

In the Matter of the Claim of	}	
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	}	
	}	
(b) (6)	}	Claim No. GUAM-1155
	}	
	}	Decision No. GUAM-3012
	}	
Under the Guam World War II Loyalty Recognition	}	
Act, Title XVII, Public Law 114-328	}	

Claimant brings this claim under Sections 1704 and 1705 of the Guam World War II Loyalty Recognition Act¹ based on injuries that she suffered as a result of the attack and occupation of Guam by Imperial Japanese military forces during World War II. Because she has established that she sustained a severe personal injury as a result of combat action between the United States and Japan in 1944, she is entitled to a payment of \$15,000.

Claimant alleges that she was a resident of Guam in December 1941 when the Imperial Japanese army attacked and occupied the island. Claimant asserts that, in 1944, she hid from Japanese forces but was subsequently marched to an internment camp in the Dededo area, where she was forced to clear fields and plant seeds. Claimant further states that in July 1944, her leg was hit by shrapnel from a bomb that was dropped near the camp, became infected, and was amputated above the knee at a U.S. military hospital in Agat.

¹ Guam World War II Loyalty Recognition Act, Pub. L. 114-328, tit. XVII, 130 Stat. 2642 (2016) (“GLRA” or “Act”).

On December 23, 2016, President Obama signed into law the Guam World War II Loyalty Recognition Act, which established a supplemental war claims compensation program for claims arising from the attack and occupation of Guam by Imperial Japanese military forces during World War II. The Act recognizes two categories of eligible claimants: “compensable Guam decedent” and “compensable Guam victim.”² The Act defines a “compensable Guam victim” as

an individual who is not deceased as of the date of the enactment of this Act and who is determined . . . to have suffered, as a result of the attack and occupation of Guam by Imperial Japanese military forces during World War II, or incident to the liberation of Guam by United States military forces, any of the following:

(A) Rape or severe personal injury (such as loss of a limb, dismemberment, or paralysis).

(B) Forced labor or a personal injury not under subparagraph (A) (such as disfigurement, scarring, or burns).

(C) Forced march, internment, or hiding to evade internment.³

On June 20, 2017, the Commission published notice in the *Federal Register* announcing the commencement of a program to adjudicate claims for compensation under the Guam World War II Loyalty Recognition Act.⁴ On November 28, 2017, the Commission received from Claimant a completed Statement of Claim seeking compensation under the Act as a compensable Guam victim.

² *Id.* § 1704(c)(1)-(2).

³ *Id.* § 1704(c)(2).

⁴ Notice of Commencement of Claims Adjudication Program and of Deadline for Filing of Claims, 82 Fed. Reg. 28,093 (June 20, 2017).

DISCUSSION

As noted above, the Guam World War II Loyalty Recognition Act authorizes the Commission to award compensation to “compensable Guam victims,” which the Act defines as limited to individuals who (1) were alive on December 23, 2016, and (2) are determined to have suffered any of the following: rape, severe personal injury, personal injury, forced labor, forced march, internment, and hiding to evade internment.⁵

1. Claimant Living on December 23, 2016

Claimant has submitted sufficient evidence to establish that she was living on December 23, 2016. She has provided a sworn and notarized claim form that she signed after the Commission published notice of the program’s commencement on June 20, 2017. Further, our review of death records from the Social Security Administration and other databases has yielded no evidence that Claimant was not living on December 23, 2016. Therefore, Claimant meets this element of her claim.

2. Claimant Suffered an Injury Compensable Under the GLRA

Claimant asserts that she suffered five injuries recognized under the Act: severe personal injury, forced labor, forced march, internment, and hiding to evade internment.⁶ The alleged injuries fall within separate categories of Section 1704(a)(1). Severe personal injury falls within Section 1704(a)(1)(A) (“Category A”) and is compensable at a higher rate than the other alleged injuries, which fall within Section 1704(a)(1)(B) (“Category B”) or Section 1704(a)(1)(C) (“Category C”).⁷ Under the Act, however, a claimant may be compensated only under a single category.⁸ Thus a claimant who establishes entitlement to compensation for severe personal injury (Category A) is not eligible for additional

⁵ See Guam World War II Loyalty Recognition Act §§ 1704(a), 1704(c)(2), 1705(a)(1).

⁶ See *id.* §§ 1704(a)(1)(A)-(C), 1704(c)(2)(A)-(C).

⁷ See *id.*

⁸ See *id.* § 1704(a)(1)(A)-(C).

compensation for forced labor (Category B), or for forced march, internment, or hiding to evade internment (Category C). We thus consider first whether Claimant suffered a severe personal injury within the meaning of the Act.

A. Severe Personal Injury

Factual Allegations

Claimant asserts that she was a Guam resident on December 8, 1941, when Japan attacked the island. She states that in “early 1944,” she and her family left their ranch in Dededo and hid in the jungle to avoid being captured by Japanese forces. In April 1944, Claimant was nevertheless forced to work clearing fields by Imperial Japanese forces, and subsequently forced to march to an internment camp with her family. Claimant states that in July 1944, shrapnel from a bomb that exploded near the internment camp struck her leg, breaking a bone and leaving her unconscious. Claimant’s family attempted to take her to a hospital for treatment but were turned back by Japanese forces before encountering U.S. soldiers who took them to an American military hospital in Agat. Claimant states that when she woke up, a nurse informed that her foot had been cut off because it was infected. At the time, Claimant did not believe that her foot had been amputated because it “was in a wooden splint and it looked like [she] had two whole feet under the blanket.” A few days later, however, Claimant’s leg was amputated again, this time above the knee, to prevent the infection from spreading further. Claimant spent several weeks in the hospital recuperating before she was sent to another hospital in Asan for rehabilitation and to “learn how to walk using a crutch.”

