



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Claim for the Estate of James W. Smith, USA  
(Retired) (Deceased)

**File:** B-237765

**Date:** March 26, 1991

### DECISION

We have been asked to resolve a claim for the estate of James W. Smith, USA (Retired), who was a resident of the United States Soldiers' and Airmen's Home at his death. The claim has been made by an attorney for the American Archives Association on behalf of a group of persons claiming to be relatives of the deceased. For the reasons presented below, the claim may not be paid.

James W. Smith enlisted in the Army in 1927 and retired as a Staff Sergeant in 1948. He was admitted to what is now the United States Soldiers' and Airmen's Home in 1950, and lived there until his death on September 14, 1985. Sergeant Smith never married. He indicated to the Home that he had no living relatives, and he died intestate. In November 1987 Sergeant Smith's estate escheated (reverted for lack of heirs) to the permanent trust fund of the Home.

Thereafter, the American Archives Association investigated and located a family which it claims is related to the deceased as siblings, nieces, and nephews. These individuals have assigned one-third of their possible shares of the estate to the Association. On their behalf the attorney for the Association filed a claim with the Home, which referred it to our Office.

Administration of the United States Soldiers' and Airmen's Home is governed by 24 U.S.C. §§ 41-60. Disposition of the effects of a deceased resident of the Home is governed by 10 U.S.C. §§ 9712 and 9713. Claims for estates of deceased inmates may be filed with our Office. 10 U.S.C. § 9713.

Through the attorney for the Association, the claimants contend that James W. Smith was actually John V. Smith, their brother/uncle. John V. Smith left home in 1927 and had no further contact with his family. The claimants assert that John enlisted in the Army under the name of his older brother, James, who died in 1988.

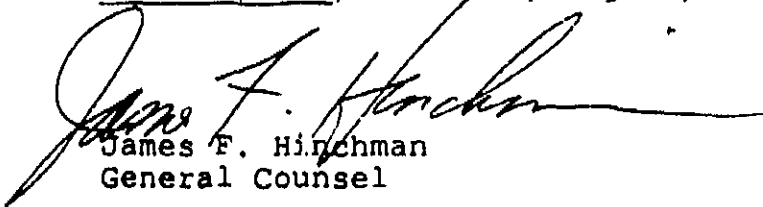
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There are two facts in the record which indicate that the deceased knew the Smith family. The first is that he listed his date of birth as April 30, 1906, which was the older brother's birthdate. The second is that he listed Catherine Smith, James' mother, as his beneficiary on a number of military forms throughout his career, usually with the address of the Smith family in Philadelphia.

However, the record also includes some discrepancies that cast doubt on the claim that the deceased was actually John V. Smith. The first is that John Smith was old enough in 1927 to enlist under his own name. The record provides no indication of why he would have enlisted under his brother's name. Furthermore, when the deceased enlisted in the Army, he listed a different city in Pennsylvania as his home. Later, the record shows various spellings of Mrs. Smith's name, and an entirely different address for her on one medical form.

While the deceased was apparently familiar with James and Catherine Smith, the record provides no proof that he was actually John V. Smith. Furthermore, while Sergeant Smith was at the Home, he continually maintained that he had no relatives. At the time that the deceased enlisted, there were seven children in the Smith family. Yet Sergeant Smith never made reference to any siblings. The claimants have provided no conclusive proof that James W. Smith is actually John V. Smith, and it does not appear that contention can be verified due to the apparent lack of fingerprints or other evidence.

Our Office settles claims based on the written record presented to us, and the burden of proof is on the claimants to establish the validity of their claim. See 4 C.F.R. Part 31.7 (1990). In this instance, the claimants have not established that James W. Smith is really John V. Smith, and therefore have not proved their claim. See Mr. Robert Johnson, Jr., B-188543, Aug. 2, 1977.

  
James F. Hinchman  
General Counsel