

EXHIBIT 1

APPENDIX C

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

MAJOR MARGARET WITT,)
)
Plaintiff,)
)
vs.) C065195RBL
)
UNITED STATES DEPARTMENT OF)
THE AIR FORCE; COLONEL MARY L.)
WALKER, Commander 446th)
Aeromedical Evacuation)
Squadron, McChord Air Force)
Base; and JAMES G. ROCHE,)
SECRETARY, DEPARTMENT OF THE)
AIR FORCE,)
)
Defendants.)

DEPOSITION UPON ORAL EXAMINATION OF EDMOND HRIVNAK

APPEARANCES:

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MARCH 17, 2010

1 heard that in what you think is '05, did that spark any
2 conversations with anybody as to what they had suspected
3 about Maj. Witt?

4 A I would say the general feel, talking to people would be
5 like, "Okay, she's gay, wow, no surprise there."
6 Everyone was in shock that she was gone.

7 Q What do you mean by that?

8 A I did not have a single person come up to me and say, "I
9 am so glad we got rid of her." The comments that were
10 made that were resounding, "Gosh, what a loss of a good
11 officer, what a loss of a good nurse, what a loss of a
12 good friend. The Air Force really screwed up." We were
13 critically short on nurses; nurses were leaving at a
14 tremendous rate. They were having bonuses to keep
15 people in, and here was a person who did their job well
16 and they were kicking them out. To me it made
17 absolutely no sense.

18 Q Did he ever hear anybody ever express the opinion that
19 they did not want her to return to the unit?

20 A No.

21 Q Would you have ever, to your memory, had a conversation
22 with Col. Moore-Harbert about the discharge of
23 Maj. Witt?

24 A I have -- I may have made a statement to her. I may
25 have made a statement that I felt it was wrong that

1 you're talking five years ago.

2 Q So, let's talk about May 2005 when you really left the
3 unit.

4 A Yeah.

5 Q How many gays and lesbians combined?

6 A Well, I didn't keep count.

7 MR. PHIPPS: Objection. Foundation.

8 MR. LOBSENZ: That's okay.

9 A I didn't keep count, but I would guess six to eight gays
10 and lesbians.

11 Q I'm not at this moment anyway, asking you for any names,
12 okay?

13 A Okay.

14 Q But just at this moment what proportion of that six to
15 eight or so, is it evenly divided men and women, do you
16 think it's more one gender than the other, what?

17 A I would say, yeah, more female than male. I mean, we're
18 a medical unit, so there's generally more females than
19 males.

20 Q Okay.

21 A So, just the numbers?

22 Q Okay.

23 A And so I would say six female lesbians, two gay men.

24 Q Are any of the people that you believe are gay or
25 lesbian now presently retired from the Air Force?

1 Q You were both in the 62nd?

2 A We were both in the 62nd Medical Group. We worked in
3 the same building, different sections. So, I was not, I
4 was not in his chain of command. But because I had a
5 crappy supervisor he acted as a mentor to me, and I
6 learned a lot about being... I wanted to, you know, get
7 a senior airman, become a sergeant, and he mentored me
8 on the steps it takes to get promoted, where my
9 supervisor did nothing like that.

10 Q So, this happened '88 or '89, in that time frame?

11 A Yeah, in that time frame.

12 Q Since then, are you aware of any other person at McChord
13 who, besides Maj. Witt, who was discharged for being gay
14 or lesbian?

15 A No.

16 Q Do you have an opinion as to whether or not it's
17 generally known by others in the 446th, and I guess I'll
18 say do you have an opinion as to whether or not I think
19 it was generally known around 2005 when you were leaving
20 the 446th, whether it was widely known that there were
21 gays and lesbians in the unit?

