

# “Don’t Ask, Do Tell?”

## *Final Ruling on Military Policy Approaches*

**by Wes Kashiwagi**  
*Managing Editor*

**T**he U.S. government’s “Don’t Ask, Don’t Tell” policy may soon be ruled unconstitutional on the basis that it restricts free speech.

A recent article *Air Force Times* reported that Eugene Nickerson, a federal judge in Brooklyn NY, ruled in March of this year in a case involving six gay service members. Nickerson felt that the “Don’t Ask, Don’t Tell” policy, as it is currently being interpreted by the military, restricts the service people’s freedom of speech.

The government currently argues that stating that one is gay is a *de facto* statement of intent to engage in homosexual acts and is therefore cause for discharge.

On Dec. 5th, the U.S. Court of Appeals for the 2nd Circuit in Manhattan heard the government’s case against Nickerson’s rul-

ing in *Able vs. United States*. In this case, the government argued that “Don’t Ask, Don’t Tell” lets the military discharge “out” gays and lesbian women, while allowing closeted individuals to remain in the service.

A third, concurrent hearing in the U.S. Circuit Court of Appeals may have affected the continuation of the policy as it relates to former Navy Lt. Paul Thomasson, who was discharged for revealing his sexual preference to his superiors. In a surprising move, the court said that neither gay activists nor the government are interpreting “Don’t Ask, Don’t Tell” correctly.

According to the *Air Force Times* article, the Supreme Court may soon hear the *Able* and *Thomasson* cases if the lower courts come up with conflicting verdicts or both decide that the current policy is unconstitutional. In 1995, 597 service members were discharged for being gay or lesbian.