



Coalition of
American Veterans
"Defending One Nation Under God"

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Exemplary Conduct, *Steffan v. Perry*, & "Don't Ask, Don't Tell"
Homosexuality is Still Incompatible with American Military Service

The second highest Federal Court in American ruled against homosexuality in the U.S. Armed Forces in 1994. This case was argued by some of the brightest attorneys ever fielded by the "gay rights" movement, yet the Federal Court decision was never appealed to the supreme Court. The case has not been mentioned or cited in the recent debate in Washington on the repeal of "Don't Ask, Don't Tell", *Steffan v. Perry* 41 F. 3d 677, 309 U.S. App. D.C. 281 (1994) (D.C. Circuit Court of Appeals, en banc, 1994). Despite the array of "gay rights" legal talent, the D.C. Court of Appeals, en banc in 1994, held and confirmed the primary finding: that it is **not possible to separate homosexual orientation from homosexual behavior**. This has been the primary deception successfully promoted for decades with media support of the homosexual, political movement, which undermines our society's institutions. The D.C. Circuit Court of Appeals in *Steffan* rejected this homosexual deception holding that:

"The military may reasonably assume that when a member states that he is a homosexual, that member means that he either engages or is likely to engage in homosexual conduct."

"Don't Ask, Don't Tell", a political compromise from 1993, is built upon deception and a lie, revealed in the *Steffan* case and will require coercion to force military members to accept it. These lies are no more apparent than in the case of Joe Steffan's claim against the Naval Academy. Separation of "orientation" from behavior is an abstraction with no basis in reality or fact, particularly in our military in time of war. All military policy must promote combat efficiency and combat readiness. No case has been made that homosexuality in the ranks improves America's combat capability.

Harvard Law Review, 1995, summarized the idea of orientation vs. behavior as follows:

In *Steffan v. Perry* 41 F. 3d 677, 309 U.S. App. D.C. 281 (1994), the United States Court of Appeals for the District of Columbia Circuit held that a military discharge based solely on a statement of homosexual orientation was constitutional, because the military could rationally presume that such a statement amounted to an admission of homosexual conduct or of an intention to engage in homosexual conduct.¹

¹ "Constitutional Law. Equal Protection. D. C. Circuit Upholds Military Discharge Based on a Statement of Homosexual Orientation. *Steffan v. Perry*, 41 F.3d 667 (D. C. Cir. 1994)." *Harvard Law Review* 108.7 (1995): 1779. Print.

United States Court of Appeals, District of Columbia Circuit, Opinion, Dec. 7, 1990:

“Joseph C. Steffan resigned from the United States Naval Academy in 1987, after an administrative board recommended that he be discharged. The board's recommendation was based solely upon Steffan's statements proclaiming himself a homosexual; he was not charged with any homosexual conduct. In 1988 he filed this action, claiming that he was constructively discharged and challenging the constitutionality of the regulations that provided for the discharge of admitted homosexuals.”

The three Federal Appeals Court judges who decided the first appeal of *Steffan v. Perry* in 1993, all 3 appointed by a Democratic President, ordered Steffan reinstated because they claimed from the legal record that his performance was “untarnished by even a scintilla of misconduct.” In the lower courts, Steffan refused to answer questions about his homosexual behavior. In a brief on behalf of the Naval Aviation Foundation and First Principles, Inc., the Court was presented with an earlier, published oral history by Midshipman Joe Steffan. It was found in Mary Ann Humphrey's 1990 gay prize winning book of homosexual military oral histories, *My Country, My Right to Serve*, which carried a first-person account given by Steffan, describing his homosexual behavior while at the U.S. Naval Academy. In Humphrey's book, Steffan stated,

“So basically I wasn't involved much during my Academy years, mainly by my own choosing. I did have a few experiences...very, very secretive...In my case, the situations I did encounter tended to be with older midshipmen in non-Academy surroundings. It was just too risky. You could sort of tell by how someone looked at you or how long they made eye contact. I think men are very sensitive to that, especially if you don't know them. You start to pick up little truths like that. It was something that just happened, non-verbally, and in most cases, it never happened again with that individual, because of the risk factor involved.”

According to his first person oral history, Steffan admitted homosexual acts while at the Academy, but was fully prepared to mislead the Academy Superintendent, “I've done nothing wrong, I've been an exemplary midshipman.” Steffan followed through on his intention and lied in his statement before officials of the Academy board stating: “I've been a good midshipman. I haven't done anything wrong. It's true that I am gay, I'm gay, but I wasn't involved with anybody, nor has it affected my performance.”

