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DECISION



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

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FILE: B-202733

DATE: February 23, 1982

MATTER OF: Gunnery Sergeant W. F. Moss, USMC, et al.

- DIGEST: 1. Marine Corps members who traveled by Government van on temporary duty may be paid per diem for entire period of travel, where the circumstances of the travel do not show that it was performed in an unreasonable or imprudent manner. They departed permanent duty station at 5:30 a.m., traveled 370 miles, and stopped travel at 3 p.m. Their departure at 5:30 a.m. was not unreasonable merely because it placed them on travel status during morning mealtime. In addition, they did not act unreasonably in traveling 600 miles in 2 days rather than 1 day on their return travel. Proposal that they should have performed the travel in 1 day, involving about 11 hours' driving time, would have imposed an unreasonable travel requirement.
2. The Comptroller General has no legal objection to an amendment of the Joint Travel Regulations, if considered desirable by the service Secretaries, which would generally allow 1 day of travel time for per diem purposes for each 300 miles of temporary duty travel performed by Government automobile, since that amendment would not be inconsistent with the governing provisions of statutory law authorizing travel allowances for service members on temporary duty assignments, 37 U.S.C. 404, nor with the requirement that Federal personnel perform official travel in an expeditious manner.

The disbursing officer, Marine Corps Logistics Base, Albany, Georgia, has requested an advance decision on the question of whether three Marine Corps members who traveled by Government van on temporary duty may be paid per diem based on their actual period of travel. This request was assigned Control Number 81-11 by the Per Diem,

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Travel and Transportation Allowance Committee (Per Diem Committee), and forwarded to us by endorsement. The Per Diem Committee has also forwarded a proposed change to the Joint Travel Regulations which would generally allow 1 day of traveltime for per diem purposes for each 300 miles of temporary duty travel performed by Government automobile.

In the matter of the three Marines whose per diem entitlements have been specifically questioned, we find that their travel schedule was reasonable so that they may be allowed per diem for the entire period of that travel. Further, we find no legal objection to the computation of traveltime on a mileage basis under the proposed change to the Joint Travel Regulations.

Gunnery Sergeant Wiley F. Moss, Staff Sergeant Donald M. Brooks, and Sergeant Jerry W. Neal, members of a Technical Inspection Team, were issued written orders directing them to travel by Government vehicle from their permanent duty station at the Marine Corps Logistics Base, Albany, Georgia, to Charleston, West Virginia, and then to proceed to other designated temporary duty points.

They departed from Albany, Georgia, under those orders at 5:30 a.m. on October 13, 1980, and traveled a distance of 370 miles to Spartanburg, South Carolina, where they arrived at 3 p.m. They remained overnight in Spartanburg and resumed travel at 8 a.m. the next morning to their initial temporary duty point, Charleston, West Virginia. They arrived at Charleston at 3:16 p.m. on October 14, and began work the next morning at 8 a.m.

Paragraph M4205-3, Volume 1 of the Joint Travel Regulations (1 JTR), provides that up to three deductions per day will be made from the total per diem payable, for each mealtime (0600, 1200 and 1800) on days of departure or return when the member was at the permanent station prior to the commencement of travel or after return from the temporary duty station. The disbursing officer suggests that if the three Marines had acted prudently, they would have departed Albany, Georgia, on October 13 after 6 a.m. rather than at 5:30 a.m. and that they could have driven a corresponding amount of time beyond 3 p.m. (the time they stopped at Spartanburg). He suggests that this

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scheduling would have still allowed them to arrive at Charleston early on the evening of October 14, so that they would be well rested prior to their beginning temporary duty at 8 a.m. on October 15. Thus, under paragraph M4205-3, 1 JTR, he proposes to deduct an amount from the per diem otherwise due them for the morning meal time (0600) on October 13, since his reconstruction of their departure time has them departing Albany sometime after 6 a.m. that day.

On their return travel to Albany, Georgia, the three Marines departed their last temporary duty post at Wheeling, West Virginia, at 12:15 p.m. on November 13, 1980, upon completion of their duties. They traveled 296 miles to Whytheville, Virginia, where they arrived at 5:15 p.m. They departed Whytheville the next morning and proceeded 387 miles to Atlanta, Georgia. They arrived in Atlanta at 1:50 p.m. and departed at 8:30 a.m. the following morning, November 15, and traveled the remaining 213 miles to Albany, arriving there at 12:15 p.m. The disbursing officer suggests that this travel schedule was unreasonable in that they could have continued on to Albany on November 14, rather than stopping at Atlanta for the night, and they could have arrived in Albany by 6 p.m. on November 14 had they not made the stop in Atlanta. He therefore proposes to deduct an amount of per diem for the evening mealtime on November 14 under paragraph M4205-3, 1 JTR, and to disallow per diem completely for November 15. He also proposes to charge each member 1 day's leave for November 15.

