

RECORD TYPE: PRESIDENTIAL (TRP NOTES MAIL)

CREATOR: Mail Delivery Subsystem (Mail Delivery Subsystem <MAILER-DAEMON@gatekeeper.eop.gov> [UNKNOWN])

CREATION DATE/TIME:23-SEP-1998 20:35:55.00

SUBJECT: Returned mail: User unknown

TO: Daniel C. Montoya (CN=Daniel C. Montoya/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

TEXT:

----- Transcript of session follows -----

421 ixmail8.ix.netcom.com (smtp)... Deferred: Connection reset by peer
during greeting wait with ixmail8.ix.netcom.com

While talking to smtp.ncir.org:

>>> RCPT To:<grendon@ncir.org>

<<< 550 unknown user <grendon@ncir.org>

550 <grendon@ncir.org>... User unknown

----- Unsent message follows -----

Received: from lngate3.eop.gov by gatekeeper.eop.gov;

(5.65v3.2/1.1.8.2/17Oct95-0424PM)

id AA15885; Wed, 23 Sep 1998 16:35:55 -0400

Received: by lngate3.eop.gov(Lotus SMTP MTA SMTP v4.6 (462.2 9-3-1997))

id 85256688.00711DC1 ; Wed, 23 Sep 1998 16:35:31 -0400

X-Lotus-Fromdomain: EOP

From: Daniel_C._Montoya@opd.eop.gov

To: Gonzaloa@poz.com, Bcrow@worldbank.org, paul@fcaids.org,
rdupaix@aol.com,

dan.eckhardt@mci.com, AlexnWeHo@aol.com,

sean.m.grimes@bankamerica.com,

dharvey@aidspolicycenter.org, darinej@ix.netcom.com,
gjonesl@os.dhhs.gov, kkavanaugh@nccbuscc.org, pkawata@nmac.org,
dkinch@hotmail.com, Marklacy@flash.net, ihojxl@gwumc.edu,
chad.lord@hrc.org, markeyop@aol.com, mmartin@os.dhhs.gov,
joneill@hrsa.dhhs.gov, palmerl@us.ibm.com, texjmp@hotmail.com,
msmolinski@osophs.dhhs.gov, sorianr@gunet.georgetown.edu,
Jeff.Trandahl@clerk.house.gov, Ktuerff@4env.com, smartl@gwu.edu,
snabel@mem.po.com, MoisesA@aol.com, terje@worldnet.att.net,
baustin@samhsa.gov, nbollman@irvine.org, globalaids@aol.com,
jerrye@wizard.com, imdnaleo@aol.com, rsnedden@aol.com,
sfisher@aidsaction.org, hgrooverop@aol.com, BHattoy@ios.doi.gov,
thenders@glo.state.tx.us, hitchcock@windowcorp.com,
scotthitt@aol.com,
aah@hypercon.com, Isbell@hugheshubbard.com, ronaldj@gmhc.org,
seth.kilbourn@hrc.org, marksking@aol.com, dlentz65@aol.com,
SteveLew2@aol.com, ncihids@ncihids.org, M929M@aol.com,
hernanmolina@earthlink.net, babaluaye@aol.com,
jpalenicek@hrsa.dhhs.gov, grendon@nclr.org, paul.richard@eeoc.gov,
robinson@dpf.org, mojo1025@aol.com, kinseyvi@aol.com,
lsiegeldc@aol.com, spengler@dnc.democrats.org, zanielloj@aol.com,
dzingale@aidsaction.org, esepulve@mincotech.com,
karls@huntbuilding.com, schok@aol.com, zguerra@mit.edu

Message-Id: <85256688.0070FC23.00@lmgate3.eop.gov>

Date: Wed, 23 Sep 1998 16:34:34 -0400

Subject: Second Circuit Upholds Gays in Military Policy

Mime-Version: 1.0

Content-Type: text/plain; charset=us-ascii

SLDN PRESS RELEASE CONTACT: Julia Adams September 23, 1998 (202) 328-3244

Second Circuit Upholds Gays in Military Policy

Case May Be Headed to Supreme Court

WASHINGTON, D.C. - The Second Circuit Court of Appeals today upheld the Administration's "Don't Ask, Don't Tell, Don't Pursue" policy in *Able v. USA*, a case that was closely watched by human rights advocates and the Pentagon. The Second Circuit Court of Appeals joins three other appellate courts in the Fourth, Eighth and Ninth Circuits that have upheld the current policy on gays in the military. There are no other cases challenging "Don't Ask, Don't Tell, Don't Pursue" pending before district or appellate courts.

