

MILITARY & VETERANS LAW

A publication of the Military/Veterans Law Section – State Bar of Georgia – Winter 2013

**Military Divorce: Returning Warriors and
“The Home Front”**

Editor's Corner

by Steve Shewmaker



Some time ago, Kent Shelton, the then co-chair of the Military & Veterans Law Section, and I had dinner in Augusta. At that dinner, he asked me if I would serve as editor of the Section's first-ever newsletter. I am excited to say that we have finally taken flight! I am equally excited about the Section, its many accomplishments and its future.

As I am fond of telling civilians, Georgia has a very rich military history. Georgia is home to the Army's Forts Benning, Gordon, Stewart, Hunter Army Airfield, Fort Gillem and Camp Frank D. Merrill; the Air Force's Warner Robins Air Force Base, Moody Air Force Base and Dobbins Air Reserve Base; the Marine Corps Logistics Base at Albany, the Navy Supply Corps School in Athens and the Kings Bay Submarine Base in Brunswick. Not only does Georgia host over 100,000 service members, it is also a very attractive location for former service members and retirees. Estimates vary, but it appears that there are several hundred thousand former service members that call Georgia home. So, it is all together fitting and long overdue that the State Bar should organize the Military & Veterans Law Section.

As a section we are fortunate to have some extraordinary veterans who have graciously volunteered their expertise and time to benefit us. I could name scores, but I wish to highlight Wm. John Camp, Norman Zoller, Cary King, Drew Early, Victoria Collier and Kent Shelton.

John Camp has generously volunteered to serve as the section chair. His superb leadership has elevated the section to new heights and his influence will be felt for years to come. Norman Zoller has worked on behalf of the State Bar and the Section to promote many veterans' programs including the Military Assistance Legal Program (MLAP), providing reduced fee or pro bono assistance to veterans. Cary King is a shining light within our organization. He is the 2012 recipient of the Marshall Tuttle Award, recognition of his tireless efforts to assist veterans. Drew

Early and Victoria Collier are recognized state/regional experts in Veterans Administration benefits, and are staples at the sections numerous Continuing Legal Education (CLE) programs. Finally, Kent Shelton will long be remembered and lauded as the former co-chair of the Section.

I am also excited about the many opportunities the Section is bringing to the bar. On May 9, 2013, the section will host our Spring CLE, entitled "It's a Family Affair" a comprehensive CLE focusing on various military family law matters. In November, the Section will also host the fourth annual Veterans Administration Accreditation Symposium. Finally, Judges Bedford Jackson (Superior Court, Fulton County) and Judge Albert Wong (State Court, DeKalb County) spearhead the Veterans' Court Programs in their respective counties.

I extend an enthusiastic welcome to all members of the bar who wish to join and become involved in the section. As I frequently find myself reminding other lawyers, **YOU DO NOT HAVE TO BE A VETERAN TO JOIN THIS SECTION.** You may be a veteran, or your motivation may be your enthusiasm for veterans and service members you know. You may simply just want to get involved. Welcome! You are welcome here.

As editor, I will receive all submissions to the newsletter at my email address: sshewmaker@shewmakerandshewmaker.com. This newsletter will publish quarterly. We seek articles within the focus of the section. We seek energetic members who volunteer to go out and interview veterans and service members in Georgia that enhance the section (e.g. Brigadier General Ural Glanville, Judge Fulton County Superior Court). We also seek your personal accomplishments and announcements.

Last, if you are reading this, you are either a listed member of this section or someone that I believe would benefit by becoming a member. As of March 6, 2013, the Section has 244 listed members. One of my goals is to see this number swell to 500 before the end of 2013. Please help us do this!

I look forward to hearing from you soon!

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Comments by the Section Chair

by John Camp



Don't we admire and appreciate Infantry with their "FOLLOW ME" spirit? Our nation has been inspired by their motto as a challenge to excel in leadership and commitment to a mission. The Military and Veterans Law Section is blessed with many members who live that motto every single day of their practice and who serve the Georgia Bar. We know them as the ones who step forward and

by their actions say "I Will Lead the Way." It is no coincidence that spirit too serves as the paraphrased motto of the Army Rangers, as in "Rangers Lead the Way".

The Military and Veterans Law Section encourages the "Can Do!" spirit in our members. No better example serves than Drew Early, who forged a Memorandum of Understanding with the Department of Veterans Affairs that will facilitate the creation and operation of Legal Assistance Clinics in our Veterans Hospitals. And by no small coincidence Drew's idea was spawned by the personal devotion of Cary King, who has for more than a decade operated a volunteer legal clinic at the Atlanta VA Medical Center. We are proud that both Drew and Cary were recognized by the State Bar's Military Legal Assistance Program Committee with the Marshall-Tuttle Award for outstanding contributions and service to members of the armed forces and veterans. Drew's and Cary's exceptional work also achieved the personal praise of the General Counsel of the Department of Veterans Affairs this past year. "WAY TO GO MEN!!"

We also have that "Eye of the Tiger" spirit in Steve and Patty Shewmaker. They take precious time from their family and law practice to "Lead the Way" in organizing the Section's Continuing Legal Education Programs in order to train and educate attorneys

to better serve our military communities and Veterans. Steve has carried the additional responsibilities of creating and publishing our Sections Newsletter, which is an awesome undertaking.

