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The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Alan Pacanowski - Reimbursement of Fines for
Traffic Violations

File: B-231981

Date: May 19, 1989

DIGEST

Department of the Army employee who paid fines to Panamanian police for allegedly fictitious traffic violations while on temporary duty in Panama may not be reimbursed by the government for the fines as expenses of official travel. Ordinarily fines are considered personal to the employee and payment of them is his personal responsibility. However, in view of the unusual circumstances the employee describes concerning these fines, the claim may be appropriate for consideration by the Army under the Military Personnel and Civilian Employees Claims Act of 1964.

DECISION

This is in response to a request for an advance decision from Mr. Paul J. Dominick, Finance and Accounting Officer, Headquarters Tobyhanna Army Depot.^{1/} Mr. Dominick asks whether he may use appropriated funds to reimburse an Army employee, Mr. Alan Pacanowski, for fines Mr. Pacanowski paid for allegedly fictitious traffic violations while on temporary duty in Panama. For the reasons set forth below, we conclude that Mr. Pacanowski may not be reimbursed for this purpose from temporary duty travel expense funds. However, his claim may be presented to his agency for consideration under the Military Personnel and Civilian Employees Claims Act of 1964, 31 U.S.C. § 3721, as a claim for loss of personal funds incident to service.

Mr. Pacanowski was in Panama on a temporary duty assignment from April 9 through April 29, 1987. He states that on April 14, 1987, while driving en route to a training

^{1/} The request for decision was forwarded to our Office by the Per Diem, Travel and Transportation Allowance Committee which assigned it Control No. 88-9.

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facility in Corosal, he was detained by a Panamanian police officer for allegedly failing to give a proper right turn signal while making a right turn. Mr. Pacanowski reports that he in fact gave the correct turn signal. The police officer stated the fine to be \$15 and stated that he could be paid directly and he would deliver the payment on behalf of Mr. Pacanowski to Police Headquarters. Mr. Pacanowski made payment in full to the police officer whereupon the police officer facilitated Mr. Pacanowski's continued travel.

Mr. Pacanowski reports that a second incident took place on April 29, 1987, while he was driving to the airport to return to the United States. A police officer stopped Mr. Pacanowski for allegedly exceeding the speed limit. Mr. Pacanowski reports that the speed limit was 30 K.P.H. (kilometers per hour) and that he was traveling at a maximum speed of 15 K.P.H. due to "bumper to bumper" traffic conditions. The police officer allegedly informed Mr. Pacanowski that the fine would be \$50, but after much bartering the fine was reduced to \$20. Mr. Pacanowski reported that he "was instructed to put the \$20 inside my license and return it to him. He removed the \$20, handed back the driver's license, stopped all rush hour traffic and allowed us to leave the area and proceed to the airport."

Mr. Pacanowski states that in both incidents a receipt was requested but the police officers refused to issue one. Further, the record indicates that Mr. John Waskovich, a fellow employee, was in the automobile with Mr. Pacanowski during both incidents, and the record contains a signed statement by Mr. Waskovich attesting to the accuracy of Mr. Pacanowski's accounting of the incidents.

As a general rule, appropriated funds may not be used to reimburse an employee for a fine imposed upon him for an offense committed while in the performance of, but not a part of, his official duties. See 31 Comp. Gen. 246, 247 (1952), wherein an employee was fined for double-parking while engaged in the performance of his official duties. See also 57 Comp. Gen. 270 (1978). The significant factor in distinguishing cases where the employee may be reimbursed or his fine paid by the United States from those where the fine is the personal responsibility of the employee is whether the action for which the fine is imposed is a necessary part of the employee's official duties. The incurrence of fines for traffic offenses committed while on official duty has not been considered a necessary part of the employee's official duties. Compare 57 Comp. Gen. 476 (1978), and 44 Comp. Gen. 312 (1964).

Accordingly, the Army may not reimburse Mr. Pacanowski's fines as expenses of his temporary duty travel.

This claim, however, may be for consideration by the Army under the Military Personnel and Civilian Employees Claims Act of 1964, as amended, 31 U.S.C. § 3721 (1982). This statute authorizes the head of an agency to settle personal property loss or damage claims of employees of that agency which are found to be incident to government service and do not exceed \$25,000. 31 U.S.C. § 3721(b). Such a claim may be allowed only if, (1) it is substantiated, (2) possession of the property was reasonable or useful, and (3) the loss was not caused by the negligent or wrongful act of the employee. 31 U.S.C. § 3721(f). See also U.S. Forest Service, 64 Comp. Gen. 93 (1984); Edward B. Reese, B-208627, Sept. 16, 1983. The settlement of a claim under those provisions is for the agency to make and is not subject to our review. See 31 U.S.C. § 3721(k), and 47 Comp. Gen. 316 (1967).

In some cases claims by individuals for cash lost or stolen incident to their service have been considered appropriate for payment under the Claims Act of 1964. See Sergeant Jimmie B. Shook, B-190125, Dec. 28, 1977; and B-185008, Oct. 29, 1975. In view of the unusual circumstances described by Mr. Pacanowski out of which his claim arose, it may be appropriate for consideration by the Army under that Act. See in this regard Army Regulation 27-20, chapter 11.

Milton J. Fowler
for Comptroller General
of the United States