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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, O. C. 20548**

FILE: E-186712

DATE: November 30, 1976

MATTER OF: Burt E. Ravizza - Unpaid Compensation
Due at Death

DIGEST: Disallowance of claim of daughter of deceased employee for compensation due at death is sustained. Record shows that final judgment of dissolution of marriage between decedent and wife was vacated by court prior to death of employee. Employee therefore was still married at date of death and payment of unpaid compensation to wife was proper under 5 U. S. C. § 5582 in the absence of designation by employee of beneficiary.

This action is taken in response to a request by Mrs. Marcia Metcalf for reconsideration of a settlement issued by our Claims Division on April 22, 1976, which disallowed her claim as daughter of Burt E. Ravizza, deceased, for unpaid compensation due the decedent at the date of his death.

The record shows that claims for the unpaid compensation due Mr. Ravizza on the date of his death were received from Mrs. Metcalf, as the daughter of the decedent, and Mrs. Leah Rae Ravizza, as wife of the decedent, by the United States Naval Weapons Station, Concord, California, which forwarded the matter to the Claims Division on February 6, 1976. The administrative report indicates that there is no evidence that Mr. Ravizza ever executed a Standard Form 1152, Designation of Beneficiary, specifying the disposition of his unpaid compensation. In these circumstances, the Claims Division authorized payment of the claim of Leah Rae Ravizza as the wife of the decedent and disallowed the claim of Mrs. Metcalf as the daughter of the decedent in accordance with the provisions of section 5582 of title 5, United States Code (1970).

Mrs. Metcalf's claim to payment of the unpaid compensation due Mr. Ravizza at the date of his death is premised on the assertion that her father and Leah Rae Ravizza were divorced prior to his death. The record indicates in this regard that an action for dissolution of the marriage was initiated by Leah Rae Ravizza with the filing of a petition on February 6, 1974, in the Superior Court of California, County of Contra Costa, under the provisions of the California Civil Code, section 4503 (Deering, 1972). Mr. Ravizza was served on February 13, 1974, and did not respond to the petition.

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An interlocutory decree of dissolution was entered on April 11, 1974 and, in response to petitioner's request, a final judgment of dissolution was entered on May 10, 1974. The court on its own motion subsequently vacated the order for final judgment of dissolution on July 3, 1974, and a request by both parties for dismissal of the action was granted on September 3, 1974. Mr. Ravizza died on January 2, 1976.

Mrs. Metcalf asserts in substance that the final judgment of dissolution terminated the marital relationship and ended Mrs. Ravizza's claim to the decedent's unpaid compensation. However, the California Civil Code, section 4514, provides that the earliest date upon which a final judgment of dissolution may be entered is 6 months from the date of service on the respondent. The final judgment here was entered, apparently inadvertently, on May 10, 1974, less than 3 months after the date of service on Mr. Ravizza.

The court may, of course, amend, or vacate a judgment inadvertently granted. Carter v. Shinsako, 108 P. 2d 27 (Cal. 1941). Where a judgment is vacated by a valid order, it is entirely destroyed and the effect is as if no judgment were ever granted. In re Edwards's Estate, 102 Cal. Repr. 216, 220 (1972).

The record in the instant matter provides no evidence of any further action with regard to the dissolution proceeding after the order of dismissal granted on September 3, 1974. In these circumstances we conclude that Leah Rae Ravizza was still the wife of Burt Ravizza on the date of his death.

The order of payment of a deceased employee's compensation due at the date of death is set forth in 5 U. S. C. § 5582 (1970). Under the provisions of that section, Leah Rae Ravizza, as wife of the decedent, had priority over Mrs. Metcalf, as a child of the decedent. We therefore sustain the disallowance of Mrs. Metcalf's claim by the Claims Division.

Mrs. Metcalf also has inquired about her father's insurance benefits. This Office has no jurisdiction over such benefits and we therefore are unable to consider the matter. Inquiries regarding federal employees group life insurance should be directed to the United States Civil Service Commission, Bureau of Retirement,

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Occupational Health, Attention: Group Life Insurance, Room 1323B,
1900 E Street, N. W., Washington, D. C. 20415.

Deputy


Comptroller General
of the United States