

Military (Outserve-SLDN)

In the military context, the denial of equal benefits for equal service and equal sacrifice is more than a fairness issue. The military consistently has emphasized that providing benefits to military spouses improves morale and is critical to national security. These benefits address an important source of worry for service members, allowing them to focus on the tasks at hand. A Marine who is ordered to kick down a door or to take a hill in the midst of incoming gunfire should not have to worry about what would happen to his or her spouse if the Marine were to die in battle. The military knows this and has explicitly made that point to Congress in seeking spousal benefits in the past. (SLDN Br. p. 4-5)

Summary of brief

The brief of *amicus* OutServe-SLDN highlights the implications of DOMA on the physical, psychological and financial well-being of gay and lesbian veterans and members of the armed forces, and consequently for the vitality of our nation's military as a whole.

Notable quotes

"The military demands far more from those who serve and their families than does a typical employer. . . . In asking so much from its service members and their families, the military extends a promise in return. The military assures service members it will provide for their families in their absence, whether that absence results from a temporary deployment or death. It keeps that promise by providing military families a host of benefits and family support services, many of which hinge upon a person's status as a "spouse" of a service member. The so-called Defense of Marriage Act ("DOMA"), 1 U.S.C. § 7, prevents the military from honoring its promise to certain military families because it nullifies marriages between persons of the same sex for federal purposes." (SLDN Br. 3-4)

"The death of Staff Sergeant Donna Johnson illustrates the real-world impact of DOMA. While on her third deployment in Afghanistan, Sgt. Johnson was killed in October 2012, along with two other married soldiers, when a Taliban suicide bomber drove a motorcycle packed with explosives into their patrol. Because of DOMA, the military did not notify Sgt. Johnson's wife of her death, but instead notified Sgt. Johnson's mother. Sgt. Johnson's wedding ring was not returned to her wife, but was given to her mother along with her personal effects. The flag that draped Sgt. Johnson's coffin was handed to her mother, not to her spouse. And her spouse was denied the spousal death benefits and support services that opposite-sex spouses of fallen soldiers are entitled to receive, including the opposite-sex spouses of the other soldiers killed in the same attack." (SLDN Br. 8-9)

"DOMA's discrimination even follows distinguished service members to their graves. Colonel Stewart Bornhoft graduated from West Point, completed two tours in Vietnam, returned to teach at West Point, and concluded a 26-year career in the Army with numerous commendations for his service. Yet his husband, Stephen McNabb, was denied access to base facilities and other important benefits, including medical coverage. Col. Bornhoft laments the fact that, despite his extraordinary military career, he may decide not to be buried in a military cemetery because DOMA denies him "the right for Stephen to be buried next to me." (SLDN Br. 20).

“[The President and Secretary of Defense have made clear there is no military interest served by discriminating against the families of gay and lesbian service members, and they have sought to equalize benefits where possible.” (SLDN Br. 12)

“Gay and lesbian service members often report to OutServe-SLDN that they are considering leaving the military for the private sector to obtain spousal benefits, particularly health care. In contrast to the military, a substantial and increasing number of private employers provide benefits to same-sex spouses and domestic partners.” (SLDN Br. 23)

Amicus curiae

OutServe-SLDN Inc. is a non-profit organization that was formed to support lesbian, gay, bisexual and transgender ("LGBT") current and former members of the United States armed forces. As a unified organization, OutServe-SLDN Inc. hopes to more efficiently and effectively work toward open service for all LGBT members of the military and to ensure that they, and their families, receive the same benefits as their opposite-sex counterparts.