

**IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MARYLAND**

BROCK STONE, *et al.*,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, *et al.*,

Defendants.

Case 1:17-cv-02459-GLR

Hon. George L. Russell, III

**DEFENDANTS' NOTICE OF PARTIAL WITHDRAWAL OF OBJECTIONS TO
MAGISTRATE JUDGE'S OPINION AND ORDER**

Defendants, by and through undersigned counsel, hereby partially withdraw their objections to the Magistrate Judge's Opinion and Order, ECF Nos. 299, 300, specifically the objections to the Magistrate Judge's factual findings as discussed in Part II of Defendants' Objections. ECF No. 302 at 26–29. Defendants similarly withdraw their argument regarding the factual findings in their Motion to Stay. ECF No. 301 at 15.

Although Defendants maintain that the Magistrate Judge's findings of fact are in error—and intend to challenge those findings at other stages of these proceedings—counsel have discovered that in the Motion to Stay and Objections, they mistakenly relied on documents previously submitted to the Court at ECF No. 190-2 and previously discussed in briefing on Defendants' prior objections to the Magistrate Judge's opinion and order. *See* ECF Nos. 216, 221. In arguing that additional developments in this case warranted revisiting the Magistrate Judge's August 2018 findings of fact, Defendants relied upon their disclosure in spring 2019 of “the official recommendations from the Military Services and the Surgeons General to then-Secretary Mattis related to the delay of the Carter accessions policy in June 2017.” ECF No. 302 at 7 (citing ECF

No. 381-2). Although this information was generally withheld as privileged before that time, counsel did not recall that a copy of the memoranda reflecting the Services' recommendations had previously been disclosed and filed at ECF No. 190-2, or that the parties had submitted briefing regarding the same. Counsel regrets the error.

Defendants maintain their other objections to the Magistrate Judge's Opinion and Order, and request that the Opinion and Order be set aside and vacated in full as contrary to law. Defendants similarly maintain that a stay of the Opinion and Order should be issued pending this Court's review of Defendants' remaining objections.

Date: May 5, 2020

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General
Civil Division

DAVID M. MORRELL
Deputy Assistant Attorney General

ALEXANDER K. HAAS
Branch Director

ANTHONY J. COPPOLINO
Deputy Director

/s/ Courtney D. Enlow
COURTNEY D. ENLOW
ANDREW E. CARMICHAEL
Trial Attorneys
United States Department of Justice
Civil Division, Federal Programs Branch
Telephone: (202) 616-8467
Email: courtney.d.enlow@usdoj.gov

Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on May 5, 2020, I served the foregoing using the Court's CM/ECF system, causing a notice of filing to be served upon all counsel of record.

Dated: May 5, 2020

/s/ Courtney D. Enlow
COURTNEY D. ENLOW
Trial Attorney
United States Department of Justice
Civil Division, Federal Programs Branch
Telephone: (202) 616-8467
Email: courtney.d.enlow@usdoj.gov

Counsel for Defendants