



IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

KORI CIOCA, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No.: 1:11-cv-151-LO-TCB
)	
DONALD RUMSFELD, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

Before the Court is Donald Rumsfeld and Robert Gates' (the "Defendants") Motion to Dismiss (Dkt. No. 10) the Plaintiffs' Complaint under Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim.

Notwithstanding the troubling nature of the sexual assault allegations alleged in Plaintiffs' Complaint, the United States Supreme Court has repeatedly affirmed that the relief Plaintiffs seek under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971) is unavailable in these circumstances.

Ultimately, the Plaintiffs are suing the Defendants for their responsibility in allegedly fostering a military atmosphere and environment that resulted in the Plaintiffs becoming victims of sexual assault. Plaintiffs allege that the Defendants, as Secretaries of Defense, failed to prevent sexual assaults within the military forum and failed to properly punish those individuals guilty of committing these offenses. The Plaintiffs pursue a remedy under *Bivens*, alleging that the Defendants' failures violated the Plaintiffs' First, Fifth, and Fourteenth Amendment rights.

A *Bivens* cause of action permits a plaintiff to recover damages against a federal official who violates the plaintiff's constitutional rights, even when Congress has not "expressly authorized such

