

1984 S.C. Op. Atty. Gen. 204 (S.C.A.G.), 1984 S.C. Op. Atty. Gen. No. 84-83, 1984 WL 159890

Office of the Attorney General

State of South Carolina

Opinion No. 84-83

July 24, 1984

*1 The Honorable Bobbie D. Wilson
Probate Judge
Laurens County
Post Office Box 194
Laurens, South Carolina 29360

Dear Judge Wilson:

You have inquired whether the procedure set forth in § 21-5-510, *et seq.*, South Carolina Code of Laws, 1976, as amended, providing for barring dower of a mentally incompetent wife, should continue to be followed. A recent South Carolina Supreme Court decision declared South Carolina's dower rights law unconstitutional. Boan v. Watson, (Opinion No. 22112, filed May 22, 1984, Davis' Advance Sheets, No. 27). The Court, while refusing to apply the decision retroactively inasmuch as it recognized that to do so would upset dower rights of widows which had already vested at the time of the death of the husband, held that widows whose husbands died following the filing of the opinion were barred from dower claims. Therefore, as of the filing of the opinion in Boan v. Watson, a woman has no dower rights except those already vested where a husband has died. Referencing such, any actions pending after the referenced filing date for barring dower of a mentally incompetent wife, would not be necessary and should be dismissed.¹

A copy of this letter will be circulated to the other Probate Judges in the State for their information. If I may be of further assistance, please let me know.

Sincerely,

B. J. Willoughby
Assistant Attorney General

Footnotes

¹ We do not comment here on the specific facts of any particular action which may be before you.

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