

To: New Jersey Law Revision Commission
From: Rachael Segal, Legislative Law Clerk
Re: Meaning of “Widow” in N.J.S. 54:4–3.30 - *Pruent-Stevens v. Township of Toms River*
Date: October 8, 2018

MEMORANDUM

Executive Summary

The Exemption Statute of 1948 provided for a total property tax exemption for veterans who were declared permanently disabled as a result of their military service. This exemption was subsequently extended to a deceased veteran’s widow¹ in certain circumstances. Currently, the statute’s definition of widow does not address whether a veteran’s widow who remarries and is later widowed again is considered a widow under the statute, or whether widowhood ceases permanently upon a remarriage. In *Pruent-Stevens v. Twp. of Toms River*, the Tax Court addressed the definition of “widow” in the context of N.J.S. 54:4–3.30.

Background

In 1973, Sergeant Peter J. Pruent married Rosanna Ignomirello (now known as Rosanna Pruent–Stevens; hereinafter “Plaintiff” or “Rosanna”).² Sergeant Pruent’s health deteriorated, and he died in 1989 at age 41 from complications associated with exposure to Agent Orange during his military service in Vietnam.³ At the time of his death, Sergeant Pruent left behind a wife and two minor children.⁴ Unemployed, his widow applied for Dependency and Indemnity Compensation (“DIC”) benefits from the United States Veterans Administration (now known as United States Department of Veterans Affairs; hereinafter “VA”).⁵ This request was denied by the VA.⁶

In 1993, Rosanna married Charles J. Stevens, also a veteran.⁷ He died four years later.⁸ Plaintiff continued to apply for benefits for her daughters.⁹

¹ The term “widow” refers to both a widow and widower, and the term “widowhood” refers to both widowhood and widowerhood.

² *Pruent-Stevens v. Twp. of Toms River*, 30 N.J. Tax 200, 203 (2017)

³ *Id.* at 203-05.

⁴ *Id.* at 203.

⁵ *Id.*

⁶ *Id.* at 204.

⁷ *Id.* at 205.

⁸ *Id.*

⁹ *Id.* at 205.

In 2014, almost 25 years after Sergeant Pruent’s death, “the VA finally determined that [his] premature death was ‘presumptively connected’ to his military service in Vietnam.”¹⁰ The VA then approved DIC benefits retroactive to his date of death, and approved the two daughters’ rights to educational benefits.¹¹ At the time of its determination, the VA was aware of Plaintiff’s second marriage.¹² It was the VA’s determination that Plaintiff was “the un-remarried surviving spouse of Peter J. Pruent,”¹³ and that he “posthumously became a veteran who met the qualifications for property tax exemption.”¹⁴

In July of 2015, Plaintiff applied to the Township of Toms River (“Municipality”) for a 100% disabled veterans’ exemption on a residence she had acquired in 2002.¹⁵ The Municipality’s Tax Assessor issued the Plaintiff a Notice that indicated her application was “disallowed based on N.J.S.A. 54:4–3.30(b)(1), which the assessor interpreted as terminating the exemption to surviving spouses who have at any time remarried.”¹⁶ Plaintiff appealed to the Ocean County Board of Taxation.¹⁷ After reviewing the Plaintiff’s petition, the Board issued a Memorandum of Judgment upholding the disallowance.¹⁸ Plaintiff appealed to the Tax Court.¹⁹

Analysis

Article VIII, § 1, ¶ 3 of the 1947 New Jersey Constitution stated that:

The widow of any citizen and resident of this State who has met or shall meet his death on active duty in time of war in any such service shall be entitled, during her widowhood, to the exemption in this paragraph provided for honorably discharged veterans and to such further exemption as from time to time may be provided by law.²⁰

This provision made no reference to remarriage,²¹ though the five subsequent amendments

¹⁰ *Pruent-Stevens*, 30 N.J. Tax at 205.

¹¹ *Id.*

¹² *Id.* at 206 (decision referenced “Death certificate of claimant’s second husband, Charles Stevens, received January 16, 2014”).

¹³ *Id.* (“By law, her four-year marriage to Mr. Stevens was not a permanent bar to her eligibility for DIC”).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.* at 207.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ N.J. CONST., art. VIII, § 1, ¶ 3.

