

Seventh Annual Military Law Symposium:  
Post Deployment Issues

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Presented by

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State Bar President Newsome; active, inactive and retired members of our armed forces; fellow members of the New Jersey Bar; fellow citizens of New Jersey. Good afternoon, everyone. And, in light of the lunch hour, may I wish you all, as we say where I am from, "buen provecho" or, freely translated into English, may your lunch agree with you. Rest assured, in order to avoid any speech-induced indigestion, my remarks will be blessedly and mercifully brief. So, if anyone was looking forward to some lengthy exegesis from a purportedly learned Supreme Court Justice, I am so very sorry to disappoint. More importantly, you have already given up your Saturday morning for others, and I will impinge on that offering for only a short time longer.

My name is Roberto Rivera-Soto and I have the privilege of serving as an Associate Justice of the Supreme Court of New Jersey. I stand before you today in a couple of capacities.

First, I stand in as a representative of the Court, at the request of Chief Justice Rabner, speaking on its behalf. The Chief Justice wished to be the speaker today, but the press of other business called him elsewhere. So, you folks will just have to settle for second-best.

I also speak today -- and I do so proudly -- on my own behalf. I do not address the applicable law; others have done so -- and done so well -- before me. Instead, as some members of the State Bar know, I have an abiding interest in how we treat the brave men and women we send in harm's way. I recall being a college student - in the very early 1970's at a liberal Quaker college -- as the Vietnam War wound down. I remember that even then, when, as recently arrived from Puerto Rico, I still could not quite understand what people were saying and, more to the point, why they did what they did, being astounded by the reception our returning soldiers and sailors, airmen, marines and coast guardsmen were being given. Our national behavior during that period remains, to me, a great embarrassment and an unvoiced but palpable national shame.

It is my heartfelt hope that with events like today's we will be smarter, better and more compassionate to those who, at the request of their country -- our country -- are willing to give, if needed, what the Great Emancipator, Abraham Lincoln, called "the last full measure of devotion." We owe those men

and women a debt we can never repay. That is why it is important that we all learn about the post-deployment issues our men and women in arms will face and prepare ourselves to be of aid upon their return to us.

The early twentieth century English novelist, essayist and critic Eric Arthur Blair - who is better known by the pen name George Orwell and the author of Animal Farm and 1984 -- once said that "people sleep peaceably in their beds at night only because rough men stand ready to do violence on their behalf." In respect of our singular military, that special breed known as the American military, I most respectfully disagree.

My experience with those so very special people who wear the uniforms of our armed forces tells me that Americans sleep peaceably in their beds at night only because fellow citizens -- their family, friends and neighbors -- selflessly stand ready to protect total strangers bound together in one nation and their way of life. It is that unique concept, that of the citizen-soldier, that makes the American military special and so unlike the military elsewhere. It is that unique concept, that of the citizen-soldier, that mandates that our military be under civilian and not military control. It is that unique concept, that of the citizen-soldier, that results in legal tenets like

the Posse Comitatus Act,<sup>1</sup> which makes it a crime punishable by imprisonment to use the armed forces of the United States in law enforcement activities.

We live in a time in which some four thousand of our fellow New Jerseyans, our brothers and sisters, our husbands and wives, our sons and daughters, will soon leave the comfort of our hearths to the perils of battle-weary stations. Three thousand of them will leave in just two months time. They leave for an uncertain future. We must insure that, when they leave, they do so with clear eyes, unburdened minds, and full hearts, comforted by the knowledge that their return and re-integration into every day life will be made as seamless as possible. We owe them at least that much, and they deserve that and much, much more.

In the presence of the sacrifices each of them is making, we should be humbled. I know I am. In response to the sacrifices each of them is making, we must re-commit ourselves to those ideals they are willing to protect and preserve not just with words, but with deeds. As a result of the sacrifices each of them is making, we must stand ready to welcome them back with open arms, telling them that, as we relied on them to protect us, so too they can rely on us to insure that they are not disadvantaged because they put their own lives on hold and placed our wellbeing above their own.

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<sup>1</sup> 18 U.S.C. § 1385.

I reject, therefore, George Orwell's description of the military, a description largely framed by his own experiences as a member of the British Imperial Police in Burma. Instead, I prefer the words that adorn the plain white wall at the entrance of the Holocaust pavilion of the British Imperial War Museum in London. They are the words of the Eighteenth Century Irish orator, philosopher and politician Sir Edmund Burke, who once said that "[a]ll that is necessary for the triumph of evil is that good men do nothing." Burke's words have served as both my haven -- where I seek refuge when my soul yearns for it -- as well as the yardstick by which I measure my actions. It is a simple axiom: "All that is necessary for the triumph of evil is that good men do nothing."

By all means, pick your own motto. And as mine really is not mine but belongs instead to the ages, you are welcome to adopt it as your own too. That said, I urge each of you to find it in your hearts and in your souls to every day remember our fellow citizens who, when called by their country, answered that difficult, life-wrenching call without mental reservation or purpose of evasion. It is a devastatingly simple exchange: they stand for us, and we must stand for them. So, when they return to us, it is we who must respond as present and accounted for.

Your participation here today is living proof of your commitment to this all-too-important task. For that, on behalf of the Supreme Court of New Jersey, I thank you. For that, as a proud member of the Bar of New Jersey, I thank you. For that, as a fellow citizen, I thank you.

I wish you all Godspeed and a safe travel to your homes and loved ones.