Richard Menson and his subcommittee deserve a special "Hoorah" for their tireless work to establish Veterans Legal Assistance Clinics in our State's four law schools. Emory Law School intends to start their pilot program during the winter and spring of 2013. We hope their "Follow Me" enthusiasm will bring similar programs to the law schools at Georgia State, Mercer, University of Georgia, and John Marshall Campus in Atlanta and Savannah.

The Section is also championing state legislation to improve the lives of military members and their families. The Section gained the backing of the State Bar of Georgia to endorse the Uniform Deployed Parents Custody and Visitation Act in this year's session of the Georgia General Assembly. In years to come we hope to obtain consideration of legislative relief for the spouses of military members, who need to transfer their state's licensing or certification requirements in order to work or practice in their fields.

Our Section is also grateful to Robin Frazier-Clark and Charles "Buck" Ruffin for their inspiration and support to the Section. And we rely and appreciate the "heavy-lifting" performed by Norman Zoller and Derrick Stanley, who provide countless hours of advice and administrative support to our Section's activities. Without them our lives and work in the Section would be far more difficult. Thank you both!

And finally to ALL of members, take a look at our Newsletter and decide to make that commitment in 2013 to join our legion! We can intend to set challenging objectives for the Section, and we want your voice to be heard "LOUD AND CLEAR". We "Welcome You to Stand Tall Among Us" and "LEAD THE WAY!!"

At the recent CLE program on Georgia Military Law and the VA Accreditation Process, Wm. John Camp (Macon) presented a bronze eagle statue to D. Kent Shelton, section chair 2005-2012, honoring his service as to the Military and Veterans Law Section.

In making the presentation to John said:

"Kent has been a faithful leader of our Law Section for many years. For almost a decade, he inspired many attorneys to join the Section and to contribute to the practice of Military and Veterans law. Kent was always someone who volunteered to be a presenter at continuing legal education seminars sponsored by ICLE and our Section. Kent is highly versatile lawyer who could speak on Military Family Law, Physical Evaluation Boards, Discharge Upgrades, BCMR Practice, and the Uniform Services Employment and Reemployment Rights Act (USERRA). Within the Section Kent made many contributions to the development of our Section's By-Laws and appointments to subcommittees. Kent provided all of us with many ideas about growing the Section's membership and strategic planning for what we wanted to achieve for Georgia servicemembers and Veterans. Kent had to become a master at balancing his family obligations with his demanding civilian law practice with his position as an Army Reserve Staff Judge Advocate. But in my mind and in the hearts of many members of our Section and the Georgia Bar, Kent is to be honored and remembered for mentoring many young attorneys both in their civilian law practice and in their dreams of becoming a Judge Advocates. We are proud to honor Kent with this Eagle as a symbol of his leadership, his mentorship, and his service to our nation, the State of Georgia, and to the State Bar of Georgia."

Military Divorce: Returning Warriors and “The Home Front”

by Ivory T. Brown

1. RETURN OF THE WARRIORS

Empty outposts overseas mean full billets and bedrooms back at home. In view of the “new phase of relations” between the U.S. and Iraq, using Vice-President Joe Biden’s language, many servicemembers (SMs) are returning home. The redeployment of military personnel back to their stateside assignments and their homes is the result of significant drawdowns in Iraq and Afghanistan. SMs who are returning from the Middle East are not only from the active-duty forces (Army, Navy, Air Force and Marines); they are also from the Reserve Component, namely, the National Guard and the Reserves. Thus the homecoming impact will be felt nationwide, not just in communities near military bases. While reuniting with one’s family will be a joyous experience for SMs, it may create significant stresses for some. And these stresses may lead to legal consequences.

2. STRESSES AND RELATIONSHIPS

Stresses may arise due to one party’s having been solely in charge of the home for the entire deployment, without any help and with heavy responsibilities for running the home, managing the budget, taking care of children and – quite often – holding down a job as well. Having been away for a year in most cases, the returning SM has his or her own issues. These SMs need time to decompress and to adjust to new responsibilities, routines and duties – both at home and at work.

Sometimes there is an “interim relationship” which was formed while one spouse was gone. If this is so, it will have to be dissolved so that the marriage may continue. When this doesn’t happen, then the marriage will be in trouble and a separation is definitely on the radar screen. The impacts on the parties include separation, interim support, domestic violence, temporary custody and many more issues.

The result for the family law attorney is a confusing welter of rules, laws, cases and problems. When does state law govern? When should the injured party seek redress through the military? How does federal law affect the conflict? Where can one locate co-counsel who is familiar with these matters, a consultant who can give quick and accurate advice, or an expert witness who is available in person or by phone or Skype to assist the court?

3. RULES AND RESOURCES

Where to find the resources for a military divorce case will depend on the issue involved. The usual matters involved are custody and visitation for minor children, support for the spouse and children, the role of the Servicemembers Civil Relief Act in default rulings and motions to stay proceedings, and division of the military pension. Domestic violence may also be involved in some family law cases involving military personnel. The well-read attorney is the one best armed to defend or prosecute in these areas. They are complex and often counter-intuitive. A mentor, consultant or expert will often be useful as a guide through the wilderness.

