

Steve Felano

From: Steve Felano
Sent: Saturday, October 17, 2020 4:26 PM
To: girights@girightshotline.org
Subject: NYANG Conscientious Objectors to Quarantine Enforcement

Greetings GI Rights Hotline Team,

I am a member of a legal research consortium serving New York Army National Guard (NYANG) members interested in pursuing Conscientious Objector status. Select NYANG members may wish to claim such status in response to New York Governor Andrew Cuomo's recent order – [as reported by WKBW TV News in Buffalo, NY](#) – that Guard members enforce mandatory quarantine edicts against American civilians exercising their right to travel to New York State by air.

Under the U.S. Constitution, individuals have rights in quarantine and isolation conditions. Under the 5th and 14th Amendment's rights of Due Process and Equal Protection, public health regulations used to impose such conditions can't be "arbitrary, oppressive and unreasonable." Additionally, Governor Cuomo's actions raise essential questions about the power of New York State to restrict the constitutional right to interstate travel that is grounded in dormant commerce clause doctrine.

Certain NYANG members believe, as I and my legal team do, that Governor Cuomo's recent order to the NYANG to deploy to airports across New York State and enforce mandatory quarantine edicts against Americans from most other states of the union is a gross abuse of power requiring NYANG members to violate the oath they swore upon Army enlistment to "support and defend the Constitution of the United States against all enemies, foreign and domestic."

Given that Governor Cuomo's latest order to the NYANG as outlined above is, in fact, violative of the Oath of Enlistment sworn by NYANG members themselves, a substantial number of NYANG members may wish to claim Conscientious Objector status. To be clear, such status would *not* be sought due to any moral revulsion to the bearing of arms and/or service in war – to the contrary, the NYANG members I'm referencing are eager to do both. Such status would be sought based on NYANG members' moral revulsion to following gubernatorial executive orders requiring them to project compulsory force against American civilians on U.S. soil in service of a politicized pandemic response that lacks traditional legislative authority and is clearly constitutionally dubious in nature.

Additionally, to be clear, NYANG members seeking Conscientious Objector status in response to Governor Cuomo's latest executive order would be interested in ensuring the ability to accomplish some or all of the following:

- Remaining active in the NYANG;
- Securing reassignment in a manner that does not require enforcement of constitutionally dubious orders;
- Immediately transferring to a National Guard unit in another state that does not demand Guard members enforce constitutionally dubious orders;
- Maintaining accumulated rank, regular pay, bonus pay, tuition benefits, access to other usual benefits, etc.

I am interested in learning if a pathway to Conscientious Objector status exists for NYANG members facing the crisis of conscience outlined above. If no pathway exists at this time, I would be interested in learning what regulations would need to change in order to create such a pathway for NYANG members, and which government officials would be required to draft and execute such a policy change.

Thank you for your time and attention.

All the best,

Steve Felano | WWW.2ANYS.COM
sfelano@2AWNY.com | 888.763.5345

