

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

NEW CADET CANDIDATE
GURJIWAN SINGH CHAHAL,
51707 Colonial Drive
Shelby Township, MI 48316

NEW CADET CANDIDATE
ARJAN SINGH GHOTRA,
21300 Hidden Pond Place
Ashburn, VA 20148

Plaintiffs,

v.

LIEUTENANT GENERAL
THOMAS SEAMANDS,
in his official capacity as Deputy
Chief of Staff, G-1, U.S. Army
300 Army Pentagon
Washington, DC 20310

LIEUTENANT GENERAL
ROBERT L. CASLEN, JR.,
in his official capacity as
Superintendent of the United States
Military Academy at West Point

UNITED STATES
MILITARY ACADEMY,
606 Thayer Road
West Point, NY 10996

JAMES N. MATTIS, in his official
capacity as Secretary of Defense,
1400 Defense Pentagon
Washington, DC 20301

Civil Action No. _____

COMPLAINT
(Jury Requested)

THE UNITED STATES
DEPARTMENT OF DEFENSE,
1400 Defense Pentagon
Washington, DC 20301

RYAN D. MCCARTHY,
in his official capacity as Acting
Secretary of the U.S. Army,
101 Army Pentagon
Washington, DC 20310,

THE UNITED STATES
DEPARTMENT OF THE ARMY,
101 Army Pentagon
Washington, DC 20310

Defendants.

NATURE OF THE ACTION

1. Plaintiffs New Cadet Candidate Gurjiwan Singh Chahal (“New Cadet Chahal”) and New Cadet Candidate Arjan Singh Ghotra (“New Cadet Ghotra”) are the first observant Sikhs in U.S. history to attend the United States Military Academy, West Point (the “Academy” or “West Point”).

2. Hailing from Michigan and Virginia, respectively, they are young American men of the highest integrity, intelligence, patriotism, courage, and physical strength and agility.

3. Under existing Army regulations, they are expressly permitted to serve at West Point without having to abandon their Sikh articles of faith, which include

maintaining unshorn hair and beards and wearing turbans. *See* Army Directive (AD) 2017-3; Army Regulation (AR) 670-1, § 3-16(b)-(c).

4. The Army’s regulations specify that—except for “the Advanced Combat Helmet or other protective headgear”—accommodated Sikhs “are not required to wear military headgear in addition to the turban or under-turban.” AR 670-1, § 3-16(c)(2).

5. The regulations further promise that this complete religious accommodation for the turban “will not affect a Soldier’s . . . attendance at military schools.” AD 2017-3(5)(a).

6. Trusting that the Army would follow its own regulations, New Cadet Chahal and New Cadet Ghotra reported to West Point at the beginning of July 2017.

7. By all accounts, they have been well-received by the chain-of-command and their fellow cadets and have performed admirably in their training.

8. But the Army is now taking the position that New Cadet Chahal and New Cadet Ghotra are only welcome to remain at the Academy with their unshorn hair, beards, and turban on one condition: they must agree to wear the West Point “tar bucket”—a decorative hat worn in ceremonial parades a few times each year.

9. On information and belief, they will first be forced to wear the ceremonial hat within the first week after August 19, 2017, when their Cadet Basic Training, or “Beast Barracks,” ends.

10. But New Cadet Chahal and New Cadet Ghotra cannot abandon their faith.

11. Both are devout Sikhs.

12. A core tenet of Sikhism—mandated by the Sikh prophets and required by the *Rehat Maryada*, the official Sikh Code of Conduct—requires Sikhs to keep their hair in a turban without altering its physical or religious integrity.

13. Both New Cadet Chahal and New Cadet Ghotra have faithfully worn the turban from their childhood.

14. For them, wearing the tar bucket over, or in place of, their turbans would desecrate their religious values.

15. If West Point truly requires that they wear the tar bucket as a condition of attendance, they would be compelled to give up their spots at the Academy.

16. Forcing New Cadet Chahal and New Cadet Ghotra to choose between their country and their God in this manner violates the Army’s own regulations, the Religious Freedom Restoration Act of 1993, and the First and Fifth Amendments to the United States Constitution.

17. The Army has indicated that New Cadet Chahal and New Cadet Ghotra will not be compelled to wear the tar bucket before August 19, 2017.

18. Plaintiffs thus seek declaratory and injunctive relief by that date to protect them from being forced to choose between serving their country and remaining true to the core tenets of their faith.

JURISDICTION AND VENUE

19. The Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1343, and 1361.

20. Venue lies in this district pursuant to 28 U.S.C. § 1391(e)(1).

IDENTIFICATION OF PARTIES

21. Plaintiff Gurjiwan Singh Chahal is an observant Sikh and a Cadet Candidate at the U.S. Military Academy, West Point.

22. Plaintiff Arjan Singh Ghotra is an observant Sikh and a Cadet Candidate at the U.S. Military Academy, West Point.

23. Defendants are appointed officials of the United States government and United States governmental agencies responsible for the United States military and its uniform policies.

24. Defendant Lieutenant General Thomas Seamands is the Deputy Chief of Staff, G-1, U.S. Army. In this capacity, he has responsibility for religious accommodations in the Army. General Seamands is sued in his official capacity only.