There are several sources of information for the attorney caught up in these problem areas. For the following scenarios, assume that the parties are Army Sergeant Fred Wilson and his wife, Maria Wilson, the mother of their two minor children.

4. SERVICEMEMBERS CIVIL RELIEF ACT (SCRA)

Formerly known as the Soldiers’ and Sailors’ Civil Relief Act, the SCRA is found at 50 U.S.C. App. § 501 et seq. The two most important areas in civil litigation are the rules for default judgments (when the SM has not entered an appearance) and the motion for stay of proceedings. The former requires an affidavit as to the Fred’s military status and the appointment of an attorney for Fred by the judge. The duties of the attorney are not specified, and there are no provisions for payment. The default section of the SCRA is at 50 U.S.C. App. § 521.



At 50 U.S.C. App. § 522 are the requirements for Fred's obtaining a continuance (called a "stay of proceedings" in the Act) for 90 days or more.

The elements of a valid 90-day stay request are:

- A statement as to how the SM's current military duties materially affect his ability to appear and
- stating a date when the SM will be available to appear
- A statement from the SM's commanding officer stating that the SM's current military duty prevents appearance and
- stating that military leave is not authorized for the SM at the time of the statement

An overview of the Act is found at "A Judge's Guide to the Servicemembers Civil Relief Act." The Guide tells about the requirements and protections of the SCRA and the steps one should take to comply with the Act's requirements. It contains a sample motion for stay of proceedings and what the appointed attorney needs to do to protect his or her newest client.

5. FAMILY SUPPORT- MILITARY RULES AND REGULATIONS

Fred is required to provide adequate support to Maria and the children; each of the military services has a regulation requiring adequate support of family members. The Air Force support policy is found at SECAF INST. 36-2906 and AFI 36-2906. The Marine Corps policy on support of dependents is found at Chapter 15, LEGALADMINMAN. The Navy Policy for support issues is at MILPERSMAN, arts. 1754-030 and 5800-10 (paternity). The policy of the U.S. Coast Guard is located at COMDTINST M1000.6A, ch. 8M. The nonsupport policies and rules of the U.S. Army are found at AR [Army Regulation] 608-99. See also the SILENT PARTNER info-letter on "Child Support Options" at the N.C. Bar Association website and/or the ABA website.

Knowing Fred's pay and allowances is a key factor in determining support. All SMs receive a twice-monthly LES (leave-and-earnings statement). To learn how to decipher one of these, just type into any search engine "read an LES" to find a guide explaining the various entries on the form.

There are numerous garnishment resources at the website for the Defense Finance and Accounting Service (DFAS), located at www.dfas.mil. The statutory basis for garnishment is at 42 U.S.C. §§ 659-662 and the administrative basis is at 5 C.F.R. Part 581. A list of designated agents (and addresses) for military garnishment is found at 5 C.F.R. Part 581, Appendix A. Military finance offices will honor a garnishment order that is "regular on its face." 42 U.S.C. § 659 (f). See also *United States v. Morton*, 467 U.S. 822 (1983) (holding that legal process regular on its face does not require the court have personal jurisdiction, only subject matter jurisdiction). Limits on garnishment are found in the Consumer Credit Protection Act, 15 U.S.C. § 1673.

6. CUSTODY AND VISITATION

The best source for information on military custody and visitation issues is usually your own state custody statutes. There are 43 states with specific provisions covering visitation and

custody issues which arise when one or both parents are in the military. These include delegated visitation rights when a parent is absent due to military orders, visitation during leave, mandatory contact information, rules on not using Fred's military absence against him in a custody determination and the use of expedited hearings and electronic testimony. "Counseling on Custody and Visitation Issues" is a SILENT PARTNER info-letter found at the N.C. Bar Association website and/or the ABA website.

If Fred is retaining the children beyond the date of return in the custody order or keeping the children, and a custody order requires their return, then Maria can use Department of Defendant (DoD) Instruction 5525.09, 32 C.F.R. Part 146 (February 10, 2006) to obtain the return of children from a foreign country. In general, this Instruction requires SMs, employees, and family members outside the United States to comply with court orders requiring the return of minor children who are subject to court orders regarding custody or visitation.

7. MILITARY PENSION DIVISION

Rules on retired pay garnishment are found here at www.dfas.mil > "Find Garnishment Information" > "Former Spouses' Protection Act." In addition to a legal overview, there is a section on what the maximum allowable payments are and an attorney instruction guide on how to prepare pension division orders. Information on the Survivor Benefit Plan (SBP) is at the "Retired Military and Annuitants" tab (under "Survivors and Beneficiaries") and at the "Provide for Loved Ones" link at this tab. Military pension division is set out at 10 U.S.C. § 1408, and the Survivor Benefit Plan is located at 10 U.S.C. § 1447 et seq. The Defense Department rules for both are in the DODFMR (Department of Defense Financial Management Regulation).

There are seven SILENT PARTNER info-letters on dividing military retired pay and SBP coverage. All of these are found at the websites shown above at the N.C. Bar Association website and/or the ABA website.

