

BACKGROUND

The decedent brought this claim under the Guam World War II Loyalty Recognition Act, seeking compensation for hiding to evade internment, internment, forced march, and forced labor. The decedent's claim was mailed to the Commission on December 17, 2018. On July 30, 2020, the Commission issued a proposed decision ("Proposed Decision") denying the claim on the ground that it was not filed by the June 20, 2018 filing deadline set forth in the Act.

On October 29, 2020, Claimant Estate filed a notice of objection. Because the estate did not request an oral hearing, the Commission advised it by letter dated January 6, 2021, that the claim would be decided on the written record and requested that it submit any additional evidence in support of the objection no later than March 8, 2021. Pursuant to this letter, Claimant Estate submitted two additional statements, dated February 27, 2021, and February 28, 2021; the decedent's birth certificate; and records and a photograph documenting the decedent's military service.

DISCUSSION

The Commission's authority to determine the eligibility of individuals for payment under the Act is limited to claims that were submitted within the statutory filing period. Section 1705(a)(2)(A) provides that "[a]n individual filing a claim for a payment . . . shall file such claim not later than one year after the date on which the Foreign Claims Settlement Commission publishes" notice of the deadline for filing a claim "in the Federal Register, and in newspaper, radio, and television media in Guam."³ As noted in the Proposed Decision, the Commission published notice in the Federal Register, and newspaper, radio, and television media in Guam on June 20, 2017, announcing the commencement of the Guam Claims Program and setting a filing

³ *Id.* §§ 1705(a)(2)(A)-(B). The Commission had 180 days from the date of the Act's enactment, December 23, 2016, to publish this notice. *See id.* § 1705(a)(2)(B).

deadline of June 20, 2018.⁴ Thus, the decedent had to submit his claim by June 20, 2018, in order for the Commission to have authority to determine his eligibility for a payment under the Act.

On objection, Claimant Estate argues that the Commission should consider the decedent's eligibility for a payment (for forced march, forced labor, internment, and hiding to evade internment) even though he submitted his claim after the June 20, 2018 statutory filing deadline. Claimant Estate asserts that the Commission should consider the merits of the decedent's claim for several reasons: 1) the Commission accepted his claim after the statutory deadline, thus indicating that it would consider the merits of his claim; 2) the decedent was not aware of the filing deadline because the Commission's provision of notice did not reach claimants outside of Guam; and 3) the decedent was "very ill" and required hospice care during part of the filing period. None of these arguments, however, undermines the Commission's determination in the Proposed Decision that it does not have the authority to determine the decedent's eligibility for payment because his claim was not timely filed.

Claimant Estate's argument that the Commission's acceptance of his claim after the filing deadline is evidence of its jurisdiction to review the merits of his late-filed submission is without merit. Although the Commission sent the decedent a letter acknowledging receipt of the claim and assigning a claim number for future correspondence, those actions merely indicated that the claim would be administratively prepared for consideration; they did not guarantee the decedent a decision on the merits of the claim. To the contrary, the Commission's previous jurisprudence in analogous claims shows that its "practice . . . has been to merely deny a claim where it is found to be untimely and make no determination as to the other elements of such claim."⁵ These decisions also make clear that the Commission has "no authority to waive or extend" a "statutory limitation"


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

⁵ Claim Nos. CZ-5004, 5005, Decision No. CZ-1307 (Final Decision), at 2.


establishing a “terminal date for filing claims” in the event that public notice of a filing deadline published under the statute fails to reach a claimant.⁶ Moreover, in the absence of an express provision authorizing extension of a statutorily-defined filing deadline, the Commission may not treat a late-filed claim as timely “for any reason, however equitable or meritorious it may be.”⁷ Thus, whether the decedent missed notices published in news media in Guam and the Federal Register as described above, or was simply unable to file because he was hospitalized due to ill health, the Commission is constrained to conclude that it has no authority to determine his eligibility for a payment under the Act.

