

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

RICHARD ROE, ET AL.,

Plaintiffs,

v.

LLOYD J. AUSTIN, ET AL.,

Defendants.

Civil Action No. 1:18-cv-01565

NICHOLAS HARRISON, ET AL.,

Plaintiffs,

v.

LLOYD J. AUSTIN, ET AL.,

Defendants.

Civil Action No. 1:18-cv-00641

JOINT REQUEST FOR CLARIFICATION OF ORDER

The Parties respectfully request clarification from the Court regarding the scope of the Court's Orders in *Harrison* (Dkt. 308) and *Roe* (Dkt. 320). Clarification would aid the parties in understanding their respective rights and responsibilities, in light of what the parties view as an ambiguity between the Court's Memorandum Opinion and Order. "The general purpose of a motion for clarification is to explain or clarify something ambiguous or vague [in an order], not to alter or amend." *United States v. Philip Morris USA Inc.*, 793 F. Supp. 2d 164, 168 (D.D.C. 2011).

In support of their request, the Parties state as follows:

1. In the Court's *Opinion*, it "finds that the proper remedy is a permanent injunction enjoining defendants from: (1) categorically barring the worldwide deployment of asymptomatic HIV-positive service members with undetectable viral loads based on their HIV-positive status; (2) denying applications by Harrison and any other HIV-positive service members with

undetectable viral loads to commission as officers based on their HIV-positive status; and (3) discharging or otherwise separating Roe, Voe, and any other asymptomatic HIV-positive service members with undetectable viral loads based on their HIV-positive status. In addition, the pending referrals to the DES of Roe, Voe, and any other asymptomatic HIV-positive service members with undetectable viral loads will be vacated.” *Harrison*, Dkt 307 at 46-7; *Roe*, Dkt. 321 at 46-7 (emphasis added).

2. However, the underlined language above was not reflected in either of the Court’s *Orders*. *Harrison*, Dkt. 308; *Roe* Dkt. 320.

3. The Parties respectfully request the Court clarify whether it intended the injunction to include the additional deployment-related language underlined above and included in the Court’s *Opinion*.

LAMBDA LEGAL DEFENSE AND
EDUCATION FUND, INC.

1 West Court Square, Ste. 105

Decatur, GA 30030

T: (404) 897-1800

Peter Perkowski*

pperkowski@perkowskilegal.com

PERKOWSKI LEGAL, PC

515 S. Flower St., Suite 1800

Los Angeles, CA 90071

T: (213) 340-5796

**pro hac vice*

CERTIFICATE OF SERVICE

I certify that, on the 9th day of May, 2022 I caused this document to be filed electronically through the Court's CM/ECF system, which automatically sent a notice of electronic filing to all counsel of record.

Dated: May 9, 2022

Respectfully submitted,

/s/ John W.H. Harding
John W.H. Harding