

FILED

UNITED STATES COURT OF APPEALS

JUL 15 2011

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

LOG CABIN REPUBLICANS, a non-profit corporation,

Plaintiff - Appellee/
Cross-Appellant,

v.

UNITED STATES OF AMERICA; LEON E. PANETTA, Secretary of Defense, in his official capacity,

Defendants - Appellants/
Cross-Appellees.

Nos. 10-56634, 10-56813

D.C. No. 2:04-cv-08425-VAP
Central District of California,
Los Angeles

ORDER

Before: KOZINSKI, Chief Judge, WARDLAW and PAEZ, Circuit Judges.

This court has received appellants' corrected emergency motion for reconsideration of the July 6, 2011, order lifting the November 1, 2010, stay of the district court's judgment pending appeal.

In the motion for reconsideration, appellants provide considerably more detailed information concerning the implementation of the Don't Ask, Don't Tell Repeal Act of 2010, Pub. L. No. 111-322, 124 Stat. 3516 (Dec. 22, 2010), than they did in their May 20, 2011, opposition to the motion to lift the stay. This

information includes the declaration of Major General Steven A. Hummer, Chief of Staff of the Repeal Implementation Team of the Office of the Undersecretary of Defense for Personnel and Readiness; the representation that only one servicemember has been discharged under 10 U.S.C. § 654 since the passage of the Repeal Act; the representation that the Secretaries of the Military Departments, Chiefs of the Military Services, and Commanders of the Combatant Commands have recently submitted their written advice regarding the status of their preparation for repeal and ability to satisfy the certification standards set by Congress; and the representation that repeal certification will be presented to the President, Secretary of Defense, and Chairman of the Joint Chiefs of Staff in a matter of weeks, by the end of July or early in August. Appellants acknowledge that they did not previously inform the court of the full extent of the implementation of the Repeal Act.

In order to provide this court with an opportunity to consider fully the issues presented in light of these previously undisclosed facts, the stay entered November 1, 2010, is reinstated temporarily in all respects except one. The district court's judgment shall continue in effect insofar as it enjoins appellants from investigating, penalizing, or discharging anyone from the military pursuant to the Don't Ask, Don't Tell policy.

No later than 5:00 p.m. PDT on July 18, 2011, appellants shall supplement their motion for reconsideration to address why they did not present in their May 20, 2011, opposition to the motion to lift the stay the detailed information now presented in the motion for reconsideration. Appellee may file an opposition to the motion for reconsideration by 5:00 p.m. PDT on July 21, 2011. Appellants may file a reply in support of the motion by 12:00 p.m. PDT on July 22, 2011.

Briefing is completed.