

1 HONORABLE RONALD B. LEIGHTON
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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

10 MAJOR MARGARET WITT,

11 Plaintiff,

12 v.

13 UNITED STATES DEPARTMENT OF THE
14 AIR FORCE, et al.,

15 Defendants.
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Case No. C06-5195RBL

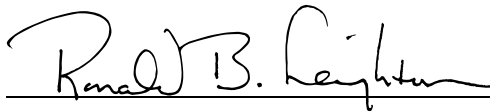
ORDER

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20 THIS MATTER comes before the above-entitled Court on Cross Motions for Summary Judgment
21 [Dkt. #s 102 and 118]. The Court has reviewed the materials submitted for and against each motion. Oral
22 argument would not be helpful to the Court as it wrestles with the issues presented by the motions. For the
23 reasons stated below, both motions are **DENIED**.

24 This case focuses on the constitutionality of the Don't Ask Don't Tell statute, 10 U.S.C. § 654.
25 Resolution of that issue is a matter of broad public importance. The parties have submitted materials which
26 include assumptions and conjecture about the past and current conduct of others as well as speculation and
27 predictions about the future conduct and attitudes of members of the unit to which Major Witt was formerly
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1 assigned. Both sides marshal the “facts” to present widely different versions of the evidence each side deems
2 to be relevant to issues at hand. The Court believes that this case is replete with genuine issues of material
3 fact that make summary disposition impossible to accomplish. On the strength of the record before it, the
4 Court is unprepared to adopt any of the conclusions advanced by either party. Finally, and perhaps more
5 importantly, this Court believes that a case of this importance should not be decided in a summary fashion
6 based solely upon written submittals. In short, a more developed record, in the form of a trial where the
7 content of testimony and demeanor of each witness can be evaluated, is necessary before this Court will be
8 prepared to answer the vital question put before it.
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11 Dated this 13th day of August, 2010.

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16 RONALD B. LEIGHTON
17 UNITED STATES DISTRICT JUDGE
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