

**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-0309
} }
} } Decision No. GUAM-1324
} }
Under the Guam World War II Loyalty Recognition }
Act, Title XVII, Public Law 114-328 }
} }
} }

FINAL DECISION

Claimant objects to the Commission's Proposed Decision awarding her \$12,000 on her claim under the Guam World War II Loyalty Recognition Act¹ for injuries allegedly suffered as a result of the occupation of Guam by Imperial Japanese military forces during World War II. The Commission made the award upon a finding that Claimant had established that she was a "compensable Guam victim" under the Act and that she had suffered a personal injury and/or was subjected to forced labor by Japanese military forces. On objection, Claimant has submitted new evidence regarding an alleged rape by a Japanese soldier, as well as additional information regarding the extent of her personal injuries. Having carefully reviewed this newly submitted evidence, the Commission finds that Claimant has established that she was subjected to rape during the occupation of Guam. Claimant is thus entitled to the level of compensation specified in the Act for victims of

¹ Pub. L. 114-328, tit. XVII, 130 Stat. 2642 (2016) ("GLRA" or "Act").

“rape or severe personal injury.” We therefore withdraw the award in the Proposed Decision and award Claimant \$15,000.

BACKGROUND

Claimant brought this claim seeking compensation for hiding to evade internment, forced march, and forced labor based on her experience during the attack and occupation of Guam during World War II. The Commission awarded the Claimant \$12,000 in a Proposed Decision entered on September 19, 2019 (“Proposed Decision”).² In its decision, the Commission concluded that, based on the evidence before it, Claimant “had suffered a personal injury and/or was subjected to forced labor by Imperial Japanese forces during the invasion and occupation of Guam by Japan during World War II.”³ Thus, because Claimant had “establishe[d] a meritorious claim as a ‘compensable Guam victim’ under Section 1704(a)(1)(B) of the GLRA for forced labor and/or personal injury but [had] neither assert[ed] nor establishe[d] any of the injuries set forth in Section 1704(c)(2)(A) (rape and severe personal injury)[,]”⁴ she was entitled to “a single payment of \$12,000 and [was] not eligible for compensation for internment, hiding to evade internment, or forced march.”⁵

On August 5, 2020, Claimant filed a notice of objection. Because Claimant did not request an oral hearing, the Commission staff advised Claimant by letter dated January 6, 2021, that the objection would be decided based on the written record and requested that she submit any additional evidence in support of the objection no later than March 8, 2021. In response, Claimant submitted a sworn statement, dated January 25, 2021, providing

² Claim No. GUAM-0309, Decision No. GUAM-1324 (2019) (Proposed Decision).

³ *Id.* at 1-2.

⁴ *Id.* at 2.

⁵ *Id.* (citations omitted).

further details regarding her experience during the occupation, including previously unstated allegations regarding personal injuries and rape suffered at the hands of Japanese soldiers. Claimant also provided several recent photographs of the scars from her injuries.

DISCUSSION

As noted in the Proposed Decision, Claimant has already established a meritorious claim as a “compensable Guam victim” under Section 1704(a)(1)(B) (“Category B”) of the Act for forced labor and/or personal injury. The question before the Commission is whether Claimant’s new evidence also establishes her eligibility under Section 1704(a)(1)(A) (“Category A”) of the Act for rape and/or severe personal injury, which is compensable at a higher rate than for claims of forced march, internment, hiding to evade internment, forced labor, or personal injury. As the Commission has previously noted, a claimant may be compensated only under a single category.⁶ Thus, a claimant who establishes entitlement to compensation for rape or severe personal injury (Category A) is not eligible for additional compensation for forced labor or personal injury (Category B), or for forced march, internment, or hiding to evade internment under Section 1704(a)(1)(C) (“Category C”).⁷ We thus consider whether Claimant suffered an injury under Category A of the Act, which would entitle her to a higher rate of compensation than was awarded in the Proposed Decision.

Factual Allegations and Supporting Evidence

In her January 25 sworn statement, Claimant asserts that, during the occupation of Guam, a group of Japanese soldiers came to her family’s house and attempted to confiscate items from their garden. When Claimant’s mother attempted to intervene, she was

⁶ See Claim No. GUAM-0765, Decision No. GUAM-3013 (2020) (citing GLRA § 1704(a)(1)).

⁷ *Id.* at 3-4.

assaulted by the soldiers, and when Claimant attempted to protect her, she was cut with a saw on the inside of her right leg by one of the soldiers, leaving a wound that Claimant asserts became infected and gangrenous. She further claims that, after the assault on her mother, the soldiers “turned to [her] and began raping [her] . . .”

