

Justice for one is justice for all



James D. Henry

For one letter carrier, in a case we will examine today, justice was a long time coming but did eventually arrive. His diligence and tenacity should serve as an example for carriers to defend the rights of their fellow workers.

I am writing this nearly 22 years since the Sept. 11 attacks cited in the ruling, *John D. Patrie V. United States Postal Service*, the day of the deadliest foreign attack on U.S. soil in American history.

On Aug. 23—just a few days ago as I pen this column—the Office of Special Counsel (OSC) announced a legal victory in its longstanding

effort to obtain relief for Patrie, a Maine Air National guardsman, who was wrongfully denied reinstatement in his Postal Service job following his post-9/11 military duty.

Given that this is a monthly magazine, it's difficult to break news contemporaneously, but this is probably as close as I'll get to doing so.

The U.S. Merit Systems Protection Board's (MSPB) ruling is the culmination of a six-year legal battle in which the Postal Service adamantly refused to comply with the Uniformed Services Employment and Reemployment Rights Act (USERRA).

USERRA is a federal law, passed in 1994, that protects military service members and veterans from employment discrimination and allows them to regain their civilian jobs following periods of uniformed service. It applies to members of the armed forces, Reserves and National Guard, among others, and covers both public and private employers. OSC, in conjunction with the Department of Labor (DOL), enforces USERRA claims involving federal government employers.

Brother Patrie was called to active duty by the Maine Air National Guard immediately following the 9/11 terrorist attacks. While serving, he regularly provided copies of his orders to USPS, maintained his employment benefits (including making retirement contributions and paying his union dues), and repeatedly expressed his desire to return to his postal job once his service ended. USPS gave him no indication that it would not re-employ him; rather it sent him letters

thanking him for his service and provided him with a debit card to purchase his postal uniform throughout 14 years of active-duty service.

Upon completion of his service, Patrie was honorably discharged in December 2015. In January 2016, USPS told him that it would not reinstate him because he had “abandoned” his civilian employment, even though he met all the law’s requirements. Patrie then filed a complaint with the DOL, which found that USPS had violated USERRA. After USPS refused DOL’s request to reinstate Patrie, DOL referred the case to OSC.

OSC Special Counsel Henry J. Kerner stated in relevant part:

We are pleased with the MSPB’s ruling but remain dismayed that the Postal Service refused to provide Mr. Patrie with any interim relief, as the Administrative Judge ordered, and seemingly exploited the Board’s lack of a quorum in an attempt to delay justice for Mr. Patrie for as long as possible. We intend to get Mr. Patrie everything he is owed, no matter how long it takes. Federal government employers, especially, must do right by our veterans, and if they don’t, OSC stands ready to hold them accountable.

OSC ordered USPS to:

- Re-employ Patrie in his prior position retroactive to January 2016 within 20 days.
- Pay Patrie the correct amount of wages and benefits lost as a result of its failure to re-employ him.
- Tell Patrie promptly in writing when it determined it had fully carried out the order.
- If Patrie doesn’t believe that USPS carried out the order, he can file a petition for enforcement within 30 days.

This case is highly significant, both on its own merits in terms of the issues and the behavior of USPS and in the protections it sets out, and because tens of thousands of letter carriers from every part of this country are wearing their second uniform in service to the United States. Along with the ruling’s overall importance, I am drawn to the matter on a personal level because it involves a fellow letter carrier and military veteran who spent 14 years defending this country, engaged in the global war on terror.

I admire the tenacity of Brother Patrie. The USPS violation of his USERRA rights was wrong on so many levels. I salute his honorable service to both the USA and USPS. This adjudication should inspire each and every one of us to never give up on achieving justice.