



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

12045 M. J. Schell  
PL II

B-194278

November 13, 1979

[Status of Retired Army Officer With Dual Citizenship]

The Honorable Richard <sup>B</sup> ~~(Dick)~~ Stone  
United States Senator  
Post Office Box 4081  
Tallahassee, Florida 32303

Dear Senator Stone:

This is in further reference to your letter (your reference 9262170011) of October 5, 1979, concerning the case of Lieutenant Colonel Thomas E. Snyder, U.S. Army, Retired. Colonel Snyder's case involves questions concerning his status as a retired Regular Army officer arising as a result of dual citizenship status and the possibility of required service in a branch of the armed services of a foreign government.

This matter was the subject of our decision B-194278, May 25, 1979, 58 Comp. Gen. \_\_\_\_\_ (copy enclosed). The decision was rendered in response to questions presented by the Assistant Secretary of the Army (Installations, Logistics and Financial Matters). The facts reported to us showed that Colonel Snyder was retired under 10 U.S.C. 3911 (1976) with over 20 years of service and is now residing in Israel. Although a United States citizen, he acquired Israeli citizenship because of his Jewish heritage and residence in that country. Colonel Snyder indicates that he has not relinquished his United States citizenship since his Israeli citizenship was acquired through no action on his part. He is considered to have dual citizenship. Concern was expressed because a citizen of Israel is required to serve in the Israel Defense Forces for a period of 3 or 4 weeks each year. DLG 03083

As can be seen in our decision of May 25, 1979, we concluded that since it appeared that Colonel Snyder had retained his United States citizenship his retired pay was not affected by his Israeli citizenship. We did, however, note that a question concerning his citizenship could arise if he served in the Israel Defense Forces, and that an opinion of the Attorney General should be sought on this issue. Moreover, we noted that if Colonel Snyder should in the future serve in the Israel Defense Forces his status as a

Letter 007811  
AGC 00032  
DLG 03056

B-194278

retired Regular officer of the Army would be very doubtful and that in the absence of authorizing legislation retired pay could not be paid.

From Colonel Snyder's correspondence to you, it appears that he has sought a waiver of his service obligation from Israeli Ministry of Defense. However, that agency according to Colonel Snyder has taken the position that the service in question is only Reserve service. Colonel Snyder believes that Israeli authorities think that there is a distinction between Reserve duty and active duty in the Israel Defense Forces for the purposes of our decision of May 25, 1979.

In that regard, we specifically stated in our decision of May 25, 1979, that we viewed service in a foreign armed force by a retired Regular officer of the Army as inherently incompatible and contrary to the explicit prohibition of Article I, section 9, clause 8 of the Constitution of the United States.

We noted that it was our understanding that the Israel Defense Forces is the integrated land, sea, and air military organization of Israel and that service in the Reserve of this force appears to be similar to service in our Army Reserve. Members serving in our Army Reserve serve regular periods of active duty or active duty for training and are subject to call to active duty at any time during periods of war or national emergency.

We concluded that if Colonel Snyder is required to serve in this reserve force he would become subject to the orders and requirements of the foreign armed force which he would be compelled to follow and from which he could not withdraw voluntarily. As a result he would be in a position clearly incompatible with his obligations as a retired Regular officer of the United States Army subject to the laws, regulations and orders of the United States, such as the Uniform Code of Military Justice (10 U.S.C. 802), recall to active duty (10 U.S.C. 3504), and the requirements of his oath of office (5 U.S.C. 3331).

For these reasons and others which were set forth in the decision of May 25, 1979, we concluded that Colonel Snyder's status as a retired Regular officer of the United States Army would be very doubtful if he served in an armed force of any

B-194278

foreign nation. And in view of such doubt, payment of retired pay could not be made in the absence of specific legislation if he performed such service.

It appears from his correspondence to you, that Colonel Snyder's difficulty at this juncture stems from his inability to convince the Israeli authorities that a waiver of Israel Defense Forces reserve service should be granted. He indicates that it is the position of the Israeli authorities that such service does not come within the purview of our decision.

In this regard, it is our position that service in the reserve of the Israel Defense Forces is incompatible with his status as a retired Regular officer of the United States Army. We can only suggest that Colonel Snyder provide the Israeli authorities with a copy of our decision. Any communication with the Israeli government is a matter for the Department of State.

We trust this serves the purpose of your inquiry.

Sincerely yours,

  
Deputy Comptroller General  
of the United States

Enclosure