

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

NICHOLAS HARRISON, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	No. 1:18-cv-641-LMB-IDD
)	
LLOYD J. AUSTIN III, <i>et al.</i> ,)	
)	
Defendants.)	

**MEMORANDUM OF LAW IN OPPOSITION TO PLAINTIFF’S PRO SE
MOTION TO SHOW CAUSE**

Pursuant to Local Civil Rule 7(F)(1), Defendants, through their undersigned counsel, hereby respectfully submit this opposition to Plaintiff’s *pro se* motion to show cause in the above-captioned action.

INTRODUCTION

On August 18, 2023, Plaintiff Nicholas Harrison, proceeding *pro se*, filed a Motion to Show Cause requesting that the Court “require the named Defendants to appear in person to show cause as to why they should not be held in contempt.” ECF No. 403 at 5. Plaintiff’s motion raises a litany of complaints concerning his participation in the Direct Commission Course (DCC). But nowhere in Plaintiff’s motion does he identify any terms of the injunctions that have been violated. And with good reason—Defendants are in full compliance with the injunctions in this case, and the complaints on which this motion are premised are completely disconnected to either the injunctions or the litigation in which they were entered. In any event, Plaintiff’s complaints are lacking both in merit and in factual support. For these reasons, Plaintiff’s motion should be denied.

ARGUMENT

Defendants are in full compliance with the Court's injunctions and none of Harrison's allegations in come anywhere near meeting the standard for contempt. In addition, Harrison's allegation that he was prevented from participating in required training by Defendants' actions is incorrect.

A. Defendants are in full compliance with all injunctions and Harrison has not been harmed.

The Court recently denied a motion to enforce two injunctions that were previously entered in this case. *See* ECF Nos. 349; 363; 390. That denial was based in part on the fact that the motion sought relief beyond the bounds of the existing injunctions. Moreover, in a subsequent motion to enforce, Plaintiff Harrison conceded that the standard for contempt controls. *See* ECF No. 395 at 2. To justify an order to show cause that Defendants are not in contempt of the Court's injunction, Harrison therefore must demonstrate "by clear and convincing evidence":

(1) the existence of a valid decree of which the alleged contemnor had actual or constructive knowledge; (2) that the decree was in the movant's favor; (3) that the alleged contemnor by its conduct violated the terms of the decree, and had knowledge (at least constructive knowledge) of such violations; and (4) that the movant suffered harm as a result.

Rainbow Sch., Inc. v. Rainbow Early Educ. Holding LLC, 887 F.3d 610, 617 (4th Cir. 2018) (citation omitted). Harrison has failed to demonstrate either a violation of the injunctions or any resulting harm.

Harrison does not specify which injunction he believes the Defendants to be violating, and for that reason alone his motion to show cause should be denied. Nevertheless, it is clear from even a cursory review of the two relevant injunctions that the issues raised in Harrison's motion have no relationship to them. First, the original injunction in the case¹ required:

¹ Other injunctions from the original order in this case apply to the Defendants' legacy HIV policies, which have been changed, and any claims related to them would be moot. In all events,

[t]he Secretary of the Army to rescind her decision denying Harrison’s application to commission in the Judge Advocate General Corps for the District of Columbia National Guard and reevaluate that application in a manner consistent with [the other] injunctive relief awarded to plaintiffs in this Order.

Amended Order, ECF No. 314 at 1-2. Second, the injunction entered by the Court on July 19, 2023 enjoins Defendants “from instituting any Selective Retention Board or other proceeding to separate Lieutenant Harrison involuntarily from military service.” ECF No. 400 at 1.

There is no genuine dispute that Defendants have complied with the first injunction. The denial of Plaintiff’s application to commission was rescinded; he was reconsidered for commissioning under the Secretary of Defense’s new June 6, 2022 policy permitting commissioning of certain HIV-positive service members and he was in fact granted a commission as a Judge Advocate General (JAG). *See* Pl.’s Mot. to Clarify, ECF No. 372 ¶ 3. Plaintiff also does not allege that Defendants have violated the second injunction, nor could he. No Defendant has taken any action to institute a separation proceeding against him. Thus, there is no actual allegation, nor any evidence, of a failure to comply with either injunction. For this reason, Harrison’s show cause motion should be denied.

Even if Harrison could show clear and convincing evidence that the National Guard’s actions with respect to his training course attendance was a violation of either injunction, he cannot show that he has been harmed because of that violation. Harrison alleges that he has been harmed by his decision not to attend his scheduled August 14, 2023 DCC, *see infra*. Specifically, he alleges that not attending this course could prevent him from completing his required training within the time allowed by regulation, resulting in his possible termination from the JAG Corps. Mot. ¶¶ 4-5. He also alleges that his perception of a delay in updating National Guard records and systems to reflect his appointment as an officer “delay[s] [his] opportunity to apply for a promotion.” *Id.* ¶ 7.

these other injunctions are unrelated to Harrison’s ongoing service as an officer.

These allegations are both incorrect and speculative. First, Harrison’s claim that not attending the August DCC will prevent him from timely completing his training requirements is incorrect. There is another DCC scheduled to begin on October 9, 2023, and the subsequent Judge Advocate Officer Basic Course would conclude on February 28, 2024, well within Harrison’s initial 12-month entry training requirement. Declaration of Maj. Lejuan Strickland, Ex. 1, ¶ 15. Defendants are currently working through the administrative process of ensuring Harrison’s enrollment in the October DCC. *Id.* Even if any of his various minor complaints had merit, which they do not, *see infra*, they have been or can be resolved well in advance of the October DCC. Finally, if Harrison did not attend the October DCC for a legitimate reason, the 12-month training requirement could be extended for good cause. Strickland Decl. ¶4; *see also* AR 135-100, “Appointment of Commissioned and Warrant Officers of the Army,” Para. 3-11(b)(1)(c) (“TJAG may grant an extension of the time periods in (a) or (b) on a showing of good cause.”).

