

Exhibit C

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

NICHOLAS HARRISON and
OUTSERVE-SLDN, INC.

Plaintiffs,

v.

Case No. 1:18-cv-00641 (LMB/IDD)

JAMES N. MATTIS, in his official capacity
as Secretary of Defense; MARK ESPER, in
his official capacity as the Secretary of the
Army; and the UNITED STATES
DEPARTMENT OF DEFENSE,

Defendants.

**DECLARATION OF NICHOLAS HARRISON IN SUPPORT OF HIS
MOTION FOR PRELIMINARY INJUNCTION**

I, Nicholas Harrison, declare as follows:

1. Originally from Oklahoma, I was raised by a single mother on public assistance.

This experience inspired me to prove myself as I became an adult—working to secure an education, to help others similarly situated, and to serve my country.

2. In 2000, at the age of 23, I joined the U.S. Army in order to gain discipline, a sense of direction, and – as I would come to discover – a sense of purpose. After basic training and airborne school, I was stationed in Alaska with the 1-501st parachute infantry regiment.

3. In 2003, after completing the commitment I had made, I left active duty and joined the Army Reserves, returning to Oklahoma to become a member of the Oklahoma National Guard and to pursue additional education. The Army, in turn, invested in my

education, subsidizing my pursuits through the Army G.I. Bill, tuition assistance, and a yearly stipend based on my participation in Army ROTC.

4. In 2005, I received a bachelor's degree from the University of Central Oklahoma. I was the first in my family to graduate college. My ultimate goal, however, was to become a Judge Advocate General officer ("JAG officer"), so I sat for the LSAT and applied to law school. *See Ex. 1.* I was accepted to Oklahoma City University Law School and began in the fall of 2005. By the end of my first semester, I was the top student in my class.

5. My legal education was interrupted, however, when my National Guard unit deployed to Afghanistan, in the middle of my second semester, for sixteen months in support of Operation Enduring Freedom.

6. In Afghanistan, I was the Non-Commissioned Officer In Charge ("NCOIC") for my brigade Tactical Operations Center ("TOC"). In that role, I successfully operated in a position usually filled by a non-commissioned officer significantly higher in rank than I was at that time. I developed and implemented a new battle tracking system, briefed key leaders on the operation situation, ensured all communications equipment was operational, and trained and supervised all TOC personnel. In recognition of my meritorious service, I was awarded the Army Commendation Medal.

7. I was also selected as the only junior enlisted soldier to lead a security forces team ("SECFOR") at a forward operating base near the border with Pakistan. There, I trained soldiers and officers serving in the Afghan National Army and conducted regular combat patrols. My team took enemy fire on several occasions. As a result, I was awarded the Combat Infantryman's Badge.

8. While deployed in Afghanistan, I was on a pill-a-day doxycycline regime as a precaution to prevent malaria, as were all military personnel in Afghanistan. I was given a 180-day supply and ordered to take it daily, which I did. When our supply ran out, we were provided an additional 180-day supply. Each soldier was responsible for carrying and self-administering his own antimalarial medication. This one-pill-a-day regimen is similar in form to the single-tablet regimen (STR) of antiretroviral medications I use as a person living with HIV.

9. When I returned from active duty, I transferred to the University of Oklahoma College of Law, the most well-respected law school in the state. I had to repeat my entire first year of law school, because my deployment had interrupted my first year at Oklahoma City University Law School.

10. Undeterred by this educational obstacle, I continued to perform well academically. I received both a Juris Doctorate (“J.D.”) and Masters in Business Administration (“MBA”) from the University of Oklahoma in 2011.

11. Before I was able to sit for the Oklahoma bar exam, however, I deployed to Kuwait for a second tour of duty. There, I served as Headquarters Platoon Sergeant for a light reconnaissance cavalry troop. I was responsible for the health and welfare of 21 enlisted soldiers and 9 non-commissioned officers as we engaged in security for convoys withdrawing from Iraq. I was also accountable for over \$3.6 million of military vehicles and equipment in a combat theater.

12. Shortly after returning from my second tour of duty in 2012, I was diagnosed with HIV at an Army medical facility. I was immediately placed on antiretroviral therapy, and soon thereafter, my viral load was undetectable. Undeterred by this new diagnosis, I sat for and passed the Oklahoma bar shortly thereafter.

13. My antiretroviral therapy consists of one pill taken every day. I have not experienced a side effect from my medications in the six years since I started on HIV medications. Every six months, I have a blood test. I may meet with a doctor at the same time, but that is not required. At this point, these exams have become so routine that my doctor often calls me with my test results instead of meeting in person. I have been virally suppressed and generally have had an undetectable viral load since shortly after starting on antiretroviral therapy in 2012.

