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FEDERAL COURT EXPRESSES CONCERN THAT MARYLAND'S SUPREME COURT JUSTICES AND THE STATE OF MARYLAND ARGUE MARYLAND CAN VIOLATE THE SERVICEMEMBER CIVIL RELIEF ACT IN PERPETUITY WITH NO CONSEQUENCES

March 21, 2024. Today the United States District Court for the District of Maryland issued a landmark decision of first impression finding that the State of Maryland could be liable to out-of-state servicemembers who were denied the core rights and protections established by the Servicemember Civil Relief Act ("SCRA").

Active duty servicemembers Latasha Rouse, Daniel Riley, and Oscar Davines and each of their spouses (who were also entitled to SCRA protections) were subjected to court proceedings in Maryland. But Maryland's judicial system allowed the servicermembers to be pursued in state court proceedings for sums they did not owe without the appointment of counsel to act on their behalf (as required by the SCRA) and without even requiring any information about their active-duty status.

To avoid the Servicemember claims, Attorney General Anthony Brown (himself a former servicemembers who was protected by the SCRA when he was on active duty and the Maryland Supreme Court justices made a series of **UNAVAILING ARGUMENTS** which were rejected by the Court including:

- The State argued that the heading or title of part of the SCRA controls the actual, broad text of the statute.
- The State argued that the SCRA may be ignored after a judgment (fake or real) is entered somewhere since the statute only uses the terms "plaintiff" or "defendant."

- The State argued the SCRA does not apply to post-judgment collection activities involving garnishment of a servicemember's bank funds or assets does not actually involve the servicemember.
- The State argued enforcement of judgments are "ancillary matters" entitled to no SCRA protections and it is permissible for the State courts to turn a blind eye to the protections owed to servicemembers.
- The State argued that because Congress omitted express requirements in the SCRA, it should be inferred that it owed no implied duties to the servicemembers.
- The State argued that the State was barred from appointing attorneys for servicemembers or requiring an affidavit about the active-duty status of the servicemembers before allowing them to be garnished because it was required to give full faith and credit to the void and fake judgements presented to it.
- The State argued hypothetical burdens would result by its compliance with the non-onerous requirements of the SCRA and those burdens would disrupt court proceedings around the country.

"We are pleased that the Court agreed without our statutory analysis of the SCRA as applied to the State's practices in this action," said attorney Phillip Robinson who represents the servicememebers. "Further, the State's efforts to escape responsibility for its acts and omissions should not go unnoticed. No state, including Maryland, should be permitted to ignore the duties imposed upon it by Congress to ensure that those who agree to represent the interests of all Americans as members of the Armed Services."

To avoid the application of the SCRA to it, the State also claimed it was entitled to sovereign immunity. But the Court rejected that argument to escape responsibility following the recent decision in United States Supreme Court's decision in *Torres v. Texas Dep't of Pub. Safety*, 597 U.S. 580, (2022). Today's decision found Torres was "dispositive," "clear," and controlling and Maryland "may not assert sovereign immunity as a bar to suit under the SCRA."

In its ruling today, the Federal court also explained the SCRA requires all courts, including Maryland state courts, to require the presentment of an SCRA affidavit (identifying whether the defendant is on active duty status) and may not enter a judgment until against a servicemember

who has not appeared in the action until after appointing a lawyer. In short, the law "places affirmative obligations on courts to ensure that servicemembers are protected in matters where that have not appeared" the opinion reads.

Of note, the State of Maryland choose to proceed with its unavailing arguments and not work with the servicemembers to correct the loopholes its practices have created to permit out-of-state servicemembers to be hauled into Maryland courts without offing the mandatory protections of the SCRA. The Court has once again referred the matter to mediation, so perhaps the State will work with the servicemembers plaintiffs to ensure its courthouse practices and customs protect all servicemembers as Congress intended in the SCRA.

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