Harrison’s assertion that his ability to seek a promotion will be delayed because the National Guard’s records are allegedly not up to date is also incorrect. There is ample documentation about when Harrison was commissioned, and Harrison provides no reason to think that (for example) “account transition issues,” “travel complications,” or “dependent documentation” – routine and minor human resources issues that occur in any organization, let alone one the size of the National Guard – would have any impact on the calculation of his time in grade. And even if the records and systems are currently outdated, such administrative corrections can be made before or during Harrison’s DCC. *See* Strickland Decl. ¶ 6. Finally, Harrison cannot seek promotion until the completion of his required training and any other obligations, so any current delay in updating records could not have any impact on a promotion that is (at a minimum) 9 months in the future. *See* JAG Publication 1-1: Initial Active Duty Grade (a First Lieutenant can expect to be promoted to the

grade of Captain “upon completion of Initial Military Training, certification by TJAG as fully qualified for promotion, approval of the promotion list by the Secretary of Defense, and fulfillment of minimum time-in-grade requirements”).

Harrison makes no meaningful attempt to carry his burden to show noncompliance with either applicable injunction by the Defendants, let alone any resulting harm, and his motion must therefore be denied.

B. Harrison’s Alleged Injury Is Not Attributable to Defendants’ Actions.

Harrison’s motion asserts that Defendants “supposedly appointed [him] as a First Lieutenant on May 25, 2023,” but that “acknowledgment of the Plaintiff’s commission...is not mirrored in [Defendants] records, systems, or actions.” Mot. ¶¶ 1-2. As evidence for these claims, Harrison provides a list of eight minor administrative issues (which he himself describes as “hiccups”²) that he asserts “caused [him] to miss the report time for the first phase of scheduled training” required as a part of his JAG commission. *Id.* ¶¶ 2-3.

As explained above, there is no dispute that Harrison has been commissioned as a JAG officer. As also explained, Harrison has not suffered any harm from not appearing at his scheduled training because there is another available training in October, which will conclude before the regulatory deadline. Nevertheless, Harrison is also incorrect that any of his administrative complaints acted as a barrier to his attendance at the August DCC, and he was made aware that they would not impede his participation in advance of his decision not to appear. *See* Strickland Decl. ¶ 13.

First, as Harrison admits, he was in possession of his military ID (CAC) at least five days before his reporting date for the August DCC. *See* Mot. ¶ 2(a); *see also* Strickland Decl. ¶ 10.

² Email from Nick Harrison to Kevin Wynosky (Aug. 29, 2023 8:00 AM) (attached as Ex. 2) (“Given the current legal postures of both sides, you’ll understand that every hiccup compels me to appear in front of the Court again.”).

Receiving his CAC also addressed his concerns about accessing military systems. *See* Mot. ¶ 2(b). The delay in the transition of his military records was the result of system-wide technology issues not specific to him, which were also resolved in advance of the reporting date for the DCC. *See* Mot. ¶ 2(c); Strickland Decl. ¶ 7. In addition to being resolved in advance of the DCC, none of these issues interfered with Harrison's ability to attend the DCC, *see* Strickland Decl. ¶ 13, nor does he specifically allege that they did interfere (let alone the manner of any alleged interference).

Second, Harrison alleges that he did not previously, and at the time of his motion still did not, have access to a military email account, implying that he either was not aware of the DCC or lacked necessary information to attend. Mot. ¶ 2(d). But Harrison was fully aware of the information necessary to attend the DCC, and his lack of a military email account was not a barrier to attending the training. Harrison interacted extensively with the D.C. Army National Guard (DCARNG) regarding his attendance at the August DCC in advance of the training, through various means including his business email address. Strickland Decl. ¶¶ 8-11. Harrison's unilateral decision not to attend the August DCC was not the result of a lack of necessary information, but rather was his choice.

Third, Harrison alleges that he lacked formal orders to attend the DCC training, Mot. ¶ 2(e), and a government travel card or access to the defense travel system, Mot. ¶ 2(f), which prevented him from attending the DCC. Although written orders for travel and duty are typical, they are not required and may be produced after the travel has started. *See* Strickland Decl. ¶ 11. Notwithstanding the lack of written orders, Harrison was aware that he was registered for and expected to attend the August DCC, including through discussions with his direct chain of command. *See id.* ¶¶ 8-11, 13. Additionally, it also is typical for officers to attend DCC without access to government travel arrangements. *Id.* ¶ 11. The majority of officers attending DCC and the subsequent required training

receive travel reimbursements in 30-day increments. *Id.* Even on the day the August DCC was set to begin, after Harrison alerted DCARNG that he did not intend to appear at the training, his superior officer informed him that he could still attend by driving himself to the training and obtaining reimbursements for those expenses. *Id.* ¶¶ 11, 13. Despite having the relevant information, including direct confirmation of his ability to attend the August DCC, Harrison chose not to go.³ Harrison’s unilateral decision not to attend the August DCC cannot be attributed to Defendants.

