

SUPREME COURT OF TEXAS

Cameron v. Cameron

641 S.W.2d 210 (Tex. 1982) · No. No. C-8 · Decided October 13, 1982

SUMMARY

The Supreme Court of Texas addresses the division of military retirement pay and U.S. savings bonds in a Texas divorce involving property acquired while the spouses lived in common-law property states. Applying the Uniformed Services Former Spouses' Protection Act, the court permits division of the military retirement pay for periods beginning after June 25, 1981. The court also holds that property acquired during marriage in common-law jurisdictions, except by gift, devise, or descent, may be divided in Texas as marital property and affirms the division of the savings bonds.

CASE DETAILS

COURT	Supreme Court of Texas
WRITING FOR THE COURT	Pope; Barrow; Greenhill; McGee; Sondock
JURISDICTION	Texas
DECIDED	October 13, 1982
DOCKET	No. C-8
DISPOSITION	reversed
PROCEDURAL POSTURE	Divorce-property appeal concerning division of military retirement pay and United States Savings Bonds acquired while the spouses were domiciled primarily in common-law property states.
STANDARD OF REVIEW	De novo review of the legal characterization and divisibility of marital property under the Texas Constitution and Family Code; application of controlling federal supremacy principles to military retirement pay.
PRECEDENTIAL VALUE	Published Texas Supreme Court opinion; majority opinion precedential, with separate concurring opinions.
PARTIES	Sue Akers Cameron v. Paul Archibald Cameron

TOPICS

- divorce
- dissolution of marriage
- community property
- equitable distribution
- military law

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether federal law permitted a Texas divorce court to divide military nondisability retirement pay in light of *McCarty v. McCarty* and the subsequently enacted Uniformed Services Former Spouses' Protection Act.
2. Whether savings bonds acquired during marriage while the spouses were domiciled in common-law property states were divisible in a Texas divorce proceeding.
3. Whether marital property acquired in a common-law jurisdiction should be treated as the acquiring spouse's separate property under Texas community-property law.
4. Whether Texas Family Code section 3.63 authorized a Texas court to divide common-law marital property acquired during marriage in a manner equivalent to community property.
5. Whether the Texas Constitution prohibited the division of the savings bonds as separate personal property.

HOLDINGS

1. The Uniformed Services Former Spouses' Protection Act permits division of military retirement pay under the law of the forum state for periods beginning after June 25, 1981. Sue Cameron was therefore entitled to 35 percent of the retirement pay beginning on that date, but not for the period from March 29, 1979, through June 25, 1981.
2. Property acquired by either spouse during marriage, other than by gift, devise, or descent, while the spouses were domiciled in a common-law property jurisdiction must be divided upon divorce in Texas in the same manner as community property, regardless of the domicile at acquisition.
3. The savings bonds were marital property subject to division, and the trial court properly awarded Sue Cameron one-half of the bonds.
4. The court rejected the argument that separate personal property should be treated differently from separate real property and stated that separate property is not subject to divestiture on divorce under the Texas Constitution and Family Code.

KEY QUOTATIONS

"We recognize that property acquired in common law jurisdictions has historically been termed "separate" property, but we hold that the property spouses acquire during marriage, except by gift, devise or descent should be divided upon divorce in Texas in the same manner as community property, irrespective of the domicile of the spouses when they acquire the property." (220)

"A Texas court that makes a distribution on divorce of the common law marital estate equivalent to what would occur in the common law jurisdiction where the couple was domiciled when they acquired the property, does not impair the rights of spouses in the common law marital property." (223)

"We reverse that part of the judgment of the court of civil appeals that denied Sue Cameron fifty percent of the

savings bonds and affirm the judgment of the trial court ordering the equal division.” (223)

FACTUAL BACKGROUND

Paul Cameron joined the United States Air Force in 1954 and married Sue Akers in 1957. During the marriage, the parties lived briefly in California and then in Arkansas, Indiana, Maryland, Nebraska, Ohio, and Oklahoma, all common-law property states; they moved to Texas when Paul retired in 1977. The divorce decree awarded Sue 35 percent of Paul's military retirement pay and one-half of the United States Savings Bonds acquired during the marriage.

PROCEDURAL HISTORY

The trial court divorced the parties and awarded Sue Cameron 35 percent of Paul Cameron's military retirement pay and 50 percent of the United States Savings Bonds. The court of civil appeals held that both assets were the husband's separate property and reversed those portions of the judgment. The Supreme Court of Texas reversed the court of civil appeals, affirmed the retirement-pay award only for periods beginning June 25, 1981, and affirmed the equal division of the savings bonds.

DISPOSITION

reversed

CASES CITED

- *McCarty v. McCarty*, 453 U.S. 210 (1981)
- *Trahan v. Trahan*, 626 S.W.2d 485 (Tex. 1981)
- *Eggemeyer v. Eggemeyer*, 554 S.W.2d 137 (Tex. 1977)
- *Hisquierdo v. Hisquierdo*, 439 U.S. 572 (1979)
- *Hughes v. Hughes*, 91 N.M. 339, 573 P.2d 1194 (1978)
- *Berle v. Berle*, 97 Idaho 452, 546 P.2d 407 (1976)
- *Rau v. Rau*, 6 Ariz. App. 362, 432 P.2d 910 (1967)
- *Hailey v. Hailey*, 160 Tex. 372, 331 S.W.2d 299 (1960)
- *McElreath v. McElreath*, 162 Tex. 190, 345 S.W.2d 722 (1961)
- *Arnold v. Leonard*, 114 Tex. 535, 273 S.W. 799 (1925)
- *Eichelberger v. Eichelberger*, 582 S.W.2d 395 (Tex. 1979)
- *Taggart v. Taggart*, 552 S.W.2d 422 (Tex. 1977)
- *Cearley v. Cearley*, 544 S.W.2d 661 (Tex. 1976)
- *Busby v. Busby*, 457 S.W.2d 551 (Tex. 1970)
- *Herring v. Blakeley*, 385 S.W.2d 843 (Tex. 1965)
- *Reed v. Reed*, 404 U.S. 71 (1971)
- *Railroad Commission v. Miller*, 434 S.W.2d 670 (Tex. 1968)
- *Land v. Marshall*, 426 S.W.2d 841 (Tex. 1968)

- Tarver v. Tarver, 394 S.W.2d 780 (Tex. 1965)

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