

November 13, 2017

The Honorable Heather Wilson
Secretary of the Air Force
1670 Air Force Pentagon
Washington, DC 20330-1670

Dear Secretary Wilson:

For more than seventy years, the United States Air Force has defended the free skies, capturing both the imagination and the respect of the public. President Trump had it right when he remarked recently at Joint Base Andrews that U.S. Airmen, like the members of their sister services, “have no equal in courage, capability, or commitment.” The brave men and women who crew the heavens have pushed the limits of what we thought possible time and time again. In doing so, they have sacrificed much for their country.

We write to you today because while these men and women gladly give so much of themselves in service to this nation, there are some fundamental rights—such as the right to practice and live in accordance with one’s faith—which we cannot take from them.

Colonel Leland B.H. Bohannon is a highly decorated and experienced combat pilot. In May 2017, while stationed at Kirtland Air Force Base, New Mexico, a non-commissioned officer under his command was set to retire. As is the custom, several certificates and awards were prepared in advance of the retirement ceremony for Col. Bohannon to sign. Col. Bohannon proceeded to endorse each of them—except for a certificate of spouse appreciation, which he felt would cause him to affirm a definition of marriage contrary to his sincerely held religious beliefs.

Col. Bohannon recognized the moral and legal dilemma this situation presented and, to his credit, sought to carve out a solution that would affirm the contribution made by the retiring officer’s same-sex partner while at the same time allowing the colonel to abide by his religious convictions. Col. Bohannon submitted a formal request for a religious accommodation. While this request was pending, Major General Sami Said—an officer two ranks higher than Col. Bohannon—signed the certificate in his place. The retiring service member nonetheless took offense at Col. Bohannon’s beliefs and the compromise that had been arranged. The service member therefore filed a formal Equal Opportunity (EO) complaint, which an EO investigator then deemed substantiated. As a result, Col. Bohannon now faces a potentially career-ending action.

The EO investigator’s decision to rule against Col. Bohannon runs afoul of this country’s most foundational tenet— for “[i]f there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion, or force citizens to confess by word or act their faith therein.” *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 642 (1943). Indeed, what separates the United States from its forebears is the recognition that truth preexists government, and that it

is incumbent on human dignity for each and every one of us to have the inalienable right to discover that truth in our own time and in our own way.

This star, which the U.S. Supreme Court has affirmed repeatedly, shines over all federal policy. It guides every department, controls every official, and stays the hand of every investigation, including in the U.S. military. In fact, the Department of Defense already lays out how this principle should be implemented. Department of Defense Instruction (DODI) 1300.17 explicitly decrees that “Military Departments *will* accommodate individual expressions of sincerely held religious beliefs of Service members” (emphasis added). The DODI, of course, provides for limited exceptions for when the accommodation could adversely affect “military readiness,” “unit cohesion,” and “good order and discipline,” but the overall thrust of the document reinforces the synergy between one’s duty to God and the duty one owes to one’s country.

During your own confirmation process, you made it a point to acknowledge that “Air Force commanders have a responsibility to ensure that the spiritual needs of all Airmen are met.” You stated clearly that the Air Force “must continue to ensure that all Airmen are able to choose to practice their particular religion or” as the case may be “subscribe to no religious beliefs at all.” We were highly encouraged by your answers and trusted that, when the time came, you would follow through.

That time is now. Col. Bohannon’s actions fall cleanly within the contours of DODI 1300.17, as well as the broader promise articulated by the First Amendment, the U.S. Supreme Court, and your written testimony to Congress. The retiring non-commissioned officer had no legal right to the certificate. The relevant Air Force Instruction, additionally, contains no requirement that the commander personally sign the certificate in the event one is issued. The certificate is an elective recognition, which, despite his strong religious objection, Col. Bohannon nevertheless ensured would be received by the officer’s same-sex partner.

Col. Bohannon, in other words, acted reasonably and with great compassion. He exercised all due diligence to identify the rights, needs, and obligations of all parties involved. He then sought appropriate advice on how to best resolve a very difficult and fraught set of circumstances in the absence of formal Air Force guidance. He should be applauded for finding an equitable solution that honored the retiring officer’s partner while allowing Col. Bohannon to stay true to his religious conviction that marriage is between one man and one woman. The Air Force’s refusal to accept this compromise and its refusal to grant an accommodation—when doing so would cause no discernable harm—raises the question as to which circumstances, if any, would move the U.S. Air Force to defend the free exercise rights of its soldiers.

We therefore ask that you, as Secretary of the Air Force, clarify the branch’s position on religious liberty. We ask that you instruct the Air Force to issue formal guidance and provide adequate training to commanders so that they know how to properly and respectfully address the religious liberty rights of their subordinates. Lastly, we request that you investigate the proceedings surrounding Col. Bohannon’s request for a religious accommodation and take all appropriate steps to have the substantiated EO complaint reversed and any unfavorable note in Col. Bohannon’s service record removed.

Col. Bohannon has suffered severely on account of the EO investigator's mishandling of his religious liberty rights. The Air Force owes it to him to see that justice is restored, along with his good name. We should not ask him and other airmen to risk their lives only to be denied at home the very rights they championed and bled for abroad.

Respectfully,

Ted Cruz
United States Senator

Roy Blunt
United States Senator

James M. Inhofe
United States Senator

John Kennedy
United States Senator

James Lankford
United States Senator

Mike Lee
United States Senator

Marco Rubio
United States Senator

Roger F. Wicker
United States Senator