Pregnant Women Allowed to Stay in Military (1976)

Background

1951: Executive Order No. 10,240, 16 Fed. Reg. 3689. Harry Truman signed Executive Order 10,240, which authorized involuntary discharge for pregnant women or women who became parents.

1972. ***Struck v. Secretary of Defense* (U.S. Supreme Court case mooted 1972)**. Air Force Captain Susan Struck, a nurse serving in Vietnam, challenged the Air Force's mandatory pregnancy discharge policy. Her attorney was Ruth Bader Ginsburg. Ginsburg argued that the policy violated equal protection, free exercise of religion, and privacy rights, noting that no other temporarily disabling condition resulted in discharge. She also argued that male officers who became fathers were not separated. The Supreme Court agreed to hear the case, but the Solicitor General convinced the Air Force to grant Struck a waiver and change its policy, mooting the case before the Court could issue a ruling.

1974. ***Crawford v. Cushman*, 378 F. Supp. 717 (D. Vt. 1974)**. The U.S. District Court for the District of Vermont upheld the Marine Corps regulation requiring mandatory discharge for pregnancy. Chief Judge James S. Holden ruled that the regulation had a rational basis in military readiness and practical administrative considerations. As such, it did not violate constitutional due process or equal protection rights. Stephanie Crawford, who had been discharged in 1970 after becoming pregnant, challenged the regulation but lost at this level.

1976. ***Crawford v. Cushman*, 531 F.2d 1114 (2d Cir. 1976)**. The U.S. Court of Appeals for the Second Circuit reversed the district court decision, ruling that the Marine Corps regulation mandating discharge for pregnancy was unconstitutional. The court found that the regulation violated the Fifth Amendment's due process clause by creating an irrefutable presumption that every pregnant woman was permanently unfit for duty. The court directed that Crawford be awarded damages for lost pay and allowances, effectively ending the policy of mandatory pregnancy discharge across all military services.

Primary Legal Documents

Crawford v. Cushman, 531 F.2d 1114 (2d Cir. 1976).

Crawford v. Cushman, 378 F. Supp. 717 (D. Vt. 1974).

Executive Order No. 10,240, 16 Fed. Reg. 3689 (April 27, 1951).

Struck v. Secretary of Defense (U.S. Supreme Court case mooted 1972).

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For more resources, go to webpage: https://riseofmilitarywomen.vt.domains