

**FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
UNITED STATES DEPARTMENT OF JUSTICE  
WASHINGTON, D.C. 20579**

In the Matter of the Claim of	}	
	}	
	}	
5 U.S.C. §552(b)(6)	}	Claim No. IRQ-II-066
	}	
	}	
Against the Republic of Iraq	}	Decision No. IRQ-II-230
	}	

PROPOSED DECISION

Claimant brings two legal claims against the Republic of Iraq (“Iraq”), a claim of hostage taking and a claim of personal injury resulting from physical harm. Claimant’s hostage-taking claim must be denied because he has failed to carry his burden of establishing that he was held hostage by Iraq. His personal-injury claim must be denied because the Commission lacks jurisdiction over that claim: the Commission may not exercise jurisdiction over personal-injury claims unless a claimant had been in pending litigation against Iraq, and Claimant does not allege that he was in any such litigation. In sum, for these reasons, both of his claims are denied.

BACKGROUND AND BASIS OF THE PRESENT CLAIM

Claimant alleges that, while attempting to fly out of Iraq on January 13, 1991, he was detained and interrogated inside a room in the Baghdad airport by Baath Party officials. He also claims those officials gave him orange juice laced with poison. Claimant alleges that, several hours later, he managed to escape the room and board his flight to Amman, Jordan, from where he flew to Athens, Greece, and onward to the United States. He alleges

further that, as a result of the poison he ingested, he experienced severe gastrointestinal problems and that he has developed a variety of related health problems that have continued to the present day.

Although Claimant was not involved in the lawsuits, many U.S. nationals who were in Iraq and Kuwait at the time of the 1990-91 Iraqi occupation of Kuwait sued Iraq (and others) in federal court for, among other things, hostage-taking.<sup>1</sup> Those cases were pending when, in September 2010, the United States and Iraq concluded an *en bloc* (lump-sum) settlement agreement.<sup>2</sup> The Agreement, which entered into force in May 2011, covered a number of personal injury claims of U.S. nationals arising from acts of the former Iraqi regime occurring prior to October 7, 2004, including claims of personal injury caused by hostage-taking.<sup>3</sup> The Agreement defined “U.S. nationals” as “natural and juridical persons who were U.S. nationals at the time their claim arose and through the date of entry into force of this Agreement.”<sup>4</sup>

Under the International Claims Settlement Act of 1949 (“ICSA”), the Secretary of State has statutory authority to refer “a category of claims against a foreign government” to this Commission.<sup>5</sup> The Secretary has delegated that authority to the State Department’s Legal Adviser, who, by letter dated October 7, 2014, referred three categories of claims to this Commission for adjudication and certification.<sup>6</sup> This was the State Department’s

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<sup>1</sup> See, e.g., *Hill v. Republic of Iraq*, 175 F. Supp. 2d 36 (D.D.C. 2001); *Vine v. Republic of Iraq*, 459 F. Supp. 2d 10 (D.D.C. 2006).

<sup>2</sup> See *Claims Settlement Agreement Between the Government of the United States of America and the Government of the Republic of Iraq*, Sept. 2, 2010, T.I.A.S. No. 11-522 (“Claims Settlement Agreement” or “Agreement”).

<sup>3</sup> See *id.* Art. III(1)(a)(ii).

<sup>4</sup> See *id.* Art. I(2).

<sup>5</sup> See 22 U.S.C. § 1623(a)(1)(C) (2012).

<sup>6</sup> See *Letter dated October 7, 2014, from the Honorable Mary E. McLeod, Acting Legal Adviser, Department of State, to the Honorable Anuj C. Desai and Sylvia M. Becker, Foreign Claims Settlement Commission (“2014 Referral”)*.

second referral of claims to the Commission under the Claims Settlement Agreement, the first having been by letter dated November 14, 2012.<sup>7</sup>

Claimant's two claims fall into two different categories of claims in the 2014 Referral—Category A and Category C. Category A consists of

claims by U.S. nationals for hostage-taking<sup>1</sup> by Iraq<sup>2</sup> in violation of international law prior to October 7, 2004, provided that the claimant was not a plaintiff in pending litigation against Iraq for hostage taking<sup>3</sup> at the time of the entry into force of the Claims Settlement Agreement and has not received compensation under the Claims Settlement Agreement from the U.S. Department of State. . . .

