

IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF ILLINOIS  
SPRINGFIELD DIVISION

**FILED**

JUL 21 2005

JOHN M. WATERS, Clerk  
U.S. DISTRICT COURT  
CENTRAL DISTRICT OF ILLINOIS

ROD BLAGOJEVICH, Governor of the )  
 State of Illinois, )  
 )  
 Plaintiff, )  
 )  
 -vs- )  
 )  
 DONALD RUMSFELD, Secretary of Defense )  
 of the United States; ANTHONY J. PRINCIPI, )  
 Chairman of the Defense Base Closure and )  
 Realignment Commission; JAMES H. )  
 BILBRAY; PHILLIP E. COYLE; HAROLD W. )  
 GEHMAN, JR.; JAMES V. HANSEN; )  
 JAMES T. HILL; LLOYD W. NEWTON; )  
 SAMUEL K. SKINNER; and SUE ELLEN )  
 TURNER, members of the Defense Base )  
 Closure and Realignment Commission, )  
 )  
 Defendants. )

No. 05-3190

**COMPLAINT**

Plaintiff, ROD BLAGOJEVICH, Governor of the State of Illinois, by his attorney, Lisa Madigan, Attorney General of the State of Illinois, and for his complaint against defendants, DONALD RUMSFELD, Secretary of Defense of the United States; ANTHONY J. PRINCIPI, Chairman of the Defense Base Closure and Realignment Commission; JAMES H. BILBRAY; PHILLIP E. COYLE; HAROLD W. GEHMAN, JR.; JAMES V. HANSEN; JAMES T. HILL; LLOYD W. NEWTON; SAMUEL K. SKINNER; and SUE ELLEN TURNER, members of the Defense Base Closure and Realignment Commission, states as follows:

1. Plaintiff, Rod Blagojevich, is the Governor of the State of Illinois.
2. Pursuant to the Constitution and laws of the State of Illinois, plaintiff is the Commander in Chief of the military forces of the State of Illinois, except for those persons who are actively in the service of the United States. Illinois Constitution of 1970 art. XII, §4.

3. Defendant Donald Rumsfeld is the Secretary of Defense of the United States.

4. Pursuant to the Defense Base Closure and Realignment Act of 1990, as amended, Secretary Rumsfeld is authorized to make recommendations for the closure and realignment of federal military bases in the United States to the Defense Base Closure and Realignment Commission.

5. Defendant Anthony J. Principi has been named by the President of the United States to be Chairman of the Defense Base Closure and Realignment Commission.

6. Defendants James H. Bilbray; Phillip E. Coyle; Harold W. Gehman, Jr.; James V. Hansen; James T. Hill; Lloyd W. Newton; Samuel K. Skinner; and Sue Ellen Turner have been named by the President of the United States to be members of the Defense Base Closure and Realignment Commission.

7. Pursuant to Sections 2903 and 2914 of the Defense Base Closure and Realignment Act of 1990 as amended, the Defense Base Closure and Realignment Commission is empowered to consider the recommendations of the Secretary of Defense and make recommendations to the President of the United States for the closure and realignment of military bases.

8. Pursuant to Sections 2903 and 2904 of the Defense Base Closure and Realignment Act of 1990 as amended, the Secretary of Defense of the United States shall close the bases recommended for closure by the Commission and realign the bases recommended for realignment, unless the recommendation of the Defense Base Closure and Realignment Commission is rejected by the President of the United States or disapproved by a joint resolution of Congress.

9. The Air National Guard base at the Abraham Lincoln Capital Airport is used for the administering and training of the reserve components of the armed forces.

10. Defendant Rumsfeld has recommended to the Base Closure and Reassignment Commission that the 183<sup>rd</sup> Fighter Wing be realigned.

11. The 183<sup>rd</sup> Fighter Wing of the Illinois Air National Guard is presently located at the Abraham Lincoln Capital Airport in Springfield, Illinois.

12. A "wing" is defined by Air Force Instruction 38-101 as a level of command with approximately 1,000-5,000 persons which has a distinct mission with a significant scope and is responsible for monitoring the installation or has several squadrons in more than one dependent group. AFI 38-101 §2.2.6.

13. The 183<sup>rd</sup> Fighter Wing is composed of Headquarters Staff, the 183<sup>rd</sup> Operations Group, the 183<sup>rd</sup> Maintenance Group, the 183<sup>rd</sup> Medical Group, and the 183<sup>rd</sup> Mission Support Group.

14. The 183<sup>rd</sup> Operations Group includes the 170<sup>th</sup> Fighter Squadron.

15. A "group" is a level of command consisting of approximately 500-2,000 persons usually comprising two or more subordinate units. AFI 38-101 §2.2.7.

