



DEPARTMENT OF THE ARMY
US ARMY CENTER FOR HEALTH PROMOTION AND PREVENTIVE MEDICINE
5158 BLACKHAWK ROAD
ABERDEEN PROVING GROUND MD 21010-5403

July 13, 2009

Office of the Company Commander

Honorable Zach Wamp
Congress of the United States
House of Representatives
3rd District, Tennessee
900 Georgia Avenue, Suite 126
Chattanooga, Tennessee 37402

Dear Mr. Wamp:

This correspondence is in response to your letter dated April 24, 2009 regarding a request filed by your constituent, LTC Terrence L. Lakin.

LTC Lakin submitted a complaint under Article 138, Uniform Code of Military Justice (UCMJ), to this command on 1 April 2009 (attached). The complaint presented LTC Lakin's suspicion that President Barack Obama was ineligible to be President and Commander in Chief, and requested confirmation of the President's eligibility for these positions.

I responded to LTC Lakin by email on 14 April 2009 and then by written memorandum on 11 June 2009 (attached) informing him that his Article 138 complaint was deficient. As I advised LTC Lakin, Article 138 provides an avenue for service members to request redress for perceived wrongs by their commanding officers. The President as Commander in Chief is not a commanding officer for the purposes of Article 138 and, therefore, no complaint against him may be addressed through this procedure.

Army Regulation 27-10, Military Justice, paragraph 20-10(a) directs that no determination on the merits will be made when an Article 138 complaint is deficient. It further directs that the complaint will be returned to the initiator with an explanation of the deficiency. I returned LTC Lakin's Article 138 complaint accordingly, with no determination regarding the President's eligibility for his office.

I hope this response helps you respond to your constituent's request.

Sincerely,

A handwritten signature in black ink that reads "Kelby R. Mowery".

Kelby R. Mowery
Captain, US Army
Commanding

Enclosures

Readiness thru Health



DEPARTMENT OF THE ARMY
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REPLY TO
ATTENTION OF


MCHB-CG-HHC

11 June 2009

MEMORANDUM FOR LTC Terrence Lakin, Program Manager, Occupational Medicine, U.S. Army Center for Health Promotion and Preventive Medicine, Aberdeen Proving Ground, Maryland 21010

SUBJECT: Article 138 Complaint

1. This memorandum is in further response to your request for redress dated 1 April 2009 and to which I responded by e-mail on 14 April 2009. My initial response informed you that an Article 138 complaint was probably not the best mechanism for addressing your concerns. In doing so, I pointed out that a proper complaint would need to be sent to the first General Court Martial Authority (GCMA) above the commander who allegedly wronged you, and that in this case, there is no GCMA above the Commander in Chief.
2. In your follow up e-mail dated 14 April 2009, you acknowledged there is no GCMA above the Commander in Chief, but indicated it was your understanding that there may be leniency granted in the Article 138 process for unusual circumstances. Upon further review, I find that your complaint is deficient, within in the meaning of Army Regulation 27-10, Military Justice, paragraph 20-10(a), as explained below.
3. Article 138 provides a means for service members to request redress for perceived wrongs by their commanding officer. Army Regulation 27-10, Military Justice, paragraph 20-4(b) defines a commanding officer as: "an officer in the complainant's chain of command, up to and including the first officer exercising GCM jurisdiction over the complainant, authorized to impose nonjudicial punishment (UCMJ, Art. 15) on the complainant." The Commander in Chief does not meet the definition of your commanding officer for the purposes of Article 138, UCMJ, and therefore no complaint against him may be addressed through this procedure. This deficiency is not correctable.
4. This memorandum constitutes the final response to your request concerning this matter.


