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DECISION



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

2-1475

FILE: B-205174

DATE: April 12, 1982

**MATTER OF: Petty Officer First Class Dennis W.
Methvin, USN**

DIGEST: A service member who married a foreign nation 1 in Virginia after he secured an ex parte divorce from his first wife in the Dominican Republic, where it appears that he did not establish a residence or domicile and where his wife was not present in person or represented by counsel, now seeks dependent benefits for the second wife and her dependent children. This entitlement may not be allowed in view of the longstanding rule that in the absence of bona fide domicile in the foreign country where the divorce is granted, such divorces are considered of such doubtful validity that recognition of the divorce and subsequent marriage is required by a court of competent jurisdiction in the United States. Further, neither the issuance of a state required marriage license nor the issuance of an alien residency card identifying the second wife as the member's spouse, satisfies the court recognition requirement.

Is a member of the United States Navy entitled to additional benefits on account of his second wife and her children on the basis of a marriage entered into following a divorce procured in the Dominican Republic, where his first wife did not personally appear, nor was she represented by an attorney? For the following reasons he is not entitled to additional benefits based on the second marriage.

This question was presented as a request for advance decision by a Navy Disbursing Officer, and has been assigned control number DO-N-1376 by the Department of Defense Military Pay and Allowance Committee.

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Petty Officer First Class Dennis W. Methvin, a member of the Navy and a United States citizen, married Maria Olave, a citizen of Spain, in Chipiona, Spain, on July 3, 1976. One child was born of that marriage. On July 6, 1978, he secured a divorce from Maria in San Cristobal, Dominican Republic. She did not appear at the proceedings personally, nor was she represented by an attorney. The child of that marriage was and remained in the custody of Maria.

On June 26, 1979, he entered into a marriage in Norfolk, Virginia, with Drissia Chahine, a native of Morocco, but who apparently was a resident alien in the United States at that time. As a result of that purported marriage, he has asserted having acquired a dependent spouse and three dependent stepchildren and is seeking benefits on account of them. At present, Mr. Methvin is receiving dependent benefits on account of his child from the first marriage. The question is whether he is entitled to receive such additional benefits as may be available to him on behalf of Drissia and her three children.

We are urged to conclude that his second marriage has been recognized by competent authority in the United States, since the Commonwealth of Virginia issued the marriage license and the U.S. Immigration and Naturalization Service has issued a visa for United States residency to his second wife on the basis of the Virginia marriage.

The general rule with respect to recognition of divorce decrees secured in foreign countries is well settled. Unless a foreign court granting a divorce has jurisdiction over the subject matter by reason of the bona fide residence of at least one of the parties to the divorce, its decree of divorce will not, under rules of international comity, be recognized in one of the States of the United States, even though the laws of such foreign country do not make residence or domicile a condition to its courts taking jurisdiction. See 143 ALR 1312. Thus, where the validity of a subsequent marriage is dependent on the dissolution of an earlier marriage by a foreign court and the marriage has not been recognized by a court of competent jurisdiction in the United States, the marital status of the parties

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must be considered to be too doubtful for this Office to authorize payments based on that marriage. 55 Comp. Gen. 533 (1975) and cases cited therein.

While Mr. Methvin may have personally appeared before the court in San Cristobal, there are no indications that he was domiciled or maintained a residence in the Dominican Republic. Further, his wife, who apparently was domiciled in Spain at that time, was not present in the Dominican Republic, nor was she represented by counsel, at any stage of the divorce proceedings. In fact, the divorce decree stated specifically that it was rendered in default of her appearance.

The fact that Mr. Methvin and his second wife were issued a marriage license by the Commonwealth of Virginia does not constitute recognition of the Dominican Republic divorce by a court of competent jurisdiction. Further, the fact that U.S. Immigration and Naturalization Service issued a resident alien visa to Mr. Methvin's second wife on the basis of the Virginia marriage is not tantamount to recognition by a court of competent jurisdiction. No information has been provided which shows that the Service considered the ex parte Dominican Republic divorce in its decision to issue the visa. Thus, in the absence of such evidence, we do not consider the issuance of the visa as constituting recognition of the marital status of the parties equivalent to a determination by a court of competent jurisdiction.

Accordingly, in view of Mr. Methvin's ex parte Dominican Republic divorce from his first wife, the marital status of the parties is too doubtful for us to authorize the payment of any additional benefits on account of his second wife and his stepchildren.

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