



UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548



IN REPLY
REFER TO: B-157469 (DLG)

OFFICE OF GENERAL COUNSEL

December 27, 1978

[Applicability of Civil Service Retirement System to Judges of the Territorial Courts of The United States]

William E. Foley, Director
Administrative Office of
the United States Courts

Dear Mr. Foley:

This Office has received your letter dated February 17, 1978, concerning the applicability of certain aspects of the civil service retirement system to judges of the territorial courts of the United States. Specifically, you ask whether the territorial judges may have their service credited toward civil service retirement in the event that they do not serve as judges long enough to become eligible for the retirement salary benefits of 28 U.S.C. § 373. In addition, where a territorial judge has become eligible for a civil service retirement annuity, you inquire whether the amount of the annuity should be deducted from his judicial salary.

With respect to the first question the Civil Service Commission, pursuant to 5 U.S.C. § 8347, is charged with the administration of the subchapter governing civil service retirement and with the adjudication of all claims under that subchapter. Specifically, the Commission administers the provisions of 5 U.S.C. § 8332 regarding creditable service. As you recognized in your letter, our Office has traditionally considered matters concerning creditable service for retirement as within the jurisdiction of the Civil Service Commission. This position was underscored in our statement on March 11, 1976, before the Subcommittee on Retirement and Employee Benefits of the House Post Office and Civil Service Committee, on H.R. 11738, a bill concerning civil service annuity payments to judges of the United States. In view of the jurisdiction of the Civil Service Commission with respect to entitlement to an annuity, we believe that it would be inappropriate for us to offer any substantive comment on your first question.

With respect to the application of 5 U.S.C. § 8344--employment of an annuitant in an appointive or elective position--to a territorial judge, we concur with the conclusion reached by the Civil Service Commission, in its letter of December 2, 1977, to the General Counsel of the Administrative Office of the United States Courts,

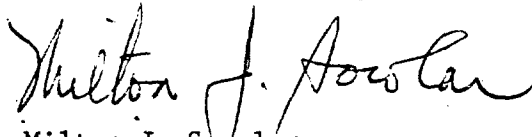
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i.e., a territorial judge who is receiving a civil service annuity shall have deducted from his pay an amount equal to the annuity allocable to the period of actual employment.

Sincerely yours,



Milton J. Socolar
General Counsel

cc: The Honorable Warren H. Young
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