Text as published on gao.gov, https://www.gao.gov/products/b-162193, archived 2026-08-31. GAO published no original file for this decision. Rendered by Comptroller Desk.

B-162193 September 1, 1967

Number: B-162193

Date: 1967-09-01

B-162193 September 1, 1967

The Honorable Harman E. Talnedge United States Senate

Dear Senator Talnedge:

Further reference is made to your letter of August 2, 1967, and enclosures, concerning and indebtedness by Mr. John W. Blake.

It is our understanding that in November 1960 Mr. Blake obtained a loan in the amount of $12,750 guaranteed by the Veterans Administration on property located in Jacksonville, Florida. In April 1963 title to the property was acquired by Gerald Milian and Joyce Milian without their assuming and agreeing to pay the mortgages indebtedness. Subsequently the loan was in default and a foreclosure sale was held in September 1964. Mr. Blake could not be located and he was not a party to the foreclosure proceedings. As a result of this action the Veterans Administration, under the terms of the guaranty, was required to pay the sum of $1,572.96 to the holder of the guaranteed loan.

While no deficiency judgement was thus obtained against Mr. Blake, he remained liable for the above amount by virtue of his obligation for payment of the loan under the provisions of the mortgage and mortgage note and his application for loan guaranty. This Obligation to pay his debt is provided for in 38 CFR 26.4323(a) and it is our understanding that such regulation was incorporated by reference in the application for guaranty. Consequently, regardless of what the law of Florida may provide with respect to deficiency judgements, Mr. Blake is indebted for the amount the Veterans' Administration was required to pay to the holder of his loan. See in this connection United States v. Shimer, 367 U.S. 374.

Upon being advised of this indebtedness, Mr. Blake, who is serving on active duty in the United States Navy, authorized the withholding of $50.00 per month from his pay beginning with December 1965 in order to liquidate such indebtedness. Consequently, through August 1967, his indebtedness has been reduced by $1,050.

According to information furnished by you, Mr. Blake has attempted to have this allotment stopped but has been unsuccessful even though his attorney asserts that -- "He wants it cut off and when done will waive any and all formalities and appear at any Court in Florida to try the deficiency question on its merits and if he loses, he will pay it."

For the reasons stated above and in view of the court case referred to, we have

no question but that Mr. Blake is legally indebted to the United States for the unrecovered amount that the United States paid to the holder of his loan. Nevertheless you ask us for clarification of the question raised by Mr. Blake's attorney concerning the right of Mr. Blake to stop his allotment.

As a general rule in the absence of an agreement on the part of the debtor or of a statute so providing, general debts owing to the United States ordinarily may not be set off against current pay or compensation of a serviceman or an employee of the United States. 33 Comp. Gen. 4431. Also, the provisions of 38 U.S.C. 1826(b) prohibit the withholding of payment (i.e. a veteran for certain purposes unless there is first received his consent in writing. However Mr. Blake having originally consented in writing to a monthly allotment now wishes to have such allotment discontinued apparently due his belief that the indebtedness is unenforceable under Florida law.

As indicated above, however, Mr. Blake is legally indebted to the United States under Federal Law notwithstanding the Florida law. Consequently to discontinue his allotment at this time may result in additional interest being charged to him together with possible court costs should it become necessary for the Government to recover the amount by court action.

Sincerely yours,

R.F. Keller Acting Comptroller General of the United States