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*J. Bateman*

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

**FILE:** B-190646

**DATE:** January 25, 1978

**MATTER OF:** Paul P. Magallanes - Travel expenses while on leave

**DIGEST:** Employee whose authorized leave of absence away from permanent duty station is shortened by directions to perform temporary duty at another place and who returns to headquarters before reporting for temporary duty is not entitled to reimbursement of travel expenses attributable to cost of returning from leave point to headquarters.

This action is in response to a request from Mr. D. E. Cox, a certifying officer of the Federal Bureau of Investigation (FBI), United States Department of Justice, received in our Office on November 7, 1977. Mr. Cox has requested our opinion concerning the claim of an FBI employee, Mr. Paul P. Magallanes, for reimbursement of travel expenses he incurred in returning from his leave point in Minnesota to his headquarters in Los Angeles, California, while en route to temporary duty in San Diego, California.

Mr. Cox reports in his submission letter that Mr. Magallanes arranged to be on annual leave from July 18, 1977, to August 9, 1977, and traveled by car to Bovey, Minnesota, with his family. While on leave he was notified that he was to testify in a trial beginning on August 5, 1977, in San Diego. It was necessary for Mr. Magallanes to travel to Los Angeles before proceeding to San Diego. He therefore left Bovey and traveled from Hibbing, Minnesota, to Los Angeles by plane on August 3, 1977, using a Government Transportation Request (GTR).

Mr. Cox reports that the cost of the GTR was disallowed because "Mr. Magallanes' leave record indicated that he had been at the leave point for the majority of his scheduled leave and he did not return to the leave point at the conclusion of his official duty."

Mr. Magallanes requested reconsideration of the disallowance and contends that it is unfair to hold him liable for the cost of

the CTR since his return to duty status was in the interest of the Government and at great inconvenience to himself and his family in that they had to drive 2,200 miles without his assistance while returning to Los Angeles. He explains that he did not return to his leave point because the trial had been rescheduled for August 11, 1977, and he was on call after returning to Los Angeles on August 8, 1977.

As Mr. Cox points out, the general rule is that when an employee proceeds to a point away from his official duty station on annual leave he assumes the obligation of returning at his own expense. 11 Comp. Gen. 336 (1932); 39 id. 611 (1960); B-182449, January 19, 1976. However, if an employee is interrupted while on leave by directions to perform temporary duty at his permanent duty station or elsewhere and is then permitted to resume that leave, he is entitled to the travel expenses involved. 16 Comp. Gen. 481 (1936); 25 id. 347 (1945); 27 id. 640 (1948); 28 id. 237 (1948). But if the employee is required or chooses to return to his permanent duty station after completion of the temporary duty, the Government is chargeable only with the difference between the cost attributable to the temporary duty and what it would have cost the employee to return to his headquarters direct from the place where he was on leave. 16 Comp. Gen. 481 (1936); 30 id. 443 (1951); B-185070, April 13, 1976.

Although under the general rule an employee is required to return to his headquarters from a leave point at his own expense, in 39 Comp. Gen. 611 (1960), we considered a proposed Air Force regulation which provided for payment of return travel expenses, when, due to unforeseen circumstances, an employee was recalled to his permanent duty station very shortly after arriving at his point of leave. We felt that the proposal was subject to a variety of interpretations and so to insure uniformity of application, we proposed that it contain language providing that the Government would assume the travel expenses when an employee, on a period of authorized leave of 5 days or more, was recalled within 24 hours after his arrival at his point of leave. This language is now incorporated into paragraph C4555-5, Vol. 2 of the Joint Travel Regulations.

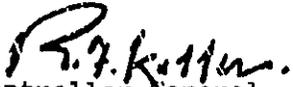
In Matter of F. A. Calabrese, B-186129, November 17, 1976, we stated in regard to 39 Comp. Gen. 611, that, "Despite our approval of such restrictive conditions, we recognize that other factors than time of recall may be for consideration in making a determination

B-190646

that it would be unreasonable to require the employee to assume the expenses of his return travel." As an example of these factors we mentioned that it might be appropriate for an agency to consider whether the purpose of an employee's trip has been defeated by a recall to duty.

In Calabrese, we did not intend to set up a new test for our own decisions but rather to outline some factors that would be appropriate for incorporation into agency regulations providing for payment of travel expenses in these situations.

Mr. Cox has informed us that the FBI has no such regulations. As a result, the general rule is for application and Mr. Magallanes is therefore not entitled to reimbursement for the expenses of his travel from Minnesota to Los Angeles.

  
Deputy Comptroller General  
of the United States