22 A Yes.

23 Q Why do you say that?

24 A Side bar conversations, at off-duty functions,
25 retirements, small gatherings in crew rest. A lot of it

1 saying, "I got a patient who's crumping on me, and I
2 don't know what's going on here." And they took over
3 and saved this patient. I didn't have the equipment or
4 the skills. They figured out what the problem was and
5 fixed it. And, I mean, they saved his life, plus
6 countless other lives. And they were very cool about
7 it. They were like, "Oh, Ed" -- They didn't say, "Oh,
8 Ed, we didn't pull you out of the ringer on that one."
9 It was a team effort. They said, "Hey, any time you
10 need help, just holler, we'll help you out."

11 Q Do you have an opinion as to what effect, if any, it had
12 on the unit when the unit -- I'm talking about the 446
13 -- when the unit learned that Maj. Witt was being
14 discharged for being lesbian?

15 MR. PHIPPS: Objection. Characterization.

16 THE WITNESS: Don't know what means, sir.

17 Q He needs to do his job, and he says things for the
18 record, but you go ahead.

19 A Okay. Based on my opinion and conversations with
20 others, it impacted morale. It was, it was... It was a
21 detriment to the morale of the unit that someone like
22 that could be kicked out for not, in our opinion, not
23 doing anything wrong because she had always served as a
24 professional officer. And I want you to understand,
25 when I call a nurse an officer, I say that as an

1 officer, as a leader, because traditionally nurses get
2 two weeks of officer training and then they're thrown
3 out with the rank. And there are a lot of nurses out
4 there who are not officers. They don't know how to lead
5 especially in combat. And Margie Witt was someone who
6 not only did she have the skills as a nurse, but she
7 also had the skills as an officer, as a leader. And I
8 want that distinction known. I mean, -- And the Air
9 Force is trying to address that is why -- trying to beef
10 up the leadership of our nurse corps, and they haven't
11 done very well with that. That's one of the advantages
12 of being a prior enlisted man, I can see that aspect of
13 it.

14 Q I think, again, I wanted to ask you this question using
15 the time frame of when you left the 446th, May or so of
16 2005.

17 A November of 2005.

18 Q Sorry. November of 2005. Let's assume hypothetically
19 that in November of 2005 the Air Force had decided to
20 not go ahead with the discharge of Maj. Witt and had
21 reinstated her and allowed her to return to duty at the
22 446th?

23 A There probably would have been a big party.

24 MR. PHIPPS; Speculation.

25 Q You anticipated my question. What do you think the

1 reaction would be, would have been in the unit if that
2 happened?

3 MR. PHIPPS: Same objection.

4 A We would have had a party and welcomed her back with
5 open arms.

6 Q Okay. Now, you had a retirement ceremony of your own
7 when you retired?

8 A Uh-huh.

9 Q And when was that retirement ceremony?

10 A May of 2007. Drill weekend of 2007, so the first
11 weekend of May.

12 Q Where was that ceremony held?

13 A I had it at the Tacoma Firefighter's Union Hall.

14 Q Do you know whether Maj. Witt was present at your
15 retirement ceremony?

16 A I don't recall her being there. There was over a
17 hundred and fifty people at the retirement. Very
18 crowded.

19 Q Was there any documentation of the ceremony that was
20 kept?

21 A Just the -- My wife video recorded the ceremony, so
22 that's the only documentation.

23 Q You actually brought a copy of that video here today to
24 the deposition; correct?

25 A Correct.

1 Q Earlier today off the record you've actually provided us
2 with that?

3 A Correct.

4 Q And we've all had a chance during a recess to watch a
5 part of that video. Can you briefly describe the part
6 that we watched?

7 A I, I was retired, I had a formal ceremony, and then I
8 put together a PowerPoint, because that was one of my
9 things as operations officer is I was giving classes --
10 I was famous for my PowerPoints. So, I put together a
11 retirement PowerPoint on what I thought about the Air
12 Force, good and bad and what I thought of the 446, good
13 and bad. And one of the slides was a slide that said
14 Maj. Margie Witt and had a picture of her on the ramp of
15 the C130 a picture from when we were training for our
16 tactics, tactical training. And I made the comments at
17 that time, the military was having retention problems.
18 Now with the bad economy, I understand that recruiting
19 is not an issue. But at that time it was, and we were
20 critically short on nurses and medical technicians. The
21 Air Force as a whole was hurting for qualified medical
22 personnel because they were leaving in droves. I know
23 this for a fact because that's one of the reasons I was
24 working for Col. Rank; she was trying to figure out why
25 so many medical people were leaving after deployment.

