

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

KEVIN DEESE, *et al.*,

*

Plaintiffs,

*

v.

*

Civil Action No. RDB-18-2669

MARK T. ESPER, *et al.*,

*

Defendants.

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* * * * *

ORDER AND JUDGMENT

For the reasons stated in the accompanying Memorandum Opinion, IT IS HEREBY
ORDERED AND ADJUDGED this 2nd day of September, 2020 that:

1. Plaintiff Doe's Motion to Proceed under Pseudonym (ECF No. 2) is GRANTED;
2. Defendants' Motion to Dismiss or for Summary Judgment (ECF No. 42) is

GRANTED IN PART and DENIED IN PART. Specifically:

- a. The Motion is GRANTED with respect to Count I. Summary Judgment is ENTERED in favor of Defendants on Count I.
- b. The Motion is GRANTED IN PART as to Count II. Judgment is ENTERED in favor of Defendants on the substantive APA claim, which concerns the proper Air Force waiver authority, presented in Count II. The procedural APA claim, which seeks review before the disability evaluation system ("DES") is REMANDED for further administrative proceedings.
- c. The Motion is GRANTED as to Counts VI, VII, and VIII. Counts VI, VII, and VIII are DISMISSED WITH PREJUDICE.

- d. The Motion is DENIED as to Counts III, IV, and V (the “categorical bar” APA claims) and Counts IX and X (the equal protection claims). Counts III, IV, V, IX, and X shall proceed.
3. The parties are directed to contact the Chambers of this Court to schedule a telephonic hearing to discuss the most efficient way to proceed on the remaining claims in this case; and
4. The Clerk of this Court shall transmit copies of this Order to Counsel of record.

/s/
Richard D. Bennett
United States District Judge