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<sup>1</sup> For purposes of this referral, hostage-taking would include unlawful detention by Iraq that resulted in an inability to leave Iraq or Kuwait after Iraq invaded Kuwait on August 2, 1990.

<sup>2</sup> For purposes of this referral, "Iraq" shall mean the Republic of Iraq, the Government of the Republic of Iraq, any agency or instrumentality of the Republic of Iraq, and any official, employee or agent of the Republic of Iraq acting within the scope of his or her office, employment or agency.

<sup>3</sup> For purposes of this category, pending litigation against Iraq for hostage taking refers to the following matters: *Acree v. Iraq*, D.D.C. 02-cv-00632 and 06-cv-00723, *Hill v. Iraq*, D.D.C. 99-cv-03346, *Vine v. Iraq*, D.D.C. 01-cv-02674; *Seyam (Islamic Society of Wichita) v. Iraq*, D.D.C. 03-cv-00888; *Simon v. Iraq*, D.D.C. 03-cv-00691.

2014 Referral at ¶ 3. Category C consists of

claims of U.S. nationals for any personal injury resulting from physical harm to the claimant caused by Iraq in violation of international law prior to October 7, 2004, provided that the claimant: 1) had pending litigation against Iraq arising out of acts other than hostage taking; 2) has not already been compensated pursuant to the Claims Settlement Agreement; and 3) does not have a valid claim under and has not received compensation pursuant to Category B of this referral.

2014 Referral at ¶ 5.

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<sup>7</sup> See Letter dated November 14, 2012, from the Honorable Harold Hongju Koh, Legal Adviser, Department of State, to the Honorable Timothy J. Feighery, Chairman, Foreign Claims Settlement Commission.

On October 23, 2014, the Commission published notice in the *Federal Register* announcing the commencement of the second Iraq Claims Program pursuant to the ICSA and the 2014 Referral.<sup>8</sup>

On May 15, 2015, the Commission received from Claimant two completed Statements of Claim, one seeking compensation under Category A of the 2014 Referral and the other seeking compensation under Category C, together with exhibits supporting his claims.

## DISCUSSION

### Jurisdiction

Under subsection 4(a) of the ICSA, the Commission's jurisdiction here is limited to the categories of claims defined under the 2014 Referral. Categories A and C of the 2014 Referral both require that the claimant be a U.S. national. 2014 Referral, *supra*, ¶¶ 3, 5.

*Category C:* In addition, Category C states that the claimant (1) must have had pending litigation against Iraq arising out of acts other than hostage taking; (2) must not have already been compensated pursuant to the Claims Settlement Agreement; and (3) must not have a valid claim under, nor have received compensation pursuant to, Category B of the 2014 Referral. 2014 Referral, *supra*, ¶ 5.

*Category A:* In addition to the U.S. nationality requirement, Category A also requires that the claimant *not* have been a plaintiff in one of five listed hostage-taking lawsuits against Iraq at the time of the effective date of the Claims Settlement Agreement, and that the claimant not have received compensation under the Claims Settlement Agreement from the U.S. Department of State.

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<sup>8</sup> *Program for Adjudication: Commencement of Claims Program*, 79 Fed. Reg. 63,439 (Oct. 23, 2014).

*Nationality*

Both Category C and Category A are limited to claims of “U.S. nationals.” Here, that means a claimant must have been a national of the United States when the claim arose and continuously thereafter until May 22, 2011, the date the Agreement entered into force.<sup>9</sup> Claimant satisfies the nationality requirement. He has provided a copy of his U.S. certificate of naturalization, which shows that he was a U.S. national at the time of his alleged personal injury and hostage taking (January 1991). He has also provided a copy of his Arizona voter ID card from January 2009, as well as his current U.S. passport, valid from January 2009 until January 2019, both of which establish that Claimant remained a U.S. national through the effective date of the Claims Settlement Agreement.

*Pending Litigation*

Category C requires that the claimant have had pending litigation against Iraq arising out of acts other than hostage taking. This means that for this Commission to adjudicate the merits of his Category C claim, Claimant must have been a party in a lawsuit against Iraq based on an act other than hostage taking. Claimant does not allege that he was ever a party in a lawsuit against Iraq, and the Commission has no independent evidence of any such litigation. Claimant’s claim under Category C thus fails to meet the jurisdictional requirements established under the 2014 Referral, and the Commission thus has no authority to adjudicate the merits of his Category C claim.