Therefore, while we sympathize with the decedent for what he endured, the denial of this claim set forth in the Proposed Decision is hereby affirmed. This constitutes the Commission’s final determination in this claim.

Dated at Washington, DC, June 29, 2021
and entered as the Final Decision
of the Commission.



Sylvia M. Becker, Commissioner



Patrick Hovakimian, Commissioner

⁶ Claim No. IT-10,795, Decision No. IT-1; Claim No. HUNG-22,214, Decision No. HUNG-68. As occurred here under the GLRA, *see infra* note 4, notice of the filing deadline in these programs was published in the Federal Register. *See also* Claim No. CZ-5010, Decision No. CZ-1815 (Final Decision) (holding that the “mere fact that a claimant did not receive notice as provided for [under the statute] does not render his claim timely if filed subsequent to the deadline” and that “publication in Federal Register is constructive notice to all parties irrespective of whether they read such notice or not”).

⁷ Claim Nos. CZ-5004, 5005, Decision No. CZ-1307, (Final Decision) at 2.

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

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(b) (6)	}	Claim No. GUAM-3664
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	}	Decision No. GUAM-3011
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Under the Guam World War II Loyalty Recognition	}	
Act, Title XVII, Public Law 114-328	}	
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PROPOSED DECISION

Claimant brings this claim under the Guam World War II Loyalty Recognition Act for injuries suffered as a result of the occupation of Guam by Imperial Japanese military forces during World War II.¹ To be eligible for a consideration under the Act, a claim must be filed not later than one year after the Commission published notice of the deadline for filing claims, *i.e.* June 20, 2018. Because Claimant’s claim was filed with the Commission after the June 20, 2018 deadline, it is denied.

The Commission’s authority to adjudicate claims under Section 1704 of the Act is set forth in Section 1705.² Among other things, Section 1705 provides that “[a]n individual filing a claim for a payment under section 1704 shall file such claim not later than one year after the date on which the [Commission] publishes . . . a notice of the deadline for filing a claim” in the Federal Register, and in newspaper, radio, and television media in Guam.³

As required under Section 1705, on June 20, 2017, the Commission published notice in the Federal Register announcing the commencement of the Guam Claims Program and setting a filing

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).

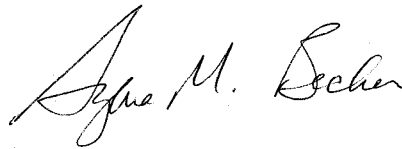
³ *Id.* §§ 1705(b)(2)(A)-(B).

deadline of June 20, 2018.⁴ On that same date, the Commission also published notice of the deadline for filing claims in newspaper, radio, and television media in Guam. Consequently, the statutory deadline for filing claims under the Act was June 20, 2018.

The Commission's records indicate that Claimant's Statement of Claim was filed with the Commission after June 20, 2018. The claim was thus filed after the expiration of the one-year filing period established by the Act.

Accordingly, while the Commission recognizes that Claimant may be among those residents of Guam who "suffered unspeakable harm as a result of the occupation of Guam by Imperial Japanese military forces during World War II,"⁵ it is constrained to conclude that this claim was not timely filed 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, July 30, 2020
and entered as the Proposed Decision
of the Commission.



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).

⁴ Notice of Commencement of Claims Adjudication Program and of Deadline for Filing of Claims, 82 Fed. Reg. 28,093 (June 20, 2017). The Commission also published amendments to its regulations in the Federal Register, 82 Fed. Reg. 16,124 (April 3, 2017), which included the following provision:

§ 510.2 Time for filing.

Claims for payments under the Guam World War II Loyalty Recognition Act, Title XVII, Pub. L. No. 114-328 (the "Act"), must be filed not later than one year after the date on which the Commission publishes the notice described in section 1705(b)(2)(B) of the Act.

⁵ GLRA, §1702(a).