

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

SPECIALIST JEREMY HALL, et al.,)
)
 Plaintiffs,)
)
 v.)
)
 MAJOR FREDDY J. WELBORN, et al.,)
)
 Defendants.)

Case No. 08-2098-JWL-DJW

DEFENDANTS' MOTION TO DISMISS

Defendants Robert Gates and Freddy J. Welborn, in their official capacities, by and through undersigned counsel, hereby move to dismiss this action pursuant to Federal Rule of Civil Procedure 12(b)(1). Dismissal is appropriate under Rule 12(b)(1) because Plaintiffs lack standing, have failed to exhaust intramilitary remedies, and assert claims that are nonjusticiable. The grounds for this motion are set forth at length in the attached memorandum of law.

Dated: July 8, 2008

Respectfully submitted,

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Assistant Attorney General

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United States Attorney

VINCENT M. GARVEY
Deputy Director, Federal Programs Branch

/s/ Eric B. Beckenhauer
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CERTIFICATE OF SERVICE

I hereby certify that on July 8, 2008, I electronically filed the foregoing with the clerk of the court by using the CM/ECF system, which will send a notice of electronic filing to the following:

Elizabeth R. Herbert, erh@irigonegaray.com,
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