

national news

Out with the old, in with the new

New Year's came on Jan. 3 for the ban on gay men and lesbians in the military. It was out with the old and in with the new.

Joe Steffan quietly announced that he would not appeal to the Supreme Court his negative decision from the Washington, D.C., federal court. Thus ended his six-year legal challenge to the "old" ban on lesbians and gay men in the military stemming from his discharge from the U.S. Naval Academy at Annapolis in 1987.

"It was an emotionally painful thing for Joe in the sense that he is a fighter, and this is wrong, and the knee-jerk thing is to make right what is wrong," said Beatrice Dohrn, legal director of the Lambda Legal Defense and Education Fund. The group had helped Steffan press his case.

"But Joe also recognizes that for the 'cause' reasons, it's the moment for him to pass the torch to the Able case, which addresses the real current question of the 'new' ban."

The torch pass came quicker and in a more dramatic fashion than anyone had expected. Later that same day, a three-member appeals panel of the 2nd Circuit in New York ruled on a motion in the Able case, the lead legal challenge to the "new" military ban.

The panel held that trial judge Eugene Nickerson had used the wrong standards in issuing an injunction barring the military from proceeding to discharge the plaintiffs in the case. But they left the injunction in place until March 31, essentially ordering the trial and decision to be concluded by that date.

The Pentagon and Lambda were shocked, both having assumed that pretrial motions and discovery would delay start of the trial until at least the summer, if not the fall. Both are scurrying to prepare their cases.

What appears to be developing is a game of legal "chicken," where both sides presently would like more time to prepare but neither wants to be the first to ask, as that would give the other leverage in seeking concessions.

The fast-track ruling by the court panel virtually scuttled the Clinton administration's political and legal strategies of "stall and delay" in resolving the question of lesbians and gay men in the military. It makes it increasingly likely that the issue will be a highly visible one, perhaps even before the Supreme Court, during the coming presidential election campaign. It is something Clinton strategists had wanted to avoid.

AIDS Action names new head

AIDS Action Council, the largest national HIV/AIDS policy and lobbying organization, named Mark Barnes its new executive director Jan. 6. He will start the first of February. He succeeds Dan Bross, who served in that position for four years.

Barnes, 34, hails from East Tallassee in east central Alabama. He is a graduate of Yale law school and taught at the Columbia University School of Law, where he co-founded an AIDS Law Clinic. He has also worked as an attorney in private practice.

He was named director of AIDS policy for the New York State Department of Health in 1989, and served as New York City Department of Health associate commissioner for medical and legal policy from 1992 to '94.

In an interview prior to the official announcement of his hiring as executive director, Barnes stated that his principle mission will be "to save, sustain, and hopefully strengthen the existing federal programs" for communities living with and at risk for HIV and AIDS.

He wants to build "even more of a presence in Washington, and offer even more help to local and state organizations." He would like to strengthen

the organization as an information clearinghouse or resource center, offering technical assistance and analysis.

Barnes continually returned to the need for AIDS Action to become more representative of the diversity of the communities affected by AIDS and to work in broader coalitions to achieve its goals.

The AIDS Action Council has faced increasing criticism on these very grounds. Many have called it a trade association dominated by the handful of large local service organizations which provide the bulk of its funding. It is a charge that board president Mario Cooper acknowledges has some validity, and he has vowed to correct the situation.

"I know there are some people who will look at AIDS Action and go 'Tisk, tisk, tisk, they hired another gay white man,'" said Cornelius Baker, public policy director with the National Association of People with AIDS.

Baker called Barnes "very good, very sharp, someone who has been able to maintain a fair level of respect in the community while being in a very difficult environment."

Marijuana on trial as a medicine

Jerry Mensch found himself in a Maryland courtroom fighting for his marijuana, and perhaps his life.

Mensch had grown and smoked marijuana to relieve the fatigue, nausea and diarrhea that are side effects of ddI, one of the many drugs he takes to fight the HIV virus.

In November 1993 he was arrested for possession of 10 grams of marijuana at his farm, where he raises goats, about an hour southeast of Washington, D.C., in rural Charles County. The arrest wasn't the result of brilliant police work, it came from a disgruntled former housemate who turned him in.



But, Mensch told judge George Bowling on Dec. 19, "I just looked in the mirror. I just looked like I was slipping away." The marijuana curbed the side effects of his medication, he said, allowing him to regain weight and resume normal activity.

The three-hour preliminary hearing was to determine if the court will allow Mensch to argue that using marijuana was necessary for his health.

It is called a medical necessity defense and has been used by a small but growing number of people to defend their use of marijuana to combat the effects of maladies ranging from AIDS to glaucoma, and the radiation and chemotherapy used in fighting cancers.

"Many judges will not allow it," said Allen St. Pierre, spokesman for the National Organization for the Reform of Marijuana Laws. "Probably 80 percent or more of the time it never gets by its first impediment, which is a judge saying no to a motion to bring it up."

But when an attorney is allowed to use that defense, and brings in the primary caregivers and an outside expert to testify, a jury almost inevitably finds in favor of the sick person. "The winning rate is remarkable, close to 98 to 99 percent," said St. Pierre.

Mensch's physician, Doug Ward, testified at the hearing that he had not recommended Marinol, a prescription medicine containing synthetic THC, the active ingredient in natural marijuana.

Additional legal briefs will be submitted, and Judge Bowling is expected to rule soon on whether or not to allow Mensch to use the medical necessity defense.

Reported by Bob Roehr

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▼ Let's all work together this year to fight bigotry on all fronts!

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