

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

| | | |
|------------------------------------------|---|-------------------|
| CONLEY MONK, KEVIN MARRET, | : | |
| GEORGE SIDERS, JAMES COTTAM, | : | |
| JAMES DAVIS, VIETNAM VETERANS | : | |
| OF AMERICA, VIETNAM VETERANS OF | : | |
| AMERICA STATE COUNCIL, and NATIONAL | : | |
| VETERANS COUNCIL FOR LEGAL | : | |
| REDRESS, on behalf of themselves and all | : | |
| others similarly situated, | : | |
| Plaintiffs, | : | |
| | : | |
| v. | : | 3:14-cv-260 (WWE) |
| | : | |
| RAY MABUS, Secretary of the Navy, | : | |
| JOHN MCHUGH, Secretary of the | : | |
| Army, DEBORAH LEE JAMES, Secretary of | : | |
| the Air Force, | : | |
| Defendants. | : | |

ORDER ON MOTION FOR A VOLUNTARY REMAND

In this action, plaintiffs challenge military correction boards’ decisions relative to discharge upgrade applications by veterans who assert that they have Post Traumatic Stress Disorder (“PTSD”). On September 3, 2014, the Secretary of Defense issued a memorandum to each of the Secretaries of the Military Departments with guidance for the consideration of such discharge upgrade requests. Defendants request that the Court remand the individual plaintiffs’ claims in this action to the respective military secretary so that they may evaluate the evidence in accordance with the policy memorandum.

The Court will grant the motion to remand the individual plaintiffs’ matters to the respective military board; and in the interest of judicial efficiency, the Court will dismiss without prejudice the organizational plaintiffs’ claims to refiling after review of the

individual plaintiffs' claims has been considered pursuant to the new policy guidelines.

The Court has considered plaintiffs' request that the Court order each correction board to conduct mandatory in-person hearings for each of the five individual plaintiffs. The Court finds no legal basis to require the correction boards to conduct mandatory in-person hearings. In fact, the statutory scheme provides that the military correction boards have the discretion to afford such hearings. See 32 C.F.R. sections 581.3(f) and 723.3(e)(1). The Court has also reviewed plaintiffs' request for adjudication of their applications within 60 days rather than defendants' proposed 120 days. The Court finds that 120 days for adjudication of the plaintiffs' applications is reasonable in light of the new policy and potential for numerous discharge upgrade applications from other veterans.

CONCLUSION

For the foregoing reasons, the motion for remand [doc. #40] is GRANTED.

Accordingly, the claims of Conley Monk, Kevin Marret, and George Siders are hereby REMANDED to the Board for Correction of Naval Records ("BCNR"), and the claims of Plaintiffs James Cottam and James Davis are REMANDED to the Army Board for the Correction of Military Records ("ABCMR");

On remand the ABCMR and BCNR will review these remanded claims in accordance with the principles discussed in the memorandum issued by the Secretary of Defense on September 3, 2014; and the correction boards will consider the remanded claims based on the evidence that each plaintiff chooses to submit in support of his or her application.

Each Plaintiff shall have 60 days to provide any submissions to the