14. After I passed the Oklahoma bar exam, I applied for and was offered a position as a JAG officer for the Oklahoma National Guard. At nearly the same time, however, I was offered a coveted position as a Presidential Management Fellow in Washington, D.C., which I accepted. I offered to commute to Oklahoma on the weekends in order to perform both roles, but my potential commanding officer in the JAG Corps decided it was not feasible to do both jobs.

15. I moved to Washington, D.C. to begin my work in the Presidential Management Fellow program and transferred to the D.C. National Guard.

16. While living in Washington, D.C. and serving in the Presidential Management Fellow program, I applied for a position in the JAG office for the D.C. National Guard. After interviewing, I was chosen for an open position in the Legal Services Office supporting the Director of the National Guard Bureau in JAG Corps for the D.C. National Guard. At the time, I was told by the recruiters at the D.C. National Guard that my experience stationed in combat zones was a major asset to my application. They informed me that I would be commissioned as a Captain, as opposed to a Second Lieutenant, because of my extensive service record.

17. After receiving the offer, I began the process of assessment and qualification as an officer with the assistance of First Lieutenant Nicole Ono, the Regional Specialty Branch

Recruiter in the recruitment office of the D.C. National Guard. Because I had already been offered the position, this should have been a relatively *pro forma* process.

18. During my commissioning medical exam, I received the top rating in every category: a PULHES score (shorthand for its testing categories: Physical stamina, Upper extremities, Lower extremities, Hearing/ears, Eyes, and Psychiatric) of one on a scale of one to four. This meant that I was at the highest possible level of fitness for service with no duty limitations or restrictions. Nonetheless, I was classified as “non-deployable” based on my HIV status. *See Ex. 2.*

19. First Lt. Ono and I determined that, because of the military’s blanket prohibition on the accession of people living with HIV, I would need to seek a medical waiver to commission as an officer. I provided the necessary materials for the waiver application to First Lt. Ono, who submitted them through the appropriate channels.

20. After approximately five months, my waiver application was denied by the Chief Surgeon of the Army National Guard via a memorandum dated December 30, 2014. *See Ex. 3.*

21. Having been denied a medical waiver, I wrote a memorandum letter to the Under Secretary of Defense for Personnel and Readiness, routed through the Army Deputy Chief of Staff (G-1), seeking a formal exception to policy (“ETP”), which, if granted, would allow me to commission despite the accession ban. *See Ex. 4.*

22. On March 19, 2015, I received a response from the Office of the Assistant Secretary of Defense for Readiness and Force Management, to whom the Under Secretary had delegated the responsibility of responding, identifying the relevant regulations that prohibited me from serving, but not explicitly denying my ETP request. *See Ex. 5.*

23. My ETP request was forwarded to Lt. Col. Conreau Williams, Chief Health Promotions Officer, in the Office of the Deputy Chief of Staff, G-1. In an email dated March 24, 2015, Lt. Col. Williams offered to assist me with my ETP request, noting later in a telephone call that it seemed to her a perfectly reasonable request. *See* Ex. 6.

24. I pulled together all of the necessary materials to support my ETP request, and Lt. Col. Williams submitted the ETP packet for approval to the Office of the Army Surgeon General. In the packet, my physician at the time noted that my HIV was “[v]ery well controlled” and had been since 2013. Ex. 7. She found me “fit for duty” noting that there “should not [be] any limitations placed on [my] service in the military.” *Id.*

25. After I secured the necessary approval from the Office of the Army Surgeon General, I submitted my ETP packet to the Deputy Chief of Staff for the Army (G-1) for approval in the first week of December 2015.

26. On June 29, 2016, the Deputy Chief of Staff for the Army denied my request, giving no explanation other than that the request was “not in the best interest of the Army.” Ex. 8.

27. On July 21, 2016, I elevated my request to the Under Secretary of Defense for Personnel and Readiness. My ETP request was denied by the Under Secretary on July 26, 2016, citing the Department of Defense Instructions and Army Regulations regarding accessions and people living with HIV as the reason for the denial without further explanation. Ex. 9. In other words, the existence of the policy was the reason I was not granted an exception to policy.

28. My HIV status has not prevented me from serving in the National Guard for the past six years. As this case is litigated, I continue to serve in the D.C. National Guard.

29. However, a new Department of Defense policy may completely derail my career. On February 14, 2018, the Department of Defense issued new guidance stating that service members who have been designated as non-deployable for over 12 consecutive months will be discharged. Ex. 10. Under the new policy, discharges are required to begin by October 1, 2018; however, there is nothing to prevent the Army or other branches from discharging service members living with HIV prior to this deadline.