25. Lieutenant General Robert L. Caslen, Jr. is the Superintendent of the United States Military Academy at West Point. In this capacity he has responsibility for setting and enforcing the uniform standards for cadets at the Academy. Lieutenant General Caslen is sued in his official capacity only.

26. Defendant United States Military Academy, West Point, is one of four U.S. military service academies and is the academic institution where Plaintiffs are currently attending school as Cadet Candidates.

27. Defendant James N. Mattis is the Secretary of the United States Department of Defense. In this capacity, he has responsibility for the operation and management of the armed forces. Secretary Mattis is sued in his official capacity only.

28. Defendant United States Department of Defense is an executive agency of the United States government and is responsible for the maintenance of the United States military.

29. Defendant Ryan D. McCarthy is the Acting Secretary of the United States Army and is responsible for the operation and management of the United States Army. Secretary McCarthy is sued in his official capacity only.

30. Defendant Department of the Army is a department of the United States military and is responsible for the promulgation and administration of its own uniform policies and regulations.

FACTUAL ALLEGATIONS

Plaintiffs' Sikh Faith

31. Sikhism is a monotheistic religion that originated in the fifteenth century in the Punjab region of South Asia.

32. While relatively young compared to other major world religions, it is the world's fifth largest faith tradition with nearly 25 million adherents.¹

33. There are approximately 500,000 Sikhs in the United States.²

34. The founder of the Sikh faith, Guru Nanak, was born in 1469 in Punjab, India.

35. The Sikh religion is monotheistic, believing in one God who is all loving, all pervading, and eternal. This God of love is obtained through grace and sought by service to mankind.

36. Guru Nanak rejected the caste system and declared all human beings, including women, to be equal in rights and responsibilities and ability to reach God. He taught that God was universal to all—not limited to any religion, nation, race, color, or gender.

¹ See The Pew Forum on Religion and Public Life, *The Global Religious Landscape: A Report on the Size and Distribution of the World's Major Religious Groups as of 2010*, at 9 n.1 (2012), <http://www.pewforum.org/files/2014/01/global-religion-full.pdf>.

² See S. Con. Res. 74, 107th Cong. (2001).

37. As taught by the eleven Sikh Gurus—*i.e.*, the first human spiritual leaders who revealed the faith, plus the Guru Granth Sahib, which is the Sikh scripture or the final, enduring “Guru”—Sikhs seek to live a disciplined life.

38. Sikhism forbids consumption of alcohol, tobacco, and other drugs, as well as extramarital relations.

39. The Sikh faith emphasizes humility in personal conduct and discourages materialism and speaking ill of others. The faith also prizes boldness in standing for truth and defending the oppressed.

40. Consistent with the teachings of the Sikh gurus, Sikhs wear external articles of faith to bind them to the beliefs of the religion.

41. Unlike some faiths, where only clergy maintain religious articles on their person, all Sikhs are required to wear external articles of faith.

42. These articles of faith, such as unshorn hair (*kesh*) and the turban, distinguish a Sikh and have deep spiritual significance.

43. The Sikh Code of Conduct, called the *Rehat Maryada*, outlines the requirements for practicing the Sikh way of life.

44. All Sikhs must follow the guidelines set forth in the *Rehat Maryada*.

45. The *Rehat Maryada* mandates that Sikhs wear a turban which must always cover a Sikh’s head. Exhibit 1 (excerpt of *Rehat Maryada*).

46. The turban was introduced as part of the Sikh uniform by Guru Gobind Singh, who was vehemently opposed to the then-prevailing caste system in India. As turbans had previously been worn only by royalty, he repurposed the turban to signify the equality of all castes and creeds and all men and women.

47. The turban also reminds Sikhs of their duty to maintain and uphold the core beliefs of the Sikh faith, which include working hard and honestly, sharing with the needy, and promoting equality and justice for all.

48. When a Sikh wears a turban, the turban ceases to be simply a piece of cloth and becomes one and the same with the Sikh's head.

49. Historically, uncut hair and turbans have been central features of the Sikh identity. For example, in the 18th century, Sikhs in South Asia were persecuted and forced to convert from their religion by political leaders. The method of forcing conversions was to remove a Sikh's turban and cut off his or her hair.

50. As resistance to such forced conversions, many Sikhs chose death over having their turbans removed and hair shorn.

51. Since then, denying a Sikh the right to wear a turban and maintain unshorn hair has symbolized denying that person the right to belong to the Sikh faith, and is perceived as the most humiliating and hurtful physical injury that can be inflicted upon a Sikh.

52. Due to the sacred nature of the turban, wearing headwear other than a turban is explicitly forbidden in the Sikh *rahitnamas* (manuals of conduct), and is, in fact, considered a symbol of slavery. *See* Exhibit 2 (05/31/2017 Letter from J. Gurbachan Singh to Lt. Gen. R. Caslen, Jr.); *see also* Exhibit 3 (5/31/2017 Letter from Sikh Scholars to Lt. Gen. R. Caslen, Jr.).

