

The Honorable Ronald B. Leighton

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MAJOR MARGARET WITT,

Plaintiff,

vs.

UNITED STATES DEPARTMENT OF
THE AIR FORCE; DONALD H.
RUMSFELD, Secretary of Defense;
MICHAEL W. WYNNE, Secretary of the
Department of Air Force; and COLONEL
MARY L. WALKER, Commander, 446th
Aeromedical Evacuation Squadron,
McChord AFB;

Defendants.

NO. C06-5195 RBL

(Proposed) ORDER GRANTING
PRELIMINARY INJUNCTION

This matter having come on for hearing on Plaintiff's Motion for Preliminary Injunction, and the Court having considered the briefs and records on file and the arguments of counsel, IT IS HEREBY ORDERED THAT Plaintiff's motion is GRANTED as follows:

(Proposed) ORDER GRANTING
PRELIMINARY INJUNCTION
NO. 06-5195 RBL – 1

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1 The Defendants are preliminarily enjoined from:

2 () Discharging the Plaintiff from the United States Air Force; and

3 () Barring the Plaintiff from earning pay and points from the United States
4 Air Force.

5 This Order shall remain in effect until further order of this Court. The bond
6 requirement is waived.

7 The purpose of this preliminary injunction is to maintain the status quo ante, which
8 is a state in which Major Witt is not discharged from the United States Air Force and is
9 eligible to earn pay and points. This preliminary injunction allows the Defendants to
10 proceed with an administrative discharge hearing and issuing a recommendation
11 therefrom, if Defendants so desire in order to provide this Court the opportunity to review
12 the record of that proceeding.

13 The Plaintiff has shown that she is likely to prevail on the merits of her claims and
14 she has shown a possibility of irreparable injury if injunctive relief is not granted.
15 Plaintiff has also shown the existence of serious questions going to the merits of her claim
16 and that the balance of hardships tips sharply in favor of granting preliminary injunctive
17 relief. The hardship that would be suffered by the Plaintiff if preliminary injunctive relief
18 were not granted would be severe, because the Court is preliminarily enjoining the entry
19 of a discharge order that would formally end the Plaintiff's military career. In addition,
20 the Court is preliminarily enjoining the United States Air Force from barring Major Witt
21 from earning points and pay from the United States Air Force. On the other side of the

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1 coin, the Defendants will suffer virtually no hardship at all from the granting of
2 preliminary injunctive relief. In fact, the Defendants will have the services of a highly
3 qualified and decorated flight nurse and will only suffer an insignificant financial
4 hardship representing the pay and points which Plaintiff will earn. The Defendants have
5 prohibited the Plaintiff from participating in reserve duty since November of 2004, and
6 the Court is not enjoining the Defendants from continuing to bar the Plaintiff from
7 participation in reserve duties. Therefore, there cannot possibly be any hardship suffered
8 by the Defendants by simply requiring them to refrain from entering a final discharge
9 order until this case has been decided and from barring them from allowing Major Witt to
10 earn points and pay from the Air Force.

11 The Clerk of the Court is directed to serve a copy of this order upon defendants
12 Rumsfeld and Wynne by certified mail.

13 DATED this _____ day of April, 2006.

14
15
16 _____
The Honorable Ronald B. Leighton

17 Presented by:

18 CARNEY BADLEY SPELLMAN, P.S.

19
20 By s/Nicki D. McCraw

James E. Lobsenz, WSBA #8787

Nicki D. McCraw, WSBA #20533

21 On Behalf of the American Civil Liberties Union of Washington

(Proposed) ORDER GRANTING
PRELIMINARY INJUNCTION
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5
6 AMERICAN CIVIL LIBERTIES UNION OF WASHINGTON

7 By s/ Aaron H. Caplan _____
8 Aaron H. Caplan, WSBA #22525
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9 705 Second Avenue
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10 Telephone: (206)624-2184
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11 Attorneys for Plaintiff

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(Proposed) ORDER GRANTING
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CERTIFICATE OF SERVICE

I hereby certify that on April 24, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: _____, and I hereby certify that I have mailed by United States Postal Service, Postage Prepaid/ABC Legal Messenger Service, Inc./Facsimile to the following non CM/ECF participants: _____.

James E. Lobsenz Lobsenz@carneylaw.com
Nicki D. McCraw McCraw@carneylaw.com
Aaron Caplan caplan@aclu-wa.org

Service by ABC Legal Messenger Service on:

John McKay
U.S. Attorney
700 Stewart Street, Suite 5220
Seattle, WA 98101

s/Karla Dotchin
KARLA L. DOTCHIN

(Proposed) ORDER GRANTING
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