Finally, Harrison alleges that his partner is unlisted on his records, preventing his partner from becoming enrolled as a dependent, Mot. ¶ 2(g), and that the Court’s injunction has not been added to his military personnel file, *id.* ¶ 2(h). But Harrison fails to explain how either of these supposed issues could possibly have interfered with his attendance at the August DCC, nor could he. Neither of these concerns are relevant in any way to his attendance at the DCC training.

To be sure, Harrison experienced certain delays in his initial processing after being commissioned, but these were neither unique to Harrison nor targeted to him. In addition to certain delays caused by service-wide technical issues that the National Guard worked diligently to overcome, Strickland Decl. ¶ 7, processing delays in DCARNG are a natural consequence of the inherently part-time nature of National Guard service, *see id.* ¶ 5. The delays Plaintiff experienced are not unusual considering the limited resources available to DCARNG, and certainly not unique to

³ In his Declaration, although not in the Motion to Show Cause itself, Harrison also contends that he requested a waiver of the DCC training requirement and suggests that Defendants were unwilling to attempt in good faith to resolve the issues created by his decision not to attend the August DCC. Declaration of Nicholas Harrison, ECF No. 403-1, ¶¶ 13-14. As of the filing of this motion, Harrison has not gone through the formal process of requesting a waiver to the DCC training requirement. As was explained in his JAG acceptance memorandum, “[w]aiver of DCC may be considered on a case-by-case basis for extreme personal or professional hardship reasons.” Letter from LTC Overgaard to Sgt Harrison (Apr. 4, 2023) (attached as Ex. 3). Further “[w]aiver requests [must] be processed through [the National Guard Bureau] for consideration by [the Judge Advocate General].” *Id.* Moreover, as explained above, and in the Declaration of Major Strickland (at ¶ 15), waiver is unnecessary because there is an available DCC in October.

Plaintiff or motivated by any malicious intent. *See id.* ¶¶ 5, 12-13; *see also* Ex. 2 at 1 (acknowledging that any “issues may be due more to administrative complexities within the DC National Guard rather than any calculated intent”).

For all the reasons stated above, none of the issues Harrison identifies prevented him from attending the August DCC, and it was made clear to him in advance that he was able to and expected to appear at the training. His decision not to attend cannot be attributed to any actions by Defendants. And, to the extent any harm could possibly flow from his absence at the August DCC, it can be cured by Plaintiff’s attendance at the October DCC. Plaintiff’s motion should be denied.

CONCLUSION

For the reasons explained above, the Court should deny Harrison’s motion.

//

DATE: September 1, 2023

Respectfully submitted,

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/s/

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Counsel for Defendants

Exhibit 1

**IN THE UNITED STATES DISTRICT COURT
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NICHOLAS HARRISON, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	No. 1:18-cv-641-LMB-IDD
)	
LLOYD J. AUSTIN III, <i>et al.</i> ,)	
)	
Defendants.)	

DECLARATION OF MAJOR LEJUAN STRICKLAND

I, Major LeJuan Terrell Strickland, do hereby state and declare as follows:

1. I currently serve as the Commander of the Joint Force Headquarters Detachment, in the District of Columbia Army National Guard (DCARNG). Over the course of my career, I have served as Acting S1, Assistant S1, Mission Support Site OIC, Commander of 74th Troop Command Headquarters Detachment, and Selective Service Officer for the District of Columbia. As the Joint Force Headquarters, D.C. National Guard, Headquarters Detachment Commander, 1LT Nicholas Harrison falls within my chain of command.

2. I submit this declaration in support of Defendants’ opposition to Plaintiff Harrison’s motion to show cause in the above-titled case. I base this declaration upon my personal knowledge, as well as knowledge made available to me in the course of my official duties.

Reception for Newly Appointed Officers Into DCARNG

3. Nicholas Harrison, now a First Lieutenant, was approved for and received his commission as a Judge Advocate General Corps (JAG) officer in the DCARNG on May 23, 2023.

4. Newly appointed Officers in the DCARNG must satisfy various requirements to become “branch qualified” and fully access into their role within our unit. Now that 1LT Harrison has commissioned, his branch is the JAG Corps. Officers accessed into the JAG

Corps must attend the Direct Commission Course and Judge Advocate Officer Basic Course within twelve months of their original appointment. Army Regulation 135-100: Appointment of Commissioned and Warrant Officers of the Army (AR 135-100), para 3-11(b)(1)(c). If an Officer is unable to complete the requirement within the twelve months, upon the showing of good cause, there is a process for requesting an extension. *Id.* It is the practice of the DCARNG to have our Warrant Officer Strength Manager work with newly appointed officers to ensure they can be slotted into the required schooling.

5. While the DCARNG facilitates the coordination of scheduled training, it is incumbent upon the officer to perform due diligence to ensure all requirements are met prior to scheduled training. Direct involvement by the newly commissioned officers in their entry obligations is especially imperative in the National Guard, given the part-time nature of our unit's make-up. We have limited full-time staff, which can lead to some administrative delays as a majority of the unit works one weekend during the month. Because of this, we expect our leaders, especially our officers, to maintain the initiative in ensuring they meet any requirements. The officer appointment regulation also recognizes the part-time nature of newly appointed officers, which is why it allows 12-months' time to complete their required training. AR 135-100, para. 3-11(b)(1)(c).

