

## **Court Orders Injunction Against “Don’t Ask, Don’t Tell” Enforcement**

A California federal court on Tuesday granted an injunction against the enforcement of “Don’t Ask, Don’t Tell” throughout the United States and across the globe.

U.S. District Judge Virginia Phillips confirmed her earlier opinion in September against “Don’t Ask, Don’t Tell” in the case of Log Cabin v. United States by granting an immediate and permanent injunction barring the U.S. government from enforcing the law. Additionally, the court ordered the suspension of all pending proceedings and investigations under “Don’t Ask, Don’t Tell.”

In her injunction, Phillips reiterates that “Don’t Ask, Don’t Tell” violates the free speech and due process rights of gay, lesbian and bisexual service members under the First and Fifth Amendments. Phillips says her injunction “permanently enjoins” the U.S. government “from enforcing or applying the ‘Don’t Ask, Don’t Tell’ Act and implementing regulations, against any person under their jurisdiction or command.”

The Justice Department has 60 days to determine whether or not to appeal the decision to the U.S. Ninth Circuit Court of Appeals. Tracy Schmalzer, a Justice Department spokesperson, said the U.S. government is reviewing the ruling.

President Obama has pledged to end “Don’t Ask, Don’t Tell.” Many opponents of the law, including members of Congress, have urged the president not to appeal the court decision. During a press conference Tuesday, White House Press Secretary Robert Gibbs deferred comment on the injunction to the Justice Department.

“Obviously there have been a number of court cases that have ruled in favor of plaintiffs in this case,” Gibbs added. “And the President will continue to work as hard as he can to change the law that he believes is fundamentally unfair.”

Christian Berle, acting executive director for the National Log Cabin Republicans, which filed the lawsuit in 2004, said the court’s decision is the only “reasonable solution” in how to handle “Don’t Ask, Don’t Tell” in the wake of the ruling finding the law violated service members’ constitutional rights.

“These soldiers, sailors, airmen and Marines sacrifice so much in defense of our nation and our Constitution,” he said. “It is imperative that their constitutional freedoms be protected as well.”

Berle added the injunction strengthens national defense because the U.S. government is no longer compelled to “discharge service members with valuable skills and experience because of an archaic policy mandating irrational discrimination.”

Francine Minadeo, a spokesperson for White & Case LLP, which represented Log Cabin in the case, said the order has no stay of injunction and the firm doesn’t know whether the

government will appeal the decision.

Aaron Tax, legal director for the Servicemembers Legal Defense Network, said his also organization applauds the ruling, but warned gay, lesbian and bisexual service members in the U.S. military against making their sexual orientation public in the wake of the Phillips' order.

"This order will likely be appealed by the Justice Department and brought to the U.S. Court of Appeals for the Ninth Circuit where her decision may well be reversed," Tax said. "Service members must proceed safely and should not come out at this time."

Greg Rinckey, an attorney with Tully-Rinckey, which handles "Don't Ask, Don't Tell" cases, also said LGBT service members remain "in danger" if they decide to come out.

"I envision there will be an appeal filed [Tuesday or Wednesday] requesting an injunction for a stay on it, so it's definitely not safe to come out now," Rinckey said.

Alexander Nicholson, executive director of Servicemembers United and sole named veteran plaintiff in the lawsuit, called the order "another historic and courageous step in the right direction."

"While this is certainly news to be celebrated, we would also advise caution in advance of a potential stay from the Ninth Circuit," he said. "If the appellate court wishes to put itself on the right side of history, however, it will allow this sound and long-over due decision to remain in effect."