

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

BROCK STONE, *et al.*,

Plaintiffs,

v.

DONALD J. TRUMP, *et al.*,

Defendants.

Case No. 1:17-cv-02459 (MJG)

**NOTICE OF SUPPLEMENTAL AUTHORITY IN FURTHER SUPPORT OF
PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION FOR
CLARIFICATION AND, IF NECESSARY, A PARTIAL STAY OF
PRELIMINARY INJUNCTION PENDING APPEAL**

Plaintiffs respectfully submit the attached Exhibit 1 Department of Defense “Policy Memorandum 2-5, Transgender Applicant Processing” issued to Sector Commanders, Battalion Commanders, MEPS Commanders, and Directors and Special Staff Officers (“Memorandum”) as supplemental authority in further support of Plaintiffs’ Opposition to Defendants’ Motion for Clarification and, if Necessary, a Partial Stay of Preliminary Injunction Pending Appeal [ECF No. 95].

The seven-page Memorandum, dated December 8, 2017, provides guidance for processing transgender applicants for military service beginning on January 1, 2018. It sets out detailed procedures for processing such applicants, and cross-references a second memorandum of the same date, from the Deputy Secretary of Defense, entitled “Medical Standards for Appointment, Enlistment, or Induction of Transgender Applicants into the Military Services.”

The Memorandum was issued two days after Lernes J. Hebert signed a declaration dated December 6, 2017 [ECF No. 91-1], which Defendants submitted in support of their December 12, 2017 Motion for an emergency stay [ECF No. 91]. Defendants—despite relying heavily on the

Hebert Declaration to support their vague claims about administrative difficulties, *see* ECF No. 91 at 4–6—did not bring the subsequent Memorandum to this Court’s attention when making their Motion, nor did they mention it during a Conference with Plaintiffs and the Court on December 13, 2017. *See* ECF No. 94.¹

The Memorandum became public this afternoon when filed in *Karnoski v. Trump*, No. 17-36009 (9th Cir.), by the State of Washington, which received the Memorandum through the Washington National Guard. Plaintiffs respectfully submit that this detailed guidance further belies Defendants’ conclusory and unsubstantiated claims that they are not prepared to comply with the injunction and begin processing new accessions on January 1, the date that Secretary Mattis previously set. *See* ECF No. 95 at 6–10.

¹ Despite its self-evident relevancy to their Motion, Defendants have similarly not put the cross-referenced Deputy Secretary of Defense memorandum before this Court, nor disclosed that document to Plaintiffs.

Dated: December 19, 2017

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CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of December, 2017, copies of the foregoing and any exhibits were served via CM/ECF on all counsel of record.

/s/ Peter J. Komorowski

Peter J. Komorowski