

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Property Tax

ESTHER SIMS, )  
 )  
 Plaintiff, ) TC-MD 030205C  
 )  
 v. )  
 )  
 COLUMBIA COUNTY ASSESSOR, )  
 )  
 Defendant. ) **DECISION**

This case concerns an application for a partial property tax exemption under ORS 307.250,<sup>1</sup> for the 2003-04 tax year, denied by Defendant because the name on the marriage license did not match the name on the death certificate, the military discharge paper DD 214 (DD 214) or the exemption application. Plaintiff filed the appeal as a small claims matter but the issue does not involve a question of value, as required by ORS 305.514, and the court therefore administratively converted the case to a standard appeal, waiving the additional \$15 filing fee because the court had previously granted Plaintiff's fee waiver request.

**I. STATEMENT OF FACTS**

According to the evidence, Plaintiff married Charlie Francis Davidson in 1940. Charlie was born out of wedlock and his mother later married a man with the last name Sims. The marriage occurred while Charlie was a boy, but he was not legally adopted by his stepfather. Nonetheless, Charlie took the name Sims growing up. Upon the insistence of his bride-to-be, Plaintiff and her husband Charlie were married under the name Davidson. Charlie entered the U.S. Army in 1944 as C. F. Sims. After they were married, but before Charlie entered the Army, he and Plaintiff had taken the name Sims. The

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<sup>1</sup> All references to the Oregon Revised Statutes (ORS) are to 2001.  
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change was not made legally. The death certificate, issued by the State of California in 1967, lists the deceased as Charles Francis Sims. Thus, the marriage certificate shows the name Davidson, but the DD 214, the death certificate, and the application for exemption all show the name Sims.

## II. ANALYSIS

The exemption available under ORS 307.250 applies to qualifying war veterans and their “surviving spouse” who remains unmarried. See ORS 307.250(1)(c) (providing for a \$8,750 exemption for the surviving spouse of a 40 percent disabled veteran) and ORS 307.250(2)(b) (providing for a \$11,670 exemption for the surviving spouse of a veteran with a 40 percent service-connected disability). The parties do not dispute that Sims was a qualifying veteran. Moreover, Defendant believes that Plaintiff was married to Charlie Sims and that Plaintiff has not remarried. The only question is whether the exemption can be allowed despite the disparity in the names. The applicable administrative rule, OAR 150-307.250(1)(c), provides: “(1) *Surviving spouse of a war veteran*: A man or woman who is legally married to a war veteran at the time of the war veteran’s death.” (Emphasis in original). Because the prerequisite for the exemption is a legal marriage and not a match of the names in all the relevant paperwork, the court finds Plaintiff is entitled to the partial exemption. The court found Plaintiff credible on the question of her marriage to Charlie Sims, as did Tom Linhares, Defendant’s witness at the July 21, 2003, hearing.

## III. CONCLUSION

The evidence shows that Plaintiff was married to a qualifying war veteran as defined in the statute. Accordingly, although Defendant made what appeared a reasonable decision at the time of the application, it erred in denying Plaintiff’s request for the exemption. Now, therefore,

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IT IS THE DECISION OF THIS COURT that Plaintiff's request for "help" on her property taxes in the form of a partial exemption under ORS 307.250 is granted.

Dated this \_\_\_\_\_ day of July, 2003.

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DAN ROBINSON  
MAGISTRATE

**IF YOU WANT TO APPEAL THIS DECISION, FILE A COMPLAINT IN THE REGULAR DIVISION OF THE OREGON TAX COURT, BY MAILING TO: 1163 STATE STREET, SALEM, OR 97301-2563; OR BY HAND DELIVERY TO: FOURTH FLOOR, 1241 STATE STREET, SALEM, OR. YOUR COMPLAINT MUST BE SUBMITTED WITHIN 60 DAYS AFTER THE DATE OF THE DECISION OR THIS DECISION BECOMES FINAL AND CANNOT BE CHANGED.**

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE DAN ROBINSON ON JULY 25, 2003. THE COURT FILED THIS DOCUMENT ON JULY 25, 2003.**