16. The Groups which make up the 183<sup>rd</sup> Fighter Wing are composed of various squadrons and flights.

17. A "squadron" is the "basic unit of the Air Force." AFI-38-101 §2.2.8.

18. A "numbered/named flight" is the lowest level unit in the Air Force. AFI 38-101 §2.2.9.1.

19. The wing, groups, squadrons, and flights at the Abraham Lincoln Capital Airport are "units" as the term is defined by AFI 38-101.

20. The proposed realignment would result in the withdrawal or relocation of the fifteen F16 fighter planes currently assigned to the 183<sup>rd</sup> Fighter Wing and the relocation

or removal of the positions of 185 full time and 452 part time personnel.

21. Plaintiff has information and believes that the proposed realignment will result in the withdrawal or relocation of various units of the Illinois Air National Guard, including the 170<sup>th</sup> Fighter Squadron, the 183<sup>rd</sup> Operational Support Flight, and large portions of the 183<sup>rd</sup> Maintenance Group.

22. The result of the withdrawal or relocation of these units is that the 183<sup>rd</sup> Fighter Wing will cease to exist, because the units remaining will be insufficient to meet the definition of a "wing."

23. The Illinois National Guard constitutes a portion of the reserve component of the armed forces of the United States.

24. Defendant Rumsfeld has recommended that units of the Illinois Air National Guard be relocated or withdrawn.

25. Pursuant to 10 U.S.C. §18238, "A unit of the Army National Guard of the United States or the Air National Guard of the United States may not be relocated or withdrawn under this chapter without the consent of the Governor of the State."

26. Plaintiff has not consented to withdrawal or relocation of units of the Illinois Air National Guard.

27. Plaintiff has informed defendants that he did not consent to withdrawal or relocation of Air National Guard units and stated that:

The Springfield Air National Guard Base is a highly strategic location for homeland security missions for both Illinois and the entire Midwest. Illinois is also home to 11 nuclear power plants that provide 50 percent of our power generation. Further, Illinois has 28 locks and dams on the Illinois, Mississippi and Ohio rivers. If these recommendations are adopted, these vital assets and many others will be at greater risk without the F-16s in Springfield. On top of all that, this move will cost the taxpayers \$10 million. These are the wrong recommendations, at the wrong time and for the wrong reasons.

See Exhibits A, B.

28. Pursuant to 32 U.S.C. §104(a) each State may fix the locations of the units and headquarters of its National Guard.

29. Pursuant to 32 U.S.C. §104(c) "no change in the branch, organization, or allocation of a unit located entirely within a state may be made without the approval of its Governor."

30. The units of the 183<sup>rd</sup> Fighter Wing are presently located entirely within the State of Illinois.

31. Federal law prohibits defendant Rumsfeld from taking action to realign the 183<sup>rd</sup> Fighter Wing without the consent of the Governor of the State of Illinois.

32. Pursuant to 10 U.S.C. §18235(b)(1) the Secretary of Defense may not permit any use or disposition of a facility for a reserve component of the armed forces that would interfere with the facilities' use for administering and training the reserve components of the armed forces.

33. The realignment of the 183<sup>rd</sup> Fighter Wing as proposed by defendant Rumsfeld would interfere with the use of the Abraham Lincoln Capital Airport for the training and administering of reserve components of the armed forces and is barred by 10 U.S.C. §18235(b)(1).

34. By virtue of defendant Rumsfeld's proposal to realign the 183<sup>rd</sup> Fighter Wing without the consent of the Governor of the State of Illinois an actual controversy exists between the parties.

35. The members of the Base Closure and Realignment Commission have interests which could be affected by the outcome of this litigation and are made defendants

pursuant to Rule 19(a) of the Federal Rules of Civil Procedure.

36. This Court has jurisdiction pursuant to 28 U.S.C. §1331 and *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971).

37. Venue is proper in the Central District of Illinois by virtue of the fact that the Abraham Lincoln Capital Airport where the 183<sup>rd</sup> Fighter Wing is based is in the Central District of Illinois and by virtue of the fact that the official residence of the Governor of the State of Illinois is in the Central District of Illinois.

WHEREFORE, plaintiff prays that this honorable Court grant the following relief:

- A. Enter a declaratory judgment declaring the realignment of the 183<sup>rd</sup> Fighter Wing as proposed by defendant Rumsfeld without the consent of the Governor of the State of Illinois is prohibited by federal law; and
- B. Granting such other relief as is warranted in the circumstances.