Category A, on the other hand, states that a claimant must *not* have been a plaintiff in any “Pending Litigation” at the time of the entry into force of the Claims Settlement Agreement.<sup>10</sup> Footnote 3 of the 2014 Referral lists five cases that constitute the “Pending

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<sup>9</sup> See Claim No. IRQ-II-161, Decision No. IRQ-II-003, at 4-5.

<sup>10</sup> The Agreement entered into force on May 22, 2011. See Claims Settlement Agreement, art. IX.

Litigation” cases for purposes of Category A. The pleadings in the cases cited in footnote 3 confirm that Claimant was not a plaintiff in any of those “Pending Litigation” cases. Claimant has thus satisfied this element of his Category A claim.

*No Compensation under the Claims Settlement Agreement  
from the Department of State*

Claimant also satisfies the final jurisdictional requirement under Category A. Claimant does not indicate anywhere in his submissions that he has received any compensation under the Claims Settlement Agreement from the Department of State, and we have no evidence that the State Department has provided him any such compensation. Therefore, Claimant meets this element of his claim.

In sum, therefore, the Commission has jurisdiction over Claimant’s Category A claim, but not his Category C claim. The claim under Category C, therefore, must be and hereby is denied for lack of jurisdiction.

Merits of Category A Claim

*Factual Allegations*

Claimant states that Iraq held him hostage on January 13, 1991, for approximately seven hours. He alleges that he traveled to Iraq on January 9, 1991, in order to help his ailing mother leave that country and bring her with him to the United States. On January 12, 1991, he went to the U.S. Embassy in Baghdad for assistance, but an embassy employee urged him to ““go back quickly to [the] United State[s], leave Iraq quickly’ . . . .”

Unable to get his mother out of Iraq, Claimant went the next day, January 13, 1991, to the Baghdad Airport to purchase a ticket to fly to Jordan. However, he was told that he needed to obtain a visa from the Jordanian Embassy in Baghdad. Claimant alleges that he took a taxi to the embassy, obtained the visa, returned to the airport, and then purchased a ticket to Amman, Jordan.

Claimant alleges that, at about 10:00 a.m., three security officials from Iraq's Baath party took him to a room inside the airport, "held [him] hostage against [his] will," and proceeded to "interrogate [him] aggressively . . . ." Claimant alleges that, around 5:00 p.m., after the Iraqi officials had left the room, he "escaped from the room." A relative who allegedly worked at the airport "took [him] quickly to the air plane [to] go to Amman, Jordan." The next day, January 14, 1991, Claimant traveled from there to Athens, Greece, and, on January 15, 1991, he was "evacuated" to the United States by the U.S. Government on a TWA flight.

#### *Supporting Evidence*

In addition to the narrative contained in his Statement of Claim, Claimant has supported his claim with, *inter alia*, a separate sworn statement, dated November 16, 2016, in which he describes his ordeal, as well as several unsworn communications (both to the Commission and to other government agencies) describing his experience in Baghdad. None of these communications predates 2014. Claimant has also submitted numerous medical records. In addition, he has also submitted a copy of a completed form, signed and dated June 14, 1996, in which Claimant refers to numerous psychological conditions that he suffered as a result of being "held . . . against his will in [a] room inside Saddam airport in Baghdad, Iraq."

#### *Legal Standard*

To make out a substantive claim under Category A of the 2014 Referral, a claimant must show that (1) Iraq was engaged in an armed conflict and (2) during that conflict, Iraq took the claimant hostage.<sup>11</sup> The Commission has previously held that, to establish a hostage-taking claim, a claimant must show that Iraq (a) seized or detained the claimant

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<sup>11</sup> See Claim No. IRQ-II-161, Decision No. IRQ-II-003, at 16.

and (b) threatened the claimant with death, injury or continued detention (c) in order to compel a third party, such as the United States government, to do or abstain from doing any act as an explicit or implicit condition for the claimant's release.<sup>12</sup> A claimant can establish the first element of the hostage-taking standard by showing that the Iraqi government confined the claimant to a particular location or locations within Iraq or Kuwait, or prohibited the claimant from leaving Iraq and/or Kuwait.<sup>13</sup>

*Application of Standard to this Claim*

(1) Armed Conflict: Claimant alleges that Iraq took him hostage in Baghdad Airport on January 13, 1991, and held him hostage for approximately seven hours. In its first decision awarding compensation for hostage-taking under the 2014 Referral, the Commission held that during this period, Iraq was engaged in an armed conflict with Kuwait.<sup>14</sup> Thus, Claimant satisfies this element of the standard.

