

In the United States Court of Federal Claims

No. 18-496C

Filed: December 27, 2018

CHRISTINE E. STAHL,

Plaintiff, *pro se*,

v.

THE UNITED STATES,

Defendant.

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Christine E. Stahl, Tampa, Florida, Plaintiff, *pro se*.

Sonia Williams Murphy, United States Department of Justice, Civil Division, Washington, D.C.,
Counsel for the Government.

MEMORANDUM OPINION AND ORDER GRANTING IN PART AND DENYING IN PART THE GOVERNMENT’S MOTION TO DISMISS

BRADEN, *Senior Judge*.

I. RELEVANT FACTUAL BACKGROUND.¹

Dr. Christine E. Stahl was an active duty United States Air Force (“Air Force”) Lieutenant Colonel (“Lt. Col.”), who served for approximately 17 years and 9.5 months, most recently as the Medical Director of the Internal Medicine Clinic of the 6th Medical Operations Squadron at MacDill Air Force Base (“MacDill”) in Tampa, Florida. Compl. at 2. From December 18, 2009 to March 1, 2017, Lt. Col. Stahl was stationed at MacDill, but for a one year deployment to Afghanistan in 2012. Compl. at 2–3.

In October of 2013, Lt. Col. Stahl entered into an agreement with the Air Force to accept \$20,000 in Multi-Year Incentive Special Pay (“MISP”) and \$35,000 in Multi-Year Special Pay (“MSP”), in exchange for a four year active duty service commitment (“ADSC”). Compl. at 3. This required Lt. Col. Stahl to serve until November 30, 2017, subject to *pro rata* recoupment of the MISP and MSP, if she did not serve for the entire term. Compl. at 3.

¹ The facts herein were derived from the April 4, 2018 Transfer Complaint (“Compl.”).

In January 2014, Lt. Col. Stahl “suffered hardship” caused by her mother’s death and a divorce proceeding that resulted in shared custody of her two children. Compl. at 3.

In December 2015, Lt. Col. Stahl was selected for promotion to Colonel, with an expected promotion date of May 2017. Compl. at 4.

On March 15, 2016, the Air Force Colonel Management Office (“Colonel’s Group”) notified Lt. Col. Stahl that she was being reassigned to Lackland Air Force Base in Texas (“Lackland”). Compl. at 3. Lt. Col. Stahl declined the assignment and instead elected to separate from the Air Force, pursuant to Air Force Instruction (“AFI”) 36-2110, § 2.30 (Sept. 22, 2009), that provides officers a seven day option to accept or reject an assignment, by requesting a separation. Compl. at 3. The Air Force “told [Lt. Col. Stahl that she] had no other choice but to request separation and join the reserves[;]” she was not informed that she could “request a hardship waiver in lieu of assignment[.]” pursuant to Air Force Instructions.² Compl. at 3–4. On March 16, 2016, Lt. Col. Stahl applied for a separation date of July 1, 2016. Compl. at 4.

On May 21, 2016, Lt. Col. Stahl was notified that she had been promoted to the rank of Colonel and was instructed to “pin on” the rank of Colonel the next working day. Compl. at 4. On July 18, 2016, Lt. Col. Stahl was instructed to remove the rank of Colonel and replace it with the rank of Lt. Col, without any explanation. Compl. at 4.

On November 16, 2016, Lt. Col. Stahl formally withdrew her separation request by a letter to the lead assignments officer, Lt. Col. Nate Somers, citing AFI 36-3207, § 2.14.1 (July 9, 2004).³ Compl. at 5. Lt. Col. Somers informed Lt. Col. Stahl that, nonetheless, she would be separated and February 1, 2017 was her separation date.⁴ Compl. at 5.

² AFI 36-2110, § A24.1 (Sept. 22, 2009) states that a reassignment or deferment “may be approved when it is clearly in the best interests of the Air Force.” To be eligible, a servicemember must substantiate a humanitarian problem involving a family member “that is more severe than usually encountered by other Air Force members with a similar problem.” AFI 36-2110, § A24.5.1 (Sept. 22, 2009). AFI 36-2110 provides examples of requests that are normally disapproved, including requests “associated with child care arrangements” and “[t]hreatened separation, divorce action, or the desire to pursue child custody.” AFI 36-2110, §§ A24.7.2, 9 (Sept. 22, 2009).

³ AFI 36-3207, § 2.14.1 provides that officers may request withdrawal of (1) “an approved [date of separation (“DOS”)] up to 30 days before the DOS takes effect by giving reasons for the withdrawal and stating that they have not traveled or used the separation orders to move family members, ship household goods, or receive advance travel entitlements[;]” or (2) “a pending separation application by giving reasons for the withdrawal.” AFI 36-3207, § 2.14.1.1–2 (July 9, 2004). But, AFI 36-3207, § 2.14.1 also contains an exception that states: “Officers may not submit withdrawal requests within 30 days of their approved DOS unless the request is for hardship.” AFI 36-3207, § 2.14.1 (July 9, 2004).

⁴ AFI 36-2110, § 2.30.1.1 states, in pertinent part, that “[t]he decision to approve or disapprove the withdrawal request will be based upon the best interest of the Air Force.” AFI 36-2110, § 2.30.1.1 (Sept. 22, 2009).