

Re: The use of Reisman's Kinsey data to rule homosexuality as not an immutable characteristic.

Joseph C. STEFFAN, Plaintiff, Civ. A. No. 88-3669-OG. v. Dick CHENEY,

Secretary of Defense, et al., Defendants. United States District Court, District of
Columbia.

Following is a typewritten text of the handwritten note below from Senior District Judge Oliver Gasch's law clerk Adam Carter, thanking "Dr. Reisman" for providing the Kinsey fraud data Judge Gasch needed for *Steffan v. Cheney*, 1991 to refute plaintiff's reliance on Kinsey's data to claim "homosexual orientation" is immutable. Judge Gasch wrote:

It is not at all clear, as a scientific matter, whether one chooses one's sexual orientation or not. See Review, *Really, Dr. Kinsey?*, 337 *The Lancet* (British Medical Journal), 547, 547 (1991) (citing Judith A. Reisman & Edward W. Eichel, *Kinsey, Sex and Fraud: The Indoctrination of a People* (John H. Court & J. Gordon Muir eds., 1990) (Kinsey reports on male/female sexuality sharply criticized due to improper knowingly unethical use of unrepresentative populations)); Review, *Kinsey's Sexreport: Dubious, Misleading, Fraud?*, *German Medical Tribune*, July, 19, 1991, at 1, 6 (Jurgen Benning trans.) (same). No choice in the matter would argue for a conclusion of immutability, while some choice or a great deal of choice would tend to support a finding of mutability. Without a definitive answer at hand, yet confident that some people exercise some choice in their own sexual orientation, the Court does not regard homosexuality as being an immutable characteristic. (at 6).

United States District Court
For the District of Columbia
Washington, DC 2001

Chambers of
Oliver Gasch
United States District Judge

5 December 1991

Dear Dr. Reisman,

Just a quick note to thank you for all your kindness and quick help earlier today with regard to the Kinsey Report, and your criticisms and questions of same.

I look forward to seeing your book myself and am glad that it came to my attention just at the perfect moment.

Know also that the Public Defender Service and the U.S. Attorney's office here in Washington each have sex crimes units. Department of Justice may be another good place to go. The more lawyers who know of your work, the more time you'll spend testifying about it!

Thanks again.

*Yours very truly
Adam Augustine Carter
Law Clerk to Judge Oliver Gasch*

- COLONEL RONALD D. RAY -

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Steffan v. Perry: The Central Role of Dr. Reisman's Research to the VICTORY

The homosexual movement spent hundreds of thousands and 8 years in pressing homosexual midshipman Joe Steffan's claim against the Department of Defense. Judge Gasch's dismissal was overturned by a three-judge panel, and we filed a very politically incorrect brief on rehearing *en banc*. Whenever Judith's unique work is introduced, there are always outrageous accusations and conclusory assertions such as that Dr. Reisman's work is "pseudo science," that she "lacks scientific credentials" or is "discredited as a scholar" or "unpublished as a sex scientist" which are totally erroneous and have all been made before by homosexuals and pornographers. The latest attack came from The Lambda Legal Defense Fund in their Motion to Strike the successful amicus brief filed in *Steffan v. Perry* on behalf of the Naval Aviation Foundation and Judith's The Institute for Media Education.

I enclose herewith a copy of Lambda's motion with their allegations highlighted. I would call to your attention the vicious nature of the attacks on both the Reisman & Johnson Report and on Dr. Reisman personally and on her life's work. Judge Gasch in the District of Columbia District Court threw out Steffan's claim on Summary Judgment in 1991 and favorably cited Dr. Reisman's work in her book, *Kinsey, Sex, and Fraud*, because of several important propositions about homosexuality therein, including the lack of scientific integrity of the so called Kinsey "ten percent" figure that had been advanced by the homosexual movement.

Judge Gasch, in footnote 12 of his December 9, 1991 District court opinion of this case, took judicial notice of Dr. Reisman's seminal work in *Kinsey, Sex and Fraud: The Indoctrination of a People* (John H. Court & J. Gordon Muir, eds., 1990; which was cited in the preeminent British medical journal, 337 *The Lancet* 547, 547 (March 2, 1991) in which Judge Gasch, relying on Dr. Reisman, concluded that "the Court does not regard homosexuality as being an immutable characteristic."

