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D. Mosher

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United States General Accounting Office
Washington, DC 20548

Office of
General Counsel

In Reply
Refer to: B-190168

The Honorable Alice Daniel
Acting Assistant Attorney General
Civil Division
Department of Justice 39

DEC 5 1979

Attention: LeRoy Southmayd, Jr., Trial Attorney
Commercial Litigation Branch

R Dear Ms. Daniel:

Subject: Melvin Gray v. United States
Court of Claims Number 473-79C

Claim Involving

We refer to your letter of October 29, 1979, reference AD:DC:LS;amc, 154-473-79C, requesting our views and comments on the above-captioned action, in which plaintiff seeks [punitive damages] of \$150,000 based on being underpaid and suffering because of an error in his military record.

The records of this Office show that the plaintiff on April 29, 1977, filed a claim for backpay believed to be due by reason of an error in the computation of his military service for longevity pay purposes. The period of his military service was November 5, 1963, through March 13, 1964. His claim was denied by letter dated June 21, 1977, from our Claims Division on the basis that it was not presented within 6 years of the date the claim first arose and was thus barred by the act of October 9, 1940, 54 Stat. 1061, as amended by section 801 of the General Accounting Office Act of 1974, approved January 2, 1975, Pub. L. 93-604. Thereafter, the plaintiff appealed the denial made by our Claims Division of June 21, 1977. A decision B-190168 was given on that matter by the Comptroller General of the United States on November 9, 1977, in which the action of the Claims Division in disallowing the claim was sustained. The plaintiff requested a review of that decision in a letter to the President dated November 19, 1977, and in letters to this Office dated January 9, February 15, and 16, 1979. In a letter dated December 30, 1977, and again on May 29, 1979, the plaintiff was informed that we could find no basis for further consideration of his claim.



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The facts concerning the plaintiff's military service and the circumstances which brought about his claim are more fully set forth in the decision B-190168, a copy of which is enclosed. Also enclosed are copies of all other correspondence from our files pertinent to this case.

No record has been found in this Office of a claim or demand which might furnish the basis for a cross action against the plaintiff.

Further inquiry concerning this matter may be addressed to Mr. J. Dean Mosher, telephone 275-5422.

Please keep us advised of the progress of this case.

Sincerely yours,



J. Dean Mosher
Senior Attorney

Enclosures