

**LAW REVIEW<sup>1</sup> 26035****July 2026****Under the SCRA, Statutes of Limitations Are Tolled While You  
Are on Active Duty. What Exactly Does That Mean?****By Captain Samuel F. Wright, JAGC, USN (Ret.)<sup>2</sup>****1.6—USERRA and statutes of limitation.****4.7—SCRA extension of statutes of limitation and redemption periods.****10.2—Other Supreme Court decisions.*****Conroy v. Aniskoff*, 507 U.S. 571 (1993).<sup>3</sup>**

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<sup>1</sup> I invite the reader's attention to <https://roa.org/lawcenter/>. You will find more than 2,300 "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 Spouses' Protection Act (USFSPA), the title 38 chapters that provide for veterans' benefits administered by the Department of Veterans Affairs (VA), 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 specific topics. The Reserve Officers Association, now doing business as the Reserve Organization of America (ROA), initiated this column in 1997. I am the author of more than 90% of the articles, but we are always looking for "other than Sam" articles by other lawyers.

<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. I have dealt with USERRA and the Veterans' Reemployment Rights Act (VRRRA—the 1940 version of the federal reemployment statute) for 44 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 VRRRA 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 VRRRA 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. As of 5/1/2026, I have come out of retirement and have joined Maher Legal Services in an "of counsel" role. You can reach me by e-mail at [samuel@maherlegalservices.com](mailto:samuel@maherlegalservices.com) or by telephone at (708) 468-8155.

<sup>3</sup> This is a 1993 decision of the United States Supreme Court. The citation means that you can find this decision in Volume 507 of *United States Reports*, starting on page 571.



**Q: I am a retired Lieutenant Colonel of the United States Army and a life member of the Reserve Organization of America (ROA). I only recently became aware of your “Law Review” articles about the Uniformed Services Employment and Reemployment Rights Act (USERRA), the Servicemembers Civil Relief Act (SCRA), and other laws that are especially pertinent to those who serve our country in uniform. I have read several of your articles with great interest. I only regret that I did not know about your articles many years ago.**

**I served on active duty for 22 years and qualified for a regular military retirement in 2011, and I retired in that year. I served on active duty in several segments, with periods of Army Reserve part-time duty in between. My last active duty period lasted exactly four years, from 10/1/2007 until 9/30/2011, when I retired.**

**I have read with great interest your Law Review 09008 (February 2009), about a 1993 United States Supreme Court case: *Conroy v. Aniskoff*, 507 U.S. 571 (1993). Just after I entered active duty in 2007, my mortgage company violated my rights under the Servicemembers Civil Relief Act (SCRA). I thought about suing the mortgage company, but I was unable to find a lawyer who knew about the SCRA and who was willing to represent me on a contingent fee basis (where the attorney fee would be a percentage of my financial recovery and I would owe nothing to the attorney if we lost).**

**The way I read your Law Review 09008, the SCRA means that there is no statute of limitations and I can sue the mortgage company now, 19 years after the company violated the SCRA in 2007. I have visited three attorneys in the city where I live, and all three told me that the**

**statute of limitations in my case ran out many years ago and that it is impossible to file this lawsuit today. Were those three attorneys wrong?**

**A:** No, those attorneys were right, and you have misunderstood what I wrote in Law Review 09008, 17 years ago. I am concerned that other readers may have similarly misunderstood, so I have drafted this new article to clarify what I wrote in 2009.

What I wrote in Law Review 19008 is that the statute of limitations was **tolled during the time that you were on active duty**. When you left active duty in 2011, the statute of limitations started running. The four-year statute of limitations started running when you left active duty, and that limitations period expired sometime in 2015. The attorneys that you consulted were correct in saying that, when you contacted them recently, it was not possible to bring your case.

**Q: What law applies to my case?**

**A:** In 1917, shortly after the United States entered World War I, Congress enacted and President Woodrow Wilson signed the Soldiers' and Sailors' Civil Relief Act (SSCRA) to protect the legal rights and financial interests of those who laid down their civilian concerns to serve on active duty in the armed forces. The SSCRA protections applied equally to those who were drafted, those who enlisted voluntarily, and those who were called to active duty from the Army National Guard, the Army Reserve, the Naval Reserve, or the Marine Corps Reserve.

The original SSCRA expired in 1919, shortly after Armistice Day ended World War I. In 1940, after World War II had begun but before our nation joined the war, Congress reenacted the SSCRA. In 1948, Congress made the SSCRA permanent. In 2003, Congress enacted and President George W. Bush signed the SCRA as an update of and improvement upon the SSCRA.<sup>4</sup>

Here is the entire text of the SCRA provision about tolling statutes of limitations during an individual's active-duty service in the uniformed services:

**(a) Tolling of statutes of limitation during military service**

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.

