

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

IKNOOR SINGH,)
125-15 Metropolitan Ave.,)
Kew Gardens, NY 11415,)
)
Plaintiff,)

v.)

NO. 1:14-cv-1906

JOHN MCHUGH, in his official capacity as)
Secretary of the United States Army)
101 Army Pentagon)
Washington, DC 20310-0101;)

**LIEUTENANT GENERAL JAMES C.)
MCCONVILLE,** in his official capacity as)
Deputy Chief of Staff, G-1, United States Army)
300 Army Pentagon)
Washington, DC 20310-0300;)

BRIGADIER GENERAL PEGGY C. COMBS,)
in her official capacity as Commanding General,)
U.S. Army Cadet Command)
Building 1002)
1st Cavalry Regiment Road)
Fort Knox, KY 40121;)

**LIEUTENANT COLONEL DANIEL L.)
CEDERMAN,** in his official capacity as)
as Commander of the U.S. Army Reserve Officer)
Training Corps at Hofstra University,)
Hofstra University)
266 Physical Education Center)
Hempstead, NY 11549,)

Defendants.)

VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

INTRODUCTION

1. Plaintiff Iknor Singh is a sophomore at Hofstra University in Hempstead, New York, where Defendants operate an Army Reserve Officer Training Corps (“ROTC”) program. He is also a lifelong Sikh. As a practicing Sikh, Mr. Singh’s religious beliefs require him to maintain long hair and wear a turban and beard. Defendants have refused to allow Mr. Singh to enlist in ROTC unless he agrees to abandon these practices upon enrolling as a Cadet. Specifically, Defendants will not allow Mr. Singh to enlist in ROTC unless he agrees to follow all Army grooming and uniform regulations, which would require him to cut his hair, remove his turban, and shave off his beard.

2. When Mr. Singh asked for a religious exemption from these rules so that he may serve in ROTC without violating his faith, Defendants denied his request, despite approving similar religious and medical accommodations for other uniformed Army personnel in recent years. Mr. Singh is now left with an untenable choice: Enlist as an ROTC Cadet and abandon the sacred religious practices that he has followed his entire life, or forfeit his dreams of joining ROTC—along with the many benefits of enlistment in the program, which is the largest officer commissioning source in the military.

3. In denying Mr. Singh’s requested exemption, Defendants first claimed that permitting him to have long hair, a turban, and a beard would have an adverse impact on the Army’s readiness, unit cohesion, standards, health, safety, or discipline. Subsequently, Defendants changed tactics, claiming that they could not grant Mr. Singh’s requested accommodation because he must formally enlist as a Cadet before seeking an exemption, even though (1) they will not allow him to sign up for ROTC unless he agrees to comply immediately with the objectionable rules by shaving his beard, cutting his hair, and removing his turban, and

(2) they have admitted that Mr. Singh's accommodation request is unlikely to ever be granted even after he becomes a Cadet.

4. Defendants' refusal to grant Mr. Singh a religious accommodation infringes his rights under the Religious Freedom Restoration Act ("RFRA"), 42 U.S.C. § 2000bb *et seq.* Mr. Singh's exercise of religion is substantially burdened because Defendants' policy that he cut his hair, remove his turban, and shave off his beard to enlist in ROTC places substantial pressure on him to modify his behavior and to violate his religious beliefs. Further, Defendants' refusal to grant Mr. Singh a religious accommodation does not use the least restrictive means of furthering a compelling governmental interest. Their denial of the requested accommodation, and their demand that Mr. Singh first enlist in ROTC and violate his religious beliefs before seeking an exemption, are based on generalized and unsupported concerns. Moreover, these concerns are belied by a number of similar exemptions previously granted for medical and religious reasons as well as waivers from other Army policies that have been granted to prospective recruits.

5. Mr. Singh has no plain, speedy, or adequate remedy at law other than the relief requested in this Complaint. Defendants have made clear that, in order to enlist in ROTC, he will be required to violate his religious conscience by cutting his hair, shaving off his beard, and removing his turban. With his efforts to seek relief through non-litigation means stymied by Defendants, Mr. Singh has no choice but to file suit: Every week that he is denied entry to ROTC because of his religious beliefs and practices marks additional classroom, lab exercise, and physical training that he will miss; and every semester that he is effectively barred from participating in ROTC marks another missed field-training exercise. Moreover, under ROTC rules, Mr. Singh *must* be allowed to enlist by the end of his sophomore year or (absent an order from this court) be forever barred from joining the program at all.

