

SMALLIN



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Carlton C. Brock--Claim for Military Pay and Allowances
File: B-248274
Date: June 10, 1992

DIGEST

An officer candidate in the Baccalaureate Degree Completion Program of the Naval Reserve was disenrolled. Under his service agreement he resumed his active duty status as an enlisted member while he awaited reassignment to recruit training. Although he spent several months performing no military duties before he received his orders, he is entitled to pay and allowances from the date of his disenrollment until his entry into recruit training.

DECISION

We have been asked to settle the claim of Carlton C. Brock, former member of the Naval Reserve, for pay and allowances for the period from August 2, 1990, through December 25, 1990. For the reasons presented below, his claim may be allowed.

In December 1989, Mr. Brock enlisted in the Naval Reserve and entered the Baccalaureate Degree Completion Program (BDCP). While an officer candidate under the BDCP, he received the pay and allowances of an enlisted member on active duty. On July 27, 1990, he was disenrolled from the BDCP because his academic performance did not meet BDCP requirements. He was told, consistent with the program's authorizing document, that he would be ordered to complete his active duty obligation as an enlisted member, and that he should expect specific orders within 60 days assigning him to recruit training. Through administrative error, no orders were issued until December 17, 1990. Mr. Brock reported for training on December 26, 1990. He now claims pay and allowances amounting to \$6,200 for the period between his disenrollment and the beginning of recruit training.

The BDCP is an affirmative action initiative designed to provide financial incentive primarily to minority college students to complete baccalaureate degree requirements and

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obtain reserve commissions. See 10 U.S.C. §§ 510, 511, 591, 593, 600. Section 600(c) provides for payment of pay and allowances to officer candidates at an enlisted grade. Program authorization 147 sets forth the procedures of the BDCP.

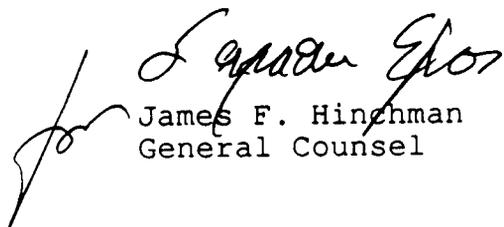
In a memorandum dated August 2, 1990, the Commander, Navy Recruiting Command, officially disenrolled Mr. Brock from the BDCP, and directed the responsible district recruiting office "to transfer OCSN Brock to recruit training to complete his remaining enlistment in enlisted status." We have held that a member who is ordered home to await orders assigning him to further duty remains in an active duty status and is entitled to pay and allowances even though he performs no military duties. See B-183625, Aug. 20, 1975. Similarly, in the present case, we conclude that, while he awaited transfer orders, Mr. Brock held the status of a member on active duty.

It is important to note that no evidence is present in the record of this case to indicate that Mr. Brock, following his disenrollment, was placed on leave, assigned to reserve status, changed to inactive status, or separated from service. Decisions denying pay and allowances in similar circumstances have concluded denial is appropriate because of a change out of active duty status. See, for example, 46 Comp. Gen. 261 (1966), in which a midshipman was denied a pay claim after he went on leave of absence status following a discharge from the Naval Academy. See also B-177119, Mar. 12, 1973 (pay disallowed; member placed in inactive status). Conversely, decisions allowing claims for pay cite an active duty status. See, for example, B-177201, Dec. 6, 1972 (pay allowed; member not placed in leave status).

Thus, a member's entitlement to pay and allowances "is not contingent on the duties he performs, but rather on the status he occupies." Manuel Cravalho, B-214983, Jan. 14, 1985. See also Bell v. United States, 366 U.S. 393 (1961), in which petitioners were held entitled to pay and allowances that accrued during their detention as prisoners of war, even though they had cooperated with the captors and were dishonorably discharged.

Mr. Brock's situation is analogous to that of a cadet or midshipman disenrolled from a service academy. In 49 Comp. Gen. 407 (1969), we discussed the status of disenrolled service academy cadets and midshipmen and stated that under 10 U.S.C. § 516(b) those who were sent home from the service academies to await reassignment resumed their enlisted status under their service agreements and therefore were entitled to pay and allowances while awaiting orders at home.

Accordingly, unless some other basis for denial exists,
Mr. Brock's claim may be paid.



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General Counsel