6. Unlike 1LT Harrison, most newly commissioned officers are coming to the military for the first time. Consequently, most of the attendees at DCC arrive to Fort Moore with no military identification card, military credit card, or access to any military systems. There is therefore dedicated time at the DCC itself for staff and new officers to resolve these and other administrative issues. Additionally, because 1LT Harrison was previously an enlisted member of the DCARNG and is now switching to Officer status, his onboarding process has additional complications. In-service transitions between ranks tend to be more complicated and take longer to resolve given the bureaucratic systems in place and the various levels and departments involved in resolving issues as they arise. Here, 1LT Harrison's transition was also complicated further by the agreement between the parties to this lawsuit that he could be excused from

enlisted duties including drill during the pendency of his JAG application. . Certain basic aspects of service, such as computer and email access, require service members to periodically access Army systems or they are automatically disabled. Because 1LT Harrison was not on duty or routinely accessing systems he lost access. Correcting these access issues created an extra bureaucratic step outside of our office's immediate control which led to delays.

1LT Harrison's On-Boarding

7. On June 27, 2023, Sergeant First Class (SFC) Jason Booty with the DCARNG sent 1LT Harrison an email to his business email address welcoming him to the DCARNG as an Officer and providing him with the names and contact information for individuals within his command team who could help 1LT Harrison transition into his new role in the DCARNG. Exhibit 1, June 27- July 11 Email Chain. SFC Booty explained that there had been some delay with 1LT Harrison's account within the Integrated Personnel and Pay System – Army (IPPS-A),¹ but it had been resolved and 1LT Harrison would be able to get a new Common Access Card (CAC) by June 30, 2023. Unbeknownst to SFC Booty at the time, our human resources team was simultaneously working through a series of administrative issues related to on-boarding 1LT Harrison in his new rank as an officer. When his accession packet was received and loaded into IPPS-A on May 30, 2023, the HR team received multiple error notices. After local attempts to resolve the issue failed, the team requested help from an Army-level helpdesk, who informed them there was an IPPS-A wide data fix that would be completed on June 14, 2023. Following the system-wide fix, 1LT Harrison's account issues were able to be resolved on June 26, 2023. However, there remained an issue with producing a new CAC for 1LT Harrison. IPPS-A data is shared via an interface with the Defense Eligibility Enrollment Reporting System (DEERS). This data is used to generate CACs. There have been issues with data feeds from IPPS-A to DEERS since IPPS-A release 3 in December of 2022. When 1LT Harrison tried to

¹ IPPS-A is a new personnel records system developed to update the Army's legacy personnel records systems and databases. The transition to IPPS-A began in late 2022 and the Army continues to work to enhance IPPS-A functionality.

obtain a CAC, his profile did not reflect his current rank. Because this cannot be resolved at the local level, on July 12, 2023 my team requested assistance from the National Guard Bureau DEERS Project Office. That request was resolved on July 27, 2023 after which it takes a minimum of 72 hours for the data to reflect in the system on our end. 1LT Harrison came to pick up CAC reflecting his grade/rank of O2/1LT on August 8, 2023.

8. On July 5, 2023, 1LT Harrison responded to SFC Booty's June 27, 2023 email and reached out to his unit's Training Non-Commissioned Officer to ask what needed to be complete in order for him to attend the Direct Commission Course (DCC) and the Judge Advocate Officer Basic Course (JAOBC). Exhibit 1, June 27- July 11 Email Chain. SFC Booty responded that same day and told 1LT Harrison that Chief Warrant Officer 3 (CW3) Annette Johnson would look at upcoming course dates and check with 1LT Harrison regarding his availability. *Id.* The following day, on July 6, 2023, CW3 Johnson emailed 1LT Harrison and told him the next DCC would start on August 14, 2023, with a report date of August 13, 2023, and would go through September 22, 2023. *Id.* The Judge Advocate Officer Basic Course would follow, with a September 23, 2023 report date and classes from September 24, 2023 to December 14, 2023. On July 11, 2023, 1LT Harrison responded and asked that he be scheduled for that course series and asked what he would need to do to prepare for the course. *Id.* That same day, CW3 Johnson informed him that he was scheduled for those course dates and that if he did not receive a confirmation within 30 days, that he should reach back out to her. *Id.*

9. On August 1, 2023, CW3 Johnson sent 1LT Harrison an email to his business email account reminding him that he had a reserved seat in the DCC scheduled to begin on August 13, 2023. Exhibit 4, August 1, 2023 Email Chain. 1LT Harrison responded on that same date stating he did not have a CAC and had emailed "the school" with questions and had not heard back. I have not been able to determine who, specifically, 1LT Harrison emailed. *Id.* CW3 Johnson responded that the schoolhouse should have communicated with him by that point and that CW3 Johnson would try and follow-up, noting that she was on temporary duty at the time with limited availability. *Id.*

10. On August 4, 2023, 1SG Mariatu Koroma texted 1LT Harrison that his CAC was available to be picked up. 1LT Harrison came to the Armory to pick up his CAC on August 8, 2023. Earlier that day 1LT Harrison emailed 1SG Koroma and SFC Terrence Washington inquiring with 1SG Koroma about his upcoming DCC course, which was to start on August 13, 2023. SFC Washington, who is in charge of unit training, was on leave, so 1SG Koroma started making the necessary arrangements with various staff sections to facilitate Harrison's request. One of the requests was the production of orders. SFC Latanya Cochran provided 1LT Harrison with the Request for Orders form on August 10, 2023. 1LT Harrison was required to fill out certain portions of this form in order to begin the request process. Given the timing of this paperwork, the production of orders could not be completed before 1LT Harrison's training began. However, as described below, 1LT Harrison did not require formal orders to attend the training.

