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Air Force Quashes Timely Protections against Reprisal under Military Whistleblower Protection Act

477 days have passed since Edwards Air Force Base officer filed initial whistleblower reprisal complaint with IG

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The case of an officer whistleblower who has repeatedly complained about unlawful reprisal at Edwards Air Force Base (EAFB) is highlighting how the U.S. Department of the Air Force is failing to take the Military Whistleblower Protection Act (MWPA) seriously. In clear violation of the processing deadlines set forth by the MWPA and its implementing regulation, Department of Defense Directive (DODD) 7050.06, the Air Force has failed to swiftly conduct an investigation into Capt. Eva Aklamati-Darko's reprisal complaints. Instead of promptly resolving the case, the Air Force has allowed 477 days to pass (as of today) since Capt. Aklamati-Darko filed her first of two formal reprisal complaints. The total lack of any sense of urgency to complete the investigation month after month – compounded by the Air Force's refusal to reassign Capt. Aklamati-Darko from under the same commander(s) subject of her reprisal complaints – have unnecessarily exposed her to repeated, unmitigated, and continuing acts of reprisal, which are prohibited by Department of Defense regulation. Capt. Aklamati-Darko is a former commander for the Public Health Flight under the 412th Aerospace Medicine Squadron, 412th Medical Group at EAFB. She is a Ghana native who has served honorably in the military, both enlisted and as an officer, for 14 years. Ever since she initiated a protected communication on Oct. 20, 2011 with her

group commander about a racial remark made by her Squadron commander and the hostile work environment, her military career has suffered from a series of reprisals at the hand of her squadron and group commanders. On Dec. 13, 2012, she filed a formal Military Equal Opportunity (MEO) complaint alleging discrimination based on race, color and national origin. Between Jan. 9 and April 17, 2013, Capt. Aklamati-Darko filed three IG complaints. The first complaint alleged reprisal due to her making a protected communication with her group commander in the form of withholding her skill level upgrade. The second complaint alleged reprisal for removing her from command, the issuance of three letters of reprimand, and two referred Officer Performance Reports (OPRs). Compounding matters, her group commander has also refused to grant the captain reassignment, resulting in the ostracizing of a highly qualified officer into a position that neither furthers the benefit of her qualifications nor potential to the service. See below timeline.

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 One of the main problems in the Air Force failing to expeditiously process Capt. Aklamati-Darko's reprisal complaints has been the lack of continuity of Inspector general (IG) investigators working on the case and the unreasonable paper shuffling from one Air Force IG's office to the next. As of today's date, the investigation has not even made it to the Department of Defense Office of the Inspector General (DOD/IG) for review as required by law. Capt. Aklamati-Darko's case began with the EAFB/IG. It was later referred to the Air Force Materiel Command (AFMC) IG at Wright-Patterson Air Force Base, Ohio, so an IG investigator from outside the local command could continue with the investigation and provide a neutral and unbiased investigation. After Capt. Aklamati-Darko filed her reprisal complaints, the EAFB/IG, a ranking officer on the same installation, scolded her and tried to convince her to withdraw her formal complaint, indicating that it would not be conducive to her career to proceed with a formal complaint which would require review at higher echelons. That prompted her third complaint. Capt. Aklamati-Darko's reprisal investigation underwent legal review at AFMC/IG, and on Dec 2, 2013 the case was sent to the Secretary of the Air Force (SAF) IG. From Dec. 2, 2013 through the present, Capt. Aklamati-Darko's investigation has

stagnated at the SAF level, without any discernible movement other than the explanation offered several weeks ago that the investigation has been under legal review, but that no date could yet be identified for completion. Moreover, the SAF/IG has also apparently given short shrift to multiple congressional inquiries through Sens. Barbara Boxer and Dianne Feinstein. "It is already apparent to many would-be military whistleblowers that they will not get meaningful relief if they raise substantive reprisal allegations through appropriate IG channels. Capt. Aklamati-Darko's case is another example of a service member seeing no true sense of urgency by the service IG whose very existence is to ensure that her reprisal complaints are brought to a swift and fair resolution," said Capt. Aklamati-Darko's attorney, Tully Rinckey PLLC Senior Associate Chad M. McFarland. A report of the investigation has not been provided to the DOD/IG, which is the office of final review for all formal reprisal cases. Under the Department of Defense Directive 7050.06, SAF/IG must provide DOD/IG with a report of the investigation "within 180 days of receiving the allegation of reprisal from the member

... If the Military Department IG makes a determination that the report cannot be issued within 180 days, notify the IG DoD... and the member... of the reason(s) for the delay and when the report will be issued

"Capt. Aklamati-Darko's complaint to the Military Equal Opportunity Office and with her group commander are considered "protected communications," thus giving her protection under the Military Whistleblower Protection Act. Further, raising allegations of command abuse of authority qualifies her as a "whistleblower," and affords her the MWPA's protection against retaliation from her commanders. Unfortunately, delay upon delay have shown this member that the Air Force IG system is unreliable by flagrantly disregarding the processing deadlines mandated by the MWPA. Consequently, 477 days

have passed since Capt. Aklamati-Darko filed her initial reprisal complaint with her local IG on Jan. 9, 2013. "What message does this send to military personnel thinking about blowing the whistle? The Department of Defense clearly has directed that the military needs whistleblowers to help rout abuses of authority and other wrongdoing within its ranks.

Unreasonable delays in completing investigations and the lack of the command granting even simple corrective relief such as temporary reassignment to a unit other than a commander who is the subject of unlawful reprisal, only serves to discourage members from what they already fear: coming forward and blowing the whistle. Unfortunately, that is exactly what is happening in this case," Mr. McFarland said. To speak to Chad M. McFarland, or for more information, please contact James Schlett at (518) 218-7100 or at jschlett@1888law4life.com

A high-resolution version of the above timeline can be provided upon request

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