

Headnotes**C**

[Apple v. Greer, 554 F.2d 105](#)

[34 ARMED SERVICES](#)

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[34k20.10 Induction and Status of Selectees](#)

[34k20.10\(2\) k. Induction.](#)

C.A.3.N.J.,1977

A registrant's induction into the Army was invalid if he made out a prima facie case of conscientious objection and the selective service board denied, without explanation, his application for an exemption from the draft.

H

[U. S. v. Shea, 508 F.2d 82](#)

C.A.5.Ga.,1975

Regulation providing for postponement of induction for a period not exceeding 120 days in cases of serious illness and personal and family emergencies was not applicable to delay in registrant's induction that was caused by his repeated assertions of physical ailments and other alleged disabilities and because of a necessary security investigation which, in turn, was the result of registrant's unsubstantiated allegations of disloyalty, and failure of local board to follow formal postponement procedures of regulation did not vitiate induction order.

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[U. S. v. Whittenburg, 462 F.2d 581](#)

C.A.10.Colo.,1972

Inductee cannot place his own terms or conditions on induction process.

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[U. S. v. Vaughan, 460 F.2d 285](#)

C.A.9.Cal.,1972

Where registrant answered one question on statement of personal history form to the effect that participation in military service would violate the scripture and his Christian conscience, even if answer was considered as a qualification of form Army was not required to postpone induction in view of applicable regulation providing that a registrant who qualifies is eligible for induction if otherwise qualified as long as the qualification does not acknowledge membership in an organization on Attorney General's list or that he is a Communist. Military Selective Service Act, § 12, 50 U.S.C.A. App. § 462.

C

[U. S. v. Brunner, 457 F.2d 1301](#)

C.A.9.Cal.,1972

Requirement of selective service regulations that a registrant be inducted within 120 days of induction order did not operate to invalidate induction more than 120 days from original order where there was no "extreme emergency beyond the registrant's control" bringing regulation into operation, in that delay was due to registrant's incarceration following his surrender to police for traffic violation. Military Selective Service Act, § 12, 50 U.S.C.A. App. § 462.

C

[U. S. v. Brunner, 457 F.2d 1301](#)

C.A.9.Cal.,1972

Any delay in induction because of registrant's incarceration on traffic offense accrued to registrant's benefit and could not be counted toward 120-day limit within which a registrant is required to be inducted following induction notice. Military Selective Service Act, § 12, 50 U.S.C.A. App. § 462.

C[U. S. v. Brunner, 457 F.2d 1301](#)

C.A.9.Cal.,1972

Selective service regulation creating a duty on local board to induct a registrant within a maximum 120 days from induction order or cancel order to report for induction is inapplicable to registrants who refuse to appear for or submit to induction.

C[U. S. v. Brunner, 457 F.2d 1301](#)

C.A.9.Cal.,1972

Selective service registrant, who ostensibly failed to report for induction on date scheduled because of incarceration on traffic offense was under continuing duty to report and, thus, induction approximately one year from initial order could not be found invalid under selective service regulation requiring induction within a maximum of 120 days of induction order. Military Selective Service Act, § 12, 50 U.S.C.A. App. § 462.

C[U. S. v. Wendt, 452 F.2d 679](#)

C.A.9.Cal.,1971

Defendant who was given preinduction physical on April 15, 1968, but who refused to submit to physical examination when he appeared at induction station on August 6, 1969, pursuant to order to report for induction, made it impossible for him to be inducted into the Army and such refusal of immediate preinduction physical constituted a refusal to be inducted. Military Selective Service Act of 1967, § 1 et seq., 50 U.S.C.A. App. § 451 et seq.

C[Doyle v. Massachusetts Local Bd. No. 72, 451 F.2d 1002](#)

C.A.1.Mass.,1971

When Congress, by the Draft Extension Act of 1971, amended Military Selective Service Act of 1967, the provision of the original 1948 Act that that title would become effective immediately but that unless there was a declaration of national emergency no person would be inducted within 90 days after enactment, did not spring into effect to bar inductions under Amendment for 90-day period; the 1971 Act did not reenact the basic legislation nor could it since that legislation has never expired. Military Selective Service Act of 1967, §§ 1, 3, 5, 6, 8-21, 17(c), 20, 50 U.S.C.A. App. §§ 451, 453, 455, 456, 458-471, 467(c), 470.

