

RUSSIA: Jehovah's Witness draftee defends right to conscientious objection

19-year-old resident of Altai territory files suit against draft commission.

Russia Religion News (07.09.2018) – <https://bit.ly/2xcJjb5> – On 16 July in Kamensky city court of the Altai territory, there was a session during which the lawsuit of a 19-year-old resident of the city of Kamnya against the draft commission of the military commissariat was reviewed. In his plaintiff's declaration he demanded that its refusal of performance of alternative civilian service be found to be illegal and the commission be required to give to him the pertinent opportunity.

The conscript Aleksei Shapovalov, who graduated this year from the Kamensky Agrotechnology Junior College, was summoned to the military commissariat immediately after he received his diploma. The young man was included in the spring draft, which concluded on 15 July. The medical commission's conclusion was unambiguous: fit for military service. The young, physically strong fellow really does not have any contraindicators for army service. However he has special ideological notions on this matter. At sixteen years of age, at a pre-conscription commission, he indicated on a questionnaire that he is a Jehovah's Witness, as NIA-Altai reported.

Back in the spring, Aleksei wrote an application to the military commissar to the effect that by virtue of convictions

he cannot perform military training, and he asked that he be assigned to alternative civilian service. The draft commission responded with a refusal and ordered that he be drafted into military service on general grounds.

“Ideological objection” to military service is a world-wide practice. In Russia the right to refuse conscription into armed forces on the basis of convictions is enshrined in the constitution. A citizen of the RF, in the event that his convictions or religious confession forbid performing military service, has the right to substitute for it alternative civilian service (article 59, part 3 of the Russian constitution). That is, pacifist inclinations of a person may be explained not only by religious conviction and affiliation with one confession or another. A conscript may explain his wish by personal convictions—philosophical, moral, ethical, and so forth.

“Upon consideration of the application of the conscript Aleksei Shapovalov, the military commission took into account only the fact that it was submitted later than the established deadline,” the military commissar in the city of Kamen-on-Ob of the Kamensky and Krutikhinsky districts, Sergei Shabalin, said. “The federal law on alternative service (No. 113) says that the application must be submitted no later than 1 April for citizens who are supposed to be drafted in October to December of the current year, and no later than 1 October if the citizen is subject to draft in April to June of the next year. Citizen Shapovalov fell in the spring conscription campaign and consequently he was supposed to submit the application in the autumn of the past year. Actually, he submitted it only in March 2018. In rendering the decision to refuse alternative civilian service (ACS), the commission took only this into account and the religion and other convictions

of the conscript were not considered.

The refusal to substitute ACS for military service because the deadline had passed is the most frequent reason cited by draft commissions. And it is rather wide-spread judicial practice.

Lawyers for the plaintiff called attention to the legal conflict that arises: the point of the federal law about ACS, which speaks of the deadlines for submitting an application and refusal of acceptance from the draftee, contradicts article 59 of the constitution of the Russian Federation. Yet another important argument in the plaintiff's favor was the fact that there also is a contradiction in the determination of the deadlines for the draft. Federal law No. 113 declares that the work of the spring draft commission ends on 30 June. While as of the present time, all military commissariats of the country are using an order by the president of the RF extending the spring draft campaign to 15 July. The paradox consists in the fact that the federal law has greater jurisdiction than the president's order.

Addressing the court, Aleksei showed that he independently calculated the deadlines for submitting applications, having studied the federal law on the draft. The deadline for the draft for him was 30 June of this year and the plaintiff properly (although mistakenly) supposed that he fell into the autumn draft. Therefore in his understanding the application for substitution of alternative civilian service for military service had been submitted in time.

Lawyers for the plaintiff insisted that Aleksei's ignorance of

the existence of an order extending the deadline of the spring draft is a valid reason.

In the debates, the plaintiff's side also insisted on the existence of an ethical aspect—the profound moral convictions of the young man that conflicted cognitively with the necessity of performing military service are much more important than judicial casuistry.

The court granted the request of the plaintiff in part: the decision of the draft commission refusing to accept the application for performing ACS was ruled to be illegal. The plaintiff and his lawyers refused to comment on the situation, arguing that the point of this story has still not been established. In the autumn, draftee Aleksei Shapovalov will again have to defend his right to perform alternative civilian service. (tr. by PDS, posted 11 September 2018)

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