

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

SPECIALIST PHILLIP M. GOSS,

Petitioner,

v.

Case No. 06-C-0737

**COMMANDING OFFICER
CAPTAIN MATTHEW P. BEILFUSS
1st Battalion, 121st Field Artillery
Wisconsin National Guard,**

SECRETARY OF THE ARMY

Respondents.

DECISION AND ORDER

On July 5, 2006, the petitioner, Specialist Phillip M. Goss (“Goss”), filed motions for a temporary restraining order, preliminary injunction, and habeas relief. In his motion for a temporary restraining order and preliminary injunction, Goss argues that he should be maintained in the Wisconsin National Guard and exempted from deployment, or discharged, because (1) he is physically unable to perform the duties required of active soldiers in the Middle East; (2) his assignment to active duty was unlawful because he did not request a transfer to active status; (3) he was denied access to a physical evaluation board; and (4) the Wisconsin Guard failed to permit him access to separation processes as prescribed by Army regulations.

The Court has considered Goss's motion for a temporary restraining order, the affidavit and brief provided in support thereof, and the habeas petition underlying his action. After examining those materials, the Court finds that Goss has failed to satisfy the criteria for issuance of a temporary restraining order pursuant to Rule 65 of the Federal Rules of Civil Procedure.

NOW, THEREFORE, BASED ON THE FOREGOING, IT IS HEREBY ORDERED THAT:

Goss's Motion for a Temporary Restraining Order is **DENIED**.

Dated at Milwaukee, Wisconsin this 6th day of July, 2006.

BY THE COURT:

s/Rudolph T. Randa
HON. RUDOLPH T. RANDA
Chief Judge