C. Dixon Osburn, Co-Executive Director of Servicemembers Legal Defense Network, which filed an amicus brief in the case, stated, "Americans should be concerned when the courts hold the military above the law. Contrary to the court's opinion today, the Constitution does not permit our government to fire people from their jobs for being gay. Obviously, we are very disappointed in the court's opinion and will have to redouble our efforts to convince the American people that military readiness is not served by witch hunts, death threats, and firing decorated soldiers from their jobs."

The decision today overturns a lower court decision by Judge

Eugene Nickerson who ruled on July 2, 1997 that the military's policy creates "special rules" that treat gay service members differently than heterosexual service members for saying and doing the same things in violation of the constitutional guarantee of equal protection under the laws.

The six service members who brought the challenge to "Don't Ask, Don't Tell, Don't Pursue" may ask the Second Circuit to sit en banc and hear an appeal of the case or they may petition the United States Supreme Court to review today's decision. The case was brought on behalf of the service members by Lambda Legal Defense & Education Fund and the ACLU Lesbian and Gay Rights Project, both in New York.

In a report released earlier this year, Servicemembers Legal Defense Network documented that "commanders continue to ask, pursue and harass" service members in direct violation of "Don't Ask, Don't Tell, Don't Pursue." In April, the Pentagon released statistics showing that it had discharged 997 gays in 1997, a 67% increase since the implementation of "Don't Ask, Don't Tell, Don't Pursue" and the highest number of discharges since 1989. SLDN reports that the cost of firing gays in the military last year exceeded \$29 million.

Today's decision comes on the heels of a new survey released on September 4, 1998 indicating a significant drop in "strong opposition" to gay men and lesbians in the military by soldiers. The survey, conducted by Professor Charles Moskos of Northwestern University, the author of "Don't Ask, Don't Tell, Don't Pursue," and Laura Miller of UCLA, found that the

number of Army men strongly opposed to the presence of gay men and lesbians in the military has dropped from 67% in 1992 to 36% in 1998. Army women's opposition has also dropped significantly from 31% in 1992 to 16% in 1998, according to the recent study.

RECORD TYPE: PRESIDENTIAL (TRP NOTES MAIL)

CREATOR: William Waybourn (William Waybourn <waybourn@windowcorp.com> [UNKNOWN])

CREATION DATE/TIME:10-FEB-1999 16:24:00.00

SUBJECT: Can Teletubby be saved from gay "lifestyle"?

TO: waybourn (waybourn@windowcorp.com [UNKNOWN])

READ:UNKNOWN

Daniel C. Montoya (CN=Daniel C. Montoya/OU=OPD/O=EOP [OPD])

READ:UNKNOWN

TEXT:

NEWS from Window Media

FOR IMMEDIATE RELEASE - February 10, 1999

Contact: William Waybourn (202) 223-0554

CAN TELETUBBY BE SAVED FROM GAY "LIFESTYLE"?

Gay Media Company Offers an "Ex-Gay" Twist

WASHINGTON, DC - A chain of gay newspapers is offering Tinky Winky the opportunity to become an "ex-gay," in a satirical response to Rev. Jerry Falwell's warnings that the popular Teletubby may be gay. "We feel the recent 'ex-gay' ads by the extreme Right are too focused on humans, and have left out Teletubbies, cartoon characters, and action figures in offering salvation," said William Waybourn, co-founder of Window Media, a company that owns several gay community newspapers.

Ads appearing in next week's editions of the company's newspapers will parody recent newspaper and television ads, created by conservatives, that

claimed gays and lesbians can convert to heterosexuality.

The parody ads will feature a fictional conservative organization imploring Tinky Winky to "Put Down That Purse." The fictional organization offers support to other characters as well, including: Bert and Ernie of PBS's "Sesame Street," Smithers of Fox's "The Simpsons," Batman and Robin, Peppermint Patty of "The Peanuts," Velma from "Scooby Doo," and Warner Brothers' Elmer Fudd.

Falwell's newsletter, National Liberty Journal, warned in its February edition that Tinky Winky, the purse-toting yet male-voiced Teletubby, may be gay. In addition to the purse, Falwell's newsletter noted that "He is purple -- the gay-pride color." The article also warned that "his antenna is shaped like a triangle -- the gay-pride symbol."