KELBY R. MOWERY
CPT, MS
Commanding

APR-24-2009 11:49

CONGRESSMAN ZACH WAMP

423 756 6613 P.04



DEPARTMENT OF THE ARMY
 US ARMY CENTER FOR HEALTH PROMOTION AND PREVENTIVE MEDICINE
 5158 BLACKHAWK ROAD
 ABERDEEN PROVING GROUND MD 21819-5403

April 1, 2009

April 1, 2009

Occupational Medicine Program,
 Directorate of Occupational and Environmental
 Medicine

MEMORANDUM FOR Commander, HHC, USACHPPM

SUBJECT: Request for Redress Under Article 138, UCMJ (AR 27-10)

1. I would like to officially submit a complaint under Article 138.
2. I would like my chain of command with Article 138 authority to inform me and all members under their command that we are not in violation of our sworn Oath of Office, UCMJ, or the Constitution, by serving under our current Commander in Chief. I believe that if our Commander in Chief is not eligible to hold the Office of the President, there is a core breakdown in our chain of command. This leads to concerns that all Officers in the military are no longer upholding their Oath of Office, and may be directly or indirectly carrying out orders given by a person that does not lawfully hold a position of Command, thereby bringing to question whether the orders are lawful orders. These orders may not be direct orders, but most likely are indirect, strategic and organizational, but none the less, are orders that can have direct effects upon me and all Soldiers.
3. I believe there could be a violation of law or regulation by requiring me and other Officers to follow commands that are issued by someone that may not be a lawful commander. This personally affects me and could affect my loyalty to uphold the Constitution and orders from my chain of command.
4. I believe there is significant evidence or unanswered speculation that our President, Mr. Obama, is not eligible to have been elected to the Office of the President and serve as our Commander In Chief.
5. Reviewing FM 6-22 Army Leadership (especially most of chapter 2, para 4-73 thru 4-77) grounds me in my belief that I have a duty to submit this concern. I have agreed to live by the Army Values of LDRSHIP, and these values directly apply: *Loyalty- Bear true faith and allegiance to the U.S. Constitution, the Army, your unit, and other Soldiers; Selfless Service- Put the welfare of the Nation, the Army, and subordinates before your own. Integrity- Do what's right—legally and morally.* I also have agreed to expect the same from my Leaders.

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APR-24-2009 11:49

CONGRESSMAN ZACH WAMP

423 756 6613 P.05

6. I have not received formal guidance from supervisors, chain of command, nor military legal advisors as of yet. My request from these sources for guidance has been very recent and understandably they have not had quick answers or appropriate time to research the issue. I state this fact only as requesting leniency if there is some procedural error that I may need to correct, or the need to add, delete or change any supporting documentation. I believe that I am addressing this alleged wrong within 90 days of recognition of the wrong, or ask leniency for this requirement given the difficulties in defining definite dates of the initial wrong.
7. This complaint is unusual, and Article 138 guidance does not address how I may "forward the complaint to the office exercising court-martial jurisdiction over the officer against whom it is made." So I am addressing this through my chain of command. If this redress is not possible at your level, I would expect it to be passed to higher levels per the stipulations in AR 27-10.
8. As redress, I ask that the command provide me and all Soldiers under their command a written statement, suitable for publication and approval to be released to the public, that Mr. Obama is in fact validated to have met the Constitutional requirements to be eligible to run and hold the Office of the President, and Commander In Chief. I would like the Command to release this information to the Soldiers and for public release.
9. If the redress requested above is not possible, I would expect written, public releasable statement that it is being properly forwarded to higher chain of command or the reasons that it is not accepted and guidance on the proper means to officially address this issue.
10. I expect this complaint to be addressed without retribution. I would ask that my name and other identifying information not be released to any party without my express written consent unless this information is absolutely needed to proceed with the investigation of the complaint. Other than that, if there is other need for identifying information, I will consent to the release with appropriate counseling from my command and/or military legal counsel.
11. I have attached 3 supporting documents that I believe are open source or permission has been implied that they may be used for purposes similar to this request. I believe they provide a quick summary of concerns and provide links to other sources of information. I do not necessarily subscribe to all the information or views contained in them, only that they serve as a concise source of opinion and other references that may be explored. If any are deemed not admissible, I would ask for a few days allowance to obtain official permission or find other sources of information.
12. I apologize for the time and effort that this process could take from your other many tasks and duties, but it is an important issue for me to address and I think it affects all officers and Soldiers. I will continue to be the valued Soldier/Officer that I think I have been for the past 15 years. I do not seek any grandstanding or publicity for this action; I only feel that this is important enough to my Oath of Office and my loyalty to our Country and Constitution to address this.