

1974 WL 27587 (S.C.A.G.)
Office of the Attorney General
State of South Carolina
January 8, 1974

***1 Re: Estate of Judge G. ?? Baker**

Mr. Purvis W. Collins
Director
S. C. Retirement System
101 Main Street
P. O. Box 1196
Columbia, S. C. 29211

Dear Mr. Collins:

Your office has requested an opinion as to whether or not Judge Baker came within the provisions Section 61-124 of the South Carolina Retirement System.

Judge Baker died while in office as the circuit judge in the State of South Carolina. His estate has now requested pre-retirement death benefits under § 61-124.

Section 61-124 was enacted in 1968 by the General Assembly of South Carolina, Act No 1043. In this act, it was passed so as to provide pre-retirement death benefits for members of the South Carolina Retirement System. In March, 1972, this section was rewritten by bill No. 1062. It also was passed so as to add a pre-retirement death benefit for members of the South Carolina Retirement System. From the foregoing, it is apparent that to be eligible for the benefit of Code Section 61-124 a person must be a member of the South Carolina Retirement system.

Whether or not Judge Baker is entitled to pre-retirement death benefit must hinge upon whether or not he is a member of the South Carolina Retirement System as provided in Code Section 61-12(C). Under this section a member shall mean any teacher or employee included in the membership of this System as provided in Article III of this chapter. The term employee has been defined by Section 61-1(4). Under this section it is specifically provided that the word employee shall not include supreme and circuit court judges. Since circuit court judges are specifically excluded as being employees under the South Carolina Retirement System, we have no alternative but to conclude that they are not members of the South Carolina Retirement System and are, therefore, not entitled to the provisions of Section 61-124 which specifically provides for pre-retirement death benefits for members of the South Carolina Retirement System.

It is also important to note that Title 61 includes all retirement systems. It is not limited to the South Carolina Retirement system but also includes all retirement systems within the state organization. Under the retirement systems in the state, there is provided retirement for supreme court justices and circuit court judges in Chapter V of Title 61. This would also seem to indicate that the circuit court judges have been provided with a retirement system separate and apart from the South Carolina Retirement System and again would not be entitled to the benefits of Section 61-124.

Sincerely yours,

A. Camden Lewis
Assistant Attorney General

1974 WL 27587 (S.C.A.G.)

End of Document

© 2018 Thomson Reuters. No claim to original U.S. Government Works.