53. Modifying the turban, such as by adding chains or plumes, is not permissible; indeed, Article XVIII of the *Rehat Maryada* specifically forbids wearing of “decorative headgear” with the turban, even for special occasions. *See id.*

54. For over 150 years, Sikhs have interpreted this rule to permit small shields or badges to be affixed to the front of the turban. *See id.*

History of Sikh Military Service

55. Military service has always been—and continues to be—a central part of the Sikh identity.

56. The Sikh martial tradition dates back to the late 17th century and Guru Gobind Singh’s creation of the Khalsa, a spiritual order and army comprised of initiated Sikhs, to resist persecution by the Mughal Empire.

57. Tales of Sikh courage and valor, as documented by the British, date back at least as far as their defeat of the Afghan Pathans in 1813 at the Battle of Attock.³

58. Sikh soldiers famously defeated the British at the Battle of Chillianwala in 1849 before being overpowered six weeks later by superior British weapons.⁴

59. Sikh soldiers soon became “among the sturdiest and trustiest men of the British army,”⁵ with a group of twenty-one Sikhs famously repulsing an attack by thousands of Afghans for six hours at the Battle of Saragarhi in 1897.⁶

60. Approximately 100,000 Sikhs—a disproportionately high number among Indian volunteer soldiers—fought for the British in World War I.⁷

61. Today, observant Sikhs proudly serve with their articles of faith intact in militaries around the world, most notably in Australia, Canada, India, and the United Kingdom, among others, and also as United Nations Peacekeepers, often working closely with American troops in troubled regions. In fact, Canada’s current Minister of Defense, Lieutenant Colonel Harjit Sajjan, is an observant Sikh

³ Pico Iyer, *The Lions of Punjab*, Time, Nov. 12 1984, at 53, discussed in Rajdeep Singh Jolly, *The Application of the Religious Freedom Restoration Act to Appearance Regulations That Presumptively Prohibit Observant Sikh Lawyers From Joining the U.S. Army Judge Advocate General Corps*, 11 Chap. L. Rev. 155, 157 n.13 (2007).

⁴ *Id.*

⁵ *Id.*

⁶ *Sikhs Prove Their Valor, Twenty-one Men Hold Sarhargarti Police Post Against 1,000 Orakzais Over Six Hours*, New York Times, Sept. 14, 1897.

⁷ Jolly, *supra* note 5, at 157.

who once supported the U.S.-led coalition in Afghanistan and served as a special advisor to U.S. Army Lieutenant General James Terry, commander of the 10th Mountain Division.⁸

Sikh Soldiers in the United States Army

62. Sikhs also proudly served in the U.S. Army without impediment during the Vietnam War and in prior conflicts dating back to at least World War I.

63. Around 1981, however, military policy changed to end exemptions to the uniform requirements for visible articles of faith.

64. In 1987, Congress overrode that policy to permit “religious apparel” that is “neat and conservative,” so long as it does not “interfere with . . . military duties.” 10 U.S.C. § 774. The legislative history specifically identified Sikh turbans as permissible military headgear. 133 Cong. Rec. 11851 (1987) (Statement of Rep. Schroeder); 133 Cong. Rec. 25250 (1987) (Statement of Sen. Lautenberg).

65. The Army, however, essentially ignored this directive, making some exceptions for religious headgear such as the Jewish yarmulke that could be worn under traditional military headgear, but keeping the prohibition against turbans in

⁸ See Christopher Guly, *Defense Minister Harjit Singh Sajjan: A Sikh Soldier’s Climb to the Canadian Cabinet*, L.A. Times, Feb. 22, 2016, <http://www.latimes.com/world/mexico-americas/la-fg-canada-sajjan-profile-20160222-story.html>; see also Siobhán O’Grady, *Canada’s New Defense Minister Made His Own Gas Mask to Work With His Sikh Beard*, Foreign Policy, Nov. 5, 2015, <http://foreignpolicy.com/2015/11/05/canadas-new-defense-minister-made-his-own-gas-mask-to-work-with-his-sikh-beard/>.

place. Army Reg. 600-20 §§ 5-6.g(4)(d)(2), 5-6.g(4)(d)(6) (2009) (providing that religious headgear must be “of a style and size that can be completely covered by standard military headgear” and “will not be worn in place of military headgear under circumstances when the wear of military headgear is required”).

66. Still, many Sikhs who were already in the Army were grandfathered under the 1981 policy change and were allowed to continue serving.

67. One of these soldiers, Colonel Gopal S. Khalsa, served in the Special Forces Unit for ten years on Parachute Status and as a Battalion Commander overseeing a 700-person intelligence group. Exhibit 4 ¶¶ 12-13, 17 (Declaration of Colonel Gopal Singh Khalsa). He received a Meritorious Service Medal and Silver Oak Leaf Cluster Award, among many other honors, and in 2004, was inducted into the Officer Candidate School Hall of Fame. *Id.* ¶¶ 8, 21.

68. Another Sikh soldier, Sergeant Sevak Singh Kroesen, was attached to the Signal Company, 11th Special Forces Group, after which he successfully completed airborne (paratrooper) and Radio Teletype Transmission Operator training. He then completed his Special Forces Qualification Courses and became a Special Forces Communications Sergeant. Sergeant Kroesen subsequently completed his schooling, training, and missions around the world, all with honor and distinction. He was honorably discharged from active duty in 1991. Exhibit 5 ¶¶ 6, 8, 11, 18, 20, 22.

