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B-211945, Jul 18, 1983, Office of General Counsel

Number: B-211945

Date: 1983-07-18

B-211945, JUL 18, 1983, OFFICE OF GENERAL COUNSEL

MR. CONRAD R. HOFFMAN ASSISTANT DEPUTY ADMINISTRATOR FOR BUDGET AND FINANCE OFFICE OF BUDGET AND FINANCE VETERANS ADMINISTRATION:

THIS IS IN RESPONSE TO YOUR LETTER (YOUR REFERENCE 047C1:1-3), REQUESTING RELIEF FOR MR. MICHAEL WHEELER, IMPREST FUND CASHIER AT THE VETERANS ADMINISTRATION (VA) OUTPATIENT CLINIC IN EVANSVILLE, INDIANA UNDER 31 U.S.C. SEC. 3527(A) (FORMERLY 31 U.S.C. SEC. 82A-1) FOR A LOSS OF FUNDS IN THE AMOUNT OF $1,157.35.

THE RECORD YOU HAVE SUBMITTED SHOWS THAT MR. WHEELER WAS RETURNING TO THE VA OUTPATIENT CLINIC ON FOOT AT MIDDAY, THURSDAY, DECEMBER 23, 1982, FROM HAVING CASHED GOVERNMENT CHECKS TO REPLENISH AN IMPREST FUND. MR. WHEELER WAS STRUCK FROM BEHIND ACROSS THE NECK AND SHOULDER AND KNOCKED TO THE GROUND. HIS GOVERNMENT MONEY BAG CONTAINING $1,157.35 WAS TAKEN BY A MALE PERSON WHO JUMPED INTO AN AUTOMOBILE DRIVEN BY ANOTHER MALE PERSON. THE ROBBERY WAS REPORTED TO THE EVANSVILLE POLICE BUT THE ROBBER WAS NOT APPREHENDED, NOR HAVE THE FUNDS BEEN RECOVERED.

AN ACCOUNTABLE OFFICIAL IS AN INSURER OF PUBLIC FUNDS IN HIS CUSTODY AND IS EXCUSABLE ONLY FOR LOSS DUE TO ACTS OF GOD OR THE PUBLIC ENEMY. THIS OFFICE IS AUTHORIZED UNDER 31 U.S.C. SEC. 3527(A) (FORMERLY SEC. 82A-1) TO RELIEVE ACCOUNTABLE OFFICERS FROM LIABILITY IF IT CONCURS IN THE DETERMINATIONS BY THE HEAD OF THE AGENCY CONCERNED THAT THE ACCOUNTABLE OFFICER WAS CARRYING OUT HIS OFFICIAL DUTIES WHEN THE LOSS OCCURRED AND THAT THE LOSS WAS NOT THE RESULT OF FAULT OR NEGLIGENCE OF THE OFFICER.

WE HAVE EXAMINED THE EVIDENCE SUBMITTED ON MR. WHEELER'S BEHALF. THE FBI REPORT OF INVESTIGATION AND THE LETTER FROM THE EVANSVILLE POLICE DEPARTMENT TO THE VA FACILITY SUPPORT YOUR FINDINGS THAT MR. WHEELER WAS NOT IMPLICATED IN THE ROBBERY IN ANY WAY. FURTHER, WE ACCEPT YOUR ADMINISTRATIVE DETERMINATION THAT THERE WAS NO FAULT OR NEGLIGENCE ON HIS PART.

THIS OFFICE HAS GRANTED RELIEF IN SEVERAL SUBSTANTIALLY SIMILAR CASES IN THE PAST. SEE, E.G., B-209494, OCTOBER 22, 1982. ACCORDINGLY, WE CONCUR IN YOUR DETERMINATIONS AND GRANT RELIEF TO MR. WHEELER IN THE AMOUNT OF $1,157.35.