30. I am very concerned about how implementation of this policy will affect me and other service members living with HIV. I have reached out to my congressional representatives, even going so far as to visit their offices on Capitol Hill multiple times, to express my concern. Unfortunately, without action by either Congress or the courts, there is nothing to stop the Army from beginning discharge proceedings at any time and ending my 18-year career in the Armed Services.

31. Since filing this lawsuit, I have learned that actions recently have been taken to separate some service members living with HIV. It is my understanding that the health status of these service members with respect to their HIV is similar to mine and that long-standing military policies related to people living with HIV—policies under which I was retained in the military—should have resulted in their retention as members of the armed services. I am now concerned that the Army and other branches of the Armed Services are not waiting until October 2018 to begin implementing the new directive with respect to “non-deployable” service members and that I could be separated from service at any time. I believe that being the sole named plaintiff in this lawsuit places me in particular jeopardy of having this new policy applied to me while this lawsuit is pending.

32. I have had a long and respected career in the armed services thus far, and I want to continue that career. I am healthy, qualified, and eager to serve as a JAG officer. The only obstacle in my way is a cluster of outdated policies that do not accurately assess or reflect my fitness for duty or ability to serve and that are preventing thousands of other healthy current, former, and aspiring soldiers from serving their country to the full extent of their capabilities.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: July 19, 2018

Nicholas Harrison

Sergeant Nicholas Harrison

EXHIBIT 1

NICHOLAS HARRISON

1417 MAPLE DRIVE
MIDWEST CITY, OKLAHOMA 73110

PHONE: (405) 733-8150
E-MAIL: ALASKAAIRBORNE@YAHOO.COM

Personal Statement

I find myself crammed into an old cargo plane with sixty-three other cocky, athletic guys. I have been on Fort Benning for the past six months and I haven't seen my home or my family for some time. Now, I am finally getting to jump out of a perfectly good aircraft. It seems like a pretty stupid thing to do. However, many of us have been looking forward to this event for quite a while and we're laughing and joking while we wait. Yet, as the aircraft approaches the drop zone, the door is roughly yanked open and a tense silence descends upon the group as everyone turns to stare outside. The young, arrogant, easy-going attitude is suddenly gone and I start to wonder if I've made the right decision.

The first set of jumpers is instructed to stand up and hook up and we reluctantly do as we are told -- moving like a group of condemned prisoners heading toward the gallows. With a sick feeling in my stomach, I anxiously wait for the signal. Thirty seconds seem to drag out for an eternity. Yet, when the green light finally comes on and we start rushing toward the door, it certainly doesn't seem long enough. I reach the exit, take a deep breath, and force myself to leap out into the void -- determined not to be the only guy who refuses to jump. There is a brief moment of weightlessness. Then, I feel myself plummeting toward the ground

To this day, I still have trouble finding the words to explain why anyone would want to become a paratrooper. In August of 2000, part of the reason that I decided that I wanted to enlist in the army was that I realized that I had lost my academic focus and that I had accrued some pretty significant college debts. However, I also felt like I had missed out on something by not

participating in any form of college or high school athletics and I wanted to serve my country in an honorable profession. So, I looked at military service as an opportunity to grow up, to take on real responsibility, and to become a more well rounded person. As it turns out, it is a decision that I have never regretted.

As they apply to law school, I am sure that there are a lot of people who write about their boot camp experiences and argue that the army has given them the drive, discipline, and determination to succeed in the profession. However, I would rather take a different approach and discuss the values that you come to respect and cherish when you serve in an airborne infantry unit. People still sacrifice for one another and live by a code of duty, honor, and country. And, there is a special bond which develops between people when they put their lives in each other's hands -- a sense of friendship, camaraderie, and brotherhood that you will never find anywhere else.

While on active duty, I have served under a lot of good officers and under a lot of bad officers. I have dedicated that last two years of my life to the Army ROTC Program -- aspiring to take on a position which afforded me the opportunity to take care of soldiers and make a real difference in people's lives. I can still remember the look in my comrades' eyes when they found out that my "Green-To-Gold" packet had gone through -- the hope that they would eventually have someone who knew what it was like to be enlisted and who was willing to fight for the common foot soldier. I will never forget my sacred obligation to them.

In the last two months, I have learned that my National Guard unit will deploy to Afghanistan in May of 2006. And, one of the toughest decisions that I will have to face is whether I want to go overseas with them and serve as their platoon leader or whether I want to stay here in the United States and finish law school. When you have the fates of soldiers in your

hands, you are faced with some pretty hard choices. And, as a lieutenant, thirty to forty people will depend on me and the decisions that I make will affect their lives, their families, and their children in the most serious way possible.

