyer tell you something about natural immunity, that what?

Jenin Younes ([05:36](#)):

In their opinion, natural immunity doesn't exist, that's their position.

Bill Walton ([05:42](#)):

That's their position and they're sticking to it.

Jenin Younes ([05:44](#)):

Yeah and they're sticking to it.

Bill Walton ([05:45](#)):

So how do these people arrive at something like declaring that natural immunity, which has been part of the accepted wisdom about the viruses for well over, almost a century?

Jenin Younes ([05:57](#)):

I have no idea. And it's not only accepted for well over a century, generally speaking, but it's established for this virus. As Bhattacharya and Kulldorff established, we actually estimate the length of vaccine immunity based on what we know about natural immunity. So there's simply no question that natural immunity provides robust and durable protection. And actually Professor Zywicki, he didn't just know he had COVID and suspected, he has gotten repeated antibody tests that establish as recently as I think, June, that he has extremely high levels of antibodies.

Bill Walton ([06:32](#)):

Well, didn't we have this notion that there was herd immunity and that when we reach some number, I think Fauci even talked about this, we reached some number then we could just relax and live our lives. Some of the notion of herd immunity seems to have dropped out of the public discourse.

Todd Zywicki ([06:48](#)):

Yeah, the contribution to that, at some point they officially changed the definition, the definition said via vaccine, which obviously now we're learning because all these breakthrough infections, we can't actually vaccinate ourselves to herd immunity. But they said through vaccination or natural immunity, and at some point, they dropped that out. And one of the things that's so bizarre about this Bill is you could think about a statement like there is no natural immunity. It's like, how do they think the vaccines work?

Todd Zywicki ([07:16](#)):

I mean, it's basically the way to think about this Bill is it's like, what the vaccines are designed to do is mimic the natural immune system. They try to generate a response that is like what the natural immune system is, do you know how they determine whether or not the vaccines worked originally? They drew blood from people like me. And then they saw whether or not it neutralized the virus the same way that the vaccine neutralized the virus, like my blood did. My blood was the answer key for which they were trying to see whether or not the vaccine could replicate it. And now they're denying that there's any such thing as natural immunity, or that it's robust or it's durable, or anything else. It's crazy

Bill Walton ([08:00](#)):

So they solved with this answer and what you had was the answer.

Todd Zywicki ([08:04](#)):

Exactly.

Bill Walton ([08:04](#)):

When did you get COVID?

Todd Zywicki ([08:06](#)):

So I was one of the unlucky winners of the COVID lottery, I first got it in March 2020. At the time, I was not able to get a test because there were so scarce, but when it came back time to teach last fall, not this year but last fall in 2020. On July 2020, I thought I wanted to volunteer to teach in person, because I felt I owed it to my students to teach in person if I could. I'm in my 50s Bill, I could have easily taken a pass and taught virtually, but I felt like I owed it to my students, while a lot of my younger colleagues around the university went off to their vacation homes and whatnot. But what I thought was, I want to

make sure I'm safe and that the students are safe. I believe in natural immunity, I got my first antibodies test in July 2020.

Todd Zywicki ([08:55](#)):

The point is Bill, I put my money where my mouth is, which is early on, the science was compelling, natural immunity is real, natural immunity is powerful. And so I got an antibodies test when I was convinced that I was safe. Even though I was in my 50s volunteered to teach in person and I taught all last year in person, three sections of first year contracts. And now it's just absurd at this point to think that it doesn't work.

Bill Walton ([09:22](#)):

Tell me about your organization. How did you guys get to be representing Todd in this case?

Jenin Younes ([09:28](#)):

So my work is an organization called the New Civil Liberties Alliance has been doing a lot of COVID related litigation against some of the restrictions. So I joined them in April for that reason, because I was very interested in fighting what I saw as massive government overreach in these areas. And a mutual acquaintance Phil Magnus actually introduced us.

Bill Walton ([09:48](#)):

Phil's been on [crosstalk 00:09:49] talking about actually we talked about 1619 last time. We talked about COVID with him.

Jenin Younes ([09:55](#)):

Yeah. And he would come from AIER and he connected us. I think he knew I was interested in doing vaccine mandate cases.

Bill Walton ([10:00](#)):

So you started out on the left?

Jenin Younes ([10:02](#)):

Yeah.

Bill Walton ([10:03](#)):

You were a public defender.

Jenin Younes ([10:04](#)):

Yes. In New York City, which is about as far left as it gets.

Bill Walton ([10:11](#)):

The civil liberties issue that affect individuals, you came to see, effects. I mean, it's affecting not just indigent criminals, but all of us.

Jenin Younes ([10:20](#)):

Exactly. So I had always sort of parted ways when it came to first amendment issues. For instance, a lot of the campus speech stuff and a lot of the cancel culture stuff I had disagreed with my peers about, but when COVID hit and I saw the government telling people, they can't leave their homes, they can't run their businesses, they can't send their kids to school. And the left thought that was this was just fine. Everyone around me thought there's no problem with this. And I was like, this is crazy. And it's also indefinite. We're not talking about two weeks here, this is going on and on. And I mean, people want to bring it back. On the left now they're all talking about staying home.

