

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

ANGE SAMMA *et al.*, on behalf of
themselves and others similarly situated,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
DEFENSE, *et al.*,

Defendants.

No. 20-cv-01104-PLF

PLAINTIFFS' REQUEST FOR ARGUMENT OR DECISION

As they have done several times since Plaintiffs' motion to enforce the Court's August 25, 2020 Order (ECF No. 47) became ripe for decision, Plaintiffs hereby provide the Court with additional evidence of Defendants' ongoing systemic non-compliance with that Order. Plaintiffs filed their motion on August 17, 2021, ECF No. 58, and it has been fully briefed since November 1, 2021. Plaintiffs respectfully request that the Court schedule a hearing on that motion at the earliest convenient date, or alternatively, proceed to decide the motion.

Plaintiffs attach herewith a letter to Defendants, recounting yet another instance of failure to abide by this Court's Order, and under circumstances indicating that such non-compliance remains widespread. In May 2021, class member Amy Moustapha Niang was informed by an Air Force Judge Advocate General's office that he would have to wait a minimum period of time to obtain his N-426 certification. In September 2021, he transferred his service to the Army, and the following month, his company commander at Fort Sill, Oklahoma, informed him that the "legal office" there had advised that he must wait until after he completed advanced individual

training to obtain an N-426 certification. Just this month, Mr. Niang's drill sergeant at Fort Sam Houston, Texas, told him that he must serve in the Army for six months before seeking an N-426 certification. To date, Mr. Niang still does not have an N-426 certification.

Mr. Niang is the latest class member whose experience indicates that there remains systemic non-compliance with the Court's Order across numerous military installations. His experience at Fort Sam Houston also accords with that of class member Alina Nair, whose situation Plaintiffs raised in their January 11, 2022 letter to Defendants. In that letter, Plaintiffs explained that Ms. Nair's chain of command at Fort Sam Houston informed her that she must serve one year before seeking an N-426 certification. Given this pattern of non-compliance, and the harm that it inflicts on class members on a daily basis, Plaintiffs respectfully request a hearing or decision on their motion to enforce.

Dated: January 13, 2022

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Respectfully submitted,

/s/ Sana Mayat
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January 13, 2022

DELIVERED VIA EMAIL

Liam C. Holland
Trial Attorney
U.S. Department of Justice
Washington, D.C. 20530

Re: *Samma, et al. v. United States Department of Defense, et al.*, No. 20-CV-1104 (D.D.C.)

Dear Liam,

We are writing to raise a new case of non-compliance that was recently brought to class counsel's attention.

Class counsel recently spoke with class member Amdy Moustapha Niang, who is currently serving active duty in the U.S. Army. Mr. Niang originally enlisted with the U.S. Air Force to serve in the Selected Reserve of the Ready Reserve in April 2021 but subsequently transferred his service to the U.S. Army in September 2021. Mr. Niang completed his first drill with his Selected Reserve unit in May 2021, following which he sought his N-426 certification from the Judge Advocate General's office. The JAG office informed him that an Air Force memorandum stated that he would have to wait a minimum period of time—until October 2021—to obtain his N-426 certification.

In September 2021, Mr. Niang transferred his service to the U.S. Army. On October 4, 2021, Mr. Niang shipped to basic combat training at Fort Sill, Oklahoma. On October 10, 2021 he asked his drill sergeant for assistance with his N-426 certification. His drill sergeant refused to assist and shouted at Mr. Niang for requesting an N-426 certification. About three or four days later, Mr. Niang asked to speak with his company commander to request assistance with his N-426 certification. The company commander informed him that he had spoken with the legal office and was told that Mr. Niang must wait until after he completed advanced individual training ("AIT") to obtain an N-426 certification.

On January 2, 2022, Mr. Niang shipped to AIT at Fort Sam Houston, Texas. The next day, he approached his drill sergeant and requested assistance with his N-426 certification. His drill sergeant told him that he had to serve in the Army for six months before he could seek his N-426 certification.

Mr. Niang's experience indicates that there remains systemic non-compliance with the Court's August 25, 2020 order across numerous military installations. Mr. Niang's experience at Fort Sam Houston also accords with that



of class member Alina Nair. In our January 11, 2022 letter to Defendants, we explained that Ms. Nair was recently informed by her chain of command at Fort Sam Houston that she must serve one year before obtaining an N-426 certification.

Class counsel request that Defendants promptly certify Mr. Niang's N-426 form, which is attached to this letter. Mr. Niang's current unit is [REDACTED] Class counsel also request that Defendants investigate non-compliance within the U.S. Air Force Reserve and at Fort Sill and Fort Sam Houston.

Sincerely,
Sana Mayat

Counsel to Plaintiffs



Encl.