

*In re Amber M.* (2010) 184 Cal.App.4th 1223

Sebastian Junger, author of “The Perfect Storm,” recently published a new book entitled “War.” The book details what war actually feels like for a platoon of soldiers at a remote outpost in Afghanistan. The book delivers an acutely observed and heartfelt depiction of the war experience lived by these young soldiers—one that few of us at home can truly comprehend.

*Amber M.* shows us the beginning of the journey into war, how the active duty deployment of a young soldier from California to Iraq disrupts his family, particularly in the midst of a bitter child custody proceeding in Dependency Court. This is no less a case of fear, honor, adrenaline-fueled confusion, trust and the endless quest to protect those loved and close than the emotions felt by soldiers in the faraway Korongal Valley in eastern Afghanistan, as depicted in Junger’s book.

In the midst of a dependency proceeding, the Juvenile Court denied a request by father for a stay under the Servicemembers Civil Relief Act (SCRA) because he was being deployed to Iraq. Father was an avionics technician in the navy and submitted a letter from his commanding officer evidencing his deployment. The San Diego County Health & Human Services Agency opposed the request for a stay, as did one of the Indian tribes which was involved because both children and mother were members of the Navajo Nation. The Juvenile Court denied father’s request because it did not sufficiently demonstrate the father’s active duty prevented his appearance at the hearing and thus failed to comply with section 522 (b) of the SCRA.

That denial of the requested stay was reversed by the Court of Appeal, holding that SCRA requests should be broadly (not restrictively) construed, the letter from the commanding officer substantially complied with the requirements of SCRA and, even if it did not, the juvenile court abused its discretion by denying the requested stay.

The purposes of the SCRA are to provide for, strengthen and expedite the national defense through protection extended to servicemembers and to provide for the temporary suspension of judicial proceedings that may affect the civil rights of servicemembers during their military service.

We last visited the issue of active duty deployment in juvenile court proceedings with the case of *In re A.R.* [2009 Cal. Fam. Law Report 87 (March 2009)]. It isn’t only on the battlefield that an active duty soldier needs protection. Proper interpretation of a federal law was just as important to the father-soldier in this case as a flac jacket in the Korongal Valley in eastern Afghanistan. Sebastian Junger’s book is a vivid and gripping tale of war. *Amber M.* is a vivid and gripping tale of what can go wrong at home with an abuse of discretion in the juvenile court.

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