Bill Walton ([10:54](#)):

Amie Wolf also obviously on the left, she's making common cause on-

Jenin Younes ([11:00](#)):

Yeah. She's a good friend. Actually I just had dinner with her last night.

Bill Walton ([11:06](#)):

You probably had a lot to talk about. So where are we with the case? I guess they announced this policy last month.

Todd Zywicki ([11:14](#)):

Since that time, just recently, they brought back restrictions on the vaccinated people. So as these vaccine breakthrough cases are multiplying around the country, what we're seeing is that they originally created two pretty clear-

Bill Walton ([11:32](#)):

The vaccinated or the unvaccinated.

Todd Zywicki ([11:34](#)):

They brought back new restrictions on the vaccinated. So originally, they had[crosstalk 00:11:39]

Bill Walton ([11:39](#)):

Going in the wrong direction.

Todd Zywicki ([11:41](#)):

Going in the wrong direction.

Jenin Younes ([11:41](#)):

Well, the Delta Variant.

Todd Zywicki ([11:45](#)):

That's right. And so originally, as you described at the outset, they put a lot of burdens on me that they didn't put on people who can prove that they were vaccinated. And I thought those burdens were not only stupid but that they were interfering with my ability to do my job and teach my students. They were designed to stigmatize me by making me wear a mask when vaccinated people didn't. I was going

to have difficulty teaching my students as well as faculty members who were vaccinated they have to wear a mask.

Todd Zywicki ([12:18](#)):

And so that was what bothered me. And that's what I thought it was a violation of my constitutional rights to disadvantage me on this completely arbitrary ground, to interfere with my ability to serve my students and to stigmatize me and to basically hold potential adverse career consequences over me as a result of not being willing to be forced into taking the vaccine. And so I felt like they were trying to coerce me into doing that. And I've talked to my colleagues and my colleagues, a lot of them didn't want to take the vaccine, including at least the one who had natural immunity. He ended up doing it anyway, simply because he was concerned about the consequences if he didn't. So I was willing to fight it.

Bill Walton ([13:11](#)):

You're watching the Bill Walton Show and I'm here with Todd Zywicki and Jenin Younes. We're talking about his lawsuit against his employer, the George Mason University and their mandates about vaccines and the restrictions on both the vaccinated and unvaccinated and those who have had it, had the disease. Wandering into uncharted territory for me, you filed in the United States District Court of the Eastern District of Virginia. Why'd you pick that court?

Jenin Younes ([13:46](#)):

Well, that's the federal court where GMU is located. So that was the venue. The state claims we're raising are mostly federal claims, not state claims or they are exclusively federal claims. So federal court made the most sense.

Bill Walton ([14:03](#)):

Okay. And where does it stand now? What happens with this?

Jenin Younes ([14:04](#)):

Well, so GMU granted Professors Zywicki's request for a medical exemption, not on the basis of his natural immunity, they refuse to recognize that as a legitimate basis, but for a different reason, sort of personal medical reason. So that changed the landscape because now he's not subject to disciplinary action. And because he's no longer sort of given this differential treatment with the masks, a lot of the issues went away.

Bill Walton ([14:29](#)):

And you were involved with AIER. I think you were involved with The Great Barrington Declaration. And it was some highly credible scientists and medical professionals that came out on what the risks were and weren't and I think they concluded that unless you were 70 or older, or had some comorbidity, or were like diabetes or were obese, that your risk of dying is something like 99, risk to survive, your chances of surviving were we're 99.45-

Jenin Younes ([15:06](#)):

Under 70 it's 99.95% survival rate. And I think what The Great Barrington Declaration does which so many people like Anthony Fauci and, Leana Wen and all of these other people don't do is acknowledge the massive collateral consequences of these draconian approaches to COVID-19 on mental health, on

people's education. I mean socializing is important to people, we need to be able to hang out with each other. And that's part of being a human.

Bill Walton ([15:35](#)):

Well, there's the whole list of cost. And there's the pro, which was they presumed, well, we're going to keep people safe from the virus but the cons are enormous.

Jenin Younes ([15:43](#)):

And they don't even work because people still have, it's just sort of shifts the burden, Zoom class can stay at home but the essential workers are still out getting COVID. That's why a lot of people who worked in kitchens and delivery people got COVID.

Todd Zywicki ([15:57](#)):

And that's what has been amazing to me, Bill, which is ever since this when big and I published my article in the Wall Street Journal. I've done a lot of other interviews and the like. And I've been hearing from people literally all over the world but especially the stories from people around the country. The one cook, a Chilean immigrant cook who works in New York City, who got COVID this spring, and now his boss is going to fire him if he doesn't get the vaccine mandate even though he's fully protected by natural immunity. You start going through the list of nurses. It's heartbreaking. The number of doctors I've heard from Bill is astounding. The number of doctors who say, "I've had COVID. I got COVID treating people who had COVID. And now the HR bureaucrats who run my corporate medical center, the MBAs and the lawyers who really run this place are telling me I've got to get an unnecessary vaccine that exposes me to risk."

