

In the United States Court of Federal Claims

No. 23-211
(Filed: June 16, 2025)

NICHOLAS BASSEN, *et al.*, *

*

Plaintiffs, *

*

v. *

*

THE UNITED STATES, *

*

Defendant. *

REMAND ORDER

On May 22, 2025, the Court granted the government’s motion for a voluntary remand to the Army Board for Correction of Military Records (“ABCMR”), Air Force Board for Correction of Military Records (“AFBCMR”), and Board for Correction of Naval Records (“BCNR”) (collectively “military boards”). *Bassen v. United States*, No. 23-211, 2025 WL 1464204, at *1 (Fed. Cl. May 22, 2025). The Court also granted the government’s motion for a stay of proceedings and ordered the parties to file jointly proposed remand instructions. *Id.* Those remand instructions are currently before the Court.¹

Pursuant to Rule 52.2(b) of the Rules of the United States Court of Federal Claims and in accordance with the Court’s May 22, 2025, Opinion and Order, this case is remanded to: (1) the to the Army Board for Correction of Military Records with respect to Nicholas Bassen, Isaac Dailey, Kyle Davis, Billie Endress, Andrew Merjil, and Derrick Wynne; (2) the Air Force Board for Correction of Military Records with respect to Paul Rodriguez, Brent Chisholm, and Allen Hall; and (3) the Board for Correction of Naval Records with respect to Hunter Springer. The Court provides the following directions:

¹ In the proposed remand instructions, the plaintiffs request oral argument, suggesting that the government’s proposed instructions “are so generic as to suggest that these are de facto completely new claims by these plaintiffs.” Joint Status Report on Proposed Remand Instrs. [ECF 69] at 14. According to the plaintiffs, adopting the government’s proposed instructions “would be tantamount to a dismissal of [their] claims” under *Limnia, Inc. v. United States Department of Energy*, 857 F.3d 379 (D.C. Cir. 2017). *Id.* In the interest of judicial economy, the Court denies the request for oral argument. Further, the circumstances in this case are distinguishable from those in *Limnia*. In *Limnia*, the D.C. Circuit held that “[t]he District Court erred by granting the [Department of Energy’s] voluntary remand request when [it] did not intend to revisit the original application decisions under review.” 857 F.3d at 388. Here, the Court is remanding the case to allow the military branches to revisit the decisions and actions previously taken with respect to each plaintiff. Furthermore, unlike the remand decision in *Limnia* where the District Court “relinquished jurisdiction to the agency, and closed the case,” the Court is retaining jurisdiction for further proceedings, as appropriate.

1. Within 30 days of the date of this order, each plaintiff must, through counsel, submit an application 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 each application in light of the Court's May 22, 2025, Opinion and Order, which requires consideration of how Executive Order 14184 and subsequent DoD guidance affects the validity of the actions by the Army, Air Force, and Marine Corps 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 along with a copy of the Court's May 22, 2025, Opinion and Order on the military boards as follows:

Army Review Boards Agency
251 18th Street South, Suite 385
Arlington, VA 22202-3531

Air Force Board for Correction of Military Records
SAF/MRBC (AFBCMR)
3351 Celmers Lane
Joint Base Andrews, MD 20762-6435

Board for Correction of Naval Records
701 S. Courthouse Rd. Suite 1001
Arlington, VA 22204-2490

IT IS SO ORDERED.

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