

12287 PDM-11

**DECISION**



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

FILE: B-195813

DATE: December 12, 1979

*Claim for*

MATTER OF: Roy Moore, Jr. - Overtime Compensation

**DIGEST:** Federal Protective Officer employed in General Services Administration, Region 9, claims overtime compensation for time spent daily, outside of his regularly scheduled workweek, changing into and out of uniform, obtaining his weapon and assuming his duty post. Disallowance by Claims Division is sustained since 1) neither regulations nor other authority required that Region 9 officers change into and out of uniform on the employment premises and, 2) the time necessary for issuance and return of weapons and travel to and from duty stations of less than 10 minutes per day is not compensable because it is de minimus.

This matter concerns Mr. Roy Moore, Jr.'s appeal from the disallowance of his claim by our Claims Division, for overtime compensation believed due incident to his performance of certain pre-and post-shift activities as a member of the Federal Protective Service of the General Services Administration (GSA), Region 9, Phoenix, Arizona. Specifically, Mr. Moore has claimed entitlement to overtime compensation for the period February 28, 1966, through June 1, 1968, and from September 1, 1970, through February 6, 1976, based on the amount of time daily required for changing into and out of his uniform, obtaining a weapon and assuming his duty post while serving as a Federal Protective Officer in Phoenix. He claimed the same type of overtime for the period June 1, 1968, to September 1, 1970, during which time he was serving as Federal Protective Officer in Washington, D.C. That claim was referred to GSA for separate settlement, and is not at issue here.

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In Settlement Certificate No. Z-2549072, dated October 12, 1977, our Claims Division disallowed Mr. Moore's claim on the basis, primarily, of GSA Region 9 regulations and prior Comptroller General decisions. The settlement also cites the absence of evidence of authorization for the overtime claimed and the de minimus nature of the time devoted to the activities in

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question as further justifications for denial of the claim. After careful consideration of all information contained in the record, we conclude that the time spent by Mr. Moore performing the activities in question was noncompensable and, therefore, the disallowance of his claim is sustained.

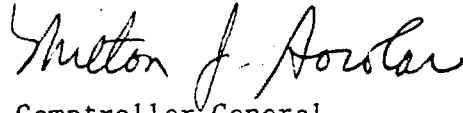
Section 5542(a) of title 5, United States Code, authorizes overtime compensation for hours of work "officially ordered or approved" in excess of 40 in an administrative workweek. In the case of Baylor v. United States, 198 Ct. Cl. 331 (1972), it was held that overtime required by a regulation promulgated by an official authorized to order and approve overtime constituted "officially ordered or approved overtime." Applying this rule, payment of overtime for the time necessary to change into and out of uniforms was authorized for Region III Officers prohibited by regulation from wearing uniforms away from work. See 53 Comp. Gen. 489 (1974).

At no time during the periods here in question did any GSA Region 9 regulation or policy require protective officers to change into and out of uniform at their place of employment. Contentions to the contrary were considered at length in B-175363, November 26, 1974, and were rejected. Furthermore, there is no indication that overtime for the work in question was approved or authorized by the Regional Commissioner of the Public Buildings Service, GSA, the sole official with such authority in Region 9. In view of this absence of a regulation or other authority ordering that uniform changes be on the premises, Mr. Moore's claim for overtime in this regard was properly disallowed.

Mr. Moore has also claimed entitlement to overtime compensation for the time necessary each day to obtain his weapon and assume his duty post at the beginning of his shift and for the time to return from his duty post and to return his weapon at the end of his shift. The administrative report on Mr. Moore's claim indicated that the point at which he obtained his weapon was approximately 25 yards from his post of duty, and that it took only two minutes to obtain and return his weapon. In 53 Comp. Gen. 489 (1974), we authorized payment of overtime compensation for pre-and post-shift duties in excess of 10 minutes per day. Aggregate overtime of less than 10 minutes per day is not compensable because it is de minimus. Since Mr. Moore put in less than 10 minutes per day obtaining his weapon and assuming his duty post, he may not be compensated for that time.

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Finally, in his request for reconsideration Mr. Moore included a copy of the AFGE Washington Letter of April 13, 1979, which included a report of a backpay award to a GSA elevator operator in New York City. Mr. Moore requested an explanation as to why the elevator operator was entitled to backpay for uniform changing time and he was not. We have obtained information about that particular case. The backpay award was allowed because the GSA Handbook for Elevator Operators forbid the wearing of uniforms away from the building. As stated above the relevant regulations in Mr. Moore's case did not require him to change into and out of his uniform at his duty station. The difference in the regulations leads to the different results.



For the Comptroller General  
of the United States