69. Sergeant Kirnbir Singh Grewal served in the U.S. Army from 1977 to 1984. Throughout his time in the military, he used the same standard-issue gas mask and helmet as other members of the Army. Indeed, his responsibilities included teaching other soldiers to use protective gear to survive nuclear and biological warfare. Exhibit 6 ¶¶ 3, 6, 10.

70. These and other Sikh soldiers served with distinction, all while maintaining their Sikh articles of faith.

Recent Sikh Accommodations

71. Over the last eight years, at least 20 other Sikhs have been granted individual religious accommodations, allowing them to serve in the Army with their articles of faith intact.

72. The first Sikh to serve as an enlisted soldier in over 30 years, Corporal Simran Preet S. Lamba, joined the U.S. Army in August 2010. Fluent in Punjabi and Hindi, he was recruited through the MAVNI program for his cultural and language skills. He served in a medical battalion as a Soldier Medic and was recognized as a “tremendous Soldier” who “had an amazing impact on his peers and supervisors.” Exhibit 7 (Letters of recommendation for Corporal Simran Preet S. Lamba). In June 2014, he received an Army Commendation Medal for his selfless service and dedication to duty. Exhibit 8 ¶ 16 (Declaration of Corporal Simran Preet S. Lamba). He is currently in the Individual Ready Reserve.

73. Major Tejdeep S. Rattan, a dentist, entered active duty in January 2010 after receiving a religious accommodation. In 2011, he was deployed to Afghanistan where he volunteered to serve in a remote forward operating base. For exceptional service during deployment, he was awarded an Army Commendation Medal and NATO medal.⁹ His superiors have noted that he “wears the uniform with pride”; has “[m]ilitary bearing” that is “beyond reproach”; is a “charismatic officer who leads from the front” and “serves as a great mentor for less experienced officers”; and “[i]nspires, motivates, and encourages subordinates.” Exhibit 9 (Major Rattan Officer Evaluation Report from 2014). Major Rattan is currently in the U.S. Army Reserve Officer Corps.

74. Lieutenant Colonel Kamaljeet S. Kalsi began active duty in June 2010. He was also deployed to Afghanistan in 2011 and was awarded a Bronze Star Medal upon his return for his exceptional service. In support of the award, an official recommendation from Lieutenant Colonel Kalsi’s superiors cited his resuscitation back to life of two patients who were clinically dead on arrival; his expert emergency care of over 750 service members and civilians; coordination of five mass casualty exercises; and his general “commitment and leadership above and

⁹ NATO Unclassified, *NATO Meritorious Service Medal Awards – Autumn 2011*, at 2, http://www.nato.int/ims/docu/msm_awards.pdf.

beyond that of his general duties.” Exhibit 10, ¶ 8 (Declaration of Major Kamaljeet S. Kalsi) His superiors have noted that he has “consistently demonstrated a strong commitment to improving Army Medicine,” “exceeded all expectations,” and “possesses absolutely unlimited potential as a leader.” Exhibit 11 at 2 (Major Kalsi Officer Evaluation Report from 2011). He is currently in the U.S. Army Reserve Officer Corps.

75. Captain Simratpal Singh graduated from West Point in 2010, where he complied with the military’s dress code requirements under duress. *Singh v. Carter*, 168 F. Supp. 3d 216, 219-20 (D.D.C. March 3, 2016). He graduated from Ranger School, served as a platoon leader in a deployment to Afghanistan from April 2012 to January 2013, and was awarded a Bronze Star Medal for his “exceptional and meritorious service.” *Id.* Captain Singh was granted a long-term religious accommodation on March 30, 2017, allowing him to return to fully observing his faith. Exhibit 12 (Singh Religious Accommodation Memorandum). He is currently in command of the 249th Engineer Battalion at Fort Belvoir.

The Army’s Current Religious Accommodation Regulations

76. “Based on the successful examples” of these recently accommodated soldiers, as of January 3, 2017, the Army has empowered brigade-level commanders to approve the wear of unshorn hair, beards, and turbans, along with other commonly requested religious accommodations. AD 2017-03, ¶ 3.

77. Once granted, such accommodations “may not be permanently revoked or modified unless authorized by [the Secretary of the Army or his or her] designee.” *Id.* ¶ 4(a).

78. For accommodated turbans, Army regulations require that they be “made of a subdued material in a color that closely resembles the headgear for an assigned uniform” and be “worn in a neat and conservative manner that presents a professional and well-groomed appearance” AD 2017-03, Enclosure ¶ 4(c)(1); *see also* AR 670-1 § 3–16c(1).

79. The regulations also specify that “[u]nless duties, position, or assignment require a Soldier to wear the Advanced Combat Helmet or other protective headgear, Soldiers granted this accommodation are *not required to wear military headgear in addition to the turban or under-turban.*” AD 2017-03, Enclosure ¶ 4(c)(2) (emphasis added); AR 670-1 § 3–16c(2) (same).

