

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

Derek Clements, et al.,	)	Civil Action Number: 2:22-cv-02069-RMG
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
Lloyd J. Austin, III, Secretary of	)	
Defense, et al.,	)	
	)	
Defendants.	)	

**JOINT MOTION FOR EXTENSION OF TIME**

The parties have conferred, and respectfully move this Court to extend the briefing schedule on the pending Motion for Temporary Restraining Order and Preliminary Injunction (hereinafter “Motion”) filed by the Plaintiffs. The parties believe that an extension would protect private, public, and judicial resources, and make this request in order that the Defendants provide a meaningful response to the Motion. Currently, because Plaintiffs’ Complaint and Motion were served on the United States Attorney’s Office on July 5, *see* Fed. R. Civ. P. 4(i)(1)–(2), Defendants’ response to the Motion is due July 19, 2022, *see* Local Rule 7.06, and Plaintiffs’ reply will be due on July 26, *see* Local Rule 7.07.<sup>1</sup> The parties request that the Court allow Defendants until July 28, 2022, to respond to the Motion. Further, the parties request that any reply by Plaintiffs

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<sup>1</sup> The docket entry for Plaintiffs’ Motion, ECF No. 4, states the following: “Response to Motion due by 7/14/2022. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45.” Because this language was generated only by the CM/ECF system when Plaintiffs filed their Motion, and because it does not reflect an order of the Court, the parties do not understand this language to supersede the default rule under Local Rule 7.06 that “[a]ny memorandum or response of an opposing party must be filed with the court within fourteen (14) days of the service of the motion.” L.R. 7.06; *cf.* *3M Co. v. Christian Invs. LLC*, No. 1:11CV627, 2011 WL 3678144, at \*3–4 (E.D. Va. Aug. 19, 2011) (collecting cases for the proposition that service of the complaint is required for issuance of a preliminary injunction).

be due August 11, 2022. Good cause exists for the parties' request.

To accommodate this schedule, Defendant Superintendent of the U.S. Coast Guard Academy and Defendant Superintendent of the U.S. Air Force Academy have agreed to defer any further adverse administrative or disciplinary action against the named Plaintiffs who are cadets<sup>2</sup> at those Academies based on their unvaccinated status through the time that the Court resolves the Motion or September 1, 2022, whichever is earlier. Actions already initiated<sup>3</sup> will be delayed for the same period. This agreement does not include a pause on travel or assignment or duty decisions or a delay in adjudication of pending accommodation requests.

Further, this agreement does not address the cadets at the U.S. Military Academy for the reason that no discipline is imminent for these cadets. These two cadets have religious accommodation requests pending decisions on appeal. Even were those appeals to be resolved in the coming weeks and to result in a denial, the Military Academy cadets will have an additional hearing to determine whether they should be disenrolled from the Military Academy. That process, set out in Army Regulation 150-1 and Army Directive 2022-02 ¶ 4j(3)(a), is also accompanied by significant due process to include a hearing before a board and the opportunity to consult with counsel. Thus, no disciplinary action is imminent or likely to occur before the parties have submitted full briefing on the Motion.

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<sup>2</sup> According to the allegations of the Complaint, fourteen of the named Plaintiffs are cadets: A. Aime, T. Aime, S. Galdamez, D. Johnson, and J. Johnson are cadets at the Coast Guard Academy. Josiah Beggs, Amelia Cass, Jake Ford, Ezra Paul, Caleb Pym, Rachel Shaffer, Aaron Staiger, and Nathan Suess are cadets at the Air Force Academy. Roman Penney and Andrew Wojtkow are cadets at the Military Academy. ECF No. 1, ¶¶ 10-24.

<sup>3</sup> The Plaintiff Coast Guard cadets have been disenrolled. Each cadet has submitted an appeal to the Coast Guard Headquarters.

The parties agree that they will confer if any issues arise in the interim.

The parties agree that this Motion is for the limited purpose of extending the specified dates, and that by appearing for this limited purpose, no party waives any defense.

Dated: July 11, 2022

COREY F. ELLIS  
UNITED STATES ATTORNEY

*s/ Beth Drake*

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