Steffan's admission provides much more than a “scintilla” of evidence that homosexual orientation was inseparable from his homosexual behavior, and reflects a truly disqualifying disorder. The “Honor Bound”² Steffan and his attorneys manipulated the Federal Courts during discovery, and misled the three-judge panel, with widespread media cooperation. Steffan apparently saw nothing wrong with lying, deception, felonious acts or false and misleading official statements.

Joe Steffan publically acknowledged his deception and violation of felony statues, not to mention the Naval Academy honor code, when he admitted, in writing, his homosexual acts while he was a midshipman.

² Steffan's own book, published in 1992

With the Federal Court's 3 judge panel decision to reinstate Steffan to the Naval Academy, the national media exploded with articles and segments on the Federal Court Judges' decision to overturn the District Court.

Appealed once again, to be heard by the entire panel of ten D.C. Circuit Court of Appeals judges, the case was accepted, heard and decided on November 22, 1994. The D.C. Circuit Court of Appeals en banc (7-3) upheld Steffan's discharge and American's first military principles of virtue, honor, subordination and patriotism were also upheld. The full Court's much anticipated decision (7-3), after rehearing the well-publicized *Steffan v. Perry* panel case, decided that self-identified homosexual Joe Steffan would not be reinstated at Annapolis, or graduated, commissioned or promoted. Further, the second highest Court in America declared Steffan's 1987 discharge from the U.S. Naval Academy (USNA) entirely proper. His dismissal from the USNA had been overturned in 1993 by three Federal Appeals Judges who characterized Steffan's declaration of homosexuality as an immutable identity and thus a civil rights issue and a matter of discrimination, rather than historic disqualification from military service. In early 1995, the attorneys for Steffan declared there would be no appeal to the U.S. supreme Court.

After the rehearing of the case by the entire D.C. Circuit Court of Appeals en banc, and the overturning of the 1993 decision by the three Federal Court judges panel, the national media fell silent. Joe Steffan's termination upheld as Constitutional from the Naval Academy did not make a single front page headline.

In 1775, John Adams chaired the Marine Committee, which created the American Navy and Marine Corps. Adams personally compiled the original regulations for the government of the new American Naval forces, entitled "The Rules for the Regulation of the Navy of the United Colonies". In 1956, Congress expanded these regulations to apply to the Marine Corps, and then in 1997 to include all four branches of the American military:

All commanding officers and Others in authority in the naval service are required to show in themselves a good example of virtue, honor, patriotism, and subordination; to be vigilant in inspecting the conduct of all persons who are placed under their command; to guard against and suppress all dissolute and immoral practices, and to correct, according to the laws and regulations of the Navy, all persons who are guilty of them... (10 U.S.C. §5947, §3583 & §8583)

The requirement of Exemplary Conduct is not optional; it burdens those in authority to inspect all subordinate conduct and take action. To not regard the homosexual lifestyle as a "dissolute and immoral practice" would essentially eviscerate the law from its plain meaning. More conspicuous is the fact that Congress has determined homosexuality to be "dissolute and immoral" when they enacted the "Sodomy Statute" (10 U.S.C. §925, Article 125, UCMJ). Among other things, this statute subjects those of the same sex who engage or attempt to engage in oral and anal copulation to punitive action by court martial. This reason is obvious: Congress labeled such acts "unnatural" and proscribed them in particular, because they are dissolute and immoral.

In "Lifting the Ban on Homosexuals in the Military: The Subversion of a Moral Principle", see chapter 6, pg. 87-101 of *Gays and Lesbians in the Military* by Scott and Stanely, editors (1994), I

explained: It is not possible to compromise a moral principle because they are immutable as to time or circumstances. Americans still abide by the Biblical Old and New Testament principles that America was founded upon thus America's official National Motto is still "In God We Trust". The Declaration of Independence declared the existence of a "Creator and that American was found on "the Laws of Nature and of Natures' God". These sources inextricably woven into the fabric of our American Republic, point to an objective law order outside of man obligating him to respect authority, behave morally and accept responsibility and obligation without complaint. It is anarchy for each man to be a law unto himself.

- Today, the issue we must defend is America's first military principle, which still has Constitutional authority. The Continental Congress spoke loud and clear on November 28, 1775, 1956, and again in 1997, to prescribe and protect American military character according to long-standing, battle-tested truths of the highest standards of virtue, honor, subordination and patriotism required by American military service. Military officers have a 236-year old duty to "guard against and suppress immoral and dissolute behavior," including homosexuality.
- Today, the issue is about character—American military character and self-defined homosexual character which are *not* compatible at any level in the Armed Forces.
- Today, the issue is *not* about discrimination or non-existent civil rights to military service. It is about the disqualification of self-identified homosexuals from military service for self-evident reasons.

