

DECISION



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

FILE: B-205185 **DATE:** November 24, 1981

MATTER OF: Petty Officer and Airman ✓ USN ✓
✓ USN

DIGEST: The General Accounting Office will not question the validity of the divorce and subsequent remarriage of a Navy petty officer, notwithstanding that the divorce was rendered by a foreign court, where it appeared that the petty officer had long resided in the foreign country on a permanent duty assignment; the foreign court had jurisdiction over the subject matter of the divorce; and the foreign divorce decree would be recognized as valid by American State courts.

This action is in response to a letter dated August 13, 1981, with enclosures, from the Disbursing Officer of the Navy Personnel Support Activity, Bermuda, who requests an advance decision on the question of whether Airman (ABHN) , and Petty Officer (YN1) , may properly be considered husband and wife for purposes of computing their pay and allowances, and for purposes of generally establishing their eligibility for monetary payments and benefits dependent upon the existence of a marital relationship. The request was forwarded here by endorsement dated October 13, 1981, from the Navy Accounting and Finance Center after being approved and assigned submission number DO-N-1374 by the Department of Defense Military Pay and Allowance Committee.

We have concluded, in view of the facts presented, that the marriage of Airman and Petty Officer is clearly valid, and that they are therefore properly to be regarded as husband and wife for the purposes mentioned.

In April 1978 Petty Officer , then , arrived in Bermuda to begin a permanent duty assignment there with the Navy. She was accompanied on the assignment by her former husband, Petty Officer (ABH2) , USN. They resided in Bermuda continuously during the following 2 years. On March 17, 1980, Petty Officer commenced a divorce proceeding in Bermuda by having Petty Officer served personally with the petition and other

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necessary documents. She alleged that their marriage had broken down irretrievably. At that time Petty Officer completed and signed a document acknowledging that he had received the petition and in which he stated that he did not intend to defend the action. The Supreme Court of Bermuda granted an interlocutory divorce decree on April 28, 1980, and then a final decree on June 12, 1980.

Subsequently, on July 12, 1980, Petty Officer entered into the marriage here at issue. On December 30, 1980, the Navy Family Allowance Activity sent the concerned Navy command authorities in Bermuda a message stating in part:

"(Airman and Petty Officer) should be advised that the validity of the Bermudan [sic] divorce is considered too doubtful for the purpose of authorizing disbursement of government funds based upon a subsequent marriage in the absence of a decision relative thereto granted by a court of competent jurisdiction in the United States."

The Navy legal assistance officer representing the interests in the matter, on the other hand, has expressed the opinion that the Bermudian divorce proceedings met all of the traditional tests of legal due process and that the divorce decree should thus be deemed valid by the Navy, since it would doubtless be recognized as such under all existing principles of comity by State courts in America. He suggests that the Navy should therefore also recognize Petty Officer subsequent remarriage as being valid.

The Comptroller General has no authority to render judgments or otherwise adjudicate rights between husbands and wives in matters involving domestic relations. We are, however, charged with a responsibility for deciding questions related to the proper expenditure of Federal funds. See 31 U.S.C. 71, et seq. Hence, we have generally held that where the validity of a marriage is dependent upon the dissolution of a prior marriage by a

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divorce of questionable validity, the marital status of the parties is too doubtful to serve as a proper basis for any payment of public funds. See, generally, 55 Comp. Gen. 533 (1975); 49 *id.* 833 (1970); 45 *id.* 155 (1965); 38 *id.* 97 (1958); 36 *id.* 121 (1956); 25 *id.* 821 (1946). For the most part, those decisions involved situations in which one or both spouses traveled to a foreign country where they remained for only a brief time, but where they purported to establish a permanent residence or domicile, for the sole purpose of obtaining a divorce. Our Office, in accord with the decisions of the courts of most jurisdictions, has viewed divorce arrangements of that sort with a great deal of skepticism.

However, in other situations where the divorcing parties resided in the foreign country for an extended period, and it appeared that the foreign court granting the divorce had jurisdiction over the subject matter of the divorce and the divorce would doubtless be considered valid in the United States, we have held that the validity of a subsequent remarriage by one of the parties is not subject to question by Federal accounting officers. See, e.g., Matter of Lt. _____, USN, B-188215, August 19, 1977.

We understand that at all times relevant to the present action the prevailing statutory law of Bermuda provided that the Supreme Court of Bermuda shall have jurisdiction in proceedings for divorce if either party to the marriage was resident in Bermuda for 1 year prior to commencement of suit, and that a divorce may be granted upon a showing that the marriage has broken down irretrievably. It thus appears that the Bermudian jurisdictional requirements, and requirements for proof of grounds for divorce, were substantially similar to those imposed by American States. Furthermore, since both parties to the divorce in this case had resided in Bermuda for 2 years prior to the initiation of suit, and they were both personally present and personally participated in the proceedings, there appears to be no basis for a conclusion that the Bermudian court lacked jurisdiction in the matter.

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Given these circumstances, it is our view that the divorce here in question would without doubt be recognized as valid by the courts of our States under principles of comity. See generally 13 ALR 3d 1423, et seq. We therefore conclude that the divorce of Petty Officer and her subsequent marriage to Airman are properly to be considered as legally valid and binding by the accounting officers of the Federal Government.

for *Milton J. Fowler*
Comptroller General
of the United States