



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

B-176840

April 18, 1973

30824

Mrs. Rena P. Wilson ✓
618 Tuskegee Avenue
Chesapeake, Virginia 23320

Dear Mrs. Wilson:

Further reference is made to your letters of June 26 and August 16, 1972, concerning your request for reconsideration of our disallowance of your claim as widow of Allen B. Wilson, deceased, for unpaid compensation due him at the time of his death as a former employee of the Department of the Navy.

The record indicates that in 1943 you married Tom E. Clark in North Carolina and were separated from him in that State shortly thereafter. After you had tried to ascertain Mr. Clark's whereabouts for 7 years without success, you left North Carolina in 1950 and married Allen B. Wilson, Sr. Before you married Mr. Wilson you consulted attorneys in North Carolina and Virginia and were advised that it was unnecessary for you to obtain a divorce from Mr. Clark based upon the previously related facts. Subsequently, you were informed of the death of Mr. Clark in December 1957. A copy of the certificate of death discloses that Tom Clark died on October 27, 1957, in Norfolk, Virginia, and that his marital status was reported as "separated." The record also shows that you entered into a ceremonial marriage with Mr. Wilson in Virginia on September 7, 1950, and that he died on January 8, 1972, in Norfolk, Virginia.

When a person marries a second time the law presumes that the second marriage is valid and the first marriage was terminated by death or divorce. However, such presumptions are not conclusive and are rebuttable when there is other evidence which affords reasonable grounds for presuming that the second marriage is invalid. Also, a marriage illicit in its conception is presumed to continue in that condition until the impediment is removed and a second legal marriage is shown after removal of the impediment.

In the instant case the presumption that your marriage to Mr. Wilson was valid has been rebutted (1) by the death of Mr. Clark

[Reconsideration of Disallowance of Claim]

BEST DOCUMENT AVAILABLE

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on October 27, 1957, subsequent to your marriage to the deceased employee and, (2) by evidence that at the time of his death, Mr. Clark was "separated," which indicates that he had not obtained a divorce from you. In view of your valid existing marriage with Mr. Clark at the time you married Mr. Wilson, your marriage to the deceased employee was illegal. Upon the death of Mr. Clark in 1957 the impediment to your marriage to Mr. Wilson was removed. However, there is no evidence of a second legal marriage occurring between you and Mr. Wilson after the removal of the impediment and, further, the State of Virginia does not recognize common-law marriages (Code of Virginia, Annotated, Title 20, section 20-13). Hence, a common-law marriage between you and the deceased employee could not and did not arise. Based upon the foregoing we must sustain the disallowance of your claim as widow of the deceased employee, Mr. Allen B. Wilson, Sr.

In connection with our consideration of your claim we have been in contact with officials of the United States Civil Service Commission and the Office of Federal Employees' Group Life Insurance. We understand that Mr. Wilson was survived by six children, two of whom are of legal age. It appears that retirement fund benefits are being paid to you for the use of the four minor children of the deceased employee. It also appears that you have relinquished your insurance claim and that claims have been submitted by or on behalf of the surviving children.

In view of the above it is suggested that the two children of the deceased employee who are now of legal age make application to our Transportation and Claims Division (General Claims) for payment directly to them of their proportionate shares of the unpaid compensation due and owing. Further, it is suggested that you, on behalf of the four minor children, make application to said Division for payment of their proportionate shares of the unpaid compensation in your capacity as natural guardian or as legal guardian if you have been appointed by a court of competent jurisdiction. These claims should include written documentation, i.e., birth certificates showing Mr. Wilson as the father of the children or written acknowledgement by him that the six children are in fact his children.

The complete address is:

U. S. General Accounting Office
Transportation and Claims Division (General Claims)
441 G Street, N. W.
Washington, D. C. 20548

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In future correspondence with this Office, please use the claim number,
2-1623575.

Sincerely yours,

Paul G. Demblin

For the Comptroller General
of the United States