8. DOMESTIC VIOLENCE

The DoD Instruction on domestic violence is DoDI 6400.6 "Domestic Abuse Involving DoD Military and Certain Affiliated Personnel" (updated to Sept. 20, 2011). It may be accessed here:

- Department of Defendant (DoD) Instruction 5525.09, 32 C.F.R. Part 146 (February 10, 2006)
- Other websites containing useful information about the rules and procedures in this area are:
- www.vawnet.org (National Online Resource Center on Violence Against Women),
- www.ncdsv.org/ncd_militaryresponse.html (National Center on Domestic and Sexual Violence) and
- www.bwjp.org (Battered Women's Justice Project).

An excellent summary of the remedies and responses is found in "Domestic Violence Report," April/May 2001 by Christine Hansen, Executive Director of The Miles Foundation.

Mark E. Sullivan, a retired Army Reserve JAG colonel. Mark practices family law in Raleigh, N.C. and is the author of THE MILITARY DIVORCE HANDBOOK (Am. Bar Assn., 2nd Ed. 2011), from which portions of this article are adapted.

Interview with Brigadier General Ural Glanville

by Steve Shewmaker

Please tell us about your background.

I was born in Columbus, Ohio. My mother was in academia, her specialty was nursing. I graduated from high school in Columbia, S.C. I began my undergraduate degree at Brevard College and then transferred to the University of Georgia. While at the University of Georgia, I joined the Army Reserve Officer Training Corps (ROTC). In 1984, I obtained my bachelor's degree and commissioned as an infantry officer. I deferred active duty to obtain my law degree from UGA.

What brought you to Atlanta?

I came to Atlanta initially just to sit for the bar exam. While waiting to obtain my bar results, I met my wife, Lisa, and Atlanta became my home.

What influenced your decision to become an attorney?

I grew up watching Perry Mason, and it influenced me to become an attorney. I was fascinated watching him argue and dismantle his opponents.

What influenced your decision to serve in the military?

My grandfather, who served in World War II, and my uncle, who served in the Korean War influenced my decision to join the military. I wanted to serve my country, as others in my family had.

What was your source of commission?

I commissioned in 1984 as an infantry officer through the Army ROTC program.

Did you serve on active duty?

I served on active duty from 1990 – 1993 in Germany; from January – June 2007 in Kuwait; and from July 2012 – July 2013 in Afghanistan.

- 1990-1993, Germany: I served as a defense counsel with the U.S. Army Trial Defense Service. I later went on to serve as Trial Counsel for V Corps.
- 2007, Kuwait: I served as the Staff Judge Advocate (SJA) for the 335th Signal Command.
- 2012-2013, Afghanistan: I currently serve as the Commanding General of NATO Rule of Law Support Mission and Rule of Law Field Force – Afghanistan (NROLFSM/ROLFF-A).

Tell us about your experience in the Army Reserve?

Serving in the Army Reserve has been very rewarding. My experiences have varied; prosecutor, defense counsel, staff positions, command judge advocate, SJA, Legal Support Organization Commander; and Commanding General.

Tell us about your deployment experience?

- In 2007, I deployed to Kuwait as the SJA for the 335th Signal Command. As the SJA, I was tasked with advising the Commander on all legal issues.
- In 2012, I deployed to Afghanistan in support of Operation Enduring Freedom as the Commanding General (CG) for NROLFSM/ROLFF-A. As the CG, I manage over 100 personnel countrywide. I am tasked with advising our Afghan Judicial partners on rule of law issues, evidence based operations, and police-prosecution cooperation. I oversee the Justice Center in Parwan, which is the only national security court in Afghanistan.

What is your current position in the Army?

I am currently deployed to Afghanistan as the Commanding General of NROLFSM/ROLFF-A.

What is your mission as Commander of the Rule of Law Task Force?

Our mission is to provide essential field capabilities, liaison and security to Afghan and coalition civil-military rule of law project teams to build Afghan criminal justice capacity, increase access to dispute resolution services, fight corruption and promote the legitimacy of the Afghan government.

How long have you been practicing law?

This November will mark 25 years.



Before you became a judge, in what areas of law did you practice?

I practiced in the areas of criminal defense, plaintiff's personal injury, insurance defense, and small business representation.

What made you decide to become a judge?

I became a judge because I wanted to serve in a different capacity. I enjoy applying the law to different sets of facts and circumstances, and I enjoy hearing attorneys argue their side of the case. I find law invigorating because there are many ways to interpret different cases.

What aspect of being a judge do you like the most?

The best aspect of being a judge is interacting with the public and mentoring and molding young attorneys.

How do you balance being a Superior Court Judge and an Army Reserve Officer?

Being both a judge and an officer is very challenging; however, I enjoy being a public servant in both capacities. In order to balance my two jobs, I remember why I do what I do, because I love my country and I love my profession.

How do you think the Military and Veterans Section could best serve the community and the bar?

As a conduit for those who want to help veterans and their families, I think that the Military and Veterans section could best serve the community and the bar by providing service to the many veterans with post-traumatic stress disorder and assisting veterans with their VA claims. As attorneys, it is easy to forget how hard the law is to comprehend and how difficult it is to maneuver through the mounds of paperwork necessary to file a claim. The Military & Veterans section could assist veterans with this task, especially after veterans have given so much to support and protect our country.

