

SOLDIER CLAIMS RIGHTS WERE VIOLATED WHEN FIRED AFTER DEPLOYMENT TO IRAQ



A soldier in the U.S. Marine Corps Reserves was fired from his nonmilitary job shortly after returning from deployment. He sued his employer, alleging a violation of federal and state rights. The man had been working as a manufacturing engineer at BAE Industries, Inc. in Michigan for a little less than a year when he was deployed to Iraq. His manager reportedly indicated his disapproval via nonverbal cues, but he was aware of the employee's military status when he was hired. The man claims that, upon his return one year later, his duties at BAE were "drastically limited" – no longer given specific areas of responsibility, a budget responsibility or any tasks with deadlines or completion dates. He also did not receive a raise, while some of his co-workers did. One month after his return, he was transferred to another BAE plant and was demoted from manufacturing engineer to maintenance. He was allegedly over-qualified for the position and was working below his wage scale. Such a transfer, according to the plaintiff, was "commonly regarded" among BAE managers as the final step prior to termination. Sure enough, one month after the transfer, the man was fired. BAE claims that the employee was terminated as part of a reduction-in-force, necessary due to substandard economic conditions. The company further maintains that the termination was unrelated to the man's military status and that it was supportive of his military service – it hosted a deployment send-off party, collected money to help the man's family while he was away and sent care packages to the soldier's military unit. His manager reputedly fixed a septic tank at the man's house while he was



in Iraq. The man later filed a request with the U.S. Department of Labor (DOL), Veteran's Employment and Training Service to investigate his firing. The DOL subsequently gave notice that it was declining to continue an investigation. He then filed a complaint against BAE, alleging that it had violated the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) and the Michigan Military Act, both which protect members of the military from being discriminated against by nonmilitary employers. The company responded by making a motion for summary judgment, asserting that the claim had been filed too late – just two months shy of three years since the man had been fired. The district court concurred and granted the motion. The man filed a motion in response to the summary judgment – restating his argument in a supplemental brief that the court had ignored – but it was denied. He appealed the USERRA claim only. The plaintiff's appeal noted a provision that prevented the contractual reduction of rights under the USERRA. However, the court had to abide by the filing limitation. At the time the man filed his complaint, the USERRA had been amended to include no limit on filing claims. But when the plaintiff was terminated, there was a 180-day limitation, which the man acknowledged that he had missed. Appellate judges stated that they were "sympathetic," but as the man's claim was time-barred by law, the grant of summary judgment in favor of BAE was affirmed.