Waybourn hopes his parody "ex-gay" ads deliver a reality check to the Right, and lighten what he considers to be a "needlessly controversial subject." "Tinky Winky was made that way - purple, happy, and toting a purse," Waybourn said. "He cannot be expected to change his color, and nor should anyone else."

Last year, extreme conservative groups funded a series of ads claiming gays and lesbians can somehow alter their sexual orientation. The ads were

condemned by psychiatrists as ignoring prevailing scientific research.

The parody "ex-gay" ads will appear in upcoming editions of Atlanta's Southern Voice, the Houston Voice, New Orleans' Impact News, and the gay entertainment guide Eclipse, which is distributed throughout the South.

Window Media, LLC, co-founded by Waybourn, owns the gay-themed weekly publications.

AD COPY FOLLOWS:

---If you love a Teletubby, tell him the truth.

Toward hope and healing for cartoon homosexuals.

Our organization ECODUS (Enforcing Cartoons or Drawings to Underscore Straightness) has been working to save Tinky Winky from a gay lifestyle. And we can be successful. *

Thousands of cartoon characters can be drawn away from homosexual identities and lifestyles. Bert and Ernie have been urban "bachelors" for over 20 years. Smithers from The Simpsons can't seem to break his unnatural crush on his boss, Mr. Burns. Velma from Scooby Doo is very masculine when compared to her counterpart crime fighter, Daphne. GI Joe serves in silence in the military under "Don't Ask. Don't Tell." Peppermint Patty allows

her relationship to go beyond a normal friendship by inviting Marcie to stay over on occasion. Batman and Robin continue their farce of crime fighting, while violating Gotham's sodomy laws. Bugs Bunny frequently dresses in women's clothes, and repeatedly kisses Elmer Fudd, another longtime "bachelor."

Through ECODUS, there is hope for all of your cartoon friends and loved ones.

Change your color.

Homosexual recovery is a process that occurs over time. Changing Tinky Winky's color from passionate purple to a nice country peach won't be easy.

It does not mean that his desires or proclivities will stop immediately.

But we'll force the color switch anyway.

Tinky Winky may still develop attractions towards Dipsy (the mischievous green Teletubby). But if we are successful in removing the underlying causes of such attractions, those feelings usually lessen in both frequency and intensity. Tinky Winky may even marry Laa Laa or Po, and hopefully have children.

Put down that purse.

If we can save Tinky Winky, we can help others, too. We have suggestions for the show's producers to ensure normal gender roles. We are suggesting male Teletubbies take up a masculine sport such as wrestling. The female Teletubbies should answer to the males, and do more cleaning or cooking in aprons.

Bend your antennae.

A recent resolution by the American Psychological Association condemning "reparative therapy" for homosexuals may frighten Tinky Winky and other characters from our advice. But we will force it on them anyway. Tinky Winky can shed his triangular antennae and put in its place a shortened nub.

If a cartoon character you know or love is struggling with homosexuality, show them this ad. If you truly love your cartoon characters, you'll tell them the truth.

For information on contacting an ex-gay cartoon ministry in your area, please consult your local Acme phonebook.

* As in previous conversions, none of the cases have been documented

scientifically. We just don't have the time.

William Waybourn

Window Communications

1901 L Street NW

Suite 604

Washington, DC 20036

work: 202 223-0554 | fax: 202 223-0558

home: 202 364-0404 | cell: 202 437-5819

waybourn@windowcorp.com

www.windowcorp.com

RECORD TYPE: PRESIDENTIAL (TRP NOTES MAIL)

CREATOR: jadams (jadams@sldn.org (Julia M. Adams) [UNKNOWN])

CREATION DATE/TIME:16-MAR-1999 18:25:49.00

SUBJECT: Conduct Unbecoming ~ SLDN's Fifth Annual Report

TO: jadams (jadams@sldn.org [UNKNOWN])

READ:UNKNOWN

Daniel C. Montoya (CN=Daniel C. Montoya/OU=OPD/O=EOP [OPD])

READ:UNKNOWN

TEXT:

Note: Some recipients have been dropped due to syntax errors.Please refer to the "\$AdditionalHeaders" item for the complete headers.