6. Accordingly, Mr. Singh respectfully asks that this Court issue a preliminary injunction (1) enjoining Defendants from continuing their refusal to consider and act upon Plaintiff's request for a religious exemption until after he enlists, cuts his hair, shaves his beard, and abandons his turban; (2) requiring Defendants to make a decision on Plaintiff's requested religious accommodation within 14 days; and (3) requiring Defendants, should they deny the accommodation, to grant Plaintiff a temporary accommodation and provisional enlistment pending the final outcome of this case. Mr. Singh also seeks a permanent injunction ordering Defendants to permit him to join the ROTC unit at Hofstra University and to participate in all ROTC activities and lessons while wearing his long hair, beard, and turban. He also requests a declaratory judgment in his favor, attorneys' fees, and all other relief deemed appropriate by this Court.

JURISDICTION AND VENUE

7. This Court has jurisdiction pursuant to 28 U.S.C §§ 1331, 1343(a), and 1346(a) in that this Complaint arises under a federal statute, 42 U.S.C. § 2000bb *et seq.* Declaratory and injunctive relief are authorized by 28 U.S.C. §§ 2201 and 2202 and Fed. R. Civ. P. 57 and 65.

8. Venue is proper in the District of Columbia under 28 U.S.C. § 1391(e)(1)(A) because at least one Defendant resides in this District and under 28 U.S.C. § 1391(e)(1)(B) because a substantial part of the events or omissions giving rise to Plaintiff's claim occurred in this District.

PARTIES

9. Plaintiff Iknor Singh is a sophomore at Hofstra University. Mr. Singh speaks four languages (English, Punjabi, Hindi, and Urdu) and hopes to serve his country one day as a military intelligence officer. He is also a lifelong practicing Sikh who, in accordance with the

religious dictates of Sikhism, wears a beard and keeps his hair uncut and tucked neatly under a protective turban. Mr. Singh was born and raised in Queens, New York, and currently resides there.

10. Defendant John McHugh is sued in his official capacity as Secretary of the United States Army. Secretary McHugh has authority, direction, and control over the Department of the Army. *See* 10 U.S.C. § 3013(b). He is among those responsible for prohibiting Plaintiff from enlisting in ROTC and denying him a religious exemption from the Army's grooming and uniform regulations.

11. Lieutenant General James C. McConville is sued in his official capacity as Deputy Chief of Staff, G-1, of the United States Army. He is charged under Department of Defense Instruction ("DoDI") 1300.17(4)(f)(2)(A) (eff. Jan. 22, 2014) with making final determinations regarding applications for religious exemptions and accommodations. He is among those responsible for prohibiting Plaintiff from enlisting in ROTC and denying him a religious exemption from the Army's grooming and uniform regulations.

12. Brigadier General Peggy C. Combs is sued in her official capacity as commanding general, U.S. Army Cadet Command. On information and belief, she is charged with directing and overseeing the ROTC program at universities and colleges across the country, including at Hofstra University. She is among those responsible for prohibiting Plaintiff from enlisting in ROTC and denying him a religious exemption from the Army's grooming and uniform regulations.

13. Lieutenant Colonel Daniel L. Cederman is sued in his official capacity as commander of the ROTC program at Hofstra University. He is responsible for running and supervising the day-to-day operation of the ROTC program at Hofstra, including the

implementation of all Army rules, regulations, and decisions pertaining to enlistment in ROTC. He is among those responsible for prohibiting Plaintiff from enlisting in ROTC and denying him a religious exemption from the Army's grooming and uniform regulations.

ADDITIONAL FACTUAL ALLEGATIONS

Mr. Singh's Sikh Faith

14. Plaintiff, a sophomore at Hofstra University, has dreamed for years of serving his country as a military intelligence officer. At Hofstra, Mr. Singh majors in finance and intends to pursue a minor in business analytics. Except for the fact that his religious practices do not comply with Army grooming and uniform rules, he is fully qualified for enlistment in ROTC. Based on his academic background and his fluency in three languages (Punjabi, Hindi, and Urdu) designated by the Department of Defense as "critical skills" that are "vital to the national interest,"¹ Mr. Singh should be considered a strong candidate for ROTC and a highly valuable potential asset to the U.S. military.

15. Mr. Singh is a lifelong practicing Sikh. Dating back to 1699, Sikh religious practice instructs followers to maintain five articles of faith, which establish and strengthen their

¹ See Military Accessions Vital to National Interest Recruitment Pilot, <http://www.defense.gov/news/MAVNI-Fact-Sheet.pdf> (detailing recruitment program that recently authorized "the military services to recruit certain legal aliens whose skills are considered to be vital to the national interest," including experts in more than 40 languages such as Urdu, Punjabi, and Hindi) (last visited Nov. 5, 2014); Andrew Tilghman, *Military to allow undocumented immigrants to serve*, *Military Times*, Sept. 25, 2014, available at www.usatoday.com/story/news/nation/2014/09/25/policy-to-allow-undocumented-immigrants-in-military/16225135/ (expanding program to undocumented immigrants); see also Will Bardenwerper, *For Military, Slow Progress in Foreign Language Push*, *N.Y. Times*, Sept. 21, 2008, available at <http://www.nytimes.com/2008/09/22/washington/22language.html?fta=y> ("The military has made efforts to bolster the number of cadets and midshipmen enrolled in language programs at the service academies and R.O.T.C. programs so that they are already proficient in a foreign language when commissioned. Still, an average of 21 percent of Army, Navy and Air Force R.O.T.C. cadets complete two semesters of foreign language study. The Army reports that only 106 of its 24,000 R.O.T.C. cadets are majoring in a strategic language.").

