



---

**Comptroller General  
of the United States**

Washington, D.C. 20548

---

# Decision

**Matter of:** Commander Carl D. Swanson, USCGR (Retired)—Claim for Retroactive Increased Reserve Retired Pay

**File:** B-270971

**Date:** March 27, 1996

---

## DIGEST

A retired member of the Coast Guard Reserve, due to administrative error, was paid less than the correct amount of reserve retired pay from his retirement in 1972 until the error was discovered in 1992. The Coast Guard then paid him the additional amount due for the 6 years prior to the discovery of the error. However, his claim for the amount which accrued before that 6-year period is barred by 31 U.S.C. § 3702(b), which allows payment only of claims which are presented within 6 years of accrual. Neither the General Accounting Office nor the Coast Guard may waive application of this statutory requirement.

---

## DECISION

We have been asked to review the denial of the claim of Commander Carl D. Swanson, USCGR (Retired), for retroactive increased reserve retired pay. We affirm the Claims Group's denial of his claim.

Commander Swanson was placed on the Coast Guard Reserve retired list in October 1972 and became entitled to receive reserve retired pay at that time. Due to an administrative error in computing his initial retired pay, he was underpaid a total of \$4,153.14 between that time and February 29, 1992, when the Coast Guard discovered and corrected the error. The Coast Guard then paid Commander Swanson the amount he had been underpaid between February 1, 1986, and February 29, 1992, the 6-year period immediately preceding the discovery of the error. This amounted to \$1,688.92 minus federal tax withholding, or a net amount of \$1,351.14. The Coast Guard advised him that it is precluded by law from paying the amount that accrued prior to February 1, 1986.

Commander Swanson filed a claim with our Office for the balance of the underpayment. Our Claims Group denied his claim, advising him that it is barred by the provisions of 31 U.S.C. § 3702(b).<sup>1</sup>

Under the Barring Act, 31 U.S.C. § 3702(b), and implementing regulations, 4 C.F.R. § 31.5, every claim against the United States cognizable by the General Accounting Office (GAO) must be received by GAO or the agency or department concerned within 6 years of the date it accrues or be forever barred.<sup>2</sup>

Commander Swanson's claim for retired pay accrued beginning in October 1972 and monthly thereafter as each payment of retired pay became due. Under the Barring Act only that portion of his claim which is within 6 years of accrual is payable. See QMCM Bennie S. Kearley, USCG (Retired), B-246871, June 4, 1992; and Lieutenant Colonel Donald E. Keen, USAR Retired, B-193181, May 22, 1979, involving similar claims. The Coast Guard has already paid that portion of the underpayment to him. While it is unfortunate that the error in computation of Commander Swanson's retired pay occurred and that he was unaware of it, neither our Office nor the Coast Guard may waive the 6-year limit prescribed by the Barring Act.

Accordingly, the denial of Commander Swanson's claim for the unpaid portion of his reserve retired pay that accrued from October 1972 through January 1986, is sustained.

Robert P. Murphy  
General Counsel

---

<sup>1</sup>Claims Group settlement Z-2869838, dated November 3, 1995.

<sup>2</sup>Prior to June 15, 1989, only filing with the GAO satisfied the Barring Act. However, this requirement had no effect in Commander Swanson's case since the error was not discovered until 1992.



United States  
General Accounting Office  
Washington, D.C. 20548

---

Office of the General Counsel

B-270971

The Honorable J.D. Hayworth  
Member, United States House of Representatives  
1818 E. Southern Avenue, Suite 3-B  
Mesa, AZ 85204

Dear Mr. Hayworth:

This is in response to your letter of December 29, 1995, regarding the claim of Commander Carl D. Swanson, USCGR (Retired), for payment of additional amounts of reserve retired pay which accrued between October 1972 and January 1986, and which he did not receive due to an administrative error in computing his retired pay.

Enclosed is a copy of our decision of today in which we find that Commander Swanson cannot be paid the amount of reserve retired pay he was underpaid before February 1986. As we explain in the decision, neither our Office nor the Coast Guard may waive the provision of the Barring Act, 31 U.S.C. § 3702(b), that precludes payment of claims received more than 6 years from their accrual. Since the Coast Guard has already paid Commander Swanson for the 6 years preceding the discovery of their error, we may not authorize additional payment on his claim.

We regret that a more favorable reply is not possible.

Sincerely yours,

/s/Seymour Efros  
for Robert P. Murphy  
General Counsel

Enclosure