1 And so I made the comment, I said, "We're having to
2 lower our standards and allow people in, but we have an
3 officer like Margie Witt who serves faithfully and
4 honorably and is discharged," because at the time I was
5 told third party that a civilian third party had accused
6 her of being a lesbian, although she had never publicly
7 stated that, as far as I knew never violated the don't
8 ask/don't tell policy. Never seen her with another
9 woman at social functions, had never seen her holding
10 hands with another woman or kissing another woman. She
11 never acted overtly as a lesbian any time in or out of
12 uniform the times I interacted with her.

13 Q So, when you made this comment, was there any reaction
14 from the people?

15 A You'll see on the tape that people clapped. The
16 reaction was positive on the comments I made.

17 Q Afterwards, meaning after the PowerPoint presentation,
18 did people who attended your retirement ceremony talk to
19 you about your comment that you had made about
20 Maj. Witt?

21 A Absolutely. Quite a few people came up to me after the
22 formal ceremony was over and we had a dinner and drinks
23 evening, and they said, you know, "Way to go about
24 Margie; hey, thanks for making those comments about
25 Margie." Well, in fact, one person said, "I wished

1 Margie was here to see that" -- so, I guess Margie

2 wasn't there -- "she would have appreciated it."

3 Q Do you know who that was?

4 A Yes, Faith Mueller.

5 Q Was Col. Moore-Harbert at your retirement ceremony?

6 A Yes.

7 Q Did she make any comment about your comment about

8 Maj. Witt?

9 A No. She did ask -- offer me a job, though, and
10 promotion to major at my retirement.

11 Q You mean after your retirement ceremony?

12 A Even after I'd been retired. She said, "There will
13 always be a spot for you, and I'll still get you
14 promoted if you want the position."

15 Q Would you have attended the 50th anniversary ceremony
16 for the 446 in the summer of 2009; do you know?

17 A I got an invitation to that, and if I remember
18 correctly, I was on duty and could not get the time off.
19 I was very disappointed I did not make that.

20 Q Did you attend Sgt. James Schaffer's retirement
21 ceremony; do you know?

22 A I don't think I made his retirement party.

23 Q Do you know whether you attended the retirement ceremony
24 of Heather Julian?

25 A Wow, I don't think I did.

1 Q Okay. So, does this change? I mean, I think earlier
2 today you said something about you didn't realize that
3 Maj. Witt had brought a lawsuit. Is there a difference
4 in your mind between a case and a lawsuit?

5 A See, I never made the connection between case, lawsuit.
6 To me I heard "don't talk about a case;" I thought it
7 was just Margie trying to get reinstated in the
8 military. I never asked.

9 Q Do you know whether it was the commander or not who made
10 this comment about don't talk about it?

11 A No, I honestly can't recall.

12 Q Did you say that you had served for some period of time
13 under Col. Carneal?

14 A Correct.

15 Q Do you know why Col. Carneal retired?

16 A No.

17 Q At some point in time, do you remember members of the
18 unit making complaints about Col. Carneal's behavior
19 with another member of the unit?

20 A Yeah. Actually found out after the fact, because
21 several of the enlisted under my commanding op' section
22 had made comments about, I'm not going to call it an
23 affair because I have no firsthand knowledge. But under
24 the UCMJ I would definitely call it an unprofessional
25 relationship with Col. Carneal and Capt. Windsor the

1 executive officer. It got to the point -- And, again,
2 it was affecting my morale, too, their behavior with
3 each other. I mean, they were, they were glued at the
4 hip. I mean, constantly together. That it didn't
5 matter if they were having an affair or not, that's
6 irrelevant. Under the UCMJ, the perception of an
7 unprofessional relationship is enough justification
8 under the UCMJ that the superior officer should take
9 action. So, after quite a bit of time of this, I went
10 over and formally complained to the Op's group commander
11 Col. Brian Spencer that we have a morale issue, esprit
12 de corps issue, because of the conduct of our commander
13 and executive officer. He asked me, "Are they having an
14 affair?" I said, "I don't know; it doesn't matter if
15 they're having an affair, it's an unprofessional
16 relationship and affecting morale, and I feel like you
17 need to do something about it." I had no idea that the
18 enlisted had come in on their own and had talked to him
19 also. I found this out four months after the fact that
20 that had occurred.

