

March 1, 2011

ROA Commends Supreme Court Veterans Employment Rights Decision Today

WASHINGTON—The Reserve Officers Association commends the Supreme Court’s 8-0 decision today regarding the first veteran’s employment case to be heard by the High Court since the law’s inception.

In the case of *Staub v. Proctor Hospital*, 560 F.3d 647 (7th Cir. 2009), Vincent Staub was a member of the U.S. Army Reserve. As a civilian, he worked for Proctor Hospital (Peoria, Illinois) until he was fired.

Staub is the 17th Supreme Court decision applying the veterans’ reemployment statute, originally enacted in 1940 and substantially rewritten in 1994, as the Uniformed Services Employment and Reemployment Rights Act.

“The most recent case was almost 20 years ago, so this really is a big deal,” said retired Navy Capt. Samuel Wright. As director of ROA’s Service Members Law Center, Wright specializes in USERRA and offers free legal information on it and other issues.

“The anti-discrimination provision of the reemployment statute is important to the reemployment provision,” said Wright. “Without the anti-discrimination provision, an employer could avoid their obligation, and its attendant burdens, by the simply firing a Reservist or refusing to hire.”

While employed by Proctor Hospital, Vincent Staub was required to attend one drill weekend per month and two or three weeks of full-time training per year. Because the angiography department of the hospital required weekend staffing, Staub’s military service imposed some burden on the hospital. In 2004, the hospital fired Staub, who said his supervisor was biased against him because of his Reserve service.

Staub sued the hospital in the U.S. District Court for the Central District of Illinois and won, claiming the firing violated section 4311 of USERRA, 38 U.S.C. 4311. Proctor appealed to the U.S. Court of Appeals for the 7th Circuit who reversed the District Court verdict. The Supreme Court granted review of the case and The Reserve Officers Association filed a friend of the court brief in August. The oral argument was Nov. 2.

Justice Antonin Scalia wrote the majority decision, which relied on principles of agency and tort law, finding the employer was liable for the discriminatory actions of supervisory employees.

The Reserve Officers Association is the 60,000-member professional association for all uniformed services of the United States. Chartered by Congress and in existence since 1922, ROA advises and educates the Congress, the President, and the American people on national security, with unique expertise on issues that affect the 1.5 million men and women now serving in America’s Reserve Components.

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