

1977 S.C. Op. Atty. Gen. 146 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-192, 1977 WL 24534

Office of the Attorney General

State of South Carolina

Opinion No. 77-192

June 22, 1977

**Re: Estate of Robert L. Brown, Jr. (Deceased) SSN XXX-XX-XXXX**

\*1 Mr. Purvis W. Collins

Director

South Carolina Retirement System

Post Office Box 11960

Columbia, SC 29211

Dear Mr. Collins:

You have requested the advice of this Office as to the disposition of the account of the above-named member. There are two payments involved, a refund of contributions (§§ 9-1-1650, 1660, 1976 Code of Laws) and a Preretirement Death Benefit payment (§ 9-1-1770). The difficulty is that the designated beneficiary, Mrs. June L. Brown, has been convicted in North Carolina of the second degree murder of her husband, the deceased member.

Section 21-1-50 and its North Carolina counterpart ([§ 31A-4, General Statutes of North Carolina](#)) both provide that one may not receive any benefit as the result of his having unlawfully killed a person from whom he would have inherited.

In the present case, where the wife is disqualified and the couple has children, the proceeds normally pass to the husband's estate to be distributed to the children. While §§ 9-1-1650, 1660, and 1770 make no express provision for this eventuality, it is the opinion of this Office that this situation is analogous to cases in which an insurance policy has only one named beneficiary; in such cases, the courts generally hold that the insurer cannot retain the proceeds, but must pay them to the estate or the heirs of the insured.

Accordingly, by copy of this letter to Mr. Bayliss the administrator of Mr. Brown's estate, I am asking that he provide you with a certified copy of the Letters of Administration for your files; while this would probably be legally sufficient to authorize payment to him by the Retirement System, I am also asking that he send a certified copy of any document indicating that a guardian has been appointed for the minor children. This will insure that the children will be notified by the Retirement System of the existence of these funds.

Sincerely yours,

Kenneth P. Woodington

Assistant Attorney General

P.S. When the above documents are received, it might be well for Mr. Bayliss to sign a receipt and release; if there is no form on hand for this, I will provide one.

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