

UNITED STATES DISTRICT COURT
DISTRICT OF IDAHO

LIEUTENANT COLONEL VICTOR J. Case No. 1:10-cv-00402-EJL
FEHRENBACH,

Plaintiff,
v.

DEPARTMENT OF THE AIR FORCE;
et al.

Defendants.

**ORDER TO PRESERVE THE
STATUS QUO, TO DISMISS
PLAINTIFF'S MOTION FOR
TEMPORARY RESTRAINING
ORDER AND TO SET BRIEFING
SCHEDULE ON MOTION FOR
PRELIMINARY INJUNCTION**

Based on the Defendants' representations, and the parties' stipulation (Docket No. 16), Plaintiff's Application for a Temporary Restraining Order and Request for an Expedited Hearing Date (Docket Nos. 2 and 5) are hereby WITHDRAWN. Plaintiff's Application for a Preliminary Injunction (Docket No. 2) remains pending before the Court. Accordingly, based on the Stipulation of the parties, this Court will set a briefing schedule and hearing date, if needed, on the Application for Preliminary Injunction as follows:

1) If a decision to discharge the Plaintiff is made by the Secretary of the Air Force or his designee, the Defendants agree to notify Plaintiff's lead counsel and the Court the same day such decision is made and not to take any steps to execute or process Plaintiff's discharge or separation, to give any effect to a decision to discharge or separate Plaintiff, or to establish any date for the discharge or separation of Plaintiff for twenty-one (21) days following notification to the Court and Plaintiff of the Defendants discharge decision. In this situation, the Defendants shall serve (by electronic mail) and file their

opposition to Plaintiff's motion for preliminary injunction five (5) days after notifying the Plaintiff's lead counsel of the decision to discharge the Plaintiff; and Plaintiff shall serve (by electronic mail) and file his reply brief five (5) days after receipt of Defendants' opposition. Upon completion of the briefing, a hearing on Plaintiff's motion for preliminary injunction will be scheduled by the Court at the Court's earliest convenience based on the Court's calendar.

2) If the Secretary of the Air Force or his designee decides to retain Plaintiff on active duty in the Air Force, Defendants will notify Plaintiff's lead counsel and the Court of this decision on the same day such decision is made, and Plaintiff will dismiss his Verified Complaint for Injunctive Relief without prejudice forthwith.

IT IS SO ORDERED.

DATED: August 17, 2010




Honorable Edward J. Ledge
U. S. District Judge