Todd Zywicki ([17:02](#)):

All of this stuff is this one size fits all policy. My immunologist, he refers to it as algorithmic medicine, is what the CDC has been pumping out. You run some idiotic studies, and then you provide the same advice to everybody regardless of their medical condition, regardless of how recently they've had COVID. And this is what the Dr. Noorchashm said to me, Bill, I mean, this is common sense, which is you do not vaccinate somebody who concurrently or recently had a disease. I had shingles this spring, a terrible case of shingles. If you recall, we had the-

Bill Walton ([17:45](#)):

Based on the symptoms shingles are a lot worse than COVID.

Todd Zywicki ([17:49](#)):

That's right. If you recall, we had to delay the last time I was going to visit with you because I had this terrible case of shingles. And I got done with it. And I said to my doctors, should I get the shingles vaccine. And he basically looked at me like, how can somebody as stupid as you be a law professor? And he's looking[crosstalk 00:18:06] And he says, "No, you don't vaccinate somebody right after they've had a disease because you risk hyper inflaming the immune system." He said, "Come over here, here's your antibodies against shingles right here on my computer screen. Let's monitor this and see where you are in a few months. And then we'll talk about getting the shingles vaccine." COVID is a virus Bill, it's a virus, the same rules apply that they always apply.

Bill Walton ([18:31](#)):

We were doing some research this morning. I think the number right now is only 52% of medical professionals have been vaccinated.

Jenin Younes ([18:39](#)):

Yeah, something like that.

Bill Walton ([18:41](#)):

It's hovering right around half. And that means that half of the people don't think they ought to do it.

Jenin Younes ([18:46](#)):

Yeah. I mean, I can't tell you ever since we filed the lawsuit, I've had countless emails and a lot of them from doctors and nurses saying, "I had COVID I don't want to get the vaccine." And I'm the one who was serving my community during the worst of it, and now they're going to fire me because I don't want to get the vaccine.

Bill Walton ([19:00](#)):

Now, these are people who'd had COVID?

Jenin Younes ([19:03](#)):

Most doctors and nurses had it by virtue of their profession. And now a lot of the hospitals are saying everybody has to get the vaccine. So there are a lot, especially nurses, I think around the country who are just writing me and saying, "They're going to fire me. I was on the front lines, working with COVID patients. I got COVID. Now I really don't want the vaccine and now they're firing me." It's crazy.

Bill Walton ([19:24](#)):

Jenin, did any of them weigh in on whether they thought the masks worked?

Jenin Younes ([19:27](#)):

Oh, I've heard from nurses and doctors about it. I personally don't think masks work. I've looked at it quite.

Bill Walton ([19:35](#)):

We've done a lot of research.

Jenin Younes ([19:37](#)):

Yeah, I mean, they're stupid. If everybody wore it N95s properly all the time maybe they would work although I don't want to say that because I'm afraid the [inaudible 00:19:45] these cloth masks and surgical masks with the gap here and people taking them on and off and you have to walk into the restaurant you wear for four feet when you take it off when you sit down. I mean, it's unbelievably stupid.

Todd Zywicki ([19:58](#)):

And this has real consequences Bill. And if you just take the masks, for example, there was this article a few weeks ago, you probably saw the New York Times about why people were unvaccinated. And there

were literally people who were in the hospital who said, "My doctor says I should get vaccinated but I read all this stuff that says All I had to do was wear a mask every time I went out, and I'd be protected from COVID." They unfortunately believed the hype from the public health community that made them think that a mask would be protect them from any disease. And then they wonder why people don't get vaccinated when they tell them stuff like wear a mask, and you'll be safe. It's appalling.

Bill Walton ([20:38](#)):

Jim Richards was on here and he had had COVID as well. And I guess he went to the emergency room just because he had some other things that he thought might interrelate and wanted to be very careful. And so he's in the emergency room. And he's noticing some people have masks and some people who are closer to the patients don't and whatever. And he's held up his little blue mask, and he said, "Well, why aren't you wearing these?" And they said, "Well, they don't work."

Bill Walton ([21:08](#)):

I'm interested in getting a little closure on where things stand with the last suit, then I want to range a little more broadly about what the issues are. We have lawyers for the university saying that there's no such thing as natural immunity, we have all these people make these scientific statements, and yet they don't really know anything. And yet on the other side, we've got people who know a lot. And they take exactly the opposite point of view. How does something like this kind of lawsuit, can you litigate your way to what the truth is? Or are these other issues?

Jenin Younes ([21:41](#)):

Well, we'll find out. I mean, this isn't going to be my last one. It's hard to know though.

Todd Zywicki ([21:48](#)):

Well, my view on this Bill, the reason I called NCLA-

Bill Walton ([21:52](#)):

You've been in front of the Supreme Court. Haven't you argued there?