Dear Friend:

Yesterday, SLDN released its Fifth Annual Report on "Don't Ask, Don't Tell, Don't Pursue." Attached is a hyperlink to a story appearing in The Washington Post today. Also attached is a copy of our Executive Summary. Please let us know if you would like a full hard copy of the report.

Our chief finding is that reports of anti-gay harassment more than doubled last year. Service members report to us that they face daily threats to their physical safety and well-being, including death threats and verbal gay-bashing. Comments such as "You'd better not be queer because in the Navy we kill our fags" are common.

Please ask the Administration to take a strong stand against anti-gay harassment in the military. The Pentagon has had guidance on the shelf since the past two years regarding anti-gay harassment that it has not sent to the field. The Pentagon has also refused to send guidance on the limits

to investigations under "Don't Ask, Don't Tell, Don't Pursue." Commanders must know what the rules are if they are expected to follow them. The Pentagon must hold accountable those who ask, pursue and harass service members in violation of "Don't Ask, Don't Tell, Don't Pursue." The Pentagon must provide recourse, some reasonable form of accomodation, to service members who are harmed by asking, pursuit and harassment.

We appreciate your support. If you have further questions, please do not hesitate to contact me or Michelle.

Sincerely,

C. Dixon Osburn
Co-Executive Director

SLDN
P.O. Box 65301
Washington, D.C. 20035
(202) 328-3244 (v)
(202) 797-1635 (f)

<http://search.washingtonpost.com/wp-srv/WPlate/1999-03/16/0011-031699-idx.h>

t
ml

- Executive Summary.doc===== ATTACHMENT 1 =====
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D78]ARMSZZ000Z78L.000 to ASCII,
The following is a HEX DUMP:

===== END ATTACHMENT 1 =====

**CONDUCT UNBECOMING:
THE FIFTH ANNUAL REPORT ON
“DON’T ASK, DON’T TELL, DON’T PURSUE”**

EXECUTIVE SUMMARY

Living in forced isolation, in constant fear of investigation and inadvertent disclosure is harmful to gay service personnel. Each day I am witness to...anti-gay comments and attitudes. The Navy takes no action to stop this improper and outrageous behavior on the part of its best and brightest officers. My witness to this unfortunate anti-gay climate, and the direct harm that it causes me, forces me to disclose to you that I am gay. — Navy Officer

The Pentagon’s implementation of “Don’t Ask, Don’t Tell, Don’t Pursue” is a failure. Anti-gay harassment, asking and pursuits have surged to record levels since Congress enacted this law five years ago. Last year alone, reports of anti-gay harassment more than doubled. Reports of asking and pursuits increased 42%. These violations are due to lack of leadership. Military leaders have refused to send guidance to the field explaining the explicit investigative limits under “Don’t Ask, Don’t Tell, Don’t Pursue” and its intent to respect service members’ privacy. Military leaders have held no one accountable for asking, pursuits or harassment. As a result, many commanders and investigators do not know the intent or letter of “Don’t Ask, Don’t Tell, Don’t Pursue.” Others deliberately violate the policy, knowing their leaders do not take it seriously.

Service members have no way to protect themselves from harassment or to stop improper investigations. There is nowhere they can turn for help without fear of reprisal. Military leaders have wrongly required service members to keep their sexual orientation a total secret, forcing them to lie about who they are, even to their families, best friends and health care providers.

The result is that discharges under “Don’t Ask, Don’t Tell, Don’t Pursue” have soared. The Pentagon is firing three to four people every day for being lesbian, gay or bisexual—a total

of 1,149 discharges last year alone (Exhibit 1). Gay discharges last year were the highest in a decade, and represent an 86% increase since “Don’t Ask, Don’t Tell, Don’t Pursue” was first implemented.¹ The pink slips the past five years have cost American taxpayers \$130 million (Exhibit 2).² Many more dedicated, competent service members have left at the end of their terms, fed up with constant fear, dissembling and harassment.

The news under “Don’t Ask, Don’t Tell, Don’t Pursue” is not all bad. Physical abuse by investigators has declined.³ Mass investigations have waned. Criminal prosecutions of lesbian, gay and bisexual service members have decreased as more are administratively discharged. While welcome, these steps forward reflect the low baseline used to measure success.