²¹ *Pruent-Stevens*, 30 N.J. Tax at 209.

to this paragraph included or made reference to remarriage.²² In 1948, the original response to this constitutional paragraph was the Legislature’s enactment of N.J.S. 54:4–3.30 (“Exemption Statute”). The Exemption Statute provided for a total exemption from property tax for those veterans whom the VA declared 100% permanently disabled as a result of their military service.²³ In section (b), the statute extended the exemption to a veteran’s widow. Under the terms of this exemption, the veteran had to have been both entitled to and have actually received the exemption on a jointly owned residence at the time of death.²⁴

In 1977, the Legislature made two significant changes to section (b).²⁵ First, the statute was amended to provide that the deceased veteran would only have to have been entitled to the exemption, but not receiving it, at the time of death.²⁶ Second, the statute allowed a widow to carry the exemption with her to any new house that she acquired, provided she resided in the dwelling and was not remarried.²⁷ The Exemption Statute, however, does not define “widow” or “widowhood,” nor does it mention remarriage.²⁸

In *Pruent-Stevens*, the Court addressed the arguments regarding the undefined terms of “widowhood” and “has not remarried” with respect to the veterans’ exemption. The Court also addressed whether Plaintiff’s marriage to Mr. Stevens in 1993 permanently extinguished her “widowhood,” thereby making her ineligible for the exemption.²⁹

Before commencing its analysis, the Court noted that “the fundamental approach of New Jersey’s property tax laws is that all property must bear its just share of the public responsibility of taxation.”³⁰ The Court next found that “[m]odern English dictionary definitions of widow] are varied”.³¹ In an attempt to define the word “widow,” the Court also examined statutory and historical/literary references that used this term.³²

²² *Id.*

²³ *Pruent-Stevens*, 30 N.J. Tax at 209.

²⁴ *Id.* at 210.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.* (citing *Senate Revenue*, Fin. and Appropriations Comm. Statement, S. No. 1789 – L. 1977, c. 377) (In 1985, the statute was further amended to replace gender specific language with gender-neutral language).

²⁸ *Id.* at 211.

²⁹ *Id.* at 211-13.

³⁰ *Id.* at 214.

³¹ *Id.* at 215; *Id.* (citing Merriam–Webster, <https://www.merriam-webster.com/dictionary/widow> (last visited Aug. 28, 2017) (“For example, the Merriam–Webster primary definition of ‘widow’ reads ‘a woman who has lost her husband by death and usually has not remarried’”); *Id.* (citing Collins Dictionary, <https://www.collinsdictionary.com/us/dictionary/english/widow>) (defining “widow” as “a woman who has survived her spouse, esp. one who has not remarried”) (last visited Aug. 29, 2017).

³² *Id.* at 215; *see id.* at 215-16 (citing 17 U.S.C.S. 101 (2010)) (“The author’s ‘widow’ or ‘widower’ is the author’s surviving spouse under the laws of the author’s domicile at the time of his or her death, whether or not the spouse has later remarried”); *see also id.* at 216 (citing Attorney General Formal Opinion 1960–7 (April 7, 1960)) (“The Attorney

The Municipality referred to N.J.S. 54:4–3.31 to support its position that the exemption should be denied.³³ That statute sets forth the documents required to qualify for the exemption, and includes language that the applicant “has not remarried.”³⁴ The Municipality also argued that there would be an administrative burden if the status could change.³⁵

Plaintiff maintained that “a woman who remarries always remains the widow of her husband.”³⁶ Plaintiff’s definition is predicated on common law establishing that “the legal status of a widow upon subsequent remarriage does not affect any vested rights she acquired before her remarriage.”³⁷ Plaintiff further argued that the focus is on the status of the surviving spouse, since the phrase “is still unmarried” is distinct from “has never remarried.”³⁸

The Court noted that Plaintiff’s definition is also used in a number of other states.³⁹ The Court also found that “both the Division of Taxation and the Office of Legislative Services have publicly disseminated information on the veterans’ exemption and deduction, of which a fair reading would indicate that it is the present, not past, status of the surviving spouse that qualifies.”⁴⁰ Previously, the New Jersey Legislature “defined a widow as a person, not as a marital status.”⁴¹

Adopting this approach, the Court found that “a ‘widow’ is always the widow of her deceased spouse until she herself dies,” and that the benefit “terminates upon remarriage, not widowhood.”⁴² The Court found that Plaintiff qualified based on that language and determination.⁴³ Finally, the Court found that no additional burden was created due to its

General of New Jersey interpreted the term ‘widow’ in a Formal Opinion issued in 1960,” providing that “a taxpayer who would otherwise be entitled to a tax exemption as the widow of a war veteran loses her exemption upon remarriage, since she is no longer a widow. N.J.S.A. 54:4–3.12n expressly recognizes that the remarriage of a former widow terminates her widowhood and, therefore, also her exemption privilege”).