Todd Zywicki ([21:55](#)):

I have not. No, I have not. I'm just a professor. But the reason I reached out to NCLA Bill is that this is as good a chance in front of a neutral judge is as good a chance as we're ever going to get somebody who will actually judge the merits of this, somebody who in theory, at least takes the constitution seriously, because it's pretty clear that the universities, the corporations, the public health community, these people don't take the constitution seriously anymore. That the idea that I have mid level bureaucrats at George Mason University with no medical training, telling me I need to get vaccinated when my immunologist who has an MD and a PhD in immunology.

Bill Walton ([22:43](#)):

Your immunologist is?

Todd Zywicki ([22:44](#)):

Dr. Noorchashm says, who taught at Harvard and Penn Medical School, they're telling him, you don't know what you're talking about. Me, the mid level, deputy vice president for human resources at

George Mason will decide what the appropriate medical treatment is, for every person, the hundreds of thousands of people who work here at George Mason and around the world. How bizarre is that? What's going on that we have HR bureaucrats at universities making medical decisions for hundreds of thousands of students, faculty and staff around the country? It's crazy.

Bill Walton ([23:20](#)):

Have you had other people wanting to join in on the case to contribute both legal and medical? What kind of bandwagon are we creating?

Jenin Younes ([23:29](#)):

Well, we're getting a ton of emails. We're sort of trying to focus on the natural immunity issue. And I think that different issues are invoked when it's students and professors, we've gotten a lot of students to, the cases so far with students haven't been great decisions. There was an Indiana University one that came out badly in my opinion, they didn't really litigate the natural immunity issue. But I think students have a much lesser property interest in attending the university than, for instance, a tenure Professor does in his career there. So I think the arguments are not quite as strong, although I am personally opposed to all vaccine mandates.

Todd Zywicki ([24:08](#)):

But Bill, if I could just amplify on that before we move on, because even if the legal arguments are less compelling for students, the moral arguments, especially for young people with natural immunity, are so compelling that the callousness and the wickedness by which they're treating these kids. Think about this callous Bill, which is, we're talking about whether it's a marine, or we're talking about a college student, we're talking about somebody who's 18, 19, 20 years old, who already has a virtually zero risk from COVID. Now, add in on top of that, this young person has natural immunity. That person is close to bulletproof protected from any harm is anybody as going to have.

Jenin Younes ([24:54](#)):

And spreading it.

Todd Zywicki ([24:55](#)):

And from spreading it. Now here's the other half of it Bill which is we also raised in the lawsuit, not only to those of us with natural immunity, not only do we have at least as much protection and probably more than the vaccine, certainly against mediocre vaccines, like Johnson & Johnson but the evidence is also very clear. There's now seven studies I'm aware of that show that there are heightened, there are elevated risk of side effects from receiving the vaccine after you have natural immunity. And what you see, is that [crosstalk 00:25:23]

Bill Walton ([25:23](#)):

So the odds are it's going to make it worse.

Todd Zywicki ([25:26](#)):

Yeah. Including hospitalization and all these different sorts of things. That risk actually increases with as you get younger. And the reason is quite simple. Again, Bill and it's simply again, biology, immunology 101 which is the reason why young people are protected from COVID is because they have very strong

immune systems. Very active immune systems that spring into being very quickly but that is also the reason why whether you look at vaccine side effects in general, or you look at the particular situation with those who have recovered, they have even higher, even more elevated risk than I do, but precisely because their immune systems are so highly functioning that they're at high risk of hyper inflammation. So we're taking these poor kids who have essentially zero risk and taking them not only with an elevated but a super elevated risk of side effects. And we're forcing them to go through this process in order to go to school. It's really diabolical and I can't believe that any university administrator or person who says that they care about the kids on their campus could be so callous to believe that this is a good policy.

Bill Walton ([26:39](#)):

You're watching the Bill Walton Show. I'm here with Professor Todd Zywicki and Jenin Younes, his the attorney in a case against George Mason University. And we're talking about how the good intentions if that's what they are from our bureaucrats are hurting many, many more people than they're helping. I still want to win this lawsuit. Can we do quick points on what the legal arguments are? Maybe the moral arguments, what it is that should be your constitutional rights, which are being violated.

Jenin Younes ([27:13](#)):

So we're arguing that under the ninth and 14th amendments to the United States Constitution, one has the right to bodily autonomy and to decline medical treatment that's established in some case law. Now, the government, the current state of case of jurisprudence, says that those rights can be overridden when there's a compelling enough government interest. I think one can argue about whether that's actually the right standard, but that's a topic for another day. And so we're arguing that when one has natural immunity, you present no risk to yourself, you present no risk to others virtually. And so they simply can't show any compelling state interest. It's also important to note that GMU is a public university. So it's subject to constitutional strictures, one couldn't make these same constitutional arguments against a private university. So we're arguing that when someone has natural immunity, there's simply no state interest at all let alone a compelling one.

Jenin Younes ([28:11](#)):

And then another important argument is that there's something called the Emergency Use Authorization statute and all of the COVID vaccines in the United States are currently authorized for use only under that. And that requires-

Bill Walton ([28:23](#)):

That's EMU?