devotion and commitment to God. Although all of the articles of faith are important, *Kesh* is one of the primary means through which most Sikhs, including Mr. Singh, practice their faith. *Kesh* is rooted in the belief that allowing hair to grow naturally is a sign of respect toward the perfection of God's creation. Thus, Mr. Singh does not cut his hair, keeping it long and tucked neatly under his turban. He also wears a short beard, which is well-kempt. Mr. Singh believes that, according to the *Rehat Maryada* (the Sikh code of conduct), he would be dishonoring and offending God by cutting his hair or shaving off his beard. Doing so would also undermine and weaken his connection to the Creator and to the Sikh religious community.

16. Mr. Singh's turban serves as a reminder of his relationship with God and a public declaration of his dedication to God. It protects his uncut hair and is the most prominent outward symbol of Sikh devotion. The turban signifies his humility and surrender to God's great and unknowable power. Like most Sikhs, Mr. Singh believes that the turban is an inseparable part of his Sikh religious identity and that exposing his "naked" head in public, as Defendants would require upon his enlistment, would be sacrilegious and shameful.

17. As a result of Defendants' refusal to accommodate Mr. Singh's religious exercise and their demand that he enlist and comply with all rules before seeking an exemption, Mr. Singh is under substantial pressure to abandon his religious practices and violate his religious beliefs so that he may become an ROTC Cadet.

The ROTC Program at Hofstra University

18. Hofstra students who enlist as cadets in the Army's on-campus program receive a number of benefits. "Since its inception, Army ROTC has provided leadership and military training at schools and universities across the country and has commissioned more than a half million Officers. It is the largest commissioning source in the American military." *Army ROTC*,

Go Army, <http://www.goarmy.com/rotc/legacy-and-value.html> (last visited Nov. 5, 2014). ROTC thus offers students a direct path into the Army's commissioned ranks: "The Hofstra Army Reserve Officer's Training Corps (ROTC) program qualifies students for appointment as an officer of the United States Army, Army Reserve or Army National Guard." *Military Science*, Hofstra Univ., <http://www.hofstra.edu/Academics/Colleges/HCLAS/MILSCI/index.html> (last visited Nov. 5, 2014). Specifically, enrolled Cadets graduate with the "Gold Bar of Army Second Lieutenant." *Id.*; see also *About the Army ROTC*, Hofstra Univ., http://www.hofstra.edu/Academics/Colleges/HCLAS/MILSCI/milsci_about.html ("Upon successful completion of ROTC, Cadets receive commissions as second lieutenants in one of the Army's specialized branches.") (last visited Nov. 5, 2014).

19. According to Hofstra's website, additional advantages of ROTC enrollment include, among others, "2, 3, and 4-year scholarships that cover full tuition and fees or room and board" for qualified Cadets; up to "\$1200 annually for books and expenses"; and a "\$300-\$500 per month tax-exempt spending allowance for contracted Cadets." *Id.* Moreover, during the lab portion of the curriculum, which may be attended only by enlisted Cadets, students "receive training on first aid, land navigation, tactics, marching, and marksmanship." *Id.* They also "participate in Physical Training (PT) three days a week in the morning," where they "learn how to conduct PT to the Army standard while increasing their flexibility, endurance, muscular strength, and aerobic capacity." *Id.* And "[i]n addition to the classroom and lab instruction and PT, Cadets participate in one Field Training Exercise (FTX) over a weekend per semester." *Id.* The FTX provides "more in-depth training on subjects covered in class and lab" and gives students the "opportunity to go to a rifle marksmanship range, rappel, and train with Cadets from neighboring schools." *Id.* In sum, as the Army's own literature proclaims, ROTC "provides

unrivalled leadership training for success in any career field.” Army ROTC, <http://www.goarmy.com/rotc/ways-to-attend.html> (last visited Nov. 5, 2014).