**(b) Redemption of real property**

A period of service may not be included in computing any period provided by law for the redemption of real property sold or forfeited to enforce an obligation, tax, or assessment.

**(c) Inapplicability to internal revenue laws**

This section does not apply to any period of limitation prescribed by or under the internal revenue laws of the United States.<sup>5</sup>

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<sup>4</sup> Public Law 108-189, § 1, Dec. 19, 2003, 117 Stat. 2844. *See also* Law Review 116 (March 2004). That article is by Colonel Mark E. Sullivan, USA (Ret.).

<sup>5</sup> 50 U.S.C. § 3936. The SSCRA provision was almost identical to this current provision. The text of the SSCRA provision, as it existed in 1993, is quoted in *Conroy v. Aniskoff*, 507 U.S. 511 (1993).

**Q: What does “tolling the statute of limitations” mean?**

**A:** That phrase has been defined as follows:

### **What Does Tolled Mean for a Statute of Limitations?**

A statute of limitations isn't absolute. Learn about tolling, the legal principle that pauses the clock on a deadline to preserve a person's right to a claim.



[LegalClarity Team](#)

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When facing a legal deadline, the term “tolled” refers to the legal doctrine that allows for the pausing or temporary stop of a time limit, most commonly a statute of limitations. This action does not cancel or reset the clock but functions much like pressing a pause button on a stopwatch. The time that has already passed is recorded, and the clock is simply held in place until the condition

causing the pause is resolved. Once the tolling period ends, the clock resumes from where it left off.

## **The Purpose of Tolling**

The purpose of tolling a statute of limitations is to promote fairness within the legal system. It ensures individuals are not unfairly prevented from pursuing a valid legal claim due to circumstances beyond their control. This principle recognizes that rigid adherence to a time limit could lead to injustice when a person is unable to file a lawsuit or another's actions conceal the need for one.

This legal concept prevents a defendant from benefiting from a situation that makes it impractical for a plaintiff to act. For instance, if a person is legally unable to file a suit or is unaware of their injury due to another's deceit, the law provides this pause. Tolling gives the plaintiff a fair opportunity to have their case heard.

## **Common Reasons for Tolling a Statute of Limitations**

Several specific situations can legally pause a statute of limitations, often falling into distinct categories based on the plaintiff's status or the defendant's behavior. One common reason relates to the plaintiff's legal capacity. If the injured party is a minor at the time of the incident, the statute of limitations is typically tolled until they reach the age of majority, which is 18 years old in most places. Similarly, if a court has declared an

individual to be mentally incapacitated, the clock may be paused until their competency is restored.

Another significant basis for tolling is the “discovery rule.” This rule applies when an injury or the cause of it was not reasonably discoverable by the plaintiff. For example, if a surgeon leaves a medical instrument inside a patient, the harm may not be known for years. The statute of limitations clock would not start running until the patient discovers, or reasonably should have discovered, the presence of the foreign object and its connection to their harm.

A defendant’s conduct can also trigger tolling. If a defendant engages in fraudulent concealment, actively hiding their wrongdoing to prevent a lawsuit, the statute of limitations can be paused. This prevents them from benefiting from their own deception. Likewise, if a defendant leaves the state with the intent to avoid being served with legal papers, the time they are absent may not count against the plaintiff’s deadline.

Certain federal laws also provide for tolling under specific circumstances. *The Servicemembers Civil Relief Act (SCRA)*, for instance, *pauses legal and administrative proceedings, including statutes of limitation, for active-duty military members.* This protection allows them to focus on their service without the added pressure of legal deadlines. A defendant’s bankruptcy filing also imposes an “automatic stay,” which halts most legal actions

against them, effectively tolling the statute of limitations while the bankruptcy case is pending.<sup>6</sup>

The statute of limitations for your cause of action did not start running when your cause of action accrued in 2007, because you were on active duty at the time. The deadline started running when you left active duty in 2011. The deadline for you to file suit expired in 2015, because you did not return to active duty after you retired in 2011.

**Q: How did the Supreme Court address this issue in *Conroy v. Aniskoff*, 507 U.S. 511 (1993)?**

### **Facts of the *Conroy v. Aniskoff* case**

Thomas F. Conroy served on full-time active duty in the Active Component of the United States Army from 1966 until this case went to trial in the late 1980s. In 1973, he purchased a vacant parcel of land in Danforth, Maine. He paid the Danforth property tax for ten years, but he failed to pay the tax for 1984, 1985, and 1986. At the trial in Maine state court, he testified that he did not receive tax bills for those three years, and that when he wrote to the town to inquire about the tax, the town did not answer his letter. In 1986, the town followed Maine statutory procedures to obtain title to the property and then sold it to two other citizens.