21 Q So, he, Col. Spencer did not mention to you at that time
22 that he'd already had complaints from enlisted
23 personnel?

24 A No, I don't recall. I may have spoken to him first. I
25 honestly don't know. Please don't ask me for a date,

1 can't remember getting an official briefing at a
2 Commander's Call on it. And if I did, I probably didn't
3 really pay attention to it because it didn't apply to
4 me; it was not something I was concerned about. I would
5 say that as long as a homosexual member in the military
6 did not tell or divulge that they were lesbian or did
7 not -- or gay or did not overtly act, then it wasn't a
8 problem. Essentially, that if you're gay or lesbian in
9 the military, you could be in secret as long as you
10 didn't come out. That was my understanding of the
11 policy.

12 Q And that's still your understanding of the policy today?

13 A I understand that policy is under revision under the
14 Obama...

15 Q Sure.

16 A It's being reviewed right now under the Obama
17 administration.

18 Q And do you have any opinions about the nature of what
19 you've heard about the review going on?

20 A Yeah. It's long overdue. I mean, the -- You look at
21 history, there's been plenty of militaries out there
22 that have a lot of gays and lesbians in the service that
23 has not been a problem, going back to the Greeks and the
24 Roman Army. There are European armies have gays and
25 lesbians serving, and they have no problem. Our country

1 is way behind the times.

2 Q So, would you personally support a repeal of the don't
3 ask/don't tell policy?

4 A Absolutely.

5 Q Do you have any view that this case, the litigation
6 would, would lead or contribute to a repeal of the don't
7 ask/don't tell policy?

8 A I have no idea. I have not been that involved in -- I
9 don't know what this case is leading up to.

10 Q But you, as far as your understanding of the don't
11 ask/don't tell policy, it's what you described earlier,
12 there's nothing else about it that it's limited by what
13 you just said?

14 A Right. I have never read the Air Force instruction on
15 it.

16 Q Okay.

17 A The complete Air Force instruction on it, no. I would
18 not have a reason to.

19 Q There could be other provisions of the so called don't
20 ask/don't tell policy that you aren't aware of?

21 A If there are, yeah.

22 MR. LOBSENZ: Objection, speculation. Go
23 ahead.

24 Q Now, I think to go back to what's marked as I guess it's
25 Exhibit 2, this e-mail I know that one of the phrases

1 what happened and I can only speculate why you're not in
2 the AES anymore. If it is for what I think it is, that
3 really concerns me." My question is about the "it" in
4 "if it is for what I think it is." I think it's fairly
5 obvious, but what are you talking about?

6 A Well, yeah, if she had been kicked out, dismissed for
7 being a lesbian that really concerned me because of my
8 history with Sgt. Salblan; I knew that he was also
9 discharged for being gay. And in my mind, based on that
10 experience, I didn't think she had a chance in hell to
11 be reinstated or winning her case.

12 Q So, it is for sexual orientation?

13 A Correct.

14 Q You also have a statement further down, "I'm also
15 concerned that a witch hunt might get started for other
16 members in our squadron." Again, I think it's fairly
17 obvious, but explain what you mean by concern about a
18 witch hunt. What exactly were you concerned about?

19 A My concern is that if the Air Force did start to
20 investigate this and that they found out what the rest
21 of us already knew in the 446 that there were other gay
22 and lesbian members present that a witch hunt would
23 start and that they would actively start to seek out the
24 other gay and lesbian members in the squadron.