Supporting Evidence

Claimant has submitted a sworn Statement of Claim, including a notarized affidavit, that describes the circumstances of her injuries. The Commission also takes notice of

Congressional records detailing appropriations made for Claimant's personal injury claim under the Guam Meritorious Claims Act of 1945. According to these records, Claimant was injured on August 2, 1944, "during the United States reoccupation" of Guam due to "combat action of the armed forces of the United States." Claimant's injury resulted in the amputation of her left leg and left her 60% permanently disabled.

Legal Standard

The definition of the term "severe personal injury" is set forth in regulations promulgated by the Commission on April 3, 2017, under Section 1704(c)(3) of the GLRA.⁹ To establish a severe personal injury, a claimant must show that he or she suffered "loss of a limb, dismemberment, paralysis, or any injury of a similar type or that is comparable in severity."¹⁰ To be eligible for compensation for severe personal injury under the GLRA, a claimant must establish that he or she suffered a qualifying injury "as a result of the attack and occupation of Guam by Imperial Japanese military forces during World War II, or incident to the liberation of Guam by United States military forces."¹¹

Application of Standard to this Claim

The GLRA provides that the Commission "shall treat a claim that is accompanied by an affidavit of an individual that attests to all material facts required for establishing the eligibility of such individual for payment . . . as establishing a prima facie case of the eligibility of the individual for such payment without the need for further documentation, except as the Commission may otherwise require."¹² The Act further provides that "[s]uch material facts shall include . . . a detailed description of the injury or other circumstances

⁹ See *id.* § 1704(c)(3); 45 C.F.R. § 510.1 (2019).

¹⁰ 45 C.F.R. § 510.1 (2019).

¹¹ Guam World War II Loyalty Recognition Act, Pub. L. 114-328, § 1704(c)(2), 130 Stat. 2642, 2645 (2016).

¹² *Id.* § 1705(b)(9).

supporting the claim involved.”¹³ Thus, to determine whether Claimant has satisfied the standard for severe personal injury in this program, we look to the account of her injuries set forth in the sworn affidavit attached to her claim form.

Claimants sworn affidavit states that her leg was amputated after she suffered shrapnel wounds caused by an exploding bomb. Claimant’s amputation qualifies as both a “loss of limb” and “dismemberment,” which are injuries enumerated under the statute and regulations as examples of a severe personal injury within the scope of the GLRA. Claimant’s affidavit thus sets forth all material facts required to make a prima facie case that she sustained a severe personal injury as a result of the attack and occupation of Guam by Imperial Japanese military forces during World War II, or incident to the liberation of Guam by United States military forces. In the absence of rebutting evidence, Claimant’s sworn affidavit is sufficient to establish that she suffered a severe personal injury within the meaning of the GLRA.

In sum, this claim meets the standards for severe personal injury, and Claimant is thus entitled to compensation.

B. Forced Labor, Forced March, Internment, and Hiding to Evade Internment

Because Claimant has established that she suffered a severe personal injury, she is not eligible for additional compensation for forced labor, forced march, internment, or hiding to evade internment.¹⁴ We thus need not determine whether she also suffered any of those injuries.

¹³ *Id.*

¹⁴ *See id.* §§ 1704(a)(1)(A)-(C), 1704(c)(2)(A).

COMPENSATION

Having concluded that the present claim is compensable, the Commission must next determine the appropriate amount of compensation.

Our determination in this regard is governed by the express terms of the GLRA. Specifically, the Act provides that a claimant who establishes a meritorious claim as a “compensable Guam victim” is entitled to an award that is based on the classification of his or her injury under the three categories of compensation set forth in Section 1704 of the GLRA.¹⁵ Because Claimant has suffered severe personal injury, she is entitled to a single payment of \$15,000.¹⁶

Deductions in Payment

Pursuant to the GLRA, the Commission is required to deduct, from a payment made to a compensable Guam victim or survivors of a compensable Guam decedent, amounts paid to such victim or survivors under the Guam Meritorious Claims Act of 1945, Public Law 79-224, before the date of the enactment of the GLRA. The Commission finds, based on congressional records and public records from the Department of the Navy and other government agencies, that the United States Government provided Claimant with compensation under the 1945 Act in the amount of \$3,000. Therefore, a deduction in payment will be made from Claimant’s award in that amount.

In summary, Claimant is entitled to an award of \$12,000. This amount constitutes the entirety of the compensation to which Claimant is entitled under the GLRA.¹⁷ The

¹⁵ See *id.* § 1704(a)(1)(A)-(C).

¹⁶ See *id.* §§ 1704(a)(1)(A), 1704(c)(2)(A); Claim No. GUAM-0232, Decision No. GUAM-0001, at 20-21 (holding that “Section 1704 also makes clear that a claimant who suffered multiple injuries is limited to a single payment of \$10,000, \$12,000, or \$15,000 that is determined by the category of compensation that applies to his or her most highly remunerated individual injury under the Act.”).

¹⁷ Under the GLRA, interest is not available on payments made by the Commission under Section 1704. *Id.* § 1705(b)(5).

Commission hereby enters the following award, which will be certified to the Secretary of the Treasury for payment under Section 1705 of the GLRA.¹⁸

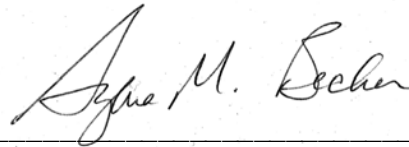
AWARD

Claimant is entitled to an award in the amount of \$12,000.

Dated at Washington, DC, September 17, 2020
and entered as the Proposed Decision
of the Commission.

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

November 10, 2020



Sylvia M. Becker, Commissioner



Patrick Hovakimian, 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), 510.3 (2019).

¹⁸ *Id.* § 1705(b)(8).