H[U. S. v. Jenson, 450 F.2d 1258](#)

C.A.9.Cal.,1971

Registrant, against whom criminal charge was pending on account of earlier refusal to report, could be inducted although induction center had not received letter from United States attorney, regardless of whether regulation requiring letter was designed to benefit Army or registrant, where failure to comply with regulation did not prejudice registrant since it did not appear that his refusal to be inducted on later date was influenced by absence of letter. Military Selective Service Act of 1967, § 12, 50 U.S.C.A. App. § 462.

H[U. S. v. Watson, 442 F.2d 1273](#)

C.A.8.Mo.,1971

Pregnancy alone is not prima facie evidence of hardship such as to preclude induction.

C[U. S. v. Rucker, 435 F.2d 950](#)

C.A.8.Mo.,1971

Registrant who refuses to be inducted must be warned of felonious nature of his act and penalties attached to it. Military Selective Service Act of 1967, § 12, 50 U.S.C.A. App. § 462.

H

[U. S. v. McKinney, 427 F.2d 449](#)

C.A.6.Ky.,1970

Procedure whereby induction center, after defendant indicated at security interview that he then considered himself conscientious objector, sent draft board form indicating only that acceptability of defendant for induction was being held in abeyance and that defendant was not presently acceptable for induction was proper.

H

[U. S. v. McKinney, 427 F.2d 449](#)

C.A.6.Ky.,1970

Defendant, who claimed that he was conscientious objector and who had once been found not presently qualified for induction pending security investigation, was not prejudiced by fact that he was not provided with new security questionnaire when he reported to induction center for the second time, as purpose of such questionnaire is to protect armed forces, not the registrant, and as defendant alleged no facts which were not included on original form and which would have brought about second security investigation.

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[U. S. v. Holmes, 426 F.2d 915](#)

C.A.2.Conn.,1970

Statement made to army officer at induction station, claiming status as conscientious objector, was addressed to an appropriate body.

▶

[U. S. v. Holmes, 426 F.2d 915](#)

C.A.2.Conn.,1970

If draft registrant made an oral claim at induction station for classification as a conscientious objector, officers at station should have brought this claim to attention of local board and in any event should have given registrant opportunity to make full written statement or have his oral statement reduced to writing.

H

[Davis v. U. S., 410 F.2d 89](#)

C.A.8.Iowa,1969

When there has been postponement of induction, registrant is required to report without being issued a new order but when there has been cancellation, registrant is not required to report unless new and subsequent induction order is issued.

C

[U.S. v. Blegen, 407 F.2d 767](#)

C.A.7.Ill.,1969

Persons who are subject to induction are civilians, and a registrant is not subject to military jurisdiction until he has taken oath of induction. Universal Military Training and Service Act, §§ 6(c) (2), (d), 12 as amended [50 U.S.C.A.App. §§ 456\(c\) \(2\), \(d\), 462](#).

▶

[Welsh v. U. S., 404 F.2d 1078](#)

C.A.9.Cal.,1968

Fact that induction station personnel ordered defendant to step forward rather than delay defendant's induction pending investigation provided for where inductee refuses to execute questionnaire was not prejudicial and did not vitiate command to step forward or defendant's conviction for refusal to submit to induction. Universal Military Training and Service Act, § 6(j) as amended by Military Selective Service Act of 1967, 50 U.S.C.A. App. § 456(j).

▶

[Briggs v. U. S., 397 F.2d 370](#)

C.A.9.Cal.,1968

Not all procedural irregularities vitiate order to step forward for induction, and prejudice to registrant must be established.



[Briggs v. U. S., 397 F.2d 370](#)

C.A.9.Cal.,1968

Induction center personnel erred in not giving registrant physical inspection, although he had indicated that he would refuse induction, and this disregard of regulations must be deemed prejudicial, vitiating order to step forward, although likelihood of rejection was slight. Universal Military Training and Service Act, § 12, 50 U.S.C.A. App. § 462.