Do you believe that Veterans Courts are a productive alternative in Georgia?

I think Veterans Courts are a very productive alternative in all states. Veterans Court offer veterans a screening mechanism to discover why they find themselves on the wrong side of the law. Ultimately, these courts are a means to obtaining treatment for underlying issues which haunt veterans who have served in combat operations.

Do you have any advice for new attorneys?

The key to success as a new attorney is to learn and master your practice area. Also, be nice and make friends with everyone; the legal community is small and you never know when you may cross paths again. Always give back to the community, in some way or another; practicing law is a privilege not a right. Finally, always be honest with yourself, your colleagues, and the bench.

What advice can you provide other attorneys who are in the Reserves about balancing military duty and the practice of law?

Always place your family first. Remember to be supportive; your family may not always understand your dual-hatted career, but take the time to explain it to them. It is not easy interweaving what ends up being two full-time jobs, but with your family's support, you can handle anything.



Steve Shewmaker is a partner with the firm of Shewmaker & Shewmaker, LLC in Atlanta, specializing in domestic law, military domestic law and criminal defense. Steve has served in the U. S. Army for 22 years and continues to serve today as a Command Judge Advocate in the U.S. Army Reserve. He may be reached at sshewmaker@shewmakerandshewmaker.com or (770) 939-1939.

Memorandum of Understanding

The Military/Veterans Law Section has partnered with the Atlanta Regional General Counsel's Office of the U.S. Department of Veterans Affairs to formalize the presence of a Volunteer Veterans Legal Assistance Office at the Atlanta VA Medical Center. The signing of this Memorandum of Understanding with the Atlanta VAMC on Jan. 11, 2013, at the State Bar is historic. Efforts are underway to establish a similar Volunteer Veterans Legal Assistance Clinic in Georgia's VA Medical Center in Augusta and then in Dublin.

Georgia has more than 774,000 Veterans. Many of them struggle with personal legal problems that arise from their service connected injuries and illnesses they obtained in protecting our freedoms and the American way of life. Individual efforts by Cary King and the 700 volunteer attorneys who offer their services through the Bar's Military Legal Assistance Program promote a positive image for all Georgia Bar members.



(Left to right) Ellen Hastings, assistant Atlanta VA Regional Counsel; Cary S. King, partner, Jacobs & King LLC and 2012 Marshal-Tuttle Award winner; Patricia Hooks, general counsel, regional general counsel for Department of Veterans Affairs, Atlanta Region; Thomas Grace, associate director of Atlanta Veterans Medical Center; Wm. John Camp, chair, Military/Veterans Law Section, partner, Westmoreland Patterson Moseley & Hinson, LLP; and Drew Early, vice chair, Military/Veterans Law Section, of counsel, Shewmaker & Shewmaker, LLC.

Are You Assisting a Medically Separated Veteran?

Originally published by the Military Officers
Association of America on Jan. 6, 2012.

If you know of any veterans who were medically separated from military service between Sept. 11, 2001, and Dec. 31, 2009, please let them know they have some recourse if they feel they unfairly received a too-low disability rating from the military.

The Physical Disability Board of Review (PDBR) will reassess the accuracy and fairness of the combined disability ratings assigned to servicemembers who were discharged as unfit for continued military service by the military departments with a combined disability rating of 20 percent or less.

Once a review is complete, the PDBR forwards their recommendation to the respective Service Secretary where it is up to the individual service branch to make the final determination on whether to change the original disability determination.

The board outcomes of those who have applied have been very favorable. Nearly half of the applicants have received upgrades to 30 percent or more, which would make them eligible for a military medical retirement, retiree pay, access to military healthcare and other benefits.

Since the PDBR began reviewing its first cases in June 2009, only 3,000 veterans have applied of the roughly 75,000 eligible veterans.

To encourage greater applications, later this month the VA and the Pentagon plan to begin sending letters to thousands of Post-9/11 eligible veterans.

Spread the word...most of these wounded warriors won't otherwise know about this important option to correct a possible wrong that were exposed to several years ago during their medical evaluation process.

If you know someone who was medically separated from service since 9-11, they can find out more information on how to apply at: www.health.mil/pdbr.

Judging Panel Volunteers Still Needed for the 2013 State Finals Tournament

**Saturday, March 16
Gwinnett Justice Center,
Lawrenceville**

*At least two rounds of HSMT judging
panel experience or one year of
coaching experience required
to serve at state.*

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**State Bar
of Georgia**

YOUNG LAWYERS DIVISION



STATE BAR OF GEORGIA®

Section Member Cary King Honored at State Bar Midyear Meeting

Atlanta native, Cary S. King was honored by the State Bar of Georgia during its Midyear Meeting on Jan. 12 for his outstanding support of the Bar's three-year old Military Legal Assistance Program. The program makes available legal services to active duty military personnel, National Guard members, Reservists, and veterans on a pro bono or reduced fee-basis. Mr. King is also a combat veteran himself.

King was cited for having provided extraordinary and outstanding legal services over the past 12 years to hundreds of military veterans at the VA Medical Center in Decatur, Ga., on a variety of civil and criminal law issues including, among others, family law, consumer law, landlord tenant matters, employment law, and military discharge characterizations.

