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Hon. Deborah Hunt  
Clerk, U.S. Court of Appeals, Sixth Circuit  
By Filing via CM/ECF

Re: *Doster v. Kendall*, 22-3702  
*Doster v. Kendall*, 22-3497

Dear Ms. Hunt:

Please consider this correspondence under FRAP 28(j) in the above-entitled matters.

In response to the Government's arguments about all unvaccinated personnel facing mandatory retention boards, we reference DoDI 6490.07,<sup>1</sup> and specifically ¶4a (commander's discretion on medical readiness), ¶4b (ability to obtain assessments and waiver of medical conditions to deploy); ¶4c (waiver of medical conditions for deployment); ¶4d (after medical assessment, remain deployable, disqualifying conditions notwithstanding); Enclosure 2 (medical assessment), Enclosure 3 (waivers).

In response to the Government's arguments about religious exemptions allegedly being permanent, we reference AFI 52-201,<sup>2</sup> and specifically ¶ 5.7.2 ("... However, there may be a change in circumstances that requires the accommodation to be reevaluated in the future (e.g., deployment, new duties, or other material change in circumstances).") and ¶ 5.7.4 ("Approved accommodations will continue unless the member's commander determines a compelling government interest exists requiring a temporary or permanent withdrawal of the approval.").

Likewise, in response to the Government's arguments about religious exemptions allegedly being permanent, DoDI 1300.17,<sup>3</sup> ¶3.2(g), a relevant part of which the Government omitted in its Reply Briefs: "An approved request for accommodation will remain in effect ... **unless and until rescinded in accordance with the requirements of this issuance.**" As well as ¶3.2(g)(1): "(1) In accordance with this issuance ... **an approved accommodation may be subject to review and rescission, in whole or in part, at any time, based upon a determination that the circumstances under which the grant of accommodation was approved have changed** (e.g., deployment, new duties, or other material change in circumstances)." And finally, ¶3.2(h), permitting modification or suspension of religious accommodations for exigent circumstances.

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<sup>1</sup> Available at: <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/649007p.pdf> (last accessed 10/18/2022).

<sup>2</sup> Available at: [https://static.e-publishing.af.mil/production/1/af\\_hc/publication/dafi52-201/dafi52-201.pdf](https://static.e-publishing.af.mil/production/1/af_hc/publication/dafi52-201/dafi52-201.pdf) (last accessed 10/18/2022).

<sup>3</sup> Available at: <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/130017p.pdf> (last accessed 10/18/2022).

Respectfully Submitted,

/s/Christopher Wiest

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