

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 97-1121

TRACY THORNE,

Plaintiff - Appellant,

versus

UNITED STATES DEPARTMENT OF DEFENSE; WILLIAM
J. PERRY, Secretary of Defense; UNITED STATES
DEPARTMENT OF THE NAVY; JOHN H. DALTON,
Secretary of the Navy,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern Dis-
trict of Virginia, at Alexandria. T. S. Ellis, III, District
Judge. (CA-95-369)

Submitted: March 31, 1998

Decided: April 9, 1998

Before MURNAGHAN and NIEMEYER, Circuit Judges, and PHILLIPS, Senior
Circuit Judge.

Affirmed by unpublished per curiam opinion.

Tracy Thorne, Appellant Pro Se. Edward Roy Hawkens, UNITED STATES
DEPARTMENT OF JUSTICE, Washington, D.C., for Appellees.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Lieutenant Tracy Thorne appeals an order of the district court upholding his involuntary discharge from the United States Navy on account of his acknowledged homosexuality. 916 F. Supp. 1358 (E.D. Va. 1996). He contends that the "Don't Ask, Don't Tell" plan, see 10 U.S.C. § 654 (1994), and implementing regulations, under which he was discharged are unconstitutional. We have held to the contrary. See Thomasson v. Perry, 80 F.3d 915 (4th Cir.) (en banc), cert. denied, ___ U.S. ___, 65 U.S.L.W. 3305, 65 U.S.L.W. 3309 (U.S. Oct. 21, 1996) (No. 96-1). We have considered and rejected Thorne's remaining claims on appeal. The judgment of the district court is therefore affirmed. We deny Thorne's motion for oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED