

The Honorable Marsha J. Pechman

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

RYAN KARNOSKI, et al.,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity as
President of the United States, et al.,

Defendants.

Case No. 2:17-cv-01297-MJP

**DECLARATION OF ADMIRAL
MICHAEL MULLEN IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

NOTE ON MOTION CALENDAR:
October 6, 2017

ORAL ARGUMENT REQUESTED

I, Michael Mullen, declare as follows:

1. I am a retired Admiral of the United States Navy. From to 2007 to 2011, I served as the Chairman of the Joint Chiefs of Staff. In this capacity, I was the principal military advisor to Presidents George W. Bush and Barack Obama. I offer this declaration in my personal capacity and not as an expert witness.

PERSONAL BACKGROUND

2. I am a 1968 graduate from the United States Naval Academy in Annapolis. In 1985, I graduated from the Naval Postgraduate School in Monterey, California, with a Master of Science degree in Operations Research. In 1991, I completed the Harvard Business School Advanced Management Program.

3. I served over 43 years in the Navy. During my tenure, I served in the Bureau of

1 Naval Personnel as Director, Chief of Planning and Provisions, Surface Officer Distribution and
 2 in the Office of the Secretary of Defense on the staff of the Director, Operational Test and
 3 Evaluation. I also served as Deputy Director and Director of Surface Warfare and as Deputy
 4 Chief of Naval Operations for Resources, Requirements, and Assessments. From August 2003 to
 5 October 2004, I was the Vice Chief of Naval Operations. As Commander, U.S. Naval Forces
 6 Europe and Allied Joint Force Naples, I had operational responsibility for NATO missions in the
 7 Balkans, Iraq, and the Mediterranean. I was also responsible for providing overall command,
 8 operational control, and coordination of Naval forces in Europe. I then became Chief of Naval
 9 Operations, a position included among the Joint Chiefs of Staff, under the direction of the Vice
 10 Chairman and Chairman.

11 4. In June 2007, then Defense Secretary Robert M. Gates announced his intention to
 12 advise President George W. Bush to nominate me to be Chairman of the Joint Chiefs of Staff.
 13 After receiving the nomination, the Senate confirmed me. On October 1, 2007, I was sworn in as
 14 the 17th Chairman of the Joint Chiefs of Staff (“Chairman”), becoming the highest-ranking
 15 officer in the United States Armed Forces. I became Chairman in the midst of the Global War
 16 on Terrorism and two wars.

17 5. My duties and functions as Chairman are set forth in Department of Defense
 18 Directive 5100.01. The Chairman is the senior ranking member of the Armed Forces and
 19 principal military adviser to the President, Secretary of Defense, the National Security Council
 20 (NSC), the Homeland Security Council (HSC), and the Secretary of Defense. My duties as
 21 Chairman included, among other things, reporting to the Secretary of Defense on the
 22 responsiveness and readiness of the military, advising the Secretary of Defense with regard to
 23 joint personnel matters such as requirements for command and control, promulgating
 24 publications to provide military guidance for joint activities of the Armed Forces, and developing
 25 policies and procedures for education and training of service members.

26 **OPEN SERVICE BY TRANSGENDER SERVICE MEMBERS**

27 6. I concur with Defense Secretary Ash Carter’s July 2015 assessment that the
 28 Defense regulations regarding transgender service members “[were] outdated and [were] causing

1 uncertainty that distracted commanders from our core missions.” I closely followed Secretary
2 Carter’s direction to Armed Services leadership to evaluate the implications of allowing
3 transgender personnel to serve openly in the military and the Pentagon’s ensuing evaluation.

4 7. My understanding is that the military conducted a thorough research and
5 evaluation process on the issue of open service by transgender troops and concluded that
6 inclusive policy for transgender troops promotes readiness. I agree with this conclusion and
7 support Secretary Carter’s June 2016 directive to end the ban on open service by transgender
8 people.

9 8. To reverse this policy by implementing a ban on open service would go against
10 the best interests of thousands of service members currently serving. As the Pentagon has
11 pointed out, it may also deprive our military of trained and skilled service members and leave
12 vacancies that may not be easy to fill. This would harm military readiness as well as morale. The
13 military’s prior considered judgment on this matter should not be disregarded and we should not
14 breach the faith of service members who defend our freedoms, including those who are
15 transgender.

16 **PARALLELS TO END OF DON’T ASK, DON’T TELL**

17 9. In 2008, pursuant to my duties as Chairman, I ordered my staff to conduct a study
18 about the Don’t Ask, Don’t Tell (“DADT”) policy and its ramifications to the force. This policy
19 barred gay, lesbian, and bisexual individuals from serving openly in the military.

20 10. During his January 2010 State of the Union Address, President Obama reiterated
21 his pledge to end DADT. A week later, I testified and endorsed the President’s plan before
22 members of the Senate Armed Services Committee.

23 11. Part of that plan, as adopted by Congress, required the Pentagon to study the
24 effects of allowing open military service by gay men, lesbians, and bisexuals. That study, which
25 was released in late November of 2010, concluded that allowing such open service would present
26 minimal risk to military effectiveness. President Obama subsequently signed the repeal of DADT
27 into law. On September 20, 2011, nine months after Secretary Leon Panetta, President Obama,
28

1 and I certified to Congress that the military was ready to execute the new policy, DADT
2 officially ended.

3 12. In my 2010 testimony to the Senate Armed Services Committee regarding DADT,
4 referenced above, I stated, “It is my personal belief that allowing gays and lesbians to serve
5 openly would be the right thing to do.” I also testified that “no matter how I look at the issue, I
6 cannot escape being troubled by the fact that we have in place a policy which forces young men
7 and women to lie about who they are in order to defend their fellow citizens.” This is still my
8 opinion. Just as gay and lesbian soldiers should not have to lie about who they are to serve, nor
9 should transgender soldiers.

10 13. The now repealed DADT was problematic and flawed in similar ways as the ban
11 on open service by transgender service members. Both DADT and the ban on open service by
12 transgender individuals set apart a subset of brave women and men serving in uniform and treat
13 them worse than other soldiers for no valid reason – and both policies potentially undermine
14 military readiness.

15 14. When I led our armed forces under DADT, I saw firsthand the harm to readiness
16 and morale when we fail to treat all service members according to the same standards. There are
17 thousands of transgender Americans currently serving and there is no reason to single them out
18 to exclude them or deny them the medical care that they require.

19 15. Moreover, I strongly believe that we should not return to the days of “forc[ing]
20 young men and women to lie about who they are in order to defend their fellow citizens.”

21
22 I declare under the penalty of perjury that the foregoing is true and correct.

23
24 DATED: September 14, 2017


Michael Mullen

CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the United States of America and the laws of the State of Washington that on September 14, 2017, I caused true and correct copies of the foregoing documents to be served by the method(s) listed below on the following interested parties:

By Hand Delivery:

U.S. Attorney's Office
700 Stewart St., Suite 5220
Seattle, WA 98101-1271

By Registered or Certified U.S. Mail:

Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Department of Defense
1400 Defense Pentagon
Washington, DC 20301-1400

Secretary of Defense James N. Mattis
1000 Defense Pentagon
Washington, DC 20301-1000

President Donald J. Trump
1600 Pennsylvania Ave. NW
Washington, DC 20500

I hereby certify under the penalty of perjury that the foregoing is true and correct. Executed on September 14, 2017 at Seattle, Washington.

s/Rachel Horvitz
Rachel Horvitz, *Paralegal*