In its transmittal letter the Per Diem Committee expresses disagreement with the disbursing officer's position, indicating that it views the three Marines' travel schedule as reasonable in the circumstances. The Committee further indicates that it is considering an amendment to the Joint Travel Regulations which would generally allow 1 day of traveltime for each 300 miles of travel in situations of this nature. Some members of the Committee apparently believe that this change in the regulations would tend to prevent similar controversies from recurring in the future.

Title 37, United States Code, section 404 (1976), provides that under regulations prescribed by the Secretaries concerned, a member of a uniformed service is entitled to travel and transportation allowances for travel performed under orders. Paragraph M4204-4, 1 JTR, issued in furtherance of the statute, provides in part as follows regarding the time allowable in computing per diem:

"TRAVEL BY GOVERNMENT CONVEYANCE DIRECTED.
When travel is directed and performed by Government conveyance in connection with temporary duty per diem allowances are properly payable for the time necessary to perform the travel directed.* * *"

Thus, the applicable provisions of regulation authorize per diem for the "time necessary" to perform the travel, but do not otherwise prescribe any specific time limits.

We have previously expressed the view that, as a general rule, Federal personnel are expected to perform official travel as expeditiously as they would if traveling on their own personal business. See 46 Comp. Gen. 425, 426 (1966). We have also held that resolving the question of whether an individual has taken unnecessary time to perform official travel requires a determination of whether he acted in a reasonable and prudent manner in the particular circumstances. See 55 Comp. Gen. 513, 514-515 (1975).

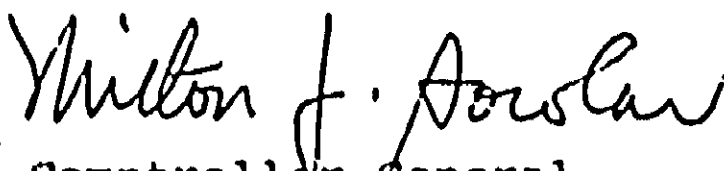
Applying these standards to the present case, we are unable to conclude that the three Marines in question acted unreasonably or took unnecessary time during either their first day of travel on October 13 or their return travel on November 14 and 15, 1980. Although they were apparently not required to begin their temporary duty travel on October 13 as early as 5:30 a.m., we do not view that departure time as unreasonable merely because it resulted in their being in travel status during the morning mealtime that day. We also do not view their return travel on November 14 and 15 as being either unreasonable or imprudent. As stated above, they traveled 387 miles on November 14 and 213 miles on November 15, a total of 600 miles. We believe that requiring them to complete their return travel on

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November 14 would have placed an unreasonable travel requirement on them since, given the 55 mile per hour national speed limit, that 600-mile trip would have required about 11 hours of non-stop driving even under ideal traffic conditions.

Concerning the proposed amendment to the Joint Travel Regulations forwarded by the Per Diem Committee, it appears that proposal would involve a change to paragraph M4204-4, quoted above, to generally allow 1 day of traveltime for each 300 miles of official travel, with an added day allowable for fractions exceeding 150 miles, for temporary duty travel ordered to be performed by Government automobile. Additional traveltime would be allowed, when approved by the concerned command authorities, if the traveler experienced unavoidable delays. This would conform to the "300-mile rule" for travel by private auto which was initially prescribed by the President in 1950 for reservists recalled to duty, and which now generally applies to service members and civilian employees traveling to a new permanent duty station. See 38 Comp. Gen. 513, 516 (1959), 56 *id.* 104 (1976). Although temporary duty travel is somewhat different in character from travel to a new permanent duty station, we find that the proposed amendment relating to temporary duty travel is not inconsistent with the governing statutory provisions of 37 U.S.C. 404 nor with the general requirement, mentioned above, that Federal personnel be expeditious in the performance of official travel.

Accordingly, we have no objection to amendment of the Joint Travel Regulations in the manner described, if that is considered desirable by the service Secretaries. Further, the three Marines whose entitlements have been questioned should be allowed per diem for their actual period of travel, and they should not be charged leave for November 15, 1980. The vouchers enclosed with the submission are returned for further processing consistent with the views expressed here.

for 
Comptroller General
of the United States