25 Q Now, you were concerned about that, you were concerned

1 about that as a straight man. In the last month or so,
2 has anybody expressed a concern to you that there might
3 be a witch hunt or there might be retaliation in some
4 way against them for any cooperation that they might
5 have?

6 A I actually called Jill Brinks last night just to talk to
7 her because I know the Colonel had been trying to get a
8 hold of me, and I can show my work schedule this is very
9 difficult for me to get --

10 Q -- Can I interrupt you for a minute? For clarity, "the
11 Colonel" referring to Col. Carnes?

12 A Col. Carnes. My concern was I had a very busy schedule
13 today and I was worried about the length of the
14 deposition ruining the rest of the day. And I felt if I
15 met with Col. Carnes beforehand, I felt like I might be
16 able to streamline things. That's why I called Jill.
17 "Is there any advantage to meeting with them? Is it
18 going to shave any time?" And she was like, "Well, I
19 don't think it will shave any time off your deposition."
20 She said that she had heard that it takes about two
21 hours, two and a half hours from the other people that
22 have been, been here. And so we talked a little about
23 her deposition. And she told me -- she said, "I'm
24 concerned that this is going to turn into a witch hunt;
25 I'm concerned about SM-C," specifically, and

1 she's concerned that it might have an adverse effect on
2 other people's careers or it might hinder her
3 retirement. She's scheduled to be -- to retire here
4 soon. And she told me she really wished this all had
5 taken place after she had retired. I too, I did not
6 mention SM-C name. You brought it up, and
7 that's very concerning to me. I did not intend to
8 divulge anyone's name but you already had a name, so I
9 had no choice but to talk about her. I'm very concerned
10 about SM-C career. I know she's close to
11 retirement, and she is almost a carbon copy of Margie in
12 the sense of officership, leadership, professionalism
13 and her combat record is unparalleled. I think you're
14 going to be hard pressed to find another nurse in the
15 446 Aero-Evac that has flown as many combat hours and
16 has evacuated as many casualties as SM-C has.
17 I'm willing to bet she probably has a squadron record
18 for casualties evac'd and lives saved. Not that we keep
19 that kind of score. But if somebody were to go back,
20 I'm pretty sure based on the amount of deployment she's
21 had, she probably has the squadron record.

22 Q Roughly how long do you think you spoke to
23 Capt. Robinson on the phone?

24 A You mean Brinks, or is that her new name?

25 Q That's her new name. Jill Brinks/Jill Robinson.

APPENDIX D

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

MAJOR MARGARET WITT,)
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Plaintiff,)
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vs.) C065195RBL
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UNITED STATES DEPARTMENT OF)
THE AIR FORCE; COLONEL MARY L.)
WALKER, Commander 446th)
Aeromedical Evacuation)
Squadron, McChord Air Force)
Base; and JAMES G. ROCHE,)
SECRETARY, DEPARTMENT OF THE)
AIR FORCE,)
)
Defendants.)

DEPOSITION UPON ORAL EXAMINATION OF LEAH CRAWFORD

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MARCH 17, 2010
SEATTLE, WASHINGTON

1 later is. Are we talking --

2 A -- Maybe a couple years after.

3 Q Couple years?

4 A Uh-huh.

5 Q Then you hear more hearsay from others --

6 A Right.

7 Q -- what the reason is for the discharge?

8 A Correct.

9 Q And what do you hear then?

10 A I had heard that her roommate had told on her. I don't
11 know who they had told or confessed to some story that
12 she was lesbian.

13 Q Okay. Well, I don't know. Did you at that point, did
14 you form a belief that she was lesbian?

15 A Not necessarily.

16 Q Not necessarily?

17 A I just... I heard that she was and thought hmmm.

18 Q What was your reaction?

19 A Just that, nothing really. Didn't...

20 Q Did you care?

21 A Not really.

22 Q Did it make any difference to you?

23 A No.

24 Q Would you be in any way bothered if tomorrow the

25 Air Force reinstated Maj. Witt and she returned to duty

1 at the 446?

