

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

LUCAS CALIXTO, et al.

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
THE ARMY, et al.,

Defendants.

Civil Action No.18-1551 (ESH)

DEFENDANTS' STATUS REPORT

In accordance with the Court's Orders entered on August 13, 2018 (ECF No. 23) and January 21, 2020 (ECF No. 155), Defendants respectfully submit this status report.

1. The Court's August 13, 2018 order requires Defendants to provide bi-weekly status reports "with any updates regarding [1] the Army's policy with respect to administrative separation procedures applicable to DEP and DTP members, as well as [2] any intention to discharge any DEP or DTP members in accordance with this policy." Order (ECF No. 23) at 2.

2. The Army's October 26, 2018 policy memorandum (ECF No. 50-1), with regard to MAVNIs who receive unfavorable MSSRs and/or MSSDs, remains in effect and has not been changed or otherwise amended.

3. As of the date of this report, the Army has not initiated any administrative separations pursuant to the October 26, 2018 policy memorandum (ECF No. 50-1). The Army intends to begin initiating the involuntary administrative separation process under the October 26, 2018 policy memorandum for DEP members who received unfavorable MSSDs. *Id.* at ¶ 4.

4. Defendants will comply with the Court's October 22, 2019 Order (ECF No. 145) and

the Court's January 21, 2020 Order (ECF No. 155) prior to sending any "Phase 2" letters initiating involuntary separations.

5. On January 21, 2020, the Court ordered Defendants to "provide Plaintiffs' counsel with the names of any MAVNIs who have been sent an MSSR notification that has been returned as undeliverable or who did not respond within the thirty-day window" and to "update this list for plaintiffs' counsel every three weeks." ECF No. 155.

6. In the last three weeks, the Army has not received any undeliverable letters and is not aware of any additional MAVNIs (not already reported to Plaintiffs) who did not respond within the thirty-day window.

7. As noted in Defendants' last status report dated March 23, 2020 (ECF No. 163), in coordination with the United States Government and Department of Defense response to the COVID-19 Pandemic, the Office of the Secretary of Defense, Headquarters, Department of the Army, and U.S. Army Reserve Command have mandated the maximization of telework. As such, current work focused on processing the MAVNI population has either been significantly reduced or suspended due to limited remote capabilities. Additionally, U.S. Army Reserve has cancelled, suspended, or postponed scheduled unit battle assemblies. Finally, U.S. Army Recruiting Command has reduced, by half, shipments to initial training and is in the process of renegotiating enlistment contracts. USAREC has also limited all personal interactions with applicants; only allowing applicants to proceed to recruiting stations when they are scheduled to ship to basic training.

Dated: April 14, 2020

Respectfully submitted,

ALESSIO EVANGELISTA
Attorney for the United States
Acting under Authority Conferred by 28 U.S.C. § 515

DANIEL F. VAN HORN
D.C. Bar # 924092
Chief, Civil Division

By: Jeremy A. Haugh
JEREMY A. HAUGH
Special Assistant United States Attorney
555 4th Street, N.W.
Washington, D.C. 20530
(202) 252-2574
jeremy.haugh@usdoj.gov

Attorneys for Defendants