80. Finally, the Directive promises that “[a] religious accommodation consistent with [these] standards . . . *will not affect* a Soldier’s . . . attendance at military schools.” Army Directive 2017-03 ¶ 5(a) (emphasis added).

81. On information and belief, from the time these regulations took full effect in early 2017, the Army has granted religious accommodations to several Sikhs—including New Cadet Chahal and New Cadet Ghotra—allowing them to serve their country without having to abandon their articles of faith.

Cadet Gurjiwan Singh Chahal

82. New Cadet Chahal grew up near Selfridge Air National Guard Base in Michigan and has been an observant Sikh his whole life. Exhibit 13, ¶ 5 (Declaration of Gurjiwan Singh Chahal). New Cadet Chahal's desire to serve stems in part from his family's history of military service. *Id.* ¶¶ 6, 8. New Cadet Chahal's great-great-grandfather served with a Sikh regiment in the British Army during World War I, and his uncle served in the Indian Air Force. *Id.* ¶ 8.

83. New Cadet Chahal maintains a turban, unshorn hair, and an unshorn beard in compliance with Sikh religious mandates. *Id.* ¶¶ 9-12. He has been a practicing Sikh his entire life, maintaining these articles of faith since childhood. *Id.*

84. New Cadet Chahal is currently a Cadet Candidate at West Point. *Id.* ¶¶ 2-4.

85. New Cadet Chahal embodies strong moral character, love for, and commitment to his country, and is an ideal candidate for continued enrollment at West Point. He is eager to achieve his dream of military service through the U.S. Army while retaining his right to practice his faith. *Id.* ¶¶ 13-18.

86. He was granted a religious accommodation to serve on April 28, 2017. Exhibit 13 (Chahal Religious Accommodation Memorandum) ¶ 19.

87. New Cadet Chahal's accommodation memorandum states that "the standards of AR 670-1 will apply to [his] accommodation." Exhibit 13A, ¶ 3.

88. AR 670-1 explicitly states that—except for the “Advanced Combat Helmet or other protective headgear”—accommodated soldiers are “not required to wear military headgear in addition to the turban or under-turban.” AR 670-1, § 3-16(c).

89. In violation of that regulation, however, New Cadet Chahal’s accommodation memorandum also states that West Point may “prescribe occasions when you will be required to wear distinctive ceremonial headgear unique to [the Academy] over your under-turban.” Exhibit 13A, ¶ 4.

90. West Point has confirmed to New Cadet Chahal that the “distinctive ceremonial headgear” referred to is the “tar bucket.”

91. After New Cadet Chahal explained that wearing the tar bucket would violate his religion, he was told that his request for further accommodation would be transferred to Defendant Seamands, the Deputy Chief of Staff, G-1, for the Army.

92. The Army initially assured New Cadet Chahal that it would respond to his final request by June 30, 2017, two days before he was scheduled to enter the Academy.

93. On July 3, 2017, after New Cadet Chahal had already entered the Academy, the Army provided his counsel with a memorandum addressing “Authorized Headgear for Cadets with Approved Religious Accommodations During Cadet Summer Training 2017.” Exhibit 14.

94. The memorandum sets forth the type and color of turban to be worn with each uniform worn by cadets at West Point. *Id.*

95. It affirms that New Cadet Chahal should not be required to wear anything over or in place of his turban. *See id.* ¶¶ 4.c(1)-(4)

96. The memorandum, however, “remains in effect” only “until Acceptance Day, 19 August 2017.” *Id.* ¶ 5.

97. The same day the Army sent New Cadet Chahal’s counsel the memorandum, it issued a second memorandum with amendments “to make explicitly clear” that the first memorandum “does not apply to the wear of headgear for ceremonial events.” Exhibit 15, ¶¶ 2, 4.

98. The second memorandum concluded that “[p]olicy on the wear of headgear for ceremonial events, to include the wear of the Full Dress Hat [*i.e.*, the tar bucket], will be published on a future date.” *Id.*

99. As of the filing of this complaint, the final policy on exceptions from wearing the tar bucket has not been issued.

100. New Cadet Chahal thus faces a significant risk that, after August 19, 2017, when his Cadet Basic Training ends, he may be forced either to wear the tar bucket in violation of his religious convictions or give up his spot at the Academy. Indeed, on information and belief, new cadets typically are required to don the tar bucket the first week after Cadet Basic Training concludes.

101. For New Cadet Chahal, the turban is a reminder to focus on devoted service to God and others. Exhibit 13, ¶ 14. It represents the equal dignity of all men and women. *Id.*

102. He believes the teachings of the Sikh gurus and community leaders that it is forbidden to do anything that would distract from the simplicity and dignity of the turban. *Id.* ¶ 13.

103. For these reasons and because doing so would alter the silhouette of the turban in violation of his religious beliefs, Cadet Candidate Chahal never wears anything on top of his turban. *Id.* ¶¶ 13, 20.

104. If forced by the Academy to wear the tar bucket, New Cadet Chahal would not feel justified in violating the most basic element of his faith, despite all the work he has done to be able to serve his country in the military and at West Point. *Id.* ¶ 21.

