

## LAW REVIEW<sup>1</sup> 12003

January 2012

### Don't Let Redistricting Litigation Disfranchise Military Voters

By Captain Samuel F. Wright, JAGC, USN (Ret.)<sup>2</sup>

7.1—Election officials must get the absentee ballots out in time for the service member to vote.

**Q: I am the local election official here in this county. I have read with great interest your “Law Review” articles about military voting rights and the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA). This is an issue near and dear to my heart. I served on active duty in the Marine Corps and participated in the 1991 liberation of Kuwait. My son joined the Marine Corps last year, and he will likely be in Afghanistan at the time of the 2012 presidential election.**

**I want more than anything to get absentee ballots printed and mailed by the 45<sup>th</sup> day before Election Day, so that my son and all the other service members from this county will have ample time to receive their ballots, mark them, and return them on time to be counted. But there is a problem. Our state legislature redrew the congressional district lines, and also the lines for the State Senate and House of Representatives, in 2011. One party controls the**

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<sup>1</sup>I invite the reader's attention to [www.roa.org/lawcenter](http://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.

<sup>2</sup>BA 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](mailto:SWright@roa.org).

**legislature and the Governor's office, and the other party has brought suit to challenge the way the new lines were drawn. We do not yet know how the districts will be drawn, much less who the candidates will be. Unless this dispute is resolved quickly, there is no way that I will be able to get the absentee ballots out on time.**

**A:** Thank you for bringing this situation to my attention. Readers: Whenever there is a dispute about redistricting or ballot access that threatens to disenfranchise overseas military voters please let me know ASAP. You can reach me toll-free at 800-809-9448, extension 730. My e-mail is [SWright@roa.org](mailto:SWright@roa.org).

Where appropriate, I will file, on behalf of ROA, an *amicus curiae* brief in the court where the ballot access or redistricting lawsuit is pending. I will not take sides in the underlying dispute, but I will point out that the pendency of the lawsuit could have the effect of disenfranchising military personnel overseas. I will urge the court to resolve the lawsuit as expeditiously as possible and to consider interim measures to ensure that the pendency of the lawsuit does not result in the disenfranchisement of the brave young men and women who are away from home and prepared to lay down their lives in defense of our country.

#### **Please join or support ROA**

This article is one of 1800-plus “Law Review” articles available at <https://www.roa.org/page/lawcenter>. The Reserve Officers Association, now doing business as the Reserve Organization of America (ROA), initiated this column in 1997. New articles are added each month.

ROA is almost a century old—it was established in 1922 by a group of veterans of “The Great War,” as World War I was then known. One of those veterans was Captain Harry S. Truman. As President, in 1950, he signed our congressional charter. Under that charter, our mission is to advocate for the implementation of policies that provide for adequate national security. For many decades, we have argued that the Reserve Components, including the National Guard, are a cost-effective way to meet our nation’s defense needs.

Indeed, ROA is the *only* national military organization that exclusively supports America’s Reserve and National Guard.

Through these articles, and by other means, we have sought to educate service members, their spouses, and their attorneys about their legal rights and about how to exercise and enforce those rights. We provide information to service members, without regard to whether they are members of ROA or eligible to join, but please understand that ROA members, through their dues and contributions, pay the costs of providing this service and all the other great services that ROA provides.

If you are now serving or have ever served in any one of our nation’s seven uniformed services, you are eligible for membership in ROA, and a one-year membership only costs \$20. Enlisted

personnel as well as officers are eligible for full membership, and eligibility applies to those who are serving or have served in the Active Component, the National Guard, or the Reserve.

If you are eligible for ROA membership, please join. You can join on-line at [www.roa.org](http://www.roa.org) or call ROA at 800-809-9448.

If you are not eligible to join, please contribute financially, to help us keep up and expand this effort on behalf of those who serve. Please mail us a contribution to:

Reserve Officers Association  
1 Constitution Ave. NE  
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