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DECISION

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

50502

FILE: B-182346

DATE: FEB 4 1975

MATTER OF: Interest on judgment - Mr. Melvin T. Bishop

DIGEST: Interest payable on a judgment entered by the United States District Court against the United States is subject to the restrictions established by 31 U.S.C. 724a, which provides, in effect, that if the United States does not appeal the court's decision, there is no statutory basis for the payment of interest on the judgment; therefore, even where there has been a year's delay in the settlement of the claim interest may not be paid.

This action is in response to a letter of December 9, 1974, from Vincent E. McCauley, Esquire, written on behalf of Mr. Melvin Bishop, which in effect requests reconsideration of our Transportation and Claims Division settlement of October 31, 1974, which disallowed Mr. Bishop's claim for interest on an amount directed to be paid to him pursuant to a judgment entered in the United States District Court for the Middle District of Georgia, Columbia Division, in his case.

The file shows that in a decision rendered on October 19, 1973, the United States District Court for the Middle District of Georgia held that Mr. Bishop was entitled to receive \$4,999.74 in back pay and allowances "with interest thereon as provided by law" for military service performed during 1968 and 1969 while a member of the United States Army. On the evidence, the court found that a determination on the part of the Army that Mr. Bishop was absent without leave during the period in question was erroneous and that his service records were to be corrected to show such period to be "good time" and that he is to receive pay and allowances for that period.

On October 4, 1974, this Office received notification of the judgment and on October 31, 1974, a settlement was issued to Mr. Bishop in the amount of \$4,999.74.

Mr. McCauley contends that Mr. Bishop is entitled to recover interest from the Government on the judgment from the date the judgment was rendered.

The provisions of 31 U.S.C. 724c control in the matter of interest on the judgment rendered in Mr. Bishop's case. The section reads in part as follows:

"There are appropriated, out of any money in the Treasury not otherwise appropriated, and out of the postal revenues, respectively, such sums as may on and after July 27, 1956 be necessary for the payment, not otherwise provided for, as certified by the Comptroller General, of final judgments and compromise settlements (not in excess of \$100,000, or its equivalent in foreign currencies at the time of payment, in any one case) which are payable in accordance with the terms of sections 2414 or 2517 of Title 28, together with such interest and costs as may be specified in such judgments or otherwise authorized by law: Provided, That, whenever a judgment of a district court to which the provisions of section 2411(b) of Title 28 apply, is payable from this appropriation, interest shall be paid thereon only when such judgment becomes final after review on appeal or petition by the United States, and then only from the date of the filing of the transcript thereof in the General Accounting Office to the date of the mandate of affirmance (except that in cases reviewed by the Supreme Court interest shall not be allowed beyond the term of the Court at which the judgment was affirmed):
* * *."

The effect of the quoted provisions is to permit the payment of interest on judgments only in cases appealed by the United States and affirmed on appeal. See 44 Comp. Gen. 421 (1965). Since the United States did not appeal this case, the interest payment rule enunciated therein would not be for application in this case.

Further, there is a general rule that has been repeatedly restated by the courts that interest is not allowable on claims against the Government in the absence of an express statutory provision to that effect, whether such claims originate in contract, tort or arise in the ordinary business of the administrative function of the Government. See Angarica v. Bayard, 127 U.S. 251 (1888).

In the case of Gray v. Dukedom Bank, 216 F. 2d 108, 110 (1954), this principle was restated as follows:

"Interest on claims against the United States, even where payment has been unreasonably delayed, does not follow automatically upon the allowance of the claim.

B-182346

In the absence of constitutional requirements interest can be recovered against the United States only if express consent to such a recovery has been given by Congress. * * *

Therefore, in the absence of any statutory provision specifically authorizing the payment of interest in cases such as Mr. Bishop's there is no legal basis upon which the payment of interest may be made. Accordingly, the action taken by our Transportation and Claims Division is sustained.

R. F. WOODRUFF

Comptroller General
of the United States