

# YOUNTS LAW



## THE MILITARY COUNSEL

24 June 2025

MEMORANDUM FOR Lieutenant Colonel

, 6th Airlift

FROM: Captain Forrest Doss, Through Counsel R. Davis Younts, Esquire

SUBJECT: Response to Letter of Counseling for Captain Forrest P. Doss, Dated 17 June 2025

1. **BLUF.** The LOC should be withdrawn. It is legally insufficient because it is overly vague and contradicts the findings and recommendations of a properly conducted CDI. As issued the LOC does not identify or specify what statements were inappropriate and creates a strong inference that Captain Doss is being targeted for persecution because of his religious faith.
2. **Purpose.** This memorandum responds on behalf of my client, Captain Forrest P. Doss, to the Letter of Counseling (LOC) issued on 17 June 2025. The LOC alleges that Captain Doss made inappropriate and unprofessional comments during missions in June 2024 and January 2025, creating a hostile work environment. The LOC is fatally flawed due to its impermissibly vague language, violating administrative due process under Department of the Air Force Instruction (DAFI) 36-2907 by failing to specify the alleged statements, their context, or any standard violated, including the criteria for a hostile work environment under Air Force policy. The investigative process was weaponized to target Captain Doss's sincerely held religious beliefs, contravening Department of Defense (DoD) policy, Secretary Hegseth's memorandum on balanced accountability, and President Trump's Executive Order on eradicating anti-Christian bias. Furthermore, Captain Doss's exemplary character undermines the

allegations. We request that the LOC be withdrawn.

3. **Factual Background.** Captain Forrest P. Doss is a highly dedicated officer assigned to the 6th Airlift Squadron (6 AS), Joint Base McGuire-Dix-Lakehurst, NJ, serving as an Instructor Pilot and Assistant Flight Commander, Readiness. A devout Catholic, Captain Doss is deeply committed to his faith, which is well-known and generally admired by peers (Response to IO, para. 1). His devotion has led him to explore becoming a Chaplain, though it has never conflicted with his duties (Response to IO, para. 1). He frequently engages in theological discussions when prompted by crewmembers, reflecting his obligation to “give an explanation to anyone who asks” per his faith (1 Peter 3:15; Response to IO, para. 2g). Captain Doss’s exemplary service is evidenced by his awards and decorations, which reflect his professionalism and contributions to mission success, and his leadership in high-stakes missions, such as delivering equipment for POTUS in AFRICOM ( Letter, para. 2). His professionalism is further demonstrated by his ability to foster a safe learning environment, transforming a novice copilot’s performance during a 21-day mission ( Letter, para. 3).

a. A Commander Directed Investigation (CDI), conducted by from 24 February to 21 March 2025, investigated two allegations against Captain Doss: (1) contemptuous words against the President under Article 88, UCMJ, and (2) conduct unbecoming an officer under Article 133, UCMJ, for alleged inappropriate comments regarding religion, women, or sexual orientation (CDI Report, Tabs B, D). The CDI examined testimonies from eleven witnesses and evidence, including crew lists and mission paperwork (Tabs F, G). Both allegations were not

substantiated due to insufficient evidence to meet the preponderance standard (Tab D, pp. 11, 19).

b. The CDI found that Captain Doss's conversations, primarily about his Catholic faith, were often initiated by crewmembers' questions and were academic in nature (Tab D, pp. 10, 12, 17-18). For example, during a June 2024 mission, discussions about papal infallibility and Church teachings arose from crew inquiries about his breviary (Response to IO, para. 2g). In January 2025, a conversation about President Biden's Catholic faith was prompted by Senior Airman leading Captain Doss to clarify the ecclesiastical term "Catholic in good standing" (Response to IO, para. 2e). The investigation noted Captain Doss's reputation as a devout Catholic who uses theological language, which may be misunderstood by those unfamiliar with Catholic terminology (Tab D, p. 10). Specific allegations, such as comments about President Biden's faith or derogatory remarks about women or sexual orientation, were either uncorroborated or deemed protected expressions of sincerely held beliefs under DoDI 1300.17 (Tab D, pp. 11, 18-19). The CDI concluded that Captain Doss's conduct did not compromise his standing as an officer or dishonor the military profession (Tab D, p. 19).