20. Defendants allow freshmen and sophomores who are not enlisted as ROTC Cadets to audit Hofstra’s military-science course. In an effort to limit the distance by which he has fallen behind in his military education and training, Mr. Singh has audited the course since his freshman year. However, juniors and seniors are not permitted to audit the class, and because he is prohibited from enlisting as a Cadet, Mr. Singh receives no credit for his studies. Moreover, he is ineligible for scholarship funds, spending allowances, PT, lab and FTX trainings, as well as an Army commission, among other ROTC benefits. As the former commander of Hofstra’s ROTC program explained to Mr. Singh via email: “[A]s an auditing student, you will not be issued uniforms or equipment, will not be attending PT or field training and finally, you will not participate in Labs . . . Auditing means that you are not fully enrolled in the program and will not be allowed to progress into or audit the advanced course classes.”

21. To participate in these activities and receive all ROTC benefits, Army rules require that students enlist as Cadets no later than the end of their sophomore academic year.² On information and belief, students are required to have at least two years of studies remaining to ensure that they complete the minimum training requirements necessary to become a second lieutenant before their graduation. Freshmen and sophomore recruits have the option of becoming “contracted” Cadets or “non-contracted” Cadets. Contracted cadets are eligible for scholarships. In order to continue in the program past their sophomore year, however, Cadets must contract with ROTC.

² See, e.g., *Academics, Military Science*, Hofstra Univ., http://www.hofstra.edu/Academics/Colleges/HCLAS/MILSCI/milsci_about.html (noting that, to be eligible for ROTC, candidates must be either freshmen or sophomores or “must be an undergraduate or graduate with two years remaining”) (last visited Nov. 5, 2014).

22. Once a student has enlisted as a contracted or non-contracted Cadet, he is required to comply immediately with all Army regulations and policies, including those governing grooming and uniforms. Under the grooming regulations, men's hair "must present a tapered appearance" and, when combed, may "not fall over the ears or eyebrows, or touch the collar, except for the closely cut hair at the back of the neck." A.R. 670-1 ch. 3-2(a)(2), *Wear & Appearance of Army Uniforms & Insignia* (Sept. 15, 2014) (describing acceptable male haircuts), *available at* http://www.apd.army.mil/pdffiles/r670_1.pdf. Further, "[m]ales will keep their face clean-shaven when in uniform, or in civilian clothes on duty." *Id.* ch. 3-2(a)(2)(b). And "[o]nly uniforms, accessories, and insignia prescribed in this regulation, or in the common table of allowance (CTA), or as approved by Headquarters, Department of the Army (HQDA), will be worn by personnel in the U.S. Army." *Id.* ch. 1-5(b). Failure to follow these rules "may result in adverse administrative action and/or charges under the provisions of the [Uniform Code of Military Justice]." *Id.* ch. 3-2 (noting that "[t]his paragraph is punitive with regard to Soldiers").

Mr. Singh's Initial Religious-Exemption Request

23. Mr. Singh intends to enlist as a contracted Cadet in Hofstra's ROTC program. However, defendants will not allow him to do so unless he agrees to comply with the grooming and uniform rules by removing the turban he currently wears every day, cutting his hair, and shaving his beard immediately upon enlistment. Mr. Singh, accordingly, decided to seek a religious exemption before formally enlisting as an ROTC Cadet. In April 2013, he attended an ROTC open house at Hofstra. He explained his situation and asked about an accommodation that would allow him to both participate in the program and follow his faith. Wil Massidas, the Enrollment Officer for Hofstra's ROTC program, told Mr. Singh that he would take the request

“up the chain.” On information and belief, Mr. Massidas is a retired Army Captain and contractor employed by the Army.

24. On May 9, 2013, Mr. Massidas informed Mr. Singh via email that he had consulted with a professor of military science and that “the answer is ROTC will not be able to accommodate your religious practice.” According to Mr. Massidas, although “[t]he Army, whenever possible, make[s] all attempts to accommodate religious practices and belief,” it will not do so when an accommodation “has an adverse impact on readiness, unit cohesion, standards, health, safety, or discipline.” He did not explain how permitting Mr. Singh to keep his articles of faith would negatively affect these considerations. He advised Mr. Singh to contact the ROTC Department Chair at the time, Lieutenant Colonel David Daniel, for “further clarification.”

25. In June 2013, UNITED SIKHS, a non-profit organization dedicated to advancing understanding and acceptance of Sikhism worldwide, sent a letter on Mr. Singh’s behalf to Lt. Col. Daniel explaining the importance of the articles of faith to Sikhism and noting that Sikhs serve in military capacities worldwide and have even been granted religious accommodations by the U.S. Army. The letter urged Lt. Col. Daniel to approve the religious exemption requested by Mr. Singh.

26. On August 16, 2013, Lt. Col. Daniel denied Mr. Singh’s request via email. Stating that he had sought “a Staff Judge Advocate General legal opinion on my decision regarding your request for religious accommodation to be fully enrolled in Senior ROTC,” Lt. Col. Daniel wrote:

Regrettably, the contracting of Cadets into the ROTC Program who cannot comply with the wear and appearance and personal grooming standards of Army Regulation (AR) 670-1 is not permitted under AR 145-1, and I nor U.S. Army Cadet Command (USACC) have the authority to grant exceptions to this policy for religious accommodations. . . .

