



Written by [Dave Bohon](#) on July 7, 2011

Federal Court Orders Halt to Military's Ban on Homosexuals

A federal appeals court has ordered the U.S. government to stop immediately stop enforcing the "Don't Ask, Don't Tell" ban on homosexuals serving in the military. The three-judge panel from San Francisco's 9th Circuit Court of Appeals ruled that since Congress has already repealed the policy, a move that came last December, and the Pentagon is actively preparing for an influx of homosexual personnel into the nation's armed forces, there is no longer a reason to continue with the stay the court had earlier placed on a lower court ruling overturning the ban.



The July 6th ruling "came in response to a motion brought by Log Cabin Republicans, a group for gay GOP members, which last year persuaded a lower court judge to declare the ban unconstitutional," reported [AP News](#). The Pentagon appealed U.S. District Judge Virginia Phillips' ruling that the ban on homosexuals should be immediately lifted, and the 9th Circuit agreed to keep the ban in place while it considered the implications.

The latest ruling by the appeals court lifted its hold on the lower court ruling, citing the Obama administration's argument in another case that treating homosexuals differently is unconstitutional. "The circumstances and balance of hardships have changed," the three-judge panel stated in its ruling, "and [the government] can no longer satisfy the demanding standard for issuance of a stay."

R. Clarke Cooper, executive director of the Log Cabin Republicans, said the ruling "removes all uncertainty — American service members are no longer under threat of discharge as the repeal implementation process goes forward."

In response to the ruling Pentagon Spokesperson Cynthia Smith issued a statement saying that Pentagon officials were "studying the ruling with the Department of Justice.... We will of course comply with orders of the court, and are taking immediate steps to inform the field of this order. In the meantime, implementation of the DADT repeal voted by the Congress and signed in to law by the President last December is proceeding smoothly, is well underway, and certification is just weeks away."

The Department of Defense announced that the chiefs of the military services were set to submit their recommendations on the repeal to Defense Secretary Leon Panetta, and when the Pentagon certifies that lifting the ban will not harm military readiness, the services will have 60 days to implement the repeal. Most officials agreed the repeal could be fully implemented by the end of September.

Homosexual activist groups hailed the ruling, with the [National Gay and Lesbian Task Force](#) claiming that polls show 80 percent of Americans are behind the lifting of the 17-year ban. "They know it's wrong and nonsensical to discriminate against patriotic people willing to risk their lives by serving in the



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military,” said the group’s director, Rea Carey. “They know it’s unfair that qualified service members have been drummed out of the military because of bias. It is a mark of shame that this policy remains in place.”

Members of the [Service Members Legal Defense Network](#), a pro-homosexual group focused on the military, applauded “our allies at the Log Cabin Republicans for their work on this case,” adding that they would “continue to work with allied organizations as we remain on guard for attacks on LGBT equality in the military.”

But Tony Perkins of the conservative [Family Research Council](#) condemned the ruling, arguing that the court had “wrongly and irresponsibly usurped the role of Congress, the President, and military leaders in setting policy for the armed forces.” Perkins pointed out that the actions of Congress to repeal the ban “requires certification by President Obama, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff before open homosexuality is permitted in the military.”

Perkins called on President Obama “to agree to the request made by U.S. Rep. Duncan Hunter (R-Calif.) and 31 other House Members who have asked the President to delay the certification until the military has an opportunity to clear up the mass confusion sparked by the policy change.” He emphasized that “Congress must maintain the ability to protect the military against the threats to good order, morale, discipline, and unit cohesion that would be posed by allowing open homosexuality in the military.”

Noting that the 9th Circuit Court ruling “further complicates an already flawed implementation process,” Perkins urged the President “to appeal this ruling immediately and for the U.S. Supreme Court to intervene and return the decision to where it belongs. This is a decision for Congress that should be based upon the input of the men and women who serve and those who lead them.”

Photo: Gen. James Amos, Assistant Commandant of the U.S. Marine Corp, testifies before the Senate Armed Services Committee, June 22, 2010, that now is the wrong time to overturn the “don’t ask, don’t tell” policy prohibiting gays from openly serving in the military, as U.S. troops remain in the thick of war in Afghanistan: AP Images



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