

**DECISION**

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

**FILE:** B-214558**DATE:** July 23, 1984**MATTER OF:** Glenell V. Hines**DIGEST:**

An employee served as juror in a State court of Bexar County, Texas. The state statute established a minimum payment of \$6 and a maximum payment of \$30 for each day or fraction of a day each juror serves while giving counties authorization to determine the amount paid for jurors. The employee is not entitled to travel expenses claimed in the amount credited against his pay for service as a juror under 5 U.S.C. § 5515.

A government employee entitled to leave for jury duty under 5 U.S.C. § 6322 was required by 5 U.S.C. § 5515 to have an amount received from Bexar County, Texas, as fees for jury service credited against the employee's compensation payable by the United States. We are asked whether the fees received may be retained by the employee if they were intended as a subsistence or travel expense allowance rather than pay for juror services.<sup>1</sup> We conclude that the payment of the jury fee under the applicable Texas statute is properly creditable against pay pursuant to 5 U.S.C. § 5515.

Mr. Glenell V. Hines, an employee of the Department of the Air Force, served as a juror in the State court of Bexar County, Texas, for 15 days during the period October 3 through October 24, 1983. For this jury duty he was paid \$90. This amount was credited against his compensation received for his regular employment as a government employee as required by 5 U.S.C. § 5515.

Mr. Hines has requested a refund of the \$90 deducted from his wages for services as juror. He contends that the

<sup>1</sup> The Director, Accounting and Finance, Headquarters 12th Flying Training Wing (ATC), Randolph Air Force Base, Texas, submitted this request for a decision and it was forwarded through the Deputy Assistant Comptroller for Accounting and Finance, Headquarters United States Air Force, Washington, D.C.

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amount paid was for per diem to reimburse him for car expense, food, and parking at the rate of \$6 per day for 15 days. He states that the Texas State Code indicates that he was paid per diem and that the Joint Travel Regulations, Volume II, define per diem as being a reimbursement for meals, transportation, and other listed expenses.

The view has also been expressed that under Texas law the fees for jury service are not considered compensation for state employees and therefor should be considered an allowance for expenses.

The Texas statute (Tex. Rev. Civ. Stat. Ann. art. 2122 (Vernon 1983)) relevant to the instant case provides as follows:

Art. 2122 [5218-19-20] Pay of jurors

"(a) Each grand juror and each petit juror in a civil or criminal case in a district or criminal district court, county court, county court at law, or justice court is entitled to receive not less than \$6 nor more than \$30 for each day or fraction of a day that he serves as a juror. The commissioners court of each county shall determine annually, within the minimum and maximum prescribed in this subsection, the amount of per diem for jurors, which shall be paid out of the jury fund of the county.\* \* \*"

When a government employee is entitled to leave for jury duty under 5 U.S.C. § 6322, the amount received from a state as fees for jury service is required by 5 U.S.C. § 5515 to be credited against the amount of compensation payable to the employee by the government. That statute makes no provision for payment by the government of travel expenses associated with state jury duty. Also, it does not provide for a reduction in the amount of jury fees to be credited against the employee's pay to provide for such expenses.

We have consistently held that under this statute an employee engaged in jury duty is required to remit all jury fees to the federal government. If evidence exists,

that a specific portion of amounts paid by the state for jury service was intended by the state to be reimbursement for travel expenses, it may be retained by the employee, B-119969, September 14, 1973; James F. Murdock, B-192043, August 11, 1978. This evidence must be a clear expression of legislative intent. Unless jury fees are specifically designated as travel expenses, or the prima facie intent of the statute is to reimburse a juror for expenses, and the amount prescribed is reasonable in amount, any amount received for jury service by a government employee who is entitled to leave for jury duty must be credited against the employee's compensation payable by the federal government. 5 U.S.C. § 5515. William A. Lamb, B-183711, August 23, 1977.

In this case the Texas statute provides for the pay of jurors serving in courts but it does not specifically provide for reimbursement of subsistence or travel expenses. In such circumstances we will not assume that the jury fees are intended as a reimbursement for expenses, regardless of their characterization as not being compensation for other purposes.

Additionally, we do not agree with Mr. Hines' contention that "per diem" as defined in the Joint Travel Regulations to include subsistence or travel allowance should be given this meaning in interpreting the Texas statute. Rather, the words "per diem" in this statute should be given their ordinary preferred meaning "by the day." Webster's Third New International Dictionary 1676 (1966). It would be impermissible for us to assign a specialized meaning to the words "per diem" inasmuch as it is a general principle of law that words which are not defined in a statute are to be interpreted in their ordinary, everyday sense. First National Bank & Trust Company of Chickasha v. United States, 462 F.2d 908 (10th Cir. 1972).

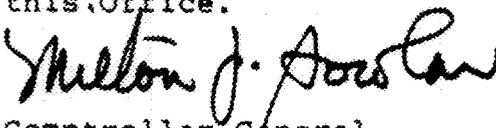
Regarding the fact that the Attorney General of Texas has held that jury fees are not salaries or wages when paid to county employees who serve as jurors, we note that the Attorney General held that the jury fee was more in the nature of a gratuity or allowance. This holding permitted county employees to serve as jurors without being placed on leave without pay during jury service under the provisions of the Texas state constitution prohibiting an individual

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from holding more than one office. Tex. Const. Ann. art. 16 sec. 40 (Vernon 1972). The Attorney General's view that jury pay is in the nature of a gratuity or an allowance would not provide the basis for allowance here since under our prior decisions only jury fees which are specifically intended as reimbursement for expenses may be retained by the employee.

Accordingly, the amount of jury fees received by Mr. Hines was properly credited against his pay. The voucher submitted with his claim for refund may not be paid and it will be retained by this Office.

*for*   
Comptroller General  
of the United States