The Lancet's analysis of Reisman's data finds "Dr. Judith A. Reisman and her colleagues demolish the foundations of the two [Kinsey] reports" *id.* Judge Gasch similarly referenced Judith's work as preeminent, concurring with *The Lancet* and the *German Medical Tribune* (No. 29, 19 July 1991, and the Judge found Dr. Reisman's findings persuasive and asked:

Is it possible that a sex myth was derived in the name of science that indeed influenced a society and eventually steered it toward today's AIDS catastrophe without responsible and honest investigation?

The primary principle, however, in Judge Gasch's opinion, is that homosexuality is behavior and is not an immutable human characteristic and therefore ineligible for special protection in the law. Gasch's opinion was soundly affirmed by the entire D.C. Circuit of Appeals which ordered our brief filed and the preliminary findings of the Reisman and Johnson Report as an Appendix were fully considered by the court over the vicious objections of the homosexual movement's lawyers. The forty-one page Court of Appeals' opinion at its heart held a ringing affirmation of the primary finding of the Reisman & Johnson Report, that is "you cannot separate homosexual orientation from homosexual behavior."

Courts & Legislatures v. Academic Journals

The Court's endorsement of Judith's groundbreaking work is more powerful and meaningful than the rarefied, ivory tower, leftist controlled academia and their "refereed journals" which some advocate as the ultimate endorsement for "real science." Dr. Reisman's work is effective in the real world battlefield, in the courts, in the legislatures, in the court of public opinion and before local boards and commissions.

As to the Reisman & Johnson Report's effectiveness and success in local boards and commissions, enclosed herewith is Phyllis Schafly's January 1995 article about Dr. Reisman's presentation and scholarly paper delivered in Springfield, Illinois in December 1994. Dr. Reisman was a key weapon in stopping homosexuality being taught under the guise of diversity in Springfield public schools. Her science has been proven and "battle tested" on real life "battle fields" rather than on the abstract "playing fields" of academic politically correct journals.

Allegations made about Judith's work at the Justice Department were engineered against her by well-paid homosexual P.R. spinmaster, Robert Gray. (See Susan Trento's "The Power House" pages 193-200, which shows Gray & Co. receiving \$50,000 - \$75,000 per month to discredit Judith and the Pornography Commission).

The phony Justice Department attack, begun by Gray and the pornography industry, was also recently made against Judith by the *Playboy* Foundation in Holland in late 1994, as a result of Judith's appearance on Dutch evangelical television. *Playboy* will only take her on outside of this country where they have refused to sue her. Judith was contacted by the Dutch television station regarding the sexual and violent presentation of children in *Playboy*, and after the interview was aired *Playboy* sued. The Dutch court reviewed these same Gray allegations that the Justice Department "rejected" Judith's study and then dismissed *Playboy's* claims as groundless. By the way the truth of her Justice Department study is that it was fully accepted by 5 independent scientific peers appointed by the Justice Department. It's currently available at the Justice Department where Dr. Reisman has continued over three administrations to serve as a scientific reviewer even under the Clinton Administration. The liberal smear tactics remain the same when truth is presented. They deny, divert and attempt to discredit.

United States Court of Appeals
For the District of Columbia Circuit

REC'D MAR 28 1994 ORAL ARGUMENT SCHEDULED FOR APRIL 11, 1994

RON GARVIN
CLERK

NO. 91-5409

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

JOSEPH C. STEFFAN,

Plaintiff-Appellant

v.

LES ASPIN,
SECRETARY OF DEFENSE, ET AL.,

Defendants-Appellees

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

BRIEF FOR *AMICI CURIAE*

RONALD D. RAY
1012 South Fourth Street
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Counsel to Amici Curiae
Naval Aviation Foundation, Inc. and
The Institute for Media Education

The Naval Aviation Foundation

and

The Institute for Media Education

*Invite you to a Reception and Short Briefing
on the Aftermath of Steffan v. Perry and the related research study*

conducted by

Judith A. Reisman, Ph.D. & Charles B. Johnson, Ph.D.

entitled

**PARTNER SOLICITATION CHARACTERISTICS
AS A REFLECTION OF
MALE SEXUAL ORIENTATION**

**A 5-Year Comparative Analysis of Classified Advertisements in Two Mainstream Magazines:
Male Heterosexuals in the *Washingtonian* and
Male Homosexuals in *The Advocate* Seeking Partners**

At the Conclusion of the Briefing Tea and Refreshments will be served.