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<sup>6</sup> <https://legalclarity.org/what-does-tolled-mean-for-a-statute-of-limitations/>. (Emphasis by italics supplied.)

## **Proceedings in Maine state courts**

In 1987, Conroy brought suit in Maine state court against the town and the two purchasers of the land. He quoted and cited section 525 of the SSCRA and asserted that this federal law meant that the Maine redemption period to pay back taxes had not expired and that the town had not acquired good title to the parcel, despite having followed the Maine statutory procedures.

If applied literally, section 525 of the SSCRA meant that Conroy's entire period of active duty (well in excess of 20 years) must be excluded from the deadline for Conroy to pay the overdue taxes and redeem his property. The state trial court held that section 525 must not be applied literally in the context of a career service member like Conroy. The trial court held that Conroy was required to show that his military service had specifically prejudiced him and precluded him from meeting the state law deadline to pay his property taxes and that Conroy had not made such a showing.

Conroy appealed to the Maine Supreme Judicial Court, the state's high court, and that court affirmed the trial court's decision by an equally divided court (a tie vote). As is the case in the United States Supreme Court, the Maine rule is that when there is a tie in the state's high court that amounts to an affirmance of the decision being reviewed.

**Q: Were the state courts in Maine required to apply the SSCRA?**

**A:** Yes, because the United States Constitution provides that:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land, and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the contrary notwithstanding.<sup>7</sup>

### **Proceedings in the United States Supreme Court**

Conroy applied to the Supreme Court for certiorari (discretionary review). The Supreme Court granted certiorari to resolve a conflict among state high courts about the meaning of section 525 of the SSCRA. After new briefs and a new oral argument, the Supreme Court reversed the decision of the Maine Supreme Judicial Court.

In a scholarly and well-written decision written by Justice John Paul Stevens, the Supreme Court rejected the argument that a literal interpretation of section 525 was so absurd and illogical that Congress could not have intended it. The decision pointed out that some SSCRA provisions contained limitations or required a showing of prejudice, but section 525 was not one of those provisions. The Court held that the legislative history shows that applying section 525 literally was consistent with congressional intent.

In 2003, Congress enacted the SCRA to replace the SSCRA, and section 525 of the SSCRA was carried over into the new law without significant change. Thus, Congress has endorsed *Conroy v. Aniskoff* as the correct

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<sup>7</sup> United States Constitution, Article VI, Clause 2. This provision is called the “Supremacy Clause.” Yes, it is capitalized in just that way, in the style of the late 18<sup>th</sup> Century.

interpretation of the provision about tolling statutes of limitations for active-duty members of the armed forces, even members who serve on active duty for a full career of 20 years or more.

**Q: In Law Review 22052 (September 2022), among other articles, you wrote that the Uniformed Services Employment and Reemployment Rights Act (USERRA) does not contain a statute of limitations and that it precludes the application of other statutes of limitations. Is what you are saying now inconsistent with what you wrote in those other articles?**

**A:** No. What I am saying now is entirely consistent with what I have written in other articles. USERRA’s preclusion of statutes of limitations *only applies to USERRA cases*. Your case is not a USERRA case, and the preclusion of statutes of limitations does not apply to your case.

USERRA includes the following provision: “If any person seeks to file a complaint or claim with the Secretary [of Labor], the Merit Systems Protection Board, or a Federal or State court *under this chapter, alleging a violation of this chapter*, there shall be no limit on the period for filing the complaint or claim.”<sup>8</sup>

**Q: Where can I find a lawyer or law firm that fully understands laws like the Servicemembers Civil Relief Act (SCRA), the Uniformed Services Employment and Reemployment Rights Act (USERRA), the**

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<sup>8</sup> 38 U.S.C. § 4327(b) (emphasis supplied). This subsection was added to USERRA in 2008. Public Law 110-389, Title III, § 311(f)(1), Oct. 10, 2008, 122 Stat. 4103. This provision applies to USERRA causes of action that accrued on or after 10/10/2008.

**Uniform Code of Military Justice (UCMJ), and other laws that are especially pertinent to those who serve our country in uniform?**

**A:** As of 5/1/2026, I have come out of retirement and have joined Maher Legal Services in an “of counsel” role. This firm has a great team, headed by attorneys John Maher and Kevin Mikolashek, both of whom have served as Army judge advocates for many years. These attorneys and this firm have a great record, and I am proud to join their team.

Here is a link to the Maher Legal Services website:

<https://www.lawyersdefendingwarriors.com/about>

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