Cadet Arjan Singh Ghotra

105. New Cadet Ghotra was born and raised in Ashburn, Virginia, into a devout Sikh family. His commitment to military service is also rooted in his faith. Exhibit 16, ¶ 2 (Declaration of Arjan Singh Ghotra).

106. He maintains a turban, unshorn hair, and an unshorn beard in compliance with Sikh religious mandates. He has been a practicing Sikh his entire life, maintaining these articles of faith since childhood. *Id.* ¶¶ 3-7.

107. New Cadet Ghotra has always had a strong desire to engage in service to his family and community, including a longstanding desire to participate in military service. *Id.* ¶ 10.

108. His dedication to U.S. military life and service began long before he was age-eligible to serve. *Id.* ¶ 11.

109. In high school, New Cadet Ghotra volunteered for both the Civil Air Patrol and the Virginia Defense Force in preparation for a career in military service. *Id.*

110. As a seventeen-year-old, he was awarded the Virginia Defense Force Medal for his service during his monthly drills. *Id.* ¶ 12.

111. Upon graduating from high school, New Cadet Ghotra joined the Virginia National Guard and completed his Basic Combat Training at Fort Benning. For the last year, New Cadet Ghotra has excelled in his service with the National Guard. *Id.* ¶¶ 14-15.

112. In sum, like New Cadet Chahal, New Cadet Ghotra embodies strong moral character, love for and commitment to his country, and is an ideal candidate for continued enrollment at West Point. He is eager to achieve his dream of military service through the U.S. Army while retaining his right to practice his faith.

113. New Cadet Ghotra's original religious accommodation was granted on April 8, 2016, Exhibit 16B, and renewed on January 5, 2017, Exhibit 16C.

114. These accommodations allowed him to serve with his turban in place and uncovered at all times and in all contexts, except when required to wear the Advanced Combat Helmet, which he has done for safety reasons.

115. After New Cadet Ghotra received his appointment to the Academy, the Academy issued an “Addendum” to his accommodation, providing that he may be required to wear “distinctive ceremonial headgear” in place of or on top of his Sikh turban. Exhibit 16D (04/28/2017 Addendum).

116. On information and belief, the Addendum was not signed by the Secretary of the Army or his designee.

117. New Cadet Ghotra is subject to the same memoranda issued on July 3, 2017, protecting him from having to wear the tar bucket before August 19, 2017, but confirming that the protection expires after that date. Exhibits 14-15.

118. New Cadet Ghotra believes that wearing anything over the turban is forbidden by the *Rehat Maryada* and would be blasphemous. Exhibit 16, ¶¶ 8-9, 19. He believes that the only permissible exception is wearing a safety helmet when necessary to protect his life. *Id.*

119. Growing up he never wore a helmet for any reason. And the only exception he has made is wearing the Advanced Combat Helmet while serving in the military, which he believes Sikhism allows because of the safety risks of not wearing a helmet. *Id.*

120. Forcing New Cadet Ghotra to wear the tar bucket would violate one of the core tenets of his faith and force him to deny his religious identity. *Id.* ¶ 25.

121. If forced to wear the tar bucket, New Cadet Ghotra would feel compelled to give up his spot at West Point. *Id.*

CLAIMS

COUNT I

Violation of the Religious Freedom Restoration Act Substantial Burden

122. Plaintiffs incorporate by reference all preceding paragraphs.

123. Plaintiffs' sincerely-held religious beliefs prohibit them from removing or altering the integrity of their turbans. Plaintiffs' compliance with these beliefs is a sincere religious exercise.

124. The Army's discriminatory treatment and the current enforcement of its regulations concerning the wear and appearance of uniforms create government-imposed coercive pressure on Plaintiffs to change or violate their religious beliefs.

125. The Army's discriminatory treatment and the current enforcement of its regulations chill Plaintiffs' religious exercise.

126. The Army's discriminatory treatment and regulations impose a substantial burden on the religious exercise of the Plaintiffs.

127. The Army's discriminatory treatment and the current enforcement of its regulations do not further a compelling governmental interest as applied to Plaintiffs.

128. The Army's discriminatory treatment and the current enforcement of its regulations against Plaintiffs are not the least restrictive means of furthering any compelling governmental interest.

129. The Army's discriminatory treatment and the current enforcement of its regulations thus violate rights secured to Plaintiffs by the Religious Freedom Restoration Act, 42 U.S.C. § 2000bb, *et seq.*

130. Absent injunctive and declaratory relief, Plaintiffs have been and will continue to be harmed.

COUNT II

Violation of the First Amendment to the United States Constitution Free Exercise Clause Burden on Religious Exercise

131. Plaintiffs incorporate by reference all preceding paragraphs.

132. Plaintiffs' sincerely held religious beliefs prohibit them from removing or altering the integrity of their turbans. Plaintiffs' compliance with these religious beliefs is a sincere religious exercise.

133. The Army's policy concerning the wear of ceremonial headgear at West Point is not neutral.

134. The discriminatory treatment of Plaintiffs is not neutral.

135. The Army's ceremonial headwear policy is not generally applicable.

136. The discriminatory treatment of Plaintiffs is not generally applicable.

137. The Army's discriminatory ceremonial headwear policy creates government-imposed coercive pressure on Plaintiffs to change or violate their religious beliefs.