Wearing a turban and keeping one's hari [sic] and/or beard unshorn does not comply with AR 670-1 and AR 600-20 . . . [R]eligious items and grooming practices that do not meet the standards of AR 670-1 will not be accommodated, and requests for accommodation will not be entertained.

Lt. Col. Daniel further warned Mr. Singh that “exceptions to this policy are extremely limited” and are generally granted “on a case-by-case basis by the Deputy Chief of Staff for the Army” only “where the Soldier possesses a specific skill that is vital to national security interests.”

27. In his denial, Lt. Col. Daniel also stated that “[ad]hering to a religion[,] the practices of which make it impossible for the Cadet to comply with AR 670-1 and 600-20[,] is a fact that will bar the commissioning of the Cadet,” explaining that “[i]t is not legally permissible under AR 145-1 to grant religious exceptions to allow a Sikh Cadet to enroll in the ROTC program while maintaining his religious articles.”

28. Lt. Col. Daniel suggested that Mr. Singh instead audit ROTC courses, even though he would not receive credit or be eligible for an ROTC commission or other benefits of ROTC by doing so, and even though students are prohibited from auditing ROTC courses after their sophomore year.

Mr. Singh's Appeal

29. After Mr. Singh received Lt. Col. Daniel's email notifying him that he would be unable to enlist as a Cadet, he asked how to appeal the decision. On November 4, 2013, Lt. Col. Daniel directed Mr. Singh to submit “[a] simple letter with [his] signature explaining what [he was] asking for – basically an exception to uniform policy that would allow [him] accommodation to wear [his] articles of faith while in uniform during training to become an Army officer.” He further instructed Mr. Singh that he should also provide “a brief statement why you want to [become] an Army officer and what you hope to do in the army (i.e. be an officer, a pilot, doctor, etc.)”

30. On November 11, 2013, Mr. Singh filed his appeal letter with Lt. Col. Daniel. In the letter, Mr. Singh revealed that his “passion to serve as an army officer arises from the pronounced and rich military history of the Sikhs” and from his studies in U.S. history and law, during which he learned “how our forefathers risked their lives to free themselves and citizens declared independence from tyranny.” He expressed his hope that he would one day join military intelligence. Pointing to several other Sikhs who have received accommodations to serve in the U.S. Army with their articles of faith intact, Mr. Singh stated his belief that he would be able to perform all of the duties of an ROTC Cadet while wearing unshorn hair, a beard, and a turban.

31. On January 22, 2014, new DoD regulations governing religious accommodations in the military took effect. *See generally* DoDI 1300.17(4)(e)(1). The regulations clarified that non-conforming grooming and appearance practices require a waiver from military policies and that “such practices are subject to consideration for accommodation when the request is based on religious beliefs.” *Id.* § 4(f)(1)(b). Under the revised regulations, waiver requests “will be forwarded to the Secretary of the . . . [Army] for decision,” and the Secretary “may delegate authority to resolve these requests no lower than” the Army’s Deputy Chief of Staff, G-1. *Id.* § 4(f)(2)(a). In making a determination, the Secretary or Deputy Chief of Staff must assess the accommodation request under RFRA’s strict-scrutiny legal standard, which is expressly incorporated into the new regulations. *Id.* § (4)(e)(1). The regulations further provide that “[f]inal review will take place within 30 days for cases arising within the United States.” *Id.* § (5)(b)(2).

32. However, Defendants did not elevate Mr. Singh’s appeal to the Secretary of the Army or the Deputy Chief of Staff, as required under the new regulations. Instead, in January

2014, Lt. Col. Daniel notified Mr. Singh that his accommodation request would be re-directed to the U.S. Army Cadet Command Judge Advocate General's Office.

33. In April 2014, Mr. Singh received a memorandum stating that his appeal had again been denied. In the memorandum dated February 28, 2014, Maj. Gen. Jefforey A. Smith ruled that "ROTC units should not permit a student to enroll (contracted or non-contract) unless the student is willing to comply with Army policies, including AR 670-1. This includes enrolling in any 'conditional' status." The memorandum further stated that "[s]tudents who are not enrolled as Cadets in the program may not apply for a religious accommodation" and that "[a]ny ROTC cadet who applies for a religious accommodation must comply with Army Policy unless and until the request is approved."

Mr. Singh's Renewed Request

34. Having exhausted all other options, UNITED SIKHS and the American Civil Liberties Union sent a final letter on Mr. Singh's behalf describing in detail how the Army's refusal to accommodate Mr. Singh violates RFRA. Dated August 5, 2014, the letter was sent to Defendant Lt. Gen. McConville, Maj. Gen. Smith, and Defendant Lt. Col. Cederman. The letter renewed Mr. Singh's request for an accommodation and notified the Army that Mr. Singh would consider filing a lawsuit if they did not reverse the decision. Because Mr. Singh's sophomore year was about to start, the letter asked for a response by August 20, 2014.

