

Reduced benefits are not payable to an already entitled spouse, at least age 62 but under full retirement age, who no longer has a child in care, unless the spouse elects to receive reduced benefits. The respondents are entitled spouses seeking reduced Social Security benefits.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 30,000.

Frequency of Response: 1.

Average Burden Per Response: 2 minutes.

Estimated Annual Burden: 1,000 hours.

5. *Voluntary Customer Satisfaction Surveys in Accordance with E.O. 12862 for the Social Security Administration—0960–0526.* Under the auspices of E.O. 12862, Setting Customer Service Standards, SSA conducts multiple customer satisfaction surveys each year. These voluntary customer satisfaction assessments include paper, Internet, and

telephone surveys; mailed questionnaires; focus groups; and customer comment cards. The purpose of these surveys is to assess customer satisfaction with the timeliness, appropriateness, access, and overall quality of the services SSA provides. The respondents are direct recipients of SSA services and professionals and other individuals who work on behalf of SSA beneficiaries.

Type of Request: Revision of an OMB-approved information collection.

| | Fiscal year 2006 | Fiscal year 2007 | Fiscal year 2008 |
|-------------------------------|------------------------------------|------------------------------------|---------------------------------|
| Number of Respondents | 1,352,181 | 1,356,001 | 1,357,851. |
| Frequency of Response | 1 | 1 | 1. |
| Range of Response Times | Varies (5 minutes to 1½ hours) ... | Varies (5 minutes to 1½ hours) ... | Varies (5 minutes to 1½ hours). |
| Estimated Annual Burden | 119,646 | 120,993 | 121,191. |

Note: Please note that the figures above differ slightly from those published in the 60-day advance Notice. The reason for this difference is that SSA obtained updated burden data since publishing the 60-day **Federal Register** Notice.

Dated: March 30, 2006.

Elizabeth A. Davidson,

Reports Clearance Officer, Social Security Administration.

[FR Doc. E6–4913 Filed 4–5–06; 8:45 am]

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SOCIAL SECURITY ADMINISTRATION

Social Security Acquiescence Ruling 06–1(2); Fowlkes v. Adamec, 432 F.3d 90 (2d Cir. 2005): Determining Whether an Individual Is a Fugitive Felon Under the Social Security Act (Act)—Titles II and XVI of the Act

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Acquiescence Ruling.

SUMMARY: In accordance with 20 CFR 402.35(b)(2), the Commission of Social Security gives notice of Social Security Acquiescence Ruling 06–1(2).

DATES: *Effective Date:* April 6, 2006.

FOR FURTHER INFORMATION CONTACT:

Stephanie Fishkin Kiley, Office of the General Counsel, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–3483, or TTY (800) 966–5609.

SUPPLEMENTARY INFORMATION: We are publishing this acquiescence ruling in accordance with 20 CFR 402.35(b)(2).

An acquiescence ruling explain how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act (Act) or regulations

when the Government has decided not to seek further review of that decision or is unsuccessful on further review.

We will apply the holding of the court of appeals decision as explained in this acquiescence ruling to all determinations or decisions at all levels of the administrative review process that an individual is a fugitive felon pursuant to sections 202(x)(1)(A), 205(j)(2)(C), 1611(e)(4)(A), and 1631(a)(2)(B) of the Act. The ruling applies to all title II and title XVI applicants, title II beneficiaries, and title XVI recipients who live in Connecticut, New York, or Vermont. If we made a determination or decision that an individual was a fugitive felon under the relevant provisions of the Act, which affected an individual's application for title II benefits or title XVI payments, or resulted in nonpayment of title II benefits or suspension of title XVI payments, between December 6, 2005, the date of the court of appeals decision, and April 6, 2006, the effective date of this acquiescence ruling, the individual may request application of the acquiescence ruling to the prior determination or decision. The individual must demonstrate, pursuant to 20 CFR 404.985(b)(2), 416.1485(b)(2), that application of this acquiescence ruling could change our prior determination or decision.

