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The Comptroller General  
of the United States

Washington, D.C. 20548

# Decision

**Matter of:** John M. Nelson

**File:** B-238379

**Date:** March 16, 1990

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## DIGEST

Under 31 U.S.C. § 3702(b), the claim of a former Air Force member for back pay and allowances may not be considered, since it was received in GAO more than 6 years after it first accrued.

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## DECISION

We have been asked to reconsider the claim of former Air Force member John M. Nelson for back pay and allowances. Our Claims Group determined that Mr. Nelson's claim was barred by the Barring Act, 31 U.S.C. § 3702(b). For the reasons presented below, we agree with the Claims Group's determination.

Mr. Nelson claims that between July 1981 and December 1982 while on active duty with the Air Force he was not paid the pay and allowances to which he was entitled. His claim was received at the Air Force Accounting and Finance Center on August 29, 1988; and was later forwarded and received at the General Accounting Office on May 23, 1989. The processing of the claim was delayed because the Air Force claims examiner did not understand the requirement that a claim must be received in the General Accounting Office within 6 years in order to be considered.

The Barring Act, 31 U.S.C. § 3702(b), provides that every claim cognizable by the General Accounting Office must be received in this Office within 6 years from the date it first accrued or be forever barred.

Until June 15, 1989, this statute and our regulations implementing it, 4 C.F.R. § 31.5, had been interpreted as precluding consideration of claims received in this Office more than 6 years after they arise. This was the case even for claims filed within 6 years with the agency involved and

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where the agency might have caused the submission to this Office to be late. No exceptions to this rule were made. Frederick C. Welch, 62 Comp. Gen. 80 (1982).

The regulations implementing 31 U.S.C. § 3702(b) were revised on June 15, 1989, to provide that the requirements of the statute will be satisfied by timely filing with the agency involved as well as this Office. However, the regulation precludes consideration of any claims which were barred prior to June 15, 1989. 54 Fed. Reg. 25,437 (1989), to be codified at 4 C.F.R. Part 31.

Since Mr. Nelson's claim for back pay arose more than 6 years before both June 15, 1989, and the date it was received in the General Accounting Office, it may not be considered.

*Milton F. Fowler*  
for Comptroller General  
of the United States