

LAW REVIEW¹ 26047

August 2026

The Military Record Is Wrong about the Dates I Drilled in August 2016.

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

1.3.1.1—Left job for service and gave prior notice

1.3.1.2—Character and duration of service

1.3.1.3—Timely application for reemployment

1.8—Relationship between USERRA and other laws/policies

Q: I am a Lieutenant Colonel in the Air Force Reserve, recently retired, and a life member of the Reserve Organization of America (ROA).³ On

¹ I invite the reader's attention to [Law Center | ROA](#). 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 (ROA) initiated this column in 1997. I am the author of more than 80% of the articles.

² 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 49 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 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 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. As of 5/1/2026, I have come out of retirement and have affiliated with Maher Legal Services in an "of counsel" role. You can reach me by e-mail at SWright@roa.org.

³ At its September 2018 annual convention, the Reserve Officers Association amended its Constitution to make all service members (E-1 through O-10) eligible for membership and adopted a new "doing business as" (DBA) name:

the civilian side, I am a pilot for a large airline—let’s call it Very Big Air Line or VBAL.⁴ For many years, the Chief Pilot and other VBAL officials have given me a hard time about my occasional absences from work for Air Force Reserve service, although those absences were clearly protected by the Uniformed Services Employment and Reemployment Rights Act (USERRA). I have read with great interest many of your “Law Review” articles about USERRA.

VBAL’s harassment of me over my Air Force Reserve service has continued even after I retired from the Air Force Reserve six months ago. The company is now trying to fire me, claiming that I lied about my drill dates in August 2016, almost a decade ago.

At the time, I was a Major in an Air Force Reserve unit that generally drilled on the first weekend of every month, and the first weekend of August 2016 was 6-7 August. The airline obtained records showing that the unit drilled on 6-7 August and that I drilled with the unit.

I remember that month, and I drilled with a few unit members on the fourth weekend of the month, 27-28 August, and I took military leave from VBAL on that weekend. Because the Air Force record shows that

Reserve Organization of America. The full name of the organization is now the Reserve Officers Association DBA the Reserve Organization of America. The point of the name change is to emphasize that our organization represents the interests of all Reserve Component members, from the most junior enlisted personnel to the most senior officers. Our nation has seven Reserve Components. In ascending order of size, they are the Coast Guard Reserve, the Marine Corps Reserve, the Navy Reserve, the Air Force Reserve, the Air National Guard, the Army Reserve, and the Army National Guard. The number of service members in these seven components is almost equal to the number of personnel in the Active Components of the armed forces, so Reserve Component personnel make up almost half of our nation’s pool of trained and available military personnel. Our nation is more dependent than ever before on the Reserve Components for national defense readiness.

⁴ The factual set-up for this article is based on a real inquiry that I have received. I have changed several of the facts in order to protect the identity of the individual who contacted me.

I drilled 6-7 August, the airline is accusing me of “fraud” in obtaining military leave for the 27-28 August weekend.

I recall that at the time our reserve unit had more pilots than aircraft. To give more pilots the opportunity to fly to maintain their proficiency as fighter pilots, we spread out our drills over four weekends in a month, and in that month, I drilled during the fourth weekend. For administrative convenience, all airmen in the unit were recorded as “present” for the first weekend of the month, even if they drilled during a different weekend.

The purpose of the drill recording system was to ensure that each reserve airman was correctly paid for the drills that he or she performed and received reserve retirement points for those drills. It never occurred to us that the system might be used for a different purpose—for verifying to a civilian employer, almost a decade later, that a reservist had drilled on a specific weekend.

VBAL has brought me “up on charges” for unauthorized absence from my airline job for the weekend of 26-27 August 2016. The airline insists that the Air Force record of my drill attendance is the “best evidence” of the weekend during that month when I drilled.

I have tried to find evidence supporting my recollection about how drills were recorded and that all members were shown as present for the first weekend of the month even if they drilled on a different weekend. I know that Colonel Smith, our Commanding Officer at the time, died in 2022. For other officers in the unit, I cannot recall their names, only their call signs.