It's difficult to turn your back on that obligation. And, part of me wants to go to Afghanistan with my unit when it deploys in May of 2006. However, another part of me also knows that I would only be limiting myself to the people under my direct command. There still needs to be someone who understands what it is like to be enlisted to take care of soldiers when bad officers ignore, abuse, or neglect them. There still needs to be someone who understands what it is like to be an infantryman to protect and defend soldiers who are forced to make tough decisions in intense, combat situations. There still needs to be someone who understands what its like to live by a code of duty, honor, and country to prosecute the terrorists and insurgents who are captured.

Unfortunately, there aren't many attorneys who are willing to give up lucrative jobs in the private sector. So, it is hard to find JAG officers who really care about these issues, who are willing to dedicate their lives to serving those who protect and defend our nation. I can only hope that you will consider my application and allow me to fulfill this role.

EXHIBIT 2

SSN [REDACTED] Name HARRISON NICHOLAS ALEXANDER Rank SGT DOB 1977 [REDACTED] UIC W8AHAA Gender M

Demo Allergies Overall Health Current Health Preventive Health Behavioral Health Family History Evaluation TBIT PULHES

Frequently Asked Questions
Feedback

Current PULHES

P	U	L	H	E	S
1	1	1	1	1	1

[Click here](#) to create or modify PULHES or Profile Codes in eProfile.

Profile Codes

Code V: Deployment Restrictions
Code A: No Limitations

Refresh Pending Profiles

[Show Profiles Pending Approval] [Hide Profiles Pending Approval]

[Show PULHES History] [Hide History]

Height: 75 Weight: 200 Pregnant:

Height and Weight are only required for National Guard and Reserve Soldiers and should not be completed for Active Duty Soldiers

Deployable to an austere environment within next 6 months: Yes

Was the Soldier's e-Profile and/or AHLTA history reviewed to determine the presence of mTBI/Concussion(s) to assess the need for functional limitations or additional evaluation or treatment after this assessment? No

If yes, number of occurrences?

- Source of concussive event?
- eProfile
 - AHLTA
 - Soldier Statement

Additional Comments:

[Empty text area for additional comments]

Form last modified by: craig.w.casella

I certify that this review process has been completed.

AKO authentication passed for: craig.w.casella

previous

EXHIBIT 3



NATIONAL GUARD BUREAU
111 SOUTH GEORGE MASON DRIVE
ARLINGTON VA 22204-1382

ARNG-CSG-C

2014-12-30

MEMORANDUM FOR The Adjutant General, District of Columbia, ATTN: RSID1

SUBJECT: ACCESSION WAIVER COMMISSION

FOR: Prior Service NICHOLAS HARRISON, **REDACTED**

1. After review of this application and supporting documents the following determination has been made:

Waiver Request is DISAPPROVED

With the following comment: For HIV Positive testing.

MOS: 27A

P	U	L	H	E	S
3	1	1	1	1	1

2. Points of contact for this action:

Administrative - Mr. Kinney Simpkins at (540) 661-7180 or Mr. Randy Dodson at (601) 826-7344.

Clinical - MAJ Paul D. Tumminello, ARNGUS Medical Standards Officer at (703) 607-9534 or LTC Edith Fraley, M.D., Delegate Waiver Authority at (501) 545-6678.

FOR THE CHIEF SURGEON:

for TUMMINELLO.PAUL.1042104317
ERIC D. MORGAN
Colonel, Medical Corps
Chief Surgeon, Army National Guard

This document contains PHI

EXHIBIT 4

NICHOLAS HARRISON
1530 1/2 R STREET NW
WASHINGTON, D.C. 20009

PHONE: (405) 590-9525

E-MAIL: ALASKAAIRBORNE@YAHOO.COM

23 February 2015

MEMORANDUM THRU MG ERROL SCHWARTZ, Adjutant General, DC National Guard,
2001 East Capitol Street SE, Washington, D.C. 20003

THRU COL ERIC MORAN, Chief Surgeon, Army National Guard, 111 South George Mason
Drive, Arlington, VA 22204

THRU LTG JAMES MCCONVILLE, Deputy Chief of Staff, G-1, United States Army, 300
Army Pentagon, Washington, D.C. 20310

FOR THE HONORABLE JESSICA WRIGHT, Undersecretary of Defense for Personnel and
Readiness, 4000 Defense Pentagon, Washington, D.C. 20301

