

In the United States Court of Federal Claims

No. 23-174
(Filed: July 15, 2025)

JEREMIAH BOTELLO, *et al.*, *

*

Plaintiffs, *

*

v. *

*

UNITED STATES OF AMERICA, *

*

Defendant. *

REMAND ORDER

The plaintiffs, five current and former members of the Army National Guard and Air National Guard, allege that they suffered adverse personnel action due to their failure to comply with the COVID-19 vaccine mandate issued by the Secretary of Defense. In a class action complaint, they sued the United States seeking reinstatement, backpay, and other relief. Before the Court is the government’s motion for a voluntary remand to the Army Board for Correction of Military Records and Air Force Board for Correction of Military Records and a stay of proceedings. Def.’s Mot. [ECF 50]. The Court held a hearing on the motion on July 11, 2025. *See* [ECF 55]. During the hearing, the plaintiffs indicated that they were no longer opposed to a remand. Additionally, the parties stated that they were generally in agreement with the remand instructions adopted in *Bassen, et al. v. United States*, No. 23-211 (Fed. Cl. June 16, 2025).

Accordingly, the Court **GRANTS** the government’s motion. Pursuant to Rule 52.2(b) of the Rules of the United States Court of Federal Claims, this case is remanded to the to the Army Board for Correction of Military Records with respect to Jeremiah Botello, Benjamin Konie, and Victor Santos, and the Air Force Board for Correction of Military Records with respect to Charles Hood and Justin Phillips. The Court provides the following directions:

1. Within 30 days of the date of this order, each plaintiff must, through counsel, apply for correction of his military record with their relevant military boards, attaching any relevant evidence that the plaintiff wishes the military boards to consider.
2. The military boards shall review each plaintiff’s application for correction of his military record and all evidence attached. Further, the military boards shall consider how Executive Order 14184 and subsequent DoD guidance affects the validity of the actions by the Army and Air Force at issue in this case. The military boards shall complete their remand review within 90 days from the date of this order.

3. Pursuant to RCFC 52.2(b)(1)(C), the Court **STAYS** all proceedings in this matter during the remand period and until further order of the Court. The Court will retain jurisdiction over this case during the remand period.
4. Pursuant to RCFC 52.2(b)(1)(D), the government shall file a status report concerning the progress of the remand proceedings every 45 days, starting from the date of the Court's order remanding the case until the military boards issue a decision for each plaintiff's claim.
5. Pursuant to RCFC 52.2(d), the military boards shall promptly forward their decisions by email to the plaintiffs' counsel of record and to counsel of record for the United States and shall forward two copies to the Clerk of the Court.
6. Pursuant to RCFC 52.2(e)(1), each party shall file a notice, within 30 days of the final military board decision, indicating their respective positions on "(A) whether the [military boards' decisions] affords a satisfactory basis for disposition of the case; or (B) whether further proceedings before the court are required and, if so, the nature of such proceedings."
7. The Clerk of the Court shall serve a copy of this order on the military boards as follows:

Joseph Lister
Director
Army Board for Correction of Military Records
251 18th Street South, Suite 385
Arlington, VA 22202-3531

Dr. Carrie Baker
Executive Director
Air Force Board for Correction of Military Records
SAF/MRBC
3351 Celmers Lane
Joint Base Andrews, MD 20762-6435

IT IS SO ORDERED.

s/ Thompson M. Dietz
THOMPSON M. DIETZ, Judge