

No. 00-518 C

(Filed: January 17, 2002)

\*\*\*\*\*

**LYLE D. MCMULLEN,**

Plaintiff,

v.

**THE UNITED STATES,**

Defendant.

\*\*\*\*\*

*J. Byron Holcomb*, Bainbridge Island, WA, for plaintiff.

*Joanne E. Johnson*, Commercial Litigation Branch, Civil Division, United States Department of Justice, Washington, DC, for defendant, with whom were *James M. Kinsella*, Deputy Director; *David M. Cohen*, Director; and *Stuart E. Schiffer*, Acting Assistant Attorney General. *Lieutenant Colonel Jill M. Grant* and *Captain Toby D. McCoy*, United States Army Litigation Division, Arlington, VA, of counsel.

---

**ERRATA**

---

**DAMICH**, Judge.

The Court makes the following corrections in its published decision, filed on November 20, 2001.

- a. The following shall be substituted for footnote 4 in its entirety:

The Plaintiff cited *Dumas* in its reply brief for the proposition that this Court could review Article 15 actions for due process violations despite the fact that *Dumas*, as discussed above, clearly held

that due process rights under the Fifth Amendment do not attach to Article 15 actions accepted by a service member. Furthermore, even as a factual matter, the Plaintiff sought legal advice during the investigation, *AR* at 11, and the Plaintiff signed the Record of Proceedings of the Article 15 action which informed him of his right to consult with legal counsel and initialed the portion of the Record of Proceedings which stated that “[h]aving been afforded the opportunity to consult with my counsel, my decisions are as follows . . . .” *AR* at 19.

- b. page 6, lines 26-27, change “*Dumas*, 465 U.S. at 476.” to “*Dumas*, 223 Ct. Cl. at 476.”

---

EDWARD J. DAMICH  
Judge