



Ben-Shalom, Miriam (b. 1948)

by Geoffrey W. Bateman

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Long active in the glbtq community, Miriam Ben-Shalom was the first gay or lesbian service member to be reinstated to her position in the United States military after being discharged for her sexual orientation. Even though the army eventually forced her out, she was able to serve successfully in the U.S. Army Reserves as an open lesbian, undermining the U.S. military's argument that open gays and lesbians pose a threat to military effectiveness.

Miriam Ben-Shalom was born in Waukesha, Wisconsin, on May 3, 1948, and spent her childhood and adolescence in Big Bend and East Troy, Wisconsin. After graduating from high school in 1967, she was married for a short time and had a daughter.

After her marriage, she lived in Israel for five years, where she became an Israeli citizen and served in the Israeli army. Immersing herself in Israeli culture, she grew to identify strongly with it and subsequently re-named herself after both Moses' sister, Miriam, and the house of Solomon, Ben-Shalom.

After living in Israel, Ben-Shalom returned to Wisconsin and completed both her B.A. and M.A. at the University of Wisconsin, Milwaukee. In 1974, she began serving with the 84th Training Division of the Army Reserves. She also completed drill instructor's school, and became one of the two first female drill sergeants in the division.

During this time, she also became involved with lesbian-feminist organizations and made no attempts to hide her sexual orientation. In 1975, Technical Sergeant Leonard Matlovich appeared on the cover of *Time* as an openly gay Air Force service member. As Randy Shilts reports, this caused Ben-Shalom to ask her commander, "Why don't they kick me out?" His response, "Because you're a good NCO," characterized the ambiguity of both the military's official policy on gays and lesbians and its treatment of them. It was often up to their discretion whether to investigate personnel for homosexuality and recommend discharging them from the military.

Yet Ben-Shalom quickly realized how fickle a commander's discretion could be. When she graduated from drill sergeant's school, she decided to come out publicly. Her frank response to a reporter's question about her sexuality led her commander to push for her discharge. In spite of being able to tolerate her sexual orientation in private, he was not comfortable with her speaking about it publicly. In 1976, she was officially discharged from the Army Reserves, but she decided to challenge the policy and sue for reinstatement.

In May 1980, Judge Terence Evans of the U.S. District Court in Chicago ruled that Ben-Shalom's discharge violated the First, Fifth, and Ninth amendments of the Constitution. He added that sexual orientation should be protected from governmental regulation, including that of the military.

The right to freedom of speech was central to Ben-Shalom's case. The Army Reserves did not discharge her because of homosexual conduct, but rather for her statement that she was a lesbian. Through his ruling,

Judge Evans made clear that the First Amendment applied to gay and lesbian service members.

The U.S. Army appealed this decision, but withdrew its appeal shortly thereafter. And even though Judge Evans had ordered Ben-Shalom's reinstatement, the army simply refused to comply with the order.

Ben-Shalom continued to fight the Army, and in 1987, the U.S. Court of Appeals in Chicago supported the lower court's previous ruling. Still the Army balked. Only when the court threatened the Army with serious contempt of court fines did it relent. In September 1988, Ben-Shalom successfully re-enlisted and became the first openly gay or lesbian service member to be reinstated. However, the Army appealed the decision.

In August 1989, a federal appeals court ruled against Ben-Shalom. Judge Harlington Wood, Jr., did not see the case as solely about freedom of speech. He concluded that since the military banned homosexuals, her admission--regardless of her sexual conduct--justified her discharge. In response, Ben-Shalom appealed the case to the United States Supreme Court.

On February 26, 1990, the Supreme Court refused to hear Ben-Shalom's case and let stand the previous ruling that upheld her discharge. This move by the court ended Ben-Shalom's military career.

Since this decision, Ben-Shalom has remained active in gay and lesbian politics, forming the Gay, Lesbian, and Bisexual Veterans Association and becoming active in the Log Cabin Republicans, but also living quietly with her long-time companion.

The recipient of several awards for her community activism, she has also published poetry, short stories, and other writing. She currently teaches English in Milwaukee public high schools, where she works with at-risk youth.

In November 2010, Ben-Shalom returned from a long sabbatical from direct action protest. She joined twelve other protesters who handcuffed themselves to the fence in front of the White House to protest the Obama administration's inaction on repealing the Don't Ask, Don't Tell Act.

In doing so, she reprised her 1993 arrest with David Mixner and others who allowed themselves to be arrested to protest President Clinton's signing of the Don't Ask, Don't Tell Act.

Bibliography

Humphrey, Maryann. *My Country, My Right to Serve*. New York: HarperCollins, 1990.

Peterson, Andrea L. T. "Miriam Ben-Shalom." *Gay and Lesbian Biography*. Michael J. Tyrkus, ed. Detroit, Mich.: St. James Press, 1997. 62-63.

Shilts, Randy. *Conduct Unbecoming: Gays and Lesbians in the U.S. Military*. New York: St. Martin's Press, 1993.

About the Author

Geoffrey W. Bateman is the Assistant Director for the Center for the Study of Sexual Minorities in the Military, a research center based at the University of California, Santa Barbara, that promotes the study of gays and lesbians in the military. He is co-editor of *Don't Ask, Don't Tell: Debating the Gay Ban in the Military*, as well as author of a study on gay personnel and multinational units. He earned his M.A. in English literature at the University of California, Santa Barbara, in eighteenth-century British literature and theories of genders and sexuality, but now lives in Denver, Colorado, where he is co-parenting two sons with his partner and a lesbian couple.