11. On August 13, 2023, 1LT Harrison contacted me and informed me that he would not attend DCC. I told him that he still had the option to drive down to Fort Moore as he had a reservation in the August 13, 2023, DCC class and that the unit would continue to process all necessary paperwork for any and all temporary duty expenses. This sort of verbal authorization for travel and temporary duty (TDY) is permitted under the Joint Travel Regulation, Ch. 1, para. 10206, in "unusual and urgent situations." Written orders must be produced before allowances are paid, and while payments for TDY typically are not made until after the TDY is complete, in cases of extended TDY, such as is the case here, payments can be claimed every 30 days. *See* DoD Financial Management Regulation, Vol. 9, Ch. 8, para. 080401. For that reason, as long as written orders were provided to 1LT Harrison prior to September 13, 2023 he would have been eligible to timely submit his first travel voucher. 1LT Harrison declined this option. As mentioned, for the majority of the Officers attending DCC, this is their initial Army training. As such, there is no requirement or expectation for Officers to have been issued or use a government travel card or other government supported travel arrangements in conjunction with the course. The default reimbursement method for officers in DCC and JAOBC is to file travel vouchers in 30-day increments.

12. Given the part-time nature of the National Guard, it is our normal practice within

the DCARNG to ensure all administrative actions are complete on drilling weekends or periods. By doing this, we ensure the maximum amount of administrative manpower is available to help our Soldiers with whatever administrative issues need to be resolved. That does not prevent the unit from trying to help individual Soldiers on an ad hoc basis, but resources are more limited on those occasions.

13. As is true for all Soldiers within my command, my team is committed to ensuring 1LT Harrison's administrative concerns are resolved. Various sections have worked to address 1LT Harrison's concerns, such as access to Army records systems and a CAC once they were made aware of them. However, none of the concerns raised by 1LT Harrison to counsel or listed in 1LT Harrison's show cause motion, which had been communicated to various staff and command members in the DCARNG over the course of the last two months, created a barrier to 1LT Harrison's attendance at the August 13, 2023 DCC. As stated, not only have we worked (and continue to work) to resolve those issues, but I also provided 1LT Harrison with the option to drive down to start the course as scheduled with the understanding that my team would ensure all necessary administrative requirements would be complete on the back end. 1LT Harrison chose not to pursue that course of action.

Actions Moving Forward for 1LT Harrison

14. I understand that there was an agreement with 1LT Harrison starting in July 2022 that exempted him from attending drill if he chose while his application to the JAG Corps was being considered. Now that 1LT Harrison's application has been accepted and he has been commissioned as a JAG, he is expected to fulfill his National Guard obligations, including attending drill and meeting the requirements of Army Regulation 135-91: Service Obligations, Methods of Fulfillment, Participation Requirements, and Enforcement Provisions; National Guard Regulation 350-1: Army National Guard Training; and Department of Defense Issuance 1215.06: Uniform Reserve, Training, and Retirement Categories for the Reserve Components. Attending drill will provide 1LT Harrison and my command team with increased communication, which can facilitate additional administrative concerns 1LT Harrison may have

moving forward.

15. Following 1LT Harrison's decision not to attend the August 13, 2023 DCC training, both the command team at the Joint Force Headquarters, as well as the Office of the Staff Judge Advocate where 1LT Harrison will eventually serve, have been working diligently to secure 1LT Harrison's spot in the next available DCC course, which will commence on October 9, 2023. This course will conclude with graduation from the Judge Advocate Officer Basic Course on February 28, 2024, within the initial 12-month period for completion of JAG entry training.

In accordance with 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed this 1st day of September 2023.

STRICKLAND.LEJUAN.TERRELL.1457086756
Digitally signed by
STRICKLAND.LEJUAN.TERRELL.
1457086756
Date: 2023.08.31 22:40:52
-07'00'

LEJUAN T. STRICKLAND

MAJ, AG

United States Army

Decl. Exhibit 1

From: Johnson, Annette R CW3 USARMY NG DCARNG (USA)
<annette.r.johnson.mil@army.mil>
Sent: Tuesday, July 11, 2023 2:40 PM
To: Nick Harrison; Booty, Jason D SFC USARMY NG DCARNG (USA); Washington, Terrence
O SFC USARMY NG DCARNG (USA)
Cc: Strickland, Lejuan Terrell MAJ USARMY NG DCARNG (USA); Cochran, Latanya SFC
USARMY NG DCARNG (USA); GRANDPIERRE, PAUL LTC USARMY NG DCARNG (USA);
Goodin, Robert John COL USARMY NG DCARNG (USA); Nicholas Harrison
Subject: RE: 1LT Harrison, Nicholas - Officially a 1LT in the DCARNG

Good afternoon 1LT Harrison,

Your courses have been inputted. You will receive a confirmation approximately 30 days prior to the start of the class if you are registered. If you do not receive a confirmation within 30 days, please let me know. Thanks.

V/R

Annette Johnson

CW3 Annette Johnson
OSM/WOSM/Specialty Branch Manager
DC Army National Guard
2001 East Capitol Street, SE
Washington, DC 20003-1719
Phone: (202) 685 9905
Cell: [REDACTED]



For general inquires please use the Officer Strength Manager group email:
ng.dc.dcarng.list.ngdc-j1-rrf-rrf-only-osf-pocs@army.mil

From: Nick Harrison <nick@harrison.stein.com>
Sent: Tuesday, July 11, 2023 9:18 AM
To: Johnson, Annette R CW3 USARMY NG DCARNG (USA) <annette.r.johnson.mil@army.mil>; Booty, Jason D SFC
USARMY NG DCARNG (USA) <jason.d.booty.mil@army.mil>; Washington, Terrence O SFC USARMY NG DCARNG (USA)
<terrence.o.washington.mil@army.mil>
Cc: Strickland, Lejuan Terrell MAJ USARMY NG DCARNG (USA) <lejuan.t.strickland.mil@army.mil>; Cochran, Latanya SFC
USARMY NG DCARNG (USA) <latanya.cochran.mil@army.mil>; GRANDPIERRE, PAUL LTC USARMY NG DCARNG (USA)
<paul.grandpierre.mil@army.mil>; Goodin, Robert John COL USARMY NG DCARNG (USA)

<robert.j.goodin.mil@army.mil>; Nicholas Harrison <alaskaairborne@yahoo.com>

Subject: [URL Verdict: Neutral][Non-DoD Source] Re: 1LT Harrison, Nicholas - Officially a 1LT in the DCARNG

Okay, can I go ahead and schedule the August class, ma'am?