Additionally, when we received this precedential court of appeals decision and determined that an acquiescence ruling might be required, we began to identify those cases within the circuit that might be subject to readjudication if an acquiescence ruling was subsequently issued. Because we have determined that an acquiescence ruling is required, we will send a notice to individuals we have identified whose

title II or title XVI application, title II benefits, or title XVI payments may be affected by the acquiescence ruling. The notice will provide information about this ruling and the right to request readjudication under it. It is not necessary for an individual to receive a notice in order to request relief based on this acquiescence ruling.

If this acquiescence ruling is later rescinded as obsolete, we will publish a notice in the **Federal Register** to that effect as provided for in 20 CFR 404.985(e), 416.148(e). If we decide to relitigate the issue covered by this acquiescence ruling as provided for by 20 CFR 404.985(c), 416.1485(c), we will publish a notice in the **Federal Register** stating that we will apply our interpretation of the Act or regulations involved and explaining why we have decided to relitigate the issue.

(Catalog of Federal Domestic Assistance, Program Nos. 96.001 Social Security—Disability Insurance; 96.002 Social Security—Retirement Insurance; 96.004 Social Security—Survivors Insurance; 96.006—Supplemental Security Insurance)

Dated: March 29, 2006.

Jo Anne B. Barnhart,

Commissioner of Social Security.

Acquiescence Ruling 06–1(2)

*Fowlkes v. Adamec, 432 F.3d 90 (2d Cir. 2005): Determining Whether an Individual is a Fugitive Felon Under the Social Security Act (Act)—Titles II and XVI of the Act.*¹

Issue: Whether an outstanding warrant or similar order for the arrest of an individual on a felony charge is, on its own, sufficient evidence for the Agency to determine that an individual is a fugitive felon under the Act and, therefore, not entitled to receive title II

¹ Although *Fowlkes* was a title XVI case, the Act provides the same standard under title II for determining whether an individual is a fugitive felon.

benefits or ineligible to receive title XVI payments.

Statute/Regulation/Ruling Citation:

Sections 202(x)(1)(A) and 1611(e)(4) of the Social Security Act (42 U.S.C. 402(x)(1)(A) and 1382(e)(4)); 20 CFR 416.202(f) and 416.1339.

Circuit: Second (Connecticut, New York, Vermont). *Fowlkes v. Adamec*, 432 F.3d 90 (2nd Cir. 2005).

Applicability of Ruling: This ruling applies to all determinations or decisions at all levels of the administrative review process that an individual is a fugitive felon within the meaning of sections 202(x)(1)(A) and 1611(e)(4) of the Act. This ruling applies to all title II and title XVI applicants, title II beneficiaries, and title XVI recipients who live in Connecticut, New York, or Vermont.

Description of Case: In 1997, Felipe Fowlkes applied for and was found eligible to receive supplemental security income (SSI) disability payments under title XVI of the Act. In September 1999, he was indicted in Virginia on two felony charges. On March 16, 2000, the Agency notified Mr. Fowlkes, who at that time resided in New York, that his eligibility for SSI payments would be suspended retroactively to September 1999 because of two outstanding felony warrants from Virginia. Mr. Fowlkes requested administrative review and, after a hearing, an ALJ issued a decision finding that because he had not satisfied the outstanding felony arrest warrants, Mr. Fowlkes was fleeing to avoid prosecution as described in section 1611(e)(4) of the Act, 42 U.S.C. 1382(e)(4). Accordingly, the ALJ found that suspension of Mr. Fowlkes' SSI payments was proper because he was a fugitive felon under the Act.

Mr. Fowlkes sought judicial review, not under the Act, but based on a claim that the Agency violated his civil rights. The district court dismissed Mr. Fowlkes' civil rights claim, without reaching the issue of whether or not Mr. Fowlkes was a fugitive felon under the Act. On appeal, the Second Circuit converted the action into one seeking review, under section 1631(c)(3) of the Act, of the Agency's fleeing felon determination and remanded the case to the district court for further proceedings consistent with its opinion.

