

DECISION

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

FILE: B-210197

DATE: June 6, 1983

MATTER OF: Sergeant Timothy T. Miller, USAF

DIGEST:

1. An Air Force enlisted member on permanent duty in Germany, whose travel orders direct travel by Government air, but who by amendment to those orders is authorized to take leave in the United States following his temporary duty assignment there, is responsible for the commercial transportation costs incurred in getting from his temporary duty station to his leave address and to the Air Force base from which he departs by Government aircraft to return to Germany.
2. An Air Force enlisted member's temporary duty travel orders directed travel by Government air and referred to a "dedicated airlift" which would be available for his use in returning directly to his permanent duty station. Since the orders did not clearly state that the dedicated airlift was the only flight for him to use, he need not reimburse the Government for the cost of his travel for a portion of the trip for which he used a different Government flight to return to his permanent duty station.

This decision responds to a request from the Chief of Accounting and Finance, Headquarters 36th Tactical Fighter Wing (USAFE), Department of the Air Force, for an advance decision concerning whether Sergeant Timothy T. Miller, USAF, is entitled to transportation at Government expense for travel performed returning to Bitburg Air Base, Germany, from temporary duty at Nellis Air Force Base, Nevada. The request was assigned control number 82-27 and forwarded to us by the Per Diem, Travel and Transportation Allowance Committee.

At issue is whether the statement on Sergeant Miller's travel order that "Govt. air directed for travel. Dedicated

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airlift will return from Nellis to Bitburg on or about 10 July 1982" precludes the Government from bearing any of the expense of Sergeant Miller's return travel because he did not use the "dedicated airlift." We find that Sergeant Miller is responsible for the cost of commercial transportation he used from Nellis Air Force Base to Charleston, South Carolina. He is not liable, however, for the cost of Government transportation he used from Charleston to Bitburg, Germany.

In May 1982 Sergeant Miller was directed to perform temporary duty travel from his permanent station, Bitburg Air Base, Germany, to Nellis Air Force Base, Nevada, and return. His travel orders contained the quoted statement that Government air was directed for travel, and dedicated airlift would return on or about July 10, 1982. Sergeant Miller's orders subsequently were amended to permit him to take 15 days of leave following his temporary duty assignment at Nellis. The direction to use Government air transportation and the statement regarding the dedicated airlift were not changed.

While at Nellis, Sergeant Miller took his travel orders to the Nellis Transportation Office where he was informed that his return travel would be at Government expense. He also was issued Government travel requests for commercial air transportation from Nellis to Mobile, Alabama, where he was going on leave, and from Mobile to Charleston Air Force Base, South Carolina. Sergeant Miller additionally received a Military Airlift Command Transportation Authorization for his return to Bitburg from Charleston on a Military Airlift Command flight. Upon completion of his temporary duty at Nellis, he used the transportation request to travel by commercial air to Mobile to use his authorized leave, and then to Charleston. From Charleston he traveled by Government air to Germany.

The Accounting and Finance Officer indicates that because Sergeant Miller's orders directed use of Government air transportation and referred to the "dedicated airlift," which was available,, Sergeant Miller was not entitled to use any other transportation at Government expense and he must reimburse the Government for the cost of the other transportation.

Subject to such conditions as the Secretary concerned may prescribe, a military member directed to perform temporary duty is entitled to travel at Government expense between his permanent and temporary duty stations. 37 U.S.C. § 404 and Volume 1, Joint Travel Regulations (1 JTR), para. M4203. However, the only transportation costs payable by the Government are those incurred while the member is traveling on public business pursuant to competent orders. 1 JTR para. M3050-1. A member who is traveling solely for leave purposes is traveling for personal reasons and is, therefore, not on public business and is not entitled to transportation at Government expense. Matter of DeGuttadauro, B-191291, June 30, 1978; Air Force Regulations 177-103(c)(1), para. 3-2 (July 1, 1977).

In the present case, apparently a Government aircraft was specifically made available ("dedicated airlift") for Sergeant Miller's and others' return trip from Nellis to Bitburg. If Sergeant Miller had not taken leave he could have traveled directly from Nellis to Bitburg on the Government aircraft at no extra cost to the Government. His travel from Nellis to Charleston via the leave point was performed solely for leave purposes. In addition as the Accounting Officer points out, 1 JTR para. M4203-4c which states that: "[w]hen travel is directed to be performed by Government conveyance and such conveyance was available but travel was performed by another mode of transportation, payment of a monetary allowance in lieu of transportation is prohibited." Paragraph M4203-3d, 1 JTR, prohibits reimbursement for commercial transportation used in similar circumstances. Consequently, if the Nellis transportation officer in issuing Sergeant Miller a transportation request, advised him that the flights to Mobile and Charleston would be at Government expense, he was in error. Such erroneous advice is not a basis for us to authorize expenditure of Government funds not authorized under applicable laws and regulations. Therefore, Sergeant Miller must reimburse the Air Force for the cost of this transportation.

While Sergeant Miller must repay the Air Force for the cost of travel from Nellis to Mobile to Charleston in these circumstances, he is not liable for the cost of the Government transportation furnished him from Charleston to Bitburg. The Accounting Officer indicates that because the

travel orders stated that use of Government air was directed, and referred to the dedicated airlift returning on or about July 10, 1982, Sergeant Miller was not entitled to travel at Government expense by any other mode of transportation, including the military flight which he took from Charleston to Bitburg.

In this case the orders clearly directed the use of Government transportation. However, it is not clear from their wording that the only Government transportation authorized was the dedicated airlift. That is, it is not clear from the wording on the orders that the reference to the dedicated airlift was a mandatory direction to use only that flight. Also Sergeant Miller's orders were amended to authorize him to take leave. Therefore, in view of this lack of clarity and the fact that the Transportation Officer at Nellis apparently arranged the route of travel for Sergeant Miller, the cost of the Government transportation he used from Charleston to Bitburg should not be collected from him.

for *Milton J. Aroslan*
Comptroller General
of the United States