King is currently senior attorney in the firm of Jacobs & King and previously for 17 years was senior partner with firm of Slater & King and prior to that for 11 years was a partner the firm of Shuster, King & King. Over the years he has handled significant trial litigation including many high profile civil matters in state and federal courts cases. He is a member of the bars of the United States Supreme Court, the Supreme Court of Georgia, the U.S. Court of Appeals for the 11th Circuit, and the District Court for the Northern District of Georgia.

Mr. King and his wife, Sherry King, are both 1959 graduates of Henry Grady High School. They have five children and six grandchildren. He graduated in 1963 from Georgia State University with a BA degree and in 1983 from John Marshall Law School. He also attended graduate school at Georgia State University and at the University of Alabama at Huntsville.

Following his undergraduate studies including the ROTC program, King was commissioned as a Regular Army officer under the Distinguished Military Graduate Program. He served almost seven years on active duty and then served in the National Guard and Army Reserves, retiring in 1987 after 24 total years of service including overseas tours of duty in Germany and in Vietnam. In Vietnam during the Tet Offensive in 1967 and 1968, he served with the 1st Infantry Division supervising and conducting search and seal operations, and commanded both a field artillery battery and a headquarters battery.

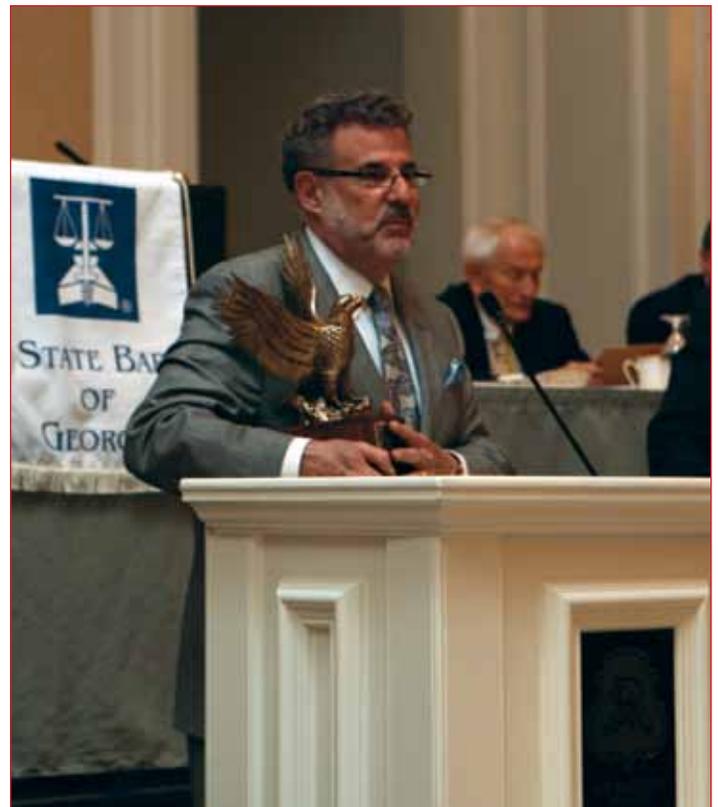
During his military service and among other personal decorations, King was awarded the Combat Infantryman Badge, five Bronze Star Medal (two with "V" device for valor), the Purple Heart Medal, two Air Medals, two Army Commendation Medals (one with "V" device), the Vietnamese Cross of Gallantry with Palm, the Air Crewman's Badge, and three Meritorious Unit Citations.

Among other charitable and civic organizations, Mr. King is a member of the Dekalb County Veteran's Advisory Committee, former president and chairman of the Atlanta Vietnam Veterans Business Association, and board member of the Crohn's & Coliits Foundation. He is a member of the USO and is a regular greeter

of service members arriving and departing at the Hartsville-Jackson International Airport.

For his efforts, King received the Marshall -Tuttle Award, which was named in honor and memory of Army Cpl. Evan Andrew Marshall, a soldier from Athens, Ga., who was killed in action in Iraq in 2008, and in honor and memory of U.S. Circuit Judge Elbert Parr Tuttle. Tuttle was in the Army for 30 years, was a founding partner of the Atlanta law firm of Sutherland Asbill and served as a federal judge for 43 years. He also provided pro bono legal services to many people, including John Johnson, a young Marine. In 1938, the U.S. Supreme Court held in *Johnson v. Zerbst* that counsel must be provided for all defendants in federal criminal trials who cannot afford to hire their own attorneys. The State Bar determined that these two men, Evan Marshall and Elbert Tuttle, each contributed mightily to the state of Georgia and the nation and to the ideal of service and sacrifice for the public good.

Since the Military Legal Assistance Program began, help has been provided to more than 900 military service members and veterans throughout Georgia. Through its Continuing Legal Education programs, the Bar has also provided training for more than 500 lawyers seeking accreditation to practice before the U.S. Department of Veterans Affairs. Georgia is home to more than 100,000 men and women on active duty or in the National Guard or Reserves, and to more than 774,000 veterans.



What is a Veterans Treatment Court?

