

DECISION**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**60540
98584

FILE:

DATE: FEB 19 1976

MATTER OF: **E-184078****Joseph M. Vere - Waiver of Salary Overpayments****DIGEST:**

Waiver of overpayment is granted to employee of United States Army Audit Agency (USAAA) who continued to have pay checks sent to bank after transfer to Agency for International Development. Employee was not at fault in failing to notify USAAA until arrival at new duty station in Dominican Republic as mail was sent directly to Dominican Republic while employee attended training in Washington and had no knowledge of overpayment at that time.

This action is an appeal from an action of our Transportation and Claims Division (now Claims Division), dated January 7, 1975, which denied waiver of a claim of the United States against Mr. Joseph M. Vere under section 5584 of title 5, United States Code (Supp. III, 1973), as implemented by sections 91-93 of title 4, Code of Federal Regulations (1975).

The record shows that, as an employee of the U. S. Army Audit Agency (USAAA), Western District, Redwood City, California, Mr. Vere was paid in a gross amount of \$1,038.40 at a time when he was entitled to \$259.00, resulting in an overpayment in the gross amount of \$778.80. Subsequently, Mr. Vere repaid \$300 leaving a balance of \$478.80. The overpayment, consisting of two biweekly pay checks, was the result of administrative error in continuing to submit time and attendance cards for Mr. Vere after he had left USAAA to accept a position with the Agency for International Development (AID).

Mr. Vere left his position with USAAA on November 28, 1970. He began a training course with AID in Washington, D. C., on December 3, 1970. He then departed Washington for the Dominican Republic on December 23, 1970. The overpayment occurred during the period from November 29 through December 19, 1970, while Mr. Vere was in Washington, D. C. The checks were mailed directly to Mr. Vere's bank in Texas.

When Mr. Vere arrived in the Dominican Republic in January 1971, he notified USAAA that he had apparently been overpaid, and on January 29, 1971, USAAA requested repayment in the amount of \$388.24 without further explanation. Mr. Vere repaid this amount. This repayment, however, was for an overpayment for the pay period

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beginning December 20, 1970. On April 22, 1971, Mr. Vere was notified that he had been overpaid for the period from November 29, through December 19, 1971, in the amount of \$778.80.

In denying Mr. Vere's waiver request, the Transportation and Claims Division noted that Mr. Vere continued to receive leave and earnings statements mailed directly to him which showed the erroneous payments for the period from November 29 to December 19, 1970. The Transportation and Claims Division found that the combination of leave and earnings statements and payments to the bank should have alerted the employee to the fact that he was being erroneously overpaid. The failure to pursue this matter before January 1971 indicated fault on the part of the employee.

However, Mr. Vere states in his appeal that when he left his position with the USAAA in San Diego, his mail was forwarded to the State Department in Washington. From there his mail was sent by pouch to the Dominican Republic. Hence, he was unaware of the overpayment until his arrival in the Dominican Republic.

In view of the additional facts set forth in Mr. Vere's letter, it does not appear that he could have been aware of the overpayment at the time it occurred. Since Mr. Vere contacted USAAA immediately after his arrival in the Dominican Republic, he was not otherwise at fault in this matter.

Accordingly, under the provisions of section 5584 of title 5, United States Code (Supp. III, 1973), we hereby waive the claim in the gross amount of \$778.80 of the United States against Mr. Joseph M. Vere. Mr. Vere may obtain refund of the \$300 paid by him by submitting a claim to USAAA within 2 years of the date of this settlement.

R. F. Keller

Deputy Comptroller General
of the United States