

31 October 2011

MEMORANDUM FOR RECORD

FROM: Major Richard L. Rynearson

SUBJECT: Supporting Documentation for AF 780

1. I have been ordered to use lethal force against certain persons, in certain circumstances, in clear violation of the Fifth Amendment to the U.S. Constitution. I cannot with good conscience perform the actions that are ordered of me. I have no choice but to tender my resignation.

2. I am not a conscientious objector. I have vigorously terminated many of our enemies. I have been shot at and I have saved American lives. I have done things in combat I personally considered to be immoral, but I did them without hesitation, as I understood them to be legal. War is not pretty, but what I am being ordered to do now, in a classified setting, is so clearly illegal, that I believe the words of Judge Quinn are appropriate: "Whether Lieutenant Calley was the most ignorant person in the United States Army in Vietnam, or the most intelligent, he must be presumed to know that he could not kill the people involved here." In my view, the illegality of the acts I am ordered to do, eclipses even those of Lt Calley. While I may be the only person to resign over these actions, there are numerous others who also consider them to be unlawful.

3. This is essentially a legal question, and it has not been argued on its merits in court. No proper authority has ruled on the legality of the order. I am no lawyer. Nonetheless, I am bound to the Constitution and not to any of the multitude of differing non-judicial lawyerly opinions on what it says or means. As former Chief Justice Joseph Story states in his *Commentaries on the Constitution*, "The officers of each of these departments are equally bound by their oaths of office to support the constitution of the United States, and are therefore conscientiously bound to abstain from all acts, which are inconsistent with it. Whenever, therefore, they are required to act in a case, not hitherto settled by any proper authority, these functionaries must, in the first instance, decide, each for himself, whether, consistently with the constitution, the act can be done." I am equally bound by my oath and I have determined that these acts cannot be done.

4. I volunteered for my current assignment. Even today it remains my first choice. I have attempted to make arrangements to allow me to continue to provide vitally needed airpower without conducting unlawful operations. Arrangements were made and worked well for several months, but were later undone, leaving me with a legal and moral dilemma that continues to torment my conscience. I therefore have no option but to resign and request separation as soon as possible.

5. My release is in the financial interest of the Air Force. The service has significant manning concerns and is separating a great many officers who wish to stay and serve. The loss of my potential retirement benefits, after more than fifteen years of service, is the service's financial gain. It is with tremendous and sincere sadness that I ask the Air Force to please accept my resignation.

Sincerely


RICHARD L. RYNEARSON, Major, USAF

OFFICER SEPARATION ACTIONS

(For officers and/or MPFs, follow instructions on reverse and use continuation block #22 for additional information)

Privacy Act Statement

AUTHORITY: 10 U.S.C. 3013, Secretary of the Air Force; E.O. 9397.

PRINCIPAL PURPOSES: To provide processing activities and approval authority information to determine if applicant meets all requirements.

ROUTINE USES: None.

DISCLOSURE IS VOLUNTARY: If information is not provided, no further action can be taken and all further processing of this application is terminated.

TO (Unit Commander or Comparable Level Commander)

THRU (Separation Section)

Lt Col

I. COMPLETED BY THE OFFICER APPLYING FOR SEPARATION AND/OR MPF

1. NAME (Last, First, Middle Initial)

Ryncarson, Richard, L

2. GRADE

O-4

3. SSN

4. ACTION REQUESTED: (See reverse for filing instructions)

a. I request a separation under AFI 36-3207, paragraph: 2.4.17

to be effective on: 20120501

☒ (1) I hereby tender my resignation

☐ (3) I request that I be given a USAF Reserve Commission

☐ (2) I agree to accept a USAF Reserve Commission

☒ (4) I request release from active duty

b. I request an earlier DOS to be effective on:

instead of previously requested/approved

DOS:

c. I request a later DOS to be effective on:

instead of previously requested

DOS (not final)

d. I request a later DOS to be effective on:

instead of previously approved:

DOS, based on:

☐ Pregnancy/dependent medical care (documentation attached).

☐ Hardship (documentation attached). Extension will not exceed 90 days.