What do I need to do to get ready for that?

Very Respectfully,

NICK HARRISON, JD, MBA, PMP

Managing Partner (DC Bar #1074439)

Harrison-Stein, PC

601 Pennsylvania Avenue NW

South Building, Suite 900

Washington, DC 20004-3647

Office: (202) 434-8292

Cell: [REDACTED]

From: Johnson, Annette R CW3 USARMY NG DCARNG (USA) <annette.r.johnson.mil@army.mil>

Sent: Thursday, July 6, 2023 10:52 AM

To: Nick Harrison <nick@harrison-stein.com>; Booty, Jason D SFC USARMY NG DCARNG (USA) <jason.d.booty.mil@army.mil>; Washington, Terrence O SFC USARMY NG DCARNG (USA) <terrence.o.washington.mil@army.mil>

Cc: Strickland, Lejuan Terrell MAJ USARMY NG DCARNG (USA) <lejuan.t.strickland.mil@army.mil>; Cochran, Latanya SFC USARMY NG DCARNG (USA) <latanya.cochran.mil@army.mil>; GRANDPIERRE, PAUL LTC USARMY NG DCARNG (USA) <paul.grandpierre.mil@army.mil>; Goodin, Robert John COL USARMY NG DCARNG (USA) <robert.j.goodin.mil@army.mil>; Nicholas Harrison <[REDACTED]>

Subject: RE: 1LT Harrison, Nicholas - Officially a 1LT in the DCARNG

Good morning,

As it stands right now, the first available class for DCC and JAOBC are scheduled below. Please let me know at your earliest convenience if you can attend that class. There currently is availability in both classes.

Basic Office Course (Direct Commission) 14 Aug 23 – 22 Sep 23 (Report date: 13 Aug) – Ft Benning, GA
Judge Advocate Office Basic Course 24 Sep 23 – 14 Dec 23 (Report Date 23 Sep) – Charlottesville, VA

V/R

Annette Johnson

CW3 Annette Johnson
OSM/WOSM/Specialty Branch Manager
DC Army National Guard
2001 East Capitol Street, SE
Washington, DC 20003-1719
Phone: (202) 685-9905
Cell: (202) 841-0885



For general inquires please use the Officer Strength Manager group email:
ng.dc.dcarng.list.ngdc-j1-rrf-rrf-only-osf-pocs@army.mil

From: Nick Harrison <nick@harrison-stein.com>

Sent: Wednesday, July 5, 2023 4:00 PM

To: Booty, Jason D SFC USARMY NG DCARNG (USA) <jason.d.booty.mil@army.mil>; Washington, Terrence O SFC USARMY NG DCARNG (USA) <terrence.o.washington.mil@army.mil>

Cc: Johnson, Annette R CW3 USARMY NG DCARNG (USA) <annette.r.johnson.mil@army.mil>; Strickland, Lejuan Terrell MAJ USARMY NG DCARNG (USA) <lejuan.t.strickland.mil@army.mil>; Cochran, Latanya SFC USARMY NG DCARNG (USA) <latanya.cochran.mil@army.mil>; GRANDPIERRE, PAUL LTC USARMY NG DCARNG (USA) <paul.grandpierre.mil@army.mil>; Goodin, Robert John COL USARMY NG DCARNG (USA) <robert.j.goodin.mil@army.mil>; Nicholas Harrison <[REDACTED]>

Subject: [URL Verdict: Neutral][Non-DoD Source] Re: 1LT Harrison, Nicholas - Officially a 1LT in the DCARNG

Thanks, I appreciate your help.

Very Respectfully,

NICK HARRISON, JD, MBA, PMP

Managing Partner (DC Bar #1024439)

Harrison-Stein, PC

601 Pennsylvania Avenue NW

South Building, Suite 900

Washington, DC 20004-3647

Office: (202) 434-8292

Cell: ([REDACTED])

From: Booty, Jason D SFC USARMY NG DCARNG (USA) <jason.d.booty.mil@army.mil>
Sent: Wednesday, July 5, 2023 3:57 PM
To: Nick Harrison <nick@harrison-stein.com>; Washington, Terrence O SFC USARMY NG DCARNG (USA) <terrence.o.washington.mil@army.mil>
Cc: Johnson, Annette R CW3 USARMY NG DCARNG (USA) <annette.r.johnson.mil@army.mil>; Strickland, Lejuan Terrell MAJ USARMY NG DCARNG (USA) <lejuan.t.strickland.mil@army.mil>; Cochran, Latanya SFC USARMY NG DCARNG (USA) <latanya.cochran.mil@army.mil>; GRANDPIERRE, PAUL LTC USARMY NG DCARNG (USA) <paul.grandpierre.mil@army.mil>; Goodin, Robert John COL USARMY NG DCARNG (USA) <robert.j.goodin.mil@army.mil>; Nicholas Harrison < [REDACTED] >
Subject: RE: 1LT Harrison, Nicholas - Officially a 1LT in the DCARNG

1LT Harrsion,

CW3 Johnson will look at dates for you tomorrow and see what available and contact you to see your availability.

