



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

Easter Wood

525270

OFFICE OF GENERAL COUNSEL

B-210993

April 7, 1983

The Honorable J. Paul McGrath
Assistant Attorney General
Civil Division
Department of Justice

Attention: George M. Beasley III, Attorney
Commercial Litigation Branch

Dear Mr. McGrath:

Subject: [REDACTED] v. United States
Cl. Ct. No. 90-83C

This is the report requested in your letter of March 1, 1983, concerning the above-entitled case in which petitioner primarily seeks to recover backpay in excess of the \$9,999.99 which he recovered from the Air Force as a result of [REDACTED] v. [REDACTED], 571 F.2d 617 (D.C. Cir. 1977). That action determined that petitioner had been illegally discharged from the Air Force.

Before filing this action, petitioner sought relief in excess of the amount collected in [REDACTED] v. [REDACTED] through the Air Force Board for Correction of Military Records (filed in 1978, with several supplemental filings) and the United States District Court for the Western District of Washington (filed in April 1982, several months after the Correction Board denied relief).

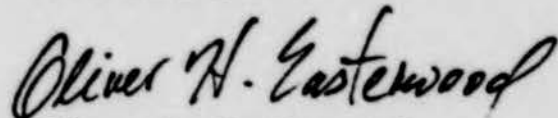
The General Accounting Office became involved in petitioner's effort to obtain relief when the Chief, Accounting and Finance Division, Directorate of Resource Management, Headquarters, Air Force Accounting and Finance Center, requested an advance decision on whether he could pay petitioner's claims. Paragraphs XXII through XXV describe the surrounding circumstances of the submission. The Comptroller General issued a decision, B-199060, July 22, 1980, holding that the claim could not be paid on the basis of the doctrine of res judicata. See Exhibit 20 attached to the Petition. We are enclosing a copy of the submission here and a copy of an explanatory letter to Senator Jackson concerning the submission and resulting decision.

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The question in this case is whether the Correction Board was required to make record corrections, in addition to those required and made pursuant to the negotiated Stipulation of Dismissal which effected the relief obtained in [redacted] v. [redacted]. The Stipulation, which resulted in a dismissal with prejudice in May 1978 of [redacted] v. [redacted], and the circumstances of its negotiation, are described in paragraphs XV through XIX of the Petition. On January 29, 1982, the Correction Board found that all records had been corrected as provided in the Stipulation and concluded that "* * * no error or injustice exists where an applicant petitions a Court for relief and obtains the relief he asked for with full knowledge of the limits of that relief." Therefore, it found no compelling basis to conclude that petitioner was entitled to further relief. Exhibit 25, page 6. Petitioner's action in the District Court, Western District of Washington, was dismissed. Exhibit 26 of the Petition. We know of nothing that would form the basis for a counterclaim or setoff against the petitioner in the Claims Court.

If you need further information from this Office, please contact me, telephone 275-5422.

Sincerely yours,



Oliver H. Easterwood
Attorney-Adviser

Enclosures