☐ Mission-essential reasons or unique/extenuating circumstances (documentation attached). Extension will not exceed 90 days.

e. I request withdrawal or my requested/approved DOS (documentation attached).

5. REASON FOR ACTION REQUESTED:

See attached documentation

SUPPORTING DOCUMENTATION

☒ is attached.

☐ is not attached.

6. I PLAN TO TAKE TERMINAL LEAVE

YES

☐ Starting on/about:

NO

7. I AM ACCOUNTABLE/RESPONSIBLE FOR PUBLIC PROPERTY/FUNDS: YES

☐ NO

☒

8. DATE

20111031

9. SIGNATURE (When signed, officer must turn in this application to MPF within 10 calendar days)

Richard L. Ryncarson III

II. MPF COORDINATION

10. THE FOLLOWING INFORMATION HAS BEEN VERIFIED

ADSCDs ARE/SHOULD BE (verified with UPRG Source)

OFFICER HAS BEEN NOMINATED/SELECTED FOR PCS/TRNG/EDUC COURSE

YES

☐ NO

OFFICE SYMBOL

NAME, GRADE, POSITION TITLE, PHONE (DSN)

MPF COORDINATOR'S SIGNATURE

III. COUNSELING BY IMMEDIATE SUPERVISOR/COMMANDER--Required for all separations

I have counseled the officer regarding the timing of his or her separation, the reasons for separation, the benefits of an Air Force career, and the opportunities to participate with the Air National Guard or Air Force Reserve

Applicant's Initials

Counseling Date

11. DATE

12. IMMEDIATE SUPERVISOR/COMMANDER'S NAME, GRADE, UNIT, PHONE (DSN)

13. SUPERVISOR/COMMANDER'S SIGNATURE

14. OFFICER

is

☐ is not

☐ excess to local base requirements.

is

☐ is not

☐ under investigation or charges.

is

☐ is not

☐ undergoing involuntary discharge action or punitive action under the Manual for Courts-Martial or medical disability

There has

☐ There has not

☐ been a report of recent misconduct on this officer.

15. DATE

16. IMMEDIATE COMMANDER'S NAME, GRADE, UNIT, PHONE (DSN)

17. IMMEDIATE COMMANDER'S SIGNATURE

IV. WING OR EQUIVALENT COMMANDER'S RECOMMENDATION/ENDORSEMENT

APPROVE (Attach optional comments)

DISAPPROVE (Attach reasons for recommendation)

18. DATE

19. COMMANDER'S NAME, GRADE, UNIT, PHONE (DSN)

20. COMMANDER'S SIGNATURE

V. MPF SYSTEM UPDATE

21. CLEARED FOR INPUT TO PDS: YES

☐ NO

DATE UPDATED:

AF IMT 780, 20010401, V1

PREVIOUS EDITIONS ARE OBSOLETE

31 October 2011

MEMORANDUM FOR LT COL

FROM: Major Richard L. Rynearson

SUBJECT: Response to Letter of Reprimand (LOR)

1. I offer the following statement in response to the reprimand you gave me five days ago. I ask that you consider this response before making final determination on the disposition of this document and that it be filed with the original LOR and all copies made IAW Air Force Instructions.
2. I whole-heartedly agree with your assertion that I have no authority to decide unilaterally whether or not to obey a lawful order. I further agree with you that as a field grade officer, I have the duty, both legal and moral, to execute the lawful orders given to me by superior officers.
3. I disagree, however, with your assertion that I refused to obey a lawful order. As I have indicated in previous discussions, I maintain that the specific portion of the order is not lawful. As such, I cannot obey it as I have a duty to not obey any order which is unlawful. I understand that I make this decision at my own peril if the order is determined by a competent authority to be lawful; however, I maintain my innocence in this matter. Additionally, I have not been provided any documentation or evidence by any individual to dispute my position on this matter.
4. Previously, I was allowed to fly the majority of lawful missions, which do not engage in what I deem illegal activity. Unfortunately, you have removed this arrangement. As a result, I am now placed in a position to be regularly tasked with unlawful conduct, despite making it clear that I hold those actions to be unlawful and that I cannot comply.
5. Because of the position I have been placed in, I am forced to tender my resignation. I will be providing you with an AF Form 780 in an attempt to address this matter. After eighteen years as an Air Force dependent and more than fifteen years as an Air Force officer, it saddens me greatly that there is no resolution to this situation short of my resignation. I have determined, however, that it is the only solution that I can offer you to satisfy both of our concerns.

