

The Jerome N. Frank Legal Services Organization

YALE LAW SCHOOL

PRESS RELEASE

Contact:

Josh Britt, josh.britt@ylsclinics.org, 203-514-0349
Rekha Kennedy, rekha.kennedy@ylsclinics.org, 860-904-8112
Josh Lefkow, josh.lefkow@ylsclinics.org, 240-449-0412

For Immediate Release:

November 15, 2021

Lawsuit Asks Federal Court to Confirm Unionization of Members of Connecticut National Guard in State Status Not a Felony

Suit to Determine Whether Guard Members on State Active Duty May Organize to Improve Work Conditions

New Haven, CT – Today, a federal court was asked to confirm that a federal criminal statute does not prevent members of the Connecticut National Guard from organizing while on state active duty. If decided in their favor, this lawsuit will also allow state employee unions in Connecticut to support National Guard members on state orders in organizing for better conditions of employment.

“Members of the Connecticut National Guard transition between federal and state roles frequently,” said Christopher Albani, a former member of the 103rd Civil Engineer Squadron in East Granby, Connecticut. “When we’re on state active duty, we are proud to help our home state respond to natural disasters, public health crises, and other emergencies – we just wish we had the same opportunity to join together as do the civilian state employees alongside whom we work.”

When activated on federal status, Guard members perform regular duties in the armed forces under the command of the President of the United States. When on state active duty, Guard members serve within the state under the command of the Governor of Connecticut. Federal law makes it a felony for members of the armed forces to join or attempt to form a labor organization, and for unions and others to support labor organizing in the armed forces.

“Congress wrote the federal statute – 10 U.S.C. § 976 – to apply only to National Guard members on federal active duty,” said Josh Lefkow, a law student intern in the Veterans Legal Services Clinic at Yale Law School, which represents the four Connecticut state employee unions who are plaintiffs in the lawsuit. “However, the serious criminal penalties the statute carries have understandably deterred National Guard members on state active duty and unions from organizing for greater protections and rights.”

William J. Boucher, Secretary-Treasurer of the Connecticut Police & Fire Union said, “Guard members often work long shifts, with shorter notice, in conditions as dangerous as those faced by the state firefighters we represent. We are bringing this lawsuit because Guard members on state

orders should have the same opportunity to have a voice in their state workplace as the public employees with whom they work shoulder to shoulder.”

“Connecticut National Guard members on state orders have worked alongside the public service workers we represent to distribute protective equipment and assist with testing at the height of the COVID-19 pandemic,” said Jody Barr, Executive Director of Council 4 AFSCME, and a former member of the National Guard. “Yet Guard members were not able to bargain over COVID-19 safety precautions, even though the state employees they worked directly alongside were able to have a voice in COVID-19 testing, shift safety, and other necessary precautions.”

“We are asking the court to help ensure National Guard members on state active duty have equal access to collective representation as do their fellow state employees,” said David J. Holway, National President of the National Association of Government Employees. “We are honored to take part in this legal effort to confirm that Guard members can organize similarly if they want to.”

“Having a collective voice on the job is the only real guarantee of workplace democracy,” said State Senator Julie Kushner (D-24). “I applaud the legal team and state unions that are seeking clarification of law to extend the right to organize to our state's National Guard. I have complete faith in the men and women serving our state, and believe that should they choose to unionize they would use these rights to better protect and serve all.”

The plaintiffs are represented by the Yale Law School Veterans Legal Services Clinic and co-counsel at Livingston, Adler, Pulda, Meiklejohn & Kelly, PC.

###