35. After receiving no response from Defendants, Mr. Singh's counsel contacted Defendant Lt. Col. Cederman via phone and email on September 3, 2014, to request an update. Cederman replied via email, stating, in part, "[a]s this request is now above the University level, I will have to refer you to the Department of the Army G-1 representative who is handing this case."

36. The same day, Plaintiff's counsel contacted the individual (Lieutenant Colonel Terence Walsh) identified by Lt. Col. Cederman. Lt. Col. Walsh is assigned to Defendant Lt. Gen. McConville's office. He claimed to have no knowledge of the matter and denied receiving Plaintiff's August 5, 2014, letter. Plaintiff's counsel immediately emailed him the letter and sent it via overnight UPS mail to his office. On September 9, 2014, Lt. Col. Walsh informed Plaintiff's counsel via email that he had received the letter and stated, "we will provide you with a written response via US mail." When asked whether he had a time frame he stated, "I do not."

37. Plaintiff's counsel again contacted Lt. Col. Walsh via email on October 8, 2014, noting that the promised written response had not been received. Lt. Col. Walsh's reply, the same day, stated only, "Your action is currently being reviewed by the Office of the Deputy Chief of Staff, G-1. You will receive a written response via U.S. mail."

38. Though DoD regulations require that final review of any religious accommodation request take place within 30 days, Mr. Singh did not receive the promised written response to his renewed accommodation request (dated August 5, 2014) until October 21, 2014. In a letter to Mr. Singh's counsel, Defendant McConville wrote:

I am unable to approve or deny a waiver of Army uniform and grooming policy for Mr. Singh because prospective cadets, applicants and enlistees are not subject to the Army's uniform and grooming policy and, as such, I am not in a position to grant or disapprove a waiver of a policy that does not apply to Mr. Singh. If Mr. Singh displays a willingness to comply with AR 670-1, he may be processed for enrollment in the ROTC program. Once enrolled, he can request a religious accommodation according to the procedure in AR 600-20.

39. In his letter, Defendant McConville affirmed that as soon as Mr. Singh formally enlists, he will be immediately required to comply with Army regulations by shaving his beard, cutting his hair, and removing his turban and that he must agree to do so in order to enlist: "In

accordance with Army policy, a cadet who submits a religious accommodation request must comply with the Army's uniform and grooming policy unless and until the request is approved."

Grooming and Uniform Accommodations in the Army

40. Defendants cannot offer the evidence required to meet their heavy burden of showing that their denial of Mr. Singh's exemption request and their demand that he enlist and comply with the objectionable regulations before applying for an accommodation are the least restrictive means of furthering a compelling governmental interest, as required under RFRA. Defendants have, for example, granted similar exemptions, without reported incident.

41. The Army already provides medical exemptions to rules requiring members to be clean-shaven. *See* A.R. 670-1 ch. 3-2(a)(2)(b), available at http://www.apd.army.mil/pdf/files/r670_1.pdf. It also provides exceptions for wigs and hairpieces to "cover natural baldness or physical disfiguration caused by accident or medical procedure." *Id.* ch. 3-2(a)(2)(c). Moreover, female service members are permitted to wear long hair that that "extends beyond the lower edge of the collar" provided that the hair is "neatly and inconspicuously fastened or pinned above the lower edge of the collar." *Id.* ch. 3-2(a)(3)(c). And Army Regulations expressly allow for certain types of religious headgear. *See* A.R. 600-20 ch. 5-6(h)(4)(g), available at http://www.apd.army.mil/pdf/files/r600_20.pdf.

42. In addition, the Army has granted a number of specific religious exemptions to its grooming and dress regulations, including, notably, for Sikhs. *See* Steve Elliot, *Sikh Soldiers Allowed to Serve, Retain Their Articles of Faith*, Army.Mil (Mar. 25, 2010), <http://www.army.mil/article/36339/sikh-soldiers-allowed-to-serve-retain-their-articles-of-faith/>.

43. Major Kamalejeet Singh Kalsi is an active-duty physician who has been granted a religious accommodation to serve with his articles of faith intact. *See* Letter from Maj. Gen.