Jenin Younes ([28:23](#)):

EUA.

Bill Walton ([28:25](#)):

EUA. Okay.

Jenin Younes ([28:26](#)):

Emergency Use Authorization, sorry, it's a federal statute. And that specifically says that recipients of any medical product authorized for use under it should be, must give free and informed consent and be

told they have the right to refuse or decline the treatment. And that that's quite clear that someone shouldn't be coerced into taking a treatment authorized only for use under that.

Bill Walton ([28:51](#)):

Let's do the EUA. I think people lose sight of the fact that these are highly experimental drugs. I mean, normally, you've got what you mentioned in the suit, there's six stages things you get to go through to get FDA approval. And one of the big one is clinical trials on actual human beings. Yeah. And usually that takes years. And so now we're in this situation, it's been less than a year since we rolled these out. We still don't know what the effects are, we're finding that the efficacy, the percentages seem to keep going down, the estimates. And we're not sure at all, what the side effects are long term.

Jenin Younes ([29:27](#)):

I mean, people look at you like you're crazy when you say that, but it's just common sense. You can't know the long term effects of something. And we've had other medications or vaccines over the long term result, negative effects manifested over time. So I think it's reasonable for people even if they haven't had COVID, especially if they're young to say, "I'd rather take my I'd rather risk getting COVID."

Todd Zywicki ([29:49](#)):

And that's what's particularly bizarre about this Bill is that the vaccine that they were saying I needed to have is narrowly targeted on this one little spike protein. Whereas natural immunity targets all 28 of the proteins in the whole protein. So that's why natural immunity is so much more robust to variants than the vaccines. And that's what we're seeing right now.

Bill Walton ([30:18](#)):

So you got more immunity against Delta than the people who have been vaccinated?

Todd Zywicki ([30:24](#)):

Exactly. There's still no evidence that Delta is any problem for those of us with natural immunity, whereas Delta basically was brought into being by the vaccines, because it basically is evolved to evade the other vaccines. And this was what's bizarre about this Bill is that they are saying that I would be required to take a vaccine for a literally now extinct variant that was multiple variants ago. It's a variant on top of a variant on top of a variant. And they're saying that somehow that's going to be better for protection than natural immunity. That's not to say it doesn't give any protection. Clearly, it seems to provide protection against serious disease, but not against infection.

Bill Walton ([31:07](#)):

So do you win the case? Do we have a good judge?

Jenin Younes ([31:13](#)):

We had a good judge. I think at this point, we're not sure where it's, it's probably not going to go that much further since-

Bill Walton ([31:20](#)):

You don't have to say anything here that'll get back to her.

Todd Zywicki ([31:24](#)):

That might be on hold, considering the changes in the GMU policy and that sort of thing. But listeners might be interested in one last footnote on the legal issue, Bill, which is, it may be interesting that the lawyers at George Mason think there's no natural immunity. But you know who does? Some federal judges. And this is a very intriguing area that people haven't focused on, which is, this issue is actually arisen in some cases involving prisoners who saw early release from prison because of a COVID outbreak in the prison. And the judges have denied their motions on the basis that they had acquired and recovered, that they had been infected and recovered from COVID. And so therefore, that they were a low risk. They can't get out of prison because they were a low risk of reinfection from COVID and so I'm hoping that I can be at least treated as well as a federal prisoner. That's my goal Bill.

Bill Walton ([32:21](#)):

I keep coming back, how much personal risk are you taking with this suit?

Todd Zywicki ([32:27](#)):

I don't know Bill, but I know what personal risk I would take if I didn't bring the suit which is I wouldn't be able to look my daughter and my wife and my sons in the face because this is a really unjust and wicked policy and it really feels like one of the things that says if not me who, if not now when.

Bill Walton ([32:50](#)):

My first reaction when it saw it was just Todd's fantastic.

Jenin Younes ([32:55](#)):

It's very brave. Not that many people want to sue their-

Todd Zywicki ([32:58](#)):

Well, thank you. But the outpouring of support I've gotten from people is so gratifying, these people from all around the country said, "Thank you. I feel like somebody understands me. I feel like somebody's speaking for me. I've been trying to understand this. And you're explaining it to the world."

Bill Walton ([33:16](#)):

Yeah, I'd highly recommend everybody watching and listening, go online, grab the lawsuit, read it. I mean, it's a great primer on the issues, and also what the vaccines are about and what the legal issues are about.

Todd Zywicki ([33:30](#)):

And for the first time, I've been using Twitter Bill, and I've been trying to educate the public on all these studies of natural immunity and the side effects.

Bill Walton ([33:37](#)):

Will they let you do that?

Todd Zywicki ([33:39](#)):

So far they're letting me do it.

Bill Walton ([33:44](#)):

There's a very good chance that YouTube might ban us because we violate community standards. There are certain topics, and this is one of them which seemed to have been banned from the public square.

Jenin Younes ([33:57](#)):

I had a couple tweets deemed misleading and they couldn't be liked or retweeted. One said something like, "I'm probably healthier than most vaccinated people," and they're like, this is misleading.