[Owens v. U. S., 396 F.2d 540](#)

C.A.10.Okla.,1968

Provision that person classified as conscientious objector should not be inducted prior to time that he would have been inducted if he had not been so classified referred to date of induction of hypothetical person, classified I-A and proceeding normally, without appeal, to induction.



[Sumrall v. U. S., 397 F.2d 924](#)

C.A.5.Miss.,1968

Fact that there had been misdemeanor charges pending against registrant at various intervals prior to registrant's final refusal to step forward and take oath at time for his induction into United States armed services would not prevent him from being subjected to induction following dismissal of the pending charges. Universal Military Training and Service Act, § 11, 50 U.S.C.A. App. § 462.



[Nickerson v. U. S., 391 F.2d 760](#)

C.A.10.Kan.,1968

A selective service registrant who has a felony conviction must report, on order to do so, to his local board for induction, notwithstanding fact that he might eventually be granted a 4-F classification. Universal Military Training and Service Act, § 6(m), 50 U.S.C.A. App. § 456(m).



[U. S. v. Kurki, 384 F.2d 905](#)

C.A.7.Wis.,1967

Army regulation provisions for stepping forward upon induction and for felony warnings to those refusing were inapplicable to case wherein defendant was charged with failure to report for induction to local draft board.



[U. S. v. Kurki, 384 F.2d 905](#)

C.A.7.Wis.,1967

Selective service system's rules and regulations referring to instructions of clerk of local board as to manner of transportation to induction center and providing that local board shall inform registrants to obey instructions of leader appointed for the group apply only to those who report for induction.



[U. S. v. Griffin, 378 F.2d 899](#)

C.A.2.N.Y.,1967

Armed forces were not required to provide further legal advice nor were they responsible for error, if any, in legal advice tendered to registrant who had been fully informed by papers sent by local board of his rights with relation to classification and who had refused to submit to induction at induction center on the ground, advanced for the first time, that his religion would not permit him to serve. Universal Military Training and Service Act, § 12(a), 50 U.S.C.A. App. § 462(a).

C

[U. S. v. Irons, 369 F.2d 557](#)

C.A.6.Ohio,1966

Every registrant has duty to report for induction, even though he may have valid legal grounds for refusing to submit to induction. Universal Military Training and Service Act, § 12, 50 U.S.C.A. App. § 462.

H

[U. S. v. Hansen, 264 F.2d 540](#)

C.A.9.Mont.,1958

Notwithstanding fact that subsection providing for induction of persons into armed forces also provides that every person inducted "pursuant to the authority of this subsection" shall be given full and adequate military training for not less than four months, conscientious objectors are inductable thereunder, and it is not contemplated that there be a separate induction for assignment to noncombatant service only. Universal Military Training and Service Act, §§ 4(a), 6(j), 50 U.S.C.A.Appendix, §§ 454(a), 456(j).

P

[U. S. v. Patteson, 229 F.2d 257](#)

C.A.10.Kan.,1956

Induction is brought about by continuous process of steps beginning with registration, and it ends when registrant is accepted into military service or enters into civilian work as a conscientious objector, and wilful refusal of those affected by Universal Military Training and Service Act to take any one of necessary steps constitutes a violation thereof. Universal Military Training and Service Act, §§ 1 et seq., 6(j), 12(a), 50 U.S.C.A.Appendix, §§ 451 et seq., 456(j), 462(a).

P

[U. S. v. Patteson, 229 F.2d 257](#)

C.A.10.Kan.,1956

Where Local Board's order required registrant to report to Board for assignment to Topeka, Kansas for civilian work in lieu of induction into armed forces, duty required of registrant by order was to proceed to Topeka, and his refusal to take that step occurred when he notified his local board in Oklahoma that he would go no further; and therefore District Court of Kansas did not have jurisdiction of ensuing prosecution of registrant for violation of provisions of Universal Military Training and Service Act. Universal Military Training and Service Act, §§ 1 et seq., 6(j), 12(a), 50 U.S.C.A.Appendix, §§ 451 et seq., 456(j), 462(a).