Please join us at 2:00 p.m.

Thursday, January 26, 1995 at the residence of

**Mrs. Pamela Howar
4711 Fox Hall-Crescent
Washington, D.C. 20007**

RSVP: Admiral Mark Hill (703) 525-6509 or Colonel Ron Ray (502) 241-5552

**Admiral Thomas H. Moorer
Vice Admiral John Poindexter
Vice Admiral Gerald Miller
Vice Admiral Anthony Less
Rear Admiral Mark Hill**

**General Robert H. Barrow
General Raymond G. Davis
General Joseph Went
Lt. Gen. Charles Cooper
BG William Weise
Col. & Mrs. Ron Ray**

**Dr. Judith Reisman
Dr. Chuck Johnson
Mr. & Mrs. Rick Ohrstrom
Mr. Bruce Hooper
Mrs. Virgil Christian
Mr. Ted Bassett**

his revolutionary attempt to overthrow the historic military standard than are offered in support of the ban. Surely this honorable court would wish to receive and consider a significant legal, historical and scientific presentation which supports the military's disqualification of homosexuals, a disqualification rooted historically in virtue and an officer's affirmative obligation, "to guard against and suppress all dissolute and immoral practices." See 10 U.S.C. § 5947, which contains the first principle and animating spirit of American military and naval service since 1775. The Foundation's brief confirms that **to order the Academy to admit Mr. Steffan or any homosexual will break the foundation standard of American Naval Service, undermine moral principle and forever alter the standard for American Naval Character.** Steffan, his lawyers and the entire homosexual political movement have launched an extensive attack in many forums to redefine the nation's founding moral principles and to legitimize sodomy, other homosexual behaviors and, ultimately, the homosexual lifestyle. Their own leaders, writers, magazines and books publicly declare their intentions and methods. Of particular attention to the court should be the writings of Dennis Altman, including *The Homosexualization of America*, *The Americanization of the Homosexual* (New York: St Martin's, 1982), and of Marshall Kirk and Hunter Madsen, including *After the Ball* (1989), which have been termed, respectively, the homosexual political blueprints for the 1980s and 1990s.¹ The homosexual lifestyle cannot be clearly evaluated without the special insights these books can give.

In opposing the participation of the Foundation in this case, Steffan and his lawyers attempt to deny this court valuable legal, historic and scientific arguments and data which are not otherwise before the court, and by this censorship they attempt to besmirch and discredit Dr. Judith A. Reisman via an *ad hominem* attack. Dr. Reisman is a dedicated scholar of international reputation whose work has been commended in leading medical journals and given judicial notice in this very case by the U.S. District Judge.

¹ See, e.g., Ronald D. Ray, *Military Necessity & Homosexuality* (Louisville, KY: First Principles Press, 1993); David A. Nobel, *The Homosexual Revolution: A Look at the Preachers and Politicians Behind It* (Manitou Springs, CO: Summit Press, 1984); and Eugene T. Rueda, *The Homosexual Network: Private Lives and Public Policy* (Washington: Devin Adair Co., 1982).

other midshipmen that year who were allowed to graduate, but who, because of various medical conditions discovered that year, were not commissioned in the Navy.

On the issue of immutability, discussed *infra*, plaintiff argues that homosexuality is not in fact a disease or illness of any kind. He says the scientific literature is clear on this point. If so, he is distinguishable under the Naval Academy Regulations which do not forbid graduation of midshipmen who have medical conditions which cause them not to be commissioned. Furthermore, plaintiff admits that he “discovered” his “condition” during his third class year which, if known to the Academy, under the Regulations would have caused a similarly situated midshipman with a medical condition to be discharged.

Plaintiff also argues that his resignation was obtained within the time period of one week while the Navy has as its goal the period of four months to process a discharge on the grounds of homosexuality. The speed of plaintiff's discharge proceedings and subsequent resignation, he argues, amounts to arbitrary and capricious action on the part of the Navy.

Because plaintiff had indicated that he did not desire to be commissioned in the Navy, that he was a homosexual, and that since graduation was impossible he would have to leave the Academy, it was neither arbitrary nor capricious for the Navy, as an accommodation to an accomplished young man, to save him the embarrassment and expense of duplicative, longer and more protracted discharge proceedings.

