

Legal Update

Brought to you by: Apex Benefits

U.S. Supreme Court Confirms USERRA Rights

The U.S. Supreme Court has held that states can be sued as employers by private individuals under the [Uniformed Services Employment and Reemployment Rights Act of 1994 \(USERRA\)](#). The Court issued the ruling in [Torres v. Texas Department of Public Safety](#) on June 29, 2022.

USERRA

USERRA prohibits employment discrimination on the basis of membership in the uniformed services and requires employers to reemploy individuals who were absent due to military service. The language of the statute applies this requirement to state employers and authorizes private lawsuits against them if they refuse to accommodate veterans' service-related disabilities

Torres v. Texas Department of Public Safety

Le Roy Torres, a U.S. Army veteran, sued the Texas Department of Public Safety after it refused to reemploy him in a different role from the state trooper job he held before his military deployment to Iraq. Torres had acquired constrictive bronchitis from exposure to toxic burn pits during his military service, and he alleged that this condition left him unable to work in his former position. A state appeals court dismissed the case on the ground that sovereign immunity protected Texas from USERRA lawsuits by private individuals. The case eventually came before the U.S. Supreme Court, which ruled against Texas in a 5-4 decision, allowing the case to move forward.

The Court held that on entering the Union, the states implicitly agreed that their sovereignty would yield to federal policy to build and keep a national military. Noting that in passing USERRA, Congress drew on its Article I power, the Court stated, "As part of the plan of the [Constitutional] Convention, the [s]tates waived their immunity under Congress' Article I power to raise and support [a]rmies and provide and maintain a [n]avy."



Highlights

- A former state trooper sued the Texas Department of Public Safety under USERRA when it refused to accommodate him with reemployment in a different position upon his return from military service.
- The Supreme Court held that Congress passed USERRA under its Article I power, and that in joining the Union, states had waived sovereignty in regard to federal national military policy.

The Supreme Court held that sovereign immunity did not protect the state of Texas from a USERRA lawsuit brought by a disabled service member.

Provided to you by Apex Benefits

This Legal Update is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice. © 2022 Zywave, Inc. All rights reserved.