

Martinez



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Maximo D. Bas, et al. - Backpay - World War II Philippine Guerrillas

File: B-230322, B-230323, B-230324, B-230326, B-230327

Date: June 9, 1988

DIGEST

The barring act, 31 U.S.C. § 3702(b)(1), provides that a claim against the government must be received in the General Accounting Office (GAO) within 6 years of accrual to be considered on its merits, and GAO has no authority to waive the time limitation. Therefore, claims for wartime compensation by former members of a World War II Filipino guerrilla organization first received in GAO in 1987 are barred from consideration as being untimely received. In any event, such claims are for presentation to and adjudication by the Philippine government under a June 29, 1967, agreement, whereby the United States agreed to transfer funds to the Philippine government in full settlement of Philippine guerrilla claims and the Philippine government agreed to receive and adjudicate such claims.

DECISION

This action is in response to an appeal of settlements by our Claims Group which disallowed claims by five individuals^{1/} for compensation believed due for service rendered during World War II in the Philippines as members of the Walter Cushing Guerrilla Organization. The disallowance was based on the provisions of the barring act, as amended, 31 U.S.C. § 3702(b)(1), which bars claims not received within 6 years of the date they accrued. In the appeal it is contended that the compensation in question is payable as a result of Congressional recognition of such service, and that the members of the organization were unaware of the provisions of the barring act.

To the extent the claimants may have had any claims directly against the United States for World War II

^{1/} The claimants are Maximo D. Bas, Pedro C. Ducducan, Betty Fuentes Artificio, Agapito P. Doria, and Adriano B. Campo.

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service, they would appear to be subject to the barring act of October 9, 1940, ch. 788, 54 Stat. 1061, as amended by section 801 of Public Law 93-604, 88 Stat. 1965, 31 U.S.C. § 3702(b)(1), which provides that a claim against the government under this section must be received by the Comptroller General within 6 years after the claim accrues.

The barring act does not merely establish administrative guidelines for this Office. It specifically prescribes the time within which a claim must be received in this Office following the date of accrual in order for it to be considered on its merits. We have no authority to waive the time limitation the act imposes. 42 Comp. Gen. 622 (1963).

Since these claims were first received in our Office in 1987, over 40 years after they accrued, they are barred from our consideration by 31 U.S.C. § 3702(b)(1).

It appears, however, that these claims are of a type which are properly for presentation to and adjudication by the Philippine government, not the United States government. Funds for payment of items of pay and allowances authorized for members of the organized military forces of the Commonwealth of the Philippines serving in World War II, including certain recognized guerrilla forces, were appropriated by the United States government and transferred to the Philippine government for payment. In this regard an agreement between the United States and the Republic of the Philippines entitled "Settlement of Veterans Claims" became effective on June 29, 1967. That agreement provided for the payment of \$29,500,000 by the United States to the government of the Republic of the Philippines in full settlement of various claims for backpay and allowances arising from military service by recognized Philippine guerrillas during World War II who had not been previously paid and whose names appeared on the United States approved revised final roster of March 1948. B-168256, December 2, 1969. There is no action that this Office can take in this matter, as such claims were to be submitted to and adjudicated by the Philippine government, which also agreed to hold the United States harmless from liability for such claims.

It should be noted that any claims filed under this agreement would appear not to be covered by the barring act, although the Philippine government may have enacted and applied its own statute of limitations with respect to the filing of claims. In any event that is a matter for consideration by that government.

Accordingly, we have no authority to approve payment of these claims.

for 
Comptroller General
of the United States