

ENCLOSURE C04



THE LAW FIRM OF JAMES M. BRANUM



Email: GIRightsLawyer@gmail.com - Voice/Text: 405-494-0562 - Web: JMBranum.com
Postal: James M. Branum, PO Box 134, Piedmont, OK 73078

Honorable Ronald Keohane
Assistant Secretary of Defense (ASD)
For Manpower and Reserve Affairs (M&RA)
4000 Defense Pentagon
Washington, DC 20301-4000

cc: Congressman Richard Hudson

August 28, 2024

Secretary Keohane or any appropriate authority:

I am writing on behalf of my client, SFC Michael J. Forbes to request an exception to policy (ETP), IAW DODI 1332.14 para. 2.1 (a), (b).

This request was prompted by a letter sent on August 19, 2024 to Congressman Richard Hudson by Jon E. Finke (Chief, Operations Management Division of the US Army Human resources command), which recommended that my client "submit an exception to policy to the Directorate of Military Personnel Management (DMPM), office of the Deputy Chief of Staff, G-1, United States Army for consideration of his request." However, based on the most recent revision (August 1) of DODI 1332.14, this request must instead be routed to you based upon the provisions of para 2.1 (b) which provides that you are charged with adjudicating "exceptions to policy requests for enlisted administrative separations."

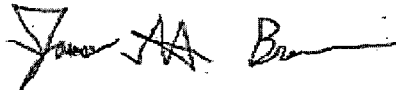
This request is made due to the pending litigation in federal court (case # 5:24-cv-00176, filed in the US District Court for the Eastern District of North Carolina) regarding the wrongful pending separation of the plaintiff, SFC Forbes. To avoid irreparable harm to himself (and increased cost to the US Army), SFC Forbes is asking that his pending separation (scheduled for December 1, 2024) be put into abeyance until the litigation is resolved through the court.

This pending litigation raises specific claims that raise federal questions for adjudication by federal authorities, including serious issues of concern under DoDI 1332.14, 2.3, b., and b., (2) & (3) in that the US Army is alleged to have not "ensure[d] that"... "[f]act-finding inquiries are conducted properly," and did not take appropriate actions to insure that

"[a]buses of authority do not occur."¹ These questions of fact can best be resolved by allowing the federal court to hear the case prior to any discharge of SFC Forbes. For clarity, my client is not asking for a suspension of a separation action because he is not needing to be rehabilitated,² rather he needs to have his case heard and adjudicated by the court, which is why he is asking for an exception to policy to permit an abeyance.

I also request a written expedited response of your determination of this request because SFC Forbes is being repeatedly and informally asked if he has begun out-processing by his Chain of Command and NCO Support Channel without an order or checklist and he is unwilling to give the appearance of willingly separating as that is incongruent with his stance in his outstanding lawsuit. He feels that the *prima facie* violations of laws by his Brigade (BDE) Commander (CDR) that spawned the BDE CDR's investigation (of him), are what led to the Relief for Cause and General Officer Memorandum of Reprimand, that automatically instigated the Qualitative Management Program, which resulted in the wrongful separation. These issues should be adjudicated prior to his separation from the Army.

Very Respectfully,

A handwritten signature in black ink, appearing to read "James M. Branum". The signature is stylized and written in a cursive-like font.

James M. Branum
Civilian Defense Counsel

Enclosures:

1. Letter from Jon E. Finke (Chief, Operations Management Division of the US Army Human resources command) to Congressman Richard Hudson
2. Docket Report on case # 5:24-cv-00176, US District Court for the Eastern District of North Carolina

¹ Ibid, Ch. 2.3, b. (2) & (3). August 1, 2024.

² IAW Ibid. para. 4.2.