



UNITED STATES GENERAL ACCOUNTING OFFICE  
WASHINGTON, D.C. 20548

OFFICE OF GENERAL COUNSEL

B-222292

March 24, 1986

Captain Brian A. McLaughlin, U.S.A.  
Headquarters, 12th Aviation Group (Combat)  
APO New York 09457

Dear Captain McLaughlin:

On March 3, 1986, you wrote to the Comptroller General of the United States asking whether the individual with whom you are living may be considered your wife for dependency purposes. You indicate that you have sent your request through Army finance channels but have also written here directly because you do not know whether that request has been forwarded to us yet.

To date we have not received a request for a decision on this matter from the Army Finance Center. However, although a decision of the Comptroller General is not being provided at your request, you may be advised that the individual in question does not appear to qualify as your spouse for purposes of military pay and allowances and travel benefits under the Military Pay and Allowances Entitlements Manual or Volume 1 of the Joint Travel Regulations. This is true because the concept of common law marriage derives from the English or common law. Since the common law is not applied in Germany it does not appear that such a relationship could arise in that jurisdiction.

Furthermore, a common law marriage when entered into in a jurisdiction which recognizes such a marriage (and many common law jurisdictions have passed legislation which prevents individuals from entering into marriages on that basis), is as valid as a ceremonial marriage and may be terminated only by divorce. The translated documents which you have provided us, however, show that you have entered into a partnership agreement by contract, which either of you may terminate by giving 3 months notice. Although that agreement may incorporate certain duties and obligations associated with marriage, it does not appear to be a marriage as would create the relationship necessary for you to qualify for benefits as if you had a dependent spouse under the military pay and allowance system. In that connection we note that you have not indicated that your relationship is recognized as a marriage under German law.

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We trust that this response will serve the purpose of your inquiry.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Edwin J. Monsma". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Edwin J. Monsma  
Assistant General Counsel