

THE STATE OF NEW HAMPSHIRE SUPREME COURT

Docket No. 2021-0308

Petition of Louis L. Lafasciano

**Appeal Pursuant To A Writ Of Certiorari
(NEW HAMPSHIRE RETIREMENT SYSTEM)**

**BRIEF FOR INTERVENOR
MARGARET EMILY MURRAY**

**Margaret Emily Murray
21 Old Mont Vernon Road
Amherst, NH 03031**

TABLE OF CONTENTS

1. QUESTIONS PRESENTED 3

2. RELEVANT DOCUMENTS 3

3. SUMMARY OF EVENTS 3

4. ARGUMENT 4

5. CONCLUDING STATEMENT 5

6. CERTIFICATE OF SERVICE 5

QUESTIONS PRESENTED

1. Whether Margaret surrendered her survivorship benefit at any time, either through divorce, remarriage, or voluntary surrender.
2. Whether Louis had the right to request termination of the benefit in 2016.
3. Whether Louis has valid grounds to appeal the final decision of the NHRS.

RELEVANT DOCUMENTS

All documents regarding the decision of the New Hampshire Retirement System, including our divorce agreement, have previously been submitted to the Court by the NHRS representing attorney, Peter Foley.

SUMMARY OF EVENTS

The following is a summary of events leading up to this Supreme Court appeal.

In 2010, Louis left his position mid-year as Superintendent of SAU 36, White Mountains Regional School District. He chose to begin collecting his NHRS pension, and elected the plan that gave me the survivorship benefit, should he predecease me. We had been married for thirty-two years at that point. We divorced in October of 2014, after thirty-six years of marriage, and he remarried six weeks later.

Our court-ordered mediation produced a divorce agreement that specifically states that no survivorship benefits were surrendered as part of that agreement. I confirmed this by phone with the NHRS in October, 2014; only I could surrender the benefit, either voluntarily or by remarriage.

Louis approached the NHRS at least twice and asked to terminate my status as survivor in order to increase his monthly pension amount.

In the spring of 2020, I called NHRS to get an estimate of my anticipated pension amount as I planned for my own future retirement from teaching. At the end of the conversation, I asked about my survivorship benefit on Louis's plan, and was shocked to be told I was no longer listed as beneficiary should he predecease me. I was put in touch with Mark Cavanaugh as legal representative for NHRS, and informed him of the situation. I submitted my divorce documents, as well as Louis's original retirement documents. I have the original copies of both. NHRS reviewed all documents, and proceeded from that point with Louis. I was granted Intervenor status in that process. After a full year of review and appeal with the NHRS, the final decision was made that my benefit be restored. Louis has responded to that decision with this appeal to the New Hampshire Supreme Court to deny me the survivorship benefit he chose in 2010.

ARGUMENT

Our mediated divorce agreement specifies that I do not make any claim on Louis's pension, but I also *do not* surrender survivorship benefits. I have not remarried, nor have I voluntarily surrendered my survivorship benefit. Despite Louis's claims to the contrary, our divorce has not been revisited in any Vermont court. I have never received notice from Louis, the Vermont Family Court, or any lawyer that Louis was seeking to revisit the agreement. Louis had no legal standing to request the change the terms of his NHRS pension. Since his initial request to increase his monthly pension

by removing me as survivor, no circumstances have changed that would now allow him to do so.

CONCLUDING STATEMENT

Despite a court-ordered mediation agreement, and a full year of review and appeal with the NHRS, Louis still tries to deny my lifetime survivor benefit, should he predecease me, for a minimal increase in his monthly pension. The NHRS has corrected the error, but the fact remains Louis knows his request to change the pension payment option was contrary to both the retirement plan he selected in 2010 and the divorce agreement he signed in 2014. This case has created an unnecessary drain on the resources of the New Hampshire Retirement System as well as the Court. I seek relief in the confirmation of the original retirement plan Louis chose in 2010, which maintains my status as survivor.

Respectfully Submitted,

April 12, 2022

Margaret Emily Murray
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Amherst, NH 03031

CERTIFICATE OF SERVICE

I, Margaret Emily Murray, hereby certify that 2 copies of this brief have been this 12th day of April, 2022 to both the Petitioner and the Attorney for the New Hampshire Retirement System Board of Trustees.

Margaret Emily Murray