(2) Hostage-taking: To satisfy the hostage-taking requirement of Category A of the 2014 Referral, Claimant must show that Iraq (a) seized or detained him and (b) threatened him with death, injury or continued detention (c) in order to compel a third party, such as the United States government, to do or abstain from doing any act as an explicit or implicit condition for his release. Claimant fails to satisfy this standard for two reasons: (i) the evidence he has submitted is insufficient to meet his burden to show that he was in fact seized or detained on January 13, 1991, as he alleges; and (ii) Claimant has failed even to allege, let alone establish, that the reason for any alleged seizure or detention by Iraq was "to compel a third party ... to do or abstain from doing any act as a condition for his release."

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<sup>12</sup> See *id.* at 17-20.

<sup>13</sup> See *id.* at 17.

<sup>14</sup> See *id.* at 16-17.

(i) Claimant's failure to meet his burden to prove the facts he alleges.

The Commission's regulations place the burden to establish the facts on the Claimant who makes the allegations.<sup>15</sup> Here, the only evidence Claimant has submitted all comes either directly from Claimant's own recent statements (all but one of which appear to have been unsworn) or from descriptions in medical records that also appear to have been based solely on Claimant's own narration of the events. In short, Claimant's evidence appears to consist solely of Claimant's own statements.

This evidence is insufficient to establish that Claimant was in fact seized or detained at the Baghdad airport as he alleges. Where, as here, a claim relies heavily on written statements, the Commission considers certain factors in determining how much weight to place on them.<sup>16</sup> These may include, for example, the length of time between the incident and the statement<sup>17</sup> and whether the declarant is a party interested in the outcome of the proceedings.<sup>18</sup> Unsworn statements will generally carry very little weight, and sworn statements will not carry much weight unless there has been an opportunity for cross-examination.<sup>19</sup> In such cases, live, compelling testimony by the claimant under oath can do much to support a claim.<sup>20</sup> The clarity and detail of the declarations should also be considered, as should the existence of corroborating declarations and other evidence.<sup>21</sup>

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<sup>15</sup> See 45 C.F.R. § 509.5(b) (2017) ("The claimant will have the burden of proof in submitting evidence and information sufficient to establish the elements necessary for a determination of the validity and amount of his or her claim.").

<sup>16</sup> Claim No. IRQ-I-021, Decision No. IRQ-I-020, at 13 (2014) (Proposed Decision) (citing Claim No. IRQ-I-010, Decision No. IRQ-I-022 (Proposed Decision) (2014)).

<sup>17</sup> See *Prosecutor v. Akayesu*, Case No. ICTR-96-4-T, Judgment, ¶ 137 (Sept. 2, 1998).

<sup>18</sup> See Bin Cheng, *General Principles of Law as Applied by International Courts and Tribunals* 312, 317 (Cambridge University Press 2006) (1953).

<sup>19</sup> See *Akayesu*, Case No. ICT-96-4-T, ¶ 137; Cheng, *supra* note 18, at 314.

<sup>20</sup> See, e.g., Claim No. LIB-I-007, Decision No. LIB-I-024 (2011) (Final Decision).

<sup>21</sup> See *Partial Award: Prisoners of War—Eritrea's Claim 17*, 26 R.I.A.A. 23, 42 (Eri.-Eth. Cl. Comm'n 2003).

Based on these factors, Claimant’s assertions are insufficient to prove that he was in fact seized or detained. For one, the Claimant is clearly a party interested in the outcome of the proceedings, and at this stage, the Commission has not had the benefit of cross-examination. Moreover, Claimant’s statements contain very little detail and are not entirely consistent. In his own sworn statement, he indicates that he escaped with the help of a relative after his Baath Party interrogators “left the room for [some] reason . . . .” However, in a 2014 report on Claimant’s medical conditions, Dr. Mohammed Ali Al-Bayati makes reference to the Iraqi secret agents “*allowing him* to [board] the plane to fly to Jordan[.]” This very different version of events—with the Iraqi officials “allowing him” to leave—appears to be based on the story as recounted to the doctor by Claimant himself. Claimant’s own statements are therefore unclear as to whether he escaped from his alleged interrogators or whether they let him go. This inconsistency clearly undermines the reliability of Claimant’s assertions.

