



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

APR 5 1979

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FEDERAL PERSONNEL AND
COMPENSATION DIVISION

B-183433

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3 pages -
signature non-brown
attached letter

The Honorable Jack Edwards
House of Representatives

Dear Mr. Edwards:

This is in response to your letter of November 21, 1978, in which you forwarded a letter from George L. Boyle, Major, U.S.A.F. (Retired) for our consideration. In his letter, Major Boyle raised certain questions about the garnishment of his retired pay for alimony and child support payments under the provisions of 42 U.S.C. 659, as amended.

We have reviewed Major Boyle's retired pay account maintained at the Air Force Accounting and Finance Center (AFAFC), Denver, together with the Air Force reply to you dated November 28, 1978. We are in basic agreement with the facts and content of the Air Force reply.

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The problems in Major Boyle's case started with the untimely receipt of a writ of garnishment served on the U.S. Attorney at Norfolk, Virginia, on June 8, 1978, but not received at the AFAFC until August 28, 1978. This writ covered the period June 1 through August 7, 1978. Major Boyle had received his retired pay for June through August 1978, and therefore, had no funds in his retired pay account to satisfy the garnishment. The Air Force treated the writ as if it had been validly served on June 8, 1978, the date of service on the U.S. Attorney in Norfolk. They then calculated how much retired pay accrued to Major Boyle between June 1 and August 7, 1978, even though the money had already been paid. They applied a 35 percent exemption and paid the court \$887.60 on the behalf of Major Boyle. As a result, it was necessary for the AFAFC to recoup this amount from his September 1978 retired pay, leaving Major Boyle a payment of only \$48.69 for September.

Apparently the delay in answering this writ caused more writs to be issued, with similar procedures being used until a continuing writ was served on October 16, 1978.



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--A writ served on August 25, 1978, covering the period August 8 to October 2, 1978, resulted in AFAC paying the court \$518.45 on Major Boyle's behalf. Again, Major Boyle had insufficient funds in his retired pay account to satisfy the writ; thus, the \$518.45 debt was deducted from his October 1978 retired pay.

--Two subsequent writs were issued, one served on October 4, 1978, covering the period October 3 to December 5, 1978, and the other served on October 16, 1978, retroactive to August 8, 1978, and continuing until the judgment of \$9,119 in alimony and child support payments is satisfied. The AFAC temporarily withheld \$415.50 from Major Boyle's October 1978 retired pay in compliance with the first writ, but released the payment to Major Boyle on November 9, 1978, after receipt of the second writ.

The use of multiple writs by the Virginia courts caused the frustration of both Major Boyle in adjusting his personal finances and the AFAC personnel charged with the responsibility of processing garnishments.

Under 42 U.S.C. § 659(b), service of writs is to be made on a designated agent or the head of an agency. The Department of Defense Military Pay and Allowance Entitlements Manual specifies the designated agent for garnishment of Air Force retired pay as the Commanding Officer of the Air Force Accounting and Finance Center. Therefore, the dates of service of the writs garnishing Major Boyle's retired pay should have been the dates they were received at the Finance Center, not the dates served on the U.S. Attorney.

Section 659(e) further provides that Government agencies should not vary the normal pay disbursement cycles to satisfy writs of garnishment. Once a writ has been served, it is only applicable to funds on hand and subsequent payments to the garnishee. Therefore, the AFAC should not have made payments on behalf of Major Boyle for retired pay accruing prior to the dates of service and thus creating a debt to the Government to be satisfied by Major Boyle.

We believe that the issuance of the continuing writ by the court will alleviate the problems associated with Major Boyle's back alimony and child support payments. The amount paid to him beginning in November 1978 should remain fairly

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constant, since the AFAC will be withholding \$607.07 each month until further order of the court or until the \$9,119 judgment has been satisfied.

While it is unfortunate that excess amounts were withheld from Major Boyle's retired pay, we do not believe that he has a claim against the United States for those excess amounts since all of the money withheld was used to satisfy Major Boyle's debts.

At this time, it is unclear as to how many cases may have been improperly processed, however, AFAC personnel advised us that other Air Force garnishment cases were processed in a similar manner. We will advise the appropriate Defense officials of the improper procedures used by the AFAC to process garnishments.

Please let us know if we can be of further assistance on the Boyle case.

Sincerely yours,



H. L. Krieger
Director

Enclosure



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FEDERAL PERSONNEL AND
COMPENSATION DIVISION

*ignore
Non-basic letter*

The Honorable Fred P. Wacker
The Assistant Secretary of
Defense, Comptroller

Dear Mr. Wacker:

At the request of Congressman Edwards, we recently reviewed Air Force actions concerning the garnishment of a retired Air Force member's retired pay (See enclosure). The procedures used by the Air Force Accounting and Finance Center (AFAFC) raised a number of questions which we believe warrant your attention. It appears to us that the administration of garnishment cases by the AFAFC is not in compliance with the law and results in undue administrative burdens that were not intended by the law.

Under 42 U.S.C. § 659 (b), service of writs is to be made on a designated agent or if no agent is designated, on the head of an agency. The Department of Defense Military Pay and Allowance Entitlements Manual specifies the designated agent for garnishment of Air Force retired pay as the Commanding Officer of the Air Force Accounting and Finance Center. Therefore, the effective dates of service of the writs garnishing the retired member's pay should have been the dates they were received at the Finance Center, not the dates they were served on the U.S. Attorney.

Section 659 (e) further provides that Government agencies should not vary the normal pay disbursement cycles to satisfy writs of garnishment. Once a writ has been served, it is only applicable to funds on hand and subsequent payments to the garnishee. The AFAFC should not have made payments on behalf of the retired member for retired pay accruing prior to the date of service and, thus, creating a debt to the Government to be satisfied by the retired member.

While we reviewed only one Air Force garnishment case, we were informed by center officials that similar procedures have been used to process other garnishments. We believe it is important for you to ensure that all the services are

complying with the intent of the garnishment law, and are interpreting and implementing garnishment procedures uniformly. Using the dates writs are received at the finance centers as the dates of service, and not varying the normal pay disbursement should simplify the procedures and reduce the administrative burdens imposed by garnishment actions.

We would be pleased to discuss this area further should you desire and invite your comments on actions you plan to take.

Sincerely yours,



H. L. Krieger
Director

Enclosure