

Testimony of

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Washington, D.C.

Before the  
Subcommittee on Benefits  
of the  
Committee on Veterans' Affairs  
House of Representatives

on

H.R. 5111

Servicemembers' Civil Relief Act

July 25, 2002

Mr. Chairman and Members of the Subcommittee:

My name is Eugene R. Fidell. I am a partner in the Washington law firm of Feldesman, Tucker, Leifer, Fidell & Bank LLP, and have long been involved in issues relating to military service. I served on active duty in the United States Coast Guard from 1969 to 1972. I have testified in the past on proposed amendments to the Soldiers' and Sailors' Civil Relief Act of 1940. In addition, I was counsel in *Detweiler v. Peña*, 38 F.3d 591 (D.C. Cir. 1994), an important SSCRA case decided by the United States Court of Appeals for the District of Columbia Circuit.

I have appreciated the opportunity to study H.R. 5111, and I would like to compliment the Subcommittee for undertaking this effort. The Civil Relief Act has never been the kind of legislation that makes a lawyer's pulse quicken, but it remains terrifically important to military personnel. This is increasingly so given the tempo of military operations we are currently seeing and can, unfortunately, expect to see in the foreseeable future. Military personnel—both active duty and reservists called to active duty—have to have assurance that their affairs will not become hopelessly tangled in their absence while protecting our Nation. In this regard, I hope the Subcommittee will give favorable consideration to another pending proposal, H.R. 4017, which would extend the protections of the Civil Relief Act to National Guard personnel called to active service for periods of 30 consecutive days or more. As we come increasingly to rely on the Guard, and if the Guard is to remain a competitive option for those of our fellow citizens who volunteer to help defend the Nation, this kind of equitable measure has to be put in place.

I hope that H.R. 5111 is reported out and passed in the form in which it was introduced, plus the equity provision to which I just referred. H.R. 5111 does what needs to be done, and it doesn't try to upset the balance that has been established in years past. Beyond this, I would also encourage the Subcommittee to continue to keep an eye on how this legislation works in practice. All too often, Congress launches a measure on the legal sea, and then may put it entirely out of mind until

some crisis emerges. I certainly don't think Congress should be taking the Civil Relief Act's temperature every Monday and Thursday, but I hope this Subcommittee, at least, will retain a sense of ownership over the statute and keep an eye on its brainchild at suitable intervals.

Thank you again, Mr. Chairman, for the opportunity to present these remarks. As always, it is a pleasure to appear before a committee of this body. I would be happy to entertain any questions you might have.

EUGENE R. FIDELL

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Mr. Fidell is a 1965 Phi Beta Kappa graduate of Queens College and a 1968 graduate of Harvard Law School. He heads the Litigation Department and the Military Practice Group of the Washington law firm of Feldesman, Tucker, Leifer, Fidell & Bank LLP.

A 1969 graduate of Coast Guard Officer Candidate School and the Naval Justice School, Mr. Fidell served as a Coast Guard judge advocate from 1969 to 1972. His active duty assignments included the Marine Inspection Office, Long Beach, California; First Coast Guard District Legal Office; and Maritime Laws and Treaties Branch, Office of Operations, Coast Guard Headquarters.

Mr. Fidell has represented personnel in each of the armed forces as well as the U.S. Public Health Service in all types of disciplinary and other personnel actions and related litigation. He has written widely on military law (including the *Guide to the Rules of Practice and Procedure for the United States Court of Appeals for the Armed Forces*) and taught military justice at Yale Law School in 1993 and 1998. Since 1991, he has been president of the National Institute of Military Justice. For many years he served on the board of the National Veterans Legal Service Program. He has also served on the Code Committee on Military Justice, the Advisory Board on the Investigative Capability of the Department of Defense, and the Rules Advisory Committee of the United States Court of Appeals for the Armed Forces. He is co-editor of the recently-published anthology, *Evolving Military Justice* (Naval Institute Press 2002).

Mr. Fidell lives in Bethesda, Maryland, with his wife and daughter.

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*Certification*

Neither I nor any member of my law firm have received any funds from federal grants or contracts during this year or in the last two years from any agency of program relevant to the subject of the hearing concerning H.R. 5111 or H.R. 4017.