Justice Evelyn Lundberg Stratton and Jessica Lagarce

“When you enter the United States Marine Corps, a warrior mentality is drilled into your young mind. During times of war, an emphasis on making a killer out of each marine is priority. . . . As soon as you get good and brainwashed, they send you to war with all the proper killing equipment to take life, after life, for the sake of American freedom. Then you fulfill your part and fight for America above and beyond the call of duty, taking lives to save your own. Then you find out when your time in the marines is over and you gave every bit of your soul to your country, they send you home with no formal training to bring you back to normal or back to the way you were before molded into a killer marine. They just make you into a killer and then toss you into society with little chance of survival.”¹

With approximately 900,000 veterans, Ohio is the sixth largest veterans’ population among the 50 states.² Many of these veterans suffer from serious mental illnesses and substance abuse issues resulting from their military service. Several have been diagnosed with Post-traumatic Stress Disorder (PTSD) or Traumatic Brain Injury (TBI). Consequently, many veterans end up homeless, unemployed, suicidal, and disconnected from family, friends, and communities. Some veterans may engage in domestic violence or self-medicate with drugs as a means of avoiding or denying that there is anything wrong. Others may begin stealing to support their drug habit. Veterans who suffer problems as a result of their military service may act out and behave differently, and many end up in the criminal justice system without the resources and support they need to survive.

A few years ago, I was introduced to the concept of a veterans treatment court, which is a hybrid between a drug court and mental health court specifically unique to veterans. Because many veterans in the criminal justice system had no criminal history before their tour of duty, a veterans treatment court tries to address the reasons why a veteran has entered the criminal justice system and to identify and provide the means for the veteran to utilize the many resources available.

Modeled after the first veterans treatment court, established in 2008 by Judge Robert Russell in Buffalo, NY, these courts seek to substitute “a treatment problem-solving model for traditional court processing” for criminal defendants who are veterans with substance dependency and mental illnesses.³ These courts distinguish between those veterans who had a criminal history before their military service and those who have entered the criminal justice system since completing their military service. Some come back completely changed due to repeated exposures to death, danger, and concussions of the brain from IEDs or other explosions.

A veteran charged with a misdemeanor or nonviolent felony offense generally is eligible to participate in this specialized docket. Some programs also accept veterans who have been charged with violent felonies if the veteran has a problem that

can be clearly traced to the veteran’s military service. Once veterans in the criminal justice system are identified through evidence-based screening and assessments,⁴ usually a probation officer, public defender, defense lawyer, judge, or a Veteran’s Justice Outreach (VJO) Specialist (whose sole job is to link veteran defendants with the VA services that they need)⁵ recommends different parties in the system be referred to the veterans treatment court. The court establishes a team to help the veteran through this process, which include court staff, probation officers, and health care providers. The court provides the veteran the opportunity to participate in a judicially-supervised treatment plan with a team of specialists instead of incarceration.⁶ Other veterans who volunteer as mentors also assist the veterans treatment courts to work with the veteran defendants throughout their treatment.⁷ A unique aspect of a veterans treatment court is that the Veterans Administration (VA) has a multitude of services to assist a veteran defendant, including mental health care, drug and alcohol abuse treatment, assistance with physical health needs, housing, and employments—resources that are often cut or lacking at the local level. The veteran can be linked to these federal services by a Veterans Service Commission (VSC) officer⁸ or the Veterans Justice Outreach (VJO) Specialist⁹ in the veteran’s county

Veterans treatment courts help criminal defendants who are veterans deal with their trauma and seek to help restore them to some measure of health. It is important to note that these courts do not excuse the veterans for committing the criminal offenses. Often, veterans courts have a more stringent probationary period, including random drug and alcohol testing, and will divert the veterans who fail to abide by the terms of probation





to the regular docket. These courts also collaborate with the Veterans Services Commission in each county, and with the VA so that the defendants may take advantage of the many resources they provide.

There are currently six veterans treatment courts in Ohio: Mansfield Municipal Court; Youngstown Municipal Court; Cleveland Municipal Court; Middletown Municipal Court; Stark County Common Pleas Court; and Hamilton County Common Pleas Court. There are a number of other judges in Ohio, both municipal and common pleas, in the planning stages of establishing a veterans court, while others have expressed an interest, including courts in Akron, Dayton, Butler, Franklin, Greene, Guernsey, Hamilton, Marion, Stark, and Toledo. These numbers continue to grow. The Supreme Court of Ohio urges all specialty dockets to become certified. Current veterans treatment courts in Ohio either are in the process of or have become certified. Beginning in January 2013, all Ohio specialty dockets will be required to meet uniform procedural standards to be on the Ohio Supreme Court's approved specialty dockets list, although they may continue to operate without that status.¹⁰

A veterans treatment court involves everyone from probation officers, crisis intervention teams (CIT), law enforcement, healthcare providers, the VA, to veteran volunteer mentors, treatment staff, and pro bono attorneys, all cooperating and working together so we can try to determine why veterans end up in the criminal justice system, break the cycle, and make sure that they are able to heal.