Claimant’s allegations are supported by evidence cited in other decisions in this claims program. This evidence indicates that “the testimony of Guam residents and naval records that address the investigation and prosecution of war crimes make clear that Japanese soldiers continued to rape, kill, and physically assault Guamanian civilians during the entire period that they occupied the island.”⁸ The Commission has also cited the 2004 report of the Guam War Claims Review Commission, which found that “the Japanese forced many of the Chamorro women to work for them as housekeepers and laundresses, and at their whim . . . raped many of them . . . and others were forced to serve as ‘comfort women’ (i.e., prostitutes).”⁹

Legal Standard

The Commission has previously held that, to establish the injury of rape under Category A of the GLRA, “a claimant must show that a perpetrator forcibly, or with coercion or threat of force, invaded the claimant’s body by penetrating, however slightly, the anal or genital opening of the claimant with any part of the body of the perpetrator, or with any foreign object.”¹⁰

⁸ Claim No. GUAM-0232, Decision No. GUAM-0001, at 7 (2018).

⁹ See Claim No. GUAM-0765, Decision No. GUAM-3013, at 4 (quoting Guam War Claims Review Commission, *Report on the Implementation of the Guam Meritorious Claims Act of 1945*, at 5 (2004)).

¹⁰ *Id.* at 5.

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.”¹¹ The Act further provides that “[s]uch material facts shall include . . . a detailed description of the injury or other circumstances supporting the claim involved.”¹² Thus, to determine whether Claimant has satisfied the standard for the injury of rape in this program, we look to the account of her injuries set forth in the sworn affidavit submitted on objection.

Claimant’s affidavit stating that, after the Japanese soldiers assaulted her mother, they “turned to [Claimant] and began raping [her],” and that she “was so overwhelmed with pain[,]” sets forth all material facts required to make a *prima facie* case that she was subjected to rape as a result of the attack and occupation of Guam by Imperial Japanese military forces during World War II. Claimant’s sworn statements are consistent with the evidence in the record, which shows that Japanese soldiers raped Guamanian civilians during the entire period that they occupied the island under the standard that applies in this program.¹³ In the absence of rebutting evidence, Claimant’s sworn affidavit is sufficient to establish that she was among the Guamanians who were subjected to rape within the meaning of the GLRA.¹⁴

¹¹ GLRA § 1705(b)(9).

¹² *Id.*

¹³ See Claim No. GUAM-0232, Decision No. GUAM-0001, at 7.

¹⁴ Because the Commission finds that Claimant satisfies the standard for rape under Category A, we need not address whether Claimant also suffered a “severe personal injury” under Category A.

In sum, this claim meets the standard for the injury of rape, and Claimant is thus entitled to compensation under Category A of the Act.

COMPENSATION

A claimant who establishes a meritorious claim as a “compensable Guam victim” under Section 1704(a)(1)(A) of the GLRA for severe personal injury or rape is entitled to a single payment of \$15,000 and is not eligible for compensation for any other injury.¹⁵ Claimant is thus entitled to a payment of \$15,000.

As explained in the Proposed Decision, the Commission is also required to deduct, from a payment made to a compensable Guam victim, amounts paid to such victim under the Guam Meritorious Claims Act of 1945, Public Law 79-224, before the date of the enactment of the GLRA.¹⁶ As noted, however, there is no evidence that the United States Government has provided Claimant any compensation under the 1945 Act. Therefore, no deduction in payment will be made from Claimant’s award.

Accordingly, in light of the discussion above, and based on the evidence and information submitted in this claim, Claimant is entitled to an award of \$15,000. This amount constitutes the entirety of the compensation to which Claimant is entitled under the GLRA.¹⁷ The Commission therefore withdraws the award in its Proposed Decision and enters the following award, which will be certified to the Secretary of the Treasury for payment under Section 1705 of the GLRA. This constitutes the Commission’s final determination in this claim.

¹⁵ See GLRA §§ 1704(a)(1)(A)-(C), 1704(c)(2)(A); Claim No. GUAM-1155, Decision No. GUAM-3012, at 6 (2020); Claim No. GUAM-0765, Decision No. GUAM-3013, at 7.

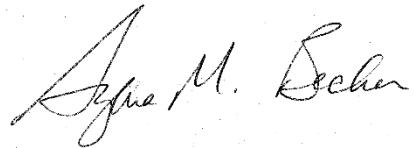
¹⁶ See Proposed Decision, *supra* note 2, at 2-3 (citations omitted).

¹⁷ As noted in the Proposed Decision, under the GLRA, interest is not available on payments made by the Commission under Section 1704. See GLRA § 1705(b)(5).

AWARD

Claimant is entitled to an award in the amount of \$15,000.

Dated at Washington, DC, September 20, 2021
and entered as the Final Decision
of the Commission.



Sylvia M. Becker, Commissioner



Patrick Hovakimian, Commissioner