138. The Army's discriminatory treatment and ceremonial headwear policy chill Plaintiffs' religious exercise.

139. The Army's discriminatory treatment and ceremonial headwear policy expose Plaintiffs to substantial consequences for their religious exercise, including the loss of their military careers.

140. The Army's discriminatory treatment and ceremonial headwear policy burden Plaintiffs' religious exercise.

141. The Army's discriminatory treatment and its ceremonial headwear policy do not further a compelling governmental interest and are not the least restrictive means of furthering Defendants' stated interests.

142. The Army's discriminatory treatment and enforcement of its ceremonial headwear policy thus violate Plaintiffs' rights as secured to them by the Free Exercise Clause of the First Amendment of the United States Constitution.

143. Absent injunctive and declaratory relief against the Army's regulations, Plaintiffs have been and will continue to be harmed.

COUNT III

Violation of the First Amendment to the United States Constitution Free Exercise Clause Intentional Discrimination

144. Plaintiffs incorporate by reference all preceding paragraphs.

145. Plaintiffs' sincerely held religious beliefs prohibit them from removing or altering the integrity of their turbans. Plaintiffs' compliance with these religious beliefs is a sincere religious exercise.

146. Historically, the Army has allowed Sikhs to serve in the military with their articles of faith intact.

147. In the past eight years the Army has admitted at least 20 other observant Sikhs, allowing them to serve in the military without violating their religious convictions.

148. Despite being informed in detail of Plaintiffs' beliefs, Defendants have declined to grant them an accommodation that would allow them to comply both with their beliefs and with the Army's regulations during certain ceremonial events at West Point.

149. Defendants have no legitimate basis for denying Plaintiffs a religious accommodation.

150. Defendants are discriminating against Plaintiffs because of their religion.

151. Defendants have targeted Plaintiffs for heightened scrutiny because they have requested an accommodation for their religious beliefs.

152. The Army's regulations, the threatened enforcement of the regulations against Plaintiffs, and the Army's discriminatory treatment of Plaintiffs thus violate their rights under the Free Exercise Clause of the First Amendment of the United States Constitution.

153. Absent injunctive and declaratory relief against the Army's "ceremonial headwear" uniform regulations, Plaintiffs have been and will continue to be harmed.

COUNT IV

Violation of the First Amendment to the United States Constitution Freedom of Speech

154. Plaintiffs incorporate by reference all preceding paragraphs.

155. The Army's religious accommodations prohibit Plaintiffs from maintaining the identity of their turbans at certain ceremonial events at West Point.

156. The Army's discriminatory treatment and regulations place a chilling effect on Plaintiffs' speech.

157. The Army's discriminatory treatment and regulations constitute content discrimination.

158. The Army's discriminatory treatment and regulations constitute viewpoint discrimination.

159. As applied to Plaintiffs, the Army's discriminatory treatment and grooming and personal appearance regulations are not necessary for good order, discipline or national security and do not satisfy strict scrutiny.

160. The Army's discriminatory treatment of Plaintiffs and enforcement of its grooming and personal appearance regulations against Plaintiffs thus violate their rights under the Free Speech Clause of the First Amendment of the United States Constitution.

161. Absent injunctive and declaratory relief against the Army's regulations, Plaintiffs have been and will continue to be harmed.

COUNT V

Violation of the Fifth Amendment to the United States Constitution Due Process

162. Plaintiffs incorporate by reference all preceding paragraphs.

163. Free exercise of religion is a fundamental right.

164. Plaintiffs' sincerely held religious beliefs prohibit them from covering their turbans with a tar bucket or altering the identity of their turbans to resemble the tar bucket. Plaintiffs' compliance with these religious beliefs is a sincere religious exercise.

165. Plaintiffs' fundamental right to engage in religious exercise has been burdened by the Army's policy concerning ceremonial headwear.

166. The Army's discriminatory treatment and the enforcement of its "ceremonial headwear" policy against Plaintiffs violate their rights under the Due Process Clause of the Fifth Amendment to the United States Constitution.

167. Absent injunctive and declaratory relief against the Army's "ceremonial headwear" policy, Plaintiffs have been and will continue to be harmed.

COUNT VI

Violation of the Fifth Amendment to the United States Constitution Equal Protection

168. Plaintiffs incorporate by reference all preceding paragraphs.

169. Other military service members similarly situated to Plaintiffs have been granted accommodations for their religious exercise.

170. The Army accommodates other types of personal expression of other service members.

171. The Army accommodates the religious grooming and attire needs of other service members.

172. The Army has admitted other soldiers with skills similar to Plaintiffs.

173. The Army's discriminatory treatment of Plaintiffs thus violates their rights under the Equal Protection Clause of the Fifth Amendment to the United States Constitution.

174. Absent injunctive and declaratory relief against the Army's regulations, Plaintiffs have been and will continue to be harmed.