c. Despite the CDI's clear findings, the LOC vaguely asserts that Captain Doss made "inappropriate and unprofessional comments" during critical phases of aircraft operation, creating a hostile work environment (LOC, para. 1). This assertion is wholly deficient, failing to identify the specific statements, their context, the recipients, or any standard or regulation allegedly violated, including the criteria for a hostile work environment under DoDI 1350.02 and AFI 36-2710, which require severe or pervasive conduct based on protected characteristics. DAFI 36-2907, para. 2.4.2, mandates that adverse actions like LOCs provide detailed information about the misconduct to ensure

due process, yet the LOC offers no such clarity. It does not specify what was said, when, to whom, or why the alleged comments were wrongful, making it impossible for Captain Doss to respond meaningfully. This lack of specificity starkly contrasts with the CDI's thorough documentation and conclusion that no UCMJ violations or mission loss occurred (Tab D, pp. 11, 19). The LOC's vagueness not only undermines its legitimacy but also suggests an attempt to penalize Captain Doss without evidence, particularly given the CDI's findings. The initiation of the CDI by complainants, particularly Technical Sergeant [REDACTED], who was on both missions and noted for strong opinions and boundary-pushing behavior (Tab F-11; Response to IO, para. 2d), further indicates that the investigation process may have been weaponized to target Captain Doss due to his faith.

d. Character letters from colleagues, superiors, and community members strongly affirm Captain Doss's character. Lieutenant General (Ret.) [REDACTED], with extensive command experience, attests to Doss's patriotism, respect for leadership, and articulate expression of faith, noting that interphone banter is common, and context is often lost ([REDACTED] Letter, paras. 3-6). Senior Airman [REDACTED] praises Doss's leadership and positive demeanor, trusting him with his life ([REDACTED] Letter, paras. 3-4). Chaplain Lieutenant Colonel [REDACTED] highlights Doss's integrity and spiritual resilience, never witnessing uncharitable remarks ([REDACTED] Letter, paras. 2-3). Major [REDACTED] describes Doss as diligent and respectful, emphasizing his adherence to Catholic doctrines ([REDACTED] Letter, para. 3). Father [REDACTED], SJ, asserts that the allegations are contrary to Doss's character, suggesting malice ([REDACTED] Letter, para. 4). Ms. [REDACTED], a Unit Deployment Manager, commends Doss's professionalism and compassion, noting his support for coworkers ([REDACTED] Letter, paras. 2-3).

### **3. Relevant Legal Standards.**

a. DAFI 36-2907, Adverse Administrative Actions DAFI 36-2907 requires that adverse administrative actions, including LOCs, be supported by a preponderance of the evidence (para. 2.3.1). LOCs must provide specific details about the misconduct, including nature, dates, and circumstances, to afford due process and allow a meaningful response (para. 2.4.2). Vague allegations violate administrative due process by failing to provide adequate notice, as established in federal cases such as *Goldberg v. Kelly*, 397 U.S. 254, 267-68 (1970), which mandates clear notice of charges in administrative proceedings to ensure a fair opportunity to respond, and *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950), which requires notice sufficient to enable a defense.

b. DoDI 1300.17, Religious Liberty in the Military Services DoDI 1300.17 protects service members' expressions of sincerely held religious beliefs unless they adversely impact military readiness, unit cohesion, good order, discipline, or health and safety (para. 1.2.b). Adverse personnel actions based on such expressions are prohibited unless justified by a compelling operational need.

c. Secretary Hegseth's Memorandum on Balanced Accountability Secretary of Defense Pete Hegseth's memorandum, "Restoring Good Order and Discipline Through Balanced Accountability," dated 23 April 2025, directs a review of Military Equal Opportunity (MEO) and Equal Employment Opportunity (EEO) programs to ensure prompt and impartial investigations and to dismiss unsubstantiated complaints lacking actionable, credible evidence. It emphasizes protecting personnel from adverse actions when investigations do not indicate likely substantiation and considering disciplinary actions against those who knowingly submit false complaints.