SFC Jason Booty

From: Nick Harrison <nick@harrison-stein.com>
Sent: Wednesday, July 5, 2023 3:53 PM
To: Booty, Jason D SFC USARMY NG DCARNG (USA) <jason.d.booty.mil@army.mil>; Washington, Terrence O SFC USARMY NG DCARNG (USA) <terrence.o.washington.mil@army.mil>
Cc: Johnson, Annette R CW3 USARMY NG DCARNG (USA) <annette.r.johnson.mil@army.mil>; Strickland, Lejuan Terrell MAJ USARMY NG DCARNG (USA) <lejuan.t.strickland.mil@army.mil>; Cochran, Latanya SFC USARMY NG DCARNG (USA) <latanya.cochran.mil@army.mil>; GRANDPIERRE, PAUL LTC USARMY NG DCARNG (USA) <paul.grandpierre.mil@army.mil>; Goodin, Robert John COL USARMY NG DCARNG (USA) <robert.j.goodin.mil@army.mil>; Nicholas Harrison < [REDACTED] >
Subject: [URL Verdict: Neutral][Non-DoD Source] Re: 1LT Harrison, Nicholas - Officially a 1LT in the DCARNG

Thanks, SFC Booty. Good afternoon, SFC Washington. I wanted to reach out to you to see what I need to do to schedule BOLC and JAG School.

Very Respectfully,

NICK HARRISON, JD, MBA, PMP

Managing Partner (DC Bar #1024439)

Harrison-Stein, PC

601 Pennsylvania Avenue NW

South Building, Suite 900

Washington, DC 20004-3647

Office: (202) 434-8292

Cell: (██████████)

From: Booty, Jason D SFC USARMY NG DCARNG (USA) <jason.d.booty.mil@army.mil>

Sent: Tuesday, June 27, 2023 8:18 AM

To: Nicholas Harrison <██████████>; Nick Harrison <nick@harrison-stein.com>

Cc: Johnson, Annette R CW3 USARMY NG DCARNG (USA) <annette.r.johnson.mil@army.mil>; Strickland, Lejuan Terrell MAJ USARMY NG DCARNG (USA) <lejuan.t.strickland.mil@army.mil>; Cochran, Latanya SFC USARMY NG DCARNG (USA) <latanya.cochran.mil@army.mil>; Washington, Terrence O SFC USARMY NG DCARNG (USA) <terrence.o.washington.mil@army.mil>; GRANDPIERRE, PAUL LTC USARMY NG DCARNG (USA) <paul.grandpierre.mil@army.mil>; Goodin, Robert John COL USARMY NG DCARNG (USA) <robert.j.goodin.mil@army.mil>

Subject: 1LT Harrison, Nicholas - Officially a 1LT in the DCARNG

1LT Harrison,

Officially, welcome to the District of Columbia Army National Guard as an Officer. For your situational awareness, your IPPSA account was having problems with the change over from Enlisted to Officer but as of yesterday it has been resolved. By this Thursday, you can get a new ID card. Below are some important contacts for your new unit, please contact SFC Cochran to get information for your upcoming drill schedule. If you have any questions, please fill free to reach out.

MAJ Strickland – Commander - lejuan.t.strickland.mil@army.mil

SFC Cochran – BN S1 - latanya.cochran.mil@army.mil - 202-685-9990

SFC Washington – Training NCO - terrence.o.washington.mil@army.mil - 202-685-8726

V/r

Jason D Booty

SFC, DCARNG

District of Columbia Officer/Warrant Strength Manager NCOIC

Officer/Warrant IST Coordinator

Specialty Branch Officer Recruiter

Recruiting and Retention Battalion S-1

Recruiting and Retention Battalion Security Manager

Recruiting & Retention Battalion

District of Columbia Army National Guard

2001 East Capitol Street SE

Washington, DC 20003

 Office: (202) 685-9930

Mobile: [REDACTED]

Email: Jason.d.booty.mil@army.mil

MS Teams Chat: <https://teams.microsoft.com/l/chat/0/0?users=jason.d.booty.mil@army.mil>

For general inquires please use the Officer Strength Manager group email:

ng.dc.dcarng.list.ngdc-j1-rrf-rrf-only-osf-pocs@army.mil

GKO Specialty Branch:

<https://gko.portal.ng.mil/arng/G1/D05/AccessionsBranch/SpecialtyBranch/SitePages/Home.aspx>

When you join the District of Columbia Army National Guard, you're joining a team with purpose and setting yourself up for a successful future. You'll gain job skills and leadership experience, and get a head start on your civilian career. Explore the many ways Guard service can accelerate your path.

Decl. Exhibit 2

From: Johnson, Annette R CW3 USARMY NG DCARNG (USA)
<annette.r.johnson.mil@army.mil>
Sent: Tuesday, August 1, 2023 11:51 AM
To: Nick Harrison
Subject: RE: School dates

Good morning,

You should have received something from the schoolhouse by now. I will try to reach out to them but it wont be until later this afternoon. I am currently TDY.