Gina S. Farrisee, Acting Deputy Chief of Staff, Dep't of the Army, to Kamalejeet Kalsi, (Oct. 22, 2009), *available at* <http://www.sikhcoalition.org/documents/pdf/10-23-09%20Kalsi%20Accommodation%20Decision.pdf>. Maj. Kalsi maintains unshorn hair and a full-length beard. *See id.* He also wears a modified turban to ensure that it does not interfere with any military or emergency equipment—the same type of turban that Plaintiff would wear if he were granted an accommodation. *Id.* While remaining a devout Sikh, Major Kalsi was deployed to Afghanistan, where he successfully performed his duties and earned the Bronze Star Medal for resuscitating two injured soldiers. Leslie Scott, *Riverdale Thanks Local Soldier*, Warrior Medic Monthly: E-edition (Dec. 2011) at 5, static.dvidshub.net/media/pubs/pdf_9681.pdf.

44. Simranpreet Singh Lamba, a combat medic, also received religious accommodations to keep his articles of faith while serving. Marisa Petrich, *Sikh Soldier Answers Lifelong Calling to Serve*, Army.Mil (June 2, 2011), http://www.army.mil/article/58866/Sikh_Soldier_answers_lifelong_calling_to_serve/. He was recently promoted to the rank of corporal. *Rare Promotion for Sikh in US Army*, Sikh24.com (Oct. 10, 2013), <http://www.sikh24.com/2013/10/10/rare-promotion-for-sikh-in-us-army/>. And Captain Tejdeep Singh Rattan, another Sikh adherent, was granted an exemption from the Army's dress and grooming requirements as well. *Elliot, supra.*

45. Other Army personnel who serve with a beard include Rabbi Jacob Goldstein, a colonel in the Army Reserve Chaplain Corps and Army Chaplain and 1st Lieutenant Rabbi Menachem Stern. Corey Kilgannon, *Beard and All, a Rabbi Is Joining the Army*, N.Y. Times, (Dec. 7, 2011), http://cityroom.blogs.nytimes.com/2011/12/07/beard-and-all-a-rabbi-is-joining-the-army/?_php=true&_type=blogs&_r=0. When Rabbi Stern tried to enlist in the Army as a chaplain, officials told him he could not do so while retaining his beard. *Id.* After Stern sued,

the Army granted him a waiver in 2011 from the grooming requirements and then allowed him to enlist. *Id.*; see also *Stern v. Secretary of the Army* (D.D.C No. 1:10-cv-02077-JDB).³

46. In addition, on information and belief, on December 1, 2009, a Muslim officer who is an orthopedic surgeon was granted a religious exemption allowing him to grow and maintain a beard in accordance with his Muslim faith. And on information and belief, another Muslim officer, an anesthesiologist resident, was granted a similar accommodation on April 5, 2011.

47. Finally, in 2011, the Army authorized members of its Junior ROTC program, which operates at high schools across the country, to wear religious headgear such as hijabs and turbans. Kristin M. Hall, *Army: JROTC Cadets Can Wear Head Coverings*, *The Army Times*, (Dec. 22, 2011), <http://www.armytimes.com/article/20111222/NEWS/112220311/Army-JROTC-cadets-can-wear-head-coverings>.

48. There is no evidence that the existing exemptions and religious accommodations have harmed the Army's ability to carry out its mission. Nor is there evidence that granting Mr. Singh the same or a similar requested accommodation will cause any significant harm to the Army's ability to carry out its mission.

49. There is also no evidence that Defendants cannot grant Mr. Singh a religious accommodation waiver immediately before or at the time of enlistment. In addition to the pre-enlistment waiver granted to Rabbi Stern, on information and belief, the Army routinely grants morality waivers, medical waivers, and other types of waivers to prospective recruits who would

³ At least one other branch of the military has allowed a similar exemption. See Carol Kuruvilla, *Washington State Rabbi Becomes U.S. Air Force Chaplain With Beard Intact*, *Huffington Post*, (Sept. 11, 2014), http://www.huffingtonpost.com/2014/09/11/rabbi-beard-air-force-chaplain_n_5807518.html.

otherwise be ineligible for service. For example, ROTC regulations expressly allow potential recruits to seek a waiver from rules barring enlistment by students convicted of felonies and other crimes, such as sexually related offenses, larceny, or perjury. A.R. 145-1 ch. 3-3(e). And the Army has granted grooming waivers to prospective recruits with impermissible tattoos. In August, after “reviewing close-up photos of a hopeful recruit’s body signage,” Maj. Gen. Allen W. Batschelet, commanding general at the Army’s national recruiting headquarters, endorsed 45 requests submitted by prospective enlistees for waivers from the Army’s grooming regulations. *See Rick Montgomery, For Some Recruits, Army Eases Its Hard Line on Tattoos*, Kansas City Star, Aug. 14, 2014, *available at* www.kansascity.com/news/local/article1223722.html (noting that “the Army is encouraging recruiters to remind prospective soldiers how they can seek waivers on issues that technically disqualify people from enlisting”).

