



U.S. District Court Strikes Down HIV Ban Against Joining the Military

People on HIV treatment who are undetectable may enlist.

November 11, 2024 By [Trent Straube](#)

Americans living with HIV who maintain an undetectable viral load can no longer be barred from enlisting in the U.S. armed forces, a federal judge ruled in August, striking down the last remaining policy limiting enlistment for those with HIV.

The ruling came in *Wilkins v. Austin*, which was filed against the Department of Defense November 2022 by the LGBTQ advocacy group Lambda Legal; Peter Perkowski, Esq.; Scott A. Schoettes, Esq.; and Winston & Strawn LLP.

“Defendants’ policies prohibiting the accession of asymptomatic HIV-positive individuals with undetectable viral loads into the military are irrational, arbitrary, and capricious. Even worse, they contribute to the ongoing stigma surrounding HIV-positive individuals while actively hampering the military’s own recruitment goal,” wrote Judge Leonie Brinkema of the U.S. District Court for the Eastern District of Virginia.

As POZ reported in November 2022, *Wilkins v. Austin* was filed on behalf of the plaintiffs Isaiah Wilkins, a 23-year-old Black gay cisgender man; Carol Coe, a 32-year-old Latina transgender lesbian; and Natalie Noe, a 32-year-old cisgender straight woman of Indigenous Australian descent living in California. All plaintiffs are HIV positive.

“Modern science has transformed the treatment of HIV, and this Court has already ruled that asymptomatic HIV-positive service members with undetectable viral loads who maintain treatment are capable of performing all of their military duties, including worldwide deployment,” Brinkema wrote. “Now, defendants must allow similarly situated civilians seeking accession into the United States military to demonstrate the same and permit their enlistment, appointment and induction.”

The case was filed the same year a federal judge struck down a policy that permitted the

Pentagon to discharge service members living with HIV and deny them promotions. Also in 2022, the Department of Defense updated its policy to allow service members living with HIV whose viral load is undetectable to continue to serve and remain deployable.

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