I recall that there was an enlisted clerk who very efficiently recorded our drill attendance and ensured that we were paid timely and correctly. I cannot remember his name. I only recall that we all called him “Radar” because he looked a little like Radar O’Reilly on the television show “MASH.” Help!

A: Based on my own experience in the Navy Reserve, from March 1980 (when I left active duty) through March 2007 (when I reached my mandatory retirement and became a “gray area retiree”), I can certainly believe that reserve payroll records are imprecise as to the exact dates that individual reservists performed inactive duty training (drills). It is wrong to use records that were created and maintained for one specific purpose for an entirely different purpose, almost a decade later.

I invite the reader’s attention to Department of Defense Instruction (DODI) 1205.12 of 2/24/2016, with Change 1 dated 5/20/2016.⁵ I invite the reader’s attention specifically to Section 2(a) of Enclosure (2) of the instruction, which reads as follows:

The Military Departments [Department of the Army, Department of the Air Force, Department of the Navy] will ...

- a. Provide verification of absence due to uniformed service to civilian employers upon request, regardless of the duration of the service-related absence.

⁵ You can find the entire text of this instruction at the end of Law Review 19106 (December 2019).

I agree that it is appropriate for military authorities to reassure civilian employers that individual Reserve Component members have in fact performed military service as claimed, but it is also necessary to inform employers about the limitations of the accuracy of payroll records, particularly when the employer is asking about a period of service that was completed a decade before the records request.

It should also be noted that USERRA protects the service member's absence from his or her civilian job for any period that was *necessitated* by the uniformed service. The absence *necessitated* by the period of uniformed service is not limited to the actual period of service. It also includes a period of absence before and after the period of service, for travel in both directions and rest before the commencement of service and before the return to the civilian job.⁶

Your situation supports an argument that I have made in several of our "Law Review" articles. The Reserve Components of the armed forces need to do a better job of recording the attendance of Reserve Component service members at inactive duty training (drills) and annual training and sharing that information with civilian employers. Moreover, these records need to be preserved indefinitely so that folks like you can have access to them even years after the fact.

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

⁶ Please see Law Review 19109 (December 2019).

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>.

Join the Organization That Fights for You

This article is one of more than 2,000 "Law Review" articles available at [Law Center | ROA](#)— a free legal resource that the Reserve Organization of America (ROA) has built and maintained since 1997, adding new articles every month.

ROA is the only national military organization dedicated exclusively to America's reserve components — all eight of them. From the 6,179 members of the Coast Guard Reserve to the 329,705 soldiers of the Army National Guard, ROA exists to serve the nearly 773,000 men and women who answer the call while maintaining civilian lives. No other organization does what we do for the people we serve.

Our roots run deep. On October 2, 1922, veterans of the Great War gathered at Washington's historic Willard Hotel — at the invitation of General of the Armies John J. Pershing — to build something lasting.

One of the junior officers in that room was Captain Harry S. Truman, who, as President, signed ROA's congressional charter in 1950. That charter gives us a clear mission: advocate for policies that ensure adequate national security. For more than a century, we've made the case that America's Reserve Components and National Guard are among the most cost-effective pillars of our national defense.

Beyond this library of legal resources, ROA files amicus curiae ("friend of the court") briefs in the Supreme Court and other courts, and actively educates service members, military spouses, attorneys, employers, legislators, and others about the legal rights of those who serve — and how to enforce them. We provide this information to all service members, regardless of membership. But it's ROA members — through their dues and contributions — who make it possible.

Your membership makes the mission possible.

If you are currently serving, or have ever served, in any of America's eight uniformed services, you are eligible to join ROA — and membership starts at just \$20 for a full year, or \$450 for life. Officers and enlisted personnel alike qualify, whether your service was in the Active Component, the National Guard, or the Reserve. ROA has also recently expanded eligibility to include ancestors and lineal descendants of past or present service members, so families can stand with those who serve. Join online at [Reserve Organization of America - ROA](https://www.reserveorganizationofamerica.org/ROA) or call 800-809-9448.



If you are not eligible for membership but believe in this mission, your financial contribution directly funds this resource and the advocacy work that protects those who serve. Donations may be mailed to:

Reserve Organization of America
1 Constitution Ave. NE
Washington, DC 20002