

SCR

47

TESTIMONY ON SCR 47

My name is Joanne Erskine. I use my maiden name -- my married name was Cose.

I was born in 1934, married a brand new 2d Lieutenant in 1954, and was divorced in Anchorage in 1974-75.

My husband and I had four sons born in 1955, 1956, 1958 and 1960; I was a homemaker for 20 years, living at 8 different military bases. There were two one-year separations while my husband served in Vietnam and Iran while the family remained in the states.

As is common in military marriages, there was abuse, physical and mental.

When we divorced, my husband got custody of our sons who told the judge they preferred to stay with him; he retired at the rank of Lt. Col.; went to work in engineering at RCA, and remarried.

Superior Court awarded me half the retirement, but it was never paid due to appeals, which kept the case in court for 7 years, until finally decided by the U.S. Supreme Court last June in the McCarty decision. This ruling, which upheld the 1979 ruling of the Alaska Supreme Court in my case, Cose v. Cose, held that military pensions are not property subject to court order in cases of divorce or separation.

I never received any of my former spouse's military pension, nor other support, nor real estate, nor court award of attorney fees for litigation, which came to \$16,000.

For 5 of the 7 years since my divorce my annual income has been between \$3,000 and \$3,800.

I have experienced many of the problems common to displaced homemakers, plus some that may be unusual. Despite having been educated, I have had a very hard time competing in the job market. I lost my first job, and others, because of inability to produce on a competitive basis. I went outside to graduate school in Oregon armed with a \$2500 Alaska student loan and little

else, and got my masters degree after 4 years. I have been frequently unemployed, often underemployed, sometimes with no income whatsoever, and obliged to move in with someone else because I couldn't pay the rent. Last year I moved 7 times. The only public assistance I have been eligible for often has been Food Stamps; and I don't know how I would have managed without them, degrading though it is.

So much for personal data. I have a few general statistics:

The state of Alaska has more military personnel and veterans per capita than any other state.

Military couples suffer the highest divorce rate of any occupational group. The strains of military life are considerable, and they fall most heavily on the wife, who cannot, as the husband does, carry her support network with her from station to station.

Women born in 1934 experience the highest divorce rate of any birth year group. Born in the depression, wed in the silent fifties when marriage and family was still the only thing to do; then as consciousness changed, rebelling against the constraints of our existence -- it's been a struggle. But for older women, some of whom are destitute, it's far worse.

Although I have not yet located and formed organizational links with other women in this situation, I know they are there, they are many, and they are hurting. I wish to speak for them.

I mentioned the strains of military life. The chief incentive for undergoing them is the liberal pension waiting after 20 or 30 years of service. It is usually a military couple's major, or even their only, asset.

Since 1979 when the Alaska Supreme Court ruled in my case, no judge in Alaska has been able to order a share of the pension paid to the wife when a military couple divorces. Since last June, this has been true

nationwide.

This is a gross injustice, that cries out for remedy. Corrective legislation has been introduced in both houses of Congress* but languishes in the Armed Services Committees, with, in the words of Sen. Ted Stevens, "no further action contemplated."

Legally, domestic law has always been the province of the states, and remains so. This issue rose to the U.S. Supreme Court because a few states, notably Alaska, were diverging from the prevailing practice of treating the pension as a divisible asset after the end of long-term marriages.

The federal statute on military pensions as currently written permits payments from pensions for child support or alimony. Alaska courts, I have been advised, seldom grant alimony. The statute is silent on the pension as property in a divorce settlement. The U.S. Court has now issued its opinion on the effects of that silence.

I cannot believe Congress ever intended former military spouses to be cut off as they now are.

* H.R. 1711, H.R. 4902, and S. 1814.

Introduced: 3/15/82
Referred: State Affairs

1 IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

2 SENATE CONCURRENT RESOLUTION NO. 47

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 Relating to property rights of di-
6 vorced persons to the military pen-
7 sions of their former spouses.

8 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 WHEREAS the United States Supreme Court ruled in June of ~~this~~¹⁹⁸¹ year that
10 a military pension is not property subject to division by a court as part of
11 a divorce settlement; and

12 WHEREAS the effect of this ruling on former spouses of military personnel
13 has been devastating; and

14 WHEREAS middle-aged and older persons who are divorced after years of
15 marriage to a person in the military face particular hardship because they
16 are often unable to compete in the job market; and

17 WHEREAS after divorce all military benefits to the former spouse cease,
18 often leaving the former spouse without medical insurance coverage or other
19 assistance; and

20 WHEREAS the spouses of military personnel are often unable to pursue
21 careers of their own because they must move whenever required by the military
22 service; and

23 WHEREAS former spouses of military personnel, especially older women,
24 are sometimes forced to seek welfare and other public assistance; and

25 WHEREAS since current welfare and public assistance costs need to be
26 reduced, it makes no sense to deprive a former spouse of a fair share of a
27 military pension earned during the marriage thereby forcing that former
28 spouse to obtain public assistance; and

29 WHEREAS the spouses of military personnel serve their country and

1 deserve security in their old age, just as enlisted persons do; and
2 WHEREAS often the military pension is the main asset that a couple has;

3 BE IT RESOLVED that the Alaska State Legislature respectfully requests
4 the Alaska delegation in Congress to introduce and support legislation making
5 a military pension subject to division between spouses who are obtaining a
6 divorce.

7 COPIES of this resolution shall be sent to and to the Honorable Ted
8 Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable
9 Don Young, U.S. Representative, members of the Alaska delegation in Congress.

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