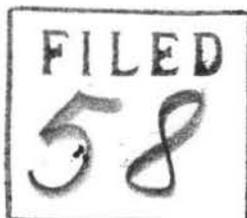


STATE FEDERAL SOLDIERS' HOME: When widow of a veteran remarries she will
ADMISSION: lose her eligibility as an entrant to the
WIDOW: State Federal Soldiers' Home on the basis
of being the widow of the aforesaid deceased
veteran.

XXXXXXXXXXXX

July 7, 1953

John M. Dalton



XXXXXXXXXX
John C. Johnsen

Honorable Marvin H. McDaniel
Superintendent, State Federal
Soldiers' Home of Missouri
St. James, Missouri

Dear Sir:

This department is in receipt of your recent request
for an official opinion. You thus state your request:

"I am writing you relative to the Missouri
Revised Statutes, 1949. I wish to make re-
ference to Chapter 212, Section 212.140 Who
May Be Admitted.

"Under this section I would like for you to
give me an opinion under the following cir-
cumstances: If a widow of a wartime veteran
re-marries to a non-veteran, will she then
be giving up her eligibility for entering
the State Federal Soldiers' Home?"

Section 212.140, RSMo 1949, to which you refer, reads
as follows:

"212.140. Who may be admitted.--The soldiers
and sailors who shall be entitled to admission
into said home shall be citizens of the state
of Missouri, who were honorably discharged from
the service of the United States, and who are
in indigent circumstances, and from any dis-
ability, not received in any illegal act, are
unable to support themselves by manual labor,
and that the aged mother, wife or widow of
such soldier or sailor, and army nurses, who
served with the armies of the United States
or such ex-members of the enrolled Missouri
militia, who served ninety days or more in
the field during the civil war, shall also be
entitled to admission in said home, provided
they be in indigent circumstances and unable
to support themselves by manual labor."

Honorable Marvin H. McDaniel

The matter which we have to decide is whether the "widow" of a deceased veteran, which aforesaid "widow" remarries, remains the "widow" of the deceased veteran aforesaid within the meaning of the term "widow" as it is used in Section 212.140, supra, or whether upon her remarriage she ceases to be the "widow" of the aforesaid deceased veteran within the meaning of the above Section 212.140.

In determining this matter we have numerous guides. While there is not complete unanimity among the authorities, the majority hold that a widow is a woman whose husband is dead and who has not remarried. In the Missouri case of *In re Estate of Ryan*, 174 Mo. App. 202, at l. c. 206, the St. Louis Court of Appeals stated:

"There can be no doubt that the word 'widow' signifies 'A woman who has lost her husband by death and is not married again.' It is so defined in Webster's New International Dictionary. Bouvier's Law Dictionary defines a widow as 'An unmarried woman whose husband is dead.' Black's Law Dictionary and also Anderson's Law Dictionary define the word 'widow' as 'A woman whose husband is dead and who is not married again.' The word 'widow' is defined by a standard authority in the law as 'A wife that outlives her husband; one whose husband is dead and who remains unmarried.' (See 40 Cyc. 934.) ***"

In the case of *In re Crook's Estate*, 252 New York 373, the court held that a "widow" is a woman who has lost her husband by death and has not married again. In the case *In re McArthur's Estate*, 210 California 439, the court held that a "widow" was an un-married woman who previously had been married but whose husband was deceased.

The same holding was made in the case of *Inhabitants of Town of Solon vs. Holway*, 130 Maine 415; *Appeal of Kearns*, 120 P. 523; *In re Water's Estate*, 101 N. E. 2nd 815; *State ex rel Moscow vs. Service Recognition Board*, 86 N. E. 2nd 357; *Alabama Pension Commission vs. Morris*, 4 So. 2nd 896.

Honorable Marvin H. McDaniel

Numerous other cases could be quoted to the same effect but we do not feel that it is necessary to do so. There is a line of cases which hold that the term "widow" refers to a person rather than to a status. Most of these cases have to do with a widow's rights in regard to the settlement of estates. As we stated above, we believe that the majority holding outside of Missouri is as we stated it to be above, and that the cases decided in Missouri so hold.

We believe, too, that it is well to look to what appears to be the purpose of Section 212.140, supra. The purpose would appear to be to provide for the care of the widows of veterans and the assumption would seem to be that in view of the death of the husband, the widow would have no one to care for her and would consequently be, in some situations, in need of outside assistance. In the case of her remarriage, however, it could be assumed that her second husband would take the place of the deceased first husband and that the probability of her requiring aid would cease to exist. ARCC
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It is, therefore, the opinion of this department that if the widow of a veteran remarried she will cease to be eligible for entrance to the State Federal Soldiers' Home as the "widow" of the deceased veteran. If by her second marriage she marries a veteran, she could, of course, become eligible for admission to the home as the "widow" of the second husband but not of the first.

CONCLUSION.

It is the opinion of this department that if the widow of a veteran remarries she will lose her eligibility as an entrant to the State Federal Soldiers' Home on the basis of being the widow of the aforesaid deceased veteran.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Hugh P. Williamson.

Yours very truly,

JOHN M. DALTON
Attorney General

JMD/HPW/mv