Moreover, Claimant has not submitted *any* independent evidence, such as his then-valid U.S. passport containing entry and exit stamps, government records, newspaper articles, or relevant statements from non-interested third parties.<sup>22</sup> To be sure, he does claim to have sought additional evidence, but even so, his claim rests solely on his own assertions. These statements are insufficient to prove that Claimant was in fact seized and detained by Iraq. Claimant has therefore failed to satisfy his burden of proving that he was held hostage by Iraq in violation of international law.

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<sup>22</sup> See, e.g., Claim No. IRQ-II-147, Decision No. IRQ-II-161 (2017) (awarding compensation where evidence included, *inter alia*, two sworn statements from the Claimant, a sworn statement from her mother, numerous contemporaneous news articles referring to Claimant and describing her ordeal, and a copy of her U.S. passport containing entry and exit stamps from Kuwait and Iraq); Claim No. IRQ-II-127, Decision No. IRQ-II-185 (2017) (awarding compensation where evidence included, *inter alia*, two sworn statements from Claimant, several contemporaneous news articles that specifically mention Claimant, letters from the U.S. State Department verifying Claimant’s captivity, a letter from a U.S. Senator referring Claimant’s release from captivity, and a copy of Claimant’s U.S. passport containing Kuwait and Iraqi entry and exit visas).

(ii) Claimant's failure to allege or establish that Iraq acted in order to compel a third party to act or abstain from acting as a condition of his release.

Even if all of Claimant's allegations were true, Claimant would still have failed to establish that Iraq took him hostage. Claimant's allegations amount only to a potential claim of improper detention, not a claim of hostage taking.<sup>23</sup> The standard for hostage taking under Category A requires that Claimant show not just that Iraq seized or detained him, but also that Iraq did so "in order to compel a third party, such as the United States government, to do or abstain from doing any act as an explicit or implicit condition for the claimant's release."<sup>24</sup> Claimant has made no such allegation here.

In sum, on the present record, (i) Claimant has not provided sufficient evidence to establish that he was seized or detained by Iraqi officials as described in his statements, and (ii) even if he had been seized or detained, he has failed to allege or establish facts that would satisfy the third element of a hostage-taking claim as required under the Commission's standard for Category A claims, that Iraq's seizure or detention was "in order to compel a third party, such as the United States government, to do or abstain from doing any act as an explicit or implicit condition for [his] release." Accordingly, the Commission concludes that Claimant has not satisfied his burden of proving that he was held hostage by Iraq in violation of international law within the meaning of the 2014 Referral. Claimant's Category A claim must therefore be denied.

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<sup>23</sup> While Claimant's allegations that the Iraqi officials gave him poison might be relevant to his physical-injury claim under Category C of the 2014, they are not relevant to the question of whether he was taken hostage in violation of international law under Category A.

<sup>24</sup> Claim No. IRQ-II-161, Decision No. IRQ-II-003, at 17 (2016).

In sum, both Claimant's Category A and Category C claims must be and are hereby denied.

Dated at Washington, DC, February 23, 2018  
and entered as the Proposed Decision  
of the Commission.

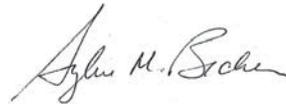
**This decision was entered as the  
Commission's Final Decision  
on**

**April 11, 2018**



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Anuj C. Desai, Commissioner



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Sylvia M. Becker, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, any objections must be filed within 15 days of delivery of this Proposed Decision. Absent objection, this decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after delivery, unless the Commission otherwise orders. FCSC Regulations, 45 C.F.R. § 509.5 (e), (g) (2017).

**FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
UNITED STATES DEPARTMENT OF JUSTICE  
WASHINGTON, D.C. 20579**

In the Matter of the Claim of	}	
	}	
	}	
5 U.S.C. §552(b)(6)	}	Claim No. IRQ-II-066
	}	
	}	
Against the Republic of Iraq	}	Decision No. IRQ-II-230
	}	

FINAL DECISION

Claimant objects to the Commission’s Proposed Decision denying his personal injury and hostage-taking claims against the Republic of Iraq (“Iraq”). The Proposed Decision denied his personal injury claim because he had not been a party in a lawsuit against Iraq based on an act other than hostage-taking, as required by the State Department letter referring claims to this Commission.<sup>1</sup> The Proposed Decision separately denied Claimant’s hostage-taking claim because he had failed to carry his burden of establishing that he was held hostage by Iraq in violation of international law within the meaning of the 2014 Referral. On objection, Claimant repeats his allegations and describes his efforts to locate a specific witness, referred to in the Proposed Decision, who he claims will be able to verify the details of his experience. He also requests that the U.S. Department of Justice assist him in this effort. After carefully considering Claimant’s request, along with all of

