

EXHIBIT 44

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Democracy Dies in Darkness

Army abandons legal effort to expel an immigrant soldier on path to citizenship

By **Alex Horton**

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The Army has reversed its widely covered decision to discharge a citizenship-seeking immigrant soldier, in what his lawyer called an acknowledgment that the move was “improper.”

Lucas Calixto, a 28-year-old reservist from Brazil, had faced an uncertain future in the United States before the reversal, which was reported by the Associated Press. An abrupt discharge was likely to knock him off his path to citizenship, which the military promises in exchange for the skills of immigrants who enlist.

The reversal, revealed in a federal court filing Monday, comes as the Army and the Pentagon have defended tightening regulations for a program that has historically traded expedited citizenship for badly needed language and medical skills from foreign recruits.

“We are pleased that the Army recognized that Mr. Calixto’s discharge was improper and will be revoked within two days,” an attorney for Calixto, Douglas W. Baruch, told The Washington Post on Monday. “He and we know of no reason why the Army wouldn’t want him to complete his eight-year service commitment.”

A Pentagon spokeswoman declined to comment on the Calixto decision.

Since 2009, more than 10,000 immigrants have enlisted in the Military Accessions Vital to the National Interest program, or MAVNI. But discharges such as Calixto’s have been on the rise, according to legal experts: At least 40 additional recruits and soldiers have been expelled, the AP reported this month, though experts say the number is likely higher.

It is unclear whether any of them were expelled in the same manner as Calixto. It is also unclear whether any of those decisions may be reversed.

A native of Brazil who was recruited for his fluency in Portuguese, Calixto enlisted in 2016 and served in an Army Reserve unit in Massachusetts.

He sued the Army in June after it moved to expel him for unspecified “personnel security” reasons. He was deemed to exhibit honorable service as recently as May and earned a recent promotion, says his lawsuit, filed in U.S. District Court in the District of Columbia.

The suit claimed the Army violated its own policies by not explaining why he was separated or giving him a chance to respond. The Army’s discharge also violated constitutional protections of due process under the Fifth Amendment, the lawsuit claimed.

The Army said in the Monday filing that it would “comply with the applicable law and regulations governing administrative separation of soldiers.”

Margaret Stock, a retired Army officer who designed the MAVNI program and is now a practicing immigration lawyer, said she estimates that “dozens” are in the same position as Calixto — discharged with no explanation or recourse.

It was telling that the Army reversed its decision instead of opposing the injunction, she told The Post.

“It’s disturbing you have to file a lawsuit to get the Army to follow its own regulations,” Stock said.

The Pentagon heightened security checks necessary for immigrants to enlist in September 2016 over concerns that the program could be exploited by foreign infiltrators. The Pentagon has refused to acknowledge whether any MAVNI recruits have been charged for threatening national security, but has said 20 have been investigated since 2013 for unspecified reasons.

The new measures have triggered a maelstrom of bureaucratic entanglements since 2016. Recruits have waited for months to get cleared. More than 1,000 recruits had to wait so long that they lost lawful status, exposing them to potential deportation. Some fled or sought asylum to avoid returning to countries where they face persecution or that forbid foreign military service.

In other instances, some enlistment contracts were canceled nationwide in an apparent and broad misunderstanding of rules that allowed recruits to wait an additional year for the military to finish the checks. Some Army recruiters reinstated contracts for immigrants shortly after receiving inquiries from The Post in September.

Critics of the increased measures have said the barriers are unreasonably high for a population with valid visas already vetted by the departments of State and Homeland Security.

This story incorrectly stated the Pentagon had not released information on threat investigations. It has been updated.

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