

DECISION

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

WAK:u,
23526

FILE: B-207034

DATE: November 4, 1982

MATTER OF: Sergeant Richard P. Stevenson, USAF

DIGEST: A military member on active duty receiving full pay and allowances served as a juror in a State court. He received \$35 in fees for his jury duty. The member may not keep the fees because he was not in a leave status and he is therefore receiving additional compensation for performing his duties presumably during normal working hours.

Captain H. L. Bean, Accounting and Finance Officer, Mountain Home Air Force Base, Idaho, requests an advance decision as to whether a military member may keep fees received for serving as a juror in a State court while he was receiving full military pay and allowances. We conclude that a military member not in leave status may not receive compensation from a State court for the time during which he is on active duty and receiving full military pay and allowances.

This case was forwarded to us by the Air Force Accounting and Finance Center and has been assigned submission No. DO-AF-1388 by the Department of Defense Military Pay and Allowance Committee.

Sergeant Richard P. Stevenson, USAF, served as a juror in January, 1982, in a district court of the State of Idaho. For his services Sergeant Stevenson received \$35 in fees and \$0.80 in transportation expense. The Accounting and Finance Office subsequently withheld \$35 from Sergeant Stevenson's pay and placed it in a suspense account until it is determined whether payment of the jury fees may be accepted by the member.

The Accounting and Finance Officer notes that in a publication of April 18, 1980, issued by the Air Force Accounting and Finance Center it is indicated that jury fees could be retained by the member. However, the opinion was expressed by Judge Advocate personnel that the fees could not be retained.

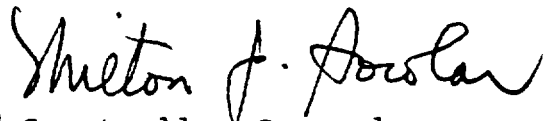
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The information we have indicates that Sergeant Stevenson was not in a leave status during the period he performed jury duty. We assume that the jury duty was performed during his normal duty hours. Thus, we have a situation in which the member, while receiving active duty pay and allowances, is excused from performing his normal duties to perform jury duty. The question is whether he may keep compensation paid by the court.

While no specific statute deals with this situation we find that the case is controlled by the established principle that the earnings of an employee in excess of his regular compensation which are gained in the course of or in connection with his services belong to the employer. We have consistently held this rule to be applicable to Federal employees and members of the uniformed services. Amounts received in addition to pay for services as a military member are received for the United States and should be paid into the Treasury. B-200013, April 15, 1981, 49 Comp. Gen. 819 (1979), and 37 Comp. Gen. 29 (1957).

In the absence of specific authority for retention of jury fees, members of the uniformed services who do perform jury duty and who are not in a leave status should turn the amounts received into the Treasury. This result is similar to the result in the case of civilian employees who are authorized court leave to perform jury duty (5 U.S.C. 6322) but have the jury fees (as distinguished from expenses) credited against the pay to which they are otherwise entitled (5 U.S.C. 5515). See 52 Comp. Gen. 325 (1972).

Accordingly, Sergeant Stevenson is not entitled to the amount withheld from his pay equal to the amount received for the jury duty. The voucher may not be paid and will be retained here.

for 
Comptroller General
of the United States

Current Documents

Addressee: Stevenson, Richard P.
5th.
U.S.A.F.

Congressional Name:

Accession Number:

Budget Function:

Contract Code: AA000040

Issue Area:

Congressional Code:

Signatory/Witness

Requestor: Bean, H.L.

Accounting Capt.
and Finance Officer
mt. Home Air Force, Idaho. DL601607
Descriptive Note:

Sacchar, Milton J.
Charles A. Boush
Comptroller General

Index Terms:

Organizations:

James
Military Pay
near Gates

DL601607
AA000035

Identifiers:

Personal Names:

Possible Subject Terms: