



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Charles K. Uhles (Deceased) - Unpaid
Compensation - Minor Children

File: B-248637

Date: October 14, 1992

DIGEST

A legally appointed guardian of a minor may receive payment on the minor's behalf of the minor's deceased parent's unpaid compensation pursuant to 5 U.S.C. § 5582. Where two separate guardians of the same minor each claim the minor's share of the deceased father's unpaid compensation, the agency may pay the guardian who was most recently designated by the court which had jurisdiction over both guardians and the minor.

DECISION

The question in this case is whether and to whom payment may be made of the accrued unpaid compensation of a deceased employee who is survived by two minor children, a son and a daughter.¹ The employee's former spouse, the children's mother, claims as guardian of both children, and a separate, court-appointed guardian of the daughter claims on the daughter's behalf. We conclude that the mother should receive payment on the son's behalf and the separate guardian of the daughter should receive payment on the daughter's behalf.

BACKGROUND

Mr. Charles K. Uhles, an employee of the Naval Oceanographic Office, died April 7, 1991, in Mississippi and was survived by two minor children, Pepper (age 15) and Adam (age 11). He was unmarried at the time of death, having been divorced from the children's mother, Molly Uhles. Since Mr. Uhles had not designated a beneficiary for his unpaid compensation, 5 U.S.C. § 5582 directs that it be paid to the two

¹The question was submitted by the Director, Defense Finance and Accounting Service, Department of Defense.

minor children.² The ex-spouse, Molly Uhles, filed a claim on behalf of both of the minors shortly after Mr. Uhles' death. The Navy forwarded the claim to our Claims Group which denied it because Molly Uhles had not shown that the children were in her care and custody.

On August 29, 1991, upon the petition of Molly Uhles and Christine Kirby, the Chancery Court of Hancock County, Mississippi, appointed Christine Kirby as guardian of the person of Pepper Dean Uhles, the elder child. Ms. Kirby lives in Mississippi and Pepper was living in Mississippi at the time of Mr. Uhles' death. Ms. Kirby filed a claim later in 1991 for Pepper's share of the unpaid compensation. In January 1992 the Circuit Court for Suwannee County, Florida, appointed Molly Uhles (who lives in Florida) as guardian of the person, property, and estate of both children. However, in June 1992 the Mississippi court which had appointed Ms. Kirby as guardian of the person of Pepper reappointed Ms. Kirby as guardian of the person and estate of Pepper.

As we understand it, Adam Uhles is living with his mother in Florida, who is his legally appointed guardian pursuant to the Florida court's January 1992 appointment, and Pepper is living in Mississippi with Christine Kirby. However, ostensibly, Pepper has two separate guardians, each having authorized control over her estate by different state courts, and each having filed a claim for Pepper's share of the unpaid compensation.

ANALYSIS

For the reasons discussed below, we believe Pepper's share of the unpaid compensation should be paid on her behalf to the guardian recently reappointed by the Mississippi state court, Christine Kirby.

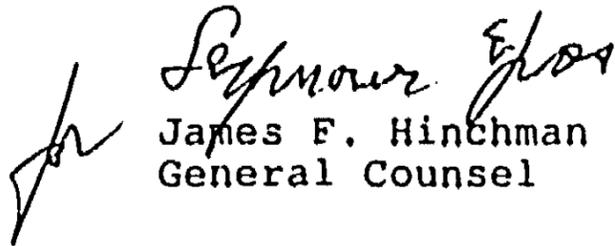
In its June order the Mississippi court noted that Molly Uhles although not personally appearing, entered an appearance by being represented by counsel at the hearing concerning guardianship. The court also noted that Pepper had expressed the desire to remain under the custody, care, and control of Christine Kirby, and the court found that it was in the best interest of Pepper that she remain so. Thus, the court extended Ms. Kirby's guardianship to include responsibility over Pepper's estate as well as her person. The court also ordered Molly Uhles to account for all money received for the benefit of Pepper and to transfer all money being presently held for the benefit of Pepper to Ms. Kirby to be deposited into a trust account for Pepper. We

²The total amount of the unpaid compensation, to which the children are entitled in equal shares is \$5,581.99.

informally contacted counsel that represented the ex-spouse at the Mississippi guardianship hearing, and counsel stated that the ex-spouse accepted the order as resolving the situation concerning Pepper.

Accordingly, Pepper's share of Mr. Uhles' unpaid compensation should be paid on her behalf to her guardian Christine Kirby.

Concerning Adam, he is under the legal guardianship of his mother, Molly Uhles, in Florida.³ Accordingly, Adam's share of the unpaid compensation should be paid to Molly Uhles on his behalf.


James F. Hinchman
General Counsel

³The January 1992 order from the Florida court designating Molly Uhles as guardian for Adam has not been superseded.