Not all officers and enlisted leaders engage in verbal gay-bashing or snoop on their service members. The current climate, however, supports those who do. Service members experience daily harassment. Comments such as the following are routine in many units: “You’d better not be queer because in the Navy we kill our fags;” “That dyke is going to fry;” “You’re a dead faggot;” “There’s nothing wrong with beating up gays;” “That fag (Matthew Shepard) deserved to die;” and “There’s nothing to do in Sasebo unless you are a homo killer,” a chilling reference to the murder of gay sailor Allen Schindler in 1992 by shipmates in Sasebo, Japan. These are just a fraction of examples from the cases handled by Servicemembers Legal Defense Network (SLDN) in the past year.⁴

¹ These numbers are based on Department of Defense figures which do not include 14 Coast Guard discharges in 1998 or discharges in previous years. The Coast Guard is part of the Department of Transportation in peacetime, but joins the Navy during war.

² This does not include the costs of investigation, discharge or litigation.

³ See RANDY SHILTS, CONDUCT UNBECOMING, 231-232 (citing former Army Lieutenant Jay Hatheway’s testimony that he was forced to undergo “neurological testing” that included a psychiatrist’s puncturing his scalp with pins to attach sensors); 570 (citing Steve Ward’s testimony that he was placed into a broom closet without personal breaks until he confessed to being gay).

⁴ Servicemembers Legal Defense Network is an independent legal aid and watchdog organization.

Leadership from the top down is required to change the incentives, and to support those leaders in the field who try to do the right thing. Military leaders should, as recommended by an April 1998 Department of Defense report on “Don’t Ask, Don’t Tell, Don’t Pursue,”⁵ issue the two-year-old guidance on anti-gay harassment that is pending at the Pentagon.⁶ Other recommendations in the April 1998 Pentagon report, while welcome, do not address other core issues: privacy, investigative limits, accountability and recourse. Military leaders should send guidance to the field about the policy’s intent to respect service members’ privacy and its explicit limits to investigations (Exhibit 3). Military leaders should hold those who ask, pursue and harass accountable, and provide recourse to service members who are improperly targeted. Were these steps taken, command violations of “Don’t Ask, Don’t Tell, Don’t Pursue” would fall.

SLDN’s Fifth Annual Report on “Don’t Ask, Don’t Tell, Don’t Pursue,” *Conduct Unbecoming*, reviews what the policy says, and recaps major developments in the past five years.⁷ The report then zeroes in on what happened in the past year, examining the military’s failure to implement the core parts of “Don’t Ask, Don’t Tell, Don’t Pursue” and how that has impacted military readiness. The report also recognizes instances where individual leaders have taken appropriate action on behalf of their service members. The report concludes that, as

⁵ OFFICE OF THE UNDER SECRETARY OF DEFENSE (PERSONNEL AND READINESS, DEP’T OF DEFENSE, REPORT TO THE SECRETARY OF DEFENSE: REVIEW OF THE EFFECTIVENESS OF THE APPLICATION AND ENFORCEMENT OF THE DEPARTMENT’S POLICY ON HOMOSEXUAL CONDUCT IN THE MILITARY (Apr. 1998), hereinafter cited as DEP’T OF DEFENSE APRIL 1998 REPORT.

⁶ *Memorandum of Under Secretary of Defense Edwin Dorn, Guidelines for Investigating Threats Against Service Members Based on Alleged Homosexuality*, DEP’T OF DEFENSE (Mar. 24, 1997). This guidance instructs commanders to investigate those who threaten service members, not those who report anti-gay threats (Exhibit 4). The service chiefs failed to distribute the guidance. In April 1998, the Pentagon recommended that the instructions be expanded to include a prohibition on harassment, and finally be sent to the field. No guidance has been sent to the field yet. In the meantime, the Navy sent the original “Dorn memo” to the field via message traffic.

⁷ SLDN has assisted more than 1,600 service members in the past five years who have been harmed by “Don’t Ask, Don’t Tell, Don’t Pursue.”

military leaders struggle with critical retention and recruiting shortfalls,⁸ they can ill-afford to violate the letter and intent of the policy, or continue to let the valuable contributions of lesbian, gay and bisexual service members be frittered away by indifference or outright hostility.

⁸ Dana Priest, *Military Lags in Filling Ranks: Army Chief Wants Change in Education Requirements*, THE WASH. POST, Feb. 17, 1999 at A1 (citing Army Secretary Louis Caldera's statement asking the Department of Defense to change current recruitment policy to allow more than 10% of new recruits to be high school dropouts with equivalency diplomas in order to solve a shortage problem that will only get worse).