Bill Walton ([34:15](#)):

If you win, or when you win, how broadly will this be defined? Does this affect what other employers can do with employees? Or is this a state university and people with immunity. Let's say you're working for IBM and IBM says, "You got to all be vaccinated to come to work," will this affect that.

Jenin Younes ([34:37](#)):

Well, it would be extremely unlikely if this case were to proceed that any decision would affect private employers. I'm going to guess[crosstalk 00:34:43]

Bill Walton ([34:45](#)):

So this is going to be narrow in a sense-

Jenin Younes ([34:46](#)):

Unless we won on the EUA issue, although that may go away because it looks like the Pfizer is probably going to be approved soon, although maybe not. We'll see.

Todd Zywicki ([34:57](#)):

The governing law on this, that the courts keep going back to is a 1905 case called Jacobson versus Massachusetts, which involved believe it or not a mandatory smallpox vaccine rule in Cambridge, Massachusetts, for which if you didn't get vaccinated, you had to pay a \$5 fine, which is a lot different from getting fired from your job if you don't follow through. And that is basically been the case that the courts have basically just allowed carte blanche for governors and universities, all these state actors just run roughshod over our rights. And, as Jenin noted earlier, there are other constitutional rights here too, including the right to bodily integrity, and the like. And those are two different sort of conflicting lines of cases, which is, it's time that I think to revisit this 1905 case to the world of modern medicine and what we know, and courts so far have been reluctant to explore that.

Jenin Younes ([35:57](#)):

It's also worth noting that there are some big differences, which is the court and Jacobson even said, "This is a disease that threatens to exterminate humankind," or something along those lines. So this could be warrant or this is warranted, which is very different from the Coronavirus and then-

Bill Walton ([36:12](#)):

But something with a 99.5 survival rate wouldn't qualify.

Jenin Younes ([36:17](#)):

No. And smallpox affects all age groups. It also disfigures a large number of survivors so it's a much more-

Todd Zywicki ([36:25](#)):
1905 medicine.

Jenin Younes ([36:26](#)):

Exactly. I mean the other thing was when Jacobson was decided you couldn't do antibody tests, so there is no natural immunity argument. And then a final point about it is that it was one of the basis for a case called Buck v. Bell where the court said you can forcibly sterilize mentally ill women. And they said, "Well, based on Jacobson," so I think people should really be thinking about whether this is sort of the way we want to go with the state of the law.

Todd Zywicki ([36:51](#)):

And that's a great point Bill. A lot of your viewers will be familiar with that disgusting aphorism from Justice Holmes, three generations of imbeciles are enough. People have probably heard that before. Upholding a forced sterilization law in Oklahoma. He writes that line in the opinion, three generations of imbeciles are enough. If the state can vaccinate you the state can keep unfit people from having children, citation Jacobson versus Massachusetts.

Bill Walton ([37:20](#)):

Okay. You're watching the Bill Walton Show. I'm with Todd Zywicki and Jenin Younes and we're talking about three generations of imbeciles. Why do I think they're all working as bureaucrats.

Jenin Younes ([37:38](#)):

I was going to say that.

Bill Walton ([37:41](#)):

I mean, really, let's get into the speculative mode here. I mean, there's all these people with power and they just don't seem to be anything other than dug in on, well, this is what I believe. And you can show them every proof, every Great Barrington Declaration, get all the scientists and yet they're dug in. And it seems to be this mania to get everybody vaccinated. If you don't do that, we're going to have vaccine passports, we're going to have all. I mean, this is the bigger civil liberties issue that I want you to win your case but we've got to get this pall over our freedoms now.

Jenin Younes ([38:18](#)):

Well, I think part of what's happened is that the country is so divided, that there's this good versus evil, and it sort of split very quickly, especially when Donald Trump, was equivocal about the seriousness of the virus. And so the progressive left said, "Well, this must be very serious." And he didn't really want to lock down. Well, we have to lock down. I'm not sure about masks, well, masks must be great. Now that the left has sort of made people who don't want to socially distance or wear masks or get the vaccine, they're evil, they're evil. And so it's taken on an almost religious mentality, in my opinion.

Todd Zywicki ([38:50](#)):

And that's the thing, Bill, it's funny, I mean, you mentioned the bureaucrats. One thing that I know about this lawsuit is that those people, those board of directors don't like having their names listed in the name of a lawsuit. And the reason is that whether it's them or the bureaucrats[crosstalk 00:39:09]

Bill Walton (39:08):

Would it help your lawsuit if I named names right now?

Todd Zywicki (39:14):

They want to create this amorphous blob. They just want to be able to pump out this stuff and impose it on people but they don't want to be held accountable. These obscure bureaucrats and they refer to the CDC and this weird study, and they will interpret this way. Nobody wants to accept responsibility for what they're doing. And they hide behind this veil of bureaucratic process and all this sort of stuff. And so it allows them I think their unwillingness to accept responsibility for what they're doing to people. To wash their hands of it. And for people just pretend like they're doing their best. They're not doing their best. There is literally no remaining argument that we are correct on the facts here. And the only way we could get them to listen and they still won't listen. They wouldn't listen when we threatened to sue them, so we sued them.

