

Testimony of Mr. Jason Burris
House Committee on Veterans Affairs
June 23, 2004

Chairman Smith and Members of the Committee,

Thank you for inviting me to testify regarding my experience with the compliance/noncompliance of USERRA. Let me first introduce myself. My name is Jason B. Burris and I have been a soldier with the Oregon Army National Guard since December of 1998, currently a Corporal (E-4) assigned to E Troop 1/82nd Cavalry, Woodburn, Oregon.

My experience with USERRA compliance/noncompliance:

In the fall of 2000 I was employed with the United States Postal Service (USPS), Woodburn Office, as a Casual Clerk (Seasonal Employee). After approximately 30 days of employment I attended my normal Drill weekend with the military unit I was and am still currently assigned to (E Troop 1/82nd Cavalry). During the course of the training weekend I injured my shoulder in an Annual Physical Fitness Test (APFT). The injury was later confirmed by a medical professional.

When I attempted to call into the Post Office in which I was currently working I was unable to reach anyone since I had not been provided with a direct phone number for employees. Since I was unable to contact anyone I drove down to the Post Office and personally informed them of my injury and inability to perform my duties. I then went home and proceeded to recuperate from my injury. The following day I was again unable to report to work due to my injury. Having been provided the direct line number the previous morning I called in to report that I would not be able to report. Later that day I received a telephone call from my immediate supervisor at the Post Office in which I was employed. He had called to inform me that my employment was being terminated due to failure to report to work. And in later documentation it was stated by the USPS that my employment was terminated due to "Non-Postal service injury."

The first action I took after the phone call was to call my Unit Readiness NCO and inquire if what they (USPS) had done was legal, as I had never been informed of USERRA, and the protections it provides, by either the military or the USPS, prior to the incident. The response I received from the Readiness NCO was that "No, they can't do that," he then referred me to the local Veterans Affairs Office, who in turn referred me to the US Department of Labor- Veteran's Employment and Training Service (USDOL-VETS).

My next course of action was to confer with my father who is currently the Postmaster of Grand Ronde Oregon. Although he has been in the Postal

service for over 20 years he was not familiar with USERRA before my case was pursued to its current extent. His advice was to document everything and let any investigation run its course.

After contacting the US Department of Labor at the Veterans' Employment and Training Service and meeting in person with Ronald Cannon, Assistant Director, Salem Oregon, I began the process of filling out the necessary forms and documentation to file a formal complaint/grievance. After several months of investigation by the UDOL-VETS they determined that they would not recommend litigation if I were to continue the pursuit of the matter and requested that my case be referred to OSC. I determined that my best course of action would be to refer my case to OSC in the hopes that there could be a resolution to this matter that would recognize that there is a lack of training regarding USERRA within the USPS.

An extensive amount of time (almost 2 years since the incident occurred) had passed before I was contacted by the OSC to resume my involvement in the investigation and review of the case. Several more months passed as I was updated periodically and requested to read, affirm, confirm, and sign documents regarding the case. Settlement negotiations began on this matter late last year and the USPS has already verbally agreed to settle the case outside of the court systems. OSC is currently negotiating the settlement on my behalf and are seeking Corrective Action in the form of Intensive USERRA Training, sponsored by VETS, to each of its supervisors in the Portland District, (Oregon), as well as conspicuously posting USERRA rights information in USPS Employee common areas in the Portland District.

In closing, constructive criticism should not be punitive in nature but corrective in substance. It is in my hopes that the USPS will not stop at just the Portland District being trained in USERRA Rights and regulations, but will continue to provide superior training to all its supervisors throughout all its regions so that another incident such as mine or similar doesn't occur in the future. In regards to the OSC they have done an exemplary job in investigating and interpreting the information provided them by the USPS, USDOL-VETS and myself. The fact that the USPS is willing to settle this issue outside of the court room is proof enough to me that they are willing to take the necessary steps to correct its own actions.

Thank you again Chairman Smith and Members of the Committee for allowing me to come and testify at your proceedings today.