

## **LAW REVIEW 14062**

**May 2014**

### **Federal Law Permits you to Receive a Federal Civilian Salary and Military Salary at the same Time, if you are on Terminal Leave**

**By Commander Wayne L. Johnson, JAGC, USN (Ret.)**

#### **9.0--Miscellaneous**

**Q: I graduated from the Naval Academy in 2006 and received my commission as an Ensign. I have served on active duty continuously since I was commissioned, and I have fulfilled my obligation to the Navy. I will be “getting out” and leaving active duty, and probably disaffiliating from the Navy altogether, on September 30, 2014. For the last 60 days of my active duty period, starting on August 2, I will be on terminal leave.**

**I applied for and was selected for a Department of the Navy civilian job, and I am scheduled to start on Monday, August 4, 2014. My plan is to earn my civilian salary as well as my military salary in August and September, while I am on terminal leave, but an employee in the civilian personnel office told me that it is impermissible to draw a military salary and a federal civilian salary for the same period of time.**

**By doing an Internet search, I found and read with interest Law Review 87<sup>1</sup> by Captain Samuel F. Wright, JAGC, USNR.<sup>2</sup> That article is**

---

<sup>1</sup> We invite the reader's attention to [www.servicemembers-lawcenter.org](http://www.servicemembers-lawcenter.org). You will find 1,053 articles about laws that are especially pertinent to those who serve our country in uniform, along with a detailed Subject Index and a search function, to facilitate finding articles about very specific topics. ROA initiated this column in 1997 and adds new articles each week, including 169 new articles in 2013.

**about a reservist who left a federal civilian job when called to active duty and who sought to return to the federal civilian job while on terminal leave, at the end of the active duty period under the recall. Captain Wright said that the individual was permitted to return to the federal civilian job while on terminal leave and to draw two federal paychecks during the terminal leave period.**

**I made a copy of Law Review 87 and provided it to the civilian personnel official. She told me that my situation is different because I have never before worked for the Federal Government as a civilian employee and that I am not permitted to draw two federal paychecks while on terminal leave. Is the personnel official correct?**

**A:** No, she is wrong. Section 5534a of title 5 of the United States Code provides an explicit exception to the rule against “double dipping” by collecting two federal salaries (one military and one civilian) for the same period of time. Here is the text of section 5534a:

“A member of a uniformed service who has performed active service and who is on terminal leave pending separation from, or release from active duty in, that service under honorable conditions may accept a civilian office or position in the Government of the United States, its territories or possessions, or the government of the District of Columbia, and he is entitled to receive the pay of that office or position in addition to pay and allowances from the uniformed service for the unexpired portion of the terminal leave. Such a member also is entitled to accrue annual leave with pay in the manner specified in section 6303(a) of this title for a retired member of a uniformed service.”

5 U.S.C. 5534a.

---

<sup>2</sup> Captain Wright retired from the Navy Reserve in 2007, and he currently serves as the Director of ROA’s Service Members Law Center. More recent articles list him as Captain, JAGC, USN (Ret.).

This section applies to the situation envisioned in Law Review 87—the federal employee who enters or reenters active duty, voluntarily or involuntarily, as a member of a Reserve Component of the armed forces and who seeks to return to the federal civilian job during the terminal leave period at the end of the active duty period. This section also applies to your situation—a person who is leaving active duty, short of retirement, and who seeks to start a new federal civilian job during the terminal leave period at the end of the individual’s active duty service.

This section also applies to Joe Smith, who is retiring from military service after 20 years or more of active duty and who is starting a new federal civilian job as a second career. Section 5534a is clearly broad enough to apply to all of these situations.

Section 5534a was enacted almost half a century ago, in 1967. But many federal civilian personnel offices claim to be unfamiliar with this section or try to interpret it much more narrowly than Congress intended. In federal civilian personnel offices (even those within the military departments) there is a lot of misinformation, ignorance, and cultural bias against military personnel.

If you run into a problem as a veteran or Reserve Component service member with respect to your rights as a federal civilian employee or applicant, I suggest that you contact the Veterans Program Manager for the federal agency where you are employed or seeking employment. You can find a list of those Veterans Program Managers for all federal agencies at <http://www.fedshirevets.gov/AgencyDirectory/index.aspx>.