SUBJECT: Request for Exception to Policy (AR 600-110, DoDI 6485.01)

Executive Summary

1. My name is SGT NICHOLAS HARRISON. I am a member of the DC National Guard and I am writing to request an exception to policy so I can receive a direct commission as a JAG officer.
2. I have been interviewed by the DC National Guard and I have been offered a slot in the legal services office supporting the Director, Army National Guard in Arlington, VA. However, under AR 600-110 and DoDI 6485.01, I am not eligible for a commission because I am HIV positive.
3. I am in receipt of a memorandum from COL ERIC MORAN to MG ERROL SCHWARTZ dated 30 December 2014 denying my request for a medical waiver. This memorandum is going back through them to the proponents of AR 600-110 and DoDI 6485.01 for further review and consideration.
4. Respectfully, I wish to assert that, generally, this policy is outdated and that, specifically, it makes no sense to deny me a direct commission as a JAG officer.

Background

5. I'm a 37-year-old sergeant in the DC National Guard. I've served 3 years on active duty as an airborne paratrooper stationed at Fort Richardson (Anchorage, Alaska). I've served 11 years in the Army National Guard so far with 2 overseas tours of duty in Afghanistan (2006 - 2007) and Kuwait (2011 - 2012).
6. I completed my education by taking advantage of a variety of military benefits – loan repayment program, GI Bill, National Guard kicker, ROTC stipend, and tuition assistance. I graduated with a JD/MBA from the University of Oklahoma in 2011.
7. I was selected as an alternate during the JAG accessions process in 2011 – which carries with it an automatic slot in the National Guard / Reserves if I wanted it. However, I was deployed before I could take the bar exam and I wasn't able to follow through with it until I returned in 2012.
8. I was diagnosed with HIV shortly after I got back from my second deployment in July 2012. And, I am currently undetectable.
9. In 2013, I was selected as a Presidential Management Fellow and I took a job with the U.S. Small Business Administration. Upon relocating to the Washington DC area, I was interviewed by the Legal Services Office which supports the Director of the Army National Guard Bureau in Arlington, VA and I was offered a slot by them.
10. I completed my physical exam at Walter Reed Army Medical Center last year. Although my PULHES code is 111111, I was advised that my HIV status constitutes a disqualifying condition which does not allow me to become a JAG officer. I submitted a medical waiver and it was denied on 30 December 2014.

Argument

11. The current military policy prohibiting HIV positive personnel from becoming commissioned officers is a relic of the 1980s when people were dying of AIDS. Medical technology has evolved considerably over the past thirty-five years and HIV is more easily manageable than many other health conditions.
12. I have no significant duty limitations. HIV positive personnel can work in health care or food service industries. There are no restrictions on taking federal law enforcement, foreign service, or DOD civilian positions. Even the U.S. Navy recently opened up overseas and large-ship platform assignments.
13. The military has already decided that I cannot be discharged for my status. Indeed, current policy affords me with the opportunity to attend NCOES and other MOS-producing courses required for career progression. However, it makes little sense to keep

me where I am. I am of limited use to the service in my current billet. The natural career progression for someone like me (upon graduating from law school and passing the bar exam) is to pursue a direct commission as a JAG officer.

14. I attained my education using military benefits. So, there's a case for giving the military a return on its investment. I also would incur no additional service obligation – having already fulfilled my statutory obligation during the past 15 years as an enlisted soldier.
15. The Legal Services Office supporting the Director of the National Guard Bureau wants me. They've told me that my previous combat experience in a line unit would be a real asset to their office. It suits the needs of the Army.

Conclusion

16. While I respectfully disagree with the military's overall policy, this letter is a request for a narrow exception to that policy. I respectfully assert that AR 600-110 and DoDI 6485.01 should not be a bar to someone:
 - (a) who is already in the service;
 - (b) who has served long enough to fulfill his statutory obligation; and
 - (c) who wishes to receive a direct commission into a specialty support branch for which he is well qualified, to serve out the remainder of his military career.
17. Thus, I ask you to grant my request for an exception to policy so that I can take a direct commission as a JAG officer.
18. When you have time, I respectfully request a meeting under the military's open door policy to discuss this matter further. The point of contact for this memorandum is SGT Nicholas Harrison at (405) 590-9525.

Very Respectfully,

NICHOLAS HARRISON
SGT, DCARNG

CC: The Honorable Eleanor Holmes Norton, Congresswoman, Washington D.C.
The Honorable Eric Fanning, Chief of Staff, United States Department of Defense

EXHIBIT 5

From: Nicholas Harrison
To: [Williams, Conreau L LTC USARMY HQDA \(US\)](#)
Subject: Re: Contact for Exception to Policy (UNCLASSIFIED)
Date: Wednesday, March 25, 2015 10:09:46 AM
Attachments: [dod-letter.pdf](#)

Good morning, ma'am. I'll give you a call here in a few minutes.