Holding: The Second Circuit held that the Agency could not conclude that an individual is fleeing to avoid prosecution, custody, or confinement from the mere fact that an outstanding felony arrest warrant or similar order exists. Specifically, the court stated that "fleeing" is understood to mean the conscious evasion of arrest or prosecution. The court determined that for "flight" to result in a suspension of benefits, it must be undertaken with the specific intent to avoid prosecution. Accordingly, the court concluded that for the Agency to suspend benefits on the basis that an individual was "fleeing," the Agency must have some evidence that the individual knows that his apprehension is sought. The court found the implementing regulation consistent with this construction of the Act. In addition, the court interpreted the implementing regulation to permit the Agency to suspend benefits only as of the date of a warrant or order issued by

a court or other appropriate tribunal on the basis of a finding that an individual has fled or was fleeing from justice.

Statement as to How Fowlkes Differs from the Agency's Policy: We interpret section 1611(e)(4) of the Act to mean that a person is "fleeing to avoid prosecution, custody, or confinement" when a person has an outstanding warrant for his or her arrest, even if that person is unaware of that warrant.

The Second Circuit Court of Appeals rejected this interpretation. The Second Circuit held the term "fleeing" to mean "the conscious evasion of arrest or prosecution." The court determined that for "flight" to result in a suspension of benefits, it must be undertaken with the specific intent to avoid prosecution. Thus, for the Agency to take adverse action against an individual described in the Act as "fleeing to avoid prosecution, custody, or confinement," the Agency must have some evidence that the individual knew his apprehension was sought.

Explanation of How SSA Will Apply the Fowlkes Decision Within the Circuit: This ruling applies to all determinations or decisions at all levels of the administrative review process that an individual is a fugitive felon within the meaning of sections 202(x)(1)(A) and 1611(e)(4) of the Act. This ruling applies to all title II and title XVI applicants, title II beneficiaries and title XVI recipients who live in Connecticut, New York, or Vermont.

We will not use the existence of an outstanding felony arrest warrant or similar order as the sole basis for finding that an individual is fleeing to avoid prosecution, custody, or confinement and is, therefore, a fugitive felon subject to withholding of title II benefits or ineligibility to receive title XVI payments. Before we determine that a title II or title XVI applicant, title II beneficiary, or title XVI recipient is a fugitive felon, we must have evidence that the individual knows that there is an outstanding felony arrest warrant, and the outstanding arrest warrant must have been issued on the basis that the individual has fled or is fleeing from justice.

Cross References: Program Operations Manual System, sections SI 00530.010 and GN 02613.010.

[FR Doc. 06-3259 Filed 4-5-06; 8:45 am]

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DEPARTMENT OF STATE

[Public Notice 5368]

Bureau of Political—Military Affairs: Directorate of Defense Trade Controls; Notifications to the Congress of Proposed Commercial Export Licenses

SUMMARY: Notice is hereby given that the Department of State has forwarded the attached Notifications of Proposed Export Licenses to the Congress on the dates indicated pursuant to sections 36(c) and 36(d) and in compliance with section 36(f) of the Arms Export Control Act (22 U.S.C. 2776).

DATES: *Effective Date:* As shown on each of the 30 letters.

FOR FURTHER INFORMATION CONTACT: Mr. Peter J. Berry, Director, Office of Defense Trade Controls Licensing, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State (202) 663-2806.

SUPPLEMENTARY INFORMATION: Section 36(f) of the Arms Export Control Act mandates that notifications to the Congress pursuant to sections 36(c) and 36(d) must be published in the **Federal Register** when they are transmitted to Congress or as soon thereafter as practicable.

September 27, 2005.

Hon. J. Dennis Hastert, Speaker of the House of Representatives.

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of \$100,000,000 or more.

The transaction contained in the attached certification involves the export of technical data, defense services and hardware to related to the sale and inspection of U-125A aircraft to Japan.

The United States Government is prepared to license the export of this item having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Matthew A. Reynolds,
Acting Assistant Secretary Legislative Affairs.

Enclosure: Transmittal No. DDTC 038-05.

November 14, 2005.

Hon. J. Dennis Hastert, Speaker of the House of Representatives.

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of \$100,000,000 or more.

The transaction contained in the attached certification involves the export to the United Kingdom of technical data, defense services and hardware for the manufacture of the AN/VIC-3 Vehicle Intercommunications System.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification, which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.