

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**LUCAS CALIXTO, et al.,**

**Plaintiffs,**

**v.**

**Civil Action No. 18-1551 (ESH)**

**UNITED STATES DEPARTMENT OF  
THE ARMY, et al.,**

**Defendants.**

**ORDER**

On October 3, 2018, the Court held a hearing in this case and in the related cases *Nio v. United States Department of Homeland Security*, No. 1:17-cv-00998 and *Kirwa v. United States Department of Defense*, No. 1:17-cv-01793. As discussed during the hearing, it is hereby

**ORDERED** that the parties shall not submit any pleadings (excluding reports) to the Court within 48 hours before a hearing unless otherwise ordered by the Court; it is further

**ORDERED** that no pleadings referred to herein (excluding reports) shall exceed ten pages excluding exhibits unless otherwise ordered by the Court; it is further

**ORDERED** that defendants' report filed on September 4, 2018 at ECF Nos. 27, 27-1, and 27-2 is **UNSEALED**; it is further

**ORDERED** that defendants' motion for leave to file *ex parte* and *in camera*, ECF No. 25, is **DENIED**; it is further

**ORDERED** that defendants shall file a response by **Wednesday, October 10, 2018 at 12:00 p.m.** to plaintiffs' motion to lift the stay on the pending motions for preliminary injunction and class certification and for an order reinstating MAVNIs, ECF Nos. 33, 36. Defendants'

response shall address, *inter alia*, whether any issues can be addressed now regarding MAVNIs discharged before the July 20, 2018 memorandum, whether the Court should collapse the preliminary injunction request on the merits and proceed to summary judgment, Fed. R. Civ. Pro. 65(a)(2), and whether the Army will reinstate the MAVNIs whose discharges have been revoked. Any reply by plaintiffs shall be filed by **Friday, October 12, 2018 at 12:00 p.m.**; it is further

**ORDERED** that a hearing regarding plaintiffs' motion, ECF Nos. 33, 36, and defendants' motion to stay their response to plaintiffs' amended complaint, ECF No. 31, shall be scheduled for **Wednesday, October 17, 2018 at 2:30 p.m.** in Courtroom 23A; it is further

**ORDERED** that defendants shall re-file **under seal** their report previously filed at ECF Nos. 27, 27-1, and 27-2, by **Thursday, October 11, 2018 at 12:00 p.m.**, listing every person who has received a discharge order from the U.S. Army Recruiting Command (USAREC) and/or U.S. Army Reserve Command (USARC) that was effective within the year prior to the July 20, 2018 memorandum (July 20, 2017 through July 20, 2018) who were DTP or DEP MAVNI members and whose discharge order(s) are not expected to be revoked. This report shall:

- a. Specify whether each person's discharge was due to an unfavorable MSSD determination or some other reason, and if some other reason, what that reason was;
- b. Disclose the names of those MAVNIs on the list who are class members in *Nio v. United States Department of Homeland Security*, No. 1:17-cv-00998, or *Kirwa v. United States Department of Defense*, No. 1:17-cv-01793; and
- c. Redact the names of MAVNIs listed who are not a member of either the *Nio* or *Kirwa* class.

A protective order governing defendants' reporting will be filed under separate order.



*Ellen S. Huvelle*

ELLEN S. HUVELLE  
United States District Judge

Date: October 5, 2018