

DECISION

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

FILE: B-129449

DATE:

MATTER OF: Mr. Ernest F. Boruski, Jr.

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DIGEST: Claims, which were the subject of litigation in the Court of Claims and resolved by final judgment of that court in favor of the Government, pursuant to 28 U.S.C. 2519 (1970) may not be considered by the General Accounting Office. See 47 Comp. Gen. 573 (1968) and decisions cited.

This action is in response to a letter dated September 28, 1975, from Mr. Ernest F. Boruski, Jr., 290 Riverside Drive, 9C, New York, New York 10025, in which he claims entitlement to receive active duty pay and allowances, including flight pay, from August 28, 1951, to the present, with interest at 6 percent. In addition, he claims the difference between payments made to him from December 1, 1944, to August 28, 1951, computed on the basis of his grade of first lieutenant without flight pay, quarters, or leave allowances, and the pay and allowances including flight pay, that would have been paid to a captain in similar circumstances.

Mr. Boruski contends that he is a Regular officer in the United States Air Force serving on an indefinite tour of active duty continuously since June 1, 1943, and that he has never resigned, retired, nor been legally discharged. He contends that since his base pay, flight pay, and allowances are statutory, they must be paid to him. He states further, that these claims have been filed in one or more offices since 1944 on a continuous basis.

It is noted that Mr. Boruski's claims in this case are identical to those considered by the Court of Claims in the case of Boruski v. United States, 204 Ct. Cl. 807 (1974), cert. denied, 421 U.S. 978 (1975). That action was resolved in favor of the United States.

Section 2519 of title 28, United States Code (1970), provides that a final judgment of the Court of Claims against any plaintiff shall forever bar any further claim, suit, or demand against the United States arising out of the matters involved in the case or controversy.

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Accordingly, our Office has no authority to consider Mr. Boruski's claims since they have been resolved by final judgment of the Court of Claims in favor of the Government. See 5 Comp. Gen. 334 (1925); 37 Comp. Gen. 153 (1957); 47 Comp. Gen. 573 (1968).

R. F. KELLEY

[Deputy] Comptroller General
of the United States