

IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

March 25, 2003

NO. 03-8500

SUPREME COURT OF NEW MEXICO
FILED

MAR 25 2003

Kathleen Jo Gibson

IN THE MATTER OF THE ADOPTION OF A POLICY
CONCERNING MEMBERS OF THE ARMED FORCES
CALLED INTO ACTIVE DUTY

ORDER

WHEREAS, this matter came on for consideration upon the Court's own motion to establish a policy concerning members of the armed forces called into active duty;

WHEREAS, military conflict with Iraq has commenced;

WHEREAS, the ongoing war will create an increased likelihood that a significant number of judges throughout the State of New Mexico will encounter litigants who have been called to active duty service from reserve national guard and active duty units;

WHEREAS, the ongoing war will give rise to issues related to the impact of military service in civil and family law litigation;

WHEREAS, the Soldiers and Sailors Civil Relief Act of 1940, 50 U.S.C. app. §§ 501-593 (2000), should be construed liberally for the protection and benefit of those who have dropped their daily affairs to answer the call of our country;

WHEREAS, State statutes, including NMSA 1978, § 10-6-1 (1943) ("Effect of public officer or employee entering military service"), NMSA 1978, § 20-4-8 (1987) ("Exemptions; jury duty and civil process; equipment."), NMSA 1978, §§ 28-15-1 to 28-15-3 (1941) ("Reemployment of persons in armed forces"), should be construed liberally for the protection and benefit of those who have dropped their daily affairs to answer the call of our country;

WHEREAS, the Judicial Branch should also liberally construe Personnel Rule 30(A) ("Military Leave") for the same purposes; and

WHEREAS, this Court is mindful of the impact the ongoing war can have on a

1 litigant's access to the courts, and being otherwise sufficiently advised, Chief Justice Petra
2 Jimenez Maes, Justice Pamela B. Minzner, Justice Patricio M. Serna, Justice Richard C.
3 Bosson, and Justice Edward L. Chavez concurring;

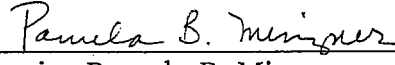
4 NOW, THEREFORE, IT IS ORDERED that the following policy regarding court
5 processes as it affects military personnel on active duty hereby is ADOPTED, EFFECTIVE
6 IMMEDIATELY:

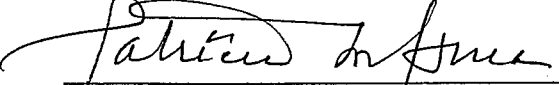
7 POLICY REGARDING COURT PROCESSES AS IT AFFECTS
8 MILITARY PERSONNEL ON ACTIVE DUTY


9 It is the policy of the Supreme Court of the State of New Mexico that in
10 these times of war strict application of the Soldiers and Sailors Civil
11 Relief Act, 50 U.S.C. §§ 501-593 (2000), NMSA 1978, §§ 10-6-1, 20-4-8,
12 28-15-1 to 28-15-3, and Judicial Branch Personnel Rule 30(A) is required
13 for the protection of litigants and court personnel who are called to
14 active duty. All courts of the State of New Mexico are encouraged to
15 expedite court processes to the extent practical and feasible when the
16 court is made aware that a party or parties are on active duty. Moreover,
17 in those situations under the Soldiers and Sailors Civil Relief Act where
18 an attorney is required for a party not represented by counsel, the courts
19 are encouraged to make the appropriate referral to the New Mexico State
20 Bar Association, Christine Joseph, Manager for Lawyers Care (800-876-
21 6227 or 505-797-6054). Information regarding the Soldiers and
22 Sailors Civil Relief Act can be accessed at
23 <http://www.defenselink.mil/specials/relief_act_revision/index.html>.

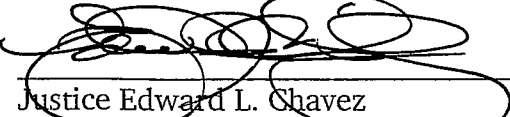
24 IT IS SO ORDERED.

25 
26 _____
27 Chief Justice Petra Jimenez Maes


28 
29 _____
30 Justice Pamela B. Minzner

31 
32 _____
33 Justice Patricio M. Serna

34 
35 _____
36 Justice Richard C. Bosson

37 
38 _____
39 Justice Edward L. Chavez

40 ATTEST: A TRUE COPY

41 
42 _____
43 Clerk of the Supreme Court
44 of the State of New Mexico