"In my small person world, 3 young men that I dearly love have returned from a horrible war only to fight the battle at home. It is a long process to return to life after seeing the horrors of war. . . . How many more are there out there that need help? That's what this court is all about to me. . . . A chance to make a difference in the life of one who so selflessly offered their own to us."¹¹

Justice Evelyn Lundberg Stratton, former trial judge for seven years, and justice for 16, is the daughter of American missionaries and was

born and raised in Thailand. She works on state and national reforms in adoption law and with veterans and persons with mental illness in the criminal justice system.

Jessica Lagarce served as an extern to Justice Stratton while a student at Thomas M. Cooley Law School. Lagarce earned her juris doctorate in January 2012.

(reprinted from The Ohio State Bar Association website found at <https://www.ohioabar.org/NewsAndPublications/OhioLawyer/Pages/Restoring-honor-Inside-veterans'-treatment-courts.aspx>)

(Endnotes)

- 1 Letter from a former marine criminal defendant in Clinton County Court (2010).
- 2 Press Release, Department of Veterans Services, ODVS Director Completes Visits to all 88 County Veterans Service Offices (Oct. 25, 2011), available at <http://dvs.ohio.gov/Portals/0/library/odvs/news/CVSOVisits-release.pdf>.
- 3 Buffalo Veteran's Court: Mentoring and Veterans Hospital Program Policy and Procedure Manual, 2 (2010).
- 4 *Id.*
- 5 For a list of all VJO Specialists in Ohio, see U.S. Dep't of Veterans Affairs, Veterans Justice Outreach Contacts, http://www.va.gov/HOMELESS/VJO_Contacts.asp (last updated Dec. 2, 2011).
- 6 *Id.* Upon successful competition of the specific criteria in their treatment plan, many veteran defendants will have their charges dismissed while others may avoid a jail or prison term. *Id.*
- 7 *Id.* at 3 ("This relationship promotes and fosters through encouragement a "can do" attitude in the veteran, that the veterans can accomplish their goals in treatment, that the veterans are not alone and that the mentors are there for them.").
- 8 There are VSC officers in each county appointed to help veterans apply for federal, state and local benefits. For a list of VSC officers in Ohio, see State Veterans Affairs Commission, County Veterans Service Officer List, available at www.vab.ms.gov/files/csolist.pdf (last revised July 12, 2011).
- 9 See Veterans Justice Outreach Contacts, *supra* note 5.
- 10 Sup. R. 36.02 (describing 12 uniform standards for certification and operation of specialty dockets). For more information on establishing a veterans' treatment court, visit the Specialized Docket Section on the Ohio Supreme Court website, <http://www.supremecourt.ohio.gov/JCS/specDockets/veterans/>.
- 11 Cheryl DeBow, *A Mother's Story*, available at <http://www.youtube.com/watch?v=x6ZtKE564BQ> (last visited Dec. 6, 2011) ("Cheryl DeBow, mother of two veterans, composed a letter to the Ohio Supreme Court requesting a court that considers the effects of war on veterans and its impact on attempts to transition back into civilian life when returning home.").

Dignified Burial and Other Veterans Benefits Improvement Act of 2012

By Victoria L. Collier

While the entire nation slept with open eyes waiting to find out what Congress would do about the impending Fiscal Cliff and changing the tax code, other important legislative Bills were being passed by Congress late into the night.

Sunday evening, Dec. 30, 2012, Congress passed the Dignified Burial and Other Veterans Benefits Improvement Act of 2012.

Prior to this passage, burial benefits available to Veterans included the opportunity to be buried in any of the 125 national cemeteries with available space, opening and closing of the grave, perpetual care, a Government headstone or marker, a burial flag, and a Presidential Memorial Certificate, at no cost to the family. Cremated remains may be buried or interred in national cemeteries in the same manner and with the same honors as casketed remains.

Veterans' qualified family members, such as spouses and dependents, can also be buried in a national cemetery with the Veteran, to include perpetual care. The spouse or dependent's name and date of birth and death can also be inscribed on the Veteran's headstone, at no cost to the family.

In addition to the National Cemetery System, burial benefits are available for Veterans buried in a private cemetery. Benefits include a Government headstone or marker, a burial flag, and a Presidential Memorial Certificate, at no cost to the family. There are not any benefits available to spouses and dependents buried in a private cemetery.

Veterans can confirm eligibility for burial benefits by calling a Veteran's Benefits Counselor at: 1-800-827-1000. Eligibility is based on many factors which can be found at



<http://www.cem.va.gov/cem/bbene/eligible.asp>.

The Dignified Burial and Other Veterans Benefits Improvement Act of 2012 authorizes the VA to furnish a casket or urn to a deceased Veteran when the VA cannot locate the next-of-kin and the Veteran did not have sufficient resources available to obtain their own casket or urn for burial in a national cemetery. If the next-of-kin is identified, then the Bill would require the VA to ensure that the expressed wishes of the next-of-kin are met with regards to a memorial service, funeral or interment at a national cemetery.

Informing your clients of this new benefit can relieve them of fears about how they can afford a proper burial. Many Veterans do not know that any benefits are available to them or their families upon their death. This can be one issue to check off their worry list.

Victoria L. Collier, CELA, The Elder & Disability Law Firm of Victoria L. Collier, PC, is the author of 47 Secret Veterans' Benefits for Seniors.

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