COUNT VII

Violation of the Fifth Amendment to the United States Constitution Procedural Due Process

175. Plaintiffs incorporate by reference all preceding paragraphs.

176. Plaintiffs' sincerely held religious beliefs prohibit them from covering their turbans with a tar bucket or altering the identity of their turbans to resemble the tar bucket. Plaintiffs' compliance with these religious beliefs is a sincere religious exercise.

177. Enforcement of the Army's regulations against Plaintiffs would result in the loss of their livelihood as soldiers and violate their procedural due process rights by wrongfully impairing their property and liberty interests.

178. Absent injunctive and declaratory relief against the Army's regulations, Plaintiffs have been and will continue to be harmed.

COUNT VIII

Violation of the Administrative Procedures Act Arbitrary, Capricious, Abuse of Discretion, and Not in Accordance with Law

179. Plaintiffs incorporate by reference all preceding paragraphs.

180. The Army's own regulations provide that accommodated Sikhs may not be "required to wear military headgear in addition to the turban or under-turban,"

except for “the Advanced Combat Helmet or other protective headgear.” AR 670-1, § 3-16(c)(2).

181. The regulations further provide that, once a religious accommodation has been granted, it “may not be . . . modified unless authorized by [the Secretary of the Army or his or her] designee.” AD 2017-3, ¶ 4(a).

182. The ceremonial tar bucket is not “protective headgear.” Requiring New Cadet Chahal and New Cadet Ghotra to wear it thus violates the Army’s own regulations. AR 670-1, §3-16(c)(2).

183. New Cadet Ghotra’s January 5, 2017 accommodation expressly provides that it is governed by AR 670-1, which exempts New Cadet Ghotra from wearing any military headgear other than “protective headgear,” *id.*, and confirms that the accommodation can only be withdrawn by the Secretary for “military necessity.” Exhibit 16C, ¶¶ 3-4.

184. The “addendum” issued by West Point to New Cadet Ghotra on April 28, 2017, which seeks to withdraw his accommodation with respect to the tar bucket, thus also violates the Army’s regulations and was not approved by the Secretary of Defense or his designee.

185. By formally challenging West Point’s refusal to accommodate them with respect to the tar bucket, through counsel, New Cadet Chahal and New Cadet Ghotra have exhausted all administrative remedies that are available to them.

186. Because West Point's refusal to accommodate New Cadet Chahal and New Cadet Ghotra is contrary to Army regulations, the refusal is arbitrary and capricious, an abuse of discretion, and not in accordance with the law.

187. Absent injunctive and declaratory relief against the Army's regulations, Plaintiffs have been and will continue to be harmed.

PRAYER FOR RELIEF

Wherefore, Plaintiffs request that the Court:

188. Declare that the Religious Freedom Restoration Act and the Constitution of the United States require the Army to cease discriminating against Plaintiffs and to accommodate their religious exercise in maintaining the identity of their turbans during ceremonial events;

189. Issue preliminary and permanent injunctions (1) enjoining Defendants from enforcing the Army's personal appearance regulations against Plaintiffs insofar as they require Plaintiffs to remove, replace, or cover their turbans with the ceremonial tar bucket; (2) ordering Defendants to permit Plaintiffs to continue serving in the Army and at West Point without wearing the tar bucket or other military headgear other than the Advanced Combat Helmet or other protective headgear; and (3) ordering that the injunction will apply to all Army posts that Plaintiffs will hold in the future and in compliance with all other requirements of

the Army's regulations, unless the Army makes an individualized showing of a compelling governmental interest that cannot be satisfied by less restrictive means;

190. Nominal damages;

191. Award Plaintiffs the costs of this action and reasonable attorney fees; and

192. Award such other and further relief as the Court deems equitable and just.

JURY DEMAND

Plaintiffs request a trial by jury on all issues so triable.

Respectfully submitted this 14th day of August, 2017.

s/Matthew P. Allen

Matthew P. Allen (P57914)

Miller, Canfield, Paddock & Stone, P.L.C.

840 W. Long Lake Rd., Suite 150

Troy, MI 48098

Tel: (248) 267-3290

allen@millercanfield.com

Amandeep S. Sidhu

(DC Bar No. 978142)

Emre N. Ilter (DC Bar No. 984479)

(Admitted in E.D. Mich.)

David A. Roller

(FL Bar No. 113713)

McDermott Will & Emery LLP

500 North Capitol Street, N.W.

Washington, DC, 20001

Tel: (202) 756-8000

Fax: (202) 756-8087

asidhu@mwe.com

Eric S. Baxter (DC Bar No. 479221)

(Admitted in E.D. Mich.)

Eric C. Rassbach

(DC Bar No. 493739)

Diana M. Verm

(DC Bar No. 1811222)

Daniel Blomberg

(DC Bar No. 1032624)

The Becket Fund for Religious Liberty

1200 New Hampshire Ave. NW

Suite 700

Washington, DC 20036

Tel: (202) 955-0095

Fax: (202) 955-0090

ebaxter@becketlaw.org

Harsimran Kaur Dang

(DC Bar No. 493428)

The Sikh Coalition

50 Broad Street, Suite 1537

New York, NY, 10004

Tel: (212) 655-3095

harsimran@sikhcoalition.org

Counsel for Plaintiffs