America's military principles must not be surrendered to those who seek to subvert the military institution under the guise of civil rights, equal opportunity, or privacy. No person better describes the essential importance of religion and morality in society than General George Washington, first president of the United States and undisputed "father of our country",

Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports....Let it simply be asked: Where is the security for property, for reputation, for life, if the sense of religious obligation desert the oaths which are the instruments of investigation in courts of justice? And let us with caution indulge the supposition that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle.

It is in an especial manner our duty as a people, with devout reverence and affectionate gratitude, to acknowledge our many and great obligations to Almighty God, and to implore Him to continue and confirm the blessings we experienced. It is impossible to rightly govern the world without God and the Bible.

Colonel Ronald D. Ray
USMC, Ret.
Former Deputy Assistant Secretary of Defense

Virtue, Honor, Patriotism & Subordination
First Principles of U.S. Armed Services 1775-2011

<p>Rules for the Regulation of the Navy of the United Colonies of North America, 1775*</p> <p>“ART. 1. The Commanders of all ships and vessels belonging to the THIRTEEN UNITED COLONIES, are strictly required to shew themselves a good example of honor and virtue to their officers and men, and to be very vigilant in inspecting the behaviour of all such as are under them, and to discountenance and suppress all dissolute, immoral and disorderly practices; and also, such as are contrary to the rules of discipline and obedience, and to correct those who are guilty of the same according to the usage of the sea.”</p> <p>*Enacted by the Continental Congress, Nov. 28, 1775</p>	<p>U.S. NAVY AND MARINE CORPS</p> <p>Title 10, United States Code, 1956</p> <p>§5947, Requirement of exemplary conduct</p> <p>“All commanding officers and Others in authority in the naval service are required to show in themselves a good example of virtue, honor, patriotism, and subordination; to be vigilant in inspecting the conduct of all persons who are placed under their command; to guard against and suppress all dissolute and immoral practices, and to correct, according to the laws and regulations of the Navy, all persons who are guilty of them...” (10 U.S.C. § 5947)</p>	<p>U.S. ARMY</p> <p>Title 10, United States Code, 1997</p> <p>§ 3583. Requirement of exemplary conduct</p> <p>“All commanding officers and others in authority in the Army are required: (1) to show in themselves a good example of virtue, honor, patriotism, and subordination; (2) to be vigilant in inspecting the conduct of all persons who are placed under their command; (3) to guard against and suppress all dissolute and immoral practices, and to correct, according to the laws and regulations of the Army, all persons who are guilty of them; and (4) to take all necessary and proper measures, under the laws, regulations, and customs of the Army, to promote and safeguard the morale, the physical well being, and the general welfare of the officers and enlisted persons under their command or charge.”</p> <p>(10 U.S.C. § 3583)</p>	<p>U.S. AIR FORCE</p> <p>Title 10, United States Code, 1997</p> <p>§ 8583. Requirement of exemplary conduct</p> <p>“All commanding officers and others in authority in the Air Force are required: (1) to show in themselves a good example of virtue, honor, patriotism, and subordination; (2) to be vigilant in inspecting the conduct of all persons who are placed under their command; (3) to guard against and suppress all dissolute and immoral practices, and to correct, according to the laws and regulations of the Air Force, all persons who are guilty of them; and (4) to take all necessary and proper measures, under the laws, regulations, and customs of the Air Force, to promote and safeguard the morale, the physical well being, and the general welfare of the officers and enlisted persons under their command or charge.”</p> <p>(10 U.S.C. § 8583)</p>
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Report 105-29
United States Senate Committee on Armed Forces,
June 17, 1997

Section 554. Requirement for exemplary conduct by commanding officers and other authorities.

The committee recommends a provision that would establish, in statute, exemplary standards for commanding officers and others in positions of authority and responsibility. The committee notes that these standards have applied to Naval and Marine Corps officers since they were first set forth in regulations drafted by John Adams and approved by the Continental Congress in 1775. The standards were later enacted by the United States Congress in 1799 and codified in title 10, United States Code, in 1956. While the statute has not included specific standards of conduct for Army and Air Force officers, the military services have established very high standards of conduct in internal regulations.

The committee is disappointed to note that, in the past several years, some officers have shown reluctance to accept responsibility and accountability for their actions and the actions of their subordinates. This provision will not prevent an officer from shunning responsibility or accountability for an action or event. It does, however, establish a very clear standard by which Congress and the nation can measure officers of our military services. The committee holds military officers to a higher standard than other members of society. The nation entrusts its greatest resource, our young men and women, to our military officers. In return, the nation deserves complete integrity, moral courage, and the highest moral and ethical conduct.