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## national news

# Nearer to Victory Day

*"Don't ask, don't tell" is declared unconstitutional*

by Bob Roehr

**T**he "new" ban on gay men and lesbians serving in the military is unconstitutional. It violates First Amendment rights to free speech and Fifth Amendment rights to equal protection, declared federal Judge Eugene H. Nickerson from his Brooklyn courtroom on March 30.

The ruling came in *Able vs. USA*, the first legal challenge to the law passed by Congress in late 1992, that mandated the ban. Six active-duty and reserve service members had brought the suit.

"Congress may not enact discriminatory legislation because it desires to insulate heterosexual service members from statements that might excite their prejudices," Nickerson wrote.

"The policy of the act is not only inherently deceptive, it also offers powerful inducements to homosexuals to lie."

He dismissed the government's argument that having openly gay and lesbian members serve in the military would infringe on the privacy of heterosexuals and reduce "unit cohesion."

"What the court deems extraordinary is the almost total lack of concern [on the part of the Pentagon] as to the impact on unit cohesion of the attempt to enforce secrecy on homosexuals and to enlist them in the perpetuation of that hoax on heterosexuals. Common sense suggests that a policy of secrecy, indeed what might be called a policy of deception or dishonesty, will call unit cohesion into question."

Nickerson wrote, "Hitler taught the world what could happen when the government began to target people not for what they had done but because of their status."

Sexual minority and civil rights advocates

were elated by the decision. "It is an important first step," said Matthew Coles, director of the American Civil Liberties Union's National Lesbian and Gay Rights Project and one of the lead attorneys on the case.

"It is a very strong decision, especially where he goes into the prejudice basis of the rationale [for the policy]—the fact that when you boil it down, that is all there is," said Beatrice Dohrn. She is legal director with the other lead group in the suit, the Lambda Legal Defense and Education Fund.

Officials at the Justice and Defense departments continue to defend the policy and have indicated that they will appeal this decision. They have 60 days to make that request to the 2nd Circuit Court of Appeals. Most observers have maintained all along that the issue of lesbians and gay men in the military will only be resolved by the Supreme Court.

Critics on the far right continue to attack the Clinton administration for not defending the ban with sufficient vigor. For Elaine Donnelly, president of the policy group Center for Military Readiness, "The regulations are designed to fail, so the courts will do the dirty work for them [the administration]."

Meanwhile, the Pentagon will continue to enforce the "don't ask, don't tell" policy against other service members. The decision applies only to the six plaintiffs in the case.

"That is one thing that service members who are gay need to understand about this decision," said Dixon Osburn of the Servicemembers Legal Defense Network. "They are still going to be kicked out if they make a statement today."

## FOR HIV POSITIVE ONLY

A SPECIAL DENTAL CARE PROJECT TO HELP IMPROVE THE LIVES OF PEOPLE WITH HIV



Project Dental Health at the Russell Street Clinic needs HIV participants for an Oral Care Project to study the overall health effects of regular dental care for people with HIV.

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Study director: Dr. David Rosenstein, Oregon Health Sciences University

## Annual lesbian pilgrimage attracts 25,000

Lesbians took over Palm Springs, Calif., March 24-26 in the annual pilgrimage to the myriad dyke events that have sprung up around the Dinah Shore women's golf tournament.



Dinah Shore

Tourism officials estimate 25,000 lesbians converged on the city, renting entire hotels—including the largest one, the 500-room Riviera Resort.

*The San Jose (Calif.) Mercury News* called it "the largest convening of lesbians in the world."

"Palm Springs looks like some surreal land of the Amazons, where only women occupy chaises longues at hotel pools, only women fill tables at

restaurants, only women are getting off planes at the city's airport," the newspaper wrote.

The rest of the year, Palm Springs is a major playground for gay men.

From wire reports

## Protesters arrested in Kentucky

Twenty-three supporters of Louisville's proposed Employment Non-Discrimination Ordinance were arrested March 28 at Louisville's City Hall on charges of criminal trespass, after refusing to leave aldermanic chambers following a 7-4 vote by the city's Board of Aldermen against the proposal.

The bare-bones proposal would have prohibited discrimination based on sexual orientation in the area of employment only and would have been applicable to any business with over two employees. Carefully worded to appease religious right opponents, it exempted religious institutions, including churches and schools, and even had a provision noting that it was not intended to "promote homosexuality."

Protesters stood quietly in a pre-planned demonstration, holding yellow paper signs that said "Waiting for Justice." (The chamber holds about 145 people). Louisville Chief of Police Doug Hamilton was finally summoned to warn the crowd that if they didn't leave in five minutes they would be cited for criminal trespass. After about half the protesters left, those that remained sat silently.

The protesters were booked and then released several hours later on their own recognizance.

David Williams