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<sup>1</sup> Letter dated October 7, 2014, from the Honorable Mary E. McLeod, Acting Legal Adviser, Department of State, to the Honorable Anuj C. Desai and Sylvia M. Becker, Foreign Claims Settlement Commission ¶ 3 (“2014 Referral” or “October 2014 Referral”).

his arguments and evidence, we again deny Claimant's claims for the same reasons stated in the Proposed Decision. We thus affirm the denial of these claims.

## BACKGROUND

Claimant brought this claim against Iraq alleging that Iraq caused him personal injury and held him hostage in Iraq for approximately seven hours in January 1991. He alleged that on January 9, 1991, he traveled to Iraq to help evacuate his ailing mother out of the country, and that on January 12, 1991, he sought assistance at the U.S. Embassy in Baghdad, but was advised to leave Iraq and return to the United States. Claimant alleged that, the next day, January 13, 1991, he went to the Baghdad Airport to purchase a plane ticket to fly to Jordan. After a visa-related delay that required him to go to the Jordanian Embassy in Baghdad, Claimant stated that he returned to the airport later that same day and purchased a ticket. He claimed, however, that at about 10:00am, three Iraqi security officials took him to a room inside the airport, "held [him] hostage against [his] will," and proceeded to "interrogate [him] aggressively . . . ." He further claimed that around 5:00p.m. that day, he was able to escape from the room after the officials had left, with the assistance of a relative—referred to as "alkazrje"—who worked at the airport, and boarded the flight to Jordan. Claimant asserted that, following this experience, he developed health problems which resulted from being given orange juice laced with poison during his interrogation in Iraq and which have persisted to the present day.

Claimant sought compensation for his hostage experience under Category A of the 2014 Referral, which consists of "claims by U.S. nationals for hostage-taking by Iraq in violation of international law prior to October 7, 2004 . . . ." <sup>2</sup> Claimant further sought

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<sup>2</sup> 2014 Referral at ¶ 3 (footnotes omitted).

compensation for his alleged personal injury under Category C of the 2014 Referral, which consists of “claims of U.S. nationals for any personal injury resulting from physical harm to the claimant caused by Iraq in violation of international law prior to October 7, 2004 . . . .”<sup>3</sup>

The Commission denied both claims in a Proposed Decision entered on February 23, 2018 (“Proposed Decision”).<sup>4</sup> With regard to the Category C claim, the Commission noted that, under the 2014 Referral, a claimant must have had pending litigation against Iraq arising out of acts other than hostage taking.<sup>5</sup> Because Claimant had not alleged that he was ever a party to such a lawsuit, and the Commission had no evidence of such, his Category C claim “fail[ed] to meet the jurisdictional requirements established under the 2014 Referral,” and therefore the Commission had “no authority to adjudicate the merits of his Category C claim.”<sup>6</sup> Regarding Claimant’s Category A claim, the Commission concluded that Claimant had failed to satisfy the Commission’s hostage-taking standard for two reasons: First, the evidence submitted was “insufficient to meet [Claimant’s] burden to show that he was in fact seized or detained on January 13, 1991 . . . .”<sup>7</sup> Specifically, the Commission found that Claimant’s evidence—which appeared to consist solely of his own statements and contained at least one major inconsistency—was, under the applicable evidentiary principles, insufficient to support his claim of hostage-taking. Second, Claimant had failed to allege that Iraq had seized or detained him ““in order to compel a third party, such as the United States government, to do or abstain from doing

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<sup>3</sup> *Id.* ¶ 5.

<sup>4</sup> *See* Claim No. IRQ-II-066, Decision No. IRQ-II-230 (2018) (Proposed Decision).

