



December 17, 2014

Via Certified Mail RRR

Colonel David G. Fivecoat
Commander
Airborne and Ranger Training Brigade
6850 Barron Ave, Building 85
Fort Benning, GA 31905

Re: Request for Religious Accommodation

Dear Colonel Fivecoat:

Chaplain (Captain) Joseph "Joe" Lawhorn retained the Liberty Institute to represent him in this matter. Accordingly, please direct all correspondence related to this request to Liberty Institute Senior Counsel, Michael Berry.

In accordance with Department of Defense (DOD) Instruction 1300.17, and Army Regulation (AR) 600-20, paragraph 5-6, this letter constitutes Chaplain Lawhorn's request for religious accommodation.

Pursuant to AR 165-1 and AR 600-63, Chaplain Lawhorn is an authorized suicide prevention instructor. Chaplain Lawhorn's sincerely held religious beliefs compel him to provide *both* religious and secular information pertaining to suicide prevention. The mantra of the military chaplain is to "bring God to soldiers, and soldiers to God." Chaplain Lawhorn is called and compelled to accomplish this in every aspect of his duties as an Army chaplain, particularly for suicide prevention training. His sincerely held religious beliefs demand that he cares for the spiritual well being of every soldier with whom he comes into contact. This is especially true of those soldiers who may be suffering from mental health issues, depression, or suicidal thoughts. Therefore, every time Chaplain Lawhorn conducts suicide prevention training—as he has done numerous times in his Army career—he is compelled by his faith to offer encouragement and hope from a Biblical perspective, and in accordance with Army regulations as outlined below. That is what he is trained to do by the Army, and by his endorsing church. Chaplain Lawhorn's sincerely held religious beliefs are such that he believes it is his religious duty to offer both religious and secular resources to his soldiers. Accordingly, Chaplain Lawhorn requests a religious accommodation to provide both religious and secular information when he conducts suicide prevention training.

Chaplain Lawhorn's request is consistent with DOD and Army regulations. DOD Instruction 1300.17 was revised in January 2014 to implement changes Congress directed under Section 533 of the FY2013 National Defense Authorization Act. DOD Instruction 1300.17, paragraph 4b provides "unless it could have an adverse impact on military readiness, unit cohesion, and good order and discipline, the Military Departments *will* accommodate individual expressions of sincerely held beliefs . . ." [emphasis added]. Paragraph 4d also states that "a Service member's expression of sincerely held beliefs may not be used as the basis of any adverse personnel action, discrimination, or denial of promotion, schooling, training, or assignment." And paragraph 4e(1) of the Instruction makes clear that "a Service member's exercise of religion may be denied only when the military policy, practice, or duty furthers a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest."

DOD Instruction 1300.17 is implemented in the Army via AR 600-20, which states the Army may not substantially burden a soldier's sincerely held beliefs. AR 600-20 also establishes Army Equal Opportunity (EO) policy. AR 600-20, Chapter 6, paragraph 6-2 states that Army EO policy is to "provide EO and fair treatment for military personnel . . . without regard to race, color, gender, religion, [and] national origin . . ." The 5th Ranger Training Battalion (RTB) sought the opinion of the Airborne and Ranger Training Brigade EO Advisor on this matter. The EO Advisor opined there is no Army EO policy that prohibits Chaplain Lawhorn's inclusion of religious and secular information during suicide prevention training.

Pursuant to existing DOD and Army regulations, you must grant Chaplain Lawhorn's request for religious accommodation. There is no compelling government interest that weighs against allowing him to express his sincerely held religious beliefs during suicide prevention training. In fact, Chaplain Lawhorn's request is consistent with and supported by Army regulations and training materials. For example, *Suicide Prevention*, A Resource Manual for the United States Army, states:

Chaplains can certainly speak from their own faith traditions . . .

Behavioral health providers need to openly advocate spirituality and religiosity as resiliency factors.

Emphasize the importance of spiritual health, connectivity with a faith community, and a relationship with God.

Emphasize the phrase "that you persevere, that you stay alive." This is from a Greek word "Hupomeno" which is used in Christian scriptures, particularly in the Pauline epistles. It is also used by James, the bishop of Jerusalem, as Jerusalem was in devastation and about to be destroyed. He wanted all Christians, despite the persecutions and violent times, to not lose hope, to keep on enduring. Encourage the audience to repeat this word and use it as a motto or mantra when in difficult times.

In addition to *Suicide Prevention*, AR 600-63, paragraph 1-26 directs chaplains to “share information, trends, best practices, lessons learned, and training developments” when conducting suicide prevention training. Likewise, chapters 2 and 3 of Department of the Army (DA) Pamphlet 600-24, Health Promotion, Risk Reduction, and Suicide Prevention, make clear that Army leaders are to include “spiritual fitness” as an integral component of Army suicide prevention training. And a recent presentation entitled “Suicide Prevention and Awareness Training for the United States Army,” prepared by the U.S. Army Center for Health Promotion and Preventive Medicine in conjunction with The American Association of Suicidology, states that “high spiritual resiliency” and “healthy spiritual/religious affiliation” are protective factors against suicide. In other words, the Army *requires* chaplains to incorporate spirituality and religiosity in suicide prevention training programs.

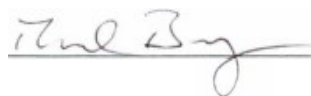
Finally, on October 2, 2014, Major General (MG) Rutherford, Army Chief of Chaplains, issued “A Message On Suicide Prevention” to the Chaplain Corps, (available at <http://christiannews.net/2014/11/16/satanists-seeking-to-distribute-satanic-coloring-books-results-in-school-board-banning-bibles/>). In his message, MG Rutherford urged Army chaplains to provide “ministry” and “pastoral care” to soldiers in order to reduce Army suicides.

In light of these regulations, policies, and directives, there is no prohibition against Chaplain Lawhorn’s inclusion of religious and secular information during suicide prevention training, and his request is entirely consistent with Army regulations and policies. Surely the Army’s interest in preventing suicides outweighs its interest in censoring a chaplain’s religious expression. Therefore, we respectfully ask that you grant this request for religious accommodation.

Denial of Chaplain Lawhorn’s request without a compelling governmental interest that is furthered by the least restrictive means would violate federal law—The Religious Freedom Restoration Act of 1993 (RFRA), 42 U.S.C. §§ 2000bb – 2000bb-4—and military regulations. Should you elect to deny Chaplain Lawhorn’s request, we will not hesitate to take necessary legal action to enforce his rights. Therefore, prior to taking any action, we respectfully request an in-person meeting with you to discuss this matter in detail.

Please let me know a time and place that is convenient for you to meet. We request the courtesy of a response by no later than December 19, 2015. I may be reached via e-mail at mberry@libertyinstitute.org, or directly at [972-941-4445](tel:972-941-4445).

Respectfully,



Michael Berry
LIBERTY INSTITUTE

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