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The SSCRA Means What It Says, Supreme Court Holds

By Captain Samuel F. Wright, JAGC, USN (Ret.)²

4.7—Extensions of Statute of Limitations and Redemption Periods

10.2—Supreme Court

Conroy v. Aniskoff, 507 U.S. 511 (1993).

Thomas F. Conroy served on full-time active duty in the regular Army from 1966 through the time this case went to trial in the late 1980s. In 1973, he bought a vacant parcel of land in Danforth, Maine. He paid the Danforth property tax for 10 years, but he failed to pay the tax for 1984, 1985, and 1986. At the trial, he testified that he did not receive tax bills for those years, and that when he wrote to the town to inquire about the tax, his letter was not answered.

In 1986, the town followed Maine statutory procedures to acquire the tax-delinquent property and then sold it to two other citizens. In 1987, Mr. Conroy brought suit in state court against the town and the two purchasers of the parcel. He contended that a provision of the Soldiers'

¹I invite the reader's attention to www.roa.org/lawcenter. You will find more than 2000 "Law Review" articles about the Uniformed Services Employment and Reemployment Rights Act (USERRA), the Servicemembers Civil Relief Act (SCRA), the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), the Uniformed Services Former Spouse Protection Act (USFSPA), and other laws that are especially pertinent to those who serve our country in uniform. You will also find a detailed Subject Index, to facilitate finding articles about very specific topics. The Reserve Officers Association, now doing business as the Reserve Organization of America (ROA), initiated this column in 1997.

²BA 1973 Northwestern University, JD (law degree) 1976 University of Houston, LLM (advanced law degree) 1980 Georgetown University. I served in the Navy and Navy Reserve as a Judge Advocate General's Corps officer and retired in 2007. I am a life member of ROA. For 43 years, I have worked with volunteers around the country to reform absentee voting laws and procedures to facilitate the enfranchisement of the brave young men and women who serve our country in uniform. I have also dealt with the Uniformed Services Employment and Reemployment Rights Act (USERRA) and the Veterans' Reemployment Rights Act (VRRA—the 1940 version of the federal reemployment statute) for 36 years. I developed the interest and expertise in this law during the decade (1982-92) that I worked for the United States Department of Labor (DOL) as an attorney. Together with one other DOL attorney (Susan M. Webman), I largely drafted the proposed VRRA rewrite that President George H.W. Bush presented to Congress, as his proposal, in February 1991. On 10/13/1994, President Bill Clinton signed into law USERRA, Public Law 103-353, 108 Stat. 3162. The version of USERRA that President Clinton signed in 1994 was 85% the same as the Webman-Wright draft. USERRA is codified in title 38 of the United States Code at sections 4301 through 4335 (38 U.S.C. 4301-35). I have also dealt with the VRRA and USERRA as a judge advocate in the Navy and Navy Reserve, as an attorney for the Department of Defense (DOD) organization called Employer Support of the Guard and Reserve (ESGR), as an attorney for the United States Office of Special Counsel (OSC), as an attorney in private practice, and as the Director of the Service Members Law Center (SMLC), as a full-time employee of ROA, for six years (2009-15). Please see Law Review 15052 (June 2015), concerning the accomplishments of the SMLC. My paid employment with ROA ended 5/31/2015, but I have continued the work of the SMLC as a volunteer. You can reach me by e-mail at SWright@roa.org.

and Sailors' Civil Relief Act (SSCRA) tolled the redemption period for paying overdue taxes and that the town therefore did not acquire good title to the parcel, despite having followed the state statutory procedures. The limited period of time for the property owner to pay back taxes and redeem his property is tolled while the owner is on active duty. This means that the deadline is not running and therefore does not expire while the owner is on active duty.

Congress originally enacted the SSCRA in 1917, shortly after the United States entered World War I. The original law lapsed in 1919, at the end of the World War I period of emergency. Congress reenacted the law in 1940, after World War II had begun but before our country entered the war. In 1948, three years after the end of World War II, Congress made the law permanent.