d. Executive Order on Eradicating Anti-Christian Bias On 6 February 2025, President Donald J. Trump signed Executive Order 14202, “Eradicating Anti-Christian Bias,” establishing a task force to identify and eliminate anti-Christian policies, practices, or conduct within federal agencies, including the DoD. The order prohibits adverse actions targeting Christians for their religious beliefs and requires agencies to review past practices for discriminatory impact (<https://www.whitehouse.gov/presidential-actions/2025/02/eradicating-anti-christian-bias/>).

e. Hostile Work Environment in the Air Force Under DoDI 1350.02, para. 3.2, and AFI 36-2710, para. 1.3.2, a hostile work environment in the Air Force involves conduct that is severe or pervasive enough to create an intimidating, hostile, or offensive working environment, based on protected characteristics such as religion, sex, or sexual orientation. The conduct must be both objectively and subjectively offensive, significantly interfering with work performance or creating an abusive atmosphere. Isolated incidents, unless extremely severe, do not constitute a hostile work environment. Allegations must be supported by specific evidence demonstrating the nature, frequency, and impact of the conduct.

#### 4. Discussion.

a. **Violation of Administrative Due Process.** The LOC is fundamentally defective due to its impermissibly vague language, violating DAFI 36-2907 and federal due process principles, and failing to meet the criteria for a hostile work environment under Air Force policy. DAFI 36-2907, para. 2.3.1, requires that adverse actions be supported by a preponderance of the evidence, yet the CDI found both allegations against Captain Doss unsubstantiated, with no evidence supporting claims of contemptuous

words or conduct unbecoming an officer (Tab D, pp. 11, 19). Issuing an LOC despite these findings is baseless and contradicts regulatory standards. Critically, DAFI 36-2907, para. 2.4.2, mandates that LOCs provide specific details about the misconduct, including the nature, and circumstances, to ensure due process. The LOC fails spectacularly in this regard, offering no specifics about the alleged “inappropriate and unprofessional comments”—no quotes, dates, no recipients, and no reference to any standard or regulation violated (LOC, para. 1). It further claims these comments created a hostile work environment but provides no evidence of severe or pervasive conduct based on protected characteristics, as required by DoDI 1350.02, para. 3.2, and AFI 36-2710, para. 1.3.2. Without identifying the statements, their frequency, or their impact, the LOC cannot demonstrate that the conduct was objectively and subjectively offensive or interfered with work performance, rendering the hostile work environment claim baseless.<sup>1</sup> This vagueness renders it impossible for Captain Doss to mount a meaningful defense, as he cannot address unknown statements or contexts. Federal case law reinforces this requirement: *Goldberg v. Kelly*, 397 U.S. at 267-68, mandates clear and specific notice in administrative actions to ensure a fair opportunity to respond, while *Mullane v. Central Hanover Bank*, 339 U.S. at 314, requires notice sufficient to enable a defense. The LOC’s failure to articulate what was wrongful or how it met the hostile work environment threshold is not a minor oversight but a fatal flaw that strips it of legitimacy. This lack of clarity, coupled with the CDI’s finding of no substantiated misconduct, suggests the LOC is an attempt to penalize Captain Doss without evidence,

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<sup>1</sup> More practically, despite the complaint, investigation, and the recommendations of the IO a Command decision was made to assign Captain Doss to a position where he would be the direct supervisor of TSgt . If Captain Doss’ actions created a hostile work environment so extreme as to warrant written counseling and documented adverse action, why would it be appropriate to place the “victim” under the direct supervision of Captain Doss?

further supporting the argument that it targets his protected religious expressions.

