

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

In the Matter of the Claim of }
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} }
(b) (6) } Claim No. GUAM-3561
} }
} } Decision No. GUAM-2873
} }
} }
Under the Guam World War II Loyalty Recognition }
Act, Title XVII, Public Law 114-328 }
} }
} }

PROPOSED DECISION

Claimant brings this claim under the Guam World War II Loyalty Recognition Act for injuries allegedly suffered by Petronila Toves (the “decedent”) as a result of the occupation of Guam by Imperial Japanese military forces during World War II.¹ To be eligible for a payment under the Act, a claimant must show that the decedent was living on the date of the Act’s enactment (December 23, 2016) or that the decedent’s death was the result of the attack, occupation, or liberation of Guam. Because Claimant has not established either requirement, this claim is denied.

The Commission’s authority “to determine the eligibility of individuals for payments” under the Act is set forth under Section 1704.² To be eligible for a payment under Section 1704, a claimant must establish that he or she is either a “compensable Guam victim” or a “survivor” of “a compensable Guam decedent.”³ Section 1704(c)(2) defines a “compensable Guam victim” as “an individual who [was] not deceased as of the date of the enactment of [the] Act,” *i.e.*, December

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

² *Id.* § 1705(a)(1) (“The Foreign Claims Settlement Commission shall adjudicate claims and determine the eligibility of individuals for payments under section 1704.”)

³ *Id.* § 1704(a)(1)-(2).

23, 2016, and who is determined to have suffered one or more of the following injuries: rape, severe personal injury, personal injury, forced labor, forced march, internment, and hiding to evade internment.⁴ Under Sections 1704(c)(1) and 1704(b)(1)-(5), a qualifying survivor⁵ of a “compensable Guam decedent” is described as a parent, child, or spouse of a Guam resident “who died 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, and whose death would have been compensable under the Guam Meritorious Claims Act of 1945 (Public Law 79-224) if a timely claim had been filed under the terms of such Act.”⁶

The Commission finds, based on evidence submitted by Claimant and/or publicly available records, that the decedent is not a “compensable Guam victim” or a “compensable Guam decedent” within the meaning of the Act. The decedent was not alive on December 23, 2016,⁷ and Claimant’s allegations are not sufficient to establish that the decedent’s death was either the result of the attack and occupation of Guam or incident to the liberation of Guam, and would have been compensable under the Guam Meritorious Claims Act of 1945.⁸

Accordingly, while the Commission recognizes that residents of Guam who passed away before the Act’s date of enactment “suffered unspeakable harm as a result of the occupation of Guam by Imperial Japanese military forces during World War II,”⁹ it is constrained to conclude

⁴ *Id.* § 1704(c)(2).

⁵ Payments are distributed to a decedent’s spouse, children, or parents living as of the date of enactment according to the order of distribution set forth under Section 1704(b). *Id.* § 1704(b)(1)-(5). Spouses and children are entitled to payment under the distribution schedule, while parents are only eligible for compensation if a decedent had no living spouse or children on the date of enactment. *See id.* § 1704(b)(4).

⁶ *Id.* §§ 1704(b)(1)-(5);1704(c)(1).

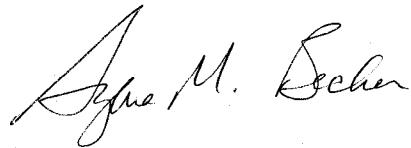
⁷ Record evidence indicates that the decedent died in 1978.

⁸ The 1945 Act placed a time limitation on the filing of claims. Section 1 provided that “no claim shall be considered . . . unless presented within one year after the occurrence of the accident or the incident or engagement out of which such claim arises, except that claims arising out of accidents, incidents, or engagements, after December 6, 1941, but prior to the first day of the month following enactment of this Act [December 1, 1945], may be presented at any time prior to the expiration of one year after the latter date [December 1, 1946].” An Act: For the relief of the residents of Guam through the settlement of meritorious claims, ch. 483, Pub. L. 79-224, 59 Stat. 582 (1945).

⁹ GLRA, §1702(a).

that this claim is not eligible for compensation under the Act. Thus, this claim must be and is hereby denied. The Commission makes no determinations about any other aspect of this claim.

Dated at Washington, DC, June 25, 2020
and entered as the Proposed Decision
of the Commission.



Sylvia M. Becker, Commissioner

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

July 12, 2021



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 (2018).