H

[U.S. v. Close, 215 F.2d 439](#)

C.A.7.Ind.,1954

Registrant was not required to submit to induction which was ordered as result of classification which was invalid because of board's erroneous construction of statutory provision defining conscientious objector. Universal Military Training and Service Act, §§ 1 et seq., 6 as amended 50 U.S.C.A.Appendix, §§ 451 et seq., 456, Universal Military Training and Service Act, § 6(j), as amended 50 U.S.C.A.Appendix § 456(j).

P

[Corrigan v. Secretary of Army, 211 F.2d 293](#)

C.A.9.Cal.,1954

Selectee, who had been called for induction and who was present at purported induction ceremony where chair in which he sat was twelve inches from chair in front of him, could not have taken step forward as prescribed by army regulations for induction and had not been inducted. Universal Military Training and Service Act, § 12, 50 U.S.C.A.Appendix, § 462.

H

[Roberson v. U.S., 208 F.2d 166](#)

C.A.10.Okla.,1953

Only where there is no factual basis for local board's classification of draft registrant is the registrant justified in refusing to obey order of induction. Selective Service Act of 1948, § 12, 50 U.S.C.A. Appendix, § 462.



[Mintz v. Howlett, 207 F.2d 758](#)

C.A.2 (N.Y.), 1953

Where registrant was classified 3-A because of wife's pregnancy, and wife suffered miscarriage, following which she conceived again, and registrant was inducted as delinquent for failure to keep local board informed of status in that he failed to advise local board of miscarriage, and local board had assumed crucial fact in issue that failure was with knowledge, and National Appeal Board in deciding in favor of 1-A classification stated no reasons, defects in registrant's induction were not cured and registrant was denied procedural due process and was entitled to discharge from armed forces.



[Cox v. Wedemeyer, 192 F.2d 920](#)

C.A.9.Cal., 1951

Whether or not selective service registrant allegedly inducted into army under void induction order took induction oath, evidence that registrant wore army uniform, utilized free mailing privileges, and accepted a pay check did not support finding of waiver of irregularity in his induction, where he had continually asserted his refusal to serve as a soldier and took his first pay check and returned to his home. 50 U.S.C.A. Appendix, § 456(g).



[Cox v. Wedemeyer, 192 F.2d 920](#)

C.A.9.Cal., 1951

Acts of selective service registrant inducted under alleged void induction order, up to point of reporting for induction, in complying with orders presented to him were no more than those required in order to exhaust his administrative remedies, and did not constitute waiver of irregularity in induction, and whether he actually took induction oath and thereby went one step farther than necessary for that purpose was immaterial. 50 U.S.C.A. Appendix, § 456(g).



[Lamb v. Patterson, 154 F.2d 319](#)

C.A.D.C., 1946

A registrant who was informed by order from local draft board to report at 9 a. m. November 11, 1918, for military duty, that from stated day and hour he would be a soldier in military service of the United States, and who reported at designated time and was notified orally by local board that he was a soldier in Army of the United States, was an enlisted man lawfully inducted into military service of the United States. Articles of War, art. 108, [10 U.S.C.A. §§ 3811, 8811](#); 5 U.S.C.A. § 22; Selective Draft Act of 1917, § 1 et seq., 40 Stat. 76.



[Sanford v. Callan, 148 F.2d 376](#)

C.A.5.Ga., 1945

Even if petitioner did not take military oath, he waived oath and was "inducted" where he put on uniform, went to Army camp, drilled, and drew Army pay, and hence court-martial had jurisdiction to try him for using disrespectful words toward President, etc. Articles of War, arts. 62, 96, 10 U.S.C.A. §§ 1534, 1568; Selective Training and Service Act of 1940, § 11, 50 U.S.C.A. Appendix § 311.

See publication Words and Phrases for other judicial constructions and definitions.