50. Mr. Singh seeks only the same or similar accommodations previously granted to other Sikhs and service members of other faiths. If granted, these accommodations will be implemented by Mr. Singh in a neat and conservative manner. They will not interfere with the safe and effective operation of military equipment or use of protective clothing, pose a health or safety hazard to him, or otherwise impair his ability to carry out his ROTC duties. But for Defendants’ refusal to grant him a religious exemption from Army grooming and uniform regulations, Mr. Singh would have already carried out his intent to enlist as a Cadet in Hofstra’s ROTC program. Upon confirmation that he will be granted an exemption and will be permitted to participate in ROTC with his beard, long hair, and turban, Mr. Singh intends to immediately enlist as a contracted Cadet. Unless this Court orders the Army to permit him to enroll with a religious exemption, he will not be allowed to enlist.

CLAIM FOR RELIEF

Violation of the Religious Freedom Restoration Act, 42 U.S.C. § 2000bb *et seq.*

51. Plaintiff incorporates all of the allegations contained in the previous paragraphs of this Complaint as though fully set forth herein.

52. Plaintiff has a sincere religious belief that he must wear long hair, a turban, and a beard. Defendants' policy prohibiting Mr. Singh from enlisting as a Cadet in ROTC and obtaining the many benefits of such participation, unless he first cuts his hair, shaves his beard, and abandons his turban, substantially burdens his religious exercise because it mandates conduct that is prohibited by his religious beliefs and substantially pressures him to modify his behavior in violation of his faith.

53. Likewise, requiring Plaintiff to enlist as a Cadet before he is permitted to request an accommodation also imposes a substantial burden on his religious exercise. Upon enlisting with ROTC, Mr. Singh would immediately be required either (1) to comply with the grooming and dress regulations, violating his faith "unless and until" an accommodation is granted, or (2) face disciplinary action. Thus, Defendants' policy of refusing to consider Mr. Singh's request for a religious exemption until after he enlists, cuts his hair, shaves his beard, and abandons his turban also mandates conduct that is prohibited by his religious beliefs and substantially pressures him to modify his behavior in violation of his faith.

54. Under RFRA, Defendants may not impose these substantial burdens on Plaintiff unless they can demonstrate that the applicable rules and regulations are the least restrictive means of furthering a compelling governmental interest.

55. Defendants' policies alleged herein do not further, and are not necessary to further, a compelling governmental interest vis-à-vis Plaintiff. There is no evidence that granting

the accommodations requested by Plaintiff would significantly harm the Defendants' asserted interests.

56. Even if Defendants' policies alleged herein did further a compelling interest vis-à-vis Plaintiff, they are not the least restrictive means of doing so, as is evinced by Defendants' practices of granting other similar accommodations as well as policy waivers to potential recruits.

57. Plaintiff is suffering, and will continue to suffer, irreparable harm because Defendants are violating fundamental religious-exercise rights protected by RFRA. He is, and will continue to be, irreparably harmed absent injunctive relief from this Court. The balance of harms suffered by the denial of a preliminary and/or permanent injunction weighs in Plaintiff's favor; and a preliminary and/or permanent injunction would be in the public interest in this case.

REQUEST FOR RELIEF

Plaintiff respectfully requests that this Court grant the following relief:

a. A declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202 finding that Defendants' refusal to grant Plaintiff a religious exemption to Army uniform and personal grooming standards violates RFRA as set forth herein;

b. A preliminary injunction pursuant to Fed. R. Civ. P. 65(a) (1) enjoining Defendants from refusing to consider and act upon Plaintiff's request for a religious exemption until after he enlists, cuts his hair, shaves his beard, and abandons his turban; (2) requiring Defendants to make a decision on Plaintiff's requested religious accommodation within 14 days; and (3) requiring Defendants, should they deny the accommodation, to grant Plaintiff a temporary accommodation and provisional enlistment pending the final outcome of this case.

c. A permanent injunction pursuant to Fed. R. Civ. P. 65 (1) enjoining Defendants from enforcing the Army's uniform and personal grooming standards against Mr. Singh insofar as they require him to cut his hair, shave his beard, and cease wearing his turban, to enlist and participate in ROTC, and (2) ordering Defendants to permit Mr. Singh to join the ROTC unit at Hofstra University and to participate in all ROTC activities and lessons while wearing his long hair, beard, and turban;

d. An order awarding Plaintiff reasonable costs and attorneys' fees, pursuant to 42 U.S.C. § 2412; and

e. Such other and further relief as this Court deems just and proper.

Respectfully submitted,

/s/ Daniel Mach

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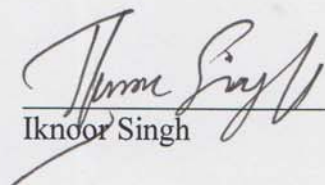
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November 12, 2014

VERIFICATION OF COMPLAINT

I, Iknoor Singh, declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information, and belief.


Iknoor Singh

Executed on November 5, 2014