Sincerely


RICHARD L. RYNEARSON, Maj, USAF



DEPARTMENT OF THE AIR FORCE
WASHINGTON DC

OFFICE OF THE SECRETARY

09/27/2012

MEMORANDUM FOR AFCAF/PSA

FROM: AFCAF/PSAC

SUBJECT: Adjudicative Review re: RYNEARSON, Richard L, Maj,

1. Review of a Security Information File (SIF) dated 14 November 2011 disclosed that Subject was issued a Letter of Reprimand (LOR) on 26 October 2011 for failure to obey a lawful order in violation of Article 92, Uniform Code of Military Justice. According to the LOR, Subject was given a written order on 23 September 2011 to fly in support of a classified objective. Subject acknowledged the order on 24 September and provided a written response that stated he refused to comply with the order and he would not fly or command and control lines with this particular objective. Paragraph 3 of the LOR cautioned Subject that recurrence of this type behavior could jeopardize his career.

2. In response to the 26 October 2011 LOR, Subject provided a response dated 31 October 2011. Subject stated that he whole-heartedly agreed with the commander in that he had no authority to decide unilaterally whether or not to obey a lawful order and that as a field grade officer, he had the legal and moral duty to execute the lawful orders given by superior officers. Subject disagreed with the assertion that he refused to obey a lawful order as he maintained that a specific portion of the order was not lawful and that he had a duty not to obey any order which is not lawful. Subject further stated he had not been provided any documentation or evidence to dispute his position. He acknowledged his decision could be at his own peril if determined by a competent authority to be lawful. He stated he was previously allowed to fly the majority of the lawful missions, which did not engage in what he deemed to be illegal activity but that this arrangement had been removed. Because of that, Subject stated he was placed a position that forced him to tender his resignation and that he would be providing AF 780.

3. SIF documents included an AF 780 signed by Subject on 31 October 2011 requesting separation under AFI 36-3207 paragraph 2.4.17 with an effective date of 1 May 2012. A Memo for Record (MFR) from Subject dated 31 October 2012 (Supporting Documentation for AF 780) in which Subject stated he is not a conscientious objector but, he could not in good conscience perform the actions that he was ordered "in clear violation of the Fifth Amendment to the U.S. Constitution." Subject provided significant detail regarding the reason for his refusal but ultimately determined he chose resignation over obeying the order given.

4. On 1 November 2011, the commander established an Unfavorable Information File (UIF) on Subject and on 14 November 2011, Subject was notified of the establishment of a SIF as well as suspension of access to all classified material. In his 16 November 2011 response to the SIF Subject continued to assert the order given to him was unlawful and that as of that date, no judicial authority had ruled on the lawfulness of the order.

5. Also included with the SIF documents was pages from UIFs that referenced the following incidents:

a. 1 September 2009, Subject denied posting any materials of interest to the Air Force Times which he knew to be deceptive and false; and 7 September 2009, Subject was cited for unwillingness to cooperate and aggressive behavior toward police during a routine traffic stop. After his arrest he boastgully taunted the police with threatening statements. Subject received an LOR on 27 October 2009 for both incidents. He was reprimanded for his post-arrest boastful statements to the police officer that were unprofessional and unbecoming for an officer. He was also reprimanded for denying, when asked by Public Affairs, if he had posted material that may be of interest to the Air Force Times but, after repeated inquiries did admit there "may be" information on the internet.

(1) In Subject's 4 November 2009 response, he claimed both charges were unequivocally false. Subject stated he did discuss the officer's violation of Subject's Fourth Amendment but, not until after the officer provided an unlawful reason for his stop (out-of-state tags). Subject stated he did tell the officer that he had deployed with the military several times, been shot at, killed many people and watched far better men die to protect the Constitution he just trampled on. He denied being aggressive or threatening in any way.