[Hibbs v. Catovolo, 145 F.2d 866](#)

C.A.5.Miss., 1944

A selectee who reported for induction, took and passed the examination, and voluntarily accepted the benefits and assumed the obligations incident to membership in the armed forces, except that he declined to take the oath on

ground that he was a conscientious objector, was "actually inducted" and subject to military service. See publication Words and Phrases for other judicial constructions and definitions.

C

[U.S. v. Hoffman, 137 F.2d 416](#)

C.A.2.N.Y.,1943

One willing to be inducted into army cannot be rejected for mere expression of an intent to serve only in this country, with which matter the draft board has nothing to do. Selective Training and Service Act of 1940, § 11, 50 U.S.C.A.Appendix, § 311.

▶

[Billings v. Truesdell, 135 F.2d 505](#)

C.A.10.Kan.,1943

One subject to compulsory military service who reports for induction and passes requisite examinations cannot avoid induction by refusing to take the oath of induction. Selective Training and Service Act of 1940, Sec. 3(a), 50 U.S.C.A.Appendix 303(a).

▶

[Billings v. Truesdell, 135 F.2d 505](#)

C.A.10.Kan.,1943

Where draft registrant reported to military authorities for induction as ordered by draft board and was examined and told that he was accepted, and oath of induction was read to registrant after he refused to take oath, registrant was "inducted" and was subject to jurisdiction of military authorities. Selective Training and Service Act of 1940, Secs. 3(a), 10(a)(1), 11, 50 U.S.C.A.Appendix 303(a), 310(a)(1), 311.

H

[U.S. ex rel. Bergdoll v. Drum, 107 F.2d 897](#)

C.A.2.N.Y.,1939

Under selective service regulation requiring state adjutant general to notify delinquents to report on a specified date not less than 10 days hence, after which date the delinquent shall be in the military service unless such order into service is stayed or rescinded, a notice specifying a date only 9 days hence was not void and resulted in the lawful induction of delinquent into the army after 10 days despite the error, in absence of showing of any prejudice resulting therefrom. Selective Draft Act of 1917, [50 U.S.C.A. § 226](#) note.

H

[U.S. ex rel. Bergdoll v. Drum, 107 F.2d 897](#)

C.A.2.N.Y.,1939

Under selective service regulation requiring state adjutant general to notify delinquents to report on a specified date not less than 10 days hence, after which date the delinquent shall be in the military service unless such order into service is stayed or rescinded, a delinquent who in fact had the benefit of 13 days' notice, although the date specified in notice was only 9 days hence, was inducted into the army on the tenth day in spite of the error in notice. Selective Draft Act of 1917, [50 U.S.C.A. § 226](#) note.

C

[Allen v. Timm, 1 F.2d 155](#)

C.C.A.7 (Ill.),1924

Desertion; induction into army not accomplished for want of sufficient notice.

H

[U S v. Bergdoll, 272 F. 498](#)

E.D.Pa.,1921

Where the notice given by the selective service board to an individual, requiring him to report for service, designated a day for him to report which was one day less than the 10 days to which he was entitled under the Selective Service Act, [50 U.S.C.A. § 226](#) note, that fact did not invalidate the notice, but the person so notified became induc-

ted into the military service on the tenth day after the notice was served.

H

[U.S. v. Bergdoll, 272 F. 498](#)

E.D.Pa.,1921

Where the notice given by the selective service board to an individual, requiring him to report for service, designated a day for him to report which was one day less than the 10 days to which he was entitled under the Selective Service Act, [50 U.S.C.A. § 226](#) note, that fact did not invalidate the notice, but the person so notified became inducted into the military service on the tenth day after the notice was served.

P

[Farley v. Ratliff, 267 F. 682](#)

C.A.4.W.Va.,1920

If one registered, examined, and accepted under the Selective Service Draft Act, [50 U.S.C.A. § 226](#) note, and informed that he would be notified by mail when to report for military duty, never received such notice, when it was subsequently mailed to him, and did not otherwise know of it, it could not be said that the mailing of the notice inducted him into military service, and that, for his failure to respond, he was a deserter therefrom.

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References

[53 Am. Jur. 2d Military And Civil Defense § § 54-168](#)

[53A Am. Jur. 2d Military And Civil Defense § § 169-243](#)

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