



DEPARTMENT OF THE ARMY
OFFICE OF THE JUDGE ADVOCATE GENERAL
2200 ARMY PENTAGON
WASHINGTON, DC 20310-2200

DEC 11 2009

REPLY TO
ATTENTION OF:

Administrative Law Division

Lieutenant Colonel Terry L. Lakin
DiLorenzo TRICARE Health Clinic
5801 Army Pentagon
Washington, DC 20310

Dear Colonel Lakin:

This responds to your November 20, 2009, memorandum to General George Casey, Chief of Staff, U.S. Army, subject: Complaint of Wrongs Under Article 138 (AR 27-10). You complained that he "is following and promulgating invalid and/or illegal orders from a person that is not eligible to be Commander-in-Chief of our Armed Forces." Your memorandum was forwarded to this office for action because the Assistance Judge Advocate General for Military Law and Operations is responsible for taking final action on Article 138 complaints on behalf of the Secretary of the Army.

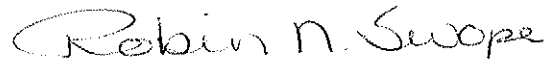
Your complaint is deficient and will not be processed under Article 138 and its implementing provisions in chapter 20 of AR 27-10, Military Justice, 16 November 2005. Article 138 permits Soldiers to complain of alleged wrongs committed by a commanding officer. However, as explained below, General Casey is neither your commanding officer nor did he commit any wrongs against you. Additionally, neither General Casey nor any other Department of Defense official is in a position to provide any redress for your complaint.

Army Regulation 27-10, paragraphs 20-4b and 20-4e define the terms "commanding officer" and "wrong," respectively. A "commanding officer" is "[a]n officer in the complainant's chain of command, up to and including the first officer exercising general court-martial jurisdiction over the complainant, authorized to impose nonjudicial punishment (Article 15, UCMJ) on the complainant." General Casey does not meet the definition of "commanding officer" because he is not a member of your chain of command and he does not have the authority to impose nonjudicial punishment on you.

The term "wrong" is defined as "a discretionary act or omission by a commanding officer . . . that adversely affects the complainant personally and that is in violation of law or regulation; beyond the legitimate authority of that commanding officer; arbitrary, capricious, or an abuse of discretion; or materially unfair." The wrongs you complain of relate to matters of law and not the discretionary acts or omissions of a commanding officer.

I trust this information is helpful to you.

Sincerely,

A handwritten signature in black ink that reads "Robin N. Swope". The signature is written in a cursive style with a large, looping initial "R".

Robin N. Swope
Colonel, US Army
Chief, Administrative Law Division