b. **Weaponization of Investigation Process Targeting Religious Faith.** The LOC and preceding CDI suggest the investigative process was weaponized to target Captain Doss for his Catholic faith, contravening DoDI 1300.17, Secretary Hegseth's memorandum, and Executive Order 14202. The CDI noted that Captain Doss's conversations were rooted in his sincerely held beliefs and often prompted by crewmembers' questions, such as those from Senior Airman [REDACTED] and Staff Sergeant [REDACTED] (Tab D, pp. 12, 17; Response to IO, para. 2e, 2g). No adverse impact on mission readiness or unit cohesion was found to justify discipline (Tab D, p. 19). The complaints, particularly from Technical Sergeant [REDACTED], who was noted for strong opinions and boundary-pushing behavior (Tab F-11; Response to IO, para. 2d), appear to exploit the investigation process to penalize Captain Doss for his faith-based expressions.<sup>2</sup> Father [REDACTED]'s letter suggests the allegations may be malicious, reflecting anti-Catholic bias ([REDACTED] Letter, para. 4). Secretary Hegseth's memorandum emphasizes dismissing unsubstantiated complaints and protecting personnel from adverse actions when allegations lack credible evidence, as is the case here. This aligns with Executive Order 14202, which seeks to prevent federal agencies from targeting Christians for their beliefs.

c. **Failure to Address Through Counseling.** The CDI noted that no crewmember counseled Captain Doss during the June 2024 or January 2025 missions, despite opportunities (Tab D, p. 19). Timely counseling could have prevented escalation and preserved crew dynamics (Tab D, p. 19). Issuing an LOC without prior counseling deviates from progressive discipline principles in DAFI 36-

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<sup>2</sup> It is worth noting that TSgt [REDACTED] was raised Catholic but has publicly stated his animosity for the Catholic faith due to his personal experiences and biases.



2907 and suggests an overreach in response to conduct deemed non-actionable by the CDI, as noted by Lieutenant General ( Letter, para. 8).

d. **Captain Doss's Character and Service Record.** Captain Doss is a highly capable officer who completed Instructor Aircraft Commander training in October 2024 and contributes effectively to the 6 AS's mission (Tab G-1). His awards and decorations reflect his dedication and professionalism. His reputation remains intact, as evidenced by character letters from Lieutenant General (Ret.) , Senior Airman , Chaplain , Major , Father , and Ms. , who collectively praise his integrity, leadership, and respect for others (Attachments 3-8). The CDI found no evidence that his conduct compromised his fitness to lead (Tab D, p. 19), supporting withdrawal of the LOC.

e. **Captain Doss's Character Undermines Allegations of Misconduct.** Captain Doss's demonstrated good military character, as affirmed by his service record and character letters, undermines the allegations in the LOC and should be a reasonable consideration for the commander. *United States v. Hirst*, NMCCA No. 202300208, the Court of Appeals reversed a conviction, noting that the accused's evidence of good military character, including testimony about his professionalism, created reasonable doubt about his propensity to engage in misconduct. Similarly, the *Military Judges' Benchbook*, Instruction 2-5-12, directs that evidence of good military character is admissible and relevant to determining whether an accused committed an offense, particularly when intent or moral turpitude is at issue (DA Pam 27-9, 2022). Captain Doss's consistent professionalism, as evidenced by his mentorship of a novice copilot ( Letter, para. 3) and his respectful engagement with all personnel (

Letter, para. 3), makes it highly unlikely he would create a hostile work environment. His commitment to integrity and spiritual resilience, praised by Chaplain [redacted] and Father [redacted] ( [redacted] Letter, para. 2; [redacted] Letter, para. 3), further contradicts the vague claims of unprofessional conduct. The commander should weigh this character evidence, which aligns with the CDI's finding of no substantiated misconduct, as a basis to withdraw the LOC.

5. **Conclusion.** The LOC is procedurally flawed and substantively unjustified, primarily due to its impermissibly vague language, which violates DAFI 36-2907's requirements for preponderance of evidence and specific notice, as supported by federal due process principles in *Goldberg v. Kelly* and *Mullane v. Central Hanover Bank*. The LOC's claim of a hostile work environment fails to meet the standards of DoDI 1350.02 and AFI 36-2710. The investigation process was weaponized to target Captain Doss's religious expressions, contravening DoDI 1300.17, Secretary Hegseth's memorandum on balanced accountability, and Executive Order 14202. Moreover, Captain Doss's exemplary character, as recognized in *United States v. Schweitzer* and the *Military Judges' Benchbook*, undermines the allegations and warrants consideration. We request that the LOC be withdrawn and no further adverse action be taken. Captain Doss is prepared to comply with the CDI's recommendations for professional development and to continue serving with distinction.

Respectfully Submitted,



R. Davis Younts, Esquire