

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

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STUDENT MEMBERS OF SAME :
(STUDENT/FACULTY ALLIANCE FOR MILITARY :
EQUALITY), a Yale Law School student organization, and : 3:03CV 1867 (JCH)
OUTLAWS, a Yale Law School student organization, :
 :
 : plaintiffs, :
 :
 : - against - : April 8, 2004
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 : DONALD H. RUMSFELD, in his capacity as U.S. :
 : Secretary of Defense, :
 :
 : defendant. :
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PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Plaintiffs Student Members of SAME (Student/Faculty Alliance for Military Equality) and OutLaws respectfully move pursuant to Federal Rule of Civil Procedure 56 for an Order granting summary judgment against defendant Donald H. Rumsfeld, in his capacity as U.S. Secretary of Defense. Plaintiffs request summary judgment on all claims set forth in their complaint, dated October 30, 2003.

First, plaintiffs seek summary judgment on the claim that defendant's coerced participation in the Yale Law School's fall and spring interview programs, despite its refusal to sign the law school's nondiscrimination form, is contrary to the plain language of 10 U.S.C. § 983 (the "Solomon Amendment"). Yale Law School complies with the Solomon Amendment by allowing military recruiters access to students and student information and treats the military as it does other employers.

Second, plaintiffs seek summary judgment on the claim that defendant's threatened withdrawal of nearly \$300 million in federal funding from Yale University violates plaintiffs' First Amendment rights to freedom of speech and expressive association. Defendant's enforcement of the Solomon Amendment has interfered with plaintiffs' right to receive the expressive message of nondiscrimination fostered by the law school community. In having to combat this unconstitutional interference, plaintiffs have been forced into coerced speech. Moreover, they have been forced to associate with an entity whose message clashes with their own.

Third, plaintiffs seek summary judgment on the claim that the application of the Solomon Amendment constitutes impermissible viewpoint discrimination. Defendant may not punish the Yale Law School from expressing a viewpoint different from its own. Yet that is precisely what defendant seeks to do by threatening Yale University's funds unless the law school abandons its long-held nondiscriminatory policy.

Fourth, plaintiffs seek summary judgment on the claim that defendant has violated plaintiffs' Fifth Amendment rights to due process and equal protection. By demanding that the Yale Law School abandon its 25-year-long nondiscrimination policy as it applies to gay men and lesbians, defendant has singled out this group for disparate, damaging, and unconstitutional treatment.

For all these reasons, as well as those further explained in the accompanying memorandum in support of this motion, SAME and OutLaws respectfully request that their motion be granted.

In addition to SAME and OutLaws' Memorandum In Support Of Plaintiffs' Motion For Summary Judgment, plaintiffs also submit their Local Rule 56(a)(1) statement and the Declaration of Carmine D. Boccuzzi, dated April 7, 2004, with accompanying exhibits.

Respectfully submitted,

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