I received a letter from the Office of the Assistant Secretary of Defense (Readiness and Force Management) on Monday. And, I've been preparing a response to that letter.

I haven't had the chance to scan in the document I received, but I have typed it out so that you can review:

<Stamped: MAR 19 2015>

*Nicholas Harrison
1530 ½ R Street NW
Washington, DC 20009*

Dear Mr. Harrison:

Thank you for your recent letter to the Under Secretary of Defense, Jessica Wright concerning your medical disqualification to enter the military. Since this matter falls under my purview, this office has been asked to respond.

Each Service establishes its own standards for enlistment under the authority of title 10 of the United States Code, utilizing the specific policies for accession medical standards established by Department of Defense Instruction (DoDI) 6130.03, "Medical Standards for Appointment, Enlistment, or Induction in the Military Service," dated 28 April 2010. Accession criteria are based on Service needs and are designed to ensure that individuals accepted are "qualified, effective, and able-bodied persons" capable of successfully performing military duties.

There is no record of your application for entrance into the Service as an officer. Additionally, the presence of human immunodeficiency virus is disqualifying (DoDI 6130.03 Enclosure 4 Section 24(b)). Applicants with medical conditions which are disqualifying are reviewed on a case-by-case basis by medical professionals from the Service concerned to determine if they will support a waiver. The decision of the Waiver Authority is final.

You may be interested in knowing that approximately 35 percent of individuals desiring to enter the Armed Forces today have some physical condition that is disqualifying. While many of these people have otherwise outstanding qualifications, they are unable to serve. However, the Department of Defense team consists of both military and civilian members. Individuals who are physically disqualified for military duty can and do become civilian members of the team. If you are interested in civilian

employment, you should contact the local government agency where employment consideration is desired. A listing of government job vacancies is available from the U.S. Office of Personnel Management at its website: www.usajobs.opm.gov.

We appreciate your interest and hope that the information provided has been helpful.

Sincerely,

<SIGNATURE>

C.P. Arendt

*Deputy Director, Accession Policy
(Military Personnel Policy)*

The response I am thinking about sending is attached. However, I have several questions.

Very Respectfully,

SGT Harrison

From: "Williams, Conreau L LTC USARMY HQDA (US)" <conreau.l.williams.mil@mail.mil>
To: Nicholas Harrison <alaskaairborne@yahoo.com>
Sent: Wednesday, March 25, 2015 7:14 AM
Subject: RE: Contact for Exception to Policy (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Good Morning SGT Harrison,

Thank you for responding. You may reach me anytime today with the exception of the hours of 0900-1015 and 1200-1300.

I look forward to talking with and assisting you today.

V/r
LTC Williams

-----Original Message-----

From: Nicholas Harrison [mailto:alaskaairborne@yahoo.com]
Sent: Tuesday, March 24, 2015 4:24 PM
To: Williams, Conreau L LTC USARMY HQDA (US)
Subject: Re: Contact for Exception to Policy (UNCLASSIFIED)

Good morning, ma'am. Thanks for reaching out to me.

I would definitely appreciate your assistance regarding this request.

Let me know when a good time would be to try to touch base.

Very Respectfully,

SGT Harrison

From: "Williams, Conreau L LTC USARMY HQDA (US)"
<conreau.l.williams.mil@mail.mil>
To: "alaskaairborne@yahoo.com" <alaskaairborne@yahoo.com>
Sent: Tuesday, March 24, 2015 3:24 PM
Subject: Contact for Exception to Policy (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Good Afternoon SGT Harrison,

My name is LTC Conreau Williams from HQDA G-1, Army Resiliency Directorate. I received a memorandum that you had written on 23 February 2015, referencing a request for an exception to policy.

I would like to talk with you so that I may assist you with the process of your request. Please contact me at your earliest convenience at (703) 571-7288.

Thank you and have a great day!

V/R,

Conreau L. Williams
LTC, GS
Chief, Health Promotions Officer
Office of the Deputy Chief of Staff, G1
(703) 571-7288
email: conreau.l.williams.mil@mail.mil

Classification: UNCLASSIFIED

Caveats: NONE

Classification: UNCLASSIFIED

Caveats: NONE

EXHIBIT 6

From: Williams, Conreau L LTC USARMY HQDA (US)
To: alaskaairborne@yahoo.com
Subject: Contact for Exception to Policy (UNCLASSIFIED)
Date: Tuesday, March 24, 2015 3:24:48 PM

Classification: UNCLASSIFIED
Caveats: NONE

Good Afternoon SGT Harrison,

My name is LTC Conreau Williams from HQDA G-1, Army Resiliency Directorate. I received a memorandum that you had written on 23 February 2015, referencing a request for an exception to policy.

I would like to talk with you so that I may assist you with the process of your request. Please contact me at your earliest convenience at (703) 571-7288.

Thank you and have a great day!

V/R,

Conreau L. Williams
LTC, GS
Chief, Health Promotions Officer
Office of the Deputy Chief of Staff, G1
(703) 571-7288
email: conreau.l.williams.mil@mail.mil

Classification: UNCLASSIFIED
Caveats: NONE

EXHIBIT 7

MEDICAL RECORD

Progress Notes

NOTE DATED: 03/27/2015 11:00
LOCAL TITLE: ID CLINIC - ESTABLISHED
STANDARD TITLE: INFECTIOUS DISEASE NOTE
VISIT: 03/27/2015 08:30 DC/ID SILVER-CZARNOGORSKI
Age: 38 Sex: MALE Race: WHITE

Allergies: NKDA

Outpatient Meds:

Efavirenz 600/Emtric 200/Tenof 300mg Tab Take 1 Tablet by Mouth Every Day for Infection. (Atripla)

List of Antivirals Ever Prescribed
EFAVIREN7 600/EMTRIC 200/TENOF 300MG TAB

NON-VA MEDS - NONE FOUND

Problem list: (Active & Verified)
Chlamydial infection (Sct 105629000)
Human immunodeficiency virus infection (Sct 86406008)
dc cohort (Icd-9-cm 799.9)

Reason for Visit: this is routine 6 month appointment for HIV (+) follow-up. Pt is in good health with no complaints today.

Vitals:(today's vitals)
HT: WT: 201.9 lb [91.8 kg] T: 97.1 F [36.2 C] P: 78 R: 18
BP: 123/61 PAIN: 0

MEDICATION RECONCILIATION:
The process of medication reconciliation was completed during today's visit. The veteran's current medications (including non-VA medications and any changes made today) were reviewed with the patient and/or caregiver. A written list was offered and/or provided.

Assessment:

1. HIV - Very well controlled - CD4 - 618 and VL < 40 in March 2015. Pt has been well controlled since 2013 under my care. He is fit for duty and should not have any limitations placed on his service in the military. His immune system is as strong as anyone who is not HIV infected and only needs to come to clinic for routine 6 month check-ins only.
2. high triglycerides - will monitor and recommend diet and exercise at this time.
3. HCM - up to date at this time.

RTC in 6 months for routine check in.

Future Appointments:
Dc/Id Silver-czarnogorski - Mar 27, 2015 at 08:30 ()

Signed by: /es/ MAGGIE CZARNOGORSKI, MD
ATTENDING PHYSICIAN (WOC)
03/27/2015 11:06



EXHIBIT 8



DEPARTMENT OF THE ARMY
OFFICE OF THE DEPUTY CHIEF OF STAFF G-1
300 ARMY PENTAGON
WASHINGTON, DC 20310-0300

DAPE-MP

MEMORANDUM THRU Commander, 276th Military Police Company, 2001 East Capitol Street SE, Washington DC 20003-1719

FOR Sergeant Nicholas Harrison, 372nd Military Police Battalion, 2001 East Capitol Street SE, Washington DC 20003-1719

SUBJECT: Request for Exception to Policy (ETP) to Army Regulation 600-110

1. Your request for an ETP to Army Regulation 600-110 was not favorably considered. After thorough review of your arguments in favor of granting an exception, I find that taking such action is not in the best interest of the Army.
2. My point of contact for this action is LTC Lisa M. Lute, (703) 545-1918 or email: lisa.m.lute.mil@mail.mil.

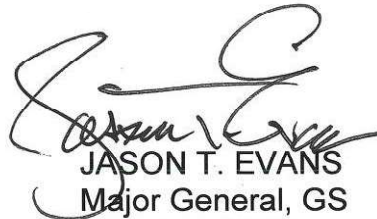

JASON T. EVANS
Major General, GS
Director of Military
Personnel Management

EXHIBIT 9

OFFICE OF THE UNDER SECRETARY OF DEFENSE

4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000



PERSONNEL AND
READINESS

July 26, 2016

Mr. Nicholas A. Harrison
1530 ½ R Street NW
Washington, DC 20009-4156

Dear Mr. Harrison:

Thank you for your letter of July 21, 2016, to Mr. Peter Levine, Acting Under Secretary of Defense for Personnel and Readiness, requesting an exception to the policy set forth in Department of Defense Instruction (DoDI) 6485.01, *Human Immunodeficiency Virus (HIV) in Military Service Members*. We have carefully reviewed your letter and its allied papers and have consulted with the Department of the Army.

