JS-6

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

LOG CABIN REPUBLICANS, a
non-profit corporation,

                    Plaintiff,

          v.

UNITED STATES OF AMERICA
and ROBERT M. GATES,
SECRETARY OF DEFENSE, in
his official capacity,

                    Defendants.
_____

Case No. CV 04-08425-VAP (Ex)

JUDGMENT AND PERMANENT INJUNCTION

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

This action was tried by Judge Virginia A. Phillips without a jury on July 13-16 and 20-23, 2010. The Court filed a Memorandum Opinion on September 9, 2010 (Doc. 232), and an Amended & Final Memorandum Opinion, and Findings of Fact and Conclusions of Law, on October 8, 2010. For all the reasons set forth therein, the Court:

(1) DECLARES that the act known as "Don't Ask, Don't Tell"[1] infringes the fundamental rights of United States servicemembers and prospective servicemembers and violates (a) the substantive due process rights guaranteed under the Fifth Amendment to the United States Constitution, and (b) the rights to freedom of speech and to petition the Government for redress of grievances guaranteed by the First Amendment to the United States Constitution.

(2) PERMANENTLY ENJOINS Defendants United States of America and the Secretary of Defense, their agents, servants, officers, employees, and attorneys, and all persons acting in participation or concert with them or under their direction or command, from enforcing or applying the "Don't Ask, Don't Tell" Act and implementing regulations, against any person under their jurisdiction or command;

(3) ORDERS Defendants United States of America and the Secretary of Defense immediately to suspend and discontinue any investigation, or discharge, separation, or other proceeding, that may have been commenced under the "Don't Ask, Don't Tell" Act, or pursuant to 10 U.S.C. § 654 or its implementing regulations, on or prior to the date of this Judgment.

(4) GRANTS Plaintiff Log Cabin Republicans' request to apply for attorneys' fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412; and

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[1] Codified in statute at 10 U.S.C. § 654 and implemented by regulations comprising Department of Defense Directives 1332.14 (1993), 1332.30 (1997), and 1304.26 (1993), as modified by Department of Defense Instructions 1332.14 (2008) (incorporating March 29, 2010 changes) and 1332.30 (2008) (incorporating March 29, 2010 changes).

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2   (5) GRANTS Plaintiff Log Cabin Republicans' request to file a motion

3 for costs of suit, to the extent allowed by law.

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5   **IT IS SO ORDERED.**

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8 Dated: October 12, 2010

                                          VIRGINIA A. PHILLIPS
9   United States District Judge

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