

**LIST OF MOST IMPORTANT CASES REGARDING
ALIMONY AND ATTEMPTED MISUSE OF 38 U.S.C. § 5301**

1. *Rose v. Rose*, 481 U.S. 619, 625, 107 S. Ct. 2029, 95 L. Ed.2d 599 (1987). In *Rose*, the U.S. Supreme Court reviewed a contempt judgment against a veteran whose sole source of income was his V.A. disability compensation. He had refused to pay the child support ordered, claiming that he was constitutionally allowed to keep all V.A. benefits for himself. In a thorough review of the relevant statutes and rules, the Court held that “these benefits are not provided to support [the veteran] alone.” Explaining, the Court stated:

Veterans’ disability benefits compensate for impaired earning capacity, H. R. Rep. No. 96-1155, p.4 (1980), and are intended to “provide reasonable and adequate compensation for disabled veterans *and their families*.” S. Rep. No. 98-604, p.24 (1984) (emphasis added). Additional compensation for dependents of disabled veterans is available under 38 U.S.C. § 315, and in this case totaled \$90 per month for appellant’s two children. But the paucity of the benefits available under § 315 [now 38 U.S.C. § 1115] belies any contention that Congress intended these amounts alone to provide for the support of the children of disabled veterans. Moreover, as evidenced by § 3107(a)(2) [now 38 U.S.C. § 5307] . . . Congress clearly intended veterans’ disability benefits to be used, in part, for the support of veterans’ dependents.
2. *Riley v. Riley*, 571 A.2d 1261 (Md. Ct. Spec. App. 1990); *In re Marriage of Howell*, 434 N.W.2d 629, 633 (Iowa 1989). Where V.A. disability exists at the time of divorce, the court cannot divide those benefits as property, but the cash flow “may be considered as a resource for purposes of determining [one’s] ability to pay alimony.”
3. *Case v. Dubaj*, ___ F. Supp. ___ (W.D. Pa. No. 08-347, Aug. 29, 2011) (38 U.S.C. § 5301 does not apply to claims for spousal and child support, and an alimony order does **not** constitute an “attachment, levy, or seizure” of veterans’ disability benefits.
4. 52 A.L.R. 5th 221 §28[a] (Annotation, Enforcement of Claim for Alimony or Support, or for Attorneys’ Fees and Costs Incurred in Connection Therewith, Against Exemptions) (1997) (“With few exceptions, the cases hold that payments arising from service in the Armed Forces . . . , though exempt as to the claims of ordinary creditors, are not exempt from a claim for alimony, support, or maintenance . . .”).
5. *Commonwealth ex. rel. Caler v. Caler*, 1981 WL 207422 (Pa. Com. Pl. 1981) (exemption statutes such as § 5301(a) “are generally held to apply only to claims arising from the debtor-creditor relation and have no application to claims for family support absent clear statutory language to the contrary”).

6. *In re Marriage of Dora Pope-Clifton*, 823 N.E.2d 607 (Ill. App. 2005) (veteran's bank account could be frozen to satisfy his support obligations despite the fact that the proceeds in the account consisted of veterans' disability funds because "veterans' benefits are not for the sole benefit of disabled veterans," but rather, "[are] intended to benefit both veterans and their families").
7. *Urbaniak v. Urbaniak*, 807 N.W.2d 621, 626 (S.D. 2011) ("An overwhelming majority of courts have held that [federal veterans'] disability payments may be considered as income in awarding spousal support").
8. There are many others, all holding that "federal law does not prohibit an award of alimony against a spouse receiving military disability pay and, once alimony is awarded, federal law will not relieve the paying spouse from paying such alimony obligations, even if most of the veteran's income consists of military disability benefits." See *In re Marriage of Wojcik*, 838 N.E.2d 282, 299 (Ill. Ct. App. 2005); *Morales and Morales*, 214 P.3d 81, 85 (Or. Ct. App. 2009); *Youngbluth v. Youngbluth*, 6 A.3d 677, 687 n.3 (Vt. 2010)
9. *Strong v. Strong*, 8 P.3d 763, 770 (Mont. 2000) ("After reviewing the legislative history" of the provision, "the Court held that [veterans'] disability benefits were never intended to be exclusively for the subsistence of the beneficiary, but were intended to support the veteran's family as well").

The bottom line to the case law is a reminder that *any* given statutory provision exists in the context of *other* provisions, and of decades (or longer) of interpretation, rather than in a vacuum. Those myopic partisans determined to read 38 U.S.C. § 5301 – or any other provision of statutory or case law – alone and outside its legal context, are in error, and misinterpreting the law.