(2) Subject states when asked by Public Affairs (PA) if he had any writings the Air Force Times could potentially have access to, he mentioned his "blog" and provided the URL. He indicates he had two in-person meetings, one phone call and exchanged several emails with PA. He references a 5 October memo from PA given to the commander as well as the email chain revealing his blog to the Air Force Times and states they are attached and should be filed with his response to the LOR. However, neither the memo nor the email chain was found in the SIF documents. Subject further noted in his response that he was not aware of any problem with PA until he received the LOR. He expressed his concern the the LOR may be retaliation from concerns with policies and procedures within AETC that he had raised to the general officer level and for his petition to redress an academic freedom violation when his academically-protected opinions critical of a particular weapons system community and its hold within AETC leadership were illegally disseminated throughout AETC and his chain of command.

b. 12 March 2010, Subject lost his temper over a controller's decision to send him around and engaged in an argument within earshot of student pilots and other instructors after landing. Subject received a Letter of Counseling (LOC). The attached LOC dated 17 March 2010 counseled Subject on his behavior contrary to good order and discipline. Subject's 18 March 2010 response admitted his professionalism lapsed and he apologized for his actions.

6. Review of Subject's SSBI-PR dated 03/08/2012 disclosed:

a. Subject received letters of counseling or reprimand on approximately four occasions from 01/1998 to 10/2011. The one from January 1998 was for an arrest for Public Intoxication that was dismissed. The others are outlined above in the SIF review. Subject freely discussed each incident in detail.

b. Eight of ten references to include Subject's spouse were all favorable: One supervisor who established the SIF in 11/2011 following the LOR for Failure to Obey an Order did not recommend. The supervisor cited Subject's failure to obey the legal order; the fact that Subject actively engages in

"blogs" on the internet that while the supervisor has never accessed, he is concerned that Subject might be expressing very critical opinions which might affect younger members of the squadron; and that Subject's spouse is a civilian attorney/prior AF reservist in a legal position to whom Subject might pass on information, to include classified information, in order to get her legal opinion. One other reference had no reason not to recommend and indicated Subject has a good work ethic; holds very strong views and opinions which he readily expresses; particularly strong views about the constitution and how it should be interpreted; and that his particular views could be in conflict with how subject reacts to military orders.

c. Court records from U.S. Western District Court, in San Antonio, TX reflect a civil rights suit file by Subject against San Antonio Police Department Officer Edwin Richter. The action was pending at the time the PSI closed but was set for jury trial on 24 September 2012.

d. No criminal records were found in law enforcement checks.

7. On the surface, it would appear that receipt of multiple letters of counseling and reprimands would indicate questionable judgment and an unwillingness to comply with rules and regulations. However, when each incident is reviewed on it's own merit, it would appear Subject is fully aware of the U.S. Constitution and has openly challenged what he perceives to be a violation of either his own rights or those of other American citizens. Both of the criminal arrests that led to LORs were dismissed and one resulted in Subject's current civil suit against the police officer. The LOC was acknowledged by Subject and he accepted full responsibility for his actions. The most recent LOR for failing to obey a lawful order is the most significant of all given the nature of the circumstances. However, it is noted in both the SIF documents and the PSI, that Subject had previously objected to the particular activity and was previously assigned to other duties because of his objection. The SIF documents included some information that was classified and was reviewed for its relevance to this adjudication. Those documents give a better understanding of the gravity of the operation and provide insight to the reason Subject disobeyed the order.

8. The AFCAF makes a security clearance eligibility determination based on facts and circumstances that are weighed against the disqualifying and mitigating conditions outlined in the DoD 5200.2-R, Adjudicative Guidelines. It is not in the scope of duty for an adjudicator to determine whether or not an order was or was not legal and security clearance eligibility determinations are not a means of disciplinary action. It is the opinion of this adjudicator that Subject's objections to what he believes are violations of the U.S. Constitution, as reflected in the documents associated with the SIF and PSI, do not represent a security concern. The fact that subject was not criminally charged for his failure to obey an order nor was he punished under the Uniform Code of Military Justice, leads me to believe that his failure to obey this particular order and challenging it's validity did not risk national security and resulted only in a reprimand.

(b)(6),(b)(7)(C)

Operations Division
Air Force Central Adjudication Facility