Jenin Younes (40:07):

It's worth noting, also, I think they only granted the medical exemption beyond other grounds ostensibly because they wanted to get rid of the suit. I think this was their way of making it go away.

Bill Walton (40:17):

So the suit may go away but the larger issue remains.

Jenin Younes (40:20):

Yes. And it remains for a lot of other people.

Bill Walton (40:22):

So what's going to happen on the campus this fall? Is it all the mandates going to be in effect and this fall starts in a couple of weeks doesn't it?

Todd Zywicki (40:32):

The problem Bill is that as we were talking earlier, the virus has evolved to be able to escape the vaccines pretty well. Second, what we're finding is the vaccine protection, pretty much wanes almost completely after about five months for most of these, data out of Israel for example, is showing that I think what we're going to happen when-

Bill Walton (40:55):

Israel's got some numbers, it's 10 to 20% effective at this point right?

Jenin Younes (41:00):

In transmission and infection. It does seem to be effective at reducing severe symptoms, I think.

Todd Zywicki (41:06):

The only rationale for mandate would be to protect the community from transmission and infection. If it's just good for me, that's like passing a rule that requires me to eat fruits and vegetables and exercise. I'm responsible for my own health.

Bill Walton ([41:19](#)):

It's like George Bush and broccoli.

Todd Zywicki ([41:21](#)):

That's right. And so it only has an impact if it actually prevents infection and transmission and the vaccines are being shown now to be relatively ineffective at that. They apparently never even claimed that they would do that and the prevention in that wanes very quickly. So I think what we're going to see on university campuses is what we're going to see all over the country in the coming weeks, which is more and more breakthrough infections, vaccinated people infecting each other. And one of the problems we have now is we've got a lot of vaccinated people who are having asymptomatic or lightly symptomatic breakthrough infections, but the viral load that they produce is very comparable to somebody who's never been vaccinated. So you've got a lot of people who are asymptomatic vaccine super spreaders, and they're going to show up on campus, and I hope that we get to make it through the year pretty well. But it wouldn't surprise me if in two or three weeks, everybody shuts down and sends their students home again.

Jenin Younes ([42:22](#)):

And also because contact tracing doesn't work they're just gonna blame it on the unvaccinated because they don't know who's.

Bill Walton ([42:29](#)):

Well, let's explain. I still am trying to get my head into the horrors here, you've had COVID.

Todd Zywicki ([42:37](#)):

And I don't recommend it. And I say that Bill, because I am so sick of hearing people say to me that I don't take COVID seriously. The idea that you would tell somebody who's had COVID, suffered with COVID that I understand what it's like to have COVID because you sat in front of your computer and taught your classes virtually for a year waiting for a vaccine. Sorry. That gets me a little agitated.

Bill Walton ([43:01](#)):

This is good.

Jenin Younes ([43:03](#)):

You got really sick too, it wasn't a mild-

Todd Zywicki ([43:04](#)):

Yeah, I got pretty sick. And I had no idea what it was.

Bill Walton ([43:07](#)):

How long did it last?

Todd Zywicki ([43:08](#)):

It lasted about a week. Unfortunately, I fully recovered.

Bill Walton ([43:13](#)):

You said you experienced some fogginess?

Todd Zywicki ([43:15](#)):

Yeah, at the time I experienced some fogginess. What I had was a low temperature. I had terrible night sweats. At the time, those were not approved COVID symptoms, so I couldn't get tested. And it wasn't until later that they added, because tests were very scarce, they didn't add that till later. But once they added it I was like, Oh, obviously I had COVID. And that's when I got my antibody tests that confirmed it.

Bill Walton ([43:38](#)):

But are we faced with a future where we're going to be chasing virus after virus after virus and our civil liberties are going to be at stake with every single one? I heard Tom Fitton on his Judicial Watch and he made a joke. He said, "Bill, don't don't say that getting the virus is like getting the flu, because next time we get a flu, they're going to shut us down."

Todd Zywicki ([44:00](#)):

Makes you wonder if a new disease emerged today that killed 30 to 50,000 people every year, which is what the flu does. How would this country respond?

Bill Walton ([44:10](#)):

That's my question. We've talked about, we haven't talked about it but there's a sense that the society is being less and less and less willing to take any kind of risk whatsoever and they're just natural risks we live with and yet you identify one thing like this, you shut everything down, you get a government power over every aspect of our life. This seems to be like a prologue for the sort of dystopian lockdown future.

Jenin Younes ([44:39](#)):

Yeah. I think so. And we are taking risks. I mean, we're taking enormous risks with what we're doing with children. I mean, children have never been deprived of contact with other kids and forced to wear masks and socially distance.

Bill Walton ([44:48](#)):

Well the masks do terrible things for social skills. Well, there's some people who I'm glad they've got masks on but generally speaking in terms of a functioning healthy society, reading social cues. You don't want to walk around wearing masks.