V/R

Annette Johnson

CW3 Annette Johnson
OSM/WOSM/Specialty Branch Manager
DC Army National Guard
2001 East Capitol Street, SE
Washington, DC 20003-1719
Phone: (202) 685-9905
Cell: [REDACTED]



For general inquires please use the Officer Strength Manager group email:
ng.dc.dcarng.list.ngdc-j1-rrf-rrf-only-osf-pocs@army.mil

From: Nick Harrison <nick@harrison stein.com>
Sent: Tuesday, August 1, 2023 10:09 AM
To: Johnson, Annette R CW3 USARMY NG DCARNG (USA) <annette.r.johnson.mil@army.mil>
Subject: [Non DoD Source] Re: School dates

Thanks for reaching out.

I haven't received any information yet.
I still haven't been able to get a CAC card.
And, even though I reached out to the school with questions, I still haven't gotten any responses.

Could you assist?

— Nick Harrison

Get [Outlook for iOS](#)

From: Johnson, Annette R CW3 USARMY NG DCARNG (USA) <annette.r.johnson.mil@army.mil>
Sent: Tuesday, August 1, 2023 10:02:31 AM
To: Nick Harrison <nick@harrison-stein.com>
Subject: School dates

Good morning,

This is just a reminder that you are reserved for the following courses:

13 Aug 23 – 22 Sep 23 – DCC – Fort Gordon, GA
24 Sep 23 – 14 Dec 23 – JAOBC – Charlottesville, VA
V/R

Annette Johnson

CW3 Annette Johnson
OSM/WOSM/Specialty Branch Manager
DC Army National Guard
2001 East Capitol Street, SE
Washington, DC 20003-1719
Phone: (202) 685-9905
Cell: [REDACTED]



For general inquiries please use the Officer Strength Manager group email:
ng.dc.dcarng.list.ngdc-j1-rrf-rrf-only-osf-pocs@army.mil

Exhibit 2

Wynosky, Kevin J. (CIV)

From: Nick Harrison <nick@harrison-stein.com>
Sent: Tuesday, August 29, 2023 8:00 AM
To: Wynosky, Kevin J. (CIV)
Cc: Abbuhl, Joshua (CIV); Berman, Keri L. (CIV); Barghaan, Dennis (USAVAE)
Subject: [EXTERNAL] Discussion on Motion to Show Cause and Alternative Resolutions

Good morning, Mr. Wynosky.

I hope this email finds you well. I recently filed a Motion to Show Cause with the Court, and I wanted to extend the opportunity for us to discuss this matter further. I noticed that administrative support from the Army Review Boards Agency reached out to me shortly after the filing, which leads me to think that perhaps your office has taken note of the situation. If that's indeed the case, I appreciate the prompt attention.

Given the current legal postures of both sides, you'll understand that every hiccup compels me to appear in front of the Court again. This is particularly pressing given the specifics outlined in AR 27-1, Paragraph 7-9. However, I am open to considering that the recurring issues may be due more to administrative complexities within the DC National Guard rather than any calculated intent.

In light of this, I would like to revisit my initial proposal, which I believe offers a straightforward resolution to the ongoing difficulties. Specifically, I propose adjusting my service record to reflect a retroactive appointment along with the relevant time-in-grade promotions and corresponding backpay. I could then be offered the option to retire at the adjusted grade. This would effectively eliminate the need for future court appearances over similar mix-ups.

I believe this approach is a simpler, quicker, and less contentious path to resolution for all parties involved. While there are systemic issues within the DC National Guard that warrant attention, particularly around travel and orders, I feel I've fought my fair share of battles and I am looking for a resolution that serves all parties fairly.

Please let me know if you are interested in discussing this option further. I look forward to hearing from you soon.

Very Respectfully,

NICK HARRISON, JD, MBA, PMP

Managing Partner (DC Bar #1024439)
Harrison-Stein, PC
601 Pennsylvania Avenue NW
South Building, Suite 900
Washington, DC 20004-3647
Office: (202) 434-8292
Cell: [REDACTED]

Exhibit 3



**DEPARTMENT OF THE ARMY
JUDGE ADVOCATE RECRUITING OFFICE
9275 GUNSTON ROAD, SUITE 4400
FORT BELVOIR VA 22060**

April 4, 2023

Sergeant Nicholas Alexander Harrison
[REDACTED]
[REDACTED]

Dear Sergeant Harrison:

Congratulations! The Judge Advocate General (TJAG) approved your application for appointment in the District of Columbia Army National Guard.

I will forward your packet to the General Counsel, National Guard Bureau (NGB). The NGB will process your appointment and forward your packet to your State Army National Guard to finalize your orders for federal recognition.

I recommended you be appointed with federal recognition in the grade of first lieutenant with one year, six months time in grade. This appointment supersedes any appointment, grade, and date of rank previously held in the Armed Forces.

Pursuant to paragraph 3-11(b)(1)(c), Army Regulation 135-100 and paragraph 6-7h, National Guard Regulation 600-100, you must complete the Judge Advocate Officer Basic Course (JAOBC) within twelve months of appointment or be subject to termination of federal recognition. If you are unable to meet this requirement, you must contact your state personnel office for instructions on requesting an extension from TJAG. All newly appointed Judge Advocates, regardless of prior service, are required to complete both the Direct Commission Course (DCC), Fort Benning, Georgia, and JAOBC, Charlottesville, Virginia. Waiver of DCC may be considered on a case-by-case basis for extreme personal or professional hardship reasons. Waiver requests will be processed through NGB for consideration by TJAG.

Your point of contact is the personnel office at your State Army National Guard.

Sincerely,

Angel M. Overgaard
Lieutenant Colonel, Judge Advocate
Chief, Judge Advocate Recruiting Office

CF:
National Guard Bureau