The policies enumerated in the DoDI, and in other DoD issuances establishing accession and commissioning standards, were reviewed and revalidated as recently as 2013. Accordingly, we are unable to grant favorable consideration of your request.

Thank you for your service as a member of the D.C. National Guard.

Sincerely,

A handwritten signature in cursive script, appearing to read "Stephanie Barna".

Stephanie Barna
Principal Deputy Assistant Secretary of Defense
For Manpower and Reserve Affairs,
Performing the Duties of the Principal
Deputy Under Secretary of Defense for
Personnel and Readiness

EXHIBIT 10



UNDER SECRETARY OF DEFENSE
 4000 DEFENSE PENTAGON
 WASHINGTON, D.C. 20301-4000

FEB 14 2018

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
 CHAIRMAN OF THE JOINT CHIEFS OF STAFF
 UNDER SECRETARIES OF DEFENSE
 DEPUTY CHIEF MANAGEMENT OFFICER
 CHIEF, NATIONAL GUARD BUREAU
 DIRECTOR OF COST ASSESSMENT AND PROGRAM
 EVALUATION

SUBJECT: DoD Retention Policy for Non-Deployable Service Members

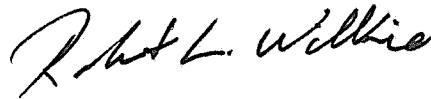
In July, the Secretary of Defense directed the Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)) to lead the Department's effort to identify changes to military personnel policies necessary to provide more ready and lethal forces. In his initial memorandum to the Department, Secretary Mattis emphasized, "[e]very action will be designed to ensure our military is ready to fight today and in the future." Given the Secretary's guidance, OUSD(P&R) moved forward from the underlying premise that all Service members are expected to be world-wide deployable. Based on the recommendations of the Military Personnel Policy Working Group, the Deputy Secretary of Defense determined that DoD requires a Department-wide policy establishing standardized criteria for retaining non-deployable Service members. The objective is to both reduce the number of non-deployable Service members and improve personnel readiness across the force.

The Deputy Secretary of Defense directed the following interim policy guidance, which will remain in effect until the Department issues a DoD Instruction on reporting and retention of non-deployable Service members:

- Service members who have been non-deployable for more than 12 consecutive months, for any reason, will be processed for administrative separation in accordance with Department of Defense Instruction (DoDI) 1332.14, *Enlisted Administrative Separations*, or DoD Instruction 1332.30, *Separation of Regular and Reserve Commissioned Officers*, or will be referred into the Disability Evaluation System in accordance with DoDI 1332.18, *Disability Evaluation System (DES)*. Pregnant and post-partum Service members are the only group automatically excepted from this policy.
- The Secretaries of the Military Departments are authorized to grant a waiver to retain in service a Service member whose period of non-deployability exceeds the 12 consecutive months limit. This waiver authority may be delegated in writing to an official at no lower than the Military Service headquarters level.

- The Military Services have until October 1, 2018, to begin mandatory processing of non-deployable Service members for administrative or disability separation under this policy, but they may begin such processing immediately.
- The Military Services may initiate administrative or disability separation upon determination that a Service member will remain non-deployable for more than 12 consecutive months; they are not required to wait until the Service member has been non-deployable for 12 consecutive months.
- The Military Services will continue to provide monthly non-deployable reports to OUSD(P&R) in the format established by the Military Personnel Policy Working Group.

My office will issue a DoDI to provide additional policy guidance and codify non-deployable reporting requirements. Publication of the DoDI will supersede and cancel this policy memorandum.



Robert L. Wilkie

cc:

Assistant Secretary of the Army
for Manpower and Reserve Affairs
Assistant Secretary of the Navy
for Manpower and Reserve Affairs
Assistant Secretary of the Air Force
for Manpower and Reserve Affairs
Senior Enlisted Advisor to the Chairman
of the Joint Chiefs of Staff
Deputy Chief of Staff, G-1, U.S. Army
Chief of Naval Personnel, U.S. Navy
Deputy Chief of Staff for Personnel and Services,
U.S. Air Force
Deputy Commandant for Manpower and Reserve
Affairs, U.S. Marine Corps
Director, Reserve and Military Personnel,
U.S. Coast Guard
Director, Manpower and Personnel, Joint Staff
National Guard Bureau, J-1