



2006. Appx. 143-146<sup>1</sup> (orders to active duty with reporting dates of July 17, 2006, August 1, 2006 and August 15, 2006); Pet. ¶¶<sup>2</sup> 21, 23, 25, 35.

This motion should be granted to maintain the status quo while petitioner's claims on the merits are litigated, and to preclude irreparable injury to petitioner.

It would cause petitioner irreparable injury if she is required to report for duty at El Paso, Texas, on August 15, 2006. This is because Petitioner is a conscientious objector to participation in war in any form (1-0 status). On August 15, 2006, petitioner, if she is required to report for duty, would be subjected to military orders which in good conscience she cannot follow, and therefore on that date, and thereafter, she would be subjected to disciplinary action, orders that are contrary to her religious convictions, and she would undoubtedly be subjected to court-martial or other disciplinary action for violating orders or engaging in other infractions. It has been almost five years since Petitioner served on active duty, and in the interim petitioner has had a religious conversion such that she can no longer participate in the military. See Appx. 1-4, 5-7 (summary of hearing testimony); 58-66 (Petitioner's conscientious objector claim); 72-130 (religious documentation), 135-140 (letters in support of conscientious objector application); Pet. ¶¶ 17, 18, 35-37. Petitioner's religious beliefs do not allow her to participate in war in any form (1-0 status). Subjecting petitioner to disciplinary action under the circumstances of this case constitutes irreparable injury.

Furthermore, this motion should be granted because petitioner enjoys substantial likelihood of success on the merits of her claims. The recent report issued by an Army-

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<sup>1</sup> References to "Appx. \_\_\_" are to pages of Petitioner's Appendix to Petitioner's Memorandum of Law in Support of Petition for a Writ of Habeas Corpus and Other Relief.

<sup>2</sup> References to "Pet. ¶\_\_\_" are to paragraphs in Petitioner's verified Petition for Writ of Habeas Corpus and Other Relief.

selected Investigating officer concludes that petitioner is sincerely a conscientious objector, Appx. 1-4, Pet. ¶¶ 32-34, and recommends petitioner's discharge from the military as a conscientious objector (1-0 status). Appx. 4; Pet.¶ 34. These documents prove that Petitioner enjoys a substantial likelihood of success on the merits; and the military has no basis in fact for denial of petitioner's claim.

Furthermore, it is contrary to the public interest and disruptive of the Armed Forces to compel petitioner, a conscientious objector, to report to active duty in the military.

In addition, the reason why this motion is brought at this time is because of delay created by Army officials, as is delineated in the verified Petition. Pet. ¶¶ 18, 20-29; 36. Petitioner filed her claim for discharge from the Army on December 24, 2005, and it was only on May 16, 2006 that petitioner was interviewed by a Chaplain, on June 4, 2006, that she was seen by a psychiatrist, and on June 26, 2006 that a hearing was held on Petitioner's conscientious objector claim. On or about July 7, 2006 the hearing officer issued his report, and on July 16, 2006, petitioner submitted her comments to the report. Under Army Regulation 600-43, the processing of petitioner's claim should have been completed by June 22, 2006 (180 days after December 24, 2006), but the requisite hearings and interviews were delayed through no fault of the petitioner.

In addition, any potential harm to the military by the granting of this motion is de minimis, if any. petitioner, were she required to report, would not participate in war in any form, and would not be an asset to the armed forces but rather would be a legal and administrative burden.

In support of this motion, Petitioner relies upon Petitioner's Verified Petition for a

Writ of Habeas Corpus and For Other Relief, the Memorandum in Support thereof, the Appendix submitted in support thereof, and the attached Petitioner's Memorandum in Support of Petitioner's Motion for a Temporary Restraining Order.

WHEREFORE, Petitioner prays that this Honorable Court:

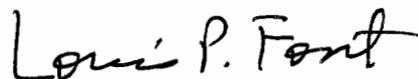
1) Issue a temporary restraining order to maintain the status quo pending further resolution of this case, and pending a decision following a hearing on petitioner's prayer for a preliminary injunction. The petitioner requests that this Court enjoin the Respondents and their officers, agents, servants, employees, and attorneys from ordering petitioner to active duty pending hearing on a preliminary injunction or until such other time as ordered by the Court.

2.) Grant such other relief as is just.

Respectfully submitted,

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By her attorney,



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CERTIFICATE OF SERVICE AND NOTICE OF HEARING  
PURSUANT TO FED.R.CIV.P.65(b)

I hereby certify that notice of this motion was made to the adverse parties by

-serving a copy of the within motion upon the Office of the United States Attorney, John Joseph Moakley U.S. Courthouse, Suite 9200, 1 Courthouse Way, Boston, Massachusetts 02210 by hand on the \_\_\_ day of August 2006, and that I provided written notice, by way of this Certificate, and oral notice, that this motion will be heard before this Court as soon as the Court may schedule a hearing on this emergency motion.

Louis P. Font