ROD BLAGOJEVICH, Governor of the State of Illinois,

Plaintiff,

LISA MADIGAN, Attorney General,  
State of Illinois,

Attorney for Plaintiff,

BY: /s/Terence J. Corrigan

Terence J. Corrigan, #6191237  
Assistant Attorney General  
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OFFICE OF THE GOVERNOR

Rod R. Blagojevich

JRTC, 100 WEST RANDOLPH, SUITE 16-100

CHICAGO, ILLINOIS 60601

July 11, 2005

The Honorable Donald H. Rumsfeld  
Secretary of Defense  
U.S. Department of Defense  
The Pentagon  
Room 3E800  
Washington D.C. 20301

Dear Secretary Rumsfeld:

According to the recent BRAC recommendations issued by the Department of Defense, the fighter mission of 183<sup>rd</sup> Fighter Wing at Abraham Lincoln Capitol Airport in Springfield, Illinois would be realigned to another state. If this recommendation is upheld by the Defense Base Closure and Realignment Commission, the 183<sup>rd</sup> Fighter Wing will no longer have a flying mission.

The Department of Defense did not coordinate this recommendation with either my office or the Illinois Adjutant General. This lack of consultation compromises the integrity of the process used to develop the BRAC recommendations and completely disregards my role as Commander-in-Chief of the Illinois National Guard. Further, pursuant to 10 U.S.C. §18238 and 32 U.S.C. §104(c), my consent is necessary for the actions contemplated by the Department of Defense with regard to the 183<sup>rd</sup> Fighter Wing.

Chairman Principi recently wrote you expressing his concern about the impact realigning Air National Guard facilities would have on homeland and national security. The Springfield Air National Guard Base is a highly strategic location for homeland security missions for both Illinois and the entire Midwest. Illinois is also home to 11 nuclear power plants that provide 50 percent of our power generation. Further, Illinois has 28 locks and dams on the Illinois, Mississippi and Ohio rivers. If these recommendations are adopted, these vital assets and many others will be at greater risk without the F-16s in Springfield. On top of all that, this move will cost the taxpayers \$10 million. These are the wrong recommendations, at the wrong time and for the wrong reasons.

**DEFENDANT'S  
EXHIBIT**

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A

By this letter I wish to formally notify you that I do not consent to the proposed realignment of the 183<sup>rd</sup> Fighter Wing. Accordingly, pursuant to the above reference statutory citations, the actions proposed by your Department cannot proceed.

Sincerely,

Signature redacted pursuant to  
USDC-CDIL Adm.Proc. Rule II(I)(1)(f)

Rod Blagojevich  
Governor of Illinois



## OFFICE OF THE GOVERNOR

Rod R. Blagojevich  
JRTC, 100 WEST RANDOLPH, SUITE 16-100  
CHICAGO, ILLINOIS 60601

July 11, 2005

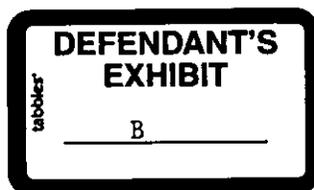
Anthony J. Principi  
Chairman of the Defense Base Closure and Realignment Commission  
2521 South Clark Street  
Suite 600  
Arlington, Virginia 22202

Dear Chairman Principi:

As you are aware, Secretary of Defense Donald Rumsfeld has recommended that the fighter mission of 183<sup>rd</sup> Fighter Wing at Abraham Lincoln Capitol Airport in Springfield, Illinois be realigned to another state. If this recommendation is upheld by the Defense Base Closure and Realignment Commission, the 183<sup>rd</sup> Fighter Wing will no longer have a flying mission.

The Department of Defense did not coordinate this recommendation with either my office or the Illinois Adjutant General. This lack of consultation compromises the integrity of the process used to develop the BRAC recommendations and disregards my role as Commander-in-Chief of the Illinois National Guard. Further, pursuant to 10 U.S.C. §18238 and 32 U.S.C. §104(c), my consent is necessary for the actions contemplated by Secretary of Defense Rumsfeld with regard to the 183<sup>rd</sup> Fighter Wing.

In your recent letter to Secretary Rumsfeld, in addition to asking whether we were consulted about this recommendation, you expressed concern about the impact realigning Air National Guard facilities would have on homeland and national security. The Springfield Air National Guard Base is a highly strategic location for homeland security missions for both Illinois and the entire Midwest. Illinois is also home to 11 nuclear power plants that provide 50 percent of our power generation. Further, Illinois has 28 locks and dams on the Illinois, Mississippi and Ohio rivers. If these



recommendations are adopted, these vital assets and many others will be at greater risk without the F-16s in Springfield. On top of all that, this move will cost the taxpayers \$10 million. These are the wrong recommendations, at the wrong time and for the wrong reasons.

By this letter, I wish to formally notify the Commission that I do not consent to the proposed realignment of the 183<sup>rd</sup> Fighter Wing. Accordingly, pursuant to the statutory citations referenced above, the actions proposed by Secretary Rumsfeld cannot proceed. I expressed similar sentiments to your fellow commissioners on June 20, 2005, at the BRAC Regional Hearings in St. Louis via both oral and written testimony.

Thank you for your time and consideration.

Sincerely,

Signature redacted pursuant to  
USDC-CDIL Adm.Proc. Rule II(I)(1)(f)

Rod Blagojevich  
Governor of Illinois