

Lesbian Appeals DADT Ruling
by 365Gay.com Newscenter Staff
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(Seattle, Washington) A lesbian colonel, dismissed from the military because of "Don't Ask, Don't Tell", is appealing a lower court ruling that dismissed her lawsuit challenging the ban on gays serving openly in the armed forces.

Maj. Margaret Witt (pictured) joined the Air Force in 1986. She served in the Persian Gulf and in 2003 was awarded an Air Force Commendation Medal for her action in saving the life of a Department of Defense employee who had collapsed aboard a government-chartered flight from Bahrain.

In 1993, she was selected to be the "poster child" for the Air Force Nurse Corps recruitment flyer.

Most recently she was a flight nurse and operating room nurse assigned to McChord Air Force Base near Tacoma, Washington.

But after commanders received an anonymous tip in 2004 that she is a lesbian and in a long-term relationship the military began an investigation that led to her discharge under the military's ban on gays serving openly.

In November 2004, Major Witt was placed on unpaid leave and told she could no longer participate in any military duties, pending formal separation proceedings. In March 2006, the Air Force informed Major Witt that she was being administratively discharged on grounds of homosexual conduct.

Last July in federal court her ACLU lawyers argued that the U.S. Supreme Court ruling striking down a Texas anti-sodomy law prevented the military from using private consensual acts between two people of the same sex as grounds for dismissal.

U.S. District Judge Ronald B. Leighton ruled that the sodomy ruling had no bearing on the military.

In its appeal before a three judge panel in Seattle the ACLU argued that child molesters in the armed forces are treated more leniently than gays because molesters don't face mandatory discharge.

The attorney's also argued that the Supreme Court's sodomy ruling established a new "fundamental right" regarding adult consensual sex.

Not so, argued the government.

"The court very clearly stops short of ... recognizing a fundamental right," Justice Department attorney Jonathan Cohn said, adding that the government need only show it has a rational reason for implementing DADT.

A decision is not expected for several months.

Two other lawsuits challenging DADT also are underway. One, by the Servicemembers Legal Defense Network is underway in federal court in Boston and a second, by Log Cabin Republicans, is before a federal court in California. (story)

A bill that would repeal "Don't Ask, Don't Tell" is currently before Congress and has 136 sponsors.

DADT was enacted in 1993. Since then more than 12,000 servicemembers have been dismissed when it was learned they are gay. According to statistics from the Servicemembers Legal Defense Network which advocates for gays in the military an average of two service members are dismissed under the law every day.

A report prepared by the Government Accountability Office shows that nearly 800 people with skills deemed 'mission-critical' by the Pentagon have been dismissed under the law, including more than 322 language experts, at least 58 of whom specialized in Arabic.

The GAO said that DADT has cost American taxpayers more than \$364 million since it was implemented.

The number of gays and lesbians who have attempted to enlist and rejected because they said they were gay is not known.

A study conducted last year for the Servicemembers Legal Defense Network concluded that the U.S. military could attract as many as 41,000 new recruits if gays and lesbians in the military were able to be open about their sexual orientation.

A Zogby poll taken in 2006 showed three-out-of-four members of the military who are serving in Iraq or recently returned home don't care if someone in their unit is gay.