

11-1221 HILLMAN V. MARETTA

DECISION BELOW: 722 S.E.2d 32

LOWER COURT CASE NUMBER: 102042

QUESTION PRESENTED:

VA. CODE ANN. § 20-111.1(A) (2011) provides that a life insurance policy's revocable beneficiary designation naming a then spouse is deemed revoked upon the entry of a Final Decree of Divorce. 5 U.S.C. § 8705(a) provides that the proceeds from a Federal Employees Group Life Insurance (FEGLI) policy should be paid to the beneficiaries properly designated by the employee, and if none, then to the widow of the employee. If VA. CODE ANN. § 20-111.1(A) is preempted by 5 U.S.C. § 8705(a) or any other federal law, VA. CODE ANN. § 20-111.1(D) (2011), gives the widow (or whoever would otherwise be entitled to the insurance proceeds), after FEGLI insurance proceeds have been distributed to an ex-spouse, a domestic relations equitable remedy against the ex-spouse for the amount of the insurance proceeds received.

The Supreme Court of Virginia, in agreement with the Supreme Court of Alabama, the First, Seventh and Eleventh Circuits of the United States Court of Appeals and several lower federal courts, **but** in direct conflict with the Indiana Supreme Court, the Supreme Court of Mississippi, the Court of Appeals of North Carolina, the Appellate Court of Illinois, the Missouri Court of Appeals, the Court of Appeals of Texas, the Superior Court of New Jersey, Appellate Division, the Superior Court of Pennsylvania, and the Court of Appeals of Kentucky, held that 5 U.S.C. § 8705(a) preempts a state domestic relations equitable action against the beneficiary of a FEGLI policy after the insurance proceeds of such policy have been paid to such beneficiary in accordance with the statutory order of precedence in 5 U.S.C. § 8705(a).

The question presented is whether 5 U.S.C. § 8705(a), any other provision of the Federal Employees Group Life Insurance Act of 1954 (FEGLIA) or any regulation promulgated thereunder preempts a state domestic relations equitable remedy which creates a cause of action against the recipient of FEGLI insurance proceeds after they have been distributed, like the one contained in VA. CODE ANN. § 20-111.1(D).

CERT. GRANTED 1/11/2013