



**Comptroller General  
of the United States**

Washington, D.C. 20548

## Decision

**Matter of:** Peter R. Szpalik  
**File:** B-240962  
**Date:** February 13, 1991

### DECISION

The issue here is whether a federal employee who served as a juror in a state court is entitled to retain his juror fees.<sup>1</sup>

Mr. Peter R. Szpalik, an employee of the Internal Revenue Service, served as a juror for the Cuyahoga County Common Pleas Court in Ohio from November 3 through 24, 1989. He received a lump-sum payment of \$90 for juror fees. The Service requested that he repay the money he received, except for the amount he received for a holiday on November 23, 1989

The governing statute is 5 U.S.C. § 5515 (1988), which provides that an employee entitled to court leave under 5 U.S.C. § 6322 (1988), must credit jury fees against the employee's compensation payable by the United States. We have long held under this provision that federal employees must account for fees received as compensation for jury service. 52 Comp. Gen. 325 (1972); James F. Murdock, B-192043, Aug. 11 1978; Glenell V. Hines, B-214558, July 23, 1984.

However, we have recognized a distinction between fees received as compensation for jury service and amounts that represent reimbursement of travel and other out-of-pocket expenses. Texas State Court Juror Fees, B-219496, Jan. 22, 1986. Section 2313.34, OHIO REV. CODE ANN. (Page 1981), states: "The compensation of each juror shall be fixed by resolution of the board of county commissioners, not to exceed fifteen dollars for each day's attendance, payable out of the county treasury." Thus, the statute specifically refers to compensation.

Mr. Szpalik contends that whether or not an employee receives reimbursement for mileage and expenses should not depend on the language in the statute where the employee resides. He

---

<sup>1/</sup> The request was submitted by the Regional Director of Appeals, Department of the Treasury, Internal Revenue Service Cincinnati, Ohio.

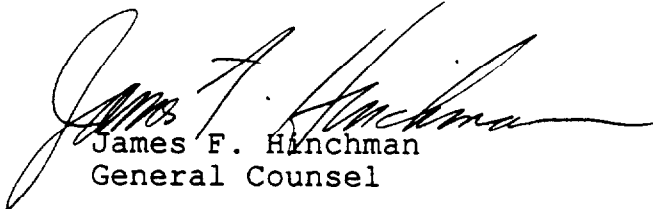
cites to the Kentucky statutes which provide for separate compensation for pay and expense allowances as an example of how employees are treated differently depending on their state of residence. Further, Mr. Szpalik received a statement attesting to his service as a juror which was signed by the Jury Bailiff and the Court Administrator which is annotated to the effect that "the above \$90.00 includes parking and mileage."

The Internal Revenue Service, on advice of its Assistant Regional Counsel, held that the statement was not a sufficient basis for his retention of the jury pay. The Cuyahoga County court was contacted to determine if there is any distinction made between jury pay and reimbursement for mileage and expenses. The court advised the Service that, while jury pay covers meals and expenses, there is no allocation made between jury pay and reimbursement for mileage and expenses.

In those cases where we have allowed reimbursement the statutory language refers to "expenses" rather than "pay" or "compensation." There, we have held that we will not look beyond the prima facie intent of the statute and will allow the employee to keep the reimbursement. Federal Employees, B-183711, Oct. 21, 1975; William A. Lamb, B-183711, Aug. 23, 1977. Absent such statutory language or clear legislative intent, we have consistently held that employees are required to remit all jury fees to the federal government. Glenell V. Hines, B-214558, supra; James F. Murdock, B-192043, supra.

Here, where the statute specifically refers to "compensation", the court official's annotation to Mr. Szpalik's statement of jury service that he received from the court does not overcome the requirement of 5 U.S.C. § 5515 that jury fees must be remitted to the government.

Accordingly, Mr. Szpalik's claim is denied.

  
James F. Hinchman  
General Counsel