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Court says gay ex-soldier can re-enlist

THE ASSOCIATED PRESS

The Supreme Court yesterday carved out a one-man exception to the military services' ban on homosexuals.

The court let stand a federal appeals court ruling that the Army cannot bar re-enlistment by a homosexual soldier when it has known for years about his sexual orientation.

The justices, without comment, rejected the Bush administration's challenge to the reinstatement of Perry Watkins of Tacoma, Wash., a 16-year veteran with an excellent service record.

Bush administration lawyers argued that the federal government never should be barred from applying a valid regulation.

In the lawsuit, Mr. Watkins sought reinstatement with back pay. He was forced to accept an honorable discharge in 1984 under a new Army regulation requiring discharge of all homosexuals.

Mr. Watkins said yesterday, "My next step is obviously to get reinstated." He said he wants to serve until he can retire with an Army pension in about five years.

There was no immediate reaction from the Army or the Department of Defense.

The ruling by the 9th U.S. Circuit Court of Appeals did not address the validity of the military's ban on homosexuals, but noted that the Army repeatedly had re-enlisted Mr. Watkins.

Mr. Watkins was 19 when he was drafted during the Vietnam War in 1967. In filling out a pre-induction medical form, he marked "yes" in answering a question that asked whether he had homosexual tendencies. He was inducted anyway, and subsequently was allowed to re-enlist three times.

AP

Perry Watkins, a homosexual, will re-enlist in the Army. The Supreme Court let stand a ruling that said the Army couldn't bar his re-enlistment.

After two tours of duty in Korea, Mr. Watkins was stationed at Fort Lewis, near Tacoma.

From 1967 through 1980, he was the subject of three Army investigations. Each one was sparked by Mr. Watkins telling some superior about his homosexuality, but after each investigation he was allowed to re-enlist.

In 1981, the Army adopted a new regulation requiring the discharge of all homosexuals.

A review board in 1982 voted to discharge Mr. Watkins, but before the discharge orders were issued a federal judge barred the Army from taking such action.

Seven years of court maneuvering and conflicting rulings followed before the 11-judge panel's ruling last year. But Mr. Watkins was forced to accept an honorable discharge in 1984 after a three-judge appeals court panel voted against him.

The 1989 ruling in favor of Mr. Watkins did not say he was entitled to back pay, and implied the Army could try to discharge him for any future homosexual acts.

But the ruling said the Army "may not attempt to discharge Watkins for any alleged homosexual acts that were the subject of past discharge proceedings or for any past or future statements by Watkins acknowledging his homosexuality."

The case had been closely watched by homosexual rights advocates.

"These days, we'll take a victory any way we can get one," said Paul DiDonato of the National Gay Rights Advocates in San Francisco after acknowledging that Mr. Watkins' victory was a narrow one.

Asked if he anticipated problems after his reinstatement, Mr. Watkins said: "That goes without saying. The problems that are going to be there are the problems the system itself will create. ... I'm asking for the same rights any other citizen receives."

In other action yesterday, the high court:

- Refused to let some Puerto Rico cable TV systems be prosecuted for carrying the Playboy Channel, rebuffing arguments that states' anti-obscenity efforts may be hampered unduly. The justices, without comment, let stand rulings that such prosecutions are pre-empted by federal law.
- Left intact a ruling from Illinois that lets prosecutors punish businesses convicted of dealing in obscenity by seizing their property.