At the time the Supreme Court decided this case, the pertinent SSCRA provision was as follows: "The period of military service shall not be included in computing any period now or hereafter to be limited by any law, regulation, or order for the bringing of any action or proceeding in any court, board, bureau, commission, department, or other agency or government by or against any person in military service of by or against his heirs, executors, administrators, or assigns, whether such cause of action or the right or privilege to institute such action or proceeding shall have accrued prior to or during such period of service, nor shall any part of such period which occurs after Oct. 6, 1942, be included in computing any period now or hereafter provided by any law for the redemption of real property sold or forfeited to enforce any obligation, tax, or assessment." 50 U.S.C. App. 525 (1988 edition of the United States Code).

If read literally, the language means that Mr. Conroy's entire active duty period (well in excess of 20 years) must be excluded in computing the deadline for him to pay the back taxes and redeem his property. The Maine trial court held that section 525 should not be applied literally, in the context of a career military member like Mr. Conroy. The court held that Mr. Conroy was required to show that his military service specifically prejudiced him and precluded him from meeting the state law deadline to pay his property taxes.

Mr. Conroy appealed to the Maine Supreme Judicial Court, which affirmed by trial court by an equally divided court. (Tie vote means affirmance of what was held below.) The U.S. Supreme Court granted *certiorari* in order to resolve a conflict among court decisions as to the meaning of section 525.

In an interesting and well-written decision by Justice John Paul Stevens (still on the Court and currently the oldest and most senior member), the court noted that some SSCRA provisions contained limitations or required a showing of prejudice, but section 525 is not one of those provisions. The court held that the legislative history showed that applying section 525 literally was not inconsistent with the congressional intent. The court rejected the argument that a literal interpretation of section 525 is so absurd and illogical that Congress could not have intended it.

The bottom line is that section 525 means what it says, according to the Supreme Court. The extension of the redemption period is not limited to the wartime induction or recall to duty or the four-year enlistment; it applies equally to career military personnel like Mr. Conroy.

In 2003, Congress enacted the Servicemembers Civil Relief Act (SCRA), a long-overdue recodification of the SSCRA. The language of section 525, as construed by the Supreme Court in this case, is now contained in 50 U.S.C. App. 526. Congress made no significant change in the language when it enacted the SCRA in 2003. Congress is presumed to be aware of this 1993 Supreme Court decision. If Congress disagreed with this result, Congress could have changed the law in 2003, but Congress did not do so. Reenacting the pertinent language without significant change is deemed to amount to congressional ratification of this 1993 decision.

Update – March 2022³

The location of the SCRA within the United States code changed in late 2015. Previously codified at 50 U.S.C App. §§ 501-597(b), there was an editorial reclassification of the SCRA by the Office of the Law Revision Counsel to the United States House of Representatives that became effective on December 1, 2015.⁴ The SCRA is now codified at 50 U.S.C. §§ 3901-4043. The changes in codification have not changed the substance or application of the sections. Therefore, the application of the SCRA throughout this article applies the same today as it did when it was written.

The relevant section cited throughout the article can be found at:

50 U.S.C. App. § 526 discussing the statute of limitations can be found at 50 U.S.C. § 3936. It reads as follows:

The period of a servicemember's military service may not be included in computing any period limited by law, regulation, or order for the bringing of any action or proceeding in a court, or in any board, bureau, commission, department, or other agency of a State (or political subdivision of a State) or the United States by or against the servicemember or the servicemember's heirs, executors, administrators, or assigns.

For a complete conversion chart for the SCRA please see *The Servicemembers Civil Relief Act Has Moved*.⁵

³Update by Second Lieutenant Lauren Walker, USMC.

⁴*The Servicemembers Civil Relief Act (SCRA)*, THE UNITED STATES DEPARTMENT OF JUSTICE, <https://www.justice.gov/servicemembers/servicemembers-civil-relief-act-scra> (last visited Mar. 10, 2022).

⁵Samuel F. Wright, *The Servicemembers Civil Relief Act Has Moved*, Law Review 15115 (Dec. 2015).

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⁶Congress recently established the United States Space Force as the 8th uniformed service.