4. There is a continuum of sexuality recognized by the DOD and Navy regulations. For example, a midshipman who had only once engaged in some homosexual activity out of curiosity or due to intoxication, but who otherwise demonstrated indicia of heterosexual orientation, would normally be retained at the Academy.

The scientific literature on this subject suggests that there are those with a strict heterosexual orientation and whose lives and sexual experiences are strictly consistent with that orientation. On the other end of the spectrum, there are those who have a homosexual orientation and who have had nothing but homosexual sexual activity in their lives. A. Kinsey, W. Pomeroy, and C. Martin, *Sexual Behavior in the Human Male* (1948), 638–41. The great “in between” includes most lesbians and bisexual men, whether they have a homosexual or a heterosexual orientation. Note, “The Tradition of Prejudice versus the Principle of Equality: Homosexuals and Heightened Equal Protection Scrutiny after *Bowers v. Hardwick*,” *Boston College Law Review* 31 (1990): 378, n.24, 379, n.25.

It is surely true that there are many stories behind why a particular individual has a homosexual orientation. It is not at all clear, as a scientific matter, whether one *chooses* one's sexual orientation or not. See Review, “Really, Dr. Kinsey?” *Lancet* 337 (1991): 547, citing Judith A. Reisman and Edward W.

Eichel, *Kinsey, Sex and Fraud: The Indoctrination of a People*, ed. John H. Court and J. Gordon Muir (1990) (Kinsey reports on male/female sexuality sharply criticized due to improper knowingly unethical use of unrepresentative populations); Review, "Kinsey's Sexreport: Dubious, Misleading, Fraud?" trans. Jurgen Benning, *German Medical Tribune*, July 19, 1991, 1, 6. No choice in the matter would argue for a conclusion of immutability, while some choice or a great deal of choice would tend to support a finding of mutability. Without a definitive answer at hand, yet confident that *some* people exercise *some* choice in their own sexual orientation, the Court does not regard homosexuality as being an immutable characteristic.

5. The latest statistics available, of which this Court takes judicial notice, show that 59% of adults and adolescents with the Human Immunodeficiency Virus ("HIV") contracted it through homosexual sodomy among males. The HIV is a virus which causes the Acquired Immune Deficiency Syndrome ("AIDS"). Homosexual activist groups have been highly involved in federal, state, and local efforts to deal with the epidemic. See, e.g., Jason DeParle, "Rude, Rash, Effective, Act-Up Shifts AIDS Policy," *New York Times*, Jan. 3, 1990, B1, col. 2, B4, col. 1 (AIDS coalition to unleash power—"ACT-UP"—well heeded by policymakers because of aggressive tactics); Bruce Lambert, "In Gay Parade, Pause to Recall AIDS Deaths," *New York Times*, July 1, 1991, B1, col. 5, B3, col. 1 (seventy thousand marchers and two hundred thousand onlookers for annual Gay and Lesbian Parade in New York City); Philip T. Hiltz, "Landmark Accord Promises to Ease Immigration Curbs," *New York Times*, Oct. 26, 1990, A1, col. 4, A24, col. 1 (Lambda Legal Defense and Education Fund and Rep. Barney Frank helped get homosexuals and those with AIDS reduced restrictions on immigration); and Robert Pear, "Congress Authorizes \$875 Million to Fight AIDS in Hard-Hit Areas," *New York Times*, Aug. 4, 1990, L1, col. 1 (despite no support from the President, authorization passed 95 to 4 in the Senate, and 408 to 14 in the House).

This is not to imply that only homosexuals will benefit from a solution to the HIV crisis, but simply to say that homosexual groups have been well publicized, heard and heeded by the political branches of our federal, state and local governments when it has come to dealing with the HIV epidemic and other related issues.

6. Atlanta, Boston, Chicago, Los Angeles, New York, Philadelphia, San Francisco, and Seattle are just some of the cities that have passed anti-discrimination regulations concerning homosexuals. California, Michigan, New York, and Wisconsin all have various statewide legislation or regulations which benefit homosexual groups. "Developments in the Law—Sexual Orientation and the Law," *Harvard Law Review* 102 (1989): 1667–68 nn. 49–51.

In *Jantz v. Muci* (1991), the plaintiff was an applicant for a position as a public school teacher who had claimed that he was denied the position because of the principal's perception that he had "homosexual tendencies."