Todd Zywicki ([45:07](#)):

But there's another casualty here that relates to the long term future you're talking about Bill which is truth. That we can trust the public health and the medical establishment. Just last week, the CDC, and I don't think it was a coincidence, my article went on the Wall Street Journal on Saturday and on Monday, the CDC released a totally bogus study with a totally dishonest and misleading headline that seemed to basically be intended to deny natural immunity and force people to do it. And whether it's that, whether it's the willingness to debate masks in their efficacy or lockdowns, or anything else. It's just been, Now

I've learned through this, that there are people who have written incredibly important compelling studies on natural immunity, who cannot get them published in a peer reviewed medical journal. And not because they're not high enough quality. But because the medical journal editors have decided that that's just not a topic that they are willing to provide a forum for first rate academic research on on this topic.

Jenin Younes ([46:24](#)):

I mean, the Danish mask study couldn't get anyone to publish it for a while because it showed it was the first-

Bill Walton ([46:28](#)):

Whose mask study?

Jenin Younes ([46:30](#)):

There was a Danish mask study about six months ago, and it's the first randomized controlled study.

Bill Walton ([46:35](#)):

I'd love to see that.

Jenin Younes ([46:36](#)):

Yeah, and it basically showed no difference between a control group that wore masks and one that didn't.

Bill Walton ([46:41](#)):

We're running out of time and I've got about 53,000 things I want to keep talking about, but the mask thing is interesting, as is social distancing, as are all these other protective measures we took 18 months ago. We didn't know anything. I mean it could have been any could have been much worse, it could have been quite different than the way it turned out. And yet, we've got these preventative measures and we're still acting like, we don't know anything. And yet we've got states, we've got what South Dakota, we've got Florida, we've got Sweden, we've got places that have had no real restrictions, and yet their numbers are as good or better than the states that locked everything down. So we know a lot about what works and what doesn't work. And yet we're still conducting policy without the benefit of taking those statistics into-

Todd Zywicki ([47:31](#)):

And we also now Bill have a lot of evidence that there are effective therapeutic treatments. I'm sure your listeners are familiar with the debate over Hydroxychloroquine and Ivermectin and other sorts of-

Bill Walton ([47:45](#)):

Let's turn off the camera. I've got some Ivermectin in my medicine chest. Evidently it-

Jenin Younes ([47:57](#)):

Can I have some?

Todd Zywicki ([47:57](#)):

Yeah. Can I have some? It's all right. He's going to be [inaudible 00:47:58]

Bill Walton (48:00):

It works.

Todd Zywicki (48:01):

It works and everybody knows-

Bill Walton (48:03):

In India, it worked.

Jenin Younes (48:04):

It was South America, right?

Todd Zywicki (48:07):

Yeah. In India, it worked. HCQ was the one that made the first big splash was because we had huge stockpiles of that, because it worked against SARS-CoV-1. Did you know that?

Bill Walton (48:18):

HCQ, that's Hydra-

Todd Zywicki (48:20):

Hydroxychloroquine, yeah.

Bill Walton (48:21):

And it worked?

Todd Zywicki (48:21):

It worked against SARS-CoV-1. So we had these massive stockpiles. And so [inaudible 00:48:27]SARS-CoV-1 obviously, it's going to work against SARS-CoV-2. But now we have got these therapeutics that have come online, that can treat people well and reduce the harm we have from this, and it's just a matter now of learning how to live with this, learning that it's going to be endemic, it is treatable with standard ways that we treat viruses. As I mentioned, I had shingles this spring, I was treated with an antiviral and anti inflammatory. And that's sort of the baseline of how people are treating this now. It's a virus that does what viruses do.

Bill Walton (49:08):

We're about wrap up. Any last thought in terms of-

Jenin Younes (49:11):

Well, in terms of what you're just saying, I would say, I think a lot of people don't want to admit they're wrong, like Anthony Fauci. And that's why we're stuck in this endless cycle of fruitless endeavors.

Bill Walton (49:22):

Yeah. So this story is going to continue. So we'll come back and talk about it. Find out what happened with the lawsuit and all the work you're doing to protect our civil liberties from the administrative state. Maybe we can do something there because you've done a lot with the administrative state.

Todd Zywicki ([49:38](#)):

That I have Bill.

Bill Walton ([49:40](#)):

So more to come. Todd Zywicki, Jenin Younes, thank you for joining us. You've been watching the Bill Walton Show. We've been talking about all things lockdown related and virus related. And I think we're coming to some conclusions and hope you enjoyed them. And we'll see you next time.

Bill Walton ([50:00](#)):

I hope you enjoyed the conversation. Want more? Click the subscribe button or head over to thebillwaltonshow.com to choose from over 100 episodes. You can also learn more about our guest on our interesting people page and send us your comments we read everyone and your thoughts help us guide the show. If it's easier for you to listen, check out our podcast page and subscribe there. In return, we'll keep you informed about what's true, what's right and what's next. Thanks for joining.