

SUPREME COURT OF GEORGIA

Plachy v. Plachy, 282 Ga. 614

652 S.E.2d 555 (2007) · No. No. S07F0834 · Decided October 29, 2007

SUMMARY

The Supreme Court of Georgia affirmed the trial court's entry of a court order acceptable for processing concerning the equitable division of a federal employee's Civil Service Retirement System pension. The court held that directing payments to the former wife's estate if she predeceased the husband did not add a substantive term to the parties' settlement agreement because the retirement benefits were marital property owned by the wife as equitable distribution. The court also distinguished equitable distribution of retirement benefits from periodic alimony, which generally terminates upon the recipient's death.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Benham, Justice; All the Justices
JURISDICTION	Georgia
DECIDED	October 29, 2007
DOCKET	No. S07F0834
DISPOSITION	affirmed
PROCEDURAL POSTURE	Husband sought discretionary appellate review of the trial court's denial of his motion challenging a court order acceptable for processing (COAP) concerning the division of his federal civil-service retirement benefits.
STANDARD OF REVIEW	Review of the trial court's interpretation and enforcement of the incorporated settlement agreement and its entry of the COAP for reversible error.
PRECEDENTIAL VALUE	Published opinion; precedential authority of the Supreme Court of Georgia.
PARTIES	Douglas Plachy v. Beverly Plachy

TOPICS

- equitable distribution
- divorce
- dissolution of marriage
- family law procedure
- federal employment law

PRACTICE AREAS

family law

federal employment law

administrative law

QUESTIONS PRESENTED

1. Whether the trial court erred by entering a COAP providing that Wife's marital share of Husband's CSRS retirement benefits would continue to Wife's estate if Wife predeceased Husband.
2. Whether the post-death payment provision was an impermissible addition to the parties' incorporated settlement agreement or merely an expression required to implement Wife's ownership of her equitable share of marital property.

HOLDINGS

1. The COAP did not add a new substantive provision because Wife owned her equitable share of the CSRS retirement benefits as marital property, and the express post-death direction implemented that ownership under Georgia law and federal requirements.
2. The installment payments remained equitable distribution of marital property and were not periodic alimony terminating at the death of the recipient former spouse.

KEY QUOTATIONS

“The inclusion in the COAP of the express statement required by federal law to give effect to Georgia law was not the addition of a new substantive provision.” (556)

“That the equitably divided retirement benefits are to be distributed to Wife by means of monthly installments does not make the payments alimony payments that are terminated at the death of the recipient former spouse.” (556)

FACTUAL BACKGROUND

After a 24-year marriage, Douglas and Beverly Plachy divorced, and their final judgment incorporated a settlement agreement dividing Husband's CSRS retirement benefits earned during the marriage. The agreement awarded Wife fifty percent of Husband's gross annuity benefits as of the settlement date, reduced by the cost of survivor annuity benefits, and assigned her fifty percent of the maximum possible survivor annuity. The trial court's COAP expressly directed that Wife's payments continue to her estate if she predeceased Husband, although the settlement agreement did not expressly address post-death payments to Wife's estate.

PROCEDURAL HISTORY

The parties' divorce judgment incorporated their mediated settlement agreement, which awarded Wife fifty percent of Husband's marital CSRS retirement benefits and fifty percent of the maximum survivor annuity. The trial court later entered a COAP directing that Wife's share continue to her estate if she predeceased Husband and denied Husband's motion asserting that this provision exceeded the settlement agreement. The Supreme Court of Georgia granted discretionary review and affirmed.

DISPOSITION

affirmed

CASES CITED

- Hips v. Hips, 278 Ga. 49(1), 597 S.E.2d 359 (2004)
- Hollis v. Hollis, 278 Ga. 303, 304 n. 4, 602 S.E.2d 644 (2004)
- Andrews v. Whitaker, 265 Ga. 76(4), 453 S.E.2d 735 (1995)
- Winokur v. Winokur, 258 Ga. 88, 365 S.E.2d 94 (1988)
- Couvillion v. OPM, 129 Fed. Appx. 613 (C.A.Fed.2005)
- Miller v. Miller, 2007 WL 2592465 (Va.App.2007)
- Stare v. Stare, 2004 WL 2004152 (Ohio App. 2004)