Supreme Court Clarifies Property Rights in Military Divorce Settlements

VFW has long advocated for clarity and consistency of the law

May 17, 2017

KANSAS CITY, Mo. – On Monday, the U.S. Supreme Court presented a unanimous ruling on the case of Howell v. Howell, establishing clear guidance for military divorce settlements under the Uniformed Services Former Spouses' Protection Act (USFSPA), and was in line with the Amicus Curiae brief filed in the case by the Veterans of Foreign Wars of the U.S.

USFSPA authorizes state courts to treat veterans' military retirement pay, in addition to other benefits, as community prop¬erty divisible upon divorce. However, lower court interpretations have led to a lack of consistency in applying the law from state to state. The VFW, which filed its Amicus Curiae (friend of the court) brief on this case in January 2017, has long advocated for reform to the law's language in order to provide clarity and consistency in hopes of establishing a uniformed system.

In Howell v. Howell, Sandra Howell was awarded half of Air Force veteran John Howell's military retirement set to begin the year following their divorce in 1991. More than a decade later, the Department of Veterans Affairs determined John had a 20 percent disability rating at which point he elected to waive a portion of his retirement pay in order to begin collecting disability benefits. This reduced the funds awarded to Sandra each month under the original decree, leading her to successfully petition the Arizona Supreme Court to reinstate the original monthly amount awarded.

Monday's unanimous ruling reversed the decision, citing state court may not order a veteran to pay a divorced spouse for the loss in the divorced spouse's portion of the veteran's retirement pay caused by the veteran's waiver of retirement pay to receive service-related

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disability benefits.

“We’re pleased with the Supreme Court’s ruling in this case,” said VFW National Commander Brian Duffy. “This will, hopefully, provide some much needed consistency across the country and ensure some certainty for veterans.”

The VFW will continue to monitor the implementation of this decision among the individual states.