

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:13-CV-72-F

NAIDA C. NOVA,)
SERGEANT FIRST CLASS, U.S. ARMY,)
)
Plaintiff,)
)
)
v.)
)
THE HONORABLE JOHN McHUGH,)
SECRETARY OF THE ARMY, AND HIS)
DULY AUTHORIZED)
REPRESENTATIVES, AND)
SUCCESSORS IN OFFICE, IN THEIR)
OFFICIAL CAPACITY,)
)
Defendants.)

ORDER

This matter is before the court on the Plaintiff’s response [DE-8] to this court’s February 14, 2013, Order [DE-6] to show cause why her Motion for Temporary Restraining Order and Preliminary Injunction [DE-3] should not be denied without prejudice for her failure to respond to the court’s February 5, 2013, Order.

As this court previously has explained, Plaintiff initiated this action and filed a “Motion for Temporary Restraining Order and Preliminary Injunction (FRCP 65) and Certification of Notice of Same to the Defendants” [DE-3] asking the court to restrain and enjoin the Defendants from involuntarily separating Plaintiff from active duty with the United States Army pending further orders from this court. In an Order filed on February 5, 2013 [DE-5], the court stated that it had been informed that the parties were in active negotiations, and that Plaintiff had asked the court to hold the motion for temporary restraining order in abeyance pending further negotiations. The court ordered the Motion for Temporary Restraining Order be held in

abeyance until Monday, February 11, 2013, at noon. The court further ordered Plaintiff to file a notice by that time indicating whether (1) she intends to proceed on her request for injunctive relief or (2) is withdrawing her motion [DE-3]. After the February 11, 2013, deadline passed, the court issued the February 14, 2013, Show Cause Order [DE-6].

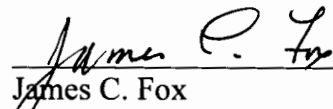
In Plaintiff's response to the Show Cause order, she states:

Plaintiff and Defendant have negotiated a preliminary settlement in this matter. Further, Plaintiff has, this date [February 14, 2013] provide Defendant's counsel a proposed written settlement which, if agreed upon by the parties will allow Plaintiff to file a motion to dismiss, with prejudice, this cause of action.

Pl.'s Response to Order to Show Cause [DE-8]. Although the response does not indicate whether Plaintiff wishes to withdraw her motion or proceed on her request, as required by the court's February 5, 2013, Order, the court nevertheless interprets the response as Plaintiff's notice of settlement of the matters in controversy before the court. Accordingly, this action is hereby DISMISSED without prejudice to either party to reopen should settlement not be consummated on or before March 19, 2013. Unless the case is reopened, Plaintiff is directed to file a Notice of Dismissal with Prejudice or a Stipulation of Dismissal with Prejudice in accordance with Federal Rule of Civil Procedure 41(a) **on or before March 19, 2013.**

SO ORDERED.

This the 19th day of February, 2013.



James C. Fox
Senior United States District Judge