

Log Cabin Republicans v. United States: **Trial Breakdown**



Log Cabin Republicans



U. S. Department of Justice

Key Arguments at Trial

- “Don’t Ask, Don’t Tell” violates gay and lesbian service members’ constitutional right to free speech by requiring them to remain silent about their sexual orientation at all times.
- “Don’t Ask, Don’t Tell” violates gay and lesbian service members’ constitutional right to due process by intruding upon freedoms protected by *Lawrence v. Texas*.
- “Don’t Ask, Don’t Tell” does not advance national security and is not necessary for national security. Indeed, “Don’t Ask, Don’t Tell” is a threat to national security.
- Judicial deference does not mean abdication. Those who fight to protect our rights should have those rights protected by the courts, and the Court is constitutionally required to do so.

Evidence Presented

- Testimony from six former service members
- Testimony from seven expert witnesses
- Depositions of government officials showing that the policy does not serve an important government interest.
- Hundreds of documents, including government and independent reports showing that “Don’t Ask, Don’t Tell” does not strengthen morale or unit cohesion, and in fact undermines both.
- Statements by members of the Obama administration, including President Obama, Secretary of Defense Robert Gates and Admiral Mike Mullen, chairman of the Joint Chiefs of Staff, against “Don’t Ask, Don’t Tell.”

Key Arguments at Trial

- Log Cabin Republicans “lacks standing.” English Translation: No Log Cabin Republican has been hurt by “Don’t Ask, Don’t Tell.” (This argument lost in pre-trial proceedings, but the Department of Justice repeatedly brought it up anyway.)
- The Court has no power to find “Don’t Ask, Don’t Tell” unconstitutional because it affects the military.
- Congress thought “Don’t Ask, Don’t Tell” was important to national security in 1993, and that’s all that matters. The Court should leave this to Congress.

What They Have to Prove to Win

- In the 9th Circuit, the government bears the burden of proof in challenges to “Don’t Ask, Don’t Tell.” Under *Witt v. Dep’t of the Air Force*, “when the government attempts to intrude upon the personal and private lives of homosexuals... the government must advance an important government interest, the intrusion must significantly further that interest, and the intrusion must be necessary to further that interest.”

Evidence Presented

- None.