³³ *Pruent-Stevens*, 30 N.J. Tax at 216.

³⁴ *Id.*

³⁵ *Id.* at 223.

³⁶ *Id.* at 217.

³⁷ *Id.* (citing *Hansen v. The Brann & Stewart Co.*, 90 N.J.L. 444, 447 (Sup. Ct. 1913)).

³⁸ *Id.* at 218.

³⁹ *Id.* at 217-19 (citing *In re Estate of Ray*, 13 Misc. 480 (Sur. Ct. 1895)) (Court interpreted ‘husband’ to include ‘widower’); see *Bd. of Trs. of Police men’s & Firemen’s Ret. Fund v. Kennedy*, 547 So.2d 886 (Ala. Civ. App. 1989) (widow was entitled to receive pension benefits, and a subsequent marriage did not forever terminate her right to receive benefits).

⁴⁰ *Pruent-Stevens*, 30 N.J. Tax at 219-20 (focusing on the phrase “unmarried surviving spouses”).

⁴¹ *Id.* at 221.

⁴² *Id.*; *Id.* at 202 (finding that an applicant’s marital status does not become relevant until the VA determines that the deceased spouse was 100% disabled due to military service, and that the Legislature’s use of the qualifying phrase “has not remarried” is meant to reflect current marital status during “widowhood” or “widowerhood”).

⁴³ *Id.* at 220; *Id.* (“In 2005, the Office of Legislative Services published a report regarding ‘Qualifications For

determination of the meaning of widow. In dicta, it also noted that the Legislature could amend the statute and change its definition if its “policy is to provide the exemption during the periods when the surviving spouse is not married.”⁴⁴

Pending Legislation

There are currently fourteen bills related to N.J.S. 54:4–3.30. These fourteen bills, however, do not define the terms widow, widower, widowhood, or widowerhood, and none appear to have been introduced based on the Tax Court’s decision in *Pruent-Stevens*.

There are two bills that are similar to the issue here, but neither directly addresses the issue. Bill S441⁴⁵ exempts certain surviving spouses and surviving civil union partners of certain disabled veterans from components of the realty transfer fee. This bill does not define widowhood or widowerhood. Bill A634/S1263⁴⁶ seeks to eliminate the remarriage prohibition for PFRS (Police and Firemen's Retirement System) death benefits; provides retirement allowance to certain survivors of PFRS members. Though *Pruent-Stevens* uses PFRS as analogies, this bill would not change the issues found in the case.

Conclusion

Staff seeks authorization to conduct additional research and outreach to determine whether defining “widow” and “widower” in N.J.S. 54:4–3.30 or modifying it in some other limited way, would aid in interpreting the terms and obviate the need for additional litigation on this topic.

Eligibility To Receive Veterans Property Tax Deduction,’ in which it cited online publications referring ‘to remarriage in the present tense as opposed to the past tense.’”); *Id.* at 221 (citing N.J.S. 18A:66–2(u)(1)) (“[O]ther unrelated New Jersey statutes do contain such a definition,” specifically the Teachers’ Pension and Annuity Fund ... which reads in pertinent part: “The dependency of such a widow will be considered terminated by the marriage of, or establishment of a domestic partnership by, the widow subsequent to the member’s death”); and *see id.* at 213 (This was found even though the Court determined that the eligibility requirements for the tax exemption would not be retroactive).

⁴⁴ *Pruent-Stevens*, 30 N.J. Tax at 221; *see id.* (“[I]t can erase any ambiguity by adopting such language”).

⁴⁵ S. 1756, 218th Leg. (2018) (unenacted).

⁴⁶ S. 1774, 218th Leg. (2018) (unenacted).