

The Billion Dollar Case for Federal Employees

Our article yesterday summarizing a new court decision on back pay for some federal employees who used military leave for military reserve duties (See "Back Pay for Some Military Reservists Going Back to 1980?") drew a response from a number of readers.

One of the readers was Mathew B. Tully, Esq. Mr. Tully is the attorney of record for the case of Hernandez v. Department of the Air Force. Apparently, FedSmith reported the new case so quickly that Mr. Tully first learned of the decision in the case through the FedSmith site.

That was probably a good start to his day. The case could turn out to be the kind of case that guarantees a successful legal career. Mr. Tully offered an interesting and surprising statistic on the case based on his firm's research in preparing the case. He stated in an e-mail to FedSmith that "We estimate 300,000 federal civil servants took military leave between 1980 and 2000. At an average of \$3000 per employee in compensation this case could mean (assuming every single person applies for compensation) that the government with attorney fees will pay out over \$1B."

While many readers may disagree with his overall assessment, Mr. Tully's euphoric reaction is understandable. "The case you cite, in my opinion is the biggest victory for federal civil servants in the history of the federal civil service system." That probably depends on how one defines "biggest victory" but in terms of overall potential payouts, the decision could be an expensive one for the federal government.

Not surprisingly, a number of active and retired federal employees are military reservists and many, probably most, have taken military leave for reserve activities. Mr. Tully says that "We have processed nearly 6000 claims since 2003 when Butterbaugh first was issued. Our average award is between \$1500 and \$3000 (depending on the employees grade and years of military service). Our biggest award was \$27,000 (a SES employee with many years of military service)."

In effect, the decision will mean some extra money for some current or retired federal employees. It may also mean a considerable financial return for the law firm that won the case and a considerable unanticipated hit for some agency budgets.