



U.S. appeals order lifting 'don't ask, don't tell' policy

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The Obama administration has filed a request with the 9th U.S. Circuit Court of Appeals to stay a lower court injunction stopping the military policy regarding openly gay troops serving.

Late Tuesday, U.S. District Court Judge Virginia Phillips in California denied the government's request for an emergency stay of her order barring the military from expelling openly gay service members.

That ruling came as the Pentagon has begun advising recruiting commands that they can accept openly gay and lesbian recruit candidates, according to a Pentagon spokeswoman.

The guidance from the Personnel and Readiness office was sent to recruiting commands on Friday, according to spokeswoman Cynthia Smith.

The recruiters were told that if a candidate admits he or she is openly gay, and qualify under normal recruiting guidelines, their application can be processed. Recruiters are not allowed to ask candidates if they are gay as part of the application process.

The notice also reminded recruiters that they have to "manage expectations" of applicants by informing them that a reversal of the court decision might occur, whereby the "don't ask, don't tell" policy could be reinstated, Smith said.

Groups representing gays and lesbians have warned against coming out to the military because the policy is still being appealed in courts.

One group, the Servicemembers Legal Defense Network, sent a statement out Tuesday reiterating the concern.

"During this interim period of uncertainty, service members must not come out and recruits should use caution if choosing to sign up," SLDN Executive Director Aubrey Sarvis said in the statement. "The bottom line: if you come out now, it can be used against you in the future by the Pentagon."

Judge Phillips' ruling on "don't ask, don't tell" stemmed from a lawsuit by Log Cabin Republicans, a gay rights group, challenging the policy.

Former Army Lt. Daniel Choi, an Iraq war combat veteran who challenged "don't ask, don't tell" and was discharged, moved to rejoin the military Tuesday afternoon. "I'm here because I want to serve my country," he said.

"In the recruiting station. Apparently I'm too old for the Marines!" he said in a tweet. "Just filled out the Army application."

Choi said he told recruiters he was gay and that there was no reaction or delay in the enlistment process. He indicated he would complete his paperwork Wednesday and that he did not care what rank he would assume.

Will Rodriguez-Kennedy, president of Log Cabin Republicans' San Diego, California, office, tried Tuesday afternoon to be reinstated by the Marines.

"Once a Marine, always a Marine," said Rodriguez-Kennedy, a corporal who was honorably discharged in February 2008.

He served three years of a four-year term. "It's a feeling of not having completed a full tour," he said.

Recruiters told him Tuesday there were no current slots and they would call him in January, Rodriguez-Kennedy said. One option is to join another branch of the service, but Rodriguez-Kennedy said he might speak with Marine officers or get legal help.

Reinstatement would allow him to keep the corporal rank and resume benefits.

Rodriguez-Kennedy, 23, served as a provisional military police officer in Iraq in 2007. He said he was open to new responsibilities. "I love the Marine Corps," he said.

CNN called several recruiting stations in New York and Chicago. They referred inquiries to the Pentagon.