<sup>5</sup> *See id.* at 5.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 8.

any act as an explicit or implicit condition for the claimant's release[,]” another required element under the Commission's standard for hostage-taking under Category A.<sup>8</sup>

On March 20, 2018, Claimant submitted a letter to the Commission in which he disagreed with the Proposed Decision and explained his efforts to locate the witness he had identified in his submission. He also requested the assistance of the Commission and the Department of Justice in locating his witness. This submission, however, did not clearly indicate whether Claimant intended to file a notice of objection or request an oral hearing with respect to the Proposed Decision, as permitted under Commission regulations.<sup>9</sup> Consequently, by letter dated April 24, 2018, the Commission staff advised Claimant that any notice of objection “must clearly state the reasons for objection, and each alleged error in the Proposed Decision, whether of law or fact, should be set forth.” The letter further requested Claimant to “clarify whether you are filing such a notice as soon as possible and, if so, clearly state the reasons for your objection as noted in our original letter.” Finally, with regard to Claimant's request for assistance in locating his witness, the letter noted that, under Commission regulations, the claimant bears the burden in submitting evidence sufficient to prove the elements of his claim,<sup>10</sup> and that if he was indeed filing a notice of objection, he bore the responsibility of arranging for any witness testimony he wished to provide.

Claimant responded with another letter, received May 14, 2018, which indicated that he intended to file a notice of objection and request an oral hearing. He noted, however, that because of a disability, he was unable to travel to Washington, DC, for the

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<sup>8</sup> See *id.* at 11 (quoting Claim No. IRQ-II-161, Decision No. IRQ-II-003, at 17 (2016)).

<sup>9</sup> See 45 C.F.R. § 509.5(e) (2018).

<sup>10</sup> See *id.* § 509.5(b) (“The claimant will have the burden of proof in submitting evidence and information sufficient to establish the elements necessary for a determination of the validity and amount of his or her claim.”).

hearing, and again emphasized his efforts to locate the witness referred to in his original submission. By letter dated December 18, 2018, the Commission informed Claimant that it had scheduled an oral hearing for his claim on February 29, 2019, at the Commission's offices in Washington, DC. It further notified Claimant that if he did not appear at the hearing (or otherwise advise the Commission he would not appear), the Commission would consider the objection on the basis of the written record and that any further written materials he wished to submit to support his objection should be provided no later than February 7, 2019. Subsequently, by email dated December 24, 2018, Claimant reiterated his disagreement with the Proposed Decision and noted that he had already provided all relevant documentary evidence for his claim. He also indicated that he was unable to obtain any additional information about the alleged witness. Finally, he again indicated that he would be unable to travel to Washington, DC, for the hearing due to ill health. Accordingly, in the absence of any oral argument or in-person presentation of evidence, the Commission will consider Claimant's objection on the basis of the written record now before it.

#### DISCUSSION

As noted above, Claimant has presented no new documentary evidence to support either his Category A or Category C claims. His submissions to the Commission following the Proposed Decision do not even make reference to the jurisdictional defect in his Category C claim; as such, the Commission affirms its denial of Claimant's Category C claim on the basis that it does not have jurisdiction under the terms of the 2014 Referral to decide the merits of this claim.

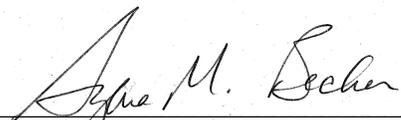
Regarding his Category A claim for hostage-taking, Claimant has provided no additional evidence to support his claim that he was seized or detained by Iraq or that, even

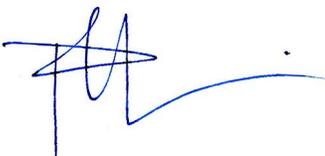
if that were proven, it was done “in order to compel a third party, such as the United States government, to do or abstain from doing any act as an explicit or implicit condition” for his release. Claimant merely reiterates the difficulty he has had locating the alleged witness “alkazrajee,” his efforts to seek assistance from the Commission and other U.S. government agencies, the alleged facts of his detention in the Baghdad Airport and his subsequent illness, and his general disagreement with the Proposed Decision. Consequently, the claim, in its present state, is no better supported than it was when the Proposed Decision was issued. The Commission therefore affirms its denial of Claimant’s Category A claim for the reasons described in the Proposed Decision.

#### CONCLUSION

In sum, for the reasons discussed above and in the Proposed Decision, and based on the evidence and information submitted in this claim, the Commission concludes that the denial of these claims set forth in the Proposed Decision must be and is hereby affirmed. This constitutes the Commission’s final determination in these claims.

Dated at Washington, DC, March 30, 2020  
and entered as the Final Decision  
of the Commission.

  
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Sylvia M. Becker, Commissioner

  
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Patrick Hovakimian, Commissioner