

# Kentucky Edition

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## Lifting the Ban on Homosexuals in the Military: The Subversion of a Moral Principle

*"We have taken on the most conservative institution in America and forced it to at least discuss domestic partnership. Down the line, we will get gay marriage. We're going to get the military to recognize us and our partners. We're going to promote our agenda..."*

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At the close of 1993 most Americans were surprised to learn that open homosexuals have been reinstated and have been serving openly in our armed forces since October 1, 1993. The Joint Chiefs acquiesced to Clinton and Aspin's questionable order called "Don't ask, don't tell," on January 29, 1993, and stood behind Clinton on July 19, 1993 and publicly approved the "don't pursue" compromise which was struck between the White House and Pentagon during the summer. Colin Powell had opposed lifting the ban publicly during 1992, however he was a major factor in delivering the Chiefs during 1993 on this issue which was crucial to advancing the "gay rights" legal position in the courts.

Legally the "gay rights" movement needed to have the Chiefs approve not screening for homosexuality at the recruiting stations to avoid the legal doctrine of Military Necessity. This concept denotes the Supreme court's long-standing deference to military judgment and executive leadership in areas of war and defense

policy. Homosexuality has always been a disqualification from American military service. In other words, in the past, the Court has always deferred to the wisdom that whatever America's military leadership has deemed necessary to defend America against its "enemies foreign and domestic" must be granted.

The Chiefs' acquiescence to "Don't ask, don't tell" was necessary to overturn 375 years of law policy and military order in the courts. These concessions on the part of the Chiefs which included allowing openly homosexual servicemen and women to return to duty, form critically important parts of the "gay rights" legal positions as they now enter the courts. The American people only saw flickering images reflecting impressions that the homosexual movement was angry at Clinton for "compromising," while many conservative leaders opposed to allowing homosexuals to serve were claiming victory in Congress. Thus, many Americans were led to believe that the homosexual ban has been preserved, which is simply not true. The

Congress only codified the earlier compromise, not the pre-Clinton homosexual ban.

Homosexual Joe Steffan, a former Naval Academy midshipman, was ordered back to duty by three liberal Carter appointed D.C. Circuit Court judges on November 16, 1993. With a limited appeal by gay favoring Clinton Justice Department attorneys, Steffan will likely be graduated from the Naval Academy and perhaps be commissioned. Homosexual sailor Keith Meinhold was ordered reinstated during November, 1993, only the second open homosexual to serve.<sup>2</sup> Meinhold was permitted to re-enlist on December 16, 1993 and was sworn in by an openly lesbian Naval officer.<sup>4</sup> This window of service for open homosexuals would not have been possible without the Joint chiefs' endorsement of "don't ask, don't tell" and their support of the Clinton/Aspin compromise. Failure to screen out or investigate for homosexuality and with homosexuals now serving openly, gives homosexuals a claim of service without

"incident." It also provides the ability to claim the possibility of separating homosexual "status" or "orientation" from sodomy or homosexual behavior...all key events which could be turned into winning legal points for the "gay rights" movement in the federal courts.

There are over fifty lawsuits winding their way through the courts. Homosexual activists continue to seek new or different fact patterns to make new arguments to overturn the military homosexual policy. They even argue that the ban or don't ask, don't tell, etc. violates freedom of speech and that the new "officially recognized status" of homosexual orientation should be given legal status as a "cultural minority" under the equal protection clause of the constitution. These arguments are essential legal abstractions and sophistry to provide cover for a revolutionary change in American law, policy and morals which occurred during 1993. The American military's first principle of virtue was surrendered without a shot being fired.

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The opinions and conclusions expressed herein are the personal views of the individual author and are not necessarily endorsed by, nor necessarily reflect the official position of the Department of Defense, Department of the Navy, United States Marine Corps, or any other government agency.

<sup>2</sup> "Gay Activists Summon Their Hopes, Resolve" *The Washington Post*, 18 April 1993.

<sup>3</sup> Lancaster, John, "Agrees to reinstate Gay Sailor, Service to comply with Judges order while case proceeds," *Washington Post*, 11 November 1992, p. 1.

<sup>4</sup> See Brinkley, "Meinhold re-enlists, then returns to the Courtroom," *Washington Blade*, 24 December 1993, Vol. 24, No. 54, p. 1.