

## COA Opinion: Military spouse remains financially responsible to compensate former spouse in amount equal to ordered share of retirement pay where military spouse elects to receive disability benefits instead of retirement pay

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Ronald is a veteran who served in the Navy for approximately 24 years. Ronald engaged in combat-related activities and was exposed to Agent Orange while serving in Vietnam. Ronald and Joan divorced in 1989. As part of the property division, Joan was awarded 50 percent of Ronald's Navy disposable retirement pay, or pension. The judgment of divorce incorporated a Qualified Domestic Relations Order (QDRO), which enforced the 50-percent division and prohibited Ronald from making another benefit election that would reduce the monthly pension allotment without Joan's written consent. In 2008, Ronald was officially diagnosed by the government as being disabled, as a result of his combat-related activities and exposure to Agent Orange, and therefore entitled to receive disability benefits. Ronald elected to receive combat-related special compensation (CRSC), which resulted in the termination of his retirement pay and the cessation of funds to Joan under the QDRO. In [Megee v Carmine, No. 292207](#), the Court of Appeals reversed the trial court's order that essentially directed Ronald to give Joan half of his CRSC. Although the Court of Appeals agreed with the trial court that Ronald must compensate Joan under the QDRO, the Court of Appeals reversed the trial court's order because it required Ronald to pay Joan from his CRSC funds, and in an amount equal to half of his CRSC rather than half of his anticipated retirement pay.

With this opinion, the Court of Appeals declared that Michigan was joining other jurisdictions that have provided relief to the non-military spouse where the military spouse has waived retirement pay in favor of disability benefits. The Court of Appeals emphasized that it was not ruling that a state court has authority to divide a military spouse's CRSC, nor that a court could order the military spouse to pay the former spouse out of CRSC funds. Rather, the compensation may come from any source, but must be paid in order to avoid contempt of court.