2 A Would I, I be bothered by that?

3 Q Yeah. Would you be upset by that?

4 A No.

5 Q Do you have an opinion as to why anybody within the unit
6 would be bothered by that?

7 A I think nobody would be bothered by it.

8 Q Why do you say that?

9 A In my opinion everybody liked her. She was -- You know,
10 everybody likes a good worker. People want a good
11 worker around. You don't want slackers. You want
12 people who know their job and can do their jobs well.
13 She was one of those and had a good personality.

14 Q Do you have an opinion as to what the unit, how the unit
15 would react if she came back now given the fact that
16 while she may not have changed now the unit would know
17 that her sexual orientation was lesbian?

18 MR. BUCKINGHAM: Objection. Speculative.

19 Q Do you have an opinion about that? Do you know what I'm
20 asking?

21 A Yeah. Can you change it, change the question?

22 Q Let me ask it this way: Do you have an opinion as to
23 what the unit's, the general attitude of the unit is
24 towards sexual orientation?

25 A In my opinion, I, I think that my unit doesn't have a

1 care about whether a person is lesbian or not. I don't
2 think they -- or gay or not. I don't think they --
3 There's the don't ask/don't tell, so people just don't
4 really talk about it, but...

5 Q Okay. In the fall of 2004, more specifically November
6 of 2004, were you aware of anything of -- were you aware
7 that Maj. Witt was under investigation at any time that
8 fall?

9 A No.

10 Q You said something about you heard eventually a roommate
11 told on her?

12 A Uh-huh, that's correct.

13 Q Did you ever meet anyone that you think was that
14 roommate?

15 A No.

16 Q Did you ever meet any friend, relative of, or social
17 acquaintances of Maj. Witt's that you can recall?

18 A Outside of the military?

19 Q Yeah.

20 A No.

21 Q Do you remember whether you met anybody on the annual
22 tours that maybe came with her to Hawaii, like her
23 parents; do you know?

24 A You know, that sounds familiar now that you say that.

25 She -- Her parents may have come on one of the annual

1 Q Okay. Why do you think you might get in trouble for
2 something you might say?

3 A I have a difference of opinion between the policy that
4 the Air Force has on gay and lesbians. So, because of
5 my complete opposite thoughts on their policy, I mean,
6 it's not what the Government has as an idea of gays and
7 lesbians, so because of that, I don't know, just the
8 unknown. I don't know what, what could happen because I
9 disagree. Probably nothing but...

10 Q And I don't want to put words into your mouth, so why
11 don't you just summarize what you mean by saying you
12 disagree. What is it you disagree with?

13 A Not allowing gays and lesbians in the military it seems
14 is unright to me.

15 Q And I think the Government would say, "We do allow them
16 as long as they don't say that they're gay or lesbian."
17 So, do you have an opinion about the policy that they
18 are not -- they can't stay if they say that they're gay
19 or lesbian, they have to not tell? Do you have a
20 disagreement with that?

21 A Yes. In my opinion, it sounds as though they don't want
22 gays and lesbians because if you say that you are, then
23 you're out. So, that would kind of mean we don't allow
24 gays and lesbians in the military, in my perception of
25 that policy.

1 Q Do you consider Maj. Witt a friend of yours?

2 A Yes.

3 Q Is it your understanding that this case is important to
4 her?

5 A Yes.

6 Q Do you want Maj. Witt to be successful in her case?

7 A Yes.

8 Q And when you testified earlier you said that you have a
9 personal opinion about what's commonly referred to as
10 the don't ask/don't tell policy?

11 A Yes.

12 Q And you disagree with the policy; is that right?

13 A Yes.

14 Q Is it your opinion that that policy should be repealed?

15 A I think it should be changed to be obsolete.

16 Q And what do you mean by "obsolete"?

17 A I think it should not be a policy at all.

18 Q Do you have the understanding that this litigation could
19 result in the abolition of the don't ask/don't tell
20 policy?

21 A I would guess that it probably could. I don't think it
22 would be definitive.

23 Q I know -- And earlier you testified that you haven't
24 talked with any of Maj. Witt's attorneys in this case;
25 is that right?